

1
2 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
3 IN AND FOR THE COUNTY OF SAN FRANCISCO

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5 ELIEZER WILLIAMS, a minor, by)
Sweetie Williams, his guardian ad)
6 litem, et al.,)

7 Plaintiffs,)

8 vs.) No. 312236

9 STATE OF CALIFORNIA; DELAINE)
EASTIN, State Superintendent of)
10 Public Instruction; STATE)
DEPARTMENT OF EDUCATION; STATE)
11 Board of Education,)

12 Defendants.)

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14
15 DEPOSITION OF
16 EMMANUEL MEDINA

17
18 Volume II
19 (Pages 186 through 389)
20 January 30, 2002

21
22 REPORTED BY: JOHNNA PIPER CSR 11268 JOB 5-116311
23
24
25

I N D E X

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MORRISON & FOERSTER LLP, 425 Market Street, San Francisco, California 94105-2482, represented by MEGAN M. AUCHINCLOSS, Attorney at Law, appeared as counsel on behalf of the Plaintiffs, Eliezer Williams, a minor, by Sweetie Williams, his guardian ad litem, et al.

O'MELVENY & MYERS LLP, 400 South Hope Street, Los Angeles, California 90071-2899, represented by MICHAEL ROSENTHAL, Attorney at Law, appeared as counsel on behalf of the Defendant, State of California .

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EXAMINATION BY MR. ROSENTHAL

MR. ROSENTHAL: Q. Good morning, Mr. Medina. As you may recall, my name is Michael Rosenthal. I'm with the law firm of O'Melveny & Myers and I represent the State of California in the Williams litigation.

On your first day of testimony, we went over some ground rules that you agreed to follow in the deposition today. Do you want me to go over those ground rules again or do you remember those?

A. You can go over them again, please.

Q. Okay. Fine. First of all, as you've probably already seen, we have a court reporter sitting

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vs.) No. 312236

STATE OF CALIFORNIA; DELAINE EASTIN, State Superintendent of Public Instruction; STATE DEPARTMENT OF EDUCATION; STATE Board of Education,)

Defendants.)

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BE IT REMEMBERED that, pursuant to notice and on Wednesday, January 30, 2002, commencing at 9:49 a.m. at O'Melveny & Myers LLP, 275 Battery Street, San Francisco, California, before me, JOHNNA PIPER, a Certified Shorthand Reporter, personally appeared EMMANUEL MEDINA

called as a witness by the Defendant State of California, who, having been first duly sworn, was examined and testified as follows:

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next to us who is transcribing everything we say here today and at the end of the process, as you are already aware, you will receive a copy of the transcript and you will have the opportunity to review that transcript and make any changes that you feel are necessary to the transcript. Do you understand that?

A. Yes.

Q. Do you also understand that any attorney can comment on the changes you made to the transcript?

A. Yes.

Q. Also, because everything is being transcribed here, it is helpful if you can give me verbal responses to the question I asked. Things like shaking your head and nodding your head are difficult to transcribe, so to the extent you can give me verbal responses, that would be helpful. Do you understand that?

A. I understand.

Q. And to ensure we keep a clean record, it is also helpful if only one of us speaks at a time, so to the extent you can let me finish my question before giving me your answer, I'll try to give you the same courtesy and allow you to finish your answer before I move on to my next question. Can we have that agreement?

1 A. Yes.

2 Q. Great. Also, it is important that you
3 listen to my questions carefully. If you give me a
4 response to one of my questions, I'm going to assume
5 that you understood the question. Do you understand
6 that?

7 A. Yes.

8 Q. And if for any reason you don't understand a
9 question, please let me know and perhaps I can rephrase
10 it and you may be better able to understand it. Do you
11 understand that?

12 A. Yes.

13 Q. Also, if I ask you a question that you
14 really have no idea what the answer is, I don't want
15 you to guess in response to the answer. But in some
16 instances, you may be able to estimate --you know, you
17 may be able to give me your best estimate based on your
18 experience, so those are the kind of answers I'm
19 looking for. I'm not looking for you to guess, but if
20 you can give me an estimate, I would appreciate that.
21 Do you understand that?

22 A. Yes.

23 Q. Also, as we did last time, we'll take breaks
24 whenever we need to. We'll probably go roughly about
25 an hour or so and try to take breaks then, but if you

1 need a break before then, to use the restroom, to speak
2 to your attorney, get a drink of water, anything like
3 that, please just let me know. The only thing I ask is
4 if I have a question pending, if you can give me the
5 response to the question before we take a break, I
6 would appreciate that. Do you understand that?

7 A. Yes.

8 Q. Also, it is not always easy to remember
9 everything that may be responsive to a question I asked
10 at one time, so if at any point in the deposition today
11 you remember something that was responsive to an
12 earlier question, please feel free to let me know and
13 we can go back to that question and you can give me
14 whatever else you've remembered. Do you understand
15 that?

16 A. I understand that.

17 Q. Those are the basic ground rules. Do you
18 have any questions about those?

19 A. No questions.

20 Q. Do you understand them all?

21 A. Yes.

22 Q. Great. Is there any reason why you may be
23 unable to give your best testimony today?

24 A. No.

25 Q. Are you on any medication or anything like

1 that that would impair your ability to recall events?

2 A. No.

3 Q. Great. Did you do anything to prepare for
4 your deposition here today?

5 MS. AUCHINCLOSS: I'm going to object on
6 attorney/client privilege. Excluding any conversations
7 that you and I have had.

8 THE WITNESS: No.

9 MR. ROSENTHAL: Q. Did you review any
10 documents to prepare for today's deposition?

11 MS. AUCHINCLOSS: Same objection. Aside
12 from our meeting, if you did anything else.

13 THE WITNESS: Oh, no.

14 MR. ROSENTHAL: Q. Did you meet with
15 counsel to prepare for today's deposition?

16 A. Yes.

17 Q. Can you tell me when you met?

18 A. This morning.

19 Q. And can you tell me how long you met for?

20 A. Approximately 40 minutes.

21 Q. Can you tell me who you met with?

22 A. I met with Megan Auchincloss.

23 Q. Was anybody else present at that meeting?

24 A. No one else was present at that meeting.

25 Q. Now, last time we met, we had spent some

1 time talking about textbooks at Balboa and I'll come
2 back to some follow-up questions in that area, but I
3 want to move on to some other areas first. Do you
4 recall -- first of all, do you recall submitting a
5 declaration in connection with the Williams litigation?

6 A. Yes.

7 Q. And do you recall raising concerns that you
8 had about the conditions that students were
9 experiencing at Balboa in that declaration?

10 A. Yes.

11 MS. AUCHINCLOSS: Objection. Vague as to
12 "Conditions."

13 MR. ROSENTHAL: Q. Do you recall raising
14 concerns you had about the teaching staff at Balboa
15 being young and inexperienced in that declaration?

16 A. Yes.

17 Q. Can you tell me what the concerns you had
18 were in that regard?

19 MS. AUCHINCLOSS: If you want to refer to
20 that, go ahead.

21 THE WITNESS: Are you asking me about the
22 content of my declaration?

23 MR. ROSENTHAL: Actually, I would appreciate
24 it if you could take the declaration away from him. I
25 would like to get his current recollection based on

1 what he wrote two years ago.

2 MS. AUCHINCLOSS: You are asking questions
3 about the declaration.

4 MR. ROSENTHAL: I'm asking what he recalls
5 about the declaration as he sits here today.

6 MS. AUCHINCLOSS: He is allowed to refresh
7 his recollection about something he wrote in 2000.

8 MR. ROSENTHAL: I'm asking what his
9 recollection is as he sits here today.

10 MS. AUCHINCLOSS: You can answer.

11 MR. ROSENTHAL: I'm not asking him to
12 refresh his recollection. I'm asking you to remove the
13 declaration from in front of the witness, please.

14 MS. AUCHINCLOSS: The witness brought the
15 declaration with him.

16 MR. ROSENTHAL: I understand that. I will
17 introduce the declaration as an exhibit at a later
18 time, but at this point, it is not an exhibit and I
19 would appreciate it if it is not in front of the
20 witness.

21 MS. AUCHINCLOSS: I would like to introduce
22 it as one.

23 MR. ROSENTHAL: You can do that after I'm
24 done questioning.

25 MS. AUCHINCLOSS: You can go ahead.

1 MR. ROSENTHAL: Let the record reflect that
2 the declaration has been moved about six inches.

3 MS. AUCHINCLOSS: I would disagree with that
4 characterization.

5 Michael, where would you like to put the
6 declaration?

7 MR. ROSENTHAL: How about I would like no
8 documents in front of the witness.

9 MS. AUCHINCLOSS: Okay. Including his note
10 pad? Is he not allowed to have that either?

11 MR. ROSENTHAL: At this point, I don't think
12 that is necessary. If he wants blank note paper in
13 front of him, it is perfectly fine.

14 MS. AUCHINCLOSS: Is it better if it is
15 upside down? Will that be good for now?

16 MR. ROSENTHAL: That is very helpful. Thank
17 you.

18 MS. AUCHINCLOSS: Okay. We'll do that.

19 MR. ROSENTHAL: I'm sorry. I just don't
20 think it is appropriate to have the witness have
21 documents in front of him when he is giving testimony
22 and the question clearly calls for his current
23 recollection.

24 MS. AUCHINCLOSS: I disagree with your
25 characterization.

1 THE WITNESS: Please specify your question.

2 MR. ROSENTHAL: Q. I would like to know
3 what your current recollection is as to the concerns
4 you raised about the teaching staff at Balboa being
5 young and inexperienced.

6 A. My recollection of my declaration made in
7 2000 is, as Michael said, the teaching staff is young
8 and inexperienced. I believe I mentioned that the
9 staff or a large portion of the staff was
10 uncredentialed as well.

11 MR. ROSENTHAL: I would like the record to
12 reflect that the witness's declaration is sitting in
13 front of the witness and the witness's counsel refuses
14 to have the declaration taken out of the witness's
15 eyesight.

16 MS. AUCHINCLOSS: You can take the
17 declaration away, but we're going to go on record
18 saying this is a current recollection of something that
19 was written two years ago and we'll be going back so he
20 can refresh his recollection about this declaration at
21 a later time.

22 MR. ROSENTHAL: Absolutely.

23 MS. AUCHINCLOSS: I think this line of
24 questioning is totally unnecessary without reviewing
25 the declaration, so there.

1 MR. ROSENTHAL: Okay.

2 MS. AUCHINCLOSS: We can move on. We would
3 like to finish today.

4 MR. ROSENTHAL: Thank you. So would I.

5 MS. AUCHINCLOSS: Great.

6 MR. ROSENTHAL: Q. Do you recall making
7 specific allegations in your declaration that --
8 regarding the experience of the teachers in the math
9 department at Balboa High School?

10 A. Yes.

11 Q. Can you tell me what concerns you had in
12 that regard?

13 A. My concern was that the math teaching staff
14 was largely inexperienced and I noted in my declaration
15 that only two of the math teachers in the math
16 department had their -- had earned their teaching
17 credentials.

18 Q. Do you remember the names of the two math
19 teachers you are referring to who had their teaching
20 credentials?

21 A. The two teachers with their teaching
22 credentials were Cheng Wu and I believe Kathy Leonida.

23 Q. Do you recall how many math teachers were in
24 the math department at this time?

25 A. My best estimate, I believe there were nine

1 math teachers at that time.

2 Q. And do you recall the names of the seven
3 other teachers who were in the department who did not
4 have their teaching credentials?

5 A. I can give you a best estimate because the
6 math staff changed very frequently.

7 Q. That would be fine. That is all I can ask
8 for.

9 A. Okay. I believe in the spring of 2000, the
10 math teachers were myself, Cheng Wu, Kathy Leonida,
11 Brian Tucker, Richard Garner, David Binkowski, Cindy
12 Wicker -- I'm having difficulty recalling because I'm
13 trying to place the right time -- Susanna Salinas.

14 MS. AUCHINCLOSS: It is okay, if you can
15 remember.

16 MR. ROSENTHAL: Q. Is that all you can
17 remember right now?

18 A. Well, sorry. Let me step back. Some
19 teachers left midyear and I'm trying to match those
20 nine with the appropriate time. So I believe -- Terry
21 McBride, sorry, but he left midyear.

22 Q. Just for clarification, your declaration was
23 dated September 1st, 2000. When you were referring to
24 the two of nine math teachers having their credentials,
25 were you referring to the status of the Balboa math

1 Q. Are you aware of the credential status of
2 Mr. Tucker?

3 A. As of today?

4 Q. As of the 1999/2000 school year.

5 MS. AUCHINCLOSS: Objection. Asked and
6 answered.

7 THE WITNESS: He did not have his teaching
8 credential.

9 MR. ROSENTHAL: Q. Did he have any
10 credential?

11 A. Oh, I believe he had an emergency
12 credential.

13 Q. How about Mr. Garner?

14 A. I believe he had his emergency credential.

15 Q. And Mr. Binkowski?

16 A. He also had his emergency credential.

17 Q. And Ms. Wicker?

18 A. Again, has her emergency credential.

19 Q. Ms. Salinas, if I'm saying that right?

20 A. Salinas.

21 Q. Salinas, sorry.

22 A. She had an emergency credential.

23 Q. And finally, Mr. McBride?

24 A. Also had an emergency credential.

25 Q. Do you recall -- since you were a little

1 department staff as of that date or was it as of the
2 prior spring?

3 MS. AUCHINCLOSS: Objection. Compound.

4 MR. ROSENTHAL: Q. Or some other time?

5 A. Can you specify the question?

6 Q. Yes. I'm trying to figure out what time
7 period you were referring to when you said that two of
8 the nine math teachers at Balboa had their full
9 credentials.

10 A. I was referring to the academic year '99 to
11 2000.

12 Q. So that was the academic year immediately
13 prior to the time you signed your declaration?

14 A. Yes.

15 Q. Was that true for the entire academic year
16 -- 1999/2000 academic year that there were only two of
17 nine math teachers at Balboa with their credentials?

18 A. Yes.

19 Q. Now, we had discussed this during your first
20 day, when you were teaching during that academic year
21 at Balboa, you were on an emergency credential?

22 A. Correct.

23 Q. Is it your understanding that an emergency
24 credential is a teaching credential?

25 A. Yes.

1 unsure as to when certain teachers were teaching at
2 what points in the year, do you recall there being any
3 other math teachers at Balboa during the 1999/2000
4 academic year that you haven't already told me about?

5 A. None that I can recall at this time.

6 Q. Do you know whether any of the teachers you
7 listed as being in the math department during the
8 1999/2000 school year continue to teach at Balboa
9 today?

10 A. Only two of the teachers listed are
11 currently teaching at Balboa today.

12 Q. Can you tell me which two those are?

13 A. David Binkowski and Cheng Wu.

14 Q. And are you aware of Mr. Binkowski's current
15 credential status?

16 A. I believe he has his full teaching
17 credential.

18 Q. Do you recall making any allegations in your
19 declaration about the average teaching experience of
20 the teachers in the math department at Balboa during
21 the 1999/2000 school year?

22 A. Yes.

23 Q. And can you tell me what your concerns were
24 in that regard?

25 A. Are you asking me about my concerns with the

1 full math department?

2 Q. About your concerns about the teaching
3 experience of the teachers that comprise the math
4 department at Balboa.

5 A. Certainly. I was concerned that the
6 majority of the teachers in the math department were
7 very inexperienced. I was concerned that we didn't
8 have a high enough level of expertise to teach the
9 students.

10 Q. And when you say you were concerned that
11 teachers were very inexperienced, can you tell me what
12 you mean by that?

13 A. When I say "Inexperienced," I mean that
14 there -- the teachers in the math department, didn't
15 have a lot of prior classroom teaching experience and
16 we didn't have a lot of -- as a group, we hadn't taken
17 a lot of classes to better prepare ourselves to be
18 teachers.

19 Q. Do you know how long each of the teachers in
20 the math department that you have identified had been
21 teaching at Balboa?

22 A. I can make an estimate for each teacher.

23 Q. Why don't we quickly run through the list.

24 MS. AUCHINCLOSS: I'm going to object on
25 relevance. Go ahead, if you know.

1 A. I believe three years.

2 Q. How about Mr. Tucker?

3 A. Mr. Tucker had less than two years of
4 teaching experience.

5 Q. Mr. Garner?

6 A. I believe he had less than three years of
7 experience.

8 Q. Mr. Binkowski?

9 A. I believe that was his first year teaching.

10 Q. Ms. Wicker?

11 A. I believe that was also her first year
12 teaching.

13 Q. Ms. Salinas?

14 A. I can't recall exactly how much experience
15 she has.

16 Q. And Mr. McBride?

17 A. I believe he had less than two years'
18 experience.

19 Q. You also mentioned that you had some
20 concerns about the expertise of the teachers in the
21 math department. Do you know whether each of the
22 teachers who were teaching in the math department on
23 emergency credentials had received an undergraduate
24 degree in mathematics?

25 A. I believe that -- I can go down the list, if

1 MR. ROSENTHAL: I don't think that is an
2 appropriate objection, but it doesn't matter.

3 MS. AUCHINCLOSS: I think this whole line of
4 questioning is totally irrelevant, so if you can recall
5 how long various people taught, go ahead.

6 MR. ROSENTHAL: Q. Why don't I read off the
7 teachers' names and to the extent you know how long
8 they were teaching at Balboa, that would be helpful.

9 A. Certainly.

10 Q. Mr. Wu?

11 A. I believe he has more than 15 years of
12 teaching experience.

13 MS. AUCHINCLOSS: Is this -- are you
14 answering as of today or --

15 THE WITNESS: Of 2000.

16 MR. ROSENTHAL: Q. As of the 1999/2000
17 academic year?

18 A. Yes.

19 Q. Ms. Leonida?

20 A. She has -- at the time, I believe she had
21 less than two years teaching in the United States.

22 Q. Had she had experience outside of the United
23 States?

24 A. Yes.

25 Q. Do you know how long that was?

1 that is okay.

2 Q. Is that easier that way?

3 A. Yes.

4 Q. Fine. Do you want me to read them off or do
5 you want to do it yourself?

6 A. State it in order. Go ahead and read them
7 off.

8 Q. I assume Mr. Wu?

9 A. Yes, I believe he had his undergraduate
10 degree in mathematics.

11 Q. Ms. Leonida?

12 A. I don't recall, but my best guess is that
13 she had her degree in mathematics.

14 Q. Mr. Tucker?

15 A. No, he did not have a degree in mathematics.

16 Q. Do you know what his degree was in?

17 A. It was, I believe, in geology.

18 Q. Was Mr. Tucker, during the 1999/2000 school
19 year, teaching exclusively math classes?

20 A. Yes.

21 Q. Do you know whether he had any
22 particularized expertise in mathematics?

23 MS. AUCHINCLOSS: Objection. Vague as to
24 "Particularized expertise."

25 MR. ROSENTHAL: I'll rephrase the question.

1 Q. Do you know whether Mr. Tucker had any
2 expertise in mathematics?
3 MS. AUCHINCLOSS: Again, objection as to
4 "Expertise."
5 THE WITNESS: Mr. Tucker taught geometry and
6 he often asked me questions about basic geometry, so my
7 assessment of his level of expertise was that he didn't
8 have full command of the high school curriculum.
9 MR. ROSENTHAL: Q. How about Mr. Garner,
10 are you aware of what his undergraduate degree was in?
11 A. I believe it was computer science.
12 Q. And do you know whether he had any expertise
13 in mathematics?
14 MS. AUCHINCLOSS: Objection. Vague as to
15 "Expertise."
16 THE WITNESS: Will you define "Expertise"?
17 MR. ROSENTHAL: Q. Do you know whether he
18 has had any formal education in mathematics at the
19 college level or higher? I'm sorry.
20 A. Beyond college?
21 Q. College or beyond, right.
22 A. Okay. I would speculate that he has taken
23 classes in mathematics.
24 Q. Is that based on something he told you or
25 you heard from somebody?

1 A. That is based on my speculation of the
2 computer science requirements.
3 Q. So you never heard that from him or any
4 other individual?
5 A. No.
6 MS. AUCHINCLOSS: Objection. Compound.
7 MR. ROSENTHAL: Q. Did you have any opinion
8 as to whether Mr. Garner had command of the subject
9 matter he was teaching?
10 A. I believe he had command of the subject
11 matter. However, I don't believe he was using multiple
12 representations to convey his knowledge.
13 Q. Can you tell me what you mean by that?
14 A. When I say, "Multiple representations," I
15 mean representation of concepts beyond what the book
16 presents.
17 Q. And how about Mr. Binkowski, are you aware
18 of what his undergraduate degree was in?
19 A. I'm not aware of his undergraduate degree,
20 but I do not believe it was in mathematics.
21 Q. What is the basis for that belief?
22 A. He was in the computer industry before he
23 taught mathematics, so I believe he was a computer
24 science or computer engineering major.
25 Q. Did he ever tell you that?

1 A. No.
2 Q. Had anybody ever told you that?
3 A. No.
4 Q. How about Ms. Wicker?
5 A. Ms. Wicker had her degree in computer
6 sciences as well.
7 Q. How do you know that?
8 A. She told me.
9 Q. Do you have any opinion as to whether she
10 had command of the subject matter she was teaching?
11 A. Again, I believe she had some command of her
12 subject matter, but she also failed to present
13 mathematics using multiple representations.
14 Q. How about Ms. Salinas, do you know what her
15 undergraduate degree was in?
16 A. I do not know her undergraduate degree.
17 Q. And finally Mr. McBride, are you aware of
18 what his undergraduate degree was in?
19 A. I believe it was mathematics.
20 Q. After the 1999/2000 academic year, you
21 stopped teaching at Balboa; is that correct?
22 A. That's correct.
23 Q. Do you know how many of the teachers we've
24 identified returned to Balboa as mathematics teachers
25 in the 2000/2001 academic year?

1 A. I could speculate.
2 Q. Is it based on information you heard from
3 somebody or information you had seen?
4 MS. AUCHINCLOSS: Objection. Compound.
5 MR. ROSENTHAL: Q. I don't want you to
6 guess. I want you to tell me what you have heard or
7 the basis of what your testimony would be.
8 A. The basis of my speculation as to who
9 returned the following academic year is based on
10 conversations with friends and seeing the teachers
11 occasionally.
12 Q. Speculation in legal terminology has a
13 somewhat specialized meaning. That is why I was
14 getting tripped up by the use of that word.
15 A. Okay.
16 Q. Can you tell me who, based on those
17 conversations and seeing those teachers, you believe
18 taught in the math department at Balboa during the
19 2000/2001 school year?
20 MS. AUCHINCLOSS: If you want him to go
21 through the list, you can have him --
22 THE WITNESS: Sure.
23 MR. ROSENTHAL: Q. Is it easiest for me to
24 go through each name?
25 A. No, it is not necessary.

1 Q. Okay.

2 A. I believe David Binkowski, Cindy Wicker and
3 Cheng Wu returned the following academic year.

4 Q. I know you didn't return. Do you know
5 whether the remaining teachers we discussed returned or
6 do you just not know?

7 A. The remaining teachers did not return.

8 Q. Are you aware of how many math teachers were
9 employed at Balboa during the 2000/2001 school year?

10 A. I would guess between seven and ten.

11 Q. Again, I don't want you to guess, but is
12 that based on some -- something you heard or anything
13 like that?

14 A. Well, it is -- that knowledge is based on
15 the steady enrollment at Balboa, so I would assume if
16 the student population stays relatively the same, that
17 the number of math teachers would also stay at that
18 number.

19 Q. Do you know the names of any of the other
20 math teachers who taught at Balboa during the 2000/2001
21 school year?

22 A. No.

23 Q. Do you recall raising any concerns in your
24 declaration about the percentage of uncredentialed
25 teachers in other departments at Balboa High School

1 A. I'm referring to the fact that not many of
2 the teachers had a significant amount of teaching
3 experience.

4 Q. Is it possible for you to estimate for me
5 the percentage of teachers in the science department,
6 to your knowledge, that were teaching on emergency
7 credentials at Balboa during the 1999/2000 academic
8 year?

9 A. May I take a moment to write down who I
10 believe the science teachers were during that year?

11 Q. Absolutely. If it is easier for you as you
12 write them down, you may want to read them off to me
13 just in case we need to go back to individual names or
14 you can write them down first and then read them to me
15 or however you want to do it.

16 A. I would like to write them down first.

17 Q. That is fine.

18 A. Okay.

19 Q. Are you ready?

20 A. Yes.

21 Q. Let me ask you this first: Do you know the
22 total number of teachers who were in the science
23 department at Balboa during the 1999/2000 school year?

24 A. I believe there were four teachers.

25 Q. And did you -- do you recall the names of

1 outside of the math department?

2 A. No, I don't recall specifically.

3 Q. Did you have any concerns in that regard?

4 A. I was concerned that the teaching population
5 was, or a large portion of the teaching population at
6 Balboa was, uncredentialed.

