

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO

ELIEZER WILLIAMS, et al.,)

Plaintiffs,)

vs.)

No. 312 236

STATE OF CALIFORNIA, DELAINE)

EASTIN, State Superintendent)

of Public Instruction, STATE)

DEPARTMENT OF EDUCATION,)

STATE DEPARTMENT OF)

EDUCATION, STATE BOARD OF)

EDUCATION,)

Defendants.)

STATE OF CALIFORNIA,)

Cross-Complainant,)

vs.)

SAN FRANCISCO UNIFIED SCHOOL)

DISTRICT, et al.,)

DEPOSITION OF CARLOS RAMIREZ

San Francisco, California

Monday, May 28, 2001

Volume 2

Reported by:

LILY M. WONG

CSR No. 11487

JOB No. 848168

1 SUPERIOR COURT OF CALIFORNIA
 2 COUNTY OF SAN FRANCISCO
 3
 4 ELIEZER WILLIAMS, et al.,)
)
 5 Plaintiffs,)
)
 6 vs.) No. 312 236
)
 7 STATE OF CALIFORNIA, DELAINE)
 EASTIN, State Superintendent)
 8 of Public Instruction, STATE)
 DEPARTMENT OF EDUCATION,)
 9 STATE DEPARTMENT OF)
 EDUCATION, STATE BOARD OF)
 10 EDUCATION,)
)
 11 Defendants.)
)
 12 STATE OF CALIFORNIA,)
)
 13 Cross-Complainant,)
 vs.)
 14)
 15 SAN FRANCISCO UNIFIED SCHOOL)
 DISTRICT, et al.,)
)
 16
 17
 18 Deposition of CARLOS RAMIREZ, Volume 2,
 19 taken on behalf of Defendant State of
 20 California, at 275 Battery Street, 26th Floor,
 21 San Francisco, California beginning
 22 at 10:16 a.m. and ending at 3:15 p.m., on
 23 Monday, May 28, 2001, before LILY M. WONG,
 24 Certified Shorthand Reporter No. 11487.
 25

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 (No appearance.)
 18
 19 ALSO PRESENT: ANGELICA ARAYA 20
 21
 22
 23
 24
 25

1 San Francisco, California, Monday, May 28, 2001
 2 10:16 a.m. - 3:15 p.m.
 3
 4 CARLOS RAMIREZ,
 5 having been first previously duly sworn, was examined
 6 and testified as follows:
 7
 8 EXAMINATION
 9
 10 BY MR. ROSENTHAL:
 11 Q Good morning, Carlos. I'm Mike Rosenthal. We
 12 met last time when you had your deposition taken. And I
 13 represent State of California in this action. Do you
 14 remember the ground rules we went over during our first
 15 day of deposition or do you want me to cover those
 16 again?
 17 A (No audible response.)
 18 MS. PERRIN: Why don't we go over them briefly.
 19 BY MR. ROSENTHAL:
 20 Q Okay. Fine. Do you understand that you have
 21 just taken an oath, and that that means you, basically,
 22 promise to answer my questions completely and
 23 truthfully?
 24 A Yes.
 25 MS. PERRIN: Do you remember last time we

1 talked about when we are going to take lots of breaks,
2 and every time we come back, you made a promise to tell
3 the truth all day?

4 THE WITNESS: Yeah.

5 BY MR. ROSENTHAL:

6 Q And, also, since Lily is sitting next to us
7 trying to write down everything we say, it's helpful
8 that when you give me an answer that you speak the
9 answer, because she can't write down when you nod your
10 head or shake your head and things like that. Do you
11 understand that?

12 A Yes.

13 Q And, also, for Lily's sake, because she's
14 writing everything down, it's easier if only one person
15 speaks at a time. So try to let me finish what I'm
16 saying and I'll try to do the same for you. It will
17 make Lily's job easier. Do you understand that? Okay.

18 A Yes.

19 Q Also, it's important that you listen to my
20 questions carefully. If, for some reason, you don't
21 understand anything, just let me know and I'll try to
22 rephrase the question. Do you understand that?

23 A Yes.

24 Q And, also, if -- if you answer my question and
25 you haven't asked me to rephrase or anything, I will

1 as you need, so you can go out for a walk or whatever.

2 And, also, if at any point during the
3 deposition you remember something that would have been
4 responsive to a question I asked earlier, just let me
5 know and we can go back to that area and you can give me
6 whatever additional information you remember. Do you
7 understand that?

8 A Yes.

9 Q Do you have any questions about any of these
10 ground rules?

11 A No.

12 Q Okay. Is there any reason why you wouldn't be
13 able to give your best testimony today?

14 A No.

15 Q Are you taking any medication or anything?

16 A No.

17 Q Okay. Great. Did you do anything to prepare
18 for today's deposition since the last day we met, which
19 was on -- I believe it was May 19th?

20 MS. PERRIN: May 19th.

21 BY MR. ROSENTHAL:

22 Q Did you do anything to prepare for today?

23 A No.

24 Q Did you meet with your attorneys?

25 A No.

1 assume you understood the question. Do you understand
2 that?

3 A Yes.

4 Q And, also, when you're giving me an answer, I
5 don't want you to guess. Give me your best estimate.
6 That's the sort of answer I'm looking for. Do you
7 understand that?

8 A Yes.

9 Q Great. And after Lily is done writing
10 everything down, you will get a copy of the transcript
11 and you will have an opportunity to take a look at that
12 and make any changes that you think are necessary, but
13 you understand that any attorney can comment on the
14 changes you make at trial or any other proceeding? Do
15 you understand that?

16 A Yes.

17 Q Okay. And, also, as you probably remember, we
18 will take breaks on a regular basis, you know, whenever
19 you need.

20 MS. PERRIN: He didn't bring his skateboard
21 today.

22 BY MR. ROSENTHAL:

23 Q Did you forget your skateboard?

24 A No, it's in the van.

25 Q Well, we will take breaks, you know, as often

1 Q Did you review any documents?

2 A No.

3 Q Okay. Did you talk to anybody else about your
4 deposition today?

5 A No.

6 Q Did you talk to your brother about it?

7 A No.

8 Q Did you talk to any teachers?

9 A No.

10 Q Last time we met, we talked about some of the
11 meetings you had with your attorneys to prepare for the
12 deposition on May 19th. One thing we didn't really
13 cover was when you first met with your attorneys.

14 MS. PERRIN: The very first time?

15 BY MR. ROSENTHAL:

16 Q Right. Right.

17 Do you remember the first time you met with
18 your attorneys?

19 A No.

20 Q Do you know if it was in a meeting or a phone
21 call?

22 A No.

23 Q Do you know approximately how long ago it was?

24 MS. PERRIN: You don't have to guess. Just
25 answer if you remember.

1 THE WITNESS: No.
 2 BY MR. ROSENTHAL:
 3 Q Do you know if it was a long time ago?
 4 A Yeah.
 5 Q Would you say it was more than a year ago?
 6 A No.
 7 Q You think it was less than a year ago?
 8 A Yeah.
 9 Q Do you know who you met with at that first
 10 meeting?
 11 A What's the question?
 12 Q Do you know who you met with at your first
 13 meeting with an attorney that represents you in this
 14 case?
 15 A No.
 16 Q Do you know if it was Lois?
 17 A Yes.
 18 Q Do you remember that or are you guessing?
 19 A I remember it.
 20 Q Was anybody else there?
 21 A Only my aunt.
 22 Q About how many times have you met or spoken
 23 with your attorneys since you became involved in this
 24 case?
 25 A Two times.

1 Q That's the total number of times you've spoken
 2 or met with your attorneys?
 3 A Yes.
 4 Q Do you remember when these two times were?
 5 A (No audible response.)
 6 Q Let's start with the most recent one. Do you
 7 remember when your most recent meeting was with your
 8 attorneys?
 9 MS. PERRIN: Objection. Asked and answered.
 10 BY MR. ROSENTHAL:
 11 Q Do you remember?
 12 A No.
 13 Q Do you remember when your first meeting was
 14 with your attorneys?
 15 MS. PERRIN: Objection. Asked and answered.
 16 THE WITNESS: No.
 17 BY MR. ROSENTHAL:
 18 Q Okay. Last time we met, you also told me that
 19 you have, I believe, three brothers; is that right?
 20 A Uh-huh, yes.
 21 Q Can you tell me which schools each of your
 22 brothers go to?
 23 A My oldest goes to -- goes to Riordan. And
 24 Ritchie -- Ritchie goes to the same school as me. And
 25 Louie is not in school yet.

1 Q Your oldest brother is Ben?
 2 A Yes.
 3 Q And he goes to Riordan. Is that a middle
 4 school?
 5 A High school.
 6 Q High school.
 7 And Ritchie goes to Bryant Elementary School
 8 with you?
 9 A Yes.
 10 Q And Louie -- can you tell me how old Louie is?
 11 A Louie is four.
 12 Q We spent some time last time talking about your
 13 fifth grade class. Your teacher is Ms. Malabed, right?
 14 A Yes.
 15 Q Do you remember when you first -- strike that.
 16 Do you remember when Ms. Malabed became your
 17 teacher?
 18 A August 24th.
 19 Q That was in 2000?
 20 A Yes.
 21 Q And she's been your teacher ever since then?
 22 A Yes.
 23 Q And, also, last time we met, we discussed a
 24 number of issues in Ms. Malabed's classroom. You told
 25 me that the -- that the condition of the doors were fine

1 in her classroom. Was the condition of the doors in the
 2 classroom fine during the entire time you've had
 3 Ms. Malabed?
 4 A Yes.
 5 Q You also said that the condition of the floors
 6 were fine. Was the condition of the floors fine during
 7 the entire time you had Ms. Malabed?
 8 A Yes.
 9 Q And you also said the windows were in good
 10 condition?
 11 A Yes.
 12 Q Was that true for the entire time you had
 13 Ms. Malabed?
 14 A Yes.
 15 Q You also told me about one instance where you
 16 recall seeing a white mouse. Do you remember that?
 17 A Yes.
 18 Q Is that the only mouse you have ever seen at
 19 Bryant Elementary School since you've been there?
 20 A Yes.
 21 Q Have you ever seen any roaches or anything at
 22 Bryant Elementary School since you've been there?
 23 MS. PERRIN: Objection. Asked and answered.
 24 THE WITNESS: No.
 25 BY MR. ROSENTHAL:

1 Q How was the lighting at Bryant Elementary
2 School?
3 MS. PERRIN: Objection. Vague as to what part
4 of Bryant Elementary School.
5 BY MR. ROSENTHAL:
6 Q Let's start with the lighting in Ms. Malabed's
7 classroom. How is the lighting in her classroom?
8 A It's okay.
9 Q What do you mean by "okay"?
10 A Nothing's wrong with it.
11 Q Nothing's wrong with it?
12 A (No audible response.)
13 Q Do you remember anything wrong with it? Do you
14 remember any problems with the lighting at Bryant
15 Elementary School?
16 MS. PERRIN: Objection. Vague as to problems.
17 THE WITNESS: No.
18 BY MR. ROSENTHAL:
19 Q Did you understand my question?
20 A Yes.
21 Q And you don't recall any problems with regards
22 to lighting?
23 A No.
24 Q Have you ever heard of any problems at Bryant
25 Elementary School regarding the existence of fungus or

1 which I believe is Classroom 11; is that right?
2 A Yes.
3 Q Last time we met, you told me that you would
4 hear noise from some of the surrounding classrooms. Do
5 you remember when we talked about that?
6 A Yes.
7 Q We discussed some of the noise coming from each
8 of the classrooms. Can you tell me, on a typical day,
9 for how long you hear noise from any of the classrooms?
10 MS. PERRIN: Do you understand the question?
11 THE WITNESS: No.
12 MS. PERRIN: Okay.
13 BY MR. ROSENTHAL:
14 Q Let's do it this way. Did you go to school on
15 Friday?
16 A Yes. Oh, no, not Friday.
17 Q You weren't in school on Friday?
18 A No.
19 Q How about Thursday?
20 A Yes.
21 Q Do you remember hearing noise from any of the
22 classrooms surrounding Ms. Malabed's classroom?
23 A No.
24 Q You didn't hear any noise the whole day from
25 other classrooms?

1 mold at the school?
2 MS. PERRIN: Objection. Vague.
3 BY MR. ROSENTHAL:
4 Q Do you understand the question?
5 A Yes.
6 Q Have you ever heard of any problems like that?
7 A No.
8 Q Last time we met, you also told me that there
9 was a broken mirror in one of the bathrooms in the yard?
10 A Yeah.
11 Q Do you remember telling me that?
12 A Yes.
13 Q Have you been in that bathroom since we last
14 met?
15 A Yes.
16 Q Do you know if the mirror's been fixed?
17 A Yes.
18 Q It has been?
19 A Yes.
20 Q Do you know when it got fixed?
21 A It got fixed last week.
22 Q Do you know who fixed it?
23 A No.
24 Q Okay. Again, I'd like to focus your attention
25 on your classroom this year, Ms. Malabed's classroom,

1 A No.
2 Q How about on Wednesday? Did you go to school
3 on Wednesday?
4 A Yes.
5 Q Did you -- do you remember hearing any noise
6 from any of the surrounding classrooms on that day?
7 A No.
8 Q Do you remember hearing any noise from any of
9 the surrounding classrooms during last week at school at
10 all?
11 A Yes.
12 Q When did you hear noise?
13 A On Tuesday.
14 Q Can you tell me about that?
15 A I heard jumping from Room 12, because they had
16 art -- they had art class, and then I heard jumping and
17 laughing.
18 Q You heard jumping and laughing; is that what
19 you said?
20 A Yes.
21 Q And that was from Room 12?
22 A Yes.
23 Q Is that the only noise you heard on Tuesday?
24 A Yes.
25 Q Do you remember how long that noise lasted for?

