

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

ELIEZER WILLIAMS, et al.,) Case No.
Plaintiffs,) 312 236
vs.) Volume II
STATE OF CALIFORNIA; DELAINE)
EASTIN, State Superintendent of)
Public Instruction; STATE)
DEPARTMENT OF EDUCATION; STATE)
BOARD OF EDUCATION,)
Defendants) Pages 308 - 475

-----)
DEPOSITION OF: THOMAS L. IBARRA
MONDAY, OCTOBER 22, 2001
9:49 A.M.

REPORTED BY: SYLVIA P. SHEAR
RPR, CSR NO. 3010

1 Continued Deposition of THOMAS L. IBARRA, taken
2 on behalf of the Defendant State of California, at 400
3 South Hope Street, Fifteenth Floor, Los Angeles,
4 California on MONDAY, OCTOBER 22, 2001, at 9:49 A.M.
5 before SYLVIA P. SHEAR, RPR, CSR NO. 3010.

6 APPEARANCES:

7 FOR THE PLAINTIFFS:

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12 (213) 892-5307

13 FOR THE DEFENDANT STATE OF CALIFORNIA:

14 O'MELVENY & MYERS
15 BY: S. BENJAMIN ROZWOOD, ESQ.
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17 Fifteenth Floor
18 Los Angeles, California 90071-2899
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1 APPEARANCES (CONTINUED):

2 FOR THE CROSS-DEFENDANT AND INTERVENOR LOS ANGELES
3 UNIFIED SCHOOL DISTRICT:

4 LOZANO SMITH
5 BY: CYNTHIA S. FLOYD, ESQ.
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1 I N D E X

2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25
	WITNESS	EXAMINATION	PAGE																				
	THOMAS L. IBARRA	(By Mr. Rozwood)	315																				
		(By Ms. Floyd)	416																				
	NO.	PAGE	DEPOSITION EXHIBITS																				
	8	335	Copies of photographs of Christmas assembly taken by Mr. Ibarra with handwritten notes on top Bates Nos. PLTF 01403 to 01407																				
	9	344	Copy of photograph with handwritten notes at top Bates No. PLTF 01399																				
	10	350	Declaration of Susan Carroll Boysal Bates Nos. PLTF 00163 to 00165																				
	11	364	Gulf Avenue School Policy Handbook Bates Nos. DT-LA 23642 to 24036																				

1 I N D E X

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	12	369	Gulf Avenue School Staff Development Meeting ABC Agenda June 30, 2000 Bates Nos. DT-LA 23291 to 23309																				
	13	375	Gulf Avenue School Blue Book: Faculty, Adjunct Profession Duties Bates Nos. DT-LA 23346 to 23348																				
	14	377	Gulf Avenue School Professional Development Track B, 3/5/01, Agenda Bates Nos. DT-LA 23376 to 23379																				
	15	380	Gulf Avenue School document from Joy Ferguson to STAFF dated 3-30-01 Bates Nos. DT-LA 23409 to 23416																				
	16	396	Gulf Avenue School document entitled "48th School Week June 5-June 9, 2000, Tracks A/B" Bates Nos. PLTF 01434 to 01435																				

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1
2
3 NO. PAGE DEPOSITION EXHIBITS
4 17 400 Copies of photographs of graffiti taken
5 by Mr. Ibarra and handwritten notes at
6 the top
7 Bates Nos. PLTF 01400 to 01402
8
9 18 404 Gulf Avenue Elementary School letter from
10 Delores Buettgenbach, Principal, to
11 Parents dated 8-19-00
12 Bates Nos. 01397 to 01398
13
14 19 421 Two blank forms. One entitled "Custodial
15 Service Referral" and the other entitled
16 "Notice of Repairs Needed"
17
18 20 429 Four pages of Custodial Work Schedules
19
20 21 441 Memo from Delores Buettgenbach,
21 Principal to Staff, Subject:
22 Needs Survey for 2001-2002
23 (Category Budgets), dated 5-1-01
24
25

1 LOS ANGELES, CALIFORNIA
2 MONDAY, OCTOBER 22, 2001
3 9:43 A.M.

4
5 THOMAS L. IBARRA,
6 having been first duly resworn, was examined
7 and testified further as follows:
8

9 EXAMINATION
10 BY MR. ROZWOOD:

11 Q. Good morning Mr. Ibarra.
12 A. Good morning.
13 Q. We met last time at your first day of
14 deposition. Thank you for coming this morning.
15 I want to ask you about some of the allegations
16 in the Plaintiffs' First Amended Complaint. I want to
17 ask you if you have any personal knowledge of facts that
18 support or refute the allegations in the Complaint.
19 In paragraph 242 the plaintiffs allege that "The
20 books the students use at Gulf are so old and
21 dilapidated, that pages are missing from many of the
22 books and students cannot follow along with their lessons
23 in class because they do not have the correspondent pages
24 in their textbooks."
25 Do you have any knowledge of any facts that

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1
2
3 NO. PAGE DEPOSITION EXHIBITS
4 22 447 Gulf Avenue School Survey of Curriculum
5 Programs, July 2000-2001, Integrated
6 Language Arts
7 Bates Nos. LS 8864 to 8893
8
9 23 459 Document entitled "Cursive Handwriting"
10
11 24 463 Memo from Delores Buettgenbach to
12 All Teachers Dated 7-31-01
13
14
15 INFORMATION REQUESTED
16 (NONE)
17
18 UNANSWERED QUESTIONS
19 (NONE)
20
21
22
23
24
25

1 support or refute this allegation?
2 A. Yes, I do.
3 Q. Can you describe those to me?
4 A. Our classroom dictionaries which I had three of
5 were completely torn apart, including the covers. The
6 writing books, cursive writing, were torn so badly that
7 they couldn't be used.
8 Q. And this is in your fifth grade class?
9 A. Yes.
10 Q. Other than the writing books and the
11 dictionaries, are you aware of any other books at Gulf
12 about which the statements in paragraph 242 are accurate?
13 A. There was torn and ripped and shredded books,
14 you said, and not lack of books?
15 Q. Correct. The allegation in paragraph 242 that I
16 am referring to that I have just quoted for you is about
17 the condition of the textbooks with pages missing so that
18 students are unable to follow along with their lesson
19 plans.
20 A. Yeah. That would be the student writing books
21 and dictionaries.
22 Q. With respect to the dictionaries, does each
23 student in your class have a dictionary?
24 A. Yes, they do now.
25 Q. At the time you met with Ms. Lhamon for the

1 first time, what was the allocation of dictionaries for
 2 students in your class?
 3 A. There were three dictionaries for approximately
 4 32 students.
 5 Q. Was that adequate in your view?
 6 A. No.
 7 Q. Why not?
 8 A. There's times when lessons require that every
 9 student have a dictionary.
 10 Q. What times are those?
 11 A. Times when they are looking up vocabulary words
 12 they don't understand from reading, times when they are
 13 learning how to physically use a dictionary, parts of a
 14 dictionary.
 15 Q. Are those lessons with vocabulary and dictionary
 16 usage part of the curriculum in your class?
 17 A. Not my curriculum only. It's part of the Open
 18 Court system.
 19 Q. When did Gulf adopt the Open Court system?
 20 A. It would be July 2000.
 21 Q. And how long after Gulf adopted the Open Court
 22 reading system were the dictionaries that you now have
 23 obtained?
 24 A. The dictionaries that I have in my room were
 25 obtained late July, I believe it was.

1 Q. Which year?
 2 A. 2001.
 3 Q. What is Open Court? What is that?
 4 A. It is the district mandated reading series.
 5 Q. Are you referring to the Los Angeles Unified
 6 School District?
 7 A. Correct, I am.
 8 Q. And when did LAUSD first mandate that Open Court
 9 reading system?
 10 A. That I am not aware of. I assume it was in July
 11 2000.
 12 Q. When it was first adopted at Gulf?
 13 A. Right.
 14 Q. And today you have sufficient dictionaries for
 15 the reading program?
 16 A. Yes.
 17 Q. And you mentioned there were some torn writing
 18 books. Can you tell me what the title of those books
 19 were?
 20 A. Handwriting was the title.
 21 Q. Is that the textbook you currently use in your
 22 class?
 23 A. I don't use any books in my class. We don't --
 24 they cannot be used, those books.
 25 Q. Are those writing books that you referred to

1 earlier part of your lesson plan in any way?
 2 A. Yes. Part of being in the fifth grade, students
 3 need to work on cursive writing skills.
 4 Q. Can you tell me all the instances in which the
 5 torn condition of the writing books interfered with your
 6 ability to teach?
 7 MR. FOX: Objection. Complex, overbroad,
 8 compound.
 9 THE WITNESS: Every day.
 10 BY MR. ROZWOOD:
 11 Q. Can you tell me what you mean by that?
 12 A. Well, part of reading encompasses writing and
 13 when I'm looking at students' papers, their cursive
 14 writing is so bad that I have to make corrections, tell
 15 them "This is how you make an 'F' or a 'G.'".
 16 Q. And the condition of the writing books
 17 interferes with that process?
 18 A. There actually are no writing books. The ones
 19 that are there are just ripped to shreds. They are not
 20 used at all.
 21 Q. Is that a decision that was made by someone at
 22 the school not to use those books?
 23 A. There's only I would say about five of them in
 24 the room.
 25 MR. FOX: Clarification. Five books; right?

1 THE WITNESS: Five handwriting books in the
 2 room.
 3 BY MR. ROZWOOD:
 4 Q. Are handwriting books part of the instructional
 5 materials that you are required to use in your class?
 6 MR. FOX: Vague and ambiguous.
 7 THE WITNESS: I don't know. I know that it's
 8 required that students learn cursive writing.
 9 BY MR. ROZWOOD:
 10 Q. And what instructional materials do you use to
 11 achieve that objective?
 12 A. I try to do it on my own with overheads.
 13 Q. What are overheads?
 14 A. Plastic transparencies that go on top of an
 15 overhead projector.
 16 Q. And are those provided by the school?
 17 A. No. I create them myself.
 18 Q. Is there a standard curriculum for the fifth
 19 grade?
 20 A. Yes.
 21 Q. And does that include lessons in cursive
 22 writing?
 23 A. Yes.
 24 Q. And how does Gulf Avenue Elementary School
 25 assist teachers in achieving the objectives of that

1 cursive writing program?
 2 MR. FOX: Assumes facts. Vague and ambiguous.
 3 THE WITNESS: I don't think they are. There's
 4 just no mention of it.
 5 BY MR. ROZWOOD:
 6 Q. Have you ever had any discussions with any
 7 school or district officials regarding the availability
 8 of cursive writing materials?
 9 A. Yes, I have.
 10 Q. Who have you discussed this with?
 11 A. The principal.
 12 Q. Other than principal Buettgenbach, who else have
 13 you discussed the availability of cursive writing with?
 14 A. The coordinator, April Meagher.
 15 Q. Anyone else?
 16 A. No.
 17 Q. How many conversations did you have with the
 18 principal regarding the availability of cursive writing
 19 materials?
 20 A. I would say about two.
 21 Q. And do you know approximately when those
 22 conversations occurred?
 23 A. They occurred the first year I started working
 24 at Gulf, which was back in July of --
 25 Q. '98?

1 A. -- '98.
 2 Q. Both of those conversations occurred in July of
 3 '98?
 4 A. No. One was when I first got there in July of
 5 '98. The second time I spoke about cursive writing books
 6 was the year 2000, September of the year 2000.
 7 Q. What was Ms. Buettgenbach's response?
 8 A. I don't recall her response.
 9 Q. What did you say to her during these
 10 conversations about cursive writing materials?
 11 A. I informed her that there was not -- there was
 12 no cursive writing books in the classrooms that I have
 13 taught in.
 14 Q. And so I understand your testimony, you don't
 15 recall what she said in response?
 16 A. No.
 17 Q. Did she -- I'm sorry.
 18 A. No, I don't recall.
 19 Q. Did she do anything in response to your
 20 comments?
 21 A. She actively listened, but that was it.
 22 MR. FOX: Calls for speculation. I apologize
 23 for the belated objection.
 24 MR. ROZWOOD: No problem.
 25 Q. How many conversations did you have with April

1 Meagher regarding cursive writing materials at Gulf?
 2 A. One.
 3 Q. When did that conversation occur?
 4 A. That was either in June 2000 or -- I'm sorry,
 5 June 2001 or July 2001.
 6 Q. And what did you say to her during this
 7 conversation?
 8 A. We were at a fifth grade team meeting and I
 9 mentioned I would like to know -- I just mentioned to her
 10 if someone could please order some handwriting books.
 11 Q. Is Ms. Meagher the person you would normally
 12 contact if you wanted to obtain instructional materials
 13 for your students?
 14 A. Yes.
 15 Q. In the past have you done so with respect to
 16 other materials other than cursive writing materials?
 17 A. Yes.
 18 Q. What was Ms. Meagher's response to you in your
 19 conversation at that fifth grade team meeting in June or
 20 July of 2001?
 21 A. I was told that fifth grade students didn't need
 22 cursive writing books to learn how to write in cursive.
 23 Q. Ms. Meagher said that to you?
 24 A. Yes.
 25 Q. Did she have any other response?

1 A. No.
 2 Q. Was anyone else present at this meeting?
 3 A. Yes. Fifth grade team.
 4 Q. Who is in the fifth grade team?
 5 A. For B track, fifth grade team is myself,
 6 Mr. Madrigal, Ms. Gazzola and there's one teacher. I
 7 just can't think of his name.
 8 Q. So Mr. Madrigal, Ms. Gazzola, Ms. Meagher and
 9 one other teacher and yourself; correct?
 10 A. Correct.
 11 Q. Did anyone else participate in this conversation
 12 you had with Ms. Meagher regarding cursive writing
 13 materials?
 14 A. No.
 15 Q. Did you discuss your conversations with
 16 Ms. Meeker or Ms. Buettgenbach with anyone else?
 17 A. No.
 18 Q. What did you think about Ms. Meagher's response?
 19 Was it correct that fifth grade students don't need those
 20 books?
 21 A. I don't think that's correct.
 22 Q. Did you express your belief that fifth grade
 23 students need cursive writing books to anyone else after
 24 you heard Ms. Meagher's position on the matter?
 25 A. No.

1 Q. You never raised it with the local district?
 2 A. No.
 3 Q. Area K?
 4 A. No.
 5 Q. No officials at the L.A. Unified School
 6 District?
 7 A. Actually I recall that when Mr. Sandoval came by
 8 from Area K, I did show him one of the ripped apart
 9 handwriting books.
 10 Q. What did you say to him?
 11 A. I told him that it was ridiculous to have a book
 12 in this condition.
 13 Q. And what did he say to you?
 14 A. He didn't. There was no response.
 15 Q. Do you recall when Mr. Sandoval visited your
 16 classroom?
 17 A. The date, no.
 18 MR. FOX: Assumes facts.
 19 BY MR. ROZWOOD:
 20 Q. Mr. Sandoval visited your classroom; correct?
 21 A. Yes.
 22 Q. Do you recall when that occurred?
 23 A. No.
 24 Q. Approximately the month and year?
 25 A. I can recall the year. 2000. 2001, excuse me.

1 Q. 2001. Was this before or after you had your
 2 conversation with Ms. Meagher?
 3 A. That I don't know. I don't know if it was
 4 before or after.
 5 Q. Did you do anything else other than communicate
 6 your views to Ms. Buettgenbach, Ms. Meagher and
 7 Mr. Sandoval regarding the cursive writing materials in
 8 your class?
 9 A. No.
 10 Q. Looking again at paragraph 242 at the First
 11 Amended Complaint, are you aware of any instances where
 12 students were unable to follow along with their lesson
 13 plans because they didn't have the corresponding pages in
 14 their textbooks?
 15 MR. FOX: Vague and ambiguous, calls for
 16 speculation, argumentative.
 17 THE WITNESS: In the year 2001, I don't recall.
 18 2000, I don't recall. I do remember the first month I
 19 started teaching there, the reading books, they had
 20 missing pages.
 21 BY MR. ROZWOOD:
 22 Q. Approximately how many students were affected by
 23 the missing reading book pages in 1999?
 24 MR. FOX: Calls for speculation.
 25 THE WITNESS: I think it would have been '98

1 when I first started.
 2 BY MR. ROZWOOD:
 3 Q. Okay.
 4 A. I don't recall how many.
 5 Q. Was it more than five?
 6 A. Yes.
 7 Q. Was it more than ten?
 8 A. Probably a little more than five. Not more than
 9 ten.
 10 Q. So between five and ten is accurate?
 11 A. Yes.
 12 Q. And this was your fifth grade class; correct?
 13 A. In '98?
 14 Q. Yes.
 15 A. I had a fourth and fifth grade combination class
 16 in one room.
 17 Q. Can you remember the names of any students who
 18 had missing pages in their reading books in that class?
 19 A. No.
 20 Q. Other than your reading books in the 1998 to
 21 1999 class, were there any other instances that you are
 22 aware of where students were unable to follow along with
 23 their lessons in class because they did not have the
 24 corresponding pages in their textbooks?
 25 MR. FOX: Compound, complex, may call for

1 speculation.
 2 THE WITNESS: I don't recall. At the time I
 3 only had one reading book in '98. That was the only
 4 textbook we had. We had no math books. We had no other
 5 core literature books. It was just the reading books.
 6 BY MR. ROZWOOD:
 7 Q. Have you told me all the instances of which you
 8 are aware where books used in class were missing pages?
 9 MR. FOX: Objection. Vague and ambiguous, lacks
 10 foundation, unlimited as to time and scope.
 11 THE WITNESS: That's all I can think of as of
 12 now.
 13 BY MR. ROZWOOD:
 14 Q. In paragraph 243 the plaintiffs allege that "the
 15 students at Gulf receive approximately 20 fewer school
 16 days of instruction"; is that correct?
 17 MR. FOX: Lacks foundation.
 18 THE WITNESS: That I don't know.
 19 BY MR. ROZWOOD:
 20 Q. Do you have any knowledge as to whether the
 21 students at Gulf receive more or less instructional
 22 minutes over the course of a school year than do
 23 traditional calendar schools?
 24 A. That I don't know.
 25 Q. Are you aware of any instances in which the

1 school's performance of maintenance and repair interfered
2 with students' education at Gulf?

3 A. Yes.

4 MR. FOX: Objection. Vague and ambiguous.
5 Overbroad.

6 BY MR. ROZWOD:

7 Q. Can you tell me the instances you have in mind?

8 A. Where students were impaired from learning
9 because of --

10 Q. Maintenance or repair.

11 A. -- maintenance? Well, the rats that were in my
12 classroom.

13 Q. Okay. We discussed that at length.

14 A. Okay. I had a student that went to the bathroom
15 in his pants.

16 Q. How does that relate to the maintenance and
17 repair work at Gulf?

18 A. I sent him down to the restroom. He had to go.
19 He told me there was no toilet paper.

20 Q. Do you know the name of the student?

21 A. Yes. His name --

22 MR. FOX: Objection. Relevance.

23 THE WITNESS: -- is Tomas.

24 BY MR. ROZWOD:

25 Q. What is his last name?

1 A. Yeah. In '98 and '99 my students were required
2 to pick up trash, so we took -- we were supposed to go
3 out before recess, so we had to stop about five
4 minutes -- ten minutes before recess is when we picked up
5 the trash, but we had to stop five minutes prior to that
6 so they could gather their books and put them away to get
7 ready to go outside.

8 Q. On how many occasions did that occur?

9 A. The entire school did it on a rotating basis.
10 And throughout the school year? I would say about three
11 or four times. We did it for the entire week.

12 Q. How much of your class time would this obstruct,
13 this, what is it called Campus Beautification Process?

14 A. I think it was called School Beautification.
15 Like I say it would take them five minutes to put their
16 books away, get them lined up, and ten minutes outside,
17 so a total of 15 minutes.

18 Q. And that's 15 minutes of actual class time that
19 was interfered with as a result of the School
20 Beautification Program?

21 A. Correct.

22 Q. And that's 15 minutes per day for a week?

23 A. Correct.

24 Q. What is that? Five times 15, 75 minutes.

25 That's 75 minutes for the entire week; correct?

1 A. Last name I don't recall.

2 Q. Which year was this?

3 A. This was 2000.

4 Q. When you say 2000, you mean the year 2000-2001?

5 A. No. '99-2000 school year.

6 Q. Are there any other instances where the school's
7 maintenance and repair work interfered with your
8 students' ability to learn?

9 MR. FOX: Objection. Again, compound, complex,
10 calls for speculation. And it is overbroad.

11 THE WITNESS: I recall a girl named Adriana who
12 couldn't do the work for the rest of the day. After
13 lunch she had seen some droppings from rodents.

