

SUPERIOR COURT OF THE STATE OF CALIFORNIA
CITY AND COUNTY OF SAN FRANCISCO

ELIEZER WILLIAMS, et al.,)
)
 Plaintiffs,)
)
 vs.) No. 312 236
)
STATE OF CALIFORNIA, DELAINE)
EASTIN, State Superintendent)
of Public Instruction, STATE)
DEPARTMENT OF EDUCATION, STATE)
BOARD OF EDUCATION,)
)
 Defendants.)

STATE OF CALIFORNIA,)
)
 Cross-Complainant,))
)
 vs.)
)
SAN FRANCISCO UNIFIED SCHOOL)
DISTRICT, et al.,)
)
 Cross-Defendants.))

DEPOSITION OF PATRICIA J. GRAY
San Francisco, California
Thursday, May 24, 2001

Reported by:
RACHEL FERRIER
CSR No. 6948
Job No. 847975

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 10 EASTIN, State Superintendent)
 11 of Public Instruction, STATE)
 12 DEPARTMENT OF EDUCATION, STATE)
 13 BOARD OF EDUCATION,)
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 15 Defendants.)
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 17 STATE OF CALIFORNIA,)
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 19 Cross-Complainant,)
 20)
 21 vs.)
 22)
 23 SAN FRANCISCO UNIFIED SCHOOL)
 24 DISTRICT, et al.,)
 25)
 Cross-Defendants.)

Deposition of PATRICIA J. GRAY, taken on
 behalf of Defendant State of California at 275
 Battery Street, 26th Floor, San Francisco,
 California, beginning at 9:30 a.m. and ending at
 4:00 p.m., on Thursday, May 24, 2001, before
 RACHEL FERRIER, Certified Shorthand Reporter
 No. 6948.

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 2
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1 San Francisco, California, Thursday, May 24, 2001
 2 9:30 a.m. - 4:00 p.m.
 3
 4
 5 PATRICIA J. GRAY,
 6 being first duly sworn, was examined and testified as
 7 follows:
 8
 9 EXAMINATION
 10 BY MR. ROSENTHAL:
 11 Q Morning, Ms. Gray. My name is Michael
 12 Rosenthal, and I'm an attorney representing the State of
 13 California in this action.
 14 Can you please state and spell your name for
 15 the record, please.
 16 A My name is Patricia James Gray,
 17 P-a-t-r-i-c-i-a, J-a-m-e-s, G-r-a-y.
 18 Q Have you ever had your deposition taken before?
 19 A I have.
 20 Q Can you tell me in connection with what kind of
 21 proceeding that was?
 22
 23
 24
 25 Q Was that your only other deposition?

1 A Yes, it was.
 2 Q Approximately how long ago was that?
 3 A 1988.
 4 Q I'm just going to go over a few basic rules.
 5 You have been through this process before, but it's been
 6 a few years since you had your deposition taken.
 7 Anyway, basically what this is is I'm going to
 8 ask you a series of questions, and I'm going to ask you
 9 to provide some answers to me. And we have some other
 10 counsel sitting here as well, and they may have some
 11 questions after I'm finished as well.
 12 And do you understand that your testimony will
 13 be given under oath, and even though we are sitting here
 14 in an informal setting that your testimony will have the
 15 same force and effect as if you were testifying in a
 16 court of law?
 17 A Yes.
 18 And I would like to correct that the year of
 19 the deposition was '89.
 20 Q Great. Thank you.
 21 Do you understand that you are also subject to
 22 all penalties for perjury for giving false testimony?
 23 A Yes.
 24 Q So you understand that it's important to
 25 testify fully and completely here today; right?

1 A Yes.
 2 Q Is that correct?
 3 A Yes.
 4 Q Great. Thanks.
 5 Sitting next to us we have our court reporter
 6 who's writing down everything we say. And the end of
 7 this process, she will provide you with a written
 8 transcript of everything that was said here today. And
 9 you will have an opportunity to review that and make any
 10 changes that you feel are necessary to it.
 11 Do you understand that?
 12 A I do.
 13 Q Do you also understand that if you do make any
 14 changes, any of the attorneys here will have the
 15 opportunity to comment on that at trial or any other
 16 proceeding?
 17 A Yes, I understand.
 18 Q It's also important that you try to answer my
 19 questions verbally, since the court reporter is trying
 20 to take this all down. She can't record things like
 21 nodding your head or shaking your head and things like
 22 that.
 23 Do you understand that?
 24 A I understand.
 25 Q It's also hard for the court reporter to get

1 everything down when there's more than one person
 2 speaking at once. So if you -- if we can have the
 3 agreement that, you know, before you give your answer
 4 you let me finish my question, and I promise that I
 5 won't go on to my next question until you give me your
 6 complete answer.
 7 Can you give me that agreement?
 8 A I will try really hard.
 9 Q So will I.
 10 It's also important that you listen to my
 11 questions carefully. If you don't understand a question
 12 I ask, just let me know and I will rephrase the
 13 question.
 14 Do you understand that?
 15 A I do.
 16 Q And if you provide me with an answer to a
 17 question I ask, I'm going to assume that you understood
 18 the question. Is that okay?
 19 A It's okay.
 20 Q Also, if you are not sure about the answer to a
 21 question, I don't want you to guess at an answer. But
 22 if you can give me, you know, your best estimate, that's
 23 the kind of answer I would be looking for.
 24 Do you understand that?
 25 A I understand.

1 Q Great.
 2 Also, if you need to take a break at any point,
 3 if you want to go to the bathroom, get some more water,
 4 anything like that, just let me know and that shouldn't
 5 be a problem. We will try to take breaks. I don't know
 6 what everybody's procedure has been, but we will try an
 7 hour. We can go longer, we can go shorter, depending on
 8 how you feel and how everybody else is holding up.
 9 A Okay.
 10 Q If there's a question, if you can give me your
 11 answer first and then we can take a break.
 12 A I will do that.
 13 Q Okay. Also, if at any point during today's
 14 deposition you recall some information that would have
 15 been responsive to a question I asked you earlier, just
 16 let me know and we can go back to that area and you can
 17 give me whatever additional information you have
 18 remembered. Is that all right?
 19 A That's fine.
 20 Q Those are the basic ground rules. Do you have
 21 any questions about any of those?
 22 A No.
 23 Q Okay. Great.
 24 Is there any reason that you might not -- is
 25 there any reason why you would not be able to give your

1 best testimony today?
 2 A No, there's not.
 3 Q Are you taking any medication?
 4 A Yes. [REDACTED]
 5 That shouldn't affect my answers.
 6 Q Have you recently consumed any alcohol or
 7 anything?
 8 A No.
 9 Q Well, that's good. I tend not to drink in the
 10 morning myself.
 11 Do you suffer from any sort of disability that
 12 would affect your ability to remember?
 13 A No.
 14 Q Great.
 15 Did you -- have you spoken to anybody in
 16 connection with preparing for this deposition today,
 17 other than your counsel?
 18 A No.
 19 Q Can you tell me what you did to prepare for
 20 this deposition.
 21 A I went over some responses that I had written
 22 some time ago to refresh myself. I got a copy of a
 23 movie policy, which I knew might be of interest, and
 24 made sure that I read that to make sure I knew what was
 25 in that. I met with -- oh, you said other than meeting

1 with counsel?
 2 Q Right.
 3 A That's it.
 4 Q You mentioned some written responses. What do
 5 you mean by that?
 6 MS. PERRIN: If I can interject, Counsel, we had a
 7 conversation about the allegations. I won't allow her
 8 to testify as to the contents of that conversation, but
 9 that's to what she's referring, I believe. So we will
 10 have to end the questioning there.
 11 THE WITNESS: Right.
 12 MR. ROSENTHAL: The written responses, that's what
 13 you are referring to?
 14 MR. OJEDA: Yeah.
 15 BY MR. ROSENTHAL:
 16 Q So those are written responses you went over
 17 with counsel?
 18 MR. OJEDA: Again, I'm going to instruct her not to
 19 answer any further. She's talking about a conversation
 20 that she had with me. So you can ask her about anything
 21 else that she did to prepare other than the conversation
 22 that we had.
 23 MR. ROSENTHAL: Right. I'm not asking about her
 24 conversation; I'm asking -- she mentioned she reviewed
 25 written responses. I'm not asking about any sort of

1 conversation you had about it. I'm not trying to get
 2 into that.
 3 Q You mentioned you reviewed some written
 4 responses?
 5 A My boss had asked me to respond to some things
 6 a year ago, and I reviewed that -- those.
 7 Q When you say your boss, who is that?
 8 A John Quinn.
 9 Q Do you know his --
 10 A Associates -- high school and high school
 11 support.
 12 Q Did you review the written responses you
 13 mentioned on your own for preparing for this deposition?
 14 A I did some time ago.
 15 Q Approximately how long ago?
 16 A I don't -- I can't recall exactly. It was when
 17 I was told that I eventually was going to be deposed.
 18 Q Do you have copies of those written responses
 19 with you today?
 20 A No, I don't.
 21 Q Do you recall when you prepared those written
 22 responses?
 23 A Not exactly.
 24 Q But you said it was approximately a year ago?
 25 A Yes, maybe a little more.

1 Q You also mentioned that you reviewed a copy of
 2 a movie policy?
 3 A Yes.
 4 Q Can you tell me about that movie policy.
 5 A I'm not sure what the question is. What do you
 6 want to know about the movie policy?
 7 Q Is it a district policy?
 8 A No, it's a school movie policy that, when it
 9 was brought to my attention that movies were being shown
 10 that may not be applicable to the standard state
 11 district standards and course content, I wrote a movie
 12 policy for the school and for the teachers and
 13 substitutes.
 14 Q Is it a policy that you drafted?
 15 A Yes, it is.
 16 Q Do you recall when you drafted the policy?
 17 A As soon as it was brought to my attention that
 18 movies were being shown.
 19 Q Do you recall when that was, approximately?
 20 A No.
 21 Q And did you bring a copy of that policy with
 22 you today?
 23 A No, I didn't.
 24 MR. ROSENTHAL: Counsel, it sounds like the written
 25 responses and the movie policy would be responsive to

1 the document requests served by plaintiffs, actually,
 2 and I ask that those be produced.
 3 MR. OJEDA: They may be. We will have to identify
 4 them and see if there are any privileges that apply.
 5 MR. ROSENTHAL: That's fine. But I don't think -- I
 6 haven't seen them in the document production.
 7 MS. LHAMON: I haven't seen them. I would love to
 8 see them, thanks.
 9 BY MR. ROSENTHAL:
 10 Q Did you review any other documents in
 11 preparation for this deposition?
 12 A No.
 13 Q Did you meet with anybody else besides the
 14 counsel?
 15 A No.
 16 Q I'm going to cover some questions in your
 17 background. We will start with your educational
 18 background. If you can just start with your highest
 19 level of education and work backwards to just telling me
 20 where you graduated high school.
 21 A I have a Master's degree in education
 22 administration, also with additional studies for an
 23 administrative credential.
 24 Do you want to know from where?
 25 Q Yes, please.

1 A The Master's degree is from Tennessee State
 2 University in Nashville, Tennessee. The administrative
 3 credential is from Cal State Hayward. Actually, the
 4 first tier is from Cal State Hayward; the second tier is
 5 from Saint Mary's College.
 6 My Bachelor's is from Florida A&M University,
 7 Tallahassee, Florida, Bachelor of Arts in Mathematics.
 8 And I finished high school at Presentation High School,
 9 San Francisco, California.
 10 Q Great.
 11 Can you tell me when you received your B.A.
 12 A 1961.
 13 Q And how about your --
 14 A I'm sorry. B.A. 1964.
 15 Q '64. So you are younger than you thought.
 16 And your Master's degree?
 17 A 1987.
 18 Q And you also mentioned an administrative
 19 credential.
 20 A 1990 -- I'm sorry?
 21 Q It's okay.
 22 A 1996.
 23 Q You mentioned there was a first tier and second
 24 tier. Can you describe that, the difference for me.
 25 A When you get your first tier, your first level,

1 you get that before you can be appointed as an
 2 administrator. Then once you get an appointment, you
 3 have to go for your second tier. That's just the way it
 4 works.
 5 Q So are those two separate credentials?
 6 A Yes. One is like a preliminary administrative
 7 credential, and the second one is permanent.
 8 Q Okay. So when you say 1996, that's for the
 9 permanent credential?
 10 A Actually, no. '96 was the Tier 1 I think, and
 11 '97 was Tier 2.
 12 Q Okay. Do you have any teaching credentials?
 13 A I do. I have a single-subject mathematics
 14 credential, California.
 15 Q And when did you first get that?
 16 A Preliminary in 1993 and -- '95 I think is when
 17 I got the permanent one. That has to be renewed every
 18 five years, but --
 19 Q Did you renew that in 2000 or --
 20 A Actually, I had to renew it when I got my
 21 administrative credential, because the administrative
 22 expires the same time as the single subject. So
 23 whenever it was that I got the administrative, '97, was
 24 when it -- the last time it was renewed.
 25 Q So your single-subject mathematics credential

1 is still current today?
 2 A Yes, it is.
 3 Q Do you have any other teaching credentials?
 4 A No.
 5 Q Okay. Now, we will move on to some work
 6 experience. Again, why don't we start with your most
 7 recent position and work your way backwards, if you just
 8 want to list them for me first.
 9 MR. OJEDA: How far do you want to go back?
 10 BY MR. ROSENTHAL:
 11 Q Everything that's education-related.
 12 A Okay. Currently principal of Balboa High
 13 School, appointed June 28th or so, 1999 to the present.
 14 '98 to '99 I was principal of the San Francisco
 15 49'ers Middle School Academy, which was supposedly in --
 16 being put together, which never did get started.
 17 And then prior to that, '93 to '96, taught math
 18 at Hilltop School for Pregnant Minors on Florida Street
 19 here in the City.
 20 Prior to that for nine years worked for a
 21 health care company as an -- senior education specialist
 22 and product manager.
 23 Prior to that I taught high school in
 24 Nashville, Tennessee in both public and private high
 25 schools.

1 And prior to that I taught a half-year in
2 Florida.

3 Q That was a high school in Florida at which you
4 were teaching?

5 A Middle school.

6 Q When you were teaching in Florida and
7 Tennessee, you were teaching math?

8 A I was teaching math one year and physics one
9 year.

10 Q Did you hold any education-related position
11 between 1996 and 1998? There's a little gap of time
12 there.

13 A I was assistant principal at Balboa High
14 School.

15 Q So after teaching at the Hilltop School for
16 Pregnant Minors, that's when you became assistant
17 principal at Balboa?

18 A I took the position at Balboa as assistant
19 counselor. Then in six weeks I was asked to become the
20 dean. Then in another six weeks I was asked to become
21 the assistant principal. So I took the position as
22 counselor, but became assistant principal in about 12
23 weeks.

24 Q And you remained there until 1998, at which
25 point you went to San Francisco 49'ers Middle School

1 to you?

2 A Yes, they do.

3 Q Can you describe for me what Mr. Barone's
4 responsibilities are.

5 A He's responsible for the -- assisting me with
6 the development of curriculum and the integration of
7 technology into classroom instruction. He coordinates
8 the department heads and their meetings. He's in charge
9 of the technology integration specialist. That's it.

10 Q Nothing else?

11 A Well, a lot of things, but that's the umbrella
12 that everything's under.

13 Q How about Mr. Chung?

14 A Mr. Chung is responsible for the buildings and
15 grounds. When things break, making sure they get fixed,
16 interacting with facilities and planning. He also is in
17 charge of the budget -- well, works with me on the
18 budget. He's in charge of the school site council,
19 parent involvement.

20 Q Anything else?

21 A And all things related thereto.

22 Q Fair enough.

23 How about Mr. Rachesky?

24 A Mr. Rachesky is in charge of the counselors,
25 the deans, which is discipline and college counseling,

1 Academy?

2 A Yes. And I went to 135 Van Ness to start to
3 try to open the academy.

4 Q Can you describe for me your current job
5 responsibilities as principal of Balboa High School.

6 A As principal of Balboa High School I'm
7 responsible for everything. I have to delegate,
8 however, those responsibilities to -- I have three
9 assistant principals: One in charge of curriculum
10 instruction and technology; one in charge of buildings,
11 grounds and administration; and one in charge of pupil
12 personnel services.

13 I'm responsible for the instructional
14 leadership as well as everything else that happens at
15 the school.

16 Q You mentioned three assistant principals?

17 A Yes.

18 Q Can you tell me their names.

19 A The assistant principal in charge of curriculum
20 instruction and technology is Ted Barone, B-a-r-o-n-e;
21 the assistant principal in charge of buildings and
22 grounds and administration is Gilbert Chung, C-h-u-n-g;
23 and the assistant principal in charge of pupil personnel
24 services is Ron Rachesky, R-a-c-h-e-s-k-y.

25 Q And each of these individuals report directly

1 community-based organizations that deal with pupil
2 services, teen clinic. He's not in charge of it, but
3 they -- he's the liaison between teen clinic and us,
4 which is housed on campus.

5 And all three do other duties, as assigned by
6 the principal.

7 Q Okay. Now, you mentioned earlier that from
8 1998 to 1999 you were at the San Francisco 49'ers Middle
9 School Academy, and you were hired as principal?

10 A Right.

11 Q But you said that that school never was
12 established?

13 A It never opened, right.

14 Q Can you just describe for me what your
15 responsibilities were there.

16 A First of all, it was a -- I had an office
17 within the middle school operations assistant
18 superintendent's office, and I recruited students, 40.
19 It eventually got to be 40 students. I recruited 40
20 students, about 27 boys and 13 girls, at-risk students
21 from the middle schools here in the City.

22 I went out to the schools. I got referrals
23 from teachers, principals, community-based mental health
24 organizations, and I would meet with the students, meet
25 with the parents, take the students up to the site. I

1 gave them little signing bonuses, which I got from the
2 49'er Academy in East Palo Alto, such as pencils, pens,
3 T-shirts, things like that, and I took them to
4 foundation affairs, to 49'er games and things like that.

5 Until it was obvious that the school was not
6 going to open; then I went out to the middle schools and
7 assisted with the students who were having problems that
8 I had recruited.

9 Q Do you have an understanding as to why the
10 school never opened?

11 A I never understood why it didn't open.

12 Q Can you tell me how you obtained the position
13 at your current position at Balboa.

14 A I was recommended by the associate
15 superintendent of middle schools and -- to the board and
16 also by Linda Davis, who was the acting superintendent
17 in interim between Rojas and our current superintendent,
18 Arlene Ackerman.

19 Q And prior to being involved with the 49'ers
20 Academy, you mentioned that you were for a period of
21 time an assistant principal of Balboa?

22 A That's right.

23 Q Can you tell me what your job responsibilities
24 were in that capacity.

25 A I was assistant principal in charge of pupil

1 Q Okay. I'm going to move on now to some
2 information about Balboa High School itself.

3 Can you tell me what county it's located in.

4 A San Francisco.

5 Q And can you tell me what school district it's
6 located in.

7 A The San Francisco Unified School District.

8 Q Great.

9 Do you know who the principals were prior to
10 you becoming principal in June of 1999?

11 A I became principal in June of 1998.

12 Q 1998?

13 A Wait a minute. No, that's right.

14 Q You have been principal for two years now?

15 A Yes.

16 Q Almost two years?

17 A Almost two years.

18 Yes, I do know.

19 Q Can you tell me their --

20 A I can't name all of them, but I can name a few.

21 Q Can you tell me the principal who came
22 immediately before you?

23 A She was the principal that hired me, and that
24 was Elaine Khoury K-h-o-u-r-y, I think.

25 Q Do you know how long she was principal at

1 personnel services.

2 Q And that's the position that Mr. Rachesky
3 currently holds?

4 A Yes.

5 Q And were your responsibilities the same as his
6 currently are?

7 A They were.

8 Q Great.

9 Have you received any awards or honors during
10 your career in education, any that you recall?

11 A Many. But I only recall offhand right now two.
12 The latest was from the San Francisco Bar Association
13 for my work with them in their partnership with us. We
14 have a law academy. There are only two schools in the
15 city that have a law academy, and that's Balboa and
16 Mission. So I was given an award for that
17 collaboration.

18 And I recall one with the American Council of
19 Christians and Jews for some work that I did when I
20 worked for the health care company where I gave -- I
21 collected binders and things that the art teachers and
22 teachers could use. I recycled things that the company
23 didn't use to the school system.

