

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

ELIEZER WILLIAMS, et al.,)

)

Plaintiffs,)

)

vs.)

No. 312 236

)

STATE OF CALIFORNIA, DELAINE)

EASTIN, State Superintendent)

of Public Instruction,)

STATE DEPARTMENT OF EDUCATION,)

State Board OF EDUCATION,)

)

Defendants.)

)

-----)
AND RELATED CROSS-ACTION.)

)
-----)

DEPOSITION OF WENDY HARRIS
Sacramento, California
Friday, January 25, 2002

Reported by:

TRACY LEE MOORELAND

CSR No. 10397

JOB No. 31037

APPEARANCES

1
2
3 For the Plaintiffs Eliezer Williams, et al.:

4 MORRISON & FOERSTER LLP
5 BY: JACK W. LONDEN, ESQ.
6 LEECIA WELCH, ESQ.
7 425 Market Street
8 San Francisco, California 94105
9

10 For the Defendants Delaine Eastin, State Superintendent
11 of Public Instruction, State Department of Education,
12 State Board of Education:

13 DEPARTMENT OF JUSTICE
14 OFFICE OF THE ATTORNEY GENERAL
15 BY: SUZANNE GIORGI, ESQ.
16 1300 I Street, Suite 1101
17 Sacramento, California 95814
18

19 The Intervener:

20 CALIFORNIA SCHOOL BOARD ASSOCIATION
21 BY: JUDY CIAS, ESQ.
22 3100 Beacon Boulevard
23 West Sacramento, California 95691
24
25

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1
2
3 For the Defendant State of California:

4 O'MELVENEY & MYERS LLP
5 BY: PAUL SALVATY, ESQ.
6 400 South Hope Street
7 Los Angeles, California 90071
8

9 For the Los Angeles Unified School District:

10 STRUMWASSER & WOOCHEER LLP
11 BY: KEVIN S. REED, ESQ.
12 100 Wilshire Boulevard, Suite 1900
13 Santa Monica, California 90401
14
15
16
17
18
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1 BE IT REMEMBERED, that on Friday, January 25,
2 2002, commencing at the hour of 10:13 a.m., thereof, at
3 the offices of Morrison & Forester, 400 Capitol Mall,
4 26th Floor, Sacramento, California, before me,
5 TRACY LEE MOORELAND, a Certified Shorthand Reporter in
6 the State of California, there personally appeared
7 WENDY HARRIS,
8 called as a witness herein, who, having been duly sworn
9 to tell the truth, the whole truth, and nothing but the
10 truth, was thereupon examined and interrogated as
11 hereinafter set forth.

12 --oOo--

13 EXAMINATION BY MR. LONDEN

14 Q. State your name, please, for our record.
15 A. Wendy Harris.
16 Q. Ms. Harris, my name is Jack Londen. I'm one of
17 the lawyers representing the plaintiffs in this case.
18 If I ask questions you don't understand, please
19 tell me.
20 A. Okay.
21 Q. And I'll do my best to rephrase.
22 Have you testified before under oath?
23 A. Yes, I have.
24 Q. How many times?
25 A. Once.

1 Q. What was the occasion?
2 A. It was a deposition on a personnel case.
3 Q. In your present -- in the employment at the
4 Department of Education?
5 A. Yes.
6 Q. Tell us your present job title and summarize
7 your responsibilities.
8 MR. SALVATY: Objection. Calls for a
9 narrative.
10 THE WITNESS: Wendy Harris, and I'm assistant
11 superintendent school improvement division in California
12 Department of Education. And my responsibilities are to
13 implement the policies and programs authorized in
14 statute, both state and federal, and to follow the
15 policy direction of the State Board and any directives
16 of the superintendent of public instruction, and to
17 provide leadership in these program areas of
18 responsibility for California districts, schools and
19 counties, and on a more technical level, to supervise
20 the day-to-day operations of the offices within the
21 division that report to me, including setting budgets,
22 monitoring their expenditures, supervising personnel and
23 so on.
24 Q. BY MR. LONDEN: You refer to providing
25 leadership in these areas of responsibility. Broadly

1 speaking, briefly summarized, what are the areas?
2 MR. SALVATY: Objection. Vague and ambiguous.
3 THE WITNESS: Could you just try that question
4 again.
5 Q. BY MR. LONDEN: Yeah. You mentioned as one of
6 the points in your general summary, and I understand
7 it's general, that -- providing leadership to district
8 schools, and some others you listed, in areas of
9 responsibility within your division.
10 How would you describe those areas?
11 A. I can give you an example, if that would be
12 helpful.
13 Q. Sure.
14 A. A program that is authorized in statute, state
15 statute requires the Department to develop an
16 application for that funding program and to explain to
17 districts, schools or applicants how to apply for the
18 program. Providing leadership in that context then is
19 leading a workshop or directing the development of an
20 application that explains and provides leadership to the
21 applicant on how to apply.
22 Q. I understand now how my question was confusing.
23 I meant to elicit, if you can, a list of -- a
24 description of the areas of responsibility within your
25 division as opposed to asking you to describe how you

1 provide leadership. We'll get to that if we can. I'll
2 rephrase the question.
3 Could you please give a general description of
4 the areas of responsibility that are within the purview
5 of your division?
6 MR. SALVATY: Objection. Vague and ambiguous.
7 THE WITNESS: I can summarize what each office
8 does.
9 MR. LONDEN: That would be great. Thank you.
10 THE WITNESS: If that would be helpful. There
11 are two offices, elementary education office and middle
12 grades office, which operate similarly in that they
13 provide written documents and lead workshops to
14 disseminate these documents around broad aspects of
15 education reform in elementary grades and middle grades,
16 and they answer specific questions that come from the
17 field, from superintendents, principals, teachers,
18 parents occasionally, around both or either elementary
19 or middle grades education. So those two offices
20 broadly support elementary education in California and
21 middle grades education in California.
22 I have another office, the school reform
23 assistance office, whose responsibility it is to
24 implement II/USP, immediate intervention in
25 underperforming schools program state legislation, as

1 well as the federal comprehensive school reform
2 demonstration program legislation, CSRD, and more
3 recently, to begin implementation of the new state
4 authored high priority schools grant program, AB 961
5 law.

6 I have another brand-new office whose -- that
7 only has a manager and all vacancies so far because
8 these were positions set up by AB 961, and whose job it
9 will be to implement the provisions of AB 961 once we
10 have staff in there, and that's named the high priority
11 schools grant program office.

12 Then I have the district and school program
13 coordination office, and this office has the
14 responsibility of working with county offices, and
15 potentially other regional entities such as the
16 University of California professional development
17 institutes, to build the capacity of both county offices
18 and these PDIs to help low-performing schools and
19 districts, so I call this a capacity-building effort or
20 office.

21 Then I have the intervention assistance office,
22 also newly created this winter, to begin to think
23 through the statutory -- how to implement the statutory
24 interventions and sanctions that are part of both
25 federal law and state law, specifically AB 961 and PSAA,

1 MR. LONDEN: Yeah. If anyone feels that to
2 understand the testimony, it should be made a copy that
3 has to be photocopied 22 times, we'll do it, but I'll
4 make a go at just asking some questions. We'll know
5 what the source is. All right?

6 So we won't mark this for now, but I will
7 describe it as a three-page printout from the website
8 www.cde.ca.gov/cilbranch/esn/index.html, entitled school
9 improvement division.

10 Q. Do you recognize this?

11 A. Yes, I do.

12 Q. I don't see any mention in this of the
13 brand-new high performing schools grant program office
14 understandably, but aside from that, the division
15 offices listed correspond to what you've described,
16 right?

17 MR. SALVATY: Objection. The document speaks
18 for itself.

19 THE WITNESS: Is that an unanswered question?

20 MR. LONDEN: So far.

21 MR. SALVATY: Do you remember exactly -- he's
22 asking you if this corresponds --

23 MR. LONDEN: I'll withdraw the question. It's
24 not important.

25 Q. Tell me what this is, if you're familiar with

1 Public Schools Accountability Act, and that's the sixth
2 office.

3 So those are the areas of responsibility.

4 MR. LONDEN: Thank you very much.

5 Q. Do I understand -- do I infer correctly that
6 the school reform assistance office will begin high
7 performing schools grant planning until the brand-new
8 high performing schools grant planning -- program office
9 is fully staffed and takes that function over?

10 MR. SALVATY: Objection. Vague and ambiguous.

11 THE WITNESS: My understanding from your
12 question is that is correct.

13 Q. BY MR. LONDEN: Okay. I probably should have
14 done this to start with because you've done a good job
15 of describing it. Could we mark this.

16 Before I mark it, may I inquire of counsel.

17 This is a website document. I'm perfectly happy to save
18 us all copying costs to identify its source as a
19 website, ask a couple of questions, and not mark it as a
20 formal exhibit that everyone will pay for copying, or do
21 that depending on whether anyone wants me to at any
22 point.

23 Is that all right?

24 MR. SALVATY: That's okay, as long as we can
25 understand the testimony.

1 it, these three pages.

2 A. This is a description on our website of our --
3 of my division, and it does not describe the new office,
4 perhaps because of the newness of the office.

5 Q. Thank you. How long have you been in the
6 Department of Education?

7 A. Since 1978.

8 Q. Can you give us a very brief description of
9 your positions?

10 MR. SALVATY: Objection. Calls for a
11 narrative.

12 (Mr. Reed left the room.)

13 THE WITNESS: I spent about three or four years
14 doing policy and evaluation work, in-house studies and
15 contracting out external studies. I then spent several
16 years, perhaps four or five, in the educational
17 technology area, first as a consultant, staff person,
18 and then as the first manager of the first educational
19 technology office. I then spent about two years, one or
20 two years on special assignment to a deputy
21 superintendent doing special studies and special
22 projects.

23 And then -- which brings us to somewhere around
24 the early '90s, and I was manager of the school
25 improvement office for three or four years, and shortly

1 after Delaine Eastin came into office when our
2 department was reorganized, I then moved to manage
3 another office whose name was either elementary
4 curriculum office or elementary standards office, I
5 can't recall. And then from then on in 1996 I became
6 promoted to the assistant superintendent level and was
7 director of the elementary education division, then
8 became the elementary teaching and learning division.
9 And upon a new reorganization, I guess in 1999, became
10 director of the current division, although it had a
11 different name up until a few months ago. It was called
12 the education support and networks division, and now it
13 is called the school improvement division.

14 So that's roughly a history.

15 Q. BY MR. LONDEN: Leaving aside for the moment
16 things that are within your division and asking about
17 other things in the -- other functions in the California
18 Department of Education, are there other programs that
19 address the support and improvement of underperforming
20 schools?

21 MS. GIORGI: Objection. Calls for speculation.
22 Also vague and ambiguous as to "support,"
23 "low-performing schools" and "improvement."

24 MR. SALVATY: Lacks foundation, and vague and
25 ambiguous in several other respects.

1 participates in those two programs, and because of that
2 link I can name those two programs.

3 Q. BY MR. LONDEN: What are they?

4 A. AB 466 is the authorizing legislation from last
5 session, and AB 75. And in each of those pieces of
6 legislation there is some requirement that a school
7 funded under AB 961 participate in the staff development
8 or the administrator training, and because of that link
9 to my program, I am aware that those two programs
10 potentially, when they're implemented, would support
11 low-performing schools.

12 Q. Has implementation of either or both of those
13 programs been assigned to some part of the Department of
14 Education?

15 MR. SALVATY: Objection. Calls for
16 speculation. Compound. Calls for a legal conclusion.
17 Vague and ambiguous.

18 THE WITNESS: My understanding is that those
19 two programs are assigned in another division of our
20 department, the professional development and curriculum
21 support division.

22 Q. BY MR. LONDEN: And because my last question --
23 withdraw that.

24 Is there any office or division within the
25 California Department of Education, leaving aside the

1 THE WITNESS: I do have difficulty answering
2 that question because of the meaning of "support" and
3 other words in your question.

4 Q. BY MR. LONDEN: Understanding that your answer
5 might not be complete, do any other programs occur to
6 you?

7 MR. SALVATY: Same objections. Vague and
8 ambiguous as to "programs."

9 THE WITNESS: It is very difficult to answer
10 that question because the Department administers many
11 programs, and I'm not the current administrator so my
12 knowledge of how that program affects and supports
13 low-performing schools is -- I can't give you an opinion
14 about that. I do not administer those programs.

15 Q. BY MR. LONDEN: Okay. As you sit here right
16 now, nothing comes to mind that you could identify as a
17 program for assisting or supporting low-performing
18 schools that's not in the school improvement division;
19 is that true?

20 MR. SALVATY: Objection. Vague and ambiguous.
21 Argumentative.

22 MS. GIORGI: Calls for speculation.

23 THE WITNESS: There are two programs newly
24 authorized that I'm aware of only because they require
25 that a school funded under one of my programs also

1 school improvement division, whose function includes
2 giving advice or information to low-performing schools?

3 MR. SALVATY: Objection. Lacks foundation.
4 Calls for speculation. Vague and ambiguous. Calls for
5 a legal conclusion.

6 THE WITNESS: Since I'm not the -- in charge of
7 these other programs, I can't answer to what they are
8 directed to do.

9 Q. BY MR. LONDEN: You mentioned the elementary
10 education office?

11 A. Yes.

12 Q. How many employees does it have?

13 A. Approximately 10.

14 Q. You mentioned the function of answering
15 specific questions. How many people do that?

16 MR. SALVATY: Objection. Vague and ambiguous.

17 MR. LONDEN: Within the elementary education
18 office.

19 MR. SALVATY: Objection. Also misstates
20 testimony.

21 THE WITNESS: A normal duty of an education
22 program consultant, the entry-level professional staff,
23 is to answer questions that come in by phone or e-mail,
24 and I would guess that each of the consultants in that
25 office do that.

1 Q. BY MR. LONDEN: How many of the 10 employees
2 are consultants?

3 MR. SALVATY: Objection. Vague and ambiguous.

4 THE WITNESS: I'm estimating five, without an
5 organizational chart in front of me.

6 Q. BY MR. LONDEN: Okay. Is there anyone other
7 than the education program consultants within the
8 elementary education office whose function is to answer
9 questions from districts or schools?

10 A. The manager.

11 Q. That office does not distribute any grant
12 funding, correct?

13 MR. SALVATY: Objection. Vague and ambiguous.

14 THE WITNESS: Not at this time.

15 Q. BY MR. LONDEN: Are you aware of any plans
16 to -- that would include grant money available to
17 distribute through that office?

18 MR. SALVATY: Objection. Vague and ambiguous.

19 MS. GIORGI: Calls for speculation.

20 THE WITNESS: I can't answer that without a
21 time frame.

22 Q. BY MR. LONDEN: I don't mean for you to guess
23 or to give me an estimate of information that doesn't
24 describe something that's actually at least under
25 discussion as a possibility.

1 Subject to that, do you know of any plans that
2 are under discussion that would involve money that could
3 be granted by the elementary education office?

4 A. No.

5 MR. SALVATY: Give it a minute so we can object
6 if we need to.

7 Can we also state, just for the record, that we
8 have had an agreement in past depositions that
9 objections by one counsel will apply jointly to all,
10 just to save everyone from saying "join."

11 MR. LONDEN: Absolutely. I would go further
12 than that. This doesn't speak for anyone else, but for
13 my purposes, I would be happy to stipulate that all
14 objections under the evidence code are reserved so that
15 you don't waive any objection you might want to make in
16 challenging the witness' testimony if you don't say it.

17 Obviously I encourage that so that you won't
18 feel that you have to use our time with making
19 objections. It's up to you. But I would be glad to
20 enter into that, and I certainly stipulate that
21 everybody is deemed to join.

22 MR. SALVATY: Okay. Appreciate that.

23 Just to be clear, I think I probably will
24 continue to assert objections, so I'm not willing to
25 kind of enter into a stipulation that I won't object and

1 all objections will be reserved at this time.

2 MR. LONDEN: I'm willing to say that plaintiffs
3 will not object to raising an objection later that was
4 not stated here, and I'm not asking you to agree that
5 you won't object.

6 MR. SALVATY: Okay. Great.

7 MR. LONDEN: So you don't have to.

8 MR. SALVATY: I appreciate that. Thank you.

9 Q. BY MR. LONDEN: With respect to the middle
10 grades office, how many employees are there?

11 A. I believe there are nine.

12 Q. Are there also education program consultants in
13 that office?

14 A. Yes, there are.

15 Q. Is the character of their -- withdraw that.

16 Do they give advice by answering questions
17 raised by schools and districts?

18 MR. SALVATY: Objection. Vague and ambiguous.

19 MR. LONDEN: Strike the question.

20 Q. Do they answer questions from schools and
21 districts?

22 MR. SALVATY: Objection. Vague and ambiguous.
23 Incomplete hypothetical.

24 THE WITNESS: Yes.

25 Q. BY MR. LONDEN: Okay. How many of those

1 consultants are in that office?

2 MR. SALVATY: Objection. Vague. Is the
3 question how many consultants answer questions as part
4 of their job responsibilities?

5 MR. LONDEN: How many consultants are there.

6 MR. SALVATY: Answered, I thought.

7 MR. LONDEN: In the middle grades. Not quite.

8 THE WITNESS: There are three consultants at
9 this time, and at least one vacancy.

10 Q. BY MR. LONDEN: The written documents that you
11 referred to as being provided by those two offices,
12 elementary and middle grades, are they available on the
13 website or some other published source?

14 MR. SALVATY: Objection. Overbroad. Compound.
15 Lacks foundation.

16 THE WITNESS: I don't know whether they're
17 actually available and up on our website. They are
18 available from our publications office for sale.

19 Q. BY MR. LONDEN: Do the consultants offer
20 written materials other than things that are published
21 by the publications office in response to questions?

22 MR. SALVATY: Objection. Overbroad. Vague and
23 ambiguous. Incomplete hypothetical.

24 THE WITNESS: I would suspect they do, but I
25 don't directly supervise those people so I'm not in a

1 position to answer qualitatively or quantitatively about
 2 whether they do that.
 3 Q. BY MR. LONDEN: Okay. Are you able to describe
 4 the kinds of advice or information that consultants in
 5 those two offices give?
 6 MR. SALVATY: Objection. Vague. Overbroad.
 7 Incomplete hypothetical. Lacks foundation. Calls for
 8 speculation.
 9 THE WITNESS: I would answer no because I don't
 10 directly supervise those people and don't have
 11 day-to-day contact with them.
 12 Q. BY MR. LONDEN: And do you have any
 13 understanding from their supervisors about the kinds of
 14 subjects that they're addressing that would be
 15 meaningful to describe?
 16 MR. SALVATY: Objection. Vague and ambiguous.
 17 MR. LONDEN: Addressing in the advice that they
 18 give to questions from schools and districts.
 19 MR. SALVATY: Same objections as before.
 20 THE WITNESS: Would you repeat the question?
 21 Q. BY MR. LONDEN: Yeah. Have the managers of
 22 those offices given you a general description of the
 23 kinds of subjects that are typical of advice given by
 24 program consultants?
 25 MR. SALVATY: Objection. Overbroad. Vague and

1 ambiguous.
 2 THE WITNESS: No.
 3 Q. BY MR. LONDEN: All right. In the district and
 4 school program coordination office you mentioned work
 5 with county offices, and I would like you to describe
 6 that, in general terms, in any more detail that you can.
 7 MR. SALVATY: Objection. Vague and ambiguous.
 8 Calls for a narrative. Overbroad.
 9 THE WITNESS: Well, one purpose of that office
 10 is to increase the knowledge and capacity of county
 11 offices to more effectively provide information and help
 12 to low-performing schools and districts. And one
 13 strategy or program that is run out of that office is a
 14 small, one-time-only grant program called, I believe,
 15 regional partnership grants, and within that program we
 16 funded four county offices with a modest amount of money
 17 to pilot four different approaches.
 18 Each office devised their own approach to
 19 provide services, help and technical assistance to one
 20 or two districts that have low-performing schools in
 21 their county region. And it's the hope that both the
 22 county office will learn from this and that the other
 23 county offices will eventually learn from any successes
 24 they have in piloting these approaches.
 25 Q. BY MR. LONDEN: Which four counties?

