

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

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

vs.) No. 312236

STATE OF CALIFORNIA, DELAINE) VOLUME II
EASTIN, State Superintendent of)
Public Instruction, STATE)
DEPARTMENT OF EDUCATION, STATE)
BOARD OF EDUCATION,)
Defendants.)

AND ALL RELATED CROSS-ACTIONS.)

CONTINUED DEPOSITION OF CINDY DIEGO
SATURDAY, JUNE 2, 2001

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Continued deposition of CINDY DIEGO, at
400 South Hope Street, 14th Floor, Los
Angeles, California, commencing at 9:00
A.M., Saturday, June 2, 2001, before
Roy H. Pitluk, CSR No. 10239.

1 APPEARANCES OF COUNSEL (CONTINUED):
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3 FOR INTERVENOR, L.A. UNIFIED SCHOOL DISTRICT:
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1 APPEARANCES OF COUNSEL:
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3 FOR THE PLAINTIFFS:
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5 ACLU FOUNDATION OF SOUTHERN CALIFORNIA
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11 FOR DEFENDANT STATE OF CALIFORNIA:
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13 O'MELVENY & MYERS, LLP
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1 THE COURT REPORTER: Please raise your right hand.
2 You do solemnly swear or affirm that the
3 testimony you are about to give in this matter shall be
4 the truth, the whole truth, and nothing but the truth, so
5 help you God?
6 THE WITNESS: I do.
7
8 CINDY DIEGO,
9 the witness, having been administered an oath
10 in accordance with CCP Section 2094, testified
11 further as follows:
12
13 EXAMINATION (CONTINUING)
14 BY MR. ROZWOOD:
15 Q Ms. Diego, you understand the testimony
16 you're giving today is under oath, the same as in your
17 last deposition?
18 A Yes.
19 Q Do you have anything to add to your
20 testimony or any changes to make to your testimony that
21 you gave in our last session together?
22 A No.
23 Q Since -- in between our last session and
24 this session, is there anything you did to prepare for
25 your deposition?

1 A I looked over my Declaration.
 2 Q Anything else?
 3 A No.
 4 Q I had a question about the policy at
 5 Freemont with regard to textbooks. We discussed it a
 6 little bit last time. I had a follow-up question on
 7 that.

8 You were talking about how if a student -- the
 9 student fails to return a book, they owe a book.

10 I didn't understand what the consequences of the
 11 student owing a book were.

12 Does this mean you can't get another book in that
 13 class, or is it also you can't get a book in any class?

14 A It depends how the teacher may take it.

15 You can either -- if the teacher believes you owe
 16 a book, you may not get a book for that class. And if
 17 the teacher believes you owe the book, and if the teacher
 18 is lenient, you can get a book if it's available.

19 Q Let's say you're in your tenth grade and fail
 20 to return your science book and then go and you complete
 21 your session, and then your semester, and after the
 22 inter-session break, come back and you're in an English
 23 class, can the English teacher refuse to give you an
 24 English book for your failure to return your science book
 25 from the previous semester?

1 MR. FRIEDMAN: There are some teachers who, if
 2 they see your name on the list of students who have not
 3 returned textbooks, whether it's relative to their class
 4 or another class, they won't issue you a book in their
 5 particular class, but it depends on whether the teacher
 6 is lenient or not.

7 And in some instances, teachers won't issue books
 8 regardless of whether it's their textbook or another
 9 class, the textbook that you have not returned?

10 THE WITNESS: Yes.

11 BY MR. ROZWOOD:

12 Q So, in your experience, it's up to the
 13 teacher to decide whether or not to issue a book to a
 14 student who owes a book?

15 A In some cases, because in some others, the
 16 teachers don't look at the list. Some teachers do, some
 17 teachers don't.

18 Q Do you know what the school policy is at
 19 Freemont with respect to the ability of the teacher to
 20 decide to issue a textbook even though a student owes a
 21 textbook?

22 A No.

23 Q So, once a student gets on that list of
 24 students who owe a textbook, what are the ways that the
 25 student can remove their name from this list?

1 A Yes, a teacher can refuse.

2 Q Based upon the fact that you, quote,
 3 unquote, owe a book?

4 A Yes.

5 MR. FRIEDMAN: Can I make sure she understands the
 6 question?

7 I'll rephrase it.

8 If I understood the question, the question was,
 9 let's say you've been issued a science book and don't
 10 return it, and after you come back the following
 11 semester, your science teacher can choose not to issue
 12 you another science book, is that correct?

13 THE WITNESS: Yes.

14 MR. FRIEDMAN: Because of your failure to return
 15 the science book from the previous semester, is it
 16 possible another teacher like your English teacher
 17 wouldn't give you an English textbook?

18 THE WITNESS: It depends how the teacher takes it.

19 A lot of teachers don't care if you owe a book. A
 20 lot of teachers do care. Like there is a list every
 21 teacher gets that shows the name of each student that
 22 owes a book, and they will let you know, "Cindy Diego,
 23 you owe a book," and don't -- they don't tell you which
 24 book you owe. It shows you the amount of the book that
 25 you owe.

1 A They could pay the book amount, or they can,
 2 if they keep the receipt, because sometimes a lot of
 3 students, they are in the list by mistake -- and if they
 4 have -- if they held the receipt --

5 I told you, they fill out a blue and white card --
 6 if they have the blue card, they could go to the textbook
 7 room and talk to the lady and show them the receipt, and
 8 she'll scratch the name out.

9 MR. FRIEDMAN: Have you ever seen the list?

10 THE WITNESS: Yes.

11 MR. FRIEDMAN: Other than that, like a list of
 12 students not returning textbooks, does it have any other
 13 direction or information?

14 THE WITNESS: No. It just says the person's name,
 15 grade, birthday, the amount on the book they owe,
 16 and the amount, the total cash amount of the books.

17 BY MR. ROZWOOD:

18 Q So, you say you can go to the textbook room
 19 and return the book receipt to show that you returned the
 20 book?

21 A Or if you have the book, you can return the
 22 book to the textbook room.

23 Q Was the textbook room on campus?

24 A Right by the library.

25 Q Who's the textbook clerk?

1 A I don't know that.

2 Q You said that sometimes the student doesn't
3 know which book they owe because it's not specified on
4 the list, correct?

5 A Yes.

6 Q Is it possible to go to the textbook clerk
7 and ask which book that student -- Strike that.

8 Is it possible for a student to go to the textbook
9 clerk and ask her which book they owe?

10 A Yes, because she had -- she has drawers, and
11 the drawers, there is the little receipt and the
12 receipt -- she asks for your name and looks it up. And
13 then like a -- like a -- when you're looking for like a
14 book catalog, she has the drawers like that, and then
15 pulls out the receipt and tells you, 'okay, you owe the
16 book for the class,' and she lets you know.

17 Q So, she maintains records in alphabetical
18 order by student name?

19 A Yes.

20 Q Has any teacher at Freemont ever refused to
21 issue you a book because you owed a book?

22 A The only teacher was [REDACTED] my
23 Algebra 2 teacher. He made an exception to me. He
24 issued a book to me I can take home and study because I
25 had difficulties in his class.

1 A No. I'm not really aware of the other
2 students. I'm aware of them myself.

3 Q Okay. Can you look at Exhibit 5 marked in
4 our last session, which is your cumulative record.
5 I believe that's where we left off last
6 time.

7 Do you have that before you?

8 A Yes.

9 Q The Motion to Certify Class in this case
10 refers to core classes?

11 Let me use the exact language. Core subjects.

12 Would you please tell me which classes in your
13 ninth grade year constitute core subjects?

14 A Do you mean requirements to graduate?

15 Q I'm trying to understand the use of -- maybe
16 your counsel can assist -- your use of the term "core
17 subjects" in your class definition in section BA of your
18 Motion to Certify Class.

19 MS. LHAMON: Cindy didn't use the term in that
20 motion. You can ask her what she understands the term to
21 be.

22 MR. ROZWOOD: She's supposed to be trying to be a
23 class representative. I'm asking her about what her
24 class definition means. The question is about her class
25 definition.

1 Q Which book did you fail to return?

2 MS. LHAMON: Objection. Mischaracterizes her
3 testimony.

4 BY MR. ROZWOOD:

5 Q You can answer.

6 A I can answer?

7 My Spanish book, but I had turned it in. I
8 was -- I told my friend to turn it in for me.

9 Q So, [REDACTED] gave you a book even though
10 the list showed you owed a Spanish book?

11 A Yes.

12 MS. LHAMON: Objection, mischaracterizes the
13 testimony. It doesn't show you owe a Spanish book. It
14 shows you owe a book.

15 BY MR. ROZWOOD:

16 Q Are you aware of any other instances in
17 which teachers have refused to issue a book to a student
18 because the list shows they owe a book?

19 MS. LHAMON: Asked and answered.

20 THE WITNESS: [REDACTED] has been the only
21 teacher that I know.

22 BY MR. ROZWOOD:

23 Q Are you aware of any particular cases where
24 [REDACTED] refused to issue a book to a particular
25 student?

1 MS. LHAMON: You're asking her what the term that
2 her lawyer used on her behalf means. If she knows, she
3 can answer.

4 BY MR. ROZWOOD:

5 Q Do you know what the term "core subjects"
6 means in the class definition, using your "Motion to
7 Certify Class"?

8 A No. But to my understanding, what I
9 understood, was I guess just the required classes for me
10 to graduate. That's the way I understood.

11 Q What are the classes in your ninth grade
12 year that are required for you to graduate?

13 A English. Speech. Math classes. Foreign
14 language classes. Two years of P.E. Science classes.
15 Chemistry classes. Biology classes. Health classes.
16 History classes. That's all that I could think of.

17 Q Is aerobics a core subject?

18 A Aerobics is a P.E. class.

19 Q It's one of the core subjects in your
20 understanding?

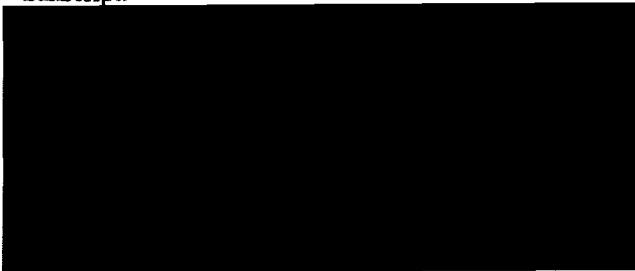
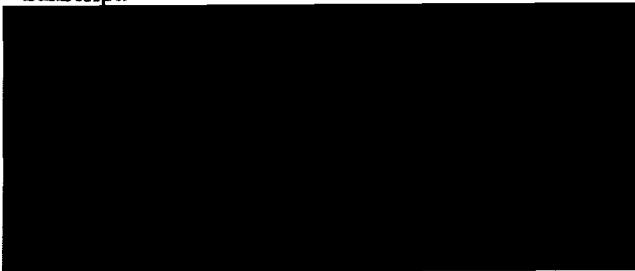
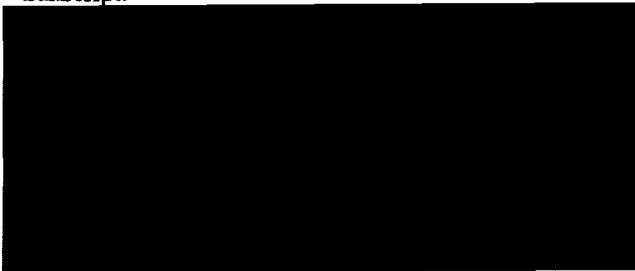
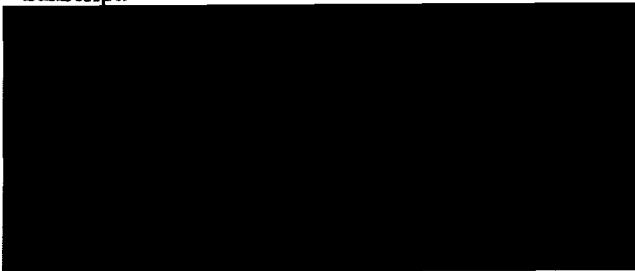
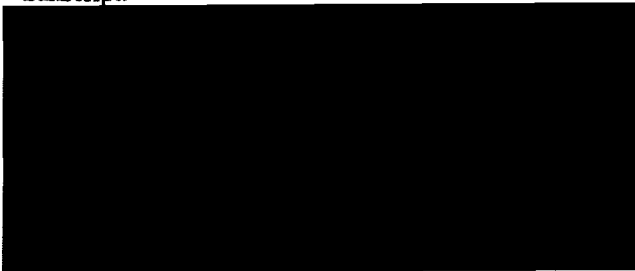
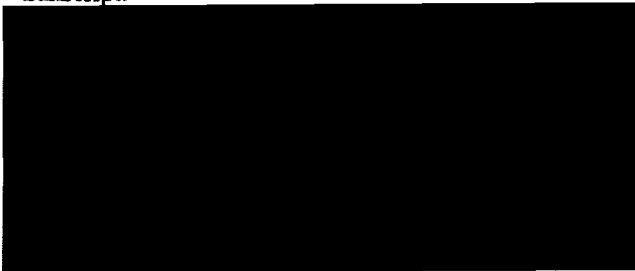
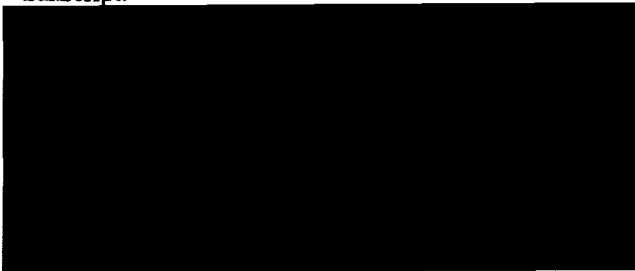
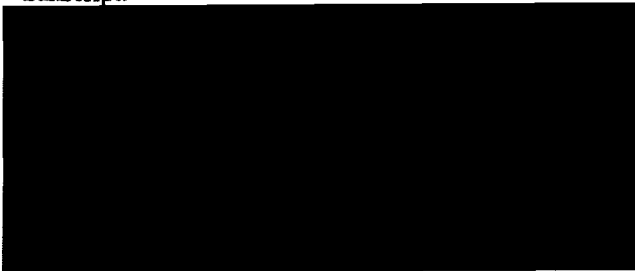

21 A Yes.



22 Q Did you have sufficient instructional
23 materials for your English 9A class?

24 A If you mean by books, I had books. We had
25 the classes, but I didn't have a book to take home.

1 Q Did you need a book to take home in
2 English 9A?
3 MS. LHAMON: Calls for expert testimony.
4 THE WITNESS: I don't quite remember. We don't
5 work from the book a lot.
6 BY MR. ROZWOOD: Did you have homework assignment
7 in English 9A that required the use of the textbook?
8 A I don't really remember, but I know we
9 always worked on essays and compositions.
10 Q At home or in class?
11 A In class. Sometimes take home.
12 Q With respect to your speech class, are there
13 any instructional materials that you can think of that
14 you didn't have that you needed?
15 MS. LHAMON: Calls for speculation.
16 THE WITNESS: In my speech class I know we didn't
17 have a book. We work on novels. On books. Fictional
18 books.
19 BY MR. ROZWOOD:
20 Q Did you need a textbook in your speech
21 class?
22 MS. LHAMON: Calls for expert testimony.
23 THE WITNESS: I wouldn't be able to let you know.
24 I wasn't familiar with my teacher's lesson plans.
25 BY MR. ROZWOOD:

1 THE WITNESS: I don't know. We just didn't
2 understand each other.
3 BY MR. ROZWOOD:
4 Q Did you have sufficient textbooks?
5 A A class set.
6 Q Was this sufficient for your purposes?
7 A Not really.
8 Q Were you able to take your textbooks home?
9 A No.
10 Q Not even when necessary?
11 A When it was necessary. But we really
12 wouldn't have a lot of use for the books, only when we
13 will work on it.
14 But we'll have conversations in French. Like
15 there will be words in French in the book and we will
16 have to have conversations with her in French; even if we
17 didn't know how to pronounce the words, we still have to
18 have conversations with her in French.
19 Q So, you were able to take the textbooks home
20 in French when necessary?
21 A Yes.
22 Q How were the classrooms, how was the --
23 strike that.
24 Can you think of any problems with the classroom
25 in French 1A that interfered with your ability to learn

1 Q Your record shows that you received an "A"
2 in English 9A. Did you deserve that grade?
3 A I did all my work. I'm pretty sure I did.
4 Q So, you're pretty sure you deserved the
5 grade?
6 A Yes, I deserve every grade I got in this
7 transcript.
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16 Q Can you describe, was there anything about
17 your French class that interfered with your ability to
18 learn French?
19 MS. LHAMON: Asked and answered.
20 THE WITNESS: To me, this is a different language,
21 something I didn't understand.
22 BY MR. ROZWOOD: Other than that fact that
23  only spoke in French, was there anything else
24 that interfered with your ability to learn the language?
25 MS. LHAMON: Asked and answered.

1 French?
2 A There was too many student in this class.
3 Q How many students were there?
4 A 40 to 45 students.
5 Q Can you think of any other problems that
6 interfered with your ability to learn French in that
7 class?
8 A  wasn't patient with the students.
9 She'd get irritated real fast. And since I had it for my
10 sixth period class, I guess it created a problem because
11 she been with other students throughout the day.
12 And then we were the last class she had, so maybe,
13 I don't know, she probably didn't have the patience for
14 the last class because she had to take up so many things
15 in other classes.
16 Q Can you think of anything else about your
17 French classes that interfered with your ability to learn
18 the language?
19 A She wasn't explicit enough. She couldn't
20 explain herself.
21 Q Other than  ability to teach the
22 language or to communicate the lesson, is there anything
23 else about the classroom environment that interfered with
24 your ability to learn the language?
25 MS. LHAMON: She already testified to two other

1 things about the environment.
 2 BY MR. ROZWOOD:
 3 Q Other than what she testified to?
 4 A No, just that there was too many kids, and
 5 [REDACTED], her ability to teach.
 6 Q Do you know if [REDACTED] is a fully
 7 credentialed French teacher?
 8 A No. I don't know that I'm pretty sure she
 9 is if she got hired as a teacher.
 10 Q Is it your understanding all your teachers
 11 are fully credentialed?
 12 A I'm pretty sure they are.
 13 Q What is your understanding of the use of the
 14 term fully credentialed?
 15 A They have all the requirement to be teacher.
 16 Q Whatever the State requires of them?
 17 A Yes, like them taking their tests and them
 18 being -- having all the years completed. Having their
 19 diploma or whatever they need to be teacher.
 20 Q Their college diploma?
 21 A Not only that, but they have to take like a
 22 test to pass a test to be teachers to get their
 23 credentials. Certain years they have to be in school for
 24 whatever subject they are willing to teach -- have to
 25 teach.

1 Q Did you have the same teacher for English 9B
 2 that you had for English 9A?
 3 A Yes.
 4 Q And did you have the same textbook for
 5 English 9B as you had in 9A?
 6 A Yes. Because each book is a different level
 7 of each student's grades.
 8 Q Did you have the same teacher and textbook
 9 for Speech B as you had for Speech A?
 10 A Yes.
 11 Q Can you think of anything about the
 12 classroom environment in your Algebra 1B class with
 13 Mr. Bayan that interfered with your ability to learn that
 14 subject matter?
 15 A I didn't have any problems in his class, in
 16 case of learning. There wasn't many student in this
 17 class. It was allowed 25 to 25 students. And you all
 18 sit like in a group, and he will just go over the work
 19 that he wanted us to learn.
 20 Q Was Mr. Bayan a qualified teacher in your
 21 view?
 22 A Yes.
 23 Q Was there any unsafe or unhealthy
 24 condition in the classroom that interfered with your
 25 ability to learn?

1 A No.
 2 Q Can you think of any unsafe or unhealthy
 3 condition in any of your classes as listed in Exhibit 5
 4 that interfered would your ability to learn the subject
 5 matter?
 6 A Well, the classes. Some of the classes
 7 were -- the tiles were missing. Deteriorated. The
 8 lights in some of the classes, we had problems with the
 9 lights because they weren't as bright than they should
 10 be. Some of them were dim. Some of them won't even turn
 11 on.
 12 Q Other than the tiles, ceiling tiles and
 13 lights, can you think of any other conditions that
 14 interfered with the classroom conditions, that interfered
 15 would your ability to learn at Freemont?
 16 A I guess when we had problem with the air
 17 conditioning or the heating, especially when it was real
 18 hot and we will go inside the class and it will be as hot
 19 as it was outside because of the air conditioning, or
 20 when it was cold and raining and we didn't have any heat.
 21 Q Anything else that you can think of?
 22 A Not for right now.
 23 Q Will you let me know if you can think of any
 24 classroom conditions that interfere with your ability to
 25 learn?

