

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2
3 COUNTY OF SAN FRANCISCO
4 UNLIMITED JURISDICTION

5 - - -

6 ELIEZER WILLIAMS, a minor, by SWEETIE
7 WILLIAMS, his guardian ad litem,
8 et al., each individually and on
9 behalf of all others similarly
10 situated,

11 Plaintiff,

12 vs.

No. 312236

13 STATE OF CALIFORNIA, DELAINE
14 EASTIN, State Superintendent of
15 Public Instruction,
16 STATE Department of Education,
17 STATE Board of Education,

18 Defendants.

19 _____/
20 --oOo--

21 DEPOSITION OF
22 WILLIAM KOSKI
23 SAN FRANCISCO, CALIFORNIA
24 MARCH 21, 2003
25 VOLUME II

26 ATKINSON-BAKER, INC.
27 COURT REPORTERS
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31 REPORTED BY: ALICE N. HALBERT, RPR, CSR 7889

32 FILE NO.: 9D021CE

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18 Deposition of WILLIAM KOSKI, taken on behalf
19 of the Defendant, at O'MELVENY & MEYERS, LLP, 275
20 Battery Street, Embarcadero Center West, 26th Floor,
21 San Francisco, California at 9:19 a.m., FRIDAY, MARCH
22 21, 2003 before ALICE N. HALBERT, CSR No. 7889.
23
24
25

1 A P P E A R A N C E
2 FOR THE PLAINTIFF AND WILLIAM KOSKI:
3 MORRISON & FOERSTER, LLP
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7 FOR THE DEFENDANT:
8 California Attorney General
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1 I N D E X

2 WITNESS: WILLIAM KOSKI
3 EXAMINATION PAGE
4
5 BY MR. EGAN 259
6

7 EXHIBITS

8
9
10 DEFENDANT'S

11	12	13	14	15	16	17	18	19	20	21	22	23	24	25
	LETTER		DESCRIPTION		PAGE									
14	24 -		One-paged document entitled		259									
15			December 18, 2000 handwritten											
16			notes											
19	25 -		One-paged document entitled		285									
20			October 4, 2001 handwritten											
21			notes											

1
2 EXHIBITS CONTINUED

5	26 -		Two-paged document entitled		303
6			Notes from Telephone Conversation		
7			with Linda Darling-Hammond		
8			October 6, 2000		
10	27 -		Two-paged document entitled		320
11			March 4, 2002 e-mail		
12			to Bill Koski from Linda		
13			Darling-Hammond		
15	28 -		One-paged document entitled		334
16			September 23, 2002 e-mail		
17			to Rachel Nogara from		
18			Cyndi Knisely		
21	29 -		One-paged document entitled		339
22			September 26, 2002 e-mail		
23			to Catherine from Bill Koski		

1
2 EXHIBITS CONTINUED
3
4 30 - Two-paged document entitled 343
5 July 19, 2002 e-mail to
6 Jeanie Oaks from Bill Koski
7
8 31 - Two-paged document entitled 352
9 handwritten notes
10
11 32 - Forty-six-paged document 360
12 entitled English-Language
13 Arts Facilities
14
15 33 - Two hundred sixty-seven 383
16 paged document entitled
17 Science Framework for
18 K - 12 Public Schools
19
20 34 - Sixty-one paged document 414
21 Science Content Standards
22 adopted 1998
23
24
25

1
2 WILLIAM KOSKI,
3 having first been duly sworn, was
4 examined and testified as follows:
5
6 EXAMINATION
7 BY MR. EGAN:
8 Q. Good morning, Mr. Koski.
9 A. Good morning.
10 Q. Is there any reason that you're not able to
11 give your best testimony this morning?
12 A. No.
13 MR. EGAN: Okay. Mark this as our next
14 exhibit. I believe it's 24.
15
16 (WHEREUPON EXHIBIT 24 WAS
17 MARKED FOR IDENTIFICATION)
18
19 MR. EGAN: Anyone care for a glass of water?
20
21 (Whereupon there was a
22 discussion off record.)
23
24 MR. EGAN:
25 Q. Have you had a chance to review Exhibit 24?

1 A. Yes.
2 Q. And are these your notes?
3 A. That's my handwriting. Yes.
4 Q. Okay. At the top, it indicates Williams v.
5 California meeting.
6 A. Yes.
7 Q. Okay. And could you tell me who attended
8 the meeting based upon your notes?
9 A. Based upon my notes, Linda Darling-Hammond
10 and myself, John Affeldt, John Londen and Thorn
11 Mehweh, I believe her name was.
12 Q. Do you know how to spell her last name or
13 his last name? I'm sorry?
14 A. Hers. And I think it's M-E-H-W-E-H.
15 Q. And who is Thorn Mehweh?
16 A. Thorn, at the time, was an attorney with
17 Public Advocates, I seem to recall.
18 Q. There's a heading "Agenda Items." Is that
19 correct?
20 A. Yes.
21 Q. And whose agenda items?
22 A. I don't know whose agenda that was.
23 Q. Okay. Do you recall where this meeting took
24 place?
25 A. Yes.

1 Q. Where was it?
2 A. Linda Darling-Hammond's office.
3 Q. That's at Stanford?
4 A. Yes.
5 Q. Okay. Do you recall why you were asked to
6 participate?
7 A. I don't recall specifically. No.
8 Q. Do you have a general recollection?
9 A. Um, I -- you know, as you know as we
10 discussed yesterday, I've been working as a
11 coordinator for the expert witnesses and um, have
12 been working close with Linda on portions of her work
13 on the matter.
14 Q. Okay. Under a general today items I think
15 the third item is purpose of paper; is that correct?
16 A. Yes.
17 Q. What was the paper?
18 A. Um, I don't have any recollection of this
19 specifically. Although, as I talked about yesterday
20 the paper that we generally referred to was the
21 comprehensive paper we were preparing.
22 Q. Okay. And the line below that, can you read
23 that for me?
24 A. I'm not sure what that says. It may say
25 there's -- what's -- something in the paper, and it

1 may say what's not in the paper. But I'm not
 2 positive that's it.
 3 Q. Do you have any recollection of what that
 4 refers to, that line refers to?
 5 A. No.
 6 Q. Okay. I think the next line is status of
 7 the case?
 8 A. Yes.
 9 Q. And what does the next line say? Can you
 10 read it?
 11 A. "Textbook/facilities," arrow, "suit verses
 12 districts."
 13 Q. Any recollection of how about reading the
 14 two arrows underneath that.
 15 A. Not on teachers. They think they've done
 16 the most on teacher supply issues.
 17 Q. Okay. Have any recollection of what the not
 18 on teachers refers to?
 19 A. No.
 20 Q. No memory whatsoever, no recollection
 21 whatsoever?
 22 A. No.
 23 MS. WELCH: Objection. Asked and answered.
 24 THE WITNESS: (Shaking head.)
 25 MR. EGAN:

1 Q. Okay. How about the next line, who is
 2 they?"
 3 A. I don't remember.
 4 Q. Okay. And what are teacher supply issues in
 5 that line?
 6 A. Again I don't have any specific recollection
 7 of that. But um, there are -- I remember being parts
 8 of discussions regarding teacher labor markets and
 9 teacher per supply and demand.
 10 Q. Okay. And do you have any idea of what the
 11 doing the most refers to in regard to teacher supply
 12 issues?
 13 A. No. I don't.
 14 Q. At the very bottom of the page, heading
 15 purpose of paper"?
 16 A. Yes.
 17 Q. Is that correct?
 18 And then, could you reads the next line?
 19 A. Remedy arrow answer questions from public."
 20 Q. Okay. What was the significance of that
 21 note?
 22 A. I don't recall. Nor do I have any present
 23 understanding of what that means.
 24 Q. On the right-hand side of the page, there's
 25 a block with handwriting that I believe looks like

1 it's a "telephone con with Linda." Is that correct?
 2 A. Yes.
 3 Q. Do you recall what that refers to?
 4 A. No. I don't recall.
 5 Q. Okay. This telephone con, is this a
 6 telephone conversation?
 7 A. Yes. It's my practice to indicate telephone
 8 call with somebody as telecon.
 9 Q. Do you recall -- and Linda is
 10 Dr. Darling-Hammond?
 11 A. Um, based on the rest of the notes and that
 12 block, I would say yes.
 13 Q. Okay. Why do you say that "based upon the
 14 notes"?
 15 A. Because the notes, they seem to suggest it
 16 was in my capacity as working as coordinator as
 17 research assistant with her.
 18 Q. Okay. And you were working as a coordinator
 19 with regard to the remedy paper?
 20 A. I was working as a coordinator regarding the
 21 overall comprehensive paper.
 22 Q. What is the "remedy paper"?
 23 A. I don't know.
 24 Q. What is the "liability paper"?
 25 A. I don't know that either.

1 Q. How do they relate to the overall paper?
 2 A. I don't know.
 3 Q. Okay.
 4 A. (Shaking head.)
 5 Q. Do you recall at any point discussing with
 6 Dr. Darling-Hammond the subject of a remedy paper in
 7 the context of your work?
 8 A. I don't have any recollection of discussing
 9 a remedy paper in the context of my work.
 10 Q. Okay. Anything like that perhaps a
 11 different wording?
 12 A. As we discussed yesterday, um, there was a
 13 section of the comprehensive paper that we were
 14 writing that was in even entitled "remedy." That's
 15 my recollection.
 16 Q. What do you recall about that part of the
 17 comprehensive paper that dealt with remedy?
 18 A. Um, as I testified yesterday, um, the paper
 19 had raised a number of issues regarding problems and
 20 resources and conditions that children in California
 21 face in the schools. And it also -- it also
 22 contained a section that discussed or I should say it
 23 had a heading in space for a section that would
 24 discuss possible remedies to those problems.
 25 Q. Okay. Do you recall the specific problems

1 that were included in the remedy portion of the
2 paper? I think you referred to them as resource
3 problems?

4 A. Yeah. That assumes that there were any
5 specific remedies in the remedy section of the remedy
6 paper. I don't recall any specific remedies were
7 proposed in the remedy section.

8 Q. Do you recall any question and: Do you
9 recall whether specific topics under the remedy
10 section such as textbooks or facilities or teachers?

11 A. I don't recall anything under the remedy
12 section. Of the paper. In the outline.

13 Q. Okay. Do you recall anything of your
14 discussions with Dr. Darling-Hammond about the
15 remedy?

16 MS. WELCH: Asked and answered.

17 THE WITNESS: Again, we talked about the
18 fact that there was a section in the paper entitled
19 "remedy" that we had discussed in visions as
20 addressing the problems that were identified by the
21 rest of the paper. I don't remember any more
22 substance ever being put into that section of the
23 paper.

24 MR. EGAN:

25 Q. Apart from Dr. Darling-Hammond, do you

1 proceeding with the paper.

2 Q. Okay. Did Mr. Affeldt at any point in time
3 give suggestions to you with regard to the work that
4 you were doing in connection with Williams?

5 A. Yes. I remember one time he suggested that
6 we reorganize something in the paper because it
7 didn't make sense to him in terms of its logical
8 flow. I don't ever remember any other suggestions
9 with regard to the paper and no substantive
10 suggestions.

11 Q. Okay. Did you -- do you recall any
12 suggestions from any other member of the plaintiffs
13 counsel team in Williams regarding the paper?

14 A. I recall no other suggestions as to the
15 content of our work or the paper.

16 Q. Okay. How about comments or suggestions
17 from counsel for plaintiffs with regard to your
18 expert report?

19 MS. WELCH: Objection. Vague.

20 THE WITNESS: When?

21 MR. EGAN:

22 Q. At any point.

23 A. The only comments from plaintiffs counsel
24 that I received on my expert report were -- I'm
25 trying to remember what it was. There was a gram mat

1 recall any discussions regarding remedies in the
2 context of the paper with anyone else?

3 A. (Pausing.) I seem to recall that um, it may
4 have been at this meeting that was on 12-18 -2000.
5 Or some other conversation I seem to recall talking
6 with John Affeldt that we had a section regarding
7 remedies in the paper that were -- that we um, were
8 thinking about using to address the problems that we
9 had identified earlier in the paper.

10 Q. And what specifically do you recall
11 discussing with Mr. Affeldt in that regard?

12 A. .

13 MS. WELCH: Objection. Asked and answered.

14 THE WITNESS: I don't recall anything more
15 specific than that.

16 MR. EGAN: Okay.

17 THE WITNESS: I mean I don't recall anything
18 that Mr. Affeldt said in that regard.

19 MR. EGAN:

20 Q. Okay. Do you recall anything you said?

21 A. Um, only that we had a section in for that
22 in the paper. My recollection is that Mr. Affeldt
23 was more interested in hearing reports from me and
24 not interested in directing the work in any way. So
25 what I remember was my reporting to his how we were

1 Cal error in the paper that somebody commented on.
2 And there was the a citation format question that
3 somebody commented on. And that's all I remember.

4 Q. Okay.

5 A. I'm fairly confident that there were no
6 other comments on that.

7 Q. Okay. Referring back to Exhibit 24 and the
8 block that refers to the telephone conversation with
9 Linda --

10 A. (Nodding head.)

11 Q. Could you read the two arrows under remedy?

12 A. Yes. Under remedy paper?

13 Q. Yes.

14 A. Enforcements and substance -- providing
15 resources.

16 Q. Okay. You have any recollection of what the
17 reference to substance providing resources?

18 A. I don't have any recollection of that. No.

19 Q. Okay. Do you have any idea at this point
20 what it means?

21 A. My interpretation of that note is that in
22 conversation with Linda we talked about the
23 components of that remedy section or what's called
24 recommend remedy paper here. But I don't have any
25 memory of that. One part of it would be the

1 substance of the remedy. And another part might be
2 enforcement of the remedy. And providing resources
3 might be part of that substance that would be my
4 interpretation of that.

5 Q. Okay. Any other recollections of discussing
6 those topics with Dr. Darling-Hammond after this
7 meeting?

8 A. No. I don't have any recollection of any
9 further discussions on that topic.

10 Q. Okay. Could you read the -- the writings
11 underneath the heading "liability papers"?

12 A. Yes. It says "teachers." And there are a
13 number of lines drawn out to the three different
14 things.

15 Q. Okay.

16 A. "Importance of" and then, it stops.
17 "Current con," which I would interpret as current
18 conditions, and then, state standards.

19 Q. Okay.

20 A. Then it -- it says, with another arrow,
21 "curriculum," and an arrow below that. "State
22 minimum verses maximum." Then, another arrow saying
23 "textbooks and instructional materials" with two
24 arrows that -- one saying "effects," one -- oh!
25 Three arrows. Actually, one saying "effects" and one

1 among California students.

2 Q. Okay. What is your recollection in that
3 regard?

4 A. That's it. We -- that was a section of the
5 paper and that um, we were going to try to provide
6 some data in that regard, if we could.

7 Q. Okay. And the last line, what's your
8 interpretation of that? "State" --

9 A. State standards.

10 Q. Yeah.

11 A. Regarding textbook and industrial materials
12 was another sectioning of the paper, is my
13 recollection.

14 Q. What's your interpretation of the third line
15 "surveying questions"?

16 A. I'm not sure of the relevance of my current
17 interpretation of any -- of these things.

18 I can tell you that I have a recollection of
19 the survey -- proposal to survey somebody --
20 students, teachers -- I don't remember who, regarding
21 the -- their access to certain educational resources.

22 Q. Was this -- okay. Was this survey that you
23 described was referenced in number three?

24 A. I don't know for sure. I don't recall
25 specifically. But um, I do remember having a

1 saying "current conditions" and another saying "state
2 standards."

3 Q. Okay. And how about -- looks like number
4 three.

5 A. Yes.

6 Q. What is that?

7 A. It says "survey and questions."

8 Q. Okay. Do you interpret number three to be
9 part of the block that includes your telephone
10 conversation with Linda?

11 A. Yes.

12 Q. Okay. What's your interpretation of the
13 line of effects that is under textbook and
14 instructional materials?

15 A. There was, to the best of my recollection
16 and in my discussion with Linda. There was a section
17 of the paper that was discussing the effects of
18 textbooks and instructional materials on student
19 learning.

20 Q. Okay. And how about the same -- what is
21 your interpretation of the line that talks about
22 current conditions?

23 A. I have a recollection of, again, discussing
24 the current condition of the distribution quality and
25 the like of textbooks and instructional materials

1 conversation with Linda about such a survey.

2 Q. Okay. What was the substance of your
3 discussion with Dr. Darling-Hammond regarding the
4 survey?

5 MS. WELCH: Asked and answered.

6 THE WITNESS: I remember -- I -- the only
7 additional content of that conversation that I
8 remember is um, we were concerned that we didn't have
9 much data on the current distribution and quality of
10 certain resources instructional materials, textbooks
11 and the like, and, in particular, amongst students in
12 California. And we had talked about the possibility
13 that maybe a survey would be a good idea to get at
14 this.

15 MR. EGAN:

16 Q. Why were you concerned that there wasn't
17 much data?

18 A. Um, we -- let me restate that. It was part
19 of our paper to address the issue of the current
20 conditions regarding student instructional materials
21 and the like and the distribution of them throughout
22 the state. And there was one that was one area of
23 the paper for which we didn't have current data.

24 Q. Well, let me ask this. The paper, as you
25 understood it, was to be used in connection with

1 Williams v. California?

2 A. The paper was to be used somehow in
3 connection with Williams v. California. I didn't
4 know exactly how.

5 Q. Did you have any idea of how it was going to
6 be used in connection with Williams v. California?

7 A. The legal team would use it as it saw fit
8 and use the -- you know, Linda's expert testimony
9 as -- if they choose to use Linda's expert testimony.
10 I don't know.

11 Q. Well, I -- was it your understanding that
12 the paper was going to be the basis for expert
13 reports that would be used in Williams v. California?

14 MS. WELCH: Calls for speculation.

15 THE WITNESS: Yeah. I don't -- again, I
16 can't get inside the minds of the attorneys and not
17 use -- and not use from the paper.

18 Linda and I undertook a task of trying to
19 document the conditions and certain areas that we had
20 talked about at length yesterday. We talked about
21 why those conditions mattered for student learning
22 and, potentially, talked about what available
23 remedies there might be to fixing those problems.

24 MR. EGAN:

25 Q. Okay. So are you -- you're saying that when

1 the paper.

2 Q. But my question was: Was that one
3 facility -- one of the areas where there was an issue
4 or concern about the absence of data?

5 MS. WELCH: Objection. Asked and answered.

6 THE WITNESS: The -- I stated and will
7 restate that that was not an area for which Linda and
8 I were charged. And some other folks were working on
9 that. I have no idea one way or another whether or
10 not there was -- there are data available regarding
11 the conditions of facilities.

12 MR. EGAN:

13 Q. My question was to, you know, ask what areas
14 there was an issue with regard to data. And you
15 identified industrial materials. And then, you
16 referenced facilities. And I'm unclear as to where
17 you referenced facilities if it wasn't an issue with
18 regard to data.

19 A. I don't know whether or not it was an area
20 which we looked into.

21 Q. Okay.

22 A. That's my statement on that.

23 Q. Okay.

24 A. I'm being complete with my answer.

25 Q. Well, apart from instructional materials,

1 you referred to your discussion as having concerns
2 about the lack of data that -- you know, concerns is
3 not a correct way to describe your feelings?

4 A. I'm -- the word "concern" would be
5 interpreted in so many different ways. I have -- I'm
6 going to say it was an issue for us, because that --
7 we had that section in our outline and wanted to make
8 sure we filled in each section outline to the extent
9 we could.

10 Q. Okay. Do you recall the areas where data
11 was needed in the paper?

12 A. The State of California, to our knowledge.
13 Had never kept track of the distribution and quality
14 of instructional materials and instructional
15 resources. And we talked about this yesterday. And
16 that was an area for our paper to cover.

17 We had searched many different places for
18 that information. And we were unable to find that
19 information.

20 Another place where there was um -- I'm
21 trying to remember. Another place that Linda and I
22 were not familiar, nor were we charged to work on,
23 was the condition of facilities in California. There
24 may well have been lots of data in that regard. But
25 we did not look into that question, so -- in terms of

1 were there any other areas where there was an issue
2 regarding the absence of data?

3 A. Um --

4 MS. WELCH: Objection to the extent that
5 this question is vague as to time.

6 This whole line of questioning is pretty
7 vague as to time. You haven't really identified
8 which period of time we're talking about. So I think
9 it's difficult for him to answer these questions.

10 MR. EGAN: If you want to make an objection,
11 make an objection. But it's a speaking objection,
12 and it's coaching the witness, and it's not proper.

13 THE WITNESS: The -- my problem in
14 interpreting the question is that the potential scope
15 of a project like this is enormous. And it could be,
16 at many points, did cover many, many, many different
17 topics, some of which there were -- was more
18 information than the others.

19 So (shrugging) to suggest or to ask if
20 that's an issue regarding the availability or lack of
21 data, that's an enormously overbroad question that I
22 can't even begin to answer, without looking at the
23 specific context of specific parts of the project.

24 So I (shrugging) -- I can't answer that.

25 And I don't have any recollection of any other -- any

1 other things that were specifically issues regarding
2 availability of data. There may be others.

3 MR. EGAN:

4 Q. Well, my question is simply to ask what you
5 recall. And you've -- you stated that there were --
6 in connection with Exhibit 24, that there were issues
7 regarding the absence of data.

8 A. (Nodding head.)

9 Q. My question is, you know, what were the
10 areas where there was an absence of data? You
11 identified instructional materials. And as I
12 understand it, you don't, at this point, recall any
13 other particular areas where data was an issue?

14 A. I don't, at this point in time, recall any
15 other specific areas where availability of data was,
16 you know, an issue. There may be others out there.

17 Q. Okay. Let me ask under Number 3 the survey
18 in question. It also appears in Number 4. Is that
19 correct?

20 A. Yes.

21 Q. Does that belong in the block that refers to
22 the telephone conversation with Linda?

23 A. That would be my interpretation of this.
24 Yes.

25 Q. Okay. Can you read that?

1 teachers that were prepared in connection with the
2 papers that were being prepared for Williams?