7 Q. And that was not limited just in the math
8 department?

9 A. No.

10 Q. Were there other departments that you were
11 particularly concerned about?

12 A. I was concerned about the science
13 department.

14 Q. Any other departments?

15 A. Specifically, no.

16 Q. What were your concerns about the science
17 department in this regard?

18 A. In which regard? I'm sorry.

19 Q. With respect to the percentage of teachers
20 without their full credentials.

21 A. I was concerned that the science department
22 was also largely inexperienced.

23 Q. And again, when you say, "Largely
24 inexperienced," are you referring to the fact that a
25 lot of the teachers were on emergency credentials?

1 all four of those teachers?

2 A. Yes.

3 Q. Can you tell me their names?

4 A. Mr. DeBella, Mr. Navarro, Ms. Teriault, and
5 Mr. Wong.

6 Q. And are you aware of the credential status
7 of each of these teachers?

8 A. Yes.

9 Q. And can you tell me the credential status of
10 each? I can do it by name or if you want to read it
11 off.

12 A. I believe Mr. DeBella was the only
13 credentialed science teacher of the four.

14 Q. And when you say, "Credentialed," are you
15 referring to having his full teaching credential?

16 A. Yes.

17 Q. And the remaining three teachers?

18 A. I believe they had emergency credentials.

19 Q. Do you know how long each one of those
20 teachers had been teaching at Balboa in the science
21 field as of the 1999/2000 academic year?

22 MS. AUCHINCLOSS: I'm going to object as
23 compound. I think you should go through the names and
24 ask the question that way.

25 MR. ROSENTHAL: Okay. That is fine.

1 Q. Can you tell me how long Mr. DeBella had
2 been teaching at Balboa in the science department as of
3 1999/2000?

4 MS. AUCHINCLOSS: I'm sorry. Was the
5 question at Balboa? I just didn't hear you.

6 MR. ROSENTHAL: Yes. If I didn't say that,
7 I meant to add Balboa.

8 MS. AUCHINCLOSS: Okay.

9 MR. ROSENTHAL: Q. To the extent you know.

10 A. To the extent I know, I believe he had at
11 least five years' teaching experience at Balboa.

12 Q. He had prior teaching experience elsewhere,
13 to your knowledge?

14 A. I believe so.

15 Q. Do you know how long he had been teaching
16 science to high school students over his career?

17 A. No.

18 Q. Are you able to estimate or do you have no
19 idea?

20 MS. AUCHINCLOSS: Objection. Compound.

21 THE WITNESS: I would estimate that he has
22 more than ten years' teaching experience.

23 MR. ROSENTHAL: Q. How about Mr. Navarro,
24 do you know how long he had been teaching in the
25 science department at Balboa?

1 command of the subject they were teaching?

2 A. I believe they -- I take that back. I can
3 speak about three of the four teachers. I believe Mr.
4 DeBella, and Mr. Navarro, and Ms. Teriault had command
5 of their subject area.

6 Q. And do you have no opinion as to whether Mr.
7 Wong did?

8 A. I don't have enough evidence to speculate on
9 his command of the subject.

10 Q. Do you know whether -- can you tell me of
11 these four teachers who is currently teaching science
12 at Balboa, to your knowledge?

13 A. Today?

14 Q. Correct, today.

15 MS. AUCHINCLOSS: Objection. Lacks
16 foundation, if any of them are.

17 THE WITNESS: Okay. I believe Mr. DeBella
18 and Ms. Teriault are currently teaching at Balboa.

19 MR. ROSENTHAL: Q. Do you believe Mr.
20 Navarro and Mr. Wong are not teaching at Balboa?

21 A. I know they are not teaching at Balboa.

22 Q. And of the four science teachers you
23 identified, are you aware whether any of those teachers
24 taught at Balboa during the 2000/2001 school year?

25 A. It is the same as -- same two teachers

1 A. I believe less than two years.

2 Q. Had he taught anywhere else before Balboa,
3 to your knowledge?

4 A. I believe not.

5 Q. How about Ms. Teriault?

6 A. Teriault.

7 Q. Teriault.

8 A. I believe she had less than one year of
9 teaching experience.

10 Q. Do you know if she had taught anywhere else
11 prior to teaching at Balboa?

12 A. I believe not.

13 Q. And how about Mr. Wong?

14 A. Again, I believe he had less than one year
15 teaching experience.

16 Q. And do you know if he had been teaching at
17 any other school prior to Balboa?

18 A. I believe not.

19 Q. Did all of the science teachers at Balboa
20 receive their undergraduate degrees in a science field,
21 to your knowledge?

22 A. I believe so.

23 Q. Did you have any opinion -- did you believe
24 that any of the science teachers in the Balboa science
25 department -- did you believe any of them did not have

1 returned, Mr. DeBella and Ms. Teriault.

2 Q. Are you aware of the identities of any of
3 the science teachers who replaced Mr. Navarro and Mr.
4 Wong at Balboa, to the extent there were replacements?

5 A. I do not know if and who the replacements
6 were.

7 Q. Do you recall raising any concerns in your
8 declaration about classes at Balboa having no permanent
9 teacher?

10 A. Yes.

11 Q. Can you tell me the concerns you had in that
12 regard?

13 A. I was concerned that a Spanish class at
14 Balboa High School did not have a permanent teacher.

15 Q. And when you say that class had no permanent
16 teacher, can you tell me -- can you elaborate for me
17 and tell me about that?

18 A. Yes. I believe the teacher hired for that
19 position left early in the year and I believe that no
20 other permanent teacher was hired or that if there was
21 a permanent teacher hired for that position, no one
22 stayed for more than a good guess of 30 days.

23 Q. And what is the basis for that belief?

24 A. The -- my basis for that belief is that
25 there is a rule that substitutes -- day-to-day

1 substitutes are not allowed to be in the classroom for
2 more than 30 days.

3 Q. And what is the basis for your belief that
4 no permanent replacement teacher had been hired for
5 that class?

6 A. My basis for that is the students telling me
7 that they had no teacher in that classroom and that
8 they were watching movies.

9 Q. Do you remember particular students telling
10 you that there was no permanent teacher hired to fill
11 in for that class?

12 A. I recall Lawrence Poon telling me there was
13 no teacher for his Spanish class.

14 Q. Do you recall any other students telling you
15 that?

16 A. By name, no.

17 Q. But you recall other students telling you
18 that. You just don't recall their name?

19 A. Yes.

20 Q. And were those students referring to the
21 same class that Mr. Poon was referring to or was that a
22 different Spanish class, to your knowledge?

23 MS. AUCHINCLOSS: Objection. Compound.

24 THE WITNESS: I believe they were referring
25 to the same class.

1 that estimate is?

2 A. I believe -- I believe I recall having
3 conversations with students before the winter break.

4 Q. Do you have any understanding as to how many
5 substitutes filled in for the -- for that class during
6 the school year?

7 MS. AUCHINCLOSS: Objection. Lacks
8 foundation.

9 THE WITNESS: Can you repeat the question?

10 MR. ROSENTHAL: Sure.

11 Q. Do you know whether any substitutes filled
12 in for that class? I think you already testified that
13 nobody stayed for longer than 30 days.

14 A. To what are you asking?

15 Q. I'm asking if you know how many substitutes
16 filled in for that class during the school year.

17 A. I can't speculate on that.

18 Q. Do you know whether the students in that
19 class were instructed in Spanish during the time they
20 had other teachers than the original permanent teacher
21 teaching them?

22 A. I believe that they were not receiving
23 instruction.

24 Q. And what is the basis for that belief?

25 A. One conversation with one of the substitutes

1 MR. ROSENTHAL: Q. Just to clarify, was
2 this a class that was during the 1999/2000 academic
3 year?

4 A. Yes.

5 Q. And do you know the name of the teacher, the
6 original permanent teacher in that Spanish class who
7 left in the early part of the year?

8 A. I do not recall. I believe it was that
9 person's first year and that person left very early in
10 the academic year.

11 Q. Do you recall whether it was a male or
12 female teacher?

13 A. I believe it was a male teacher.

14 Q. Do you recall at what point during the
15 school year that teacher left employment at Balboa?

16 A. I believe it was early enough that I didn't
17 get a chance to know and to learn his name.

18 Q. Is it possible to estimate at what point
19 during the year it occurred or would you be guessing?

20 A. I would have a good guess of well within
21 eight weeks.

22 Q. Can you tell me what the basis for that
23 estimate is? Is that a guess or estimate?

24 A. It is a good estimate.

25 Q. Okay. Can you tell me what the basis for

1 in the Spanish class and students also telling me that
2 they weren't learning Spanish.

3 Q. Do you recall the name of the particular
4 substitute you are referring to?

5 A. I believe his name is Paul -- his last name
6 starts with an "R."

7 Q. I'll call him Mr. R.

8 A. Okay.

9 Q. Do you know how long Mr. R was a substitute
10 in that Spanish class?

11 A. For any given stretch of time or total?

12 Q. Why don't we start with total.

13 A. Okay. I can't recall the total number of
14 days he spent substituting for that class. For any
15 streak of time, I don't recall seeing him for more than
16 a week straight.

17 Q. Was it your understanding that Mr. R was a
18 day-to-day substitute in that class as opposed to a
19 permanent substitute?

20 A. Yes. He was a day-to-day sub.

21 Q. Do you have any understanding as to what --
22 strike that.

23 Can you tell me the substance of your
24 conversation with Mr. R?

25 A. Yes. To my best recollection, he was

1 telling me that there were no books for Spanish and
 2 that there was -- that there were no plans for him to
 3 execute.
 4 Q. Do you know whether Mr. R was proficient in
 5 the Spanish language?
 6 A. I believe he was conversational,
 7 conversational in Spanish.
 8 Q. Do you know whether Mr. R made any attempts
 9 to instruct the class in Spanish?
 10 A. To my knowledge, no.
 11 Q. And you also said that you had some
 12 conversations with students and you said that was the
 13 basis for your belief that students were not being
 14 instructed in Spanish during the time that they had
 15 substitutes. Do you recall the identities of the
 16 students you had these conversations with?
 17 A. Besides Lawrence Poon?
 18 Q. Is that one of the individuals?
 19 A. That is one of the individuals. No.
 20 Q. Do you recall how many conversations you had
 21 with Mr. Poon about the situation in this Spanish class
 22 during the 1999/2000 school year?
 23 A. I believe we had maybe at least three or
 24 four conversations about this.
 25 Q. And do you recall the timing of those

1 teacher's name on it.
 2 Q. And is this, again, the same progress report
 3 or semester report you were referring to before?
 4 A. Yes.
 5 Q. Any other specifics you recall about that
 6 conversation -- those conversations with Mr. Poon?
 7 A. Yes. I believe his report card said Teacher
 8 A or Teacher B for having instructed him in Spanish.
 9 Q. And this is the same report card you've been
 10 telling me about?
 11 A. I believe so.
 12 Q. Any other specifics you recall about those
 13 conversations?
 14 A. Yes.
 15 Q. Okay. Please tell me.
 16 A. I recall -- it may not have been Mr. Poon.
 17 It may have been another student, but I recall hearing
 18 that they had watched some Disney cartoon in Spanish
 19 class that wasn't in Spanish.
 20 Q. Do you recall any more of the specifics of
 21 the conversation you had with Mr. Poon?
 22 A. No.
 23 Q. Do you ever hear from any students during
 24 any of the conversations you had with students with
 25 respect to Spanish class that any of the substitute

1 conversations, when they occurred during the year?
 2 A. Not exactly, no.
 3 Q. Were they spread out through the year?
 4 A. Yes.
 5 Q. Do you have any specific recollection about
 6 the substance discussed in each of those conversations?
 7 A. Yes.
 8 Q. Can you tell me what you recall in that
 9 regard?
 10 A. Sure. I recall Lawrence telling me that he
 11 had passed Spanish class. I don't recall the exact
 12 grade and that he hadn't learned Spanish at all, but he
 13 was somehow passing.
 14 Q. You said that he had passed Spanish. Was
 15 this a conversation that occurred at the end of the
 16 academic year?
 17 A. I believe not.
 18 Q. Do you know what Mr. Poon was referring to
 19 then when he said he passed Spanish?
 20 A. It may have been a semester or progress
 21 report, midyear report card.
 22 Q. Do you recall any of the other specifics
 23 from the conversations you had with Mr. Poon regarding
 24 his Spanish class?
 25 A. I believe his report card didn't have a

1 teachers who taught that class instructed them in
 2 Spanish?
 3 A. I believe the students or several students
 4 have told me that nothing was going on in that class.
 5 Q. Is it your belief that no permanent
 6 replacement teacher was hired to instruct that class in
 7 Spanish during that academic year?
 8 A. It is my belief that no permanent teacher
 9 was hired.
 10 Q. Do you recall raising any concerns in your
 11 declaration about the level of teacher turnover at
 12 Balboa High School?
 13 A. Yes.
 14 Q. And can you tell me the concerns you had in
 15 that regard?
 16 A. I recall having a conversation with several
 17 students and the students listed I think more than 50
 18 teachers who had come and gone during their tenure at
 19 Balboa.
 20 Q. Do you recall when you had that conversation
 21 with students?
 22 A. I would estimate that it was in the spring
 23 of 2000.
 24 Q. And do you recall how many students you had
 25 that conversation with?

1 A. My good estimate is about eight students.
 2 Q. Eight? I'm sorry, I didn't hear you.
 3 A. Eight.
 4 Q. Do you recall why you were having this
 5 conversation with the students?
 6 A. Yes.
 7 Q. Can you tell me why?
 8 A. I believe many students in one of my classes
 9 were out for a field trip or some other reason and that
 10 I couldn't conduct class with only one-third of my
 11 population and so we sat around the table and we talked
 12 about some of their teachers who had gone -- gone away.
 13 Q. Do you recall how that subject came up?
 14 A. I believe I brought it up.
 15 Q. Did you bring it up for some reason?
 16 A. My best recollection is because students
 17 were talking about teachers who I had never met.
 18 Q. Do you recall the identity of the eight
 19 students you spoke to in this regard?
 20 A. I can recall two or three.
 21 Q. Can you tell me the ones you recall?
 22 A. Sure. I recall Jerissa. Do you want their
 23 full names?
 24 Q. That would be helpful.
 25 A. Okay. Jerissa Macalino was in that

1 conversation. I believe her name was Tupufia Enriquez
 2 was in that conversation.
 3 Q. Is that a female?
 4 A. Female. And Ben. I can't remember his last
 5 name.
 6 Q. Now, when you had this conversation, you
 7 said it was in a particular class where many of your
 8 students were out on a field trip. Do you remember
 9 which class this was?
 10 A. I think it was one of my advanced algebra
 11 classes in that spring.
 12 Q. And I know that many of your -- most of your
 13 classes actually at Balboa had a mixed range of
 14 students as far as what grade level they were in. Was
 15 that true of the advanced algebra class?
 16 A. Yes.
 17 Q. When you had this conversation with these
 18 students, was it -- did it include sophomores, juniors,
 19 and seniors?
 20 A. Yes.
 21 Q. Did it include freshmen, too? I didn't mean
 22 to leave them out, but --
 23 A. No.
 24 MS. AUCHINCLOSS: And if I could just ask
 25 one clarifying question: Do you recall that the eight

1 students that you talked to encompassed all those
 2 grades or were you referring to the class generally?
 3 THE WITNESS: I recall that the composition
 4 of those eight students were primarily juniors, so they
 5 had three years at Balboa High School.
 6 MR. ROSENTHAL: Q. Do you recall there
 7 being any seniors in that group?
 8 A. I believe it was the seniors that were on
 9 some field trip or out for some reason.
 10 Q. Do you don't recall any seniors being among
 11 those roughly eight students you spoke to at this time?
 12 A. No.
 13 Q. So when the students listed 50 or more
 14 teachers who had left, they were referring to their
 15 three-year time period at Balboa?
 16 A. Yes.
 17 Q. Did you have any conversations with anybody
 18 in the administration at Balboa High School regarding
 19 the numbers of teachers who left during this three-year
 20 time period?
 21 A. Yes.
 22 Q. Can you tell me who you had a conversation
 23 with in that regard?
 24 A. I had a conversation with Patricia Gray, the
 25 principal at that time.

1 Q. Can you tell me what the substance of that
 2 conversation was?
 3 A. Yes. I asked Patricia to give me some
 4 estimate of the number of staff members who have left
 5 in three years.
 6 Q. Was there some reason you were seeking that
 7 information from Ms. Gray?
 8 A. Yes.
 9 Q. Can you tell me what the reason was?
 10 A. It was shortly after the conversation I had
 11 had with the students.
 12 Q. Were you just curious or was there some
 13 other reason?
 14 MS. AUCHINCLOSS: Objection. Compound.
 15 THE WITNESS: Yes, I was curious.
 16 MR. ROSENTHAL: Q. Was there some other
 17 reason?
 18 A. Specifically, no.
 19 Q. When you had this conversation with Ms.
 20 Gray, did you specifically limit your question to how
 21 many teachers had left in three years at Balboa or was
 22 it something else?
 23 MS. AUCHINCLOSS: Objection. Compound.
 24 Asked and answered.
 25 THE WITNESS: It was limited to three -- a

1 three-year period.

2 MR. ROSENTHAL: Q. Were you referring to
3 the -- can you tell me what three-year period you were
4 referring to?

5 A. Three academic years ending with '99/2000.

6 Q. And do you recall what Ms. Gray told you in
7 response to your inquiry?

8 A. Yes. I believe her estimate for the number
9 of teachers who had left was maybe 20 more than what
10 the students had told me.

11 Q. Did you respond to Ms. Gray in any way at
12 that time?

13 A. I believe I just responded with some shock.

14 Q. Did you discuss the matter further with her?

15 A. No.

16 Q. Did you discuss anything else with Ms. Gray
17 during that conversation?

18 A. That I recall, no.

19 Q. Did she ask you why you were asking?

20 A. Not that I recall.

21 Q. Had you ever heard that the teaching staff
22 at Balboa had been reconstituted?

23 A. Yes.

24 Q. Can you tell me what you know in that
25 regard?

1 A. I believe it was reconstituted before the
2 three-year period that I am referring to -- that we've
3 been referring to.

4 Q. Can you tell me what your understanding of
5 what the term "Reconstituted" is?

6 A. My understanding of the term reconstitution
7 is a nearly full turnover of staff and some renovation
8 or some improvement of the facilities.

9 Q. And when you say there is a full turnover of
10 the staff, can you tell me what you mean by that?

11 A. I believe in a reconstitution, a school
12 would have something like 90 -- at least 90 percent of
13 their staff redistributed throughout the district or
14 given early retirement, somehow gotten out of the
15 facility and a new staff would come in to teach the
16 school.

17 MS. AUCHINCLOSS: Michael, I'm going to need
18 a break at some point. I don't know where you are.

19 MR. ROSENTHAL: We can take one now. That
20 is fine.

21 MS. AUCHINCLOSS: Okay.

22 (Recess taken.)

23 MR. ROSENTHAL: Q. Mr. Medina, I understand
24 you have had a recollection of something that was
25 responsive to an earlier question.

1 A. Yes.

2 Q. Do you want to go ahead and provide me that
3 information?

4 A. In the '99/2000 school year, Mr. McBride,
5 who taught mathematics, left during the year and was
6 replaced by a gentleman named Tom whose last name I
7 can't remember.

8 Q. And do you recall when Mr. McBride left
9 during that school year, at what point during the year?

10 A. Not exactly, but I believe it was shortly
11 after the midpoint of the year.

12 Q. And the teacher that replaced him named Tom,
13 do you know whether that was a permanent substitute
14 hired for the class or something else?

15 MS. AUCHINCLOSS: Objection. Compound.

16 THE WITNESS: I'm not sure what his exact
17 status was, but he remained until the end of the year.

18 MR. ROSENTHAL: Q. And are you aware of the
19 credential status of Tom?

20 A. I know that he did not return the following
21 year.

22 Q. Are you aware of his credential status?

23 A. No.

24 Q. Do you know whether he had taught prior to
25 teaching at Balboa?

1 A. I believe he had no teaching experience
2 coming in midyear.

3 Q. What is the basis for that belief?

4 A. I think we had a conversation when we first
5 met.

6 Q. And he told you he had no teaching
7 experience?

8 A. Yes.

9 Q. And do you know whether this individual had
10 any formal training in mathematics?

11 A. I did not know his educational background.

12 Q. Did you have an opinion as to whether he had
13 command of the subject that he was teaching?

14 A. Tom asked me several basic questions in
15 mathematics, therefore I don't believe he had a
16 confident command of the subject matter.

17 Q. Do you recall what subject he was teaching?

18 A. I believe it was geometry.

19 Q. Is your opinion that he did not have command
20 of the subject based on anything else other than him
21 asking you questions about some particular concepts?

22 MS. AUCHINCLOSS: Objection.

23 Mischaracterizes his testimony.

24 THE WITNESS: Would you repeat the question,
25 please?

1 MR. ROSENTHAL: Sure. Can you read it back?
2 (Record read by the reporter.)

3 MR. ROSENTHAL: I can rephrase it. That is
4 fine.

5 Q. Was it your opinion that Tom did not have
6 command of the subject he was teaching based on
7 anything else other than the fact he asked you some --
8 what you called basic questions?

9 A. I believe that he did not have command
10 because of the level of questions he was asking.

11 Q. Do you recall the types of questions he
12 asked you?

13 A. I recall the -- I recall my reaction in
14 thinking that he didn't know some basic principles of
15 geometry about congruent triangles, something very
16 central to the subject of geometry.

17 Q. And was it your belief he was asking you the
18 question because he did not know the answer to it?

19 A. Yes.

20 Q. Before our break, we were talking about the
21 concerns you had regarding teacher turnover at Balboa
22 and you described for me the conversations you had with
23 students and with principal Gray about the numbers of
24 teachers who had left in the three-year period ending
25 with the 1999/2000 academic year. Are you aware of the

1 Spanish teachers who had taught that particular class,
2 for example?

3 A. Are you asking me like if the number of
4 teachers who left for an academic year included the
5 many who tried to teach that Spanish class?

6 Q. Right. Do you want me to try and rephrase
7 it or try another question?

8 A. Sure.

9 Q. There were several teachers who taught
10 Spanish class during the 1999/2000 school year; is that
11 right?

12 A. Yes.

13 Q. When teachers -- when you had the
14 conversation with the students about how many teachers
15 had left Balboa during the three-year period, did the
16 students include one teacher from that Spanish class,
17 the original permanent teacher, or did it include more
18 than one?

19 MS. AUCHINCLOSS: Objection. Lacks
20 foundation.

21 THE WITNESS: Of the teachers that my
22 students listed, I believe that they did not count more
23 than one of the teachers in their list to be the
24 Spanish substitutes that they had in that room.

25 MR. ROSENTHAL: Q. Just for clarification,

1 number of teachers that left during each of those
2 individual years?

3 A. The exact breakdown I don't recall.

4 Q. Are you able to estimate?

5 A. I can estimate roughly -- somewhere in the
6 high teens; let's say 17 teachers leaving per year is a
7 very broad estimate and those are probably the people
8 that I knew who had taught and left, not including the
9 people who I didn't know and left.

10 Q. Was it your opinion that the level of
11 turnover remained constant over that -- essentially
12 constant over that three-year period?

13 MS. AUCHINCLOSS: If you know.

14 THE WITNESS: A good estimate is that it
15 fluctuated one year higher than another, but not
16 decreasing.

17 MR. ROSENTHAL: Q. In your opinion, it
18 wasn't a decreasing trend over that three-year period?

19 A. My opinion, my best recollection, there was
20 not a decreasing trend over that period of time.

21 Q. Now, earlier we had discussed the Spanish
22 class where there were a number of teachers who had
23 taught in that one particular class. Do you know
24 whether students, in coming up with their number of
25 teachers who had left, included the various numbers of

1 so of the 50 or more teachers that the students listed,
2 it was teachers in 50 separate -- teachers with 50
3 separate class schedules?

4 MS. AUCHINCLOSS: Objection.

5 Mischaracterizes testimony.

6 THE WITNESS: Would you rephrase that and
7 define "Class schedules"?

8 MR. ROSENTHAL: Sure.

9 Q. I was using the Spanish class as an example
10 where there were several teachers who taught one
11 particular class. And I'm trying to figure out if the
12 number that the students came up with included teachers
13 who had come in during a period of time to replace one
14 particular teacher.

15 MS. AUCHINCLOSS: Objection. Lacks
16 foundation. Calls for speculation.

17 THE WITNESS: My best recollection -- I
18 believe it is pretty accurate -- is that the list that
19 the students came up with was a list of teachers who
20 had completed a majority -- at least a majority of the
21 year and did not include replacement substitutes or
22 filler teachers.

23 MR. ROSENTHAL: Q. Do you know whether the
24 list included any permanent replacements who only
25 stayed for a short period of time?