24 Let's see. Give me a minute. Those are the
25 major ones.

1 Balboa?

2 A Yes, three years.

3 Q Do you know the principal before her?

4 A I do. Her name was Juliet Montevirgin.

5 Q Do you know how to spell that by any chance?

6 A I can guess.

7 Q Okay.

8 MR. OJEDA: We don't want you to guess. If you
9 know.

10 THE WITNESS: I don't know exactly how it was
11 spelled. Montevirgin.

12 BY MR. ROSENTHAL:

13 Q Okay. Can you tell me -- well, do you know if
14 Ms. Khoury is still a district employee?

15 A She is not.

16 Q Do you know where she's currently employed?

17 A She's employed in Boston, Massachusetts as an
18 assistant principal of a middle school.

19 Q Do you have an understanding as to why she left
20 Balboa?

21 A Do I have an understanding? I'm not sure what
22 the question is.

23 Q Well, I'm not asking if you know her exact
24 reasons, but did she ever tell you her reasons for
25 leaving Balboa?

1 A No, she did not.
 2 Q Have you ever heard anybody tell you what they
 3 thought the reasons were?
 4 A Yes. I've heard people say what they thought
 5 her reasons were.
 6 Q What did you hear?
 7 MR. OJEDA: I'm going to object on the grounds of
 8 relevance. We are getting into personnel matters. I
 9 don't see what that has to do with the issues in dispute
 10 here.
 11 BY MR. ROSENTHAL:
 12 Q You can answer the question.
 13 THE WITNESS: I don't understand. If you object --
 14 MR. OJEDA: Unless I instruct you not to answer, you
 15 can answer, to the extent that you have any information.
 16 THE WITNESS: Okay.
 17 Just that the district wasn't -- I heard that
 18 the district wasn't pleased with the way the school was
 19 progressing. The scores didn't improve, the staff --
 20 there was still a lot of staff turnover. The school had
 21 not stabilized. But I must say, that was all hearsay,
 22 just gossip.
 23 BY MR. ROSENTHAL:
 24 Q When you say, "the school had not stabilized,"
 25 what do you mean by that?

1 A The turnover, teacher turnover was still great.
 2 There was still a lot of suspensions, expulsions, and
 3 referrals, student discipline, you know, behavior
 4 problems.
 5 Q Just going back to the assistant principals for
 6 a moment, how long has Mr. Barone been assistant
 7 principal?
 8 A This is the end of his second year. He came
 9 with me. I hired him.
 10 Q And Mr. Chung?
 11 A Mr. Chung has been there four years. This is
 12 the end of his fourth year.
 13 Q And Mr. Rachesky?
 14 A Mr. Rachesky has been there two and a half
 15 years.
 16 Q Can you tell me approximately how many students
 17 attend Balboa?
 18 A The current CBEDS enrollment is 1,076.
 19 Q When you say, "CBEDS enrollment," what do you
 20 mean?
 21 A Every October, I'm not sure if it's the first
 22 or second Monday or Tuesday in October, there's a date
 23 assigned where there's a count made of the number of
 24 students at every school in the state, and that's called
 25 a CBEDS date. And in October our number was 1,076?

1 Q In October of 2000?
 2 A Yes.
 3 Q Can you tell me what grade levels are taught at
 4 Balboa.
 5 A Nine through twelve.
 6 Q Is the school on a multitrack system or
 7 year-round schedule?
 8 A No, it is not. It's just a 10-month schedule
 9 plus summer school.
 10 Q Can you tell me approximately when the school
 11 year begins and when the school year ends.
 12 A School year begins approximately October --
 13 well, the teachers -- I'm sorry, August. Around
 14 August 23rd for the teachers, and students arrive a few
 15 days later. And it ends this year on June 8th.
 16 Q Do you know how many instructional days there
 17 are in a school year?
 18 A I think 181.
 19 Q And you said summer school is also taught at
 20 Balboa?
 21 A Yes, it is.
 22 Q Can you tell me from what time to what time
 23 it's taught.
 24 A It's different each year, but this year it will
 25 be four weeks, from -- registration is on the 11th and

1 12th of June. Summer school begins on Monday,
 2 June 18th, and ends on Friday, July 13th, with the
 3 exception of July the 4th, from 8:00 in the morning
 4 until 2:30 in the afternoon.
 5 Q Is summer school taught every year at Balboa?
 6 A It has been, except for one when they were
 7 doing some remodeling, some wiring. And we took the
 8 9th grade over to -- and any other students over to
 9 Burton one summer.
 10 Q Is Burton another high school?
 11 A Yes, Phillip Burton High school.
 12 Q Can you describe for me the scheduling of
 13 classes for a particular day at Balboa. How are classes
 14 scheduled, is a better question?
 15 A Okay. We have what some people may call a
 16 modified block schedule. Each day there are five
 17 classes of the six classes that students take. So on
 18 Monday, sixth period is missed. On each day except
 19 Wednesday one class is skipped. Wednesday, two classes
 20 are skipped.
 21 And all classes are approximately minutes long.
 22 On Wednesdays the students get out at 2:24 for teacher
 23 common planning time. On other days the day ends --
 24 Monday, Tuesday, Thursday, Friday, the day ends at 3:15.
 25 Q You mentioned teacher common planning time?

1 A Yes.
 2 Q What's that?
 3 A Teachers get together and plan departmentally,
 4 or as departments, or what we call our small learning
 5 communities.
 6 Q And this is done on Wednesday afternoons?
 7 A Yes, from 2:20 to 3:30.
 8 Q Can you tell me how long Balboa has been on
 9 this modified block schedule.
 10 A This schedule, this is the first year it's been
 11 on that schedule. Balboa has been on a block schedule
 12 prior -- '96 to '98 -- actually, '96 through last year
 13 it was on a block schedule where the classes were -- the
 14 first three years were 90 minutes long, and then the
 15 next year they were an hour and 10 minute -- I mean,
 16 yeah, an hour and -- no, they were 110 minutes long.
 17 And then I changed it -- we changed it to 72
 18 minutes this past year and have promised the staff they
 19 will stay at 72 minutes for three years.
 20 Q Now, you mentioned that when Balboa was on a
 21 block schedule, that for some period of time there
 22 were 90-minute classes?
 23 A Yes.
 24 Q And how many classes were there per day?
 25 A Four.

1 Q And you also said that at some point classes
 2 were 110 minutes long?
 3 A Mm-hmm.
 4 Q Do you recall how many classes per day?
 5 A I don't.
 6 Q Can you tell me why the school changed from a
 7 block schedule to a modified block schedule?
 8 A I felt that the classes were too long for the
 9 students. I felt the classes were too long for the
 10 teachers. I didn't feel that we were maximizing our
 11 students' potential or our teachers' ability to teach
 12 them.
 13 I felt that an hour was too short for lab
 14 classes and art classes, but that the hour and 12
 15 minutes would allow for more, but not too much time.
 16 Q As a result of the change to the modified block
 17 schedule, are students receiving less instruction than
 18 they were before?
 19 A They are receiving more, in my opinion, because
 20 they are receptive. They are not tired and worn out
 21 from being in a class that long.
 22 Q And what do you base your opinion on?
 23 A I base my opinion on survey -- I surveyed the
 24 students, they like it much better. I surveyed the
 25 teachers, they like it much better. The halls are

1 clear. The students are in the classrooms and not
 2 roaming the halls because they were bored from being in
 3 a class too long. And 37 years of experience in
 4 education.
 5 Q And just based on actual minutes of
 6 instructional time, are students receiving more or less
 7 under the modified block schedule?
 8 A Actually, this year they received more because
 9 we banked a lot of time. That is, we were -- they were
 10 in class a lot longer, and so we were able to have more
 11 than the State-required number of minutes in class.
 12 Q You said you banked time?
 13 A Banked.
 14 Q What do you mean by that?
 15 A Means when you spend more time in class, then
 16 you have extra time that you can either continue to use
 17 or you can have staff development half-days, to use some
 18 of that banked time for your staff development.
 19 Q So any instructional time that's over the State
 20 requirements is --
 21 A Is called banked time, that's right.
 22 Q Does Balboa offer any honors or
 23 advanced-placement courses?
 24 A We do.
 25 Q Can you tell me what courses, such courses they

1 offer.
 2 A Right. Since I've been at Balboa, we have
 3 increased the number of honors and AP classes. We offer
 4 AP chemistry; AP European lit, which is 12th grade
 5 English; AP Spanish. Seems like there's something else.
 6 That's all I can think of right now.
 7 Q Is there math AP?
 8 A AP calculus. How could I forget that.
 9 Q I remember it well. Not my favorite class.
 10 Now, you mentioned that you increased the AP
 11 courses since you have been there. Why did you do that?
 12 A Because I felt that the students -- the
 13 students are very bright, and I wanted to afford the
 14 opportunity to them if they wanted to try the AP
 15 classes. And we have teachers who were willing to go to
 16 summer preparation workshops. It takes extra
 17 preparation to teach an AP class, and many teachers were
 18 willing to do that.
 19 Q Do you know why there were fewer AP courses
 20 taught prior to your arrival at Balboa?
 21 A I don't.
 22 Q Now, you mentioned that there were honors
 23 courses as well. Can you describe some of the honors
 24 courses you offer at Balboa.
 25 A Actually, I don't think we have honors classes

1 this year. Last year we offered honors for math
2 students to double up so that they could -- so that they
3 would be able to take AP calculus. Last year we had a
4 seventh period. This year we only have six periods.

5 There are teachers that are teaching --

6 MR. OJEDA: You answered the question. He just
7 asked about this year.

8 THE WITNESS: Okay.

9 BY MR. ROSENTHAL:

10 Q Can you tell me about the honors courses that
11 were offered last year.

12 A Just what I said about the math classes, to
13 allow the students to prepare for AP calculus.

14 Q Were there any other honors courses offered
15 last year?

16 A Not that I recall.

17 Q And can you tell me why the math honors course
18 is not being offered this year?

19 A Because we don't have the seventh period, which
20 allowed our kids to double up. We only have six
21 periods.

22 Q So how are students being prepared to take the
23 AP calculus course now?

24 A No special preparation is being made. We have
25 tutors, we have a math club, but no additional classes

1 with walkways, so it looks like one building. The front
2 building is -- has the main office on the first floor
3 and some classrooms, and classrooms all the way up, the
4 gymnasium.

5 There's an art wing that is no longer used,
6 it's by Balboa. It's used by the Bilingual Education
7 and Language Academy, known as BELA. There's the
8 auditorium part and with a little theater wing.
9 Auditorium little theater and classrooms.

10 Is that five? One, two, three, four -- there's
11 a part that connects the main -- the front building that
12 the main office is in with the art wing, and that's got
13 the cafeteria and clinic, teen clinic, and a special ed
14 room.

15 Q Can you tell me approximately the total number
16 of classrooms that are housed in all the buildings you
17 mentioned.

18 A No.

19 Q Do you have an estimate?

20 A No.

21 Q Are there any temporary classrooms located on
22 Balboa's campus?

23 A No.

24 Q You mentioned the art wing is no longer being
25 used by Balboa; it's being used by the Bilingual

1 are being offered to prepare them for the AP calculus.

2 Q Was taking the honors class required in order
3 to take the AP calculus class?

4 A I'm sorry?

5 Q Was the math honors class required prior to a
6 student taking the AP calculus class?

7 A No, it was not required. Because some students
8 are naturally talented, and if they have ability they
9 could get into the class.

10 Q Can you describe for me the school facilities
11 at Balboa, just the physical structures.

12 A It's five buildings, five acres, with a fence
13 around the front and chain link fence around the back
14 and a football field, built around a quad.

15 Q Do the five buildings have names?

16 A No.

17 Q Is there any way to refer to them?

18 A They don't have names.

19 Q Can you tell me what's contained in each one of
20 the buildings.

21 A They are all connected. Classrooms -- I think
22 that building that's on Onondaga and Cayuga, lengthwise
23 on Oneida, has science labs and computer labs, a library
24 and a basement that has -- of classrooms.

25 The front building -- they are all connected

1 Education and Language Academy. Where are art classes
2 currently being taught at Balboa?

3 A Room 210 and 309 and 141.

4 Q Can you tell me why the art wing is no longer
5 used by Balboa to teach art classes?

6 A The enrollment went down when we were using the
7 art wing; we had 15, 1600 students. And when the
8 enrollment went down, we had everybody spread out. And
9 I have six security guards, and the art wing is
10 isolated, and I just felt it was not safe to have it
11 open when we didn't need to have it open.

12 So I brought everybody over to the main
13 buildings and closed it off. So last year it wasn't
14 used at all, but this year I was asked if BELA could use
15 it. And I thought it was a waste of taxpayers' money
16 and everything else for it to be closed.

17 Q Do you recall when the art wing was first
18 closed?

19 A I closed it when I came for the school year
20 of '99-2000.

21 Q But art classes are still being offered at
22 Balboa?

23 A Oh, yes.

24 Q So it's had no effect on the offering of art
25 classes at Balboa?

1 A It has not.
 2 Q Can you tell me how many bathrooms are located
 3 on the Balboa campus?
 4 A I've never counted them.
 5 Q Do you know approximately how many there are?
 6 A I can try to remember where they are.
 7 Q Okay. Fair enough.
 8 MR. OJEDA: If you can estimate. But we don't want
 9 you to guess.
 10 THE WITNESS: I can estimate. Including the
 11 gymnasium, probably nine.
 12 BY MR. ROSENTHAL:
 13 Q Can you tell me where each one of those is
 14 located?
 15 A No.
 16 Q Do you know if -- can you give me a rough idea
 17 of where they are located?
 18 A Some on each floor. Of the three floors
 19 there's one -- actually, the basement, there's one in
 20 the basement. There's two -- there are two old --
 21 there's one in the lobby of the theater. I think there
 22 are two over by the little theater.
 23 There's one between the cafeteria and the
 24 health clinic, teen health clinic. Did I mention some
 25 on each floor, in each of the floors? And the gym.

1 Q Are there bathrooms in each of the five
 2 buildings you have described?
 3 A Yes.
 4 Q Are there separate boys' and girls' bathrooms
 5 in each of the five buildings?
 6 A Yes, they -- in the building between -- the
 7 building that contains the cafeteria and the teen health
 8 clinic, there's a boys' bathroom between them, not a
 9 girls. I guess there's boys' and girls' in the building
 10 that contains the little theater.
 11 MR. OJEDA: He's just asking you if there are both
 12 boys' and girls' in each building. You don't have to
 13 list all of them again.
 14 THE WITNESS: In each building except the building
 15 between -- between the cafeteria and the teen health
 16 clinic there's a boys'; otherwise, yes, there's boys'
 17 and girls'.
 18 BY MR. ROSENTHAL:
 19 Q Are all those bathrooms currently in use?
 20 A Yes, they are.
 21 Q Are you familiar with the IIUSP program?
 22 A I am.
 23 Q Does Balboa participate in that program?
 24 A We are an IIUSP school. We are actually a CSRD
 25 school, which means that we passed the first step of the

1 IIUSP process, which was the planning year. And we went
 2 directly and we got the CSRD grant, so we became a CSRD
 3 school.
 4 Q Can you tell me what CSRD --
 5 A Comprehensive School Reform Demonstration.
 6 Q And can you describe for Balboa's participation
 7 in that program.
 8 A Yes. We received a \$200,000, approximately, a
 9 year grant from the Comprehensive School Reform
 10 Demonstration grant.
 11 Q Do you have an understanding as to where that
 12 money came from?
 13 MR. OJEDA: I'm going to object on the grounds of
 14 relevance.
 15 BY MR. ROSENTHAL:
 16 Q You can answer.
 17 A It's a state grant for schools that are
 18 underperforming, is my understanding. It was written
 19 prior to my coming there.
 20 Q And what is the grant money being used for?
 21 A Literacy, increasing literacy in our students.
 22 Q And how is that being done?
 23 A Through teacher/staff development and classes.
 24 Q Do you have an understanding as to how Balboa
 25 qualified for the CSRD grants?

1 A As far as I know, they wrote the grant and it
 2 was approved.
 3 Q Do you know why?
 4 A No.
 5 Q Are you aware of any other programs that Balboa
 6 participates in regarding funding from state, local, or
 7 federal government levels?
 8 A We have a lot of grants, and I don't know them
 9 all offhand. We have a grant -- a wilderness and arts
 10 and literacy collaborative is a government grant.
 11 MR. OJEDA: If it's going to require a narrative --
 12 THE WITNESS: It will.
 13 MR. OJEDA: -- I'll instruct you not to continue.
 14 If you want to try to break it down, Counsel,
 15 but -- they received funding from all kinds of sources
 16 and pursuant to a lot of different grants, so that
 17 question might require a narrative.
 18 BY MR. ROSENTHAL:
 19 Q Well, I'll try to break it down.
 20 Can you tell me what state grants Balboa
 21 receives from the State of California?
 22 A Actually, I can't say which ones the State -- I
 23 cannot, except for the CSRD, because Mr. Barone --
 24 MR. OJEDA: That answers the question. Again, just
 25 try to listen to the question and answer what he's

1 asking you.
 2 BY MR. ROSENTHAL:
 3 Q Well, can you tell me then what grants you do
 4 recall? I'm not asking for a -- I won't limit them
 5 specifically to grants from the State of California, but
 6 just -- you were in the process of listing some of them.
 7 If you can just list the ones that you recall as you sit
 8 here today.
 9 MR. OJEDA: Objection; calls for speculation.
 10 BY MR. ROSENTHAL:
 11 Q You can answer.
 12 A Partnership, some partnership grant,
 13 communication arts academy grant, the wilderness arts
 14 and literacy grant. School and safety grant, which is a
 15 B-1113. A dropout prevention planning grant, AB-65,
 16 which is AB-65. That's all I can remember.
 17 Q Do you know if Balboa is accredited by the
 18 Western Association of Schools and Colleges?
 19 A We are.
 20 Q Can you tell me what sort of accreditation
 21 Balboa received.
 22 A Six years.
 23 Q Do you recall when that was?
 24 A The year before I got there, spring of '99.
 25 Q So immediately before you got there?

1 A Right.
 2 Q Are there extracurricular activities offered at
 3 Balboa?
 4 A There are.
 5 Q Can you tell me some of those.
 6 A Athletics clubs, ethnic clubs, chess club. I
 7 said athletics; right? That's about it.
 8 Q Now, you mentioned before that there were six
 9 security guards at the school.
 10 A Yes.
 11 Q How long have you had those security guards?
 12 A Well, one has been there since -- they have all
 13 been there at least three years. Some have been there
 14 longer. And they were all with reconstitution, that's
 15 when the new -- when all of them came there -- no, one
 16 of them was there longer. So one's been there longer
 17 than five years. The others have been there between
 18 three and five years.
 19 Q Do you know when security guards were first
 20 hired at Balboa?
 21 A I'm not sure. I'm not sure of the question. I
 22 don't know how long there have been security guards at
 23 Balboa, no.
 24 Q Have there been security guards at Balboa ever
 25 since you have been involved with the school?

1 A Yes, there have.
 2 Q Do you have an understanding as to why there
 3 are security guards at Balboa High School?
 4 A All schools have security guards.
 5 Q When you say, "all schools" --
 6 A All schools in the San Francisco Unified School
 7 District.
 8 Q Do you have an understanding as to why that's
 9 the case?
 10 A For increased supervision.
 11 (Recess taken.)
 12 BY MR. ROSENTHAL:
 13 Q Ms. Gray, you understand you are still under
 14 oath?
 15 A I do.
 16 Q So I don't need to ask you every time we take a
 17 break, do you understand you will be under oath the
 18 entire time of this deposition today?
 19 A I do understand.
 20 Q Great.
 21 Before we went on the break we were discussing
 22 the school facilities at Balboa.
 23 Do you have an understanding as to when Balboa
 24 was first built?
 25 A Yes. It was built approximately in 1928.

1 Q And are any of the five buildings that make up
 2 Balboa the original structures?
 3 A Yes.
 4 Q Is that all of them?
 5 A No. The only one that I know of was the main
 6 building that the main office was in, is part of the
 7 original structure.
 8 Q And the main building was built in 1928 then?
 9 A Yes.
 10 Q Do you know about any of the other buildings?
 11 A I don't.
 12 Q Do you know if there's been any recent
 13 construction at Balboa? By "recent" I mean within the
 14 past I'd say five years.
 15 A What kind of construction do you mean?
 16 Q Construction of any kind at the school.
 17 MR. OJEDA: The question's overbroad. Construction
 18 of site structures, classrooms, buildings?
 19 THE WITNESS: That's what I don't know.
 20 BY MR. ROSENTHAL:
 21 Q Okay. Fine. Let's break it down then.
 22 Do you know if there's been any construction to
 23 any of the buildings in the past five years?
 24 A Not that I know of. Construction to the
 25 buildings. Define "construction" for me.