1 A Ten minutes.
 2 Q Were you able to hear Ms. Malabed during the
 3 time you heard noise from Classroom 12?
 4 A Yes.
 5 Q Did it affect your ability to learn that day at
 6 all?
 7 A No.
 8 Q Do you know why the noise stopped?
 9 A The noise stopped when our class ended.
 10 Q Did anybody complain to Ms. Malabed that it was
 11 too noisy?
 12 MS. PERRIN: Answer only if you know.
 13 THE WITNESS: No.
 14 BY MR. ROSENTHAL:
 15 Q Did you complain to Ms. Malabed about the noise
 16 at that time?
 17 A No.
 18 Q I asked you just a few moments ago if you heard
 19 any noise last week at school. Did you hear any noise
 20 on Monday?
 21 MS. PERRIN: From other classrooms?
 22 BY MR. ROSENTHAL:
 23 Q Right.
 24 A No.
 25 Q So taking last week as an example, the only

1 time you heard noise from any of the surrounding
 2 classrooms was on Tuesday and it lasted for about ten
 3 minutes?
 4 A Yes.
 5 MS. PERRIN: Objection. To the
 6 characterization as typical without laying some more
 7 foundation.
 8 BY MR. ROSENTHAL:
 9 Q Would you say that last week was typical of
 10 other weeks of going to school, with respect to the
 11 amount of noise you hear from classrooms surrounding
 12 Ms. Malabed's class? Do you understand the question?
 13 A No.
 14 MS. PERRIN: Can we go off for a second?
 15 (Recess.)
 16 BY MR. ROSENTHAL:
 17 Q I'm going to try to rephrase that question,
 18 Carlos. Last week, you said you heard noise from
 19 surrounding classes for about ten minutes. Would you
 20 say that that's the amount of noise you hear usually in
 21 any other week?
 22 MS. PERRIN: Well, objection. We went over the
 23 art room -- I'm sorry -- the music room at length before
 24 and his testimony was different.
 25 Do you remember the question?

1 THE WITNESS: No.
 2 BY MR. ROSENTHAL:
 3 Q Last week, you said you heard about ten minutes
 4 of noise from surrounding classrooms?
 5 A Yes.
 6 Q Do you remember how much noise you heard the
 7 week before that?
 8 A No.
 9 Q Do you remember if it was less, more, or about
 10 the same?
 11 A Less.
 12 Q Last -- last time we met, you told me about a
 13 few instances of some ceiling tiles that you saw that
 14 were falling off. Do you remember that?
 15 A Yes.
 16 Q You told me that in first grade, you saw a
 17 ceiling tile fall off the ceiling. Do you remember
 18 telling me that?
 19 A Yes.
 20 Q You also said, more recently, you've seen tiles
 21 in Classroom 10 and that it appeared to be falling
 22 off -- that one of the corners is falling off. Do you
 23 remember telling me that?
 24 A Yes.
 25 Q Do you remember any other instances of seeing

1 ceiling tiles falling off or about to fall off since
 2 you've been at Bryant Elementary School?
 3 MS. PERRIN: Objection. Asked and answered.
 4 THE WITNESS: No.
 5 BY MR. ROSENTHAL:
 6 Q Just those times you've told me about?
 7 A Yes.
 8 Q Now, the tiles in Classroom 10 and 11 that you
 9 said appear to be falling off, have they fallen off
 10 since the last time you went?
 11 MS. PERRIN: Answer only if you know.
 12 THE WITNESS: No.
 13 BY MR. ROSENTHAL:
 14 Q Have you looked to see if they've fallen off?
 15 A No.
 16 Q Would you have noticed if they had fallen off?
 17 A No.
 18 Q You haven't looked at the ceilings since our
 19 last meeting in Classrooms 10 or 11?
 20 A No.
 21 Q Can you tell me how the -- strike that.
 22 Can you tell me how the ceiling tiles, in any
 23 of the classrooms we've discussed where tiles that have
 24 either fallen off or were about to fall off, have
 25 affected your ability to learn at Bryant Elementary

1 School?
 2 MS. PERRIN: Objection. Vague as to ability to
 3 learn and to the extent that you're asking for relief.
 4 And calls for legal conclusion and expert testimony.
 5 But you can answer in your own opinion.
 6 THE WITNESS: No.
 7 BY MR. ROSENTHAL:
 8 Q Do you remember the question?
 9 A Yes.
 10 Q Did -- did the ceilings tiles affect your
 11 ability to learn at school at all?
 12 MS. PERRIN: Same objections. Actually,
 13 perhaps, we could do a running objection, because
 14 anytime you're asking for relief, we are going to object
 15 on the grounds of legal conclusion and expert testimony.
 16 Carlos seems to lose the question when I do a lot of
 17 speaking objections. So if we can stipulate to that, we
 18 will let him testify as to his opinion.
 19 MR. ROSENTHAL: That's fine.
 20 MS. PERRIN: Okay. Do you remember the
 21 question?
 22 THE WITNESS: No.
 23 MS. PERRIN: Okay.
 24 BY MR. ROSENTHAL:
 25 Q You told me about a couple of instances where

1 ceiling tiles have either fallen off or were about to
 2 fall off at school. Do you remember telling me about
 3 those?
 4 A Yes.
 5 Q Have those conditions regarding the ceiling
 6 tiles affected your ability to learn at school in any
 7 way?
 8 A No.
 9 Q Last time we met, we also talked about issues
 10 regarding the temperature in the classroom. Do you
 11 remember talking about that?
 12 A Yes.
 13 Q And you told me that sometimes the classroom
 14 was hot and that was after P.E. or after recess. And
 15 you also told me that sometimes the classroom was cold
 16 and that was in the morning when you first get to
 17 school. Do you remember that?
 18 A Yes.
 19 Q Are there particular times of the year when the
 20 classroom was cold or is it cold in the morning
 21 throughout the entire school year?
 22 MS. PERRIN: Objection. Asked and answered.
 23 THE WITNESS: It's only cold in the morning.
 24 BY MR. ROSENTHAL:
 25 Q And only cold in the morning during certain

1 months of the year?
 2 A No.
 3 Q It's cold in the morning throughout the whole
 4 school year?
 5 A Yes.
 6 Q You said that some students leave their jackets
 7 on in class when it's cold in the morning, right?
 8 A Yes.
 9 Q And you told me that some -- some students
 10 leave their jackets on for the whole day, even though
 11 you told me the classroom gets warmer when the heat is
 12 turned on?
 13 A Yes.
 14 Q Do you know if some of the students just forget
 15 to take off their jackets?
 16 A No.
 17 MS. PERRIN: Objection. Calls for speculation.
 18 BY MR. ROSENTHAL:
 19 Q You don't know?
 20 A No.
 21 Q Can you tell me how the classroom temperature
 22 affects your ability to learn in class?
 23 MS. PERRIN: Objection. Vague as to affects
 24 his ability to learn. I don't think the witness
 25 understands the question.

1 BY MR. ROSENTHAL:
 2 Q So we made an agreement in the beginning. Do
 3 you understand the question?
 4 MS. PERRIN: Well, even in his opinion, I don't
 5 think he understands the question. Can you rephrase it?
 6 BY MR. ROSENTHAL:
 7 Q Let me ask if he understands.
 8 Do you understand the question?
 9 A No.
 10 Q You said that sometimes the classroom, it feels
 11 hot; sometimes it feels cold, right?
 12 A Yes.
 13 Q How does that affect what your -- your ability
 14 to understand what's being taught in class?
 15 A Nothing.
 16 Q It doesn't affect you at all?
 17 A No.
 18 Q So even when you feel it's hot -- even if you
 19 feel that it's hot in class, you still understand what
 20 Ms. Malabed is teaching you?
 21 A Yes.
 22 MS. PERRIN: Objection. Vague.
 23 BY MR. ROSENTHAL:
 24 Q Even when it's cold in class, you understand
 25 what Ms. Malabed is teaching you?

- 1 A Yes.
 2 Q Are you able to read in class when you feel
 3 that it's hot?
 4 A Yes.
 5 Q Are you able to do your work in class even
 6 though it feels like it's hot?
 7 A Yes.
 8 Q Are you able to read in class even though it
 9 feels cold in class?
 10 A Yes.
 11 Q Are you able to do your work in class even
 12 though it feels cold?
 13 A Yes.
 14 Q Last time we met, you also told me about some
 15 conditions in the bathroom upstairs that you use,
 16 typically, when you're in Ms. Malabed's classroom. Do
 17 you remember talking about that?
 18 A Yes.
 19 Q The conditions you told me about, have those
 20 conditions existed during the entire school year?
 21 A (No audible response.)
 22 Q Do you remember the conditions you told me
 23 about or do you want to go over some of those?
 24 A I remember.
 25 Q You remember them?

- 1 A Yes.
 2 Q Have those existed for the entire school year
 3 or did some of them develop during certain times?
 4 A No.
 5 Q When you say "no," do you mean they have been
 6 there the whole year or they have only been there for
 7 only part of the year?
 8 A Whole year.
 9 Q Okay. Can you tell me how those conditions
 10 affected your ability to learn in Ms. Malabed's
 11 classroom?
 12 MS. PERRIN: Same objections.
 13 THE WITNESS: No.
 14 BY MR. ROSENTHAL:
 15 Q Did it have any effect on your ability to learn
 16 in your -- in her class?
 17 MS. PERRIN: Same objections.
 18 THE WITNESS: No.
 19 BY MR. ROSENTHAL:
 20 Q Just to clarify, you told me that there were
 21 two bathrooms upstairs in Bryant Elementary School?
 22 A Yes.
 23 Q Was that -- was that one girls' bathroom and
 24 one boys' bathroom?
 25 A Yes.

- 1 Q Okay. Just wanted to make sure.
 2 MS. PERRIN: You want to take a break or you
 3 want to answer a few more questions?
 4 THE WITNESS: A few more questions.
 5 BY MR. ROSENTHAL:
 6 Q Last time, we also talked about the textbooks
 7 you used in class. I think you told me you had a math
 8 textbook. And was there another textbook you had as
 9 well?
 10 A And social studies textbook, but we have to
 11 share them.
 12 Q And you had no --
 13 A Science.
 14 Q -- spelling or science or other language arts
 15 textbooks?
 16 A No.
 17 Q Can you tell me what materials you used in
 18 class to learn science?
 19 MS. PERRIN: Objection. Asked and answered.
 20 THE WITNESS: No.
 21 BY MR. ROSENTHAL:
 22 Q You learned science in class, though, right?
 23 A Yes.
 24 Q How does Ms. Malabed teach her science?
 25 A She teaches in a good way.

- 1 Q What does she use to teach you?
 2 A She experiments and it's easier to -- for us to
 3 understand.
 4 Q Do you know if you're supposed to have a
 5 textbook?
 6 MS. PERRIN: Objection. Calls for speculation.
 7 THE WITNESS: Yes.
 8 BY MR. ROSENTHAL:
 9 Q You do know?
 10 A Yes.
 11 Q Are you supposed to have a textbook?
 12 A Yes.
 13 Q How do you know that?
 14 A Because if you have -- you have -- we don't
 15 have to experiment.
 16 Q Do other fifth grade classes have science
 17 textbooks?
 18 MS. PERRIN: Answer only if you know.
 19 THE WITNESS: No.
 20 BY MR. ROSENTHAL:
 21 Q How do you know that?
 22 A Because I've been in the other classrooms
 23 before.
 24 Q Can you tell me the teachers in the other
 25 fifth grade classes at Bryant?

- 1 A No.
 2 Q You don't know any of the other fifth grade
 3 teachers?
 4 A No.
 5 Q Is Ms. Malabed the only fifth grade teacher at
 6 Bryant?
 7 A No.
 8 Q Do you know how many other fifth grade classes
 9 there are?
 10 A There are only two. My classroom and Room 12.
 11 Q And do you know who the teacher is in Room 12?
 12 A Ms. Indelisa.
 13 Q And she teaches fifth grade?
 14 A Yes.
 15 Q And do they have science textbooks in
 16 Ms. Indelisa's class?
 17 A No.
 18 MS. PERRIN: Answer only if you know.
 19 BY MR. ROSENTHAL:
 20 Q Do you know what they use to teach science in
 21 that class?
 22 A I don't think -- they don't have science. They
 23 don't do science.
 24 Q Do you use any kind of kits in connection with
 25 learning science?

- 1 A No.
 2 Q Ms. Malabed just does experiments with the
 3 class and that's how you learn science?
 4 A Yes.
 5 Q How about learning English and spelling? How
 6 do you -- how are you taught that? Do you use any
 7 materials in class?
 8 A Yes, we have spelling books and we take
 9 spelling tests every Friday.
 10 Q Can you describe for me your spelling books?
 11 A They're really -- they're really small.
 12 Q Do you have more than one?
 13 A No.
 14 Q You have one spelling book?
 15 A Yes.
 16 Q Do you have your own spelling book in class?
 17 A Yes.
 18 Q Does everybody in the class have their own
 19 spelling books?
 20 A Yes.
 21 Q Do you have to share spelling books in class?
 22 A No.
 23 Q Are you able to take your spelling book with
 24 you home at night?
 25 A Yes.

- 1 Q Have you ever not been able to take your
 2 spelling book with you -- take your spelling book home
 3 with you at night?
 4 A No.
 5 Q Is your spelling book in good condition?
 6 MS. PERRIN: Objection. Vague.
 7 BY MR. ROSENTHAL:
 8 Q Do you understand the question?
 9 A Yes.
 10 Q Is your spelling book in good condition?
 11 A Yes.
 12 Q How old would you say your spelling book is?
 13 MS. PERRIN: Answer only if you know.
 14 THE WITNESS: Half-a-year old.
 15 BY MR. ROSENTHAL:
 16 Q So the book looks pretty new?
 17 A Yes.
 18 Q Do you use any books -- strike that.
 19 MS. PERRIN: You want a break now?
 20 THE WITNESS: Yeah.
 21 MS. PERRIN: Okay.
 22 MR. ROSENTHAL: Let's take a break here. It's
 23 a good point.
 24 (Recess.)
 25 BY MR. ROSENTHAL:

- 1 Q Just before we took our break, Carlos, we were
 2 talking about some of the materials you used to learn
 3 subjects in Ms. Malabed's classroom. Did you get
 4 homework in science in Ms. Malabed's classroom?
 5 A No.
 6 Q You have never had homework in Ms. Malabed's
 7 class the entire school year?
 8 A Yes.
 9 Q Yes, you have had homework or yes, you have had
 10 none?
 11 A Yes.
 12 Q Can -- can you tell me how many times you get
 13 science homework in her class?
 14 MS. PERRIN: Objection. Asked and answered?
 15 THE WITNESS: Maybe twice a week.
 16 BY MR. ROSENTHAL:
 17 Q And can you give me examples of the type of
 18 science homework you get?
 19 MS. PERRIN: Asked and answered.
 20 THE WITNESS: About insects.
 21 BY MR. ROSENTHAL:
 22 Q When you say "about insects," what do you mean?
 23 What do you have to do for your homework?
 24 MS. PERRIN: Do you understand the question?
 25 THE WITNESS: No.