1 A. Ventura County, Stanislaus County, Riverside
 2 County, and Santa Cruz County.
 3 Q. In general, how were the four selected?
 4 MR. SALVATY: Objection. Vague and ambiguous.
 5 Calls for speculation: Lacks foundation.
 6 THE WITNESS: There were several proposals
 7 submitted and there was a group of readers who reviewed
 8 the proposals and rated them, and we selected the four
 9 top-rated proposals.
 10 (Mr. Reed entered the room.)
 11 Q. BY MR. LONDEN: Does the district and school
 12 coordination office obtain information about what county
 13 offices do to help low-performing schools?
 14 MR. SALVATY: Objection. Overbroad. Vague and
 15 ambiguous. Lacks foundation.
 16 MS. GIORGI: Calls for speculation.
 17 THE WITNESS: You know, that is a broad
 18 question that I have difficulty answering. They
 19 certainly, because they have funded four counties, are
 20 aware of what those four counties do. I don't believe
 21 that they routinely collect any other information or
 22 seek to collect it from other county offices.
 23 Q. BY MR. LONDEN: How many employees are there in
 24 the district and school program coordination office?
 25 A. I would estimate 11.

1 Q. Are there consultants in that office?
 2 MR. SALVATY: Objection. Vague.
 3 THE WITNESS: There are education program
 4 consultants in that office.
 5 Q. BY MR. LONDEN: What do they do?
 6 MR. SALVATY: Objection. Vague. Overbroad.
 7 THE WITNESS: Each has a duty statement which
 8 specifies their duties, and I'm not familiar with their
 9 own duty statements because I don't directly supervise
 10 them. As a group they implement the objective of the
 11 office, and that's the best I can do at your question.
 12 Q. BY MR. LONDEN: Is there any -- is there
 13 anybody in the school improvement division who provides
 14 a function comparable to the elementary education office
 15 and the middle grades office at the high school level?
 16 MR. SALVATY: Objection. Vague and ambiguous.
 17 Lacks foundation. Overbroad.
 18 THE WITNESS: Not in our division.
 19 Q. BY MR. LONDEN: Is there somewhere else in the
 20 Department of Education?
 21 MR. SALVATY: Objection. Lacks foundation.
 22 Calls for speculation. Overbroad. Vague and ambiguous.
 23 THE WITNESS: There is a division that deals
 24 with high school issues whose name is something like the
 25 high school leadership division.

1 Q. BY MR. LONDEN: Are you familiar with what, if
 2 anything, that the high school leadership division does
 3 to provide assistance or support to low-performing high
 4 schools?
 5 MR. SALVATY: Objection. Vague and ambiguous.
 6 Lacks foundation. Calls for speculation.
 7 THE WITNESS: No, I'm not. I don't know the
 8 specific programs that they run, and thus I don't know
 9 how those programs might actually support low-performing
 10 schools.
 11 Q. BY MR. LONDEN: Okay. The web page document
 12 that I have identified based on its website, entitled
 13 school improvement division has a list entitled major
 14 programs and projects. The fourth item on that list is
 15 elementary education network, and below it -- below the
 16 title it says resources to support standard based
 17 student achievement.
 18 Are you familiar with that?
 19 A. Yes, I am.
 20 Q. Can you give us a general description?
 21 MR. SALVATY: Objection. Vague. Overbroad and
 22 calls for a narrative.
 23 A description of what, Counsel? I'm not -- of
 24 the elementary education network or of the resources to
 25 support standards based student achievement? It's

1 overbroad.
 2 Q. BY MR. LONDEN: Are you able to answer my
 3 question?
 4 A. It would help me to know the answer. Do you
 5 mean the bold education network as a program, or its
 6 description?
 7 Q. Let's start with the elementary education
 8 network as a program. Give us a general description of
 9 that.
 10 A. I can do that.
 11 Q. Thank you.
 12 A. The office has a virtual network, I would say,
 13 which is a technology-based cascading e-mail system
 14 where they have the ability to send out an article, a
 15 newsletter, an advertisement of a workshop or some such
 16 other item or event that has to do with elementary
 17 reform, and that's what I think the title elementary
 18 education network refers to, a virtual network.
 19 Q. Do you consider the availability of that
 20 virtual network to be a form of resource to support --
 21 withdraw that question.
 22 Below the title it says resources to support
 23 standards based student achievement.
 24 Is the virtual network one such resource?
 25 MR. SALVATY: Objection. Vague.

1 THE WITNESS: The network is a vehicle for
 2 providing information, which I would say is a resource.
 3 Q. BY MR. LONDEN: And does the elementary
 4 education network program provide any other vehicle for
 5 information or information?
 6 MR. SALVATY: Objection. Vague. Overbroad.
 7 THE WITNESS: Is your time frame currently?
 8 MR. LONDEN: Yeah.
 9 THE WITNESS: Currently the main vehicle for
 10 dissemination is this virtual network, as well as
 11 answering questions that come in over the phone or
 12 e-mails to the Department from a whole variety of
 13 clients and audiences.
 14 Q. BY MR. LONDEN: When you refer to answering
 15 questions and e-mails, does that include the questions
 16 that are answered by the elementary education office
 17 program consultants?
 18 MR. SALVATY: Objection. Vague.
 19 THE WITNESS: I believe I understand the
 20 question. I would say yes.
 21 Q. BY MR. LONDEN: Okay. Am I right that the
 22 elementary education network project provides
 23 information and a vehicle for information but not money,
 24 for example?
 25 MR. SALVATY: Objection. Vague.

1 THE WITNESS: That's correct.
 2 Q. BY MR. LONDEN: The next heading on this
 3 document is character education.
 4 Can you give a general description of that
 5 program?
 6 MR. SALVATY: Objection. Calls for a
 7 narrative. Vague and ambiguous.
 8 THE WITNESS: We used to have a federal grant
 9 to promote character education that terminated about two
 10 years ago, but we still get questions from schools and
 11 districts, counties, parents in areas related to
 12 character education, so to the extent we can, we refer
 13 them to other websites, perhaps an article that has been
 14 written and other sources of information to answer their
 15 questions, so we list it as an area of information here.
 16 Q. BY MR. LONDEN: Pupil promotion and retention
 17 is listed under the heading major programs and projects.
 18 Could you give us a general description of that
 19 program or project.
 20 A. I would say that pupil promotion and retention
 21 is not a program or project literally, it's an area much
 22 like character education in which we answer questions,
 23 and we basically answer questions on the current law, on
 24 pupil promotion and retention and the requirement that
 25 each district have a policy on promotion and retention.

1 Q. Does your office gather information on rates of
2 pupil promotion and retention?
3 MR. SALVATY: Objection. Vague and overbroad.
4 MR. LONDEN: And let me leave aside the action
5 plans under II/USP, if that helps.
6 THE WITNESS: Could you restate the question?
7 Q. BY MR. LONDEN: Yeah. Leaving aside
8 information that comes to you in the action plans in the
9 II/USP program, which we will get to, does your office
10 collect information about pupil promotion and retention?
11 MR. SALVATY: Objection. Vague and ambiguous.
12 MR. LONDEN: Does your division, I should have
13 said.
14 THE WITNESS: We're currently doing a small
15 study of a sample of randomly-selected districts under a
16 directive of supplemental report language in the last
17 budget office which directed us to do this, and we're
18 now gathering data.
19 Q. BY MR. LONDEN: Can you describe the study?
20 A. It's difficult to do that without it in front
21 of me. I was not heavily involved. I was very little
22 involved in the creation of the survey, and I only
23 recall that it asks districts whether they have a policy
24 on pupil promotion and retention and it asks them some
25 questions about their policy, and that's about all I

1 recall of the survey at this time.
2 Q. Okay. Are there other programs or projects
3 that you would say deserve to be called major programs
4 and projects of your division besides the ones that are
5 on this list?
6 MR. SALVATY: Objection. Vague and ambiguous.
7 And also she's testified about things that aren't on the
8 list.
9 THE WITNESS: I would add whatever I said
10 before in my description of each office to this.
11 Q. BY MR. LONDEN: I accept that. Anything else?
12 A. And I would add that we have the responsibility
13 of funding and coordinating what's called the S-4
14 network.
15 Q. What is the S-4 network?
16 A. S-4 stands for -- it's an acronym. It stands
17 for statewide system of school support, and it is a
18 program authorized in Title 1 law and it channels
19 Title 1 funding to county offices in California, and
20 those grant funds are used to support local and regional
21 assistance by the county for low-performing schools and
22 districts.
23 Q. How much Title 1 funding is in that category of
24 being channeled in the current year?
25 A. My estimate --

1 MR. SALVATY: Objection. Vague and ambiguous.
2 Lacks foundation. Calls for speculation.
3 THE WITNESS: My estimate is somewhere around
4 five million.
5 Q. BY MR. LONDEN: And can you describe the
6 function or use that that money is supposed to be
7 devoted to, that five million?
8 MR. SALVATY: Objection. Calls for
9 speculation. Lacks foundation. Calls for a legal
10 conclusion. Vague and ambiguous.
11 THE WITNESS: Well, I believe I stated a minute
12 or two ago that the money is used to support
13 low-performing schools and districts in that region, and
14 more specifically, by federal law, if a school desires
15 to become a schoolwide school, which means that it can
16 use its federal funds more flexibly, that by federal law
17 that regional center, through those funds, helps that
18 school develop its schoolwide plan. And that duty or
19 responsibility is laid out in federal law.
20 Q. BY MR. LONDEN: Does any state employee
21 participate in helping the schools directly with their
22 plans?
23 MR. SALVATY: Objection. Vague and ambiguous.
24 Lacks foundation.
25 MR. LONDEN: These plans.

1 MR. SALVATY: Calls for speculation.
2 Overbroad.
3 THE WITNESS: No.
4 Q. BY MR. LONDEN: Okay. Let's talk about the
5 intervention assistance office. How many employees does
6 it have?
7 MR. SALVATY: Objection. Vague. I'm sorry,
8 Mr. Londen, what are we talking about?
9 MR. LONDEN: The intervention assistance
10 office.
11 MR. SALVATY: On this document?
12 MR. LONDEN: No, the office.
13 MR. SALVATY: Oh, I see where it is on the
14 document.
15 Q. BY MR. LONDEN: How many employees does it
16 have?
17 A. How many positions or how many employees?
18 Q. Let's say positions.
19 A. I'm estimating 11 positions.
20 Q. Not all filled?
21 A. Not all filled.
22 Q. Can you describe the kinds of responsibilities
23 represented in those positions?
24 MR. SALVATY: Objection. Overbroad. Vague and
25 ambiguous.

1 THE WITNESS: Well, I would attempt to restate
 2 what I said before about the function of the office,
 3 which is to provide for the various interventions and
 4 sanctions and plans for them that are authorized in both
 5 state and federal law.
 6 Q. BY MR. LONDEN: Has that office imposed any
 7 interventions or sanctions yet?
 8 MR. SALVATY: Objection. Vague and ambiguous.
 9 Overbroad. Lacks foundation.
 10 THE WITNESS: No, that would not be the
 11 function of that office right now.
 12 Q. BY MR. LONDEN: What's its function right now?
 13 MR. SALVATY: Objection. Asked and answered.
 14 MR. LONDEN: Withdraw the question.
 15 Q. It's function right now is to plan?
 16 A. Yes.
 17 Q. Let me turn to the school reform assistance
 18 office. How many employees does it have?
 19 MR. SALVATY: Objection. Vague.
 20 MR. LONDEN: Withdrawn.
 21 Q. How many positions does it have?
 22 A. I believe it has thirteen positions, plus one
 23 student, plus one retired annuitant.
 24 Q. All filled?
 25 A. No.

1 Q. How many are filled?
 2 A. I'm estimating all but two.
 3 Q. And could you describe generally the job
 4 responsibilities of the people in that office, that is,
 5 what kinds of people -- what kinds of titles do what
 6 kinds of jobs?
 7 MR. SALVATY: Objection. Overbroad. Compound.
 8 Vague and ambiguous. Lacks foundation.
 9 THE WITNESS: Do you want me to describe each
 10 of the classifications and what they do?
 11 MR. LONDEN: Sure.
 12 THE WITNESS: There are education program
 13 consultants in that office, and their responsibility is
 14 to run the various grant programs authorized by federal
 15 and state statute. There are analysts within the office
 16 whose responsibility it is to support the consultants
 17 and take care of more of the paperwork systems,
 18 expenditure reporting, recordkeeping and so forth. And
 19 then there are clerical staff who provide general
 20 clerical support.
 21 Q. BY MR. LONDEN: How many education consultants?
 22 MR. SALVATY: Objection. Vague.
 23 THE WITNESS: I would estimate six or seven.
 24 Q. BY MR. LONDEN: Thank you. How many analysts?
 25 MR. SALVATY: Objection. Vague.

1 THE WITNESS: Estimating three.
 2 Q. BY MR. LONDEN: Is it part of the job of anyone
 3 in the school reform assistance office to make site
 4 visits to schools or districts?
 5 A. No.
 6 MR. SALVATY: Objection. Lacks foundation.
 7 THE WITNESS: No.
 8 Q. BY MR. LONDEN: Under the II/USP program 430
 9 schools per cohort are authorized by statute, right?
 10 MR. SALVATY: Objection. Calls for a legal
 11 conclusion. Vague and ambiguous.
 12 THE WITNESS: The Public Schools Accountability
 13 Act authorizes that 430 schools be selected for purposes
 14 of the II/USP program.
 15 Q. BY MR. LONDEN: Do you know how that number was
 16 arrived at?
 17 MR. SALVATY: Objection. Vague and ambiguous.
 18 MS. GIORGI: Calls for speculation.
 19 THE WITNESS: No.
 20 Q. BY MR. LONDEN: You've had two cohorts go
 21 through the selection process so far, right?
 22 MR. SALVATY: Objection. Vague and ambiguous.
 23 THE WITNESS: There are actually three cohorts.
 24 Q. BY MR. LONDEN: Has the third been selected?
 25 MR. SALVATY: Objection. Vague.

1 MR. LONDEN: Withdrawn.
 2 More schools have applied to be included than
 3 430 for each cohort, right?
 4 MR. SALVATY: Objection. Compound. Overbroad.
 5 MS. GIORGI: Calls for speculation.
 6 MR. SALVATY: Vague and ambiguous. Calls for
 7 speculation.
 8 THE WITNESS: Yes.
 9 Q. BY MR. LONDEN: And a random selection, a
 10 random process is used to select which applicants have
 11 been included in the cohorts, correct?
 12 MR. SALVATY: Objection. Vague and ambiguous.
 13 Overbroad. Lacks foundation.
 14 MS. GIORGI: And calls for speculation.
 15 THE WITNESS: The selection is actually not
 16 done within my division.
 17 Q. BY MR. LONDEN: Who does that?
 18 A. The policy and evaluation division does the
 19 selection, so I can't answer exactly your question about
 20 random selection.
 21 Q. Schools in the bottom half of the deciles of
 22 the API are eligible for II/USP, right?
 23 MR. SALVATY: Objection. Calls for a legal
 24 conclusion. Vague and ambiguous and overbroad.
 25 MS. GIORGI: Incomplete --

1 MR. SALVATY: Incomplete hypothetical.
 2 THE WITNESS: I believe under current statute
 3 schools also have to have not made their growth targets
 4 to be eligible for participation, in addition to being
 5 in the lower half of the distribution.
 6 Q. BY MR. LONDEN: And the II/USP applicants are
 7 volunteers, right?
 8 MR. SALVATY: Objection. Vague and ambiguous.
 9 Incomplete hypothetical. Calls for a legal conclusion.
 10 THE WITNESS: The statute solicits volunteers,
 11 and to date we have had sufficient volunteers to select
 12 the 430 schools.
 13 Q. BY MR. LONDEN: Has your division made any
 14 inquiry into why schools that are eligible do not
 15 volunteer?
 16 MR. SALVATY: Objection. Vague and ambiguous.
 17 Assumes facts not in evidence. Overbroad.
 18 THE WITNESS: No.
 19 MR. SALVATY: Incomplete hypothetical.
 20 Go ahead.
 21 THE WITNESS: No.
 22 Q. BY MR. LONDEN: Do you know of anyone in the
 23 state education agencies who has made any inquiry into
 24 why schools eligible for II/USP do not volunteer?
 25 MR. SALVATY: Objection. Assumes facts not in

1 evidence. Calls for speculation. Vague and ambiguous.
 2 THE WITNESS: I'm not aware of anybody.
 3 Q. BY MR. LONDEN: You have appeared at school
 4 districts to talk about the II/USP program, right?
 5 A. No, actually.
 6 Q. San Bernardino Board of Education meeting?
 7 A. Not at a school district.
 8 MR. SALVATY: Objection. Vague and ambiguous.
 9 Q. BY MR. LONDEN: Have you appeared anywhere at a
 10 school or school district meeting to talk about II/USP?
 11 MR. SALVATY: Objection. Vague and ambiguous.
 12 THE WITNESS: We have done workshops for each
 13 of the first two years to which district and school and
 14 probably county individuals came to learn about the
 15 program and how to apply, so it's in that context that I
 16 have talked about the program.
 17 And I have also talked about it at county
 18 office of education meetings occasionally over the last
 19 year or two, and perhaps some other venues that I would
 20 have to think about to remember.
 21 Q. BY MR. LONDEN: I know you can't think of
 22 everything just now.
 23 In the workshops or county office of education
 24 meetings, have you gotten any feedback from schools or
 25 school districts thinking about applying, about why

1 either hadn't applied or thought there would be a
 2 disadvantage in applying for II/USP?
 3 MR. SALVATY: Objection. Vague and ambiguous.
 4 Overbroad.
 5 MS. GIORGI: Compound.
 6 THE WITNESS: I actually don't recall that
 7 issue coming up in those settings.
 8 Q. BY MR. LONDEN: For example, the intervention
 9 potential that comes with being in an II/USP program,
 10 have you heard feedback that that was a reason some
 11 schools were considering not applying?
 12 MR. SALVATY: Objection. Vague and ambiguous.
 13 Overbroad.
 14 MS. GIORGI: Calls for speculation.
 15 THE WITNESS: Are you asking by the term
 16 "intervention" the provisions in the public schools
 17 accountability office for intervention and takeover?
 18 MR. LONDEN: Yes.
 19 THE WITNESS: You know, I don't recall any
 20 specific incident where that issue has come up and a
 21 district has said, we're not going to because of
 22 intervention possibilities. I don't recall a specific
 23 incident.
 24 Q. BY MR. LONDEN: And do I understand correctly
 25 that your office hasn't made any attempt to consider why

1 schools that don't apply don't apply?
 2 MR. SALVATY: Objection. Vague and ambiguous.
 3 Overbroad.
 4 THE WITNESS: That's correct.
 5 MR. SALVATY: We've been going for about an
 6 hour, I think. I'd like to take a break if we could.
 7 MR. LONDEN: Right now.
 8 MR. SALVATY: Thank you.
 9 (Recess taken.)
 10 (Mr. Reed not present.)
 11 Q. BY MR. LONDEN: In connection with the II/USP,
 12 is there any effort that you know of to encourage
 13 particular schools to apply because of known needs or
 14 weaknesses?
 15 MR. SALVATY: Objection. Overbroad. Vague.
 16 THE WITNESS: No.
 17 Q. BY MR. LONDEN: Does your division make any
 18 effort to determine which schools have the most serious
 19 problems or needs for II/USP assistance?
 20 MR. SALVATY: Objection. Vague and ambiguous.
 21 MS. GIORGI: Vague and ambiguous as to "any
 22 effort."
 23 THE WITNESS: I can't answer that question
 24 without some definition of "any effort."
 25 Q. BY MR. LONDEN: Okay. First let me exclude

1 from the scope of the question the -- everything you do
2 with action plans once they're submitted, so we're not
3 talking about that part of the process.

4 I want to know whether the school improvement
5 division does anything to identify schools among the
6 eligible schools that are more in need of the kind of
7 assistance II/USP offers?

8 MR. SALVATY: Objection. Vague and ambiguous
9 and overbroad.

10 THE WITNESS: The answer is no. And the whole
11 selection process is done outside our division.

12 Q. BY MR. LONDEN: Your division holds workshops
13 for -- that are open to people from the schools and
14 school districts and that contain discussion about
15 II/USP for schools or districts that haven't applied
16 yet, right?

17 MR. SALVATY: Objection. Vague and ambiguous.

18 MS. GIORGI: Asked and answered.

19 THE WITNESS: Could you repeat your question,
20 please.

21 MR. LONDEN: I'll withdraw it.

22 Q. Do you know of any effort to invite particular
23 schools to come to the workshops because of their
24 problems or needs?

25 MR. SALVATY: Objection. Vague and ambiguous

1 MR. LONDEN: I should have said your division
2 rather than your office.

3 (Mr. Reed entered the room.)

4 THE WITNESS: No.

5 MR. SALVATY: Also calls for speculation.

6 Sorry.

7 Q. BY MR. LONDEN: The API right now is based on
8 the Stanford-9 test score results alone, right?

9 MR. SALVATY: Objection. Calls for
10 speculation. Assumes facts not in evidence. Lacks
11 foundation.

12 MS. GIORGI: Calls for a legal conclusion.

13 THE WITNESS: The formulation of the API is
14 done outside my division, but my general understanding
15 is that it includes more than just the Stanford-9 test
16 score.

