

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  
AMY SALYER

Volume II  
(Pages 218 through 466)  
December 1, 2001

REPORTED BY: JOHNNA FORD CSR 11268 JOB 5-114393

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2 ACLU OF NORTHERN CALIFORNIA, 1663 Mission  
3 Street, Suite 460, San Francisco, California 94103,  
4 represented by KATAYOON MAJD, Attorney at Law, appeared  
5 as counsel on behalf of the Plaintiffs.  
6 ACLU FOUNDATION OF SOUTHERN CALIFORNIA, 1616  
7 Beverly Boulevard, Los Angeles, California 90026-5752,  
8 represented by CATHERINE E. LHAMON, Attorney at Law,  
9 appeared as counsel on behalf of the Plaintiffs.  
10 O'MELVENY & MYERS LLP, 400 South Hope  
11 Street, Los Angeles, California 90071-2899,  
12 represented by MICHAEL ROSENTHAL, Attorney at Law,  
13 appeared as counsel on behalf of the Defendant, State  
14 of California.

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16 EXAMINATION BY MR. ROSENTHAL  
17 MR. ROSENTHAL: Good morning, Ms. Salyer.  
18 As you may recall, my name is Michael Rosenthal and I  
19 represent the State of California in this action.  
20 During our first day together, we went over  
21 some basic ground rules on how we would conduct the  
22 deposition. Do you remember those rules or would you  
23 like me to go over those again?  
24 A. No, that is fine.  
25 Q. Do you understand all of those rules?

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DEPARTMENT OF EDUCATION; State )  
10 Board of Education, )  
11 Defendants. )

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15 BE IT REMEMBERED that, pursuant to notice  
16 and on Saturday, December 1, 2001, commencing at 10:16  
17 a.m. at O'Melveny & Myers LLP, 275 Battery Street,  
18 Conference Room 26 West, San Francisco, California,  
19 before me, JOHNNA FORD, a Certified Shorthand Reporter,  
20 personally appeared  
21 AMY SALYER  
22  
23 called as a witness by the Defendant State of  
24 California, who, having been first duly sworn, was  
25 examined and testified as follows:

1 A. I think so.  
2 Q. If you have any questions, feel free at any  
3 point.  
4 Is there any reason why you may be unable to  
5 give your best testimony today?  
6 A. No.  
7 Q. I understand that one of the reasons we are  
8 starting a little bit later today is because you had a  
9 dentist appointment. Any effects from your dentist  
10 appointment that would affect your ability to testify?  
11 A. The dental appointment was cancelled.  
12 Q. Well, that resolves that.  
13 A. Yes, it does.  
14 Q. At the end of our first day, we left off  
15 discussing the textbooks and instructional materials  
16 you used in instructing your 2nd grade class during the  
17 2000/2001 school year and we had spent some time  
18 discussing the materials you used to instruct your  
19 students in Spanish. I wanted to move to a different  
20 subject that you were instructing your class in, that  
21 being math. If you can tell me what textbooks and  
22 instructional materials you used to instruct your class  
23 in math during that year.  
24 A. The District had adopted the Mathland math  
25 program which was to include various teacher resource

1 materials of which I had all. It also included a large  
2 complement of manipulatives such as counters, dominoes,  
3 dice, geo boards, geo blocks, and similar materials,  
4 which I did not have a complete set of, and it also  
5 included some student resource materials, which I had  
6 one copy of that that I xeroxed for the class to use.

7 The second math curriculum that the District  
8 was using is called Math Steps, which is curriculum  
9 provided by and paid for by the State of California.  
10 That was not delivered to me until, I believe, February  
11 of that academic year. That is the curriculum that is  
12 aligned to state standards and is the basis of  
13 instruction for preparing the kids for the  
14 state-mandated SAT-9 exams.

15 Q. Just so I'm clear, so instructing your class  
16 during the 2000/2001 school year, you used both the  
17 Mathland program and the Math Steps materials?

18 A. Yes.

19 Q. Were there any textbooks that you used to  
20 instruct your students in math during that year?

21 A. The Math Steps curriculum came with a  
22 student -- or was to come with a book for each student  
23 -- what is called a consumable, which meant they were  
24 to actually write in this.

25 Q. Is that like a workbook?

1 Q. Can you give me an example of one or two  
2 items?

3 A. I did not have geo boards. I did not have  
4 the various types of dice that were used for arithmetic  
5 activities. I did not have geo blocks that were part  
6 of the geometry lessons. I did not have the money, the  
7 fake money, the plastic money, that was used as part of  
8 the activities related to arithmetic and monetary  
9 value. I also did not have a demonstration clock. It  
10 is a big plastic clock that you do time lessons with.

11 Q. Do you remember the total number of  
12 manipulatives that were supposed to be included with  
13 the Mathland program materials?

14 A. You don't mean like how many little dinosaur  
15 counters exactly. You are talking about which  
16 components I was supposed to have?

17 Q. Let me try a different question: So we're  
18 clear, how many different types of materials were to be  
19 included with the Mathland's materials?

20 A. I can only estimate. I would estimate there  
21 was supposed to be about 15, maybe, kinds of  
22 manipulatives.

23 Q. And can you estimate for me how many of  
24 those 15 items you were missing during that school  
25 year, those 15 --

1 A. Yes, that is another -- I mean, it had both  
2 the textbook information and where the kids would  
3 write.

4 Q. Was there any textbook used in connection  
5 with the Mathland program?

6 A. No, Mathland was a manipulative-based,  
7 hands-on.

8 Q. Was it your understanding that -- the  
9 materials you were provided with in connection with the  
10 Mathland program, was it your understanding that they  
11 were materials that each student was to receive  
12 pursuant to that program?

13 A. No, it is a class set. You are supposed to  
14 have adequate manipulatives to do the activities as  
15 described in the teacher guide book with a class of 20  
16 students.

17 Q. Now, you said that you were missing some of  
18 the manipulatives --

19 A. Yes.

20 Q. -- during that year?

21 A. Yes.

22 Q. Can you tell me which items you were  
23 missing?

24 A. I probably could not tell you specifically  
25 what items.

1 A. I believe I was missing about half of the  
2 material that should have been with the -- with the  
3 complete kit.

4 Q. Do you know why the Mathland manipulatives  
5 you had were missing about half of the materials?

6 A. No, I don't.

7 Q. Did you ever ask anybody?

8 A. As we discussed last time, when they --  
9 there would be the material survey put out, what do you  
10 have, what are you missing, what do you need. That was  
11 the forum to do that, so I indicated I was missing  
12 things. I was told that they would try to get them --  
13 you know, meaning -- I don't know if that meant from  
14 the warehouse or to purchase more materials, but  
15 additional materials were never provided.

16 Q. When you say you were told that there would  
17 be attempts made to obtain replacement materials, do  
18 you recall who you heard that from?

19 A. Probably Donna MacGee, M-a-c-G-e-e.

20 Q. Can you tell me who that is?

21 A. She was a teacher on special assignment. I  
22 don't know what their exact title is.

23 Q. Was it your understanding that Ms. MacGee  
24 had some responsibility for obtaining additional math  
25 materials?

1 A. To the extent that she was able to inform  
2 the District of what the school's needs were, I don't  
3 know what further responsibility she would have had  
4 personally.

5 Q. Was Ms. MacGee -- strike that.

6 Did Ms. MacGee only have responsibility with  
7 respect to math materials or was her area of  
8 responsibility wider than that?

9 A. Wider.

10 MS. MAJD: Calls for speculation.

11 THE WITNESS: Sorry. As far as I know, that  
12 is only --

13 MR. ROSENTHAL: Q. Did the surveys or  
14 inventories that you completed at the beginning of the  
15 year, did they get submitted to Ms. MacGee?

16 MS. MAJD: Calls for speculation.

17 THE WITNESS: To the best of my  
18 recollection, we -- there was a note on it telling you  
19 whose mailbox to put it in and it may have been, in all  
20 likelihood, that it was to be returned to Donna  
21 MacGee's mailbox. There may have been an intermediary  
22 person that was gathering the information to pass on to  
23 her.

24 MR. ROSENTHAL: Q. So to the extent you  
25 were missing materials in any subject, if you were

1 materials from other teachers?

2 A. Nobody seemed to have the plastic money, so  
3 I had to purchase a set of fake money with my own  
4 funds.

5 Q. How about the other manipulatives that you  
6 identified, were you able to borrow those from other  
7 teachers during that school year?

8 A. I can't remember every specific instance.  
9 When I was able to locate what I needed and another  
10 teacher wasn't using it, I was able to borrow it.

11 Q. Do you remember any instances when you were  
12 not able to borrow the materials you wanted?

13 A. As I stated previously, nobody had plastic  
14 money. I had to purchase those on my own. I wasn't  
15 able to get geo boards. Another thing I was missing, I  
16 don't think I mentioned, were the patterned tiles,  
17 small plastic square tiles that are used pretty  
18 extensively for pattern activities which I borrowed  
19 from my next-door neighbor frequently, but she also  
20 needed to use them frequently, so there were times when  
21 you had to delay a lesson because of that.

22 Q. Now, you said during the 2000/2001 school  
23 year, there were some lessons that you did not cover as  
24 a result of not having the Mathland materials you  
25 needed. Rather than teach those lessons, did you

1 going to speak to anybody about it, would it have been  
2 Ms. MacGee?

3 A. Yes.

4 Q. You identified a couple of items from the  
5 manipulatives that you were missing during that school  
6 year and one of the things you said was geo boards.  
7 Can you just tell me what that is?

8 A. It is a square thing with little pegs  
9 sticking out of it that you use rubberbands with to do  
10 geometry lessons.

11 Q. In light of the fact that you were missing  
12 several of the materials from the Mathland program, can  
13 you tell me what you did when you attempted to instruct  
14 the students in the areas where those manipulatives  
15 were required?

16 A. Borrowed from other classrooms when I was  
17 able to. Didn't do specific lessons. We never did  
18 anything with -- we never did many of the geometry  
19 lessons because I did not have the materials. I was  
20 not able to purchase them with my own funds, so we only  
21 did, for example, geometry lessons that used geo blocks  
22 because I could borrow those from a neighbor.

23 Q. You said that in some instances you borrowed  
24 the materials from other teachers. Do you remember  
25 specific instances when you were not able to borrow the

1 instruct the class in other lessons?

2 A. Do you mean in the same -- on the same topic  
3 or -- I mean, basically what happened is I ended up  
4 skipping some sections of the Mathland curriculum  
5 because I did not have the necessary materials to do  
6 the manipulative-based hands-on program. You are not  
7 able to teach the lessons if you don't have the  
8 materials, therefore the students did not receive  
9 instruction.

10 Q. Can you give me an example of a lesson you  
11 skipped over in that way?

12 A. Anything relating to using geo boards, which  
13 was a good portion of the geometry section or a portion  
14 of the geometry section.

15 Q. In light of the fact that you did not have  
16 the geo boards, on the days you would have spent  
17 instructing the students in geometry using the geo  
18 boards, did you instruct the students in geometry in  
19 another way?

20 A. Just moved on to the next lesson that  
21 required a different manipulative.

22 Q. As a result of skipping some lessons, did  
23 you get through the Mathland materials earlier during  
24 the 2000/2001 school year?

25 MS. MAJD: Objection. Vague.

1 THE WITNESS: I don't think I could say if  
2 we finished early. I mean, I know that I have 175  
3 teaching days. I know that I'm required by law to  
4 teach math for a certain number of minutes per day, so  
5 when I was using Mathland, Math Steps, or lessons of my  
6 own design, I taught the students math every day. It  
7 does not mean I was able to follow the curriculum every  
8 day.

9 Q. You said in connection with the Mathland  
10 programs, you also had one copy of the student resource  
11 materials. Can you just tell me what the student  
12 resource materials are that you are referring to?

13 A. Actually, there were two different aspects  
14 to that. One is a book called Power Practice, which  
15 was -- it was essentially a workbook type item. I had  
16 one copy, which I then had to spend time and money  
17 frequently Xeroxing so I would have it available for  
18 homework.

19 And then there is also a student book called  
20 ArithmaTwist. I had to think of it in English because  
21 I use the Spanish ones. Those were in four parts, Book  
22 A, B, C, and D. I had enough copies of Books B, C, and  
23 D, but I did not have the beginning level book which  
24 was sort of the foundation for the rest of that  
25 program.

1 THE WITNESS: I think there were four.

2 MR. ROSENTHAL: Q. Were there occasions  
3 during the 2000/2001 school year when you wanted to  
4 make xerox copies and were unable to do so? And I'm  
5 dealing with this broadly, not just limited to math  
6 here.

7 A. About daily.

8 Q. Can you tell me why that was the case?

9 A. Because the machines were consistently  
10 broken down.

11 Q. Was there someone at Hawthorne who had  
12 responsibility for ensuring that the Xerox machines at  
13 the schools were functioning?

14 MS. MAJD: Objection. Calls for  
15 speculation.

16 THE WITNESS: When you asked the question,  
17 do you mean was there a person who was responsible for  
18 physically maintaining the machines?

19 MR. ROSENTHAL: Q. We can start with that.  
20 Was there somebody --

21 A. No.

22 Q. Was there somebody who was responsible for  
23 reporting the fact that the machines were not  
24 functioning?

25 MS. MAJD: Objection. Calls for a legal

1 Q. Why don't we start with the Power Practice  
2 booklet you described. You said that you had one copy.  
3 Was it your understanding that that was a book that  
4 each student was intended to receive a copy of?

5 A. That was my understanding of the way the  
6 program was designed. That doesn't mean the District  
7 necessarily chose to purchase enough for every student.

8 Q. Do you know if there were any 2nd grade  
9 classes at Hawthorne in which there were enough copies  
10 of the Power Practice book for each student?

11 A. I don't know. I don't believe so based on  
12 what I saw in the xerox room.

13 Q. When you made teacher copies from the Power  
14 Practice book, did you make sufficient copies for each  
15 student in the class?

16 A. When there was a working Xerox machine, yes.

17 Q. And when you did so, were students able to  
18 take copies of those materials home with them?

19 A. Yes.

20 Q. Why don't we talk about xeroxing for a few  
21 minutes. How many Xerox machines are there at  
22 Hawthorne -- were there during that year?

23 A. We're talking about last year, right?  
24 Sorry.

25 MS. MAJD: Calls for speculation.

1 conclusion and calls for speculation.

2 THE WITNESS: I can only describe what my  
3 understanding was, so it may or may not be precisely  
4 correct. When the School District would purchase a new  
5 copy machine for a site, it would depend on the  
6 situation of that machine, if it was leased or  
7 purchased, what -- you know, if there was a service  
8 contract or not a service contract. My observations,  
9 when a new machine was purchased or leased, it had at  
10 least some kind of service contract for it. However,  
11 those were not -- you know, unlimited, nor were they,  
12 from what I could see, sort of like lifetime deals, so  
13 if it were an older machine, it didn't have -- there  
14 wasn't anyone to service it. There was no service  
15 contract, so it -- we had a couple machines that just  
16 never got repaired and so there was a shift and one new  
17 machine was purchased for the office and that had a  
18 service contract, so then if, for example, one of the  
19 older machines sort of croaked, that was it for that  
20 machine. And then the ones that did have service  
21 contracts would get serviced whenever the service  
22 person could come to the site. I don't know the  
23 specific details of how that worked. I mean, my  
24 knowledge of Xerox machines was spending my recess  
25 walking across campus to try and make copies and not

1 find a machine that was operable.

2 I do know one other aspect of the world of  
3 Xerox. Two summers ago at a leadership meeting, one of  
4 the concerns that was brought up was the lack of  
5 functioning Xerox machines and the vice principal  
6 Michael Bowen told us the machines would not be  
7 repaired until the District loaded our budget for that  
8 academic year and that that was not going to be  
9 happening in the foreseeable future and therefore we  
10 did not have -- Xerox machines would not be repaired  
11 because there was no money in our budget to pay the  
12 fees on our service contracts because the budget had  
13 not been loaded, so that clearly had a direct effect on  
14 classroom practice.

15 Q. In an instance when you attempted to use one  
16 of the copy machines and it was not functioning, did  
17 you take any steps to report that to anybody?

18 A. Sure.

19 Q. Can you tell me who you would typically  
20 tell?

21 A. The principal, Susan Sperber.

22 Q. Would you tell anybody else or was she  
23 primarily the person you would tell?

24 A. Primarily Ms. Sperber.

25 Q. And how did she respond when you informed

1 machine and, "Oh, good. We have another machine since  
2 that one over there died."

3 Q. When you testified earlier that there were  
4 four copy machines -- roughly four copy machines at  
5 Hawthorne Elementary, how many of those were the  
6 nonfunctioning variety?

7 MS. MAJD: Objection. Vague as to time.

8 THE WITNESS: The four that I was referring  
9 to were the functioning ones. I was not referring to  
10 the several dead copy machines and Risograph machines  
11 that were sort of over in the dead machine corner.

12 MR. ROSENTHAL: Q. So when you said there  
13 were four, there were four machines which were either  
14 functioning or when they were not functioning, would  
15 get repaired?

16 A. Of those four, I think three had service  
17 contracts and one didn't.

18 Q. Did the one that did not function during the  
19 time you were at Hawthorne?

20 A. Off and on.

21 Q. And when it didn't work, do you know how it  
22 got repaired?

23 A. I think the clerk in the school clinic had a  
24 relationship with that machine and was able to convince  
25 it that it really did want to work.

1 her of a nonfunctioning copy machine?

2 MS. MAJD: Vague as to time.

3 THE WITNESS: Usually I would write a cranky  
4 note and put it in her box and she would write back on  
5 the note when she got it -- you know, within the day  
6 and say -- you know, "A technician has been called," or  
7 "That machine doesn't have a contract," or whatever her  
8 response would be.

9 MR. ROSENTHAL: Q. Do you recall copy  
10 machines at Hawthorne getting repaired in some  
11 instances?

12 A. Uh-huh; yes.

13 Q. And you remember some instances in which  
14 copy machines were not repaired at all?

15 A. Yes.

16 Q. And did those copy machines remain on site  
17 at Hawthorne?

18 A. Yes.

19 Q. Were the copy machines that were not  
20 functioning and were not repaired and that remained on  
21 site, were they replaced with additional copy machines?

22 A. In one instance that I can recall  
23 specifically. I don't know if you could necessarily  
24 say that was a replacement or if it was a case where we  
25 had money in our budget and we were able to purchase a

1 Q. Now, you said that you were unable to make  
2 the copies you wanted on just about a daily basis. Can  
3 you describe for me what you did in the instances when  
4 you were not able to make the copies that you desired?

5 A. Didn't send homework home. I sent a note  
6 home at the beginning of the school year that said,  
7 "Dear parents, if you don't get a homework packet or  
8 you don't get the daily homework, it is because there  
9 is no working Xerox machine at the school." And I'm  
10 not going to pay to copy homework as I've done in the  
11 past, so there were times when the students did not  
12 receive weekly or daily homework because of lack of a  
13 functioning Xerox machine. There were times when they  
14 didn't do an activity that I had planned in whatever  
15 curricular area because I was not able to make copies,  
16 so I would alter my lesson plans to whatever extent  
17 that I could or we just wouldn't -- you know, do that  
18 workbook page or whatever it was.

19 Q. Did you ever give homework to your students  
20 that did not require them to have Xeroxed materials  
21 with them?

22 MS. MAJD: Can we clarify, are you talking  
23 about all four years or which particular year?

24 MR. ROSENTHAL: I'm referring to all four  
25 years right now. Thank you.

1 THE WITNESS: Periodically. However, with  
2 kindergarten, 1st and 2nd graders, it is not like you  
3 can give them homework, "Go home and write a story,"  
4 because children that age are not really to that level  
5 of writing, nor can they do a lot of copying from the  
6 board. For example, put 20 problems up. "Copy these  
7 and do them as homework." They don't -- they are  
8 little. They can't do that. The kind of homework that  
9 is most developmentally appropriate for children of  
10 that age generally requires a level of direction and  
11 support that necessitates them having a piece of paper  
12 with whatever they need to do on it.

13 MR. ROSENTHAL: Q. Given your experience  
14 with the copy machines at Hawthorne -- strike that.

15 Given the fact that during your time at  
16 Hawthorne, the copy machines didn't always function,  
17 did you take any -- undertake any efforts to make extra  
18 copies of materials, planning ahead for classes in the  
19 instances when you did find a copy machine that was  
20 functioning?

21 A. Yes. You mean did I -- when I found a  
22 working machine, did I stay for three hours and xerox  
23 everything I possibly could? Yes.

24 Q. Let's turn to the Math Steps materials. You  
25 said you didn't have those materials until, was it,

1 loading dock versus a school saying, "This is the  
2 curriculum we're going to choose," or the District  
3 saying, "This is the curriculum we're going to choose."

4 "Okay. We have this many 2nd grade  
5 classrooms. We need to order this many."

6 I don't know for sure how it works at the  
7 District level. I can guess based on observation that  
8 the District tells probably the State Department, "All  
9 right. We've got X number of 2nd grade classrooms.  
10 Multiply that by 20, therefore we need that many 2nd  
11 grade Math Steps books."

12 MS. MAJD: Amy, I want to remind you not to  
13 guess if you don't know something. If you have an  
14 understanding --

15 THE WITNESS: I will adhere to Counsel's  
16 advice. Please understand that is only observation or  
17 -- at any rate, the materials were not -- there were  
18 not adequate number of materials in the fall.

19 MR. ROSENTHAL: Q. Now, the procedure you  
20 just described that you thought perhaps the District  
21 reported to the State how many of the Math Steps  
22 materials were required, can you tell me what the basis  
23 of that understanding is?

24 A. Well, I will, again, defer to Counsel's  
25 advice and try to refrain from offering conjecture.

1 roughly February 2001?

2 A. Yes, it could have been the end of January.  
3 I think I was off track until the middle of January and  
4 when I got back is when I finally got them, within a  
5 couple weeks.

6 Q. Was it your understanding that you were  
7 supposed to have those materials at the start of the  
8 2000/2001 school year?

9 A. Absolutely.

10 Q. Do you know why you did not receive those  
11 materials at that time?

12 A. Specifically, no.

13 Q. Were you ever told any reasons why you did  
14 not receive those materials at that time?

15 A. That they had not been delivered.

16 Q. And who told you that?

17 A. Donna MacGee.

18 Q. Do you know when those materials were  
19 ordered?

20 A. Well, the Math Steps thing is kind of weird.  
21 Math Steps are part of the Schiff Bustamente funded  
22 curricular materials. It is a bill that was passed by  
23 the legislature to provide instructional materials  
24 aligned with the State standards to classrooms, so you  
25 don't order them. They are just brought to your

1 Q. Did somebody tell you that that is how it  
2 worked? Or I'm trying to get a sense of where that  
3 came from.

4 A. That is just based on observation. I mean,  
5 I was told by Donna MacGee the preceding year when,  
6 again, we didn't have adequate Math Steps materials  
7 that they didn't even know -- the school didn't know  
8 the materials were coming. The school had not been  
9 asked how much was needed. They were just delivered  
10 from the District warehouse, so I know it did not  
11 originate with the school saying, "This is the number  
12 that we need at this given grade level."

13 Q. Now, those materials were delivered in  
14 roughly late January, February 2001 and you said one of  
15 the materials that was included was a -- I'll call it a  
16 workbook, slash, textbook. Did you receive copies of  
17 those materials for each of the students in your class?

18 A. Yes.

19 Q. Were students able to take those books home  
20 with them on a daily basis?

21 A. That is not how I used them, but they could  
22 have, yes.

23 Q. Did you not permit your students to take the  
24 textbooks home with them?

25 A. That was work that we did in class.

1 Q. Did you prefer that the books remained in  
2 class or did you -- strike that.

3 Did you not assign homework from those  
4 books?

5 A. Homework related to that curriculum came  
6 from one of the teacher resource materials, the copy  
7 master book that was designed to be copied for each  
8 student as part of the reteach lesson.

9 Q. Was the only reason you did not have the  
10 students take the -- these books home with them was  
11 because you used them solely in class or was there  
12 another reason?

13 A. No, it was an instructional decision on how  
14 I was going to teach and present the material.

15 Q. Did you have any concerns, if you let the  
16 students take the books home with them, that they would  
17 get lost?

18 A. Oh, yes.

19 Q. I apologize for this. I'm going to go back  
20 to one thing with respect to the Mathland program. You  
21 identified four different books with respect to the  
22 ArithmaTwist program. I think you said you had  
23 sufficient copies of the B, C, D books; is that  
24 correct?

25 A. Yes.

1 A. I would have preferred to have had one for  
2 each student so that they could have progressed through  
3 all of the books.

4 Q. Now, you also said with respect to Book A,  
5 you did not have any copies of those books?

6 A. I may have had eight or ten.

7 Q. Did you allow students to take home Book A?

8 A. Yes.

9 Q. And how did you manage that, given you only  
10 had eight to ten books?

11 A. Only eight to ten kids -- I targeted for the  
12 eight to ten kids that I thought were most in need of  
13 those lessons and the others just didn't get to do  
14 those lessons.

15 Q. Did you have an understanding as to why you  
16 didn't have enough copies of the ArithmaTwist books?

17 A. Because they are consumables and typically  
18 consumables are not repurchased from year to year, even  
19 though they should be because they are, as the name  
20 implies, something that is consumed.

21 Q. Did you undertake any efforts to obtain  
22 additional copies --

23 A. Yes.

24 Q. -- of those materials?

25 A. Yes.

1 Q. Did you have sufficient copies of -- did you  
2 have enough of those books so that each student in the  
3 class had their own copy?

4 A. I think that I had about 18 or 19 of each  
5 one of those and I had 20 students in the class.

6 Q. Was that true for each of the B, C, and D  
7 books?

8 A. Yes.

9 Q. So you were short roughly one or two for  
10 each one?

11 A. Yes.

12 Q. Were students permitted to take those books  
13 home with them?

14 A. Yes.

15 Q. What did the students -- given the fact that  
16 you did not have enough copies for each and every  
17 student, how did you deal with that issue when allowing  
18 them to take the books home with them?

19 A. I staggered their use of the books based on  
20 their current developmental and academic level so not  
21 everybody was using Book B, not everybody was using  
22 Book D.

23 Q. So given that students in your class were at  
24 different academic levels, did you ever need 20 copies  
25 of each of the books at the same time?

1 Q. Can you describe those efforts for me?

2 A. Searching the stage where most of the  
3 materials were kept and asking other teachers if they  
4 had any extra copies if they had ended up with more  
5 than 20.

6 Q. Did those efforts yield any additional  
7 copies?

8 A. Maybe one or two.

9 Q. Did you ever undertake any efforts to have  
10 additional copies purchased?

11 A. As part of the previously described  
12 materials survey.

13 Q. Nothing other than reporting the lack of  
14 materials on this survey?

15 A. That was the only avenue available to me.

16 Q. Why don't we move on to -- let me ask one  
17 wrap-up question: Were there any other materials you  
18 used in instructing your 2nd grade class during the  
19 2000/2001 school year in math that we haven't already  
20 discussed?

21 A. Other than materials I purchased with my own  
22 money, no.

23 MS. MAJD: Do you want to take a break or  
24 are you --

25 THE WITNESS: No, I'm okay. We can keep



1 going. If we're going to do this for every school  
2 year, we'll be here until 10 o'clock at night, so let's  
3 keep going. Hopefully we're not going to do it for  
4 every school year.

5 MR. ROSENTHAL: Q. Were there -- you said  
6 there were some materials you purchased for instructing  
7 your class in math. Can you tell me what those  
8 materials were?

9 A. Oh, plastic money, some various arithmetic  
10 games and activities, and materials to make math  
11 centers. That would probably adequately describe it.

12 MR. ROSENTHAL: Q. Did you get reimbursed  
13 for the materials you purchased?

14 A. No.

15 Q. Did you attempt to get reimbursed?

16 A. There is no format for being reimbursed for  
17 purchasing materials.

18 Q. Did you ever ask anybody to be reimbursed  
19 for the materials?

20 A. There is no option. There is no -- I don't  
21 know how to describe it. There is no -- there is no  
22 money to reimburse. That is not -- if you choose to  
23 buy materials, it is -- you choose to buy a briefcase  
24 to support your profession or whatever. If I choose to  
25 buy those materials, that is my choice.

1 budget to purchase a large variety and number of these  
2 kits. There were adequate kits for use when one  
3 desired to use one.

4 Q. Were these kits sometimes called FOS kits?

5 A. Yes.

6 Q. Did you use any other materials aside from  
7 the FOS kits during the 2000/2001 school year?

8 A. I used some materials that I had purchased  
9 for lessons I designed.

10 Q. Anything else aside from the FOS kits and  
11 additional materials you purchased?

12 A. No.

13 Q. Are textbooks part of the FOS kit?

14 A. No.

15 Q. During the 2000/2001 school year when you  
16 used materials from FOS kits, were the materials  
17 complete?

18 MS. MAJD: Objection. Vague.

19 THE WITNESS: Not always.

20 MR. ROSENTHAL: Q. Do you recall specific  
21 instances where there were materials missing?

22 A. Yeah, we did the pebbles, sand, and silt kit  
23 last year and I had to go out and buy pebbles and sand.

24 Q. Any other materials you recall missing from  
25 the FOS kits last year?

1 Q. Did you have any discussion with anybody  
2 about at -- the school about the possibility of being  
3 reimbursed for purchasing materials?

4 MS. MAJD: Asked and answered.

5 MR. ROSENTHAL: You can answer.

6 THE WITNESS: There is -- I don't know how  
7 to describe to a non-teacher. There isn't a fund to  
8 reimburse you. The money that comes from the District  
9 or the State is designated for specific programs and  
10 for specific purchases. There is not a fund that  
11 exists to pay teachers who spend their own money on  
12 classroom materials or Xeroxing or books for classroom  
13 libraries.

14 MR. ROSENTHAL: Q. Did somebody tell you  
15 that?

16 A. Sure, Susan Sperber, the principal.

17 Q. Okay. Now we can move on to science. Can  
18 you tell me what textbooks and instructional materials  
19 you used to instruct your class in science during the  
20 2000/2001 school year?

21 A. Our school used the full option science  
22 system materials developed by the Lawrence Hall of  
23 Science. They are a hands-on science kit; comes in a  
24 big box. They have specific themes designed for  
25 specific grade levels. The school had used some of its

1 A. Last year, maybe some paper plates or  
2 something.

3 Q. Would you say by and large, most of the  
4 materials in the FOS kits were there when you used  
5 them?

6 MS. MAJD: Objection. Vague.

7 THE WITNESS: For the most part.

8 MR. ROSENTHAL: Q. You testified a little  
9 while ago you had purchased some materials and you also  
10 testified you purchased the pebbles and sand you were  
11 missing. Any other materials you recall purchasing to  
12 teach your class in science last year?

13 A. For science? Various materials that I used  
14 to teach a unit on water, including hands-on materials  
15 and trade books and books related to a unit we did on  
16 bats, books related to a unit on apples, books related  
17 to a unit we did on the human body and a little  
18 skeleton guy.

19 Q. I assume you didn't attempt to get  
20 reimbursed for those materials?

21 A. Nope.

22 Q. Is there a school library at Hawthorne?

23 A. Yes.

24 Q. Are you aware if there are materials in the  
25 school library covering the sorts of areas that you

1 purchased additional books for?  
 2 MS. MAJD: Objection. Vague.  
 3 THE WITNESS: There are some books. It is a  
 4 very, very limited library to serve 1,400 kids. I  
 5 generally didn't think that it was nice to take all the  
 6 books on bats because, for example, that would deprive  
 7 the rest of the school.  
 8 MR. ROSENTHAL: Q. Can you tell me what  
 9 materials you used to instruct your students in social  
 10 studies during the 2000/2001 school year?  
 11 A. Yeah, there was a textbook workbook. It was  
 12 a brand-new curriculum. I can't even remember the  
 13 publisher now. I'm sorry, I can't remember the  
 14 publisher.  
 15 Q. Just so I'm clear, was there a textbook and  
 16 a separate workbook?  
 17 A. Yeah, there was a textbook, workbook. There  
 18 were music tapes, overhead transparencies, various  
 19 other materials. I got the complete set of curricular  
 20 materials for the social studies.  
 21 Q. Were there -- strike that.  
 22 Do you know if the curriculum for social  
 23 studies was intended to provide each of the students in  
 24 the class with a textbook?  
 25 A. Yes.