1 BY MR. ROSENTHAL:
 2 Q Can you give me an example of the specific
 3 homework that Ms. Malabed gives you in connection with
 4 science?
 5 A No.
 6 Q Did you get any science homework last week?
 7 A No.
 8 Q Did you get any science homework the week
 9 before that?
 10 A No.
 11 Q Do you remember the last time you got any
 12 science homework?
 13 A Maybe three weeks ago.
 14 Q Do you remember what that homework was?
 15 A About insects.
 16 Q Did you do that homework?
 17 A Yes.
 18 Q Can you tell me what you did to complete that
 19 homework?
 20 A No.
 21 Q Did you have to write something?
 22 MS. PERRIN: Can you tell him what Ms. Malabed
 23 asked you to do for homework that time?
 24 THE WITNESS: Uh-huh. She told us to see if we
 25 can get on the Internet and print it out.

1 BY MR. ROSENTHAL:
 2 Q So you had to do research on the Internet
 3 and --
 4 A Yes.
 5 Q Did you need a textbook to do that homework?
 6 A No.
 7 MS. PERRIN: Objection. Calls for speculation.
 8 BY MR. ROSENTHAL:
 9 Q Was that a no?
 10 A Yeah.
 11 Q Have you ever needed a textbook to do science
 12 homework in Ms. Malabed's classroom?
 13 A No.
 14 MS. PERRIN: Objection. Calls for speculation.
 15 BY MR. ROSENTHAL:
 16 Q What other supplies do you use in class in
 17 Ms. Malabed's classroom?
 18 MS. PERRIN: Objection. Vague as to supplies.
 19 And vague as to subject.
 20 BY MR. ROSENTHAL:
 21 Q Do you understand the question?
 22 A No.
 23 Q We've been talking a lot about books and we've
 24 been talking a little about things you used in
 25 connection with science experiments. What other stuff

1 do you use in class?
 2 A Science materials.
 3 Q Do you use pencils?
 4 A Yes.
 5 Q Do you use paper?
 6 A Yes.
 7 Q Do you use markers?
 8 A Yes.
 9 Q Do you use rulers?
 10 A Yes.
 11 Q What other stuff like that do you use?
 12 A Color pencils, paint, magnifying glasses,
 13 microscopes, scissors, clay, paper mache, tape. That's
 14 it.
 15 Q And do you get all that stuff, all the stuff
 16 you just listed, in school?
 17 A Yes.
 18 Q Does everybody in the class get --
 19 A Yes.
 20 Q -- to use that stuff?
 21 A Yes.
 22 Q Have you ever had to pay any fees in
 23 Ms. Malabed's classroom?
 24 A No.
 25 Q Can you think of any other problems with

1 Ms. Malabed's classroom that we haven't already
 2 discussed?
 3 MS. PERRIN: Objection. Vague as to problems.
 4 THE WITNESS: No.
 5 BY MR. ROSENTHAL:
 6 Q Did you understand the question?
 7 A Yes.
 8 Q Do you have any complaints about Ms. Malabed's
 9 classroom?
 10 A No.
 11 Q Just the stuff we talked about?
 12 A Yeah.
 13 Q I know you're not quite finished with
 14 fifth grade yet, but have you learned a lot this year?
 15 A Yes.
 16 Q Can you give me some examples of what you
 17 learned a lot about?
 18 A Science, social studies, spelling, math,
 19 geography, biography, autobiography, geometry. And
 20 that's it.
 21 Q Can you give me an example of something you
 22 learned in science this year that you didn't know
 23 before?
 24 A No.
 25 Q And you said that you learned about insects in

1 science, right?
 2 A Yes.
 3 Q Is there stuff you learned about insects that
 4 you didn't know before you took Ms. Malabed's class?
 5 A No.
 6 Q How about in social studies? Is there anything
 7 in social studies you learned this year that you
 8 remember?
 9 MS. PERRIN: That he didn't know before?
 10 BY MR. ROSENTHAL:
 11 Q Uh-uh.
 12 A Native Americans.
 13 Q That's something that you learned about this
 14 year?
 15 A Yes.
 16 Q And you didn't know about that before?
 17 A No.
 18 Q Did you learn a lot about Native Americans?
 19 A Yes.
 20 Q Did you learn a lot of new spelling words this
 21 year?
 22 A Yes.
 23 Q Do you know how your grades have been this
 24 year?
 25 A My grades is doing good.

1 MR. ROSENTHAL: Have you ever been able to
 2 obtain a report card from this year?
 3 MS. PERRIN: No. I can represent that Ana has
 4 looked for them and she doesn't have anything else in
 5 her possession at this time, if report cards were
 6 originally maintained by this guardian.
 7 MR. ROSENTHAL: Right. We covered that to some
 8 extent.
 9 MS. PERRIN: Okay.
 10 BY MR. ROSENTHAL:
 11 Q Carlos, do you remember what you've done the
 12 best in, in Ms. Malabed's class?
 13 MS. PERRIN: His best grade?
 14 BY MR. ROSENTHAL:
 15 Q I'm not necessarily sure he gets grades, but
 16 it's a series of checkmarks.
 17 A I don't know.
 18 Q Were there any areas you did really well in on
 19 your report card?
 20 A No.
 21 Q Do you remember not doing so great in certain
 22 areas?
 23 A I remember doing great.
 24 MS. PERRIN: He remembers doing great on the
 25 whole report card.

1 THE WITNESS: No.
 2 BY MR. ROSENTHAL:
 3 Q Was there some areas where you didn't do as
 4 great?
 5 A Yes.
 6 Q Do you remember what those areas were?
 7 A No.
 8 Q And the last time we met, you said math wasn't
 9 your favorite subject?
 10 A No.
 11 Q How did you do in math on your report card; do
 12 you remember?
 13 A No.
 14 Q Did you do pretty good?
 15 A Maybe.
 16 Q You just don't remember?
 17 A No.
 18 Q That's okay. Now, we talked about a bunch of
 19 problems in Ms. Malabed's classroom. Can you tell me if
 20 any of those problems affected your grades in her class?
 21 A No.
 22 Q So none of the problems we discussed affected
 23 your grades in her class?
 24 MS. PERRIN: Objection. Vague as to affected
 25 grades.

1 BY MR. ROSENTHAL:
 2 Q Do you understand the question?
 3 A Yes.
 4 Q And did any of the problems you identified
 5 affect your grades?
 6 A No.
 7 Q All right. Let's talk about your fourth grade
 8 class now. We've spent enough time talking about
 9 Ms. Malabed's class. Can you tell me who your teacher
 10 was in fourth grade?
 11 A Ms. Gilbert.
 12 Q Do you know how long Ms. Gilbert has been
 13 teaching at Bryant?
 14 A Maybe three years.
 15 Q Is she still teaching there this year?
 16 A Yes.
 17 Q Can you describe for me a typical day in
 18 Ms. Gilbert's classroom?
 19 A No.
 20 Q Do you remember what it was like being a
 21 student in her class?
 22 A Yes.
 23 Q Can you tell me the kinds of stuff you did in
 24 her class?
 25 A We fed the frogs and we played games. We had

- 1 math. And that's it.
 2 Q Did you learn other subjects in her class, too,
 3 besides math?
 4 A No.
 5 Q Did you learn social studies in her class?
 6 A Yes.
 7 Q Did you do spelling in her class?
 8 A Yes.
 9 Q How about reading?
 10 A Yes.
 11 Q Did you feed the frogs in connection with
 12 learning science in her class?
 13 A Yes.
 14 Q Did you do other science stuff as well?
 15 A Yes.
 16 Q Did you get homework in Ms. Gilbert's class?
 17 A Yes.
 18 Q Did she give you homework every night?
 19 A Yes.
 20 Q Do you remember what subjects she gave you
 21 homework in?
 22 A Spelling, cursive, and reading.
 23 Q Did you get math homework in her class?
 24 A Yes.
 25 Q How about science?

- 1 A Yes.
 2 Q Social studies?
 3 A No.
 4 Q Did Ms. Gilbert check your homework?
 5 A No, because we had homework checkers.
 6 Q Are those like the homework checkers that you
 7 told me about in Ms. Malabed's class?
 8 A Yes.
 9 Q Did you do your homework in Ms. Gilbert's
 10 class?
 11 A Yes.
 12 Q Did you get tests in Ms. Gilbert's class?
 13 A Yes.
 14 Q Did she test you in all of your subjects?
 15 A Yes.
 16 Q Were there any subjects that she didn't test
 17 you in?
 18 A No.
 19 MS. PERRIN: Are you okay?
 20 THE WITNESS: (No audible response.)
 21 BY MR. ROSENTHAL:
 22 Q I know this isn't that much fun, Carlos. I'm
 23 trying to go through as quickly as I can.
 24 A Yes.
 25 MS. PERRIN: You're doing a really good job. I

- 1 know it's hard. Do you want to take a break or do you
 2 want more questions?
 3 THE WITNESS: More questions.
 4 MS. PERRIN: Okay.
 5 BY MR. ROSENTHAL:
 6 Q Do you remember Ms. Gilbert ever being absent
 7 from class?
 8 A No.
 9 Q Did you ever have a substitute teacher when she
 10 was your teacher in fourth grade?
 11 A Yes.
 12 Q Do you remember how many times? I don't want
 13 you to guess. I'm just wondering if you remember about
 14 how many times you had a substitute teacher.
 15 A She had jury duty for about a week one time, so
 16 we had a substitute for a week.
 17 Q Did you have the same substitute for the whole
 18 week or were there different substitutes?
 19 A Different.
 20 Q What did you do in class when there was a
 21 substitute when Ms. Gilbert was on jury duty?
 22 MS. PERRIN: Objection. Vague.
 23 BY MR. ROSENTHAL:
 24 Q Do you understand the question?
 25 A No.

- 1 Q Did the substitute teacher teach the class when
 2 Ms. Gilbert was not there?
 3 MS. PERRIN: Objection. Vague as to teach.
 4 THE WITNESS: Yes.
 5 BY MR. ROSENTHAL:
 6 Q Do you remember how the students in your class
 7 behaved when there was a substitute teacher?
 8 A Sometimes they would start to act up.
 9 Q Did they act up more when there was a
 10 substitute?
 11 A Yes.
 12 Q Do you know why that is?
 13 A No.
 14 Q Do you remember Ms. Gilbert being absent any
 15 other times other than for jury duty?
 16 A No.
 17 Q Did you think Ms. Gilbert was a good teacher?
 18 A Yes.
 19 Q Why do you think she was a good teacher?
 20 A She was nice.
 21 Q Any other reasons?
 22 A No.
 23 Q Do you think she was smart?
 24 A Yes, she was smart.
 25 Q Did she help students when they needed help?

1 A Yes.
 2 Q Can you tell me where Ms. Gilbert's classroom
 3 is located in the school?
 4 MS. PERRIN: Last year?
 5 BY MR. ROSENTHAL:
 6 Q Why don't we start with classroom number. They
 7 all have numbers, right?
 8 A Yes.
 9 Q What number was her classroom; do you remember?
 10 A Room 6.
 11 Q And that's on the second floor, right?
 12 A Yes.
 13 Q Can you tell me about Classroom 6?
 14 MS. PERRIN: Objection. Vague. Do you just
 15 want him to tell you what it looks like?
 16 MR. ROSENTHAL: Yeah, I want him to describe
 17 the physical characteristics of the classroom.
 18 MS. PERRIN: Does that make sense?
 19 BY MR. ROSENTHAL:
 20 Q I thought that might confuse him.
 21 MS. PERRIN: Can you tell me what the classroom
 22 looked like, what Room 6 looked like?
 23 THE WITNESS: It wasn't messy. It was clean.
 24 It was organized. That's it.
 25 BY MR. ROSENTHAL:

1 Q Do you remember how many classmates you had in
 2 the class?
 3 A I think 22.
 4 Q Did everyone have their own desk in the class?
 5 A Yes.
 6 Q Was there one door to the classroom?
 7 A Yes.
 8 Q Were there any windows in the class?
 9 A No -- yes.
 10 Q Is that a yes or no?
 11 A Yes.
 12 Q Do you remember how many windows there were?
 13 A Three.
 14 Q Would you say the windows are in good
 15 condition?
 16 A Yes.
 17 Q How about the door?
 18 A Yes.
 19 Q How about the floors?
 20 A Yes.
 21 Q And how about the ceiling?
 22 A Yes.
 23 Q Can you tell me a little bit about the walls in
 24 the class?
 25 A They're okay.

1 Q Do the walls go from the floor to the ceiling?
 2 A Yes.
 3 MS. PERRIN: Can we go off record for a second?
 4 MR. ROSENTHAL: Sure.
 5 (Recess.)
 6 BY MR. ROSENTHAL:
 7 Q Carlos, are the walls in Classroom 6 just like
 8 the walls in Ms. Malabed's classroom?
 9 A Yes.
 10 Q Is that true for the walls in all the
 11 classrooms, Classroom 1 through 14? Are all the walls
 12 the same in all those classrooms?
 13 A Yes.
 14 Q Each one of the classrooms has four walls?
 15 A Yes.
 16 Q And all of the classrooms, the walls go from
 17 the floor to the ceiling?
 18 A Yes.
 19 Q Can you tell me what classrooms are next to
 20 Classroom 6?
 21 A 5 and 7 and the library.
 22 Q The library is across the hall from
 23 Classroom 6?
 24 A Yes.
 25 MS. PERRIN: Can we go off for a second?

1 (Recess.)
 2 BY MR. ROSENTHAL:
 3 Q Okay. Carlos, just before we took our little
 4 break, we were talking about the classrooms that are
 5 located next to Ms. Gilbert's class, which is in
 6 Classroom 6, and you said it was Classroom 5 and 7 and
 7 across the hall was the library; is that right?
 8 A Yes.
 9 Q When you were in Classroom 6, did you ever hear
 10 noise from the surrounding classrooms?
 11 A No.
 12 Q You never heard any noise from Classroom 5?
 13 A No.
 14 Q You never heard any noise from Classroom 7?
 15 A No.
 16 Q Did you ever hear any noise from the library?
 17 A No.
 18 Q Did you ever hear any noise in the hallway?
 19 A No.
 20 Q Were you always able to -- strike that.
 21 Could you always hear Ms. Gilbert in class?
 22 A Yes.
 23 Q Do you remember ever not being able to hear
 24 Ms. Gilbert in class?
 25 A No.

