

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

ELEIZER WILLIAMS, a minor, by)
Sweetie Williams, his guardians)
ad litem, et al., ,)
Plaintiffs,)

vs.) No.312236

STATE OF CALIFORNIA, DELAINE) VOLUME I
EASTIN, State Superintendent of)
Public Instruction, et al.,)
Defendants.)

Deposition of MARCIA HINES, at
400 South Hope Street, 15th Floor,
Los Angeles, California, commencing
at 9:45 A.M., Monday, June 18, 2001,
before Ricki Q. Melton, CSR No. 9400,
RPR No. 45429.

1 APPEARANCES OF COUNSEL:
 2
 3 FOR THE PLAINTIFFS:
 4
 5 ACLU FOUNDATION OF SOUTHERN CALIFORNIA
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 10
 11 FOR DEFENDANT STATE OF CALIFORNIA:
 12
 13 O'MELVENY & MYERS LLP
 14 BY: S. BENJAMIN ROZWOOD, ESQ.
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 19
 20
 21
 22
 23
 24
 25

1 MARCIA HINES,
 2 the witness, having been administered an oath
 3 in accordance with CCP Section 2094, testified
 4 as follows:
 5
 6 EXAMINATION
 7 BY MR. ROZWOOD:
 8 Q. Good morning, Ms. Hines. My name is Ben 09:45:41
 9 Rozwood, and I'm an attorney representing the State 09:45:44
 10 of California in this litigation. 09:45:47
 11 Will you please state and spell your full 09:45:48
 12 name for the record. 09:45:50
 13 A. My name is Marcia Elizabeth Hines, 09:45:51
 14 M-a-r-c-i-a E-l-i-z-a-b-e-t-h H-i-n-e-s. 09:45:54
 15 Q. Have you ever had your deposition taken 09:46:01
 16 before? 09:46:03
 17 A. Yes. 09:46:03
 18 Q. How many times? 09:46:04
 19 A. One for sure. The other one I'm not sure if 09:46:08
 20 it was called a deposition, but it was attorneys -- 09:46:11
 21 it was a school case. 09:46:16
 22 Q. The one time you are sure, what was that 09:46:17
 23 regarding? 09:46:19
 24 A. It was regarding a teacher. Do you need 09:46:19
 25 more information? 09:46:24

1 APPEARANCES OF COUNSEL (CONTINUED):
 2
 3 FOR DEFENDANT LOS ANGELES UNIFIED SCHOOL DISTRICT:
 4
 5 LOZANO SMITH
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 25

1 Q. Well, was it an action between the school 09:46:25
 2 and a teacher? 09:46:27
 3 A. Yes. 09:46:27
 4 Q. Okay. That's enough. 09:46:30
 5 Was that while you were at Fremont? 09:46:31
 6 A. Yes. 09:46:31
 7 Q. How long ago was that? 09:46:35
 8 A. Probably three years ago maybe. 09:46:37
 9 Q. Okay. 09:46:39
 10 A. Close to three. 09:46:40
 11 Q. Well, since it was about three years ago, 09:46:42
 12 I'm going to go ahead and review the rules of a 09:46:43
 13 deposition just to refresh your recollection about 09:46:47
 14 how that works. 09:46:49
 15 I'm going to be asking you some questions 09:46:51
 16 about the allegations made regarding Fremont by the 09:46:53
 17 plaintiffs in this lawsuit, and the reporter here is 09:47:00
 18 going to record all of my questions and all of your 09:47:03
 19 answers and anything anyone else says on the record, 09:47:05
 20 and that's going to be transcribed into a booklet for 09:47:08
 21 your review and signature, and when you receive the 09:47:11
 22 booklet, you are going to be able to make any changes 09:47:14
 23 you think are necessary to make your answers accurate 09:47:17
 24 as you intended; however, the various lawyers in this 09:47:20
 25 case will be free to comment on any changes that you 09:47:23

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1 make. 09:47:26

2 Do you understand that? 09:47:26

3 A. Yes, I understand. 09:47:27

4 Q. Okay. Is it very important that you respond 09:47:29

5 to my questions as fully and fairly as you can. 09:47:32

6 Do you understand that? 09:47:35

7 A. Yes. 09:47:36

8 Q. When you answer my questions, it is 09:47:36

9 important that you verbalize your answers because 09:47:37

10 nods or shakes of your head won't show up on the 09:47:40

11 court reporter's record. 09:47:43

12 Do you understand that? 09:47:45

13 A. Yes, I understand. 09:47:45

14 Q. Also, it's hard for the reporter to get a 09:47:47

15 clear record of the testimony when more than one 09:47:50

16 person is speaking at once. 09:47:52

17 So if you can wait until I finish my 09:47:54

18 question, and I will do my best to be respectful and 09:47:56

19 let you finish your answer before I begin speaking. 09:48:01

20 Is that all right? 09:48:04

21 A. That's fine. 09:48:04

22 Q. I want to ask you to please listen carefully 09:48:05

23 to the question. If you do not understand the 09:48:07

24 question, I'll rephrase it. If you answer, I'll 09:48:10

25 presume you understood it. 09:48:14

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1 Does that seem fair? 09:48:15

2 A. Yes. 09:48:15

3 Q. You are also required to answer my questions 09:48:17

4 to the best of your ability. If you do not know the 09:48:19

5 answer, we don't want you to guess; however, we are 09:48:22

6 all entitled to your best estimate where you are able 09:48:25

7 to provide one. 09:48:28

8 Do you understand that? 09:48:29

9 A. Yes. 09:48:29

10 Q. Okay. Because your testimony will be given 09:48:32

11 under oath, it will have the same force and effect as 09:48:34

12 if testifying in a court of law. You are, therefore, 09:48:37

13 subject to all the penalties of perjury for giving 09:48:39

14 false testimony. 09:48:42

15 So even though we are in this informal 09:48:43

16 setting here today in a law office and not a 09:48:45

17 courtroom, you are testifying as if you were in a 09:48:46

18 formal courtroom setting. 09:48:48

19 Do you understand that? 09:48:50

20 A. Yes. 09:48:50

21 Q. If you need a break for any reason, just let 09:48:51

22 me know, and I will tell the court reporter that we 09:48:53

23 are off the record, and we will take a break. 09:48:56

24 If at any point during today's deposition 09:48:58

25 something triggers your memory concerning an area we 09:49:00

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1 have already covered, please let me know, and we will 09:49:04

2 get it on the record. 09:49:06

3 Okay? 09:49:08

4 A. Okay. 09:49:09

5 Q. Do you understand the ground rules? 09:49:10

6 A. Yes. 09:49:10

7 Q. Do you have any questions? 09:49:12

8 A. Not right now. 09:49:12

9 Q. Is there any reason why you won't be able to 09:49:13

10 testify or give your best testimony today? 09:49:15

11 A. No. 09:49:15

12 Q. Have you taken any medication -- 09:49:19

13 A. No. 09:49:19

14 Q. -- or had any problems with any sleep from 09:49:21

15 last night? 09:49:25

16 No. Okay. 09:49:25

17 What is your current position? 09:49:30

18 A. Assistant principal at Fremont High School. 09:49:32

19 Q. How long have you been at Fremont High 09:49:37

20 School? 09:49:39

21 A. 14 years. 09:49:39

22 Q. Can you describe your duties as assistant 09:49:42

23 principal? 09:49:47

24 A. Yes. I'm in charge of curriculum. I'm in 09:49:48

25 charge of substitutes. I'm in charge of all the 09:49:51

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1 hiring for the school. I lead several councils such 09:49:54

2 as leadership council. I work with the new teachers. 09:50:00

3 I set up faculty meetings. I visit classes, do Stull 09:50:06

4 observation and evaluation. I'm in charge of all the 09:50:14

5 Stull evaluations, s-t-u-l-l. 09:50:20

6 I do supervision, and I do a lot of duties 09:50:25

7 as assigned, and I'm sure there are more things that 09:50:30

8 I do, but those are some of the major 09:50:36

9 responsibilities. 09:50:38

10 Q. You mentioned that you lead several 09:50:41

11 councils, and you said the leadership council. 09:50:43

12 What is that? 09:50:46

13 A. Leadership council is a body that makes some 09:50:48

14 decisions about school policies. They deal with the 09:50:51

15 calendar, they deal with a little bit of the 09:50:56

16 financial budgets. They have the 4170 budget, the 09:50:59

17 4111 budget. Those are two major budgets for the 09:51:03

18 school. 09:51:13

19 They work with equipment. They monitor the 09:51:13

20 use of equipment. And that's all I can think of 09:51:13

21 right now. 09:51:17

22 Q. Who sits on the leadership council? 09:51:19

23 A. Those are elected teachers, 09:51:21

24 administrators -- Ms. Roland is the main head, but 09:51:23

25 when she is not there, I need to be there. 09:51:30

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1 Like tonight there are classified members 09:51:31
 2 there, there are students there, and parents there. 09:51:36
 3 Q. Okay. How many people sit on the leadership 09:51:40
 4 council? 09:51:44
 5 A. At any given time, there could be as many as 09:51:45
 6 seven or eight. 09:51:48
 7 Q. Currently how many sit on the council? 09:51:49
 8 A. I couldn't answer for sure. 09:51:51
 9 Q. How many students currently sit on the 09:51:54
 10 council? 09:51:57
 11 A. There is usually one that appears. Lately 09:51:57
 12 the students have not been coming, but there is 09:52:02
 13 supposed to be at least one student at each 09:52:05
 14 leadership council. 09:52:09
 15 Q. Do you know the name of the students 09:52:11
 16 designated? 09:52:13
 17 A. Carlos Leon is the major person that comes 09:52:14
 18 when he comes. 09:52:17
 19 Q. Is that L-e-o-n? 09:52:18
 20 A. Uh-huh. 09:52:19
 21 Q. Is Mr. Leon a student at -- 09:52:20
 22 A. Yes, he is. 09:52:24
 23 Q. -- Fremont High School? 09:52:25
 24 Do you know what year? 09:52:26
 25 A. He's a senior. 09:52:27

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1 Q. Do you know the names of any other students 09:52:30
 2 that are designated -- 09:52:34
 3 A. Cindy, C-i-n-d-y, Rosada, R-o-s-a-d-a or -o. 09:52:37
 4 I'm not sure how it ends. "Rosada." I think with an 09:52:48
 5 "a." 09:52:54
 6 Q. I just want to remind you that I would like 09:52:55
 7 to be able to finish my -- 09:52:58
 8 A. Did I do that again? 09:53:01
 9 Q. -- question before you -- 09:53:03
 10 A. Tell me to stop. 09:53:04
 11 Q. You know what I'm going to ask. So you did 09:53:06
 12 do a good job in answering my question, but just in 09:53:08
 13 case I ask you something differently, you might want 09:53:11
 14 to wait -- 09:53:14
 15 A. Good idea. 09:53:15
 16 Q. -- for me to finish the question so you can 09:53:16
 17 answer. 09:53:16
 18 Other than Mr. Leon and Ms. Rosada, can you 09:53:21
 19 think of any other names of the students designated 09:53:26
 20 to be on the leadership council? 09:53:29
 21 A. No. 09:53:31
 22 Q. Do you know how the students become 09:53:31
 23 designated to -- 09:53:31
 24 A. The track presidents sit on the council. We 09:53:35
 25 have three tracks. 09:53:40

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1 Q. How does a student become a track president? 09:53:41
 2 A. They are elected. 09:53:44
 3 Q. By the student body? 09:53:45
 4 A. They are either elected by the leadership 09:53:47
 5 council, their leadership class, or the whole student 09:53:49
 6 body, and I don't know which one. 09:53:53
 7 Q. By the students -- 09:53:55
 8 A. Uh-huh. 09:53:56
 9 Q. -- at Fremont? 09:53:58
 10 A. The students select them. 09:54:00
 11 Q. Are all three track presidents allowed to 09:54:02
 12 sit on the leadership council and -- 09:54:05
 13 A. Yes. 09:54:08
 14 Q. -- participate in the meetings? 09:54:09
 15 A. Yes. 09:54:09
 16 Q. Does the leadership council record minutes 09:54:11
 17 of its meetings? 09:54:15
 18 A. Yes. 09:54:15
 19 Q. Are those minutes maintained at Fremont in 09:54:17
 20 Fremont's records? 09:54:21
 21 A. Most of them are; however, the last couple 09:54:23
 22 of meetings the secretary has not turned them in, but 09:54:25
 23 yes, they are supposed to be, and they are. 09:54:29
 24 Q. Is the secretary an actual member of the 09:54:31
 25 council? 09:54:31

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1 A. The secretary is a rotating position because 09:54:34
 2 no one wanted to do that position. So someone 09:54:37
 3 volunteers to do it. 09:54:40
 4 MR. ROZWOOD: Off the record for a second. 09:54:43
 5 (Phone interruption.) 09:54:47
 6 (Off the record.) 09:55:37
 7 BY MR. ROZWOOD: 09:55:37
 8 Q. Before we went off the record, you mentioned 09:55:38
 9 that the secretary position for the leadership 09:55:43
 10 council was a rotating position. 09:55:45
 11 A. Uh-huh. 09:55:48
 12 Q. Okay. Could you verbalize your response. 09:55:49
 13 A. Yes. We have tried to elect a secretary 09:55:52
 14 this last year with these particular group of 09:55:54
 15 individuals, and no one wants that position; so 09:55:57
 16 therefore, at each meeting someone says, "I'll take 09:56:00
 17 the minutes," and some people are more responsible 09:56:03
 18 than others in turning them in. 09:56:06
 19 Q. But it's someone that sits on the 09:56:08
 20 committee -- 09:56:11
 21 A. Yes, absolutely. 09:56:12
 22 Q. -- that takes the minutes? 09:56:12
 23 A. Did I do that again? 09:56:17
 24 Q. Just toward the end. 09:56:18
 25 A. Just kick me. 09:56:20

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1 Q. We seem to be -- 09:56:21
 2 A. Okay. 09:56:22
 3 Q. We have to get into a good habit on that. 09:56:23
 4 A. Okay. 09:56:27
 5 Q. Other than the students that are elected as 09:56:28
 6 track presidents and Ms. Roland, who else sits on the 09:56:33
 7 leadership council currently? 09:56:39
 8 A. Teachers. 09:56:40
 9 Q. How many teachers? 09:56:42
 10 A. I have to look up the exact number. 09:56:45
 11 Q. Can you give me your best estimate? 09:56:46
 12 A. Yeah. Five. It's an estimate. The UTLA 09:56:49
 13 chair, classified -- there's one classified position. 09:56:57
 14 Q. Do you know the name of the person that sits 09:57:02
 15 on the classified position? 09:57:04
 16 A. The elected person is Darlene Jones-Pack, 09:57:05
 17 but she never comes. So Shirley Garrett is the 09:57:08
 18 alternate. 09:57:12
 19 Q. And the name of the UTLA chair? 09:57:18
 20 A. Matt Taylor. 09:57:21
 21 Q. Can you spell his last name? 09:57:22
 22 A. T-a-y-l-o-r. 09:57:25
 23 Q. Can you think of the names of any of the 09:57:27
 24 teachers that sit -- 09:57:29
 25 A. Yes. 09:57:29

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1 Q. -- on the council? 09:57:30
 2 A. Aurora Martinez, Sarah Usmani. I'm thinking 09:57:34
 3 of the teachers. 09:57:50
 4 Do you want the parents? 09:57:50
 5 Q. Yeah, we can -- if you think of any 09:57:52
 6 teachers, let me know. 09:57:54
 7 How many parents sit on the committee? 09:57:55
 8 A. I believe there are three. That's an 09:57:57
 9 estimate. All my records are back at school. 09:57:58
 10 Q. Do you know the names? 09:58:03
 11 A. Erma Veard, V-e-a-r-d, Emma Lopez, 09:58:04
 12 L-o-p-e-z, and there's an additional person, but I 09:58:10
 13 can't recall that name at the minute. 09:58:16
 14 More teacher names. Jack Fris, F-r-i-s, 09:58:19
 15 Alfredo Giddens, G-i-d-d-e-n-s. 09:58:26
 16 There are more teachers as well. Those 09:58:33
 17 records are easily obtainable back at the site. 09:58:35
 18 Q. Okay. So other than the parents, the 09:58:40
 19 teachers, the students, the UTLA chair and the 09:58:42
 20 classified -- 09:58:46
 21 A. Uh-huh. 09:58:47
 22 Q. -- personnel representative, and Ms. Roland, 09:58:50
 23 does anyone else sit on the leadership council? 09:58:55
 24 A. Huh-uh. 09:58:58
 25 Q. Okay. 09:58:59

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1 A. It's designated -- no, I mean it's parents, 09:58:59
 2 community, parents -- 09:59:03
 3 MR. FRIEDMAN: Can I interject. 09:59:05
 4 Respond to a question with "yes" or "no" 09:59:07
 5 instead of "uh-huh" or "huh-uh" so -- 09:59:10
 6 THE WITNESS: I know. 09:59:13
 7 MR. FRIEDMAN: I know it's a discipline. 09:59:14
 8 BY MR. ROZWOOD: 09:59:16
 9 Q. Try to think that every word we say is being 09:59:16
 10 written down. 09:59:20
 11 A. Okay. 09:59:21
 12 Q. It makes it easier for her and us when we 09:59:23
 13 look at the transcript later if we -- 09:59:25
 14 A. Okay. 09:59:25
 15 Q. -- verbalize all of our responses. 09:59:27
 16 MS. LHAMON: Isn't this fun? 09:59:30
 17 THE WITNESS: Yes. Just keep reminding me. 09:59:32
 18 It's okay. I'm not too sensitive. 09:59:38
 19 BY MR. ROZWOOD: 09:59:40
 20 Q. How long has the leadership council been in 09:59:40
 21 existence at Fremont? 09:59:43
 22 A. As long as I have been there and probably 09:59:46
 23 before. 09:59:54
 24 Q. Has it always included positions for parents 09:59:55
 25 and students? 09:59:57

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1 A. As far as I know. I would be guessing 09:59:58
 2 because I was not always involved with it, but I 10:00:01
 3 assume that the composition is similar. The 10:00:04
 4 composition is in the contract in the United Teachers 10:00:07
 5 of Los Angeles contract with the district, and so in 10:00:10
 6 creating this council, we simply follow the contract. 10:00:13
 7 So as the contract changes, we change whatever is on 10:00:16
 8 the council. 10:00:20
 9 Q. How long have you personally been involved 10:00:21
 10 with the leadership council? 10:00:23
 11 A. I would be guessing. I imagine it would 10:00:24
 12 be -- well, six years, seven years. 10:00:29
 13 Q. Okay. I'm sorry if I interrupted. We don't 10:00:32
 14 want you to guess. 10:00:34
 15 A. Okay. 10:00:35
 16 Q. If you can give us your best estimate for 10:00:35
 17 the years, that would be great. 10:00:38
 18 A. As far as involvement, I've always been 10:00:40
 19 involved because I'm an administrator. As far as 10:00:42
 20 being responsible when the principal is not there, 10:00:46
 21 that's probably been about the last five years. 10:00:49
 22 Q. Okay. 10:00:52
 23 A. An estimate. 10:00:53
 24 Q. You mentioned areas the leadership council 10:00:57
 25 has decision making -- has a decision-making role 10:01:00

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1 in -- 10:01:05
 2 A. Uh-huh. 10:01:06
 3 Q. Can you describe the nature of the role in 10:01:07
 4 the decision-making process for the areas that you 10:01:09
 5 previously listed? 10:01:12
 6 A. Yeah. For example, what we are doing 10:01:14
 7 tonight is a bell schedule. Normally an 10:01:16
 8 administrator or the administrator in combination 10:01:18
 9 with the UTLA chair or teachers devise several bell 10:01:22
 10 schedules, and they are presented to the leadership 10:01:28
 11 council, and the leadership council talks about them 10:01:29
 12 and makes a decision. Okay. 10:01:33
 13 Q. Is that bell schedule relating to the 10:01:38
 14 calendar, the school calendar? 10:01:39
 15 A. Uh-huh. 10:01:42
 16 Q. Are there other issues related to the school 10:01:42
 17 calendar held in a similar fashion? 10:01:45
 18 A. Yes, we do. 10:01:49
 19 Q. Does the leadership council have the final 10:01:50
 20 decision authority over the calendar for Fremont High 10:01:53
 21 School? 10:01:55
 22 A. Yes. 10:01:55
 23 Q. You mentioned areas where it has 10:01:57
 24 decision-making involvement in the financial or 10:01:59
 25 budgetary areas such as -- what did you say? The 10:02:03

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1 4170 and 4111 budgets? 10:02:07
 2 A. Yes. 10:02:07
 3 Q. Can you describe the leadership council's 10:02:10
 4 involvement in these areas? 10:02:12
 5 A. Okay. 4170 is our instructional materials 10:02:14
 6 account, and each year the district allocates us so 10:02:17
 7 much money for instructional materials. 10:02:21
 8 It's a responsibility of the leadership 10:02:22
 9 council to divide that money up by department and by 10:02:25
 10 administration so that each group gets a certain 10:02:31
 11 percentage of that budget and that council gives 10:02:35
 12 final approval to that division. 10:02:39
 13 Q. Does the leadership council have the final 10:02:43
 14 decision-making authority over how the allocated 4170 10:02:45
 15 funds -- sorry. Let me try that again. 10:02:50
 16 Does the leadership council have final 10:02:53
 17 decision-making authority over how the funds 10:02:54
 18 allocated by the Los Angeles Unified School District 10:02:57
 19 are finally allocated between the departments and 10:03:00
 20 administration at Fremont High School? 10:03:03
 21 A. Yes. 10:03:03
 22 Q. Can you describe the process by which the 10:03:09
 23 departments and administration and other interested 10:03:16
 24 divisions of Fremont High School are able to present 10:03:19
 25 their proposals or views to the leadership council? 10:03:23

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1 A. The process how they are able to present 10:03:37
 2 their views? 10:03:37
 3 Q. On how the 4170 funds should be allocated. 10:03:37
 4 A. Okay. When monies or when something becomes 10:03:41
 5 available and it's something different or unusual, we 10:03:44
 6 present it first to the department chair people in a 10:03:47
 7 council called instructional leadership team. 10:03:53
 8 The information is given to the department 10:03:58
 9 chairs. The following week there are department 10:04:00
 10 meetings, and information is shared with members of 10:04:05
 11 the department. 10:04:07
 12 A vote may be taken -- formal vote or 10:04:09
 13 consensus may be given, and that information is 10:04:11
 14 turned in usually to the UTLA chapter chair. 10:04:14
 15 That's what we did with the bell schedule 10:04:18
 16 this time, which is a really good example of that, 10:04:20
 17 and tonight he is going to be there and have that 10:04:23
 18 information, and all of us will share it and make a 10:04:26
 19 decision based on the two bell schedules. 10:04:29
 20 Q. Can we talk about the allocation of 4170 10:04:33
 21 funds in particular. 10:04:36
 22 A. Uh-huh. 10:04:37
 23 Q. How does a particular teacher or department 10:04:38
 24 make his or her case or its case for a larger 10:04:43
 25 allocation or requested allocation of the 4170 funds 10:04:47

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1 for the upcoming school year? 10:04:57
 2 MS. LHAMON: Objection. The question is 10:04:59
 3 compound. 10:05:01
 4 BY MR. ROZWOD: 10:05:02
 5 Q. I can -- let me just rephrase. 10:05:03
 6 Do the individual teachers have any role in 10:05:05
 7 how the leadership council makes its decisions on 10:05:09
 8 allocating the 4170 funds? 10:05:12
 9 A. Yes, they do. Because they are -- they are 10:05:16
 10 represented by their department chair and when we are 10:05:18
 11 working with the budget when it's time -- I mean we 10:05:21
 12 let everyone know we are working with it, and 10:05:25
 13 sometimes they actually come to the council and make 10:05:27
 14 a case for getting a larger share of the pot, so to 10:05:30
 15 speak. 10:05:34
 16 Q. How often does the leadership council meet? 10:05:36
 17 A. Once a month. 10:05:39
 18 Q. Are these meetings open to everybody at the 10:05:39
 19 school? 10:05:42
 20 A. Yes. 10:05:42
 21 Q. All teachers? 10:05:43
 22 A. Yes. 10:05:43
 23 Q. All students? 10:05:44
 24 A. Yeah. 10:05:46
 25 Q. All parents? 10:05:46

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1 A. Yeah. Our -- yes, yeah. 10:05:48
 2 Q. How would you describe the role the 10:06:09
 3 department chairs play with respect to the allocation 10:06:11
 4 of 4170 funds? 10:06:13
 5 A. Advisory, participatory in many cases. 10:06:19
 6 You'll see a lot of crossover with the leadership 10:06:23
 7 of -- Fremont department chair is actually sitting on 10:06:26
 8 leadership council. It's actually pretty open. You 10:06:29
 9 know, it's not a behind closed doors kind of thing. 10:06:34
 10 Q. And what were you referring to when you 10:06:40
 11 mentioned 4111 funds? 10:06:43
 12 A. 4111 is the district money for textbooks. 10:06:45
 13 Q. How is that different from 4170 funds? 10:06:53
 14 A. 4111 can only be spent on textbooks. A 10:06:57
 15 minimal amount, I believe, is allocated toward videos 10:07:02
 16 or technology, but we spend it all on textbooks. 10:07:06
 17 Q. How does that differ from the 4170 funds? 10:07:09
 18 A. Well, you could assumably buy a textbook out 10:07:13
 19 of 4170, but 4111 you can only buy textbooks. 10:07:17
 20 Q. 4170 is general purpose funds? 10:07:22
 21 A. Uh-huh, instructional funds. 10:07:24
 22 Q. Instructional funds, any instructional 10:07:25
 23 materials? 10:07:28
 24 A. Yes. 10:07:30
 25 MR. FRIEDMAN: Can I ask what would be 10:07:30

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1 examples of instructional materials purchased with 10:07:32
 2 4170 funds? 10:07:34
 3 THE WITNESS: Paper, pencils, pens, chalk, 10:07:38
 4 erasers, tape, staples, staplers. 10:07:41
 5 BY MR. ROZWOOD: 10:07:49
 6 Q. Art supplies? 10:07:50
 7 A. Art supplies, science supplies. 10:07:50
 8 Q. Wood shop supplies? 10:07:53
 9 A. Yes. 10:07:59
 10 MR. ROZWOOD: Thanks for clearing it up for 10:08:00
 11 me. 10:08:01
 12 THE WITNESS: You can buy everything with it 10:08:02
 13 except for food. You can't buy food. 10:08:04
 14 MR. FRIEDMAN: Do they still have home 10:08:08
 15 economics class? 10:08:10
 16 THE WITNESS: Not at Fremont -- actually 10:08:12
 17 that's not true. We have cosmetology, and we have 10:08:14
 18 sewing but not a food class. So they have a little 10:08:17
 19 extra funds. 10:08:42
 20 BY MR. ROZWOOD: 10:08:42
 21 Q. And the materials for cosmetology and sewing 10:08:19
 22 is purchased out of the 4170 funds? 10:08:22
 23 A. Yes. Those classes are designated ROP, 10:08:26
 24 Regional Occupation Plan, but they also have a share 10:08:32
 25 of the 4170. 10:08:37