1 Q. Is that also true for the workbooks?  
 2 A. Yes.  
 3 Q. And did your students during 2000/2001  
 4 school year have their own copies of the textbook and  
 5 the workbook?  
 6 A. Yes.  
 7 Q. Were they able to take those books home with  
 8 them on a daily basis?  
 9 A. If I wanted them to, they could have.  
 10 Q. Did you have those materials at the  
 11 beginning of the 2000/2001 school year?  
 12 A. No.  
 13 Q. Do you recall when you received those  
 14 materials?  
 15 A. November, maybe.  
 16 Q. Do you know whether you were supposed to  
 17 have those materials at the beginning of the school  
 18 year?  
 19 A. No. I don't know. I would assume yes,  
 20 but --  
 21 Q. During the months of September and October,  
 22 did you instruct your students in social studies?  
 23 A. Yes.  
 24 Q. Can you tell me what materials you used to  
 25 do that?

1 A. Materials I purchased and created.  
 2 Q. Can you tell me what you are referring to?  
 3 A. We did a unit on families. I purchased  
 4 curricular materials related to families and classroom  
 5 library books related to families. We also started a  
 6 year-long unit on conflict. Same thing, I purchased  
 7 materials and classroom library books.  
 8 Q. When you started the 2000/2001 school year  
 9 without social studies materials, did you raise that  
 10 issue with anybody at Hawthorne?  
 11 A. On the materials survey.  
 12 Q. Is that the only way you raised that issue?  
 13 A. I can't remember. I may have spoken to the  
 14 principal or to Donna MacGee and asked when we would be  
 15 receiving the new social studies.  
 16 MS. MAJD: I would like to take a break, if  
 17 you wouldn't mind.  
 18 THE WITNESS: Sure.  
 19 MR. ROSENTHAL: That is fine.  
 20 (Recess taken.)  
 21 MR. ROSENTHAL: Q. Before our break, Ms.  
 22 Salyer, we were talking about the social studies  
 23 materials you used in connection with teaching last  
 24 year's class. You said the materials also included  
 25 some tapes and overhead transparencies. Did you have

1 complete sets of those?  
 2 A. Yes.  
 3 Q. Moving on to the next subject you taught  
 4 during that year which was English language  
 5 development. Can you tell me what textbooks and  
 6 instructional materials you used to instruct your  
 7 students in that class that year?  
 8 A. The District had adopted and purchased the  
 9 Hampton Brown ELD Program.  
 10 Q. Can you describe for me the materials you  
 11 used in connection with that program?  
 12 A. There is a set of posters that had songs,  
 13 poems, and subject area material like a poster about  
 14 ants or something along those lines. There was a  
 15 poster set. There was a set of tapes. There was a set  
 16 of student books. There was a teacher's manual and  
 17 there was a student workbook called the Language Log,  
 18 of which I had one copy.  
 19 Q. Did you have a complete set of the posters?  
 20 A. Yes.  
 21 Q. Did you have a complete set of the tapes?  
 22 A. Yes.  
 23 Q. The student books that were used in  
 24 connection with that program, was it your understanding  
 25 that students were to receive their own individual copy

1 of the book?  
 2 A. Of the workbook or of the content area,  
 3 whatever story that was being read?  
 4 Q. Let's talk about the content area book.  
 5 A. The kit came with ten copies of that book  
 6 for each unit. There were six units.  
 7 Q. I'm sorry? There were six units?  
 8 A. Yes.  
 9 Q. So the set should come with 60 books?  
 10 A. It came with ten books for Unit I, ten books  
 11 for Unit II, et cetera.  
 12 Q. And did you have a complete set of books for  
 13 each unit?  
 14 A. Yes.  
 15 Q. I'll come back to those books in a minute.  
 16 Did you have a copy of the teacher's manual?  
 17 A. Yes.  
 18 Q. And you said there was also a student  
 19 workbook of which you had one copy; is that correct?  
 20 A. Yes.  
 21 Q. Was it your understanding that each student  
 22 was supposed to receive their own copy of the student  
 23 workbook pursuant to the program?  
 24 A. Based on what was in the teacher's manual,  
 25 yes.

1 Q. Do you know if any of the classes -- any of  
 2 the 2nd grade classes at Hawthorne had enough copies of  
 3 the student workbook for each of the students?  
 4 A. Each teacher only had one workbook.  
 5 Q. Do you know if sufficient copies of the  
 6 workbooks had ever been purchased so that each student  
 7 could have their own copy at any time during your four  
 8 years at Hawthorne?  
 9 MS. MAJD: Objection. Calls for  
 10 speculation.  
 11 THE WITNESS: I only know that each year  
 12 that I used that program, which was all four years at  
 13 Hawthorne, and my first year, it was brand-new, only  
 14 one copy of the workbook was ever provided to any  
 15 teacher.  
 16 MR. ROSENTHAL: Q. Going back to the  
 17 content area textbooks of which there were ten copies  
 18 for each unit, can you describe for me how you  
 19 instructed the class in those materials when you only  
 20 had ten copies of one particular book?  
 21 A. The students had to share a book.  
 22 Q. You testified earlier that the set was  
 23 complete with ten copies for each of the six units.  
 24 Was it your understanding that pursuant to the program,  
 25 students were supposed to share books?

1 A. The program did not describe the way in  
 2 which -- it is left to teacher discretion how you would  
 3 use those books.  
 4 Q. Do you know why there were only ten books  
 5 for each unit area?  
 6 A. No.  
 7 Q. Did you find that having students share  
 8 books was an effective way to teach the materials?  
 9 MS. MAJD: Objection. Vague. Calls for  
 10 speculation.  
 11 THE WITNESS: In some instances, it worked  
 12 okay. At other times when we're trying to do a  
 13 specific reading or language instruction, it was  
 14 difficult for them to have to share a book.  
 15 MR. ROSENTHAL: Q. Aside from the Hampton  
 16 Brown materials, did you use any other materials to  
 17 instruct your students in English language development?  
 18 A. Not anything beyond Hampton Brown as a basis  
 19 and any extensions I might develop.  
 20 Q. Did you make copies from the one copy of the  
 21 student workbook you had for students to use?  
 22 A. When I was able to, yes.  
 23 Q. And when you did that, did you make  
 24 sufficient copies for all the students in your class?  
 25 A. Yes.

1 Q. Were students able to take those copies home  
 2 with them on a daily basis?  
 3 A. If I were able to make the copies, yes, they  
 4 were.  
 5 Q. How about the content area books, were  
 6 students ever allowed to take those books home with  
 7 them?  
 8 A. Yes.  
 9 Q. Can you describe for me how you managed  
 10 that, given that there were only ten books for each  
 11 unit area?  
 12 A. I would usually have five kids take a book a  
 13 night over four nights. That way if books didn't come  
 14 back the next day, we still had five books in class to  
 15 use.  
 16 Q. In connection with that program, were --  
 17 strike that.  
 18 The final subject that you previously  
 19 testified you instructed your students in during  
 20 your -- during the 2000/2001 school year was physical  
 21 education. Did you use any textbooks or instructional  
 22 materials in connection with that?  
 23 A. We used playground equipment, balls, jump  
 24 ropes.  
 25 Q. Were those all provided by the school?

1 A. To the extent that they were available, yes.  
 2 Q. I would like to turn now to the 1999/2000  
 3 school year which you also taught a 2nd grade class; is  
 4 that correct?  
 5 A. Yes.  
 6 Q. Did you teach the students in that class the  
 7 same subjects that you taught the students in your  
 8 2000/2001 class?  
 9 A. Yes.  
 10 Q. During the 1999/2000 school year, did you  
 11 use any different materials than you did during the  
 12 2000/2001 school year?  
 13 A. No.  
 14 Q. So for each subject area, you used the same  
 15 materials?  
 16 A. Yes, and literally the same ones. I mean  
 17 the same. They moved when I moved classrooms.  
 18 MS. LHAMON: I'm assuming that is limited to  
 19 those materials that you didn't just receive for the  
 20 first time.  
 21 THE WITNESS: Right, except -- to clarify,  
 22 except for the social studies because that was a newly  
 23 adopted program.  
 24 MR. ROSENTHAL: Q. I will cover a couple of  
 25 those to make sure the record is clear. I think you

1 also identified the Math Steps materials. Did you have  
 2 -- not have those during the 1999/2000 school year?  
 3 A. That was the first year it was introduced.  
 4 I also received the student workbooks late that year,  
 5 although I can't recall exactly which month. I did not  
 6 have the teacher's manual that year until late in the  
 7 year, much later in the year.  
 8 Q. Just so I'm clear, when you say that that  
 9 was the first year it was used, you are referring to  
 10 1999/2000 as being the first year in which the Math  
 11 Steps materials were used?  
 12 A. Yes.  
 13 Q. Let me try it this way: So during the  
 14 1999/2000 school year -- strike that.  
 15 Previously you testified that the Math Steps  
 16 material included a workbook, slash, textbook. That is  
 17 what you've been referring to it as; is that correct?  
 18 A. Yes.  
 19 Q. You said the workbooks were -- you received  
 20 the workbooks late in the 1999/2000 school year?  
 21 A. Yes.  
 22 Q. Do you recall when you received them?  
 23 A. I think it was about the same time of year,  
 24 January, February.  
 25 Q. So for both years, the 1999/2000 school year

1 and 2000/2001, you received the workbook materials in  
 2 roughly the winter of those years?  
 3 A. Yes.  
 4 Q. Were those workbooks what you would call  
 5 consumables?  
 6 A. Yes.  
 7 Q. So at the end of the 1999/2000 school year,  
 8 what did you do with those workbooks?  
 9 MS. MAJD: Objection. Vague.  
 10 THE WITNESS: The students took them home,  
 11 as I recall. I think I sent them home.  
 12 MR. ROSENTHAL: Q. So they were not  
 13 maintained by the school? Students were allowed to  
 14 keep them?  
 15 A. Yes, because they had been written in on  
 16 every page, so they weren't usable for another class.  
 17 Q. You said during the 1999/2000 school year,  
 18 you did not have a teacher's manual for the Math Steps  
 19 program; is that correct?  
 20 A. Correct.  
 21 Q. Did you have the teacher's manual during the  
 22 2000/2001?  
 23 A. Yes.  
 24 Q. Do you recall when the teacher's manual  
 25 arrived that year? Did it arrive with the workbooks?

1 A. I got it late in the preceding year, so I --  
 2 Q. You got it during the --  
 3 A. I started with the student materials in  
 4 '99/2000. For several months, I did not have the  
 5 teacher's manual. I got it late in the spring, so it  
 6 was already part of my teacher stuff that I had to  
 7 start the next school year. But the next year, I still  
 8 didn't have student materials.  
 9 Q. When you received the Math Steps workbooks  
 10 in roughly February of 2000, did you receive enough  
 11 copies for all of your students in the class to have  
 12 their own copy?  
 13 A. Yes.  
 14 Q. And were all the students able to take those  
 15 books home with them?  
 16 A. If I chose to have them do that, that, of  
 17 course, ran the risk that they wouldn't come back.  
 18 Q. The other new materials you identified  
 19 receiving during the 2000/2001 school year were the  
 20 newly adopted social studies materials?  
 21 A. Yes.  
 22 Q. Did you use different social studies  
 23 materials to instruct your class in the 1999/2000  
 24 school year?  
 25 A. The District had not adopted any social

1 studies curriculum for that year.

2 Q. Can you describe for me how you instructed  
3 your students in social studies during that year?

4 A. I developed my own lessons and units as I  
5 was able to.

6 Q. Can you describe for me how you did that?

7 A. Well, since there wasn't a social studies  
8 program but I was still required to teach a certain  
9 number of minutes of social studies and felt the  
10 students needed to learn social studies, I purchased  
11 commercially available teaching materials and trade  
12 books for the classroom library so I could try to  
13 develop units that covered the standards provided in  
14 the social studies framework from the State.

15 Q. Was there any curriculum material provided  
16 by -- provided at the school?

17 A. No.

18 Q. Did you ever ask anybody at the school for  
19 curriculum material to instruct your class in social  
20 studies?

21 A. I asked other teachers what the -- what the  
22 social studies for that grade level was -- you know, if  
23 there was old materials and I was told that because the  
24 District had not adopted anything in the last few  
25 years, that there really wasn't any at the school site.

1 questions. With respect to the materials you used to  
2 instruct your students in the various subjects during  
3 those years, did you have any concerns about the  
4 materials you were using being outdated?

5 MS. MAJD: Objection. Vague.

6 THE WITNESS: No.

7 MR. ROSENTHAL: Q. Did you have any  
8 concerns about the physical condition of any of the  
9 materials you used during those two years?

10 A. I was concerned that the Mathland materials  
11 were missing so many of the manipulatives. It wasn't a  
12 complete set.

13 Q. Did you have any concerns about any of the  
14 books that were in use during the two years?

15 A. No. In terms of condition, no.

16 Q. With respect to their physical condition?

17 A. Right.

18 Q. Why don't we turn to the '98/'99 school year  
19 during which, I believe, you taught a 1st grade class.

20 A. Yes.

21 Q. Can you tell me what subjects you instructed  
22 your 1st grade class in during that year?

23 A. Spanish reading, math, science, social  
24 studies, English language development, PE.

25 Q. Same list as for 2nd grade?

1 Q. Did you ever speak to anybody in the  
2 administration about obtaining any curricular materials  
3 relating to social studies?

4 A. I believe I spoke to Ms. Sperber.

5 Q. Do you recall what she said?

6 A. Essentially the same thing, the District had  
7 not, in the last few years, adopted social studies  
8 materials and therefore there were not any materials.

9 Q. With respect to the remaining materials you  
10 used to instruct your class during the 1999/2000 school  
11 year, I want to make sure the record is clear. So you  
12 actually used the same exact materials during those  
13 years excepting out the ones we just discussed during  
14 that school year?

15 A. Yes.

16 Q. Do you recall there being any more of the  
17 materials during the 1999/2000 school year than there  
18 were during the 2000/2001 school year? And I'm  
19 referring to the same exact materials you used during  
20 those years.

21 A. No.

22 Q. Do you remember there being any less?

23 A. No.

24 Q. I'm going to deal with those two 2nd grade  
25 classes you taught together for these next few

1 A. Yeah.

2 Q. Can you describe for me the materials you  
3 used to instruct your students in Spanish reading  
4 during that year?

5 A. Again, it was the Cuentamundos Program from  
6 McMillan, McGraw, Hill.

7 Q. And were those the same materials that you  
8 instructed the 2nd grade class in?

9 A. No.

10 Q. Same program, different materials?

11 A. Right.

12 Q. Can you describe for me the materials you  
13 used in connection with that program?

14 A. There were a variety of student textbooks.  
15 There was a variety of teacher resource materials and  
16 there were teacher manuals.

17 Q. Was it your understanding that the textbooks  
18 used in connection with that program were designed so  
19 that each student would receive their own copies?

20 A. Yes.

21 Q. And did you have sufficient -- did you have  
22 a sufficient number of -- strike that.

23 Can you tell me what the basis for that  
24 understanding is?

25 A. Based on the information in the teacher's

1 guide.

2 Q. Did you have sufficient copies of the  
3 Cuentamundos textbooks so that each student in your  
4 class during that year had their own copy?

5 A. No.

6 Q. Do you recall how many copies of the  
7 Cuentamundos textbooks you had?

8 A. I had 20, but I was sharing with another 1st  
9 grade class.

10 Q. Were there 20 books between two classes?

11 A. Yes.

12 Q. Can you describe for me how you managed  
13 using the books in the class between two classes?

14 A. We tried to stagger our lessons. The  
15 students did not take the material home. I shared with  
16 a teacher that roved into my classroom, so we kept the  
17 material in one place and checked with each other on  
18 what we were going to be using.

19 Q. Did you have an understanding as to why  
20 there was only one class set to be used between two  
21 classes?

22 A. Because there were more 1st grade classes  
23 that year than there were class sets of the material.

24 Q. And do you know why that occurred?

25 A. Because the population of the school

1 her class and we were both on track.

2 Q. Did you ever have any conversation with  
3 anybody about the possibility of obtaining additional  
4 copies of that book?

5 A. Yes, with Susan Sperber and that is when I  
6 was told that because there weren't additional  
7 materials available, that the roving teachers would  
8 need to share with the classrooms in which they roved.

9 Q. Did you report the shortage of these books  
10 on the inventory you performed in the fall?

11 A. Yes.

12 Q. Did you have any concern -- strike that.

13 With respect to the teacher resource  
14 materials that came in connection with the Cuentamundos  
15 Program, did you have a complete set of those during  
16 that year?

17 A. No.

18 Q. Do you recall what you did not have?

19 A. The thing I recall significantly were the  
20 sentence strips which were copies of the text of  
21 whatever the focus story was on a little item called a  
22 sentence strip that goes in a pocket chart so you can  
23 do a shared reading with the class. We did not have a  
24 set of those.

25 Q. Do you recall missing anything else from

1 continued to increase.

2 Q. Do you know whether there were sufficient  
3 copies of the Cuentamundos textbooks for the prior year  
4 for first graders?

5 A. The year before --

6 Q. Right.

7 A. -- we're talking about? I don't know.

8 Q. Did you discuss with anybody the shortage of  
9 the Cuentamundos textbooks during that year?

10 A. Yes.

11 Q. Can you describe for me the communications  
12 you had?

13 A. I talked with Susan Sperber who, at that  
14 time, was the vice principal or dean -- I don't  
15 remember -- and was told that since the other teacher  
16 was roving, she would use the materials in the  
17 classroom when she was in my classroom and that she  
18 would use materials in another classroom when she was  
19 in the other classrooms, except that she roved -- the  
20 other two classes she roved into weren't 1st grade  
21 Spanish bilingual classes, so we still had to share the  
22 materials even when we were both on track.

23 Q. Did those textbooks physically remain in  
24 your classroom during that entire year?

25 A. Not if she was using them for something with

1 those materials?

2 A. I think I was missing the syllable-building  
3 kit.

4 Q. When instructing your class in the areas in  
5 which those materials were part of the program, did you  
6 make any efforts to obtain those materials by any other  
7 means?

8 A. Yes, I borrowed the sentence strips from a  
9 neighboring teacher if she wasn't also doing that story  
10 at that time and I wasn't able to locate the  
11 syllable-building kit, so we didn't do the activities  
12 that used that material.

13 Q. Did you have an understanding as to why the  
14 teacher's resource materials you had were not complete?

15 A. No.

16 Q. Do you know if they were complete at some  
17 time?

18 A. I don't know.

19 Q. Did you report the missing materials on the  
20 inventory you did during the fall of that year?

21 A. Yes.

22 Q. Did you have any conversation with anybody  
23 about obtaining replacement materials?

24 A. I don't recall.

25 Q. You also said that the Cuentamundos Program

1 came with some teacher manuals?  
 2 A. Yes.  
 3 Q. Did you have all of those manuals?  
 4 A. Yes.  
 5 Q. Let's turn to math. Can you tell me what  
 6 textbooks and instructional materials you used in  
 7 connection with instructing your class in math that  
 8 year?  
 9 A. Mathland.  
 10 Q. And can you tell me what materials were used  
 11 in connection with that program?  
 12 A. The same types of manipulatives, maybe not  
 13 all the exact same as the 2nd grade, but a similar  
 14 setup.  
 15 Q. Again, same program, different materials?  
 16 A. Right.  
 17 Q. Aside from manipulatives, did it come with  
 18 any other materials?  
 19 A. The same types of workbooks only for the 1st  
 20 grade level.  
 21 Q. And also other teacher materials?  
 22 A. Yes.  
 23 Q. Did you have a complete set of those  
 24 Mathland materials dealing with them all together?  
 25 A. I shared them with the -- they belonged to

1 the teacher that was roving into my room. I shared  
 2 those materials with her.  
 3 Q. This is the same teacher you shared the  
 4 Cuentamundos materials with?  
 5 A. Yes.  
 6 Q. Can you tell me that teacher's name?  
 7 A. Janie, J-a-n-i-e, Naranjo, N-a-r-a-n-j-o,  
 8 hyphen, Hall, H-a-l-l.  
 9 Q. Just so I'm clear, this set of Mathland  
 10 materials, you shared it with another teacher, but was  
 11 it a complete set or were there any items missing?  
 12 A. To the best of my recollection, it was  
 13 complete.  
 14 Q. With respect to those Mathland materials,  
 15 were there -- how many copies of the workbooks were  
 16 included in that set?  
 17 A. There was the one copy of the Power Practice  
 18 book, same situation with Xeroxing it. And I can't  
 19 remember -- I mean, there was ArithmaTwist, but I  
 20 honestly can't remember if I had 20 copies of A, B, C,  
 21 and D or not. It feels like 100 years ago.  
 22 Q. As you sit here today, do you recall not  
 23 having all of the ArithmaTwist books?  
 24 A. I can't recall.  
 25 MR. ROSENTHAL: Can I take a very quick

1 restroom break?  
 2 MS. MAJD: Sure.  
 3 (Recess taken.)  
 4 MR. ROSENTHAL: Q. Ms. Salyer, with respect  
 5 to the Mathland materials that you used during the  
 6 1998/'99 school year, can you just describe for me how  
 7 you managed using those materials given the fact you  
 8 were sharing it with another teacher?  
 9 A. Tried to stagger our lessons, split the  
 10 materials and thus had fewer materials available in  
 11 class, supplemented with things that we bought on our  
 12 own so that we could do the lessons that the kids  
 13 needed to get. I think that probably covers it.  
 14 Q. I wasn't sure if you were thinking about  
 15 continuing your answer or not. Let's move on to  
 16 science. Can you tell me what textbooks and  
 17 instructional materials you used to instruct your class  
 18 during that school year?  
 19 A. It was also the FOS kits, just different  
 20 themes.  
 21 Q. Same program, different materials?  
 22 A. Yes.  
 23 Q. During that year, did you have all of the  
 24 FOS kit materials you were supposed to have?  
 25 A. No, the ramps were missing from the balance

1 and motion kit.  
 2 Q. Anything else missing that you recall?  
 3 A. Not that I recall.  
 4 Q. Were you ever able to obtain the materials  
 5 you were missing during that year?  
 6 A. No, I wasn't.  
 7 Q. Did you try?  
 8 A. Yes, I did.  
 9 Q. Can you tell me what efforts you undertook  
 10 to try to get those materials?  
 11 A. I asked around to see if anybody had the  
 12 ramps stashed away in their closet. I looked in the  
 13 other kits in the FOS -- in the room where we stored  
 14 the FOS kits to see if they had been stuck in the wrong  
 15 place and I believe I called the man at the District  
 16 warehouse that reordered materials for the kits, the  
 17 consumable materials, and asked if he had any ramps --  
 18 extra ramps, which he did not.  
 19 Q. Can you tell me who that individual was?  
 20 A. Don McKinney.  
 21 Q. Did you know what his title was?  
 22 A. No.  
 23 Q. Was he a district employee?  
 24 A. Yes.  
 25 Q. Did you ever ask Mr. McKinney to reorder the

1 materials you were missing from your kits?  
 2 A. We -- when we finished the lessons that we  
 3 did from the unit, we included on the -- there is a  
 4 little inventory sheet in it so she can replace the  
 5 consumables. We indicated we didn't have ramps.  
 6 Q. And that was at the end of the school year  
 7 or the end of the unit?  
 8 A. At the end of the unit.  
 9 Q. Did you indicate to him at any time prior to  
 10 that?  
 11 A. I think that we called to ask him if he had  
 12 ramps. I can't remember specifically.  
 13 Q. But you don't recall ever receiving those  
 14 materials?  
 15 A. No, I didn't get the ramps, no ramps. It  
 16 was very frustrating. The ramp part is really fun. It  
 17 is also the foundation of the motion part of the kit,  
 18 so --  
 19 Q. Just going back to the -- very briefly to  
 20 the '99/2000, 2000/2001 school years, did you ever have  
 21 any conversation with Mr. McKinney about the FOS kit  
 22 materials you were missing during those years?  
 23 A. No.  
 24 Q. Let's turn to social studies, during the  
 25 '98/'99 1st grade class you were teaching, can you tell

1 me what textbooks and instructional materials you used  
 2 to teach your students?  
 3 A. There were none.  
 4 Q. Do you know why?  
 5 A. The same reason as described for the year  
 6 before, the District had not adopted a social studies  
 7 program in some number of years.  
 8 Q. Did you, in fact, instruct your 1st grade  
 9 students in social studies during that year?  
 10 A. To the extent I was able to. I tried to  
 11 cover what was required in the framework using  
 12 materials that I created.  
 13 Q. Do you know whether any social studies --  
 14 any 1st grade social studies curriculum materials were  
 15 available at the school?  
 16 A. There were no materials. There had been --  
 17 nothing had been adopted for several years, therefore  
 18 there was nothing to use.  
 19 Q. Do you know whether other 1st grade teachers  
 20 had created a social studies curriculum to use with 1st  
 21 graders?  
 22 A. I don't know the specifics of what other  
 23 teachers might have created for their classes.  
 24 Q. Did you ever ask anybody whether such  
 25 materials exist at the school?

1 MS. MAJD: Objection. Vague.  
 2 THE WITNESS: As I recall, I asked Ms.  
 3 Sperber if there was a social studies program and was  
 4 told that the District had not adopted a program in the  
 5 last several years and that therefore there wasn't  
 6 curriculum materials.  
 7 MR. ROSENTHAL: Q. Did you ever have any  
 8 conversations with any other 1st grade teachers about  
 9 social studies materials?  
 10 A. I can't recall specifically.  
 11 Q. Do you recall ever having any conversations  
 12 with Ms. Naranjo-Hall with whom you shared a number of  
 13 materials?  
 14 MS. MAJD: Objection. Overbroad.  
 15 MR. ROSENTHAL: Q. This is with respect to  
 16 -- I'm sorry, with respect to instructing the class in  
 17 social studies, whether there were any curricular  
 18 materials that she used.  
 19 A. I think we worked on a community unit  
 20 together that year.  
 21 Q. What do you mean by that?  
 22 A. I think we -- as I recall, we went through  
 23 our individual classroom libraries and gathered up  
 24 whatever material we had available between the two of  
 25 us on topics related to communities and planned various

1 activities on that topic.  
 2 Q. Do you have any understanding as to how any  
 3 other 1st grade teachers instructed their class in  
 4 social studies during that year?  
 5 A. No, I don't.  
 6 Q. Did you find that the social studies program  
 7 that you developed during that year was effective at  
 8 teaching the students the materials you intended to  
 9 teach them?  
 10 MS. MAJD: Objection. Vague and calls for  
 11 speculation.  
 12 THE WITNESS: I know that I didn't cover  
 13 everything that was in the standards, in the  
 14 frameworks, because I didn't have the resources, the  
 15 materials, or the ability to purchase or create  
 16 necessarily or the time to spend designing the entire  
 17 units that should have been covered in the framework.  
 18 MR. ROSENTHAL: Q. Of the materials that  
 19 you did develop a program for and teach your students,  
 20 did you find that to be effective in that students were  
 21 instructed in the areas you desired to teach them in?  
 22 A. I think that some students were successful  
 23 and some students were not as successful.  
 24 Q. Do you know why that was the case?  
 25 A. Well, for example, one would want students



1 to be able to read in content areas at a  
2 developmentally appropriate level. It is very  
3 difficult to buy commercially texts that are at the  
4 emergent reader level unless they are coming from an  
5 academic publishing house and generally that kind of  
6 material comes as part of a curriculum, so I didn't  
7 have a lot of texts that the students could read for  
8 themselves in the content area which means that if the  
9 student was not an RL learner or higher level thinker,  
10 able to process -- you know, lecture or material in a  
11 format where they weren't actually reading it, they  
12 might not have had the same access.

13 Q. Let's move on to English language  
14 development. Can you describe for me the textbooks and  
15 instructional materials you used in connection with  
16 instructing your 1st grade class during the 1998/1999  
17 school year?

18 A. Same program, Hampton Brown ELD, just  
19 different level.

20 Q. Again, same program, different materials?

21 A. Yes.

22 Q. You list a number of items that were  
23 included in the Hampton Brown program for 2nd grade.  
24 Why don't you tell me the kinds of materials that were  
25 included in the 1st grade program.

1 whatever materials we had is what we had and we would  
2 have to share with roving classes or whatever since we  
3 couldn't stop more kids from coming in.

4 Q. Do you recall how many 1st grade classes  
5 there were during the 1998/1999 school year?

6 A. Specifically, no.

7 Q. Do you recall whether there were more or  
8 less classes during that year than there were the prior  
9 year?

10 A. My understanding is that there were more  
11 classes that year.

12 Q. At any point during the 1998/1999 school  
13 year, were additional materials obtained so that the  
14 sharing of materials between the two classes could end?

15 A. Not at least for my situation.

16 Q. Did it happen for other teachers?

17 A. I don't know.

18 Q. Did you ever hear that happened for other  
19 teachers during that year?

20 A. I did not hear that happened for other  
21 teachers.

22 Q. Were there other 1st grade classes that were  
23 sharing materials in a similar manner to the way you  
24 were during that year?

25 MS. MAJD: Calls for speculation.

1 A. The same material. It is six units a tape  
2 for each unit, a number of posters for each unit, ten  
3 content area reading books for each unit, the teacher's  
4 manual, and the language log workbook.

5 Q. And did you have a complete set of those  
6 materials during the 1998/1999 school year?

7 A. I shared the set of materials that belonged  
8 to Ms. Naranjo-Hall.

9 Q. And did you manage the sharing of those  
10 materials in the same way that you shared the materials  
11 with Ms. Naranjo-Hall in the other areas in which you  
12 shared?

13 A. Yes, we tried stagger our lessons so that we  
14 could each use a different part of the program. We  
15 didn't let the student books go home at all because  
16 there were only ten copies for 40 kids, so if one was  
17 lost, it would have been pretty detrimental.

18 Q. Did you ever hear the reason you had to  
19 share so many of your materials that year was because  
20 there had been a higher than anticipated enrollment of  
21 1st grade students in the school that year?

22 A. I was told since the student population at  
23 Hawthorne continued to increase since there was no  
24 enrollment cap and no way to control it, we had to  
25 accept the redirects from all the area schools; that

1 MR. ROSENTHAL: To you extent you know.

2 THE WITNESS: I don't know. I don't have a  
3 way of answering.

4 MR. ROSENTHAL: Q. With respect to all the  
5 books and instructional materials you used during the  
6 1998/1999 school year, did you have any concerns about  
7 those materials being outdated?

8 A. No.

9 Q. Did you have any concerns about any of those  
10 materials being in poor physical condition?

11 MS. MAJD: Vague.

12 THE WITNESS: No.

13 MR. ROSENTHAL: Q. Why don't we move on to  
14 your first year at Hawthorne which was 1997/1998 and I  
15 know you started out in a 1st and 2nd grade combination  
16 class and eventually took over a kindergarten class for  
17 the rest of the year; is that correct?

