

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO

-oOo-

ELIEZER WILLIAMS, et al., )

)

Plaintiffs, )

)

vs. )

No. 312 236

)

STATE OF CALIFORNIA; )

DELAINE EASTIN, State )

Superintendent of Public )

Instruction; STATE )

DEPARTMENT OF EDUCATION; )

STATE BOARD OF EDUCATION, )

)

Defendants. )

)

)

AND RELATED CROSS-ACTION. )

)

-oOo-

Fresno, California, Wednesday, March 14, 2001

-oOo-

DEPOSITION OF STEVEN ERNEST GETTMAN

-oOo-

Reported by:  
Lisa Baird, C.S.R.  
Certificate No. 7937

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 12 AND RELATED CROSS-ACTION. )  
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 13  
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 14  
 Fresno, California, Wednesday, March 14, 2001  
 15  
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16  
 17 The deposition of STEVEN ERNEST GETTMAN was  
 18 taken in the above-entitled matter under all of the  
 19 provisions of law pertaining to the taking and use of  
 20 depositions, on March 14, 2001, commencing at the hour  
 21 of 10:00 a.m. at the offices of Ray Eggebraaten, C.S.R.,  
 22 Inc., 1810 Van Ness Avenue, Fresno, California, before  
 23 Lisa Baird, C.S.R., a Certified Shorthand Reporter of  
 24 the State of California, having offices located at  
 25 Fresno, California.

1 -oOo-  
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22 -oOo-  
 23 The following proceedings were had and  
 24 testimony taken, to wit:  
 25 -oOo-

1 STEVEN ERNEST GETTMAN:  
 2 Being first duly sworn by the  
 3 Certified Shorthand Reporter,  
 4 testified as follows:  
 5 -oOo-  
 6 EXAMINATION BY MR. HERRON  
 7 Q. Good morning, Mr. Gettman. My name is David  
 8 Herron, counsel for the State of California in this  
 9 lawsuit.  
 10 Would you please state and spell your name?  
 11 A. Steven Ernest Gettman, S-T-E-V-E-N,  
 12 E-R-N-E-S-T, Gettman, G-E-T-T-M-A-N.  
 13 Q. Have you ever had your deposition taken before?  
 14 A. Not in this form.  
 15 Q. In what form have you had it taken?  
 16 A. It was regarding a workman's comp, and it was a  
 17 tape-recorded deposition.  
 18 Q. Let me go over a little bit of the ground rules  
 19 that we'll be following today. I'm going to ask you  
 20 questions, as will presumably Mr. Jacobs, who represents  
 21 the plaintiffs, and your response to the questions  
 22 should be oral. Do you understand that?  
 23 A. Yes, I do.  
 24 Q. Obviously, what we're saying is being taken  
 25 down by our court reporter. She will transcribe what we

1 say into a booklet, send you the original, and you'll be  
 2 free to change your testimony at that time. Do you  
 3 understand that?  
 4 A. Yes, I do.  
 5 Q. This is informal, obviously, since we're only  
 6 here in a conference room, but you are testifying under  
 7 the penalty of perjury. Do you understand that?  
 8 A. Yes, I do.  
 9 Q. If you don't understand any of my questions at  
 10 any time, please feel free to ask me to clarify or tell  
 11 me you don't understand. If you don't ask me to clarify  
 12 or tell me that you're not understanding a question,  
 13 I'll assume you do understand. Is that agreed?  
 14 A. Yes.  
 15 Q. At times there may be objections to questions  
 16 that I pose. Unless you're instructed by your counsel  
 17 not to answer those questions, you must respond. Do you  
 18 understand that?  
 19 A. Yes, I do.  
 20 Q. Have you recently consumed any medication,  
 21 alcohol or any other substance that clouds your mind or  
 22 interferes with your ability to respond?  
 23 A. No, I haven't.  
 24 MR. STURGES: Wait for him to finish.  
 25 MR. HERRON: Q. We should try not to stomp on

1 each other's discussion. I'll ask my questions and  
 2 please wait until I finish, and I'll try and wait until  
 3 you finish your response before asking another question.  
 4 Agreed?  
 5 A. Yes.  
 6 Q. Prior to today's deposition did you review any  
 7 documents?  
 8 A. No, I have not.  
 9 Q. Other than with your counsel have you discussed  
 10 your anticipated deposition testimony with anyone?  
 11 A. No, I have not.  
 12 Q. Could you describe for us your educational  
 13 background?  
 14 MR. STURGES: Can I hold on a second?  
 15 MR. HERRON: Sure.  
 16 THE WITNESS: I'd like to amend my answer --  
 17 MR. HERRON: That's fine.  
 18 THE WITNESS: -- regarding the documents.  
 19 MR. STURGES: Just for the record, the deponent  
 20 and I reviewed the documents we've produced pursuant to  
 21 the subpoenas with respect to Fresno in preparing for  
 22 the deposition.  
 23 MR. HERRON: Okay.  
 24 Q. Mr. Gettman, other than those documents that  
 25 your counsel has just identified, have you reviewed any

1 other documents in anticipation of this deposition?  
 2 A. No.  
 3 Q. Okay. Please describe for us your educational  
 4 background.  
 5 A. I'm a, I have a bachelor of arts in, from  
 6 Fresno State. I also have a master's degree from Fresno  
 7 State in educational administration.  
 8 Q. When did you obtain your bachelor's?  
 9 A. 1984.  
 10 Q. What did you do after you graduated?  
 11 A. I was a teacher for Fresno Unified School  
 12 District.  
 13 Q. From what time to what time?  
 14 A. From 1984 approximately 1996.  
 15 Q. Approximately 12 years?  
 16 A. Yes.  
 17 Q. When did you take your master's or when did you  
 18 take classes to get your master's?  
 19 A. From 1984 to '89.  
 20 Q. That was while you were teaching?  
 21 A. Yes.  
 22 Q. You received your master's in 1989?  
 23 A. Yes.  
 24 Q. And, I'm sorry, that was in education  
 25 administration?

1 A. Administration.  
 2 Q. Educational or education administration?  
 3 A. Educational.  
 4 Q. You're certificated, I take it?  
 5 A. Yes, I am.  
 6 Q. What sort of credentials do you hold, if you  
 7 still do?  
 8 A. I have a clear K-12 teaching credential.  
 9 Q. Describe what you mean by clear K-12 teaching  
 10 credential.  
 11 A. It means that all course work through  
 12 universities have been completed. It's not the  
 13 preliminary, which would be, it doesn't contain,  
 14 preliminary does not contain the fifth year of course  
 15 work.  
 16 Q. Are you, when did you first receive that  
 17 credential, I take it, a clear K through 12, if you  
 18 know?  
 19 A. I'm going to --  
 20 Q. You can provide a best estimate.  
 21 A. I'm guessing probably 1986.  
 22 Q. And you've maintained it through the present?  
 23 A. Yes.  
 24 Q. You taught in Fresno Unified School District  
 25 from 1984 through 1996?

1 A. Yes.  
 2 Q. What grade levels did you teach?  
 3 A. I substituted in grades K through 6. I was a  
 4 classroom teacher in a non-graded setting level F and  
 5 level G. I was a classroom teacher in combination  
 6 classes fifth and sixth grades, sixth grades, fourth  
 7 grades.  
 8 Q. Does that describe all the teaching that you  
 9 did over this 12-year period we're discussing?  
 10 A. I was also a mentor teacher, master teacher. I  
 11 taught after-school GATE programs, more capable learner  
 12 programs. You know, other organizations that revolve  
 13 around the school setting. I'm trying to think if  
 14 there's anything else. I taught migrant summer school  
 15 and also, I can't remember the exact name of it, but it  
 16 was a creative workshop summer school which was K-8  
 17 students.  
 18 Q. Pretty full experience. What does it mean to  
 19 be a mentor teacher?  
 20 A. Mentor teacher would be a teacher that has  
 21 specific skills in a specific area, and you apply for  
 22 that position. You, I guess I don't want to say you're  
 23 cream of the crop, but you're some of the top teachers  
 24 to be able to do that.  
 25 Q. Who are you teaching, students or other

1 teachers?  
 2 A. We are mentoring other teachers.  
 3 Q. Is that a district-initiated program or do you  
 4 know?  
 5 A. I am not quite sure. At the time that that  
 6 happened, that was about '87.  
 7 Q. What does it mean to be a master teacher?  
 8 A. Master teacher was through Pacific College and  
 9 also through Fresno State University where you are  
 10 assigned student teachers for either observation or for  
 11 the final student teaching.  
 12 Q. So that's while you're teaching a class, a  
 13 student teacher is assigned to you to learn?  
 14 A. Yes.  
 15 Q. What schools did you teach in, and to the  
 16 extent you can, if you provide a list of, a list for us  
 17 chronologically that would be help, if you know.  
 18 A. I received my credential in 1984, and I subbed  
 19 at various schools. Over the summer, August of 1984 I  
 20 was hired on at Wolters Elementary School, spent three  
 21 years there.  
 22 Q. Through '87?  
 23 A. Yes.  
 24 Q. Transferred to the --  
 25 A. Bethune, B-E-T-H-U-N-E. And I was a classroom

1 teacher there for three years.  
 2 Q. So that takes us from 1987 to 1990.  
 3 A. (Witness nods.)  
 4 And I transferred from there to Gibson  
 5 Elementary School and was there through '96. Almost six  
 6 years there. It was actually five and a half.  
 7 Q. Okay. What happened after 1996?  
 8 A. I became a vice-principal, program manager at  
 9 Turner Elementary School.  
 10 Q. What does it mean to be a program manager?  
 11 A. You monitor categorical funding or any  
 12 categorical programs that are initiated at your school.  
 13 You're dealing with grants, Title I funding, LEP funding  
 14 and SIP funding.  
 15 Q. Does that include all funding for textbooks for  
 16 your particular school?  
 17 A. At that particular site I was at I did not have  
 18 any control over the textbook funds, that was done by  
 19 resource teachers and principal.  
 20 Q. During your, during your career have you ever  
 21 had any control over textbook funds?  
 22 A. No, I have not.  
 23 Q. What were your duties as vice-principal,  
 24 program manager other than what you've already  
 25 described?

1 A. Discipline, teacher evaluations, PTA, parenting  
 2 classes, school site plan, bilingual representatives,  
 3 instructional aides, BIA's, which is bilingual  
 4 instructional assistant, home school liaisons, community  
 5 outreach were under my jurisdiction, as well as  
 6 counseling services, and any money that was tied into  
 7 those. I was also part of a fund raising committee. I  
 8 ran the fund raising committee for the school site as  
 9 well as technology committee.  
 10 Q. From whom or what entities did you raise funds?  
 11 A. They were raised for student body and they were  
 12 basically done through candy sales and things like that.  
 13 Q. How long were you vice-principal, program  
 14 manager at Turner Elementary School?  
 15 A. Approximately two and a half years.  
 16 Q. Does that bring us from 1996 through 1998 and a  
 17 half or so?  
 18 A. Yeah, something like that.  
 19 Q. What happens after 1998 and a half?  
 20 A. I am the vice-principal at Balderas Elementary  
 21 School.  
 22 Q. Balderas?  
 23 A. B-A-L-D-E-R-A-S.  
 24 Q. Do you know why you made that change from  
 25 Turner to Balderas?

1 A. I wanted a change of environment and working  
 2 under a different administrator at that time. Both of  
 3 those, the last two schools were year-round schools.  
 4 Q. Does year-round mean multi-track?  
 5 A. Yes. Both of the schools have four tracks.  
 6 MR. FOERSTER: I'm sorry, I'm not hearing well.  
 7 THE WITNESS: Both schools have four tracks.  
 8 MR. HERRON: Q. How long were you  
 9 vice-principal at Balderas Elementary?  
 10 A. Almost two years.  
 11 Q. Okay. Did you have the same duties at Balderas  
 12 Elementary as you had at Turner?  
 13 A. Somewhat. I didn't have -- I did not do some  
 14 of the same committees, and I was not involved in the  
 15 school site plan writing. I did have additional duties,  
 16 though. We became an IIUSP school, and so that was one  
 17 other area that I became involved in as far as the plan.  
 18 Q. When did Balderas Elementary become an IIUSP  
 19 school, if you know?  
 20 A. It was the first round of IIUSP school, so it  
 21 wouldn't have been this year it would have been the  
 22 previous year.  
 23 Q. 1999, 2000 school years?  
 24 A. Yes.  
 25 Q. Do you know whether Balderas Elementary applied

1 to be part of the IIUSP program?  
 2 A. No, I do not.  
 3 Q. Did you have any input or connection with  
 4 Balderas Elementary becoming an IIUSP school?  
 5 A. No, I did not.  
 6 Q. Do you know what the effects were on that  
 7 school of its involvement in the IIUSP program?  
 8 A. No, I did not. I was in the planning stage,  
 9 not in the implementation stage.  
 10 Q. Okay. What does IIUSP stand for, if you know?  
 11 A. It's the intervention for under performing  
 12 schools.  
 13 Q. When is it that you began your duties at Dailey  
 14 Elementary?  
 15 A. May 1st of last year.  
 16 Q. May 1, 2000?  
 17 A. Yes.  
 18 Q. When does the school year end at Dailey  
 19 Elementary?  
 20 A. June 1st.  
 21 Q. So was there, I guess, an overlap between you  
 22 and the prior principal?  
 23 A. No.  
 24 Q. When did the prior principal stop serving as  
 25 principal, if you know?

1 A. I believe it was either December or January.  
 2 Q. Who was acting principal, if there was one  
 3 during the December 1999 through May 1, 2000 time frame?  
 4 A. I believe it was Odon Solis, the  
 5 vice-principal, and also Dick Martin who was, I believe,  
 6 a retired principal that they had brought back in.  
 7 Q. Who is the first person?  
 8 A. Odon Solis.  
 9 Q. Could you please spell that?  
 10 A. O-D-O-N, S-O-L-I-S.  
 11 Q. So that person was acting principal, Odon  
 12 Solis?  
 13 A. He would have been taking over some of the  
 14 principal duties because he was the vice-principal on  
 15 site from December to when I took over in May.  
 16 Q. I see. What's that Odon Solis' present  
 17 position?  
 18 A. He's vice-principal.  
 19 Q. Has he been a vice-principal since May 1st to  
 20 the present, if you know?  
 21 A. Yes, he has.  
 22 Q. And Dick Martin you believe came in and also  
 23 served in a, I guess, substitute principal role?  
 24 A. Yes.  
 25 Q. Do you know whether, do you know where Dick

1 Martin is now, which I mean, is he still a district  
2 employee, if you know?  
3 A. I do not know.  
4 Q. Does he work at -- well, I take it he doesn't  
5 work at Dailey Elementary now?  
6 A. No.  
7 Q. Are you aware why there was a space of, I  
8 guess, approximately four months with no principal  
9 assigned to Dailey Elementary?  
10 A. I believe there was a hiring freeze on at the  
11 time.  
12 Q. Do you know who the principal was prior to Odon  
13 Solis acting? In other words, prior to I take it  
14 December 1999, who was principal?  
15 A. Carolyn Calmes,  
16 Q. C-A-L-M-E-S?  
17 A. Yes.  
18 Q. How long was Carolyn Calmes principal, if you  
19 know?  
20 A. I believe about six months.  
21 Q. Do you know whether or not Carolyn Calmes still  
22 works for the district?  
23 A. Yes, she does.  
24 Q. Do you know in what capacity?  
25 A. As a principal.

1 Q. What school?  
2 A. Greenberg Elementary School.  
3 Q. Do you know why she was assigned to Dailey  
4 Elementary for only six months?  
5 A. No, I do not.  
6 Q. Do you know who was principal at Dailey  
7 Elementary previously to Carolyn Calmes?  
8 A. I believe it was Dot Powell.  
9 Q. Is Dot Powell currently a district employee?  
10 A. Yes, she was.  
11 Q. Do you know if she's serving as a principal at  
12 another school?  
13 A. Yes, she is.  
14 Q. What school?  
15 A. I believe it is Ewing Elementary School.  
16 Q. Do you know what her tenure was as principal,  
17 how long her tenure was as principal at Dailey  
18 Elementary? And I'm looking for dates.  
19 A. I believe it was four or five years, so  
20 possibly 1994 to '99.  
21 Q. Okay.  
22 A. Somewhere in there. It's a guesstimate.  
23 Q. Yeah. I don't want you to guess or speculate,  
24 but if you can provide me your best estimate when some  
25 questions come up where you're not sure, that will be

1 what I'm looking for. Okay?  
2 A. Okay.  
3 Q. So you took over as principal on May 1st, 2000  
4 at Dailey Elementary?  
5 A. Yes.  
6 Q. And you've been serving in that role, I take it  
7 until present?  
8 A. Yes.  
9 Q. Can you describe for us your role and  
10 responsibility as principal?  
11 A. I'm a principal of two campuses, Dailey and  
12 Heckman. It's two separate sites, but they're under the  
13 supervision of one principal, one administration, so  
14 they're run as one school.  
15 The principal duties that I have revolve around  
16 from personnel to parent issues to program issues to  
17 budget issues. As a principal I'm the umbrella over  
18 everything. We coordinate programs, facilities would be  
19 under the jurisdiction of a principal on the site,  
20 safety issues, programming instruction.  
21 Q. How about assuring appropriate textbooks and  
22 instructional materials are provided in classrooms in  
23 your school?  
24 A. That would be the principal's duty as well.  
25 Q. How about assuring that there are adequate

1 bathroom facilities at your school?  
2 A. That would be one of the responsibilities of a  
3 principal.  
4 Q. Describe -- how far separated are Heckman and  
5 Dailey Elementary physically? I mean, are they somewhat  
6 in the same neighborhood or how does it work?  
7 A. They're approximately four blocks away or about  
8 a half a mile.  
9 Q. Do you know how many students currently are  
10 enrolled at Dailey Elementary?  
11 A. The last time I looked it was 658.  
12 Q. When was the last time you looked?  
13 A. About a week and a half ago.  
14 Q. How about Heckman, what's its current student  
15 population?  
16 A. I believe it's around 180.  
17 Q. Is Heckman K through 6?  
18 A. Heckman is K-2, and actually only part of two.  
19 Q. What part of the two?  
20 A. About half of the second graders on the Heckman  
21 site.  
22 Q. I'm sorry, could you describe what you mean?  
23 A. There are approximately four and a half second  
24 grade classrooms. Two and a half are on the Heckman  
25 site. Two are on the Dailey site.

1 Q. I see. Okay. Are all the classroom sizes at  
 2 Heckman 20-to-1?  
 3 A. Yes.  
 4 MR. STURGES: Did you understand what he meant  
 5 by 20-to-1?  
 6 THE WITNESS: Yes, 20 students to one teacher.  
 7 MR. HERRON: Q. Yes. Have you been principal  
 8 at Heckman for the same period of time that you've been  
 9 principal at Dailey Elementary?  
 10 A. Yes, I have.  
 11 Q. Do you know whether any of your predecessors  
 12 also served in a dual role, that is, principal over both  
 13 schools?  
 14 A. Yes, they did.  
 15 Q. All of them?  
 16 A. Yes.  
 17 Q. Do you know why the district assigns a  
 18 principal in that fashion as opposed to assigning a  
 19 single principal to each school?  
 20 A. No, I do not.  
 21 Q. What county are we in here? Dailey Elementary,  
 22 what county is it in?  
 23 A. Fresno County.  
 24 Q. And it's within Fresno Unified School District  
 25 obviously?

1 A. Yes.  
 2 Q. I'm sorry, I perhaps asked this, but what grade  
 3 levels are taught at Dailey Elementary?  
 4 A. Daily Elementary School has first through sixth  
 5 grade. The first graders, second graders and third  
 6 graders in three rooms are multi-age classrooms.  
 7 Q. The which graders from which age?  
 8 A. There are three classrooms that contain first,  
 9 second and third graders and they're multi-age.  
 10 Q. Okay. So there's no kindergarten at Dailey  
 11 Elementary?  
 12 A. No, there's not.  
 13 Q. Does the 20-to-1 class size apply to any of the  
 14 classes or grades at Dailey Elementary?  
 15 A. Yes, it does.  
 16 Q. Which ones?  
 17 A. All primary grades.  
 18 Q. Meaning?  
 19 A. First, second and third grade.  
 20 Q. What is the length of the school year at Dailey  
 21 Elementary?  
 22 A. I believe we started this year August 20th and  
 23 it runs through June 1st.  
 24 Q. How many instructional days are there provided  
 25 on an annual basis at Dailey Elementary?

1 A. I believe 181.  
 2 Q. Do your two prior answers also apply to  
 3 Heckman?  
 4 A. Yes, they do.  
 5 Q. Is there, is either school, Dailey or Heckman  
 6 on a multi-track schedule?  
 7 A. No.  
 8 Q. Is summer school offered at either school?  
 9 A. District summer school is not. Last year  
 10 migrant summer school was offered on the Dailey campus,  
 11 but it will not be this year.  
 12 Q. So this coming summer in 2001 there will be no  
 13 summer school offered at either school site?  
 14 A. Right.  
 15 Q. Last year, that is, summer of 2000 there was  
 16 summer school offered only at the Dailey site and only  
 17 for migrant education?  
 18 A. Right. I will clarify that as well.  
 19 Q. Please do.  
 20 A. That there was a program that was run on the  
 21 Dailey campus as well for our students that was run  
 22 through Pacific College with students that were  
 23 completing their master's degrees, and they worked with  
 24 about 30 students on campus.  
 25 Q. These were students of Dailey?

1 A. These were students specifically from Dailey.  
 2 Q. What was the nature of the classes?  
 3 A. It was literacy classes, reading, specifically  
 4 targeted at reading.  
 5 Q. Do you have any idea how many classes were held  
 6 on a daily basis, how many classes were held on a daily  
 7 basis during the summer?  
 8 A. Would you clarify?  
 9 Q. I'm trying to get a sense of, you had 30  
 10 students for the Pacific College related literacy  
 11 classes. Was it one class per day, every day during the  
 12 summer?  
 13 A. It was approximately, I want to say three weeks  
 14 long, and I believe they had six or seven interns that  
 15 were working with certificated teachers, and the people  
 16 that were working were also teachers working on specific  
 17 curriculum goals with those students that were reading  
 18 below grade level, so it wasn't 30 in one class, and I  
 19 believe the program was approximately three hours a day.  
 20 Q. So it was three hours per day every day  
 21 excluding weekends for three weeks?  
 22 A. Approximately three weeks.  
 23 Q. And that's the extent of the program for the  
 24 Pacific College related summer school?  
 25 A. To the best of my knowledge. I did not run the

1 program, so --  
 2 MR. STURGES: Let him finish his question.  
 3 THE WITNESS: I'm sorry.  
 4 MR. HERRON: You're doing just fine.  
 5 MR. STURGES: I'm the one who's confused  
 6 actually.  
 7 MR. HERRON: Q. All right. Any idea of, from  
 8 what date to what date that extended, that three-week  
 9 period, just in summertime or do you have something more  
 10 specific?  
 11 A. I believe it started about one week after  
 12 school was let out.  
 13 Q. So it would have ended before July?  
 14 A. Yes.  
 15 Q. The migrant school program that was held during  
 16 the summer of 2000. How many students participated in  
 17 that, if you know?  
 18 A. I do not know.  
 19 Q. Do you have any estimate?  
 20 A. No, I don't.  
 21 Q. Who would know?  
 22 A. Mr. Solis. He ran the migrant summer school.  
 23 Q. Do you know how long that program extended?  
 24 A. I believe it's six weeks.  
 25 Q. Do you know a time period over which that

1 program spanned?  
 2 A. I believe it started about a week after school  
 3 was out as well.  
 4 Q. Okay. So it finished mid July; is that your  
 5 best estimate?  
 6 A. Yes, it is.  
 7 MR. HERRON: Okay. Can we go off the record  
 8 for a minute?  
 9 (Off-the-record discussion held.)  
 10 MR. HERRON: Q. We've had a brief discussion  
 11 off the record, and Mr. Gettman is principal of both,  
 12 for Dailey and for Heckman Elementary Schools. My  
 13 questions now on, Mr. Gettman, will relate to both  
 14 schools, so even if I use the word Dailey Elementary,  
 15 please understand that I'm referring to both schools.  
 16 Will you understand that?  
 17 A. Yes, I will.  
 18 Q. Okay.  
 19 MR. STURGES: For the record, it is the school  
 20 district's understanding that the allegations in the  
 21 complaint pertain solely to the Dailey campus, and the  
 22 preparation and inquiry was restricted to that campus.  
 23 However, the deponent can answer to the extent he knows  
 24 about either campus, of course.  
 25 MR. HERRON: I appreciate that, and if we run

1 into situations, Mr. Sturges, where the question clearly  
 2 only applies to Dailey, and I'm not catching that, I  
 3 would appreciate you're bringing that up because I don't  
 4 want there to be any confusion, nor do I want to have an  
 5 unclear record.  
 6 Q. Have you had an opportunity to review the  
 7 complaint that was filed in this lawsuit?  
 8 A. Yes, I have.  
 9 Q. I'd like to mark that as Exhibit 1, if I may.  
 10 (Whereupon, Defendant's Exhibit FUSD-1  
 11 was marked for identification.)  
 12 MR. HERRON: Why don't we label our Exhibits  
 13 as FUSD-1, 2, 3 and so forth?  
 14 I'd like to, if I may, guide your attention to  
 15 paragraphs 149 through 153 of the complaint.  
 16 MR. STURGES: I'm sorry, is this document the  
 17 First Amended Complaint FUSD-1?  
 18 MR. HERRON: Yes.  
 19 Q. And if you'd review those paragraphs, please.  
 20 (Off-the-record discussion held.)  
 21 MR. HERRON: Q. If you could please provide  
 22 us with the description you just did so we'll have it  
 23 now in the record. That was very helpful.  
 24 A. The Dailey campus is also known as Dailey south  
 25 campus or Dailey main campus. While the Heckman campus

1 is also known as the annex or the north campus.  
 2 Q. Okay. Have you had an opportunity to review  
 3 paragraphs 149 through 153 inclusive of Exhibit No. 1?  
 4 A. Yes, I have.  
 5 Q. Do you understand that these are the  
 6 allegations plaintiffs make in this lawsuit regarding  
 7 certain of the conditions at Dailey Elementary?  
 8 A. Yes, I do.  
 9 Q. Are you, do you know who Maria Imperatrice is?  
 10 A. I've never met her.  
 11 Q. Do you know what grade she's in?  
 12 A. No, I do not.  
 13 Q. Do you know what class she's in?  
 14 A. At this point no, I do not.  
 15 Q. So you've never interacted with her at all?  
 16 A. I've not interacted with her.  
 17 Q. Have you ever interacted with her parents?  
 18 A. No. They have never been on campus as far as I  
 19 know.  
 20 Q. Have any complaints ever been made by her  
 21 parents to the school that you're aware of?  
 22 A. Not that I'm aware of.  
 23 Q. Are you aware of any discipline problems with  
 24 this particular individual Maria Imperatrice?  
 25 A. No, I am not.



1 Q. Do you know of anyone who knows anyone, meaning  
2 anyone in the administration or teachers who know Maria  
3 Imperatrice?

4 A. Mr. Solis would know and the office staff would  
5 know.

6 Q. Why would Mr. Solis know?

7 A. Because of his tenure at the school.

8 Q. Okay. Have you ever met Catherine Fipps?

9 A. Yes, I have.

10 Q. Do you know what grade she is in?

11 A. I believe she's in -- do you know what? At  
12 this point in time I don't know exactly what grade she's  
13 in.

14 Q. Okay. Do you know whether or not she's in a  
15 20-to-1 class?

16 A. If she's in primary, she would be in a 20-to-1  
17 class.

18 Q. Do you know whether she's in a 20-to-1 class,  
19 though?

20 A. At this point in time I don't remember if she's  
21 in third grade or fourth grade.

22 Q. Okay. Do you know her teacher's name?

23 A. No, I do not.

24 Q. When did you first interact with Catherine  
25 Fipps?

1 A. I interacted with Catherine Fipps when I met  
2 her mother.

3 Q. Is that the only time you interacted with  
4 Catherine Fipps?

5 A. That's the only opportunity I've had to  
6 interact with her.

7 Q. Have you ever met Catherine Fipps' father?

8 A. No, I have not.

9 Q. When did you meet Catherine Fipps' mother?

10 A. I believe it was the first week that I was at  
11 the elementary school.

12 Q. So in early May of 2000?

13 A. Yes.

14 Q. What was the purpose of the meeting as you  
15 understood it?

16 A. It was more of just an introduction. I  
17 happened to be in the office and she introduced herself.

18 Q. Other than mere introduction was anything else  
19 discussed during this meeting?

20 A. No.

21 Q. Have you had any other opportunity to meet  
22 Catherine Fipps' mother other than what you've just  
23 described?

24 A. Yes, I have.

25 Q. How many times?

1 A. Maybe five or six different times.

2 Q. Can you describe for us the purposes of those  
3 meetings, if you know?

4 A. Some they were just casual contacts in passing.  
5 She's also a member of the PTA, so any time that I or  
6 her would be at a PTA meeting we would interact.

7 Q. Did you ever discuss this lawsuit with her?

8 A. No, we do not.

9 Q. Did she, Catherine Fipps' mother, ever complain  
10 to you about anything ever?

11 A. Not that I can recall.

12 Q. Does Catherine Fipps have any discipline  
13 problems that you know?

14 A. No, she has not.

15 Q. Do you know what type of grades she gets, that  
16 is, good, bad, poor, wonderful?

17 A. No, I do not.

18 Q. Other than what you've just described, have you  
19 had any other interaction with Catherine Fipps' mother?

20 A. Probably in addition I remember we had a PTA  
21 function the other night and -- or not a PTA function,  
22 it was another function, and we had sat down and we had  
23 just talked about playground equipment and things like  
24 that. It was just general conversation.

25 I will say that the first time I met her was

1 well after this lawsuit was done.

2 MR. STURGES: There's no question pending.

3 THE WITNESS: Okay.

4 MR. HERRON: Q. You may proceed.

5 MR. STURGES: There's no question pending. You  
6 can form a question and get the information, but I'm not  
7 going to let him go on a narrative.

8 MR. HERRON: Q. What were you about to say?

9 MR. STURGES: Do you have any further  
10 information about your interactions with Catherine  
11 Fipps' mother?

12 MR. HERRON: That's a good question.

13 THE WITNESS: One more time, please.

14 MR. STURGES: Do you have any further  
15 information about interactions with Catherine Fipps'  
16 mother?

17 THE WITNESS: The only information I would have  
18 would be based upon those times that we had met.

19 MR. HERRON: Q. And that further information  
20 would be what?

21 A. That at one time after this lawsuit was  
22 presented we had, we were talking, and she said that she  
23 would not talk about anything that had to do with the  
24 lawsuit, and we had agreed not to. There was nothing  
25 ever discussed. It was an agreement.

- 1 Q. So you had that agreement and you've adhered to  
2 it?  
3 A. Yes.  
4 Q. Do you know whether Jason Fipps and Axel Fipps  
5 are also, well, are they, I take it brothers to  
6 Catherine?  
7 A. Yes.  
8 Q. Do you know what grade Jason is in?  
9 A. I believe he's in intermediate grades.  
10 Q. Meaning four, five?  
11 A. (Witness nods.)  
12 Q. Do you know his teacher's name?  
13 A. No, I do not.  
14 Q. Have you ever interacted with Jason Fipps?  
15 A. The only time I would have interacted was when  
16 Catherine and Jason and Axel were all there with mother.  
17 Q. Okay. What grade is Axel Fipps in?  
18 A. I believe he's in sixth grade.  
19 Q. Do you know his teacher's name?  
20 A. I believe he is in Mrs. Jiminez' class. I  
21 could be wrong on that.  
22 Q. Have you had any discipline issues with either  
23 Jason or Axel Fipps?  
24 A. None.  
25 Q. I'm wanting to discuss for a while, if we go to

- 1 the allegations regarding overcrowding at Dailey  
2 Elementary, and I guess I'm going to refer pursuant to  
3 our prior definition that when I say Dailey, I'll be  
4 also referring to -- what will I be referring to?  
5 Heckman.  
6 Paragraph 152 plaintiff talks about the school  
7 being so over crowded that children must go to recess in  
8 shifts, and their recess time must be shortened  
9 accordingly.  
10 In paragraph 153 it goes on to say that some  
11 school classrooms are too small to accommodate all the  
12 students in them, and that students complain they must  
13 squeeze by each other's desks and teachers cannot divide  
14 classes into separate learning groups because the rooms  
15 lack sufficient space for students to spread out.  
16 With those allegations in mind, I'd kind of  
17 like to ask you about some of the policies, procedures,  
18 standards that are in place at Dailey Elementary. Are  
19 you aware of the, any policies procedures or standards  
20 relating to the number of students who are allowed to  
21 enroll in Dailey Elementary?  
22 A. I believe that the district is looking at a cap  
23 of about 670 for us, for both campuses in total.  
24 Q. So a cap at both schools equalling 670?  
25 A. Yes.

- 1 Q. Currently the, I think you said it was 658?  
2 A. Approximately.  
3 Q. And Heckman has 180?  
4 A. Yes.  
5 Q. So the total seems to be about 738 right now;  
6 is that right?  
7 A. No, it's not.  
8 Q. Am I wrong?  
9 A. Excuse me, no.  
10 Q. What would the total of both schools be?  
11 A. The total, when we're looking at 670 is the  
12 total for both campuses.  
13 Q. Right.  
14 A. Would be, but if we're running 480 on one  
15 campus and 180 on the other campus that comes to about  
16 660.  
17 Q. Oh, I'm sorry. Is it -- it's 480 that was at  
18 --  
19 A. Approximately, on the main campus, the Dailey  
20 campus, and approximately 180, and they do fluctuate.  
21 Q. Okay. So, I'm sorry, so now we have  
22 approximately 660 students collectively at both schools?  
23 A. Yes.  
24 Q. And you've said that the district is looking  
25 towards a cap of 670?

- 1 A. Approximately in that vicinity.  
2 Q. So your -- presently your student population is  
3 under the cap that the district is considering?  
4 A. Right, and that's my understanding that they  
5 have tried to keep us around 670.  
6 Q. How did you learn about that particular policy,  
7 district policy?  
8 A. As far as numbers?  
9 Q. Yes.  
10 A. Okay. As far as numbers I've looked back at  
11 the projections for the last couple years with Dailey,  
12 and the enrollment has been declining, and at one time  
13 it was over 700 in the last couple years and it's  
14 declined down. Our projections for next year are even  
15 lower. We just received those projections of 629, so  
16 that I know that based on teachers and based on  
17 enrollment at our school that they've tried, in talking  
18 to my supervisors, to keep it around 670 at this time.  
19 Q. Okay. Any estimate for enrollment at the,  
20 speaking about that as we've defined it, for next year,  
21 629 or so students?  
22 A. No, I do not know yet until we do class lists  
23 to find out.  
24 Q. Okay. When you refer to the number what you  
25 were referring to, I think you referred to 629 as an

1 estimate for next year or a projection for next year's  
2 head count?

