

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

ELIEZER WILLIAMS, a minor,)
by SWEETIE WILLIAMS, his guardian)
ad litem, et al., each)
individually and on behalf of all)
others similarly situated,)
)
Plaintiffs,)

vs.)

No. 312 236)

STATE OF CALIFORNIA, DELAINE)
EASTIN, STATE SUPERINTENDENT OF)
PUBLIC INSTRUCTION, STATE)
DEPARTMENT OF EDUCATION, STATE)
BOARD OF EDUCATION,)
)
Defendants.)

DEPOSITION OF CAROLINE MINTER-HOBY
Los Angeles, California
Monday, August 4, 2003
Volume

Reported by:
STEVEN M. ORENSTEIN
CSR No. 2321
JOB No. 44189

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Defendants.)

Deposition of CAROLINE
MINTER-HOXB Y, Volume 1, taken on
behalf of Plaintiffs, at
1616 Beverly Boulevard, Los Angeles,
California, beginning at 9:00 a.m.
and ending at 5:00 p.m., on Monday,
August 4, 2003, before Steven M.
Orenstein, Certified Shorthand
Reporter No. 2321.

APPEARANCES:

For Plaintiffs:

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INFORMATION REQUESTED

(None)

Los Angeles, California, Monday, August 4, 2003
9:00 a.m. - 5:00 p.m.

CAROLINE MINTER-HOXB Y,
having been first duly sworn, was examined and
testified as follows:

EXAMINATION

BY MS. LHAMON:

Q I am Catherine Lhamon and I am an attorney
for the plaintiffs in this case.

Could you state and spell your name for the
record.

A It is Caroline Minter-Hoxby, C-a-r-o-l-i-n-e
M-i-n-t-e-r, hyphen, H-o-x-b-y.

Q I know I said I would call you Professor
Hoxby and I started off with Doctor. I will try to do
better.

A It doesn't matter.

Q You have been deposed before today; is that
correct?

A That's correct.

Q How many times?

A Four, I think.

Q Was each of those cases in education related

1 matters?

2 A Yes.

3 Q Could you tell me what cases they were?

4 A The New Hampshire case, which is Claremont
5 versus the State of New Hampshire. I believe it was
6 1996. This is the case that has had several different
7 lives, but it was 1996.

8 There is a case in Texas and I am not sure
9 what the official name of the case is. I could look
10 it up for you. It is David Hobson, I think, versus
11 probably the Dallas Independent School District. It
12 is an unusual case, because the State is an
13 intervenor.

14 Q Do you know when that testimony was?

15 A 2002. Most recently, in Massachusetts,
16 Hancock versus the State of Massachusetts in 2003.

17 Q There is a fourth case?

18 A I think in the fourth case, you probably
19 would not count me as having been deposed, because I
20 did everything in a written way.

21 Q Which case is that?

22 A It is the case that went to the Supreme Court
23 for the State of Ohio. The exact name of the case --
24 I can't remember the name of the plaintiff.

25 Q Do you know the subject matter of the case?

1 for clarification. You will get a transcript at the
2 end of the deposition that you can review and you can
3 make any changes that you would like to the
4 transcript, but you should know that I and the other
5 parties in the case can make an inference that is fair
6 to draw from those changes.

7 Do you understand that?

8 A I understand everything, yes.

9 Q If later in the day, after you have answered
10 a question, you think of something else you'd like to
11 clarify or you'd like to amplify on an answer, please
12 go ahead and let me know and we can go back to that
13 question. I'd like to get your fullest testimony.

14 A I will do that.

15 Q If at any time you need to take a break today
16 and we haven't already offered it, let me know and we
17 can take a break. The only thing I ask is that if
18 there is a question pending, you go ahead and answer
19 the question and then we can take a break.

20 A Yes.

21 Q In the four cases that you listed for me in
22 which you have given either a deposition or the
23 written testimony in the Ohio case, were you an expert
24 in each of those four cases?

25 A Yes.

1 A It is the school voucher case that went to
2 the State of Ohio.

3 Q When was your written material on that case?

4 A Either 1999 or 2000. Probably in both years.

5 Q I know that you are a veteran of depositions,
6 but would you like me to go over the rules of a
7 deposition?

8 A Of course.

9 Q You have probably talked about it with your
10 counsel, but the goal of a deposition is to get your
11 full answers to my questions. I don't want you to
12 guess, but if you have an estimate, I'd like to hear
13 that. It is best if we try not to talk over each
14 other, so I will try very hard to let you finish your
15 answer before I ask my next question and if you could
16 wait for me to finish my questions, that will make it
17 easier for the court reporter.

18 It is best to give yes or no answers rather
19 than nods of the head or shakes of the head, because
20 the court reporter can't write that down. If you
21 don't understand anything that I ask you, please tell
22 me.

23 If you answer a question, any other people
24 reading the transcript will assume that you did
25 understand it. If you don't understand something, ask

1 Q Taking the New Hampshire case first. On
2 whose behalf were you testifying?

3 A In that case, I was an expert for the State.

4 Q For the Texas case?

5 A I am an expert for the plaintiffs.

6 Q And the plaintiffs were not the State,
7 because the State was an intervenor?

8 A No. The case is set up in the following way:
9 The plaintiffs are taxpayers and they are suing their
10 own school district and their own school districts in
11 some cases agree with the plaintiffs and in some cases
12 do not.

13 Q You have to love litigation.

14 On what basis are they suing the school
15 district?

16 A That the current system of school finance in
17 Texas violates the set of standards set up by the
18 Supreme Court.

19 Q And then the Massachusetts case, on whose
20 behalf are you an expert?

21 A The State.

22 Q What did this case concern?

23 A The Hancock case is mostly concerned with
24 school finance. The system of school finance in the
25 State of Massachusetts, but it also has some

1 provisions about the State's accountability program.
 2 Q And then the Ohio case, on whose behalf?
 3 A The State.
 4 Q Thank you.
 5 Have you reviewed your expert report in
 6 preparation for today's deposition?
 7 A Yes.
 8 Q Do you have anything you would want to change
 9 in the expert report?
 10 A There are several typos to which I could draw
 11 your attention. The most important one -- most of
 12 them, I do not think change the nature of the
 13 sentence. On Page 26, however, the word "not" is
 14 missing from the fourth sentence. The sentence should
 15 read, "Centralizing a state does not equalize
 16 achievement," because that changes the meaning of the
 17 sentence. It is an important typo.
 18 Q Actually I assumed that is what you meant,
 19 but thank you.
 20 Was there anything else you wanted to change?
 21 A I could draw your attention to several other
 22 typos. Most of them are less important.
 23 Q You are welcome to if you like. If it
 24 doesn't matter to you, it doesn't matter to me.
 25 A I don't think so. Oh, yes, on Page 14, there

1 is a formula which is missing a little part of the
 2 formula.
 3 What it should be is three percent equals
 4 would be minus 97 percent equals and then the rest of
 5 the formula. There is one minus 97 percent. The rest
 6 of the formula is equal to 97 percent, if that
 7 clarifies that.
 8 There is a typo on the next page, as well.
 9 On Page 15, the number 80 percent is in the
 10 10th line and it should read 83.3 percent.
 11 I think that is it.
 12 Q Thank you. I appreciate that.
 13 Does the report fully state the opinions you
 14 intend to offer as an expert in trial?
 15 MS. DAVIS: At this time?
 16 THE WITNESS: At this time, yes. It states
 17 what I had to offer at the time that I wrote the
 18 report.
 19 BY MS. LHAMON:
 20 Q Your view hasn't changed since you wrote the
 21 report?
 22 A My views haven't changed, but there certainly
 23 will be more data available.
 24 Q Do you anticipate additional data?
 25 A Not at this time, but I suppose I could.

1 Q Having reviewed the expert report, separate
 2 from the changes that you just told me about, is there
 3 anything that you would now state differently?
 4 A No.
 5 Q Is this report, the report that you
 6 submitted, equivalent to a report you would submit for
 7 a paper or a journal?
 8 A Yes.
 9 Q I'd like to show you a document that I will
 10 mark as Exhibit 1.
 11 (Plaintiffs' Exhibit 1 was marked
 12 for identification by the court reporter.)
 13 BY MS. LHAMON:
 14 Q Would you take a look at that document,
 15 please, and let me know if you recognize it.
 16 A Yes, it is a C.V.
 17 Q Is there anything substantive that needs to
 18 be added to this C.V. to make it current?
 19 A Yes. I suppose this C.V. is about a year old
 20 or perhaps more than a year old. As a result, there
 21 are several publications that I have published since
 22 this C.V. was created and are not listed here. I
 23 could get you a list of those, but I cannot do it off
 24 the top of my head accurately.
 25 I could tell you, for instance, that the

1 first publication listed here is no longer
 2 forthcoming. It came forth and there are a number of
 3 other publications since then. Some of the papers
 4 that are listed here as unpublished papers are now
 5 published papers. In fact, most of them.
 6 So, I can tell you that --
 7 Let me go down the list of the unpublished.
 8 Start with the book in progress. That book is no
 9 longer in progress. It was published in 2002. The
 10 unpublished papers, the first one is still
 11 unpublished. The second one is published. The third
 12 one is published. The fourth one is published.
 13 The fifth one is forthcoming in a journal.
 14 That means it has been accepted for publication. It
 15 just hasn't actually been printed yet. The fifth one
 16 is still unpublished. The sixth one is published.
 17 The seventh and eighth ones are still unpublished and
 18 the remainder are actually going into a book that I am
 19 working on right now.
 20 Q That is the last three?
 21 A Yes.
 22 Q What is the title of that book?
 23 A There is a preliminary title of Competitive
 24 New World Changes in the Market for College Education.
 25 Q Is your plan to edit that book with other

1 people's publications or entirely going to be --

2 A Entirely going to be my book.

3 Q Do you have a more up-to-date C.V. that has
4 the completed publications listed?

5 A Yes, on my Web site. There is a copy of an
6 up-to-date C.V. and I believe it is up to date as of
7 the middle of this summer.

8 Q Until we have that to work with, we will work
9 with Exhibit 1.

10 In the meantime, is there anything else that
11 is subject to being changed?

12 A No, there is nothing else that should be
13 changed.

14 Q I appreciate that.

15 Do you know if the C.V. that is on your Web
16 site has the full list of your publications or would I
17 still need a separate listing of some of the new
18 publications?

19 A It would certainly have everything that I had
20 published as of May or maybe early June and I update
21 it every three months or so. So, there are a couple
22 of things that would have changed data. In general,
23 the list of papers themselves is not changed as much
24 as my changes of something from forthcoming to
25 published.

1 Q Are you a member of any organizations that
2 are not listed on your C.V.?

3 A The American Economics Association, the
4 National Tax Association. I think that is probably
5 it.

6 Q Thank you.

7 Do you make or participate in making any
8 funding decisions for any organizations?

9 MS. DAVIS: Vague and ambiguous.

10 THE WITNESS: It actually would be helpful if
11 you could clarify that question.

12 BY MS. LHAMON:

13 Q Sure. Let me show you another exhibit to
14 help clarify that.

15 (Plaintiffs' Exhibit 2 was marked
16 for identification by the court reporter.)

17 BY MS. LHAMON:

18 Q Do you recognize Exhibit 2?

19 A Yes.

20 Q What is it?

21 A It is the expert report that I prepared on
22 April 16, 2003.

23 Q Thank you.

24 If you will turn to Page 2 on Exhibit 2.

25 A Right.

1 Q The third line down there is a sentence that
2 begins, "Very little of the evidence they cite..." and
3 refers to funding by organizations that use strong
4 peer review systems.

5 A Right.

6 Q My question is whether you participate in
7 making funding decisions for any such organizations?

8 A No, I don't. Typically organizations that
9 fund research use peer review to make decisions about
10 the quality of the research proposal, but people like
11 me who provide them with peer review do not make
12 funding decisions.

13 In fact, we are not in on that stage of the
14 proceedings at all. Often I have no idea whether a
15 project has been funded. I know what rating it got in
16 terms of quality, but it is still the organization's
17 decision to make funding decisions and that is not
18 done when we are present.

19 Q Thank you.

20 Could you tell me the list of organizations
21 and journals for which you provide peer reviews?

22 A I provide peer review for the National
23 Science Foundation, the National Institute of Health
24 and Child Development, which is known as NICHD, the
25 National Institute of Health, NIH, the United States

1 Department of Education and a variety of foundations.

2 Let me list the ones that I can recall.

3 The Spencer Foundation, which funds research
4 on education; the Russell Sage Foundation; the Ford
5 Foundation. There are others that I am probably not
6 remembering all of them.

7 In addition, I review for many journals. The
8 American Economic Review, the Quarterly Journal of
9 Economics, the Journal of Labor Economics, the Journal
10 of Human Resources; the Economics of Education Review;
11 the Industrial and Labor Relations Review; the Journal
12 of Public Economics; the European Economic Review, the
13 Journal of the National Tax Association -- I am sorry.
14 That is called the National Tax Journal; the Journal
15 of Economic Literature and others.

16 I do review for others, but there are
17 literally hundreds of journals for which I will
18 provide a very occasional review. Those are the ones
19 for which I would routinely provide.

20 I am sorry. The Review of Economics and
21 Statistics.

22 In addition, I occasionally provide reviews
23 for law journals at the Harvard Law Review and for
24 education journals that are purely educational, like
25 the Harvard Educational Review.

1 Q You said that you occasionally provide
2 reviews for them. How often have you provided reviews
3 for the Harvard Law Review?

4 A Three times.

5 Q Is that approximate?

6 A That is approximate.

7 Q Approximately how often have you provided a
8 review for the Harvard Education Review?

9 A Three or four times, too. Those are less
10 formal review processes, so there is less of a formal
11 report and therefore it is probably less memorable for
12 me.

13 Q When you say it is a less formal process,
14 what do you mean by that?

15 A Sometimes reviews are done on the telephone
16 and I am less likely to receive, for instance, a copy
17 of the editor's letter to the authors, a copy of the
18 other reviewer's comments. Sometimes there are no
19 other reviewers. They are less formal than the review
20 process for an economics journal, which is typically
21 highly formalized where there are multiple reviewers
22 and where you would see all of the other reviewers'
23 comments as well and often you would see all of the
24 stages of the process and the paper.

25 Q Thank you.

1 Q Very nice.

2 That is the book that we talked about that
3 has the final three papers in the unpublished list?

4 A Yes.

5 Q Have you completed the draft of the book?

6 A No.

7 Q You will return to teaching at Harvard in the
8 fall?

9 A Yes.

10 Q Are you looking forward to that?

11 A Yes.

12 Q What courses have you taught since becoming a
13 professor?

14 A I teach a course called The Economics of
15 Education. I teach an undergraduate course called
16 Public Sector Economics. I teach an undergraduate
17 course called Econometrics. I teach a graduate course
18 called Public Economics and I teach a graduate course
19 called Labor Economics.

20 In addition, I teach some research seminars,
21 one of which is called Research in Micro Economics.
22 One of which is called Research in Labor Economics and
23 another one of which is called Research in Public
24 Economics. Research seminars are sometimes for
25 graduate students and sometimes for Harvard seniors

1 Turning to the articles that you have
2 published to date. Do you still subscribe to the
3 views in those articles?

4 A Yes.

5 Q You were on leave from Harvard during the
6 2003, 2004 quarter?

7 A That's right.

8 Q Were you affiliated or employed by another
9 organization or university during that time?

10 A No. I had a year-long fellowship from the
11 Andrew Mellon Foundation and I was a visiting fellow
12 at Yale University. However, that does not change who
13 pays me and it does not change any affiliation in a
14 professional sense. I was in a visiting professor
15 status. I did not teach classes.

16 Q What did your visiting fellowship entail at
17 Yale?

18 A Being present.

19 Q Did you have to do anything else?

20 A Yes, I am writing a book. When writing a
21 book, the fellowship that I have from the Mellon
22 Foundation is specifically to do certain research and
23 write a book on higher education. I was doing that at
24 Yale, but I had no responsibilities or duties toward
25 Yale.

1 who are writing theses.

2 Q The first course, Economics of Education, was
3 that undergraduate or graduate course?

4 A Advanced undergraduate course that some
5 graduate students take for credit.

6 Q That is a full list of all the courses you
7 have taught since becoming a professor?

8 A Yes.

9 Q How did you first hear about the Williams
10 case?

11 A I was contacted by an attorney named Paul
12 Salvaty.

13 Q Do you know when that was?

14 A In December of 2002.

15 Q Is that by telephone or in person?

16 A By telephone.

17 Q What did Paul say?

18 A He gave me a very brief description of the
19 case and said that I could learn more about it if I
20 were to look on the Web site and read Jeannie Oakes'
21 synthesis of the plaintiff expert reports.

22 Q Did you do that?

23 A Yes.

24 Q Did you look at anything else on the Web
25 site?

1 A I looked at some of the other plaintiff
2 expert reports and I looked at some of the overall
3 introductory material.

4 Q Which is what?

5 A I think things that you see when you go to
6 the Web page in the first place. Those things have
7 changed since December of 2002, however.

8 Q But, I assume you went to and then clicked on
9 the Web site and looked at those pages?

10 A I looked at what was basically there, yes.

11 Q What else did Paul say in that conversation?

12 A Not a great deal. He said that if I read the
13 synthesis report by Jeannie Oakes, I would have a
14 pretty clear sense of what the plaintiffs' expert's
15 case was about.

16 Q Did he tell you why he was asking you to look
17 at that?

18 A He said that he wondered whether I would be
19 interested in helping the State formulate its case.
20 That is basically all he said.

21 Q Did you say that you would be interested?

22 A At the time in my first conversation with
23 him, no, because I didn't know what the case was
24 about.

25 Q Did he tell you what it is or which part of

1 different school finance formulas.

2 Q That is a complete list?

3 A No, it probably is not a complete list;
4 however, those are the things that spring to mind.

5 Q What was Paul's reaction when you listed
6 those and perhaps others as to possible areas of
7 expertise?

8 A He said he thought it would be useful for me
9 to prepare a report for him.

10 Q What was your next contact with him?

11 A I think I had ongoing, although not terribly
12 frequent, contacts mainly with Paul Salvaty in
13 February and March and April, so repeated contact, but
14 not frequent.