1 A Yes.
 2 Q Can you tell me which classes were missing
 3 tiles?
 4 A A lot of them. Many of them right now, at
 5 the moment there's some classes.
 6 Q How does this interfere with your ability to
 7 learn?
 8 A Because if you look around, you only have to
 9 look at the teacher, you have to look around to who's
 10 around you. If you look up or down you could see you
 11 just look at it and it makes you feel -- look at where
 12 I'm at, like a classroom full of students with one
 13 teacher and look at just the -- just look up and be like,
 14 "oh, my God, I can't look at the pipes."
 15 I'm looking at just pipes, wires going back and
 16 forth. It's just -- I mean it's not -- it's not pleasant
 17 to be sitting in a room -- like right here in this room
 18 it's pretty good.
 19 To be sitting in one classroom looking at the
 20 teacher and all around, it's not pleasant to be looking
 21 at a missing door or a missing window or just at the tile
 22 is not being there; or if you're hot, and there is not
 23 enough air conditioning, and you have to sit still and
 24 blow yourself with your own breath.
 25 Q Can you tell me which classes there were

1 temperature problems in?

2 A I wouldn't be able to tell you what specific
3 classes, but there is many classes that have air
4 conditioning, heating problems.

5 Q When you say "problems," do you mean all
6 together, air conditioning or heater?

7 A They are not missing. The air conditioning
8 and heaters are there. They are not working.

9 Q They're not working at all?

10 A No, they are not working at all.

11 Q Like for the whole school year?

12 MS. LHAMON: The school year hasn't ended yet.

13 THE WITNESS: I don't know if they are not
14 working, if they have begin work in the beginning of the
15 school year and stopped at the end, I wouldn't be able to
16 tell you.

17 I know throughout the years I've been in Fremont,
18 there is always been problems, even teachers have
19 complained, and there is times that technicians come in
20 and fix the problem.

21 Depending on -- it's real hot, especially in the
22 summer, and a technician may come in and fix the air
23 conditioning or fix it. The teacher always does have to
24 complain or make a note of it, that something is wrong in
25 their classroom.

1 conditioning?

2 MS. LHAMON: Asked and answered. I'd appreciate
3 it if you don't take an inappropriate tone with my
4 client.

5 THE WITNESS: I'll take a guess. Around two
6 months.

7 BY MR. ROZWOOD:

8 Q Is this your best estimate?

9 MS. LHAMON: She testified already.

10 THE WITNESS: Yes.

11 MS. LHAMON: You're not to guess. If you have an
12 estimate, you can give it. No matter how many times he
13 asks you a question, only give what you know.

14 If you have an estimate you can give it. If you
15 don't have an estimate, he doesn't have to ask the
16 questions three or four times. You can only say what you
17 know.

18 BY MR. ROZWOOD:

19 Q You don't know which class that was,
20 correct?

21 A There is many other classes that have the
22 problem.

23 Q Talking about the class that took two
24 months?

25 A Like for my English class?

1 Q What's the longest period of time, to your
2 knowledge, that a classroom has gone without air
3 conditioning when necessary?

4 A When I started at Fremont, when I was in
5 eight grade, because I started in the summertime. The
6 school year starts in July. When it was hot we will come
7 from nutritional lunch and be overheated and the
8 classroom is stuffy and hot, it was outside, and we did
9 have problems for a month, two months. I can't quite
10 remember. And then I'd like -- I recall a teacher
11 saying, "I made a note of it. I already spoke to the
12 administrator and told them my problem," and when they'll
13 get a chance to fix it, fix the air conditioning.

14 Q What was the longest period of time that a
15 classroom went without air conditioning when necessary?

16 MS. LHAMON: Asked and answered.

17 THE WITNESS: I wouldn't be able to tell you.
18 Probably two, three months. Can't really --

19 BY MR. ROZWOOD:

20 Q Is it one or two or three months?

21 A I don't know. Because it always goes on.
22 The problem reoccurs over and over.

23 Q I'm asking within one given stretch, not
24 after it's been fixed and breaks again, but one given
25 stretch, how long does it takes to fix the air

1 Q Which teacher was this?

2 A A male student teacher.

3 Q Ninth grade?

4 A Yes.

5 Q Any other classes it took more than a month
6 to fix the air conditioning that you can think of?

7 A My aerobics P.E, it was inside the gym, we
8 had problems there.

9 Q Any other classes?

10 MS. LHAMON: Talking about the entire time she's
11 been there or that year?

12 BY MR. ROZWOOD:

13 Q The entire time you've been there on the
14 issue of air conditioning?

15 MS. LHAMON: I assume you're referring to the
16 class she's been in?

17 BY MR. ROZWOOD:

18 Q The classes you've been in or know about?

19 A In my history classes, in Spanish classes,
20 because I had it in my bungalows.

21 Q Can you tell me that teacher and the grade
22 of your history class that had the air conditioning
23 problem that would last more than a month?

24 MS. LHAMON: She testified to multiple history
25 classes.

1 THE WITNESS: It was in the tenth and eleventh
 2 grade.
 3 BY MR. ROZWOOD:
 4 Q What were the teachers for those classes?
 5 A Mr. Frankel and Ms. Garza.
 6 Q You also mentioned Spanish class?
 7 A Mr. Viveros.
 8 Q And the grade?
 9 A I was in his class for the tenth grade and
 10 eleventh grade.
 11 Q You had an air conditioning problem that
 12 lasted for over a month in both the tenth and eleventh
 13 grades?
 14 A In the Spanish classes it went on almost
 15 half the year.
 16 Q Can you be more specific when you say "half
 17 of the year"?
 18 A Since the beginning I started my tenth grade
 19 year, since I had it for the eleventh grade, like
 20 approximately the ending of my junior year.
 21 Q So approximately four months out of the
 22 eight months?
 23 A That I've been in and out from school from,
 24 you know, being on vacation.
 25 Q So, in Mr. Viveros' Spanish class in tenth

1 A Not that effective. It would make the room
 2 temperature more better.
 3 Q So, that was the classroom in which you had
 4 no air conditioning?
 5 A Yes.
 6 Q How about your eleventh grade history class
 7 with Ms. Garza?
 8 A Well, she'll leave the door open because we
 9 had the class in the bungalows, and the windows were open
 10 as well.
 11 Q There was no air conditioning in Ms. Garza's
 12 class?
 13 A No.
 14 Q Can you tell me, are there any other classes
 15 that you had air conditioning problems during your time
 16 at Fremont?
 17 A That's other only ones I can think of for
 18 right now.
 19 Q If you think of any others will you let me
 20 know?
 21 A Yes.
 22 Q Can you think of any classes in which you
 23 had problems with the lack of heat?
 24 A When I had the lack of heat, well, when it
 25 was cold, basically it was in the main buildings, we had

1 grade approximately four months out of the eight months
 2 you were in school, you didn't have air conditioning in
 3 this class?
 4 A For more than four months, yes.
 5 Q Is the same true about your eleventh grade
 6 year in Mr. Viveros' class?
 7 A Yes, because the class was held in a
 8 workshop class. When they -- yeah.
 9 Q Was there air conditioning in the wooden
 10 workshop class?
 11 A No. It was real stuffy throughout the whole
 12 year.
 13 Q Please describe for me the air conditioning
 14 problem in Mr. Frankel's class, tenth grade history?
 15 A Well, we were -- well, there was a lot of
 16 students in this class.
 17 We didn't have any air conditioning, so you
 18 had to just open the windows and let the breeze come in.
 19 Q How many different occasions did the bees
 20 come in?
 21 A The breeze.
 22 Q Is that what you said?
 23 A No. The breeze.
 24 Q Was this effective, opening the windows and
 25 letting the breeze come in?

1 heat. But once in the bungalows we didn't have any heat
 2 at all.
 3 Q None of the bungalows had heat?
 4 A No.
 5 Q Other than the bungalows, are there any
 6 other areas of the school that have problems with heat?
 7 A Not that I know. The classes I've been in
 8 the bungalows, and when it comes to heat, we didn't have
 9 any. So we just leave everything closed -- the doors,
 10 windows, keep our jackets, sweaters on.
 11 Q For approximately how much time during the
 12 school year did you have to keep your jackets and
 13 sweaters on due to the lack of heat in the bungalows at
 14 Fremont?
 15 A Until it was necessary so we could get heat.
 16 I can't remember. Until it was necessary to keep it on.
 17 Q Give me your best estimate of how many
 18 school days you were required to wear jackets and
 19 sweaters because of lack of heat in the bungalows at
 20 Fremont?
 21 MS. LHAMON: If you can estimate.
 22 THE WITNESS: It went days. I would be like, say,
 23 two months and a half.
 24 BY MR. ROZWOOD:
 25 Q Okay. With respect to lighting, classroom

1 lighting, can you tell me all the classes that in your
2 experience at Fremont, have had problems with classroom
3 lighting?

4 A About three classes.

5 Q Which three classes?

6 A I don't quite remember. I just know that
7 the lights were real dim. There wouldn't really be like
8 a lot of light, and they always had to like explain to
9 the principal or to anybody, that was to let them know --
10 to have them aware of the problem that was going on.

11 Q So, you're personally aware that the
12 classroom lighting problem was complained about?

13 A Yes. The teachers will complain.

14 Q Who would they complain to?

15 A I don't know. To a principal. To an
16 administrator. Anybody that can fix the problem.

17 Q Were the problems fixed?

18 A In some cases.

19 Q In which cases weren't they fixed?

20 A Well, like when I required a lot of light,
21 they'll just like -- I guess based on the lights that,
22 you know, the teacher can reflect on, like when the
23 teachers -- I mean the student could see and do their
24 work because there is a lot of other lights.

25 If one light wasn't working in one corner and one

1 I went inside that class and it was the same class
2 I had, the speech class, and I seen all the lights were
3 fixed. It was brightly lit. The class was brightly lit.

4 Q That was during the current school year?

5 A Yes.

6 Q So, to your knowledge, it was never fixed
7 during your ninth grade year?

8 A Yes.

9 Q Yes, it was not fixed?

10 A The corner light was not fixed during my
11 ninth grade year.

12 Q Did the absence of the corner light in your
13 ninth grade speech class interfere with the students'
14 ability to learn in that class?

15 A I don't think so.

16 Q Who was the teacher of your ninth grade
17 geography class?

18 A Mr. Frankel.

19 Q The same Mr. Frankel that you had for
20 history?

21 A Yes.

22 Q What instructional materials did you use in
23 your ninth grade geography class?

24 A The same materials we used in government
25 class. Books. Work sheets. Notes that we took. Movies

1 wasn't working in the middle, they'll fix the one in the
2 middle. That way it could reflect beyond the room.

3 Q Which class was this?

4 A I know I had a class -- in my -- I had one
5 problem in my speech class.

6 Q Is this in ninth grade?

7 A Yes.

8 Q Was that the class in which they fixed the
9 middle light but not the corner light?

10 A Yes.

11 Q Was the corner light ever fixed in your
12 speech class?

13 A Yes, eventually.

14 Q How long did it take?

15 A I don't know, but I know I wasn't in that
16 classroom once, and it was already fixed.

17 Q How long did it take to fix the middle light
18 in your speech class?

19 A A day.

20 Q Can you give me your best estimate of how
21 long it took to fix the corner light in your speech
22 class?

23 A I can give you an estimate, because I
24 remember I had Service, and I had to get somebody that --
25 one of the students had a summons.

1 that he shows.

2 Q Did you have a textbook in your geography
3 ninth grade class?

4 A A class set.

5 MR. FRIEDMAN: Is it Mr. "Franco" or "Frankel?"

6 THE WITNESS: Frankel.

7 BY MR. ROZWOD:

8 Q Can you think of anything about the
9 classroom environment in Mr. Frankel's geography class
10 that interfered with students' ability to learn the
11 subject matter?

12 A Every time I had Mr. Frankel, he always had
13 a lot of students. We always had to share books. We
14 always would work on work sheets, take notes from the
15 board, or from the overhead projector. And the same
16 problems, just when like the summer would come or the
17 winter will come and we will get cold or hot; sometimes
18 it was problems with air conditioning or the heating.

19 Q You took your ninth grade geography class in
20 one of the bungalow classrooms?

21 A No. I had it in the main building.

22 Q There were still problems with the heating
23 in Mr. Frankel's geography class?

24 A During this time, no. Just the air
25 conditioning.

1 Q How many students approximately were in your
2 ninth grade geography class?

3 A Thirty to 35 students.

4 Q Were there a sufficient number of textbooks
5 in the class set for every student?

6 A No. We had to share.

7 Q How many textbook in the class set?
8 Do you remember?

9 A No.

10 Q Can you give me your best estimate of the
11 number of textbooks that were in the class set?

12 A I know there wasn't enough to go around. I
13 may say there was probably like 28.

14 Q When you say you had to take notes from an
15 overhead projector, from the board, what kind of notes
16 are you referring to?

17 A Geography notes, like having to do with
18 dates, maps, anything that has to do with geography.

19 Q This isn't copying down information from the
20 textbook? It's from the board or overhead projector,
21 correct?

22 A I don't know where he will get it from. I
23 know he wrote down his own notes, and I guess he will
24 summarize parts from books. I don't know where he will
25 get the information from.

1 administrator or maintenance crew, do those people put
2 graffiti on the desks or chairs or chalk boards at
3 Fremont?

4 A I don't think so.

5 Q Other than the graffiti and the other thing
6 you've mentioned in your ninth grade geography class, can
7 you think of anything else that interfered with the
8 students' ability to learn the subject area?

9 MS. LHAMON: Mischaracterizes the testimony. She
10 listed other things that interfered with her ability to
11 learn, other than the graffiti.

12 MR. ROZWOOD: I said other than the things you've
13 already testified to.

14 MS. LHAMON: You didn't said say that. We can
15 have the reporter read it back.

16 THE WITNESS: Just the students that were there,
17 you know. And then we had to share books. That's about
18 it that I could think of.

19 BY MR. ROZWOOD:

20 Q Do you know the reason why there were
21 insufficient number of textbooks in your ninth grade
22 geology class?

23 A I guess it wasn't enough to go around each
24 teacher, or I don't know what the problem may be.

25 Q As your attorney instructed you, you don't

1 Q Were you asked to copy anything from a
2 textbook?

3 A No.

4 Q Were there any lighting problems in your
5 geography class, ninth grade geography class?

6 A That I can think of right now, no.

7 Q Were there any missing tile problems in your
8 ninth grade geography class?

9 A No. It was like graffiti problems
10 everywhere.

11 Q In your geography class, ninth grade?

12 A Yes. Chair, desk, blackboard, chalk board.

13 Q Did you ever see anybody graffiti the desks
14 or chair or chalk board?

15 A No. I wouldn't look around and check if
16 they were like "graffitying" the desks or chairs.

17 Q This will go faster if you answer "yes" or
18 "no" questions with "yes" or "no."

19 Is the answer to that question "No, I've never
20 seen anybody graffiti the desks or chairs at Fremont"?

21 A No. I never seen anybody graffiti.

22 Q Do you know who it is that did the graffiti?

23 A Students.

24 Q Other than students, to your knowledge does
25 any of the school employees such as the teacher or

1 need to guess and shouldn't provide any guessing
2 testimony. If you don't know the answer, just say you
3 don't know.

4 So, you have no knowledge as to why the ninth
5 grade geography class has an insufficient number of
6 textbooks, correct?

7 A No.

8 Q Who is your teacher for ninth grade
9 Geometry A?

10 A Mr. Bayan.

11 Q Same teacher you had for Algebra 1B class?

12 A Yes.

13 Q What instructional materials did you use in
14 your ninth grade geometry class?

15 A Books.

16 Q Textbooks?

17 A Yes.

18 Q How many, one textbook for each students?

19 A Yes, because there was a lot of students in
20 that class.

21 Q How many students were in that class?

22 A Twenty to 25 students.

23 Q Each students had his or her own textbook to
24 use in class?

25 A For the class, yes.

1 Q And what about to take home?
 2 A No.
 3 Q If a student in Mr. Bayan's geometry class
 4 wanted to take that textbook home, was this possible?
 5 A We didn't have homework for the book.
 6 Q What type of homework did you have in that
 7 class?
 8 A Just problems he will put on the board.
 9 Q Can you think of anything about the
 10 classroom environment in your ninth grade geometry class
 11 that interfered with the students' ability to learn the
 12 subject matter?
 13 MS. LHAMON: Separate from the lack of textbooks?
 14 MR. ROZWOD: I think there were sufficient
 15 textbooks.
 16 MS. LHAMON: She testified she couldn't take them
 17 home.
 18 MR. ROZWOD: She testified she had no homework
 19 from those textbooks.
 20 MS. LHAMON: She testified she couldn't take them
 21 home.
 22 BY MR. ROZWOD:
 23 Q Were you able to take a textbook home in
 24 your geometry class?
 25 A No.

1 A Not that I can think of.
 2 Q How about lighting problems in your ninth
 3 grade geometry class?
 4 A No.
 5 Q Were there any missing ceiling tile problems
 6 in your ninth grade geometry class?
 7 A No.
 8 I don't know.
 9 Q Did you take the French B class from the
 10 same teacher, [REDACTED]?
 11 A Yes.
 12 Q And in the same classroom?
 13 A Yes.
 14 No, I'm sorry, we didn't. Every time we come back
 15 from off track we have different classrooms.
 16 Q Every time?
 17 A Yes.
 18 Q Can you think of anything about your
 19 classroom environment in French B, French 1B that
 20 interfered with your ability to learn the subject matter?
 21 A Just the ones I mentioned before.
 22 We have always been overcrowded. We will take a
 23 book when it was necessary. It was -- sometimes it will
 24 be overheated. I mean, sometimes the class will be real
 25 hot, air conditioning problems, and that's all I could

1 Q Other than that, is there anything else that
 2 you think that interfered with your ability to learn the
 3 subject matter?
 4 A I think I learned the subject pretty well.
 5 Q So, do you think that your inability to take
 6 a textbook home in your geometry class interfered with
 7 your ability to learn the subject matter?
 8 MS. LHAMON: Calls for expert testimony. Asked
 9 and answered.
 10 THE WITNESS: No, it didn't affect my ability to
 11 learn in this class.
 12 BY MR. ROZWOD:
 13 Q Other than that, can you think of anything
 14 that interfered with your ability to learn the subject
 15 matter in the class?
 16 MS. LHAMON: Calls for expert testimony.
 17 THE WITNESS: No.
 18 BY MR. ROZWOD:
 19 Q So, you deserve the grade you got in this
 20 class?
 21 MS. LHAMON: Asked and answered.
 22 THE WITNESS: Yes.
 23 BY MR. ROZWOD:
 24 Q Do you recall any specific temperature
 25 problems in your geometry class?

1 think about.
 2 Q Was this in the main building or in the
 3 bungalows?
 4 A The bungalows.
 5 Q Are you seeking to eliminate the use of
 6 bungalows in your lawsuit?
 7 MS. LHAMON: Legal conclusion.
 8 THE WITNESS: I'm seeking for the help I can get,
 9 anything that would better the school.
 10 BY MR. ROZWOD:
 11 Q Do you think it would better if the school
 12 didn't use bungalows?
 13 A I don't think it will make a difference.
 14 If it's a classroom where we could -- if it's a
 15 classroom we could learn from and it's a great
 16 environment to be in, you know, we're well rested -- I
 17 don't know -- somewhere we could be just well suited from
 18 and just learn what we need to learn.
 19 MR. ROZWOD: Can you read back that last answer?
 20 (The record is read as follows:
 21 "I don't think it will make a
 22 difference. If it's a classroom where we
 23 could -- if it's a classroom we could learn
 24 from and it's a great environment to be in,
 25 you know, we're well rested -- I don't

1 know -- somewhere we could be just well
2 suited from and just learn what we need to
3 learn.")
4 BY MR. ROZWOOD:
5 Q Can you describe what you mean, "well
6 rested" and "well suited?"
7 A Well rested is -- well rested, I guess by us
8 as students, that will be well alert; and by "suited" is
9 just that we have the basic things we need. The books.
10 The lighting problem. Air conditioning. Heating
11 problems. Seats that are not -- I don't know -- not
12 tagged up, or there is missing a leg, or it's not
13 working.
14 Having a clean chalk board because some of
15 them, they are all dirty and all graffiti.
16 Q So, it doesn't matter to you if it's in a
17 bungalow or not, as long as you have these things that
18 you've just listed, correct?
19 A Yes.
20 Q And whose responsibility is it to make sure
21 the students are well rested and alert in class?
22 A Well, the students.
23 Q Whose responsibility is it to make sure that
24 the school equipment isn't "tagged up," as you say?
25 MS. LHAMON: Calls for legal conclusion.

1 THE WITNESS: The school board. Anybody who
2 administers the money or that gives -- actually helps the
3 schools to be what they are now.
4 BY MR. ROZWOOD:
5 Q Do the students have any responsibility not
6 to graffiti the school equipment?
7 A Yeah, they're responsible -- keeping their
8 books or their chairs and well "amenable," to keep them
9 clean. But I guess it all depends on the student.
10 Q Turning to your ninth grade aerobics class,
11 where was that held?
12 A In a gym.
13 Q Can you think of any -- can you think of
14 anything that interfered with your ability to learn the
15 subject matter in your aerobics class in the ninth grade?
16 A Just that we did aerobics in that class, and
17 we will sweat. And there was no air conditioning.
18 Q Anything else?
19 A There was a lot of students, but it really
20 didn't create a problem.
21 Q Anything else?
22 A No.
23 Q Okay. Let's take a break and turn to tenth
24 grade.
25 (Recess taken.)

