

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

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

Plaintiffs,)

vs.) No. 312236

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

Defendants.)

DEPOSITION OF
SHANE SAFIR

Volume II

(Pages 154 through 412)

October 29, 2001

REPORTED BY: JOHNNA FORD CSR 11268

JOB 5-113199

I N D E X

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ACLU FOUNDATION OF SOUTHERN CALIFORNIA, 1616

Beverly Boulevard, Los Angeles, California 90026-5752,

represented by CATHERINE E. LHAMON, Attorney at Law,

appeared as counsel on behalf of the Plaintiffs.

O'MELVENY & MYERS LLP, 400 South Hope

Street, Los Angeles, California 90071-2899,

represented by MICHAEL ROSENTHAL, Attorney at Law,

appeared as counsel on behalf of the Defendant, State

of California.

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EXAMINATION BY MR. ROSENTHAL

MR. ROSENTHAL: Q. Good morning, Ms. Safir.

As you may remember, my name is Michael Rosenthal and I
represent the State of California in this action.On our first day of testimony, I went over
some basic ground rules just with regard to the
conducting of this deposition. Do you want me to go
over those ground rules again or do you remember those?

A. No, I remember.

Q. And you understand you'll be under oath all
day and that we should try not to talk over each other
so that we can get a clear record, things like that?

A. Absolutely.

Q. Is there any reason you wouldn't be able to

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BE IT REMEMBERED that, pursuant to notice
and on Monday, October 29, 2001, commencing at 9:44
a.m. at O'Melveny & Myers LLP, 275 Battery Street,
Conference Room 26 West, San Francisco, California,
before me, JOHNNA FORD, a Certified Shorthand Reporter,
personally appeared
SHANE SAFIRcalled as a witness by the Defendant State of
California, who, having been first duly sworn, was
examined and testified as follows:

give your best testimony today?

A. No.

Q. Are you on any alcohol or medication or
anything like that?

A. No.

Q. Okay. Did do you anything to prepare for
your deposition today since the last time we met a
couple weeks ago?

A. No.

Q. Did you meet with your attorneys in between
since we had our first day of deposition?

A. No.

Q. Did you review any documents in that time?

A. I reviewed my declaration.

Q. Any other documents?

A. No.

Q. During the our first day together, we spent
a significant portion of the day talking about textbook
issues at Balboa and I have a few follow-up questions
there. I will come back to that later on.I would like to move on to some other areas
first. Why don't we first move to some issues
regarding the facilities at Balboa. I believe during
your first day you had testified that the buildings and
Grounds Department at the San Francisco Unified School

1 District had some responsibilities with regard to the
2 facilities at Balboa; is that correct?

3 A. I think that was a limited understanding. I
4 wasn't quite sure how that functioned on a district
5 level.

6 Q. And I think you also testified that Mr.
7 Chung at Balboa had some responsibility with regard to
8 facilities?

9 A. Right. He was the administrator with that
10 purview.

11 Q. Is there anybody else who had any
12 responsibilities with regard to facilities at Balboa
13 that you haven't told me about?

14 MS. LHAMON: Calls for a legal conclusion
15 and asks for speculation, but you can answer.

16 THE WITNESS: Okay. The janitors would have
17 responsibility for cleanup. I don't think they have
18 responsibility for major facilities problems.

19 MR. ROSENTHAL: Q. Anybody else you can
20 think of that would have responsibilities with regard
21 to facilities at Balboa?

22 A. Not to my knowledge.

23 Q. Where did you get the understanding that Mr.
24 Chung had responsibility for facilities at Balboa?

25 A. It may have been written in the summary

1 document?

2 A. It would have been within the first couple
3 of years. I don't remember seeing anything like that
4 in the last two years.

5 Q. So is this something that was circulated on
6 one occasion?

7 A. I believe.

8 Q. Other than Mr. -- other than your belief Mr.
9 Chung's responsibilities may have been spelled out in
10 this document, were there other individuals who were
11 also included in that document?

12 A. Yeah. Like I said, it outlined
13 responsibility for the four administrators, the
14 principal, and the three assistant principals.

15 Q. Did it spell out responsibilities for
16 anybody else or was it limited to those four
17 individuals?

18 A. It was limited to those four individuals, if
19 I remember correctly.

20 Q. You said you also became aware of Mr. Chung
21 having responsibility for facilities through staff
22 meetings and general discussions. Can you tell me how
23 it came up in the context of staff meetings?

24 A. No, I can't. I can't recall a specific --
25 it was just a general understanding. Like I said, it

1 duties of the four administrators, but definitely just
2 through staff meetings, general discussions.

3 Q. Do you recall it being written somewhere
4 that Mr. Chung was someone who was responsible for the
5 facilities at Balboa?

6 A. I don't recall. That is why I said it may
7 have been written. I don't recall.

8 Q. You don't recall, as you sit here today, any
9 written documents that would list him as the person who
10 was responsible at Balboa for facilities?

11 A. I recall a written document one year that
12 outlined the responsibilities for each of the four
13 administrators, but I can't recall if he was on it or
14 how exactly -- what exactly was written in it.

15 Q. Do you remember what that document was
16 titled? Was it a memo from somebody?

17 A. I don't think it was a memo. It was more
18 just a description of duties.

19 Q. Do you know how you got a copy of that
20 document?

21 A. It was distributed to all staff, I believe.

22 Q. As far as you know, all teachers, all staff
23 at the school received a copy of that document?

24 A. I believe. It is a vague memory, though.

25 Q. Do you recall when you received that

1 was probably announced. I really don't remember. I
2 mean, four years of teaching and a staff meeting every
3 week or two, I can't recall a specific staff meeting in
4 which it was stated, but --

5 Q. Do you recall there being any sort of staff
6 meeting at the beginning of the school year where
7 teachers were informed as to who was responsible for
8 what areas at Balboa?

9 A. There was typically -- there were typically
10 staff meetings at least a day prior to the first day of
11 school.

12 Q. And do you recall at those staff meetings
13 being discussed what Mr. Chung had responsibility for
14 and what the other administrators had responsibilities
15 for at Balboa?

16 A. I don't recall that level of explicitness.

17 Q. Were facility issues that arose during the
18 school year discussed at staff meetings throughout the
19 year?

20 A. Not to my recollection at all.

21 Q. Is it your belief that all the teachers at
22 Balboa High School had an understanding that Mr. Chung
23 was the person primarily responsible for facilities at
24 Balboa?

25 MS. LHAMON: Calls for speculation as to

1 what the teachers think or don't think about the
2 school.

3 THE WITNESS: I can't speculate about that.

4 MR. ROSENTHAL: Q. Are you aware of any
5 teachers that are not aware that Mr. Chung was the
6 individual who was primarily responsible for facilities
7 at Balboa?

8 MS. LHAMON: Calls for speculation again as
9 to what other teachers did or did not know.

10 THE WITNESS: Yeah, I don't know. I can't
11 speak for others.

12 MR. ROSENTHAL: Q. But are you aware of any
13 teacher that wasn't aware of that?

14 A. I'm not aware of any teacher that wasn't
15 aware of that.

16 Q. Now, you say you had a limited understanding
17 that the Buildings and Grounds Department at San
18 Francisco Unified School District had some
19 responsibility with regard to the facilities at Balboa,
20 can you tell me where that understanding comes from?

21 A. Just, again, a general understanding gleaned
22 from conversations, not a specific conversation. But
23 as I just said last time, the school district, as
24 bureaucratic as this one is, is very hierarchical, so
25 there is no direct contact, for example, between

1 A. Actually, in the classroom I was in for the
2 first, I guess, three years, Room 323, if I remember
3 right, there was a heater that wouldn't turn off, so no
4 matter how hot it was outside, the heater was always
5 blasting hot air into the room, so it was usually more
6 of a problem of the classroom being uncomfortably hot
7 rather than cold and that was the reason that the
8 previous teacher had left the room, but as a new
9 teacher, I ended up in the room with this problem.

10 Q. And were you in Classroom 323 for the first
11 three years you were at Balboa?

12 A. I think so.

13 MS. LHAMON: You think it was 323? Are you
14 positive that is the room number?

15 THE WITNESS: I could take you to the room.
16 I'm pretty sure it was 323.

17 MR. ROSENTHAL: Q. Assuming for a moment
18 that it was Room 323, that was the room you were in
19 during your first three years at Balboa?

20 A. I'm pretty sure, yeah.

21 Q. And you were in that room for three years?
22 You were in one particular room for three years?

23 A. I'm pretty sure. I'm trying to think back
24 for a second.

25 MS. LHAMON: Asked and answered, Michael.

1 teachers and the central office, people in charge of
2 the facilities. There's -- it's supposedly structured
3 for intermediary communication from one administrator
4 to the district.

5 Q. And was the intermediary at Balboa Mr.
6 Chung?

7 A. That was my understanding.

8 Q. So you never had any contact with anybody
9 from Buildings and Grounds?

10 A. No.

11 Q. Without going into any of the details at
12 this point, did you experience any problems with
13 classroom temperatures during your four years at
14 Balboa?

15 A. Definitely.

16 Q. Why don't we try to split it up. Did you
17 have problems with heating in the classroom?

18 A. Yes.

19 Q. And did you have problems with
20 air-conditioning in the classroom?

21 A. I we didn't have air-conditioning in the
22 classroom.

23 Q. So when you say there was problems with the
24 heating, was the classroom uncomfortably cold at
25 periods of time?

1 THE WITNESS: Yeah. Yeah, I think so.

2 MR. ROSENTHAL: Q. And what room were you
3 in during your fourth year at Balboa?

4 A. 314.

5 Q. Now, you told me that you experienced some
6 problems where the classroom you were in -- where the
7 classroom temperature was uncomfortably hot. Were
8 there any instances where the classroom temperature was
9 uncomfortably cold?

10 A. I don't recall that.

11 Q. Can you just tell me generally how you would
12 go about attempting to resolve the classroom
13 temperature problems you were experiencing in your
14 class?

15 A. Well, again, there was the sort of confusing
16 hierarchy of having the department head who was
17 ostensibly in charge of curriculum support and the
18 assistant principal who was ostensibly in charge of
19 facilities, but I might have talked to either one or
20 both of those people; first talked to and at some point
21 I recall there being a request for written requests
22 from Mr. Chung and so I would have probably put a
23 written request in his box, but I know the heater -- I
24 was told at some point that it was not fixable.

25 Q. When you say, "Confusing hierarchy," what do

1 you mean by that?

2 A. That it wasn't always clear who you were
3 supposed to go to to resolve the issues, so I would
4 have probably gone to both of them, like talked about
5 it with both of those people.

6 Q. So was it your understanding that your
7 department head also had some responsibilities with
8 regard to the facilities at Balboa?

9 A. Not exactly, but she was an advocate for the
10 teachers in her department, so it may have been why I
11 went to her. Although I imagine with the heater, I
12 probably would have gone to Mr. Chung.

13 Q. With regard to the classroom temperature
14 being too hot in your class, was that something that
15 was a problem on a daily basis or was it limited in
16 time?

17 A. Often, often a problem.

18 Q. Can you be a little more specific than that?

19 A. There was a crank knob on the heater, so I
20 would turn it off, but because it was broken, it would
21 turn itself back on, so it would just emit extremely
22 hot air, like I said, despite the temperature outside
23 and I didn't seem to be able to resolve the problem on
24 my own. I didn't know how to fix it, so it was often
25 hot, which was fine if it was a cool day, but if it was

1 probably in the spring or early fall.

2 Q. So in the spring or early fall, was it a
3 daily problem?

4 A. Yes. I'll say yes.

5 MS. LHAMON: Remember, this is your
6 testimony and you don't need to have Michael talk you
7 into a particular answer. You can stick to the answer
8 you want to give.

9 MR. ROSENTHAL: Q. Is it then --

10 A. Let me -- can I revise? Unless in the early
11 fall or spring there were days where it was cool.

12 Q. So do you recall any occasions during your
13 three years that you were -- strike that.

14 When we're talking about the classroom being
15 uncomfortably hot, are we limiting it to the classroom
16 where you were during your first three years at Balboa?

17 A. Yes. There were different problems in the
18 new classroom.

19 Q. Let's deal with them separately. Let's
20 focus on the classroom you had for the first three
21 years and we'll move to the other classroom.

22 A. Sure.

23 Q. Is it your testimony, then, that during the
24 three years you were at Balboa in this first classroom,
25 that the heating in that classroom was never turned

1 warm or hot outside, it was troubling.

2 Q. Again, just so I'm clear to the frequency of
3 the problem, is it something that occurred once a week,
4 twice a week in a typical week, to the extent you can
5 give me such an estimate?

6 A. No, it was constant. I'm sorry I didn't
7 make that clear. It was constant. It never would turn
8 off.

9 Q. Were there days -- strike that.

10 You said that it wasn't a problem when it
11 was cool outside and the temperature was uncomfortably
12 hot when it was warm or hot outside --

13 A. Yes.

14 Q. -- is that right?

15 A. Yes.

16 Q. Can you just tell me how many days in a
17 typical week or typical month, however best you can
18 estimate, the classroom was uncomfortably hot in your
19 mind?

20 A. I mean, I think it depended on the season
21 and the weather. I can't remember the weather during
22 four years at Balboa, unfortunately.

23 Q. Do you remember it being a more frequent
24 problem during a certain time of year?

25 A. Well, sure, when it was hotter outside, so

1 off?

2 A. I don't recall it being turned off. I'm
3 trying to remember. I feel like during my third year
4 in that classroom, there may have been an attempt to
5 fix it and a temporary respite, but I don't remember it
6 ever being permanently controllable. It was just a
7 cranky old heater.

8 Q. Do you remember when the attempt to repair
9 the heater was made during your third year?

10 A. I don't remember.

11 Q. And was that repair not successful?

12 A. I don't recall, but I don't think so.

13 Q. So even after that attempted repair, you had
14 the same problems going forward?

15 MS. LHAMON: Objection. You are
16 mischaracterizing her testimony. I think she testified
17 that there may have been an attempt to repair it in the
18 third year, so she can testify whether if there had
19 been a repair, that repair would have been successful.

20 MR. ROSENTHAL: Let me ask a slightly
21 different question.

22 Q. Do you remember somebody coming in during
23 your third year to try to fix the heater?

24 A. Not when I was in the classroom, no.

25 Q. Did somebody else tell you that somebody had

1 come to repair the heater at some point during your
2 third year?

3 A. I have a vague recollection, but it is not
4 -- I don't have a concrete one.

5 Q. You don't remember when that was during that
6 third year?

7 A. No.

8 Q. Do you remember the problem regarding your
9 classroom being uncomfortably hot continuing for the
10 entire third year or was there some point during the
11 year where the problem was resolved to an extent?

12 A. I'm trying to remember. I feel at some
13 point, they shut the heater off and then I couldn't get
14 it on and that was during my third year, but what
15 happened after that, I can't remember whether they --
16 yeah, I can't remember.

17 Q. So at some point during your third year --
18 just so we're clear, I asked you before if you
19 remembered any time when the heating was not on in the
20 classroom. So at some point during your third year,
21 the heating was turned off entirely?

22 A. Yeah, I'm really having a hard time
23 remembering it. It was kind of a -- I don't know --
24 like an ongoing frustration.

25 Q. Now, you said that you recall having some

1 which was true of a lot of facilities problems at the
2 school. They seemed like they were mysteriously
3 unfixable.

4 Q. Do you recall the first instance you brought
5 the problem to Mr. Chung's attention?

6 A. No recollection.

7 Q. Do you remember if it was during your first
8 year?

9 A. Probably.

10 Q. Now, you said at some point you recalled
11 that Mr. Chung had told you to put in some kind of a
12 written request; is that right?

13 A. Not told me specifically. I remember that
14 announcement being made.

15 Q. Do you recall who that announcement was made
16 by?

17 A. Probably Mr. Chung at a staff meeting, but I
18 don't recall when that -- like when specifically that
19 staff meeting was.

20 Q. Can you tell me the specifics of the
21 announcement Mr. Chung made?

22 A. I think he said, "Please" -- you know, "I
23 have a lot of requests" -- because there were a lot of
24 facilities problems -- "Please submit your requests in
25 writing so I can keep track of them."

1 discussions with your department head and Mr. Chung
2 regarding the heater in your classroom. Can you tell
3 me generally what you discussed with them?

4 A. I think I said I probably would have
5 addressed that particular issue just to Mr. Chung
6 rather than the Department Chair.

7 Q. You don't recall having any -- just so we're
8 clear, you don't recall having any conversations with
9 the Department Head regarding the temperature in your
10 classroom?

11 A. I don't recall.

12 Q. Let's focus on the conversations you had
13 with Mr. Chung.

14 MS. LHAMON: You don't have a question
15 pending.

16 MR. ROSENTHAL: Q. Can you describe those
17 for me, the conversations you had with Mr. Chung
18 regarding the heater in your classroom?

19 A. I don't know there is much to describe. I
20 think I would have told him what he already knew, which
21 is there is a problem in the classroom. Like I said,
22 the teacher who was in the classroom previous to me had
23 left because of the same problem. I may have sent in a
24 written request, but I remember there being some reason
25 why it was allegedly unfixable. That is what I recall,

1 Q. So at some point, Mr. Chung requested that
2 any facilities problems that the staff were
3 experiencing be submitted to him in a written form?

4 A. Yes.

5 Q. Was there a particular form that was
6 supposed to be used in reporting those problems to Mr.
7 Chung?

8 A. Not to my knowledge.

9 Q. Did you, in fact, give Mr. Chung some
10 writing in which you identified the problem with your
11 heater in that classroom?

12 A. I believe I did, but it may not have been
13 just related to the heater. I mean, there were other
14 facilities problems, so I know I submitted at least one
15 written request to him. I don't remember the contents
16 of it.

17 Q. Do you remember submitting more than one
18 written request or do you just remember the one?

19 A. It is possible, even probable, that I
20 submitted more than one, but I don't recall.

21 Q. And then you said you don't specifically
22 recall when you submitted the first written request.
23 Is there any way to limit it to what year?

24 MS. LHAMON: Asked and answered, Michael,
25 several times.

1 THE WITNESS: I mean, no, I really don't
 2 know.
 3 MR. ROSENTHAL: Q. Did anything happen as a
 4 result of you submitting the written request regarding
 5 your heater problem? Did the problem get addressed in
 6 any way?
 7 A. Didn't I already talk about that, the thing
 8 I was talking about with the third year?
 9 Q. Is it your understanding that --
 10 A. I don't really remember, though. Like it
 11 wasn't -- I don't recall anyone coming in when I was
 12 there. I vaguely recall coming into my classroom one
 13 day and having that heater completely turned off and
 14 not being able to get it turned on, but I don't know
 15 what that process was like. There was no formal
 16 documentation. No one came to me and said, "This is
 17 what happened."
 18 Q. Did you ever ask anybody what was done to
 19 your heater?
 20 A. I believe I did.
 21 Q. Do you recall who you spoke to?
 22 A. Probably Mr. Chung.
 23 Q. Do you recall what he told you?
 24 A. No, I don't.
 25 Q. Did he give you some kind of explanation as

1 to what kind of work had been done on the heater?
 2 A. I don't think so because I would probably
 3 remember that.
 4 Q. Now, you said that at some point you became
 5 -- somebody had informed you, anyway, that the heater
 6 was -- using your words -- not fixable or unfixable.
 7 Do you recall who told you that?
 8 A. No.
 9 Q. Do you know if it was Mr. Chung?
 10 A. It may have been. I don't know.
 11 Q. After the work was done on the heater during
 12 your third year in that classroom, did you submit any
 13 additional written requests to Mr. Chung regarding the
 14 heater in that classroom?
 15 A. Not to my recollection.
 16 Q. After the work that was done on the heater
 17 during the -- during your third year in that classroom,
 18 you said there was a period of time when you couldn't
 19 turn the heater on; is that right?
 20 A. Yeah, I vaguely remember that.
 21 Q. At some point, were you able to turn the
 22 heater on again?
 23 A. I don't remember. I mean, this was, I
 24 think, in the latter part of that year and like I said,
 25 I changed classrooms the next year, so I'm not sure how

1 the issue was resolved or if it was resolved. I know
 2 the teacher who is in this classroom. I can ask her.
 3 Q. Now, you said during your fourth year at
 4 Balboa, you moved to Classroom 314. Do you recall
 5 hearing any problems about the heater in Classroom 323
 6 during your final year at Balboa?
 7 A. I don't know. I don't recall, but the
 8 reason I left the classroom was the mouse problem and I
 9 recall hearing lots of ongoing problems with the mice
 10 in that classroom.
 11 Q. You said you know the teacher who was in
 12 Classroom 323 after you. Can you tell me who that was?
 13 A. Kate Cook. She was a new teacher last year.
 14 Q. Do you recall Ms. Cook ever discussing with
 15 you any problems with regard to the classroom
 16 temperature in Classroom 323 during that year?
 17 A. I don't remember.
 18 Q. Do you remember having any discussions with
 19 Ms. Cook about classroom temperature in Classroom 323?
 20 A. I don't remember.
 21 Q. You said as a result of the problems you
 22 were having with the heater in 323, that the classroom
 23 was uncomfortably hot at times. Can you describe for
 24 me what you mean by that?
 25 A. Just hot, heavy air that makes you sweaty,

1 makes it hard to concentrate or teach, study, if you
 2 are a kid.
 3 Q. Did students tell you they were having
 4 trouble concentrating in class?
 5 A. Students indicated being uncomfortable.
 6 Q. And how would they indicate that to you?
 7 A. "It is hot in here, Safir. Turn down the
 8 heater."
 9 Q. And did you do anything to attempt to
 10 resolve the classroom temperature problem in that
 11 classroom?
 12 MS. LHAMON: Asked and answered several
 13 times, Michael. This is going to take all day if you
 14 are going through questions like this.
 15 MR. ROSENTHAL: You can answer.
 16 THE WITNESS: What is the question?
 17 MR. ROSENTHAL: Q. Did you do anything to
 18 attempt to resolve the situation when the students
 19 complained? For example, did you try to open any
 20 windows?
 21 A. Of course I opened the windows.
 22 Q. This is something we haven't covered, so I'm
 23 trying to get this information from you.
 24 A. It seems logical to me that I would open the
 25 windows if it was really hot in the classroom.

1 Q. Did you do anything else?

2 A. I let them know that I was trying to get the
3 problems fixed, but that we couldn't turn the heater
4 off.

5 Q. And did opening the windows alleviate the
6 temperature problem in that classroom?

7 A. Not substantially. It brought a little bit
8 of fresh air in, but -- I mean, some kids had to sit
9 next to this heater. You have to understand, there
10 would be at least four or five kids right next to it.
11 They would be having hot air blasted at them during the
12 class. If I remember right, the windows were higher,
13 like probably at head level when you are standing, so
14 the heater is coming right at them if you are sitting
15 and the air -- there is a little bit of air coming in
16 above, but it wouldn't alleviate it enough.

17 Q. And you said you had different temperature
18 issues in Classroom 314. Can you describe for me the
19 problems you had in that classroom?

20 A. No, I think I said I had different
21 facilities issues, not temperature issues.

22 Q. Were there any temperature issues you had in
23 314?

24 A. That was a better classroom with regard to
25 temperature.

1 A. I don't recall those conversations.

2 Q. Do you ever recall hearing from Mr. Chung or
3 any other administrator that any teachers at Balboa
4 were having difficulty with regard to classroom
5 temperatures?

6 A. No, but I don't know why Mr. Chung would
7 report to me about other teachers' classroom problems.
8 That wouldn't happen.

9 Q. Just asking if you ever heard anything like
10 that from him at staff meetings, anything like that?

11 A. No. As I said before, facilities issues
12 weren't discussed in depth at staff meetings.

13 Q. Since we touched on it very briefly, why
14 don't we talk about the mouse problem you had at
15 Balboa. Just to make sure I'm clear, you said there
16 was a -- you experienced a mouse problem in Classroom
17 323; is that correct?

18 A. I experienced a mouse problem in both
19 classrooms.

20 Q. Okay.

21 A. The mice were just a little more bold and
22 visible in 323.

23 Q. Why don't you describe for me generally the
24 problems you experienced with mice. And let's talk
25 about Classroom 323 first.

1 Q. Was that classroom ever uncomfortably hot?

2 A. Well, it didn't have great circulation, so
3 there was some days when it was a little too warm, but
4 it wasn't at the level of 323.

5 Q. Was Classroom 314 ever uncomfortably cold?

6 A. I don't recall.

7 Q. Did Classroom 314 have a heater?

8 A. Yeah, I believe they all had the same old,
9 ancient heating system.

10 Q. Was the heater in Classroom 314 a
11 functioning heater?

12 A. Yeah, I think so.

13 Q. Were you able to turn it off and on -- turn
14 it off when you wanted to?

15 A. The knob actually worked, yes.

16 Q. Did Classroom 314 have air-conditioning?

17 A. No.

18 Q. Did you ever hear of any other teachers
19 having any problems with regard to classroom
20 temperatures during your four years at Balboa?

21 A. I don't know.

22 Q. As you sit here today, do you recall having
23 any conversations with any teachers at Balboa regarding
24 uncomfortable classroom temperatures other than your
25 own classroom?

1 A. Okay. There were definitely mice in the
2 classroom. They would occasionally run across the
3 classroom, once or twice when students were in there,
4 and if I were in there working alone and it was a bit
5 quieter, they would come out and run around. And then
6 they left their droppings all along the chalk -- what
7 do you call that?

8 MS. LHAMON: Ledge.

9 THE WITNESS: -- ledge and often on the
10 bookshelves near the books, et cetera.

11 MR. ROSENTHAL: Q. Do you recall how many
12 times you saw mice in Classroom 323 overall?

13 A. I don't know. At least -- at least ten or
14 15, I would say, and the droppings were daily, pretty
15 much.

16 Q. Now, you said you saw mice in Classroom 323
17 once or twice when there were students in the classroom
18 and the remainder of the times were when you were alone
19 in the classroom; is that right?

20 A. Like working after school, yeah.

21 Q. Do you recall how many mice you saw on each
22 occasion? I mean, would you see one or would you see
23 several?

24 A. Typically one would run across and then once
25 I was in there I think before school started in the

1 summer and a friend came by to visit me and there were
2 three of them in the garbage can rustling around.

3 Q. So the most mice you have ever seen in
4 Classroom 323, was it on that occasion?

5 A. The three little -- yeah, that probably was
6 the max at one time.

7 Q. You said you saw mouse droppings in the
8 classroom pretty much on a daily basis. Were those the
9 same mouse droppings that were there from days before
10 or were the mouse droppings cleaned on a daily basis,
11 to the best of your knowledge?

12 A. No one ever cleaned them except for me.
13 Once or twice -- I think once before a new school year,
14 I got the janitors to come help me clean them, but,
15 yeah, I would clean them. I bought a Dust Buster my
16 last year to clean them or try to remove them.

17 Q. So did you clean them or get rid of them
18 every time you saw them?

19 A. As often as I could. I mean, it is pretty
20 disgusting.

21 MS. LHAMON: I think what Michael is asking
22 is if they were new droppings every day or if when you
23 saw droppings every day, they were the droppings that
24 had been there from the day before.

25 THE WITNESS: I don't know if I was able to

1 going to have a continuing objection that it calls for
2 a legal conclusion, unless you object.

3 MR. ROSENTHAL: That is fine. You can have
4 that objection.

5 Q. Just so I'm clear, was it the responsibility
6 of the janitors to clean your floor on a regular basis?

7 A. I believe.

8 Q. So if there were mouse droppings on the
9 floor, it was your understanding that the janitors
10 would clean those up?

11 A. The janitors didn't clean them up.

12 Q. Was it your understanding they were supposed
13 to clean them up?

14 A. I guess. I mean, there wasn't -- again, it
15 wasn't written out somewhere clearly.

16 Q. Did janitors clean your classroom on a daily
17 basis?

18 A. They emptied the trash and I think sometimes
19 they swept.

20 Q. And when they swept the classroom, did they
21 also sweep away any mouse droppings that were on the
22 floor or did they not do that?

23 A. Well, the mouse droppings, like I said, were
24 primarily on the ledge or behind -- like behind a table
25 or behind a bookshelf or on a bookshelf, so those

1 clean them every single day, but when I would clean
2 them, they would reappear. Does that answer your
3 question?

4 MS. LHAMON: Yes, thanks. It answers mine.
5 I don't want to speak for Michael.

6 MR. ROSENTHAL: It answers a question.

7 MS. LHAMON: Okay.

8 MR. ROSENTHAL: Q. Do you have an
9 understanding as to who has responsibility to clean
10 your classroom -- clean Classroom 323 when you were
11 teaching in that class?

12 A. Do you mean like who, a specific person, or
13 whose job is it?

14 Q. Do you know who? Was it a specific person's
15 responsibilities?

16 A. I don't know the specific person, but --

17 Q. Was there a particular -- was it the
18 responsibility of the janitors to clean your classroom?

19 A. I believe, but I don't believe it was the
20 responsibility of the janitors to deal with the mouse
21 facilities problem.

22 MS. LHAMON: I would just like to interpose
23 a continuing objection for the day so we don't have to
24 do this every time. If you ask a question about whose
25 responsibility it is to do something at the school, I'm

1 aren't easily sweepable areas, so no.

2 Q. Other than emptying the trash and sweeping
3 on occasion, did janitors do anything else to clean
4 your classroom?

5 A. No. Once a year, they waxed the floors.
6 They move all the furniture and wax the floors, but not
7 on a regular basis.

8 Q. Do you have an understanding as to who was
9 responsible at Balboa for dealing with problems
10 regarding mice in the classrooms?

11 A. I guess the administration in general and it
12 seems like a facilities issue to me, so probably Mr.
13 Chung.

14 Q. Do you recall that being one of the items
15 for which he had responsibility that was in the
16 document that you identified earlier?

17 A. Like I said, I don't remember the specific
18 contents of the document, but I don't think it said,
19 "Responsibility for cleaning up mouse droppings." I
20 don't think that was a really acknowledged problem at
21 the school.

22 Q. Do you recall having any conversations with
23 Mr. Chung or any other administrator regarding the
24 mouse problems you were having in Classroom 323?

25 A. Yes. I believe I spoke with Mr. Chung and

1 then I guess in my third year, I remember speaking with
2 Ms. Gray, and Mr. Rachesky, to other administrators,
3 the principal, and another vice principal and just
4 saying, "This is ridiculous. Something needs to be
5 done about this." And at some point after that was
6 when the -- some of the holes were stuffed with foam
7 and unbeknownst to me, a trap was laid in the
8 classroom.

9 Q. Do you recall when you -- well, just so
10 we're clear, you raised the issue with Mr. Chung prior
11 to speaking to Ms. Gray and Mr. Rachesky? I want to
12 get the chronology straight.

13 A. Yeah, I think so. I think so.

14 Q. Do you recall when you first spoke to Mr.
15 Chung about the mouse problem you were having?

16 A. No.

17 Q. Do you recall that being in your first year
18 at Balboa?

19 A. I imagine it probably was, yeah.

20 Q. And when you raised the issue with Mr.
21 Chung, how did he respond?

22 A. You know, I don't remember specifically, but
23 there was kind of an ongoing sort of, "Yes, it is a
24 problem, but what can we do about it," response. I
25 know the administration was frustrated because there

1 was some sort of policy in place on the district level
2 about not being able to spray, so they couldn't, like,
3 fundamentally tackle the issue.

4 Q. Did you ever ask Mr. Chung if there was
5 anything else that could be done besides them spraying?

6 A. I don't know how in depth these
7 conversations with Mr. Chung were. I think I just
8 informed him there was a problem that I was hoping
9 would be solved.

10 Q. And after speaking with him, did you have a
11 general sense that the problem would be addressed or
12 did you just not think it was going to be addressed at
13 all? I'm just trying to get a sense of your
14 conversation.