1 MS. AUCHINCLOSS: Objection. Vague as to
2 "Short." Calls for speculation.

3 THE WITNESS: Can you give me a chunk of
4 time?

5 MR. ROSENTHAL: Q. I can give you a
6 hypothetical example and let's see if that clarifies it
7 for you. If a class started out with Teacher A at the
8 beginning of the school year and that teacher remained
9 for the first semester and then was replaced by Teacher
10 B who remained for the next semester, but did not
11 return for the following year. Were there any
12 instances that you are aware of in which Teacher A and
13 Teacher B were included in the list?

14 MS. AUCHINCLOSS: Objection. Improper
15 hypothetical. Calls for speculation.

16 THE WITNESS: I would speculate that no, it
17 would not have included a Teacher B, as you had put it.

18 MR. ROSENTHAL: Q. So it would have
19 included Teacher A, but not Teacher B, just for
20 clarification?

21 MS. AUCHINCLOSS: Objection. Improper
22 hypothetical. Calls for speculation and lacks
23 foundation.

24 THE WITNESS: I believe that the list that
25 the students came up with, because it was from their

1 substitutes in the classroom, that movies were being
2 shown as well. I've shown movies that weren't
3 mathematical when I was out.

4 Q. Any other particular classes you can recall
5 in which movies were shown?

6 A. I've mentioned the Spanish class. I've
7 mentioned the class next door to mine. One of the
8 biology classes and I believe one of the ROTC classes.

9 Q. Any other class you can think of?

10 A. For -- is this specific to the '99/2000
11 academic year?

12 Q. No, I don't want to limit it to that. Let's
13 have it be the -- over the entire time you taught at
14 Balboa.

15 A. Well, then --

16 Q. Let me ask a clarifying question. Was the
17 list you gave me, were those classes during the
18 '99/2000 school year?

19 A. Yes.

20 Q. If we can do it year by year, maybe that is
21 the easiest way. Were there any other classes during
22 the 1999/2000 school year that you were aware of a
23 situation where those classes were being shown movies?

24 A. I believe, that I can currently recall.

25 Q. How about in the prior year, the 1998/1999

1 memory, constituted teachers who had either taught for
2 a full year or a large, large majority of the year.

3 MR. ROSENTHAL: Q. Do you recall raising,
4 in your recollection, any concerns about students
5 watching movies in their classes rather than learning
6 the subject matter that they were supposed to be
7 learning?

8 A. Yes.

9 Q. Can you tell me about the concerns you had
10 in that regard?

11 A. Yes. I recall several students telling me
12 that they were seeing movies in their classes, not
13 limiting it to the Spanish class mentioned before.

14 Q. Do you recall the identity of the students
15 who told you that?

16 A. Specifically -- I mean, no, but it was a
17 generally known fact in the school.

18 Q. Do you recall the particular classes that
19 were -- in which movies were being shown according to
20 the students?

21 A. Yes.

22 Q. Can you tell me what classes those were?

23 A. The class next door to me, which was a math
24 class, I could hear them showing movies sometimes. I
25 believe when there were substitutes or day-to-day

1 academic school year?

2 A. The period seems to blend together between
3 that year and the previous year, so I'm -- yes -- I
4 mean, I'm sure that movies were being shown in a couple
5 of English classes that I knew of.

6 Q. Any other classes that you can think of in
7 which movies were shown during that academic year?

8 A. Noncontent-specific movies?

9 Q. Right.

10 A. Probably --

11 Q. Can you define what you mean by
12 "Noncontent-specific movies"? You used that term. I
13 just want a definition.

14 A. Yes. Noncontent-specific means a movie that
15 doesn't enhance the learning of that subject matter.

16 Q. Very good. Any other classes in the
17 1998/1999 school year in which noncontent-specific
18 movies were shown?

19 A. I believe the biology class. I'm sure there
20 are others that I can't specify right now.

21 Q. And how about in the prior year, the
22 1997/1998 year, you were only there for the spring
23 semester that year; is that right?

24 A. Yes.

25 Q. So obviously limiting it to that semester.

1 A. Right. Just that I recall for that year,
2 for that semester, just English and history class.
3 Q. English and history?
4 A. Yes.
5 Q. Were those two separate classes?
6 A. Yes.
7 Q. Okay. Earlier you said movies were shown in
8 classes where there was a day-to-day substitute. Were
9 you referring to all classes at Balboa where there was
10 a day-to-day substitute?
11 A. Are you asking me about every class for
12 every day-to-day substitute at Balboa? Are you asking
13 a global question or --
14 Q. I'm trying to understand whether you meant
15 that day-to-day substitutes were showing movies in the
16 class you've identified or if you were not limiting it
17 to those classes.
18 A. Not limiting it to those classes.
19 Q. So in other classes -- just to clarify, so
20 in other classes other than the ones you've identified,
21 on occasion where there was a day-to-day substitute,
22 classes might be shown a noncontent-specific movie?
23 A. I would guess so, yes.
24 Q. Are you guessing when you say that?
25 A. Oh --

1 Q. What is that based on?
2 A. Based on conversations with students and
3 teachers.
4 MS. AUCHINCLOSS: Just for clarification, I
5 don't think that his prior testimony, although I could
6 be wrong, that for the classes you listed it was
7 necessarily substitutes showing those movies; is that
8 right?
9 THE WITNESS: That's correct.
10 MS. AUCHINCLOSS: Okay.
11 MR. ROSENTHAL: Q. Just a quick question:
12 You said that in your class, you showed movies when you
13 were out. Can you tell me what you mean by that?
14 A. Yes. I recall an instance where I showed, I
15 think it was Little Man Tate. It was a
16 noncontent-specific movie and it did not enhance the
17 learning of mathematics.
18 Q. Why did you show that movie to your class?
19 A. Sorry? What was the question?
20 Q. Why did you show that movie to your class?
21 A. I believe I wasn't well prepared for that
22 day or for that unit and because I was out, I had not
23 made adequate math-enhancing substitute plans.
24 Q. So you didn't leave a lesson plan for a
25 substitute?

1 A. No.
2 Q. You left a movie instead?
3 A. Yes.
4 Q. Okay. I want to cover some of these
5 individuals' classes. Why don't we start with the most
6 recent year, which was the 1999/2000 school year. You
7 said there was a math class next door to your class in
8 which noncontent-specific movies were shown. Can you
9 tell me how frequently such movies were shown in that
10 class?
11 MS. AUCHINCLOSS: Objection. Calls for
12 speculation.
13 MR. ROSENTHAL: Q. To the extent you know.
14 A. To the extent that I know, I think a good
15 estimate is maybe five or six times.
16 Q. Is that five or six times over the entire
17 school year?
18 A. Yes.
19 Q. Do you recall who the teacher was in that
20 class?
21 A. Yes, that was Mr. Garner.
22 Q. And just so I pronounce it right, it is
23 Garner or Gardener, if you know. I just I heard it
24 differently.
25 A. I believe it was Garner.

1 Q. With a "D" or without a "D"?
2 A. Without a "D."
3 Q. Okay. Garner, like James Garner. On the
4 roughly five or six occasions in which movies were
5 shown in Mr. Garner's class, was he present that day --
6 those days?
7 A. Some.
8 Q. Was he not present on some of the days?
9 A. Yes.
10 Q. Was there a substitute in the class on those
11 days?
12 A. Yes.
13 Q. Do you know on approximately how many of the
14 days Mr. Garner was present in that class in which a
15 noncontent-specific movie was shown?
16 A. I would estimate it, maybe three or four out
17 of the five or six times.
18 Q. Do you have any understanding as to why he
19 showed noncontent-specific movies in his class?
20 A. No, not exactly.
21 Q. Did you have any conversations with him
22 about it?
23 A. Yes.
24 Q. Do you recall the substance of those
25 conversations?

1 A. Some.
 2 Q. Can you tell me what you recall?
 3 A. Some. I recall his frustration at having to
 4 do the teaching and the technology coordination at
 5 Balboa and that it didn't leave him time to adequately
 6 plan for his class.
 7 Q. Did Mr. Garner have some responsibilities at
 8 Balboa other than as a math teacher?
 9 A. For that year, yes.
 10 Q. Can you tell me what those responsibilities
 11 were?
 12 A. He was responsible for the maintenance of
 13 the computer lab as well as overseeing the installation
 14 of the network and taking care of the individual
 15 teachers' computers.
 16 Q. Do you recall any of the details of Mr.
 17 Garner's frustration with respect to his dual role?
 18 A. I think the heart of his frustration was
 19 that he had a dual role and that he couldn't do either
 20 function very well.
 21 Q. To your knowledge, did his role as the tech
 22 coordinator have any effect on his ability to be
 23 present in his math classes?
 24 A. Yes.
 25 Q. Can you tell me what effect it had, to your

1 knowledge?
 2 A. I recall several instances where I would
 3 come in to his classroom because he would have to step
 4 out and do something technology-related.
 5 Q. About how often did that occur?
 6 A. Maybe ten times in the year.
 7 Q. And roughly how long would he have to leave
 8 the classroom in those instances?
 9 A. Varying amounts of time, from ten minutes to
 10 sometimes half an hour.
 11 Q. And on the occasions that movies were shown
 12 in Mr. Garner's class in which he was present, were you
 13 referring to the times when he had to be out of the
 14 classroom in connection with his responsibilities as
 15 tech coordinator?
 16 A. No.
 17 Q. Why don't we talk about the Spanish class
 18 during the 1999/2000 school year that you said
 19 noncontent-specific movies were shown in. How do you
 20 know that noncontent-specific movies were shown in that
 21 class?
 22 MS. AUCHINCLOSS: Objection. Asked and
 23 answered.
 24 THE WITNESS: Students would tell me that
 25 they were watching movies in Spanish class.

1 MR. ROSENTHAL: Q. And did students -- do
 2 you have any idea how many times over the school year
 3 noncontent-specific movies were shown in that Spanish
 4 class?
 5 A. I would estimate -- I don't know. I don't
 6 have a good estimate. I don't want to understate it at
 7 seven or eight.
 8 Q. Do you have any reason for believing it is
 9 seven or eight?
 10 MS. AUCHINCLOSS: He doesn't want a guess.
 11 THE WITNESS: What is that?
 12 MS. AUCHINCLOSS: Are you guessing?
 13 THE WITNESS: It feels like a safe estimate
 14 to me.
 15 MR. ROSENTHAL: Q. What is that based on?
 16 A. Based on the recollection of movie titles
 17 that my students have mentioned.
 18 Q. Just so the record is clear, is this the
 19 same Spanish class we discussed earlier in connection
 20 with the substitute teachers in a particular Spanish
 21 class?
 22 A. Yes.
 23 Q. Do you have any understanding as to why
 24 noncontent-specific movies were shown in that class?
 25 A. I believe because there was no permanent

1 teacher. There was no plan for instruction, therefore
 2 there was -- well, without instruction, I believe that
 3 the day-to-day substitutes or other adult who was there
 4 simply wanted to fill up time.
 5 Q. And what is the basis for that belief?
 6 A. Well, conversations with the students,
 7 conversations with the aforementioned Paul and
 8 conversations with other teachers.
 9 Q. Do you remember having conversations with
 10 other teachers about this particular Spanish class?
 11 A. Yes.
 12 Q. Do you recall who you spoke to about it?
 13 A. I recall a conversation with Shane Safer.
 14 Q. Do you remember when that conversation
 15 occurred -- strike that.
 16 Was it one conversation or was it more than
 17 that?
 18 A. Several.
 19 Q. Do you recall when those occurred?
 20 A. During the '99/2000 school year.
 21 Q. And do you recall the substance of those
 22 conversations?
 23 A. Yes.
 24 Q. Can you tell me what you recall?
 25 A. I recall her telling me that movies were

1 being shown in the class and I recall her telling me
2 that sometimes students would run out of the classroom
3 into the halls.

4 Q. Did Ms. Safer tell you how she knew movies
5 were being shown in that class?

6 A. Yes.

7 Q. What did she tell you?

8 A. She taught in the same hallway as that
9 class, near that classroom and she told me sometimes
10 the door was open and a movie would be playing.

11 Q. Did Ms. Safer -- during your conversation
12 with Ms. Safer about this particular Spanish class, did
13 she ever tell you about how many times over the course
14 of the year movies had been shown in that class?

15 A. No.

16 Q. Do you know whether movies were shown in
17 that particular Spanish class only when there were
18 day-to-day substitutes in that class?

19 A. It is possible movies were also shown when
20 there was the original permanent teacher there.

21 Q. Do you know if that happened or are you
22 speculating?

23 MS. AUCHINCLOSS: Objection. Compound.

24 THE WITNESS: I'm saying it is possible.

25 MR. ROSENTHAL: Q. But do you know it

1 A. Not specifically.

2 Q. Do you have any understanding as to why Mr.
3 Navarro showed noncontent-specific movies in his
4 biology class during the 1999/2000 school year?

5 A. I would attribute it to probably lack of
6 planning and lack of expertise.

7 Q. Now, you said that movies --

8 noncontent-specific movies were shown in his class at
9 least four times. Is it possible for you to estimate a
10 maximum number of times such movies were shown in his
11 class? I'm trying to get the range, to the extent you
12 know.

13 A. No. I can't put a maximum number of times
14 on how many times he has shown movies.

15 Q. How did you know that he had shown
16 noncontent-specific movies in his class?

17 MS. AUCHINCLOSS: Objection. Asked and
18 answered.

19 THE WITNESS: In conversations with him.

20 MR. ROSENTHAL: Q. Do you recall the
21 substance of those conversations?

22 A. Yes, generally.

23 Q. Can you tell me what you recall?

24 A. I recall him telling me what movies he has
25 shown or planned on showing in the classroom.

1 happened?

2 A. No.

3 Q. You also mentioned a biology class during
4 the 1999/2000 school year in which noncontent-specific
5 movies were shown. How do you know noncontent-specific
6 movies were shown in that class?

7 A. The teacher was a friend of mine.

8 Q. Who was the teacher in that class?

9 A. Mr. Navarro.

10 Q. And do you have an understanding as to how
11 frequently noncontent-specific movies were shown in Mr.
12 Navarro's biology class?

13 A. I would estimate maybe at least four times
14 in a year.

15 Q. What is that based on?

16 A. The titles of what he had shown in class.

17 Q. Do you know whether noncontent-specific
18 movies were shown in Mr. Navarro's class when he was
19 present in the class?

20 A. Yes.

21 Q. Do you know whether noncontent-specific
22 movies were shown in Mr. Navarro's class when he was
23 not present?

24 A. It is possible.

25 Q. Do you know they were or were not?

1 Q. Did you ever hear of any of your students
2 telling you that Mr. Navarro had shown movies in his
3 classroom?

4 A. Yes.

5 Q. Do you recall which students told you that?

6 A. No, not specifically.

7 Q. Moving on to the ROTC class you identified.

8 Who was the -- in which noncontent-specific movies were
9 shown. Who was the teacher in that class?

10 A. There were two instructors. One was Bo
11 Connelly and I can't spell his last name. The other
12 was a Major or Sergeant Paratore.

13 Q. Do you have an understanding as to what
14 subject matter was to be taught in the ROTC class?

15 A. Are you asking me for the exact substance of
16 what the class should be?

17 Q. I'm asking for your understanding of what
18 was the subject matter of that class, if you have such
19 an understanding.

20 A. Sure. My understanding is that they had to
21 march. They had to perform drills. They had to wear a
22 uniform. They had to practice the presentation of the
23 flag. It is a lot of marching in that class.

24 Q. Was there any academic content to that
25 class?

1 A. I don't know the standards for an ROTC
2 class. I would speculate that there is academic
3 content in that in terms of maybe legislation and
4 understanding different parts of the government.
5 Q. What is the basis for that opinion?
6 A. Just conversations with the teachers there.
7 Q. You are referring to the instructors in the
8 ROTC class?
9 A. Yes.
10 Q. Are you aware of how often during the school
11 year noncontent-specific movies were shown in that
12 class?
13 A. I can't give a solid estimate for that
14 class, but at least two.
15 Q. And what is that based on?
16 A. It is based on the movie titles and
17 conversations with students.
18 Q. Did either of the instructors for the ROTC
19 class ever tell you they had shown noncontent-specific
20 movies in that class?
21 A. No.
22 Q. Let's turn our attention to the '98/'99
23 school year when you identified a few classes. One of
24 the classes identified was a biology class during that
25 year. Was that Mr. Navarro's class again?

1 A. Yes.
2 Q. Do you have any understanding as to how
3 frequently noncontent-specific movies were shown during
4 that school year?
5 A. During that school year?
6 MS. AUCHINCLOSS: Is that the biology class?
7 THE WITNESS: Yes.
8 MR. ROSENTHAL: Q. In that class, yes.
9 A. I would imagine a similar number to the
10 following year.
11 Q. What is the basis for that understanding?
12 A. Just conversations, again, with Mr. Navarro
13 himself.
14 Q. Do you recall having conversations with Mr.
15 Navarro during that school year about the subject?
16 A. Yes.
17 Q. You also said there were a couple of English
18 classes during the 1998/'99 school year during which
19 noncontent-specific movies were shown. Do you remember
20 how many English classes such movies were shown in?
21 A. Being only really close to a couple of the
22 English teachers -- and I think it was a fairly large
23 department -- of the two I was really close with, each
24 teacher probably showed about three or four movies a
25 year, maybe.

1 Q. Can you tell me which two teachers you are
2 referring to?
3 A. Will Streeter and Jack Pytel.
4 Q. And what is the basis for the belief that
5 roughly three or four movies per year were shown in
6 those two classes?
7 A. Conversations with those teachers.
8 Q. Do you have any understanding why those
9 teachers showed noncontent-specific movies in their
10 classes?
11 A. Good guess is because they did not plan for
12 a lesson that day.
13 Q. Just to clarify, so were noncontent-specific
14 movies shown in those classes on the days that those
15 teachers were present?
16 A. I believe so, yes.
17 Q. Is that based on your conversation with
18 those two individuals?
19 A. Yes.
20 Q. Let's turn our attention to your first
21 semester at Balboa, the '97/'98 -- actually, it is just
22 the '98 spring semester and you identified an English
23 class and a history class as classes in which
24 noncontent-specific movies were shown. Why don't we
25 start with the English class. Were you referring to a

1 particular English class? If so, can you tell me which
2 one?
3 A. Sure. I was referring to a couple of
4 teachers, again, Mr. Pytel and Mr. Pipkin has shown
5 movies.
6 Q. So there were two English classes during
7 that semester or were there more?
8 A. And Mr. Reisinger.
9 Q. Just a quick question: Mr. Pipkin and Mr.
10 Reisinger, were they teachers at Balboa during the
11 '98/'99 school year?
12 A. Sorry, '98/'99, who taught? Who came back?
13 Yes, I'm sorry, Mr. -- well, Mr. Pipkin came back the
14 following year, but he left midyear, which --
15 Q. And Mr. Reisinger also came back?
16 A. No, he did not return.
17 Q. During the time that Mr. Pipkin was at
18 Balboa during the '98/'99 school year, do you know
19 whether he showed any noncontent-specific movies during
20 that time?
21 A. To my recollection, no, or not that I
22 remember, I should say.
23 Q. Did the frequency that noncontent-specific
24 movies were shown in Mr. Pytel, Mr. Pipkin, and Mr.
25 Reisinger's class differ, to your knowledge?

1 A. From year to year?
 2 Q. During the spring semester of '98.
 3 A. During those -- no.
 4 Q. So we can -- is it possible to deal with
 5 them globally?
 6 A. Sure.
 7 Q. Can you tell me approximately, to your
 8 knowledge, how often noncontent-specific movies were
 9 shown in each of those classes during that semester?
 10 A. During that semester, at least three
 11 noncontent-specific movies were shown.
 12 Q. And that is three per class?
 13 A. Yes.
 14 Q. And what is the basis for that
 15 understanding?
 16 A. Again, conversations with teachers.
 17 Q. And were the reasons for showing
 18 noncontent-specific movies in those classes the same?
 19 A. Yes.
 20 Q. The same as reasons you testified to
 21 earlier?
 22 A. Yes.
 23 Q. And how about the history class in the '98
 24 spring semester that you said noncontent-specific
 25 movies were shown in, can you tell me who the teacher

1 was in the class you were referring to?
 2 A. Mr. Reisinger was a history teacher.
 3 Q. Okay. So then I think we've covered that.
 4 Are you aware of whether Balboa High School had any
 5 policy regarding the showing of movies in class?
 6 A. No. I don't remember a specific policy on
 7 movies in class.
 8 Q. Had you ever seen a written policy regarding
 9 the showing of movies at Balboa High School?
 10 A. I have not seen a written policy about movie
 11 showing at Balboa High School.
 12 MR. ROSENTHAL: I would like to ask you to
 13 mark this as the next exhibit. It might be the first
 14 exhibit. I don't recall.
 15
 16 (Whereupon, Defendant's Exhibit 1 was marked
 17 for identification.)
 18 MR. ROSENTHAL: Q. Have you had a chance to
 19 take a look at this document?
 20 A. Yes, I have.
 21 Q. Have you ever seen this document before?
 22 A. I do not recall having seen this document
 23 before.
 24 Q. Had you ever heard about a written movie
 25 policy for Balboa High School?

1 A. No.
 2 Q. Just so I'm clear, at no point during your
 3 two and a half years at Balboa High School do you
 4 recall ever seeing a copy of this written document?
 5 A. I don't recall.
 6 Q. Then you can put it aside.
 7 A. Okay.
 8 MR. ROSENTHAL: Actually, if you don't mind,
 9 can I take a quick restroom break?
 10 (Recess taken.)
 11 MR. ROSENTHAL: Q. Mr. Medina, do you
 12 recall raising any concerns in your declaration
 13 concerning the condition of the bathrooms at Balboa
 14 High School?
 15 A. Yes.
 16 Q. Can you tell me what concerns you had in
 17 that regard?
 18 A. I was concerned that the bathrooms at Balboa
 19 High School were unsanitary.
 20 Q. When you say you were concerned they were
 21 unsanitary, can you tell me what you mean by that?
 22 A. Well, I was concerned that -- you know, I've
 23 been in the bathrooms. The bathrooms at Balboa are not
 24 clean. A lot of the pipe work is old. There are some
 25 missing handles. The sinks are dirty. The walls are

1 dirty. I've heard reports that some of the bathroom
 2 stall doors are missing.
 3 Q. Do you mean anything else when you refer to
 4 the bathrooms as being unsanitary?
 5 A. Oh, I have also heard toilet paper would run
 6 out occasionally or regularly. I also heard there was
 7 no soap in a lot of the bathrooms and have experienced
 8 that myself.
 9 Q. Just so the record is clear, when you are
 10 referring to the bathrooms as being unsanitary, are you
 11 referring to one particular bathroom?
 12 A. No.
 13 Q. Are you referring to all of the bathrooms?
 14 A. Well, when I talk about my experience of the
 15 bathroom, I'm talking about the men's room. There are
 16 two boys' rooms that I regularly use at Balboa and a
 17 teachers' bathroom.
 18 Q. So just so I'm clear, when you are talking
 19 about the bathrooms being unsanitary, you are talking
 20 about those two bathrooms, the one boys' bathroom and
 21 the one faculty bathroom?
 22 A. When I'm talking about my experience in the
 23 bathrooms, yes.
 24 Q. Between those three bathrooms, is there any
 25 distinction between the level of how sanitary those

1 bathrooms are?
 2 A. Of course the teachers' bathroom is more
 3 sanitary than the students' bathrooms.
 4 Q. Let me first cover some of the things you
 5 described towards the end of that list. You said you
 6 had heard there were some stall doors missing from
 7 bathrooms at Balboa. Have you ever seen that yourself?
 8 A. No, because I had heard that from girls.
 9 Q. Do you recall who you heard that from?
 10 A. I recall several people mentioning it
 11 offhand.
 12 Q. Did you hear it from students or teachers?
 13 A. Students.
 14 Q. Do you recall which students?
 15 A. I recall Siniva mentioning the bathrooms. I
 16 recall a lot of my girls mentioning the bathrooms, so I
 17 don't want to specify just a few students.
 18 Q. Do you know whether these students were
 19 referring to a particular bathroom at Balboa that they
 20 used?
 21 A. I would speculate they are talking about one
 22 -- at least one bathroom in common.
 23 Q. Do you know whether they were referring to
 24 one bathroom or was it more than one?
 25 A. No.