1 Q You don't understand the question?
 2 A Are repairs construction?
 3 Q Let's deal with repairs then first.
 4 Can you tell me what repairs have been done to
 5 any of the buildings in the past five years?
 6 A The roof of the theater was repaired. The
 7 lockers were replaced. And I guess the reason for my
 8 question was the wiring was done for computers. I
 9 didn't know if that would be considered construction.
 10 Q Do you recall when the roof of the theater was
 11 replaced?
 12 A No, I don't.
 13 Q Within the past five years then?
 14 A It was probably close to five years ago.
 15 Q Do you recall when the lockers were replaced?
 16 A The roof -- the lockers were done with
 17 reconstitution, sometime around 1996.
 18 Q And do you recall when the wiring of the
 19 computers was done?
 20 A I think the summer of '97.
 21 Q Any other repairs or renovations you recall in
 22 the past five years?
 23 A No.
 24 Q Are there any planned repairs or renovations
 25 that are under construction for the near future?

1 A Not that I know of.
 2 Q How did you first hear about this lawsuit?
 3 A One of my teachers mentioned it.
 4 Q Do you recall which teacher?
 5 A Shane Safir.
 6 Q Do you remember when this conversation was?
 7 A I don't.
 8 Q Can you tell me what she told you?
 9 A That the ACLU was suing the State. That's all
 10 I recall exactly.
 11 Q Did she tell you why the ACLU was suing?
 12 A For -- yes. For inequitable education of some
 13 of the kids.
 14 Q And what did you say to Ms. Safir?
 15 A "Oh, really?"
 16 Q Did she say anything else to you?
 17 A I don't recall a conversation -- any more about
 18 the conversation.
 19 Q Did you do anything as a result of the
 20 conversation?
 21 A No.
 22 Q Was anybody else present during the
 23 conversation?
 24 A Not that I recall.
 25 Q Do you remember where the conversation

1 occurred?
 2 A No.
 3 Q Have you discussed this lawsuit with anybody
 4 else?
 5 MR. OJEDA: Other than your attorneys.
 6 THE WITNESS: I don't -- discuss the case, no.
 7 BY MR. ROSENTHAL:
 8 Q Have you discussed the issues involved in this
 9 case with anybody else?
 10 MR. OJEDA: Other than your attorneys, again.
 11 Actually, it's asked and answered already,
 12 Counsel. She didn't discuss the case with anyone else.
 13 MR. ROSENTHAL: I don't think that's what I asked
 14 before.
 15 Q But you can answer the question.
 16 A I haven't discussed the case with anyone else,
 17 no.
 18 Q Did you discuss the issues involved in this
 19 case with anybody else?
 20 A The issues involved in the case as they relate
 21 to the case or talking about the building or talking
 22 about education, I do that all the time.
 23 Q Plaintiffs have made some allegations in this
 24 case about conditions at Balboa, about teachers, about
 25 textbooks, and about various issues like that.

1 A Right.
 2 Q Did you have any conversations with anybody
 3 about those issues in connection with this case?
 4 MR. OJEDA: Excluding any conversations you may have
 5 had with attorneys.
 6 THE WITNESS: Right.
 7 May I ask -- may I ask to speak to my counsel?
 8 MR. ROSENTHAL: Sure.
 9 (Recess taken.)
 10 MR. OJEDA: Could you read back the question.
 11 (The record was read as follows:
 12 "Question: Did you have any conversations with
 13 anybody about those issues in connection with
 14 this case?")
 15 THE WITNESS: No.
 16 BY MR. ROSENTHAL:
 17 Q You mentioned earlier that you had prepared
 18 some written responses in connection with this case; is
 19 that right?
 20 A That's right.
 21 Q And you mentioned that it was John Quinn who
 22 asked you to prepare those responses?
 23 A Yes.
 24 MR. OJEDA: I'm going to object on grounds of
 25 privilege. We don't have a copy of those notes here. I

1 don't know if they were prepared in anticipation of
2 litigation or if any other privilege might apply, and
3 I'm going to instruct the witness not to answer any
4 questions regarding that document.

5 MR. ROSENTHAL: On what grounds are you instructing
6 the witness?

7 MR. OJEDA: On the grounds of attorney work product,
8 litigation privilege. I don't know what the document
9 contains. I don't know who it was written from, and
10 without having an opportunity to review it, I'm not
11 going to have her testify to that document.

12 MR. ROSENTHAL: Well, I'm going to ask her some
13 questions about circumstances regarding her preparing
14 that response. And you can instruct if you feel it's
15 necessary, but I don't see how there's any privilege
16 that attaches to that information.

17 MS. LHAMON: And for the record, I also think that's
18 an improper instruction.

19 BY MR. ROSENTHAL:

20 Q Do you recall why you prepared written
21 responses?

22 A He asked me to.

23 Q "He" being John Quinn?

24 A Yes.

25 Q Did you have a conversation with Mr. Quinn?

1 MR. OJEDA: You are asking about whether she had any
2 conversations with attorneys at this point.

3 MR. ROSENTHAL: Right. But I'm saying with regard
4 to these written responses, she's had a conversation
5 with Mr. Quinn. There were no attorneys present, as far
6 as I know at this point.

7 THE WITNESS: I didn't have a conversation with
8 Mr. Quinn. He faxed me a copy of some things he asked
9 me to write a written response to and I did. We didn't
10 have a conversation about them.

11 BY MR. ROSENTHAL:

12 Q Do you have a copy of the fax that he sent to
13 you?

14 A No.

15 Q Do you recall what you did with the fax that he
16 sent you?

17 A Probably in the recycle bin. No, I don't
18 recall what I did with it.

19 Q After you wrote the written responses that you
20 referred to, who did you send them to?

21 A I faxed them to John Quinn.

22 Q Did you fax them to anybody else?

23 A No.

24 Q What did you do to prepare the written
25 responses?

1 A No, just that he asked me to do a written
2 response to each of the issues.

3 Q Did he discuss with you what the issues were
4 involved in the case?

5 A No. He just faxed me a list of what -- the
6 things that he wanted me to respond to.

7 Q Did he tell you why he wanted you to do that?

8 A No. He just asked me if I would respond to
9 what I knew.

10 Q Did he tell you that an attorney had asked you
11 to prepare a written response?

12 A No. No.

13 Q Did you have any conversations with any
14 attorneys about your written responses?

15 MR. OJEDA: Object. Instruct -- I'm going to
16 instruct you not to answer. Again, I haven't seen the
17 document, and I don't know what conversations preceded
18 that document, whether attorney-client privileges attach
19 or what have you. So I instruct you not to answer any
20 questions on that.

21 MR. ROSENTHAL: Again, I object to the -- your
22 instruction. I mean, you are speculating here as to
23 whether there's a privilege that attaches. And at this
24 point, we have established that she's had a conversation
25 outside the presence of any attorneys.

1 A I sat down at my computer and tried to remember
2 how to respond to each -- what had happened or what
3 caused each of the questions.

4 Q Do you remember what some of the issues were
5 that were contained on the fax that Mr. Quinn had sent
6 you?

7 MR. OJEDA: I'm going to object again and instruct
8 the witness not to answer. You can ask her regarding
9 the allegations in the Complaint and unless -- elicit
10 responses to that, but we are not going to end run that
11 by talking about this document we haven't seen.

12 And we don't know what privileges might apply,
13 so I'm going to instruct you not to answer about that
14 document or any responses that you may have provided.

15 THE WITNESS: It would be speculation anyway because
16 I haven't seen it in a while.

17 MR. ROSENTHAL: Well, I just have a couple more
18 questions on this. But I object to your
19 characterization. I mean, the fact that you haven't
20 seen the document -- I mean, there was a document
21 request served -- I think it was served back in January.

22 MS. LHAMON: In December.

23 MR. ROSENTHAL: Here we are in May, and we haven't
24 seen this document or heard about it until today, and
25 apparently you have never seen it either. And as far as

1 I know, there's been no privilege log produced that it
2 would be contained on, and it's clearly responsive to
3 the request. So again, I renew our request that it be
4 produced.

5 MR. OJEDA: I don't know whether a privilege log has
6 been -- I don't know whether this was requested or came
7 within the request, so without that knowledge, I'm just
8 asserting the objection as we sit here today.

9 BY MR. ROSENTHAL:

10 Q In preparing the written responses that you
11 referred to, did you discuss it with any teachers at the
12 school?

13 A No. I sat at my computer and I tried to think
14 of the answers to the questions.

15 Q Did you do any other investigation in preparing
16 the written responses?

17 A No.

18 Q Did you have any subsequent conversations with
19 Ms. Safir regarding this lawsuit?

20 A No.

21 Q Did you have any subsequent conversations with
22 Mr. Quinn after you submitted your written responses?

23 A About the lawsuit, no.

24 Q Do you know who Alondra Jones is?

25 A I do.



6 Q Would you say Ms. Jones is a well-based
7 student?

8 MS. LHAMON: Objection. Under the Protective Order,
9 that excludes discussion of discipline at the school.

10 MR. OJEDA: Counsel, you are going to have an
11 opportunity I understand to depose these individuals, so
12 you will be able to probe as to any relevant and
13 pertinent issues at that time that are within the
14 court's orders, I believe.

15 MR. ROSENTHAL: At this point, I'm asking for
16 Ms. Jones's principal's opinion of whether Ms. Jones is
17 a well-based student.

18 MS. LHAMON: Which is outside the scope of the
19 Protective Order.

20 MR. ROSENTHAL: I'm not sure that's the case.

21 MS. LHAMON: I am.

22 MR. OJEDA: And that's also being disputed at this
23 time, so it's an improper question, given that dispute
24 between the parties as to the scope of the Protective
25 Order. So given that ambiguity, it's an improper

1 Q Is she a student at Balboa?

2 A She is.

3 Q Can you tell me what grade she's in?

4 A She's classified as a senior.

5 Q When you say, "classified as a senior," does
6 that have any special significance, or is she just a
7 12th-grader?

8 A Well, she's a 12th-grader.

9 Q Okay. Have you met Ms. Jones?

10 A I have.

11 Q Have you discussed this lawsuit with Ms. Jones?

12 A No.

13 Q Do you know who Lawrence Poon is?

14 A The name sounds familiar, but I don't know who
15 it is.

16 Q Do you know if it's a student at Balboa?

17 A I don't know.

18 Q Do you know if you have ever met Mr. Poon?

19 A I don't know.

20 Q Can you tell me what kind of student Ms. Jones
21 is.

22 A Can you be more specific.

23 Q Sure.

24 As far as her academic performance.
25 [REDACTED]

1 question for this particular witness.

2 MR. ROSENTHAL: Are you instructing the witness not
3 to answer?

4 MR. OJEDA: Yes.

5 BY MR. ROSENTHAL:

6 Q Are you going to follow that instruction?

7 A Yes.

8 MR. ROSENTHAL: On what grounds are you instructing
9 the witness not to answer?

10 MR. OJEDA: On the grounds that it's confidential
11 student information, and it may be subject to the court
12 order. There's a dispute ongoing as to the scope of
13 that order and to what material will be provided. Until
14 we have more direction from the court on that, we will
15 direct her.

16 MR. ROSENTHAL: It's your position that Ms. Gray's
17 opinion as to whether Ms. Jones is a well-based student
18 is confidential information?

19 MR. OJEDA: The information regarding the student is
20 confidential, yes, so it falls under the order.

21 MR. ROSENTHAL: I was asking for her opinion,
22 whether she thought she was a well-based student, not
23 whether there were specific events of good or bad
24 behavior. I was asking what her opinion was.

25 MR. OJEDA: Well, I'm instructing her not to answer.

1 BY MR. ROSENTHAL:
 2 Q And you are going to follow that instruction?
 3 A I am.
 4 Q Okay. Do you know if Ms. Jones has ever been
 5 suspended?
 6 MS. LHAMON: Objection.
 7 MR. OJEDA: Same objections. Again, we are not
 8 going to answer any question regarding Ms. Jones.
 9 MR. ROSENTHAL: The court order is clear that the
 10 disciplinary issues with respect to absences and
 11 tardiness are areas that I'm entitled to inquire into.
 12 MS. LHAMON: That's absolutely true. And if you
 13 want to ask a question about that, go ahead and do that.
 14 The question was overly broad.
 15 MR. OJEDA: Clearly the court order is not clear;
 16 there's ongoing disputes.
 17 MR. ROSENTHAL: In that one area it's clear. I
 18 don't think there's any dispute there.
 19 MR. OJEDA: We haven't seen a court order.
 20 MS. LHAMON: There's some dispute in that area, but
 21 I will stipulate the court has permitted the State to
 22 ask questions about student discipline with respect to
 23 tardies and absences. And you should feel free to ask
 24 these questions today and I won't object.
 25 MR. OJEDA: I will object and instruct her not to

1 answer until we receive the court order. We are not
 2 going to permit any questions on these students. When
 3 you are going to have an opportunity to depose the
 4 students, which I understand you are going to be doing
 5 in the near future, you can.
 6 MR. ROSENTHAL: We already have deposed Ms. Jones,
 7 and that deposition is continuing. But that in no way
 8 limits my ability to get information from the principal,
 9 who is the head administrator of the school and is the
 10 authority on any disciplinary issues that come up. So
 11 you are instructing her not to answer the question?
 12 MR. OJEDA: I'm instructing her not to answer until
 13 we have the court order.
 14 THE WITNESS: I would like to make one correction,
 15 and I don't --
 16 MR. OJEDA: No --
 17 THE WITNESS: Not about that.
 18 MR. OJEDA: Tell me.
 19 (Attorney-client conference.)
 20 MS. LHAMON: For the record, Ms. Gray, if you
 21 remember something that is responsive to an earlier
 22 question, you should feel free to give that answer later
 23 in the day also.
 24 THE WITNESS: I wasn't sure if that answer was --
 25 MS. LHAMON: That's okay.

1 BY MR. ROSENTHAL:
 2 Q Do you know if Ms. Jones has had any
 3 disciplinary problems relating to absences from school?
 4 MR. OJEDA: Same objection, Counsel. It's still
 5 subject to the court order. Same objection applies.
 6 You need to move on to other issues.
 7 MR. ROSENTHAL: I'm entitled to establish my record.
 8 If you are going to give instruction on these issues
 9 that are clearly areas that I'm entitled to inquire
 10 into, if you want to continue to instruct on these
 11 questions that's fine, but these are not areas that are
 12 in dispute.
 13 Are you instructing your witness not to answer
 14 that?
 15 MR. OJEDA: Same objection.
 16 MR. ROSENTHAL: On what basis?
 17 MR. OJEDA: On the basis that there's a pending
 18 court order regarding student information. It has not
 19 been signed, as far as I know, by the judge. It's in
 20 dispute. Both parties are arguing regarding the copy of
 21 that order. We don't know what's covered within,
 22 therefore we won't answer any questions in that regard,
 23 or I will instruct her not to.
 24 MR. ROSENTHAL: So are you also instructing her not
 25 to discuss Ms. Jones's academic performance?

1 MR. OJEDA: Yes.
 2 MR. ROSENTHAL: She's already given me some
 3 testimony in that area.
 4 MR. OJEDA: Well --
 5 MR. ROSENTHAL: It's your position I can't ask
 6 anything about Ms. Jones?
 7 MR. OJEDA: Regarding student information, student
 8 record and student information, yes.
 9 MR. ROSENTHAL: I can't ask anything about Ms. Jones
 10 in connection with her being a student at Balboa High
 11 School?
 12 MS. LHAMON: That's not entirely accurate for what
 13 he said.
 14 MR. ROSENTHAL: I'm asking.
 15 MR. OJEDA: Yeah. I mean, if it involves student
 16 records or student information, academic records of that
 17 nature -- you can ask if she's a student there, but any
 18 privileged or confidential information, no.
 19 MR. ROSENTHAL: I think those are improper
 20 instructions, but I guess I will move on since we will
 21 just have to deal with that with the court.
 22 MS. LHAMON: Perhaps at a break we can talk about it
 23 among counsel and try to work out an agreement and see
 24 if we can come back to these questions later in the day,
 25 because there is a series of questions that I don't

1 object to that you could ask.
 2 And Mr. Ojeda, I know you came into this late
 3 in the game.
 4 And maybe we could talk about it at a break and
 5 see if you could ask questions later.
 6 MR. ROSENTHAL: That's probably a good idea.
 7 MR. OJEDA: Okay.
 8 BY MR. ROSENTHAL:
 9 Q Okay, Ms. Gray, sorry about that. We are going
 10 to move into some of the specifics of the allegations
 11 that plaintiffs have made regarding Balboa High School
 12 now.
 13 One of the first issues deals with textbooks.
 14 Can you tell me what policies or procedures there are at
 15 Balboa High School regarding providing students with
 16 textbooks.
 17 A All students are supposed to have a textbook
 18 provided.
 19 Q Is that a written policy?
 20 A I haven't seen it written, but it's my policy.
 21 Q And when you say, "all students are supposed to
 22 have a textbook," does that mean each student gets their
 23 own textbook?
 24 A Each student is entitled to their own textbook,
 25 yes.

1 Q Have you ever received any complaints that
 2 students did not have their own textbooks?
 3 A I have had a call or two from parents.
 4 Q Can you tell me about those calls.
 5 A Asking why their child didn't have a textbook.
 6 Q Do you recall who those calls came from?
 7 A No, I don't.
 8 Q Do you recall when they were?
 9 A No, I don't.
 10 Q Do you know if it was this year?
 11 A One this year, I think.
 12 Q How did you respond to the call?
 13 A I told them I would investigate.
 14 Q And did you investigate?
 15 A I did.
 16 Q Can you tell me what your investigation
 17 involved.
 18 A I called the teacher to find out why the
 19 student -- to tell the teacher the student had told the
 20 parent that he or she, I don't recall which, didn't have
 21 a textbook.
 22 Q And what did the teacher tell you?
 23 A In one instance the math teacher had chosen to
 24 use a book that was -- it was still okay to use, but we
 25 were moving to a different text, a newly adopted text.

1 And the teacher preferred to use the other -- the
 2 previous book during the transition.
 3 And there weren't enough for every student, so
 4 he was duplicating materials from that book in that
 5 particular case.
 6 And in the second case, the child had the book
 7 in their locker and didn't want to take it home. The
 8 books were too heavy, she said.
 9 Q In the first instance you mentioned that it was
 10 a math class. Do you recall which teacher it was?
 11 A I don't.
 12 Q Do you recall the student involved?
 13 A I don't.
 14 Q Do you recall which math class it was?
 15 A No.
 16 Q How about the second instance, do you remember
 17 which student was involved?
 18 A No.
 19 Q Now, you mentioned in connection with the
 20 situation involving the math textbook that the
 21 student -- that the parent told you the student didn't
 22 have a textbook; is that correct?
 23 A Right.
 24 Q And your investigation showed that the student
 25 had photocopies of the textbook; is that correct?

1 A Yes.
 2 Q And this was because?
 3 A The teacher chose to use the previous text
 4 while we were transitioning from one text to a newly
 5 adopted text.
 6 Q Do you know if that student ultimately obtained
 7 his or her own textbook?
 8 A I don't know.
 9 Q After you completed your investigation, did you
 10 call the parent back?
 11 A I did.
 12 Q What did you tell the parent?
 13 A Exactly what I told you.
 14 Q And how did the parent respond?
 15 A They understood.
 16 Q How about the second instance? You said that
 17 the -- you discovered the student didn't want to take
 18 the book home because it was too heavy. Did you notify
 19 the parent of that?
 20 A I did.
 21 Q What did the parent say?
 22 A "I'll take care of it."
 23 Q Do you recall hearing any other complaints from
 24 anybody about students not having their own textbooks?
 25 A I don't.

1 Q Did you ever receive any written complaints
2 from anybody about students not having their own
3 textbooks?
4 A No.
5 Q Does Balboa have a policy regarding sharing of
6 textbooks between students?
7 A No.
8 Q Have you ever heard of any instances where
9 students were required to share books at Balboa High
10 School?
11 A No.
12 Q Does Balboa have any policies regarding the
13 ability of students to take their books home from the
14 school?
15 A A policy? Students -- all students are
16 supposed to be able to have their own book and take
17 their own book home if they want to.
18 Q Have you ever heard of a situation where a
19 teacher did not allow the students to take their books
20 home?
21 A Sometimes for a short period at the beginning
22 of the school year.
23 Q And why is that?
24 A Because the classes are in flux, students go
25 from one class to another until the schedules get

1 Q And what happens if there are missing books?
2 A We try to get them from the students.
3 Q And how do you go about trying to do that?
4 A There's a lost book list that's turned in to
5 each department head.
6 Q Do you recall any instances when not all of the
7 school books were returned by the students?
8 A Most years.
9 Q And what happens as a result of that?
10 A We end up having to replace them.
11 Q How do you go about replacing the books?
12 A Purchasing more books after we have exhausted
13 all efforts to get the books from the students, if we
14 can locate the students.
15 Q Can you just tell me what sorts of efforts you
16 take to get the books back from the students themselves.
17 A Telephone calls, letters.
18 Q If that doesn't work, you end up purchasing
19 more books?
20 A Yes.
21 Q And how do you go about purchasing books for
22 Balboa High School?
23 A The department heads turn in a request to
24 Mr. Chung, who then sets up the budget process and then
25 types up a PO for me to sign.