18 A. Yes.

19 Q. Can you describe for me the subject areas  
20 that you instructed your kindergarten class?

21 A. Spanish reading, math, science, ELD, PE.

22 Q. No social studies?

23 A. Social studies, yes.

24 Q. Can you tell me what books or instructional  
25 materials you used to instruct the class in Spanish

1 reading?  
 2 A. Same program, Cuentamundos, different  
 3 materials.  
 4 Q. And did you have a complete set of those  
 5 materials during that year?  
 6 A. Yes.  
 7 Q. Did you share those materials with any other  
 8 classes?  
 9 A. No.  
 10 Q. With respect to the 1st and 2nd grade  
 11 classes, the Cuentamundos Program came with some, what  
 12 we would call textbooks. Was that true in kindergarten  
 13 as well?  
 14 A. No, they just had a workbook thing.  
 15 Q. And did all students have their own copy of  
 16 the workbook?  
 17 A. Yes.  
 18 Q. Were they able to take that home with them?  
 19 A. No.  
 20 Q. Did you assign homework in kindergarten?  
 21 A. Yes.  
 22 Q. You are tough.  
 23 A. (Witness nods head.)  
 24 Q. Can you describe for me the textbooks and  
 25 instructional materials you used in connection with

1 and therefore there weren't adequate materials at the  
 2 beginning of the year.  
 3 Q. When you began teaching that kindergarten  
 4 class, did you inform somebody that you did not have  
 5 the Mathland manipulatives?  
 6 A. Yes.  
 7 Q. Do you recall who you informed?  
 8 A. Pretty sure it was Donna MacGee.  
 9 Q. Do you recall how she responded?  
 10 A. That they had been ordered and I would have  
 11 them when they got there.  
 12 Q. Now, when you say when you began teaching  
 13 the kindergarten class that year, you did not have the  
 14 manipulatives, did you have the other Mathland  
 15 materials at that time or did you have no Mathland  
 16 materials?  
 17 A. The only other thing for the kindergarten  
 18 program, as I recall, was the teacher's guide and I had  
 19 that.  
 20 Q. You had that when you began teaching the  
 21 class?  
 22 A. Yes.  
 23 Q. How about science, do you recall what  
 24 materials you used to instruct the kindergarten class  
 25 that year?

1 instructing that class in math?  
 2 A. Mathland.  
 3 Q. Were there Math Steps materials used during  
 4 that year as well?  
 5 A. No, Math Steps didn't appear until '99/2000.  
 6 Q. Did you have a complete set of the Mathland  
 7 materials for use in connection with that class?  
 8 A. I didn't have the manipulatives until, oh,  
 9 sometime around Christmas, I think.  
 10 Q. When you say you didn't have the  
 11 manipulatives, did you not have any of the  
 12 manipulatives until roughly Christmas?  
 13 A. I had none, correct.  
 14 Q. When you received the manipulatives in  
 15 roughly around Christmas, did you receive a complete  
 16 set of them?  
 17 A. Yes.  
 18 Q. Was it a new set that had just been  
 19 delivered?  
 20 A. Yes.  
 21 Q. Do you have an understanding as to why you  
 22 did not have the manipulatives prior to that?  
 23 A. My understanding is that it was because the  
 24 three kindergarten classes had been added, that there  
 25 had been a higher enrollment because of the redirects

1 A. FOS.  
 2 Q. Was the FOS kit you used during that year a  
 3 complete kit?  
 4 A. I think so.  
 5 Q. As you sit here today, do you remember any  
 6 items from the FOS kit being missing during that year?  
 7 A. Not that I recall.  
 8 Q. How about for ELD, do you recall what  
 9 materials you used to instruct the students in English  
 10 language development?  
 11 A. Hampton Brown ELD.  
 12 Q. And do you recall what materials came with  
 13 that program?  
 14 A. Same setup, six units, six tapes, posters,  
 15 ten copies of the book that was shared with the other  
 16 kindergarten class in the room.  
 17 Q. When you say it was shared with the other  
 18 kindergarten class, you are referring to -- strike  
 19 that.  
 20 Did you teach a full day of kindergarten  
 21 during that year?  
 22 A. No.  
 23 Q. Did you teach a morning class?  
 24 A. I taught the afternoon class.  
 25 Q. When you say that the materials were shared

1 with the other class, were you referring to the morning  
2 class that met in your classroom?

3 A. Yes.

4 Q. So when you used those materials, the class  
5 you were sharing with were not in session?

6 A. Right, except we had to share the teacher's  
7 manual.

8 Q. Did you have a complete set of the Hampton  
9 Brown ELD materials during that year?

10 A. Yes. Again, there was one copy of the  
11 workbook only.

12 Q. How about for social studies, were there any  
13 books or materials you used to instruct the  
14 kindergarten class in social studies during that year?

15 A. There was no social studies curriculum  
16 provided.

17 Q. Can you tell me how you taught the students  
18 in social studies that year?

19 A. Teacher-created units.

20 Q. During that year, did you have any concern  
21 about any of the materials you were using being  
22 outdated?

23 A. No.

24 Q. Did you have any concerns about the physical  
25 condition of any of the materials you used during that

1 Administration. There is a date on the side of it of  
2 something, 1930s WPA. That has ten or 12 classrooms, a  
3 cafeteria, and some office space.

4 There is a building called the Whitton  
5 Building which until the last -- sometime within the  
6 last ten years was actually a separate school. I don't  
7 know -- 12 to 15 classrooms in it. The school clinic  
8 is there and there is some office space.

9 There up until last year, there were 12  
10 classrooms in a small complex of modular buildings  
11 called the DCH Building, some of which were demolished  
12 due to mold infestation in the fall of 2000.

13 And then there are -- at the time I was  
14 there, there were a significant number of portables  
15 that had been placed on the school yard.

16 Q. Is that it?

17 A. Yes.

18 Q. Do you recall how many portables were  
19 located at Hawthorne during the four-year period you  
20 were there?

21 A. Somewhere in the neighborhood of 20.

22 Q. Was that true for the entire four-year  
23 period?

24 A. Yes, that number grew, actually.

25 Q. Did it start at a number below 20 and grow

1 year?

2 A. No.

3 Q. During the four years you spent at  
4 Hawthorne, were students ever charged any fees in  
5 connection with the education program at Hawthorne?

6 MS. MAJD: Calls for speculation.

7 MR. ROSENTHAL: To the extent you know.

8 THE WITNESS: No.

9 MR. ROSENTHAL: Q. Did you ever require  
10 your students to pay any fees in connection with any of  
11 the classes you taught?

12 A. No.

13 MR. ROSENTHAL: This would be a good  
14 breaking point if you want to take lunch. It is up to  
15 you guys.

16 THE WITNESS: Fine.

17 MR. ROSENTHAL: Let's do it now.

18 (Recess taken.)

19 MR. ROSENTHAL: Q. Now, Ms. Salyer, I would  
20 like to shift gears a little bit now and start focusing  
21 on some of the facilities at Hawthorne Elementary. Can  
22 you describe for me the physical structures that make  
23 up Hawthorne Elementary?

24 A. Yes. There is a building called the  
25 Hawthorne Building, which dates back to Works Progress

1 to 20 or did it start at 20 and grow to a number  
2 greater?

3 A. It started at 20 and increased as temporary  
4 portables were brought in.

5 Q. Do you recall how many portables there were  
6 at the school at the end of your last year there?

7 A. Somewhere roughly between 30 and 40.

8 Q. Just so I'm clear, when you started at  
9 Hawthorne in '97/'98, in the beginning of that year,  
10 were there approximately 20 portables at the school at  
11 that time?

12 A. Approximately.

13 Q. Can you describe for me how the number  
14 increased between 30 and 40 during the four-year time  
15 you were there?

16 A. In -- during the 1999/2000 school year, the  
17 Hawthorne and Whitton Buildings were -- went through a  
18 process described as modernization. There was some  
19 maintenance being done on those buildings. Since  
20 Hawthorne is a year-round school, that maintenance  
21 could not be undertaken during the summer when students  
22 were not present. The classes in those buildings had  
23 to be moved out of the building so that construction  
24 could happen during school since it was a year-round  
25 school, so temporary trailer portables were brought in

1 and placed on the yard to house those classes in  
 2 shifts. First the classes moved out of Hawthorne into  
 3 the temporary portables. When Hawthorne was finished,  
 4 the classes moved back and the classes moved out of  
 5 Whitton into the temporary portables, then those  
 6 classes moved back. The temporary portables stayed for  
 7 the next academic year 2000/2001 because the DCH  
 8 Building was found to be so infested with carcinogen  
 9 mold that portions had to be demolished and those  
 10 classes then had to be relocated and were put into the  
 11 temporary portables.

12 Q. Do you know if any portables were added to  
 13 the campus as a result of the increasing student  
 14 population of the school?

15 A. I don't -- I can't separate if it was -- how  
 16 separated it was. Yes, portables were added because of  
 17 the increase in student population at the same time as  
 18 the mold issue, so I was trying to sort out which were  
 19 for what.

20 Q. When you say it was at the same time as the  
 21 mold issue, are you referring to the 2000/2001 school  
 22 year?

23 A. Yes.

24 Q. Do you know whether any portables were added  
 25 to the campus as a result of the class size reduction

1 each. So total number of stalls for boys and girls  
 2 each were about 20.

3 Q. Were there any bathrooms located in the DCH  
 4 Building?

5 A. Yes, there were. Before it was demolished,  
 6 there were six student bathrooms in the DCH Building  
 7 that was demolished for eight classes.

8 Q. When you say there were six student  
 9 bathrooms, were there six bathrooms physically attached  
 10 to a particular classroom?

11 A. The way it was set up is there was a  
 12 bathroom between these two classes, a bathroom between  
 13 these two classes, and a bathroom between these two  
 14 classes.

15 Q. And one each for boys and girls?

16 A. They were unisex bathrooms. They had, I  
 17 think, three stalls and a urinal or maybe they had just  
 18 four stalls. I tried to stay out.

19 Q. Just so I'm clear, when you say there were  
 20 six student bathrooms, there were six student bathrooms  
 21 that were shared by 12 classes?

22 A. There were three. That was a misstatement.  
 23 There were three unisex bathrooms shared by six  
 24 classes.

25 Q. During your four years at Hawthorne, did you

1 that occurred?

2 A. I don't know. That was before I was at  
 3 Hawthorne.

4 Q. Can you tell me how many bathrooms are  
 5 located at Hawthorne?

6 MS. MAJD: Calls for speculation.

7 MR. ROSENTHAL: To the best of your ability.

8 THE WITNESS: There are boys' and girls'  
 9 bathroom facilities in the Hawthorne Building that had,  
 10 to the best of my recollection, five to six stalls in  
 11 each. There were -- there was one classroom in the  
 12 Hawthorne Building that had a bathroom for the  
 13 kindergarten students. In the Whitton Building, there  
 14 were bathrooms for the boys and girls that, again, had  
 15 five to six stalls each. There were some bathrooms  
 16 located in classrooms that were not used because  
 17 custodial services said they couldn't clean them and  
 18 there were -- there's one bathroom that I'm aware of in  
 19 the kindergarten classroom in that building that was  
 20 used. There were not bathrooms in the portable  
 21 buildings with the exception of one that I'm aware of  
 22 that was designed to be a special education portable.  
 23 There were -- there was a portable building that had  
 24 bathroom facilities in it located on the Hawthorne  
 25 yard, one for boys, one for girls, five to six stalls

1 have any concerns about the number of bathrooms  
 2 available to students?

3 A. Yes, I did.

4 Q. Can you describe those concerns for me?

5 A. Hawthorne had 1,000 children on the site at  
 6 any given time, 1,400 total over the course of the year  
 7 12 months out of the year. With no more than, say, 30  
 8 physical toilets available to 1,000 children at any  
 9 given time, I felt that that was an extremely low  
 10 number, a low toilet-to-student ratio, if you will. It  
 11 meant there were lines to use the bathroom. It meant  
 12 that if a -- if there was any kind of sewage problem,  
 13 that -- you know, a quarter to a third of the available  
 14 toilets were not available. It meant that 1,000  
 15 children using that few toilets created a cleaning  
 16 issue that was difficult to resolve.

17 Q. I want to clarify one thing. A little  
 18 earlier you said there was approximately 20 stalls  
 19 available for the boys and 20 stalls available for the  
 20 girls, which if my math is right, totals 40 and just a  
 21 moment ago you said 30. I want to get a clarification  
 22 there.

23 A. There were three sets of bathrooms that were  
 24 accessible to all students, say, at recess -- well,  
 25 there were two sets of bathrooms accessible to all

1 students at recess. There was one set of bathrooms in  
2 the Whitton Building accessible to students in classes  
3 in that building only during class time. Each of those  
4 bathrooms had about six toilets for girls and six  
5 toilets for boys, so that would -- we missadded. There  
6 would be 12, plus 12, plus 12. That would be 34.

7 MS. MAJD: 36.

8 THE WITNESS: 36, right. So I teach 1st  
9 grade. There were then a very few number of toilets in  
10 a very few classrooms which would bring the total to  
11 somewhere near 40.

12 MR. ROSENTHAL: Q. Just one further  
13 clarification, when you are referring to stalls, are  
14 you including urinals in that count as well?

15 A. Yes, a fixture available for a child to  
16 perform in, whatever that fixture might be.

17 Q. When you said that one of the concerns you  
18 had about the number of bathrooms was that there were  
19 lines to use the bathrooms, can you describe for me how  
20 frequently there were lines?

21 MS. MAJD: Objection. Overbroad. Vague as  
22 to which bathroom.

23 THE WITNESS: My experience was that if  
24 there were the 1st, 2nd, and 3rd grade classes out at  
25 recess, there would be 12 toilets for girls and 12

1 Q. Do you remember there being any periods of  
2 time during your four years at Hawthorne in which any  
3 of the bathrooms were not available for students to  
4 use?

5 A. Yes.

6 Q. Can you describe for me those instances?

7 A. The portable bathroom located on the yard  
8 which was intended to serve as the primary bathroom  
9 during recesses and also was the bathroom available to  
10 students in the portables to use, the drainage system  
11 was not appropriately designed. It frequently backed  
12 up and therefore on a weekly basis would be closed for  
13 a day. During the time the Hawthorne Building was  
14 undergoing modernization, those bathrooms were not  
15 available for a period of almost four months. During  
16 the time that the Whitton Building was undergoing  
17 modernization, those bathrooms were not available for a  
18 period of close to four months. Once the DCH Building  
19 was demolished, those bathrooms ceased to exist and  
20 there were no additional bathrooms to replace them  
21 until new modulars -- until that site was prepared and  
22 new modulars were put there and two toilets were added.

23 Q. Now, you said that the bathroom facility,  
24 what I'll call the -- if I call it the portable  
25 bathroom facility, will you understand what facility

1 toilets for boys. However, there would be several  
2 hundred children out on the yard. I would see kids  
3 waiting at the bathroom to be able to use the stall on  
4 a daily basis.

5 MR. ROSENTHAL: Q. Can you estimate for me  
6 how many student -- how long the line was to use the  
7 bathroom in these instances?

8 A. No, I can't provide an estimate.

9 Q. Do you remember seeing a certain number of  
10 children in line?

11 A. It could have been anywhere from two or  
12 three to ten or 12.

13 Q. Do you remember any instances in which a  
14 student was not able to use the bathroom because of a  
15 line?

16 MS. MAJD: Calls for speculation.

17 THE WITNESS: There were times when students  
18 would ask to go to the bathroom during class and I  
19 would say, "Why didn't you go at recess?"

20 And they would say, "It was too crowded and  
21 the bell rang before I got to go."

22 MR. ROSENTHAL: Q. In those instances, did  
23 you allow the children to go to the bathroom at that  
24 time?

25 A. Yes, during class time.

1 I'm referring to?

2 A. I will.

3 Q. With respect to the portable bathroom  
4 facility, you stated that it would be closed for about  
5 a day on a weekly basis. When that bathroom was  
6 closed, were there repairs done to the bathroom, to the  
7 best of your knowledge, that enabled the bathroom to be  
8 reopened?

9 A. To the best of my knowledge, since it was,  
10 in fact, reopened. There was nothing changed in the  
11 system that caused the backup in the first place. It  
12 was simply that the blockage was cleared by whatever  
13 means the custodians were able to employ.

14 Q. Now, you said that the portable bathroom  
15 facility was closed during -- for roughly four months  
16 when the Hawthorne modernization was occurring. Do you  
17 have an understanding as to why that was the case?

18 A. No, the portable bathroom was not closed.  
19 The Hawthorne bathrooms were closed.

20 Q. I misunderstood. I'm sorry.

21 A. Yes.

22 Q. When that entire building was closed --

23 A. Those bathrooms were unavailable which were  
24 also bathrooms that were used during recess or if the  
25 portable bathrooms were backed up. They were

1 accessible from the outside.

2 Q. Do you ever recall the portable bathroom  
3 facilities being closed for more than a day at a time?

4 A. I think there may have been a couple  
5 occasions where one or the other was closed for two or  
6 three days.

7 Q. In the instances when the portable bathroom  
8 facilities were closed, where did students who were  
9 having their recess go to the bathroom?

10 MS. MAJD: Calls for speculation.

11 MR. ROSENTHAL: To the extent you know.

12 THE WITNESS: The only bathroom that was  
13 available to them were those that were in the Hawthorne  
14 building.

15 MR. ROSENTHAL: Q. And when the portable  
16 bathroom facilities were closed for a day or two on  
17 occasion, where did the students who were located in  
18 the portable classrooms go to the bathroom?

19 MS. MAJD: Same objection.

20 THE WITNESS: Do you mean during the time  
21 that Hawthorne was closed for modernization or just  
22 sort of on a regular basis during a regular period of  
23 time?

24 MR. ROSENTHAL: Q. I'm referring to the  
25 portable bathroom facility. You said that was the

1 A. No.

2 Q. You described for me earlier some of the --  
3 you described for me that the portable bathroom  
4 facility had to be closed on occasion because of some  
5 sewage problems. Were there any similar problems that  
6 occurred with respect to any of the other bathroom  
7 facilities that you are aware of?

8 A. I can recall the Hawthorne bathrooms having  
9 to be closed occasionally because of a backup.

10 Q. Do you recall about how frequently that was?

11 A. Once every three months.

12 Q. And in those instances, to the best of your  
13 knowledge, were the bathrooms repaired?

14 A. Yes.

15 Q. Do you recall whether they were repaired in  
16 a timely fashion?

17 MS. MAJD: Objection. Vague.

18 THE WITNESS: Within a couple of days.

19 MR. ROSENTHAL: Q. Do you ever remember any  
20 occasions taking longer than a couple of days?

21 A. Not that I recall.

22 Q. Other than the Hawthorne bathroom and the  
23 bathrooms in the portable facility, do you recall there  
24 being any other backing up or sewage problems with  
25 respect to any of the other bathrooms at Hawthorne?

1 primary bathroom that students in the portable  
2 classrooms used.

3 A. Right.

4 Q. When those bathrooms were unavailable, can  
5 you tell me which bathrooms they used?

6 A. They would either have to go to the  
7 Hawthorne Building or the Whitton Building.

8 Q. Do you ever remember any occasions during  
9 your four years at Hawthorne where there were -- strike  
10 that.

11 Do you ever remember any occasions at  
12 Hawthorne when the portable bathroom facility was  
13 closed that another bathroom facility was also closed?

14 MS. MAJD: Calls for speculation.

15 THE WITNESS: There would have been the time  
16 during modernization when alternately the Hawthorne and  
17 Whitton Building were closed, the bathrooms  
18 unavailable, the portable bathrooms could have  
19 experienced a backup, likely did, so that would have  
20 further limited students' access to a bathroom.

21 MR. ROSENTHAL: Q. Did you ever remember  
22 any occasion at Hawthorne in which there were no open  
23 bathrooms for students to use?

24 A. No.

25 Q. For whatever reason?

1 A. I don't have knowledge of the Whitton  
2 bathrooms. I was rarely at that end of that building.  
3 It is not a bathroom that my students ever used because  
4 it was for older kids.

5 Q. Did you ever hear of any problems regarding  
6 the functioning of the bathrooms in the Whitton  
7 Building?

8 A. I don't recall.

9 Q. Other than the backing up and sewage  
10 problems we've discussed, do you recall there being any  
11 other problems with respect to any of the bathroom  
12 facilities not functioning?

13 A. They were frequently out of toilet paper,  
14 and soap, and paper towels, which to me is a  
15 functionality issue.

16 Q. How about the actual fixtures themselves,  
17 any other problems with the fixtures that you haven't  
18 already told me about?

19 A. Not that I'm aware of.

20 Q. Let's discuss the bathroom supply issue that  
21 you just pointed to. Did you have any concerns about  
22 the supplies available in the bathrooms at Hawthorne?

23 A. Yes.

24 Q. Can you describe those concerns for me?

25 A. They frequently lacked toilet, paper towels,

1 and soap.

2 Q. When you say, "Frequently," can you estimate  
3 how frequently that occurred?

4 A. About daily.

5 Q. Is that true for all three of those items  
6 you described?

7 A. Yes.

8 Q. Do you have an understanding as to -- strike  
9 that.

10 Do you know whether the bathrooms at  
11 Hawthorne were stocked with supplies on any kind of  
12 basis?

13 A. I don't know what the custodial schedule for  
14 stocking was.

15 Q. Was it your understanding that the custodial  
16 staff were responsible for stocking the bathrooms with  
17 these materials?

18 MS. MAJD: Objection. Calls for a legal  
19 conclusion. Calls for speculation.

20 THE WITNESS: My understanding is that that  
21 was part of their duties, provided that the materials  
22 existed for them to stock the bathroom with.

23 MR. ROSENTHAL: Q. Did you ever hear how  
24 frequently custodians stocked bathrooms with these  
25 materials?

1 A. I would send the student -- usually it would  
2 be a friend. The students went to the bathroom in  
3 pairs. The friend would come back and say, "There is  
4 no toilet paper."

5 I would send Kleenex, my Kleenex.

6 Q. Was a lack of supplies particular to any  
7 bathroom at Hawthorne or was it more -- was it a  
8 problem in all the bathrooms, to the extent you know?

9 A. To the extent I'm aware of and my  
10 experiences, it was related to all the bathrooms.

11 Q. Were there any faculty bathrooms at  
12 Hawthorne?

13 A. Yes.

14 Q. Do you know how many of those there are?

15 A. Prior to modernization, there were two --  
16 wait, two women's stalls -- three women's stalls spread  
17 out between the school and two unisex stalls spread  
18 out. I'm sorry, increase that number by one for each  
19 of those.

20 Q. Four stalls for women, three unisex?

21 A. Four stalls for women, two unisex, one  
22 men's.

23 Q. Very good. Thank you. Do you recall there  
24 being any sewage or backup problems with respect to any  
25 of the faculty bathrooms during your four years at

1 A. No.

2 Q. How did you become aware that the bathrooms  
3 were lacking these items on occasion?

4 A. The students would tell me or I would go  
5 into the bathrooms.

6 Q. Do you recall any instances when students  
7 would tell you some of these -- one or any of these  
8 items were missing early in the day?

9 A. Yes.

10 Q. Was it your experience that these items were  
11 lacking in the bathrooms more frequently towards the  
12 end of the day?

13 A. No.

14 Q. What did do you when a student told you that  
15 the bathroom did not have one of these items?

16 A. The next time I was in the office, I would  
17 leave a note in Ms. Sperber's mailbox.

18 Q. Did you ever try to call one of the  
19 custodians?

20 A. I did not have access to communication with  
21 the custodians or the office at Hawthorne School.

22 Q. Other than leaving a note for Ms. Sperber,  
23 did you take any other steps in an effort to remedy the  
24 situation where a student would come back and say, "Ms.  
25 Salyer, the bathroom has no toilet paper," for example?

1 Hawthorne?

2 A. Occasional backups.

3 Q. Less frequently than the student bathroom  
4 problems?

5 A. Yes.

6 Q. Do you recall there being any shortages of  
7 bathroom supplies in the faculty bathrooms during your  
8 four years at Hawthorne?

9 A. Yes.

10 Q. Can you tell me about those?

11 A. All three items, daily basis.

12 Q. Did you ever have any -- I know you have  
13 testified that you would occasionally leave Ms. Sperber  
14 a note when there were instances that supplies were  
15 missing. Did you have any other communications with  
16 anybody about the lack of supplies in the bathrooms  
17 over the four years you were at Hawthorne?

18 A. If I happened to see a custodian during  
19 recess or lunch, I would mention to that person  
20 whichever bathroom that I was aware of was lacking  
21 supplies. Aside from leaving a note for Ms. Sperber, I  
22 would tell the school's secretaries if I were in the  
23 office and had the opportunity to speak to them.

24 Q. On the instances when you would tell a  
25 custodian about a shortage of a supply, did they

1 respond in some way?  
 2 A. Yes.  
 3 MS. MAJD: Calls for speculation.  
 4 THE WITNESS: Respond as in verbal  
 5 acknowledgment or respond in attempt to do something  
 6 about it?  
 7 MR. ROSENTHAL: Well, let's start with what  
 8 they said to you.  
 9 THE WITNESS: Sometimes the response was,  
 10 "We're out of" -- you know, "X." Sometimes the  
 11 response was, "I'll get it over there as soon as I  
 12 can."  
 13 MR. ROSENTHAL: Q. And do you know whether  
 14 any custodians replenished the supplies of materials  
 15 that you informed them were missing?  
 16 A. I would know less about the student  
 17 bathrooms -- I mean, unless the kids had reported to  
 18 me. In the teacher bathrooms, if I were in that  
 19 particular bathroom again later that day, I would see  
 20 if paper towels had been replaced or not been replaced.  
 21 Q. Was it your experience that those items were  
 22 replaced after you had those conversations with  
 23 custodians?  
 24 MS. MAJD: Vague as to which bathrooms.  
 25 THE WITNESS: In both instances for

1 students' and teacher bathrooms, sometimes there were  
 2 replacement items available, sometimes there weren't.  
 3 MR. ROSENTHAL: Q. Did you have any  
 4 concerns about the physical condition of the student  
 5 bathrooms at Hawthorne?  
 6 A. Yes.  
 7 Q. Can you describe for me those concerns?  
 8 A. The bathrooms that served large numbers of  
 9 children, specifically the portable bathrooms and the  
 10 Hawthorne Building bathrooms, since those are the ones  
 11 I had the most frequent contact with, were frequently  
 12 not particularly clean in addition to lacking the  
 13 supplies. When I -- the two years when I had a  
 14 classroom in the DCH Building, the bathroom that I  
 15 shared with the room next to me had no ventilation, had  
 16 rust on the metal stall walls, and had mold growing in  
 17 various places.  
 18 Q. When you say the -- strike that.  
 19 When you refer to the portable bathroom  
 20 facility in the Hawthorne bathroom facility as being  
 21 not clean, can you describe for me what you mean by  
 22 that?  
 23 A. Toilets dirty, sinks dirty, floors dirty.  
 24 Q. And do you recall that being the case at the  
 25 start of the school day on occasion?

1 A. Yes.  
 2 Q. Do you know whether the student bathrooms  
 3 were cleaned on a regular basis at Hawthorne?  
 4 MS. MAJD: Objection. Vague as to  
 5 "regular."  
 6 THE WITNESS: My understanding, based on  
 7 conversations with the administration as part of the  
 8 faculty council and part of the leadership team, is  
 9 that the bathrooms were to be cleaned nightly by the  
 10 night custodial crew. There was one head night  
 11 custodian and then a variety of temps that were  
 12 responsible for maintaining all of the facilities.  
 13 MR. ROSENTHAL: Q. Do you remember how  
 14 many -- do you know how many total custodians were on  
 15 the night cleaning crew?  
 16 A. I believe it was three to four.  
 17 Q. Was there a separate day custodial staff at  
 18 Hawthorne?  
 19 A. Yes.  
 20 Q. Do you recall how many custodians made up  
 21 that crew?  
 22 A. Two.  
 23 Q. And were both of those custodians at the  
 24 school site all day?  
 25 MS. MAJD: Calls for speculation.

1 MR. ROSENTHAL: To the extent you know.  
 2 THE WITNESS: To the extent I know, based on  
 3 observation, the custodial crew of two to cover the  
 4 whole campus worked from about 7:00 -- I mean, maybe,  
 5 6:30 to 3:00.  
 6 MR. ROSENTHAL: Q. You said that it came to  
 7 be your understanding that the bathrooms were to be  
 8 cleaned by the night crew on a daily basis. Was it  
 9 your belief that that occurred?  
 10 A. It is my belief that occurred the majority  
 11 of the time. However, I know that there were times I  
 12 was told that because there was an absence and there  
 13 wasn't a replacement custodian sent, that a certain  
 14 section of the school did not get cleaned.  
 15 Q. Other than there being an absent custodian,  
 16 do you recall -- are you aware of any other instances  
 17 in which the bathrooms were not cleaned on a nightly  
 18 basis?  
 19 A. Not to my knowledge.  
 20 Q. Was it your experience that the bathrooms  
 21 were cleaned adequately by the night custodian crew?  
 22 MS. MAJD: Objection. Vague. Calls for  
 23 speculation.  
 24 THE WITNESS: I believe that the night crew  
 25 did the best job that they could considering that they



1 were trying to clean facilities that were being used by  
2 1,000 children -- up to 1,000 children during the day.

3 MR. ROSENTHAL: Q. Do you recall there  
4 being any bathroom at Hawthorne that you would describe  
5 as being not clean at the start of the day after the  
6 night crew had cleaned that bathroom?

7 A. I don't recall that ever happening on a  
8 regular basis. There may be because of an absence or  
9 something, but not as a rule, no.

10 Q. Do you know whether the night custodial  
11 staff were responsible for cleaning the faculty  
12 bathrooms?

13 MS. MAJD: Calls for a legal conclusion.

14 THE WITNESS: To the best of my knowledge,  
15 yes, they were. That was part of their duties.

16 MR. ROSENTHAL: Q. Do you recall any of the  
17 faculty bathrooms being not clean at the start of a  
18 school day?

19 A. On occasions when there was someone missing  
20 from the night custodial crew, yes.

21 Q. Was it your understanding that when somebody  
22 was missing, that the reason these bathrooms were not  
23 clean is because they were not cleaned that night?

24 A. Yes.

25 Q. Was it your experience that when the night

1 conversation with Ms. Sperber in this regard?

2 A. X bathroom isn't clean. X bathroom is  
3 missing this. Why are the bathrooms so frequently  
4 closed, et cetera. These conversations would have  
5 occurred as part of a faculty council meeting or part  
6 of a leadership team meeting, et cetera.

7 Q. Did Ms. Sperber ever offer any explanations  
8 as to why the bathrooms were not always clean?

9 A. Generally it was related to lack of adequate  
10 custodial staff to serve the needs of a school at  
11 1,400.

12 Q. Any other reasons?

13 A. The supply issue of not having the supplies.

14 Q. You mentioned Mr. Bowen. I think you may  
15 have mentioned him before. What was his title again?

16 A. Vice principal.

17 Q. Do you recall the substance of the  
18 conversations you had with him?

19 A. Same.

20 Q. Were these at the same meetings that you  
21 just described?

22 A. It would have depended upon which  
23 administrator was attending that particular meeting on  
24 that particular day. It could have been one of the  
25 three. It could have been two out of the three. It

1 custodial crew did clean the faculty bathroom that they  
2 did a good job at it?

3 MS. MAJD: Vague.

4 THE WITNESS: They didn't clean a bathroom  
5 as well as I clean my bathroom at home, but given the  
6 number of facilities, classrooms, hallways, cafeterias,  
7 et cetera that had to be cleaned by a crew of only  
8 four, I would say they probably did what they could  
9 manage.

10 MR. ROSENTHAL: Q. Do you ever remember  
11 there being garbage on the floor at the start of the  
12 school day in one of the faculty bathrooms that had not  
13 been picked up?

14 A. Not that I recall.

15 Q. Did you ever have any conversations with any  
16 of the administration at Hawthorne regarding the  
17 cleaning of school bathrooms?

18 A. Yes.

19 Q. Can you tell me who you had conversations  
20 with?

21 A. Susan Sperber, Michael Bowen, Antonio  
22 Jimenez. That is probably it.

23 Q. Were these separate conversations?

24 A. Yes.

25 Q. Can you tell me the substance of your

1 could have been all three.

2 Q. Did you raise concerns about the cleanliness  
3 of bathrooms outside the context of faculty meetings  
4 and things like that?

