DEPOSITION OF CHARLES BALLINGER
Los Angeles, California
Wednesday, June 25, 2003
Volume III

Reported by:
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9:13 A.M. - 4:02 P.M.

CHARLES BALLINGER, having been previously first duly sworn, was examined and testified as follows:

EXAMINATION
BY MR. VILLAGRA:
Q  Good morning.
MS. DAVIS:  Mr. Ballinger wanted to clarify something.
THE WITNESS:  I asked my attorney if it was possible if I could clarify.

Yesterday, you went through the implementations step of the year-round organizational ground put out by the Department of Education which, I believe, was Exhibit 7.

BY MR. VILLAGRA:
Q  Yes.
A  First, it might save a lot of time if we could have the transcript from yesterday read. We have a different court reporter.

Just to check what my responses were to
your questions.
I'll tell you, we did -- there were so many, we started doing it shorthand, where not all the questions were asked.
Most of the things that I was talking about are preferable.
And I'm not sure whether, at some point or other, I indicated it was necessary.
So I thought in these 35 points, if I could hear it read back, it might be just fine.
I was a little uncomfortable after all of those had been reviewed, whether I was consistent in my point of view.
Q  I believe there were several items you mentioned were desired or preferable.
My question to you on all the items was whether to be properly implemented, a multitrack year-round program must do each of those items.
Is that not how you understood my question?
A  That's not how I understood it.
I was speaking what's preferable and what should be done.
And not all of these things should be required or must be done.
That's why I raised the question about it.
Q  Let's go through them, again.
And please try to answer the specific question that I ask.
My question on each of these items of Exhibit 7, I'm looking at page EXP-CB0853.
My question is to whether each item will be identical, whether each implementation step must be implemented at a multitrack year-round school for the multitrack year-round program to be properly implemented?
MS. DAVIS: Objection, vague and ambiguous as to "implementation," just to this line of questioning.
BY MR. VILLAGRA:
Q  Do you have an understanding as to what I mean by "properly implemented"?
A  I really don't.
Q  What do you take the term, "properly implemented," to mean?
A  Properly implemented, to me, would be desired.
And I think that's how I was responding last night to most of these items.
This is the desirable way to go.
That's different than saying "it must be done."
Q  In your opinion, are there certain things that must be done in order for a multitrack year-round program to be, I believe the word you used yesterday was, "successful"?
A  In general, of course.
Like Item No. 1, you do have to select the schools.
And you have to select what grades might be involved, that sort of thing.
Obviously, that's a requirement in order to have a multitrack program.
The first one is a must.
But now the second one, where we talk about establishing a process for resolving issues, I certainly think that's very desirable.
And I would counsel schools in districts to do exactly that.
Q  You don't believe it's necessarily something that must be done?
A  I would say not absolutely.
MS. DAVIS: Maybe the "must" is the key.
MR. VILLAGRA: The must is the key.
I will say to the districts: You will fail if you don't do some of these things.
But that's a choice at the local level.
It is the word "must" that I had trouble with after the day was over.
BY MR. VILLAGRA:
Q  If a district chose not to do an item that you believed is desirable, might it fail in it's implementation of a multitrack year-round program?
A  Could very well, yes.
Q  No. 3: "Construct a 'pert chart' for organizing issues, time lines, and responsibilities."
A  Yesterday, my response was I really don't know what a "pert chart" is, so I can't responsible to that.
Q  No. 4: "Meet consultation requirements and November 1 public notice deadline, if needed."
A  I don't know the education sections involved, particularly the 37616, so I won't comment on that one.
The other one, the November 1st deadline, I do know that section and that's a state law.
That must be followed.
Q No. 5 is: "Working with employee groups, select and approve a calendar."
MS. DAVIS: Vague and ambiguous.
THE WITNESS: I would say that's very desirable, I don't know if it's a must, other than what union contracts might require.
Q 6: "Assess the need for facilities' modifications, including shade modifications and storage areas for off-track teachers."
Is that something that must be done to implement a multitrack year-round program?
A I'm not sure that's a must. I think that's highly desirable.
Q No. 7: "Submit budget request to district business office."
And, I believe, you said yesterday that that depends on the district practice?
A That's correct.
Q No. 8: "Decide if year-round education will be implemented on a voluntarily or mandatory basis for students and employees."
Do you believe that is something that must be done to implement a multitrack year-round program?
A I'm not sure that's a must.
I think that's highly desirable.
Q No. 9 says: "Develop and approve track preference and assignment policy for students."
Do you believe that is something that must be done to implement a multitrack year-round program?
A I think a good -- but I might speak out of turn. Our national year-round directory, usually, states for each district whether their policies are voluntary and mandatory. If I had that directory, I could specify which districts have a voluntary system.
Q No. 9 says: "Develop and approve track preference and assignment policy for students."
Do you believe that is something that must be done to implement a multitrack year-round program?
A I'm going to say yes, on that.
Q And No. 9 says: "In addition, balance tracks by ethnicity, ability,

If some parents prefer to go to another district in the district that's under-utilized in terms of pay, it would help to have fewer students to work with.
I think that's a good practice, both from a political point of view and also from a -- just from a very practical point of view.
Q Can you name for me, any districts in California that have a voluntary multitrack year-round program?
A I think a good -- but I might speak out of turn. Our national year-round directory, usually, states for each district whether their policies are voluntary and mandatory. If I had that directory, I could specify which districts have a voluntary system.
Q No. 9 says: "Develop and approve track preference and assignment policy for students."
Do you believe that is something that must be done to implement a multitrack year-round program?
A I'm going to say yes, on that.
Q And No. 9 says: "In addition, balance tracks by ethnicity, ability,

be done to implement a multitrack year-round program?
A I think that's desirable to do that, but that's not required.
Q What would it mean for a multitrack year-round program to be implemented on a voluntary basis?
A Some districts set up a multitrack to handle the overcrowding. But say to the parents: If you choose to attend a school in another part of the district that's not on a multitrack calendar, you're welcome to do that. So we call that a voluntary basis. Other districts have a mandatory situation. So that depends on the district and what their own internal requirements are.
Q Do you have an understanding as to why a district might implement a voluntary as opposed to a mandatory multitrack year-round program?
A It gives parents options, and it may, indeed, to help to relieve the pressure of the over-enrollment.

socioeconomic level, and educational..."
Is that something that must be done to implement a multitrack year-round program?
A That's not a must. That's highly desirable. The reason I put it that way is because what we talked about yesterday. There might be a reason to have English language learners on a particular track for a curriculum and instruction reason. For that reason, I think I'm going to leave that as highly desirable and not as an absolute.
Q Do you believe it's highly desirable?
A I think from a philosophy of education, from what I think is right for all students, it's right to balance tracks as much as possible by socioeconomic levels, educational needs, and so on. As I read this more carefully, the education need part may, indeed, change the balancing we might do in terms of ethnicity and ability as I just mentioned a while ago.
Q You mentioned that you believe balancing tracks by ethnicity, ability, socioeconomic level,
and educational need is highly desirable because of
your philosophy of education?
A Yes.
Q What do you mean by that?
A As I mentioned yesterday, students of
lower achievement can be helped by sitting in
classes with students of higher achievement.
And there is a whole body of research that
suggests that is true.
That's one kind of situation where I would
advocate heterogeneous groupings where people from
different achievement categories are in the same
room together.
Q Anything else in terms of philosophy of
education?
A That's all for right now.
Q You mentioned that you believe that it's
highly desirable to balance tracks by ethnicity,
ability, socioeconomic level, and educational need
because what you believe is right for all students.
What do you mean by that?
A Just a personal philosophical stance that
I take, and I would hope most educators would.
Q What do you mean by an "ordinary
classroom"?
A American history, a class which most
students are going to take.
Q If English language learners are
disproportionately put on a single track when they
sit in their American history course, aren't they
less likely to sit in a classroom of
higher-achieving students who are more likely to be
on other tracks?
MS. DAVIS: Same objection.
The WITNESS: That may be possible.
I'm not sure it's true in all instances.
BY MR. VILLAGRA:

the tracks.
Q When you talked about heterogeneous
groupings of students, are you speaking at the
classroom level?
A Yes
Q So based on your understanding, it is
better for lower achieving students to be in the
same classroom with higher achieving students?
A I think so, yes.
Q If lower achieving students are put on one
track disproportionately, will they have reduced
opportunities to sit in classrooms with higher
achieving students?
MS. DAVIS: Calls for speculation.
The WITNESS: Yes. That is -- let's put
it this way.
The other item here which is in this same
sentence with ethnicity, ability, and socioeconomic
economic level, educational need, if there is an
educational need for a group of students to be
together to have the same kind of lessons taught to
them, that may in itself askew the "balance" that
we talked about otherwise.
In that situation, the need would override
the other desirability of having a balance.

Q It's true in some instances?
A It may be.
Q Isn't that a necessary result of
unbalancing tracks by educational need?
MS. DAVIS: Vague and ambiguous.
The WITNESS: I don't think it's a
necessary result.
Q If a good administration is occurring,
there should be some attempts to balance the tracks
elsewhere, if possible.
Q There are 980 multitrack schools in the
state, which means an umpteen thousand number of
classrooms.
Q I can't speak for every classroom in the
state and what happens in each of those classrooms.
Q We're talking, here, about general
policies.
Q So I think I'll stop there and say I've
given my view as to general policies and what I
would like to see happen.
BY MR. VILLAGRA:

Q At a general policy level, if you do
unbalance tracks by educational need, isn't there
the possibility of unbalancing the tracks by
ethnicity, ability, and socioeconomic level?
A  I was talking about in the classroom level.
You're speaking of track levels. I'm really talking about the classroom as the educational need. You develop a classroom situation, but given that, I would still prefer and suggest and encourage that elsewhere, there be a heterogeneous population in the classroom to the greatest degree possible.

Q    I don't know what you mean by "elsewhere"?
A    If we're talking about a class for English language learners, that is one class out of a day of maybe 5, 6, 7 periods, depending on the school and how it's organized. There should be other opportunities in the day to have a heterogeneous classroom for those students. And in a subject such as American history, as I mentioned a while ago, that takes some alertness on the part of the administrators. But it is possible to do.

Q    Is it difficult to do?
MS. DAVIS: Calls for speculation.
THE WITNESS: It may be, I don't know.

BY MR. VILLAGRA:
Q    Do you have any idea?
A    I say it may be.
Q    Have you ever done it yourself?
A    I have not.
Q    Have you ever spoken with anyone who has done it?
A    I have.
Q    What have they told you about the level of difficulty?
A    The level of difficulty, in some situations, it is difficult.
Q    Can you name for me any of the schools' staff that you have spoken with about the difficulty of balancing tracks?
A    Excuse me, say it again.
(Record read.)
A    I can't.
BY MR. VILLAGRA:
Q    Were any of those schools' staff from California?
A    Yes.
Q    Were any of them from multitrack year-round schools?
A    Yes.

Q    Were any of them from Concept 6 schools?
A    That, I can't tell you. I don't know.
Q    The next Item, 10: "Develop and approve staff policy for teachers and staff."
Do you believe that must be done to implement a multitrack year-round program?
A    Desirable, not absolute, not a must.

Q    11: "Determine staff and service schedule."
A    Desirable, not must.
Q    Turn to the next page of Exhibit 7, on page 0854.
I'm looking at Item No. 22: "Develop a work schedule for office, custodial, and administrative staff."
That is something that must be done to implement a multitrack year-round program?
A    I don't see that it's a required -- that it's required for a multitrack program.

For example, the office staff is probably going to have the -- pretty much, the same daily schedule as before. I think that's more of a desirable than a must.

Q    What about office staff that's taking a vacation, doesn't some sort of arrangement have to be made to cover a vacation since there's no time when the year-round school is not in session?
A    Well, maybe we're working against words here.

But while a work schedule would have to be done, it doesn't have to be done at the point of implementing a year-round educational program. It could be done over a period of time. So are you reading these items as items that need to be done in designing a multitrack year-round program?
A    Or at the start of the program.
That's what "implementing" means to me, at the beginning, after program.
Q    So a year later, the school is no longer implementing a year-round program?
A    I wouldn't see it as implementing.
I would see it as sustaining the implementation.
Q    Do you believe, then, that to sustain a multitrack year-round program, a school must develop a work schedule for office, custodial, and administrative staff?
A    Highly desirable.
Q  But not a must?
A  Not a must.
Q  No. 23: "Develop a system to deliver electives and special services such as special day classes, psychological services, resource specialists, and bilingual education."
A  Do you believe that is something a school must do to implement a multitrack year-round program?
A  It must do some of those things by law. So the answer would be yes. Part of that would be a must to follow a law. Not all of those items would have to be musts.
Q  Which of those, in your understanding, must be done by law?
A  Well, certain special services to students that would be enrolled in special education courses. For example, there are certain policies that need to be followed in law. That, for example, would be a must. When we're talking about resource specialists, that would be at the discretion of the district. So that might be a desirable; it wouldn't be a requirement.
Q  Other than special services, special education as you just mentioned, are there any other items, here, that must be done by law, in your understanding?
A  Not right now, to my understanding.
Q  Apart from special education, which you believe must be done by law, do any of these other items have to be done to implement a multitrack year-round program?
A  I don't believe so, no.
Q  Do any of these items have to be done in order to sustain a multitrack year-round program?
A  Not a requirement, no.
Q  Why do you believe that?
A  Because, there are certain aspects of choice on the part of the district in regard to psychological services, resource specialists. There are certain laws, as I understand it and I may be incorrect here, relative to bilingual education. But that's a more curriculum sort of thing, and I'm not really familiar with that area. In general, I would say most of these are not requirements to sustain a multitrack year-round program. They were likely desirable, not a requirement.
Q  Why would you say that?
A  Because a psychologist is a very important member of the staff, but not required for the implementation or the sustaining of the calendar program called "multitrack."
Q  Isn't it necessary to develop a system to provide psychological services over the course of a 12-month year as opposed to a 9-month year?
A  Desirable, highly desirable.
Q  But not a must?
A  I don't see it as a must.
Q  Do you believe that a school should have a substitute psychologist in place when the school psychologist goes on vacation at a multitrack year-round program school?
MS. DAVIS: Vague and ambiguous.
THE WITNESS: Not every school has a psychologist. So a multitrack could occur without a staff psychologist.
MS. DAVIS: Calls for speculation.
THE WITNESS: Typically, I -- yes, I do.
BY MR. VILLAGRA:
Q  When would it be?
A  Typically, it would be during the long summer vacation.
Q  So when school is not in session?
A  That's correct.
Q  At a multitrack year-round calendar, if a school has a psychologist and a psychologist takes a vacation, will the vacation occur typically when school is in session?
MS. DAVIS: Vague and ambiguous, calls for speculation, incomplete hypothetical, assumes facts not the evidence.
1 (Record read.)
2 THE WITNESS: It may, depends on local decision-making.
3 BY MR. VILLAGRA:
4 Q What do you mean by that?
5 A Psychologist is going to be hired for psychological services within a given school year. An administrator, in consultation with the psychologist, would agree to when the vacations would be taken. That could change school by school.
6 Q But there is a possibility that a school psychologist would go on vacation at a multitrack year-round school when school is in session?
7 A Yes, it's possible.
8 Q Do you believe that the school should provide a substitute school psychologist if the ordinary school psychologist is on vacation?
9 MS. DAVIS: Calls for speculation, vague and ambiguous.
10 THE WITNESS: Not necessarily.
11 BY MR. VILLAGRA:
12 Q Why not?
13 A If the psychologist is taking three days over a long weekend, there may not be any need for bringing in a substitute psychologist for that short period of time. The psychologist may agree to scatter vacation days throughout the year and on each one of the tracks. That time is balanced. For short periods of vacation, I don't know that it would be required to have a substitute psychologist on campus.
14 Q What do you mean by a "short-period vacation"?
15 A A week.
16 Q What if a school psychologist were taking a two-week vacation, do you believe it would be necessary to make provisions for a substitute school psychologist?
17 MS. DAVIS: Incomplete hypothetical.
18 THE WITNESS: It would be highly desirable.
19 BY MR. VILLAGRA:
20 Q But not necessary?
21 A Not necessary. Right now, in a traditional calendar school, a multitrack must always be compared with what we do at the traditional calendar.
22 Q Do you believe it is necessary to establish a system for teacher room rotation or roving.
23 A Highly desirable. That's something that must be done to implement a multitrack year-round program?
24 A Yes.
25 Q No. 25, we talked about yesterday. And I believe you said that was "a must."
26 That's modifying the transportation system?
27 A That has to be planned at the implementation, yes.
28 Q No. 26: "Establish a system for teacher room rotation or roving."
29 That is something that must be done to implement a multitrack year-round program?
30 A Highly desirable. I'm holding back because of the Orchard Plan, where the teacher neither rotates or roves.
31 Not all multitrack programs do use the rotation or roving.
32 Ordinarily, it's highly desirable to have that system in place where rotation or roving occurs.
33 Q Was the Orchard Plan, you discussed, typical?
34 A It's not typical, no.
35 Q To your knowledge, has it been replicated in any other district in California?
36 A Yes.
37 Q Where?
38 A It's in Oroville Orchard in Chula Vista, in Palmdale. That's all that comes to mind right now.
39 Q How many schools are we talking about that have implemented the Orchard Plan, to your knowledge?
40 MS. DAVIS: Calls for speculation.
41 THE WITNESS: At its peak, it may be 16 schools, something like that.
42 BY MR. VILLAGRA:
43 Q Do you believe it is necessary to establish a system for teacher room rotation or
roving in order to sustain a multitrack year-round program?
A Excluding Orchard?
Q Yes.
A I'm going to say, yes, on that one.
Q No. 28: "Provide activities for connectedness for off-track employees and parents."
Do you believe that's something that must be done to implement a multitrack year-round program?
MS. DAVIS: Vague and ambiguous.
THE WITNESS: I'm not sure what "connectedness" means.
BY MR. VILLAGRA:
Q All right.
A I don't recall that we went over this yesterday.
I don't know what the "connectedness" means here.
Q No idea?
A I don't.
Q 32 says: "Coordinate with community services such as the recreation department, youth organizations, church groups, and the police department."
Do you believe that must be done to implement a multitrack year-round program?
A I don't think it's a must situation.
I think this one is very highly desirable.
Q Do you believe this must be done to sustain a multitrack year-round program?
A Not required, highly desirable.
Q No. 35: "Modify student testing program."
Do you believe that must be done to implement a multitrack year-round program?
A I don't think it must be.
Q Do you believe it must be done in order to sustain a multitrack year-round program?
A No.
Q And for the various items you have identified as a must, do you believe that any are actually required by the State of California for a multitrack year-round schools?
MS. DAVIS: Objection, calls for speculation.
THE WITNESS: I'm not prepared to say, because I just don't know.
program?