1 stabilized.
2 Q And once the schedules are stabilized, then all
3 students can take their books home in all classes?
4 A Yes.
5 Q Have you received any complaints from anybody
6 that students were not allowed to take their books home?
7 A Just what I -- the two instances that I
8 mentioned earlier.
9 Q How does the school keep track of its inventory
10 of books?
11 A We have a book room and a paraprofessional who
12 is in charge of the book room and duplicating. Teachers
13 are then responsible for taking the books out of that
14 book room and issuing them to the students.
15 Q You said there's a paraprofessional in the book
16 room. Does he or she have a title?
17 A No.
18 Q Can you tell me who that person is?
19 A Carmen Carteza.
20 Q At the end of the school year are students
21 required to give the books back?
22 A Yes, they are.
23 Q Is an inventory of the books taken at that
24 time?
25 A Yes, there is.

1 Q Is there a practice as to when that is done in
2 a typical school year?
3 A Generally we do that in the summer prior to the
4 students coming and the teachers returning.
5 Q Why is that?
6 A To try to prepare for the next year, make sure
7 we have enough books for the next year.
8 Q Do you recall any instances when you started a
9 school year with a shortage of textbooks?
10 A No, I don't.
11 Q I'm going to ask you to take a look at the
12 First Amended Complaint here. I know we have not
13 been --
14 MS. LHAMON: That is the First Amended Complaint,
15 and we don't need to mark it as an exhibit.
16 MR. OJEDA: Say that again.
17 MR. ROSENTHAL: I was going to show her the First
18 Amended Complaint. We have been stipulating this is the
19 First Amended Complaint, but not attaching it as an
20 exhibit, for copying costs, because we introduce it in
21 every deposition.
22 MR. OJEDA: Okay. That's fine. Stipulated.
23 BY MR. ROSENTHAL:
24 Q Are you able to read without your glasses?
25 A Yeah, but --

1 (Discussion off the record.)
 2 BY MR. ROSENTHAL:
 3 Q Ms. Gray, I would like to direct your attention
 4 to page 28, paragraph numbered 87, which is on line 8.
 5 Do you see that?
 6 A Page 28, paragraph number what?
 7 Q 87.
 8 A Yes.
 9 Q The first sentence reads, plaintiffs'
 10 allegation, "The school does not have enough books for
 11 all of its students."
 12 Do you believe that allegation to be false?
 13 A I do.
 14 Q Let -- moving on to the next sentence,
 15 "Students have to share books in class in some classes,
 16 including math and Spanish classes, because the classes
 17 do not even have full class sets of the books."
 18 Do you believe that allegation to be false?
 19 A That is false.
 20 Q Moving on to the next sentence, "And in most of
 21 the classes, students cannot take books home for
 22 homework because the school does not have enough books
 23 for them."
 24 Do you believe that allegation to be false?
 25 A That is false.

1 Q And the last sentence in that paragraph, "Some
 2 students have never taken a book home for homework in as
 3 many as three years of attending high school at Balboa."
 4 Do you believe that allegation to be false, or
 5 do you have an opinion as to that allegation?
 6 A Some students may not, but it's not because the
 7 books aren't there and available.
 8 Q So if any student -- if a student has not taken
 9 any books home for three years, is that because a
 10 student chose not to?
 11 A By choice, that's right.
 12 Q Very good.
 13 So have you ever heard that students in math
 14 classes had to share textbooks?
 15 A As I mentioned earlier, the teacher who wanted
 16 to use the book during the transition was duplicating
 17 papers. If a student preferred to look on a book with
 18 someone else, I don't know.
 19 Q And that was the only incidence of sharing?
 20 A Yes. Yes.
 21 Q And how about in the Spanish class, have you
 22 ever heard of students having to share books in Spanish
 23 classes?
 24 A I never heard that.
 25 Q And you believe that to be false?

1 A I do.
 2 Q Okay. I'll ask you to put the First Amended
 3 Complaint to the side for now; we will come back to it a
 4 little later.
 5 I would like to move on to some of the
 6 allegations regarding teachers at Balboa High School.
 7 Can you tell me -- first I want some background
 8 information about teachers at Balboa. Can you tell me
 9 how many classroom teachers there are at Balboa.
 10 A Fifty-nine. Fifty-nine.
 11 Q And is that for the 2000-2001 school year?
 12 A Yes.
 13 Q Do you recall how many teachers there were last
 14 year?
 15 A No.
 16 Q Do you know if it was more or less than 59?
 17 A It was probably around the same, close to it.
 18 Q Are you aware of any policies or procedures
 19 relating to the qualifications of individuals who are
 20 hired to teach at Balboa?
 21 A Would you repeat that.
 22 MR. ROSENTHAL: You want to read that back.
 23 (The record was read as follows:
 24 "Question: Are you aware of any policies or
 25 procedures relating to the qualifications of

1 individuals who are hired to teach at Balboa?")
 2 THE WITNESS: The same qualifications as for any
 3 teacher in the San Francisco Unified School District.
 4 BY MR. ROSENTHAL:
 5 Q And can you tell me what those qualifications
 6 are.
 7 A That they be credentialed in their subject area
 8 or that they have sufficient courses to get an emergency
 9 credential if it's in a shortage area.
 10 Q Do you know who establishes those policies?
 11 A I think it's a State requirement.
 12 Q Is there a procedure for ensuring that the
 13 school is in compliance with those requirements?
 14 A Yes.
 15 Q Can you tell me what that procedure is.
 16 A Human resources has a copy of each teacher's
 17 credential or emergency credential, and so do I.
 18 Q Out of the 59 classroom teachers at Balboa, are
 19 all the teachers credentialed?
 20 A Either credentialed or emergency credentialed,
 21 yes.
 22 Q Can you tell me what the breakdown is
 23 between -- let me rephrase that.
 24 Can you tell me how many teachers have what you
 25 called emergency credentials?

1 A No.
 2 Q Can you give me an estimate?
 3 A Yes. Around 38% maybe.
 4 Q That's a pretty good estimate.
 5 A Between 35 and 40 was really what -- I just
 6 settled on 38.
 7 Q In your opinion, are the teachers teaching on
 8 emergency credentials qualified to teach the classes
 9 they are teaching at Balboa?
 10 A Yes.
 11 And I have to add, I wouldn't hire them if they
 12 weren't.
 13 Q In your opinion, is there any correlation
 14 between the qualification of teachers -- let me rephrase
 15 that.
 16 Is there any correlation between the ability of
 17 a teacher to teach well and their possession of a
 18 certain type of credential?
 19 A Sometimes.
 20 Q Can you describe what that correlation is.
 21 A Some people are naturally gifted at teaching,
 22 and it doesn't matter whether they have a credential or
 23 not. It does matter that they get it, but they can
 24 still be a good teacher.
 25 Other teachers improve through the

1 Q But they are still teaching on emergency
 2 credentials as we sit here today?
 3 A As we sit here today.
 4 Q And what makes them excellent teachers?
 5 A Their commitment, dedication, energy,
 6 knowledge, their interaction with their students.
 7 Q Anything else?
 8 A Their ability to teach.
 9 Q Can you tell me, you have given me three
 10 examples of teachers on emergency credentials that you
 11 consider to be very good teachers. Can you tell me how
 12 long each one of them has been teaching at Balboa?
 13 A Donna Thoreau has been there three years. I'm
 14 wavering, I don't know if it was three or four, but at
 15 least three.
 16 Val Cubales -- actually, all three of them
 17 three to four years.
 18 Q Is there any particular subject area at Balboa
 19 where there is a particular need for teachers?
 20 A Yes.
 21 Q And what subject areas?
 22 A We have a high turnover in math teachers.
 23 Q Do you know why that is?
 24 A I could speculate.
 25 MR. OJEDA: We don't want you to speculate. If you

1 credentialing process of taking classes.
 2 Q But you wouldn't say, then, that just because
 3 the teacher has an emergency credential makes them any
 4 worse of a teacher than any teacher with a full
 5 credential?
 6 A That's right. I could not make that statement.
 7 Q Do you have some teachers at your school who
 8 have emergency credentials that you consider to be
 9 excellent teachers?
 10 A I do.
 11 Q Can you give me some examples.
 12 A Donna Thoreau.
 13 Q Do you know how to spell that by any chance?
 14 A Like Thoreau. She's a science teacher.
 15 Rocio Ramirez, health and physical education.
 16 Valentino Cubales, health and physical
 17 education.
 18 Actually, I think they both got theirs last
 19 Thursday.
 20 Is that enough?
 21 Q Yes. Thank you.
 22 When you say, "they got theirs," so now they
 23 are fully credentialed?
 24 A They finished the coursework last Thursday.
 25 They have applied now for the credential.

1 know.
 2 THE WITNESS: No.
 3 BY MR. ROSENTHAL:
 4 Q Have you ever heard anything about why there's
 5 high turnover in the math department?
 6 A No. But as a math person, with the cost of
 7 living like it is here in the Bay Area, math teachers
 8 can make more out in business and industry.
 9 Q Have a number of math teachers at Balboa left
 10 for positions in the private sector, as you have
 11 described?
 12 A A number of math teachers have left for the
 13 private sector, yes.
 14 Q Do you know if those were for higher paying
 15 positions?
 16 A I wasn't privileged to that information.
 17 Q I'm not asking you to speculate about that, but
 18 did you have any reason to believe that they were higher
 19 paying jobs or were not?
 20 A I assumed it was for a higher paying job.
 21 Q They didn't tell you specifically?
 22 A No.
 23 I would like to make a correction. One did
 24 leave, and she did say it was for more.
 25 Q One teacher did tell you she was leaving for a

1 higher paying job?
 2 A Yes. That was five years ago, '96, '97, and I
 3 forgot about that.
 4 Q Do you recall her name by any chance?
 5 A No.
 6 Q Can you tell me what efforts the school has
 7 made or that you have made in connection with trying to
 8 hire qualified math teachers?
 9 A We have opened the position, posted them on the
 10 web, asked other teachers, talked with San Francisco
 11 State and other colleges.
 12 Q Anything else you can think of?
 13 A No.
 14 Q And have those efforts been successful?
 15 A Relatively.
 16 Q What do you mean by "relatively"?
 17 A We have a math person in each position.
 18 Q Are you currently looking to -- to hire math
 19 teachers?
 20 A I have a math teacher in each position at this
 21 point.
 22 Q Are you satisfied with each of the performances
 23 of those teachers currently?
 24 A No.
 25 Q Just for background, how many math teachers are

1 there?
 2 A This year?
 3 Q Yes.
 4 A I don't know, seven, eight.
 5 Q Now, you mentioned you are not satisfied with
 6 the performance of all the teachers. How many teachers'
 7 performances are you not satisfied with?
 8 A Two.
 9 Q Can you tell me their names?
 10 MR. OJEDA: I'm going to object on relevance grounds
 11 and the fact that we are getting into confidential
 12 personnel information.
 13 THE WITNESS: I would rather not.
 14 MR. ROSENTHAL: I'll withdraw the question, then.
 15 Q Can you tell me what classes these two teachers
 16 teach.
 17 A Math classes.
 18 Q Are there specific classes they are assigned
 19 to?
 20 A One teacher is ESL math, and the other one
 21 teaches a combination of classes.
 22 Q When you say, "ESL math" --
 23 A English as a second language.
 24 Q Can you tell me how long each one of those
 25 teachers has been with the school?

1 A Yes. One year. That's this year.
 2 Q Are you satisfied with the performance of the
 3 remaining teachers in the math department?
 4 A Yes.
 5 Q I asked you earlier how you go about trying to
 6 fill positions in the math department. Do you go
 7 through the same process in trying to fill positions in
 8 any of the other departments?
 9 A Yes. Also, there's a recruitment fair that the
 10 district has. We do interviews at those recruitment
 11 fairs.
 12 Q I'm going to ask you to take a look at the
 13 First Amended Complaint again. I'm going to direct your
 14 attention to paragraph 86 on page 28.
 15 A Paragraph what?
 16 Q 86, on line 3.
 17 First, the first sentence there reads, "Only
 18 two of the nine math teachers at Balboa have completed
 19 their teaching credentials."
 20 Do you have an opinion as to the accuracy of
 21 that statement?
 22 A At that time, that was probably true.
 23 Q And the second sentence there, "Approximately
 24 40 percent of all the teachers lack full, nonemergency
 25 teaching credentials."

1 Do you have an opinion as to the accuracy of
 2 that statement?
 3 A I think my estimate was close to that.
 4 Q You can put it aside for a moment. We will
 5 come back to it, repeatedly.
 6 Now, you said that at the time of the
 7 allegation -- the complaint that two of the math -- two
 8 of the nine math teachers have completed -- have
 9 obtained their full credentials. Is that true today?
 10 A No, it is not.
 11 Q Can you tell me what the situation is today
 12 with regards to that.
 13 A All of the teachers are math majors, which was
 14 not the case at that time. And maybe three of the --
 15 three of the seven -- three of the eight are working on
 16 their credential.
 17 Q Approximately three of the eight current math
 18 teachers are working on emergency credentials?
 19 A But they are working -- yes, they have an
 20 emergency credential. They are full math majors with
 21 emergency credentials working towards their credential.
 22 Q They just haven't completed the coursework
 23 required to obtain their credentials?
 24 A That's right. Whereas in here, a lot of those
 25 nine teachers weren't even math majors.

1 Q And you mentioned that some of the former math
2 teachers were not math majors. Was there an effort made
3 to hire teachers who were math majors?

4 A Absolutely.

5 Q And why was that?

6 A Because we -- generally speaking, a math major
7 knows more math than a person that has taken a lot of --
8 just a lot of math courses.

9 MS. LHAMON: Could I clarify for the record? Two
10 questions ago when you indicated "referring to this,"
11 you were indicating the Complaint? We can read it back
12 if you want to make sure that I'm stating it accurately.

13 (The record was read as follows:

14 "Answer: That's right. Whereas in here, a lot
15 of those nine teachers weren't even math
16 majors.")

17 BY MR. ROSENTHAL:

18 Q Ms. Gray, when you gave a response a few
19 moments ago, you made reference to something being "in
20 here." When you referred to that, were you referring to
21 the First Amended Complaint?

22 A Yes, I was.

23 Q Great. Thank you.

24 So the allegation that two of nine math
25 teachers at Balboa -- that only two of nine math

1 Q When you say, "reduced dramatically," can you
2 give me a figure?

3 A From 30 teachers to 15 teachers the first year,
4 and I think 9 teachers the next.

5 Q Nine teachers this year?

6 A Nine teachers left at the beginning of last
7 year -- beginning of this year, in September of 2001.

8 Q In September of 2001 school year?

9 A Right.

10 Q Of the 59 teachers currently working at Balboa,
11 can you tell me approximately -- can you give me an
12 average amount of time that they have been with the
13 school?

14 A Not really.

15 Q How many of the 59 teachers have been at the
16 school since you have been principal, since you first
17 became principal?

18 A I would have to count. Since I became
19 principal?

20 Q Right. At Balboa.

21 A All except 9. The 15 left right before I came
22 on. And then after last year only 9 left.

23 Q So there were 15 teachers who left in the
24 school year prior to the school -- the 1999-2000 school
25 year?

1 teachers at Balboa have completed their teaching
2 credentials is not true as we sit here today; is that
3 correct?

4 A That's correct.

5 Q And do you have an understanding if -- whether
6 teachers who are teaching on emergency credentials are
7 in the process of obtaining their full credentials?

8 A Do I -- I'm sorry, would you --

9 Q Do you have an understanding as to whether
10 teachers who were teaching on emergency credentials are
11 in the process of trying to obtain their full
12 credentials?

13 A They have to.

14 Q Is that the case for all teachers on emergency
15 credentials?

16 A That's right.

17 Q You mentioned earlier that there is some
18 teacher turnover at Balboa High School?

19 A Yes.

20 Q Can you describe for me what the turnover has
21 been like?

22 A Beginning when?

23 Q Why don't we start with since you have been
24 principal at Balboa.

25 A It's been reduced dramatically.

1 A That's right.

2 Q So in the two years you have been at Balboa,
3 there have been a total of nine teachers who have left?

4 A At this point. Left the -- wanted to leave --
5 we had three leave at midterm, so it's 12.

6 Q Those are three additional ones who have left
7 during this school year?

8 A During this school year I had three to leave.

9 Oops, sorry, four.

10 Q So during the two years you have been at
11 Balboa, there's been a total of 14 teachers?

12 A Did I say 4? 4 and 9 is 13.

13 Q Yes, you are right.

14 Do you recall the circumstances surrounding the
15 departure of any of these teachers?

16 A Yes.

17 Q Can you tell me what circumstances you recall.

18 MR. OJEDA: I object that it's overbroad. We are
19 talking about 14 teachers here.

20 MR. ROSENTHAL: Thirteen.

21 MR. OJEDA: Thirteen. You are right.

22 BY MR. ROSENTHAL:

23 Q Fine. I can try to narrow it down. I was just
24 trying to speed it along.

25 Do you recall the names of the 13 teachers who

1 have left during your two years?
 2 A Probably not. Some of them.
 3 Q Can you tell me the names that you remember.
 4 A Okay. Mr. Briskin, Mr. Morgan, Ms. Carson, and
 5 Mr. Golarz during the year, this year.
 6 Now, the nine that left in -- after June of
 7 2000, Mr. Duncan -- actually, he left before then, left
 8 midyear.
 9 Mr. -- I can see their faces, but I can't
 10 remember the names. Offhand that's all I can remember
 11 just right now.
 12 Q Okay. Do you remember the circumstances
 13 surrounding Mr. Briskin's departure?
 14 MR. OJEDA: I'm going to object on the grounds of
 15 relevance and the fact that you are asking her about
 16 confidential personnel information.
 17 And on that basis I'm going to instruct you not
 18 to answer any questions about the circumstances of their
 19 leaving, to the extent it involves personnel matters.
 20 BY MR. ROSENTHAL:
 21 Q You have given me the names of five teachers
 22 who have left in the -- during your tenure at Balboa;
 23 Mr. Briskin, Mr. Morgan, Mr. Carson, Mr. Golarz, Mr. --
 24 A Ms. Carson.
 25 Q Ms. Carson, sorry.

1 Did they all leave the positions voluntarily?
 2 A Yes.
 3 Q Did they have personal reasons for leaving the
 4 jobs?
 5 A Personal reasons? No.
 6 Actually, I would like to retract a statement.
 7 Mr. Golarz left initially, asked to come back, and I
 8 said no.
 9 Q Why did you refuse to rehire him?
 10 MR. OJEDA: Again, I'm going to object on the
 11 grounds that it's irrelevant and involves confidential
 12 personnel information.
 13 And to that extent, I'm going to instruct you
 14 not to answer any questions regarding those
 15 circumstances.
 16 BY MR. ROSENTHAL:
 17 Q Did you not think Mr. Golarz was a good
 18 teacher?
 19 MR. OJEDA: Same objection. You can answer that
 20 question, but the circumstances are off limits.
 21 THE WITNESS: Actually, I would like to correct
 22 something anyway.
 23 He asked to come back. I said I need to talk
 24 to my administrative team about it before I say yes.
 25 And because I didn't say yes right away, he decided not

1 to come back, so --
 2 BY MR. ROSENTHAL:
 3 Q As to the five teachers we have been
 4 discussing, do you have an opinion as to whether they
 5 were good teachers?
 6 A Yes.
 7 Q And what's your opinion?
 8 A You want to read each name?
 9 Q Sure.
 10
 11
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 14
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 21
 22 Q Have the positions vacated by these teachers
 23 been filled --
 24 A Yes.
 25 Q -- since their departures?