5 A. In notes to Ms. Sperber.

6 Q. Anything else besides the meetings and the  
7 notes?

8 A. Possibly in passing conversation, but not  
9 that I can recall specifically.

10 Q. Was it Mr. Jimenez, the third person?

11 A. Uh-huh; yes.

12 Q. Was Mr. Jimenez also a vice principal?

13 A. Yes.

14 Q. Do you have -- do you know whether the  
15 custodial staff at Hawthorne was changed at any point  
16 during the four years you were there?

17 A. On the day crew, we got a new head day  
18 custodian the last year I was there, so in 2000. The  
19 second day custodian was one guy for the first two  
20 years I was there and then it was a different gentleman  
21 the second two years I was there.

22 Q. Do you have an understanding as to why the  
23 custodial staff, the day custodial staff, changed  
24 during the time you were there?

25 A. No.

1 Q. Do you know whether any of the custodians  
2 who worked on the day staff were fired?  
3 MS. MAJD: Objection. Calls for  
4 speculation.  
5 THE WITNESS: I would have no knowledge of  
6 that.  
7 MR. ROSENTHAL: Q. How about on the night  
8 crew, do you know whether that crew changed over time?  
9 A. There were some changes. I don't know. The  
10 night crew changed more frequently. There was one  
11 person who was there, I think, all four years I was  
12 there. There was maybe two people. The other two were  
13 constantly changing.  
14 Q. Do you have any understanding as to why the  
15 night crew changed over the four-year period?  
16 A. No.  
17 Q. Did any of the individuals you raised the  
18 cleanliness issue with tell you any steps they were  
19 taking to remedy the situation?  
20 A. Yes, Ms. Sperber had meetings with the head  
21 of custodial services and with the union, some person  
22 from their -- the custodians', whatever union they  
23 belong to, in order to try to figure out staffing and  
24 scheduling so that the facility could be cleaned to the  
25 best of the ability of the people who were there.

1 Q. Do you recall whether custodial services  
2 improved as a result of Ms. Sperber's efforts?  
3 MS. MAJD: Calls for speculation.  
4 THE WITNESS: I couldn't say.  
5 MR. ROSENTHAL: Q. Do you have an opinion  
6 one way or the other?  
7 A. No.  
8 Q. Do you recall who the head of custodial  
9 services was?  
10 A. I have no idea.  
11 Q. Is that somebody at the District office?  
12 A. Yes. All this bathroom talk, I have to go  
13 to the bathroom.  
14 (Recess taken.)  
15 MR. ROSENTHAL: Q. Ms. Salyer, for the past  
16 few minutes, we've been discussing some concerns you've  
17 had about the bathrooms you've had at Hawthorne. Are  
18 there any additional concerns you have about the  
19 bathrooms that we haven't discussed?  
20 A. Just the mold in my classroom bathroom.  
21 Q. And that was the bathroom in the class that  
22 you had in the DCH Building?  
23 A. Yes.  
24 Q. Was mold an issue in the classroom and the  
25 bathroom or was it limited to the bathroom?

1 A. It was an issue throughout the entire  
2 building.  
3 Q. Why don't we put that aside and we'll come  
4 back to that a little later. Other than that  
5 additional mold issue, any other concerns about the  
6 bathrooms that you have that we haven't discussed?  
7 A. Not that occur to me at this time.  
8 Q. Did you have any concerns about -- strike  
9 that.  
10 Was there any air-conditioning at Hawthorne  
11 Elementary?  
12 A. In some classrooms; there was not in the  
13 majority of the school.  
14 Q. Can you tell me which classes did have  
15 air-conditioning?  
16 A. I believe only the classes in one of the  
17 buildings that made up the little complex of the DCH  
18 Building in one of the modulars.  
19 Q. Any other classes besides part of the DCH  
20 Building that had air-conditioning, to your knowledge?  
21 A. I don't believe any other room had  
22 air-conditioning.  
23 Q. How about heating, was there heating in the  
24 classrooms at Hawthorne?  
25 A. Yes, in different -- each area of the school

1 had a different type of heating system, yes.  
2 Q. But was there heating in each class?  
3 A. There was a heating unit, whether or not it  
4 was functional, but yes.  
5 Q. Did you have any concerns regarding either  
6 the heating or air-conditioning at Hawthorne over the  
7 four years you taught there?  
8 A. Yes.  
9 Q. Can you describe those concerns for me?  
10 A. Children in portables on the Hawthorne yard  
11 were subjected to extreme heat in the summer. Because  
12 Hawthorne was a year-round school, we were in session  
13 during times when schools normally are closed and heat  
14 isn't an issue, particularly July and August and early  
15 September. The portables on the Hawthorne yard were of  
16 a vintage that they were not -- they were metal boxes,  
17 most of them. They did not have any kind of cooling  
18 system. They had very limited windows that could be  
19 opened to provide ventilation and the recorded  
20 temperatures in those rooms at times reached over 100  
21 degrees. Additionally, the classrooms in the Hawthorne  
22 and Whitton buildings did not have any type of cooling  
23 system. The -- one of the modular buildings as part of  
24 the DCH complex housed four classes and did not have  
25 any type of cooling system and did not have any windows

1 that could be opened. Maybe there was one window for  
2 each classroom over the door that could be opened.

3 Q. I'm going to shift gears for one second. I  
4 know you taught at Hawthorne for four years. Can you  
5 tell me where each one of your classrooms was located  
6 for each of those classes?

7 A. Uh-huh; in '97/'98, I was in a portable for  
8 a month in September, one of the metal box portables on  
9 the yard, and then in October of that year, I moved  
10 into the Hawthorne Building. In '98/'99 and '99/2000,  
11 I was in the DCH Building in the larger of the three  
12 buildings in that little complex and then the last  
13 year, 2000/2001, I was in a temporary portable located  
14 on the yard.

15 Q. You said in '97/'98 you were in a portable  
16 for September. Was that when you were briefly teaching  
17 a 1st and 2nd grade combination class?

18 A. Yes.

19 Q. And then you moved to the Hawthorne Building  
20 where your kindergarten class was located?

21 A. Yes.

22 Q. And during the middle two years you taught  
23 at Hawthorne, you were in the DCH Building. Were you  
24 in the same classroom for those two years?

25 A. Yes.

1 A. Right.

2 Q. Do you remember the highest temperature  
3 recorded in that class during the time you spent there?

4 A. Mid '90s.

5 Q. Do you recall how you heard that some  
6 classrooms reached 100 degrees or more?

7 A. It was discussed at faculty meetings, at  
8 faculty council meetings, at the lunch table in the  
9 lunchroom. It was discussed amongst teachers whenever  
10 we gathered. Classes had posted on their doors what  
11 the temperature was inside. Some classes kept an  
12 hourly log of what the temperature was.

13 Q. Do you recall which classes recorded such  
14 temperatures?

15 A. Gabriella Gonzales, Jeffrey Lowenstein,  
16 Karen Nierlich, possibly Debbie Sullivan, possibly  
17 Phyllis Klein.

18 Q. Any other classes you can think of?

19 A. Not that I can recall specifically.

20 Q. Were all of those classes classes that met  
21 in portables?

22 A. Yes.

23 Q. Can you estimate for me in the classes you  
24 taught how often the classroom temperature became  
25 unbearably hot in your mind?

1 Q. Was there a classroom number?

2 A. DCH 4.

3 Q. How about for the kindergarten class in the  
4 Hawthorne Building?

5 A. H 7.

6 Q. Do you remember if the portable you were in  
7 in '97/'98 --

8 A. I think it was P 30. It could have been 28.

9 It could've been 29. I think it was P 30.

10 Q. And how about last year?

11 A. I was in P 13.

12 Q. You said a little while ago that the  
13 temperature in some classrooms reached over 100  
14 degrees. Can you tell me what that is based on?

15 A. Several of the classes put up a thermometer  
16 to measure the interior temperature of their rooms so  
17 that information could be recorded, shared at faculty  
18 council, shared with the union, shared with the  
19 administration of the school, shared with the District  
20 through whatever venues were available.

21 Q. Did you have a thermometer in any of your  
22 classrooms?

23 A. I had one in whatever portable that was  
24 P whatever, P 30.

25 Q. That was during 1998?

1 A. When I was in the portable -- when I was in  
2 P 30 in the fall of '97, it was unbearably hot on a  
3 daily basis. When I was in H 7, it was unbearably hot  
4 for -- let's see, we were in school over that summer  
5 for 60 days, probably for 30 of those days. When I was  
6 in DCH 4, the air conditioner was dysfunctional. It  
7 was probably unbearably hot ten to 20 days.

8 Q. I'm going to interrupt you for one second.

9 I think you said DCH 4. I thought previously you said  
10 DCH 3, unless I misheard.

11 A. No, it is 4.

12 MS. MAJD: No, she said 4.

13 MR. ROSENTHAL: Okay. You can continue.  
14 I'm sorry.

15 THE WITNESS: Temporary portable had -- P 13  
16 had air-conditioning. It was fine.

17 MS. MAJD: Can we go off the record.

18 (Recess taken.)

19 MR. ROSENTHAL: Q. Just so I'm clear, you  
20 said portable 13 in which you were in last year, that  
21 had air-conditioning?

22 A. Yes.

23 Q. Were there other portables at Hawthorne that  
24 also had air-conditioning?

25 A. Only the temporary portables that were

1 brought in during the modernization period and were  
 2 retained when the DCH classrooms were demolished.  
 3 Q. Do you remember how many of those were at  
 4 the school?  
 5 A. Ten.  
 6 Q. And all of them had air-conditioning?  
 7 A. Of those ten, they all had air-conditioning  
 8 units. Those units did not necessarily function.  
 9 Q. Did the unit you had function?  
 10 A. Yes.  
 11 Q. Did you have any problems with it during the  
 12 school year?  
 13 A. Problem with the heating element.  
 14 Q. No problems with the air-conditioning  
 15 aspect?  
 16 A. No.  
 17 Q. Do you ever hear of other teachers having  
 18 difficulties with their air-conditioning units?  
 19 A. Yes.  
 20 Q. Can you tell me what you recall hearing?  
 21 A. The room next door to me, P 12, Janie  
 22 Naranjo-Hall's room, the air-conditioning unit never  
 23 worked, never functioned correctly.  
 24 Q. And did that problem ever get resolved, to  
 25 the best of your knowledge?

1 A. No, it didn't. The preceding summer of  
 2 2000, we moved out of DCH temporarily when they were  
 3 putting the roof on it and the first temporary portable  
 4 that Ms. Naranjo-Hall moved into, I think it was P 3,  
 5 the air conditioner did not function in that portable.  
 6 Q. Were the periods of time in which the  
 7 classroom temperatures at Hawthorne were extremely or  
 8 unbearably hot limited in time to part of the year?  
 9 MS. MAJD: Calls for speculation.  
 10 THE WITNESS: In general, I would say that  
 11 given the ambient temperature of this climate, it would  
 12 be -- would occur in July, August, September, possibly  
 13 into October, depending on that year's weather  
 14 patterns.  
 15 MR. ROSENTHAL: Q. Do you recall any other  
 16 classrooms you were in during your four years at  
 17 Hawthorne being uncomfortably hot outside of that  
 18 four-month time frame?  
 19 A. There were times in the Hawthorne Building  
 20 when the radiator would be overactive in the winter and  
 21 it would be quite warm in the classroom.  
 22 Q. Any other instances that you are aware of?  
 23 A. No.  
 24 Q. Did you take any steps in an effort to  
 25 alleviate the high temperature in the classrooms on

1 those days when it was hot?  
 2 A. Yes, I purchased a large standing fan.  
 3 Actually, my mother purchased a large standing fan for  
 4 my classroom. We kept the windows open if it wasn't  
 5 too loud outside, which then created another kind of  
 6 conflict. I sprayed the students with water. We all  
 7 wore shorts; probably sums it up.  
 8 Q. Prior to obtaining a fan for your classroom,  
 9 did you ever request that the school provide you with a  
 10 fan?  
 11 A. Yes.  
 12 Q. Do you recall who you requested that from?  
 13 A. Susan Sperber.  
 14 Q. Do you recall how she responded?  
 15 A. That she did not have any more fans  
 16 available at that time.  
 17 Q. Was it your understanding that there were a  
 18 number of fans at Hawthorne?  
 19 A. Some fans were purchased for use in the  
 20 metal portables.  
 21 Q. Do you know whether all the metal portables  
 22 had fans in those classrooms?  
 23 A. I don't know.  
 24 Q. Do you recall when you requested a fan?  
 25 A. In September of '97.

1 Q. Subsequent to that, did you ever request a  
 2 fan be provided to you?  
 3 A. Not that I recall.  
 4 Q. Are you aware of whether there were any  
 5 plans to install additional air-conditioning at  
 6 Hawthorne during the four years you were there?  
 7 A. It was discussed frequently. At some point,  
 8 we were told that the District would be buying air  
 9 conditioners for the portables, but then I think it was  
 10 decided not to install the air conditioners because the  
 11 portables were going to be replaced at some point. It  
 12 may be the case that some air conditioners were  
 13 installed or there were swamp coolers -- there were  
 14 swamp coolers installed in some of the portables and  
 15 there were problems with their functioning.  
 16 Q. Do you recall when these discussions  
 17 occurred, in what time frame?  
 18 A. Throughout the four years I was at the  
 19 school.  
 20 Q. You said at some point, it was your  
 21 understanding that the District was going to buy some  
 22 air-conditioning units and then a decision was made not  
 23 to do so because many of the portables were going to be  
 24 replaced. Do you remember when that occurred?  
 25 A. I think during the summer of '99.

1 Q. Did the steps that you took that you  
2 outlined before, such as having a fan in the classroom,  
3 opening your windows, and things like that, did that  
4 result in the classroom temperatures being more  
5 bearable?

6 A. No.

7 Q. Did those efforts help at all?

8 A. Not really.

9 Q. When you say, "Not really," what do you  
10 mean?

11 A. I mean that you can spray a kid with water  
12 and it feels good to them for five seconds, but that  
13 doesn't increase their ability to concentrate and learn  
14 in conditions that are intolerable to any reasonable  
15 human being. They can stand in front of the standing  
16 fan when they walk inside from the hot yard and feel  
17 good for ten seconds, but as soon as they sit down on  
18 the desk or the rug, they are hot. They are sweating.  
19 They are thirsty. They are uncomfortable. They have  
20 headaches. They are not able to learn, so those  
21 efforts did not mitigate the overall situation of the  
22 environment being unsuitable for learning to take  
23 place, not to mention heat makes me cranky and  
24 therefore makes me a less effective teacher.

25 Q. Other than the concerns you've identified in

1 which classroom temperatures were too cold or have any  
2 difficulties with your heater?

3 A. No.

4 Q. Can you describe for me the -- strike that.

5 Do you recall how long your heater did not  
6 work during the winter of '98/'99?

7 A. I think it was close to two months.

8 Q. Do you recall when the problem began?

9 A. January of '99, roughly.

10 Q. Prior to January of '99, was the heater in  
11 DCH 4 functioning?

12 A. Yes. I think it is when we came back from  
13 Christmas break when it suddenly wasn't working  
14 anymore.

15 Q. What did you do when you returned to your  
16 classroom and found the heater not functioning  
17 properly?

18 A. Told the clerk in the building; told the  
19 custodian in the building; notified Ms. Sperber and  
20 continued to do so on a daily basis.

21 Q. As a result of notifying these individuals  
22 of the malfunctioning heater, did anything occur with  
23 respect to the heater being fixed?

24 MS. MAJD: Calls for speculation.

25 MR. ROSENTHAL: To the extent you know.

1 the past few minutes regarding the air-conditioning and  
2 classroom temperatures being too hot, do you have any  
3 other concerns in that regard that you haven't already  
4 told me about?

5 A. You want to move on to too cold?

6 Q. That would be the next step.

7 A. Okay. There was a period in the winter of  
8 '98 -- yeah, '98/'99 that -- the year that I was  
9 teaching 1st grade in DCH 4, when, for several weeks,  
10 my heater did not work. I would come into the  
11 classroom in the morning and the temperature on the  
12 thermostat would be in the 40s.

13 Q. Just so the record is clear, I'm going to  
14 ask you the prior question again just to make sure.  
15 Other than the concerns you've identified regarding the  
16 air-conditioning and classroom temperatures being too  
17 hot, were there any other concerns that you had in that  
18 regard that you haven't already told me about?

19 A. About the too hot?

20 Q. Right.

21 A. Not anything additional, I don't think.

22 Q. Okay. Other than the instance during the  
23 winter of '98/'99, other than the time period during  
24 that year when your heater was not functioning, did you  
25 have any other experiences during your four years in

1 THE WITNESS: The custodian told me the work  
2 order had been put through the facilities and  
3 maintenance or wherever, and as I continued to report  
4 the situation, the custodian said they had submitted  
5 additional work orders. Ultimately I grabbed the  
6 District phone list from the clerk's wall over his  
7 objections that that was not how you were supposed to  
8 get things done, called facilities myself and said that  
9 I had a nonfunctioning heater, that it was 45 degrees  
10 in my classroom and I had some very upset parents and  
11 that someone needed to come out and deal with it. It  
12 still didn't get anybody there for another week or so.

13 MR. ROSENTHAL: Q. At some point, did  
14 somebody come to repair the heater in your classroom?

15 A. Yes.

16 Q. Do you recall how long after the time you  
17 first noticed that the heater was not functioning that  
18 that occurred?

19 A. About seven weeks.

20 Q. Do you have any understanding as to why it  
21 took seven weeks before any individual came to take a  
22 look at your heater?

23 A. No, I don't.

24 Q. Was it your belief that the appropriate  
25 persons to fix the heater were notified prior to that

1 time?

2 MS. MAJD: Objection. Calls for a legal  
3 conclusion. Calls for speculation.

4 THE WITNESS: I don't have any way of  
5 knowing other than that I was told by the custodian and  
6 the principal that a work order had been submitted via  
7 the District's OBARS computer system.

8 MR. ROSENTHAL: Q. Did you have an  
9 understanding while you were teaching at Hawthorne as  
10 to who you were to notify at the school in the event  
11 that you had a problem with classroom facilities such  
12 as a broken heater?

13 A. The administrators.

14 Q. And by that, do you mean the principals and  
15 vice principals?

16 A. Yes.

17 Q. In the intervening seven weeks before the --  
18 before any individual came to repair the heater, did  
19 you take any steps to alleviate the low classroom  
20 temperature in the class?

21 A. We wore our coats and gloves and hats.

22 Q. Were any other steps taken to alleviate the  
23 temperature problem?

24 MS. MAJD: Calls for speculation.

25 THE WITNESS: By me or by the school?

1 unusable and then about a week later, the heater was  
2 repaired.

3 Q. So did you ever receive a functioning space  
4 heater to deal with the issue?

5 A. I guess I would say no since the second one  
6 caused the circuit to trip and then couldn't work.

7 Q. After the heater was repaired, did you  
8 experience any other problems with that heater?

9 A. No.

10 Q. Did you ever hear of any other classrooms at  
11 Hawthorne having trouble with their heaters or being  
12 unbearably cold?

13 A. I believe that some of the portables on the  
14 yard had problems with their heaters.

15 Q. And what is that belief based on?

16 A. A conversation at lunch.

17 Q. Do you recall whose classroom was affected?

18 A. Gabriela Gonzales. That is the only person  
19 that comes to mind specifically.

20 Q. Do you recall any of the specifics regarding  
21 the problems that she was experiencing with her heater?

22 A. No.

23 Q. Do you know if the problem got resolved?

24 A. I don't know.

25 Q. Do you recall when the problem occurred?

1 MR. ROSENTHAL: Q. Why don't we start with  
2 by you.

3 A. I don't have any other steps that I could  
4 take.

5 Q. Did Ms. Sperber offer any suggestions as to  
6 any additional steps you could take?

7 A. No.

8 Q. Did she offer, for example, to buy a space  
9 heater for the class?

10 A. The space heater had to be provided by  
11 facilities because it had to be rated for use in a  
12 classroom around children.

13 Q. Did you ever request a space heater be put  
14 in the class around that time?

15 A. Yes.

16 Q. Who did you request that from?

17 A. Custodian clerk and principal.

18 Q. And did you ever receive a space heater as a  
19 result of those requests?

20 A. When facilities finally came to look at the  
21 heater, the gentleman said, "Yeah, it doesn't work.  
22 Let me get you a space heater."

23 He then brought me a space heater that  
24 didn't work and he brought me another space heater that  
25 caused the circuit to trip, so it was essentially

1 A. No.

2 Q. Do you have any other concerns regarding the  
3 functioning of the heaters or classroom temperatures  
4 being too cold at Hawthorne other than what you've  
5 already told me about?

6 A. Just the fact that a lot of instructional  
7 time was lost because kids were not in a comfortable  
8 environment to learn.

9 Q. And was the instructional time lost limited  
10 in time to the time period when the heater was not  
11 functioning in your classroom?

12 A. When the heater wasn't functioning and when  
13 it was unbearably hot.

14 Q. Are you aware of there being any problems at  
15 Hawthorne with respect to there being rodents or  
16 insects on the school site?

17 A. Yes.

18 Q. Can you describe those problems for me?

19 A. There were rodents in the DCH Building.  
20 There were rodents in the Whitton Building and those  
21 are the -- that is my awareness on rodents.

22 Q. We're talking about rodents. Can you give  
23 me any further information? Were they mice? Were they  
24 rats, do you know?

25 A. The evidence I saw in the DCH Building was

1 rodent droppings and materials, papers or wood that had  
2 been chewed by rodents. In the Whitton Building last  
3 year in the classroom we used to hold our small schools  
4 meeting, much of our material was destroyed by rodent  
5 urine. We also saw -- I don't know if it was a rat or  
6 mouse, since I didn't want to get up close and  
7 personal, but a rodent running around on the floor  
8 during several meetings. That teacher also reported  
9 that a pillow she had stored in her closet had become a  
10 mouse nest, had become urine soaked, and was filled  
11 with tens of mice.

12 Q. Did you ever see any -- strike that.

13 We've covered rodents. Do you recall there  
14 being any problems with respect to insects at  
15 Hawthorne?

16 A. Ants.

17 Q. Can you describe for me the problems with  
18 respect to ants that existed at Hawthorne?

19 A. They were just ubiquitous.

20 Q. Was the ant problem limited to particular  
21 buildings?

22 A. No, they were pretty much everywhere. Oh,  
23 there were fleas in the Hawthorne Building, too, at  
24 some point.

25 Q. Other than the rodent problems, you've

1 droppings all the time or were they --

2 A. No, they were new droppings because I would  
3 sweep them up or use my Dust Buster to suck them up.

4 Q. Do you recall how many times you've seen  
5 actual live rodents at Hawthorne during your four  
6 years?

7 A. Five or six.

8 Q. And just so my question isn't too narrow,  
9 did you ever see any dead rodents at school?

10 A. Not that I recall.

11 Q. Did you have any -- did you ever have any  
12 conversations -- strike that.

13 Do you recall hearing that any teacher had  
14 seen live rodents -- live or dead rodents in their  
15 classrooms?

16 A. Yes.

17 Q. Can you tell me the details of those  
18 sightings?

19 A. Nicol Knight, K-n-i-g-h-t, and Lisa  
20 Hiltbrand, H-i-l-t-b-r-a-n-d, were in the classrooms  
21 Whitton 10 and 11. Those two classrooms were infested  
22 with rodents of some sort. They reported seeing  
23 rodents on nearly a daily basis. I saw rodents in  
24 those classrooms. They reported materials in their  
25 storage closet being destroyed by rodent urine. Some

1 mentioned the ants and fleas. Any other rodent or  
2 insect problems that you can think of?

3 A. Not that I can think of.

4 Q. I'm going to go back and cover a little  
5 information about each of those.

6 A. Okay.

7 Q. Did you ever see any rodents in any of the  
8 classrooms you taught in?

9 A. No, just droppings.

10 Q. Did you see droppings in the classrooms that  
11 you taught class in?

12 A. Yes.

13 Q. Do you recall which classrooms?

14 A. DCH 4.

15 Q. Did you ever see droppings in any of the  
16 other classes you taught in?

17 A. No.

18 Q. Do you know how frequently, approximately,  
19 you saw rodent droppings in your DCH 4 class?

20 A. Whenever I looked in the cupboards under the  
21 counter.

22 Q. How often was that?

23 A. Whenever I needed materials out of those  
24 cupboards. It could have been daily. It varied.

25 Q. Just so I'm clear, did you see the same

1 of those materials actually belonged to our small  
2 schools design team.

3 Q. Previously you told me there was a teacher  
4 who found a nest of mice in a pillow that she had. Was  
5 that one of those two teachers?

6 A. That was Nicol Knight.

7 Q. Did you have any conversations with any of  
8 the administration at Hawthorne regarding the rodent  
9 problems you've identified?

10 A. I think I discussed my personal rodent  
11 problem with the custodian in my building.

12 Q. Do you recall discussing the problem with  
13 any of the administration?

14 A. I can't recall.

15 Q. Can you describe for me the substance of the  
16 conversation you had with the custodian?

17 A. I asked him if he had some mousetraps.

18 Q. Did he provide those to you?

19 A. He put some mousetraps in my cupboards.

20 Q. Are you aware of any steps that were taken  
21 to alleviate the rodent problem in anybody else's  
22 classroom?

23 A. I believe that a variety of methods were  
24 attempted to alleviate the rodent problem in Lisa and  
25 Nicol's classrooms.

1 Q. Do you know what any of those steps were?  
 2 A. I believe there were traps. They were asked  
 3 to remove any type of food. All of the paper was  
 4 removed from Nicol Knight's closet. They were asked to  
 5 get rid of any pillows or other soft material. Lisa  
 6 Hiltbrand was asked to remove the classroom pets that  
 7 she had in her classrooms since their food was a  
 8 potential attraction for the rodents which meant the  
 9 students then didn't have the learning experience of  
 10 the classroom pets and ultimately, I believe there was  
 11 an attempt at fumigation.  
 12 Q. Do you know whether any of those efforts you  
 13 described were successful in alleviating the rodent  
 14 problem?  
 15 A. The last meeting I had in Nicol Knight's  
 16 classroom in August featured a mouse trotting across  
 17 the floor.  
 18 Q. Was that August of 2001?  
 19 A. Yes.  
 20 Q. So is it your belief that the rodent problem  
 21 in those classrooms continued up until that point?  
 22 A. Yes.  
 23 Q. Do you recall when the fumigation was  
 24 performed?  
 25 A. I believe during the summer of 2001.

1 Q. Do you know whether the rodent problem that  
 2 existed in Ms. Knight's and Ms. -- is it Hiltbrand?  
 3 A. Uh-huh; yes.  
 4 Q. Do you know whether that problem existed in  
 5 a particular year?  
 6 A. I don't know if it existed, not that I'm  
 7 aware of. I don't have knowledge of prior years for  
 8 those classrooms.  
 9 Q. When you identified the problems with  
 10 respect to those classes, were those problems that  
 11 existed in the most recent school year, 2000/2001, or  
 12 was it a different year?  
 13 A. The most recent school year, 2000/2001.  
 14 Q. Did you ever hear of any problems -- any  
 15 rodent problems in those classrooms prior to that  
 16 school year?  
 17 A. Those classrooms didn't exist prior to that  
 18 school year. They were created out of space that was  
 19 being used in another way prior to modernization of the  
 20 Whitton Building.  
 21 Q. Did you ever hear of there being a rodent  
 22 problem in the spaces from which those classrooms later  
 23 were created?  
 24 A. That space was controlled by the State of  
 25 California as part of a health clinic, so I didn't have

1 any interaction with the occupants of the space.  
 2 MR. ROSENTHAL: Can we take a brief restroom  
 3 break?  
 4 (Recess taken.)  
 5 MR. ROSENTHAL: Q. Before we move on to the  
 6 insect problems you identified, are there any other  
 7 concerns about rodents that you have at Hawthorne that  
 8 you haven't already told me about?  
 9 A. The thing that concerned me most was this  
 10 last summer when Ms. Hiltbrand was asked to eliminate  
 11 the classroom pets from her classroom because that was  
 12 an important part of the learning environment in her  
 13 room. Her kids did a lot of observation and  
 14 documentation. They participated in caring for the  
 15 animals. Most kids can't have pets at home because of  
 16 their living conditions and it was a pretty big deal  
 17 for her to not be able to have her pets as part of her  
 18 curriculum and part of her classroom environment. And  
 19 it bothered me that we -- the school had to make a  
 20 change like that because of what basically should have  
 21 been a maintenance problem.  
 22 Q. Other than that additional issue, are there  
 23 any other concerns you had about the rodent problem at  
 24 Hawthorne that you haven't already told me about?  
 25 A. I did not feel that it was sanitary to have

1 rodent droppings and urine on classroom materials.  
 2 There were things I threw away from my cabinets in  
 3 DCH 4 because it was something that couldn't be  
 4 cleaned. There were things that Ms. Knight, Ms.  
 5 Hiltbrand, threw away, including a large quantity of  
 6 recorded information from classroom discussions as well  
 7 as from our small schools design team meetings that  
 8 were destroyed and had to be thrown away due to rodent  
 9 urine.  
 10 Q. And aside from the additional concern about  
 11 having to discard materials that were ruined as a  
 12 result of rodents, are there any other concerns  
 13 regarding rodents at Hawthorne that you haven't already  
 14 told me about?  
 15 A. I think it is a health and safety issue.  
 16 Rodents carry disease. I don't think there should be  
 17 rodent infestations in environments where children are  
 18 spending the large portion of their day.  
 19 Q. Are you aware of any instances in which any  
 20 student or teacher or other school employee became ill  
 21 as a result of rodents at the school?  
 22 A. I don't --  
 23 MS. MAJD: Calls for speculation.  
 24 THE WITNESS: I don't have knowledge.  
 25 MR. ROSENTHAL: Q. Are you aware of any of



1 those instances to the extent you do know?

2 A. I have no knowledge if anyone became ill  
3 because of rodents.

4 Q. And other than that additional concern, do  
5 you have any other concerns regarding rodents at  
6 Hawthorne?

7 A. No.

8 Q. Was that a "no"?

9 A. No.

10 Q. Thank you. Why don't we talk about the  
11 insect problems you identified. You said there was a  
12 problem with respect to ants. Was that a problem in  
13 the classrooms that you taught?

14 A. Yes.

15 Q. Can you tell me about the types of problems  
16 you experienced?

17 A. Your basic there are ants crawling  
18 everywhere.

19 Q. Is that a problem that was limited in time?

20 A. No, it was pretty much year-round all four  
21 years, all three classrooms -- all four classrooms.

22 Q. Did you take any steps to have that  
23 situation resolved?

24 A. I did not use any spray. I did not use any  
25 chemical poisons in the classroom because of the

1 morning and sprayed chemical flea killer on those rugs  
2 and on the carpets and some of the office areas.

3 Q. And did the work that the custodians  
4 performed alleviate the flea problems in those  
5 classrooms?

6 MS. MAJD: Calls for speculation.

7 THE WITNESS: My understanding from a couple  
8 of people who had the problem was that, no, there were  
9 still fleas and the entire building reeked of chemical  
10 flea killer for several days.

11 MR. ROSENTHAL: Q. Did you have a flea  
12 problem in your particular classroom?

13 A. No, I didn't.

14 Q. Was it a problem limited to a number of  
15 classrooms in the Hawthorne Building?

16 A. Actually, I should amend that. Fleas don't  
17 like me. I don't get flea bites, so it is not -- I  
18 mean, there were other teachers to whom fleas were very  
19 attracted, so this was much more clear to them that  
20 they had a flea problem. I did have children in my  
21 classroom who had flea bites. I did not have a way of  
22 knowing if this was from the home or from school. My  
23 room was treated the same as the other rooms with the  
24 chemical flea stuff, but since fleas don't typically  
25 jump on me -- I'm not trying to be funny. I'm not a

1 proximity to children. I removed ants with Seventh  
2 Generation all purpose cleaner. I kept any water  
3 containers in the room tightly capped so that it  
4 wouldn't be attractive to ants. These didn't seem to  
5 be the kind of ants that were interested in food. They  
6 were interested in shelter and water. I reported to  
7 Ms. Sperber my classroom has ants. The response was,  
8 "The whole school has ants, including my office and my  
9 desk."