17 Q. BY MR. LONDEN: And what do you have in mind?

18 MR. SALVATY: Same objections.

19 THE WITNESS: I believe it includes performance
20 on the standards-based test.

21 Q. BY MR. LONDEN: The authorizing statute allows
22 the API to be based on factors other than tests, right?

23 MR. SALVATY: Objection. Calls for a legal
24 conclusion. Calls for speculation. Lacks foundation.

25 Vague and ambiguous.

1 as to "invite."

2 THE WITNESS: No.

3 Q. BY MR. LONDEN: Does your division undertake or
4 has it undertaken any consideration of whether there are
5 categories of underperforming schools -- withdraw that
6 and start again.

7 Has your division undertaken any consideration
8 of how II/USP or its implementation could be changed for
9 the purpose of reaching problem schools that are not yet
10 being reached?

11 MR. SALVATY: Objection. Vague, ambiguous.
12 Incomplete hypothetical.

13 MS. GIORGI: I'm also going to object for vague
14 and ambiguous as to any "consideration," "implementation
15 could be changed for the purpose of reaching problem
16 schools." Vague and ambiguous.

17 MR. SALVATY: Overbroad also.

18 THE WITNESS: I think the answer is, no, we've
19 not done anything to reformulate a change, reconsider
20 II/USP.

21 Q. BY MR. LONDEN: Has your office had anything to
22 do with the formulation of the factors that define the
23 API?

24 MR. SALVATY: Objection. Vague and ambiguous.
25 Overbroad.

1 THE WITNESS: It's been quite a while since I
2 read the original SB1X, and I would have difficulty
3 answering that because that does reside outside my area
4 of responsibility.

5 Q. BY MR. LONDEN: Whose area of responsibility is
6 API formulation?

7 MR. SALVATY: Objection. Calls for
8 speculation. Lacks foundation. Calls for a legal
9 conclusion. Vague and ambiguous.

10 THE WITNESS: My understanding is that the
11 accountability branch has that responsibility.

12 Q. BY MR. LONDEN: Do you have any understanding
13 about why factors other than test results have not been
14 included in the API?

15 MR. SALVATY: Objection. Assumes facts not in
16 evidence. Lacks foundation. Calls for speculation.
17 Vague and ambiguous.

18 THE WITNESS: No.

19 Q. BY MR. LONDEN: Leaving aside what's done with
20 the action plans under II/USP, has the school
21 improvement division done anything to identify problem
22 schools?

23 MR. SALVATY: Objection. Vague, ambiguous.

24 MS. GIORGI: Vague and ambiguous as to
25 "identify" and "problem schools."

1 MR. SALVATY: Overbroad.
 2 THE WITNESS: Could you elaborate on what a
 3 problem school is and what "identify" technically means?
 4 MR. LONDEN: I mean by identify, name, compile
 5 a list of, gather information. Leaving aside what comes
 6 in API or in the action plans.
 7 MR. SALVATY: I think this is a new question,
 8 but it's still vague and ambiguous.
 9 MR. LONDEN: I reformulated the question. You
 10 can object again if you want.
 11 MR. SALVATY: Objection. Same objections, and
 12 it's also vague and ambiguous because you haven't -- she
 13 asked about another term and we haven't gotten a
 14 definition for that. Overbroad. Calls for speculation.
 15 THE WITNESS: Okay. Could you repeat the
 16 question that's in front of me now?
 17 Q. BY MR. LONDEN: Well, we know that based on
 18 API, schools can apply, selected schools submit plans,
 19 and I want to leave that process out of my question.
 20 The API and other eligibility factors, applications,
 21 action plans, I'm not asking about that.
 22 Is there any other effort made by the school
 23 improvement division to find out which schools have
 24 serious problems with barriers to education?
 25 MR. SALVATY: Objection. Vague and ambiguous.

1 Overbroad.
 2 MS. GIORGI: Ambiguous as to the definition of
 3 "problems" and "barriers."
 4 THE WITNESS: The answer would be no.
 5 Q. BY MR. LONDEN: You've mentioned workshops. I
 6 want to exclude that from my next question and ask you,
 7 other than workshops and -- that's a bad question.
 8 Withdrawn.
 9 I'm going to ask a broad question. If it's too
 10 broad, just tell me. I'd like to get an understanding
 11 of what the school reform assistance office does to
 12 assist II/USP-eligible schools up to the point where
 13 they have submitted their applications.
 14 MR. SALVATY: Is there a question pending?
 15 MR. LONDEN: Yes.
 16 MR. SALVATY: I didn't hear a question.
 17 Objection. There's no question pending.
 18 Q. BY MR. LONDEN: What does the school reform
 19 assistance office do for target schools, that is, for
 20 eligible schools with respect to the II/USP process up
 21 to the point where they submit their application?
 22 MR. SALVATY: Objection. Vague and ambiguous
 23 and overbroad.
 24 THE WITNESS: The difficulty with answering
 25 that question is your use of the term "eligible." Do

1 you mean eligible to volunteer?
 2 MR. LONDEN: Yes.
 3 THE WITNESS: The answer to that question is
 4 nothing.
 5 Q. BY MR. LONDEN: There are workshops available
 6 for schools that are -- for any schools including those
 7 eligible to volunteer, right?
 8 A. No.
 9 MR. SALVATY: Objection. Vague and ambiguous.
 10 Misstates testimony.
 11 Q. BY MR. LONDEN: Okay. Who are the workshops
 12 for?
 13 MR. SALVATY: Objection. Vague, ambiguous and
 14 overbroad.
 15 THE WITNESS: The workshops are for those
 16 schools that have been selected for participation in
 17 II/USP.
 18 Q. BY MR. LONDEN: I misunderstood. I've heard
 19 the word "institutes" used. Is that a word that's been
 20 used to describe what you call workshops?
 21 A. I've not used that term here yet, but that term
 22 may have been used in the past synonymously with
 23 workshop.
 24 Q. Taking it in terms of the process and looking
 25 at the portion of the process between submission of an

1 application and submission of an action plan, what does
 2 the school reform assistance office do for schools in
 3 that process?
 4 MR. SALVATY: Objection. Calls for a
 5 narrative. Overbroad. Vague and ambiguous.
 6 THE WITNESS: I need a better definition of the
 7 term "submission of an application" to answer that.
 8 Q. BY MR. LONDEN: Well, let me reformulate the
 9 question and see if it helps.
 10 Does the office do anything for schools before
 11 they have been selected?
 12 MR. SALVATY: Objection. Vague and ambiguous
 13 and overbroad.
 14 She's talked about a lot of things that the
 15 division does for schools, so other than what's been
 16 testified to?
 17 MR. LONDEN: It's fair to say that my question
 18 is limited to actions taken in implementing the II/USP
 19 program rather than the range of other things you've
 20 told us about.
 21 THE WITNESS: With that limitation, the answer
 22 is no.
 23 Q. BY MR. LONDEN: Between selection and
 24 submission of an action plan, can you describe the
 25 assistance or help of any kind that the office gives to

1 selected schools?
 2 MR. SALVATY: Objection. Vague and ambiguous.
 3 Can I have that read back? I'm sorry, I didn't
 4 track the question.
 5 (Record read.)
 6 MR. SALVATY: Objection. Vague and ambiguous.
 7 Overbroad.
 8 MS. GIORGI: Ambiguous as to "selected
 9 schools."
 10 MR. SALVATY: Between "selection" and
 11 "submission" is where I'm confused.
 12 MR. LONDEN: I mean to define a period in the
 13 process. I'm excluding the time before a school is
 14 selected as one of the cohort schools.
 15 MR. SALVATY: Okay.
 16 MR. LONDEN: And I'm ending the period at the
 17 time that any of those schools that submits an action
 18 plan does so. I want to find out what the office does
 19 for them.
 20 MR. SALVATY: Objection. Overbroad. Calls for
 21 a narrative.
 22 THE WITNESS: Within that time period, between
 23 selection of the school and submission of the action
 24 plan, I would say that there are two types of
 25 activities, the first is any workshop or workshops we

1 might provide to these selected schools, and the second
 2 would be any phone consultation or e-mail consultation
 3 that we might have with a school or its district.
 4 Q. BY MR. LONDEN: Do you know whether the office
 5 compiles a file on the selected schools consisting of
 6 any contents of consultations with schools before the
 7 application is submitted?
 8 MR. SALVATY: Objection. Vague, ambiguous.
 9 Overbroad.
 10 THE WITNESS: I'm not aware of any file
 11 information that would be in that category of
 12 correspondence.
 13 Q. BY MR. LONDEN: And does the office gather
 14 information about schools and the cohorts outside of
 15 what's submitted by the schools in their action plans --
 16 MR. SALVATY: Objection. Vague and
 17 ambiguous --
 18 Q. BY MR. LONDEN: -- and applications?
 19 MR. SALVATY: I'm sorry. Vague and ambiguous.
 20 Overbroad.
 21 THE WITNESS: Would you repeat that, please.
 22 Q. BY MR. LONDEN: Sure. The office gets
 23 information about II/USP schools from their applications
 24 and from their action plans and a process that follows
 25 up the action plans, but does the office gather

1 information about those schools from any other sources?
 2 MR. SALVATY: Objection. Assumes facts not in
 3 evidence. Vague and ambiguous. Overbroad.
 4 THE WITNESS: I'm not aware of any other
 5 information that the office gathers beyond the action
 6 plan.
 7 Q. BY MR. LONDEN: Is your division involved in
 8 the consideration of the external evaluators to be
 9 included in that list or approved for use by II/USP
 10 schools?
 11 MR. SALVATY: Objection. Vague and ambiguous.
 12 Assumes facts not in evidence.
 13 MS. GIORGI: The question is compound.
 14 THE WITNESS: Could you help me with
 15 "consideration," the term "consideration."
 16 Q. BY MR. LONDEN: Sure. I mean to ask a basic
 17 starting question here, and that is, the Department of
 18 Education, I understand under the statute, has --
 19 considers qualifications of external evaluators.
 20 Is that something your division is involved in?
 21 MR. SALVATY: Objection. Vague and ambiguous.
 22 THE WITNESS: The division implements the
 23 statutory requirement to select the list of external
 24 evaluators as specified.
 25 Q. BY MR. LONDEN: How does the division do that?

1 MR. SALVATY: Objection. Vague and ambiguous.
 2 THE WITNESS: Do you want to know what steps we
 3 go through or --
 4 MR. LONDEN: Yes.
 5 THE WITNESS: -- who is involved or --
 6 Q. BY MR. LONDEN: Let's start with what steps you
 7 go through.
 8 A. Okay.
 9 MR. SALVATY: Objection. Overbroad.
 10 Incomplete hypothetical.
 11 THE WITNESS: The State Board has the statutory
 12 responsibility to adopt standards and criteria by which
 13 external evaluators are to be selected and do their
 14 work. It is the Department's job to recommend to the
 15 Board those criteria, and once the Board acts, to then
 16 use those criteria in the selection process.
 17 Q. BY MR. LONDEN: You mentioned "the Department,"
 18 if I heard you correctly. Is that your division within
 19 the Department that has done that, recommending
 20 criteria?
 21 A. My division has done that.
 22 MR. LONDEN: With counsel's permission, I'm
 23 going to show the witness a document and ask if she
 24 recognizes it. If the answer is no, then I don't need
 25 to mark it.

1 Q. Do you recognize this?
 2 A. I do recognize this.
 3 Q. And does this document have any relation to the
 4 criteria that have been recommended to the State Board
 5 of Education with respect to evaluator qualifications?
 6 MR. SALVATY: Objection. Vague and ambiguous.
 7 MS. GIORGI: I'm going to object as
 8 speculation. Calls for a speculative answer.
 9 THE WITNESS: Would you repeat the question,
 10 please.
 11 MR. LONDEN: Yeah. Let's mark the document.
 12 (Exhibit SAD-258 was marked.)
 13 MR. LONDEN: Our reporter has assigned the
 14 Number 258 to this exhibit, State Agency Department
 15 Exhibit 258. It's a one-page document entitled external
 16 evaluator scoring criteria.
 17 Q. You've told us you recognize this. What is it?
 18 A. I recognize this as the rubric, as the scoring
 19 criteria that were used to judge -- that was used in the
 20 selection of external evaluators in the last selection.
 21 Q. Used by whom?
 22 MR. SALVATY: Objection. Calls for
 23 speculation.
 24 THE WITNESS: There were individuals that
 25 reviewed applications and used these criteria to rate

1 the applications.
 2 Q. BY MR. LONDEN: Were the individuals employees
 3 of your division?
 4 MR. SALVATY: Objection. Vague and ambiguous
 5 and overbroad.
 6 THE WITNESS: I believe some of my employees
 7 were part of that group.
 8 Q. BY MR. LONDEN: Who else was part of that
 9 group?
 10 MR. SALVATY: Objection. Lacks foundation.
 11 THE WITNESS: We had individuals from the
 12 field, school-level individuals, district-level
 13 individuals.
 14 Q. BY MR. LONDEN: Is there a name for that group?
 15 A. No.
 16 Q. How many people?
 17 MR. SALVATY: Objection. Vague and ambiguous
 18 and overbroad. Vague as to time.
 19 Q. BY MR. LONDEN: This last time it was done, how
 20 many people were in the group, best estimate?
 21 A. The last time this was done I was not part of
 22 the group. I actually do not know how many people were
 23 involved.
 24 Q. The last time you were a part of the group was
 25 when?

1 MR. SALVATY: Objection. Assumes facts not in
 2 evidence.
 3 THE WITNESS: Approximately last summer.
 4 Q. BY MR. LONDEN: And how large was the group,
 5 best estimate?
 6 A. My estimate would be 75 individuals.
 7 Q. What sources of information were available to
 8 people in the group to do the scoring with?
 9 MR. SALVATY: Objection. Lacks foundation.
 10 Calls for speculation.
 11 MR. LONDEN: Let me just use the time that you
 12 were involved last summer as the basis for my questions
 13 on how this was applied.
 14 MR. SALVATY: Same objections.
 15 THE WITNESS: You know, I would have to defer
 16 to the office that directly supervised this process. I
 17 was not part of the actual scoring process and can't
 18 really speak to exactly what people had as a resource in
 19 front of them.
 20 Q. BY MR. LONDEN: What was the office?
 21 MR. SALVATY: Objection. Vague.
 22 THE WITNESS: Are you asking which office I
 23 referred to in my comment?
 24 MR. LONDEN: Yeah.
 25 THE WITNESS: The school reform assistance

1 office.
 2 Q. BY MR. LONDEN: Was there any information
 3 available to you when you did this other than the
 4 contents of applications submitted by candidates
 5 themselves?
 6 MR. SALVATY: Objection. Assumes facts not in
 7 evidence.
 8 THE WITNESS: The term "when you did this" is
 9 confusing to me because I did not review applications.
 10 Q. BY MR. LONDEN: All right. Do you know whether
 11 the people who reviewed applications had any information
 12 other than the candidates' own applications?
 13 MR. SALVATY: Objection. Assumes facts not in
 14 evidence. Calls for speculation. Vague and ambiguous.
 15 THE WITNESS: I'm only aware that they had the
 16 application and the scoring criteria and a reimbursement
 17 form.
 18 Q. BY MR. LONDEN: Okay. Has there been anything
 19 done to assess the performance by external evaluators
 20 who have been through the process of preparing an action
 21 plan?
 22 MR. SALVATY: Objection. Calls for
 23 speculation. Overbroad. Vague and ambiguous.
 24 MR. LONDEN: And I mean done by your division.
 25 MR. SALVATY: Same objections.

1 THE WITNESS: If you're asking whether our
2 division has done so, the answer is no.
3 Q. BY MR. LONDEN: Are you aware of anybody else
4 who has, leaving aside what the schools working with the
5 evaluators may have done?
6 MR. SALVATY: Objection. Vague and ambiguous.
7 Overbroad.
8 THE WITNESS: Only one seminar that I'm aware
9 of that was run in the fall of 2000 by Gary Hart to look
10 at external evaluator work at schools.
11 Q. BY MR. LONDEN: Do you know anything about what
12 happened at that seminar?
13 MR. SALVATY: Objection. Vague and ambiguous.
14 THE WITNESS: There was -- I was at that
15 seminar. It was over a year ago. I can tell you the
16 format, but I can't recall much of the content.
17 Q. BY MR. LONDEN: Is there any plan to assess
18 performance by external evaluators in any way?
19 MR. SALVATY: Objection. Overbroad. Vague and
20 ambiguous.
21 MS. GIORGI: Calls for speculation.
22 MR. SALVATY: Lacks foundation.
23 THE WITNESS: Not that I know of.
24 Q. BY MR. LONDEN: Does the division or any other
25 office within the Department offer any training for

1 external evaluators?
2 MR. SALVATY: Objection. Vague and ambiguous.
3 Which is the "office" and which is the
4 "Department" that we're talking about?
5 Q. BY MR. LONDEN: Does the Department of
6 Education offer any training for external evaluators?
7 MR. SALVATY: Objection. Lacks foundation.
8 Calls for speculation. Vague and ambiguous.
9 MS. GIORGI: It's vague and ambiguous as to
10 what is meant by "training."
11 Do you mean training specifically for external
12 evaluators, do you mean training in the curriculum in
13 which they're trying to implement? That is really
14 vague.
15 MR. LONDEN: I mean by my question training for
16 external evaluators in that capacity.
17 MR. SALVATY: Same objections.
18 THE WITNESS: We held an orientation session
19 for external evaluators, and the purpose was to tell
20 them what they had to do per the statute, so training in
21 a very narrow sense, training on what the statute says
22 they have to do.
23 Q. BY MR. LONDEN: Does anything else come to
24 mind?
25 MR. SALVATY: Same objections.

1 THE WITNESS: Does anything else come to mind
2 about which part of that?
3 Q. BY MR. LONDEN: Any other form of training
4 other than the orientation session about what they have
5 to do under the statute?
6 MR. SALVATY: Same objections.
7 THE WITNESS: No.
8 Q. BY MR. LONDEN: I understand -- and we'll get
9 to guidelines issued by the Department for use in
10 compiling action plans.
11 Putting those aside, does the Department
12 provide external evaluators with any standards or
13 criteria or guidance to use in their work with schools
14 preparing action plans?
15 MR. SALVATY: Objection. Vague as to
16 "Department."
17 MR. LONDEN: Of Education.
18 MR. SALVATY: And already -- she's already
19 testified about this, so I object on that ground. Calls
20 for speculation if we're talking about the Department of
21 Education as a whole. Lacks foundation.
22 MS. GIORGI: I'm going to object as to the
23 definition of "standards" and "criteria" as being vague
24 and ambiguous.
25 THE WITNESS: I can't speak to the use of the

1 word Department as a whole because I don't know what
2 somebody else may have done. I'm also having a little
3 bit of trouble, if I can remember the question, with
4 your sort of list of standards and stuff like that.
5 In the orientation session I do recall that we
6 mentioned the need for looking at state standards and
7 using state standards documents.
8 Q. BY MR. LONDEN: What standards did that refer
9 to?
10 A. Probably reading language arts and mathematics.
11 Q. And when you say during the orientation session
12 that may have been mentioned, was there a discussion
13 about how to use state standards?
14 MR. SALVATY: Objection. Vague and ambiguous.
15 THE WITNESS: You know, this was a year ago --
16 over a year ago, and I can't recall the context in which
17 any mention of standards was made at that time, specific
18 context.
19 Q. BY MR. LONDEN: Has your division done any
20 study or analysis of the state content standards for
21 what they imply that schools should make available to
22 students?
23 MR. SALVATY: Objection. Vague and ambiguous.
24 Overbroad.
25 THE WITNESS: No.

1 Q. BY MR. LONDEN: During the orientation session
2 when someone mentioned the need to look at state
3 standards, do you have any understanding about why
4 that's an appropriate thing for external evaluators to
5 do?

6 MR. SALVATY: Objection. Assumes facts not in
7 evidence. Calls for speculation and calls for an
8 opinion, I think improperly calls for an opinion.

9 THE WITNESS: When we mention standards, we
10 typically tie it to the need to align assessment
11 curriculum instruction standards, so it would be in the
12 context of the need to align those things I mentioned,
13 those terms.

14 MR. SALVATY: Are you speculating? He doesn't
15 want you to speculate, he wants to know what was asked
16 at the meeting, orientation.

17 MR. LONDEN: I would ask counsel to allow the
18 witness to complete an answer, unless there's an issue
19 of attorney/client privilege, and not interrupt an
20 answer.

21 MS. GIORGI: Move to strike as being
22 nonresponsive.

23 Q. BY MR. LONDEN: Were you able to complete your
24 answer?

25 THE WITNESS: Can you read back what I said,

1 any written materials to evaluators other than the
2 guidelines for preparing action plans that was referred
3 to earlier?