15 Q And they were all by telephone?

16 A Yes.

17 Q They were to check in on the progress of the
18 report?

19 A Yes. Sometimes Paul Salvaty would call me
20 and say that plaintiffs' experts have filed something
21 new or we have noticed something in the plaintiffs'
22 expert report that we think you should look at.

23 Q What kind of things were those?

24 A Anything in the plaintiffs' expert's reports
25 that he thought were germane to the report I was in

1 the State's case he might like for you to be helpful
2 on?

3 A No, not in preliminary conversation.

4 Q Did you talk to Paul again after that
5 conversation?

6 A Yes.

7 Q When is that?

8 A In January 2003, I would think.

9 Q Have you had any conversations with anyone
10 about this case between that call in December of 2002
11 and the next conversation you recall?

12 A No.

13 Q Did Paul call you in January 2003?

14 A Yes.

15 Q What did he say then?

16 A He asked me whether I thought I could be
17 helpful in any way to the State and if I thought I
18 could, in what area and we had a brief conversation in
19 which I told him what areas I thought I might have
20 something or I might have an expert opinion that would
21 be helpful.

22 Q What were those areas?

23 A Particularly state and local control,
24 centralization of school finance and control of
25 inputs. Accountability in general and the impact of

1 the process of writing.

2 Q Can you think of anything specifically?

3 A Yes. He drew my attention to Jeannie Oakes'
4 report on textbooks and he drew my attention to the
5 report on facilities and he drew my attention to the
6 Linda Darling Hammond's report on teachers.

7 Q Those had already been on the Web site?

8 A Yes, they had been on the Web site.

9 Q Anything new -- you said periodically there
10 would be something new the plaintiffs would file.

11 A It may not have been new to the case. It
12 would have been new to me.

13 Q Fair enough.

14 Can you think of anything else other than the
15 facilities report, the report on textbooks and the
16 report on teachers?

17 A I did try to look through all of the reports
18 and I read the synthesis report by Jeannie Oakes very
19 carefully.

20 Q Did you ever participate in any meetings with
21 any of the other experts for the State?

22 A I participated in one conference call in
23 which Paul Salvaty was on the telephone and Margaret
24 Raymond was on the telephone, Eric Hanushak was on the
25 telephone and Herbert Walberg was on the telephone.

1 Q When was that?

2 A Sometime in January of 2003, I believe, but I
3 am not sure of the exact date. I would say probably
4 the first or second week in January.

5 Q What was the purpose of that conference call?

6 A I suppose that the purpose of the conference
7 call was to coordinate our reports in the sense that
8 Paul Salvaty wanted each one of us to outline for the
9 others what we thought we would have in our expert
10 report so that people would be aware of possible
11 duplication of topics.

12 Q Did you each do that?

13 A Yes, very briefly. It was not a long call.

14 Q Have you sent anything to the other
15 participants in the call?

16 A No.

17 Q Has anybody sent anything to you?

18 A No.

19 Q What did you say that you would describe in
20 the report?

21 A I think I described --

22 In fact, I know all of the people reasonably
23 well, so it was a short call in part because I think
24 they know the areas in which I would consider myself
25 to be an expert. I said I would be talking about

1 Q How about Herb Walberg? What did he say he
2 would write about?

3 A I believe he said he was going to be mainly
4 writing about school accountability and good school
5 accountability systems. That is his area of
6 expertise.

7 Q Did you all discuss your views about the
8 plaintiffs' case?

9 A No, not really.

10 Q Did you all discuss timing for the expert
11 reports?

12 A I believe at the time, Paul Salvaty had a
13 deadline for us that was toward the end of February.
14 I believe that deadline later was changed, but I think
15 that was the deadline that was discussed at that time.

16 Q Did Paul tell you anything else on that call?

17 A Not that I can recall.

18 Q Were there ever any other conference calls
19 with other experts in the case?

20 A No.

21 Q Did you ever talk to any of the other
22 participants on that call about this case?

23 A No.

24 Q Did you ever talk to any of the other experts
25 that are working for the State on this case?

1 school finance and state versus local control and
2 centralization, mainly.

3 Q What did Margaret Raymond say she would talk
4 about?

5 A She said one of the things that she was going
6 to do was carefully review the plaintiffs' expert's
7 reports. I remember that. She may have also said
8 other things, but that was what I remember
9 particularly.

10 Q Is that consistent with what you thought she
11 would write about in this case?

12 A Yes.

13 Q What did Eric Hanushak say he would write
14 about?

15 A I think Eric Hanushak is particularly
16 interested in high quality studies of the effective
17 inputs on student achievement and that he was going to
18 be providing critical analysis of evidence on that.
19 That is his area of expertise.

20 Q So, you weren't surprised that that is what
21 he would write about?

22 A No, not at all.

23 Q Did he mention anything else he might write
24 about?

25 A He probably did and I just don't recall.

1 A No.

2 Q Do you know the experts?

3 A I know their names. In many cases, I don't
4 know them.

5 Q You haven't met them in connection with this
6 case?

7 A No.

8 Q Have you been contacted by anyone from the
9 California School District about this case?

10 A No.

11 Q Are you presently involved in any other
12 litigation?

13 A In any other litigation as an expert?

14 Q As an expert, separate from what you have
15 described from the previous depositions.

16 A No. Perhaps I should revise that. The
17 Hancock case in Massachusetts has a case that is
18 related to it and I am not an attorney, so I don't
19 quite understand the relationship between the two
20 cases. They are tied together in some sense and are
21 being heard by the same judge, but on a different
22 schedule. I believe they have some relationship, so
23 some of my expert reports are being used for that
24 other case, but I have not written separate expert
25 reports for that other case. It is just that there

1 are these two parallel cases going through that court
2 system in Massachusetts.

3 Q No other litigation that you haven't already
4 told me about, that you are involved in?

5 A No.

6 Q You have already told me that you told Paul
7 Salvaty some topics that you might discuss as an
8 expert. Were you asked to discuss anything in
9 particular as an expert for the State, for this case?

10 A No.

11 Q You were never asked to examine anything
12 related to equal education opportunities in
13 California?

14 MS. DAVIS: Vague and ambiguous.

15 THE WITNESS: I think equal educational
16 opportunity is inherently part and parcel of studying
17 school finance and issues like centralization. The
18 main reason we study centralization is to think about
19 issues like educational opportunities and its
20 distribution.

21 BY MS. LHAMON:

22 Q What other issues do you also think about
23 when studying school finance and centralization?

24 A Overall performance of children. Efficient
25 use of state and local revenues and how supportable

1 with which school reserves are used in school
2 districts. That would include issues like how
3 centralization affects parental involvement, how
4 centralization affects local politics and things like
5 that.

6 Q Thank you.

7 Is every word in your expert report your own?

8 A Yes.

9 Q No lawyer wrote the report?

10 A No, certainly not.

11 Q Anyone else that wrote any part of the report
12 for you?

13 A No.

14 Q Are there any portions of your expert report
15 which is Exhibit 2, that appear in sum or substance in
16 your other writings?

17 A No. Well, there are some figures that do
18 appear in published writings. In those cases, they
19 have a citation to the published writing, I believe,
20 but none of the text does so. Only some figures and I
21 could tell you which ones if you'd like me to.

22 Q Yes.

23 A The figure on Page 12, which is entitled
24 Shares of Explained Variation in 12-Graders' Math
25 Scores. That also appears in a published paper called

1 the system will be in the long run. We are interested
2 in not only the immediate impact on the school finance
3 system, but also what will its impact be in 10 years.
4 Therefore, we are interested in how sustainable a
5 formula will be.

6 Q Could you walk me through how issues of equal
7 educational opportunity are a part of studies of
8 school finance?

9 A Right.

10 Most studies of school finance start with the
11 premise that the states have an interest in attempting
12 to equalize educational opportunities for students in
13 their state and that the goal of economists or other
14 people who try to devise or understand the
15 implications of school finance systems is to
16 understand how that goal can be achieved efficiently
17 and in a sustainable way.

18 So, it is with the understanding of quality
19 educational opportunity that is perhaps the motivating
20 force behind studies.

21 Q Is the same true of studies of
22 centralization?

23 A There are two issues that come up. One of
24 them is quality of educational opportunity and the
25 other one is how centralization affects the efficiency

1 If Families Matter Most, Where Do Schools Come In.

2 I believe that published paper is on my C.V.

3 If not, I can give you more publication details.

4 The two figures on Page 13, Shares of
5 Explained Variation in 33-Year-Olds' Educational
6 Attainment and Shares of Explained Variation in
7 33-Year-Olds' Incomes also appear in that chapter,
8 which is published in the book.

9 Those are the only two figures or
10 illustrations in this report that appear anywhere
11 else.

12 Q Okay. Thank you.

13 Paul Salvaty, did he give you some
14 suggestions about changes to your expert report?

15 A Yes.

16 Q What suggestions did he give you?

17 A They were mainly suggestions about how to
18 clarify --

19 Well, he drew my attention to certain
20 sentences that he thought were either unclear, perhaps
21 ambiguous in some way or that he drew my attention to
22 certain lack of sentences.

23 So, for instance, I might have a figure and I
24 thought I had explained it sufficiently to be clear to
25 readers and he might have said to me, "I think a few

1 additional sentences to explain this terminology or
2 what this means or how to interpret this figure or
3 this table might be helpful."

4 So, it was mainly things like that.

5 He also drew my attention to typographical
6 errors.

7 Q But, there was nothing substantive that he
8 wanted you to change?

9 A No, not really. It was really just drawing
10 my attention to sentences that he thought were unclear
11 or not sufficiently explanatory.

12 Q On how many occasions did he give you
13 suggestions like that?

14 A I think it was probably multiple telephone
15 calls, but on one draft. I think it was more that we
16 had a telephone call. One of the two of us had to end
17 the telephone call and we picked up the conversation
18 in another telephone call. There were not additional
19 rounds of interaction.

20 Q Did he later send those suggestions in
21 writing?

22 A No. As far as I can recall, it was telephone
23 based.

24 Q I just want to show you another exhibit and
25 then I have a few questions about it.

1 about certain data sources," and that was what I was
2 drawing up my memo about sources that I believe was
3 later sent to the plaintiffs.

4 Q You did that on March 27, 2003?

5 A I started drawing up that memo, yes. I
6 started making notes about where data sources had come
7 from. Some of those, I suppose might have made it
8 into this April 16 report, but most of my information
9 in the data sources, in fact, probably did show up in
10 that later memo.

11 Q Is there a reason that you didn't include it
12 in the report in April?

13 A I think it was probably the deadline was
14 pressing and it was important to get the report done.

15 Q I just want to check with you and make sure
16 your memory is correct, because we received that memo
17 well after March 27th.

18 A Oh, yes, right.

19 Q If you wrote it on March 27th, 2003, and we
20 just received it later, that is good to know. I just
21 want to check and make sure.

22 MS. DAVIS: I believe she said she started it
23 in March, but go ahead.

24 THE WITNESS: That is correct. A memo like
25 that actually takes a long time to prepare. So, I

1 (Plaintiffs' Exhibit 3 was marked
2 for identification by the court reporter.)

3 BY MS. LHAMON:

4 Q Do you recognize what we have marked as
5 Exhibit 3?

6 A Yes.

7 Q What is that?

8 A It is an invoice for January through March
9 2003 from me to the office of the attorney general.

10 Q Thank you.

11 At the bottom of the invoice on the date
12 3/27/03, you have a marker for time spent revising the
13 report in line with T. Salvaty's written comments.

14 Do you see that?

15 A Yes. Those, I think, were not comments on
16 the text or the figures in the report. I think rather
17 those were comments on my writing source information
18 that, in fact, I would later amplify in a memo to you.
19 So, I suppose I was thinking of that more as being the
20 memo about sources.

21 Q When you say that, being the memo about
22 sources, you mean Paul Salvaty's memo being the memo
23 about sources?

24 A My memo about sources. He sent me a note
25 saying, "I think you should provide more information

1 began writing notes for myself in March, but it took
2 me a long time to prepare this. I think mainly in May
3 or June and in particular, because my understanding of
4 what was wanted in that memo increased over time, it
5 depends on, I guess, the level at which someone wishes
6 to look at the sources.

7 It is some sources which are public
8 information and are readily available that would have
9 seemed more obvious to me and I would not have thought
10 about writing a memo on them. It turned out that a
11 memo was wanted on absolutely everything.

12 BY MS. LHAMON:

13 Q I am very careful.

14 MS. DAVIS: All your fault.

15 BY MS. LHAMON:

16 Q I am just wondering if you started writing
17 this report in March and turned over the report in
18 April, why those details that you started writing in
19 March didn't appear in the report or in what you
20 turned over?

21 A I think it was purely an oversight.

22 Q Thank you.

23 Still looking at Exhibit 3, have you prepared
24 a later invoice for time spent on this case since
25 March 2003?

1 A Yes.
 2 Q Have you given that to the State?
 3 A Yes.
 4 Q Do you recall how much the invoice was for?
 5 A Let me think. I believe it was for
 6 approximately 30 hours, most of which were spent
 7 preparing this memo and also preparing the actual CDF
 8 data and documentation.
 9 Q Does that invoice cover your time up until
 10 today?
 11 A Up until yesterday and today, yes.
 12 Q Have you just given that invoice to the
 13 State?
 14 A I gave it to the State at the end of the
 15 fiscal year, which I believe ended on June 30th.
 16 Q Then I'd appreciate seeing a copy of that.
 17 MS. DAVIS: I don't recall seeing a copy. I
 18 will see if I can track that down.
 19 BY MS. LHAMON:
 20 Q That reminds me, also, we sent a letter
 21 asking to have you bring the list of the restricted
 22 use. Did you also bring a copy of the LSY restricted
 23 use license?
 24 A I didn't. I could get one for you. It is
 25 also posted -- all of these are posted on the Web.

1 They are generic. They contain no individual
 2 information. They do not contain, for instance,
 3 provisions that are specific to me as the researcher
 4 and do not apply to other people.
 5 Q The copy that you brought is not a copy that
 6 is actually yours? You just printed it off the Web?
 7 There is nothing different about yours?
 8 A Nothing different about mine.
 9 Q We will add that later. I can make copies of
 10 all of this. Thank you for making it, I appreciate
 11 it.
 12 In your view --
 13 Actually, let me stop. Would you like to
 14 take a break? We have been going for about an hour.
 15 MS. DAVIS: It is up to you.
 16 THE WITNESS: I suppose actually not. Let's
 17 keep going.
 18 BY MS. LHAMON:
 19 Q In your view, what are the necessary
 20 qualifications for an expert?
 21 A I think an expert needs to be serious about
 22 doing good research about education and needs to base
 23 his or her opinions on evidence. We have standards as
 24 well that I typically do apply to evidence and the use
 25 in interpretation of evidence.

1 Q You started by saying that the expert needs
 2 to be serious about doing good research on education.
 3 Are you referring specifically to experts in the area
 4 of education or any experts?
 5 A To experts who would want to give testimony
 6 on a case having to do with school finance.
 7 Q My question is a bit broader. I am
 8 wondering, in any case, what do you think of the
 9 necessary qualifications for an expert?
 10 MS. DAVIS: Vague and ambiguous and calls for
 11 speculation.
 12 THE WITNESS: I just don't know how to answer
 13 that question. I know what I would consider to be
 14 expertise in the areas in which I am working, but many
 15 cases would concern areas in which I don't work.
 16 BY MS. LHAMON:
 17 Q When Paul Salvaty called you and talked to
 18 you about working for the State on this case, you
 19 identified some areas in which you might be an expert.
 20 I am wondering, based on your understanding of
 21 expertise, how do you determine what one might be an
 22 expert in?
 23 A I think I am an expert in areas in which I
 24 have done independent research and in which I have a
 25 record of producing evidence which is regarded or well

1 regarded by my peers.
 2 Q That standard, in your view, does that obtain
 3 to anyone else who would want to be an expert?
 4 MS. DAVIS: Vague and ambiguous and calls for
 5 speculation.
 6 THE WITNESS: I believe that there are
 7 multiple different ways of getting evidence. I do
 8 think that all evidence on which an expert bases his
 9 or her opinion should be scientific in its nature and
 10 should be able to withstand criticism of a high
 11 quality.
 12 BY MS. LHAMON:
 13 Q What is the basis for that belief?
 14 A The underlying basis for the belief is the
 15 knowledge that evidence that is produced and that does
 16 not meet that standard is often misleading and can
 17 produce very bad policy.
 18 Q You know that because of what?
 19 MS. DAVIS: Vague and ambiguous.
 20 THE WITNESS: Part of what I do when I do
 21 research is look at previous research that has been
 22 done, how it has guided policy and then whether policy
 23 has had the intended effect. Often we find that
 24 evidence that does not meet a high standard of quality
 25 produces policies that do not have the effect

1 intended.

2 BY MS. LHAMON:

3 Q Okay.

4 That is some of the materials you discussed
5 in your expert report; is that right?

6 A Yes.

7 Q Is it your view that an expert should have
8 published in a relevant field?

9 MS. DAVIS: Vague and ambiguous and calls for
10 speculation.

11 THE WITNESS: No, not necessarily. I think
12 that you could judge the quality of someone's
13 evidence. Looking at the actual evidence and
14 publication, in and of itself, is not necessarily a
15 mark of quality. There are many publications that
16 have very low standards of quality, so having
17 published them is not particularly useful.

18 There are even good publications that
19 occasionally publish bad papers. So, publication in
20 and of itself is not a mark of quality. It is
21 helpful, but it is only one of the things you should
22 consider. The best way to make a decision is actually
23 to read the evidence itself and make a decision based
24 on the evidence.

25 I believe that some evidence that is not

1 school performance.

2 Q Do you think that practical experience in
3 another area is important for being an expert in
4 education?

5 MS. DAVIS: Vague and ambiguous. Calls for
6 speculation.

7 THE WITNESS: The most practical experience
8 we have is actually working with evidence. Some of
9 that work would necessitate visiting schools,
10 interacting with people who work at schools, but our
11 practical work, what we do in practice, most
12 researchers on education, is to practice the gathering
13 of evidence and the presentation of evidence and
14 allowing it to be criticized by others and revising it
15 accordingly.

16 BY MS. LHAMON:

17 Q I have assumed that your experience as a
18 professor and thus as a teacher had also formed your
19 expertise in this case? If that is not correct, I am
20 interested to know that.