- 1 Q. Do you remember if Ms. Gilbert's class was ever
2 too hot?
3 A. No.
4 Q. Was Ms. Gilbert's class ever too hot?
5 A. No.
6 Q. Was Ms. Gilbert's class ever too cold?
7 A. No.
8 Q. Was the temperature in Ms. Gilbert's class
9 always comfortable?
10 A. Yes.
11 Q. Is there a heater -- was there a heater in
12 Ms. Gilbert's class?
13 A. Yes.
14 Q. Was there air conditioning in Ms. Gilbert's
15 class?
16 A. Yes.
17 Q. Do you know if the heater worked?
18 A. They worked.
19 Q. I'm sorry?
20 A. They worked.
21 Q. They worked?
22 A. (No audible response.)
23 Q. The heater and the air conditioner both worked?
24 A. Yeah.
25 Q. Did you ever see any mice in Ms. Gilbert's

- 1 A. Yes.
2 Q. When you used the bathroom when you were in
3 Ms. Gilbert's class --
4 A. Yes.
5 Q. -- was the soap dispenser still missing on top
6 during that time?
7 A. Yes.
8 Q. Was the paper towel dispenser still broken?
9 A. Yes.
10 Q. Were there any other problems in the bathrooms
11 when you were in Ms. Gilbert's class?
12 A. No.
13 Q. Was there toilet paper in the bathrooms in
14 Ms. Gilbert's class -- when you were in Ms. Gilbert's
15 class?
16 A. Yes.
17 Q. Do you ever remember an instance where there
18 was no toilet paper in the bathrooms when you were a
19 student in Ms. Gilbert's class?
20 A. No.
21 Q. And you told me earlier that the doors and the
22 window and the floor and the ceiling, they were all in
23 pretty good condition in Ms. Gilbert's class; was that
24 true for the entire school year?
25 A. Yes.

- 1 class?
2 A. No.
3 Q. Did you ever see any roaches in Ms. Gilbert's
4 class?
5 A. No.
6 Q. Did you ever see any other bugs or animals
7 running around in Ms. Gilbert's class?
8 A. No. Well, the crickets got out. We were
9 trying to feed them one time.
10 Q. You had crickets in a jar in class?
11 A. Yeah.
12 Q. Was that a science project?
13 A. No. We have to feed them to the frogs.
14 Q. So you fed the frogs?
15 A. Yeah.
16 Q. When you were in Ms. Gilbert's class, did you
17 use the same bathroom that you used when you were in
18 Ms. Malabed's class?
19 A. Yes.
20 Q. We talked earlier about the condition of the
21 bathrooms while you were in Ms. Malabed's class. Was
22 the condition in the bathrooms the same when you were in
23 Ms. Gilbert's class?
24 A. Yes.
25 Q. Was there still graffiti on the walls --

- 1 Q. How about the lighting in her class? How was
2 that?
3 A. It's okay.
4 Q. Could you read in her class with any -- with no
5 difficulty?
6 A. Yes.
7 Q. Do you remember how many lights there were in
8 her classroom?
9 A. No.
10 Q. Do you remember if all the lights worked?
11 A. Yes.
12 Q. Did they all work?
13 A. Yes.
14 Q. Now, we've talked about some of the stuff you
15 learned in Ms. Gilbert's class. You said she taught you
16 social studies, spelling, reading, science, math. Did
17 you have any textbooks in Ms. Gilbert's class?
18 A. Yes.
19 Q. Do you remember what textbooks you had?
20 A. Spelling, math, and language arts and reading.
21 Q. You had four textbooks?
22 A. Yes.
23 Q. Let's start with your spelling textbook. Did
24 you have your own spelling textbook?
25 A. Yes.

- 1 Q. Did everybody in the class have their own
2 spelling textbook?
3 A. Yes.
4 Q. Did anybody have to share textbooks in class?
5 A. No.
6 Q. Were you able to take your textbook home with
7 you at night?
8 A. (No audible response.)
9 Q. I'm talking about your spelling textbook here.
10 A. Yes.
11 Q. Was everybody in the class allowed to take
12 their spelling textbook home with them?
13 A. Yes.
14 Q. How about your math textbook? Did you have
15 your own math textbook?
16 A. Yes.
17 Q. Did everybody in class have their own math
18 textbook?
19 A. Yes.
20 Q. Were you able to -- did anybody share math
21 textbooks in class?
22 A. No.
23 Q. Were you able to take your math textbook home
24 in Ms. Gilbert's class?
25 A. Yes.

- 1 THE WITNESS: No.
2 BY MR. ROSENTHAL:
3 Q. Did you ever get homework in Ms. Gilbert's
4 class that required you to use the language arts
5 textbook?
6 MS. PERRIN: Objection. Calls for speculation.
7 THE WITNESS: No.
8 BY MR. ROSENTHAL:
9 Q. How about your reading textbook? Did you have
10 your own reading textbook?
11 A. Yes.
12 Q. Did everybody in the class have their own
13 reading textbook?
14 A. Yes.
15 Q. Did anybody have to share reading textbooks in
16 Ms. Gilbert's class?
17 A. No.
18 Q. Were you able to take your reading textbook
19 home with you at night?
20 A. No.
21 Q. Do you know why you weren't able to do so?
22 A. No.
23 Q. Did you ever take your reading textbook home
24 with you?
25 A. Yes.

- 1 Q. Was everybody in the class able to take their
2 math textbook home?
3 A. Yes.
4 Q. How about your language arts textbook? Did you
5 have your own language arts textbook?
6 A. Yes.
7 Q. Did everybody in the class have their own
8 language arts textbook?
9 A. Yes.
10 Q. Did anybody share language arts textbooks in
11 Ms. Gilbert's class?
12 A. No.
13 Q. Were you able to take your language arts
14 textbook home with you?
15 A. No.
16 Q. You were not?
17 A. No.
18 Q. Do you know why not?
19 A. No.
20 Q. Did you ever take your language arts textbook
21 home with you?
22 A. No.
23 Q. Did anybody in the class take their language
24 arts textbook home with them?
25 MS. PERRIN: Answer only if you know.

- 1 Q. Do you remember why you took it home on certain
2 occasions?
3 A. I needed to do -- when I needed to read for 30
4 minutes and read for nature for homework.
5 Q. So sometimes Ms. Gilbert gave you homework that
6 you needed your reading textbook home for, and then she
7 would let you take the book home?
8 A. Yes.
9 Q. When she gave homework in reading that required
10 the use of the textbook, did everybody in the class take
11 the book home?
12 MS. PERRIN: Answer only if you know.
13 THE WITNESS: Yes.
14 BY MR. ROSENTHAL:
15 Q. I'm going to ask you some questions about the
16 condition of the textbook. Do you remember the
17 condition of your spelling textbook?
18 MS. PERRIN: In Ms. Gilbert's class?
19 MR. ROSENTHAL: Yes.
20 MS. PERRIN: Okay.
21 THE WITNESS: No.
22 BY MR. ROSENTHAL:
23 Q. Do you know if it was a new book or an old
24 book?
25 A. It was a new book.

1 Q. How about your math textbook? Was that a new
2 book or an old book?
3 A. It was a -- it was a new book.
4 Q. How about your language arts textbook in
5 Ms. Gilbert's class?
6 A. What was the question?
7 Q. Your language arts textbook, was it new or old?
8 A. It was old.
9 Q. Can you describe for me what you mean by old?
10 A. It was already used.
11 Q. How could you tell it was already used?
12 A. Because it had names in them.
13 Q. Did your spelling and math books have names in
14 them or was your name the first?
15 A. My name was the first.
16 Q. So your spelling and math books were brand new
17 books?
18 A. Yes.
19 Q. How many names were in your language arts book;
20 do you remember?
21 A. It was three.
22 Q. Did you have the same language arts book for
23 the entire year?
24 A. Yes.
25 Q. And did you put your name in the language arts

1 Q. Right.
2 A. No, we didn't have a science textbook.
3 Q. Did you have a social studies textbook in
4 Ms. Gilbert's class?
5 A. Yes, but we had to share.
6 Q. Did everybody in the class have to share social
7 studies textbooks?
8 MS. PERRIN: Objection. Vague.
9 THE WITNESS: Yes.
10 BY MR. ROSENTHAL:
11 Q. Were you able to take your social studies
12 textbook at home?
13 A. No.
14 Q. Did Ms. Gilbert ever give you social studies
15 homework?
16 A. No.
17 Q. Did you ever need to have your social studies
18 textbook at home with you?
19 A. No.
20 Q. And you said you had no science textbook. Can
21 you tell me what kinds of materials you -- you used in
22 class to learn science?
23 MS. PERRIN: You understand the question?
24 THE WITNESS: Yes.
25 MS. PERRIN: Okay.

1 book?
2 A. Yes.
3 Q. How about your reading textbook? Do you
4 remember if that was a new book or an old book?
5 A. It was a new book.
6 Q. Was your name the first name in the book?
7 A. Yes.
8 Q. So was that also a brand new book?
9 A. Yes.
10 Q. Just turning back to your language arts book
11 for a second, you said that it had about three names in
12 it?
13 A. Yes.
14 Q. Were there any missing pages from the book?
15 A. No.
16 Q. No pages were ripped out or anything?
17 A. No.
18 Q. Was there a lot of writing on the book?
19 A. No.
20 Q. Was the book in pretty good condition?
21 A. Yes.
22 Q. You didn't have a science textbook?
23 MS. PERRIN: He's talking about Ms. Gilbert's
24 class. Okay.
25 BY MR. ROSENTHAL:

1 THE WITNESS: What was your question again?
2 BY MR. ROSENTHAL:
3 Q. When you learned science in Ms. Gilbert's
4 class -- I know you didn't have a textbook, but what did
5 you have in class to learn about science?
6 A. She explained it in a good way to us. She
7 explained it in a way --
8 MS. PERRIN: Can you pick up your head?
9 THE WITNESS: She explained it in a way that
10 can -- that could teach us.
11 BY MR. ROSENTHAL:
12 Q. So she talked about science in class?
13 A. Yes.
14 Q. Did she ever give you any papers about science?
15 A. No.
16 Q. Did you do experiments in that class?
17 A. No.
18 Q. You had frogs in that class, though, right?
19 A. Yes.
20 Q. Do you know why you had frogs?
21 A. Because she already had those pets in second
22 grade when she was teaching.
23 Q. Did you learn about frogs in her class?
24 A. Yes.
25 Q. Now, you said you got science homework from

- 1 Ms. Gilbert. Do you remember what kind of homework that
2 was?
3 A. No.
4 Q. Do you remember needing a textbook to do your
5 science homework that you got in Ms. Gilbert's class?
6 A. No.
7 Q. You didn't need a textbook to do that homework?
8 A. No.
9 Q. Can you tell me what other kinds of supplies
10 you used in Ms. Gilbert's class? And by supplies, I
11 mean the things we discussed earlier, like paper and
12 pens and pencils and things like that.
13 A. No.
14 Q. Did you use any things like that in
15 Ms. Gilbert's class?
16 A. I -- I used the same stuff as fifth grade.
17 Q. The same stuff?
18 A. Yeah.
19 Q. And was all that stuff provided to you in
20 class?
21 A. Yes.
22 Q. Was it provided to all students in the class?
23 A. Yes.
24 Q. Was there enough of it?
25 A. Yes.

- 1 Q. Did you pay any fees in connection with
2 Ms. Gilbert's class?
3 A. No.
4 Q. Did you have art class in Ms. Gilbert's class?
5 A. Yes, we had -- yes.
6 Q. Did Ms. Gilbert teach you art or was there a
7 separate art teacher?
8 A. We had a different art teacher, but Ms. Gilbert
9 was in class.
10 Q. The art teacher came into Classroom 6 to teach
11 you art?
12 A. Yes.
13 Q. Do you remember how often that was?
14 A. Every Tuesday.
15 Q. Do you remember how long you were taught art?
16 A. The whole afternoon.
17 Q. And I know you didn't -- I know you stopped
18 taking music when you were in Ms. Malabed's class. Were
19 you taking music in Ms. Gilbert's class?
20 A. Yes, because everybody -- when I was in Room 6,
21 everybody in the school had to take music because all
22 the classes had to take it.
23 Q. So the whole class took music when you were in
24 Ms. Gilbert's class?
25 A. Yes.

- 1 Q. Do you remember how often you had music class?
2 A. It was -- three times a week.
3 Q. Do you remember for how long each day?
4 A. Maybe 40 minutes.
5 Q. Did you have gym in Ms. Gilbert's class?
6 A. No.
7 Q. You never had gym class?
8 A. No.
9 Q. Do you remember any of the art projects you did
10 in art class while you were a student in Ms. Gilbert's
11 class?
12 A. We -- made sculptures out of wire.
13 Q. Anything else you remember?
14 A. No.
15 Q. Was it fun?
16 A. Yeah.
17 Q. How about music? What did you learn in music
18 class?
19 A. In music class -- I was in chorus.
20 Q. You were in chorus?
21 A. I learned chorus.
22 Q. Did you learn any musical instruments?
23 A. The recorder.
24 Q. You learned to play the recorder?
25 A. (No audible response.)

- 1 Q. Did you have your own recorder?
2 A. Yes.
3 Q. Where did you get it from?
4 A. In third grade, my teacher, from -- the last
5 day of school, he got the whole class recorders.
6 Q. Who was your third grade teacher?
7 A. Mr. Sullivan.
8 Q. So he gave everybody a recorder?
9 A. Yes.
10 Q. Did you like chorus?
11 A. No.
12 Q. Did you like the recorder?
13 A. A little.
14 Q. Did you stop taking music in Ms. Malabed's
15 class because you didn't like chorus?
16 A. Yes.
17 Q. Do you remember why you didn't like it?
18 A. I didn't like it because our -- our music
19 teacher kept on yelling at us.
20 Q. So you didn't like your music teacher?
21 A. No.
22 Q. Do you know why she yelled at you?
23 A. Because some of the class wasn't listening.
24 She said -- yelled at the whole class.
25 Q. So some students weren't behaving properly, and

1 then she would yell at the class?
 2 A. Yes.
 3 Q. Now, we've been talking for the past few
 4 minutes about Ms. Gilbert's class. Were there any other
 5 problems with her class that you can think of?
 6 A. No.
 7 MS. PERRIN: Okay.
 8 BY MR. ROSENTHAL:
 9 Q. Do you have any other complaints about
 10 Ms. Gilbert's class?
 11 A. No.
 12 Q. Did you learn a lot in Ms. Gilbert's class?
 13 A. Yes.
 14 Q. Can you tell me some things you remember
 15 learning in Ms. Gilbert's class?
 16 A. No.
 17 Q. Did you learn how to write cursive in her
 18 class?
 19 A. Yes.
 20 Q. And you said you learned some things about
 21 frogs, too, right?
 22 A. Yes.
 23 Q. Did you know about frogs before taking
 24 Ms. Gilbert's class?
 25 A. Yes.