3 A. I don't know what "in connection" means,
4 again.

5 Q. Okay. With the -- for the purpose of
6 gathering data for use in the report.

7 A. I don't know the purpose of any specific
8 survey. I don't know the purpose of any specific
9 survey. So that I'm not aware of anything that had
10 the purpose of gathering data for Williams expert
11 reports.

12 Q. Let me ask. Are you aware of any surveys
13 that were done?

14 MS. WELCH: Objection. Vague.

15 THE WITNESS: In what context?

16 MR. EGAN:

17 Q. So you know, in --

18 A. How we feel about the Bush administration
19 policy?

20 Q. Are you aware of any surveys that were done
21 to address the issues or concerns regarding the lack
22 of data regarding instructional materials?

23 A. Okay. Again --

24 MS. WELCH: Objection. Vague. It doesn't
25 makes sense. You're trying to characterize past

1 A. It says "notes in correspondence" paren,
2 "include example," close parenthesis.

3 Q. What was your interpretation?

4 A. I don't have any recollection of what that
5 means, nor would I hazard an interpretation, because
6 it seems to be pretty content dependent.

7 Q. Okay. Are you aware of any survey that was
8 undertaken in connection with Williams verses
9 California after your meeting of December 18th, 2000?

10 MS. WELCH: Objection. Vague.

11 THE WITNESS: I don't know. I don't know
12 what it means to be in connection with Williams v.
13 California.

14 MR. EGAN:

15 Q. Let me rephrase the question. Are you aware
16 of any survey of students that was intended to gather
17 information for use in any of the papers or any of
18 the expert reports that were being prepared for
19 Williams?

20 A. No. I don't.

21 Q. Okay. Are you aware of any surveys of
22 students that were conducted to be used in any of the
23 expert reports in Williams?

24 A. No. I'm not.

25 Q. Okay. Are you aware of any surveys of

1 testimony. I object to that, as well.

2 THE WITNESS: Yeah. Again, raise -- you put
3 the word "concern" into there. And I -- I do not
4 know what the purpose was of the intent of any survey
5 was, and whether or not they were designed to address
6 the issues of the availability of data in this case.

7 MR. EGAN:

8 Q. Well, are you aware of the survey in this
9 case?

10 A. I'm aware of the survey that was conducted
11 of teachers. That's what I will --

12 Q. Okay.

13 A. That's what I will --um, I don't know what
14 the purpose of that survey -- I know that the um,
15 survey was of teachers and included access to
16 resources.

17 Q. Okay. Tell me what you know about the
18 survey.

19 A. All I know about the survey is in reports
20 that I've seen on the web and um, in the newspaper.

21 I seem to recall reading an article of a
22 survey conducted by -- and I could be wrong here.
23 But I believe it was Harris regarding access in
24 various schools to certain educational resources.

25 Q. Okay. The reports on the web that you

1 referenced, were they at any specific web site or
 2 were they general?
 3 A. I don't remember which web site it was on.
 4 Q. Okay. And who conducted the survey, to the
 5 best --
 6 A. To the best of my recollection, Harris
 7 conducted the survey. But I could be wrong. I don't
 8 know why that name sticks in my mind.
 9 Q. Okay. What do you recall reading about that
 10 survey?
 11 A. I seem to recall my impression of the survey
 12 was that it indicated that kids in lower social
 13 economic status schools had access to fewer of the
 14 instructional resources and educational resources
 15 that they should have had access to. That was my
 16 impression that I had after I read the findings from
 17 the survey.
 18 Q. Okay. Did you ever discuss this survey with
 19 Dr. Darling-Hammond?
 20 A. No.
 21 Q. Did you ever discuss the survey with any of
 22 plaintiffs counsel in Williams?
 23 A. No.
 24 Q. Did you ever discuss the survey with any of
 25 the other experts plaintiffs experts in Williams?

1 A. No.
 2 Q. You never discussed the survey with
 3 Dr. Jeanie Oaks?
 4 MS. WELCH: Asked and answered.
 5 THE WITNESS: No. She's the expert. And
 6 the answer is no.
 7 MR. EGAN:
 8 Q. Okay. Have you ever seen the survey
 9 questions?
 10 A. No.
 11 Q. Okay. Have you ever seen any of the --
 12 A. Well, actually, to the extent in any of
 13 those reports that I read that they actually
 14 identified the questions, then I saw it. But I don't
 15 remember specifically seeing any questions.
 16 Q. Okay. I'm sorry. Other than in the --
 17 A. The reports that I read on the web and in
 18 the newspapers.
 19 Q. Okay.
 20 A. If they were located there, I saw them.
 21 Q. Okay.
 22 A. I saw them.
 23 Q. Reports. You're not referring to reports to
 24 experts?
 25 A. No.

1 Q. You're referring to reports in a general
 2 sense --
 3 A. Uh-huh.
 4 Q. -- in the press --
 5 A. Uh-huh.
 6 Q. -- or on the web?
 7 A. Yes.
 8 Q. Okay. Do you recall reading any reference
 9 to the reports in any of the expert reports filed on
 10 behalf of the plaintiffs in this case?
 11 A. I didn't read the plaintiffs expert reports
 12 in file.
 13 Q. You haven't read any of them?
 14 A. No.
 15 Q. Okay.
 16 A. Except for the sections of Jeanie Oak's
 17 paper and Linda Darling-Hammond's paper that
 18 referenced my work.
 19 Q. Okay. And in reading those sections, in
 20 reading the section of Dr. Oaks's report that
 21 referenced your work, do you recall any reference to
 22 the Harris survey?
 23 A. No.
 24 Q. Okay. Same question with
 25 Dr. Darling-Hammond's report.

1 A. The answer is no.
 2 Q. Okay.
 3
 4 (WHEREUPON EXHIBIT 25 WAS
 5 MARKED FOR IDENTIFICATION)
 6
 7 MR. EGAN: That would be number 25.
 8 THE WITNESS: Okay.
 9 MR. EGAN:
 10 Q. Mr. Koski, these are your notes of the
 11 conference call?
 12 A. My handwriting reflects notes that I took on
 13 October 4, 2001 regarding Williams conference calls.
 14 Q. Okay. And in attendance were Jeanie Oaks,
 15 John Rogers, Linda Darling-Hammond. Who was the next
 16 person?
 17 A. Looks like me.
 18 Q. I'm sorry. I'm sorry. After you.
 19 A. Jamie Stillman.
 20 Q. Do you recall -- do you know who Jamie
 21 Stillman is?
 22 A. My recollection is that Jamie was a research
 23 assistant for Jeanie Oaks. But I could be wrong
 24 about that.
 25 Q. Okay. There's a line which starts John A.

1 A. John Affeldt.
 2 Q. That's -- I'm sorry. I'm --
 3 A. Lower down.
 4 Q. I'm looking farther down. Is that
 5 John Affeldt?
 6 A. Um, I don't have any present recollection of
 7 that. But given the context of this, it would
 8 probably have been a reference to John Affeldt.
 9 Q. Okay. And would these be your notes of
 10 comments that Mr. Affeldt made?
 11 A. Again, as I mentioned yesterday, um, they
 12 may have been notes that -- comments that
 13 John Affeldt made or that were made in the context of
 14 a conversation that John had started. So I can't
 15 tell right now.
 16 Q. Okay. What's the interpretation of the
 17 notes that indicates "a basic tools case"? And you
 18 may want to read it in conjunction, "not what is
 19 required to graduate."
 20 A. My understanding of what "basic tools" might
 21 mean in the context is that, and as I understand it,
 22 the focus of the litigation on basic educational
 23 necessities that children in California should be
 24 provided.
 25 Q. Okay. And how does that relate to "not

1 likely to mean -- what it likely means?
 2 A. It likely means that is either somebody else
 3 or either I thought to myself or somebody else said
 4 that um, not to use the term "adequate." And I don't
 5 know in what context that would be.
 6 Q. There's a line below that that says, "I
 7 believe agnostic as to the standards." Is that
 8 correct?
 9 A. Yes. That's what it says.
 10 Q. Does that reflect the comment made by
 11 Mr. Affeldt?
 12 A. I don't know.
 13 Q. Okay.
 14 A. (Shaking head.)
 15 Q. Do the brackets around the two comments
 16 signify anything to you?
 17 A. No. They don't. I don't know what those
 18 mean.
 19 Q. Okay. The next heading is "curriculum." Is
 20 that correct?
 21 A. Yes.
 22 Q. "Need to show any quality"?
 23 A. Yes.
 24 Q. What does that mean?
 25 A. Um, it is somehow in relation to curriculum

1 required to graduate"?
 2 MS. WELCH: Objection. Assumes facts.
 3 THE WITNESS: I don't know.
 4 MR. EGAN:
 5 Q. Do you have an interpretation?
 6 A. No. I do not have an interpretation.
 7 Q. You don't have any recollection of what was
 8 said at this conference call?
 9 A. No. I don't. I don't remember the call.
 10 Q. All right. Could you read the next line for
 11 me?
 12 A. "These kids don't have text books and the
 13 state doesn't." Then, it stops.
 14 Q. Okay. And how about -- could you read the
 15 next line?
 16 A. "Don't use the term adequate."
 17 Q. What's your recollection of that note?
 18 A. That may --
 19 MS. WELCH: Asked and answered.
 20 THE WITNESS: That may or may not have been
 21 a note to myself. That may or may not have been what
 22 somebody else said in the call. So I don't know what
 23 that -- what that means.
 24 MR. EGAN:
 25 Q. Do you have any interpretation of what it is

1 heading. And I don't know now what context it was
 2 in. I don't remember this conversation.
 3 Q. Okay. Do you have an interpretation, given
 4 your long involvement, at this point, in the Williams
 5 case as to --
 6 A. My guess. My guess. And I'm not -- and
 7 this is a guess -- is that it has to do with inequity
 8 being among the level standards. That might be
 9 applied in this case. That showing inequality in
 10 access to curriculum might be something that would be
 11 useful.
 12 I don't know if that has anything to do with
 13 the conversation. And I also know that was way
 14 outside of the scope of what I've been asked to talk
 15 about in this case.
 16 Q. Well, you've had a very extensive
 17 involvement in the case. So I think that, you know,
 18 very broad.
 19 Your next line is?
 20 MS. WELCH: His expert opinion is not, you
 21 know, his involvement in the case.
 22 MR. EGAN: Well, let me put it this way. I
 23 think a great deal that informs his expert opinion.
 24 That's what I'm trying to get at without much
 25 success. We don't have recollection of, you know,

1 anything with regard to his notes.

2 MS. WELCH: Well, these notes are going back
3 for three years. So I don't think it's a surprise
4 that there is -- one has the recollection of things
5 from 2000.

6 MR. EGAN: I think it's very surprising that
7 there is absolutely no recollection of any of this,
8 given his involvement as an expert status and as an
9 attorney. It's truly remarkable.

10 MS. WELCH: I very much disagree, but
11 there's no reason for us to carry on about it.

12 MR. EGAN: That's correct.

13 Q. The next line is JO. Does that refer to
14 Jeanie Oaks?

15 A. In the context of these notes, it -- there's
16 a -- my interpretation would be -- would be for
17 Jeanie Oaks. Yes.

18 Q. And given your format, the arrow indicates
19 the following is a comment that she made. "No
20 documentation on the availability/access to
21 curriculum."

22 A. My interpretation would be that that comment
23 would have been attributed to Jeanie. Yes.

24 Q. Okay. Do you have any recollection of what
25 was discussed or what else that exactly Dr. Oaks said

1 note?

2 A. I don't recall any further follow up
3 discussion with Dr. Darling-Hammond in that regard.

4 Q. Okay. Do you recall any discussions after
5 October 4, 2001 regarding documentation on the
6 availability/access to curriculum with anyone else
7 associated with Williams?

8 A. (Pausing.)

9 MS. WELCH: Objection. Vague. Really broad
10 question.

11 THE WITNESS: Yeah. I know -- I know I was
12 involved with a conversation -- strike that. I'm
13 sorry.

14 I was involved with a conference, which I
15 can't remember the date of right now, in which um,
16 many, many issues in connection with various experts
17 work on this case were discussed. And I do remember
18 that one of those issues was access to curriculum.
19 And that's what I remember.

20 MR. EGAN:

21 Q. What was the -- where was the conference
22 that you're --

23 A. I was at a conference that was held at
24 UCLA's campuses.

25 Q. Okay. And what was the title of the

1 in the context of "no documentation of the
2 availability access to curriculum"?

3 A. In this call?

4 Q. Yeah.

5 A. I don't remember this call.

6 Q. Okay. Do you remember nothing about this
7 call?

8 MS. WELCH: Objection. Asked and answered.

9 THE WITNESS: I don't remember this call.

10 MR. EGAN:

11 Q. Okay.

12 A. It's 10-4-2000. As a status as an attorney
13 or otherwise, I don't remember this call.

14 MR. EGAN:

15 Q. There's a note. "They sent paper to
16 Jeanie."

17 A. That's what it says. Yes.

18 Q. What paper are you referring to?

19 A. I don't know what paper that refers to. I
20 know at some point, I sent Jeanie a copy of the paper
21 that ultimately became the expert witness report in
22 this case.

23 Q. Okay. Do you recall were there any
24 follow-up discussions with Dr. Darling-Hammond
25 regarding the documentation issue alluded to in your

1 conference or --

2 A. I don't know.

3 MS. WELCH: Objection. Assumes facts.

4 THE WITNESS: I don't know whether it had a
5 title.

6 MR. EGAN:

7 Q. What was the purpose of the conference?

8 A. I don't know what the purpose of the
9 conference was. I can -- by way of description,
10 there were a number of people who um, participated in
11 that conference, some of whom were ultimately asked
12 to provide expert testimony regarding Williams
13 against California.

14 My purpose in attending the conference was
15 attending to learn more about various people's work
16 and regarding education equity in California.

17 Q. Do you have an approximate date for the
18 conference?

19 A. Yeah. Let me think. Summer 2002.

20 Q. Do you remember who organized the
21 conference?

22 A. My understanding was that it was Jeanie
23 Oaks. Under Jeanie Oaks's auspicious.

24 Q. And were you invited to attend the
25 conference?

1 A. Yes.

2 Q. And who extended the invitation?

3 A. It was Jeanie Oaks or her legal -- or her
4 research assistant, I mean.

5 Q. Do you recall was there a request that you
6 participate in some way in the -- at the conference?

7 A. Yes.

8 Q. And what was that request?

9 A. The request was that I discuss the paper
10 that I had been working on regarding the state's
11 content standards.

12 Q. Okay. Did you have an understanding -- or
13 do you know who else was going to be in attendance?

14 A. I knew others in attendance at the
15 conference. Yes.

16 Q. And who were the others who were going to
17 be --

18 A. I knew Jeanie Oaks was there. I knew
19 that -- what's his name -- Kevin Welner was going to
20 be there. I knew that -- um, (Pausing.) And I had
21 thought that um, Linda Darling-Hammond was going to
22 be there. I don't know -- I don't think Linda
23 actually came.

24 Q. Okay. And you indicated that you were
25 requested to discuss -- I'm not sure you said your

1 interested in using that paper to -- as an expert
2 opinion in the Williams litigation.

3 Q. Okay. And it's your testimony that that's
4 the first time that you were asked to consider
5 submission -- submitting as an expert witness in
6 Williams?

7 A. Yes. After the conference the first time, I
8 was asked to submit an expert report in Williams.

9 Q. Who asked you?

10 A. Um, it was either Mark Rosenbaum or Jack
11 Londen. Because I talked to both of them shortly
12 after the conference.

13 Q. Did you talk to him in person or on the
14 phone?

15 A. On the telephone.

16 Q. Okay. And what did -- what was the
17 substance of your conversation with Mr. Rosenbaum or
18 Mr. Londen regarding your paper?

19 A. The substance of my conversation with
20 Mr. Rosenbaum was that he thought it was a lucid
21 paper. And it might be interesting for the court to
22 see in the case. And he -- I think he invited me to
23 participate as an expert witness at that point.

24 Q. Okay. Was your conversation with
25 Mr. Rosenbaum or with Mr. Londen or both?

1 paper?

2 A. Yes.

3 Q. Okay. Specifically, what paper are you
4 referring to?

5 A. The standards paper. That was California
6 content standards paper.

7 Q. Was it your understanding that the paper at
8 this point was going to be used as an expert report
9 in Williams?

10 A. It was not my understanding that that was
11 going to be used as an expert report in Williams. In
12 fact, I didn't think it was going to be used as an
13 expert in Williams at that point. That had never
14 been suggested to me.

15 Q. Okay. And, again, to the best of your
16 recollection, this was in, approximately, the summer
17 of 2002?

18 A. Yes.

19 Q. Okay. At the -- after your participation or
20 your attendance at the conference, did you have any
21 different understanding with respect to whether your
22 paper would be used as an expert report in the
23 Williams case?

24 A. Yes. After my participation in the
25 conference, somebody asked me whether I was

1 A. That was with Mr. Rosenbaum. I had a
2 separate conversation with Mr. Londen where he also
3 said he enjoyed reading the paper and listened to the
4 presentation that I did at the conference. And he
5 asked me if I could submit the paper as an expert
6 opinion.

7 Q. Okay. So Mr. Londen was at the conference
8 that you attended?

9 A. Yes.

10 Q. Was Mr. Rosenbaum there?

11 A. Yes.

12 Q. Did you know that they were going to be
13 there before?

14 A. As I testified before, the only people who I
15 knew were going to be there were the people I
16 identified.

17 Q. Okay. At the conference, did you learn why
18 Mr. Rosenbaum and Mr. Londen were attending the
19 conference?

20 A. No. I don't know why they attended the
21 conference. I -- I can't describe people's motives
22 here.

23 Q. Okay. Did Mr. Rosenbaum say anything at the
24 conference?

25 MS. WELCH: Objection. Vague.

1 THE WITNESS: Did he say anything publicly
2 to the group?

3 MR. EGAN:

4 Q. Yes.

5 A. No. I don't recall him saying anything at
6 the conference.

7 Q. How about Mr. Londen? Did he say anything
8 to the group at the conference?

9 A. I seem to recall -- and I don't know whether
10 it was publicly or not or if I privately asked him a
11 question, but I remember him talking briefly about
12 the status of the case and mentioning that case was
13 in mediation.

14 Q. Okay. Is this all you recall Mr. Londen
15 saying at the conference?

16 A. Yes.

17 Q. Okay. And you don't recall whether that was
18 a private conversation or publicly to the group?

19 A. I don't, actually.

20 Q. Okay. Did you -- was there an agenda that
21 was distributed at the conference?

22 A. There was an agenda distributed that
23 discussed the order of presentation of the various
24 people who were presenting at the conference.

25 Q. Okay. Was there anything else that was --

1 A. The feedback -- couple of people. I recall
2 and um, yes. The feedback on the presentation that I
3 gave.

4 Q. Okay. Could you describe your presentation?
5 Was it, in essence, a summary of your paper?

6 A. The presentation -- that's exactly it. It
7 was a summary of the paper. I discussed the
8 background of lengthy history discussion in the
9 linking of California State educational policy to the
10 standards, California content standards. I then
11 discussed methods. I then discussed the findings
12 that we made --

13 Q. Okay.

14 A. -- like any academic presentation,
15 basically.

16 Q. Okay. Was this version of the paper
17 substantially the same as your expert report?

18 A. There -- yes. It was substantially -- the
19 version of the paper that I delivered at that
20 conference was substantially the same with the very
21 significant exception of the -- we had not yet
22 analyzed the science curriculum frameworks.

23 Q. For the reason you discussed --

24 A. Yes.

25 Q. -- yesterday?

1 any other written materials that were distributed at
2 the conference?

3 A. No.

4 Q. Okay. Did you take any notes while you were
5 at the conference?

6 A. I may -- well, hmm! Yes. I remember taking
7 notes while I was at the conference. After I
8 presented my paper, there was some feedback from some
9 of the scholars and researchers who were there, and I
10 took notes on that.

11 Q. There was -- you said there was feedback.
12 What do you mean? Could you explain what you mean by
13 "feedback"?

14 A. Yes. People made comments on the
15 presentation in the paper.

16 Q. Okay. As I understand, then, the other
17 participants of the conference had had the
18 opportunity to review your paper; is that correct?

19 A. (Pausing.)

20 Q. Or --

21 A. No. I don't have that understanding. I
22 don't know that anybody, other than one other person
23 reviewed the paper.

24 Q. Okay. So when you talked about feedback,
25 was feedback by just one other people?

1 A. (Nodding head.)

2 Q. Who provided you with feedback on your
3 paper?

4 A. I remember Kevin Weldner providing feedback.
5 And I also remember, I believe, John Rogers providing
6 feedback.

7 MR. EGAN: Okay. I'd like to ask Mr. Koski
8 to look through his files. And if he has a copy of
9 the agenda from that meeting and his notes, to
10 produce those.

11 MS. WELCH: We'll have to get back to you on
12 that.

13 MR. EGAN: Okay.

14 MS. WELCH: I hear your request and will
15 respond to it.

16 MR. EGAN: Okay. And I -- maybe I should
17 broaden it to refer to any writings that pertain to
18 the conference that he has in his possession at this
19 point, in addition to the specific request for the
20 agenda and the notes that he's previously referred to
21 regarding the comments that were made.

22 Q. I believe you said that Mr. Rosenbaum
23 invited you to prepare an expert report.

24 A. That's the best --

25 MS. WELCH: Objection. Mischaracterizes his

1 testimony.

2 THE WITNESS: The best of my recollection is
3 that either Mr. Rosenbaum or Mr. Londen invited me.
4 I believe, as I'm sitting here right now, that it was
5 Mr. Rosenbaum initially. That's what I remember.

6 MR. EGAN:

7 Q. Okay. Did you accept his invitation at that
8 time?

9 A. I don't know that I accepted it on the spot.
10 I may have taken a moment or two or even days to
11 think about it. But ultimately, I did accept. Yes.

12 Q. Did you accept in approximately -- how much
13 later after this conversation with Mr. Rosenbaum?

14 A. I don't have any specific recollection. But
15 I think it was probably within a matter of, you know,
16 weeks within that time period.