4 MR. SALVATY: Objection. Assumes facts not in
5 evidence. Vague and ambiguous.

6 THE WITNESS: If we did, I can't recall when
7 and whether we did.

8 (Exhibit SAD-259 was marked.)

9 Q. BY MR. LONDEN: Have you seen this before?

10 A. I can't recall. Some minutes I look at, some I
11 don't.

12 Q. Okay. I will describe it for the record as a
13 document entitled final minutes, California State Board
14 of Education, March 7-8, 2001, bearing identification
15 numbers starting with PLTF 23154 and continuing, I
16 believe, sequentially through 23167.

17 Could you please turn to 23162. This is part
18 of a discussion, item 19, beginning at 23161. You might
19 want to look at that.

20 Have you read through the text under -- between
21 item 19 and item 21?

22 A. Yes.

23 Q. Does it accurately portray what you said in
24 that meeting?

25 MR. SALVATY: Objection. Vague as to does what

1 and then I can say whether I was complete.

2 MR. SALVATY: Please read the question and the
3 answer.

4 (Record read.)

5 THE WITNESS: Yes, I completed my answer.

6 Q. BY MR. LONDEN: Do you know of any document
7 available from the State that might assist a district in
8 using the state content standards to formulate their
9 action plans under II/USP?

10 MR. SALVATY: Objection. Vague and ambiguous,
11 and calls for pure speculation.

12 THE WITNESS: That is difficult to answer
13 because I don't know of any document that specifically
14 helps a district do that for an action plan.

15 Q. BY MR. LONDEN: In the process of answering
16 questions that education program consultants engage in,
17 do you know whether they give advice about how to align
18 curriculum and instruction at the school-level with
19 state standards?

20 MR. SALVATY: Objection. Vague, overbroad.
21 Calls for speculation.

22 THE WITNESS: I'm not in a position to answer
23 that because I don't supervise their direct responses.
24 I'm not aware of individual responses and incidents.

25 Q. BY MR. LONDEN: Okay. Does the division issue

1 accurately portray? Objection. Vague and ambiguous.
2 Document speaks for itself. Overbroad.

3 MS. GIORGI: Ms. Harris, take time to look at
4 it. You're quoted all throughout many of these
5 paragraphs.

6 MR. SALVATY: So it's also compound. Also
7 lacks foundation.

8 THE WITNESS: Would you repeat your question to
9 me?

10 Q. BY MR. LONDEN: Yes. In the paragraphs under
11 the heading item 19 on page 23161 through the paragraph
12 just before "lunch break" on 23162 you're quoted several
13 times.

14 Do the quotes fairly summarize things that you
15 said?

16 MR. SALVATY: Objection. Misstates the
17 document. Compound. Lacks foundation.

18 THE WITNESS: These notes summarize a meeting
19 from a year ago. Given that it was a year ago, and from
20 what I remember, I don't see anything inconsistent with
21 my memory.

22 Q. BY MR. LONDEN: On page 23162 it says, quote,
23 Ms. Harris agreed that external evaluators need much
24 greater orientation to the state standards, end quote.

25 What state standards does that refer to?

1 MR. SALVATY: Objection. Calls for
 2 speculation. She didn't write this document. Lacks
 3 foundation.
 4 THE WITNESS: I believe the word state
 5 standards -- the term state standards was generic, the
 6 use of it at that time.
 7 Q. BY MR. LONDEN: And what's the genus?
 8 A. The genus?
 9 Q. What category do you mean by "generic"?
 10 A. It wasn't specific to one curriculum area over
 11 another curriculum area.
 12 Q. Curriculum content standards, though, is that
 13 what you have in mind -- you had in mind?
 14 MR. SALVATY: Objection. Vague and ambiguous.
 15 Calls for speculation again.
 16 THE WITNESS: Yes.
 17 Q. BY MR. LONDEN: Are you able to say what it was
 18 that led you to agree that external evaluators need much
 19 greater orientation to state curriculum content
 20 standards?
 21 MR. SALVATY: Objection. Assumes facts not in
 22 evidence.
 23 THE WITNESS: No, given the lapse of time, I
 24 can't speculate or recall what may have led me to that.
 25 Q. BY MR. LONDEN: Have you changed your view on

1 that?
 2 MR. SALVATY: Objection. Vague.
 3 THE WITNESS: Which view?
 4 Q. BY MR. LONDEN: Do you have any view at all
 5 right now as to whether external evaluators need greater
 6 orientation to state curriculum content standards?
 7 MR. SALVATY: Objection. Overbroad.
 8 Incomplete hypothetical question. Vague and ambiguous.
 9 THE WITNESS: I guess I don't have an opinion
 10 right now on that. I don't know what their orientation
 11 is currently, so I just don't have an opinion on that
 12 currently.
 13 Q. BY MR. LONDEN: Is there someone who is more
 14 directly responsible than you for keeping track of how
 15 external evaluators are doing in the II/USP program?
 16 MR. SALVATY: Objection. Lacks foundation.
 17 Calls for speculation.
 18 THE WITNESS: Not that I'm aware of.
 19 Q. BY MR. LONDEN: Okay. Has there been any
 20 change from the inception of the II/USP program as to
 21 the independence of external evaluators?
 22 MR. SALVATY: Objection. Vague and ambiguous.
 23 Lacks foundation. Calls for speculation.
 24 THE WITNESS: I can't answer that without a
 25 better use of the term "independence." Do you mean in

1 what they do or how they do it, or what records are kept
 2 or --
 3 Q. BY MR. LONDEN: Let me refine the question.
 4 I'd like to ask about whether external evaluators are
 5 now permitted to be selected who are employees of the
 6 same district that the school is in?
 7 MR. SALVATY: Objection. Calls for a legal
 8 conclusion. Lacks foundation. Calls for speculations.
 9 Vague and ambiguous.
 10 THE WITNESS: I believe that would be contrary
 11 to existing statute.
 12 Q. BY MR. LONDEN: Okay. Now, what assistance or
 13 participation do any employees of your division have
 14 during the process in which schools are putting together
 15 their action plans?
 16 MR. SALVATY: Objection. Compound.
 17 MR. LONDEN: II/USP action plans.
 18 MR. SALVATY: Objection. Compound. Incomplete
 19 hypothetical. Overbroad. Vague and ambiguous.
 20 MS. GIORGI: Asked and answered.
 21 THE WITNESS: None that I'm aware of, with the
 22 exception of a technical question on forms, how do I
 23 fill out this form or something very technical that a
 24 clerical person could answer.
 25 Q. BY MR. LONDEN: After your -- withdraw that.

1 Does anyone in the division, other than
 2 employees of the school reform assistance office, do
 3 anything to process action plans after they're received?
 4 MR. SALVATY: Objection. Vague and ambiguous
 5 as to "process." Overbroad. Calls for speculation.
 6 THE WITNESS: If you could define "process."
 7 MR. LONDEN: I'm really trying to find out who
 8 I need to ask about -- when I ask questions about how
 9 the action plan's handle between the time they're
 10 received and the time of approval, approval with
 11 condition or other things is done with it.
 12 Q. Is that school reform program -- school reform
 13 assistance office, or is it somebody else?
 14 MR. SALVATY: Objection. Vague as to received
 15 by whom. It's vague and ambiguous.
 16 THE WITNESS: The office has the responsibility
 17 of processing the applications. I'm not aware of
 18 anybody else who receives, logs in.
 19 Q. BY MR. LONDEN: Does the office prepare any
 20 compilation or summary or analysis of action plans for
 21 any purpose?
 22 MR. SALVATY: Objection. Vague and ambiguous
 23 and compound. Vague as to the -- particularly as to the
 24 term "analysis."
 25 THE WITNESS: I can't answer that without a

1 better definition of exactly what you mean by those two
2 or three words you linked.

3 Q. BY MR. LONDEN: Okay. The office receives
4 action plans and handles them with an eye to a decision
5 about whether they'll be approved. I want to assert
6 that so as to exclude that from what I'm now asking.

7 I'm excluding them handling to decide whether
8 they'll be approved, and I want to ask whether those
9 action plans are used as a source of any -- of
10 information from any other purpose?

11 MR. SALVATY: Objection. Vague and ambiguous.
12 Calls for speculation.

13 THE WITNESS: Not that I'm aware of.

14 Q. BY MR. LONDEN: Is anything done to make any
15 assessment or identify any problems that are -- or
16 conditions or barriers that are in common to schools of
17 a district based on looking at the school level action
18 plans?

19 MR. SALVATY: Objection. Vague and ambiguous.
20 Calls for speculation and overbroad.

21 MS. GIORGI: Vague as to time.

22 Q. BY MR. LONDEN: Let me make it broader. Maybe
23 that will be easier. Is anyone supposed to look at the
24 action plans to try to learn anything about the
25 districts the schools are in across school boundaries?

1 sequence the reference to you is after that heading, not
2 the first heading that I read.

3 THE WITNESS: Are you asking whether I have
4 seen that article by Flannery?

5 MR. LONDEN: The failing schools a worry
6 article, yeah.

7 THE WITNESS: No, I don't recollect seeing
8 this.

9 Q. BY MR. LONDEN: On page 3 of this document
10 under the heading failing schools a worry, this article
11 quotes you as saying, the program's real target is not
12 failing schools but low-performing schools that are
13 trying to succeed?

14 MS. GIORGI: I'm going to object. I'm not sure
15 if it's a quote because it's not in quotes.

16 MR. LONDEN: That's correct. It says "said,"
17 so I'll ask her.

18 Q. Did you say that in words or substance?

19 A. I can't recall, given the time lapse, either
20 the interview or what I said.

21 Q. Is the distinction between failing schools and
22 low-performing schools that are trying to succeed a
23 distinction that you have made in the past with
24 reference to the II/USP program?

25 MR. SALVATY: Objection. Vague.

1 MR. SALVATY: Objection. Vague and ambiguous.
2 Calls for speculation.

3 THE WITNESS: We don't perform any analysis
4 like that that I'm aware of.

5 Q. BY MR. LONDEN: Are you aware of anybody else
6 at the -- in any state education agency that does?

7 MR. SALVATY: Same objections.

8 THE WITNESS: Not that I can think of.

9 MR. LONDEN: Why don't we break for lunch now.

10 (Lunch recess taken.)

11 (Mr. Reed not present.)

12 MR. LONDEN: I'd like to mark a document.

13 (Exhibit SAD-260 was marked.)

14 Q. BY MR. LONDEN: The document before you is four
15 pages long. It's been marked as Exhibit 260, and this
16 is an e-mail printout of an article or report entitled
17 CFT may OK higher pay for targeted schools, and your
18 name is mentioned on page 3.

19 Have you seen this article or paper in any
20 medium before?

21 MR. SALVATY: Objection to the extent I think
22 there are two articles here.

23 MR. LONDEN: You may be right. Let me note at
24 the bottom of page 2, how tough should law's enforcement
25 be, question mark, failing schools of worry. And in

1 THE WITNESS: Your question is out of context.
2 Are you saying have I ever made this distinction between
3 failing schools and low-performing schools, or are you
4 asking me --

5 Q. BY MR. LONDEN: Let's start with that. Do you
6 recall making that distinction with respect to the
7 target of the II/USP program?

8 A. No, I don't recollect specifically making that
9 distinction.

10 Q. Is the distinction meaningful to you between
11 failing schools and low-performing schools that are
12 trying to succeed?

13 MR. SALVATY: Objection. Vague.

14 THE WITNESS: Taken in one sentence, out of
15 context, that's not meaningful to me, that distinction
16 is not meaningful to me.

17 Q. BY MR. LONDEN: Are you aware either by name or
18 by category of schools in California that are failing
19 schools that are not trying to succeed?

20 MR. SALVATY: Objection. Vague and ambiguous.
21 Overbroad. Lacks foundation. Calls for speculation.

22 THE WITNESS: Could you repeat that?

23 Q. BY MR. LONDEN: Sure. Are you aware of
24 schools, and either specific schools or category of
25 schools in California, that you would consider the

1 failing schools that are not trying to succeed?
 2 MR. SALVATY: Objection. Vague and ambiguous.
 3 Same objections, and vague as to "failing schools."
 4 THE WITNESS: What's difficult in answering
 5 that is the definition of "failing" and the definition
 6 of "trying to succeed," and lacking what those two terms
 7 mean, I can't say if there's a distinction or not a
 8 distinction.
 9 Q. BY MR. LONDEN: This author put in quotation
 10 marks the following attributed to you, quote, there are
 11 schools in California that for a host of reasons have
 12 been underperforming. And continuing the quote, despite
 13 the heroic efforts on the part of individual teachers
 14 and individual administrators, they never rise above the
 15 5 percent they need to succeed, ending the quote there.
 16 And then it continues with another quote attributed to
 17 you, quote, they need just one significant boost, end
 18 quote.
 19 Are those things you said?
 20 MR. SALVATY: Objection. Calls for
 21 speculation.
 22 THE WITNESS: Given the length of time, which
 23 is about a year, I guess I really am not in a position
 24 to say that those are the exact words I said.
 25 Q. BY MR. LONDEN: Has your division made any

1 effort to assess whether the assistance that the II/USP
 2 can give schools is -- let me rephrase this.
 3 In fact, I'll come back to this subject with a
 4 fresh question.
 5 (Exhibit SAD-261 was marked.)
 6 Q. BY MR. LONDEN: Before you, marked as Exhibit
 7 261, is a multiple-page document. It bears identifying
 8 numbers PLTF 25168 continuing in sequence, I believe,
 9 through 25201.
 10 Are these materials that were issued by the
 11 school improvement division?
 12 MR. SALVATY: Objection. Vague as to "issued."
 13 THE WITNESS: We posted this on our website and
 14 distributed it to schools.
 15 Q. BY MR. LONDEN: What's the purpose of this
 16 document, generally?
 17 MR. SALVATY: Objection. The document speaks
 18 for itself. Vague and ambiguous as to "purpose."
 19 THE WITNESS: I think the purpose is well
 20 stated in the first paragraph where, if I may read, it's
 21 designed to assist II/USP schools in developing action
 22 plans as required by the statute and Public Schools
 23 Accountability Act.
 24 Q. BY MR. LONDEN: Now, this is the version of the
 25 guidelines for action plans that were due on May 15th,

1 2001, at least those guidelines are included in this
 2 document, right?
 3 MR. SALVATY: Objection. Lacks foundation.
 4 The document speaks for itself.
 5 THE WITNESS: Yes.
 6 Q. BY MR. LONDEN: To the best of my knowledge,
 7 the guidelines for the 2000 -- for the May 2002 deadline
 8 action plans have not been published. Is that correct?
 9 A. That's correct.
 10 Q. So what we're looking at are the most recent
 11 guidelines that have been published?
 12 MR. SALVATY: Objection. Vague.
 13 THE WITNESS: Yes.
 14 Q. BY MR. LONDEN: Has your division published any
 15 other written materials to assist in the development of
 16 action plans?
 17 MR. SALVATY: Objection. Vague. Overbroad.
 18 THE WITNESS: What's difficult about that
 19 question is that there could be materials that schools
 20 choose to use, but these are the materials we intended
 21 to serve as guidance for the action plans.
 22 Q. BY MR. LONDEN: For that specific purpose? I'm
 23 just following your distinction. Lots of things could
 24 be consulted in the process, but this is what is for the
 25 specific purpose of developing action plans; is that

1 fair?
 2 A. That's correct.
 3 Q. Please turn to page 11 under the heading action
 4 plan content. Are you with me?
 5 A. Yes.
 6 Q. There's a heading II/USP criteria adopted by
 7 the California State Board of Education September 2000,
 8 starting on page 11, which is production page 25179 and
 9 going on to the next page.
 10 Was your division involved at all in the
 11 preparation of proposed criteria for consideration by
 12 the Board of Education?
 13 A. Yes.
 14 Q. And are you able to say what objectives you
 15 were -- your division was trying to achieve in proposing
 16 draft criteria?
 17 MR. SALVATY: Objection. Vague and ambiguous.
 18 THE WITNESS: My recollection is that we took
 19 the statute and, per direction in the statute as to what
 20 the action plan should contain, used the law as guidance
 21 in what should be proposed as criteria.
 22 Q. BY MR. LONDEN: And did the Board of Education
 23 approve the criteria in the form proposed to them?
 24 MR. SALVATY: Objection. Lacks foundation.
 25 Vague and ambiguous.

1 THE WITNESS: And is your question -- does your
2 question pertain to this particular time frame, these
3 criteria and this Board meeting?

4 MR. LONDEN: Yes.

5 Q. And I'm trying to get at did the Board make any
6 changes from what was proposed to them to what was
7 enacted? I'm not asking what they were, just changes or
8 not.

9 MR. SALVATY: We're just talking about these on
10 pages 11 and 12, right?

11 MR. LONDEN: Right.

12 Q. In the process that led to Board approval of
13 these, were there State Board changes in content from
14 what was presented to them?

15 A. I can best answer that with the Board minutes
16 in front of me that shows exactly what action the Board
17 took at that meeting. I do a lot of board
18 presentations.

19 Q. Right. It's not an important enough use of
20 your time for us to go through the minutes, so I will
21 take you to defer to something that I'm not going to
22 take the time to do.

23 The first point refers to barriers to improving
24 student academic achievement. And is there a source
25 other than this document that would give schools

1 applications are submitted?

2 MR. SALVATY: Objection. Vague as to "rating."
3 Vague as to anticipated by whom.

4 THE WITNESS: I have difficulty answering that
5 because of the term "rating" and what one means by
6 "rating."

7 Q. BY MR. LONDEN: Okay. Was an anticipated use
8 or a use that you understood for these criteria to be in
9 making a review of the action plans?

10 A. Yes.

11 Q. Now, in terms of the way the process is
12 implemented, is there any other process step in handling
13 action plans besides the preparation by schools and
14 review by the Department of Education where you
15 understand somebody puts these criteria to use?

16 MR. SALVATY: Objection. Calls for
17 speculation. Vague and ambiguous.

18 MS. GIORGI: And compound.

19 MR. SALVATY: Assumes facts not in evidence.

20 THE WITNESS: I don't think so, in answer to
21 your question.

22 Q. BY MR. LONDEN: I'll give you an example just
23 to make this not so abstract. Is there any work being
24 done on -- related to potential intervention that puts
25 these criteria to use in that context that you know

1 preparing action plans as of this period in time
2 information about what's meant by barriers to improving
3 student economic achievement?

4 MR. SALVATY: Objection. Calls for
5 speculation. Lacks foundation.

6 THE WITNESS: I don't know. There could be.
7 I'm not aware of any specific document that would lend
8 direction to schools.

9 Q. BY MR. LONDEN: It was a clumsy question on my
10 part. I'm really trying to figure out whether in
11 connection with this program specifically there's
12 something other than the list, that we're going to get
13 to in a minute, that helps schools in deciding what
14 kinds of barriers would be considered relevant to this
15 application.

16 MR. SALVATY: Objection. Vague and ambiguous.
17 Calls for speculation.

18 THE WITNESS: My memory is that that's a fairly
19 direct quote from the statute.

20 Q. BY MR. LONDEN: All right. And one anticipated
21 use of these criteria is to give assistance and guidance
22 to schools preparing action plans, right?

23 A. Yes.

24 Q. Is it correct that another anticipated use is
25 by the Department of Education in rating schools after

1 about?

2 MR. SALVATY: Objection. Vague and ambiguous.
3 Is that "potential intervention," did you say?

4 MR. LONDEN: We established that there hadn't
5 been any interventions yet, I think, so I used the word
6 potential because it hasn't happened yet.

7 Q. In planning intervention programs, are these
8 criteria a part of the planning?

9 MR. SALVATY: Objection. Vague and ambiguous.
10 THE WITNESS: Not that I'm aware of.

11 Q. BY MR. LONDEN: If you turn to page 12, ID No.
12 25180, there's a quality review criteria checklist that
13 continues onto the -- onto page 14.

14 Are you familiar with how this was drafted?

15 MR. SALVATY: Objection. Vague and ambiguous.

16 THE WITNESS: I am somewhat familiar. It was
17 done by staff within one of the offices, so I was not
18 directly involved in generating this list.