1 A Yes.
 2 Q In your opinion, have you filled the positions
 3 with better teachers?
 4 A Yes.
 5 Q In your opinion, what factors are responsible
 6 for the teacher turnover at Balboa?
 7 MR. OJEDA: I'll object that it calls for
 8 speculation on the witness' part.
 9 BY MR. ROSENTHAL:
 10 Q You can answer.
 11 A It's teaching's difficult and can be
 12 exhausting. And if you are emergency credentialed and
 13 you have got to go to school and -- it just can be
 14 exhausting. Sometimes one teacher are -- two teachers
 15 left to go back to school full-time, because trying to
 16 go to school part-time to teach full-time during the day
 17 and -- was very difficult.
 18 MR. OJEDA: You have answered the question.
 19 THE WITNESS: Okay.
 20 BY MR. ROSENTHAL:
 21 Q Are there any factors specific to Balboa High
 22 School that make a teacher turnover more likely?
 23 A As compared to what?
 24 Q As compared to any other school.
 25 A Not compared to any other school, no.

1 Q Can you tell me what steps you are taking to
2 reduce teacher turnover at Balboa.
3 A Yes. I -- I'm very supportive. I make sure
4 they feel appreciated. We make sure that the students
5 act appropriately in class, support the -- that's all
6 supportive, that's supportive academically, supportive
7 as far as student behavior is concerned, everything,
8 just supportive, and appreciative.
9 Q And how do you go about doing those things?
10 A Appreciation by food, so that they don't have
11 to try to find -- when we have staff development
12 meetings, they don't have to try to bring in their food,
13 I buy foods. I gave monthly awards. I've forgotten
14 what I called it, but it was for outstanding teacher of
15 the month. We had another name for it.
16 Make sure that if a teacher needs support,
17 classroom management, reinforcement or knowledge or
18 suggestions, we make sure we do that. We have teacher
19 support meetings, those kinds of things.
20 Q Would you say your efforts have been
21 successful --
22 A I would.
23 Q -- in reducing teacher turnover?
24 A Yes.
25 Q Let's take out the First Amended Complaint

1 again. Direct your attention to page 28, paragraph 86
2 again. And let's start with the last sentence in that
3 paragraph.
4 Says, "The school only staffs approximately 61
5 total teachers each year, but 75 teachers have left the
6 school in the past three years."
7 Do you have an opinion as to the accuracy of
8 that statement?
9 MR. OJEDA: The question is vague in terms of what
10 three years is it referring to.
11 MR. ROSENTHAL: It's plaintiffs' allegation. I'm
12 just reading -- the date of the First Amended Complaint
13 is August 2000. So in the three years prior to that, I
14 have to assume that that's what plaintiff is referring
15 to, unless plaintiffs' counsel wants to provide any
16 further clarification.
17 MS. LHAMON: I think the Complaint speaks for
18 itself.
19 THE WITNESS: As I mentioned earlier, 30 teachers
20 left after the first year, 30 left the second year, 15
21 left the third, that's 75.
22 BY MR. ROSENTHAL:
23 Q So during some three-year period, you think
24 that there could have been 75 teachers who left Balboa?
25 A Yes.

1 MS. LHAMON: Objection; mischaracterizes the
2 testimony. She specified a three-year period.
3 BY MR. ROSENTHAL:
4 Q Do you know which three years?
5 A '96 through the time that I got there.
6 Q And since the time you got there, you testified
7 that there have been 13 teachers --
8 A Right.
9 Q -- who have left?
10 A Yes.
11 Q Do you think there's any connection between
12 high teacher turnover and the fact that teachers with
13 emergency credentials are teaching at Balboa?
14 A As I mentioned earlier, sometimes having to
15 teach full-time and work and go to class at night can be
16 difficult. And that could be, but it's speculation
17 again.
18 Q Has anybody ever told you that that was the
19 reason?
20 A That they left?
21 Q Yes.
22 A Maybe one or two teachers, yes.
23 Q No more than one or two?
24 A Right.
25 Q Again direct your attention to page 86, line 5,

1 "The high percentage of uncredentialed teachers at
2 Balboa is compounded by the school's extreme rate of
3 teacher turnover."
4 Do you have an opinion as to the accuracy of
5 that allegation?
6 MR. OJEDA: I would object in terms that it's vague
7 and ambiguous. What is "compounded"?
8 MR. ROSENTHAL: Again, it's plaintiffs' allegation.
9 Your guess is as good as mine.
10 MR. OJEDA: Well, given that ambiguity, it makes it
11 difficult for her to respond. I understand it's not
12 your sentence, but nevertheless it still is ambiguous.
13 THE WITNESS: I'm not sure what it means.
14 BY MR. ROSENTHAL:
15 Q So you don't understand that allegation?
16 A I don't.
17 Q Okay. We will put it aside.
18 Can you tell me if Balboa has any policies
19 regarding the hiring of substitute teachers?
20 A It's the policy that we call the district and
21 ask for a substitute. If there's a substitute who does
22 not -- who doesn't seem to obey the rules or follow the
23 guidelines, then we do request that that sub not be sent
24 back.
25 Q How do you determine whether a substitute needs

1 to be hired in a particular day?

2 A The teachers call the tape and say that they
3 are going to be absent and request a sub and the subs
4 come in. The subs are called through the district. We
5 don't call the subs. The district sends the subs out to
6 the school.

7 Q Do you recall any situation where Balboa needed
8 a substitute teacher, but none was available?

9 A Yes, there have been occasions.

10 Q Can you tell me approximately how many times
11 that's happened during your two years at Balboa?

12 A No, I can't, but not very many.

13 Q And what happens in those instances?

14 A Teachers are asked to cover the classes during
15 their preparation periods and they are paid.

16 Q In your nearly two years as principal at
17 Balboa, has there ever been an instance where a class
18 went unsupervised?

19 A No.

20 Q So just to summarize, when a teacher is absent,
21 the class is either covered by a substitute teacher or,
22 if no substitute teacher is available, by a full-time
23 teacher at Balboa?

24 A Or an administrator.

25 Q Okay. Do you have an understanding as to what

1 A The first one was when a Spanish teacher was
2 avoiding the law and left.

3 Q Do you recall when that was?

4 A November of '99.

5 Q And after that teacher left, who taught the
6 Spanish class?

7 A For a few weeks a few subs, couple subs.

8 Q When you say, "a few weeks" --

9 A Couple weeks, two, three weeks.

10 Q And then who taught the class after that?

11 A A substitute. But he was Spanish-speaking, and
12 he kept the position for the rest of the year.

13 Q Did he give students Spanish instruction in the
14 class?

15 A He did.

16 Q And he taught that Spanish class until the end
17 of the year 2000?

18 A He did.

19 Q Is he currently teaching at Balboa?

20 A No.

21 Q Is he still a substitute teacher at Balboa?

22 A When he's assigned to Balboa.

23 Q But on occasion he's a substitute teacher at
24 Balboa?

25 A Yes.

1 the qualifications are for substitute teachers?

2 A I do not. The district handles that.

3 Q Do you recall any instances at Balboa where
4 substitute teachers were required for extended periods
5 of time?

6 A No. I'm sorry, would you explain that? What
7 do you mean by "extended periods of time"?

8 Q Where a teacher was either out for an extended
9 absence --

10 A Yes.

11 Q -- or was terminated for -- you know, quit for
12 one reason or another.

13 A The answer's yes.

14 Q Do you recall how many of those instances have
15 occurred in -- during your tenure at Balboa in the past
16 two years?

17 A During my tenure in the past two years.

18 Extended period of time, one comes up; and for a short
19 period of time, another one.

20 Q Let's deal with the extended --

21 A Actually, three, sorry. Two extended, one
22 short.

23 Q Okay. Let's deal with the two extended first.

24 A Mm-hmm.

25 Q Can you describe the first of those instances.

1 Q Let's deal with the second extended teacher
2 absence. Can you tell me the circumstances surrounding
3 that situation.

4 A [REDACTED]
5 [REDACTED] - after the investigation, he was put

6 on administration leave with pay, during the full
7 investigation. And no one was hired to replace him
8 during that investigation until it was determined that
9 he -- whether or not he could come back.

10 Q Were there any restrictions on your ability to
11 hire a permanent replacement?

12 A No.

13 Q Do you know why a permanent replacement was not
14 sought to replace this teacher?

15 A Because I did not replace -- they didn't seek a
16 permanent replacement until I knew whether or not he
17 would be able to return following a full investigation.
18 Once I knew he was not going to return to the permanent
19 position, then I sought a permanent position.

20 Q Do you recall when this teacher first went on
21 administrative leave?

22 A Again, around November of this past year, 2000.
23 The Spanish teacher was November of '99.

24 Q Right. Yes. That's what you said.

25 A Mm-hmm.

1 Q Can you tell me what class this was for.
 2 A Math.
 3 Q And can you tell me who taught the math class
 4 after the teacher was put on administrative leave?
 5 A The substitute. I can't give you the
 6 substitute's name, though.
 7 Q Was it one -- was it -- I'm sorry?
 8 A There were -- I don't know the initial sub, but
 9 then eventually -- yes, I had a substitute in there
 10 permanently until I got a permanent teacher. What was
 11 his name -- I can't think of his name.
 12 Q But at first you had an initial sub for a short
 13 period of time?
 14 A Right.
 15 Q For how long was that, approximately?
 16 A Again, a few weeks.
 17 Q And then you had a permanent substitute?
 18 A Right. Until I found a math teacher, a math
 19 major.
 20 Q Did the permanent substitute give math
 21 instruction?
 22 A He did. He had a math -- he was able to teach
 23 math through a certain level, grade level, like 9th or
 24 10th grade, so he did have a math background, yes.
 25 Q Do you recall which math classes he was

1 A He was not. His name is Yuen, Y-u-e-n,
 2 Mr. Yuen. I missed him.
 3 Q But you consider him to be an excellent teacher
 4 as well?
 5 A I do. Actually, that's an understatement.
 6 He's outstanding.
 7 Q One of your best?
 8 A Yes.
 9 Q You also mentioned that there is a -- what you
 10 called a short absence regarding a teacher who has been
 11 out for a short period of time that required a
 12 substitute teacher?
 13 A Right.
 14 Q Can you tell me about that.
 15 A That was Mr. Golarz. It took me a few weeks to
 16 find a replacement for him.
 17 Q And what class was that for?
 18 A Math.
 19 Q Were there substitutes in during those few
 20 weeks?
 21 A I think two.
 22 Q After a few weeks, did you find a permanent
 23 replacement for Mr. Golarz?
 24 A I did.
 25 Q And I'm not sure if you told me before or not,

1 teaching? Was he teaching a 9th and 10th grade math?
 2 A That's right.
 3 Q So in your opinion, was he qualified to teach
 4 the courses he was teaching?
 5 A Until I found someone that was better, yes.
 6 Q And approximately how long was that permanent
 7 sub teaching the math classes?
 8 A A good six or eight weeks.
 9 Q And then you found a permanent replacement?
 10 A I did.
 11 Q Do you recall when the replacement began
 12 teaching the math classes?
 13 A Not really. I think March.
 14 Q And that teacher continued to teach the math
 15 classes through the end of the -- well, is still
 16 teaching them; right?
 17 A Right. And will return in the fall.
 18 Q Do you know if that teacher is teaching on
 19 emergency credentials?
 20 A He is. He's a math major working on his
 21 California single-subject credential in math.
 22 Q Did you mention him as one of the -- I asked
 23 you earlier if there were some teachers teaching on
 24 emergency credentials that you considered to be very
 25 good teachers. Was he one of the names you mentioned?

1 but can you tell me when Mr. Golarz left?
 2 A Actually, he left in around the middle to late
 3 September.
 4 Q Do you recall when you hired the permanent
 5 replacement for Mr. Golarz?
 6 A About three weeks later, October.
 7 Q And that teacher has been teaching the class
 8 since October?
 9 A Yes.
 10 Q Do you recall any other instances of any
 11 extended absences by teachers that required the hiring
 12 of substitute teachers?
 13 A Not during my tenure.
 14 Q Did you hear of any situation prior to your
 15 being hired as principal of Balboa?
 16 A Yes.
 17 Q Can you tell me about those instances.
 18 A Just one. Diane Caliz, an English teacher, was
 19 out sick, she lost her voice. I was not there. It was
 20 the winter, spring before I came back. I was at the
 21 49'er -- starting the 49'er Academy.
 22 And while she was out, Eric Wilcox was hired as
 23 a substitute to take her place, and he completed the
 24 year. And then I hired him for the next year as a
 25 full-time teacher.

1 Q And is he still with Balboa?
 2 A He's still with me.
 3 Q Do you consider him to be a good teacher?
 4 A I do.
 5 Q Do you know if he's teaching on emergency
 6 credentials?
 7 A I don't. I don't think so, though.
 8 Q You don't know for sure?
 9 A I don't know for sure.
 10 Q Any other instances that you ever heard about
 11 regarding teacher absences requiring the hiring of
 12 substitutes for any length of time?
 13 A No.
 14 (Lunch recess was taken at 12:36 p.m.)
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1 AFTERNOON SESSION 1:40 P.M.
 2 MS. LHAMON: We had an off-the-record conversation
 3 over the lunch break among Mr. Ojeda, Mr. Rosenthal, and
 4 myself, during which we reached some agreement about a
 5 line of questioning for -- concerning discipline of the
 6 kids.
 7 It's our position as counsel for the plaintiffs
 8 that the judge has allowed the State to ask questions
 9 concerning discipline of students related to tardiness
 10 or absence, and so I do not object to that line of
 11 questions.
 12 MR. OJEDA: Having heard that, we will allow that
 13 line of questions within that scope.
 14 MR. ROSENTHAL: And so I'll ask a few questions in
 15 that regard.
 16 EXAMINATION (Resumed)
 17 BY MR. ROSENTHAL:
 18 Q Can you tell me if Ms. Jones, Ms. Alondra
 19 Jones, has been disciplined because of absence while a
 20 student at Balboa High School?
 21 A We don't discipline students for absences.
 22 Q Do you know if Ms. Jones has been disciplined
 23 because of tardiness while a student at Balboa High
 24 School?
 25 A Yes.

1 Q She has been disciplined for that reason?
 2 A Yes.
 3 Q Can you tell me why she was disciplined.
 4 A When a student is tardy more than one time in a
 5 six-week period, they have to come back with a parent or
 6 we contact, as in Ms. Jones's case, their guardian.
 7 Q Do you recall how many times Ms. Jones was
 8 disciplined with tardiness?
 9 A No, I don't.
 10 Q Was it more than once?
 11 A I don't know. I don't handle it; my deans do.
 12 Q Do you know the dean's name who handled that?
 13 A There are three deans; I'm not sure which one
 14 would have handled that.
 15 Q Can you give me all three names.
 16 A Ronnie, Ronnie Howard. Black-Eagle Sun,
 17 "Black-Eagle" is hyphenated. And Gerry, with a
 18 G-e-r-r-y, Courtney.
 19 Q Has Ms. Jones been disciplined in any other way
 20 because of tardiness?
 21 A No.
 22 Q When you say that she had to come back with her
 23 guardian, did she meet with you, or did she meet with
 24 the dean?
 25 A Students generally meet with the deans or

1 assistant principal.
 2 Q So in this instance, do you know who Ms. Jones
 3 met with?
 4 A I don't.
 5 Q But it was not with you?
 6 A Right.
 7 Q Do you know if anything resulted from this
 8 meeting?
 9 A I don't know.
 10 Q Do you recall when this meeting took place?
 11 A I don't.
 12 Q Before the break, I was asking you some
 13 questions about substitute teachers and teachers who had
 14 absences for various periods of time. You mentioned
 15 that you had heard about an absence -- that Diane Caliz,
 16 an English teacher, was absent in the year prior to you
 17 becoming principal at Balboa; is that correct?
 18 A Yes.
 19 Q Do you know if Ms. Caliz teaches a course
 20 entitled Modern World, if she taught that course at that
 21 time?
 22 A I don't know.
 23 Q Do you know if Ms. Caliz was one of Ms. Jones's
 24 teachers during that year?
 25 A I don't know. Modern World --

1 MR. OJEDA: You have answered the question.
 2 THE WITNESS: I don't know if she taught Modern
 3 World.
 4 BY MR. ROSENTHAL:
 5 Q Is Modern World an English course?
 6 A It is not.
 7 Q Can you tell me what subject matter Modern
 8 World is.
 9 A It's history.
 10 Q Did you hear about any other instances of a
 11 teacher being absent for any extended period of time?
 12 A No.
 13 Q And you also mentioned that during some of
 14 these absences, there were temporary substitutes hired;
 15 is that correct?
 16 A Yes.
 17 Q Can you explain to me what these substitute
 18 teachers are told to teach the students when they fill
 19 in for teachers?
 20 MR. OJEDA: Objection; it's vague and overbroad.
 21 MR. ROSENTHAL: Bad question. Let me rephrase the
 22 question.
 23 Q Can you tell me what the role of a substitute
 24 teacher is when they are filling in for a teacher who's
 25 absent.

1 A The role is to use the provided lesson plan to
 2 teach, or plans, to teach the students the subject
 3 matter.
 4 Q So when there's a substitute teacher filling in
 5 for a permanent teacher, students are still receiving
 6 instruction in the relevant class; is that correct?
 7 A They are supposed to be, yes.
 8 Q Has that happened?
 9 A Yes.
 10 Q Are there instances when it does not happen?
 11 A On one occasion I do recall a complaint.
 12 Q Can you tell me the details about that
 13 complaint.
 14 A Just the teacher left lesson plans, but the sub
 15 had brought his own movie.
 16 Q Do you recall when that was?
 17 A Sometime earlier this year.
 18 Q January of 2000 -- during the 2000-2001 school
 19 year?
 20 A Yes.
 21 Q Do you recall what class that was for?
 22 A Science.
 23 Q Do you recall the name of the teacher who was
 24 absent?
 25 A Thile Wilcox.

1 Q And how did you hear about the substitute
 2 bringing in a movie rather than following the lesson
 3 plan?
 4 A The students told me.
 5 Q And what did you do when you found out?
 6 A I sent the curriculum instruction assistant
 7 principal down to take care of it.
 8 Q When you say, "take care of it," what do you
 9 mean?
 10 A To make sure that the sub followed the lesson
 11 plans and terminated showing the movie.
 12 Q And do you know what happened after you
 13 instructed the assistant principal to take care of it?
 14 A The sub stopped showing the movie and started
 15 following the lesson plan.
 16 Q Do you recall any other instances of
 17 substitutes not giving instruction in the course that
 18 they were hired to fill in for?
 19 A No, I don't.
 20 Q Now, you made a couple of references earlier
 21 about reconstitution at Balboa High School. Can you
 22 tell me a little about that.
 23 A The previous superintendent's administration --
 24 he felt that if the school was not performing to the
 25 level that he felt they should, he would remove the

1 staff, leave the students and replace the staff. And
 2 that was called reconstitution.
 3 Q And did that happen at Balboa?
 4 A It did.
 5 Q Do you know when it happened?
 6 A It happened the summer, between the -- June,
 7 July of 1996.
 8 Q So prior to the start of the '96-'97 school
 9 year?
 10 A That's right.
 11 Q So during the summer of 1996, were all new
 12 teachers hired to teach at Balboa High School?
 13 A All except 11.
 14 Q Do you have an understanding as to why 11 were
 15 kept on?
 16 A I don't. I wasn't there.
 17 Q Do you know how many new teachers were hired
 18 during that summer?
 19 A I don't.
 20 Q Can you give me an approximate number?
 21 A Around 80, 70 to 80. I'm not sure.
 22 Q Was the student population at Balboa greater
 23 during that time period?
 24 A Yes, it was.
 25 Q Is that why there were more teachers working at

1 Balboa then as opposed to now?
 2 A That's right.
 3 Q Earlier we discussed teacher turnover at
 4 Balboa. Do you think there's any connection between the
 5 turnover -- the teacher turnover that took place in
 6 Balboa in the 1997 to '99 range and the reconstitution
 7 that occurred in 1996?
 8 A Yes, I think there was a correlation, direct
 9 correlation.
 10 Q Can you tell me how you think the two were
 11 correlated.
 12 A As I mentioned earlier, the staff didn't know
 13 the students. The students will try whatever they can
 14 and it's -- nobody knew them. Very few people knew
 15 them. Only 11 teachers knew 1600 kids, so it was
 16 difficult.
 17 Q Is it fair to say then that you think that the
 18 fact that so many new teachers were hired during the
 19 summer of 1996 that it made them more likely to leave in
 20 a short period of time?
 21 A They weren't all new teachers. They were new
 22 to Balboa, but they weren't all new teachers.
 23 Q I apologize. That's what I meant, actually,
 24 new to Balboa.
 25 Is it your opinion that that made them more

1 likely to leave after a short period of time?
 2 A I don't know.
 3 Q Prior to the reconstitution at Balboa, were you
 4 aware of -- do you know if there was any high teacher
 5 turnover at Balboa prior to then?
 6 A I do not know.
 7 Q Had you heard there was high teacher turnover
 8 prior to 1996? For the time you have been involved at
 9 Balboa High School, the high turnover period was limited
 10 to a two- to three-year period; is that correct?
 11 A I've been at Balboa since 1996, with exception
 12 of the year '88-'89 when I started the 49'er academy.
 13 That's all I can attest to.
 14 Q Are the 11 teachers who remained at Balboa
 15 after the reconstitution still teaching at Balboa today?
 16 A Some.
 17 MS. LHAMON: Asked and answered.
 18 BY MR. ROSENTHAL:
 19 Q I'm sorry. I didn't hear your answer.
 20 A "Some."
 21 Q Do you know approximately how many of the 11?
 22 A I would have to try to think and count. No.
 23 Q Is it more than half of them?
 24 A No.
 25 Q Less than half?