1 BY MR. ROZWOOD:
2 Q Back on the record. I want to ask you a
3 question about graffiti.
4 Whose fault is it when a student tags up
5 school property, the schools or students?
6 MS. LHAMON: Calls for speculation.
7 THE WITNESS: I guess the students, but some of
8 them we already get them tagged up. As I said before,
9 some of the books are just hand-me-downs that I get that
10 are four or five years old.
11 BY MR. ROZWOOD:
12 Q Just with respect to the act of tagging of
13 school property, is this the student's or the school's
14 fault?
15 MS. LHAMON: Calls for speculation. She hasn't
16 testified that she tags.
17 THE WITNESS: The students, I guess.
18 BY MR. ROZWOOD:
19 Q What should the school do after a student
20 tags school property in order to address the problem, in
21 your view?
22 MS. LHAMON: Any question about remedies calls for
23 a legal conclusion. She's not qualified to testify about
24 how they should solve the problem.
25 THE WITNESS: I don't know.

1 MR. ROZWOOD: Not a remedy seeking a lawsuit. I'm
2 asking here, as a student seeking to represent all
3 students in California's public schools, what she thinks
4 the school should do to address the graffiti problem.
5 MS. LHAMON: That sounds like a question about a
6 recommendation. Any question about recommendation calls
7 for a legal conclusion. She's not qualified herself to
8 answer.
9 MR. ROZWOOD: I'm asking about her view, not what
10 is required of the law. What her view is. I'm entitled
11 to her view.
12 MS. LHAMON: I'm entitled to object.
13 BY MR. ROZWOOD:
14 Q You can answer what you think the school
15 should do about the graffiti plan?
16 A I don't know.
17 Q Do you think they should do anything?
18 A They should do something about it, but I
19 don't know what -- I don't know what procedure they
20 should take about it.
21 I don't think -- I don't think it would be
22 necessary for the beginning of school to be searching
23 each students to see if you have a marker or pencil or
24 pen or things you use to write, you know, they use in a
25 class. I don't know what necessary things that should be

1 done for that.
 2 Q What could the school do --
 3 MS. LHAMON: Same objection.
 4 BY MR. ROZWOOD:
 5 Q -- to prevent graffiti at Fremont?
 6 MS. LHAMON: Same objection.
 7 THE WITNESS: That I don't know. I mean there is
 8 graffiti everywhere, even in the streets. What is the
 9 police going to do, you know? I don't know.
 10 BY MR. ROZWOOD:
 11 Q You can't think of anything the school could
 12 do to prevent or address the graffiti problem at Fremont?
 13 A No, I can't think of anything.
 14 Q Is this "no, I cannot think of anything"?
 15 A Yes.
 16 Q If you think of something that you think the
 17 school can do to address the graffiti problem, to prevent
 18 or address the graffiti problem at Fremont, will you
 19 please let me know?
 20 A Yes.
 21 Q Who is the teacher of your tenth grade
 22 English class?
 23 A It was a female.
 24 Q Do you remember her name?
 25 A Ms. Quintero, I think.

1 A Not just because she was such a good
 2 teacher. She had the job. I'm sure when you get hired,
 3 they ask you all the specific things you need to be
 4 teacher.
 5 Q Can you describe the instructional materials
 6 Ms. Quintero used in English 10A for your tenth grade
 7 class?
 8 A Textbooks and novel.
 9 Q About how many students were in English 10A?
 10 A Thirty to 35 students.
 11 Q Did every student have a textbook in
 12 Ms. Quintero's class?
 13 A Yes. But we couldn't take it home.
 14 Q Did you have the same teacher for your
 15 English 1B class?
 16 A Yes.
 17 Q But a different classroom?
 18 A Yes.
 19 Q Where was the classroom for English 10A, in
 20 the main building or the bungalows?
 21 A In the main building.
 22 MS. LHAMON: Mischaracterizes testimony. She said
 23 every time she comes in from off track, she got a new
 24 classroom, that would make it more than one classroom per
 25 semester.

1 Q Q-U-I-N-T-E-R-O?
 2 A Yes.
 3 Q How would you can describe Ms. Quintero as a
 4 teacher?
 5 A She was real good.
 6 Q Can you be more specific?
 7 A I'll give her a 10 on a scale of one to 10.
 8 Q What about her as teacher makes you say
 9 that?
 10 A She was real -- real good. She's really
 11 explicit. She was real organized.
 12 Q About how old was Ms. Quintero?
 13 A Around 25.
 14 Q Do you know if she was fully credentialed?
 15 MS. LHAMON: Asked and answered, she already
 16 testified she believed all of her teachers are fully
 17 qualified.
 18 THE WITNESS: I believe she was.
 19 MR. ROZWOOD: I'm asking if she knows.
 20 Q Do you know or do you not know?
 21 A No. I don't know if she was fully
 22 credentialed.
 23 Q You believe she was?
 24 A Yes.
 25 Q Because she was such a good teacher?

1 BY MR. ROZWOOD:
 2 Q Is that correct?
 3 A Every time they come in from off track, we
 4 will have a different classroom. So, it would be two
 5 different classrooms.
 6 Q One for each semester, correct?
 7 A Yes.
 8 Q You had one classroom for all of English
 9 10A, correct?
 10 A Okay. I had one classroom for the fall
 11 semester; one classroom in a different classroom for the
 12 spring semester.
 13 Q Okay. So, for English 10A, you had one
 14 classroom; for 10B, another classroom?
 15 A Yes.
 16 Q You didn't have multiple classrooms within a
 17 given semester?
 18 A No. Just those two classes. Those two
 19 classrooms.
 20 Q English 10A classes was in the main
 21 building?
 22 A Yes.
 23 Q How about the English 10B?
 24 A In the main building as well.
 25 Q Would you say Ms. Quintero was prepared with

- 1 lesson plans weekly, lesson plans for your English, tenth
2 grade English class?
3 A Yes.
4 Q Would you say she explained things well?
5 A Yes.
6 Q Did she take her time to make sure the
7 students understood the lesson plan?
8 A Yes.
9 Q You believe she actually cared about the
10 students' learning?
11 A Yes.
12 Q Do you believe she was dedicated to her
13 work?
14 A Yes.
15 Q Do you believe she loved to teach?
16 A Yes.
17 Q What type of homework assignments did you
18 have in Ms. Quintero's class?
19 A Essays. Composition. Textbook questions.
20 Q Say that again?
21 A Textbook questions.
22 Q What do you mean, "textbook questions"?
23 A Write down the questions from a textbook.
24 Q What type of questions were those?
25 A Like if there was like a short story on the

- 1 A A hundred to 95 percent.
2 Q What about 94 percent?
3 A I don't know. I guess she'll give you an A
4 anyway.
5 Q So, I'm trying to figure out your scale. 80
6 to 85 was a B.
7 What about 85 to 95; is that up to her?
8 A I guess.
9 Q Did Ms. Quintero assign essays and
10 compositions for grades?
11 A Yes.
12 Q In class and for homework?
13 A No, just in class.
14 Q Do you know what portion of your grade was
15 determined by your in-class essays and compositions?
16 A Because we have final. Like every time we
17 come off track we have finals, final exams. That final
18 exam, whatever grade you get, that's the grade you get
19 from the next semester, that's going to be your beginning
20 grade from the next semester and you have to work up on
21 it.
22 Q And do you know how she --
23 Well, my question is what percentage of your grade
24 is determined by your in-class essays and composition
25 versus your homework assignments?

- 1 book, I mean on the textbook, we will write them down,
2 write down the questions and take them home, and then
3 when we remember from the story, we will write it down.
4 Q Do you know how Ms. Quintero calculated her
5 students' grades in English 10A in your tenth grade
6 English class?
7 A No.
8 Q Did you have any in-class exams in
9 Ms. Quintero's class?
10 A Yes.
11 Q Do you know how many points they were worth
12 towards your grade in that class?
13 A No. I just know she had a grading scale.
14 Q What kind of a grading scale?
15 A Like a hundred to 95 percent is an A --
16 (Discussion off the record.)
17 MR. ROZWOOD: Back on the record.
18 Q You were describing Ms. Quintero's grading
19 at school?
20 A Yes. A hundred to 95 percent was an A. 80
21 to 85 was a B. 70 to 75 a C. 60, 65 a D. And below
22 from that an F.
23 Q Okay. So, from 95 to a hundred was an A?
24 A Yes.
25 Q Or 90 to a hundred?

- 1 A I don't know.
2 Q She didn't ever tell you?
3 A No.
4 Q Okay. With respect to your classrooms in
5 the main building for your tenth grade English class, can
6 you tell me if there was anything about the classroom
7 environment that interfered with your ability to learn
8 the subject matter?
9 A Just when it will be hot or cold, then if we
10 have problems with the air conditioning, because each
11 classroom is different.
12 Q Do you remember having any specific problems
13 with the air conditioning in Ms. Quintero class?
14 A It was with the air conditioning, not with
15 the heater.
16 Q Can you describe for us the air conditioning
17 problems you had in Ms. Quintero's class?
18 A It was hot. It was hot, because the
19 classroom was all the way on the third floor. It was
20 real hot. She just had to open the windows.
21 Q Was it on the third floor in both 10A and B?
22 A Yes.
23 Q But not the same classroom, correct?
24 A Yes.
25 Q Different classrooms?

1 A Yes.
 2 Q When you had air conditioning problems in
 3 Ms. Quintero's class, how long did it take to fix it?
 4 A I don't know. Whenever they would get to
 5 it. Sometimes it will take a month.
 6 Q How many different times was there an air
 7 conditioning problem in Ms. Quintero's class?
 8 MS. LHAMON: How many different days did she
 9 experience it being hot, or was it start and stop?
 10 BY MR. ROZWOOD:
 11 Q I'm trying to understand, how many different
 12 times did the school have to fix the air conditioning in
 13 Ms. Quintero's class in tenth grade?
 14 MS. LHAMON: You can answer to the extent you
 15 know. You can give your best estimate if you don't know.
 16 THE WITNESS: Probably just that one time when we
 17 had the problem with the air conditioning.
 18 BY MR. ROZWOOD:
 19 Q So after it was down for approximately one
 20 month, and it was fixed by the school, you didn't have
 21 any subsequent air conditioning problems in
 22 Ms. Quintero's class, correct?
 23 A Yes.
 24 Q Other than the air conditioning problem
 25 we've just discussed, is there anything else you can

1 in English 10 --
 2 MS. LHAMON: Calls for expert testimony.
 3 THE WITNESS: It didn't create a problem because
 4 she went through everything.
 5 BY MR. ROZWOOD:
 6 Q She explained everything?
 7 A Yes.
 8 Q What was your grade in this course?
 9 A An A.
 10 Q Did it interfere with your ability to learn
 11 English, that you weren't able to take the textbooks
 12 home?
 13 MS. LHAMON: Calls for expert testimony. And
 14 asked and answered.
 15 THE WITNESS: Not to me. By probably to other
 16 students.
 17 BY MR. ROZWOOD:
 18 Q How did it affect other students and the way
 19 they learned?
 20 MS. LHAMON: Calls for speculation.
 21 THE WITNESS: I don't know. I know the majority
 22 passed, a majority didn't.
 23 BY MR. ROZWOOD:
 24 Q The majority passed and the majority didn't?
 25 A Yes. Probably like there is a couple them

1 think of about the classroom environment in
 2 Ms. Quintero's class that interfered with your ability to
 3 learn the subject matter?
 4 MS. LHAMON: In exclusion of the textbooks she
 5 couldn't take home and the novels?
 6 THE WITNESS: No. There is no other problem that
 7 I can think of.
 8 BY MR. ROZWOOD:
 9 Q If you wanted to take your textbooks home,
 10 would Ms. Quintero let you?
 11 A No. She wouldn't.
 12 Q She wouldn't let any student take that
 13 textbook home, correct?
 14 A Yes.
 15 MS. LHAMON: Calls for speculation as to other
 16 students.
 17 BY MR. ROZWOOD:
 18 Q Did Mr. Quintero have a policy of not
 19 letting students take textbooks home?
 20 A Her policy was she only had to class sit, so
 21 she always had the same amount of students in each period
 22 of class. She didn't have any books to go around to each
 23 student.
 24 Q Did your inability to take textbooks home
 25 interfere with your ability to learn the subject matter

1 that got As, a couple B. Five or six students that got
 2 Fs.
 3 Q Do you have any specific knowledge of any
 4 students in your tenth grade English class who wanted to
 5 take a textbook home and couldn't?
 6 A No.
 7 Q Do you have any specific knowledge of any
 8 cases where a student -- student's ability to learn was
 9 interfered with by Ms. Quintero's textbook problem?
 10 MS. LHAMON: Calls for expert testimony.
 11 THE WITNESS: No.
 12 BY MR. ROZWOOD:
 13 Q You mentioned there were novels in
 14 Ms. Quintero's class?
 15 A Yes.
 16 Q Were those novels --
 17 A Just fictional books.
 18 Q Do you remember any of the names?
 19 A No, I don't.
 20 Q How were novels used by Ms. Quintero in your
 21 10th grade English class?
 22 A We will read them as a class. And then we
 23 will read them -- we had silent reading for the first 10
 24 minutes, so we will read them.
 25 And then, she would just ask us questions or,

1 sometimes she'll just like, I don't know, just do project
 2 on them; do posters, having to do with the chapter,
 3 anything.
 4 Q Were there sufficient novels for use by all
 5 the students in Ms. Quintero's class?
 6 A There was enough novels for each students.
 7 Q Were you ever given homework assignments
 8 relating to novels?
 9 MS. LHAMON: Asked and answered.
 10 THE WITNESS: The only one was, what do you think
 11 may happen on the next chapter, but what you know of the
 12 previous ones that we've read.
 13 BY MR. ROZWOOD:
 14 Q So, in addition to the textbook questions
 15 that you were assigned for homework, you also had
 16 occasional homework assignments based on the novels?
 17 A Yes.
 18 Q Are there any other homework assignments
 19 other than those two that you got in Ms. Quintero's
 20 class?
 21 A Definition. Vocabulary.
 22 Q Were those homework sheets? How were they
 23 assigned?
 24 A No. She'll weekly give us 10 vocabulary
 25 words, and we will have to define them by the end of the

1 have, give me your best estimate?
 2 A Around 35.
 3 Q How are the books assigned to the students?
 4 Let me strike that.
 5 Was it first come, first serve each day in class
 6 with regard to who got the textbook in the class set?
 7 A No.
 8 Q Okay. How did Mr. Frankel deal with the
 9 situation where you only had 35 textbooks with the 40 or
 10 45 students?
 11 A Well, partner up with somebody and have a
 12 book to share.
 13 Q Okay. So everybody had to share a book with
 14 someone else?
 15 A Yes.
 16 MR. FRIEDMAN: So I understand, you referred to
 17 approximately 30 to 35 textbooks for the class?
 18 THE WITNESS: Yes.
 19 MR. FRIEDMAN: There were about 40 to 45 students
 20 in the class?
 21 THE WITNESS: Yes.
 22 MR. FRIEDMAN: So, was it the case that everybody
 23 had to partner up on textbooks or some students would
 24 have a textbook with them during class?
 25 THE WITNESS: Some that have a textbook by

1 week and turn them in.
 2 Q You'd copy those 10 words from the board?
 3 A Yes.
 4 Q In your view, did you have sufficient
 5 instructional materials in your tenth grade English
 6 class?
 7 A Yes.
 8 Q For your tenth grade world history class,
 9 can you tell me who the teacher was?
 10 A Mr. Frankel.
 11 Q Where was that classroom located?
 12 A In the main building.
 13 Q For both the first and second semesters?
 14 A Yes.
 15 Q Different classrooms in the main building?
 16 A Yes.
 17 Q How about how many students were in your
 18 tenth grade history class?
 19 A Forty or 45 students.
 20 Q Did you have textbooks in this class?
 21 A We had a class set, but enough going around.
 22 Q You had a class set, not enough to go
 23 around?
 24 A Yes.
 25 Q How many textbook in the class set did you

1 himself and some partner up.
 2 MR. FRIEDMAN: Was it the same student each that
 3 had a textbook to him himself, or depends who got the
 4 class?
 5 THE WITNESS: Just depending like if you want to
 6 share a book with your friend, you can. It wouldn't
 7 matter.
 8 BY MR. ROZWOOD:
 9 Q Did the same people who shared a book on one
 10 day share the book on another day in class, was it the
 11 same sharing pattern every class day?
 12 A It will be different every day, because we
 13 wouldn't use the books on a daily basis because we had
 14 that problem.
 15 Q Are you testifying that Mr. Frankel didn't
 16 use the textbook because he didn't have, on a daily basis
 17 in class, because he didn't have enough?
 18 A I don't know. I don't know if you want to
 19 use it on a daily basis because of that. In my opinion
 20 I'm pretty sure that's why he didn't use the books on a
 21 daily basis.
 22 Q Can you describe your homework assignments
 23 in your history class?
 24 A He wouldn't get homework in this class.
 25 Just taking notes and worksheets. Things off the book.

- 1 Q What do you mean, "things off the book"?
- 2 A Just anything off the book, any summary or
3 any paragraph off the book, any questions or words like
4 different -- like words. Like definition of words in the
5 book. We were supposed to define, like, key terms.
- 6 Q So, you copied portions of the textbook for
7 homework?
- 8 A No, we just copied the key terms. The
9 definition was already in the book.
- 10 We just like -- he will be like, "In Chapter Five
11 there is 20 key terms. Please write them down and turn
12 them in to me at the end of the class."
- 13 Q That was an in-class assignment?
- 14 A Yes.
- 15 Q I'm interested in how many assignments right
16 now?
- 17 A No, we wouldn't really get homework in that
18 class.
- 19 Q You mentioned Mr. Frankel used worksheets?
- 20 A Yes.
- 21 Q How did he use worksheets in the class?
- 22 A The worksheets, he will pass out a worksheet
23 to each student. We'll write down the -- I mean we will
24 write down the questions, read the summary and answer
25 them.

- 1 Q That was also for in-class use?
- 2 A Yes.
- 3 Q You never used worksheets for homework?
- 4 A No, because he will use this same worksheet
5 for different classes.
- 6 Q Can you think of anything about the
7 classroom environment in your tenth grade history class,
8 classes, that interfered with the students' ability to
9 learn the subject matter?
- 10 A That's the same one I mentioned. Just there
11 was a lot of students. The books situation. Air
12 conditioning during the summertime.
- 13 Q Other than those three, can you think of any
14 other?
- 15 A No.
- 16 Q How many times did the -- Strike that.
17 Was the air conditioning ever broken or
18 nonfunctional in Mr. Frankel's tenth grade history class?
- 19 A I know that the air conditioning was broken.
- 20 Q Do you know how long it was broken for?
- 21 A I don't know.
- 22 Probably like for the first month that we had
23 entered during the summer, during July.
- 24 Q I want to remind you that you can say you
25 don't know if you don't know.

- 1 If you can give me your best estimate, that's
2 great.
- 3 Is it your best estimate that the air conditioning
4 in your tenth grade history class was not working for a
5 full month?
- 6 A Yes.
- 7 Q After it was repaired by the school was
8 there any other occasion on which the air conditioning
9 was nonfunctional in your tenth grade history class?
- 10 A Not that I can think of.
- 11 Q The Complaint in this case mentions things
12 like rats and cockroaches.
- 13 Have you ever seen any rats or cockroaches or
14 other rodents or things like that at Fremont?
- 15 A I seen ants and cockroaches.
- 16 Q Never any rats or mice?
- 17 A Not rats.
- 18 Q Do you know if you -- let me ask you this,
19 where have you seen ants and cockroaches?
- 20 A The ants will -- when -- as soon as we
21 students bring food in the classroom and leave it behind,
22 there will be rats, cockroaches. Only this one classroom
23 Spanish with Mr. Viveros and having Spanish in the
24 workshop room, and it was so stuffy, and machinery to cut
25 wood, there would be cockroaches there, like on the

- 1 floor.
- 2 Q So the only place you've seen cockroaches
3 was Mr. Viveros' Spanish class?
- 4 A Yes.
- 5 Q That was what?
- 6 A Eleventh grade.
- 7 Q And the ants are only in classrooms,
8 correct?
- 9 A Any classroom. As soon as like you leave
10 food behind, there is a trail of ants that go there.
- 11 Q Students eat in class at Fremont?
- 12 A In some -- if the teacher permits it, yes.
- 13 Q Which teachers in your experience permit
14 eating in class at Fremont?
- 15 A Not many of them.
- 16 Q Which ones do, to your knowledge?
- 17 A Probably two to three teachers let the
18 student bring food, and most of the majority of them
19 don't.
- 20 Q Do you know the names of any teachers that
21 do permit students to eat in class?
- 22 A No.
- 23 Q Did any of your teachers permit students to
24 eat in your classes?
- 25 A Some of them. My ninth grade -- well, a lot

1 of teachers let you bring with you, because if you spill
2 water, you know it won't attract any kind of, you know,
3 rodents or any kind of animal. Other teachers don't let
4 you even chew gum in that class.