1 Q. Do you have any understanding as to whether
 2 the stall doors that were missing ever got replaced?
 3 A. No.
 4 Q. You also said you heard that toilet paper
 5 ran out in the bathrooms. Did you ever experience that
 6 yourself?
 7 A. In the boys' room, no.
 8 Q. Is that something you heard from some of
 9 your female students?
 10 A. Male and female.
 11 Q. And do you recall the specifics of what you
 12 heard from them in that regard?
 13 A. Yes, I would hear there was no toilet paper
 14 and they couldn't rely on there being toilet paper.
 15 Q. Do you recall approximately how often you
 16 heard that?
 17 A. It was a regular occurrence. Maybe every
 18 couple of weeks, several students would mention that.
 19 Q. About how often did you use the boys'
 20 bathrooms?
 21 A. Maybe -- I primarily used the faculty men's
 22 room, but the boys' bathroom on more congested
 23 occasions, maybe once or twice a month.
 24 Q. You said you used two different boys'
 25 bathrooms. Is that once or twice a month for each one

1 of those bathrooms or is that total amounts?
 2 A. Total.
 3 Q. And over your two and a half years at
 4 Balboa, you don't recall any instances in which any of
 5 the boys' bathrooms you used were out of toilet paper?
 6 A. No, I wouldn't go to the bathroom to use the
 7 toilet paper thing, to perform that function.
 8 Q. Did you notice whether toilet paper was in
 9 the bathrooms when you were in those bathrooms?
 10 A. I didn't check for toilet paper when I
 11 didn't need it.
 12 Q. Did you ever use the boys' bathrooms when
 13 you needed toilet paper?
 14 A. No.
 15 Q. Just so I'm perfectly clear, I don't want to
 16 belabor this. I want to be clear. You don't know
 17 whether toilet paper was in the bathrooms on any
 18 occasion you used those bathrooms?
 19 A. Correct.
 20 MS. AUCHINCLOSS: Now that we have
 21 thoroughly ventured into your bathroom use.
 22 MR. ROSENTHAL: Q. Do you have any
 23 understanding as to who is responsible for cleaning the
 24 bathrooms at Balboa?
 25 A. The exact janitors' names, no.

1 Q. Are there janitors who are responsible for
 2 cleaning the bathrooms at Balboa?
 3 A. Yes.
 4 Q. Do you know how many janitors work at Balboa
 5 -- strike that.
 6 I'm focusing on your two and a half years
 7 there and I'm assuming, for purposes of my question,
 8 that the number of janitors remained constant. If that
 9 is not true, please let me know, but if you could tell
 10 me how many janitors worked at Balboa during the time
 11 you worked there.
 12 A. Sure. I don't know exactly how many
 13 nighttime janitors there were, so I don't want to give
 14 a guess or estimate for that.
 15 Q. Let's go over that very quickly, then.
 16 A. Sure.
 17 Q. Do you know whether night janitors came to
 18 Balboa?
 19 A. Yes, I knew janitors were working at Balboa
 20 during off school hours.
 21 Q. And do you know if they came on a daily
 22 basis?
 23 A. I believe so, yes.
 24 Q. Do you know if their responsibilities
 25 included cleaning the bathrooms?

1 A. I believe so.
 2 Q. And do you know whether their
 3 responsibilities included restocking the bathrooms with
 4 things like toilet paper?
 5 A. I would assume so, yes.
 6 Q. What is that based on?
 7 A. Based on what I would imagine the janitorial
 8 duties would be or include.
 9 Q. Has anybody ever told you those were part of
 10 their duties?
 11 A. Not specifically, no one has ever approached
 12 me and said, "The duties of the janitor are as follows."
 13 Q. Have you ever heard, for example, from the
 14 principal that janitors were cleaning the bathrooms at
 15 night?
 16 A. From the principal?
 17 Q. Or anybody in the administration.
 18 A. Oh, I knew there were or I've seen janitors
 19 come in after school and start sweeping who I hadn't
 20 seen during school hours.
 21 Q. Had you ever seen any of those janitors in
 22 the bathrooms?
 23 A. No.
 24 Q. Let's focus in on the janitors during the
 25 day. Were there day janitors at Balboa High School?

1 A. Yes.
 2 Q. Do you know how many there were?
 3 MS. AUCHINCLOSS: Vague as to time.
 4 Objection.
 5 MR. ROSENTHAL: Q. Over the entire time
 6 period. If it varied, you can let me know.
 7 A. Probably roughly two janitors during the
 8 day.
 9 Q. And did that remain -- were there two day
 10 janitors during the entire time you were at Balboa, to
 11 the best of your knowledge?
 12 A. To the best of my knowledge, yeah.
 13 Q. Do you know whether the responsibilities of
 14 the day janitors included cleaning the bathrooms at
 15 Balboa?
 16 A. I believe so.
 17 Q. Do you know whether their responsibilities
 18 included restocking the bathrooms with things like
 19 toilet paper when necessary?
 20 A. I believe so.
 21 Q. What is that belief based on?
 22 A. Again, it is what I imagine janitors do.
 23 Q. Have you ever seen the janitors fulfilling
 24 either one of those responsibilities at Balboa?
 25 A. Not specifically. I've seen janitors travel

1 with brooms and mops, but not with rolls of toilet
 2 paper or soap.
 3 Q. Did you ever have any conversations with
 4 anybody in the administration regarding what the
 5 responsibilities of janitors were?
 6 A. Regarding their responsibilities, no.
 7 Q. Did you have conversations with anybody in
 8 the administration about janitors in some other regard?
 9 A. That I can specifically remember, no.
 10 Q. Do you have a general recollection?
 11 A. Well, generally, I'm sure we've -- I'm sure
 12 I've had conversations with administrators saying some
 13 students don't use the bathroom in school.
 14 Q. Is it your understanding that the janitors
 15 at the school cleaned both the student bathrooms and
 16 the faculty bathrooms?
 17 A. I believe so.
 18 Q. Is it your belief that the janitors at
 19 Balboa restock both the student bathrooms and the
 20 faculty bathrooms?
 21 A. I'm sorry. Didn't you just ask that
 22 question?
 23 Q. That was clean. I think that is what I
 24 asked.
 25 A. Clean and restock.

1 Q. That was my intention.
 2 MS. AUCHINCLOSS: Are we talking about day
 3 janitors because he already said --
 4 MR. ROSENTHAL: We can try day janitors
 5 first and I can, to the extent it is different --
 6 THE WITNESS: I believe it is the duties of
 7 the day janitor to clean and restock the bathrooms.
 8 MR. ROSENTHAL: Q. Both the student
 9 bathrooms and the faculty?
 10 A. Both the student bathrooms and the faculty
 11 bathrooms.
 12 Q. Is that true for the night janitors as well?
 13 A. I would imagine so, yes.
 14 Q. Do you have any opinion as to how the
 15 janitors at Balboa have fulfilled their
 16 responsibilities with respect to cleaning and
 17 restocking the bathrooms?
 18 MS. AUCHINCLOSS: Objection. Vague as to
 19 "How."
 20 THE WITNESS: Can you specify that?
 21 MR. ROSENTHAL: Q. I'm trying to find out
 22 how well you think they did their job.
 23 A. There were a couple of occasions where there
 24 was no soap in the faculty bathroom or paper towels, so
 25 that happened. Of course, the bathrooms can't be

1 looked on at the same scale because the faculty
2 bathroom serves maybe -- you know, 40 faculty members
3 and the student bathrooms, there are hundreds of
4 students, so if I say that soap runs out at a 40-person
5 capacity bathroom, the scale is different for the
6 students' bathroom.

7 Q. You said that soap and paper towels ran out
8 a couple of times in the faculty bathroom. Can you
9 tell me about how often you remember that occurring?

10 A. Every couple weeks or so.

11 Q. Every couple of weeks you would notice the
12 faculty bathroom was without soap?

13 A. Yes.

14 Q. And every couple weeks you would notice the
15 faculty bathroom was without paper towels?

16 A. Correct.

17 Q. Do you remember the faculty bathroom being
18 without toilet paper?

19 A. No.

20 Q. On the occasions that you found the faculty
21 bathroom that you used to be without soap or paper
22 towels, did you notify anybody of that?

23 A. No.

24 Q. Do you recall ever using the faculty
25 bathroom in the early part of the day?

1 floor and one on the second floor.

2 Q. And you said you used two different -- that
3 you had been in or used, for some reason, two of the
4 boys' bathrooms at Balboa. Can you tell me where those
5 were located?

6 A. There is a boys' bathroom in every wing and
7 one in the auditorium.

8 Q. And which -- did you use more than two of
9 them? I thought you testified earlier that you used
10 two of the boys' bathrooms.

11 A. Well, regularly I would use the -- or
12 whatever, once or twice a month, I would use the boys'
13 bathroom in my wing and then the auditorium bathroom,
14 but there is another boys' bathroom in the other wing
15 that I didn't use.

16 Q. So just to clarify, there was a boys'
17 bathroom on the first floor where your classroom was
18 located during your first semester at Balboa?

19 A. Right.

20 Q. And then there was a boys' bathroom on the
21 second floor where you taught the remainder of your
22 time at Balboa?

23 A. Okay. On the first floor, my first year at
24 Balboa, I often used the faculty bathroom on the first
25 floor and I also often used the faculty bathroom on the

1 A. Yes.

2 Q. Do you ever remember those bathrooms being
3 without any supplies at that time?

4 A. Not that I can recall right now.

5 Q. The faculty bathroom that you used, did
6 you -- strike that.

7 During your time at Balboa, was the
8 classroom in which you taught always the same physical
9 classroom?

10 A. No.

11 Q. Was it always located in the same general
12 vicinity?

13 MS. AUCHINCLOSS: Objection. Vague as to
14 "General vicinity."

15 THE WITNESS: My first semester at Balboa, I
16 was on the first floor. My other two years at Balboa,
17 I was on the second floor.

18 MR. ROSENTHAL: Q. During that entire time
19 period, did you use the same faculty bathroom?

20 A. No.

21 Q. Can you tell me where -- did you use two
22 different faculty bathrooms?

23 A. Yes.

24 Q. Can you tell me where those were located?

25 A. There is a faculty bathroom on the first

1 second floor. Does that help you?

2 Q. Yes, but I'm trying to figure out which
3 boys' bathrooms you used during your time at Balboa, if
4 you could tell me which one of those you were using.

5 A. Okay. I'm getting my floors mixed up. Can
6 I specify the wings? One in my wing where I was
7 teaching and another in the auditorium, those were my
8 two primary student bathrooms that I've used.

9 Q. And when you are referring to your wing, you
10 are referring to the building in which your classroom
11 was for your entire time at Balboa?

12 A. Yes.

13 Q. Okay. And was the boys' student bathroom
14 located on the first floor or second floor of that
15 wing?

16 A. I believe it was the second floor.

17 Q. Okay. Do you recall having any
18 conversations with any janitor at Balboa about the
19 condition of any of the bathrooms at the school?

20 MS. AUCHINCLOSS: Objection. Lacks
21 foundation.

22 THE WITNESS: No.

23 MR. ROSENTHAL: Q. Do you recall having any
24 conversation with anybody in administration about the
25 condition of the bathrooms at Balboa other than what

1 you've already told me about?
 2 A. Specifically, no.
 3 Q. Did you ever complain to anybody about the
 4 condition of the bathrooms at Balboa other than in
 5 connection with this litigation?
 6 A. No.
 7 Q. In your declaration, do you recall raising
 8 any concerns about -- strike that.
 9 Couple more things to follow up on. In the
 10 faculty bathroom you used on the first floor, can you
 11 tell me how many sinks were located in that bathroom?
 12 A. I believe there was one sink.
 13 Q. And was there one soap dispenser in that
 14 bathroom?
 15 A. I believe so.
 16 Q. How about in the faculty bathroom on the
 17 second floor?
 18 A. Same.
 19 Q. Same layout basically?
 20 A. Same, one sink, one soap dispenser.
 21 Q. Did the amount of sinks and soap dispensers
 22 differ in the student bathrooms?
 23 A. Yes. Some of the student bathrooms have
 24 dual-faucet sinks, maybe one soap dispenser.
 25 Q. So there was still one soap dispenser in the

1 student bathrooms?
 2 A. There is at least one soap dispenser in the
 3 student bathrooms.
 4 Q. Do you remember there being more than one?
 5 A. Not offhand.
 6 Q. Is that true for both of the bathrooms?
 7 A. Yes.
 8 Q. Both of the student bathrooms?
 9 A. Yes.
 10 Q. Do you recall raising any concerns in your
 11 declaration about the sufficiency of the number of
 12 bathrooms available to students at Balboa?
 13 A. Yes.
 14 Q. Can you tell me what concerns you had in
 15 that regard?
 16 A. It was my concern that there weren't enough
 17 bathrooms for students.
 18 Q. When you say there weren't enough bathrooms
 19 for students, can you tell me what you mean by that?
 20 A. I meant like some bathrooms would be full,
 21 occupied, yes, just occupied and that there weren't
 22 other options at the school.
 23 Q. Can you tell me how many bathrooms were
 24 available to students at Balboa High School? I think
 25 you may have referenced this before, but I haven't

1 asked this specific before.
 2 A. Sure. For a student to use the bathroom at
 3 Balboa High School, they need an escort from a security
 4 person to go in and use the bathroom and that option
 5 also limited the availability of bathrooms because
 6 there is a limited number of security people available
 7 to escort students to use the bathroom.
 8 Q. Well, do you have an understanding as to how
 9 many student bathrooms are located on the -- in the
 10 facility constituting Balboa High School?
 11 A. That are unlocked, none. That are locked
 12 and available, that depends on the security guards.
 13 That are locked and unavailable immediately to the
 14 students, what did I say that are locked -- there are
 15 no bathrooms available for students immediately without
 16 supervision of an adult.
 17 Q. Can you tell me how many bathrooms are
 18 located at the school regardless of their status of
 19 being locked or not?
 20 A. Okay. I believe there are probably three
 21 boys' and three girls' bathrooms.
 22 Q. And again, you may have touched on this
 23 earlier, but can you tell me where those bathrooms are
 24 located?
 25 A. I think there is a boys' and a girls' in

1 every wing and there are two wings at Balboa. That is
 2 four and a boys' and girls' in the auditorium area.
 3 Q. Do you know whether there are any bathrooms
 4 available to students in the gym?
 5 A. Oh, I assume there is, yes.
 6 Q. Do you know that? I don't want you to
 7 assume if you don't know.
 8 A. I'm assuming, yes.
 9 Q. When you say you are assuming, what is that
 10 based on?
 11 A. I would imagine that there is a requirement
 12 that there be a bathroom in the gym.
 13 Q. Have you ever seen those bathrooms?
 14 A. I've never used the gym bathroom.
 15 Q. Have you ever heard they exist?
 16 A. No, I haven't seen -- I personally haven't
 17 seen the gym bathrooms.
 18 Q. I want to be clear. You don't know whether
 19 there are gym bathrooms or not?
 20 A. Yes, so it is possible there are gym
 21 bathrooms that I've never been to.
 22 Q. Okay. I just didn't want you to say
 23 something you didn't know to be true. That is all.
 24 A. Sure.
 25 Q. How about -- strike that.

1 I assume you've never been inside the girls'
2 bathrooms?

3 A. No.

4 Q. Then I won't ask you questions about them.
5 With respect to the three boys' bathrooms you've
6 identified, can you tell me the number of stalls
7 located in each of those bathrooms?

8 A. Sure. In the boys' bathrooms, I believe
9 there were two stalls, two toilets, one sink, one,
10 maybe two soap dispensers.

11 Q. Were there any urinals in those bathrooms,
12 the boy's bathrooms, to your knowledge?

13 A. That is what I meant by stalls, urinals, two
14 urinals, two toilets.

15 Q. Fine. Is that true for each of the three
16 boys' bathrooms you've identified?

17 A. Yes.

18 Q. Now, you mentioned earlier that in order to
19 use the bathrooms, students needed an escort by a
20 security guard?

21 A. Yes.

22 Q. Do you have any understanding as to why that
23 was the case?

24 A. I believe that it was to deter vandalism in
25 the bathroom.

1 A. Yes.

2 Q. Is that one of the bathrooms that you
3 identified out of the three or is there an additional
4 bathroom that you left out?

5 A. I believe that was kind of the auditorium
6 area bathroom, which is accessible to the quad.

7 Q. Just so I'm clear, the auditorium bathroom
8 was unlocked during lunch periods?

9 A. During lunch.

10 Q. Was it unlocked any other time?

11 A. Not that I know of.

12 Q. Did students require a security guard escort
13 to use the auditorium bathroom during their lunch
14 period?

15 A. No.

16 Q. If the bathrooms were unlocked and students
17 did not require a security guard escort to use the
18 bathrooms, would you have any concerns about the
19 sufficiency of the number of bathrooms at Balboa under
20 those circumstances?

21 A. Yes.

22 Q. What are your concerns in that regard?

23 A. My concern is the shortness of the lunch
24 period being in the vicinity of 40 minutes and, again,
25 the high volume of students who would want to use that.

1 Q. Was it the case that students needed an
2 escort to use the bathrooms for the entire time you
3 taught at Balboa?

4 A. Yes.

5 Q. Now, you said that you had concerns there
6 were not enough bathrooms for students to use. Is that
7 based on conversations you had with students in that
8 regard?

9 A. Yes, and just by the numbers.

10 Q. What do you mean when you say, "By the
11 numbers"?

12 A. Well, there were less than eight security
13 guards at any given time. There are 500 boys, 500
14 girls. Try to imagine eight security guards escorting
15 students to the bathroom when they weren't doing their
16 security tasks or when they were available to escort
17 the students to the bathroom, I think -- I mean, that
18 is one of my concerns.

19 Q. Did you disagree with the policy of having
20 security guards escort students to the bathroom?

21 A. I did.

22 Q. Do you know if students had any bathrooms
23 available to them during their lunch period?

24 A. I believe so, yes.

25 Q. And was that an unlocked bathroom?

1 Yes, that is my concern.

2 Q. If students were not limited during their
3 lunch period to just using the bathroom located in the
4 quad area and could use the other bathrooms, would you
5 have the same concern?

6 A. The students did not have access to the
7 other bathrooms during lunch, so they only had one
8 option.

9 Q. To alleviate your concerns in this regard,
10 if the policy at Balboa had been changed so that
11 students could use those other bathrooms, would you no
12 longer be concerned about the sufficiency of the number
13 of bathrooms?

14 MS. AUCHINCLOSS: Objection. Vague as to
15 time. During lunch or during the whole day?

16 THE WITNESS: I'm asking, during lunch?

17 MR. ROSENTHAL: Q. Is there a distinction
18 between the two in your mind?

19 A. No. If all of the bathrooms were open at
20 Balboa and students had free access to them all day
21 long, I think that would be okay. If all of the
22 bathrooms were open only during lunch, I would still
23 have a problem with the policy.

24 Q. You said you had some conversations with
25 students about the number of bathrooms available to

1 them. Do you recall the individual students who you
2 had such conversations with?

3 A. I recall having the conversation with --
4 well, a lot of students, generally speaking, but I can
5 recall a couple of specific students.

6 Q. Do you recall any of the -- I only need
7 those names, basically if you recall specific -- if you
8 have a specific recollection of what you discussed with
9 that individual student. Do you have any of those
10 kinds of recollections?

11 A. Sure. I recall a conversation with Vincent
12 Ng and Wendy Chan.

13 Q. Can you tell me what you recall from your
14 conversation with Vincent Ng?

15 A. I recall both of them generally saying that
16 they don't use the bathrooms at Balboa and that they
17 hold it until they get home.

18 Q. Did they tell you why they don't use the
19 bathrooms at Balboa?

20 A. They told me that they just found the
21 bathroom disgusting.

22 Q. Has it been your experience that the policy
23 of having security guards escort students to the
24 bathroom has deterred vandalism in the bathrooms?

25 A. I think that would require a comparison that

1 Medina.

2 I would like to turn your attention to a
3 different area. Before our lunch break, we were
4 discussing bathrooms.

5 Q. Do you recall raising any concerns you had
6 regarding the chemistry classes at Balboa High School?

7 A. Yes.

8 Q. Can you tell me what your concerns were in
9 that regard?

10 A. Several students had told me they had not
11 done a chemistry experiment in their chemistry class.

12 Q. And do you recall the individual students
13 who told you that?

14 A. By name, no.

15 Q. Do you recall how many students told you
16 that?

17 A. Several students, maybe a dozen or so.

18 Q. Were those students all in the same
19 chemistry class, to your knowledge?

20 A. No.

21 Q. So they had different chemistry teachers?
22 They were in different chemistry classes?

23 A. Or different chemistry periods, which is
24 more likely the case.

25 Q. Did you have these conversations during a

1 I'm not qualified to make because I wasn't there at a
2 time when security guards were not required to escort
3 students to the bathroom.

4 Q. In your opinion, during the time you were
5 there, was vandalism a problem in the bathrooms?

6 A. Yes. There was still vandalism in the
7 bathrooms.

8 Q. Do you know whether was it vandalism that
9 had occurred prior to your arrival at Balboa or was it
10 stuff that had been done during the time you were
11 there?

12 MS. AUCHINCLOSS: Objection. Compound.

13 THE WITNESS: There is bathrooms from before
14 and after, some old, some new vandalism in the
15 bathrooms.

16 MR. ROSENTHAL: Q. And the new vandalism,
17 is that limited to any particular bathroom or is it
18 not --

19 A. Generally speaking.

20 MR. ROSENTHAL: Do you want to take our
21 lunch break?

22 MS. AUCHINCLOSS: Yes.

23 MR. ROSENTHAL: Let's go off the record.

24 (Recess taken.)

25 MR. ROSENTHAL: Welcome back from lunch, Mr.

1 particular time period during your tenure at Balboa?

2 A. No.

3 Q. Do you know which classes students were
4 referring to when they said they hadn't done any
5 experiments in those chemistry classes? By which
6 classes, I mean the classes by who -- were those -- let
7 me try that again. If you understood that question,
8 you probably understood where I was going with it.
9 However, for a clear record, I'm trying to figure out
10 in which chemistry classes did students say they did
11 not conduct experiments.

12 MS. AUCHINCLOSS: By teacher name?

13 MR. ROSENTHAL: We can try it that way, if
14 that works best.

15 THE WITNESS: Sure. Actually, I don't
16 recall the chemistry teacher. It might have been Stan
17 DeBella. He also teaches physics, but I also recall
18 specifically some of my students, some of my seniors,
19 telling me that they had not done a chemistry
20 experiment that year.

21 MR. ROSENTHAL: Q. And what year were they
22 referring to?

23 A. '99/2000.

24 Q. Do you recall there being -- hearing that
25 any students had not done chemistry experiments in any

1 academic year prior to that year?
 2 A. No.
 3 Q. Is it your belief that Mr. DeBella was the
 4 chemistry teacher during the '99/2000 school year?
 5 A. I think for at least one of the periods.
 6 Q. Do you know how many chemistry periods were
 7 taught during the 1999/2000 academic school year?
 8 A. I -- I would imagine there were three or
 9 four classes of chemistry.
 10 Q. What is that based on?
 11 A. Just based on how the school is structured.
 12 Q. Did you ever see a master schedule, for
 13 example?
 14 A. No. Excuse me, may I add that I believe Mr.
 15 Wong also taught chemistry.
 16 Q. One period of chemistry?
 17 A. At least.
 18 Q. Any other teachers you can recall teaching
 19 chemistry during the '99/2000 academic year?
 20 A. Oh, sorry. Mr. -- here we go. It was not
 21 Mr. DeBella. It was Mr. Hanson and I did not list Mr.
 22 Hanson in the list of science teachers.
 23 Q. That was what I was going to go back to.
 24 You had listed four science teachers. Was he a fifth
 25 science teacher at Balboa?