15 A. It wasn't addressed in two and a half years
16 in the same classroom or more.

17 Q. Did Mr. Chung indicate he would attempt to
18 address the problem?

19 A. I don't recall how Mr. Chung responded, but
20 he definitely -- the sense that I got was that he
21 didn't think he could do very much about it.

22 Q. So prior to speaking to Ms. Gray and Mr.
23 Rachesky during your third year, was nothing done about
24 the mouse problem in your classroom?

25 A. Absolutely nothing.

1 Q. No foam was put in any of the holes and no
2 traps were set?

3 A. No.

4 MS. LHAMON: Can we go off the record for a
5 second?

6 MR. ROSENTHAL: Sure.

7 (Recess taken.)

8 MR. ROSENTHAL: Q. Okay. Ms. Safir, just
9 before we took our break, we were talking about the
10 mouse problem you experienced in Classroom 323. Now,
11 you said during your third year, you raised the issue
12 with Ms. Gray and Mr. Rachesky. Was that in one
13 communication?

14 A. Yes, I remember visiting one of their
15 offices and they both happened to be there, so I just
16 re-expressed the problem to both of them.

17 Q. Was there a reason you raised the issue with
18 them at that time?

19 A. I was just frustrated. It had been raised
20 before and nothing had been done. I was very
21 frustrated.

22 Q. When you say, "Frustrated," do you mean you
23 had raised it with Mr. Chung on several occasions and
24 the problem remained?

25 A. Yeah, just frustrated that nothing had

1 happened.

2 Q. Just briefly going back to your
3 communications with Mr. Chung, you said earlier that
4 Mr. Chung had made some kind of an announcement that
5 facilities problems were to be raised with him in a
6 written form. Did you ever submit any kind of written
7 request to Mr. Chung with regard to the mouse problem
8 you were experiencing?

9 A. I believe I did, but I don't recall exactly
10 when.

11 Q. Getting back to your conversation with Ms.
12 Gray and Mr. Rachesky, could you tell me the substance
13 of that conversation?

14 A. Like I said, I told them there was this
15 problem. It had been ongoing and I was concerned about
16 the health of the kids in the classroom and wanted it
17 addressed.

18 Q. Do you recall how they responded?

19 A. Yeah -- I mean, they were concerned. They
20 knew that this was a problem throughout the school and
21 Ms. Gray said she would look into it and see what she
22 could do. I believe I asked them actually specifically
23 if they would contact an exterminator or something and
24 I remember hearing that they couldn't exterminate
25 because of this policy, but that she would look into

1 other options.

2 Q. So was this the first time you heard that
3 there was some kind of policy that there couldn't be
4 any kind of spraying at Balboa?

5 A. I don't -- I may have heard that before, but
6 I remember specifically hearing that in that
7 conversation.

8 Q. You said sometime after your conversation
9 with Ms. Gray and Mr. Rachesky that there was some
10 material stuffed into holes and some kind of a mouse
11 trap had been set --

12 A. Yeah.

13 Q. -- is that correct?

14 A. A couple men came in in the middle of class
15 and had some sort of foam -- foamy wiry substance and
16 shoved it in under the cabinet and in the holes.
17 Actually, the heaters had big holes around the base and
18 so that was where the mice were traveling, I think,
19 through, so they stuffed those and the trap -- they
20 didn't lay a trap when I was there. The trap was laid
21 -- I don't know if it was by the janitors or someone
22 else or in the evening. So when we came back the next
23 day, there was a little present next to the desk during
24 class which derailed the class completely.

25 MS. LHAMON: Was that present a dead mouse?

1 room, too.

2 Q. Did you ever see any mice in Classroom 314?

3 A. I think I might have seen one scurry across
4 one day.

5 Q. Did you inform any administrators about the
6 mouse droppings or the possible one mouse sighting that
7 you had in that classroom?

8 A. I probably did. I don't recall
9 specifically.

10 Q. Do you recall submitting any sort of written
11 request that the problem be addressed during that year?

12 A. I don't recall, but I did buy the Dust
13 Buster.

14 Q. You said in Classroom 323, you saw mouse
15 droppings on virtually a daily basis. Was the -- was
16 it a similar occurrence in Classroom 314 or was it more
17 or less frequent? I guess it couldn't be much more
18 frequent.

19 A. Right. It was slightly less frequent, I
20 believe, but there were also massive quantities in kind
21 of hidden areas, so still -- you know, it permeated the
22 environment, but a little less visible. I think there
23 were more that ended up on the books in the second room
24 which was a problem.

25 Q. And is it your understanding that the

1 THE WITNESS: The present was a dead mouse,
2 excuse the sarcasm.

3 MR. ROSENTHAL: Q. Do you recall how soon
4 after you had the conversation with Ms. Gray and Mr.
5 Rachesky that the exterminators came to the classroom?

6 A. Within a couple of months, I would say, but
7 I must admit, I was completely shocked because as I
8 said, I explained about it and asked for it to be
9 addressed for years and this was the first time
10 anything had happened.

11 Q. After the exterminators filled the holes in
12 the classroom, did you see any mice in the classroom
13 subsequent to that?

14 A. I didn't see mice. I saw mouse droppings,
15 so I'm not sure what was going on with that. And I
16 know the next fall, the new teacher in that classroom
17 did see mice.

18 Q. We'll come back to that in a minute. Are
19 you aware if exterminators come to Balboa on any sort
20 of regular schedule?

21 A. I don't think so.

22 Q. Why don't we talk about your fourth year at
23 Balboa when you were in Classroom 314. Did you
24 experience any mouse problems in that classroom?

25 A. Yeah, there were a lot of droppings in that

1 janitors were responsible for cleaning that classroom
2 as well?

3 A. For cleaning the classroom, yeah, that is my
4 understanding.

5 Q. You said in Classroom 323, they emptied the
6 trash and sometimes swept the floors. Did they do
7 similar things in Classroom 314?

8 A. Same thing.

9 Q. Did they do any more?

10 A. No.

11 Q. Were they any better about cleaning up the
12 mouse droppings?

13 A. Like I said, a lot of the mouse droppings
14 were not that visible, so unless I was able to -- I'm
15 thinking in Spanish today. I keep thinking of Spanish
16 verbs -- unless I was able to grab somebody during the
17 day and bring them in and show them where they were, at
18 which point they would definitely be willing to help
19 me, then they probably wouldn't see them.

20 Q. Just so I'm clear, you say they weren't so
21 visible. They were somewhat hidden. Can you describe
22 for me where you are talking about in the classroom?

23 A. There was a big table with a dubbing machine
24 on it and it had a cloth over it. There were mouse
25 droppings under the cloth and all around the table.

1 You wouldn't necessarily see them right away unless you
 2 looked up close. Behind that table, there were a lot.
 3 Along the chalk ledge that went up to my desk, there
 4 were a bunch, but there was a TV/VCR in front of it and
 5 a desk with a computer on it and there was a big
 6 free-standing cabinet. When they moved it at the end
 7 of the year, it had like a vile amount of mouse
 8 droppings behind and underneath it.

9 Q. Did you ever see mouse droppings on the
 10 floor in the classroom just in plain sight on the floor
 11 in Classroom 314?

12 A. The mice are kind of stealthy, so they chose
 13 routes that are not in the middle of the classroom.
 14 They go along the wall. I would see a couple along the
 15 wall and definitely on the ledges. Mostly they liked
 16 the ledges.

17 Q. Did you ever watch the janitors clean your
 18 classroom?

19 A. Occasionally I would be working late and
 20 they would come in when I was there. They would empty
 21 the trash and maybe sweep.

22 Q. So there were occasions when you actually
 23 witnessed them sweeping the classroom?

24 A. A couple times, yeah. Usually they would
 25 come in after the teachers left. They would be working

1 night shifts.

2 Q. Did you see them sweep up any mouse
 3 droppings that were on the floor?

4 A. No. I mean, like I said, they weren't --
 5 those areas weren't easily accessible.

6 Q. Do you remember any occasions where there
 7 were mouse droppings present in the classroom and
 8 janitors came in and did not clean up the mouse
 9 droppings that were present?

10 A. No. That the janitors would have willfully
 11 neglected in cleaning up mouse droppings?

12 Q. I'm just trying to understand. You say that
 13 there were mouse droppings in the classroom on a pretty
 14 frequent basis and the janitors would come in and I
 15 guess you said that they didn't always find where they
 16 were or weren't able to clean up all the mouse
 17 droppings. I'm just wondering if you ever pointed out
 18 to them that there are some mouse droppings on this
 19 ledge. Can you clean those up?

20 A. Yeah. When I was there a couple times, I
 21 would ask them to -- I would point something out and
 22 they would help me out with that. So like I said, they
 23 would often come when I wasn't in the classroom in the
 24 evening.

25 Q. Did you ever leave any notes for the janitor

1 or anything like that informing them "There are mouse
 2 droppings on my chalk ledge every day. Can you clean
 3 that out?"

4 A. No. This is such a huge problem. It is
 5 like you are in your fourth year at a building where --

6 MR. ROSENTHAL: Let me go off for a quick
 7 second.

8 (Recess taken.)

9 MR. ROSENTHAL: Q. Just so I'm clear, is it
 10 your testimony that the mouse droppings in your
 11 classrooms, both Classroom 323 and Classroom 314, were
 12 not being cleaned up adequately by the janitors at
 13 Balboa?

14 A. I guess I'm uncomfortable with that wording
 15 because it seems like the responsibility is on the
 16 janitors and I think it is a bigger issue. I don't
 17 even know what their directions were, who was
 18 supervising them. It seems like it should have been
 19 dealt with on a higher level than janitors.

20 Q. When you came into your classroom -- for
 21 example, you come into a classroom one morning. Would
 22 you then find mouse droppings that were in the
 23 classroom that had not been cleaned up from the prior
 24 day?

25 A. Sometimes, but like I said, the protocol

1 seemed to be the trash and the sweeping, so if the
 2 mouse droppings were in an area that wasn't visible or
 3 easily swept, then I don't know I would say it was
 4 their responsibility to deal with it.

5 Q. But when you identified the problem to the
 6 janitors when you were physically in the classroom they
 7 came to clean, they did clean it?

8 A. Yes.

9 Q. But when you weren't there, they didn't?

10 A. Wait. I don't understand the second
 11 question.

12 Q. When you weren't in the classroom --

13 A. They wouldn't necessarily notice, no.

14 Q. Did exterminators ever come to your
 15 classroom in 314?

16 A. No.

17 Q. Did you ever request exterminators to come
 18 to that classroom?

19 A. No.

20 Q. Were any holes ever filled in Classroom 314
 21 similar to the way they had been filled in 323?

22 A. There weren't visible holes in 314 like
 23 there were in 323.

24 Q. Were there ever any traps laid in 314 that
 25 you were aware of?

1 A. Not that I'm aware of.
 2 Q. We touched on this briefly, but have you
 3 heard other teachers complain about mouse problems at
 4 Balboa?
 5 A. Yes.
 6 Q. Can you tell me what teachers you've heard
 7 such complaints from?
 8 A. Many; many.
 9 Q. Are there some that stick out in your mind
 10 as you are sitting here today?
 11 A. I mean, the corridor we are on had a lot of
 12 mouse problems. The first floor, same side of the
 13 building, had a lot of mouse problems. I think -- I
 14 remember even hearing one of the administrators had a
 15 mouse run across her office or his office. It was just
 16 a very, like, pervasive issue.
 17 Q. You testified earlier that you had heard
 18 from Ms. Cook that there was a continuing mouse problem
 19 in Classroom 323; is that right?
 20 A. Yes.
 21 Q. Do you recall what she told you?
 22 A. She said she had seen mice in the first few
 23 weeks of school. She is frustrated.
 24 Q. Did you ever hear of any steps being taken
 25 to resolve the mouse problem at Balboa similar to the

1 ones that were taken in your Classroom 323?
 2 A. I don't know about any.
 3 Q. Do you recall any other specific problems
 4 with regard to mice as you sit here today?
 5 A. Yes.
 6 Q. Can you tell me what else you recall?
 7 A. In the teacher's lounge on the third floor,
 8 which was across the stairway, but the next room over
 9 from 323 -- it was 321 -- there were a lot of mouse
 10 droppings as well, including right around the
 11 microwave, on top of the refrigerator where we would
 12 heat our food, behind the refrigerator, on the sofa at
 13 times.
 14 Q. Did you ever see any mice in that lounge?
 15 A. I never saw mice, but I saw droppings.
 16 Q. In any of your conversations with Mr. Chung
 17 and your conversation with Ms. Gray and Mr. Rachesky,
 18 did you raise the problem with mice in the teacher's
 19 lounge as well with them?
 20 A. Yeah, I believe it was raised by me and
 21 other teachers, I believe. But to be honest with you,
 22 I was more boisterous about my classroom. I was
 23 concerned about the student's safety rather than with
 24 my own, for better or worse.
 25 Q. Do you remember any steps being taken to

1 resolve the mouse problem in the teacher's lounge?
 2 A. No, nothing happened. I bet if we went
 3 there today, it would still be there.
 4 Q. Are there any visible holes in the teacher's
 5 lounge similar to the ones you had in Classroom 323?
 6 A. Probably. I don't remember.
 7 Q. Any other specific problems regarding mice
 8 at Balboa that you can think of?
 9 A. Not that I can think of.
 10 Q. Have you ever experienced any problems at
 11 Balboa with regard to any other rodents, or vermin, or
 12 insects, things like that?
 13 A. Just ants.
 14 Q. Can you tell me what kind of problems you
 15 experienced at Balboa with respect to ants?
 16 A. Just occasionally have big trails of them.
 17 Q. Would that be in your classroom?
 18 A. Yes, at times.
 19 Q. Was that in Classroom 323 or 314 or both?
 20 A. I remembering in 323. It may have also been
 21 in 314, but it was, I remember, in 323.
 22 Q. Was it a problem that was limited in time or
 23 was it something that was ongoing?
 24 A. I remember it being really bad once. I was
 25 able to find a custodian at that point and ask for help

1 and he gave me like a -- some sort of toxic chalk stick
 2 to use and said to draw a line near the ants and that
 3 seemed to help.
 4 Q. Did you ever raise the problem with respect
 5 to ants with any administrators at Balboa or was it
 6 just limited to your conversation with the custodian?
 7 A. Well, we were able to resolve it, the
 8 custodian and I, so I don't remember raising it the
 9 administration because I was able to resolve it with
 10 the help of the custodian.
 11 Q. Any other problems with respect to any other
 12 insects, rodents, vermin, things of that sort?
 13 A. Not that I can recall.
 14 Q. Did you ever hear of anybody -- any other
 15 staff at Balboa having any other problems with insects,
 16 vermin, or rodents other than what we've discussed
 17 already?
 18 A. Not other than what we've discussed.
 19 Q. Are you aware of there being any problems
 20 with respect to fungus or mold at Balboa High School?
 21 A. Not that I'm aware of. There may very well
 22 be, but I don't know.
 23 Q. But you haven't heard of any problems -- any
 24 such problems?
 25 A. I haven't experienced any, no.

1 Q. Have you heard of any from other teachers at
 2 Balboa?
 3 A. Not that I can recall. Doesn't mean that it
 4 didn't happen, but I don't recall hearing about that.
 5 Q. Are you aware of there being any problems at
 6 Balboa with respect to the ceilings at the school?
 7 A. Yes.
 8 Q. Can you tell me about what problems you are
 9 aware of?
 10 A. Well, there were, I guess this style of
 11 ceiling tile, and there were many that were missing or
 12 broken. I heard of a couple of classrooms where the
 13 tiles fell down during class.
 14 Q. And when you say the ceilings are similar to
 15 the ceiling of the room that we're sitting in today, so
 16 they were individual tiles --
 17 A. Right.
 18 Q. -- in a square shape approximately -- do you
 19 want to try to describe the size of them or can you
 20 just agree it is about a foot by a foot?
 21 A. I guess. It might have been shaped
 22 differently, but the tiles are what reminded me of the
 23 Balboa classrooms.
 24 Q. Did you have missing or broken tiles in
 25 Classroom 323?

1 A. I believe I did, yeah.
 2 Q. Do you recall how many tiles were missing in
 3 that classroom?
 4 A. I don't recall, several.
 5 Q. And were they located in a particular part
 6 of the classroom?
 7 A. No, kind of all over, I think.
 8 Q. I just want to be clear. When you say
 9 "Several," is that more or less than five, to the best
 10 you can estimate?
 11 A. Maybe three to five.
 12 Q. So approximately three to five were missing.
 13 Were there any that were broken?
 14 A. You know, I don't remember in specificity.
 15 Q. Do you recall any ceiling tiles ever falling
 16 in your -- in Classroom 323?
 17 A. I think one of them fell in my first year
 18 there.
 19 Q. Were you physically present in the classroom
 20 when it fell or you just came in one day and it was on
 21 the floor?
 22 A. I can't remember. I can't remember.
 23 Q. How about Classroom 314, were there any
 24 missing ceiling tiles there?
 25 A. I think there were one or two missing.

1 Q. Any ceiling tiles that were broken in that
 2 classroom?
 3 A. You know, I'm kind of combining broken and
 4 missing.
 5 Q. Just so we're clear, when you say "Broken,"
 6 do you mean part of it is missing?
 7 A. I remember some that were hanging down from
 8 the ceiling or a piece of it was gone, yeah, stuff like
 9 that.
 10 Q. Just so the record is clear, in Classroom
 11 314, one or two ceiling tiles were either missing or
 12 broken?
 13 A. Yeah, I don't remember. Because I spent
 14 less time in that classroom, the memory is less crisp,
 15 but there were a couple.
 16 Q. And for Classroom 323, approximately three
 17 to five total tiles were either missing or broken?
 18 A. That is an estimate, yes.
 19 Q. Did you ever speak to any administrators
 20 about the missing ceiling tiles in your classroom --
 21 missing or broken ceiling tiles in your classroom?
 22 A. I don't recall. I don't recall.
 23 Q. Do you recall whether you submitted any sort
 24 of written request to Mr. Chung about the missing or
 25 broken ceiling tiles in either of your two classrooms?

1 A. I can't remember. I mean, until the one
 2 fell, it didn't seem like quite as -- you know,
 3 egregious of a problem as the mice or the heater. I
 4 don't remember, honestly.
 5 Q. Were the ceiling tiles ever fixed or
 6 replaced during your four years at Balboa?
 7 A. Not to my memory.
 8 Q. And was it Mr. Chung who was primarily
 9 responsible for -- strike that.
 10 Was it your understanding that if you wanted
 11 to get the ceiling tiles fixed or replaced, that the
 12 person you would probably go to to speak about it was
 13 Mr. Chung? Did you think this fell within his
 14 responsibility?
 15 A. I guess so. I have to just say, I think all
 16 of these problems are pretty overwhelming for one
 17 person to try to deal with without a lot of support
 18 from the district.
 19 Q. Do you have an understanding as to what
 20 support Mr. Chung was receiving from the district?
 21 A. No -- I mean, I don't know. I do know the
 22 facilities on the west side of town tend to be a lot
 23 nicer than those in our community.
 24 Q. Are you aware of there being any other
 25 problems with respect to the ceilings at Balboa other

1 than your two classrooms?
 2 A. I heard about other classrooms having the
 3 same problem and you could see it.
 4 Q. Do you recall there being missing or broken
 5 tiles elsewhere in the school that you personally
 6 witnessed?
 7 A. Yes -- I mean, I can't cite classroom
 8 numbers, but I do recall seeing other classrooms with
 9 missing or broken tiles, yes.
 10 Q. Is there some way to quantify the number of
 11 classrooms? Would you say it was most classrooms,
 12 several classrooms? Just trying to get an idea of how
 13 many classrooms had broken or missing ceiling tiles.
 14 A. I would guess that probably three-quarters
 15 of the classrooms at least.
 16 Q. Now, you said that you had heard that
 17 ceiling tiles had fallen in one classroom. Can you
 18 tell me what you know about that?
 19 A. I just remember hearing that from the kids.
 20 I don't remember the details. Sorry.
 21 Q. Do you remember who you heard it from?
 22 A. Specific children?
 23 Q. Right.
 24 A. No, I don't remember.
 25 Q. Do you remember what class that occurred in?

1 A. I don't know that I knew which classrooms it
 2 was in.
 3 Q. Do you remember which teacher's room was
 4 affected by that?
 5 A. No.
 6 Q. Do you remember what year that happened?
 7 A. No, but I think it happened more than once.
 8 Q. Are you aware of any other problems
 9 regarding the ceilings at Balboa that you haven't told
 10 me about?
 11 A. Beyond the tiles, no.
 12 Q. Any other problems with the tiles that you
 13 haven't told me about already?
 14 A. No.
 15 Q. Any problems that -- are you aware of any
 16 problems at Balboa with respect to the roof at the
 17 school?
 18 A. The roof at the school? I never saw the
 19 roof, so I don't know.
 20 Q. Are you aware of any problems with regard to
 21 there being any leaking at the school?
 22 A. Leaking, I don't think we had leaks in my
 23 classrooms.
 24 Q. Did you hear of leaks in any other
 25 classrooms or anywhere else at the school?

1 A. I don't remember.
 2 Q. As you sit here today, though, you don't
 3 recall any instances of leaks at Balboa?
 4 A. Like I said, not in my classroom. I don't
 5 remember that and I don't remember hearing about it,
 6 but it is a huge building, three stories, three
 7 separate wings on each -- sorry, no. I'm sorry, four
 8 stories, so it is very possible that there could have
 9 been problems with leaking, I was just lucky enough to
 10 not experience them.
 11 Q. You testified previously that you've heard
 12 students talking about various conditions that they've
 13 experienced in other classrooms that they were in. Did
 14 you ever hear any students talk about any leaking in
 15 any of their classrooms?
 16 A. I don't remember hearing that.
 17 Q. Why don't we talk about windows at the
 18 school. Let's first focus on your classroom. Did you
 19 have any problems with respect to the windows in your
 20 classroom?
 21 A. Can you be more specific?
 22 Q. Were the windows in your classroom
 23 functioning in the sense that they opened and closed
 24 properly?
 25 A. I think the windows opened and closed. I'm

1 trying to remember back to 323. They opened and closed
 2 in 314. I don't remember if there was -- there might
 3 have been a dysfunctional window in 323, but I don't
 4 remember.
 5 Q. Do you recall what might have been
 6 dysfunctional about the window?
 7 A. You had a hard time opening and closing,
 8 just reflecting back to what you were asking about.
 9 Q. But you were able to open and close it or it
 10 was just difficult to do so or was it shut permanently?
 11 A. I can't recall. I can't recall.
 12 Q. Any other problems with the windows? I'm
 13 asking if the windows were in any way broken, either
 14 the glass or anything like that.
 15 A. The shades that were supposed to cover the
 16 windows were broken.
 17 Q. And was that in Classroom 323?
 18 A. In both. In Classroom 314, all three of the
 19 shades were broken. In 323, I think I had one or two
 20 that worked and then one or two that didn't work.
 21 Q. And when you say the shades were broken,
 22 were they -- can you just describe for me what you
 23 mean.
 24 A. It is like the vinyl shades that you have a
 25 pulley on, like a rope, you pull it down and rig it

1 shut or open, whatever, and some of them you couldn't
2 pull down or up. Some of them, half the vinyl piece
3 was missing. Some of them would hang limply, but --
4 you know, like in 314, I couldn't shut the light out
5 from the classroom.

6 Q. Just so I'm clear, so the shades were in a
7 position that could not be altered? Do you understand
8 what I mean?

9 A. There were different problems. Some of them
10 were missing half of the shade, so all of the light
11 seeped in through the bottom half of the windows. Some
12 of them you couldn't pull or the rope would be broken.
13 There were all different levels of problems.

14 Q. Was that a problem you ever discussed with
15 any of the administrators at this point?

16 A. I definitely requested that one be fixed
17 several times and I was told that the person who used
18 to fix shades for the district had left or something
19 like that and there was nobody who knew how to do it,
20 so at one point, my Department Chair tried to come in
21 and fix it herself with rope, but it never was resolved
22 in 314 or 323, actually.

23 Q. Do you remember which administrator you
24 raised that issue with?

25 A. I remember mentioning that to Chung,

1 definitely. I may have mentioned it to a principal,
2 too. I don't recall and the Department Chair and I
3 spoke about it. She was very frustrated, too, because
4 a lot of teachers in the Social Studies Department
5 couldn't close their shades and we show a lot of slides
6 to illustrate different historical eras or films, so if
7 it was any time after 10:00 in the morning, the kids
8 couldn't really see it. It was kind of ridiculous.

9 Q. Was it your belief that window shades were a
10 facility issue that fell within Mr. Chung's
11 responsibility?

12 A. I guess so.

13 Q. Did the window shades in Classroom 314 or
14 323 ever get resolved at any time during the four years
15 you were there?

16 A. No.

17 Q. Do you recall whether the window shades were
18 an issue you raised with Mr. Chung in writing?

19 A. I don't recall. Probably, but I don't
20 recall.

21 Q. Other than the window shades and the one
22 possibly dysfunctional window in Classroom 323, were
23 there any other problems you experienced with windows
24 in either of your two classrooms at Balboa?

25 A. In my classrooms, no.

1 Q. Did you hear of any other problems at Balboa
2 that other teachers experienced?

3 A. I saw broken windows in the hallways.

4 Q. When you say you saw broken windows in
5 hallways, was it more than one?

6 A. Uh-huh; yes.

7 Q. Do you recall when this was?

8 A. Throughout the four years.

9 Q. Was it the same window that was broken?

10 A. More than one; multiple windows at different
11 times.

12 Q. Were the windows that were broken, were they
13 repaired at some point or did they remain broken for
14 the entire time period?

15 A. They remained broken for a long time. The
16 one time I remember them getting repaired was when we
17 had the WASC Team coming to visit. They were repaired
18 the day or two days before the WASC Team arrived.

19 MS. LHAMON: For the court reporter, WASC is
20 W-A-S-C; is that right?

21 THE WITNESS: W-A-S-C, Western -- I don't
22 know -- Accreditation something something.

23 MR. ROSENTHAL: You were good during your
24 first day.

25 THE WITNESS: I don't know.

1 MR. ROSENTHAL: Q. Now, when you say you
2 saw broken windows that remained unrepaired, was there
3 -- I want to get a sense of what you mean by "Broken
4 windows." Was there shattered glass that remained at
5 the school or can you describe for me what you saw at
6 the school with regard to broken windows?

7 A. I never saw shattered glass remain on the
8 floor. The custodians would've swept that up for sure,
9 but the window would be either splintered or cracked or
10 have a piece missing.

11 Q. Did you ever see a window at Balboa when
12 there was a sharp glass edge exposed, if you understand
13 what I'm saying?

14 A. Yeah, probably a couple of them were like
15 that. I always wondered what would happen if it would
16 suddenly -- it seemed like fragilely held together.
17 What if it sort of suddenly fell apart with the kids
18 walking through the door? Some of them were on doors,
19 the door between the stairwell and the hall. There
20 would be a window broken on that door, so kids would
21 have to open and close it to get in and out.

22 Q. Did you ever report any of these broken
23 windows that you saw to any administrators at Balboa?

24 A. I didn't really need to report them. They
25 were highly visible to everybody.

1 Q. So you didn't report them to anybody?

2 A. No.

3 Q. Were there some broken windows at Balboa
4 that never got repaired or did they all get repaired at
5 some point?

6 A. I don't remember. I don't -- it seemed like
7 there was always at least one or two that were broken.

8 Q. I'm trying to get a sense if it was the same
9 one or always new ones that were broken.

10 A. I'm not sure. I said last time that you get
11 really desensitized to see these kinds of problems, so
12 I'm not sure I really focused in to remember.

13 Q. Do you recall any students or personnel at
14 Balboa ever being injured as a result of any of these
15 broken windows?

16 A. I don't know of any injuries from that.

17 Q. Again, was it your understanding that broken
18 windows were something that Mr. Chung was primarily
19 responsible for dealing with in connection with his
20 responsibilities with regard to the facilities at
21 Balboa?

22 MS. LHAMON: I'm going to object that it is
23 vague as to "Primarily responsible." Are you
24 distinguishing the responsibilities of the
25 administrator of the school in charge of facilities

1 classroom and problems you've seen in the hallways.

2 During your four years, do you recall any other
3 problems with respect to windows at Balboa?

4 A. Beyond what I've described?

5 Q. Right.

6 A. No.

7 Q. Did you ever hear any other teachers
8 complaining about any problems they were having with
9 their windows?

10 A. I may have. I don't recall.

11 Q. Have you ever experienced any problem with
12 any of the doors at Balboa? Were all the doors in
13 working order?

14 A. The doors?

15 MS. LHAMON: I'm just going to object to the
16 extent she has already testified about some problems
17 with doors. Are you limiting the problems separate to
18 the doors that had windows broken that she has already
19 testified about?

20 MR. ROSENTHAL: Besides the window issue.
21 Thank you for the clarification.

22 THE WITNESS: Are you asking if doors opened
23 and closed?

24 MR. ROSENTHAL: That is part of it.

25 Q. Do you remember any problems with doors at

1 from the responsibilities of the custodian? Or in any
2 case, that is why I think it is vague.

3 MR. ROSENTHAL: Q. Do you understand the
4 question?

5 A. I mean, I already testified that my
6 understanding was that Mr. Chung was the site person in
7 charge of facilities issues, but -- I mean, I think the
8 responsibility goes beyond them to ensure a safe and
9 clean environment for all students to attend -- to go
10 to school in.

11 Q. Was it your understanding that windows were
12 an area that came within his responsibilities that he
13 had with respect to the facilities at Balboa?

14 A. I mean, again, that kind of presumes that a
15 job description would include a delineation of all the
16 problems in a facility and I don't ever remember seeing
17 written down, "Will fix multiple broken windows," or
18 "Will clean mouse droppings," or anything like that,
19 but facilities as a rubric, my understanding was that
20 he was in charge of that in general.

21 Q. Things like broken windows fall within your
22 understanding of facilities issues?

23 A. Sure, I guess.

24 Q. Do you recall ever seeing any other broken
25 windows at Balboa? You've identified problems in your

1 all, that is, the main function with doors?

2 A. Exactly.

3 Q. I'm trying to --

4 A. Yeah, my classroom doors opened and closed.

5 Q. Do you remember having any problems with
6 doors at Balboa at any time?

7 A. No. Beyond not having keys to get into some
8 important rooms, I don't remember not being able to
9 open and close particular doors.

10 Q. And were the condition of the doors at
11 Balboa in good condition?

12 A. Well, I already testified there were windows
13 blown out of some of the doors, so I wouldn't really
14 call that good condition.

15 Q. And when you say that windows were "Blown
16 out of some doors," are we talking about -- how many
17 doors are we talking about that fall within that
18 category?

19 A. I don't know. Like I said, over the four
20 years, multiple of those doors in between the
21 stairwells and the -- or in between -- you know, two
22 halls, I remember seeing broken windows, being
23 multiple.

24 Q. Did all doors at Balboa have glass?

25 A. That is a good question. I don't think the

1 bathroom doors had glass. The classroom doors, I
2 think, had a little pane. I remember some of those
3 being splintered, too.

4 Q. Do you recall any of the glass in the
5 classroom doors being broken?

6 A. Like not open and gaping, but I remember
7 just some splinters in them, yeah.

8 Q. By splinters, you mean there was a crack in
9 the glass?

10 A. Right.

11 Q. There was no hole in the glass?

12 A. Right, to my recollection.

13 Q. So no sharp edges exposed or anything like
14 that?

15 A. Not that I can recall in the classroom
16 panes.

17 Q. Any problems at Balboa with respect to
18 lighting? You identified earlier some problems you
19 were experiencing with the window shades, but putting
20 that aside for a minute, any problems with the actual
21 -- let's talk about the artificial lighting, the
22 non-sunlight light.