5 Q With respect to the eating in class, with
6 respect to the insect problem, the ant problem, do you
7 know the names of any teachers that allowed students to
8 eat in class?

9 A No. I don't know the names.

10 Q But you're saying there were two or three,
11 correct?

12 A Yes.

13 Q You personally had two or three teachers
14 that let students eat in class?

15 A Yes.

16 Q You just don't remember their names?

17 A No.

18 Q They were all in your ninth grade year?

19 A No, in different years.

20 Q As we go through your record, if you think
21 of which teachers they are, can you let us know?

22 A Yes.

23 Q Thanks.

24 Your complaint has allegations about English
25 language learners, ELL.

1 A Second, third grade.

2 Q Do you have any knowledge about how the ESL
3 program at Fremont works?

4 A No.

5 Q Do you have any knowledge about whether any
6 of your teachers were specially qualified to teach
7 English language learners?

8 A No.

9 Q Your Complaint contains allegations
10 regarding noise from the outside of the classroom or
11 nearby that might impede communication between students
12 and teachers.

13 Are you aware of any instances where ambient
14 or external noises levels impeded communications between
15 students and teachers?

16 A Yes. They were building new bungalows.
17 There was a lot of noise, a lot of construction being
18 done. But not on the main building. Just on the
19 students around the bungalows or in the P.E area.

20 Q Let's do one at a time.

21 Do you know when the new bungalows were
22 built you are referring to?

23 A About seven, eight months ago.

24 Q Late 2000?

25 A Yes.

1 Do you have any knowledge about the ELL program at
2 Fremont?

3 A ELL or ESL?

4 Q Well, they are different. So I'm talking
5 about ELL?

6 A I don't know anything about ELL.

7 Q Do you know anything about ESL?

8 A There is ESL classes for, you know, kids
9 trying to learn English. That's all I know.

10 Q Do you have any personal knowledge of those
11 classes or the teachers?

12 A No. I don't know -- I know there is
13 classes, but I don't know the teachers.

14 Q You're not an ESL student, correct?

15 A No, not at the moment, no.

16 Q Okay. Were you involved in the ESL program
17 at Fremont?

18 A No.

19 Q Were you ever involved in the ESL program in
20 your academic career?

21 A Yes.

22 Q Where were you when did you commit the
23 program?

24 A Elementary.

25 Q What grade?

1 Q How long in your best estimate did the
2 construction last?

3 A It last like until almost to the beginning
4 of my senior year.

5 Q Is this approximately six months?

6 A I don't know. Almost like to the beginning
7 of my senior year.

8 Q In July 2000?

9 A Yes.

10 Q When you started your senior year, the
11 construction was finished?

12 A Yes, it was already finished.

13 Q We will get back to this when you get to
14 your senior year on the record, together with your
15 classes.

16 Other than the construction of the new
17 bungalows in late 2000, are there any other instances
18 where ambient or external noise impeded verbal
19 communication between students and teachers at Fremont?

20 A No. That was the only incident.

21 Q Have you ever seen any instances of mildew
22 or rotting organic material at Fremont Senior High
23 School?

24 A Mildew? Mildew and rotting, just the tiles.

25 They are all mildewing, rotting, and sometimes they fall

1 out of place.

2 Q Other than the tiles, have you ever seen any
3 instances of rotting organic material? I guess I can
4 say, what is your understanding of rotting organic
5 material?

6 A Materials that already rotting or no use.

7 Q Other than the tile problem you mentioned,
8 are you aware of any other instances of mildew or rotting
9 organic material at Fremont Senior High School?

10 A No.

11 Q Are you aware of any academic courses in
12 which students are required to pay a fee in order to
13 participate?

14 A The only academic field I know is for the
15 SAT prep classes, you have to pay \$5.

16 Q Are those required by the school?

17 A They are not required. Only if the student
18 wants to take them. It's just programs that like that
19 the -- just programs that the school offered to the
20 students.

21 Q Is that after school?

22 A After school or on Saturdays.

23 Q Are you aware of any extracurricular
24 activities in which the school requires a student to pay
25 a fee in order to participate?

1 Q Are you allowed to play soccer at Fremont if
2 you don't pay the fee?

3 A Yes.

4 Q It's not required in order to participate in
5 the soccer program, correct?

6 A I don't think so.

7 Q Are you aware of any instances where it's
8 required in order to participate in the extracurricular
9 activity, that the student pay a fee at Fremont?

10 A No. I guess if it weren't a uniform, or
11 something like a uniform.

12 Q So, uniforms are made available to any
13 student who wants to participate in extracurricular
14 activities?

15 A Yes.

16 Q If you want a new one, you might have to pay
17 for it?

18 A It depends like if they want to change
19 different colors or different things about the uniform.
20 You just pay, I don't know, like five to 10 dollars. Not
21 that much.

22 Q Are you aware of any instances where the
23 payment of five or 10 dollars by a student was required
24 in order to participate in an extracurricular activity
25 at Fremont?

1 A Yes. I think for insurance.

2 Q What do you mean?

3 A Just in case you get injured.

4 Q Like for a field trip?

5 A No. Like if you're playing soccer or
6 football, if you're in any of those extracurricular
7 activities, you have to pay a fee for insurance, like if
8 you get injured. You only have to pay like \$25.

9 Q Do you know if, for that insurance, you're
10 required to pay for it in order to participate, or if
11 it's voluntary?

12 A I think it's voluntary.

13 Q The fee is optional for students?

14 A I'm not sure. I don't know.

15 Q How do you know that the school charges fees
16 for participation in soccer or football?

17 A Because I know a soccer coach.

18 Q Who is the soccer coach?

19 A Mr. Lopez.

20 Q He told you that you have to pay a fee?

21 A No, he didn't tell me. I just know that a
22 lot of soccer players paid him for the insurance, for the
23 insurance plan that they have, I guess, in the school. I
24 guess if you want to have a particular insurance, I think
25 you have to pay the fee.

1 A No.

2 Q What happens if a student can't pay five or
3 10 dollars?

4 A Just can't pay.

5 It's not a problem.

6 Q It doesn't prevent them from participating
7 in the activities?

8 A No.

9 Q Can you describe -- let me ask you this:
10 Does Fremont Senior High School have a library on campus?

11 A Yes.

12 Q Can you describe it for us, where is it
13 located? How big?

14 A Located by the textbook room. It's not that
15 big.

16 It has all the necessary books that you need, if
17 you need to do a research paper or if you need to read a
18 fiction book or anything that you need.

19 Q Are copies of all the books used in class
20 available to be checked out at the school library?

21 A Yes.

22 Q Have you ever checked out a book at the
23 school library?

24 A Yes.

25 Q So, if you wanted to, for example, get a

1 copy of your English textbook in Ms. Quintero's class to
2 take home with you, you should go and check it out at the
3 school library?

4 A No. Just novels that I read, like if I read
5 a novel in Ms. Quintero's class, I can check out the
6 book, that one copy available. If it's not there, it's
7 not there.

8 Q Have you ever tried to check out a book at
9 the library and found it wasn't there?

10 A Yes.

11 Q What did you do?

12 A Nothing.
13 I didn't do anything.

14 Q What about the textbook used by Mr. Frankel
15 in tenth grade History, would a copy of this be available
16 to be checked out at the library?

17 A That's in the textbook room. Those are
18 books they can't even go and get.

19 None of the books are available in the
20 library.

21 Q Do you know what the policy is at the
22 library with regarding how long you can check out a book
23 for?

24 A It gives you a due date.

25 Q How long are you able to check out a book

1 have a pass to go to the library.

2 Q Other than during class time, did you ever
3 try to go to the school library?

4 A Lunch or nutrition.

5 Q Other than during that time or during lunch
6 or nutrition, did you ever try to go to the library?

7 A No.

8 Q Did you ever have an assignment from a
9 teacher where you didn't have sufficient research
10 materials available to you at the library?

11 A When I have to do research papers, I just go
12 to the Internet or go to a public library.

13 Q Approximately how many research papers or
14 projects were you assigned over the course of your time
15 at Fremont?

16 A Only did like one research paper. That was
17 on my U.S. History class. That was last year when I was
18 in my junior year.

19 Right now, I'm working on one right now for my
20 economics class. That's going to be my final grade for
21 my final.

22 Q What library did you say you go, to which
23 public library?

24 A I go to the one near my house. I don't know
25 the name, but it's on [REDACTED].

1 for at the library?

2 A A week and a half.

3 Q Approximately 10 days?

4 A You can say that.

5 MS. LHAMON: Are you referring to all books, or is
6 there a distinction among reference books or --

7 THE WITNESS: Like encyclopedias. We can't check
8 out magazines. Just books, novels, fictional books,
9 that's the only ones we could check out.

10 BY MR. ROZWOOD:

11 Q Do you know what hours the library at
12 Fremont High School is open?

13 A No. I don't know that hours.

14 Q Is it open on weekends?

15 A No, it's not.

16 Q Do you know what time it closes during the
17 week?

18 A After school. After school, I guess.

19 Q Do you know what time it opens during the
20 week?

21 A When school starts.

22 Q On those occasions where you've gone to the
23 library, what times during the school day, during the
24 week did you go?

25 A During my periods, I ask the teacher if I

1 Q You go to this one because it's closer to
2 home?

3 A Yes.

4 MS. LHAMON: As distinct from other public
5 libraries?

6 MR. ROZWOOD: No, I'm talking about as distinct
7 from the library at Fremont.

8 MS. LHAMON: Do you understand that?

9 THE WITNESS: I thought he meant the public
10 library.

11 BY MR. ROZWOOD:

12 Q You go to the public library on [REDACTED]
13 [REDACTED] because it's closer to home?

14 A Yes.

15 MS. LHAMON: Were you answering it's closer to
16 home than what?

17 THE WITNESS: Than Fremont.

18 BY MR. ROZWOOD:

19 Q Did you use the school library on your U.S.
20 History research paper?

21 A No. I used the Internet.

22 Q Does the school library provide Internet
23 access to students?

24 A Yes. There is no computers in our library.

25 Q Do you know the degree to which they have

1 installed computers and provided Internet access to its
2 students?

3 A There is Internet access in the computers in
4 the third floor. But I don't know. I mean, it's real
5 hard because every time we go there is always a class
6 using the computers. It's not really a -- I mean the
7 students really don't have a lot of access to those
8 computers.

9 Q Are the computers you're referring to that
10 are available on the third floor available to students
11 during lunch and nutrition?

12 A Yes.

13 Q Are they available to students before or and
14 after school?

15 A Yes.

16 Q Are they available to students at any time
17 during the day other than the ones we've just mentioned?

18 A A lot of them, the computers are reserved to
19 class.

20 Teachers go will there and reserve that period.

21 If I go -- for instance if I go because I need to
22 get information on a research paper, I can't, because all
23 the computers are occupied, and I need a pass and ask,
24 why do I need to use it and all the explanation.

25 Q Can you describe the procedures that you

1 at a given time?

2 A You can use the computer as long as you
3 want, because there is two computer labs on the third
4 floor; one where you can type up your papers and one you
5 can could use the Internet or type up your paper however
6 you want it.

7 Q One of the computer labs has Internet
8 access, one doesn't?

9 A Yes.

10 Q How many different computer terminals are
11 there in the computer lab that provide Internet access?

12 A All of them. I mean in one room? You want
13 to know how many computers there is?

14 Q Yes?

15 A Thirty to 35 computers.

16 Q In the computer lab that provides Internet
17 access, there are 30 to 35 different computers?

18 A Yes.

19 Q For students' use?

20 A Yes.

21 Q And in the computer lab which you can use to
22 type up your research papers or whatever, it doesn't
23 provide Internet access, how many computers are in that
24 lab?

25 A There is 35 to 40 computers there.

1 have to follow in order to use the computers on the third
2 floor for Internet access?

3 A I go in. I show them my pass from my
4 teacher.

5 If there is a computer available, I can stay. I
6 can do my research, and then I have to ask permission if
7 I can print, and if it's a copy that will be to my
8 benefit because they look it over. And then they have
9 like a little password. That way I can print whatever
10 information I need.

11 Q So all you need in order to do research
12 during class time is a pass from your teacher?

13 A Yes.

14 Q In order to print you need a password?

15 A Yes. That the person in the computer lab
16 has it.

17 He just types it in.

18 Q Do you need this pass from anybody to use
19 the computer lab during lunch or nutrition or before or
20 after school?

21 A No. But they give you a limited time,
22 because the computer lab person stays there just for how
23 long -- I mean -- he can just stay there for a long time
24 that he can, for the available time that he can.

25 Q How long are you allowed to use to computer

1 Q I apologize, I may have asked this question,
2 but did you ever try to use the computer for Internet
3 access outside of class time?

4 A No.

5 Q Do you have any knowledge of who -- strike
6 that.

7 On how many occasions did you seek to use the
8 Internet access computers during class time?

9 A When it was necessary, especially when I
10 wait for the last minute. That's when I like really need
11 to use it.

12 Q When you wait to the last minute to do your
13 research projects?

14 A Yes.

15 Q Well, let me ask you, other than the history
16 and economics research project that you've had, what
17 other research papers or project have you had at Fremont?

18 A I had a -- in my Spanish class, Mr. Viveros,
19 I had to do a magazine, so I had to use the Internet a
20 lot and paste different pictures from famous people. And
21 then some of them, some of the copies I had to like print
22 them out in color.

23 And I had to ask permission for that, too. That
24 was another project in my final. That was another final
25 that I had.

1 Q Can you think of any other projects?

2 A No. Because most over them are just papers,
3 like little compositions I have to write for my finals,
4 or just tests throughout the whole school year to look
5 back in to do them.

6 Q Do you use -- are you expected to use the
7 Internet for those other projects?

8 A No. I mean, you can use anything you need
9 to use to get the information.

10 But I just use like -- I don't even use
11 encyclopedia. I go to the Internet, to "Yahoo.com," or
12 "Ask Jeeves."

13 Q Was it for the Spanish that you waited until
14 the last minute?

15 A No, not for that. For the U.S. History 1.

16 For that one, I always going to Coalition because
17 they have a lot computers there with Internet access
18 so --

19 Q That's the Community Coalition we discussed
20 in your last session?

21 A Yes.

22 Q How many computers does the Community
23 Coalition provide with Internet access?

24 A All of them have Internet access, around 20
25 to 25 computers in the Coalition in the resource room

1 have meetings, we come, or you go.

2 Q So, on those occasions where you've gone to
3 the computer lab on the third floor at Fremont to do
4 Internet research, how many times have you -- strike
5 that -- how many times have you gone to do Internet
6 research during class time at Fremont?

7 MS. LHAMON: To the computer lab?

8 BY MR. ROZWOOD:

9 Q To the computer lab?

10 A Like when I have available time, like for
11 example if I'm in a class and finish all the work, and I
12 know that I'm not going to fall back, and I go up
13 probably like three times -- I only gone around three
14 times the whole time I've been at Fremont.

15 Q And were there computers available on those
16 two or three occasions?

17 A Yes.

18 Probably like one or two computers available.

19 Q So, you were able to use the computer on
20 those occasions?

21 A Yes. Like around 10, 15 minutes.

22 Q What do you mean, 10 or 15 minutes?

23 A Because I may get there like at -- at the
24 end of one of the bell is about to ring. They'll tell me
25 I have another class scheduled, and I don't know how many

1 office.

2 And like there is other computers in different
3 offices. You can use any of them. They like --

4 Q Is the Community Coalition closer to home
5 than Fremont?

6 A Yes.

7 Q You mentioned last time the list of students
8 that you knew from the Community Coalition.

9 I'm wondering how it works. Can any student that
10 wants to go to the Community Coalition and use its
11 resources, like these computers?

12 A Yes.

13 Q It's just open to the public?

14 A Open to everybody.

15 Q And the students that you listed that you
16 knew, were those the ones that were like formally
17 involved with the organization?

18 A The other ones that are members of the
19 organization.

20 Q How do you become a member of the
21 organization?

22 A You pay a fee, like a \$10 fee. Ten dollars
23 the whole year, and get a membership card, and they keep
24 you informed of all the things that -- any kind of
25 programs or anything that they are involved in. If they

1 students are going to be in here. Either you want to
2 wait or I have to check into my following class after
3 that.

4 Q I see.

5 A Because when I was -- in my senior year, I
6 had Ms. Wells, and she's a computer teacher. She has
7 Internet access, too. Most of time I go to her.

8 Q So, in addition to the computer lab on the
9 third floor that has Internet access, there are
10 particular computer classes that also have Internet
11 access?

12 A Yes.

13 Q How many computer classes are there, to your
14 knowledge, at Fremont that have Internet access?

15 A Three computer classes, I think.

16 Q How many computers in each class? Do you
17 know?

18 A In Ms. Wells', like 45 to 50 computers. But
19 most of them are broken down. They don't work.

20 Q How many working computers are there in
21 Ms. Wells' class?

22 A Around 38.

23 Q How many are there total?

24 A Like 40 to -- 45 to 50 computers.

25 Q Approximately 38 that work?

1 A Yes.
 2 Q On the other two computers classes, do you
 3 have any knowledge of how many computers they have?
 4 A Pretty sure about the same amount.
 5 MS. LHAMON: When you say "pretty sure," guessing
 6 or estimate?
 7 THE WITNESS: No, I'm pretty sure.
 8 BY MR. ROZWOOD:
 9 Q Have you seen the classrooms?
 10 A Yes.
 11 Q In all of the computers, in those three, all
 12 of the working computers, do those three computer classes
 13 also have Internet access?
 14 A Yes.
 15 Q Are the computers in the computer class
 16 available to students at Fremont before and after school?
 17 A No. They only have available to the
 18 students that are in the class. If you have that class,
 19 and then it's available to you.
 20 Q They are not available to students that are
 21 not taking those classes?
 22 A Uh-huh. Yes.
 23 Q In your view, does Fremont provide its
 24 students with sufficient access to research materials,
 25 such as the library and the Internet access, necessary to

1 A No.
 2 Q Your Complaint contains allegations about
 3 bussing.
 4 Do you have any knowledge of how the busing
 5 program work at Fremont, or if any students at Fremont
 6 get bused to and from school?
 7 A Yes, they have to wake up 5:30 in the
 8 morning, get to school around 6:, 30 and waited for the
 9 bus there and then go to school.
 10 Q So, for the students who get bused out of
 11 Fremont, they are picked up at the school at 6:30 A.M.?
 12 A Yes.
 13 Q That's the time the bus leaves?
 14 A Yes, that's the time that the bus arrives
 15 and leaves.
 16 Q Do you know where the students that are
 17 picked up, where they're bused to?
 18 A Some of them go to Franklin. Most of them,
 19 I know they go to Franklin or -- yes, that's about it.
 20 Q Franklin Senior High school?
 21 A Yes.
 22 Q Do you know how far away that is?
 23 A No. I have no idea.
 24 Q Do you know any students at that time
 25 Fremont who are bused in from other campuses?

1 satisfy their course work?
 2 A Yes. I think that Fremont does. Just that
 3 the students has to take advantage of it.
 4 Q So, it's up to the student to make use of
 5 what's available?
 6 A Yes.
 7 Q And if they do this, you think that Fremont
 8 provides -- strike that.
 9 Are you aware of any instances where a Fremont
 10 student was unable to make use of Fremont's resources,
 11 research resources?
 12 A Just when the computer labs are closed or if
 13 the library is closed or computer labs are closed, that's
 14 the only time I could think of.
 15 Q Do you know of any particular student who
 16 was unable to, you know, make use of the library or
 17 computer labs at Fremont?
 18 A That they have any use?
 19 Q For any reason of any student that you know
 20 of that was unable to use the library or Internet, for
 21 any reason?
 22 A No.
 23 Q Okay. So, you don't have specific examples
 24 of any students at Fremont that were deprived of access
 25 to the Internet or the library?