17 Q. Okay.

18 A. Not years, obviously.

19 Q. Or months?

20 A. Yeah.

21 Q. Relatively quickly?

22 A. Yeah.

23 Q. Okay.

24 MR. EGAN: Do you want to take a break for a
25 little bit?

1 Do you recall the feedback that Kevin Welner
2 provided on your presentation at the summer of 2002
3 conference?

4 A. Yes. Kevin was very positive about the
5 paper. And specifically -- I'm sorry. I'm
6 getting -- he and John may have made. So I don't
7 know specifically.

8 Q. If you don't recall what comment -- why
9 don't you just tell me what you recall what the
10 feedback --

11 A. I remember one or two of them. Kevin was
12 positive asking about the um, whether or not there
13 were other resources and conditions that would be
14 necessary for kids to achieve the content standards.
15 And I remember responding, yes, there certainly would
16 be.

17 And the paper wasn't an effort to identify
18 all the conditions and resources necessary to achieve
19 the content standards, only textual analysis of the
20 standards and relate the materials themselves to see
21 what the State of California itself says about what
22 would be necessary to meet the state content
23 standards. And yes.

24 Q. Okay. Who is Mr. Welner?

25 A. He's currently, I believe, a professor of

1 MS. WELCH: Sure.

2
3 (Whereupon a recess was taken.
4 Off the record at 10:17 and back
5 on the record at 10:24.)

6 MR. EGAN: This is 26.

7
8
9 (WHEREUPON EXHIBIT 26 WAS
10 MARKED FOR IDENTIFICATION)

11 THE WITNESS: Okay.

12 MR. EGAN: I'm sure --

13 (Laughter.)

14 MS. WELCH: Sleeping dogs.

15
16
17 (Whereupon there was a
18 discussion off record.)

19 MR. EGAN:

20 Q. Back on the record.

21 Mr. Koski, we've marked, for identification,
22 Exhibit 26. But before I ask you some questions
23 about that, I'm want to go back on a couple of
24 issues.
25

1 the University of Colorado School of Education in
2 Boulder.

3 Q. Okay. And who is John Rogers?

4 A. I believe he is a professor -- a professor
5 at UCLA School of Education.

6 Q. Okay.

7 A. W-E-L-N-E-R.

8 Q. Mr. Koski, Exhibit 26 notes that you
9 prepared for a telephone conversation with Linda
10 Darling-Hammond?

11 A. Based on the -- on my reading of these
12 notes, apparently notes that I prepared for a
13 telephone conversation -- in preparation for a
14 telephone conversation with Linda Darling-Hammond on
15 or about October 6th 2000.

16 Q. And you indicated what you were currently
17 doing. Who is "we" referred to?

18 A. We would have been the various students with
19 whom I was working in preparing materials for Linda's
20 use on the comprehensive paper.

21 Q. Okay. Specifically, that would have been
22 Linda and Peter with regard to the teacher quality
23 team?

24 A. Yes.

25 Q. And Eugene and Hilary regarding curriculum

1 standards team?

2 A. Yes.

3 Q. And on the next page, which is Bates marked
4 2447, is a reference to Michael with regard to the
5 instructional materials team. Who is Michael?

6 A. Michael Chu, who we talked about yesterday.

7 Q. Okay. With regard to under the Teacher
8 Quality Team heading, Number 2, there's a bold or
9 upper case statement in brackets.

10 "We have a pretty firm
11 grasp of one of the standards.

12 The problem is that they are not
13 enforced."

14 Do you have any recollection of what
15 the reference to the "problem" is that they are not
16 enforced means?

17 A. My memory of that comment is more -- not
18 specifically with that conversation comment, but more
19 generally my experience that with regard to teacher
20 competency standards in California. Particularly,
21 provisional credentials for teachers that the status
22 of provision of the credentials I have seen been
23 abused, where somebody who would be receiving a
24 waiver year after year after year without making any
25 adequate -- without receiving full and clear

1 connection with the Teacher Quality Team or --

2 A. Not that I'm aware of. No.

3 Q. How about did anyone research the web site?

4 A. At some point in our project, we did take
5 materials off on the web. I don't know if it was to
6 CTC web site or some web site regarding teacher
7 credentials, but we did take materials off the web
8 site.

9 I think I had testified yesterday regarding
10 my contacts with the California Commission of Teacher
11 Credentials. We had contacts in the context of the
12 clinic.

13 Q. Correct.

14 A. I can't partially throw out -- I don't have
15 any recollection of anybody contacting them for
16 purposes of this project.

17 Q. Okay. Referring to 26, under the heading
18 "curriculum standards team Number 1," you have upper
19 case comment in bold and bracketed, "good headway on
20 this even interrogating it with the legislature on
21 high school exit examinations."

22 A. (Nodding head.)

23 Q. It refers back to summarizing California's
24 legislature. What does the bracket comment signify?

25 A. In the section of the work that we were

1 credentials.

2 Q. Let me clarify. Is that your recollection
3 of what this comment signifies?

4 A. I don't have a specific recollection of what
5 this comment signifies, but that's my general
6 recollection of my belief at the time.

7 Q. Your general recollection of your belief at
8 the time?

9 A. I don't have a specific recollection of what
10 that comment refers to.

11 Again, that comment is way outside of what
12 I've been asked to testify to or what I've been
13 asked -- what I was asked to prepare with the expert
14 witness report for.

15 Q. Paragraph 2 B indicates:
16 "Contact Cal commissioner
17 and teacher credentials and
18 research their web site."

19 Do you know if anyone contacted the
20 commission on teacher credentials?

21 A. My memory is that nobody contacted the
22 California commission on teacher credentialing --

23 Q. Okay.

24 A. -- on my team.

25 Q. Anyone else that you are aware of in

1 doing for Linda regarding the sort of elective
2 history and the legislature of California policy to
3 the California content standards, one of the areas we
4 are exploring what was the linkage between the high
5 school exit examinations -- high school exit
6 examination and California content standards. And
7 based on the context of this, it seems that we had
8 some good headway on that.

9 Q. Is that what you recall from your notes that
10 you made at the time -- that's the recollection
11 based -- that's what you were thinking at the time?

12 A. Based on what I'm looking at here. That
13 refreshed my memory that was what we were working on.

14 Q. Yes.

15 A. I don't know how else to answer that.

16 Q. Yes. What was the headway that had been
17 made in integrating it with the high school exit
18 exams?

19 A. We were, again, trying to find all the ways
20 in which California content standards were linked to
21 other educational policies in the state. And that
22 was the integration we were trying to find.

23 Q. Okay. Do you recall in what sense you found
24 the integration standards and the high school exit
25 exams?

1 A. It's my understanding that the high school
2 exit exam was supposed to be based on California
3 state content standards. And it's further elected in
4 my current expert witness report.

5 Q. Okay. But you don't have any recollection
6 of what you were referring to in terms of this
7 particular comment in Exhibit 26, what headway -- was
8 it some specific document you identified or some --

9 A. Oh! I don't recall that with specificity.
10 No. There wasn't any such thing.

11 Q. Okay. On the next page of Exhibit 26, Page
12 2447, Number 4, did you discuss that question with
13 Dr. Darling-Hammond, that is, talking with committees
14 that developed the standards?

15 A. I know we discussed -- I know I discussed it
16 with her. And I don't remember the resolution of
17 that conversation, what the result of that
18 conversation was.

19 Q. Do you know -- did you or any member of the
20 team talk to anyone associated with the committees
21 that developed the standards?

22 A. I don't remember whether or not anybody
23 talked with anybody on the committees. We did talk
24 to a number of people as we were moving through the
25 project. And it's possible. But I don't remember

1 Q. Okay. And what was the substance of that
2 conversation?

3 A. The -- I couldn't -- I don't recall a
4 specific conversation.

5 But over the period of time when we were
6 developing the methodology for the work, we came to
7 the conclusion that it would be good for a number of
8 different people to review the same standards and
9 make independent judgment calls on the standards.
10 And that's how we ended up constructing the
11 methodology.

12 Q. Okay. Is it fair to say that to the best of
13 your recollection, the decision to have multiple
14 reviewing standards was made after October 6 of 2000,
15 the date of this memo?

16 A. I believe the review was made after October
17 6, 2000.

18 Q. Did you have any specific concerns about
19 reliability, other than the fact that this was a
20 unique type of undertaking?

21 MS. WELCH: Objection. Vague.

22 THE WITNESS: I had a question about how we
23 could ensure reliability. And I've already discussed
24 how we addressed that question.

25 MR. EGAN:

1 that.

2 Q. Okay. Another question is: "How can we
3 ensure reliability?" What did you mean by that?

4 A. In preparing the methods and thinking about
5 the methods for this paper, we didn't have models to
6 look to because this was the sort of suigeneris
7 project, S-U-I-G-E-N-E-R-I-S, project.

8 I'm not -- I'm still not sure of any other
9 project that is like it, in the sense that it's
10 textual analysis of the standards, what it means
11 with -- what they mean for educational resources.

12 And one of the questions that I had was how
13 can we ensure reliability of the judgment calls that
14 we were making and reliability and research. That is
15 something that you want to shoot for.

16 And so, the way we decided to -- reliability
17 ultimately was to have three different people review
18 the same each and every one of the standards which
19 creates, you know, relative to other coding schemes
20 of pretty high degree of reliability. Because we
21 were ultimately in agreement among the researchers.

22 Q. Okay. Did you discuss this question, that
23 is, the question of how to ensure reliability with
24 Dr. Darling-Hammond?

25 A. Yes. I did.

1 Q. Okay. You also indicated Number 4, "other
2 people to review," question mark. What does that
3 mean?

4 A. I don't know what that means. Um, I'm
5 not -- I don't know specifically what that means.

6 Q. Okay. You -- the next sentence reads:
7 "What about those areas outside of our expertise"
8 bracket EG high school science.

9 What areas did you consider outside your
10 expertise?

11 A. With this project, at this stage of the
12 project, it was not clear to us that we were going to
13 undertake a specific textual analysis of the
14 standards, or we were going to branch out and try to
15 determine all the educational resources and
16 conditions that might be necessary to achieve the
17 content standards and to teach to the content
18 standards.

19 If we were going to branch out and do that
20 larger analyses, which I indicated it would have been
21 very expensive and very time consuming, and it would
22 require a lot of different people, there would be a
23 question about those areas outside of our expertise.

24 Q. Okay.

25 A. We did not ultimately pursue that route.

1 Instead, we pursued a textual analysis of the
2 standards and textual analysis of the standards of --
3 those standards requires a good reading of the text
4 and the related documents themselves. And I was in
5 agreement among the various people on our team.

6 And as I've mentioned before, we did have a
7 number of former educators and Ph.D.'s and myself
8 working on that.

9 So to the extent that this was an area
10 outside of our specific expertise, we had undertaken
11 the project of determining all the things necessary
12 to teach to those standards, we would have had a
13 question about it.

14 Q. Okay. Am I correct, then, that the comment
15 or the question about areas outside of expertise only
16 applied to the project -- the comprehensive project
17 which would require -- that you did not undertake?

18 A. At that time, that would have been a
19 question of mine, because we were still trying to
20 figure out what the parameters of the problems were.
21 So very early on.

22 Q. Okay. Well, isn't it correct that at this
23 point, you had, at least, tentatively made a
24 determination to the textual analysis, as you
25 described it, of the content standards?

1 Q. Okay. What was your relationship, at this
2 point, with Dr. Oaks in the context of the
3 instructional materials team?

4 A. My relationship with Dr. Oaks was largely
5 trying to provide her some background information on
6 some of these matters, as I could, and more
7 importantly, trying to coordinate the work that she
8 was doing so that it would work well within the
9 contents of the overall paper that we were trying to
10 prepare.

11 Q. Now, what was your understanding of the work
12 that Dr. Oaks was doing? Was it work on the expert
13 paper in Williams?

14 MS. WELCH: Objection. Vague as to time.

15 THE WITNESS: My understanding --

16 MR. EGAN: Could you read --

17

18 (Whereupon the record was read
19 by the court reporter.)
20

21 MR. EGAN:

22 Q. Let me clarify the time. At the time, you
23 know, on or about October of 2000.

24 A. Right. My understanding was that Linda
25 Darling-Hammond had practiced -- was preparing a

1 A. We had determined, at that point, that any
2 project we were undertaking would begin with the
3 state content standards.

4 That was the notion that we had. What it
5 would take for all kids to be able to learn and all
6 teachers to be able to teach to the state content
7 standards.

8 The question was, at that point, were we
9 going to try to create a market basket of educational
10 goods that would try to reach -- that all educational
11 goods, or were we trying just to look at the text and
12 see what the State of California itself has to say
13 about what's necessary.

14 We chose the latter route, based on the
15 resource, our own resource constraints.

16 Q. Okay. The line under Number 5 refers to the
17 instructional materials team.

18 A. Yes.

19 Q. This is a parenthetical statement. The team
20 worked closely with B. Koski and J. Oaks, close
21 paren.

22 What was the relations -- your relationship
23 with -- strike that.

24 J. Oaks is Dr. Jeanie Oaks; is that correct?

25 A. That's correct.

1 paper regarding the conditions of teaching and
2 learning in California and why those conditions
3 matter to student learning and what the possibility
4 of potential discussions, being the remedies to those
5 issues.

6 I was coordinating the work of what we hoped
7 would be a few people for Linda. And among those
8 people was Dr. Oaks.

9 We had hoped that she would provide access
10 on the paper, specifically, work section regarding
11 instructional terms and curriculum.

12 MR. EGAN:

13 Q. Okay. And, again, what was the relationship
14 between the paper and the Williams litigation, as you
15 understood it at this time?

16 A. As I understood it, that this was a paper
17 that um -- I don't know -- my understanding of the
18 relationship was that this was work that was going to
19 document the conditions, as I said before, you know,
20 provide remedies. Whether or not it was going to be
21 used as an expert report, I have no idea.

22 But the -- certainly, you can tell from the
23 correspondence, and the meetings that we had, part of
24 my coordinating efforts was to keep the lawyers
25 updated as to the progress of our work and,

1 possibility, that they might use it as an expert
2 report. That's the only understanding I had.

3 Q. Okay. Number 2, under instructional
4 materials A, you refer to the comment, "The
5 plaintiffs affidavit may be helpful here." Those are
6 the affidavit of Williams plaintiffs?

7 A. Yeah. That would be my interpretation of --
8 that would be the affidavit of the Williams
9 plaintiffs.

10 Q. And what's your interpretation of Oaks in
11 brackets?

12 A. Those are -- I was assigning people tasks in
13 my role as coordinator of this project. And so, I
14 was going to assign the task of describing the
15 distribution of textbooks/instructional materials
16 among students across the state to Dr. Oaks.

17 Q. Okay. Under questions 1-D, the bracket,
18 "Linda succeeded Oaks, but does not look good."

19 What does that mean?

20 A. The D says, "Extension to which the
21 textbooks/instructional materials in use are
22 sufficient to enable students to pass promotional
23 graduation requirements."

24 This goes back to the issue that was raised
25 numerous times, now, about the unavailability of data

1 we decided to wait until they contacted us. We were
2 working independent of them. And I -- my
3 recollection is I preferred it that way.

4 Q. Okay.

5
6 (WHEREUPON EXHIBIT 27 WAS
7 MARKED FOR IDENTIFICATION)

8
9 MR. EGAN: This is Number 27.

10 THE WITNESS: Okay.

11 MR. EGAN:

12 Q. Can you identify this document for us?

13 A. It appears to be a document of an e-mail
14 copy of -- an e-mail from Linda Darling-Hammond to me
15 dated March 4, 2002.

16 Q. Okay. Do you recall receiving this e-mail?

17 A. I don't recall specifically receiving it. I
18 don't have any reason to believe I didn't receive it,
19 either.

20 Q. Excuse me for just a second.

21 A. Sure.

22 Q. Do you know why you sent this e-mail to
23 Dr. Darling-Hammond?

24 A. This was in 2002, long after I had stopped
25 my work as being the coordinator of um, the

1 regarding the distribution of textbooks and
2 instructional terms.

3 Q. Okay.

4 A. Linda suggested that Jeanie might be able to
5 provide some input on that, but doesn't look good,
6 because of the lack of data at that point.

7 Q. Okay. Did you contact Dr. Oaks to discuss
8 the data issue?

9 A. At some point, either before or prior and,
10 probably both, I had discussed this issue with
11 Dr. Oaks.

12 Q. Okay. I guess my question is: Does your
13 comment, that it does not look good, mean that she
14 did not have data or that data was otherwise
15 unavailable?

16 A. I actually don't know between those two
17 things what -- what that -- (Shaking head.)

18 Q. Okay.

19 A. Which that is. I don't know.

20 Q. Okay.

21 A. (Shaking head.)

22 Q. The third question refers to the lawyers.
23 What was the answer to the question of whether you
24 should be proactively speaking with them?

25 A. I actually do remember discussing this. And

1 comprehensive paper that was being prepared. Yet I
2 was still in contact with Dr. Darling-Hammond because
3 I knew she was writing a paper regarding teachers
4 report, regarding the conditions of the teaching in
5 California.

6 And I also knew that she might be interested
7 in the -- relying on the work that we had done on the
8 standards project in that regard.

9 Q. Was there any specific request from her that
10 prompted your e-mail to her?

11 A. I can't remember a specific request. But I
12 would be surprised if I just sent her an e-mail,
13 this, along without some type of --

14 Q. Right.

15 A. -- prop.

16 Q. Right. But you don't recall?

17 A. I don't recall. No.

18 Q. Okay.

19 A. Again, we are on the same campus, and so,
20 who knows what conversation on the sidewalk in
21 passing happened was.

22 Q. Your e-mail refers to the -- I think the
23 first line to the report. "You prepared an amazingly
24 comprehensive document."

25 A. (Nodding head.)

1 Q. What report are you referring to?

2 A. I read, at some point in time, a report that
3 Linda prepared regarding the examination of team
4 teaching in California, which drew on her own work
5 and on work of others and summarized in a very
6 comprehensive fashion, as I said there. That's the
7 report that I remember.

8 Q. Okay. And was it your understanding that
9 that report was the report that was going to be her
10 expert witness report in Williams?

11 A. You asked me many different ways. The --
12 I -- beyond how to tell -- other than to say I didn't
13 know whether or not any of this work was going to be
14 expert witness work or not.

15 I know that we had been providing updates of
16 the work to the lawyers, and they might have been
17 interested in using this work as an expert witness
18 report.

19 Q. Well, let's clarify. There's a great deal
20 of work. And, again, you just -- you testified that.
21 As I recall, that it was after you ceased your role
22 as coordinator?

23 A. Yes.

24 Q. So I'm asking you specifically about a
25 report that, you know, you reference in this e-mail,

1 the work on the comprehensive paper, as you described
2 it, included a number of issues, including
3 instructional materials --

4 A. Yes.

5 Q. -- and teachers. But that the report, that
6 you're referencing in Exhibit 27, and your e-mail, is
7 a conversation, a narrower topic as a specific
8 topic --

9 A. Okay.

10 Q. -- and teachers; is that correct?

11 A. At some point in time, and I think it was
12 probably shortly after my involvement ended in trying
13 to coordinate this task, the effort to put together a
14 comprehensive paper fell apart, for whatever reason.
15 I don't know what the reason was. Because I wasn't
16 coordinating it at that time.

17 Q. Okay.

18 A. And so, all along, Linda had been in charge
19 of the teacher quality sectioning of the teaching
20 condition section of that comprehensive report.

21 And my understanding is that this -- the
22 report, that's referenced in my e-mail to Linda,
23 which is placed to the bottom of this e-mail from her
24 to me, was that this teacher report was an outgrowth
25 of what would have been a section of that

1 you know, exactly that my question pertaining to that
2 report. And that work --

3 A. (Nodding head.)

4 Q. So it's not a question I've asked before.
5 It's not that I -- so again, and as I understand your
6 answer, is -- it is basically you didn't know what
7 this report -- what its purpose was in the contents
8 of Williams; is that correct?

9 A. I'm going to only restate what I said again.
10 I'm -- not that we had been preparing this
11 comprehensive paper that I had been coordinating as
12 an expert for the researchers and the scholars who
13 were participating in it. And we were updating the
14 lawyers, who may or may not ultimately choose to use
15 it as an expert report.

16 Q. Okay.

17 A. I don't know what they were going to
18 ultimately decide.

19 Q. Okay.

20 A. That's what I'm saying.

21 So whether, with regard to this paper, my
22 best recollection is that it was an -- an outgrowth
23 of Linda's work on that comprehensive paper, that
24 specific section regarding teachers.

25 Q. Okay. Just again, my understanding is that

1 comprehensive paper.

2 Q. Okay.

3 A. That's my best understanding.

4 Q. Okay. And the first paragraph of your
5 e-mail, do you recall if you provided comments in a
6 future e-mail to Dr. Darling-Hammond on her report?

7 A. I did not provide any other comments, as is
8 my recollection.

9 Q. Okay. Either by e-mail or otherwise?

10 A. My recollection is either by e-mail or
11 otherwise, I didn't provide any comments --

12 Q. Okay.

13 A. -- on that -- on that report.

14 Q. The next sentence refers to, "Our findings
15 regarding the science standards." What does that
16 refer to?

17 A. (Pausing.)

18 Q. You may want to read -- looks like there's
19 an attached file. I don't know if that's a
20 reference.

21 A. It seems that we had made some findings
22 that, at that point, regarding um, the teachers
23 category of our analysis.