23 A. In 323, I had a couple lights that were
24 broken or there was one that would like flash on and
25 off occasionally, sort of temperamental.

1 A. No.

2 Q. Ever hear of any other teachers complaining
3 about the artificial lighting in their classroom not
4 functioning?

5 A. I don't remember.

6 Q. Why don't we talk a little bit about the
7 walls at Balboa. Did you have any problems with
8 respect to the walls in your classroom, either
9 Classroom 323 or Classroom 314?

10 A. I'm not sure what you are asking.

11 Q. Can you describe for me the condition of the
12 walls in Classroom 323?

13 A. Just kind of shabby, like not recently
14 painted, peeling. There was like yellow wallpaper
15 behind the heater. The two heaters, the one that
16 didn't work and the one that sort of worked, there was
17 wallpaper that was peeling off. It was kind of coming
18 away from the wall. My chalkboards had like stickers
19 on them that you couldn't get off and carvings on them
20 and stuff like that and they weren't replaced.

21 Q. Is that all for Classroom 323 that you just
22 described?

23 A. Yeah, and basically the same for 314, except
24 there wasn't the wallpaper phenomenon.

25 Q. And were any of those problems addressed at

1 Q. Any problems in three -- that was 323 you
2 said, right?

3 A. Uh-huh.

4 Q. Any problems in 314?

5 A. I don't remember.

6 Q. Did the lights that were broken in Classroom
7 323 ever get fixed at any time?

8 A. I don't remember that happening.

9 Q. They remained broken for the entire three
10 years you were in that class?

11 A. I remember one segment of lights being --
12 not going on.

13 Q. And do you recall raising that issue with
14 any administrator at Balboa?

15 A. I don't remember.

16 Q. Do you remember if the broken lights in
17 Classroom 323 were an issue you raised in writing with
18 Mr. Chung?

19 A. I can't recall.

20 Q. Is it your understanding that the lighting
21 problem would be an issue you considered to be a
22 facilities issue?

23 A. Yeah, I guess so.

24 Q. Any other problems with respect to lighting
25 at Balboa that you are aware of?

1 any point while you were teaching at Balboa?

2 A. Again, those were kind of secondary to mice
3 and heat, but -- you know, I may have made some
4 pie-in-the-sky requests for new chalkboards or
5 wipeboards, but it was like, no, that is not going to
6 happen. There is not enough money.

7 Q. Do you have a specific recollection of
8 raising such a request with somebody at Balboa?

9 A. I don't have a specific one.

10 Q. Do you recall whether you raised any of the
11 issues you just identified with respect to walls in any
12 writing to Mr. Chung?

13 A. I don't recall.

14 Q. And are these issues with respect to walls
15 you just described things that you would consider to be
16 facilities issues?

17 A. Yeah.

18 Q. Did you have any problems with respect to
19 hearing noise from other classrooms through the walls?

20 A. Not beyond the normal -- I mean, sometimes
21 you could hear other classrooms if they were really
22 animated or engaged in activity, but --

23 Q. Would you say the walls in your classrooms
24 at Balboa were effective sound barriers?

25 A. They were fine for me.

1 Q. Did you ever hear of any other teachers
2 complaining about any other problems with respect to
3 their walls, either the sort of problems you were
4 describing or that the walls were not effective sound
5 barriers?

6 A. I don't remember about the sound barriers --
7 you know, the other problems, again, you can walk into
8 75 percent of the classrooms there and there is an old
9 ratty chalkboard and peeling wallpaper. It is just
10 very common, not like abnormal or unusual at all.

11 Q. But you don't recall any teachers
12 complaining that the walls were not effective sound
13 barriers at Balboa?

14 A. I don't remember having that conversation
15 with anyone.

16 Q. Any other problems with respect to the walls
17 at Balboa that you haven't already told me about that
18 you are aware of?

19 A. Not that I can think of right now.

20 Q. Since we're kind of on the topic, why don't
21 we talk a little bit about noise issues at Balboa. Do
22 you recall having any problems with respect to any
23 external noise at Balboa?

24 A. Actually, yeah.

25 Q. In your classrooms?

1 Q. Do you recall how frequently they met during
2 school hours?

3 A. Well, the things I'm remembering would be
4 like a major performance where they would have guests
5 there. I remember once at 11:00 a.m., they were doing
6 this huge booming drum corps, like a marching Drill
7 Team thing and I was trying to teach some history
8 lesson. It was just like, "Be quiet." It was very
9 frustrating.

10 Q. Is it safe to say it was relatively
11 infrequent?

12 A. Maybe a couple times a semester.

13 Q. Do you remember how long typically those
14 kind of performances lasted? Was it an all-day thing
15 or was it for a half hour, hour?

16 A. Maybe an hour; an entire class period
17 probably.

18 Q. Any other problems regarding external noise
19 that you experienced?

20 A. That was the major one I can think of.

21 Q. Did you ever hear of any other teachers
22 having any problems with external noise?

23 A. Everybody on the quad was pretty frustrated
24 by that. There were like an equal amount of classrooms
25 lining the outside ring and an equal amount on the

1 A. Yeah, come to think of it.

2 Q. Can you describe for me those problems you
3 had?

4 A. There was Drill Team and ROTC practice in
5 the quad and Classroom 323 faced the internal quad and
6 they would practice before school and after school and
7 occasionally, they would have a performance during
8 school and it would be extremely loud and make it very
9 difficult to run a lesson. And, yes, I would call the
10 principal's office if it was during class and I also
11 made a request to the ROTC and to one of the
12 administrators, though I don't recall who, they find
13 another place to practice so teachers who face the quad
14 would be able to hear themselves think and prepare for
15 lessons.

16 Q. After you made that request, was any change
17 made as far as where these groups met?

18 A. I remember for a little while, I think they
19 were out on the football field and then I think they
20 decided that that just wasn't acceptable for them, so
21 they ended up being back in the quad.

22 Q. You said that these groups met primarily
23 before school and after school and occasionally met
24 during school hours; is that right?

25 A. Yes.

1 inner quad. I remember talking to a vice principal who
2 was there my first couple years, Gloria Galindo. She
3 was frustrated about that because her office faced the
4 quad.

5 Q. Putting aside that issue, did you ever hear
6 of any teachers complaining about any other external
7 noise problems?

8 A. I don't remember that. I don't recall that.

9 Q. Did you ever hear any students complaining
10 about any external noise problems other than the
11 performances you've already testified to?

12 A. Well, occasionally -- this is the only thing
13 I could say. Occasionally there would be like a class
14 in the quad playing some game or another. I never even
15 understood what classes were out there. It seemed very
16 odd to be playing a game during a class period, but,
17 yeah, there would be like a loud soccer game or
18 kickball or whatever.

19 Q. Any other problems --

20 A. No.

21 Q. -- with regard to external noise?

22 A. Not that I can remember.

23 MS. LHAMON: If you are at a good point, I
24 could use a break.

25 MR. ROSENTHAL: That is fine.

(Recess taken.)

MR. ROSENTHAL: Q. Ms. Safir, I would like to move to a slightly different area. Why don't we talk about any overcrowding concerns that you have with respect to Balboa. Was overcrowding ever a problem during your four years at Balboa?

A. Overcrowding was a consistent problem. My classes were particularly overcrowded my first year and then I was able to escape that to some extent, but it continued to be a big problem in other classrooms.

Q. Why don't we first talk about the classes that you had. Was overcrowding a problem in any of your classes after your first year?

A. After my first year, as I testified before in the last session, I was teaching an elective and a required class, US History and prelaw, so I think we just had enough social studies teachers that we were able to balance it out a little better, but other departments really, really suffered.

Q. Just so we're clear, so the overcrowding you had in your classrooms was limited just to your first year?

A. I would say so, yeah.

Q. Why don't you tell me the overcrowding problem you experienced in your class or classes during

remain over 35 students for the entire semester?

A. Yeah, I think so. It was a terrible class. Oh, my God.

Q. Do you remember how many students in that class or can you give my your best estimate?

A. I would say 38 to 40.

Q. Let me put that class aside for a minute.

Let's talk about the US History class. You said the class started out with more than 35 students, but you were able to transfer out some to another class; is that right?

A. I think it started at about 37 to 40 and I think I was able to get it down to 35 or 36, so it was still slightly over the district average.

Q. Do you recall how long it took for you to get the class size down to that level?

A. That was a struggle at the beginning of every year. Typically it would take anywhere from four to five weeks to stabilize a class and then there is also -- like there are a lot of students transferring in throughout the semester, so you would get new kids added to your class still.

Q. Do you recall new students being added to that class during the semester?

A. Yes. Oh, yes, real fun ones.

your first year?

A. Well, the district average is supposed to be about 34.5 kids to a class and I had a couple classes with over 35. I had a class with about 40 seniors in it and it was a problem because the rooms aren't that big, plus you had to scramble to try to get chairs or desks for all the kids, so that was a problem.

Q. I know you testified about this your first day, but unfortunately, I didn't bring that one page of notes. You were teaching during your first semester at Balboa -- the first semester you were teaching, was it an American Government Economics class?

A. Two American Government Economics, one US History.

Q. Thank you. Now, you said you had a couple of classes that were over 35. Can you tell me which classes had over 35 students?

A. Yeah, the mainstream American Democracy Economics. I had a section for English as a Second Language students and that one was fine. The one that was for native English speakers was overcrowded and the US History one, I think at the beginning of the year was and I was able to transfer a few kids, so it balanced it out a bit better.

Q. Did the mainstream American Democracy class

Q. And so when you say the classroom got down to about 35 or 36 students, is that including the new ones that transferred in or did the number then go above that?

A. You are talking about the US History class now?

Q. Right.

A. That one I didn't have as many kids transfer in because it was a junior class. I think in its final stages, it probably had, like, 36, maybe 37, but the 12th grade class, because that is a required course for graduation, they just kept funneling kids into it for about a month and a half.

Q. You say "The 12th grade class." Are talking about the American Democracy class?

A. Yes.

Q. So you testified earlier that that class had approximately 38 to 40 students. Did the number increase from that or is that including the students who transferred in?

A. There is just a bunch of shifting in the first few weeks, but I remember it ended up being about that.

Q. Now, you said a little while ago that it was your understanding that the district average was

1 supposed to be 34.5, approximately, students per class.
 2 Did you understand that to be an average or a maximum?
 3 A. I think I understood it to be a target.
 4 That was what the school was supposed to aim to have in
 5 each class.
 6 Q. Did you have an understanding as to whether
 7 having more than that number was any sort of violation
 8 of district policy?
 9 A. I don't know. I mean, since there have been
 10 so many classes with more than that, I don't know. I
 11 don't know. I really don't.
 12 Q. Do you recall any instances during that
 13 semester where you didn't have enough seats or desks
 14 for your students?
 15 A. Yes. Like I said before, we scrambled to
 16 get chairs for the big 12th grade class.
 17 Q. Why don't we focus on the US History class
 18 first. Do you recall any instances of there not being
 19 enough chairs or desks for students in that class?
 20 A. I think for the first few days, yes.
 21 Q. After the first few days, did you have
 22 enough chairs and desks?
 23 A. I was able to round up -- I was probably
 24 able to round up maybe 35 of them.
 25 Q. When you say you were able to round them up,

1 classroom; is that right?
 2 A. Yes.
 3 Q. So you had approximately 36 -- well, at
 4 least 36 chairs and desks in Classroom 323; is that
 5 right?
 6 A. Yeah, I don't think every student had a
 7 desk. I don't think we could -- either we couldn't get
 8 enough desks or we couldn't fit enough desks, but I
 9 don't remember which. I think some kids just had a
 10 chair and some had a desk.
 11 Q. When you say, "Some," can you put a number
 12 to that?
 13 A. Yeah, some -- maybe we had -- this is
 14 guessing -- maybe 32 desks and four chairs.
 15 Q. Is that just a random guess or are you
 16 estimating to the best of your ability?
 17 A. I'm estimating to the best of my ability. I
 18 don't really remember the specific numbers.
 19 Q. And the students who were seated in chairs,
 20 did they have any sort of table or anything similar to
 21 a desk?
 22 A. I permitted them to use my desk if they
 23 needed to or they might share with another student or
 24 write on a binder.
 25 Q. And during that first semester you were at

1 where were you getting the additional chairs and desks
 2 from?
 3 A. Wherever I could get them.
 4 Q. Did you speak to somebody to get more desks
 5 and chairs?
 6 A. Yeah, I would have asked Mr. Chung for help
 7 on that.
 8 Q. And did he come through?
 9 A. He helped as much as he could, I think.
 10 Q. And you actually got additional chairs and
 11 desks in that classroom?
 12 A. I'm trying to remember. Yeah, the 12th
 13 grade class, we definitely didn't have enough. In
 14 fact, I kind of remember not being able to get enough
 15 for that class and having to go across the hall before
 16 the kids came and borrow chairs from another teacher
 17 just for that one period.
 18 Q. Now, you said that -- just so we're clear,
 19 the US History class and the American Democracy class
 20 took place in the same physical classroom?
 21 A. Yes.
 22 Q. And you stated that after the first few days
 23 of the US History class, you had enough desks and
 24 chairs in that classroom and you also stated that you
 25 had about 36, give or take one or two, students in that

1 Balboa, were you never able to obtain additional desks
 2 for those students?
 3 A. No, it didn't seem like there was really a
 4 system in place for distributing furniture. It was
 5 really like every year, people just scrambling to get
 6 enough for their own classroom.
 7 Q. Did you ever have any situation in your --
 8 let's focus on the US History class where students did
 9 not have either a desk or a chair and were forced to
 10 stand or --
 11 A. Not the US History class, I don't remember
 12 that happening.
 13 Q. Do you remember that happening in the one
 14 mainstream American Democracy class?
 15 A. I do remember in the beginning of the year
 16 some instances of kids sitting on my desk, possibly
 17 standing, but I made every effort for them to have a
 18 place to sit.
 19 Q. Do you recall how long that situation
 20 lasted?
 21 A. Well, like I said, I am remembering
 22 borrowing chairs from a teacher across the hall, so I
 23 don't know how long that lasted, maybe the first few
 24 weeks, and I was able to borrow chairs, but they
 25 weren't permanently in my classroom.

1 Q. So you didn't borrow any chairs from the
2 classroom -- a nearby classroom until several weeks
3 into the semester?

4 A. No, I don't remember the exact dates of
5 everything. I did the best I could to make the kids
6 comfortable.

7 Q. Was there some reason you couldn't borrow
8 chairs from a neighboring classroom for some period of
9 time at the beginning of the school semester?

10 A. I'm not sure if the other classroom had the
11 chairs. There was also an issue of kids being
12 transferred into my class in the middle of the period,
13 like a kid would just walk in the door two weeks in or
14 whatever with a schedule change and they would be
15 added.

16 Q. So you might not have a chair at that
17 moment?

18 A. Right; exactly.

19 Q. But you would get one the next day,
20 generally?

21 A. I would do my best to.

22 Q. How about during the second semester of your
23 first year at Balboa, did you have any overcrowding
24 issues then or was it -- were they limited to just the
25 first semester?

1 A. I don't remember. I had one elective class
2 that was smaller than the others. I think I'm having a
3 hard time remembering that semester. One of my US
4 History classes was pretty big, hovering around the
5 target, like 35, 36.

6 Q. Do you remember any students having to stand
7 in that class?

8 A. No. I think I had gotten enough chairs by
9 then.

10 Q. So would you say any of your classes during
11 your second semester at Balboa were overcrowded, in
12 your mind?

13 A. Well, it is pretty hard to teach a class of
14 36 kids, 35 kids. I mean, it depends on how you define
15 overcrowded. Yeah, to me that was definitely
16 overcrowded. You can't provide individualized
17 attention to that many kids.

18 Q. If I could have your opinion as to what
19 number of students, in your mind, a class becomes
20 overcrowded?

21 MS. LHAMON: Objection. Assumes facts not
22 in evidence that there is a set number, but if you have
23 one, you should definitely answer.

24 THE WITNESS: I mean, the question is really
25 do we believe all kids deserve an equal opportunity to

1 be educated? If you go to any private school around
2 here, you see classrooms of 12 to 15. If you go to
3 suburban public schools, you see 25 to 30. If you go
4 to Balboa, you see 35 to 40. Kind of speaks for
5 itself.

6 MR. ROSENTHAL: Q. But is there a number
7 you have in mind where a class becomes overcrowded?

8 A. It is hard to provide individualized
9 attention to a student when you have more than 20 in a
10 room. This is a political question, right?

11 Q. I'm asking at what point do you think your
12 classroom becomes overcrowded or no longer manageable
13 or along those lines? Is there a certain number -- do
14 you think the target of 34.5 is too high?

15 A. Too high, yeah, my personal opinion, I do.

16 Q. Do you -- is your personal opinion that
17 classes should be approximately 20 students?

18 A. I mean, ideally, classes would be like 15,
19 but, again, we're one of the lowest-funded states for
20 public education, so that is not realistic in the
21 current state of things.

22 Q. Do you think that students in classes with
23 approximately 35 students are being provided an
24 inadequate education?

25 A. An inadequate --

1 Q. Right.

2 A. Yeah, I do, absolutely. I think it is
3 particularly difficult to teach 35 kids at a school
4 like Balboa where there is a disproportionate number of
5 problems, whether that is special ed problems, or
6 bilingual kids, or emotional issues. To try to provide
7 an adequate education to 35 kids is just not tenable.

8 Q. So is it your belief that in classes where
9 you had more than 35 students, the students weren't
10 given an adequate education in that class?

11 A. I mean, I think I did the best I could to
12 give them an adequate education, but I think the
13 conditions made it very difficult.

14 Q. Do you think you were successful in
15 providing them with an adequate education?

16 A. I guess we would have to ask them.

17 Q. Do you have an opinion?

18 A. I don't know I can judge my own success as a
19 teacher. That is sort of difficult; depends on what
20 measures you are using.

21 Q. You test the students in your classes, don't
22 you? You get a sense of what they are learning and
23 whether they are learning the material you teach them.
24 I was wondering if it was your experience that they
25 received an adequate education, in your mind. You are

1 the teacher.
 2 MS. LHAMON: Objection. Assumes facts not
 3 in evidence. Also that she has faith in those tests
 4 that those tests are the appropriate arbiter for what
 5 students do and don't learn, but to the extent you
 6 understand and you feel comfortable with the question,
 7 you should answer it.

8 THE WITNESS: What is the question again?
 9 Do I think they were receiving an adequate education?

10 MR. ROSENTHAL: Right.

11 THE WITNESS: No, I don't think they were
 12 receiving an adequate education. I think they were
 13 challenged. I definitely had a reputation of being a
 14 very challenging teacher. I pushed them. They had to
 15 write a lot in my class. They had to read a lot in my
 16 class. I think they learned a lot, but when I say,
 17 "Inadequate," I'm talking about personalized attention.
 18 I could not give to them the personalized attention
 19 that they -- any kid really needs to learn well with
 20 that many people in the classroom.

21 MR. ROSENTHAL: Q. When you say you
 22 couldn't give them the personalized attention that they
 23 needed, can you tell me what you mean? How were you
 24 unable to give them the personalized attention that was
 25 required?

1 A. I'm trying to think of how to explain this
 2 to you. Like imagine you are teaching a class at a law
 3 school with 35 students in it and you are explaining a
 4 concept that is really, really important and ten of
 5 those students have no idea what you are talking about.
 6 How many of them are you going to be able to sit down
 7 with and explain that to in a roomful of 35?

8 Q. One more quick question so I'm clear on the
 9 difficulty in providing students with personalized
 10 attention: If you had a classroom of 20 students and
 11 ten students didn't understand the important concept
 12 you were trying to teach, would you have the same
 13 difficulty?

14 A. It would be more manageable.

15 Q. Can you tell me how there is a distinction
 16 there?

17 A. Well, because you have ten other people in
 18 the class as opposed to -- okay, let me do the math
 19 here -- 25; is that right -- as opposed to 25 and so --
 20 you know, you are struggling as a teacher with not only
 21 curriculum and content, but classroom management,
 22 maintaining an orderly classroom. And if you try to
 23 walk over and talk to ten, you have 25 others. It is
 24 very easy to lose the focus of the class, whereas if
 25 you have 20, they know you can -- you can see them all.

1 It is more manageable.

2 Q. Did you ever hear of any other overcrowding
 3 problems at Balboa other than the ones you personally
 4 experienced?

5 A. Yeah, there was definitely overcrowding in
 6 other classes.

7 Q. Do you remember any specific instances?

8 A. I think other American Democracy classes
 9 were overcrowded for the same reason I explained, that
 10 that was a required class kids had to take to graduate.
 11 Definitely math classes were very overcrowded. Just
 12 this year, the Spanish teacher, who is in my former
 13 Classroom 323, had over 40 kids in her class this year.

14 MS. LHAMON: When you refer to "This year,"
 15 are you referring to the 2001/2002 school year or the
 16 2000/2001 school year?

17 THE WITNESS: I'm referring to 2001/2002.

18 MS. LHAMON: Thanks.

19 MR. ROSENTHAL: Q. Just so I'm clear, you
 20 are referring to this school year even though you are
 21 not currently working at Balboa?

22 A. Right, I heard from her.

23 Q. I just want to make sure.

24 A. Sure.

25 Q. Is that Ms. Cook? Is she still in that

1 classroom or is she the Spanish teacher you are
 2 referring to?

3 A. I'm not sure if she is still in that
 4 classroom. I think she is, but that is who I am
 5 referring to.

6 Q. Now, you said that you remember other
 7 American Democracy classes being overcrowded. Was that
 8 just during your first year at Balboa or was that
 9 during a longer period of time or a different period of
 10 time?

11 A. I am remembering other -- I'm remembering
 12 American Democracy classes being overcrowded that first
 13 year specifically, but there was overcrowding in
 14 various classrooms at the beginning of every semester.
 15 It seemed to be very difficult for the administration
 16 to work the master schedules so that there was a
 17 balance of classes and it didn't seem like we had
 18 enough teachers to really adequately staff classes.

19 Q. Do you remember during your first year if
 20 there was an exceptionally large senior class?

21 MS. LHAMON: Vague as to "Exceptionally
 22 large."

23 THE WITNESS: I don't know. I can only say
 24 what I said last time, which is that the enrollment has
 25 been declining for the last three years, four years.

1 Since I got there, the enrollment has declined each
 2 year a little bit.
 3 MR. ROSENTHAL: Q. Since the enrollment has
 4 declined, would you say the overcrowding problems at
 5 Balboa have also lessened?
 6 A. Absolutely not because they cut teachers
 7 every year. Teacher allocations are made based on the
 8 number of students, so that creates a whole new host of
 9 problems.
 10 Q. Do you remember how many teachers there were
 11 at Balboa in the year you first started teaching?
 12 A. When I started teaching, there were in the
 13 ballpark of 80, I think, because, like I explained last
 14 time, we were still under reconstitution, so there was
 15 this extra funding stream coming into the school and so
 16 at some point there, I don't remember when it was, when
 17 that funding was cut, then many teachers were cut,
 18 including myself, actually, at one point.
 19 Q. Do you know how many teachers are currently
 20 teaching at Balboa, approximately?
 21 A. I'm going to guess in the high 50s, but I
 22 don't know for sure.
 23 Q. I don't want you to guess.
 24 A. Okay.
 25 Q. Is that -- do you remember how many there

1 were during the year that -- your final year at Balboa?
 2 A. Around 60, I think.
 3 Q. So after your first year at Balboa, do you
 4 remember American Democracy classes being overcrowded
 5 outside of that first year?
 6 A. I wasn't teaching them, so I don't know.
 7 Q. Did you ever hear they were overcrowded
 8 after that year?
 9 A. I do sort of remember hearing about that
 10 being an ongoing struggle.
 11 Q. Do you know who taught American Democracy
 12 after you did?
 13 A. Conrad Benedicto has taught it.
 14 Q. How do you spell that?
 15 A. B-e-n-e-d-i-c-t-o and Amy Yunis, Y-u-n-i-s.
 16 I'm sure others, too. Those are the two I can think
 17 of.
 18 Q. You also recall math class being
 19 overcrowded. Do you remember it being a particular
 20 teacher's math class? Was it all math classes?
 21 A. I remember hearing from Emanuel Medina that
 22 his classes were very overcrowded and in my third year
 23 at Balboa, he was connected to the program I taught,
 24 the Law Academy Program, and in order for him to have
 25 the kids in the Law Academy, there was an arrangement

1 made with the administration where he would also take
 2 kids not in the Law Academy, so there ended up being a
 3 confusion where his class was double sinned, so he had
 4 one classroom with two lists of students in it, so he
 5 ended up with far over 40. I think he had over 50 kids
 6 for a while.
 7 MS. LHAMON: Did you say double sinned?
 8 What does sinned --
 9 THE WITNESS: I think it is s-i-n-n-e-d. I
 10 believe it is like the course number assigned, assigned
 11 number.
 12 MS. LHAMON: Student ID number, but
 13 whatever.
 14 THE WITNESS: It is a course number.
 15 MS. LHAMON: Then I'm not helping.
 16 THE WITNESS: I don't know. I'm sorry.
 17 MR. ROSENTHAL: Q. Just so I'm clear, so he
 18 had a number of students who were in the Law Academy
 19 that were in the class and he also had a number of
 20 students that were not in the Law Academy in the same
 21 class?
 22 A. Right, which came out to far over 40.
 23 Q. Do you remember any other math teachers
 24 having classes that were overcrowded? You identified
 25 Mr. Medina.

1 A. I didn't know the other math teachers as
 2 well, so I'm not sure.
 3 Q. You said Mr. Medina's class was overcrowded
 4 each semester. Just so we're clear, when we say,
 5 "Overcrowded," we're talking about above the district
 6 target?
 7 A. That class has remained large throughout the
 8 year. I'm not sure what exact number it remained at,
 9 but it remained above the district target, if I
 10 remember correctly.
 11 Q. When you say, "That class," you are talking
 12 about the class during the third year that we just
 13 talked about that was double sinned?
 14 A. That particular class, yes.
 15 Q. Do you remember any of his other classes
 16 being overcrowded?
 17 A. I think he did have other classes that were
 18 overcrowded.
 19 Q. Do you remember if it was all of his
 20 classes? Was it some of his classes?
 21 A. I don't know. He could provide more
 22 details.
 23 Q. Do you recall -- strike that.
 24 Did Mr. Medina's math class during your
 25 third year at Balboa that we were just talking about,

1 did that classroom stabilize at some point?
 2 A. What do you mean by "Stabilize"?
 3 Q. You said that he had well over 40 students
 4 at some point. Did the number decline as the school
 5 year went on for whatever reason?
 6 A. I don't know what number it ended up at, but
 7 I know it remained well above the district average.
 8 Q. You also said that this year, Ms. Cook has a
 9 class with over 40 students in one of her Spanish
 10 classes; is that right?
 11 A. She had for a while. I don't know she does
 12 now. I know she did earlier in the year.
 13 Q. Are you aware if students have transferred
 14 out of that class or you just don't know?
 15 A. I don't know.
 16 Q. Do you know if she was trying to transfer
 17 students out of the class?
 18 A. She was definitely talking to the
 19 administration about it.
 20 Q. With respect to your classes, did you ever
 21 speak to any of the administration about getting the
 22 size of the classes that you had which were overcrowded
 23 reduced?
 24 A. I remember definitely speaking with the
 25 counselor who was plugging the kids into the big

1 American Democracy class.
 2 Q. Do you recall the counselor's name?
 3 A. Jeanne, with two Ns, J-e-a-n-n-e, Mustille.
 4 I think it is M-u-s-t-i-l-l-e.
 5 Q. Did you have an understanding as to who was
 6 responsible for ensuring that the number of students in
 7 classrooms at Balboa was at an appropriate level?
 8 A. Not really.
 9 Q. Did you believe it to be the responsibility
 10 of the counselor and in this case, Ms. Mustille?
 11 A. Well, the counselor was programming them
 12 into the classes. I mean --
 13 Q. Is it fair to say she had some
 14 responsibility for that?
 15 A. Sure, probably she had some responsibility
 16 for it.
 17 Q. Was there anybody in the administration that
 18 you are aware of that was responsible for issues
 19 regarding number of students in classes?
 20 A. Not specifically, but -- you know, it seemed
 21 like the entire administration would want to know and
 22 be able to balance that.
 23 Q. Did you consider this issue a facilities
 24 issue that would fall into Mr. Chung's area of
 25 responsibility or did you not?

1 A. Not really.
 2 Q. Just going back to one thing you said
 3 earlier, in that document where the responsibilities of
 4 the various administrators were identified, do you
 5 recall what the other areas of responsibilities were?
 6 In other words, Mr. Chung had identified himself as
 7 somebody who was primarily responsible for facilities
 8 issues. Do you remember what responsibilities the
 9 other administrators were assigned?
 10 A. I think Ms. Galindo was sort of in charge of
 11 curriculum. Ms. Gray seemed to be in charge of
 12 discipline and then I don't know what the principal was
 13 in charge of.
 14 Q. Was the number of students in -- if you had
 15 a problem with respect to the number of students in a
 16 particular class, did you view that as something that
 17 fell within Ms. Galindo's area of responsibility?
 18 A. I don't think it was clear. I don't think
 19 it was clear.
 20 Q. I take it you didn't assume it fit within
 21 Ms. Gray's area of responsibilities, that being
 22 discipline?
 23 A. No.
 24 Q. After you spoke to Ms. Mustille about the
 25 overcrowding in your American Democracy class, was the

1 problem alleviated in any way, either by transferring
 2 students out or by her not transferring students in?
 3 A. No.
 4 Q. Were any students ever transferred out of
 5 that class?
 6 A. Not that I remember. I just remember
 7 getting new ones.
 8 Q. Did you deal with Ms. Mustille with respect
 9 to the US History class during that first semester you
 10 taught at Balboa?
 11 A. I think she would have been the same
 12 counselor, yeah, although that class was an Academy
 13 Program, so it was a little bit autonomous -- somewhat
 14 autonomous from the regular counseling program.
 15 Q. But was Ms. Mustille helpful in getting
 16 students transferred out of that class? You said some
 17 students had been transferred out from the beginning of
 18 the school year.
 19 A. You know, I don't remember. It was so long
 20 ago. I can't remember.
 21 Q. Okay. Did anybody ever tell you why there
 22 were certain classes at Balboa that were overcrowded?
 23 A. Did anyone ever tell me why? I don't know.
 24 That seems like it kind of presumes there was a
 25 rational explanation and my impression was that it was

1 just inadequate resources coupled with sort of a lack
2 of -- I don't know -- institutional stability.

3 Q. Did anybody ever tell you that there was a
4 shortage of teachers?

5 A. I'm not sure I understand your question.

6 Q. Did anybody at Balboa tell you that the
7 reason that certain classes at Balboa were overcrowded
8 was because there weren't enough teachers?

9 A. Yeah, everybody talked about that.

10 Everybody felt that way, everybody that I can remember
11 speaking to. I can't speak for people I didn't speak
12 to, but that was a frustration from the administration
13 down to the teachers.

14 Q. Did you have an understanding as to whether
15 there weren't enough teachers at Balboa?

16 A. Did I have an understanding as to why there
17 wasn't enough teachers at Balboa? I'm not sure I
18 understand the question. I'm not trying to be
19 difficult.

20 Q. No, I understand. I'm just trying to get a
21 sense of whether it was your understanding that there
22 wasn't enough funding at Balboa to hire additional
23 teachers or that there just weren't any teachers that
24 were available to be hired.

25 MS. LHAMON: That is an incomplete

1 heard, with 50 to 60 kids in them. I never understood
2 why that happened, but I know that the PE teachers were
3 trying to get another person hired and trying to get it
4 addressed and written to the administration, perhaps it
5 even went to the district, but they were -- at one
6 point, they were huge, huge physical education classes.