1 A No.
 2 Q It's too crowded at Fremont to bus students
 3 in?
 4 A I know that when -- I know they have a list
 5 of students that they have reserved for the following
 6 year. That's the only thing I know.
 7 Q What are you referring to? What lists are
 8 you referring to?
 9 A For example, I know that a lot of students,
 10 they get bused out because there's not room, or if you're
 11 going to graduate from middle school, automatically they
 12 send you to the school nearest to your home.
 13 So, let's say if you go to a school you don't want
 14 to go to, like, for example, I have a sister who is in
 15 middle school and she's going to be sent to Locke, but
 16 she doesn't want to go to Locke. She wants to go to
 17 Fremont --
 18 MS. LHAMON: Did you say "let's say?"
 19 THE WITNESS: Let's say she wants to go to Fremont
 20 and they'll be like, "we don't have room for you, but we
 21 will write down your name, and if we get an available
 22 space;" for example, if a student checks out to go to
 23 another school, they probably replace my sister with this
 24 student. That's the list that they have.
 25 BY MR. ROZWOOD:

1 Q I see. So, she's assigned to go to Locke
2 because Locke is closer to home?
3 A Yes.
4 Q She wants to go to Fremont instead?
5 A Yes. Let's say she wants to go to Fremont.
6 Q And she wanted to go to Fremont?
7 A No.
8 Q Locke?
9 A Locke is not closer to our house. I don't
10 know. She just wants to go to another school. She
11 doesn't want Fremont.
12 Q Okay. So, she's lives at a different
13 address?
14 A No, she just has a different address.
15 MS. LHAMON: Could we take a break?
16 (Discussion off the record.)
17 BY MR. ROZWOOD:
18 Q The next class on your record is tenth grade
19 biology class.
20 Do you know who the teacher was for that class?
21 A [REDACTED]
22 Q Spell that?
23 A [REDACTED]
24 Q Where did you take that class?
25 A In the main building.

1 Q Two different classrooms in the main
2 building for the first and second semesters?
3 A Yes.
4 Q How many students were in that class?
5 A Twenty-five or 30 students.
6 Q How many textbooks did you have available?
7 A We had a textbook to take home.
8 Q Was there a textbook class set as well?
9 A Well, I don't know about that.
10 But I know he will let us know like, "Oh, we're
11 using the textbook on Monday, please bring them in." And
12 we will bring them in.
13 And if I he did have a class set -- but he
14 wouldn't let us get it, because he will let us know ahead
15 of time.
16 Q So, [REDACTED] did have a class set of
17 textbooks in your tenth grade biology class?
18 A Yes.
19 Q And there was enough -- do you know how many
20 books there were in the class set?
21 A There was enough to go around.
22 Q If somebody forgot to bring their textbook
23 in on a day he told you they were going to use it in
24 class, were the students able to use the class set of
25 textbooks?

1 A See, this man was a real mean. And he was
2 like, share it with somebody. So we have to share
3 because he was real mean.
4 Q Was there ever an occasion in which a
5 student in your tenth grade biology class was able to use
6 a book from the class set?
7 A Yes.
8 Q So, sometimes [REDACTED] would let students
9 use the class set and sometimes he wouldn't?
10 A Yes.
11 Q Do you have any knowledge as to how he made
12 his decisions?
13 A When he was having a good day or a bad day.
14 Q Can you think of any classroom environment
15 conditions that interfere with students' ability to learn
16 a subject matter in [REDACTED] class?
17 MS. LHAMON: Calls for expert testimony.
18 THE WITNESS: Not that I can think of.
19 MR. ROZWOOD: How can asking for what she can
20 think of call for expert testimony? It's a yes or no
21 question. She can think of some or she can't.
22 MS. LHAMON: You're entitled to ask your questions
23 however you feel like phrasing them and I'm entitled to
24 object when I see a valid objection.
25 MR. ROZWOOD: As long as you're not trying to

1 interfere with the questioning.
2 MS. LHAMON: The record will reflect that I'm not.
3 THE WITNESS: No.
4 No. I can't think of any.
5 BY MR. ROZWOOD:
6 Q So, the classroom environment was okay, from
7 your perspective?
8 A Yes.
9 Q Can you describe the assignment that you
10 received for homework in [REDACTED] class?
11 A [REDACTED], we didn't do anything.
12 Q No homework?
13 A Nothing. We had a book for nothing. The
14 only thing we had do was turn in a daily current event
15 and then he will give a lecture, like if it was a
16 professor in college, he will give you a lecture of any
17 of the biology subjects, and then by the following week,
18 we will have a test.
19 Q Excuse me. So, there were no homework
20 assignments [REDACTED] class?
21 A Yes.
22 Q Except for the daily current event?
23 A Like a weekly current event every Friday
24 we're supposed to turn in, like a current event.
25 Q Is that where you look for an article in the

1 paper and write something about it?
 2 A Yes.
 3 Q Were you allowed to take current events from
 4 the news on television, or were you required to find one
 5 in a written publication?
 6 A In the written publication article in the
 7 newspaper, we will read it, cut it out of the paper --
 8 clipping the article and staple it.
 9 Q What were you required to do with the news
 10 articles?
 11 A Just read it. Make a quick summary of it.
 12 Q Were you given grades?
 13 A Yes. Especially we're supposed to take them
 14 out in the sections, the Health section. We're supposed
 15 to take them out of there. Something that relates to
 16 biology.
 17 Q Were you given letter grades on your current
 18 event assignments?
 19 A No. He will give us points.
 20 Q Out of how many possible points for each?
 21 A He will give us 10 points. I think 10 was
 22 the highest.
 23 Q Other than the weekly current event
 24 assignments and the exams you mentioned, were there any
 25 other assignments that [REDACTED] gave to his students

1 tests covered?
 2 A No.
 3 The cells and reproduction.
 4 Q Those were topics covered in his lectures?
 5 A Yes.
 6 Q Were you ever given specific assignments out
 7 of the biology textbook?
 8 A We had like chapter reviews.
 9 Q What are those?
 10 A There is a chapter and you read it. And for
 11 example, if the chapter is about cells, the whole chapter
 12 is about cells, at the end of the chapter there is a
 13 review and there is questions to review, everything they
 14 have written. And you'll write the answers or whatever
 15 you have learned.
 16 Q Were those assignments that [REDACTED] gave
 17 to his students?
 18 A We will give us three days to work on it in
 19 class, and then that's it. We had a due date and have to
 20 turn them in. If you didn't finish, you work on them at
 21 home. But that was on your own self, if you wanted to do
 22 it or not.
 23 Q But the assignments, chapter review
 24 assignments were required for the course, correct?
 25 A Yes.

1 for points?
 2 A No. He would just talk about his personal
 3 life. You just had to pay attention.
 4 Q How many test were given? Is it a weekly
 5 test he gave?
 6 A No. Every time he had a lecture, and then
 7 we were supposed to be writing notes and he will give us
 8 a test. But it will be like a pop quiz. He won't let us
 9 know. He will just give us a test.
 10 Q How many tests did you take in [REDACTED]
 11 biology class?
 12 A Throughout the whole year?
 13 Q Yes?
 14 A Around 10. Ten tests.
 15 Q All 10 were pop quizzes?
 16 A Yes.
 17 Q [REDACTED] gave you no advance notice of
 18 any of those 10 tests?
 19 A No.
 20 Q Other than his lectures, what did -- let's
 21 go off the record.
 22 (Discussion off the record.)
 23 BY MR. ROZWOD:
 24 Q Other than the lectures that you mentioned
 25 at [REDACTED] gave, is there anything else these 10

1 Q You had to do them. Whether you did them in
 2 class or home was up to you?
 3 A Yes.
 4 Q Were there any points given?
 5 A Yes, there were points given.
 6 Q Do you know how many points the assignments
 7 were worth?
 8 A No. I don't remember.
 9 Q Did you do your all your -- strike that.
 10 Did you complete all of your assignments in
 11 [REDACTED] biology class?
 12 A No.
 13 Q Why not?
 14 A I don't know. That man -- I don't know. He
 15 couldn't stand me. He had his own issues. He did.
 16 Because I don't know [REDACTED]
 17 [REDACTED]
 18 [REDACTED]
 19 [REDACTED] He failed the whole class. Either if
 20 you did the work or not. He failed the whole class.
 21 Q Did you do all your weekly current event
 22 assignments?
 23 A I did my current events and the chapter
 24 reviews, but the tests I wouldn't even try to do.
 25 Q I'm confused.

- 1 Earlier I asked if you completed all your
2 assignments and you said "no."
3 Now you said you completed all your current events
4 and weekly -- chapter review assignments?
5 A I wouldn't complete them all. I'll do them
6 whenever I felt like it.
7 Q You did them all, but not necessarily when
8 they were due?
9 A Yes.
10 Q You completed your current events and you
11 completed all your chapter review assignments, but didn't
12 necessarily turn them in on time?
13 A Yes. Sometimes I wouldn't turn them in at
14 all.
15 Q Why didn't you turn them in?
16 A Lack of interest.
17 Q Is this lack of interest in what?
18 A In the subject.
19 Q How many of your assignments did you decide
20 not to turn in?
21 A A lot of them.
22 Q Can you give me your best estimate on the
23 number?
24 A I can say like 25 percent of the work I
25 turned in, and 75 percent of the work I didn't.

- 1 Q How many chapters in the second semester
2 were there, how many chapter review assignments were
3 there?
4 A Around seven chapters.
5 Q How many did you do?
6 A Around five.
7 Q How many did you turn in?
8 A I turned in five. Two of them I didn't.
9 There were seven chapters in the second semester. I
10 turned in five and two I didn't.
11 Q Did you do the two you didn't turn in?
12 A No, I didn't do them.
13 Q Why didn't you do the two?
14 A I don't know.
15 Q Is there anything in the classroom
16 environment that interfered with your ability to complete
17 those two chapter review assignments?
18 A His attitude.
19 Q Other than [REDACTED] attitude?
20 A He was always mad about something. He will
21 always like talk. I don't know. He's like real racist,
22 and he wasn't motivating at all.
23 Q About how old is [REDACTED]?
24 A Forty-nine, 50.
25 Q Do you know how long he's been a teacher?

- 1 Q 25 percent of the assignments you turned in?
2 A Yes.
3 Q 75 percent of the assignments you did not?
4 A Yes.
5 Q But you did all of the assignments, correct?
6 A Not all of them. But I'll like do half of
7 it, and then not finish it.
8 Q Did you do all the current events?
9 A Those current events, yeah, because they
10 were just weekly.
11 Q You turned them all in?
12 A Yes, every Friday.
13 Q You turned all those in.
14 How many chapter review assignments were there in
15 [REDACTED] class?
16 A It depend, different subjects that we talked
17 about.
18 We went through, for the first semester we went
19 through five chapters. And I probably just turned in one
20 out of all of those five.
21 Q And in the second semester?
22 A Second semester, I really try to do my best
23 there, because I failed the first semester, and I know I
24 was five credits behind. So I needed to get that
25 straight. So I started doing all my work then.

- 1 A For a long time.
2 But I don't know for how long.
3 Q In the first semester when you had five
4 chapter review assignments, and you turned in only one,
5 did you actually complete the other four?
6 A No.
7 Q Did you complete any of the other four?
8 A No. Yes, I did some of the work. Not all
9 of it.
10 Q So, you completed some of the work on each
11 one of the other four chapter review assignments?
12 A Yes.
13 Q But you didn't complete any one of those
14 other four assignments?
15 A Yes.
16 Q You didn't turn any of them in?
17 A Yes.
18 Q Why didn't you turn those in?
19 A Lack of interest. I didn't care. See,
20 because the way he will come at us, at the students, you
21 just had to be there. That man was just crazy.
22 Q Was [REDACTED] prepared with weekly lesson
23 plans?
24 A No. I don't think so.
25 Q Did he explain the subject matter well?

1 A No.
 2 Q Did he take his time to make sure the
 3 students understand?
 4 A No.
 5 Q Do you think he actually cared about whether
 6 the students learned or not?
 7 A No.
 8 Q Do you think he was dedicated to his work?
 9 A No.
 10 Q Do you think he loved being a teacher?
 11 A No.
 12 Q How would you describe [REDACTED] as a
 13 teacher?
 14 A The worst teacher I've ever had in my life.
 15 Q Were there any instructional materials or
 16 resources that you would have liked to have that you
 17 didn't have in your tenth grade biology class?
 18 A Well, it would have helped if he would have
 19 explained, he would have explained the subjects over
 20 because, okay, by the time we get inside the classroom,
 21 he already have the notes up.
 22 We will be copying them down. And we will sit
 23 there and he would be like do the chapter review.
 24 All he will do is give us instruction. He
 25 wouldn't go over anything, any of the work, nothing. And

1 then by that time, he will expect you to know everything.
 2 And then, some of the pop quizzes, it was
 3 concerning some thing that wasn't even on the board.
 4 That man doesn't know how to teach.
 5 Q I can sympathize with you?
 6 A He's crazy. All he will do is talk about
 7 his cat.
 8 Q In terms of something that the school could
 9 have done, in terms of providing additional resources,
 10 was there anything else that you would have liked to have
 11 to help you out in your tenth grade biology class?
 12 MS. LHAMON: Calls for speculation in terms of
 13 what the school could have done.
 14 THE WITNESS: Everybody has had a problem with
 15 this teacher. We were always complaining, especially to
 16 our counselors, how rude he was, and how he would treat
 17 us, because he would just look down at us like we were
 18 nothing.
 19 He said, "I don't care if you learn or not, I'm
 20 still getting my paycheck."
 21 He will always -- we will always talk to our
 22 counselors because they'll never do anything because we
 23 will tell him we're going to talk to the principal, and
 24 he will call over there and then say, we're disruptive
 25 and making chaos in his class.

1 He will just turn everything around so they
 2 believe him than us, so that was a problem.
 3 BY MR. ROZWOOD:
 4 Q Were you ever disruptive in his class?
 5 A I was trying -- no, I was trying to do the
 6 work. He didn't like me. He would tell me to get out.
 7 Q Why did he tell you to get out?
 8 A I don't know. Because I'll talk back.
 9 MR. FRIEDMAN: Is he still at the school?
 10 THE WITNESS: Yes. He's still there, and when I
 11 wanted to change him from my second semester, he told me
 12 I was stuck with him, so make the best of it.
 13 BY MR. ROZWOOD:
 14 Q Do you know how many points the tests were
 15 worth that you got, the pop quizzes? I asked you about
 16 it?
 17 A I don't know. I know there were high
 18 points, but I don't know how much.
 19 Q You said [REDACTED] was racist.
 20 What makes you say that?
 21 A Because there was a couple in the school, a
 22 teacher couple, it was a band instructor, he's
 23 African-American, and there was a teacher, she's white.
 24 And he would like talk about them because they
 25 were a couple, that it wasn't right why they were

1 together, they weren't the same, that they should stick
 2 with their own people.
 3 And then he would always like talk about Mexicans
 4 and Hispanics, that they were dumb and didn't know
 5 anything, that's why the schools are like this, because
 6 we like make it like that. Just stuff like that. Just
 7 rude comments.
 8 Q Did you ever report these comments to
 9 another school official?
 10 A No. The band instructor and the girl are
 11 not together any more. But they did complain to him
 12 about it. But I guess because he's been teaching there
 13 so long, they don't think about it.
 14 Q But the comment he made, was it about Latin
 15 Americans, or did he make them about Mexicans?
 16 A I guess he meant Hispanics over all.
 17 Q Did you ever -- did you ever personally
 18 inform any other school officials about these comments?
 19 A No. We will let the teachers know.
 20 Q Which teachers?
 21 A We told like the band instructor and the
 22 teacher, she was like a teacher that will teach Dance
 23 Folklorico. We will tell her, and she'll talk to like
 24 the officials.
 25 And I guess they'll talk to him, but he will deny

1 it like, "I never said that, those kids are trying to get
 2 me fired."
 3 Q You told the band instructor?
 4 A No. I told the Folklorico teacher. And she
 5 told the band instructor, and they went to tell I don't
 6 know whom. I know they did face him, but he denied it.
 7 Q When you say "they," the band instructor?
 8 A Yeah. They made a comment about them, that
 9 it wasn't right, that they should stick with their own
 10 race.
 11 Q That's the comment about an African-American
 12 should not be with a white?
 13 A Yes.
 14 Q I'm asking about the comments about
 15 Hispanics being stupid or whatever he said?
 16 A We told them that as well, me and my friend
 17 told her.
 18 Q What did he say exactly, if you recall,
 19 about Hispanics?
 20 A No. It's because my friend, she asked him a
 21 question about -- he was like yeah, that's why you
 22 Hispanic girls don't get anywhere. All you guys do is
 23 just get pregnant. That's why the school is like this.
 24 He just started talking.
 25 Q You heard this?

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1 A He said it in front of the whole class.
 2 This was in the tenth grade.
 3 Q And what was your friend's name?
 4 A Her name as Leana Cazares, C-A-Z-A-R-E-S.
 5 Q And did Ms. Cazares or any other students in
 6 this class report that comment to any other school
 7 officials?
 8 A No school official. No. We only told the
 9 Folklorico teacher.
 10 Q Why didn't you tell the principal or your
 11 counselor?
 12 A I don't know.
 13 We just believe that they were weren't going to
 14 believe us. We thought if she tells the teacher, she'll
 15 tell them, but they didn't do anything about it.
 16 Q Can you think of any other comment that
 17 [redacted] made to make you think he's a racist?
 18 A No. Just the comment. He was real blunt
 19 about it.

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1 APPEARANCES OF COUNSEL:
2 (P.M. SESSION)

3
4 CATHERINE F. LHAMON, ESQ.

5
6 S. BENJAMIN ROZWOOD, ESQ.

7
8 HOWARD FRIEDMAN, ESQ.
9

10

11

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14

15 REOPRTED BY:

16

17

ROY H. PITLUK, CSR No. 10239.

18

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1 I've seen cockroaches and ants. I also seen mice, but
2 that was like just one or twice, in my Spanish class
3 Mr. Viveros' class. She told me I could go back to it if
4 I remembered.

5 BY MR. ROZWOOD:

6 Q We want to get all the things you've seen,
7 so that's fine. Those are the same classes that you saw
8 the cockroaches in, right?

9 A Yes.

10 Q Mr. Viveros's class?

11 A Yes, the Spanish classes.

12 Q In eleventh grade?

13 A Yes.

14 Q And how many instances did you see a mice
15 mouse in a class?

16 A Two to three times.

17 Q What happened?

18 A It was just running around, because it's
19 like a classroom and it has like two stories. I don't
20 know. Like the top is like a basement. I don't know all
21 these kind of stuff, and they just running to each corner
22 then and then went into a little hole.

23 Q Is Mr. Viveros' class in the main building?

24 A No. It's in one of the bungalow class.

25 That class was held in a workshop class with all these

1 (The deposition of Cindy Diego was reconvened
2 at 1:16 P.M.)

3
4 CINDY DIEGO,

5 the witness, having been previously administered an
6 oath in accordance with CCP Section 2094, testified
7 further as follows:

8

9 EXAMINATION (CONTINUING)

10 BY MR. ROZWOOD:

11 Q I didn't ask you, is there any reason why
12 you can't give your best testimony today in response to
13 the questions I'm asking you?

14 A No.

15 Q You haven't taken anything that would
16 disturb your mental state in any way?

17 A No.

18 Q Got enough sleep last night?

19 A Yes, I did.

20 MS. LHAMON: We talked at lunch about a couple
21 things you've remembered that you wanted to correct from
22 the morning. Do you remember what they were?

23 THE WITNESS: Yes. I want to go back where I said
24 that when you told me if I seen any kind of other insect
25 or animals in any of my classrooms, and I told you that

1 kind of machinery in there.

2 Q You said it's a two-story bungalow?

3 A Yes.

4 Q Sort of an upper level?

5 A Yes, sort of like an upper level.

6 Q Where on the campus is this bungalow
7 location in relation to the rest of the building?

8 A It's almost to the end of the school.

9 Q Like close to the fence?

10 A Yes. By a fence.

11 Q Close to the school's border?

12 A Yes. Almost -- yeah, yeah, school's border.
13 Like -- almost going to the street.

14 Q Okay. Is there any like ivy or vegetation
15 or trees or anything at or near the classroom?

16 A No. Just concrete, and on the side there is
17 parked cars there.

18 Q Okay. So, what happened when you saw the
19 mouse? What did Mr. Viveros do?

20 A Nothing. Because it was a lot of us, like,
21 "Mr. Viveros, there is a rat there," and he goes, "like
22 where"? He just got like all started and he was like,
23 "I'm going to look into that." He said he was going to
24 look into it.

25 Q And, whatever came of him looking into it?

1 Do you know?
 2 A They were going to change the class. But
 3 since it was already time we were going to start our new
 4 grade, they just changed him from a different class.
 5 Q So, it was towards the end of a semester?
 6 A Yes.
 7 Q The end of the eleventh grade, the second
 8 semester of the eleventh grade?
 9 A No. The ending of the eleventh grade,
 10 already towards the end.
 11 Q In the second semester?
 12 A Yes.
 13 Q And what was the second time you saw the
 14 mouse?
 15 A It was around that time same.
 16 Q So, two or three times towards the end of
 17 your eleventh grade second semester of your eleventh
 18 grade Spanish class?
 19 A Yes.
 20 Q Other than that, have you ever seen a mouse
 21 at Fremont?
 22 A No. Just that time.
 23 Q Have you ever heard of anybody else seeing a
 24 mouse at Fremont?
 25 A Yes. A couple occasions.