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1 Q. Do the teachers and department chairs have 10:08:45
 2 the same opportunity for involvement and input in the 10:08:47
 3 leadership council's decision-making process over the 10:08:51
 4 allocation of 4170 funds as they do over 4111 funds? 10:08:55
 5 A. The question has to do with how much 10:09:00
 6 involvement do the department chairs have in 4111 10:09:04
 7 and is it equal to 4170? Yes, it is pretty much 10:09:07
 8 equal. 10:09:12
 9 Q. Is there any difference you can think of? 10:09:13
 10 A. No, not really other than, in the 4170, it's 10:09:15
 11 a lot more -- it's more of a formula you can see for 10:09:18
 12 each department and each sort of group at the school. 10:09:23
 13 Sometimes the academics get some money, 10:09:36
 14 depending on the year. So the 4111 is usually so 10:09:36
 15 small that it's basically in the last couple of years 10:09:36
 16 been spent on the academic subjects; whereas, in 10:09:37
 17 4170, you are able to buy materials for the rest of 10:09:41
 18 the school, not just English, math, social studies. 10:09:45
 19 You can't buy a wood shop book out of 4111. 10:09:52
 20 It's just the money is so small, according to the 10:09:56
 21 district, those areas have priority. So we deal with 10:09:59
 22 those first. The district does not prioritize for 10:10:02
 23 4170 based on department. 10:10:06
 24 Q. Do members of the community such as the 10:10:13
 25 parents -- strike that. 10:10:16

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1 Do parents have any role to play in the 10:10:19
 2 leadership council's decision making over the -- 10:10:24
 3 strike that. 10:10:30
 4 What role do parents have in the allocation 10:10:31
 5 of 4170 and 4111 funds, if any? 10:10:37
 6 A. Well, as consensual members of the council, 10:10:43
 7 they have the same rights as all the other members 10:10:45
 8 do. 10:10:48
 9 Q. Other than through their representatives 10:10:55
 10 sitting on the council, do the parents have any other 10:10:57
 11 opportunities to become involved in allocating 10:11:01
 12 educational materials and funds? 10:11:05
 13 A. I would imagine any interested parents could 10:11:07
 14 get involved. That has not been the case that an 10:11:09
 15 interested parent has come to me that said, "Could I 10:11:12
 16 do this? Can I help," but certainly I wouldn't turn 10:11:15
 17 down anyone's help or wanting to give input about 10:11:18
 18 textbooks. 10:11:24
 19 Q. You mentioned you were at Fremont for 14 10:11:25
 20 years. Can you describe the positions you've held 10:11:27
 21 from the start to -- 10:11:29
 22 A. When I was assigned to Fremont, I was 10:11:31
 23
 24 assistant principal secondary counseling services at 10:11:33
 25 that time, and I think it was actually called head 10:11:38

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1 counselor. 10:11:40
 2 MS. LHAMON: I'm sorry. I didn't hear what 10:11:41
 3 you said. 10:11:43
 4 THE WITNESS: Assistant principal secondary 10:11:44
 5 counseling services. It was the old head counselor 10:11:47
 6 position. 10:11:49
 7 I was in charge of all the counselors in 10:11:49
 8 that office, and then it got -- 10:11:51
 9 BY MR. ROZWOOD: 10:11:53
 10 Q. How long did you hold that position? 10:11:54
 11 A. I don't know. I would have to guess. I 10:11:55
 12 don't remember dates very well. 10:11:59
 13 Q. Can you give us your best estimate for how 10:12:04
 14 long you acted as assistant principal in charge of 10:12:06
 15 secondary counseling services? 10:12:10
 16 A. Maybe six years. That position is also a 10:12:12
 17 matter of record. So I could easily get that for you 10:12:17
 18 and correct that. 10:12:20
 19 Q. What was your next position at Fremont? 10:12:21
 20 A. Assistant principal. 10:12:23
 21 Q. How did your duties change? 10:12:25
 22 A. The major difference was that I was no 10:12:28
 23 longer in charge of the master schedule, which was 10:12:30
 24 assigning the teachers in the classes and the 10:12:32
 25 classrooms, and I picked up other kinds of 10:12:35

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1 responsibilities which varied depending on the year 10:12:38
 2 and depending on the principal because the principal 10:12:43
 3 has the responsibility of allocating all the 10:12:46
 4 administrative responsibilities. So it's changed a 10:12:49
 5 little over the years. 10:12:53
 6 Q. Has your position changed since the time you 10:12:54
 7 became assistant principal after you stopped being in 10:13:00
 8 charge of secondary counseling services? 10:13:07
 9 A. Yes. 10:13:07
 10 Q. How has your position changed since then? 10:13:12
 11 A. Well, there were some things I was in charge 10:13:15
 12 of some years and I'm no longer in charge of and in 10:13:17
 13 charge in some things this year that I wasn't last. 10:13:21
 14 Now I hire all the teachers for the school. 10:13:23
 15 Last year I only hired the English teachers. 10:13:26
 16 Another example is two years I was in charge 10:13:30
 17 of graduation. This year I'm not. It varies based 10:13:32
 18 on the other administrators hired and the issues of 10:13:36
 19 the principal. 10:13:40
 20 Q. So is it accurate to describe your position 10:13:41
 21 as sort of an assistant principal at large in charge 10:13:44
 22 of whatever needs to be done? 10:13:48
 23 A. The principal -- we have had several 10:13:50
 24 principals in the last several years. The principal 10:13:53
 25 decides what duties each administrator should have. 10:13:56

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1 The other thing that is fairly consistent is 10:14:00
 2 the assistant principal secondary counseling services 10:14:03
 3 does the master schedule. Other than that, the 10:14:04
 4 principal is free to scramble the duties and 10:14:07
 5 responsibilities pretty much. 10:14:10
 6 Q. How many assistant principals are there at 10:14:12
 7 Fremont? 10:14:14
 8 A. Well, there should be five. There are 10:14:15
 9 really only four of us now. We have an unfilled 10:14:16
 10 position. 10:14:19
 11 Q. So there are you and three other 10:14:25
 12 assistant -- 10:14:27
 13 A. Uh-huh. 10:14:28
 14 Q. -- principals? 10:14:28
 15 A. Yes. 10:14:28
 16 Q. How long have the other assistant principals 10:14:30
 17 been at Fremont? 10:14:32
 18 A. Just this year. 10:14:34
 19 Q. All three of them? 10:14:35
 20 A. Uh-huh, yeah. They all came in last fall. 10:14:36
 21 Q. Prior to arriving at Fremont, in about 10:14:53
 22 1987 -- 10:14:58
 23 A. Uh-huh. 10:15:00
 24 Q. -- can you describe your professional 10:15:01
 25 history. 10:15:04

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1 A. I was a counselor for two years at Gardena 10:15:05
 2 High School. Prior to that, I was a counselor and 10:15:18
 3 English teacher at Westchester High School, and I 10:15:18
 4 began in the district in '65. For three years, I was 10:15:21
 5 an English teacher at Dodson, D-o-d-s-o-n. 10:15:24
 6 MR. FRIEDMAN: Are they referred now as -- 10:15:42
 7 are junior high schools referred to now as middle 10:15:44
 8 schools? 10:15:48
 9 THE WITNESS: It's a middle school now. 10:15:49
 10 BY MR. ROZWOOD: 10:15:51
 11 Q. After three years as an English teacher at 10:15:55
 12 Dodson, what was your next position? 10:15:58
 13 A. English teacher at Westchester High School. 10:16:03
 14 Q. And how long after you arrived at 10:16:07
 15 Westchester did you assume counselor 10:16:12
 16 responsibilities? 10:16:16
 17 A. Again, I'm guessing, and for a while I did 10:16:18
 18 both. Probably about three years after I was 10:16:21
 19 teaching English, then I went into the counseling 10:16:24
 20 office part time, and I did part time for a while 10:16:27
 21 and -- part-time counseling, part-time English 10:16:30
 22 teacher, and then I became a counselor. 10:16:34
 23 Q. How long -- how many years were you at 10:16:46
 24 Westchester? 10:16:48
 25 A. Seventeen. 10:16:48

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1 Q. And after that, you were a counselor for two 10:16:54
 2 years at Gardena High School? 10:16:56
 3 A. Uh-huh. 10:16:58
 4 Q. Can you describe your duties as a counselor 10:16:59
 5 at Westchester? 10:17:01
 6 A. Certainly. I did a lot of programming of 10:17:04
 7 students, a little personal counseling. There were 10:17:07
 8 times when we would be assigned to do whole child, 10:17:11
 9 depending on the principal again, and with whole 10:17:14
 10 child, you do readmits in the morning and counsel the 10:17:17
 11 students about attendance and forged notes and that 10:17:22
 12 type of thing. 10:17:26
 13 I worked with graduation. I was in charge 10:17:26
 14 of several activities such as the senior honor 10:17:30
 15 assembly, open house, parent conference night, 10:17:35
 16 training to be an administrator. Just -- 10:17:39
 17 So I did other things as well as counseling. 10:17:43
 18 Q. Was Westchester a multitrack school? 10:17:47
 19 A. No. 10:17:47
 20 Q. It was a normal track summer school? 10:17:54
 21 A. They had summer school. I believe there was 10:18:03
 22 summer school. 10:18:05
 23 Q. Westchester had a traditional school 10:18:07
 24 calendar; correct? 10:18:09
 25 A. Yes, absolutely. 10:18:10

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1 Q. And how about Dodson? Traditional school 10:18:11
 2 calendar as well? 10:18:15
 3 A. Yes, yes. 10:18:16
 4 Q. And Gardena High School -- 10:18:16
 5 A. Yeah. 10:18:18
 6 Q. -- traditional school? 10:18:18
 7 A. Traditional, right. 10:18:19
 8 Q. So your first exposure to the multitrack 10:18:20
 9 school system was at Fremont High School? 10:18:24
 10 A. Yes. 10:18:24
 11 Q. Was that multitrack when you -- 10:18:26
 12 A. No. 10:18:28
 13 Q. -- started there in or about 1987? 10:18:28
 14 A. No. 10:18:28
 15 Q. No. 10:18:31
 16 When did Fremont switch to multitracking? 10:18:31
 17 A. I really don't know the date. The only 10:18:35
 18 thing I can tell you is the last year I was head 10:18:39
 19 counselor the following year it was year-round, and 10:18:42
 20 again that date would be at the campus. So I never 10:18:44
 21 really scheduled the students multitrack. 10:18:47
 22 Fortunately I got my promotion before I had 10:18:50
 23 to do that. 10:18:53
 24 Q. Why do you say "fortunately"? 10:18:54
 25 A. Well, as you can imagine, scheduling several 10:18:56

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1 tracks is going to be more difficult than scheduling 10:18:59
 2 just one track because you essentially have three 10:19:01
 3 small schools. So you have less alternatives to deal 10:19:05
 4 with or less choices. With a large school it's 10:19:08
 5 easier because you have lot of things you can move 10:19:12
 6 around. So you have more places for the pieces to 10:19:16
 7 go. 10:19:16
 8 Smaller schools, you don't have as many 10:19:20
 9 places, and the decisions become harder. 10:19:23
 10 Q. What position did you have when you arrived 10:19:28
 11 at Fremont? 10:19:30
 12 A. Assistant principal secondary counseling 10:19:31
 13 services, which probably was called head counselor at 10:19:34
 14 that time. 10:19:37
 15 Q. Right. 10:19:38
 16 I'm going to mark -- I'm going to ask you to 10:19:43
 17 look at a document bearing Bates stamp Nos. 10:19:47
 18 DT-LA 01921 through 01930, and I'm going to mark this 10:19:51
 19 document as Exhibit 1 to your deposition. 10:20:00
 20 (Document referred to above was
 21 marked as Defendants' Exhibit 1
 22 for identification by the reporter
 23 and is attached hereto.)
 24 BY MR. ROZWOOD:
 25 Q. I'm going to ask you if you recognize what 10:20:05

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1 this document is. 10:20:07
 2 A. Yes. 10:20:07
 3 Q. What is it? 10:20:09
 4 A. It's a document that describes how you 10:20:10
 5 assign the instructional minutes to the school, and 10:20:14
 6 you have to fill out what your bell schedule is, and 10:20:17
 7 then you send it Downtown, and they let you know if 10:20:22
 8 it's okay or not and what adjustments you need to 10:20:25
 9 make. 10:20:28
 10 Q. When you say you have to send it Downtown, 10:20:28
 11 is that the Los Angeles Unified School District? 10:20:30
 12 A. Where it says on the document. 10:20:33
 13 Q. Is this the L.A.U.S.D.'s policy on the 10:20:37
 14 number of instructional days and minutes required at 10:20:42
 15 senior high schools? 10:20:45
 16 A. It's the one that's in place right now, but 10:20:47
 17 as you probably know, it will be changing in July. 10:20:49
 18 Q. Is Fremont currently in compliance with this 10:20:53
 19 policy? 10:20:57
 20 A. As far as I -- yes, yeah. In fact, I have 10:20:58
 21 the document back. She sends them back, and she says 10:21:06
 22 approved, and then you write something and say okay 10:21:12
 23 and send it back. 10:21:15
 24 Q. You say there are to be changes to this 10:21:24
 25 policy in July? 10:21:27

1 A. Uh-huh. 10:21:28
 2 Q. Can you describe the changes for us? 10:21:29
 3 A. Yes. We have to add nine minutes onto the 10:21:31
 4 instructional minutes, and the reason -- you don't 10:21:40
 5 want the reason. 10:21:40
 6 Q. Other than adding nine minutes, is there any 10:21:40
 7 other change to the policy that you are aware of? 10:21:43
 8 A. No, other than you have to make a new bell 10:21:48
 9 schedule and send more of these papers Downtown. 10:21:50
 10 MR. FRIEDMAN: Can I take a one-minute break 10:22:09
 11 and step outside. 10:22:11
 12 MR. ROZWOOD: Absolutely. 10:22:13
 13 (Off the record.) 10:27:15
 14 BY MR. ROZWOOD: 10:27:15
 15 Q. What is the reason the instructional minutes 10:27:20
 16 are being increased by nine minutes, to your 10:27:25
 17 knowledge? 10:27:28
 18 A. The reasons they are being increased is that 10:27:29
 19 we need to provide more time for staff development 10:27:31
 20 for the teachers, and we are doing that by having 10:27:34
 21 shortened days, and in order to do that, you need to 10:27:39
 22 take time away from the students, and you need to add 10:27:44
 23 it back in some other way. 10:27:48
 24 So in order to have the number of shortened 10:27:50
 25 days they have planned for next year -- they added on 10:27:53

1 shortened days -- you need to make the periods longer 10:27:56
 2 on regular days. So it adds up to, for year-round 10:27:59
 3 schools, nine minutes that you are adding to the 10:28:04
 4 instructional time. It's going to be 4:18 instead of 10:28:05
 5 4:09. 10:28:12
 6 Q. So the school day ends at 4:18 instead of 10:28:13
 7 4:09? 10:28:13
 8 A. Actually the start and end time is going to 10:28:19
 9 be the same. The time is deducted from the teacher 10:28:21
 10 passing time. 10:28:24
 11 Q. So the students will start class earlier, 10:28:29
 12 but the teachers will arrive and leave at the same 10:28:32
 13 time. So -- 10:28:35
 14 MS. LHAMON: I just want to be clear. 10:28:43
 15 Are you talking about an extra nine minutes 10:28:44
 16 per day? 10:28:48
 17 THE WITNESS: Yes, nine minutes per day 10:28:49
 18 added onto the instructional periods. 10:28:51
 19 MS. LHAMON: Thank you. 10:28:55
 20 BY MR. ROZWOOD: 10:28:55
 21 Q. Is the number of instructional minutes for 10:28:55
 22 the school year changing in the new policy? 10:28:58
 23 A. I don't understand. 10:29:05
 24 Q. Let me rephrase. It's confusing. That's my 10:29:06
 25 fault. 10:29:08

1 Is the total number of instructional minutes 10:29:17
 2 the same under the new policy as it is under the 10:29:20
 3 current policy? 10:29:24
 4 A. For the whole year, I would think they would 10:29:27
 5 be. I never really thought about it that way, but 10:29:30
 6 yeah, it would be. We are just increasing it on days 10:29:33
 7 when there are not those special development things 10:29:36
 8 to equalize the time. 10:29:39
 9 Q. And the way those nine additional 10:30:08
 10 instructional minutes will be accommodated in the 10:30:11
 11 schedule is to start the students' school day nine 10:30:15
 12 minutes earlier on those days? 10:30:19
 13 A. Actually they start five minutes earlier and 10:30:21
 14 end four minutes later. 10:30:24
 15 Q. And what is the staff development exactly 10:30:41
 16 that's trying -- strike that. 10:30:46
 17 What is -- can you describe the staff 10:30:50
 18 development that's behind the increase in 10:30:52
 19 instructional minutes in the new policy? 10:30:55
 20 A. The information we have now is that our 10:30:58
 21 local district will determine half of the staff 10:31:00
 22 development and the site will determine the other 10:31:03
 23 half. 10:31:06
 24 We have not received information from our 10:31:08
 25 local district yet as to what it will be. So our 10:31:10

1 staff is essentially waiting until we get some word 10:31:14
 2 from the district so that we can coordinate 10:31:18
 3 everything. 10:31:20
 4 Q. Who is the local district superintendent? 10:31:22
 5 A. Dr. McKenna, M-c-K-e-n-n-a -- 10:31:26
 6 MR. FRIEDMAN: First name. 10:31:34
 7 THE WITNESS: -- capital K. 10:31:35
 8 George. 10:31:38
 9 BY MR. ROZWOOD: 10:31:39
 10 Q. Is there a point person at the local 10:31:40
 11 district responsible for communicating the staff 10:31:44
 12 development objectives under the new policy to 10:31:54
 13 Fremont High School? 10:32:00
 14 A. I don't know. I would be guessing. I could 10:32:03
 15 guess two names. Which one actually has the 10:32:06
 16 responsibility, I really am not sure. 10:32:09
 17 It's one of two people most likely, but that 10:32:11
 18 could be designated to another person. There are 10:32:14
 19 lots of people at the local district. 10:32:17
 20 I guess I don't want to guess at this 10:32:20
 21 particular point -- 10:32:22
 22 Q. Okay. 10:32:22
 23 A. -- who it's going to be. 10:32:23
 24 Q. Fremont is in Local District I? 10:32:25
 25 A. Yes. 10:32:25

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1 Q. Who are the two people at Local District I 10:32:28
 2 you are aware of that might have responsibility 10:32:30
 3 for -- 10:32:32
 4 A. The lady that works with Fremont 10:32:33
 5 specifically is Andreda Pruitt, A-n-d-r-e-d-a 10:32:35
 6 P-r-u-i-t-t, and she provides support to the high 10:32:41
 7 school. 10:32:48
 8 Now the person directly under Dr. McKenna is 10:32:48
 9 Jimmy Marin, M-a-r-i-n, but he's like second under 10:32:52
 10 Dr. McKenna in charge of instruction. So there 10:33:02
 11 probably is a lower designated person that's actually 10:33:05
 12 going to be working with us. I'm just guessing. 10:33:08
 13 Q. Okay. Let's see. 10:33:14
 14 Did the leadership council at Fremont High 10:33:25
 15 School have any involvement in the decision to put up 10:33:29
 16 a fence around the school? 10:33:35
 17 A. Not that I'm aware of. 10:33:39
 18 Q. Who made that decision? 10:33:49
 19 A. I would be guessing, but I am guessing that 10:33:49
 20 it was the principal at that time. 10:33:49
 21 Q. You didn't have any involvement in that -- 10:33:52
 22 A. No. 10:33:52
 23 Q. -- decision? 10:33:54
 24 Who was the principal -- let me ask it this 10:33:56
 25 way. 10:33:58

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1 When was the fence put up around the school? 10:33:59
 2 A. Maybe two years ago, estimate. 10:34:03
 3 Q. Was there any discussion that you are aware 10:34:18
 4 of between and among school officials regarding the 10:34:20
 5 possibility of putting a fence around the school 10:34:28
 6 before it happened? 10:34:31
 7 A. Okay. What do you mean by "school 10:34:33
 8 officials"? 10:34:34
 9 Q. Either teachers or administrators. 10:34:36
 10 A. At Fremont? 10:34:38
 11 Q. Yes. 10:34:39
 12 A. I'm aware of a discussion with the 10:34:43
 13 administrator in charge of plant who at that time was 10:34:46
 14 Mr. Ker, K-e-r, Cliff Kerr, and the principal 10:34:51
 15 Mr. Herrera, H-e-r-r-e-r-a. 10:34:56
 16 MR. FRIEDMAN: What was Mr. Herrera's first 10:35:09
 17 name? 10:35:11
 18 THE WITNESS: Augustine. 10:35:12
 19 BY MR. ROZWOOD: 10:35:14
 20 Q. What do you remember about that 10:35:17
 21 conversation? 10:35:18
 22 A. I remember that they thought it was a great 10:35:22
 23 idea. 10:35:25
 24 Q. Why did they think it was a great idea? 10:35:27
 25 A. Well, it provides security for the campus 10:35:29

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1 primarily to keep outsiders out, not so much to keep 10:35:33
 2 the ones in, but you know, the danger comes from the 10:35:38
 3 outside, and if you wreck something -- that people 10:35:43
 4 that are unknown quantities can't walk in the campus 10:35:46
 5 as easily, and it's a good thing. 10:35:50
 6 We had a fence, but it was the kind that 10:35:52
 7 would damage and you could cut it easily and people 10:35:55
 8 could crawl in, and this fence is sturdier. 10:35:59
 9 Q. Do you have any personal knowledge of any 10:36:07
 10 instances where the previous fence had been cut and 10:36:08
 11 opened up? 10:36:13
 12 A. Yes, yes. 10:36:15
 13 Q. How many occasions did that occur? 10:36:16
 14 A. I would be guessing, but I would imagine at 10:36:20
 15 least three times a month, something like that. 10:36:24
 16 Particularly around the PE area, it was difficult to 10:36:27
 17 keep the fence intact. 10:36:32
 18 Q. Is three times a month a guess, or is that 10:36:37
 19 an estimate? 10:36:39
 20 A. It's a guess. 10:36:39
 21 Q. Is that an estimate based on your personal 10:36:40
 22 experience at the school? 10:36:42
 23 A. Probably somewhere between the two. 10:36:46
 24 Q. How do you have knowledge that the fence was 10:36:51
 25 ever cut or opened? 10:36:53

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1 A. For a very short time, I was in charge of 10:36:56
 2 plant. That was one of the administrators, and I 10:36:59
 3 worked with the plant manager, and he would let me 10:37:03
 4 know when that occurred. 10:37:06
 5 Q. Was that Cliff Kerr at the time? 10:37:07
 6 A. No, it was before then. Cliff Kerr was 10:37:09
 7 another administrator before him, a couple of years 10:37:12
 8 before that. I was doing plant, and the plant 10:37:16
 9 manager Mr. Ceja -- 10:37:19
 10 Q. How do you spell that? 10:37:22
 11 A. C-e-j-a. 10:37:24
 12 -- would report when there was vandalism at 10:37:27
 13 some time. 10:37:32
 14 So I am aware that the fence was cut, plus 10:37:33
 15 you could see it. 10:37:36
 16 Q. Can you describe the neighborhood 10:37:51
 17 environment in which Fremont High School is located? 10:37:53
 18 MS. LHAMON: Objection. Vague. 10:37:56
 19 MR. FRIEDMAN: If you understand, you can 10:38:00
 20 respond. 10:38:01
 21 THE WITNESS: Like the physical environment? 10:38:04
 22 The social environment? What kind of question -- 10:38:05
 23 what do you want to know? 10:38:08
 24 BY MR. ROZWOOD: 10:38:08
 25 Q. I want to know what it's like around the 10:38:10

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1 school physically, socially, the dangers you refer 10:38:12
 2 to, just anything that would give us an idea what it 10:38:17
 3 is like around Fremont. It is -- 10:38:23
 4 MS. LHAMON: Objection. Vague and compound. 10:38:25
 5 MR. FRIEDMAN: If you understand, you can go 10:38:27
 6 ahead and answer. 10:38:29
 7 BY MR. ROZWOOD: 10:38:29
 8 Q. If you don't understand, you can go ahead 10:38:30
 9 and tell me you don't understand. 10:38:31
 10 A. The neighborhood is very poor. There's not 10:38:33
 11 a lot of money or a lot of opportunities for, you 10:38:35
 12 know, nice shops or pedestrian kinds of activities 10:38:42
 13 that you might find in some other locations. Some of 10:38:48
 14 the homes are kept up well; some are not. 10:38:56
 15 Q. It's a residential neighborhood? 10:39:00
 16 A. Yes. 10:39:00
 17 Q. You mentioned earlier that the danger comes 10:39:07
 18 from outside. 10:39:10
 19 A. Uh-huh. 10:39:11
 20 Q. What types of dangers are you referring to? 10:39:12
 21 A. People that might come on campus that might 10:39:15
 22 have ideas of doing something that would not be 10:39:17
 23 educational ideas. 10:39:22
 24 Q. Can you give me an example of what you are 10:39:26
 25 referring to. 10:39:28

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1 A. Well, for example, a homeless person coming 10:39:33
 2 on trying to collect cans who may or may not be 10:39:35
 3 totally in possession of all his faculties, and this 10:39:40
 4 would be someone we wouldn't want walking on. 10:39:44
 5 Q. Are there any other examples of people you 10:39:47
 6 wouldn't want walking onto Fremont? 10:39:50
 7 A. People that might do harm to people or any 10:39:52
 8 faculty members, criminals, gang-bangers. 10:39:57
 9 In general the administration should know 10:40:09
 10 who comes on campus, and they should seek approval to 10:40:12
 11 come on campus. Obviously if you have fences that 10:40:17
 12 don't keep people out, if you can enter from lots of 10:40:21
 13 places from the campus -- you have to register when 10:40:32
 14 you enter the school campus. I think it's -- 10:40:32
 15 Q. Are you aware of any incidents in which -- 10:40:39
 16 prior to the erection of the new fence, which people 10:40:45
 17 who are not authorized to be on campus were on 10:40:50
 18 campus? 10:40:54
 19 A. Not specifically -- that I can give you 10:40:56
 20 specifics, no. 10:40:59
 21 Q. Do you remember anything else about the 10:41:06
 22 conversation between Mr. Ker and Mr. Herrera about 10:41:08
 23 the reasons why they thought the new fence was a good 10:41:13
 24 idea? 10:41:18
 25 A. No. 10:41:18

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1 Q. I would like to ask you to look at an 10:41:24
 2 article, which I'll ask the reporter to mark as 10:41:27
 3 Exhibit 2 to your deposition. 10:41:32
 4 (Document referred to above was 10:41:32
 5 marked as Defendants' Exhibit 2 10:41:32
 6 for identification by the reporter 10:41:47
 7 and is attached hereto.) 10:41:47
 8 BY MR. ROZWOOD: 10:41:47
 9 Q. Have you seen this article before? 10:41:48
 10 A. Yes. 10:41:48
 11 Q. Have you read it before? 10:41:49
 12 A. Yes. 10:41:49
 13 Q. Do you see where it says in the first column 10:41:57
 14 "Across the corner from a self-service laundry where 10:42:00
 15 they say truants buy and sell drugs, the school is 10:42:03
 16 nearly hidden behind a \$475,000 fence of curving iron 10:42:06
 17 spears," and then it goes on? 10:42:14
 18 Do you see that? 10:42:16
 19 A. Uh-huh. 10:42:17
 20 Q. Are you aware of a drug problem around 10:42:17
 21 Fremont? 10:42:19
 22 A. No. 10:42:20
 23 Q. Have you ever seen any drugs, drug dealers, 10:42:20
 24 or any -- let me just rephrase. 10:42:28
 25 Have you had any involvement during your 10:42:36

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1 tenure at Fremont with discipline of students? 10:42:38
 2 A. No. 10:42:38
 3 Q. Whose responsibility is that within the 10:42:44
 4 administration? 10:42:46
 5 A. It's the assistant principal that's in 10:42:46
 6 charge of the dean's office and the school police, 10:42:48
 7 and his name right now is James Hooker, H-o-o-k-e-r. 10:42:51
 8 Q. And Mr. Hooker has been with the school for 10:42:59
 9 approximately a year; correct? 10:43:02
 10 A. Uh-huh, yes. 10:43:03
 11 Q. Prior to Mr. Hooker? 10:43:04
 12 A. Mr. Flores, F-l-o-r-e-s, Walter. 10:43:06
 13 Q. And how long did Mr. Walter have that 10:43:13
 14 responsibility? 10:43:15
 15 A. Actually it was Mr. Flores. 10:43:16
 16 Q. I'm sorry. Mr. Flores. 10:43:22
 17 A. As long as he was there. He was there maybe 10:43:23
 18 two years -- guessing two years. Estimating. 10:43:27
 19 Q. Do you see under -- the caption under the 10:43:33
 20 picture at the top right of the first page of 10:43:34
 21 Exhibit 2 -- 10:43:37
 22 A. Uh-huh. 10:43:38
 23 Q. -- where it says "I would rather be in there 10:43:39
 24 than out here"? 10:43:41
 25 A. Yes. 10:43:41