21 A Yes, I think a professor, as being a teacher,
22 is the same experience as being a teacher. However, I
23 would say that the students whom I teach are not
24 representative of students in general in the United
25 States and therefore help me in a limited way to

1 published anywhere could be very high quality
2 evidence. You just have to look at it more carefully
3 in that case, because you know that has not been
4 reviewed by others.

5 BY MS. LHAMON:

6 Q So, I take it from the last answer, then,
7 that you believe research in the relevant field is
8 necessary for expertise?

9 MS. DAVIS: Vague and ambiguous.

10 THE WITNESS: Yes. Research in education, I
11 think, is necessary to be an expert in education, yes.

12 BY MS. LHAMON:

13 Q Practical experience in relevant fields
14 necessary for expertise?

15 MS. DAVIS: Same objection.

16 THE WITNESS: I don't know what practical
17 experience in your mind would consist of.

18 If you ask about specific practical
19 experience, I could answer your questions.

20 BY MS. LHAMON:

21 Q Tell me what you think of as practical
22 experience.

23 A For instance, I do not think it is necessary
24 to actually have been a high school teacher or high
25 school principal to have expert opinions about high

1 understand elementary and secondary schools in the
2 United States in a very limited way.

3 Q How are your students not representative?

4 A Students who attend Harvard are
5 disproportionately likely to have had very high, high
6 school achievement.

7 Q Okay.

8 Do you believe that training in relevant
9 fields is necessary for expertise?

10 MS. DAVIS: Vague and ambiguous and calls for
11 speculation.

12 THE WITNESS: I believe that training, for
13 instance, statistics and econometrics are useful for
14 doing any sort of work in education which is
15 quantitative. I believe that having coursework or
16 training in public economics absolutely is essential
17 to doing any work on school finance, which is a highly
18 technical field. I believe that good training in
19 empirical applied work is necessary for doing policy
20 analysis.

21 However, some of that training can be
22 received at a variety of different places, public
23 policy schools, Ph.D. programs and economics or
24 government or sociology or EDD programs in education.
25 The same people often train across departments.

1 For instance, I train students at the Harvard
2 Graduate School of Education where I am an affiliated
3 faculty member.

4 BY MS. LHAMON:

5 Q Are you an expert in school desegregation?

6 A No.

7 Q Are you an expert in educational testing?

8 MS. DAVIS: Vague and ambiguous.

9 THE WITNESS: There are two or at least two
10 and probably more types of expertise in educational
11 testing. One is the interpretation of test scores and
12 the other is the construction of tests. I have
13 expertise in the interpretation of test scores, but
14 not in the construction of tests.

15 BY MS. LHAMON:

16 Q Thank you.

17 Are you an expert in state accountability
18 systems?

19 A Yes.

20 Q What is the basis for that expertise?

21 A The basis for the expertise is having studied
22 state accountability systems.

23 Q What have you studied?

24 A All 50 states, both the cost of implementing
25 their accountability systems and some of the benefits

1 really the area is of tremendous interest.

2 Q You said that you had studied both the cost
3 of implementing accountability systems and also some
4 benefits; is that correct?

5 A Yes.

6 Q When you say you studied the cost, do you
7 mean the actual dollar cost to a state?

8 A Yes.

9 Q Do you mean anything else by cost of
10 implementing?

11 A Well, I think we are interested in some of
12 the non-tangible costs. For instance, we are
13 interested in how accountability systems affect the
14 housing market in a state and how they affect the
15 incentives that schools have to spend their time in
16 various ways. I suppose these would be described as
17 costs only in a very general or broad sense.

18 Q When you are talking about the incentives
19 that schools have, what do you mean by that?

20 A A typical accountability system provides
21 schools in the district with both implicit and
22 explicit incentives.

23 By implicit incentives, I mean an
24 accountability system might publish a school's
25 academic performance in a newspaper, regardless of

1 of the implementation of accountability systems.

2 In addition, in my capacity as the director
3 of economics of the education program for the National
4 Bureau of Economic Research, I have reviewed,
5 criticized and in many cases made decisions about the
6 working papers or publication status of every article
7 on accountability that has been published by
8 economists in these years. I think I am very aware of
9 not only the evidence I myself have produced, but the
10 evidence produced by others.

11 Q Are you very aware of the evidence produced
12 by others who are not economists?

13 A Yes, because most of the conferences that I
14 attend for which I read papers or discuss papers,
15 criticize papers are conferences that cross
16 disciplinary boundaries. Typically conferences would
17 be dominated by people who are not economists.
18 Economists would be the minority or I might be the
19 only economist.

20 There are many more economists who do
21 education now.

22 Q That is largely a testament to your work,
23 isn't it?

24 A No, I don't think so. I think it is a
25 testament to the interest in education. I think it is

1 whether there are any rewards or sanctions based on
2 that academic performance index. The school might
3 feel impelled to attempt to improve that simply
4 because it has been publicized. That is what I would
5 describe as implicit.

6 An explicit is one which the state or other
7 organization rewards the schools that have better
8 academic performance and sanction those that do not.
9 Most states do not have strong explicit incentives.
10 Most of them are mainly implicit incentives.

11 Q So, when you say that you have studied the
12 cost of implementing accountability systems in the
13 sense of examining the incentives that schools have,
14 you mean by that, that you have looked at whether the
15 systems have implicit or explicit incentives; is that
16 correct?

17 A Yes, and how schools have responded to these
18 incentives.

19 Q When you say that you have studied some of
20 the benefits of accountability systems, what do you
21 mean by that?

22 A Well, most accountability systems have the
23 intention of improving student achievement. Typically
24 an accountability system like that of California has a
25 disproportionate focus on improving the performance of

1 students who are initially low achieving or below the
2 State's target level of achievement. Therefore, I and
3 others are interested in whether accountability
4 systems actually appear to produce the effects that
5 they are intending to achieve in the long run.

6 This is quite a difficult thing to do in the
7 short term, because children do not improve overnight
8 in their achievement. It is perfectly normal to see a
9 policy that will eventually be a very useful policy
10 have very little effect in the first few years simply
11 because children improve slowly and you often need to
12 wait several years before you are able to evaluate a
13 policy.

14 For instance, right now, it is easiest to
15 evaluate state accountability systems that were
16 implemented in the early 1990s and very, very
17 difficult to assess the performance of any
18 accountability system that was implemented in the late
19 1990s, simply because we just do not have enough years
20 of data in most cases.

21 Q Have you written any papers talking about
22 this benefit of state accountability systems?

23 A Yes. I have a very short published paper. I
24 am trying to remember its title.

25 I don't recall its title. It is posted on my

1 California has been phased in. In fact, a system
2 full-blown version of an accountability system often
3 takes three, four years to be put in place. Some
4 states, it has taken as long as eight years to have a
5 full-blown version in place.

6 Q Going back to the list of the area of
7 expertise for you. Are you an expert in equal
8 educational opportunity?

9 MS. DAVIS: Vague and ambiguous.

10 THE WITNESS: I regard equal education
11 opportunity as being a subset of finance. Yes, I am.
12 I am an expert in the trying to understand systems
13 that would create equal education opportunity.

14 BY MS. LHAMON:

15 Q Are you an expert in school management?

16 MS. DAVIS: Vague and ambiguous.

17 THE WITNESS: People like me who do research
18 on incentives that schools face and how schools
19 respond to them are naturally attempting to create
20 evidence about how schools are managed. There is a
21 second set of experts who teach in management schools
22 or principals. I do not teach management. I do
23 gather evidence on the facts of incentives and
24 constraint on the managers.

25 BY MS. LHAMON:

1 Web page, however, and I believe that its title is
2 approximately, Did States With Accountability Systems
3 Improve Performance Faster In The 1990s. Something
4 along those lines, but that is not its exact title.

5 Q We can come back to it when we have your
6 up-to-date C.V.

7 You said it is easier to evaluate an
8 accountability system that was implemented in the
9 early '90s. Which accountability studies are those?

10 A Systems like Texas, Connecticut, Tennessee,
11 Kentucky. Those are the most striking examples. Then
12 there are some that were implemented in the mid 1990s.
13 The '90s was a decade in which many accountability
14 systems were put in place.

15 Q Which state accountability systems are
16 included in the mid '90s?

17 A I don't have an exact list of them. I would
18 really need to look at my own work and make sure that
19 I was not skipping states. Some of the states would
20 be Michigan, Arizona, Illinois, Indiana,
21 Massachusetts, South Carolina, Florida. Florida is
22 mid to late.

23 I don't know that you'd want to say early,
24 mid, late. You'd really want to look at the year they
25 implemented. Most of them are phased in, just as

1 Q You mentioned people like me who do research
2 about the incentives schools face. Who else are you
3 thinking of?

4 A Many people, actually. I could give you a
5 long list. Bryan Jacobs, who is at our Kennedy School
6 of Government has done work on incentives. Eric
7 Hanushak we mentioned earlier has done a lot of work
8 on incentives in schools. I could give you a very
9 long list. I am not sure that would be helpful.

10 Almost anyone who does research on the
11 effects of incentives, on what happens in schools
12 could be described as someone who knows about schools,
13 the evidence on school management. But, it would just
14 be a list of almost everyone who works in the area and
15 does serious research. They may know more or less.
16 Not all of them know an equal amount.

17 Q I appreciate it is not an exhaustive list.
18 I'd be interested to hear it.

19 A I'd say Joshua Angrist at the Massachusetts
20 Institute of Technology. Henry Levin, who is at
21 Columbia Teachers College. You know, there are just
22 way too many people for me to mention. They are not
23 all equal by any means. I don't want to give you a
24 longer list, because I think I cannot be sufficiently
25 inclusive to be fair to people. I would need some

1 time to assemble a long list.

2 Q Okay. We have four days, so if you think
3 about it and have more people you'd like to add, let
4 me know.

5 A Okay.

6 Q Are you an expert in state education policy?

7 A Yes.

8 Q When did you acquire that expertise?

9 A It is the result of having done a lot of
10 research on the effects of state education policy and
11 what policies states have implemented.

12 Q By that, do you mean which accountability
13 states have implemented or something else?

14 A No, states implement a variety of policies on
15 education and they include accountability, school
16 finance. The state system of both distributing aid
17 and also the requirements that make up logical
18 districts and how they distribute revenue.

19 States also have policies regarding special
20 education, disabled education, bilingual or
21 English-learner education. States usually have
22 policies regarding student transportation. All of
23 these are areas in which an expert should be aware of
24 what the typical range of state policies are and
25 whether notable state policies have had effects.

1 a school choice plan that would be very accessible to
2 children who have disabilities.

3 Q What did you say in that report on the
4 reauthorization of the IDEA?

5 A I commented on a program in Florida called
6 the McKay Scholarships Program, which is a program of
7 giving scholarships to students who are disabled and
8 those scholarships allow them to attend other public
9 schools in the state that might have a disability
10 program that is a better match for them than their
11 local district. It also allows them to attend private
12 schools, since the private schools offer a special
13 disability program that matches their disability.

14 I commented on the feasibility of
15 implementing such similar types of programs in other
16 states. States have, at least some program that
17 allows disabled students to attend schools outside
18 their district or schools that might be private
19 schools. Few states have a policy that is as
20 widespread and fully implemented as Florida, so this
21 is a serious issue for the reauthorization of IDEA.

22 We are largely concerned with trying to
23 figure out what is the right amount of money to go
24 into each child's scholarship.

25 Q How did that relate to school choice?

1 Q Have you researched all of those areas?

2 A I have not published on all those areas,
3 because not all of them are equally interesting to
4 policy makers right now.

5 Q What do you mean by that?

6 A Student transportation, for instance, is
7 certainly something on which most states need to have
8 a policy. It is not considered an exciting or
9 interesting area of policy at this point in time.
10 Most states are not thinking of changing their
11 policies, for instance.

12 On the other hand, I think it would be unwise
13 to not know what the normal state policy was on
14 transportation. So, many times we do research on
15 something and we don't publish an article on it, but
16 it is just background information we need to know.

17 Q So, you have already told me that you have
18 written about accountability systems and I know that
19 you have written a lot about school finance. Have you
20 written about special education?

21 A I have produced a report for the committee --
22 the President's Select Committee on the IDEA, which is
23 special education. In that sense, I have done some
24 research on special education. Mainly as it interacts
25 with the issue of school choice. How would you create

1 A A disabled child being able to choose a
2 school out of his or her district or go to a private
3 school. It is a form of school choice.

4 Q I should ask you, what do you mean by school
5 choice?

6 A School choice is an extremely broad term.
7 That can be referred to -- it really encompasses any
8 type of choice that parents would make over schools.
9 That would include children being able to choose
10 another school within their own district. It includes
11 some forms of decentralized schools. For instance, in
12 Chicago and Manhattan, states have implemented
13 decentralized control of some schools so parents have
14 more involvement.

15 School choice also includes charter schools,
16 open enrollment programs, which are children being
17 able to choose to attend a school outside their
18 district. It can include, although in practice, it
19 rarely does include, programs like school vouchers.

20 Q Have you written also about the area of
21 bilingual education?

22 A Yes.

23 Q What have you written?

24 A A paper called -- this is going to be an
25 approximate title, I am afraid. The Effects of the

1 Ban on Bilingual Education in the State of California.
2 This is an approximate title. It is also available on
3 my Web site.

4 Q Thank you.

5 What did you conclude in that paper?

6 A We were rather surprised by the evidence in
7 that paper, because many people had believed that the
8 ban on bilingual education would have had a larger
9 impact on children who were limited English
10 proficient. Although people disagreed strongly about
11 the direction of the impact, some people thought it
12 would improve their performance in the long run and
13 some people thought it would make their performance
14 worse banning bilingual education.

15 Also, people felt there might be small
16 effects on nonlimited English proficiency. In other
17 words, native English speakers. In the paper, we were
18 somewhat surprised to find that the effects of the ban
19 on bilingual education appeared to be insignificant on
20 students of limited English proficiency.

21 I would say this is not because there were no
22 effects on them, but because probably good and bad
23 effects are somewhat offsetting and the effects on
24 students who were native English speakers appeared to
25 be positive, which again, surprised us. It was

1 In addition to that, we have some data that
2 was directly given to us by certain school districts;
3 San Diego and Los Angeles, I recall we have
4 particularly used. We also have data on how teachers
5 were reassigned after the ban on bilingual education.

6 So, it is a variety of different data from
7 the California Department of Education.

8 Q Did you do any examination of what tools the
9 studies have access to before and after the ban on
10 bilingual education in California?

11 MS. DAVIS: Vague and ambiguous.

12 THE WITNESS: I don't know what you mean by
13 tools.

14 BY MS. LHAMON:

15 Q The teachers, the students have access to.
16 The instructional materials the students have access
17 to.

18 A We know what teachers they have access to
19 before and after and whether the teachers are
20 certified in bilingual education. Using not
21 California data, but some other data on schools and
22 staffing surveys.

23 We also knew for some teachers whether or not
24 they would have had classes in bilingual education
25 even though that wasn't the area they were certified

1 different than what most people had expected. That is
2 what we found.

3 We looked first after the first year, the
4 second year and the third year and we are currently in
5 the process of addressing evidence on the fourth year
6 of performance after the ban on bilingual education.
7 So, somewhat different than what we had expected, but
8 sometimes that happens.

9 Q What did you use to examine what the effects
10 were on populations?

11 A Well, we used a lot of data from the
12 California Department of Education. The California
13 records for each school and each grade, how many
14 students are limited English proficient or limited
15 proficient in each language and whether they have been
16 assigned to bilingual education, English as a second
17 language, some form of treatment and after the ban, of
18 course, they would be assigned to English immersion.

19 Then we also looked at performance -- we were
20 using the California Star data and we particularly
21 focused on the Stanford 9 scores really only for
22 practical reasons, because if you go back before the
23 ban on bilingual education, it was the only test that
24 was being given to every child in the State of
25 California.

1 in.

2 We also used from the schools and staffing
3 survey something about the types of curriculum that
4 they would have been using in the classrooms. But,
5 no, we did not specifically study, for instance, the
6 particular textbooks that were used before and after.

7 Q Why is that?

8 A Because I think that is part of the nature of
9 changing from bilingual education to, say English
10 immersion, that you will naturally have some changes
11 in instructional materials and also the focus of the
12 classroom per the expectation.

13 Q Did you specifically look at the training
14 that the teachers had before and after the ban or
15 their certification the teachers had before and after
16 the ban?

17 A Yes.

18 Q Why did you look at that?

19 A We were interested in whether teachers who
20 were certified in bilingual education were still
21 teaching students who were limited English proficient,
22 who would now be in an English learner classroom and
23 whether they were teaching other students who might
24 need remedial help, but were not limited English
25 proficient. We did look to see whether they had been

1 reassigned.

2 In many cases, teachers with bilingual
3 certification or teachers that had been teaching
4 bilingual classes are now assigned to classes that
5 contain a lot of students with limited English
6 proficiency, even though they are now English
7 immersion classrooms.

8 Technically we were also particularly limited
9 to teachers with bilingual certification, because they
10 tend to be better educated. They are usually more
11 recent graduates. They often have more total credits
12 and more total education.

13 Q Thank you.

14 When we started this line of questioning, you
15 were telling me areas of state education policy that
16 you have researched and I believe you have listed, and
17 I apologize if I leave anything out, accountability,
18 school finance, special education and bilingual
19 education.

20 Are there any other areas that you have also
21 studied of state education policy?

22 A I suppose you could put down school choice
23 and class size. I guess you would describe it as
24 teacher qualifications or the effect of teachers.

25 In general, I have done research on the

1 I have also done research on questions like,
2 when states have decided that their teachers can do
3 collective bargaining, how do we see teacher salaries
4 change and how do we see changes in who becomes a
5 teacher in the state. Again, that is a state
6 education policy.

7 It is also possible to do studies on things
8 like what happens when a state raises its requirements
9 for teacher certification. Those studies, I do not
10 think are very productive area of research; therefore,
11 I have not published myself on it. However, I am very
12 aware of studies done on it.

13 Q So, I want to ask you more about that, but
14 just to make sure I have my complete list of areas of
15 state policy that you have researched with respect to
16 education, you just added school choice. My initial
17 list was accountability, school finance, special
18 education and bilingual education.