1 Q. But did you learn more about them because you
 2 took her class?
 3 A. Yes.
 4 Q. Do you remember how you did in Ms. Gilbert's
 5 class?
 6 MS. PERRIN: He's asking about -- like on your
 7 report card.
 8 THE WITNESS: No.
 9 BY MR. ROSENTHAL:
 10 Q. Have you seen your report card from
 11 Ms. Gilbert's class?
 12 A. Yes, but I forget how it was.
 13 Q. But you remember seeing it before, right?
 14 A. Yes.
 15 MR. ROSENTHAL: I'm going to mark this as -- I
 16 think we are up to No. 3 -- for identification.
 17 (Defendant's Exhibit 3 was marked for
 18 identification by the court reporter.)
 19 BY MR. ROSENTHAL:
 20 Q. I'm going to ask you to take a look at that,
 21 Carlos. Do you know what that is?
 22 A. (No audible response.)
 23 Q. Do you know if that's your report card from
 24 Ms. Gilbert's class?
 25 A. Yes.

1 Q. Is there anything on the report card that
 2 appears to be wrong to you?
 3 A. No.
 4 Q. Everything looks right?
 5 A. Yes.
 6 Q. It looks like you did pretty well in her class;
 7 is that right?
 8 A. Yes.
 9 Q. Did you get any bad grades in her class?
 10 MS. PERRIN: Objection. Assumes that there are
 11 grades.
 12 BY MR. ROSENTHAL:
 13 Q. Well -- well, let me rephrase the question. As
 14 you look at the report card, is there any area that you
 15 feel you didn't do so well in, in Ms. Gilbert's class?
 16 A. No.
 17 Q. So you feel like you did pretty good in all
 18 subjects in her class?
 19 A. Yeah.
 20 Q. You told me about a few things in Ms. Gilbert's
 21 class, like you had to share social studies textbooks;
 22 your language arts book was a little bit old. You had a
 23 few other complaints like that. Did any of those things
 24 affect your grades in Ms. Gilbert's class?
 25 MS. PERRIN: Objection. Assumes that there are

1 grades. And vague as to affects. Same standing
 2 stipulation as to the rest.
 3 THE WITNESS: No.
 4 BY MR. ROSENTHAL:
 5 Q. Why don't we start talking about your third
 6 grade class. Do you remember who your third grade
 7 teacher was? I think you said it was Mr. Sullivan.
 8 A. Yes.
 9 Q. Do you know how long Mr. Sullivan has been
 10 teaching at Bryant?
 11 A. Maybe six or five years.
 12 Q. Is he still teaching there now?
 13 A. Yes.
 14 Q. Can you tell me about the kinds of things you
 15 did in Mr. Sullivan's class?
 16 A. Yes. We had parties on somebody's birthday.
 17 And we had computer lab. We did a lot of activities.
 18 Q. I don't mean to go back in time, but did you
 19 have computer lab in Ms. Gilbert's class, too?
 20 A. Yes.
 21 Q. Did you have computer lab in Ms. Malabed's
 22 class?
 23 A. Yes.
 24 Q. Let's just talk about computer lab for a couple
 25 of minutes. Can you tell me the kinds of things you've

- 1 done in computer lab? Why don't you start with what you
 2 do in computer lab in Ms. Malabed's classroom.
 3 A. I -- now, we are doing a slide show for our
 4 graduation.
 5 Q. You're doing that on the computer?
 6 A. Yes.
 7 Q. Are you using a specific program to do that?
 8 A. We are using Hyperstudio.
 9 Q. Hyperstudio?
 10 A. (No audible response.)
 11 Q. And how did you learn about Hyperstudio?
 12 A. (No audible response.)
 13 Q. Does Ms. Malabed teach your computer lab?
 14 A. Yes. And we have computer lab teachers, too.
 15 Q. So you learned about Hyperstudio from the
 16 computer teachers and Ms. Malabed?
 17 A. Yes.
 18 Q. And how often do you have computer lab in
 19 Ms. Malabed's class?
 20 A. An hour and 15 minutes.
 21 Q. Is that once a week?
 22 A. Twice a week.
 23 Q. And do you have that class in a computer lab at
 24 Bryant or is that in your classroom?
 25 A. It's at Bryant. No, it's in -- it's in a

- 1 A. Yes.
 2 Q. And did you have your own computer during that
 3 time as well?
 4 MS. PERRIN: For each --
 5 BY MR. ROSENTHAL:
 6 Q In the computer lab?
 7 A Yes.
 8 Q. For each student?
 9 A. (No audible response.)
 10 MS. PERRIN: Can we break for lunch?
 11 MR. ROSENTHAL: Yeah, sounds like it's
 12 lunchtime.
 13 (Recess.)
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

- 1 different class.
 2 Q. So it's in a separate room where there are just
 3 computers?
 4 A. Yes.
 5 Q. Do you know how many computers are in that
 6 room?
 7 A. 28 or 27.
 8 Q. So when you go to computer lab, does everybody
 9 have their own computer to use?
 10 A. Yes.
 11 Q. Do you know what kind of computers they are?
 12 A. No.
 13 Q. Are they new computers or old computers?
 14 A. Old.
 15 Q. How do you know they're old?
 16 A. Because they've been there since I've been
 17 coming to the school.
 18 Q. They've been in there since you've been in
 19 kindergarten?
 20 A. Yes.
 21 Q. And you had a computer lab with Ms. Gilbert
 22 last year as well?
 23 A. Yes.
 24 Q. Was that also for about an hour and 15 minutes,
 25 twice a week?

- 1 AFTERNOON SESSION
 2
 3 BY MR. ROSENTHAL:
 4 Q. Hi, Carlos.
 5 A. Hi.
 6 Q. Before lunch we were talking about stuff you do
 7 in computer lab. Have you had -- have you been going to
 8 computer lab every year since you've been at Bryant
 9 Elementary School?
 10 A. Yes.
 11 Q. And have you always been going twice a week?
 12 A. Yes.
 13 Q. For about an hour and 15 minutes each time?
 14 A. Yes.
 15 Q. And you mentioned that there were some
 16 instructors in the computer lab; is that right?
 17 A. Yes, yes.
 18 Q. Do you know how many there are?
 19 A. Two.
 20 Q. Do you know their names?
 21 A. Ms. Malabed and Ms. Chow.
 22 Q. Is Ms. Malabed the same person as your
 23 fifth grade teacher?
 24 A. Huh?
 25 Q. Is Ms. Malabed your fifth grade teacher and,

- 1 also, a computer instructor?
 2 A. She's a computer instructor for our class.
 3 Q. Does she teach other classes in computer as
 4 well or just your class?
 5 A. Just our class.
 6 Q. Does Ms. Chow teach all classes?
 7 A. All classes.
 8 Q. Has Ms. Chow been there the entire time you've
 9 been there?
 10 A. No. I've been there longer than her.
 11 Q. Was there somebody else who taught computer
 12 before Ms. Chow?
 13 A. Yes.
 14 Q. Do you know who that was?
 15 A. Yes.
 16 Q. Can you tell me his or her name?
 17 A. Ms. Davis.
 18 Q. And other than Ms. Chow or Ms. Davis, have
 19 there been other computer instructors during your time
 20 at Bryant?
 21 A. Not that I know.
 22 Q. Okay. Okay. Let's talk about your third grade
 23 class. We were talking about that a little bit before.
 24 And you said your teacher was Mr. Sullivan, right?
 25 A. Yes.

- 1 reading homework in Mr. Sullivan's class?
 2 A. No.
 3 Q. How about science homework?
 4 A. No.
 5 Q. Did Mr. Sullivan give you tests in the class?
 6 A. Yes.
 7 Q. Do you remember what subjects he gave you tests
 8 in?
 9 A. Multiplication and spelling.
 10 Q. Anything else?
 11 A. No.
 12 Q. About how often did Mr. Sullivan give you
 13 homework?
 14 A. Four times a week.
 15 Q. And did you do your homework?
 16 A. Huh?
 17 Q. Did you do your homework in Mr. Sullivan's
 18 class?
 19 A. Yes.
 20 Q. Did Mr. Sullivan check your homework?
 21 A. We had homework checkers.
 22 Q. Just like you described for your other classes?
 23 A. Yes.
 24 Q. Do you remember how often Mr. Sullivan gave you
 25 tests?

- 1 Q. Did Mr. Sullivan teach you math?
 2 A. Yes.
 3 Q. Did he teach you reading?
 4 A. Yes.
 5 Q. Writing?
 6 A. Yes.
 7 Q. Social studies?
 8 A. Yes.
 9 Q. Science?
 10 A. Hold on. I don't think we had social studies.
 11 Q. No social studies in Mr. Sullivan's class?
 12 A. No.
 13 Q. How about science?
 14 A. Yes.
 15 Q. Spelling?
 16 A. Yes.
 17 Q. Anything else you can think of that
 18 Mr. Sullivan taught you, any other subjects?
 19 A. No.
 20 Q. Did Mr. Sullivan give you homework?
 21 A. Yes.
 22 Q. Do you remember what subjects he gave you
 23 homework in?
 24 A. Math, spelling, and cursive.
 25 Q. How about reading homework? Did you get

- 1 A. He gave us a test every Friday.
 2 Q. Were those tests in math and spelling?
 3 A. Yes.
 4 Q. Do you remember Mr. Sullivan being absent from
 5 class any time?
 6 A. When he had jury duty for a week.
 7 Q. Do you remember if you had a substitute teacher
 8 when Mr. Sullivan had jury duty?
 9 A. Yes.
 10 Q. And did you have a substitute?
 11 A. Yes.
 12 Q. Was it one substitute for the whole week or was
 13 it more than one substitute?
 14 A. More.
 15 Q. When the substitute teacher was in for
 16 Mr. Sullivan, did the substitute teach the class?
 17 MS. PERRIN: Objection. Vague as to teach.
 18 BY MR. ROSENTHAL:
 19 Q. Do you understand the question?
 20 A. Yes, he did.
 21 Q. The substitute taught the class?
 22 A. Yes.
 23 Q. Did the students in the class behave any
 24 differently when there was a substitute teacher?
 25 A. Yes.

- 1 Q. Can you tell me how they behaved differently?
 2 A. They behaved differently because if -- if --
 3 because Mr. Sullivan was nice, so whenever he came back
 4 from being absent, he would hear about all the good
 5 things you did, and he probably gave you a pencil or a
 6 prize from the prize box.
 7 Q. When there was a substitute teacher, did the
 8 students behave as well as they did when Mr. Sullivan
 9 was there?
 10 A. Yes.
 11 Q. Did students act up when there was a substitute
 12 teacher?
 13 A. No.
 14 MS. PERRIN: He hears the Blue Angels flying.
 15 MR. ROSENTHAL: Are they out there?
 16 MS. PERRIN: Uh-huh.
 17 BY MR. ROSENTHAL:
 18 Q Was Mr. Sullivan a good teacher?
 19 A Yes.
 20 Q. Why do you say he was a good teacher?
 21 A. Because he was always nice. He was never mean.
 22 Q. When you say "he was nice," what do you mean?
 23 A. He never would want to get you in trouble. And
 24 he never called your parents right away. And he would
 25 never yell at you or bench you. And that's it.

- 1 Q. Would you say that most of the students in the
 2 class liked him?
 3 A. Yes.
 4 Q. And you mentioned something about him giving
 5 out prizes?
 6 A. Yes.
 7 Q. Can you tell me about how he did that?
 8 A. At the end of a week, he has, on the table --
 9 he has -- a chart. It has a table that has four tables,
 10 five tables, where everybody sat. And then whichever
 11 table was the most goodest, on Friday, they got the --
 12 they got to go choose from the prize box.
 13 Q. What kind of stuff did he have in the prize
 14 box?
 15 A. Pencils, pens, and erasers, sharpeners,
 16 sometimes a box of markers. And that's it.
 17 Q. Did you get to choose stuff from the prize box
 18 once in a while?
 19 A. Yes.
 20 Q. Do you think Mr. Sullivan is smart?
 21 A. Yeah.
 22 Q. Why do you say that?
 23 A. Because he knows how to treat -- he knows how
 24 to treat kids in a nice way.
 25 Q. And was he good at teaching the subjects that

- 1 he taught you?
 2 A. Yes.
 3 Q. Can you tell me which classroom Mr. Sullivan's
 4 class was?
 5 A. Room 7.
 6 Q. Can you tell me how many students you had in
 7 class with you in Mr. Sullivan's class?
 8 A. 18.
 9 Q. Did everybody have their own desk?
 10 A. No.
 11 Q. Can you tell me who didn't have their own desk?
 12 A. Everybody.
 13 Q. Did you not have desks in that classroom?
 14 A. We had to share a table.
 15 Q. So you had tables instead of desks?
 16 A. Yes.
 17 Q. Did everybody have their own chair?
 18 A. Yes.
 19 Q How many students were at a table?
 20 A. Five.
 21 Q. Were they big tables?
 22 A. Yeah.
 23 Q. Were the tables bigger than the desks you had,
 24 for example, in Ms. Malabed's class?
 25 A. Yes.