19 Q. BY MR. LONDEN: Within one of the offices in
20 your division?

21 A. Yes.

22 Q. Do you know which one?

23 A. The school reform assistance office.

24 Q. This is a list of five categories containing 22
25 items that are sometimes referred to as barriers to

1 student achievement; isn't that right?
 2 MR. SALVATY: Objection. Vague as to what
 3 we're talking about.
 4 THE WITNESS: No, I wouldn't agree.
 5 Q. BY MR. LONDEN: How are the 22 items referred
 6 to?
 7 A. We actually call them the quality review
 8 criteria.
 9 Q. Fair enough.
 10 A. Just that.
 11 Q. And some of the items within the quality review
 12 criteria speak of -- withdraw that.
 13 Take, for example, item 1 at, schoolwide and
 14 districtwide barriers to improvement in student
 15 achievement and underlying causes for low performance.
 16 Does the State give schools any information or
 17 materials for knowing what that refers to for purposes
 18 of doing their actions plans?
 19 MR. SALVATY: Objection. Vague and ambiguous.
 20 Calls for speculation.
 21 THE WITNESS: My division does not, that I am
 22 aware of, and that's all I can speak to on your
 23 question.
 24 Q. BY MR. LONDEN: Look at item 4, personnel
 25 management, criterion B, how any lack of

1 certificated/qualified teachers is addressed through a
 2 specific strategies with measurable outcomes.
 3 Do you see that?
 4 A. (Witness nods head.)
 5 Q. Do you know how that came to be included as one
 6 of the criteria?
 7 A. My recollection is that it stemmed from the
 8 fourth criteria adopted by the State Board that is
 9 described on page 11.
 10 Q. And your division prepared a draft of this that
 11 included the proposal, would that be one of the
 12 criteria; is that right?
 13 MR. SALVATY: Objection. Vague as to "draft"
 14 and of what. And assumes facts not in evidence.
 15 THE WITNESS: And I lost your question, whether
 16 it refers to these criteria adopted by the Board or the
 17 quality review criteria.
 18 MR. LONDEN: The former.
 19 Q. The quality review criteria carries out
 20 something in the fourth point of the State Board
 21 criteria, right?
 22 A. That's correct.
 23 Q. And the State Board criteria were adopted based
 24 on proposals from your division, right?
 25 MR. SALVATY: We're just talking about the

1 criteria on page 11 and 12, right?
 2 MR. LONDEN: Yeah.
 3 MR. SALVATY: Objection. Asked and answered.
 4 THE WITNESS: The answer to that is actually
 5 no.
 6 Q. BY MR. LONDEN: As to this item, or the
 7 criteria in general?
 8 A. This one item.
 9 Q. Okay. How did this one item come to be in the
 10 criteria?
 11 A. My recollection is that a State Board member
 12 proposed that this be a criteria.
 13 Q. Now going back to one of the 22 criterion, 4B
 14 that we read, does the State Department of Education
 15 provide any advice and assistance that you know of as to
 16 the choice of specific strategies with measurable
 17 outcomes to address a lack of certified or qualified
 18 teachers?
 19 MR. SALVATY: Objection. Calls for
 20 speculation. Vague and ambiguous.
 21 THE WITNESS: I can only answer that my
 22 division does not.
 23 Q. BY MR. LONDEN: Let me track forward in the
 24 process, in the action plan process. Is there any point
 25 through the final approval at which someone assesses

1 whether a school's action plan for addressing lack of
 2 certificated or qualified teachers through specific
 3 strategies with measurable outcomes is a good plan
 4 qualitatively?
 5 MR. SALVATY: Objection. Vague and ambiguous.
 6 Incomplete hypothetical. Calls for speculation.
 7 THE WITNESS: I'd say the answer is no. We
 8 don't assess whether it's a good plan to shortchange
 9 your --
 10 MR. LONDEN: Yeah, I accept that.
 11 Q. These guidelines encourage applicants to
 12 address each of the 22 quality review criteria in their
 13 plans, right so far?
 14 MR. SALVATY: Objection as to which criteria
 15 and how the guidelines encourage. The document speaks
 16 for itself.
 17 Q. BY MR. LONDEN: Do you understand that
 18 question?
 19 A. I think the document requires that a school
 20 address each of these by virtue of their being a
 21 checklist, which implies they must be checked off and
 22 filled in.
 23 Q. And with respect to this item 4B, and now
 24 moving forward in the process to review of the action
 25 plan, is there any review -- I want to strike is there

1 any review.
 2 I take it someone checks to see whether that
 3 point is addressed in action plans, right?
 4 MR. SALVATY: Objection. Overbroad.
 5 MS. GIORGI: Ambiguous as to "someone."
 6 MR. SALVATY: Incomplete hypothetical.
 7 THE WITNESS: The reviewers would check to make
 8 sure that that item and all these items are included in
 9 the action plan.
 10 Q. BY MR. LONDEN: And do reviewers make any
 11 assessment of the content, if it is addressed, of what's
 12 said about item 4B?
 13 MR. SALVATY: Objection. Vague as to the terms
 14 "assessment" and "content." Incomplete hypothetical.
 15 Overbroad. Calls for speculation.
 16 THE WITNESS: I believe the answer is no. And
 17 I would restate what I said before, which is they check
 18 to make sure that each of these is there.
 19 Q. BY MR. LONDEN: Schools are required to submit
 20 a proposed budget for their new actions, right?
 21 MR. SALVATY: Objection. Vague as to "new
 22 actions." Appears to call for a legal conclusion.
 23 THE WITNESS: They're required to submit an
 24 expenditure plan.
 25 Q. BY MR. LONDEN: I do want to ask you a

1 hypothetical question to see if you can answer it. If
 2 someone -- if a school submitted a plan in which their
 3 expenditure plan for this one item was larger than \$200
 4 per student, would any consequence in the review process
 5 follow from that?
 6 MR. SALVATY: Objection. Incomplete
 7 hypothetical. Assumes facts not in evidence. Vague and
 8 ambiguous. Calls for speculation.
 9 THE WITNESS: The last part of your question?
 10 I understand the hypothetical.
 11 Q. BY MR. LONDEN: Would there be any consequence?
 12 MR. SALVATY: Same objections.
 13 THE WITNESS: The application would be flagged
 14 and it would be sent back to the district. You've
 15 proposed a budget for more money than we have, redo it.
 16 MR. LONDEN: I have another voluminous document
 17 that is a produced document. My proposal is that we
 18 refer to it based on production numbers unless someone
 19 says, let's have this copied.
 20 Can we start that way anyway?
 21 MR. SALVATY: Sure.
 22 Q. BY MR. LONDEN: What we've handed you begins
 23 with identification No. DOE 00070612 and continues in
 24 sequence through DOE 00070664. What I'll call the cover
 25 page is the second page, and it says district

1 application for funding for the Caesar Chavez Academy in
 2 Ravenswood School District. I guess Caesar Chavez is on
 3 the following page.
 4 Have you seen this before?
 5 A. I don't recollect seeing this particular
 6 application.
 7 Q. Look at page DOE 70624. And I want to focus
 8 for the moment on item 2 on this page under the heading
 9 Caesar Chavez Academy. The left column has the heading
 10 barriers.
 11 And let me tell you in advance what I'm going
 12 to do. I want to ask you about this one to find out the
 13 kind of review process that happens in the course of
 14 approval of these plans. That's where I'm going. I'm
 15 not asking anything yet.
 16 Item 2 says, some teachers are not adequately
 17 trained in strategies to meet the needs of all students
 18 due to the large percentage that are noncredentialed and
 19 are new to the district and school. The school suffers
 20 relatively high staff turnover, consequently the current
 21 staff development is inadequate. This problem is
 22 evidenced in the lack of consistency in the
 23 implementation of academic instruction across
 24 classrooms, end my quote there.
 25 Is it correct that the review process of the

1 strategy to remove barriers does not involve any
 2 assessment about whether the strategy proposed has any
 3 likelihood of addressing the underlying cause for that
 4 barrier?
 5 MR. SALVATY: Could I have that read back.
 6 (Record read.)
 7 MR. SALVATY: Objection. Vague and ambiguous.
 8 Calls for speculation. Overly broad.
 9 THE WITNESS: I'm having trouble understanding
 10 your question, honestly.
 11 MR. LONDEN: Let me ask a different question.
 12 THE WITNESS: Okay.
 13 Q. BY MR. LONDEN: In the course of approving or
 14 not approving an application such as this one, no one
 15 would assess whether the strategy to remove barriers is
 16 capable of removing the barriers cited, that's not part
 17 of the process, correct?
 18 MR. SALVATY: Objection. Incomplete
 19 hypothetical. Calls for speculation, in particular
 20 talking about no one, whether that's the Department or
 21 no one at all ever.
 22 MR. LONDEN: No one in the Department.
 23 MR. SALVATY: Same objections. I shouldn't
 24 have said "Department" either. Division or what exactly
 25 we're talking about. But anyway.

1 THE WITNESS: I can't answer no one because
2 reviewers include a wide array of people and each
3 reviewer acted independently but according to the
4 criteria.

5 I'm also having a little trouble tracking the
6 whole question, but I'm willing to listen to another
7 rendition of it.

8 Q. BY MR. LONDEN: Is there any part of the
9 process that would allow a reviewer to do anything about
10 the belief that this strategy can't effect, reduce the
11 cited barrier?

12 MR. SALVATY: Objection. Vague and ambiguous
13 as to "the process," what reviewers we're talking about.
14 Incomplete hypothetical. Seems to call for a legal
15 conclusion.

16 THE WITNESS: As I now understand your
17 question, if one of the official reviewers were to read
18 this -- read your quote, they would -- that person would
19 simply note that something was said in the action plan
20 in that area. They would not exert an opinion.

21 Q. BY MR. LONDEN: Have any action plans that were
22 submitted been disapproved under II/USP in any of the
23 cohorts?

24 A. No.

25 Q. A number have been approved with conditions?

1 you've described already?

2 MR. SALVATY: Same objections.

3 THE WITNESS: The conditions relate to just the
4 criteria on the checklist.

5 Q. BY MR. LONDEN: Whether they are addressed?

6 A. Yes.

7 Q. Now, what happens after an approval with
8 conditions?

9 A. Notice is given to the district that their
10 application was approved with conditions pending
11 clarification of the following, or a list of whatever
12 the conditions were relating to these criteria.

13 Q. And they have a time period in which to comply
14 with the conditions?

15 A. They are given a time period to supply
16 additional information.

17 Q. Have any schools that got that far in the
18 process failed to qualify for the program by fulfilling
19 the conditions?

20 MR. SALVATY: Objection. Vague and ambiguous.
21 That's it.

22 THE WITNESS: All the schools I'm aware of have
23 supplied enough information to satisfy the conditions.

24 Q. BY MR. LONDEN: Does your division study the
25 content of what the action plans say about barriers for

1 A. Correct.

2 Q. Can you describe generally what kinds of
3 conditions the process is set up to consider and request
4 or require?

5 MR. SALVATY: Objection. Calls for a legal
6 conclusion. Overbroad. Vague and ambiguous as to
7 "kinds of conditions."

8 THE WITNESS: As I understand the question, the
9 process was designed such that if a school did not
10 mention an area that was called for on the checklist,
11 then it was approved with the condition that it be sent
12 back and that area added to the application.

13 Q. BY MR. LONDEN: Are there any other conditions
14 that have been -- any other kinds of conditions that
15 have been imposed on approval?

16 MR. SALVATY: Objection. Vague and ambiguous
17 as to kinds of "conditions." Overbroad.

18 THE WITNESS: The use of the word "conditions,"
19 I'm understanding to mean the quality criteria.

20 Q. BY MR. LONDEN: I'll be more specific. There's
21 a published list of II/USP schools in the cohorts that
22 includes as to some of the schools' plans approved and
23 as to others approved with conditions.

24 Using the word "conditions" in exactly that
25 sense, are there other kinds of conditions than what

1 any purpose other than processing the individual action
2 plans for approval? And leaving aside ultimate
3 intervention, because we haven't gotten there.

4 MR. SALVATY: Objection. Vague and ambiguous.
5 Overbroad.

6 THE WITNESS: No, our review is limited to the
7 review process itself.

8 Q. BY MR. LONDEN: And I apologize if I asked
9 this. I want to make sure I have asked this at least
10 once.

11 Are there any compilations done or information
12 extraction processes from these action plans for any
13 other purpose?

14 MR. SALVATY: Objection. Overbroad. Vague and
15 ambiguous.

16 THE WITNESS: By us, not that I'm aware of. By
17 my divisions, not that I'm aware of.

18 Q. BY MR. LONDEN: Are you aware of anything done
19 by any state education agency?

20 MR. SALVATY: Objection. Calls for
21 speculation. Also vague and ambiguous as to state
22 agency.

23 THE WITNESS: Not by any other state agency.

24 Q. BY MR. LONDEN: Are you aware of any study that
25 has been done or is ongoing of the information that can

1 be drawn from the description of barriers in the action
 2 plans?
 3 MR. SALVATY: Objection. Vague and ambiguous.
 4 Could we have that read back again?
 5 MR. LONDEN: I'll try it again.
 6 Q. You've told me that to the limit of your
 7 awareness -- you've told me about your awareness or lack
 8 of awareness about state education agencies.
 9 I just wanted to ask whether you know of
 10 anybody outside state education agencies that, to your
 11 knowledge, are doing some analysis of barriers as
 12 described in action plans?
 13 MR. SALVATY: Objection. The document speaks
 14 for itself.
 15 THE WITNESS: I'm not aware of anybody else who
 16 is doing currently an analysis of the action plans, or
 17 whatever you said.
 18 MR. SALVATY: I think the document -- I just
 19 want to state, I do think this document should be
 20 attached and marked as an exhibit because I'm concerned
 21 that the testimony, taken out of context --
 22 MR. LONDEN: You don't have to justify it.
 23 Done.
 24 (Exhibit SAD-262 was marked.)
 25 Q. BY MR. LONDEN: Could you tell us, please, who

1 is involved in the review process that leads to approval
 2 or approval with conditions or something else as to the
 3 action plans?
 4 MR. SALVATY: Objection. Overbroad. Calls for
 5 speculation. Vague and ambiguous.
 6 THE WITNESS: Are you asking who sits and does
 7 reviews, who designs the process, who -- the term "who
 8 is involved" is kind of broad.
 9 Q. BY MR. LONDEN: Fair enough. Who carries out
 10 the process of reviewing action plans to assess whether
 11 approval or something else should be done with them?
 12 MR. SALVATY: Same objections.
 13 THE WITNESS: I interpret the term "carries
 14 out" to sitting and looking at action plans and rating
 15 them according to the criteria.
 16 MR. LONDEN: You understand me correctly.
 17 THE WITNESS: Okay. We invite some department
 18 staff and field representatives to be reviewers.
 19 Q. BY MR. LONDEN: How many? How large is the
 20 team?
 21 A. Can you ask me which event or which year?
 22 Q. Most recent completed review process.
 23 A. I would estimate 80.
 24 Q. Now, you used the phrase rating them according
 25 to their criteria just now. What does "rating" mean?

1 A. The process includes reviewing the entire
 2 application and noting whether each of the criteria in
 3 the checklist that we talked about is addressed.
 4 Q. Is this a process -- this process of rating,
 5 does it generate any other score, if you will, than yes
 6 or no as to whether each of the criteria are
 7 addressed -- is addressed?
 8 MR. SALVATY: Objection. Vague and ambiguous.
 9 Overbroad.
 10 THE WITNESS: You know, I was not a rater, I
 11 was not part of the rating process, and I can't recall
 12 nine months out what form or forms may have been used to
 13 capture that analysis, so it's difficult to answer that
 14 question.
 15 Q. BY MR. LONDEN: Does the process of reviewing
 16 and rating action plans involve any feedback to the
 17 schools with advice or observations or information based
 18 on the content of their proposed actions? Leaving aside
 19 the "with conditions," have you addressed it?
 20 MR. SALVATY: Objection. Vague and ambiguous.
 21 Compound. And I think we're still talking about the
 22 most recent review process.
 23 MR. LONDEN: The most recent one to be
 24 completed.
 25 MR. SALVATY: Thank you.

1 THE WITNESS: Leaving aside the situation where
 2 the school is approved with conditions, I believe the
 3 answer to your question is no.
 4 Q. BY MR. LONDEN: Is there any plan or proposal
 5 to incorporate into the process in the future any
 6 feedback about the content of proposed actions, leaving
 7 aside the consideration whether all the 22 criteria have
 8 been addressed?
 9 MR. SALVATY: Objection. Vague and ambiguous.
 10 Calls for speculation.
 11 THE WITNESS: There is no intent now to do so.
 12 There's also no guidance written in that the procedures
 13 for that review are not designed yet.
 14 Q. BY MR. LONDEN: Is there a schedule for
 15 designing procedures for that review?
 16 MR. SALVATY: Objection. Vague and ambiguous.
 17 Calls for speculation.
 18 THE WITNESS: We anticipate doing so within the
 19 next two to four weeks, based on existing workload and
 20 resources.
 21 Q. BY MR. LONDEN: And do you have any basis for
 22 saying without speculating when the results of that may
 23 be published?
 24 A. "That" meaning guidance?
 25 Q. Yes.

1 MR. SALVATY: Objection. Vague.
 2 THE WITNESS: I believe I said -- I would say
 3 two to four weeks. It would be the same.
 4 MR. LONDEN: I wasn't clear that we were
 5 talking about when it would be made public as opposed to
 6 when it might be done internally.
 7 Q. And are there any drafts of that that you can
 8 disclose?
 9 MR. SALVATY: Objection. Vague.
 10 THE WITNESS: There may be at the staff level,
 11 but none that I am aware of as the director of the
 12 division.
 13 MR. SALVATY: Okay. We've been going an hour.
 14 MR. LONDEN: Let's break.
 15 (Recess taken.)
 16 (Mr. Reed now present.)
 17 (Exhibit SAD-263 was marked.)
 18 Q. BY MR. LONDEN: Before you, marked as Exhibit
 19 263, is a multiple-page document, 25-page document
 20 beginning with identification of PLTF 25143 sequentially
 21 through 25167, entitled frequently asked questions
 22 II/USP and CSRD.
 23 Do you recognize this?
 24 A. I do.
 25 Q. What is it?

1 MR. SALVATY: Objection. The document speaks
 2 for itself.
 3 THE WITNESS: What we commonly call a Q & A,
 4 question and answer. We post it on the web to -- just
 5 to post frequently-asked questions, reduce the number of
 6 phone calls.
 7 Q. BY MR. LONDEN: And this is -- this was
 8 published by way of the web by your division?
 9 MR. SALVATY: Objection. Vague.
 10 THE WITNESS: It was posted by my division with
 11 deputy superintendent approval.
 12 Q. BY MR. LONDEN: Look at page 24 of 25 for a
 13 moment, please. There's some bold print under reporting
 14 and evaluation that says, starting in 2001, each school
 15 district with schools participating in II/USP must
 16 submit to CDE an annual evaluation of the impact, costs
 17 and benefits of the program by November 30.
 18 Have those annual evaluations been submitted by
 19 now?
 20 MR. SALVATY: Objection. Vague as to "those
 21 evaluations."
 22 THE WITNESS: There are some annual evaluations
 23 I don't track, and would defer to my office that tracks
 24 it how many of them have been submitted and which ones.
 25 MR. LONDEN: Let's mark another document.

1 (Exhibit SAD-264 was marked.)
 2 Q. BY MR. LONDEN: Exhibit 264 is a several-page
 3 document. The first page has the title district
 4 evaluation report, immediate intervention
 5 underperforming schools program. The second page
 6 begins -- is a letter on Delaine Eastin's letterhead
 7 dated June 25, 2001, and the last page is what appears
 8 to be a blank cover form.
 9 Do you recognize this?
 10 A. Yes.
 11 Q. I should have identified Joanne Mendoza as the
 12 cited originator of the memo which starts on page 2.
 13 Could you describe this document for us.
 14 MR. SALVATY: Objection. The document speaks
 15 for itself.
 16 THE WITNESS: This is really exactly as it
 17 says, to tell districts that schools in the first cohort
 18 they have to submit, by when, per Education Code
 19 statute.
 20 Q. BY MR. LONDEN: And is this the annual
 21 evaluation of the impact, costs and benefits of the
 22 program that is referred to on page 24 of the frequently
 23 asked questions document we've marked as Exhibit 263?
 24 MR. SALVATY: Objection. The document speaks
 25 for itself.