19 Is there anything --

20 MS. DAVIS: And transportation.

21 BY MS. LHAMON:

22 Q I think you said you had not researched
23 transportation. Was that correct?

24 A I think one thing that I wish to be clear
25 about is in many cases, I have done research on

1 market for teachers and that actually covers quite a
2 number of things. It includes teachers unionization
3 and the effect of teachers going to colleges, the
4 effect of teachers having different college courses.

5 In addition, I have done, with a graduate
6 student, some work on teacher effects, which are the
7 systematic effects that a teacher has on a student.
8 This is not an effect of a credential, but the effect
9 of a particular teacher.

10 Q Just to be clear, the teacher qualifications
11 research that you have done, is that research about
12 state education policy with respect to teacher
13 qualifications?

14 A Yes, although it is not so in the most
15 straightforward way. Yes, I would say.

16 Q Explain it to me, then.

17 A For instance, one of the things that I have
18 done research on is what is the effect of states
19 allowing their charter schools to often have different
20 thresholds for teacher qualifications than regular
21 public schools. So, that is a state policy. It
22 affects the types of teachers who teach in charter
23 schools. We are interested in and I have done
24 research on what we end up seeing in teacher
25 qualifications in charter schools as a result.

1 something and not published on it. That is because it
2 is not --

3 There are two reasons to publish something.
4 One is that there is evidence that exists and the
5 other is someone wants to know about it. In some
6 cases, there is evidence that exists, but the evidence
7 that you have may be evidence that you feel does not
8 particularly change what is out there, so you don't
9 publish evidence.

10 You may feel that there is no productive way
11 to add to the evidence, even though you may feel that
12 the evidence that exists is poor in quality. If you
13 cannot produce better evidence yourself, there is no
14 reason to add to a body of evidence poor in quality.

15 Thirdly, there is not anyone interested.
16 That does not mean you don't have to do research on
17 it. I think most people who do research do research
18 on a variety of things they need to know background
19 information on and indirectly might affect what they
20 write in other areas.

21 Q That is why I am asking you for a list,
22 because I won't otherwise know what you have
23 researched. Should I give you the list again?

24 A No, I think you have given it.

25 The only other area that I will bring up

1 specifically or two more, actually now that I look at
2 it. One is about peer effects. Peer effects are how
3 students affect one another in a classroom. I have
4 also done research on districting. How districts have
5 changed and also how the structure of a district in an
6 area affects students. I did a lot of research on
7 higher education that I do not think is germane.

8 MS. DAVIS: Is this a good time to take a
9 break?

10 MS. LHAMON: Absolutely.

11 (Recess.)

12 BY MS. LHAMON:

13 Q Professor Hoxby, you know the same rules we
14 discussed still apply. Actually, I forgot to ask you
15 this morning if there is any reason you can't give
16 your best testimony today?

17 A No, there is not.

18 Q Before we took the break, we were talking
19 about the list of areas of research you have done in
20 state policy with respect to schools. I'd love for
21 you to talk to me about your research in school
22 choice.

23 A As I believe I said earlier, school choice is
24 a very broad topic and I have done research on --
25 perhaps I will tell you what I have not done research

1 on first, because it is the most well-known area of
2 research.

3 What I have not done research on is what
4 happens to students who use vouchers in a voucher
5 program, such as the voucher program in Cleveland or
6 the voucher program in New York City or Washington,
7 D.C. or Milwaukee. I have not done research on that.

8 What I have principally focused on is what
9 happens when a school choice program is in place, to
10 the students who remain in regular public schools.
11 So, not the students who actually use the choice
12 program, per se, but the students who remain in
13 regular public schools.

14 I have mainly focused on the effects on them
15 and I have looked at a variety of different school
16 choice programs in that general area. I have looked
17 at what is called TIEBOUT choice, named for Charles
18 Tiebout, who is actually at UCLA. The TIEBOUT choice
19 is the normal traditional form of school choice in the
20 United States that parents make when they choose a
21 residence and by choosing the residence, they choose
22 essentially where their kids are going to go to
23 school. This is just a normal part of American life.
24 I have done research on that form of school choice.

25 I have done research on charter schools. I

1 have done research on open enrollment programs. Those
2 are the programs in which people can send their
3 children to other school districts in which they live.
4 I have done research on the impact of voucher
5 programs, but not on the children who use the
6 vouchers, but on the children who remain in the public
7 schools.

8 I have done research on not just the effects
9 of school choice on students' performance, but also on
10 some other related things, like what happens to
11 teachers in the labor market where there is a school
12 choice.

13 I have looked at the interaction between
14 school choice and teachers unionization. I have
15 looked at the interaction between school choice and
16 the treatment of students with disabilities and the
17 interaction between school choice and the school
18 finance which is a very important area of interaction.

19 In particular, when school choice of any type
20 is in place, that includes even the very traditional
21 form by which you choose a school by choosing where to
22 live, there are implications of how school finance
23 works.

24 To give a very simple example, in most
25 states, if I choose to live in one school district

1 versus another, my choice will have an impact on
2 property values, which will usually have an impact on
3 how that district receives aid from the State.

4 So, you really have to understand both of
5 these things together in a typical state to understand
6 the impact of school choice. It is one of the most
7 poorly understood areas.

8 Another is what to do with disabled children
9 and that is an area I am very interested in.

10 Q Why have you principally focused on what
11 happens to students who remain in regular public
12 schools when a school choice system is in place?

13 A Because I don't think that we should judge
14 the success or failure of a school choice program
15 based on what happens to children who take advantage
16 of the program in the most obvious sense by actually
17 using or making a choice actively.

18 My assumption and also the evidence suggests
19 that if you actually take advantage of the program,
20 you probably like the program. After all, you could
21 decide not to take advantage of it and just return to
22 your public school. I am not terribly worried about
23 people who take advantage of the program. I figure it
24 is at least as good as they would otherwise have.

25 Therefore, I think our principal hope for

1 school choice and our principal concern is what would
2 happen in the school to students who do not take
3 advantage of the program in an obvious way.

4 For instance, we might think that they would
5 be better off because their school would have an
6 incentive to try to keep students from leaving and
7 might therefore pay more attention to students or pay
8 attention to parents.

9 We might think that they would be potentially
10 worse off because they are losing some group of peers
11 who are taking advantage of the program. Whether that
12 group of peers is a good group of peers, something
13 called cream skimming or a bad group of peers who
14 might be leaving -- it doesn't have a name, but also a
15 concern. We need to pay attention to that.

16 In addition, in some states, when a child
17 takes advantage of a school choice program, the
18 children who are in the school that remain in the
19 regular public school actually have more money on a
20 per-pupil basis. That is pretty standard, basically.

21 On the other hand, you might worry that the
22 school district often has less money in total. Even
23 though it might have more money per pupil, we have to
24 figure out what type of impact that would have.

25 Finally, I think we are concerned about how

1 concerned, is redistributed in the state, so they have
2 a per-pupil-type share. They are also given money
3 from the general budget in the State of California.

4 So, they are not affected by local property values
5 particularly.

6 So, no, California is not an example of that.
7 California is unusual in that way.

8 Q Do you think it is still important to
9 research school choice in California?

10 A Yes. It is just that it does not have the
11 same implication for school finance that it has in
12 some other states. It makes it actually easier to do
13 research in California and not harder.

14 Q Why is it so important to research in
15 California?

16 A Well, I think it is important everywhere. In
17 California, the only real policy action on school
18 choice has been in the charter schools. There are
19 some magnet schools, as well in California. Whether
20 or not you want to call that school choice, there is
21 an issue for discussion.

22 But, California, it is obviously the most
23 important state in the United States. It is the
24 largest. It tends to be on the front tier of policy
25 in many ways. It often is out in front of the other

1 school choice would affect how teachers choose to work
2 in different schools. It is not obvious at all that
3 school choice programs work the same way. I think
4 they do not.

5 One of the things we are trying to learn
6 about is by altering the parameters of the school
7 choice program, do we end up with different effects on
8 the kids. I think they are a primary concern. They
9 are certainly 98 percent of the kids are the ones that
10 remain behind. You really need to pay attention to
11 what is happening to them.

12 Q When you say interaction between school
13 choice and school finance is especially important,
14 because in most states, I believe you said when
15 families leave, that affects the property value and
16 that affects the money that a school has?

17 A Right.

18 Q Is that true in California?

19 A Well, no. With the exception of a very few
20 districts in California, because California has a
21 system in which most districts -- again, there are
22 some who are special category. The hold harmless
23 category.

24 Most districts are in a system where all of
25 the property tax revenue, as far as they are

1 states in terms of what it is doing on the policy
2 frontier, so we are always interested in what is
3 happening in California.

4 In addition to the fact that it is such a
5 diverse state suggests that California will often
6 produce a more extreme version of whatever the outcome
7 would be in a state that is less diverse.

8 Q Do you support increased school choice in
9 California?

10 MS. DAVIS: Vague and ambiguous.

11 THE WITNESS: I don't recall support
12 positions one way or the other. I am an evidence
13 person, so I don't have policy positions.

14 BY MS. LHAMON:

15 Q Thank you.

16 Can you describe for me the research you have
17 done on class size with respect to state policy?

18 A There are two papers that I have that bear
19 somewhat on class size. Mainly one. I will say by
20 way of background that the main problem with doing
21 research on class size is that class size is generally
22 not randomly assigned to children and therefore there
23 are two reasons why we see class size vary,
24 principally.

25 First of all, more affluent parents in many

1 states choose to have smaller class sizes for their
2 children. Now, that is not true in all states, but
3 that is true in many states.

4 In addition, it is also true that within the
5 district, you will often see students who are more in
6 need of remedial education being assigned to small
7 classes. Sometimes very small classes. These two
8 basic facts cause an extraordinary problem in doing
9 research on class size, because most of the variation
10 we see in class size is not at all like randomly
11 assigning or experimentally assigning a child to a
12 different class size.

13 Saying if we put Johnny and Jenny in a
14 smaller class, would they do better or worse. The
15 reason they are in a smaller class is that Johnny or
16 Jennie were having a problem or they have affluent
17 parents and therefore they got into a small class.

18 As a result, most of the new and recent class
19 size researchers either focus on what they call policy
20 experiments where the area has done an experiment to
21 reduce class size in some schools and not in others or
22 is based on natural experiments and natural
23 experiments occur sort of by accident.

24 Classes are smaller in some schools than in
25 others. It should be the case that the accident is

1 For instance, if I had a class size maximum
2 of 22 and I had 44 students who enrolled in one year,
3 then I'd split them into two groups of 22. But, if I
4 had 45 students who enrolled, then all of the sudden,
5 I'd have to split them into three classes each of 15.

6 Class size is very different between two
7 years and we can take advantage of those little
8 experiments if you have enough data and you have a lot
9 of experiments. That is the sort of research I have
10 done on the State of Connecticut. I think it is
11 probably the most cited natural experiment study on
12 class size.

13 Q As I heard in that description, that sounded
14 like the study was about cost of benefits of class
15 size and I didn't hear its relationship to state
16 policy.

17 A Well, the reason that we do research on class
18 size is that states are considering class size
19 reduction. As you know, many states have either done
20 class size reduction policies or considered it. Most
21 class size reduction policies are done with the
22 intention of improving student performance.

23 So, it is very important to try to figure out
24 what is the causal effect of class size performance,
25 because states are thinking of investing billions of

1 something that is not correlated with something else
2 happening. For instance, it couldn't be that the area
3 got a lot richer. It ought to be something that
4 appears to be something accidental.

5 So, I have done research, these two types of
6 research on the policy experiments and the natural
7 experiments are complimentary to one another. They
8 both have problems and they both have merits.

9 My principal research is what one would
10 describe as natural experiment approach or the
11 accidental experimental approach, using all the data
12 from the State of Connecticut from about 20 years. It
13 takes advantage of the fact that school class size
14 will fall for two reasons in the State of Connecticut.

15 One is if the school has unusually small
16 enrollment for a year, they will end up with small
17 classes. Think of kindergarteners showing up in
18 kindergarten and one year there are 50 children that
19 get divided into two classes, 25 apiece, and the next
20 year, there are 39 and they get divided into a class
21 of 20 and 19. You can use that sort of variation as
22 accidental.

23 If you do it good enough, you can use only
24 the accidental part to figure out what the class size
25 is. You will see big variations in class size.

1 dollars in these policies and if the effect on student
2 performance is small or negligible, that would not
3 necessarily be the best place for a state to spend its
4 money.

5 That is not to say that if you had infinite
6 amounts of money, you might not spend it. You ought
7 to know what the effect on student performance would
8 be, because there are a variety of policies you might
9 be able to institute. You might be able to lengthen
10 the school day or school time. You want to know what
11 is the effect of class size, what the effect of all
12 these different things is just so you choose policies
13 wisely.

14 Q I appreciate that last explanation and that
15 sounds like why a state would want to know about the
16 effect of class size.

17 Have you specifically researched state
18 policies regarding class size?

19 A In the course of doing research on bilingual
20 education in California, we had to deal with the fact
21 that California had done a class size reduction. Not
22 at exactly the same time as the ban on bilingual
23 education, but essentially the year before.
24 Therefore, we did actually have to do quite a bit of
25 evidence finding on the effects of class size

1 reduction in California just in order to get the
2 estimates on bilingual education. That is a common
3 sort of problem. You have to learn about the effects
4 of both policies.

5 There is also, as I am sure you know, a lot
6 of other research on class size reduction by several
7 other authors, as well.

8 Q I'd like to turn to the research you have
9 done about teacher qualifications. You listed for me
10 three principal areas, I believe. One is the effect
11 of the state allowing charter schools to have
12 different requirements for teacher quality and another
13 is the effect of state's decisions to do collective
14 bargaining for teachers and the third was the effect
15 of states raising requirements for teacher
16 certification; is that correct?

17 A That's right.

18 Q Do you know if, in California, the state
19 allows charter schools to have different requirements
20 for teacher quality?

21 A I believe that charter schools --

22 Well, I don't know. I know what the laws
23 say. I don't know entirely about the practice. My
24 understanding is that charter schools do not have
25 exactly the same requirements, because they are or at

1 teachers' salaries by about 12 percent. It depends
2 upon the state.

3 Collective bargaining does not appear to have
4 had much of an effect on student performance one way
5 or the other. Mainly it had an effect on teacher
6 salaries and teacher benefits.

7 Q How would you go about reaching that
8 conclusion?

9 A Again, this is an area where there is an
10 obstacle to doing good research. That is that
11 collective bargaining is not randomly assigned to
12 schools. It just doesn't come along and say you get
13 collective bargaining and you don't. We see the
14 schools that do it are much more likely to be urban
15 schools. They are likely to be bigger school
16 districts and in addition, the political composition
17 of the area often affects whether there is collective
18 bargaining.

19 Just as an example, almost every school in
20 New York has collective bargaining, including small
21 schools in New York City were some of the first
22 schools to have collective bargaining in the United
23 States. It is not an accident that if you look at
24 schools in Mississippi or South Carolina, they are
25 much less likely to have collective bargaining. You

1 least were initially exempted from collective or local
2 collective bargaining agreements. So, that would
3 create a difference right there.

4 In addition, they are not required to have
5 the same percentage of teachers be certified teachers.
6 That is my understanding of the system.

7 I also know that laws are not always enforced
8 consistently in the regular public schools, so the
9 differences between the two systems may be less than
10 it would appear to be.

11 Q And the basis for your understanding is
12 having reviewed the laws in California?

13 A Yes.

14 Q Have you examined whether California has
15 allowed collective bargaining for its teachers?

16 A Yes, California has allowed collective
17 bargaining for its teachers for many years.

18 Q Have you examined the effects of that
19 decision?

20 A Yes, because I have examined the effects of
21 collective bargaining in every state, yes.

22 Q What is your view about the effects of that
23 decision?

24 A Most collective bargaining in the United
25 States appears to have had the effect of raising the

1 cannot look at the difference between teacher salaries
2 in New York and Mississippi and say that is due to
3 collective bargaining. That is nonsensical.

4 So, you can't just compare across schools
5 that have it and schools that don't and assume that
6 all the differences between those two cases are due to
7 collective bargaining. It is very important to look
8 at the same school before and after collective
9 bargaining and see what the changes are. It helps
10 very much to look at schools that change their
11 collective bargaining status when the state changes
12 its laws about collective bargaining, so that is what
13 I did.

14 In my study, I look at what happens when a
15 state allows schools to do collective bargaining. As
16 you may know, the collective bargaining for public
17 school teachers was illegal in every state in about
18 1960 and states only made it legal over a period of
19 time, some states starting in the late '60s and
20 gradually unfolding over the course of the 1970s and
21 1980s. States have changed various provisions about
22 what you could do with your teacher organizations.

23 What I did was I looked at schools that
24 changed to doing collective bargaining right around
25 the time that their law changed. That is a good set

1 of schools to look at, because usually the conditions
2 for doing collective bargaining were there in the
3 school before the law changed. They just waited until
4 the law changed and started to do collective
5 bargaining. It is a good group to examine. You are
6 not just looking at the effect of being more urban
7 district.

8 What I did was I looked at before and after.
9 Schools that implemented the collective bargaining
10 right around the time of their law change and that is
11 where I came to the conclusion that teacher salaries
12 went up by a substantial amount, about 12 percent, and
13 also teacher benefits usually go up by about the same
14 percentage. So, the total compensation package went
15 up about 10 percent, too.

16 School spending also was affected, but that
17 is what you would expect, because you can't pay more
18 teacher salary without having bigger school budgets.

19 Q You said, I believe, that is nonsensical to
20 assume the differences in teacher salaries in, for
21 example, Mississippi or New York are a result of
22 collective bargaining.

23 A Only due to collective bargaining. It might
24 be one of many, many factors. There are so many
25 things that are different between Manhattan and rural

1 There are many things that are different
2 between these two areas, so almost any sort of naive
3 comparison across the school districts with widely
4 different conditions is usually a bad idea in
5 education. We have to be very careful to try to take
6 account of other things that differ between schools.

7 Q And the research you did on the collective
8 bargaining effects in, I think you said all 50 states,
9 did try to take account of those kinds of differences?

10 A Well, I think it did better than that in the
11 sense that I was always looking within a given school,
12 here you are in 1984 and you didn't do collective
13 bargaining. In 1995, you did. How did you change
14 when you did collective bargaining. I was never
15 trying to compare apples and oranges. I was always
16 trying to compare a school to itself.