- 1 Q. Can you describe for me what Mr. Sullivan's
 2 class looked like?
 3 A. A little messy, sort of organized and -- and --
 4 it's not like my class right now.
 5 Q. Not like your class right now?
 6 A. Uh-huh.
 7 Q. How is it different from your class right now?
 8 A. It's more clean.
 9 Q. This year is more clean?
 10 A. Yeah.
 11 Q. Can you tell me how Mr. Sullivan's class was
 12 messier than this year's class?
 13 A. It was messier because stuff was thrown
 14 everywhere. Magazines were all over the ground. And
 15 there's garbage on the floor. And that's it.
 16 Q. Do you know why there were magazines on the
 17 ground?
 18 A. Because when kids are finished reading, they
 19 always just throw it. And they always just throw it on
 20 the ground.
 21 Q. Do you know why there was garbage on the floor?
 22 A. Because whenever the kids try like -- throw it
 23 in the -- when they -- when the kids try to throw it in
 24 the wastepaper basket, they -- they -- most of the time
 25 they missed, and then they would just leave it on the

- 1 ground.
 2 Q. Did anybody tell the students to pick up the
 3 magazines or pick up the garbage?
 4 A. No. At the end of the day, we always had
 5 clean-up time.
 6 Q. So at the end of the day, the room was cleaner
 7 than --
 8 A. Yes.
 9 Q. And was it clean when you came in in the
 10 morning?
 11 A. Yes.
 12 Q. Can you tell me what classrooms are next to
 13 Classroom 7?
 14 A. Room 6, the library and computer lab.
 15 Q. And is Classroom 8 not next to Classroom 7?
 16 A. Classroom 8 is the computer lab.
 17 Q. Did Classroom 7 have a door?
 18 A. Yes.
 19 Q. Did it have any windows?
 20 A. Yes.
 21 Q. How many windows?
 22 A. Three.
 23 Q. Just one door?
 24 A. Yes.
 25 Q. Can you tell me what the condition of the

- 1 A. The ceiling, it's in good condition.
 2 Q. It was in good condition?
 3 A. (No audible response.)
 4 Q. Was it in good condition for the entire school
 5 year?
 6 A. Yes.
 7 Q. Were the walls in Classroom 6 the same as they
 8 were in Ms. Gilbert's class and Ms. Malabed's class?
 9 A. Yes.
 10 Q. They went from the floor to the ceiling?
 11 A. Yes.
 12 Q. And there were four walls in the room?
 13 A. Yes.
 14 Q. Could you see through the walls?
 15 A. No.
 16 Q. When you were in Mr. Sullivan's classroom, did
 17 you hear any noises from Classroom 6 or the computer lab
 18 or the library across the hall?
 19 A. No.
 20 Q. Did you ever hear any noise from any of those
 21 places while you were a student in Mr. Sullivan's
 22 classroom?
 23 A. No.
 24 Q. You told me a little bit today, and, mostly,
 25 last time we met, that you hear noises in Ms. Malabed's

- 1 windows was?
 2 A. They were in good condition.
 3 Q. And were they in good condition for the entire
 4 school year?
 5 A. Yes.
 6 Q. How about the door? Was the door in good
 7 condition?
 8 A. Yes.
 9 Q. Was it in good condition the entire school
 10 year?
 11 A. Yes.
 12 Q. How about the floor?
 13 A. The floor -- the floor was in good condition,
 14 too.
 15 Q. And was it in good condition for the entire
 16 school year?
 17 A. Yes.
 18 Q. Now, the floors at Bryant are carpeted?
 19 A. Carpet?
 20 Q. Yeah. Are they carpeted or is it a hard floor?
 21 A. They have carpet.
 22 Q. Do all the classrooms have carpet?
 23 A. Yes.
 24 Q. And how about the condition of the ceiling in
 25 Mr. Sullivan's classroom?

- 1 classroom?
 2 A. Yes.
 3 Q. Is that right?
 4 A. Yes.
 5 Q. Is that really the only year you heard
 6 surrounding noises from classrooms?
 7 A. Yes.
 8 Q. So before you had Ms. Malabed, noise from other
 9 classrooms was never really a problem?
 10 A. No.
 11 Q. Do you remember any instances when you were not
 12 able to hear Mr. Sullivan in class?
 13 A. No.
 14 Q. Do you ever remember not being able to write or
 15 read in Mr. Sullivan's class because it was too noisy?
 16 A. No.
 17 Q. Do you ever remember not being able to
 18 concentrate in Mr. Sullivan's class because it was too
 19 noisy?
 20 A. No.
 21 Q. Was Mr. Sullivan's class ever too hot?
 22 A. No.
 23 Q. Was Mr. Sullivan's class ever too cold?
 24 A. No.
 25 Q. Do you ever remember hearing anybody complain

- 1 that it was either too hot or too cold in Mr. Sullivan's
2 class?
3 A No.
4 Q. Did you ever see any mice in Mr. Sullivan's
5 class?
6 A. No.
7 Q Did you ever see any roaches?
8 A. No.
9 Q. Here we go again. Did you ever see any bugs or
10 animals running around?
11 A. No.
12 Q. In Mr. Sullivan's classroom?
13 A. No.
14 Q. No loose crickets?
15 A. No.
16 Q. When you were in Mr. Sullivan's classroom, did
17 you use the bathroom, the boys' bathroom that was
18 located on the second floor of Bryant Elementary?
19 A They have a teacher bathroom. It's only one,
20 though.
21 Q. What do you mean, "they have a teacher
22 bathroom"?
23 A. They have a bathroom for teachers.
24 Q. That's the bathroom that Mr. Sullivan used?
25 A. Yeah.

- 1 Q. What bathroom did you use when you were a
2 student in his class?
3 A. The boys' bathroom.
4 Q. Is that the same one we've talked about before?
5 A. Yes.
6 Q. And was the condition of that bathroom the same
7 when you were a student in Mr. Sullivan's class as it
8 was when you were in Ms. Gilbert's class?
9 A. Yes.
10 Q. Did the condition of the bathroom affect your
11 ability to learn in Mr. Sullivan's class in any way?
12 MS. PERRIN: Objection. Vague as to affect
13 ability of learning. I don't think he understands that
14 phrase. And the same objection.
15 But you can answer in your opinion.
16 BY MR. ROSENTHAL:
17 Q Do you understand the question?
18 A Yes. No.
19 Q. It didn't affect your ability to learn at all?
20 A. No.
21 Q. In his class?
22 A. No.
23 Q. Did you have any textbooks when you were in
24 Mr. Sullivan's class?
25 A. Didn't you already say this question?

- 1 Q. Not Mr. Sullivan's class. I know the classes
2 get confusing. I think we did Ms. Gilbert. And I asked
3 you if you had homework and if you had tests in
4 Mr. Sullivan's class, but we haven't dealt with books
5 yet.
6 A. We had a science, math, and social studies.
7 Q. And you said before you weren't sure if you
8 learned social studies in Mr. Sullivan's class. Do you
9 now remember that you learned social studies?
10 A. In Mr. Sullivan's class, no.
11 Q. So did you have a social studies textbook?
12 A. No. Oh, I'm sorry.
13 Q. That's okay. So you had a science and math
14 textbook?
15 A. Yes.
16 Q. Did you have any reading books or writing books
17 or spelling books, anything like that?
18 A. We had spelling books.
19 Q. Any other books you can think of?
20 A. No.
21 Q. Why don't we start with your science book. Did
22 you have your own science book?
23 A. Yes.
24 Q. Did everyone in the class have their own
25 science book?

- 1 A. Yes.
2 Q. Did anybody in the class have to share science
3 books?
4 A. No.
5 Q. Were you able to take the science book home
6 with you?
7 A. Yes.
8 Q. Was everybody in the class able to take the
9 science book home with them?
10 A. Yes.
11 Q. How about your math book? Did you have your
12 own math book?
13 A. Yes.
14 Q. Did everyone in the class have their own math
15 book?
16 A. No.
17 Q. Some people didn't have their own?
18 A. No.
19 Q. Did some people have to share?
20 A. Yes.
21 Q. Do you remember how many people had to share?
22 A. Maybe nine to five.
23 Q. But you didn't have to share?
24 A. Yeah, I had to share.
25 Q. So you didn't have your own book?

1 MS. PERRIN: Math book?
 2 BY MR. ROSENTHAL:
 3 Q Math book.
 4 A Well, I had my own, but like we had to share
 5 every time it came up. So if the other kids didn't have
 6 any -- and the kids who do have some, you have to share
 7 with the other kids.
 8 Q. Did the other kids not have them -- well, why
 9 didn't the other kids have books?
 10 A. Because there wasn't enough.
 11 Q. Do you know why you got a book and other kids
 12 didn't get a book?
 13 A. No.
 14 Q. Were you able to take your math book home with
 15 you?
 16 A. Yeah.
 17 Q. Were other students able to take their math
 18 books home with them?
 19 A. No.
 20 Q. Do you know why?
 21 A. Because you have to keep them at the school.
 22 Q. Do you know why they had to stay in school?
 23 A. Because they're -- because they're marked by
 24 the school.
 25 Q. Was -- they're what?

1 A. Because they're marked Bryant School.
 2 Q. And those books that are marked in that way,
 3 you're not allowed to take home?
 4 A. No.
 5 Q. Now, you said you got math homework in
 6 Mr. Sullivan's class, right?
 7 A. Yes.
 8 Q. How did you do your math homework?
 9 MS. PERRIN: Do you understand the question?
 10 THE WITNESS: Yes.
 11 MS. PERRIN: Okay.
 12 BY MR. ROSENTHAL:
 13 Q Actually, let me rephrase it.
 14 Can you describe for me what kind of math
 15 homework Mr. Sullivan gave you?
 16 A Multiplication.
 17 Q. He would give you multiplication problems for
 18 you to solve?
 19 A. Yes.
 20 Q. And how do you know what problems to do? Did
 21 he write them on the board?
 22 A. He wrote them on the board, yeah.
 23 Q. Did you get handouts for homework sometimes?
 24 A. Yes.
 25 Q. And when you took that homework home, how did

1 you do it?
 2 A. My mom helped me.
 3 Q Did you need your textbook to do the homework?
 4 A. No.
 5 Q. So you were able to do your homework without
 6 having the textbook at home with you?
 7 A. Yes.
 8 Q. And how did you do on that homework?
 9 A. With my mom.
 10 Q. But how did you do? Did you get most of the
 11 problems right?
 12 A. Yes.
 13 Q. You did pretty well in the homework?
 14 A. Yes.
 15 Q. You also said you had a spelling book or --
 16 A. Yeah.
 17 Q. Did you have just one or was it more than one?
 18 A. One.
 19 Q. Did you have your own spelling book?
 20 A. Yes.
 21 Q. Did everybody in the class have their own
 22 spelling book?
 23 A. Yes.
 24 Q. Did anybody have to share spelling books?
 25 A. No.

1 Q. Were you able to take your spelling book home
 2 with you?
 3 A. Yes.
 4 Q. Were other students able to take their spelling
 5 books home with them?
 6 A. Yes.
 7 Q. And you said that students in the class had to
 8 share math books -- well, strike that.
 9 I want to talk about the condition of the books
 10 briefly. Can you tell me what the condition of your
 11 science book was in Mr. Sullivan's class?
 12 A. The science books, they're -- they're in good
 13 condition. They didn't have writing in them.
 14 Q. Were they pretty new?
 15 A. A little.
 16 Q. Were they missing any pages?
 17 A. I think they're missing like -- yeah.
 18 Q. Do you remember your science book missing
 19 pages?
 20 A. Yes.
 21 Q. Do you remember how many pages?
 22 A. Maybe five or three.
 23 Q. Did you ever need those pages in your science
 24 book?
 25 A. No.

- 1 Q. Did you tell Mr. Sullivan about the missing
2 pages in your science book?
3 A. He already knew about it.
4 Q. Did he say anything about it?
5 A. No. He -- well, he did, but they never did
6 anything.
7 Q. What did he say?
8 A. He said our science books have ripped pages out
9 and -- and he told me I had ripped pages. And he said,
10 "Okay. We will do something about that," and never did.
11 Q. Did you ever need to look at the pages that
12 were missing from your science book?
13 A. No.
14 Q. Was there anything else wrong with your science
15 book?
16 A. No.
17 Q. How about your math book? Can you tell me
18 about the condition of that book?
19 A. My math books, they had writing.
20 Q. Can you describe for me a little bit about the
21 writing?
22 A. They had a whole bunch of names in them from a
23 long time ago, from other kids. And that's it.
24 Q. So it had writing in the front where students
25 would write their names?

- 1 A. Yes.
2 Q. Was there any other writing in the book?
3 A. No.
4 Q. Do you know how old your math book was,
5 approximately?
6 A. Our math book, I think, was only two years old,
7 three years old.
8 Q. Do you remember how many names there were in
9 the front of the book?
10 A. No.
11 MS. PERRIN: Can we go off record for a second?
12 MR. ROSENTHAL: Sure.
13 (Recess.)
14 BY MR. ROSENTHAL:
15 Q. Hi, Carlos. Before our break, we were talking
16 about the condition of your math textbook, I believe.
17 A. Yes.
18 Q. And you said that there was some writing in the
19 beginning where people write their names. Do you
20 remember that?
21 A. Yeah.
22 Q. Do you remember how many names were written
23 there?
24 A. Maybe -- I couldn't really tell, because there
25 was names scribbled all over the place, you know,

- 1 scribbled. And they wrote all over the names -- make
2 room for their name, so I'm not really sure how much
3 there was.
4 Q. Was there writing in the book anywhere else?
5 A. I think there was some writing in the math.
6 Q. What do you mean by that?
7 A. Are we still on the science?
8 Q. No. We are talking about the math book.
9 A. Yeah. No.
10 Q. No other writing you can remember?
11 A. No.
12 Q. You said there was writing in the math. Do you
13 mean that some people --
14 A. There's writing in -- like in the math. Like
15 on some pages, they scribbled all over the math problems
16 so they didn't have to do it.
17 Q. So like the math work was doing it -- showing
18 like they figured out the problems?
19 A. Yeah.
20 Q. Was that on every page?
21 A. Every page.
22 Q. Every page in every book?
23 A. Not on every page, but there's like little
24 scribbling on every page.
25 Q. Were you able to read the book?

- 1 A. Yeah.
2 Q. So it's not like things were crossed out of the
3 book so you couldn't read it?
4 A. There was some things crossed out. Like it
5 tells you how to do the math problem, that was scribbled
6 out. And some -- a couple of math problems that were
7 hard for them, they scribbled it out.
8 Q. So you couldn't read those math problems?
9 A. No.
10 Q. So what did you do?
11 A. I told the teacher.
12 Q. What did Mr. Sullivan say?
13 A. He said erase it.
14 Q. Did you erase it?
15 A. Yeah, but some of it was in pen or in permanent
16 marker.
17 Q. Did you tell him that?
18 A. Yeah, he said, "Well, just leave it there."
19 Q. So how did you do the math problems that was
20 scribbled out?
21 MS. PERRIN: Objection. Assumes that he did
22 them.
23 BY MR. ROSENTHAL:
24 Q. Did you have to do the math problems that were
25 scribbled out? Did he ever assign those to you?

- 1 A. No.
 2 Q. So the stuff that was scribbled out, you didn't
 3 have to do those problems?
 4 A. No.
 5 Q. Was the math book missing any pages?
 6 A. No.
 7 Q. Can you tell me how the writing in the math
 8 book affected your ability to learn math in the class?
 9 MS. PERRIN: Same objections.
 10 THE WITNESS: No.
 11 BY MR. ROSENTHAL:
 12 Q. Did it have any effect on your ability to learn
 13 math in the class?
 14 A. No.
 15 Q. Do you know what the condition of the books --
 16 math books of other students in the class was?
 17 A. No.
 18 Q. Did other students have newer books, older
 19 books, or were they about the same?
 20 MS. PERRIN: Answer only if you know.
 21 THE WITNESS: They were about the same or a
 22 little older.
 23 BY MR. ROSENTHAL:
 24 Q. You also told me you had a spelling book. Can
 25 you tell me the condition of the spelling book?