7 Q. Do you know if the district target, as far
8 as class size, applied to PE classes?

9 A. I don't know.

10 Q. Do you know if, during that time frame,
11 there were fewer PE teachers at Balboa than during your
12 first and fourth year when PE classes were not as
13 large?

14 A. Yeah, perhaps they lost a teacher. I don't
15 remember the details of it. I just remember hearing
16 that complaint come up.

17 Q. Do you know if an additional PE teacher was
18 hired?

19 A. I think so. There was definitely a new PE
20 teacher at some point, but -- I'm sorry. I didn't
21 answer your question a while back. I went off on
22 something else.

23 Q. That is fine. Let me ask this question
24 again, then. Are there any other problems with regard
25 to overcrowding at Balboa with respect to class size

1 hypothetical. Maybe there is another reason.

2 MR. ROSENTHAL: Or any other reason that may
3 be out there.

4 MS. LHAMON: Okay. Thank you.

5 THE WITNESS: Well, it seemed to me there
6 was a funding -- seemed to me it was a funding issue.

7 MR. ROSENTHAL: Q. Just so we're clear, it
8 was your understanding that the reason there weren't
9 enough teachers at Balboa was because there wasn't
10 enough money to hire more teachers?

11 A. Right, that was my understanding.

12 Q. Did that understanding come from somebody or
13 something you read or anything else?

14 A. Nothing that concrete.

15 Q. Any other instances of overcrowding at
16 Balboa that you haven't already told me about?

17 A. In classrooms you are talking about?

18 Q. Why don't we limit it to classrooms first
19 and then we can deal with other areas.

20 A. I shared as much as I can remember.

21 Q. Any issues with regard to overcrowding at
22 Balboa outside of the classroom situation?

23 A. Actually, let me add one thing to that: The
24 PE classes were enormous. At one point, it was either
25 my second or third year, there were PE classes, I

1 that you haven't already told me about?

2 A. Okay. No, not that I can remember right
3 now.

4 Q. Are there any other overcrowding problems at
5 Balboa that you are aware of outside of the class size
6 situation?

7 A. Just the ratio of counselors to students, I
8 guess you could characterize as overcrowding of a sort.

9 MR. ROSENTHAL: Why don't we pick up with
10 that after lunch. I need a bathroom break.

11 (Recess taken.)

12 MR. ROSENTHAL: Q. Ms. Safir, before we
13 took our lunch break, we were talking about
14 overcrowding issues at Balboa and just before we took
15 our break, you identified one additional area that
16 related to overcrowding and that dealt with a number of
17 counselors at the schools. Can you describe for me
18 what the problem relating to the number of counselors
19 is at the school at Balboa was?

20 A. Sure. There were three counselors the
21 entire time I was there, one for bilingual students and
22 two for the rest of the student population and so each
23 had a case load of at least 300 kids at any given time
24 and those are the people responsible for programming
25 the kids, making sure the kids completed all their

1 required courses, were eligible for college and I think
 2 given their case load, they were just not able to --
 3 you know, really support kids as much as was needed.
 4 Do you want examples of that?
 5 Q. No. That is okay. I was trying to think of
 6 how to phrase my next question. I want to get an
 7 understanding of what the basis for your statement that
 8 -- strike that.
 9 Is it basically your testimony that the
 10 counselors had too many students per counselor?
 11 A. Yes.
 12 Q. And did you get that -- did the counselors
 13 tell you that that was a problem they were
 14 experiencing?
 15 A. That is my opinion based on the kinds of
 16 problems that were created by that ratio.
 17 Q. Did any of the counselors ever tell you that
 18 they had too many students that they were in charge of
 19 or required to supervise?
 20 A. The counselors expressed feeling overworked
 21 and overwhelmed.
 22 Q. And they expressed those feelings to you?
 23 A. To me, to others, yeah.
 24 Q. And you identified one of the counselors.
 25 That was a Ms. Mustille --

1 A. Uh-huh.
 2 Q. -- is that correct?
 3 A. Yes.
 4 Q. Can you remember the name of the other
 5 counselors?
 6 A. There was also a man for a while named Joel
 7 Balzer who left -- I think he was there my second year
 8 and the last couple of years, there have been two
 9 counselors, Tonya Hart. I think it is T-o-n-y-a,
 10 H-a-r-t. And Shari Balisi, S-h-a-r-i, B-a-l-i-s-i.
 11 And there was also the bilingual counselor, Mr.
 12 Rodriguez.
 13 Q. And could you spell Mr. Balzer's name?
 14 A. B-a-l-z-e-r.
 15 Q. Now, you said there were three counselors at
 16 Balboa. Were there always three counselors at all
 17 times? You've identified four names. I'm just trying
 18 to -- actually, you've identified five names, excuse me
 19 for misstating.
 20 A. That was due to turnover.
 21 Q. So there was three at one time?
 22 A. Yes.
 23 Q. Are you aware of any district policy as far
 24 as -- any school or district policy as far as the
 25 number of students per counselor?

1 A. I'm not aware.
 2 Q. Are you aware of any instances in which a
 3 student was unable to complete the requirements for
 4 graduation because of counselors being overworked or
 5 overwhelmed?
 6 A. What I'm more familiar with is instances
 7 where students were not able to complete the
 8 requirements for the university, but, yeah, there were
 9 definitely kids I spoke to who in their junior and
 10 senior year would find out they hadn't taken a required
 11 class their freshman or sophomore year and would end up
 12 having to take night school or summer school to make up
 13 for something, not a class they failed, but a class
 14 they weren't aware they had to take.
 15 Q. And was it your belief that occurred because
 16 of some -- strike that.
 17 Is it your testimony that the reason that
 18 occurred was because of the counselors?
 19 A. It wasn't because of the counselors, but
 20 because of the inaccessibility due to that ratio of the
 21 counselors. I mean, the kids at the beginning of the
 22 year, if they had schedule changes, the kids would fill
 23 out a form and the counselors would get literally
 24 dozens, if not over 100 of these forms and these are
 25 for individual meetings, so -- I mean, it is -- it was

1 -- I don't think it was possible for them to see each
 2 kid in a timely fashion that needed to change a course,
 3 so the kids would end up sitting in a class they didn't
 4 need for graduation, maybe a class they had already
 5 taken that they were accidentally reprogrammed into,
 6 et cetera.
 7 Q. Is this something specific counselors told
 8 you was a specific problem, or your opinion?
 9 A. No, this was the kids.
 10 Q. Information that came from the students?
 11 A. Yes.
 12 Q. Students complained to you that counselors
 13 didn't have enough time to deal with the individual
 14 scheduling and coordinating their graduation
 15 requirements?
 16 A. It wasn't just that. Until last year, we
 17 had -- maybe even last year -- one day a week, we had
 18 an advisory, so you had 25 to 30 kids that were your
 19 advisees and I would get their schedule. I would pass
 20 it out to them and occasionally we would get the
 21 transcripts, so I could see the discrepancies by
 22 looking at it. I might submit a form to the counselor
 23 for them or try to go and check in to see when they
 24 could be seen. The counselors were doing the best they
 25 could. Every time I would talk to them, they would be

1 trying to get through kids. They would be constantly
2 meeting with kids and they couldn't have all the kids
3 sitting there waiting all the time. There wasn't
4 enough space in the waiting room for all the kids who
5 needed the class changes, so it was a really difficult
6 situation.

7 Q. You said you had advisories. Were all
8 teachers advisors to a number of students?

9 A. Most teachers were.

10 Q. Did those teachers who were advisors advise
11 roughly 25 or 30 students?

12 A. I don't know the numbers of other
13 classrooms, but I'm guessing it would be approximately
14 the same.

15 Q. And you personally were an advisor during
16 all four years at Balboa or was it more limited than
17 that?

18 A. I think we had some -- you know, I was
19 testifying last time that the schedule kept changing,
20 so it is hard to remember what it looked like each
21 year, but I think we had some sort of form of advisory
22 each year.

23 Q. Can you briefly describe to me what your
24 role as an advisor was?

25 A. I wish I could tell you. It was never clear

1 what we were supposed to be doing as an advisor besides
2 reading announcement school-wide bulletin type things,
3 passing out schedules at the beginning of each semester
4 and I guess talking to kids about whatever came up for
5 them. I would support them with their homework, if
6 they had something to work on, but it wasn't -- there
7 wasn't really a cohesive vision of what the advisors
8 was supposed to be.

9 Q. Was it your understanding that part of being
10 an advisor was to assist students with scheduling
11 difficulties?

12 A. We didn't have access. We couldn't do that.
13 I would have been happy to do that, but we were not
14 allowed to participate in the scheduling.

15 Q. When you say you didn't have access, what
16 are you referring to?

17 A. To the actual scheduling computer program
18 equipment.

19 Q. But could you -- was it part of your
20 responsibility to advise students on what classes they
21 needed to take as far as meeting their graduation
22 requirements?

23 A. Yeah, I could definitely do that and I did
24 do that and I would try to bring it to the attention of
25 the counselors, but for the reasons I explained, the

1 counselors had a hard time getting to all the kids to
2 make the changes that would have ameliorated the
3 situation.

4 Q. Any other problems regarding overcrowding
5 that you haven't already told me about?

6 A. No, not that I can think of right now.

7 Q. Just a couple more quick questions about the
8 counselor situation. Did you ever raise the issue of
9 -- did you ever discuss this problem with any
10 administrator at Balboa?

11 A. I mean, this, again, was a school-wide
12 problem and crisis. It wasn't like an individual
13 problem that I had. Everybody knew we were
14 short-staffed on our counselors. It didn't really need
15 to be brought to the administration's attention.

16 Q. Did somebody tell you they were
17 short-staffed on counselors? I'm just trying to get a
18 sense of whether the school was intending to have three
19 counselors and that was it or did somebody else tell
20 you the school was supposed to have more and they
21 couldn't afford it or hire them or for some other
22 reason, there weren't more than three?

23 A. I'm just talking about my observation based
24 on the problems I've described, kids not being -- you
25 know, adequately served.

1 Q. Did any administrator ever tell you the
2 school was short-staffed with respect to counselors?

3 A. I don't remember hearing that.

4 Q. Are you aware of any occasions at Balboa in
5 which students were shown noneducational films during
6 class time?

7 A. I heard from students who were in a Spanish
8 class that had a string of substitutes for almost a
9 year that they were watching noneducational films.

10 Q. Is that the only instance you can think of
11 where that occurred that you are aware of?

12 A. Well, I think there were a lot of classes
13 that had substitutes over the years I was there and I
14 mean like long-term substitutes, not just a one-day
15 substitute. If it was a one-day substitute, as far as
16 I know, the teacher has left a lesson plan. If the
17 teacher left and the school wasn't able to obtain
18 another permanent teacher, then there would be a
19 long-term substitute and I did hear that people would
20 show movies because they didn't know how to teach the
21 subject matter. They weren't qualified to teach the
22 subject.

23 Q. Are you aware of whether Balboa has a policy
24 with respect to the showing of movies in class?

25 A. There was a policy implemented, I think by

1 Ted Barone, if I remember, at the beginning of last
2 year or maybe the spring of the previous year just sort
3 of stating what to me, at least, was obvious, only show
4 films if they have an educational purpose that you can
5 defend.

6 Q. Was it a written policy?

7 A. I think it was. I vaguely remember one.

8 Q. Was that a policy that was circulated to the
9 staff of the school or how did you get a hold of it?

10 A. I think it was circulated to the staff.

11 Q. Was there any policy regarding the showing
12 of films during class time prior to that written
13 policy?

14 A. Not that I remember.

15 Q. Do you remember there being a nonwritten
16 policy?

17 A. That would be on common sense, no.

18 Q. Did you ever hear of any nonsubstitute
19 teachers showing any films that were not educational?

20 A. No.

21 Q. I take it you didn't show any noneducational
22 films in your class?

23 A. No, maybe non-entertaining, according to the
24 kids.

25 Q. It is a trade-off between educational and

1 administrator at Balboa?

2 A. I don't remember if I did or not.

3 Q. During the four years you were a teacher at
4 Balboa, was Balboa always on a traditional school
5 calendar?

6 A. Like August to June?

7 Q. Roughly, right.

8 A. Yes.

9 Q. Did Balboa also offer summer school?

10 A. Definitely some summers. I'm not sure if it
11 offered summer school every summer.

12 Q. Did you ever teach summer school classes?

13 A. I taught summer school at Mission High
14 School in the summer of '97, but not at Balboa.

15 Q. So you never taught summer school at Balboa
16 during your four years or at any time?

17 A. At Balboa?

18 Q. Right.

19 A. No.

20 Q. Okay. Why don't we move to the topic of
21 bathrooms at Balboa. Let me start with a simple
22 question. Were there any problems with the bathrooms
23 at Balboa during the four years you were a teacher
24 there?

25 A. Yes.

1 entertaining sometimes. Occasionally there is some
2 overlap.

3 Have you ever heard any problems about the
4 drinking water at Balboa?

5 A. I heard rumors that it had lead in it and
6 then I remember hearing like a district PSA on the
7 radio defending the water saying the district was
8 trying to clean it or something -- you know, after I
9 heard that rumor, which was probably my second year at
10 Balboa, I opted not to drink the drinking water.

11 Q. Do you recall where you heard the rumor?

12 A. I don't remember.

13 Q. Do you remember if it was from students,
14 teachers, administrators?

15 A. I feel like it was from an adult, but I
16 don't remember.

17 Q. Are you aware of any action taken by the
18 school or the district with respect to getting the
19 water tested?

20 A. I'm not.

21 Q. Are you aware of any action by the school or
22 district as far as addressing any problems with respect
23 to the drinking water?

24 A. No.

25 Q. Is that an issue you've ever raised with any

1 Q. Can you describe for me the types of
2 problems there were with the bathrooms?

3 MS. LHAMON: Calls for a narrative. Do you
4 want to ask a more limited question like was there
5 toilet paper? Were they unlocked?

6 MR. ROSENTHAL: Q. Why don't you give me
7 some of the problems that were -- some of the problems
8 that existed with regard to the bathrooms at Balboa and
9 we'll go from there.

10 A. For most of the four years I was there, the
11 bathrooms were locked during class time and often even
12 during breaks and so students who needed to use the
13 restroom would need to have a pass and get a security
14 guard to escort them, but, again, we're talking about a
15 school with about a thousand or more kids, so it was --
16 a security guard was not always available and so I
17 think it made it very difficult for the kids to be able
18 to use the bathroom when they needed to.

19 The bathrooms -- I mean, I was able to avoid
20 the student bathrooms as much as possible, but in the
21 moments I was in them, they were in pretty bad
22 condition, definitely graffiti. I remember seeing
23 toilets without toilet seats, not consistently having
24 paper towels and soap, and certainly not having like
25 sanitary napkins and things for girls.

1 Q. Anything else you can think of right now or
2 other concerns? We can address these individually for
3 now and if you think about more, we can come back to
4 it.

5 A. (Witness nods head.)

6 Q. You say during most of the time you were at
7 Balboa, the bathrooms were locked during class time.
8 Was there a period of time that was not the case?

9 A. It may not have been the case in the
10 beginning of my first year. I just remember there
11 being kind of a clamp-down at some point, but then the
12 rest of the time I remember.

13 Q. Do you recall why there was a change of
14 practice at Balboa from bathrooms not being locked
15 during class time to bathrooms being locked during
16 class time?

17 A. I think the school and the administration
18 were struggling to stabilize the school. This is,
19 again, one year after reconstitution, entirely new
20 staff, a lot of young teachers and students with some
21 real challenging issues and problems coming to school
22 and so I don't know. I mean, I didn't really agree
23 with the response of locking the bathrooms, but my
24 sense was that it was just that they were trying to
25 maintain order.

1 Q. Did you ever hear that the reason the
2 bathrooms were going to be locked during class time was
3 to ensure the safety of students?

4 A. To ensure the safety, I don't think I heard
5 that.

6 Q. Did you ever see any written policies with
7 respect to the locking of bathrooms?

8 A. No, not that I can remember.

9 Q. You said bathrooms were also often locked
10 during breaks. Was it your understanding that
11 bathrooms were supposed to be open during breaks?

12 A. Well, I think my understanding was that kids
13 were supposed to try to use the bathroom during breaks,
14 which obviously none of us have that much control over
15 our bodily functions, but I think I assumed the
16 bathrooms would be open during breaks because that was
17 the time in which the entire school was being
18 encouraged to use them.

19 Q. When you say "Breaks," are we -- just so I'm
20 clear, are we talking about passing periods between
21 classes?

22 A. Passing periods and lunch, yeah.

23 Q. Do you remember specific instances where
24 bathrooms were not open during those time periods?

25 A. Yes. I mean, I heard from students that

1 they were not able to get into bathrooms during those
2 time periods.

3 Q. Do you recall how frequently that occurred?

4 A. I mean, frequently and frequently they would
5 have to go to the furthest bathroom on the campus, like
6 Room 323 was about four or five down from the boys
7 bathroom, but that bathroom would often be locked, so
8 kids would have to go to the first floor and across the
9 quad to go to the bathroom over there which would take
10 them out of my class for a good ten or 15 minutes as
11 opposed to five.

12 Q. Was there one particular bathroom that
13 students were supposed to use during class time?

14 A. Again, there was no written policy on this,
15 so --

16 Q. Was that your understanding?

17 A. No. No. I mean, I thought they could use
18 whatever bathrooms.

19 Q. Can you just describe for me the procedure?
20 If you had a student in your class who wanted to use
21 the bathroom, what was the procedure as far as letting
22 them go use the bathroom?

23 A. So you would have to write them a pass, sign
24 the pass, and then call -- for most of the time that I
25 was there, I can remember we were supposed to call

1 security and ask for an escort to pick up the kids and
2 take them to a bathroom.

3 Q. Do you have an understanding as to why
4 students were supposed to have an escort to the
5 bathroom?

6 A. Do I have an understanding as to why? From
7 whose perspective do you mean?

8 Q. From the administration's perspective?

9 A. No, not really.

10 Q. Did you ever have any difficulty getting a
11 hold of security in an instance when the student wanted
12 to use the restroom?

13 A. Definitely; many times.

14 Q. What did you do in those instances?

15 A. I mean, the kids would typically have to
16 wait, but I would keep calling. I often called back
17 three or four times.

18 Q. Did you eventually get a hold of security in
19 those instances?

20 A. I don't know, probably. I don't know.

21 Q. Was there ever an instance you can recall
22 where you couldn't get a hold of security at all for an
23 entire class period?

24 A. I don't remember. Usually eventually you'd
25 get through to somebody, but the kid would be dying by

1 the time you found the person and then your entire
2 class is focused on this kid's need to relieve himself
3 instead of on whatever we are studying.

4 Q. Now, you said you disagreed with the
5 school's policy of having bathrooms locked during class
6 periods; is that right?

7 A. I think it was a coping strategy. I don't
8 know how many options they had, but I think it
9 definitely sent a message to kids. It seemed to me it
10 sent a message that they needed to be constantly
11 supervised and couldn't really be trusted.

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

13 You seem to recall during your first year,
14 at least for a period of time, bathrooms were not
15 locked during class periods. Do you remember hearing
16 of any instances of violence or any damage being done
17 to the bathroom as a result of students using the
18 bathrooms?

19 A. There may have been some incidents. I don't
20 remember anything specific, but there may have been
21 some instances which is why I'm saying "I think." You
22 know, in a big school like Balboa with so many kids and
23 not enough adults, I can sort of understand the logic
24 of locking the bathrooms, but I still thought it sent a
25 really negative message to the kids.

1 Q. Did you ever hear that it was the intent of
2 the policy of having the bathrooms locked was to avoid
3 those sorts of situations from developing?

4 A. That may have been what was articulated. I
5 don't remember specifically, but it is possible.

6 Q. Perhaps I said it a little bit too strong
7 that you disagree with the policy as far as having
8 bathrooms locked. Did you have concerns about that
9 policy?

10 A. That is probably better, yeah.

11 Q. Did you ever raise those concerns with any
12 of the administration at Balboa?

13 A. It was kind of a closed-door thing, like
14 this is what it is going to be, sort of an edict.

15 Q. So did you have any conversations with any
16 of the administration about your concerns?

17 A. There wasn't really a forum for those kinds
18 of conversations, to be perfectly honest. Again, a
19 large staff, a lot of problems, people are focused on
20 kind of getting by and surviving rather than hashing
21 out or discussing or having a real democratic process
22 for making decisions like that.

23 Q. So you didn't have any such conversations
24 with the administration?

25 A. I may have had individual conferences --

1 conversations, excuse me, with people, but it would
2 have been more informal.

3 Q. Do you recall specifically raising any of
4 your concerns with Ms. Gray?

5 A. I don't recall.

6 Q. Were your concerns about the bathroom policy
7 something you considered to be a facilities issue that
8 you may have raised with Mr. Chung?

9 A. Not really. It was more of a discipline
10 issue, it seems like, than a facilities issue.

11 Q. So during the time Ms. Gray was responsible
12 for discipline, is it something you would have raised
13 with her to the extent you were going to raise it with
14 anybody?

15 A. Maybe, but I don't really remember when that
16 started exactly, yeah.

17 Q. Just so I'm clear, when Ms. Gray was
18 responsible for the discipline category of issues, that
19 was during a time when she was an assistant principal
20 at Balboa?

21 A. Yes.

22 Q. As a result of having bathrooms locked
23 during class time, did the number of incidents with
24 regard to violence or damage to school property
25 decrease?

1 MS. LHAMON: Objection. Calls for
2 speculation. She is not in charge of discipline at the
3 school.

4 THE WITNESS: I honestly don't know if that
5 changed. There was not information publicized or
6 circulated to us about any change.

7 MR. ROSENTHAL: Q. After the policy at
8 Balboa was changed to having the classroom -- I'm
9 sorry, the bathrooms locked during class time, do you
10 recall any instance of violence that occurred in
11 bathrooms?

12 A. I don't remember.

13 Q. So you don't remember as you sit here today?

14 A. What is that?

15 Q. You don't remember as you sit here today?

16 A. I don't remember.

17 Q. You don't remember any?

18 A. That is what I said. I don't remember.

19 Q. Well, it is a little unclear in the record.

20 Do you recall any instances of violence after the
21 policy at Balboa was changed? It is a "yes" or "no"
22 question.

23 A. Oh, there were still incidents of violence.

24 Q. In the bathrooms?

25 A. I don't know. Actually, I am sorry. I

1 don't understand the question.

2 Q. Do you recall --

3 A. I do recall instances of violence in the
4 bathrooms. After the policy was changed, I don't
5 recall any.

6 Q. Thank you. Do you recall any instances of
7 any damage being done to the bathrooms after the policy
8 was changed?

9 A. Well, the bathrooms continued to be
10 disgusting when I went into them after the policy was
11 changed. I don't know when -- you know, when damage
12 might have occurred, so I can't really answer that.

13 Q. When students went to the bathrooms escorted
14 by a security guard, did the security guard also escort
15 the student back to your class?

16 A. Sometimes yes, sometimes no.

17 Q. Was it your understanding that the security
18 guard remained with the student while they were in the
19 bathrooms?

20 A. Wasn't clear to me.

21 Q. Did anybody else have the ability to unlock
22 the bathroom doors aside from the security guards?

23 A. Not that I know of.

24 Q. Any teachers have keys to the bathrooms?

25 A. Not that I know of.

1 Q. Do you know if the administration had keys
2 to the bathrooms?

3 A. Probably, but I never saw them unlock
4 bathrooms for the students.

5 Q. When you were unable to get a hold of a
6 security guard to unlock the bathroom, did you ever try
7 speaking to anybody in the administration?

8 A. Definitely, you would call the -- if you
9 didn't see a security guard in the hall, you would call
10 the dean's office first because they are the ones who
11 would directly page the security guards. If no one
12 came through that way, I would call the main office
13 where you would talk with the secretary and I would say
14 the same thing: "We need a security guard up here to
15 take these kids to the bathroom."

16 Q. When you called the main office, did
17 somebody from the administration ever come to unlock
18 the bathroom?

19 A. I don't remember.

20 Q. Do you remember how many security guards
21 there were at Balboa?

22 A. Maybe like six to eight.

23 Q. Was that true for all four years you taught
24 there?

25 A. I'm not sure. That seems about roughly

1 right.

2 Q. Why don't we talk about the condition of the
3 bathrooms -- before we get to that, I want to get some
4 background information. Do you know how many bathrooms
5 there are at Balboa?

6 A. I don't know.

7 Q. Have you been in all the bathrooms at
8 Balboa?

9 A. I certainly haven't been in most of the
10 boys' bathrooms.

11 Q. Fair enough.

12 A. I have been inside one of the boys'
13 bathrooms for a class lesson we were doing.

14 Q. I was going to say I'm not going to inquire
15 into that area.

16 A. There was an educational purpose there.
17 I've been -- I probably have been inside most of the
18 girls' bathrooms and then the adult women's bathrooms.

19 Q. Can you estimate the number of girls'
20 bathrooms?

21 A. There is probably about one per floor, more
22 or less, three floors or about three, maybe. There are
23 probably other ones. There is the locker room one.

24 There may be three or four, maybe.

25 Q. Is it fair to say at least four?

1 A. Maybe at least three, plus the locker room.

2 Q. So is that four?

3 A. Okay. I'm thinking.

4 Q. There is a bathroom in the locker room as
5 well?

6 A. Yeah, I'm picturing the main building. That
7 is what I was thinking of.

8 Q. At least three in the main building?

9 A. Yeah, I think so.

10 Q. And do you know how many boys' bathrooms
11 there are or would that just be guessing?

12 A. That would be guessing.

13 Q. How many staff bathrooms are there at
14 Balboa, do you know?

15 A. There was one on the third floor that I
16 used. I'm not sure about the second floor and there is
17 definitely one on the first floor, kind of close to the
18 main office.

19 Q. So at least two in the main building?

20 A. For women. I don't know about men.

21 Q. So have you been in all three of the student
22 women's bathrooms in the main building?

23 A. Yeah.

24 Q. Is the condition -- does the condition vary
25 from bathroom to bathroom or can we just speak about

1 them -- you know, as one?

2 A. It is pretty similar.

3 Q. You said one of the problems in the
4 bathrooms is that there is graffiti in the bathrooms.
5 Can you describe for me the location and extent of the
6 graffiti?

7 A. Just walls, mirror, maybe ceiling.

8 Q. And did the graffiti that was in the
9 bathrooms remain there for the four years you were
10 teaching at Balboa or was the graffiti cleaned up and
11 then it reappeared?

12 A. I don't know. I imagine it was probably
13 cleaned up at least a couple of times, but it seemed to
14 be there whenever I went in. I know it wasn't cleaned
15 up regularly. I would say that.

16 Q. As far as the graffiti, was it -- do you
17 know with what sort of instrument the graffiti was
18 written? I'm just trying to get a sense of whether it
19 was written with pencil; was it written with paint or
20 was it some sort of other substance?

21 A. I don't know, maybe pen, maybe like markers
22 or paint; probably just markers. I really don't know.
23 I didn't study it up close.

24 Q. Do you have an understanding as to whose
25 responsibility it is at Balboa to maintain the

1 A. I don't know. It could have been. I really
2 don't know.

3 Q. Do you have an understanding as to how often
4 custodians cleaned the bathrooms at Balboa?

5 A. I don't know.

6 Q. Was there any graffiti in the staff
7 bathrooms?

8 A. Not in the one I used.

9 Q. Can you describe for me the condition of the
10 staff bathrooms at Balboa?

11 A. There was no graffiti. We usually had some
12 toilet paper, but sometimes there would be -- there
13 would not be a roll of toilet paper, often no soap. I
14 bought soap for the bathroom a bunch of times and paper
15 towels, maybe 50 percent of the time.

16 Q. Do you know whether the custodians at Balboa
17 were responsible for cleaning and maintaining the staff
18 bathrooms?

19 A. I guess so.

20 Q. Do you know if they cleaned and supplied
21 those bathrooms on a daily basis?

22 A. It didn't seem like it.

23 Q. How often did it seem like they serviced the
24 bathrooms?

25 A. I don't know. I would be guessing.

1 bathrooms at the school?

2 A. I don't know.

3 Q. Do you have an understanding that it is the
4 school custodians'?

5 A. Well, it a combination of the custodians and
6 the facilities AP on the school site.

7 Q. Is that Mr. Chung?

8 A. That was Mr. Chung. He is not there
9 anymore.

10 Q. Sorry, my mistake.

11 MS. LHAMON: Just so the record is clear,
12 "AP" refers to assistant principal; is that right?

13 THE WITNESS: Yes.

14 MS. LHAMON: Thank you.

15 MR. ROSENTHAL: Q. Just so I'm clear, Mr.
16 Chung was responsible for facilities issues, but it
17 wasn't his responsibility to actually maintain the
18 bathrooms, was it? Do you understand the distinction
19 I'm making?

20 MS. LHAMON: Calls for speculation.

21 THE WITNESS: Yeah -- I mean, I don't know.

22 MR. ROSENTHAL: Q. Do you know who cleaned
23 the bathrooms at Balboa?

24 A. No.

25 Q. Was it Mr. Chung?

1 Q. Would you say it was done at least on a
2 weekly basis?

3 A. Sure; let's just guess that. It is
4 speculative, but --

5 Q. So you don't know?

6 A. (Witness nods head.)

7 Q. You couldn't estimate?

8 A. I don't know.

9 Q. You said also in the students' bathrooms
10 there were some missing toilet seats?

11 A. Uh-huh.

12 Q. Was this in one particular bathroom or was
13 it, again, in all three?

14 A. I definitely remember it being in the first
15 floor bathroom.

16 Q. Do you remember it being a problem in any of
17 the other bathrooms?

18 A. I think there might have been one missing in
19 the third floor bathroom.

20 Q. Did those toilet seats ever get replaced?

21 A. I don't know.

22 Q. Do you recall when you saw the toilet seats
23 were missing?

24 A. Over a period of time. The first floor
25 bathroom I might use if there was an event in the

1 auditorium because it was near the auditorium, so --
 2 Q. Do you recall when the last time you were in
 3 that bathroom was?
 4 A. Probably sometime last year. I don't know,
 5 maybe spring semester of last year.
 6 Q. Were there toilet seats missing in the
 7 bathroom at that time?
 8 A. I think so.
 9 Q. And was that the first time they were
 10 missing or had they been missing for some period of
 11 time before that already?
 12 A. Well, I'm just telling you that at the point
 13 I went in, I would see them missing, but it wasn't like
 14 I had a schedule of when to use it. I might be --
 15 happen to be down there for a performance and I might
 16 use it.
 17 Q. Let me try it this way: On how many
 18 occasions do you remember walking into one of the
 19 students' bathrooms and seeing there was a missing
 20 toilet seat?
 21 A. I don't know. I have no idea. Let's just
 22 say, like, five.
 23 Q. And do you recall how many times you've been
 24 in student bathrooms?
 25 A. Probably about the same. I mean, for using

1 them, yeah, because I would have -- there is a bathroom
 2 right near my classroom that was an adult bathroom.
 3 Q. So has there been a missing toilet seat in
 4 the student bathrooms you've been in each time you went
 5 in there?
 6 MS. LHAMON: Excluding the boys' bathrooms,
 7 right?
 8 MR. ROSENTHAL: Right.
 9 THE WITNESS: In the first floor bathroom,
 10 yeah. I think if I remember correctly, each time I was
 11 in there, there was at least one missing seat.
 12 MR. ROSENTHAL: Q. Was it always the same
 13 seat?
 14 A. I don't remember.
 15 Q. And do you remember if there was one missing
 16 in the third floor or you weren't 100 percent sure?
 17 A. I mean, I used that one less because there
 18 was an adult bathroom on the third floor, so I'm not
 19 sure.
 20 Q. Do you know how many times you've been in
 21 that bathroom? And by "That bathroom," I mean the
 22 third floor students' bathroom?
 23 A. Actually, come to think if it, I've probably
 24 been in the downstairs one more than five times and the
 25 upstairs one, I don't know. I don't know. I don't

1 remember how many times I've used a specific bathroom.
 2 I'm sorry. It is one of those things you don't really
 3 tally in your mind.
 4 Q. I'm going to group these two things together
 5 and if they require being dealt with separately, let me
 6 know. With respect to the graffiti and the missing
 7 toilet seats, did you ever raise either of those issues
 8 with anybody in the administration at Balboa?
 9 A. I don't remember.
 10 Q. Do you recall raising any of those issues in
 11 any written documentation you provided to Mr. Chung
 12 regarding facilities problems?
 13 A. No, I don't think so.
 14 Q. Did you consider these issues -- by
 15 "Issues," I mean graffiti and missing toilet seats --
 16 facilities problems?
 17 A. I guess they would be facilities problems,
 18 yeah.
 19 Q. So if you were going to raise them with
 20 anybody, you would have more likely than not raised
 21 them with Mr. Chung?
 22 A. I remember discussing the soap and toilet
 23 paper and stuff with somebody, but I don't remember
 24 who.
 25 Q. But you don't recall raising the graffiti

1 and missing toilet seat issue with anybody?
 2 A. No, I don't remember.
 3 MS. LHAMON: Having talked about bathrooms
 4 for a while, do you mind if we take a break?
 5 MR. ROSENTHAL: That is fine.
 6 MS. LHAMON: Thanks.
 7 (Recess taken.)
 8 MR. ROSENTHAL: Q. Why don't we turn our
 9 attention to the issue you raised regarding the supply
 10 of paper towels and soap and those things -- those
 11 kinds of things in the bathrooms. Again, I'm just
 12 trying to get a sense of how frequently it was a
 13 problem. Can you in any way tell me how frequently it
 14 was a problem in the student bathrooms?
 15 MS. LHAMON: It is vague as to "Get." Are
 16 you referring to how frequently the supply was a
 17 problem or the lack of supply?
 18 MR. ROSENTHAL: Q. Let me try a different
 19 question. Why don't I try this first: Can you give me
 20 an estimate as to the total number of times you've been
 21 in the student bathrooms? I know you said it was
 22 approximately five times in the first floor bathroom
 23 and then you said it was probably somewhat more often
 24 than that. Is there any way to get an idea of whether
 25 it was a total of ten times? A total of 100 times?