17 Q Okay. Thank you for explaining that.

18 You said that you haven't published, but have
19 researched what happens when states raise requirements
20 for teacher certification. How come you haven't
21 published on that?

22 A It is because this is an area in which I
23 think as researchers, we probably do not have a policy
24 experiment or a natural experiment that would allow us
25 to produce good estimates and the research that exists

1 Mississippi, to consider it was mainly due to
2 collective bargaining, it would be naive.

3 The income of people who live there, the
4 education of people who live there, those are two
5 principal things. Then there are a lot of other
6 things about the resources that are available to
7 schools and available to children. You can take your
8 child down to the Metropolitan Museum of Art in
9 Manhattan. There is no Metropolitan Museum of Art in
10 rural Mississippi. There are a variety of amenities
11 and cultural and educational institutions that are
12 also different.

13 In addition, educational opportunities and
14 the labor market opportunities are quite different for
15 adults in the two states. So, a child may think
16 growing up in rural Mississippi that the job he might
17 be able to have as an adult than a child may have as
18 an adult in Manhattan is different. We would think
19 that would also affect what students did in school.

20 In addition, the labor market, because the
21 labor market is different between rural Mississippi
22 and New York, it is not clear that you would need to
23 pay the same teacher salaries to get the same quality
24 teacher that you would get in Manhattan. It might be
25 easier or harder.

1 on this topic is of questionable quality. I can tell
2 you about a variety of different types of studies,
3 some of which are significantly higher quality than
4 others, but none of them are going to meet the
5 standards for the best quality research.

6 We don't have the policy experiments in the
7 real world that will allow us to do that. As a
8 result, it really doesn't make sense for me to publish
9 research that is sort of middling quality and is like
10 a lot of other research of middling quality.

11 I don't publish in that area, although in my
12 research life and in training my own students, I have
13 to, of course, look at evidence on that topic all the
14 time and I have to generate evidence like this. I
15 just don't publish it, because there isn't much of a
16 point.

17 Q Thank you.

18 Coming toward the end of our list, you said
19 you looked at peer effects in the classroom and how
20 state policy affects those peer effects. Can you
21 describe that research for me?

22 A Right.

23 One of the things that states are interested
24 in is whether students should be tracked, for
25 instance, or not tracked in schools. States have

1 policies about tracking or about segregation,
2 classroom segregation of students who are either in
3 need of remedial attention or gifted and talented.

4 We are interested, therefore, in the question
5 of how students affect one another in the classrooms
6 and whether, for instance, I would be better off being
7 in a classroom with more kids who were high scoring
8 kids or whether in fact that might have a bad effect
9 on me. Maybe they would depress my self-esteem or my
10 ideas of how much I can achieve.

11 So, this research on peer effects tries to
12 look at what happens when a child is essentially
13 assigned to different peers. We have a problem that
14 most assignment of peers to children is not random.
15 If you see a child and he or she is in a class with a
16 lot of very able children, that is probably not
17 random. It is probably that the school or his parents
18 or someone else has decided he ought to be in a
19 classroom with a lot of able children and vice versa.

20 This causes a serious problem for research
21 and therefore we need to look for, in the case of peer
22 effects, usually natural experiments where we see
23 children getting assigned peers. Assigned, I think
24 you realize is in quotation marks. Assigned to peers
25 who are unusually good or bad, given the circumstances

1 disproportionate amount of girls and high scoring and
2 the next year the reverse happened and maybe it was
3 more boys and unusually low scoring. Then you try to
4 research what happened in between those two years in
5 the same school. It is important to compare apples
6 and apples.

7 In that study, I find evidence of peer
8 effects that are of the form that we generally expect.
9 That you are generally better off being with children
10 who are high scoring. The effects are not tremendous.
11 They are not going to change your life if you are with
12 students who are more high scoring than you are, but
13 it does have an effect on a child's scores.

14 Q Did you examine the relationship between
15 state policy and those effects?

16 A Yes, in the sense that I talked about the
17 implications for state policy in the paper. For
18 instance, the implications for state policy about
19 tracking, so I describe that implication for state
20 policy.

21 Q What are those?

22 A In this case, there are none. What I am
23 going to say will sound a little tricky, but here
24 goes.

25 State policy around tracking is usually based

1 that his parents in the school have put him in. So,
2 this research is based on the State of Texas and it
3 takes advantage of natural experiments, again.

4 So, just to give you a simple example, girls
5 tend to be higher scoring than boys in elementary
6 school in all subjects. In a small school district or
7 a small school, you could send your child to
8 kindergarten or first grade and find out that his or
9 her classroom is 30 percent girls or 70 percent girls.
10 It happens. It varies. It is just nature.

11 If your child is in a classroom where 70
12 percent of the other students are girls, your child
13 tends to be in a classroom unusually high scoring,
14 because girls tend to be quieter and more well-behaved
15 students in elementary school. Therefore, your child
16 sort of gets a dose of unusually good peer group in
17 elementary school, just randomly.

18 Similarly, your child might be sort of
19 accidentally assigned to a classroom that ends up in a
20 cohort that has an inherent large group of kids coming
21 in with very low oral skills. We try and take
22 advantage of that.

23 So, you look within a school at the same
24 school, the same parents and you say, one year they
25 had a kindergarten class and there was a

1 on the assumption that peer effects are what I would
2 describe as non-linear. Let me give you an example of
3 both ways.

4 Let's say it is good to be around students
5 who score a little higher than you and bad to be
6 around students that score a little lower than you,
7 but these effects are offsetting and pretty much a
8 mirror image of one another. All you can do is change
9 who gets to be with students who have higher scoring.
10 Somebody always has to be with the students with lower
11 scores. Those don't disappear. You just move them
12 around.

13 In that case, there is really no state policy
14 implication. You could put them with one another, in
15 which case all the high scoring kids would have good
16 effects on one another or you could put the high
17 scoring kids with low scoring kids and in this case,
18 there would be effects on the low scoring kids, but it
19 will always be someone who has to be with the low
20 scoring kids. It just depends on who you decide to
21 put them with.

22 So, there are no obvious indications for
23 state policy.

24 The peer effects were what we call
25 non-linear. Let's say having one good student in your

1 classroom had a wonderful effect on everybody else.
 2 It doesn't matter how many low scoring kids you have.
 3 That would actually have big implications with state
 4 policy. You want to carefully spread these high
 5 scoring kids around and that would have good effects
 6 for state policy.

7 You could imagine a situation where having
 8 one or two students who were disruptive was very bad.
 9 Just having a critical mass of disruptive students was
 10 bad. You need to try to keep them isolated from one
 11 another. As soon as you had two disruptive students,
 12 they made the whole class a chaotic situation. In
 13 that case, again, you probably want to spread them
 14 very carefully among classrooms and not allow them to
 15 be in little clumps with one another.

16 It turns out that the evidence just does not
 17 tell us that these non-linearities exist. Maybe they
 18 do, but I cannot find evidence of it, so the
 19 implications for state policy are easy if we find some
 20 of these non-linearities, like the clumping situation
 21 I talked about.

22 But, in fact, for the sort of evidence I
 23 found, you could include a variety of state policies.
 24 They would have different effects and there would be
 25 distribution impacts on different students, but there

1 Therefore, people may find it harder to be in
 2 a school district with people who are different than
 3 they are. Not just on the basis of ethnicity or race,
 4 but they might also find it difficult to cooperate
 5 with people who have different incomes than they have
 6 or different religions or things like that.

7 So, we look for evidence that school
 8 districts became smaller and formed around ethnic or
 9 racial or income groups in areas that had more
 10 heterogeneous populations and we do find that
 11 metropolitan areas that got a big racial migration or
 12 had big influxes of people with different incomes
 13 would end up seeing more school districts and the
 14 school districts would form around what looks like
 15 differences in the population.

16 So, when you look at school districts today,
 17 most of this formation, by the way, took place in what
 18 is now, I think for our purposes, the remote past,
 19 1910 through 1920s, before World War II, in any case.

20 When you look at school districts today, you
 21 should not assume they are randomly on the ground.
 22 They usually reflect something about the history of
 23 the area and the immigration.

24 Q Thank you for working me through this area of
 25 research. I appreciate it.

1 is no overall recommendation for state policy that is
 2 obvious.

3 Q So that I understand, when you have been
 4 researching peer effects, class size, teacher
 5 qualification, transportation, special education and
 6 their relationship to state policy, is it fair to say
 7 that that means that you have research implications of
 8 each of these areas and how they are affected by state
 9 policy choices?

10 A Yes, and we often motivate studies by looking
 11 at recent state policy changes and saying, what would
 12 the effect of this state policy change be given the
 13 sort of evidence we are gathering.

14 Q The last area you identified for me was
 15 districting and how districts have changed. Can you
 16 describe what that means?

17 A I have done research that I suppose could be
 18 brutally described as historical and looked at what
 19 happened, for instance, when metropolitan areas of the
 20 United States received either migration of different
 21 ethnic groups or migration of blacks, usually, from
 22 the south to the north. The underlying theory is that
 23 the school districts are areas in which people have to
 24 cooperate with one another and to have a system of
 25 schools that they mutually support.

1 Back to your areas of expertise.

2 Are you an expert in the evaluation of the
 3 quality of public education through educational
 4 assessment?

5 A Yes, I would say I am.

6 Q When did you acquire that expertise?

7 A That is the sort of expertise that one
 8 acquires by doing a lot of research on education. I
 9 think looking at a variety of different outcomes that
 10 are related to what happens in schools. I don't just
 11 mean test scores.

12 Also what happens to children's later life
 13 outcomes, including their income, their ultimate
 14 educational attainment and the occupations they have.
 15 It may even include things that are more sociological,
 16 like whether they get married, stay married, have
 17 problems with crime and stuff like that.

18 Q So, the entirety of your research has
 19 contributed to your expertise in that area?

20 A Yes.

21 Q Who most do you consider expert in the area?

22 A Which area?

23 Q Evaluation of the quality of education
 24 through educational assessment.

25 A Well, of the people I know well, I can tell

1 you some people who I think are particularly good. I
 2 think Eric Hanushak, who is at Stanford is really one
 3 of the best people who works in this area. I think
 4 that someone like Tony Bryk at the University of
 5 Chicago has done very good work. Richard Murnant who
 6 is at the Harvard Graduate School of Education.
 7 Joshua Angrist, who is at MIT has done some good work.

8 There are some people who have not done as
 9 much work, because it is not as big a part of their
 10 research agenda, but they have done good work are
 11 people like Bryan Jacobs, who is at, I think, the
 12 Kennedy School of Government, Derrick Neill, who is at
 13 the University of Chicago, Sandra Black, who is at
 14 UCLA. There is a long list of people who do research
 15 on this occasionally, but for whom this is not a
 16 primary area of research.

17 Q Most of your papers and publications
 18 contribute to this area of research?

19 A I think this is such a fundamental question
 20 that they all do in some sense.

21 Q What do you mean when you say such a
 22 fundamental question?

23 A Ultimately, we are very interested in what
 24 are the effects of education and what contributes to
 25 quality in schools.

1 Q Are you an expert in research methods?

2 A Yes, in the sense that I have taught and I
 3 also continue to teach people to do policy evaluation
 4 related to education. It is really my main job.

5 Q And policy evaluation is necessarily related
 6 to research methods?

7 A Yes, it is mainly about methods.

8 Q How is that?

9 A Well, I don't try to teach a student, say a
 10 doctoral student or an advanced undergrad what to do
 11 research on. That is up to them. They do their own
 12 research, but I do try to teach them standards of how
 13 to conduct research, how to do statistics on
 14 econometrics.

15 There is a real right and wrong there. That
 16 is not really a matter of subjective opinion. A lot
 17 of it is actually teaching, literally teaching
 18 methods. I also teach things like how to use data
 19 properly, how to get data, how to merge data or
 20 assemble data properly. All of these are very
 21 important parts of what I teach people.

22 In addition, I teach people how to look at a
 23 policy change and devise the correct empirical method
 24 to evaluate that policy change. I teach many students
 25 in these methods; not just from my own part of Harvard

1 University. I also teach students in the Kennedy
 2 School and students from other schools in the Boston
 3 area. Students from Harvard Graduate School of
 4 Education. This is most of my job.

5 Q I take it, then, it has been an area of
 6 expertise you have had ever since you have been a
 7 professor?

8 A It is what I am really trained to do.

9 Q You said, for example, you teach the correct
 10 empirical method for evaluating policy changes. Can
 11 you walk me through what that correct empirical method
 12 is?

13 A Right.

14 In education, we rarely have access to simple
 15 laboratory experiments, because we don't get to
 16 experiment on children. Therefore, every policy that
 17 is put in place presents us with a set of problems
 18 that are created by the fact that we are not operating
 19 in a laboratory environment where you can compare the
 20 children who get whatever it is and the children who
 21 don't. Therefore, a lot of what we train people to do
 22 is to recognize the set of problems that exist when a
 23 particular policy has changed.

24 For instance, in the case of evaluating the
 25 change in bilingual education in California, one of

1 the problems is that California was simultaneously
 2 implementing a class size reduction, most of which had
 3 occurred already. Nevertheless, it did have a class
 4 size reduction policy that was recent. California was
 5 also implementing an accountability system that it had
 6 not had before. There was a lot of economic changes
 7 going on in California at the time.

8 In 1998, California was not quite at the
 9 height, but close to the height of the economic boom
 10 that was having very nice effects on the labor market
 11 for California in general.

12 In addition, California has immigration that
 13 changes from year to year and California is also
 14 implementing a variety of welfare-related policies and
 15 health care-related policies. All of these things are
 16 going on at the same time. It is not that bilingual
 17 education is changing and nothing else is changing.

18 One of the things we try to do is train
 19 students to figure out ways of isolating the effects
 20 of a change that they are particularly interested in.
 21 Sometimes we can do this well and sometimes we can't
 22 do it very well, but what we try to train people to do
 23 is recognize how to do it. To be able to say at the
 24 end of their study how well have I actually achieved
 25 what is the gold standard here and that is to isolate

1 the effects of a particular change I am interested in.
 2 That is what I try to train students to do.
 3 You really have to show them a wide array of
 4 studies of how people tackled these problems and
 5 whether they have succeeded or not to get them to
 6 understand the variety of methodologies and also which
 7 ones are of high quality or low quality. They need to
 8 see the effects of low quality research. I think most
 9 people don't realize all their pitfalls when they
 10 start. I think students do need to see them.
 11 Students very often catch on very quickly.
 12 Q You just mentioned a gold standard of
 13 research. I may have just misheard what you said.
 14 If you could, tell me what that gold standard
 15 is. I'd appreciate that.
 16 A I think part of reaching the gold standard of
 17 research is if there is not one standard that you can
 18 say applies to all types of studies. I mean, that is
 19 quite clear. There is a single standard in some sense
 20 and a single standard is that you have done a good job
 21 of isolating the effects that you are interested in as
 22 a causal effect, so I want to know the causal effect
 23 of banning bilingual education. That is the standard.
 24 It is the same standard you would use in
 25 science if you were trying to find out what is the

1 causal effect of someone taking a particular drug
 2 instead of taking a placebo. That is the same
 3 standard. It is not different.
 4 Recognizing whether you have achieved that
 5 standard is something that probably requires a fair
 6 amount of experience and knowledge of what studies are
 7 out there, what people have done in the past, what is
 8 possible to do.
 9 So, it is not something that is so easy that
 10 I could just write down if you followed the following
 11 set of instructions, you can recognize whether a
 12 study, a particular study achieves the gold standard.
 13 That actually requires some expertise in education.
 14 Q Just a couple of follow-up questions.
 15 When you were just defining the gold standard
 16 for research, that standard applies to any educational
 17 research; is that fair?
 18 A That's correct.
 19 Q It is an example of having expertise in
 20 knowing when you have achieved the gold standard and
 21 when you have not. The example you gave me earlier
 22 is, you have done a lot of research about teacher
 23 certification, but you haven't published because there
 24 are so many problems with that area of research you
 25 just can't figure out. Is that an example?