MS. DAVIS: Same objection.

THE WITNESS: I don't know whether the
State does or not.

BY MR. VILLAGRA:
Q   Do you know whether the California
Superintendent of Public Construction monitors, in
any way, whether schools have taken any of these
implementation steps for multitrack year-round
schools?

MS. DAVIS: Same objection.

THE WITNESS: I don't know whether the
superintendent does or not.

BY MR. VILLAGRA:
Q   Do you believe it would be desirable for
the State of California to monitor whether schools
are taking any of these implement steps for a
multitrack year-round program?

MS. DAVIS: Same objections.

THE WITNESS: I was pausing because it's a
wide field there.

BY MR. VILLAGRA:
Q   What do you mean by "wide field"?
A   Are we talking about state superintendent;
are we talking about the facilities division of the
State Department; are we talking about the Board of
Education?

Q   Do you believe that any entity, any agency
of the State of California, should monitor whether
schools follow any of these implement steps in
implementing a multitrack year-round program?

MS. DAVIS: Any of the 35?

BY MR. VILLAGRA: Yes.

THE WITNESS: The key word for me, there,
is "monitor."

I think it would be helpful to have some
data collection; monitoring suggests State control.

I do like local control of education to
the greatest degree possible.

Acknowledging there are certain state's
laws, of course, that need to be followed.

But -- it would be helpful to get more
data collected.

BY MR. VILLAGRA:
Q   Why would it be helpful?
A   Just as a way of knowing what's going on
around the state, for districts to compare what
other districts are doing, good professional
policy.

Q   No. 9: "Develop and improve track
preference and assignment policy for students."

You said: "I believe that must be done in
order to implement a multitrack
program"; is that correct?

A   Yes.

Q   Do you believe it would be helpful for any
agency of the State of California to determine
whether schools implementing a multitrack
year-round program have developed and approved
track preference and assignment policy for
students?

MS. DAVIS: Vague and ambiguous as to
"helpful."

THE WITNESS: I don't know it's necessary
for the State to particularly monitor that.

The reason I said that was a must was
because if there is not some kind of a system for
choosing tracks, for setting up tracks, it would be
chaos at the implementation of a multitrack
program.

So there has to be some kind of system set
out to tracking.

But I'm not sure that's something the
State needs to monitor.

BY MR. VILLAGRA:
Q   So you believe that in implementing a
multitrack year-round program, a school will
necessarily have to develop a track preference and
assignment policy; is that correct?

MS. DAVIS: Asked and answered.

THE WITNESS: I think I would say the same
thing. Yes.

You have to have a system where you would
have chaos.

That's why I say that is a must.

Same thing as I said transportation is a
must.

There has to be some prior knowledge on
the part of parents and students, you know, when
the bus is going to run.

But that's not something I think the State
needs to monitor.

BY MR. VILLAGRA:
Q   You mentioned that you believe that a
multitrack year-round school must balance tracks by
ethnicity, ability, socioeconomic level, and
1. educational need?
   2. A: I didn't say "must."
   3. I said "highly desirable."
   4. Q: Do you believe it would be desirable for
      any agency of the State of California to determine
      whether multitrack year-round schools are balancing
      tracks by ethnicity, ability, socioeconomic level,
      and educational needs?
      5. MS. DAVIS: Vague and ambiguous.
      6. THE WITNESS: It might be helpful if some
         data were collected.
      7. BY MR. VILLAGRA:
      8. Q: Helpful for what purpose?
      9. A: To get a picture of whether the kind of
         philosophy, I believe is, is being followed.
      10. Q: If the picture showed that the type of
          your philosophy were not being followed, would that
          be the end of it?
          11. MS. DAVIS: Vague and ambiguous, calls for
              speculation, incomplete hypothetical.
          12. THE WITNESS: I don't know whether it
              would or not.
          13. Just going with my personality, I would
              probably write an article, somewhere, encouraging
              heterogeneous balancing of classrooms' tracks to
              the greatest degree possible.
      14. BY MR. VILLAGRA:
      15. Q: Do you believe the State should collect
          the data, and if the data reveals that tracks are
          not balanced by ethnicity, ability, socioeconomic
          level, and educational need, that balance should be
          encouraged at multitrack year-round schools?
          16. MS. DAVIS: Same objection.
          17. THE WITNESS: The State might encourage
              it.
          18. And if there is a civil rights situation
              which needs to be corrected, gathering data may
              help in that regard.
          19. But I think I'll just leave it at that
              point.
          20. As I have said before, that's something I
              would prefer.
          21. BY MR. VILLAGRA:
          22. Q: What do you mean by "a civil rights
              situation"?
          23. A: I'm not sure if there was something that
              would constitute if it were clear that students
              were being assigned by ethnicity or race to a
              particular track.
          24. Then I think that would be a highly
              undesirable situation and probably an illegal
              situation.
          25. That kind of data might be helpful.
          26. By otherwise, much of this balancing, it
              might be desirable to have the situation.
          27. I'm not sure it's a legal situation.
          28. Q: What do you mean by "a legal situation"?
          30. Q: You don't know what you mean?
          31. A: I'm not sure. I'm just using that in a
              general sense.
          32. Like I referred to, a while ago, to
          33. African-American for being assigned to only one
              track.
          34. That might be an illegal situation.
          35. Q: Do you know whether the State of
              California, I want to encompass all of its
              agencies, whether the State of California keeps any
              data regarding ethnicity, ability, socioeconomic
              level, and educational needs of students by track
              at multitrack year-round schools?
          36. MS. DAVIS: Vague and ambiguous, calls for
              speculation.
          37. THE WITNESS: I don't know whether the
              State does or not.
          38. BY MR. VILLAGRA:
          39. Q: To your knowledge, the California Board of
              Education does not maintain data that's segregated
              in that way, by track?
          40. MS. DAVIS: Asked and answered.
          41. THE WITNESS: Not to my knowledge.
          42. BY MR. VILLAGRA:
          43. Q: The superintendent of public instruction
              for California does not maintain that data?
          44. A: I don't know one way or another.
          45. Q: The California Board of Education, you
              don't know?
          46. A: I don't know whether it does or doesn't.
          47. MS. DAVIS: Asked and answered.
          48. BY MR. VILLAGRA:
          49. Q: On page 2, the second page that we've been
              looking at, which is 0854, under B, Point 4: "Does
              not load tracks by ability level..."
          50. Do you have an understanding as to what it
              would mean to "load a track"?
          51. MS. DAVIS: Vague and ambiguous.
          52. THE WITNESS: I'm not sure what the author
              has in mind here.
          53. But the author is apparently saying -- I
              stress "apparently," the author is saying do not --
probably, the author is saying avoid -- I'm not sure what the author is saying here.

BY MR. VILLAGRA:

Q   You have no idea?

A   Well -- I don't have an absolute idea what the author is saying.

It may very well be referring to what we were talking about on the prior page, about heterogeneity versus homogeneity.

And I would suspect the author is saying here "be careful, this is a consideration."

I see -- B says:  "A consideration, try to avoid loading the tracks so there is a homogeneity situation rather than a heterogeneity."

Q   This is specifically at the track level; is that correct?

MS. DAVIS:  Calls for speculation.

THE WITNESS:  It does say "tracks," here.

BY MR. VILLAGRA:

Q   So you read this consideration to be about loading tracks by ability level?

MS. DAVIS:  Calls for speculation.

He told you he doesn't know what the author means.

MR. VILLAGRA:  I believe I asked him how he read this.

MS. DAVIS:  We can keep going and he can keep guessing.

MR. VILLAGRA:  I don't want him to speculate as to what he thinks.

If he doesn't know, I'm not sure who would.

MS. DAVIS:  Maybe the author of the document.

THE WITNESS:  I think I just answered that to the best of my ability.

BY MR. VILLAGRA:

Q   Have you had discussions within the California Department of Education Year-Round Education Advisory Committee about the steps involved in implementing a multitrack year-round program?

A   I don't recall ever discussing any of this, no.

All of this is new to me.

Not the ideas, but the language that we have here.

All of this is new to me.

Q   So you did not review this document in preparing your report?

A   No, I did not.

Q   Did you review everything that was sent to you by defense counsel?

A   I looked over everything.

I don't recall that this particular item was in there. It may have been.

It may have just slipped my memory.

At this point, I don't remember looking it over.

Q   Do you have any opinion as to how ability levels should be distributed across tracks at a multitrack year-round school?

MS. DAVIS:  Vague and ambiguous.

THE WITNESS:  Will you repeat the question?

(Record read.)

THE WITNESS:  Yes, and I do.

And I think I answered that a while ago.

I would prefer, to the greatest degree possible, a heterogeneous situation where students of different ability levels are together in the classroom.

But I didn't exclude the possibility that educational needs might dictate another situation.
BY MR. VILLAGRA:

Q   Do you see your name listed there?
A   I do see my name.
Q   Listed among the members of the Year-Round Incentive Payment Advisory Committee?
A   Yes.
Q   Does this refresh your recollection that you were a part of the Year-Round?
A   As I said, I don't recall being a part of a formal advisory committee called Payments Advisory Committee.
   What I said was we discussed the issue within the larger framework of the Advisory Committee.
   Whoever put this together may have said, since we discussed it and these were people who were involved in the discussions, this was the Payments Advisory Committee.
   I'm speculating on that. I don't know.
   But I don't remember ever being a part of a formally constituted Payments Advisory Committee.
Q   This report, Exhibit 1, there is a date of April 1990 on it.
   Do you believe, then, that you would have been a member of the Year-Round Educational Advisory Committee in 1990?
MS. DAVIS:  I believe that's asked and answered, but go ahead.
THE WITNESS: I don't recall. I just don't recall those dates; that's 13 years ago.
MS. DAVIS:  He did give an estimate of dates.
MR. VILLAGRA:  I'm not sure he went that far.
THE WITNESS:  I don't recall when that committee really started.
BY MR. VILLAGRA:
Q   I want to turn your attention to where we left off yesterday, Exhibit 12, which is your report, specifically page 31.
A   I have 31.
Q   The second full paragraph.
A   All right.
Q   You began by writing: "Concept 6 students are typically allowed to cross-track, meaning they can jump to another track for a particular course of credit."
That's followed by a citation to the "Deposition of Dr. Jenny Oaks," at page 521.
Q   Do you see that?
A   Yes.
Q   Do you have any support for this proposition that Concept 6 students are typically allowed to cross-track, other than the deposition testimony of Dr. Oaks?
A   I could.
Q   What other support do you have?
A   Having talked with Concept 6 administrators over the many years, I was executive director.
I have asked whether students are allowed to cross-track, and the answer was "yes."
Q   Why did you not cite any of those administrators?
A   Because I made the statement here, and this is just a separate citation as well, "see her deposition."
Because she acknowledges that as well.
Q   Do you believe that Dr. Oaks's testimony was that the concept of students are typically allowed to cross-track?
MS. DAVIS:  The Oaks deposition, I don't know if he recalls.
MR. VILLAGRA:  Do you recall?
THE WITNESS:  I have the citation here on page 521.
The answer would be, yes, I saw that.
But again --
BY MR. VILLAGRA:
Q   The question is:  Do you recall what her testimony was?
A   At this point, I will say I don't recall the exact words.
Q   Can you name for me any of the Concept 6 administrators that you spoke to about cross-tracking?
A   Maria Tostato, Tony Garcia, Mel Mares, at least those three and more.
I can't recall other names right now.

Q And Maria Tostato was a principal?

A At Garfield High School.

Q Tony Garcia?

A He was principal of both Huntington Park and Garfield High School.

Q And Mel Mares?

A Principal at Bell High School.

Q The discussions you had with those three administrators will tell you there was cross-tracking when they were at those schools at Garfield, Huntington Park, and Bell High School in LAUSD; is that correct?

A That's correct.

Q I believe yesterday you mentioned that you believe there are about 17 or 18, Concept 6 high schools?

A Yes.

Q Do you know whether cross-tracking is allowed at any other high school other than Garfield, Huntington Park, or Bell?

A I haven't checked specifically with those high schools, but it's my understanding that the answer is yes, at other high schools as well.

Q What's your understanding based on?

MS. DAVIS: Asked and answered.

THE WITNESS: Discussion with -- the other principal was Steve Walters.

BY MR. VILLAGRA:

Q Where was he a principal?

A He was assistant principal at Huntington Park for many years and also a member of the National Board of the National Association for Year-Round Education.

Q Can you think of anyone else you spoke to about cross-tracking at Concept 6 schools?

MS. DAVIS: Asked and answered.

THE WITNESS: I may think of additional names as we go along.

I have given you four, now.

BY MR. VILLAGRA:

Q Did you speak with these administrators about policies at other Concept 6 high schools?

A To the degree that I asked, "Is this a common practice," the answer is, yes.

Q You believe you asked who whether cross-tracking was a common practice?

A Over the years, probably all four of these that I mentioned so far.
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which is Exhibit 12, we were talking about cross-tracking.

Do you recall that?

A  Yes.

Q  In your report, you write that "cross-tracking means that students can jump to another track for a particular course credit."

Can you expand on that for me?

MS. DAVIS:  Vague and ambiguous.

THE WITNESS:  If a student is on vacation for two months and has been, for example, on track three, during that two months vacation, the student can participate in classes on one of the other tracks to get a class that might be available on that other track that wouldn't be available on a given track.

Again, an example might be a student in track A wanting to cross-track to a class that's on track C.

Or it could be a different teacher, even, not just a class, but to hear what another teacher might be giving out in a particular class subject.

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available on their own attendance track?

A  That's correct.

Q  And you said that if a student is on vacation for two months, they can participate in a class offered on one of the other two tracks?

A  That they are in school.