1 A Probably.
 2 Q Do you know if Balboa has any policy regarding
 3 the charging its students fees to take certain classes?
 4 A Yes.
 5 Q Can you tell me what that policy is.
 6 A That students are not charged fees for taking
 7 classes.
 8 Q Do you know if that's a written policy?
 9 A No, I don't.
 10 Q Do you know who created that policy?
 11 A As far as I know, it was there when I got there
 12 and I continued it.
 13 Q Do you know if it's a policy that's limited to
 14 Balboa High School?
 15 A I don't know.
 16 Q Do you know if it's a districtwide policy?
 17 A I don't know.
 18 Q Do you know if it's a policy mandated by the
 19 State?
 20 A I don't.
 21 Q Have you ever heard of instances where fees
 22 were being charged or students were being charged fees
 23 in connection with taking a class at Balboa?
 24 A Students were not charged fees, not fees.
 25 Q Did students ever have to pay any money in

1 connection with taking any classes at Balboa High
 2 School?
 3 A In one instance students did pay a teacher
 4 money to pick up supplies for them.
 5 Q Can you give me the details of that instance.
 6 A The students wanted to do a special project and
 7 they needed something. They don't have transportation.
 8 Each one was supposed to get -- if they wanted to
 9 participate in the project, they were supposed to pick
 10 up whatever it was.
 11 I don't recall what it was. It was related to
 12 the art class. Students didn't have transportation, so
 13 they asked the art teacher to pick it up for them and
 14 gave her the money, something like \$5 or something like
 15 that.
 16 Q Were students required to pay the fee?
 17 A No.
 18 Q Students paid it voluntarily?
 19 A Because they wanted to do the project, yes.
 20 Q This was a project initiated by the students?
 21 A I think, but I can't recall.
 22 Q Do you remember what the project was?
 23 A No, I don't.
 24 Q Do you recall when this was?
 25 A I think it was the summer of -- I think it was

1 last summer.
 2 Q Summer of 2000?
 3 A Mm-hmm.
 4 Q Was this in connection with a summer school
 5 class?
 6 A Yes.
 7 Q Do you recall ever hearing any complaints
 8 from -- can you tell me the details concerning that.
 9 Do you recall hearing any complaints about the
 10 imposition of a fee?
 11 A Yes.
 12 Q Can you tell me the details of that complaint.
 13 A As I recall, the complaint came to me from John
 14 Quinn, my immediate supervisor. Someone had called the
 15 high school operations office, and he called me to ask
 16 me about it.
 17 Q Do you know who called John Quinn?
 18 A I don't.
 19 Q Do you recall what he told you?
 20 A Asked me to look into it.
 21 Q And what did you do?
 22 A I looked into it and found out what I just told
 23 you and told the teacher that that was not my policy.
 24 She was new to the district, and that had been the
 25 policy where she had been before, and we reimbursed the

1 kids the money.
 2 Q Do you recall any other instances of a fee
 3 being charged to students in connection with taking any
 4 class at Balboa?
 5 A No.
 6 Q I would like you to take a look at the First
 7 Amended Complaint again. If you can direct your
 8 attention to paragraph -- page 28, paragraph 91, which
 9 is on line 19.
 10 That sentence reads, "Balboa students have to
 11 pay a \$5 fee to take art classes at the school."
 12 Do you have an opinion as to the accuracy of
 13 that allegation?
 14 A That is not accurate.
 15 Q Is it fair to say that when students take art
 16 classes at Balboa High School they pay no fee?
 17 A That's right.
 18 Q Why don't we have -- while we have the First
 19 Amended Complaint in front of us, have you ever seen
 20 this document before?
 21 A No.
 22 Q Have you seen certain pages of the document?
 23 A Yes.
 24 Q Do you recall what pages you have seen?
 25 A No.

1 Q Do you recall whether you have seen the pages
 2 dealing with Balboa High School, which begin I believe
 3 on page 27?
 4 A I've not seen page 26, and I've seen part of 27
 5 and part of 28.
 6 Q Other than counsel, do you recall who showed
 7 you those pages?
 8 A Yes.
 9 Q Who else?
 10 A They were faxed to me.
 11 MS. PERRIN: He's asking you specifically if anyone
 12 other than attorneys provided you with any of these
 13 pages, just so you have that clear.
 14 THE WITNESS: The answer's yes.
 15 BY MR. ROSENTHAL:
 16 Q Is that what Mr. Quinn faxed to you prior to
 17 you creating the responses?
 18 A Yes.
 19 Q Okay. How do you know that the children in the
 20 summer school art class were reimbursed \$5 that they
 21 paid?
 22 A Because the check came to me, to the school,
 23 but to me. And I gave it to the accountant, and she
 24 wrote a check for what was supposed to be \$5 to each of
 25 the kids. And it turns out she wrote it for \$500 to

1 each of the kids, and the checks had -- payment had to
 2 be stopped and the checks reissued.
 3 Q Do you recall how soon after the fees were paid
 4 that the money was reimbursed to the students?
 5 A No.
 6 Q Was it within the month?
 7 A No.
 8 Q More time than that?
 9 A Yes. Sometime in September, I think.
 10 Q Do you know if Balboa has any policy regarding
 11 providing students with basic school supplies, such as
 12 paper and pencil?
 13 A We do have paper and pencil.
 14 Q What other supplies does Balboa provide to its
 15 students?
 16 A Outside of books, paper, and pencil?
 17 Q Yes.
 18 A The art supplies are provided in the
 19 communication arts academy, tapes and things are
 20 provided.
 21 Q Anything else you can think of?
 22 A No.
 23 Q Have you ever heard any complaints that basic
 24 school supplies were not being provided to students at
 25 Balboa High School?

1 A No.
 2 Q I would like to go back for a minute to -- we
 3 were discussing earlier substitute teachers, and you
 4 mentioned for a period of time there was a Spanish
 5 teacher who was absent. And there were a number of
 6 short-term substitutes before you obtained a permanent
 7 substitute for the class.
 8 Do you remember that?
 9 A Yes.
 10 Q Do you recall hearing any complaints about the
 11 instruction being given students in that class?
 12 A No.
 13 Q Do you recall hearing that students were not
 14 being instructed in Spanish and instead were watching
 15 noneducational movies?
 16 A I did not.
 17 Q You had never heard any complaints about that?
 18 A No.
 19 Q How do you know that the substitute teacher was
 20 giving the students Spanish instruction?
 21 A I have an assistant principal in charge of --
 22 he periodically checked, on a regular basis, worked with
 23 the teacher.
 24 Q Do you recall ever hearing the Spanish class
 25 was being taught by a student?

1 A No.
 2 Q Do you know if that occurred?
 3 A I don't know if that occurred. However,
 4 teacher -- the concept of students teaching each other,
 5 group work is common throughout the school, throughout
 6 the district, throughout the United States, kids helping
 7 each other. So that could have occurred in some
 8 instance.
 9 Q When you conducted your investigation in
 10 preparing your responses that you provided to Mr. Quinn,
 11 did you find anything -- is that one of the areas you
 12 investigated?
 13 A I didn't investigate. I sat down on my
 14 computer, and I typed out what I remembered happening.
 15 Q And is what you told Mr. Quinn what you have
 16 testified here today?
 17 A Yes.
 18 Q I'm going to ask you to take a look at the
 19 First Amended Complaint again, if you can. Turn to
 20 page 27. And direct your attention to paragraph 85.
 21 I'll start on line 24, which reads, "At Balboa,
 22 several classes, including Spanish and English classes,
 23 have no permanent teacher but instead are taught by a
 24 series of substitute teachers."
 25 Do you have an opinion as to the accuracy of

1 that statement?
 2 A It is accurate as to what I just said earlier,
 3 that there were a few substitutes in Spanish until I
 4 found a Spanish-speaking teacher that could stay there
 5 throughout the rest of the year. That is not true of
 6 the English classes since I have been there.
 7 Q So is it fair to say, then, that the only
 8 class -- strike that.
 9 Are there any other classes at Balboa High
 10 School, during the two years that you have been there,
 11 that have had no permanent teacher, but are taught by a
 12 series of substitute teachers other than the ones you
 13 have already testified to?
 14 A There is one other.
 15 Q Can you tell me about that one.
 16 A A teacher is out on discipline reasons, and he
 17 has a permanent sub in his place.
 18 Q Do you know what class that is for?
 19 A Health and physical education.
 20 Q And when did that teacher leave? When did this
 21 occur?
 22 A I don't know. I was out sick.
 23 Q Was that during the school year?
 24 A Yes.
 25 Q And there's a permanent substitute teacher in

1 that class now?
 2 A Right.
 3 Q And he's giving instruction to the students in
 4 health and physical education?
 5 A Yes.
 6 Q When a permanent teacher is required for
 7 whatever reason to be absent for an extended period of
 8 time, is an effort made to hire a permanent substitute
 9 to take over the class?
 10 A Yes.
 11 Q And how long does that usually take to get a
 12 permanent substitute teacher?
 13 A Not long.
 14 Q Can you tell me roughly how long?
 15 A Sometimes the teacher that takes it the very
 16 first day will stay until the teacher comes back, and
 17 sometimes they make take two or three days.
 18 Q Can you tell me the longest period of time it's
 19 taken, in the two years you have been there?
 20 A Yeah. I think I mentioned earlier two or three
 21 weeks.
 22 Q But never longer than that?
 23 A No.
 24 Q So when plaintiffs allege that classes are
 25 being taught by a series of substitute teachers, do you

1 have an opinion as to the accuracy of that allegation?

2 A I think it's basically inaccurate.

3 Q In all instances when a substitute teacher is
4 required, have you been able to obtain a permanent
5 substitute teacher?

6 A I think I testified to that earlier, yes.

7 Q Let's move on to the next sentence.

8 It says, "Students in these classes often have
9 different substitute teachers every day, and some of the
10 substitute teachers are not familiar with the subject
11 matter they attempt to teach."

12 Do you have an opinion as to the accuracy of
13 that statement?

14 A First sub that comes into a class may not be
15 familiar with that particular course, but when I get a
16 permanent sub, that permanent sub can do it.

17 Q So the number of days that a class would have a
18 substitute teacher not familiar with the subject area is
19 limited to the period of time you testified to earlier,
20 no more than two or three weeks, and in some cases one
21 or two days?

22 A Less.

23 Q The next sentence reads, "In one Spanish class
24 during the 1999-2000 school year, a student who
25 transferred to Balboa from another school attempted to

1 A From experience. I've done it myself, and I
2 know other teachers do it too.

3 Q Do you know why teachers do that?

4 MR. OJEDA: I'm going to object, to the extent it's
5 overbroad. Narrow it down. What period are we talking
6 about here? During her tenure at Balboa as a principal?

7 MR. ROSENTHAL: Why don't we limit it to that.

8 Q During your two years as principal at Balboa
9 High School, have you ever heard of instances of
10 teachers buying supplies for their students?

11 A Buying supplies, no.

12 Q Have you heard about teachers obtaining
13 supplies by other means?

14 A Yes.

15 Q What have you heard about that?

16 A Getting donations.

17 Q Do you recall any specifics?

18 A Not really.

19 Q Have you ever heard about teachers buying
20 calculators for students?

21 A No.

22 Q Have you heard about teachers buying rulers for
23 students? And this is all in your -- in your two years
24 as principal at Balboa.

25 A No.

1 instruct the class in Spanish on some days because the
2 limited Spanish she had learned at her previous school
3 exceeded the Spanish instruction otherwise received from
4 untrained and short-term substitute teachers."

5 Do you have any opinion as to the accuracy of
6 that allegation?

7 A I never heard of that.

8 Q Do you believe that allegation to be true?

9 A I don't.

10 Q Do you believe it to be false?

11 A I do.

12 Q And what is that based on?

13 A What is that based on? Because I would have --
14 I think I would have heard -- someone would have told me
15 that the students were having to teach the class when
16 there was a permanent sub in there.

17 Q And you had never heard of a student teaching
18 the class prior to reading it in the Complaint?

19 A I had not.

20 Q We can put that aside again.

21 Turning back briefly to the issue of school
22 supplies. Have you ever heard of teachers purchasing
23 supplies on behalf of their students?

24 A Yes.

25 Q Can you tell me what you have heard about that.

1 Q Have you heard of teachers buying pencils for
2 students?

3 A No.

4 Q Have teachers ever complained to you that they
5 lacked basic school supplies?

6 A No.

7 Q You have never received any complaint about a
8 lack of basic school supplies for the two years you have
9 been principal at Balboa High School?

10 A No. No.

11 Q Have you ever received any complaints from
12 parents in that regard?

13 A No.

14 Q Have you received any complaints from students
15 in that regard?

16 A No.

17 Q Can you tell me if there's a mouse problem at
18 Balboa High School?

19 A What do you mean by "mouse problem"?

20 Q Is Balboa High School infested with mice?

21 A No.

22 Q Have you ever received any complaints about
23 mice?

24 A Yes.

25 Q Can you tell me about those complaints.

1 A Following a two-week period, vacation period at
 2 Christmastime, when we came back I had some complaints
 3 about mice in one classroom.
 4 Q This was Christmas of --
 5 A It was Christmas of 1999-2000.
 6 Q So this was last year?
 7 A Yes.
 8 Q Last school year, that is?
 9 A Yes.
 10 Q Do you recall who complained?
 11 A Yes.
 12 Q Can you tell me who that was?
 13 A Shane Safir.
 14 Q Is that the same teacher you mentioned earlier?
 15 A Yes.
 16 Q Can you tell me what she told you.
 17 A That there were mice in her room, or mice
 18 droppings.
 19 Q Did she tell you she saw any mice?
 20 A No.
 21 Q Did she tell you how she knew what she saw was
 22 mice droppings?
 23 A No.
 24 Q Has anybody ever complained to you that they
 25 have seen mice at Balboa High School?

1 A Yes.
 2 Q Can you tell me who.
 3 A I have.
 4 Q Where have you seen mice at Balboa High School?
 5 A In my office I saw one.
 6 MR. OJEDA: But you didn't complain. He's asking
 7 you if anyone complained.
 8 THE WITNESS: Sorry.
 9 BY MR. ROSENTHAL:
 10 Q Do you recall when you saw that one mouse?
 11 A Couple weeks ago.
 12 Q Has anybody else ever told you about seeing
 13 mice at Balboa High School?
 14 A Yes.
 15 Q Can you tell me about those instances.
 16 A Down in the gym area.
 17 Q And who told you they had seen mice?
 18 A Rocio Ramirez.
 19 Q Is she a teacher?
 20 A Yes.
 21 Q Was this on one occasion?
 22 A Yes.
 23 Q Do you recall when that was?
 24 A No.
 25 Q Was it during the school year, this being 2000

1 to 2001?
 2 A I'm trying to recall. I don't think so. I
 3 think it was last year.
 4 Q Any other complaints of mice at Balboa High
 5 School since you have been principal?
 6 A No.
 7 Q No other teachers have complained about mice?
 8 A No, that I can recall.
 9 Q No parents?
 10 A No.
 11 Q Any students complain about seeing mice?
 12 A No.
 13 Q Now, you have identified that following
 14 Christmas during last school year Ms. Safir told you she
 15 had seen some mice droppings in her classroom. What did
 16 you do as a result of that?
 17 A Reported it to the buildings and grounds
 18 assistant principal and to my secretary and asked her to
 19 call the exterminator.
 20 Q The buildings and grounds assistant principal
 21 is who again?
 22 A Gilbert Chung.
 23 Q Do you know what Mr. Chung did as a result of
 24 you notifying him?
 25 A Well, I did what he would have done, that was

1 to tell my secretary -- have her call the exterminator.
 2 I was just telling him as a matter of courtesy because
 3 that's his -- under his umbrella.
 4 MR. OJEDA: Listen to the question. He asked you if
 5 you knew whether Mr. Chung had done anything in response
 6 to your report.
 7 THE WITNESS: No.
 8 BY MR. ROSENTHAL:
 9 Q Do you know if your secretary called the
 10 exterminator?
 11 A I do.
 12 Q Did she?
 13 A Yes.
 14 Q Did an exterminator come?
 15 A Yes.
 16 Q Do you recall when the exterminator came?
 17 A No.
 18 Q Do you recall how soon after you received the
 19 complaint from Ms. Safir that the exterminator came,
 20 roughly?
 21 A A matter of a day or so. I think a day, within
 22 24 hours.
 23 Q Did you speak with the exterminator?
 24 A No.
 25 Q Do you know what the exterminator did while he

1 was -- well, let me step back.
 2 Did the exterminator come to Balboa High
 3 School?
 4 A Yes.
 5 Q Do you know what the exterminator did while at
 6 Balboa High School?
 7 A Yes.
 8 Q What did he do?
 9 A Put out sticky pads.
 10 Q Did he do anything else?
 11 A No.
 12 Q Do you know where he put out the sticky pads?
 13 A In Mrs. Safir's room.
 14 Q After the exterminator came, did Ms. Safir ever
 15 complain to you about seeing mice again?
 16 A Not that I recall.
 17 Q You mentioned that a couple weeks ago you saw a
 18 mouse in your office. Did you do anything as a result
 19 of that?
 20 A Called the exterminator, had my secretary call
 21 the exterminator.
 22 Q Same procedure?
 23 A Yes.
 24 Q Did the exterminator come?
 25 A Yes.

1 Q What did he do this time?
 2 A Put out some sticky pads and closed up some
 3 holes.
 4 Q Do you know if the exterminator closed up any
 5 holes in Ms. Safir's room?
 6 A I don't know.
 7 Q You don't know one way or the other?
 8 A I don't know one way or the other.
 9 Q Since the exterminator came to put sticky pads
 10 in your office and close up some holes, have you seen
 11 any mice since then?
 12 A No.
 13 Q You also mentioned that -- is it Ms. Ramirez?
 14 A Yes.
 15 Q That she saw a mouse. Or did she see more than
 16 one -- let me step back.
 17 Did she see -- did she tell you if she saw one
 18 mouse or more than one mouse?
 19 A She didn't say.
 20 Q What did you do as a result of Ms. Ramirez
 21 informing you that she had seen one or more than one
 22 mouse?
 23 A Had my secretary call the exterminator.
 24 Q And did the exterminator come?
 25 A Yes.

1 Q Do you recall how soon after the complaint that
 2 he came?
 3 A No.
 4 Q Was it in a relatively short period of time?
 5 A Within 24 hours.
 6 Q And do you know what the exterminator did?
 7 A Put out sticky pads.
 8 Q Do you know if he closed up any holes in the
 9 gym?
 10 A I don't know one way or the other.
 11 Q And did Ms. Ramirez complain about seeing mice
 12 after that instance again?
 13 A No.
 14 Q So other than three sightings of mice during
 15 your two years as principal of Balboa High School, you
 16 have never heard of anybody else seeing any mice at
 17 Balboa; is that correct?
 18 A My secretary may have seen one.
 19 Q When you say your secretary may have, what do
 20 you mean?
 21 A I think she did mention that she saw one.
 22 Q Do you recall anything else about that?
 23 A No.
 24 Q Do you know when it was?
 25 A No.