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1 Q. "There's too much gangbanging." 10:43:43
2 Is that a problem or an issue at Fremont 10:43:45
3 High School? Is the gang banging -- 10:43:49
4 A. I'm not really sure what that means. 10:43:57
5 Q. Well, you referred to gang banging earlier 10:43:59
6 in your testimony. Do you know what "gang banging" 10:44:02
7 refers to? 10:44:05
8 A. I'm guessing -- I've never seen a definition 10:44:06
9 of that word, but I assume it means that rival gangs 10:44:09
10 fight each other. And my comment earlier had to do 10:44:13
11 with outsiders that don't belong coming in that may 10:44:16
12 or may not be members of gangs. 10:44:20
13 Q. Okay. Is that one of the dangers that you 10:44:24
14 referred to earlier as a reason why -- 10:44:25
15 A. It's -- 10:44:28
16 Q. -- the fence would be put up? 10:44:30
17 A. It's a potential danger, yeah. 10:44:31
18 Q. Is drugs another potential danger or drug 10:44:37
19 dealing by people who are not authorized to be on 10:44:42
20 campus? 10:44:46
21 MS. LHAMON: Objection. Calls for 10:44:47
22 speculation. 10:44:48
23 MR. FRIEDMAN: You can answer. 10:44:52
24 THE WITNESS: Yeah, that really is a 10:44:54
25 stretch. I've heard no conversation about drug 10:44:55

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1 dealing. 10:44:58
2 It's not what I do at Fremont. It's a whole 10:45:04
3 different office that deals with that. If it were 10:45:07
4 gigantic, I assume it would be brought up in 10:45:10
5 administrative staff, and it has not been. 10:45:14
6 BY MR. ROZWOOD: 10:45:14
7 Q. You mentioned that you have responsibility 10:45:19
8 for hiring teachers. 10:45:21
9 A. Yes. 10:45:21
10 Q. Is it true that Fremont, because it's a 10:45:27
11 year-round school, pays its teachers more than a 10:45:32
12 traditional school on a traditional calendar? 10:45:37
13 A. No. 10:45:37
14 Q. No? 10:45:41
15 A. No. 10:45:41
16 Q. The salary is the same? 10:45:42
17 A. Well, it's not because it's a year-round 10:45:44
18 school. 10:45:46
19 Q. Is it more at Fremont? 10:45:49
20 A. There's a potential to earn more if -- we 10:45:50
21 are an urban impact school, but that really is 10:45:54
22 different than being a year-round school. 10:45:56
23 Q. So there's no more money because it's a 10:46:01
24 multitrack than -- 10:46:03
25 A. That's correct. 10:46:05

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1 Q. -- if it would be -- 10:46:06
2 A. That's correct. There's a potential for 10:46:07
3 more, but the salary is the same. 10:46:10
4 Q. But the potential has nothing to do with the 10:46:12
5 fact it's a multitrack school? 10:46:14
6 A. I guess it depends on how you look at it. 10:46:16
7 Because it's a year-round school, there is potential 10:46:18
8 to work when you are off track which is not available 10:46:21
9 to people in a traditional calendar. 10:46:25
10 If you take advantage of that potential, you 10:46:27
11 are working more, then, of course, you earn more 10:46:30
12 money. Just working your regular hours, you are 10:46:32
13 earning the same amount as teachers at a traditional 10:46:36
14 school. 10:46:40
15 Q. In your experience in recruiting teachers, 10:46:42
16 is the possibility to earn more by working 10:46:45
17 intersession or off track a significant reason -- 10:46:49
18 well, I guess let me ask it this way. 10:47:03
19 In your experience in recruiting teachers, 10:47:03
20 is the possibility of earning more by working off 10:47:08
21 track significant to prospective teaching candidates? 10:47:11
22 A. I don't think so. 10:47:15
23 Q. Is safety, in your experience -- strike 10:47:22
24 that. 10:47:24
25 In your experience in recruiting teachers, 10:47:25

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1 is safety on campus a concern for prospective 10:47:27
2 teaching candidates? 10:47:32
3 A. I think when they initially get a phone call 10:47:34
4 or are told by the district where the opening is, I 10:47:37
5 think that many candidates have shared with me that 10:47:40
6 it is a concern where we are located. 10:47:44
7 Some of -- 10:47:47
8 (Door interruption.) 10:47:56
9 THE WITNESS: Some of them actually have 10:47:57
10 brought their loved ones with them to walk around the 10:47:59
11 school because -- like a boyfriend or a father -- 10:48:01
12 someone might be afraid to have someone come there, 10:48:03
13 but when they get there for the interview, I have 10:48:09
14 them sit in classes and have them walk around, and 10:48:12
15 they say things like, "Oh, this isn't what I thought 10:48:15
16 it would be," or "It's not anything like the media 10:48:18
17 says," or comments similar to that. 10:48:21
18 So we don't -- some of our teaching 10:48:24
19 candidates that -- I fear we lose some over the phone 10:48:30
20 when they say, "Where are you," and we tell them and 10:48:33
21 they think of some reason why they don't want to come 10:48:37
22 to that interview. 10:48:40
23 The ones that show up, it's not a problem. 10:48:41
24 BY MR. ROZWOOD: 10:48:41
25 Q. When they ask you, "Where are you," what do 10:48:45

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1 you tell them? 10:48:48

2 A. I describe it by the freeways and between 10:48:49

3 Florence and Manchester and say it's off the 110. We 10:48:51

4 are freeway close. It's between Florence and 10:48:56

5 Manchester on San Pedro Street. 10:48:59

6 Q. And approximately how many different 10:49:04

7 candidates have expressed concern with your location? 10:49:10

8 A. That would really be a guess. 10:49:14

9 Q. More than a hundred? 10:49:15

10 A. I can do a percentage. How about if we do a 10:49:16

11 percentage? 10:49:20

12 Q. That would be great. 10:49:21

13 A. I would say at least 20 to 25 percent. 10:49:22

14 Q. Is their concern with your location 10:49:25

15 expressed as a concern over safety or concern over 10:49:29

16 drug or gangs at school? 10:49:33

17 A. Safety issues. 10:49:35

18 Q. What types of safety issues are raised 10:49:36

19 specifically by teaching candidates? 10:49:38

20 A. They don't usually get that specific. I'm 10:49:44

21 trying to think if anyone did lately. They might say 10:49:46

22 things like, "Are there a lot of fights? Is there a 10:49:49

23 lot of crime? Do they have weapons?" Things like 10:49:53

24

25 that. 10:50:00

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1 Q. I understand that you don't have 10:50:07

2 responsibility for student discipline, but in your 14 10:50:09

3 years at Fremont, have you experienced any fights or 10:50:12

4 other types of crimes on or near the campus of 10:50:20

5 Fremont High School? 10:50:26

6 MS. LHAMON: I'm going to object before you 10:50:29

7 keep going because it calls for a legal conclusion as 10:50:31

8 to what is a crime. 10:50:34

9 BY MR. ROZWOOD: 10:50:35

10 Q. Have you witnessed any vandalism at Fremont 10:50:36

11 High School? 10:50:39

12 A. I've witnessed after-the-fact vandalism. 10:50:40

13 I've never seen anyone take anything, but I have had 10:50:43

14 things taken in my office, as a matter of fact. 10:50:46

15 Q. And is there a graffiti problem at Fremont? 10:50:50

16 A. Well, it's kind of hard to quantify what is 10:50:55

17 a problem. There is some graffiti. Actually it's 10:50:58

18 much better now than when I first came. Through 10:51:07

19 personal observation, it's much better. 10:51:10

20 Q. And approximately how many fights have 10:51:13

21 you -- are you aware of that have occurred at Fremont 10:51:15

22 over your 14 years? Just your best estimate. 10:51:21

23 A. I can't do that. I've been there 14 years. 10:51:24

24 Q. Is it more than 10? 10:51:27

25 A. Yes. 10:51:27

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1 Q. Is it more than 20? 10:51:29

2 A. Yeah. 10:51:29

3 Q. Is it more than 50? 10:51:31

4 A. Probably not. 10:51:33

5 Q. Okay. Is it more than 30? 10:51:35

6 A. Can we go by year? 10:51:37

7 Q. Yeah. 10:51:39

8 How many per year? Approximately how many 10:51:39

9 per year? 10:51:41

10 A. If you asked me this year how many fights 10:51:42

11 have I seen? 10:51:44

12 Q. Right. 10:51:46

13 A. Okay. I can answer that. 10:51:48

14 Q. Okay. 10:51:49

15 A. Approximately five this school year. 10:51:50

16 Q. Is that typical for a given school year? 10:51:54

17 A. Typical for Fremont or typical for any 10:51:57

18 school? 10:52:01

19 Q. For Fremont. 10:52:02

20 A. You know, I really don't know. I don't 10:52:03

21 know. 10:52:05

22 Q. Well, how many fights did you see last year 10:52:08

23 at Fremont? 10:52:10

24 A. About that, about the same. So in my 10:52:10

25 experience, yeah, from what I see, it hasn't gone up 10:52:13

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1 or down. 10:52:16

2 The only thing I can speak for sure on is 10:52:18

3 supervision in the cafeteria. There aren't any food 10:52:21

4 fights anymore. When I first got there, there were 10:52:25

5 so many food fights. It was horrible. There are no 10:52:28

6 food fights at all anymore. 10:52:31

7 Q. Why is that? 10:52:33

8 A. I don't know. I don't know, but I think 10:52:34

9 it's great. 10:52:35

10 Q. You mentioned that, as part of your 10:52:37

11 responsibilities as an assistant principal at 10:52:38

12 Fremont, you visit classrooms and you are in charge 10:52:41

13 of the teacher evaluations; is that correct? 10:52:48

14 A. Yes. 10:52:48

15 Q. Other than the in-class evaluations and your 10:52:52

16 classroom visits, do you have any other opportunity 10:53:07

17 to observe the campus when the students are there? 10:53:07

18 A. I have supervision at lunch and nutrition in 10:53:09

19 the cafeteria. I attend sporting events, assemblies, 10:53:12

20 after-school programs. 10:53:21

21 Q. And the fights you refer to occur, you know, 10:53:35

22 at one or more of these events; is that correct? 10:53:38

23 A. I'm not real sure on the question. 10:53:50

24 Q. Okay. Well, it was not very well worded. 10:53:52

25 A. It has to be when I'm there. So I'm not -- 10:53:55

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1 Q. Well, I mean the fights that you refer to, 10:53:58
2 they occur at the student assemblies -- 10:54:01
3 A. No. 10:54:03
4 Q. -- or at lunch or nutrition? 10:54:03
5 A. Lunch or nutrition. 10:54:06
6 Q. What about after-school events or sporting 10:54:08
7 events? 10:54:10
8 A. I can't remember a fight I have seen at one 10:54:11
9 of those. I'm sure I must have seen one, but it 10:54:12
10 certainly was not recently. 10:54:16
11 Q. But they mainly occur at lunch -- 10:54:18
12 A. Uh-huh. 10:54:20
13 Q. -- and nutrition -- 10:54:21
14 A. Uh-huh. 10:54:23
15 Q. You have to verbalize -- 10:54:23
16 A. You have to remember that's when I'm out and 10:54:25
17 see these things and also when the majority of 10:54:27
18 students are out. 10:54:30
19 I would imagine if you ask someone -- I'm 10:54:31
20 guessing -- that most of the fights are at lunch or 10:54:33
21 nutrition. 10:54:37
22 Q. How does the fighting -- strike that. 10:54:38
23 Is there more fighting at Fremont than there 10:54:46
24 was at Westchester? 10:54:48
25 A. Oh, I don't remember the fighting. It was 10:54:53

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1 so long ago. 10:54:57
2 Q. Was there any fighting at Westchester? 10:54:59
3 A. I don't remember. 10:55:01
4 Q. Okay. 10:55:03
5 A. I really don't. 10:55:03
6 Q. Can you look at the bottom of the first 10:55:17
7 column on Exhibit 2 where it says "Fremont is a sort 10:55:18
8 of sanctuary amid an ambient presence of violence." 10:55:24
9 Do you see that? 10:55:30
10 A. Yes. 10:55:30
11 Q. Do you agree with that characterization of 10:55:31
12 the environment in which Fremont is located? 10:55:33
13 A. I think that's purple prose, "a sanctuary 10:55:36
14 amid an ambient presence of violence." The intent of 10:55:43
15 the statement I think is true. 10:55:48
16 Q. What is the intent of the statement, in your 10:55:49
17 opinion? 10:55:51
18 A. I think the intent of the statement is to 10:55:51
19 say that we are safer than our surroundings. 10:55:53
20 Q. And do you consider the surroundings to be 10:55:57
21 violent? 10:56:01
22 A. Actually I have never witnessed any violence 10:56:04
23 outside campus other than one particular day when 10:56:06
24 someone shot bullets into the school, but I'm sure 10:56:11
25 there is crime in the neighborhood after school. I 10:56:16

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1 mean like in the evenings, particularly just by 10:56:17
2 listening to the news media, but I certainly haven't 10:56:21
3 witnessed any. 10:56:26
4 Q. You mentioned an incident where bullets were 10:56:27
5 shot -- 10:56:30
6 A. Uh-huh. 10:56:30
7 Q. -- at the school. 10:56:31
8 A. Uh-huh. 10:56:32
9 Q. Do you know when that occurred? 10:56:32
10 A. That was about a year ago, and it was 10:56:34
11 off-campus activity on San Pedro Street from a car, 10:56:38
12 and they shot several rounds into the front of the 10:56:47
13 school. 10:56:50
14 Q. Can you think of any incidents of violence 10:57:00
15 around Fremont's campus? 10:57:04
16 A. No. 10:57:04
17 Q. Do you see on page -- the second page of the 10:57:25
18 exhibit in the second column, the third paragraph 10:57:28
19 where it says in quotes: "Kids will not learn, 10:57:34
20 teachers will not teach where they do not feel safe." 10:57:40
21 A. Yes. 10:57:44
22 Q. Do you know who Mitchell is that they state 10:57:45
23 the statement is attributed to? 10:57:49
24 A. Yes. 10:57:49
25 Q. Who is that? 10:57:51

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1 A. I believe he's the head of the school 10:57:51
2 police. 10:57:53
3 Q. Do you agree with Mr. Mitchell's statement 10:57:55
4 quoted in that paragraph? 10:57:58
5 A. To some extent I agree that you have to feel 10:58:01
6 safe in order to do something else. 10:58:04
7 Q. Do you believe that the presence of the 10:58:21
8 fence helps students and teachers feel safer than 10:58:23
9 they did before it was erected? 10:58:27
10 MS. LHAMON: Objection. Calls for 10:58:31
11 speculation. 10:58:34
12 MR. FRIEDMAN: You can go ahead and answer 10:58:38
13 it. 10:58:39
14 THE WITNESS: I really don't know the answer 10:58:40
15 to that question. 10:58:41
16 I think that now the fence is just there and 10:58:42
17 no one thinks about it that much, but that's my 10:58:45
18 perception, and I really don't know what's in the 10:58:50
19 mind of the faculty about the fence. 10:58:53
20 BY MR. ROZWOD: 10:59:02
21 Q. Approximately how many teaching positions 10:59:24
22 are there at Fremont High School? 10:59:26
23 A. A little bit over 200. Estimate like 207, 10:59:32
24 210, something like that. 10:59:37
25 Q. Between 207 and 210? 10:59:39

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1 A. Around that area. Plus or minus a few. 10:59:41
2 Q. Okay. How many of those positions are 10:59:49
3 unfilled? 10:59:51
4 A. Right this minute? 10:59:53
5 Q. Yes. 10:59:54
6 A. That I can estimate. There are close to 10:59:56
7 five or six positions today unfilled on B and C 11:00:04
8 track. On A track, there are about eight still 11:00:09
9 unfilled. 11:00:14
10 A track doesn't start until the end of 11:00:15
11 August. 11:00:18
12 Now this is for next school year. I'm not 11:00:22
13 telling you what is happening at this very second in 11:00:24
14 June because I'm working on hiring for next year. 11:00:27
15 Q. Okay. 11:00:27
16 A. So my goal is to open fully staffed for 11:00:38
17 July. 11:00:38
18 Q. Okay. Which tracks are currently in 11:00:38
19 session? 11:00:38
20 A. B and A. 11:00:38
21 Q. And are there any unfilled teaching 11:00:39
22 positions on either tracks in the current school 11:00:43
23 year? 11:00:46
24 A. Yes, there are, but they are fully staffed 11:00:46
25 by off-track teachers. 11:00:49

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1 Q. Those are full-time teachers; correct? 11:01:04
2 A. Yes. 11:01:04
3 Q. Not substitutes? 11:01:09
4 A. Right. 11:01:10
5 Q. And currently you expect that, for the 11:01:16
6 upcoming school year on the B track, there will be 11:01:21
7 between five and six unfilled teaching positions? 11:01:25
8 A. No, not on B track. On B track, I just 11:01:29
9 hired someone over the week. So I think there are 11:01:32
10 only two left on B track right now. 11:01:34
11 Q. And you said there were about eight for A 11:01:39
12 track -- 11:01:43
13 A. Right. 11:01:44
14 Q. -- which you said begins in August? 11:01:45
15 A. Right, end of August. 11:01:47
16 Q. End of August. 11:01:48
17 Which two positions on B track remain 11:01:49
18 unfilled at this time? 11:01:54
19 A. There's one special ed position, and there's 11:01:55
20 a computer -- no, there's not a computer. There's a 11:02:00
21 math position that will probably be filled by the end 11:02:05
22 of this week when I return to campus, and there's a 11:02:09
23 special ed position. 11:02:13
24 Q. Okay. How do you go about filling 11:02:19
25 anticipated unfilled positions for the upcoming 11:02:22

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1 school year at Fremont? 11:02:26
2 A. There are lots of things I do. This year 11:02:28
3 the district has been helpful, District I, by 11:02:30
4 referring us potential candidates, but they are told 11:02:36
5 to refer them to our District G, and so we got a lot 11:02:41
6 of calls from the people referred, and I have them 11:02:46
7 fax a resume and set up an appointment with the 11:02:49
8 department chair. 11:02:52
9 The big district also sends us a list every 11:02:53
10 so often, about every other week, about candidates 11:02:56
11 cleared through that office. So I call everyone on 11:03:00
12 that list that seems they are within travel time and 11:03:03
13 set up appointments. 11:03:06
14 I let all the faculty members, especially 11:03:07
15 department chairs, know what we are missing so they 11:03:10
16 can recruit their friends, which is another good 11:03:13
17 source. 11:03:16
18 I talk to my professional friends at other 11:03:17
19 schools so that they can send me candidates that they 11:03:20
20 don't need, and I also make advertisements, like 11:03:23
21 little brochures, and I send them to the 11:03:29
22 universities, and I call my friends at the 11:03:32
23 universities. 11:03:34
24 Q. Okay. For the upcoming school year on A 11:03:39
25 track, which begins at the end of August 2001, you 11:03:44

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1 mentioned there are approximately eight anticipated 11:03:49
2 unfilled positions. 11:03:51
3 A. Yeah. 11:03:53
4 Q. Do you know how those eight break down by 11:03:53
5 subject matter? 11:03:55
6 A. I can recall a few. A couple are special 11:03:58
7 ed. Two are special ed, one is computers, one is PE, 11:04:03
8 one is math. 11:04:07
9 Maybe there are only five. I can't remember 11:04:13
10 any more. Maybe only five or six, not eight. 11:04:16
11 Q. Was it C track that you expected to have 11:04:20
12 between five and six unfilled positions? 11:04:23
13 A. No. When I said originally on B and C 11:04:25
14 together, there are only five or six left at this 11:04:29
15 point. I have two offers right now, and when I go 11:04:31
16 back to campus, I have four more interviews lined up. 11:04:34
17 So I anticipate to open with no fewer than two 11:04:38
18 unfilled. 11:04:42
19 Now, those I've already assigned 11:04:43
20 credentialed off-track teachers to. So we should be 11:04:46
21 fully staffed in July, and then I'll concentrate on 11:04:49
22 anything that's left on A track. 11:04:52
23 Q. Okay. What I would like to do is give you a 11:04:57
24 copy of a two-page extract from the plaintiffs' First 11:05:07
25 Amended Complaint, and mark this as Exhibit 3 to your 11:05:17

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1 deposition. 11:05:26
 2 (Document referred to above was 11:05:26
 3 marked as Defendants' Exhibit 3 11:05:26
 4 for identification by the reporter 11:05:27
 5 and is attached hereto.) 11:05:27
 6 MR. ROZWOOD: These are pages 48 and 49 from 11:05:27
 7 the plaintiffs' First Amended Complaint. 11:05:29
 8 MS. LHAMON: I will state for the record 11:05:31
 9 these are not 48 and 49 of the First Amended 11:05:33
 10 Complaint. They are a red-lined version, and they 11:05:41
 11 have markings on them on page 49 that did not appear 11:05:43
 12 in the First Amended Complaint. 11:05:46
 13 MR. ROZWOOD: Just to be clear, these are 11:05:50
 14 pages 48 and 49 of the plaintiffs' First Amended 11:05:53
 15 Complaint. The only difference is that there is -- 11:05:56
 16 there are four separate markings on page 49. That's 11:06:01
 17 the only difference between what was filed with the 11:06:05
 18 court and what we have put in front of the witness as 11:06:09
 19 Exhibit 3. 11:06:12
 20 Q. Paragraphs 218 through 226 are the 11:06:21
 21 paragraphs of the First Amended Complaint that I 11:06:23
 22 would like to discuss with you. So if you can take a 11:06:25
 23 minute and just read through those for a minute, I'll 11:06:28
 24 take a short break. 11:06:33
 25 MR. FRIEDMAN: Do you have any extra copies? 11:06:35

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1 Off the record. 11:06:37
 2 (Off the record.) 11:14:06
 3 BY MR. ROZWOOD: 11:14:06
 4 Q. You mentioned that the big district refers 11:14:16
 5 its teaching candidates first to local districts I 11:14:22
 6 and G. 11:14:27
 7 A. Uh-huh. 11:14:27
 8 Q. Is that a new policy? 11:14:28
 9 A. Yes. 11:14:28
 10 Q. How long have the local districts been in 11:14:30
 11 existence? 11:14:32
 12 A. One year. 11:14:34
 13 Q. Prior to the formation of the local 11:14:43
 14 districts, are you aware of any policy at the big 11:14:45
 15 district level regarding the prioritization of 11:14:54
 16 assignment of new teaching candidates? 11:14:54
 17 A. A very long time ago, maybe as long as ten 11:14:57
 18 years, twelve years ago, there was something called 11:15:00
 19 priority staffing. They had staff assigned through 11:15:04
 20 the priority staffing office, and they would work 11:15:08
 21 with new teacher candidates. 11:15:11
 22 I'm not sure what they did because that was 11:15:13
 23 not my job at that time hiring new teachers, but they 11:15:15
 24 must have done something because they had an office 11:15:19
 25 and came over and brought people to whoever was doing 11:15:21

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1 the hiring at the time, but that was a long time ago. 11:15:25
 2 Q. And prior to the recent formation of the 11:15:27
 3 local districts, just recently, did the big district 11:15:29
 4 have a policy for any kind of priority staffing 11:15:35
 5 policy? 11:15:43
 6 A. Not in recent history, to my knowledge. 11:15:44
 7 Q. Okay. And when did you first become -- when 11:15:48
 8 did you first take on responsibilities relating to 11:15:50
 9 the hiring of teachers? 11:15:54
 10 A. Well, this was my first year for everyone. 11:15:57
 11 I've hired English teachers maybe for the last five 11:16:01
 12 or six years. 11:16:05
 13 Q. And that was at Fremont; correct? 11:16:09
 14 A. Yes. 11:16:09
 15 Q. Did Fremont receive any priority over other 11:16:17
 16 schools in the district over those years? 11:16:20
 17 A. I don't think so. 11:16:23
 18 Q. Did you have a chance to review Exhibit 3? 11:16:47
 19 A. Yes. 11:16:47
 20 Q. I would like to ask you a few questions 11:16:53
 21 about the plaintiffs' allegations in this case. 11:16:55
 22 A. Okay. 11:16:59
 23 Q. Can you look at paragraph 218 of the First 11:17:01
 24 Amended Complaint? 11:17:06
 25 A. Yes. 11:17:06

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1 Q. Do you see on line 3 where it says: 11:17:07
 2 "At Fremont, as many as three 11:17:09
 3 students must share a single book 11:17:10
 4 during class time in some classes 11:17:13
 5 because the school does not have 11:17:15
 6 enough books for all the students"? 11:17:16
 7 A. Yes. 11:17:19
 8 Q. Do you see that? 11:17:19
 9 A. Yes. 11:17:19
 10 Q. Is that true? 11:17:21
 11 A. This specific incident was not reported to 11:17:24
 12 me. I don't -- I don't know about a case like that 11:17:27
 13 where three students had to share a single book. 11:17:31
 14 Q. What specific incident are you referring to? 11:17:34
 15 A. Where three students shared a single book. 11:17:37
 16 Q. Are you aware of any incident at Fremont 11:17:41
 17 where three students had to share a single book -- 11:17:43
 18 A. No. 11:17:43
 19 Q. -- during class? 11:17:47
 20 A. No. 11:17:48
 21 Q. So you are not aware of any situation -- 11:17:48
 22 A. No -- 11:17:48
 23 Q. -- in which that was true at Fremont? 11:17:52
 24 A. -- huh-uh, no, I'm not. 11:17:55
 25 Q. Do you see where it says: 11:18:06

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1 "The students who share books in 11:18:07
 2 class cannot take books home for 11:18:10
 3 homework?" 11:18:12
 4 A. Uh-huh, yes I see that. 11:18:13
 5 Q. Are you aware of any classes at Fremont in 11:18:15
 6 which students who want to take books home for 11:18:17
 7 homework are not permitted to do so? 11:18:21
 8 A. I have visited classes where the students 11:18:24
 9 have told me they can't take books home for homework. 11:18:26
 10 I have questioned teachers about that, and they say 11:18:31
 11 that yes, they can if they do such and such. 11:18:33
 12 Actually the administration's policy is that 11:18:37
 13 every student can take home a book. So if we need to 11:18:40
 14 counsel the teacher about their role in that, we do 11:18:46
 15 if we know about it. We don't do it if we don't know 11:18:49
 16 about it. 11:18:53
 17 We can't counsel the teachers to make sure 11:18:53
 18 each student has a book. We publish the information. 11:18:57
 19 There are enough books for each student to take home. 11:19:03
 20 Q. There are enough books -- 11:19:07
 21 A. There are enough. 11:19:09
 22 Q. -- in every class? 11:19:10
 23 A. I don't know if each class, but on campus I 11:19:11
 24 only visit the English classes, for the most part, 11:19:15
 25 and that specific incident I'm talking about actually 11:19:19