Q  Going back to page 8 of your report. Do you see Figure 3?

A  I do.

Q  It says: "Diagram of the Concept 6 calendar."

If a student were on track B and wanted to cross-track to take a course offered on track A, if September and October, when they were normally scheduled to be on vacation, they would be attending the course on track A?

A  That's correct.

Q  That's how cross-tracking works?

A  That's correct.

Q  What happens in November and December when both tracks A and B are in session?

A  That student would go back to track B.

Q  Would they continue to take the course that they had cross-tracked on to track A for?

A  Ordinarily not.

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Q  So they would have two months of access to the course?

A  That's correct.

Q  But not the complete course?

A  That's correct. Ordinarily, that's correct.

Q  Do you know what the steps are that a student must take in order to cross-track?

A  What do you mean by "steps"?

Q  Are there any administrative requirements required for a student to cross-track?

MS. DAVIS:  Vague and ambiguous.

THE WITNESS:  I don't know what each individual school may require.

Ordinarily, there is an application request.

Q  So they would have two months of access to the course?

A  That's correct.

Q  But not the complete course?

A  That's correct. Ordinarily, that's correct.

Q  Do you know what the steps are that a student must take in order to cross-track?

A  Whatever steps would be more informational for both teachers and administrators involved.

Q  Anything else?

A  I didn't mean to leave out counselors, administrative teachers and counselors.

Q  Anybody else?

A  That's all.

Q  Have you ever had discussions with any Concept 6 school administrator whether all applications for cross-tracking are granted?

A  Not in that specific way, no.

Q  Do you have any understanding as to whether all student requests to cross-track are granted at Concept 6 schools?

MS. DAVIS:  Calls for speculation, vague and ambiguous.

THE WITNESS:  I don't have that information.

I remember one conversation many years ago with Maria Tostato when she was principal at Garfield.
And my recollection is that Principal Maria Tostato said: To the greatest degree possible, all students were allowed to cross-track when they requested to do so. Now, that doesn't tell me whether there were any that were denied. But she -- in fact, she said that, I remember in a public discussion, probably in one of intercession conferences where "To the greatest degree possible," that was the policy of Garfield.

BY MR. VILLAGRA:
Q   Is she still the principal at Garfield?
A   No, she's retired now.
Q   When did she retire?
A   I can't tell you that.
Q   Do you recall when you had the discussion with her about the degree of cross-tracking at Garfield High School?
A   I would think it was ten years ago.
Q   Do you recall the public comment at the NAYRE?
A   It would be about that same time.
Q   Did they specify the degree to which students were allowed to cross-track, other than say: "To the greatest degree possible"?
A   In numbers?
Q   Yes.
A   I don't recall, specifically.
Q   What about in percentages?
A   I don't recall either.
Q   You mentioned a second step of having the teacher accept the additional student or students. To your knowledge, could a teacher refuse to accept the additional cross-track student?
MS. DAVIS: Calls for speculation.
THE WITNESS: I don't know of a specific policy.
Q   I don't know whether that's part of a union contract or whatever. But ordinarily, there would be a class loading which would be a natural part of enrolling in a particular class. And I would think, once that list were developed, and then there was a follow-up request: Here's a student from another track who would like to sit in on the class. I would think that teacher, as a matter of professional courtesy, at least, would be given the -- at least the notice that: This is what's going to happen.
But other than that, I don't have any specificity.
So I would speculate beyond that point.
BY MR. VILLAGRA:
Q   Does class loading refer simply to the roster of students assigned to a classroom?
A   Yes.
Q   There's no indication of a maximum number of students in a class?
A   Not necessarily.
At least that's how I used the term.
Q   Would a student at a traditional calendar school need to cross-track to take an AP course?
MS. DAVIS: Calls for speculation.
THE WITNESS: Not ordinarily, no. Because cross-tracking is not available in a traditional calendar school.
Q   That's a term applied only in a multitrack situation.
BY MR. VILLAGRA:
Q   How do you know that?
A   I've never, in my 42 years in public education, I never heard of cross-tracking in conjunction with a traditional calendar school.
Q   Do you believe that there are any disadvantages to students who cross-track?
MS. DAVIS: Vague and ambiguous.
BY MR. VILLAGRA:
Q   Do you understand the term "disadvantages"?
A   I don't.
Q   Relative to a student who takes a course on their on track, do you believe that a student who cross-tracks, in order to take a course, faces any additional disadvantages?
MS. DAVIS: Same objection.
THE WITNESS: I don't know what those would be.
Because it's student choice; it's not a requirement on the part of the student.
BY MR. VILLAGRA:
Q   Does the NAYRE take any position on cross-tracking?
MS. DAVIS: Now, or when he was executive director?
BY MR. VILLAGRA:
Q   To your knowledge?
A   I don't think we've ever taken a position
on it, no.

Q   Do you encourage multitrack year-round schools to permit cross-tracking?
A   I have said that in some of my conference sessions, where I can offer that as a suggestion, yes.

Q   Why do you encourage it as a suggestion?
A   There are a lot of students who like additional work beyond what is required in the way of graduation or college entrance or whatever. There are some students that are natural learners.

Q   To the degree possible, I would encourage cross-tracking in a multitrack school because one student my learn one more subject area than they might not, otherwise, be able to fit in a natural schedule.

Q   Do you think it's a necessary policy of a multitrack year-round school?
A   It wouldn't be required, no.

Q   When a student cross-tracks and sits in on a course offered on another track, in your understanding, are they given a grade for their work during the time that they are cross-tracking?
A   I don't think whether they are or not. It would depend on the agreement between the student and the school.

Q   Cross-tracking could be an audit situation.
A   It could be either, so it would be an understanding between the school and the student.

Q   How could it be for the credit if the student weren't taking the entire course?
A   Some schools, I can't speak to any particularly, but throughout the United States, some schools give half credits.

Q   So if a student were to cross-track and receive credit, your understanding that the credit would be partial?

MS. DAVIS:  Mischaracterizes his past testimony.

BY MR. VILLAGRA:
Q   Is that correct?
A   It could be half credited or partial credit, as you say.

Q   Could it be full credit?

A   They would complete it on track C in March and April when they are on vacation, during that period of time.

Q   That would not be unlike a two-semester course idea, two semesters of the same subject area.
A   And so, consequently, you see, in September and October, it would be the first half of that course.

Q   Then on track C in March and April, it could be the second half.
A   If you think of it in terms of semesters, I think it's pretty clear to -- traditional calendar schools can do that as well.

Q   To your knowledge?
A   That would allow a full credit, then.

Q   That would be the way that a full credit would be earned?
A   That's correct.

Q   Is that the only way, in your understanding, that full credit would be earned?

MS. DAVIS:  Calls for speculation.

THE WITNESS:  I believe that would be the way, yes.

BY MR. VILLAGRA:
Q. To your knowledge, are there any two-semester courses at a traditional calendar school that are separated by a break of four months?

MS. DAVIS: Calls for speculation.

THE WITNESS: Not four months, three months, perhaps, not four months.

BY MR. VILLAGRA:

Q. Do you believe there is any disadvantage in having a two-semester course separated by four months as opposed to three?

MS. DAVIS: Vague and ambiguous.

THE WITNESS: I don't know whether it's of disadvantage, other than the possible learning loss involved.

But again, this is a choice of the student, not a school requirement.

So the student may be simply taking the class for additional credit, elected, or the student is simply interested in that topic.

So the same principles of learning laws would apply.

But on the other hand, if this is an elective and the student wishes to do that as additional credit, that would be a student choice.

BY MR. VILLAGRA:

Q. If the student chose to cross-track for full credit and there was learning loss with the four-month break, that would be okay because it was their choice?

A. I would say if that's their choice, it's what they have chosen to do.

It's okay, yes.

In the sense that they have chosen to do that, I wouldn't disallow them.

Q. In what circumstance would a two-semester course at a traditional calendar school be divided by a three-month vacation?

A. It's possible that a student would elect to take a particular class the second semester of a year, and then pick up the first half in the first semester of the following school year.

Q. You said that's possible?

A. Yes.

Q. Can you estimate for me how prevalent that is?

A. I wouldn't think it's very prevalent at all.

But it's possible.

Q. Would you say it's a rare circumstance?
courses and electives are probably going to be pretty similar. If a track situation is looked at, which is a school of 1200, if it's a three-track calendar, then that 1200 has to be compared with a traditional high school of 1200.

Q Why must that be done?
A Because that's the operating unit that we're talking about.

Q So a school of 1200 would offer fewer electives?
A Than a school of 3,600, irrespective of the calendar. You wouldn't have the same number of teachers in the smaller unit against the larger, all kinds of factors come into play.

Q Have you conducted any study of the electives offered at Concept 6 high schools as opposed to other calendar schools?
MS. DAVIS: Vague and ambiguous.
THE WITNESS: I've not conducted a formal study, no.

BY MR. VILLAGRA:
Q Are you aware of any studies on that subject?
A No.
Q To your knowledge, does the State of California compile figures on the electives offered by track, at multitrack year-round schools?
MS. DAVIS: Vague and ambiguous, calls for speculation.
THE WITNESS: I have no knowledge one way or the other.

BY MR. VILLAGRA:
Q Do you believe that the State should compile such data?
MS. DAVIS: Vague and ambiguous.
THE WITNESS: It would be interesting.

BY MR. VILLAGRA:
Q Why?
A Just additional information to know about, work with.
Q How would you work with that data?
A You know, sometime or another, I might be asked to write another paper.
And that's some additional -- there might be additional information that I might have that would be useful, helpful.

MR. VILLAGRA: I want to mark as an exhibit, Exhibit 26, Declaration of Carlos Jimenez, 9 pages long, and is dated March 28, 2000. (Deposition Exhibit 26, Declaration of Carlos Jimenez, was marked for identification by the Court Reporter.)

MR. VILLAGRA: Would you like to review the entire document?

(RECESS TAKEN.)

BY MR. VILLAGRA:
Q You read through the entirety of Exhibit 26?
A I have.
Q Have you ever seen Exhibit 26 before?
A I have.
Q You have?
A I have.
Q When did you last see it?
A Probably late January.
Q Did you see other documents like Exhibit 26, labeled: "Declaration of"?
A I have.
Q: Do you recall seeing declarations by students?
A: I don't recall students.
Q: I want to turn your attention to page 2, the very end of paragraph 6. It says: "Despite going to the Concept 6 schedule and adding bungalow classrooms, Garfield still has large and unmanageable classes with teachers often assigned 40 or more students."
A: Do you see that?
Q: Do you recall, yesterday, we were discussing whether Concept 6 necessarily reduces overcrowding.
A: I recall a discussion, I don't recall whether it was yesterday, yes.
Q: Do you recall testifying that Concept 6 may not necessarily reduce, eliminate all overcrowding?
A: Yes.
Q: Is this consistent with your understanding of the fact that Concept 6 schools may still be overcrowded?
MS. DAVIS: Vague and ambiguous.
THE WITNESS: May still be large, and may be overcrowded, yes.
BY MR. VILLAGRA:
Q: I want to turn your attention to paragraph 9, it's at page 3. It says: "The month is lost on the Concept 6 calendar, means that students have approximately 25 fewer weekday and weekend nights to do homework."
A: Do you see that?
Q: Do you recall testifying that Concept 6 may not necessarily reduce, eliminate all overcrowding?
A: Yes.
Q: Is this consistent with your understanding of the fact that Concept 6 schools may still be overcrowded?
MS. DAVIS: Vague and ambiguous.
THE WITNESS: I don't know how he's calculating 25.
BY MR. VILLAGRA:
Q: Does the Concept 6 calendar result in 17 fewer instructional days?
A: Instructional days, yes.
Q: When we were talking yesterday or the day before, we were talking about vacations on multitrack year-round calendars?
A: Yes.
Q: When you talked about 45-15 calendar, for example, you told me that students were out for 15 days?
A: School days.
Q: And that amounted to three full weeks?
A: If weekends were included, which you added in your question to me, as I recall.
Q: Do you believe that adding weekends to the Concept 6 vacation gets to, approximately, 25 fewer nights to do homework?
A: When I say I wasn't sure how I calculated the 25, if there are 17 fewer school days and presuming that there are seven days in a week, three weeks of seven days would be 21 days.
Q: Then for two additional days, my calculation would be 23 rather than 25; it may be a minor difference.
BY MR. VILLAGRA:
Q: Let's take it, then, at your calculation of 23?
A: All right.
Q: The next sentence says: "What must be emphasized is that not all learning occurs in the classroom."
A: Do you see that?
Q: Do you agree that not all learning occurs in the classroom?
A: Of course.
Q: The next sentence says: "A significant portion of learning, particularly at the high school level, occurs at home as students do their homework."
A: Do you see that?
Q: Do you agree?
A: I agree.
Q: The next sentence:
"A novel, for example, is not read in the classroom, students read the novel at home and come to class prepared to take a quiz or discuss it."
A: Do you agree?
A   I agree.
MS. DAVIS:  Vague and ambiguous, calls for speculation.
THE WITNESS:  One hopes this happens. Whether it always does, I can't say.
BY MR. VILLAGRA:
Q   The assignment is typically, is it not, for the novel to be read at home?
MS. DAVIS:  Calls for speculation.
THE WITNESS:  Typically.
BY MR. VILLAGRA:
Q   If it's going to be read, it's going to be read in home?
A   Yes.
We know all students don't follow homework assignments.
MS. DAVIS:  Calls for speculation.
BY MR. VILLAGRA:
Q   How do you know that?
A   Having been a teacher in the classroom.
Q   And the "that" I'm referring to, that a novel, for example, is assigned to be read at home. Same answer, do you know that based on your experience as a teacher?
MS. DAVIS:  For all schools?
THE WITNESS:  Are you asking do teachers make assignments where novels are to be read at home?
MR. VILLAGRA:  Yes.
THE WITNESS:  Some teachers do, yes.
BY MR. VILLAGRA:
Q   How do you know that?
A   Having been a teacher in the classroom.
Q   And the "that" I'm referring to, that a novel, for example, is assigned to be read at home. Same answer, do you know that based on your experience as a teacher?
MS. DAVIS:  Vague and ambiguous.
THE WITNESS:  If you're talking about a whole group of teachers together, students will typically have homework assignments on a given evening.
BY MR. VILLAGRA:
Q   How do you know that?
A   From common experience.
Q   And you mentioned there were some assumptions being made here, all students were doing the assignments and all teachers were making assignments.
Q   If we make the assumption, on a nightly basis students are assigned some homework, not necessarily from every teacher, do you agree that fewer nights to assign homework or fewer nights for homework to be done, means less can be done in the classroom, that classroom instruction has less to build on."
A   Yes.
Q   Do you have an understanding what that means?
A   There is an assumption, all students are carrying out their homework assignments and all teachers are making the homework assignments and everything, in an ideal way, is going on. So there is a huge assumption there, that teachers are making an assignment everyone of the classroom days.
Q   Homework every night, I don't think that's a fair assumption.
A   No, I know it isn't.
Q   How do you know that?
A   Again, my own teaching experience.
Q   Do you believe that's true at the high school level?
A   Elementary and high school, not all teachers assign homework.
Q   Do you believe that students typically have homework nightly?
A   Not typically and not in all subjects.
Q   All right.  I'm trying to take out the fact that one teacher in one subject may not have assigned something. From the student's perspective, when they go home at night after a school day, do they have a homework assignment from any teacher?
MS. DAVIS:  Vague and ambiguous.
THE WITNESS:  If you're talking about a whole group of teachers together, students will typically have homework assignments on a given evening.
Q   Do you see that?
A   Yes.
MS. DAVIS:  Calls for speculation.
BY MR. VILLAGRA:
A   In the scenario being set up here, yes, that's probably the way it will happen, yes.
Q   Paragraph 10, first sentence: "Fewer nights to assign homework, therefore means that less can be done
classroom?
MS. DAVIS: Assumes facts not in evidence, calls for speculation, incomplete hypothetical.
THE WITNESS: I don't think you can assume that.
I'll tell you -- at all -- I don't think we can assume that.
BY MR. VILLAGRA:
Q But taking those assumptions as true, would you agree that less can be done in the classroom, meaning the classroom instruction has less to build on?
MS. DAVIS: Same objections.
THE WITNESS: I don't think we can say that or assume that at all.
BY MR. VILLAGRA:
Q When you say "we can't assume that," what can't be assumed, the conclusion or the things I'm asking you to assume?
A The things you're asking me to assume.
MS. DAVIS: For purposes, he can ask you to assume some facts.
THE WITNESS: I don't think we can say that or assume that at all.
BY MR. VILLAGRA:
Q Assuming certain things to be true, what would your answer be?
BY MR. VILLAGRA:
Q Assuming that students have, on a nightly basis, homework to do, do you believe that fewer nights in which to do homework, means that less can be done in the classroom or that classroom instruction has less to build on?
A I don't believe that.
Q Why not?
A Because people don't make assignments every given night of the school year.
And while it is true that most students will have homework assignments most nights of the year, given that most teachers don't make assignments every day, anyway, therefore, we can't, in any way, assume that the -- that fewer nights of homework are going to happen in a year of fewer days than a year of longer days.
It doesn't follow.
Q Why not?
A Let's say there are 163 instructional days.
Let's assume teachers make assignments on 115 of those 163 days.