- 1 A. The spelling book was in good condition. It
 2 wasn't used because we made it.
 3 Q. Can you say that again or you can just read
 4 that back?
 5 MS. PERRIN: He said "It wasn't used because we
 6 made it."
 7 BY MR. ROSENTHAL:
 8 Q. You made the spelling book?
 9 A. (No audible response.)
 10 Q. How did you make the spelling book?
 11 A. With sheets of paper and construction paper for
 12 the cover.
 13 Q. So it wasn't really a spelling textbook, it
 14 was --
 15 A. No.
 16 Q. It was papers that you received in class that
 17 you kept together?
 18 A. It was for the spelling tests.
 19 Q. How did you keep the spelling papers together?
 20 A. We put them in a folder, in our handwriting
 21 folder.
 22 Q. And these were all spelling worksheets you got
 23 from your teacher?
 24 A. Yeah.
 25 Q. Did you have a separated spelling textbook?

- 1 A. No.
 2 Q. What other supplies did you use in
 3 Mr. Sullivan's class?
 4 A. Tape, scissors.
 5 Q. Is it all the same stuff we talked about
 6 earlier?
 7 A. Yes.
 8 Q. And was that stuff provided to you in class?
 9 A. Yes.
 10 Q. Did you have to pay for it?
 11 A. For the pencils, we had to pay 10 cents if we
 12 wanted to buy one.
 13 Q. If you wanted to buy one from who?
 14 A. Mr. Sullivan. Because he was trying to raise
 15 money for the school.
 16 Q. So if you went to school one day and you didn't
 17 have a pencil, what did you do?
 18 A. If you had money, you could buy a pencil.
 19 Q. And if you didn't have money?
 20 A. You had to ask someone to borrow one.
 21 Q. Would Mr. Sullivan give you a pencil if you
 22 didn't have one?
 23 A. No.
 24 Q. Did you have -- did you ever go to school
 25 without a pencil?

- 1 A. Only one time, but I had 10 cents, so I bought
 2 one.
 3 Q. Have you ever had to pay money in any other way
 4 in connection with Mr. Sullivan's class?
 5 A. No.
 6 Q. Now, you said you went to school one day and
 7 you didn't have a pencil?
 8 A. Yes.
 9 Q. Where did you get the pencil that you forgot?
 10 Where did you get that one from?
 11 MS. PERRIN: Do you understand the question?
 12 THE WITNESS: No.
 13 MS. PERRIN: Okay. I'm sorry. I didn't
 14 understand the question.
 15 BY MR. ROSENTHAL:
 16 Q. You said that one day you went to school
 17 without a pencil, right?
 18 A. Yes.
 19 Q. Did you forget -- did you leave that pencil at
 20 home?
 21 A. Yes.
 22 Q. Do you know where that first pencil came from?
 23 A. From Target.
 24 Q. You didn't get that pencil from school?
 25 A. No.

- 1 Q. All the other supplies that you used in
2 Mr. Sullivan's class were provided to you free of
3 charge?
4 A. Yes.
5 Q. You've identified some problems in
6 Mr. Sullivan's classroom, such as having to share a math
7 textbook and some writing on some of your books, and
8 things like that. Can you tell me how those things
9 affected your ability to learn in Mr. Sullivan's class?
10 MS. PERRIN: Same objections.
11 THE WITNESS: No.
12 BY MR. ROSENTHAL:
13 Q. Did they have any effect on your ability to
14 learn in Mr. Sullivan's class?
15 MS. PERRIN: Same objections.
16 THE WITNESS: No.
17 BY MR. ROSENTHAL:
18 Q. Did you learn a lot from Mr. Sullivan's class?
19 A. Yes.
20 Q. Tell me what you learned a lot about in
21 Mr. Sullivan's class.
22 A. Participating in groups, math, and spelling.
23 Q. Do you remember what kind of math you learned
24 in Mr. Sullivan's class?
25 A. Multiplication and division.

- 1 Q. Did you know how to multiply and divide when
2 you were in second grade?
3 A. No.
4 Q. So that's new stuff you learned in
5 Mr. Sullivan's class?
6 A. Yes.
7 Q. And did you learn new spelling words in
8 Mr. Sullivan's class that you didn't know before?
9 A. Yes.
10 MS. PERRIN: You want something to drink?
11 THE WITNESS: No.
12 MS. PERRIN: Okay.
13 BY MR. ROSENTHAL:
14 Q. And do you remember how you did in
15 Mr. Sullivan's class, and by that, I mean how your
16 report card was?
17 A. My report card was good.
18 Q. Was there anything that you did really well in
19 in Mr. Sullivan's class, any particular subjects that
20 you remember?
21 A. No.
22 Q. Was there anything that you didn't do so well
23 in, in Mr. Sullivan's class?
24 A. No.
25 Q. You did pretty well in all your subjects?

- 1 A. Yes.
2 Q. Did any of the problems in Mr. Sullivan's class
3 that we talked about affect your grades in any way in
4 his class?
5 MS. PERRIN: Same objections.
6 THE WITNESS: No.
7 BY MR. ROSENTHAL:
8 Q. When you were in Mr. Sullivan's class, you went
9 to the computer lab twice a week?
10 A. Yes.
11 Q. You took art class?
12 A. No.
13 Q. You had no art when you were in Mr. Sullivan's
14 class?
15 A. No.
16 Q. How about music?
17 A. Yeah.
18 Q. Do you remember how often you had music while
19 you were in Mr. Sullivan's class?
20 A. Twice a week.
21 Q. Do you remember for how long each time?
22 A. Maybe 20 or 30 minutes.
23 Q. And is that chorus?
24 A. It was recorder.
25 Q. Did you have chorus as well?

- 1 A. Yes.
2 Q. Any other music you learned, besides recorder
3 and chorus?
4 MS. PERRIN: In Mr. Sullivan's class?
5 BY MR. ROSENTHAL:
6 Q. While in Mr. Sullivan's class.
7 A. No.
8 Q. Did you have a gym class when you were in
9 Mr. Sullivan's class?
10 A. No.
11 Q. You had no P.E. class?
12 A. No.
13 Q. You have P.E. now, though, in Ms. Malabed's
14 class, right?
15 A. Yes.
16 Q. Do you know when you first started taking P.E.
17 at Bryant?
18 A. I started taking P.E. in second grade.
19 Q. So did you take P.E. in Mr. Sullivan's class?
20 A. Yes.
21 Q. Do you remember how often?
22 A. No.
23 Q. Was it once a week or was it more often than
24 that?
25 A. It was more often.

- 1 Q. How about when you were in Ms. Gilbert's class?
 2 Did you have P.E. then, too?
 3 A. Yes.
 4 Q. Was it once a week or was it more often than
 5 that?
 6 A. Twice a -- no once a week.
 7 Q. Do you remember where you had P.E. class?
 8 MS. PERRIN: In what year?
 9 BY MR. ROSENTHAL:
 10 Q. Let's ask it this way. Have you had P.E. class
 11 in the same place your entire time at Bryant?
 12 A. Yes.
 13 Q. And where have you had the P.E. classes?
 14 A. In the cafeteria or outside.
 15 Q. When you had P.E. in the cafeteria, were there
 16 students eating lunch or was it other times?
 17 A. Other times.
 18 Can I use the bathroom?
 19 MR. ROSENTHAL: Sure. Let's go off the record.
 20 (Recess.)
 21 BY MR. ROSENTHAL:
 22 Q. All right. Let's talk about your second grade
 23 class. Do you remember who your teacher was in second
 24 grade?
 25 A. Ms. Martinez.

- 1 Q. Do you remember what subjects she gave you
 2 homework in?
 3 A. Spelling, math, and cursive.
 4 Q. Did you know how to write cursive in
 5 Ms. Martinez's class already?
 6 A. A little.
 7 Q. Did you get any science homework in
 8 Mrs. Martinez's class?
 9 A. No.
 10 Q. Did you get reading homework?
 11 A. Yes.
 12 Q. Did Ms. Martinez give you tests in the class?
 13 A. Yes.
 14 Q. Do you remember what subjects you got tested
 15 in?
 16 A. I got tested on spelling and math.
 17 Q. Nothing else?
 18 A. No.
 19 Q. Do you remember how often you had tests in
 20 Ms. Martinez's class?
 21 A. Every Friday.
 22 Q. You got tested on math and spelling on Fridays?
 23 A. Yes.
 24 Q. Did Ms. Martinez have homework checkers like
 25 all your other classes you've discussed or how did

- 1 Q. Is Ms. Martinez still teaching at Bryant?
 2 A. Yes.
 3 Q. Does she still teach second grade?
 4 A. Yes. No, she teaches -- yeah, second grade.
 5 Q. Can you tell me the kinds of things that
 6 Ms. Martinez taught you?
 7 A. She taught me how to be fair and not to get in
 8 trouble and to -- and -- and she taught me well in math
 9 and spelling.
 10 Q. Did Ms. Martinez teach you science at all?
 11 A. Yes.
 12 Q. How about social studies? Did you learn social
 13 studies in Ms. Martinez's class?
 14 A. No.
 15 Q. How about reading?
 16 A. Yeah, we had reading.
 17 Q. And writing?
 18 A. Yes.
 19 Q. Did you get homework in Mrs. Martinez's class?
 20 A. Yes.
 21 Q. Do you remember how often she gave you
 22 homework?
 23 A. Every four days.
 24 Q. You mean four days a week?
 25 A. Yes.

- 1 Ms. Martinez check your homework?
 2 A. We had homework checkers.
 3 Q. Did you have homework checkers in
 4 Mrs. Martinez's class?
 5 A. Yes.
 6 Q. And did you do your homework in Mrs. Martinez's
 7 class?
 8 A. Yes.
 9 Q. Do you ever remember Mrs. Martinez being absent
 10 from class?
 11 A. No.
 12 Q. Do you remember Ms. Martinez ever having jury
 13 duty?
 14 A. Yes.
 15 Q. She had jury duty?
 16 A. (No audible response.)
 17 Q. How do you remember she had jury duty?
 18 A. How?
 19 Q. Yeah.
 20 A. I don't know.
 21 Q. You specifically remember that?
 22 A. No.
 23 Q. Have all your teachers -- have all your
 24 teachers had jury duty?
 25 A. Yes.

1 Q. Do you remember having a substitute when
2 Ms. Martinez was on jury duty?
3 A. Yes.
4 Q. Did you have one substitute or did you have
5 more than one?
6 A. One.
7 Q. Was -- can you tell me how long Ms. Martinez
8 was away for jury duty?
9 A. Maybe three or four days.
10 Q. And did the substitute teach the class when
11 Ms. Martinez was not there?
12 MS. PERRIN: Carlos, it's okay if you don't
13 remember. You can just say you don't remember.
14 BY MR. ROSENTHAL:
15 Q. Yeah, if you don't remember something, you
16 know, just tell me you don't remember. That's fine.
17 A. I don't remember.
18 Q. It's hard to remember stuff that happened years
19 ago. I can hardly remember what happened yesterday.
20 A. I don't remember.
21 Q. Do you remember how the students behaved when
22 there was a substitute in for Ms. Martinez?
23 A. They behaved good.
24 Q. Did they act up because there was a substitute
25 there?

1 A. No.
2 Q. Did having a substitute teacher in
3 Ms. Martinez's class affect your ability to learn in any
4 way?
5 A. No.
6 Q. Was Ms. Martinez a good teacher?
7 A. Yes.
8 Q. Can you tell me why you think she's a good
9 teacher?
10 A. She's a good teacher because if you read 30
11 books in a week, you get a doughnut.
12 Q. That sounds like a great teacher. You have to
13 read how many books in a week?
14 A. 30.
15 Q. Did you ever read 30 books in a week?
16 A. I read it like twice.
17 Q. So you got like two doughnuts?
18 A. Uh-huh.
19 Q. What kind of books did you have to read?
20 A. Fantasy stories.
21 Q. Are they short books?
22 A. Yes.
23 Q. Do you remember any of the books you read?
24 A. No.
25 Q. Why else is Ms. Martinez a good teacher?

1 A. Because she -- she taught everybody -- she
2 taught everybody in the class -- she put everything --
3 she put everything in a good way of saying like -- she
4 would -- she would take all -- she would take most of
5 her time just to help us to get better at math.
6 Q. Was she good at explaining math to the class?
7 A. Yes.
8 Q. Was she good at explaining all of the subjects
9 to the class?
10 A. Yes.
11 Q. Was Ms. Martinez smart?
12 A. Yes.
13 Q. Can you tell me what classroom Ms. Martinez had
14 her class in?
15 A. She was in Room C.
16 Q. Can you tell me where Room C is?
17 A. Downstairs in the -- downstairs in the
18 cafeteria.
19 Q. What do you mean, "in the cafeteria"?
20 A. It wasn't in the cafeteria. It was on the side
21 of the cafeteria. It was --
22 Q. I'm sorry.
23 A. It was across from the faculty.
24 Q. Across from the faculty cafeteria?
25 A. Yes.

1 Q. Was it a classroom that was attached to the
2 cafeteria?
3 A. No.
4 Q. Was there a door that connected the classroom
5 to the cafeteria?
6 A. Yes.
7 Q. What's in Classroom C today?
8 A. They moved it around. They have a whole bunch
9 of supplies downstairs in Room C. And they have the
10 copy -- the copy -- the copier machine. They have a
11 tutoring room. And that's it.
12 Q. Is Classroom C used as a classroom today?
13 A. No.
14 Q. But that's where you used to have class with
15 Ms. Martinez?
16 A. Yes.
17 Q. Did anybody ever tell you why you were -- why
18 your class was held in that room?
19 A. No.
20 Q. Can you tell me what Classroom C looked like?
21 MS. PERRIN: The -- when you had class there.
22 THE WITNESS: It had a lot of tables, a couple
23 of shelves. There was some drawers and chalkboards, and
24 a lot of painting on the walls from our -- from our art.
25 BY MR. ROSENTHAL:

- 1 Q. Anything else?
 2 A. No.
 3 Q. Were there desks in Classroom C or did the
 4 students sit at tables?
 5 A. Yeah, desks. We had desks. We had desks, but
 6 they were put together as a table, so there's a group.
 7 Q. So you moved the desks together so it looked
 8 like one big table?
 9 A. Yeah.
 10 Q. Before you told me that Mr. Sullivan's class
 11 had tables. Were those actual tables or was that the
 12 same situation where the desks were moved together to
 13 look like tables?
 14 A. It was actual tables.
 15 Q. How many students were in Ms. Martinez's class;
 16 do you remember, approximately?
 17 A. No.
 18 Q. Do you remember if it was more or less than 20?
 19 A. It was --
 20 Q. Or about 20?
 21 A. It was about 20 or 18.
 22 Q. Did everybody in the class have their own desk?
 23 A. Yes.
 24 Q. You mentioned there was a door connecting the
 25 classroom to the cafeteria; is that right?