1 A. Yes, he is a fifth science teacher.
 2 Q. Do you know Mr. Hanson's credential status?
 3 A. I believe he had prior teaching experience,
 4 although I think it was in junior high school or a
 5 grade other than high school.
 6 Q. Do you know whether he was a fully
 7 credentialed teacher?
 8 A. I believe he was.
 9 Q. Okay. Did you have any opinion as to
 10 whether he had command of the subject matter he was
 11 teaching?
 12 A. I have no way of -- I have no evidence for
 13 his command of the subject matter.
 14 Q. So you believe Mr. Wong was teaching at
 15 least one chemistry class and Mr. Hanson was also
 16 teaching at least one chemistry class?
 17 A. Yes.
 18 Q. Are there any other teachers you recall
 19 teaching chemistry classes at Balboa during the
 20 1999/2000 school year?
 21 A. No.
 22 Q. Just so the record is clear, do you -- as
 23 you sit here today, do you believe Mr. DeBella did not
 24 teach chemistry during that year?
 25 A. I believe Mr. DeBella did not teach

1 chemistry.
 2 Q. Now, with respect to the classes that
 3 students -- in which students told you that they had
 4 not conducted experiments, were they referring to Mr.
 5 Wong's class, to your knowledge?
 6 A. I believe it was Mr. Hanson's class they
 7 were referring to.
 8 Q. Do you have any knowledge with respect to
 9 whether chemistry experiments were being done in Mr.
 10 Wong's chemistry class?
 11 A. I would imagine not. I don't think so.
 12 Q. You have no knowledge in that regard?
 13 A. Well, I would say that I don't believe so
 14 because of his lack of teaching experience.
 15 Q. Did any students ever tell you that they
 16 were not conducting chemistry experiments in Mr. Wong's
 17 class?
 18 A. No.
 19 Q. So do you have any knowledge as to whether
 20 chemistry experiments were done in his class?
 21 A. I do not.
 22 Q. Can you tell me the substance of the
 23 conversations you had with students with respect to the
 24 lack of chemistry experiments in Mr. Hanson's class?
 25 A. Yes. I recall conversations with a couple

1 of my seniors who had Mr. Hanson's chemistry class and
 2 generally kind of complaining about the -- about how
 3 boring the class was.
 4 Q. Can't say I disagree with them. Do you
 5 recall what time -- at what point during the school
 6 year you had this conversation with them?
 7 A. Specifically, no.
 8 MS. AUCHINCLOSS: I'm sorry. I think we had
 9 conversations and conversation. That was conversation.
 10 Was there multiple conversation or was there one?
 11 THE WITNESS: There were multiple
 12 conversations with kids complaining about their
 13 classes.
 14 MR. ROSENTHAL: Q. How about conversations
 15 with respect to the specific issue of whether chemistry
 16 experiments were being done in Mr. Hanson's chemistry
 17 class?
 18 A. I'm sure there was at least one conversation
 19 where the students complained that no chemistry
 20 experiments were happening.
 21 Q. And in that, do you recall when that
 22 conversation or conversations took place?
 23 A. No, not specifically.
 24 Q. Did students tell you in those -- in that
 25 conversation or conversations that they had not done

1 any chemistry experiments at all in Mr. Hanson's
2 chemistry class?

3 A. That's correct.

4 Q. Do you know whether students in that class
5 went the entire academic year without doing chemistry
6 experiments?

7 A. I recall from my reaction believing that it
8 was very strange not to be doing chemistry experiments
9 in a chemistry class, so I would estimate it was late
10 or in the second half of the year that these
11 conversations took place.

12 Q. And what is that based on?

13 A. That is based on my personal reaction to the
14 information presented to me. Had I had this
15 conversation early in the year, then I would have
16 speculated that they would be doing experiments.

17 Q. And you don't recall having that reaction?

18 A. No.

19 Q. Do you know whether students conducted any
20 chemistry experiments in Mr. Hanson's class during the
21 entire academic year?

22 A. I believe not.

23 Q. And that is based on the conversations you
24 just described with the students?

25 A. Yes.

1 Q. Are you speculating when you say that or did
2 he point to specific types of science materials such as
3 test-tubes?

4 A. I've heard about the test-tubes being a
5 problem. It might not have been Mr. Hanson raising
6 that issue, but I had heard that from at least one
7 science teacher.

8 Q. Did Mr. Hanson ever tell you he had no
9 materials to conduct experiments in his chemistry
10 classes?

11 A. Because he had expressed dissatisfaction
12 with existing chemistry equipment, I would say that the
13 proper equipment was not available to him.

14 Q. Did he tell you that?

15 A. No. What he has told me, he has expressed
16 dissatisfaction with what existed.

17 Q. And that was -- can you describe for me the
18 dissatisfaction he described?

19 A. He described the age. He described some
20 missing pieces and that is it.

21 Q. Did Mr. Hanson ever tell you he was unable
22 to conduct experiments in his classes as a result of
23 the age and missing aspects of the equipment?

24 A. No.

25 Q. Did Mr. Hanson ever tell you that he had an

1 Q. Is it based on anything else?

2 A. Well, Mr. Hanson had told me that they had
3 very old equipment as well.

4 Q. Do you recall when Mr. Hanson told you that?

5 A. I don't recall.

6 Q. Did Mr. Hanson ever tell you that he did not
7 conduct any chemistry experiments in his classes?

8 A. He did not tell me, no.

9 Q. Did you ever discuss the issue with him?

10 A. No.

11 Q. How about after you heard from students that
12 they were not conducting chemistry experiments in that
13 class, did you raise that issue with Mr. Hanson at any
14 time?

15 A. I did not raise that issue with Mr. Hanson.

16 Q. When Mr. Hanson said he had old equipment,
17 do you know what he was referring to?

18 A. Excuse me? Do I know what?

19 Q. What he was referring to by old equipment
20 when he said the term "Old equipment"?

21 A. I believe he was in the process of cleaning
22 out some closet in the science department, that there
23 was really just old equipment there. I imagine he is
24 talking about like incomplete test-tube sets or
25 materials like that.

1 insufficient supply of equipment to conduct
2 experiments?

3 A. Yes. Isn't that expressed in his
4 dissatisfaction?

5 Q. Is that another aspect of his
6 dissatisfaction that he expressed to you?

7 A. Yes.

8 Q. Just to clarify, you had said before he was
9 dissatisfied because of the age of the equipment and
10 because there were missing aspects of certain things.

11 A. Yes.

12 Q. I'm wondering if there was an insufficient
13 supply.

14 MS. AUCHINCLOSS: I think -- maybe I'm
15 wrong. I think what you were saying, because they were
16 old, there wasn't enough. Is that what you are saying?

17 THE WITNESS: I'm saying he said they were
18 old, that the materials are old and that there were
19 missing pieces and I don't understand how missing
20 pieces and inadequate supply are different and you seem
21 to be making a distinction.

22 MR. ROSENTHAL: Q. And perhaps that is
23 unclear. I apologize and I can try to explain. For
24 example, if a test-tube set was supposed to have, just
25 for argument's sake, five test-tubes and he had 30

1 sets, but -- you know, ten of the sets were missing one
 2 of the test-tubes. He may have -- he has -- the way I
 3 was using the term, he has a sufficient supply to use
 4 for the class, but there were a certain number of them
 5 that were incomplete. Do you understand that
 6 distinction?
 7 A. Yes, I understand that distinction.
 8 Q. Okay. Did he ever tell you he did not have
 9 enough supplies -- did he ever tell you he did not have
 10 enough equipment to conduct experiments with his class?
 11 A. No.
 12 Q. Other than your conversations with the
 13 students and Mr. Hanson, do you have any other
 14 knowledge regarding the availability of supplies to
 15 conduct science experiments at Balboa?
 16 A. I don't.
 17 Q. Do you recall raising any concerns in your
 18 declaration regarding the lack of classroom supplies
 19 that were available to you as a teacher?
 20 A. Yes.
 21 Q. Can you describe for me the concerns you had
 22 in that regard?
 23 A. In that regard, I was lacking basic
 24 materials like chalk, protractors, compasses. I had to
 25 make copies. Basic supplies were missing.

1 Q. Can you describe for me the procedures by
 2 which teachers were given classroom supplies to use in
 3 their class at Balboa?
 4 MS. AUCHINCLOSS: Objection. Lacks
 5 foundation.
 6 MR. ROSENTHAL: Strike that. Let me ask the
 7 foundational question.
 8 Q. As a teacher at Balboa, were you given
 9 classroom supplies at any time?
 10 A. Yes.
 11 Q. Can you describe for me the procedures
 12 involved with -- strike that.
 13 Can you describe for me how you received
 14 classroom supplies at Balboa?
 15 A. From the school?
 16 Q. Right.
 17 A. Or just generally?
 18 Q. The supplies that were provided to you by
 19 the school.
 20 A. Okay. There is a supply room which teachers
 21 are supposed to go to and ask the clerk for certain
 22 supplies.
 23 Q. Were there any supplies given to teachers at
 24 the outset of the school year?
 25 A. At the outset of the school year, I went

1 down to the supply room and asked for some materials.
 2 Q. Was it your understanding that that was the
 3 procedure that teachers generally followed?
 4 A. Yes.
 5 Q. Can you tell me where the supply room at
 6 Balboa is located?
 7 A. It is in the basement.
 8 Q. You said there was a clerk who you dealt
 9 with when you attempted to get supplies from the supply
 10 room.
 11 A. Yes.
 12 Q. Can you tell me who that individual was?
 13 A. That was Carmen Corteza.
 14 Q. I believe we talked about her some during
 15 your first day of testimony. Did she also -- is this
 16 the same individual who had responsibility with respect
 17 to textbooks in the way we described last time?
 18 A. Yes, that is right.
 19 Q. Again, just trying to get a sense of how you
 20 would get supplies at the outset of a school year. You
 21 said you would go down to the supply room and attempt
 22 to get supplies from Ms. Corteza; is that right?
 23 A. That's correct.
 24 Q. Can you tell me what you did? Can you
 25 describe for me the interaction you had with Ms.

1 Corteza in an attempt to get supplies?
 2 A. In the beginning of the school year?
 3 Q. Right.
 4 A. Ms. Corteza and I have a cordial
 5 relationship. I'm sure I asked for supplies and I'm
 6 sure she handed them to me. That is it.
 7 Q. Would you fill out any sort of paperwork to
 8 get the -- obtain the supplies or request the supplies?
 9 A. Sometimes, yes.
 10 Q. Was there a form at the supply room that you
 11 would fill out?
 12 A. For making copies, there was a form, but the
 13 process was sporadic and sometimes there were forms and
 14 sometimes there were not.
 15 Q. Were those forms just for getting copies
 16 made?
 17 A. No.
 18 Q. Can you tell me what else there were forms
 19 for in connection with the supply room?
 20 A. I recall at least one incident where I had
 21 to sign out for getting erasers or something like that.
 22 Q. Do you recall ever having to fill out a form
 23 to obtain supplies at the start of a school year?
 24 A. I don't recall specifically.
 25 Q. When you went to Ms. Corteza at the

1 beginning of the school year -- strike that.
 2 At the start of 1998/'99 academic school
 3 year and at the start of the '99/2000 academic year,
 4 did you go to Ms. Corteza on both instances to obtain
 5 supplies prior to the start of the school year?
 6 A. Yes.
 7 Q. Do you recall what supplies you attempted to
 8 obtain from her?
 9 A. Generally at the outset of a school year, I
 10 would try to get erasers, chalk, paper, if she had it.
 11 I think that is about it.
 12 Q. At the beginning of the school year when you
 13 asked for those materials, were you ever able -- not
 14 able to get those materials?
 15 A. At the outset of a school year?
 16 Q. Right.
 17 A. No. Generally at the outset of the school
 18 year, I had enough.
 19 Q. Do you ever recall any instances at the
 20 beginning of a school year where you were not able to
 21 obtain those materials?
 22 A. Those materials, no.
 23 Q. Were there periods of time during the school
 24 year where you were unable to obtain the supplies you
 25 wanted from Ms. Corteza?

1 A. Yes.
 2 Q. And can you -- do you recall specific
 3 examples of that?
 4 A. Yes.
 5 Q. Can you give me an example?
 6 A. Sure. I recall having or I recall going to
 7 the supply room and there not being Kleenex or tissue
 8 for my classroom, overhead projector pens, chalk.
 9 Q. And these were all requests you made at
 10 points after the beginning of the school year?
 11 A. Yes.
 12 Q. When you were unable to obtain those
 13 materials from Ms. Corteza at that time, did Ms.
 14 Corteza say she would do anything about that?
 15 A. She would just tell me they were coming in
 16 later at some indefinite point of time.
 17 Q. Did you eventually get those materials from
 18 Ms. Corteza?
 19 A. Not always or not necessarily in a good
 20 amount of time. If I'm not -- if I wasn't able to get
 21 them from Ms. Corteza, I would obtain them myself
 22 because I was more reliable.
 23 Q. When you say you would obtain them yourself,
 24 you mean you purchased them yourself?
 25 A. I purchased them myself.

1 Q. Did you ever attempt to get reimbursed for
 2 any of the money you spent for supplies you were unable
 3 to obtain from Ms. Corteza at the time you wanted them?
 4 A. No.
 5 Q. Do you ever recall any instances in which
 6 you were told that the supplies you wanted could not be
 7 obtained?
 8 A. No.
 9 Q. Do you recall raising any concerns in your
 10 declaration regarding the scheduling of classes at
 11 Balboa?
 12 A. Yes.
 13 Q. Can you tell me the concerns you had in that
 14 regard?
 15 A. My concern was that in previous years,
 16 students were able to take eight classes in an academic
 17 year and due to budgetary cuts, they were then only
 18 able to take six classes in an academic year.
 19 Q. When you say in previous years that students
 20 could take eight classes, can you tell me what years
 21 you are referring to?
 22 A. I'm referring to the years prior to the
 23 '99/2000 school year.
 24 Q. So for your first approximately year and a
 25 half at Balboa, students were able to take eight

1 classes per year?
 2 A. And the year before that, yes.
 3 Q. Right. So during your first semester there,
 4 the spring of '98?
 5 A. Right.
 6 Q. And the entire '98/'99 academic year?
 7 A. That's right.
 8 Q. Which is roughly a year and a half?
 9 A. And the '96/'97 year.
 10 Q. And you were not teaching at the school at
 11 that time?
 12 A. And I was not teaching at the time.
 13 Q. Do you know what the class schedule was like
 14 at Balboa prior to the '96/'97 school year?
 15 MS. AUCHINCLOSS: Objection. Vague as to
 16 "Like."
 17 THE WITNESS: Can you specify that?
 18 MR. ROSENTHAL: Q. Do you know whether
 19 students were able to take eight class per year prior
 20 to the '96/'97 academic year?
 21 A. I believe so.
 22 Q. What was that based on?
 23 A. Just conversations with students, teachers.
 24 Q. I just wasn't sure because you specified the
 25 prior year, there were eight classes available, but it

1 was not just the prior year. It was longer than that?

2 A. Say that again. Which prior year? Prior to
3 my working at Balboa?

4 Q. You specifically identified the '96/'97 year
5 as a year in which students were also able to take
6 eight classes.

7 A. Right.

8 Q. And I wasn't sure if you were limiting it to
9 that year or you wanted to include years before that as
10 well.

11 A. Oh, I just don't have prior knowledge of
12 years before '96/'97.

13 Q. That is where your knowledge ends?

14 A. Yes.

15 Q. Got you. Thank you. Now, you said that one
16 of the reasons that the class schedule was changed from
17 eight classes to six per year prior to the start of the
18 '99/2000 school year was what you called budget cuts.
19 Can you tell me what you mean by that?

20 A. Yes. I believe at the end of the '99 school
21 year, we were no longer receiving the same funding, so
22 we were not able to provide more classes.

23 Q. Can you tell me what funding you are
24 referring to?

25 A. Funding from the district.

1 '98?

2 A. Yes.

3 Q. And also true for the academic year '98/'99?

4 A. That's right.

5 Q. During the 1999/2000 school year, you said
6 that students could take six classes per year; is that
7 right?

8 A. That's right.

9 Q. Can you tell me how long students met in
10 those classes on a given day?

11 MS. AUCHINCLOSS: I'm sorry. This is for
12 '99/2000?

13 MR. ROSENTHAL: Right, the year there were
14 six classes.

15 MS. AUCHINCLOSS: Okay.

16 THE WITNESS: Sorry. I'm thinking about a
17 lot of different class schedules that were proposed and
18 enacted. In the '99/2000 school year when a student
19 had to visit all six of his or her classes, the class
20 periods, I believe, were less than an hour, some
21 strange number like 52 minutes.

22 MR. ROSENTHAL: Q. And did students take
23 classes during the '99/2000 school year on a semester
24 basis or were those full-year classes?

25 A. Those were full-year courses.

1 Q. Are you aware of whether this was
2 specialized funding that enabled Balboa to increase the
3 number of classes available to it for a limited period
4 of time?

5 A. I believe that the funding was only for a
6 three-year period or some -- yeah, right, some limited
7 amount of time.

8 Q. Was it your understanding that the funding
9 -- the three-year period the funding had been provided
10 ran out prior to the start of the '99/2000 school year?

11 A. Correct.

12 Q. During the period of time in which students
13 were able to take eight classes per year, can you
14 describe for me how long each class period was?

15 A. In the course of a day or the course of a
16 year?

17 Q. In a given day.

18 A. In a given day, the classes were, I believe,
19 90 minutes, so students were -- in a given day would
20 take four classes for 90 minutes.

21 Q. And they would do that for the fall semester
22 and then take four classes in the spring for a
23 90-minute teach?

24 A. That's correct.

25 Q. And was that true for the spring semester of

1 Q. And just so we're clear, in the '98/'99
2 academic year, those were semester courses?

3 A. Right.

4 Q. So the -- for example, if a student started
5 a class in the fall of 1998, they would finish that
6 class by winter break?

7 A. That's correct.

8 MS. AUCHINCLOSS: Wait. Sorry. Now you
9 lost me. When you went down to the six classes, it
10 wasn't three and three? Three in the fall and three in
11 the spring?

12 THE WITNESS: No.

13 MR. ROSENTHAL: That would be a short day.

14 MS. AUCHINCLOSS: Well, you lost me. So
15 they were doing how many classes a day?

16 THE WITNESS: Which year?

17 MS. AUCHINCLOSS: In the '99/2000 year.

18 THE WITNESS: Six.

19 MS. AUCHINCLOSS: Six classes a day?

20 THE WITNESS: Six classes a day.

21 MS. AUCHINCLOSS: That went the full year as
22 opposed to four in a semester?

23 THE WITNESS: Right.

24 MS. AUCHINCLOSS: Okay. Sorry. Thank you.

25 MR. ROSENTHAL: Q. Just to clarify, did

1 students during the '99/2000 school year have all six
2 classes every day of the week?

3 A. No.

4 Q. I know this sounds like it gets complicated.

5 A. Right.

6 Q. But to the best you can, can you please
7 describe for me how the process worked as far as how
8 frequently those six classes met during a typical week?

9 A. Right. Three days out of the five days a
10 week, the students saw all of their classes and then
11 two days a week, they saw three of their classes, so I
12 think, if memory serves me right, I think it was
13 Tuesday and Thursday. Like Tuesday, they would see
14 their odd-numbered classes and Thursday, they would see
15 their even-numbered classes.

16 Q. Just to clarify, assuming, for example, that
17 you are right, that the days in which students had only
18 three classes were Tuesdays and Thursdays, can you tell
19 me what the class day -- when the class day began on a
20 Tuesday and when the class day ended?

21 A. It was still 8:00 to 3:00, 8:00 in the
22 morning to 3:00 in the afternoon, so those classes were
23 really long at an hour and 50 minutes.

24 Q. So those classes met for double sessions or
25 triple sessions? I'm trying to understand how it

1 Q. How about from a teacher's perspective?

2 A. From the teacher's perspective, I wanted to
3 keep -- I wanted to see the students again the
4 following semester, but I liked it more because there
5 was more planning time.

6 MS. AUCHINCLOSS: "It" being which one?

7 THE WITNESS: The four by four, excuse me,
8 the eight-class period -- actually, on the whole, I
9 liked the eight class -- eight-class year. We should
10 give a name for it. I liked the eight-class year
11 better than the six-class year because the students
12 take less courses so they have more time to concentrate
13 on the course I was teaching instead of having to think
14 about six classes. On any given homework night,
15 students only had to think about four classes which
16 allowed more quality time for my class.

17 MR. ROSENTHAL: Q. Did you ever hear that
18 other teachers preferred the, what I'll call the
19 six-class schedule that was in effect during the
20 1999/2000 school year?

21 A. I'm sure some teachers preferred the
22 six-class year.

23 Q. Did you ever hear any reasons for why
24 teachers preferred that?

25 A. I think some teachers would prefer that

1 worked because you said classes typically met for
2 something like 52 minutes.

3 A. Right.

4 Q. On Tuesdays and Thursdays, did they meet for
5 a longer period of time?

6 A. Yes.

7 Q. Do you recall how long each class would meet
8 for on those days?

9 A. It was about one hour and 50 minutes.

10 Q. One hour and 15 minutes or one hour and 50?

11 A. 50, 5-0.

12 Q. Approximately 110 minutes?

13 A. Yes, that's right.

14 Q. Did you ever hear that -- strike that.

15 Did you have any opinion as to whether as a
16 teacher you preferred the schedule that was in place
17 during the 1998/'99 academic year versus the schedule
18 that was in place during the 1999/2000 school year?

19 A. You are asking me which I preferred?

20 Q. Your personal opinion, if you had a
21 preference.

22 A. Right. From the student perspective, it was
23 preferable to go with the -- we called it the four by
24 four where they took eight classes in a year because
25 they had opportunity to take more classes.

1 because it keeps the student for a longer period of
2 time, meaning the whole year.

3 Q. And had you heard that from particular
4 teachers?

5 A. I can't recall specific names, but it was an
6 idea that was out there.

7 Q. Do you have any understanding as to which
8 form of the scheduling provided more instructional
9 minutes per class over the course of an entire course?

10 A. If you are asking me to add 90 minutes over
11 one semester versus, whatever, 50 minutes every day for
12 a full year, I believe there is more instructional time
13 under the six-class day. However, because of the
14 transitions -- in and out transition time, there are
15 more transitions in a six-period day than a four-period
16 day, so there is -- I mean, in a given period, there
17 are the first five minutes and the last five minutes of
18 class, so I think the total time in a year can be
19 misleading.

20 Q. By the transition periods, you are referring
21 to the time in between classes?

22 A. Right, the time -- not just the time between
23 classes, but the first five minutes of class itself
24 where the student has to pack up or unpack.

25 Q. I'm sorry. Were you finished?

1 A. Yes, go ahead.
 2 Q. And on Tuesdays and Thursdays during the
 3 six-class schedule, the amount of transition time was
 4 less even compared to the four schedule -- the
 5 four-course schedule?
 6 A. The transition time in a given day because
 7 there were only three classes?
 8 Q. Right.
 9 A. Yes; that's correct.
 10 Q. Do you recall raising any concerns in your
 11 declaration about the administration at Balboa not
 12 reviewing your performance on a regular basis?
 13 A. Yes.
 14 Q. Can you tell me the concerns you had in that
 15 regard?
 16 A. In my years at Balboa High School, I was
 17 only formally reviewed once.
 18 Q. Can you tell me what you mean when you say
 19 "Formally reviewed"?
 20 A. Sure. Formal review to me is an
 21 administrator or colleague coming in with their
 22 evaluation sheet in which they would look at my class
 23 through formal lenses such as management, content,
 24 other things of that nature, and they could comment on
 25 my performance as a teacher and what the students are

1 Q. And what has changed your view over time?
 2 A. I think the way -- well, my
 3 teacher-credentialing program right now that is in
 4 process has changed my view of what a good formal
 5 review is.
 6 Q. Having now changed your view of what a good
 7 formal review is, can you tell me what aspects of the
 8 review that Ms. Gray gave you at the time were, in your
 9 opinion, missing?
 10 A. I believe that classroom management was
 11 missing in the review. I believe that the content --
 12 there was no formal review of where the content sat
 13 within the district standards or there wasn't -- I
 14 don't recall a serious knowledge link between what she
 15 had observed and what I was doing.
 16 Q. Just so I understand, when you say there was
 17 no knowledge link between what she saw and what you
 18 were doing in the classroom, can you tell me what you
 19 mean by that?
 20 A. I don't recall there being a discussion
 21 about whether or not the actual content being provided
 22 to the students was particularly important or at the
 23 core of what the curriculum is supposed to be.
 24 Q. Do you recall, in your formal review with
 25 Ms. Gray, any discussion about the contents of the

1 doing during that period.
 2 Q. Do you recall when the one formal review
 3 that you recall occurred?
 4 A. Yes, it was sometime during the '99/2000
 5 school year.
 6 Q. And do you recall who conducted that formal
 7 review?
 8 A. It was the principal Patricia Gray.
 9 Q. Did you receive any feedback as a result of
 10 that review?
 11 A. I did.
 12 Q. Was that in a written form?
 13 A. She gave me a copy of what she had written
 14 down during that formal evaluation and we went over the
 15 document.
 16 Q. So she also provided you with oral feedback?
 17 A. Yes.
 18 Q. And do you remember the substance of the
 19 conversation you had with Ms. Gray at that time?
 20 A. I believe Ms. Gray was very pleased with
 21 what had gone on in my classroom.
 22 Q. Were you satisfied with the level of detail
 23 that Ms. Gray provided to you in the review?
 24 A. At the time, yes. Retrospect, it could have
 25 been more detailed.

1 lesson that she observed?
 2 A. No.
 3 Q. Do you recall in the -- in your formal
 4 review by Ms. Gray any discussion of classroom
 5 management?
 6 A. No.
 7 Q. Did you raise any concerns that you had with
 8 Ms. Gray about classroom management during your review?
 9 A. No, because I didn't have the tools to even
 10 think about asking the right questions at the time.
 11 Q. In retrospect, did you have classroom
 12 management issues in that class that you would have
 13 raised with her?
 14 A. Yes.
 15 Q. Can you give me an example?
 16 A. I would have raised a level of engagement as
 17 a classroom management issue. I would have raised how
 18 much time did I spend talking as a teacher versus how
 19 much time were the students talking about the content
 20 being presented. I would have raised my space issue.
 21 I would have raised how much time I was spending at the
 22 board versus how much time I was actually helping
 23 students. I think that is it in terms of management.
 24 I would have asked how I was using praise in the
 25 classroom, how I was using assertive discipline.