1 Just trying to get a sense.

2 A. I'm trying to think how often events were
3 downstairs, rallies --

4 Q. Perhaps in a given month, did you use the
5 student bathroom a certain number of times,
6 approximately?

7 A. Maybe 20 times a year over the course of the
8 year.

9 Q. And during that roughly 20 times,
10 approximately how often would one of the student
11 bathrooms be lacking, start with paper towels?

12 A. Paper towels, maybe 50 percent of the time.

13 Q. How about soap?

14 A. I don't ever remember having soap to use in
15 the student bathrooms.

16 Q. So you would say 100 percent?

17 A. (Witness nods head.)

18 Q. How about toilet paper?

19 A. Toilet paper, maybe a little better, maybe
20 75 percent.

21 Q. 75 percent of the time there was toilet
22 paper there?

23 A. Yes.

24 Q. You mentioned sanitary napkins. Were those
25 ever available in student bathrooms?

1 A. Not to my knowledge.

2 Q. Any other supplies in the bathrooms that
3 were missing at any time you went to them? I just
4 can't think of any other supplies. If there is more
5 that you can think of, just let me know.

6 A. No.

7 MS. LHAMON: Just as a point of
8 clarification, are you including within the definition
9 of sanitary napkins, any feminine products?

10 THE WITNESS: Am I?

11 MS. LHAMON: Yes.

12 THE WITNESS: There were no feminine
13 products. I didn't think there were toilet covers
14 either -- toilet seat covers.

15 MR. ROSENTHAL: Q. Were any feminine
16 products, including sanitary napkins and toilet covers,
17 available in the staff bathrooms?

18 A. No.

19 Q. Focusing on the staff bathrooms for a
20 minute, was the availability of paper towels, soap, and
21 toilet paper approximately the same in those bathrooms
22 or were those items available more frequently or less
23 frequently?

24 A. I don't know. I spent more time in the
25 adult bathrooms, so it is kind of a strange comparison.

1 Q. Just in percentage terms.

2 A. Well, I just -- I remember buying a lot of
3 soap for the adult bathroom, so there would
4 occasionally be soap, but not that often. Paper
5 towels, we would have and run out. It was kind of
6 sporadic. And toilet paper most of the time.

7 Q. What would you do in the instances where
8 there was no paper towels available in any bathroom?

9 A. Wipe my hands on my clothes.

10 Q. Would you ever notify any of the custodians
11 or anybody in the administration at Balboa?

12 A. If I saw a custodian, I would ask them to
13 replace it.

14 Q. How about with respect to soap, if there was
15 no soap in the bathroom, what would you do with regard
16 to trying to get that issue resolved? Would you try to
17 contact any of the custodians or raise the issue with
18 anybody in the administration?

19 A. If I saw a custodian, I might ask them to
20 replace it, but also like teaching at a really dirty
21 school with a lot of mouse droppings, I didn't want to
22 wait for that to happen, so that is why I purchased
23 soap myself.

24 Q. Would you have the same answer for toilet
25 paper? Did you raise it with custodians if you saw

1 them?

2 A. Yes, I guess I would. Like I said, usually
3 there would be one stall at least that had some toilet
4 paper in it, so --

5 Q. Is that true for student bathrooms and staff
6 bathrooms or are you referring to one or the other?

7 A. I was referring to staff.

8 Q. So if you used a bathroom that was missing
9 either paper towels, soap, or toilet paper, you
10 wouldn't raise it with any of the custodians unless you
11 happened to see them; is that fair to say? You
12 wouldn't actively seek them out and let them know that
13 one of those items was missing?

14 A. That is fair to say, yes.

15 Q. Did you ever raise -- strike that.

16 This was an ongoing problem at Balboa, the
17 lack of supplies at Balboa?

18 A. Yes.

19 Q. Did you ever raise that problem with any of
20 the administrators?

21 A. I encouraged students to raise it for their
22 own bathrooms and no -- I mean, I learned to cope with
23 it as far as the staff bathrooms.

24 I don't know how many times I can say this.
25 You begin to lower your expectations when you are in a

1 place like this and buying your own soap and paper
 2 towels and such doesn't seem that unreasonable after a
 3 while because you are just used to things not being
 4 available.
 5 Q. So do you recall raising the lack of
 6 supplies in bathrooms at Balboa in any writing that you
 7 submitted to Mr. Chung?
 8 A. No.
 9 Q. Do you recall there being any broken stall
 10 doors in any of the bathrooms?
 11 A. In the adult bathroom, one of the stall
 12 doors wouldn't close. It was actually the only
 13 handicapped stall and the student bathrooms, yeah, a
 14 few of them wouldn't close. You would just have to
 15 hold it.
 16 Q. Do you recall those doors ever being fixed?
 17 A. I don't know about the student bathrooms
 18 because it was -- you know, pretty erratic when I was
 19 in there, but the adult stall, no.
 20 Q. Do you recall bringing that to the attention
 21 of anybody in the administration that there was a stall
 22 door that was not closing properly?
 23 A. I don't remember.
 24 Q. Do you recall including that in any writing
 25 you gave to Mr. Chung?

1 A. I don't remember.
 2 Q. Do you remember telling any of the
 3 custodians that the bathroom stall door was not
 4 functioning?
 5 A. I just used the other stalls.
 6 Q. Do you recall there being any toilets in any
 7 of the bathrooms that didn't function for any period of
 8 time?
 9 A. No, I don't remember that.
 10 Q. How about any of the sinks in the bathrooms,
 11 do you remember any of the sinks not being functional?
 12 MS. LHAMON: Michael, I'm assuming you are
 13 limiting these questions to the girls' bathrooms and
 14 the teachers' bathrooms and the one boys' bathroom she
 15 was in that one time.
 16 MR. ROSENTHAL: Right, only the bathrooms
 17 she has been in.
 18 MS. LHAMON: Thank you.
 19 THE WITNESS: What was the last question, if
 20 the sinks weren't working?
 21 MR. ROSENTHAL: Q. Right. Do you recall
 22 any instance where the sinks in the bathrooms were not
 23 functioning?
 24 A. The adult sink was pretty filthy and
 25 sometimes wouldn't drain pretty quickly, but the water

1 came out.
 2 Q. Was there more than one sink in that
 3 bathroom?
 4 A. There is one long sink with two faucets.
 5 Q. Did you ever raise the problem with respect
 6 to that sink with anybody in the administration?
 7 A. No.
 8 Q. Did you write to Mr. Chung about that
 9 problem?
 10 A. I may have mentioned it in passing. I don't
 11 remember whether I did a written request or anything
 12 like that.
 13 Q. Did that problem ever get fixed or did that
 14 remain to be a problem up until the time you left
 15 Balboa?
 16 A. I think the custodians might have attended
 17 to it because it wasn't a consistent problem. It would
 18 drain eventually. It was just slow.
 19 Q. Do you have an opinion as to whether there
 20 are a sufficient number of bathrooms at Balboa for the
 21 student population?
 22 A. I feel like a student would probably be able
 23 to answer that better than me.
 24 Q. So you have no opinion in that regard?
 25 A. Not really. It just depends. If they have

1 to wait for a long time when they would have to use the
 2 bathroom, I would say would be insufficient.
 3 Q. Do you recall seeing lines to use bathrooms
 4 at Balboa?
 5 A. I heard about that from kids actually, yeah.
 6 Q. Did you ever see any lines to use the
 7 bathrooms?
 8 A. I was usually teaching or in my classroom
 9 when they would be mostly using the bathroom, so I
 10 wouldn't probably see any.
 11 Q. So you don't recall seeing any lines?
 12 A. No.
 13 Q. Can you tell me what you heard from students
 14 with respect to lines to use the bathroom?
 15 A. Basically that because they weren't supposed
 16 to use the bathrooms during class, there would be a
 17 huge rush during passing periods and lunch and they
 18 would often have to wait several, whatever, ten, 15
 19 minutes to get into a stall and that was frustrating
 20 for them.
 21 Q. How long were the passing periods at Balboa?
 22 A. They are about five minutes; not long enough
 23 for all the kids to be able to use the bathroom.
 24 Q. At some point, were the bathrooms at the end
 25 of the passing periods locked?

1 A. I believe so.

2 Q. So did you have students who came late to
3 your classes as a result of the lines in the bathroom?

4 A. Yes. Yes. Actually, that was a problem.
5 There were kind of contradictory policies. You were
6 supposed to punish them for being tardy and not
7 supposed to let them use the bathroom except during
8 passing periods, which I think put a lot of kids in a
9 bind.

10 Q. Any other problems with respect to bathrooms
11 that you can think of that we haven't already
12 discussed?

13 A. No.

14 Q. Why don't we talk about problems with
15 respect to teachers at Balboa.

16 A. Okay.

17 Q. I recognize there are a number of potential
18 issues here. Why don't we try to tackle each one
19 individually. Why don't we start with any problems
20 with respect to classes that were without a permanent
21 teacher for extended periods of time. Do you recall
22 any of those problems arising at Balboa during the four
23 years you were there?

24 A. Yes.

25 Q. Can you tell me what problems you recall in

1 grade, which is one problem, or they got a failing
2 grade when they weren't being taught anything, so it
3 just seemed just terribly unfair to the students.

4 Q. I'm going to try to tackle each one of these
5 individually. The driver's ed class you believe was
6 during your third year?

7 A. I think so, yeah.

8 Q. Did that class start with a permanent
9 teacher?

10 A. There was somebody on record and my
11 understanding was that he was refusing to sort of quit,
12 but also wasn't coming in, so there was a substitute
13 for a very long period of time in there.

14 Q. When you say someone was on record, what do
15 you mean by that?

16 A. There was an actual teacher hired into that
17 position who didn't give a -- who didn't terminate
18 himself, who didn't ask to leave, but also wasn't
19 coming to school. Does that make sense?

20 Q. Yes. Was he there at the beginning of the
21 school year or did he just never come?

22 A. I'm not sure that he ever came, actually,
23 that fall semester. I'm not sure he actually came. He
24 might have come for a few days.

25 Q. But it was your understanding that a

1 that regard?

2 A. The two that stand out most in my memory
3 were a driver's ed class that was next door to me and a
4 Spanish class across the hall from me. That was when I
5 was in 323.

6 Q. And that is for both of those classes?

7 A. Yeah.

8 Q. Do you recall what year there were problems?

9 A. I guess probably my third year. I think my
10 third year.

11 Q. Can you tell me the specifics about the
12 problem with respect to the driver's ed class?

13 A. There was more than that, actually. And the
14 year before that in the room that became the driver's
15 ed classroom, there was an English teacher who was out
16 for months and there had been a math teacher who was
17 out for a really long time. What was the problem? The
18 problem was just basically that the school was forced
19 to have substitutes in those classrooms for long
20 periods of time and often they couldn't get a permanent
21 teacher or even a permanent substitute, so there would
22 be strings of teachers and a completely discontinuous
23 curriculum and then the kids were held responsible for
24 having learned the class. If it was a required class,
25 either they didn't learn anything but got a passing

1 permanent teacher had been hired to teach that driver's
2 ed class?

3 A. Yeah, the same guy.

4 Q. Do you remember his name?

5 A. Bagatelos.

6 Q. Do you want to try to spell it for the court
7 reporter?

8 A. B-a-g-a-t-e-l-o-s.

9 Q. Do you recall that driver's ed class ever
10 being unsupervised by any teacher?

11 A. That class, I don't remember that happening.

12 Q. So was there always a substitute in that
13 class for Mr. Bagatelos?

14 MS. LHAMON: Calls for speculation.

15 THE WITNESS: I don't know about that. I
16 never observed -- I never walked by and saw it without
17 a teacher.

18 MR. ROSENTHAL: Q. Did you ever see Mr.
19 Bagatelos in that class?

20 A. Not that I remember.

21 Q. Do you know if a permanent substitute was
22 ever hired for that class at any point?

23 A. There may have been somebody hired. I'm not
24 sure. I'm not sure.

25 Q. Do you know the number of substitutes that

1 taught that class?

2 A. No, I don't know. Several.

3 MS. LHAMON: Just so we have a clear record,
4 is it -- are we talking about one driver's ed class one
5 period or were we talking about multiple periods for
6 the same teacher?

7 THE WITNESS: No, I think it was a full-time
8 teacher with multiple periods missing in action.

9 MS. LHAMON: Thank you.

10 MR. ROSENTHAL: Q. Do you recall how many
11 driver's ed classes Mr. Bagatelos was supposed to
12 teach?

13 MS. LHAMON: The objection is assumes facts
14 not in evidence. It was not said he was teaching only
15 driver's ed.

16 THE WITNESS: I don't know what his course
17 schedule was. I know it was one of the things he
18 taught.

19 MR. ROSENTHAL: Q. Do you recall -- strike
20 that.

21 Did Mr. Bagatelos's class schedule require
22 that he teach in the same classroom for all of these
23 classes? Do you understand the question?

24 A. I don't know. I don't know the answer.

25 Q. You said there was a driver's ed class in

1 Q. Do you know if the students in Mr.
2 Bagatelos's driver's ed class or classes were
3 instructed in driver's ed during this time?

4 A. I don't know.

5 Q. Do you recall the names of any of those
6 substitutes who were hired for that class?

7 A. No.

8 Q. You said there was also a problem during
9 your third year with respect to a Spanish class?

10 A. Yes.

11 Q. Can you tell me the specifics regarding that
12 issue?

13 MS. LHAMON: I'm going to object. It
14 mischaracterizes testimony. She testified she wasn't
15 sure it was her third year, but she thought it was her
16 third year.

17 THE WITNESS: There was a new Spanish
18 teacher hired, [REDACTED] I believe his name was,
19 and sometime during the first semester, he was
20 allegedly picked up by either the police or the F.B.I.
21 for some computer terrorism charge. I don't know the
22 details. I never saw it on paper. This is just what
23 people were talking about. Anyway, he definitely left
24 and they -- I know the school really struggled to find
25 somebody for that classroom and even to find

1 which there were a number of substitutes. Were there
2 substitutes for all Mr. Bagatelos's classes or was it
3 just that one driver's ed class?

4 A. He was a driver's ed teacher. He had
5 multiple sessions of that class. I believe if there
6 was a substitute, they would be there for his whole day
7 of classes.

8 Q. Do you know if he taught anything else
9 besides driver's ed?

10 A. I don't know.

11 Q. Were all of his classes scheduled to meet in
12 that one classroom?

13 MS. LHAMON: Calls for speculation.

14 THE WITNESS: I don't know. I know there
15 were kids in that classroom most of the day.

16 MR. ROSENTHAL: Q. Do you know if Mr.
17 Bagatelos's class during this time frame went
18 unsupervised by anybody?

19 A. I don't know.

20 Q. Do you know -- you said there were several
21 substitutes who taught his class. Do you know if the
22 same substitutes were there for all of his classes?
23 They took over his entire class schedule?

24 A. If a substitute came, then they would
25 probably stay for the whole day.

1 substitutes for that classes -- for those classes, his
2 course schedule. I shouldn't say, "That class" and --
3 yeah, so I happened to have -- the difference between
4 that and the driver's ed is that I had a lot of those
5 same kids in my history classes, so I knew more of what
6 was happening in that class.

7 MR. ROSENTHAL: Q. Do you know if a
8 substitute -- a permanent substitute was ever hired to
9 take over for [REDACTED] class schedule.

10 A. There may have been somebody by the end of
11 the year, but there was a long time when there was not
12 a permanent substitute.

13 Q. Did that class ever go unsupervised, to the
14 best of your knowledge?

15 A. I did observe that class unsupervised at
16 times.

17 Q. Do you recall on how many occasions you
18 observed that?

19 A. I would say several times.

20 MS. LHAMON: When you are answering that,
21 are you -- you said you recall that class being
22 unsupervised several times. Are you saying one period
23 you observed it unsupervised? Several times the entire
24 day? Particular periods?

25 THE WITNESS: My free period was in the

1 morning, so I would come to school -- you know, toward
2 the beginning of the period and I would walk by that
3 classroom and on several occasions when I walked by,
4 the students were in there and there was not a teacher.
5 Now, I don't know about other periods because I was
6 teaching.

7 MR. ROSENTHAL: Q. When you walked by that
8 class in the morning, had first period class already
9 begun or was that prior to the beginning of first
10 period?

11 A. First period class had already begun and I
12 would call down to the main office and let them know
13 and ask them to send someone up.

14 Q. And do you know if someone was sent up on
15 those occasions?

16 A. A couple times they sent a security guard in
17 to just sit with the class. I sat in there a couple
18 times. It wasn't prompt, but I think there was a lot
19 of -- there is so much else going on in the school that
20 I don't know they were really prepared to respond to
21 that problem.

22 Q. Why did you sit in on the class a few times?

23 A. Because I didn't want the kids to be there
24 by themselves.

25 Q. Were you asked to sit in the class or was

1 suffering. They weren't learning for months. I would
2 say I don't know. I don't even remember there being
3 somebody permanent in there, honestly. There may have
4 been, but it seemed to me like when there was an adult
5 in there, that they would be watching the
6 non-educational films we talked about earlier or maybe
7 doing textbook homework without any support from
8 anybody who spoke Spanish or knew how to teach it.

9 Q. So is it your testimony that while there
10 were substitutes in that class, the students in the
11 class were not being instructed in Spanish by the
12 substitute?

13 A. That was my impression for the most part. I
14 mean, there may have been -- again, there were multiple
15 substitutes. There may have been one or two who spoke
16 some Spanish, but the kids were not receiving a solid,
17 consistent Spanish language program.

18 Q. Did you ever hear why a permanent substitute
19 was not hired for that class more rapidly?

20 A. I don't remember specific conversations
21 about that, but my impression -- I mean, I definitely
22 had the sense Patricia Gray was trying to find somebody
23 for the class and that she just -- it was like, a
24 school with all the conditions I already described is
25 not the most welcome environment, not a place where

1 that something you did on your own?

2 A. I would go in if I saw it. I would go in a
3 couple times and call from there and wait until
4 somebody came up.

5 Q. Did anybody ever ask you to stay in the
6 class for the class period? In other words, did you
7 ever --

8 A. I don't remember. They might have once or
9 twice. They might have.

10 Q. When you called the main office and told
11 them the class was unsupervised, did they seem
12 surprised by that fact?

13 A. It was the secretary who would answer and
14 say, "Oh, yeah." They didn't seem to know.

15 Q. Did you ever hear that they were surprised?
16 There was supposed to be a substitute assigned to the
17 class?

18 A. It seemed like sometimes the substitute --
19 like they just weren't getting substitutes. No one was
20 showing up and sometimes somebody was supposed to show
21 up and they weren't there.

22 Q. You said it took some time before a
23 permanent substitute was obtained. Do you recall how
24 long that took?

25 A. I don't know. Those kids were really

1 people are jumping to get in the door and language
2 teachers are very coveted. I think it was really
3 difficult to find somebody who was qualified, who had a
4 credential, and had experience to come in midway
5 through the semester. Most people were already placed
6 in schools, so you lose this guy in whenever it was,
7 September, October --

8 Q. Do you know if similar efforts were being
9 made to replace the driver's ed teacher?

10 A. My understanding was they couldn't replace
11 him because he wouldn't like -- I don't know. I don't
12 know what the language is. He wouldn't give up his
13 job. He wouldn't leave the position, vacate the
14 position. They couldn't technically replace him. They
15 just had to keep getting substitutes for him.

16 Q. So as far as not being able to get a
17 permanent replacement for [REDACTED] wasn't due to
18 any funding -- lack of funding at the school. It was
19 just some difficulty in finding a suitable replacement?

20 MS. LHAMON: Calls for speculation and
21 mischaracterizes her testimony.

22 THE WITNESS: I don't know. I mean, there
23 was a teacher in there at the beginning of the year. I
24 mean, that position was funded, but then he left and
25 for the reasons I've described, they weren't able to

1 find somebody. Whether or not it was a funding issue,
2 I don't know.

3 MR. ROSENTHAL: Q. Did you ever hear that
4 it was a funding issue?

5 A. No.

6 Q. You said you remember there being an English
7 class which you believe was in your second year at
8 Balboa in which there were substitutes -- there was a
9 substitute or substitutes for an extended period of
10 time. Can you tell me the specifics surrounding that
11 situation?

12 A. A really strong veteran teacher, one of the
13 only people I think who had been retained after
14 reconstitution was, I guess, out sick for months. I
15 didn't really know the details, but I think she was
16 sick and they got a string of substitutes. According
17 to the kids, they weren't really taught and then I --
18 those kids -- I think that happened in the spring of
19 their sophomore year and I had them junior year, so a
20 lot of them had -- just really bright kids who were
21 totally acing English and history within the Law
22 Academy Program I had them in had Ds and Fs on their
23 transcript in this class where they hadn't had a
24 permanent substitute -- I mean, where they hadn't had a
25 permanent teacher, excuse me.

1 Q. Do you remember the name of the teacher who
2 got sick?

3 A. Diana Caliz, C-a-l-i-z, I believe.

4 Q. Did Ms. Caliz start the school year teaching
5 her course load at Balboa that year?

6 A. I can't remember. She was out for a long
7 time.

8 Q. Can you estimate for how long she was out?

9 A. I think at least a semester, at least a full
10 semester, but I don't remember in the fall of that year
11 whether she was there or not. I think she was probably
12 there in the fall. I don't remember.

13 Q. Did Ms. Caliz come back to the school after
14 her illness at some point?

15 A. No.

16 Q. So after she was out sick, she never
17 returned to Balboa?

18 A. Yeah. What really upset me, the kids
19 weren't given really an alternative to just taking
20 these Ds and Fs for a class they hadn't learned
21 anything in. It seemed like there should have been
22 some outside monitoring from outside the school, like
23 looking out for the kids, advocating for them. We know
24 in the school where the parents who were wealthier, it
25 would be the parents who would be advocating and making

1 sure that didn't happen. No one seemed to be looking
2 out for the kids. Some of them I know were not
3 eligible for the UCs because of that grade on the
4 transcripts.

5 Q. So is it your testimony that no permanent
6 replacement was ever hired to take over Mrs. -- Ms.
7 Caliz's course schedule?

8 A. I kind of remember somebody eventually being
9 in there on a more permanent basis, but I don't know if
10 she was hired as a teacher or just a long-term
11 substitute.

12 Q. Do you recall the name of that person?

13 A. No.

14 Q. Is that person still teaching at Balboa or
15 were they the following year?

16 A. I don't think so.

17 Q. Is it your understanding that the students
18 in Ms. Caliz's classes were not being instructed in the
19 subject matter during the time they had substitutes in
20 those classes?

21 A. That was my understanding.

22 Q. And what is the basis for that
23 understanding?

24 A. Talking to them about their work.

25 Q. Talking to the students?

1 A. Yeah.

2 Q. And Ms. Caliz's classroom, was that located
3 physically near your classroom or was this all
4 information you learned secondhand from students?

5 A. No, she was -- she was in 325, I think.

6 Q. Do you recall any instances of that class
7 going unsupervised by any adult or substitute?

8 A. Not that I recall, but it was on the other
9 side of where I would walk by. Mr. Miller's class, I
10 walked by when I came to school.

11 Q. Are you aware of the efforts that were made
12 by the administration at Balboa to obtain a permanent
13 replacement for Ms. Caliz?

14 MS. LHAMON: Objection. Assumes facts not
15 in evidence. It has been her testimony there were
16 efforts made.

17 THE WITNESS: I don't know what was going on
18 with that -- I mean, I think, again, she hadn't vacated
19 her position, so they couldn't find a regular teacher
20 probably for the classroom.

21 MR. ROSENTHAL: Q. Was it your
22 understanding that a permanent replacement could not be
23 hired because of her situation?

24 A. I didn't really understand what was going
25 on. I wasn't sure.

1 Q. Did Ms. Gray ever tell you she was trying to
2 find a permanent replacement or was not able to do so?

3 A. I don't recall having a conversation with
4 her about that.

5 Q. Do you recall having a conversation like
6 that with anybody in the administration at Balboa?

7 A. I think when I had those kids the next year
8 and saw the effect on their records that this mishap
9 was having, I remember having some conversations with
10 the administration.

11 Q. Were those conversations dealing with the
12 grades of the students?

13 A. Yeah, just raising concerns about the
14 negative impact this had on the kids.

15 Q. And during those conversations, did it ever
16 come up as to what efforts, if any, were taken to find
17 a replacement for Ms. Caliz?

18 A. By the next year, there was another teacher.

19 Q. But was it ever discussed as far as what was
20 done during the year whether there was a problem?

21 A. I don't remember.

22 Q. You also said there was a math class in
23 which there was an extended use of substitute teachers
24 and you also said -- I think you said it was also
25 during your second year at Balboa; is that right?

1 Do you know which particular math class?
2 Was it algebra, trigonometry, or something like that?

3 A. I'm not sure.

4 Q. Do you know if the students in the class
5 continued to be instructed in the class's subject
6 matter after the permanent teacher left?

7 A. Yeah. According to the kids, no. They
8 weren't getting consistent instruction and according to
9 the teacher Mr. Medina who had a lot of them the
10 following year, they didn't really have a base of math
11 knowledge.

12 Q. Do you recall the reasons why that teacher
13 left?

14 A. No, I'm not sure. I feel like it was -- I
15 vaguely remember it just being related to general
16 stress of being at the school.

17 Q. Any other instances you can think of in
18 which there were classes that were taught for
19 significant periods of time by substitute teachers?

20 A. There's -- yeah, the Math Department was
21 just particularly unstable, but I can't even remember.
22 I mean, this was like -- there seemed to always be at
23 least one class who had a substitute in the Math
24 Department, but I don't remember the details at all.
25 Emanuel would know.

1 A. That was further back. That might have even
2 been the second half of my first year. There was a
3 teacher who left like midway through -- I think it was
4 midway through the spring semester and they had a
5 string of substitutes, but I don't know the details of
6 that one because it wasn't as close to my classroom.
7 It was on the second floor.

8 Q. Do you remember the teacher who was
9 involved?

10 A. I can picture her, but I don't remember her
11 name.

12 Q. Female teacher?

13 A. Woman.

14 Q. Do you remember a permanent replacement ever
15 being hired?

16 A. I don't think during that school year.

17 Q. Do you recall what month that teacher left?
18 Was it later in the semester? Earlier in the semester?

19 A. I don't remember.

20 Q. Did you ever hear of any instances in which
21 that class went unsupervised by any adult or substitute
22 teacher?

23 A. I wasn't aware of that.

24 Q. Do you know whether students were instructed
25 in -- strike that.

1 Q. Do you ever hear any explanation for why
2 this was a problem in the Math Department at Balboa?

3 MS. LHAMON: Objection. The question is
4 vague. Are you asking if she had ever heard an
5 explanation of how the use of substitutes affected the
6 kids' education or are you asking if she had heard an
7 explanation of why there were so many substitutes in
8 use?

9 MR. ROSENTHAL: I'm asking for the latter
10 and I'll rephrase the question.

11 MS. LHAMON: Thank you.

12 MR. ROSENTHAL: I think it got lost in the
13 process.

14 Q. Did you ever hear any explanation as to why
15 the Math Department was particularly afflicted with the
16 situation where substitutes had to be used for
17 significant periods of time?

18 A. I don't remember hearing specific reasons,
19 but I can definitely speculate between an extreme lack
20 of supplies, which I know the Math Department suffered
21 from at least as much as, if not more, than other
22 departments, overcrowded classes, which I heard about
23 from the math students and Mr. Medina, the teacher, and
24 just all the other things we talked about with the
25 school, coupled with the fact that math -- again, as

1 you know, math teachers are very coveted and can easily
2 get jobs almost anywhere. I think it was just really,
3 really hard to keep people or certainly to find new
4 people if someone left in the middle of the year, like
5 that one woman I described and there weren't really
6 incentives. Why would somebody come?

7 Q. Any other instances you can think of in
8 which substitutes were used to teach classes for
9 significant periods of time during your four years at
10 Balboa?

11 A. None that I can think of right now.

12 Q. Do you recall any other instances other than
13 the ones you've testified to already in which classes
14 at Balboa went unsupervised by an adult or substitute
15 teacher or regular teacher?

16 A. Not that I personally witnessed because I
17 was teaching in my classroom most of the time.

18 Q. Do you recall hearing about other instances?

19 A. I definitely recall hearing about
20 substitutes arriving late and if -- you know, if the
21 situation were similar to what I experienced with [REDACTED]
22 [REDACTED] class, then it is quite possible those classes
23 were unsupervised for a period of time, but I don't
24 know.

25 Q. Other than instances in which substitutes

1 reason for absence and times of absence and day of
2 absence and then that system is supposed to communicate
3 directly to the school which is where the secretary I
4 just mentioned comes in and manages that information.

5 Q. Are you aware of any instance in which one
6 of your classes went unsupervised for any period of
7 time?

8 A. That is a good question. I would have been
9 really mad. I was able to usually get -- I could -- I
10 requested substitutes, like you could do that. If you
11 knew somebody was decent, then you could request them
12 again and my classes were pretty good. I kind of had
13 them whipped into shape. I was able to get decent
14 people sometimes, not always.

15 Q. Do you recall a class going unsupervised,
16 any of your classes?

17 A. I don't remember that.

18 Q. Did you typically leave lesson plans for
19 substitutes?

20 A. Always.

21 MS. LHAMON: Can we take another break?

22 MR. ROSENTHAL: Sure.

23 (Recess taken.)