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1 happened in two classes, English and a math class. 11:19:22
 2 In the math class I visited, I called the 11:19:25
 3 teacher in, and I said, "These kids need books," and 11:19:27
 4 checked out books this year. 11:19:31
 5 And in the English class I visited, I made 11:19:33
 6 sure that the teacher knew that that student was to 11:19:35
 7 take a book home. 11:19:42
 8 Q. And was that student allowed to take a book 11:19:42
 9 home? 11:19:45
 10 A. Actually I never followed up with that 11:19:46
 11 particular student. I followed up with the teacher. 11:19:48
 12 Q. Did you ever hear anything further -- 11:19:51
 13 A. No. 11:19:51
 14 Q. -- from the student or the teacher? 11:19:53
 15 A. No, huh-uh. 11:19:55
 16 Q. When you say it's the administration's 11:20:04
 17 policy, what administration are you referring to? 11:20:05
 18 A. Fremont High School administration and also 11:20:08
 19 the District I administration has given us 11:20:11
 20 information in writing and verbally that each student 11:20:16
 21 needs to have a book to take home. 11:20:19
 22 Q. Is the textbook policy you are referring to 11:21:00
 23 applicable in all classes or just academic classes, 11:21:04
 24 or which classes does it apply to? 11:21:08
 25 A. It applies to academic classes. 11:21:10

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1 Q. Which are math, social science, English, 11:21:12
 2 and -- what are they? 11:21:20
 3 A. Science is the fourth one. 11:21:23
 4 Q. Science, social science, English, and math; 11:21:26
 5 correct? 11:21:26
 6 A. Yes, but we have extended it to E.S.L. as 11:21:29
 7 well, English as a second language. 11:21:42
 8 Q. So the policy you are referring to requires 11:21:42
 9 that students have the ability to take a book home in 11:21:42
 10 each of these classes? 11:21:46
 11 A. Yes. 11:21:46
 12 Q. Do you see on line 9 of the first page of 11:21:59
 13 Exhibit 3 -- 11:22:04
 14 A. Yes. 11:22:04
 15 Q. -- where it says: 11:22:06
 16 "Students in some classes do not 11:22:07
 17 have any books at all"? 11:22:08
 18 Are you aware of any academic classes as 11:22:10
 19 you've described them in which that is true at 11:22:13
 20 Fremont? 11:22:15
 21 A. The only class I am aware of is one twelfth 11:22:17
 22 grade class which was an econ. government class 11:22:22
 23 advanced placement where, I guess, for some reason 11:22:27
 24 that there was a miscommunication, and the department 11:22:29
 25 chair did not order those books, and so we ended up 11:22:32

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1 borrowing those books from another school, but there 11:22:36
 2 was a period of a couple of weeks where there were no 11:22:39
 3 books. That's correct. The administration got them. 11:22:41
 4 Q. Other than advanced placement government or 11:22:46
 5 economic classes, are there any other classes in 11:22:49
 6 which academic classes -- strike that. My fault. 11:22:53
 7 I'm going to use the term "academic classes" 11:22:57
 8 to refer to math, English, social science, science, 11:22:59
 9 and E.S.L. classes at Fremont. 11:23:03
 10 A. Uh-huh. 11:23:05
 11 Q. Okay? 11:23:05
 12 A. Uh-huh. 11:23:06
 13 Q. Other than the AP government and economics 11:23:08
 14 class, are there any other academic classes in which 11:23:10
 15 students have not had any books at all? 11:23:13
 16 A. No, not that I'm aware of. 11:23:16
 17 Q. When you refer to the miscommunication, was 11:23:24
 18 that a miscommunication between the teacher of the 11:23:26
 19 class and the department chair? 11:23:29
 20 A. I really don't know how that happened. I 11:23:32
 21 honestly don't know why it was that way. There was 11:23:34
 22 certainly enough time to take care of it if we had 11:23:37
 23 known about the problem, but we didn't know -- 11:23:40
 24 The teacher didn't seem to know he was 11:23:42
 25 teaching that class. I don't know why the department 11:23:44

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1 chair didn't know. I don't know. It was -- 11:23:47
 2 Someone messed up, and I don't know who it 11:23:50
 3 was. Again, we can't deal with it until we know 11:23:52
 4 about it, and as soon as we know about it, then we 11:23:58
 5 deal with it. 11:24:01
 6 Q. How did you find out about it in that case? 11:24:02
 7 A. Because the teacher complained. The teacher 11:24:04
 8 complained immediately he didn't know he was teaching 11:24:07
 9 that class and didn't have any books and what were we 11:24:10
 10 going to do about it. 11:24:13
 11 Q. And when did you first learn of that 11:24:15
 12 complaint? 11:24:16
 13 A. First week of A track, this semester. 11:24:17
 14 Q. And what school did you borrow the books 11:24:26
 15 from? 11:24:28
 16 A. I don't know. Mrs. Roland took care of 11:24:28
 17 that. 11:24:31
 18 Q. Ms. Roland is the principal? 11:24:31
 19 A. Yes. 11:24:31
 20 Q. Does that class have sufficient textbooks 11:24:39
 21 both for in-class use and to take home now? 11:24:43
 22 A. It's not a class I supervise. She has been 11:24:48
 23 working with that class. So she has not shared that 11:24:50
 24 they don't. 11:24:53
 25 Q. Okay. We can ask her. We will talk to her 11:24:56

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1 soon. 11:24:59
 2 A. Okay. 11:25:00
 3 Q. And do you see on lines 9 and 10 where it 11:25:03
 4 says the books are described as "often old and 11:25:06
 5 tattered, with missing pages and covers falling 11:25:10
 6 apart"? 11:25:13
 7 Is that an accurate description of the 11:25:14
 8 textbooks at Fremont? 11:25:16
 9 A. I really don't think so. I honestly don't. 11:25:18
 10 Q. Why not? 11:25:27
 11 A. Well, because I'm in classes a lot, 11:25:29
 12 especially English classes, and I don't see books 11:25:31
 13 that look like that. 11:25:34
 14 I see books that look almost new. I see 11:25:35
 15 books that are covered. I see books with some 11:25:40
 16 graffiti, which is a problem, but I don't see old 11:25:42
 17 books. I see new books, and I don't see tattered. 11:25:45
 18 I have occasionally seen a page missing, and 11:25:50
 19 I put that back on the shelf and get one that's 11:25:53
 20 intact. 11:25:57
 21 Q. The next document I'm going to hand you I'm 11:26:20
 22 going to have marked as Exhibit 4 to your deposition. 11:26:24
 23 It bears Bates stamped Nos. DT-LA 01758 through 11:26:30
 24 01761. 11:26:43
 25 (Document referred to above was 11:26:43

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1 marked as Defendants' Exhibit 4 11:26:43
 2 for identification by the reporter 11:26:53
 3 and is attached hereto.) 11:26:53
 4 BY MR. ROZWOOD: 11:26:53
 5 Q. I'm going ask you: Do you recognize 11:26:54
 6 Exhibit 4? 11:26:55
 7 A. I would have to take a minute to look at 11:26:56
 8 this. This is about four years old. I vaguely 11:26:58
 9 remember it. 11:27:11
 10 Q. Is there a more recent version of the big 11:27:15
 11 district's policy and procedure on the use of 11:27:20
 12 textbooks than the ones in Exhibit 4? 11:27:23
 13 A. Not to my memory. 11:27:26
 14 Q. Is Fremont in compliance with this policy? 11:27:34
 15 A. I would have to read this. 11:27:36
 16 Q. Can you take a minute to look at it. 11:27:38
 17 MR. FRIEDMAN: Why don't we go off the 11:27:42
 18 record for a couple of minutes. 11:27:44
 19 MR. ROZWOOD: Off the record while she is 11:27:46
 20 looking at it. I think she should answer the 11:27:47
 21 question. 11:27:49
 22 THE WITNESS: This is a long memo. 11:27:51
 23 MR. ROZWOOD: It's only three pages. 11:27:52
 24 THE WITNESS: Okay. Four. 11:27:54
 25 (Off the record.) 11:30:53

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1 BY MR. ROZWOOD: 11:30:53
 2 Q. Have you had a chance to review Exhibit 4? 11:30:53
 3 A. Yes. 11:30:53
 4 Q. What is Exhibit 4? 11:31:00
 5 A. Exhibit 4 is a memo. It's a bulletin from 11:31:02
 6 the district, explaining the policies and procedures 11:31:05
 7 on the use of textbooks. 11:31:15
 8 Q. Is this the district's current -- well, let 11:31:15
 9 me ask it this way. 11:31:16
 10 Is this a current statement of the 11:31:17
 11 district's policies and procedures on the use of 11:31:19
 12 textbooks? 11:31:21
 13 A. I'm not aware of any changes or additional 11:31:22
 14 bulletins. 11:31:27
 15 Q. And you've had a chance to review this 11:31:28
 16 bulletin carefully? 11:31:30
 17 A. Yes. 11:31:30
 18 Q. Is Fremont High School in compliance with 11:31:32
 19 this bulletin No. 76 in Exhibit 4? 11:31:35
 20 A. There's only one thing on here that is not 11:31:39
 21 in place right at this particular minute, and that's 11:31:41
 22 in section D where it says: 11:31:45
 23 "Form an evaluation and selection 11:31:48
 24 committee composed of 11:31:50
 25 administrators, teachers, library 11:31:52

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1 media personnel, parents, and 11:31:54
2 possibly students." 11:31:56
3 At this point in time, the textbooks are 11:32:00
4 selected by the departments. 11:32:03
5 Now, in that department selection, they can 11:32:07
6 use all kinds of input on their own, but it is the 11:32:10
7 department's decision as long as it complies with the 11:32:13
8 district in the framework that they choose the books. 11:32:17
9 MR. FRIEDMAN: That's Roman II, D, of the 11:32:34
10 bulletin. 11:32:37
11 THE WITNESS: We do the first sentence. We 11:32:38
12 have a school policy, but the selection committee is 11:32:40
13 based on the department. That is pretty much the 11:32:44
14 selection committee, based on input from whomever 11:32:48
15 they wish to seek and certainly the district. 11:32:51
16 Right now at this -- for example, this year 11:32:54
17 District I has selected our math -- or algebra book, 11:32:58
18 and that was based on a districtwide committee. They 11:33:04
19 polled the schools, and the district had the final 11:33:08
20 decision, and their decision was we use Prentice Hall 11:33:12
21 algebra books. It's a publisher. 11:33:19
22 So even if we had a local committee, the 11:33:24
23 decision was still the district's. 11:33:29
24 So things are evolving because we have these 11:33:31
25 local districts now, and that's why I say I'm not 11:33:34

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1 really sure if all this even is in place at this 11:33:38
2 particular time, but I haven't seen any other memos, 11:33:41
3 and everything else in there we pretty much do. 11:33:45
4 Q. And the paragraph D you are referring to, 11:33:56
5 that's on page DT-LA 1759, the stamp on the bottom 11:33:59
6 right-hand corner? 11:34:04
7 A. Yes. 11:34:04
8 Q. Can you turn to the first page of Exhibit 4, 11:34:07
9 1758. 11:34:09
10 Do you see where it says in the third line 11:34:20
11 of the first paragraph underneath the caption 11:34:22
12 "Background": 11:34:24
13 "In school site decision making, 11:34:26
14 the need for textbooks and 11:34:28
15 instructional materials will be 11:34:29
16 considered by all school 11:34:31
17 stakeholders before any other 11:34:33
18 discretionary expenditures"? 11:34:34
19 A. Yes, I see that sentence. 11:34:37
20 Q. Is the leadership council the body through 11:34:38
21 which the school site decision making is made? 11:34:40
22 A. There's also a school site council, but the 11:34:45
23 school leadership council is the one that has the 11:34:48
24 responsibility for 4111, which is the textbooks. 11:34:51
25

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1 Q. What is the difference between the 11:34:59
2 leadership council and the school site decision -- 11:35:01
3 what did you call it? 11:35:04
4 A. Well, the school leadership council, and 11:35:06
5 that's the one in the contract. There's also the 11:35:07
6 school site council, and that's a body I have not met 11:35:10
7 with, and it's been meeting pretty consistently for 11:35:14
8 the last couple of months. For a while it wasn't 11:35:18
9 meeting. 11:35:21
10 So I can't really respond as to what they 11:35:22
11 are doing at this particular time. I have not been 11:35:26
12 in their meetings nor read the minutes. 11:35:28
13 Q. Do you know who sits on the school site 11:35:31
14 council? 11:35:33
15 A. I know two people, the principal Margaret 11:35:34
16 Roland and the chair of the committee is Dorothy 11:35:37
17 Coleman. 11:35:39
18 Q. And is she a school official? 11:35:41
19 A. She is a teacher. 11:35:43
20 Q. Are you aware of anyone else that sits on 11:35:48
21 the school site council? 11:35:50
22 A. I'm not sure who sits on it this year 11:35:52
23 because it really just became reactivated. 11:35:54
24 Q. What do you mean "reactivated"? 11:35:58
25 A. Well, it was in place when we had some of 11:36:01

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1 the other principals, and that committee really is 11:36:04
2 run by the principal. So it just took a while. We 11:36:07
3 have a brand-new principal. 11:36:10
4 (Door interruption.) 11:36:35
5 MR. FRIEDMAN: Off the record. 11:36:35
6 MR. ROZWOD: Off the record. 11:36:36
7 (Off the record.) 11:38:31
8 MR. ROZWOD: Back on the record. 11:38:32
9 Q. At Fremont High School, is the need for 11:38:33
10 textbooks and instructional materials considered 11:38:35
11 before any other discretionary expenditures, to your 11:38:38
12 knowledge? 11:38:43
13 A. I assume so. I really don't know. I'm not 11:38:47
14 the one that has all the different budgets, and there 11:38:49
15 are certain budgets you can't buy textbooks out of. 11:38:53
16 So I don't know. The principal -- you need to ask 11:38:57
17 the principal exactly how that works. 11:39:02
18 I will say that we are required to have 11:39:04
19 textbooks for every student to take home and to have 11:39:06
20 in the classroom. So we pull together whatever 11:39:09
21 budgets that we need in order to accommodate that. 11:39:14
22 This year District I has helped us out by 11:39:25
23 saying they are taking these budgets and spending 11:39:25
24 them for textbooks. We submitted all the orders to 11:39:26
25 the district, and they selected budgets. 11:39:27

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1 So in a way it was kind of taken out of our 11:39:30
 2 hands. We weren't really selecting. District I was 11:39:33
 3 selecting. So that's what I'm saying. Some of this 11:39:37
 4 it's not really the local school anymore. 11:39:41
 5 Q. Other than the possible deviation from 11:39:48
 6 paragraph D in exhibit -- paragraph II-D in 11:39:54
 7 Exhibit 4, is Fremont otherwise in compliance with 11:39:58
 8 this policy? 11:40:02
 9 A. Remember it's just the second sentence of D. 11:40:03
 10 The first sentence is okay. We do have a school 11:40:06
 11 policy. The second sentence, we do not have that 11:40:09
 12 kind of committee. That's what -- we don't have an 11:40:14
 13 evaluation and selection committee composed of lots 11:40:16
 14 of different stakeholders. We do not have that. 11:40:19
 15 Q. Other than that, Fremont is in compliance -- 11:40:22
 16 A. Yes. 11:40:22
 17 Q. -- with this policy? 11:40:26
 18 I would like to mark as Exhibit 5 another 11:40:28
 19 policy which is just one page. 11:40:31
 20 (Document referred to above was 11:40:31
 21 marked as Defendants' Exhibit 5 11:40:31
 22 for identification by the reporter 11:40:44
 23 and is attached hereto.) 11:40:44
 24 BY MR. ROZWOOD: 11:40:44
 25 Q. I'll ask you to look at that. 11:40:44

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1 A. (Complies.) 11:40:44
 2 Q. Do you recognize Exhibit 5? 11:41:13
 3 A. Not specifically, no. 11:41:17
 4 Q. Do you know what it is? 11:41:19
 5 A. Yes. 11:41:19
 6 Q. What is it? 11:41:21
 7 A. It's a policy on providing instructional 11:41:23
 8 materials and supplies at no cost to students. It's 11:41:25
 9 from the district. 11:41:29
 10 Q. From the big district? 11:41:30
 11 A. The big district, right. 11:41:31
 12 Q. Is Fremont, to your knowledge, in compliance 11:41:33
 13 with this policy? 11:41:36
 14 A. Absolutely. 11:41:37
 15 Q. I'm sorry. I didn't hear your answer. 11:41:40
 16 A. Yes, absolutely. 11:41:42
 17 Q. Okay. I would like you to look back at 11:41:46
 18 Exhibit 3, which is the paragraphs excerpted from the 11:41:47
 19 plaintiffs' First Amended Complaint. I'll ask you to 11:41:53
 20 take a look at paragraph 219. 11:42:02
 21 Is it true that the school does not have 11:42:08
 22 enough seats for all the students in all the classes 11:42:10
 23 at Fremont? 11:42:12
 24 A. Not that I'm aware of, no. 11:42:14
 25 Q. Does Fremont High School have enough seats 11:42:21

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1 for all the students in its classes? 11:42:24
 2 A. I think so, yes. In all the classes I've 11:42:27
 3 been in, everyone was sitting down, and there were 11:42:30
 4 extra seats. No one has come to me and said, "I need 11:42:33
 5 extra chairs." 11:42:37
 6 Q. Are you aware of any situation in which a 11:42:38
 7 student had to stand in class at Fremont High School? 11:42:40
 8 A. I'm aware that sometimes we get calls at the 11:42:43
 9 beginning of the semester, "I have all these kids. I 11:42:46
 10 need more desks." 11:42:49
 11 So we call the plant manager, and he assists 11:42:50
 12 in getting more chairs and desks to that teacher. 11:42:53
 13 Q. How long does that process take? 11:42:56
 14 A. Usually the same day. 11:42:59
 15 The only other thing I'm aware of is we have 11:43:04
 16 adult school, and sometimes adult school moves things 11:43:08
 17 around they need in the evening, and they come in the 11:43:11
 18 morning and say, "Adult school took my chairs again," 11:43:16
 19 and figure out where they moved them. 11:43:19
 20 So that's the only other thing that's 11:43:21
 21 reported to me, but I'm not the administrator of 11:43:24
 22 plant anymore. 11:43:27
 23 Q. Who is the administrator in charge of plant 11:43:29
 24 now? 11:43:33
 25 A. Mr. Hemmans. 11:43:33

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1 MR. FRIEDMAN: First name? 11:43:36
 2 THE WITNESS: Maxie -- J, period, Maxie, 11:43:37
 3 M-a-x-i-e. 11:43:39
 4 BY MR. ROZWOOD: 11:43:45
 5 Q. He is the assistant principal in charge of 11:43:46
 6 plant? 11:43:48
 7 A. Yes. 11:43:48
 8 Q. He has been there for approximately a year? 11:43:50
 9 A. Yes. 11:43:50
 10 Q. But from the time the teacher calls an 11:43:57
 11 administrator who, in turns, calls the plant manager 11:43:59
 12 to get enough seats for the students to sit in, that 11:44:03
 13 process takes only one day; correct? 11:44:08
 14 A. I would -- 11:44:12
 15 MS. LHAMON: Calls for speculation. She 11:44:13
 16 testified she is not the administrator of the plant. 11:44:14
 17 MR. FRIEDMAN: You can respond. 11:44:20
 18 THE WITNESS: Yeah. 11:44:22
 19 BY MR. ROZWOOD: 11:44:22
 20 Q. To your knowledge, does that process take 11:44:22
 21 more than a day? 11:44:24
 22 A. No. 11:44:24
 23 Q. In your experience is that phenomenon -- 11:44:26
 24 well, strike that. 11:44:31
 25 You testified that -- let's just strike 11:44:59

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1 that. 11:45:04
2 Can you turn to paragraph 220 of Exhibit 3. 11:45:10
3 It says that the school does not offer enough courses 11:45:15
4 for all the students. 11:45:17
5 I want to ask you: Does Fremont High School 11:45:20
6 offer enough courses for all of its students? 11:45:23
7 A. You need to be a little more specific on 11:45:26
8 that. Obviously all the students are in class. They 11:45:28
9 have six classes, except for the ones with work 11:45:31
10 experience. 11:45:34
11 Q. Every student has six classes -- 11:45:36
12 A. Right. 11:45:38
13 Q. -- and/or work experience; correct? 11:45:39
14 A. Yes. 11:45:39
15 Q. Has that always been the case during your 11:45:42
16 tenure at Fremont? 11:45:44
17 A. Yes. 11:45:44
18 Q. Do you see where it says: 11:45:53
19 "During the 1999/2000 school year, 11:45:54
20 the school offered no courses at 11:46:07
21 all final period of the day because 11:46:07
22 the school did not have enough 11:46:07
23 courses to support the students"? 11:46:07
24 A. Yes. 11:46:07
25 Q. I don't know if the reporter got your 11:46:21

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1 answer. 11:46:21
2 Is that an accurate statement? 11:46:23
3 A. Yes, yes, I read it, and no, it's not an 11:46:13
4 accurate statement at all. 11:46:16
5 Q. Do you know what this statement could 11:46:17
6 possibly be referring to? 11:46:20
7 A. I think I would have to speculate on that. 11:46:25
8 Q. We do not want you to speculate, but if you 11:46:27
9 know -- 11:46:31
10 A. I absolutely do not know, but -- I'm giving 11:46:31
11 my opinion. 11:46:36
12 Q. Do you see where it says on lines 15 and 16: 11:46:40
13 "In addition, many Fremont students 11:46:44
14 take 'service' classes because 11:46:46
15 academics classes are not available 11:46:46
16 to the students"? 11:46:48
17 A. Yes, I see that. 11:46:49
18 Q. Is that true? 11:46:51
19 A. Actually I could speculate what this person 11:46:51
20 means. It's certainly not because academic classes 11:46:54
21 are not available. We are required to make sure 11:46:57
22 every student has their academic classes for 11:46:59
23 graduation. So that could certainly not be true. 11:47:03
24 Q. Let me explain. This document is not the 11:47:06
25 statement of any particular person. It is the 11:47:08

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1 statement of all of the plaintiffs in the case -- 11:47:11
2 A. Okay. 11:47:13
3 Q. -- about -- well, I don't want to 11:47:15
4 mischaracterize the plaintiffs' complaint, but this 11:47:18
5 is the complaint that was filed. This is an excerpt 11:47:20
6 from the complaint that was filed with the court, and 11:47:23
7 just so you know, we can presume it was prepared by 11:47:27
8 counsel for the plaintiffs and it's not fairly 11:47:32
9 attributable necessarily to one particular student at 11:47:38
10 Fremont. I wanted to make sure you understood that. 11:47:42
11 In your tenure at Fremont, are you aware of 11:47:48
12 any student being forced to take a service class 11:47:55
13 because an academic class was not available? 11:47:57
14 A. Not an academic class. No, we have always 11:48:01
15 had academic classes. 11:48:05
16 Q. A service class is an elective class; 11:48:08
17 correct? 11:48:08
18 A. Again, it gets into definition. Academic 11:48:11
19 class, I think, is a required class. So I'm assuming 11:48:14
20 you could have an academic elective. 11:48:17
21 Some students may select a service or that 11:48:20
22 would be a choice that they would make if an elective 11:48:23
23 would not be available, but if a student needs a 11:48:26
24 graduation requirement, that student is put in a 11:48:30
25 graduation requirement, to my knowledge. 11:48:33

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1 Again, that's not my office either, but as 11:48:35
2 long as I was in that office and as long as I'm 11:48:38
3 administrator, that's -- that would be the policy. 11:48:41
4 Q. Whose office is that now? 11:48:44
5 A. That's Pat Nichols. She is assistant 11:48:46
6 principal counseling. 11:48:49
7 MR. FRIEDMAN: How does she spell that last 11:48:52
8 name? 11:48:54
9 THE WITNESS: N-i-c-h-o-l-s. 11:48:55
10 BY MR. ROZWOOD: 11:48:57
11 Q. How long has Ms. Nichols been with Fremont? 11:48:57
12 A. She has been here one year. 11:49:00
13 MR. ROZWOOD: We will mark as Exhibit 6 a 11:49:26
14 document that was produced by the big -- by the 11:49:27
15 Los Angeles Unified School District in this case, and 11:49:32
16 they are Bates stamped -- it's a three-page document, 11:49:41
17 bearing Bates No. DT-LA 01854 through 1856. 11:49:44
18 (Document referred to above was 11:49:44
19 marked as Defendants' Exhibit 6 11:49:44
20 for identification by the reporter 11:50:11
21 and is attached hereto.) 11:50:11
22 BY MR. ROZWOOD: 11:50:11
23 Q. Do you recognize Exhibit 6? 11:50:11
24 A. Yes. 11:50:11
25 Q. What is it? 11:50:13

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1 A. That is what is familiarly referred to as 11:50:15
 2 "the pumpkins." They are very old. They are course 11:50:17
 3 descriptions that are published by the district 11:50:21
 4 probably from the '80s. Several of them are revised, 11:50:23
 5 but this one is not. This is probably circa '84, I 11:50:27
 6 would guess. 11:50:34
 7 They are course descriptions, and that's 11:50:35
 8 really all we have at the school site to go on as far 11:50:38
 9 as what the district wants us to do in these classes. 11:50:41
 10 Q. And is this excerpt from these course 11:50:45
 11 descriptions, is this applicable to service classes 11:50:51
 12 at Fremont? 11:50:56
 13 A. Could you ask that again a little more 11:50:58
 14 specifically what you want to know. 11:51:00
 15 Q. The cover page of Exhibit 6 says "Guidelines 11:51:02
 16 for Instruction" -- 11:51:04
 17 A. Right. 11:51:05
 18 Q. -- and if I flip the page to page 1855, the 11:51:06
 19 heading is "Elective Courses--School Service." 11:51:09
 20 Does that refer to the service classes we 11:51:12
 21 have been discussing here today? 11:51:14
 22 A. Yes. 11:51:14
 23 Q. And are these the general guidelines for 11:51:16
 24 instruction applicable to service classes at Fremont 11:51:18
 25 High School? 11:51:24

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1 A. Okay. The first one is correct. 11:51:26
 2 Q. I just -- if you want to take time to look 11:51:28
 3 at this? 11:51:30
 4 A. I do. 11:51:31
 5 MR. ROZWOOD: Let's go off the record for a 11:51:32
 6 minute and have you look at it, and we can come back 11:51:34
 7 on the record and ask you the question. 11:51:36
 8 THE WITNESS: Okay. I'm ready. 11:51:52
 9 BY MR. ROZWOOD: 11:51:54
 10 Q. Okay. Is this the general guidelines for 11:51:55
 11 instruction applicable to school service classes 11:52:01
 12 offered at Fremont High School? 11:52:04
 13 A. The first paragraph and the first four 11:52:07
 14 bullets or dashes, this is -- these are fine, and 11:52:10
 15 that's certainly what we do. The last one -- I've 11:52:13
 16 never been in a school where that's done. 11:52:17
 17 Q. My question is: Is this the policy 11:52:24
 18 applicable to school service classes at Fremont High 11:52:25
 19 School? I'm not asking whether you are in compliance 11:52:28
 20 with it. 11:52:31
 21 A. Okay. So I misunderstood. Yes, this is. 11:52:32
 22 Q. And your answer before was that you are in 11:52:34
 23 compliance with everything on the first page, 1855, 11:52:47
 24 except for that last bullet point? 11:52:47
 25 A. Right, right. 11:52:47

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1 Q. And if you turn to the next page, 1856, do 11:52:47
 2 you see where it says "Course Description," 11:52:58
 3 "Representative Objectives," and "Application of 11:53:04
 4 Basic Skills," the three headings? 11:53:07
 5 A. Yes. 11:53:07
 6 Q. Is this an accurate description of the -- 11:53:10
 7 let's just take them one at a time. 11:53:21
 8 Based upon your experience at Fremont High 11:53:26
 9 School, do the objectives listed under the heading 11:53:28
 10 "Representative Objectives" -- well, strike that. 11:53:34
 11 Can you review the bullet points under 11:53:46
 12 "Representative Objectives"? 11:53:50
 13 A. Yes. 11:53:50
 14 Q. Have you reviewed them? 11:53:53
 15 A. Yes. 11:53:53
 16 Q. Are those the representative objectives of 11:53:55
 17 service classes at Fremont High School? 11:53:56
 18 A. Yes, they are, but you can see it's a little 11:54:00
 19 out of date because it says "duplicating machines, 11:54:02
 20 operating the switchboard," and so forth, but in 11:54:05
 21 general, yeah. 11:54:08
 22 Q. In general -- 11:54:08
 23 A. Yes, absolutely. 11:54:10
 24 Q. How about the "Application of Basic Skills"? 11:54:11
 25 Is that an accurate description -- 11:54:15