3 A. That is projection that's been brought down  
4 through facilities regarding the projected number of  
5 students that will be attending the Dailey-Heckman next  
6 year.

7 Q. Okay. Now, are you aware of any standards or  
8 policies relating to the physical space requirements for  
9 classrooms at Dailey Elementary?

10 A. I know that there are requirements sent down by  
11 the state as far as space, beings as far as the  
12 approximate square footage, I don't know what that  
13 entails.

14 Q. Are you aware of any such policies that were  
15 sent down by the district, that is, for physical space  
16 requirements for classrooms?

17 A. No, I do not.

18 Q. Are you aware of any standards or policies  
19 relating to the number of students that may be assigned  
20 to any given classroom at Dailey Elementary?

21 A. There are state policies or mandates as far as  
22 class size reduction for a 20-to-1 ratio in grades K  
23 through three. Grades four through six they can go up  
24 above 30. I believe there's a penalty if they go above  
25 38, but I'm not quite sure on that. Any classroom that

1 A. As far as I know in the upper grades that is  
2 when the augmentation aide comes in and things like  
3 that. The district is still working under the state's  
4 code for the K-3 as far as the 20-to-1 ratio.

5 Q. So you're saying under the collective  
6 bargaining agreement with the teachers, is that what  
7 we're talking about?

8 A. Yes.

9 Q. Under the teacher's collective bargaining  
10 agreement if the classroom size reaches 33, then there  
11 has to be an augmentation in the form of a teacher's  
12 aide; is that true?

13 A. Yes, if it is at 33 at two specific times  
14 during the year. If it moves to 33 after that specific  
15 date, no.

16 Q. You sound like you've had some experience at  
17 collective bargaining agreements?

18 A. Yes. If you don't know it, you're in trouble.

19 Q. Are there any other restrictions or provisions  
20 of a collective bargaining agreement with the teachers  
21 that affect class size at Dailey-Heckman?

22 A. No.

23 Q. You talked previously about policies or  
24 practices regarding, and I don't know how to put this  
25 eloquently so I won't, regarding combining students from

1 receives 33 students at two particular cutoff times,  
2 dates during the year will receive additional help.

3 Q. Help in the form of?

4 A. Instructional aide, augmentational.

5 Q. So, again, a teacher's aide or something like  
6 that?

7 A. Yes.

8 Q. Okay. Are there any classrooms at Dailey  
9 Elementary, Dailey-Heckman, maybe I should just say  
10 that, Dailey-Heckman that exceed 30 students, if you  
11 know?

12 A. In the intermediate grades right now I believe  
13 there are two classes that are exceeding 30 students.

14 Q. What are the size of those classes?

15 A. I believe they are both at 32.

16 Q. What grades, if you know?

17 A. Multi-age, four, fives.

18 Q. You've talked about --

19 MR. STURGES: Mr. Herron, I believe I can help  
20 the process here. There is also some collective  
21 bargaining restrictions on class size. You might --

22 MR. HERRON: Q. Are there collective  
23 bargaining restrictions on class size?

24 A. Yes, there are.

25 Q. Do you know what those are?

1 different grade levels into a single class. Can you  
2 describe what that policy or practice or procedure is?

3 A. We have two types of classes on our campus. We  
4 have what you call a traditional classroom and what you  
5 would call multi-age classrooms, as opposed to -- the  
6 multi-age is different than a combination classroom.  
7 It's a different philosophy, different teaching  
8 strategies.

9 Q. Multi-age is different than --

10 A. A teaching class. It's more whole language,  
11 more of building community.

12 Q. What's more whole language?

13 A. Multi-age.

14 Q. Okay.

15 A. Extremely structured. Parent involvement is, I  
16 don't want to say demanded, but expected. Their whole  
17 basis is forming a community within a community. How  
18 students are placed in those classes, I believe, is the  
19 question that you asked.

20 Q. Yes.

21 A. Is we look at a couple different things. One  
22 is parent requests, and those are the same for  
23 traditional classrooms. Parents can request specific  
24 type of, type of philosophy, so to speak, or strategy,  
25 and also we look at students that are possibly not

1 functioning as well in a traditional classroom that may  
2 function and achieve and be more successful in multi-age  
3 and vice versa. Somebody that's maybe placed in  
4 multi-age.

5 Q. Okay. Explain for us what combination  
6 classroom means.

7 A. A combination, a combination classroom would  
8 be, for example, we have a one-two combination that --

9 Q. All right.

10 A. That has first graders and second graders.  
11 They're teaching two different curriculums in there.

12 Q. So multi-age may have multiple ages, but they  
13 may also be in one grade; is that how it works?

14 A. Actually all classrooms are multi-age. It  
15 comes into -- it comes very philosophical and a teaching  
16 strategy, a regular straight first grade is multi-age  
17 because they're all different ages in the classroom.

18 What I would say about a multi, it's more  
19 individualized. They take the student and individualize  
20 the curriculum and instruction for that child and base  
21 it on that. Where if you're in a traditional classroom  
22 and we're teaching fourth grade curriculum, we're  
23 teaching fourth grade curriculum, which is very  
24 confusing, and at times I get confused as well.

25 Q. You explained it quite well. Do you have any

1 Q. Are Spanish speakers segregated from English  
2 speakers?

3 A. No, they are not. They are clustered with  
4 English or Hmong.

5 Q. Or which?

6 A. English or Hmong.

7 Q. It was the last word I didn't understand.

8 A. Or for services through BIS which is a  
9 compliance issue.

10 MR. STURGES: There's a bit of confusion here.  
11 You just said something or English or Hmong, I think I  
12 heard.

13 THE WITNESS: Hmong.

14 MR. HERRON: Oh, which is a southeast Asian  
15 language?

16 MR. STURGES: Is that the language spelled  
17 H-M-O-N-G?

18 THE WITNESS: Yes, and we are also a, under  
19 compliance for students that are ELD levels, development  
20 levels of ones, twos or threes. If there are 10  
21 students per grade level that are designated as ones,  
22 twos or threes to provide support for those, and if it's  
23 not a bilingual teacher, or -- it would be through BIA  
24 support for an hour and a half for those students, so  
25 that's where some of the clustering comes into play

1 procedure or practice in place at Dailey-Heckman which  
2 attempts to equalize the number of students in each  
3 class? I know for 20-to-1 that must be true, but can  
4 you respond to that question?

5 A. We, we do. The policy that we have in place  
6 right now is that any students that enroll into  
7 Dailey-Heckman, myself or my vice-principal do the  
8 placement. When a student's enrolled we have the  
9 placement. They will enroll on one day. They'll start  
10 the next day. The reason for that is to be able to look  
11 through our records, look at class size at the time,  
12 look at make up, male, female, et cetera, look at  
13 behavior problems. It gives us a chance to look at  
14 suspensions and things like that. We also look at the  
15 average. We can pull up a screen on our main frame that  
16 shows us what the class average has been for the year.

17 Q. Class average size?

18 A. Average size, yes. So those are the procedures  
19 that are in place.

20 Q. Is race considered in assigning students to  
21 different classrooms?

22 A. Yes, it is and also language.

23 Q. Meaning English-speaking ability?

24 A. Yes, and Spanish-speaking ability or

25 Hmong-speaking ability.

1 because of budget and personnel.

2 MR. JACOBS: B-I --

3 THE WITNESS: BIA, bilingual instructional  
4 assistant. Specifically for language to be able to have  
5 students access the core curriculum beyond language  
6 arts.

7 MR. HERRON: Q. Is economic status considered  
8 in assigning students to class?

9 A. No, it's not.

10 Q. You said earlier that you were under compliance  
11 in response to the second to the last question. What  
12 does that mean or the way you used it?

13 A. It would be what we call under compliance is  
14 that we are or have to service those students with  
15 languages that are designated as one, two or three  
16 through certain support systems which would be through  
17 the BIA's.

18 Q. You can set Exhibit 1 aside. I'd like to hand  
19 you what we'll mark as FUSD Exhibit 2.

20 (Whereupon, Defendant's Exhibit FUSD-2  
21 was marked for identification.)

22 MR. HERRON: Q. Have you had an opportunity  
23 to review Exhibit 2?

24 A. Yes, I have.

25 Q. What is this?

1 A. This is a map of the Dailey and Dailey Annex  
2 site.  
3 Q. Dailey Annex being what we called Heckman?  
4 A. Yes.  
5 Q. I'd like to mark as Exhibit 3 with everyone's  
6 permission this document here.  
7 (Whereupon, Defendant's Exhibit FUSD-3  
8 was marked for identification.)  
9 MR. HERRON: Q. Do you recognize Exhibit 3?  
10 A. Yes, I do.  
11 Q. What is it?  
12 A. It is a master plan of the Dailey site.  
13 Q. What do you mean by a master plan of the Dailey  
14 site?  
15 A. I believe this is what --  
16 Q. It looks like an aerial photo to me.  
17 A. It's an aerial photo, and it looks like it's a  
18 proposal for changes for the Dailey campus.  
19 MR. STURGES: Counsel, let me establish for the  
20 record Exhibit No. 3 is a document that was produced by  
21 the school district's facilities department to counsel  
22 for the school district in response for requests about  
23 the master plan and the Dailey school site. It is not  
24 intended to represent the master plan, although there is  
25 information in there about proposed work at the Dailey

1 school and the Dailey-Heckman campus, but the Dailey  
2 campus on this aerial photo, which is Exhibit 3, we're  
3 not representing that this is the master plan, and there  
4 was some confusion in our discussion with the facilities  
5 department as to whether it was the, quote, master plan,  
6 unquote. So the deponent might be referring to it  
7 loosely as the master plan when it is not necessarily  
8 that document or that complete document.  
9 MR. HERRON: Q. Okay. Let's turn back to  
10 Exhibit 2. Does page 1 of Exhibit 2 accurately depict  
11 the facilities at the Dailey-Heckman sites?  
12 A. No, it does not.  
13 Q. What is it missing or what does it have that it  
14 shouldn't have?  
15 A. Rooms 24 and 25 have now been labeled 23 and  
16 24, and that was a trailer that has now been moved.  
17 There have been two portables that have been put in a  
18 different area on the campus.  
19 Q. So 24, 25 become 23, 24. That's a trailer and  
20 it's been moved?  
21 A. 24 and 25 is a trailer. It's been taken away.  
22 Q. It's been taken away?  
23 A. They brought in two portable classrooms, and  
24 they're now labeled 23, 24, and they're not in that same  
25 site.

1 Q. Okay. How many portables are there at  
2 Dailey-Heckman?  
3 A. On Dailey there are two portable classrooms.  
4 On Heckman there are five.  
5 Q. Can you identify for us the portables on the,  
6 is that 23, 24 just the wrong location?  
7 A. Yes.  
8 Q. Okay. Can you identify that for us, the  
9 portables on Heckman annex?  
10 MR. STURGES: Is that with respect to page one?  
11 MR. HERRON: Q. Yes.  
12 A. On the Heckman site, 10-A and 11-A are no  
13 longer there.  
14 Q. Okay.  
15 A. There is now a room 10-A, a portable adjoined  
16 or next to 9-A.  
17 Q. Okay. Are the five portables, 10-A, 9-A, well,  
18 8-A, 7-A and 6-A?  
19 A. Yes, they are.  
20 Q. Okay. With those modifications in mind, would  
21 that be an accurate depiction, I guess, I've just  
22 modified this a bit, but as you've described it, would  
23 that accurately identify the number of facilities and  
24 classrooms at these sites?  
25 A. Yes, 10-A would be located next to 9-A on the

1 Heckman site. 23 and 24 would be located approximately  
2 above on the map room five.  
3 Q. Counsel, with your permission, can I just have  
4 him on our original exhibit draw in where those things  
5 are and label them, scratch out the ones that aren't?  
6 A. We've taken the partition out. It's one, the  
7 size of this is, the whole thing is half a portable.  
8 Q. What you're referring to now is 20, 21 and 22?  
9 A. Half a portable that was broken up into three  
10 separate basically offices or rooms. One of the  
11 partitions was taken out to make it larger.  
12 Q. So that partition between 21 and 22 was taken  
13 out?  
14 A. Right.  
15 Q. Okay. Can you identify on your version by just  
16 reading it, I suppose, which are the classrooms on the  
17 one that you just marked up, the original exhibit, can  
18 you identify which of the classrooms are at the Dailey  
19 site?  
20 A. Classrooms which have students in them are room  
21 three -- rooms three, four, five, six, seven, eight,  
22 nine, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19.  
23 Q. You didn't identify 23 and 24. Are those it?  
24 A. I'm sorry, 23 and 24.  
25 Q. Okay. So there are students in the portables

1 23 and 24; is that true?

2 A. Yes.

3 Q. Why are there no students in classrooms one and  
4 two, if I'm right, that they are classrooms at all?

5 A. Classroom one is resource lab.

6 Q. What does that mean, resource lab?

7 A. It would be where our instructional materials  
8 are housed, supplies. It's also where our two  
9 certificated tutors work on a pull-out basis with  
10 students in regard to reading and literacy.

11 Q. What sort of activities, if any, are  
12 constructed in what's labeled as classroom two?

13 A. Classroom two is a special ed classroom for  
14 pull out. It's basically a learning lab. We're an  
15 inclusion site, but we also have students that are  
16 pulled out to work in groups as well.

17 Q. There are no students housed in 20, 21 or 22?

18 A. No, those are basically small offices. 21 and  
19 22 is used for music, small group instructional music  
20 and 20 is presently housed with our school psychologist  
21 when she is on campus.

22 Q. I take it that the labels of library, office,  
23 nurse, staff room and cafeteria are all accurate?

24 A. Yes. The library is also a library media  
25 center. There's a partition section in the library

1 classroom was equipped with a brand new IMAC.

2 Q. Can you please identify for us the classrooms  
3 in which classes are held at the Dailey Annex site, the  
4 Heckman site?

5 A. Yes. 2-A, 3-A, 4-A, 5-A, 6-A, 7-A, 8-A and  
6 9-A.

7 Q. What is 10-A used for?

8 A. 10-A was brought in for special ed. It was  
9 just recently brought in in January, February, so it's  
10 only been there about a month.

11 Q. Do you happen to know the square footage of  
12 these classrooms?

13 A. No, I have not.

14 Q. When we look through this document there are  
15 some references to square footage. Do you know whether  
16 these are accurate or inaccurate?

17 A. I couldn't tell you.

18 Q. Do you know, maybe I should just ask your  
19 counsel. This seems to be a document consisting of  
20 seven pages and the last page of this Exhibit No. 2  
21 talks about sheet 7 of 10. Do you know whether there  
22 were additional documents in this set that we just  
23 haven't seen for some reason?

24 MR. STURGES: I do not. I can check on that.  
25 I can tell you that in this particular group of

1 that's also a 25-station computer lab.

2 Q. Where did the money come from for the  
3 computers?

4 A. Some money has come through categorical, some  
5 through block grant and some through an after-school  
6 program which we have, and some through, I believe, it  
7 was purchased through some of the migrant funds.

8 Q. Migrant funds?

9 A. But I'm not sure on that one.

10 Q. Is the block grant a state grant or federal?

11 A. State.

12 Q. How about the after-school fund, state fund?

13 A. I believe it's a state fund.

14 Q. How about the categorical state fund?

15 A. State and federal.

16 Q. Do you know if any district general funds were  
17 used for purchase of computers?

18 A. Not that I know of.

19 Q. 25 stations, did you say?

20 A. 25 stations.

21 Q. Are there any computers in the classrooms?

22 A. On the Dailey campus all of the computers are  
23 older, computers that are LC3's, LC2's and down as far  
24 as the maximum. On the Dailey Annex campus, through  
25 categorical purchases in the last two years each

1 documents we haven't withheld any, so there isn't that  
2 sort of an issue. It's also my understanding that this  
3 information is accurate with respect to square footage,  
4 and I realize that I'm not testifying here, but it's  
5 also my understanding that the classroom square footage  
6 at the, I haven't checked Heckman, but they meet state  
7 square foot size requirements for the number of  
8 students.

9 Q. Do you know, Mr. Gettman, that a standard  
10 exists requiring 30 square foot per student per  
11 classroom?

12 A. I did not know that that was the exact numbers.

13 Q. Do you know whether or not the physical  
14 classroom size of the classroom at the Dailey Annex  
15 comply with that standard, if indeed it is one?

16 A. I don't know if they comply to that standard.

17 Q. Do you know who would?

18 A. I would hope that our facilities people would  
19 know.

20 Q. Sure. Has anyone told you at any time that the  
21 classroom sizes do not comply with the standard I've  
22 just identified?

23 A. No.

24 Q. Are there any classroom facilities under  
25 construction presently at either the Dailey or Dailey

1 Annex sites?

2 A. No. They have finished bringing portables in  
3 so there's no construction.

4 Q. Do you know of any planned construction? Do  
5 you know of any planned construction at either site?  
6 And if you need to refer to Exhibit 3, that's fine.

7 A. I mean, I've seen Exhibit 3, but there hasn't,  
8 I've never sat down with anyone in the district, anyone  
9 in facilities that's actually said, "Hey, this is what's  
10 going to happen."

11 Q. So as far as you know right now there are no  
12 plans to build anything?

13 A. No.

14 MR. STURGES: Okay. Off the record.  
15 (Off-the-record discussion held.)

16 MR. HERRON: Q. Mr. Gettman, is there any one  
17 of the classrooms that you've identified at either site  
18 bigger than any of the others or are they all the same  
19 size as far as you know?

20 A. I have not actually measured them out, but if  
21 you go on the Dailey site, I believe just by visually  
22 looking at the room numbers, basically classrooms being  
23 used, 3 through 5, 14 through 19 are bigger than the  
24 ones 6 through 13. They're part of the original  
25 buildings. Rooms 1 and 2 were at one time kindergarten

1 rooms, so they are the two largest rooms on the campus  
2 because I believe square footage for kindergarten is a  
3 little bit more than the other grades.

4 On the Dailey Annex campus if you're looking at  
5 that, rooms 2-A through 4-A and 5-A appear when you walk  
6 in them to be larger than 6-A through 9-A, or actually  
7 through 10-A.

8 Q. Okay. Do you happen to know the average size,  
9 average number of students in K through 3 classes at  
10 Dailey-Heckman presently?

11 A. Presently, I know of two classes that are  
12 presently at 21 or 22 students, but the average in those  
13 classes for the year have been, at least in one of those  
14 classes below 20. The other class just recently went up  
15 because we have two students that enrolled, and those  
16 are the only two classes in K through 3.

17 Q. How about grades 4 through 6, do you know what  
18 the average class size is for those grades in  
19 Dailey-Heckman?

20 A. I cannot tell you the average. I can tell you  
21 approximately what the classes have.

22 Q. Sure.

23 A. Other than the two, four, five that I talked  
24 about before that were at 30, approximately 32, the  
25 other classes vary from 27 to 29. There may be one

1 classroom that has 30 at this point in time.

2 MR. HERRON: I'd like to mark as Exhibit 4  
3 this document.

4 (Whereupon, Defendant's Exhibit FUSD-4  
5 was marked for identification.)  
6 (Short break taken.)

7 MR. HERRON: Q. Have you had an opportunity  
8 to review Exhibit 4, Mr. Gettman?

9 A. Yes, I did.

10 Q. Do you recognize this document?

11 A. Yes. It's an annual school report.

12 Q. Have you ever seen it before?

13 A. No, I have not.

14 Q. So did you have any input into its development  
15 at all?

16 A. For the current one I do.

17 Q. Is there a current school report card, annual  
18 school report card for Dailey Elementary?

19 A. Yes, I believe one comes out each year.

20 Q. And the one that you had involvement in, that  
21 would have been dated what, if you know?

22 A. I believe it was 2000.

23 Q. Okay.

24 MR. JACOBS: Can we get that over here, like  
25 maybe faxed over here or something like that? Because I

1 don't think you gave us a 2000.

2 MR. STURGES: Do you have it at school?  
3 (Off-the-record discussion held.)

4 MR. HERRON: Q. Do you have any personal  
5 knowledge about the accuracy or inaccuracy of any of the  
6 information in this document, Exhibit No. 4?

7 A. No, I do not.

8 Q. Set it aside, then.

9 We'll mark as Exhibit No. 5, the following  
10 documents.

11 (Whereupon, Defendant's Exhibit FUSD-5  
12 was marked for identification.)

13 MR. HERRON: Q. Mr. Gettman, I guess rather  
14 than have you review the whole thing, do you recognize  
15 this document, Exhibit No. 5?

16 A. Yes, as it's an annual school report from 1999.

17 Q. Have you ever seen it before?

18 A. I believe I have seen this one.

19 Q. Did you have any input into its development?

20 A. I did not.

21 Q. Do you have any knowledge about the accuracy of  
22 the statistical and number-based figures that are set  
23 forth in here?

24 A. No, I do not.

25 Q. I'd like to guide your attention to page three,

1 if I could. Under Curriculum Improvement Efforts, this  
2 discusses, quote, "Our PTA has provided funds to  
3 purchase many literature books and other texts which  
4 enhance the program for our students."

5 Is that accurate?

6 A. I do not know.

7 Q. At the bottom of this page three on the right  
8 side it says, "Dailey has a literacy support team," and  
9 then goes on to describe that. Is that an accurate  
10 description of the literacy support team?

11 A. We do not have that at this time.

12 Q. I take it on page 5, if we look at that, you  
13 couldn't comment on the accuracy of the class size  
14 information set forth there?

15 A. No, I couldn't.

16 Q. Any reason to believe that it's incorrect?

17 A. Not that I know of.

18 Q. At the top of page six under Textbooks and  
19 Instructional Materials, it states, "The Fresno Unified  
20 School District supports its instructional programs by  
21 providing instructional materials to all students."

22 Do you believe that to be an accurate  
23 statement?

24 A. Yes, I do.

25 Q. As we discussed briefly before, one of the

1 A. Can you clarify?

2 Q. I'll try. An allegation is that students are  
3 complaining that they have to squeeze by each other's  
4 desks. Have you ever heard that complaint?

5 A. I have not heard a complaint.

6 Q. Do you know of anyone at, in the administration  
7 at Dailey Elementary that's received a complaint of that  
8 nature?

9 A. Not that I know of.

10 Q. Have you ever observed that occurring, that is  
11 to say, a student having to squeeze by another's desk  
12 because there was no, there was not enough space?

13 A. No.

14 Q. Has that ever been discussed between you and  
15 any other administrator or teacher?

16 A. No.

17 Q. One of the allegations in plaintiffs' complaint  
18 is that teachers cannot divide the classes into separate  
19 learning groups because the rooms lack sufficient space  
20 for students to spread out. How would -- I'm not  
21 exactly sure what that means. Nonetheless, can you tell  
22 me what in your interpretation it would mean to divide  
23 students into learning groups?

24 A. To divide students into learning groups would  
25 be maybe to, you could have centers or you could have

1 allegations in this lawsuit is that some school  
2 classrooms at Dailey Elementary are too small to  
3 accommodate all the students in them. Do you believe  
4 that to be true?

5 A. I believe that statement to be false.

6 Q. Why?

7 A. Because there is ample space in the classrooms.  
8 The student population is relatively small in those  
9 classrooms.

10 Q. Have you received any complaints that some  
11 school classrooms are too small to accommodate all  
12 students in them?

13 A. No, I have not.

14 Q. Do you know of anyone at Dailey-Heckman in  
15 administration or teachers who have received complaints  
16 that some school classrooms are too small to accommodate  
17 all students in them?

18 A. No, I have not.

19 Q. One of the allegations in the plaintiffs'  
20 complaint is that students complain that they must  
21 squeeze by each other's desks.

22 Do you believe that -- well, squeeze by. Do  
23 you believe it to be true that students because of space  
24 constraints are required to squeeze by each other's  
25 desks because there isn't enough space?

1 stations where kids rotate. You could have a table, a  
2 kidney table where a teacher would do pull out and work  
3 with a reading group or a math group or a science group  
4 in activities like that.

5 Q. Okay. Do you believe that space constraints  
6 preclude teachers from dividing students into learning  
7 groups at Dailey-Heckman?

8 A. I believe that the only constraints would be  
9 provided by, would be put on by the teacher, not by the  
10 size of the classroom.

11 Q. Do you believe that the classroom size,  
12 classroom sizes at Dailey-Heckman could accommodate  
13 dividing students into learning groups?

14 A. Yes, I do.

15 Q. One of the allegations of plaintiffs' complaint  
16 is that Dailey Elementary is so overcrowded that recess  
17 is taken in shifts, and that because of overcrowding  
18 recesses are shortened.

19 Are you aware of any practice or policy or  
20 standard regarding the length of recesses at  
21 Dailey-Heckman?

22 A. No, I am not.

23 Q. What's the --

24 MR. STURGES: Wait a second. Listen to the  
25 question. He asked you if there was a practice, a



1 policy or a standard. Do you want the question read  
2 back?

3 MR. HERRON: And if it's still unclear, I'll  
4 give it another go.

5 (Record read back.)

6 THE WITNESS: Okay. The recesses of  
7 Dailey-Heckman are approximately 15 minutes long. The  
8 practice of the amount of recesses has varied from two  
9 recesses to three recesses. My understanding is that  
10 last year it was done as two recesses, and then it was  
11 changed to three recesses.

12 MR. HERRON: Q. For all students?

13 A. For all students on that campus.

14 Q. Upon what is your understanding based that it  
15 was changed, that policy, practice or standard was  
16 changed from two to three recesses?

17 A. They wanted to give more access to the students  
18 on the playground equipment or the basketball courts or  
19 any other area out there to play.

20 Q. Who's "they"?

21 A. The staff and administration at that time.

22 Q. Does the three recess -- well, are three  
23 recesses granted for each class currently on a daily  
24 basis?

25 A. Not for each class. Each class receives a

1 A. To say 10, 10:05, and then there would be  
2 another 15-minute recess and then another 15-minute  
3 recess off that. Without having my sheet in front of  
4 me --

5 Q. Do you have a document which would specify the  
6 exact times that recesses are, these staggered recesses  
7 are provided?

8 A. Yes.

9 Q. What document would that be?

10 A. It would be our yard duty schedule.

11 Q. Why do you have a yard duty schedule?

12 A. We have a yard duty schedule to notify teachers  
13 that they have supervision out on the playground.

14 Q. Your certificated personnel, your teachers  
15 supervise these recesses?

16 A. Yes, as well as administration.

17 Q. Who from administration also assists the  
18 certificated personnel in supervising recesses?

19 A. Either myself or my vice-principal, Mr. Solis.

20 Q. Okay. Are there particular groupings of  
21 students or classes that go on these recesses? For  
22 example, do kindergarten and first grade go? First,  
23 second and third go to the next staggered recess and so  
24 on or how -- what group of students goes to each of  
25 these staggered recesses, if you know?

1 15-minute recess.

2 Q. I see.

3 MR. STURGES: Let me clarify. When you said  
4 that there were two recesses and then three recesses.  
5 There was perhaps the impression that there were two or  
6 three recesses during the day for everybody. That was  
7 my understanding of the answer. If that's incorrect, we  
8 should clarify.

9 THE WITNESS: That is incorrect. All students  
10 receive one recess per day, 15 minutes long.

11 MR. HERRON: Q. So what you're talking about  
12 is is that the recesses are, in fact, taken in shifts?

13 A. They're staggered.

14 Q. Staggered. Why are they staggered?

15 A. They were staggered -- my understanding is the  
16 reason that they were staggered was to give students  
17 more of an opportunity on the playground to be able to  
18 interact on playground equipment, interacting games,  
19 interact on the playground equipment, et cetera.

20 Q. Do you know what times those recesses occur,  
21 the three staggered recesses you talked about?

22 A. I can give you approximate times.

23 Q. Your best estimate.

24 A. I'm going to say about 9:45ish.

25 Q. Okay.

1 A. Actually, it was, there's really, there's some  
2 rhyme and reason to it, and there's no rhyme and reason  
3 to it. Fifth and sixth grade go out, fourth and third  
4 grade go out. Multi-age and, I believe, second and  
5 third, multi-age and second grade go out together. And  
6 multi-age, remember, is first through sixth.

7 Q. When do the kindergartens have recess?

8 A. If you're talking about the Dailey campus,  
9 there are no kindergartens. If you're talking about  
10 Dailey-Heckman recess, they go out after recesses.

11 Q. Is the recess schedule that you've already  
12 described any different at Heckman? And if so, please  
13 describe.

14 A. Yes. There is, there is one recess period on  
15 the Heckman campus where all first and second graders go  
16 out.

17 Q. Does that take place in mid morning?

18 A. It takes place mid morning.

19 Q. Is that approximately 15 minutes long or so?

20 A. Yes, recess periods on both campuses are the  
21 same amount of time.

22 Q. Do you know if recess was ever longer than 15  
23 minutes at Dailey-Heckman?

24 A. Not to my knowledge.

25 Q. Do you know if recess has ever been shortened

1 because of any alleged overcrowding?  
 2 A. Not to my understanding or knowledge.  
 3 Q. Is one of the reasons that recesses are taken  
 4 in a staggered manner or in shifts to maximize  
 5 instructional time?  
 6 A. Clarify.  
 7 Q. Don't know that I can. Is that not a reason?  
 8 Can you think of any reason why instructional time would  
 9 be maximized by staggering recesses?  
 10 A. It could be. It could provide blocks of times  
 11 for different grade levels. In other words, if school  
 12 starts at 8:10, and you have recess at, say, 9:30, you  
 13 have an hour and 20 minute block. If you have another  
 14 grade level that maybe, or a group that's a little bit  
 15 longer, they would have a longer block of time. I know  
 16 that one of the things that we try and do is have a two  
 17 and a half hour block of language arts time for  
 18 students. We also look at when the breaks are.  
 19 Q. So that maximizing instructional time as you've  
 20 described it is at least one motivation for this  
 21 staggering of recess?  
 22 A. Yes.  
 23 Q. Does the staggering of recesses promote safety  
 24 and supervision of students?  
 25 A. Of course.

1 Q. Is that one of the reasons that you stagger  
 2 recesses?  
 3 A. Yes.  
 4 Q. "You" being administration at Dailey-Heckman?  
 5 A. I would say yes.  
 6 Q. So this allegation that because the school is  
 7 over crowded, and when I say allegation, plaintiffs'  
 8 allegation, that recesses are taken in shifts because  
 9 Dailey-Heckman is over crowded, do you believe that to  
 10 be true or false?  
 11 A. I believe that to be false.  
 12 Q. The allegation that recesses are shortened as a  
 13 result of the alleged over crowding do you believe that  
 14 to be true or false?  
 15 A. That's false?  
 16 Q. One of the allegations in the plaintiffs'  
 17 complaint has to do with classroom temperatures. The  
 18 allegation, I think, and I'm not specifically quoting  
 19 it, but I think it is to the effect that classroom  
 20 temperatures fluctuate between very cold and very hot  
 21 depending on temperatures outside. Classrooms do not  
 22 have functioning air conditioning and heating systems.  
 23 I want to focus on those allegations for the  
 24 time being. Are you aware of any standards or policies  
 25 that require facilities at Dailey-Heckman Elementary to

1 be equipped with heating and air conditioning?  
 2 A. I'm not aware of the standards and policies.  
 3 Q. Is there a procedure at Dailey-Heckman  
 4 Elementary for determining whether the heating or air  
 5 conditioning system in a classroom or other facility  
 6 needs to be repaired?  
 7 Do you want me to restate that?  
 8 Why don't I have you reread that, if you would,  
 9 please.  
 10 (Question read back.)  
 11 THE WITNESS: Yes, there is.  
 12 MR. HERRON: Q. What is that?  
 13 A. My plant custodian or coordinator in the  
 14 morning when he's opening up classrooms will check  
 15 certain wings to see if classrooms are functioning, air  
 16 conditioners are functioning. If one is not, he would  
 17 have the office manager put in a J-order or work order.  
 18 If the teacher comes into their classroom and it's not  
 19 functioning, the teacher could either fill out a  
 20 communication form, which we have on our site requesting  
 21 a work order, J-order, or contact the office manager who  
 22 then inputs it into the computer and generates a work  
 23 order with a number.  
 24 I am usually informed if it's something that is  
 25 severe, because a lot of times a piece of paper can get

1 lost in the paper shuffle, so I tend to, if it has to do  
 2 with air conditioning, heating or safety issues follow  
 3 it up with a phone call to let people know what the  
 4 severity of it is.  
 5 Q. Are your staff, either the custodian, your  
 6 office administrator or teachers advised to tell you  
 7 about particularly severe problems?  
 8 A. If it is a severe problem, they're instructed  
 9 to tell me. More than likely a teacher is going to  
 10 direct the call to, or the form to the office manager  
 11 who would directly let us know then.  
 12 Q. Let me see if I've got this right. You have a  
 13 plant custodian who checks the systems on a daily basis?  
 14 A. He would do a walk in the morning, make sure  
 15 everything's working. If he doesn't do that, when the  
 16 teachers would walk in, they would notify the office at  
 17 that time.  
 18 Q. Does the plant custodian check the heating and  
 19 air conditioning systems at both the annex site, the  
 20 Heckman site, and the south site, that is the --  
 21 A. I have a person on both sites, so they would  
 22 basically do the same thing.  
 23 Q. So two plant custodians each check their own  
 24 site every day, as best you know?  
 25 A. They should be doing it on a daily basis.

1 Q. If they identify a heating or air conditioning  
2 issue, I take it they typically report that to the  
3 office administrator?  
4 A. The office manager, right.  
5 Q. Office manager. Who is that person?  
6 A. That is Jen Rufflow.  
7 Q. What does your office manager do once she  
8 receives a complaint, if you know, or not a complaint,  
9 what does she do once she receives information from the  
10 plant custodian about a heating or air conditioning  
11 issue?  
12 A. If it is on the communication form then she  
13 would take that communication form and write the  
14 information down, type it into the computer, the  
15 mainframe, and it is sent to the maintenance department.  
16 Just so you know, on the other site it's a  
17 different person. The same procedures are followed.  
18 Q. Different office manager at Heckman?  
19 A. It's actually an office clerk.  
20 Q. Who is that person?  
21 A. Gloria Rodriguez.  
22 Q. Okay. Is the J-order, as you called it, or  
23 work order sent then, I take it, electronically --  
24 A. Electronically.  
25 Q. -- to maintenance?