1 Q. You said in your review with Ms. Gray she
2 was pleased with what was going on in your classroom.
3 Do you recall any of the specifics of what she told you
4 during this process?

5 A. To the best of my knowledge, I recall her
6 commenting that I had a good rapport with the students
7 and that I present information well.

8 Q. Anything else you recall about the specifics
9 of her review of your performance?

10 A. That is my top two recollections.

11 Q. Do you recall how long you met with Ms. Gray
12 in connection with this formal review?

13 A. After her observation?

14 Q. Right.

15 A. Maybe 15 minutes at best.

16 Q. And how much time did Ms. Gray spend in your
17 class in connection with this formal review?

18 A. She spent the majority of the period or she
19 came in about ten or 15 minutes late into the class.

20 Q. And remained until the end of the class
21 period?

22 A. That's right.

23 Q. Do you recall whether it was during one of
24 the 50-minute periods or one of the roughly 100-minute
25 periods?

1 do you recall the department head of the math
2 department ever observing your teaching in the
3 classroom?

4 A. No.

5 Q. Just so the record is clear, is Mr. Wu the
6 department head?

7 A. That's right.

8 Q. Was that true for the entire time you were
9 at Balboa?

10 A. That's correct.

11 Q. Did you ever receive any reviews from Mr.
12 Wu, informal or formal?

13 A. No.

14 Q. Did you ever have any understanding as to
15 whether Mr. Wu had any responsibility with respect to
16 reviewing you?

17 A. I believe so. I believe it was his
18 responsibility to review all of the math teachers.

19 Q. What is that based on?

20 A. I think that is just based on what the role
21 of the department head should be.

22 Q. Did he ever tell you that was part of his
23 job?

24 A. No.

25 Q. Has anybody ever told you that was part of

1 A. I think it was during one of the 50-minute
2 periods.

3 Q. Aside from having the sort of formal review
4 that you described, were you ever informally reviewed
5 by any administrator at Balboa?

6 A. No. I would say administrators came and
7 went maybe to drop off a piece of paper, ask me to sign
8 something, but no significant time for review.

9 Q. Do you recall ever being -- strike that.

10 Do you recall any administrator coming into
11 your classroom for any other purpose other than
12 dropping off a piece of paper or for the one instance
13 of the formal review that we've described?

14 A. There was no instance of an administrator
15 coming into my classroom to help improve my teaching.

16 Q. Just so we're not speaking past each other,
17 were there other instances in which administrators came
18 into your classroom aside from the two reasons you
19 mentioned earlier, dropping off a piece of paper and
20 that one formal review?

21 A. No.

22 Q. You don't recall any other administrators
23 ever coming to your class to observe your performance?

24 A. No.

25 Q. Putting aside the administration at Balboa,

1 his job?

2 A. Not specifically.

3 Q. Was it your understanding that it was the
4 responsibility of members of the administration at
5 Balboa to observe and review teachers at the school?

6 A. That's right.

7 Q. Can you tell me where that understanding
8 comes from?

9 A. I just knew that -- I had heard from other
10 teachers and just in conversation that administrators
11 do observe teachers.

12 Q. Did you have any understanding as to whether
13 that was being done on any sort of regular basis?

14 A. Regular basis, no.

15 Q. Do you know whether teachers were supposed
16 to be observed by the administration annually?

17 A. I believe so.

18 Q. Can you tell me what that is based on?

19 A. You know, I really can't.

20 Q. Did you ever see that in a written document,
21 for example?

22 A. No.

23 Q. Did you ever hear that from another teacher?

24 A. That --

25 Q. Teachers were supposed to be reviewed by the

1 administration on an annual basis.
 2 A. Yes.
 3 Q. Do you recall who you heard that from?
 4 A. No.
 5 Q. Do you recall ever hearing that from any of
 6 the administration?
 7 A. No -- well, excuse me. Yes.
 8 Q. Do you recall who you heard it from?
 9 A. Yeah, there was a time when the assistant
 10 principal Gilbert Chung said he would review me.
 11 Q. Do you recall when that was?
 12 A. Sometime -- no, I don't.
 13 Q. Can you limit it to academic year or you are
 14 not able to do that?
 15 A. It was either the '98/'99 or '99/2000 school
 16 year.
 17 Q. Did Mr. Chung ever review you?
 18 A. No.
 19 Q. Do you have any understanding as to why that
 20 didn't happen?
 21 A. No, I don't.
 22 Q. Do you know whether, instead of Mr. Chung
 23 reviewing you, Ms. Gray did?
 24 A. I'm sorry. Say that again.
 25 Q. Do you know whether, instead of Mr. Chung

1 reviewing you, Ms. Gray reviewed you instead?
 2 A. I don't know that it was an instead clause.
 3 Q. When you had this conversation with Mr.
 4 Chung, was it prior to your review by Ms. Gray?
 5 A. Yes.
 6 Q. You said that during this conversation, you
 7 were told that teachers were to be reviewed on an
 8 annual basis. Can you tell me what Mr. Chung said in
 9 that regard during this conversation?
 10 A. I think in -- I believe in a passing
 11 conversation, Mr. Chung said I'm going to do your
 12 annual review.
 13 Q. Did you ever raise with -- why don't we
 14 start with Ms. Gray, the fact that you had not been
 15 reviewed prior to -- you had not been formally reviewed
 16 prior to the instance in 1999/2000 academic school
 17 year? Did you ever raise that issue with her?
 18 A. She was not the principal in the '99/2000
 19 school year -- excuse me. I'm sorry. She was not the
 20 principal before the 1999/2000 school year.
 21 Q. Was it your -- just so I'm clear, was it
 22 your understanding that only the principal was
 23 responsible for conducting reviews of teachers?
 24 A. It has been my understanding that an
 25 assistant principal or someone from the administration,

1 not necessarily just the principal, would perform the
 2 formal review.
 3 Q. And prior to the 1999/2000 school year, was
 4 Ms. Gray an assistant principal at Balboa?
 5 A. She was.
 6 Q. So did you ever raise the issue with her
 7 that you had never been reviewed prior to the 1999/2000
 8 school year?
 9 A. To Ms. Gray, no.
 10 Q. Did you ever raise that with any other
 11 member of the administration at any time?
 12 A. I did not.
 13 MR. ROSENTHAL: Okay. Can we go off for a
 14 second for a restroom break?
 15 (Recess taken.)
 16 MR. ROSENTHAL: Q. Mr. Medina, during your
 17 first day of testimony, we spent some time talking
 18 about the textbook problems you experienced in your
 19 classes. In your declaration, do you recall raising
 20 any concerns about any problems regarding textbooks in
 21 math classes other than yours?
 22 A. In my declaration?
 23 Q. Right.
 24 A. Yes.
 25 Q. Can you tell me the concerns you had in that

1 regard?
 2 A. I was concerned that there were not enough
 3 new geometry books for the students.
 4 Q. When you say you were concerned there
 5 weren't enough new geometry books for the students, can
 6 you tell me what you mean by that?
 7 A. I'm referring to a book called Discovering
 8 Geometry by Michael Serra that I thought was an
 9 excellent book. I knew there weren't enough to serve
 10 all of the geometry students at Balboa.
 11 Q. Do you know how many of those books were
 12 available on the Balboa campus?
 13 A. What I recall is that another -- a class of
 14 geometry could not use those books.
 15 Q. Can you estimate for me how many -- strike
 16 that.
 17 When you say that there weren't enough for a
 18 class to use the books, do you mean there weren't
 19 enough copies of the books so each student could have
 20 their own copy during class time?
 21 A. Correct.
 22 Q. Do you have an estimate as to how many of
 23 the books were available at Balboa?
 24 A. No.
 25 Q. Was that a book that was used during the

1 entire time you taught at Balboa?
 2 A. I believe so, yes.
 3 Q. Do you know whether this -- the Discovering
 4 Geometry book was a book that had been adopted for use
 5 by the San Francisco Unified School District?
 6 A. I believe so.
 7 Q. Were there other geometry books that were
 8 being used at Balboa besides that book?
 9 A. Yes.
 10 Q. Do you recall what other books were being
 11 used?
 12 A. I'll just call it the orange geometry book.
 13 Q. By that, you are referring to the color of
 14 the book cover?
 15 A. That's right.
 16 Q. Were there enough copies of the orange
 17 geometry book so that each student could have their own
 18 copy of the book in class?
 19 A. There are not enough copies for all the
 20 geometry students to use the orange book, but for the
 21 shortage of Discovering Geometry books, there were
 22 enough orange geometry books to fill that need.
 23 Q. Do you know how many orange geometry books
 24 were available on the Balboa campus?
 25 A. I do not know.

1 Q. Was it more or less than one class set, to
 2 the extent you know?
 3 A. More than one class set.
 4 Q. Over the time that you taught at Balboa, can
 5 you tell me how many geometry classes were taught at
 6 one time? Do you understand the question?
 7 A. Say that again.
 8 Q. I'm trying to figure out how many class sets
 9 would be needed -- how many class sets of the geometry
 10 books would be needed at Balboa over the time you
 11 taught. For example, if there was only one geometry
 12 class being taught during one particular semester, the
 13 school only needed one set of geometry books, so if you
 14 can tell me how many class sets of books would have
 15 been needed over the time you taught there.
 16 A. I would estimate that there would be ten
 17 class sets of geometry books needed to fill the demand.
 18 Q. So between the Discovering Geometry books
 19 and the orange geometry books, were there ten class
 20 sets of those books?
 21 A. Yes.
 22 Q. With the overwhelming majority being the
 23 orange geometry books?
 24 A. No, the majority being the Discovering
 25 Geometry books.

1 Q. Now you lost me. I thought there was less
 2 than one class set of those books available at the
 3 school.
 4 A. Okay. Let's clarify for the estimate of
 5 ten. Let's say there are ten geometry classes, ten
 6 periods of geometry for a given year. The majority of
 7 those classes would be using the Discovering Geometry
 8 textbooks and maybe three of the ten classes would be
 9 using the orange books.
 10 Q. So for the classes using the Discovering
 11 Geometry textbooks, students were -- I'm not trying to
 12 put words in your mouth. Well, I'll ask that question.
 13 Were students able to take those books home with them
 14 when they used those books?
 15 A. I believe so, yes.
 16 Q. Maybe I'm still not following, then. Was
 17 there more than one class set of those books available?
 18 A. Yes.
 19 Q. Do you understand my confusion?
 20 A. I don't understand your -- when you say one
 21 class set, are you talking about one class, like 30
 22 books?
 23 Q. Right.
 24 MS. AUCHINCLOSS: Was there one book for
 25 every student or was there enough books for every

1 student but only in class? So if there were ten
 2 periods, all the students use the same 30 books over
 3 and over and over?
 4 THE WITNESS: Right. That is a good --
 5 okay. I believe there -- yes, I believe students were
 6 generally able to take the Discovering Geometry book
 7 home, so that would imply there is more than one class
 8 set.
 9 MR. ROSENTHAL: Q. Can you tell me what the
 10 basis is for your concern that there were not enough
 11 Discovering Geometry books at Balboa?
 12 A. I knew that -- I knew that some classes had
 13 to use the orange book and I really liked the
 14 Discovering Geometry book and I think the orange book
 15 is a really inferior to the Discovering Geometry book.
 16 Q. Did you ever hear there were particular
 17 teachers who wanted to use the Discovering Geometry
 18 book but were unable to?
 19 A. I believe Ms. Leonida. I believe she wanted
 20 to use the Discovering Geometry books, but was unable
 21 to.
 22 Q. Do you recall there being any other teachers
 23 who wanted to use the Discovering Geometry books, but
 24 were not able to?
 25 A. Maybe one session of Brian Tucker's class.

1 Q. Did Mr. Tucker use the Discovering Geometry
2 books for his sessions generally?
3 A. Yes.
4 Q. Are you aware that he had one session in
5 which he did not use those books?
6 A. That's right.
7 Q. Did you ever teach geometry at Balboa?
8 A. Yes.
9 Q. Which book did you use?
10 A. I used the Discovering Geometry book.
11 Q. Do you know why there were not enough
12 Discovering Geometry books to go around for all the
13 classes that wanted to use those?
14 MS. AUCHINCLOSS: Objection. Calls for
15 speculation.
16 MR. ROSENTHAL: Q. To the extent you know.
17 A. No, I'm not sure why there were not enough
18 Discovering Geometry books for the school.
19 Q. Had you ever heard any reasons in any
20 conversations with anybody at the school?
21 A. No.
22 Q. Did you ever raise the issue with the math
23 department head?
24 A. No, because I didn't teach many sections of
25 geometry and I had the books I needed.

1 Q. Did you ever raise the issue with anybody in
2 the administration?
3 A. No.
4 Q. Did you ever hear that teachers had tried to
5 get additional copies of the Discovering Geometry book
6 ordered, but were not able to do so?
7 A. No.
8 Q. Other than the concern you've identified
9 regarding the geometry books, did you have any other
10 concerns about there not being enough books in
11 connection with any other math classes at Balboa
12 outside of yours and what you've just told me about?
13 A. No.
14 MR. ROSENTHAL: Why don't we mark this as
15 the next exhibit, which I believe is Exhibit No. 2.
16
17 (Whereupon, Defendant's Exhibit 2 was marked
18 for identification.)
19 MR. ROSENTHAL: Q. I'm going to ask you to
20 take a look at that document and let me know if you
21 recognize it. Take as long as you need to look at it.
22 A. I'm looking at my declaration made on
23 September 2000.
24 MS. AUCHINCLOSS: Take the time if you want
25 to review it now.

1 THE WITNESS: Okay.
2 MR. ROSENTHAL: Q. Have you had a chance to
3 look that over?
4 A. A little bit, yes.
5 Q. If you could turn to the third page, is that
6 your signature on the third page?
7 A. That's right.
8 Q. And is this the declaration that we've
9 referred to a couple of times during your deposition
10 over the past -- this session and the prior session we
11 had?
12 A. That's correct.
13 Q. As you look over your declaration, is there
14 anything contained in this declaration which appears to
15 you to be inaccurate as of the date you signed it,
16 which appears to be September 1st, 2000? And again,
17 feel free to take as long as you need to look that
18 over.
19 A. I feel this is accurate.
20 Q. I'm going to take you through some of the
21 paragraphs to clarify a few points based on your
22 testimony today and our prior session. There are
23 probably a few areas that we haven't covered as well
24 that may require some additional questions.
25 A. Sure.

1 Q. Why don't we take it in order and we'll
2 start with paragraph three. In that paragraph, you
3 talk about the advanced algebra books in the classes
4 that you taught which we covered largely during your
5 first day of testimony. Are those the books you were
6 referring to in that paragraph?
7 A. Yes.
8 Q. Towards the end of the paragraph on line
9 ten, you say, quote, "Without a template for procedure,
10 it is hard to learn, especially at home, so it's better
11 for kids to have books."
12 Can you describe for me what you meant by
13 the phrase "Template for procedure"?
14 A. I meant that some books or that students --
15 it would be an advantage just for students to have a
16 reference point of knowledge for the work that they
17 were trying to do at home, so I meant that the
18 textbooks should be a resource for a student when they
19 are trying to do their homework.
20 Q. Do you recall any student ever telling you
21 that they had difficulty learning in class as a result
22 of not being able to take their book home?
23 MS. AUCHINCLOSS: Learning in class?
24 MR. ROSENTHAL: Q. Learning from the class.
25 A. I found that students often didn't do their

1 homework because of this difficulty and I would often
2 spend the beginning parts of periods going over what
3 they had not done at home.

4 Q. It is your belief that students didn't do
5 the homework because they didn't have the textbooks to
6 take home with them?

7 A. Correct.

8 Q. And can you tell me what the basis for that
9 belief is?

10 A. Just based on students telling me that they
11 were not able to do it because they did not understand
12 what the homework was.

13 Q. Do you ever make any efforts to give
14 students photocopies of materials to take home with
15 them that would assist them in doing the homework you
16 assigned?

17 MS. AUCHINCLOSS: Objection. Asked and
18 answered. And this was thoroughly covered in the first
19 day, so I would object to the copying line of
20 questions. You can answer this question, but we're not
21 going to go back through the whole thing.

22 THE WITNESS: Okay. Assuming we're not
23 going to go through this whole thing again, yes, some
24 attempts were made; some were successful and some were
25 not.

1 an older edition?

2 A. Well, what I think what I really wanted to
3 say is that the orange book is a lot older than the
4 Discovering Geometry book. I had the orange book
5 myself in high school, like ten years before the
6 students at Balboa.

7 Q. On line 14 of the first page, which is also
8 in paragraph four, you talk about teachers not having
9 enough copies of the -- I guess it really carries over
10 from 12 to 14. I don't want to mischaracterize it.
11 You talk about teachers not having enough copies of the
12 current editions of the book to give the kids to take
13 home for homework. Didn't you testify earlier that
14 many of the classes were able to take those new
15 versions home?

16 A. Correct.

17 Q. Do you know how many classes -- strike that.

18 Let's move on to paragraph five in your
19 declaration. It is a little bit longer, so if you want
20 to refresh your recollection and read it quickly, that
21 is fine.

22 A. Go ahead.

23 Q. That one deals with the experience and
24 credential status of teachers at Balboa and we spent
25 some time discussing that today as well. Again, just

1 MR. ROSENTHAL: Q. And when you were able
2 to do so, did students complete their homework on those
3 occasions?

4 A. Sometimes it would improve homework return.

5 Q. So when you were referring to, just, again,
6 to clarify this phrase, "Template for procedure," you
7 were referring to the content that was contained in the
8 textbooks, not necessarily the textbooks themselves?

9 A. Yes.

10 Q. I'll ask you to take a look at paragraph
11 four in your declaration. That is a topic we were just
12 talking about which was the lack of books or as you
13 say, your quote, "Missing books in other math classes."

14 You say that, quote, "Other teachers had to
15 resort to older editions to the books because they
16 didn't have enough current editions to use in class."

17 Are you referring to the geometry books in
18 this paragraph?

19 A. Yes.

20 Q. Do you know whether the orange edition of
21 the geometry book was a prior edition of the same book?

22 A. No. I would say that -- well, it is a
23 wholly different book.

24 Q. So when you included the statement in your
25 declaration, you were incorrect in saying that it was

1 to focus in on line 17 where you talk about the number
2 of math teachers who have completed their teaching
3 credentials, when you use the term, "Teaching
4 credentials" there, can you tell me what you are
5 referring to?

6 A. I mean full teaching credentials and not
7 their emergency teaching credentials, meaning that
8 those teachers had enough course work after
9 undergraduate study to complete a teaching credential.

10 Q. In the sentence that follows, you talk about
11 the high number of uncredentialed teachers in the rest
12 of the departments at the school. Earlier you
13 testified that the science department had a high
14 percentage of teachers without their full credentials.
15 Were there any other departments that you had these
16 concerns about?

17 A. A lot of -- I wouldn't break it down
18 departmentally because I don't know the -- hang on a
19 second. A lot of people I knew and interacted with and
20 were friends with at Balboa were uncredentialed
21 teachers which was a large majority of the staff, a
22 large chunk of the staff, excuse me.

23 Q. Do you have any understanding as to the
24 total number of uncredentialed teachers who taught at
25 Balboa?

1 A. At the time, I think a safe estimate would
2 be least -- at least 30 percent uncredentialed.

3 Q. When you say, "At the time," you are
4 referring to as of the end of the '99/2000 school year?

5 A. Yes.

6 Q. At that time, do you recall how many
7 teachers were teaching at Balboa?

8 A. That year, I believe there were roughly -- I
9 would estimate 70; that's right.

10 Q. Just doing the math, does this seem accurate
11 to you, approximately 21 of the teachers at Balboa
12 during the '99/2000 school year were teachers without
13 their full teaching credentials?

14 A. At least.

15 Q. In paragraph five, on line 19, you state
16 that "Balboa students aren't getting experts in front
17 of them."

18 A. That's correct.

19 Q. Can you tell me what you meant by that?

20 A. When I say, "Experts," I mean adults who
21 have had postgraduate work in education.

22 Q. In the final line of paragraph five, you use
23 a phrase there, "Survival mode." Just so the record is
24 clear, let me read the sentence as it is written here.
25 You state that "Teachers are just in what we call

1 day they taught the class?

2 MS. AUCHINCLOSS: Objection to the form of
3 the question. It mischaracterizes his testimony. If
4 you can ask him a question, I'm sure he can explain
5 what he meant.

6 THE WITNESS: Can you repeat your question?

7 MR. ROSENTHAL: Q. Why don't you tell me
8 what you meant by that.

9 A. By teaching day to day?

10 Q. That phrase, right.

11 A. I meant that teachers were maybe planning
12 for the following day at best.

13 Q. Do you know whether any teachers planned any
14 further advanced than one day?

15 A. I'm sure some did because they didn't have
16 that granularity with other teachers.

17 Q. Paragraph six, you identify the difficulties
18 associated with enrolling in a teacher credential
19 program. You are currently enrolled in a teacher
20 credential program at Stanford?

21 A. Yes, I am.

22 Q. I would like you to take a look at paragraph
23 seven now which carries over between the first and
24 second page. You spent some time -- in this paragraph,
25 you talk about the classes at Balboa without a

1 'survival mode,' just teaching day to day."

2 Can you tell me what you meant by the phrase
3 "Survival mode"?

4 A. I meant that teachers weren't planning far
5 ahead curricularly in terms of what was going to happen
6 in the classroom. We weren't planning for more than --
7 well, I would say a good plan should cover -- should
8 have a six-week horizon in detail and a good plan
9 should have a one-year sketch of what the year would
10 look like. When I said "Survival mode," I meant
11 teachers didn't have a far horizon in the planning and
12 they were teaching day to day.

13 Q. Do you know whether all teachers without
14 their full credentials teaching at Balboa were not
15 planning that far ahead?

16 A. I knew that a large, large number of
17 teachers were not planning far ahead.

18 Q. Were you personally doing this sort of
19 planning you just described?

20 A. Yes, I was not planning very far ahead
21 during my tenure at Balboa.

22 Q. In the last part of that sentence, which I
23 just read into the record, you said teachers were
24 teaching day to day. Did you mean to imply there that
25 teachers were not creating lesson plans prior to the

1 permanent teacher and we spent some time talking about
2 that today and you identify specifically a Spanish
3 class here in which the teacher left during the fall.
4 Is that the same class that you testified about earlier
5 today?

6 A. That's correct.

7 Q. Let's take a look at paragraph eight. That
8 deals with the number of teachers who have left Balboa
9 over a period of time and we spent some time talking
10 about that as well today. In that paragraph, you say
11 you spoke to eight juniors. Does that refresh your
12 recollection that the individuals you spoke to were all
13 juniors?

14 A. Yes.

15 Q. And in looking at that, does that refresh
16 your recollection as to when that conversation occurred
17 during the school year?

18 A. It does.

19 Q. Do you recall it occurring in May of 2000?

20 A. Yes.

21 Q. Last two sentences contained in paragraph
22 eight deal with what the students told you how they
23 felt as a result of the teacher turnover. Can you tell
24 me what they told you in that regard?

25 A. As it says in the declaration, they did tell

1 me they feel very rejected when teachers leave. They
2 also missed a lot of the teachers who had left and they
3 felt bad because they didn't feel like they were enough
4 of a reason to stay in teaching or to stay at Balboa.

5 Q. Can you take a look at paragraph nine which
6 deals with the showing of noncontent-specific -- well,
7 that is the term we used today. Paragraph nine deals
8 with the showing of movies in class. When we talked
9 about the noncontent-specific movies that were shown at
10 school today, is that what you were referring to in
11 paragraph nine?

12 A. That's correct.

13 Q. In paragraph nine, you say, in the roughly
14 second half of the paragraph, that on occasion, he
15 would have to -- let me quote it directly. "Sometimes
16 he would step out of the classroom to do tech work and
17 put on movies like Ants or some other movie for the
18 class to watch."

19 Do you recall that occurring on certain
20 occasions? I believe prior -- earlier today, you
21 testified that on occasions when he was called out, he
22 would ask you to watch the class. Do you recall him
23 putting on movies when he left class on occasion as
24 well?

25 A. On occasion -- I mean, there were occasions

1 think that mischaracterizes his prior testimony. The
2 frequency that we discussed before was how many times
3 he had shown a movie in class, whether or not he was
4 present.

5 THE WITNESS: When I say three times a
6 month, that also includes times where it would be a
7 ten-minute stint with no movie involved where I would
8 just come in and look at his class for ten minutes or
9 half an hour or longer.