1 Would you mind reading the question back.
 2 (Record read.)
 3 MR. SALVATY: Objection. Document speaks for
 4 itself, and vague as to "this."
 5 THE WITNESS: Yes, I understand that this memo
 6 is -- relates to the bold statement on page 24, 25.
 7 Q. BY MR. LONDEN: Having achieved that
 8 understanding, I want to talk about information that is
 9 obtained from schools after they've gotten approval of
 10 their plan.
 11 And let me start with this question, is it true
 12 that one form of information relating to schools for
 13 which plans have been approved is the annual evaluation
 14 of the impact, costs and benefits that is described in
 15 Exhibit 264?
 16 A. Yes.
 17 Q. Can you describe for us other sources of
 18 information, subsequent to approval, that are part of
 19 the II/USP program, information regarding the schools
 20 that are the subject of the plans?
 21 MR. SALVATY: Objection. Vague and ambiguous
 22 as to "sources of information."
 23 MR. LONDEN: Let me withdraw and put another
 24 one on the table.
 25 Q. There is, for each of the approved schools,

1 test score information that is compiled and published
 2 each year, and that is considered by your office with
 3 regard to the approved action plan schools, right?
 4 MR. SALVATY: Objection. Vague and ambiguous.
 5 Assumes facts not in evidence. Calls for speculation.
 6 THE WITNESS: I think the answer to that is no.
 7 There is information compiled. It's not considered by
 8 our office in the manner in which you've just described.
 9 Q. BY MR. LONDEN: Okay. Broadly speaking, after
 10 a school has had an action plan approved, a change in
 11 test scores is considered by someone in the Department
 12 of Education with respect to that school, correct?
 13 MR. SALVATY: Objection. Incomplete
 14 hypothetical. Calls for speculation. Vague and
 15 ambiguous.
 16 THE WITNESS: The statute requires schools to
 17 make a certain amount of progress, and external to my
 18 division is a function -- department that tracks how
 19 schools in this program are doing.
 20 Q. BY MR. LONDEN: Can you name that division or
 21 office, please?
 22 MR. SALVATY: Objection. Lacks foundation.
 23 THE WITNESS: I believe it's the accountability
 24 branch, within the accountability branch.
 25 Q. BY MR. LONDEN: If you know, does the

1 accountability branch consider any information other
 2 than information related to change in test scores from
 3 the school --
 4 MR. SALVATY: Objection.
 5 Q. BY MR. LONDEN: -- in doing that review?
 6 MR. SALVATY: Objection as to what review we're
 7 talking about. Calls for speculation.
 8 THE WITNESS: If you're asking how they do
 9 their review of scores and what they look at and
 10 consider, the answer is I don't know.
 11 Q. BY MR. LONDEN: But to the best of your
 12 understanding, what they review are test scores?
 13 MR. SALVATY: Objection. Calls for
 14 speculation.
 15 THE WITNESS: Yes.
 16 Q. BY MR. LONDEN: Now, all of that was to set
 17 that process of review of test scores by the
 18 accountability branch aside for the moment. I also want
 19 to set aside for the moment the submissions that schools
 20 make in response to the request for annual evaluation of
 21 impact, costs and benefits as described in Exhibit 264
 22 so that I can ask you, is there any other information
 23 gathering process that's built into the II/USP program
 24 with regard to how II/USP schools are doing?
 25 MR. SALVATY: Objection. Calls for

1 speculation. Vague and ambiguous and overbroad.
 2 THE WITNESS: There's no procedure I'm aware
 3 of, and certainly within my division, other than those
 4 processes that call for information on how the schools
 5 are doing.
 6 Q. BY MR. LONDEN: Are you familiar with the term
 7 "significant growth" as used in the II/USP authorizing
 8 statute? My question is, is that a familiar term to you?
 9 A. It's a familiar term from the statute.
 10 Q. Are you aware of any action by the State Board
 11 of Education or other state education agency to define
 12 what constitutes significant growth?
 13 MR. SALVATY: Objection. Calls for a legal
 14 conclusion.
 15 MR. LONDEN: For purposes of reviewing results
 16 achieved by II/USP schools.
 17 MR. SALVATY: Objection. Vague and ambiguous.
 18 Calls for a legal conclusion.
 19 THE WITNESS: I'm not aware of any action by
 20 the State Board or other -- and you'll have to help me
 21 with the entities that you said.
 22 MR. LONDEN: State education agencies.
 23 THE WITNESS: -- or other state education
 24 agency to define that.
 25 Q. BY MR. LONDEN: Are you aware of anyone in a

1 state education agency who is working on providing any
 2 definition of significant growth to be used in assessing
 3 the results achieved by II/USP schools?
 4 MR. SALVATY: Objection. Vague and ambiguous.
 5 Overbroad. Calls for speculation. Lacks foundation.
 6 THE WITNESS: Yes.
 7 Q. BY MR. LONDEN: Describe what you're aware of.
 8 MR. SALVATY: Same objections.
 9 MS. GIORGI: I'm going to object inasmuch as it
 10 may call for an official information privilege. Again,
 11 if this is so preliminary, it may not be open for public
 12 scrutiny.
 13 Q. BY MR. LONDEN: Are you able to answer?
 14 A. What was your prompt question? What was your
 15 last question?
 16 MR. LONDEN: I wanted you to describe what you
 17 knew about work being done to develop a definition of
 18 significant growth for purposes of assessing II/USP
 19 schools.
 20 Counsel has interposed a privilege objection,
 21 and if you're able to answer without risk that you'll
 22 violate an instruction, go ahead. If you need to
 23 consult, you can do that.
 24 THE WITNESS: May I consult with them for just
 25 one second?

1 MR. LONDEN: Sure. On questions of privilege
 2 consultation is appropriate during a pending question,
 3 so you do that.
 4 (Break in the proceedings.)
 5 Q. BY MR. LONDEN: Okay. Having consulted, are
 6 you able to give an answer to my question?
 7 A. Would you please repeat your question.
 8 Q. I'm asking whether you're aware of work --
 9 whether you can describe work done to define significant
 10 growth in the sense that's relevant to the statutory
 11 consideration of assessment of progress by II/USP?
 12 A. I can try to describe it.
 13 Q. Thank you.
 14 A. The Board has a statutory responsibility to
 15 define the term significant growth, and a discussion has
 16 been held at the Public Schools Accountability Act
 17 advisory committee and a definition is being drafted for
 18 consideration by the Board at this time.
 19 Q. Who is working on that drafting?
 20 MR. SALVATY: Objection. Calls for
 21 speculation.
 22 THE WITNESS: Staff within the Department.
 23 Q. BY MR. LONDEN: But not within your division?
 24 A. In part within my division.
 25 (Exhibit SAD-265 was marked.)

1 Q. BY MR. LONDEN: Before you, marked as Exhibit
 2 265, is a five-page document entitled Public Schools
 3 Accountability Act advisory committee minutes, and it
 4 refers to the date October 25, 2001.
 5 Were you present at a meeting of the PSAA
 6 advisory committee on October 25, 2001?
 7 A. Yes, I was.
 8 Q. Look at page 4, please. There's a heading
 9 awards and interventions subcommittee report, under
 10 which the first bullet point begins with your name. And
 11 the second bullet point is what I'd like you to look at.
 12 Please read that point to yourself and tell me when
 13 you're done, and then I'll ask you a question.
 14 A. Okay.
 15 Q. Is this a discussion of the same topic we were
 16 dealing with, that is, work being done to define
 17 significant growth?
 18 MR. SALVATY: Objection. Document speaks for
 19 itself.
 20 THE WITNESS: It's an early discussion.
 21 Q. BY MR. LONDEN: This is a public meeting,
 22 right?
 23 A. Yes.
 24 Q. This point says they have three different
 25 phases and their subcommittee wanted to start out with a

1 less stringent definition and over time move to the more
 2 stringent definitions.
 3 First of all, do you recall talk of less or
 4 more stringent definitions?
 5 A. You know what's troublesome is the use of
 6 the -- the context in which this was used. I can't
 7 recall now, reading it, what three different phases
 8 refers to and what less and more stringent refers to at
 9 this time by one sentence alone.
 10 Q. This doesn't bring back any independent
 11 recollection of the discussion?
 12 A. Not one sentence. Not this one sentence.
 13 Q. The next sentence says, the CDE will do some
 14 data modeling for them to determine how many schools
 15 meet the criterion of each definition, ending my quote
 16 there.
 17 Does that bring back any recollection?
 18 A. Yes, the notion from that sentence was that we
 19 would look at data for two years in a row to see what
 20 happened to schools over a two-year period with respect
 21 to three possible systems of defining significant
 22 growth.
 23 Q. And was part of the work on that subject to try
 24 to estimate how many schools would and how many schools
 25 wouldn't satisfy the definition as part of the

1 information to be presented to the Board in connection
 2 with the proposal?
 3 MR. SALVATY: Objection. Lacks foundation.
 4 Calls for speculation. Vague and ambiguous.
 5 THE WITNESS: I think I understand your
 6 question. I think the answer is yes.
 7 Q. BY MR. LONDEN: And are you able to say what
 8 significance is attached to that consideration of how
 9 many would and how many wouldn't satisfy the criteria?
 10 MR. SALVATY: Objection. Vague and ambiguous
 11 particularly as to significance being attached.
 12 MS. GIORGI: Also asks for speculation, the
 13 answer.
 14 THE WITNESS: I have trouble with the term
 15 "significance." Is that significance for numbers of
 16 schools, for labeling the schools, or a significance for
 17 taking a future action? That's hard.
 18 Q. BY MR. LONDEN: Significance for taking a
 19 future action is what I have in mind. For example, one
 20 can -- one reason for doing this kind of analysis might
 21 be to attempt to define significant growth in a way that
 22 allowed as many schools as possible to qualify. I'm not
 23 trying to suggest that, I'm just trying to illustrate
 24 what I mean by significance with respect to an action to
 25 be taken.

1 Is that of any help in bringing any
2 recollection back?

3 MR. SALVATY: Objection. Vague and ambiguous
4 as to what the question is.

5 THE WITNESS: You know, I certainly recall to
6 some degree the fact that there were three different
7 ways of looking at the data, and that they yielded
8 somewhat different results. The Board or anybody has
9 yet to deal with how significant -- the significance of
10 those three analyses. That's about the best I can do on
11 your question.

12 Q. BY MR. LONDEN: For the sake of time, is it --
13 do you recall discussion at a meeting of the California
14 State Board of Education about an 80 percent of growth
15 target?

16 MR. SALVATY: Objection. Vague as to "growth
17 target."

18 THE WITNESS: I understand the question. There
19 was discussion at a subsequent board meeting, subsequent
20 to October 25th, about a definition of significant
21 growth that had something to do with 80 percent of a
22 target, and I would imagine the Board minutes talk about
23 that.

24 Q. BY MR. LONDEN: Do you know who is in charge of
25 doing the work on that significant growth analysis?

1 MR. SALVATY: Objection. Vague as to which
2 analysis you're talking about.

3 THE WITNESS: Are you referring to what went on
4 in October, or at some other time?

5 Q. BY MR. LONDEN: Right now, if anybody's
6 working, to your knowledge, on preparing materials on
7 definition of significant growth, who is in charge?

8 MR. SALVATY: Objection. Asked and answered.
9 Calls for speculation.

10 THE WITNESS: There are a number of staff
11 working on it. It's a little unclear who is in charge.

12 Q. BY MR. LONDEN: Identify at least one person
13 you think I could get more -- better information from on
14 that subject.

15 A. The mathematical modeling is done outside my
16 division.

17 Q. Is that Pat McCabe's area?

18 A. Pat McCabe is involved in this area.

19 Q. Are you aware of any schedule for any action
20 being taken on the definition of significant growth?

21 A. The Board currently is scheduled to hear it as
22 an information/action item at its February meeting.
23 They can choose to take action or not take action.

24 Q. And are you aware of any proposal that has been
25 published with respect to that potential action?

1 A. There's no proposal published as of this date.

2 Q. Okay. What is the first time in the future
3 when you understand that an intervention taken, based on
4 failure to make acceptable results, might be authorized?

5 MR. SALVATY: Objection. Calls for a legal
6 conclusion. Vague and ambiguous as to "intervention"
7 and "acceptable results." Calls for speculation.

8 THE WITNESS: According to law, the earlier
9 that anything of that nature could be done is 24 months
10 after a school received its implementation funding,
11 which brings it to this August. However, the test
12 scores won't be public until fall, so, in effect, it
13 would be fall of '02.

14 Q. BY MR. LONDEN: You've told us that the
15 intervention assistance office is -- has positions not
16 fully staffed and is otherwise in the process of
17 planning, right?

18 MR. SALVATY: Objection. Misstates testimony.
19 Vague and ambiguous.

20 THE WITNESS: The positions are vacant. We're
21 in the process of hiring, reviewing applications, hiring
22 staffing, and to the extent it's -- one consultant is
23 available, it is engaged in some degree of thinking and
24 planning.

25 Q. BY MR. LONDEN: Has anything been made public

1 or reached a stage in development beyond what's
2 privileged, to your knowledge -- and you can consult
3 with your counsel if you need to -- about the plans for
4 the operation of the intervention assistance office with
5 respect to schools that failed to meet targets?

6 MR. SALVATY: Objection. Vague and ambiguous.
7 Overbroad.

8 THE WITNESS: Made public?

9 Q. BY MR. LONDEN: I'll take this as a yes or no
10 question to start with. If the answer is nothing far
11 enough along that you can talk about it, that's easy.

12 A. No. It's no.

13 Q. Just to make my record clear, any documents
14 that exist are still at the confidential, preliminary
15 stage on the subject of how the intervention assistance
16 office will treat schools within the II/USP program that
17 fail to make their targets; is that right?

18 A. Yes.

19 Q. Is there any schedule for when information will
20 be available to the public or to us about how the
21 intervention assistance office will act with regard to
22 schools that fail to achieve the required results as of
23 fall 2002?

24 MR. SALVATY: Objection. Calls for
25 speculation. Calls for a legal conclusion to the extent

1 there are -- there is information public on this
 2 subject, but go ahead.
 3 THE WITNESS: We're not far enough along to
 4 even say when such a schedule or such information will
 5 be available.
 6 Q. BY MR. LONDEN: Look again, please, at the
 7 exhibit we marked 265, which was the PSAA advisory
 8 committee minutes from October 25, 2001, and at page 4.
 9 Do you see the bullet point that starts with
 10 your name, Wendy Harris spoke about AB 961 and how it
 11 will change the landscape of interventions for some
 12 schools, and also the timelines, ending my quote there?
 13 A. Yes.
 14 Q. The last little more than a line of that bullet
 15 point -- I'll read the whole sentence. Quote, instead
 16 of taking over the school as the most severe sanction,
 17 AB 961 allows for the school to contract with a school
 18 assessment and intervention team, end quote.
 19 What is a school assessment and intervention
 20 team?
 21 A. It's defined in statute. I don't have the
 22 statute in front of me and can only, you know, refer you
 23 to AB 961. I just haven't committed it to memory, but
 24 the Education Code talks about what it is and what it
 25 does and what happens.

1 Q. I don't need to hand you a copy of the statute.
 2 One is available if you would like to have it.
 3 The next question I have is whether anyone
 4 within the Department of Education has developed any
 5 further explanation or definition of school assessment
 6 and intervention team beyond what's in the statute?
 7 MR. SALVATY: Objection. Calls for
 8 speculation. Lacks foundation.
 9 THE WITNESS: There are some preliminary
 10 thoughts about what this thing is and how it might work,
 11 but I'm not aware of a paper published and disseminated
 12 on this topic yet.
 13 Q. BY MR. LONDEN: Do you know of any examples of
 14 consultants or types of people who could be considered
 15 candidates to participate in the school assessment and
 16 intervention teams?
 17 MR. SALVATY: Objection. Vague and ambiguous.
 18 Calls for a legal conclusion. Calls for speculation.
 19 THE WITNESS: Until we figure out what these
 20 teams are and how we're going to follow the law, I can't
 21 say who would be an appropriate member of the team. We
 22 have to define it and operationalize what's in the
 23 statute first.
 24 Q. BY MR. LONDEN: The work that is ongoing on the
 25 subject of what the school assessment and intervention

1 team is and how it might work includes work being done
 2 by your -- by some office or offices in your division;
 3 is that right?
 4 MR. SALVATY: Objection. Vague and ambiguous.
 5 THE WITNESS: Could you repeat that, please.
 6 Q. BY MR. LONDEN: I'm just trying to locate the
 7 preliminary work that's being done on that subject.
 8 Does it include work being done in your
 9 division?
 10 MR. SALVATY: Objection as to that subject --
 11 or vague as to "that subject."
 12 THE WITNESS: The preliminary work on this
 13 includes conversations with division staff, but is not
 14 limited to that or them.
 15 Q. BY MR. LONDEN: And has it been decided whether
 16 the development of the school assessment and
 17 intervention team concept will be the work of your
 18 division as opposed to some other division?
 19 MR. SALVATY: Objection. Calls for
 20 speculation. Vague as to "concept."
 21 THE WITNESS: It's not been decided yet who
 22 ultimately will be responsible for that piece of work.
 23 Q. BY MR. LONDEN: Is there a list of candidates
 24 within the Department?
 25 MR. SALVATY: Objection. Vague as to list of

1 what candidates.
 2 THE WITNESS: Do you mean candidates to design,
 3 to participate, to lead it? What do you mean?
 4 Q. BY MR. LONDEN: I'd like to know about any of
 5 those, if you're able to answer that.
 6 MR. SALVATY: Objection. Overbroad. Compound.
 7 Vague and ambiguous. Calls for a narrative.
 8 THE WITNESS: I believe I already said it was
 9 premature, until it's designed, to speculate on who
 10 would be members of the teams or participate in it, and
 11 it also hasn't been decided what this is, who leads it
 12 in the Department, and specifically organizationally
 13 exactly where it resides.
 14 Q. BY MR. LONDEN: Okay. One of the pieces of my
 15 job is to distinguish between asking the right witness a
 16 question that she can't answer and asking a question of
 17 the wrong witness.
 18 Is there somebody else who you would expect
 19 would have more knowledge to share with us about the
 20 planning or implementation of the school assessment and
 21 intervention team contracting option under -- pursuant
 22 to AB 961?
 23 MR. SALVATY: Objection. Calls for
 24 speculation.
 25 THE WITNESS: One person working on this is

1 Richard Whitmore in the Department.
 2 Q. BY MR. LONDEN: And his new position is what?
 3 I think he's got a new title, am I right about that?
 4 A. I actually don't know his official title. He
 5 works in the executive office for the superintendent
 6 so -- I just don't know what his title is.
 7 Q. Chief policy advisor is what I had in mind.
 8 A. Sounds about right.
 9 Q. And the predecessor in that position was
 10 Paula Mashima (ph.); is that right?
 11 A. Paula Mashima (pronunciation). I believe so,
 12 yes.
 13 Q. Are you able to say whether the -- whether or
 14 not the school assessment and intervention team will
 15 include any state employees, or is it too early to say?
 16 MR. SALVATY: Objection. Calls for
 17 speculation. Vague and ambiguous.
 18 THE WITNESS: Again, it's too early in the
 19 design process to say that.
 20 Q. BY MR. LONDEN: In the bullet point in Exhibit
 21 265 from the October 25 PSAA advisory committee minutes,
 22 the last sentence of the description of what you said
 23 speaks of, quote, taking over the school, unquote, as
 24 the most severe sanction and contrasts that with the new
 25 school assessment intervention team concept.