1 Different people. Different friends.
 2 Q Can you tell me who they are?
 3 A I don't know their names. But I just know
 4 that they said they seen them at the P.E. areas by the
 5 bleachers and the locker rooms.
 6 Q Have you ever seen any mice in the locker
 7 rooms?
 8 A No. From the two years I had P.E., no.
 9 I seen ants and cockroaches.
 10 Q In the locker rooms?
 11 A Yeah.
 12 Q Do you know anybody that took a class in
 13 this two-level bungalow after you were done taking your
 14 Spanish class?
 15 A I don't know who has that class now.
 16 Q Okay?
 17 A I know it's occupied by a teacher.
 18 Q You mentioned there were other things you
 19 wanted to correct in your testimony?
 20 A Yes.
 21 I don't know if you understood the part where I
 22 said that every time I come back off track, I get a new
 23 classroom.
 24 Q Okay?
 25 A Well, let me explain this way. When I -- if

1 I start like -- I start my new senior year, I have this
 2 one classroom. When I come back off track, and I get
 3 back on track, I have a different classroom.
 4 And then when I'm off track again and come
 5 back, I'm back in the same classroom I started from.
 6 It's a different classroom. I don't know if you
 7 understood the theory.
 8 Q Well, there are two semesters in each track,
 9 correct?
 10 A Yes.
 11 Q And you're on the B track?
 12 A Yes.
 13 Q And your first track starts in July?
 14 A Yes.
 15 Q Late July?
 16 MS. LHAMON: For semesters?
 17 BY MR. ROZWOOD:
 18 Q First semester?
 19 A Yes.
 20 Q And I know you have a break, right, for a
 21 little while in this semester, and that -- the semester
 22 goes through to late October?
 23 A Yes.
 24 Q Like October 31st or something?
 25 A Yes.

1 Q Are you saying that, you know, between July
 2 and October, you have two different classrooms for your
 3 class?
 4 A Okay. Between July and October, they --
 5 let's say I'm in one class. When I came back from the
 6 October break in a different class --
 7 Q Classroom?
 8 A Classroom, sorry.
 9 MS. LHAMON: I thought when we talked you said
 10 that --
 11 MR. ROZWOOD: Let's go off the record because
 12 you're talking what about you guys said and I prefer not
 13 to do that. I want to respect the privilege. If you
 14 want to do that, talk to her in front of us, but let's
 15 make sure the privilege is protected.
 16 (Discussion off the record.)
 17 BY MR. ROZWOOD:
 18 Q You had a conversation with your counsel off
 19 the record and you're going to explain how the classroom
 20 thing works.
 21 A Okay. So, late in July, I start my class,
 22 to the end of September, I mean to the beginning of
 23 September when I go off track, I have that one classroom.
 24 Once I come back from track late October I'm in a
 25 different classroom. Okay.

1 Then when I go off track by the end of March, the
 2 end of February -- I'm sorry -- and come back in May, I'm
 3 in the same classroom that I was when I -- when I'm -- in
 4 the same classroom that I was when I started my senior
 5 year.
 6 MS. LHAMON: Thanks.
 7 THE WITNESS: Great.
 8 MR. ROZWOOD:
 9 Q Okay. I'm confused. Don't worry if you
 10 are, too.
 11 So you have one four-month semester going
 12 from November through February, correct, with a vacation?
 13 A Yes.
 14 Q And you have one four-month semester going
 15 from May through August with a vacation in there as well?
 16 A Yes.
 17 Q And you're saying that after the -- when you
 18 come back within a given semester from vacation, you have
 19 a different classroom?
 20 A Yes, after the first vacation.
 21 Q The classroom you have in the beginning of
 22 the first semester is the same classroom you have in the
 23 beginning of your second semester?
 24 A Yes.
 25 Q The classroom you have after your vacation

1 is the first semester?
 2 A You lost me.
 3 MS. LHAMON: Can you I interrupt, and I could well
 4 be mistaken, but I think that the use of term "semester"
 5 may be part of the problem.
 6 And my understanding from my notes, from what
 7 Cindy testified on her first day was that her school year
 8 does not begin in November, but instead begins in July.
 9 So, I can well be mistaken, because now we have three
 10 confused people.
 11 But, the use of the term "semester" may be part of
 12 the problem. Because I'm not sure that Cindy uses it as
 13 frequently as you do.
 14 BY MR. ROZWOOD:
 15 Q From when you start school in July and you
 16 go through August and take your break in September and
 17 October, and come back in November and December, are all
 18 those months, July, August, November, and December in the
 19 same classroom?
 20 A Yes. That's in one -- huh-uh. No.
 21 No. No. No, no.
 22 Q When do you get a new classroom?
 23 A I get a new classroom by -- I get a new
 24 classroom on September -- I mean November, when I come
 25 back on November.

1 Q Okay.
 2 A By that time.
 3 Q When is the next time you get a new
 4 classroom?
 5 A That's when I get the new classroom. In
 6 May, I get the classroom where I started from in July.
 7 Q So, you get -- are you in the same classroom
 8 in November that you're in in July?
 9 A No. I'm in a different classroom.
 10 Q You're in the same classroom in May that
 11 you're in in July?
 12 A Yes.
 13 Q Okay. And are you in the same classroom in
 14 January that you're in in November?
 15 A Yes.
 16 Q And you're in the same class in February
 17 that you're in in November?
 18 A Yes.
 19 Q So, I had it right.
 20 MS. LHAMON: I'm sorry.
 21 BY MR. ROZWOOD:
 22 Q So, you have the same class from November
 23 through February?
 24 A Yes.
 25 Q And did you have same class from May through

1 August?
 2 A Yes.
 3 Q Notwithstanding the intervening vacations?
 4 A No. Not notwithstanding that.
 5 Q I'm using "semester" to refer to the
 6 four-month period that you're on track. And I'm not
 7 using semester in any other way.
 8 I'm referring to those two four-month stretches.
 9 I understand that there are short vacations in
 10 those four-month periods. But you don't change
 11 classrooms within a given four-month stretch of your
 12 track, correct?
 13 A Yes.
 14 Q So, I think we had it right before the
 15 break.
 16 Do you disagree?
 17 MS. LHAMON: I'm not sure any more what we had
 18 right or wrong before the break. I think the term of
 19 the -- use of the term "semester" does not reflect what
 20 the school uses as a semester for her.
 21 MR. ROZWOOD: I've got her cumulative record in
 22 Exhibit 5. It refers to the first semester and second
 23 semester.
 24 Q So let's ask. Let's take the first semester
 25 of your tenth grade year, because that's the one we've

- 1 been talking about, and ask you when your semester
2 started and ended, in your first semester of your tenth
3 grade year.
4 What months?
5 A My first semester of my tenth grade year
6 started in July.
7 And I went off track September. Once I came back
8 from track on late October, I was in a different
9 classroom.
10 Q For the same semester?
11 A For the same semester.
12 Q Okay?
13 A Then, I went through school through the last
14 days of February, and came back on May. And for that,
15 hold up.
16 Okay, by this time I'm already in the second
17 semester. By this time I'm already off track the second
18 time.
19 Because by December, we have a break where we
20 change where our final grades come and see if we pass;
21 for example, where it says English 10A, if I pass English
22 10A, then I go to English 10B by December. And it's
23 still the same teacher the same classroom.
24 Q What happens in January? Do you get a new
25 classroom?

- 1 A Yes.
2 Q Okay?
3 A Sorry, no, I don't. It's just the same
4 teacher, same classroom. By the time we get off track,
5 that's when I change classrooms.
6 Q Okay. So you have the same classroom from
7 May through August and you have the same classroom from
8 November through February?
9 A Yes.
10 Q But there are two different classrooms for
11 those two periods of time?
12 A Yes.
13 Q Your semester starts from July and goes
14 through December, including that two-month inter-session
15 break?
16 A Yes.
17 Q So, you have two different classrooms each
18 year for one subject, correct?
19 A Yes.
20 MS. LHAMON: This is for year-long subjects?
21 MR. ROZWOOD: Year-long subjects. Thank you.
22 Q Yes, for year-long subjects like English or
23 history or biology, you have two classes over the course
24 of one full school year?
25 A Yes.

- 1 Q Two classrooms.
2 It's confusing.
3 Did you have anything else you wanted to go back
4 and change?
5 A No. I think that's about it.
6 Q Well, I hate to do this, but I have some
7 things I want to go back and ask you about.
8 Whose fault is it that you didn't turn in
9 the assignments in the biology class?
10 A Mine.
11 Q And is there any reason other than what
12 you've already given me for why you failed to complete
13 and turn in those assignments in the biology class?
14 A Well, at first -- I didn't find any point --
15 as I said before, his attitude and the way he will come
16 towards us -- well, the students -- wasn't motivating at
17 all.
18 He will make us feel worthless, that we weren't
19 worth anything. So I guess his point got across, and he
20 got what he wanted.
21 Q Other than what you've said in your
22 deposition so far, is there any other reason why you
23 failed to complete and turn in your assignment in tenth
24 grade biology?
25 A No.

- 1 Q Okay.
2 I guess we should turn to Geometry B and your
3 first semester of tenth grade.
4 Who was your teacher?
5 A My teacher was Mr. Whitlow.
6 Q Spell that?
7 A W-H-I-T-L-O-W.
8 Q How many students did you have in your
9 geometry class?
10 A It was like 25 to 28 students.
11 Q Did each student have his own textbook?
12 A Yes, we had our own textbook.
13 Q To take home?
14 A Yes. To take home.
15 Q I don't have anything in my notes. Okay.
16 Strike that.
17 Did you have a class set of textbooks available
18 for students' use in Mr. Whitlow's geometry class?
19 A No. We had to bring our own books.
20 Q What happened if a student forgot to bring
21 his or her book to class?
22 A He had to share with whoever brought a book.
23 Q Whose responsibility is it to bring
24 textbooks to class?
25 A The students.

1 Q Do you think it's fair if a student forgets
2 to bring his or her textbook, that they be asked to
3 share, or do you think the school should provide a book
4 for use in class regardless of whether they forget or
5 not?

6 A Yes. I think the school should provide the
7 book, regardless of the student forgot the book or not.

8 Q Do you think any students would bring their
9 books to class if they knew could rely on the school to
10 provide them one?

11 A No.

12 MS. LHAMON: Calls for speculation.

13 THE WITNESS: I don't think that they'll bring
14 their books, because they'll rely on the -- they'll rely
15 on the class set of books that's in the classroom.

16 BY MR. ROZWOOD:

17 Q When in the course of a class do the
18 students learn whether there is a class set or not?

19 A Can you repeat the question?

20 Q When do you think there is going to be a
21 class set available for your use in class?

22 MS. LHAMON: In every class?

23 BY MR. ROZWOOD:

24 Q Yes, generally?

25 A Because there is a shelf or -- actually a

1 take home.

2 I'm sorry. We had the books to take home but
3 didn't have the class set.

4 Every time he tells us to bring the books, it was
5 mandatory for us to bring the books daily.

6 We already knew we had to bring them daily. We
7 turn to a page and it was about "graphing" and he will
8 give us an example, and we will found about a polynomial
9 in the graphic, whatever it's called. And he left us
10 homework.

11 Q Your homework assignments were exclusively
12 from the textbook?

13 A Yes.

14 Q Did you need anything other than the
15 textbook to complete your homework assignment?

16 A Yes. Examples, like if you will make up a
17 word problem and it was an example, and we will take
18 notes, and if we had a difficulty with the problem, we
19 will look back to our notes and go through the process.

20 Q So you would use your notes taken in class
21 with the textbook --

22 A Yes.

23 Q -- to do your homework assignments?

24 A Yes.

25 Q In your opinion, did you need anything other

1 shelf where all the books that we use -- they are just
2 stacked up there. That's how we know.

3 Q On the first day of class you can see
4 whether there is going to be a class set available for
5 students's use?

6 A No. On the first day of school we don't
7 know, because at that time the teacher doesn't have the
8 books. They have to fill out these cards. It lets the
9 textbook lady how many books we will need and how many
10 books are available in the textbook room. And by the
11 second or third day we should already have the books, and
12 the teacher lets us know we don't have enough books,
13 we're going to have a class set, and they'll let us know
14 if we can take a book home or can't.

15 Q Within the first week of class, students are
16 advised whether there will be a class set available for
17 their use?

18 A Yes.

19 Q Can you describe the --

20 Was there any homework in Mr. Whitlow's geometry
21 class?

22 A Yes, there was.

23 Q Can you describe that?

24 A It wasn't geometry. It was a math class.

25 It was on a book because we had a class set and a book to

1 than your textbook and notes in order to complete the
2 homework assignments in Mr. Whitlow's geometry class?

3 A No. That's all we needed.

4 Q You had everything you needed to do your
5 homework in Mr. Whitlow's class?

6 A Yes.

7 Q How did your grade work? Let's put it this
8 way: how many tests did you take in Mr. Whitlow's
9 geometry class?

10 A We will take a test weekly.

11 Q On Friday?

12 A Yes.

13 Q Any other tests other than the weekly Friday
14 tests?

15 A No. Just our final exam.

16 Q That was one final exam?

17 A Yes.

18 Q So, other than your homework, the weekly
19 Friday exams and one final exam, was there anything else
20 that counted towards your grade in Mr. Whitlow's geometry
21 class?

22 A No. Just our homework and tests and the
23 final exam and that's about it.

24 Q Did you have any special projects that you
25 had to do that counted towards your grade?

- 1 A No.
 2 Q Okay. Did you complete all of your homework
 3 assignment in Mr. Whitlow's geometry class?
 4 A Yes.
 5 Q Did you take all the tests including the
 6 final exam?
 7 A Yes.
 8 Q How would you describe Mr. Whitlow as a
 9 teacher?
 10 A He was real good. I'll give him an eight.
 11 Q Was he prepared with lesson plans?
 12 A Yes. He was prepared, pretty organized.
 13 Q Did he explain the concepts well?
 14 A Yes.
 15 Q Did he seem to care whether the students
 16 understood?
 17 A Yes, because he will walk around the
 18 classroom and see what the student was doing or help them
 19 out in case he was stuck in a problem.
 20 Q Did he seem to be dedicated to his work?
 21 A Not dedicated. Just concerned.
 22 Q Cared about the students learning?
 23 A Yes.
 24 Q Did he seem to like teaching?
 25 A Yes, seemed like he enjoyed it pretty well.

- 1 Q How old do you think Mr. Whitlow was?
 2 A Thirty.
 3 Q Can you think of any conditions in the
 4 classroom environment that interfere with the students'
 5 ability to learn in Mr. Whitlow's geometry class?
 6 MS. LHAMON: Calls for expert testimony.
 7 THE WITNESS: I don't know.
 8 To me, I mean, it was good that we could bring our
 9 books on a daily basis, but it was kind of like a problem
 10 because the math book was heavy and we had to carry it
 11 around all day. And we don't have lockers.
 12 It would be more convenient if we have a class set
 13 in the classroom because it was a hassle just carrying
 14 books around.
 15 BY MR. ROZWOOD:
 16 Q Where was the class located?
 17 A It was in the main building.
 18 On the second floor.
 19 Q Were there any problems with the air
 20 conditioning in this classroom?
 21 A Everything they have a problem with because
 22 I had them in the beginning of the day in the morning, so
 23 I really wasn't cold or hot or anything. It was okay.
 24 Q Did you ever see any ants or cockroaches or
 25 mice in the geometry class?

- 1 A No, he didn't let us bring anything in that
 2 class that I remember, no.
 3 Just water.
 4 Q Mr. Whitlow was strict on the no eating in
 5 classroom?
 6 A Yes.
 7 Q I don't mean the imply that it was a school
 8 rule.
 9 I should be more careful in my choice of words.
 10 But he was strict about not letting students eat
 11 in his class?
 12 A Yes.
 13 Q Other than what you've testified to,
 14 regarding carrying your books and so forth, is there
 15 anything else about Mr. Whitlow's geometry class that
 16 interfered with your ability to learn the subject matter?
 17 MS. LHAMON: Calls for expert testimony.
 18 THE WITNESS: Nothing I could think about right
 19 now. Just the book situation.
 20 It was real heavy. And you have to be carrying it
 21 back and forth. Especially because I had a class all the
 22 way to the third floor and going up and down and back and
 23 forth.
 24 BY MR. ROZWOOD:
 25 Q Let's talk about the locker situation at

- 1 Fremont.
 2 Are there lockers on campus?
 3 A There are lockers.
 4 Q How many?
 5 A A lot of them.
 6 Q How are they handed out?
 7 A They are not even handed out. They are just
 8 there, like a design.
 9 Q So, there are a lot of lockers, but they are
 10 not distributed to the students?
 11 A Correct. No.
 12 Q Do you know why?
 13 A No. I don't know.
 14 Q Did you ever ask a teacher or your counselor
 15 or any other school official if you can have a locker?
 16 A No. Because I didn't have a locker --
 17 why -- I mean nobody else had a locker. Why should I
 18 have a locker? I never asked anybody.
 19 MR. FRIEDMAN: It's not suggested by chiropractors
 20 to have to haul 50-pound packs around.
 21 BY MR. ROZWOOD:
 22 Q So, from ninth grade until now, you've never
 23 seen a locker distributed to a student at Fremont?
 24 A Yes. I've seen, but not often.
 25 MS. LHAMON: Have you seen any actual distribution

1 of the lockers for students who have lockers?
 2 THE WITNESS: Students that have lockers. I know
 3 that people who get free lunches and turn in their
 4 applications or something like that, they get lockers.
 5 BY MR. ROZWOOD:
 6 Q How do you know that?
 7 A Because teachers will say, here's your free
 8 lunches application. You can probably get a locker and
 9 we will distribute them as soon as possible.
 10 If -- I guess if you qualify, you get your locker.
 11 If you don't, then you don't qualify. If you
 12 qualify for a free lunch I guess you get your locker. If
 13 you don't qualify, you don't get a locker.
 14 Q To your knowledge has anyone, have any other
 15 students not been able to get a locker at Fremont?
 16 A Yes. Because supposedly their parents have
 17 a high income and they get can't get free lunches and
 18 they can't get a locker.
 19 Q So, if you don't qualify for the free lunch
 20 program, you can't get a locker, no matter what?
 21 A Yes, to my understanding, yes.
 22 Q To the best of your knowledge the only way
 23 to get a locker is to qualify for the free lunch program?
 24 A Yes.
 25 Q Has anybody else to your knowledge ever

1 class?
 2 A Yes.
 3 Q Did you have homework assignments in that
 4 class?
 5 A Yes. Like compositions and how to write
 6 proper Spanish with accents and -- things like that.
 7 Q Spanish grammar and punctuation?
 8 A Yes.
 9 Q And compositions?
 10 A Yes.
 11 Q Anything else?
 12 A No. That I can think about.
 13 Q Were the textbooks sufficient -- well, when
 14 did you lose your -- sorry, got it.
 15 You turned it in, but you asked a friend to
 16 do it?
 17 A Yes.
 18 Q You had your textbook all year long?
 19 A Yes.
 20 Q Did you use your textbook when doing your
 21 homework in Mr. Viveros' Spanish class?
 22 A That textbook was mainly about famous poets
 23 and Spanish writers and just like short stories or poems,
 24 and we had to write -- read about them and analyze, to
 25 analyze, to understand, to see what they meant. It

1 asked for a locker at Fremont outside of the free lunch
 2 program?
 3 A No.
 4 Q Are these the lockers that have like
 5 combinations on them, or you need to bring a padlock?
 6 A No. It has a combination knob there.
 7 Q I see. Let's talk about your Spanish class,
 8 Spanish 2A and B; did those have the same teacher?
 9 A Yes.
 10 Q Which teacher was that?
 11 A Mr. Viveros.
 12 Q And as we discussed before, you had two
 13 separate classrooms or the core of that year in Spanish?
 14 A Yes.
 15 Q Were those both in the main building?
 16 A In the bungalows.
 17 Q Both?
 18 A Yes.
 19 Q Did you have a textbook in Mr. Viveros'
 20 class?
 21 A Yes. This is why I owe a book.
 22 Q Did every student -- how many students were
 23 in Mr. Viveros' class?
 24 A Like 25 of us.
 25 Q Did each student get a textbook in that

1 wasn't really homework. It would just be class work.
 2 But like the only homework, I know we had -- there
 3 was -- I know we did use the book and we did have a book
 4 to take home. And there will be like little stories and
 5 there will be questions at the end like, like chapter
 6 reviews in a way. Just like questions from a story and
 7 we have to answer them.
 8 That would be the homework.
 9 Q Were you able to worked on your homework in
 10 class?
 11 A Yes. Most of the time.
 12 Q If you didn't finish, you had to finish it
 13 at home?
 14 A Yes.
 15 Q Where did you do your homework in
 16 Mr. Viveros' Spanish class?
 17 A At my house.
 18 Q You wouldn't do it in class?
 19 A Sometimes. Just in case I have something
 20 else to do besides that work.
 21 Q When you work on your homework in
 22 Mr. Viveros' Spanish class, were there any instructional
 23 materials that you needed that you didn't have?
 24 MS. LHAMON: Calls for expert testimony.
 25 MR. ROZWOOD: It's her homework, not the experts.