10 Pretty much lived with it and dealt with it  
11 as I was able.

12 Q. Are you aware of any efforts that were  
13 undertaken at the school to eliminate the ants at the  
14 school?

15 A. Not that I'm aware of.

16 Q. Did you ever hear that any such efforts  
17 occurred?

18 A. Beyond the secretaries spraying Raid in the  
19 office, no.

20 Q. You also identified a concern you had about  
21 fleas in the Hawthorne Building. Can you tell me about  
22 that?

23 A. In the '97/'98 school year when I was in  
24 Hawthorne 7, there was a flea infestation in the  
25 classroom rugs and the custodians came in early one

1 flea attractor and some people are and so they are much  
2 more acutely aware of a specific environment containing  
3 fleas.

4 Q. I do appreciate the lesson in insect  
5 psychology. I'm aware of ants looking for water and  
6 shelter as opposed to food.

7 A. They were never in the food. They were  
8 floating in the water puddles.

9 Q. After the spraying was done on the rugs that  
10 were affected in the Hawthorne Building --

11 A. Right.

12 Q. -- is it your testimony the flea problems  
13 continued?

14 A. Yes, I believe Kim Bowen continued to have a  
15 flea problem in Hawthorne 4 and I believe the  
16 principal's office continued to have a flea problem.

17 Q. Were any additional steps to taken to  
18 alleviate the problem after the spraying that occurred  
19 at that time?

20 A. I don't know.

21 Q. Do you know if the flea problems continued  
22 at Hawthorne after the '97/'98 school year?

23 A. I don't know.

24 Q. Since that school year, have you ever had  
25 any teachers talk about having fleas in their

1 classrooms?  
 2 A. Not that I recall.  
 3 Q. Why don't we move on to -- strike that.  
 4 Are there any other problems with respect to  
 5 insects that existed at Hawthorne that you haven't told  
 6 me about already?  
 7 A. Not that occur to me at this time.  
 8 Q. Why don't we move on to the issue of fungus  
 9 and mold and those sorts of things. Did you have any  
 10 concerns about any of those types of issues at  
 11 Hawthorne?  
 12 A. Yes.  
 13 Q. Can you tell me what those concerns were?  
 14 A. In 1999, I believe, one of the modular units  
 15 as part of the DCH complex was found to have  
 16 significant growths of black mold, those four  
 17 classrooms. The teachers then had to rove for several  
 18 weeks while an outside environmental agency attempted  
 19 to remove the mold from that facility. An additional  
 20 modular unit that had one classroom was found to have  
 21 the same black mold, but I don't recall how that was  
 22 treated, if it was treated the same way or if it was  
 23 decided that they would wait to deal with that at  
 24 another time. Those classes had to move from room to  
 25 room as space became available every three to four

1 weeks for several weeks. Those teachers lost a lot of  
 2 materials because the materials were found to have been  
 3 contaminated by this mold. Some of those materials  
 4 belonged to the school, a large proportion were the  
 5 personal property of those teachers. Because of that  
 6 problem, the DCH Building that I was in was -- had two  
 7 environmental tests performed on it. And it was found  
 8 that the visible mold, as well as mold that we were not  
 9 able to see because it was contained within wall spaces  
 10 or ceiling spaces, was also harmful. That building was  
 11 found to have been so infested with aspergillus and  
 12 staphyloptosis mold, which is carcinogenic, that the  
 13 only way to alleviate the problem was to demolish the  
 14 building. I spent two years in a classroom that was  
 15 identified as having carcinogenic mold. That was a  
 16 concern to me.  
 17 Q. Other than the -- strike that.  
 18 Were there any other fungus or mold problems  
 19 in any of the other buildings outside of the DCH  
 20 complex?  
 21 A. Not to my knowledge.  
 22 Q. Do you recall when the mold in the DCH  
 23 Building was first discovered?  
 24 A. I believe that in the classroom space  
 25 identified as DCH MPR, and DCH 8 and 9, I believe those

1 classes were moved out of that building in the winter  
 2 of '99/2000.  
 3 Q. Just going back to one thing you said  
 4 earlier, you said there were four classrooms in the DCH  
 5 complex that were found to have black mold and you  
 6 later on went on to say there was an additional  
 7 classroom or unit that was found to have mold. Was  
 8 that -- first of all, was that a classroom or more than  
 9 one classroom?  
 10 A. Yes, one classroom.  
 11 Q. Was that classroom also in the DCH complex?  
 12 A. Yes.  
 13 Q. And was that mold discovered at roughly the  
 14 same time as the mold in the original four classrooms?  
 15 A. Yes.  
 16 Q. Do you recall when the DCH Building was  
 17 demolished?  
 18 A. The third building, the building that had my  
 19 classroom it, had six classrooms and office space, and  
 20 there were two portables behind it that were also  
 21 demolished. The testing on that building took place in  
 22 the summer of 2000. Immediately following that  
 23 testing, which occurred in August and early September,  
 24 we were told by the superintendent of schools, Dennis  
 25 Chaconas, that the mold problem was so bad in that

1 building that, despite the fact that a brand-new roof  
 2 at a cost of \$137,000 had just been placed on the  
 3 building, that building needed to be demolished  
 4 immediately and we were given approximately two days to  
 5 remove our entire classroom contents.  
 6 Q. Do you recall when that occurred?  
 7 A. The exact date?  
 8 Q. To the best you can remember.  
 9 A. Early September of 2000, mid September,  
 10 maybe.  
 11 Q. At the time the -- strike that.  
 12 Just so I'm clear, did the DCH complex  
 13 consist of three total buildings or were there more?  
 14 A. The largest building had six classrooms and  
 15 office space. That was DCH classrooms 1 through 6.  
 16 The second largest building had four classrooms and  
 17 office space, DCH 8 and 9 and DCH MPR, multi-purpose  
 18 room. The third building had one classroom, DCH 10 and  
 19 then there were two portables, two old trailer-style  
 20 portables, that were considered a part of that complex  
 21 of modular buildings.  
 22 Q. So was that five total structures, then, if  
 23 I counted right?  
 24 A. Yeah.  
 25 Q. Was there a DCH 7 somewhere?

1 A. There was no DCH 7 for some strange reason.  
 2 Q. You said that at some point, there had been  
 3 a new roof installed on the building that your  
 4 classroom was located in. Do you have an understanding  
 5 as to why a new roof was put in on that building?

6 A. Because the old roof leaked like a sieve and  
 7 that roof was replaced in July of 2000.

8 Q. At the time the DCH Building was demolished,  
 9 were the DCH buildings -- let me ask that first. Were  
 10 all of the five structures associated with the DCH  
 11 complex demolished?

12 A. No.

13 Q. Can you tell me which ones were?

14 A. The building housing DCH 1 through 6 and  
 15 office space was demolished and the two portables were  
 16 demolished. DCH 8, 9, DCH MPR, DCH 10 were left  
 17 standing because they supposedly had been cleaned of  
 18 mold.

19 Q. Do you have an understanding as to why the  
 20 two DCH structures you've identified were demolished  
 21 rather than cleaned of mold?

22 A. Because they were infested with carcinogenic  
 23 mold to an extent that it was a health hazard and the  
 24 cost of rehabilitating that building would have been  
 25 prohibitive.

1 Q. Did you ever hear that the reason for  
 2 demolishing the buildings was because the cleaning cost  
 3 would have been more expensive than building new  
 4 structures?

5 A. We were told that the mold infestation was  
 6 so extensive that it was not possible to clean the  
 7 building of that mold at a cost that was in any way  
 8 attainable.

9 Q. At the time the decision was made to  
 10 demolish the two DCH structures that you've identified,  
 11 were the classes that were located in those buildings  
 12 relocated?

13 MS. MAJD: Can I just clarify one thing? It  
 14 is three structures, right?

15 THE WITNESS: It is one modular building and  
 16 two portables.

17 MR. ROSENTHAL: You are absolutely right. I  
 18 apologize if I misspoke. I was referring to all three  
 19 structures that were demolished and if there is  
 20 anything you need to add as a result of me making that  
 21 change, let me know.

22 THE WITNESS: Okay.

23 MR. ROSENTHAL: Q. Were the classes that  
 24 were located in those three structures relocated at the  
 25 time the decision to demolish them was made?

1 A. Yes, immediately. Some were moved to  
 2 temporary portables and some became roving classes.

3 Q. Was your class moved to P 13 at that time?

4 A. Yes.

5 Q. Are you aware of any instances of any  
 6 student or school employee becoming sick as a result of  
 7 the mold?

8 A. Yes.

9 Q. Can you describe those instances for me?

10 A. I know one teacher that already had  
 11 pre-existing asthma which was exacerbated by the mold.  
 12 I know another teacher who had never been identified as  
 13 having asthma develop asthma while he was a teacher in  
 14 those buildings.

15 I had a student in my class in 1st grade who  
 16 had pre-existing asthma who was absent 94 days out of  
 17 that school year. The preceding year when she was not  
 18 in that building, she was absent 30 days. The year  
 19 after that when she was not in that building, she was  
 20 absent 18 days. The year she was in my classroom, she  
 21 was absent over one half of the instructional days of  
 22 that school year.

23 According to the public health expert  
 24 provided by the School District Risk Management Office,  
 25 this type of mold exacerbates asthma and can cause

1 asthma in addition to its carcinogenic aspects.

2 Q. Other than the three individuals you've  
 3 named, do you recall -- are you aware of any other  
 4 instances in which a student or teacher became ill as a  
 5 result of the mold?

6 A. Students and teachers were told where they  
 7 could receive a health evaluation. I don't have  
 8 knowledge of specific -- you know, it was up to  
 9 families to take their children to this location to  
 10 have them evaluated. It was up to teachers to see the  
 11 Workmen's Comp Health Clinic to receive evaluations or  
 12 to see their private doctor.

13 Q. And are you aware of any other instances of  
 14 any individuals getting sick as a result of the mold?

15 A. I don't have specific knowledge of other  
 16 people's health issues.

17 Q. Did you get tested?

18 A. There is not really a test you can do. This  
 19 mold can cause upper respiratory infections, which  
 20 pretty much every child in my classroom when I was in  
 21 DCH 4 had at one time or another, which I experienced  
 22 on a regular basis.

23 These molds can exacerbate preexisting  
 24 asthma. We have children with asthma. These molds can  
 25 cause a person with -- who may not have a strong immune

1 system to develop asthma which may have been the case  
2 for some children or teachers.

3 Some of these molds can, as a result of  
4 inhalation of their spores, cause a person to develop  
5 cancer at some stage in their life.

6 Q. Of the three individuals with asthma  
7 problems that you specifically recall, can you tell me  
8 who they are?

9 A. Do I need to reveal a student's name?

10 MS. LHAMON: The court has ruled in this  
11 case that the State is entitled to information about  
12 students' absence and students' tardies, but they are  
13 not entitled to other kinds of information that is  
14 private about this student. You can say what her name  
15 is because she was absent.

16 THE WITNESS: Karen Perkins, a teacher who  
17 had preexisting asthma which was exacerbated, in her  
18 opinion, and based on whatever medical evaluation she  
19 had.

20 Nicholas Jackson was identified to have  
21 developed asthma during the time period he taught in  
22 these classrooms.

23 The student I referred to who was absent 94  
24 times out of 175 instructional days is [REDACTED]

25 MR. ROSENTHAL: Q. And she was a student of

1 officials with respect to the mold problems?

2 A. I don't have a way of knowing that.

3 Q. Did she ever tell you she had such  
4 conversations?

5 A. I don't know how to answer. We must have  
6 had some conversation. This was a problem that  
7 existed, but if I'm not supposed to speculate about  
8 whether or not I had this conversation at this time --

9 MS. MAJD: If you remember, you can  
10 certainly talk about it.

11 THE WITNESS: I can't recall a specific  
12 conversation. I can't give you the context of a  
13 specific conversation.

14 MS. LHAMON: Amy, just so you are clear  
15 about what the distinction is, if you have a basis for  
16 knowing something, Michael is entitled to that  
17 information and he wants as much -- I'm sure Michael  
18 wants as much as you can give.

19 MR. ROSENTHAL: In other words, I was going  
20 to give an example. If Ms. Sperber told you, for  
21 example, she had a conversation with somebody, there is  
22 no way you could know that conversation actually  
23 occurred, but if she told you it occurred, that would  
24 be the basis for your belief.

25 THE WITNESS: Okay.

1 yours during the -- was it '99/2000 school year?

2 A. '98/'99.

3 Q. Do you have any understanding as to why the  
4 DCH Buildings were tested for mold during the summer of  
5 2000?

6 A. Because of the molds found in the other  
7 parts of that complex and because staff had noted  
8 physical evidence of mold growth and because the roof  
9 -- as part of replacing the roof, it was seen that  
10 within the ceiling space, there was mold growth and  
11 because the roof replacement was initiated due to the  
12 fact the roof had leaked like a sieve for many years,  
13 which facilitates mold growth.

14 Q. Do you know who requested that the buildings  
15 be tested for mold?

16 A. I believe it would have been Susan Sperber,  
17 the principal.

18 Q. And do you know who she made the request to?

19 A. I don't have specific knowledge. I would  
20 assume it would be the Facilities Department of the  
21 District.

22 MS. MAJD: Remember, I'm sorry, to not guess  
23 if you don't know.

24 MR. ROSENTHAL: Q. Do you know if Ms.  
25 Sperber had any conversations with any District

1 MR. ROSENTHAL: Q. Do you understand that  
2 distinction?

3 A. I think so.

4 MS. LHAMON: If you have no idea something  
5 happened, if you think logically it makes sense  
6 something probably did happen, then that is guessing,  
7 but if you know there was action taken and so from that  
8 you believe that there was a conversation, you can say  
9 that. Does that make sense?

10 THE WITNESS: Yes.

11 MR. ROSENTHAL: Q. Other than the mold  
12 issues that you've told me about over the past few  
13 minutes, are there any other concerns regarding mold or  
14 fungus or those types of things at Hawthorne that  
15 you've had?

16 A. I'm concerned about the disruption to the  
17 learning process that was instigated because of  
18 classrooms having to move or rove because of the mold  
19 issue. I'm concerned about the amount of money that  
20 was spent on a new roof for the DCH Building only to  
21 have the building demolished two months later. I'm  
22 concerned about the potential health risk I face having  
23 been exposed to cancer-causing molds. I'm concerned  
24 about the number of days that students missed class  
25 that may be attributable to respiratory infections or

1 asthma attacks caused by exposure to mold. There are  
2 only 175 teaching days in a year and if you miss 94 of  
3 them, you've missed out on a lot. I think that sums it  
4 up.

5 Q. And I know we didn't cover all those areas  
6 in great detail and in the interest of moving things  
7 along, I may not cover the details regarding all of  
8 those concerns, but are there any additional concerns  
9 that you haven't identified, at least with respect to  
10 mold and/or fungus at Hawthorne, that you haven't  
11 already at least identified?

12 A. Not at this moment.

13 Q. We've touched on problems you had with  
14 respect to the roof in the DCH Building. Aside from  
15 that problem, were there any other concerns you had  
16 while at Hawthorne regarding the roof on any of the  
17 facilities there?

18 A. Just the leaking DCH roof and the experience  
19 of having a new roof put on over my head while I was  
20 trying to teach.

21 Q. Can you tell me the details concerning the  
22 leaking roof on the DCH Building?

23 A. It leaked water on children. It allowed for  
24 the growth of mold and fungus in the structure. When  
25 it was replaced, we experienced three weeks of sawing,

1 MR. ROSENTHAL: To the extent you know.

2 THE WITNESS: I don't know.

3 MR. ROSENTHAL: Q. Did you ever hear that  
4 any other roofs at Hawthorne were leaky?

5 A. I don't recall.

6 Q. Do you know whether water leaked into the  
7 other classrooms in the DCH Building that your  
8 classroom is located?

9 A. The roof leaked in DCH 5. The roof leaked  
10 in DCH 6. I don't know about the other classrooms.

11 Q. Do you recall when you first became aware  
12 that the roof in your class DCH 4 leaked?

13 A. The first time it rained. The first year I  
14 was in DCH 4.

15 Q. Did you take any steps to notify anybody of  
16 that problem at that time?

17 A. Yes, I did.

18 Q. Can you describe for me the steps you took?

19 A. I told the clerk in the building.

20 Q. Can you give me the name of the person you  
21 are referring to?

22 A. Jose King.

23 Q. Do you have an understanding as to what Mr.  
24 King's responsibilities were, job responsibilities?

25 A. Since I couldn't call the office from my

1 pounding and hot tar fumes. We also experienced in one  
2 classroom a man falling through the roof while it was  
3 being replaced.

4 Q. Now, you were in the DCH Building for  
5 roughly two years?

6 A. Yes.

7 Q. Did the roof leak for the entire two-year  
8 period?

9 A. Yes.

10 Q. Did it leak on days that it rained only or  
11 did it leak on other days as well?

12 A. Only when it rained.

13 Q. Do you recall approximately how often water  
14 actually leaked into your classroom during a given time  
15 period?

16 A. Every time it rained.

17 Q. And was the area of the roof that leaked  
18 limited in your classroom or was it not limited?

19 A. There were four or five different places  
20 where it leaked.

21 Q. Do you know whether all of the classrooms in  
22 the DCH Buildings -- strike that.

23 Was the only DCH Building that had a leaking  
24 roof the building in which your classroom was located?

25 MS. MAJD: Calls for speculation.

1 classroom, he was the person I would call if I had a  
2 problem. My understanding is that he would then relay  
3 that to the main office or the administrator or the  
4 custodian or whoever I needed to reach, but couldn't  
5 because of the lack of communication.

6 Q. And did anything result as a result of you  
7 informing Mr. King of the leaking roof?

8 A. No.

9 Q. Did you notify Mr. King on more than one  
10 occasion about the leaking roof?

11 A. Yes.

12 Q. And did anything result of any of those  
13 instances when you informed him of the problem?

14 A. No.

15 MS. MAJD: Objection. Vague.

16 MR. ROSENTHAL: Q. Do you recall when you  
17 found out that the roof on the building would be  
18 replaced?

19 A. Yes.

20 Q. Can you tell me when that was?

21 A. When I returned from a field trip, walked  
22 down the street from the bus stop with my class and saw  
23 roofers on the roof of the building.

24 Q. And was that in the summer of 2000?

25 A. July of 2000.

1 Q. Prior to that, you had never heard the roof  
2 was going to be replaced?

3 A. No.

4 Q. Was it ever an issue that was discussed at  
5 faculty meetings or any other meetings you attended?

6 A. It was discussed in the sense that we were  
7 -- that we had a leaky roof, but the school  
8 administration was not told that it was going to be  
9 replaced starting on this day. They had no  
10 forewarning.

11 Q. Do you have any understanding as to why the  
12 roof was replaced at the time it was?

13 A. No.

14 Q. Other than the problems you've identified  
15 with respect to the leaking roof in the DCH Building  
16 that you were located in, did you have any other  
17 concerns regarding problems with roofs at Hawthorne  
18 that you haven't already told me about?

19 A. No.

20 MS. LHAMON: Can we take another break, do  
21 you mind?

22 MR. ROSENTHAL: Sure.

23 (Recess taken.)

24 MR. ROSENTHAL: Q. Prior to our break, Ms.  
25 Salyer, we were discussing the condition of the roofs

1 school?

2 A. Well, almost all -- I would say all of the  
3 exterior windows had security grills, depended on the  
4 style of the window and the style of the grill whether  
5 or not that permitted the window to still be opened or  
6 not.

7 Q. Were the types of windows that were not able  
8 to be opened located in a particular part of the  
9 school?

10 A. Mostly the portables.

11 Q. You describe several problems with the walls  
12 and the ceilings in the DCH Building. Were those  
13 problems limited to the building -- the DCH buildings  
14 which were demolished towards the end of the summer in  
15 2000?

16 A. No, those problems existed in all of the  
17 buildings in that complex. I guess I would add there  
18 is an overall issue of cleanliness in terms of since  
19 the school was year-round, there was never any downtime  
20 to do maintenance on like stripping, and cleaning, and  
21 rewaxing the floors, or removing the security grills  
22 and cleaning the windows, or performing any of the  
23 maintenance tasks like replacing the ceiling tiles  
24 because there was never any time when there weren't  
25 students present.

1 at Hawthorne. I would like you to focus on the other  
2 physical characteristics of classrooms at Hawthorne and  
3 by that I mean things like the doors, windows, floors,  
4 walls. Did you have any concerns regarding any of  
5 those items?

6 A. On varying classrooms, the windows were  
7 covered by security grills which meant some of them  
8 couldn't be opened fully to achieve ventilation. In  
9 the DCH Building in particular, the exterior walls  
10 appeared to be rotting from the bottom up. In my  
11 classroom, in DCH 4, there were several places the wall  
12 had paneling up to -- you know, halfway, not even  
13 halfway up. The paneling was loose. There were  
14 glue -- glue was exposed and mold was exposed because  
15 of that. In several classrooms in the DCH Building,  
16 there were ceiling tiles missing which allowed dust to  
17 enter the room. After the Whitton Building was  
18 modernized, the floor tile that was put down on top of  
19 the heat -- that had the kind of heat that is under the  
20 floor -- the heat caused the glue to loosen on many of  
21 the floor tiles and the floor tiles came up which then  
22 posed a tripping hazard. That is what occurs to me  
23 right now.

24 Q. You said that some windows had security  
25 grills. Were those limited to particular parts of the

1 Q. Now, you said that the Whitton Building  
2 underwent some modernization?

3 A. Yes.

4 Q. Do you recall when that occurred?

5 A. During the '99/2000 school year.

6 Q. During your four years at Hawthorne, do you  
7 recall any other instances of modernization occurring  
8 other than the ones you've already identified?

9 A. No.

10 Q. Do you recall the purpose of the  
11 modernization to the Whitton Building?

12 MS. MAJD: Calls for speculation.

13 THE WITNESS: I don't know what the purpose  
14 was.

15 MR. ROSENTHAL: Q. Do you know when the  
16 modernization to the Whitton Building was completed?

17 A. In the spring of 2000.

18 Q. And as a result of that modernization, do  
19 you know what changes occurred to the Whitton Building?

20 A. The floor tiles were replaced. The area  
21 used by the State of California for the occupational  
22 therapy unit was decreased, additional classrooms were  
23 created out of that space. Some of the windows were  
24 replaced. The chalk boards were replaced with white  
25 boards. The interior and exterior of the building was

1 painted. A new and dysfunctional bell and fire alarm  
2 system was installed and there may have been other  
3 things that I'm not aware of.

4 Q. Are you aware of where the money came from  
5 to conduct that modernization?

6 A. No.

7 Q. Do you have an understanding as to who  
8 decided what aspects of the Whitton Building would be  
9 modernized in connection with that modernization?

10 MS. MAJD: Assumes facts not in evidence  
11 that one person made the decision.

12 THE WITNESS: I don't know.

13 MR. ROSENTHAL: Q. I believe you previously  
14 testified that the Hawthorne Building also underwent a  
15 modernization --

16 A. Yes.

17 Q. -- at some point?

18 A. Yes.

19 Q. Do you recall when that was?

20 A. The winter of 2000 or fall and winter of  
21 2000 -- fall of '99, winter of 2000.

22 Q. Did it occur before or after the  
23 modernization to the Whitton Building?

24 A. No.

25 Q. Do you know when that modernization was

1 made reference to Hawthorne School that the school was  
2 originally designed to house 500 students. My last  
3 year at Hawthorne, there were over 1,400 students on  
4 that campus. That meant that we were on a multitrack  
5 year-round schedule. That meant from ten to 13  
6 teachers had to rove every year, which meant their  
7 classes had to change classrooms on a monthly basis.  
8 That meant that there were inadequate sanitation  
9 facilities. That meant that students were housed in  
10 inappropriate classroom spaces. That meant that  
11 recesses and lunches had to be handled in shifts. That  
12 meant that we had a teaching faculty of 65 and that it  
13 was impossible to know all of the people you worked  
14 with and all of the students in the school. Our  
15 children had to go to school in the summer when it was  
16 hot. Our children had to be out of school at times of  
17 the year when there were no other programs available  
18 for them to participate in. They didn't get to  
19 participate in summer sports leagues or summer camps or  
20 summer art programs because they were in school on a  
21 year-round schedule, which is what happens when you  
22 have such an overcrowded school. Teachers miss out on  
23 professional development opportunities since most of  
24 those occur during the summer. Trying to work in an  
25 environment of 1,400 kids with 900 to 1,000 of them on

1 completed?

2 A. Late winter of 2000.

3 Q. As a result of that modernization, do you  
4 know what changes were made to the Hawthorne Building?

5 A. Chalkboards were replaced with white boards,  
6 windows -- wood frame windows were replaced with  
7 aluminum, replaced windows, wood floors were  
8 refinished. Interior and exterior painting, new and  
9 dysfunctional bell and fire alarm system was installed.  
10 That is what I recall right now.

11 Q. Do you know where that money came from to  
12 finance that modernization program?

13 A. No.

14 Q. Do you know who determined what the  
15 modernization of the Hawthorne Building would consist  
16 of?

17 A. No.

18 Q. We've already touched on this to some extent  
19 and when it's come up for the most part, we've put it  
20 to the side, but I would now like you to focus your  
21 attention on any concerns you had with respect to  
22 overcrowding at Hawthorne. Did you have such concerns?

23 A. Yes, I did.

24 Q. Can you tell me what those concerns were?

25 A. I just read the other day in an article that

1 the site at any given time is chaos and no matter what  
2 you do and what structures you impose, it is really  
3 difficult to achieve any sense of calm order when there  
4 is just that many bodies present.

5 Because Hawthorne was year-round, we were  
6 forced to continue to accept students with no  
7 enrollment cap. Other schools in the neighborhood that  
8 were on traditional calendar could redirect their  
9 students to Hawthorne when they were full. Those  
10 students then had to travel from other areas within the  
11 broader neighborhood to attend a school of 1,400  
12 children that always grew and never shrank to be placed  
13 in classes that had to change classrooms every three to  
14 four weeks or to be in portables that were 30 years old  
15 and lacked appropriate climate control; to play on a  
16 yard that was crowded with 500 children at a time for  
17 recess; to stand in line for 15 minutes to get their  
18 lunch; to have to eat their food as quickly as possible  
19 to clear the table so the next load of students could  
20 sit down. I think that summarizes my concerns about  
21 overcrowding at Hawthorne.

22 Q. Just so the record is clear, you said that  
23 there were roughly 1,400 students who attended  
24 Hawthorne. Can you just give you me the breakdown? I  
25 recognize it is an estimate, but as far as how many

1 students were in session at a time and how many  
 2 students were out of session at a particular time.  
 3 A. The students and teachers were divided into  
 4 four tracks. The tracks were not exactly equal in  
 5 terms of numbers, but you could say each track had  
 6 roughly one quarter of the student and teacher  
 7 population assigned to it. On our multi-year -- on our  
 8 multitrack year-round schedule, three out of the four  
 9 tracks were in session at any given time, so  
 10 approximately 75 percent of the student and teacher  
 11 population was on campus at any given time.

12 Q. Now, you said you read recently that the  
 13 school was originally designed for roughly 500  
 14 students. Do you recall where you read that?

15 A. In -- what is the name of that? California  
 16 Teacher Magazine. It is the monthly magazine produced  
 17 by the California Teachers' Association.

18 Q. Do you recall which facilities that article  
 19 was referring when it said it was designed for 500  
 20 students?

21 A. It didn't specify beyond that.

22 Q. Do you know if -- strike that.

23 Do you know roughly the total number of  
 24 classrooms there are at Hawthorne in the various  
 25 buildings?

1 A. Yes.

2 Q. So at any given time, was roughly one  
 3 quarter of the classes not in session?

4 A. Yes.

5 Q. Were there any classes at Hawthorne that met  
 6 in a non-classroom space?

7 MS. MAJD: Vague as to "Non-classroom  
 8 space."

9 MR. ROSENTHAL: Q. Do you understand the  
 10 question?

11 A. There were classes that met in classroom  
 12 spaces that were not adequate. They were, for example,  
 13 designed to house a smaller class than was in that  
 14 room. There were not any classes that met in, for  
 15 example, the cafeteria on a regular basis.

16 Q. Do you remember there being a shortage of  
 17 desks or chairs at any time during the four years you  
 18 were at Hawthorne?

19 A. At times at the beginning of the year when  
 20 classes were oversized until additional teachers were  
 21 added, there may have been a shortage in that specific  
 22 classroom.

23 Q. And once -- strike that.

24 In those instances, were additional classes  
 25 created to accommodate the excess?

1 A. Approximately 50 actual classroom spaces.  
 2 There are more classes than 50 now.

3 Q. When you gave the estimate of roughly 1,400  
 4 students attending Hawthorne, was that an estimate for  
 5 the most recent school year, that being 2000/2001?

6 A. Yes.

7 Q. Do you recall the total number of students  
 8 in, let's say the '97/'98 school year, when you first  
 9 began at Hawthorne?

10 A. Between 12 and 1,400.

11 Q. Do you recall it being less than the number  
 12 of students that attended in 2000/2001?

13 A. I believe it was fewer.

14 Q. Over the four years you were there, did the  
 15 population at Hawthorne increase each year?

16 A. Yes.

17 Q. You testified just a moment ago that there  
 18 were roughly 50 classroom spaces and somewhat greater  
 19 than 50 actual classes. Do you remember how many  
 20 actual classes of students there were at Hawthorne?

21 A. 64 to 65.

22 Q. Was that for this most recent school year?

23 A. Yes.

24 Q. And of this 64 to 65 classes, did that  
 25 include all four tracks?

1 A. Yes.

2 Q. When those classes were created, did those  
 3 students -- were they provided with desks and chairs?

4 A. Yes.

5 Q. Do you ever remember any instances when this  
 6 was not the case?

7 A. Not to my knowledge.

8 Q. Several times during today's deposition and  
 9 your first day of testimony, you said that Hawthorne  
 10 was -- that it had no enrollment cap and it was forced  
 11 to take on additional students. Do you have an  
 12 understanding as to why that was the case?

13 A. Because it was a multitrack year-round  
 14 school and additional classes could be added as roving  
 15 classrooms. They didn't need to have an assigned  
 16 classroom space. They could be told to just move every  
 17 three to four weeks.

18 Q. Was it your understanding that schools that  
 19 followed a multitrack year-round schedule were not  
 20 subject to have an enrollment cap?

21 MS. MAJD: Objection. Calls for a legal  
 22 conclusion.

23 THE WITNESS: I don't know.

24 MR. ROSENTHAL: Q. Have you ever heard  
 25 that?



1 A. I don't know about other schools. I only  
2 know what I was told about Hawthorne, which was that we  
3 did not have a cap because we were year-round.

4 Q. Do you know who made the determination as to  
5 whether to make Hawthorne a year-round school or not?  
6 Who made that decision?

7 A. I don't know. Hawthorne had been a  
8 year-round school for many, many, many years.

9 Q. Do you know who had the authority to make  
10 that decision?

11 MS. MAJD: Objection. Calls for a legal  
12 conclusion.

13 THE WITNESS: I don't know. That decision  
14 would have been made when I was about in 4th grade in  
15 San Diego County, so I don't have a way of knowing  
16 that.

17 MR. ROSENTHAL: Q. Did you have any  
18 understanding as to whether Hawthorne received  
19 additional funding because it was a year-round school?

20 A. I do not know.

21 Q. I take it, based on your testimony, you're  
22 not a big fan of the year-round program; is that fair  
23 to say?

24 A. No, I am not. I'm not a fan of the  
25 multitrack year-round program that involves classroom

1 of them before. Why don't you tell me what those  
2 additional concerns are?

3 A. In addition to roving, the students did not  
4 have access to the types of summer programs that are  
5 offered through, for example, city recreation  
6 departments. Our students could not participate in  
7 things like Boy Scout, Girl Scout camping trips or  
8 other types of educational enrichment activities or  
9 sports.