14 BY MR. ROZWOD:

15 Q. Do you recall when this occurred?

16 A. I am trying to think. Adriana was in my
17 classroom in the '99-2000 school year.

18 Q. Was she able to resume with her educational work
19 the following day?

20 A. Yes.

21 Q. Other than Adriana and Tomas and the incident
22 with the rats in your class, are there any other
23 instances that you know of where the school's maintenance
24 and repair work or lack thereof interfered with your
25 students' educational experience?

1 A. Uh-huh, correct.

2 Q. And there were three or four weeks during which
3 your class was assigned to the School Beautification?

4 A. To pick up trash, yes.

5 Q. Is there anything else done as part of the
6 School Beautification effort other than picking up trash?

7 A. No.

8 MR. FOX: Counsel, can we go off the record for
9 five minutes?

10 MR. ROZWOD: Sure. Sure.

11 MR. FOX: Can we take a quick break?

12 MR. ROZWOD: Yes.

13 (Recess taken.)

14 BY MR. ROZWOD:

15 Q. Back on the record. Before we broke, you were
16 listing the instances that you can recall where the
17 school's maintenance and repair work or lack thereof
18 interfered with your students' ability to learn. Can you
19 think of anything else to add to the list you have
20 already given us today?

21 MR. FOX: Objection. Compound, complex. Vague
22 and ambiguous.

23 BY MR. ROZWOD:

24 Q. Do you understand the question?

25 A. All teachers are required to -- all upper grade

1 teachers are required to send some kids, I think seven or
2 eight, to about ten minutes prior to lunch to leave the
3 classroom instructional time and to work in the cafeteria
4 to serve food. And that's done with upper grade
5 teachers. Every other week we switch.

6 Q. Approximately how much instructional time does
7 this interfere with?

8 A. Ten minutes every day.

9 Q. All the students in your class go to the
10 cafeteria to serve food every other week?

11 A. There's seven to eight students go.

12 Q. And that's every other week?

13 A. Every other week; correct.

14 Q. And that's ten minutes per day of your
15 instructional time?

16 A. Correct.

17 Q. Can you think of any other instances where not
18 just maintenance and repair work, but any other school
19 program interferes with your students' ability to learn?

20 MR. FOX: Vague and ambiguous, compound,
21 complex.

22 BY MR. ROZWOOD:

23 Q. Do you understand the question?

24 A. School programs you mentioned that interfere?

25 Q. I just want to make sure you understand the

1 MR. ROZWOOD: Yes.

2 (A discussion was held off the record.)

3 MR. ROZWOOD: Back on the record.

4 Q. In light of your attorney's words, do you have
5 anything to add to your testimony? I mean other than
6 what you have already testified to in your deposition,
7 including your first day, is there anything you would
8 like to add?

9 A. Besides the overcrowding and three lunches and
10 the three recesses and the on and off tracks which I
11 mentioned before, I can't recall anything else. Lack of
12 textbooks.

13 Q. Can you think of anything else that interferes
14 with the students' ability to learn at Gulf?

15 A. At the moment, no.

16 Q. Will you let us know if you think of something?

17 A. Yes.

18 MR. ROZWOOD: I would like to mark as Exhibit 8
19 a document bearing Bates stamp Nos. PLTF 01403 through
20 07.

21 (Deposition Exhibit 8 was marked
22 for identification and attached.)

23 BY MR. ROZWOOD:

24 Q. Do you have a copy of Exhibit 8 before you?

25 A. Yes.

1 question. You have nodded.

2 A. Yes, I do.

3 Q. Thanks.

4 A. There are Christmas programs that interfere with
5 instruction for all teachers. Halloween parades, they
6 interfere with instruction for all teachers.

7 Q. Anything else that you can think of that
8 interferes with the students' ability to learn at Gulf?

9 MR. FOX: Complex, compound, overbroad.

10 BY MR. ROZWOOD:

11 Q. Do you understand the question?

12 A. Yes, I do. I can't think of anything right now.

13 MR. FOX: Just so we have a clear record, let's
14 make sure. I know we are on a certain topic, but to the
15 extent you construed your question to be looking for
16 anything at the school that interfered with students'
17 ability to learn, including books, teacher problems,
18 facilities, et cetera.

19 MR. ROZWOOD: Well, don't testify for your
20 witness.

21 MR. FOX: Well, let's make clear what this
22 question is about. It is a hopelessly overbroad question
23 if that's what you are looking for, but I want Thomas to
24 understand if that is what you are looking for.

25 MS. FLOYD: Can we go off record for a minute?

1 Q. Do you know what this document is?

2 A. This is the photographs of the Christmas parade.
3 Christmas assembly, not parade.

4 Q. Do you recognize the handwriting on the top of
5 the first page 01403?

6 A. Yes, I do. That's my handwriting.

7 Q. Are these pictures that you took?

8 A. Yes, they are.

9 Q. And what does it say on the top there?

10 A. It says "In addition to the \$1200, this is
11 additional funds being spent on decorations."

12 Q. And it says "1200." Is that an underline
13 underneath the \$1200?

14 A. Yes, it is.

15 Q. That's something you wrote and something you
16 underlined?

17 A. Yes.

18 Q. I am sorry. Sometimes I stall when I ask a
19 question. It's my fault, but just for the ease of the
20 reporter here, if you could try to wait until I finish
21 before you answer, we will try to have a cleaner
22 transcript.

23 Do you see the writing below on the left-hand
24 side here?

25 A. Yes.

1 Q. Does that say "tree No. 1"?

2 A. Yes, it does.

3 Q. And then the next page it says "tree No. 2"?

4 A. Correct.

5 Q. And that's your handwriting; correct?

6 A. Yes, it is.

7 Q. Is that an indication that there were two

8 separate Christmas trees at Gulf?

9 A. Yes.

10 Q. What year was this?

11 A. I believe this is the '99-2000.

12 Q. Do you think it was improper use of school funds

13 to spend \$1200 on the Christmas assembly?

14 MR. FOX: Vague and ambiguous.

15 THE WITNESS: Yes, I did.

16 BY MR. ROZWOOD:

17 Q. Did you tell anybody that you believed it was

18 inappropriate to spend \$1200 on a Christmas assembly for

19 the students at Gulf?

20 A. Yes, I did.

21 Q. Who did you tell?

22 A. This packet of pictures I believe was sent to

23 Mr. Sandoval, the Area K superintendent.

24 Q. Do you recall when it was sent to him?

25 A. No.

1 Q. Did you send it to him?

2 A. Yes, I did.

3 Q. Did you send it to anybody else?

4 A. Not that I can recall.

5 Q. You sent it to him before or after you met with

6 him in your classroom?

7 A. I met with him several times in the classroom.

8 Q. Oh, okay. How many times did Mr. Sandoval come

9 to your classroom?

10 A. I don't recall the specific amount.

11 Q. More than five?

12 A. It may have been more than five times he

13 visited.

14 Q. But less than ten?

15 A. Yes.

16 Q. Between five and ten is accurate?

17 A. Yes.

18 Q. Do you recall when he first visited your class?

19 A. Yes, I do.

20 Q. When was that?

21 A. When I called him up and told him that my

22 students didn't have pencils.

23 Q. And you subsequently got those pencils; correct?

24 A. I did eventually, yes.

25 Q. How long did it take?

1 A. I don't recall. I had gone to the store and

2 purchased them myself.

3 Q. I'm sorry, I didn't hear your last answer.

4 A. I had gone and purchased some with my own funds.

5 Q. I am talking about when you told Mr. Sandoval

6 you needed pencils and then you subsequently got them

7 from the school district.

8 A. Uh-huh.

9 Q. How long did that take?

10 A. I don't recall.

11 Q. And when you testified that you had on occasion

12 gone and purchased pencils with your own funds, that was

13 at another occasion entirely; correct?

14 MR. FOX: Vague and ambiguous.

15 THE WITNESS: I purchased pencils and supplies

16 throughout the school year. I can't recall.

17 BY MR. ROZWOOD:

18 Q. On how many occasions have you done that?

19 A. Many.

20 Q. More than 20?

21 A. Definitely more than 20.

22 Q. More than 50?

23 A. Yes.

24 Q. More than a hundred?

25 A. We are talking per academic school year or

1 throughout my career at Gulf?

2 Q. Just throughout your career at Gulf.

3 A. Probably more than a hundred, yes.

4 Q. And have you informed anyone at Gulf of your

5 personal purchases of these supplies?

6 A. Yes.

7 Q. And who have you told?

8 A. Administration.

9 Q. Who in the administration did you tell?

10 A. Principal, assistant principal.

11 Q. Which assistant principal?

12 A. Joy Ferguson.

13 Q. And the principal you are referring to is

14 Ms. Buettgenbach; correct?

15 A. Correct, Ms. Buettgenbach.

16 Q. And what was their response when you told them

17 that you were buying these supplies personally?

18 A. They said nothing.

19 Q. Have you ever made request to have these

20 materials purchased with school funds?

21 MR. FOX: Vague and ambiguous.

22 THE WITNESS: I never made the request, no.

23 BY MR. ROZWOOD:

24 Q. Do you know who at Gulf is responsible for

25 buying school supplies?

1 A. That I am not sure. It's one of the
2 secretaries.
3 Q. One of the principal's secretaries or somebody
4 else's secretary?
5 A. One of the principal's secretaries.
6 Q. Have you ever had any conversations with any of
7 the principal's secretaries regarding your need for
8 school supplies?
9 A. Yes.
10 Q. On how many occasions did you have those
11 conversations?
12 MR. FOX: Calls for speculation.
13 THE WITNESS: I can't be sure.
14 BY MR. ROZWOOD:
15 Q. Did you ask the secretaries to purchase supplies
16 for you?
17 A. Yes.
18 Q. And what did they do?
19 MR. FOX: Calls for speculation.
20 THE WITNESS: I don't know. I never got the
21 supplies I asked.
22 BY MR. ROZWOOD:
23 Q. Do you remember any of these secretaries' names
24 you made these requests of?
25 A. Maggie.

1 Q. Do you recall any specific conversations you had
2 with Maggie about school supplies?
3 A. Yes. I recall one.
4 Q. What did you say to her and what did she say to
5 you during that conversation?
6 A. I told her that I needed some felt for a
7 project.
8 Q. What did she say to you?
9 A. She told me that there was none.
10 Q. Do you recall any other conversations you had
11 with Maggie about school supplies?
12 A. No.
13 Q. Can you recall any other specific conversations
14 you had with any school officials at Gulf about school
15 supplies other than the ones you have already testified
16 to?
17 MR. FOX: Overbroad, compound, complex.
18 THE WITNESS: No, I don't recall.
19 MR. ROZWOOD: Off the record.
20 (A discussion was held off the record.)
21 MR. ROZWOOD: On the record.
22 Q. Other than the conversations we have already
23 discussed, did you have any other conversations with
24 anyone regarding the expenditure on the students'
25 Christmas assembly depicted in Exhibit 8?

1 A. Not that I recall.
2 Q. Do you think the school should have spent the
3 \$1200 used on the Christmas assembly depicted in
4 Exhibit 8 on some other area of its operations?
5 A. Yes.
6 Q. And where do you think the school should have
7 spent that \$1200?
8 A. I think it should have been spent directly to
9 enrich the educational needs of the children at the
10 school.
11 Q. How should the school have spent that money to
12 achieve that objective?
13 A. I think an abundance of supplies could have been
14 purchased, textbooks could have been purchased.
15 Q. Do you know who was responsible at Gulf for
16 deciding to spend \$1200 on a Christmas assembly as
17 opposed to supplies and textbooks?
18 A. My recollection of this is the \$1200 -- that's
19 why I wrote down "in addition to the \$1200." The \$1200
20 was spent on teachers' salaries, which I assume the
21 principal is the only one who could release teachers from
22 their duties. And two teachers were released from their
23 duties of teaching their classrooms and were asked to
24 decorate the school auditorium for Christmas.
25 And to take their place in the classroom, two

1 substitutes were hired. And I believe that they were
2 hired for a period of three days. So just to clarify,
3 the cost of the decorations is not included in the \$1200.
4 That was just the cost to pay for substitutes.
5 Q. How did you learn that the substitutes cost
6 \$1200?
7 A. I figured out how much subs get per day.
8 Q. Which is how much?
9 A. I don't recall. I had to look it up. I asked
10 someone who knew.
11 Q. So two substitutes were hired for three days
12 apiece. That's six days of substitutes. Does that mean
13 that the substitutes at that time were getting
14 approximately \$200 a day?
15 A. Approximately. It might have been three to four
16 days they were out.
17 Q. Okay.
18 I would like to mark as Exhibit 9 a document
19 bearing Bates stamp No. PLTF 01399.
20 (Deposition Exhibit 9 was marked
21 for identification and attached.)
22 BY MR. ROZWOOD:
23 Q. Do you recognize Exhibit 9?
24 A. Yes, I do.
25 Q. What is it?

1 A. It's one of the ripped apart dictionaries in my
2 classroom.

3 Q. Do you have the original photograph depicted in
4 Exhibit 9?

5 A. I don't know.

6 Q. What does the writing at the top say?

7 A. It says "Photograph of one of the four
8 dictionaries I have in my room for student use."

9 Q. Okay. It's difficult to tell what's being
10 depicted in this picture on this copy. I request to the
11 extent you have a better copy, you provide it to your
12 counsel so we can obtain that as well.

13 Do you have a better copy in your possession of
14 this picture?

15 MR. FOX: Asked and answered.

16 THE WITNESS: I can try to look. I don't know.

17 MR. ROZWOOD: What I asked was does he have the
18 original. I didn't ask if he has a better copy. That's
19 a different question. If you keep objecting like that,
20 we are not going to be able to stay as short as we had
21 agreed to.

22 MR. FOX: That wasn't such a time-consuming
23 objection. Since you bring it up I will just mention
24 that we agreed last time we would be a half day and I
25 think you are doing fine. But if We go over, it is not

1 substitute teachers were used in a single month at Gulf?

2 A. Not to my knowledge.

3 Q. You mentioned School Beautification and in
4 paragraph 247 of the First Amended Complaint, the
5 plaintiffs allege that "the class must spend five minutes
6 of their reading time picking up such items as beer
7 bottles, used condoms, broken glass, cigarette butts and
8 bullets."

9 Are you aware of any instances in which
10 students picked up any of these items at Gulf?

11 A. Yes, I am.

12 Q. Can you describe those instances for us?

13 A. I remember students picking up broken pieces of
14 glass, beer bottles, cigarette butts, bullet shells,
15 condoms.

16 Q. How many bullet shells were picked up, to your
17 knowledge, by students at Gulf?

18 A. I couldn't estimate because unfortunately most
19 of the times that the kids are picking up trash, I wasn't
20 under direct -- they weren't directly over -- I wasn't
21 directly hovering over them because there are so many
22 students.

23 Q. Right. I am asking just for your knowledge. I
24 am not asking about things you don't know about.

25 A. I don't recall.

1 because I have been making a lot of objections.

2 MR. ROZWOOD: That's my view precisely, that you
3 have been making too many objections and it has been
4 obstructive and distracting.

5 MR. FOX: Come on.

6 MR. ROZWOOD: And time-consuming.

7 MR. FOX: Well, I am not even going take up the
8 time to argue about that, but suffice it to say the
9 transcript will show what it shows.

10 MR. ROZWOOD: Indeed.

11 Q. Mr. Ibarra, in paragraph 245 of the plaintiffs'
12 Complaint it says "as many as five different substitute
13 teachers have been used in a single month."

14 Are you aware of any instances in which as many
15 as five different substitute teachers were used in a
16 single month at Gulf?

17 A. Yes.

18 MR. FOX: Vague and ambiguous.

19 BY MR. ROZWOOD:

20 Q. Can you tell us when those instances occurred?

21 A. They occurred in my classroom in '98. There
22 were five previous teachers in the month that had those
23 students before I had them.

24 Q. Other than on that occasion, is there any other
25 occasion that you are aware of in which five different

1 Q. Was it more than five bullet shells, to your
2 knowledge, that were picked up by students at Gulf
3 Elementary?

4 A. I would say it was less than five.

5 Q. Was it more than one?

6 A. Yes.

7 Q. More than two?

8 MR. FOX: Calls for speculation.

9 MR. ROZWOOD: You can't speculate about what you
10 know. I mean that's another objection that's wasting our
11 time.

12 I am asking what he knows and if he knows how
13 much it is, how many times it has occurred, he can
14 testify to that and there is no speculation involved.

15 THE WITNESS: I recall at least one --

16 BY MR. ROZWOOD:

17 Q. Okay.

18 A. -- that I right now recall.

19 Q. Other than the specific -- do you recall the
20 student who picked up this bullet shell?

21 A. No, I do not.

22 Q. Just so the record is fair, I am not suggesting
23 this is the only bullet shell anybody ever picked up at
24 Gulf. I am just asking what you know.

25 And your testimony is to your knowledge, you are

1 only aware of one student who picked up a bullet shell at
2 Gulf during School Beautification; is that correct?

3 A. Correct.

4 Q. And can you recall how many occasions in which a
5 student at Gulf picked up a condom at Gulf?

6 A. Yeah. I remember the day the condom was picked
7 up, yes.

8 Q. And this is another instance where there was a
9 single condom to your knowledge that was found?

10 A. Single condom.

11 Q. Is that the only instance you are aware of where
12 a condom was picked up during the School Beautification
13 process?

14 A. From my classroom students, yes.

15 Q. Are you aware of any other classroom students
16 that picked up condoms during that process?

17 A. No.

18 Q. How about with respect to beer bottles? Just to
19 your knowledge without limiting the possibility that
20 other students might have picked up beer bottles as well,
21 to your knowledge how many students are you aware of that
22 found beer bottles during this School Beautification
23 process?

24 A. I would say at least ten.

25 Q. Do you recall the name of the student who found

1 Q. Before you turn your attention too closely on
2 that, I just want to follow up on Exhibit 9 and the
3 picture of the dictionary that you provided in this
4 litigation.

5 Let me just get a sense for what happened in
6 this. Is this another picture that was sent to
7 Mr. Sandoval after he visited your classroom?

8 A. I recall it was, yes.

9 Q. And do you recall what Mr. Sandoval's response
10 was to this dictionary picture?

11 A. I don't think there was a response. I don't
12 recall a response.

13 Q. Do you have a better copy of this photograph
14 than the one that you see, because that's the one that's
15 going to go in your deposition booklet. I just want to
16 know if there is a better one so everyone can see the
17 quality of the dictionary. It is unclear whether it's
18 even -- whether it is good or bad. I can't tell by this
19 photograph.

20 A. Mr. Sandoval would have the original. I sent
21 him the original copy.

22 Q. Great. Thank you. Okay.

23 Turning, then, to Exhibit I think it's 10 which
24 is the declaration of Ms. Boysal. Now, Ms. Boysal
25 attended your first meeting together with you and

1 the condom?

2 A. Yes.

3 Q. What was the student's name?

4 A. Daniel.

5 Q. What was Daniel's last name?

6 A. That I don't recall.

7 Q. And do you recall any of the students' names who
8 found beer bottles during this process?

9 A. No.

10 Q. Are you aware of a program called "coordinated
11 compliance review"?

12 A. No.

13 Q. Are you aware of a program called "program
14 quality review"?

15 A. No.

16 Q. Have you ever been asked by the administrators
17 of any school you have worked at over your career to
18 participate in a coordinated compliance review or a
19 program quality review?

20 A. No.

21 MR. ROZWOD: I would like to mark as Exhibit 10
22 a Declaration of Susan Carol Boysal.

23 (Deposition Exhibit 10 was marked
24 for identification and attached.)

25 BY MR. ROZWOD:

1 Ms. Lhamon; correct?

2 A. Correct.

3 Q. And Ms. Boysal no longer teaches at Gulf now;
4 correct?

5 A. Correct.

6 Q. I just want to ask you to go through this
7 declaration with me and tell me facts that you have
8 personal knowledge of that would support or refute the
9 statements made herein, okay. So let's try to do this
10 quickly, but take your time to review the declaration if
11 you need to do so.

12 Have you seen this declaration before?

13 A. No, I have not.

14 Q. Do you see paragraph 3 where she says "On
15 numerous occasions over the years, I have not had the
16 books I have needed for my class"?

17 A. Yes, I do.

18 Q. Are you aware of any facts that would support or
19 refute that statement?

20 A. Yes.

21 Q. Can you tell us what those facts are?

22 A. There's times when I have had no math books in
23 my classroom.

24 Q. Okay. I guess I want to try to make this a
25 little faster given our time constraints today. She is

1 making the statement about her class. I am just
2 wondering if you have any knowledge about her class such
3 as "Yes, she told me that she had a problem" or "I heard
4 she had a problem from the school," something like that.