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1 A. Yes. 11:54:15
 2 Q. -- of the students in service classes that 11:54:18
 3 Fremont is supposed to use? 11:54:20
 4 A. Yes. 11:54:20
 5 Q. Thank you. 11:54:34
 6 Did you see on Exhibit 3, line 16 through 18 11:55:00
 7 of paragraph 220, where it states that: 11:55:04
 8 "Students sit in the back of other 11:55:07
 9 classes that they are neither 11:55:09
 10 auditing or taking for credit and 11:55:11
 11 run errands for teachers in service 11:55:13
 12 classes"? 11:55:15
 13 MS. LHAMON: You mischaracterized the 11:55:16
 14 sentence. 11:55:17
 15 BY MR. ROZWOOD: 11:55:20
 16 Q. Do you see where it says -- do you see lines 11:55:20
 17 16 through 18? 11:55:26
 18 A. Yes, I do. 11:55:27
 19 Q. Is that an accurate description of what 11:55:30
 20 occurs in service classes? 11:55:32
 21 A. Well, the sentence is kind of poorly 11:55:36
 22 constructed, but I think what it means is there 11:55:38
 23 are -- for example, history class here and not 11:55:41
 24 getting credit for history in service class. They 11:55:47
 25 are getting credits. You can read it a couple of 11:55:50

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1 ways. 11:55:52

2 If a student is in a service class, they are 11:55:53

3 getting credits. What he does is what the teacher 11:55:57

4 asks him to do or her. 11:56:00

5 Q. And those five credits are credits towards 11:56:02

6 graduation? 11:56:05

7 A. Yes. 11:56:05

8 MR. ROZWOOD: Okay. Well, let me stop there 11:56:08

9 for a minute and go off the record. 11:56:10

10 (Off the record.) 11:57:00

11 MR. ROZWOOD: Back on the record. 11:57:00

12 Q. Can we look at paragraph 221 in Exhibit 3. 11:57:05

13 Do you see where it says: 11:57:09

14 "Students often do not have 11:57:10

15 permanent teachers for their 11:57:12

16 courses when the school year 11:57:14

17 begins, and in some courses 11:57:16

18 students never get permanent 11:57:18

19 teachers for an entire semester"? 11:57:19

20 Do you see that in lines 19 and 20? 11:57:21

21 A. Yes. 11:57:21

22 Q. Is that an accurate statement? 11:57:27

23 A. I would modify that to say students 11:57:29

24 sometimes do not have permanent teachers. Certainly 11:57:32

25 not often. Depends on definition of "often." But to 11:57:36

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1 me, "sometimes" would be a more accurate statement. 11:57:40

2 Q. How frequently is it that students do not 11:57:43

3 have permanent teachers? 11:57:46

4 A. When the semester begins? 11:57:48

5 Q. Correct. 11:57:50

6 A. Usually about four classes. 11:57:50

7 Q. Out of how many? 11:57:53

8 A. Well, out of everyone. Out of 150 or so. 11:57:57

9 However many are on track. 11:58:02

10 Q. So let me see if I understand your response. 11:58:07

11 The number of classrooms that do not have 11:58:12

12 permanent teachers when the school year begins is 11:58:16

13 approximately 4 out of 150 -- 11:58:19

14 A. Uh-huh. 11:58:22

15 Q. -- on average? 11:58:23

16 Is that correct? 11:58:25

17 MS. LHAMON: Mischaracterizes the testimony. 11:58:29

18 She said semester, not year. 11:58:30

19 THE WITNESS: Actually the whole sentence 11:58:34

20 calls for a lot of qualifications if you look at it. 11:58:36

21 BY MR. ROZWOOD: 11:58:39

22 Q. Before we get to the qualifications, let's 11:58:40

23 just focus on how often it is that this phenomenon 11:58:42

24 occurs, and if you want to qualify it -- 11:58:46

25 A. Okay. 11:58:49

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1 Q. -- in connection with your answer of that 11:58:50

2 question, feel free. You can tell me what's wrong 11:58:51

3 with the sentence and how often it actually occurs. 11:58:54

4 A. Okay. Because you could assumably have a 11:58:57

5 permanent teacher based on permanency in the 11:59:00

6 district; so therefore, say the positions were 11:59:03

7 unfilled, which maybe is a fairer characterization, 11:59:07

8 how many positions are unfilled? 11:59:10

9 You may want to know that or you may just 11:59:12

10 want to know is there a sub in there, or is a 11:59:14

11 permanent district employee in there. 11:59:17

12 I'm not sure what you want to know. So 11:59:20

13 permanent teachers again in the second part of the 11:59:25

14 sentence could mean the same thing, permanent with 11:59:28

15 the district or it means that someone is there for 11:59:30

16 the entire semester, the same person. 11:59:33

17 Q. What is your understanding of the term 11:59:36

18 "permanent" as it relates to teachers in the L.A. 11:59:40

19 Unified School District? 11:59:45

20 A. The way the district uses the term it's CN, 11:59:46

21 continuing. It means they passed the probationary 11:59:49

22 time, and they have permanent status in the district. 12:00:02

23 Q. Okay. I don't -- well, so how often when 12:00:09

24 the school year begins -- I'm talking about how often 12:00:25

25 do classes have unfilled teaching positions? 12:00:29

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1 A. Okay. I would say coming up, we are 12:00:40

2 probably going to have about three or maybe two, 12:00:43

3 depending on how many people I can get hired by July. 12:00:46

4 Maybe none. 12:00:50

5 Last year there may have been as many as ten 12:00:50

6 at the beginning of the year. That would be an 12:00:53

7 estimate. 12:00:58

8 Q. What about the year before that? Do you 12:00:59

9 know? 12:01:01

10 A. No, I don't remember. 12:01:03

11 Q. Is this out of approximately 150 classes? 12:01:05

12 A. Yes. Well, 150 teaching positions. 12:01:12

13 Q. Okay. 12:01:15

14 A. You know, more classes than that. 12:01:16

15 Q. Did you have any role in filling the 12:01:35

16 unfilled teaching positions in the 1999/2000 school 12:01:39

17 year at Fremont? 12:01:45

18 A. Actually I was hiring English at that time 12:01:48

19 and E.S.L., and I think that semester I had foreign 12:01:51

20 language too. So I really had responsibilities for 12:01:56

21 those three. 12:01:59

22 All of the other departments were divided 12:02:00

23 among the other administrators. So they would do the 12:02:02

24 interviewing. 12:02:05

25 Q. Out of the approximately ten unfilled 12:02:12

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1 positions at the start of the 1999/2000 school year 12:02:15
2 at Fremont, were there any unfilled positions in 12:02:19
3 English, foreign language, and E.S.L., the subjects 12:02:24
4 you had responsibility for? 12:02:27
5 A. I think they were filled. Sometimes if you 12:02:28
6 hire someone in this month -- say I hire someone 12:02:31
7 today, they still have to take the 40-hour with the 12:02:33
8 district; they have to be processed for fingerprints, 12:02:36
9 which sometimes can take up to four months; and have 12:02:40
10 to get a TB clearance. Sometimes they are hired on 12:02:42
11 but haven't reported to work yet because the district 12:02:46
12 hasn't cleared them because of the paperwork. 12:02:50
13 Sometimes that happens, that it's filled but the 12:02:52
14 person hasn't arrived yet. 12:02:54
15 I think I filled all my English ones, but 12:02:57
16 some of them took a while to get their TB or 12:03:00
17 fingerprints back. I'd have to look in my records. 12:03:03
18 Q. Can you give me the list of things that the 12:03:11
19 new teacher -- sorry. Actually you can help me. I 12:03:13
20 don't really understand how this works. 12:03:19
21 There's a TB test and fingerprint test, and 12:03:21
22 who has to take these tests? 12:03:25
23 A. The applicants. First they have to come and 12:03:27
24 show a CBEST card, California test that's required of 12:03:29
25 the teachers; they have to present a transcript; 12:03:36

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1 three letters of recommendation. 12:03:40
2 So those are the initial things that they do 12:03:43
3 in the district. 12:03:47
4 Then depending on who they talk to, they 12:03:49
5 sometimes are sent out to schools to get an offer 12:03:52
6 letter, and somehow some of them get in the 40-hour 12:03:54
7 contracts and get some of those things done before 12:03:58
8 they come to the schools. I think it depends on 12:04:01
9 whoever is interviewing them if they think they are a 12:04:04
10 strong candidate or not. 12:04:07
11 At any rate they do need the 40-hour class. 12:04:08
12 Q. What class is that? 12:04:12
13 A. The district has it in different locations. 12:04:13
14 Q. What is the name of the class? 12:04:16
15 A. It's called the 40-hour class. It probably 12:04:18
16 does have a different title, but they deal with 12:04:20
17 classroom routines, school routines. So they have to 12:04:23
18 do that. 12:04:26
19 MR. FRIEDMAN: Can I just ask for 12:04:27
20 clarification. 12:04:28
21 The 40-hour class that you are describing is 12:04:29
22 something that's required of all new teachers 12:04:33
23 regardless of whether they are fully credentialed or 12:04:36
24 emergency credentialed? 12:04:39
25 THE WITNESS: No. I think if you come in 12:04:41

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1 with a credential that you are excused from that 12:04:42
2 because you have verification of student teaching, 12:04:45
3 which is the same thing. 12:04:50
4 Unfortunately until this year, we have not 12:04:50
5 seen very many of those candidates. So, to me, I 12:04:54
6 just say the 40-hour class. 12:04:57
7 So you are right. This year we have more 12:05:00
8 not taking that class. 12:05:03
9 MR. FRIEDMAN: It's not a matter of being 12:05:03
10 right. I don't know myself. I was asking for that 12:05:04
11 clarification. 12:05:06
12 MR. ROZWOOD: I appreciate that too, Howard. 12:05:11
13 Thanks. 12:05:13
14 MS. LHAMON: Thanks. 12:05:14
15 MR. FRIEDMAN: I try. 12:05:15
16 THE WITNESS: Thanks, thanks, thanks. 12:05:18
17 BY MR. ROZWOOD: 12:05:20
18 Q. So looking back -- well, let me ask you 12:05:26
19 this. 12:05:28
20 Is there anything else that these applicants 12:05:28
21 have to do other than what you have already listed? 12:05:30
22 A. I don't know. They spend forever at the 12:05:35
23 district. 12:05:40
24 You have the fingerprint; right? 12:05:40
25 Q. Yes. 12:05:42

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1 A. That's a major one for candidates. It does 12:05:43
2 take a long time. And health requirements, and 12:05:46
3 sometimes that takes a long time too. 12:05:49
4 Q. That's the TB test? 12:05:51
5 A. Yeah, that's part of it. Sometimes they 12:05:52
6 find other things that they want to talk to you 12:05:54
7 about, your latest surgeries or something. 12:05:56
8 Q. Is there anything else that the 12:06:00
9 applicants -- 12:06:01
10 A. They interviewed -- 12:06:02
11 Q. Can I finish my question? 12:06:12
12 A. I'm sorry. 12:06:12
13 Q. I want to get it down for the record. I 12:06:12
14 know you know what I'm going to ask. You always do. 12:06:12
15 Is there anything else that the applicant 12:06:12
16 needs to do, other than what you have already listed, 12:06:12
17 before they begin teaching at Fremont? 12:06:14
18 A. Yes, they are interviewed at the district 12:06:18
19 level and also interviewed at the school site. 12:06:20
20 Q. Anything else? 12:06:22
21 A. Not that I can think of right now. 12:06:24
22 Q. Do you see on line 20 of Exhibit 3, the 12:06:27
23 first page of Exhibit 3, in paragraph 221 where it 12:06:32
24 says: 12:06:38
25 "In some courses students never get 12:06:39

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1 permanent teachers for an entire 12:06:41
 2 semester"?

3 A. Yes, I see that. 12:06:44

4 Q. Let's assume that "permanent" is being used 12:06:45
 5 in the sense of not a substitute teacher. 12:06:48

6 A. Okay. 12:06:56

7 Q. And I want to ask you if that's correct -- 12:06:57
 8 if that statement is correct that some students never 12:06:59
 9 get a permanent teacher for an entire semester. 12:07:05

10 A. That would be extremely rare, and I'm trying 12:07:09
 11 to think of a circumstance it's possible, but it's so 12:07:11
 12 rare at a year-round school because we have so many 12:07:15
 13 people that are credentialed teachers that want to 12:07:18
 14 work off track. 12:07:20

15 Q. Why is that? 12:07:27

16 A. Money. Money. 12:07:28

17 Q. So they can make more money? 12:07:30

18 A. Yeah, yeah. And some of them may enjoy the 12:07:31
 19 job too. You get your regular paycheck all 12:07:36
 20 throughout the year even when you are off track. So 12:07:40
 21 when you are working off track in an unfilled 12:07:42
 22 position, you get double pay. So there's a terrific 12:07:46
 23 monetary incentive to do that kind of job. 12:07:51

24 Q. Can you think of any situation over your 14 12:08:06
 25 years at Fremont High School where a substitute 12:08:10

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1 teacher was used for the entire semester of a course? 12:08:14

2 A. No. 12:08:14

3 Q. What is the policy of Fremont High School 12:08:30
 4 with respect to the extended use of substitute 12:08:32
 5 teachers? 12:08:35

6 A. Can you be more specific? 12:08:38
 7 (Telephone interruption.) 12:08:40

8 BY MR. ROZWOOD: 12:08:40

9 Q. Sure. 12:08:42

10 Give me one second off the record to answer 12:08:42
 11 this telephone call. 12:08:45

12 (Off the record.) 12:09:19

13 MR. ROZWOOD: Can you read back the pending 12:09:19
 14 question to me. 12:09:21

15 (The following question was 12:09:21
 16 read by the reporter: 12:08:30

17 "QUESTION: What is the policy of 12:08:30
 18 Fremont High School with respect to 12:08:31
 19 the extended use of substitute 12:08:35
 20 teachers?") 12:08:35

21 BY MR. ROZWOOD: 12:08:35

22 Q. What I mean is: What is the policy with 12:09:24
 23 respect to substitute teachers generally, and is 12:09:26
 24 there a special policy for using them for a long 12:09:30
 25 period of time? 12:09:33

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1 A. Well -- 12:09:37

2 MS. LHAMON: Objection. Compound. 12:09:38

3 MR. FRIEDMAN: You can answer. 12:09:42

4 THE WITNESS: What am I answering? Now I'm 12:09:45
 5 answering is there a policy for using them for a long 12:09:48
 6 time? 12:09:50

7 BY MR. ROZWOOD: 12:09:50

8 Q. Let me ask the question again. 12:09:51

9 What is the policy at Fremont High School 12:09:53
 10 for the use of substitute teachers? 12:09:55

11 MR. FRIEDMAN: I'll just voice an objection. 12:09:57

12 Assumes a policy is in place. 12:10:00

13 But if there is a policy, you can discuss 12:10:02
 14 what it is. 12:10:04

15 THE WITNESS: Well, I don't think we have 12:10:05
 16 any policy any different from the district as far as 12:10:06
 17 I know. 12:10:10

18 I mean we have -- right now we have Sub 12:10:10
 19 Finder which is the district's way to get 12:10:15
 20 substitutes, and if a teacher is going to be absent, 12:10:18
 21 he calls Sub Finder and Sub Finder hooks them up via 12:10:21
 22 voicemail. He can leave lesson plans, and they call 12:10:27
 23 a sub and the sub arrives in the morning. 12:10:30

24 BY MR. ROZWOOD: 12:10:34

25 Q. Is there a different procedure for use of 12:10:38

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1 substitute teachers for an extended absence, say, a 12:10:40
 2 health-related absence or family-related absence of 12:10:44
 3 more than, like, two weeks? 12:10:49

4 A. Okay. For more than two weeks, I kind of 12:10:51
 5 make the decision, unless another administrator has 12:10:54
 6 made that already, but in general, that's my 12:10:58
 7 responsibility to make sure that that substitute is a 12:11:00
 8 qualified sub. 12:11:03

9 If it's someone off campus, as did occur at 12:11:05
 10 one time, I actually interviewed, but these are 12:11:09
 11 credentialed teachers coming from other schools. 12:11:11

12 Say I have a vacancy I can't fill and I know 12:11:14
 13 people call a lot "I'm off track. Do you have any 12:11:17
 14 jobs," then it's just like I'm hiring someone. I 12:11:20
 15 have them come in and give me a resume, and I have 12:11:23
 16 the department chair present, and we make a decision. 12:11:25

17 Q. Are those considered substitute teachers? 12:11:33

18 A. Well, they are regular contractual permanent 12:11:39
 19 employees. They just work for another school. They 12:11:42
 20 are substituting in a position that there's no one 12:11:45
 21 hired for. So I guess it's how you look at it. 12:11:49

22 Q. And you mentioned that you obtain qualified 12:11:53
 23 substitute teachers in cases where there's going to 12:11:57
 24 be an extended class; is that correct? 12:12:01

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1 A. I certainly make every effort to do that. 12:12:04
2 Q. When you say "qualified," you mean qualified 12:12:07
3 to teach the subject matter of the course? 12:12:09
4 A. Yes. 12:12:09
5 Q. Can you think of any instances where you 12:12:12
6 were unable to find anyone trained or qualified to 12:12:14
7 teach the course with the unfilled position? 12:12:18
8 A. I found some that I wish I had selected 12:12:21
9 someone else by reports from students and from other 12:12:25
10 teachers. We have tried to replace that person, and 12:12:31
11 sometimes you make a bad decision, and I can think of 12:12:37
12 one case in particular, but that teacher was an 12:12:40
13 off-track teacher from our school who led me to 12:12:51
14 believe that the knowledge base was there, and based 12:12:51
15 on the reports, it was not there. So yes, I can 12:12:51
16 remember that one occasion. 12:12:53
17 Q. What class was that for? 12:12:54
18 A. That was for physical science class. 12:12:56
19 Q. And did that teacher end up teaching the 12:13:06
20 entire semester? 12:13:08
21 A. To my recollection, yes. Now -- excuse me. 12:13:12
22 Can I re -- it was a mester, not semester. Any time 12:13:17
23 you are taking off-track teachers, they are not there 12:13:23
24 for a semester. They are there for a mester. 12:13:26
25 Q. Now I'm confused. What is a mester? 12:13:29

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1 A. Okay. The school year is divided into six 12:13:33
2 parts, six mesters. So each two mesters -- each two 12:13:37
3 mesters the tracks change. So you start out with C 12:13:44
4 and B track, and then after a mester -- after two 12:13:48
5 mesters, then it becomes A and B track. 12:13:53
6 So I guess it's like two mesters on and two 12:13:58
7 mesters off for some of the kids, although C track 12:14:01
8 goes straight through. 12:14:05
9 It's easier to explain with a calendar. 12:14:07
10 Q. Do you have a calendar we can look at that 12:14:09
11 would describe the six mesters you are referring to 12:14:10
12 for each track? 12:14:14
13 A. I thought I did see one somewhere. Maybe 12:14:16
14 it's at home. It's six mesters. If you are subbing 12:14:19
15 for a B track position and you are going to come back 12:14:23
16 on when your mester goes, you have to leave when C 12:14:25
17 comes along. 12:14:29
18 Q. How many weeks is a mester? 12:14:30
19 A. A mester is about six weeks. 12:14:32
20 Q. I think your deposition is going to continue 12:14:39
21 on a second day. If you would do us all a great 12:14:42
22 favor and bring a copy of the calendar that describes 12:14:46
23 the mesters and the tracks on those mesters, that 12:14:48
24 probably would be much appreciated by all. 12:14:52
25 A. I have one in the car. No. 12:14:58

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1 That's a key document when we interview 12:15:01
2 teachers, and it's just hard to explain for me 12:15:03
3 without a visual. 12:15:06
4 Q. I'm like you. I need to see it too. 12:15:08
5 Do you see where it says on line 20 through 12:15:13
6 22: 12:15:17
7 "The students take instruction from 12:15:18
8 a series of substitutes while they 12:15:19
9 wait for the school to obtain 12:15:22
10 permanent teachers for their 12:15:23
11 classes"? 12:15:24
12 Do you see that? 12:15:25
13 A. What line are we on? 12:15:26
14 Q. Lines 20 through 22. 12:15:27
15 A. Yes. 12:15:27
16 Q. Are you aware of any situations -- strike 12:15:30
17 that. 12:15:34
18 Are you aware of any classes in which 12:15:34
19 students were forced to take instruction from a 12:15:36
20 series of substitutes while they waited for the 12:15:39
21 school to obtain a permanent teacher for their class? 12:15:44
22 A. Specifically I can't recall, but I would not 12:15:48
23 question that statement. That's probably accurate, 12:15:50
24 but it's probably not -- it's not often. It's not 12:15:54
25 referring back -- it says sometimes that may happen. 12:15:58

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1 As long as you put the "sometimes" in there. 12:16:02
2 Q. So it's accurate -- if you replace the word 12:16:04
3 "often" with "sometimes," it would be -- 12:16:09
4 A. Uh-huh. 12:16:11
5 Q. -- an accurate statement? 12:16:11
6 A. Uh-huh. 12:16:13
7 MS. LHAMON: I'm going to object. It 12:16:14
8 doesn't say "often." 12:16:16
9 THE WITNESS: Well, "often" comes from the 12:16:18
10 sentence -- the second sentence is based on what the 12:16:19
11 first sentence says. If you don't agree with the 12:16:22
12 first sentence, you have to modify the second 12:16:25
13 sentence. 12:16:27
14 MR. ROZWOOD: The second sentence begins 12:16:28
15 with the word "often." We are trying to determine, 12:16:31
16 according to Ms. Hines, what the frequency of these 12:16:34
17 events really is. 12:16:37
18 What is your understanding of the definition 12:16:38
19 of the term "often," Ms. Hines, so we can get your -- 12:16:41
20 give some context to your answers. 12:16:46
21 A. Like every day. You can see this happening 12:16:48
22 often. It's just not hard to find. It's evident. 12:16:51
23 It's often in evidence. 12:16:57
24 Q. Did you say "evident"? I didn't hear what 12:16:59
25 you are -- 12:17:03

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1 A. Yeah. I'm trying to describe "often" to 12:17:03
 2 myself. 12:17:06
 3 It would be kind of like regular or normal 12:17:10
 4 to see this thing happening. It wouldn't be a freak 12:17:12
 5 occasion or rare occasion. It would just be like a 12:17:17
 6 day-to-day occurrence. Yeah, this is there. 12:17:22
 7 Q. Okay. Thank you. 12:17:28
 8 Would you characterize the frequency with 12:17:36
 9 which students have to take a series of substitutes 12:17:39
 10 while they wait for the school to obtain permanent 12:17:42
 11 teachers as a rare occurrence? 12:17:47
 12 A. Absolutely. 12:17:49
 13 Q. Can you describe how rare that occurrence is 12:17:51
 14 at Fremont High School? 12:17:56
 15 A. Well, how rare? I can't really remember 12:18:04
 16 that happening in a specific case. So maybe once. I 12:18:10
 17 don't know. 12:18:15
 18 Q. Once a year? 12:18:16
 19 A. Yeah, yeah. 12:18:17
 20 The reason we line up the substitutes right 12:18:25
 21 now -- that's what I'm working -- we have a 12:18:27
 22 bulletin like that. We have a procedure. We know 12:18:29
 23 right now what is unfilled. 12:18:33
 24 So we are questioning our off-track 12:18:34
 25 teachers, "Do you want this class until I hire 12:18:36

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1 someone?" 12:18:39
 2 "Yes." 12:18:39
 3 "Yes." 12:18:39
 4 "No." 12:18:39
 5 So there's a procedure in place. When this 12:18:40
 6 happens, if something like an emergency comes up or 12:18:42
 7 if a teacher resigns that's unexpected, then we 12:18:46
 8 scramble to cover it as soon as we can for the kids, 12:18:58
 9 but you know, we know -- we think we know who is 12:18:58
 10 leaving, but then, you know, like the last day 12:18:58
 11 someone says, "I'm going to go to law school," or 12:18:59
 12 something. 12:19:03
 13 That happened. "Do I have to come back? I 12:19:03
 14 want to go to law school," she said. 12:19:07
 15 Whatever. 12:19:09
 16 Q. In lines 22 and 23, there's another sentence 12:19:16
 17 that begins with the word "often," and it reads: 12:19:18
 18 "...the substitute teachers who 12:19:22
 19 teach these courses are not trained 12:19:23
 20 in the subjects for which they 12:19:25
 21 substitute teach." 12:19:27
 22 Does that occur at Fremont, and if so, how 12:19:33
 23 frequently? 12:19:36
 24 A. Well, if you take this out of the context of 12:19:37
 25 that whole paragraph and just talking about 12:19:39

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1 substitute teachers in general, we take the ones that 12:19:41
 2 the district send us, and they try to place them, I 12:19:44
 3 believe, by subject, but that's not always the case. 12:19:48
 4 In general, they come in and say, "I'm for 12:19:54
 5 math and science," and so forth. So we assume those 12:19:57
 6 teachers have a little bit of knowledge base in their 12:20:00
 7 subject. 12:20:03
 8 When I'm the one hiring the substitutes 12:20:04
 9 myself, of course, I make sure they know something 12:20:06
 10 about what they are teaching; otherwise, it's kind of 12:20:08
 11 a joke. 12:20:11
 12 Q. What do you mean "it's kind of a joke"? 12:20:13
 13 A. Well, if you are teaching physiology or 12:20:15
 14 physical science or chemistry and you have no 12:20:17
 15 knowledge base in the subject, you can be of some 12:20:20
 16 assistance but certainly not as much assistance if 12:20:24
 17 you had a solid base of knowledge in what you are 12:20:27
 18 teaching. 12:20:31
 19 Q. Can you describe the frequency with which 12:20:32
 20 substitute teachers who are not trained in the 12:20:38
 21 subjects for which they are substitute teaching are 12:20:43
 22 hired at Fremont? 12:20:45
 23 A. That who is hired now? 12:20:49
 24 Q. Well, isn't Fremont hiring these substitute 12:20:50
 25 teachers? 12:20:53

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1 I guess forget about that. Let's strike 12:20:56
 2 that. 12:20:59
 3 How often does it occur that a substitute 12:20:59
 4 teacher teaches a course at Fremont High School which 12:21:02
 5 they are not trained -- specially trained to teach? 12:21:07
 6 A. I don't really know. We have a lot of subs 12:21:12
 7 come in each day. We probably have as much as five 12:21:14
 8 subs each day, and I don't have -- I mean we don't 12:21:18
 9 investigate. 12:21:22
 10 The district sends them, and they say they 12:21:22
 11 are here for that person, and that's not really our 12:21:24
 12 job to investigate unless there's a report they are 12:21:27
 13 doing something untoward, but you know, those subs 12:21:30
 14 normally go on at the end of the day. 12:21:34
 15 Q. Have you ever gotten reports that -- other 12:21:43
 16 than the one you mentioned for -- what was it? -- 12:21:46
 17 AP -- not AP, but just physical sciences, that 12:21:48
 18 physical -- that wasn't a substitute teacher either. 12:21:53
 19 So let me ask it this way: Have you ever 12:21:56
 20 received any complaints regarding the training of a 12:21:58
 21 substitute teacher for the course they are assigned 12:22:04
 22 to teach at Fremont High School? 12:22:06
 23 A. The only other one that comes to mind right 12:22:10
 24 now is a special ed teacher who could not control the 12:22:12
 25 class. I don't know about that individual's 12:22:16