If you got five or six teachers at the high school level, just by chance, there might be homework on every one of those nights.
But it doesn't mean that more days of homework would happen simply because there were additional days of school.
Q Why wouldn't you expect the proportion of homework, relative to days of instruction, to be the same?
A It would depend on the teacher and the class and so on.
I don't think it depends on the number of days.
I think it depends on what's required to complete class assignments.
Q Do you agree, on the Concept 6 calendar, nine months of instruction has been compressed into eight months?
MS. DAVIS: Vague and ambiguous.
THE WITNESS: It's the word "compress."
Already the same number of instructional minutes.
We haven't compressed time.
I can't say that.

Q Nine months of instruction are provided in eight months on the Concept 6 calendar; is that correct?
A On the calendar basis, yes.
Q The time between one school day and the next is finite; is that correct?
MS. DAVIS: Vague and ambiguous.
THE WITNESS: Are you saying there are 24 hours in a day?
MR. VILLAGRA: Yes.
THE WITNESS: Yes.
BY MR. VILLAGRA:
Q There is a limited amount of homework that can be assigned on a nightly basis; is that correct?
MS. DAVIS: Vague and ambiguous.
THE WITNESS: I don't know that there is a limited amount,
BY MR. VILLAGRA:
Q There's no limit on the amount of homework that can be given out on a nightly basis?
A A teacher can make out all kinds of assignments.
It may not be wise, not be practical, teachers do that.
Students complain all the time, they've been given too much homework in the time available. That's true in traditional calendar schools as well as Concept 6. It's a common complaint and sometimes a reality on some days.

Q   Do you think it's a more common complaint on the Concept 6 calendar than a traditional calendar that too much homework is assigned?
A   I have no way of knowing one way or the other.

Q   Since each day, each school day, on the Concept 6 calendar is longer, would you assume that more material is covered during an instructional day on the Concept 6 calendar than on a traditional calendar?
A   I don't know one way or the other. I would hope so, but I would have no way of knowing the other.

Q   I'm going to turn your attention to paragraph 11. The first few sentences describe some students whose first language is not English, others who are socioeconomically disadvantaged. At the very end of the paragraph, it says: "What these children need is the reinforcement of additional days of schooling."
A   Yes.
Q   Do you understand the term "English language learners"?
A   Yes.
Q   What do you understand that to refer to?
A   Students that have less than proficient use of the common language, of the common school language.
Q   In the United States?
A   Yes.
Q   In 2003?
A   Yes.
Q   Do you agree that English language learners need the reinforcement of additional days of schooling?
MS. DAVIS: Vague and ambiguous.
THE WITNESS: That would be helpful.

BY MR. VILLAGRA:
Q   Why?
A   In learning the language, the constant use of the language is very helpful.

So additional days of schooling would be fine.
Q   It would be a benefit?
A   It would be a benefit, yes.
Q   As far as English language learners are concerned, do you believe that they benefit from being in heterogeneous classrooms to the extent possible?
A   That's a whole debate going on, in bilingual education.
Q   Whether they should be in homogeneous or heterogeneous classrooms.
A   I'm not an expert in the field on language acquisition.
Q   I can't give a clear opinion on that.
A   You're not prepared to offer a "expert opinion" on that subject?
Q   On the subject of language acquisition, no.

Q   I want to turn your attention to paragraph 15, it's at page 5. It says: "Garfield, for example, has only one AP European history teacher. The teacher is on track A. The only AP European teacher is on track A."
A   Yes.
Q   Similarly, journalism is only available on track B. And drama and student government are only available on track C.
A   Do you see that?
Q   No.
A   I don't know one way or the other.
Q   I would hope so, but I would have no way of knowing the other.

Q   Why?
A   In learning the language, the constant use of the language is very helpful.

Q   Do you see that?
A   Yes.
Q   It says: "Similarly, journalism is only available on track B. And drama and student government are only available on track C."
A   Do you see that?
Q   In terms of the balance of tracks, what would you need to know to determine whether tracks were balanced in terms of course offerings?
A   MS. DAVIS: Vague and ambiguous.
THE WITNESS: I need to know what the requirements are for each track and whether the requirements of the students are being met on that track.
A   Balance doesn't necessarily mean only an equal number of classes, AP classes, on each track.

BY MR. VILLAGRA:
Q   Following up on that, then.
A   Could balance mean that AP European history is only offered on one track and not the other two on a Concept 6 calendar?
Q   It could be, I don't know.
A   I don't know what the circumstance is at
Garfield.

Q  Yesterday, I asked you whether you were
aware of the distribution of AP courses across
tracks at Concept 6 high schools?
A  At all the high schools, and I said I
didn't.
Q  Do you recall telling me that one of the
things you would need to know is the number of
students on each track?
A  That's one thing.
Q  Do you recall telling me that one of the
things you would need to know is the number of
students on each track?
A  That's one thing.
Q  How much variation would you expect to see
in enrollments across tracks at Concept 6 high
schools?
MS. DAVIS:  Vague and ambiguous.
THE WITNESS:  I would expect the
enrollment to be somewhat balanced.
BY MR. VILLAGRA:
Q  Why?
A  Well, the idea is to relief the
overcrowding by setting up a three-track system.
By balancing each of the tracks, that
would help to alleviate the very problem we're
talking about, over-enrollment.
Q  On an equal amount?
A  On a roughly equal amount.

Q  The other thing you said you would need to
know to determine whether AP courses were fairly
distributed, was the needs of students on
particular tracks?
A  That's correct.
Q  And by "needs," did you mean what courses
students would be eligible for?
A  No.  What they are required -- what
classes are required in order to receive a diploma
from the high school.
Or the courses they need for entry into an
institution of higher learning, whatever those
courses might be.
Those are required kinds of courses,
others are electives.
Q  So is it fair to say that in terms of
balance across tracks, you look would like to see
balance in terms of courses necessary to receive a
diploma and/or obtain entry to an institution of
higher learning?
A  Balance in the required courses, for sure.
But when it comes to what's required at
institutions of higher learning, that could be
different kinds of classes for different
institutions.

Q  When you say "balance in required
courses," am I right to take that to mean courses
required to receive a diploma?
A  Yes.
Q  When you're talking about courses
necessary for entry to hire learning, you're
talking about electives?
A  Electives, yes.
Q  As far as?
A  Some of the basics would be required,
three or four years of English.
Q  As far as electives are concerned, that
are above and beyond the requirements for a
diploma, would you like to see balance in those
courses, in the offering of those courses across
tracks?
MS. DAVIS:  Vague and ambiguous.
THE WITNESS:  That's exactly what I'm
talking about.
Here, in this paragraph that you referred
to, there is only one AP European history teacher.
I don't know how many students at Garfield
actually want or need AP European history in order
to get into -- to get a diploma or to get into
their preferred institution of higher learning.
There is a lot that we don't know there.
One class might be sufficient.
Maybe no classes are required.
We just don't have -- I don't have prior
information here.
BY MR. VILLAGRA:
Q  I want to turn your attention to
paragraph 17?
A  All right.
Q  It says: "Even though students have the
ability to register for courses on
other tracks, they still have to be
motivated enough to take a course or
courses over their vacation, and they
have to be free of any schedule
conflicts that prevent them from
being on different tracks at the same
time."
Do you see that?
A  Yes.
Q  Do you agree, in order to cross-track,
students have to be motivated enough to take a
course over their vacation?
A   Yes, because it's a matter of choice.
Q   At a traditional calendar school, does a
student who wants to take an AP course have to be
motivated enough to take a course over their
vacation?
MS. DAVIS:  Calls for speculation.
THE WITNESS:  It's not a comparable
situation.
The comparable situation would be summer
school in a traditional calendar school.
Their choice would be to go to summer
cross-tracking would be the equivalent of
choosing to go to summer school.

BY MR. VILLAGRA:
Q   I take that answer to be no?
MS. DAVIS:  Mischaracterizes his
testimony.
THE WITNESS:  Read back the question and
I'll say yes or no.
(Record read.)

BY MR. VILLAGRA:
Q   If a traditional calendar school offers
AP European history and a student at that
traditional calendar school wants to take it, would
the student have to take AP European history over
the summer vacation?
MS. DAVIS:  Calls for speculation.
THE WITNESS:  It could happen.

BY MR. VILLAGRA:
Q   Could; is that typical?
A   Probably not typical; it could happen.
Q   Is it rare in your experience?
MS. DAVIS:  Calls for speculation.
THE WITNESS:  I don't know how rare it
would be.

BY MR. VILLAGRA:
Q   Would you say that typically, a student at
a traditional calendar school that wants to take an
AP course will take it during the regularly
mandated school year?
MS. DAVIS:  Same objection.
THE WITNESS:  Ordinarily, yes.

BY MR. VILLAGRA:
Q   So ordinarily, a student at a traditional
calendar school would not need to be motivated
enough to take a course over the vacation as would
a student at a Concept 6 school who would have to
cross-track in order to take a course?
A   Yes, may have to, the student may have to
be as motivated as a traditional school.
Q   Why would that student have to be as
motivated?
A   It's possible that two AP classes would be
scheduled during the same period.
A   Choice would have to be made which class
to take.
Therefore, if the student still wanted
that other AP class and if we're -- and it were
offered in the summer, that student would have to
be motivated to go to that class during the summer.
Q   They could also take that second course
during the next school year?
A   That's correct.
MS. DAVIS:  Calls for speculation.

BY MR. VILLAGRA:
Q   So they would not need, necessarily, to
take the course over the vacation; is that correct?
MS. DAVIS:  Calls for speculation, assumes
facts not in evidence.
THE WITNESS:  Read the question.
(Record read.)

BY MR. VILLAGRA:
Q   Let's go back to an ordinary situation.
Let's take out, for the moment, schedule
conflicts.
A   All right.
Q   I'm an ordinary high school student in a
traditional calendar school, and I want to take AP
European history.
I believe you said that ordinarily, I
would take that during the school year; is that
correct?
A   That's correct.
Q   So I would not need the motivation needed
by a student at a Concept 6 high school who would
have to take the course over their vacation because
I would have the opportunity to take it during the
school year; is that correct?
A   You would have the opportunity to take
that class during the school year, that's correct.
Q   I would not need the motivation necessary
to take the course over my vacation?
A   No. Because that student already has
received that course.
MS. DAVIS:  I object to the extent you're
classifying his prior testimony.

BY MR. VILLAGRA:
Q   I want to turn your attention to
paragraph 21, Exhibit 26?
A: All right.
Q: It says: "Because teachers are basically offering their courses to only one-third of the student body, it is more difficult to offer elective courses on a Concept 6 calendar."
Do you see that?
A: Yes.
Q: Do you agree?
MS. DAVIS: Calls for speculation, vague and ambiguous.
THE WITNESS: I can't agree yes or no, here. Because the equivalency is not discussed here. The equivalency would be a high school of 1200 students.
BY MR. VILLAGRA:
Q: If Mr. Jimenez is teaching a course on track B, at a Concept 6 high school, he can only draw from one-third of the students, generally, for that course; is that correct?
MS. DAVIS: Assumes facts not in evidence.
THE WITNESS: If he's thinking of the entire school situation, the answer is yes. But that's a faulty -- that's a faulty comparison.
BY MR. VILLAGRA:
Q: All right.
A: A proper comparison would be a school of 1200 students.
Q: If a Concept 6 has 3,600 students enrolled, what would you expect the capacity of that school to be?
MS. DAVIS: Vague and ambiguous.
THE WITNESS: Capacity in what, seat capacity?
BY MR. VILLAGRA:
Q: Yes.
A: If it's 3,600 students, it doesn't mean that's the seat capacity.
Q: That's what I'm asking you?
A: I don't know what the seat capacity would be.
Q: Let's assume that a 3,600-seat, Concept 6 high school has capacity of 2,400 students?
A: Yes. Seat capacity?
Q: Yes.
A: Okay.
Q: On any given day, you could have 2,400 students on the site?
A: All right.
Q: If you were operating that school on a traditional calendar, could you have 2,400 students at the school; is that correct?
A: At the same time, yes.
Q: Why, in terms of looking at the availability of elective courses, would you not look at a school of 2,400 students to make your comparison?
A: You could compare the 2,400 with 2,400. I would think that the number of classes and electives would be very similar.
Q: But for a teacher, if you just look at the school in one scenario as a Concept 6 school and another scenario at the traditional calendar school, the population that the teacher is drawing to create an elective is 2,400 at the traditional school and, generally, 1,200 at the Concept 6 school; is that correct?
A: If the students are all in school, it's possible they could attend that class at the same time. It might be more difficult administratively, but it's possible.
Q: Is that a prevalent occurrence in your opinion?
A: I don't know.
MS. DAVIS: Calls for speculation.
BY MR. VILLAGRA:
Q: You have no idea if that's ever existed?
A: No, I don't.
MR. VILLAGRA: Off the record.
(Recess taken.)
BY MR. VILLAGRA:
Q: When we left off, we were talking about AP courses.
Have you ever heard of an AP course offered at a traditional calendar school over the summer in California?
A: I couldn't point to any specific school that has done so.
Q: Have you ever heard of any traditional calendar school in the United States offering an AP course over the summer?
A: I couldn't name a particular school.
Q: To your knowledge, aren't AP courses designed to lead up to the AP examination in May?
A: I don't know. I presume so, but I don't know.
Q   Why do you presume so?
A   Your question was: Do they lead to the exam?
They all lead to the exam.
But the sequence is what I'm saying.
I don't know.
Q   In terms of the sequence, if a student were to take an AP course over the summer, how long would it be before they took the AP exam; do you know?
A   Most of the year.
Q   For that reason, do you believe that it's not likely that AP courses would be offered over the summer?
A   It's probably not very common.
But I don't know that it's not done.
Q   But you don't know that it is either?
A   That's right.
Q   I want to go back to Exhibit 26. And specifically, paragraph 24, the first sentence says: "The lack of classroom space becomes a significant problem for AP students who regularly have to come in over their vacation to complete the course and prepare for their exams."
Do you see that?
A   Yes.
Q   Do you recall that?
A   Yes, some do.
Which I think is a positive.
Q   Do you think there is a lack of classroom space for those AP students who come back over their vacations to complete their preparation for the AP exams?
MS. DAVIS: Vague and ambiguous. Are you talking about Concept 6 schools?
MR. VILLAGRA: Concept 6 schools.
THE WITNESS: I don't know whether that's true or not.
BY MR. VILLAGRA:
Q   Do you have any reason to disagree with Mr. Jimenez's description of Garfield as of the date of this declaration?
A   I don't have any reason to disagree, no.
Q   I want to turn to paragraph 27, which is on the next page, page 8 of Exhibit 26. The fourth sentence says: "We typically bounce from classroom to classroom over the vacation, which not only results in a loss of time and energy to locate space, but it also means I don't have all of my materials and files with me when I finally get done with teaching, and I'm not as effective as I would be if I were in my own classroom."
Do you see that?
A   Yes.
Q   Have you heard similar complaints from teachers at Concept 6 schools high schools about finding classroom space for AP students who are coming in over their vacations to prepare for their AP exams?
A   No.
Q   Have you heard complaints like that, generally?
A   Not about AP, but -- yes, space is a problem in multitrack schools.
That's why they are multitracked.
Q   Is it a problem, in particular, when students are coming back to the school who would otherwise be on vacation?
A   In the most overcrowded schools, yes. But not all multitrack schools.
Q   Would you expect space for students coming back to the campus, who should otherwise be on vacation, do you expect that to be a problem at Concept 6 schools?
MS. DAVIS: Vague and ambiguous as to "problem," calls for speculation.
THE WITNESS: I don't know how great the program is in the various schools. I just -- I don't know how to answer your question.
BY MR. VILLAGRA:
Q   In the next sentence, it says: "I know teachers who have had to reserve to using places that provide an even more inadequate learning environment, such as storage areas, cafeteria, and the outside sitting area, in order to meet over the vacation and adequately prepare their students for AP exams."
1 Do you see that?
2 A Yes.
3 Q Are you familiar with similar complaints?
4 MS. DAVIS: Vague and ambiguous.
5 BY MR. VILLAGRA:
6 Q From teachers at Concept 6 schools?
7 MS. DAVIS: Vague and ambiguous.
8 THE WITNESS: I have not heard it, specifically, from Concept 6 schools.
9 That's a common complaint of any crowded school, traditional calendar or multitrack calendar.
10 BY MR. VILLAGRA:
11 Q Are you familiar with that as a complaint from teachers at multitrack schools?
12 MS. DAVIS: Objection.
13 THE WITNESS: In some cases, yes.
14 BY MR. VILLAGRA:
15 Q What about, specifically, in terms of teachers of AP students who are coming in over their vacations.
16 Are you familiar of complaints like that, in that context?
17 A I have not heard it often.
18 I can't even remember any other case.
19
20 other than what he's described in here.
21 Q When you say you have not heard it often, does that mean you have heard it --
22 A I said or ever.
23 I remember listening to Maria Tostato.
24 She talked about having AP preparation classes for students in their intercession training.
25 I don't recall if she specified where those classes were, and even if they were on campus.
26 Q You didn't ask?
27 A I didn't ask.
28 But it didn't have to be on campus, such classes.
29 Q Do you have an understanding as to what is necessary for an adequate learning environment?
30 MS. DAVIS: Vague and ambiguous.
31 THE WITNESS: What's an adequate learning environment?
32 BY MR. VILLAGRA:
33 Q Do you have an understanding as to what that is, what that would be?
34 A Some general understandings.
35 Q What would that entail?
BY MR. VILLAGRA:

Q Are there circumstances in which a cafeteria, in your opinion, would not provide an adequate learning environment?

A If there are students eating and a lot of noise in the room, that would not be an adequate learning space.

Q In what circumstances, other than standardized testing, would a cafeteria, a school cafeteria, provide an adequate learning environment?

MS. DAVIS: Calls for speculation, vague and ambiguous.

BY MR. VILLAGRA:

Q In your opinion?

A It could be used for some kind of an assembly which is a subject oriented assembly.

Q Anything else?

A No.

Q Do you believe that a cafeteria would provide an adequate learning environment for a classroom of AP students or for a class of AP students?

A It could.

MS. DAVIS: Vague and ambiguous.

THE WITNESS: It could.

BY MR. VILLAGRA:

Q It might not?

A It might not.

Q In an eating area in a school, do you believe that provides an adequate learning environment?

MS. DAVIS: Vague and ambiguous, calls for speculation.

THE WITNESS: An eating area, just because it's an eating area, is that what you're asking me?

BY MR. VILLAGRA:

Q Yes.

A I would say if it's -- if the space can be used for separate classes at one time to see a film that's only available for one hour, or whatever, that could be a proper learning situation.

Q But if the eating area is being used for other things at the same time, that would not be proper.

A So depends on the circumstance that we would find ourselves in.

Q You said "it might not" be.

A It might not be.

Q An adequate learning environment, depending on the purpose for which it was being used?

A Purpose or time.

Q Looking at paragraph 28, it says: "Students on a traditional calendar don't experience these difficulties when they take AP courses. They have sufficient classroom instruction time before the exam to cover the necessary material and prepare for the exam."

Do you see that?

A Yes.

Q Do you disagree?

MS. DAVIS: Objection, calls for speculation.

THE WITNESS: I do disagree to the extent that he's idealizing what traditional calendar schools are like.

BY MR. VILLAGRA:

Do you have any way of disputing what Mr. Jimenez has described of Garfield High School?

MS. DAVIS: Vague and ambiguous.

THE WITNESS: I have no way of disagreeing with Garfield. I do disagree with his description of what traditional calendar schools are like in paragraph 28.

BY MR. VILLAGRA:

Do you have any reason to dispute Mr. Jimenez's description of the experience at traditional calendar schools, given the fact that he spent about 15 years teaching on a traditional calendar?

MS. DAVIS: As he sits here today?

MR. VILLAGRA: Yes.

THE WITNESS: Yes. Today, I know of schools -- not today, but I've known of traditional calendar schools where they have used the storage areas, a cafeteria, outside eating areas for certain kinds of learning activities. So that happens at traditional calendar schools as well.

BY MR. VILLAGRA:

Do you know of traditional calendar schools where storage areas, cafeteria, or outside eating areas are used to teach AP students?

A Not AP students, no.

Q Do you agree that students on the traditional calendar have sufficient classroom
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1 instruction time before the exam to cover the
2 necessary material and prepare for the AP exam?
3 MS. DAVIS: Vague and ambiguous.
4 THE WITNESS: I don't agree, because there
5 is never enough time.
6 BY MR. VILLAGRA:
7 Q Never?
8 A On any calendar.
9 You can always learn more to prepare for
10 an AP exam.
11 Q What's your understanding what a scoring
12 system is on the AP exam?
13 A I don't know.
14 Q In order to receive the highest score on
15 the AP, whatever that might be, do you believe
16 there is not enough time provided by any calendar
17 to do that?
18 MS. DAVIS: Vague and ambiguous, calls for
19 speculation.
20 THE WITNESS: I do as a general rule.
21 You can always learn more, the more time
22 one has to prepare.

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1 So there is never enough time in that
2 general sense.
3 BY MR. VILLAGRA:
4 Q But in the specific sense of passing the
5 AP exam, do you believe that students on the
6 traditional calendar have more instructional time
7 to cover the necessary material and prepare for the
8 exam than students on the Concept 6 school
9 calendar?
10 A Not necessarily.
11 MS. DAVIS: Calls for speculation.
12 BY MR. VILLAGRA:
13 Q But they may?
14 A They may in some instances.
15 But I would think that in an AP situation,
16 that Concept 6 schools, where students are off on
17 intercession just prior to taking the exam, if they
18 are concentrating heavily on the AP areas, they
19 would actually have more time than students in a
20 traditional calendar.
21 Q Looking at your report, specifically
22 page 8, can you show me which track you're
23 referring to that is on vacation right before the
24 AP exam?
25 A B track would be one.

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1 Q B track is on vacation starting when?
2 A March.
3 Q All right.
4 A B are on vacation during March and April.
5 Q So they are on vacation during March and
6 April?
7 A Yes.
8 Q To your understanding, the AP exam is
9 when?
10 A May.
11 Q Do you have any idea in May?
12 A It could vary slightly.
13 Q But for our purposes here, let's say
14 middle of May.
15 Q So a track B student has been in school
16 for six months, give or take, six-and-a-half months
17 before the AP exam; is that correct?
18 A No, that would not be correct.
19 MS. DAVIS: Wait a minute.
20 MR. VILLAGRA: Yes.
21 THE WITNESS: Excuse me, what do you mean
22 by "in class," are you --
23 BY MR. VILLAGRA:
24 Q Instructional phase?

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1 A From July?
2 Q Yes.
3 A There are two months, in July and August?
4 Q Four months; in November, December,
5 January, February?
6 A Yes.
7 Q And then two weeks in May?
8 A In school, yes.
9 Q In class?
10 A Yes.
11 Q So they have had six-and-a-half months?
12 A Yes.
13 Q How long have students on track A had by
14 mid-May?
15 A Ten-and-a-half -- excuse me, not weeks.
16 Six-and-a-half months.
17 Q For track C?
18 A Eight.
19 Q As you said, there is never enough time to
20 learn.
21 Q Do you think that students on track C have
22 an advantage over students on track A and B, given
23 that they have been in school, in class, for
24 one-and-a-half months longer than students on track
A or B?

MS. DAVIS: Vague and ambiguous.

THE WITNESS: They may have, but not necessarily.

As I pointed out a while ago, track B which is on vacation during March and April, just prior to the exam, may be able if they are willing to study for those exams.

Concentrate in such a way that they have an advantage over either A or C.

C, while in school, is also doing a lot of other activities, classes that are not AP classes, classes which may require assignments and take up time.

So there is not preparation time to actually concentrate on the upcoming AP exams.

So in the example we have given here, it's very possible for the students on B track, while they are on vacation, may actually be better prepared for the upcoming AP exam than C, whose been in school.

BY MR. VILLAGRA:

Q So B may be better off, but only if students take advantage of their vacation time to work on their own?

MS. DAVIS: AP students?

MR. VILLAGRA: Yes.

THE WITNESS: AP students, correct.

Ordinarily that would be so.

But I don't know if C students, really preparing for the AP exam, if he or she has been in school.

I don't know that.

BY MR. VILLAGRA:

Q Have you spoken to any AP students at a Concept 6 school regarding their experience in preparing for the examination?

A No, I have not.

Q Have you spoken to any AP teachers at a Concept 6 school regarding their experience in preparing students to take the exam?

A I don't recall any such conversation.

Q How long would a student at traditional calendar, how many months of instruction would they have had leading up to the AP exam in mid-May?

A It would be eight; the same as schedule C.

Q How are you calculating that?

A Starting in September, ordinarily, students in a traditional calendar would have September, October, November.

We'll count December as a whole month, that's four.

They would be in school January, February, March, April.

That would be eight months and possibly a half a month.

Since we specified that the exam would be in mid-May.

Q We took those two weeks into account when we looked at the instructional time available on the calendar for A, B, and C students?

A Yes. That same period of time, yes.

Q So traditional calendar students would be in school eight-and-a-half months leading up to the AP exam?

A Yes.

Q Do you believe a traditional calendar student taking an AP exam has an advantage over a Concept 6 school high school student in preparing for the AP exam?

MS. DAVIS: Calls for speculation.

THE WITNESS: Not necessarily.

BY MR. VILLAGRA:

Q Is it based on any firsthand report by teachers or students for preparing for the AP exam?

A That's my view.

Q Your personal view?

A Yes.

Q What’s that personal view based on?

A It depends what the student has been doing during the eight-and-a-half months, six months, six-and-a-half months.

Depends on the student.

The students attitude towards preparation more than it does just the seat time in school.

Q Do you have any school age children?

A I do not.

Q If you had a child in high school, would you rather that your child have six-and-a-half months of instruction before taking an AP exam or eight-and-a-half months?

MS. DAVIS: Vague and ambiguous, incomplete hypothetical, assumes facts not in evidence.

(Record read.)

THE WITNESS: Are those my only two options?

BY MR. VILLAGRA:

Q Yes.
1 MS. DAVIS: Same objections.
2 THE WITNESS: Ordinarily, I suppose I
3 would say eight-and-a-half rather than
4 six-and-a-half.
5 BY MR. VILLAGRA:
6 Q Why?
7 A I'm assuming everything is equal?
8 Q All things being equal.
9 A All things being equal, assuming that the
10 circumstances are all the same, more days in school
11 might help the student be better prepared.
12 But there are some assumptions there, I'm
13 making.
14 Q I'm saying all things being equal.
15 A Yes.
16 Q Would you say that for any other reason,
17 other than what you just stated?
18 A No.
19 Q But if I knew I had an option as the
20 B track, where my child might be able to prepare
21 for AP during intercession, I would probably opt
22 for track B.
23 Q Over a traditional calendar?
24 A Over a traditional calendar, yes.
25 Q What would you expect of the student over
26 the vacation?

THE WITNESS: Not necessarily.

THE WITNESS: No. If we're talking about preparation
for AP exams, I think B has a lot going for it.
BY MR. VILLAGRA:
Q More so than A?
A Even more so than A.
Q How about C; would you want your child on
track C?
A I see the only consideration is preparing for
AP exams, I think track B has something going for
it, yes.
MS. DAVIS: Vague and ambiguous.
BY MR. VILLAGRA:
Q You would prefer track B over track A at a
Concept 6 school?
A I would.
Q The only consideration is preparation for
AP exams.

THE WITNESS: Not necessarily.

THE WITNESS: I would expect my student, my child, to
spend most of that time preparing for the upcoming
AP exam or exams.
Q All right.
A I think that would be great preparation
time.
Q Why would you feel that those two months
would be necessary?
A Because there wouldn't be --
MS. DAVIS: Mischaracterizes his past
testimony.
BY MR. VILLAGRA:
Q Do you believe that those two months of
preparation would be necessary to preparing for the
AP exam?
A I'm not sure it would be necessary.
Q I think it would be welcome.
Q I would hope my child would prepare.
Q It's important to have AP exams and all
that go with it.
Q Going on with the hypothetical, you
highlighted track B; would you want your child on
track A if they were going to take an AP exam?
MS. DAVIS: Incomplete hypothetical,
assumes facts not in evidence.
what Drs. Oaks and Mitchell said.

That there really was not space.

Many of our year-round schools do have intercession programs in their building or buildings.

Those that don't, could provide it outside.

So there is time, if time is available and the space is available, to provide intercession to multitrack year-round students.

Q Is that based on the theory of multitrack year-round education?

MS. DAVIS: Vague and ambiguous.

BY MR. VILLAGRA:

Q Or is it based on your knowledge of the practice of multitrack year-round education?

A It's the practice.

There are multitrack schools with intercession classes in the school.

And there are some with intercession classes outside the school.

Q Are you familiar with the intercession programs available at multitrack year-round schools in the State of California?

A In general.

Q What do you mean by "in general"?

A I know that they are being held up and down the State.

I know that they cover a wide variety of topics, subjects.

Q How do you know that?

A From attendance at conferences, participation in year-round meetings, committee meetings, and that sort of thing.

Q With respect to Concept 6 schools in California, in particular, do you believe that there is time and space available to provide intercession to students?

A I do.

Q What's that based on?

A On some of the newspaper articles cited by Dr. Oaks.

Q Is it based on anything other than newspaper articles cited by Dr. Oaks?

A I have heard discussion of it in general year-round intercessions.

But certainly, those two newspaper articles specifically talk of students that go to intercession classes.

Q Who have you heard discussions of the availability of intercession in Concept 6 schools by?

A Discussions at the various meetings and conferences and so on.

I have been at this for 30 years -- 33 years.

I have had lots of discussions over those years.

Q Can you identify for me, any staff associated with a Concept 6 school who has discussed with you the availability of intercession?

MS. DAVIS: Vague and ambiguous.

THE WITNESS: Some of the principals I mentioned a while ago have certainly discussed intercession practices.

BY MR. VILLAGRA:

Q Who would those people be?

A Maria Tostato, Tony Garcia, Mel Mares, Steve Walters.

Q When is the last time you spoke to any of those principals you just identified?

MS. DAVIS: Vague and ambiguous.

THE WITNESS: Some of the principals I mentioned a while ago have certainly discussed intercession practices.

BY MR. VILLAGRA:

Q Who would those people be?

A Maria Tostato, Tony Garcia, Mel Mares, Steve Walters.

Q When is the last time you spoke to any of those principals you just identified?

A I couldn't say when.

But it was some time ago.

Q Would you say more than three years ago?

A It would be more than three years ago.

Q More than five years ago?

A It may have been; I'm not sure.

Q Is it possible it may have been more than ten years ago?

A I have talked with her in that intervening ten years.

Q When is the last time you spoke with Tony Garcia about the availability of intercession in Concept 6 schools?

A I wouldn't say it was more than ten years ago.

Q When is the last time you spoke with Tony Garcia about the availability of intercession in Concept 6 schools?

A I wouldn't say it was more than ten years ago.