5 I am just wondering if you have any knowledge to
6 support the facts that she is stating right here are true
7 about her classes and her experience?

8 A. About her classroom? No, not that I can think
9 of now, no.

10 Q. Do you see where she says in paragraph 3 that
11 she has had to share books with other teachers or borrow
12 books from classes that were off track? Is that
13 something that you have had to do over your experience at
14 Gulf?

15 A. Yes.

16 Q. How many occasions have you had to share books
17 with other teachers?

18 MR. FOX: Compound, complex.

19 THE WITNESS: There's several occasions.

20 BY MR. ROZWOOD:

21 Q. Can you describe those occasions for us?

22 A. Teachers are constantly sharing books so when
23 one teacher goes off track, I have to share the books
24 from another classroom teacher and vice versa.

25 Q. Do you ever share books with teachers on track?

1 A. I don't think she purchased them.

2 Q. Do you know if she was able to obtain sufficient
3 supplies from the school?

4 A. That I don't know.

5 Q. Do you see where she says "many of the teachers
6 buy the supplies themselves" in paragraph 5?

7 A. Yes, I do.

8 Q. Other than yourself, are you aware of any other
9 teachers that purchased supplies themselves at Gulf?

10 A. Yes.

11 Q. Which teachers are those?

12 MR. FOX: Compound, complex, overbroad.

13 THE WITNESS: I would have to have the staff
14 roster with me because I would say probably 95 percent of
15 the teachers buy things on their own.

16 BY MR. ROZWOOD:

17 Q. Do you see in paragraph 6 where she says "When
18 the district cannot hire a permanent teacher for the
19 class, the students end up having a series of unlicensed
20 substitute teachers in one school year"?

21 A. Yes, I do.

22 Q. Are you aware of any instance where students at
23 Gulf had a series of unlicensed substitute teachers in
24 one school year?

25 A. Other than myself, no.

1 A. Yes.

2 Q. Can you describe those instances for us?

3 A. Reading books. Not the open core textbooks, but
4 just the little supplemental books I have shared with
5 other teachers.

6 Q. Do you see in paragraph 5 where Ms. Boysal
7 states that she cannot teach her kids hands-on life
8 science because she doesn't have the necessary supplies
9 such as petrie dishes, tweezers, et cetera; the district
10 doesn't provide them?

11 Are you aware of any supply constraints in life
12 sciences that Ms. Boysal experienced in her class?

13 A. No.

14 Q. Did you ever have any discussions with
15 Ms. Boysal regarding the lack of supplies at Gulf?

16 A. Science class?

17 Q. Just generally.

18 A. Oh, yes.

19 Q. How many times did you discuss this with
20 Ms. Boysal?

21 A. Several.

22 Q. And what did you do to obtain the necessary
23 supplies?

24 A. For myself? I purchased them.

25 Q. And do you know what Ms. Boysal did?

1 Q. Well, those substitutes weren't unlicensed in
2 your 1998 class, were they?

3 A. The term "unlicensed," I don't know if that
4 means they are temporary, emergency credentialed. It's a
5 vague term.

6 Q. I agree.

7 Are the books provided in the Open Court reading
8 program sufficient to achieve the learning objectives in
9 that area at Gulf?

10 MR. FOX: Vague and ambiguous, overbroad.

11 THE WITNESS: Can you repeat the question.

12 MR. ROZWOOD: Can you read it back for me.

13 (The record was read
14 by the reporter as follows:

15 "Q. Are the books provided in the Open
16 Court reading program sufficient to achieve
17 the learning objectives in that area at
18 Gulf?")

19 THE WITNESS: I don't think I have used the
20 program long enough to answer that question.

21 BY MR. ROZWOOD:

22 Q. Are there sufficient numbers of instructional
23 materials for the students to use in that program?

24 A. Not in --

25 MR. FOX: Vague and ambiguous.

1 THE WITNESS: In my classroom? There are. In
2 other classrooms I am aware of a teacher that does not
3 have all the materials.

4 BY MR. ROZWOOD:

5 Q. What is the name of that teacher?

6 A. Mr. Madrigal.

7 Q. Do you know why Mr. Madrigal doesn't have
8 sufficient Open Court reading instructional materials?

9 A. I don't know why. I just remember him telling
10 me that he was photocopying the textbooks because his
11 students didn't have enough textbooks.

12 Q. What are the instructional materials that go
13 into the Open Court reading program?

14 A. There's the core book, textbook. There is the
15 teacher's supply box. There's the student's school kit.
16 And there is I believe it's four, four or five
17 supplemental work books that go with the program for
18 student use.

19 Q. Four to five work books for each student?

20 A. Yes.

21 Q. And the only problem you are aware of in
22 Mr. Madrigal's class is the insufficient number of
23 textbooks among those materials; correct?

24 A. That I am aware of, yes, actual textbooks.

25 Q. Thank you.

1 over the place.

2 Q. How many occasions did you find bird body parts,
3 if you recall?

4 MR. FOX: Same objections.

5 THE WITNESS: Several times.

6 BY MR. ROZWOOD:

7 Q. More than five?

8 A. Yes.

9 Q. More than ten?

10 A. Yes.

11 Q. More than 20?

12 A. I would say it's under 20.

13 Q. Is between 10 and 20 your best estimate of the
14 number of occasions that you are aware of where students
15 at Gulf found dead bird body parts?

16 A. I would say for my classroom students it would
17 be 15 to 20.

18 Q. Do you see where she says in paragraph 11 she
19 had silver fish, centipedes and fruitflies in her room?

20 A. Yes, I do.

21 Q. Have you ever had any silver fish fruitflies or
22 centipedes, in your room?

23 A. I haven't seen silver fish or centipedes in my
24 classroom. Fruitflies, I don't recall. I may or may not
25 have. They are so small.

1 Do you see in paragraph 8 of Ms. Boysal's
2 declaration on the last sentence where she says that she
3 has seen children pick up without gloves used condoms,
4 dead animals, bullets, drugs, cigarette butts, beer cans
5 and broken glass?

6 A. Yes, I do.

7 Q. Do you have any knowledge as to whether or not
8 Ms. Boysal has ever seen children pick up those items at
9 Gulf?

10 A. I have no knowledge, no.

11 Q. Have you ever witnessed A child pick up any of
12 those items without gloves?

13 A. Yes.

14 Q. Are those the items we discussed previously?

15 A. Yes. Actually the dead animals, I failed to
16 mention that. There's dead birds that are picked up.

17 Q. On how many occasions were dead birds picked up?

18 MR. FOX: Vague and ambiguous. Calls for
19 speculation.

20 BY MR. ROZWOOD:

21 Q. Just to your knowledge.

22 A. It is several because they are decapitated a lot
23 of times. There is some kind of satanic ritual, looks
24 like. They are thrown over the fence. You will find a
25 wing here and a head there and body parts kind of all

1 Q. Last time we discussed a student of yours that
2 you thought might need additional school resources,
3 possibly in special education.

4 A. Uh-huh. Yes.

5 Q. Ms. Boysal references in paragraph 12 of her
6 declaration a resource specialist program. Are you aware
7 of that program at Gulf?

8 A. Yes, I am.

9 Q. Is that the program that you approached about
10 your student that might need special attention?

11 A. I don't recall going directly to the resource
12 specialist. You first address the administration. And
13 then they, I believe, address it to the research
14 specialist.

15 Q. That's Roberto we are talking about right?

16 A. Roberto Gonzalez.

17 Q. And you approached Roberto's situation with the
18 school administration; correct?

19 A. Correct.

20 Q. But you never approached the resource specialist
21 program about Roberto's situation; correct?

22 A. There was a brief discussion indirectly, not
23 going to their office, but just in passing with a
24 resource specialist, I recall, in between the recess.

25 Q. Was that a planned meeting with the resource

1 specialist that you made?
 2 A. No. It was just a casual him going one way and
 3 me going the other and came face-to-face and just spoke
 4 briefly for a few seconds.
 5 Q. What did you say to him and what did he say to
 6 you during that conversation?
 7 A. That I don't recall.
 8 Q. What was the resource specialist's name that you
 9 discussed Roberto's situation with?
 10 A. I don't recall his last name. He was not a
 11 teacher with the rest of the teachers. I remember his
 12 first name, Brian.
 13 Q. Did you have any other occasion to interact with
 14 the resource specialist at Gulf?
 15 A. No.
 16 Q. Do you see Ms. Boysal's criticism of the
 17 principal in paragraph 15 of her declaration where she
 18 says "Our principal does not know how to operate a
 19 computer. She does not speak Spanish and is unable to
 20 communicate with parents. She never visits classrooms or
 21 interacts with students"? Do you see that?
 22 A. Yes, I do.
 23 Q. Is that an accurate characterization of
 24 Ms. Buettgenbach's --
 25 A. Give me a few seconds to read what's written

1 down, please.
 2 Q. Please take as much time as you need.
 3 A. Yes, I would say that's accurate.
 4 MR. FOX: I don't think that he had finished his
 5 question.
 6 BY MR. ROZWOOD:
 7 Q. Well, the statements in paragraph 15 regarding
 8 Ms. Buettgenbach, are those accurate?
 9 A. Yes, I would say they are accurate.
 10 Q. It is accurate that Ms. Buettgenbach never
 11 visits classrooms or interacts with students?
 12 MR. FOX: To your knowledge.
 13 THE WITNESS: To my knowledge, the times that
 14 she has visited my classrooms has been just to -- for
 15 purposes of evaluating me.
 16 BY MR. ROZWOOD:
 17 Q. So that's inaccurate. Are there any other
 18 inaccurate statements?
 19 MR. FOX: Argumentative.
 20 BY MR. ROZWOOD:
 21 Q. I just want you to look carefully because you
 22 said it was accurate. We asked you a follow-up question
 23 and you said "Well, she has come to my classroom."
 24 I just want to make sure there is nothing else
 25 inaccurate.

1 MR. FOX: Let's get a clear record.
 2 BY MR. ROZWOOD:
 3 Q. Take your time.
 4 MR. FOX: I am not going to tell you how to ask
 5 your questions, but was the class there, for example, or
 6 did she just come to see you.
 7 BY MR. ROZWOOD:
 8 Q. Of course. I mean this is during your
 9 evaluation of your teaching, right? She has come to your
 10 class. We talked about this last time.
 11 I just want the record to be accurate and
 12 complete and fair and I want you to take your time. If
 13 there is something inaccurate about these statements, I
 14 would like, you know, you to tell us.
 15 A. Okay. Well I would say the last statement, "she
 16 never visits classrooms" would have to be inaccurate
 17 because several teachers are evaluated and she has to
 18 visit the classroom on those occasions.
 19 The interacts with students, I would agree, she
 20 never interacts with students.
 21 Q. Have you ever seen Ms. Buettgenbach
 22 communicating with parents?
 23 A. No.
 24 Q. Do you have any knowledge as to whether or not
 25 Principal Buettgenbach knows how to operate a computer?

1 A. She doesn't know how to operate it to my
 2 knowledge, a computer.
 3 Q. Do you see anything else that's inaccurate about
 4 paragraph 15 in Ms. Boysal's declaration?
 5 A. Whether or not she has been a principal and she
 6 has not taught for 20 years, I don't know. And whether
 7 or not she has ever taught above grade two, I don't know.
 8 Q. Okay, thank you.
 9 MR. FOX: Let's take a quick break.
 10 THE WITNESS: I need to use the restroom.
 11 MR. ROZWOOD: Sure. Feel free.
 12 (Recess taken.)
 13 MR. ROZWOOD: I would like to go back on the
 14 record and mark the next document as Exhibit 11 bearing
 15 Bates stamp Nos. DT-LA 23642 through 24036.
 16 (Deposition Exhibit 11 was marked
 17 for identification and attached.)
 18 MR. FOX: Is this one copy?
 19 MR. ROZWOOD: Yes.
 20 Q. Do you have a copy of Exhibit 11 in front of
 21 you?
 22 A. Yes, I do.
 23 Q. Have you seen this document before?
 24 A. Yes, I have.
 25 Q. And what is it?

1 A. It's Policy Handbook.
 2 Q. Is this a document that is provided to all
 3 faculty and staff at Gulf?
 4 MR. FOX: Calls for speculation.
 5 THE WITNESS: All teachers.
 6 BY MR. ROZWOOD:
 7 Q. Is this a document that has been prepared -- let
 8 me ask you this way. Have you received this document
 9 from the administrators at Gulf?
 10 A. Yes.
 11 Q. When did you first receive it?
 12 A. I didn't have it when I first started teaching.
 13 I recall that. I got it sometime during the '98-'99
 14 school year.
 15 Q. Do you have an understanding as to what the
 16 purpose of this document is?
 17 MR. FOX: Vague and ambiguous.
 18 THE WITNESS: It's just a school policy
 19 handbook.
 20 BY MR. ROZWOOD:
 21 Q. Is it the school's statement of the policies
 22 that apply to its operations?
 23 A. Part of it, yes.
 24 Q. What are the other parts?
 25 A. The other parts are --

1 MR. FOX: Vague and ambiguous. The best
 2 evidence is the documents so --
 3 THE WITNESS: The materials, it's all listed
 4 right here under section titles.
 5 BY MR. ROZWOOD:
 6 Q. What is the Bates stamp number of the Bates
 7 stamp you referring to?
 8 A. DT-LA 23643, the second page from the cover.
 9 Q. Do you see on the page you referred to, No. 19,
 10 referring to supplies?
 11 A. Yes.
 12 Q. Do you know if the school has a policy regarding
 13 supplies?
 14 A. Yes.
 15 Q. Do you know what that policy is?
 16 A. Yes.
 17 Q. And what is it?
 18 A. It's a form that you fill out and submit.
 19 Q. Have you ever filled out one of those forms?
 20 A. Yes, I have.
 21 Q. Have you received the supplies that you have
 22 requested?
 23 A. Some of them.
 24 Q. On what occasions where you filled out a supply
 25 form did you not receive the requested supplies?

1 MR. FOX: Overbroad, compound, complex.
 2 THE WITNESS: Many occasions.
 3 BY MR. ROZWOOD:
 4 Q. And what did you do?
 5 A. Just went out and bought them myself.
 6 Q. Did you ever raise the school's failure to
 7 provide you with your requested supplies with anyone?
 8 A. Yes.
 9 Q. Who did you raise the school's failure with?
 10 A. The same people that were mentioned before.
 11 Maggie, the principal.
 12 Q. Other than your testimony that you previously
 13 provided on the school supplies issue, is there anyone
 14 else who you raised the school supplies issue with at
 15 Gulf?
 16 A. Not that I can recall.
 17 Q. Is there anything in this policy handbook to
 18 your knowledge that the school fails to follow or comply
 19 with?
 20 MR. FOX: Vague and ambiguous, hopelessly
 21 overbroad. It's a 200-page document and you just gave it
 22 to him a few minutes ago.
 23 MR. ROZWOOD: He says he has had the document
 24 for two years. It is the policy handbook that applies to
 25 his work at Gulf. He didn't just see it for the first

1 time.
 2 MR. FOX: It is an overbroad question.
 3 MR. ROZWOOD: Not on that ground.
 4 Q. I am asking if there is anything to your
 5 knowledge that's in the handbook that states a policy
 6 that the school doesn't comply with.
 7 MR. FOX: Overbroad, vague and ambiguous.
 8 THE WITNESS: I am sure there's many if I went
 9 through this page by page.
 10 BY MR. ROZWOOD:
 11 Q. Well, have you ever done that in the past?
 12 A. Gone page by page? No.
 13 Q. Reviewed the policy handbook for instances in
 14 which the school failed to comply with its own policies.
 15 A. I have looked at it at times, yes.
 16 Q. And have you ever found occasions where the
 17 school has failed to comply with its own policies?
 18 A. Yes.
 19 Q. Can you think of any of those occasions as you
 20 sit here today?
 21 A. That we referred to supplies.
 22 Q. Other than the supplies, can you think of any
 23 other areas where that's the case?
 24 A. Not that I recall.
 25 MR. ROZWOOD: I would like to mark as Exhibit 12

1 a document bearing Bates stamp Nos. DT-LA 23291 through
 2 23309.
 3 (Deposition Exhibit 12 was marked
 4 for identification and attached.)
 5 BY MR. ROZWOOD:
 6 Q. Mr. Ibarra, do you still have a copy of
 7 Exhibit 11, the employee handbook?
 8 A. Yes, I do.
 9 Q. Can you turn to page DT-LA 23732 for a moment,
 10 please.
 11 MR. FOX: In the handbook?
 12 THE WITNESS: In the handbook?
 13 BY MR. ROZWOOD:
 14 Q. Yes?
 15 A. Can you repeat the number again.
 16 Q. Yes 23732. It is about a third of the way
 17 through, maybe a fourth, between a third and a fourth of
 18 the way through.
 19 MR. FOX: It is a double-sided page.
 20 BY MR. ROZWOOD:
 21 Q. Yeah.
 22 A. Okay.
 23 Q. It is actually a double-sided page as your
 24 counsel points out beginning with 23731 and going on to
 25 23732. Do you have that in front of you?

1 A. Yes, I do.
 2 Q. You see on page 23732 in the heading marked with
 3 Roman numeral VI where it says "School Site Council"?
 4 A. Yes.
 5 Q. And your name is listed under School Site
 6 Council. Do you see that?
 7 A. Yes.
 8 Q. Are you a member of the School Site Council?
 9 A. Yes.
 10 Q. And how long have you been a member of the
 11 School Site Council?
 12 A. These were -- took place in July, 2001. I just
 13 recently joined up for that committee.
 14 Q. Were you aware of the existence of the School
 15 Site Council prior to your joining it in July of 2001?
 16 A. Yes.
 17 Q. Do you see on page 23731 on the other page of
 18 that two-sided document where it says "School-Based
 19 Management Leadership Council" in heading No. 3?
 20 A. Yes.
 21 Q. Were you aware of the existence of a
 22 School-Based Management Leadership Council prior to your
 23 joining the School Site Council in July 2001?
 24 A. Yes.
 25 Q. Other than what you have testified in your

1 deposition, have you sought to become involved in the
 2 activities or operation of the School-Based Management
 3 Leadership Council?
 4 MR. FOX: Vague and ambiguous.
 5 THE WITNESS: Not the School-Based Management,
 6 no.
 7 BY MR. ROZWOOD:
 8 Q. Do you have an understanding as to what the
 9 purpose or function of that leadership council is?
 10 A. No.
 11 Q. Have you ever sought to understand the purpose
 12 or function of the School-Based Management Leadership
 13 Council from anybody at Gulf?
 14 A. No.
 15 MR. ROZWOOD: I'm sorry, excuse me. Let's go
 16 off the record for a second
 17 (A discussion was held off the record.)
 18 MR. ROZWOOD: Let's go back on the record.
 19 Q. Do you have a copy of Exhibit 12?
 20 A. Yes, I do.
 21 Q. Great. Do you recognize Exhibit 12?
 22 A. Yes.
 23 Q. What is it?
 24 A. They look like prior agenda meetings.
 25 Q. Agenda meetings for what?

1 A. For teachers' meetings.
 2 Q. How often does Gulf Avenue have teachers'
 3 meetings?
 4 A. It varied. In the last two years, I would say
 5 we had a teachers' meeting once every -- at least once a
 6 month. And now with the recent district and union
 7 agreement, we have them a lot more often.
 8 Q. How much more often?
 9 A. We have district meetings, staff meetings every
 10 Tuesday.
 11 Q. And that's as a result of the new Collective
 12 Bargaining Agreement?
 13 A. To my knowledge, yes.
 14 Q. Do you attend those meetings?
 15 A. Yes, I do.
 16 Q. Can you look in Exhibit 12, can you look at a
 17 page a few pages in marked 23294. Do you see that page?
 18 A. Yes, I do.
 19 Q. Are the names listed in the chart in the middle
 20 of the page, are those teachers' names?
 21 A. Yes, they are.
 22 Q. And those are teachers that teach on the B and C
 23 tracks?
 24 A. Correct.
 25 Q. In their respective B and C columns?

1 A. Yes, they are.
 2 Q. And rows K, 1, 2, 3, 4, 5 are the grades those
 3 teachers teach in?
 4 A. Correct.
 5 Q. And the agenda is listed in the Roman numerals
 6 item I, II, III; correct?
 7 A. Correct.
 8 Q. So for this meeting on July 25, 2000, the topics
 9 covered were attendance, policies, cumulative records and
 10 announcements; correct?
 11 A. Correct.
 12 Q. Can you turn to the page marked 23298. Do you
 13 see page 23298?
 14 A. Yes, I do.
 15 Q. Do you see where it says at the top in the
 16 heading "8-22 - 8-24"?
 17 A. Yes, I do.
 18 Q. Is that because the teachers' meeting or faculty
 19 meeting went over multiple days?
 20 A. I don't know what year this is. It looks like
 21 these are B track teachers' names and these meetings took
 22 place on pupil-free days, which are similar to the
 23 meetings that when I go back to work tomorrow, we will
 24 have two says of meetings prior to the kids arriving.
 25 These meetings were held after students had left.