24 Q. At this point, the attached file is science
25 10-19-01 dot XLS?

1 A. Yes.
 2 Q. Was that the file that became within the
 3 appendices to your expert report?
 4 A. Yes.
 5 Q. Okay.
 6 A. I mean, many iterations later on, that
 7 became the science appendix.
 8 Q. Okay. What do you mean when you are saying
 9 that you -- "Teacher to be competent with
 10 technology"?
 11 A. I don't know, other than that seems to be
 12 like a good idea for me. "Teacher to be competent
 13 with technology." So that technology is integrated
 14 into instructional practices, rather than being a
 15 room that you go to.
 16 Q. Do you know what type of technology you were
 17 referring to there?
 18 A. No. I don't.
 19 Q. Paragraph one of your e-mail says that, "To
 20 update textbooks, written instructional materials
 21 tied to the contents of standards vital beginning in
 22 grade 4."
 23 A. (Nodding head.)
 24 Q. What was the basis for that statement?
 25 A. Indeed, the curriculum framework notes that

1 quote -- we base it in the next sentence --
 2 Q. Okay.
 3 A. -- it seems to me, by reading this e-mail.
 4 Q. In your final expert report, do you make any
 5 distinctions with respect to required or suggested
 6 resources based upon grade level?
 7 A. I'd have to look at it specifically in the
 8 contents of standards of each of the individual
 9 standards.
 10 There may have been some distinctions in
 11 that regard, but I would have to look at it. I don't
 12 remember for sure.
 13 Q. Do you have any idea of what kind of
 14 distinctions might be in your report in that context?
 15 A. I don't want to speculate in that regard.
 16 My report contains all of the opinions.
 17 Q. Okay. The bottom of the page of Exhibit 27
 18 indicates, "Please cite the report as follows:
 19 William S. Koski with Hilary Weis?"
 20 MS. WELCH: Outside the paper.
 21 MR. EGAN:
 22 Q. "Cite the paper as follows."
 23 Was it your understanding that
 24 Dr. Darling-Hammond was going to cite your paper?
 25 A. To the extent that she was going to rely on

1 any of the work of my paper, which she -- at which
 2 that version of her report did rely on some of my
 3 work, it would be the appropriate scholarly practice
 4 to cite the source of that material.
 5 Q. Okay. And is this the title, as given to
 6 Dr. Darling-Hammond, is that the title of our expert
 7 report?
 8 A. No. That's not the title. And as I stated
 9 yesterday, my practice as a teacher and mentor is to
 10 promote my students whenever possible and try to get
 11 them interested in and involved with this work.
 12 Hilary had done good work on this project.
 13 And so, I used the title with Hilary Weis. It is a
 14 term of art to suggest that she is the key research
 15 assistant on the project. It doesn't say "and
 16 Hilary Weis," it says "with."
 17 Q. Mr. Koski, please refer to Exhibit 1 to
 18 Exhibit B, there, too, which is your expert report.
 19 A. Okay.
 20 Q. And comparing the title in your report, your
 21 expert report with the citation given to
 22 Dr. Darling-Hammond, other than the omission of
 23 Ms. Weis from your expert report, the only change I
 24 see is that your expert report refers to a textual
 25 analysis, whereas the citation, that you gave to

1 Dr. Darling-Hammond, refers to an analysis.
 2 A. That's correct.
 3 Q. Okay. Is there a reason -- what is the
 4 reason for adding "textual" to the title of your
 5 expert report?
 6 A. After -- as I continued work on the paper, I
 7 came to believe that a textual analysis much more
 8 accurately reflects -- or more accurately reflects
 9 the work that -- which had been done here and
 10 indicates to the reader in the title alone what the
 11 nature of work that we did was.
 12 Q. Okay. So it really is the analysis -- am I
 13 correct that what you're trying to indicate in the
 14 title is that the -- really, the analysis is based
 15 solely on the text of various educational content
 16 standards?
 17 A. (Nodding head.) The title suggested that
 18 our analysis was based on text of the educational
 19 content standards and the related documents. It is
 20 not based on any other work that might have resulted
 21 in a comprehensive, as I termed it, about market
 22 basket of educational goods, or anything like that.
 23 Q. Okay. Does your expert report have any
 24 other type of analysis, other than in textual
 25 analysis? Does it include any other type of

1 analysis?

2 MS. WELCH: Objection. Vague.

3 THE WITNESS: I'm not sure what that means.

4 I mean, if you call counting up the number of
5 standards that indicate certain specific resources,
6 then you could call that a simple statistical
7 analysis, you know. So there are other kinds of
8 analysis going on. But the thrust of this work
9 really was analysis of the text.

10 MR. EGAN:

11 Q. Okay. That's fine. Let me ask you in terms
12 of referring to Exhibit 27 in your request that the
13 paper be cited with the inclusion of Ms. Weis. Is
14 there a reason that she was singled out, as compared
15 to other persons who had assisted you with your
16 paper?

17 A. Yes. I singled out Hilary for the width
18 designation in that particular e-mail, because Hilary
19 had created the database, which was an enormous
20 technical undertaking, which is reflected in the
21 appendices themselves. The simple layout of this
22 all, and that sort of thing.

23 Hilary had also undertaken the job of -- at
24 our meetings and before our meetings -- to kind of
25 summarize and coordinate -- summarize what had been

1 Q. Do you have a recollection? No estimate at
2 all?

3 A. No.

4 MS. WELCH: Asked and answered.

5 THE WITNESS: It was fewer than a hundred --
6 I mean, I -- I'm not going to guess --

7 MR. EGAN: Okay.

8 THE WITNESS: -- specific numbers.

9 MR. EGAN:

10 Q. Did you ask -- Ms. Weis was to produce all
11 of the documents that she had related to the paper
12 for, which she has been given credit in the e-mail?

13 MS. WELCH: Asked and answered.

14 THE WITNESS: I don't know. When you're
15 talking about producing to whom, you're talking about
16 producing -- tell me more.

17 MR. EGAN:

18 Q. I'm asking if you asked her to produce
19 papers in connection with your expert report. There
20 have been over two thousand, almost three, that
21 you -- pages of documents produced, working papers
22 produced, with regard to your expert report. Some of
23 those are papers from Ms. Weis.

24 I'm asking if you specifically asked her to
25 give you or to plaintiffs counsel papers she had that

1 said among the various participants in those
2 meetings.

3 And as I reflect in one of the e-mails or
4 memos that you had seen, Hilary also stayed on with
5 me for an extra semester.

6 I believe my recollection is that she stayed
7 on after the fall of 2000 into the spring of 2000 and
8 continued to do cleanup work with me on the project
9 as necessary.

10 Q. Okay. What were the summaries that Ms. Weis
11 prepared that you referred to?

12 A. For instance, the memo that you saw earlier
13 already on, where the discussion -- the various
14 potential. Yeah. Rules and decision making rules
15 and our analysis.

16 She would then put together -- put that
17 together in a memo format and did do that. I don't
18 know how many times. But I do recall her doing that.

19 And, for instance, Exhibit 2, dated January
20 16, 2001, is one of those memos to me.

21 Q. All right. How many such memos would you
22 estimate she prepared?

23 A. I can't even estimate.

24 Q. Would it be more than five?

25 A. I don't know.

1 were related to her work on the paper --

2 A. I --

3 MS. WELCH: Asked and answered.

4 MR. EGAN:

5 Q. Or her --

6 A. I don't recall. I may have asked her to
7 provide those papers.

8 I know I had provided to Ms. Welch
9 Ms. Weiss's telephone number. And Ms. Welch may or
10 may not have asked.

11 MS. WELCH: I will represent I had a
12 conversation with Hilary. She is now in Illinois.
13 She gave me everything that she has. It all has been
14 produced.

15 THE WITNESS: I just want to reiterate that
16 it was the fall of 2000, January 2001. And it was a
17 long time ago, and people move. So she produced
18 everything she had then, I understand, from what
19 Ms. Welch just said.

20 MR. EGAN: Okay.

21 MS. WELCH: I also represented it in
22 correspondence to the parties some time ago.

23 Does anyone want some water?

24

25 (Whereupon there was a

1 discussion off record.)

2

3 MR. EGAN: Next exhibit

4

5 (WHEREUPON EXHIBIT 28 WAS
6 MARKED FOR IDENTIFICATION)

7

8 THE WITNESS: Okay.

9 MR. EGAN: Mr. Koski, can you identify
10 Exhibit 28?

11 A. I can't identify Exhibit 28. It appears as
12 though it was an e-mail from me to Katherine Layman
13 dated September 23rd, 2002.

14 Q. Okay. The e-mail from you to Ms. Layman
15 bears the subject title of standards paper text and
16 revises summary table.

17 A. Yes.

18 Q. Is that your expert report in this case?

19 A. That would have been my expert report, I
20 believe. Yes.

21 Q. Okay. And the body of the e-mail to
22 Ms. Layman states here's, "The fall version of
23 standards paper along with the revision, the summary
24 table. I made one small correction."

25 A. Yes.

1 because it was -- the framework was adopted at some
2 later date. Therefore, was -- the work was not
3 completed on the sense --

4 A. With regard to the other three content
5 areas, the vast majority of the work was completed
6 long before the science content standards were
7 completed.

8 In fact, it was probably completed, based on
9 my memory, by sometime around the spring of 2001.
10 But there may have been additions and corrections and
11 revisions after that. But the vast majority of the
12 work was completed that long ago.

13 Q. Okay. Do you recall were there any
14 substantive changes in the parts of the report that
15 were completed around the spring of 2001? Were there
16 changes made in the final report regarding to
17 those --

18 A. I don't recall.

19 Q. -- sections?

20 A. I don't recall any specific changes on the
21 appendix -- the history appendix for history, social
22 science, and English language arts, and math. It may
23 have been. I don't recall any.

24 Q. Okay.

25 A. The text of the report did change because

1 Q. Okay. Do you recall what that correction
2 was?

3 A. I don't recall actually.

4 Q. Okay. Do you recall when the expert -- when
5 your expert report was finished, other than the small
6 correction that's referenced in this e-mail?

7 A. I don't recall specifically. But based on
8 this e-mail, it would seem to have been completed
9 during -- near completed um, sometime in the early
10 fall of 2002.

11 I'm going to look at my expert report right
12 now and see if it's dated.

13 Yeah. It says September 2002. So that's
14 when.

15 Q. Okay.

16 A. I tend to date things when I complete them.

17 Q. Do you recall whether the parts of the paper
18 that dealt with the content standards, other than the
19 science standard, were completed before September of
20 2002?

21 A. (Pausing.)

22 Q. In other words, my recollection is that your
23 testimony --

24 A. Yeah.

25 Q. -- is that the science standards was late

1 um, I just reworked the flow of it --

2 Q. Okay.

3 A. -- a number of times.

4 Q. Would it be fair to say that, you know, the
5 changes were more editorial than substantive?

6 A. On the text?

7 Q. Yes.

8 A. Some may have been substantive. I -- I
9 (shrugging.) I may have chosen other examples. For
10 instance, from the standards to put to use as
11 exemplars in the text of paper.

12 Q. Okay. Do you recall any of the changes that
13 you would consider substantive that you made?

14 MS. WELCH: Vague as to time.

15 THE WITNESS: That would have been one
16 substantive change that I made in terms of the
17 analysis, though there were no changes, in terms of
18 analysis of the standards themselves. Anything that
19 would have been, quote, substantive, was because I
20 just decided to use something else from the -- from
21 the appendix analysis.

22 MR. EGAN:

23 Q. So the changing is more in terms of, as you
24 said, I think, exemplar or examples?

25 A. Yes.

1 Q. Okay.
 2 A. Yeah. Analysis on those three content areas
 3 had been done long beforehand. And I didn't -- I
 4 don't recall changing them at all.
 5 Q. Okay. Did you draft the text yourself, or
 6 was that initial draft prepared by someone else, and
 7 reviewed by you?
 8 MS. WELCH: Objection. Vague.
 9 THE WITNESS: There -- I had asked -- I
 10 think it was Eugene and, perhaps, Hilary to do -- was
 11 to do some legal research on the legislative history
 12 of these things. And um, it -- and provide write-up
 13 for me their findings.
 14 And then, what I would have done -- and did
 15 do, is my recollection, is I took that. And then, I
 16 wrote the um, most of the text in here. I may have
 17 taken portions of things that I thought that they
 18 worded it well and plopped it in. But by in large, I
 19 wrote the text of this.
 20 MR. EGAN:
 21 Q. Okay. Do you recall what parts Eugene may
 22 have worked on?
 23 A. I remember I actually looked at the high
 24 school exit exam section.
 25 Q. Okay. Anything else that he worked on that

1 you recall?
 2 A. There may have been something. That's one
 3 thing I remember having conversations with him about.
 4 Q. And was it Ms. Weis who drafted other -- or
 5 done other --
 6 A. Ms. Weis, I remember, looked at the
 7 California Assessment and California Assessment of
 8 Academic Achievement Act. And she may have looked at
 9 other portions as well.
 10 But I remember talking with her about that
 11 and working with her on that.
 12 Q. Okay. But nothing -- no other specific
 13 recollection as to what work she may have -- what
 14 work she may have done specifically?
 15 A. Um, I remember somebody -- whether it was
 16 Ms. Weis or Miss Ekenberg -- provided information
 17 that I used in teacher credential standards section.
 18 Q. Okay.
 19
 20 (WHEREUPON EXHIBIT 29 WAS
 21 MARKED FOR IDENTIFICATION)
 22
 23 MR. EGAN: This is 29.
 24 THE WITNESS: Okay.
 25 MR. EGAN:

1 Q. Can you identify what's been marked as
 2 Exhibit 29?
 3 A. It appears to be an e-mail from me to
 4 Katherine Layman.
 5 Q. And that's dated September 26, 2002?
 6 A. Yes.
 7 Q. All right. Do you recall preparing this
 8 e-mail?
 9 A. Yeah. I do.
 10 Q. Okay.
 11 A. Yeah. I do.
 12 Q. Okay. Have you ever charged for services as
 13 an expert witness before this case?
 14 A. No.
 15 Q. You indicated that you were not charging for
 16 any time spent preparing drafting, otherwise
 17 preparing the paper. Why is that?
 18 A. I prepared this work in my capacity as a
 19 scholar or researcher in educational policy. And um,
 20 I did it independent of any litigation. And so, I
 21 believe that it was not appropriate for me to charge
 22 for the time that I spent preparing this paper --
 23 Q. Okay.
 24 A. -- which would have been a lot of time.
 25 Q. Okay. Did you receive any form of

1 compensation for your work as a researcher in
 2 preparing the paper?
 3 A. None.
 4 Q. Okay.
 5 A. As I recall, I did -- Dr. Darling-Hammond of
 6 a RA ship early on in the project.
 7 Q. So there was no honorarium or --
 8 A. No.
 9 Q. Okay.
 10 A. None.
 11 Q. You indicated that you attended a conference
 12 at UCLA, I believe, in the summer of 2002.
 13 A. Yes.
 14 Q. Did you pay your expenses to attend that
 15 conference?
 16 A. No. I was reimbursed for air fare.
 17 Q. Okay.
 18 A. And that's it.
 19 Q. Okay.
 20 A. Wait a minute. Strike -- let me back up.
 21 I actually don't remember whether or not
 22 it's -- I was reimbursed for air fare for that. I
 23 may have paid it out of my own research and training
 24 account. But there -- it would not surprise me if I
 25 was reimbursed for air fare on that. I don't

1 remember specifically.

2 Q. Okay. Do you know who would have reimbursed
3 you?

4 A. Um, the folks at UCLA.

5 Q. Okay. And is it your testimony that the --
6 you did not charge for the time spent researching,
7 drafting and preparing the paper -- let me go back.
8 I'm sorry.

9 Is the paper you're referring in Exhibit 29
10 your expert report?

11 A. The paper that I'm referring to in Exhibit
12 29 is my expert report.

13 Q. Okay.

14 A. Yes.

15 Q. And is it your testimony that that report
16 was prepared independent of any litigation?

17 A. I prepared that report, as I said, in my
18 capacity as a scholar and educational researcher. I
19 was going to do the report irrespective of any
20 litigation and independent of my litigation and did
21 do just that.

22 Q. Okay. And that the -- again, I believe your
23 testimony was that the first time that you had any
24 discussions about the -- your paper being used as an
25 expert report was after this UCLA conference in 2002?

1 Q. Okay. As referenced in the body of the
2 e-mail to -- for hosting a terrific conference
3 yesterday.

4 A. Yes.

5 Q. What one was --

6 A. This refreshes my recollection as to the
7 date of the conference that I mentioned that I had
8 participate in at UCLA. And the database on the fact
9 that this was the July 15th e-mail probably would
10 have been, I suppose, July 14th, 2002.

11 Q. Okay. And, again, this is the conference
12 where you presented your paper and got feedback from
13 Mr. Welner and Mr. Rogers?

14 A. Yes.

15 Q. Okay. The next e-mail on the next page is
16 from Jeanie Oaks to you. "Here's the monster."

17 Was "the monster" her instructional
18 materials report?

19 A. Yes. It was her instructional materials
20 report, as I recall.

21 Q. It was a large report?

22 A. Yes.

23 Q. Okay.

24 A. I believe it was pretty large.

25 MR. EGAN: Off the record for a second.

1 A. Yes.

2 MS. WELCH: Asked and answered.

3 THE WITNESS: (Nodding head.)

4 MR. EGAN: Exhibit 30.

5
6 (WHEREUPON EXHIBIT 30 WAS
7 MARKED FOR IDENTIFICATION)

8

9 THE WITNESS: Okay.

10 MR. EGAN:

11 Q. Can you identify Exhibit 30?

12 A. Yes. It appears to be ultimately an e-mail
13 from me to Jeanie Oaks dated July 19, 2002, attached
14 to two other e-mails.

15 Q. Okay. Why don't we start on the second page
16 of the e-mail.

17 A. Okay.

18 Q. This is an e-mail from you to Jeanie Oaks;
19 is that correct?

20 A. Yes.

21 Q. And that's sent July 15th, 2002?

22 A. Yes.

23 Q. Okay. And the reference -- the subject is
24 your Williams report?

25 A. Yes.

1

2 (Whereupon there was a
3 discussion off record.)

4

5 MR. EGAN: Why don't we go back on the
6 record.

7 Q. Okay. When you received Dr. Oaks's report,
8 what did you do?

9 A. I remember looking at -- looking at it,
10 looking at the -- the outline of it and, literally,
11 flipping through it, just to see the general
12 structure of it.

13 I -- then, I was -- because I was trying to
14 find where it was that she referenced the work that I
15 had done. And I wanted to just make sure that she
16 had characterized it appropriately. And so, that's
17 what I did.

18 Q. Did you read the entire report?

19 A. No.

20 Q. Did you skim the entire report or go
21 directly to the part that dealt with your work?

22 A. I had to skim it, because I had to look for
23 reference to my work. So in a sense of skimming,
24 literally flipping through it, looking for my name,
25 and then, ultimately -- yeah. I remember skimming

1 through it looking for my name.
 2 Q. Okay. So -- okay. Looking at the top of
 3 Exhibit 30, the first sentence of your e-mail to
 4 Dr. Oaks:
 5 "I reviewed your paper.
 6 Williams litigation. Terrific.
 7 An epic piece of work."
 8 That was based upon the skimming that
 9 you just described?
 10 A. Yes. It was a qualitative judgment. I
 11 mean, it was a judgment as to how long it
 12 was.
 13 Q. Now, at this point, in the second paragraph,
 14 you indicate that you wanted to help make sure that
 15 you were bullet proof on the witness stand.
 16 A. Yes.
 17 Q. What do you mean?
 18 A. I knew, at this point, or had an
 19 understanding that Jeanie was probably going to be
 20 identified as an expert witness in the case. And I
 21 wanted to make sure that her work was absolutely
 22 correct and accurate in all regards.
 23 Q. At this point, had you agreed to serve as an
 24 expert witness?
 25 A. No.

1 Q. Not at this point?
 2 A. No.
 3 Q. But you were obviously aware that she was
 4 relying upon your work in the context of her expert
 5 report?
 6 A. Yes.
 7 Q. Okay. The section of your e-mail to
 8 Dr. Oaks that refers to -- let me -- you state in
 9 there in a couple places. You refer to state law
 10 that requires the use of the Star test. Then, you go
 11 on to say:
 12 "The statute actually
 13 gives local districts the
 14 option."
 15 Was that statement based solely on a
 16 legal analysis?
 17 A. Yes. That would -- that statement was based
 18 on my reading of the statute.
 19 Q. Okay. What is the basis for your statement
 20 at the end of the paragraph that it does, apparently,
 21 mandate the abolition of social promotion?
 22 A. My reading of that statute -- again, this is
 23 outside of the opinion that I've been asked to render
 24 in this matter -- is that um, there was -- there's a
 25 statute out that basically adopts the policy of just

1 promoting kids based on their chronological age
 2 instead of requiring that school districts adopt a
 3 policy which would basically require that students
 4 perform to a certain level in order to be promoted to
 5 the next grade. An educational parlance.
 6 It's called "social promotion." If you just
 7 chronologically pass somebody from grade to grade
 8 irrespective of their performance.
 9 And my understanding of the statute is that
 10 it, in effect abolishes the social promotion.
 11 Q. Okay. Are you stating that the use of Star
 12 tests in promotions of students is something that's
 13 outside the scope of your expert paper?
 14 A. My expert paper -- well, that's interesting.
 15 Hold on.
 16 I did, in my expert paper, I actually did
 17 the linkage between the state standards and the
 18 statute regarding grade promotion. And that's within
 19 the context of my opinion. Yes.
 20 And as I recall -- I'd have to read it
 21 again. But as I recall, my understanding of it and
 22 what I had written is that there is a link between
 23 the state content standards and grade-to-grade
 24 promotion in the school districts are permitted to
 25 adopt policies, which would include policies for

1 grade promotions, which would include performance
 2 measures, such as the Star test.
 3 And the augmented as the Star test was
 4 beginning to use state content standards in the test
 5 itself to their linkage, then, between -- linkage
 6 between grade promotion and content standards.
 7 Q. Okay. Do you have any knowledge of the
 8 extent to which any school district uses Star tests
 9 in the context of social promotion, as you've
 10 described it?
 11 A. I don't have a specific knowledge. I do
 12 remember looking at a couple of grade promotion
 13 policies in districts. But I don't remember what I
 14 found there.
 15 Just out of curiosity, I was looking to see
 16 what the policies were and whether they use the Star
 17 test. But actually, I don't remember what I did.
 18 Q. Do you remember what school districts you
 19 looked at?
 20 A. I believed I looked at the -- they were the
 21 San Francisco Peninsula School Districts. I can't
 22 remember which ones that I looked at.
 23 Q. Okay. And can you describe what was the
 24 designation or title of the documents that you looked
 25 at?