24 MR. ROSENTHAL: Q. Ms. Safir, when you left
25 lesson plans for substitutes, did they typically follow

1 arrived late, are you aware of any other instances
2 where classes went unsupervised?

3 A. No.

4 Q. Do you recall any of the specifics regarding
5 the situations where substitutes arrived late? Do you
6 recall them being in connection with a particular class
7 or how often it occurred?

8 A. No.

9 Q. How did you find out about those instances?
10 Was it based on conversations with students?

11 A. Yeah, or even sometimes passing through the
12 main office, the secretary who -- you know, managed the
13 sub phone calls would be frustrated because more
14 teachers had called in sick that day than they had
15 substitutes for or a substitute wasn't coming, so I
16 would hear sometimes from that, too.

17 Q. Was there ever a day in which you were not
18 going to be physically present at Balboa and would
19 require a substitute teacher in your class?

20 A. Sure.

21 Q. Can you describe for me the process you went
22 through as far as notifying the school you would not be
23 going to school on a particular day?

24 A. There is a phone system. You just call and
25 you have a pin number and you punch it in and give your

1 the lesson plans you left for them?

2 A. Depending on the substitute, if they were
3 competent and good, they did. Actually, often, I would
4 also leave my cell phone number if I was going to be
5 out on a field trip with some of the kids or at home.
6 They could call me and I would call in the morning
7 before the lesson began and make sure they understood
8 it, but some people just didn't have the classroom
9 management skills or just the competence to manage a
10 lesson plan.

11 Q. Would you say that most substitutes did
12 follow the lesson plan or most did not or --

13 A. Most that I requested, I would request
14 because I knew they could follow a lesson plan, but of
15 the ones I didn't request, I would say over half
16 couldn't or weren't capable of following the lesson
17 plan.

18 Q. Do you recall having any extended absence
19 from Balboa? And by "Extended," I mean that is -- for
20 purposes of this question, it is more than three
21 consecutive days.

22 A. Yeah, I was out for a week in September of
23 2000, I guess, supervising a college tour.

24 Q. And did you have a substitute teacher in
25 your classes for that time period?

1 A. Yeah. If I remember right, I was able to
2 get one person that I knew was pretty good and we met
3 ahead of time and walked through the lesson plans and I
4 copied all the dittos ahead of time and all the
5 information so she was ready to go.

6 Q. So you had one substitute who took over all
7 of your classes for the entire period you were out from
8 Balboa?

9 A. If I remember right.

10 Q. And was that substitute able to follow the
11 lesson plans you gave her and instruct the students in
12 the manner that you wanted her to?

13 A. Yeah, she was good. In fact, she was so
14 good, they hired her when an art teacher left later in
15 the year and she wasn't able to be a substitute
16 anymore, unfortunately.

17 Q. Do you recall her name?

18 A. I think that was Mieka Valdez, M-i-e-k-a,
19 V-a-l-d-e-z.

20 Q. Do you know if she is currently employed at
21 Balboa?

22 A. I don't think she went back.

23 Q. But you believe sometime during the
24 2000/2001 school year, she was taken on as a full-time
25 art teacher at Balboa?

1 A. I don't know if it was full time, but she
2 was taken on to teach art classes. It may have been
3 full time. I'm just not sure as of the parameters of
4 her contract.

5 Q. She was taken on as a permanent teacher as
6 opposed to a substitute teacher?

7 A. I believe so.

8 Q. Do you recall any other instances of any
9 classes at Balboa going unsupervised other than the
10 instances you've already told me about?

11 A. No.

12 Q. Do you recall any classes at Balboa in which
13 the class year started without a permanent teacher
14 being assigned to that class?

15 MS. LHAMON: I'm going to object. The
16 question is vague. Are you asking if Ms. Safir recalls
17 any classes in which the year started and a permanent
18 teacher wasn't present for the students or are you
19 asking if she knows that a permanent teacher had not
20 been hired by the school so there was no employment
21 contract signed?

22 MR. ROSENTHAL: Q. Did you understand the
23 question or do you want me to try to rephrase it?

24 A. I just don't remember the details.

25 Honestly, I don't remember.

1 Q. You testified earlier that at least possibly
2 Mr. Bagatelos's classes may not have begun -- he may
3 never have been in any of those classes even at the
4 start of the school year, right?

5 A. Right.

6 Q. Do you remember any other instances like
7 that where school started off on day one of the school
8 year in which there was a substitute teacher rather
9 than a permanent teacher?

10 A. I think that might have happened a couple
11 semesters in math, but I don't remember which. I'm
12 sure the school has a record.

13 Q. Do you recall whether in those instances a
14 permanent teacher was eventually hired to teach those
15 classes?

16 A. I don't know. Like I said, there was just a
17 tremendous turnover in the Math Department. It is hard
18 to trace it all back historically.

19 Q. You testified earlier as to the reasons why
20 the Math Department had a number of substitute teachers
21 teaching classes and without making you restate those
22 reasons, is it your understanding that the same reasons
23 applied to why the school year would start off with a
24 lack of permanent math teachers?

25 A. Yes.

1 Q. Any other classes you are aware of that
2 started the school year without a permanent teacher?

3 A. I can't recall any right now.

4 Q. We've touched on teacher turnover to some
5 extent. I take it you believe that teacher turnover
6 has been a problem at Balboa?

7 A. Yes.

8 Q. How would you describe the level of teacher
9 turnover at Balboa?

10 MS. LHAMON: Objection. That question is
11 vague. Calls for a narrative.

12 THE WITNESS: High.

13 MR. ROSENTHAL: Fair enough.

14 MS. LHAMON: Not a very long narrative.

15 MR. ROSENTHAL: Can I get a one-word answer?
16 Is that too narrative for you?

17 MS. LHAMON: Fine with me.

18 MR. ROSENTHAL: Q. When you say "High," can
19 you --

20 MS. LHAMON: Give you a narrative?

21 MR. ROSENTHAL: No.

22 Q. -- quantify what you mean by "High"? How
23 many teachers per year, if it varied from year to year,
24 if you can inform me?

25 A. I mean, the first couple years, there were,

1 I would guess, around 40 percent of the staff left each
2 year.

3 Q. Is that for the first two years at Balboa?

4 A. Yeah, a lot of people left again last year
5 and the year before, every spring. It was really bad
6 the first two years because in addition to all the
7 problems I've already described, there was a principal
8 that didn't treat teachers very well and so it has
9 still been pretty bad, but I think it has gotten a
10 little better because there is a good principal there
11 that cares about teachers and kids.

12 Q. Just so we're clear, the not-so-nice
13 principal was [REDACTED]

14 A. Yes.

15 Q. And the better principal was Ms. Gray?

16 A. Yes.

17 Q. Can you give me a percentage estimate for
18 the teacher turnover at Balboa since Ms. Gray took over
19 the school?

20 A. I would guess it is still probably at least
21 20 percent, 20 to 30. It is hard to keep people in a
22 place like Bal.

23 Q. Are you aware of any efforts being
24 undertaken either at the school level or the district
25 level to lessen teacher turnover at Balboa?

1 A. I'm not.

2 Q. Did you have any conversations with any
3 administration -- any individuals in administration at
4 Balboa about the teacher turnover?

5 A. Just informal ones in which -- you know, I
6 know that Patricia felt very frustrated by that
7 problem, as did we.

8 MS. LHAMON: Just for the record, Patricia
9 is Patricia Gray, the principal?

10 THE WITNESS: Uh-huh.

11 MS. LHAMON: Thank you.

12 MR. ROSENTHAL: Q. Do you have an
13 understanding as to whether the turnover was voluntary
14 or involuntary?

15 MS. LHAMON: Objection. The question is
16 compound. Are you asking to each teacher why a teacher
17 left or where the school was reconstituted? The
18 question is also vague.

19 THE WITNESS: Can you restate the question?

20 MR. ROSENTHAL: Sure.

21 Q. You said during your first two years, there
22 was approximately 40 percent teacher turnover. Do you
23 know if that was -- can you tell me how much of that
24 was due to teachers leaving Balboa voluntarily?

25 MS. LHAMON: Calls for speculation and

1 compound.

2 THE WITNESS: No, I don't know.

3 MR. ROSENTHAL: Q. Do you recall a number
4 of teachers being fired?

5 A. I don't know that many people were fired. I
6 think a few people were kind of pushed out by Ms.
7 Koury, encouraged to leave, we'll say, but I think
8 others left voluntarily because it just was too
9 difficult of a place to work and the problems felt too
10 big and people felt powerless and the problems were not
11 being attended to as I've already described.

12 Q. Did you believe that the teachers who were
13 either fired or encouraged to leave, were they good
14 teachers or did you view them to be not as good as the
15 teachers who remained?

16 MS. LHAMON: Calls for speculation.

17 THE WITNESS: Actually, that comment I made
18 about people being encouraged to leave, what I'm
19 thinking of actually relates back to the year before I
20 came, so I don't know the quality of the teachers. I
21 heard from other teachers that there were a couple
22 teachers encouraged to leave. I'm trying to think of
23 my first year there. I can't think of anyone that was
24 in that position.

25 MR. ROSENTHAL: Q. Do you recall -- strike

1 that.

2 Do you have an opinion as to whether after
3 new teachers were hired to replace the teachers that
4 left from a prior year, that better teachers were hired
5 and the overall teaching pool at Balboa had improved?

6 MS. LHAMON: Objection. Calls for
7 speculation. How would Ms. Safir know, not having been
8 a student in the other classes, the quality of the
9 other teachers and also not having been a mentor
10 teacher? You are asking for pure speculation here.

11 THE WITNESS: I would have to agree with
12 that. I don't think I can really answer that. I mean,
13 what I can say, on the other hand, is that high quality
14 -- highly qualified teachers left each of those years.

15 MR. ROSENTHAL: Q. Did poor teachers also
16 leave during each of those years?

17 MS. LHAMON: Calls for speculation.

18 THE WITNESS: Well, the poor teachers that I
19 can think of are the ones I already described who left
20 mid year. The ones I can think of that left at the end
21 of the year because of stress or just all the reasons
22 I've talked about were -- mostly the ones I can think
23 of were pretty good teachers -- were good teachers.

24 MR. ROSENTHAL: Q. Do you recall any of the
25 replacements that were hired to fill those positions

1 after they left, were those teachers -- do you have an
2 opinion as to whether those teachers were good
3 teachers?

4 A. I'm trying to think: Some okay, some not so
5 great. I would say if the quality of the staff changed
6 at all, it decreased a bit and the staff definitely
7 became less representative of the students over time,
8 reflective of the students.

9 Q. By that are you referring to racial and
10 ethnicity?

11 A. Predominantly, yeah.

12 Q. Have there been any problems at Balboa with
13 respect to the qualifications of teachers hired to
14 teach there?

15 MS. LHAMON: Vague as to "Problems."

16 THE WITNESS: I was thinking vague as to
17 "Qualifications."

18 MS. LHAMON: Okay. I join in my client's
19 objection.

20 THE WITNESS: Can you explain both of those
21 terms?

22 MR. ROSENTHAL: I thought you said you
23 weren't going to go to law school?

24 THE WITNESS: I'm practicing here for a
25 career change.

1 Q. When you say, "A lot," can you estimate how
2 many teachers at Balboa were on emergency credentials?

3 A. I don't know. I did hear that in the first
4 year of reconstitution, which, again, was the year
5 before I came aboard the sinking ship, that there were
6 -- I heard there were over -- that over 50 percent of
7 the teachers hired did not have a full credential.

8 Q. Do you know how many teachers did not have
9 full credentials during the time you were teaching at
10 Balboa?

11 A. I don't know. I can think of -- right off
12 the top, I can think of three, but I know there were
13 many others. I'm just thinking of people I saw a lot.

14 Q. Was it less than 50 percent?

15 MS. LHAMON: Calls for speculation.

16 THE WITNESS: I don't know.

17 MR. ROSENTHAL: Q. You said you can think
18 of three teachers who were on emergency credentials as
19 you sit here today.

20 A. Yes.

21 Q. Can you tell me who you have in mind?

22 A. The names of the people?

23 Q. Yes, please.

24 [REDACTED]
25 [REDACTED]

1 Can you clarify what you are asking?

2 MR. ROSENTHAL: Q. Why don't we try it this
3 way: Were there any problems, in your opinion, with
4 respect to the credential status of teachers at Balboa?

5 MS. LHAMON: The question is vague and
6 overbroad. It is not clear if you are asking whether
7 Ms. Safir has an opinion about the number of teachers
8 who had credentials on campus at Balboa or if you are
9 asking whether there is a problem with the credential
10 system in California or something else.

11 MR. ROSENTHAL: Q. I didn't want to limit
12 my question to a particular area, so that is why I'm
13 asking if you have any problems in the area of
14 credential status of teachers at Balboa in any regard.

15 MS. LHAMON: With that clarification, the
16 question is compound and overbroad and calls for a
17 narrative. It is a totally inappropriate question,
18 given its breadth.

19 THE WITNESS: There were a lot of teachers
20 without credentials.

21 MR. ROSENTHAL: Q. When you say there were
22 teachers without credentials, what do you mean by that?

23 A. Without a fully certified California state
24 teaching credential. There were a lot of people on
25 emergency credentials, I should say.

1 Q. [REDACTED] is the math teacher?

2 A. Uh-huh.

3 Q. How about [REDACTED]?

4 A. He taught English.

5 Q. And [REDACTED]

6 A. Science and most of these people, again,
7 were brought in during reconstitution, I think, with --
8 well, it is a complicated issue. We don't need to get
9 into it, necessarily. I'll let your questions direct
10 it.

11 Q. Were these teachers hired before you started
12 teaching at Balboa?

13 A. [REDACTED] and [REDACTED] were hired the
14 previous year. [REDACTED] was hired in the middle of
15 the my first year. In fact, he must have been
16 replacing somebody. Who was he replacing? I don't
17 remember who he was replacing in the Math Department.

18 Q. Just so the record is clear, [REDACTED]
19 and [REDACTED] were hired as a result of the
20 reconstitution and [REDACTED] was not directly, anyway?

21 A. Well, we were still hired during
22 reconstitution, just not during the first year.

23 Q. You were hired after the actual
24 reconstitution? And by "Reconstitution," I'm referring
25 to the actual dismissing of the -- at least a

1 substantial portion of the staff at Balboa.

2 A. Yes.

3 Q. And neither you nor [REDACTED] were the
4 first person hired to fill one of the positions in
5 which the person was dismissed after reconstitution?
6 Do you understand that?

7 A. No.

8 Q. When you were hired, did you replace a
9 teacher at Balboa?

10 A. Yes, I did.

11 Q. Did you replace somebody who was hired after
12 the reconstitution?

13 A. Yes, I think I did.

14 Q. Was that the same for [REDACTED]

15 A. I think [REDACTED] was hired to replace
16 somebody who left in the middle of the year, but I
17 can't recall who that was.

18 Q. But was that individual hired after the --
19 was the individual who [REDACTED] replaced hired after
20 the reconstitution at Balboa?

21 MS. LHAMON: Objection. Calls for
22 speculation. She already testified she can't remember
23 who it was that [REDACTED] replaced, so it would be
24 hard for her to know when that person she doesn't know
25 was hired.

1 as to whether [REDACTED] was qualified or unqualified?

2 A. I'm just trying to state the facts, that
3 factually, he did not have a full California teaching
4 credential. If you are asking me if I believe that
5 teachers should have gone through a teaching program
6 before they are in a classroom, I absolutely do, so
7 within that definition of "Qualified," he was
8 underqualified.

9 Q. Did you ever talk to students who had [REDACTED]
10 [REDACTED] a teacher?

11 A. Of course. I shared students with him.

12 Q. Did they ever express an opinion as to
13 whether [REDACTED] was or was not a good teacher?

14 MS. LHAMON: Compound and vague and
15 overbroad.

16 THE WITNESS: [REDACTED] has wonderful
17 teaching instincts and had really great relationships
18 with the kids and did everything he could within his
19 abilities to teach the kids well. I think if he were
20 sitting here today, he would say he was not trained and
21 prepared to be in the classroom at that point, but,
22 again, the school was desperate for math teachers and
23 he is very smart and he knew a lot about math, but he
24 wasn't trained as an educator at that time. As I said
25 before, he is getting his training now so he can

1 THE WITNESS: I don't really know.

2 MR. ROSENTHAL: Q. When you -- would you
3 say [REDACTED] is a good teacher?

4 MS. LHAMON: Calls for speculation.

5 THE WITNESS: What do you think is a good
6 teacher? It depends on how you are defining that.

7 MR. ROSENTHAL: Q. Do you have an opinion
8 as to whether [REDACTED] is a qualified teacher?

9 A. [REDACTED], when he was at Balboa, was not a
10 fully certified teacher, so in a sense, that made him
11 unqualified.

12 Q. Is it your opinion that [REDACTED] is
13 unqualified?

14 A. Yeah -- I mean --

15 MS. LHAMON: I'm going to object because Ms.
16 Safir has already testified that she doesn't know what
17 you mean by "Qualified." And she interposed her own
18 objection on vagueness grounds to the term "Qualified"
19 and you haven't yet defined it for her.

20 MR. ROSENTHAL: I think she didn't like the
21 word "Good."

22 MS. LHAMON: My memory is it was
23 "Qualified," but I could be wrong. I've been wrong
24 once or twice before.

25 MR. ROSENTHAL: Q. Do you have an opinion

1 reenter the classroom fully qualified and I don't think
2 that -- I mean, I, too, was able to connect with
3 students before I finished my training and could run
4 some good lessons, but I didn't feel like I was fully
5 qualified. I didn't know how to really create and
6 maintain a very organized curriculum without that
7 training.

8 MR. ROSENTHAL: Q. After teaching math for
9 his first year at Balboa, did [REDACTED] teach a second
10 year at Balboa?

11 A. I think he taught about two and a half years
12 there.

13 Q. When you taught the second year, was he
14 still on an emergency credential?

15 MS. LHAMON: Calls for speculation. There
16 is no testimony she knows.

17 THE WITNESS: I know he was hired on an
18 emergency credential. I don't know at what point --
19 whether that was renewed or --

20 MR. ROSENTHAL: Q. Do you know if [REDACTED]
21 [REDACTED] fully credentialed as of today?

22 A. No. I thought I already testified he is in
23 a credential program.

24 Q. So when he taught his second year, it was
25 your understanding that he was not fully credentialed

1 either?

2 MS. LHAMON: You are testifying now. Let

3 the witness. There are other options.

4 THE WITNESS: Can you ask the question?

5 MR. ROSENTHAL: Q. When [REDACTED] taught

6 his second year at Balboa, was he fully credentialed?

7 MS. LHAMON: Calls for speculation.

8 THE WITNESS: To my knowledge, he was not

9 fully credentialed.

10 MR. ROSENTHAL: Q. In your opinion when he

11 taught his second year at Balboa, was [REDACTED]

12 qualified to teach math --

13 MS. LHAMON: Asked and answered.

14 MR. ROSENTHAL: Q. -- at Balboa?

15 MS. LHAMON: Asked and answered.

16 THE WITNESS: That was kind of asked and

17 answered.

18 MR. ROSENTHAL: I'm asking about the second

19 year.

20 MS. LHAMON: I understand that, but she has

21 already testified that she believes if you don't have a

22 full California teaching credential, then you are

23 underqualified to teach in California schools. If the

24 testimony is she doesn't think he had a full California

25 teaching credential, then it means he is unqualified.

1 MR. ROSENTHAL: Q. During -- when he

2 started his second year at Balboa, [REDACTED] had one

3 year of teaching experience?

4 MS. LHAMON: Calls for speculation.

5 THE WITNESS: You are asking me if he had a

6 year of teaching experience behind him and I already

7 said my understanding was that he came halfway through

8 the year, but that still doesn't address what I said

9 previously which is what makes somebody qualified or a

10 large piece of what makes somebody qualified is going

11 through a training program, not just being thrown into

12 a classroom.

13 MR. ROSENTHAL: Q. How much classroom

14 training had you received when you received your full

15 credential?

16 A. I was in the classroom for a year and taking

17 classes during that entire year.

18 Q. Do you have an opinion as to whether [REDACTED]

19 [REDACTED] was a good English teacher?

20 A. That is kind of going to be the same

21 argument. I think all three of them were highly

22 dynamic, gifted, talented people who had not been

23 trained yet in how to be a classroom teacher. I think

24 that is putting a lot on a person to throw them into a

25 classroom, especially at a place as challenging as

1 Balboa without training.

2 Q. I'm going to try to deal with these teachers

3 together. Did [REDACTED]

4 have any reputation among the students as to what kind

5 of teachers they were?

6 MS. LHAMON: Calls for speculation. She is

7 not a student.

8 THE WITNESS: My understanding is that they

9 were liked.

10 MR. ROSENTHAL: Q. Do you know why they

11 were liked?

12 MS. LHAMON: Calls for speculation.

13 THE WITNESS: I don't know.

14 MR. ROSENTHAL: Q. Did you ever hear why

15 they were liked? You had a number of conversations

16 with your students.

17 A. Yeah, they seemed to get along well with

18 kids. They were young. They were interesting. These

19 are all great reasons to like your teachers, but not

20 necessarily qualifications for being in the classroom.

21 Q. Did you get an understanding from students

22 that they were learning the subject matter they were

23 being taught by these teachers?

24 MS. LHAMON: Calls for speculation and

25 assumes facts not in evidence. There has been no

1 testimony she has talked to her students or any

2 students about what they did or did not learn from

3 these three teachers.

4 THE WITNESS: What was the question?

5 MR. ROSENTHAL: Q. Did you ever hear your

6 students talk about any of these three teachers?

7 A. I heard them talk about [REDACTED] because

8 we -- like I said, we shared students, not so much the

9 other two.

10 Q. But you did hear some conversation about the

11 other two teachers?

12 A. [REDACTED] and [REDACTED] more like in more

13 affectionate terms than sort of academic terms.

14 Q. Did you ever hear any complaints about those

15 teachers that they weren't teaching their students

16 properly or effectively?

17 A. I think you have to think about the context

18 that these kids are being educated in and the kinds of

19 expectations of their education that they are being

20 socialized to have. I mean, what kind of standard do

21 you think they had for academic appropriateness or

22 rigor?

23 Q. So did you hear them talk about these

24 teachers being effective teachers or not?

25 A. I really don't know on the teaching level

1 with [REDACTED] and [REDACTED] What I heard from the
 2 kids was that they really liked them, got along with
 3 them well. My understanding was that [REDACTED] and
 4 [REDACTED] again, were really interesting, really
 5 dynamic, really energetic, and working very hard, but
 6 none of that is a substitute for having a credential,
 7 in my opinion, and I would ask also why were those
 8 teachers all hired at Balboa and not at Lowell or
 9 Washington or Wallenberg.

10 Q. We talked about the availability of
 11 textbooks at Balboa. Were there any other problems
 12 with respect to other resources -- any other problems
 13 relating to a lack of other resources, putting
 14 textbooks and those materials aside, at Balboa?

15 MS. LHAMON: Vague as to "Resources." Are
 16 you referring to instruction materials or are you
 17 referring to money or funds?

18 MR. ROSENTHAL: Not referring to funds. I'm
 19 talking about other resources that would be used in the
 20 classroom aside from textbooks.

21 THE WITNESS: Are you asking me about a
 22 social studies classroom specifically?

23 MR. ROSENTHAL: Q. Why don't we focus on
 24 your classes first. Was there any problem with respect
 25 to not having sufficient resources to use in the

1 other classes, putting aside math class and the social
 2 studies classes?

3 A. I did hear there weren't really lab supplies
 4 for the science classes and that became particularly
 5 noticeable when we visited a private school and the
 6 kids again were able to internalize a new standard
 7 because they saw what education could like look when
 8 they saw kids who have funding, money, and resources,
 9 so suddenly they understood that their science
 10 education was extremely lacking in resources.

11 Q. And what is the basis of your understanding
 12 that science classes at Balboa were lacking lab
 13 supplies?

14 A. Because the kids didn't really do labs, to
 15 my knowledge, for the most part.

16 Q. Was that information that the students
 17 provided to you?

18 A. Yeah, I feel like I might have talked to a
 19 teacher or two in passing about it as well.

20 Q. Did you have any conversations with any
 21 administrators at Balboa with respect to the lack of
 22 resources in your classes?

23 A. The atlases and all that?

24 Q. Right.

25 A. I talked to my department head about that

1 classroom aside from textbooks?

2 A. It was kind of a trickle-down process. It
 3 seemed like money would surface every once in a while,
 4 but not in any regular fashion, so like at one point, I
 5 got some atlases. At one point, I got a new map, but
 6 there wasn't always money available for what you
 7 needed.

8 Q. Did you ever hear of there being any
 9 problems in other classes with respect to insufficient
 10 resources -- classroom resources?

11 A. I mean, we all shared resources, so it
 12 wasn't like somebody else was hoarding 50 million
 13 atlases and I didn't have any. Everyone was really
 14 generous in our poverty.

15 Q. And I'm not limiting these questions to
 16 social studies, in any other subject matters or areas
 17 as well.

18 A. Well, I've already testified that I heard
 19 that the Japanese teacher didn't have the textbooks,
 20 but you are asking about other, not textbook supplies.

21 Q. Right.

22 A. I heard from the kids in math class that
 23 they didn't have enough calculators, and protractors,
 24 and rulers, and things of that nature.

25 Q. Did you ever hear of similar problems in any

1 and, again, when she was able to get resources, she
 2 would buy stuff.

3 Q. Did you speak to anybody else in
 4 administration?

5 A. No, that was pretty clear that she was one
 6 for departmental supplies that we should talk to.

7 Q. Did you have an understanding as to how much
 8 money was available for the department to buy such
 9 supplies?

10 A. No.

11 Q. Do you remember making a request to the
 12 department head to get a certain type of supply,
 13 certain type of classroom resource, and not being able
 14 to get that resource?

15 A. Yeah, I asked for a map and it took a long
 16 time for her to be able to get the money to buy it.

17 Q. Did you ultimately get the map you
 18 requested?

19 A. Yeah, last year I got it.

20 Q. Any other instances where you requested
 21 classroom resources and were unable to get them?

22 A. No, pretty much made do with the little that
 23 I had and then when things would come in, you could do
 24 more with those resources.

25 Q. Did teachers in math classes or science

1 classes ever tell you what efforts they were
 2 undertaking in order to get the classroom resources
 3 that you heard were lacking?
 4 A. No, I don't know about that.
 5 Q. I want to go back to teachers for a couple
 6 more questions. Are you aware of any efforts that were
 7 undertaken by the administration at Balboa or any -- or
 8 at the district level with respect to hiring teachers
 9 with full credentials at Balboa?
 10 A. Can you ask that one more time?
 11 Q. Sure. Are you aware of any of the efforts
 12 that were undertaken by the, let's start with the
 13 administration at Balboa to get teachers with full
 14 credentials to Balboa?
 15 MS. LHAMON: Objection. Assumes facts not
 16 in evidence. There hasn't been any testimony that
 17 there has been efforts -- any effort on the part of the
 18 administration at Balboa to get teachers with full
 19 credentials to Balboa.
 20 THE WITNESS: My understanding of
 21 reconstitution was that it entailed a certain amount of
 22 freedom on behalf of the administration to hire
 23 whomever they wanted, which is, I think, why the staff
 24 shifted from having a lot of credentialed teachers to
 25 having a lot of uncredentialed teachers in 1996 after

1 that -- I mean, I don't know. I wasn't involved in
 2 hiring, but my impression of Patricia Gray is, like I
 3 said before, she has a lot of integrity and she made
 4 every effort to get credentialed teachers and she
 5 believed in having highly qualified teachers in Balboa
 6 classrooms.
 7 MR. ROSENTHAL: Q. Did you have any
 8 conversations with Ms. Gray about the efforts she
 9 undertook to hire fully credentialed teachers?
 10 A. I just said I wasn't involved in that at
 11 all.
 12 Q. Did you have any conversations with Ms. Gray
 13 about that?
 14 A. Not that I can remember.
 15 Q. Are you aware of any efforts undertaken at
 16 the district level with respect to hiring fully
 17 credentialed teachers to teach at Balboa?
 18 A. No.
 19 Q. I'm not sure I got all the names. You
 20 identified some schools you said were higher performing
 21 schools relative to Balboa. I think you said one was
 22 Lowell, Wallenberg. Was there one more?
 23 A. Wallenberg. I think I mentioned Washington.
 24 Q. Those are all high schools in the San
 25 Francisco Unified School District?

1 A. Yes.
 2 Q. Do you have any understanding with respect
 3 to the amount of funding any of those schools receives?
 4 A. I don't know.
 5 Q. Would it surprise you to find out that
 6 Balboa received more money per student than a school
 7 like Lowell?
 8 A. No, it is probably because of all that Title
 9 One, whatever it is called, educationally disadvantaged
 10 youth. Balboa has a disproportionate number of
 11 high-needs kids, so it is possible, but I would also
 12 predict those schools have a higher number of
 13 credentialed teachers since that is the topic we were
 14 on.
 15 Q. Is it your opinion that part of the reason
 16 the schools are better performing schools than Balboa
 17 is because they have a higher number of credentialed
 18 teachers?
 19 A. That is probably one of the factors.
 20 Q. Can you think of other factors?
 21 MS. LHAMON: Calls for speculation and calls
 22 for expert testimony.
 23 THE WITNESS: Yeah, I don't know.
 24 MR. ROSENTHAL: Q. You can't think of any
 25 other factors?

1 A. For why?
 2 Q. Those schools might be better performing
 3 than Balboa.
 4 A. I mean, like I said, there is a real
 5 concentration of kids with needs in the bottom-tiered
 6 schools in this district and I don't see that changing
 7 and I don't see the State trying to monitor that or
 8 deal with that on an equity basis.
 9 Q. If a school like Balboa was given more
 10 funding than a school like Lowell, in your mind that is
 11 not one method of trying to deal with that inequity?
 12 A. I think that could help. I think it needs
 13 to be a combination of funding and redesign.
 14 Q. Can you tell me what you mean by redesign?
 15 A. I mean a lot of things. I think a
 16 reconfiguration of resources so kids have the most
 17 personalized learning possible so that they get a lot
 18 of support and they can build strong relationships with
 19 adults, which they are not able to do in a school like
 20 Balboa when they have six teachers and every teacher
 21 has 150 kids. That is probably the same, I would
 22 imagine, at Washington and Wallenberg, but the kids,
 23 I'm guessing, have less needs, so it may not -- I'm
 24 speculating -- it may not be quite as important to have
 25 those strong relationships and the personalized

1 learning at a school with a slightly more stable
2 student population.
3 MR. ROSENTHAL: Why don't we mark this as
4 our first exhibit.

5
6 (Whereupon, Defendant's Exhibit 1 was marked
7 for identification.)

8 MR. ROSENTHAL: Q. Do you recognize that
9 document, Ms. Safir?

10 A. Yes.

11 Q. Can you tell me what that document is?

12 A. It is my declaration.

13 Q. And is that your signature on page 3?

14 A. Uh-huh; yes.

15 Q. And it says you signed the declaration on
16 June 27th, 2000. Does that seem accurate to you?

17 A. Yes.

18 MR. ROSENTHAL: I would like you to take as
19 long as you need to just read over the declaration and
20 let me know if there is anything in the declaration
21 that was incorrect as of the time you signed it or if
22 there is anything incorrect as you sit here today.

23 Why don't we go off the record for a minute.

24 (Recess taken.)

25 MR. ROSENTHAL: Q. Ms. Safir, have you had

1 THE WITNESS: Or less is fine, too.

2 MR. ROSENTHAL: Q. Why don't you take a
3 look at paragraph three first which is the first
4 substantive paragraph regarding a problem you've
5 identified at Balboa.