1 A. Maintenance.  
2 Q. Maintenance is a district facility?  
3 A. Yes.  
4 Q. Who, if you know, responds to that type of a  
5 J-order or work order?  
6 A. I am not sure.  
7 Q. Is it district employees that respond?  
8 A. Yes.  
9 Q. Now, did I get it right? Well, do you know,  
10 can teachers -- a teacher comes in his or her classroom  
11 and says, "It's too cold," or, "It's too hot." Can they  
12 communicate that fact directly to the district-based  
13 people who are charged with the responsibility for  
14 repairing those systems or do they also, that is, the  
15 teachers also go to the office administrators at each  
16 site?  
17 A. All work orders are generated on site and so  
18 that's, so if it were not communicated to the office --  
19 well, it would need to be communicated to the office to  
20 be communicated to the maintenance department.  
21 Q. So the typical procedure is teacher identifies  
22 issue and reports it to the office administrator or  
23 clerk, correct?  
24 A. Right.  
25 Q. And then the same process is followed, it's

1 sent by computer to the district individuals?  
2 A. Yes.  
3 Q. Who then respond?  
4 A. Yes.  
5 Q. What sort of paperwork is involved in this  
6 procedure, if you know? Stacks perhaps?  
7 A. It can be stacks.  
8 Q. I mean, is there, you know, you've identified  
9 for us sort of a complaint form, and I don't know if  
10 that's a, or the J-order is what I'm calling the  
11 complaint form. Let's use J-order. J-order is what, is  
12 that an electronic form?  
13 A. It's generated on the computer as an electronic  
14 form.  
15 Q. Okay. And does that, what other forms are  
16 there in addition to that that are related to the repair  
17 of heating or air conditioning systems?  
18 A. That would be the only form that's generated  
19 from a site.  
20 Q. Okay.  
21 MR. STURGES: What about the written work  
22 orders?  
23 THE WITNESS: Besides the communication from a  
24 teacher to the, to the office would be the only other  
25 one, or it could be verbal communication to the office

1 as well.  
2 MR. HERRON: Q. Okay. Perhaps you've  
3 described this in part, but what procedure is in place  
4 for assuring repairs made to the heating and air  
5 conditioning systems once the issue has been raised with  
6 the district?  
7 A. There are actually two things that happen. If  
8 it is a heating and air conditioning, and I'm aware of  
9 it, I will follow it up with a phone call to the  
10 maintenance to find out when this is going to occur,  
11 when this repair is going to occur. I think one of the  
12 things that we do is if it's not repaired like the next  
13 day, then another followup phone call goes, or then I  
14 would contact other people in the district to find out  
15 what is going on. I could contact my supervisor or  
16 E-mail my supervisor and say, "We have a problem on my  
17 site. It needs to be corrected." We also get monthly  
18 what I call work order reports that are generated, and I  
19 look at those every month to see what has been repaired  
20 and what has not been repaired.  
21 To this point in time I have not seen anything  
22 on heating and air conditioning that has not been  
23 repaired within that month's time.  
24 Q. Other than what you've described already, is  
25 there a procedure for letting the district know about

1 issues related to heating and air conditioning systems  
2 at Dailey-Heckman?

3 A. Yes.

4 Q. What is that?

5 A. I could directly call my supervisor. I could  
6 call the person in charge of facilities. I could call  
7 the person in charge of maintenance, as well as voice my  
8 concerns regarding any repairs that aren't being made  
9 and that would be in regards to any type of maintenance  
10 or repair on site.

11 Q. Not just heating and air conditioning?

12 A. Not just heating and air conditioning. It  
13 could be any repair.

14 Q. Have you now described as best you can the  
15 procedure for informing the district about problems  
16 related to heating and air conditioning?

17 A. Yes.

18 Q. Have you also described the procedure in place  
19 to address problems with heating and air conditioning  
20 systems, to the best of your ability?

21 MR. STURGES: We need to take a quick break.  
22 (Short break taken.)

23 MR. HERRON: Okay. We are back on. Could you  
24 please reread --

25 MR. STURGES: Counsel, during the break I had

1 a work order is generated it goes downtown to the  
2 maintenance department where they would basically, my  
3 understanding is divide that up into the different  
4 departments. If it was a heating, air conditioning it  
5 would go to that department and they would send a person  
6 out.

7 The one instance that I know of right now where  
8 there was air conditioning that had gone out at 4:00  
9 o'clock in the afternoon. We had put in a J-order. I  
10 followed it with a phone call. They were out at 7:30 in  
11 the morning and repaired it.

12 If they weren't out, then I would follow it up  
13 with a call to the supervisor, you know. There are, I  
14 mean, that's -- that would be my procedure as far as  
15 doing that.

16 I believe the district also prioritizes based  
17 on need and based on severity, and those show up on  
18 those monthly reports as three, two or one based on  
19 priority.

20 There may be a crack in the sidewalk and you  
21 put that in as a J-order and it will get a priority  
22 three. If it's a, so to speak, air conditioning unit  
23 that's out, and it's 100 degrees outside, that will get  
24 a priority one, and they will send somebody out ASAP.

25 Q. Have you now described the procedures in place

1 the opportunity to discuss with the deponent the fact  
2 that his responses weren't necessarily complete to your  
3 previous questions, and that he wishes to supplement  
4 with respect to the actual processes that are used in  
5 getting HVAC problems fixed at the school as opposed to  
6 just procedural processes which, I believe, were the  
7 only thing that were really discussed in his testimony,  
8 so he'd like to supplement at this point.

9 MR. HERRON: Q. That's great. Can I first  
10 ask you, if I may, Mr. Gettman, what is an HVAC?

11 A. It's a heating and air conditioning system.

12 MR. STURGES: It's heating and ventilation and  
13 air conditioning.

14 MR. HERRON: Q. Great. Feel free to  
15 supplement.

16 A. There was actually one other thing I want to  
17 supplement as far as procedures that I have followed  
18 with any type of repair on campus is that there have  
19 been many times where I've even taken pictures of things  
20 that need to be repaired and met with supervisors as  
21 well. Things that have been broken or things that I  
22 feel have not been maintained and met with my  
23 supervisors who have in turn taken those pictures and  
24 met with maintenance workers to get things done as well.

25 In answering, in supplementing, as far as once

1 that you're aware of that are used to address heating  
2 and air conditioning?

3 A. Yes, I am.

4 Q. You mentioned one instance of air conditioning  
5 issues where there was a problem at 4:00 p.m. that was  
6 resolved, you say, at 7:30 the next morning?

7 A. Yes.

8 Q. Was that the only -- well, why did you identify  
9 that one instance?

10 A. It happened to be the whole pod that had gone  
11 out in the afternoon, school was already out. It was  
12 4:00 o'clock in the afternoon. It had gone out, so we  
13 called them up and they came out.

14 Q. Pod meaning group of classrooms?

15 A. It would be rooms 6 through 13, 6 through 13 on  
16 the main campus, and that would include the library as  
17 well.

18 Q. When did this occur?

19 A. It was, I'm guessing I think it was in May when  
20 I had taken over.

21 Q. May of 2000?

22 A. May of 2000.

23 Q. And the air conditioning went out after school  
24 had closed for the day after students were gone from the  
25 classrooms?

1 A. Yes.

2 Q. Yes?

3 A. Yes.

4 Q. And you say it was repaired by 7:30 a.m. the  
5 next morning?

6 A. They came out the next morning and repaired it.

7 Q. Are you aware of any other instances where air  
8 conditioning at Dailey-Heckman was not functioning?

9 A. There have been periodic times where maybe one  
10 room was blowing hot air or not cold air, and a J-order  
11 was put in and it was fixed.

12 Q. Can you characterize the response time for  
13 fixing the problems you've just identified which I take  
14 it is everything other than the one instance where the  
15 pod went out; is that right?

16 A. Please clarify.

17 Q. Let me try that again.

18 You've identified one instance. I asked you  
19 were there other instances where air conditioning went  
20 out, and I think you've said, "Look, in general there  
21 were a few. There were instances that occurred. We put  
22 in J-orders. They were resolved." Is that correct?

23 A. Right.

24 Q. Okay. What was the response time like to those  
25 latter instances you identified, if you know?

1 A. I know of no instances that weren't repaired  
2 within a day or two. I know of no instance because I  
3 would have heard about it from a teacher if the  
4 classroom were hot or cold for a repeated number of  
5 days.

6 Q. Okay. Is heating, are heating and air  
7 conditioning systems provided in all classrooms and  
8 facilities at Dailey-Heckman?

9 A. Yes.

10 Q. Are you aware of any, any time where the  
11 heating or air conditioning systems were not functioning  
12 properly for more than a day or two at Dailey-Heckman?

13 A. The only one that I know of that and it would  
14 have been this school year was the cafeteria, the, not  
15 air conditioning, the coolers were not blowing extremely  
16 cold air, I'm sorry, hot air, the heating, and it's a  
17 system up there, it's like a heating-cooling system, but  
18 it's not part of the HVAC, as far as I know, was not  
19 blowing hot air or heat. I believe that was for two or  
20 three days.

21 Q. In the cafeteria only?

22 A. In the cafeteria only.

23 Q. Has Dailey-Heckman attempted to get new heating  
24 or air conditioning systems in place?

25 A. I have no, nothing has been generated from the

1 site itself.

2 Q. So there has been no site-based request for  
3 funding for a new heating or air conditioning system?

4 A. No, that normally is not generated from the  
5 site, it would be generated from the district or from  
6 maintenance.

7 Q. Regarding the allegation in plaintiffs'  
8 complaint the classrooms' temperatures fluctuate from  
9 very cold to very hot depending on temperatures outside,  
10 do you believe that to be false?

11 A. I believe that to be false.

12 Q. Regarding plaintiffs' allegation the classrooms  
13 do not have functioning air conditioning and heating  
14 systems, do you regard that to be false?

15 A. Can you clarify "functioning"?

16 Q. Working sufficiently well that there is no, no  
17 problem with the air conditioning or heating systems?

18 A. I believe them --

19 MR. STURGES: For the record, I understand that  
20 the question is based on the allegation in the  
21 complaint, but that allegation has an inherent  
22 ambiguity, and in one sense you could take that sentence  
23 to mean that the classrooms do not have an HVAC system,  
24 period, and the other sense could be that the classrooms  
25 do not have a continually-functioning HVAC system. I'm

1 not sure that there is an intentional ambiguity in the  
2 allegation, but we might want to explore both of those.

3 MR. HERRON: That's a good point, and I  
4 appreciate your comment.

5 Q. The first question that your counsel raised,  
6 and I think it's a good one is, you know, is there an  
7 air conditioning or heating system in each of the  
8 classrooms? I think you said to that question yes.

9 A. Yes.

10 Q. The next question would be, well, are those air  
11 conditioners and heating systems functioning, the  
12 allegation being that they are not?

13 A. I would say that they are functioning. There  
14 are periods of time as with any kind of mechanical thing  
15 that they may go down one day just like an air  
16 conditioner in your car or some appliance at home. I  
17 think that, you know, a lot of what is happening is do  
18 they keep the door open and is it warm or cold in there  
19 because the door's open? Is it, is it at 5:00 o'clock  
20 at night is it not functioning because the district has,  
21 has master control over the units, and it's shut down,  
22 so it gets colder or warmer in the afternoon. I mean,  
23 the definition of functioning --

24 Q. Is a tough one?

25 A. Very broad.

1 Q. I take it you couldn't say that the heating and  
2 air conditioning systems in place at Dailey-Heckman are  
3 perfect?

4 A. I would say no system's perfect if you can't  
5 control it on site.

6 Q. Do you feel like the system provides the  
7 classrooms at Dailey-Heckman consistently with the  
8 appropriate temperatures in the classroom?

9 A. I think it does.

10 Q. Have you described to us the most severe  
11 problems that you yourself know about concerning heating  
12 and air conditioning at Dailey-Heckman already? Have  
13 you already described to us --

14 A. Yes, the ones I've known about in my tenure  
15 there.

16 Q. I take it during your tenure there you believe  
17 you would know about any problem that was severe?

18 A. I would hope I would know about any problem  
19 that was severe.

20 Q. Okay. One of the allegations in the  
21 plaintiffs' complaint relates to bathrooms.

22 The allegation is there are -- that one of the  
23 school bathrooms is locked all day, every day so there  
24 are not enough open bathrooms available for children to  
25 use. The plaintiffs go on to allege that children have

1 A. Each and every.

2 Q. Is it one custodian for both sites?

3 A. One custodian on each site.

4 Q. Complaints regarding bathrooms, whether it's  
5 cleanliness, availability, numbers, can they be made in  
6 writing?

7 A. Yes, they can be made in writing.

8 Q. Have you ever received such a complaint?

9 A. No, I have not.

10 Q. Do you know whether anyone at your school or in  
11 your administration, that is, at Dailey-Heckman  
12 Elementary has received such a written report or written  
13 reply?

14 MR. JACOBS: Objection, vague as to time.

15 MR. HERRON: Q. During his tenure.

16 A. Not under my tenure, not that I know of.

17 Q. Are you aware whether prior to your tenure any  
18 such complaint has been received?

19 A. Not that I know of.

20 Q. Are written complaints stored anywhere, kept  
21 anywhere if they exist?

22 A. Under my tenure, yes. Under previous tenure I  
23 don't know.

24 Q. Okay. I take it a complaint regarding  
25 bathrooms could be made orally as well?

1 urinated or defecated on themselves at school because  
2 toilets were locked when they needed to use the  
3 restroom. Are you aware of any standards, policies or  
4 practices governing how many bathrooms must be provided  
5 for students' use at Dailey-Heckman Elementary?

6 A. Not state policy. I know that there are some  
7 requirements and standards, but I'm not aware of exactly  
8 what the numbers are per student.

9 Q. Are you aware, is there any district sort of  
10 policy that applies to Dailey-Heckman about provision of  
11 toilet facilities, bathroom facilities?

12 A. Not that I know of.

13 Q. Is there any procedure in place for parents,  
14 teachers, students, anyone to report problems regarding  
15 bathrooms at Dailey-Heckman Elementary?

16 A. It would be, if it's a maintenance or  
17 facilities such as a work order, it would be reported in  
18 the same procedures to the office for a work order. If  
19 it's something that the custodian needs to look at, he  
20 would be called on the radio and immediately go to, to a  
21 restroom.

22 Q. Is a custodian on active duty during the school  
23 day?

24 A. Yes.

25 Q. Each and every?

1 A. Yes.

2 Q. To whom would that be made as matter of  
3 procedure or policy?

4 A. It could be made to office, office staff. It  
5 could be made to an administrator. It could be made to  
6 a custodian, and if it's by a student, it could be made  
7 to a teacher.

8 Q. You talked about complaints about bathrooms  
9 being resolved, I think, in one of two ways. Either if  
10 it were a facilities issue, it would be resolved by  
11 district personnel fixing that problem with the  
12 bathrooms; is that right?

13 A. Yes.

14 Q. If it were cleanliness, I take it it would be  
15 resolved by a custodian cleaning a bathroom?

16 A. Yes.

17 Q. If it were an access issue such as one related  
18 to plaintiffs' allegations that a bathroom was locked,  
19 how would that be resolved, if you know?

20 A. I believe that would be resolved through  
21 administration.

22 Q. Meaning you and your staff?

23 A. Administration or staff, yes.

24 Q. Is there a procedure in place for keeping  
25 Fresno Unified School District conformed about issues

1 relating to bathrooms at Dailey-Heckman other than what  
2 you've already described?

3 Do you want me to try that one again?

4 MR. STURGES: Yeah.

5 MR. HERRON: Q. Let me try that again.

6 You've talked about there being, you know, if a  
7 complaint is received by you, it may be forwarded to the  
8 district in terms of getting someone to come in and fix  
9 a bathroom, for example. Is there any other way that  
10 complaints about bathroom facilities are forwarded to  
11 the district that you know of?

12 A. Would this be a parent complaint?

13 Q. By anyone.

14 A. A parent could always fill out a uniform  
15 complaint towards a school employee. Example would be  
16 if a bathroom were locked up and the parent felt that it  
17 was not appropriate, or to the facilities, were not  
18 appropriate and they felt that action on the site was  
19 not being taken, they could file a complaint against the  
20 administrator which would then go up through the ranks  
21 and be investigated.

22 I believe any complaint that's filed in the  
23 district has 10 days to be replied to, so that would be,  
24 a parent could do that.

25 Again, if as an administrator I was not getting

1 concern. The J-order would be another.

2 Q. Okay. Do you know how many boys' bathrooms  
3 there are at Dailey-Heckman Elementary?

4 A. On the Dailey campus there are one, two, three  
5 boys' bathrooms.

6 Q. How about Heckman?

7 A. Heckman there is one boys' bathroom.

8 Q. Do you believe that there are an adequate  
9 number of facilities in those bathrooms to accommodate  
10 the school population?

11 A. Yes, I believe so.

12 Q. One of the allegations is that, one of the  
13 plaintiffs' allegations is that one bathroom was locked  
14 all day, every day so that there were not enough  
15 bathrooms available for children's use. Do you believe  
16 that to be true with respect to boys' bathrooms?

17 A. Can you repeat that?

18 Q. Are you aware of any instance, are you aware of  
19 any instance where one bathroom was locked all day,  
20 every day so that such that there were not enough  
21 bathrooms available for children's use at  
22 Dailey-Heckman?

23 A. I am aware of a period of time when a boys'  
24 bathroom was locked, but it was not locked all day, and  
25 that is my understanding that it was for a period of

1 action towards a concern I had, I have means that I can  
2 go through. I can go through, above supervisors. I can  
3 go through my elementary division supervisors. I could  
4 go through facilities. I could go through maintenance,  
5 so there's ways that you can follow up on concerns that  
6 you have.

7 Q. When you say uniform complaint, do you mean the  
8 uniform complaint procedure, the administrative  
9 procedure?

10 A. Yes.

11 Q. Have you now identified for us all the ways in  
12 which you're aware of someone could register a complaint  
13 about bathrooms with the district?

14 A. I mean, I've seen parents go and contact school  
15 board members not necessarily about bathrooms, but about  
16 complaints or concerns that they've had, so there's a  
17 wide variety of things that parents can do as far as in  
18 the district. There's somewhat a chain of command and  
19 there's ways you can work around the system.

20 What I like to do is if I have a concern about  
21 something that's not happening, I'll make some E-mails  
22 and CC the copies and keep copies of E-mails I've made  
23 on things like that, so that there's documentation and  
24 there's also some accountability as well, so E-mail  
25 would be another method. You could fax someone your

1 time between September and December of 1999, and my  
2 understanding is it was one bathroom.

3 Q. Was that at the Dailey site or Dailey-Heckman  
4 site?

5 A. It was at the Dailey site.

6 Q. It was one boys' bathroom?

7 A. That's my understanding.

8 Q. How did you gain that understanding?

9 A. A little bit of investigating and talking to  
10 Odon Solis, my vice-principal, and conferring with  
11 Carolyn Calmes, who was the principal at that time.

12 Q. What was the reason that the bathroom was  
13 locked from approximately September through December  
14 1999 on an intermittent basis?

15 A. What my understanding from the people I  
16 contacted was that it was through, it was safety means.  
17 They were having problems in the bathroom, threats,  
18 people ganging up on students during classroom time,  
19 during that period of time so that they, my  
20 understanding is they closed the bathrooms up during  
21 class time during that period.

22 Q. It was all bathrooms or just one of the three?

23 A. Just the one boys' bathroom.

24 Q. One of three, correct?

25 A. One of three.

1 Q. When you say it was closed during classroom  
2 time, what did that mean precisely?  
3 A. Instructional time. It would not have been --  
4 the information I had was it was not locked during  
5 recess time nor was it locked during lunch time.  
6 Q. But while kids were in class it was locked?  
7 A. That's the information I was getting.  
8 Q. Is it your understanding that despite locking  
9 the one bathroom that the other two boys' bathrooms were  
10 available and open during classroom time?  
11 A. I know that there, I believe, that there was at  
12 least one bathroom open. The other bathroom they're  
13 talking about is located by rooms 1 and 2 that are  
14 basically kindergarten bathrooms. I do not know if they  
15 were in use last year or not. I know that they're in  
16 use this year, but as far as last year I do not know.  
17 Q. Do you know who decided to close the bathrooms  
18 between this time period?  
19 A. It would have been an administrative decision.  
20 Q. And you're saying it was, I take it, for  
21 disciplinary purposes?  
22 A. I think it was safety issue.  
23 Q. Safety issue? And the closing of the bathrooms  
24 was designed to avoid what harm, or what problem? Maybe  
25 you've already answered in part. I'm just --

1 A. To the best of my knowledge, I think it was to  
2 avoid conflict in the bathroom.  
3 Q. Okay. Are you aware whether any bathroom, any  
4 bathrooms at Dailey-Heckman have been closed all day,  
5 every day?  
6 A. Since I've been at Dailey there have been,  
7 there's been one boys' bathroom and one girls' bathroom  
8 that have been closed all day, every day for  
9 maintenance, and that was to make them handicap  
10 accessible.  
11 Q. And when was that, this is during your tenure?  
12 A. That's during this school year.  
13 Q. Okay.  
14 A. I'm going to guess they were probably closed  
15 for approximately a month, give or take, but it was for  
16 making them handicap accessible.  
17 Q. During the time, was that all bathrooms were  
18 closed?  
19 A. No, just one boys' and one girls' bathroom, so  
20 there are two girls' and two boys' bathrooms accessible.  
21 Q. But there are three boys' bathrooms and three  
22 girls' bathrooms at the Dailey site?  
23 A. Yes.  
24 Q. And at Dailey-Heckman site there's one of each?  
25 A. Right.

1 Q. And the, the one bathroom for each gender was  
2 closed at the Dailey site?  
3 A. For, to make them handicap accessible.  
4 Q. For a 30-day period?  
5 A. I'm thinking it was about a month, so that  
6 would be about 20 school days.  
7 Q. During that time period did you receive a  
8 complaint from anyone that because of the closure there  
9 were inadequate bathroom facilities for students?  
10 A. No, I didn't receive any complaints.  
11 Q. Do you believe during that time period that  
12 because of the closure of the one bathroom there were  
13 inadequate facilities for students?  
14 A. No.  
15 Q. Did anyone ever suggest to you in any way that  
16 there were inadequate facilities for students,  
17 inadequate bath room facilities for students at any  
18 time?  
19 A. No, no one has.  
20 Q. Other than what you've already discussed, which  
21 I think is a closure in September to December of 1999 on  
22 an intermittent basis of one bathroom and the number  
23 two, the closure of the two bathrooms, one for each sex  
24 during the approximately 20 school days, are you aware  
25 of any other bathroom facilities at either the Dailey

1 site or Dailey-Heckman site that have been closed?  
2 A. Yes. They would be things like a bathroom is  
3 closed for like maybe an hour where students have  
4 plugged up a toilet and it's overflowed and made it a  
5 safety issue until it can get cleaned up, or a student's  
6 gone and taken feces and spread it on the wall or spit  
7 wads up on the ceiling or breaking the, one of the boys'  
8 bathroom on the Heckman site they broke off one of the  
9 stall doors so those become safety issues. They are  
10 rectified as quickly as possible as soon as things can  
11 get cleaned up. Another issue would be of taking paper  
12 towels and stuffing them into the sink or urinal and  
13 continually flooding them, so in that aspect, yes, they  
14 are locked up until they can be cleaned up, so it would  
15 be cleaned. Until the custodian can come over there, it  
16 may take 10 minutes and it may take 15 minutes, if  
17 you're asking if it's a long period until it can get  
18 cleaned up.  
19 Q. Is it your impression that the response time to  
20 clean or to completely resolve the bathroom issues  
21 you've just identified is virtually immediate?  
22 A. Yes.  
23 Q. Have you now identified for us all instances  
24 you're aware of where bathroom facilities at either  
25 Dailey or Heckman have been closed and locked other than



1 locking them at night?

2 A. Yeah. Those would be the only reasons that I  
3 can see that those bathrooms would have been locked.

4 Let me clarify something, too.

5 Q. Sure.

6 A. There may, if you have a substitute custodian,  
7 there may be a time in the morning, and this has  
8 happened, as well, where the sub custodian did not  
9 unlock the bathrooms, and when we were aware of it, it  
10 was opened up, so if you have a new person that's coming  
11 on your site as far as a substitute, sometimes on the  
12 pod bathrooms it takes an Allen key wrench as well as a  
13 regular lock. They'll unlock it, but if the door to the  
14 bathroom closes, and they haven't done the Allen wrench  
15 one, it will lock, so as soon as we are aware of that,  
16 it will be unlocked, so those would be very few and far  
17 between instances, and that's, you know, basically it.

18 Q. Okay. Forgive me if I asked you this.  
19 Regarding plaintiffs' complaint or plaintiffs'  
20 allegation that one of the school bathrooms is locked  
21 all day, every day so that there are not enough  
22 bathrooms, open bathrooms available for children's use,  
23 do you believe that to be false?

24 A. I believe that to be false.

25 Q. Have you ever learned that students have

1 plaintiffs' allegation that children have urinated or  
2 defecated on themselves at school because toilets were  
3 locked when they needed to use them is false?

4 A. My understanding is that there's no written  
5 evidence of anybody ever coming to the office that  
6 urinated or defecated on themselves because bathrooms  
7 were locked.

8 Q. And you know of no evidence written or  
9 otherwise; is that true?

10 A. As far as I know, there's no evidence that that  
11 has ever occurred.

12 Q. Are you aware whether President Clinton ever  
13 visited the Dailey-Heckman campus?

14 A. Yes, I've heard about it.

15 Q. What did you hear?

16 A. I heard that President Clinton visited the  
17 campus, I believe it was during the time that Dot Powell  
18 was there.

19 Q. Do you know whether he praised the school and  
20 its teachers?

21 A. I do not know if they did that or not, if he  
22 did that.

23 Q. One of the allegations in plaintiffs' complaint  
24 relates to textbooks and school supplies.

25 Regarding textbooks, there's an allegation that

1 urinated or defecated on themselves because, because  
2 toilets were locked when they needed, when they, the  
3 students needed to use the restroom?

4 A. I know of no instances where they have  
5 defecated or urinated on themselves because bathrooms  
6 were locked. I know of times where students urinated or  
7 defecated on themselves because they didn't make it to  
8 the bathroom in time such as a kindergartner or first  
9 grader or second grader, or, I mean, those would be the  
10 instances. I have had no reported instances to myself  
11 regarding bathrooms being locked and students defecating  
12 or urinating on themselves.

13 Q. You're not aware of any students having  
14 urinated or defecated on themselves because a bathroom  
15 was not available?

16 A. No, but I have been aware of ones that have,  
17 you know, urinated or defecated on themselves because  
18 they didn't go in time, because they would be sent down  
19 to the office, usually a tremendous smell, and we  
20 usually call the parents and either we go get clothes  
21 for them or they come and bring us clothes, so these are  
22 things that you tend to remember.

23 Q. Most likely not fondly.

24 A. Not fondly.

25 Q. So based on what you said do you believe that

1 students do not have enough books that they can take  
2 home for homework, and I'd like to focus on that  
3 allegation, if I can.

4 (Luncheon break taken.)

5 MR. HERRON: Q. Good afternoon.

6 A. Good afternoon.

7 Q. Mr. Gettman, over the lunch hour did you  
8 consume any medication, alcohol or any other substance  
9 that would cloud your mind or interfere with your  
10 ability to give your best answers here today?

11 A. No, I did not.

12 Q. Did you have a Pepsi?

13 A. Yes, I did.

14 Q. Other than your attorney, did you discuss your  
15 anticipated deposition testimony with anyone?

16 A. No.

17 Q. We were talking about textbooks when we left  
18 off and their availability.

19 A. Yes.

20 Q. For students at Dailey Elementary, at Fresno  
21 Unified School District, is there a procedure, policy or  
22 practice in place for procuring textbooks and other  
23 instructional materials?

24 A. Yes, there is. It would be through textbook  
25 ordering.

1 Q. Are you familiar with that procedure?  
 2 A. Pretty much.  
 3 Q. What do you mean by pretty much?  
 4 A. I don't physically do the ordering.  
 5 Q. Sure.  
 6 A. But I do or have you been one of the persons  
 7 that verified the orders and signed off on orders.  
 8 Q. Are you aware of how that procedure works?  
 9 A. Yes.  
 10 Q. Okay. Is there a written procedure that  
 11 specifies, you know, what principals, for example, such  
 12 as you are supposed to do in terms of ordering  
 13 textbooks?  
 14 A. I'm not aware of any written policy. What is  
 15 normally done is that in the case of Dailey and the  
 16 other case that I've been at, the resource teacher takes  
 17 inventory of textbooks.  
 18 Q. Before you go there. Let's just see whether or  
 19 not you know if there's a written policy that sets forth  
 20 what the procedure is?  
 21 A. No, I didn't believe there was a written policy  
 22 for it.  
 23 Q. Is there another, is the same policy, I'm  
 24 sorry, the same procedure for procuring supplies like  
 25 paper, pencils, erasers, is that the same, is the same

1 procedure used as is used for textbooks? In other  
 2 words, is it all one procedure or is it different?  
 3 A. No, it's not. It's different procedures.  
 4 Q. Tell us about in general what the supplies  
 5 procedure is.  
 6 A. We --  
 7 Q. When I say in general, I just want an overview.  
 8 A. We are allocated so much per site per student  
 9 for general supplies. We are given specific amount. 10  
 10 percent of that is normally for office use, which would  
 11 be letters going home, general office supplies. The  
 12 remainder of that money can be, and in most instances is  
 13 allocated to the students or the classroom teachers. It  
 14 varies from site to site. Sometimes it's a per student,  
 15 how many students are in the classroom. Sometimes it  
 16 can be just kindergarten gets this much. Primary gets  
 17 this much. Intermediate gets this much per classroom.  
 18 Different schools do it in different ways. The teachers  
 19 order their own supplies. In some instances at some  
 20 schools they have open supply rooms that are stocked and  
 21 teachers can get the supplies they need. It depends  
 22 from site to site as well as far as that goes.  
 23 Q. Right. Well, we'll bring it down to your  
 24 particular site, but can you tell me whether the  
 25 supplies budget is determined by the district?

1 A. The allocation that we receive --  
 2 MR. STURGES: Objection, supplies budget is  
 3 vague as to whether it's the state's supply budget or  
 4 the district's supply budget.  
 5 MR. HERRON: Q. Okay.  
 6 A. We receive an allocation. It's called a  
 7 general fund allocation. As far as I know, it's from  
 8 the district. I could be wrong. It's allocated to each  
 9 school site based upon their enrollment.  
 10 Q. Okay. You mean the average daily attendance?  
 11 A. Yes, and that I believe they use a projection.  
 12 I'm not sure how they base the amount of money you get.  
 13 It's based on your enrollment, but I'm not sure exactly  
 14 what day they use for that enrollment.  
 15 Q. There is at least some point, though, where you  
 16 as principal learn that your budget is X amount for  
 17 general supplies?  
 18 A. Yes.  
 19 Q. Do you know when generally that date occurs,  
 20 that is, is it at the beginning of the school year, the  
 21 end, halfway through?  
 22 A. It's usually at the beginning of the school  
 23 year, probably within the first couple weeks of school.  
 24 Q. Let's focus first, since the procedure seemed  
 25 to be slightly different about procuring textbooks

1 versus procuring supplies. Let's talk about textbooks.  
 2 I'd like you to describe, if you could, please, the  
 3 process or procedure as best you can and as best you  
 4 know it for getting textbooks and instructional  
 5 materials? What I'm talking about is from the time they  
 6 may be published until the time they hit your classroom  
 7 shelves or kids' hands, if you prefer.  
 8 A. What normally happens is that in the case of  
 9 what's happening right now we're going through a new  
 10 textbook adoption.  
 11 Q. Mathematics?  
 12 A. Mathematics at this point in time. And it may  
 13 not be a textbook. In many cases right now with math we  
 14 don't have a textbook for MathLand, and for science  
 15 program, the FOSS program, there's not a textbook, as  
 16 well, so it would be instructional materials that would  
 17 go with those. It's more of a program. What will end  
 18 up happening is the, that the site will vote on what  
 19 adoption they want. It goes to a district vote. In the  
 20 past it's been a district adoption. We will be  
 21 allocated so much money per student to purchase that  
 22 textbook or a program adoption. We would look at our  
 23 numbers, current numbers and projected numbers to see  
 24 how many books that we need to order. We would order  
 25 those books to cover all students that are affected by

1 the adoption, more than likely when the school year  
2 starts up. The projections are going to be a little off  
3 because of transiency and things like that. At that  
4 time another order would be put in. If we needed, while  
5 we're waiting, more textbooks, et cetera, while we're  
6 waiting for that to come in we borrow from other sites.

7 I actually talked to my resource teacher  
8 yesterday about the textbooks and what do we do if we  
9 don't have, you know, the books right now. They said  
10 they either borrow or call the district office. The  
11 district office will borrow for us.

12 Q. So I take it selection of a particular text,  
13 say, is made at the district level with input from the  
14 site level?

15 A. Right. And what normally happens is, is that  
16 there is a basic core curriculum that the district will  
17 mandate and say, "Okay, MathLand is our core  
18 curriculum." They'll add supplemental things that you  
19 can purchase if you want to, but it's not part of that  
20 mandated.

21 Q. District?

22 A. District.

23 Q. Help me a little bit with the purchasing cycle.  
24 I taking it that you're, for example if you, you're at  
25 the end of the school year, let's say put you back at

1 something?

2 A. Yes.

3 Q. What is it you can do?

4 A. We can put in another order or we could borrow  
5 until, you know, and put the order in until those books  
6 come in.

7 Q. Do you have any sense of how long it takes from  
8 the time you order until the time of receipt, that is,  
9 the time of order by you at the site level for a  
10 textbook until received by you of that textbook or  
11 instructional material?

12 A. It actually varies by vendor, and it also  
13 varies by supply. Sometimes it can be a very fast turn  
14 over. Sometimes it can be, if it's a new textbook  
15 adoption and they haven't printed them fast enough, it  
16 could take a while. There's no really set amount of  
17 time.

18 Q. I assume that a district, that the district has  
19 on hand all the textbooks that you may need, and you put  
20 in an order. What's the typical turnaround time for you  
21 receiving them?

22 MR. JACOBS: Object to the form of the  
23 question. It mischaracterizes the testimony.

24 MR. HERRON: Q. You may answer, if you  
25 understand.

1 May of 2000 where you're just about at the close of the  
2 school year, when is it that you would begin to order  
3 curriculum-based, curriculum-mandated textbooks for the  
4 coming year?

5 A. Actually, the deadline for ordering the  
6 majority of that stuff has already come except for the  
7 new textbook adoption. An order was just put in for  
8 some instructional supplies, and also some  
9 Hampton-Brown, which is our EL, basically, program,  
10 because next we see that our numbers are going to be  
11 spread out so more teachers will need to be using the  
12 program.