1 THE WITNESS: I think I had everything I needed.
 2 This is like the first class that I had a class set and a
 3 book to take home. Maybe because there wasn't many of us
 4 in there. I had everything I think that was necessary.
 5 BY MR. ROZWOOD:
 6 Q Did you do all of your homework assignments
 7 in this class?
 8 A Yes.
 9 Q Was the Spanish literature class?
 10 A No, Spanish, just regular Spanish class.
 11 Q Okay. You were able to start in Spanish 2
 12 because you have some familiarity with the language
 13 already, or did you take Spanish 1 at some other time?
 14 A I was having problems with [REDACTED]
 15 Q With the French?
 16 A Yes. And she didn't want me in her class.
 17 I went to talk to Mr. Lawler, my first counselor. And he
 18 told me if I could take another foreign language, he was
 19 like, do you want to take Spanish? And I would say, I
 20 already know how to speak it, why not?
 21 So, he was like all right, I'm supposed to start
 22 you from Spanish 1A. Since you took French 1A, I'd put
 23 you in Spanish 2A where you can be more advanced, and I
 24 said okay, fine. He just put me in that class.
 25 Q Did you ever see any rats or mice or

1 cockroaches or ants in Mr. Viveros' class?
 2 A No, Mr. Viveros' class, it was air
 3 conditioned. It was heated. It was real clean. I
 4 didn't -- there was no problems in that class.
 5 Q Can you think of anything about the
 6 classroom environment in your Spanish 2 class that
 7 interfered with your ability to learn the subject matter?
 8 MS. LHAMON: Calls for expert testimony.
 9 THE WITNESS: To me everything was fine in this
 10 class. I didn't see any problems specifically in this
 11 class.
 12 BY MR. ROZWOOD:
 13 Q How -- other than your homework assignments,
 14 did you have any tests in class?
 15 A Yes.
 16 Q And how many tests did you have in your
 17 class?
 18 A I don't know. But I had some tests.
 19 Q Not every week; once in a while?
 20 A No. Just once in a while.
 21 Like whenever -- he'll teach us about the Spanish
 22 grammar and how like to write it correctly, and how to
 23 write the words with the accents. Just those kind of
 24 tests to see how off we were, and just the final exam.
 25 Q Did you complete all of your homework

1 assignments?
 2 A Yes.
 3 Q And turned them in?
 4 A Yes.
 5 Q And did you take all the tests?
 6 A Yes. Well, unless I was absent. But I'll
 7 make it up.
 8 Q Either by taking it on the day it was given
 9 or making it up, you took all the tests in Mr. Viveros'
 10 Spanish class?
 11 A Yes.
 12 Q Including the final exam?
 13 A Yes.
 14 Q What was the capacity of those classroom
 15 bungalows? How many students could they have held?
 16 MS. LHAMON: Calls for speculation.
 17 THE WITNESS: I have no idea.
 18 BY MR. ROZWOOD:
 19 Q Were there any empty desks in your class?
 20 A Mr. Viveros' class?
 21 Q Yes?
 22 A Like two or three empty desks.
 23 Q Do you think you could have accommodated two
 24 or three additional student in that class?
 25 A Yes. I think so.

1 Q Is it your understanding that everybody who
 2 wanted to be in Mr. Viveros's Spanish class was --
 3 A At a daily basis?
 4 Q Everyone that wanted to take his class was
 5 admitted to his class?
 6 A Yes.
 7 Q I'm not sure I asked you this: How would
 8 you describe Mr. Viveros as a teacher?
 9 A I'll give him a 10.
 10 Q It's nice to be able to grade your teachers
 11 instead of the other way around.
 12 A No. He once asked if would we grade him.
 13 Q About how old is Mr. Viveros?
 14 A 28.
 15 Q Did Mr. Viveros prepare the lesson plans in
 16 Spanish?
 17 A Yes.
 18 Q Did he explain the lessons as well?
 19 A Yes.
 20 Q Did he take time the explain to make sure
 21 the students understood the lessons?
 22 A Yes.
 23 Q Did he was he dedicated to his work?
 24 A Yes.
 25 Q Did he appear to enjoy teaching?

- 1 A Yes.
- 2 Q Do you know when the bungalow was put in, on
3 the Fremont school campus, the one used in Mr. Viveros
4 Spanish?
- 5 A I know it was before I got there, before I
6 got to --
- 7 Q Before you got there in the ninth grade?
- 8 A Yes.
- 9 Q It was there the whole time?
- 10 A Uh-huh, yes.
- 11 Q And I've been referring to bungalow, but
12 everything we've said about the bungalow applies to both
13 of the bungalows that you used throughout the year?
- 14 A Well, they barely picked the bungalow,
15 because we had student parking area inside, and they took
16 our student parking, and that's where they set the
17 bungalows at, where they are making a lot of noise and
18 doing construction work, the one I was in, in
19 Mr. Viveros' class.
- 20 Q You had two classes with Mr. Viveros?
- 21 A Yes.
- 22 Q Both classrooms were in the old bungalows?
- 23 A Yes, the one in tenth grade year, it was in
24 one of the old bungalows, and the one in my eleventh
25 grade was one of the workshop classrooms where I had like

- 1 the tool.
- 2 Q For your tenth grade year, the Spanish 2B
3 class, the one you said had air and heat, it was real
4 clean, and you never saw any rodents. that was true of
5 both of the classrooms that you had held in the bungalows
6 with Mr. Viveros, correct?
- 7 A Yes.
- 8 MS. LHAMON: And so you understand, he's asking
9 only about both the classrooms you had with Mr. Viveros
10 during your tenth grade year?
- 11 THE WITNESS: Yes, from the time I changed to
12 different classrooms from the whole year.
- 13 BY MR. ROZWOOD:
- 14 Q Right. The two classrooms, did you remember
15 the tenth grade year you took Spanish, they were both in
16 bungalows, and in the bungalows that were there when you
17 arrived at Fremont in the ninth grade?
- 18 A Yes.
- 19 Q There was nothing wrong with these two
20 bungalows?
- 21 A Yes.
- 22 Q Correct?
- 23 A Yes.
- 24 Q Who did you take aerobics with?
- 25 A Ms. Smith.

- 1 MS. LHAMON: The tenth grade year?
- 2 BY MR. ROZWOOD:
- 3 Q Tenth grade, first semester.
- 4 Ms. Smith?
- 5 A Yes.
- 6 Q Where did you have that class?
- 7 A In the gym.
- 8 Q How many students were in that class?
- 9 A Thirty-five to 40 students.
- 10 Q And were there any -- can you think of any
11 conditions in the gym environment that interfere with the
12 aerobics instruction?
- 13 A In this year?
- 14 Q Yes, in the first semester of your tenth
15 grade?
- 16 MS. LHAMON: Calls for expert testimony.
- 17 MR. ROZWOOD: On aerobics?
- 18 THE WITNESS: It was like a small gym, and we were
19 kind of cramped up. The air conditioning, it was okay.
20 But it was still getting stuffy in there because of a lot
21 of sweat and hot breath.
- 22 BY MR. ROZWOOD:
- 23 Q Was this during the aerobics?
- 24 A Yes.
- 25 Q There was air conditioning in the gym,

- 1 correct?
- 2 A Sometimes it was. Sometimes it won't.
3 Sometimes it will break down. Sometimes it will work.
- 4 Q How many times in the first semester of
5 tenth grade did the air conditioning break down in your
6 aerobics class?
- 7 A Around three to four times.
- 8 Q Approximately how long did it take to fix
9 each time?
- 10 A Two to three days.
- 11 Q How would you rate Ms. Smith as an aerobics
12 teacher?
- 13 A I'll give her a 10.
- 14 Q What makes Ms. Smith such a good aerobics
15 teacher?
- 16 A Because there were times I didn't want to do
17 aerobics. And she made me. She would motivate me and
18 she would like: "Go ahead and do it, it won't hurt, it
19 will help you be more flexible and healthy." She was
20 real good.
- 21 Q Did she enjoy teaching?
- 22 A Yes.
- 23 Q Did she care about the students?
- 24 A Yes.
- 25 Q She was motivating?

1 A Yes.
 2 Q Did she set goals for individual students to
 3 achieve over the course of the aerobics class?
 4 A Yes, she did.
 5 Q Did you ever see any rats, rodents, mice,
 6 cockroaches, I don't know, ants or anything -- any other
 7 insects or rodents?
 8 A No, because like in the gym, there is like
 9 mats over it. So I don't know if there was some under
 10 there. But like not that I seen; no, not really.
 11 Q How did you change back and forth? Were you
 12 given a locker in, like, the gym?
 13 A Yes, in the gym they have to give you a
 14 locker to keep your P.E. clothes in there and your
 15 personal possessions in there.
 16 Q Is this one of their combination lockers?
 17 A Yes.
 18 Q So every student in the aerobics class had a
 19 personal combination locker, correct?
 20 A Everybody that had P.E had a combination.
 21 Q So, in addition to the people who got free
 22 lunch or qualified for free lunch program, everybody in
 23 P.E. also had a locker, correct?
 24 A Yes.
 25 Q Were you able to keep anything you wanted in

1 your locker?
 2 A Yes.
 3 Q Did you keep your textbook in your locker?
 4 A No, because it wasn't convenient, because I
 5 had to go all the way to the end of the field and get my
 6 books and all the way in the building. So that would be
 7 even harder. So I might as well carry it around.
 8 Q What did you keep in your locker?
 9 A Just my P.E. clothes. Shoes. Sneakers. I
 10 will have P.E. or aerobics at that time. I just keep my
 11 backpack in there and my regular clothes that I wear to
 12 school.
 13 (Recess taken.)
 14 MR. ROZWOOD: On the record. I'm going to hand
 15 you an 8-1/2-by-11 sheet of paper and a pen. And I'm
 16 going to ask you to draw an area map of Fremont the best
 17 you can.
 18 We're going to stipulate between us that is not a
 19 scale map. It's going to indicate the shape of the
 20 school property where the main building we've discussed
 21 is, where the old bungalows we discussed were; where the
 22 new bungalow was put up late last year are locations
 23 where the field is located; and if possible, to the
 24 extent you're able to, where the library and the gym that
 25 we discussed are located. And then we can discuss that

1 map.
 2 Is this okay?
 3 A Fine.
 4 MS. LHAMON: Stipulate that it's as accurate as
 5 you can remember it today, and ask for counsel, if there
 6 is a map of Fremont, that we receive a copy of that map,
 7 that that will be helpful to all parties and responsive
 8 to my business records subpoena.
 9 MR. FRIEDMAN: I'm sure someplace there is a map of
 10 the school. I don't know where, but I'll try to locate
 11 that, and stipulate this map that Cindy is drawing is not
 12 to scale.
 13 MR. ROZWOOD: Correct.
 14 THE WITNESS: I'm not a good drawer.
 15 MR. ROZWOOD: You took a drawing class.
 16 MS. LHAMON: Do the best you can. Make sure you
 17 understand what an area map is. Draw what you can
 18 indicate, where you think buildings are on campus. Is
 19 that okay? Then do you want to stay on the record while
 20 she's drawing?
 21 MR. ROZWOOD: While she's drawing, we will go on
 22 the record about scheduling.
 23 We've agreed to continue today's deposition which
 24 is going to end at three o'clock, on Tuesday, June 5, and
 25 that portion of the deposition will commence at two

1 o'clock here in our office.
 2 MS. LHAMON: The reason we're beginning at two
 3 o'clock is to give Cindy time to go to school that day.
 4 She comes out after 2:40, and we will come to this
 5 office.
 6 MR. ROZWOOD: We will go as long as we can.
 7 MS. LHAMON: We anticipate going until about seven
 8 o'clock, depending how Cindy's stamina is that day after
 9 school.
 10 MR. ROZWOOD: We will continue if necessary with
 11 another day, depending how much progress we make then; is
 12 that right?
 13 MR. FRIEDMAN: That's correct.
 14 MS. LHAMON: Stipulate.
 15 BY MR. ROZWOOD:
 16 Q Back on the record --
 17 A The best I can do.
 18 Q What you've drawn here indicates where the
 19 main building is located, where the attendance office is
 20 located, relative to where the new and old bungalows and
 21 the P.E. area are located. And in the middle of the quad
 22 area --
 23 A Yes. And this section, half is a library
 24 and half is the -- sorry --
 25 Q So, between the main building and the

1 bungalows are the library?
 2 A Uh-huh.
 3 Q And what was the other?
 4 A The library and the textbook room.
 5 Q Now, the portion of the map where you've
 6 drawn bungalows, not the new and old bungalows, which are
 7 off to this corner, were those the bungalows there before
 8 you came?
 9 A Yes.
 10 Q And where you've written new and old
 11 bungalows, are those the bungalows that have been built
 12 since you've arrived at Fremont?
 13 A Yes. And the ones that have been built
 14 since I've been there.
 15 Q So, are these the old bungalows?
 16 MS. LHAMON: When you say "these," pointing to the
 17 section of the map where she's only written "bungalows"
 18 and no other words?
 19 MR. ROZWOOD: Correct.
 20 Q Are those the old bungalows we were
 21 referring to earlier, the ones built before you arrived
 22 at Fremont?
 23 A Yes.
 24 Q Where you've written "new and old bungalows"
 25 in the box, when were those bungalows built?

1 A The old ones were there when I had arrived
 2 and new ones have been built on the side -- on the same
 3 side as the old ones.
 4 Q Okay. And what's between the attendance
 5 office and the new and old bungalows?
 6 A The quad area in the middle.
 7 Q Okay. And this place where you've marked
 8 "entry" is the entrance to and from the school?
 9 A No. That's the front gate that is in the
 10 back by the P.E. area by this side. Took a while. And
 11 there is like the student parking lot there, the little
 12 section.
 13 Q Okay. And when we have been referring to
 14 main building, that's where you've written "main
 15 building"?
 16 A Yes.
 17 Q And there are three floors of the main
 18 building?
 19 A Yes.
 20 Q The computer labs are in the main building?
 21 A Yes.
 22 Q And where on the map if you can draw it
 23 would be the gym that you had your aerobics class in?
 24 A On the P.E. area. Because it is a -- okay,
 25 this is the P.E. area.

1 Q Yes?
 2 A This whole section, and then on the side
 3 there is a building and a gym.
 4 MS. LHAMON: When Cindy is indicating, she says
 5 the section, she's indicating off the map in the area
 6 where she's written P.E. area on the map.
 7 BY MR. ROZWOOD:
 8 Q So, there is another building adjacent to
 9 the P.E. area; that's the gym?
 10 A Yes.
 11 Q Is there any other gym on campus?
 12 A There is just a big gym and like the little
 13 rooms. You have like little meetings.
 14 Q The only classrooms at Fremont are the ones
 15 in the main building, the box you've marked "bungalows"
 16 and the box you marked "new" and "plus bungalows"?
 17 A Yes.
 18 Q And some classrooms -- what classrooms are
 19 held in the gyms?
 20 A The P.E.
 21 Q Just the P.E. classrooms?
 22 A Some of them were held in the P.E. area,
 23 outside of track.
 24 Q But none of the academic classes are held in
 25 any classrooms other than the main building or the

1 bungalows, correct?
 2 A Yes.
 3 Q I'm going to mark this as Exhibit 8.
 4 (Deposition Exhibit 8, was marked for identification
 5 and is annexed hereto.)
 6 BY MR. ROZWOOD:
 7 Q We've already discussed Biology B, correct,
 8 [REDACTED] class?
 9 A Yes.
 10 Q Do you have anything that you'd like to add to
 11 your testimony about your experience in your biology
 12 class?
 13 A No. Just the things that I've mentioned
 14 already.
 15 Q Okay. And we've already talked about
 16 Spanish, which is Mr. Viveros, correct?
 17 A Yes.
 18 Q And the next class in the second semester of
 19 tenth grade is Intro Art?
 20 A Yes.
 21 Q What is that class?
 22 A That's the Introduction to Art, because I'm
 23 supposed to take one year of technical art to graduate.
 24 And I had a [REDACTED]
 25 Q Spell that.

1 A [REDACTED]
 2 Q Where was that classroom located?
 3 A That was on the main building.
 4 Q How many students were in this class?
 5 A It was like 35, 40 of us.
 6 Q And what materials were used in the course
 7 of instruction for that class?
 8 A Paint. Paint brushes. Water. Canvass.
 9 Paper. Just the basic things to draw.
 10 Q Charcoal?
 11 A No. We use pastel.
 12 Q Pencils?
 13 A Color pencils.
 14 Q Do you do stuff like paper Mache?
 15 A Yes.
 16 Q What about like clay, or anything like that?
 17 A No. We don't work with clay.
 18 Q What kind of paints did you use?
 19 A Nontoxic paints.
 20 Q Oil based or water based?
 21 A We use both.
 22 Q Did the school provide all of these
 23 materials to the students for use in the class?
 24 A Yes. She -- she'll make orders of things
 25 she needed, like a list. And I guess like we have an art

1 learning artistic skills?
 2 A Yes, she cared.
 3 Q Did she take the time to help students
 4 improve their own abilities?
 5 A Yes.
 6 Q Do you think she was dedicated to her work?
 7 A No. She wasn't.
 8 Q Why not?
 9 A She was only there for half the time.
 10 She'll be absent most of the time.
 11 I guess she had personal problems. But, when -- I
 12 mean whenever she leave or come back, we knew what things
 13 we were supposed to work on. By the time she came back
 14 from her little break or be absent, we have whatever
 15 assignment done and she'll just check it off and give us
 16 a grade.
 17 Q Do you know why she was absent so often?
 18 A Well, one incident, because she had an
 19 accident.
 20 Q Car accident?
 21 A Yes. Second incident because her dad died.
 22 And other incidents I don't know. Just, I guess,
 23 other personal problems.
 24 Q How long was she absent when her father
 25 died?

1 department, and she'll get the necessary things and
 2 paints and paint brushes that she needed.
 3 Q Did [REDACTED] have any trouble obtaining
 4 the material she ordered?
 5 A No. She will obtain them.
 6 Q How were you graded in this class?
 7 A She would give us an assignment to draw
 8 something -- to sketch something -- like something --
 9 like a pot or a vase, we can draw it or paint it to see
 10 how well we did. We will turn it in and she'll give us
 11 like her best criticism of it and she'll grade us by it.
 12 Q Did she give you a letter grade for each one
 13 of the sketches or paintings?
 14 A Yes.
 15 Q How many sketches or paintings did you do?
 16 A A lot of them.
 17 Q One a week or month?
 18 A No. We were like -- work on like one
 19 assignment for two weeks.
 20 Q And did you do all -- did you complete all
 21 of your assignments?
 22 A Yes.
 23 Q How would you rate [REDACTED] as a teacher?
 24 A I'll give her a five.
 25 Q Do you think she cared about the students

1 A A week and a half.
 2 Q How long was she absent after the car
 3 accident?
 4 A For a month.
 5 Q So, she took like a month, and a week and a
 6 half for those two absences, out of what, four months
 7 that you had her?
 8 A Yes.
 9 Q Was she absent -- aside from those two
 10 absences, how absent was she?
 11 MS. LHAMON: Vague as to "how absent was she."
 12 BY MR. ROZWOOD:
 13 Q Other than those, what absences, how many
 14 other days did she miss?
 15 A She missed -- she'll miss two to three times
 16 a month, or two to three times every three months. It
 17 will be just be like occasionally she'll be missing.
 18 Q Did you have all the materials that you
 19 needed to complete the classes assignments?
 20 MS. LHAMON: Asked and answered.
 21 THE WITNESS: Yeah. I think we did. We had
 22 paper. Paints. Paint brushes. Everything necessary to
 23 finish our work, yes, we did.
 24 BY MR. ROZWOOD:
 25 Q [REDACTED] didn't charge the students any

1 fees in connection with the use of these materials, did
2 she?

3 A No.

4 Q Can you think of any conditions in your art
5 classroom environment that interfered with the students'
6 ability to learn the skills, the skills being taught in
7 that class?

8 A Well, she wasn't there half of the time.

9 The classroom was too small. We will have like --
10 there was like -- we will have desks like biology desks
11 where you can do assignments, a desk almost like that,
12 about half of the size.

13 MS. LHAMON: Indicating for the record -- we won't
14 see what size this desk is. If you want to estimate
15 dimensions, that will be helpful.

16 THE WITNESS: No.

17 MS. LHAMON: We should come up with a way how big
18 we think the desk is.

19 MR. FRIEDMAN: I estimate about five feet long.

20 MS. LHAMON: Do you think that sounds like a good
21 estimate?

22 THE WITNESS: I guess.

23 MS. LHAMON: You'd say the desks in the classroom
24 are about 7-1/2 feet long?

25 THE WITNESS: Yes.

1 A I know now.

2 Q What do you know now?

3 A Because she has a friend, she has a cousin,
4 [REDACTED] She's rarely there.

5 Q Which friend is this?

6 A Edith Gonzalez.

7 Q How about the organization in the class;
8 just as disorganized as it was for you?

9 A I've gone in there a couple times and it's
10 the same.

11 Q Okay. Have you ever seen any insects or
12 rodents or other conditions in the classroom that
13 distract the students from the assignments?