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1 training, but you know, obviously it was not an 12:22:19
 2 appropriate assignment. So we reassigned someone 12:22:24
 3 there. 12:22:27
 4 Q. Have you ever received any complaints 12:22:43
 5 regarding the qualifications of any substitute 12:22:46
 6 teachers at Fremont High School? 12:22:49
 7 A. Yes. 12:22:49
 8 Q. Approximately how often does that occur as a 12:22:57
 9 percentage of subs used at Fremont High School? 12:23:01
 10 A. Probably less than five times a year. 12:23:05
 11 Q. And what do you do when you get those 12:23:11
 12 complaints? 12:23:13
 13 A. It really depends on the severity of it. 12:23:14
 14 There's a district procedure for that. If we want 12:23:17
 15 them to not be reassigned or come to Fremont at all, 12:23:20
 16 we have to fill out some paperwork and do a 12:23:24
 17 conference memo and send the report downtown. 12:23:27
 18 Sometimes we have informal conversations, but that's 12:23:31
 19 not binding. 12:23:35
 20 So if you really don't want the person to 12:23:36
 21 come back, you do that paperwork, and they are not to 12:23:39
 22 come back. 12:23:42
 23 A sub can get three of those reports, and 12:23:43
 24 then they are dismissed from the district. 12:23:46
 25 Q. Okay. Is the statement -- is the sentence 12:23:54

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1 beginning on line 22 and ending on line 23 on page 48 12:23:59
 2 of the First Amended Complaint in Exhibit 3, is that 12:24:06
 3 statement true? 12:24:10
 4 A. Again, I really don't know because I don't 12:24:15
 5 investigate the subs that come in to see what their 12:24:17
 6 background is, but yes, it could happen, but with 12:24:21
 7 what frequency, I really don't know. 12:24:25
 8 We have subs in and out every day, and like 12:24:27
 9 I said, I don't investigate what their background is. 12:24:29
 10 The district has sent them to us, and they have 12:24:33
 11 cleared them in order to teach what they assign them 12:24:37
 12 to. 12:24:40
 13 Q. When you say you get less than five 12:24:41
 14 complaints a year about the qualifications of 12:24:44
 15 substitute teachers to teach the subjects they are 12:24:47
 16 substitute teaching, who makes those complaints? How 12:24:51
 17 do you learn of those issues? 12:24:54
 18 A. Teachers and students. 12:24:56
 19 Q. Is an absent teacher required to leave a 12:25:21
 20 lesson plan for the substitute teacher? 12:25:25
 21 A. Yes. 12:25:25
 22 Q. Do the teachers at Fremont -- let me ask it 12:25:34
 23 this way. Strike that. 12:25:36
 24 Is there a policy at Fremont High School 12:25:38
 25 that the teachers leave a lesson plan if they are 12:25:40

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1 going to be absent? 12:25:45
 2 A. Yes, there's a policy, and plus they leave 12:25:47
 3 it on Sub Finder. What percentage actually leave it 12:25:49
 4 on Sub Finder, I don't know, but that's set up for 12:25:52
 5 the district so the sub can actually hear the 12:25:54
 6 teacher's voice, "I want to thank you. Do this and 12:25:58
 7 that," and so forth. 12:26:01
 8 Q. Is it true that math and English teachers 12:26:24
 9 substitute in U.S. history classes at Fremont High 12:26:27
 10 School? 12:26:30
 11 A. Certainly possible. 12:26:30
 12 Q. Do you know whether that's ever occurred at 12:26:35
 13 Fremont? 12:26:39
 14 A. I'm sure it has. There's another way you 12:26:40
 15 can substitute as well. 12:26:46
 16 For example, if a teacher misses one period 12:26:47
 17 due to a meeting or due to an athletic event or due 12:26:50
 18 to this or that, often you take whoever is free that 12:26:54
 19 period. 12:26:57
 20 You start out with the department, but 12:26:58
 21 sometimes there aren't enough teachers in that 12:27:00
 22 department to send someone there. So assumably 12:27:02
 23 everyone is fair game as far as covering a class if 12:27:08
 24 you are free that period. 12:27:11
 25 Q. If you take a student who attends Fremont 12:27:28

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1 High School for four years, approximately how many 12:27:31
 2 times does -- on average would you say it occurs that 12:27:39
 3 a teacher from one class covers for a teacher in 12:27:44
 4 another class as you've described it? 12:27:50
 5 A. You want to try that one again. 12:27:56
 6 Q. I was hoping you would just tell me how 12:27:57
 7 often that happens. 12:28:01
 8 A. Could you -- never mind. 12:28:03
 9 Q. You know, you've testified that on occasion 12:28:05
 10 where a teacher has to miss a class for a meeting, 12:28:08
 11 you know, or for a meeting or to attend an event or 12:28:11
 12 athletic events and that one of the other teachers at 12:28:15
 13 the school would cover that class on his or her 12:28:18
 14 behalf; correct? 12:28:21
 15 A. Yes, correct. 12:28:22
 16 Q. How often does that happen over the course 12:28:23
 17 of a given student's four-year career at Fremont High 12:28:26
 18 School? 12:28:31
 19 MR. FRIEDMAN: If you can -- 12:28:32
 20 THE WITNESS: You want to know how many subs 12:28:33
 21 that -- 12:28:35
 22 BY MR. ROZWOOD: 12:28:35
 23 Q. Just an estimate. 12:28:36
 24 A. -- student would have through four years, 12:28:37
 25 how many times he would have a substitute in the 12:28:39

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1 classroom? 12:28:43

2 Q. Just for a missed-class scenario, meeting. 12:28:44

3 How many times has that happened that somebody covers 12:28:48

4 a class for another teacher? 12:28:51

5 MS. LHAMON: Objection. Calls for 12:28:53

6 speculation. 12:28:54

7 BY MR. ROZWOOD: 12:28:54

8 Q. I just want your best estimate. 12:28:55

9 A. That would be a guess. I don't know where 12:28:57

10 to start guessing on that one. 12:29:02

11 Q. That's okay. If it's a pure guess, just 12:29:05

12 say, "I cannot tell you." 12:29:07

13 A. I don't really know at this point. 12:29:09

14 Q. That's fine. 12:29:11

15 Do you think that the use of substitutes at 12:29:12

16 Fremont High School has an adverse impact on the 12:29:14

17 students' ability to learn the subject matter? 12:29:18

18 A. Yes, absolutely. 12:29:21

19 Q. Can you describe how the use of substitutes 12:29:24

20 hurts the ability of students. 12:29:28

21 A. Because no one knows the subject better than 12:29:30

22 the real teacher of the class, no one knows what that 12:29:32

23 teacher expects more than he does himself, and he is 12:29:35

24 the best person to glean that instruction. 12:29:39

25 That's why I tell the instructors, "You have 12:29:42

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1 to be there for the kids." If the teacher is absent 12:29:45

2 too much, they are counseled, "This is not good. 12:29:48

3 This is not going anywhere. You are not getting your 12:29:50

4 objectives or standards across to the students 12:29:53

5 because you are the teacher and" -- 12:29:56

6 Q. You said that the teachers are canceled if 12:29:58

7 they are absent too much. 12:30:03

8 A. "Counseled." 12:30:06

9 Q. What do you mean "counseled"? 12:30:07

10 A. Well, they are called in and talked to about 12:30:08

11 why they are out so much, and we look at ways for 12:30:10

12 improvement. That's one of the things in Stull 12:30:13

13 evaluation, punctuality and attendance. So they 12:30:18

14 actually receive an evaluation based on attendance 12:30:20

15 and punctuality. That's part of the evaluation. 12:30:23

16 Q. What is the threshold of -- you know, for 12:30:28

17 teacher absences that they have to cross before they 12:30:30

18 get counseled? How do you measure it? 12:30:33

19 A. You mean what is excessive? 12:30:39

20 Q. What is an excessive number of absences for 12:30:41

21 a teacher from a high school? 12:30:43

22 A. The district allows them 10 days, and 12:30:46

23 personally I think anyone that takes their 10 days -- 12:30:49

24 to me, that's too much. So I talk to the people that 12:30:52

25 I'm supervising about that, but when you get up over 12:30:56

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1 10, around 15, 20, "What's happening here?" 12:31:01

2 And the same thing with punctuality. If 12:31:04

3 they are not there to start class when the period 12:31:07

4 begins, instruction suffers. 12:31:10

5 Q. The district allows 10 days per mester or 12:31:17

6 for the entire school year? 12:31:21

7 A. It's for the school year, and those are days 12:31:23

8 that you need to verify that either you're ill or 12:31:26

9 it's personal necessity, and there are some -- some 12:31:30

10 qualify -- some reasons you can use for personal 12:31:36

11 necessity that the districts give and also 12:31:39

12 bereavement which is in addition to those. 12:31:49

13 MR. FRIEDMAN: I know you are on a roll, 12:31:50

14 Ben, but any time you want to take a break is fine. 12:31:52

15 BY MR. ROZWOOD: 12:31:52

16 Q. Could you estimate the average number of 12:32:20

17 absences that your teachers take each year? 12:32:23

18 A. No, that would be a guess. I don't know. 12:32:34

19 Q. You testified you have over -- between 207 12:32:36

20 and 210 teachers. Something like that. 12:32:40

21 A. Yeah. 12:32:42

22 Q. So approximately how many of those have to 12:32:43

23 be counseled for excessive absences? 12:32:50

24 A. I don't know because I just do my own 12:32:57

25 departments that I supervise. So I kind of -- when I 12:32:59

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1 go into the classroom to visit them and talk about 12:33:03

2 their lessen, I look up their attendance, and we talk 12:33:05

3 about attendance at the same time we are doing the 12:33:10

4 lessons. 12:33:12

5 As far as attendance with my English 12:33:13

6 teachers, they were probably out -- I probably had 12:33:15

7 30-some that I evaluated. Maybe 5 of those 30 12:33:20

8 received lower than they should have in attendance 12:33:24

9 for various reasons, but it doesn't really matter. 12:33:29

10 Even if you are sick, you are not there. So... 12:33:32

11 Q. How many teachers are in the department that 12:33:39

12 you supervise? 12:33:41

13 A. Well, there are over 30 in English. I did 12:33:44

14 evaluations for other groups, as well, because we are 12:33:49

15 short an administrator. I think 5 received below -- 12:33:52

16 Q. Approximately how many teachers did you 12:33:59

17 review? 12:34:01

18 A. 40, I assume. 12:34:02

19 Q. Is that representative -- that ratio, 5 out 12:34:03

20 of 40, is that representative of your experience with 12:34:08

21 teacher absences? 12:34:12

22 A. Pretty much, yes. 12:34:13

23 Q. Was it -- is this ratio higher -- well, is 12:34:16

24 the -- is this representative of your experience at 12:34:21

25 Westchester as well, or is there a difference between 12:34:27

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1 your experiences at Fremont and Westchester? 12:34:30
 2 A. See, Westchester I wasn't an administrator. 12:34:36
 3 So I wasn't really privy to the teachers' attendance. 12:34:39
 4 MR. ROZWOOD: Okay. Now is a good time to 12:34:46
 5 take a break. 12:34:48
 6 (The luncheon recess was taken at
 7 12:34 P.M.)
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1 APPEARANCES OF COUNSEL:
 2 (P.M. SESSION)
 3
 4 CATHERINE E. LHAMON, ESQ.
 5
 6 S. BENJAMIN ROZWOOD, ESQ.
 7
 8 HOWARD A. FRIEDMAN, ESQ.
 9
 10
 11
 12
 13
 14
 15
 16
 17
 18 REPORTED BY:
 19
 20 RICKI Q. MELTON, CSR No. 9400, RPR No. 45429.
 21
 22
 23
 24
 25

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1 (The deposition of MARCIA HINES was
 2 reconvened at 1:10 P.M.)
 3
 4 MARCIA HINES,
 5 the witness, having been previously administered an
 6 oath in accordance with CCP Section 2094, testified
 7 further as follows:
 8
 9 EXAMINATION (CONTINUING)
 10 BY MR. ROZWOOD:
 11 Q. I would like to continue with the 13:10:31
 12 examination on Exhibit 3. 13:10:31
 13 A. All right. 13:10:34
 14 Q. Do you see where it says on the first page 13:10:36
 15 of Exhibit 3, lines 24 through 26, where it makes 13:10:39
 16 reference to the AP history course? 13:10:43
 17 A. Yes. 13:10:43
 18 Q. Do you have any knowledge of what that 13:10:47
 19 allegation is referring to? 13:10:49
 20 A. Yes, I believe that is a class that belongs 13:10:52
 21 to Ms. Paolucci. 13:10:54
 22 When I read it earlier, that's the only one 13:10:56
 23 I could possibly imagine it would be, and we did hire 13:10:58
 24 someone for that class, but it was very late in the 13:11:02
 25 semester, and I really don't know how that was 13:11:06

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1 allowed to go on so long. It was just something that 13:11:08
 2 happened. 13:11:11
 3 Q. Did Ms. Paolucci -- I'm not sure I'm 13:11:18
 4 understanding. 13:11:22
 5 Is Ms. Paolucci the one you finally hired to 13:11:23
 6 teach the course? 13:11:25
 7 A. No -- I don't know. I'm guessing that this 13:11:26
 8 refers to Marco Paolucci, P-a-o-l-u-c-c-i. 13:11:29
 9 MR. FRIEDMAN: I'm sorry to stop so soon 13:11:34
 10 after we resumed. Can we go off the record for a 13:11:36
 11 moment so I can talk to my client outside. 13:11:39
 12 (Off the record.) 13:15:20
 13 MR. ROZWOOD: Back on the record. 13:15:20
 14 Would you like to make a statement? 13:15:23
 15 MR. FRIEDMAN: Yeah. I would offer I had an 13:15:27
 16 off-the-record conversation with Ms. Hines regarding 13:15:30
 17 Ms. Paolucci, and we are willing to stipulate that 13:15:34
 18 the circumstance about what you are asking questions 13:15:40
 19 involves a leave of absence taken by Ms. Paolucci. 13:15:43
 20 I will make an objection and direct the 13:15:48
 21 witness not to answer in terms of any questions that 13:15:50
 22 might be posed concerning the reasons for 13:15:52
 23 Ms. Paolucci's leave of absence. 13:15:55
 24 I will offer that the circumstances were not 13:15:58
 25 involving any kind of negative conduct by 13:16:02

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1 Ms. Paolucci. Fairly standard basis for leaves of 13:16:05
 2 absences, and certainly to the extent you may want to 13:16:09
 3 make inquiry about whether filling of positions for 13:16:12
 4 teachers on leaves of absence are frequent or 13:16:18
 5 infrequent, I certainly have no objection to that 13:16:21
 6 line of questioning. 13:16:23
 7 BY MR. ROZWOOD: 13:16:26
 8 Q. What period of -- let's -- what semester did 13:16:28
 9 this leave of absence occur during? 13:16:32
 10 A. It was spring of last year. 13:16:35
 11 Q. How much advance notice of the leave of 13:16:44
 12 absence did Fremont High School have? 13:16:46
 13 A. You know, I just remembered that -- why I 13:16:51
 14 don't know a lot about this is because I was not in 13:16:54
 15 charge of substitutes that year. Mr. Ker was; so 13:16:56
 16 therefore, it wasn't even my responsibility to put 13:17:00
 17 someone in the class last year. 13:17:03
 18 This year it would have been, and I can tell 13:17:05
 19 you that I would do it like I described earlier, but 13:17:07
 20 I wasn't even doing that last year. 13:17:10
 21 I'm like, "Why didn't I do that?" Because I 13:17:14
 22 didn't do it. 13:17:17
 23 He did hire someone after I kind of 13:17:17
 24 encouraged him to hire someone. So there was someone 13:17:19
 25 hired eventually for it, but why it wasn't taken care 13:17:22

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1 of, I don't have an answer for. I was not in charge 13:17:26
 2 of it. 13:17:29
 3 Q. You had a discussion with Mr. Ker about 13:17:30
 4 getting someone to fill that position? 13:17:31
 5 A. Yes, I did. To hire someone, right. 13:17:33
 6 Q. And what did you discuss? 13:17:35
 7 A. We discussed hiring someone that was -- I 13:17:39
 8 wanted to know if he was going to hire this young 13:17:43
 9 lady. She was -- once he determined he wanted to, 13:17:46
 10 she was kind of undecided, but I talked her into 13:17:49
 11 coming. So... It's something I do well. 13:17:53
 12 MR. FRIEDMAN: Mr. Ker's first name? 13:17:58
 13 THE WITNESS: Cliff. 13:18:03
 14 BY MR. ROZWOOD: 13:18:04
 15 Q. And what was the name of the teacher you 13:18:12
 16 encouraged Mr. Ker to hire? 13:18:14
 17 A. Last name is Knopp, K-n-o-p-p, first name 13:18:16
 18 Sara, and I don't know if that one has an "h" or not. 13:18:22
 19 I don't think so. 13:18:26
 20 And she loves at it Fremont. She is so 13:18:27
 21 happy. 13:18:31
 22 Q. Ms. Knopp is the permanent teacher hired 13:18:39
 23 approximately three weeks before the students were 13:18:44
 24 scheduled to take their AP exam? 13:18:47
 25 A. I really couldn't speak to the date, but I 13:18:49

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1 know it was rather late, and I know she was hired. 13:18:52
 2 Q. Did you have any discussions with Mr. Ker 13:18:56
 3 about hiring someone to teach the AP history class in 13:18:58
 4 the spring of 2000 prior to your conversation about 13:19:01
 5 Ms. Knopp? 13:19:04
 6 A. No, I don't think so. Like I said, I wasn't 13:19:06
 7 really aware of the situation. No one came to me and 13:19:13
 8 said, "Why don't we have a teacher in AP history?" 13:19:16
 9 If they did, I would have said, "Let's talk 13:19:20
 10 to Mr. Ker." 13:19:23
 11 Q. In your experience at Fremont High School, 13:19:24
 12 has a situation like that ever occurred in any other 13:19:26
 13 course? 13:19:38
 14 A. No. In fact, I was trying to figure out 13:19:38
 15 what they were talking about here. So... 13:19:38
 16 Permanent teacher -- no, wait a minute. I'm 13:19:40
 17 thinking now it was special ed. We have had some 13:19:43
 18 special ed openings that have gone on, but nothing to 13:19:46
 19 do with advanced placement. 13:19:49
 20 Q. What about any other academic courses? 13:19:51
 21 A. We've had courses where -- again, there's a 13:19:59
 22 distinction about what permanent is. We have had 13:20:01
 23 courses that have been subbed throughout the 13:20:04
 24 semester -- different mesters by different teachers 13:20:06
 25 on staff at Fremont High School, but we never had 13:20:11

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1 anything where there's a regular plain old sub there, 13:20:14
 2 not a regular teacher, if you understand. 13:20:18
 3 Q. I think I do. 13:20:22
 4 A. Okay. 13:20:34
 5 Q. Do you know how many short-term subs were 13:20:35
 6 used in that AP history class prior to Ms. Knopp's 13:20:38
 7 hiring? 13:20:42
 8 A. No. 13:20:42
 9 Q. Other than possibly those special ed courses 13:20:53
 10 and this AP history course, can you think of any 13:20:57
 11 other instance in which a series of substitute 13:21:00
 12 teachers were used to teach any course at Fremont 13:21:03
 13 High School? 13:21:08
 14 A. Not like on an ongoing basis, no, I don't 13:21:12
 15 think so. 13:21:15
 16 Q. Can you think of -- what do you mean 13:21:16
 17 "ongoing basis"? 13:21:18
 18 A. I'm thinking of similarly a week. I guess 13:21:21
 19 you could have a series of subs if a teacher is out 13:21:24
 20 ill, but if a class isn't filled for an entire 13:21:28
 21 semester, it would be an aberration to have a series 13:21:32
 22 of subs. 13:21:35
 23 If the class is not filled, we find someone 13:21:36
 24 who is going to stay there by the procedure I 13:21:39
 25 identified earlier. 13:21:42

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1 Q. Okay. Do you see on the next page of 13:21:48
 2 Exhibit 3, paragraph 222 -- 13:21:50
 3 A. Yes. 13:21:50
 4 Q. -- where it says that: 13:21:54
 5 "Fremont students receive 13:21:56
 6 approximately 20 fewer days of 13:21:57
 7 instruction each year than students 13:21:59
 8 that do not attend multitrack 13:22:02
 9 schools"? 13:22:04
 10 Do you see that? 13:22:04
 11 A. Yes, uh-huh. 13:22:06
 12 Q. Is that an accurate statement 20 fewer days 13:22:09
 13 of instruction on multitrack? 13:22:12
 14 A. I don't really know how many fewer days. 13:22:14
 15 They do receive fewer days because the days are 13:22:17
 16 longer, but I haven't personally calculated how many 13:22:21
 17 that is. They do receive the same instructional 13:22:24
 18 minute time, though, the same as kids in a regular 13:22:30
 19 school, traditional school. 13:22:35
 20 Q. Do you see the last sentence in 13:23:12
 21 paragraph 222 that relates to the performance of 13:23:14
 22 maintenance and repair? 13:23:21
 23 A. Yes. 13:23:21
 24 Q. Do you agree with that statement? 13:23:24
 25 A. "...no school time exists during which no 13:23:32

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1 students" -- 13:23:34
 2 Okay. The sentence is a little confusing. 13:23:37
 3 No school time exists during which there 13:23:40
 4
 5 aren't any students -- well, there is a little -- 13:23:43
 6 well, it's not school time, though, if they are not 13:23:45
 7 there. 13:23:48
 8 Q. Well, I guess the last clause after the 13:23:49
 9 comma: 13:23:52
 10 "So it is difficult and sometimes 13:23:52
 11 impossible for the school to 13:23:54
 12 perform maintenance and repair 13:23:56
 13 without impeding children's 13:23:59
 14 education." 13:23:59
 15 A. You know, we work with that. We work in the 13:24:00
 16 evenings. There are some classrooms that are not 13:24:02
 17 utilized in the evenings. They work on Saturdays. 13:24:04
 18 There are classes only on Saturday morning. 13:24:07
 19 So the staff is there, the plant staff is 13:24:11
 20 there. Saturday and Sundays they are there. They 13:24:15
 21 work during holidays. They work around it. It's 13:24:17
 22 just a matter of scheduling. 13:24:22
 23 Q. Do you have a night crew at Fremont? 13:24:29
 24 A. Absolutely. 13:24:31
 25 Q. How many employees comprise the night crew? 13:24:32

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1 A. I don't really know. Guessing it's around 13:24:38
 2 ten or twelve. 13:24:41
 3 Q. Are there times when there are no -- strike 13:24:49
 4 that. 13:25:01
 5 Do you agree that it's difficult and 13:25:04
 6 sometimes impossible for the school to perform 13:25:06
 7 maintenance and repair without impeding children's 13:25:08
 8 education? 13:25:11
 9 A. I'm just so used to that school and the way 13:25:21
 10 that we work that I don't think of it impeding the 13:25:24
 11 education. 13:25:28
 12 I think that we need to keep the plant 13:25:29
 13 clean. I'm thinking about examples. When they mow, 13:25:35
 14 for example, they hear the sound of the mowers, 13:25:37
 15 things like that, but the rooms get cleaned. 13:25:41
 16 There's time -- there is time to clean the 13:25:46
 17 rooms when the students are not there. I mean they 13:25:49
 18 don't go in and clean the rooms when the kids are 13:25:51
 19 there, but they do mow, there is construction, 13:25:55
 20 there's noise when the kids are trying to learn 13:25:59
 21 because the school never really does shut down. 13:26:02
 22 Q. Do you think that impedes their education? 13:26:05
 23 A. No, if -- no, not really. If it does, it 13:26:11
 24 might bother them for five minutes. 13:26:13
 25 Impeding their education, it sounds like you 13:26:16

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1 are throwing up a great big block to their learning. 13:26:19
 2 There are ways around that. 13:26:22
 3 If you know when the maintenance is going to 13:26:23
 4 happen, you do something else in those times. You 13:26:25
 5 don't do exams during that time. You do something 13:26:27
 6 like maybe the kids are in groups so they are talking 13:26:40
 7 and the noise isn't going to be a hinderance. 13:26:40
 8 Q. Are you aware of any specific instances 13:26:40
 9 where the school's maintenance or repair efforts have 13:26:40
 10 impeded the students' education at Fremont? 13:26:45
 11 A. No. The only thing I was thinking about 13:26:50
 12 that someone complained they are mowing during 13:26:52
 13 testing. So we just called down, and they stopped. 13:26:55
 14 I mean the gardening staff comes once a 13:26:58
 15 week, and they were coming during a testing schedule. 13:27:01
 16 So we just called on the radio, and they just stopped 13:27:04
 17 blowing or mowing or whatever. 13:27:07
 18 When things are reported, we fix them. 13:27:09
 19 So... 13:27:12
 20 Q. How long did it take from the time you got 13:27:13
 21 the complaint to the time they stopped mowing? 13:27:15
 22 A. Less than ten minutes. 13:27:17
 23 Q. What is your view of multitracking 13:27:37
 24 generally, your personal view, as compared with the 13:27:41
 25 traditional school calendar? 13:27:48

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1 A. I think there are advantages and 13:27:50
 2 disadvantages like every other system. The teachers 13:27:52
 3 enjoy and I think the students enjoy the time off and 13:27:57
 4 the opportunity to make the money. 13:28:01
 5 The days are longer, and for some students 13:28:04
 6 and teachers that works better than others. Teachers 13:28:07
 7 teach differently, and students learn differently. 13:28:13
 8 It's kind of a complex schedule. 13:28:16
 9 It's like something I'm in, and I try to 13:28:18
 10 make the best of it. Certainly administratively it's 13:28:20
 11 much more difficult to administer. If you are 13:28:25
 12 talking about coming and going and coming and going 13:28:27
 13 and doing a new master schedule every time a new 13:28:31
 14 track comes along, it's more complicated. That's why 13:28:36
 15 we are supposed to have an additional administrator, 13:28:39
 16 which we don't have right now. 13:28:44
 17 The strength of any program, I think, is the 13:28:46
 18 strength of their teachers, and regardless of what 13:28:47
 19 the school calendar, if you don't have effective 13:28:50
 20 instruction going on in the classroom, you are not 13:28:53
 21 going to have much going on at all. I think that's 13:28:56
 22 just another organizational challenge that we work 13:28:59
 23 with. 13:29:02
 24 Q. Can you think of any disadvantages to the 13:29:03
 25 students that attend Fremont arising from the fact 13:29:08

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1 it's a multitracked school? 13:29:12
 2 A. Well, it's -- this is true of the faculty as 13:29:15
 3 well. I think you get a more cohesive group. 13:29:18
 4 Everyone is there at the same time, and they all hear 13:29:21
 5 the same message and have similar experiences. 13:29:24
 6 With the comings and goings, it's difficult 13:29:27
 7 to look at everyone all together and get everyone's 13:29:30
 8 opinion. For example, if we have to make a decision 13:29:33
 9 right now on the bell schedule, we are not able to 13:29:36
 10 get all the C track input that we would need to get. 13:29:38
 11 Q. From the teachers, you are referring to? 13:29:42
 12 A. And from the students. 13:29:44
 13 Q. What input from the students? 13:29:45
 14 A. Well, they are part of leadership council. 13:29:48
 15 So really only the A and B track will be there. Even 13:29:49
 16 if you call the C track student, it would be 13:29:54
 17 difficult to get them there when they are off track. 13:29:56
 18 The decisions -- the ones we don't have a 13:29:59
 19 lot of time to make -- are made by whoever is there 13:30:02
 20 at that particular time. So that's a third of your 13:30:05
 21 student body, a third of your teachers that are not 13:30:07
 22 there, and they don't ever hear the same message 13:30:10
 23 because things change. 13:30:14
 24 There are different problems in March that 13:30:16
 25 we are talking about than what we had last November. 13:30:17