1 Q Was it recently?
 2 A No.
 3 Q Do you have exterminators come to Balboa on a
 4 regular basis?
 5 A I don't know.
 6 Q Is that something in your jurisdiction or does
 7 somebody else handle that?
 8 A It's -- my assistant principal in charge of
 9 buildings and grounds handles that.
 10 Q So other than the three instances you have
 11 identified and the possibility of your secretary seeing
 12 a mouse, are there any other instances of anybody seeing
 13 a mouse at Balboa High School that you are aware of?
 14 A Not that I'm aware of.
 15 Q Ask you to take a look at the First Amended
 16 Complaint again, if you can turn to page 28. Direct
 17 your attention to paragraph 89, which is on line 15.
 18 The first sentence says, "Balboa High School is
 19 infested with mice."
 20 Do you have an opinion as to the accuracy of
 21 that allegation?
 22 A I would say it's inaccurate.
 23 Q The second sentence reads, "Students regularly
 24 see mice in the gym and in their classrooms."
 25 Do you have an opinion as to the accuracy of

1 that statement?
 2 A I would say it's inaccurate.
 3 Q Have you ever heard of mice being seen in any
 4 other classroom than Ms. Safir's?
 5 A No.
 6 MR. OJEDA: I just want to clarify, she stated -- or
 7 the testimony was that there were droppings located.
 8 THE WITNESS: That's right.
 9 MR. OJEDA: Not that there were mice in the
 10 classroom.
 11 MR. ROSENTHAL: I apologize.
 12 Q Let me ask the clarifying question.
 13 You have never heard of anybody seeing any
 14 mouse in any classroom in your two years at Balboa High
 15 School as principal?
 16 A That's right.
 17 MS. LHAMON: Michael, would you mind taking a break.
 18 (Recess taken.)
 19 BY MR. ROSENTHAL:
 20 Q Can you describe for me how somebody would
 21 register a complaint about seeing mice at the school?
 22 A They would probably tell me or tell Mr. Chung.
 23 Q Are there any other ways that somebody could
 24 complain about seeing mice in the school, something like
 25 filling out a written form?

1 MR. OJEDA: I'm going to object, to the extent it
 2 calls for speculation. There are numerous ways somebody
 3 could theoretically complain about something.
 4 MR. ROSENTHAL: Let me rephrase the question.
 5 Q Are you aware of any other formal procedures by
 6 which anyone can complain about seeing mice at the
 7 school?
 8 A No.
 9 Q Do you know if there are written forms that can
 10 be filled out to register a complaint?
 11 A No, I don't.
 12 Q You mentioned earlier that you had reviewed a
 13 policy regarding showing movies in classes. Do you
 14 remember that?
 15 A I didn't say I reviewed a policy; I said I
 16 wrote a policy.
 17 Q Okay. Can you tell me what the policy is at
 18 Balboa regarding showing films in classes.
 19 A The film must be relevant to the curriculum.
 20 It must be relevant to the standards, State and district
 21 standards. If it's R-rated, there has to be parental
 22 consent. It's a whole page.
 23 Q Do you recall when you instituted this policy?
 24 A As soon as I was told movies were being shown
 25 inappropriately.

1 Q Do you recall when that was?
 2 A No.
 3 Q Do you recall who told you that movies were
 4 being shown inappropriately?
 5 A I think some kids might have complained that
 6 they had seen the movie more than once.
 7 Q Did they complain to you?
 8 A Yes.
 9 Q And what did you do as a result of hearing
 10 about both complaints?
 11 A I asked the curriculum and instruction
 12 assistant principal to look into it and report back to
 13 me.
 14 Q And did he report back to you?
 15 A He did.
 16 Q And what did he tell you?
 17 A That some teachers or substitutes had shown
 18 movies, and he suggested that we come up with a policy.
 19 Q When you say that he had found out that they
 20 had shown movies, do you mean movies that you deemed
 21 inappropriate to be shown in class?
 22 A That may not be directly related to curriculum
 23 at hand.
 24 Q And as a result of his report, did you then
 25 create the policy you referred to earlier?

1 A Yes.
 2 Q Do you recall hearing of any specific instances
 3 of what you called inappropriate movies being shown in
 4 classes at Balboa High School?
 5 A Do I recall -- would you repeat the question.
 6 Q Sure.
 7 Do you recall any instances of inappropriate
 8 movies being shown in classes at Balboa High School?
 9 A As I mentioned earlier, the substitute was
 10 showing a movie when the science teacher was out.
 11 Q Is that the only instance you recall?
 12 A One other instance, I think, that the teacher
 13 felt that it was appropriate and we discussed it.
 14 Q Do you recall what movie was shown to students
 15 in the science class that you just mentioned?
 16 A No.
 17 Q Do you recall what movie was shown in the other
 18 class that you mentioned that the teacher felt was
 19 appropriate?
 20 A No, I don't.
 21 Q Do you recall what class that was for?
 22 A The second one you just asked me about?
 23 Q Right.
 24 A It was the American Democracy class.
 25 Q Do you know who the teacher was in that class?

1 A Yes.
 2 Q Who was it?
 3 A Mr. Duncan.
 4 Q Is Mr. Duncan still teaching at Balboa High
 5 School?
 6 A He is not.
 7 Q Do you recall any other instances of
 8 inappropriate movies being shown in classes?
 9 A No.
 10 Q Do you recall hearing of any other movies being
 11 shown in classes at Balboa?
 12 A Yes.
 13 Q Tell me what else you have heard.
 14 A A teacher was absent and left a movie for the
 15 sub to show.
 16 Q Do you recall what movie that was?
 17 A No.
 18 Q Do you recall what class?
 19 A That was a special ed class.
 20 Q Do you know who the teacher was in that class?
 21 A Yes.
 22 Q Who was that?
 23 A Jim Feliciano.
 24 Q Do you recall hearing about any other instances
 25 of inappropriate movies being shown in classes?

1 A No.
 2 Q Since you instituted the movie policy we
 3 discussed earlier, have you heard of any instances of
 4 inappropriate movies -- let me rephrase that.
 5 Have you heard of any instances where this
 6 policy has been violated?
 7 A Yes. The one I just mentioned, Mr. Feliciano.
 8 Q Did you do anything as a result of that?
 9 A I did.
 10 Q What did you do?
 11 A I wrote him a memo expressing that the fact
 12 that he had violated the movie policy, that it was
 13 unacceptable, and any further violations could result in
 14 a disciplinary action.
 15 Q Have there been any further violations by
 16 Mr. Feliciano?
 17 A No.
 18 Q Did you discuss the matter with Mr. Feliciano
 19 in person?
 20 A I did.
 21 Q Can you tell me what you discussed.
 22 A The movie policy and that it was -- he should
 23 use lesson plans and not just a movie and that the movie
 24 should connect with the movie policy, should be
 25 appropriate for the curriculum, meet the standards, etc.

1 Q Did he say anything to you?
 2 A Yes.
 3 Q What did he say?
 4 A He was sorry and he wouldn't do it again.
 5 Q Have you ever heard of a class at Balboa High
 6 School where students watched inappropriate movies on a
 7 regular basis?
 8 A No.
 9 Q Are you aware of any class at Balboa High
 10 School where more than one what you have called
 11 inappropriate movies has been shown in a particular
 12 class?
 13 A More than one inappropriate movie over a period
 14 of time? I'm not sure what the question is.
 15 Q In any particular class, has there -- are
 16 you -- do you know that -- do you know whether more than
 17 one movie has been shown to a class?
 18 Do you not understand the question?
 19 A No, I don't. There are classes that -- where
 20 teachers show movies.
 21 Q Right. You have given me a few instances where
 22 there were one-time occurrences where a movie -- an
 23 inappropriate movie was shown. Do you know if in any of
 24 those classes were shown additional movies?
 25 A Not additional, no.

1 Q I'm going to ask you to take a look at the
 2 First Amended Complaint again. Direct your attention to
 3 page 28, paragraph 90, which is on line 17.
 4 It reads, "Students watch noneducational
 5 movies, such as Rush Hour, Entrapment, Liar Liar, and
 6 Halloween in some classes instead of taking
 7 instruction."
 8 Do you have an opinion as to the accuracy of
 9 that allegation?
 10 A That could be true. Could have been true prior
 11 to the movie policy.
 12 MR. OJEDA: We don't want you to speculate now.
 13 There's certain specific movies listed here, so --
 14 THE WITNESS: I know. And I heard that that had
 15 happened in a class, and that's why I said it could have
 16 been true.
 17 BY MR. ROSENTHAL:
 18 Q When you say you had heard that it happened in
 19 a class, had you heard that these four movies were shown
 20 in one particular class?
 21 A Not necessarily those four movies. I remember
 22 Liar Liar and Halloween I think were shown in the class,
 23 which is why we got the movie policy.
 24 Q So again, taking a look at this allegation, is
 25 it your testimony that noneducational movies such as

1 Rush Hour, Entrapment, Halloween and Liar Liar are no
2 longer shown to students at Balboa High School?

3 A Absolutely not.

4 Q And to the best of your knowledge, prior to the
5 movie policy, were these movies shown to students in
6 just one class?

7 A That's my understanding.

8 MR. OJEDA: Just to clarify, we are talking about
9 all four movies here. So to the extent that you imply
10 that all four movies were shown in a class, that
11 misstates your testimony, I believe.

12 THE WITNESS: I can't testify to all four, because I
13 was told that a teacher had shown these movies. I
14 didn't -- they didn't say these particular four.

15 I remember Liar Liar. I remember Halloween. I
16 think I remember vaguely remember Rush Hour. I don't
17 know about Entrapment, and it was one teacher that did
18 that.

19 BY MR. ROSENTHAL:

20 Q So you remember there being one teacher who
21 would show -- is it a she?

22 A He.

23 Q There's one teacher who would show his class
24 movies that you call noneducational or not appropriate?

25 A Noneducational, and that's right.

1 A Yes.

2 Q Are you aware of any policies or requirements
3 regarding the number of students per classroom that is
4 permitted at Balboa High School?

5 A The question again?

6 Q Are you aware of any policies or limitations on
7 the number of students permitted in classrooms at Balboa
8 High School?

9 A I'm aware of limitations of the classroom size
10 dictated by the State for 9th-graders.

11 Q Tell me what your understanding of those
12 requirements is.

13 A For 9th-graders in math and English, the class
14 is supposed to be 20, maximum 22.

15 Q And that's for math and English in 9th grade?

16 A 9th grade, right.

17 Q Are you aware of any other requirements?

18 A Not requirements, no.

19 Q Are there any districtwide policies that you
20 are aware of regarding classroom size?

21 A No policies, no.

22 Q Are there any -- can you tell me what the
23 districtwide practice is?

24 A The districtwide practice is to try to restrict
25 the classes to 34.5, if possible, outside of the

1 Q And it's only that one teacher who was a repeat
2 shower of those movies?

3 A Prior to the policy, yes.

4 Q Do you recall this teacher's name?

5 A Jim Feliciano.

6 Q That's the same Mr. Feliciano you discussed
7 earlier, the special ed teacher?

8 A It is.

9 Q Did Mr. Feliciano only teach special ed
10 classes?

11 A That's right.

12 Q And Mr. Feliciano still teaches at Balboa High
13 School?

14 A He does.

15 Q But since you had that conversation with him,
16 he has not violated the movie policy?

17 A That's right.

18 Q Other than the instances you have already
19 testified to prior to the creation of the movie policy,
20 are you aware of any other teachers who would show
21 inappropriate or noneducational movies on a regular
22 basis?

23 A That's right. I'm not -- I don't know of any
24 other teachers that have done that.

25 Q Just Mr. Feliciano?

1 9th grade State requirements.

2 Q How do you know that?

3 A How do I know that?

4 Q That is a -- it's in --

5 A That's in the -- it's not in the contract, but
6 it's recommended by the union, and it's in the
7 contract -- the contract.

8 Q Is it in the teachers' collective bargaining
9 agreement?

10 A Right. That the effort be made to restrict the
11 classes to 34.5.

12 Q Do you know what the average class size is at
13 Balboa High School?

14 A It's less, but, no, I don't know what it is.

15 Q But less than 34.5?

16 A Yes.

17 Q And does Balboa High School comply with the
18 requirements in 9th grade math and English classes?

19 A Yes.

20 Q Have you ever heard of any complaints about
21 classes at Balboa High School having too many students?

22 A Yes.

23 Q Can you tell me about those complaints.

24 A There was a complaint by the art teacher that
25 she had some large number of students on her roll.

1 Q Any other complaints you remember?
 2 A No, I don't.
 3 Q Do you recall who this particular art teacher
 4 was?
 5 A Ms. Cobandalo.
 6 Q And do you recall how many students she had in
 7 her class?
 8 A She had approximately 38 students in her class
 9 and 50 on the roll.
 10 Q Do you recall when this was?
 11 A Last school year.
 12 Q 1999-2000 school year?
 13 A Yes.
 14 Q When you say she had 38 students in her class
 15 and 50 on the roll, what do you mean by that?
 16 A During the beginning of the year, classes are
 17 in flux, students are changing from one teacher to
 18 another if they don't care for a class or if it's a
 19 conflict of some sort. The students are -- the classes
 20 are changed, and the students go to the new teacher.
 21 And at the time there was no form for dropping,
 22 for letting the teacher know to drop a student from the
 23 previous roll when the student was going to another
 24 roll. So she could have 50 people on the roll and only
 25 30 people actually -- 35, 38 students actually in the

1 class.
 2 Q Do you recall when she complained to you?
 3 A She didn't complain to me.
 4 Q Did you ever discuss her -- the class size with
 5 the teacher, with this art teacher?
 6 A No, I did not.
 7 Q How did you find out about it?
 8 A Mr. Chung said that she needed more chairs.
 9 She had someone -- someone had asked -- she had asked or
 10 someone had asked Mr. Chung to get more chairs for her
 11 classroom.
 12 Also, she had complained to Mr. Rachesky --
 13 that's the person who was doing the -- that's the
 14 assistant principal in charge of pupil services, master
 15 schedule at the time -- that she had too many students
 16 in the class.
 17 Q Do you know what was done as a result of this
 18 art teacher's complaint that there were too many
 19 students in her class?
 20 A Yes.
 21 MR. OJEDA: Objection; that misstates her testimony,
 22 to the extent you called it a complaint.
 23 MR. ROSENTHAL: We have gone back -- I think she
 24 said she complained to Mr. Rachesky.
 25 THE WITNESS: And then I heard it.

1 BY MR. ROSENTHAL:
 2 Q Right.
 3 Do you recall what was -- can you tell me what
 4 was done as a result of you being informed that the art
 5 class had too many students.
 6 A The art class had about three too many students
 7 in it. 34.5 means 35 -- approximately 35 students. She
 8 had about 38 students in the class. Mr. Chung made sure
 9 she had extra chairs. Mr. Rachesky ran a class roll to
 10 see exactly how many students she had in the class.
 11 Even though she had 50 or so on her list, he
 12 ran it to make sure she only had -- that she had fewer
 13 than that many actually attending and actually enrolled.
 14 Q Do you know if there were ever 50 students who
 15 reported to this art teacher's classroom?
 16 A I do know there were never 50 students at one
 17 time reported to that art teacher's classroom.
 18 Q When the art teacher requested additional desks
 19 from Mr. Chung to seat the -- when she requested the
 20 additional desks, do you know what happened?
 21 A She got the desks.
 22 Q Do you know how quickly she got the desks?
 23 A No, I don't.
 24 Q Do you recall how many desks she needed?
 25 A No, I don't.

1 Q Do you know how many desks are -- strike that.
 2 Prior to the additional desks being brought
 3 into this classroom, do you know how many desks were in
 4 there?
 5 A No, I don't.
 6 Q Did you ever hear of any complaints from
 7 parents about this situation?
 8 A No, I didn't.
 9 Q Did you hear any complaints from students about
 10 this situation?
 11 A No, I didn't.
 12 Q Was there a period of time that there were not
 13 enough desks in the art class that we have been
 14 discussing?
 15 A During that time? During the first few weeks
 16 of school, when the classes are being adjusted, that was
 17 when the -- when she complained to the assistant
 18 principal.
 19 Q Do you know how many students were lacking
 20 desks in her classroom?
 21 A No, I don't.
 22 Q Do you have an approximate number?
 23 A No, I don't, except for what I read here.
 24 Q She never told you how many desks she needed?
 25 A No, she didn't.

1 MR. OJEDA: This assumes facts not in evidence. We
2 don't know whether there were any -- whether there was
3 actually a lack of desks in there. There was just a
4 complaint made, or there was reference to it.

5 But to the extent that you are stating there
6 was a lack of desks, we don't know that.

7 BY MR. ROSENTHAL:

8 Q Do you know if there was a shortage of desks in
9 the art room, in the art classroom?

10 A No, I don't.

11 Q But that's what you heard?

12 A I heard that from Mr. Chung and -- Mr. Chung.

13 Q In your two years as principal at Balboa High
14 School, have you ever heard of any other instance of
15 classrooms being what I'll call overcrowded?

16 A No.

17 Q Any other instances where a teacher complained
18 that there weren't enough desks?

19 A No.

20 Q This was the only instance during the two years
21 that you have been principal at Balboa High School?

22 A Yes.

23 Q Can you tell me approximately for how long this
24 situation lasted?

25 A No, I can't.

1 which is on line 13.

2 It says -- first sentence reads, "Some classes
3 have as many as 54 students, with as few as 30 seats,
4 for weeks without relief."

5 Do you have an opinion as to the accuracy of
6 that allegation?

7 A I would say it's false.

8 Q The next sentence reads, "Students in these
9 classes have to stand or sit on counters because they
10 have no seats."

11 Do you have an opinion as to the accuracy of
12 that allegation?

13 A If a class doesn't have enough seats during a
14 particular period and a teacher has not sent for seats,
15 it's possible that the students might sit on the
16 counter.

17 Q And to your knowledge, the only instance where
18 there's a possibility of shortage of seats or desks was
19 the situation in the art class we were discussing
20 before; is that right?

21 A That's right.

22 Q We discussed bathrooms briefly this morning.

23 You gave me a rough number of the number of bathrooms.

24 I'm going to try to focus in on that a little more, if I
25 can.

1 Q Do you know if the situation was resolved at
2 some point?

3 MR. OJEDA: Objection as to the -- vague and
4 ambiguous. What do you mean by "situation"?

5 MR. ROSENTHAL: The witness has testified that she
6 doesn't know for sure that there wasn't enough room.
7 I'm trying to figure out if she's aware if the situation
8 that arose, if the situation was resolved. I'll try to
9 rephrase it.

10 Q Did you ever hear that the problem that been
11 complained of had been resolved to the teacher's liking?

12 A Yes.

13 Q Do you -- to the extent you know, do you know
14 where students sat if they had no desks in this
15 classroom?

16 MR. OJEDA: Calls for speculation.

17 MR. ROSENTHAL: I said if she knows.

18 THE WITNESS: Just there, what I've read. No, I
19 don't know.

20 BY MR. ROSENTHAL:

21 Q Is it fair to say that Mr. Chung was primarily
22 involved in dealing with this problem?

23 A Yes.

24 Q I'm going to ask you to take a look at the
25 First Amended Complaint again. Page 28, paragraph 88,

1 Can you tell me how many girls' bathrooms there
2 are for students to use at Balboa High School?

3 A I estimated the number of restrooms. I don't
4 know how many boys' or how many girls'.

5 Q Do you know if it's three or more?

6 A It's more than three.

7 Q Are there also more than three boys' bathrooms?

8 A I would say so, including the gym.

9 Q I'm sorry.

10 There are more than three, including the gym,
11 you said?

12 A Yes.

13 Q Have any of the bathrooms been closed off
14 during the two years you have been principal at Balboa
15 High School?

16 A What do you mean by "closed off"?

17 Q Were they locked and not -- were students not
18 able to use them for any significant amount of time?

19 A Not since I've been principal, no.

20 Q Did you hear about any instances prior to your
21 arrival as principal at Balboa?

22 A There was one bathroom that had mercury
23 contamination, and it was closed off for a period of
24 time until the district had it cleaned.

25 Q Do you recall when that was?

1 A No.
 2 Q But when you arrived at Balboa, that bathroom
 3 had been cleaned and was open and functioning?
 4 A As far as I know.
 5 Q Was that a girls' bathroom?
 6 A I don't know.
 7 Q Do you know where that bathroom was located?
 8 A I don't.
 9 Q I'm going to ask you to take a look at the
 10 First Amended Complaint again, page 28, paragraph 92,
 11 the first sentence beginning on line 20.
 12 It says, "Only one bathroom, with four stalls,
 13 is open for girls to use, and only two bathrooms are
 14 open for boys to use, on a campus with approximately
 15 1200 students."
 16 Do you have any opinion as to the accuracy of
 17 that allegation?
 18 A It's false.
 19 Q When you say, "It's false," has that been false
 20 for the entire time you have been principal at Balboa
 21 High School?
 22 A That's right.
 23 Q Have you ever heard that that was the bathroom
 24 situation at Balboa High School prior to your arrival as
 25 principal?