1 A. Oh, gosh! I don't know. I can't remember.
 2 Q. Did you look at these documents in
 3 connection with the preparation of your expert
 4 report?
 5 A. I looked at them from -- for my own personal
 6 curiosity to see which schooling districts were in
 7 this regard.
 8 Q. Okay. Do you have copies of those documents
 9 in your possession?
 10 A. Um --
 11 Q. Not here, but you can access those
 12 documents?
 13 MS. WELCH: He testified he doesn't remember
 14 what he looked at. How does he know if he can access
 15 them?
 16 THE WITNESS: I may or may not have copies
 17 of them. I mean, I don't know.
 18 MR. EGAN: Okay.
 19 THE WITNESS: Looking, if that's what
 20 you're --
 21 MR. EGAN: I request that you look. And if
 22 you can locate them, that they be produced.
 23 MS. WELCH: He's testified that he didn't
 24 rely on them for the purposes of preparing his expert
 25 report. So what would be the bases of producing

1 them?
 2 MR. EGAN: Well, he's -- his expert report
 3 talks about the relationship between the Star tests
 4 and social promotion. I've asked him if he has any
 5 information as to whether school districts, in fact,
 6 do that. He said he may. I think that's relevant to
 7 his report. I think we are entitled to be -- to look
 8 at it.
 9 MS. WELCH: We'll get back to you.
 10 MR. EGAN:
 11 Q. All right. The last paragraph of your
 12 e-mail Exhibit 30, to Dr. Oaks --
 13 A. Yes.
 14 Q. -- refers to a point of clarification
 15 regarding the use of the term textbook.
 16 A. Yes.
 17 Q. What prompted you to make that point with
 18 Dr. Oaks?
 19 A. I don't know. I'd have to see her report to
 20 know what prompted -- that may have been the way she
 21 described textbook, or something like that. I don't
 22 remember what prompted that.
 23 Q. That would be part of her report that
 24 discusses your work?
 25 A. Yes. That's the only part that I read.

1 Q. Okay. All right.
 2
 3 (WHEREUPON EXHIBIT 31 WAS
 4 MARKED FOR IDENTIFICATION)
 5
 6 THE WITNESS: Okay.
 7 MR. EGAN:
 8 Q. Can you identify Exhibit 31 for us?
 9 A. I recognize my handwriting on this document.
 10 Q. All right. Can you identify the date of
 11 this?
 12 A. I can't identify the date. But based on the
 13 content of the notes, it would have been in the
 14 winter of 2001.
 15 Q. Okay. Why is it that you can date it in
 16 that context?
 17 A. Because there's a discussion regarding
 18 dreams, rules and producing and other states. And I
 19 recall working with Hilary on a project in which we
 20 looked into the credentialing rules and procedures in
 21 a couple of other states. That was the project. We
 22 undertook that project in the winter of 2001.
 23 Q. Okay. Under the heading "needs," there's --
 24 A. Yes.
 25 Q. -- there's a subheading followed up with ELL

1 team.
 2 A. Yes.
 3 Q. Is that correct?
 4 A. Yes.
 5 Q. Okay. Could you read the subheading under
 6 that that begins "curriculum" or "curricula access"?
 7 A. Yeah. It is says, "curricular access or
 8 tracking data a California specific."
 9 Q. Okay. Do you recall what you were looking
 10 for, what need you had in that context?
 11 A. I don't have any independent recollection.
 12 But it was based on what is written there.
 13 It seems that um, we were looking for data
 14 regarding some English language learner and
 15 curricular access and tracking in California.
 16 Q. What does "tracking data" refer to?
 17 A. Um, tracking is -- there's lots of
 18 definitions of this word, but tracking is a program
 19 or course of study that is usually associated with
 20 high schools in which students are tracked into
 21 college bound tracks, general education tracks,
 22 vocational tracks, and the like.
 23 Q. Okay. Was there any follow-up with ELL team
 24 regarding that subject?
 25 A. We talked about a meeting yesterday with

1 Kenji Hakuta and his team. I don't know if it was
2 before or after this. So that if it was after that,
3 that may have been the follow-up. But other than --
4 I don't recall any specific meetings with the ELL
5 folks.

6 Q. Do you know if Dr. Hakuta or anybody on the
7 ELL team obtained information regarding curricular
8 access?

9 A. I don't know.

10 Q. Okay. The next heading, Exhibit 31, I
11 believe, is the credential rules and procedures in
12 other states. Is that correct?

13 A. Yes.

14 Q. The number one is, "California laws and regs
15 are less vigorous"?

16 A. Rigorous.

17 Q. Rigorous. Okay. What does that signify?

18 A. My understanding of it is that compared to
19 some other states, California laws and regulations
20 are less rigorous regarding to credential rules.

21 Q. Do you recall in what respect they are
22 less --

23 A. (Shaking head.)

24 Q. -- rigorous?

25 A. I don't. No.

1 A. California was much more lax in allowing
2 emergency credential teachers and other forms of
3 whatever and provisional credentialing.

4 Q. Any other respect?

5 A. That's the one that I specifically remember.

6 Oh, yes! There was on -- by the way -- that
7 I remember. Wisconsin was rigorous in terms of
8 involvement and follow-up with local districts. It
9 was Wisconsin that was much more than California
10 about ensuring that local district didn't routinely
11 rely upon provisional credentials, rather than
12 finding fully credentials teachers to teach.

13 Q. And do you recall on what basis you made
14 those determinations regarding Wisconsin?

15 A. Yes. We contacted several officials in
16 which Wisconsin, which as I experienced, viewed
17 them -- and we looked at data regarding the
18 percentage of credential -- uncredentialed teachers
19 in which we looked at data regarding -- and then, we
20 looked at their legislature and policy, specifically.

21 Q. Okay. Sounds like it was a fairly thorough
22 endeavor.

23 A. This was a project that we undertook and had
24 specific parameters for the project in talking to
25 state officials and looked at the legislature

1 Q. Do you recall was this the notes of a
2 meeting with you and Linda Darling-Hammond and
3 Hilary Weis?

4 A. Correct.

5 Q. Okay. Does the note with regard to
6 California laws and regs reflect your thoughts or
7 those of Dr. Darling-Hammond or Ms. Weis?

8 A. I don't know what work Ms. Weis and I had
9 done in this regard at this time. It may have
10 reflecting out thoughts. And it may have reflected
11 Dr. Darling-Hammond's. I'm sure it reflected
12 somebody's thoughts at the meeting. I don't know
13 which one.

14 Q. Do you have a general recollection of your
15 belief about the California laws and regulations?

16 A. This is outside of the scope of the work
17 that I've been asked to testify to in this case.

18 But my recollection is that after Hilary and
19 I worked on this project, we found that California
20 was less rigorous, in terms of its credential
21 standards, than Wisconsin and, possibly, Kentucky.
22 But certainly, more than Wisconsin -- less rigorous
23 than Wisconsin.

24 Q. And specifically, how were they less
25 rigorous than Wisconsin?

1 policies and looked at any data we could find,
2 without doing any initial -- any independent data
3 analysis. Just looked at the analysis that had
4 already been done in that scope, is what I remember
5 we did.

6 Q. Okay. And I'm sorry. I forgot the other
7 state besides -- which is -- which was?

8 A. Kentucky.

9 Q. Okay. And what were your findings with
10 respect to Kentucky as compared the California?

11 A. The glaring thing this -- I remember about
12 Kentucky is that there was basically one person who
13 knew everything when we talked to him.

14 Q. It's a small state.

15 A. Yes. That's what I remember about Kentucky,
16 in terms of their policies and the relative
17 rigorousness, compared to California. I don't
18 remember what we found.

19 Q. Okay. Do you remember the general areas
20 where you made comparisons? I mean --

21 A. We were looking -- I remember our primary
22 focus was rules regarding and results of vocational
23 credential rules.

24 Q. Were your findings with respect to Wisconsin
25 compared to California --

1 A. Yes.
 2 Q. -- in the same area?
 3 A. Yes.
 4 Q. On the bottom of Exhibit 31, on the first
 5 page, could you read that line?
 6 A. I think "What is done to enforce this?"
 7 Q. Okay. I'm sorry. Thank you. On the next
 8 page, second arrow --
 9 A. Yes.
 10 Q. -- can you read that?
 11 A. It says there are the abbreviations for,
 12 Connecticut, Minnesota, Wisconsin. Arrow. "Rigorous
 13 policies correlates with the high school student
 14 achievement."
 15 Q. Okay. And it looks like an arrow going up
 16 from Wisconsin. It says "slightly preferred"?
 17 A. Yes.
 18 Q. Why was Wisconsin slightly preferred?
 19 A. I don't recall. Maybe it was because my
 20 brother lives in Wisconsin. I could fly there and
 21 visit him. I don't know why Wisconsin was slightly
 22 preferred.
 23 Q. Okay. How about -- can you read the line
 24 that's just above Number 3 on the next page?
 25 A. "Most favored equals." Again, abbreviation

1 for Connecticut, Kentucky, Wisconsin, paren, back up
 2 Minnesota, close paren.
 3 Q. And could you read Number 4?
 4 A. "California Curriculum Data."
 5 Q. And then, an arrow underneath that.
 6 A. "Jeanie could answer question."
 7 Q. Okay. What was the question that Jeanie
 8 could answer?
 9 A. I don't recall.
 10 Q. And the very last line on the second page of
 11 Exhibit 31, can you read that?
 12 A. "Send Linda most recent copy of standards
 13 paper."
 14 Q. Okay. Thank you.
 15 MR. EGAN: It's five to 12:00. Shall we
 16 take a break?
 17
 18 (Whereupon there was a
 19 discussion off record.)
 20
 21 MR. EGAN: Do you have any preference as to
 22 how long we go this afternoon?
 23
 24 (Whereupon there was a
 25 discussion off record.)

1
 2 (Whereupon, a lunch recess was
 3 taken. Off the record at 11:59
 4 and back on the record at
 5 12:59.)
 6
 7 MR. EGAN: Mark our next exhibit.
 8
 9
 10 (WHEREUPON EXHIBIT 32 WAS
 11 MARKED FOR IDENTIFICATION)
 12
 13 THE WITNESS: Okay.
 14 MR. EGAN:
 15 Q. Mr. Koski, I've shown you what's been marked
 16 as Exhibit 32. And I believe Ms. Welch has brought
 17 the original of that document.
 18 It has -- it's -- some markings are in
 19 pencil, and some are ink. If you want to refer to
 20 the original, you know, feel free.
 21 THE WITNESS: Okay.
 22 MR. EGAN:
 23 Q. Referring to Exhibit 32, can you identify
 24 this document?
 25 A. It appears to be a printout of our um,

1 database for English language arts, and I don't know
 2 the date. It doesn't look like it's dated at any
 3 time. And it's got handwritten notes on it.
 4 Q. Okay. When you say your "database," is this
 5 the database in the form of the appendices to your
 6 expert report?
 7 A. Yes.
 8 Q. Okay. So do you recognize -- or do you know
 9 who prepared the -- what shall I call it? The
 10 original document?
 11 A. Um --
 12 Q. That refers not to the handwritten notes on
 13 it, but the original of the electric printed copy?
 14 A. Yeah. Um, it would have been Hilary Weis,
 15 because it's the English language, arts.
 16 And my recollection is that she was the
 17 original reviewer of English language, arts.
 18 Q. Okay. You indicate she was the reviewer of
 19 the English language, arts, so --
 20 A. The first level reviewer.
 21 Q. Okay. And again, I don't remember. Do you
 22 recall or do you know who prepared the -- who did the
 23 first level -- who prepared the original document,
 24 the original database?
 25 A. Of the database itself?

1 Q. Yes. For English arts.
 2 A. Hilary created the structure -- the blank
 3 structure for it all.
 4 Q. Okay.
 5 A. And then, the others would add in the
 6 content.
 7 Q. All right. Who added the content into
 8 Exhibit 32?
 9 A. Um, I don't know, because I don't know at
 10 what point in our process of review this was. So
 11 certainly, Hilary would have added to it, because she
 12 was the first one. So it looks like this has
 13 minimally gone through one -- one level of analysis.
 14 So she would have added the content to it. Whether
 15 or not --
 16 Q. Okay.
 17 A. -- others did, I can't tell from this.
 18 Q. Okay. There's a -- on the first page, which
 19 is Bate stamped KWK 0746 --
 20 A. Uh-huh.
 21 Q. -- there's a note -- handwritten note upper
 22 left-hand corner. Do you know who Abigail is?
 23 A. No. I don't.
 24 Q. Okay.
 25 A. It's not my handwriting, either.

1 Q. There's a note on that same page on the top
 2 right hand corner.
 3 "If we're simply going to
 4 keep copying everything from,
 5 'library close media center,'
 6 maybe we should just combine
 7 them into 'library and media
 8 center.'"
 9 Do you know whose handwriting that is?
 10 A. No. I don't. It's either Hilary's or Ruth
 11 Chung's.
 12 Q. Okay.
 13 A. Doesn't look like Eugene's.
 14 Q. Okay.
 15 A. It's not mine.
 16 Q. Okay. Do you recall discussing the subject
 17 of the note that I just read with Hilary or anyone
 18 else on the team?
 19 A. I don't specifically recall it. I -- I --
 20 this does refresh my recollection that it was an
 21 issue. And I don't know how we ultimately resolved
 22 it. I'd have to look at what the decision was for
 23 for the English language arts here.
 24 Q. Okay. Do you remember was it an issue,
 25 whether to treat library media center separate or

1 combine them?
 2 A. Yes.
 3 Q. Do you know -- was it -- do you recall
 4 whether it was an issue for content areas other than
 5 English language arts?
 6 A. I don't recall. To the extent that there
 7 are separate library media center facilities
 8 subcategory for all of this, there -- it -- it was a
 9 problem -- generic issue. But I don't recall
 10 specifically.
 11 Q. Okay.
 12 A. But it was -- yeah.
 13 Q. Do you have any approximate time frame for
 14 when this document -- when these comments were made
 15 on this document?
 16 A. All I know -- oh! I can tell you the
 17 approximate time frame when I recognize my
 18 handwriting on this document. I can tell you the
 19 time frame of when those comments were made.
 20 Q. On the first page, could you identify your
 21 handwriting?
 22 A. It's the bottom the least legible
 23 handwriting --
 24 Q. Okay.
 25 A. -- on the bottom.

1 Q. Sort have been circled and --
 2 A. Start --
 3 Q. "School of community can participate"?
 4 A. Yes.
 5 Q. Okay. And to the left of your comment,
 6 there's an "okay."
 7 A. Yes.
 8 Q. Do you know who made -- whose okay that is
 9 or who wrote the okay?
 10 A. No. It -- and it could have been um, the
 11 person who did the typing for me. It could have
 12 simply been a notation that the person made that
 13 suggested the change, or it could have been a review
 14 by either Ruth or Hilary.
 15 Q. Okay. So that the handwriting on the first
 16 page is yours, that is, at the bottom?
 17 A. Yes.
 18 Q. And do you recognize your handwriting on
 19 other pages in the document?
 20 A. Yes.
 21 Q. Okay. And it's -- if I recognize your
 22 handwriting, it looks like it's on multiple pages.
 23 Sort of the same general format.
 24 A. (Nodding head.)
 25 Q. And insert -- "language to be inserted," is

1 that generally correct?

2 A. Yes.

3 Q. Okay. Again, that as I understand it, you
4 were the sort of the third and final reviewer of all
5 the work?

6 A. Uh-huh.

7 Q. Does this document represent -- you know,
8 incorporate your final third review of the English
9 language arts appendix or database?

10 A. This um, represents my suggestions as to --
11 yes. This would -- would be -- I don't know whether
12 all of my third review English arts, but it -- part
13 of my third review for English language arts, I may
14 have entered some data directly onto the database in
15 addition to these suggestions in hard copy.

16 The reason I -- I'm able to date this, by
17 the way, is that it -- it -- um, I remember not
18 having a computer at -- in December of 2000. And I
19 was -- I had to do a little bit of the handwritten
20 work.

21 Q. Okay.

22 A. So it may have also been some work directly
23 on the document on the screen.

24 Q. Okay. I was going -- I will represent to
25 you that this is the only word paper produced which

1 Q. Okay.

2 A. -- but --

3 Q. And --

4 A. Yeah.

5 Q. I believe you testified yesterday that, you
6 know, if you entered it on the computer, you would
7 have overwritten whatever existed there previously?

8 A. That's correct. Yes.

9 Q. Okay.

10 A. And just to be even further clear with you,
11 when I write directly on the computer, I would
12 indicate my comments separate from the other two
13 people's comments. I could tell the difference
14 between everybody's work on -- it would be a
15 difference in font, so we knew what -- who -- what
16 each other's comments were.

17 Q. So this is another coding system of sorts?

18 A. It's not a coding. So I knew who did what
19 work.

20 Q. Okay.

21 A. Yeah. It's not a coding system.

22 Q. Okay.

23 A. My recollection is I would then go in at a
24 different font.

25 Q. Okay. And at this time, again, with regard

1 is, what I would characterize, as a draft of an
2 appendix --

3 A. Uh-huh.

4 Q. -- with comments on it.

5 A. Yes.

6 Q. My question is: Do you have any reason you
7 know, any explanation for why other drafts were not
8 produced?

9 MS. WELCH: Objection. Assumes facts.

10 THE WITNESS: I -- first of all, I don't
11 know whether other drafts ever existed or currently
12 exist or anything.

13 MR. EGAN: Right.

14 A. I remember that -- with regard to this, this
15 refreshes my recollection, that I was sitting in
16 Trinidad, California at a place on the coast putting
17 in these handwritten comments, because I didn't have
18 a computer with me.

19 I may have also entered stuff back in my
20 office directly onto the database itself in
21 connection with my third level of review.

22 MR. EGAN:

23 Q. Okay.

24 A. So my practice was to go directly on the
25 computer --

1 to Exhibit 32, Page 1, the check in the classroom
2 column for kindergarten through grade 12 indicates it
3 is a required resource?

4 A. I would imagine a classroom is a required
5 resource. Yes.

6 Q. Okay.

7 A. Your question --

8 Q. My question is, at this point, your coding
9 was check -- well, let me ask this.

10 What was your coding at this point, if you
11 know?

12 A. Um, hmm!

13 Q. Let me refer you to Page 4, which is --
14 yeah.

15 A. This --

16 Q. That's Bates number 0749?

17 A. Yeah.

18 Q. Let me ask you. On Page 4, the column that
19 deals with library and standard LS 1.0, it looks like
20 there is a check, which has been circled and within
21 the editorial mark, to indicate delete, and then, an
22 X placed in that column. Do you see where I'm
23 referring?

24 A. Yeah.

25 Q. Okay. Were those your -- were those changes

1 that you entered or additions that you made?
 2 A. It looks like it might have been.
 3 I -- I need to say that I'm confused about
 4 this document, now that I'm looking at it, because I
 5 don't think where, in the process, this was.
 6 Actually, now that I'm -- I'm looking at
 7 this, these are my comments, which on the -- would
 8 suggest to me it's the third level review. But I
 9 don't know that for sure.
 10 Q. Okay. Looking at, again, Page 4 of the
 11 document, which is Bates stamp 0749, are the -- are
 12 those your editorial marks in the column in the
 13 library column under LS category?
 14 A. You mean, the circle and the deletion of the
 15 check?
 16 Q. Right.
 17 A. It appears to be.
 18 Q. Okay. And as I interpret it, as I interpret
 19 those marks, they indicate that the check is to be
 20 removed, and an X is to be placed there; is that
 21 correct?
 22 A. Yup.
 23 Q. Okay. And so, is it fair to say that at
 24 this point, when you made these marks, your intent,
 25 at that point in time, was to change the

1 A. Yup.
 2 Q. -- the classroom column, it indicates
 3 "implied" with regard to each of the standards in
 4 that column.
 5 A. (Nodding head.)
 6 Q. I believe that "implied" carries through all
 7 of the classroom columns through -- that deal with
 8 facilities through Page 13.
 9 A. (Nodding head.)
 10 Q. Do you know who made the determination that
 11 the class room was implied?
 12 A. Um, I don't. It would have been the first
 13 or second level reviewer, though.
 14 Q. Okay. Was that the determination changed in
 15 the final version of --
 16 A. May I look? I don't know. May I look at
 17 the final version?
 18 Q. Sure.
 19 A. It looks like the "implies" were changed to
 20 "necessary." And my belief is that we did not use
 21 the word "implied" anywhere, because we didn't want
 22 the confusion between what is "necessary" on one hand
 23 and what is "recommended" or "suggested" on the other
 24 hand.
 25 We didn't use the term "implied," I don't

1 categorization with regard to this particular
 2 standard from required to suggested?
 3 A. That -- not necessarily to change it. That
 4 was my recommendation on my third level review that
 5 it "suggested," rather than "required." Yes.
 6 Q. Okay. And immediately below that, there's
 7 the same mark again. The same -- you said your
 8 suggestion was to change it to "suggest"? Is that
 9 correct?
 10 A. Yes.
 11 Q. When you say "suggestion," was that because
 12 it was not final in some sense?
 13 A. Yeah. As I think I testified to yesterday,
 14 um, we tried to do this to the extent possibly by
 15 consensus. So I would then -- um, it was my practice
 16 to go back and talk to the first and second level
 17 reviewers to just get some further feedback. I
 18 ultimately made the decision, if there was a
 19 discrepancy.
 20 Q. Okay.
 21 A. But I did explore it further with them.
 22 Q. Okay.
 23 A. That was my practice.
 24 Q. Looking at Page 2 of Exhibit 35, which is
 25 Bates Number 747 --

1 think, anywhere else in the final report here.
 2 Q. If I recall, in your methodology, I believe
 3 discussed on Page 13 of your report --
 4 A. Uh-huh.
 5 Q. -- Exhibit 1 --
 6 A. Uh-huh.
 7 Q. -- you state if you indicate the resource --
 8 this is the second paragraph.
 9 You say -- reads:
 10 "If any of the resource
 11 was explicitly identified or
 12 implied by the standards
 13 frameworks or teacher
 14 certification requirements, the
 15 researcher included the resource
 16 as required or implied by the
 17 standard."
 18 Is that what was happening with regard
 19 to Exhibit 32?
 20 A. As you -- what my best guess, as to what was
 21 going on with Exhibit 32, is that we -- the person
 22 who wrote in the word "implied" was indicating to the
 23 rest of us that you don't see the word "classroom"
 24 anywhere in that standard.
 25 But it's fair to imply that you need a

1 classroom, from that standard, or from any of these
2 standards, rather than teaching a child outdoors in
3 the rain.