1 A I think applying the expertise says I cannot
 2 achieve research that is of sufficiently high standard
 3 that I can make research better than what already
 4 exists. So, it could be that I think that most
 5 research out there does not achieve even the bronze
 6 standard or something like that, but if what is
 7 available is the best that people can do, then I may
 8 not wish to contribute to that.
 9 In the particular area of teacher
 10 certification, I think there is some very good quality
 11 research, but the higher the quality of research, the
 12 less of a conclusion it comes to, unfortunately, in
 13 that area. It does not come to strong conclusions.
 14 The better you do it, the less you get. It is not
 15 perhaps the most exciting area in which to do
 16 research.
 17 Q You are an expert in school finance? Is that
 18 fair to say?
 19 A Yes.
 20 Q When did you acquire that expertise?
 21 MS. DAVIS: Do you have a verbal answer?
 22 THE WITNESS: Yes. Thank you.
 23 BY MS. LHAMON:
 24 Q When did you acquire that expertise?
 25 A I have done a lot of research on school

1 financing starting in about 1995 and I have published
 2 various papers on school finance.
 3 Q Are there any other areas of expertise that
 4 you have that we have not talked about yet today?
 5 A Yes, there probably are, but --
 6 Q Can you list them for me?
 7 A I just don't think I can give an exhaustive
 8 list.
 9 Q How about limited? Do you have other areas
 10 of expertise we have not talked about today, that are
 11 not relevant to this case?
 12 A Probably not. Not that I can think of right
 13 now.
 14 Q If you think of any other areas during the
 15 course of the deposition, I hope you will let me know.
 16 A Okay.
 17 Q You have acknowledged Julian Betz as a
 18 reviewer for some of your articles?
 19 A I have. Acknowledgments are generally made
 20 for people who have helped you in one way or another
 21 in a paper. That doesn't mean they have reviewed the
 22 paper.
 23 For instance, I could have acknowledged
 24 Julian Betz for helping me get data. I'd have to look
 25 at the specific example to know what I was

1 acknowledging him for in that specific paper. I
 2 acknowledge people for all different reasons.
 3 Q Do you know Julian Betz?
 4 A Of course.
 5 Q Do you view him to be a sound researcher?
 6 A He is a good researcher.
 7 Q As distinguished from a sound and obviously
 8 distinct from better and best?
 9 A As distinguished from better and best.
 10 Q Do you think highly of the quality of his
 11 work?
 12 A I can think of some studies of his of which I
 13 think very highly and I can also think of some studies
 14 that would have flaws. I would have to think about
 15 specific studies.
 16 Most researchers vary actually and vary from
 17 piece of research to piece of research. It is much
 18 easier if you think a particular piece of research is
 19 of high quality.
 20 Q What are some examples that you think of as
 21 high quality?
 22 A He has a very, very nice review of the
 23 literature on the effects of school resources on
 24 student performance in which he categorizes studies
 25 according to the level of analysis. Whether it is at

1 the state level or district level or the school level
 2 or individual school level.
 3 Also he describes what controls the studies
 4 had, whether it used, for instance the control for
 5 students in prior performance and describes the
 6 research methods and he identified some very
 7 interesting patterns in the research.
 8 For instance, it appears that as we go from
 9 studies that had a very aggregate level, they only
 10 have state level data to studies that look at
 11 individual student level data, we tend to normally
 12 think that the latter or the individual student level
 13 data based studies would be better because they have a
 14 lot more information contained in them.
 15 You tend to find that the results or the
 16 effects of school inputs or resources appear to be
 17 more attenuated or smaller. I think identifying some
 18 of the patterns, the historical patterns, was very
 19 important for this research and advanced many people
 20 in their thinking of how the research had changed over
 21 the years, why it had changed and where we needed to
 22 go forward with the research in the future.
 23 So, I think that is really a quite important
 24 paper.
 25 Q Can you think of any other examples of high

1 quality research?
 2 A He has also done research on peer effects,
 3 kind of indirect research, you would say. That is
 4 some of probably among the best quality research that
 5 was on peer effects before the more recent wave.
 6 There is some that is distinctly higher standard than
 7 that. He was doing the best up to a few years ago.
 8 Q Can you think of any examples that you think
 9 of his as low quality?
 10 A I think some of his research on grading
 11 standards does not make very much sense.
 12 Q Can you think of any other examples?
 13 A That is the prime example that comes to mind.
 14 Q Which of the plaintiffs' expert reports did
 15 you review?
 16 A Particularly reviewed Jeannie Oakes.
 17 MS. DAVIS: You should probably clarify.
 18 THE WITNESS: Both the synthesis and the
 19 report that is specifically on textbooks.
 20 I particularly reviewed the work of Linda
 21 Darling Hammond on teachers and there are two --
 22 BY MS. LHAMON:
 23 Q Shall I tell you names? Gwen Earthman and
 24 Robert Corley, Nancy Myers.
 25 A I know that I reviewed the Robert Corley one

1 and the Earthman one. I did look at all of the
 2 plaintiffs' expert reports. I just did not look at
 3 all of them with equal care.
 4 Q So, the ones you have listed; the Oakes
 5 synthesis report and the Oakes textbook report, the
 6 Hammond report, the Corley report and the Earthman
 7 report, those are the five you looked at with more
 8 care?
 9 A Yes.
 10 Q Any others?
 11 A I read them all quickly. In any case, when I
 12 read them, it was some months ago. So, I would prefer
 13 not to have to make statements about very specific
 14 things in the report unless I have the report in front
 15 of me.
 16 Q I have them and if you ever want to refer to
 17 any of them, just let me know. They are readily
 18 accessible in this office.
 19 Is it that you looked with most care at the
 20 Oakes synthesis and the Oakes textbook report and the
 21 others --
 22 A When I read Jeannie Oakes' synthesis report,
 23 it appeared to me that she was particularly relying on
 24 those reports. She, of course, relies on all of the
 25 expert reports, but she disproportionately relied on

1 those reports.

2 Q What is your basis for that? The number of
3 citations to them?

4 A A combination of the number of times she
5 cited them and her emphasis on the results that were
6 likely to have come out of those reports.

7 For instance, when she was describing
8 evidence on textbooks, I assumed she was relying on
9 her own study of textbooks. When she described
10 evidence on teachers, I assumed she was relying on
11 Linda Darling Hammond, even if she was not citing a
12 piece of evidence in that study or a sentence in that
13 study.

14 Q Okay.

15 Did anyone ask you to read particular
16 reports?

17 A No, apart from the fact that Paul Salvaty
18 asked me to read generally the Oakes synthesis report
19 specifically.

20 He also said to me, "You should make an
21 effort to read the expert reports that you think are
22 necessary for you to understand anything that you
23 would not understand in her synthesis report, unless
24 you specifically looked at the specific expert report.
25 Q You testified he called every once in a while

1 A My general criticism is that some of the
2 plaintiffs' experts do not distinguish clearly between
3 correlation and causality. Another way of saying
4 this, which is what I am really trying to say the same
5 thing in a different way is that they do not apply the
6 best research methods to their studies. I think I
7 could amplify a little bit on what I mean by the
8 difference between causation and correlation, which is
9 fairly important.

10 If I were to look at people who go to the
11 hospital with chest pains and I were to say that some
12 of them get aspirin and are sent home and some of them
13 get triple bypass surgery, I would find on the ones
14 that get sent home with aspirin, they do pretty well
15 and don't have heart disease. The ones that get
16 triple bypass surgery are the ones that die more
17 frequently.

18 I could do a study in which I correlated the
19 effects of getting aspirin or getting triple bypass
20 surgery with later health outcomes and it would appear
21 that it was much better to get aspirin, because
22 nothing bad would happen to you. This is a
23 correlation. It is not saying that giving someone
24 aspirin has a causal effect on their heart condition.
25 In fact, it has very little effect.

1 and said would you look at a paper?

2 A Exactly.

3 Q Do you remember what it was that he wanted
4 you to look at in those papers?

5 A I don't think he said specific things.
6 Rather he was suggesting to me that these were reports
7 that were getting a lot of attention and therefore
8 they should get more of my attention, as well.

9 Q With those calls, was that based on having
10 seen a draft of your report and wanting you to add
11 more to it?

12 A No. He had not seen a draft of my report at
13 this point, so I believe he was probably responding to
14 conversations or discussions that he was having here
15 in California.

16 Q To which of the plaintiffs' expert reports do
17 you respond directly in your expert report?

18 MS. DAVIS: Vague and ambiguous.

19 THE WITNESS: I don't think I respond
20 directly to any of them. I think I have a criticism
21 that applies to several of them. I don't know whether
22 you would call that a response.

23 BY MS. LHAMON:

24 Q Okay. What is the criticisms that you have
25 on several of them?

1 However, it is very easy to do studies that
2 basically pick up correlations implying that they are
3 causations. If I were to do my correlational study of
4 getting aspirin and what your later health outcomes
5 are, you would probably realize that was not a causal
6 study and that it was kind of silly. Nevertheless,
7 many studies that pick out just correlations are
8 published. They sometimes get a lot of publicity and
9 show up on front pages of newspapers, et cetera.

10 So, the amount of attention given to a study,
11 especially by non-peer review types of situations,
12 does not tell you particularly whether they have done
13 a good job at getting at the causal effect of
14 something or whether they are merely picking up
15 correlations if you do not carefully apply research
16 methods. It is much easier to pick up correlations
17 than it is to pick up causation. It is what you will
18 do if you are not careful. It is not something you
19 can avoid without care.

20 I was deeply concerned that the plaintiffs'
21 experts were routinely describing correlations and
22 implying that they were causation. For instance,
23 saying that children's higher achievement in schools
24 where teachers are more certified is a correlation.
25 That is not causation.

1 In order to find out whether there is a
2 causal effect of teachers being more certified, you
3 would need to do a very different type of study than
4 most of the studies that were reviewed or cited by
5 Linda Darling Hammond. She does not discriminate
6 between studies that were more likely to be causal and
7 less likely to be causal. That is a big concern to
8 me.

9 Q Just to be clear about the earlier question,
10 I will ask you to look at Exhibit 3. If you look at
11 Exhibit 3, the invoice that you sent on March 28,
12 2003, if you look at the entry for February 16th, it
13 talks about or lists a review of plaintiffs' expert
14 reports for purposes of responding directly in draft
15 report. So, it is that use of responding directly
16 that I am trying to figure out.

17 A What I would be referring to is, for
18 instance, on my Page 2 and Page 3, I describe
19 different types of research that I consider to be
20 good, better or best. I was trying to read through
21 the experts' reports and literally make notes for
22 myself on whether I think the study being cited is
23 good, better or best. That literally is what I was
24 doing.

25 Yes, when I said responding directly, I am

1 and I was also trying to do a subtler thing, which is
2 to see whether the expert himself or herself was
3 trying to distinguish for the reader between research
4 of higher or lower quality. Sometimes the best study
5 on something is not of high quality.

6 Sometimes we just don't have good quality
7 evidence, but when you present evidence that you know
8 to be relatively low quality, you ought to introduce
9 it that way. That is part of what you should do for
10 the reader if you are an expert.

11 You should say, I present this evidence, but
12 it is presented with all of the caveats, because it
13 really had the following problems that are not
14 addressed. That is always what I was looking for. I
15 was looking for signs that the reader was being told
16 about the different distinctions in quality among the
17 research.

18 My tallies, I am afraid, did not go very far.
19 What I did not find is evidence of what I considered
20 to be high quality research and I found almost no
21 distinguishing between better and worse research,
22 which I find very troubling, because I think the
23 reader needs to know that.

24 Q Were you looking for that kind of thing when
25 you introduced the centralization research?

1 referring to my Pages 2 and 3 and I guess it runs over
2 maybe into Page 4, but that is specifically what I
3 mean.

4 Q Based on that procedure, which are the
5 experts whose reports fell below the good, better and
6 best research?

7 A All of them.

8 Q By all of them, you mean --

9 A All the ones that I reviewed and even the
10 ones that I saw just summarized, just the synthesis
11 reports. I saw routine and consistent attribution of
12 causation to studies that were clearly correlation
13 studies.

14 Q When you say all the ones you reviewed, you
15 are talking about the Oakes synthesis, textbook, Linda
16 Darling Hammond, Corley --

17 A Specifically, right.

18 Q And then it may be also that you saw
19 something in the other reports, but in particular the
20 synthesis report?

21 A Right.

22 Q You said you literally made notes on which
23 experts' research was substandard; is that correct?

24 A I was trying to keep a tally of whether I
25 thought very much high quality research had been cited

1 A You mean pointing out that there were
2 problems and saying what we can do? This is the best
3 we can do? Yes.

4 (Lunch recess.)

5 BY MS. LHAMON:

6 Q Before we took the break for lunch, you had
7 just mentioned that you had made some notes about
8 which expert reports had substandard research. Do you
9 have those notes?

10 A I don't.

11 Q What happened to them?

12 A Usually what I do is I make notes in the body
13 of the draft of the report that I am writing and then
14 as I write the report, the notes disappear. So, it is
15 a bit of they are transitory by their nature.

16 Q So that I know, is it your view that
17 literally none of the research relied on in the Oakes
18 synthesis, textbook, Linda Darling Hammond, Corley and
19 Earthman reports is good, better or best quality
20 research?

21 A Some of it is good. I say a minority of it
22 is good. I don't think I observed any that I
23 considered to be better or best. Also, there was no
24 distinguishing among research that I considered to be
25 good and research that was below good.

1 In general, in these areas, there is a bulk
2 of the research that will not be of high quality. You
3 really do need to make the distinction between the
4 most research will not be of high quality.

5 Q Which of the research was good quality?

6 A I would have to see the studies. In general,
7 there was not very much of it. You'd have to go
8 through page by page.

9 Q Well, I have them here. Because they are in
10 alphabetical order, I have Corley, Darling and
11 Earthman first.

12 A Do we want to go through on a page-by-page
13 basis?

14 Q That is okay. We have got the time.

15 MS. DAVIS: Are you marking those as
16 exhibits?

17 MS. LHAMON: I don't think we need them as
18 exhibits. You can go through and point it out to me.

19 MS. DAVIS: First, you might want to make
20 sure those are the reports you recognize. I am not
21 questioning Catherine's accuracy.

22 BY MS. LHAMON:

23 Q Then I am handing you the Oakes textbook and
24 Oakes synthesis reports, as well. Take as much time
25 as you need to review them.

1 I wondered what in the liability disclosure
2 statement you were referring to?

3 A I believe what I was focusing on was the
4 plaintiffs --

5 Well, let's see. Let me be specific.

6 On Pages 13 through 20, there is a section
7 which is entitled, "The Education Code provides for a
8 state agency involvement in administration of
9 provisions relating to instructional materials,
10 teachers in school facilities."

11 And then subheadings in that section include
12 things like state agencies responsibilities relating
13 to instructional materials, the state agencies
14 responsibility relating to teachers, so these are, I
15 think, specific claims about responsibilities for
16 instructional materials, for teachers, for facilities,
17 et cetera.

18 So, when I say, "See the plaintiffs liability
19 disclosure statement," what I was trying to point out
20 is that there are specific recommendations that are
21 embodied in this liability disclosure. It is not as
22 though the experts were merely saying I have found
23 evidence about facilities and just left it at that.
24 There are actual recommendations, so that is what I
25 meant to highlight.

1 A I don't know if you'd be comfortable with me,
2 for instance, taking them back with me tonight and
3 coming up with a list?

4 Q I am very comfortable with that if you'd like
5 to.

6 A That might be more time efficient.

7 MS. DAVIS: If you want to spend your time.

8 THE WITNESS: Thank you.

9 Otherwise, I think it will take quite long.
10 I only read so fast.

11 BY MS. LHAMON:

12 Q I appreciate the warning.

13 Did you review the plaintiffs' liability
14 disclosure statement?

15 A I believe that it was sent to me and
16 therefore that I did review it. I do not recall it at
17 this time particularly.

18 Q I have a copy of it if you'd like to look at
19 it.

20 A That would be helpful if we are going to
21 discuss it.

22 Q I will show you the copy and we can decide.

23 Your report, if you look at Page 1 of the
24 report on the fourth line, you say, "(See plaintiffs
25 liability disclosure statement.)"

1 Q Okay.

2 Is there any other part of the liability
3 disclosure that you are relying on there when you say
4 see plaintiffs liability disclosure statement on
5 Page 1?

6 A I suppose I am relying on the entirety in
7 general. I don't wish to say I am relying exclusively
8 on that section, Pages 13 to 20, but I was focusing on
9 the specific recommendations that sentence
10 specifically refers to.

11 Q Okay. If there are other parts of the
12 liability disclosure that you think support that
13 statement, I'd like to hear what they are.

14 A I think in general, the entire liability
15 disclosure supports the idea that these are the
16 specific recommendations that the plaintiffs would
17 like to have implemented. So, throughout the
18 liability disclosure, there are many arguments or
19 descriptions that would support those specific claims,
20 but it is so basic to the case that is like saying
21 everything in the case is related to those claims.

22 Q Well, you haven't read everything in the
23 case?

24 A No, but I am just saying that I think they
25 are talking about something that is very much the core

1 of the policies that they would like to see
2 implemented. So, in fact, many documents are at least
3 tangentially related to those.

4 Q That is certainly true, obviously because we
5 filed many documents in the case, but I am actually
6 just asking about the ones you read and which parts of
7 the ones you have read support the statement that you
8 have on Page 1 that plaintiffs argue for several
9 specific policies known as input policies.

10 A I think I highlighted a few of the pages that
11 I was focused on. I am not really willing to say
12 everything else in here I did not read at all, because
13 in fact, I think I was influenced by the bulk of the
14 material I read and not just those few pages. These
15 few pages are what I focused on.

16 Q That is what I want is the most truthful
17 answer there.

18 Did you read the entire liability disclosure
19 statement?

20 A No, I am sure I did not. It was not sent to
21 me in this form. An electronic version of it was sent
22 to me. What I did, I searched it for specific things
23 that I knew I was --

24 I think I probably read the first 50 pages or
25 so and then I started looking for things that I

1 it. It probably ended up being pro bono work. If it
2 occurred during a day when I was busy or during a week
3 when I was busy, sometimes I forget to make a note of
4 it.

5 Q Sitting here today, you don't have any memory
6 that it took you five hours or half an hour?

7 A I think by its nature, I don't read that
8 fast, so I don't see how I could have done it in half
9 an hour. Apart from having a sense of approximately
10 how many pages I would have read, I don't have any
11 more sense than that.

12 Q Thank you.

13 Did you read the sections in the liability
14 disclosure statement that talk about conditions of
15 schools in California?

16 A Yes.

17 Q Did you see any schools or did you read about
18 any schools in the liability disclosure statement that
19 you would not want to send children you care about to?

20 MS. DAVIS: Vague and ambiguous.

21 THE WITNESS: I think there are many schools
22 in the United States that have facilities that are
23 lower than we would like. I just am not sure that is
24 policy relevant.

25 BY MS. LHAMON:

1 thought were clearly related to what I was interested
2 in.

3 Q What kinds of things would those be?

4 A I searched on textbooks and I searched on
5 instruction. I searched on sort of a teacher
6 certification, things like that, so I was sure that I
7 read sections that were particularly appropriate.

8 Q What did you think?

9 MS. DAVIS: Vague and ambiguous.

10 THE WITNESS: I think it is what it is. I
11 think it speaks for itself.

12 BY MS. LHAMON:

13 Q Well, you have evaluated the quality of the
14 plaintiffs' expert reports. I wonder what you think
15 of the quality of the liability statement, as well.

16 MS. DAVIS: Vague and ambiguous.

17 THE WITNESS: I think the liability
18 disclosure statement is a legal document. I do not
19 think I have the expertise to say it is high quality
20 or low quality. I am not an expert in that.

21 BY MS. LHAMON:

22 Q Do you know how much time you spent reviewing
23 the liability disclosure statement?

24 A I really don't recall. It is not in my
25 invoice, which means I probably forgot to invoice for

1 Q Why is that?

2 A Because what policy makers can effect is what
3 finding schools have for facilities. They can effect
4 what incentive schools have to keep their facilities
5 good. It may be able to send some direct inputs to
6 schools, but what they cannot do is, in general, make
7 facilities good. That is something that you actually
8 have to be on the ground to do as a manager and very
9 little state policies can do that.