Q When is the last time you spoke with Tony Garcia about the availability of intercession in Concept 6 schools?
A: I couldn't specify the time.
Q: Is it possible it was longer than five years ago?
A: Possible.
Q: Likely?
A: It's likely.
Q: Steve Walters, when is the last time you spoke with him about the availability of intercession and Concept 6 schools?
A: That may have been within the last five years.
Q: All right.
A: Since he was a long-time member of the National Board.
Q: Anyone you can say within the last five years, do you believe it's possible you spoke with Steve Walters about the availability of intercession at Concept 6 schools within the last three years?
A: No.
Q: So it's longer than three years?
A: Longer than three years.
Q: And I don't remember if I asked you about Mel Mares, when is the last time you spoke with him?
A: I did just speak to that.
I said I spoke with him in preparation for this paper on AP, but not on intercession.
Q: When is the last time you spoke to him about the available of intercession at Concept 6 schools?
A: Probably the same time frame as the other principals.
Q: Sometime more than three years ago?
A: Correct.
Q: In terms of what you can think of today, apart from what you have told me about newspaper articles and these four principals, can you think of anyone else that you have spoken to about the availability of intercession at Concept 6 schools?
A: I cannot right now.
Q: Have you read, other than in newspaper articles that you mentioned, any materials dealing with the availability of intercession at Concept 6 schools?
A: Ever?
Q: Yes.
A: Yes, I have.
It would be in conference, prepared material that was handed out.
Q: When was the last time you saw materials dealing with the availability of intercession at Concept 6 schools?
A: I cannot give you an exact time.
Q: Is it possible it was more than five years ago?
A: I don't know.
Q: In preparing your report in this case, did you review any materials that related to the availability of intercession at Concept 6 schools?
Ms. Davis: Are you talking about the date when he was asked to write an expert report?
Mr. Villagra: In this period when you were preparing the report.
The Witness: Repeat the question.
By Mr. Villagra:
Q: When you were preparing your report in this case, including whatever research you did to write it, did you review any materials addressing the availability of intercession in Concept 6 schools?
A: Currently?
Q: Yes.
A: No.
Q: I believe I asked you yesterday, about Gordon Wohlers.
A: You told me you knew who he was.
Q: Have you ever spoken with Gordon Wohlers about the availability of intercession at Concept 6 schools in LAUSD?
A: I may have.
Q: Do you recall any of those conversations?
A: I did not recall.
Mr. Villagra: I'm going to mark as Exhibit 27, a document entitled: "Declaration of Gordon Wohlers."
And it's ten pages long and it is dated March 24, 2000.
(Deposition Exhibit 27, declaration of Gordon Wohlers, was marked for identification by the Court Reporter.)
Mr. Villagra: Off the record.
(Discussion off the record.)
By Mr. Villagra:
Q: Have you completed reviewing?
A: Yes.
Q: Did you review the entirety of the exhibit?
A: Yes.
Q: If I could turn your attention to page 3 of Exhibit 27, paragraph 15. Mr. Wohlers is describing the actions faced by LAUSD to handle the influx of students in excess of capacity. It identifies: "First, putting schools on multitrack year-round calendars. Busing students over long distances. And three, adding portable classrooms."
A: Yes.
Q: Do you agree that LAUSD has used all of these three solutions in order to handle its excess enrollment?

MS. DAVIS: Calls for speculation.
THE WITNESS: I have no way of knowing precisely, other than the multitrack year-round calendars.

BY MR. VILLAGRA:
Q: Do you have any knowledge as to whether LAUSD has had to bus students in order to address student over-enrollment?
A: I have seen newspaper articles and this declaration to that effect.
Q: To your knowledge, has LAUSD added portable classrooms in order to cope with its over-enrollment of students?
A: I do.
MS. DAVIS: Objection.

BY MR. VILLAGRA:
Q: How do you know that?
A: I've been on the campus and seen the portables.
Q: Do you agree that adding portable classrooms in order to handle excess capacity has a significant impact on LAUSD's educational program?

MS. DAVIS: Calls for speculation, vague and ambiguous.
THE WITNESS: I don't know how it does. I'm not at the site, so I can't specify how it affects.

BY MR. VILLAGRA:
Q: You would have to be --
A: I would have to say no.
Q: I can't say firsthand what, if any, there might be.

BY MR. VILLAGRA:
Q: So to be able to say, you would have to judge from the school site?
A: That would be the best way to make the decision, make a judgment.
Q: Do you believe that LAUSD's busing of students in order to handle excess enrollment has had an impact on the district's educational program?

MS. DAVIS: Calls for speculation, vague and ambiguous.
THE WITNESS: I would not be able to know unless I had firsthand experience.

BY MR. VILLAGRA:
Q: Do you believe that LAUSD's efforts to handle excess enrollment through the use of multitrack year-round calendars has had an impact on the district's educational program?

MS. DAVIS: Same objections.
THE WITNESS: I'm not sure what the impact would be, other than the achievement scores which I do know about.

BY MR. VILLAGRA:
Q: Do you believe that LAUSD's use of multitrack year-round calendars has an impact on the district's educational program?

MS. DAVIS: Same objections.
THE WITNESS: I'm not sure what the impact would be, other than the achievement scores which I do know about.

BY MR. VILLAGRA:
Q: What do you mean you're not sure of what the impact would be other than achievement?
A: That's the data that I have some idea about.

BY MR. VILLAGRA:
Q: And what do you mean you're not sure of what the impact would be other than achievement?
A: That's the data that I have some idea about.

BY MR. VILLAGRA:
Q: What do you mean you're not sure of what the impact would be other than achievement?
A: That's the data that I have some idea about.

BY MR. VILLAGRA:
Q: What do you mean you're not sure of what the impact would be other than achievement?
A: That's the data that I have some idea about.

BY MR. VILLAGRA:
Q: What do you mean you're not sure of what the impact would be other than achievement?
A: That's the data that I have some idea about.
Do you believe that the concept of this calendar impedes the provision of intervention services for struggling students?

Vague and ambiguous, calls for speculation.

Are you eliminating the Concept 6 versus multitrack?

It looked to me, you were referring to multitrack. I could be wrong.

I asked about Concept 6, we can keep it at Concept 6.

I'm not in a position to know whether it does impede vital intervention services or not.

On page 3, at lines 22 and 23, it says: “The multitrack year-round calendar that the district most often uses, provides a shortened and compressed school year with either long or midyear interruption.” Do you see that?

Yes.

Do you have an understanding as to what Mr. Wohlers is referring to?

What would you presume?

I would presume he's speaking of Concept 6.

Or possibly Concept 6 modified?

Not entirely modified Concept 6.

Because certainly -- modified Concept 6 does not have long vacations -- yes, long vacations.

Given that understanding, do you have any reason to disagree with Gordon Wohlers's conclusion in this declaration that the district's use of Concept 6 has impeded the provision of intervention services?

That, I don't know.

Because I don't have firsthand knowledge.

So you have no reason to disagree?

I believe that's what he said.

I have no reason to agree or disagree unless I got more information.

The next sentence says: "Moreover, whenever a classroom is a precious asset to the school, just to handle regular classes all year-round, an intercession class which brings back to the campus students who are supposed to be off, becomes an undesirable stepchild.” Do you see that?

Yes.

Do you have an understanding as to what Mr. Wohlers is referring to?

What do you think he's referring to?

I think he's saying if the campus is already full, having students come back would make it more full.

And so, that would be undesirable from the point of view of the administration?

Vague and ambiguous, calls for speculation.

I don't know what he has in mind here.
had been a principal at a multitrack school?
A I believe that's my recollection.
That was many years ago.
Q In the next sentence:
"It is impossible to encourage
all students who need intercession
classes to take advantage of them
when there is so little room."
Do you see that?
A Yes.
Q Do you have any reason to disagree that
LAUSD has been unable to encourage all students who
need intercession to take advantage of it?
MS. DAVIS: Calls for speculation.
THE WITNESS: I'm not on-site.
There is an assumption here, that
intercession can only take place on the -- within
the four walls of the school house.
And repeatedly, I have said we can think
about classes off campus as well as on campus.
BY MR. VILLAGRA:
Q At a traditional calendar school, where
would remediation classes take place?
MS. DAVIS: Calls for speculation, vague
and ambiguous.

THE WITNESS: Intercession is summer
school rescheduled.
Summer school classes are sometimes held
off campus, yes.
So I don’t see that as any different than
summer school would be.
BY MR. VILLAGRA:
Q But a traditional calendar school, in
time, has space enough to bring back every child
for remediation services; is that correct?
MS. DAVIS: Calls for speculation.
THE WITNESS: In theory.
BY MR. VILLAGRA:
Q The next sentence says:
"We have tried to make up for
this with after-school and Saturday
academic intervention programs."
Do you see that?
A Yes.
Q Are you familiar with after-school and
Saturday academic intervention programs that LAUSD
has operated at Concept 6 schools?
A I'm not directly familiar, no.
Q Do you believe that after-school or
Saturday academic intervention programs are
c conducive to teaching and learning?
MS. DAVIS: Vague and ambiguous.
THE WITNESS: They can be.
BY MR. VILLAGRA:
Q But they could not be as well?
A They could not be as well.
Q I would have to judge each case
individually.
Q Why could they not be conducive to
teaching and learning, in your opinion?
MS. DAVIS: Vague and ambiguous.
THE WITNESS: There could be various
factors.
Q It could be the quality of the teaching
staff.
Q It could be whether there is fresh air, a
lot of different factors.
Q I just don't know.
Q I would have to judge each case on its own
merits.
BY MR. VILLAGRA:
Q What about student fatigue from having to
attend an after-school intervention program?
A I don't know about student fatigue since
other states in the nation require a longer day
than California in the first place.
Q I don’t know why California students would
be more fatigued than other parts of the nation.
Q I just don't take much stock in the idea
that California students are going to be fatigued
with after-school learning exercises.
Q A student at a Concept 6 school is already
on a schedule that is 33 minutes longer per day
than the traditional calendar; is that correct?
A That's correct.
Q I don’t know about the exact minutes
longer, it’s longer, yes.
Q Is it approximately 33 minutes?
A It could be, yes.
Q All right.
A It depends on what the original
instructional day was to begin with, that changes
district by district.
Q I don’t know L.A.’s program.
Q I don’t know whether 33 minutes is correct
or not.
Q Do you think there is a possibility of
students becoming fatigued by attending a school
day that is already longer than the traditional
calendar school day, and then attending an
1. additional intervention class of an hour in length?
2. A. Not necessarily.
3. Q. At the bottom of this paragraph 42, it says: "Intervention..."
4. A. Excuse me, where are we?
5. Q. It says: "Intervention is, in effect, not being done for children on the Concept 6 calendar."
6. A. Do you see that?
7. Q. Do you have any reason, sitting here today, to disagree with Gordon Wohlers's conclusion that intervention is, in effect, not being done for children on the Concept 6 calendar?
8. MS. DAVIS. Calls for speculation.
9. THE WITNESS. I don't have enough information about the program to have an opinion.
10. BY MR. VILLAGRA:
11. Q. If you could turn back to page 3, line 24, it says: "The schedule's compression and disruption creates enormous challenges to teaching and learning."
12. A. Yes.
13. Q. Do you believe that the Concept 6 calendar creates any challenges to teaching and learning?
14. MS. DAVIS. Vague and ambiguous.
15. THE WITNESS. What do we mean by "challenges"?
16. BY MR. VILLAGRA:
17. Q. What do you take the word to mean?
18. A. It could mean a lot of different things.
19. Q. There are changes and there are issues to deal with. I don't know what -- I don't really know what's meant by "enormous challenges."
20. A. I can't answer your question, then.
21. Q. Turning your attention to page 8, paragraph 38. "Multitrack calendars also directly impact teaching and learning."
22. A. Do you believe that the multitrack year-round calendar has any impact on teaching and learning?
23. MS. DAVIS. Vague and ambiguous.
24. THE WITNESS. We're talking about words here, "impact."
25. Q. Again, we have change, so there would be some differences.
26. A. If that's an impact, yes.
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1. A I'm not.

2. Q Do you have any knowledge whether LAUSD could serve more children in school readiness language development programs, but for the operation of its multitrack year-round schools?

3. MS. DAVIS: Vague and ambiguous.

4. He said he didn't know what that program is.

5. THE WITNESS: I don't know what the program is. I don't know how its organized or administered.

6. BY MR. VILLAGRA:

7. Q Or what effect?

8. A Or what effect it has.

9. Q On page 8, paragraph 39, it says: "All teachers on Concept 6 have to pack up their materials and move out of their classrooms when they go off-track in order to make room for the incoming teacher in class."

10. Do you see that?

11. A Yes.

12. Q Do you have any understanding to what Mr. Wohlers is referring to?

13. MS. DAVIS: Calls for speculation.

14. BY MR. VILLAGRA:

15. Q What do you understand that sentence to refer to?

16. MS. DAVIS: Same objection.

17. THE WITNESS: My understanding is that the coming in of the new group and the going out of the group scheduled to go on vacation. That's an assumption. But that would be the usual response.

18. BY MR. VILLAGRA:

19. Q The next sentence says: "At least 1 of every 3 teachers on Concept 6 must rove without a permanent classroom, even while he or she is on track."

20. Do you see that?

21. A Yes.

22. Q Is it your understanding that at least 1 out of every 3 teachers at a Concept 6 school must rove?

23. MS. DAVIS: Vague and ambiguous.

24. THE WITNESS: If they have chosen the roving system, the answer would be yes. There is an "F" there.

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1. BY MR. VILLAGRA:

2. Q Do you know how prevalent, in LAUSD Concept 6 schools, the adoption of a roving teacher's schedule is?

3. A I don't know the numbers and rotation.

4. Q The next sentence:

5. "Roving teachers have to pack up their materials and move even more frequently."

6. Do you see that?

7. A Yes.

8. Q Do you agree with that statement?

9. A It depends on what it's being compared to. If it is compared to the other two teachers, that has been spoken of up above. The roving teacher has to do that more frequently, yes.

10. Q Does the roving teacher also have to pack up and move more frequently than a teacher on a traditional calendar?

11. A Yes.

12. Q Paragraph 40, the first paragraph 40. It says: "The classroom dislocations that Concept 6 requires are disruptive and draining to the students."

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1. A Yes.

2. Q What do you understand that classroom dislocations required by Concept 6, refers to?

3. MS. DAVIS: Vague and ambiguous.

4. THE WITNESS: I don't know what he's referring to.

5. BY MR. VILLAGRA:

6. Q Do you believe that teachers on Concept 6 calendars, who have to pack up their materials and move out of their classrooms when they go off-track, are coping with a distraction?

7. MS. DAVIS: Vague and ambiguous, calls for speculation.

8. THE WITNESS: I don't know whether they are or not.

9. It depends on how it's organized.

10. MR. VILLAGRA: Off the record.

11. (Recess taken.)

12. BY MR. VILLAGRA:

13. Q I want to go back to Exhibit 12, your report, page 39.


15. THE WITNESS: If they have chosen the roving system, the answer would be yes. There is an "F" there.

16. Okay.

17. Q In the first sentence of the first full paragraph, you mention that Dr. Mitchell decided to give less weight to findings related to multitrack

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1. A Yes.

2. Q What do you understand that classroom dislocations required by Concept 6, refers to?

3. MS. DAVIS: Vague and ambiguous.

4. THE WITNESS: I don't know what he's referring to.

5. BY MR. VILLAGRA:

6. Q Do you believe that teachers on Concept 6 calendars, who have to pack up their materials and move out of their classrooms when they go off-track, are coping with a distraction?

7. MS. DAVIS: Vague and ambiguous, calls for speculation.

8. THE WITNESS: I don't know whether they are or not.

9. It depends on how it's organized.

10. MR. VILLAGRA: Off the record.

11. (Recess taken.)

12. BY MR. VILLAGRA:

13. Q I want to go back to Exhibit 12, your report, page 39.


15. THE WITNESS: If they have chosen the roving system, the answer would be yes. There is an "F" there.

16. Okay.

17. Q In the first sentence of the first full paragraph, you mention that Dr. Mitchell decided to give less weight to findings related to multitrack
year-round calendars in other states?

A  Yes.

Q  In the parenthetical, you note:

"Multitrack year-round schools in
Arizona, Utah, Colorado, Nevada, and
New Mexico, Texas, Florida, North
Carolina, Missouri, Illinois, and
Pennsylvania..."

Do you see that?