6 A. Yes.

7 Q. Now, you say in paragraph three that you see
8 mice running through your class at least once a month.
9 You testified earlier today that it was your
10 understanding that you had seen mice approximately ten
11 to 15 times in Classroom 323 over a three-year period
12 and had seen -- I believe you said you had seen no
13 actual mice in Classroom 314?

14 A. This was at the end of my third year in
15 Classroom 324. I wasn't in 314 yet.

16 MS. LHAMON: I want to impose a late
17 objection. You slightly mischaracterized her
18 testimony.

19 MR. ROSENTHAL: Q. So was your -- which
20 testimony is more accurate? Is it the testimony that
21 is obtained in the declaration or the testimony you
22 gave to me earlier today?

23 MS. LHAMON: I object. Argumentative. Both
24 testimonies have been approximate and testimony in the
25 declaration was closer to the time.

1 an opportunity to review your declaration?

2 A. Uh-huh; yes.

3 Q. Did you find any inaccuracies contained in
4 the declaration that were inaccurate at the time you
5 signed the declaration?

6 A. No.

7 Q. Any inaccuracies in the declaration that
8 exist as of today?

9 MS. LHAMON: It calls for speculation as to
10 some of the conditions because she is not at the school
11 now.

12 MR. ROSENTHAL: To the extent she knows.

13 MS. LHAMON: Thank you.

14 THE WITNESS: No; to the extent I know, no.

15 MR. ROSENTHAL: Okay. We've discussed a lot
16 of the issues that are contained in the declaration.
17 I'm going to go through it, to some extent, paragraph
18 by paragraph just to make sure I've crossed all my Ts
19 and dotted all my Is, just to make sure I've gotten all
20 the relevant testimony in these areas.

21 MS. LHAMON: I want to remind you that we
22 need to leave at 5:30 today. I don't know how you want
23 to use your time. We only have an hour and a half
24 left.

25 MR. ROSENTHAL: I understand.

1 MR. ROSENTHAL: Q. Does reading your
2 declaration refresh your recollection as to how
3 frequently you saw mice in Classroom 323?

4 A. Yeah. Again, it is approximate, but once a
5 month, a month and a half, something like that.

6 Q. And the third sentence of paragraph three,
7 you say that no one else cleans up mice droppings for
8 you. You testified earlier today that janitors, in
9 fact, helped clean up the mice droppings on several
10 occasions; isn't that right?

11 A. If I was able to find them and pull them
12 over and show it to them. That happened a very limited
13 number of times. For the most part, I cleaned them up
14 myself.

15 Q. Do you ever remember any instance where you
16 asked a janitor to help clean them up and they refused
17 to do so?

18 A. No, of course not.

19 Q. In the next sentence, you say you complained
20 to the school administration about the mice problem for
21 three years. You gave me some testimony earlier about
22 the steps you took to inform the administration of the
23 mice problem. Were there any other steps you took that
24 you haven't already told me about?

25 A. No. Obviously this doesn't mean three

1 years, 24 hours a day, seven days a week. Off and on
 2 for three years I mentioned it and nothing happened
 3 until the time I described earlier today. There is no
 4 filler information there.
 5 Q. Why don't you take a look at paragraph four.
 6 A. Okay.
 7 Q. You say that the, quote, "Really dramatic
 8 teacher turnover and the teacher vacancies," end quote,
 9 at Balboa are, quote, "The most devastating problems at
 10 the school for the kids," closed quote.
 11 Can you describe for me what you mean by
 12 that?
 13 A. What do I mean by "Devastating," you mean?
 14 Q. Sure. Let's start with that.
 15 A. I guess I say that because if you have
 16 consistent credentialed, qualified teachers in the
 17 classroom, as miserable as your facilities might be, at
 18 least you can get a strong academic base, but these
 19 kids not only were in an unhealthy, unclean
 20 environment, but they had no academic continuity and
 21 that is really what is going to foreclose future
 22 opportunities for them.
 23 Q. So, in your opinion, is it if you have
 24 qualified, effective teachers in a school that has
 25 substandard facilities or other problems, does the fact

1 send to kids about what they are worth and if they have
 2 great teachers, but substandard facilities, that says
 3 something to them. If they have substandard facilities
 4 and a few great teachers and a lot of underqualified
 5 teachers, that says even more, but doesn't mean in the
 6 previous scenario that is not impacting their education
 7 or affecting them.
 8 MR. ROSENTHAL: Q. So you wouldn't say
 9 teachers are the most important ingredient in ensuring
 10 the students receive an adequate education?
 11 MS. LHAMON: Asked and answered. Now, she
 12 has testified she wouldn't say that at least twice
 13 already.
 14 THE WITNESS: I don't want to isolate a
 15 factor like that. I think there is an
 16 interrelationship between these factors.
 17 MR. ROSENTHAL: Q. Can you identify --
 18 strike that.
 19 The next sentence of paragraph four, you say
 20 about 30 to 40 percent of the teachers at the school
 21 leave each year. You testified that that was the case
 22 during your first two years and then teacher turnover
 23 declined after that; isn't that right?
 24 MS. LHAMON: Objection. Mischaracterizes
 25 the testimony. She testified there were about 40

1 you have such teachers ensure that students will
 2 receive at least a minimally adequate education?
 3 A. Absolutely not because they are related
 4 problems. Again, why are the teachers leaving? Well,
 5 at least in part because the facilities are horrific,
 6 uncomfortable, unhealthy, unsanitary and the teachers
 7 don't feel supported by the district or the State or
 8 even the administration in trying to fix that. I think
 9 they are completely related problems. I didn't say the
 10 only devastating problems. I said the most.
 11 Q. In ensuring students receive an adequate
 12 education, what would you say is the most important
 13 quotient in that formula?
 14 MS. LHAMON: Objection. Incomplete
 15 hypothetical. There has been no testimony that there
 16 is one thing that is the most important.
 17 THE WITNESS: I don't want to argue there is
 18 one thing. I think it is a combination of factors.
 19 MR. ROSENTHAL: Q. So you can't identify
 20 one factor that you think is the most important?
 21 MS. LHAMON: Asked and answered.
 22 MR. ROSENTHAL: You can answer.
 23 THE WITNESS: No -- I mean, I think it is
 24 all important. I think it is all incredibly important.
 25 This is about -- all of this is about the messages we

1 percent of the teachers who left in the first two years
 2 and the number then decreased, so the 30 to 40 percent
 3 of teachers leaving each year is an accurate testimony
 4 given the testimony today.
 5 THE WITNESS: I don't know about the third
 6 year. It could have very well been 30 percent the
 7 third year, too. That was an estimate. About 30 to 40
 8 percent was an estimate.
 9 MR. ROSENTHAL: Q. So was it your testimony
 10 that during those three years, teacher turnover
 11 remained essentially constant?
 12 MS. LHAMON: No, mischaracterizes the
 13 testimony, Michael.
 14 MR. ROSENTHAL: That is why I'm asking the
 15 question.
 16 MS. LHAMON: And you were here. I was here.
 17 Ms. Safir was here. We've all been through this today.
 18 This is a waste of this witness's time.
 19 MR. ROSENTHAL: Q. In your declaration, you
 20 say that about 30 to 40 percent of the teachers at the
 21 school leave each year. You deal with the year
 22 universally. Is there a trend with respect to teacher
 23 turnover at Balboa?
 24 MS. LHAMON: The question is argumentative
 25 and I ask you not to raise your voice at this witness.

1 MR. ROSENTHAL: I wasn't raising my voice.
 2 MS. LHAMON: You absolutely were.
 3 MR. ROSENTHAL: Not true. I'm trying to
 4 state a clear question so the witness can understand.
 5 MS. LHAMON: I appreciate that and I'm
 6 looking forward to that.
 7 MR. ROSENTHAL: Q. Did you not understand
 8 the question?
 9 A. Yeah, there was a trend of a high number of
 10 teachers leaving each year. Whether that was 25
 11 percent or 35 percent or 40 percent, all of those
 12 numbers struck me as disproportionally high.
 13 Q. But did you not testify earlier that the
 14 percentage of teacher turnover decreased by the time
 15 you reached the third year?
 16 I'm trying to get a clear record here. It
 17 seems the witness is backing away from her prior
 18 testimony and I would like to have a clear record.
 19 MS. LHAMON: I would like to have a clear
 20 record also. I would like you to not raise your voice
 21 at her or me. She hasn't backed down from her prior
 22 testimony and this has been asked and answered.
 23 MR. ROSENTHAL: I'm absolutely not raising
 24 my voice and I resent the implication that I am.
 25 MS. LHAMON: I resent you raising your

1 voice.
 2 MR. ROSENTHAL: When I raise my voice,
 3 you'll know the difference. This is not raising my
 4 voice. This is speaking in a normal tone.
 5 MS. LHAMON: You are now speaking in a
 6 normal tone and I would appreciate it if you would
 7 continue to do it.
 8 MR. ROSENTHAL: You've been in a number of
 9 depositions with me and I've never raised my voice in
 10 any of them.
 11 MS. LHAMON: You and I disagree.
 12 MR. ROSENTHAL: I know. You have said other
 13 people in other depositions have raised their voices
 14 and that characterization is also very suspect.
 15 MS. LHAMON: You and I disagree violently
 16 about every statement you just made.
 17 MR. ROSENTHAL: Q. Is it not true during
 18 your third year at Balboa, the rate of teacher turnover
 19 declined?
 20 MS. LHAMON: Asked and answered.
 21 THE WITNESS: I think I testified earlier
 22 that it might have mildly declined, but that it was
 23 still high, so I don't feel like I'm backing away from
 24 my testimony at all. If the teacher turnover rate went
 25 from 40 percent to 30 percent, that is still way too

1 many people leaving the school.
 2 MR. ROSENTHAL: Q. In paragraph four, you
 3 identify a project that a number of students worked on.
 4 Can you tell me about that project?
 5 MS. LHAMON: Calls for a narrative.
 6 THE WITNESS: My understanding was that it
 7 was this piece of it that was mentioned in here. It
 8 was a discussion and listing of teachers who had left
 9 since the students had begun their Balboa career and it
 10 says here they were able to name over 50 people.
 11 MR. ROSENTHAL: Q. Was this a project
 12 students were working on in connection with a class?
 13 A. Yeah, I think it was in their math class.
 14 Q. I would like you to take a look at paragraph
 15 five.
 16 A. Okay.
 17 Q. You say in that paragraph that it often
 18 takes months to fill teacher vacancies at Balboa. You
 19 identified a few instances where vacancies existed at
 20 Balboa. Are there any other vacancies that you haven't
 21 told me about that you are aware of?
 22 A. I've shared those I can remember today with
 23 you in testimony.
 24 Q. And you go on in paragraph five to identify
 25 a driver's education teacher position. Is that the

1 class of Mr. Bagatelos that we spoke of earlier today?
 2 A. I believe so.
 3 Q. And you also say there was a math class in
 4 which there was a vacancy for several months. Is that
 5 the math class you testified about earlier today which
 6 you believed was during your second year at Balboa?
 7 A. No, I think this is another one. Remember I
 8 said I wasn't sure? I thought there were other math
 9 classes that had substitutes. I think this is a more
 10 recent one.
 11 Q. More recent being during your third year?
 12 A. I believe so.
 13 Q. And do you recall what teacher that
 14 involved?
 15 A. I don't remember who the teacher was. I
 16 think there was a man named Mr. Dolgin substituting in
 17 there for a while.
 18 Q. Was Mr. Dolgin a permanent substitute in
 19 that class?
 20 A. I don't know.
 21 Q. Do you know if he was instructing the class
 22 in math?
 23 A. I don't know.
 24 Q. Do you know if that class ever obtained a
 25 permanent replacement?

1 A. I didn't know.

2 Q. In paragraph five, you go on to speak of a
3 Spanish class that had no permanent teacher for a
4 period of time. Was that [REDACTED] class that you
5 testified about earlier?

6 A. Yes.

7 Q. The end of paragraph five, you say students
8 in classes with no teacher have a string of substitutes
9 who stay very short periods of time. Is that always
10 the case?

11 A. That was often the case. I wouldn't say
12 always.

13 Q. Was it sometimes the case in classes where
14 there was no permanent teacher, a long-term substitute
15 would come in and stay in the class for months at a
16 time?

17 MS. LHAMON: Objection. The question is
18 vague. Are you asking if that ever took place without
19 first having had a string of substitute teachers who
20 stay very short periods of time?

21 THE WITNESS: Yeah, it seemed to me that
22 each one of those classes would experience a string of
23 substitute teachers who stayed very short periods of
24 time and if the school was lucky, they would find
25 somebody who could stay for a longer period of time. I

1 a long-term substitute to fill in classes where one was
2 necessary.

3 A. I remember hearing that from them. They
4 were really working hard to find people, but the supply
5 was short.

6 Q. Supply of long-term substitutes?

7 A. Or permanent teachers.

8 Q. I would like to focus on long-term
9 substitutes at this point.

10 A. Obviously they want to get a permanent
11 teacher in who is credentialed, right, so I guess the
12 next best thing would be to have a long-term substitute
13 who would commit to be in the class, even though they
14 are not credentialed.

15 Q. Would you agree that there is some benefit
16 to having one long-term substitute in a class as
17 opposed to a series of substitutes who came for very
18 short periods of time?

19 A. In that comparison, yes, I would agree.

20 Q. Did you ever hear that the school was having
21 difficulty in finding long-term substitutes as opposed
22 to short-term substitutes?

23 A. Yeah, I think they did.

24 Q. You heard that from Ms. Gray?

25 A. I don't remember a direct conversation. I

1 never heard of an incident where a teacher left and
2 automatically they were able to find somebody long term
3 to replace that teacher.

4 MR. ROSENTHAL: Q. You mean they weren't
5 able to find somebody the next day to fill in for a
6 long-term basis?

7 A. Or even the next week. I mean, it just -- I
8 know this was a real struggle for all the reasons I
9 talked about and because it would be in the middle of
10 the school year when people are placed in the school.

11 Q. You don't recall any instance in which a
12 long-term substitute was obtained in a week or less?

13 A. Immediately following, it may have happened,
14 but I don't recall any instance.

15 Q. Is it your belief that situations like that
16 where a long-term substitute was obtained in a week or
17 less was a rare occurrence?

18 A. That is my impression.

19 Q. What was that based on?

20 A. Students -- the gaps in student preparation.

21 Q. Did you ever hear that from anybody in the
22 administration?

23 A. Hear that they were having a hard time
24 finding a long-term substitute?

25 Q. That it took a long period of time to obtain

1 don't want to cite anything, but that was my
2 impression.

3 Q. Do you remember who you heard it from?

4 A. No.

5 Q. I would like you to take a look at paragraph
6 six. That deals with the Spanish class in which you
7 previously testified there were some instances when the
8 class was unsupervised for some periods in the morning
9 that you are aware of.

10 A. Right.

11 Q. Is that the same class you are referring to
12 in this paragraph?

13 A. Yes.

14 Q. I would like you to take a look at paragraph
15 seven.

16 A. Okay.

17 Q. In that paragraph, you say students have to
18 stand or sit on counters or the floor for weeks during
19 the school year because their classrooms do not have
20 enough seats. Did that ever occur in any of your
21 classes?

22 A. My -- well, I testified before that in my
23 first year, there were students who had to sit on the
24 counter, teachers' desks, or stand, but in terms of
25 this happening for weeks and weeks or students having

1 to sit on the floor, that is more from other classes
 2 that I heard that.
 3 Q. So students didn't have to stand or sit on
 4 the floor or sit on counters for weeks at a time in any
 5 of your classes; is that right?
 6 A. I'm trying to remember. This is five years
 7 ago. I think some of the kids were sitting on my desk,
 8 but I don't think any of them had to sit on the floor
 9 or stand -- I mean, like I said, I was trying to
 10 recruit chairs from other classrooms and accommodate
 11 the kids as best I could.
 12 Q. So were there, in fact, occasions, then,
 13 that students had to sit on your desk for weeks at a
 14 time?
 15 A. Maybe times, I don't know about weeks. I
 16 don't remember.
 17 Q. You testified earlier about some classes
 18 that were overcrowded under your definition or were
 19 above the district target in the number of students in
 20 that class. Do you know if students in those classes
 21 had to sit on the floors or stand or sit on counters
 22 for weeks at a time?
 23 MS. LHAMON: Calls for speculation as to the
 24 classes she hasn't been in or wasn't teaching.
 25 MR. ROSENTHAL: I ask Counsel to just state

1 all three of these at the same time, but some
 2 combination of those because there was inadequate
 3 seats.
 4 Q. Any other classes that you are aware of that
 5 that happened?
 6 A. Not that I can think of off the top of my
 7 head.
 8 Q. Did Mr. Medina ever tell you what efforts he
 9 was undertaking to secure additional seats or desks?
 10 A. I don't know. You would have to ask him
 11 about that.
 12 Q. So he never told you?
 13 A. No.
 14 Q. In paragraph eight, you state that there is
 15 a shortage of -- I'm paraphrasing -- there is a
 16 shortage of textbooks in the Math Department.
 17 MS. LHAMON: There is no question pending.
 18 MR. ROSENTHAL: Q. Is that right?
 19 A. Yes, it looks that way.
 20 Q. Can you tell me what the basis for that
 21 statement is?
 22 A. Communication with students, communication
 23 with teachers, primarily Mr. Medina.
 24 Q. Any communications with any other teachers
 25 besides Mr. Medina?

1 your objection.
 2 MS. LHAMON: I am stating the objection.
 3 I'm clarifying why I think it calls for speculation.
 4 MR. ROSENTHAL: I understand. You are
 5 having an effect on the witness. She is losing the
 6 question. I ask you state your objection clearly. If
 7 it is a vagueness objection, you can state it is a
 8 vagueness objection. Nothing more needs to be stated.
 9 MS. LHAMON: I appreciate your point. I'm
 10 going to continue conducting this deposition the way I
 11 think it is appropriate.
 12 MR. ROSENTHAL: Those are inappropriate
 13 objections.
 14 MS. LHAMON: You and I disagree again,
 15 violently.
 16 MR. ROSENTHAL: There is nothing violent
 17 about me.
 18 MS. LHAMON: You and I disagree again,
 19 violently.
 20 MR. ROSENTHAL: Q. Do you remember the
 21 question?
 22 A. Yeah. I heard from kids and definitely from
 23 Mr. Medina that for weeks during the school year that
 24 there were students in his classroom that were standing
 25 or sitting on counters or on the floor, not necessarily

1 A. There weren't many other teachers staying
 2 for very long in the Math Department. I didn't have
 3 much of a chance to build relationships with folks
 4 because they were leaving.
 5 Q. So is it just Mr. Medina, then?
 6 A. That I had this particular conversation
 7 with? Actually, I heard other math teachers talking
 8 about that, about not having enough textbooks or
 9 supplies in general, but if you are going to ask me to
 10 cite their names, I can't think of who.
 11 Q. Is there a book room at Balboa where books
 12 are stored?
 13 A. Yes.
 14 Q. Have you ever seen an inventory of books at
 15 Balboa, a written inventory?
 16 A. Have I seen a complete inventory at Balboa?
 17 Q. Have you seen any inventory of books at
 18 Balboa?
 19 A. No -- I mean, I know there exists an
 20 inventory and there is a person in charge of dealing
 21 with that.
 22 Q. Is that person Ms. Cortesa?
 23 A. Right.
 24 Q. Did Ms. Cortesa ever tell you there is a
 25 shortage of books?

1 A. I don't know. I wasn't teaching math, so I
 2 didn't ask about math books.
 3 Q. Did you ever see an inventory about the
 4 number of math books at the school?
 5 A. No.
 6 Q. Did you ever physically check to see how
 7 many math books were at Balboa?
 8 A. Why would I do that? That doesn't make any
 9 sense. I had enough to worry about in my classroom.
 10 Q. So you didn't do that?
 11 A. No, I did not go check how many math books
 12 were in the book room.
 13 Q. Paragraph nine you talk about the condition
 14 of the bathrooms at Balboa and you use the word,
 15 "Disgusting." Are there any other aspects of the
 16 bathrooms that make them disgusting that we haven't
 17 covered already?
 18 A. No, it is pretty much there. I didn't
 19 mention the soap, and toilet paper, paper towels there,
 20 I guess.
 21 Q. But we covered that during today's
 22 deposition?
 23 A. Right.
 24 Q. Paragraph ten, you say ceiling tiles are
 25 missing in almost every classroom in the school and you

1 testified earlier that it was roughly 75 percent. Does
 2 that 75 percent figure still sound about right to you?
 3 A. That is fine. I'm comfortable with that.
 4 Q. You go on to say that students tell you that
 5 they are worried tiles will fall on them during class.
 6 Do you recall how many students told you that?
 7 A. No, but we did projects -- you know, we did
 8 these educational projects where we visited other
 9 schools and talked about Balboa and took surveys and
 10 did all this stuff, so some of these were classroom
 11 conversations in which -- you know, a whole bunch of
 12 kids would express the concern.
 13 Q. Did you ever hear of any instance at Balboa
 14 where a ceiling tile fell and struck a student?
 15 A. I think I did hear of one. I don't remember
 16 in what class or where.
 17 Q. Do you remember the details of that?
 18 A. No.
 19 Q. Do you remember the student being injured?
 20 A. I'm not sure if they were injured. I don't
 21 know how heavy those things are. I have no idea. I
 22 imagine at a minimum it would be kind of distracting
 23 from your learning. Boink.
 24 Q. In paragraph 11, you talk about the science
 25 labs at Balboa and we discussed that a little bit

1 today. Can you tell me what the basis of the statement
 2 in your declaration is? Is that again from
 3 conversations with students or is there some other
 4 source?
 5 MS. LHAMON: Objection. The question is
 6 overbroad. Are you asking what the basis is for her
 7 statement the chemistry and biology should be done --
 8 students can see their lessons come to life through
 9 their labs or are you asking what the basis for her
 10 statements that the school science labs are a joke or
 11 both of those?
 12 THE WITNESS: Do you want me to answer the
 13 question?
 14 MR. ROSENTHAL: Q. Do you want me to
 15 rephrase the question? Do you not understand my
 16 question?
 17 A. It is kind of broad. Why don't you go ahead
 18 and rephrase it.
 19 Q. You say in paragraph 11 that there is -- you
 20 testified earlier today that there was a lack of
 21 supplies to do labs in the science classes; is that
 22 right?
 23 A. Uh-huh.
 24 Q. Is that what you were referring to in
 25 paragraph 11, the first two sentences of paragraph 11?

1 A. Right.
 2 Q. Can you tell me what the basis of those
 3 statements is?
 4 A. You definitely hear it from students. I
 5 remember hearing it from teachers during staff
 6 meetings, like it being mentioned and then you just
 7 walk by a science class and I didn't -- if I walked by
 8 a science class, I didn't really witness kids do
 9 experiments or labs that often.
 10 Q. Did you see them ever performing labs when
 11 you walked by the classes?
 12 A. I actually don't remember ever seeing
 13 students perform labs. That doesn't mean they didn't.
 14 I didn't see that.
 15 Q. How often did you walk by science lab
 16 classrooms?
 17 A. I mean, weekly.
 18 Q. Did you ever sit in on a lab class at
 19 Balboa?
 20 A. Sit in on a lab class or science class?
 21 Q. Science class where labs might be conducted?
 22 A. No, I didn't really have time to do that.
 23 Q. So with regard to your own personal
 24 knowledge as far as what labs -- whether labs were
 25 being conducted in science classes is limited to the

1 times you walked by the class?

2 A. No, I already also testified that that was

3 information I gathered from students and some

4 conversations with science teachers.

5 Q. Putting aside the secondhand information you

6 got from students and teachers, I'm talking about your

7 own -- what you personally witnessed yourself.

8 A. That I didn't personally walk by classrooms,

9 right; yes, that's correct.

10 Q. I would like you to take a look at paragraph

11 12 which deals with window shades.

12 A. Uh-huh.

13 Q. You testified earlier about the window

14 shades in your classroom at Balboa. Is there anything

15 additional that you haven't told me about the problems

16 with window shades in that class?

17 A. Not really. I mean, I only mentioned the

18 movies here, but I mentioned earlier today there is

19 also problems with showing slides which can be useful

20 in teaching history.

21 Q. Do you know if the window shades at Balboa

22 have been replaced since you left?

23 A. I have no idea.

24 Q. Did you ever hear a grant was obtained and

25 some of the funding would be used to replace the window

1 shades at Balboa?

2 A. No, I didn't hear that. I would be

3 fascinated.

4 Q. Why would you be fascinated?

5 A. Because, like I said, I was told for four

6 years that no one was available, no one and no money

7 was available to fix them, so it would be interesting

8 to me if they were able to be fixed.

9 Q. Paragraph 13 deals with making copies at the

10 school. That is something we haven't really covered.

11 First of all, do you know how many copiers there were

12 at Balboa when you were a teacher there?

13 A. There was one big copier in the book room.

14 There was a copier supposedly for teachers' use that

15 worked intermittently, but not all the time and then at

16 some point, there was a copier in the main office, but

17 that was pretty much off limits to teachers. I think

18 the dean's office had one and the counseling office had

19 one, but all three of those were off limits to teachers

20 for curriculum purposes. The big one in the book room

21 and the one that often didn't work, that was supposed

22 to be for teachers.

23 Q. You said the one in the main office was

24 pretty much off limits to teachers. Does that mean it

25 was not off limits to teachers on some occasions?

1 A. It seemed like some people could get copies

2 made in desperate situations if they asked as a favor,

3 but it wasn't openly accessible to teachers. It was

4 supposed to be a last, last resort.

5 Q. So in the event the other copiers weren't

6 functioning, for example, would teachers be able to use

7 the copier in the main office?

8 A. I think some, not all, and sometimes, not

9 always.

10 Q. Just so I'm clear, in paragraph 13, you say

11 that -- you refer to one large copier and say that

12 machine breaks down a lot?

13 A. Uh-huh.

14 Q. Is that the copier that worked

15 intermittently that you referred to?

16 A. The small one, the small back-up copy

17 machine.

18 Q. So the one big copy machine in the book room

19 worked pretty well?

20 A. It broke a lot, too. It was pretty old.

21 Q. Do you know if the school has gotten any new

22 copiers since you left or during the time you were

23 there?

24 A. It was my understanding that it was a rented

25 -- a leased copy machine, but not a very up-to-date or

1 -- you know, not a very good one. I have no idea if

2 they have a new one this year. I don't know. I hope

3 they do for them.

4 Q. Do you recall any instance when you were

5 unable to get copies of materials that you wanted to

6 copy?

7 A. Sure.

8 Q. And do you recall that occurring frequently?

9 MS. LHAMON: Vague as to "Frequently."

10 THE WITNESS: Yeah, that was very stressful,

11 especially if you are teaching a first-period class and

12 you need to make some copies before school and nothing

13 is working. It is highly stressful, but what a lot of

14 teachers -- what a lot of teachers ended up doing is

15 just going to Kinkos or some copy place and paying out

16 of their own pocket.

17 MR. ROSENTHAL: Q. Do you know if teachers

18 ever tried to get reimbursed for those copying

19 expenses?

20 A. I don't know about other teachers. It was

21 pretty clear you couldn't get reimbursed for things.

22 You had to have a requisition ahead of time for any

23 expenditures.

24 Q. Did you ever have copies made at Kinkos or

25 some other copy place at your own expense while

1 teaching at Balboa?

2 A. Yes.

3 Q. Did you ever attempt to get reimbursed for
4 those expenses?

5 A. I think I asked about it and it was like,
6 "We don't really do that."

7 Q. You said you were unable to get copies on
8 certain occasions of materials you wanted to copy at
9 the school and I asked you if that occurred -- about
10 how frequently that occurred. Can you answer that
11 question?

12 A. I don't know, a couple times a month, maybe.

13 Q. And what did you do in those instances when
14 you weren't able to get the copies you needed?

15 A. Well, either I would see if somebody in the
16 main office would do me the favor of helping out making
17 copies or adjust the lesson plan.

18 Q. Were you able to get copies made in the main
19 office on certain occasions?

20 A. Sometimes.

21 Q. And when you weren't able to get the copies,
22 did you adjust the lesson plan accordingly?

23 A. I would need to change the lesson plan which
24 would typically put us behind a half day to a day in
25 the material.

1 Q. Did you ever come back to the materials that
2 you wanted to cover during that day and get the copies
3 made?

4 A. Yes, I would either leave it overnight with
5 the big copy machine if it was working or if none of
6 them were working, then I would go copy it at Kinkos.

7 Q. So do you ever recall any instance where you
8 were not able to get copies made of materials you
9 wanted at all?

10 A. For the day that I wanted them, yes. If I
11 still wanted to do the same lesson the next day, then I
12 could always go copy them at Kinkos.

13 Q. Was it your practice to wait until the day
14 you were teaching a particular lesson to make the
15 copies or would you try to do it beforehand?

16 A. I would try to do it beforehand.

17 Q. When you tried to do it beforehand, do you
18 remember any instances when you did not get the copies
19 that you wanted?

20 A. If the machine were broken, the big machine
21 -- they just broke a lot -- you know, there were
22 basically two machines that we were supposed to use and
23 anywhere from 60 to 80 people, depending on the year,
24 using those machines, so they are not that -- I mean,
25 they are fallible machines.

1 Q. I would like you to take a look at paragraph
2 14 and that deals with the number of counselors at
3 Balboa.

4 A. Right.

5 Q. At the time you signed this declaration, do
6 you remember how many students were attending Balboa?

7 A. No. Like I said, the enrollment has
8 decreased over the years. I can estimate. I think
9 when I started it was like maybe 1,400 and then maybe
10 12 and 1,300 and then maybe 1,200 and then maybe a
11 thousand, something like that. I'm not exactly sure.

12 Q. At the time you signed this declaration, was
13 the number of students at Balboa, in your opinion,
14 approximately 1,200?

15 A. I mean, this is probably -- it was probably
16 like anywhere in that range.

17 Q. Could it have been as many as 1,400?

18 A. It is possible, but there is a lot of
19 turnover of students within the year, too. It is hard
20 to get a stable number.

21 Q. Do you know if special education students
22 had their own separate counselors at Balboa?

23 A. Yeah, I think some did. I'm not sure if
24 they were double assigned to a regular counselor and a
25 special ed counselor. That wasn't totally clear with

1 me.

2 Q. Do you know if Balboa ever hired a fourth
3 counselor?

4 A. Not to my knowledge.

5 Q. If Balboa did hire a fourth counselor, would
6 that alleviate some of your concerns regarding the
7 number of counselors at the school?

8 MS. LHAMON: Objection. Incomplete
9 hypothetical. It is not clear what that fourth
10 counselor's job would be.

11 THE WITNESS: I mean, this is both a funding
12 and a redesign issue. I think there are ways to use
13 resources better so kids get a lot of support. I don't
14 think having another counselor so each counselor had
15 200 kids would really help that much. Yeah, it would
16 alleviate it a little bit, but one counselor can't
17 relate to 200 kids that well either.

18 MR. ROSENTHAL: Q. Do you have an ideal
19 ratio in mind as to how much students per counselor
20 that should be?

21 A. Well, there are some creative public schools
22 that have all the adults counseling kids and have time
23 built into their schedules for that and those schools
24 had anywhere from 12 to 20 students per teacher or per
25 adult. It could be a counselor. It could be an

1 administrator. It could be a teacher, but it is a
2 whole different configuration of counseling or
3 understanding of counseling.

4 Q. So is your opinion that an appropriate ratio
5 of students to counselors is in the 12 to 20 range?

6 A. Those are what your goals are if you are
7 really serious about getting kids into college, making
8 sure they complete all their requirements, having a
9 relationship with their families, then you really can't
10 do that, I think, for more than probably 20, 25, maybe
11 30 kids. If it is just about kind of a factory style
12 processing of kids, dumping them into classes, doing
13 the best you can, in and out of your office, which is,
14 I think, the setup of a traditional high school like
15 this, then this is what you get and kids fall through
16 the cracks, especially at a place like Balboa.