10 Q What are the kinds of things that state
11 policies cannot do related to schools?

12 MS. DAVIS: Vague and ambiguous and calls for
13 speculation.

14 THE WITNESS: State policy can mainly effect
15 things that can be written into laws. They can effect
16 anything that has to do with the budget that a school
17 has. Certainly they can effect the conditions or
18 provisions for hiring people or making contracts,
19 things like that. Things that you can write into a
20 law or into a contract. It cannot be the case that
21 people in Sacramento can actually manage a school.
22 That is in Southern California.

23 So, there are many, many things that people
24 in Sacramento cannot do and many things that happen in
25 schools on a daily basis are things that cannot be

1 written into state policy. You cannot deal with a
2 child who is having a particular family problem that
3 day if you are a policy maker in Sacramento. It is
4 impossible.

5 Most things that happen in schools are not
6 really or cannot be directly controlled by state
7 policy.

8 BY MS. LHAMON:

9 Q So, when you say that someone in Sacramento
10 cannot manage a school in Southern California, are you
11 referring to not being able to deal with a child that
12 is having a bad day?

13 A It would include, for instance, not being
14 able to deal with a workman who is supposed to come in
15 and repair something and is not doing a good job
16 repairing it. Many, many things. Most aspects of
17 direct school management cannot be directly controlled
18 by state policy makers.

19 Q Because the person needs to be on site to say
20 that the person is not doing a good job or isn't here?

21 A Yes. I think it is as it is in any other
22 type of organization, that there are some things that
23 can be managed from a distance and other things that
24 can't. Some things, you can write into a law and you
25 cannot enforce this if you are not there to manage the

1 Q So, anything, any question that was
2 examining, you have included in the report and used
3 the data that supports it?

4 A Yes; that's right.

5 Q If you will look again at Exhibit 3, which is
6 the invoice that you sent. You will see that for
7 January and February of 2003, you identified archival
8 work using older digests of education statistics at
9 the Mudd Library and Yale University. What is the
10 archival work you did?

11 A Well, let me show you. There are some
12 specific graphs in here that I needed to use. Some of
13 them are on Page 20, Page 21, where I am using data
14 not just that is very recent. In other words, 2000
15 data, but I am actually looking at changes from 1970
16 to 2000.

17 Therefore, I needed to get older data from
18 1970. That data is not available in electronic form
19 at the United States Department of Education. It is
20 the same data that they now have available in
21 electronic form, but if you want to get the data in
22 1970, you basically need to use older digests of
23 education statistics.

24 Q Is that data that you shared with us?

25 A If I haven't, it was an oversight and I'd be

1 situation.

2 Q Is it possible for state policy to set
3 minimums? For example, to say that there should be a
4 building for a school?

5 MS. DAVIS: Vague and ambiguous.

6 THE WITNESS: I can write a law that says
7 there has to be a building for a school. What the
8 building consists of is more difficult to write into a
9 law. So, I can say the building must have rooms, but
10 what must a room consist of? I think state policy
11 makers can attempt to define exactly what they think
12 should go on in schools, but ultimately there is no
13 substitute for actually having someone on the grounds
14 who manages the situation.

15 BY MS. LHAMON:

16 Q Okay.

17 Stepping back from the liability disclosure,
18 did you do any data analysis in preparation for your
19 report that you did not include in the report?

20 MS. DAVIS: The data set?

21 MS. LHAMON: Any data analysis.

22 THE WITNESS: I don't think so. I did this
23 report at a time when I was very busy, so I don't
24 think I did extra things that I did not include.

25 BY MS. LHAMON:

1 glad to share it with you. It is readily available.
2 The Digest of Education Statistics are in any or every
3 government document library in the United States.
4 They are required to be there. There are government
5 document libraries in every major city in California.

6 Q It is just if I were to go looking for it,
7 would I ask for the Digest of Education Statistics?

8 A Exactly.

9 Q Do I need to know the particular year? 1970?

10 A Yes, you would ask for that.

11 Q That is what you used and you compared
12 1970 --

13 A To the year 2000.

14 Q On Page 1 of your report, you write that the
15 current system is one in which the state monitors
16 school performance and ensures that all California
17 schools have approximately equal level of resources,
18 taking each school's student body into account.

19 A Uh-huh.

20 MS. DAVIS: Where are you, Counsel?

21 MS. LHAMON: I can tell you. Not off of my
22 notes.

23 MS. DAVIS: Okay.

24 MS. LHAMON: Thank you.

25 Q What do you mean? What is your definition of

1 resource as used in that sentence?

2 A Dollars per student.

3 Q Then two sentences later, are you using the
4 same definition when you use the term resources?

5 A Resources to me means budget and it could
6 mean some in-kind resources.

7 Q What is that?

8 A Land, things like that, that a district might
9 have.

10 Q So, it is fair to say that throughout the
11 report, when you use the term "resources," you are
12 talking about dollars or budget?

13 A I am talking about the financial and other
14 in-kind resources that they can translate into actual
15 inputs that the students will experience.

16 Q Taking the first sentence that refers to
17 resources, the one that begins, "The current
18 system..."

19 What do you mean when you say, "Taking each
20 school's student body into account"?

21 A Well, the current system of school financing
22 in California does two things. Let me first say that
23 there are a certain number of districts that are
24 effectively not quite in the system, because they are
25 hold harmless, but that is a small amount.

1 Q I don't want you to speculate. I just want
2 to know if you have a view on the following kinds of
3 things: For example, do you have a view about whether
4 it is essential for a school to have teachers?

5 A Yes, it is essential for a school to have
6 teachers.

7 Q In your view, is it essential for a school to
8 have buildings?

9 A It is essential for most schools to have
10 buildings, but there are examples of unusual schools
11 that, for some reason, are able to operate without
12 buildings. I would suggest, however, most schools
13 should have buildings.

14 Q In your view, is it essential for schools to
15 have instructional material for students to use?

16 MS. DAVIS: Vague and ambiguous.

17 THE WITNESS: I think actually this is a
18 changing thing. Instructional materials are very
19 fluid these days. It used to be the case that
20 instructional materials meant flip charts and chalk
21 and workbooks and textbooks. There is a much wider
22 variety of instructional materials now, electronics or
23 on-line. Therefore, I think you need to have whatever
24 it is that is going to allow you to instruct your
25 students, but that may not be just the traditional

1 For the districts that are in a school
2 finance system, the state first has a system in which
3 it basically provides an equal per-pupil basic amount
4 for each student. Then it provides adjustments or
5 compensatory spending in the school's budget for
6 students who have certain disabilities, limited
7 English proficiency, who are socioeconomically
8 disadvantaged.

9 So, that is what I mean by taking each
10 school's student body into account. It is not exactly
11 the same level per-pupil budget for each school. It
12 then adds on some compensatory spending.

13 Q Do you have a view of what is required to
14 operate a school?

15 MS. DAVIS: Vague and ambiguous and calls for
16 speculation.

17 THE WITNESS: Yes, I think that is such a
18 general question, that it is difficult to answer. I
19 think one can talk specifically about whether a school
20 has a budget that appears to be adequate for schools
21 in its state. The area costs that it deals with, I
22 think that is something that is relatively concrete
23 and you can talk about. Beyond that, I think it is
24 kind of speculative.

25 BY MS. LHAMON:

1 form of instructional materials.

2 BY MS. LHAMON:

3 Q What other kind might it be?

4 A Well, the question is whether your students
5 have the sources of information that they need to
6 learn, say math or reading. I have been in unusual
7 schools in which children were reading textbooks
8 on-line and they did not, in fact, have a physical
9 book. Although that is still unusual, I wouldn't want
10 to say that I know that that is worse or better than
11 having a physical book. It is not obvious. I don't
12 think we know that yet based on any evidence.

13 Q But, some kind of instructional material;
14 computer, book, some other mechanism you think is
15 essential for a school, in your view?

16 MS. DAVIS: Vague and ambiguous.

17 THE WITNESS: Teachers certainly need to have
18 some type of material they are going to work with. I
19 actually think there are a wide variety of ways to
20 teach. I don't think it is straightforward. We know
21 from research on developing countries that
22 instructional materials are not consistently helpful.
23 Sometimes it is better to have a more knowledgeable
24 teacher. I think instructional materials, where you
25 probably would have to know the circumstance.

1 BY MS. LHAMON:

2 Q This is a management principle you have been
3 talking about, right?

4 A I would say that you do need to consider your
5 circumstances and what would be the best ways to use
6 instructional material. I do not believe it is going
7 to be the same in every school.

8 Q That is very helpful. Thank you.

9 What we have just been talking about is some
10 kind of instructional material, some teachers, some
11 buildings. Do you view these ingredients as inputs?
12 Is that a fair definition?

13 A Yes, I do view those as inputs.

14 Q Do you include anything else in your
15 definition of inputs?

16 A Almost anything on which you would spend your
17 school budget could be considered an input. It could
18 be paint, having clean floors, having a janitorial
19 service. It is really anything on which you spend
20 your resources, assuming that the resources have not
21 been embezzled and spent on something that goes
22 outside the school. Even something like a playing
23 field could be inputs into the learning process.

24 Q That is because you think of it as a function
25 so that there is inputs toward the output?

1 THE WITNESS: Usually we think that
2 centralization is most helpful when there is some
3 reason why you would want to have a lot of
4 standardization across school districts. So, an
5 example would be that you would not want, if you
6 consider tests to be an input. The test itself is
7 probably an input. The performance is an output.

8 You wouldn't want the state to allow each
9 school district to choose its own tests and send all
10 of these variety of tests up to the state for
11 accountability purposes. There is clearly a public
12 interest in having a centralized decision about what
13 tests should be given to students.

14 That is one sort of obvious input where you
15 could manage a state having a public interest in some
16 type of control. Anything where you would expect
17 children to normally cross school district lines a
18 lot.

19 You might also say that the state had some
20 interest in inputs. In this case, the main thing that
21 I would think of is in the State of California,
22 children with very severe disabilities who usually do
23 not attend schools in their own district, but attend a
24 special disability district in the State of
25 California. The state clearly has an interest in

1 A That's right.

2 Q Do you know whether California manages any
3 inputs now?

4 A California had some --

5 I'd say it provides guidance for its schools.
6 It does the textbook buying for the state. In that
7 sense, it is managing its inputs more than other
8 schools in other states do. It also has a variety of
9 rules about teacher certification that you could say
10 are managing its teacher-related inputs in some sense,
11 but it does not do a lot of hands-on management of the
12 inputs in its schools.

13 For instance, janitors in the State of
14 California are hired by districts. They are not hired
15 by the State of California and the State of California
16 does not actually manage janitors in school districts
17 in the state.

18 Q Do you think that is a wise policy?

19 MS. DAVIS: Vague and ambiguous.

20 THE WITNESS: I do not believe that
21 centralized management of many inputs is a factor.

22 BY MS. LHAMON:

23 Q Are there any inputs for which centralized
24 management is an effective practice?

25 MS. DAVIS: Vague and ambiguous.

1 understanding the inputs that are going to those
2 children, because they are not really being managed
3 and probably it is not appropriate for them to be.

4 These are the two clear areas, but I do not,
5 in general, think that it makes a tremendous
6 difference for states to manage inputs centrally.

7 BY MS. LHAMON:

8 Q Just going back to the first example. I
9 believe you said you would not want states to allow
10 each school district to choose its own tests?

11 A Right.

12 Q Can you tell me why one would not want that?

13 A Because the state has an interest in
14 monitoring how well districts are using its money. In
15 particular, in a state like California where the state
16 has a large role in school finance, perhaps really has
17 almost the whole role in school finance, I believe
18 that the state has a responsibility to monitor what
19 happens with its money, the outcomes that occur when
20 it gives a district money.

21 It is very difficult for the state to tell
22 whether a school district is performing if the school
23 district decides to judge itself by a scale that is
24 different than all other school districts. It is just
25 a matter of having a common scale.

1 Q You gave me some examples of inputs that
2 California now manages.

3 Do you know if there are any other inputs
4 that California now manages?

5 A You see, I don't think manage or not manage
6 is really a very good way to think about this answer
7 to this question. Most states provide guidance and
8 constraints on inputs. Very few states actually
9 manage inputs, with the exception of the State of
10 Hawaii, which runs all of their own schools.

11 To the extent that the constraints that a
12 state puts on its inputs cause the state to actually
13 be in charge of some small amount of the management of
14 the inputs, I suppose all states manage inputs to a
15 certain degree. That is not the same thing as saying
16 they actually are principally in charge and manage.

17 I don't think California is in charge of any
18 of the management of the district's inputs. The
19 districts do control how their money is used largely.

20 Q Let me just show you on Page 5 of your
21 report, which we have marked as Exhibit 2, you wrote
22 in Section 3.4, "Showing that inputs have a causal
23 relationship with performance is not sufficient to
24 justify state determination of input policies. This
25 is because a state can easily manage inputs less well

1 do not think it practices a high degree of management
2 of most state inputs.

3 It does practice a much higher degree of
4 textbook management than some other states. It does
5 not actually oversee what happens with textbooks once
6 it gets into the classroom. It does not actually
7 manage the textbooks once they are in the school.
8 However, it is selecting textbooks for the state.
9 This is a higher degree of management than being
10 completely hands off. It is a spectrum and I think
11 that there is some degree of management of textbooks.

12 Having standards about teacher certification,
13 some degree of management of teacher hiring and having
14 to give waivers to schools that want to manage
15 certified teachers is some degree of management. It
16 is not very far along the scale of one on management
17 of a policy.

18 Q I really appreciate that distinction. Thank
19 you.

20 Have you made any inquiry to find out which
21 other categories of inputs in which the state has some
22 degree of management in California and which are not?

23 A I know what is in the California laws about
24 various inputs, like textbooks and teacher
25 certification and whether schools can hire emergency

1 than schools."

2 My question has been just whether you know if
3 there are any inputs that the state manages, as you
4 have used the term in that sentence?

5 MS. DAVIS: Other than what she testified?
6 BY MS. LHAMON:

7 Q Well, I think we have now had an exchange and
8 I am not sure what you testified to. I just want to
9 be clear.

10 A I am afraid I am just losing the strain of
11 this question. I am not clear on what you are trying
12 to ask about these specific sentences.

13 Q Thank you.

14 What I am referring to is the second
15 sentence. It says, "Because the state can easily
16 manage inputs less well than schools."

17 I take that point -- we will ask you about it
18 later. I am not interested right now about substance.
19 I am wondering if there are any categories of inputs
20 that the State of California does now manage as you
21 have used the term "manage" in that sentence.

22 A Well, I think, as I tried to say before, I
23 think management is not a yes or no thing. I think it
24 is a spectrum of how much you manage things. I think
25 California does practice some degree of management. I

1 certified teachers and things like that. I suppose
2 that is the research one would do with states managing
3 inputs.

4 Q You testified that you know the laws for
5 teacher certification, for emergency credentialing or
6 selecting textbooks for the state. Do you know what
7 the laws are in California for any of the other
8 inputs?

9 A I know some of the things about facilities.
10 I have reviewed California's laws for fulfilling the
11 provisions of an accountability system. I have
12 reviewed the laws in California about professional
13 development hours, in-service teaching hours and
14 things like that.

15 In some cases California does not have a law
16 on something, so I reviewed its not having a law on
17 certain things.

18 You know, I would not consider myself to be
19 an expert in the intimate details of how some of these
20 laws are implemented in California. Someone who
21 literally knows every word of the legislation and
22 knows exactly how it has been interpreted by the State
23 Department of Education is only probably someone at
24 the Department of Education and has done that working
25 with school districts every year.

1 Q For what purpose did you review the laws on
2 the inputs you just described to me; the
3 accountability?

4 A Really because when I was trying to compute
5 statistics about how centralized control was in
6 different states, the only way to do that is to review
7 the laws in different states and figure out what the
8 state is attempting to control.

9 Q So, it was for purposes of writing a report
10 in this case?

11 A Yes.

12 Q Is it your understanding that the state does
13 not now set detailed requirements regarding
14 educational inputs?

15 MS. DAVIS: Vague and ambiguous.

16 THE WITNESS: The state has a lot of control
17 over the total amount of inputs available to each
18 district and each school in the State of California.
19 So, in that sense, California has more centralization
20 than any other state in the United States except for
21 Hawaii.

22 So, yes, that is ultimate control of the
23 total basket of spending for each district. Right
24 now, California does not insist that one percent of
25 your district be spent in, say maintaining your

1 clear that way.

2 For instance, on textbooks, if the state were
3 actually to monitor and ensure that certain textbooks
4 were in certain classrooms or in the hands of certain
5 children, the state would have to implement a
6 centralized system of monitoring which child has which
7 textbook and it would presumably have to have some
8 type of inspector to ensure that that monitoring was
9 done and that state would also have to probably buy
10 textbooks for each school based on exactly which
11 students it had in each class or would have to, at a
12 minimum, give the school exactly that budget and tell
13 them to buy a certain number of textbooks. That would
14 be a substantial increase in the control that the
15 state has over textbooks.

16 I could give you examples with other
17 specifics.

18 Q I'd love that, but let's stay with that one
19 for a moment.

20 Tell me why each of the components you just
21 described would be required if the state were to
22 substantially centralize control over textbook use.

23 A I think the correct answer to this requires a
24 somewhat general answer.

25 California schools have a relatively equal

1 bathrooms and one and a half percent be spent on
2 maintaining your playground. It does not break down
3 like that. It doesn't have something implicit that
4 because you can't get state matching money for
5 facilities improvement if you don't spend enough local
6 money.

7 So, there are some incentives there to spend
8 local money on things, but there are not mandates
9 about --

10 Well, for instance, there is a mandate that
11 you lose your use of state funds to buy textbooks. In
12 general, the district would have to spend some of its
13 own money, too.

14 BY MS. LHAMON:

15 Q Thank you.

16 Turning back to Page 1 of the expert report
17 we have marked as Exhibit 2. Let me just --

18 If I say your expert report, will you know
19 that I am referring to Exhibit 2?

20 A Yes.

21 Q What does substantially centralized control
22 mean as used on Page 1 of your expert report? It is
23 the bottom line of the second full paragraph. The
24 paragraph right below the bullet points.

25 A Let me give you an example, because I can be

1 amount of money to spend on a per-pupil basis compared
2 to most schools in the United States.