10 As teachers, we were very limited in the  
11 professional development opportunities we could avail  
12 ourselves of because most of those were offered during  
13 the summer and typically, in my observation, at the --  
14 more towards the beginning of the summer versus the end  
15 because most teachers are off during that time. It  
16 meant we did not have the same opportunities for  
17 professional advancement that other teachers did.

18 Our facilities never got a break. There was  
19 never a time, other than a week at Christmas, that our  
20 facilities were not being used. There was never -- I  
21 mean, if a roof had to be put on, it had to be put on  
22 on top of classrooms in session. If -- when demolition  
23 started of DCH, when demolition started of the old  
24 portables this last summer, we had to endure the noise  
25 and the dust and the hazards associated with a

1 roving, no.

2 Q. If no classroom roving was involved, would  
3 you be in favor of a multitrack year-round program  
4 then?

5 A. You wouldn't have multitrack year-round if  
6 there was no classroom roving.

7 Q. Assuming for a minute that it was possible,  
8 would you be in favor of a program that was able to  
9 achieve that?

10 A. There would --

11 MS. MAJD: Objection.

12 THE WITNESS: That program doesn't exist.  
13 There would be no reason to have a multitrack  
14 year-round school if you could accommodate all of the  
15 students. When you have a year-round school that is  
16 not multitrack, it is usually single or possibly dual  
17 track and that is designed around the educational  
18 program, not around the facilities.

19 MR. ROSENTHAL: Q. Let me try it this way:  
20 Was your only major concern about a multitrack  
21 year-round program the fact teachers had to rove?

22 A. No.

23 Q. You had additional concerns?

24 A. Yes.

25 Q. And are -- I think you have identified some

1 construction site in the middle of our school. When  
2 the Whitton and Hawthorne buildings were modernized two  
3 years ago, classes had to move. There is major  
4 disruption to the instructional program and we had to  
5 endure trying to teach in a construction zone.

6 The administrators at Hawthorne worked more  
7 days than the administrators at other elementary  
8 schools that were not on a year-round schedule,  
9 therefore they had fewer opportunities for professional  
10 development. They had fewer opportunities to work at  
11 school when there weren't -- well, they had no  
12 opportunities to work at school when there weren't  
13 students there.

14 On a year-round multitrack schedule with  
15 roving when I'm off track, someone is in my classroom.  
16 I can't go in and do work that I would be willing to do  
17 unpaid on my own time for the betterment of my  
18 students' learning because I don't have access to my  
19 classroom.

20 On a year-round multitrack schedule, student  
21 absences are often more frequent because their vacation  
22 may not match a sibling's vacation on a traditional  
23 calendar and the parents are more inclined to adhere to  
24 the traditional calendar and therefore they will take  
25 their kid out of school for three weeks in the summer

1 when the rest of their kids are out of school and take  
2 them to Mexico or take them to wherever.

3 On a year-round multitrack schedule, the  
4 faculty is split. There is always a quarter of the  
5 people that are gone. It means there are communication  
6 problems. It means that decision-making is delayed or  
7 that people who are stakeholders in the decision don't  
8 actually have the same opportunity to offer input into  
9 those decisions. It means that just sometimes you feel  
10 like you are ships passing in the night with people you  
11 should be working closely with. It is difficult to  
12 align your instructional program when half the time you  
13 should be working with that person, one or the other of  
14 you are off track.

15 It means that families who have children who  
16 ended up on different tracks and that problem hasn't  
17 been corrected for whatever reason have difficulty with  
18 child care or have difficulty with if one sibling is  
19 off track, the other sibling may not be brought to  
20 school. It just -- it really is quite disruptive to  
21 the learning process. There is very little  
22 consistency.

23 The facilities are not maintained in a way  
24 that you would be -- you would expect because they  
25 never have the opportunity to do that.

1 Q. Is it your opinion that a school that  
2 follows a multitrack year-round schedule is incapable  
3 of providing high quality education to its students?

4 A. No, it is not my opinion. My opinion is  
5 that it is much more difficult. It requires effort  
6 above and beyond what the State of California has ever  
7 dreamed of paying for teachers. It is my opinion that  
8 we do things like ignore the fact there is a roof going  
9 on over our heads when we're trying to learn  
10 multiplication in 2nd grade. It just means we have to  
11 work much, much harder as teachers. It means our  
12 administrators have to work much, much harder to  
13 maintain an environment that is conducive to learning  
14 and it means that our students have to put up with a  
15 lot more than other children do and these are the kids  
16 that can least afford to accommodate themselves to  
17 these conditions. They are already coming from homes  
18 that are not always stable and to come to school and to  
19 have to change your classroom every three weeks and to  
20 lose an instructional day because you have to carry all  
21 of your classroom materials to the next room is wrong  
22 and kids in Palo Alto and kids in Beverly Hills are not  
23 having to do this.

24 Q. Did you ever hear any teachers express their  
25 opinion that they preferred having a year-round

1 It means that children miss out on  
2 opportunities in the summer and teachers miss out on  
3 opportunities.

4 It just means there is a real lack of  
5 coherence and cohesion -- it is the same word -- in  
6 what you are trying to accomplish.

7 The thing that disturbs me the most in the  
8 Oakland Unified School District is that the schools  
9 that were multitrack year-round were all schools in the  
10 flatlands of that city. The flatlands are where the  
11 children from less economically stable homes come from.  
12 Those are the children who most need high quality  
13 educational experiences and those are the children who  
14 most need the enrichment opportunities that are  
15 available in the summer and those are the children who  
16 are least likely to get it because the ten schools in  
17 Oakland that were multitrack year-round for 20 years  
18 are all in the poor neighborhoods. There is no middle  
19 class hills schools in the City of Oakland that has  
20 ever been multitrack year-round. That is wrong. It is  
21 not equitable. It is not fair and it is wrong. It  
22 means as a teacher, I don't have the same opportunities  
23 as other teachers in the City of Oakland or the City of  
24 Sacramento or the City of Los Angeles and that means  
25 that that is a disservice to my students.

1 schedule?

2 A. We would discuss the idea of having a  
3 year-round schedule that was educationally based which  
4 would be a modified single or dual track year-round  
5 that didn't involve roving and that could be adjusted  
6 to accommodate the traditional patterns of vacations or  
7 whatever professional development opportunities. I  
8 never heard an opinion expressed that was in favor of  
9 multitrack year-round the way it was employed in the  
10 Oakland Unified School District.

11 Q. Did you ever hear any administrator express  
12 an opinion that they preferred the multitrack  
13 year-round schedule?

14 MS. MAJD: Is this limited to Hawthorne?

15 MR. ROSENTHAL: Yes.

16 THE WITNESS: Not in my recollection, no.

17 MR. ROSENTHAL: Q. Did you ever hear any  
18 parents express an opinion that they preferred the  
19 year-round schedule?

20 A. Not the multitrack year-round type that we  
21 had at Hawthorne, absolutely not.

22 Q. Can you think of any positive aspects to the  
23 year-round schedule followed by Hawthorne?

24 A. No, not a single one.

25 MS. MAJD: Amy, do you need to get more

1 water? We can take a break.  
 2 THE WITNESS: Yes, it is warm.  
 3 MR. ROSENTHAL: That is fine. We can take a  
 4 break.  
 5 (Recess taken.)  
 6 MR. ROSENTHAL: Q. Ms. Salyer, over the  
 7 four years you spent at Hawthorne, do you know what the  
 8 average class size was?  
 9 A. Kindergarten through 3rd grade, it was 20.  
 10 4th and 5th grade, it was 31.  
 11 Q. Are you aware of any restrictions on class  
 12 size that are imposed at any level?  
 13 MS. MAJD: Objection. Vague.  
 14 THE WITNESS: Our labor contracts or the  
 15 labor contract between the Oakland Education  
 16 Association and the Oakland Unified School District  
 17 stipulates contract size of 31 or 32. That is your  
 18 contractual limit for a classroom K to 5.  
 19 As part of the State of California's class  
 20 size reduction program and financial incentives, school  
 21 districts attempted to lower class sizes in  
 22 kindergarten through 3rd grade in phases to 20 to 1.  
 23 However, it wasn't a requirement that you do that. A  
 24 class could go higher and a few did.  
 25 MR. ROSENTHAL: Q. That somewhat

1 anticipates my next question. Are you aware of  
 2 specific instances in which classes at Hawthorne  
 3 exceeded these limits?  
 4 A. Yes.  
 5 Q. Were any of those instances your classes?  
 6 A. No.  
 7 Q. Do you recall the specifics regarding other  
 8 classes?  
 9 A. The year I taught kindergarten, the class  
 10 that was in the room in the morning was over 20. The  
 11 teacher was Arcelia Ramirez. I think it had 24 or 26.  
 12 '99/2000, 2000/2001, Kei Swenson, K-e-i, Swenson taught  
 13 a kindergarten class that was in the mid 20s. For at  
 14 least part of 2000/2001 Deveny Dawson taught a 3rd  
 15 grade class that was in the mid 20s. And there may  
 16 have been other classes that I don't have specific  
 17 knowledge of.  
 18 Q. Did all of the classes that you taught  
 19 comply with the limitations you described?  
 20 A. All of the classes I taught adhered to the  
 21 20-to-1 class size reduction incentive program.  
 22 Q. Several times you've mentioned that teachers  
 23 at Hawthorne had to rove. Can you describe for me the  
 24 roving process that was in place at Hawthorne?  
 25 A. The end of every summer, there was the

1 dreaded roving lottery. The names of teachers who had  
 2 not previously roved and who were not first-year  
 3 teachers were placed into a vessel and a number of  
 4 names were drawn to see who would rove for the coming  
 5 year based on the projection of how many classes there  
 6 would be and how many spaces and there would also be  
 7 roving alternates. Those teachers, whatever classrooms  
 8 they were currently in, they had to pack up and store  
 9 their personal materials at home. They then did not  
 10 have an assigned classroom for the next school year.  
 11 They were assigned to three classrooms which they then  
 12 changed rooms each, say, three to five weeks based on  
 13 the track schedule. They would move into the room of a  
 14 teacher who was going off track and then when that  
 15 teacher would come back three to five weeks later, they  
 16 would move to another off-track teacher's room, so that  
 17 class never had its own classroom space; never had  
 18 walls to hang their student material on; never had a  
 19 place to store their belongings. Teachers left -- you  
 20 know, their supplemental materials at home, for the  
 21 most part, and they had to change classrooms every  
 22 month on their own. They had to move all their own  
 23 materials that they did have. During the year that we  
 24 were being modernized, that happened more frequently  
 25 because of lots of people having to move due to

1 buildings being closed at different times for  
 2 modernization.  
 3 Q. Did you ever -- were you ever a roving  
 4 teacher?  
 5 A. No. Thank God.  
 6 Q. Do you know how many times a roving teacher  
 7 had to move classes in a given school year?  
 8 A. Monthly, so -- I mean, essentially it was 12  
 9 times because the time that you went off track, you had  
 10 to pack up everything and take it home and store the  
 11 school's materials somewhere, wherever you could at  
 12 school, so every month you were either moving to  
 13 another room or packing to leave.  
 14 Q. Do you remember the total number of teachers  
 15 who roved per year?  
 16 A. It would be anywhere from eight or nine to  
 17 12 or 13.  
 18 Q. Now, you said earlier that first-year  
 19 teachers were not entered into the roving lottery. Do  
 20 you have an understanding as to why that was the case?  
 21 A. It had been a decision made by the school  
 22 faculty or site administrator sometime before I was  
 23 hired. It was stated as that is what we attempt to do.  
 24 First-year teachers who have been hired by the time we  
 25 do the lottery are not put into the roving lottery.

1 However, if classes are added in September once the  
2 school year has begun and new teachers are added, those  
3 teachers almost always would have to rove because there  
4 would be no classroom to assign them to. It was  
5 decided that as much as possible, first-year teachers  
6 should be kept out of roving because they had enough to  
7 contend with being first-year teachers, but the  
8 unfortunate aspect of that was that the people who were  
9 hired late in September, as we discussed in the last  
10 session, were generally the least experienced and the  
11 least prepared and they often ended up having to rove  
12 because by the time that class was formed and another  
13 person was hired, there was no space left for them.

14 Q. So you recall specific instances in which  
15 first-year teachers were, in fact, roving teachers?

16 A. I do. I'm going to have to ponder the names  
17 so we can circle back to this.

18 Q. Okay. If you remember the names at some  
19 point, let me know.

20 A. I will.

21 Q. Do you remember the number of instances that  
22 that occurred?

23 A. That I can think of, maybe three or four.

24 Q. Now, I know we've covered a number of  
25 different areas regarding a number of different

1 vacation and work at school because I didn't have my  
2 classroom available to me, so the roving affected not  
3 just the people who actually physically had to take a  
4 day to pack up and move all their stuff and not teach  
5 that day and then another day to unpack and settle in  
6 twice a month, but it affected other people as well.

7 Q. Any other concerns regarding overcrowding at  
8 Hawthorne and the related issues such as roving that  
9 you haven't identified here today?

10 A. I think we've covered sanitation and  
11 cafeteria lines. The yard was very overcrowded. I  
12 think we talked about that in the last session. There  
13 was simply too many children on the yard at any given  
14 time. It meant that conflict was heightened. It meant  
15 that supervision was not adequate, strain on the  
16 facilities of having 1,400 kids use the facilities 12  
17 months of the year. You can't create a well-structured  
18 supportive environment when there are that many bodies.  
19 You don't get to know -- the school I'm at now with 240  
20 kids, I know 200 kids' names and that makes a big  
21 difference. You can't do that in a school of 1,400.

22 Q. And, again, I know we haven't gone into  
23 detail about each one of those concerns. I just want  
24 to make sure all the concerns you had with respect to  
25 overcrowding are identified. Are there any others that

1 concerns you've had regarding the overcrowding you've  
2 described at Hawthorne. Are there any other concerns  
3 that you haven't at least identified here today that  
4 you had?

5 A. Part of the roving issue, which is related  
6 to overcrowding, that it didn't affect just the classes  
7 that had to move, but it affected the classes that were  
8 moved into, including me. Because teachers who were  
9 being roved into, as we described it, meaning when they  
10 went off track, another class was going to use their  
11 space, also had to pack up all their materials and  
12 dismantle wall displays and student work and put  
13 everything away in a manner such that another class  
14 could use the room. That took instructional time.  
15 There was no extra time provided or paid for for  
16 teachers to be able to do that. So in my case, when  
17 another class was coming in three or four days before  
18 the end of our on track time, I would start putting  
19 materials away and dismantling aspects of the room in  
20 order to have it ready for the next teacher to use and  
21 that took instructional time away from the students.

22 It also meant that because the school was so  
23 overcrowded, there was never an empty classroom to hold  
24 a music class in or to have a parent workshop in. It  
25 meant that I couldn't come in during my off-track

1 you haven't identified for me today that you had?

2 A. I just see it as an equity issue that the  
3 flatlands schools in the least economically viable  
4 neighborhoods are the schools of 1,400, whereas the  
5 hills schools are schools of 300. That concerns me in  
6 a global sense that we have such an imbalance and such  
7 a lack of equity in a public school system that is  
8 supposed to level the playing field for all students.

9 Q. I understand. I didn't ask you for a lot of  
10 details in that area, but I think that was one item  
11 that you had previously identified. I want to make  
12 sure I have -- that the record includes all the areas  
13 of concern that you had with respect to overcrowding  
14 and the things that resulted from that, so if there is  
15 anything else new that you haven't identified, I would  
16 appreciate it if you could tell me what those things  
17 are.

18 A. I don't think there is anything additional  
19 at this time.

20 Q. Just going back to something you said  
21 earlier. You said one of the concerns you had about  
22 the overcrowding at Hawthorne was that some classes met  
23 in what you called inappropriate classroom spaces and I  
24 know you said that some classes met in classrooms that  
25 you believed were designed to be for a fewer number of

1 students than the number of students in the class.  
 2 Were you referring to anything else in that regard when  
 3 you referred to inappropriate classroom spaces?

4 A. Classroom spaces that were not adequately  
 5 maintained because they were being used constantly.  
 6 The facilities that we've described that had leaking  
 7 roofs and had mold, I did not consider to be  
 8 appropriate classroom spaces since maintenance couldn't  
 9 occur on those buildings without disrupting the  
 10 learning process. That was a problem during times when  
 11 the school was being modernized or had some other type  
 12 of construction work going on. There were days when a  
 13 class would be asked to be held in the faculty lounge  
 14 or in the library. Those are not adequate classroom  
 15 spaces.

16 Q. When those instances occurred, were those  
 17 limited in time to a day or two?

18 A. Could have been two days. It could have  
 19 been two weeks.

20 Q. Do you remember there being instances where  
 21 it lasted two weeks?

22 A. During my time there, I can't think of  
 23 something specific. There is a classroom there now  
 24 that is meeting in the library and has been since  
 25 September.

1 Q. When you say, "Now," you mean the 2001/2002  
 2 school year?

3 A. Yes.

4 Q. What is the basis for your understanding of  
 5 that is the case?

6 A. Conversation with a teacher who is still  
 7 working at Hawthorne.

8 Q. Which teacher is that?

9 A. The conversation or the teacher who is in  
 10 the library?

11 Q. Why don't you tell me who you had the  
 12 conversation with.

13 A. Albertina Padilla.

14 Q. And whose class is affected?

15 A. I believe it is Debbie Sullivan.

16 Q. Other than that particular class, are you  
 17 aware of any other instances at Hawthorne in which a  
 18 class was assigned to a space like the faculty lounge  
 19 or the library for an extended period of time?

20 MS. MAJD: Objection. Vague as to "extended  
 21 period."

22 THE WITNESS: Not that comes to mind  
 23 specifically right now.

24 MR. ROSENTHAL: Q. Did you have any  
 25 concerns at Hawthorne with respect to external or

1 ambient noise?

2 A. Yes.

3 Q. Can you describe those concerns for me?

4 A. If you are in a portable on the yard, you  
 5 are subjected to two to three hours of recess a day  
 6 right outside your window. You also got to hear  
 7 everything that happened in the PE classes, both those  
 8 taught by the PE teacher and classroom teachers who  
 9 were fulfilling their required number of minutes of PE.  
 10 When the roof was put on the DCH Building, it was  
 11 incredibly loud. When drainage work was done on the  
 12 yard last winter, there were jackhammers on the yard.  
 13 When the DCH -- the portion of the DCH Buildings were  
 14 demolished, the demolition process most of it, the  
 15 heavy knocking down happened over a weekend, but the  
 16 continued breakdown of the materials and the removal of  
 17 those building materials occurred during the week when  
 18 students were in class. When that area was repaved in  
 19 order to put new modular portables there, we  
 20 experienced digging, jackhammers, tar machines, and  
 21 asphalt flatteners for a number of weeks. When the old  
 22 portables were being demolished this last summer, we  
 23 experienced the noise of the demolition process,  
 24 including backhoes, jackhammers, and removal equipment.  
 25 When the Hawthorne and Whitton Buildings were being

1 modernized, there was construction noise from both of  
 2 those buildings. I think that covers it. I mean,  
 3 there were various instances of "This little drain  
 4 needs to be fixed, so we're going to tear up the  
 5 pavement and we're going to jackhammer it back down."

6 Q. Other than noise from the various  
 7 construction modernization efforts that occurred at  
 8 Hawthorne and the noise from recess and PE that  
 9 affected the classes in the portables, were there any  
 10 other concerns you had regarding external or ambient  
 11 noise at Hawthorne?

12 A. No.

13 Q. Do you know whether any efforts were made to  
 14 conduct the construction and modernization activities  
 15 on weekends when school was not in session?

16 A. The principal Susan Sperber told us that she  
 17 had asked the District to try to have that heavy work  
 18 done after hours. That occurred in some cases to a  
 19 limited extent, but the volume of the work and the cost  
 20 of paying to have it done after hours, both of those  
 21 factors prevented that from occurring on a regular  
 22 basis. There is the additional issue that most of that  
 23 could've happened during the summer if we were not on a  
 24 year-round schedule.

25 Q. Did you have an understanding as to whether

1 students who attended Hawthorne received more or less  
2 instructional time than students who attended schools  
3 that did not follow a multitrack year-round schedule?

4 MS. MAJD: Calls for speculation.

5 THE WITNESS: Do you mean in the sense of  
6 they went to school fewer days or fewer minutes than  
7 other schools or if there was a loss of instructional  
8 time due to the various factors related to -- well, let  
9 me just answer both of those questions. State of  
10 California requires students to be in school on a  
11 traditional calendar for 180 days for a certain number  
12 of minutes at various grade levels. There is a  
13 modification for multitrack year-round schools in  
14 overpopulated regions where those schools go 175 days  
15 and increase the number of minutes slightly for each  
16 day. There is no change to that because that is State  
17 law as part of the education code.

18 At Hawthorne, instructional time was lost  
19 due to roving, due to moving as part of the  
20 modernization, due to moving out of the building once  
21 the noise and smell from the roofing became  
22 intolerable, just due to the ambient distraction and  
23 the inability of students to concentrate when there is  
24 a jackhammer outside the window.

25 Q. Was it your understanding that the school

1 Q. At the time you signed this declaration, was  
2 everything contained in the declaration accurate at  
3 that time? And I'll give you a moment to read over the  
4 declaration, if you would like.

5 A. It was accurate at that time, to the best of  
6 my knowledge, based on my observation of the conditions  
7 at the school.

8 Q. Do you want to take a moment to look over  
9 the document?

10 A. I've read it.

11 Q. Okay. As you sit here today, are there any  
12 inaccuracies contained in the document?

13 A. The situation has changed at the school -- I  
14 mean, this was based on the situation in March of 2001,  
15 therefore it is accurate for that time period.

16 Q. Can you give me an example of something that  
17 has changed?

18 A. Hawthorne is no longer multitrack  
19 year-round. The enrollment is now somewhere around  
20 1,200. There is no roving because there is no  
21 multitrack year-round.

22 MS. MAJD: Amy, I want to remind you just to  
23 testify only to those things that you know about and to  
24 not guess.

25 THE WITNESS: That is --

1 calendar that Hawthorne followed provided for the  
2 required amount of instructional time, putting aside  
3 the issue of whether the factors you've described  
4 affected the ability to actually meet those  
5 requirements?

6 A. Yes, the school calendar consisted of 175  
7 instructional days for the required number of minutes  
8 to fulfill the obligations set forth by the State.

9 MR. ROSENTHAL: I would like to mark this as  
10 Exhibit No. 1.

11 (Whereupon, Defendant's Exhibit 1 was marked  
12 for identification.)

13 MR. ROSENTHAL: Q. I'm going to ask if you  
14 recognize this document.

15 A. Yes.

16 Q. Can you tell me what it is?

17 A. It is the declaration that I signed based on  
18 my interview with Katayoon Majd in March of 2000.

19 Q. I'll ask you to turn to the last page and  
20 check the date that you signed and see if that date  
21 seems accurate to you. It says April 17th, 2001.

22 A. Yes.

23 Q. Does that seem accurate?

24 A. Yes.

1 MR. ROSENTHAL: You can finish your answer.

2 THE WITNESS: Those would be the major  
3 points, to my knowledge, of what has changed at the  
4 school.

5 MR. ROSENTHAL: Q. What is the basis of  
6 that understanding of those aspects of Hawthorne have  
7 changed?

8 A. I continued to be a teacher at Hawthorne  
9 School until August 31st of this year. I was part of  
10 the discussion involving the transition, as a member of  
11 the leadership team, part of the discussions involving  
12 the transition from multitrack year-round to modified  
13 traditional calendar. I don't know how else to  
14 describe my basis of knowledge.

15 Q. Did the -- did Hawthorne switch to a  
16 modified traditional calendar beginning in roughly  
17 September 2001?

18 A. September 25th, 2001.

19 Q. And what is the basis for the belief that  
20 the current enrollment at Hawthorne is roughly 1,200  
21 students?

22 A. Statements made by teachers who are still at  
23 Hawthorne.

24 Q. And what is the basis for your belief that  
25 there are no more roving teachers at Hawthorne?

1 A. It is no longer multitrack year-round.  
 2 There were additional temporary portables brought in to  
 3 house all of the teachers and all of the students.  
 4 Q. Have -- has anybody who is currently  
 5 employed at Hawthorne told you there are no more roving  
 6 teachers there?  
 7 A. I believe Albertina Padilla has told me  
 8 that.  
 9 Q. I'm going to ask you some questions about  
 10 some of the specifics contained in your declaration and  
 11 I will largely go paragraph by paragraph and I would  
 12 like to start out, if you could take a look at  
 13 paragraph No. 3, just quickly read that to yourself.  
 14 A. Okay.  
 15 Q. Do you have an opinion as to whether  
 16 Hawthorne is severely overcrowded as of today?  
 17 A. Yes.  
 18 Q. What is that opinion?  
 19 A. I believe that it continues to be severely  
 20 overcrowded.  
 21 Q. Why do you believe that?  
 22 A. Because there is still a student population  
 23 there of somewhere around 1,200. There have been no  
 24 increase in the number of sanitation facilities. The  
 25 yard space is actually decreased due to construction on

1 modular building that was to house the classes for  
 2 those portables was to have been ready when school  
 3 opened on September 25th. I was told by Albertina  
 4 Padilla that it will not, in all likelihood, be ready  
 5 until next spring, therefore those classes continue to  
 6 be held in temporary portables or in the case of Debbie  
 7 Sullivan's class, apparently in the library.  
 8 Q. Are you aware of any classes at Hawthorne  
 9 the current school year that exceed the limits on  
 10 number of students per class that we discussed earlier?  
 11 A. I don't have any knowledge of that.  
 12 I would like to go back to my previous  
 13 answer about classroom spaces. The rest of the DCH  
 14 facility was to have been demolished as well for this  
 15 academic year because it was believed to possibly  
 16 continue to contain mold and the age of the building  
 17 was such that it was no longer a safe and healthy  
 18 building, DCH 8, 9, and DCH MPR, which is now called  
 19 DCH 12 and 13, as well as DCH 10. However, those five  
 20 classrooms were not, in fact, demolished and are still  
 21 being used despite the fact they may contain mold and  
 22 despite the fact that it was determined that they  
 23 should not continue to be used because of the  
 24 population and because of the new portable -- new  
 25 modular building construction has not been completed on

1 the site. Students continue to be housed in temporary  
 2 portable classrooms that do not have appropriate  
 3 amenities for classroom space and I believe that it is  
 4 morally wrong to put 1,200 students in an elementary  
 5 school. I believe that that is an overcrowded  
 6 elementary school.  
 7 Q. Do you have an understanding as to whether  
 8 the students who currently attend Hawthorne have their  
 9 classes held in classroom spaces?  
 10 MS. MAJD: Objection. Vague.  
 11 THE WITNESS: I don't have a basis for  
 12 knowledge.  
 13 MR. ROSENTHAL: Q. Are you still in contact  
 14 with some teachers who teach at Hawthorne?  
 15 A. Yes.  
 16 Q. Have any of them told you that they are  
 17 teaching in spaces that are not classrooms?  
 18 A. Other than being told that Debbie Sullivan  
 19 is teaching in the library right now, no.  
 20 Q. Do you have an understanding as to why Ms.  
 21 Sullivan is teaching her class in the library?  
 22 A. Yes.  
 23 Q. Can you tell me what that reason is?  
 24 A. The old portables on the yard were  
 25 demolished in August and September of 2001. The new

1 that.  
 2 Q. What is the basis for your statement that  
 3 the remaining DCH buildings were supposed to be  
 4 demolished?  
 5 A. Statements made by the principal Susan  
 6 Sperber during the summer of 2001.  
 7 Q. What is the basis for your belief that the  
 8 DCH buildings that had not yet been demolished may also  
 9 contain mold?  
 10 A. Statements made by Susan Sperber in the  
 11 summer of 2001.  
 12 Q. Do you recall what she said to you?  
 13 A. She said that the District wanted that  
 14 building torn down, that they didn't -- that it was not  
 15 -- that it was too old, that it might not be clean,  
 16 that it needed to go.  
 17 Q. Did she specifically mention to you that the  
 18 District was concerned that there was mold in those  
 19 buildings?  
 20 A. I do not recall.  
 21 Q. In the second sentence of paragraph three,  
 22 you say that Hawthorne has the capacity for only  
 23 between 900 and 1,000 students. Can you tell me what  
 24 the basis for that statement is?  
 25 A. The number of classroom spaces available to

1 house classes of 20 and 31. That is how many students  
2 can fit into the school without anybody having to be  
3 off track. I mean, that is the number that is there  
4 when a quarter of the school is not present using  
5 classroom space and all the classrooms are full.

6 Q. Just so I'm clear, are there any classroom  
7 spaces at Hawthorne that were designed for use by less  
8 than 20 students?

9 MS. MAJD: Calls for speculation.

10 MR. ROSENTHAL: To the extent you know.

11 THE WITNESS: I don't know.

12 MR. ROSENTHAL: Q. In the last sentence of  
13 paragraph three, you state that Hawthorne has no  
14 enrollment cap and must accept students from other  
15 schools except at the kindergarten level. Do you have  
16 an understanding as to why there is an exception for  
17 the kindergarten level?

18 A. I believe that is related to when students  
19 are redirected to another school, they are provided  
20 with bus tickets, is my understanding, based on  
21 statements made by the principal Susan Sperber that it  
22 was the practice of the District not to expect that  
23 kindergarten students would be able to ride public  
24 transportation to a school not within walking distance  
25 of their home.

1 hadn't identified during your first day that you were  
2 referring to here?

3 A. Not that come to mind.

4 Q. In the second sentence, you say that  
5 District policy -- pursuant to District policy, new  
6 teachers can't be hired during the first few weeks of  
7 the school year. Can you tell me what the basis of  
8 that understanding was?

9 MS. MAJD: I want to point out for the  
10 record, it is not a direct quote from the declaration.  
11 It is summarizing.

12 THE WITNESS: My understanding, based on  
13 observation from practice, to say it was policy, that  
14 is not -- I wasn't saying that I read the legal policy  
15 on it. My observation of the practice of the District  
16 and my understanding from statements made by the  
17 principal Susan Sperber was that this was the case,  
18 that new teachers wouldn't be hired during the first  
19 few weeks until the student population had stabilized.

20 Q. Do you remember any instance in which a new  
21 teacher was hired during the first few weeks of school?

22 A. I mean, first few weeks could be the first  
23 week or the fifth week. Teachers were hired when the  
24 principal was able to come to agreement with the  
25 District that this was the situation, that we had this

1 Q. Are you aware of students in grades above  
2 kindergarten who took public transportation to get to  
3 Hawthorne?

4 A. Yes.

5 Q. Do you remember that being the case for  
6 students in 1st grade?

7 A. I can't recall.

8 Q. Do you recall that being the case for --  
9 strike that.

10 I ask you to take a look at paragraph four  
11 and take a minute to read that. Have you had a chance  
12 to look at that paragraph?

13 A. Yes.

14 Q. In the first sentence of that paragraph, you  
15 talk about Hawthorne having some teaching vacancies at  
16 the beginning of the school year. Those are some items  
17 we discussed during our first day of deposition. Are  
18 those the instances you were referring to in this  
19 paragraph?

20 A. Yes, I would believe so.

21 Q. Do you recall the instances you identified  
22 during your first day? I'm not asking you to repeat  
23 them. I'm making sure you remember what you said.

24 A. Yes. Yes.

25 Q. Were there any other instances that you

1 number of students and that that class needed to be  
2 formed and provided with a teacher.

3 Q. So when you say -- and I am directly quoting  
4 here -- "First few weeks" in your declaration, how many  
5 weeks were you referring to there?

6 A. Anywhere from one to five, say, or one to  
7 six.

8 Q. Do you remember any instances in which a new  
9 teacher was hired at Hawthorne within the first six  
10 weeks of the school year?

11 A. I can't recall when specific teachers were  
12 hired, what specific day and what week of the school  
13 year that was.

14 Q. So by this sentence, you weren't trying to  
15 say no new teachers had ever been hired in the first  
16 six weeks of school?