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1 We have a different population in March than we had 13:30:20
 2 in November. 13:30:22
 3 So even though you try to have everything 13:30:23
 4 consistent -- the same staff developments, same 13:30:25
 5 instructional whatever -- it's just different because 13:30:29
 6 things change because we have to change as problems 13:30:32
 7 change. So I mean that's really a challenge, I 13:30:36
 8 think. 13:30:39
 9 Q. I don't understand what the challenge is. 13:30:40
 10 A. Keeping everyone with the same information 13:30:43
 11 and communicating to everyone consistently because 13:30:45
 12 they are gone. 13:30:50
 13 I mean they are not there for a couple of 13:30:50
 14 months while things are happening. So when they come 13:30:52
 15 back, you have to catch them up and "Tell me what was 13:30:56
 16 decided and why it was decided." That's, I think, 13:31:00
 17 one of the hardest things. 13:31:04
 18 Q. So the frequency with which you have to 13:31:10
 19 communicate with a student body is higher in a 13:31:12
 20 multitrack school? Is that what you are saying? 13:31:15
 21 A. I think it's just more difficult to let 13:31:18
 22 everyone know everything that is going on. 13:31:21
 23 It's like when you take your vacation, you 13:31:23
 24 know, with your law firm and you are gone -- I don't 13:31:25
 25 know how much you get -- a month, three weeks -- when 13:31:29

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1 you come back, you have to get caught up on all those 13:31:31
 2 cases, plus you have to do stuff for what is going on 13:31:34
 3 right then. So something gets lost. 13:31:38
 4 Q. I'm not a student. I'm trying to find out 13:31:41
 5 what impact this has on a student's life. 13:31:43
 6 What impact does it have on -- 13:31:46
 7 A. School goes on whether he's there. 13:31:49
 8 Q. Not his classes. His classes don't go -- 13:31:51
 9 A. Policies go on. 13:31:54
 10 Q. That's what I'm trying to understand. 13:31:55
 11 What policies affect the student that he has 13:31:57
 12 to be kept continuously aware of? 13:32:00
 13 MS. LHAMON: You have to let the witness 13:32:10
 14 finish the statements before you continue. I'm 13:32:10
 15 having a hard time following. 13:32:10
 16 MR. ROZWOD: I thought I was asking a 13:32:10
 17 question when she interrupted me. Maybe I got that 13:32:10
 18 backwards. 13:32:13
 19 Q. But go ahead. 13:32:13
 20 A. For example, if you have to pick a prom site 13:32:17
 21 and one of the tracks isn't there, the students that 13:32:19
 22 are on track are picking the prom site. 13:32:23
 23 This is not necessarily a lesson or an 13:32:25
 24 education or whatever, but it's part of the school 13:32:28
 25 culture and something extremely important to the 13:32:32

1 students. To me, I think everyone should be involved 13:32:34
 2 in any organization as much as possible, and 13:32:38
 3 sometimes you make decisions when a third of the 13:32:41
 4 people are gone, and that third is not involved. 13:32:43
 5 BY MR. ROZWOOD: 13:32:43
 6 Q. Can you think of any examples like the prom 13:32:48
 7 site example that have an impact on the students' 13:32:49
 8 ability to learn the subject matter of their courses? 13:32:53
 9 A. Okay. Maybe it's not as much about learning 13:32:59
 10 the courses because the courses start again when they 13:33:01
 11 are back. I was thinking more about the culture and 13:33:06
 12 student involvement, the culture of the school. 13:33:09
 13 Q. It's a fair point. 13:33:14
 14 With respect to their academic assignments, 13:33:23
 15 is there anything you can think of, as you sit here 13:33:35
 16 today, about the multitrack schedule that interferes 13:33:37
 17 with the students' ability to complete those academic 13:33:41
 18 assignments? 13:33:45
 19 A. In a class? 13:33:48
 20 Q. Unless the students would receive academic 13:33:52
 21 assignments outside of class. 13:33:56
 22 A. I was thinking specifically of AP tests 13:33:58
 23 which are given in May, and the perfect track for 13:34:01
 24 that, of course, is C track because those kids are in 13:34:04
 25 school from January through the beginning of May. So 13:34:07

1 they are actually with a teacher. And if you look at 13:34:13
 2 the A track kids that don't come back until March, 13:34:16
 3 they have to make an effort to come back to school -- 13:34:19
 4 as do B track -- make an effort to come back to 13:34:23
 5 school, when they are off track, to meet with their 13:34:24
 6 teacher, and some of them are unable to do that. 13:34:27
 7 Maybe they are out of the country or whatever. 13:34:30
 8 So in a way that impacts -- it could impact. 13:34:32
 9 That, I guess, isn't exactly a class. 13:34:38
 10 Q. I think it's connected to a classroom 13:34:42
 11 environment. I'm just -- I'm trying to understand 13:34:44
 12 what the point is. 13:34:49
 13 On A track, the students are in class 13:34:50
 14 through -- come back to class in March? 13:34:54
 15 A. Yeah, they are in class from September 13:34:57
 16 through December. They have January, February off, 13:35:00
 17 and they come back in March, and the exam is in May. 13:35:04
 18 Now, your B track students are not in school 13:35:08
 19 in March and April. So during months close to the 13:35:12
 20 exam, those students are without an AP class in 13:35:16
 21 session. So in order to get some assistance with the 13:35:20
 22 exam -- close to the exam, they have to come back to 13:35:24
 23 school during their off-track time, which works for 13:35:27
 24 some families and doesn't work for others. 13:35:30
 25 So to me, C track has an advantage for 13:35:33

1 advanced placement testing. 13:35:37
 2 Q. What does the school do to assist students 13:35:41
 3 on the A and B tracks to prepare for their May AP 13:35:45
 4 exams? 13:35:49
 5 A. Well, we provide compensation and EIS time 13:35:50
 6 for the teachers to come in during their off-track 13:35:54
 7 time, because the teachers are also off track, and 13:35:56
 8 work with their students. 13:36:00
 9 We make phones available, we make mail 13:36:03
 10 available, we make communication available for the 13:36:06
 11 teacher to use to get the students to come. 13:36:08
 12 Q. Other than the AP exam example and the prom 13:36:26
 13 site example, can you think of any other examples 13:36:31
 14 about how multitracking interferes with the students' 13:36:34
 15 experience at Fremont High School? 13:36:39
 16 A. Not specifically. Sometimes students want 13:36:51
 17 to be on another track, but I don't know if that 13:36:53
 18 affects their education that much. It's just another 13:36:55
 19 complication. Things are easier if it's a 13:36:59
 20 traditional school. 13:37:02
 21 Q. Just to clarify your testimony you gave 13:37:06
 22 previously -- just tell me if I have this wrong -- 13:37:09
 23 all required academic courses are offered on all 13:37:14
 24 three tracks; correct? 13:37:19
 25 A. All required academic classes, yes. 13:37:20

1 Q. All classes required for students to 13:37:23
 2 graduate and obtain a diploma from Fremont High 13:37:25
 3 School are offered on all three tracks? 13:37:30
 4 A. Yes. 13:37:44
 5 Q. Do you believe that students cover less 13:37:44
 6 material in their classes in a multitrack school than 13:37:46
 7 they cover in a traditional calendar school? 13:37:50
 8 A. That would totally depend on the teacher, 13:37:56
 9 and I would have to see a couple of examples, but it 13:37:59
 10 is certainly possible, depending on the teacher. 13:38:02
 11 Q. But do you think that's a result of the fact 13:38:04
 12 it's a multitrack schedule versus a traditional 13:38:07
 13 schedule, or does it purely depend on the teacher? 13:38:18
 14 A. Well, these teachers were all originally 13:38:18
 15 traditional teachers. So they all had curriculum 13:38:18
 16 that span so many weeks and so forth. So that is the 13:38:22
 17 way they were used to instruction. They had to make 13:38:27
 18 some modification. 13:38:30
 19 Some people saw that as leaving things out 13:38:31
 20 and modified to make sure all the content was 13:38:34
 21 delivered. So it's possible in some classes that 13:38:39
 22 happened. 13:38:42
 23 I would hope that wouldn't be the prevalent 13:38:43
 24 undertaking in the school. 13:38:47
 25 Q. I'm trying to understand your response. 13:38:57

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1 Are you aware of any teachers that cut out 13:38:59
 2 instructional material as a result of moving from 13:39:02
 3 traditional to a multitrack schedule? 13:39:04
 4 A. No, I'm really speculating that this could 13:39:07
 5 possibly happening. 13:39:11
 6 Q. But you are not aware of any instances in 13:39:12
 7 which it did? 13:39:15
 8 A. No. 13:39:15
 9 Q. And all Fremont students have the same 13:39:16
 10 number of instructional minutes as do students at 13:39:28
 11 school on a traditional school calendar; correct? 13:39:33
 12 A. Yes. 13:39:33
 13 Q. So there's not less class time in which to 13:39:36
 14 cover the material; correct? 13:39:39
 15 A. Correct. 13:39:41
 16 Q. So if there was an instance in which a 13:39:45
 17 teacher covered less material at Fremont than at a 13:39:50
 18 comparable nonmultitrack school, it would be because 13:39:56
 19 of a decision the teacher made; correct? 13:40:00
 20 A. Yes. 13:40:00
 21 Q. Do you see in paragraph 223 where the 13:40:10
 22 complaint alleges that: 13:40:17
 23 "Many academic electives... are not 13:40:21
 24 offered on all three tracks at the 13:40:24
 25 school"? 13:40:26

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1 Is that a true statement? 13:40:27
 2 A. It could be. Actually looking at that, we 13:40:28
 3 don't have that many academic electives. We need to 13:40:31
 4 work on offering more academic electives. 13:40:35
 5 So I really can't answer that question 13:40:38
 6 because I don't know when those are offered. 13:40:40
 7 Science, of course, is not the name of any course 13:40:43
 8 title. So that could be anything. 13:40:47
 9 Q. Does Fremont offer courses in geography? 13:40:54
 10 A. Yes. 13:40:54
 11 Q. And psychology? 13:40:58
 12 A. I didn't think that we do now. We may have 13:40:59
 13 in the past. I don't think -- but I'm guessing. So 13:41:02
 14 I don't know. 13:41:05
 15 Q. Who is in charge of the master calendar at 13:41:07
 16 Fremont? 13:41:10
 17 A. The master calendar, I am in charge of that. 13:41:11
 18 Q. Okay. 13:41:17
 19 A. Did you mean the master schedule? 13:41:18
 20 Q. Yes. Thank you. 13:41:20
 21 A. You are welcome. Assistant principal 13:41:21
 22 counseling. 13:41:23
 23 Q. For how many school years did you have 13:41:44
 24 responsibility for the master schedule? 13:41:47
 25 A. Again, I have to guess on that, and I was 13:41:52

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1 thinking it was about five or six. The year that we 13:41:54
 2 changed to year-round. 13:41:59
 3 Q. That is approximately five to six years at 13:42:02
 4 Fremont High School; correct? 13:42:05
 5 A. Yeah. Probably was more, though. I'm not 13:42:06
 6 real good with numbers. 13:42:09
 7 Q. That's okay. 13:42:11
 8 If you say at least five, is that accurate? 13:42:11
 9 A. At least five. At least five. 13:42:14
 10 Q. Okay. What was the policy at Fremont High 13:42:17
 11 School for allocating the various academic electives 13:42:22
 12 to the three tracks, if there was a policy? 13:42:29
 13 A. Remember, when I was in charge, there was 13:42:32
 14 only one track. So things were simpler. So everyone 13:42:35
 15 had a chance to take it. 13:42:39
 16 Now, as soon as we converted, I wasn't in 13:42:40
 17 charge anymore. Another young person came in and 13:42:43
 18 took the job. So I know that in our first years of 13:42:46
 19 being year-round that that was important, that access 13:42:52
 20 was provided to all students on each track to 13:42:55
 21 everything. 13:43:01
 22 Q. Is that a formal policy of the school? 13:43:04
 23 A. Yes. 13:43:04
 24 Q. Does it continue to be a policy of the 13:43:09
 25 school? 13:43:10

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1 A. Yeah. There are other ways you can do that. 13:43:11
 2 For example, there's cross-tracking. If a student 13:43:14
 3 wants to take something that's on a different track, 13:43:17
 4 you can take it if you are willing to come in during 13:43:19
 5 your off-track time. 13:43:23
 6 Now, that's a little cumbersome, but that's 13:43:24
 7 a possibility, and of course, that's what our 13:43:27
 8 athletes do. Basketball play is on A track, but if 13:43:29
 9 he's on B or C, he comes in and participates. 13:43:36
 10 Q. You see where it say in the second sentence 13:43:50
 11 of paragraph 223: 13:43:52
 12 "Students who wish to take those 13:43:53
 13 courses do not have access to the 13:43:55
 14 courses if they are not offered on 13:43:57
 15 the tracks to which the school 13:43:59
 16 assigns the students"? 13:44:00
 17 Is this an accurate statement? 13:44:03
 18 A. I think that doesn't keep in mind that a 13:44:05
 19 student can cross-track. Granted many students may 13:44:07
 20 not be willing to do that. That's why we try to 13:44:11
 21 balance things on each of the tracks. 13:44:14
 22 Q. Other than through cross-tracking, is there 13:44:20
 23 any other way a student can take a course offered on 13:44:22
 24 another track? 13:44:28
 25 A. At the school? 13:44:30

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1 Q. Yes. 13:44:32

2 A. No. You would have to pick it up in a 13:44:33

3 community college or adult school. If it's not on 13:44:35

4 your track, the only thing would be to do is 13:44:40

5 cross-track or take it somewhere else. 13:44:54

6 Q. Can you switch tracks? 13:44:54

7 A. Yes. 13:44:54

8 Q. That's different than cross-tracking; right? 13:44:54

9 A. Yes. 13:44:54

10 Q. Under what circumstances is a student 13:44:54

11 permitted to switch tracks? 13:44:54

12 A. There's an application procedure that you do 13:44:56

13 through the attendance office, and I'm sure on that 13:44:57

14 you need to fill out the reasons. 13:45:01

15 That's not an office I've worked in, but 13:45:03

16 I've seen the applications, and I saw the woman going 13:45:05

17 through them, and if they are unhappy with what she 13:45:08

18 says, then the appeal would be to Mrs. Roland, the 13:45:11

19 principal, and she is probably getting all the 13:45:15

20 appeals right now because that office isn't staffed 13:45:17

21 with an administrator. 13:45:21

22 Q. How about cross-tracking? How does a 13:45:22

23 student go about taking a course on another track? 13:45:24

24 A. That -- your counselor can do that. 13:45:28

25 Q. Are you aware of any instances in which a 13:45:33

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1 student wanted to take a course offered on another 13:45:35

2 track but was refused the opportunity to do that? 13:45:38

3 A. No. 13:45:38

4 Q. How often does that occur, in your 13:45:45

5 experience, where a student takes a course offered on 13:45:47

6 another track? 13:45:51

7 A. Well, it occurs a lot with sports, but as 13:45:54

8 far as the other ones, I really don't know. You 13:45:57

9 would have to approach the assistant principal 13:45:59

10 counseling with that question. 13:46:03

11 Q. Okay. Paragraph 224, there's an allegation 13:46:09

12 that states: 13:46:12

13 "Only one or two of the school's 13:46:13

14 bathrooms are open and unlocked for 13:46:15

15 girls to use." 13:46:19

16 A. Yes. 13:46:19

17 Q. Is that an accurate statement? 13:46:21

18 A. The bathrooms that are open at lunch and 13:46:23

19 nutrition, there are two of them, and they have a 13:46:26

20 number of stalls. During passing times, they do 13:46:29

21 unlock the ones on the floors. 13:46:32

22 Q. Do you know how many stalls the girls -- the 13:46:39

23 two girls' bathrooms that are open have? 13:46:42

24 A. No, but they have a number of stalls, maybe 13:46:45

25 like five or six, seven. 13:46:47

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1 Q. Each? 13:46:51

2 A. Uh-huh. 13:46:52

3 Q. Have you ever seen -- 13:46:53

4 MR. FRIEDMAN: You have to say "yes" or 13:46:54

5 "no." 13:46:55

6 THE WITNESS: Oh, yes. 13:46:56

7 MR. ROZWOOD: Thanks, Howard. 13:46:57

8 Q. Do you see where it says "one of the stalls 13:47:03

9 is missing a toilet and a door" on line 17 and 18? 13:47:07

10 A. Uh-huh, yes, I see that. 13:47:11

11 Q. Are you aware of any instance in which one 13:47:13

12 of Fremont's bathrooms was missing a toilet and a 13:47:21

13 door? 13:47:25

14 A. No. To my knowledge, there's never been a 13:47:26

15 case of a missing toilet. The plant manager said 13:47:29

16 there was a missing door at one time, but I don't 13:47:31

17 know where the missing toilet came from. 13:47:37

18 Personally I don't know. Those things came 13:47:39

19 from Mr. Ceja, the plant manager. 13:47:41

20 Q. To your knowledge, there never was a missing 13:47:46

21 toilet; correct? 13:47:49

22 A. Yes, correct. 13:47:50

23 Q. How long, according to Mr. Ceja, did the 13:47:51

24 missing door -- was the door missing? 13:47:54

25 A. I don't know. 13:47:57

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1 Q. Okay. Do you see where it says: 13:47:59

2 "Students have to wait in long 13:48:05

3 lines to be able to use the 13:48:08

4 toilets"? 13:48:09

5 A. Yes. 13:48:09

6 Q. Is that true? 13:48:11

7 A. No. Let me say it this way. I've never 13:48:12

8 seen any lines to get in the bathrooms. Maybe right 13:48:16

9 when the bell rings there might be three people 13:48:19

10 waiting for them to be unlocked, but that's not 13:48:22

11 certainly a long line. 13:48:24

12 Q. What bell is that? 13:48:26

13 A. When the bell rings for lunch, I go out past 13:48:27

14 where the bathrooms are on the way to supervision, 13:48:30

15 and they wait for the campus aide to unlock the 13:48:33

16 bathroom. 13:48:37

17 Sometimes if the aide is late, they will 13:48:38

18 say, "Can you open the bathroom," but it's like three 13:48:41

19 kids. 13:48:44

20 Q. How long have you been a supervisor for 13:48:45

21 nutrition and lunch for Fremont? 13:48:47

22 A. I think ever since I have been there. 13:48:50

23 Q. Is that approximately 17 years? 13:48:51

24 A. 14, 14. 17 at Westchester. 13:48:53

25 Q. 14 years. Thanks. 13:48:56

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1 A. Yeah. 13:48:58
 2 Q. When you say during passing times additional 13:49:08
 3 bathrooms are opened up -- 13:49:12
 4 A. Yes. 13:49:12
 5 Q. -- how many additional bathrooms are opened? 13:49:15
 6 A. The only one I have knowledge of is the 13:49:16
 7 second floor, one on the second floor and one on the 13:49:18
 8 third floor, and when I was supervising those 13:49:21
 9 floors -- which I don't have that post anymore, but 13:49:24
 10 when I did, the aides would come and open those doors 13:49:26
 11 during passing, and then they would close them, you 13:49:29
 12 know, when the passing period was over with. 13:49:32
 13 Q. And what is passing time? 13:49:35
 14 A. Six minutes. 13:49:38
 15 Q. Between classes? 13:49:39
 16 A. Between classes, right. 13:49:40
 17 Q. Is there a reason the second and third floor 13:49:50
 18 rest rooms are locked during class time? 13:49:53
 19 A. Yes. 13:49:53
 20 Q. What is the reason? 13:49:56
 21 A. To prevent students from coming -- say there 13:49:57
 22 was not anyone on that floor doing supervision at a 13:50:00
 23 certain moment. Then students could come in and 13:50:04
 24 vandalize bathroom stalls or hang out and/or do 13:50:08
 25 numerous other things. 13:50:12

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1 We had a problem with fires about two years 13:50:14
 2 ago. It was kind of like a little copycat thing that 13:50:17
 3 all occurred in the bathroom. Not all of them but a 13:50:21
 4 couple of them occurred in the bathrooms. So it's a 13:50:36
 5 safety issue. 13:50:36
 6 Q. Turning to paragraph 225 of the First 13:50:50
 7 Amended Complaint, which we have an excerpt here as 13:50:54
 8 Exhibit 3, do you see where it says: 13:50:58
 9 "Many of the classrooms at Fremont 13:51:05
 10 do not have air conditioning"? 13:51:08
 11 A. Yes. 13:51:08
 12 Q. Is that an accurate statement? 13:51:10
 13 A. No. 13:51:10
 14 Q. What is inaccurate about it? 13:51:12
 15 A. I'm only aware of one classroom that was not 13:51:14
 16 air-conditioned. It was a portable that came in 13:51:16
 17 without air, and it came in in the summer, and it was 13:51:19
 18 absolutely dreadful, but that's the only one I'm 13:51:22
 19 aware of. 13:51:26
 20 I'm not exactly sure how long it took to get 13:51:27
 21 fixed, but it does have air right now. That was one 13:51:29
 22 room. 13:51:33
 23 Q. Do you know what -- was this one teacher 13:51:33
 24 assigned to that bungalow? 13:51:38
 25 A. Yes. 13:51:38

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1 Q. Do you remember the name of the teacher? 13:51:41
 2 A. No. 13:51:41
 3 Q. Do you remember the semester it arrived at 13:51:43
 4 Fremont? 13:51:45
 5 A. It must have been last July. I'm 13:51:46
 6 speculating, but I believe it was last July/August. 13:51:49
 7 Q. Was this a bungalow taken from another 13:51:57
 8 school? 13:52:00
 9 A. I don't know where it came from. 13:52:00
 10 Q. Other than that one bungalow that arrived at 13:52:03
 11 Fremont in July or August of 2000, are there any 13:52:07
 12 other classrooms that do not have air-conditioning at 13:52:12
 13 Fremont? 13:52:15
 14 A. No, they all have air-conditioning at 13:52:16
 15 Fremont, and that one does now. 13:52:18
 16 Q. How long did it take for that bungalow to 13:52:21
 17 get air-conditioning installed? 13:52:22
 18 A. I really don't remember. I know it was too 13:52:24
 19 long. I know we called the district, trying to get 13:52:27
 20 it repaired, but... 13:52:31
 21 The district priority is children centers 13:52:34
 22 and elementary schools, and so all the air people go 13:52:37
 23 to those places first. So if they continue to get 13:52:40
 24 calls, it doesn't matter when you call. 13:52:44
 25 This was told to me by my plant manager that 13:52:46

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1 you are always in line behind children centers and 13:52:49
 2 elementary schools. 13:52:52
 3 MR. FRIEDMAN: Children centers are for 13:52:54
 4 preschool students? 13:52:56
 5 THE WITNESS: Yes. 13:52:59
 6 BY MR. ROZWOD: 13:53:09
 7 Q. Do you see where it says in the next 13:53:09
 8 sentence that: 13:53:11
 9 "...students take instruction 13:53:12
 10 during the extreme heat of summer 13:53:14
 11 in Los Angeles in stifling 13:53:16
 12 classrooms"? 13:53:18
 13 A. Yes. 13:53:18
 14 Q. Are you aware of any instances in which the 13:53:20
 15 air-conditioning failed to function properly during 13:53:26
 16 the summer at Fremont High School in any classroom? 13:53:33
 17 A. There have been instances, but I really 13:53:38
 18 can't give you a specific at this time. 13:53:40
 19 Q. Who should I talk to about that? 13:53:43
 20 A. The plant manager. 13:53:45
 21 Q. Who is that? 13:53:46
 22 A. Mr. Ceja, C-e-j-a. 13:53:47
 23 MR. FRIEDMAN: What is his first name? 13:53:53
 24 THE WITNESS: I was afraid you were going to 13:53:54
 25 ask that. It's Wenselao. I can spell it if I write 13:53:56

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1 it out. 13:54:01

2 BY MR. ROZWOOD: 13:54:01

3 Q. Okay. Can you spell it out loud for the 13:54:01

4 reporter. 13:54:09

5 A. Yeah, but I have to do it myself. 13:54:10

6 I don't think this is right, but it's 13:54:17

7 W-e-n-s-e-l-a-o. And I don't think that's right, but 13:54:18

8 it's close. Wenselao. 13:54:24

9 Q. And paragraph 226 states: 13:54:33

10 "Students frequently see rats and 13:54:36

11 cockroaches at school." 13:54:39

12 Is that an accurate statement? 13:54:41

13 A. Actually I have never had a student report 13:54:43

14 that they have seen a rat or cockroach to me. 13:54:45

15 Q. Have you ever seen a rat or cockroach at 13:54:49

16 Fremont High School? 13:54:51

17 A. Yes. 13:54:51

18 Q. Where have you seen that? 13:54:53

19 A. I have seen them in my office and in the 13:54:54

20 main office. 13:54:57

21 Q. What have you seen in your office? 13:55:02

22 A. Little tiny mice. I suppose they are little 13:55:04

23 baby rats. Little baby rats. They look like mice, 13:55:12

24 but they are probably little rats. 13:55:17

25 Q. How often have you seen these tiny mice or 13:55:20

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1 baby rats in your office? 13:55:24

2 A. Maybe about twice a year. 13:55:26

3 Q. Each year over the 14 years you have been 13:55:29

4 there? 13:55:31

5 A. Well, in my first office, they didn't seem 13:55:35

6 to have the problem. I don't think we saw them back 13:55:37

7 in that office, but just probably because of 13:55:39

8 location, but in the main office, there have been 13:55:42

9 reports in the magnet office, and from my assistant 13:55:46

10 principal's office, little baby ones. 13:55:50

11 Q. Have there been any reports of mice or rats 13:56:01

12 in classrooms at Fremont? 13:56:04

13 A. I have not received or heard those reports. 13:56:08

14 I have only heard of office reports. 13:56:11

15 Q. Where have you seen cockroaches at Fremont? 13:56:15

16 A. The only time I ever saw a cockroach was 13:56:18

17 last week, and the only reason is I said, "What is 13:56:20

18 this bug?" 13:56:23

19 A science teacher was there and said it was 13:56:24

20 a cockroach. 13:56:28

21 There are bugs around. I didn't know it was 13:56:29

22 a cockroach that was in my office. 13:56:31

23 Q. That was in your office? 13:56:33

24 A. Yes, yeah. 13:56:36

25 Q. Are you aware of any reports regarding 13:56:40

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1 cockroaches being observed in classrooms at Fremont? 13:56:43

2 A. No. 13:56:43

3 Q. Other than cockroaches and tiny mice or baby 13:56:51

4 rats, have you seen any other or heard of complaints 13:56:55

5

6 regarding any other pests, vermin, rodents, or 13:57:08

7 insects at Fremont High School? 13:57:08

8 A. Just birds. 13:57:09

9 Q. Just birds? 13:57:10

10 A. Birds. 13:57:11

11 Q. Other than birds -- 13:57:12

12 A. And those things aren't birds. 13:57:13

13 Q. I don't think birds fall under any of those 13:57:16

14 categories either. 13:57:18

15 A. Okay. 13:57:20

16 Q. So you have described -- strike that. 13:57:21

17 You've told us all of the instances in which 13:57:27

18 you are aware of where there was an observation or 13:57:30

19 complaint regarding pests, rodents, insects, or 13:57:33

20 vermin at Fremont High School; correct? 13:57:38

21 A. Yes. 13:57:38

22 Q. Okay. I want to -- 13:57:41

23 MS. LHAMON: Can we just take a minute 13:58:04

24 break. 13:58:06

25 MR. ROZWOOD: If you want to take a break 13:58:06

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1 now, let's take five minutes. 13:58:08