13 MR. STURGES: Listen to the question. The  
14 question is, is there a deadline for ordering those  
15 books?

16 THE WITNESS: For the new adoption, at this  
17 point not, there isn't. For other adoptions, yes, there  
18 are, but there's always, I'm going to say ways to work  
19 around it. You can go past ordering deadlines, if there  
20 is a need for it, and I could call the head of  
21 purchasing. I could call other agencies in the district  
22 to go beyond that deadline.

23 MR. HERRON: Q. So, for example, if you had  
24 anticipated a need for 50 textbooks, but you find out at  
25 the start of the school year you need 60, you can do

1 A. Can you clarify that?

2 Q. I'm trying to see if, if you assume, for  
3 example, that you have a textbook that's been adopted by  
4 the district and they have extra copies on hand at  
5 district offices. Okay. Following me so far?

6 A. Uh-huh.

7 Q. You put in an order from your site to the  
8 district to receive some of those textbooks. Do you  
9 know how long the turnaround time would be until you  
10 received them from date of order to receipt?

11 A. I really can't answer that. I think it's going  
12 to vary between different agencies and the process that  
13 we need to go through. If I needed a textbook by the  
14 end of the week, I could beg, borrow and find one in the  
15 district. I could go to my supervisor, say, "Hey, I  
16 need these copies." I could get it. As far as the  
17 purchasing, I don't know as far as when it leaves my  
18 desk and when it's signed and it arrives in the resource  
19 labs to be inventoried and all that. I really don't  
20 know because I'm not sure which agencies it has to clear  
21 through before it's the final approval.

22 Q. But if there's a textbook shortage, you feel  
23 confident that you can promptly resolve that shortage on  
24 your own; is that true?

25 A. Yes.

1 Q. Can you identify for us the paper trail, if you  
2 will, of sort of order, from date of order until date of  
3 receipt for textbooks and instructional materials?  
4 A. I can really only give you what the site does.  
5 Q. Sure, that's fine.  
6 A. I don't know the paper trail from beyond.  
7 Q. That's fine.  
8 A. Example would be that my resource teacher just  
9 put out to the teachers if there's any missing or lost  
10 textbooks or materials, to find out if any have to be  
11 replaced or there's any additional textbooks, materials  
12 that are needed. That's turned into the resource  
13 teacher. They fill out the form to order those  
14 materials. She will get the form to me. I'll ask her,  
15 "Okay, what about this, this, this, this?" Sign off and  
16 then she submits it.  
17 Q. Is that it?  
18 A. That's basically it on site.  
19 Q. You have one resource teacher on site or --  
20 A. One resource teacher.  
21 Q. And that's for both Heckman and Dailey?  
22 A. Yes.  
23 Q. Where is that person located physically at  
24 Dailey?  
25 A. They're physically on Dailey, but they like

1 many of us, commute back and forth all day long.  
2 Q. Okay. How is it that you determine the number  
3 of textbooks and other instructional material to order,  
4 you at the site level?  
5 A. It would be based on if you're looking for next  
6 year based on next year's projections. As far as  
7 students, we're looking at staffing right now. We're  
8 looking at class placements. We're starting to look at  
9 that and what we have done is we've looked at our  
10 promotion-retention students. We've looked at our  
11 classes that are moving up and projected the amount of  
12 students that will be in each grade level, so that would  
13 also determine and go into play when you're looking at  
14 your ordering.  
15 Q. So the number of textbooks to be ordered is  
16 dependent, I take it, on your projection of how many  
17 students you'll have next year?  
18 A. Yes.  
19 Q. Is it your intent at your school to get a  
20 textbook for each student?  
21 A. Yes.  
22 Q. During your tenure have you been successful at  
23 getting a textbook for each student?  
24 A. Yes. It's my understanding that each student  
25 has access to a textbook.

1 Q. In which subjects?  
2 A. MathLand there is a curriculum. There is a  
3 textbook. For FOSS it's a science kit that's used by  
4 the teachers. In reading there is a series that is  
5 used.  
6 Q. Series meaning a textbook series?  
7 A. Textbook series, and it also has, I'm trying to  
8 think, a social studies. They're getting a new adoption  
9 right now. It's being received until all the orders are  
10 in, and they will still be working off the previous  
11 year's adoption, so there is a textbook available.  
12 Students and teachers, some teachers have  
13 elected to use spelling workbooks, some have not. Those  
14 are ordered for the teachers. I'm trying to think if  
15 there's anything else. Hampton-Brown for our EL  
16 students are used, and I will tell you as far as the  
17 Hampton-Brown, that some of the kits and manuals are  
18 shared from teacher to teacher and with the FOSS kits as  
19 well they are shared.  
20 You can only use one kit at a time so it would  
21 be not useful of your resources to have four kits  
22 sitting in a classroom with three of them not being  
23 used, so there is some sharing going on.  
24 Q. Okay.  
25 (Whereupon, Defendant's Exhibit FUSD-6

1 was marked for identification.)  
2 MR. HERRON: Q. Have you had an opportunity  
3 to review Exhibit 6?  
4 A. Yes, I have.  
5 Q. Do you recognize these documents?  
6 A. I recognize some of the documents.  
7 Q. Were some of these documents directed to you in  
8 the course of your acting as a principal for  
9 Dailey-Heckman?  
10 A. None of these documents. The last page I have  
11 seen. I do not ever remember seeing page one and two  
12 that talks about the expenditure guidelines. I would  
13 have seen the one on budget balances.  
14 MR. JACOBS: Can you give us a Bates number or  
15 something?  
16 THE WITNESS: Page one I wouldn't have seen.  
17 I'm sorry, 28 I wouldn't have seen. 31 I wouldn't have  
18 seen. 32 I wouldn't have seen. 35, 36. I believe that  
19 one's 38, I'm not sure, I haven't seen.  
20 MR. HERRON: Q. Now, you're looking at 46?  
21 A. 46.  
22 Q. And do you recognize this?  
23 A. Yes. That one I would have seen.  
24 Q. Okay.  
25 A. 48 I would have seen. 50 and 51, I do not

1 recall ever seeing those, and 52 I would have seen.  
 2 Q. Okay. Do you know what, from whom do these  
 3 memos come?  
 4 A. Well, they look like --  
 5 Q. The ones that you recognize. Just focusing on  
 6 36 going forward.  
 7 A. It would have been Karen Tozlian.  
 8 Q. And who is she?  
 9 A. She's director of IMC and the library services.  
 10 Q. What are her job responsibilities, if you know,  
 11 as regards to textbooks?  
 12 A. As regards to?  
 13 Q. And instructional material?  
 14 A. Any orders that we do for textbooks,  
 15 instructional materials that use specific budgets would  
 16 go for approval through her office, so when I sign off a  
 17 form, that's where that form goes.  
 18 Q. Now, looking at page 46, this memo is dated  
 19 August 21st, 2000. Its second line says, "To assist you  
 20 in ordering instructional materials for your teachers,  
 21 classrooms and library, the most current budget balances  
 22 are printed on the back of this memo."  
 23 Do you recall having been sent a budget balance  
 24 with this memo?  
 25 A. Yes, I'm sure I was.

1 Q. What does a, what is the balance on any  
 2 budgeted for textbooks indicate to you, to you as a  
 3 principal?  
 4 A. That there would still be money in there, in  
 5 that line item depending on if, there could be orders  
 6 that are still pending that haven't been deducted from  
 7 that line.  
 8 Q. And is that money available to be used by you  
 9 as principal discretionarily?  
 10 A. No, it's not.  
 11 Q. What are the, how is it non-discretionary?  
 12 A. I guess I define discretionary is that I could  
 13 just spend that money any way I wanted to spend which  
 14 would be to me illegal.  
 15 Q. That was a bad question.  
 16 A. What I would try and do would be to get input  
 17 from teachers and look at our needs through some type of  
 18 needs survey or to make sure that all students have what  
 19 they need to have as far as textbooks.  
 20 Q. And I take it certain types of funds are  
 21 earmarked for certain types of purchases as well,  
 22 correct?  
 23 A. Yes.  
 24 Q. Who at your school site is ultimately  
 25 responsible for assuring that all students have adequate

1 textbooks and instructional materials?  
 2 A. I would assume that at any school site it would  
 3 be the principal.  
 4 Q. And in the case of Dailey Elementary and  
 5 Heckman that person would be you ultimately responsible,  
 6 right?  
 7 A. Or the principal at any given time.  
 8 Q. But now it's you?  
 9 A. Now it's me.  
 10 Q. Do you see the documents bate stamped as 50 and  
 11 51? They're a little bit hard to see.  
 12 A. Yes.  
 13 Q. You don't recall having received these  
 14 expenditure guidelines?  
 15 A. No, I do not. I don't recall. It doesn't mean  
 16 I didn't. It doesn't mean I did. I don't recall seeing  
 17 these.  
 18 Q. Do you know whether or not these documents  
 19 accurately describe the textbook instructional material  
 20 funding sources accurately?  
 21 MR. JACOBS: Lacks foundation.  
 22 MR. HERRON: Q. You may answer.  
 23 A. I don't know because I don't have a background  
 24 on how the money is supposed to be spent other than  
 25 something I would be given from the district.

1 Q. Do you know who at the district would know  
 2 whether or not these two documents accurately set forth  
 3 the library funding sources guidelines correctly. I  
 4 take it Karen Tozlian?  
 5 A. I would assume that she would, and I would hope  
 6 our chief financial officer would know that as well.  
 7 Q. Would you look at page. 48, I want you to just  
 8 compare that to page 46. Page 46 has a date of August  
 9 31, 2000. It was sent to you, as you testified before,  
 10 to assist you in ordering instructional materials. This  
 11 page 48 is dated October 24th, 2000, and I take it it's  
 12 for the same purpose. It's sent to you for the same  
 13 purpose, this page 48, for example, use this information  
 14 to place instructional material orders?  
 15 A. Yes.  
 16 Q. Do you know why it was sent approximately two  
 17 months after the prior August 21st, 2000 memorandum?  
 18 A. I believe they periodically send these out  
 19 throughout the year to let you know what your balance  
 20 is.  
 21 Q. Is there a set time where you would expect to  
 22 be apprised of your budget balance related to textbook  
 23 funding?  
 24 A. Clarify.  
 25 Q. Is there, do you receive these reports every

1 quarter? Do you receive them every two months or is it  
2 just sort of --

3 A. To be honest with you, I can't really determine  
4 that, being a new principal there's no foundation to go  
5 back and say this is what it's always been.

6 Q. In your prior positions did you have  
7 responsibility over textbooks at all?

8 A. I as an administrator have previously never had  
9 any say over textbooks as far as the ordering. It's  
10 always been done by the resource teacher.

11 MR. HERRON: Let's mark this as Exhibit 7.  
12 (Whereupon, Defendant's Exhibit FUSD-7  
13 was marked for identification.)

14 MR. HERRON: Q. Mr. Gettman, I really would  
15 like you to just try and look at those to see which ones  
16 you believe you've seen before.

17 Have you had an opportunity to review Exhibit  
18 7?

19 A. Yes, I have.

20 Q. Do you recognize any of these documents as  
21 documents you received in the course of your duties as  
22 principal?

23 A. These specific documents if they're dated the  
24 dates that they have on them, '98 and '99, I would not  
25 have seen.

1 Q. If you could turn, please, to the last four  
2 pages of this exhibit, which are Bate stamped in order  
3 47, 49, 53 and 23. Do you see those documents?

4 A. Yes.

5 Q. Did you receive each of these documents?

6 A. I would assume that I did.

7 Q. Could you tell us, do each of these documents  
8 accurately reflect the budget balance for Dailey-Heckman  
9 Elementary as of the dates indicated on the documents  
10 themselves as far as you know?

11 MR. JACOBS: Lacks foundation.

12 THE WITNESS: I would assume that they do.  
13 They're by the district.

14 MR. HERRON: Q. Can you please bring your  
15 attention to the document Bate stamped as No. 47? This  
16 appears, does it not, to be an elementary budget balance  
17 spreadsheet dated August 18th, 2000?

18 A. Yes.

19 Q. The science labs 155, do you know what money  
20 that refers to? Where does it come from, for example?

21 A. I don't know specifically where the money comes  
22 from, if it's a state or a district allocation.

23 Q. Do you know how it's used or intended to be  
24 used?

25 A. I believe it's for science kits, equipment.

1 Q. How about district taxes, is that district  
2 money as far as you know?

3 A. As far as I know.

4 Q. Do you know what texts or instructional  
5 material that may be used to purchase?

6 A. I believe it could be used for supplemental.

7 Q. Meaning what as compared to a textbook, if  
8 there is a definition that's easy?

9 A. I think it's supplemental to the mandated  
10 curriculum.

11 Q. Okay.

12 A. And I could be wrong on that.

13 Q. The categories that are set forth there, that  
14 is, under the classroom totals, grouping and the library  
15 totals grouping, seem to be repeated in the ensuing  
16 three pages. Bate stamped, those pages Bate stamped 49,  
17 53 -- well, 49 and 53. Is it your impression that those  
18 totals specified for Dailey-Heckman were accurate as of  
19 the date indicated on each such document?

20 Let me try that one again.

21 MR. STURGES: I think I'm going to raise an  
22 objection on this foundation issue. I believe we need  
23 to explore what he knows about where the sources of  
24 information on this document come from. He did not  
25 prepare the document. He just received them.

1 MR. HERRON: Fair enough.

2 Q. Pointing our attention to document Bate stamped  
3 48. Do you know where the information came from that  
4 forms the basis for the figures set forth with respect  
5 to Dailey?

6 A. I would assume that it came from Karen  
7 Tozlian's office.

8 Q. You're assuming, though? You don't know?

9 A. I believe it is attached to those other letters  
10 that I received regarding the cover letter from Karen  
11 Tozlian.

12 MR. STURGES: Is it your understanding that the  
13 information on documents 48, 49 and 53 are  
14 district-generated documents?

15 THE WITNESS: They are district-generated  
16 documents.

17 MR. HERRON: Excellent.

18 MS. SPANGLER: But do you have any reason to  
19 believe that those numbers are not accurate?

20 THE WITNESS: I don't have any reason to  
21 believe that they're not accurate.

22 MR. HERRON: Q. Let's look, if we could, at  
23 the final page in this grouping which is number 23.  
24 You've seen this document before?

25 A. I have not seen this document.

1 Q. Do you know whether Dailey Elementary has  
2 forfeited using any of its textbook or instructional  
3 materials funds by not using it up?

4 A. Not that I know of. I've never been told of  
5 that.

6 Q. Could you kindly look at the document dated  
7 January 10th, 2001, and that is the Bate stamped  
8 document number 53, Bate stamped 53?

9 Now this is a document, I take it, you  
10 recognize?

11 A. Yes, I would have received one of these.

12 Q. And as best you know, this sets forth the  
13 balances for Dailey-Heckman Elementary as of January  
14 10th, 2001, correct?

15 A. It shows the balances as of that. It does not  
16 show expenditures or additional money that may have been  
17 placed into those lines between the last form that was  
18 given.

19 Q. Do the figures here with respect to Dailey  
20 imply that you as principal could direct purchases in  
21 the various categories set forth? Let me try that  
22 again.

23 You've got positive balances all across here  
24 for your school?

25 A. Yes.

1 Q. Can you go out and purchase more textbooks if  
2 you need them?

3 A. Yes.

4 Q. So if you'd wanted, for example -- well, if you  
5 wanted any text for any student for any class as of  
6 January 10th, 2001, could you have purchased it?

7 A. Yes, based on these numbers, yes.

8 Q. Mr. Gettman, bear with me. I want you to take  
9 a look at some documents which I'm not so sure you've  
10 seen, but we're going to have you look at them and see  
11 if you've seen them. If not, we'll move on.

12 (Whereupon, Defendant's Exhibit FUSD-8  
13 was marked for identification.)

14 MR. HERRON: Q. Have you had an opportunity  
15 to review what's been marked as Exhibit 8?

16 A. Yes.

17 Q. I'm going to go out on a limb and guess that  
18 you've never seen this before?

19 A. I have not seen it before.

20 Q. Have you seen documents like this before?

21 A. Not in, not from my desk. I know that they  
22 exist, but I've never seen one.

23 Q. Do you know, of your own knowledge, know what  
24 these documents are used for?

25 A. I would assume that they are used for seeing

1 what has been ordered and the amount of cost, and this  
2 would be used as maybe an inventory on your site.

3 Q. If you as principal wanted to get an inventory  
4 of all the textbooks or instructional materials that  
5 have been ordered from your site for your site, could  
6 you get such a record?

7 A. I believe I could.

8 Q. How would you do it?

9 A. I would probably first talk to my resource  
10 teacher and see who she has been ordering from, and then  
11 I would probably go through IMS and talk to Karen  
12 Tozlian. It may be a document that they can procure or  
13 it could be one that our downtown district office could  
14 procure through maybe REA or through purchasing.

15 Q. Set that document aside.

16 We'll mark the next document as Exhibit 9.

17 (Whereupon, Defendant's Exhibit FUSD-9  
18 was marked for identification.)

19 MR. HERRON: Q. Mr. Gettman, have you had an  
20 opportunity to review this Exhibit 9?

21 A. Yes, I have.

22 Q. Do you recognize this document?

23 A. I don't know if this is actually one that I  
24 have seen. I have seen ones like this at schools that  
25 they used to generate some responses as far as materials

1 and textbooks at a specific site. I believe my resource  
2 teacher in the last month put one out, but this does not  
3 look like that and without a date on it, I don't know if  
4 it came out at all this year.

5 Q. Do you have an understanding of the purpose of  
6 a document like this as it's used at your school,  
7 Dailey-Heckman?

8 A. It would be used for ordering purposes.

9 Q. Is it your research teacher, did you call --

10 A. Resource.

11 Q. Resource teacher who sends out a document like  
12 this?

13 A. Usually, yes.

14 Q. And the purpose is to what, get input from the  
15 teachers about which texts or instructional material  
16 they need?

17 A. Yes, I would assume so, yes.

18 Q. Do you know what happens to a document like  
19 this at your school once it's been circulated and  
20 received back by your resources teacher?

21 A. I believe a requisition or an order is placed  
22 to accommodate the needs of the teachers and students  
23 based upon this. It's basically a survey.

24 Q. Are you aware of any teacher complaining to  
25 you, any teacher at Dailey-Heckman complaining to you

1 that they did not obtain materials at any time?  
 2 A. No teacher has come up to me and complained, as  
 3 far as I know, verbally, and I have not received  
 4 anything in writing.  
 5 Q. Who was your resources teacher?  
 6 A. My resource teacher is Jessica Kaiser.  
 7 Q. Do you know whether or not she keeps a file,  
 8 she, Jessica, keeps a file?  
 9 A. Jessica's pretty thorough. I would assume  
 10 Jessica keeps a file.  
 11 (Whereupon, Defendant's Exhibit FUSD-10  
 12 was marked for identification.)  
 13 MR. HERRON: Q. Mr. Gettman, have you had an  
 14 opportunity to review Exhibit 10?  
 15 A. Yes, I have.  
 16 Q. Do you recognize this document?  
 17 A. Never seen it before.  
 18 Q. Anything -- have you ever seen something  
 19 similar to it?  
 20 A. Since I have been at Dailey?  
 21 Q. Yes.  
 22 A. Not to my recollection.  
 23 Q. Why don't you set that one aside, then. We'll  
 24 mark as Exhibit 11.  
 25 (Whereupon, Defendant's Exhibit FUSD 11

1 was marked for identification.)  
 2 MR. HERRON: Q. Mr. Gettman, have you had an  
 3 opportunity to review Exhibit 11?  
 4 A. Yes, I have.  
 5 Q. Do you recognize it?  
 6 A. I recognize two of the names, but I don't  
 7 recognize the third name on there.  
 8 Q. Which name don't you --  
 9 A. The first name, excuse me.  
 10 Q. Which names do you recognize?  
 11 A. Miller and Morris.  
 12 Q. Okay. They're teachers at Dailey?  
 13 A. Miller and Morris are. I'm not sure who the  
 14 first one is.  
 15 Q. But you've not seen this document before?  
 16 A. No, I have not seen this document.  
 17 Q. Do you know what its purpose is, or was?  
 18 A. I believe it would be basically the same as the  
 19 other ones, in order to purchase, to find out what  
 20 materials are needed in a classroom. I believe that  
 21 first name is a teacher that's probably no longer  
 22 teaching at our school site, because I don't recognize  
 23 the name.  
 24 MR. STURGES: Don't speculate.  
 25 THE WITNESS: Okay. I don't recognize the

1 name, so they're not on my site now.  
 2 MR. HERRON: Okay. We'll set that exhibit  
 3 aside. Let's show you what we'll mark as Exhibit 12.  
 4 (Whereupon, Defendant's Exhibit FUSD 12  
 5 was marked for identification.)  
 6 MR. HERRON: Q. Mr. Gettman, you've had an  
 7 opportunity to review what we've marked as Exhibit 12?  
 8 A. Yes.  
 9 Q. Have you ever seen this document before?  
 10 A. No, I have not.  
 11 Q. Have you seen a document like it before at your  
 12 school?  
 13 A. Just the recent one that Jessica just put in  
 14 teachers' boxes was the only one I've seen.  
 15 Q. Is it your understanding that, I mean, it does  
 16 have Jessica's name at the bottom; is it your  
 17 understanding that she generated -- well, if you don't  
 18 have an understanding, do you have an understanding  
 19 whether or not she generated this document?  
 20 A. I could only assume because her name's on the  
 21 bottom that it was generated by Jessica.  
 22 Q. On the document that was similar to this that  
 23 was generated, does she, let me try this a different  
 24 way. Does she do a sort of school-wide survey with the  
 25 teachers?

1 A. Yes, she does.  
 2 Q. And she asks in that school-wide survey or she  
 3 informs people we are about to do our annual textbook  
 4 order, right?  
 5 A. Yes.  
 6 Q. And she then asks them what books and what  
 7 textbooks and instructional material will you need; is  
 8 that right?  
 9 A. Yes.  
 10 Q. Okay. Does she pass by, the results of these  
 11 various surveys, we've gone through a number of them,  
 12 requests for information; does she pass these results by  
 13 you, she, Jessica?  
 14 A. Jessica, the last order that I saw from Jessica  
 15 did come by me. I have not seen the survey results and  
 16 there would have -- there's only been one survey done  
 17 this year, and that was just done recently, so that  
 18 would have been the only one I would have seen.  
 19 Q. I asked you earlier about a policy in place at  
 20 the elementary, Dailey-Heckman, regarding whether  
 21 students, each student should be provided with a  
 22 textbook and instructional material. I think your  
 23 response was yes, and I'm not, I'm just trying to put a  
 24 place here, I'm not asking you to agree or disagree with  
 25 that, but I also think you said but not every class has



1 a textbook; is that right?

2 A. No, I believe I said -- well, children have  
3 access to the textbooks, now, whether those textbooks  
4 are used in the classroom is in some instances up to the  
5 teacher's judgment. There are some materials that are  
6 shared, like FOSS kits and things like that because  
7 they're not used all at the same time. I mean, not  
8 every child would need a Hampton-Brown Into English! if  
9 they're English speaking, so, I mean, that's going to be  
10 more specific as to need.

11 Q. So is it your view that every student at  
12 Dailey-Heckman has access to a textbook or instructional  
13 material to the extent they need it?

14 A. Yes.

15 Q. I take it it's also your testimony that  
16 teachers individually will make decisions not to get  
17 textbooks in certain classes?

18 A. Yes.

19 Q. And in some of those classes they will use  
20 alternate instructional material; is that true?

21 A. Yes.

22 Q. Is there any class in which a teacher at  
23 Dailey-Heckman does not use any instructional material  
24 or any textbook that you're aware of? And I mean during  
25 your tenure?

1 instruction am material?

2 A. There is currently in place the communication  
3 form, which is an NCR form, it's called a teamwork  
4 communication form. It's the same form I've referred  
5 back to. That is in place and has been in place since  
6 I -- well, since before I took over, and that if there  
7 are any concerns it would come through there, it could  
8 also, if it's from a teacher, come through the school  
9 building committee as well.

10 Q. Okay. While you've been principal have you  
11 received any complaints about the number of textbooks or  
12 amount of instructional material in classrooms?

13 A. Not that I can recall.

14 Q. Have you received any complaint from anyone  
15 regarding -- well, let me try again here.

16 Has any parent, teacher or student complained  
17 that students had inadequate access to textbooks or  
18 instructional material at Dailey Elementary.

19 A. I have had parents that have questioned why  
20 specific classrooms do have textbooks and others do not.  
21 I think I need to clarify that, too.

22 Q. Sure.

23 A. Is that MathLand does not have a text, but  
24 there is numerous teachers that are freelancing and  
25 using other textbooks or older materials that have

1 A. I would say yes.

2 Q. Which class?

3 A. Multi-age.

4 Q. Multi-age?

5 A. Primary, multi-age intermediate.

6 Q. Do you know why that decision was made?

7 A. No, I do not.

8 Q. Is that continuing now?

9 A. We are in the process as an IIUSP school, and  
10 to tell you the truth that's one of the reason I believe  
11 we're an IIUSP school is because we do not have a  
12 school-wide focus, and that's one of the things we're  
13 working on right now is that we have a bunch of free  
14 agents and independent contractors, and that's our focus  
15 right now.

16 Q. And -- okay. Is there, is there a procedure at  
17 Dailey-Heckman for replacing missing textbooks or other  
18 instructional materials, other than what you've already  
19 testified to?

20 A. No, anything like that would go through the  
21 resource teacher, missing books, things like that,  
22 replacement.

23 Q. Okay. Is there any procedure in place at  
24 Dailey-Heckman Elementary as far as you know for  
25 receiving complaints about textbooks or other

1 texts. An example in math, in probably three or four of  
2 the classrooms they are currently using Saxon which was  
3 not adopted as the district's mandated curriculum, they  
4 are using it. It is a text. But the mandated  
5 curriculum is MathLand.

6 Q. MathLand being the supplemental materials  
7 or --

8 A. MathLand is the district-adopted text -- well,  
9 there is no text, it's manipulatives, it's a kit and a  
10 manual, and basically it's learning math through  
11 manipulatives and experience, problem solving.

12 Q. In the multi-age classrooms you were  
13 discussing, if the teacher wanted to use a textbook  
14 would it be available?

15 A. Yes, it would.

16 Q. That would be available today if the teacher  
17 wanted it; is that true?

18 A. It should be, it should be. Well, I will  
19 clarify that and say if it never showed up on a list as  
20 being something that need to be ordered to be used, it  
21 may not be. I could go back and find out if there are  
22 enough in the inventory to do that.

23 Q. My question was unclear. If the teacher came  
24 to you and said for my multi-age class I would like  
25 textbooks one for each student, could you obtain them?

1 A. We'd order them.  
 2 Q. How soon would you get them?  
 3 A. If I had to hunt around for them, we'd get  
 4 them.  
 5 Q. How long would that take? I know I'm asking  
 6 you to speculate a little, but if you had to go out and  
 7 scrounge 30 textbooks, could you do it?  
 8 A. I know I could do it, between contacts at  
 9 elementary schools and principals I could do that.  
 10 MR. STURGES: Can you estimate how long it  
 11 would take you to do that?  
 12 THE WITNESS: A week.  
 13 MR. HERRON: Q. We were talking about  
 14 complaints, how many complaints have you received, if  
 15 you recall, while you've been principal regarding  
 16 textbook-related issues?  
 17 Q. When I say that I'm talking about quantity,  
 18 because that's what my focus is on.  
 19 A. Specifically parent, teacher, student?  
 20 Q. Any?  
 21 A. I do not recall any teacher. That doesn't mean  
 22 it didn't happen, but I've got documentation on that if  
 23 it were. Parents, it's been kind of a choice with  
 24 parents. Specifically they know which teachers are  
 25 using which types of materials and it's not so much a

1 available than -- well, is it your sense that a student  
 2 doesn't get a textbook if he or she wants one?  
 3 MR. STURGES: Object to the form of the  
 4 question.  
 5 MR. HERRON: Q. Do you understand the  
 6 question?  
 7 A. I think I understand the question, but my,  
 8 stating it back, is if you're asking if the student  
 9 wants a textbook, it's more going to be determined by if  
 10 the teacher is going to use that textbook in the  
 11 classroom.  
 12 Q. Uh-huh. And I'm working with sort of a, you  
 13 know, on the one hand I know what's happening at the  
 14 school site level, you've got some teachers who aren't  
 15 necessarily handing out textbooks in all their classes;  
 16 at the same time, as you've said, you could find texts  
 17 for every classroom, correct?  
 18 A. Uh-huh, right.  
 19 Q. Okay. The complaint says students do not have  
 20 books they can take home for homework. Is that true or  
 21 false?  
 22 A. I believe that any parent that came in, whether  
 23 their child was using the textbook in the classroom or  
 24 not, we could get them access to a textbook.  
 25 Q. So you believe that allegation to be false as

1 complaint as it is, well, I would rather have my child  
 2 in a traditional classroom than a multi-age, or I would  
 3 rather have my child in this classroom because I don't  
 4 like the MathLand, or I like this teacher because they  
 5 use textbooks that have problems in them and I want my  
 6 child to be doing 100 written problems a day. So, I  
 7 mean, there have been concerns, but I don't know if  
 8 they've been complaints, because they've been done  
 9 through other mediums.  
 10 Q. I think you testified earlier about this, but  
 11 let me try it again. Is one of the, one of the ways in  
 12 which someone gets, in which a student gets into a  
 13 multi-age classroom is parent request?  
 14 A. It can be through parent request.  
 15 Q. What is your understanding of the meaning of  
 16 the term core academic subjects at least as it concerns  
 17 K through 6 education at Dailey Elementary?  
 18 A. The core academics would be language arts,  
 19 reading, math. Core can also be science, social  
 20 studies. PE could probably be fit into that as well,  
 21 since it's mandated by the state.  
 22 Q. Do you believe there's a shortage of textbooks  
 23 at Dailey-Heckman elementary?  
 24 A. Clarify that.  
 25 Q. Do you think that there are fewer textbooks

1 you characterized it?  
 2 A. Yes.  
 3 Q. Have you ever had a parent request to remove a  
 4 student out of a multi-age class?  
 5 A. Yes, I have.  
 6 Q. You accommodated that request?  
 7 A. Yes, I have.  
 8 Q. Have you accommodated every such request?  
 9 A. I believe we have, and the one that we  
 10 accommodated moving out was a parent that requested  
 11 their child be put into multi-age. The one that I  
 12 remember was it was a request to be put in multi-age.  
 13 Once the child was in there for a period of time, they  
 14 felt that it wasn't what they wanted, so we moved them  
 15 to a traditional classroom.  
 16 We attempt to do movement if a parent requests  
 17 it. Being two campuses, we're continually moving  
 18 students to get families together, so, I mean, that's  
 19 not out of the norm for us to move children from one  
 20 campus to another.  
 21 MR. STURGES: Mr. Herron, unless you're almost  
 22 finished, I need to take a quick break.  
 23 (Short break taken.)  
 24 MR. HERRON: Q. I want to focus on classroom  
 25 supplies. The allegation is that classes are missing

1 basic supplies such as pencils and erasers. Parents buy  
2 such supplies including paper for school so that their  
3 children will not lack basic learning materials. Does  
4 the district have in place any policy regarding  
5 providing supplies such as pencils and erasers to  
6 students?

7 A. The only policy and procedure that I'm aware of  
8 is that the district allocates per students a general  
9 supply budget to each site.

10 Q. Does the district have in place, to your  
11 knowledge, any policy regarding whether or not parents  
12 might buy supplies, including paper, for their children?

13 A. I have not seen a written policy. I've heard  
14 of verbal policies where any request would be for  
15 donations and things like that, they're not  
16 requirements.

17 Q. So as far as you know, there's no requirement  
18 that parents buy supplies for their children; is that  
19 correct?

20 A. Not that I'm aware of.

21 Q. Okay. What types of supplies does  
22 Dailey-Heckman Elementary purchase for its students'  
23 use? I'm not asking for everything, but pencils and --

24 A. I'd say Dailey-Heckman doesn't buy them, the  
25 teachers use their supply budgets to buy things,

1 A. They could complain to administration, they  
2 could complain to a teacher. They could complain in  
3 written notification to the board or downtown, school  
4 board they could complain to, also. A lot of different  
5 methods.

6 Q. During your tenure as principal of  
7 Dailey-Heckman, have you received any complaint from any  
8 teacher regarding their lacking supplies such as pencils  
9 and erasers?

10 A. Not pencils and erasers.

11 Q. How about paper?

12 A. I don't believe so.

13 Q. Have you received any complaint from any  
14 patient or any student about lacking basic supplies?

15 A. Not that I can remember, recall.

16 Q. Plaintiffs' complaint alleges that teachers are  
17 supplied only 500 sheets of paper per month. Can you  
18 explain -- well, can you explain how sheets of paper are  
19 allocated to teachers at your school?

20 A. Specifically this year each teacher was given  
21 their supply budget, and out of that supply budget comes  
22 all types of Xeroxing, so basically they have a set  
23 amount of money that they're given at the beginning of  
24 the school year for them to budget and use accordingly.  
25 You may have some teachers that Xerox a lot, you have

1 pencils, erasers, consumable items, paper would come out  
2 of that. If they -- glue, just the basic supplies,  
3 crayons, Crayola markers, if they want to use those.

4 Q. Is a teacher's supply budget a pro rata share  
5 of whatever the district provides the school on a whole,  
6 or just tell me, how is the teacher's supply budget  
7 determined?

8 A. I can tell you how it was determined this year.

9 Q. Sure.

10 A. We received so much money per student, 10  
11 percent was taken for office, to run the office, parent  
12 letters going home and things like that. There was, I  
13 think, 50 cents per student that was kept in a reserve  
14 and, to see what our enrollment was going to be, because  
15 if it increased, it was based upon so many students we  
16 would have need that to augment some of the students  
17 that it wasn't funded for. That money was determined  
18 how many students were in a classroom. I can't remember  
19 the cutoff date when that money was given to that  
20 teacher per students in their classroom.

21 Q. Can parents, teachers, students complain about  
22 the lack of supplies?

23 A. Can they? Yes, they can.

24 Q. What's the means by which they would complain,  
25 what's the procedure?

1 some teachers that don't, and so this is their budget  
2 for the year. The money's given to them and they use it  
3 accordingly.

4 Q. Okay. This allegation about 500 sheets of  
5 paper, does that sound anywhere close to true?

6 MR. STURGES: Objection, vague.

7 MR. HERRON: Q. Well it's their allegation.  
8 Do you think that's true or not?

9 A. It's not true. My understanding from talking  
10 to administration from last year is that the teachers  
11 were given their regular supply budget, I don't know how  
12 much that was per student, and then what the office did  
13 was they augmented from month to month by giving them  
14 additional paper to kind of give them more. That was my  
15 understanding. Was that the only paper that they could  
16 use? To the best of my knowledge, that was not.