4 So we probably, at some point, from what I
5 can tell, changed that "implied" to "necessary," just
6 because we didn't want to create confusion as to
7 what's implied versus what's directly stated in
8 there. Because it became difficult to differentiate
9 between implied and directly stated.

10 What we did find is that everything was
11 either necessary or implied from each one of the um,
12 standards.

13 Q. And I am a little bit confused. But if I
14 understand what you're saying, that you really --
15 well, in your final report, in the final report, the
16 check indicates something as "required." And an X or
17 a dot indicates the -- if the resource is
18 recommended.

19 A. That's correct.

20 Q. Okay. And you're saying that the X -- am I
21 correct, then, that you're saying that an X, even
22 though it means it's a requirement, could be an
23 implied requirement?

24 A. An X never means required. Only the check
25 means required.

1 Q. Page 8 is yours?

2 A. Yes.

3 Q. Okay. Page -- all the notations of Page are
4 yours with exception of "okay" at --

5 A. Yes.

6
7 (Whereupon there was a
8 discussion off record.)
9

10 MR. EGAN:

11 Q. On Exhibit 32, the English language on the
12 technology section, Page 1, which is Bates number
13 0759 --

14 A. Yes.

15 Q. -- you see the handwritten comment, "I think
16 all" -- "I think these are all checks."

17 A. Yes.

18 Q. Okay. Do you know whose handwriting that
19 is?

20 A. I know it's not mine. And I believe that
21 it's Hilary's or Ruth's.

22 Q. And on Page 3 of the technology section,
23 again, I think these are checks.

24 A. (Nodding head.)

25 Q. Hilary's or Ruth's handwriting?

1 Q. I'm sorry. It could be -- you're -- that's
2 correct?

3 A. Yeah. That's correct.

4 Q. Okay.

5 A. Yeah.

6 Q. On Page 4, I'm not referring to the Bates
7 number, but to the page number of the exhibit,
8 there's a comment on the right-hand side.

9 "Do we want to add grade 4, 2.2?" Do you
10 know whose handwriting that is?

11 A. I don't. But as I mentioned before, it's,
12 to the best of my recollection, either Hilary or
13 Ruth.

14 Q. Okay. Just quickly, could you confirm the
15 handwriting on Page 5 at the bottom, or is just all
16 of Page 5 is yours?

17 A. It appears -- yes.

18 Q. The same for Page 6?

19 A. Yes -- well, except for looking like little
20 tiny -- okay.

21 Q. Okay.

22 A. It's --

23 Q. Okay. Page 7 is yours, with the exception
24 of "okays"?

25 A. Yes.

1 A. That says "these are all checks"?

2 Q. Yes.

3 A. Yes.

4 Q. Okay. On Exhibit 32, Bates number 0775 --

5 A. Yes.

6 Q. Okay. There's a note in the lower
7 right-hand corner. Can you read that?

8 A. Looks like -- I don't know what the first
9 word is. "Did he" or something. "Necessary, not
10 just implied."

11 Q. Do you know whose handwriting that is?

12 A. It's Hilary's or Ruth's.

13 Q. Do you know what the significance of that
14 comment is?

15 A. No. Although, this is starting to refresh
16 my recollection.

17 At some point, we were having some
18 discussion, among ourselves, whether or not to use
19 the word "implied" in the text of the appendices at
20 all, because it was becoming confusing to us when and
21 how to use it.

22 And I think my recollection is that
23 ultimately, we didn't. It's the word "implied" in
24 any of the appendices. It's possible that it's in
25 there, but I don't remember.

1 I think we ultimately decided not to use it,
 2 because the -- it seems to me a difficulty to draw a
 3 distinction between "implied" or "necessary."
 4 Something can be both implied and necessary. And
 5 that was -- that's why we had -- we were having
 6 troubles here.
 7 Q. Okay. Would it be fair to say part of the
 8 confusion stemmed from the -- I guess the integration
 9 or overlay of the issue of whether something is
 10 necessary or implied onto the characterization of
 11 whether something is required or suggested?
 12 A. I don't know whether or not that factored
 13 into the -- to that particular confusion or not, in
 14 terms of analysis. I don't know.
 15 Q. Okay.
 16 A. I do know that they felt it was a wrong
 17 distinction to make between "necessary" and
 18 "implied," as if these were ultimately exclusive
 19 categories. That is what I do remember as becoming
 20 difficult for us.
 21 Q. Okay. On Exhibit 32, Bates number 0777 --
 22 A. Yes.
 23 Q. -- there is a note at the bottom. I believe
 24 it reads, "In addition to these regular."
 25 A. Yes.

1 Q. And then, there's -- my copy is EG. And I
 2 don't know if there's agreed -- any better on the
 3 original?
 4 A. It looks blank on mine.
 5 Q. Okay.
 6 A. Oh! I'm not looking at the cover.
 7 Q. Bates 77 --
 8 A. No Bates on these.
 9 Q. Oh! It's English language arts,
 10 instructional materials?
 11 A. It looks like the -- look at the original of
 12 this document.
 13 Q. Okay.
 14 A. It says EG comma, dot, dot, dot. It's an
 15 ellipsis.
 16 Q. Okay. Do you know whose handwriting that
 17 is?
 18 A. Again, it's not my handwriting. But I think
 19 it's either Hilary's or Ruth's.
 20 Q. Can you tell from the context what is
 21 indicated by that comment?
 22 A. I cannot. No.
 23 Q. Okay. On the next page, Bates 778, the
 24 comment at the bottom is that one person's -- does
 25 this add anything? We can leave it, though. Is that

1 one or two persons? Can you tell?
 2 A. I'm looking at the original. I actually
 3 can't tell if it's two different people.
 4 Q. Okay. On the instructional materials, Page
 5 5, Bates Number 779, are those your comments on the
 6 right-hand side?
 7 A. "Do not delete change grade"?
 8 Q. Yes.
 9 A. Yes. Those are mine.
 10 Q. Is "stet" --
 11 A. Stet is me. S-T-E-T.
 12 Q. I'm sorry. Is there anything that's not --
 13 A. You asked me the right-hand side. The thing
 14 is not on mine. There's 2.2-C next to the four.
 15 That's not me.
 16 Q. Okay. On Bates page 0785, the comment at
 17 the bottom, can you read that?
 18 A. In the one that's circled on --
 19 Q. The one like, below the circled text.
 20 A. It says -- I'm reading the original, "Why
 21 here. No. But not in previous grades. Fix this in
 22 previous grades."
 23 Q. Okay. Do you know what that means?
 24 A. I don't.
 25 Q. Okay.

1 A. I -- I -- it looks as though the person is
 2 saying that text was added here, but not in the
 3 previous grades. And that the person is suggesting
 4 that it be fixed or be fixed in the previous grades.
 5 Q. Okay.
 6 A. I will say that this project of this
 7 magnitude, consistency was important to us.
 8 Q. Okay. On the last page, which is Bates page
 9 0791 of Page 17 of English language arts and
 10 industrial materials --
 11 A. Yes.
 12 Q. -- can you read the handwritten comment
 13 which does not appear in your handwriting that
 14 begins, "What if"?
 15 A. Yes. It says, "What if a check and an X in
 16 same box?"
 17 Q. Okay. Do you recall what that -- what the
 18 issue -- what that issue -- or what that signifies?
 19 A. Yes. I think there was a question, at some
 20 point, when we would have something that both
 21 required and recommended that.
 22 For instance, we might find something --
 23 this -- from the standard that is required, but there
 24 was, in addition to that, some language from the
 25 frameworks.

1 So it was both required per the standard.
2 But because our rule was -- came from the original
3 frameworks, it would be recommended. It would have a
4 check and an X in the same box.

5 And instead of having a double counting, in
6 the sense of counting both the check and the X, our
7 rule -- because that just became the rule. Just
8 relay on the check, sort of the "required" alone.

9 So that for each standards, you would either
10 have a "required" in the resource, it would either be
11 "required" or "recommended." It would never be both
12 required and recommended.

13 Q. Okay. So I should not expect to find, in
14 your final report, any standard which were in --
15 where there's both a check and an X or a dot?

16 A. That's correct. If it is, that's a mistake.
17 It will be corrected.

18 MR. EGAN: Okay. Let me -- well, let's
19 mark -- let's get off the record for a second.

20
21 (Whereupon there was a
22 discussion off record.)

23
24 MR. EGAN: Mr. Koski, let me refer to what
25 has been marked -- or identified as Exhibit 33.

1 MR. EGAN: Okay.

2 Q. Mr. Koski, can you -- do you recognize
3 Exhibit 33?

4 A. I have seen the California Science
5 Frameworks for K through 12 public schools draft in
6 progress, curriculum frameworks, which is what these
7 are. Yes. I recognize that.

8 Q. Okay. Do you recognize the handwriting
9 or -- let me go back.

10 Have you seen this particular document
11 previously?

12 A. I'm going to say I must have, because I
13 recognize some of my handwriting in here.

14 Q. Okay. Can you tell me whose handwriting is
15 at the top of what is Page 21 Bates, number -- Page
16 21 of Exhibit 33, which is the introduction?

17 A. I know that Eugene Clark worked on the
18 science standards and frameworks. I don't remember
19 who the second level reviewer was. So this could be
20 either Eugene or the second level reviewer. No. The
21 second level reviewer, who would have been --

22 Q. Ms. Shallenberger?

23 A. -- Ms. Shallenberger for this.

24 Hmm!

25 Q. But do you recognize the handwriting on the

1
2 (WHEREUPON EXHIBIT 33 WAS
3 IDENTIFIED BUT NOT MARKED)

4
5 MR. EGAN: Which is a document headed,
6 "California Science Framework K 12 Public Schools
7 Draft in Progress."

8 Q. And I will note that the document that was
9 produced, in association with -- as part of your
10 working papers, or related to your expert report,
11 bears the Bates numbers of Plaintiff XPWK 1994 to --
12 I believe it's 2260. And that this document has
13 highlighting on it in various colors.

14 The copy that was produced did not show the
15 colors. But we have subsequently received a color
16 copy. And you have the original document to review,
17 which shows the color coding.

18 MS. WELCH: Various? There's yellow and
19 blue. I wouldn't call it coding.

20 MR. EGAN: Okay. At least, it's -- I'll put
21 it this way. It's, at least, two different color
22 highlighting.

23 THE WITNESS: (Nodding head.)

24 MR. EGAN: Fair enough?

25 MS. WELCH: Yes.

1 top?

2 A. I don't. No.

3 Q. Okay.

4 A. I'm trying to think.

5 Q. You indicated that you recognized your
6 handwriting --

7 A. Uh-huh.

8 Q. -- on the document. What's the first page
9 or the page that you're referring to that contains
10 your handwriting?

11 A. I think my handwriting is on -- I don't know
12 what the Bates number, but Page 22.

13 Q. Okay.

14 A. In the right hand margin, you'll see
15 "measuring instruments." I think that's the first
16 time I see my handwriting.

17 Q. Okay. Now, on Page 22, there's also
18 highlighting in yellow. There's a section that is
19 highlighted in yellow at the top. And then, there's
20 the section I -- actually, it's lines -- Page 22,
21 lines 25 through 30. That seemed to be highlighted
22 in both yellow, and then, a blue highlighter, as
23 well.

24 A. (Nodding head.)

25 Q. There's also a blue box with an X in it to

1 the right of the highlighting.
 2 A. (Nodding head.)
 3 Q. Do you know what the highlighting signifies?
 4 A. I don't know what the highlighting
 5 signifies. No.
 6 Q. Do you know who added the highlighting?
 7 A. I don't know.
 8 Q. Okay. Do you know what the blue box with an
 9 X in it means?
 10 A. I don't know. No.
 11 Q. Okay. But your handwriting is there.
 12 That's where it says "measuring instrument." That's
 13 yours?
 14 A. Yes.
 15 Q. That's your handwriting?
 16 A. Yes.
 17 Q. Okay.
 18 A. You know, this does refresh my recollect.
 19 One point that we made. We -- these are
 20 draft curriculum frameworks, as you know, we've
 21 already established.
 22 We ultimately um, relied upon the final
 23 curriculum frameworks that were eventually issued in
 24 our analysis. Okay? And it's -- it is possible --
 25 although, um, I can't remember for sure. It's

1 Q. Okay.
 2 A. The -- initially, we thought we would have
 3 to just finish the project before the final
 4 frameworks were complete. And so, we um, didn't rely
 5 exclusively on when we had to rely exclusively on the
 6 frameworks -- draft frameworks. We didn't ultimately
 7 do that.
 8 I think there's a footnote that discusses
 9 the timing of this.
 10 Q. Right. Yes. If you could refer to your
 11 report on Page 7, footnote 9.
 12 A. Yes.
 13 Q. Although, as I understand, footnote 9 -- the
 14 footnote indicates that the curriculum frameworks,
 15 for history social science, were approved on October
 16 11th, 2000, but were still in pre-publication format
 17 at the time of this analysis.
 18 A. Yes.
 19 Q. So as I understand that, you used the draft
 20 history, social science framework?
 21 A. No. That's not correct.
 22 Q. Okay.
 23 A. We used the pre-publication format history,
 24 social science framework. They were no longer
 25 drafts, but they were still pre-publication in their

1 possible that we actually did a first and second
 2 level review on the old draft frameworks with high
 3 end of -- produce the paper intent based upon the
 4 draft frameworks. Because the final frameworks had
 5 not yet been released.
 6 Q. Okay. This is -- you're talking about,
 7 specifically, about the science framework at this
 8 point?
 9 A. Correct. The science frameworks. Yeah.
 10 Q. Okay.
 11 A. (Nodding head.)
 12 Q. Let me -- I think your response was phrased
 13 in terms of you may have?
 14 A. Right now, based on my review of this and
 15 the handwriting here, it looks -- I -- my best guess
 16 is we probably did do a second level of review of
 17 curriculum frameworks. We didn't ultimately review
 18 on this review, because we didn't rely on these
 19 curriculum frameworks.
 20 Q. You're saying you didn't rely on the draft
 21 frameworks?
 22 A. Correct.
 23 Q. Okay. And why is it that you didn't rely on
 24 the draft science framework?
 25 A. Because they were drafts.

1 literal format.
 2 Q. Okay. Do you know if there were changes --
 3 if there was a change from the pre-publication format
 4 of the history social science framework and the final
 5 published version?
 6 A. No. I don't know. I never laid them side
 7 by side. If there is a final published version, I
 8 don't know.
 9 Q. Okay. Now, you say the science framework
 10 was approved by the board on February 6, but were in
 11 pre-publication format at the time of this analysis?
 12 A. Correct.
 13 Q. Okay. Is Exhibit 33 different from the
 14 pre-publication format?
 15 A. Yes. Exhibit 33 is a draft format.
 16 Q. Okay. Do you know --
 17 A. Actually, if you read through this document,
 18 you would see there are many, many typographical and
 19 grammatical errors. It's not a very well-written
 20 document.
 21 Q. So that there were changes -- well, let me
 22 ask this.
 23 There were changes in the draft. There were
 24 changes from the draft from the pre-publication
 25 version, which you relied on of the science framework

1 changed from -- with changes from the draft that we
 2 have here as Exhibit 33?
 3 A. Yes. There were changes.
 4 Q. Okay.
 5 A. Um, many, many grammatical changes.
 6 Q. Were there any substantive changes?
 7 A. Oh, gosh! Probably. Maybe. I don't know.
 8 Q. Okay.
 9 A. I didn't review it closely for every
 10 substantive change.
 11 Q. Okay. But anyway, at some point, there was
 12 an analysis of Exhibit 33?
 13 A. Yes.
 14 Q. Okay.
 15 A. (Nodding head.)
 16 Q. And it looks like -- my best interpretation
 17 of this is that we actually probably did a second
 18 level of analysis on this, thinking that we had to
 19 finish our paper at some point, or wanting to finish
 20 our paper, even though we didn't, the final draft
 21 science frameworks. But ultimately, because we
 22 didn't have to finish the paper, we ultimately used
 23 the final science frameworks.
 24 MS. WELCH: Could we go off the record for
 25 one second?

1 MR. EGAN: Sure.
 2
 3 (Whereupon there was a
 4 discussion off record.)
 5
 6 MR. EGAN:
 7 Q. Looking at Page 28 of Exhibit 33, the
 8 comments at the written comments on the bottom, is
 9 any of that your handwriting?
 10 A. "I don't see how this calls for books," is
 11 my handwriting.
 12 Q. Okay. Page 30, the handwriting at the
 13 bottom?
 14 A. That is not my handwriting.
 15 Q. Paragraph -- excuse me. Page 44.
 16 A. Okay.
 17 Q. The handwriting on the right-hand side?
 18 A. That's mine. It says, "This looks more like
 19 lab equipment, because the magnets are not regular
 20 household magnets."
 21 Q. I think we talked about it --
 22 A. We did.
 23 Q. -- yesterday.
 24 A. (Nodding head.)
 25 Q. Page 50. Is any of the handwriting on Page

1 50 yours?
 2 A. None of it is mine.
 3 Q. Okay. Page 52. Any handwriting -- look at
 4 the top. And then -- it appears to me that the --
 5 well, let me ask you. Any of the handwriting on that
 6 page yours?
 7 A. Um, where it says "supplement and reference
 8 terms," that's mine.
 9 Q. There's an X. Is there an X in front of
 10 that?
 11 A. Yes.
 12 Q. Does that signify anything?
 13 A. Um, my best interpretation is that that X
 14 might have meant "implied." I'm sorry. I do not see
 15 that X. It might have been "recommended."
 16 Q. Suggested?
 17 A. Yeah. Or suggested.
 18 Q. Page 59. Two handwritten comments on that
 19 page. Either of them yours?
 20 A. Yes. Nothing.
 21 Q. Okay. That's in response -- I'm not sure
 22 what to do with this.
 23 A. It appears to be in response to this. Yes.
 24 Q. Does that have the X in front of "nothing"
 25 signify anything?

1 A. No. Although --
 2 Q. Okay.
 3 A. -- as an aside, this goes back to the field
 4 trip question that we talked about yesterday. How we
 5 never ultimately put field trip as a condition or
 6 resource. And maybe in retrospect, it wouldn't have
 7 been such a bad idea.
 8 Q. Page 75. The handwriting on the bottom, any
 9 of that yours?
 10 A. 75?
 11 Q. Yes.
 12 A. No.
 13 Q. Page 76, any of the handwriting yours?
 14 A. It appears all of it appears to be me --
 15 mine.
 16 Q. Okay. That's the supplemental in reference
 17 terms in the upper right?
 18 A. Yes.
 19 Q. And measuring instruments. And I can't read
 20 the bottom.
 21 A. "Charting/grafting materials."
 22 Q. Page 77, any of the handwritten notes appear
 23 to be yours?
 24 A. All but "household items" appears to be
 25 mine.

1 Q. Could you read -- could you read it for us?
 2 A. "Books, computer, software, Internet access,
 3 NB. This is for the teacher only."
 4 Q. Okay. Let me ask you. NB is --
 5 A. Yes.
 6 Q. -- in the lab?
 7 A. Yes.
 8 Q. What is, "This is for the teacher only,"
 9 mean?
 10 A. It appears, based on my reading of the
 11 paragraph in the text of the framework, that um,
 12 there is an experiment described there. And there is
 13 a sentence that says:
 14 "There are several
 15 variations of this simple
 16 experiment easily found in
 17 science books, software programs
 18 and on the Internet."
 19 And that comment is best
 20 interpreted -- it says:
 21 "Two teachers who could find the
 22 variation of the experiment in science books,
 23 software props, or the Internet."
 24 And then, he or she could conduct the
 25 actual experiment with the students in the classroom.

1 Q. How would this be treated in your appendix?
 2 A. I don't know if -- how or if it was treated
 3 at all, because I don't know what changes happened
 4 between the -- on -- with regard to this one, between
 5 the draft curriculum framework and the final
 6 framework.
 7 Q. Okay. Did -- does your analysis -- strike
 8 that.
 9 Does your expert report include resources
 10 that are for teachers only in the identification of
 11 resources that are required or suggested?
 12 A. You know, as I am sitting here right now,
 13 without looking at each and every standard, I don't
 14 recall any resource that's teacher only, unless it
 15 was specifically indicated as teacher only in the
 16 appendix itself.
 17 I'll just leave it at that. I don't recall
 18 any.
 19 Q. Do you recall whether you identified
 20 resources in your expert report as "teacher only"?
 21 A. I don't recall that either. There may be,
 22 though.
 23 Q. Okay.
 24 A. Because I don't know whether or not this
 25 language made into the final science framework and

1 how we treated it.
 2 Q. Apart from this language, do you recall
 3 dealing with the question or discussing the question
 4 of what to do with "teacher only resources"?
 5 A. I actually don't recall that specific topic
 6 being discussed. It may have been, but I don't
 7 recall.
 8 Q. Okay. As you sit here today, can you tell
 9 me how you would -- what you would do with a resource
 10 that was specifically for the teacher only?
 11 A. Okay. Um, I'm uncomfortable answering that
 12 question because I don't know how we treated it. And
 13 I'm afraid, again, that some of the analysis done,
 14 we're taking that -- somehow conducted our analysis.
 15 So I don't want to say anything that's contradictory
 16 to our analysis, because our analysis is pretty
 17 self-contained.
 18 Q. Let me ask you this. I understand your
 19 reasoning for not wanting to answer the question, but
 20 I think you can still answer it.
 21 A. I don't know without -- if it has any
 22 bearing on my opinion.
 23 But one potential way of dealing with that
 24 issue is not including it in the analysis. Another
 25 potential way is to have developed with it, including

1 the analysis, and not indicating that it's teacher
 2 only. And a third potential way is including it in
 3 the analysis and indicating that it was teacher only.
 4 And I think I'd have to put more thought
 5 into it before I came down on one of those things,
 6 depending on the purpose of what -- of -- of what I
 7 would be um, making that decision for.
 8 Q. Well, in the context of your report, isn't
 9 the purpose of your report to identify what resources
 10 are necessary or suggested for students?
 11 A. The purpose --
 12 MS. WELCH: Objection. Mischaracterizes his
 13 report and vague.
 14 THE WITNESS: Ask the question again,
 15 please. And in the -- because I'm not sure I
 16 understand the purpose of what -- why you're asking
 17 me to answer the question and what context for --
 18 what purpose are you asking me the question or
 19 whether or not I would -- how I would treat it today.
 20 MR. EGAN: Could you reread the question,
 21 please.
 22
 23 (Whereupon, the record was read
 24 by the court reporter.)
 25

1 THE WITNESS: And I'm asking for what
2 context and what purpose. As I said, as I sit here
3 today, you're asking me to answer that question --

4 MR. EGAN:

5 Q. For the purposes of your report, I think
6 any -- my question is: Isn't it correct that your
7 report is an analysis of what resources are necessary
8 or suggested for students?