1 Q. Okay. So you see how teachers are broken down
 2 by day at the bottom of the chart, some teachers meeting
 3 it seems on Tuesday and others on Wednesday or Thursday?
 4 A. Correct, I do see that.
 5 Q. And your name appears on the list for Thursday,
 6 8-24; correct?
 7 A. Correct.
 8 Q. And so this is a faculty meeting at which you
 9 attended with the other people in that column for fourth
 10 and fifth grade teachers; correct? Am I reading it
 11 correctly?
 12 A. Correct.
 13 Q. Do you recall why the B track teachers from K
 14 through 5 were divided into three different days?
 15 A. I am looking at this. I was incorrect saying
 16 that this was a pupil -- that these were pupil-free days.
 17 What I recall is that -- actually this may have been
 18 where just these teachers listed in row K through 1 were
 19 released from their duties of teaching and met in the
 20 library, which it says up on top, and went through the
 21 cums, the student records, so I think this took place
 22 during school hours.
 23 Q. Do you know what the purpose of the meeting is?
 24 A. According to the agenda, it looks like we
 25 were -- I can't recall exactly, but we got the student

1 cums. We looked at them, which means we opened them, put
 2 down the enter dates and wrote down their Stanford --
 3 actually affixed a sticker of their past Stanford 9 test
 4 scores.
 5 Q. What does it mean under heading No. 1-B, special
 6 services?
 7 MR. FOX: Calls for speculation.
 8 BY MR. ROZWOOD:
 9 Q. If you know.
 10 A. I don't recall.
 11 Q. Looking at this piece of paper doesn't refresh
 12 your recollection about what that might mean?
 13 A. No.
 14 MR. ROZWOOD: I would like to mark as Exhibit 13
 15 a document bearing Bates stamp Nos. DT-LA 23346 through
 16 23348.
 17 (Deposition Exhibit 13 was marked
 18 for identification and attached.)
 19 BY MR. ROZWOOD:
 20 Q. I want to ask you how this document relates to
 21 the policy handbook that we reviewed earlier in your
 22 deposition.
 23 My question is, are the assignments to these
 24 various committees, do these change periodically?
 25 A. Yes, they do.

1 Q. You see where it says on Exhibit 13 at the top
 2 of page 23346 "Revised 10/00," October 2000?
 3 A. Yes, I do.
 4 Q. How often are these assignments revised at Gulf,
 5 if you know?
 6 A. I don't know.
 7 Q. Do you recall how often you received a list of
 8 the adjunct professional duties at Gulf over a given
 9 school year?
 10 A. No, I do not.
 11 Q. Did you receive a list such as this every year
 12 you were there?
 13 A. Yes.
 14 Q. Is this a list that you referred to occasionally
 15 if you need to identify someone responsible for a given
 16 area of the school's operations?
 17 A. Not necessarily.
 18 Q. When you decided to approach the local Area
 19 District K -- I'm sorry. How do you refer to it again?
 20 Is it Local District K or --
 21 A. They are constantly changing. It was a cluster
 22 and I believe now they are -- I think now it is referred
 23 to as District K.
 24 Q. District K. When you first approached the
 25 officials at District K, how did you identify who those

1 were?

2 A. I just knew just from working at District K
3 offices there and just knew who the area superintendent
4 was.

5 Q. Where did you gain that information? Was it
6 through the faculty meetings or was it through the policy
7 handbook or was it some other way?

8 A. Actually I don't recall. It's just one of those
9 things that teachers just know.

10 MR. ROZWOOD: I would like to mark as Exhibit 14
11 a document bearing Bates stamp Nos. DT-LA 23376 through
12 23379.

13 (Deposition Exhibit 14 was marked
14 for identification and attached.)

15 BY MR. ROZWOOD:

16 Q. Do you recognize this document?

17 A. Let's see. Yes. It looks like a professional
18 development agenda.

19 Q. Is that the professional development of the
20 teachers at Gulf?

21 A. Yes.

22 Q. Can you describe the approach that Gulf takes
23 with respect to professional development of its teachers
24 as evidenced by this document in Exhibit 14.

25 MR. FOX: Vague and ambiguous. The document

1 BY MR. ROZWOOD:

2 Q. Can you look on page 23377, the second page of
3 Exhibit 14 where your name is listed on the bottom right.

4 A. Uh-huh.

5 Q. The heading on that page is "Track B Classroom
6 Visitations," and I am just wondering if you can explain
7 how this chart is supposed to work with respect to your
8 name on that chart.

9 A. Well, I don't recall seeing this chart before,
10 but the way it's set up, it appears that grade 4 teachers
11 would come into -- I'm sorry. It looks like I would as a
12 fourth grade teacher -- actually I can't figure out what
13 this means because I don't know why it says
14 "fourth/fifth."

15 Q. Okay.

16 A. It is odd because it says March the 5th, 2001
17 and it says "Fourth and fifth." I only teach fifth grade
18 now, but what they mean to say, that if I taught -- I
19 would go from fourth grade into room 29 to 26.

20 MR. FOX: Calls for speculation.

21 THE WITNESS: I'm not sure.

22 BY MR. ROZWOOD:

23 Q. Okay. You are not sure.

24 What room number were you teaching at the time
25 of this document? I'm sorry. Strike that.

1 speaks for itself.

2 THE WITNESS: In this case, teachers were
3 invited to observe other teachers teaching.

4 BY MR. ROZWOOD:

5 Q. Anything else?

6 A. There's some discussion about, it says here
7 "long-range planning and integration of Open Court
8 reading, progress with Stanford 9 test content."

9 Q. Did you receive a copy of this document? Have
10 you seen this document before today?

11 A. I can't recall if specifically I've seen this.
12 I am sure I have.

13 Q. Is this something that would normally be
14 provided to teachers at Gulf?

15 A. Yes.

16 MR. FOX: Calls for speculation.

17 BY MR. ROZWOOD:

18 Q. Have you seen documents that look like this
19 document Exhibit 14 before?

20 A. Yes, I have.

21 Q. Is there an emphasis at Gulf on improving
22 student achievement today?

23 MR. FOX: Vague and ambiguous.

24 THE WITNESS: I don't know what the
25 administration is -- if that's their goal or not.

1 What room were you teaching your fifth graders
2 in as of March 5, 2001? I have a copy of the map, too,
3 if you want to look at it. If it helps you, I can show
4 you a copy.

5 A. I believe I was in 23, but the map will help me,
6 yeah.

7 Q. This is Exhibit 2 that you have looked at
8 before.

9 A. Let's see. It says March 5, 2001. It would be
10 upstairs and the rotating rooms would be -- let's see.
11 It would be 23 and 20 according to this map.

12 Q. 23 and 20 were the rooms that you were teaching
13 as of March 5, 2001?

14 A. Correct. Because I roved back and forth from
15 room to room through the adjoining door.

16 Q. Does looking at the map help you figure out what
17 this Exhibit 14 is referring to in the chart on page 2?

18 A. No. I have never seen this. It may have been I
19 was absent that day.

20 Q. Okay. It was worth a try. Thanks for looking.

21 I would like to mark as Exhibit 15 a document
22 bearing Bates stamp Nos. DT-LA 23409 through 23416.
23 (Deposition Exhibit 15 was marked
24 for identification and attached.)

25 BY MR. ROZWOOD:

1 Q. Do you have a copy of the Exhibit 15?
 2 A. Yes, I do.
 3 Q. Have you seen this document before?
 4 A. I have seen the earthquake preparedness form
 5 before. I can't say that I have seen this particular
 6 one, this revised addition, it looks like.
 7 Q. Do you see on page 23410 --
 8 A. Actually strike that back. The reason why this
 9 looks unfamiliar is I have seen it before, but this takes
 10 place on Friday, April the 6th which is when I am off
 11 track. I don't teach March and April. I have always
 12 been on B track at that school so I have never dealt with
 13 the earthquake preparedness shake.
 14 Q. If you turn to page 23410 where it lists Gulf
 15 Avenue's Emergency Organization Plan Teams for 2000-2001.
 16 A. Yes, I see that page.
 17 Q. Have you received this list of emergency
 18 organization plan teams during your time at Gulf?
 19 A. Yes.
 20 Q. And it says you are on Team IV of the sweep and
 21 rescue team at the bottom; correct?
 22 A. Correct.
 23 Q. Can you describe what that team does?
 24 A. That was never discussed to me as a teacher.
 25 Q. You have no idea what the sweep and rescue team

1 is?
 2 A. Other than speculating that sweep and rescue is
 3 that we just sweep and rescue, but an actual emergency, I
 4 wouldn't know what to do.
 5 Q. Do you see where it says on the top left of the
 6 that page "School Site Safety Committee"?
 7 A. Yes, I do.
 8 Q. When you became concerned about the broken glass
 9 and bottles and other objects the children were picking
 10 up during the School Beautification, did you ever notify
 11 anyone on the School Site Safety Committee?
 12 A. Yes, I did.
 13 Q. And other than the conversations you have
 14 previously testified to, what did you tell them?
 15 MR. FOX: Vague and ambiguous.
 16 THE WITNESS: I would have to say I told them
 17 exactly what I said in the prior testimony.
 18 BY MR. ROZWOOD:
 19 Q. Okay. So you have nothing to add to your
 20 previous testimony on that point?
 21 A. No.
 22 Q. When you received this and you noticed your name
 23 was on the sweep and rescue team, did you ever ask anyone
 24 what you were supposed to do as part of that team?
 25 MR. FOX: Lacks foundation.

1 THE WITNESS: No.
 2 BY MR. ROZWOOD:
 3 Q. Why not?
 4 A. Just it never came up where we met as a team to
 5 bring it up as an issue. In order for me to bring it up,
 6 I would have to have members in team I, II, III and IV
 7 present to discuss what we were going to do. Because of
 8 the year-round scheduling. When I am on vacation, they
 9 are on and vice versa.
 10 Q. Okay. I am going to go off the record for a
 11 second. Actually, let's go ahead and keep going.
 12 Have you ever spoken with Maria Arreola,
 13 A-r-r-e-o-l-a?
 14 A. I think I have spoken with her regarding her
 15 daughter's -- her daughter was in my classroom. The name
 16 sounds familiar. It is the parent of one of my children,
 17 one of my students.
 18 Q. When did you speak with her, to Ms. Arreola?
 19 A. I think she popped into one of the
 20 back-to-school nights or conferencing, student/parent
 21 conferencing or student/teacher/parent conferencing
 22 rather.
 23 Q. What is the difference between the
 24 back-to-school night and the teacher/student/parent
 25 conferencing?

1 A. Back-to-school night is held in the evening and
 2 conversation with the parent is kept at a minimum. And
 3 at that time you just present your course description for
 4 the year. And student conferences are when you meet
 5 hopefully with every one of your parents and you speak
 6 about the progress that the child is making, what their
 7 grades are, et cetera.
 8 Q. And do you recall speaking with Ms. Arreola at
 9 one of the conferences? I mean, sorry, at one of your
 10 parent conferences?
 11 A. Yes.
 12 Q. Do you recall what was discussed regarding your
 13 student? What was the name of the student?
 14 A. That I can't. It doesn't come to mind right
 15 now.
 16 Q. Was it Erica Hernandez?
 17 A. That's what it was, yes.
 18 Q. Do you recall what your discussion with
 19 Ms. Arreola was regarding her daughter Erika?
 20 A. Without my grade book, if we talked about her,
 21 it's hard for me to say exactly what I said about her
 22 grades, but I know that she was a good student,
 23 well-behaved, turned in her homework. We just talked
 24 about her basic things that she was doing in the
 25 classroom.

1 Q. Did Ms. Arreola express any concerns to you
2 regarding the conditions at Gulf Avenue?
3 A. No.
4 Q. Did Erica ever express any concerns to you about
5 the conditions at Gulf Avenue?
6 A. No.
7 Q. Do you have any knowledge regarding Gulf Avenue
8 Elementary School's eligibility for the Intermediate
9 Intervention Underperforming Schools Program, IIUSP?
10 MR. FOX: Vague and ambiguous.
11 THE WITNESS: Never heard of that.
12 BY MR. ROZWOOD:
13 Q. Do you have any knowledge as to whether or not
14 Gulf Avenue's available for a program entitled "Program
15 Improvement"?
16 A. I don't know.
17 Q. Have you ever heard of that program before?
18 A. I have heard of the name.
19 Q. Do you know what it is?
20 A. No.
21 Q. Have you heard of the Public Schools
22 Accountability Act?
23 A. No.
24 Q. You have testified over the course of your
25 deposition to a number of instances in which you elevated

1 outside of the school? Strike that. That's a terrible
2 question.
3 Other than what you previously testified to in
4 your deposition, have you raised your concerns regarding
5 the learning conditions at Gulf Avenue with any officials
6 at the Los Angeles Unified School District?
7 MR. FOX: Objection. Vague and ambiguous.
8 Overbroad.
9 THE WITNESS: Not to my knowledge. I don't
10 recall.
11 BY MR. ROZWOOD:
12 Q. Have you ever raised your concerns regarding the
13 learning conditions at Gulf Avenue Elementary School with
14 anyone at the Department of Education, California
15 Department of Education?
16 A. Yes. I did make a phone call once.
17 Q. To who?
18 A. I don't think I got further than the secretary.
19 Q. The person who answered the phone?
20 A. Yeah.
21 Q. Do you recall her name?
22 A. No.
23 Q. Why didn't you get further than the person who
24 answered the phone?
25 MR. FOX: Calls for speculation.

1 your concerns beyond the local school site administration
2 to local District K officials; correct?
3 A. Correct.
4 Q. Other than the ones you have testified to so far
5 in your deposition, can you think of any other instances
6 where you have elevated your concerns regarding the
7 conditions at your school to someone at the local
8 district level, the big district level or any other
9 administrative level in California?
10 MR. FOX: Objection. Vague and ambiguous,
11 overbroad, compound, complex.
12 THE WITNESS: Not that I can recall, no.
13 BY MR. ROZWOOD:
14 Q. Do you understand my question?
15 A. You are asking if I had contacts with other
16 people at the district regarding my concerns?
17 Q. Yes.
18 A. Not that I can recall other than Mr. Sandoval.
19 Q. So other than the instances we have specifically
20 discussed in your deposition where you have communicated
21 with Mr. Sandoval, and I think you mentioned someone else
22 from the local district, I am trying to think now --
23 strike that question.
24 Have you ever raised your concerns regarding
25 instructional materials at Gulf Avenue with anyone

1 BY MR. ROZWOOD:
2 Q. If you know.
3 A. Just she just couldn't answer my question.
4 Q. What was your question?
5 A. I asked if the new classroom size that the
6 governor stated, 20 to one, who I could speak to when the
7 classrooms had more than 20 to one.
8 Q. And what did she tell you?
9 A. She just didn't know who to send me to.
10 Q. And what did you do then?
11 MR. FOX: Vague and ambiguous.
12 THE WITNESS: Just -- didn't do anything, made
13 no further contact.
14 BY MR. ROZWOOD:
15 Q. Did you ever communicate your concerns about the
16 impact of the Classroom Size Reduction Program to anyone
17 at the Los Angeles Unified School District?
18 MR. FOX: Mischaracterizes testimony.
19 Argumentative. Vague and ambiguous.
20 THE WITNESS: I don't recall. No.
21 BY MR. ROZWOOD:
22 Q. Did you ever raise concerns about classroom size
23 with anyone at local District K?
24 A. Not that I recall, no.
25 Q. Did you ever raise any concerns about classroom

1 size at the school Gulf Avenue?
 2 A. Yes.
 3 Q. Who did you raise those concerns with?
 4 A. The principal.
 5 Q. Other than the Principal Buettgenbach, did you
 6 raise those concerns with anyone else?
 7 A. No.
 8 Q. What did Ms. Buettgenbach tell you?
 9 A. I don't recall what she said.
 10 Q. What did you tell her?
 11 A. I told her that I was concerned that some of the
 12 classrooms had beyond -- it was beyond 25 students in the
 13 lower grades on their class rosters.
 14 Q. Is that something that persisted over time or
 15 was just at the outset of a semester prior to, you know,
 16 balancing of the student class size?
 17 A. As I speak right now, I think it exists right
 18 now or at least it was when I went on vacation in late
 19 August.
 20 Q. Was this complaint that you made recently?
 21 A. Yes.
 22 Q. And prior to that complaint, that recent
 23 complaint, did you ever have any other conversations with
 24 Ms. Buettgenbach about the class size problems at Gulf
 25 Avenue?

1 A. No.
 2 Q. Do you recall when you made -- strike that.
 3 You said you made this complaint recently. How
 4 recently?
 5 A. It was either in July or August of 2001.
 6 Q. And your complaint was just related to the
 7 student rosters, correct, not the actual classrooms?
 8 MR. FOX: Vague and ambiguous.
 9 THE WITNESS: It was both.
 10 BY MR. ROZWOOD:
 11 Q. Were you in session in July or August 2001?
 12 A. Yes, I was.
 13 Q. So your classes had more than 25 students in the
 14 class; correct?
 15 A. No. My classroom, I teach grade 5 so my
 16 classrooms always have more than 25 students.
 17 Q. So you were talking about other classrooms?
 18 A. I was talking about grades 1 through 3.
 19 Q. You don't teach grades 1 through 3; correct?
 20 A. No, I do not.
 21 Q. Other than the instances we have discussed so
 22 far in your deposition, can you think of anything else
 23 you have complained about to the California Department of
 24 Education?
 25 A. No, not that I can recall.

1 Q. Can you think of anything regarding the
 2 conditions at Gulf Avenue that you complained about to
 3 the Los Angeles Unified School District that we haven't
 4 already discussed in your deposition?
 5 A. No.
 6 Q. And just for the sake of closure, I want to ask
 7 the same question with respect to the local District K.
 8 Is there anything else that you have complained about to
 9 the local District K officials regarding the conditions
 10 at Gulf Avenue?
 11 A. Not that I recall at the moment.
 12 MR. ROZWOOD: Okay. I need to take a short
 13 break.
 14 (Recess taken.)
 15 MR. ROZWOOD: Let's go back on the record.
 16 Q. Mr. Ibarra, do you have any involvement in the
 17 chorus program at Gulf Avenue?
 18 A. As in a teacher role or my students going to
 19 chorus?
 20 Q. I am just interested in your involvement, if you
 21 have any direct involvement personally.
 22 A. No.
 23 Q. Does the chorus program interfere with the
 24 students' ability to learn the subject matter at Gulf?
 25 MR. FOX: Vague and ambiguous.

1 THE WITNESS: We hardly ever go to chorus.
 2 BY MR. ROZWOOD:
 3 Q. What is chorus?
 4 A. Well, it was originally that the entire school
 5 body would get a chance to participate in some kind of
 6 music program. We had no books. And it started off with
 7 classrooms going different times throughout the day,
 8 throughout the week when the music teacher was there,
 9 which is just a short time period. It wasn't every
 10 single week. And they would go in there and do some
 11 music lessons.
 12 And what we have now is no kids being served in
 13 music. The only kids that are being served through the
 14 music teacher are those that volunteered for either what
 15 is called the "kabooze," the little plastic ornaments.
 16 MR. FOX: Kazoo?
 17 THE WITNESS: Yeah, kazoo. Actually that was
 18 stopped also. Actually kids who volunteered to sing go
 19 to chorus.
 20 BY MR. ROZWOOD:
 21 Q. Move to strike as nonresponsive your answer.
 22 What is your involvement in the chorus program
 23 at Gulf Avenue?
 24 MR. FOX: Assumes facts. Asked and answered.
 25 THE WITNESS: I have no personal involvement as

1 a teacher.
 2 BY MR. ROZWOOD:
 3 Q. What is Gulf Avenue recorders?
 4 A. That's the instrument I was talking about,
 5 recorders.
 6 Q. And that program has been discontinued?
 7 A. Yes.
 8 Q. To your knowledge, does the chorus program or
 9 the recorder, former recorder program, did either of
 10 those programs interfere with your students' work in your
 11 class?
 12 MR. FOX: Vague and ambiguous.
 13 THE WITNESS: The recorders no longer exist.
 14 Chorus does, yes.
 15 BY MR. ROZWOOD:
 16 Q. How so?
 17 A. When kids leave the classroom, I believe it's
 18 one set leaves on Thursday. Another set leaves on
 19 Friday. One track leaves on Thursday, one track leaves
 20 on Friday. And they miss I would say about an hour of
 21 the classroom time.
 22 Q. Every week?
 23 A. Not every week, no.
 24 Q. Approximately how much time per month does a
 25 student that participates in Gulf Avenue chorus miss?