17 Q. During your tenure as principal, has there ever  
18 been a limit on the sheets of, number of sheets per  
19 month the teacher could use?

20 A. No.

21 Q. So when the complaint alleges that teachers are  
22 supplied only 500 sheets of paper per month to use to  
23 make copies, you believe that to be false?

24 A. I believe it to be false.

25 Q. And when it says that teachers do not have

1 enough paper to make copies for children to take home  
2 work home for homework every night, that's false,  
3 correct?

4 A. I could tell that you under my tenure that no  
5 teacher has been restricted at the Xerox machine.  
6 Whether their supply budget is over \$100 or \$10,  
7 everybody is still Xeroxing.

8 Q. So that allegation is false, correct?

9 A. Yes.

10 Q. I want to mark as Exhibit 13 the telecopy of  
11 the annual school report dated as of November 2000.  
12 (Whereupon, Defendant's Exhibit FUSD 13  
13 was marked for identification.)

14 MR. JACOBS: I just note that at least my copy  
15 is stamped "draft."

16 MR. HERRON: Q. Have you had an opportunity  
17 to review Exhibit 13?

18 A. Yes, I have.

19 Q. Do you recognize this document?

20 A. Yes, I do.

21 Q. As counsel noted, it is marked as "draft." Do  
22 you know whether or not this is the final form, and it's  
23 the final form before taking that draft mark off or is  
24 this a draft, or do we know?

25 A. I don't, I don't know. I know this one was

1 document, or do you know?

2 A. I believe I did because we also added the safe  
3 school plan which was a requirement.

4 Q. Do you believe presently -- or let me change  
5 that.

6 Do you believe that during your tenure as  
7 principal for Dailey-Heckman, the classroom space office  
8 facilities, library, restrooms will be adequate to  
9 support the instructional programs of the students at  
10 your school?

11 A. Yes, I do.

12 Q. Would you kindly turn to page 5 of Exhibit 13.

13 To the best of your knowledge, does that chart  
14 on the left side of this page, Exhibit 13, accurately  
15 report on a class sizes at Dailey-Heckman?

16 A. It's difficult to read. The multi-age  
17 classrooms and the combination classrooms with the  
18 boxes.

19 Q. Right.

20 A. I believe these are also figures from 1999, so  
21 they wouldn't necessarily be the same figures.

22 Q. Any reason to doubt the accuracy of the figures  
23 set forth with respect to class size?

24 A. I don't have any reason.

25 Q. With respect to staff and teacher assignments,

1 generated from the district.

2 Q. What input, if any, did you have into the  
3 generation of this document?

4 A. Not a great deal.

5 Q. It is a report card about your school, correct?

6 A. Correct.

7 Q. Did you review and approve it?

8 A. I reviewed it, submitted changes on this  
9 document, and was told by the district that would be  
10 compiling this that not all changes would be made due to  
11 a change in format. They basically wanted to go in  
12 under school environment and add the safe school plan,  
13 which was added. There was a list of other changes that  
14 were to be put in and in going through it not all  
15 changes were put in.

16 Q. Okay. Did you agree with the final product as  
17 amended after your -- let me try that again.

18 Did you agree that the final product as amended  
19 after your input was accurate?

20 A. I was told that the changes would not be put in  
21 at this time, and that's what I was told, that not all  
22 changes would be put in as far as some of the different  
23 things that were in there.

24 Q. Okay. Under the school environment provision,  
25 did you make any deletions from the prior draft of this

1 under that category on page 5 of Exhibit 13, it says  
2 that as of January 2000 there were no regular education  
3 teachers at Dailey Elementary School teaching subjects  
4 not authorized by their teaching credential. Was that  
5 true as of the time you became principal?

6 A. Can you -- I'm sorry.

7 Q. It's the second full paragraph under staff and  
8 teacher assignments, page 5 of Exhibit 13. The first  
9 line was what I read to you. And I'm asking whether or  
10 not that line, the information imparted by that first  
11 sentence was true as of the date you took over as  
12 principal?

13 A. It's my understanding that all teachers are  
14 credentialed either a preliminary credential or a clear  
15 credential.

16 MR. HERRON: I'm going to have a little bit  
17 more, but I think it's not going to be based on what  
18 I've gone through so far. So what I propose to do is  
19 turn it over to you now and while you're going, go  
20 through and figure out my little areas and come back. I  
21 would like to do that at this point.

22 MR. JACOBS: Great.

23 EXAMINATION BY MR. JACOBS

24 Q. Good afternoon, Mr. Gettman. My name is  
25 Michael Jacobs. I'm with Morrison and Foerster in

1 San Francisco and we're co-counseling for the plaintiffs  
2 in this action. Thank you for your time today.

3 When were you told you would be moved and  
4 assigned as principal to Dailey?

5 A. I believe it was either the end of March,  
6 beginning of April, right around in there.

7 Q. Was the determination that you would be a  
8 principal made at the same time that you would be  
9 assigned to Dailey? In other words, were those  
10 decisions linked, with you're going to be a principal  
11 and you're going to be a principal at Dailey?

12 A. Yes, I interviewed for the position at Dailey  
13 Elementary School.

14 Q. Did you gain an understanding through the  
15 course of that assignment process of what your mission  
16 was at Dailey?

17 A. I through the interviewing process felt that  
18 they wanted consistency.

19 Q. Consistency in what sense?

20 A. As far as consistent leadership. As far as  
21 someone that would make decisions and be consistent with  
22 the decisions that they made.

23 Q. Consistent with the teachers?

24 A. Not necessarily.

25 Q. So consistency with respect to what kinds of

1 A. I believe there was an interim principal at  
2 that time prior or after Dot Powell had left and was  
3 assigned.

4 Q. And Dot Powell had been there how long?

5 A. I believe about five years, four or five years.

6 Q. Did you gain an understanding as to what had  
7 given rise to the turn over in principals after Dot  
8 Powell left?

9 MR. HERRON: Objection; calls for speculation.

10 THE WITNESS: I really don't know.

11 MR. STURGES: Q. Also at this point I'm going  
12 to enter a continuing objection on the grounds of  
13 relevance.

14 MR. JACOBS: Q. Did you gain any  
15 understanding at the time?

16 A. Why Mrs. Powell left?

17 Q. No, why the turnover immediately preceding the  
18 period you're assuming the job?

19 A. I know that Carolyn Calmes applied for and  
20 received the position. That she was, there was a death  
21 of a principal in Fresno Unified from a school that she  
22 had previously been a VP for, so she was asked to go  
23 over there and assist, and then she subsequently applied  
24 for Greenberg and was there to open the new school.

25 Q. Did you view taking this job on as a particular

1 issues?

2 A. Looking at programs, looking at, with parents,  
3 looking for consistency there and with students.  
4 Someone that was going to be there and be able to make  
5 decisions and move forward.

6 Q. Was that, did you gain that understanding  
7 because of something that was explicitly said to you by  
8 one of your interviewers during that process?

9 A. No.

10 Q. Just something you gathered from the issues you  
11 had learned about in the school and why, and what they  
12 seemed to be looking for in interviewing you?

13 A. Yes.

14 Q. There had been a fair amount of turnover in the  
15 principalship of the school prior to your being assigned  
16 to that job, correct?

17 A. Yes.

18 Q. There had been two acting principals during the  
19 previous five months, correct?

20 A. That's, yes.

21 Q. And then there was a regular principal for  
22 about a year?

23 A. I believe it was maybe about six months as  
24 well.

25 Q. And then previous to that?

1 challenge in terms of, I'm going to Dailey, it's going  
2 to be a challenging assignment as compared with perhaps  
3 other schools in the district?

4 A. I've been in enough schools that every school  
5 is challenging.

6 Q. Are there unique challenges to Dailey?  
7 Whenever you describe what you do there, I'll bet people  
8 ask you what are the unique challenges.

9 A. Dailey is unique.

10 Q. And what would you say are the unique --

11 A. First of all, we have two campuses, that is  
12 extremely unique. Staff is unique in having two  
13 distinct teaching styles. That is unique.

14 Q. Meaning the, is this the distinction you were  
15 drawing earlier between the multi-age and, quote,  
16 traditional, unquote, classroom?

17 A. Yes. It's challenging in some aspects.

18 There's a lot of history at that school.

19 Q. History in terms of what?

20 A. History in terms of people and turnover in  
21 people. It's a community school that has the kids of  
22 parents, of grandparents that have gone to that school,  
23 and I've never been in a school that has that situation,  
24 where it's almost like there's so much tradition with  
25 parents, I went here, you know, my child went here and

1 now their child is going there, so you have  
 2 grandchildren, so it's a very tight community.  
 3 Q. And so you assume the job as principal and then  
 4 a couple weeks later you learn that Dailey Elementary  
 5 has been named in a case filed by a bunch of civil  
 6 rights lawyers against the State of California, right?  
 7 A. Yes, thank you very much.  
 8 Q. And this was a surprise to you, I think you  
 9 were quoted in one newspaper article as saying you  
 10 thought that the was actually in pretty good shape  
 11 compared with other schools in the school district,  
 12 correct?  
 13 A. I don't remember if that's what I said, if I  
 14 was quoted at the time, but I was shocked.  
 15 Q. And you were shocked. Why were you shocked?  
 16 A. Because a Fresno Bee reporter had called me and  
 17 said there was going to be an article in the paper, and  
 18 I had called down to our public relations office and  
 19 they knew nothing about it and said, oh, don't worry  
 20 about it. And the next day it's in the paper.  
 21 Q. You realized that when you learned about the  
 22 allegations that the work that led to those allegations,  
 23 the investigation had predated your tenure as principal,  
 24 correct?  
 25 MR. HERRON: Objection, calls for speculation.

1 MS. SPANGLER: Join.  
 2 MR. STURGES: Lacks foundation.  
 3 MR. JACOBS: You can answer.  
 4 THE WITNESS: Yeah, yes and no.  
 5 MR. JACOBS: Q. What's the --  
 6 A. Yes, it did. No, that I was worried about how  
 7 it would affect my tenure.  
 8 Q. You were worried about how it would affect your  
 9 tenure, but you realized that the given the timing of  
 10 your ascension to the role on the date of the complaint  
 11 that the facts in the complaint predate your tenure?  
 12 A. Absolutely.  
 13 Q. So you conducted an inquiry into the  
 14 allegations and the complaint to find out what you could  
 15 learn by talking to people, correct?  
 16 A. Yes, as much as possible.  
 17 Q. Have you organized that inquiry in your opinion  
 18 mind by the particular topics or by the people you  
 19 talked to? How have you organized the result of that in  
 20 your own mind?  
 21 A. I believe it's more by the topic.  
 22 Q. Okay. So let's talk about textbooks first,  
 23 then, and the textbook allegations.  
 24 What have you learned about any textbook or  
 25 instructional materials issues at Dailey Elementary as a

1 result of your inquiry?  
 2 A. That not all teachers use textbooks, not all  
 3 classrooms are using the textbooks, so consequently the  
 4 students do not have the textbooks -- or being used in  
 5 their classroom, I should say.  
 6 Q. So let's see if we can narrow down, talk a  
 7 little more precisely about that issue of use in the  
 8 classroom.  
 9 I take it from your testimony that, for  
 10 example, when MathLand is adopted by the district, there  
 11 is no expectation that a textbook will be used in  
 12 association with MathLand; is that correct?  
 13 A. There is no expectation that it will be.  
 14 Q. Now, I think sort of going slightly in the  
 15 other direction, you were commenting earlier that in  
 16 fact some MathLand-based classrooms have supplementary  
 17 materials that look like textbooks. Is that what you  
 18 were saying before?  
 19 A. There's actually a supplemental. It's not a  
 20 text. It's a workbook called MathSteps that was  
 21 adopted, I want to say maybe a year or two years ago.  
 22 Q. But I take it that some teachers being  
 23 concerned with MathLand as a curriculum are also using  
 24 what might be thought as traditional textbooks in their  
 25 classroom; is that correct?

1 A. Yes.  
 2 Q. Are there, I didn't quite understand the list  
 3 you gave Mr. Herron. What are the other cases where the  
 4 district has adopted a curriculum in K through 6 that  
 5 does not call for a textbook?  
 6 A. MathLand would be one because it's basically a  
 7 math kit. It comes with manipulatives. It has a  
 8 teacher's manual, there's no, quote, textbook that comes  
 9 with it. The FOSS science adoption. They are basically  
 10 FOSS kits, there is a binder that goes along with it  
 11 that has all the activities, objectives, goals, and it's  
 12 a kit, and you would Xerox off activity sheets that go  
 13 along with it. And it's basically a self-contained kit.  
 14 Q. Are there any other instances of adopted  
 15 curricula that do not anticipate the use of a textbook?  
 16 A. Not as far as I know. We are in a science  
 17 adoption this year, so we'll see what happens.  
 18 Q. Now, are there other cases, then, where  
 19 teachers making, let's call them discretionary decisions  
 20 in their classrooms are teaching with the intent of not  
 21 adopting a textbook, do you follow my question?  
 22 Let me ask it a little differently, are there  
 23 other cases in which there are no textbooks being used  
 24 in the classroom, but your explanation for that is not  
 25 a, quote, shortage of textbooks, unquote, but rather

1 that the teacher has decided to adopt an instructional  
 2 approach that doesn't require textbooks?  
 3 A. That would be correct.  
 4 Q. And what are those?  
 5 A. The instances?  
 6 Q. Yes.  
 7 A. We have some multi-age classes in general that  
 8 use a different approach and are not using textbooks,  
 9 per se. Then we, of course, have some other classrooms  
 10 that have decided to use non-adopted textbooks.  
 11 Q. Did you, they are using textbooks in that  
 12 latter category, correct?  
 13 A. Texts that would not adopted by the district  
 14 and may not even meet state guidelines.  
 15 Q. But are nonetheless something that you and I  
 16 would recognize, that you would recognize as a textbook?  
 17 A. They're a book.  
 18 Q. Yes; correct?  
 19 A. Yes.  
 20 Q. So there are three cases, then, in your school  
 21 where a decision has been made to adopt an instructional  
 22 approach that does not call for textbooks. One is FOSS,  
 23 two is MathLand, and the three is multi-age classrooms  
 24 where we haven't gotten into it in detail, but textbooks  
 25 have not been adopted generally; is that correct?

1 A. Yes, I would agree with that.  
 2 Q. Now, going back to MathLand for a minute. Is  
 3 there a, is there a, is the workbook that you described  
 4 intended to be distributed on a student-by-student  
 5 basis?  
 6 A. Intended to be a supplement to MathLand  
 7 curriculum, so how I look at it is if you're using  
 8 MathLand, this would be a supplemental workbook that  
 9 would go with MathLand to fit in the gaps. If a teacher  
 10 were not using MathLand and still wanted MathSteps, we  
 11 would not say, no, you're not going to have it.  
 12 Q. My question went to the intended distribution  
 13 of, I gather, it's MathSteps?  
 14 A. Uh-huh.  
 15 Q. Is it intended that each student receive his  
 16 own copy of MathSteps?  
 17 A. I believe that's the intent.  
 18 Q. And that is your intent as principal of the  
 19 school?  
 20 A. That would be my intent.  
 21 Q. And do you have an understanding that it's also  
 22 reflected in the literature from the MathLand vendor,  
 23 that is that the MathLand vendor says the proper use of  
 24 MathLand calls for the distribution of MathSteps to  
 25 individual students?

1 A. I believe that to be true.  
 2 Q. And I take it it's your testimony that in all  
 3 the classes that MathLand is being used there is a copy  
 4 of MathSteps available for each student to use both in  
 5 and outside the classroom without sharing?  
 6 A. I'm going to clarify that by saying I believe  
 7 that there is access to one for every student, and I  
 8 would go back and say that it's the intent is for each  
 9 child that's using MathLand to use the supplement, but  
 10 in some cases it's still up to the individual teacher to  
 11 decide if they want to supplement MathLand with that  
 12 supplement or other supplemental materials.  
 13 Q. So I take it you're clarifying now what you  
 14 said about your intent with respect to MathSteps, that  
 15 it's not necessarily intended that each student receive  
 16 his or her own copy of MathSteps?  
 17 A. I'm saying that my intent is that every child  
 18 that's in a teacher's classroom that is wanting to use  
 19 the MathSteps supplement will have access to it.  
 20 Q. When you use the word "access," what do you  
 21 mean by "access"?  
 22 A. I use access because it's at my particular site  
 23 one of the things that we're trying to clarify is  
 24 looking at the curriculum to make sure that we're in a  
 25 common focus, and at this point in time I've got

1 teachers that are using Saxon that may not be using the  
 2 supplement or they may be using the supplement. What  
 3 we're trying do right now is define what curriculum  
 4 we're going to use a school.  
 5 Q. How many teachers do you have teaching  
 6 MathLand?  
 7 A. I would say, and this is approximate out of 29,  
 8 I would say that approximately 20, 19, 18 are using  
 9 MathLand the way it was intended to be used.  
 10 Q. And when you say the way it was intended to be  
 11 used, were you focusing on the issue you and I were just  
 12 discussing, that is the use of MathSteps in conjunction  
 13 with the MathLand?  
 14 A. I would say yes, and also that you have some  
 15 teachers that are using Saxon for like 80 percent of  
 16 their math instruction and then using maybe MathLand for  
 17 20 percent of their instruction. My definition of  
 18 mandated core curriculum is that you should be using  
 19 that mandated instruction for at least 51 percent of the  
 20 time.  
 21 Q. So when you said 18 to 20 teachers, were you  
 22 excluding the ones who are using Saxon for say 80  
 23 percent of the time?  
 24 A. Right, and also multi-age.  
 25 Q. So focusing on that 18 to 20, then, again this

1 is the group that you've said is using the MathLand the  
 2 way it's intended to be used by, the way it's intended  
 3 to be used. Do each of those teachers -- strike that.  
 4 Let me ask a prefatory question.  
 5 Do math teachers -- still asking that wrong.  
 6 In fourth grade, let's say, does a teacher  
 7 teach math to more than one class of students?  
 8 A. In my fourth grade teachers are teaching math  
 9 to their fourth grade students.  
 10 Q. Do you call teachers home room teachers or just  
 11 --  
 12 A. Well, they're self-contained classrooms. They  
 13 have the students all day long.  
 14 Q. And is that true for sixth grade also?  
 15 A. It's true for sixth grade, it's actually true  
 16 for all the grade levels, because they're all  
 17 self-contained classrooms.  
 18 Q. So for the 18 through 20 teachers teaching  
 19 MathLand the way it was intended, do each of the  
 20 students in those classes receive his or her own copy of  
 21 MathSteps?  
 22 A. If the teacher has requested those, they are  
 23 provided.  
 24 Q. Well, you added a qualification, though, that I  
 25 thought went to the question whether they're using

1 MathLand in the way it was intended. I thought we  
 2 established that if MathLand is used in the way it was  
 3 intended, then MathSteps is used as the supplemental  
 4 material and that MathSteps is distributed copy by copy  
 5 to each student?  
 6 A. It being supplemental, it's still not a  
 7 requirement. I can, I can require, the district can  
 8 require the mandated, but there's other supplements  
 9 besides MathLand that can be used, what I'm defining as  
 10 the program at this time, and maybe I did not clarify it  
 11 that MathLand is the program, MathSteps is the  
 12 supplement. I am pretty confident that the majority, if  
 13 not all of the teachers that use MathLand have  
 14 supplemented with MathSteps. Am I one hundred percent  
 15 sure without going in and checking every student's desk  
 16 in every grade level that people are using MathLand, I  
 17 am not. But I am 95 to one hundred percent sure that  
 18 the students that are using the MathLand curriculum are  
 19 also getting the MathSteps as well.  
 20 Q. And are they each getting their own copy of  
 21 MathSteps?  
 22 A. Yes, they should each be getting their own  
 23 copy. There's no reason for them not to get their own  
 24 copy of MathSteps.  
 25 Q. Let's explore that a little bit. There's no

1 reason that a student should not be getting his or her  
 2 own copy of MathSteps. By that, I mean the system  
 3 works, that is, if you put in an order the school  
 4 district text and instructional materials-ordering  
 5 authorities do their job and get you the materials you  
 6 need?  
 7 A. Correct. Yes.  
 8 Q. And the teachers have sufficient knowledge at  
 9 the right time in the school year to put in an order for  
 10 the coming school years, so that given a relatively  
 11 small margin of error, enough are ordered, correct?  
 12 A. Correct.  
 13 Q. And there's enough money in your instructional  
 14 materials accounts to purchase enough copies of  
 15 MathSteps, correct?  
 16 A. There should be, yes.  
 17 Q. There should be or is?  
 18 A. I believe there is.  
 19 Q. So put it a little, put it in the negative,  
 20 you've never had a situation in which you ran up against  
 21 a budgetary constraint with respect to the ordering of  
 22 MathSteps?  
 23 A. No. Not to my awareness.  
 24 Q. Now, let's talk about that for a minute,  
 25 because actually for this year the materials were

1 ordered before you started, correct?  
 2 A. Absolutely.  
 3 Q. And so you're just now going through your first  
 4 ordering cycle as principal, correct?  
 5 A. Correct.  
 6 Q. And so you'll actually see the way the system  
 7 works from start to finish for the first time with this  
 8 cycle that you're in now?  
 9 A. Correct.  
 10 Q. What you're really telling us when you were  
 11 speaking with Mr. Herron is the, what you observe now is  
 12 the effects of the previous ordering cycle and whatever  
 13 steps you had to take at the beginning of this year to  
 14 correct the plus or minus problem, correct?  
 15 MR. HERRON: Objection, misconstrues prior  
 16 testimony.  
 17 MR. JACOBS: Go ahead.  
 18 THE WITNESS: Can you repeat that?  
 19 (Record read back.)  
 20 THE WITNESS: Anything we're doing right now  
 21 with textbooks and supplies, not supplies, instructional  
 22 materials would be a direct effect of what happened the  
 23 previous year.  
 24 MR. JACOBS: Q. Other than the fact that  
 25 you're now starting a new ordering cycle for the coming



1 year?

2 A. Right.

3 Q. Is there a set of supplemental materials that  
4 are distributed student by student with respect to FOSS?

5 A. Yes.

6 Q. Maybe you answered this before and I didn't  
7 pick it up. Is it photocopying that's done with FOSS?

8 A. Right. There are, if you look at a FOSS kit  
9 and FOSS curriculum, it's basically student activity  
10 warranted, there are work sheets that go along with it.  
11 Teachers will Xerox those off, work on them together,  
12 some teachers choose to make an overhead copy and work  
13 on it together on the overhead. It's kind up to the  
14 teacher to determine how far they want to disseminate  
15 the information. Some teachers make up their own work  
16 sheets that go along with the kit. There is not a  
17 textbook.

18 Q. Is it intended by the vendor of FOSS that the  
19 work sheets be photocopied for use by the students?

20 MR. HERRON: Objection, calls for speculation.

21 MR. STURGES: Don't speculate.

22 THE WITNESS: I don't know.

23 MR. JACOBS: Q. What do the materials say?

24 A. To be honest with you, it's been about at least  
25 six years since I have instructed FOSS.

1 A. Specifically for FOSS or --

2 Q. No, I'm now, FOSS might be used in a multi-age  
3 classroom?

4 A. It could be.

5 Q. And MathLand also?

6 A. It could be.

7 Q. So let's, we're done with MathLand and FOSS for  
8 now.

9 Moving on to other areas that are covered in  
10 the multi-age classrooms, if I understood your testimony  
11 correctly, there are likely not, may not be maybe, may  
12 not be, I'm not sure actually textbooks used in those  
13 classrooms?

14 A. Maybe.

15 Q. There may be textbooks?

16 A. I would say between maybe and likely not.

17 Q. Okay.

18 A. It varies by teacher.

19 Q. What's the instructional material substitute  
20 for textbooks in multi-age classrooms?

21 A. If it's reading, it's a variety of reading  
22 materials. From huge classroom libraries, enormous  
23 classroom libraries. For math they use some aids and  
24 some other varieties of things as well as for science.  
25 Spelling is integrated into their writing, there's a big

1 Q. When you instructed FOSS did you use  
2 photocopies of work sheets?

3 A. I did a variety.

4 Q. Was there a set of FOSS materials that you  
5 could purchase as a booklet rather than photocopy sheet  
6 by sheet?

7 A. Not to my understanding.

8 Q. So to answer my vendor-related question, you're  
9 not aware of the vendor trying to sell to the districts  
10 or to teachers the use of a set of supplemental  
11 materials as opposed to photocopying work sheets; is  
12 that correct?

13 A. Yeah. I don't know.

14 Q. Are there any, are you aware of any resource  
15 constraints that have affected the teachers' abilities  
16 to use the supplemental aspects of FOSS? By resource  
17 constraints, I mean financial constraints or other  
18 inability to obtain resources that would affect the  
19 utility of the FOSS program?

20 A. Not to my knowledge.

21 Q. Now, in the multi-age classrooms, are there any  
22 materials that are intended -- strike that.

23 Are there any materials that are in fact  
24 distributed on a student-by-student basis with the  
25 intent that they be used in the classroom and at home?

1 push focus in writing so everything branches off from  
2 that.

3 Math, MathLand is used as a guide but not  
4 necessarily, it's a guide of objectives and goals but  
5 not necessarily used as a prescriptive, okay, this is a  
6 scripted thing that we do, so it's used more as a guide  
7 to gather other resources to teach a specific goal.

8 Q. How many multi-age classrooms are there?

9 A. There are currently five.

10 Q. So about a hundred students in that program?

11 A. About 150.

12 Q. So the multi-age classrooms are the ones that,  
13 go back to my notes, were they the ones that were in the  
14 30 range?

15 A. There are two multi-age classes in the upper  
16 grades that are at 32, and for the majority of the year  
17 the three primary multi-age have been at 20.

18 Q. Is there a distinction?

19 A. I'm sorry. I'm sorry. I have to clarify.  
20 That's 120. My addition is poor at this time of day.

21 Q. Thank you for the correction. In the upper  
22 grades is it more likely than in the lower grades that  
23 there would be a textbook used?

24 A. I would say it's as likely.

25 Q. Are you aware in any of those classes that in

1 fact a textbook has been adopted by the teacher in any  
2 subject?  
3 A. I would say no, that I'm not aware.  
4 Q. From the instructional materials standpoint are  
5 multi-age classes less expensive than, quote,  
6 traditional classes?  
7 MR. HERRON: Objection, calls for speculation.  
8 MR. STURGES: Is that with respect to providing  
9 curriculum and textbook materials?  
10 MR. JACOBS: Yes.  
11 THE WITNESS: That's really difficult to  
12 answer, not knowing all of the materials that they use.  
13 And a few of those teachers have taught for a number of  
14 years and have acquired many, many, many materials of  
15 their own to instruct their program.  
16 MR. JACOBS: Q. Have you done any analyses of  
17 the impact of the curricular changes you are planning on  
18 your budgetary allotments for textbooks and  
19 instructional materials?  
20 MR. HERRON: Objection. I'm not sure he said  
21 he was planning curricular changes.  
22 THE WITNESS: At this point in time we're not  
23 planning curricular changes.  
24 MR. JACOBS: Q. So what are the changes you  
25 are planning with respect to multi-age classrooms.

1 A. We are currently an IIUSP school. It was based  
2 upon last year's test scores. We are going through the  
3 process right now with Action Learning Systems, who is  
4 our external evaluator, in the process of writing an  
5 action plan. Do you want me to be more specific?  
6 Q. Well, I take it you're in the process now, so  
7 that's why you don't know what curricular changes you're  
8 planning yet, correct?  
9 A. I can tell that you there is a focus on the  
10 content standards.  
11 Q. Does the focus on content standards imply  
12 greater likelihood of teaching using textbooks or  
13 instructional materials that are more akin to those used  
14 in traditional classrooms?  
15 A. Not necessarily. The focus is on the content  
16 standards and that's one of the things, the processes  
17 that we're going through with Action Learning Systems,  
18 and basically they're accountable to the state, that we  
19 are, that we're going to be focusing on teaching on the  
20 standards, implementing teaching strategies such as  
21 reciprocal teaching and coaching that will encourage us  
22 to target the standards. Is it necessarily through  
23 texts? It may not be written that way in the final  
24 action plan.  
25 Q. Do you have a rule of thumb answer to the --

1 answer to the question what is your budget for textbooks  
2 and instructional materials per student?  
3 A. As far as, are you asking how much do we  
4 receive as a school per student?  
5 Q. Correct.  
6 A. I do not know that.  
7 Q. You believe that you have received in the  
8 information you have about the current ordering cycle  
9 enough money to purchase the textbooks and instructional  
10 materials you need for next year?  
11 A. Yes, I do.  
12 Q. And how do you work that budgetary issue when  
13 you're going through the ordering cycle that you're  
14 currently in?  
15 A. One of the things that I did just the other day  
16 is I sat down with my resource teacher, and we're  
17 looking next year at some different things with our LD  
18 students, so that they will not be clustered, so it will  
19 take more resources, Hampton-Brown resources, so I  
20 talked to her about money as far as how many different  
21 grade level packets, kits we're going to need for that,  
22 I talked to her about the FOSS kits and if there's any  
23 grade levels that are expressing a concern regarding  
24 FOSS kits, and also the replenishing of FOSS kits. We  
25 also talked about the MathSteps, what we need for that.

1 We also talked about when the district adopts a  
2 text for math. For math for next year does the district  
3 -- the specific question I asked was does the district  
4 allocate enough money for us to cover every child and  
5 her response was yes, I have never had enough money to  
6 cover a new text textbook adoption, to get the adoption  
7 for every student.  
8 MS. SPANGLER: Did you say never had enough  
9 money?  
10 THE WITNESS: Never not had enough money. I'm  
11 sorry. I'm sorry. I stumbled. That was her response.  
12 MR. JACOBS: Q. So in this case she doesn't  
13 actually know what the allotment will be for some  
14 category of money with respect to the math textbooks  
15 yet?  
16 A. As far as I know, no, we have not received  
17 that.  
18 Q. Do you believe it is important when a textbook  
19 is adopted that each student have his or her own copy to  
20 use in the classroom real and to take home?  
21 A. I believe that there are many different ways  
22 for students to learn. Some learn through activities,  
23 some learn through books, some through textbooks, some  
24 through outside reading material. I focus on  
25 achievement. How we get to that achievement can vary

1 from student to student. For some students reading a  
 2 textbook is going to get to that point. For other  
 3 students that may not be the way, and my job as an  
 4 administrator is to try and make the fit for that child  
 5 to achieve what he or she can.  
 6 Q. If you, let me put it in the negative. If you  
 7 found that the system was not working for you in terms  
 8 of delivering textbooks to students who you,  
 9 collectively, the school, has decided need textbooks,  
 10 would you view that as a serious impediment to achieving  
 11 your goals?  
 12 A. Can you clarify that?  
 13 Q. If I understand what you testified to so far on  
 14 the textbook issues, you think, to put it colloquially,  
 15 was things are okay, that you have the resources and the  
 16 system to deliver textbooks where you as a school have  
 17 decided students should get textbooks; is that correct?  
 18 A. I would believe, I would say that it's not so  
 19 much we as a school that has decide who had needs  
 20 textbooks, but individual teachers at this time.  
 21 Q. So, and that's something you're working on,  
 22 right, to adopt a more school-oriented approach to this?  
 23 A. Absolutely.  
 24 Q. And as you move to a school-oriented approach,  
 25 they, you anticipate at least as a matter of degree

1 making more school-based decisions about when textbooks  
 2 should be adopted and delivered to students on a  
 3 student-by-student basis, correct?  
 4 A. I'm trying to word this in such a way that it  
 5 will make sense. In our action plan it is specifically  
 6 set up for two distinct teaching and learn strategies,  
 7 multi-age and traditional. Both are valid, on the site,  
 8 and both have different instructional practices and are  
 9 not necessarily both using texts. And that's the way it  
 10 has been set up.  
 11 So I don't know if that answers your question,  
 12 but that is how the action plan through our external  
 13 evaluators that will be presented to the state is being  
 14 worked, that there are two distinct ways of learning and  
 15 teaching.  
 16 Q. And distinct way number one places much less  
 17 emphasis on the use of textbooks than distinct way  
 18 number two, correct?  
 19 A. Absolutely.  
 20 Q. As to distinct from way number two, you will be  
 21 in the process of using the resources and the system  
 22 available to you to get textbooks to students, correct?  
 23 A. Absolutely.  
 24 Q. And it is, and you view that as an important  
 25 responsibility of the principal to insure that that

1 happens?  
 2 A. Yes.  
 3 Q. And if the system wasn't empowering you to do  
 4 that, you would view that as a serious impediment to  
 5 your ability to carry out your mission as principal,  
 6 correct?  
 7 A. If I didn't have the resources to do that,  
 8 would it be a detriment to student learning?  
 9 Q. Serious detriment.  
 10 A. Yes, if I did not have the resources.  
 11 Q. Or if the resources were available or if the  
 12 system didn't work, that is, you didn't put orders in at  
 13 the right time because you lacked information about when  
 14 the right time was?  
 15 A. Absolutely.  
 16 Q. Or you put in orders at the right time but  
 17 there was an inability on the part of the central office  
 18 to respond effectively to those orders?  
 19 A. Yes.  
 20 Q. That would be the same kind of serious  
 21 impediment?  
 22 A. Yes.  
 23 Q. If the textbooks aren't being delivered for  
 24 that part of the curriculum where you've decided  
 25 textbooks are important, you would view that as a

1 serious impediment to carry out your responsibilities as  
 2 principal, correct?  
 3 A. Yes.  
 4 Q. Are you aware of a survey that was done in the  
 5 Fresno Unified School District about whether there were  
 6 sufficient textbooks and instructional materials  
 7 available?  
 8 MR. HERRON: Objection, vague as to time.  
 9 THE WITNESS: I cannot say I've seen it or not  
 10 seen it. I was not -- so I wouldn't be able to tell you  
 11 if I was aware of it or not one.  
 12 MR. JACOBS: Q. Because the way I've asked it  
 13 just hasn't triggered a recollection that, what's going  
 14 on?  
 15 A. No.  
 16 Q. So in 1998 the Fresno Unified School District  
 17 decides to ask itself do we have enough textbooks or  
 18 instructional materials and to do a survey of that  
 19 across the schools. Does that ring a bell to you at  
 20 all?  
 21 A. I -- I vaguely remember a survey, but I don't  
 22 remember seeing any results.  
 23 Q. Do you remember hearing about the results at  
 24 all?  
 25 A. No, I don't.

1 Q. Are you aware of any process at the school  
2 district level to analyze whether there are sufficient  
3 textbooks and instructional materials available in the  
4 schools making up the Fresno Unified School District?

5 MR. HERRON: Objection, asked and answered.

6 THE WITNESS: I believe that the school  
7 district can do a resource audit or a curricular audit  
8 to see what materials are or have been purchased for a  
9 site and they will also come in and do a curricular  
10 audit to see what's being specifically taught.