2 (Off the record.) 13:58:08

3 BY MR. ROZWOOD: 14:04:15

4 Q. Can I ask you questions about the rest room 14:04:15

5 facilities at Fremont? 14:04:17

6 MR. FRIEDMAN: Tell him no. He asked you if 14:04:18

7 he could. You should say no. 14:04:22

8 THE WITNESS: Be my guest. 14:04:24

9 BY MR. ROZWOOD: 14:04:26

10 Q. You are nicer than your lawyer. 14:04:26

11 You mentioned there was a second-floor and 14:04:31

12 third-floor rest room; correct? 14:04:33

13 A. Yes. 14:04:35

14 Q. In the main building? 14:04:36

15 A. Yes. 14:04:36

16 Q. There were also two additional rest rooms 14:04:37

17 for student use at lunch and nutrition? 14:04:40

18 A. During lunch and nutrition, there are two 14:04:44

19 facilities open -- actually four because of the 14:04:46

20 different sexes -- one on the first floor and the 14:04:49

21 other one what we call the 118 building, which is the 14:04:52

22 back of the auditorium. 14:04:55

23 Q. Other than those four rest rooms, not 14:04:59

24 drawing any distinction between the sexes, are there 14:05:05

25 any other rest room facilities available at Fremont 14:05:09

1 High School? 14:05:13
 2 A. Not right now, to my knowledge. Mrs. Roland 14:05:13
 3 said there was going to be something in the 14:05:16
 4 bungalows. I talked to Mr. Ceja. He said this is 14:05:19
 5 what we have, these two. 14:05:23
 6 Q. How often are the rest rooms cleaned at 14:05:27
 7 Fremont? 14:05:30
 8 A. I know they are cleaned every day, but how 14:05:34
 9 many times every day, I don't know. 14:05:36
 10 Q. At least once every day? 14:05:37
 11 A. Yeah. 14:05:39
 12 Q. I apologize. I'm trying to learn myself the 14:05:49
 13 language that applies to the school environment. 14:05:54
 14 What is the title of the person that 14:05:58
 15 supervises the maintenance of the rest room 14:05:59
 16 facilities? Is that the plant manager? 14:06:04
 17 A. Yes, the plant manager supervises that. 14:06:06
 18 Q. Who supervises the plant manager at Fremont 14:06:08
 19 High School? 14:06:12
 20 A. I don't know his name now. It's maintenance 14:06:12
 21 and operations. I think it used to be called 14:06:15
 22 District 1, but who his direct boss right this minute 14:06:18
 23 is, I don't know. 14:06:23
 24 Q. Is that a big district employee or Fremont 14:06:24
 25 High School employee? 14:06:28

1 A. No. That would be like a maintenance 14:06:28
 2 district employee that would then report to someone 14:06:31
 3 downtown is my understanding of it. 14:06:34
 4 Q. So the plant manager -- who is the plant 14:06:41
 5 manager again at Fremont? 14:06:44
 6 A. Mr. Ceja, Mr. W. Ceja. 14:06:46
 7 Q. And Mr. Ceja reports to someone in 14:06:50
 8 maintenance and operations? 14:06:53
 9 A. Yes, yes. 14:06:56
 10 Q. And maintenance and operations is a division 14:06:56
 11 of the L.A. Unified School District? 14:06:59
 12 A. Right, right. I believe there are several 14:07:01
 13 district offices of maintenance. Then they all 14:07:03
 14 report to someone downtown. 14:07:08
 15 Q. And is there an assistant principal or other 14:07:10
 16 school administrator that has responsibility for 14:07:14
 17 supervising the plant manager? 14:07:17
 18 A. Yes, and that's Mr. Hemmans, J, period, 14:07:19
 19 Maxie, M-a-x-i-e, Hemmans? 14:07:23
 20 Q. Have you ever heard of any complaints about 14:07:44
 21 the cleanliness of the rest room facilities at 14:07:46
 22 Fremont High School? 14:07:53
 23 A. Yes. 14:07:53
 24 Q. What kind of complaints have you heard? 14:07:55
 25 A. Okay. This was not this year, but last year 14:07:57

1 when the students came more regularly to leadership 14:08:00
 2 council, they are always saying that the bathrooms 14:08:03
 3 needed to be cleaned. At those particular meetings, 14:08:05
 4 the plant manager would come and take notes. 14:08:08
 5 Actually, I don't think that was leadership, 14:08:11
 6 but it was another meeting that an administrative 14:08:12
 7 staff attended where there was a plant manager, some 14:08:17
 8 students, and other employees in addition to the 14:08:20
 9 administrators, and the students would say students 14:08:23
 10 have concerns, and he would say then the rest rooms. 14:08:28
 11 Now, I have not heard that this year, but we 14:08:31
 12 don't -- again, we don't have that same group of 14:08:34
 13 people meeting which is where I had an opportunity to 14:08:37
 14 hear that. So they may go directly to Mr. Hemmans or 14:08:40
 15 they may go to Mr. Ceja if they still have concerns. 14:08:44
 16 Q. What was the nature of the complaints during 14:08:48
 17 those meetings? 14:08:50
 18 A. I don't know how specific they were. They 14:08:53
 19 needed cleaning, and they needed toilet tissue. 14:08:56
 20 Those two things. 14:08:59
 21 Q. Are you aware of what response the school 14:09:04
 22 employees had to that problem or that complaint? 14:09:09
 23 A. Especially the year I was supervising plant, 14:09:14
 24 I do remember walking with Mr. Ceja and supervising 14:09:16
 25 someone's job inspections, a person who wasn't going 14:09:20

1 into the rest room as frequently or as completely as 14:09:23
 2 he needed to, and there's a form that the plant 14:09:26
 3 manager fills out on his employees if the employee is 14:09:37
 4 not doing a satisfactory job. 14:09:37
 5 This was a couple of years ago, but then he 14:09:37
 6 would counsel the employee and write a memo to the 14:09:38
 7 employee. Assumably in order to get a positive 14:09:44
 8 evaluation, there needed to be some improvement, and 14:09:47
 9 this was a couple of years ago. So it's kind of 14:09:50
 10 vague, but I remember that part. 14:09:53
 11 Q. Have you personally ever had an opportunity 14:10:01
 12 to observe the condition of the students' rest rooms 14:10:04
 13 at Fremont High School? 14:10:10
 14 A. Not lately, no. When I was doing plant, I 14:10:11
 15 would check periodically. 14:10:15
 16 Q. How did you find the rest rooms when you 14:10:16
 17 supervised plant? 14:10:20
 18 A. Well, usually what would happen -- the 14:10:22
 19 reason I would do that is Mr. Ceja would call me and 14:10:24
 20 show me what an employee missed. So there would be 14:10:27
 21 something that he missed, and he wanted a witness 14:10:30
 22 that he missed that. 14:10:32
 23 Q. What types of things would he miss? 14:10:34
 24 A. Oh, gosh. Stuff on the floor, I would 14:10:37
 25 think; sweeping. That kind of thing that would be 14:10:41

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1 missed. Or there was graffiti missed. They are 14:10:43
 2 supposed to get the graffiti removed too. 14:10:48
 3 Q. In your opinion, does Fremont High School 14:10:58
 4 have adequate rest room facilities for its student 14:11:01
 5 body? 14:11:04
 6 A. Yes, considering the use. I don't see 14:11:06
 7 people lined up. I don't know where that came from. 14:11:09
 8 I don't see them lined up to get in. 14:11:12
 9 If we needed more, we certainly have more. 14:11:17
 10 We could open more. What that would require is then 14:11:20
 11 another person to monitor it. 14:11:23
 12 Each rest room that is open has a campus 14:11:26
 13 aide to lock and unlock the door to make sure things 14:11:29
 14 are safe inside. They would have to make that 14:11:34
 15 decision. The principal would. 14:11:36
 16 MR. ROZWOOD: Off the record. 14:11:53
 17 (Off the record.) 14:12:15
 18 MR. ROZWOOD: Back on the record. 14:12:15
 19 Q. The plaintiffs in this lawsuit have made a 14:12:18
 20 number of allegations regarding the inadequacy and 14:12:21
 21 lack of availability of textbooks to students at 14:12:25
 22 Fremont High School. 14:12:29
 23 Can you describe for me generally the 14:12:30
 24 process by which textbooks are issued to students and 14:12:37
 25 collected from students at the beginning and end of 14:12:43

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1 the school year? 14:12:47
 2 A. Yes. 14:12:47
 3 The teacher first fills out a textbook card, 14:12:50
 4 indicating how many textbooks he wants. He gives 14:12:54
 5 that card to his department chair for signature. 14:12:58
 6 Then he sends students to pick up the books in the 14:13:01
 7 textbook room, and the students come back with the 14:13:04
 8 books, and the students fill out textbook cards. 14:13:08
 9 The teacher keeps one copy of the textbook 14:13:12
 10 card, and the book room clerk keeps the other copy. 14:13:15
 11 Students cover their books and write their names in 14:13:19
 12 the books, and those are their books for the 14:13:22
 13 semester. 14:13:24
 14 The teacher is supposed to check those books 14:13:25
 15 at least once a week to make sure the kids still have 14:13:28
 16 them. 14:13:32
 17 If the student leaves school or transfers 14:13:32
 18 classes, he is supposed to turn the book in to the 14:13:35
 19 teacher and not go to that class with that book. If 14:13:39
 20 the student checks out of school, there's a clearance 14:13:43
 21 card. 14:13:46
 22 If the student doesn't have the book, we 14:13:47
 23 recommend that the teacher hassle the student. We 14:13:49
 24 don't recommend that in writing. 14:13:52
 25 You put what he owes and name on the back of 14:13:54

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1 the clearance card so that becomes a part of the 14:13:57
 2 permanent record. 14:14:00
 3 At the end of the class, the students turn 14:14:01
 4 the books in to the teacher, and then they get their 14:14:04
 5 blue textbook card back, a receipt that they returned 14:14:07
 6 the book. 14:14:11
 7 If a student does not return the book, then 14:14:11
 8 the teacher gives a list of those students to the 14:14:14
 9 textbook clerk, and the textbook clerk calls or sends 14:14:18
 10 letters or both or does whatever will work to get 14:14:24
 11 those textbooks back. 14:14:27
 12 And I think that's about -- then she makes a 14:14:36
 13 list of the students who still owe books when the new 14:14:39
 14 semester starts, and that circulates to the teachers, 14:14:43
 15 and theoretically they are not supposed to issue 14:14:46
 16 books to those students, but they sometimes do. 14:14:49
 17 Also, in the past, although I don't think 14:14:52
 18 she did it this year, she published a list of 14:14:54
 19 teachers not returning books. 14:14:57
 20 So, for example, if a teacher lost a lot of 14:14:59
 21 books, that would become public information at least 14:15:02
 22 to the other staff. So... 14:15:05
 23 Q. You mean when teachers failed to return 14:15:08
 24 them -- 14:15:10
 25 A. Uh-huh. 14:15:10

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1 Q. -- or a teacher -- 14:15:11
 2 A. Actually the list was published by a 14:15:13
 3 teacher. Sorry. 14:15:15
 4 If Mr. Smith, for example, didn't -- say he 14:15:15
 5 lost 30 books -- well, maybe the kids lost them, but 14:15:18
 6 he could have lost them too. They just didn't come 14:15:21
 7 back with his record -- that was published, too, 14:15:24
 8 because the teachers also need to be accountable for 14:15:26
 9 checking to make sure the students still have the 14:15:39
 10 books. 14:15:39
 11 Q. Are you aware of any instances at the outset 14:15:40
 12 of a school year in which the teacher requested books 14:15:42
 13 but there weren't enough to go around? 14:15:45
 14 A. Certain titles perhaps, but there would 14:15:50
 15 always be a substitute title. To my knowledge, there 14:15:53
 16 are enough books for all the kids. 14:15:58
 17 Last year we had some problems with foreign 14:16:02
 18 language, but we ordered enough of those, which we 14:16:04
 19 see also as an academic class, but -- see, sometimes 14:16:06
 20 they want a certain publisher, and maybe they are out 14:16:11
 21 of that publisher, but there are books. 14:16:14
 22 Q. And what is the name of the textbook clerk 14:16:22
 23 at Fremont High School? 14:16:24
 24 A. Linda Jones. 14:16:25
 25 Q. How long has Ms. Jones been with Fremont 14:16:28

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1	High School?	14:16:31
2	A. Guessing, about ten years.	14:16:31
3	Q. Has she always been the textbook clerk?	14:16:35
4	A. Yes.	14:16:35
5	Q. You mentioned that Ms. Jones prepares a list	14:16:59
6	of students who owe books --	14:17:02
7	A. Uh-huh.	14:17:04
8	Q. -- at the end --	14:17:06
9	A. Yes.	14:17:06
10	Q. -- of the academic year --	14:17:07
11	A. Yes.	14:17:07
12	Q. -- and provides that list to the teachers	14:17:08
13	for the upcoming year.	14:17:10
14	A. Right.	14:17:11
15	Q. And you mentioned that theoretically the	14:17:12
16	teachers aren't supposed to issue books to students	14:17:14
17	on that list.	14:17:17
18	A. Correct.	14:17:18
19	Q. Does that apply regardless of the class in	14:17:19
20	which the student lost their book?	14:17:23
21	A. Yes. The directions are get these books	14:17:26
22	back because we need them. So don't issue the book,	14:17:29
23	assuming that would put some pressure on the student	14:17:32
24	and people to return the book.	14:17:35
25	In practice that doesn't really happen that	14:17:36

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1	much. Because it's just easier to give the student a	14:17:39
2	book, I guess, or you don't want to have a student	14:17:43
3	behind.	14:17:45
4	I don't know. I'm guessing why it doesn't	14:17:46
5	happen, but it doesn't happen is what I'm saying.	14:17:48
6	Q. What happens instead?	14:17:52
7	A. The student gets a book.	14:17:53
8	Q. Are you aware of any instances in which a	14:18:03
9	student was refused a textbook because they were on	14:18:06
10	the list of students who still owed a textbook from	14:18:08
11	the previous year?	14:18:12
12	A. I don't think so. I have had students in my	14:18:14
13	office complaining that they did not lose a book and	14:18:17
14	being hassled because of it, but they don't	14:18:20
15	specifically say they can't get a book for another	14:18:22
16	class. They are just saying they turned it in, but	14:18:25
17	they show they still owe for a book, but they didn't	14:18:30
18	say no, they can't get a book.	14:18:33
19	Q. Are the students responsible to pay any	14:18:36
20	money if they lose a book and fail to return it?	14:18:41
21	A. Yes.	14:18:41
22	Q. How much money do they have to pay?	14:18:44
23	A. They have to pay -- I think they have to pay	14:18:46
24	replacement cost. It used to be they would pay a	14:18:49
25	percentage. I'm not really sure. It's either a	14:18:52

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1	percentage or replacement cost.	14:18:54
2	Q. What happens if the student fails to pay the	14:18:56
3	replacement cost?	14:18:58
4	A. Well, sometimes they end up in my office,	14:19:02
5	and then we have to make a decision what to do. In	14:19:04
6	the end, of course, the student gets the book, and	14:19:06
7	when it becomes serious is when it's graduation time	14:19:11
8	because that's the time it truly becomes serious for	14:19:15
9	the kids. Say they owed this book since the ninth	14:19:18
10	grade, and then we work with the family and the	14:19:22
11	administrator works with the family on what decision	14:19:24
12	to do.	14:19:28
13	Q. What are the alternatives?	14:19:28
14	A. Forgiving the debt, believing them and	14:19:30
15	saying the teacher made an error, or holding them to	14:19:33
16	it if we have reason to believe they are not being	14:19:36
17	truthful.	14:19:38
18	If the teacher is available, that's what we	14:19:42
19	try to do. Sometimes the teacher isn't there, which	14:19:44
20	is another challenge of multitrack schools, but if	14:19:47
21	the teacher is there, we talk to the teacher, and	14:19:50
22	they kind of take our direction from that.	14:19:52
23	Q. And what happens if you determine that the	14:19:57
24	student has to make restitution but the students	14:20:02
25	fails to do so? What are the consequences to that	14:20:05

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1	student, if any?	14:20:08
2	A. Actually I don't think it ever got that far.	14:20:10
3	Usually it either gets paid or forgive it. It's all	14:20:13
4	you can do.	14:20:18
5	Q. Hypothetically if a student fails to pay the	14:20:19
6	replacement cost when you find they are obligated to	14:20:21
7	do so, what are the possible consequences for failing	14:20:25
8	to pay?	14:20:28
9	A. Well, theoretically you could be held from	14:20:31
10	graduation. I don't think that's ever happened. If	14:20:34
11	the parents can make a case that they can't afford it	14:20:36
12	or they really -- the whole thing was wrong in the	14:20:39
13	first place.	14:20:42
14	Q. Are you aware of any instances in which a	14:20:43
15	student was held back from participating in	14:20:47
16	graduation as a result of an owed textbook?	14:20:49
17	A. No.	14:20:49
18	Q. When I say "held back from graduation," I	14:21:00
19	mean was refused a high school diploma or was refused	14:21:03
20	the opportunity to participate in the commencement	14:21:06
21	proceedings, anything related to the graduation.	14:21:09
22	Does your answer change?	14:21:18
23	A. No.	14:21:18
24	Q. Are you aware of any classrooms at Fremont	14:21:39
25	where students were forced to share textbooks because	14:21:42

1 there was insufficient numbers in the class? 14:21:46
 2 A. No. The only example I can think about is 14:21:49
 3 when I'm in a classroom and, say, a student forgot 14:21:51
 4 his book and there don't seem to be any extra ones 14:21:55
 5 around, then they share. 14:21:58
 6 It's not that they don't have a book. They 14:22:00
 7 just don't have it with them. 14:22:02
 8 Q. One of the plaintiffs in this case -- well, 14:22:57
 9 strike that. 14:22:59
 10 The plaintiffs make allegations regarding 14:23:08
 11 missing ceiling tiles in the school's facilities such 14:23:10
 12 as classrooms. 14:23:15
 13 Are you aware of a problem regarding missing 14:23:16
 14 ceiling tiles at Fremont High School? 14:23:20
 15 A. Yes. 14:23:20
 16 Q. Can you describe the problem for us. 14:23:23
 17 A. Well, for some reason, ceiling tiles get 14:23:27
 18 loosened or get damaged by someone poking on them in 14:23:30
 19 the hallway, and then they are not there anymore. So 14:23:33
 20 what you do is call the plant manager, and he calls 14:23:37
 21 someone in to replace it. 14:23:42
 22 Q. What about in the classrooms? Are there 14:23:43
 23 ceiling tile problems in classrooms at Fremont? 14:23:46
 24 A. I would be guessing, but I think so. I 14:23:49
 25 think they just -- it's something about the way they 14:23:53

1 are fixed up there. I don't know. 14:23:56
 2 Q. How long does it take once the plant manager 14:23:58
 3 is called to address the missing ceiling tiles? 14:24:00
 4 A. I think it depends on where it is. For 14:24:06
 5 example, the ones in my office were supposed to be 14:24:08
 6 just done -- there is a trailer that comes to the 14:24:11
 7 district once a year, and they do like everything 14:24:14
 8 when it comes to the school. They were supposed to 14:24:18
 9 do my ceiling tiles, but they didn't quite get to it. 14:24:21
 10 Sometimes it just doesn't happen, but I don't have 14:24:24
 11 very high priority, which I don't need. I don't care 14:24:27
 12 about my ceiling tiles, but the ones in the classroom 14:24:31
 13 and the hall would be taken care of sooner, I 14:24:34
 14 imagine. 14:24:38
 15 That's not something I'm, responsible for. 14:24:38
 16 So I can't give you a time line. 14:24:40
 17 Q. Do you think missing ceiling tiles interfere 14:24:42
 18 with the ability of the students to learn? 14:24:42
 19 A. Only if it falls on their head. 14:24:48
 20 Q. Have you ever heard of a ceiling tile 14:24:50
 21 falling on a student's head? 14:24:52
 22 A. No. 14:24:54
 23 Q. Have you heard of a ceiling tile causing any 14:24:55
 24 destruction in class -- 14:24:57
 25 A. No. 14:24:57

1 Q. -- at Fremont High School? 14:24:59
 2 A. No. 14:25:00
 3 Q. Can you describe the locker situation at 14:25:14
 4 Fremont High School? Does the school have lockers? 14:25:15
 5 A. We have lockers. 14:25:19
 6 Q. How many lockers does the school have? 14:25:20
 7 A. This is not really one of my knowledge 14:25:23
 8 areas. 14:25:25
 9 Q. Who is knowledgeable about the lockers? 14:25:27
 10 A. Lockers would be Mr. Hooker, Assistant 14:25:30
 11 Principal Hooker, James Hooker. 14:25:32
 12 Q. Do you know if the students at Fremont have 14:25:37
 13 access to the lockers if they need one? 14:25:39
 14 A. No, I don't know what the policy is right 14:25:46
 15 now. 14:25:48
 16 Q. Would Ms. Roland know anything about that? 14:25:50
 17 A. Yes, absolutely. 14:25:54
 18 Q. I'll talk to her about that. 14:25:55
 19 How many counselors are there at Fremont 14:26:02
 20 High School? 14:26:07
 21 A. It's a little difficult because some of them 14:26:08
 22 are part time, but I would guess there are about two 14:26:10
 23 and a half a track. So that would be a total of six, 14:26:13
 24 seven and a half, but you also count people like the 14:26:19
 25 college advisor, attendance counselor. I guess it 14:26:26

1 depends on what you are looking at. 14:26:29
 2 Q. Would Ms. Roland know about the number of 14:26:49
 3 counselors at Fremont? 14:26:53
 4 A. She may. 14:26:55
 5 Q. Who would be better to talk to about that, 14:26:57
 6 you or Ms. Roland, as a general subject? 14:27:00
 7 A. If you want specifics, probably Mrs. Nichols 14:27:05
 8 is the very best one to talk to about it. It's 14:27:10
 9 between the two of us. It kind of depends on what 14:27:12
 10 the question is. 14:27:15
 11 Q. Okay. You mentioned that the process of 14:27:21
 12 handing out and collecting textbooks is manual with 14:27:23
 13 textbook cards -- 14:27:29
 14 A. Yes. 14:27:29
 15 Q. -- correct? 14:27:32
 16 Is there a plan to automate the process for 14:27:32
 17 tracking textbook inventory at Fremont? 14:27:38
 18 A. Yes. We were almost up to speed with the 14:27:42
 19 automated process; however, Ms. Jones reported to me 14:27:44
 20 last week that they disbanded that office as of last 14:27:48
 21 Friday. 14:27:51
 22 So I thought she was joking at first, but I 14:27:51
 23 asked her three times, and she said no. Because we 14:27:54
 24 worked so hard to get the process going and overtime 14:27:57
 25 and so forth, but I don't think she was joking. She 14:28:01

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1 said no, that office doesn't exist anymore, the 14:28:04
2 automation office. 14:28:08
3 Q. What office is that at the Fremont High 14:28:09
4 School? 14:28:12
5 A. In the district there was an office that 14:28:13
6 provided support, computer support, for that system, 14:28:14
7 and she said that the whole thing wasn't going to 14:28:19
8 happen now. 14:28:22
9 Q. So as far as you know, you are going to 14:28:27
10 stick with the existing manual inventory system? 14:28:35
11 A. Yes. 14:29:09
12 MS. LHAMON: It's 2:30. According to the 14:29:09
13 witness's time, I think we need to stop. 14:29:11
14 MR. ROZWOOD: Okay. Seems like a natural 14:29:14
15 enough time to stop. 14:29:16
16 We are going to resume this deposition by 14:29:17
17 agreement of all counsel and Ms. Hines on Thursday, 14:29:20
18 July 5th, at 8:30 in the morning here at our offices, 14:29:26
19 O'Melveny & Myers. 14:29:30
20 MR. FRIEDMAN: That's my understanding. 14:29:33
21 Did you have a particular stipulation you 14:29:34
22 want to recite about the deposition, or should I 14:29:37
23 rattle off mine? 14:29:39
24 MR. ROZWOOD: Go ahead. 14:29:41
25 MR. FRIEDMAN: If we can, I would ask the 14:29:42

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1 parties to stipulate relative to the transcript of 14:29:45
2 this deposition that the reporter will be relieved of 14:29:47
3 her responsibilities for obtaining Ms. Hines's 14:29:51
4 signature and that the original of the transcript can 14:29:54
5 be sent to my attention. 14:29:57
6 I'll be responsible for getting or obtaining 14:29:58
7 Ms. Hines's changes and execution of the deposition 14:30:02
8 transcript. 14:30:08
9 And that if I do not obtain her signature 14:30:08
10 within -- I prefer to use the term within 20 days of 14:30:12
11 my receipt of the transcript, a copy of the 14:30:18
12 deposition transcript may be used as if signed. 14:30:19
13 MR. ROZWOOD: So stipulated. 14:30:24
14 MS. LHAMON: So stipulated. 14:30:24
15 Before we go off the record, I would like to 14:30:26
16 mention -- I know we mentioned today you could more 14:30:29
17 easily identify dates of your background if you had 14:30:31
18 looked at some materials. 14:30:34
19 If it's possible, will you bring a CV or 14:30:36
20 resume? It will help a lot. And also we talked 14:30:40
21 about a map of the school and a time of the calendars 14:30:43
22 for the mester. That would help me a lot, I know, 14:30:48
23 for the next day if that's possible to get by the 14:30:51
24 next day of the deposition if that will help. You 14:30:53
25 should confer with counsel. 14:30:57

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1 Howard, I'm going to send you a letter 14:30:58
2 identifying some documents that Ms. Hines identified 14:31:08
3 today that we believe are responsive to our business 14:31:10
4 records subpoena that we have not yet received and 14:31:13
5 that I would very much like to receive before we 14:31:16
6 resume on July 5th. 14:31:18
7 MR. ROZWOOD: And, of course, to the extent 14:31:21
8 you do produce additional documents, we would 14:31:22
9 appreciate receiving copies as well. 14:31:24
10 MR. FRIEDMAN: Okay. I would just indicate 14:31:26
11 without prolonging this, certainly I'll read the 14:31:28
12 letter and try to comply. 14:31:31
13 There are additional documents that we are 14:31:34
14 attempting to -- I think of some substance that we 14:31:38
15 have obtained from the schools. I think it was a 14:31:45
16 response in an exchange of correspondence with 14:31:49
17 Morrison and Foerster with us, and that may contain 14:31:53
18 some of the records you are seeking. 14:32:00
19 Send a letter, and we will try to work it 14:32:03
20 out. I'm not trying to dodge them for you. If we 14:32:07
21 can produce them, I will. 14:32:11
22 MS. LHAMON: Thank you very much. 14:32:12
23 THE REPORTER: Would you like a copy with 14:32:20
24 the original? 14:32:21
25 MR. FRIEDMAN: Yes. 14:32:22

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1 MS. LHAMON: A copy and rough copy of the 14:32:27
2 transcript. 14:32:29
3 (TIME NOTED: 4:32 P.M.)
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1 I declare under penalty of perjury
2 under the laws of the State of California
3 that the foregoing is true and correct.
4 Executed on _____, 20____,
5 at _____, _____.

6
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8
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10 _____
11 SIGNATURE OF THE WITNESS
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1 IN WITNESS WHEREOF, I have subscribed my name
2 this 3rd day of July, 2001.
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RICKI Q. MELTON, CSR No. 9400, RPR No. 45429

1 STATE OF CALIFORNIA) ss:
2 COUNTY OF LOS ANGELES)
3

4 I, RICKI Q. MELTON, CSR No. 9400, RPR No. 45429,
5 do hereby certify:
6

7 That the foregoing deposition testimony of
8 MARCIA HINES was taken before me at the time
9 and place therein set forth, at which time the witness
10 was placed under oath and was sworn by me to tell the
11 truth, the whole truth, and nothing but the truth;
12

13 That the testimony of the witness and all
14 objections made by counsel at the time of the
15 examination were recorded stenographically by me,
16 and were thereafter transcribed under my direction
17 and supervision, and that the foregoing pages
18 contain a full, true and accurate record of all
19 proceedings and testimony to the best of my skill
20 and ability.
21

22 I further certify that I am neither counsel for
23 any party to said action, nor am I related to any
24 party to said action, nor am I in any way interested
25 in the outcome thereof.

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