1 With respect to what's referred to as taking
 2 over the school, have any plans for how that sanction is
 3 going to operate been developed to the point of being
 4 made public?
 5 MR. SALVATY: Objection. Assumes facts not in
 6 evidence.
 7 THE WITNESS: As of this date there have been
 8 preliminary thoughts and plans, and there's no published
 9 paper.
 10 Q. BY MR. LONDEN: Is there anything describing
 11 the severe -- how the severe sanction of taking over the
 12 school, as it's referred to here, may operate in
 13 documents that are far enough along to be disclosed to
 14 us?
 15 MR. LONDEN: And I'm inviting, if counsel has a
 16 privilege objection, to make -- consult about it.
 17 THE WITNESS: I can't answer that.
 18 MR. SALVATY: I'll assert the objection to the
 19 extent it calls for anything covered by the official
 20 information privilege. Also calls for speculation.
 21 MR. LONDEN: Let me see if I can pose questions
 22 in a way that will make more sense than that.
 23 Q. Have you seen documents that discuss, without
 24 getting into their contents, the subject of how the
 25 school takeover sanction may operate, preliminary or

1 otherwise?
 2 MR. SALVATY: Objection. Assumes facts not in
 3 evidence. Incomplete hypothetical.
 4 THE WITNESS: Yes, I've seen a preliminary
 5 document.
 6 Q. BY MR. LONDEN: Do you recall any of its
 7 contents? That's a yes or no, I'm not asking for
 8 disclosure.
 9 A. Yes.
 10 Q. Now, to give your counsel a chance to object,
 11 if they're going to, can you tell us what you recall
 12 about the contents?
 13 MR. SALVATY: Objection. Official information
 14 privilege.
 15 Do you want to -- should we discuss this?
 16 MR. LONDEN: If there's any point in discussing
 17 to see whether it's something that could be told to me
 18 because the privilege wouldn't apply, or whatever
 19 reason, I'd invite you to do that. And why don't we
 20 make this our hourly break.
 21 (Recess taken.)
 22 Q. BY MR. LONDEN: Is there any information that
 23 can be given in response to my question that's not
 24 privileged?
 25 MS. GIORGI: That's correct, we're going to be

1 asserting the privilege for official information.
 2 Q. BY MR. LONDEN: Okay. Do you have any
 3 information on the number of schools that may be in the
 4 sanctionable category as of November, as of the fall of
 5 2002?
 6 MR. SALVATY: Objection. Incomplete
 7 hypothetical. Calls for speculation.
 8 THE WITNESS: We, of course, don't have a firm
 9 number because the testing cycle for the second year
 10 hasn't been completed, scores haven't been analyzed and
 11 so forth. We have data for only the first year.
 12 Q. BY MR. LONDEN: And what does that data lead
 13 you to estimate or expect?
 14 MR. SALVATY: Objection. Calls for -- vague
 15 and ambiguous. Calls for speculation.
 16 THE WITNESS: Again, we can't estimate or
 17 project ultimately any numbers of schools because of the
 18 lack of a second year testing cycle. We can only report
 19 what happened in the first 12 months of II/USP for that
 20 first cohort.
 21 (Exhibit SAD-266 was marked.)
 22 Q. BY MR. LONDEN: This document has been marked
 23 as Exhibit 266. It has multiple pages. It bears ID
 24 numbers DOE 80242 through 255. On the first page there
 25 is the title public school accountability, paren, 1999

1 through 2000, end paren, intermediate
 2 intervention/underperforming schools program, how
 3 low-performing schools in California are facing the
 4 challenge of improving student achievement.
 5 Have you seen this before?
 6 A. Yes?
 7 Q. What is it?
 8 MR. SALVATY: Objection. Document speaks for
 9 itself.
 10 THE WITNESS: It's a summary of a study on the
 11 first year of implementation from -- of the first cohort
 12 of II/USP schools.
 13 Q. BY MR. LONDEN: And does this study -- summary
 14 include summary information about the results one year
 15 out of the first cohort?
 16 MR. SALVATY: Objection. Document speaks for
 17 itself. Vague and ambiguous as to "results."
 18 MS. GIORGI: Do you have a specific page in
 19 mind?
 20 MR. LONDEN: I have in mind that there is a
 21 specific page.
 22 THE WITNESS: I'm sorry, what's the question?
 23 Q. BY MR. LONDEN: You referred, before I got this
 24 document out, to information about results of the first
 25 year for the first cohort, and I wanted to find out

1 whether some or all of that information is summarized in
 2 this study.
 3 MR. SALVATY: Objection. Document speaks for
 4 itself.
 5 THE WITNESS: I believe the answer is it is not
 6 summarized in this study. If you look at figure 2 on
 7 page 12, it refers to the 1999/2000 API reporting cycle,
 8 and I believe the data we were just discussing was the
 9 2000, 2001 API reporting cycle.
 10 Q. BY MR. LONDEN: This document is called a
 11 summary. Is there a longer study document that this
 12 summarizes?
 13 A. That I can't answer because this was done
 14 outside of our division. I do recall seeing this. I
 15 can't recall, offhand, seeing a larger study document.
 16 Q. Have you seen a research summary referring to a
 17 comparable study more recent than this?
 18 MR. SALVATY: Objection. Vague as to
 19 "comparable."
 20 THE WITNESS: The study was continued into the
 21 subsequent year, and I have not seen, that I recall, a
 22 research summary-type document of the subsequent year.
 23 Q. BY MR. LONDEN: Have you seen documents that
 24 disclose the results of the first year for the first
 25 cohort?

1 MR. SALVATY: Objection. Vague as to
 2 "results."
 3 THE WITNESS: If you could define the time --
 4 the exact year you're talking about rather than first
 5 year of the first cohort and "results," I believe I
 6 might answer that.
 7 Q. BY MR. LONDEN: Well, have you seen a document
 8 that discloses results for any cohort for any -- based
 9 on test results covering any period of participation in
 10 the program?
 11 MR. SALVATY: Objection. Vague and ambiguous.
 12 Other than this document, right?
 13 MR. LONDEN: Yeah.
 14 MR. SALVATY: Vague and ambiguous as to
 15 "results."
 16 THE WITNESS: Are you asking for test score
 17 data?
 18 Q. BY MR. LONDEN: That certainly would be
 19 responsive. We're getting tied up in my clumsiness or
 20 objections or something.
 21 I asked you if you could estimate -- several
 22 questions ago if you could estimate how many schools
 23 might be eligible for intervention. You made the quite
 24 valid point that you don't have a second year, but that
 25 there was some -- I took it from your answer there was

1 some information about the first.
 2 What information is available about the first?
 3 (Mr. Reed entered the room.)
 4 MR. SALVATY: Objection. Overbroad. Vague and
 5 ambiguous. Calls for speculation.
 6 THE WITNESS: I am aware of some data that was
 7 run outside my division on test results of the first
 8 year of implementation of this cohort, which is the 2000
 9 to 2001 school year, as well as the planning year, which
 10 is the prior year of that cohort, 1999/2000.
 11 Q. BY MR. LONDEN: Is the information that you are
 12 aware of available to the public or to us?
 13 MR. SALVATY: Objection. Vague and ambiguous.
 14 Calls for speculation. Lacks foundation.
 15 THE WITNESS: There was some data that was
 16 discussed at a public schools accountability advisory
 17 committee meeting that fits that description.
 18 Q. BY MR. LONDEN: Do you remember the date?
 19 A. It was either the October meeting or it was the
 20 December 4th meeting.
 21 Q. Okay. Has your division made any report on
 22 progress by either participating schools or by your
 23 divisions in implementing the II/USP program?
 24 MR. SALVATY: Objection. Overbroad. Compound.
 25 Vague and ambiguous.

1 MR. LONDEN: I'm talking about a written
2 document at this point.
3 THE WITNESS: "Report" meaning a written
4 document?
5 MR. LONDEN: Uh-huh.
6 THE WITNESS: On? If you could restate "on."
7 MR. LONDEN: On the progress since inception of
8 the II/USP, schools' or your divisions' implementation
9 of the program.
10 MS. GIORGI: I'm going to object. It's
11 ambiguous as to if you're asking for progress of the
12 program, progress of individual schools.
13 MR. LONDEN: I'm asking for either one.
14 And I'm not asking you to give me details. If
15 the answer is there aren't any reports by your division
16 on II/USP, then we can drop it and go on. If there are,
17 we can try to frame more precise questions.
18 MR. SALVATY: Objection. Overbroad. Vague and
19 ambiguous.
20 Any reports having to do with anything, having
21 to do with II/USP?
22 MS. GIORGI: That's the question.
23 MR. SALVATY: Overbroad.
24 MR. LONDEN: Progress by II/USP.
25 MR. SALVATY: Vague as to "progress of II/USP."

1 THE WITNESS: No, I can't recall any reports
2 from my division that talk about progress of II/USP in
3 those terms.
4 Q. BY MR. LONDEN: If Exhibit 265 is nearby, look
5 at page 2. 265 is a PSAA advisory committee set of
6 minutes for October 25, and the bottom bullet point on
7 page 2 says, fewer schools met the growth targets this
8 year, 57 percent in 2000-'01 versus 71 percent in
9 1999-2000, and referring to Table 1 in the news release.
10 Is this meeting one -- at least one meeting you
11 had in mind when you were telling us that some
12 information about results had been discussed at the PSAA
13 meeting?
14 A. This is one of the two meetings that I think I
15 included.
16 Q. Do you know whether the names of the schools
17 that did or did not meet their growth targets have been
18 publically disclosed?
19 MR. SALVATY: Objection. Vague as to which
20 schools we're talking about.
21 THE WITNESS: The names have not been, to my
22 knowledge, publically disclosed as a group in any list
23 or published list, or anything like that.
24 Q. BY MR. LONDEN: Does the intervention
25 assistance office, as part of its process for dealing

1 with II/USP schools, consult with the schools about how
2 they're doing on their plans in any systematic way?
3 MR. SALVATY: Objection. Vague and ambiguous
4 as to "systematic way," "consult with the schools."
5 Overbroad.
6 THE WITNESS: Even with the breadth of those
7 two terms, I can say no because there's hardly any staff
8 in the office to do anything.
9 Q. BY MR. LONDEN: Okay. Does the -- does your
10 division have an approved budget for work, which I
11 understand is yet to be defined, in conducting
12 interventions or doing the work as opposed to planning?
13 MR. SALVATY: Objection. Vague and ambiguous
14 as to "approved budget."
15 THE WITNESS: We would have to talk about what
16 "approved budget" means and, more importantly, what
17 "doing the work" means.
18 Q. BY MR. LONDEN: Okay. Early on today you
19 mentioned a program in which four county offices of
20 education had been given grants. I think it was
21 regional partnership grants?
22 A. Yes.
23 Q. Are there any other programs through which your
24 division or the Department of Education, to your
25 knowledge, is authorized to fund county offices of

1 education for any form of assistance or intervention to
2 low-performing schools?
3 MR. SALVATY: Objection. Vague and ambiguous.
4 Compound. Calls for speculation. Overbroad. Calls for
5 a legal conclusion.
6 THE WITNESS: Within my division I already
7 mentioned one other program. The S-4 system provides
8 federal support. And there are likely other programs
9 outside my division which I am not in a position to
10 describe because I don't run them.
11 Q. BY MR. LONDEN: Right. Everyone who reads your
12 transcript will know that you -- the fact that you don't
13 know something doesn't mean it doesn't exist.
14 I've seen mention of regulations with respect
15 to II/USP interventions, not necessarily as having been
16 issued, and I just wanted to ask you, are there any
17 regulations that are public or you can tell us about
18 with respect to the intervention process that may occur
19 under II/USP?
20 MR. SALVATY: Objection. Vague and ambiguous
21 as to "regulations." Calls for a legal conclusion.
22 THE WITNESS: There are no state Title 5
23 regulations at all that I'm aware of on II/USP and those
24 code sections.
25 Q. BY MR. LONDEN: And is there work ongoing on

1 preparing regulations? I'm not asking what it is yet.
 2 A. No.
 3 Q. No?
 4 A. No.
 5 Q. Do you contemplate there will never be
 6 regulations on II/USP implementation?
 7 MR. SALVATY: Objection. Lacks foundation.
 8 Calls for speculation. Calls for a legal conclusion.
 9 THE WITNESS: We have no immediate plans to
 10 implement regulations -- to develop regulations.
 11 Q. BY MR. LONDEN: Are you familiar with the term
 12 "scholastic audits" in connection with work done under
 13 Title 1?
 14 A. Yes.
 15 Q. Can you give me a general explanation of what a
 16 scholastic audit is or was?
 17 MR. SALVATY: Objection. Vague, overbroad.
 18 Calls for a narrative, and it's compound.
 19 THE WITNESS: Scholastic audit is, briefly, a
 20 new term and a new process that the Department of
 21 Education created in exercising its authority under
 22 federal law to provide state agency corrective action
 23 for schools that have been in program improvement -- the
 24 federal term is school improvement, our term in
 25 California is program improvement -- for a certain

1 number of years.
 2 Q. BY MR. LONDEN: Is the scholastic audit
 3 function now in operation?
 4 MR. SALVATY: Objection. Vague as to what's
 5 meant by "in operation."
 6 THE WITNESS: If you could possibly rephrase
 7 that, "now in operation."
 8 Q. BY MR. LONDEN: What stage is the scholastic
 9 audit program at?
 10 MR. SALVATY: Objection. Vague and ambiguous
 11 as to what is meant by "stage."
 12 THE WITNESS: An audit has been done in several
 13 California schools, a report of findings has been
 14 issued, per federal law a joint plan has been created
 15 involving the district and the state, Department of
 16 Education, and that joint plan has just been approved by
 17 the relevant local boards.
 18 Does that answer what stage we are in?
 19 Q. BY MR. LONDEN: Uh-huh. You mentioned several
 20 California schools. Which ones?
 21 A. I can name the three districts. I'm not sure I
 22 can name the schools.
 23 Q. Okay.
 24 A. Los Angeles Unified School District, Visalia
 25 School District, and Konockti (ph.) District.

1 Q. Is your division involved in -- has it been
 2 involved in preparing any part of any of these joint
 3 plans?
 4 A. Yes.
 5 Q. And one or more of the division offices?
 6 MR. SALVATY: Objection. Vague as to "division
 7 offices."
 8 THE WITNESS: Staff within the division have
 9 been part of the -- have held some responsibility for
 10 this project.
 11 Q. BY MR. LONDEN: Have other divisions of the
 12 Department also been involved in the project?
 13 A. Staff from other divisions and branches have
 14 been involved in the project.
 15 Q. Has one or more joint plans related to the
 16 scholastic audits been disclosed publically?
 17 A. I believe they now are all disclosed
 18 publically. They've all been presented before the local
 19 boards, which puts them as a public document.
 20 Q. These joint plans describe state agency
 21 corrective actions?
 22 MR. SALVATY: Objection. The documents speak
 23 for themselves. Vague as to state agency corrective
 24 action.
 25 Q. BY MR. LONDEN: Is that right?

1 A. They describe corrective actions is a better
 2 way to put it in my mind.
 3 Q. Do you understand that your division could be
 4 involved in any action within that category?
 5 MR. SALVATY: Objection. Vague and ambiguous
 6 as to "could be involved," as to "that action," as to
 7 "within that category."
 8 THE WITNESS: That question I can't answer with
 9 those terms.
 10 Q. BY MR. LONDEN: Who, if anybody, in the state
 11 education agency is going to be doing something, or may
 12 be, according to whether conditions are met or not,
 13 within the category of corrective action described in
 14 any of these joint plans?
 15 MR. SALVATY: Objection. Assumes facts not in
 16 evidence. Vague and ambiguous.
 17 THE WITNESS: The corrective actions summarize
 18 what the district and the school is going to do to
 19 effect improvement.
 20 Q. BY MR. LONDEN: But nothing within the category
 21 of corrective actions is going to be -- is going to
 22 involve action by state education agencies as you
 23 understand it?
 24 MR. SALVATY: Objection. Vague and ambiguous.
 25 Are we talking about going forward, corrective action

1 from this point? Vague and ambiguous.
 2 MS. GIORGI: It's ambiguous as to the term
 3 "action."
 4 THE WITNESS: My understanding, if you were to
 5 sit here and review all of those joint plans, you would
 6 find that all of the content, all of the actions that
 7 need to be taken fall within the responsibility of the
 8 district and the school.
 9 Q. BY MR. LONDEN: What conditions or
 10 circumstances gave rise to the requirement of a joint
 11 plan for these districts?
 12 MR. SALVATY: Objection. Vague as to
 13 "conditions or circumstances." Vague as to gave rise to
 14 joint plans.
 15 THE WITNESS: I can't tell whether you're
 16 asking what prompted the joint plan itself, what
 17 prompted the process, what prompted the selection of the
 18 of the school. I can't tell quite what you're asking.
 19 Q. BY MR. LONDEN: What prompted the selection of
 20 these schools?
 21 A. The schools selected, I believe I mentioned,
 22 were in program improvement for several years. They
 23 failed to make what's called adequate yearly progress
 24 for four years in a row.
 25 Q. Okay. Thanks. The high priority schools grant

1 program is a subject I want to ask a few questions
 2 about.
 3 Is there a limit of the number of schools that
 4 may get money within the schools that are eligible?
 5 MR. SALVATY: Objection. Calls for a legal
 6 conclusion.
 7 THE WITNESS: By definition there's a limit of
 8 schools. The money will run out.
 9 Q. BY MR. LONDEN: But that limit is a
 10 different -- is different from a limit that defines a
 11 number of schools in the cohort, like, for example,
 12 II/USP, and there is a limit on the number of first
 13 decile schools. So I'll ask my question again.
 14 Is there any number of the schools that are in
 15 the first decile that is the maximum number of schools
 16 who will get funding, other than the number of dollars
 17 in the program?
 18 A. No, not other than the number of dollars in the
 19 program.
 20 Q. All right.
 21 (Exhibit SAD 267 was marked.)
 22 Q. BY MR. LONDEN: The document before you, marked
 23 Exhibit 267, has several pages. The first pages
 24 numbered through 6 are entitled high priority schools
 25 grant program, and the last page stapled to it is

1 entitled elements of high priority schools grant
 2 program, immediate intervention/underperforming schools
 3 programs, and the comprehensive school reform
 4 demonstration program, Attachment 1, I guess, to the
 5 first three pages.
 6 Do you recognize this?
 7 A. I do.
 8 Q. What is it?
 9 MR. SALVATY: Objection. Document speaks for
 10 itself.
 11 THE WITNESS: Actually, I would like some
 12 clarification. This looks like what we sent out, but
 13 seems to be missing a cover letter.
 14 MR. LONDEN: Could be my mistake.
 15 THE WITNESS: Before I say exactly what it is,
 16 I have to --
 17 Q. BY MR. LONDEN: I'm going to hand you a copy of
 18 something dated October 26th, 2001, which is two pages.
 19 I didn't have multiple copies made. Probably was a
 20 mistake. Is that the cover letter?
 21 A. That is the cover letter that went with this
 22 document.
 23 MR. LONDEN: Okay. Probably the easiest thing
 24 would be to get copies of the cover letter made at the
 25 break and include it at the first two pages of what we

1 marked as Exhibit 267, if no one has an objection to
 2 that.
 3 MR. SALVATY: No objection.
 4 Q. BY MR. LONDEN: Now I think I was asking, what
 5 is this?
 6 MR. SALVATY: Objection. Document speaks for
 7 itself.
 8 THE WITNESS: It's pretty clear in the cover
 9 letter that it is the information that a school needed
 10 to apply for this program, although it also is missing
 11 Attachment 2.
 12 Q. MR. LONDEN: Sorry.
 13 THE WITNESS: Which is the application page.
 14 Q. BY MR. LONDEN: High priority schools grant
 15 applicants will be required to engage in a planning
 16 process; is that right?
 17 MR. SALVATY: Objection. Calls for a legal
 18 conclusion. Vague as to required by whom.
 19 THE WITNESS: The authorizing legislation,
 20 AB 961, does require schools who apply for this program
 21 to engage in a planning process.
 22 Q. BY MR. LONDEN: And are the guidelines for
 23 preparation of annual plans that have not yet been
 24 released for the upcoming grant applications for II/USP
 25 going to be integrated with guidelines for preparation

1 of high priority schools grants?

2 MR. SALVATY: Objection. Vague as to -- we
3 were talking about upcoming guidelines or upcoming -- as
4 to "upcoming" and also vague as to the term
5 "integrated."

6 THE WITNESS: We have never contemplated
7 combining these two programs vis-a-vis any guidance we
8 give to schools.

9 Q. BY MR. LONDEN: Okay. Other than the document
10 we've marked 267 plus its Attachment 2, has your
11 division distributed any written materials to
12 prospective high priority schools grant participating
13 schools about how they are to apply?

14 A. No, that would be premature since the funding
15 was put on hold by the governor for this year so far.

16 Q. And has there been any decision about whether
17 there will be applications accepted this year for the
18 high priority schools grant program?

19 MR. SALVATY: Objection. Calls for
20 speculation. Lacks foundation.

21 THE WITNESS: That would be -- any such
22 decision would be dependent upon action that the
23 legislature takes in the next week or two vis-a-vis
24 current year reduction or restoration of reductions the
25 governor wanted in November. All of that is being

1 whole area of interventions.

2 Q. BY MR. LONDEN: I just want to make sure that
3 the earlier answers apply to high priority schools grant
4 programs --

5 A. Yes.

6 Q. -- with respect to the -- how far along you are
7 in developing procedures and publishing documents in
8 general.

9 A. My answer is the same for this program.

10 Q. Okay. Are you familiar with the phrase
11 "program quality review" being used in connection with
12 California public schools?

13 MR. SALVATY: Objection. Overbroad. Vague and
14 ambiguous.

15 THE WITNESS: I am.

16 Q. BY MR. LONDEN: Give me a brief summary of what
17 program quality review refers to.

18 MR. SALVATY: Same objections.

19 THE WITNESS: Program quality review is a term
20 from actually now former statute that describes a
21 process that has been in place, but no longer is in
22 terms of a statutory responsibility, so that such
23 schools in the past that received certain categorical
24 funds were required to engage in this process every
25 three or four years, and the statute further gave the

1 discussed right now, so we are on hold.

2 Q. BY MR. LONDEN: And am I right in understanding
3 from your answer so far that there hasn't been any
4 guidelines for the planning process for high priority
5 schools grant programs that have been published or are
6 beyond the preliminary phase, confidential preliminary
7 phase?

8 MR. SALVATY: Objection. Vague as to
9 "guidelines." Vague as to other terms. Vague and
10 ambiguous.

11 THE WITNESS: As I understand your question,
12 the answer is no.

13 Q. BY MR. LONDEN: Is the same true with respect
14 to the preparation of procedures for the review of high
15 priority schools grant program applications?