A  Yes.

Q  In the parenthetical, you note:

"Multitrack year-round schools in
Arizona, Utah, Colorado, Nevada, and
New Mexico, Texas, Florida, North
Carolina, Missouri, Illinois, and
Pennsylvania..."

Do you see that?

A  Yes.

Q  In the parenthetical, you note:

"Multitrack year-round schools in
Arizona, Utah, Colorado, Nevada, and
New Mexico, Texas, Florida, North
Carolina, Missouri, Illinois, and
Pennsylvania..."

Do you see that?

A  Yes.

Q  In the parenthetical, you note:

"Multitrack year-round schools in
Arizona, Utah, Colorado, Nevada, and
New Mexico, Texas, Florida, North
Carolina, Missouri, Illinois, and
Pennsylvania..."

Do you see that?

A  Yes.

Q  In the parenthetical, you note:

"Multitrack year-round schools in
Arizona, Utah, Colorado, Nevada, and
New Mexico, Texas, Florida, North
Carolina, Missouri, Illinois, and
Pennsylvania..."

Do you see that?

A  Yes.

Q  In the parenthetical, you note:

"Multitrack year-round schools in
Arizona, Utah, Colorado, Nevada, and
New Mexico, Texas, Florida, North
Carolina, Missouri, Illinois, and
Pennsylvania..."

Do you see that?

A  Yes.

Q  In the parenthetical, you note:

"Multitrack year-round schools in
Arizona, Utah, Colorado, Nevada, and
New Mexico, Texas, Florida, North
Carolina, Missouri, Illinois, and
Pennsylvania..."

Do you see that?
A He refers to looking at California data.
I don't recall the degree to which he looked at that.

MR. VILLAGRA: If I could ask you to take a look at Exhibit 2.
THE WITNESS: Which one is that?
MR. VILLAGRA: The C.A.S.H.
THE WITNESS: I have it.

BY MR. VILLAGRA:
Q Will you turn to the page No. 73349?
A All right.
Q That paragraph under the heading: "MTYRE Children."
A Yes.
Q Do you see that?
A Yes.
Q It says: "The majority of children that attend MTYRE schools are from low-well families and under-represented communities."
Do you see that?
A Yes.
Q Do you disagree that the majority of students that attend multitrack year-round schools are from low-well families and under-represented communities?
MS. DAVIS: Vague and ambiguous.
THE WITNESS: I don't agree or disagree. I haven't done this study myself.

BY MR. VILLAGRA:
Q So when you say "Dr. Mitchell is attempting," going back to your report, Exhibit 12, at page 39.
When you say he's "attempting to paint the multitrack year-round calendar as the calendar of only the poor and minorities, and that is not the case," you're not saying that's not the case in California; you don't know one way or the other?
A I'm saying that's correct.
We're looking at the broad picture of multitrack in this discussion, in this paragraph. And the key word is only to "poor and minorities."
Q To your knowledge, did Dr. Mitchell make the claim that the multitrack year-round calendar in California was the calendar of only the poor and minorities?
A I thought he was painting the picture that that was so.
Q Does that mean you inferred that from his discussion?
A I inferred that from his discussion.
Q Do you disagree with Dr. Mitchell that in California, a Concept 6 calendar is used at schools that enroll disproportionate numbers of poor Latino students?
A Disproportionate to what?
Q To their proportion in the student population?
A Well, my problem with the disproportionate is they certainly -- Concept 6 calendars are implemented at a particular site or locale. If a particular group of students are situated in that locale, then, obviously, the calendar would be implemented in schools where they reside.
Whether that's disproportionate to the population in that locale, I can't tell.
I haven't done that kind of a survey.
Q Can't you say whether it's disproportionate or not?
A I can't.
Q To your knowledge, is this case addressed to multitrack year-round calendars, in general?
MS. DAVIS: This case being the Williams case?
MR. VILLAGRA: Yes.
THE WITNESS: In general, that's my understanding, yes.

BY MR. VILLAGRA:
Q I want to turn your attention to page 41 of your report, Exhibit 12.
You say, you write:
"Dr. Mitchell claims that a multitrack year-round student program is likely to be restricted to the number of school days on the calendar."
You go to write:
"That may be true only in the multitrack year-round schools severely impacted at 130 percent and above level of the stated capacity of the school."
Do you see that?
A Yes.
Q Will a school that's severely impacted at the 130 percent and above level, stated school capacity, generally be on the Concept 6 calendar?
A That would be common.
130 percent could be 135 in one facility or 140 in another facility. I chose 130 to be fair in the State material.

Q   Will you expect that at a Concept 6 school, the instructional calendar would be restricted to the number of school days on the calendar?

MS. DAVIS:  Asked and answered.

THE WITNESS:  Yes. I've, a couple of times in the last two-and-a-half days, suggested that the regular school days could be increased if we could think of classes being held other than just in the four walls of the school house.

BY MR. VILLAGRA:

Q   If we thought of classes, though, as limited to the four walls of the school, do you believe that a Concept 6 calendar is limited to the number of school days on the calendar, namely 163?

MS. DAVIS:  Same objection.

THE WITNESS:  There would be 163 days extended time for comparable instructional minutes.

BY MR. VILLAGRA:

Q   That's a yes?

A   Yes. I'm talking about days, yes.

Q   Is Dr. Mitchell's claim that a program is likely to be restricted to the number of regular school days on the calendar, can that be true of a Concept 6 school?

A   It can be true if they do nothing to add days, other than within the four walls of the school.

Q   I want to turn back to page 15 of your report. The first full paragraph, you refer to a study out of the Oakland unified school district?

A   Yes.

Q   Do you see that?

A   Yes.

Q   If I refer to that study as the Resnick study, would that be okay?

A   Yes.

Q   Do you understand, I don't recall the author's full name, Resnick to be the last name of the author of this study?

A   Yes.

Q   At bottom of the paragraph, you have a quotation from the Resnick study.

"In summary, we found that academic achievement is chiefly influenced by socioeconomic status. With the calendar modality (year-round or regular) playing a secondary, but still significant role."

Do you see that?

A   Yes.

Q   Do you believe that the Resnick study found that the calendar modality, year-round or regular, played a significant role in determining academic achievement?

A   The quote that I have here, is from that study.

That's what the author of that study said.

That's not -- those are not my words.

Q   How do you understand those words?

A   The author felt that the calendar had a -- had a secondary role, not the primary role.

Q   A secondary, but still significant role?

A   That's the words of the author, yes.

Q   Do you believe that the Resnick study found that the calendar modality, year-round or regular, played a detrimental role in academic achievement?

MS. DAVIS:  Vague and ambiguous.

THE WITNESS:  As I recall the study, they weren't sure what role the calendar played.

But this paragraph, at the bottom of 15 which we're reacting to right now, the intent here, was to point out that Dr. Oaks had not given the full intent of the quote.

I found that she had misstated what the author, Resnick, was saying in the open report.

BY MR. VILLAGRA:

Q   I appreciate that.

Do you understand the Resnick study to have found a calendar, namely, multitrack year-round calendar, plays a statistically significant role in determining student achievement?

A   It didn't say "statistically."

But it said "significant."

That was the quote from the Resnick study.

Q   You don't understand the significance to have been statistically significant?

A   I don't remember -- that the study said statistically significant.

In fact, the study, from my perspective, was a fairly weak study.

Q   Why do you say it's a "weak study"?

A   Because I had trouble following the study.
It was not a well-put-together study for, at least, those of us who are not researchers to follow. Q Did you believe that the Resnick study to be a weak study for any other reason? A I could not follow how she got her data even, so it was a very difficult study. But my point here, in this paragraph, Dr. Oaks did not really correctly state what was coming from the Oakland study. Q I appreciate that. When you said you had trouble following this study, are there any other research studies that you have had trouble following? A Yes. Q You're not a researcher? A I'm not a researcher. Q You can't say anything about Resnick's methodology in conducting this study? A I can say something about it. I can react as I just did. I didn't think it was a very good study. Q What can you say about the methodology used by Resnick in this study? A To tell you the truth, there was not enough information for me to know how she derived her data. Q What do you mean by "how she derived her data"? A I don't know what it compares to. I don't know how they collected it. It was a relatively short paper, few pages, and I just don't have enough information. I didn't think it was a very good study. Q Are you saying it’s a weak study in layman's terms? A From my perspective, yes. Q All right. A "Layman" in the sense of not being a researcher. Q Is it fair to say you're not offering an expert opinion regarding the Resnick study? A I'm not an expert in educational research statistics, that sort of thing, yes. I'm giving that as my personal response to the study. Q Do you take issue with all studies that are short? A Not necessarily. Q Do you take issue with all studies that have typos in them? A As an English teacher, I always have questions. If it's one typo, that's human. If it's full of such situations, say, somebody should have looked at this more carefully. Q At page 16, the next page of Exhibit 12, the second to last sentence you say: "The Oakland study, therefore, cannot be viewed as a well-documented and weighty report on the effects of year-round education on student achievement." Do you see that? A Yes. Q Is what you wrote there, the equivalent of what you just testified to in terms of what the substance of your opinion is? A That's my opinion. Q When you say, in the next sentence: "But the Oakland report tells us is that socioeconomic status, first and foremost, is central to student achievement." Do you see that? A Yes. Q Does the Oakland report also tell us that what you just testified to in terms of what the relevant or not. Because the quote here, here, in the same paragraph, the author says: "We're not sure." Because she says in the fourth line of that paragraph: "Whether it's due to differences in the population or due to the different calendars..." Even the author wasn't clear what role the calendar played in the results. BY MR. VILLAGRA: Q Reading the very next sentence, though, which you did not just read, it says: "Our results indicate that both factors play a role in academic achievement with low SES being more detrimental than the calendar."
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<tbody>
<tr>
<td><strong>Q</strong></td>
<td>Do you see that?</td>
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<tr>
<td><strong>A</strong></td>
<td>Yes.</td>
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<tr>
<td><strong>Q</strong></td>
<td>Don't you understand that to mean that while SES may be more detrimental, that the calendar, nonetheless, is detrimental?</td>
</tr>
<tr>
<td><strong>MS. DAVIS:</strong></td>
<td>Calls for speculation.</td>
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<tr>
<td><strong>THE WITNESS:</strong></td>
<td>That may be so or it may not be so.</td>
</tr>
<tr>
<td><strong>MS. DAVIS:</strong></td>
<td>Calls for speculation.</td>
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<td><strong>BY MR. VILLAGRA:</strong></td>
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<tr>
<td><strong>Q</strong></td>
<td>Just in terms as an old English professor, if I read something is &quot;more detrimental,&quot; doesn't it assume that both things were detrimental?</td>
</tr>
<tr>
<td><strong>A</strong></td>
<td>Certainly both were factors.</td>
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<td><strong>MS. DAVIS:</strong></td>
<td>That's in his capacity as an old English teacher.</td>
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<tr>
<td><strong>THE WITNESS:</strong></td>
<td>Strike &quot;old.&quot;</td>
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<td><strong>MS. DAVIS:</strong></td>
<td>A former English teacher.</td>
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<td><strong>BY MR. VILLAGRA:</strong></td>
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<tr>
<td><strong>Q</strong></td>
<td>Are you familiar with what I will call the Quinlan study?</td>
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<tr>
<td><strong>A</strong></td>
<td>Yes.</td>
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<tr>
<td><strong>Q</strong></td>
<td>What is the Quinlan study?</td>
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<tr>
<td><strong>A</strong></td>
<td>That was a study done in, I believe, 1987, sponsored by the California Department of Education.</td>
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<tr>
<td><strong>Q</strong></td>
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<td><strong>MS. DAVIS:</strong></td>
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<td><strong>THE WITNESS:</strong></td>
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<td><strong>BY MR. VILLAGRA:</strong></td>
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<td><strong>Q</strong></td>
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<td><strong>Q</strong></td>
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<td><strong>A</strong></td>
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Because most, if not all, of the factors are outside of the calendar.

Q   When you say most of the factors are outside of the control of the calendar, what factors are you referring to?

A   Student achievement, as I said several times in the deposition, is primarily the result of interaction between student and pupil.

The calendar is a means to handle over-enrollment.

I don't think the calendar should be overplayed, particularly when we're looking for reasons why students are not performing at a higher level.

Q   The calendar shouldn't be claimed for factors outside of its control. But the calendar should not be claimed for factors within its control either?

A   I'm not sure what factors are within its control.

Can you name those for me?

Q   Do you believe that any factors are within the control of a calendar policy?

MS. DAVIS:  Vague and ambiguous.

THE WITNESS:  By now, I'm not coming up with any factors that are controlled by calendar.

BY MR. VILLAGRA:

Q   I want to turn your attention back to Exhibit 24.

I know there were parts of it that you could not express an opinion on.

Are you familiar with the Public School Accountability Act of '99?

A   In a very general way.

Q   What's your understanding of the Act?

A   The intent was to gather information about the achievement of California students.

Q   If you could turn to page 2 of this technical report, the first full paragraph says: "The PSAA, referring to the Act, specifies that similar characteristics include, but are not limited to, to the following characteristics insofar as data are available from the California Department of Education."

Do you see that?

A   Yes.

Q   Do you see, the first one is "pupil mobility"?

What do you mean by "control"?

A They can hire, they can have as a policy to hire only fully credentialed teachers.

But the circumstance may be where they have hired other than fully credentialed teachers.

Q   I'm assuming the same goes for a percentage of teachers who hold credentials --

A   Yes.

Q   Percentage of pupils who are English language learners, is that within the control of the school?

A No.

Average class size per grade level, is that within the control of the school?

MS. DAVIS:  Vague and ambiguous.

THE WITNESS:  Yes and no.

BY MR. VILLAGRA:

Q   To what extent is it?

A If the school district is following the guidelines for class size reduction, those guidelines are set by law.

And so, there would be no control once the district agrees to be part of that program.

Otherwise, the district can set the limits of the number of pupils per teacher or by union
contract; sometimes, those limits are set.
Q  The last characteristic included or
specified in the similar characteristics index is
whether a school can operate multitrack year-round
educational programs.
Is that within the control of the school?
MS. DAVIS:  Vague and ambiguous as to "control of the school."
The WITNESS:  That's a good question, whether the school can control that.
The school can make a choice as to whether
to implement the calendar.
But the need for the calendar is not
within the school's control.

BY MR. VILLAGRA:

Q  The school can make a choice as to whether
it will operate on a multitrack year-round
calendar?
A  Yes.
Q  But the school can't make a choice as to
the ethnicity of its student population?
A  That's true.
Q  Going back on the language, we were
looking at your report about condemning the
calendar policy for factors beyond the control of
that policy.
Do you believe that a school can be
condemned for its choice of calendar, given that
the choice of calendar is within its control?
A  I would think any citizen could condemn
the policy.
Whether that's a right opinion is another
matter.
So, I guess, I would have to say yes.
The school could be condemned for its
choice of calendar.
It doesn't mean that condemnation is
correct.
Q  But if you were looking, if you as a
citizen were looking, at factors to condemn a
school on, wouldn't you look for factors that are
within the control of the school?
A  I would as a citizen.
But the over-enrollment is nothing within
the control of the school.
Q  Who is over-enrollment within the control
of?
A  Good question. I'm not sure I can fully
answer it.
But increases can come from the actions of
other governmental agencies in the school.
For instance, approval of certain housing
densities, certain subdivisions -- new subdivisions
built, issues of that kind are decided by
governmental agencies, other than the public
schools.
So enrollment is not within the control of
the public schools.
Q  To no degree?
A  Well, the public schools could go to some
of these hearings and testify what consequences of
these other agencies's actions might be.
But land-use decisions are not decisions
made by the public schools.
Q  Could the California Department of
Education assume more control over over-enrollment
by attempting to build more schools precisely in
those communities experiencing growth for whatever
reasons?
MS. DAVIS:  Vague and ambiguous, calls for
speculation.
THE WITNESS:  I don't think California
Department of Education builds schools, local
agencies do.
Some of the money that may be available is
funneled through the California Department of
Education.
But local districts and local communities
decide whether schools will be built or not.

BY MR. VILLAGRA:

Q  Do you know whether there are any other
states in the United States that does that?
A  I don't know of any, for sure.
There may be one or two.
Q. Going back to the White and Cantrell study from 2001.