17 A. No, the statement doesn't say that.

18 Q. In the last sentence of paragraph four, you  
19 say that teachers who were hired for classes after the  
20 first few weeks of school -- and, again, I'm not  
21 quoting directly -- are usually uncredentialed and  
22 "uncredentialed" is the word you used in the paragraph.  
23 Can you describe for me what you mean by that word?

24 A. It means they did not hold a current  
25 multiple subject preliminary or -- there is two stages



1 to the credential. There is preliminary, which lasts  
2 for five years. And there is clear, which is something  
3 I need to do in the next few months. That they did not  
4 have the multiple subject teaching credentials, either  
5 in preliminary or clear status.

6 Q. Did those teachers who were hired in these  
7 instances have a teaching credential of some kind, to  
8 the best of your knowledge?

9 A. As I described in great detail the first day  
10 of my testimony, those teachers had to have a document  
11 that said they could walk into a classroom. That might  
12 be a 30-day permit as a substitute, meaning they've  
13 passed the C BEST and fingerprinted and nothing more.  
14 That might be an intern credential or document which  
15 said they were currently enrolled in a credential  
16 program or that might have been a temporary of -- some  
17 other type of temporary document that said that they  
18 had fulfilled some other certain kind of obligation.  
19 None of those documents are issued to teachers who have  
20 completed a credential education program and fulfilled  
21 the requirements set forth by the California Teacher  
22 Credentialing Commission. They have not had the full  
23 education required of a teacher who has a California  
24 teaching credential.

25 Q. And, again, just so we're clear, by the

1 accommodate the number of students in a particular  
2 year. I think we've spent some time talking about that  
3 earlier today. Those are the situations you are  
4 referring to?

5 A. We talked about this extensively in the  
6 first day of testimony.

7 Q. Towards the end of paragraph five, you say  
8 that the overflow classes that are created are, quote,  
9 "Usually comprised of the lowest-achieving students  
10 from various classes."

11 Can you tell me what the basis for that  
12 statement is?

13 A. Conversations by other teachers.

14 Q. Do you remember any of the specifics of  
15 those conversations?

16 A. Just heard teachers saying they were going  
17 to send this kid, this kid, and this kid because of  
18 this reason or that reason, one of those reasons being  
19 that that student was not going to be able to do what  
20 the rest of their class was going to be able to do.

21 The kids that were over in a class -- what  
22 Hawthorne tried to do is move a class as a blob, so,  
23 for example, Kim Bowen's students from 1st grade came  
24 to me in 2nd grade, sort of as an already formed class.  
25 When a class had extra students, it was frequently

1 final statement in paragraph four, you didn't mean to  
2 say that teachers who were hired did not have any  
3 credential of any kind?

4 A. I guess the issue is a semantic issue of  
5 what a credential is. When teachers talk about having  
6 their credential, it means the preliminary or clear  
7 teaching credential meaning you have completed teacher  
8 school. An uncredentialed teacher would be a teacher  
9 who did not possess that specific document in the  
10 parlance, the jargon of the teaching profession.

11 Q. Just so we're clear, when you used the word  
12 "uncredentialed," you are referring to the teacher not  
13 having the sort of credential you just described?

14 MS. MAJD: Asked and answered.

15 THE WITNESS: When I used the word  
16 "uncredentialed" as previously stated, it meant  
17 teachers who did not hold a preliminary or clear  
18 professional teaching credential for the State of  
19 California.

20 MR. ROSENTHAL: Q. I would like you to take  
21 a look at paragraph five, if you would, for a minute.  
22 Have you had a chance to look at that paragraph?

23 A. Uh-huh.

24 Q. In that paragraph, you talk about the  
25 situation where additional classes are created to

1 because they were late enrollees. They had not been  
2 part of the educational process at Hawthorne, therefore  
3 were not necessarily at the same level as students who  
4 had been working together in our program for some  
5 number of years. This could potentially mean  
6 comparatively, they would not be achieving at the same  
7 level as other students in that class.

8 When a teacher had a class with too many  
9 students, the general practice was last enrolled would  
10 be the first ones to be moved to the overflow class  
11 which means these are the kids who came in late who  
12 hadn't been part of the educational process who may  
13 have started school late who may have higher transience  
14 than other students, all of which correlates to lower  
15 achievement.

16 Q. Again, just so we're clear as to what this  
17 sentence meant, were you intending to state that  
18 lower-achieving students were purposefully put in the  
19 overflow classes?

20 A. No.

21 Q. Or was that something that just happened  
22 because of the reasons you described?

23 A. Happened because of the circumstances I just  
24 described.

25 Q. Also, just so I'm clear, who decided which

1 students would be moved from a class into a newly  
 2 created overflow class?  
 3 A. The primary decision was made by the teacher  
 4 in the class that had the too many students,  
 5 potentially in consultation with the vice principal or  
 6 principal. The general practice, as stated, I can  
 7 recall specifically by Michael Bowen, vice principal,  
 8 was that whoever was enrolled in your class last should  
 9 be the child who should be moved. However, there was  
 10 discretion on the part of teachers if there was a case  
 11 where a student had been with that group for three  
 12 years and had issues with other kids in the class,  
 13 maybe it would be better to move that child.  
 14 Q. Was it your understanding that part of the  
 15 reason for creating these new overflow classes was to  
 16 ensure that the school complied with the student  
 17 population limits per class that were in effect at  
 18 Hawthorne?  
 19 MS. MAJD: Calls for speculation.  
 20 MR. ROSENTHAL: To the extent you know.  
 21 THE WITNESS: According to our contract, you  
 22 couldn't have a class of more than 31 students, so  
 23 students had to be moved out of those classes or the  
 24 District would be in violation of the labor contract.  
 25 For classes that had more than 20, the goal

1 A. Because more students were enrolled in the  
 2 school than there were classes in existence to  
 3 accommodate them.  
 4 Q. And were the -- was the increase in  
 5 enrollment something that had been anticipated or some  
 6 unanticipated increase?  
 7 MS. MAJD: Calls for speculation.  
 8 MR. ROSENTHAL: To the extent you know.  
 9 THE WITNESS: I believe it was an  
 10 unanticipated increase since the classes didn't exist  
 11 to accommodate them.  
 12 MR. ROSENTHAL: Q. I would like you to take  
 13 a look at paragraph six which continues at the bottom  
 14 of the second page of your declaration. Have you had a  
 15 chance to read that paragraph?  
 16 A. Uh-huh.  
 17 Q. This paragraph deals largely with the roving  
 18 situation at Hawthorne. Is it your belief that the  
 19 roving situation as described in this paragraph no  
 20 longer exists at Hawthorne?  
 21 MS. MAJD: Calls for speculation.  
 22 MR. ROSENTHAL: To the extent you know.  
 23 THE WITNESS: To the extent I know, because  
 24 the school is not on a multitrack schedule, teachers  
 25 are not roving every three weeks because they don't

1 was to try to create a more equitable situation where  
 2 class size was reduced to provide a higher quality  
 3 education to students who most needed it. That was the  
 4 intent of the State program. The program, however, did  
 5 not provide for the hiring of additional teachers or  
 6 for the creation of additional facilities to house  
 7 these students. Hence you ended up with schools like  
 8 Hawthorne.  
 9 MR. ROSENTHAL: Q. Was the District largely  
 10 successful in complying with the terms of the labor  
 11 contract with this teacher as far as remedying classes  
 12 that had too many students at the start of the school  
 13 year?  
 14 MS. MAJD: Calls for speculation.  
 15 THE WITNESS: I can't speak to any other  
 16 school besides Hawthorne.  
 17 MR. ROSENTHAL: I'm referring just to  
 18 Hawthorne here.  
 19 THE WITNESS: Yes, in Hawthorne's case, yes.  
 20 MR. ROSENTHAL: Q. And did you have --  
 21 strike that.  
 22 Do you have any understanding as to why  
 23 certain classes at the start of the school year had  
 24 more students than were permitted by the contract the  
 25 District had with the teachers?

1 have their own classroom space. Teachers are moving  
 2 because of construction.  
 3 MR. ROSENTHAL: Q. Is that based on  
 4 conversations you've had with teachers who are  
 5 currently teaching at Hawthorne?  
 6 A. Yes.  
 7 Q. Towards the middle of paragraph six, you say  
 8 there was a teacher who had to move 15 times. Do you  
 9 recall which teacher that was?  
 10 A. Albertina Padilla.  
 11 Q. Do you remember what year that occurred?  
 12 A. The year of modernization which was  
 13 '99/2000. Nicol Knight also moved somewhere in the  
 14 neighborhood of that same number of times.  
 15 Q. In paragraph six, you detail the effect that  
 16 roving has on you and students and other teachers and  
 17 we've spent some time today discussing those effects.  
 18 Are there any other effects of roving that troubled you  
 19 that you've not discussed today or identified in this  
 20 paragraph?  
 21 A. Something that hasn't been discussed today  
 22 that is mentioned in the paragraph, but I would like to  
 23 state for the record is that when we discussed how the  
 24 roving was -- you know, where it would -- the  
 25 first-year teachers wouldn't rove and it would be by

1 lottery and if you had not roved before, you were in  
 2 the lottery, that was just for the teachers. That  
 3 wasn't for the kids. There was no way to logistically  
 4 manage how many times a kid might have to rove, so a  
 5 child might be with a roving teacher in 1st grade and  
 6 in 2nd grade, their 1st grade teacher doesn't have to  
 7 rove anymore, but suddenly their 2nd grade teacher has  
 8 to rove or they might have roved in 1st, 3rd, and 5th  
 9 grades because of the number of students in the school  
 10 and turnover in faculty. There was no way to  
 11 logistically avoid having that happen, so -- I mean,  
 12 the roving is obviously clearly worse for the children  
 13 than it is for the teachers. It is a pain in the neck  
 14 for the teachers. It is a significant instructional  
 15 detriment to the children, both because of the loss of  
 16 the instructional time when they roved that year, and  
 17 also because of the cumulative loss of instructional  
 18 time over the five or six years they might spend at  
 19 Hawthorne if they don't move to another school because  
 20 there is no way to make it so they don't rove again.

21 Q. Is it your understanding that those concerns  
 22 that you've just identified are no longer a problem at  
 23 Hawthorne?

24 MS. MAJD: Calls for speculation.

25 MR. ROSENTHAL: To the extent you know.

1 that original class grouping, they might have ended up  
 2 roving.

3 MR. ROSENTHAL: Can I take a quick restroom  
 4 break? Off the record.

5 (Recess taken.)

6 MR. ROSENTHAL: Q. Ms. Salyer, I would like  
 7 to direct your attention to paragraph seven of your  
 8 declaration. If you could take a moment to read that.  
 9 Have you had a chance to review that paragraph?

10 A. Uh-huh.

11 Q. In the second sentence of that paragraph,  
 12 you discuss the mold problem at the school and the roof  
 13 that has leaked for years. Are you -- in that  
 14 sentence, were you referring to the roof on the DCH  
 15 Building where your class was located?

16 A. Yes.

17 Q. Were you referring to any other roof at  
 18 Hawthorne?

19 A. No, I was referring to that roof in  
 20 particular.

21 Q. And when you say the roof leaked for years,  
 22 are you aware of the condition of the roof prior to you  
 23 having a class in that building?

24 A. I was told by other teachers who had been in  
 25 that building that they had experienced roof leakage

1 THE WITNESS: To the extent I know, since  
 2 the multitrack year-round schedule has been eliminated.

3 MR. ROSENTHAL: Q. During the time you were  
 4 at Hawthorne, were there any efforts made to ensure  
 5 that students were not placed in classes that roved in  
 6 consecutive years? Do you understand the question?

7 MS. MAJD: Calls for speculation.

8 THE WITNESS: I know of one instance only.  
 9 The year that Raquel Rodrigues-Jones was scheduled for  
 10 a rove, she realized the class that was incoming to her  
 11 had roved the previous year with Amy Wegener and  
 12 brought that to the attention of the principal and  
 13 Raquel was removed from the roving list and someone  
 14 else had to take her place and another class had to  
 15 take that class's place.

16 MR. ROSENTHAL: Q. Are you aware of other  
 17 instances where classes that had roved one year were  
 18 required to rove the next?

19 A. I couldn't describe a specific instance  
 20 since the kids didn't always stay together -- you know,  
 21 a kid could move to a different -- you know, class  
 22 grouping and end up roving with that class grouping, so  
 23 even if it were a case like Raquel saying these kids  
 24 roved last year with Amy Wegener and if a child changed  
 25 tracks and they were in someone else's class and not in

1 for a number of years prior.

2 Q. Do you recall what teachers told you that?

3 A. Janie Naranjo-Hall, Cathy Booker, Suzanne  
 4 Ragghianti, Becky Pinnick. That is who I remember at  
 5 the moment.

6 Q. In the next sentence in paragraph seven, you  
 7 talk about one of the buildings infested with mold that  
 8 had to be demolished. Is that the same building in the  
 9 DCH complex in which you had a class that you testified  
 10 to earlier today?

11 A. Yes.

12 Q. And in the last sentence of paragraph seven,  
 13 you refer to portables being put on the school yard to  
 14 replace the demolished building. You are referring to  
 15 -- included in that, were you referring to the portable  
 16 that your class was moved to?

17 A. Well, two things happened. There were  
 18 already temporary portables on the yard that had been  
 19 placed there for the Hawthorne and Whitton  
 20 modernization. Instead of having those removed, they  
 21 were remained and then once the DCH Building was  
 22 demolished, the site was prepped and more portables  
 23 were brought in and put where the old building had  
 24 stood. The portables I was in were the ones that were  
 25 on the yard left over from the modernization that

1 should have been taken off, but were kept.  
 2 Q. Just so I'm clear, is there -- when you call  
 3 the portables "temporary," is there any distinction you  
 4 make between types of portables?  
 5 A. Yes.  
 6 Q. Can you describe for me the distinction you  
 7 are making?  
 8 A. Temporary portables are empty boxes. They  
 9 have no interior amenities, no storage, et cetera.  
 10 They sit on jacks versus being put on any kind of  
 11 foundation. They are not of the same quality as a  
 12 portable or a modular that would be expected to be used  
 13 for a number of years in a location.  
 14 Q. Of the portables that were located at  
 15 Hawthorne, how many were of the temporary variety?  
 16 A. Ten.  
 17 Q. Was that -- were those ten at Hawthorne for  
 18 the entire four years you were there?  
 19 A. No, they were there for '99/2000 to house  
 20 classes during modernization and then for 2000/2001  
 21 because of the destruction of the DCH Building.  
 22 Q. Do you know whether those temporary  
 23 portables are still at Hawthorne today?  
 24 A. Yes, they are.  
 25 Q. Are they in use today?

1 A. Yes, they are.  
 2 MS. MAJD: Calls for speculation.  
 3 MR. ROSENTHAL: Q. Do you have an  
 4 understanding as to why they continued to be used  
 5 today?  
 6 MS. MAJD: Same objection.  
 7 MR. ROSENTHAL: To the extent you know.  
 8 THE WITNESS: To the extent I know, the old  
 9 portables on the yard, the ones that had been there for  
 10 20 or 30 years that were finally demolished and were to  
 11 be replaced by the two-story modular building, those  
 12 people needed somewhere to go since the new two-story  
 13 modular building had not been replaced.  
 14 Additionally, since Hawthorne went off the  
 15 year-round schedule but did not have a commensurate  
 16 decrease in student population, there still had to be  
 17 some kind of classroom space for those students. In  
 18 order to have brought Hawthorne off of year-round and  
 19 house the students in classroom space that did not  
 20 include those ten temporary portables which housed 200  
 21 kids, you would have had to have decreased the  
 22 population by 200 more kids and that didn't happen,  
 23 therefore those portables had to be retained both  
 24 because of the demolition of the old portables and the  
 25 lack of availability of the new structure and because

1 the student population did not decrease enough.  
 2 MR. ROSENTHAL: Q. Do you know whether  
 3 there are future plans to further decrease the student  
 4 population at Hawthorne?  
 5 MS. MAJD: Calls for speculation.  
 6 MR. ROSENTHAL: To the extent you know.  
 7 THE WITNESS: I don't know.  
 8 MR. ROSENTHAL: Q. I would like you to take  
 9 a minute to look at paragraph eight of your  
 10 declaration. In paragraph eight, you talk about some  
 11 of the noise issues that you were confronted with in  
 12 teaching at Hawthorne. Was this paragraph referring to  
 13 the time you spent in the classroom designated as P 13?  
 14 A. Yes.  
 15 Q. On the second line of that paragraph, line  
 16 six of the page, you describe the portables as, quote,  
 17 "Very flimsy."  
 18 Can you tell me what you mean by that?  
 19 A. They don't sit on a foundation. They sit on  
 20 jacks, on hydraulic or mechanical jacks, therefore  
 21 there is nothing underneath them. You have the flat  
 22 four, except for the points where the jack is, so as  
 23 the students move through the classroom, there is a  
 24 hollow echo sound. The walls themselves are thin.  
 25 There is no framing. There is no anchoring to the

1 ground. If a ball hits the side of the wall, the  
 2 building shakes. If the wind blows, the building  
 3 shakes.  
 4 Q. Would you say the walls that surround the  
 5 classrooms in the temporary portables were effective  
 6 sound barriers?  
 7 MS. MAJD: Objection. Vague.  
 8 THE WITNESS: No, they were not effective  
 9 sound barriers.  
 10 MR. ROSENTHAL: Q. Can you tell me why you  
 11 believe they were not?  
 12 A. Because I could hear all the noise in the  
 13 yard; because I could not read aloud to my students  
 14 during recess periods; because I could hear all of the  
 15 construction noise going on outside.  
 16 MS. LHAMON: Amy, just as a point of  
 17 clarification, when you said during recess periods, you  
 18 are referring to other students' recess periods, right?  
 19 THE WITNESS: Right.  
 20 MS. LHAMON: Thanks.  
 21 THE WITNESS: Many recess periods in a  
 22 school that size.  
 23 MR. ROSENTHAL: Q. And just so I'm clear,  
 24 the portables -- let's deal with your particular  
 25 portable, P 13, that portable shared -- faced the yard

1 where students had recess?

2 A. Yes.

3 Q. Was that also true of any of the  
4 non-portable structures at Hawthorne?

5 A. The Hawthorne Building had a row of classes  
6 that went down the back wall and their windows looked  
7 out on to the yard, but there was a -- there was a --  
8 like a no fly zone. There was a yellow line painted  
9 that students weren't supposed to go across and play in  
10 this area, so there was some physical separation  
11 between that building and the main part of the yard.

12 Q. Do you know whether -- strike that.

13 Do you know whether noise from the yard when  
14 students were on recess could be heard in those classes  
15 in the Hawthorne Building that were facing the yard?

16 MS. MAJD: Calls for a speculation.

17 THE WITNESS: To a much lesser extent, based  
18 on my experience when I was in room H 7 which was one  
19 of those classrooms.

20 MR. ROSENTHAL: Q. The last sentence of  
21 paragraph eight, you say that the portables get very  
22 little natural light. Was there artificial light  
23 provided for in the portables?

24 A. Yes.

25 Q. And was that lighting sufficient for

1 and there being only one exit and the lack of intercom  
2 or alarm system. Were you referring to all the  
3 portables at Hawthorne with respect to this paragraph?

4 A. No, this paragraph refers to the temporary  
5 portables, the ten temporary portables.

6 Q. Do you have an understanding as to whether  
7 there are any plans for the temporary portables that  
8 are currently at Hawthorne to be removed in the future?

9 MS. MAJD: Calls for speculation.

10 THE WITNESS: I don't know.

11 MR. ROSENTHAL: Q. In the event that  
12 students who were in your class which was located in  
13 classroom P 13, in the event they wanted to wash their  
14 hands or get a drink of water, what did you do?

15 A. They would have to go to the -- either to  
16 the portable bathrooms or to the bathrooms in the  
17 Hawthorne Building in order to do that. There were --  
18 depending on what we had done that morning, there were  
19 some days couple times a week when we would leave for  
20 lunch early, end instruction early and leave for lunch  
21 early, go to the bathrooms together. I would squirt  
22 them with soap. They would go into the bathroom and  
23 wash their hands. Other days they used the instant  
24 hand sanitizer purchased by me with my own money to  
25 clean their hands before lunch.

1 instruction of students in your opinion?

2 A. I didn't feel it was. It wasn't  
3 particularly bright. The ceiling was very low. There  
4 are a number of studies that indicate that students  
5 learn better with larger amounts of natural light. I  
6 always felt like that room was dim and the glare of the  
7 fluorescent lights such as they were sometimes made it  
8 so kids couldn't see the white board. I didn't think  
9 it was well lighted.

10 Q. Do you know how many lights were in the  
11 classroom?

12 A. No.

13 Q. Also in that sentence, you say there was  
14 just one window. Is that true for portable P 13, there  
15 was only one window?

16 A. Yes.

17 Q. So in the previous sentence where you say  
18 you kept the doors and windows closed to reduce the  
19 noise, were you referring just to that one window?

20 A. It should have been door and window.

21 Q. Just wanted to clarify.

22 A. One door, one window.

23 Q. I would like you to take a look at paragraph  
24 nine, if you could, for a minute. You described some  
25 of the conditions in portables such as not having water

1 Q. Did classrooms that were not in the  
2 temporary portables at Hawthorne have running water in  
3 those classes?

4 MS. MAJD: Calls for speculation.

5 MR. ROSENTHAL: To the extent you know.

6 THE WITNESS: Some did, some didn't.

7 MR. ROSENTHAL: Q. In the middle of  
8 paragraph nine, you said you were not able to do all  
9 the activities you would have liked as a result of not  
10 having water in your classroom. Can you give me an  
11 example of the kind of activities you could not do?

12 MS. MAJD: Just to clarify, again, you are  
13 summarizing what is in the declaration.

14 THE WITNESS: I did almost no art that was  
15 -- the only art that I did was cutting and gluing type  
16 activities. I did no painting when I was in P 13  
17 because to paint, you need water and it is a pain in  
18 the neck to have to haul water to the classroom. You  
19 can't clean adequately. The kids can't clean  
20 themselves, so there was no painting. There was no  
21 papier-mache. There was no art activity beyond  
22 scissors, paper, glue, and glitter.

23 For science, I had to carry water to the  
24 classroom to do the activities in the water unit that  
25 we did. The students had to help me carry materials to

1 a sink in another location in order to wash them, which  
2 took instructional time. They couldn't wash their  
3 hands -- you know, with regularity during art or  
4 science which are messier activities because we didn't  
5 have running water.

6 Q. Were there any science activities that  
7 required water that you were unable to do while in  
8 P 13?

9 A. I think if I wanted to do something, I had  
10 to purchase water in a container or fill a container  
11 from another location and bring it to the classroom  
12 which took time away from me doing some other kind of  
13 planning or which took student time when I asked them  
14 to do that task.

15 Q. Do you remember any specific instances when  
16 you wanted to do a science activity that required water  
17 that you did not do?

18 A. Not that I recall right now.

19 Q. Did you ever do any painting and  
20 papier-mache art activities when you taught classes in  
21 other classrooms at Hawthorne?

22 A. Yes.

23 Q. Which classrooms?

24 A. DCH 4 and H 7.

25 Q. Was there water in each of those classrooms,

1 you were isolated. In the event of an emergency,  
2 either in the classroom, you had no way to contact the  
3 office for help. In the event of some type of  
4 emergency outside the classroom, the office had no way  
5 to contact you.

6 Q. Were other classrooms at Hawthorne equipped  
7 with an intercom to the office?

8 A. The Hawthorne Building was able to call the  
9 main office. They had -- there was no intercom system  
10 throughout the entire school. There was no school-wide  
11 intercom system.

12 Q. So it wasn't a problem that was limited to  
13 the temporary portables?

14 A. There's stages of the problem. The large  
15 stage is that there was no school-wide intercom system.  
16 The next stage was that classrooms in the Whitton and  
17 DCH sections of the school could not call the main  
18 office directly. They had to call the clerk in the DCH  
19 Building. The next stage of the problem, the temporary  
20 portables had no communication whatsoever.

21 Q. Do you recall whether classroom P 13 had a  
22 smoke detector?

23 A. I don't believe that it did.

24 Q. Do you know if classroom P 13 had any sort  
25 of fire detection system?

1 running water?

2 A. Yes.

3 Q. In the fourth line of paragraph nine, you  
4 refer to the safety risk to students because there was  
5 only one exit to the portables.

6 A. Yes.

7 Q. Did each of the portables contain just one  
8 classroom?

9 A. The temporary portables were what is called  
10 double-wides. They had two rooms with a wall down the  
11 middle. Each classroom had entrances and egresses  
12 through a single door. The window opened, but there  
13 were permanently attached security grills on the  
14 outside that were not of the releasable variety.

15 Q. Just so I'm clear, did each of the  
16 classrooms have their own separate entrance?

17 A. Yes, and there was no interior door between  
18 them.

19 Q. And finally, in paragraph nine, you talk  
20 about the lack of an intercom or alarm system in the  
21 portables. Can you tell me what you are referring to  
22 there?

23 A. There was no way to call the office. There  
24 was no phone. There was no intercom. The site fire  
25 alarm system was not hooked up to those portables, so

1 A. There was a little red pulley thing on the  
2 wall, but that made an alarm sound only in that room.

3 Q. Do you remember any instances of there being  
4 any kinds of emergencies along the lines you mention in  
5 paragraph nine where the main office was unable to  
6 contact your portable classroom?

7 A. Yes.

8 Q. Can you tell me the instance you recall?

9 A. There was a bomb threat.

10 Q. And do you recall what happened as far as  
11 classes being notified of the threat?

12 A. The bell was sounded for a lockdown, but we  
13 had no way of knowing if it was a drill, if something  
14 would happen, if it was someone on the yard with a gun,  
15 what the situation was.

16 There is another instance where there was  
17 some kind of police pursuit through the grounds and,  
18 again, there was no way to notify the people in the  
19 temporary portables of what was happening.

20 Q. Could you hear the bell when that alarm went  
21 off?

22 A. I was at lunch when that one happened. My  
23 kids were in the cafeteria and as I recall, the  
24 lockdown bell sounded, but the people in the temporary  
25 portables who were just leaving to come to lunch didn't

1 know what was going on; didn't know if they were  
 2 supposed to leave or go or what was happening.  
 3 Q. Is the lockdown bell generally audible in  
 4 the temporary classrooms?  
 5 A. Not with the new system, no.  
 6 Q. When you say, "Not with the new system,"  
 7 what are you referring to?  
 8 A. There is a new system installed by the  
 9 Simplex Corporation as part of the modernization. That  
 10 bell system was not audible on the yard. The children  
 11 could not hear the bell for the end of recess. We  
 12 could not hear the fire alarm. We could not hear the  
 13 lockdown bell.  
 14 Q. Do you recall when that system was  
 15 installed?  
 16 A. It was part of the modernization process in  
 17 1999/2000.  
 18 Q. I would like you to take a look at paragraph  
 19 ten, if you can. Paragraph ten deals with the bathroom  
 20 situation at Hawthorne and we've spent some time  
 21 covering that today. The information provided -- is  
 22 the information you provided in this paragraph what you  
 23 were referring to when you were testifying about the  
 24 bathroom conditions earlier today?  
 25 A. Yes.

1 Q. If you would take a look at the first  
 2 sentence in that paragraph, you say the students have  
 3 to walk 50 yards to go to the bathrooms. Which  
 4 students are you referring to there?  
 5 A. Students from P 13 specifically.  
 6 Q. And was it roughly 50 yards from classroom  
 7 P 13 to the portable bathroom facility?  
 8 A. It was not that far to the portable bathroom  
 9 facility.  
 10 Q. Were you referring to a different facility?  
 11 A. To the Hawthorne bathroom facility.  
 12 Q. Do you know how far the portable bathroom  
 13 facility was from P 13?  
 14 A. Oh, maybe 25 yards.  
 15 Q. If you can quickly look at the final  
 16 paragraph in your declaration, the final numbered  
 17 paragraph in your declaration, which is No. 11, take a  
 18 quick minute to look at that one.  
 19 A. Okay.  
 20 Q. We haven't spent -- I don't think we've  
 21 touched on drinking water at all. Did you have  
 22 concerns about the drinking water at Hawthorne?  
 23 A. I think we did discuss it during the first  
 24 day of testimony. As this paragraph states, there were  
 25 very limited water fountains on the yard. There were

1 even fewer within the school buildings. In the last  
 2 two years, there were two water fountain fixtures on  
 3 the outside of the Hawthorne Building that each had  
 4 four fountains. In the last two years, only one of  
 5 those fixtures was operable. There were -- actually,  
 6 this paragraph is slightly inaccurate. There were  
 7 water fountains at the portable bathrooms. The water  
 8 fountain -- there were two fixtures, each with two  
 9 fountains. The one on the girls' side did not work.  
 10 The one on the boys' side did work. Clearly not  
 11 adequate water fountains to serve 1,000 kids at school  
 12 at a time. The kids frequently complained that the  
 13 water was yucky, that it was warm, that it was yellow.  
 14 That was also my observation.  
 15 Q. Just so the record is clear, can you tell me  
 16 what you recall is the number of functioning water  
 17 fountains at Hawthorne?  
 18 A. Functioning?  
 19 Q. Right.  
 20 A. Eight.  
 21 Q. Is that true for the entire four years you  
 22 were at Hawthorne?  
 23 A. More or less and I didn't keep a tally, keep  
 24 a survey.  
 25 Q. Are you aware of whether the water -- the

1 drinking water at Hawthorne was ever tested as to its  
 2 safety?  
 3 MS. MAJD: Vague and overbroad. Calls for  
 4 speculation.  
 5 THE WITNESS: I don't know.  
 6 MR. ROSENTHAL: Okay. I want to go off the  
 7 record here for a moment.  
 8 (Recess taken.)  
 9 MR. ROSENTHAL: Q. Ms. Salyer, I just have  
 10 a few more questions for you. During your first day of  
 11 testimony, we discussed teacher turnover and you told  
 12 me that, I believe it was roughly about a dozen  
 13 teachers left Hawthorne per year. Do you remember  
 14 testifying about that?  
 15 A. Yes.  
 16 Q. Can you tell me how many teachers at  
 17 Hawthorne were there for the entire four-year period  
 18 you were there, to the extent you can estimate?  
 19 A. Maybe 15.  
 20 Q. Also during your first day of testimony, you  
 21 said that prior to being hired as a permanent teacher  
 22 at Hawthorne, you were, for a period of time, a  
 23 substitute teacher and you mentioned you had undergone  
 24 some substitute teacher orientation. Can you describe  
 25 for me what that orientation consisted of?

1 A. It was about a two-hour meeting to explain  
2 how to fill out your time sheet and how to use the  
3 substitute teacher computer system. It wasn't related  
4 to classroom issues.

5 Q. Were you provided any materials at that  
6 meeting with respect to how to conduct a class?

7 A. No.

8 Q. Did you ever receive any materials at all in  
9 that regard?

10 A. No.

11 Q. You previously told me what your  
12 understanding was with respect to the responsibilities  
13 of substitute teachers. Where did you gain that  
14 understanding?

15 A. Based on my teacher credential program,  
16 knowing what a classroom teacher needed to accomplish.  
17 My understanding is that a substitute teacher should  
18 attempt to accomplish the same things in the classroom.

19 Q. When you were a substitute teacher, were  
20 you, at that time, in a teacher credentialing program?

21 A. Yes.

22 Q. Also during your first day of testimony, you  
23 mentioned the computerized substitute teacher system.  
24 Can you just describe for me how that program worked?

25 A. Well, there is a computer. If you are a

1 THE WITNESS: My experience as a classroom  
2 teacher has been that there simply aren't enough  
3 substitutes to cover what is needed. I mean, it is not  
4 up to the computer. The computer can't control the  
5 supply of substitutes. It can call the people that it  
6 has -- you know, that are entered into it as  
7 substitutes and if nobody picks up the job, then the  
8 job sits. It is a job number with nobody assigned to  
9 it. No sub comes and the school is kind of screwed.