16 MR. SALVATY: Objection. Vague and ambiguous.

17 THE WITNESS: For the same reasons we've not
18 proceeded to do any of that staff work.

19 Q. BY MR. LONDEN: And likewise with potential
20 intervention modes or methods for high priority schools
21 grant programs?

22 MR. SALVATY: Objection. Vague and ambiguous.
23 Assumes facts not in evidence.

24 THE WITNESS: I think I spoke earlier about the
25 fact that we have not done any work, in essence, in that

1 superintendent the responsibility to develop the
2 criteria and process by which schools engaged in program
3 quality review.

4 Q. BY MR. LONDEN: Is there -- you mentioned that
5 the statute is no longer in effect. Is there any
6 function still in effect continuing from what was done
7 in earlier years under the heading program quality
8 review?

9 MR. SALVATY: Objection. Vague and ambiguous.

10 MS. GIORGI: Also objection as to speculation.

11 THE WITNESS: Are you asking whether schools
12 engage in any of these processes anymore, or whether --
13 when you say "function," does the Department do
14 anything? What were you talking about, which entity?

15 Q. BY MR. LONDEN: Does the Department, California
16 Department of Education continue to implement any
17 functions that were once per -- withdraw.

18 Did the Department at one time implement any
19 program quality review functions?

20 MR. SALVATY: Objection. Vague. Overbroad.
21 Calls for speculation.

22 THE WITNESS: It did.

23 Q. BY MR. LONDEN: That's all I need to know for
24 the time being.

25 Do any of those functions on the part of the

1 California Department of Education continue today?
 2 MR. SALVATY: Objection. Calls for
 3 speculation. Lacks foundation. Vague as to what
 4 functions.
 5 THE WITNESS: Those functions, if they exist,
 6 are outside my division and could be renamed something
 7 else, so it's difficult for me to say that they are or
 8 are not continuing in any form or not for those two
 9 reasons.
 10 Q. BY MR. LONDEN: Can you give me a general
 11 description of what those functions were?
 12 MR. SALVATY: Objection. Calls for
 13 speculation. Lacks foundation. Overbroad. Vague as to
 14 what functions we're talking about.
 15 MS. GIORGI: Also may call for a legal
 16 conclusion.
 17 THE WITNESS: The statute, as I remember, and I
 18 think I just said, calls for the superintendent to
 19 develop the criteria and process, and the Department, in
 20 the past, had published criteria for program quality
 21 review and had tracked completion of those reviews by
 22 schools upon reporting by the district, and provided at
 23 certain times for some training on the process.
 24 Q. BY MR. LONDEN: In any of that there's nothing
 25 that your division does today to implement what was

1 called, in the past, program quality review? Just your
 2 division, I mean. I said department, I meant school
 3 improvement division. Is that true?
 4 A. That is true.
 5 Q. Okay. You're familiar with the term
 6 "comprehensive compliance review"?
 7 A. I'm somewhat familiar with the term. I believe
 8 it might be coordinated compliance review.
 9 Q. Coordinated. Thanks for the help.
 10 A. Okay.
 11 Q. All right. Is there any involvement that your
 12 division has in the coordinated compliance review
 13 process?
 14 MR. SALVATY: Objection. Vague and ambiguous
 15 as to "any involvement." Overbroad. Calls for
 16 speculation.
 17 MR. LONDEN: And I'm referring to the part of
 18 the process that generates coordinated compliance review
 19 reports.
 20 THE WITNESS: No, we have no involvement.
 21 Q. BY MR. LONDEN: I'll try a broad question, see
 22 if you're able to answer it. Is there any overlap
 23 between the II/USP information gathering application
 24 submitting process as you've described it and the
 25 coordinated compliance review process?

1 MR. SALVATY: Objection. Calls for
 2 speculation. Overbroad. Compound.
 3 THE WITNESS: Conceptually and operationally
 4 those are viewed as -- currently as two separate
 5 processes, so the answer is no.
 6 Q. BY MR. LONDEN: And is there any operational
 7 overlap between anything that your division does and
 8 anything that FCMAT does?
 9 MR. SALVATY: Objection. Calls for
 10 speculation. Vague as to "operational overlap."
 11 THE WITNESS: I'm not familiar hardly at all,
 12 other than the term, hardly the term, with what FCMAT
 13 does. I can't answer that.
 14 Q. BY MR. LONDEN: Is there any operational
 15 overlap between what your division does and what WASC
 16 does?
 17 MR. SALVATY: Same objections.
 18 THE WITNESS: No.
 19 Q. BY MR. LONDEN: Is there any exchange of
 20 information obtained between WASC and II/USP?
 21 MR. SALVATY: Objection. Vague. Calls for
 22 speculation.
 23 MR. LONDEN: By your division.
 24 THE WITNESS: I think the answer to that is no.
 25 We have no contact with the accrediting committee or any

1 involvement in the WASC process out of my division.
 2 Q. BY MR. LONDEN: Does any -- does anyone in your
 3 division make systematic use, let's say, of school
 4 accountability report cards as part of carrying out the
 5 functions that your division is responsible for?
 6 MR. SALVATY: Objection. Vague. Calls for
 7 speculation. Vague as to "systematic use."
 8 THE WITNESS: Even with the vagueness of the
 9 term "systematic use," I can't recall an instance in
 10 which we looked at the school accountability report
 11 card.
 12 MR. LONDEN: Okay. Let's take a break and see
 13 what I've got left.
 14 (Exhibit SAD-268 was marked.)
 15 MR. LONDEN: We've copied the first two pages
 16 of the October 26th, 2001 letter, which, with everyone's
 17 agreement, will become the first two pages of Exhibit
 18 267. And with respect to the application which
 19 Ms. Harris referred to as Attachment 2, the website
 20 description discloses that it's not available on-line,
 21 and to the best of my knowledge wasn't produced to us,
 22 so we're going to leave the exhibit without its
 23 Attachment 2.
 24 You've made it clear that there is such an
 25 attachment, and we would consider the document

1 responsive and would like to get it in discovery, but
 2 I'm not trying to pursue that at this moment, which is
 3 to say, I'm not asking for a response to that request
 4 right now.
 5 Q. Comprehensive school reform demonstration
 6 program is, in part at least, a source of money to
 7 schools that are eligible, and the money comes from the
 8 federal government, right?
 9 MR. SALVATY: Objection. Vague and ambiguous.
 10 Compound. Calls for a legal conclusion.
 11 THE WITNESS: Source of money for schools that
 12 are eligible for what?
 13 Q. BY MR. LONDEN: I'm not asking that. Schools
 14 that are eligible, without going into what they are, can
 15 get money from -- what eligibility means, can get money
 16 from the federal government. It's a silly question. I
 17 have more trouble with foundational questions than other
 18 things.
 19 Exhibit SAD-268 appears to be -- is a four-page
 20 document which is a printout of website information
 21 bearing the updated date November 7, 2001, on the last
 22 page, entitled comprehensive school reform
 23 demonstration.
 24 Do you recognize this?
 25 A. Yes. What date did you --

1 Q. I just read off the back, the last page. It
 2 says updated November 7, 2001.
 3 A. Thank you.
 4 Q. And was this prepared by your division?
 5 A. Yes.
 6 Q. What, if any role, does your division have in
 7 deciding whether a school that applies for a CSRSD grant
 8 receives such a grant?
 9 A. My division is responsible for organizing and
 10 completing the review of applicants for this program.
 11 (Exhibit SAD-269 was marked.)
 12 Q. BY MR. LONDEN: I have marked as Exhibit 269 a
 13 document that bears identifying -- identification
 14 numbers PLTF 25329 on the first page sequentially
 15 through 25352. Look at it, please, and tell us whether
 16 you can identify it.
 17 MR. SALVATY: Objection. Vague as to
 18 "identify."
 19 THE WITNESS: This appears to be the scoring
 20 rubric, as it's named, for evaluating applicants for
 21 CSRSD funding.
 22 Q. BY MR. LONDEN: Can you give us a general
 23 description of the process for doing the scoring?
 24 MR. SALVATY: Objection. Lacks foundation.
 25 Calls for speculation. Objection. The document speaks

1 for itself also.
 2 THE WITNESS: At a general level, again, field
 3 reviewers, along with Department staff, would use this
 4 rubric and the criteria in here to, on a competitive
 5 basis, select CSRSD grants. I should say select CSRSD
 6 applications would be the technical term.
 7 Q. BY MR. LONDEN: Now, beginning with the first
 8 set of II/USP grant applications, is it true that an
 9 integrated application was available for schools that
 10 wanted to apply for both II/USP grants and comprehensive
 11 school reform demonstration grants?
 12 MR. SALVATY: Objection. Vague and ambiguous
 13 as to "integrated application."
 14 THE WITNESS: I believe the answer is no.
 15 Could you define the year of first? I mean, could
 16 you --
 17 MR. LONDEN: I meant the first application from
 18 the first cohort of II/USP schools.
 19 THE WITNESS: The answer is no.
 20 Q. BY MR. LONDEN: Was there a later grant cycle
 21 in which the applications for II/USP grants and CSRSD
 22 grants could be made in the same grant application?
 23 MR. SALVATY: Objection. Vague and ambiguous.
 24 Calls for a legal conclusion, I think.
 25 THE WITNESS: Yes.

1 Q. BY MR. LONDEN: Let me ask you about that grant
 2 application process or the process relating to that set
 3 of applications.
 4 And my question is, did every school that
 5 applied for CSRSD funding by way of that combined
 6 application receive such funding?
 7 MR. SALVATY: Objection. Assumes facts not in
 8 evidence. Vague and ambiguous. Calls for speculation.
 9 Lacks foundation.
 10 MR. LONDEN: Let me qualify that. Receive
 11 approval for such funding.
 12 MS. GIORGI: And the "such funding" is the
 13 CSRSD?
 14 MR. LONDEN: CSRSD.
 15 MR. SALVATY: Same objections.
 16 THE WITNESS: I can't answer that. I'm too far
 17 away from that event to remember whether every school
 18 received approval for CSRSD funding.
 19 Q. BY MR. LONDEN: Does the CSRSD program involve
 20 any possible sanctions or interventions by the state?
 21 MR. SALVATY: Objection. Vague and ambiguous.
 22 Compound. Calls for a legal conclusion. Calls for
 23 speculation too.
 24 THE WITNESS: Thus far a school that has been
 25 funded with CSRSD funds is also an II/USP school and is

1 subject to the statutory accountability provisions of
 2 II/USP.
 3 Q. BY MR. LONDEN: And except for things also
 4 applicable to schools that are II/USP and not CSRD, are
 5 there any sanctions or interventions that are possible
 6 as CSRD is currently being implemented?
 7 MR. SALVATY: Objection. Calls for a legal
 8 conclusion and vague and ambiguous.
 9 Could I hear that read back again, please.
 10 MR. LONDEN: I'll try a different wording, see
 11 if it's better.
 12 MR. SALVATY: Okay.
 13 Q. BY MR. LONDEN: I understand that II/USP
 14 authorizes some things by way of sanction and
 15 intervention, and I've asked you about them.
 16 I want to take that out of the question and ask
 17 if there are any other separate interventions or
 18 sanctions that are part of the anticipated process for
 19 CSRD grant recipients?
 20 MR. SALVATY: Objection. Calls for a legal
 21 conclusion. Vague and ambiguous.
 22 THE WITNESS: I think the answer to that is no.
 23 Q. BY MR. LONDEN: Okay. And so you couldn't tell
 24 me any more about the intervention or sanctions that may
 25 be brought into play about CSRD than you could about

1 administration of the II/USP program, right?
 2 A. Administration as technical assistance?
 3 Q. No, I simply meant to refer to the things we've
 4 been talking about with regard to II/USP. Let me be
 5 more specific.
 6 Another form of assistance is information about
 7 how to apply for II/USP funding, is that on the list?
 8 A. That's correct.
 9 Q. And your division participates in processing
 10 those applications which can lead to approval or another
 11 outcome, right?
 12 A. That's correct.
 13 Q. And approval can lead to grant funding, right,
 14 that's on the list?
 15 MR. SALVATY: Objection. Incomplete
 16 hypothetical. Objection. Vague as to what list you're
 17 talking about.
 18 MR. LONDEN: I'll put more words into the
 19 question.
 20 Q. Approval of an II/USP grant application can
 21 lead to funding pursuant to the II/USP program, funding
 22 from the state, right?
 23 A. That's correct.
 24 Q. So that's another thing on the list.
 25 MR. SALVATY: Same objections.

1 II/USP?
 2 MR. SALVATY: Objection. Vague and ambiguous.
 3 MR. LONDEN: As a general matter.
 4 THE WITNESS: That's correct. They're one and
 5 the same.
 6 Q. BY MR. LONDEN: Thank you. Do schools that are
 7 approved for CSRD grants receive any support or
 8 assistance other than the grant funding by virtue of
 9 that approval and received from the state?
 10 MR. SALVATY: Objection. Compound. Calls for
 11 speculation.
 12 THE WITNESS: And at what point of time are you
 13 asking the question of receiving help?
 14 MR. LONDEN: After approval and before
 15 intervention.
 16 MR. SALVATY: Same objections.
 17 THE WITNESS: No.
 18 Q. BY MR. LONDEN: I want to make a list of forms
 19 of assistance that your division makes available or
 20 participates in making available to low-performing
 21 schools or schools with problems, and on that list one
 22 thing is consultations with education program
 23 consultants over the phone or through e-mail, right?
 24 A. Yes.
 25 Q. Another is the -- your division's

1 Q. BY MR. LONDEN: Approval of comprehensive
 2 school reform demonstration applications can lead to
 3 funding under that program, right?
 4 MR. SALVATY: Objection. Incomplete
 5 hypothetical.
 6 Q. BY MR. LONDEN: And that belongs on the list of
 7 things that low-performing schools can get as a result
 8 of something your division is involved in?
 9 MR. SALVATY: Objection. Vague and ambiguous.
 10 Q. BY MR. LONDEN: Is that right?
 11 MR. SALVATY: Vague and ambiguous.
 12 MS. GIORGI: Calls for a legal conclusion.
 13 THE WITNESS: Yes.
 14 Q. BY MR. LONDEN: The high priority schools grant
 15 program is on hold right now, so as of today it's not
 16 yet on the list, right?
 17 MR. SALVATY: Objection. Vague as to what "the
 18 list" is, and I believe it misstates testimony.
 19 THE WITNESS: To the extent that the funding is
 20 on hold, we're not doing anything today, as of today
 21 about that program, and I could hardly see it being
 22 placed on the list if you're doing nothing about it.
 23 Q. BY MR. LONDEN: I'm not trying to throw any
 24 curve balls here. I'm trying to make a list of ways
 25 your division is involved in providing assistance and

1 support to low-performing or problem schools.
 2 You described for us the elementary education
 3 network and the S-4 program. And do you agree with me
 4 that it's fair to put those on the list of ways in which
 5 your office provides support or assistance to
 6 low-performing schools?
 7 MR. SALVATY: Objection. Vague and ambiguous.
 8 THE WITNESS: Yes.
 9 Q. BY MR. LONDEN: Now, can you think of anything
 10 that I've -- that we've left off in compiling the list
 11 of the kinds of support and assistance that your
 12 division participates in providing to problem schools?
 13 MR. SALVATY: Objection as to -- vague and
 14 ambiguous as to "assistance." And I object to the
 15 attempt to summarize an entire day's testimony into a
 16 few little bullet points. We've talked a lot today
 17 about assistance, so I object to that.
 18 MS. GIORGI: The question has been asked and
 19 answered by the context of all of her deposition.
 20 Q. BY MR. LONDEN: Does anything come to mind in
 21 answer to my question?
 22 A. I think we have talked about the broad range of
 23 topics. Nothing is popping into my mind that we have
 24 not talked about that might be on that list.
 25 Q. Thank you. With respect to high achieving

1 improving schools program -- withdraw that question.
 2 Are you familiar with the phrase "high
 3 achieving improving schools program"?
 4 A. No.
 5 Q. Okay.
 6 A. Not by that phrase.
 7 Q. I don't mean to hide any balls. That phrase
 8 is used in the original PSAA Act with respect to schools
 9 based on considerations, including making their growth
 10 targets.
 11 A. Okay.
 12 Q. And the statute refers to an analysis that I
 13 want to describe just to make sure I'm correct in
 14 understanding that your division doesn't do it. I'll
 15 just read a section from that statute.
 16 And my question is going to be, is your
 17 division involved in doing that, in compiling this
 18 information?
 19 MS. GIORGI: Could you tell us what code
 20 section you're reading from?
 21 MR. LONDEN: 52 -- 52056A.
 22 MS. GIORGI: Thank you. And that's Ed Code?
 23 MR. LONDEN: Yeah. And it's longish, but so as
 24 not to edit too much, I'll read.
 25 Q. Commencing in June 2000 and every June

1 thereafter the superintendent of public instruction with
 2 approval of the State Board of Education shall rank all
 3 public schools based on the academic performance index
 4 established pursuant to Section 52052. Stop there.
 5 Does your division participate in doing that?
 6 A. No.
 7 Q. Continuing. The schools shall be ranked in
 8 decile categories by grade level.
 9 I'm going to start a new question.
 10 Commencing in June 2001, the ranking shall
 11 indicate the target annual growth rates of schools, the
 12 actual growth rates attained by the schools and how
 13 growth rates compare schools that have similar
 14 characteristics.
 15 MR. REED: What version of the statute are you
 16 reading?
 17 MR. LONDEN: The original version. I'm just
 18 asking about a function. I'm using that for a
 19 reference, not for anything else.
 20 Q. For purposes of this section, similar
 21 characteristics include, but are not limited to, the
 22 following characteristics insofar as data is available
 23 from the State Department of Education's data: Pupil
 24 mobility; pupil ethnicity; pupil socioeconomic status;
 25 percentage of teachers who are fully credentialed;

1 percentage of teacher who hold emergency credentials;
 2 percentage of pupils who are English language learners;
 3 average class size per grade level; and whether the
 4 schools operate multi-track year-around educational
 5 programs. Ending my reading here.
 6 Has your division been involved in carrying out
 7 any function to implement that language I've just read?
 8 A. No.
 9 Q. Are you aware of any other division of the
 10 Department of Education that has done anything about
 11 implementing that language?
 12 MR. SALVATY: Objection. Vague and ambiguous.
 13 Calls for a legal conclusion. Calls for speculation.
 14 Lacks foundation.
 15 MS. GIORGI: And the question has been asked
 16 and answered already.
 17 THE WITNESS: The staff who create the API are
 18 likely to be the folks who implement that part of the
 19 code section, but it does lie outside my division.
 20 MR. LONDEN: Thank you. That's it.
 21 MR. REED: I have no questions.
 22 MS. CIAS: I don't have any questions.
 23 (The deposition concluded at 5:10 p.m.)
 24 //
 25 //

1 Please be advised that I have read the foregoing
2 deposition. I hereby state there are:
3
4 (check one) _____ NO CORRECTIONS
5 _____ CORRECTIONS ATTACHED
6

7 _____
8 Date Signed
9
10 _____
11 WENDY HARRIS

12 Case Title: Williams vs State
13 Date of Deposition: Friday, January 25, 2002
14 //
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1 REPORTER'S CERTIFICATE

2
3 I certify that the witness in the foregoing
4 deposition,
5 WENDY HARRIS,
6 was by me duly sworn to testify the truth, the whole
7 truth, in the within-entitled cause; that said
8 deposition was taken at the time and place therein
9 named; that the testimony of said witness was reported
10 by me, a duly certified shorthand reporter and a
11 disinterested person, and was thereafter transcribed
12 into typewriting.

13 I further certify that I am not of counsel or
14 attorney for either or any of the parties to said cause,
15 nor in any way interested in the outcome of the cause
16 named in said deposition.

17 IN WITNESS WHEREOF, I have hereunto set my hand
18 this 5th day of February, 2002.

19
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TRACY LEE MOORELAND, CSR 10397
State of California

1 DEPONENT'S CHANGES OR CORRECTIONS

2 Note: If you are adding to your testimony, print the
3 exact words you want to add. If you are deleting from
4 your testimony, print the exact words you want to
5 delete. Specify with "Add" or "Delete" and sign this
6 form.

7 DEPOSITION OF: WENDY HARRIS
8 CASE: WILLIAMS VS STATE
9 DATE OF DEPOSITION: FRIDAY, JANUARY 25, 2002
10 I, _____, have the following
11 corrections to make to my deposition:

8	PAGE	LINE	CHANGE/ADD/DELETE
9			
10	_____	_____	_____
11	_____	_____	_____
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24	_____	_____	_____

25 WENDY HARRIS _____ DATE _____