A. You're speaking of the 2001 study?

Q. Yes.

MS. DAVIS: Vague and ambiguous.

THE WITNESS: Would you break the question down for me a little bit?

There were several parts to it.

BY MR. VILLAGRA:

Q. Do you recall whether the 2001 White and Cantrell study found that students do not perform equally across school calendars?

MS. DAVIS: Vague and ambiguous, you mean "equally," controlling for certain things or not controlling for anything?

MR. VILLAGRA: Not controlling.

THE WITNESS: There were unequal levels of student achievement, yes.

BY MR. VILLAGRA:

Q. With the traditional calendar performing best?

A. In some instances, yes.

Q. And the Concept 6 schools performing worse?

A. In some instances, yes.

Q. But in general?

A. I can't say that, in general.

Q. You don't recall?

A. I don't recall at this point.

Q. Do you recall whether the 2001 White and Cantrell study found that school demographics explained a considerable part of the difference in achievement across school calendars?

A. Background characteristics, yes.

That's what we just reviewed on page 16.

Q. To your recollection, did the 2001 White and Cantrell study find that all of the differences in student achievement across school calendars were attributable to school demographics?

MS. DAVIS: The document speaks for itself.

THE WITNESS: I'm going to hesitate because of the word "all."

I'm not sure at this point.

I would have to go back and check my notes and review their report.

BY MR. VILLAGRA:

Q. Have you had a chance to review Exhibit 28?

A. I have it in my hands.

I did not review it.

I did a few weeks ago; it's been a while since I looked at this.

Q. Do you know what Exhibit 28 is?

A. Yes.

Q. What is it?

A. It's a report authored by Jeffrey White,
THE WITNESS: I'm not an expert in statistics. I relied more heavily on the written report than I did on the tables presented.

BY MR. VILLAGRA:

Q   Do you know where White and Cantrell derived their data from?
A   It was within Los Angeles Unified.

Q   Do you know how they mathematically or statistically reached their conclusions?
A   I can't respond to that.

Q   If you turn to page 4 of the Exhibit, No. 0467m, at the top. It says: "Students do not exhibit similar achievement gains across all school calendar tracks."
A   I do.

Q   Do you agree with that finding by White and Cantrell?
A   That statement by itself, I don't disagree with that.

Q   Next sentence: "Students on three-track calendars perform more poorly in reading and mathematics than any of those of any calendar type."
A   Yes.

Q   Do you agree with that conclusion?
A   I don't disagree with their conclusion.

BY MR. VILLAGRA:

Q   In the next sentence, it says: "When comparing only demographically, similar schools, same achievement patterns exist."
A   Yes.

Q   Do you disagree with that conclusion?
A   I don't disagree that they conclude differently.

MS. DAVIS: Objection, you left out part of the conclusion.

BY MR. VILLAGRA:

Q   In the next sentence, it says: "When student performance in multitrack calendars is disaggregated by track, a clear pattern emerges with three-track schools."
A   Yes.

Q   How are the vacation periods different?
A   They are different times of the year than for A and C.

Q   I want to look back at your report, Exhibit 12, page 8. There is a figure where you have the schedule.
A   Yes.
of vacation, followed by four months of
instruction?
A That's correct.
C On track B, there are two months of
instruction, followed by two months of vacation,
followed by four months of instruction, followed by
two months of vacation, followed by two months of
instruction; is that correct?
A That's only partially correct. It has -- as visualized in this kind of a
chart, that's true.
For the track B student, they follow
exactly the same pattern as A and C.
That is, they are in school for four
months, they are on vacation for two, back for
four, off for two.
The pattern is the same for each of the
three tracks.
Q So you don't recognize any distinction
among the tracks in terms of the pattern of
instruction and vacation?
A I don't, other than the fact there might
be a grade change at the end of June, for example.
But the instructional pattern, which is
what you were asking about, is still the same as
A and C; four months of instruction, two months of
vacation.
Q You told us many times today, that cover
analysis always has to go back to the traditional
calendar?
A True.
Q All right.
A But your question was the instructional
pattern.
So the instructional pattern is the same
for all three tracks.
Q Now, you say it's the same for students
because it's 4 and 4.
A It's 4 and 2.
Q I meant 4 and 4 in terms of instruction.
A Okay.
Q At the end of each school year, don't
students typically, I shouldn't say typically, but
isn't the expectation that students would be
promoted to the next grade level?
A Yes, they are promoted or not promoted.
Q So from the perspective of a student on
track A, the student beginning in first grade, they
would begin school in September, go on vacation in
January, come back in March, and end in June?
A Correct.
Q And then they would have two months off
before they started second grade; is that correct?
A Correct.
Q Now for a student on track C, in first
grade as well, they would start school in July and
go on vacation in November and come back in
January, go off in May and be on vacation for two
months before they started second grade?
A Correct.
Q On track B, a student would start first
grade in July, go on vacation in September, come
back in November, go on vacation in March, come
back into school in May, and at the end of June,
they would begin the next school year?
A Yes.
Q You don't see that as being different from
the perspective of the student?
MS. DAVIS: He did mention there is a
difference.
MR. VILLAGRA: I thought he said there may
be a calendar change.
THE WITNESS: Not may be, there is -- not
a calendar change, but there is an end-of-school
fiscal year.
In California, our school year runs from
July 1 through June 30.
What you asked me about, the instructional
pattern.
I said the instructional pattern is the
same for all three tracks.
Later, I did say there is a change at the
end of the school year.
Which is, in truth, the school in
California.
BY MR. VILLAGRA:
Q You see that as the end of the school
fiscal year and not the end of the school year?
A School year too, instructional year.
Q To your knowledge, does any other
multitrack year-round calendar, after two months,
go on vacation for two months?
A No.
Q Do you think that a vacation that is as
long as that first school session, breaks up the
continuity of learning?
MS. DAVIS: Asked and answered, we talked
about this yesterday.
THE WITNESS: I'm not sure what you're
BY MR. VILLAGRA:

Q   My understanding is that the year-round calendar is premised on the idea of fostering the continuity of learning by breaking up the summer vacation period into smaller vacation periods?

MS. DAVIS:  Other than traditional?

BY MR. VILLAGRA:

Q   Do you believe track B fosters the continuity of learning after two months in school, the students are off in school?

A   In comparison with a traditional calendar, it's better than the long vacation in the traditional calendar.

Q   Are you aware of any studies assessing the extent to which teachers on track B have to review when they come back in November, the material that was covered in July and August?

A   A formal study on how much time they take to review, I'm not aware of any such study.

Q   Are you aware of any informal study?

A   Well, informal in the sense that yes, it's what we kind of learn as professionals in the field.

Q   All right.

A   I speak to that in my report, here.

Q   Is that an informal study, or are you talking about anecdotal comments?

A   What do you mean by an "informal study"?

Q   We have to talk the same language.

A   Where you said you weren't aware of a formal study?

Q   A No.

A   All right.

Q   I asked if you were aware of an informal study?

A   Yes, informally -- not study. I think that would be incorrect.

Q   So let's agree to say that there is a general understanding about review, but not even in informal study, whatever that term might be.

Q   When you say "general understanding" of review, is it particular to the experience of teachers and students on track B?

A   I don't know that there is anymore or less review in track B than other tracks, I don't know that there is.

Q   Have you ever spoken to a teacher at a Concept 6 school on track B about the amount of review they feel is necessary in November, following the first vacation break?

A   Not in those terms.

Q   Different teachers, different subjects, different groups of students, -- it would require different amounts of review.

A   So there's no study review pattern at all.

Q   Would you expect there to be more review necessary for teachers and students on track B, following the first vacation, than for students and teachers or tracks A or C?

MS. DAVIS:  Calls for speculation.

THE WITNESS:  Not necessarily.

BY MR. VILLAGRA:

Q   Why not?

A   Well, depends.

Q   First, are we talking about that period of instruction in July and August and that first vacation period, and then coming back in November, would there be more review required there than at some other point of review time; is that what you're asking me?

Q   Let me be more specific.

A   On track A, the first instructional period is four months, and then there is a vacation of two months and teachers come back in March, teachers and students.

Q   Right.

Q   On track B, there is two months of instruction, two months of vacation, and students and teachers come back in November.

Q   Would you expect there to be more review for teachers and students on track B in November, than on track A in March?

MS. DAVIS:  Same objection.

THE WITNESS:  I don't know. Not necessarily. There could be.

Q   There could be less.

BY MR. VILLAGRA:

Q   You don't know?

A   There are too many factors to have a clear opinion.

Q   I want to talk, now, also about the school year change.

Q   How much time would a student on track B have between one grade level and another, that is, between June and July?

A   On track B?

Q   Yes.

A   I would suspect, probably one week.
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<tr>
<td>1 Q   Do you know whether it can be as short as a transition from a Friday to a Monday?</td>
<td>1 Do you see that?</td>
</tr>
<tr>
<td>2 A   It could be on the district's structuring of the calendar.</td>
<td>2 A   Yes.</td>
</tr>
<tr>
<td>3 Q   Do you know whether it can be as short as one day to the next?</td>
<td>3 Q   What, in your opinion, are the factors that affect at which school a teacher chooses to teach?</td>
</tr>
<tr>
<td>4 A   Theoretically, I suppose it could be.</td>
<td>4 A   A teacher may choose to teach at a particular school if union contracts allow teachers choices on schools on a variety of factors.</td>
</tr>
<tr>
<td>5 Q   Do you think it can be as short as two days?</td>
<td>5 It could be familiarity with the staff, feeling comfortable with the staff, willing to work with that particular administrative staff.</td>
</tr>
<tr>
<td>6 A   It could.</td>
<td>6 Could be that the teacher wants to be in a specified program in that school, that is, wants to be part of an innovative project or particular instructional program.</td>
</tr>
<tr>
<td>7 Q   On any other multitrack year-round calendar, is there a group of students who have a significantly shorter period in which to transition from one grade level to another as in the case of track B?</td>
<td>7 It could be that a teacher would choose to go there because it's the school closest to the residence of the teacher.</td>
</tr>
<tr>
<td>8 MS. DAVIS: Vague and ambiguous.</td>
<td>8 It could be a school whose calendar is compatible with the calendar that the teacher's children might be on.</td>
</tr>
<tr>
<td>9 You mean any multitrack calendar, anywhere?</td>
<td>9 It could be how many English language learners there would be in that school, whether the teacher would feel comfortable working with students who would need extra help with language.</td>
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<tr>
<td>10 (Record read.)</td>
<td>10 Q   If the teacher does have a choice, are you a study of ranking the factors that lead a teacher to choose?</td>
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<tr>
<td>11 THE WITNESS: If we're talking about the four-track calendars, it's possible that the school year would run up to June 30th.</td>
<td>11 A   I couldn't name such a study, now.</td>
</tr>
<tr>
<td>12 And for some of the tracks, a school year could begin on July 1st.</td>
<td>12 Q   What is your support, then, for saying that the calendar may be the least important of the factors that effect at which school a teacher chooses to teach?</td>
</tr>
<tr>
<td>13 So there is a -- four-track calendars could do the same as the three-track calendars.</td>
<td>13 A   That's my own judgment.</td>
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<tr>
<td>14 BY MR. VILLAGRA:</td>
<td>14 For some teachers, a calendar is not a factor at all.</td>
</tr>
<tr>
<td>15 Q   Would it also, necessarily, be the same track or would it depend on how the district had designed the calendar?</td>
<td>15 But for some, it may be.</td>
</tr>
<tr>
<td>16 A   It could depend on how the district designed the calendar.</td>
<td>16 Q   But that's your own personal opinion?</td>
</tr>
<tr>
<td>17 Track B in one calendar is not the same as track B in another calendar.</td>
<td>17 A   Yes.</td>
</tr>
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<td>18 Q   Unless for some reason the district has designed them to be more or less equivalent to each other; is that correct?</td>
<td>18 Q   Is it formed by conversations with teachers?</td>
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<td>19 A   That's correct.</td>
<td>19 A   Yes, sure.</td>
</tr>
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<td>20 But I was speaking more of the nature of the calendars, rather than what a district might do.</td>
<td>20 Q   I don't want you to guess.</td>
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<td>21 Q   I want to turn your attention to page 37 of your report, Exhibit 12?</td>
<td>21 A   Yes. I have talked to enough teachers,</td>
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<td>22 A   All right.</td>
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that say: It's not the calendar that makes the
difference.
It might be as well as my children go on
the calendar and this school goes on the same
calendar, that might be a situation where calendar
is important.
But on the other hand, there are other
teachers who say it's not the calendar at all.
I want to be part of this innovative
program.
Q   So your opinion is that it may or it may
not be the primary factor?
A   Which page are we on?
MS. DAVIS:  37, going on to 38.
THE WITNESS:  That's what I say, may be
the least of several factors.
BY MR. VILLAGRA:
Q   Might it also, in some cases, be the most
important?
A   It could be as well, I'm saying "may be."
I don't say all cases.
Q   I want to turn your attention to page 32
of your report.
In the full paragraph, you say:
"Dr. Mitchell, also, incredibly
finds fault with the practice of some
school districts to track the gifted
and talented education program, GATE,
which often includes students with
higher socioeconomic status on less
preferred attendance tracks."
Do you see that?
A   Yes.
Q   What do you mean by "less preferred
attendance tracks"?
A   Whenever parents are given the choice of
tracks, that is, parents can choose which they want
their children to be on.
That means that one or the other tracks
may fill up faster than the others.
And so, those that fill up first, would
obviously be the preferred attendance track.
And that can change district by district
and calendar by calendar.
Q   Do you have any understanding as to which
may be the preferred attendance track, if any, on
the Concept 6 calendar?
A   Any understanding of which is the
preferred track.
MS. DAVIS:  Preferred by whom?
tracks on the Concept 6 calendar?
A   Yes.
Q   If you would look at Exhibit 7, the
program guide.
A   Yes.
Q   Page 8 of 20.
A   All right.
Q   It's labeled State-EXP-CB 0855.
A   Excuse me, I didn't follow that.
Q   You may have grabbed the next exhibit
copy.
A   There were two different days of -- I have
a different copy.
MS. DAVIS:  Look.
THE WITNESS:  Here it is.  It's the same
copy.
Q   Will you tell me again?
BY MR. VILLAGRA:
Q   We're looking at the pros.
MS. DAVIS:  Page 8.
BY MR. VILLAGRA:
Q   The fourth pro, up from the bottom, says:
"Some families preferred staggered
vacation schedules."

Do you see that?
A   Fourth from the bottom?
Q   Yes.
A   I see that, yes.
Q   Based on what you have described to me
about the preference of parents for tracks A and C,
would you still say that families prefer staggered
vacation schedules?
A   Some do.
Q   The interesting thing is that even the
least preferred track has people that choose and
prefer that track.
A   Some do.
Q   The next pro that is listed here, it says:
"Provides calendar options that
more closely fit changing lifestyles
and work patterns."
Do you see that?
A   I do.
Q   Although Concept 6 might provide those
types of options, it seems if parents are
preferring track A and C, they are preferring
tracks that most closely resemble the traditional
summer vacation; isn't that correct?
MS. DAVIS:  Assumes they are preferring
those two tracks.
Q   But if tracks A and C are filling up
faster or ahead of track B, doesn't that suggest,
and given the rationale you gave me, that track
A and C were preferred by parents because they were
closest to the traditional calendar; doesn't that
suggest that parents want their children off during
what is traditionally considered the summer?
MS. DAVIS:  Assumes facts not in evidence.
THE WITNESS:  There may be some of that.
You don't change societal attitudes
overnight.
It takes a long period of time before
these changes occur.
BY MR. VILLAGRA:
How do you know they are occurring?
A   Because of families who choose tracks
other than just in the middle of the summer for
vacation periods.
Q   Well, once track A and C fill up, is there
much choice left for parents as to what track they
want their kids at?
A   For those who haven't been -- haven't
chosen yet, that's true.
As in life, when there are choices to be
made and only so many slots for a given entity, whatever it is. Once those fill up, the rest who have been chosen are given the other alternatives.

MS. DAVIS: Assumes facts not in evidence that parents don't choose B before the others fill up.

MR. VILLAGRA: Off the record.

(TIME NOTED 4:02 P.M.)