11 MR. JACOBS: Q. And what kind of knowledge do  
12 you have about that process, what's the source of your  
13 knowledge?

14 A. The source of my knowledge is knowing a school  
15 that was going through a curricular audit and really  
16 looking at what was being taught and how it was being  
17 taught in Fresno Unified and that was more through word  
18 of mouth. Actually the resource audit was something  
19 that myself and my resource teacher talked about in the  
20 last two weeks.

21 Q. As something that might be visited on the --

22 A. Yes.

23 Q. And what might, what led you to have that  
24 conversation with her?

25 A. A multitude of things at Dailey Elementary

1 Q. How about a curricular or a curriculum audit,  
2 is that something that the district has to your  
3 knowledge initiated in the past?

4 A. I have heard that, one particular school that  
5 they did do a curricular audit.

6 Q. At the district's initiative?

7 A. I don't know if it was site oriented or  
8 district oriented.

9 Q. What do you mean by site oriented?

10 A. If it was asked for by the site or the district  
11 said, hey, we're going to come in and we want to see  
12 what's going on. I don't know who initiated it.

13 Q. Are you aware of any mechanism by which state  
14 authorities, at a hierarchic level above the district,  
15 I'll use the word "Sacramento" for short, become  
16 knowledgeable about whether there are sufficient  
17 textbooks and instructional materials at Dailey  
18 Elementary?

19 A. I'm not aware of any.

20 Q. And how about any other school that you have  
21 knowledge about?

22 A. No.

23 Q. You described a specific conversation you had  
24 with your resource teacher.

25 A. Teacher.

1 School. I want to find out where we are and where we  
2 need to be and one of the reasons for that as well as  
3 with IIOUSP money. A portion of that can be put to other  
4 resources and we do not want to duplicate resources that  
5 we already have, so it wasn't just textbook resources,  
6 it was resources in general that are being purchased.

7 Q. And were you viewing this, this resource audit  
8 as an aid to you in implementing an effective action  
9 plan?

10 A. Yes.

11 Q. And so this is something you could ask the  
12 district to do?

13 A. I am hoping that we can.

14 Q. What is your understanding of the process  
15 itself?

16 A. I do not know that much about the process.  
17 When I talked to my resource teacher she felt that we  
18 could get lists of things that had been purchased for  
19 the site over, we don't know how far back for different  
20 materials and things like that to find out exactly what  
21 we have so that we can present that as part of the  
22 action plan for what we still need.

23 Q. Are you aware of any cases where the district  
24 has initiated a resource audit of a school?

25 A. No, I do not know of any.

1 Q. About whether there would be sufficient money  
2 available to purchase the new math textbook. Did I  
3 characterize that correctly?

4 A. The new adoptions that were coming,  
5 specifically geared toward the new adoptions.

6 Q. And those new adoptions cover what subjects?

7 A. I believe they're doing, they're in the midst  
8 of looking at something for FOSS and science.

9 Q. So there's no, is there a textbook adoption  
10 currently on the agenda?

11 A. Math is being adopted and science is being  
12 adopted. We are not quite sure if there are going to be  
13 books involved or it's going to be kits. As a site we  
14 have not yet gone and previewed what is there. My  
15 information regarding science is that it could still be  
16 kit oriented with possibly supplemental books.

17 Q. Now, you described the inquiry you did on the  
18 textbook issue as leading to the conclusion that in, as  
19 in some, that in some classes textbooks are being used  
20 and in some classes textbooks are not. Did I  
21 characterize that correctly?

22 A. Is that in conversation with the resource  
23 teacher?

24 Q. No. This was the inquiry triggered by the  
25 complaint. You received a copy of the complaint, you

1 testified to having done some inquiry to find out what  
2 the textbook issue was all about.

3 A. Let's go back and think about that. I had  
4 asked at that time --

5 MR. STURGES: Hold on. Before you respond, I'm  
6 going to instruct the witness not to testify as to any  
7 communications with district counsel. You can testify  
8 about the other steps you took, but not about  
9 conversation with counsel.

10 MR. JACOBS: Are you going to follow that  
11 instruction? Let me ask you.

12 THE WITNESS: I have a clarification here, that  
13 are we talking about when I first received the  
14 complaint? It was given to me many, many months ago and  
15 I can't remember who even gave it to me, and that's when  
16 I became notified of the complaint itself.

17 MR. JACOBS: Q. Yes, that's what I was, I  
18 was, I might have confused you because I just took you  
19 back to when you become a principal at Dailey, this  
20 complaint gets filed, to your surprise?

21 A. Right.

22 Q. And you do on inquiry about the topics in the  
23 complaint to find out what had happened in the school,  
24 right?

25 MR. STURGES: Let me clarify my instruction.

1 Q. And if I recall your testimony correctly, the  
2 conclusion you came to as a result of that inquiry was  
3 that the textbook issue in the school as you understood  
4 it was an issue that related to whether teachers were  
5 using textbooks in their teaching as opposed to whether  
6 there were sufficient textbooks where teachers had  
7 decided to use them; is that right?

8 A. Yes.

9 Q. So I just need to unpack that inquiry a little  
10 bit more. Who did you talk to?

11 A. I talked to my resource teacher.

12 Q. In that conversation did she discuss with you  
13 any shortages of instruct instructional materials or  
14 textbooks?

15 A. No.

16 Q. She told you that we have been able to meet our  
17 teachers' needs for textbooks and instructional  
18 materials?

19 A. I'm going to say that our topic was  
20 specifically towards, targeted toward textbooks, but it  
21 was targeted towards just instructional materials as  
22 well. And I believe her comment was look at our  
23 resource lab at all the materials that we've purchased  
24 that no one has checked out.

25 Q. Now, in the course of that inquiry, did you

1 There has been a lawsuit filed at some point. You've  
2 seen a copy of that and also in the course of this  
3 lawsuit there have been communications about a Title V  
4 uniform complaint that was withdrawn, but there are also  
5 conferences with counsel about that and there are also  
6 conferences with counsel about things like this  
7 deposition. You're instructed not to discuss the  
8 substance of your conversations with counsel, but you  
9 may testify as to non-counsel related factual matters  
10 that you're being asked about. That's all. I just  
11 don't want you to reveal attorney/client communications,  
12 that's all that's about.

13 THE WITNESS: Now I'm totally confused, and it  
14 doesn't take much this late.

15 MR. JACOBS: Q. It happens every time,  
16 believe me.

17 A. Can you repeat your question, please?

18 Q. Sure. When you became aware of the filing of  
19 the complaint you conducted an inquiry to find out what  
20 you could about the allegations in the complaint,  
21 correct?

22 A. Correct.

23 Q. And one of the topics you explored was  
24 textbooks, correct?

25 A. Correct.

1 explore whether there was any issue arising out of the  
2 fact that if you look at this exhibit that has all the  
3 different categories of funding on it, that some  
4 categories are allocated for specific purposes and that  
5 you're not allowed to use money from one category for a  
6 purpose not contemplated by that category?

7 A. I do not believe that conversation ever came up  
8 with myself and the resource teacher.

9 Q. Have you ever identified that as an issue in  
10 the availability of textbooks and instructional  
11 materials at Dailey?

12 A. I have not.

13 Q. And how does that aspect of the budgetary  
14 process, how is that aspect being worked out now as you  
15 go through the process of ordering for next year?

16 MR. HERRON: Objection, vague and ambiguous.

17 MR. JACOBS: Q. In other words, you're having  
18 conversations now with your resource teacher?

19 A. Right.

20 Q. You're having conversations about ordering for  
21 next year?

22 A. Right.

23 Q. And is she the one responsible for monitoring  
24 on a funding-category-by-funding-category basis whether  
25 you have not only sufficient money in the aggregate but

1 sufficient money on a category-by-category basis to make  
2 the purchasing requests that you plan to make?

3 A. Yes.

4 Q. And then do you get into that on a  
5 funding-category-by-funding-category basis, or is that  
6 her responsibility and you leave that to her?

7 A. It's basically her responsibility.

8 Q. In the course of the inquiry last May that we,  
9 I alternate back and forth to, did you learn anything  
10 else about the availability of textbooks or  
11 instructional materials as it related to the complaint?

12 A. That's when it became evident to me that there  
13 were classrooms and teachers that had chosen not to use  
14 all textbooks.

15 Q. Did you infer from that that it might be the  
16 case that parents were construing what their children  
17 were bringing home or not bringing home as evidence of  
18 an instructional materials shortage when in fact it was  
19 a curriculum-based decision that they were observing?

20 MR. HERRON: Objection, calls for speculation.

21 THE WITNESS: That was my belief at the time,  
22 and has that been your belief since May through the  
23 present about the concerns reflected in the complaint.  
24 The textbooks and instructional materials, yes, yes.

25 MR. JACOBS: Q. So to put it a little

1 the principal and to all the information you learned  
2 about the preceding years at Dailey; is that correct?

3 A. It pertains to my tenure at Dailey. I can't  
4 really speak that much, I didn't find that much  
5 information in past practices.

6 Q. So that's more of a, of a blank in your mind  
7 rather than a denial of the allegations in the  
8 complaint; is that correct?

9 A. I can't respond to things I don't know,  
10 basically.

11 Q. So what I said is basically correct, right?

12 MR. HERRON: Objection; misstates prior  
13 testimony.

14 MR. STURGES: I also point out that the  
15 complaint does not contain a time frame, being the  
16 allegations of misconduct, so, I'm not sure we can even  
17 answer that question, but he can try if he understands  
18 it.

19 MR. JACOBS: Q. To the extent the complaint  
20 relates to textbook and instructional material issues  
21 that predate your tenure at Dailey, you don't have a  
22 view one way or the other as to whether those  
23 allegations are correct or not?

24 A. No, I don't.

25 Q. One other category of instructional materials I

1 differently, no information has come to you in the  
2 period since you became aware of the complaint that has  
3 led you to be concerned that there might, in fact, be a  
4 shortage of textbooks and instructional materials or  
5 might have been a shortage of textbook and instructional  
6 materials at the as opposed to the observable effects of  
7 curriculum decisions not to use textbooks or  
8 instructional materials?

9 A. Long question.

10 Q. Yeah.

11 MR. STURGES: Do you understand the question?  
12 I think I'm going to object that it's compound and about  
13 50 lines long, and I'm not sure anybody could understand  
14 it. Could we have it read back?

15 MR. JACOBS: Q. Do you want me to reask it?

16 A. Can I try and restate it to make sure?

17 Q. Sure.

18 A. You are asking if, if there was a shortage of  
19 textbooks was it created by basically lack of money or  
20 are you asking if it was created by curriculum decisions  
21 by teachers?

22 Q. I'll take it that way.

23 A. I believe it was through curricular decisions  
24 by teachers.

25 Q. And that answer applies both to your tenure as

1 want to ask you about and that's the, I think you call  
2 it the EL materials?

3 A. English language.

4 Q. There is, I take it there's a category of  
5 textbook or instructional materials that is directed to  
6 the English language learners in the school?

7 A. My understanding is that still comes in a  
8 textbook. I'm not quite sure if there's a specific  
9 budgetary area for those materials.

10 Q. What's the name of the publisher of those?

11 A. Hampton-Brown.

12 Q. Let's call them the Hampton-Brown materials.

13 Does Hampton-brown make available materials for each of  
14 the grades at Dailey? Strike that.

15 You don't know, you may not know what's in  
16 their catalog; do you have Hampton-Brown materials for  
17 each of the grades at Dailey?

18 A. Yes, we do.

19 Q. So there are Hampton-Brown materials for each  
20 of K through 6; is that correct?

21 A. There are different levels of Hampton-Brown as  
22 well, so it's based on level as well, but, yes, there  
23 are materials for students to be used for K through 6.

24 Q. You have a census of English language learning  
25 students, correct?

1 A. Yes.

2 Q. What is the vehicle for giving English language  
3 instruction to English language learners at Dailey?

4 A. It would be done through either CLAD  
5 certificated teachers or bilingual instructors.

6 Q. Do they come into the regular classroom and  
7 work with the English language learners?

8 A. Let me clarify that CLAD certificated or CLAD  
9 certificates are for regular teachers, it gives them,  
10 they have been certified to be able to teach through  
11 certain types of teaching strategies English language  
12 learners.

13 Q. And the English language learners are  
14 integrated with English speakers?

15 A. Yes.

16 Q. And then, but you also described teachers in a  
17 second category?

18 A. Which would be bilingual teachers can also  
19 service those students.

20 Q. And do bilingual teachers teach classrooms of  
21 English language learners and English speakers?

22 A. Not this year, but in the past there has been  
23 at least one or two teachers that have taught a  
24 bilingual program.

25 Q. And you mean a program that is for both English

1 Q. Well, the reason I asked it on the  
2 student-by-student basis was because I anticipated the  
3 last part of your answer, is it the, when Hampton-Brown  
4 is used in the way that it's intended to be used, is  
5 there a deliverable, an instructional material that is  
6 delivered to each student for him or her to use on his  
7 or her own?

8 A. Yes.

9 Q. What is that called?

10 A. It would be the -- well, there's a teacher set,  
11 there are books, there are tapes. There are posters to  
12 do chants. There's a variety of different things. It's  
13 not done on a student-by-student basis, it's all done in  
14 a group.

15 Q. But is there a instructional material that is  
16 intended to be delivered to each student on a  
17 student-by-student basis?

18 A. In other words, is there a book?

19 Q. Is there a book or workbook?

20 A. I have not seen all levels of the Hampton-Brown  
21 in use. There's a variety of things. It's to promote  
22 oral language, so the majority of the curriculum is  
23 based on language interaction, not so much reading out  
24 of a text.

25 MR. STURGES: I need to take a time out.

1 speakers and English language learners each learning the  
2 other's language?

3 A. I am not sure how it was configured at Dailey  
4 this year?

5 Q. What's the vehicle for delivering English  
6 language learner instruction?

7 A. Through either Hughes-trained teachers or  
8 through CLAD-certificated teachers.

9 Q. And in these each of those cases is the content  
10 delivered through regular classroom teachers who have  
11 that additional qualification?

12 A. Yes.

13 Q. Do you have a census of English language  
14 learners in the school?

15 A. I believe we do.

16 Q. Do you recall the number?

17 A. I just looked at the numbers, I believe, and  
18 I'm not sure if they're categorizing all levels, I  
19 believe there were about 128.

20 Q. Do you have a set of Hampton-Brown materials  
21 for each of those students?

22 A. It's more or less a kit type of thing that's  
23 used by a teacher to provide 30 minutes of EL  
24 instruction to those students. Not all classrooms are  
25 designated as a language class based upon clustering.

1 (Short break taken.)

2 MR. JACOBS: We have marked as Fresno Unified  
3 School District Exhibit 14 a document identified as  
4 Bates number DTFR 79 or FUSD '79. By the way, the  
5 second number, the DT number is a number that we've  
6 applied to the documents.

7 (Whereupon, Defendant's Exhibit FUSD 14  
8 was marked for identification.)

9 MR. JACOBS: Looking at Exhibit 14, first of  
10 all, have you ever seen this document before?

11 A. No, I have not.

12 Q. Do you have any information about what it is?

13 A. It looks like a request for materials.

14 Q. Request for materials or information about  
15 materials?

16 A. I think it's both.

17 Q. You see down there at the, it says level B,  
18 three sets, one in Bricker's, one in Martinez and one in  
19 Gallambos?

20 A. Yes.

21 Q. And you see it says for second through sixth  
22 grades we have one set for each grade level that we  
23 shared?

24 A. Yes.

25 Q. Do you see that?

1 A. Yes.

2 Q. Do you have any information what that means,  
3 that is, we have one set for each grade level to be  
4 shared?

5 A. No, I do not.

6 Q. Do you know what level B refers to there as to  
7 the Hampton-Brown materials?

8 A. I believe it would be used for primary or EL  
9 students that are lower.

10 Q. Do you currently have only enough of level B  
11 materials such that for 2nd through 6th grades we have  
12 one set for each grade level, to be shared; is that  
13 true?

14 MR. STURGES: Did you understand the question?

15 THE WITNESS: No.

16 MR. JACOBS: Read it back.  
17 (Record read back.)

18 THE WITNESS: I don't know if that's true or  
19 not.

20 MR. JACOBS: Q. And then take a look at an  
21 earlier exhibit, Fresno Exhibit 9.

22 You see there's a reference on Exhibit 9 to  
23 "ELD program into English for designated classrooms,"  
24 and then it says in parentheses, "We do have to share  
25 these," closed paren?

1 having a difficult time answering.

2 MR. JACOBS: Could you read back the question,  
3 please?

4 MR. STURGES: There's a qualifier in the  
5 question that says where they're intended to be  
6 distributed.

7 THE WITNESS: There is enough to accommodate  
8 the students as far as their access to the materials.

9 MR. JACOBS: Q. I have to do this because  
10 it's part of my job. There was a qualifier in your  
11 answer, and I just need to know whether the answer is  
12 yes or no or for some reason there's still a problem  
13 with the question.

14 A. Can you restate the question one more time?

15 Q. Sure, let me try it again. Hampton-Brown has a  
16 range of materials, some of which are not intended to be  
17 distributed on a student-by-student basis and some of  
18 which are, correct?

19 A. Correct.

20 Q. As to the category that is intended to be  
21 distributed on a student-by-student basis, do you have  
22 enough copies to distribute one per each student who is  
23 an English language learner?

24 A. Yes.

25 Q. And how do you know the age of Exhibit 9?

1 A. Uh-huh.

2 Q. Well, same question basically, do you have any  
3 information about what that means?

4 A. No, I do not.

5 Q. Do you have any information, seeing it in this  
6 context, as to whether you in fact have to share the  
7 Hampton-Brown materials called Into English?

8 A. Based on this I do not. This is an extremely  
9 old form.

10 Q. And, I think just to go back to where we were  
11 before the break and the, more of a discussion than I  
12 think either of us intended to have, where Hampton-Brown  
13 materials are intended to be distributed on a  
14 student-by-student basis to each student at Dailey, do  
15 you have any way to accomplish that?

16 MR. HERRON: Objection; calls for speculation.

17 THE WITNESS: Can I have more of a  
18 clarification.

19 MR. JACOBS: Q. What part?

20 A. I need to talk to you about something for just  
21 a second. Is there --

22 MR. STURGES: There's a problem with the  
23 question as addressed because it makes an assumption  
24 that every student requires or is entitled to separate  
25 Hampton-Brown materials. That's why the deponent's

1 A. Because of Reyes, Brickers, Martinez and  
2 Gallambos, the only teacher that is still there is  
3 Becker.

4 Q. Actually, you're looking at 14, correct?

5 A. Am I looking at the wrong one? Oh, that one.

6 Q. I believe you said 9 was extremely old.

7 A. I believe that one is old, too.

8 Q. And by old, how many years do you mean?

9 A. It's at least a year old.

10 Q. After that you can't date --

11 A. I can't tell you.

12 MR. STURGES: I'll represent to you that based  
13 on my conversations with Ms. Perrin in your office, we  
14 didn't go back any farther than the '98 and '99 school  
15 year in producing documents, so it's probably no older  
16 than that.

17 MR. JACOBS: Okay. Thank you.

18 Q. One of the topics in the complaint is that  
19 there are insufficient supplies for teachers in  
20 classrooms. You conducted an inquiry when you learned  
21 of the complaint into that issue?

22 A. Regarding the 500 sheets of paper.

23 Q. That specific topic or more broadly into  
24 whether there are enough materials available for  
25 teachers?



1 A. It was more specifically towards the 500 sheets  
2 of paper and how, somewhat, money was dispersed for  
3 materials, supplies.

4 Q. When you conducted this, you were in the tail  
5 end of 1999/2000 school year, correct?

6 A. Yes.

7 Q. So you were, at that point were you in the part  
8 of the school year where there was in fact some  
9 allocation of 500 sheets per teacher?

10 A. Not that I know of. I really didn't follow up  
11 on if they were continuing to do it. Because I don't, I  
12 don't think they gave out any more paper after that.  
13 When I came in in May there was no more paper to give  
14 out.

15 Q. Period?

16 A. Period.

17 Q. So as of May 1, what was the situation, then,  
18 with respect to teacher access to that paper?

19 A. Teachers still continued to Xerox.

20 Q. I thought you said they weren't giving out any  
21 more. I may have misunderstood.

22 A. They still had their regular budget.

23 Q. But the allotment of an increment over their  
24 regular budget had ended by then?

25 A. I believe that there was no other extra paper

1 A. Not that I know of.

2 Q. So this was just somebody decided as far as you  
3 learned, somebody decided on their own let's give them  
4 500 sheets more paper a month?

5 A. Yes.

6 Q. Does that sound plausible to you?

7 A. It does. I've done that on sites as well. Not  
8 with paper but other supplies.

9 Q. Just said, "Here's some additional supplies"?

10 A. Yeah.

11 Q. By the time you got there, had some teachers  
12 run through their supplies budget for the year?

13 A. I don't know.

14 Q. When you did your inquiry, did you ask that  
15 question?

16 A. No, I did not.

17 Q. So all that you developed on this issue was  
18 teachers were still using their regular -- strike that.

19 Of the information you developed during this  
20 inquiry was, A, teachers were using the regular  
21 allotments for supplies; and B, for some period of time  
22 an increment of 500 pages per month had been in effect,  
23 but that had ended?

24 A. Yes.

25 Q. And there was nothing else you learned about

1 left.

2 Q. Is the answer to my question yes?

3 A. Repeat the question.

4 Q. The allotment of additional paper had ended by  
5 then?

6 MR. HERRON: Objection, vague and ambiguous.

7 THE WITNESS: I believe it had.

8 MR. JACOBS: Q. And what did you learn about  
9 the period when that allotment was in effect?

10 A. That it was just additional paper that was  
11 given just to support teachers.

12 Q. What was the duration of the period which that  
13 additional allotment was in effect?

14 A. I do not remember.

15 Q. Was it during the 1999-2000 school year?

16 A. I believe so.

17 Q. Did you gain an understanding as to why that  
18 additional allotment had been provided?

19 A. I think it was just an extra way to support  
20 teachers.

21 Q. Were teachers doing more photocopying than had  
22 been anticipated?

23 A. I do not know.

24 Q. Was there a particularized need that had been  
25 expressed for more photocopying?

1 this issue in the course of the inquiry you conducted?

2 A. The only other --

3 MR. HERRON: Objection, vague and ambiguous.

4 THE WITNESS: I wanted to find out how money  
5 was allocated for supplies, and it was done on a  
6 basically per-student basis, and the reason I asked that  
7 was because that's what I've always intended to do and  
8 that's what we implemented.

9 MR. JACOBS: Q. Did you have any discussions  
10 with anyone in which they said we need more -- strike  
11 that.

12 In the period from when you arrived to the end  
13 of the 1999-2000 school year, did you have any  
14 discussions with anyone in which they indicated that  
15 more Xerox paper was needed?

16 A. No.

17 Q. Did you have any discussions with anyone in  
18 which they said, "We've run out of money for supplies  
19 and we need more money for supplies," same period?

20 A. No.

21 Q. Did you have any discussions with anyone in  
22 which they indicated that they had run out of their  
23 supplies budget and so they couldn't do, they couldn't  
24 make any more purchases?

25 A. No.

1 Q. Do you have any information about whether it is  
 2 in fact typical for teachers to, in the Fresno Unified  
 3 School District in particular, to run through their  
 4 supplies budget by a particular time in the year as  
 5 opposed to rationing it out so it's available through  
 6 the end of the year?  
 7 A. I do have information on that.  
 8 Q. And what's your information?  
 9 A. That you have some teachers that will make a  
 10 major supply order at the beginning of the school year  
 11 and have very little left for the end of the school  
 12 year, and certain teachers will budget out and there's  
 13 plenty for the whole year and some people will even have  
 14 a fairly large balance at the end of the school year.  
 15 Q. Some classes at Dailey are more photocopy  
 16 intensive than others, correct?  
 17 A. Teachers are.  
 18 Q. Well, I thought you described some curricular  
 19 techniques in which photocopying of say work sheets was  
 20 the preferred method of distributing that material to  
 21 students?  
 22 A. In some classes.  
 23 Q. Do you view that as a teacher issue in terms of  
 24 teacher -- strike that.  
 25 If a teacher had run through their budget by

1 identified, is there a vehicle for making additional  
 2 money available for the teacher?  
 3 A. There is, are grant monies that we have, like  
 4 site block grant. I do have a discretionary account as  
 5 well.  
 6 Q. You said, I believe, to Mr. Herron that this  
 7 year the photocopy machine is running and you, it sounds  
 8 to me like you aren't metering it on a  
 9 teacher-by-teacher basis. Did I understand you  
 10 correctly?  
 11 A. No, it is metered but not controlled.  
 12 Q. What is the difference?  
 13 A. That there's an amount of copies per month that  
 14 we can figure out how many copies, and it's deducted  
 15 from their supply, and they're given a monthly balance  
 16 of their supply budget.  
 17 Q. So what does it mean to say it's not  
 18 controlled?  
 19 A. I could put a limit on it, and there's no  
 20 limit. Teachers can Xerox and Xerox and Xerox.  
 21 Q. Within their budgetary allotment?  
 22 A. Right.  
 23 Q. Are you saying that in fact a teacher could go  
 24 over the allotment and you might not catch it until  
 25 afterwards, is that what you mean by no control?

1 the end of the year and came to you and said, you know,  
 2 "The reason I ran through my budget is because we're  
 3 doing a lot of photocopies of materials to distribute to  
 4 students," would you view that as a teacher performance  
 5 issue?  
 6 A. First of all, I'd probably ask what they are  
 7 Xeroxing, to find out what they are Xeroxing off. Would  
 8 I use it as a teacher performance issue; no.  
 9 Q. Would you view it as a teacher performance  
 10 issue?  
 11 A. Depends on what I found out as far as what  
 12 they're Xeroxing off.  
 13 Q. What was the per-student allocation for  
 14 supplies in the 1999-2000 school year at Dailey?  
 15 A. I'm not sure.  
 16 Q. What is it this year?  
 17 A. I believe it was per student was \$18 and --  
 18 approximately \$18.25 per student.  
 19 Q. Is that, what is that supposed to cover?  
 20 A. That would cover pencils, paper, Xeroxing.  
 21 Let's see, what else? Additional art supplies that the  
 22 teacher would want, paper, rulers, scissors, glue, some  
 23 of those are consumable and some are not.  
 24 Q. If a particular curriculum requires greater use  
 25 of supplies that fall into the categories you just

1 A. No, I would know any teacher that goes over  
 2 their allotment.  
 3 Q. You would know?  
 4 A. I would know.  
 5 Q. So no control means no upper number limit for  
 6 teachers; is that what you mean?  
 7 A. Right.  
 8 Q. It's just if they're within their budget,  
 9 they're within their budget?  
 10 A. Yes.  
 11 Q. And do you have an understanding as to whether  
 12 the allotment on a per-student basis is greater this  
 13 year than last year?  
 14 A. My understanding in talking to my  
 15 vice-principal is that there has been more allotment  
 16 given this year.  
 17 Q. Do you have any information on that, on the  
 18 magnitude of that increase?  
 19 A. No.  
 20 Q. In talking with your vice-principal, have you  
 21 learned of any shortages of these sorts of materials in  
 22 previous years?  
 23 A. We have not discussed it regarding shortages.  
 24 Q. So to the extent the complaints, the complaint  
 25 relates to shortages that predated your arrival as

1 principal, what information do you have as to whether  
2 the allegations are true or false?  
3 A. I have no evidence that they're true or false.  
4 Q. I just show you another document. This is  
5 Fresno 81, and it will be Fresno Exhibit No. 15.  
6 (Whereupon, Defendant's Exhibit FUSD 15  
7 was marked for identification.)  
8 MR. JACOBS: Q. Do you recognize the name on  
9 the top page?  
10 A. I sure do.  
11 Q. What's the first name?  
12 A. Anjes.  
13 Q. And the second name is Morris?  
14 A. Morris.  
15 Q. Is she a teacher at Dailey?  
16 A. She sure is.  
17 Q. And she was when you arrived and is this year?  
18 A. Sure is.  
19 Q. Have you ever seen this form of document  
20 before, leaving aside the handwriting on it?  
21 A. No, I have not.  
22 Q. And then you see down at the bottom it says, "I  
23 need Xerox paper desperately. I can't see why Xerox  
24 paper can't be ordered en masse, delivered to teachers  
25 and deduct their accounts. I've been waiting for my

1 order and am desperate." Exclamation marks. Do you see  
2 that?  
3 A. Yes.  
4 Q. Do you have any information on that comment  
5 apparently by Anjes Morris?  
6 A. No.  
7 Q. Do you have any information on whether before  
8 your arrival the school sent home letters to parents,  
9 communications to parents asking them to assist with  
10 school supplies?  
11 A. I have no knowledge of that.  
12 Q. And since you've been there have there been  
13 such communications with parents?  
14 A. None that I'm aware of.  
15 Q. Including requests that are framed as a  
16 voluntary, could-you-donate-some-school-supplies?  
17 A. I have not seen any communication that's gone  
18 home to parents that says that.  
19 Q. Is that something that you would object to if  
20 somebody said let's do that?  
21 A. If you're requesting and making it mandatory, I  
22 have a problem with that. If you're asking parents to  
23 donate a toilet paper roll for an art project or items  
24 like that, as long as it's a donation and people don't  
25 feel obligated, I don't have a problem with that. But

1 if people feel obligated, I do have a problem with that.  
2 Q. Let's talk about temperature issues. I took it  
3 from your testimony that you have been assiduous in  
4 following up on HVAC maintenance issues. Do you agree  
5 with that?  
6 A. With all maintenance issues.  
7 Q. You view maintenance as an important function  
8 of the school principal?  
9 A. I view facilities, yes.  
10 Q. And having satisfactory facilities is something  
11 that you view as important to creating a successful  
12 learning environment?  
13 A. Yes, I do.  
14 Q. Important enough that you've made it a priority  
15 of your own to make sure that maintenance requests are  
16 followed up on and responded to promptly?  
17 A. Yes.  
18 MR. STURGES: I'm going to object to that. It  
19 assumes that it's a priority elsewhere in the district,  
20 to the extent it assumes that.  
21 MR. JACOBS: Q. I intended no such  
22 implication, but it's your own personal priority to see  
23 that they're followed up quickly, correct?  
24 A. Right. It's a certain aspect of  
25 accountability.

1 Q. Accountability on the part of your service  
2 providers in the district?  
3 A. My own accountability.  
4 Q. When you arrived at Dailey as principal, did  
5 you confront any facilities issues that you identified  
6 as requiring priority attention on your part?  
7 A. Yes.  
8 Q. What were they?  
9 A. Playground equipment, a fence to the front of  
10 the school and carpeting in the pod.  
11 Q. What was the carpeting in the pod issue?  
12 A. That it was extremely old.  
13 Q. You requested that it be replaced?  
14 A. Yes.  
15 Q. Was it replaced?  
16 A. It is being scheduled at this moment in time.  
17 It was supposed to be in February, maintenance called me  
18 and it's been rescheduled.  
19 Q. You requested it in May?  
20 A. It was talked about in May. I ran it through  
21 my elementary division supervisor who sat down with  
22 maintenance and with facilities and they scheduled, came  
23 out and ordered it.  
24 Q. When did that sequence of events get completed?  
25 A. It was actually ongoing. I don't think I got

1 confirmation when the installation was going to happen  
2 until approximately October, give or take a little bit.

3 Q. And that confirmation was a confirmation for  
4 installation in February?

5 A. Was for installation in February.

6 Q. And you've since heard that that's been  
7 postponed?

8 A. It was under mutual agreement. They needed to  
9 finish a project and they got halfway through and they  
10 needed the carpet, so it was put off until after  
11 assessment.

12 Q. They called you up and said, "We have another  
13 project underway, can you live with this situation for a  
14 couple more months?"

15 A. Actually, they called and said, and asked me if  
16 it would be okay. And since we were going into testing  
17 in March and they didn't have a specific amount of time,  
18 it may not have been finished by testing anyway, so I  
19 said, "Why don't you wait until after assessment?"

20 Q. You might have answered this. Do you know when  
21 it has been rescheduled for?

22 A. I just E-mailed, and I'm scheduling with my  
23 teachers for April 30th, which is the first Monday after  
24 assessment.

25 Q. Are there any other issues that you, other than

1 the grounds, or is it, does it reach the buildings?

2 A. It doesn't reach the buildings. It's  
3 specifically on the blacktop and parking lot.

4 Q. There was a bond issue passed recently,  
5 correct?

6 A. Yes.

7 Q. At least one bond issue has had implications  
8 for Dailey, correct?

9 A. Yes.

10 Q. Which one is that, which one or ones are those?

11 A. Both of them should have had impact on Dailey,  
12 Measure A and Measure K.

13 Q. What was measure, what is your understanding of  
14 what Measure A was to do for Dailey?

15 A. I know one of them was technology, like  
16 internet access, and specifically I don't remember all  
17 of them, but there were actually eight on each site.

18 Q. Each site of your two?

19 A. Yes.

20 Q. That predated your arrival at Dailey, Measure A  
21 did?

22 A. Yes.

23 Q. Measure K is the recent one?

24 A. Right.

25 Q. And that has implications for Dailey?

1 the three you mentioned before that you identified as  
2 priority on or about the time that you started at  
3 Dailey, any other facilities issues? I'm sorry.

4 A. There were some cement issues. I have a  
5 teacher that's in a wheelchair. There's some uneven  
6 cement, so they came out and repaired that. I became  
7 aware of a flooding issue on the campus during winter,  
8 of course, when it starts raining. Notified  
9 maintenance, they've come out and they've done a survey  
10 and they're putting it on the plan, I guess fix-it plan.

11 MR. HERRON: I'm sorry, what was the last  
12 thing that he mentioned?

13 MR. JACOBS: Flooding.

14 Q. That was the grounds flooding as opposed to a  
15 building flooding issue?

16 A. The drainage on the campus from the blacktop  
17 area to the front of the school. There's not enough  
18 grade to it so it puddles up on the blacktop and on the  
19 parking lot. They need more of a grade.

20 Q. And has that -- they've surveyed it, you said?

21 A. The surveyors came out. I haven't seen a  
22 master plan since.

23 Q. Does that interfere with activity on the  
24 buildings themselves, when flooding occurs of the sort  
25 that you described, is it confined to parking lots and

1 A. Yes.

2 Q. What are those?

3 A. The implications for Dailey, on the Dailey  
4 campus, I believe it's painting and updating the  
5 cafeteria, playground equipment, electrical upgrades, I  
6 believe the H -- the heating systems on there, some of  
7 the other things that were on there was the fence, I  
8 don't remember if they had anything on the blacktop, and  
9 there's a list.

10 Q. Some of these items are on the list at least in  
11 substantial part because you identified them as  
12 priorities?