1 A No.
 2 Q You had not heard that?
 3 A No, I had not heard that.
 4 Q Do you know if that was the situation at Balboa
 5 High School prior to your arrival?
 6 A I wouldn't know that.
 7 Q Was that the situation at Balboa High School
 8 when you were there in your capacity as dean, assistant
 9 principal, and also counselor?
 10 A No, that was not the case.
 11 Q When you say it was not the case, were there --
 12 can you tell me what the bathroom situation was at
 13 Balboa during that time period?
 14 A The bathroom situation during which time
 15 period? The entire time I've been there or since I've
 16 been principal?
 17 Q Let's focus on the time period prior to you
 18 going to the 49'er Academy, when you were a counselor,
 19 dean, and assistant principal.
 20 MR. OJEDA: Sorry for the interruption. Can I ask
 21 for a clarification as to what you mean by "situation"?
 22 BY MR. ROSENTHAL:
 23 Q Did you understand the question?
 24 A I would like to know what you mean by
 25 "situation" too.

1 Q Can you tell me how many bathrooms there were
 2 open for students' use during that time period?
 3 A I know they were all open.
 4 Q So again, more than three girls' bathrooms were
 5 available -- three or more?
 6 A Including the gym, yes.
 7 Q And the same for the boys'?
 8 A As far as I know, except for the
 9 mercury-contaminated situation.
 10 Q Was -- the mercury contamination, did that take
 11 place when you were working at Balboa High School?
 12 A Yes.
 13 Q And as a result of that one of the bathrooms
 14 was closed; is that correct?
 15 A For a while.
 16 Q Do you recall for how long?
 17 A No, I don't.
 18 Q Was it for a full school year?
 19 A No. I don't know.
 20 Q Could it have been for a full school year?
 21 A I don't think so.
 22 Q You think it was less than the full school
 23 year?
 24 A Yes, I do.
 25 Q Have you ever received any complaints or heard

1 any complaints that there's insufficient number of
 2 bathrooms at Balboa High School for student use?
 3 A I have not heard complaints about insufficient
 4 numbers, no.
 5 Q You haven't heard complaints from students
 6 about that?
 7 A Not about insufficient numbers, no.
 8 Q I'm just focusing on the number of open and
 9 available bathrooms at this point.
 10 A Right.
 11 Q You haven't heard any complaints from students
 12 about that?
 13 A No.
 14 Q No complaints from parents?
 15 A About -- one. One.
 16 Q Can you tell me about that complaint.
 17 A Parent called and said -- asked me why the
 18 bathrooms were closed.
 19 Q And what did you say?
 20 A The bathrooms are not closed; they are locked
 21 during class time, where students are then escorted to
 22 the restrooms by security if a student needs to go
 23 during class time.
 24 Q And why is that?
 25 A For safety reasons.

1 Q Do you recall when this parent made this
2 complaint?
3 A Sometime the last school year.
4 Q Did the parent say anything in response to the
5 answer you gave them?
6 A I don't recall. It was a long conversation. I
7 don't recall his response.
8 Q Any other complaints from parents about there
9 being an insufficient number of bathrooms at Balboa High
10 School?
11 A No.
12 Q Have you ever heard about students having to
13 wait in long lines to use the bathrooms?
14 A No.
15 Q Have you heard any complaints from students
16 about having to wait in long lines to use bathrooms?
17 A No.
18 Q Any such complaints from parents?
19 A No.
20 Q Any complaints like that from teachers?
21 A No.
22 Q If you can quickly look at the First Amended
23 Complaint again, page 28, paragraph 92, I'll read you
24 the first half of the second sentence beginning on line
25 21, which says, "Students have to wait in long lines to

1 A They are generally cleaned at the end of the
2 day.
3 Q Are the bathrooms at Balboa High School
4 supervised in any way by any adults?
5 A No. The bathrooms are not supervised by adults
6 any more than any other place in the building.
7 Q There's no monitor assigned to supervise
8 bathrooms?
9 A No.
10 Q Are there instances when the custodians clean
11 the bathrooms at additional times during the school day,
12 not just at the end of the day?
13 A If there's a complaint about something being
14 spilled or running over or -- then, yes, they might be
15 sent up to clean a bathroom during the day.
16 Q How would the custodians find out about a
17 situation like that?
18 A We page them.
19 Q When you say, "We page them," who is "we"?
20 A The secretary has their pager numbers.
21 Q Is that the secretary in the main office?
22 A Yes.
23 Q How does the secretary find out about it?
24 A Students complain, they will tell.
25 Q So is that the practice at Balboa High School

1 access the bathrooms"
2 Do you have an opinion as to the accuracy of
3 that allegation?
4 A The part that you read?
5 Q Yes.
6 A It's false.
7 Q Can you describe to me the policies regarding
8 the cleaning of bathrooms at Balboa High School.
9 A We have janitors, custodians, rather, who have
10 to clean the building daily.
11 Q How many custodians do you have at Balboa High
12 School?
13 A Four and a half.
14 Q When you say, "four and a half," what do you
15 mean?
16 A Four full-time, one half-time.
17 Q Do they clean the bathrooms on a regular
18 schedule?
19 A They clean the bathrooms daily.
20 Q Is there a time of day that they clean the
21 bathrooms?
22 A It depends on who's cleaning the bathrooms that
23 day. They all come in at different times.
24 Q Do you know if the bathrooms are cleaned at the
25 start of the day or the end of the day or does it vary?

1 if there's a problem in the bathrooms, to notify the
2 secretary in the main office who will then notify the
3 custodians?
4 A Yes.
5 Q And do you recall that happening?
6 A Do I recall what happening?
7 Q Receiving complaints and then having the
8 secretary contact the custodians and the custodians
9 going to deal with whatever cleanup was required?
10 A Yes.
11 Q About how often does that happen?
12 A I don't know.
13 Q Would you say it's a weekly occurrence?
14 A No.
15 Q More frequently, less frequently?
16 A Less frequently.
17 Q Have you been inside the bathrooms at Balboa
18 High School?
19 A I have.
20 Q Can you describe for me the condition of the
21 bathrooms.
22 A In what respect?
23 Q Well, let's focus in on cleanliness.
24 A After the students start to use them, they are
25 not clean.

1 Q Are they clean before school opens in the
2 morning?
3 A They are cleaned at the end of the day so that
4 when school opens they are clean.
5 Q And when you say they are not clean after
6 students use them, what do you mean by "not clean"?
7 A Papers all over the floor.
8 Q Anything else?
9 A They smell.
10 Q Anything else?
11 A No.
12 Q I don't want to belabor this, but do you know
13 why they smell?
14 A There's no exhaust system.
15 Q Have you received any complaints from teachers
16 about the general cleanliness of the bathrooms at Balboa
17 High School?
18 A I may recall one teacher complaining about the
19 cleanliness of the bathrooms.
20 Q Which teacher was that?
21 A I think Ms. Cobandalo.
22 Q Do you remember when that was?
23 A No.
24 Q Do you remember what the substance of her
25 complaint was?

1 A That the students had complained to her, so she
2 was complaining to me.
3 Q Do you remember what the actual complaint about
4 the bathrooms was?
5 A That they were dirty and they smelled.
6 Q Did you do anything as a result of that?
7 A I think we sent someone up to look at the
8 bathroom, Mr. Chung.
9 Q And do you know if he did anything as a result
10 of his visit to the bathroom?
11 A I don't know.
12 Q Any other complaints from teachers that you
13 recall?
14 A No.
15 Q In your opinion, did the custodians at your
16 school do a good job of cleaning the bathrooms?
17 A I think they did an adequate job.
18 Q In your opinion, after they clean the bathrooms
19 every day the bathrooms are clean?
20 A Yes.
21 Q And it's your opinion that the reason the
22 bathrooms at Balboa High School become not clean is
23 because of the students who use the bathrooms?
24 A Exactly.
25 Q Did you ever hear of there being a soiled

1 feminine napkin and a moldy ice cream bar in any of the
2 bathrooms for an entire school year?
3 A No.
4 Q Ask you to take a look at the First Amended
5 Complaint again. Direct your attention to page 28,
6 paragraph 92. And I'm going to pick up on the second
7 half of the second sentence where I left off.
8 I'll read the entire sentence. "Students have
9 to wait in long lines to access the bathrooms, and when
10 they get in, the bathrooms are not clean."
11 I would like to you focus on the last part of
12 that, which is "the bathrooms are not clean" when the
13 students get into the bathrooms.
14 And do you have an opinion as to the accuracy
15 of that allegation?
16 A If they've gone in after the bathrooms have
17 been used during the day, that's a possibility.
18 Q And the last sentence in that paragraph reads,
19 "A soiled feminine napkin and a moldy ice cream bar
20 remained in one of the stalls in the girls' bathroom for
21 the entire 1999-2000 school year."
22 Do you have an opinion as to the accuracy of
23 that allegation?
24 A I don't know.
25 Q Had you ever heard of that before?

1 A No, I had not.
2 Q Did you visit the girls' bathrooms during the
3 1999-2000 school year?
4 A I have been in -- I probably was in and out of
5 the bathrooms, because I do that.
6 Q And do you recall ever seeing a soiled feminine
7 napkin or moldy ice cream bar in any of the girls'
8 bathrooms during that school year?
9 A I do not.
10 Q And you don't recall receiving any complaints
11 about that either?
12 A I do not.
13 Q Do you recall ever hearing that there was one
14 stall in one of the girls' bathrooms that the girls knew
15 not to use as a result of there being this debris in
16 that bathroom?
17 A No, I do not. If I had, I would have taken
18 care of it.
19 Q Now, in connection with cleaning the bathrooms,
20 did the custodians also ensure that there is toilet
21 paper and soap and other supplies in the bathrooms?
22 A They are to ensure that there's toilet paper in
23 the bathrooms.
24 Q And soap as well?
25 A Yes.

1 Q Is that part of their cleaning routine on a
2 daily basis?
3 A It's supposed, yes.
4 Q Have you heard complaints that there's not
5 sufficient toilet paper or soap in the bathrooms?
6 A Yes.
7 Q Can you tell me the substance of those
8 complaints.
9 A Just the kids have told me there's no toilet
10 paper in the bathroom.
11 Q And what do you do after students tell you
12 that?
13 A The secretary pages the custodian and asks the
14 custodian to go over and make sure there's toilet paper.
15 And then I asked Mr. Chung about getting a larger size
16 toilet paper ring so it would have more toilet paper on
17 the ring.
18 Q And has he done that, or is that something you
19 are still looking into?
20 A He always makes sure there's more toilet paper
21 in there, and he is looking into providing the larger
22 rings.
23 MR. ROSENTHAL: Take a break.
24 (Recess taken.)
25 BY MR. ROSENTHAL:

1 Q Ms. Gray, do you remember an article being
2 written about Balboa High School in San Francisco Weekly
3 in October of 2000?
4 A Yes.
5 Q What can you tell me about that article that
6 you recall?
7 A I felt it focused on the negativity and didn't
8 talk about any of the good things that were happening at
9 the school.
10 Q What good things did the article neglect to
11 discuss?
12 A All the accomplishments of the kids, all the
13 hard work of the teachers, the climate at the school,
14 the culture of the school, the activities that go on,
15 the creativity in the classrooms, none of that.
16 Q Do you think the article painted a fair picture
17 of Balboa High School?
18 A I do not.
19 MR. ROSENTHAL: I'm going to mark this document as
20 Exhibit 1 for identification.
21 (Defendant's Exhibit 1 was marked for
22 identification by the court reporter.)
23 BY MR. ROSENTHAL:
24 Q Give you a minute to take a look at that.
25 A Did you want me to read the entire --

1 Q Do you recognize the document?
2 A I do.
3 Q Is that the article that you were referring to?
4 A Yes, it is.
5 Q Were you interviewed in connection with this
6 article?
7 A I think that Bernice did talk with me, yes.
8 Q Do you know who else she spoke to in connection
9 with preparing this article?
10 A I know she talked to Alondra and some teachers
11 and other students.
12 Q Do you recall when that was? Do you recall
13 when that was?
14 A Not exactly. There was a two-week period that
15 she stayed on campus.
16 Q Do you know if it was at the beginning of the
17 2000-2001 school year?
18 A I think so, around October, September, and she
19 was there two weeks.
20 Q But it was this school year as opposed -- not
21 the '99-2000 school year?
22 A Right.
23 Q I'm going to direct your attention to page 9,
24 in the fourth -- direct your attention to the fourth
25 paragraph. It says, "She is troubled." And that "she"

1 is referring to you in that instance. If you want to
2 read back and confirm it, you can see that.
3 It says that, "She is troubled with what she
4 perceives to be inaccuracies in some of the ACLU's
5 allegations regarding Balboa and has offered a written
6 rebuttal to the school district."
7 The written rebuttal that's referenced in that
8 sentence, is that the written response we were
9 discussing earlier?
10 A It is.
11 Q And it says that you were troubled by the
12 inaccuracies in the ACLU's allegations. Can you tell me
13 which inaccuracies you were referring to?
14 A Each one that I said that I disagreed with when
15 you went through and asked me.
16 Q You also said that the article focused on the
17 negative and was not focused on the positive aspects of
18 Balboa. And you gave me some general descriptions of
19 the positive aspects of Balboa that you feel were not
20 included in the article.
21 Can you give me some specific examples of
22 things that you particularly -- that you think are
23 particularly positive regarding Balboa High School?
24 A We have small learning communities,
25 school-to-career communities, such as the law academy,

1 the communication arts academy, the community action
 2 academy, which is a service learning academy, in
 3 addition to the clubs and ethnic sharings of the ethnic
 4 experiences among our students.
 5 Q Are the academies you described programs that
 6 are available at all public high schools?
 7 A No, they are not.
 8 Q Is that something that's relatively unique to
 9 Balboa High School?
 10 A Yes.
 11 Q Would you say it offers students a unique
 12 learning experience?
 13 A Yes.
 14 I would like to make one correction. Not
 15 unique -- not just in Balboa. The law academy is at
 16 Balboa and Mission. The communication academy is in
 17 Balboa and maybe one other school. The action academy,
 18 however, is unique to Balboa.
 19 Q These academies are not available widely in
 20 high schools?
 21 A That's right.
 22 Q In the San Francisco school district?
 23 A That's right.
 24 Q Why do you feel these programs are good to
 25 have?

1 award ceremony with the Berkeley Incentive Award winner,
 2 and she said that -- what would she change if she could,
 3 and she said she wouldn't change anything, that she felt
 4 she had gotten a good education.
 5 A graduate last year went to Berkeley. She
 6 came back yesterday and she has a 4.0 from Berkeley, the
 7 entire school year.
 8 Q Do you know the names of those two students you
 9 just told me about?
 10 A Yes.
 11 Q Can you tell me what they are.
 12 A The first one is [REDACTED]
 13 Q That's the one who's still a current student?
 14 A Current student.
 15 And the one who graduated last year and
 16 finished with a 4.0 at Berkeley is [REDACTED]
 17 And then a student who didn't do as well came
 18 back a few days ago and talked about how wonderful it
 19 was and how she -- it makes her sad that when she was
 20 there she didn't get the same feeling, which was a good
 21 feeling.
 22 Q So was that former student's opinion that the
 23 school had improved since they was there?
 24 A Yes, absolutely.
 25 Q Now, we have discussed a number of different

1 A First of all, our students do better within
 2 small groups, with the same group of teachers for a few
 3 hundred students, who can discuss the curriculum, make
 4 sure it's interwoven between the classes. They do
 5 follow-up, with parental contact. This gives the
 6 students more attention, individual attention.
 7 Q And do you feel that students are getting a
 8 better education as a result of having these programs at
 9 Balboa High School?
 10 A I do.
 11 Q Would you say that students are receiving a
 12 good education at Balboa High School?
 13 A Yes.
 14 Q Why do you say that?
 15 A Because we are providing teachers who are
 16 qualified to teach in the subject area. I'm trying to
 17 hire teachers who care, and keep teachers who care about
 18 the students. And we are creating an atmosphere that is
 19 safe and conducive to learning and where we reward the
 20 students for that kind of behavior. And the students
 21 feel the difference and feel that they are getting a
 22 good education.
 23 Q How do you know that, that students feel they
 24 are getting a good education?
 25 A They told me just last night. I went to an

1 areas that plaintiffs complained about in their
 2 complaint, and you have also told me a number of
 3 policies and procedures that cover each one of those
 4 areas.
 5 I'm going to just quickly run through a couple
 6 of questions about each one of those areas, and then we
 7 are pretty much wrapped up after that.
 8 We discussed teacher absences and how
 9 substitute teachers were provided to the students and
 10 how they instructed the students in the classes that
 11 they were filling in for.
 12 Do you think that the policies and procedures
 13 that are currently in effect at Balboa High School are
 14 effective in resolving those problems as they arise?
 15 A Yes, I do.
 16 Q And do you think the policies and procedures in
 17 effect at Balboa High School are effective at resolving
 18 textbook -- the textbook issues we discussed earlier as
 19 they arise?
 20 A Absolutely.
 21 Q How about the policies and procedures regarding
 22 cleaning bathrooms, do you think they are effective as
 23 resolving the problems that arise?
 24 A I do.
 25 Q And how about with respect to what I'll call

1 mouse control, do you think that those policies and
2 procedures currently in effect are effective in dealing
3 with those problems?

4 A Yes.

5 Q And how about maintaining reasonable class
6 sizes, are those policies and procedures effective?

7 A Absolutely.

8 Q And how about ensuring that students are not
9 shown inappropriate movies, do you think the policies in
10 effect at Balboa are effective in ensuring that that's
11 the case?

12 A Yes.

13 Q In your opinion, is there anything that you
14 believe the State can do to improve those policies or
15 procedures that are in effect at Balboa High School with
16 regards to the list of concerns we just went through?

17 MR. OJEDA: I'm going to object, to the extent it's
18 overbroad.

19 BY MR. ROSENTHAL:

20 Q Do you understand the question?

21 A I do.

22 Q You can answer it, then.

23 A I don't know. Like what?

24 Q Is there anything you can think of that the
25 State could do to make those policies and procedures

1 which is a Friday, starting at 9:30 a.m. at the offices
2 of O'Melveny & Myers.

3 MR. ROSENTHAL: In San Francisco.

4 MS. LHAMON: Yes.

5 We have identified a few documents today during
6 the deposition that we haven't received, and if --
7 Mr. Ojeda, if you could consult with your client and
8 other lawyers in your office, and if you think those
9 documents are responsive, we think they are responsive,
10 to our business records, and if it's at all possible to
11 get those copies before we resume on the 15th, I would
12 sure appreciate it. I assume Mr. Rosenthal would
13 appreciate it.

14 MR. ROSENTHAL: Yes. I would like to receive copies
15 of those as well and I reserve my right to.

16 MS. LHAMON: As you know, we are reserving our right
17 to question the witness about those documents and any
18 other documents we haven't yet received, because we
19 don't believe that our subpoena has been fully responded
20 to so far.

21 MR. OJEDA: Okay. I have the same position. I will
22 review those documents and take it under consideration.

23 MS. LHAMON: I appreciate it.

24 //

25 //

1 more effective?

2 A The policies and procedures, no.

3 Q Well, I have nothing further. I thank you very
4 much for your time.

5 MR. ROSENTHAL: I do need to get our -- we usually
6 put stipulations on the record?

7 MS. LHAMON: Do you want a stipulation on now or
8 when I finish?

9 MR. ROSENTHAL: Let's do it each day.

10 (Discussion off the record.)

11 MR. ROSENTHAL: I would like to ask if we can
12 stipulate that the original of this deposition can be
13 signed under penalty of perjury, that the original be
14 delivered to the office of Miller Brown & Dannis, that
15 the reporter is relieved of liability for the
16 deposition.

17 The witness will have 15 days from the date of
18 the court reporter's transmittal letter to read and sign
19 the deposition. That Mr. Ojeda will notify all parties
20 of such changes, and if there are no such changes any
21 copy may be used as though signed and corrected.

22 So stipulated.

23 MR. OJEDA: So stipulated.

24 MS. LHAMON: So stipulated.

25 We have agreed to resume on the 15th of June,

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I, PATRICIA J. GRAY, do hereby declare under
penalty of perjury that I have read the foregoing
transcript; that I have made any corrections as appear
noted, in ink, initialed by me; that my testimony as
contained herein, as corrected, is true and correct.

EXECUTED this ___ day of _____,
2001, at _____,
(City) (State)

PATRICIA J. GRAY

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I, the undersigned, a Certified Shorthand Reporter of the State of California, do hereby certify:

That the foregoing proceedings were taken before me at the time and place herein set forth; that any witnesses in the foregoing proceedings, prior to testifying, were placed under oath; that a verbatim record of the proceedings was made by me using machine shorthand which was thereafter transcribed under my direction; further, that the foregoing is an accurate transcription thereof.

I further certify that I am neither financially interested in the action nor a relative or employee of any attorney of any of the parties.

IN WITNESS WHEREOF, I have this date subscribed my name.

Dated: _____

RACHEL FERRIER
CSR No. 6948