- 1 A. Yes.
 2 Q. Were there any other doors in that classroom?
 3 A. I forget.
 4 Q. Just the one door you can think of right now,
 5 though?
 6 A. Yeah.
 7 Q. Were there any windows in that classroom?
 8 A. No.
 9 Q. No windows?
 10 A. No.
 11 Q. Can you tell me the condition of the one door
 12 that you remember?
 13 A. It was in good condition.
 14 Q. Was it in good condition for the entire school
 15 year?
 16 A. Yes.
 17 Q. How about the floor?
 18 A. The floor was in good condition the whole year.
 19 Q. How about the ceiling?
 20 A. The ceiling was in good condition the whole
 21 year.
 22 Q. You mentioned there was some shelves and
 23 drawers and chalkboards. Were those all in good
 24 condition as well?
 25 A. Yes.

- 1 Q. For the whole school year?
 2 A. Yes.
 3 Q. And the paintings on the wall, those were
 4 things that were hung up from art class; is that right?
 5 A. Yes.
 6 Q. Would you say Ms. Martinez's classroom was
 7 clean?
 8 A. A little bit.
 9 Q. Was it organized?
 10 A. Yes.
 11 Q. When you say it was clean a little bit, was
 12 there something dirty about it or messy?
 13 A. The backpacks, when the kids walked in -- when
 14 the kids walked in, they put their backpacks away, but
 15 they just throw them on the ground.
 16 Q. The kids put their backpacks on the ground?
 17 A. Yeah.
 18 Q. Anything else that was messy in the classroom?
 19 A. No.
 20 Q. Were there four walls to the classroom?
 21 A. Yes.
 22 Q. Did the walls go from the floor to the ceiling?
 23 A. Yes.
 24 Q. Now, this -- want to go off the record?
 25 MS. PERRIN: Yeah, can we go off for a second?

- 1 (Recess.)
 2 BY MR. ROSENTHAL:
 3 Q. So the walls went from the floor to the
 4 ceiling?
 5 A. Yes.
 6 Q. And this classroom was on the downstairs part
 7 of Bryant Elementary; is that right?
 8 A. Yes.
 9 Q. Are the walls downstairs different from the
 10 walls upstairs?
 11 A. Yes.
 12 Q. Can you tell me how they were different?
 13 A. They're different -- no, they weren't
 14 different.
 15 Q. They weren't any different?
 16 A. (No audible response.)
 17 Q. I think at our first day of deposition, I think
 18 you said you thought the walls upstairs were hollow.
 19 A. Uh-huh.
 20 Q. Are the walls downstairs the same way?
 21 A. No.
 22 Q. The walls downstairs aren't hollow?
 23 A. No.
 24 Q. Are they solid?
 25 A. Yes.

- 1 Q. Can you hear things in rooms that are next
2 to -- next to Mrs. Martinez's classroom?
3 A. You can hear the kids going to lunch.
4 Q. Can you tell me the kind of noise you heard?
5 A. I heard kids talking at lunchtime and kids
6 running to get their lunch and -- and then when they're
7 about to go outside, they start to calm down because
8 they have to be quiet so they can go out.
9 Q. Would you say the noise you heard from the kids
10 going to lunch was about as loud as the noises you
11 heard -- about as loud as the noise you described you
12 heard in Ms. Malabed's classroom?
13 A. Yes.
14 Q. Did you hear noise in Ms. Martinez's class
15 every day from kids going to lunch?
16 A. Yes.
17 Q. Do you remember for how long the noise lasted
18 each day?
19 A. No.
20 Q. Did the noise from the kids going to lunch
21 affect your ability to learn in Ms. Martinez's class?
22 A. No.
23 Q. Were you able to hear Ms. Martinez when there
24 was the noise from the kids going to lunch?
25 A. Yes.

- 1 Q. Were you able to read and write in
2 Ms. Martinez's class when there was noise from kids
3 going to lunch?
4 A. Yes.
5 Q. Were you able to concentrate in Ms. Martinez's
6 class when there was -- when there was noise from kids
7 going to lunch?
8 A. Yes.
9 Q. Now, Classroom C, you said it's next to the
10 cafeteria; is that right?
11 A. Yes.
12 Q. Is there any other rooms that Classroom C is
13 next to?
14 A. It's across from the faculty and Room D.
15 Q. There's a hallway separating it from Room D and
16 the faculty room?
17 A. No, because the cafeteria is between all those
18 classrooms.
19 Q. So the cafeteria -- so Classroom C is on one
20 side?
21 A. Uh-huh.
22 Q. And there's a cafeteria in the middle?
23 A. Yes.
24 Q. And the Classroom D is on the other side of the
25 cafeteria?

- 1 A. Yes.
2 Q. When you were in Classroom C, did you ever hear
3 any noise from the faculty room or Classroom D?
4 A. No.
5 Q. Are there any other rooms that are next to
6 Classroom C?
7 A. No.
8 Q. When there was noise coming from the kids going
9 to lunch, did Ms. Martinez do anything about that?
10 A. No.
11 Q. Did anybody ever tell Ms. Martinez that they
12 were having trouble hearing her from the noise from the
13 kids going to lunch?
14 A. No.
15 MS. PERRIN: Are you okay?
16 THE WITNESS: Yeah.
17 BY MR. ROSENTHAL:
18 Q. Did you ever see any mice in Ms. Martinez's
19 classroom?
20 A. No.
21 Q. Any roaches or any other things like roaches?
22 A. No.
23 Q. Was Ms. Martinez's class ever too cold?
24 A. No.
25 Q. Was it ever too hot?

- 1 A. No. Yeah, it was hot. We had no windows.
2 Q. Can you tell me when it was hot?
3 A. It was always hot when we came back from
4 recess.
5 Q. And did you run around at recess?
6 A. Yes.
7 Q. Did running around cause you to sweat?
8 A. Yes.
9 Q. Sometimes?
10 A. Yes.
11 Q. When you came back to Ms. Martinez's room from
12 recess and you were hot, did you say anything to
13 Ms. Martinez?
14 A. No.
15 Q. Why not?
16 A. Because I didn't want to interrupt her teaching
17 the class.
18 Q. When it felt hot in Mrs. Martinez's classroom,
19 did it affect your ability to learn?
20 MS. PERRIN: Objection. Vague to the ability
21 to learn. The witness doesn't understand the question.
22 That it calls for a legal conclusion. It calls for
23 expert testimony.
24 BY MR. ROSENTHAL:
25 Q. And just for the record, he said that he

1 understands the question. So do you want me to repeat
 2 the question?
 3 A. No.
 4 Q. Do you remember the question?
 5 A. No.
 6 Q. You said that after recess it was hot in
 7 Mrs. Martinez's room sometimes, right?
 8 A. Yes.
 9 Q. Did that -- did the fact that it was hot affect
 10 your ability to learn in her class?
 11 A. No.
 12 Q. You were still able to concentrate in her
 13 class?
 14 A. Yes.
 15 Q. You were still able to understand what she was
 16 telling the class?
 17 A. Yes.
 18 Q. You were able to read and write in her class?
 19 A. Yes.
 20 Q. You were able to do all the classwork she gave
 21 you?
 22 A. Yes.
 23 Q. Was there air conditioning in Ms. Martinez's
 24 classroom?
 25 A. No.

1 and one girls' bathroom?
 2 A. Yes.
 3 Q. Can you tell me about the boys' bathroom in the
 4 yard? I know we had discussed it briefly, just to the
 5 extent that there was a broken mirror that had been
 6 fixed, but if you can describe the bathroom in the yard
 7 for me.
 8 A. There was writing on the bathroom door and on
 9 the walls in the back, because there's two entrances.
 10 There's one that's -- connects to the cafeteria. It's a
 11 little secret -- it's a little hall. You just walk in
 12 there and there's a bathroom. And that's it.
 13 Q. Was there a second entrance from outside into
 14 the bathroom?
 15 A. Yes.
 16 Q. Do you know how many stalls are in the
 17 bathroom?
 18 A. Two.
 19 Q. When -- you said there was some writing on part
 20 of the bathroom; is that right?
 21 A. Yes.
 22 Q. Were there any other problems with that
 23 bathroom?
 24 A. No.
 25 Q. You had told me there was some other problems

1 Q. Do you specifically remember that there was no
 2 air conditioning?
 3 A. No.
 4 Q. So how do you know that there was no air
 5 conditioning in her classroom? Are you sure or are you
 6 just not sure?
 7 A. I'm not sure, but I was -- it was always hot.
 8 It was like there was no air conditioning.
 9 Q. It was always hot after recess?
 10 A. Yes.
 11 Q. Was it hot any other times?
 12 A. No. It was hot after P.E. and lunch recess.
 13 Q. After P.E. and lunch recess?
 14 A. (No audible response.)
 15 Q. And P.E. and lunch recess, you would run
 16 around, generally?
 17 A. Yes.
 18 Q. After a while, would it feel less hot in her
 19 classroom?
 20 A. Yes.
 21 Q. And when you were in Ms. Martinez's classroom,
 22 what bathroom did you use?
 23 A. The one in the yard.
 24 Q. And I think you told me there were two
 25 bathrooms in the yard. Was that just one boys' bathroom

1 in the upstairs bathroom, like the soap dispenser being
 2 broken and the paper towel dispenser falling off
 3 sometimes. Were there any problems like that in the
 4 bathroom in the yard?
 5 A. No.
 6 Q. Other than the writing in the bathroom in the
 7 yard, would you say those bathrooms were clean?
 8 MS. PERRIN: Are we talking when he was in
 9 Ms. Martinez's class --
 10 MR. ROSENTHAL: Yeah.
 11 MS. PERRIN: -- or now?
 12 Okay.
 13 THE WITNESS: Yes.
 14 BY MR. ROSENTHAL:
 15 Q. When you were in Ms. Martinez's class, was the
 16 bathroom in the yard supplied with toilet paper?
 17 A. Yes.
 18 Q. Was it supplied with soap?
 19 A. Yes.
 20 Q. Was it supplied with paper towels?
 21 A. Yes.
 22 Q. Was it supplied with all of those things for
 23 the entire school year?
 24 A. Yes.
 25 Q. When you were in Ms. Martinez's class, was

1 the -- were the toilets functioning?
 2 A. Yes.
 3 Q. Do you ever recall them not functioning when
 4 you were in Ms. Martinez's class?
 5 A. No.
 6 Q. How about the sinks? Did the sinks function --
 7 well, let me take a step back further. Were there any
 8 sinks in there?
 9 A. Yeah.
 10 Q. How many were there?
 11 A. Two.
 12 Q. And did those sinks function?
 13 A. Yes.
 14 Q. Did they function the entire time you had
 15 Ms. Martinez?
 16 A. Yes.
 17 Q. Were there two mirrors in that bathroom as
 18 well?
 19 A. There's three.
 20 Q. Three mirrors in that bathroom?
 21 A. Yes.
 22 Q. Were those mirrors ever broken when you were in
 23 Ms. Martinez's class? I know you told me about it being
 24 broken recently, but was it broken when you were in
 25 second grade?

1 A. Well, no.
 2 Q. So other than the writing on the wall, there
 3 was no problems in the bathroom in the yard when you
 4 were in Ms. Martinez's class?
 5 A. Yes.
 6 Q. Can you tell me a little bit about the writing
 7 in the bathroom? Tell me where it's located.
 8 A. It's located behind the door in the front -- in
 9 the yard entrance and in the back entrance.
 10 Q. Behind the door in both entrances?
 11 A. Yes.
 12 Q. Was there writing anywhere else?
 13 A. No.
 14 Q. Do you know what the writing says?
 15 A. No.
 16 Q. Do you know who wrote things on the doors?
 17 A. No.
 18 Q. Was it students?
 19 A. I don't know.
 20 Q. You think it was teachers?
 21 A. No.
 22 Q. Did you ever see anybody write on the bathroom
 23 doors?
 24 A. No.
 25 Q. Have you ever told anybody about the writing on

1 the bathroom doors?
 2 A. Yes.
 3 Q. Who have you told?
 4 A. My friends.
 5 Q. What did you tell them?
 6 A. I told them that there's writing on the walls.
 7 Q. And what did they say?
 8 A. They said, "Tell the teacher."
 9 I said, "I'll tell the teacher."
 10 Q. And did you or them -- did you or they tell the
 11 teachers?
 12 A. Yes.
 13 Q. And what did the teachers do?
 14 A. Nothing.
 15 Q. Do you know if the teachers told anybody?
 16 A. No.
 17 MS. PERRIN: Are you tired? Do you want to
 18 take a little break?
 19 THE WITNESS: Yeah.
 20 MS. PERRIN: Okay.
 21 MR. ROSENTHAL: Okay. Let's take a break.
 22 (Recess.)
 23 MR. ROSENTHAL: We have agreed to suspend the
 24 deposition for the day at Ms. Perrin's request. At this
 25 point, I guess we are going to continue --

1 MS. PERRIN: Continue on Saturday, June 9th at
 2 8:30 a.m.
 3 MR. ROSENTHAL: And I will just double-check my
 4 schedule and make sure that fits and I'll make sure and
 5 I'll let Ms. Perrin know otherwise.
 6 I just want to read into the record the closing
 7 stipulation that we've been doing at each one of these
 8 depositions. I'd like to ask Ms. Perrin that we
 9 stipulate the original of this deposition transcript be
 10 signed under penalty of perjury; that the original be
 11 delivered to the office of Morrison and Foerster; the
 12 reporter be relieved of liability for the original of
 13 the deposition; that the witness shall have 15 days from
 14 the date of the court reporter's transmittal letter to
 15 Morrison and Foerster; and to sign and correct the
 16 deposition; that Ms. Perrin shall notify all parties in
 17 writing of any changes in the deposition, and that if
 18 there are no such changes communicated or signature
 19 within that time, that any unsigned and uncorrected copy
 20 may be used for all purposes as if signed and corrected.
 21 MS. PERRIN: We can.
 22 MR. ROSENTHAL: Very good. I guess we are
 23 done.
 24 MS. PERRIN: Okay.
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I, CARLOS RAMIREZ, do hereby declare under penalty of perjury that I have read the foregoing transcript; that I have made any corrections as appear noted, in ink, initialed by me; that my testimony as contained herein, as corrected, is true and correct.

EXECUTED this ____ day of _____, 200__, at _____, _____.
(City) (State)

CARLOS RAMIREZ

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I, LILY M. WONG, a Certified Shorthand Reporter of the State of California, do hereby certify:

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

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

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

Dated: _____

LILY M. WONG
CSR No. 11487