13 A. Actually, no.

14 Q. What's your understanding of that?

15 A. They were put on a list back in January of '99,  
16 by that current administration.

17 Q. We asked -- strike that.

18 Mr. Herron asked you a lot of questions about  
19 the HVAC, and that, of course, arises out of an  
20 allegation on the complaint on HVAC. What's your  
21 understanding of why the HVAC system is a Measure K  
22 allotment?

23 A. I can't tell you why. I'm not aware of why it  
24 was put on.

25 Q. And you don't, do you -- are you aware of any

1 relationship between maintenance issues at Dailey now  
 2 with respect to HVAC and the fact that HVAC is on the  
 3 list?  
 4 A. I wouldn't be able to answer that. Maintenance  
 5 would be able to answer that.  
 6 Q. You have no information on what the rationale  
 7 was for HVAC being on the list?  
 8 A. I have no information why any of those things  
 9 were put on.  
 10 Q. And that hasn't been something that you've  
 11 talked about in the district as to why are you spending  
 12 your money here being -- well, why are you spending your  
 13 money here?  
 14 A. Yes, that was an issue.  
 15 Q. And what have you learned?  
 16 A. That it was, when I saw the list I asked why,  
 17 because these aren't things that I necessarily would  
 18 have on as a priority. And the message that I got were  
 19 these things were already turned in. They were  
 20 submitted in January of '99, that they've already been  
 21 submitted to the elections office, I guess for printing  
 22 on whatever it needed to be, and that none of them could  
 23 be changed.  
 24 Q. What did you have in mind when you said you  
 25 would have other priorities?

1 A. I would like to see the flooding issue as a  
 2 priority to speed that up before next winter. I would  
 3 like to see cafeteria upgrade. I would like to see some  
 4 electrical upgrades which was on there in the  
 5 classrooms. To be honest with you, I'd like to, to see  
 6 a backstop for our playground out there, and that is an  
 7 equity issue with the other campuses.  
 8 Q. You follow up on HVAC issues because you  
 9 believe it's important that the temperature be -- strike  
 10 that.  
 11 You follow up on HVAC issues because you  
 12 believe it's important that temperature be maintained in  
 13 the classrooms at an appropriate level, correct?  
 14 A. Yes.  
 15 Q. And why is that?  
 16 A. Why is that? Because if a room is 50 degrees,  
 17 students can't learn. If a room's 110 degrees, they  
 18 can't learn either.  
 19 Q. 50 and 110 is an extreme range?  
 20 A. Very extreme.  
 21 Q. Has it ever reached 110 in Dailey?  
 22 A. Not that I know of, but in the summer months if  
 23 it weren't on, it would reach that hot in the classroom.  
 24 Q. How about the late spring?  
 25 A. Late spring?

1 MR. HERRON: Objection, calls for speculation.  
 2 THE WITNESS: I really don't know.  
 3 MR. JACOBS: Q. Well, when you put in a  
 4 maintenance request because the AC part of the HVAC is  
 5 not working, do you have in mind a temperature that you  
 6 would like to see the classroom temperature stay below?  
 7 A. I would not like to see, I mean, this is my  
 8 personal preference, I would not like to see it go over  
 9 90 degrees in a classroom.  
 10 Q. How about 85?  
 11 MR. STURGES: I object. I think we're getting  
 12 into the realm of speculation here. I instruct the  
 13 witness not to answer.  
 14 MR. JACOBS: Q. Do you have any information  
 15 on any sort of standard as with respect to classroom  
 16 temperatures?  
 17 A. No, I do not.  
 18 Q. And when you have commented on the AC issues of  
 19 HVAC, have you focused on particular temperatures by way  
 20 of saying this is important to get fixed now?  
 21 MR. HERRON: Objection, vague and ambiguous.  
 22 MS. SPANGLER: Join.  
 23 THE WITNESS: The only thing I focused on is if  
 24 it were working or not working.  
 25 MR. JACOBS: Q. So let me just state it

1 again. You told Mr. Herron you've sent E-mails to  
 2 follow up on facilities issues?  
 3 A. Uh-huh.  
 4 Q. I assume that some of those E-mails related to  
 5 HVAC?  
 6 A. I have not sent HVAC.  
 7 Q. You haven't needed to?  
 8 A. No.  
 9 Q. They've been corrected quickly?  
 10 A. Yes.  
 11 Q. And on the heating side of the HVAC, have you  
 12 ever focused on the fact that a temperature has fallen  
 13 below a particular level in your communications to get  
 14 the heating fixed?  
 15 A. I have not communicated in regards to that  
 16 either. They've been out immediately when anything  
 17 has -- so I've not had to take it to that step.  
 18 Q. And, again, you simply focused on fact that the  
 19 heating system isn't working and it needs to get fixed?  
 20 A. Right.  
 21 Q. And not directed your comments to a particular  
 22 temperature that's creating an issue in the classroom?  
 23 A. No.  
 24 Q. When you became aware of the complaint and you  
 25 observed that there was an allegation with respect to

1 HVAC, did you conduct an inquiry on that topic?  
 2 A. I believe I called and talked to Rick Hausman  
 3 to, Rick Hausman to find out if he knew anything about  
 4 the, the problems supposedly, background of that system.  
 5 Q. What did you learn?  
 6 A. Not a heck of a lot.  
 7 Q. He could not, that's because he didn't have  
 8 much information to impart to you on that topic?  
 9 A. I believe that he was going to look into it and  
 10 find out. The maintenance records on it as well as if,  
 11 if, if there was going to be anything besides  
 12 maintenance done to it, I don't know.  
 13 Q. Did he get back to you?  
 14 A. I don't recall if he did or not on that one.  
 15 Q. So did you learn whether or not there had been  
 16 before your arrival at Dailey any ongoing issues with  
 17 respect to HVAC?  
 18 A. I believe there had been a few ongoing  
 19 situations with it that were corrected.  
 20 Q. What did you learn about those situations?  
 21 A. That it may go off and not work. And they  
 22 would come out and fix it. I think one of the other  
 23 things was in regards to maybe a part on the system  
 24 going out and their having to come out and replace a  
 25 part on it, those types of things.

1 Q. But I gather that you learned that there had  
 2 been incidents in which the HVAC system had been down  
 3 for more than a short period that you observed at  
 4 Dailey?  
 5 A. I never inquired into how long they were down.  
 6 Q. Let me mark another exhibit. This one will be  
 7 16.  
 8 (Whereupon, Defendant's Exhibit FUSD 16  
 9 was marked for identification.)  
 10 MR. JACOBS: Q. We've marked as Exhibit 16  
 11 FUSD 0160, 0161, 0162 and 0163. Looking at 0160 which  
 12 was probably handed to you as the last page. You see up  
 13 there at the top an entry for 8-10-98 that says,  
 14 "Please, please repair AC in pod, out since last year.  
 15 Teachers setting up classrooms."  
 16 Do you see that?  
 17 A. Yes.  
 18 Q. First of all, are you familiar with this form  
 19 of document?  
 20 A. Yes, I am.  
 21 Q. What is your understanding of it?  
 22 A. This looks similar to a document that I would  
 23 receive on a monthly basis showing which work orders  
 24 have not been completed.  
 25 Q. So this is an open work orders list?

1 A. This one may not. It looks like one, this one  
 2 has so much more built into it that I think this is a  
 3 chronological order of all.  
 4 Q. And this one has a closed date on it also,  
 5 doesn't it? Do you see that at the top?  
 6 A. Yes.  
 7 Q. Looking at the bottom of 0163, do you see it  
 8 says, "Air conditioning unit in north wing, 14 to 19  
 9 rooms, is blowing warm air, closed 90-day list."  
 10 Do you see that?  
 11 A. Yes.  
 12 Q. So looking at this document and then  
 13 particularly the two items I referenced for you, do you  
 14 have any information about periods in which the HVAC at  
 15 Dailey or in certain classrooms at Dailey was not  
 16 working for more than a week?  
 17 MR. STURGES: Objection, calls for speculation.  
 18 THE WITNESS: You're going back on the first  
 19 one, almost two and a half years. When they're talking  
 20 about out since last year, it could be the assumption it  
 21 was out since the last of school year, so actually not  
 22 working over the summer. That I don't know. That would  
 23 be maybe a speculation on that one.  
 24 MS. SPANGLER: I move to strike what he just  
 25 said on the grounds that you're asking him to interpret

1 the document, which he can't do.  
 2 MR. JACOBS: That's not what I asked him.  
 3 MS. SPANGLER: That's what he did.  
 4 MR. JACOBS: Noted.  
 5 MR. STURGES: At this point I want to caution  
 6 the witness not to speculate, and if he doesn't know  
 7 what the document means, he's not to testify as to what  
 8 it means.  
 9 THE WITNESS: The last page, I would say that I  
 10 don't know what that, what that's referring to. Again,  
 11 that was a year and a half old.  
 12 MR. JACOBS: Q. So separate from the document  
 13 now, do you have any information on any incidents in  
 14 which the HVAC at Dailey Elementary, whether while you  
 15 were there or before you were there has been down for  
 16 more than week?  
 17 A. No, it hasn't been down for more than a week.  
 18 Q. And in your inquiry did you ask questions  
 19 about, are there incidents in which the HVAC has been  
 20 down for a period time?  
 21 A. No, I did not.  
 22 Q. So to the extent the allegations in the  
 23 complaint relate to, relate to the HVAC being down for a  
 24 protracted period of time before your arrival, you  
 25 really don't have information one way or the other as to

1 whether that's true?  
 2 A. No.  
 3 Q. Are you, is there a mechanism in the Fresno  
 4 Unified School District by which the district at its  
 5 initiative would learn about facilities issues in a  
 6 school?  
 7 MR. HERRON: I'm sorry. Could we have the  
 8 question read?  
 9 (Record read back.)  
 10 THE WITNESS: The procedures that I  
 11 particularly use, that most principals in the district  
 12 use would be by telephone, if it's a consistent problem  
 13 or, through J-orders which would be a tracking system.  
 14 MR. JACOBS: Q. Those are mechanisms that the  
 15 principal initiates, correct?  
 16 A. Correct.  
 17 Q. Or to be more, to state more clearly what you  
 18 testified before about these mechanisms is sort of  
 19 principal and his staff, correct?  
 20 A. Correct.  
 21 Q. So that mechanism depends on the principal and  
 22 his staff taking facilities issues seriously and  
 23 following up on that in more or less the way that you  
 24 do, correct?  
 25 A. Correct.

1 Q. So is there a mechanism that operates to alert  
 2 the district to facilities issues in the event that that  
 3 predicate, that activism by the principal and his staff  
 4 is not in place?  
 5 MR. HERRON: Objection, asked and answered.  
 6 THE WITNESS: Not that I know of.  
 7 MR. JACOBS: Q. So asking it a little --  
 8 MR. STURGES: Did you understand that question?  
 9 Can we have that read back?  
 10 (Question read back.)  
 11 MR. JACOBS: Q. Do you know of any inspection  
 12 process by the district that relates to facilities  
 13 issues?  
 14 A. Not that I know of.  
 15 Q. Do you know of any other mechanism by which the  
 16 district would find out about facilities issues if the  
 17 principal and his staff weren't communicating about such  
 18 issues to the district?  
 19 A. Not that I know of.  
 20 Q. Do you know --  
 21 MR. STURGES: Quick.  
 22 (Off the record.)  
 23 MR. JACOBS: Does the witness have any  
 24 clarification he wishes to offer?  
 25 MR. STURGES: No.

1 MR. JACOBS: Does the witness, not his lawyer,  
 2 have any clarification he wishes to offer?  
 3 THE WITNESS: Can you repeat the question  
 4 again?  
 5 MR. JACOBS: Sure.  
 6 Q. What part of it are you having trouble with?  
 7 Because I've asked it long and I've asked it short.  
 8 A. Are you asking about preventative maintenance  
 9 or what type of maintenance are you --  
 10 Q. Okay. I see the potential confusion.  
 11 (Off-the-record discussion held)  
 12 MR. JACOBS: Q. We had a brief off-the-record  
 13 discussion which leads me to ask a couple followup  
 14 questions that may make your record more complete on  
 15 this as well as mine.  
 16 I take it that during the maintenance process  
 17 district personnel show up on your campus?  
 18 A. Yes.  
 19 Q. And they come from the maintenance office of  
 20 the Fresno Unified School District?  
 21 A. They will come from maintenance, yes.  
 22 Q. And that's what the division is called?  
 23 A. Yes.  
 24 Q. And you don't know whether they in the course  
 25 of their being on campus might make themselves and their

1 superiors aware of maintenance issues that you haven't  
 2 recorded?  
 3 A. I'm not aware of that.  
 4 Q. Now, leaving aside maintenance staff of the  
 5 district, is there any other, are there any other  
 6 district personnel that show up periodically on site who  
 7 might, therefore, become alerted to maintenance issues  
 8 that you and your staff had not alerted the district to?  
 9 A. There are occasionally facilities people that  
 10 will be on site looking at plans and things like that.  
 11 I don't know where those pertain in the realm of things,  
 12 but there are occasionally people looking at plans.  
 13 Q. Leaving those two categories aside, then,  
 14 maintenance and facilities people looking at plans, are  
 15 there any other district personnel who periodically  
 16 visit the campus and through those visits might become  
 17 aware of facilities issues?  
 18 A. My supervisor. I try and contact her once a  
 19 month, try to have meetings on my campus where I can  
 20 walk through and keep her apprised of the facilities.  
 21 Q. You've referred to your supervisor a couple  
 22 times; do you have in fact someone to whom you directly  
 23 report?  
 24 A. Yes, I do.  
 25 Q. Who is that?

1 A. Karen Major. She's superintendent of the  
2 elementary division.  
3 Q. Do you know who her direct supervisor is?  
4 A. I'm looking at the chain of command chart in my  
5 head, and I'm not sure if she reports to Carol Blouser  
6 or not.  
7 Q. The report card writing process, the school  
8 reports that we've looked at --  
9 A. Yes.  
10 Q. What is the, aside from you testified before to  
11 your involvement in that process, do you have an  
12 understanding of the basic process by which these  
13 reports are written?  
14 A. My understanding is that it's information taken  
15 from the district, a lot of this is generic information  
16 from the district. A lot of the information is taken  
17 from REA as far as the statistics. Some of it can be  
18 principal narrative. I believe that they refer back to  
19 parent surveys in them as well and community service.  
20 Q. Now, taking a look at the 1999 report, FUSD  
21 Exhibit 5, would you please look at page two under  
22 school environment, fourth sentence.  
23 "The classroom space, office facilities,  
24 library and restrooms are not adequate to support our  
25 instructional programs for the growing population." Do

1 you see that?  
2 A. Yes, I do.  
3 Q. Then if you look at the 2000 report, which was  
4 Exhibit 13, that sentence appears to have been deleted.  
5 Do you see that?  
6 A. Storage space in our present all-purpose room.  
7 Q. Well, that sentence has a direct analog in the  
8 '99 report?  
9 A. Yes.  
10 Q. So, "The storage space and our present  
11 all-purpose room at both sites are inadequate due to the  
12 age and design of each one," is in both reports. Do you  
13 see that?  
14 A. Yes.  
15 Q. But the previous sentence about classroom  
16 space, office facilities, library and restrooms was  
17 present in the '99 report and not present in the 2000  
18 report. Do you see that?  
19 A. Yes.  
20 Q. Do you have any information on why that  
21 sentence is not present in the 2000 report?  
22 A. More than likely this may have been one of the  
23 changes that I'd asked for.  
24 Q. But you don't recall?  
25 A. I don't recall, but I am pretty sure that was

1 probably one of the changes that I asked for.  
2 Q. Why are you -- if you don't recall, why do you  
3 think that that's the cause of the deletion?  
4 A. Because I wouldn't suspect that the district  
5 would just take out a sentence on their own.  
6 Q. Did anything happen to the facilities referred  
7 to in that sentence between the year 2000 report writing  
8 and the writing of the previous report to the extent you  
9 know when that occurred that would give rise to a basis  
10 for deleting the sentence?  
11 MR. HERRON: Objection, asked and answered in  
12 part.  
13 THE WITNESS: I can take each one. Classroom  
14 space is adequate for 20 students and/or 30 to 32  
15 students based on space.  
16 Office facilities, I'm living in both offices.  
17 I am the first principal to live in both offices on both  
18 campuses. The one campus office has been revamped with  
19 carpet, the other office through the routine  
20 maintenance, which may answer your question, took the  
21 routine maintenance that comes every six months. When  
22 they came through I had them revamp some of the things  
23 in there, do some painting and cleaning up.  
24 The library and restrooms, or the library  
25 facilities are on both campuses. One of them is in a

1 multi-purpose room. The other one is in a library  
2 section which is on the map. If you look at the  
3 facilities, the library has, it has computers, it has  
4 access, it's got bookshelves and it has books. So as  
5 far as facilities for the library, I'm not even sure why  
6 that was on there. And I did tell you the restrooms,  
7 the handicap accessible ones have been done, and during  
8 possibly the beginning of the school year all the  
9 bathrooms were painted as well.  
10 MR. JACOBS: Q. If you in fact were the cause  
11 of the deletion of the sentence, was it those events  
12 that in your mind justified the deletion?  
13 A. Why don't you clarify that for me?  
14 Q. Let's break it down.  
15 Did anything change as far as classroom space  
16 from 1999 to 2000 from report Exhibit No. 5 to report  
17 Exhibit No. 13?  
18 MR. HERRON: Objection, asked and answered in  
19 part. He's already testified about the student  
20 population changing.  
21 MS. JACOBS: Don't coach the witness.  
22 MR. HERRON: I'm not coaching. I just don't  
23 want to listen to it again.  
24 THE WITNESS: What has changed as far as the  
25 classrooms is class size is maintained. It's gone



1 down -- or not class size, but enrollment has gone down  
2 on both sites, and my question is why was it ever in  
3 there in the first place as far as classroom space.

4 MR. JACOBS: Q. And in the process of being  
5 involved in this report writing, that is Exhibit 13, did  
6 you ask why classrooms had been identified as inadequate  
7 in the previous report?

8 A. No, I did not.

9 Q. And then with a particular focus on restrooms,  
10 were there any other changes other than the handicap  
11 accessibility and painting between these two reports?

12 A. Not that I know of.

13 Q. Do you have any information on why restrooms  
14 were in the 1999 report and identified as inadequate?

15 A. No, I do not.

16 Q. And so when you were playing whatever role you  
17 made in the 2000 report, did you ask any questions about  
18 why restrooms were in the 1999 report?

19 A. No, I did not.

20 Q. Were you surprised to learn that the boys'  
21 restroom had been locked as a purported school safety  
22 measure before your arrival at Dailey?

23 A. I questioned to myself why it was done.

24 Q. You thought there were other ways of dealing  
25 with the issue that had been identified other than

1 week, week and a half.

2 Q. So for maintenance purposes, as far as you're  
3 aware the bathrooms tend to be locked up for very short  
4 periods to as much as say a week or week and a half,  
5 correct, that defines the range of bathroom locking in  
6 the Fresno Unified School District as far as you're  
7 aware for maintenance issues?

8 MR. STURGES: I object. The question implies  
9 that long bathroom lockages are commonplace.

10 MR. JACOBS: I'll get there, but not yet.

11 THE WITNESS: That has been my experience.

12 MR. JACOBS: Q. Okay. Now, the purported  
13 reason for locking up the bathroom at Dailey was the  
14 safety issue, but not a maintenance issue, it was a  
15 student discipline safety issue, correct?

16 A. That's my understanding.

17 Q. Are you aware of other instances in which that  
18 has occurred at, in the Fresno Unified School District?

19 MR. HERRON: Objection, relevance.

20 MR. STURGES: I instruct the witness to  
21 restrict his answers to the Morris Dailey School,  
22 because the allegations in the complaint are --

23 MR. JACOBS: Relevance is not a basis for  
24 instruction not to answer.

25 MR. STURGES: Let me ask you, what are the

1 locking the bathroom?

2 A. My style would have been to deal with it  
3 possibly in a different manner, but I don't know all the  
4 circumstances that surrounded it as well.

5 Q. Have you been at other schools in which, in the  
6 Fresno Unified School District in which bathrooms have  
7 been locked during the school day?

8 A. Normally it would have been for safety reasons,  
9 if someone broke a mirror, a toilet was broken or if a  
10 sink was pulled off the wall, it would have been locked.  
11 That would have been a reason why it would have been  
12 closed.

13 Q. In some cases the maintenance of that problem  
14 could take -- the correction of that maintenance issue  
15 could take some period of time, beyond a day or two,  
16 correct?

17 A. Yes.

18 Q. And in that case the bathroom might be locked  
19 for more than a day or two?

20 A. Yes.

21 Q. What's the longest instance of bathroom locking  
22 for maintenance issues that you're aware of in your  
23 tenure at Fresno Unified School District?

24 A. There was one situation that I recall at one  
25 site, I believe the bathroom was locked up for maybe a

1 relevance of things occurring at other sites when the  
2 allegations of the complaint are restricted to --

3 MR. JACOBS: The complaint is the complaint, of  
4 course, but our allegations are that there is a failure  
5 of oversight on management on the part of the state, and  
6 that bathrooms are one issue in that connection, so I do  
7 think it's relevant.

8 Q. Sir, can you please --

9 MR. STURGES: Go ahead and answer.

10 MR. JACOBS: Q. Are you aware of other  
11 instances where bathrooms have been locked in the Fresno  
12 Unified School District for reasons of safety related to  
13 student discipline?

14 A. Not that I'm aware of.

15 Q. So there's only this one instance that you're  
16 aware of?

17 A. That I'm aware of, yes.

18 Q. Have you heard anything about the practices of  
19 your predecessor principals at other schools they've  
20 gone to with respect to locking the bathrooms for, for  
21 reasons other than maintenance?

22 A. I'm not aware of any.

23 Q. When you arrived on campus as principal, were  
24 any bathrooms at either site locked during the school  
25 day for reasons other than maintenance?

1 A. No.  
 2 Q. So by the time you had gotten there, the issue  
 3 with respect to the boys' bathroom that you discussed  
 4 with Mr. Herron had been addressed?  
 5 A. Yes.  
 6 Q. And had been addressed by the one of the  
 7 temporary, acting principals, correct?  
 8 A. I believe, yes.  
 9 Q. And you learned that when you inquired about  
 10 this bathroom locking issue when the complaint was  
 11 brought to your attention?  
 12 A. Yes.  
 13 Q. Did you learn about any other bathroom locking  
 14 issues other than locking for maintenance when you  
 15 inquired about bathroom locking on account of the  
 16 complaint?  
 17 A. Please repeat that.  
 18 Q. Sure.  
 19 A. I kind of lost it there.  
 20 Q. And I think it was a bit of a trick question.  
 21 You said to Mr. Herron that the bathrooms have  
 22 been locked for some reconstruction for handicapped  
 23 issues?  
 24 A. Yes.  
 25 Q. Was that before or after you got to Dailey?

1 A. That was after.  
 2 Q. So before you got to Dailey, you were aware of  
 3 the fact that bathrooms get locked up periodically to  
 4 fix something?  
 5 A. Yes.  
 6 Q. And as you already testified, that is for a  
 7 period of a very short period to no longer than a week  
 8 and a half, generally?  
 9 A. Yes.  
 10 Q. And I assume that also that your answer also  
 11 applied to whatever you became aware of with respect to  
 12 Dailey, that is, that for maintenance purposes no  
 13 bathroom at Dailey had ever been locked up for more than  
 14 a very short period of time or a week and a half,  
 15 correct?  
 16 A. Yes.  
 17 Q. And then you discovered that a bathroom had  
 18 been locked up for an extended period of time at least  
 19 during class time for reasons of school, of safety  
 20 related to student discipline, correct?  
 21 A. Yes.  
 22 Q. Did you find out about any other lockings of  
 23 bathrooms for protracted periods of time at Dailey  
 24 school?  
 25 A. No, I did not.

1 Q. Did you ever find out and in particular about  
 2 the locking of girls' bathrooms for protracted periods  
 3 of time?  
 4 A. No, I never learned anything about the girls'  
 5 bathrooms.  
 6 Q. And what was your understanding of why it was  
 7 locked up, why the boys' bathroom was locked up during  
 8 classroom time but unlocked during recess?  
 9 A. I believe it was because there are yard duty  
 10 personnel on during recess, while the bathrooms will not  
 11 be supervised during class time.  
 12 Q. The students are supervised during class time  
 13 by their classroom teachers, aren't they?  
 14 A. Yes, in their classrooms.  
 15 Q. And so what you learned was that multiple  
 16 students were being let out to go in the bathroom at the  
 17 same time and that was creating a discipline issue in  
 18 the bathrooms?  
 19 A. That's my understanding.  
 20 Q. And your approach to dealing with that would  
 21 have been to talk to the teachers about metering the  
 22 letting out of students during class time, correct?  
 23 MR. HERRON: Objection, calls for speculation.  
 24 MR. STURGES: Answer, if you can.  
 25 THE WITNESS: I would have dealt with the

1 students and teachers in a different manner, yes.  
 2 MR. JACOBS: Q. And give us some idea of what  
 3 that manner would have been.  
 4 MR. HERRON: Same objection.  
 5 THE WITNESS: I would have tried to identify  
 6 who those students were through talking to teachers,  
 7 whether it's in a staff meeting or whenever to find out  
 8 when the situation was. If I was able to identify the  
 9 students, pull them in as well, contact their parents  
 10 and try to deal with the situation as to not lock the  
 11 bathrooms.  
 12 MR. JACOBS: Q. And that's because it's  
 13 important to create an environment in which there's an  
 14 appropriate level of discipline?  
 15 A. Yes.  
 16 Q. And it's important to create an environment at  
 17 which the bathrooms are not locked up to the detriment  
 18 of all the students on account of some?  
 19 A. Yes.  
 20 Q. And it's important generally to have enough  
 21 bathrooms so students aren't surprised by going to  
 22 bathroom A and not having enough time to get to bathroom  
 23 B, correct?  
 24 A. Yes.  
 25 Q. Are you aware of any district level reaction to

1 the fact that the bathroom was locked during that period  
 2 before your arrival at Dailey?  
 3 A. No, I don't know the reaction.  
 4 Q. Did you ever explore that question with anyone,  
 5 that is, whether there had ever, whether anyone at the  
 6 district level had done anything about that issue?  
 7 A. In talking to my supervisor I was, and I  
 8 believe she was under the assumption until this lawsuit  
 9 was brought that that stuff was not, she was not aware  
 10 of it.  
 11 Q. And so you did explore it with your supervisor  
 12 and learn that she was aware of the issue?  
 13 A. I believe she was not aware of the issue when I  
 14 talked to her.  
 15 Q. And to be clear on this timing point, she was  
 16 the supervisor of the principal during the, all of the  
 17 1999-2000 school year at Dailey, correct?  
 18 A. I believe so.  
 19 Q. Are you aware of any mechanism by which  
 20 Sacramento, as I earlier defined it, becomes aware of  
 21 facilities issues at your school?  
 22 MR. STURGES: I'll object, asked and answered.  
 23 You can answer it again, if you want.  
 24 MR. JACOBS: Q. I asked about the district  
 25 before, if that was confusing. I'm now asking about

1 Sacramento.  
 2 A. I don't know of the method that Sacramento  
 3 would become involved.  
 4 Q. We talked in connection with the district about  
 5 the fact that various district personnel are  
 6 periodically on your campus and would potentially have  
 7 the opportunity to become aware of facilities issues at  
 8 Dailey; do you recall that back and forth?  
 9 A. Yes.  
 10 Q. Are you aware of any similar instances in which  
 11 state level personnel are on the site and might  
 12 therefore have an opportunity to become aware of  
 13 facilities issues?  
 14 A. I'm not aware of any instances where that's  
 15 happened.  
 16 Q. How about county personnel, and I'm thinking in  
 17 particular of say a county health inspector or a county  
 18 building inspector, do those kinds of people show up at  
 19 Dailey?  
 20 A. Fire inspection would be one.  
 21 Q. So you are routinely inspected by the fire  
 22 department?  
 23 A. Yes.  
 24 Q. For fire safety issues in particular?  
 25 A. Right.

1 Q. Any other inspections of that sort that occur  
 2 at Dailey?  
 3 MR. HERRON: Objection, vague and ambiguous.  
 4 THE WITNESS: They come out and inspect for  
 5 chemicals, asbestos, hazardous chemicals.  
 6 MR. JACOBS: Q. Do you know which agency does  
 7 that?  
 8 A. I am not sure if it's through Fresno Unified or  
 9 not. Those are the ones that I know of for sure.  
 10 Q. With respect to the cafeteria, do you do food  
 11 service in your cafeteria?  
 12 A. On the Dailey campus we do.  
 13 Q. Is there any inspection of those food service  
 14 facilities?  
 15 A. I'm not aware of when they're on campus, but I  
 16 believe the food people from the food services come in  
 17 and do routine inspections.  
 18 Q. So this is a company that's contracted to  
 19 provide the food service?  
 20 A. I believe it may be done through Fresno  
 21 Unified.  
 22 Q. How about a county health inspector; does the  
 23 county health inspector ever inspect the food service?  
 24 A. Not that I'm aware of that they've been on  
 25 campus.

1 Q. Have you ever been asked to respond to any  
 2 surveys about facilities issues at Dailey -- just to  
 3 rewind, we asked the sequence of questions about  
 4 textbooks and instructional materials, and I'm going in  
 5 the same place on facilities.  
 6 A. While at Dailey I don't remember responding to  
 7 any, anything in regards to facilities.  
 8 Q. And did you understand my question to include  
 9 surveys from anybody and not just the FUSD?  
 10 A. At the beginning of the school year, and I  
 11 believe it was connected through the department that  
 12 works with safety issues on the sites, and I believe  
 13 they sent out a survey regarding what your priorities  
 14 would be as far as school safety.  
 15 Q. This was a Fresno Unified school safety office?  
 16 A. Yes.  
 17 Q. Did this have to do with the safe school plan?  
 18 A. I'm not quite sure on how that fit in, but they  
 19 talked about priorities on campuses as far as for school  
 20 safety.  
 21 Q. And by school safety they meant issues by  
 22 earthquake preparedness, fire safety, those sorts of  
 23 things?  
 24 A. They were talking more about facilities.  
 25 Q. And you filled out that survey?

1 A. Yes, I did, or did, I'm sorry.  
 2 Q. Just to be sure that I tie down this tin flap.  
 3 When I asked you about surveys on textbooks and  
 4 instructional materials, were you answering with respect  
 5 to the school and its staff or just to whether you  
 6 yourself have been surveyed about textbooks and  
 7 instructional materials?  
 8 A. I myself have not been surveyed.  
 9 Q. And what about, are you aware of whether your  
 10 resource person has been surveyed on textbooks and  
 11 instructional materials?  
 12 A. I'm not aware of that.  
 13 Q. Can you inventory for us the toilets and  
 14 urinals in the restrooms, believe it or not there is a  
 15 standard for that. And so we need to know how they line  
 16 up?  
 17 A. Are you asking me how many urinals and toilets  
 18 are in my --  
 19 Q. Are in your school. If you can't --  
 20 A. I can't, I know that it was, that was done at  
 21 one time, but I don't have that information.  
 22 Q. Okay. Now, on the recess issue, when  
 23 Mr. Herron asked you open-endedly why you had staggered  
 24 the recesses, you said that it was in order to permit  
 25 access to, by the students to the playground equipment.

1 Do you recall that answer?  
 2 A. Yes.  
 3 Q. And then he asked you some followup questions  
 4 in which he suggested you some alternative answers  
 5 including that it related to the amount of, the number  
 6 of minutes in an instructional period?  
 7 A. Uh-huh.  
 8 Q. And there was another reason that I can't  
 9 remember that he asked you about, so let me just start  
 10 again with an open-ended question.  
 11 MR. STURGES: For the record, I'm not sure that  
 12 Mr. Herron's questions suggested the answers, but we  
 13 will be happy to testify on this.  
 14 MR. HERRON: I agree with counsel.  
 15 MR. JACOBS: Q. Did you make a decision once  
 16 you came to Dailey, an affirmative decision to continue  
 17 the practice of staggering the recess?  
 18 A. Yes, I did.  
 19 Q. When was that?  
 20 A. It was after the beginning of the school year.  
 21 There are other issues that needed to be tackled and  
 22 that was one that seemed to be working with the  
 23 staggered recess. It did not impact instructional time,  
 24 it allowed for blocks of time. Every child was still  
 25 getting their 15 minutes of recess, so it didn't, one

1 child didn't get more recess than another. So as far as  
 2 the practice went, it didn't make sense at that time to  
 3 change it.  
 4 Q. Was there a reason to consider changing it?  
 5 Why was it even open for discussion?  
 6 A. I had actually just asked why there were three  
 7 separate recess periods. That was my question.  
 8 Q. Who did you ask?  
 9 A. I asked our vice-principal.  
 10 Q. What did he tell you?  
 11 A. The same response I had before. It maximized  
 12 instructional time for certain grade levels as far as  
 13 blocks of time. It also gave more students access to  
 14 the playground at a time.  
 15 Q. So your vice-principal specifically gave you  
 16 both those reasons whenever you asked him that question?  
 17 A. (Witness nods.)  
 18 Q. At Dailey, according to the report card, each  
 19 of your --  
 20 MR. HERRON: Are you looking at 2000?  
 21 MR. JACOBS: Q. Yes. It states on page 5 as  
 22 of January 2000 there were no regular education teachers  
 23 at Dailey Elementary School teaching subjects not  
 24 authorized by their teaching credential. Do you see  
 25 that? That's FUSD 13.

1 A. Uh-huh.  
 2 Q. Is that partly on account of your efforts in  
 3 retaining and recruiting teachers?  
 4 A. Actually, no. I don't know what it was before  
 5 I got there. There were some teachers, a few teachers  
 6 that I was able to bring in that were credentialed, but  
 7 I don't know who they replaced, as far as if they had  
 8 credentials or not.  
 9 Q. I guess what I'm asking really is what the role  
 10 of the principal is in achieving this result?  
 11 MR. HERRON: Objection, calls for speculation.  
 12 THE WITNESS: I don't have a role in achieving  
 13 credentialized teachers.  
 14 MR. JACOBS: Q. Who is accountable for that,  
 15 in your view?  
 16 A. Basically the teacher would be accountable for  
 17 it, and human resources. I don't play a part in making  
 18 sure that a teacher is credentialed.  
 19 Q. So what is the vehicle by which teachers are  
 20 assigned to Dailey?  
 21 MR. HERRON: Objection, calls for speculation.  
 22 MR. STURGES: Are there any allegations pending  
 23 against the school district with respect to whether they  
 24 provide an adequate number of certificated teachers?  
 25 MR. JACOBS: No.