14 MS. LHAMON: Vague as to condition that distracts
15 students from their assignment.

16 THE WITNESS: Not in her class, no.

17 BY MR. ROZWOOD:

18 Q Any problems with the air conditioning or
19 heat in that class?

20 A No.

21 Q What period was that class?

22 A That was my sixth period class.

23 Q So is it correct to read your transcript in
24 Exhibit 5, that the last -- it's not correct -- Strike
25 that.

1 BY MR. ROZWOOD:

2 Q How many students would sit at an individual
3 desk in the art class?

4 A Three on each side.

5 Q Three on each side?

6 A There wasn't enough room. Sometimes the
7 paint will run out, and since we didn't have like the
8 same color, like the paint would run out, and we wouldn't
9 have enough.

10 She had all this kind of stuff everywhere, papers.

11 Kind of crazy. She just wasn't organized with her work
12 in the way the class was running.

13 BY MR. ROZWOOD:

14 Q Do you think [REDACTED]'s lack of
15 organization had anything to do with the fact that she
16 was in a car accident and her father died that semester?

17 MS. LHAMON: Calls for speculation.

18 BY MR. ROZWOOD:

19 Q If you know?

20 A I'm pretty sure she was affected because
21 something -- these situations you get a hard impact on.
22 But I don't know. I guess so.

23 Q Do you have any knowledge about whether, in
24 prior semesters with other classes, art classes,
25 [REDACTED] was just as disorganized and messy?

1 If you look at your second semester in your
2 tenth grade year, it says "English" on the top; is this
3 your first-period class?

4 A I think so.

5 Q So, does this mean your History was your
6 second-period class?

7 A No.

8 Q No?

9 A Because I had World History for that period.

10 Q These aren't in the order you took them in
11 the course of a given school day?

12 A No, they're not.

13 Q Okay. And then why don't we talk about
14 advanced P.E., the last class on the list in your second
15 semester of tenth grade.

16 A I ha [REDACTED]

17 Q Where was the class held?

18 A In the pool.

19 Q The swimming class?

20 A No. It was just a pool. It wasn't a
21 swimming class. The class would just be held in the
22 pool, not inside the pool.

23 Q The area?

24 A The pool area.

25 Q There's a pool at school?

1 A Yes.
 2 Q Is there any way you can indicate where on
 3 Exhibit 8 the pool is located?
 4 A Yes. Off the map. In this area.
 5 MS. LHAMON: Behind P.E.?
 6 BY MR. ROZWOOD:
 7 Q Behind the P.E.?
 8 A Behind the bungalows going this way.
 9 Q Let me hand you a piece of paper so that you
 10 can draw the gymnasium and the pool area.
 11 MS. LHAMON: We can tape the paper together.
 12 BY MR. ROZWOOD:
 13 Q There seems to be more going on behind
 14 there.
 15 MR. ROZWOOD: Off the record.
 16 (Discussion off the record.)
 17 BY MR. ROZWOOD:
 18 Q If you could please indicate with this
 19 pencil where on the map you've seen the rats and the
 20 cockroaches. Just write "rats and roaches" wherever
 21 you've seen them.
 22 MR. FRIEDMAN: Maybe indicate by putting a capital
 23 "R" in a circle or something like that.
 24 BY MR. ROZWOOD:
 25 Q You can write "rats" and you can write

1 "roaches"?
 2 A It's on this side. I'll put rats in.
 3 Q Is it rats or mice? You said two or three
 4 mice in Mr. Viveros' class?
 5 A I just call them both the same way.
 6 MS. LHAMON: My memory is she's used both terms.
 7 So --
 8 MR. FRIEDMAN: I thought I just heard "mice," but
 9 maybe I'm wrong.
 10 THE WITNESS: Should I put mice or rats?
 11 MR. ROZWOOD: Whatever you think they are.
 12 MS. LHAMON: You're the deponent.
 13 MR. FRIEDMAN: Why don't we refer to it as
 14 "rodents."
 15 BY MR. ROZWOOD:
 16 Q The other two things were ants and roaches?
 17 A Okay.
 18 Q These were all in the box marked "new and
 19 old bungalows"?
 20 A Yes.
 21 Q Okay. Does this box end here?
 22 A No, it goes all through.
 23 Q Why don't you draw where that box ends?
 24 MS. LHAMON: You're a better than person I am for
 25 being willing to draw.

1 BY MR. ROZWOOD:
 2 Q That's brave?
 3 A This will be an exhibit? Oh, my God.
 4 Q What's behind the gym and pool area on the
 5 second sheet we just added to Exhibit 8?
 6 A There is a tennis court or something.
 7 Q Okay.
 8 MR. FRIEDMAN: Off the record.
 9 (Discussion off the record.)
 10 THE WITNESS: Like a tennis court.
 11 BY MR. ROZWOOD:
 12 Q Okay. What's behind there, a street?
 13 A Yeah, the gate and the street.
 14 Q Can you write "street" where you think the
 15 street begins?
 16 What street is that?
 17 A I don't know.
 18 Q It's a side street?
 19 A Yes, it's a side street. You have to make a
 20 turn. It's like a turn this way.
 21 Q Thank you.
 22 MS. LHAMON: Before we go on, you have indicated
 23 on the map that you have just drawn where you remember
 24 seeing rodents, roaches, ants. And the only place you
 25 indicated is here on the bungalows.

1 I think that indicates it's in the bungalow
 2 someplace. Sitting here today you don't remember any
 3 other place where you remember those, any other places in
 4 the campus? In the gym?
 5 THE WITNESS: Just in the pool.
 6 BY MR. ROZWOOD:
 7 Q You can indicate in the box marked "pool
 8 area."
 9 And just so you see the way you've written
 10 "rodents," it's R-O-T-T-E-N-S. But that does not refer
 11 to rotten food; it refers to rodents, like mice?
 12 A Yes.
 13 Q Okay. Very good. Okay.
 14 So, that's where the pool area is.
 15 And do you know how many times you've seen ants in
 16 the pool area?
 17 A Since I had P.E. there, I've seen them all
 18 the time.
 19 Q They are there every day?
 20 A Yes, because where you took the showers when
 21 you -- you're in the pool and take a showers in the
 22 bottom where the floor -- where there is concrete, there
 23 is ants, because all the girls bring their own food and
 24 it attracts the ants.
 25 MS. LHAMON: To make sure the record is clear,

1 Exhibit 8 now has an attachment on the second page that
2 Cindy has drawn more on the map, so what we had earlier
3 marked as Exhibit 8, which is one page, now is two pages,
4 and we're willing to make the same stipulation about the
5 one page; is that fair to say?

6 MR. ROZWOOD: That's not to scale absolutely.

7 MS. LHAMON: And there is one exhibit that's two
8 pages.

9 MR. ROZWOOD: Correct.

10 MS. LHAMON: That's Cindy's rendition of the
11 school.

12 BY MR. ROZWOOD:

13 Q Right. And you indicated the only places at
14 the school where you've seen an ant or rodents or
15 roaches, correct?

16 A Yes.

17 Q Okay. Other than the students eating in the
18 pool area or in class, is there any other reason why you
19 think that there are ants in the classrooms or class
20 areas?

21 MS. LHAMON: Calls for speculation.

22 THE WITNESS: Just the ones I mentioned, just
23 because they leave little crumbs or anything around, any
24 sweets, anything that attracts the ants or cockroaches.

25 BY MR. ROZWOOD:

1 Q If students didn't eat on campus at all --
2 it's a hypothetical question -- the students don't eat,
3 don't leave any crumbs, not from across the street or
4 anywhere in this scenario -- is this ant problem at
5 Fremont, as bad as it is now, going to change?

6 MS. LHAMON: Calls for speculation, incomplete
7 hypothetical, to the extent that it's impossible.

8 THE WITNESS: It could happen. There could be,
9 because of the cafeteria.

10 BY MR. ROZWOOD:

11 Q Have you ever seen ants in the cafeteria?

12 A That could be like, as you said, if they
13 couldn't eat at all on campus.

14 Q Where is the cafeteria on Exhibit 8? Can
15 you mark it for us?

16 Now, so we don't draw an improper inference from
17 the location of the cafeteria, in the proximity to where
18 you put rodents, roaches and mice, you can put somewhere
19 else, anywhere else in the map, if you think you've seen
20 insects or rodents anywhere else on the map, I want you
21 to feel free to write anywhere else on the map.

22 Right now it looks like you only saw them because
23 they are close to the cafeteria?

24 Is that accurate?

25 A It's where the cafeteria is located between

1 Q Do you think if Fremont implemented a policy
2 where students couldn't eat on campus at all except for
3 like in the cafeteria, you'd have less of an ant problem?

4 MS. LHAMON: Calls for speculation.

5 THE WITNESS: I don't think so, because Fremont
6 makes money off of us because we buy from the student
7 store and buy sodas and chips and candy. And I doubt
8 they would put a policy into that because, that won't
9 bring any money in for them.

10 BY MR. ROZWOOD:

11 Q Do you think if students weren't allowed to
12 eat on campus except for in the cafeteria, that the ant
13 problem would be smaller than it is now at Fremont?

14 MS. LHAMON: Calls for speculation.

15 THE WITNESS: I don't think so, because not a lot
16 of students listen now. If a teacher says don't eat in
17 my classroom, they'll sneak in their chips and eat them
18 when the teacher is not looking.

19 BY MR. ROZWOOD:

20 Q If no students ate on campus at all, would
21 the ant problem be just as bad as it is now?

22 MS. LHAMON: Objection. Calls for speculation.

23 THE WITNESS: Yes, because there is the store
24 across the street and you can put it in your backpack.

25 BY MR. ROZWOOD:

1 the bungalows. There is like a big gap. It's not all
2 like shown right here.

3 Q How far is the cafeteria from the bungalows?

4 MS. LHAMON: From the first bungalow?

5 THE WITNESS: This far.

6 MS. LHAMON: When you say "this far," you've drawn
7 a line in the box and arrow now in the box that you have
8 labeled "new and old bungalows," and if you don't mind,
9 when you've written in the box that says new and old
10 bungalows, you've written "rodents, roaches and ants,"
11 were you indicating that those three items or things or
12 vermin appeared someplace in this area, but not
13 necessarily only in this area, or were you indicating the
14 exact location among the new and old bungalows where you
15 think they appeared?

16 THE WITNESS: It was one of the classrooms in the
17 section of the new and old bungalows.

18 MS. LHAMON: It's a label, but not necessarily
19 indicative of location?

20 THE WITNESS: Yes.

21 MR. ROZWOOD: It's an indicator in the sense that
22 only in that box --

23 MS. LHAMON: Right.

24 BY MR. ROZWOOD:

25 Q They could have occurred -- did you see them

1 as far back as this in the box?
 2 A Yes.
 3 MS. LHAMON: Indicating the part of the box near
 4 the street?
 5 THE WITNESS: Yes.
 6 BY MR. ROZWOOD:
 7 Q Now back to my hypothetical.
 8 If the students were not allowed to eat -- sorry.
 9 Strike that.
 10 If no student ate anything outside of the
 11 cafeteria, that is, there were no crumbs, and they didn't
 12 bring it in, assume that's true; what would happen to the
 13 ant problem at Fremont?
 14 MS. LHAMON: Calls for speculation and incomplete
 15 hypothetical.
 16 THE WITNESS: It would probably stop to a minimum,
 17 as it is right now.
 18 BY MR. ROZWOOD:
 19 Q It would stop outside the cafeteria,
 20 correct?
 21 A Yes.
 22 Q Is it your view that the sole reason for the
 23 ants in the box you've marked "new and old bungalows" is
 24 that students eat in class?
 25 MS. LHAMON: Calls for speculation. Cindy is not

1 an expert. She doesn't work with Terminex and doesn't
 2 know why there are vermin problems on campus.
 3 THE WITNESS: It could be a problem. Because you
 4 have to look -- also because of the missing tiles and of
 5 other things that go around. I don't know, because the
 6 classes are so old.
 7 BY MR. ROZWOOD:
 8 Q Aren't there missing tiles in the main
 9 building?
 10 MS. LHAMON: Let her finish her testimony. She
 11 was in the middle.
 12 MR. ROZWOOD: It's not responsive. She's not even
 13 answering the question.
 14 Q I'm asking you now, are there missing tiles
 15 in the main building?
 16 A Yes.
 17 Q So, if there is any connection between the
 18 rodents or vermin and the missing tiles, you expect to
 19 find them in the main building as well, but you don't?
 20 A Yes.
 21 MS. LHAMON: The question is, you don't find them
 22 in the main building. He hasn't asked about your
 23 expectation.
 24 BY MR. ROZWOOD:
 25 Q There were not rats or rodents in the main

1 building?
 2 A Not that I have seen.
 3 Q You haven't seen ants there, either,
 4 correct?
 5 A Yes.
 6 Q So, it's not reasonable to think that ants,
 7 that the presence of missing tiles has anything to do
 8 with ants?
 9 A To me it is, because the bungalows are out
 10 in the open, right by the street, and the main building
 11 is -- because the main building is secured by double
 12 doors and it's always clean, because we do have
 13 custodians. But they don't get around the whole school.
 14 Q Okay. How would you rate [REDACTED] as a
 15 teacher?
 16 A A one.
 17 Q Why so low?
 18 A I don't know. Didn't like his way of
 19 teaching.
 20 Q How would you describe his way of teaching?
 21 A I don't know. He's just -- he's like a
 22 jock. A football man.
 23 Q See where it says in handwriting below on
 24 your second semester of your tenth grade, it says, SYETP?
 25 A Summer Youth Employment Program.

1 Q Employment Training Program?
 2 A Yes.
 3 Q Summer Youth Employment Training Program?
 4 A Yes.
 5 Q Can you describe what that is?
 6 A It's when I was off track, I got a job at an
 7 elementary school. And for working there they paid me
 8 the minimum wage and gave me five credits.
 9 Q What school was that?
 10 A It was 76 Elementary School.
 11 Q You worked there for two months?
 12 A Yes.
 13 While I was off track.
 14 Q And only two months, correct?
 15 A Yes.
 16 Q What were your responsibilities at 76th
 17 Street Elementary School?
 18 A I was just like teacher's aid, to just
 19 "helping" the teacher.
 20 Q Sort of the same stuff you do in service
 21 classes?
 22 A Yes.
 23 Q That you were getting paid for?
 24 A Yes.
 25 Q Can you describe your specific

1 responsibilities in that position?
 2 A Taking the student to nutrition and lunch.
 3 By that time they were administering the
 4 Stanford Nine test, so I will be passing out the booklets
 5 and answer sheets and just helping her, whatever she
 6 needed; if she need me to run an errand or do copies or
 7 send a disruptive child to the principal's office,
 8 anything that was needed.
 9 Q Were you assigned to one teacher?
 10 A Yes.
 11 Q What was her name?
 12 A I don't know her name.
 13 Q You don't remember her name?
 14 A No.
 15 Q Did you sit in the back of class every day?
 16 A No. Like a lot of the students raise their
 17 hand, because they were second graders. If they needed
 18 help, spelling, something, or needed help on a math
 19 problem, I'll help them out.
 20 Q You acted as a tutor for the kids, too?
 21 A Yes, at some point.
 22 Q Then below this line on Exhibit 5 it says:
 23 "Career experience," and then it says "five."
 24 That's the five credits you got for your job at
 25 the elementary school?

1 A Yes.
 2 Q The grade you got was an A or A-minus. I
 3 can't see.
 4 Is this your grade indicated?
 5 A No, I don't think they gave me -- I guess it
 6 is a grade. It counts as five credits, so yeah, it must
 7 be an A.
 8 Q Okay. Do you have someone at Fremont that
 9 supervised you with respect to that work experience?
 10 A Yes. She's not a college counselor.
 11 Somebody that gives employment -- like a career advisor.
 12 She gives employment for the students about to
 13 come off track and she'll give you a job anywhere close
 14 to your home, close to your house. Not that great of a
 15 distance. And gives you an opportunity to get a job and,
 16 I mean, just to have work experience.
 17 Q Do you think it was valuable work
 18 experience?
 19 A Yes.
 20 Q What was valuable about it?
 21 A To see if I can tolerate children.
 22 Q Anything else valuable about that
 23 experience?
 24 A I don't know. Just -- no. I guess that's
 25 about it. Just assume responsibilities of every day

1 waking up early, being there, you know, on time. Being
 2 patient with the students.
 3 Q How about your communications skills with
 4 other school officials, is this something that you work
 5 on?
 6 A Yes. Communicate with the workers that work
 7 there.
 8 Q And so would you say it was good for your
 9 interpersonal skills?
 10 A Yes. It was requested for -- I don't
 11 know -- just -- just to communicate with another people.
 12 Q What was the name of the career advisor that
 13 you mentioned?
 14 A Well, there is different ones.
 15 Q The one that you work with?
 16 A She doesn't work there any more. I called
 17 her Ms. Lisa. I called her the first name.
 18 Q You don't remember her last name?
 19 A No.
 20 Q She was someone in addition to the
 21 counselors that we discussed before, the ones that were
 22 listed -- Strike that.
 23 How many career advisors like Ms. Lisa are there
 24 at Fremont?
 25 A At the time I got the job, two of them. Her

1 and a male -- man.
 2 Q So, there were two at that time.
 3 How many are there now?
 4 A I don't know. Just one.
 5 Q And is that the career advisor through which
 6 you got your Magic Mountain job?
 7 A No.
 8 Q How about the job at Pollo Loco?
 9 A That I got on my own. The Magic Mountain,
 10 that was my own teacher. She was my general work
 11 experience teacher. She recommended me for the job for
 12 off track.
 13 MR. ROZWOOD: I'm going to give you a few minutes.
 14 It is a sensitive personal issue.
 15 MR. FRIEDMAN: I appreciate the generous
 16 allocation of time.
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12 ^ REEXAMINATION
 13 BY MR. ROZWOOD:
 14 Q So Exhibit 8 is accurate. Can you indicate
 15 where you saw ants in the cafeteria? I don't see that
 16 indication.
 17 A I never saw ants in the cafeteria.
 18 Q That's why it's not there?
 19 A Yes.
 20 Q Everywhere you've seen ants it's written
 21 down?
 22 A Yes.
 23 MS. LHAMON: Referring to general locations and
 24 the specific parts of when you say "everywhere."
 25 MR. ROZWOOD: If it's in a box, it could have

1 not signed within 20 days after receipt by
 2 plaintiff's counsel, a copy may be used as
 3 signed."
 4 (TIME NOTED: 3:05 P.M.)
 5
 6
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 11

1 occurred anywhere in the box.
 2 Q Where on this map are the counselors'
 3 offices?
 4 A In the main building.
 5 Q Okay.
 6 MR. ROZWOOD: I think we should stop so we're on
 7 time.
 8 We will pick up on Tuesday at two o'clock here.
 9 Stipulate that the transcript as far as the
 10 stipulation will be treated the same as the transcript
 11 from our first session.
 12 MR. FRIEDMAN: So stipulated.
 13 MS. LHAMON: So stipulated.
 14
 15 (The following stipulation was incorporated by
 16 reference from Volume I of the deposition of Cindy Diego
 17 taken May 26, 2001:
 18 "MR. FRIEDMAN: We'll stipulate that
 19 the reporter will be relieved of the
 20 responsibilities for filing the deposition;
 21 And that he can forward the
 22 original to the plaintiff's counsel, who
 23 will be responsible for securing her review
 24 and execution of the original transcript.
 25 "And if the original transcript is

1 I declare under penalty of perjury
 2 under the laws of the State of California
 3 that the foregoing is true and correct.
 4 Executed on _____, 20____,
 5 at _____, _____.
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SIGNATURE OF THE WITNESS

1 STATE OF CALIFORNIA) ss:
 2 COUNTY OF LOS ANGELES)
 3
 4 I, ROY H. PITLUK, C.S.R. No. 10239, do hereby
 5 certify:
 6
 7 That the foregoing deposition testimony of
 8 CINDY DIEGO was taken before me at the time
 9 and place therein set forth, at which time the witness,
 10 in accordance with CCP Section 2094, was placed under
 11 oath and was sworn by me to tell the truth, the whole
 12 truth, and nothing but the truth;
 13 That the testimony of the witness and all
 14 objections made by counsel at the time of the
 15 examination were recorded stenographically by me,
 16 and were thereafter transcribed under my direction
 17 and supervision, and that the foregoing pages
 18 contain a full, true and accurate record of all
 19 proceedings and testimony to the best of my skill
 20 and ability.
 21 I further certify that I am neither counsel for
 22 any party to said action, nor am I related to any
 23 party to said action, nor am I in any way interested
 24 in the outcome thereof.
 25

1 IN WITNESS WHEREOF, I have subscribed my name
 2 this 7th day of June, 2001.
 3
 4
 5
 6
 7 ROY H. PITLUK, C.S.R. No. 10239
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