10 MR. ROSENTHAL: Thank you for clarifying.

11 Q. Moving on to paragraph ten, that deals with
12 the condition of the bathrooms at Balboa which we've
13 also spent some time on. You identify the drains being
14 clogged in the bathrooms. That is something we really
15 didn't discuss. Can you tell me a little bit about
16 that?

17 A. Sure. There were occasions when I have been
18 to the boys' bathrooms and the drains were clogged and
19 maybe had an inch of water.

20 Q. When you are referring to the drains being
21 clogged, are you referring to the toilets, the sinks,
22 or --

23 A. Sinks.

24 Q. Okay. Do you recall how frequently that
25 occurred?

1 where he would leave or a movie had already been in
2 progress before he would leave, so it wasn't
3 necessarily a reaction to his departure.

4 Q. Do you know whether in those instances he
5 had put the movie on because he knew he would have to
6 leave the class?

7 A. No.

8 Q. You don't know one way or the other?

9 A. Well, sometimes -- I mean, there had to
10 be -- there was at least one occasion where he left and
11 put a movie on or there were also occasions where a
12 movie was on and then he left.

13 Q. And do you know whether there were any
14 instances in which he put on a movie because he knew he
15 had to leave the class?

16 A. Yes.

17 Q. There were instances like that?

18 A. Yes.

19 Q. And the final sentence of paragraph nine,
20 you say, "He had to step out approximately three times
21 a month to do tech work."

22 You had testified earlier that it was a
23 somewhat less frequent occurrence. Does this refresh
24 your recollection as to what the correct frequency was?

25 MS. AUCHINCLOSS: And I would object. I

1 A. No.

2 Q. Did you ever notify anybody that the sinks
3 in the bathroom were clogged so they could get
4 repaired?

5 A. No.

6 Q. Do you know whether the clogged drains were
7 ever fixed?

8 A. I don't know.

9 Q. Did you ever return to those bathrooms at a
10 later time and see they were no longer clogged?

11 A. Of course, but I would return weeks later.

12 Q. Would they still be clogged at that time?

13 A. No.

14 Q. In the middle of paragraph ten, you talk
15 about stall doors being broken or not existent.
16 Earlier you said that you were not aware of any
17 instances in which there were nonexistent stall doors
18 in any of the boys' bathrooms; isn't that correct?

19 A. That's correct.

20 Q. Were you solely referring to the girls'
21 bathrooms here?

22 A. Yes.

23 Q. That is based on conversations you had with
24 students who used the girls' bathrooms?

25 A. That's correct.

1 Q. In that next sentence in paragraph ten, you
2 talk about there not being enough bathrooms for all the
3 students. We talked about that earlier today. In that
4 instance, are you referring to the situation at Balboa
5 where the bathrooms are locked and students need a
6 security guard escort to access the bathrooms?

7 A. Yes.

8 Q. Were you referring to anything else in that
9 sentence?

10 A. No.

11 Q. Paragraph 11 deals with the chemistry
12 classes at Balboa and we talked about that earlier
13 today. Is the chemistry class you are referring to in
14 paragraph 11 the chemistry class -- the chemistry class
15 taught by Mr. Hanson?

16 A. Yes.

17 Q. You were not referring to Mr. Wong's
18 chemistry class in this paragraph, were you?

19 A. No.

20 Q. In the second half of paragraph 11, you say
21 that the chemistry classes, quote, "Weren't stocked
22 with supplies so they couldn't do experiments."

23 Earlier you testified that Mr. Hanson had
24 what you called "Old equipment"; is that right?

25 A. Yes.

1 MR. ROSENTHAL: Q. -- to conduct chemistry
2 experiments?

3 MS. AUCHINCLOSS: Same objections and asked
4 and answered.

5 THE WITNESS: If you are going to say there
6 are no -- wait. Your question was, are you meaning to
7 say that there weren't any materials --

8 MR. ROSENTHAL: Right.

9 THE WITNESS: -- to conduct experiments?

10 MR. ROSENTHAL: Right.

11 THE WITNESS: That is vague. I mean --

12 MR. ROSENTHAL: Q. Didn't Mr. Hanson
13 indicate to you he, in fact, did have equipment, but he
14 was dissatisfied with it?

15 A. Yes.

16 Q. If you can look at paragraph 12, that deals
17 with the classroom supply issues that we talked about
18 earlier today. Did you ever attempt to obtain the
19 materials identified in this paragraph from Ms.
20 Corteza?

21 A. Yes.

22 Q. And how did she respond to your request for
23 these items?

24 A. Well, looking at the list in my declaration,
25 I've asked for paper and chalk from Ms. Corteza, but

1 Q. So do you think it is accurate to say they
2 weren't stocked with supplies?

3 A. Yes.

4 Q. Can you tell me why you think that is
5 accurate?

6 A. Well, Mr. Hanson expressed dissatisfaction
7 with the existing equipment or nonexistent equipment
8 and the students were saying that they weren't doing
9 experiments. I think the implication is that there
10 weren't enough supplies to do the experiments.

11 Q. Did you mean to say in paragraph 11 that
12 there weren't any supplies available to do chemistry
13 experiments?

14 MS. AUCHINCLOSS: Objection.
15 Mischaracterizes testimony. Argumentative. He just
16 explained what he meant by the sentence.

17 MR. ROSENTHAL: You can answer.

18 MS. AUCHINCLOSS: If you have anything to
19 add.

20 THE WITNESS: Yeah, I don't have anything to
21 add to that.

22 MR. ROSENTHAL: Q. In that second sentence,
23 did you mean to say there weren't any supplies at
24 Balboa --

25 MS. AUCHINCLOSS: Same objections.

1 I've also asked for rulers, protractors, and batteries
2 from my department and in both instances, there have
3 been occasions where they would say that these items
4 are not available.

5 Q. Now, just to clarify so I'm completely on
6 the same page with you, was there a distinction that
7 you made with respect to certain supplies as to who you
8 would ask for them?

9 A. Yes.

10 Q. Can you describe for me the distinction you
11 made?

12 A. Sure. I would ask for math-type supplies
13 from the department head, Cheng Wu, and for other more
14 basic supplies from Carmen Corteza.

15 Q. Great. Now, we described earlier what your
16 typical practice was as far as obtaining supplies from
17 Ms. Corteza. Can you tell me what your practice was
18 with respect to obtaining these sort of math-type
19 supplies?

20 A. Sure. There is a math closet in which books
21 and materials exist and/or I would ask Cheng Wu who
22 also had a closet of supplies for anything I needed.

23 Q. Was the math closet accessible by all math
24 teachers at Balboa?

25 A. Yes.

1 Q. Was there anybody who was responsible for
2 ensuring that that supply closet was supplied?
3 A. No.
4 Q. Did you obtain materials from that math
5 closet at the beginning of the school year along the
6 lines that you obtained other supplies from Ms.
7 Corteza?
8 A. I went in there, but I didn't obtain any
9 supplies.
10 Q. And you are talking about the beginning of
11 the school year?
12 A. Yes.
13 Q. Did you obtain any supplies from that closet
14 at the beginning of the school year?
15 A. At the beginning of the school year? None
16 that I recall.
17 Q. Do you recall what supplies were in the
18 supply closet at the beginning of the school year?
19 A. The math supply closet?
20 Q. Right.
21 A. There were some old books in there. There's
22 some stop watches with no batteries. It is pretty ugly
23 in there.
24 Q. Did you undertake any efforts to have
25 additional math supplies purchased by the school?

1 A. Yes.
2 Q. Can you tell me what efforts you undertook?
3 A. I asked Cheng Wu for things like rulers,
4 protractors, compasses.
5 Q. Was it your understanding that Mr. Wu had
6 the authority to purchase those items?
7 A. Yes.
8 Q. Did he, in fact, purchase those items?
9 A. No.
10 Q. Do you have an understanding as to why he
11 did not?
12 A. No.
13 Q. If you can take a look at paragraph 13,
14 which also carries over from page 2 to page 3, and that
15 deals with the change in the course scheduling at
16 Balboa High School that we talked about earlier today.
17 In the second and third sentence -- I'm sorry, the
18 second and third lines of that paragraph, lines 24 and
19 25, which is the second sentence, you talk about -- you
20 say, quote, "The year before last and for the three
21 years before it, we had a block schedule that allowed
22 students to take eight classes per year."
23 I think earlier you testified it was for a
24 three-year period and I think this seems to indicate a
25 four-year period. Does that refresh your recollection

1 as to which of those two statements is accurate?
2 A. I think the four-year period is more
3 accurate.
4 Q. Okay. Now on page 3, still in paragraph 13,
5 towards the end of that paragraph, you talk about the
6 difficulties you believe students will have in taking
7 the courses they need to prepare for college because of
8 the change in the scheduling at Balboa. Can you
9 describe for me your concerns in that regard?
10 A. I was concerned that students who had not
11 performed academically well in their first year, first
12 two years at Balboa, needed to take a full load of
13 eight classes the rest of their years in order to
14 graduate. However, with the change in scheduling, it
15 wasn't possible to take a full eight classes per year
16 to graduate and that it would interfere with that
17 possibility.
18 Q. Just to clarify, when you say they needed
19 to -- it would be difficult for them to graduate, I'm
20 not trying to put words in your mouth, but do you mean
21 to say to graduate within a certain number of years?
22 A. Yes, within four years.
23 Q. If a student failed a certain number of
24 courses and was not able to graduate after four years
25 as a result of that because they didn't obtain enough

1 credit, do you have any opinion as to whether a student
2 like that should graduate at that time?
3 A. Are you asking me should a student graduate
4 with insufficient credits?
5 Q. Right.
6 A. No.
7 Q. And in your opinion, should a student
8 graduate who doesn't have sufficient credits because
9 they had failed a number of courses?
10 MS. AUCHINCLOSS: Can you read the question?
11 THE WITNESS: Can you repeat that?
12 MR. ROSENTHAL: Q. Is it your opinion that
13 a student should graduate from Balboa who has
14 insufficient credits as a result of having failed a
15 number of courses?
16 A. How is that question different from the last
17 question you asked me?
18 Q. Is your response the same?
19 MS. AUCHINCLOSS: Not if he doesn't
20 understand the question.
21 MR. ROSENTHAL: He didn't indicate that.
22 MS. AUCHINCLOSS: Do you understand the
23 question?
24 THE WITNESS: If you -- okay. In fear of
25 getting one of the two questions misstated or getting

1 my answer misstated, I'll just say, I believe that if a
2 student does not have enough credits, meaning that he
3 or she has an insufficient number of credits, they
4 should not graduate from Balboa High School.

5 MR. ROSENTHAL: Q. Finally, I'm going to
6 ask you to take a look at paragraph 14 in your
7 declaration. That deals with the administration
8 reviewing your performance at Balboa, which we talked
9 about earlier today. The one time you were referring
10 to in the first line of paragraph 14, is that the one
11 formal review that we discussed earlier with -- that
12 you had with Ms. Gray?

13 A. Yes.

14 Q. You go on to say that it would -- I'll quote
15 this. "It would help me" -- strike that.

16 You go on to say, quote, "It would help me a
17 lot to be visited and then reviewed afterward on my
18 teaching."

19 Can you -- did the review you had with Ms.
20 Gray -- the formal review you had with Ms. Gray help
21 you with your teaching?

22 A. It was helpful, but it was not as helpful as
23 it could have been.

24 Q. Can you tell me how it was helpful?

25 A. It was helpful in that she made me feel good

1 A. No, I haven't been -- no, not to my
2 knowledge.

3 Q. Okay. Now, we talked a little bit earlier
4 about some of the supplies you tried to obtain from
5 either the supply room or from the math supply closet.
6 Did you ever try to obtain calculators?

7 A. Yes.

8 Q. Did you have any difficulty obtaining those?

9 A. I was able to get almost a class set of
10 calculators.

11 Q. And do you recall when -- strike that.

12 Were those available to you throughout the
13 entire time you taught at Balboa?

14 A. Oh, no.

15 Q. Do you recall when you obtained what you've
16 described as almost a class set of calculators?

17 A. What year was that? They weren't available
18 to me my first semester at Balboa, but I believe the
19 early part of the following year, they were available.

20 Q. Did you request the calculator to be
21 provided to you for use in your class?

22 A. Yes.

23 Q. Who did you make that request to?

24 A. To Cheng Wu.

25 Q. When you said you had almost a class set of

1 about my teaching and so it lifted my spirits, but it
2 was not that helpful in that it did not help augment or
3 improve my practice.

4 Q. If you had had more reviews by Ms. Gray or
5 other members of the administration along the lines of
6 the review you had, would those reviews have helped you
7 in the areas that you have identified?

8 A. If I'm going to be reviewed, it should be a
9 good review, so more good reviews would help me
10 professionally.

11 MR. ROSENTHAL: Okay. If we could take a
12 break, I'll review my notes and come back and clean up
13 any areas I have and then turn it over to you.

14 MS. AUCHINCLOSS: Sounds good.

15 MR. ROSENTHAL: Let's go off the record.

16 (Recess taken.)

17 MR. ROSENTHAL: Q. Okay. Mr. Medina, I
18 just have a few more questions for you. First of all,
19 with respect to bathrooms, do you know whether there
20 are any bathrooms in the basement at Balboa High
21 School?

22 A. No, I'm not sure if there are bathrooms in
23 the basement.

24 Q. And do you know if there are any bathrooms
25 next to the clinic on the Balboa campus?

1 calculators, do you remember how many you had?

2 A. Like low 20s.

3 Q. So you didn't have enough for each student
4 in your class?

5 A. No.

6 Q. Did you make any requests to have more
7 calculators ordered as a result of the shortage you
8 experienced?

9 A. Well, I made -- well, let me see, there were
10 shortages across other classes and the shortage was
11 evenly spread out.

12 Q. Was Mr. Wu aware of that?

13 A. Yes.

14 Q. Did you tell him you wanted to obtain
15 additional calculators?

16 A. Yeah, he knew I wanted more calculators.

17 MR. ROSENTHAL: I am going to ask to mark
18 this as the next exhibit, which I believe is Exhibit
19 No. 3.

20 And just so Counsel knows, they are not
21 numerically paginated Bates stamps. I've removed the
22 relevant pages so I didn't have to attach the entire
23 document that was produced.

24 MS. AUCHINCLOSS: Are they all part of the
25 same document?

1 MR. ROSENTHAL: Yes, they were one document.
2 But to avoid killing a forest, I took out the relevant
3 pages. If you have any objection, I can get the full
4 document so you can see what it looks like.

5 MS. AUCHINCLOSS: I would kind of rather see
6 the full document. Do you have it here?

7 MR. ROSENTHAL: I have it up in my office.
8 Why don't we go off the record.

9 (Recess taken.)

10
11 (Whereupon, Defendant's Exhibit 3 was marked
12 for identification.)

13 MR. ROSENTHAL: First I want to state that I
14 think these documents were actually stand-alone
15 documents that happened to be kept together in one file
16 as they were produced by the San Francisco Unified
17 School District.

18 Q. Mr. Medina, I would ask you to take a look
19 at what has been marked as Exhibit 3, which consists of
20 five pages bearing the Bates stamps SFUSD-0020, 0021,
21 0024, 0032, and 0034. Mr. Medina, have you ever seen a
22 document that -- have you ever seen a document in this
23 format?

24 A. No, I haven't.

25 Q. Do you recognize any of these documents?

1 A. I have.

2 Q. Those were the calculators that were
3 provided to you in your class?

4 A. No.

5 Q. Have you ever received such calculators
6 while teaching at Balboa at any time?

7 A. I've never received TI-89s in my time at
8 Balboa High School.

9 Q. What kind of calculators did you receive at
10 Balboa?

11 A. I received the TI-82.

12 Q. Do you know whether these calculators
13 indicated on this document were received by Balboa High
14 School at any time?

15 A. These TI-89s?

16 Q. Right.

17 A. Oh, late in the year, '99/2000, we
18 discovered that we did have these calculators in the
19 school.

20 Q. When you say, "We discovered," who are you
21 referring to?

22 A. The other math teachers, including myself.

23 MS. AUCHINCLOSS: Late in the year? Late in
24 the calendar year or the school year?

25 THE WITNESS: I'm sorry, late academic year

1 A. They look like order forms.

2 Q. If you look at the bottom left of the first
3 three pages, do you recognize the signature on the
4 bottom left of those pages?

5 A. Yes.

6 Q. Can you tell me whose signature that is?

7 A. That is Patricia Gray's, our principal for
8 that year.

9 Q. In the final two pages, there appears to be
10 a different signature. Do you recognize that
11 signature?

12 A. I do.

13 Q. And can you tell me whose signature that
14 was?

15 A. Those were the signatures of the principal
16 at the time Elaine Corey.

17 Q. Let me just ask one question: Have you ever
18 used a textbook entitled, "Integrated Mathematics"
19 while teaching at Balboa?

20 A. No.

21 Q. Okay. Let me ask you to look at the first
22 page. It is a document which reads, "Requisition for
23 Purchase Order," and it identifies in the first line
24 there something called TI-89 graphing calculator. Have
25 you ever heard of a TI-89 graphing calculator?

1 '99/2000.

2 MR. ROSENTHAL: Q. Let me ask you to look
3 at the second page of this document. Actually, strike
4 that.

5 Can you go back to the first page for one
6 second? I apologize.

7 A. Sure.

8 Q. Next to Ms. Gray's signature, can you make
9 out the date that it appears to be signed?

10 A. It appears to be signed 7-1-99.

11 Q. And there seems to be a handwritten note in
12 the middle of the page. Do you recognize the
13 handwriting of that individual?

14 A. I'm sorry. Handwritten note? Okay. I do
15 not recognize that handwriting.

16 Q. Does there appear to be a date there as
17 well?

18 A. Yes.

19 Q. Can you make out the date that is indicated?

20 MS. AUCHINCLOSS: I'm going to object. The
21 document does speak for itself. If you can read it,
22 that is fine. The document speaks for itself and that
23 is what we're going to go with.

24 The witness: It says, "7-26-99."

25 MR. ROSENTHAL: Q. Great. Now you can turn

1 to the second page, please.
 2 A. Okay.
 3 Q. This document is -- appears to also be a
 4 similar document to the prior document, except there
 5 are different items indicated in the lines. This
 6 document indicates something entitled, "CPM," in
 7 parentheses, "Math 3," dash, what appears to be --
 8 well, I'll read the letters, "A-d-v," period, "A-l-g,"
 9 period, "Soft Cover Second Edition." Do you have any
 10 understanding as to what that is referring to?
 11 A. Yes.
 12 Q. Can you tell me what that is referring to?
 13 A. That refers to an advanced algebra textbook
 14 published by CPM which stands for "College Prep Math."
 15 Q. Is that the advanced algebra textbook that
 16 you used in your advanced algebra classes?
 17 A. No, it is not.
 18 Q. Okay. Who is the publisher of the book you
 19 used?
 20 A. I believe it was Forester or -- I'm sorry.
 21 That is the author, not the publisher.
 22 Q. And was CPM the author or publisher of this
 23 book, to your knowledge?
 24 A. It is the publisher.
 25 Q. Do you have an understanding as to whether

1 this is the book you used in your class or not?
 2 A. This is not the book I used in my classes.
 3 Q. What is that based on?
 4 A. I didn't use it.
 5 Q. Is it a different book that was available to
 6 teachers at Balboa to teach advanced algebra?
 7 A. I don't recall that this CPM book was
 8 available to us.
 9 Q. Can I ask you to take a look at the 3rd page
 10 of the document I've given to you.
 11 A. Okay.
 12 Q. Again, it seems to be another document
 13 entitled, "San Francisco Unified School District
 14 Requisition for Purchase Order," except this document
 15 references an item called, "Precalculus with
 16 Trigonometry," by P. Forester. Do you have an
 17 understanding as to what that is referring to?
 18 A. This is referring to a book written by Paul
 19 Forester.
 20 Q. And is that a book that you used while
 21 teaching at Balboa?
 22 A. Yes.
 23 Q. And do you recall Balboa receiving new
 24 copies of this book at some point during your tenure at
 25 Balboa?

1 A. Yes.
 2 Q. Do you recall when those books arrived?
 3 A. I don't recall when the books arrived, but I
 4 recall them being available at the start of the year.
 5 Q. And at the start of the year, you are
 6 referring to which particular year?
 7 A. Fall '99.
 8 Q. If you can move on to the next page, there
 9 appear to be -- again, it is a requisition for purchase
 10 order from the San Francisco Unified School District
 11 and there appear to be two different items referenced
 12 here, one entitled, "Math 1 Algebra." It says what
 13 appears to be "Volumes 1 and 2, item No. M1-292, 2nd
 14 Edition." Do you have any understanding as to what
 15 book is being referred to here?
 16 A. Actually, it is unclear because -- it is
 17 unclear.
 18 MS. AUCHINCLOSS: I'm going to object. It
 19 calls for speculation. He has already said he has
 20 never seen these forms before, so it is quite possible
 21 he is not going to know what book it is.
 22 THE WITNESS: Right. Yes, it is unclear
 23 which books these are. I mean, Math 1, that could be
 24 Integrated 1 math textbook. It could be an old second
 25 edition. There may be seven editions. It could be a

1 requisition for an old textbook.
 2 MR. ROSENTHAL: Q. So as you look at this
 3 document, do you know what book that is referring to?
 4 A. No.
 5 Q. Did the advanced algebra book that you used
 6 in your classes consist of two volumes?
 7 A. No.
 8 Q. During your first day of testimony, I think
 9 you gave me the full name of the advanced algebra book
 10 that you used.
 11 A. Right.
 12 Q. Can you tell me again what the name of that
 13 book was?
 14 A. It was Advanced Algebra with Trigonometry.
 15 It was a Forester book.
 16 Q. It is entitled, "Advanced Algebra With
 17 Trigonometry"?
 18 A. Yes.
 19 Q. I believe you also testified that you used a
 20 different book in connection with teaching precalculus.
 21 Do you remember the name of that book?
 22 A. It was a -- another book by Forester.
 23 Q. Do you remember the title of that book?
 24 MS. AUCHINCLOSS: I'm going to object to
 25 this line of questioning. He has already testified to

1 it. It is in the transcript. If you would like to go
 2 back through it, we can.
 3 MR. ROSENTHAL: Why don't we take a minute
 4 and I can take a look at it.
 5 MS. AUCHINCLOSS: That would be better.
 6 MR. ROSENTHAL: We can go off the record for
 7 a minute.
 8 (Recess taken.)
 9 MR. ROSENTHAL: Q. Mr. Medina, when you --
 10 MS. AUCHINCLOSS: As we've been discussing
 11 off the record, Counsel has already been asking
 12 questions that have already been asked and answered in
 13 the prior deposition day. As we mentioned, we were
 14 discussing trying to make sure we already have that
 15 testimony because we've already been through this, so
 16 as I said before we went back on the record, we're
 17 still looking through his testimony from before.
 18 MR. ROSENTHAL: And while we're making
 19 representations on the record, I've identified a
 20 passage in the deposition transcript in which Mr.
 21 Medina identifies the titles of the document -- of the
 22 books at issue and Ms. Auchincloss has taken issue with
 23 that testimony and pointed out areas where he has given
 24 testimony that is also on that subject area, but not
 25 testimony that I would consider contradictory, but I've

1 Trigonometry"?
 2 A. Yes. Or it was the same author, I want to
 3 specify.
 4 Q. Do you know whether they were the same
 5 publisher?
 6 A. It could have changed, probably.
 7 Q. Did you view those two books as a first and
 8 second volume?
 9 A. No.
 10 Q. If you can look at line two on this page
 11 that we're on, which is the one Bates stamped
 12 SFUSD-0032, there is a reference to Math 2 Geometry,
 13 Volume 1 and 2. Do you have any understanding as to
 14 which books are being referred to by this entry?
 15 A. I'm sorry. Where did you get that 0032?
 16 Okay.
 17 Q. It was just identifying the page number.
 18 A. Okay. Are you asking me if I recognize
 19 these two books?
 20 Q. Right, based on looking at this document.
 21 A. Based on looking at the -- the content in
 22 the middle of the page, I cannot recognize these two
 23 books, but based on looking at the vendor, it implies
 24 it is from CPM.
 25 Q. And with respect to the geometry textbooks,

1 offered to go on the record to clarify what he
 2 testified to earlier, if there was any dispute, and
 3 that is what I'm trying to do.
 4 MS. AUCHINCLOSS: If we had a time to do
 5 that, that would have been fine. I never represented
 6 it was contradictory. I also object to a line of
 7 questions that we've already thoroughly gone over
 8 during the last day, so if you would like to ask a
 9 question, you can.
 10 MR. ROSENTHAL: If we had gone over it as
 11 thoroughly and as completely as you seem to believe,
 12 then there wouldn't be this dispute.
 13 MS. AUCHINCLOSS: That is a difference of
 14 opinion.
 15 MR. ROSENTHAL: Q. Anyway, in connection
 16 with teaching the trigonometry and precalculus classes
 17 you taught at Balboa, did you use a book entitled,
 18 "Trigonometry With Precalculus"?
 19 A. I used the book, it was "Precalculus with
 20 Trigonometry."
 21 Q. Was that the title, "Precalculus with
 22 Trigonometry"?
 23 A. I believe so, yes.
 24 Q. Was that a book published by the same
 25 publisher of the book entitled, "Advanced Algebra With

1 can you tell whether those are the orange geometry
 2 books that you've identified earlier today or the
 3 Learning Discovery -- Learning Geometry -- I'm sorry.
 4 Was it Discovering Geometry?
 5 A. Yes.
 6 Q. -- the Discovering Geometry books you
 7 testified to earlier today or was it a completely
 8 different geometry book?
 9 MS. AUCHINCLOSS: Objection. Compound on
 10 multiple occasions.
 11 THE WITNESS: This Math 2 Geometry published
 12 by CPM Educational Programs was not used in the years I
 13 was teaching at Balboa High School. It is not the
 14 Discovering Geometry book and it is not the orange
 15 book.
 16 MR. ROSENTHAL: Q. Have you ever seen
 17 another geometry book on the campus of Balboa High
 18 School besides the two you have previously testified
 19 about?
 20 A. I characterize this Math 2 Geometry CPM book
 21 as a purely geometry-based book. I would characterize
 22 it as year two of a three-year program published by
 23 CPM.
 24 Q. And just so I'm clear, neither the
 25 Discovering Geometry book or the orange geometry book

1 that were used in geometry classes were published by
 2 CPM?
 3 A. Correct.
 4 Q. If you can go to the last page of the
 5 document that has been identified as Exhibit No. 3,
 6 again, it is a requisition for purchase order for the
 7 San Francisco Unified School District and this document
 8 references on the first line there graphic calculators
 9 TI-83. Are those the types of calculators you had
 10 available to you in your classroom?
 11 A. No. I used the TI-82.
 12 Q. Did you ever have TI-83s available to you?
 13 A. No.
 14 Q. Did you ever see TI-83s on the Balboa campus
 15 at any time?
 16 A. My best recollection, no. No.
 17 Q. Do you know what calculators other teachers
 18 used at Balboa?
 19 A. As far as I know, everyone was using TI-82s.
 20 Q. What is that based on?
 21 A. Just visiting my colleagues.
 22 MR. ROSENTHAL: I have nothing further.
 23 EXAMINATION BY MS. AUCHINCLOSS
 24 MS. AUCHINCLOSS: I feel badly, almost,
 25 doing this to you, but I have some questions.