10 MR. ROSENTHAL: Q. Do you remember  
11 instances of that happening, a job that you entered  
12 into the computerized system not being filled by a  
13 substitute during the four years you were at Hawthorne?

14 A. I generally tried to locate my own sub. I  
15 very rarely left it to chance because I knew that there  
16 was every possibility that that would happen, so I  
17 would usually call people, substitutes I knew, and say,  
18 "Hey, are you available this day? Okay. Great,"  
19 because there is an option where if you are the  
20 calling-in teacher, if you are the classroom teacher,  
21 you can identify a specific substitute to have assigned  
22 to it. 99 percent of the time that is what I did.

23 Q. And the remaining one percent of the time,  
24 was a substitute teacher obtained for your class?

25 A. The remaining one percent of the time, I

1 classroom teacher who needs to be absent, you call in  
2 to the computer. You follow a number of steps to  
3 identify who you are, what school you are at, what you  
4 teach, what the dates of the absences will be, and it  
5 then gives you a job number so that you know it has  
6 been entered into the system.

7 On the other end of it, the computer then  
8 turns around and goes through its list of substitutes  
9 and calls them to say, "This is the Oakland Public  
10 School Substitute Information System," which I used to  
11 hear in my dreams, to say that this job is available.  
12 This is the -- you know, the grade level, the school,  
13 the number of days. Do you want it?

14 And then you indicate "yes" or "no." If you  
15 say "yes," it gives you the job number and off you go.  
16 If you say "no," then it says, "Thank you. Good-bye,"  
17 and it calls the next person on its list.

18 Q. Was it your experience that that  
19 computerized system was effective at ensuring  
20 substitute teachers were provided in classes that  
21 needed them?

22 MS. MAJD: Objection. Calls for  
23 speculation.

24 MR. ROSENTHAL: I'm asking for your  
25 experience.

1 asked Ms. Sperber to find me a substitute. I honestly  
2 can't recall a time where I left it to chance. I would  
3 rather go to school sick or rather change an  
4 appointment than -- including when my father had a  
5 heart attack and I had to leave suddenly. I made sure  
6 before I made the plane reservation that I had a sub.

7 Q. So you never used this system unless you had  
8 -- and this system I'm referring to is the computerized  
9 Substitute Assignment System -- you never used that  
10 unless you had an individual substitute teacher already  
11 designated to take over your class or is that not  
12 right?

13 MS. MAJD: I think that mischaracterizes  
14 what she said.

15 THE WITNESS: I don't think I could say  
16 never. I wouldn't want to swear to never in a court of  
17 law. To the best of my recollection, I did not spend  
18 the wheel of fortune with the substitute system.

19 MR. ROSENTHAL: Q. Do you recall, at any  
20 time during your years at Hawthorne, that a team of  
21 officials from the State of California ever came to  
22 review the facilities at Hawthorne?

23 MS. MAJD: Objection. Calls for  
24 speculation. It is vague.

25 THE WITNESS: Related to the facilities, not



1 to my knowledge.  
 2 MR. ROSENTHAL: Q. Do you recall there ever  
 3 being a team of individuals from the District who came  
 4 to assess the facilities at Hawthorne?  
 5 MS. MAJD: Same objection.  
 6 THE WITNESS: Same response, not to my own  
 7 specific knowledge.  
 8 MR. ROSENTHAL: Q. Are you familiar with  
 9 the acronym FCMAT, F-C-M-A-T?  
 10 A. Yes.  
 11 Q. Do you recall anybody affiliated with FCMAT  
 12 coming to review the facilities at Hawthorne?  
 13 MS. MAJD: Objection. Calls for  
 14 speculation.  
 15 THE WITNESS: Not to my personal knowledge.  
 16 MR. ROSENTHAL: Q. Have you heard that that  
 17 happened?  
 18 A. Not that I recall.  
 19 Let me amend a previous answer. In terms of  
 20 the facilities, Senator Dan Perata organized a citizen  
 21 review committee and visited the site. That  
 22 information then went to the State or may have gone to  
 23 FCMAT. I didn't call Dan Paratta and ask him what he  
 24 did. I don't recall.  
 25 Q. Do you recall that team of individuals --

1 strike that.  
 2 Prior to starting as a full-time teacher at  
 3 Hawthorne, were you ever given copies of any District  
 4 policies?  
 5 A. Prior to starting at Hawthorne, no.  
 6 Q. All right. Were you given any copies of  
 7 District policy at the time you started?  
 8 A. District policies, no.  
 9 Q. Were you given copies of policies specific  
 10 to Hawthorne?  
 11 A. Yes, Hawthorne had a little teacher  
 12 handbook, somewhat out of date, but --  
 13 Q. Do you recall the types of materials that  
 14 were contained in that handbook?  
 15 A. Lists of people to ask if you needed a --  
 16 you know, if you had a question or needed something,  
 17 however many of those people no longer worked at  
 18 Hawthorne, so it wasn't totally useful. Some examples  
 19 I can think of like office referral forms. I really  
 20 don't remember. I didn't recall it being that useful  
 21 and I think it sat on a shelf.  
 22 Q. When you say, "Office referral forms," can  
 23 you tell me what you are referring to?  
 24 A. If a student needed to be referred to the  
 25 office for a discipline issue.

1 Q. Do you recall the handbook containing any  
 2 instructions with respect to situations that may arise  
 3 in a classroom with respect to class facilities?  
 4 MS. MAJD: Objection. Vague.  
 5 MR. ROSENTHAL: Q. Do you understand the  
 6 question?  
 7 A. No, I'm sorry. Could you be more --  
 8 Q. Sure. Why don't I give you an example. For  
 9 example, do you recall there being anything in the  
 10 handbooks that told you what to do when, for example,  
 11 you had a facilities concern such as a leaking roof?  
 12 A. No.  
 13 Q. Do you recall the handbook containing any  
 14 information about how to go about ensuring that your  
 15 class had the appropriate instructional materials?  
 16 MS. MAJD: Objection. Assumes facts not in  
 17 evidence.  
 18 THE WITNESS: Beyond the list of people, who  
 19 to ask about this program or that program or the prep  
 20 schedule, no.  
 21 MR. ROSENTHAL: Q. Do you recall the  
 22 handbook identifying a particular individual to deal  
 23 with facilities concerns that you may have?  
 24 A. It may have been indicated on that same list  
 25 of people that that would be something to ask an

1 administrator about.  
 2 Q. Other than this teacher handbook that you've  
 3 described, do you recall ever receiving, at any time  
 4 during your four years at Hawthorne, any other copies  
 5 of policies or procedures to be followed in connection  
 6 with your employment as a teacher at Hawthorne?  
 7 A. No.  
 8 Q. We discussed during your first day that you  
 9 are currently teaching at the International Community  
 10 School; is that correct?  
 11 A. Yes.  
 12 Q. Do you know where the -- strike that.  
 13 During your first day, you described the  
 14 genesis of the development of that school. Do you know  
 15 where the money came from to start up the International  
 16 Community School?  
 17 MS. MAJD: Calls for speculation.  
 18 MR. ROSENTHAL: To the extent you know.  
 19 THE WITNESS: To the extent that I'm aware,  
 20 the District used resources that it shifted from other  
 21 places. A large portion of the money being used to  
 22 start this school is coming from the Bill and Melinda  
 23 Gates Foundation Grant to the Bay Area Coalition of  
 24 Essential Schools, which is then funneling it to the  
 25 schools through the school district.

1 MR. ROSENTHAL: Q. Have you ever heard of  
 2 Measure A?  
 3 A. Yes.  
 4 Q. Do you know if money from Measure A was used  
 5 to help form the International Community School?  
 6 A. I do not know.  
 7 Q. Do you know if money from the State of  
 8 California was used to establish the International  
 9 Community School?  
 10 A. I do not know.  
 11 Q. We spent a lot of time over the two days you  
 12 were testifying here focusing on the concerns you had  
 13 while you were teaching at Hawthorne. Were there any  
 14 positive aspects to your experience at Hawthorne that  
 15 you haven't already told me about?  
 16 A. There were many positive aspects.  
 17 Q. Can you give me a few examples?  
 18 A. Families are amazing. They want their kids  
 19 to have an education. They want to give their kids  
 20 what they didn't have. The children are excited about  
 21 learning. The faculty at Hawthorne is committed to  
 22 working in urban public schools and is not seeing this  
 23 as just another job; that the teachers care about the  
 24 children and care about the kind of education they are  
 25 receiving and care about the lack of equity these

1 children face in the educational process. The  
 2 administrators at Hawthorne, Becky Cohn-Vargas, Susan  
 3 Sperber, Michael Bowen, Antonio Jimenez were dedicated  
 4 leaders who wanted the best for the children in their  
 5 care and wanted the best for the teachers on their  
 6 staff and in my view, did what they could to make a  
 7 chaotic, often intolerable, situation tolerable enough  
 8 so that we could do our best to teach and learn. I  
 9 mean, the families and the staff are what make the  
 10 school worthwhile. It doesn't cancel out the fact  
 11 there is not adequate sanitation and that the school  
 12 was on a year-round schedule and ten of my colleagues  
 13 had to rove and that I didn't have materials sometimes  
 14 until the middle of the year or I was in a classroom  
 15 that was mold infested or that blew when the wind blew,  
 16 but that doesn't mean that those children didn't have a  
 17 right to learn and they didn't have a right to have a  
 18 good teacher and I am a good teacher. I am educated.  
 19 I am dedicated. I'm passionate about what I do. I  
 20 work 12 hours a day and I am paid for six. I live in  
 21 the Bay Area on \$42,000 a year and I provide the  
 22 primary financial support for my family. I do that  
 23 because I want to and continue to do it because I  
 24 believe that the children of Oakland, in particular the  
 25 children in the flatlands of the City of Oakland,

1 deserve the kind of teaching and the kind of learning  
 2 that I can create in a classroom despite all those  
 3 other factors. It doesn't mean they don't deserve to  
 4 have adequate facilities and instructional materials,  
 5 but their families care about what is happening and  
 6 want to contribute and the people I work with care  
 7 about what is happening and want to contribute to their  
 8 education and want to fight for something better and  
 9 that is the kind of environment that I want to work in  
 10 and that I find a positive working environment. And it  
 11 is a relief to know there is finally somebody else out  
 12 there in the world like the American Civil Liberties  
 13 Union who recognize that the State of California is  
 14 doing a disservice to the children under its care.  
 15 Q. During today's deposition and during your  
 16 first day of testimony, you identified some things at  
 17 Hawthorne that have changed in the recent past, for  
 18 example, there being no more roving teachers. Do you  
 19 think as a result of those efforts, the education  
 20 program being provided at Hawthorne has improved?  
 21 MS. MAJD: Calls for speculation.  
 22 THE WITNESS: As I also stated, the student  
 23 population is still over 1,200. They still have a  
 24 teaching faculty of around 60. There are too many  
 25 children at that school site. It is not reasonable to

1 expect those 1,200 children to function with 20 toilets  
 2 and eight water fountains and with construction going  
 3 on and no yard space for PE or recess and with  
 4 jackhammers and backhoes operating while they are  
 5 trying to teach and learn. I don't think the situation  
 6 has improved. The only thing is that there aren't  
 7 classes that are moving every month, but they are still  
 8 moving because of the construction. They are still  
 9 dealing with the ambient environmental noise. They are  
 10 still dealing with classroom space, for example, the  
 11 five classes that are still in the DCH area that may be  
 12 -- may pose a hazard to their health. They are still  
 13 in temporary portables that were to be used for six  
 14 months and they are now in their third year of use. I  
 15 don't think the situation has improved. I don't think  
 16 it is comparable to the situation of children even in  
 17 other schools in the Oakland Unified School District  
 18 and certainly not in comparison with children in  
 19 schools in other communities in this state.  
 20 MR. ROSENTHAL: Q. Is it your testimony  
 21 that despite the fact teachers no longer rove at  
 22 Hawthorne, despite the fact Hawthorne is no longer on a  
 23 year-round multitrack schedule, and despite the fact  
 24 buildings which contained mold had been demolished and  
 25 replaced, that the overall education program at

1 Hawthorne has not improved?  
 2 MS. MAJD: Asked and answered.  
 3 MS. LHAMON: And calls for speculation.  
 4 MS. MAJD: Calls for speculation.  
 5 THE WITNESS: As I just stated, the factors  
 6 are so numerous and the totality of the experience has  
 7 not been improved to the level that one would expect to  
 8 achieve an equitable education program on par with  
 9 other communities in the state. No, I don't think  
 10 enough has been done.  
 11 MR. ROSENTHAL: Q. But has it improved to  
 12 some degree?  
 13 MS. MAJD: Asked and answered and calls for  
 14 speculation.  
 15 THE WITNESS: I've answered the question  
 16 twice. I don't have a way of giving a more measured  
 17 response. I'm not a teacher at Hawthorne School any  
 18 longer. I feel like I've answered the question the  
 19 best I can the two times it has been asked.  
 20 MR. ROSENTHAL: Q. Have you heard from  
 21 teachers that they thought the situation at the school  
 22 has improved?  
 23 A. No, the teachers I've talked to do not feel  
 24 the situation has improved.  
 25 Q. Have you ever heard the situation has

1 school and the District and the State have a long way  
 2 to go before you can say that Hawthorne School provides  
 3 an educational environment that is equal to what is  
 4 provided at the elementary schools in the suburbs that  
 5 I attended when I went to school in California or the  
 6 education that is provided in the suburbs of Orinda,  
 7 Moraga, Lafayette, Walnut Creek, Concord, Palo Alto,  
 8 and any other school district in this area where you  
 9 don't hear about the continual facilities issues and  
 10 the continual overcrowding issues. I think that  
 11 parents made their voices heard. I think teachers made  
 12 their voices heard. I think it is a long, long road  
 13 and the progress is slow and there is resistance on the  
 14 part of Governor Gray Davis and on the part of the  
 15 State of California to provide adequate educational  
 16 facilities. Cutting \$38 million from the school budget  
 17 -- from the education budget in the State does not  
 18 address the issues of inequities that we've discussed  
 19 in the previous two days of testimony.  
 20 MR. ROSENTHAL: Q. Would you say that the  
 21 efforts undertaken by parents and the students that we  
 22 discussed have put Hawthorne on the right track towards  
 23 achieving the sort of progress you envision?  
 24 MS. MAJD: Calls for speculation and vague.  
 25 THE WITNESS: I don't know because I don't

1 worsened?  
 2 A. When I spoke to Nicholas Jackson in  
 3 September, he was not impressed with the fact that  
 4 there was no longer a yard at Hawthorne School and that  
 5 in order to get his classroom in the old DCH area, he  
 6 had to walk several blocks on city streets to get to  
 7 the main office. That to me indicates that Mr. Jackson  
 8 does not feel the situation has improved at Hawthorne  
 9 School.  
 10 Q. During your first day of testimony, we  
 11 discussed some of the efforts that were undertaken to  
 12 -- undertaken by parents and staff to change Hawthorne  
 13 from a multitrack year-round school to something on a  
 14 more traditional calendar. Just so I'm clear, despite  
 15 the fact that that has, in fact, occurred at Hawthorne,  
 16 is it your belief those efforts were wasted because  
 17 they did not result in an improved education program at  
 18 Hawthorne?  
 19 MS. MAJD: Objection. I think that  
 20 mischaracterizes what she said and also calls for  
 21 speculation.  
 22 THE WITNESS: I think it is a multi-step  
 23 process. I think the answers I gave when this  
 24 essentially same question was asked two previous times  
 25 to describe what I think about it, I think that the

1 know how the District is going to respond or continue  
 2 to respond. I don't know how the State of California  
 3 is going to respond. The actions by the State thus  
 4 far, the fact the Governor chooses to continue to  
 5 pursue opposition to this lawsuit, indicate to me the  
 6 State of California does not have an interest in  
 7 improving the school conditions in this state. We have  
 8 been sitting here for eight hours. You are being paid.  
 9 Johnna is being paid. Every lawyer on this case is  
 10 being paid to take testimony about conditions that are  
 11 so blatant, that are so visible to anybody who cares to  
 12 go investigate, that it just seems ludicrous to me  
 13 we're having this conversation. If Governor Davis  
 14 wants to know what is happening in the schools, then go  
 15 look and see what an inner-city school looks like.  
 16 Don't pay lawyers to take testimony and deposition to  
 17 have teachers describe the ridiculous conditions under  
 18 which we work and under which students are being asked  
 19 to learn. The fact that the State has not accepted  
 20 responsibility and continues to put time and money into  
 21 opposing this action tells me that I can't expect that  
 22 the State will respond in a way that will achieve  
 23 equity in schools like Hawthorne.  
 24 MR. ROSENTHAL: Q. Is it your belief that  
 25 if Plaintiffs are successful in this lawsuit that the

1 individual conditions that you've identified at  
2 Hawthorne will be remedied?

3 MS. MAJD: Objection. Calls for  
4 speculation. Calls for a legal conclusion.

5 MR. ROSENTHAL: Asking for your  
6 understanding.

7 THE WITNESS: I believe that the injunctive  
8 relief requested by the Plaintiffs in this lawsuit,  
9 specifically the State oversight system and the  
10 requirements that the state accept responsibility for  
11 the condition of schools in the State of California  
12 will help schools and districts progress down the road  
13 to achieving equity for students in schools like  
14 Hawthorne and others to be in a learning environment  
15 that is on par with schools who are not faced with the  
16 same conditions, yes.

17 MR. ROSENTHAL: Q. Do you think it is  
18 important that the conditions that you have concerns  
19 about at Hawthorne get remedied as quickly as possible?

20 MS. MAJD: Objection. Vague.

21 THE WITNESS: I don't know speed is the  
22 answer. You can't -- I mean, class size reduction is a  
23 wonderful example of doing something as fast as you can  
24 and not doing it right. Class side reduction is a  
25 great thing. It is much better to teach 20 students

1 questions, if that is okay with you.

2 MR. ROSENTHAL: Sure. I reserve the right  
3 to ask follow-up as well.

4 EXAMINATION BY MS. MAJD

5 MS. MAJD: Sure.

6 Q. Okay. Amy, earlier today, you testified  
7 that there were times during the winter of the '98/'99  
8 school year that the temperature in your classroom was  
9 45 degrees inside; is that right?

10 A. Yes.

11 Q. How did you know that that was the  
12 temperature in your classroom?

13 A. The thermostat on the wall that was part of  
14 the unit where you would tell it hot, cold, whatever,  
15 how-to temperature indicator.

16 Q. Okay. How often or how many days was the  
17 classroom temperature around 45 degrees that year?

18 A. I estimated that it was an eight-week period  
19 that the heater was nonfunctional. This was in January  
20 and February of '99. When I came in every morning, I  
21 checked the temperature and every single morning, it  
22 was somewhere in the mid 40s to low 50s.

23 Q. And would the temperature remain about that  
24 temperature the entire day on those occasions it was 45  
25 degrees?

1 than 31, but if that means you have schools that are  
2 now multitrack year-round or you have teachers that are  
3 roving or you have classes as there are in other  
4 schools that meet in non-classroom space, doing that as  
5 fast as you can hasn't really remedied the problem. It  
6 has just created new ones. There needs to be a process  
7 that involves some thought and consideration towards  
8 how the State can best serve the needs of the children  
9 it's constitutionally required to provide an education  
10 to.

11 MR. ROSENTHAL: Q. So then just so I'm  
12 clear, is it your understanding that the purpose of  
13 this lawsuit is not to remedy those situations as  
14 quickly as possible?

15 MS. MAJD: Objection. Asked and answered.

16 THE WITNESS: My understanding of the  
17 purpose of this lawsuit is it seeks an injunctive  
18 relief. I don't have an understanding that there is  
19 any time frame or speed requirement involved in that  
20 relief.

21 MR. ROSENTHAL: Q. Have you ever heard of  
22 something called the "Uniform Complaint Procedure"?

23 A. I don't believe that I have.

24 MR. ROSENTHAL: I have nothing further.

25 MS. MAJD: Okay. I'm going to ask a couple

1 A. It would warm up to the upper 50s once the  
2 kids were in the room and there was more body heat or  
3 if it happened to be a day when there was sun. The one  
4 window in the classroom faced the east. There was a  
5 large apartment building, but once the sun was over  
6 that apartment building, that would warm the room  
7 slightly.

8 Q. Okay. You also testified earlier today that  
9 during the 2000/2001 school year, you had only about  
10 eight to ten copies of Book A of the ArithmaTwist  
11 series; is that correct?

12 A. Yes.

13 Q. Did it matter to your class that you had  
14 only eight to ten copies of that book? In other words,  
15 were there students in your class who could have  
16 benefitted from use of the book who could not use it?

17 A. Yes. As I described to Mr. Rosenthal, I  
18 decided to use Book A with the students who had the  
19 fewest academic skills. However, the books built on  
20 each other in terms of complexity, so it meant that  
21 some students didn't have that same foundation laid for  
22 them. You know, I had to make a judgment or decision  
23 based on observation that may have been erroneous and  
24 they weren't provided with the instruction that they  
25 might have needed that would have come from doing the

1 activities in those books.

2 Q. Okay. Did you have any conversations with  
3 parents at Hawthorne about the mold problem at  
4 Hawthorne at any time that you were there?

5 A. We found out about the seriousness of the  
6 mold problem in September of 2000. I happened to be  
7 off track at that time. During that month, there was a  
8 meeting held for members of the school community,  
9 staff, and parents, families, kids, with people from  
10 the District to explain what the problem was and what  
11 was going to be done to attempt to remedy it. I talked  
12 to parents at that meeting and I believe subsequently  
13 about the problem and what they could do for their kids  
14 based on the information that I had.

15 Q. And do you remember what the parents said to  
16 you about the mold at the school?

17 A. They were concerned with their kids' health.  
18 They didn't know if there would be lasting effects or  
19 if their kids had been sick in the preceding years  
20 because of exposure to the mold because one of the  
21 effects that was described by Risk Management was upper  
22 respiratory infections, so the parents didn't know if  
23 these experiences their kids have had were just colds  
24 or have been caused by this mold. It was also said  
25 this could worsen preexisting asthma or possibly create

1 where that clinic was, but I also suggested that if  
2 they regularly went to La Clinica De La Rosa, which was  
3 the main clinic in the neighborhood, that if they -- or  
4 if they had Kaiser or something, which some of the  
5 families did, especially the ones who worked for  
6 janitorial services or something, that they let their  
7 provider know their children had been exposed to these  
8 molds.

9 Q. And do you know if the parents did that?

10 A. I don't know.

11 Q. Was there anything else that the parents  
12 said to you or said at that community meeting that you  
13 remember about the mold?

14 A. A lot of the parents were a little hacked  
15 off that we had gone through having the roof put on the  
16 building and the \$137,000 had been paid for the roof  
17 only to have it demolished only a month and a half  
18 later. They felt that was a pretty grave misuse of  
19 funds, as we did.

20 Q. Anything else that you can remember them  
21 saying?

22 A. No.

23 Q. Did you have any conversations with teachers  
24 regarding the mold problem at Hawthorne?

25 A. Many.

1 asthma or that it could cause health concerns down the  
2 line and the parents didn't know and didn't really have  
3 a way to find out if that was going to be the case for  
4 their kids.

5 Q. Did the parents say anything else to you  
6 about their reaction to finding out about the mold  
7 problem at the school?

8 A. They were frustrated that this had happened,  
9 as we were. This was part of the community meeting,  
10 that it had been so long before something was done when  
11 the roof had been leaking all these years and the  
12 logical consequence of water entering the building is  
13 the growth of fungus.

14 They also had questions after about where  
15 they were supposed to take their kids if they wanted  
16 some kind of health evaluation done because there was  
17 nothing provided at the school site. They needed to  
18 know what it was they were supposed to do.

19 Q. And did you have any suggestions for them or  
20 what did you tell them?

21 A. The only thing that Risk Management provided  
22 to the families was the name and address of a clinic at  
23 the Eastmont Mall, which is several miles from  
24 Hawthorne's neighborhood, where parents could take  
25 their kids to have them looked at, so I told parents

1 Q. Do you remember what the substance of any of  
2 those conversations were?

3 A. There was great concern among the teachers  
4 in the demolished DCH Building that we had been in this  
5 building for however many years each person had been  
6 there without knowing that we were being exposed and  
7 the children were being exposed to these molds.

8 There was extreme frustration that we had  
9 endured having the roof put on and it was now being  
10 demolished. There was frustration with being told at  
11 noon on Tuesday that by Thursday, we had to be out of  
12 the building so they could begin demolishing it.

13 Teachers had -- there was a bunch of  
14 shifting. We had all shifted classrooms within the  
15 building because we wanted to work with other people or  
16 whatever. That just meant I had moved -- Janie and I  
17 had combined all of our materials into one larger room  
18 and then we had to decombine and move again. That was  
19 very difficult to have to do all of that moving with --  
20 on our own time.

21 Q. Do you remember any other concerns regarding  
22 the mold that other teachers and you discussed?

23 A. Marna Walack, M-a-r-n-a, W-a-l-a-c-k, and  
24 Amy Wegener were two of the teachers in the other part  
25 of the DCH Building and DCH MPR. They were the

1 teachers who had to move out along with Nicolaus  
2 Jackson and Wayne Abrahams so that that building could  
3 be cleaned. They were teachers who lost materials.  
4 They were teaching a multi-age 1st/2nd grade combined  
5 class of 40 students and two teachers and their program  
6 was disrupted and affected because there wasn't another  
7 space to house both of their classes so they didn't  
8 have to be in separate classrooms. They lost a lot of  
9 personal teaching materials that they had purchased  
10 because they had to be destroyed because they were  
11 theoretically contaminated with the mold, so we talked  
12 about that a lot.

13 Q. Did you have any other conversations with  
14 teachers regarding the effect of having -- the effect  
15 on the educational environment of having mold problems  
16 at the school?

17 A. After that community meeting when we learned  
18 that it could create problems for children with asthma,  
19 we kind of started talking about, "Gosh" -- "you know,  
20 look at how many kids I had absent this year."  
21 That is what prompted me to go look at  
22 [REDACTED] absence and compare the preceding and  
23 succeeding years, so teachers started to wonder about  
24 were these absences and these lost instructional days  
25 caused by the mold and so that was the kind of

1 A. At lunch every day.

2 MS. MAJD: Okay thanks. That is it.

3 FURTHER EXAMINATION BY MR. ROSENTHAL

4 MR. ROSENTHAL: I just have probably two  
5 questions.

6 Q. With respect to the Book A that you used in  
7 connection with the ArithmaTwist, you testified that  
8 you had a limited number of those textbooks and that  
9 you would have liked to have more copies. Did you ever  
10 make any copies from those books for your students to  
11 use?

12 A. I may have occasionally made xeroxes, but  
13 not on a regular basis.

14 Q. Did you make copies every time you deemed it  
15 necessary so that you had sufficient copies of those  
16 materials?

17 A. The books were intended to be for the  
18 students to use to progress through as they -- you  
19 know, as they mastered each activity. The next  
20 activity would be a variation on that, only more  
21 difficult. Without xeroxing the entire book, I just --  
22 there wasn't a way for the students to have access to  
23 what was being built up in that level of ArithmaTwist.

24 Q. A couple of times during the first day of  
25 testimony and today, you indicated you want to reserve

1 conversation we would have.

2 Q. Amy, in paragraph ten of your declaration,  
3 which is Exhibit 1, you stated -- this is in the first  
4 sentence -- "Because the portables have no bathrooms,  
5 students have to walk 50 yards unsupervised through the  
6 yard to bathrooms."

7 But you testified this afternoon that the  
8 portable bathroom facilities at Hawthorne were 25 yards  
9 from portable P 13; is that right?

10 A. Yes.

11 Q. Why would students have to walk 50 yards to  
12 bathrooms?

13 A. Two reasons: If the portable bathrooms were  
14 closed because they had backed up because the drainage  
15 was not appropriate, they would have to go to the  
16 Hawthorne bathrooms which were farther away.

17 The other reason is that if it was during  
18 the upper grades students' recess or lunch, the yard  
19 supervisors would tell the primary grade students that  
20 they had to use the Hawthorne bathrooms because the big  
21 kids were using the portable bathrooms which meant they  
22 would then have to go to the Hawthorne Building.

23 Q. How often would it happen that the yard  
24 supervisors would say they would have to go to the main  
25 building?

1 your right to recall other events along the lines that  
2 I was questioning. Are there any other events that  
3 come to mind as you sit here now, this being your last  
4 chance to give testimony on that at your deposition?

5 A. When the two buildings were being modernized  
6 each in their period in the '99/2000, we had two  
7 cafeterias, one in each of those two buildings, one in  
8 Hawthorne, one in Whitton. That meant that that  
9 cafeteria would be closed. In order to provide all the  
10 students with lunch, more students would have to eat in  
11 the cafeteria that was still open and some students  
12 would have to get their lunch. They would drive this  
13 truck to the yard every day and the students would go  
14 out to the truck and get their lunch off the truck and  
15 the food that was served from the truck was not the  
16 same as the food that was being served in the  
17 cafeteria. The selections were more limited. It was  
18 more frequently a cold lunch. It wasn't as -- it  
19 wasn't the same. And those students either had to eat  
20 outside sitting on the ground or go back into the  
21 classrooms and eat, which wasn't very desirable.  
22 Because of the rodent problems, you didn't really want  
23 food in the classroom. Also, the truck thing didn't  
24 get going for the first three weeks -- three to four  
25 weeks, so students who were affected got cold bag

1 lunches for close to a month and being one of the  
 2 classes that was affected, that was something I was  
 3 concerned about. And beyond that, I don't recall  
 4 anything that I want to add.  
 5 MR. ROSENTHAL: Then I have nothing further.  
 6 Thank you very much for your time and we can go off the  
 7 record.  
 8 MS. LHAMON: Do you want to make your  
 9 stipulation?  
 10 MR. ROSENTHAL: I'm sorry. I almost forgot.  
 11 Can we stipulate that copies of documents attached to  
 12 this deposition maybe be used as originals and that the  
 13 original of this deposition be signed under penalty of  
 14 perjury; that the original be delivered to the Office  
 15 of Ms. Majd; that the reporter is relieved of liability  
 16 for the original of the deposition; and the witness  
 17 will have 30 days from the date of the court reporter's  
 18 transmittal letter to sign and correct the deposition  
 19 and Ms. Majd will notify all parties in writing of any  
 20 changes in the deposition and if there are no such  
 21 changes communicated or signature within that time, any  
 22 unsigned and uncorrected copy may be used for all  
 23 purposes as if signed and corrected?  
 24 MS. MAJD: So stipulated.  
 25 MR. ROSENTHAL: Then now we're really done.

1 CERTIFICATE OF REPORTER  
 2 I, JOHNNA FORD, a Certified Shorthand Reporter,  
 3 hereby certify that the witness in the foregoing  
 4 deposition was by me duly sworn to tell the truth, the  
 5 whole truth and nothing but the truth in the  
 6 within-entitled cause;  
 7 That said deposition was taken down in  
 8 shorthand by me, a disinterested person, at the time  
 9 and place therein stated, and that the testimony of the  
 10 said witness was thereafter reduced to typewriting, by  
 11 computer, under my direction and supervision;  
 12 I further certify that I am not of counsel or  
 13 attorney for either or any of the parties to the said  
 14 deposition nor in any way interested in the event of  
 15 this cause and that I am not related to any of the  
 16 parties thereto.  
 17  
 18 DATED: \_\_\_\_\_, 2001.  
 19  
 20  
 21 \_\_\_\_\_  
 22 JOHNNA FORD, CSR 11268  
 23  
 24  
 25

1  
 2 (Whereupon, the deposition was adjourned  
 3 at 6:32 p.m.)  
 4 --o0o--  
 5  
 6 I declare under penalty of perjury that the  
 7 foregoing is true and correct. Subscribed at  
 8 \_\_\_\_\_, California, this \_\_\_\_ day of  
 9 \_\_\_\_\_, 2001.  
 10  
 11  
 12 \_\_\_\_\_  
 13 AMY SALYER  
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