1 A. That's difficult to answer only because the
 2 music teacher is not there throughout the year. She
 3 comes in different increments of time. And I never am
 4 quite sure when that time is. So at the height, they
 5 miss every week for a month.
 6 Q. An hour every week for a month?
 7 A. Yes.
 8 Q. And during the low time?
 9 A. It could be they miss no time at all. The music
 10 teacher is not there.
 11 Q. So in your experience, students can miss up to
 12 as much as an hour a week for a month at a time if they
 13 participate in the chorus program?
 14 A. Correct.
 15 Q. And how about when the recorder program was in
 16 existence last year? How much class time did the
 17 students miss by participating in that class or in that
 18 program?
 19 A. I can't recall. I can't recall how much time
 20 for recorders.
 21 Q. Can you describe how the recorder program
 22 worked, to your knowledge?
 23 A. The music teacher came into classrooms, my
 24 classroom, and asked students if they wanted to
 25 participate in recorders. And they were given forms to

1 fill out, parents' signature, and it was brought back to
 2 me and I submitted it to the music teacher.
 3 Q. And then for the students who wanted to
 4 participate, how did they go about involving themselves
 5 in the program?
 6 A. Well, not all of them got to participate because
 7 there was just too many. So I believe I had to choose
 8 five got to go from my room.
 9 Q. How did you choose those five?
 10 A. The music teacher told me to just pick
 11 nonbehavior problems and pick kids that were good in
 12 academic areas.
 13 Q. And you picked five from your class for your
 14 fifth grade class?
 15 A. Yes.
 16 Q. Did all five of those students continue with the
 17 recorders program throughout the school year?
 18 A. No.
 19 Q. What happened?
 20 A. I don't know. For some reason they just became
 21 discouraged and they just wanted to leave.
 22 Q. And with respect to the students that stayed on,
 23 can you give us your best estimate as to how much class
 24 time they missed as a result of the program?
 25 A. I would have to say like chorus, the maximum

1 would be one hour a week for four weeks or a month. And
 2 sometimes it didn't go at all.
 3 Q. Last time we talked about documents that were
 4 provided by the school administration to the teachers,
 5 either through their mailboxes or otherwise. Do you
 6 recall that?
 7 A. Vaguely.
 8 MR. ROZWOOD: I would like to mark as Exhibit 16
 9 a document stamped "PLTF 01434 to 01435."
 10 (Deposition Exhibit 16 was marked
 11 for identification and attached.)
 12 BY MR. ROZWOOD:
 13 Q. Do you have a copy of Exhibit 16?
 14 A. Yes, I do.
 15 Q. Do you recognize this document?
 16 A. Yes, I do.
 17 Q. What is it?
 18 A. It's our weekly news bulletin.
 19 Q. How do you receive this on a weekly basis?
 20 A. They are placed in our mailbox.
 21 Q. You see under "Performance Assessments," you see
 22 that heading on the first page?
 23 A. Yes.
 24 Q. It says "Teachers continue assessments and score
 25 students work according to rubrics."

1 Do you know what that refers to?
 2 A. I could estimate, not say exactly, but it refers
 3 to the district testing.
 4 Q. What does the term "rubrics" refer to?
 5 A. That's a grading scale that's used in education.
 6 Q. Are there a specific set of rubrics teachers
 7 were asked to use in assessing their students'
 8 performance?
 9 A. Not specifically, no.
 10 Q. Does the term to your knowledge, if you know,
 11 does the term "rubrics" in this document refer to
 12 anything in particular or just a general set of
 13 guidelines for grading?
 14 MR. FOX: Calls for speculation.
 15 THE WITNESS: I don't know.
 16 BY MR. ROZWOOD:
 17 Q. Do you see on the second page marked "01435"
 18 there is a meeting at 3:00 o'clock; it says "SBMLC
 19 Meeting in Library?"
 20 A. No, I don't.
 21 Q. At the top. It is under Wednesday, June 7th?
 22 It is in a box actually.
 23 A. Okay, yes. I see it now.
 24 Q. Do you know what that refers to?
 25 A. I believe that's an acronym for School-Based

1 a reason why there is a box around this and there is a
 2 box around the School-Based Management Leadership Council
 3 meeting.
 4 MR. FOX: Calls for speculation.
 5 THE WITNESS: I don't know.
 6 BY MR. ROZWOOD:
 7 Q. Approximately how many of these types of
 8 documents have you received over your tenure at Gulf
 9 Avenue?
 10 A. You get one every week.
 11 Q. Have you ever sought to include any items in the
 12 weekly agenda?
 13 A. To my knowledge, teachers are not allowed to
 14 include items in the agenda.
 15 Q. On what do you base your knowledge?
 16 A. No teacher ever asked, no notes from
 17 administration. There is not one note in here from a
 18 teacher.
 19 Q. Have you ever seen information from a teacher in
 20 the weekly agenda?
 21 A. None that I recall, no.
 22 Q. Have you ever personally sought to include any
 23 information in the weekly agenda at Gulf?
 24 A. I'm sorry, I didn't hear you.
 25 Q. Have you ever personally sought to include any

1 Management Leadership Council.
 2 Q. And is this the way in which -- am I correct in
 3 assuming that this document is one way in which the
 4 administration keeps its staff informed of the meeting
 5 dates and times for the School-Based Management
 6 Leadership Council?
 7 A. Yes.
 8 Q. Are there any other ways in which the
 9 administration keeps its staff advised of those meetings?
 10 MR. FOX: Calls for speculation.
 11 THE WITNESS: Not that I recall, no.
 12 BY MR. ROZWOOD:
 13 Q. Do you see on the front page of Exhibit 16 where
 14 it says "Faculty meeting in auditorium"? It is also in a
 15 box. There is also a box drawn around that entry, the
 16 bottom of the page.
 17 A. Yes, I do.
 18 Q. Are all important staff meetings kept in a box
 19 on these -- what are these things called again, these
 20 weekly status reports? I don't even know what these are.
 21 A. Staff meetings.
 22 Q. Staff meetings? No. I mean just the document
 23 itself.
 24 A. The weekly agendas.
 25 Q. Weekly agendas. I am just wondering if there is

1 information in one of these weekly agendas at Gulf?
 2 A. No.
 3 Q. I want to mark as Exhibit 17 a document bearing
 4 Bates stamp Nos. PLTF 01400 through 01402.
 5 (Deposition Exhibit 17 was marked
 6 for identification and attached.)
 7 BY MR. ROZWOOD:
 8 Q. Do you have a copy of Exhibit 17?
 9 A. Yes, I do.
 10 Q. Do you recognize this document?
 11 A. Yes, I do.
 12 Q. What is it?
 13 A. These are photographs that I took of graffiti
 14 outside my classroom or on my classroom door and right
 15 outside my classroom entranceway.
 16 Q. Is that your writing on the top of the first
 17 page of Exhibit 17?
 18 A. Yes, it is.
 19 Q. Do you see where it says "My name" with an arrow
 20 pointing?
 21 A. Uh-huh.
 22 Q. Was your name graffitied onto the wall there?
 23 A. No. I simply wrote that down so you could see
 24 it was next to my classroom.
 25 Q. I see.

1 A. It just merely is a sign that says "mystery bar
2 track B," then the room number.
3 Q. So that sign is there for the students; correct?
4 A. Correct.
5 Q. That's not something the school puts there?
6 A. I made that sign.
7 Q. It is not part of the graffiti --
8 A. No.
9 Q. -- that you are capturing in these photographs;
10 correct?
11 A. No, it is not.
12 Q. Do you have any knowledge as to who did this
13 graffiti?
14 A. No, I do not.
15 Q. How long did it take to get it cleaned up?
16 MR. FOX: Assumes facts.
17 THE WITNESS: I don't recall.
18 BY MR. ROZWOOD:
19 Q. Was it cleaned up?
20 A. Yes, it was.
21 Q. Did it take more than a week?
22 A. I don't recall.
23 Q. Did you provide these photographs to
24 Mr. Sandoval together with the photographs of the
25 Christmas assembly?

1 A. I don't know. I may have. I don't recall.
2 Q. Do you recall who you have shown these
3 photographs to other than the people in this case?
4 A. No, I don't recall, no.
5 Q. Is graffiti a common problem at Gulf Avenue?
6 A. Yes, it is.
7 Q. Do you know what the school does to address the
8 problem?
9 A. No.
10 Q. Have you ever had any discussions with anyone at
11 the school regarding the graffiti problem?
12 A. Directly, no.
13 Q. What do you mean not directly?
14 A. I have never spoken to someone directly about
15 it, like to the principal or the administration. I may
16 have heard some teachers talking about it in the
17 cafeteria.
18 Q. How about anyone on the custodial staff?
19 A. No.
20 Q. Have you ever raised the problem of graffiti
21 with anyone at the local district or district level?
22 A. Not that I am aware of, no.
23 Q. Have you ever communicated a graffiti problem to
24 anyone at the California Department of Education?
25 A. No.

1 Q. Do you believe the graffiti problem at Gulf
2 Avenue interferes with your students' ability to learn?
3 A. Yes.
4 Q. How so?
5 A. Students are unfocused when the school has just
6 been just completely graffitied. They want to be looking
7 around, look out the doors. They want to see what is
8 written. They want to look on the sidewalks. They are
9 just anxious. Some of them are nervous. They don't know
10 what it means.
11 I recall a lot of students seeing "4:20."
12 That's a time there was going to be a massive fight.
13 Very nervous, the children were, during that time.
14 Q. Can you describe for us the procedure by which
15 Gulf Avenue addresses -- or strike that.
16 Can you describe for us how Gulf Avenue
17 officials respond to graffiti when it occurs on campus?
18 A. I don't know.
19 Q. Well, let's start by what you do when you see
20 graffiti on campus.
21 A. I would report it to the office.
22 Q. The principal's office?
23 A. Yes.
24 Q. Anyone in particular?
25 A. Just whoever picks up the phone.

1 Q. You call them from your classroom?
2 A. I would either call them on -- we don't have
3 phones. From the intercom system.
4 Q. Okay. And is that what you did with respect to
5 this instance of graffiti depicted in Exhibit 17?
6 A. No. I didn't call them on this incident, no.
7 The reason why I didn't call is this was completely all
8 over the school that you couldn't help but notice. By
9 the time I got to school, it had already been observed by
10 everybody. It was all over the place.
11 Q. And you don't recall how long it took to clean
12 it up?
13 A. No.
14 Q. How many occasions have you used the intercom to
15 advise the principal's office of graffiti at Gulf Avenue?
16 A. I don't recall how many.
17 Q. Can you please give us your best estimate.
18 A. I would say at least five.
19 Q. Okay. Thanks. I am going to show you a letter
20 that Ms. Buettgenbach wrote to parents and I am going to
21 mark it as Exhibit 18.
22 (Deposition Exhibit 18 was marked
23 for identification and attached.)
24 BY MR. ROZWOOD:
25 Q. Exhibit 18 contains I guess both a Spanish

1 translation and an English translation of the letter.
 2 Have you seen this document before?
 3 A. Uh-huh.
 4 Q. Do you see in the third line of the second full
 5 paragraph where she states that "The staff of Gulf Avenue
 6 is dedicated to providing the best education possible for
 7 our children"?
 8 A. What paragraph is that in?
 9 Q. The second paragraph, lines 2 to 3 on page 1398.
 10 A. I haven't found it yet.
 11 Q. I'm sorry. The paragraph begins "I agree."
 12 A. Okay.
 13 Q. And it is the third sentence in that paragraph.
 14 A. "Teachers are continually being trained"?
 15 Q. No. The one before that.
 16 A. It starts with "Let me assure you"?
 17 Q. Yes.
 18 A. Okay.
 19 Q. I'm sorry.
 20 A. Yes, I do see that.
 21 Q. Do you agree that the staff of Gulf Avenue is
 22 dedicated to providing the best education possible for
 23 our children?
 24 MR. FOX: Vague and ambiguous.
 25 THE WITNESS: I don't know. I can't speak for

1 the whole staff.
 2 BY MR. ROZWOOD:
 3 Q. Do you agree that's true with any of the staff
 4 members of Gulf?
 5 A. I can't answer that because I would have to
 6 physically be in their classroom to say that they are
 7 dedicated teachers and I never am.
 8 Q. Well, how about any of the administrative staff?
 9 Do you think any of the administrative staff at Gulf are
 10 dedicated to providing the best education possible to the
 11 children there?
 12 A. I wouldn't agree with that.
 13 Q. Do you personally know of any teachers that are
 14 dedicated to providing the best education possible at
 15 Gulf?
 16 MR. FOX: Vague and ambiguous.
 17 THE WITNESS: I don't -- I would have to observe
 18 them in the classroom.
 19 BY MR. ROZWOOD:
 20 Q. So you are not aware of any teachers that are
 21 dedicated to providing the best education possible?
 22 Based on your knowledge right now as you sit here today,
 23 you don't know of any teachers that fit that description;
 24 correct?
 25 A. Based on my knowledge, I can't answer that

1 because I would have to -- for me to say that they are
 2 dedicated, I would have to observe them teaching.
 3 Q. And what about yourself?
 4 A. I would say I am dedicated.
 5 Q. To providing the best education possible for all
 6 Gulf Avenue children that you teach?
 7 MR. FOX: Vague and ambiguous.
 8 BY MR. ROZWOOD:
 9 Q. Is that an accurate statement regarding you,
 10 Mr. Ibarra?
 11 A. Yes. I think that's a question that an
 12 individual person has to answer whether or not they are
 13 dedicated, and I think I am.
 14 Q. Thank you.
 15 It goes on after the \$300,000 worth of books
 16 comment to say, quote, "We are fortunate to have
 17 hardworking custodial personnel to keep our school
 18 clean."
 19 Do you agree that statement?
 20 MR. FOX: Vague and ambiguous.
 21 THE WITNESS: I don't know what their job
 22 entails for me to say that they are hardworking.
 23 BY MR. ROZWOOD:
 24 Q. Irrespective of their duties and
 25 responsibilities, are you aware of any custodial

1 personnel that are hardworking at Gulf Avenue?
 2 A. No.
 3 Q. She goes on, Ms. Buettgenbach, does, to say "We
 4 also have students help by moving papers and other items
 5 from the yard. This helps them take pride in their
 6 school."
 7 Do you think the School Beautification Program
 8 helps children take pride in their school at all?
 9 A. Personally, no, I do not.
 10 Q. Do you see where she says "All assistance from
 11 students is supervised by adults"?
 12 A. Yes, I do.
 13 Q. Is that an accurate statement?
 14 A. No, that is not true.
 15 Q. Are the students involved in School
 16 Beautification ever supervised by adults?
 17 MR. FOX: Calls for speculation.
 18 BY MR. ROZWOOD:
 19 Q. If you know.
 20 A. I haven't seen it.
 21 Q. You have never seen any adult supervision of the
 22 students cleaning up trash during the School
 23 Beautification Program?
 24 A. During the actual School Beautification Program,
 25 which doesn't exist where every teacher takes their

1 students out, the classroom teacher would be supervising
 2 the classroom, but students pick up trash during lunch,
 3 during recess because the School Beautification Program
 4 per se doesn't exist anymore, but students continually as
 5 of my last day before I went on vacation, the end of
 6 August, were still picking up trash unsupervised.

7 Q. At the request of the school?

8 A. At the request of the school, yes.

9 Q. And when the program was in existence and your
 10 students were asked to participate as you described
 11 earlier, they left a few minutes early periodically to
 12 participate. Were you the person responsible for
 13 supervising the students when that occurred?

14 A. Yes.

15 Q. And is that true with respect to the other
 16 students, that their respective teachers were responsible
 17 for supervising them during that process?

18 MR. FOX: Calls for speculation.

19 THE WITNESS: That's what was suggested in the
 20 program, yes, that the teachers would supervise their
 21 classrooms.

22 BY MR. ROZWOOD:

23 Q. Do you see the first line of the next paragraph
 24 where Ms. Buettgenbach writes, quote, "Every effort is
 25 made to maintain a safe, clean instructional environment

1 Q. Are you aware if any suggestion box exists at
 2 Gulf Avenue?

3 A. To my knowledge and recollection, the suggestion
 4 box existed for no more than a month and I have not seen
 5 it.

6 Q. Where did it exist when it did? I'm sorry,
 7 strike that.

8 Where was it located when it did exist?

9 A. On the main office in the counter as you
 10 entered.

11 Q. Did you receive any communications from parents
 12 regarding this letter after it was sent home?

13 A. No.

14 Q. Did you have any discussions with anyone at the
 15 school regarding this letter after it was sent home?

16 A. Not to my knowledge that I am aware of or can
 17 recall.

18 Q. Why do you think Ms. Buettgenbach wrote this
 19 letter?

20 MR. FOX: Calls for speculation.

21 THE WITNESS: I don't know.

22 BY MR. ROZWOOD:

23 Q. Last time we met, you were going to be on I
 24 think it was Michael Jackson's morning show on
 25 September 28th or 29th, one or the other?

1 for your children," end of quote? Do you agree with that
 2 statement?

3 A. No.

4 Q. Do you think the school officials make any
 5 effort to maintain a safe, clean instructional
 6 environment for the children at Gulf Avenue?

7 MR. FOX: Vague, ambiguous.

8 THE WITNESS: Personally I would have to say an
 9 effort in my eyes does not exist.

10 BY MR. ROZWOOD:

11 Q. No effort whatsoever?

12 A. No. Not in my opinion.

13 Q. Is this handwriting up at the top of the letter,
 14 is that yours?

15 A. Yes, it is.

16 Q. Was this letter sent home with every student?

17 A. Yes, it was.

18 Q. And how do you know that?

19 A. Teachers were called to send a monitor to the
 20 office, which happens on many occasions, to pick up
 21 letters that need to be sent home and then we give them
 22 to the children right before they leave.

23 Q. Do you see where she references a suggestion
 24 box?

25 A. Yes, I do.

1 A. Uh-huh, yes.

2 Q. Did you actually participate in that radio
 3 program?

4 A. No. I had to call up and cancel. I was in
 5 Canada.

6 Q. On vacation?

7 A. Yes.

8 Q. So since the time we met for your first day of
 9 deposition, have you had any other contacts with the
 10 press other than canceling that program, other than
 11 canceling your appearance on that radio program?

12 A. No.

13 Q. Do you have plans to communicate with the press
 14 regarding any other issues raised in this lawsuit going
 15 forward?

16 A. Yes.

17 Q. Are those general plans or specific scheduled
 18 items?

19 A. Just general.

20 Q. So whenever the opportunity arises, you will
 21 make yourself available to the press?

22 A. Correct.

23 Q. And you have nothing specific in mind right now?

24 A. No.

25 Q. Are you familiar with the program with the

1 acronym ELP? I think it stands for Extended Learning
2 Program.

3 A. I have seen it, but I am not familiar with the
4 program.

5 Q. Have you received any communications as a
6 teacher at Gulf directly from L.A. Unified District K,
7 the local District K?

8 MR. FOX: Compound, complex, overbroad.

9 THE WITNESS: Can you repeat?

10 BY MR. ROZWOOD:

11 Q. Sure. I am just wondering if you received any
12 communications as a teacher at Gulf from the local
13 District K.

14 A. Just in general?

15 Q. Anything in writing.

16 A. None that I -- I can't specifically name things,
17 but there are times when teachers get things from the
18 district's offices, yes.

19 Q. What types of communications are those? How
20 would you characterize those?

21 A. It could vary so wildly, it could be anything
22 that deals with education.

23 Q. Can you think of any specific written

24 communications you have gotten from local District K?

25 A. I haven't gotten anything written. The forms

1 positive for the kids, the other teachers?

2 A. No.

3 MR. FOX: Hopelessly overbroad, vague and
4 ambiguous.

5 BY MR. ROZWOOD:

6 Q. Do you have any reason to think that the
7 teachers care about their students' learning at Gulf
8 Avenue?

9 MR. FOX: Same objections.

10 THE WITNESS: I wouldn't be aware of that
11 information.

12 BY MR. ROZWOOD:

13 Q. You have no reason to think that's the case;
14 correct?

15 THE WITNESS: No.

16 MR. FOX: Same objections.

17 BY MR. ROZWOOD:

18 Q. Have you had your first meeting as a School Site
19 Council member yet?

20 A. No.

21 MR. ROZWOOD: Okay. I think that's all I have.

22 ////

23 ////

24 ////

25 ////

1 are typed out and addressed to all teachers.