1 Q. I wanted to ask you first about Exhibit 1.
 2 If you could pass a copy of that back to him. We
 3 talked earlier about teachers showing
 4 noncontent-specific movies to classes at Balboa High
 5 School. Do you think that this policy addresses the
 6 issue of teachers showing noncontent-specific movies?
 7 MR. ROSENTHAL: Objection. The witness says
 8 he has never seen this policy before.
 9 MS. AUCHINCLOSS: He has now had an
 10 opportunity to review the policy.
 11 MR. ROSENTHAL: You are asking him to
 12 speculate.
 13 MS. AUCHINCLOSS: No. Based on the policy
 14 he just read, does he think it adequately addressed the
 15 showing of noncontent-specific movies.
 16 MR. ROSENTHAL: Objection. Calls for
 17 speculation.
 18 MS. AUCHINCLOSS: Go ahead.
 19 THE WITNESS: I don't think such a policy
 20 addresses the problem of showing noncontent-specific
 21 movies in the classroom. I believe that -- I believe
 22 that, one -- sorry. Can I go back? I think it is more
 23 important to look at the reasons why
 24 noncontent-specific movies are being shown in the
 25 classroom and the reason that noncontent-specific

1 movies are being shown in the classroom is because
 2 teachers are not given the tools to prepare better
 3 lessons, so in the absence of tools and preparation,
 4 teachers often resort to showing noncontent-specific
 5 movies and in terms of this policy, I don't think it
 6 addresses the root cause, which is more important, and
 7 that is teacher preparation.
 8 MS. AUCHINCLOSS: Q. You mentioned that you
 9 had shown a noncontent-specific movie in your class
 10 when you were at Balboa when you talked about this
 11 earlier today. As you also testified earlier today and
 12 in your prior testimony, you are enrolled in a
 13 teacher-credentialing program. Do you think that that
 14 program has given you tools to better plan for your
 15 classes, if and when you go back to teaching?
 16 MR. ROSENTHAL: Objection. Vague.
 17 MS. AUCHINCLOSS: Let me rephrase the
 18 question.
 19 THE WITNESS: Sure.
 20 MS. AUCHINCLOSS: Q. Do you think your
 21 teacher-credentialing program has helped you?
 22 MR. ROSENTHAL: Objection. Question is
 23 still vague.
 24 THE WITNESS: My teacher-credentialing
 25 program has given me tools such that I don't need to

1 show noncontent-specific movies in the classroom.
 2 MS. AUCHINCLOSS: Q. And if you go back to
 3 teaching in the future, do you think that you would
 4 show noncontent-specific movies?
 5 MR. ROSENTHAL: Objection. Calls for
 6 speculation.
 7 THE WITNESS: At this point and also at the
 8 time, it is a disservice to show noncontent-specific
 9 movies and therefore I don't plan on doing it again.
 10 MS. AUCHINCLOSS: Q. You also testified
 11 when we were talking about your declaration about the
 12 teachers at Balboa being day to day and not planning
 13 far enough ahead for their lessons. Is there anything
 14 you've learned in your teacher-credentialing program
 15 that would help you in planning your lessons?
 16 MR. ROSENTHAL: Objection. Mischaracterizes
 17 the witness's testimony.
 18 THE WITNESS: I'm sorry. I didn't get the
 19 last part of the question.
 20 MS. AUCHINCLOSS: Q. Have you learned
 21 anything in your teacher-credentialing program that
 22 would help you plan lessons?
 23 MR. ROSENTHAL: Same objections.
 24 THE WITNESS: Absolutely. My
 25 teacher-credentialing program is all about planning

1 ahead and planning things well and carefully thinking
2 mathematical concepts through and carefully thinking or
3 carefully searching for the best ways to engage
4 students in knowledge exploration.

5 MS. AUCHINCLOSS: Q. I want to ask you
6 about something that you mentioned when we were just
7 talking about calculators and you said that you and
8 other math teachers had discovered TI-89s in the
9 school; is that correct?

10 A. Correct.

11 Q. What did you mean by that?

12 A. Near the end of the '99/2000 year, somewhere
13 towards the end of the year, several math teachers,
14 including myself, were in Cheng Wu's classroom where we
15 discovered one of his closet doors were open, that
16 there were calculators, specifically the TI-89s,
17 sitting in the closet essentially ready for use. They
18 just needed some batteries and we did not know we had
19 these supplies available to us.

20 Q. And did you ever receive the TI-89
21 calculator?

22 A. It was towards the end of the year. We
23 didn't need TI-89s. It wouldn't have enhanced
24 education that much further, but we were angry that
25 there were supplies that were there that were not made

1 a section of a chapter, which is a very small slice of
2 the body of knowledge that a book is able to give to
3 the students, so a copy or a copy of a part of a
4 textbook is insufficient if the student wanted to go
5 back to foundational knowledge that has led up to that
6 content. So content being delivered from a copy is
7 inferior because it doesn't have the foundational prior
8 knowledge content leading up to that specific piece.

9 MS. AUCHINCLOSS: Q. I also wanted to ask
10 you about paragraph eight of your declaration. And we
11 had talked about your students listing teachers who had
12 left Balboa earlier today. I believe you said the
13 number was above 50; is that your recollection?

14 A. That's correct.

15 Q. Does this refresh your recollection that
16 they listed 57 teachers?

17 A. It does.

18 Q. And does this also reflect your recollection
19 as to the number you received from the principal about
20 the teachers who had left?

21 A. Yes, these numbers are right. My students
22 listed 57 teachers who had left during their three
23 years at Balboa and the principal said there were 75
24 who had left.

25 Q. I also wanted to ask you about paragraph

1 available to us immediately.

2 Q. If we can refer to Exhibit 2, which is your
3 declaration, we had talked about the phrase, "Template
4 for procedure" in paragraph one.

5 MR. ROSENTHAL: I believe it is paragraph
6 three.

7 MS. AUCHINCLOSS: I'm sorry. Paragraph
8 three.

9 MR. ROSENTHAL: That is okay.

10 MS. AUCHINCLOSS: Q. As a template
11 procedure, in your opinion, which do you think is
12 better, a book or a copy?

13 MR. ROSENTHAL: Objection. Calls for expert
14 testimony.

15 MS. AUCHINCLOSS: I'm asking for his opinion
16 and he has already testified about it per your
17 questioning.

18 MR. ROSENTHAL: I've had that objection made
19 to me about 100 times by your colleagues.

20 MS. AUCHINCLOSS: Q. In your personal
21 opinion.

22 MR. ROSENTHAL: Same objections.

23 THE WITNESS: A copy of -- excuse me. Let
24 me start over.

25 Copying parts of a book for me meant copying

1 four of your declaration. We spent some time talking
2 about the second sentence here. Can you explain to me
3 your understanding or what you meant by the second
4 sentence there? Take your time to review it.

5 MR. ROSENTHAL: Objection. Asked and
6 answered.

7 THE WITNESS: The sentence says, "Other
8 teachers had to resort to older editions of the books
9 because they didn't have enough current editions to use
10 in the class, much less to give to the kids to take
11 home for homework."

12 There were instances where teachers using
13 the orange book wanted to teach out of Discovering
14 Geometry and had to make copies, but those students did
15 not have the Discovering Geometry textbooks available
16 to them to take home.

17 MS. AUCHINCLOSS: Q. Okay. We've talked
18 about teacher retention -- it is also in your
19 declaration -- and absence of permanent teachers in at
20 least one class at Balboa. If you were going to tell
21 the judge in this case anything else about your
22 concerns about teacher retention and lack of permanent
23 teachers, what would you want to tell Judge Bush?

24 A. Well, I would like to tell the judge that
25 students, especially low-income students of color,

1 really need stable adult relationships in their lives.
 2 A lot of my students come from broken families where
 3 the adults in their lives would shift from a single
 4 parent to a grandmother or to an aunt or cousin and
 5 students wouldn't have adult grounding at home and I
 6 think that teachers also provide that role. I mean,
 7 teachers are also coparents in a sense. So in terms of
 8 teacher retention, I think it is important for students
 9 to have these relationships because these -- because we
 10 are really training these adolescents for adulthood.

11 And also, it hurts the students when
 12 teachers leave. Students feel rejected. They feel
 13 like they are not worth the commitment and it really
 14 sends a negative message to the students that they are
 15 not worth the love and attention and retention of the
 16 teachers.

17 Q. We've also talked quite a bit about
 18 teachers' credentials and your concerns about lack of
 19 full teacher credentials at Balboa. Again, if you were
 20 going to tell Judge Bush about the teacher credential
 21 issues you've raised, what would you tell him?

22 MR. ROSENTHAL: Objection. Calls for a
 23 narrative.

24 THE WITNESS: Comparing my -- the best way
 25 to do this is to compare myself as a teacher now and

1 equity while I was teaching and all of these things
 2 really stem from my experience in my credential program
 3 and so with these lenses, I'm better able to serve my
 4 students. But before those lenses were available to
 5 me, I don't think I was doing an adequate job in
 6 retrospect.

7 MS. AUCHINCLOSS: Q. We've spent some time
 8 on some of the other conditions you've raised as
 9 concerns at Balboa. Another one we've talked about is
 10 the lack of textbooks and instructional materials and I
 11 would ask you again, if you were going to tell Judge
 12 Bush about your concerns about the lack of textbooks
 13 and instructional materials, what would you tell him?

14 MR. ROSENTHAL: I'm going to object. This
 15 calls for a narrative and this is all stuff that has
 16 been asked and answered.

17 MS. AUCHINCLOSS: I'll ask you not to make
 18 speaking objections.

19 You can answer the question.

20 THE WITNESS: What I believe hasn't been
 21 asked is what are the effects of students getting
 22 inferior materials on their learning. Very simply,
 23 students are able to compare what a good education
 24 looks like and what a poor education looks like. When
 25 students receive -- or don't receive adequate materials

1 myself as a teacher back then. Upon entering the -- my
 2 teacher-credentialing program, I've gained a lot of
 3 tools how to better address students' needs.

4 As an uncredentialed teacher, I was not
 5 aware that I should take literacy into a large
 6 consideration into their education. As an
 7 uncredentialed teacher, I wasn't emphasizing reading as
 8 a skill as the very backbone of communication to my
 9 students. As an uncredentialed teacher, I didn't have
 10 tools for discipline. I didn't have tools for what
 11 good discipline is and what bad discipline looks like.
 12 I wasn't taking into consideration the long-term
 13 effects of how my classroom policies shifted. As an
 14 uncredentialed teacher, I didn't have great
 15 record-keeping skills. As an uncredentialed teacher, I
 16 had no idea how students were developing biologically,
 17 socially during this high time of change. As an
 18 uncredentialed teacher, I hadn't looked at or I hadn't
 19 compared formally what good teaching looks like and
 20 what bad teaching looks like and I've since done so
 21 looking at teachers internationally and just across the
 22 state. I didn't have the tools. I wasn't thinking
 23 about multiple representation. I wasn't thinking about
 24 multiple intelligences. I wasn't thinking about
 25 equity. I wasn't thinking about gender equity, racial

1 or receive inadequate materials, it tells them that
 2 they are not worth spending the money on, that some
 3 kids deserve better educations and that they don't.
 4 Poor materials -- poor materials make learning
 5 difficult. Poor materials just get in the way of a
 6 good education.

7 MS. AUCHINCLOSS: Q. And the last sort of
 8 larger condition that we talked about was sort of the
 9 conditions of the facilities at Balboa and I would ask
 10 you also if there is anything that you would want to
 11 add to what you've already said or tell Judge Bush.

12 MR. ROSENTHAL: Same objections.

13 THE WITNESS: I believe students deserve
 14 decent facilities. I feel that students should be able
 15 to go to the bathroom and feel safe and feel that it is
 16 clean. I think it is a very human -- I believe it is a
 17 human right to be able to go to a clean bathroom in a
 18 public facility. I believe, again, like it
 19 compounds -- it compounds as a package that it is part
 20 of the message that the student is not worth a
 21 high-quality education and the worst part of it is that
 22 it is comparative. Like it is not that they don't
 23 deserve a high-quality education. It is that they
 24 don't deserve it and some others do. I think that is
 25 the worst disservice that poor facilities, poor

1 materials, and revolving teachers -- I mean, that is
2 the package that the students get.

3 MS. AUCHINCLOSS: I think that is it. I
4 would like to take a break to look through my notes.

5 MR. ROSENTHAL: Sure.

6 MS. AUCHINCLOSS: Okay.

7 (Recess taken.)

8 MS. AUCHINCLOSS: Q. We had talked about
9 administration and administrative review of you and
10 teachers in the classrooms and we had talked about
11 whether or not you thought it was the administrator's
12 responsibility to review teachers. Setting aside
13 whether or not it was within the scope of their
14 responsibilities, in your opinion, do you think
15 administrators should review teachers?

16 MR. ROSENTHAL: Objection. Calls for expert
17 opinion.

18 THE WITNESS: I believe that administrators
19 should review teachers, absolutely; one, I believe for
20 quality control purposes. The administrator should
21 know that learning is happening in every classroom in
22 the school, but I also believe that administrators
23 should be part of teacher development. I believe that
24 administrators should ensure a culture of learning and
25 improving teaching and I believe that it is their role

1 Judge Bush, is it your belief that the Judge -- given
2 your statements regarding the retention of teachers at
3 Balboa High School, do you believe that Judge Bush
4 should order that teachers who teach at Balboa have to
5 stay there and teach longer than perhaps they would
6 like to?

7 MS. AUCHINCLOSS: Objection. Calls for a
8 legal conclusion. Calls for expert testimony and calls
9 for speculation.

10 THE WITNESS: I believe it would be an
11 inappropriate thing to contract teachers for, let's
12 say, a four-year period. However, I think it is the
13 root of the problem that Judge Bush should address or
14 should consider and that is -- the question needs to be
15 asked, why are teachers leaving from urban high
16 schools. And the question needs to be asked, how do we
17 keep them as opposed to how do we create a policy that
18 would force retention instead of ensure and enhance the
19 enjoyment of teaching.

20 MR. ROSENTHAL: Q. Do you have any
21 understanding as to how Judge Bush could order that?

22 MS. AUCHINCLOSS: Objection. Calls for
23 expert testimony. Calls for a legal conclusion.

24 THE WITNESS: I don't know the full powers
25 of Judge Bush, not being a judge myself, and so I can't

1 to do that. The body of teacher knowledge is greatly
2 enhanced when another party, an administrator, helps a
3 teacher reflect on how to improve teacher education and
4 I think that body of knowledge needs to grow and it
5 needs to be systematic through review, among other
6 things.

7 MS. AUCHINCLOSS: Do you have more?

8 FURTHER EXAMINATION BY MR. ROSENTHAL

9 MR. ROSENTHAL: Just a couple quick
10 follow-ups. I'll try to make it as quick as possible.

11 Q. You testified -- strike that.

12 Ms. Auchincloss asked you some questions
13 about the copies you made for your students in
14 connection with the template for procedure phrase that
15 is used in your declaration and you testified during
16 your first day that you made copies for your students
17 on multiple occasions; is that correct?

18 A. Correct.

19 Q. And did you require the students to hand
20 back in those copies to you when they had completed
21 using them?

22 A. No.

23 Q. Students were allowed to keep them?

24 A. Yes.

25 Q. Given your statements that you would make to

1 fully answer that question. If you are asking me for
2 creative ideas about teacher retention, that is a
3 separate question altogether.

4 MR. ROSENTHAL: Q. Given your statements
5 about your concerns about the number of teachers
6 teaching at Balboa with emergency credentials, do you
7 think it would make sense for Judge Bush to order that
8 teachers on emergency credentials should not be able to
9 teach at Balboa?

10 MS. AUCHINCLOSS: Objection. Calls for
11 expert testimony. Calls for a legal conclusion.

12 THE WITNESS: Can you repeat that one more
13 time?

14 MR. ROSENTHAL: Can we have it read back?
15 (Record read by the reporter.)

16 THE WITNESS: It is my opinion, not an
17 expert opinion, that Balboa, among many other high
18 schools, is one of the neediest schools in the district
19 because of the special challenges that students face.
20 I believe that the teachers who go into Balboa should
21 be the best trained, most highly qualified teachers to
22 serve these students.

23 MR. ROSENTHAL: Q. Do you think it would
24 make sense for him to order emergency-credentialed
25 teachers not to be able to teach there?

1 MS. AUCHINCLOSS: Same objections. And
2 asked and answered.

3 THE WITNESS: I would say
4 emergency-credentialed teachers are not the most
5 well-trained group of teachers for Balboa High School
6 and having stated the need that Balboa has, I would say
7 that emergency-credentialed teachers are not prepared
8 to meet that need.

9 MR. ROSENTHAL: Q. Do you think
10 emergency-credentialed teachers are prepared to teach
11 at any schools?

12 MS. AUCHINCLOSS: Objection. Calls for
13 speculation. Calls for expert testimony.

14 THE WITNESS: It is a very broad statement
15 to say -- to talk about all emergency-credentialed
16 teachers, first of all. I believe that
17 emergency-credentialed teachers, generally speaking,
18 are not going into classrooms with enough tools, nor
19 are they going in with appropriate lenses for looking
20 at the classroom.

21 MR. ROSENTHAL: Q. Isn't it your
22 understanding that emergency -- teachers on emergency
23 credentials cannot have their emergency credential
24 renewed unless they are enrolled in a
25 teacher-credentialing program?

1 for education and I believe that a lot of it is not
2 reaching the students.

3 MR. ROSENTHAL: Q. Do you have any
4 understanding as to why the money out there for
5 education is not reaching the students?

6 MS. AUCHINCLOSS: Objection. Calls for
7 expert testimony. Calls for legal conclusions and it
8 calls for complete speculation.

9 THE WITNESS: That is a very big question,
10 which I would have to speculate on. The question is, I
11 guess you are asking about the gap. Where does the
12 money go?

13 MR. ROSENTHAL: Q. I'm asking if you have
14 any understanding as to why there is that problem that
15 you've described.

16 MS. AUCHINCLOSS: I'm also going to object,
17 in addition to the other objections, as completely
18 overbroad and vague.

19 THE WITNESS: Without fully answering that
20 question, I would like to say that I believe that there
21 are inefficient ways in which money is being spent in
22 the very large field of education, including basic
23 things like a large, large number, an estimate of 40,
24 45 percent of people employed in education are not
25 teachers. I personally think that that is an

1 MS. AUCHINCLOSS: Objection. Argumentative.

2 THE WITNESS: Yes, that is my understanding.

3 MR. ROSENTHAL: Q. Given your statements
4 that you would make to Judge Bush regarding the lack of
5 materials at Balboa High School, do you think it would
6 be useful to have Judge Bush order that the state spend
7 more money on education in California?

8 MS. AUCHINCLOSS: Objection. Calls for
9 expert testimony. Calls for a legal conclusion. Calls
10 for speculation.

11 THE WITNESS: Spending more money in a high
12 school is one thing. The money actually reaching the
13 students is quite a different thing. Your question was
14 should Judge Bush --

15 MR. ROSENTHAL: Q. Do you think it would be
16 useful to have Judge Bush order the State of California
17 to allocate more money towards education?

18 MS. AUCHINCLOSS: Same objections.

19 THE WITNESS: Because I don't know what the
20 exact money allocated for education is, I can't comment
21 on that to the degree that I would like to. However, I
22 am qualified to say more resources and materials need
23 to reach the students and I think that is a different
24 statement from saying more money needs to be thrown at
25 education. I think there is a lot of money out there

1 inefficient spending of funds, but that is just one
2 very small thing relative to your question.

3 MR. ROSENTHAL: Q. And just for
4 clarification, the individual that you are referring
5 to, you are referring to bureaucracy? Do you not
6 understand the question?

7 A. Which individual?

8 Q. Let me rephrase the question. You said that
9 there was a large percentage of money being spent on
10 people who were not teachers.

11 A. Correct.

12 Q. Who were you referring to?

13 MS. AUCHINCLOSS: Objection. Calls for
14 speculation. Calls for expert testimony.

15 THE WITNESS: I will leave that question for
16 the experts, but I would say there are, quite honestly,
17 a lot of nonteaching personnel at the district level,
18 the school level, policy level, levels that I haven't
19 even seen yet.

20 MR. ROSENTHAL: I have nothing further. Do
21 you have any?

22 MS. AUCHINCLOSS: No. Thank you very much
23 for your time.

24 MR. ROSENTHAL: Yes, thank you very much,
25 Mr. Medina.

1 Let's put on our closing stipulation, if you
 2 don't mind. Can we stipulate that copies of the
 3 documents attached to this deposition be used as
 4 originals; that the original of this deposition be
 5 signed under penalty of perjury; that the original be
 6 delivered to the office of Ms. Auchincloss; that the
 7 reporter is relieved of liability for the original of
 8 the deposition; that the witness will have 30 days from
 9 the date of court reporter's transmittal letter to Ms.
 10 Auchincloss to sign and correct the deposition; and
 11 that Ms. Auchincloss shall notify all parties in
 12 writing of any changes in the deposition and if no such
 13 changes are communicated or no signature within that
 14 time, that any unsigned and uncorrected copy can be
 15 used for all purposes as if signed and corrected?

16 THE WITNESS: So stipulated.

17 MR. ROSENTHAL: We can go off the record.

18
 19 (Whereupon, the deposition was adjourned
 20 at 4:40 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, JOHNNNA PIPER, a Certified Shorthand
 3 Reporter, hereby certify that the witness in the
 4 foregoing deposition was by me duly sworn to tell the
 5 truth, the whole truth and nothing but the truth in the
 6 within-entitled cause;

7 That said deposition was taken down in
 8 shorthand by me, a disinterested person, at the time
 9 and place therein stated, and that the testimony of the
 10 said witness was thereafter reduced to typewriting, by
 11 computer, under my direction and supervision;

12 I further certify that I am not of counsel
 13 or attorney for either or any of the parties to the
 14 said deposition nor in any way interested in the event
 15 of this cause and that I am not related to any of the
 16 parties thereto.

17 DATED: _____, 2002.

18
 19
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 21
 22 _____
 23 JOHNNNA PIPER, CSR 11268
 24
 25

1 I declare under penalty of perjury that the
 2 foregoing is true and correct. Subscribed at
 3 _____, California, this ____ day of
 4 _____, 2002.

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 9 _____
 10 EMMANUEL MEDINA
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