9 A. You're, in effect, asking me to take a
10 memory test right now and ask me how we dealt with
11 this particular standard.

12 I don't know how we dealt with this
13 particular standard. For the purposes of my report,
14 we dealt with it in a certain way. And it's
15 contained in the report.

16 You can't ask me as I sit here today, for
17 the purpose of my report, because for the purposes of
18 plaintiff's report, it's already done.

19 Q. Well, if -- I'm not sure that you're correct
20 that it's -- it's -- your answer, that it's in your
21 report. I don't think it is. So that's why I'm
22 asking you the question.

23 I mean, you know, there's nothing in your
24 report that says how you dealt with this issue. And
25 so therefore, I'm asking you the question. How did

1 MR. EGAN: Okay. Could you read back his
2 last answer, please.

3
4 (Whereupon, the record was read
5 by the court reporter.)

6
7 MR. EGAN:

8 Q. Okay. Does that answer mean that you did
9 not include this as a required or suggested resource
10 because it was for the teacher only?

11 A. We made the determination that we were not
12 going to rely on that particular sentence in the
13 context of the paper and this particular standard.

14 Q. Well, I don't think that's responsive to my
15 question.

16 MS. WELCH: I think it is.

17 THE WITNESS: I don't know how else to
18 answer, because I can't answer the question in the
19 abstract. I need to answer it -- you asked me for
20 the purpose of my report. And I need to answer it in
21 the context of my report.

22 MR. EGAN:

23 Q. Okay. Do you recall any place in your
24 report that discusses how resources, that are
25 required by teachers or suggested for teachers, but

1 you deal with it?

2 A. Okay. Let me look there in the context,
3 then.

4 Q. Okay.

5 MS. WELCH: Am I correct you're asking the
6 question with reference, though, a specific issue for
7 the draft science frame work?

8 MR. EGAN: Well, I'm asking -- I'm going to
9 ask two questions. One, for that particular context,
10 and two, generally. Because it's a -- you know, an
11 issue that goes beyond this particular example.

12 THE WITNESS: For purposes of the report, we
13 appear to have not included any language from the
14 sentence that states there are several variations of
15 this simple experiment easily found in science books,
16 software programs and on the Internet.

17 MR. EGAN:

18 Q. All right. Where are you looking in your
19 report?

20 A. I'm looking at --

21 Q. Science --

22 A. -- appendix -- it's in my report.

23 Q. Okay.

24 A. It's the science appendix grade 5, physical
25 science.

1 are not required or suggested for students, are
2 addressed, how they are dealt with in your report?

3 A. I do not recall that. No.

4 Q. Okay. On Page 89 of Exhibit 33, in
5 handwriting, that -- do you recognize that as yours?

6 A. There -- no. There is not any handwriting
7 that is mine.

8 Q. Okay. Page 93. Any handwriting that is
9 yours?

10 A. Yes.

11 Q. Okay. Can you read that, please?

12 A. "Why?"

13 Q. Okay. And can you explain what the "why"
14 means?

15 A. Hmm! There is a sentence that says:

16 "Too extensive research and
17 include the fossil types of
18 mountain belts and volcano
19 formations on their means."

20 I say "why." And I point to the
21 library.

22 Q. You construe that as someone having
23 highlighting in that sentence in yellow, and then,
24 indicated that the X library as indicating that as a
25 suggestion, a library as a resource. And then, your

1 question is why?
 2 A. The person had indicated that the library
 3 may be a potential resource. I then appeared to have
 4 asked the question why, which is consistent with our
 5 practice of raising questions with each other and
 6 trying to --
 7 Q. Right.
 8 A. -- come to a consensus on it.
 9 Q. Do you recall how this issue was resolved?
 10 A. No. But I can look in the report and find
 11 out.
 12 Q. Okay. Why don't you do that, if you would.
 13 Are you looking in the science facilities index?
 14 A. Yes.
 15 Q. Okay. I'm sorry. What grade?
 16 A. 6th.
 17 Q. Okay.
 18 A. "Focus of earth plate
 19 tectonics. Indicates four
 20 important features of earth and
 21 major geologic events."
 22 Q. I'm sorry. So you did not find a language
 23 in your appendix?
 24 A. The language is different because we used
 25 language from the final frameworks.

1 Q. Can you tell me the specific page number?
 2 A. Facilities. Page 8.
 3 Q. And again, Page 8, grade 6, focuses on earth
 4 science column. Library indicates that -- library,
 5 which indicates that is a suggestion? Library is a
 6 suggested resource --
 7 A. (Nodding head.)
 8 Q. -- for this particular standard?
 9 A. Yes.
 10 Q. Okay. So do you conclude that, based upon
 11 this language on Page 93, that the library was
 12 included as a suggested resource?
 13 A. No. I don't conclude that at all.
 14 Q. Okay.
 15 A. In fact, I conclude that the library was
 16 included as a suggested resource, because it was
 17 indicated by the current version of curriculum
 18 frameworks. Because that's where that language is
 19 from.
 20 MS. WELCH: I just want to say that for the
 21 record, that that sort of thing demonstrates why
 22 we're going through the draft frameworks is a waste
 23 of time. We've already been through the final
 24 version of frameworks, so, I mean, obviously, you can
 25 ask whatever questions you have. But I think it's

1 wasteful.
 2 MR. EGAN: Okay. I think it's helpful to
 3 understand what questions Mr. Koski has about his
 4 analysis and how they're viewed, so that the -- and
 5 obviously, he's asked a lot of questions. And there
 6 have been a lot of questions raised. And I think
 7 that's absolutely appropriate to ask.
 8 And if I didn't have this document, I
 9 couldn't ask them. This document wasn't easy to get.
 10 Q. Page 95. Any handwriting that you recognize
 11 is yours?
 12 A. Yes.
 13 Q. Could you read?
 14 A. "Supplemental materials map."
 15 Q. Okay. And the X, is that your X in --
 16 A. Yes.
 17 Q. Okay. Does that indicate that you believe
 18 that that would be a recommended resource?
 19 A. That's my interpretation of it. Yes.
 20 Q. Okay. Page 97, any handwriting that you
 21 recognize that is yours?
 22 A. There -- um, there is two places.
 23 "Supplement materials maps." And there's an "okay"
 24 on the bottom right hand margin.
 25 Q. Okay. Now, the X that indicates

1 supplemental materials maps, it's to the left of --
 2 there's sort of a blue bracket.
 3 Do you recall -- does this refresh your
 4 recollection? Was this something that you would have
 5 bracketed, or was it there when you made the comment?
 6 A. My best interpretation is that I did not
 7 bracketed -- put the blue brackets in there --
 8 Q. Okay.
 9 A. -- although, it's possible.
 10 Q. Okay. Page 98. Your handwriting on the
 11 right?
 12 A. "Supplemental materials maps."
 13 Q. And the X, again, indicates you suggested
 14 that as a --
 15 A. Yes.
 16 Q. -- identified --
 17 A. Yes.
 18 Q. Okay. Page 107. Any handwriting that you
 19 recognize is yours?
 20 A. Yes. "Measuring instruments lap supplies."
 21 Q. Okay. Were your comments in response to the
 22 question, "not sure how to classify these"?
 23 A. Hmm! It may have been. Yes.
 24 Q. Okay. Does the X in front of your comments
 25 indicate, again, that you're indicating that you

1 believe they are suggested resources?
 2 A. Yes.
 3 Q. Page 118, do you recognize any handwriting
 4 as yours?
 5 A. It says "nothing." That's mine.
 6 Q. What is the "nothing" indicate?
 7 A. I believe that indicates that I didn't think
 8 it was any resource.
 9 Q. And that's -- the "nothing" is next to text
 10 that is highlighted in yellow. Do you recall when
 11 you were doing this document, were you reviewing just
 12 the sections that were highlighted?
 13 A. I actually don't know. My practice was to
 14 read the entire thing and make independent judgments.
 15 There is a question mark below the word "nothing"
 16 there on my version. Nothing may have been in
 17 response to the question mark.
 18 Q. Okay. Page 151. Any handwriting that you
 19 recognize is yours?
 20 A. Yes.
 21 Q. The field trips issue again?
 22 A. Yeah. "Me neither," I say.
 23 Q. Okay. Page 197. Any handwriting that is
 24 yours?
 25 A. Yes.

1 Q. Okay.
 2 A. I write "sure."
 3 Q. That is -- that is in response to "should I
 4 include this one?"
 5 A. It appears so. Yes.
 6 Q. Okay. Then, "if all students need not
 7 even" --
 8 A. "Master." Bad writing. The asterisk, it
 9 says, "they should be offered to interested and
 10 qualified students."
 11 Q. Do you know what the asterisk is?
 12 A. My best recollection is that in the science
 13 frameworks -- in the science standards, there were
 14 certain, I guess, substandards, to use my word, that
 15 were -- um, that in the contexts of the standards, it
 16 says something to the effect of these would be good
 17 for advance students, but -- or for students who's to
 18 pursue these, but are not going to be part of the
 19 core science standards, or something to that effect.
 20 I'm making up words right now. You can
 21 actually read it in the standards itself.
 22 Q. Right.
 23 A. And the question probably was because this
 24 is an asterisk standard, should we include in our
 25 response? And I remember there was an issue that was

1 yes, students should be offered the opportunity to
 2 achieve the standard, even if all students need not
 3 master the standard.
 4 Q. Okay. And the asterisk, in this case, on
 5 Page 197, refers to -- there's an asterisk by the
 6 letter F.
 7 A. Yes.
 8 Q. Okay. Again, was this a practice that you
 9 followed consistent, you know, with regard to other
 10 standards that differentiated between more advanced
 11 courses or standards?
 12 A. To the best of my recollection, yes. But
 13 I'm going to check --
 14 Q. Okay.
 15 A. -- because it's much easier for me to do
 16 that --
 17 Q. Okay.
 18 A. -- than to guess for you.
 19 Q. Okay.
 20 A. In the context of this particular standard,
 21 it appears that there is a repeated reference to the
 22 periodic table --
 23 Q. Yes.
 24 A. -- standard. And so, we included, among our
 25 supply materials and reference materials, a check as

1 required.
 2 Q. Could you indicate where you're referring
 3 to? You're looking at the -- your report?
 4 A. Instructional materials. Page 48 in the
 5 science appendix.
 6 Q. Okay. Science instructional materials, Page
 7 48. And you indicated that you referred to the
 8 language that talks about the framework makes
 9 repeated reference to the periodic table.
 10 A. Yes.
 11 Q. Okay. And that --
 12 A. So we included that as a required
 13 supplemental in the reference material, the periodic
 14 table.
 15 Q. Okay.
 16 A. And context -- it has contacts.
 17 I can't answer the question. And I'm not
 18 sure whether or not the issue came up again. I would
 19 have to see.
 20 Q. Okay. Let me ask you a hypothetical
 21 question.
 22 If there was a math standard for
 23 trigonometry that required a graphing calculator, and
 24 it was stipulated that not all students would take a
 25 trigonometry course, would you indicate a graphing

1 calculator as a required standard?
 2 A. For the purposes of me, sitting right here
 3 right now?
 4 Q. Uh-huh.
 5 A. I don't know what we did in the report. And
 6 I don't know that that hypothetical is even related
 7 to the report.
 8 Um, I prefer to deal with things in the
 9 context of the report. But as I sit here right now,
 10 I would probably indicate that that opportunity
 11 should be offered to students. Yes.
 12 Q. So that you would indicate that as a
 13 required resource?
 14 A. I probably would, as I sit here right now.
 15 How I treated it in the report, I don't know. I'd
 16 have to --
 17 Q. Okay.
 18 A. I don't know that that became an -- whether
 19 or not the issue even came up.
 20 Q. Okay. On Page 198, is that your
 21 handwriting?
 22 A. Yes. It appears to be the same issue. Yes.
 23 Q. Page 233, do you recognize any handwriting
 24 as yours?
 25 A. Yes.

1 Q. All right. Which handwriting is yours,
 2 then?
 3 A. It's -- it says -- I don't know what that
 4 is. It could be, "a supplemental material. Do you
 5 know?"
 6 Q. Okay. Do you recall what you got as a
 7 response?
 8 A. I don't recall the answer to that.
 9 Q. Okay.
 10 A. We may have consulted somebody. I don't
 11 know.
 12 Q. Who would you have contacted with a question
 13 like that?
 14 A. That would be -- well, we may have consulted
 15 people um, in the science education Stanford Teacher
 16 Education Department.
 17 Q. Okay. Page 307. Any handwriting that you
 18 recognize is yours?
 19 A. The "no."
 20 Q. Okay. After "should look into these two,
 21 question marks."
 22 A. Yes.
 23 Q. Any other?
 24 A. No.
 25 Q. MR. EGAN: Let me go off the record for a

1 second.
 2
 3 (Whereupon there was a
 4 discussion off record.)
 5
 6 MR. EGAN:
 7 Q. Mr. Koski, let me refer you to a document,
 8 which I will refer to as Exhibit 34, which is the
 9 science content standards for California Public
 10 Schools, kindergarten through grade 12, adopted
 11 October 1998, which has the Bate stamps Plaintiff
 12 XPWK 1083 to 1132. We have today a version of that
 13 document which shows some highlighting in, I think,
 14 two colors.
 15 Do you recognize Exhibit 34?
 16 A. I recognize it as the science content
 17 standards.
 18 Q. Okay. Could you take a look and see if you
 19 can identify any of the handwriting?
 20 A. I recognize my handwriting in several pages
 21 of the document.
 22 Q. Okay. How about on "Kindergarten," Page 1?
 23 Any handwriting that's yours?
 24 A. On Kindergarten, Page 1?
 25 Q. Yes.

1 A. Yes.
 2 Q. Okay.
 3 A. I see my handwriting.
 4 Q. Can you identify your handwriting?
 5 A. It says, "household items perishable" in the
 6 right hand margin.
 7 Q. Okay.
 8 A. It looks -- at the bottom, I say:
 9 "I think that we should
 10 speak with someone who does
 11 science education to see what
 12 grade/age students begin to use
 13 textbook."
 14 I know that grade -- for students
 15 reading to learn, but possible science works books
 16 are used earlier.
 17 Q. Okay. Was that comment directed to someone
 18 in particular?
 19 A. It would have been to whoever was working in
 20 science standards with me.
 21 Q. Okay.
 22 A. I don't know which particular person.
 23 Q. Okay.
 24
 25

1 (WHEREUPON EXHIBIT 34 WAS
2 IDENTIFIED BUT NOT MARKED)

3
4 MR. EGAN:

5 Q. I'm sorry. Is there a question pending?

6 A. I don't think so.

7 Q. Did you or anyone speak to someone who does
8 science education to answer the question you posed?

9 A. We -- I recall consulting with somebody in
10 the science education. Yes.

11 Q. Do you recall who?

12 A. I do not.

13 Q. And what was the -- what was your
14 conversation?

15 A. What I seem to recall from it was that the
16 person -- a good discussion about science education.

17 The person talked with us about ways of
18 conveying the information and the content of the
19 standard to the students in both written format and
20 in more hands-on activities, which is obviously with
21 a lot of science activities.

22 Q. Okay.

23 A. And what we take away from the
24 conversation -- I do remember what we should look for
25 is the least resource intensive way to convey the

1 some instances, the textbook was the least resource
2 intensive way, the less best practice.

3 Q. Did you feel that you could -- I want to get
4 this correctly.

5 In order to properly determine what resource
6 was required, in terms of textbooks for younger
7 students, that you really needed additional
8 information, an outside source to understand the
9 dynamics of teaching and --

10 MS. WELCH: Objection. Mischaracterizes his
11 testimony.

12 THE WITNESS: We consulted an outside
13 person. And this wasn't the outside person that --
14 we talked on many, many different issues.

15 In fact, I think there would be no person
16 who could -- would have the knowledge to undertake
17 this review on her -- or not one person could do
18 this.

19 Q. Okay.

20 A. We did seek outside expertise in areas where
21 we felt that might be necessary to help inform our
22 textual analysis.

23 This was one area where we thought it might
24 be helpful to inform our technical analysis. That
25 was -- I do have personal knowledge and understanding

1 substance of the lessons of the student, if there was
2 a choice between conveying it in a written format or
3 a non-written format.

4 Q. Well, as I read your notes, your question is
5 "see what grades/age students begin to use
6 textbooks."

7 A. There's no hard and fast answer to that rule
8 you can take away from that conversation. They
9 are -- when the student -- this science education
10 person said that it is possible that students in the
11 second or third grade could begin to use elementary
12 written materials.

13 It is possible that you could continue to
14 teach it through teacher standards through hands-on
15 activity, depending on standard -- depends on what
16 way to convey the information.

17 Other than what -- it depends on the way to
18 convey the information. And we decided as a team
19 that we would go with the most least resource
20 intensive way to conveying information. Because
21 there's no clear answer to that question.

22 Q. And so, the least resource intensive methods
23 would mean that you would not -- you would not be
24 including a textbook as a resource?

25 A. It depends with what the alternative is. In

1 of a lot of this.

2 I think, as we discussed earlier on, I
3 basically have a Ph.D. in education. So I do know
4 that students, as I pointed out here, students begin
5 reading to learn a lot in fourth grade, rather than
6 learning to read, which is typical for the third
7 grade.

8 And so, I did not want to rely on that
9 alone, though I wanted to see what in the context of
10 science education people had to say about that.

11 And the answer, unsurprisingly, is that
12 practice is depending on what the subject matter is
13 that you've trying to convey. So the first
14 indication of the students is -- and what the
15 availability of resources. So we chose to go with
16 the least resource intensive way in a particular
17 instance.

18 Q. Okay. And I'm not sure what you mean you
19 chose to go in with the least intensive resources way
20 in -- can you -- whatever reference, can you
21 explain -- or does it reference to you --

22 A. Let me give a generic example, and it may or
23 may not actually be true, with regards to our
24 analysis.

25 In high school, you could try to teach some

1 property of chemistry by doing an extensive
2 experiment hands-on, some reaction or otherwise. And
3 the information could be given to students in that
4 manner. That would require all sorts of chemistry
5 equipment to lab equipment and otherwise.

6 You may also chose to achieve that by having
7 them read about it in a textbook, which is incredibly
8 cheap, compared to a series of expensive experiments.

9 We would have chosen, in that instance, to
10 go with a textbook as the least best practice or the
11 least resource intensive practice, in our view.

12 Q. Okay.

13 A. The lower grade level, we consulted this
14 person to see what do you do with little kids?

15 And the person -- and I know it was a woman,
16 a lady -- I can't remember her name for sure. I
17 don't remember her name.

18 She said to us that we, depending on the
19 group of students, depending upon the specific
20 subject, and depending on what was available to the
21 teacher, could do it in a number of different ways.
22 We had just gone with the least resource intensive
23 practice.

24 So for young students, if we were to, for
25 instance, discuss different types of plants and

1 didn't personally consult with somebody. My
2 recollection is we consulted with somebody in English
3 language arts standards, Teacher Education Program.
4 And there may have been others. But I can't remember
5 specifically right now. I don't remember what the
6 question was.

7 Again, this exercise here really requires
8 good reading skills and analysis of the text itself.
9 But there were questions that we had. And this was
10 one of them.

11 Q. Okay. Returning to Exhibit 34, any
12 handwriting on kindergarten Page 2 that you recognize
13 is yours?

14 A. No.

15 Q. How about on grade 3? Life sciences or --
16 excuse me -- grade 3 Page 9. Life science at the
17 top. Any hand --

18 A. I recognize "lab equipment."

19 Q. Okay.

20 A. And again, the X, that is, the dot that you
21 were identifying, this as -- I was suggesting that
22 this might be a suggested --

23 Q. Okay.

24 A. -- resource. "Lab equipment." And
25 specifically the reference. Without looking at the

1 animal habitat, and that students know through
2 observation and describe similarities and different
3 animal behavior, plants and animals, or students
4 through stories, plants and animals, they don't
5 really have -- a teacher might tell a story and ask
6 questions based on -- she might make up a story. Or
7 a teacher could -- the students could read a story.
8 She will guide -- just referred to the story. It may
9 be possible, it may not be possible.

10 So I would guess, without looking at our
11 report here, that we probably didn't include a
12 textbook or written instructional material for that.
13 We probably relied on the teacher telling a story.

14 Q. Okay. I believe you testified that you
15 consulted with -- in addition to the woman that you
16 consulted, with regarding this particular issue --

17 A. (Nodding head.)

18 Q. -- there were many other people you
19 consulted with?

20 A. Was my term "many"?

21 Q. I'm not sure. But let me put it this way.
22 Who else did you consult with?

23 A. Dr. Darling-Hammond.

24 Q. Okay.

25 A. We also consulted with somebody. And I

1 report itself, I -- I guess I'm imagining that
2 telescopes would have been the lab equipment we had
3 identified.

4 Q. Okay. Grade 4, page 11. The handwriting
5 that you recognize is yours?

6 A. Yes.

7 Q. Could you read that?

8 A. There's an arrow pointing up that -- this
9 says, "Okay. But lab seems supplies work as well.
10 Let's discuss."

11 Q. Any recollection of the discussion?

12 MS. WELCH: Assumes facts.

13 THE WITNESS: Yeah. "Discussion." I don't
14 remember it.

15 MR. EGAN:

16 Q. Okay. On grade 7, page 25 --

17 A. Okay.

18 Q. Any handwriting you recognize is yours?

19 A. Yes. At the top, it says, "lab equipment
20 and household items."

21 Q. Okay.

22 A. At the bottom, it says, "supplement
23 materials maps".

24 Q. Okay. How about the comment on the
25 left-hand side? It appears to be an X through

1 "laboratory equipment" and question mark. Lab
 2 supplies?
 3 A. The question mark is not mine. I have no
 4 idea whether or not the X is mine.
 5 Q. Okay. Grade 9, Page 50.
 6 A. Five zero?
 7 Q. Yes.
 8 A. Okay.
 9 Q. Any handwriting you recognize is yours?
 10 A. "Computers/software."
 11 Q. Again, the X indicating possible
 12 identification as a suggested --
 13 A. Yes.
 14 Q. -- resource?
 15 Okay.
 16 MR. EGAN: Let's go off the record.
 17
 18 (Whereupon there was a
 19 discussion off record.)
 20
 21 (Whereupon a recess was taken.
 22 Off the record at 2:51 and back
 23 on the record at 2:55.)
 24
 25 MR. EGAN: Back on record.