17 Q. Can you take a look at paragraph 15. You
18 say Balboa has no master calendar. What do you mean by
19 a master calendar?

20 A. Like a calendar of events throughout the
21 year that is -- you know, laid out and distributed in
22 the beginning of the school year so you know when XYZ
23 celebration is going to happen; you know when XYZ rally
24 is going to happen.

25 Q. And was there no master calendar when you --

1 was there no master calendar in use at Balboa during
2 the four years you were teaching there?

3 A. I don't remember ever seeing a master
4 calendar that was exhaustive. I mean, every year there
5 would be examples like what I explained in here in the
6 declaration where something would come up a few days
7 before that we didn't know about.

8 Q. So there was a master calendar. It just
9 wasn't exhaustive?

10 A. Yeah, I don't really remember there being a
11 master calendar. I can remember one year there was a
12 student -- a teacher that had a one-period release to
13 be like a student advisor and he kind of put something
14 together, but, again, like other rallies would come up
15 or events that weren't on that.

16 Q. Do you know if Balboa High School has a
17 website?

18 A. I think Balboa has a website.

19 Q. Do you know if there is a calendar on their
20 website of events that occur at Balboa?

21 A. Are you talking about upcoming events next
22 few weeks notification or calendar for the entire year?

23 Q. Are you aware of any calendar on that
24 website?

25 A. No, I'm not, actually.

1 Q. If you could take a look at paragraph 16, in
2 that paragraph you talk about the honors and advanced
3 placement courses or AP courses as they are often
4 referred to at Balboa and it says you've tried to have
5 some of your classes certified as honors classes. Do
6 you recall which classes you tried to have certified?

7 A. Yeah, that was my US History class within
8 the Communication Arts Academy which would have been, I
9 believe, my second year at Balboa.

10 Q. Were you able to get that class certified as
11 an honors course?

12 A. I thought it was certified as an honors
13 course. When the kids got their transcripts, there was
14 no honors designation on them.

15 Q. Did you do anything as a result of that?
16 Did you get that problem fixed or were you just told
17 something else?

18 A. Well, the person who was sort of acting
19 director of that academy had been mediating the issue.
20 We sort of made decisions as an academy and she was
21 communicating with the administration and her
22 understanding, too, was that there was approval and
23 everything was fine, so when the transcripts came out
24 and they didn't have it and they were all freaking out
25 and saying, "We did all this work for you. Why don't

1 we have honors credits," she was the first line of
2 advocacy, so she talked to the administration and tried
3 to work that out and she said it was going to be worked
4 out, but then nothing happened, so I did go and ask
5 about it and it just, I think -- I don't know what
6 ended up happening. It just seemed like nothing was
7 really changing. There was a lot of runaround
8 happening, but I'm not sure if it eventually got
9 resolved.

10 Q. In the middle of that paragraph, you say the
11 school district was thwarting your efforts to certify,
12 it says, the classes. Are you referring to this one
13 particular class or were there other classes the
14 district was thwarting your efforts?

15 A. I think there were two US History classes I
16 was trying to certify as honors.

17 Q. Can you tell me what you meant that the
18 district was thwarting your efforts to have them
19 certified?

20 A. There were just, like it says here,
21 insinuation and comments made about how the honors work
22 was -- the students couldn't handle the work, that it
23 was -- you know, unrealistic, just sort of a general
24 incredulity about the fact the kids could have actually
25 done honors-level work in a class at Balboa.

1 (Recess taken.)
 2 MR. ROSENTHAL: Q. Now, in your declaration
 3 and in the testimony you just gave, you reference a
 4 district official who made a comment to you that the
 5 students at Balboa couldn't handle honors work. Do you
 6 remember who that person was?
 7 A. I have a guess, but I don't want to say
 8 because I'm not sure.
 9 Q. Is it a guess or your best recollection, as
 10 you sit here today?
 11 A. Yeah, I'm not sure. I'm going to say I'm
 12 not sure.
 13 Q. Was there an individual -- was there a
 14 district official who you had conversations with
 15 regarding getting classes certified?
 16 A. No. This was mediated, like I said, through
 17 the acting director of the program and then through the
 18 administration to the district. I mean, what I was
 19 hearing was that the administration was trying to push
 20 it through and the district was saying no.
 21 Q. In your paragraph 16 in the third-to-last
 22 sentence, you talk about comments that were made by a
 23 district official and you can't tie that to a
 24 particular person?
 25 A. Yeah, because I'm not sure. I don't want to

1 put it on the record.
 2 Q. Can you tell me who you think it is?
 3 A. No, I'm not sure.
 4 Q. Is there more than one person you think it
 5 might be? Do you have it narrowed down to a couple
 6 people who it could be?
 7 MS. LHAMON: Michael, could I try to help
 8 you clarify this or do you want to wait until she
 9 answers this question?
 10 MR. ROSENTHAL: Let's see if that question
 11 helps first.
 12 THE WITNESS: No, I'm really not sure.
 13 MR. ROSENTHAL: Do you want to give it a
 14 shot?
 15 MS. LHAMON: Shane, did the district
 16 official about whom you've testified in your
 17 declaration say to you that the honors work is too
 18 accelerated for the Balboa student population or did
 19 the district official say that to someone else?
 20 THE WITNESS: They said to this someone
 21 else.
 22 MS. LHAMON: And that person told you?
 23 THE WITNESS: Right.
 24 MR. ROSENTHAL: Q. So no district official
 25 ever told you personally that students couldn't handle

1 honors work at Balboa?
 2 A. Yeah; that's correct.
 3 Q. That is something you heard from somebody at
 4 Balboa who related that statement to somebody else?
 5 A. Right.
 6 Q. Can you tell me who at Balboa told you that
 7 somebody at the district said that students at Balboa
 8 couldn't handle honors work?
 9 A. I believe that was the acting director of
 10 the program [REDACTED]
 11 Q. Is that [REDACTED]
 12 A. [REDACTED]
 13 Q. Sorry. First name is [REDACTED]
 14 A. Yeah.
 15 Q. And the second-to-last paragraph of -- the
 16 second-to-last sentence of paragraph 16, you say you
 17 took that statement to be racist. Why did you take
 18 that statement to be racist?
 19 A. Because if you look at the amount of honors
 20 or advanced placement classes in schools with a
 21 different demographic, it just smacks of a little bit
 22 of racism.
 23 Q. Do you know how many honors or AP classes
 24 are offered at Balboa or were offered at Balboa when
 25 you taught there?

1 A. At this time? Maybe, maybe we had one,
 2 maybe two. I know that myself and other teachers and
 3 students have brought this issue to the attention of
 4 the administration that they have a couple more this
 5 year, I believe.
 6 Q. How about during your final year at Balboa?
 7 A. I think there was an AP calculus class and
 8 maybe an AP English or an honors English. There were a
 9 couple. Like if you look at Lowell, you are going to
 10 find probably over 20 APs and many, many honors.
 11 MR. ROSENTHAL: All right. Why don't we
 12 take another break here and we can go off the record.
 13 (Recess taken.)
 14 MR. ROSENTHAL: Q. Ms. Safir, I would like
 15 to cover a few additional areas. Hopefully we can wrap
 16 up in the next 20, 25 minutes so we can end at 5:30.
 17 During your first day of testimony, you said
 18 that you didn't recall whether you discussed any of the
 19 positive experiences you had at Balboa in your
 20 declaration. After having an opportunity to review
 21 your declaration, do you recall there being any
 22 positive experience in that document?
 23 A. In this?
 24 MS. LHAMON: Mischaracterizes her testimony
 25 from the first day, but you can answer the question.

1 THE WITNESS: Your question is whether there
2 are positive experiences in this?

3 MS. LHAMON: "This" being the declaration.

4 THE WITNESS: Declaration.

5 MR. ROSENTHAL: Right.

6 THE WITNESS: This all sounds pretty
7 negative to me, but these were questions about the
8 conditions of the school which were negative for me.

9 MR. ROSENTHAL: Q. So does that refresh
10 your recollection as far as what the purpose of
11 preparing a declaration was?

12 MS. LHAMON: Objection. Assumes facts not
13 in evidence that there was a purpose for preparing a
14 declaration.

15 THE WITNESS: Yes, I can extrapolate from
16 this that the purpose related to the conditions of the
17 school.

18 MS. LHAMON: When you say "this," you are
19 referring to the declaration?

20 THE WITNESS: Declaration, sorry.

21 MS. LHAMON: Thanks.

22 MR. ROSENTHAL: Q. And do you remember if
23 the purpose of the declaration was to focus on the good
24 conditions of the school or the bad conditions of the
25 school.

1 saw mice, but I never saw any rats," or "I never saw
2 any other rodents at Balboa"?

3 A. Do you consider not seeing rats to be a
4 positive attribute of a school experience?

5 Q. I'm just trying to get an understanding of
6 what the purpose was behind putting certain information
7 in your declaration and excluding other information.
8 It was just an example I was trying to give you.

9 A. That you would probably have to consult with
10 Catherine on. I'm not really sure. I just answered
11 the questions.

12 Q. So in preparing the declaration, did
13 Catherine pose a series of questions to you?

14 MS. LHAMON: Asked and answered on the first
15 day.

16 THE WITNESS: I believe so.

17 MR. ROSENTHAL: Q. Is there anything you
18 told Catherine during those conversations that is not
19 contained in your declaration, your final declaration?

20 A. During the conversation?

21 Q. In which she posed those questions to you.

22 A. No, I don't think so.

23 Q. What is the best thing about Balboa High
24 School, in your mind?

25 A. The students.

1 MS. LHAMON: Objection. Assumes facts not
2 in evidence that there was a purpose for the
3 declaration. There has been no testimony there was any
4 purpose.

5 THE WITNESS: What is the question?

6 MR. ROSENTHAL: Q. Did you have an
7 understanding as to why you were submitting a
8 declaration in this case?

9 MS. LHAMON: Asked and answered on the first
10 day.

11 MR. ROSENTHAL: You can answer.

12 THE WITNESS: I think, yeah, just to share
13 my experiences at Balboa with the specific focus on the
14 issues that are in the declaration.

15 MR. ROSENTHAL: Q. I'm not trying to make
16 this difficult in any way, but let me just try this as
17 an example, did you ever see any rats at Balboa?

18 A. Did I ever see any rats at Balboa?

19 Q. Right.

20 A. I haven't really studied the species, so I'm
21 not sure about the mouse/rat thing. They seem to be
22 mice to me.

23 Q. Do you recall seeing any rats at Balboa?

24 A. I guess not.

25 Q. And you didn't say in your declaration, "I

1 Q. Why do you say that? What makes that the
2 best thing about Balboa?

3 A. Because they are fighters. They are
4 survivors, you know.

5 Q. Could you tell me what you mean by referring
6 to them as "Fighters" or "Survivors," if there is a
7 distinction?

8 A. They are kids who are staying in school and
9 trying to get an education when everything around them
10 tells them they are worthless and they don't deserve
11 the opportunities that other kids have and somehow,
12 they get up and come to school still. That is a
13 miracle to me. It is a miracle to me how many kids got
14 up and came to Balboa, despite everything that was
15 happening there.

16 Q. Has there been any change in your employment
17 status since your first day of deposition?

18 A. No.

19 Q. Just so we're clear, is your title still --
20 I think you said Co-director for Small Schools for
21 Equity?

22 A. Yes.

23 Q. And are you still on a leave of absence from
24 the San Francisco Unified School District?

25 A. Yes.

1 Q. Has there been any progress as far as
 2 getting the school you are trying to open approved in
 3 the time since we last met?
 4 A. We are preparing for a public meeting with
 5 the School Board mid-November of which we'll discuss
 6 the proposal.
 7 Q. I would like to mark this as -- actually,
 8 let me ask you a quick question first.
 9 Are you aware of a document available at
 10 Balboa called a master course directory?
 11 A. No.
 12 MR. ROSENTHAL: Why don't we mark this as
 13 Exhibit No. 2.
 14
 15 (Whereupon, Defendant's Exhibit 2 was marked
 16 for identification.)
 17 MR. ROSENTHAL: I'll give you a minute to
 18 just take a look at that document. It is Bates stamped
 19 SFUSD-0055 through 0060.
 20 Q. Have you ever seen one of these documents
 21 before?
 22 A. This kind of stuff was up on like a magnet
 23 board in one of the vice principal's offices, but I
 24 never saw it written or typed up like this, no.
 25 Q. The reason I am showing you this document,

1 Law Academy which those two could be referring to? I
 2 want to make sure the record is clear.
 3 A. I believe that is right, so that year, it
 4 would have been right, two US history in the fall and
 5 two US law in the spring with the same set of kids. As
 6 I explained last time, one semester counted for a year
 7 under the schedule. Does that make sense?
 8 Q. I'm not sure it does, actually. Based on
 9 looking at this, is it your belief you taught three US
 10 history courses during the fall of 1998, which is what
 11 you previously testified to? I just --
 12 A. This is inaccurate.
 13 Q. Okay.
 14 A. This is actually inaccurate. In the spring
 15 of 1999, it must have been the prelaw course -- two
 16 prelaw courses and the US History and I have a KQED
 17 video that shows that class in the time period which
 18 was prelaw, so I'm not shocked because this is the same
 19 kind of crap that the students talk about all the time
 20 where their schedules don't look like the courses they
 21 actually took. The number of classes may be right, but
 22 the actual classes aren't.
 23 Q. Could you have taught the prelaw during the
 24 fall semester of 1998? Was that possible and we just
 25 have the classes reversed or is that just not possible?

1 you'll see on the first page, it refers to the fall of
 2 1998 and I want to make sure our record is clear. I
 3 know it is going back a few years, but during our first
 4 day of testimony, you told me that during the fall of
 5 '98, you were teaching three US History courses. Does
 6 looking at this refresh your recollection at all?
 7 A. Like I said, there were all those schedule
 8 changes. It looks like this is still within the block
 9 schedule and like I told you last time, I couldn't
 10 remember when the different schedule changes started
 11 and ended. This would be the four by four, so three
 12 classes was a full schedule.
 13 Q. If you look at the second-to-last line on
 14 the first page of this document, it has your name,
 15 Safir; do you see that?
 16 A. There I am, yep.
 17 Q. During first period, it says you have a prep
 18 period?
 19 A. Uh-huh.
 20 Q. Second period, it says you have a US History
 21 course; is that right?
 22 A. That would have been the Communications Arts
 23 Academy US History course.
 24 Q. And for third and fourth period, it says Law
 25 Academy. Were you teaching a US History course in the

1 A. I can look through my records and verify,
 2 but I am pretty sure I taught the US history in the
 3 fall and the prelaw in the spring for a bunch of
 4 reasons. This is so funny.
 5 Q. I think your testimony on the first day was
 6 in the spring of '99, you taught two US history courses
 7 and one prelaw course and it indicates on page 2 of
 8 this document there were three US History courses. So
 9 you believe your testimony during the first day was
 10 accurate and this document is not accurate?
 11 A. No. What I'm saying is what I think is I
 12 taught two prelaw classes in the spring and two US in
 13 the fall, plus the US for Communication Arts Academy.
 14 Q. I think you testified during your first day
 15 you taught one prelaw class during the spring of 1999?
 16 A. I don't know if that is what I testified,
 17 but it is very confusing. Again, these schedules were
 18 changing constantly, but I had two groups of kids
 19 within the Law Academy and each one of those was its
 20 own class, so in the fall, I had two classes of US
 21 History for the Law Academy and the spring, I had two
 22 groups of prelaw in the Law Academy, plus each time
 23 this US history and Communications Art Academy.
 24 MS. LHAMON: Just for the record, I'm
 25 looking at the transcript from the first day of

1 testimony and Ms. Safir testified she was having a hard
2 time remembering. It was a while ago and what she
3 testified about were classes that -- probably what
4 classes she had taught. It would be helpful if you
5 could tell us what you remember today and not worry too
6 much about what you did or didn't say on the first day.

7 MR. ROSENTHAL: Yeah, I don't want you to
8 read your transcript and tell me what you told me then.
9 I'm trying to get a sense if you have a different
10 recollection today or not and there are some documents
11 in front of you that show a schedule. If they are
12 inaccurate, it is fine. I want to have a sense that is
13 your testimony. I don't think it is a useful --

14 MS. LHAMON: I didn't mean to introduce it
15 that way. I was trying to help.

16 MR. ROSENTHAL: I understand. That is fine.

17 Q. I don't expect you to remember when you
18 taught any course, but as you look at this document in
19 front of you now, the master course directory, it is
20 your belief that it inaccurately reflects the courses
21 you taught during the fall of 1998 and the spring of
22 '99?

23 A. And the reason I know that for sure is
24 because spring of '99 is when we had people from KQED
25 videotaping our class and making a documentary about it

1 just don't have the transcript right in front of me.

2 MS. LHAMON: I do, if it helps.

3 THE WITNESS: I know we read Savage
4 Inequalities in the spring of '99. I'm not sure if I
5 was able to purchase the books then or if I had to make
6 copies of the book then. No, I actually think I was --
7 I think I purchased Savage Inequalities -- I don't
8 know -- spring of '98 or spring of '99, probably.

9 MR. ROSENTHAL: Q. Let me try it this way:
10 Did you use those books for more than one semester?

11 A. Savage Inequalities, yeah.

12 Q. How about Snow Falling on Cedars?

13 A. I think I just taught that once and that
14 wasn't until the next year.

15 Q. How many semesters did you use Savage
16 Inequalities?

17 A. I know I taught that in the spring of '98,
18 spring of '99, and then, yeah, I probably taught it
19 again in the spring of 2000 because I was teaching that
20 education project in the spring semester, so that is
21 when I would have been using it.

22 Q. How about spring of 2001?

23 A. Did I use that book again? I can't
24 remember. I may have. I may have used -- I think I
25 used excerpts of it.

1 and that was definitely in the prelaw. There were two
2 sessions prelaw and we were doing a project with a
3 private school in Marin County, so, yeah, this just
4 isn't right.

5 Q. And just -- again, I'm just trying to make
6 sure our record is clear as possible. The spring of
7 1999 was during your second year at Balboa, right?

8 A. Yep.

9 Q. And it was during your second year you did
10 the program you are referring to?

11 A. The KQED program was made, right, spring of
12 '99.

13 MS. LHAMON: Here I thought I was helping
14 you, Michael. Sorry.

15 MR. ROSENTHAL: Q. I'm sure you've
16 testified to this during your first day. I just don't
17 have the timing in front of me right now, so I'm going
18 to ask again. I remember you said during your first
19 day, some books were purchased with some grant money.
20 You purchased, I think it was two books, Snow Falling
21 on Cedars and Savage Inequalities; is that right? Do
22 you remember testifying about that?

23 A. Uh-huh.

24 Q. Do you recall when you purchased those
25 books? I think you testified to this. I'm just -- I

1 Q. When you first got those books, they were
2 purchased as brand-new books?

3 A. Yeah, I think so.

4 Q. Do you remember what the condition of the
5 books was the last time you used them?

6 A. I don't remember.

7 Q. Were they still in good condition or were
8 they no longer?

9 A. Better than textbooks.

10 Q. Were you missing any of the books? Did you
11 have fewer the last time you used the books? Did you
12 have a fewer number of the books than you did when you
13 started?

14 A. May have. There is usually a bit of
15 attrition with books and kids.

16 Q. Have you ever heard of the words,
17 "Comprehensive School Reform Demonstration Program"?

18 A. No, unless it goes by another name. Is
19 there any other name I might know it by?

20 Q. How about CSRD?

21 A. Is that the whole literacy grant that Balboa
22 had?

23 Q. Do you have an understanding of what the
24 CSRD program is?

25 A. No, I don't understand the program. I think

1 it mostly went through the English classes, but it is
2 possible that may have been how I was able to buy some
3 of those books, if that is what you are asking.

4 Q. Do you know if Balboa was a participant in
5 that program?

6 A. Yeah, I think so last year.

7 Q. Did you know how it became a participant in
8 that program?

9 A. I do not. I can guess. They wrote a grant,
10 but I don't know.

11 Q. Have you ever seen any written policies from
12 the district -- from the San Francisco Unified School
13 District?

14 A. About?

15 Q. About anything.

16 A. About anything?

17 MS. LHAMON: Well --

18 MR. ROSENTHAL: Just written policies of the
19 district.

20 Q. Have you ever seen any written policies of
21 the district with regard to any issue? Obviously they
22 are not going to have policies on things that they
23 don't have some involvement with.

24 A. Can you give an example?

25 MS. LHAMON: Are you including in that

1 Administrative Bulletins?

2 A. I've heard of something called the WAD. Is
3 that what you are talking about? I don't even know
4 what it stands for, but I think it has something to do
5 with Administrative Bulletins maybe.

6 Q. Why don't you tell me what the WAD is.

7 A. I've never looked at it, but I have heard of
8 it. It is like big fat binders that sit in the
9 administrators' offices.

10 Q. Do you have a copy of the WAD?

11 A. No.

12 Q. Does WAD actually stand for something?

13 A. I don't know, honestly.

14 Q. Do you know if Balboa High School was
15 accredited by WASC at any time while you were there?

16 A. Oh, yes.

17 Q. I think you mentioned earlier that they came
18 for a visit during your tenure at Balboa?

19 A. Oh, yes, they did.

20 Q. Do you know if the school was accredited by
21 WASC?

22 A. The school received the highest
23 accreditation, much to the chagrin of many students and
24 many teachers.

25 Q. Did you ever see a copy of an article that

1 question policies about teacher employment, like --
2 that she might have gotten when she was hired? Are you
3 talking about the conduct of a school?

4 MR. ROSENTHAL: Either one, just any
5 policies, written policies of the San Francisco Unified
6 School District.

7 THE WITNESS: I have a -- I had a contract
8 with them.

9 MR. ROSENTHAL: Q. Other than that, have
10 you seen any other written policies?

11 A. Probably, but I need some more concrete
12 examples.

13 Q. Have you ever heard of something called
14 Board Policies?

15 A. Board Policies?

16 Q. "Board" as in school board.

17 A. Board of Education? Well, that they passed
18 policies, yes, I know that.

19 Q. Have you ever seen any written copies of
20 such policies?

21 A. No.

22 Q. Have you ever heard of something called
23 "Administrative Bulletins"?

24 A. No, I don't think so.

25 Q. Have you ever seen any copies of

1 came out in the San Francisco Weekly Newspaper about
2 Balboa High School with a particular focus on the
3 experience of a student Alondra Jones? A-l-o-n-d-r-a,
4 Jones, the normal way.

5 A. Yes, I've seen it.

6 Q. Did you have any involvement in the creation
7 of that article?

8 A. In the creation? The writing of the
9 article?

10 Q. Did you have any involvement in -- let me
11 try this: Did you -- were you interviewed in any way
12 for the article?

13 A. I spoke with the reporter when she came to
14 Balboa and I believe she sat in on one of my classes.

15 Q. Did you have any role in putting the
16 reporter in contact with Ms. Jones?

17 A. Not that I remember.

18 Q. Do you know who did put the two of them in
19 contact?

20 A. I don't know.

21 Q. Before the reporter spoke to you and sat in
22 in your class, had you had any contact with that
23 reporter?

24 A. I think she might have called me and asked
25 if she could come by and talk to me.

1 Q. Do you recall the substance of the article?

2 A. Uh-huh; yeah, vaguely, not in detail, but --

3 Q. Do you remember there being any inaccuracies
4 contained in the article that you recall?

5 A. I don't remember the details of it. I
6 remember feeling like it was a bit sensationalistic,
7 but mostly contained accurate information, just that
8 the cover and the illustration and stuff was a little
9 like -- a little -- I don't know how to explain it.

10 Q. How about the substance of the article, did
11 that seem sensationalistic as well?

12 A. I mean, I didn't think it was particularly
13 well written, but I didn't think it was inaccurate.

14 Q. Do you think it gave a fair portrayal of
15 life at Balboa High School?

16 A. I will stand by the statement that what was
17 in it was accurate. I don't know if I could say fair
18 or unfair.

19 Q. After your first day of deposition a couple
20 weeks ago, did you have any conversations with anybody
21 about the substance of your testimony?

22 A. I don't think so, just that I had testified.

23 Q. So you didn't discuss the substance with any
24 of your colleagues?

25 A. Nope. Am I allowed to?

1 but --

2 THE WITNESS: Yes.

3 MR. ROSENTHAL: Setting up the next
4 question.

5 Q. And was it your opinion that those
6 individuals had the power to remedy the problems that
7 you identified?

8 A. No, on the contrary. I think the
9 administrators at Balboa and other schools like Balboa
10 often have their hands tied when it comes to fixing or
11 solving issues like teacher turnover and facilities
12 issues. It doesn't seem like they get the backup from
13 the district and the State they need.

14 Q. When you say, "Backup from the district and
15 the State," what are you referring to?

16 A. Whether it is monitoring or adequate funding
17 or distributing credentialed teachers equally among all
18 the schools -- I mean, there are many issues in which
19 it doesn't seem like there is monitoring going on to
20 make sure the kids are getting an equitable education.

21 Q. Assuming for a minute that the school
22 officials did have access to additional funding to
23 remedy the problems that you identified, was it your
24 opinion that they, then, assuming they had the funding,
25 had the power to remedy some of the problems you

1 MS. LHAMON: Yeah.

2 THE WITNESS: That is good to know.

3 MS. LHAMON: You can tell them how much fun
4 we're having.

5 THE WITNESS: Is it past 5:30?

6 MS. LHAMON: On my watch. I think you
7 have --

8 MR. ROSENTHAL: I think I have just a few
9 more questions, if you could indulge me for a few more
10 minutes.

11 THE WITNESS: Okay.

12 MR. ROSENTHAL: Unless you prefer to come
13 back for another day.

14 THE WITNESS: No. No.

15 MS. LHAMON: Let's just do the questions and
16 move on, Michael.

17 MR. ROSENTHAL: Q. During the past --
18 during the two days of testimony, I guess one and a
19 half days -- over the two days that you gave testimony,
20 you identified a number of problems that existed at
21 Balboa and in many instances you testified that you
22 made individuals in the administration of Balboa aware
23 of those problems; is that right?

24 A. Yes.

25 MS. LHAMON: Testimony speaks for itself,

1 identified?

2 A. Can you be more specific?

3 Q. Sure. One problem you identified was that
4 you didn't have enough textbooks in some of your
5 classes and you said that you had informed various
6 members of -- you informed the department head. You
7 informed members of the administration, and I believe
8 you testified that the response was that effectively,
9 their hands were tied and in many instances, they
10 didn't have the funding. If they did have the funding,
11 is it your belief that they had the power to obtain the
12 additional textbooks you needed?

13 A. The school district? It is an entirely
14 hypothetical question.

15 MS. LHAMON: An incomplete one. I was
16 trying to make my objection.

17 THE WITNESS: Sorry. That is presuming
18 there was funding.

19 MR. ROSENTHAL: I'm asking you to assume
20 there was.

21 THE WITNESS: Would the --

22 MR. ROSENTHAL: Q. Would those individuals
23 have the power to purchase the textbooks that you
24 desired?

25 A. I don't know.

1 MS. LHAMON: Calls for a legal conclusion.
 2 Calls for speculation.
 3 THE WITNESS: I don't know.
 4 MR. ROSENTHAL: Q. You said that being a
 5 teacher at Balboa is often stressful; is that fair to
 6 say.
 7 A. Yes.
 8 Q. Would you say you have a lot of free time as
 9 a teacher at Balboa or is free time more of a luxury?
 10 A. Free time was probably more of a luxury.
 11 Q. Do you think it would be an effective use of
 12 teachers' time to have teachers fill out a form every
 13 semester, for example, indicating how many textbooks
 14 they had in their class, how many times they've seen a
 15 mouse in their class, how many times they couldn't get
 16 a hold of a security guard to let a student go to
 17 bathroom, things like that?
 18 A. I think it is the State's responsibility to
 19 address the roots of those problems rather than
 20 layering more paperwork on teachers. I mean, if all
 21 we're doing is surveying people about the problems they
 22 are experiencing, then we're not really getting at the
 23 roots.
 24 Q. So you don't think it would be an effective
 25 use of the teachers' time?

1 MS. LHAMON: Mischaracterized the testimony.
 2 MR. ROSENTHAL: Q. Or do you?
 3 A. I think I answered your question.
 4 Q. Well, it is a "yes" or "no" question,
 5 actually. Do you think it is an effective use of
 6 teachers' time to have teachers report on those issues
 7 in a written form to the State, for example?
 8 MS. LHAMON: I object to your
 9 characterization of that question as a "yes" or "no"
 10 question. She has given an answer she thinks is
 11 complete. It wasn't a "yes" answer or "no" answer
 12 because it was a nuance answer and there is nothing
 13 wrong with that.
 14 THE WITNESS: If that were the only way to
 15 get the State's attention, I would support it.
 16 MR. ROSENTHAL: Q. Can you think of another
 17 method by which the State could monitor the number of
 18 times a mouse was sighted in a particular classroom or
 19 a number of times a security guard couldn't be obtained
 20 or the number of books that were present in a
 21 particular class?
 22 A. You can look at it in the micro that way or
 23 you can look at it in the macro in the sense of some
 24 schools are not experiencing these problems as much as
 25 others and I would say it is the State's responsibility

1 to be in those schools observing the conditions, seeing
 2 what is going on and figuring out programs and policies
 3 and remedies for those issues, but I'm not a lawyer on
 4 this case.
 5 Q. Have you ever heard of the "Uniformed
 6 Complaint Procedure"?
 7 A. No, I don't think so.
 8 MR. ROSENTHAL: Okay. I think I have
 9 nothing further. Why don't we do our closing
 10 stipulation and then you'll be free to go.
 11 THE WITNESS: Okay.
 12 MR. ROSENTHAL: Catherine, can we stipulate
 13 copies of documents attached to this deposition may be
 14 used as originals?
 15 MS. LHAMON: Yes.
 16 MR. ROSENTHAL: And can we also stipulate
 17 the original of this deposition be signed under penalty
 18 of perjury; that the original be delivered to Ms.
 19 Lhamon's office; that the reporter is relieved of
 20 liability for the original of the deposition transept;
 21 that the witness will have 30 days from the day of the
 22 court reporter's transmittal letter to sign and correct
 23 the deposition; and that Ms. Lhamon will notify all
 24 parties in writing of any changes to the deposition
 25 transcript and that if there are no such changes

1 communicated or signature within that time, that any
 2 unsigned and uncorrected copy may be used for all
 3 purposes as if it was signed and corrected?
 4 MS. LHAMON: So stipulated.
 5 MR. ROSENTHAL: Thank you very much.
 6 THE WITNESS: Thank you.
 7 MS. LHAMON: Thank you.
 8
 9 (Whereupon, the deposition was adjourned
 10 at 5:34 p.m.)
 11 --o0o--
 12
 13 I declare under penalty of perjury that the
 14 foregoing is true and correct. Subscribed at
 15 _____, California, this ____ day of
 16 _____, 2001.
 17
 18
 19
 20 SHANE SAFIR
 21
 22
 23
 24
 25

CERTIFICATE OF REPORTER

I, JOHNNA FORD, a Certified Shorthand Reporter,
hereby certify that the witness in the foregoing
deposition was by me duly sworn to tell the truth, the
whole truth and nothing but the truth in the
within-entitled cause;

That said deposition was taken down in
shorthand by me, a disinterested person, at the time
and place therein stated, and that the testimony of the
said witness was thereafter reduced to typewriting, by
computer, under my direction and supervision;

I further certify that I am not of counsel or
attorney for either or any of the parties to the said
deposition nor in any way interested in the event of
this cause and that I am not related to any of the
parties thereto.

DATED: _____, 2001.

JOHNNA FORD, CSR 11268