1 Could you answer the question?

2 MR. STURGES: I will enter an ongoing objection  
3 on relevance, and if we go too far afield, I am going to  
4 instruct the witness not to answer.

5 MR. JACOBS: I'll explain the relevance for  
6 you. The state has indicated that they intend to take  
7 depositions of principals to find out what the baseline  
8 is or ought to be in various schools, and so that's the  
9 relevance to the case.

10 MR. STURGES: I'm not sure what you mean by  
11 baseline.

12 MR. JACOBS: Let's do this later. It may or  
13 may not give you a need to do this.

14 MR. STURGES: For the time being I have a  
15 continuing objection, but you can answer the questions.

16 THE WITNESS: Can you please repeat the  
17 question?

18 MR. JACOBS: Q. How are teachers assigned to  
19 Dailey?

20 A. They can be assigned in a couple ways: If  
21 there's a position that's open, a requisition is turned  
22 into human resources. It's posted for transfers. You  
23 go through anybody that wants to transfer, they're  
24 interviewed, if a selection is not made then I can go  
25 into new hires. That would be one way.

1 Q. And, therefore, you have not been provided with  
2 those candidates by the school district office; is that  
3 correct?

4 A. Right, they should have been screened out by  
5 the school district.

6 Q. Do you view this as an important aspect of the  
7 learning environment at Dailey, this sentence, the truth  
8 of the sentence?

9 A. The credentialed teachers?

10 Q. Yes.

11 A. I believe it's important for a teacher to be  
12 credentialed, that they've gone through some type of  
13 teacher training program, but I would also say that  
14 there are credentialed teachers that are not appropriate  
15 to teach even though they're credentialed. Just having  
16 a credential doesn't mean they're qualified.

17 Q. Having a credential is in your mind a  
18 necessary, but not sufficient condition to being an  
19 effective teacher?

20 A. Number one, it's a state requirement that you  
21 have a teaching credential, whether it's an emergency  
22 credential or preliminary.

23 Q. Was this referring to emergency credentials,  
24 this sentence?

25 A. I can't tell by how that was based.

1 Q. When you go into new hires, does that mean that  
2 you make a request of the district to do a new hire?

3 A. No, there are teachers that they -- all  
4 teachers have had to pass through interviews through the  
5 district office before I can interview them.

6 Q. Do you have a veto right over potential  
7 assignees to Dailey?

8 A. Yes, I do.

9 Q. And if and when you're interviewing teachers,  
10 do you assess their level of training?

11 A. Yes, I do.

12 Q. And if they, have you interviewed teachers who  
13 were not authorized to teach the proposed subject by  
14 their teaching credential?

15 A. If I find out that there is one that doesn't,  
16 then I would notify Fresno Unified as far as that. I've  
17 done some informal interviews with student teachers that  
18 have been on sites and stuff like that, but not in the  
19 intent to hire them, just some informal interviews.

20 Q. I'm focusing on this language, regular  
21 education teachers teaching subjects not authorized by  
22 their teaching credential. Have you interviewed  
23 proposed teachers for Dailey who would have violated  
24 that, that statement?

25 A. Not to my knowledge.

1 Q. Well, in looking -- so just looking at the  
2 table at the bottom, it refers to emergency credentials,  
3 right? Emergency, regular and --

4 A. There are none with emergency credentials.

5 Q. And there are none at Dailey, correct?

6 A. Right.

7 Q. And do you view that as an important aspect of  
8 the learning environment at Dailey that all the teachers  
9 at Dailey be regular credentialed teachers?

10 MS. SPANGLER: Objection, leading.

11 MR. HERRON: Objection, calls for speculation.

12 MR. STURGES: I'd prefer if we limited this  
13 conversation to his experience as principal and a  
14 teacher. You're asking him to comment on matters of  
15 state policy, and if you want to know what he thinks  
16 about the subject based on his own work experience,  
17 that's fine, but I think we're going a little bit far  
18 afield on this.

19 MR. JACOBS: I only intended to ask based upon  
20 your knowledge and experience as a principal and  
21 teacher.

22 MS. SPANGLER: Same objection.

23 THE WITNESS: In my, the hierarchy in my eyes  
24 when I'm interviewing someone, there's an extra plus to  
25 a person that has a credential than somebody that has an

1 emergency credential. Does that mean I wouldn't look at  
2 that person? No, because there's some talent out there  
3 that is really good, but I still look at that as well.

4 MR. JACOBS: Q. And by looking at that, just  
5 to clarify your answer, that you're referring to looking  
6 at whether the candidate has a regular teaching  
7 credential as opposed to an emergency credential,  
8 correct?

9 A. Yes, I would look at that.

10 MR. JACOBS: I want to ask you, Mr. Gettman,  
11 about an article that appeared in the Fresno Bee on May  
12 26th, 2000. Let's mark this as the next exhibit,  
13 please,

14 (Whereupon Exhibit 17 was marked for  
15 identification.)

16 MR. JACOBS: Q. So Exhibit 17 is a printout  
17 from Nexxus, I will represent to you, which is the  
18 database we use, and it's a printout of an article from  
19 the Fresno Bee dated May 26, 2000.

20 Do you see down there where, where it talks  
21 about your reaction to the lawsuit, in the third and  
22 fourth paragraph?

23 A. Yes.

24 Q. And it, the article states that, "He," Gettman,  
25 "wonders why the American Civil Liberties Union chose

1 have never met or talked to, and we don't have any idea  
2 of the veracity of the statements in the article.  
3 Testify as to your own knowledge.

4 MR. JACOBS: Q. Did you talk to Erin Kennedy  
5 of the Fresno Bee in connection with this article?

6 A. Yes.

7 Q. Did she ask you about the other schools you had  
8 been at?

9 A. Yes.

10 Q. Did she ask you about your experience at  
11 Balderas Elementary?

12 A. No, she did not.

13 Q. And it's your testimony that you didn't say  
14 anything to her that would relate to Balderas being  
15 overcrowded?

16 A. No, she asked me what schools I had previously  
17 been at.

18 Q. Just to be clear, it's your testimony that you  
19 did not say anything to her with respect to Balderas  
20 being overcrowded?

21 A. Yes.

22 Q. And then in the -- I'm sorry, there's another.

23 And did you discuss with Erin Kennedy  
24 conditions in any other schools in the Fresno Unified  
25 School District?

1 students from Dailey instead of students at other  
2 schools facing even more difficult conditions."

3 Do you see that?

4 A. Yes.

5 Q. Did you, in fact, wonder why the ACLU had  
6 chosen Dailey as opposed to other schools?

7 A. Yes, I did.

8 Q. What other schools did you have in mind?

9 A. Schools I've seen in other districts, visited,  
10 come across, you know, what you see on television as far  
11 as is portrayed through the news in California, and as  
12 opposed to what you see when you come and look at  
13 Dailey.

14 Q. So you were, your testimony is that you were  
15 not thinking of the schools, of other schools in the  
16 Fresno Unified School District?

17 A. No. As a matter of fact, when you look at that  
18 same sentence when it talks about overcrowding at  
19 Balderas. There is no overcrowding at Balderas. The  
20 Balderas attendance has gone down dramatically from when  
21 it first opened, which was 1100 students to, when I left  
22 Balderas was around 850 students, so --

23 MR. STURGES: We don't have to rebut any of the  
24 statements in the article. The article is a printout  
25 purportedly from a news service written by somebody we

1 A. I don't believe I did.

2 Q. And when you said that, I take it you did say  
3 to Erin Kennedy something along the lines of why did the  
4 ACLU choose Dailey when I'm aware of schools that have  
5 even more difficult conditions; yes?

6 A. Yes.

7 Q. And in that connection you didn't say anything  
8 one way or the other about where those schools were?

9 A. No.

10 Q. And, in fact, the schools that you have  
11 personal knowledge about in the Fresno Unified School  
12 District, do students at those schools face more  
13 difficult conditions as you understand this sentence,  
14 that we have been discussing in this article?

15 A. The schools that I have direct knowledge of in  
16 Fresno Unified.

17 MR. STURGES: Objection, that's asking him to  
18 assume that the phrase in a newspaper article in which  
19 he didn't write pertaining to even more difficult  
20 conditions has a basis, in fact, and it calls for  
21 speculation, and I'm going to instruct him not to  
22 answer. You can ask him questions about the factual  
23 underpinnings of the article, but I'm not going to have  
24 the witness speculate as to what the newspaper reporter  
25 wrote in the article.

1 MR. JACOBS: I think the witness testified as  
 2 to what the witness told the reporter, so I think I'm  
 3 going to ask the witness to answer my question.  
 4 MR. STURGES: Could I have the question read  
 5 back, please?  
 6 (Record read back.)  
 7 MR. STURGES: It is my understanding that the  
 8 deponent previously testified that he did not say that  
 9 these other schools within the Fresno Unified School  
 10 District had even more difficult conditions, and that is  
 11 a phrase that's been inserted by somebody that is not  
 12 the deponent, and we are being asked to speculate as to  
 13 why that's in there.  
 14 MR. JACOBS: No, I don't think so.  
 15 Please answer.  
 16 MR. STURGES: The witness can, but I am not  
 17 going to let him speculate as to why something maybe in  
 18 the article.  
 19 MR. JACOBS: And just to be clear, I'm not  
 20 asking why something may be in the article. I'm asking  
 21 for your personal knowledge about these other schools  
 22 and whether the students, in fact, in those schools face  
 23 more difficult conditions whether or not you were  
 24 referring to those schools when you spoke with this  
 25 reporter.

1 MR. HERRON: Objection, vague and ambiguous.  
 2 MS. SPANGLER: Join.  
 3 THE WITNESS: Balderas Elementary School is a  
 4 school when I was there that was nine years old when I  
 5 first started, so you're talking about a relatively new  
 6 school. It was one of the state of the art schools. It  
 7 was the first state of the art school that was built in  
 8 Fresno Unified, approximately 10 years ago, so when  
 9 you're looking at facilities, they are not decrepit,  
 10 they are not run down. They are less than at that time  
 11 10 years old.  
 12 Turner Elementary School, Turner Elementary  
 13 School is another year round school. I believe it was  
 14 built in either the '40s or '50s. It was going through  
 15 and is currently going through modernization right now.  
 16 The other school that I was at would be Gibson  
 17 Elementary School. Now you're going back over six  
 18 years. It's hard for me to speculate now what that  
 19 looks like. At the time I was there I was a classroom  
 20 teacher. The condition was good. We shared facilities  
 21 with Bullard High School. We shared brand new softball  
 22 facilities, brand new baseball facilities. If you go  
 23 back even farther, now you're going back almost 10  
 24 years, and I don't know how relevant that would be at  
 25 this time.

1 (Short break taken.)  
 2 MR. JACOBS: Q. Mr. Gettman, what were the  
 3 other changes you had wanted to make to the November  
 4 2000 school report, the changes that were not accepted  
 5 by the district?  
 6 A. I believe under page three curriculum  
 7 improvement areas, efforts, and, I mean, we're going  
 8 back to October, so I'm trying to think if some of the  
 9 changes may have been made, but I don't believe all of  
 10 them were. The PTA at this point in time, they had, it  
 11 wasn't quite sure what they were going to be providing  
 12 for, so I think that was one of the things that I had  
 13 wanted changed. Again, I'm trying to go back quite a  
 14 long time.  
 15 I believe over the -- when we're talking about  
 16 the student support services, we are an inclusion site.  
 17 I had asked the district if there were any more updated  
 18 parent survey results than '98, and there were not.  
 19 I'm not sure where we'll be or would be in  
 20 this, but I believe there was something that was talked  
 21 about more than what this was as far as the  
 22 extracurricular activities. I don't see in here just  
 23 looking really quickly where that would have gone, and I  
 24 believe there was something in that because when I went  
 25 through there was a list of activities that the school

1 was participating in and some of those activities had  
 2 changed over the years, but had never been updated and  
 3 those are just general ones off the top of my head.  
 4 Q. As of the writing of this report, I take it  
 5 that the school had not yet been designated as an IIUSP  
 6 school; is that correct?  
 7 A. When this was turned in, I'm thinking it was  
 8 either the end of September or October, and I believe we  
 9 did not find out officially until the end of October  
 10 when they printed the APA scores, and even then I don't  
 11 think it was finalized until the state finalized their  
 12 APA results, because we actually went down when the  
 13 official ones came out.  
 14 Q. With the designation of IIUSP, you've referred  
 15 to a couple of things that happened. One is that an  
 16 outside consultant is advising you on your, and the  
 17 state on your action plan, right?  
 18 A. Yes.  
 19 Q. The name of the consultant?  
 20 A. Action Learning Systems.  
 21 Q. Action Learning Systems personnel, have they  
 22 come to Dailey and visited you?  
 23 A. Yes, they have.  
 24 Q. They met with teachers?  
 25 A. Yes, they have.

- 1 Q. Met with parents?  
 2 A. Yes, they have.  
 3 Q. Met with students?  
 4 A. There were student surveys done. I don't know  
 5 if they directly met with students.  
 6 Q. Student surveys of what?  
 7 A. Some of them had to do with curriculum, some of  
 8 them had to do with safety, some of them had to do with,  
 9 you know, staff, how staff treats you, those types of  
 10 things.  
 11 Q. Was there any, has there been an output yet of  
 12 any sort from Action Learning?  
 13 A. Action Learning Systems, specifically?  
 14 Q. Yes, some kind of a report, a summary of the  
 15 survey results, anything like that?  
 16 A. Yes, we do.  
 17 Q. What have they delivered to you?  
 18 A. Basically results by area, broken down by  
 19 teacher, students and parents and each of the different  
 20 areas and concerns. It's broken up into strongly agree,  
 21 agree, disagree, strongly disagree, so there's those  
 22 different categories and gives percentages of people or  
 23 responses in each.  
 24 Q. Have there been any other deliverables from  
 25 Action Learning?

- 1 A. It would have been our SAT-9 scores and our  
 2 testing information.  
 3 Q. So in terms of the development of the action  
 4 plan itself, I take it that's an evolving document?  
 5 A. That one's not an evolving document. That was  
 6 used for data mining and getting data from our site to  
 7 look at barriers, and from those barriers you start  
 8 writing basically your exclusions to the barriers which  
 9 result into your action plan.  
 10 Q. The "that" that you were just referring to is  
 11 what? What were you just describing?  
 12 A. That would have been the process. That's  
 13 what's evolving is the process, the specific survey  
 14 information you're talking about is just the data to  
 15 bring along.  
 16 Q. So you were just describing the process that's  
 17 currently underway?  
 18 A. Yes.  
 19 Q. That will result in an action plan?  
 20 A. Yes.  
 21 Q. And the action plan has not yet been drafted?  
 22 A. Yes, it has.  
 23 Q. It has been drafted?  
 24 A. There is a rough draft.  
 25 Q. And that's been delivered to you?

- 1 A. Yes, it has.  
 2 Q. Has there been any other external involvement  
 3 in the school triggered by its designation as an IIUSP  
 4 school?  
 5 A. Specifically like district involvement?  
 6 Q. District, state, independent operation.  
 7 A. The team that's working on writing the plan is  
 8 made up of community and district members as well as  
 9 site people.  
 10 Q. That's through the Action Learning process?  
 11 A. Right.  
 12 Q. They drive the process, but involve other  
 13 people in it?  
 14 A. Right.  
 15 Q. And has there --  
 16 A. They're a facilitator.  
 17 Q. They're a facilitator. Okay. Back to  
 18 textbooks and instructional materials for a minute.  
 19 With respect to replacement cycles for  
 20 textbooks, do you have a practice, policy or procedure  
 21 with respect to replacing textbooks from time to time?  
 22 I'm thinking separately from adoption cycles. Just this  
 23 textbook is too old, we need to buy a new one?  
 24 A. Or if it's stolen, yes, that would come back in  
 25 because it was lost or stolen or defaced, yeah, there

- 1 would be a process.  
 2 Q. What is that?  
 3 A. It would be through the teacher requesting  
 4 another book from the resource lab teacher.  
 5 Q. And how about with, and that's a physical  
 6 condition issue that you were just answering, correct?  
 7 It's lost or it's defaced?  
 8 A. Or stolen, yes.  
 9 Q. Or stolen. Okay. So it is your policy,  
 10 practice and procedure to replace defaced textbooks at  
 11 Dailey Elementary?  
 12 A. That would be my policy.  
 13 Q. And, in fact, you have, to the best of your  
 14 knowledge, you have a procedure in place and the  
 15 resources to make that achievable?  
 16 A. Right, and if she had a question she would ask  
 17 me in regards to replacement.  
 18 Q. Now, what about the age of the content in a  
 19 textbook? Do you have any practice policy or procedure  
 20 with respect to aged textbooks in terms of their  
 21 content?  
 22 A. Is there a policy on Dailey campus? There,  
 23 there is not.  
 24 Q. Is there a practice, an informal practice even  
 25 if not a policy?



1 A. Normally what you would do is if a new adoption  
2 has come in, those can be stamped discarded and they're  
3 sent down to the warehouse to be discarded. They can be  
4 kept on site too as a supplement or resource to be used,  
5 so I mean, sometimes the books are stamped "discard" and  
6 they're given to the kids to take home.

7 Q. In this case they are being replaced by a  
8 newly-adopted textbook, correct?

9 A. Yes.

10 Q. Is there ever a case where -- strike that.

11 Are there cases where because you're not  
12 tracking an adoption cycle, textbooks that have content  
13 that has become in your professional judgment out of  
14 date are nonetheless the primary textbooks that are  
15 being used on campus?

16 MR. HERRON: Objection, vague and ambiguous.

17 THE WITNESS: Can you clarify?

18 MR. JACOBS: Q. Well, let's -- maybe by way  
19 of an example. You have a social studies textbook and  
20 it's, let's just say more than five years old, the world  
21 has changed, but the, but because the textbook is in  
22 satisfactory physical condition, you face an issue  
23 whether to replace it in advance of the adoption of a  
24 new textbook. What's your policy, practice and  
25 procedure with respect to that circumstance?

1 textbook?

2 A. Yes.

3 Q. So if you're in your sixth year of a textbook  
4 adopted in 1994, you would buy the edition that you  
5 bought of that textbook in 1994, if you were buying new  
6 copies?

7 A. If I were buying new copies, that's what I  
8 would do.

9 Q. Is the, in fact, for the textbooks at Dailey,  
10 have they followed an adoption cycle no greater than  
11 seven years?

12 Put it a little differently, do you have any  
13 textbooks that you're using at Dailey as the, and I  
14 guess I need to qualify this, as the primary textbook  
15 that is more than seven years old?

16 A. Teachers should be using the adopted texts.  
17 There are teachers that have used non-adopted texts or  
18 have chosen to what we have found out to use extremely  
19 old texts that have been in their rooms for a long time.

20 Q. In your judgment does the district's adoption  
21 practices in any way contribute to that circumstance?

22 MR. HERRON: Objection, vague and ambiguous.

23 MS. SPANGLER: Join.

24 THE WITNESS: No, I don't believe so.

25 MR. JACOBS: In your judgment do resource

1 A. Are you asking if we replace it with the same  
2 textbook or we replace it with something else?

3 Q. Well, if I understand the adoption cycle  
4 correctly, adoption cycles are not linked to the 2000  
5 edition of a social studies textbook that was adopted in  
6 1995, by being updated periodically, it's linked to the  
7 adoption of basically a new and different textbook; is  
8 that incorrect?

9 A. Most are on a seven-year cycle, and what  
10 normally happens is it's voted on in the district. It's  
11 adopted in the district and it's purchased. Until the  
12 next adoption comes around any replacements that you  
13 would do would be based upon the current adoption that's  
14 being used in the classrooms or in the school district.

15 MR. STURGES: Off the record.

16 (Discussion off the record.)

17 MR. JACOBS: Q. As I understand your last  
18 answer, it is your understanding of the policy, practice  
19 or procedure of the Fresno Unified School District to  
20 put textbooks on a seven-year adoption cycle, correct?

21 A. Yes.

22 Q. If you're in between adoption cycles and you  
23 are buying new copies of a textbook that has been  
24 previously adopted, you buy the copy that was issued as  
25 of the year of the first purchase of that adopted

1 constraints in any way contribute to that?

2 MR. HERRON: Same objection.

3 MS. SPANGLER: Join.

4 THE WITNESS: No, I do not.

5 MR. JACOBS: Q. So to put that last one  
6 conversely, you're not aware of a situation in which a  
7 teacher is committed to using a particular textbook and  
8 would like to buy the newer version, but has not been  
9 able to because of a lack of budgetary allotment from  
10 the Dailey school administration?

11 A. No.

12 Q. And just to tie this down, as a matter of fact,  
13 the district has in each case in which you're aware of  
14 followed no more than a seven-year adoption cycle with  
15 respect to textbooks?

16 A. I believe they have not, or they have followed  
17 that seven years. I'm not aware of them going beyond  
18 that.

19 Q. And you're not aware of an issue with respect  
20 to the use of an adopted textbook in the classrooms that  
21 has not yet been supplemented by a new adoption and is  
22 more than seven years old?

23 A. Repeat that one more time.

24 Q. As I understood your testimony, you said that  
25 some teachers might be using earlier adopted textbooks

1 even though there's been an adoption, correct?  
 2 A. Yes.  
 3 Q. They just like that old textbook for some  
 4 reason, and they think it's effective?  
 5 A. Yes.  
 6 Q. The other case in which a teacher could be  
 7 using an older textbook is where there was an adoption  
 8 more than seven years ago and the district has not yet  
 9 adopted a new textbook, at least hypothetically. Do you  
 10 understand that possibility?  
 11 A. Whatever the last current adoption was should  
 12 be the adoption that they were using.  
 13 Q. And you're not aware of any issue with respect  
 14 then to the textbooks in use at Dailey being out of date  
 15 because the district has not in the last seven years  
 16 adopted a new textbook?  
 17 A. I'm not aware of that.  
 18 MR. JACOBS: I don't have any further  
 19 questions.  
 20 FURTHER EXAMINATION BY MS. STRONG  
 21 Q. Speaking in the context of your experience at  
 22 Dailey, you view it as your responsibility or your  
 23 staff's responsibility to bring to the attention of  
 24 either the district or the proper individual any  
 25 problems with the HVAC system, correct?

1 A. I view it that it is part of my responsibility  
 2 and my staff's responsibility. I believe the district  
 3 also has the responsibility as well.  
 4 Q. But as far as bringing it to the attention,  
 5 identifying the problem and bringing it to the attention  
 6 of someone who can repair or address the problem, you  
 7 believe it's you or your staff's responsibility on site  
 8 to take care of that?  
 9 A. Absolutely.  
 10 Q. Okay. You also believe speaking in the context  
 11 of your experience at Dailey Elementary that it is your  
 12 responsibility or your staff's responsibility to address  
 13 any problems that you may have with bathroom access at  
 14 the school, correct?  
 15 A. Yes.  
 16 Q. And you believe that it is either your  
 17 responsibility or your staff's responsibility to address  
 18 any problems there are with any textbook availability  
 19 issues at your school, correct?  
 20 A. Yes.  
 21 Q. And in addition you believe that it's your  
 22 responsibility or your staff's responsibility at your  
 23 school to address any problems that you have at your  
 24 school regarding supplies; is that correct?  
 25 A. It would start on the site level, yes.

1 Q. You would identify the problem, or it's your  
 2 staff's responsibility to identify any problem with  
 3 supplies on campus; that would include papers, pencils  
 4 and pens, for example?  
 5 A. Yes.  
 6 Q. And based on your experience at Dailey  
 7 Elementary, you believe that there are means in  
 8 existence to, in existence sufficient to address any  
 9 problems regarding the HVAC system, for example,  
 10 correct?  
 11 MR. JACOBS: Objection, vague.  
 12 THE WITNESS: Can you clarify?  
 13 MS. STRONG: Q. Based on your experience at  
 14 Dailey Elementary, you believe that there are means in  
 15 existence sufficient to address any problems that arise  
 16 with respect to the HVAC system, correct?  
 17 A. I believe that they start at the site and then  
 18 we have means on the site to address those issues.  
 19 Q. And correct the problems?  
 20 A. Right.  
 21 Q. Okay. And do you believe that there are means  
 22 in existence that are sufficient to address any problems  
 23 you have with bathroom access at the campus, correct?  
 24 A. Yes.  
 25 Q. You also believe that there are means in

1 existence to address any problems that may arise with  
 2 respect to textbook availability or instructional  
 3 materials availability on the campus as well, correct?  
 4 A. Yes.  
 5 Q. And you believe that there are means in  
 6 existence sufficient to address any problems that may  
 7 arise with respect to access to any supplies necessary  
 8 on the campus at Dailey Elementary, correct?  
 9 A. Yes.  
 10 FURTHER EXAMINATION BY MR. JACOBS  
 11 Q. In connection with that last string of  
 12 questions when you were asked means sufficient to  
 13 address, what did you -- and you answered yes, what did  
 14 you mean?  
 15 A. I feel that any of those concerns would be  
 16 generated from the site. You can't assume that the  
 17 district office is going to know what's happening every  
 18 minute what's on the site, and it's the site's  
 19 responsibility to make people aware of those things and  
 20 use the means available on the site to address those.  
 21 Now, there's responsibility on the district once those  
 22 means have been used to do them, but it's generated from  
 23 the site.  
 24 Q. And the responsibility of the district in your  
 25 view is to do a good job within its resources and within

1 its resource constraints to address those problems,  
2 correct?

3 A. Absolutely.

4 Q. And based on your experience at Dailey at least  
5 so far the district has had the means and resources to  
6 address the particular problems you identified, correct?

7 A. Yes.

8 Q. But I take it that when you arrived at Dailey  
9 the problems in any of the categories that you were just  
10 asked about you hadn't identified as severe, correct?

11 MS. STRONG: Vague and ambiguous, objection.

12 THE WITNESS: What are you referring to?

13 MR. JACOBS: Q. You did not identify in the  
14 categories that you were just asked about by Ms. Strong,  
15 you had not identified any severe problems at Dailey  
16 upon your arrival, correct?

17 A. No, not upon my arrival.

18 Q. And even since then you haven't identified any  
19 severe problems in any of those categories, correct?

20 MS. STRONG: Objection. What constitutes --  
21 vague as to what constitutes severe.

22 MR. JACOBS: It's just as clear as means  
23 sufficient to address.

24 MS. STRONG: Well, misstates the testimony.

25 THE WITNESS: It's how you define severe.

1 problem?

2 A. Right.

3 Q. And so far at least, although you're hopeful,  
4 the jury is still out on whether the means are  
5 sufficient to actually address that problem, isn't it?

6 MR. HERRON: Objection, assumes prior  
7 testimony.

8 THE WITNESS: I would say that that carpet  
9 would have been done by now if I hadn't deferred it, so  
10 it was an administrative choice.

11 MR. JACOBS: Q. But they asked you to defer  
12 it, didn't they?

13 A. But it was still my choice.

14 Q. Is it your judgment in connection with the  
15 steps you're going to take under the IIUSP program that  
16 the necessary resources will in fact be available to you  
17 to solve the problems that the IIUSP designation has  
18 identified?

19 MS. SPANGLER: Objection, calls for  
20 speculation.

21 THE WITNESS: I think you would have to know  
22 what the barriers are to be able to identify that. The  
23 majority of the money from my IIUSP is going to parent  
24 development and staff development to get that common  
25 focus and focus upon the content standards as for where

1 MR. JACOBS: Q. Well, did you identify  
2 anything as severe?

3 A. I felt that there needed to be a fence at the  
4 front of the school. My children had gone for a year  
5 and a half without playground equipment. They needed  
6 that, and that the carpeting was not appropriate, and  
7 those were my three priorities.

8 Q. And the carpeting still hasn't been fixed, has  
9 it?

10 A. No, it hasn't. Yes, it has. Kind of both.

11 Q. Well it hasn't, has it?

12 A. No, it hasn't.

13 Q. And the fence, do you have any idea how much  
14 that cost?

15 A. No, but it's done.

16 Q. And the playground equipment, any idea how much  
17 that cost?

18 A. I believe it was 15, \$20,000.

19 Q. And how much is the carpeting going to cost, do  
20 you have any idea?

21 A. I have no idea.

22 Q. You identified serious problems, one is still  
23 yet to be addressed?

24 A. Right.

25 Q. You identified that one as a very important

1 the majority of the money is going.

2 MR. JACOBS: Q. And just to be clear, when  
3 you answered with respect to Ms. Strong's questions that  
4 you thought that you were responsible in each of these  
5 categories, you view your responsibility as bringing to  
6 the attention of the district problems in each of these  
7 categories and following up to see that they are  
8 resolved with the aid and assistance of the district,  
9 correct?

10 A. Yes.

11 Q. And you are dependent for that on the district  
12 having the capability to do it and the resources to do  
13 it, correct?

14 A. Yes.

15 MR. JACOBS: Okay. Thank you.

16 MS. SPANGLER: I do have a question.

17 EXAMINATION BY MS. SPANGLER

18 Q. I hate to belabor the point. Do you think that  
19 there would be a more appropriate mechanism for  
20 identifying problems at the school site than having you  
21 and your staff identify the problems?

22 A. I'm trying to think if there would be. It  
23 would have to be --

24 MR. STURGES: Well, that's -- the very question  
25 is causing him to speculate as we sit here, and I think

1 it's kind of going beyond the -- we're really going into  
2 some speculative opinion testimony here. He can try to  
3 answer the question, but I'm going to object on those  
4 grounds.

5 MS. SPANGLER: Q. Who do you think is in a  
6 better position to identify problems at your school  
7 site, you and your staff or people who aren't on the  
8 school site?

9 A. I mean, obviously, it would be people that are  
10 on site because we know -- unfortunately, we may not  
11 have the expertise in certain areas and that's why you  
12 have to seek out that expertise to know if something's  
13 right or wrong.

14 Q. So when you talk about the expertise you mean  
15 like the expertise to repair the HVAC system?

16 A. Absolutely.

17 MR. JACOBS: I'm sorry. She opened the door.

18 FURTHER EXAMINATION BY MR. JACOBS

19 Q. I'll put it to you directly. Our allegation in  
20 this case aside from Dailey is that there needs to be a  
21 system of oversight and management at the state level as  
22 a safety net for schools in which either the district is  
23 not capable of responding to principals for whatever  
24 reason or principals and staffs aren't capable of  
25 initiating the action item.

1 Have you formed any judgment at all on whether  
2 such a system of oversight and management would be  
3 beneficial to the students based on your professional  
4 experience in the Fresno Unified School District?

5 MR. HERRON: Objection, incomplete and improper  
6 hypothetical and calls for speculation.

7 MS. SPANGLER: Join.

8 MR. STURGES: Also object on the grounds that  
9 it assumes there's no system of oversight in place.

10 THE WITNESS: So I can answer?

11 MR. JACOBS: Q. Yeah.

12 A. My fear of, this is going to sound very  
13 negative, of the state being involved in certain  
14 instances is that it takes away control from the local  
15 part, and the only way that the state would ever know  
16 what's happening on a day-to-day basis is if they are on  
17 every site every day to see what's going on because  
18 conclusions can't be drawn in regards to what's  
19 happening in a district if they come in and do a one-day  
20 or a one-week audit of records and then take that  
21 information. There's a lot of misinformation that can  
22 come from that, as well.

23 Q. And is there something in your experience that  
24 leads, in particular with respect to the last point  
25 about auditing that leads you to that concern?

1 A. I think that if you're looking at paper trails  
2 or any type of communication and if a person comes in to  
3 a site or into a district, they're talking to one or two  
4 or three or four people, and it's a very short period of  
5 time. How do you get a big picture of what's happening  
6 with 90,000 students in a district when you spend one  
7 week or three days talking to a few people, and a lot of  
8 information is on paper, and we all know that by news  
9 articles and things like that that the message can be  
10 misconstrued and manipulated, so the only way that  
11 you're going to have a good accountability is someone's  
12 going to have to be there all the time.

13 MR. STURGES: I'm sorry, but I have just two  
14 or three questions.

15 EXAMINATION BY MR. STURGES

16 Q. A little while ago you were asked some  
17 questions about whether it was your opinion that the  
18 school site had all the means available to it to fix any  
19 problems in various categories that it encountered,  
20 correct?

21 A. Yes, I was asked that.

22 Q. And you responded in the affirmative that the  
23 school site did have the means available to it, correct?

24 A. Yes.

25 Q. Was it your intent to say that the school site

1 had sole responsibility to fix such problems?

2 A. No.

3 Q. Is it your professional estimation that the  
4 school site should be able to rely on the school  
5 district for further assistance as a resource in  
6 correcting the problems that were requested?

7 A. Yes.

8 Q. Is it also your estimation that, if necessary,  
9 you can go to the, or the school district can go to the  
10 state for the resources necessary?

11 A. I'm not aware of that.

12 MR. STURGES: I'm only asking you to testify  
13 what you know about.

14 All right. No further questions.

15 MR. HERRON: May we stipulate or should we  
16 stipulate that copies of documents attached to the  
17 deposition can be used as originals?

18 The deposition will be signed under penalty of  
19 perjury, that the original be delivered to the office of  
20 Mr. Sturges. That the reporter's relieved of liability  
21 for the original.

22 That the witness will have, what, 30 days from  
23 the date of the transmittal letter to Mr. Sturges to  
24 review, sign, correct the deposition, and that  
25 Mr. Sturges shall notify all parties in writing of all

1 changes, and if there are no such changes communicated  
2 or signature made within that 30-day time period that  
3 any unsigned, uncorrected copy may be used for all  
4 purposes as if signed and corrected. Does that work?

5 MR. STURGES: So stipulated.

6 MR. JACOBS: I think the only matter that we  
7 need to stipulate to is that you don't have to maintain  
8 the exhibits. I think the rest of it follows, so I have  
9 no objection to it.

10  
11 -oOo-

12 I hereby declare under penalty of perjury that I have  
13 read the foregoing and it is true and correct to the  
14 best of my knowledge, including any corrections that I  
15 have made.

16 Dated: \_\_\_\_\_ at \_\_\_\_\_, California.

17 \_\_\_\_\_  
18 STEVEN ERNEST GETTMAN  
19  
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1 State of California )  
2 ) ss.

3 County of Fresno )

4 I, LISA BAIRD, a Certified Shorthand Reporter  
5 of the State of California, do hereby certify that the  
6 witness named in the foregoing deposition was by me duly  
7 sworn; that said deposition was taken at the time and  
8 place mentioned on the first page hereof.

9 That the said deposition was taken in shorthand  
10 by myself, a Certified Shorthand Reporter, and under my  
11 direction transcribed into the foregoing typewritten  
12 transcript, and that said transcript is a true record of  
13 the testimony given by the witness.

14 In Witness Whereof, I have hereunto set my hand  
15 and affixed my signature at my office in Fresno,  
16 California, on March 21, 2001.

17 \_\_\_\_\_  
18 LISA BAIRD, C.S.R. NO. 7937  
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