2 Q. Can you think of any specific subject matter
3 that was covered by any of those writings?

4 A. No.

5 Q. Can you think of anything that the officials at
6 Gulf Avenue Elementary do well to assist the students
7 with their educational experience?

8 MR. FOX: Vague and ambiguous, overbroad.

9 THE WITNESS: No, I can't think of anything.

10 BY MR. ROZWOOD:

11 Q. Just to make sure the record is clear, by
12 "school officials," I meant just the administrators in
13 the last question. Is that the way you understood me to
14 be asking it?

15 A. Yes.

16 Q. Can you think of anything that the teachers at
17 Gulf Avenue do to assist the students realize their
18 potential for their educational experience at Gulf
19 Avenue?

20 MR. FOX: Same objections.

21 THE WITNESS: I can't answer that because I
22 can't see what they are specifically doing, no.

23 BY MR. ROZWOOD:

24 Q. Did you ever have a discussion with them? Do
25 you have any reason to think that they are doing anything

1 EXAMINATION

2 BY MS. FLOYD:

3 Q. Okay. Mr. Ibarra, do you know the difference
4 between a rat and a mouse?

5 A. Yes, I do.

6 Q. Can you explain what your understanding is as to
7 the difference between a rat and a mouse?

8 A. Scientifically a mouse grows no more than a few
9 inches in length, two to three inches in length.

10 Scientifically mice tend to migrate on the floor. They
11 don't climb up in cabinets. They are found in lower
12 areas. Their tail is a little bit longer. Their nose is
13 a different shape. Rats tend to be longer in length by
14 two to three inches. They migrate and live above the
15 ground floor. And again, the differences in the nose is
16 very pronounced.

17 Q. Can you please describe the rodents you saw in
18 your classroom in January of 2000.

19 A. They were living above ground level in the
20 cabinets. They were longer by two to three inches in
21 length.

22 Q. Anything else?

23 A. Not that I recall, no.

24 Q. What color was the rodent?

25 A. I can't recall that.

1 MR. FOX: Objection. Vague and ambiguous.
 2 THE WITNESS: I can't recall that.
 3 BY MS. FLOYD:
 4 Q. Was it white in color? Was it brown in color?
 5 Was it black in color?
 6 A. I don't recall.
 7 Q. Did anyone tell you for a fact that what you saw
 8 was a rat?
 9 A. No.
 10 Q. You earlier testified that a custodian came to
 11 your classroom on either the third or fourth day after
 12 you noticed what you described to be vermin in your
 13 classroom. Do you know who told the custodian to come to
 14 your classroom?
 15 A. No, I do not.
 16 Q. The custodian did, in fact, come and clean your
 17 classroom; correct?
 18 A. Eventually, yes, he did.
 19 Q. And what specifically did he do when he cleaned
 20 your classroom?
 21 A. I don't know. Me and my students left the
 22 classroom.
 23 Q. At any point in time were you present in the
 24 classroom while the custodian was there?
 25 A. No.

1 Q. To your knowledge did he clean any cabinets in
 2 your classroom?
 3 A. To my knowledge, yes, he did.
 4 Q. Did he clean any shelves in your classroom?
 5 A. Yes, he did.
 6 Q. What about storage lockers in your classroom?
 7 Did he clean those?
 8 A. We have cabinets in the classroom. I'm not sure
 9 quite what you are referring to as storage lockers.
 10 Q. Do you have a storage container in your
 11 classroom?
 12 A. Like a -- no. As far as I know. What you are
 13 referring to, storage container, you mean like a plastic
 14 container, box or metal cabinet?
 15 Q. Well, do you have a metal cabinet in your
 16 classroom?
 17 A. There were two metal cabinets in that classroom,
 18 yes.
 19 Q. To your knowledge did the custodian clean those?
 20 A. To my knowledge, no, he did not.
 21 Q. What's stored in the cabinets?
 22 A. Student supplies, glue, scissors, a lot of my
 23 personal books, education books.
 24 Q. Did the custodian ever tell you what was
 25 attracting the rodents to your classroom?

1 A. No, he did not.
 2 Q. Did you keep any food in your classroom?
 3 A. Not to my knowledge, no.
 4 Q. What about liquids?
 5 A. No.
 6 Q. Glue is not a liquid?
 7 A. Well, when you said, "liquids," I thought you
 8 were referring to things that you drink. Yes, there is
 9 glue.
 10 Q. Are there any other liquids? Were there any
 11 other liquids kept in your classroom at the time?
 12 A. There may have been paint.
 13 Q. And that's it? Anything else?
 14 A. That's all I can recall.
 15 Q. Did you use any kitchen appliances in your
 16 classroom?
 17 MR. FOX: Vague and ambiguous.
 18 BY MS. FLOYD:
 19 Q. Did you have a refrigerator in your classroom?
 20 A. No.
 21 Q. What about a microwave oven?
 22 A. No.
 23 Q. Someone from the district -- you testified that
 24 someone from the district came out to spray your
 25 classroom; correct?

1 A. Correct. Well, I don't know if they were from
 2 the district, but someone came down to spray.
 3 Q. Did that person ever tell you what was
 4 attracting the rodents to your classroom?
 5 A. No.
 6 Q. Did you ask anyone what was attracting
 7 the rodents to your classroom?
 8 A. No, but the principal did tell me it was the
 9 glue in the room that they were eating.
 10 Q. Did you ask anyone if your class could move to
 11 another location on campus until your room was cleaned
 12 up?
 13 A. I don't recall if I asked.
 14 Q. Do you recall having a discussion about moving
 15 your class to another location?
 16 A. Not that I recall, no.
 17 Q. Did you ever have a conversation with any of the
 18 custodians that came to clean your classroom after you
 19 reported the rodent incident?
 20 A. Not that I recall.
 21 Q. You earlier testified that there is such a thing
 22 as a custodial request form available to teachers at
 23 Gulf.
 24 A. Correct.
 25 Q. Do you recall that?

1 A. I recall that.

2 Q. Okay. You also testified that you could use
3 this custodial request form to have your pencil sharpener
4 fixed; correct?

5 MR. FOX: Mischaracterizes testimony.

6 THE WITNESS: I don't recall saying if any of
7 the pencil sharpeners because pencil sharpeners when they
8 need repairing, they go to someone else who works in
9 another office. She is not custodial staff. I can't
10 think of her name offhand.

11 BY MS. FLOYD:

12 Q. Okay. And what is the purpose of having the
13 custodial request form available?

14 MR. FOX: Assumes facts.

15 THE WITNESS: I'm not quite sure what the
16 purpose is.

17 BY MS. FLOYD:

18 Q. Have you ever seen a custodial request form?

19 A. No, I haven't.

20 Q. I would like to show you a document titled
21 "Custodial Service Referral" and have it marked as
22 Exhibit 19.

23 (Deposition Exhibit 19 was marked
24 for identification and attached.)

25 BY MS. FLOYD:

1 school; correct?

2 A. Correct.

3 Q. Now, there on the first page of the form under
4 "Procedure" it says "Complete request form" and "Send
5 form to Assistant Principal. Priorities and follow-up
6 will be planned with Plant Manager."

7 These are essentially instructions; correct?

8 MR. FOX: Lacks foundation.

9 THE WITNESS: Yes.

10 BY MS. FLOYD:

11 Q. And do you know who is supposed to fill this
12 form out at Gulf? Who can, I'm sorry, who can fill this
13 form out at Gulf?

14 MR. FOX: Calls for speculation. He testified
15 he has never seen the document before.

16 THE WITNESS: I don't know.

17 BY MS. FLOYD:

18 Q. When you earlier testified that a custodial
19 request form is available for teachers to use, were you
20 referring to this document?

21 A. I have not seen this, so no.

22 Q. You have never used this form to report a
23 request for maintenance work?

24 A. Not to my knowledge, no. I don't recall using
25 it.

1 Q. Have you ever seen this document before?

2 A. Not that I recall, no.

3 Q. Do you know where you can get a copy of this
4 form?

5 A. I would guess from the assistant --

6 MR. FOX: I don't want you to guess.

7 THE WITNESS: Okay. I don't know.

8 BY MS. FLOYD:

9 Q. Do you recall seeing a copy of this form in your
10 policy handbook?

11 A. I don't recall seeing it, no.

12 Q. You have read through your custodial handbook --
13 I'm sorry -- your policy handbook on more than one
14 occasion; yes?

15 MR. FOX: Mischaracterizes prior testimony.
16 Argumentative.

17 THE WITNESS: Would you repeat what you said,
18 please.

19 BY MS. FLOYD:

20 Q. I will rephrase the question.

21 You have actually opened the pages of your
22 policy handbook at some point; correct?

23 A. Yes, I have.

24 Q. Okay. And listed in your policy handbook are
25 certain policies with reference to the operation of the

1 Q. If you turn to page 2, it is titled "Notice of
2 Repairs Needed."

3 And there below it says "The following items
4 need attention and repair" and there are a number of
5 different maintenance conditions listed there. Would you
6 use a custodial request form to report these maintenance
7 needs?

8 MR. FOX: Objection. Lacks foundation. He
9 already testified he has never seen the document. It is
10 calling for speculation. Additionally, there is nothing
11 on this document that shows it has anything to do with
12 Gulf Avenue Elementary.

13 MS. FLOYD: Counsel, I was referring to the form
14 he described in his previous testimony. He referred to a
15 form called a Custodial Request Form. This form here,
16 Exhibit 19, is Notice of Repairs Needed and the cover
17 page is labeled "Custodial Service Referral."

18 I am asking him if he would use a Custodial
19 Request Form to report maintenance needs, the type of
20 maintenance needs listed on this form.

21 MR. FOX: Well, that's fine. But there is no
22 foundation for this document.

23 MR. ROZWOOD: Well, the foundation is it is
24 included in the policy manual that he says he received at
25 DT-LA 24010 through 24012. I don't know what more

1 foundation you need.

2 I mean it is included in the policy manual that
3 he has received, that he is responsible to review and yet
4 he claims to have never seen this document before .

5 She is just asking him a few questions about
6 something he should have seen and reviewed.

7 MR. FOX: Well, thank you, Ben for that. We had
8 not heard anything about it being in this manual. So why
9 don't you give me the document number again if you don't
10 mind.

11 MR. ROZWOOD: Sure. DT-LA 24010 through 24012.
12 BY MS. FLOYD:

13 Q. Can you answer the question, please.

14 A. I was waiting for him. Want me to answer it? I
15 had it on my tongue.

16 I was aware that there was a form to fill out.
17 However, all my concerns including the rats and
18 maintenance had been addressed to either the principal or
19 assistant principal. There was never a need to fill out
20 this form.

21 Q. So you have never used this form?

22 A. Not to my knowledge, no.

23 MR. FOX: Asked and answered.

24 BY MS. FLOYD:

25 Q. Have you ever used a Custodial Service, a

1 A. Because once a year someone from -- I'm not
2 quite sure if it is from the district. I am not sure,
3 but once a year you get a letter saying our rooms will be
4 mopped and that occurs once a year.

5 And at that time we are told to take everything
6 out of the students' desk and place them someplace where
7 they are not going to get -- where it is safe. They
8 won't fall out of students' tables and we need to take
9 their pencils and stuff off their tables.

10 Q. Well, have you ever had occasion for one of your
11 students to spill something on your classroom floor?

12 A. Liquid?

13 Q. Yeah. Generally liquid spills.

14 A. Yeah. Paints, glue.

15 Q. And on those occasions who cleaned it up?

16 A. I did.

17 Q. Did you ever request to have your floor mopped
18 after a spill or debris falling on your floor?

19 A. I think it would be senseless after I already
20 cleaned it up.

21 Q. What about an occasion where you hadn't cleaned
22 it up?

23 A. That's never existed.

24 Q. When was your classroom swept?

25 A. Swept or mopped?

1 Custodial Request Form?

2 A. No, not to my knowledge. Most of my requests
3 have been orally. I just felt that or feel that
4 sometimes when you do things orally, you might get a
5 better, faster response.

6 Q. Well, how would you know if you have never used
7 the form if you would get a faster response?

8 MR. FOX: Objection. Argumentative.

9 THE WITNESS: I don't know.

10 BY MS. FLOYD:

11 Q. Were you responsible for having knowledge of the
12 material contained in your policy handbook that was given
13 to you?

14 A. Yes.

15 MR. FOX: Vague and ambiguous.

16 BY MS. FLOYD:

17 Q. But you failed to read this form; correct?

18 MR. FOX: Objection. Argumentative.

19 THE WITNESS: I may have read it, but I am not
20 going to recall everything that's in looks like a
21 500-page document

22 BY MS. FLOYD:

23 Q. Okay. You earlier testified that your classroom
24 floor is only mopped once a year. How do you know that
25 for a fact?

1 Q. Swept.

2 A. I have been trying to find that out for many a
3 year ago, if I can ever get a straight answer when they
4 are swept. They just sometimes are swept. Sometimes
5 they are not. Sometimes the trash is taken out.
6 Sometimes it's not.

7 Q. Do you have any knowledge when the custodians
8 come to your classroom to perform their maintenance
9 duties?

10 A. I will see the custodian come into my room
11 occasionally as my kids are getting ready to leave for
12 PE, take out the trash and then they are gone.

13 Q. Have you observed the custodian do anything
14 besides take out the trash?

15 A. I have observed them sweep before and I am there
16 late.

17 Q. Are you ever notified when a custodian will be
18 coming to clean your classroom?

19 A. Notified by administration? No.

20 Q. Have you received notice from any other person
21 besides administrators that the custodian is coming to
22 clean your classroom?

23 A. No.

24 Q. I would like to show you a packet of documents
25 to be marked as Exhibit 20.

1 (Deposition Exhibit 20 was marked
2 for identification and attached.)
3 BY MS. FLOYD:
4 Q. Have you ever seen this document?
5 A. No, I have not.
6 Q. Have you ever seen a document like this anywhere
7 on campus at Gulf?
8 A. No, I have not.
9 MR. ROZWOOD: Does this document have any Bates
10 stamp or has it been produced in this litigation?
11 MS. FLOYD: That's correct.
12 MR. ROZWOOD: It has not been? It has not been
13 produced in this litigation?
14 MS. FLOYD: Can we go off record?
15 MR. ROZWOOD: No. I want to be on the record.
16 I want to know if Exhibit 20 you just marked and put in
17 front of the witness has been produced in this
18 litigation.
19 MS. FLOYD: To my knowledge, all maintenance
20 records that have been requested pursuant to subpoena for
21 records have been produced. With respect to these
22 particular documents that are un-Bates stamped, they were
23 just recently obtained and are being produced and
24 processed forthwith to all parties.
25 MR. ROZWOOD: Great. Thank you for that

1 clarification.
2 BY MS. FLOYD:
3 Q. Okay. These documents are labeled "Custodian
4 Work Schedules." And to the left we see where it is
5 labeled "Building," "new building," "kindergarten,"
6 "library complex."
7 In what building was your classroom located?
8 A. That's referred to as the new building.
9 Q. What classroom do you teach in or have taught
10 in?
11 MR. FOX: Asked and answered.
12 THE WITNESS: 23 and 21.
13 BY MS. FLOYD:
14 Q. If you look down below under the time schedule,
15 the time period of 4:55 through 5:25, it refers to the
16 library complex, sweep retrieval, Xerox room every other
17 day, pick up trash in all rooms, clean sink in retrieval
18 room daily."
19 Have you ever observed the custodians doing any
20 of these duties?
21 A. No, I have not.
22 Q. Down below 5:25 to 5:45 there is a dusting
23 schedule stated there. And there is a 23 listed there.
24 To your knowledge has room 23 ever been dusted?
25 MR. FOX: Lacks foundation, overbroad.

1 THE WITNESS: To my knowledge, no one has dusted
2 that room but me.
3 BY MS. FLOYD:
4 Q. And when do you dust your room?
5 A. I have dusted it in the morning sometimes,
6 sometimes after school.
7 Q. And how often do you dust your room?
8 A. Whenever I get a chance to do it. I bought
9 those dust pads that you put the paper over. They work
10 well.
11 Q. Have you ever received information regarding the
12 custodial work schedules?
13 A. Can you rephrase that.
14 Q. From administration.
15 A. Oh, no, I have not.
16 Q. Since you began your work at Gulf Elementary in
17 1998, you have never been apprised of the custodial work
18 schedule?
19 A. No, I have not.
20 Q. Have you ever asked anyone about the custodial
21 work schedule?
22 A. I have asked on what days my room is swept. I
23 would like to know.
24 Q. Who did you ask?
25 A. The assistant principal Joy Ferguson.

1 Q. And did she respond?
2 A. No, she did not respond.
3 Q. When did you ask Joy Ferguson when your room
4 would be cleaned?
5 A. Several occasions. The exact dates I don't
6 know.
7 Q. The first occasion which you asked her when your
8 room would be cleaned, what did she tell you?
9 A. I don't recall.
10 Q. Do you recall when that conversation took place?
11 A. The initial one was sometime during the '98-'99
12 school year.
13 Q. Okay. And the second occasion in which you
14 asked her when your room would be cleaned, when did that
15 occur?
16 A. '99-2000 school year.
17 Q. And what were you told?
18 A. I recall her saying that she would look into it.
19 Q. Are you referring to the rodent incident?
20 A. No. I am referring to how often, what days my
21 room was being swept.
22 Q. Okay. And did she ever get back to you?
23 A. No, she did not.
24 Q. Were your rooms being swept?
25 A. No. Well, periodically every now and then. I

1 never had a specific date when I knew it would be swept,
 2 but they were more often not swept than swept.
 3 Q. Would you say your rooms were swept four times a
 4 week?
 5 A. Once a week if I was lucky.
 6 Q. Looking here at this document down below, there
 7 is a note here that says "Two day sweeping, three days
 8 pickup, sweeping schedule for rooms No. 14 through 23."
 9 What is your understanding of this information?
 10 A. My understanding is this is exactly what I spoke
 11 to Ms. Ferguson about. I wanted to know what days, what
 12 two days my room was being swept so when they were not
 13 being swept, I could report it to her.
 14 And she, as I said a few seconds ago, she never
 15 got back to me with the answer.
 16 Q. Did you ever ask for a copy of the custodian
 17 work schedule?
 18 A. Not that I recall, no.
 19 MR. FOX: Assumes facts.
 20 BY MS. FLOYD:
 21 Q. Why not?
 22 A. I didn't know it existed and I didn't -- now
 23 that I see it in my hand, I don't -- this one looks like
 24 an administration business paper, not for teachers.
 25 Q. You earlier testified that the custodian's

1 office, so to speak, was a closet-like structure. Do you
 2 recall testifying to that?
 3 A. Yes.
 4 Q. How many times have you actually seen the
 5 custodian's, let's call it, office?
 6 MR. FOX: Compound, complex, overbroad.
 7 THE WITNESS: I have walked by it on several
 8 occasions.
 9 BY MS. FLOYD:
 10 Q. Have you ever noticed anything posted on the
 11 custodian's door?
 12 A. On the outside, there is nothing posted on the
 13 outside. For the inside when the door is open? I can't
 14 tell you. I'm not sure, but there is definitely nothing
 15 on the outside.
 16 Q. Have you ever been inside the custodian's closet
 17 or office?
 18 A. Yes, I have.
 19 Q. When was that?
 20 A. Oh, I don't recall. Sometime during the
 21 academic school year.
 22 Q. What did you see when you walked in there?
 23 A. Just a small, tiny little cubicle room type
 24 space with the left-hand side, just stacks of something
 25 on metal racks, and that's all I recall.