1 Q. Mr. Koski, I'd like to refer you to Exhibit
 2 1 on a -- specifically to the appendix and that part
 3 of the appendix, which is identified as the
 4 "educational resources implied summary tables."
 5 A. Yes.
 6 Q. Okay. And on the left hand side at the top,
 7 there's a column that begins K 5 N equal 7. What
 8 does the N refer to?
 9 A. Those are the numbers -- number of contents
 10 standards in mathematics in grade kindergarten
 11 through 5 total.
 12 Q. Okay. And that the N in the other content
 13 areas and grade levels is the same throughout.
 14 That's the statistical designation?
 15 A. Yes. It's the number of content standards
 16 in each of the clusters of grade levels in each of
 17 the content areas.
 18 Q. Okay. And if I recall, the N does not
 19 include what I think you identified and what the
 20 substandards is --
 21 A. (Nodding head.)
 22 Q. -- just the primary standard?
 23 A. That's correct.
 24 Q. Okay. The summary table does not include
 25 any reference to teachers, which you have appendices

1 for each of the four content standard areas that
 2 addressed teachers. Why are teachers not included in
 3 the summary table?
 4 A. The teachers are not included in the summary
 5 table, nor is there a specific designation as to
 6 whether or not teachers are required or suggested for
 7 any of the standards.
 8 Because we decided that we could not come up
 9 with a meaningful way of categorizing the teacher
 10 qualities into subcategories, so to speak.
 11 Instead, what we chose to do with the
 12 teachers was to identify for each standard what
 13 qualities of teachers were identified by either the
 14 standards or the related materials as being necessary
 15 or implied or suggested.
 16 Q. Okay. With regard to teachers, what
 17 standards are you referring? Are you referring to
 18 the content standard?
 19 A. Yes. For each constant standards, we tried
 20 to see if there were any particular quality of
 21 teachers or teaching in the related materials that
 22 somehow could be linked to each of the standards.
 23 Q. Okay. What do you mean by related materials
 24 that could be linked to standards?
 25 A. It might be um, materials related to the

1 RICA. It might be materials related to the M-SAT.
 2 It might be related to -- it might be materials
 3 related to the -- I believe it's called the
 4 California -- I'm blank right now. Um, right. The
 5 Cal Specifications for Subject Matter Knowledge,
 6 which we called the specifications.
 7 Q. Okay. Am I correct that none of the
 8 appendices in the -- for the -- for standards areas
 9 deal with teachers making a specific reference to any
 10 content standard?
 11 A. No. They do. They are still broken down to
 12 content -- each teacher -- strike that.
 13 The teacher --
 14 Q. Oh!
 15 A. -- section of each of the four curriculum
 16 areas contains each of the content standards, just as
 17 it does for the other resources.
 18 And let's take, for example, English
 19 language arts teachers.
 20 Q. Okay.
 21 A. I'm looking at Page 2 --
 22 Q. Okay.
 23 A. -- of that section.
 24 We -- each on the left hand column, each of
 25 the content standards for English language arts and

1 kindergarten.
 2 Q. Okay.
 3 A. And we have an arrow to the related
 4 qualities of teaching. That is, the qualities of
 5 teaching related to that particular standard that we
 6 were -- that we gleaned from the -- from the
 7 materials, the other state-issued materials.
 8 Q. Okay. And those are under the column that's
 9 headed "state-imposed knowledge requirements"?
 10 A. That's correct.
 11 Q. Okay. But in that column, that is "State
 12 Employee's Knowledge Requirements." There is no
 13 reference to content standards.
 14 A. I would have to read that entire column.
 15 But there -- they may, actually, reference content
 16 standards somewhere in there.
 17 But what we did there is we took from the
 18 various -- again, calling it related documents or
 19 related materials, whether it was RICA, M-SAT or the
 20 specifications, and linked them to the content
 21 standards.
 22 Q. Okay. How are the -- what is the
 23 relationship that you're referring to between -- I'm
 24 not sure -- between the sources -- let me refer you
 25 to the English language, arts teachers appendix --

1 A. They differ slightly. I think we referenced
 2 specifications for subject matter knowledge and
 3 combined for prospective teacher or English somewhere
 4 else. Science and so forth.
 5 Moreover, we may have referenced document
 6 related to the M-SAT, which is another teacher
 7 preparation assessment. There's multiple subject
 8 assessments.
 9 Q. Okay. So --
 10 A. Single subject assessment.
 11 Q. -- those would all be identified in the
 12 specific appendix?
 13 A. Yes.
 14 Q. Okay. Again, what is the relationship
 15 between for example, RICA and the standards?
 16 A. I think that's best answered in the contents
 17 of each one of the standards.
 18 We -- we drew in reading the related
 19 materials, we looked for what the state had to say
 20 about the qualities that exists for its teachers.
 21 And we drew parallels and drew relationships between
 22 what the state itself said it expected for teachers
 23 and the specific content standards that it expects
 24 teachers to teach to kids.
 25 And again, in the context of each of the

1 A. Uh-huh.
 2 Q. -- Page 1.
 3 And at the bottom, you listed RICA, English
 4 Teacher Preparation in California specifications, et
 5 cetera.
 6 A. Yes.
 7 Q. And then, California Basic Educational
 8 Skills Test C-BEST?
 9 A. Yes.
 10 Q. Now, what is -- are you indicating -- is
 11 this to indicate all of the sources that are
 12 referenced under state-imposed knowledge
 13 requirements?
 14 A. Those -- I believe those are all the sources
 15 that we referenced.
 16 We may have also reviewed the standards
 17 themselves. Without looking -- but those are the
 18 curriculum frameworks. But outside standard
 19 themselves and curriculum frameworks, those would be
 20 additional sources that we referenced.
 21 Q. Okay. Now, were those additional sources
 22 that you referenced here with regard to teachers? I
 23 believe English language arts, do you know -- are
 24 they the same for all of the content areas, that is,
 25 science -- history, social science and science?

1 standards, I think the best way to do that is by way
 2 of example.
 3 For kindergarten -- let's start with the
 4 very first one. Is 1.1, that is, referring -- 1.0,
 5 we're looking for the one word analysis, fluency and
 6 schematics, vocabulary development. Students should
 7 know about letters, words, and sounds, and apply this
 8 knowledge to reading simple steps. That is what the
 9 standard is called for.
 10 And in terms of teacher qualities that
 11 California expects of its teachers, if you look at
 12 RICA, the beginning teacher knows ways in which --
 13 referring both by student reading and as they are
 14 learning to read.
 15 The teacher understands the instructional
 16 progress for helping students acquire phonetic
 17 awareness skills. The second one is the beginning
 18 teacher is able to promote student understanding that
 19 words are made up of sounds.
 20 The teacher knows how to achieve this goal
 21 by learning appropriate motivation of the
 22 instruction, both implicitly and expressly in
 23 auditory awareness and discrimination of sounds,
 24 phonetic awareness and word awareness.
 25 This is related to the first reading

1 standard in kindergarten, because students know about
2 letters, words and sounds and apply knowledge to
3 reading. So teachers are expected to know how to
4 teach word awareness and sound awareness and phonetic
5 awareness.

6 And student are expected to know letters,
7 word awareness, and the sound awareness and the
8 linkage between the two.

9 Q. Okay. Thank you. Let me go back to ask
10 another question --

11 A. Uh-huh.

12 Q. -- with regard to the summary table and the
13 N. Does the N include what you've identified in your
14 appendices as kindergarten through grade 12
15 generally?

16 A. No.

17 Q. Okay. I'd like to refer you to Exhibit 1,
18 the English language, arts appendix instructional
19 materials --

20 A. Yes.

21 Q. -- Page 4 --

22 A. Okay.

23 Q. -- grades Page 4 --

24 A. Yes.

25 Q. -- grades 1 through 4 --

1 how the organization of this goes.

2 Right. In each grade level, then, there's
3 reading 1.1, reading 2.0, reading 3.0, and so forth.
4 Okay?

5 And then, for within each grade, then, the
6 curriculum frameworks or the standard identified
7 specific content knowledge or task that the student
8 would be undertaking.

9 And so then, if there were within -- for
10 instance, reading 1.0, if there were different
11 resources in the different grade levels, we would
12 have indicated such.

13 So for instance, 1.0, there are different
14 resource in the grade one as from grade 2.

15 Q. Okay. Referring to the next page, which is
16 the English language arts and instructional
17 materials, where there is reading standard 2.0, there
18 are four checks in the literature books, textbooks
19 column?

20 A. Yes.

21 Q. What is the -- what do the four checks
22 signify?

23 A. That there is literature books, textbooks,
24 workbooks required in grades 1, 2, 3, and 4 under
25 standard 2.0. Reading 2.0.

1 A. Yes.

2 Q. -- and the column "literature books and
3 textbooks." And that column appears to be broken
4 down with a check and a dot.

5 Can you explain what the breakdown or what
6 the check and the dot signify?

7 A. The check is required and the dot is
8 recommended.

9 Q. Are suggested --

10 A. We use those words interchangeably.

11 Q. Does this mean -- so if I understand, does
12 the check refer to grade one?

13 A. Right.

14 Q. And does the dot refer to grade 2?

15 A. Correct.

16 Q. Okay. So that they -- is the format -- when
17 you break it down this way to distinguish between
18 grades?

19 A. Yeah. In the English language, arts
20 standards, there -- each one of them does reading,
21 writing, listening and speaking strategies, and
22 written and/or oral English language.

23 And in order to save paper, we went through
24 reading. I'm trying to remember this now
25 specifically. It's been some time since I remember

1 Q. So that in the descriptions in that column,
2 there are references to all four grades?

3 A. Yes.

4 Q. Okay. On the same page, under the column
5 periodicals, newspapers magazines, there are four
6 dots.

7 Can you tell me what the four dots mean?

8 A. Yeah. Each level -- it's suggested that
9 periodical newspapers or magazines should be used
10 because 2.0 calls for comprehensive analysis of
11 grading. They should be used because in the -- in
12 the standards, it refers as each grade level to grade
13 appropriate text and to magazines, newspapers. And
14 so, for each grade level, there -- there's a dot.

15 I give an example where we actually saw
16 something in standards -- I believe, without looking
17 at the standard, we saw something in the standard and
18 decided it was only suggested, not, in fact, required
19 by the standard, because it theoretically -- the
20 reference was made to grade level appropriate text.
21 And so, that could be one way. And the magazines or
22 newspapers could be taught another way. That sort of
23 thing.

24 Q. Okay. So again, if I understand it, the
25 four dots refer to the -- what is a suggested

1 periodicals newspapers, et cetera, are suggested in
 2 grades 12, 3, and 4?
 3 A. Correct.
 4 Q. Let me ask you. In your summary table or
 5 all of the content areas, is it broken down in terms
 6 of grade levels, K through 5, 6 through 8?
 7 A. (Nodding head.)
 8 Q. 9 through 12?
 9 A. (Nodding head.)
 10 Q. Your appendices are broken down
 11 differently?
 12 A. Yes.
 13 Q. Why is that?
 14 A. Yeah. We talked about this, how we were
 15 going to summarize our findings. And, in fact, to
 16 me, the least interesting part of the analysis is the
 17 summary tables, because we could have chosen a number
 18 of different ways to summarize the findings.
 19 It's least interest in the -- the sense that
 20 it doesn't give the fine grain of analysis that the
 21 appendix does.
 22 We could have, for instance, for each grade
 23 level, figured out what (indicating) -- how many
 24 standards imply, what resources. We clustered them
 25 together K through 5, 6 through 8, 9 through 12.

1 Because even though K through 8 schools, for instance
 2 and even K through 12 -- if you look at my father's
 3 school, that we were talking about earlier, the
 4 schools break themselves out into K through 5, 6
 5 through 8, 9 through 12.
 6 And so, for instance, it would be -- when
 7 we're talking about facilities, you could
 8 theoretically have one library K through 5. And so,
 9 if there are a number of standards that calls for a
 10 library, the reader could think to herself, "Oh!
 11 That required one library -- doesn't require multiple
 12 libraries.
 13 That's specifically why we chose to break it
 14 out this way. We could have broken it out every
 15 grade level or no grade level. We could have just
 16 given the appendices.
 17 Q. Okay. I mean, so is it fair to say that if
 18 you -- again, if you had a school that was K through
 19 8, then you would -- I mean, to the extent that a
 20 library was a required resource, I mean, it would
 21 only be counted once in the summary?
 22 A. No. No. Remember, the summary indicates
 23 how many standards call for a library.
 24 Q. Oh!
 25 A. But if you were to think to yourself, "Okay.

1 If I were to turn this into a school building, would
 2 I need four libraries? Because four standards are
 3 called for."
 4 Q. No.
 5 A. Just one library.
 6 Q. Okay. Looking at the next page in the
 7 English language arts instructional materials,
 8 appendix --
 9 A. Uh-huh.
 10 Q. -- as I counted it, looking at the
 11 literature books column, I saw four checks. I think
 12 I only identified three grades.
 13 A. What page are you looking at?
 14 Q. This is English language arts instructional
 15 materials Page 6.
 16 A. Page 6? Yes.
 17 Q. So there are only three grades referenced?
 18 A. There's four grades. Because the standard
 19 3.0 itself refers to the recommended reading and
 20 literature kindergarten through grade 8.
 21 Moreover, it calls for the narrative
 22 analysis of grade level appropriate text. So that
 23 means for each grade level, you would have required
 24 textbooks, workbook.
 25 Q. Okay. So -- and the other reference in that

1 column are to grades 1 and -- 1, 2, 3. So that you
 2 are -- if you are relying upon the first two
 3 references, that is, 1.0, referred to recommended
 4 reading, and 3.0 calls for narrative analysis to
 5 support the fourth check?
 6 A. That's correct.
 7 Q. Okay. Now is that -- I take it that's true
 8 for English language art -- if the library to other
 9 grades, as well as comparable general overall, you
 10 know, requirements or suggestion that cover multiple
 11 grade levels?
 12 A. In other areas?
 13 Q. Yes.
 14 A. My recollection -- we checked this. But my
 15 recollection is they don't organize it like this in
 16 other grade -- for other grade levels themselves
 17 repeat science physical science, biological science,
 18 and whatever, it is -- not biological science.
 19 Physical science. At that point in time, they just
 20 repeat it over and over again, rather than having an
 21 over a -- everything standards that is then
 22 replicated in each grade.
 23 Q. Okay.
 24 A. So we didn't run into this organizational
 25 problem, because we wanted to track the standard

1 scheme itself.
 2 Q. Okay. Then, again, with reference to the
 3 English language, arts instructional materials, Page
 4 6 --
 5 A. Yes.
 6 Q. -- assuming that the references to grade 1.3
 7 and all the following didn't exist, you would still
 8 have four checks in this column because of the first
 9 two citations?
 10 A. That's correct.
 11 Q. Okay. You refer to English language arts
 12 instructional materials appendix, Page 10.
 13 A. Okay.
 14 Q. And begin the literature column, four
 15 checks?
 16 A. (Nodding head.)
 17 Q. Can you explain why there are four checks in
 18 that column?
 19 A. Yeah. Because the general standard 2.0
 20 calls for -- calls for comprehensive and analysis of
 21 grade level appropriate text. And that's replicated
 22 in all four grades. Grades 5, 6, 7, 8.
 23 Q. Okay. Referring -- I'd like to refer you to
 24 the appendix for English language arts technology
 25 Page 3.

1 A. Okay.
 2 Q. We -- computer printer column has four dots?
 3 A. Yes.
 4 Q. Again, that indicates -- what does that
 5 indicate?
 6 A. We felt that there was -- that this was a
 7 suggested resource for all four grade levels one
 8 through 4. Because there was a general reference to
 9 online information that was replicated at all four
 10 grade levels.
 11 Q. Okay. And beginning with this generic
 12 reference, it would be found in the English arts
 13 grade one through 4 standard?
 14 A. Under reading comprehension.
 15 Q. 2.0 reading comprehension where it says
 16 "refer to online information"?
 17 A. Yeah.
 18 Q. And again, same question, I presume, same
 19 answer for the next column, software?
 20 A. Yes.
 21 Q. Okay. Referring you to the English language
 22 arts technology appendix, Page 4, under the column
 23 "audio visual equipment" --
 24 A. Yes.
 25 Q. Okay. There's a check indicating that

1 audiovisual equipment is a required resource.
 2 A. Yes.
 3 Q. And can you tell me how this citation in
 4 that column indicates that audiovisual equipment is
 5 required?
 6 A. It was our judgment collected early that the
 7 standard called for the comparison of ideas and
 8 points of view expert broadcast media and print media
 9 that the resource -- that that resource ought to be
 10 provided to students -- broadcast media and print
 11 media suggest or broadcast media suggest audio and/or
 12 visual equipment.
 13 Q. Okay. Would it be possible for a teacher to
 14 ask a student to watch the evening news at home?
 15 A. That -- assuming that the children have
 16 televisions at home.
 17 Q. That's correct.
 18 A. So it may not be possible for a child to do
 19 that.
 20 Q. If they had a television at home, could they
 21 do that?
 22 A. If --
 23 MS. WELCH: Objection. Calls for
 24 speculation. Incomplete hypothetical.
 25 THE WITNESS: If a child has a television at

1 home, he or she could watch it and compare.
 2 MR. EGAN:
 3 Q. Right.
 4 A. A child -- if a child had a television at
 5 home, he or she could compare --
 6 Q. Okay.
 7 A. -- ideas and points of view expressed in
 8 broadcast and print media. Yes. They could ask
 9 this.
 10 Q. When you indicate that audiovisual equipment
 11 is required, what type of equipment would be
 12 required?
 13 A. We didn't go to that level of detail. But
 14 for this one, I could imagine that minimum -- because
 15 we're talking about broadcast media, it would either
 16 be a television or a radio or a tape audio recording
 17 equipment or VCR. We didn't -- for that level of
 18 detail. You could see that in other places at well.
 19 Q. Okay.
 20 A. You could pick and choose among those.
 21 Q. And what did you have in mind by print
 22 media?
 23 A. Print media might be newspapers.
 24 Q. Okay.
 25 A. And this may as well be checked, newspapers

1 section.
 2 Q. Okay.
 3 A. I don't know.
 4 Q. Now, this particular standard is
 5 referencing -- were not through for --
 6 A. Yes.
 7 Q. Actually this --
 8 A. That one is only for grade three and another
 9 one for grade four, as you'll see.
 10 Q. Okay. So what kind of print media resources
 11 would be required to meet this standard?
 12 A. Our analysis determined whether or not there
 13 was some resource identified in this standard. And
 14 the standard clearly identified print media. Our
 15 analysis doesn't determine what kind. Print media.
 16 Just -- our analysis didn't identify what kind of
 17 broadcast media, but it did identify the fact that
 18 some kind of broadcast media needed to be provided.
 19 Q. Okay. Now, this standard is listening. And
 20 it is referring to listening and speaking strategies;
 21 is that correct?
 22 A. Yes.
 23 Q. As again, that -- it's -- it's a listening
 24 standard. Does that indicate that this is something
 25 in terms of print media, that this is something that

1 STATE OF { _____)
 2) ss.
 3 COUNTY OF { _____)
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7 I, the undersigned, declare under
 8 penalty of perjury that I have read the foregoing
 9 transcript, and I have made any corrections,
 10 additions, or deletions that I was desirous of
 11 making; that the foregoing is a true and correct
 12 transcript of my testimony contained therein.

13 Executed this ____ day of _____,
 14 20__, at

15
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 17
 18
 19 _____
 20 WILLIAM KOSKI
 21
 22
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1 a child would hear something that would be spoken to
 2 a child?
 3 MS. WELCH: Objection. Vague.
 4 THE WITNESS: That wasn't part of the
 5 analysis. I don't -- that's not something we
 6 determined as part of the analysis.
 7 MS. WELCH: Calls for speculation. Vague.
 8 THE COURT REPORTER: Pardon?
 9 MS. WELCH: Calls for speculation.
 10 MR. EGAN: Okay. Let's go off the record.
 11 (Ending time: 3:29 p.m.)
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REPORTER'S CERTIFICATE

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 3
 4 I, ALICE N. HALBERT, CSR No. 7889,
 5 Certified Shorthand Reporter, certify:

6 That the foregoing proceedings were taken
 7 before me at the time and place therein set forth, at
 8 which time the witness was put under oath by me;

9 That the testimony of the witness, the
 10 questions propounded, and all objections and
 11 statements made at the time of the examination were
 12 recorded stenographically by me and were thereafter
 13 transcribed;

14 That the foregoing is a true and correct
 15 transcript of my shorthand notes so taken.

16 I further certify that I am not a relative or
 17 employee of any attorney of the parties, nor
 18 financially interested in the action.

19 I declare under penalty of perjury under the
 20 laws of California that the foregoing is true and
 21 correct.

22 Dated this 27th day of March, 2003.
 23
 24

25 _____
 ALICE N. HALBERT, C.S.R. No. 7889

1 REPORTER'S CERTIFICATION OF CERTIFIED COPY

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I, ALICE N. HALBERT, CSR No. 7889, a
Certified Shorthand Reporter in the State of
California, certify that the foregoing pages 1
through 445, constitute a true and correct copy of
the original deposition of WILLIAM KOSKI taken on
MARCH 21, 2003.

I declare under penalty of perjury under the
laws of the State of California that the foregoing is
true and correct.

Dated this 24th day of March, 2003.

ALICE N. HALBERT, C.S.R. No. 7889