1 Q. You earlier testified that Gulf does not offer
 2 the ELL Program, the English Language Learners Program.
 3 Do you recall that?
 4 A. Yes, I do.
 5 Q. And is that correct, that Gulf does not offer
 6 that program?
 7 A. To my knowledge it is not offered since the
 8 proposition of that English-only issue.
 9 Q. Are you familiar with the acronym LEP?
 10 A. I have seen it before.
 11 Q. Do you know what it stands for, if it has a
 12 meaning?
 13 A. Limited English proficiency or proficient.
 14 Q. That's your understanding --
 15 A. Yeah.
 16 Q. -- of LEP stands for.
 17 What is limited English proficiency?
 18 A. Students that have a limited ability to read and
 19 write in English.
 20 Q. Do you know if it has any relationship to the
 21 ELL designation?
 22 MR. FOX: Vague and ambiguous.
 23 THE WITNESS: I don't know. I don't know.
 24 BY MS. FLOYD:
 25 Q. Have any of your students been designated as LEP

1 students?
 2 MR. FOX: Calls for speculation.
 3 If you know.
 4 THE WITNESS: The name "LEP" does ring a bell.
 5 As my knowledge of LEP as I recall right now is that
 6 there is at Gulf, there's different levels that students
 7 progress through. There is 1, 2 and 3. I don't know if
 8 they are referred to as LEP, but there's different stages
 9 of their English growth.
 10 I think it may go up to 5. But these kids are
 11 taught in English and not in Spanish where in the past to
 12 my knowledge they were taught in Spanish congruently with
 13 English as they progressed along, so I don't know if I
 14 answered your question or not.
 15 BY MS. FLOYD:
 16 Q. How many students are in your class, from just
 17 your memory?
 18 A. I recall having 30 when I left in August.
 19 Q. To your knowledge did any of those children have
 20 an LEP designation?
 21 A. To my knowledge, most of them were labeled EO,
 22 English only. And there were probably about seven of
 23 them that were labeled -- I had no one in the 1 and 2
 24 range. I think there were 3's and 4's in numbers in
 25 relation to their English proficiency.

1 Q. To your knowledge were any of these children
2 previously designated as ELL students?
3 A. To my knowledge, I don't know. They change
4 these acronyms so often, it's hard to keep up. You are
5 asking me if these kids at one time just spoke Spanish?
6 Is that what you are asking?
7 Q. I am asking have any of these children that you
8 are teaching now who have been designated as LEP students
9 been previously designated as ELL students?
10 A. I don't know.
11 Q. Are you familiar with the term "Cross-Culture
12 Language Acquisition Development"?
13 A. No.
14 Q. Are you familiar with the acronym CLAD, C-L-A-D?
15 A. Yes.
16 Q. What is CLAD?
17 A. I don't know what the acronym stands for
18 individually. I can tell you that it is basically
19 something that teachers need to get for their credential
20 process, and it teaches them how to teach students that
21 are limited in English proficiency.
22 Q. So it's a type of credential?
23 A. I wouldn't -- no. It's not a credential in
24 itself. I think it's part -- it's necessary to get your
25 credential, if I recall what the credentialing process

1 was like for me.
2 Q. Could you please describe the process for
3 receiving this CLAD training.
4 MR. FOX: Vague and ambiguous.
5 THE WITNESS: What I recall, part of CLAD, is
6 that going through teacher training, teachers were taught
7 to not minimize learning or the term, quote, unquote,
8 dummy the learning, but to teach content in a way that
9 students that could not speak English well could
10 understand and learn.
11 Q. And what did the training consist of?
12 A. I recall it consisting of asking teachers within
13 the program to demonstrate sample lessons, science and
14 mathematics of how they would teach a limited proficient
15 student. And we would just kind of share ideas.
16 Q. Anything else?
17 A. That's all I can recall.
18 Q. Was this CLAD training mandatory or voluntary?
19 MR. FOX: Vague and ambiguous. Calls for
20 speculation.
21 THE WITNESS: It was mandatory.
22 BY MS. FLOYD:
23 Q. Who mandated that you undertake this training?
24 A. I believe it was the State of California.
25 Q. And to your knowledge, does this CLAD training

1 have any relationship to LEP?
2 A. Yes.
3 Q. How so?
4 A. Well, if you had a student designated as 2 or 3
5 or 4, then you would have to utilize some of those skills
6 to get those students to learn. But when a child is
7 designated a 3, their grasp of the English language is
8 pretty much there.
9 Q. You earlier testified that teachers don't have a
10 say regarding textbook needs. Why did you say that?
11 A. Well, for example, we just recently got new math
12 books. I can't recall the name of the book. All
13 teachers in the district I believe got it in July. And
14 no one at my school to my knowledge had any input on
15 whether or not we wanted that book or thought it was a
16 good book.
17 Q. Okay. What about any other types of textbooks
18 that there may be a need for them at Gulf? Do teachers
19 have input in voicing the kinds of books that they want?
20 A. As long as I have been at Gulf, I have never had
21 an opportunity personally, I can't speak for the other
22 teachers, where we have been offered a chance to order
23 books. So that discussion has never taken place.
24 Q. Okay. What about voicing suggestions with
25 respect to the purchase of books? Have you had an

1 opportunity to do that?
2 A. Not to my knowledge, no. Actually I do recall
3 there was a math book that was looked at during I believe
4 it was the '98-'99 school academic year where upper grade
5 teachers got together and wrote a note to the principal
6 saying "We really like this book, but we are using the
7 new math book that the district mandates."
8 Q. And that was the first time that the teachers
9 have ever submitted any input in that manner?
10 A. To my --
11 MR. FOX: Objection. Vague and ambiguous.
12 Calls for speculation.
13 THE WITNESS: To my knowledge, yes.
14 BY MS. FLOYD:
15 Q. Here is another document I want to show you.
16 MR. FOX: Counsel, before you get into this,
17 let's take a quick break because I want to talk about
18 scheduling.
19 MS. FLOYD: Sure.
20 THE REPORTER: Off the record?
21 MR. FOX: Yeah.
22 MR. ROZWOD: I will just give this to you. I
23 won't go off the record.
24 MR. FOX: Okay.
25 MR. ROZWOD: We are not going to all talk about

1 scheduling? Just you guys?
 2 MR. FOX: Sure. All of us can talk. We are
 3 still on the record.
 4 MR. ROZWOOD: I thought we were off the record.
 5 I am sorry. I will give this to you and we will go off
 6 the record. I thought that was off the record.
 7 MR. FOX: So let's go off.
 8 MR. ROZWOOD: Now we are off.
 9 (Recess taken.)
 10 (Deposition Exhibit 21 was marked
 11 for identification and attached.)
 12 BY MS. FLOYD:
 13 Q. Have you ever seen this document before?
 14 A. I have never seen it before, no.
 15 Q. It is a Needs Survey for 2001-2002. Do you
 16 recall ever getting a document like this since your
 17 employment at Gulf?
 18 A. Give me a few seconds. Let me just glance over
 19 it.
 20 MR. FOX: Cynthia, while he is looking at it,
 21 this is another document that doesn't have any Bates
 22 stamp on it. Is this something that was produced or is
 23 going to be produced as part of an LAUSD production?
 24 MS. FLOYD: This document should be a document
 25 that is contained in the staff policy handbook.

1 MR. FOX: And is that something that is going to
 2 be produced by the district or was produced?
 3 MS. FLOYD: Was produced by the district.
 4 MR. FOX: Okay. But this one just wasn't -- any
 5 reason why this wasn't Bates stamped?
 6 MS. FLOYD: This is a copy, a separate or an
 7 additional copy separate and apart from the copy that was
 8 placed in the policy handbook. It's simply a duplicate.
 9 MR. FOX: Okay. I don't know if I understand
 10 it. But this has writing on it and such. You don't
 11 know? I mean if you don't know, that's fine.
 12 MS. FLOYD: Okay. This document to my
 13 understanding is contained within the policy handbook.
 14 MR. FOX: Okay. Which was produced by the
 15 district?
 16 MS. FLOYD: Which was produced by the district,
 17 yes.
 18 MR. FOX: Gottcha.
 19 MR. ROZWOOD: And if it is not, you will have it
 20 separately stamped and produced?
 21 MS. FLOYD: Correct.
 22 MR. ROZWOOD: And this, you are referring to
 23 this document, you are referring to Exhibit 21?
 24 MS. FLOYD: Correct.
 25 MR. ROZWOOD: Okay.

1 MR. FOX: The reason it seems like -- let's not
 2 take time on this, but the reason it seems like it
 3 wouldn't be part of the handbook is because this has a
 4 writing that looks like either staff or principal's
 5 writing on it, so I would think it would be something
 6 that would be, you know, in a form, pro forma. Anyway,
 7 we don't need to deal with it now.
 8 MS. FLOYD: Well, the district will go ahead and
 9 produce this document. As I stated before, it's my
 10 belief that this document was contained in the previously
 11 produced policy handbook, but the district has no problem
 12 going ahead and reproducing it again.
 13 Q. Have you had a chance to take a look at the
 14 document, Mr. Ibarra?
 15 A. Yes, I have.
 16 Q. Do you have an understanding of what the purpose
 17 of this document is?
 18 MR. FOX: Vague and ambiguous, calls for
 19 speculation.
 20 THE WITNESS: It appears to me that this allows
 21 for teacher input on the budget.
 22 BY MS. FLOYD:
 23 Q. And did you provide any input into the budget
 24 for the 2001-2002 school year?
 25 A. I don't recall seeing this document. I do

1 recall getting a chance to vote on how we were going to
 2 spend the supplemental money that was coming from the
 3 state when certain schools got money from the state for
 4 testing purposes. But it didn't look like this.
 5 This to me looks like a tally list that the
 6 principal wrote down, you know, numbers for, whatever the
 7 lines represent, but it's definitely not a form that I
 8 could use. What I see here is not a form I could use as
 9 a teacher to say "All right. I want this" or "I want
 10 that." Well, it does say prioritize, but I don't recall
 11 this form.
 12 I have seen it at other schools where I have
 13 worked at, but I don't recall seeing this form at Gulf.
 14 Q. Okay. When you said you recall being extended
 15 the opportunity to vote, who extended you that
 16 opportunity?
 17 A. It was either the principal, assistant principal
 18 or Ms. Meagher.
 19 Q. And when was this opportunity extended to you?
 20 A. I can't recall. I can only give you an estimate
 21 of a year and it can be incorrect.
 22 Q. Okay. Looking midway on the document where it
 23 says "The major components of our Budgets are listed
 24 below as reflected in our school plan with approximately
 25 costs for the year," do you know what the school plan --

1 what that refers to?

2 A. I would assume that the school plan represents
3 how they are going to -- how the money is going to be
4 allocated for that particular year.

5 Q. Okay. You have never --

6 MR. ROZWOOD: Objection. There is no foundation
7 for speculation. If you don't know, you don't know. We
8 don't want you to guess.

9 THE WITNESS: Okay. I don't know.

10 BY MS. FLOYD:

11 Q. Categorical coordinator, do you know what that,
12 what a categorical coordinator is?

13 A. That was -- actually, I am not sure. I was
14 going to say I think it was Ms. Meagher's position, but
15 it no longer exists, but I am not sure.

16 Q. Okay. And the phrase "teacher bilingual
17 coordinator," do you know what that refers to?

18 A. That was Ms. Moreno's position. It no longer
19 exists.

20 Q. I'm sorry?

21 A. She no longer has that position and I don't
22 think that position has been filled.

23 Q. Okay. The next term "teacher computer," do you
24 know what that refers to?

25 A. The computer teacher, Mr. Monsano.

1 machine on campus?

2 A. I know we have a copy machine. I don't know if
3 it's by the Xerox corporation.

4 Q. Okay. "Replacement of Equipment," do you know
5 what that refers to?

6 A. No.

7 Q. And "Instructional material," what does that
8 phrase refer to?

9 MR. FOX: Calls for speculation.

10 THE WITNESS: I don't know. That could be
11 everything from books to pencils. I don't know.

12 BY MS. FLOYD:

13 Q. Have you ever used that phrase yourself,
14 "instructional material," in the course of your duty at
15 Gulf Elementary?

16 A. I may have.

17 Q. In what context?

18 A. In referring to anything from pencils to books,
19 anything that's meant for student use of instruction or
20 for my use as a teacher to implement that instruction.

21 Q. Okay. Thank you. I have here another stack of
22 documents.

23 (Deposition Exhibit 22 was marked
24 for identification and attached.)

25 BY MS. FLOYD:

1 Q. The term "sub days" and then in parentheses "10
2 days," do you know what that refers to?

3 A. No.

4 Q. "Psychologist time (1 day)," do you know what
5 that refers to?

6 A. The school psychologist that comes to visit.

7 Q. "Counselor PSA time," do you know what that
8 refers to?

9 A. That refers to our PSA counselor at the school.

10 Q. And the term "PSA," what does that stand for?

11 A. I am not sure what it stands for. I know that
12 she deals with school attendance, students that are
13 absent too much or too often. They get a call or visit
14 from her at their home.

15 Q. Okay. "Nurse (3 days) District gives 2 days,"
16 do you know what that refers to?

17 MR. FOX: Calls for speculation.

18 THE WITNESS: No.

19 BY MS. FLOYD:

20 Q. "Xerox corporation maintenance contract," do you
21 know what that refers to?

22 MR. FOX: Calls for speculation.

23 THE WITNESS: No.

24 BY MS. FLOYD:

25 Q. Do you know if Gulf Elementary has a Xerox

1 Q. Now, these documents were taken directly out of
2 the policy handbook. They have been previously
3 identified with an internal LS number, LS 8854 through LS
4 8893.

5 MR. ROZWOOD: 4.

6 MS. FLOYD: Excuse me, 94. Corresponding
7 numbers for these, one moment, please.

8 Okay. We have corresponding numbers DT-LA
9 23880.

10 MR. FOX: Why are you remarking this if it is
11 just the same stuff that's in the packet?

12 MS. FLOYD: Okay. Through DT-LA 23910.

13 MR. FOX: Cynthia, is there any reason to remark
14 it?

15 MR. ROZWOOD: It has been remarked. We are
16 wasting time asking her why she wants to. She is free to
17 conduct her deposition questioning as she sees fit.

18 BY MS. FLOYD:

19 Q. Mr. Ibarra --

20 MR. FOX: Let me stop you for a second. Should
21 we take the time to go through and make sure this is the
22 same -- well, never mind. It doesn't matter.

23 MR. ROZWOOD: Yes. She is asking some questions
24 about Exhibit 22. Whether she is correct in her
25 cross-reference is a separate question. I am sure she

1 is, but it is a separate question.
 2 BY MS. FLOYD:
 3 Q. Have you had a chance to look through the
 4 materials?
 5 A. Yes, I have.
 6 Q. Okay. If you could please turn to the second
 7 page. It is titled "Core Program Open Court."
 8 A. Uh-huh, I am there.
 9 Q. You have it there?
 10 A. Yes, I do.
 11 Q. And there under No. 6 if you turn to the third
 12 page, it says "Fifth Grade."
 13 A. Correct.
 14 Q. And you have a list of materials there 1 through
 15 9. What are those?
 16 A. These are some of the books necessary for Open
 17 Court. There are books missing from this list, student
 18 work books. Two I can see right offhand are not there.
 19 Q. And you have all of those books for this
 20 year's -- this semester's class for Open Court?
 21 A. One of them has been -- one of them has been
 22 discontinued. Our school bought the old Open Court
 23 series, didn't purchase the Open Court 2000.
 24 Q. Okay.
 25 A. And two of the books that I should have had for

1 that year 2000 I did not have and they were critical.
 2 One was a grammar book and that's not listed on this.
 3 Yeah, I have seen this before.
 4 Q. Okay. Turning to the page that's marked LS
 5 8870, this is a list of supplemental reading materials.
 6 Are you familiar with supplemental reading materials at
 7 Gulf?
 8 A. Yes, I am.
 9 Q. Okay. And do you have access to supplemental
 10 reading materials?
 11 MR. FOX: Vague and ambiguous.
 12 THE WITNESS: As of now, no.
 13 BY MS. FLOYD:
 14 Q. Have you previously had access to supplemental
 15 reading materials?
 16 MR. FOX: Vague and ambiguous.
 17 THE WITNESS: They have been my only reading
 18 books at times.
 19 BY MS. FLOYD:
 20 Q. Okay. So the documents listed here, they are
 21 reading materials; correct?
 22 A. Yes. Outdated ones, yes. Discontinued.
 23 Q. Now, the term "reading materials," does that
 24 refer to a textbook?
 25 A. I don't know how it refers to it, as far as K

1 through other grade levels before. I know in fifth grade
 2 the Skylines book is a textbook. It is the old reading
 3 series from years ago.
 4 Q. Have you ever used it to teach with?
 5 A. I used it my first before, '98-'99 school year
 6 at times.
 7 Q. Okay. How did you go about obtaining the book?
 8 A. They were left in the classroom. They were in
 9 the classroom already that I was in, in the bookshelf.
 10 Q. Okay. Is there some central place where
 11 supplemental reading materials are kept at Gulf
 12 Elementary?
 13 A. Yes, there are.
 14 Q. And where is that place?
 15 A. Room 4.
 16 Q. Does that room have a name or a designation?
 17 A. Resource room I think it's called. Reading
 18 resource room.
 19 Q. Okay. And is the student resource room used for
 20 any other purpose besides to house the supplemental
 21 reading material?
 22 A. As far as I know, it is only purpose is to house
 23 the supplemental reading material. No other activity
 24 takes place there.
 25 Q. How do you go about obtaining access to the

1 reading materials in the resource room?
 2 A. You walk in if it is open in the morning, if it
 3 is open in the morning.
 4 Q. And you just take whatever you want out of the
 5 room?
 6 A. No. You have to fill out a check-out card and
 7 ask the clerk that's working there, Mrs. -- I can't think
 8 of her name. You need get her permission. At times you
 9 need to get permission from the administration because a
 10 lot of these textbooks, especially Skylines we are not
 11 allowed to use at all with the Open Court series. We are
 12 only allowed to use Open Court.
 13 Q. How long are you allowed to check out materials
 14 from the resource room?
 15 A. It varies. It varies on the item. It could be
 16 as little as one day to several weeks until you are done
 17 with the book.
 18 Q. If you could turn to LS 8871, please.
 19 A. Okay.
 20 Q. There at the bottom of the page there is a title
 21 "Fifth Grade Guidebook" and then there is a list of
 22 different supplemental reading materials. "Family
 23 Letter," what is that?
 24 A. That's the letter that would go home probably
 25 not just initially, but throughout the year, complaining

1 to parents "This week your child is working on addition
 2 problems. Next month he will be working on division."
 3 The initial letter might say something like "This is the
 4 book We are using." "This is the book."
 5 Q. The next one, "Assessment Guide," what is that?
 6 A. The Assessment Guide is -- I am not sure what
 7 that is.
 8 Q. Okay. "Daily Tune-Ups (Teacher's Edition)," do
 9 you know what that is?
 10 A. No.
 11 Q. "Arrithme Twist (student book non-consumable),"
 12 do you know what that book is?
 13 A. No.
 14 Q. Have you ever seen it before?
 15 A. No.
 16 Q. Have you ever heard of the book?
 17 A. No, I haven't. See, all of these things here
 18 are outdated. I would -- we wouldn't use these because
 19 we have our new math book. These refer to the previous
 20 math book that was used in the year 2000.
 21 Q. Okay. Well, let's talk about the previous math
 22 book in the year 2000. Did you ever have occasion to use
 23 this supplemental material?
 24 A. The Manipulative Kit I used.
 25 Q. And what is the Manipulative Kit?

1 A. That math book, the concept was that kids would
 2 have hands-on experience with math so inside that kit
 3 there were things that -- not necessarily that the kids
 4 could touch, but things that the kids could visually see.
 5 So in that kit, for example, I recall using the
 6 overhead projector. And on the overhead projector I may
 7 discuss, say, fractions. I may have colored squares and
 8 say "This is one half. This is a whole. This is a
 9 fourth." Rather than just saying a fourth the kids could
 10 visually see it.
 11 Q. Do you see anything else here listed on this
 12 page?
 13 A. Consumable Kit, I have never seen Daily Tune-Ups
 14 II I have never seen. Now besides the actual textbooks,
 15 Family Letter home and the Manipulative Kit for the
 16 overhead, that's all I have seen.
 17 Q. Turn to the next page. It is titled "Elison
 18 List." Can you take a look at it. And tell me if you
 19 have had occasion to use anything listed here on this
 20 page.
 21 A. These are -- what this is, this is a machine.
 22 It's -- you put construction paper in it and it punches
 23 out shapes and forms. So this is not -- they are not
 24 textbooks.
 25 Like the shapes and forms on the left-hand side,

1 I would be able to cut out shapes of a trapezoid or
 2 rhombus or I could cut out shapes for maple leaves to put
 3 on the overhead projector, decoration. Kids may use
 4 these for art projects, that's what these are.
 5 Bookmarkers, make a paper bookmark. You know, holiday
 6 times there is shamrocks and things like that.
 7 Q. Okay. And turning to LS 8874, these documents
 8 entitled "Materials in Reading Lab for Check-Out,"
 9 referring you to the fifth grade materials listed on
 10 LS 8877.
 11 A. Yes.
 12 Q. Have you had any occasion to use any of these
 13 materials?
 14 A. Most of those materials I did not see. I have
 15 been there and I did look. I did use a book when I was
 16 teaching fourth grade. What book was it? I can't recall
 17 which one it was.
 18 MR. ROZWOD: "Charlotte's Web"?
 19 THE WITNESS: No, it wasn't "Charlotte's Web."
 20 I don't recall. It has been a long time since fourth
 21 grade, but I would say probably half these books aren't
 22 in there.
 23 What happens -- well, I can only speculate what
 24 happens. I shouldn't speculate. They get lost.
 25 Teachers check them out and they don't return them.

1 MR. FOX: Again, if you are speculating --
 2 THE WITNESS: I am speculating.
 3 MR. FOX: -- please don't.
 4 THE WITNESS: They are just not there. Maybe at
 5 one time they were there.
 6 BY MS. FLOYD:
 7 Q. Okay. Turning to LS 8878, page titled
 8 "Additional Reading Resources."
 9 A. I have got that.
 10 Q. Have you ever had occasion to use any of these
 11 materials?
 12 A. The decoding books have been used for students
 13 who are unable to comprehend reading at their grade
 14 level.
 15 Q. Have you ever had occasion to use any of the
 16 materials?
 17 A. Yes.
 18 Q. And when was that?
 19 A. '99-2000 school year.
 20 Q. And you simply went to the resource room and
 21 checked them out?
 22 A. I had my TA, teacher assistant go.
 23 Q. Turning to LS 8879, the page is titled "Theme
 24 Links Packets." What are Theme Link Packets?
 25 A. The term "Theme Links" which is no longer used

1 refers to a time before we had Open Court when teachers
2 would read a story on a certain topic. Say the story was
3 about mountains. Then the teacher would go through this
4 list and try to find out another book. Let's say they
5 were reading a story about dogs. They would find a book
6 about dogs and there would be another book about dogs to
7 reinforce the theme, thematic learning.

8 Obut with Open Court now, if I were to do
9 thematic learning, it would have to be something that
10 revolved around any particular story within Open Court.

11 Q. Turn to LS 8882, a document entitled "Math
12 Reading Material." Have you had occasion to use any of
13 these materials?

14 A. The M & M Counting Book I have used.

15 Q. When did you use that book?

16 A. Sometime in the '98-'99 school year, I believe
17 it was.

18 Q. And how many times did you check the book out?

19 A. It's just once.

20 MR. FOX: Counsel, I would like to mention it is
21 now 1:45 and when we were on break, you said you would
22 have questions until 1:45. And we agreed to come back
23 for a second day because everyone agreed at the outside
24 this would be half day.

25 MS. FLOYD: Okay.

1 BY MS. FLOYD:

2 Q. So there is no cursive writing textbook?

3 A. Not in my hands. Maybe some teachers might have
4 their own collection stashed or something they were
5 using, but no, I don't have any access to any books.

6 Q. Do you feel a cursive writing textbook is
7 necessary for fifth graders?

8 A. Most definitely.

9 Q. Why is that?

10 A. Because in the middle school and high school
11 level, that their English grammar teachers will ask them
12 to do things in cursive and write in cursive.

13 Q. Once the student reaches the fifth grade, in
14 your opinion as a teacher, how much cursive writing
15 instruction is necessary on a weekly basis?

16 A. That's a judgment call that a teacher has to
17 make. And it would depend on each incoming class, what
18 they learned the previous year if they learned anything
19 at all.

20 I have kids that are writing cursive this big
21 (indicating) covering three lines and one or two kids who
22 are writing cursive quite well. So it depends.

23 Q. Okay. Another document I am going to show you.
24 (Deposition Exhibit 23 was marked
25 for identification and attached.)

1 MR. FOX: So --

2 MS. FLOYD: Well, Counsel.

3 MR. FOX: We don't need to run out right now,
4 but I just want to make you aware of that.

5 MS. FLOYD: Thank you, Counsel. I will try and
6 wrap this up.

7 Q. Turning your attention back to the document, if
8 you turn to LS 8837, it is entitled "Skills Book," have
9 you had any occasion to use any of these documents?

10 A. Skills Books, let me see. No. Most of these
11 are for kids who don't know how to read or write. No. I
12 don't recall having used any of these. These are
13 basically all phonics-based, usually publicly meant for
14 lower grades.

15 Q. Okay. You earlier testified that the cursive
16 handwriting materials were falling apart or ripped.

17 A. Correct.

18 Q. Is that your testimony?

19 A. Correct.

20 Q. And what cursive writing materials are available
21 for fifth graders at Gulf?

22 MR. FOX: Vague and ambiguous.

23 THE WITNESS: There's the alphabet that I have
24 posted up on the wall, the cursive alphabet. And besides
25 just seeing alphabet writing, that's all I have seen.

1 BY MS. FLOYD:

2 Q. What is this document?

3 A. This is the cursive handwriting alphabet I
4 mentioned just a few seconds ago.

5 Q. Now, is this something that you utilized in your
6 classroom?

7 A. I have used this to teach kids the alphabet in
8 cursive.

9 Q. And is it helpful in instructing the children to
10 learn the alphabet?

11 MR. FOX: Vague and ambiguous.

12 THE WITNESS: The alphabet only. It doesn't
13 teach cursive writing at all.

14 BY MS. FLOYD:

15 Q. Why not?

16 A. You see, because cursive writing, if you were to
17 write say, for example, my name Thomas, just writing the
18 "T" and the "h" doesn't teach the child how to combine
19 the "T" with the "h."

20 If you are going to connect it, most people
21 don't, but the "h" would flow off to the "o" and it
22 doesn't teach that skill, "h-o" connection, and then the
23 "o" to the "m" connection.

24 Follow me when I say connection? The letters
25 have to connect. And that's one of the most important

1 things in cursive writing is to learn how to connect the
2 letters. This just merely teaches how to write the
3 alphabet in cursive. That's why cursive writing books
4 have pages and pages of how to connect, say, "b" with "o"
5 or "b" with "a." So this just merely teaches the
6 alphabet in cursive.

7 Q. So there is a title here, "Cursive Handwriting."
8 Would that title be there for any other reason to your
9 knowledge other than to be used to teach cursive
10 handwriting?

11 MR. FOX: It is argumentative, calls for
12 speculation lacks foundation.

13 THE WITNESS: This teaches the cursive
14 handwriting alphabet and only the alphabet.

15 BY MS. FLOYD:

16 Q. Okay. Is this type of document available in the
17 resource room at Gulf?

18 A. I have seen several of them. I have never seen
19 a whole classroom set in there, no. I have seen maybe
20 five or six laying around scattered on the counter,
21 sometimes on the floor.

22 Q. If a teacher wanted to use this type of document
23 that's available at the resource room, could they make
24 copies of it for their class?

25 A. They could make copies.

1 but we can submit -- we fill out a form and we can get an
2 additional I think it is 500 copies a month on the Xerox
3 machine.

4 Q. On the Xerox machine?

5 A. On the Xerox machine.

6 Q. Okay. Another document I want to show you to be
7 marked as Exhibit 24.

8 (Deposition Exhibit 24 was marked
9 for identification and attached.)

10 BY MS. FLOYD:

11 Q. Have you ever seen this document before?

12 A. Yes. Well, no. We don't have a -- oh, I
13 thought that said color copy. Konica Copiers, Xerox
14 Copiers. As far as I know, we just have a Xerox copy. I
15 have never seen a Konica copy. We have a Duplo copy
16 machine.

17 Q. My question is have you ever seen this document
18 before?

19 A. This exact one, no. Similar ones, yes.

20 Q. Copier guidelines, you have received copier
21 guidelines in the past?

22 A. Yes.

23 Q. And they have appeared in a similar format?

24 A. Correct.

25 Q. Okay. Now, listed here we have four separate

1 Q. Have you ever made copies of a document like
2 this down in the resource room?

3 A. No, I have not.

4 MR. FOX: Overbroad.

5 THE WITNESS: I have this up on my wall and also
6 I have it on tapes that I put on the kids' desk.

7 BY MS. FLOYD:

8 Q. Do you use any other materials to teach cursive
9 writing in your classroom?

10 A. Just what I try to do on the overhead projector
11 on the plastic sheets. I say "This is how you connect
12 the "w" with the "h." It's doing the best I can.
13 Definitely not as well as I could do with the book.

14 Q. You earlier testified that Gulf Elementary does
15 have a copy machine on the premises. Yes?

16 A. Yes, they do.

17 Q. And was it your testimony that each teacher had
18 a limit of a thousand copies a month that they can print
19 up or use or exhaust?

20 A. Each teacher -- we have a card, and each teacher
21 has a thousand copies we can use on the -- they are not
22 called Xerox. It isn't a Xerox machine. It is called a
23 Duplo machine, but you still get copies.

24 The Xerox machine is located next to the
25 library. Teachers don't have access to use that machine,

1 items. We have No. 1, Konica Copiers. It says
2 "Allotment will be a thousand copies per month per
3 teacher."

4 A. Correct.

5 Q. Is this a fair rendering of the policy with
6 respect to the Konica Copiers at the school?

7 MR. FOX: Assumes facts. You already testified
8 there were Konica Copiers.

9 THE WITNESS: You are asking me if I think it's
10 fair having a thousand copies?

11 MR. FOX: No.

12 BY MS. FLOYD:

13 Q. No. I am asking --

14 MR. FOX: Is that the policy at the school?

15 THE WITNESS: Yes, the policy of the school.

16 But it's -- we get a thousand on the -- I have never
17 referred to it as Konica. Maybe that's the problem. But
18 yeah, we get a thousand copies per month on this machine.

19 BY MS. FLOYD:

20 Q. And is there a particular machine that you are
21 allowed to use for purposes of exhausting your thousand
22 copies?

23 A. That would be this machine right here that's
24 referred to as Konica.

25 Q. And where is that machine located on the campus?

1 A. It's in the main office.
 2 Q. Okay. Item No. 2 is Xerox Copies. To your
 3 knowledge is there a Xerox Copier on campus at Gulf?
 4 A. I'm not sure if it's Xerox. It very well could
 5 be. It is next to the library, yes.
 6 Q. So there is a second copier next to the library?
 7 A. Yes. Very big one.
 8 Q. Okay. And here it says "Turn in request" -- In
 9 order to use that copier, you "turn in requests to Angie
 10 or Arce in brown folder as follows, (monthly allotment) K
 11 through 3 12 class sets of 22 and fourth through fifth 12
 12 class sets of 35."
 13 Is this an accurate rendering of the copy policy
 14 with respect to this photocopy machine?
 15 A. On this machine, yes.
 16 Q. Okay. In addition to the thousand copies a
 17 month per month that you are allowed to make on the
 18 Konica copier, you are also allowed to make 12 class sets
 19 of 35 on the copy machine next to the library; correct?
 20 A. It has to be turned into the folder and then has
 21 to be approved whether or not the copies can be made so,
 22 yes, normally you would be able to make 12 sets of 35.
 23 Q. Item No. 3 sets forth policy for use of the
 24 Duplo Copiers, and for fourth and fifth grades it
 25 indicates here you are allowed to make 12 class sets of

1 of the reading lab copying machine. Is that an accurate
 2 depiction of policy with respect to that copy machine?
 3 A. No. I don't recall having the ability to make
 4 copies for math. Open Court reading, we had the ability
 5 to make copies on Open Court only when we didn't have
 6 enough textbooks. And only for that reason.
 7 Q. Okay. So for purposes of copy requests for Open
 8 Court and math books, you could turn in a request to
 9 Gloria Marquez and she will make copies or make sure the
 10 copies are made; is that correct?
 11 A. That's correct, only when we didn't have the
 12 necessary -- the kids didn't have the necessary books and
 13 the photocopies were made, but that doesn't apply anymore
 14 because we have the necessary books for Open Court.
 15 Q. Okay. What about math books?
 16 A. Math books, new math books, the students have
 17 their own textbook and they also have a workbook that
 18 goes home for homework, so there is no need to make
 19 copies.
 20 Q. Earlier today you testified that you were aware
 21 of one teacher who told you he did not have all of the
 22 Open Court books; is that correct?
 23 A. Correct. Correct.
 24 Q. And you indicated that he was having them make
 25 copies --

1 35.
 2 Is that an accurate depiction of the Duplo
 3 Copier policy?
 4 A. The Duplo copy machine that's for upper grade
 5 next to my room is broken and I don't know anyone who
 6 turns any copies in for the Duplo copy machine.
 7 Q. Do you know for how long it has been broken?
 8 A. I don't know. I don't know.
 9 Q. Do you recall -- you have used the Duplo Copier
 10 machine?
 11 A. The Duplo copy machine I am referring to is the
 12 Konica copier machine which makes a modern day Duplo
 13 copy. This Duplo copy that is being referred to is one
 14 of the old time machines where you write something on a
 15 sheet of paper and you attach it to a drum and you put
 16 that liquid underneath and dispenses drops. You kind of
 17 crank the wheel because they used them in the '60's.
 18 Q. Have you ever used it?
 19 A. Oh, no. It's broken.
 20 Q. Do you recall how long it has been broken?
 21 A. No.
 22 Q. Do you recall the last time you used or you had
 23 copies made on this machine?
 24 A. No.
 25 Q. Okay. Item No. 4 refers to the policy for use

1 A. Correct.
 2 Q. -- of the books.
 3 Do you know if he was utilizing this process
 4 described here in item No. 4
 5 MR. FOX: Calls for speculation?
 6 THE WITNESS: I don't know. I don't know.
 7 MS. FLOYD: Okay.
 8 MR. FOX: Counsel, it is 2:00 o'clock. You
 9 know, we came here based on the representation that we
 10 would have a half-day depo. I have questions that I
 11 would like to ask, but I am willing to forego them. I
 12 know this is Thomas' last day before school starts and,
 13 you know, based on what we agreed upon plus the fact that
 14 he has prior commitments and I have to be somewhere, I
 15 think that we are done.
 16 MS. FLOYD: Okay. With all due respect, I would
 17 like a second just to wrap up and ask a few more
 18 questions, one or two more questions, and I will be done,
 19 Counsel.
 20 MR. FOX: I don't know if there is going to be a
 21 wrap-up. I mean --
 22 MR. ROZWOD: Well, I think that the agreement
 23 that we entered into was not so definite as to warrant
 24 you abruptly standing up in a deposition, which you are
 25 currently doing, and assembling your documents while she

1 is in the middle of finishing up her line of questioning.
 2 And it is only 2:00 o'clock. And if she has
 3 five minutes more of questioning, a reasonable attorney
 4 would sit down and let her ask those questions.
 5 MR. FOX: Ben, me being here for day 2 two is
 6 more unreasonable given that we are a third-party witness
 7 and you guys wasted hour on hour asking questions that
 8 are totally off topic.
 9 MR. ROZWOOD: Well, that's your opinion, but we
 10 disagree. We think it's --
 11 MR. FOX: I know you do. I know you would like
 12 to spend four days with him if you had the opportunity.
 13 MR. ROZWOOD: No. Four days is an obvious
 14 exaggeration of a request for five minutes, and you are
 15 being unreasonable, and it is clear in the record that
 16 you are being unreasonable.
 17 MR. FOX: Well, if you want to go to court.
 18 MR. ROZWOOD: And you are wasting time.
 19 MR. FOX: If you want to go to court to get five
 20 more minutes of questioning, then we will come back and I
 21 will ask my hour of questioning and you can ask follow-up
 22 questions, but right now let's either do a stip or we
 23 will leave it incomplete.
 24 MR. ROZWOOD: She's not finished asking her
 25 questions.

1 MS. FLOYD: I just want to ask a few more
 2 questions in one area and I am done.
 3 MR. FOX: How many questions?
 4 MS. FLOYD: How many questions? I will be
 5 asking three questions.
 6 MR. FOX: Okay. Is that okay with you Thomas?
 7 THE WITNESS: Yes.
 8 BY MS. FLOYD:
 9 Q. Okay. You earlier testified about the lack of
 10 access to the library when there is an intercession class
 11 in session and you indicated that intercession is
 12 generally held between 8:00 o'clock and 12:20. That's in
 13 your prior testimony.
 14 Does anyone get access to the library after 12:20?
 15 A. Yes.
 16 Q. And who gets access to the library?
 17 A. Whoever schedules for it. In other words, we
 18 have a monthly grid or yearly grid.
 19 And some people have library in the morning some
 20 people have it in the afternoon. It stays the same. And
 21 those that have it in the morning, they lose their
 22 library time, and those that have it in the afternoon
 23 don't lose it.
 24 Q. So generally when is your scheduled library time
 25 when intercession is occupying the library?

1 A. It varies. I have had sometimes -- usually it
 2 has been in the morning.
 3 MR. FOX: That's three questions.
 4 MS. FLOYD: Thank you.
 5 MR. FOX: Let's go.
 6 THE REPORTER: Stipulation?
 7 MR. ROZWOOD: Yeah. I guess you can review this
 8 transcript as you are reviewing the other one and have us
 9 return a signed copy on or before the date we have agreed
 10 to with respect to the prior volume.
 11 And to the extent you don't return a signed
 12 copy, we will use an unsigned copy for all purposes in
 13 this litigation or any related proceeding. And we will
 14 relieve the court reporter of her obligation under the
 15 statute with respect to this transcript as well.
 16 MR. FOX: No, we are not going to return the
 17 second transcript by Halloween. If it goes more time
 18 than that, it is not going to be ready.
 19 MR. ROZWOOD: How much time do you need?
 20 MR. FOX: 30 days.
 21 MR. ROZWOOD: Okay. That's fine. Do you have
 22 any objection to that? Do you have an objection to that?
 23 MS. FLOYD: No objection.
 24 MR. ROZWOOD: So that's the 22nd of November;
 25 correct?

1 MR. FOX: Yup. Okay. Thanks everyone.
 2 MR. ROZWOOD: Is that the stipulation?
 3 MR. FOX: That's fine by me. Can you send me a
 4 transcript copy. Thank you.
 5 (Mr. Fox and the witness departed
 6 the deposition room.)
 7 MR. ROZWOOD: Let me say, let the record reflect
 8 that Mr. Fox and Mr. Ibarra just got up and walked out of
 9 the deposition without letting Ms. Floyd complete her
 10 line of questioning and she has something to say for the
 11 record in that regard.
 12 MS. FLOYD: For the record, I had not completed
 13 my examination of the deponent. And the deponent's
 14 counsel, as Mr. Rozwood indicated, walked out and refused
 15 to allow me to finish up questions. So let the record
 16 reflect that I had the following remaining questions to
 17 be posed to the deponent.
 18 MR. ROZWOOD: You might want to just indicate
 19 subject matter and leave it at that.
 20 MS. FLOYD: Thank you for the suggestion.
 21 Counsel intended to cover the subject areas of
 22 communication of intercession, library time schedules,
 23 where they were posted, whether or not they were placed
 24 in his mailbox, whether or not the information was
 25 communicated by the administration.

1 Counsel also intended to ask questions with
2 respect to B track. B track intercession classes that
3 were available to students during the 2000-2001 school
4 year and whether or not he had knowledge with respect to
5 intercession classes offered to B track students during
6 the current school year.

7 Counsel also intended to ask questions with
8 respect to the rat puppet incident previously referred to
9 by Mr. Ibarra in his earlier deposition testimony.

10 Counsel also intended to ask questions with
11 respect to the five meetings with Principal Buettgenbach
12 previously described in his earlier testimony.

13 And counsel also intended to ask questions with
14 respect to this year's multi-track school calendar. And
15 that would have concluded my line of questioning had the
16 deponent and his counsel not walked out and left the room
17 with the deposition unconcluded.

18 MR. ROZWOOD: I have nothing else. Thank you
19 very much. Do you need anything from me?

20 THE REPORTER: Ms. Floyd, do you need a copy of
21 the transcript?

22 MS. FLOYD: Yes
23 (Whereupon at the hour of 2:09 P.M., the
24 deposition was adjourned.)
25

1 STATE OF CALIFORNIA)
2) ss

3 COUNTY OF LOS ANGELES)

4 I, SYLVIA P. SHEAR, CSR #3010, in and for
5 the State of California do hereby certify:

6 That, prior to being examined, the
7 witness named in the foregoing deposition was by me duly
8 sworn to testify the truth, the whole truth, and nothing
9 but the truth;

10 That said deposition was taken down by me
11 in shorthand at the time and place therein named, and
12 thereafter reduced to typewriting under my direction, and
13 the same is a true, correct and complete transcript of
14 said proceedings.

15 I further certify that I am not
16 interested in the event of the action.
17 WITNESS MY HAND this 1s day of November, 2001.

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Certified Shorthand Reporter
for the State of California

1 STATE OF CALIFORNIA)
2) ss

3 COUNTY OF LOS ANGELES)

4 I, THOMAS L. IBARRA, hereby
5 certify under penalty of perjury under the laws of the
6 State of California that the foregoing is
7 true and correct.

8 Executed this day of ,
9 2001, at , California.

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THOMAS L. IBARRA