3 The plaintiffs' experts in their reports have
4 noticed that the same amount of money does not always
5 translate into what appears to be the same materials,
6 say in the classroom, the same textbooks. If you are
7 going to have the same amount of money translate into
8 different textbooks and you want to prevent that from
9 happening, you want to make the same amount of money
10 always turn into exactly the same set of textbooks or
11 availability of textbooks, you will have to actually
12 manage what happens to each dollar that is designed to
13 be used for the textbooks.

14 You cannot merely give the dollars and then
15 not provide some centralized control over the textbook
16 purchasing, the textbook allocation, the textbook
17 delivery and the textbook maintenance. There is no
18 way to get from one to the other without a lot of
19 centralized control of those things.

20 Q Which of the plaintiffs' experts have you
21 said noticed that the same amount of money doesn't
22 necessarily translate into, for example, textbooks? I
23 take it when you say "noticed," you mean noted in an
24 expert report?

25 A Yes. For instance, in Jeannie Oakes' expert

1 report, she comments on some school districts or
2 schools, anecdotal comments, where she says that in
3 such and such a school, the children in this classroom
4 do not have textbooks to take home. That is because
5 we know that the school that she is talking about has
6 as big or a bigger per-pupil budget than many schools
7 have in the State of California. We know that the
8 dollars are not translating. Yes, she is describing
9 a situation in which dollars are being used
10 differently.

11 Q You gave me an example in defining
12 substantial control. Then you said you can give me
13 other examples. I'd love to hear the other examples,
14 if you don't mind.

15 A On facilities, if the state wanted to, I
16 think, do what the plaintiffs' experts would like them
17 to do to make all facilities very similar in the State
18 of California, the state would have to probably hire
19 contractors on behalf of districts. The state would
20 have to monitor contractors. The state would have to
21 monitor maintenance staff.

22 The state would probably have to have an
23 inspector right there that went around and saw whether
24 the contractors were doing what they were supposed to
25 do. That would all imply quite a centralization in

1 think it is the nature of all principals to hire
2 exactly the same set of teachers that they are not
3 forced to.

4 Q When you say the same set of teachers, you
5 mean the same qualifications?

6 A The same distribution of qualifications.

7 Q Turning to the other extreme, also on Page 1
8 and then in other places in the report, you use the
9 phrase "local control."

10 A In California, the local districts do not
11 have very much control of their finances. So, in a
12 normal state, we would say local control would entail
13 both local management of how the budget is spent and
14 it would entail local control of how big the budget
15 is.

16 In California, it really only is about the
17 former set of issues. Local control is making
18 decisions about how to spend the budget that a school
19 has, in part, whether it asks for bonds to build
20 facilities, how to do hiring, how to manage school
21 staff. All of those things come under the heading of
22 local control.

23 Q When you have used the phrase, "local
24 control," in your expert report, you are referring to
25 the definition of local control that is specific to

1 the control over facilities.

2 Also, some states in the remote past -- not
3 now -- have said that all districts have to build
4 exactly the same buildings. There is an architectural
5 plan and that must be built, so you couldn't even go
6 that far. I don't think that is probably envisioned.

7 Q Do you have anything else in mind when you
8 talk about substantially centralized control?

9 A Centralizing control over teacher
10 certification or who is teaching in schools would also
11 entail much more centralized control. The state could
12 do hiring for the entire state. It could do
13 allocation of teachers to individual schools. That
14 would certainly be a remedy that appears to be one of
15 the remedies that is implicitly asked for here.

16 If you want to have teachers evenly
17 distributed across the state, the state probably would
18 have to have some centralized role in allocating
19 teachers to other schools.

20 Q Is that centralized role, as you understand
21 it, actually hiring the teachers or is there some
22 other component?

23 A If the state did not actually hire the
24 teachers or distribute teachers, they would not be the
25 same in every school in the state, because I don't

1 California, then?

2 A I think it probably depends. When I am
3 talking about California specifically, yes, I am using
4 that definition of local control. Later in the report
5 when I am talking about rating different states on
6 their degree of centralization, I do take into the
7 fact that different states have different degrees of
8 state control over school finances. So, there I would
9 also take into account how much centralized finance is
10 in the state.

11 Q Is it your view that local control and local
12 funding really cannot be separated?

13 A Local control probably works better when
14 there is some degree of local funding. I do not think
15 local funding of 100 percent local funding is
16 necessary for local control to work well. You can
17 certainly have a large degree of local control without
18 having local funding.

19 It is probably a spectrum as opposed to a yes
20 and no thing. If you have no local funding, you can
21 still have quite a degree of local control. You still
22 control how your budget is used and how you decide to
23 hire teachers, given how much you have to spend on
24 teacher salaries and/or how much you spend on teacher
25 salaries versus something else; buildings,

1 instructional materials.

2 If you have local control of how you spend
3 your inputs and you have some degree of control over
4 the size of your budget, the state would have some
5 control and the district has some control, probably a
6 greater degree of local control and at the extreme, a
7 district has almost complete control over how much it
8 has to spend and how it chooses to allocate its
9 spending. But, it is a spectrum. It is not a yes or
10 no thing.

11 Local control probably works better when it
12 is tied, at least somewhat, to local financing.

13 Q Why is that?

14 A Because I think that if voters think that it
15 is their dollar that is being spent at the school,
16 they pay more attention and that is why you can still
17 achieve quite a lot of good local control even if it
18 is only a small share of the total dollars. If they
19 are the marginal dollars, that makes a big difference
20 to people.

21 Q You have researched this question quite a
22 lot, haven't you?

23 MS. DAVIS: What question?

24 BY MS. LHAMON:

25 Q The question of the relationship between

1 described in a very crude sense as being very similar
2 often create some different effects. States have not
3 all been equally good at working out school financing,
4 in part because people do not look carefully enough at
5 the formulas.

6 Q You said that school finance is a very
7 complex view that I agree with. Were you referring to
8 the complexity solely with respect to its relationship
9 to local control or just school finance is very
10 complex?

11 A Let me put it this way: I think school
12 finance is complex for a layperson for two reasons.
13 One is that understanding it actually requires a fair
14 amount of economic knowledge. That doesn't make it
15 different than other tax things. Understanding income
16 taxes also requires that.

17 The second thing is that it also requires
18 some knowledge about the institutions of school
19 districts and it is relatively rare in the United
20 States to find people who have both types of
21 knowledge, so therefore, it is complex.

22 Q Just to stay with the relationship between
23 school finance and local control, I believe you
24 testified that in preparing for the paper that you
25 wrote called Not All School Finance Equalizations Are

1 local control and local funding.

2 A Yes.

3 Q How long have you held the view that there is
4 a spectrum on the local control and local funding
5 matter?

6 A I think as I have done more research on
7 school finance and understood the range of school
8 finance formulas that are available, I have developed
9 a view that it is very important to have some local
10 control of funding, but that it really matters what
11 the state's finance formula is.

12 I don't think there is a simple yes or no
13 answer for you. I think that what is important is to
14 look at the actual formula and decide whether local
15 people have the incentive to monitor how local inputs
16 are being used. That can occur in systems that have a
17 state role, but it depends on what the role the state
18 plays is.

19 School finance is not simple. It is
20 something that you actually need to read the formula
21 and understand what kind of funding the state is
22 giving the districts by formula. I think I developed
23 that view because in doing my research, as a result, I
24 recognized that there are a wide variety of incentives
25 given by the formulas and two formulas that might be

1 Created Equal, that you modified your view of the
2 relationship between local control and state control
3 of school finance; is that correct?

4 A I'd say I made it more sophisticated. Before
5 I wrote that paper, I am not sure that there was any
6 research by any researcher literally in the United
7 States and I don't just mean economists, that actually
8 tried to look at the impact of various types of school
9 finance formulas. So, I think before I wrote the
10 paper, I had a view that was about as new as anyone
11 had in the United States.

12 After I wrote the paper, I understood much
13 better that two states that are both playing an equal
14 role in some gross sense, both of them control 60
15 percent of the state's spending, can actually be doing
16 very different things with their local districts and
17 can be giving them very different incentives.

18 I think this is a view that is still there
19 are very few people that are expert in school finance
20 to understand what I just said, because I just think
21 you need to do so much work understanding what school
22 finance depends on in the United States.

23 Q Who are the other people expert enough in
24 understanding what you just said?

25 A There are a few. I think there are -- it is

1 a view that is known to people who are school finance
2 experts. I think if you would talk to someone like
3 William Evans at the University of Maryland, he would
4 say that he was very influenced by my paper, because
5 he had not bothered to look at the school finance
6 papers before. Now when he trains students, he does
7 make them do that.

8 I think this has been a very influential
9 paper, influencing a lot of people.

10 Q Are there any other people you can think of?

11 A I suppose there are many people. Richard
12 Mernane who is at the Harvard School of Education,
13 Sandra Black at UCLA -- there aren't that many people
14 who teach school finance in the United States. Edward
15 Gramlick, who is at the University of Michigan.

16 Q Since I am not on that list and I appreciate
17 that is probably just because you don't know me very
18 well, can you walk me through it again, the analysis
19 that you have come to to understand why, even in the
20 absence of local control of school finance, one can
21 have meaningful local control?

22 A Well, I think this is a slightly different
23 question, but I will try to answer that specific
24 question.

25 Q Thank you.

1 many states where the state plays a strong role in
2 school finance, but does not control the marginal
3 dollars of school spending, it is the administrator
4 who handles, manages school inputs well that will not
5 only be rewarded by having parents who are happy, but
6 he is likely to be rewarded by people deciding that
7 they want to move into the school district.

8 Property values rise in the district and that
9 usually makes things easier for him in terms of
10 getting bonds enacted, possibly having a bigger budget
11 for some special projects that he wants to have in
12 areas where property values are rising. There is a
13 link between property values and school spending. It
14 is easier to get things done, so there is a reward
15 there.

16 In an extreme example, there would be no
17 state role in school finance. That doesn't occur
18 anywhere in the United States. To the extent there
19 are states that are closer to that end of the
20 spectrum, the school administrator would probably get
21 the biggest reward for managing his school inputs
22 well.

23 The difference, though, between the state
24 that allows a district to keep its marginal dollars
25 and a state that allows the district to keep all of

1 A There are a variety of ways in which a school
2 can be rewarded for having or for managing its inputs
3 well. One of them is that it just makes its local
4 parents happy. So, if you manage your school budget
5 well, parents will probably be happier because they
6 will see that the resources will appear to be greater,
7 because they will have been spent efficiently.
8 Parents will be pleased with the performance of the
9 school district.

10 It is always nicer, if you are a school
11 administrator, to have a lot of parents around you who
12 like your schools, like your district, are not
13 complaining and to have parents telling people in
14 other school districts to come and live in my school
15 district if you care a lot about education, because
16 they do things well here. That is a nice set of
17 circumstances for an administrator.

18 It does matter whether you have local control
19 of inputs, because when you have local control of
20 inputs as an administrator, you do have a potential to
21 make local parents happy. You have the potential to
22 do other things better or worse and try to make your
23 parents happy. This is a very strong set of
24 incentives, actually.

25 Administrations do care about parents. In

1 their dollars is actually quite small, however. That
2 is why I am saying that a state can play quite a big
3 role while still allowing there to be a lot of or
4 quite a lot of local control. It really depends on
5 what the state does when a district manages its inputs
6 well.

7 Is there any implied punishment for managing
8 inputs well?

9 In some school finance systems, there is. In
10 some, there is not. An example, there are some states
11 in which a district that manages its school inputs
12 well will be penalized by a school finance formula
13 because the state will say you are doing a good job
14 with less money than other districts; therefore, they
15 would take money away from the district and apply a
16 sanction for doing a good job.

17 The state's role is that you need to
18 understand exactly what a state is doing and not just
19 some general idea of whether the state is involved or
20 not.

21 Q Where in that spectrum does California fall?

22 A California has almost complete centralization
23 of the total level of inputs, as I say, with the
24 exception of the set of districts that are in hold
25 harmless category. But, California does not penalize

1 districts that are doing particularly well with their
2 inputs. It does not attempt to take money away from
3 them, particularly.

4 Q In your view, does California now have a high
5 degree of local control?

6 A Relative to other states?

7 Q Yes.

8 A No, I would say it has a -- it is in the
9 bottom half for local control, certainly. Exactly
10 where it is in that bottom half, I think depends on
11 which aspect you would look at. But, no, it does not
12 have a high degree of local control. It might even be
13 in the bottom third among the states.

14 Q I am not holding you to exactly where it is.
15 What makes you say it might even be in the bottom
16 third?

17 A Because it has no local school finance really
18 to speak of. It certainly has relatively more control
19 of its textbooks than any other state except for the
20 State of Texas. It has a relatively high degree of
21 mandates about teacher certification compared to other
22 states. So, all of those things together would, I
23 think, put it in sort of the bottom third.

24 Q California's relationship to accountability
25 or to testing doesn't factor into that analysis?

1 state does this. I think what you meant is when a
2 district manages its inputs.

3 Q I did. Thank you.

4 Is California in that category of states?

5 A Well, in California, a district that has its
6 property values go up does not see a change in its
7 operations in management budget, because that is
8 totally state controlled. Again, with the exception
9 of the districts that are out of this school finance
10 system, effectively.

11 However, local bonds are still passed for
12 facilities. They are still passed locally in
13 California districts and there would be some reward
14 for having property values rise. People feel better
15 about voting for bonds when their property values have
16 gone up, because people like their school district.
17 So, there are some implied rewards there.

18 Q Have you done any research as to whether that
19 theory obtains in California?

20 A Where the theory obtains?

21 MS. DAVIS: Vague and ambiguous.

22 THE WITNESS: I am not sure.

23 BY MS. LHAMON:

24 Q What I understand you to say is that in
25 California, except for the hold harmless districts,

1 A It does, but there isn't very much variation
2 because of the "No Child Left Behind Act." All states
3 are moving into the same area in accountability. I
4 suppose there are states that might, in the future,
5 exceed the provision of No Child Left Behind by a wide
6 margin and get way ahead of the other states, but that
7 is really not the case right now.

8 All of the states are -- they may be at
9 slightly different places, but they are all moving in
10 a pretty similar alignment in terms of how much
11 accountability testing sort of stuff they do.
12 California is ahead of some states and it is also
13 behind some states. I wouldn't say there is a big
14 difference.

15 Q Okay.

16 Several questions ago, when you were
17 answering, you were describing to me a variety of ways
18 the state can be rewarded for managing its school
19 budget well. The second way that I wrote down was
20 that in many states, where the state has a strong
21 role, but does not control the marginal dollar, the
22 administrator is rewarded if the property values rise.
23 For instance, it is easier to get a bond passed.

24 Is that, in substance, what you testified?

25 A Yes, although you said the state. When a

1 when property values go up, it doesn't matter a lot,
2 except that bonds still pass locally for facilities
3 and it may be that it would be easier to get a bond
4 passed in a district with higher property values.

5 A In a district that is improving its property
6 values, yes. I think there is a difference between
7 those two things, because you could have high property
8 values on average and not have them improving.

9 Property values can be high for two reasons.
10 One is that your district is doing a really wonderful
11 job with management and people want to move into the
12 district. Another could be people that own a lot of
13 big homes. Those are quite different things.

14 What we try to isolate here, if the property
15 values improve because it is good management, is it
16 easier to pass a bond?

17 The evidence appears to be yes, this is the
18 case. I think there is a lot of evidence from other
19 states that that is the case. Just having high
20 property values, if they are not improving, does not
21 make it necessarily that easy to get a bond passed.
22 It is really the improvement that relates to your
23 schools. I am referring to evidence by Professor Jon
24 Sonstelie.

25 Q Which Jon Sonstelie paper are you talking

1 about?

2 A I would have to look at that specific paper
3 title.

4 Q But, he has written about his theory?

5 A Yes.

6 Q Then you said there is a lot of other
7 evidence from other states. What are you referring to
8 there?

9 A Well, my own paper does a lot of or looks a
10 lot at this theory, evidence for this theory.

11 Q Let me interrupt you for a minute. I didn't
12 mean to denigrate it when I called it a theory. I
13 just wanted to know what the support was.

14 A There are some papers by a man named William
15 Fischel at Dartmouth, but, in fact, this theory is
16 well known and has been receiving support since the
17 1950s, at least. There is work from the 1970s in
18 California about this phenomena.

19 Q You say "my own paper."

20 A Not All Finance is Created Equal. This
21 theory is more generally known as capitalization and
22 there is a lot of empirical work on capitalization,
23 hundreds of papers.

24 Q Don't list them all for me.

25 A I won't.

1 local schools.

2 Part of the idea of capitalization is also
3 that if the reason that house values are going up is
4 that local schools have managed very well, then it
5 will be easier for the local school district to get a
6 bigger budget in an area where the state does not
7 completely control school finance. That is because
8 the reason that people like their school is that it
9 had good management and they are willing to give those
10 managers more money.

11 If you are thinking of people doing a poor
12 management, you are going to give them less budget
13 than if you thought they were doing a good job with
14 the money you already gave them. The two things are
15 related to one another.

16 Q Thank you very much.

17 How does the idea of capitalization work in
18 California?

19 A In California, there is still capitalization
20 occurring, but it has fewer implications for school
21 finance than it has in some other states. In
22 California, if the school district or school is well
23 liked, it will still attract people to live in its
24 school attendance area. House prices can rise if
25 there is a lot of demand for a particular school or a

1 Q But, actually, can you explain that to me,
2 because I had a different understanding of
3 centralization or capitalization. So, I am not on the
4 same page now.

5 A Capitalization is the idea that property
6 values rise to incorporate local people's
7 understanding of how valuable their schools are or it
8 could be something else. There is other local public
9 goods, but in this case, their school.

10 Therefore, the property values in the
11 district reflect two things, one of which is just how
12 much the physical house is worth. The physical house
13 is worth a certain amount of money just like a car.
14 The other is to reflect how much local schools and
15 other local public goods are worth and that second
16 part is called capitalization. It might be actually
17 good to think about a mobile home or car for a moment.

18 If you could somehow take your house and
19 drive it into another school district, part of your
20 house's value would be the same regardless of which
21 school district you drove it into, because it has nice
22 bathrooms or a nice kitchen or something like that.
23 The part that would change depending on which school
24 district you drove your house into is called
25 capitalization. It is capitalizing the value of your

1 lot of demand for a particular school district.

2 However, in California, because most property
3 tax revenue is redistributed by the State or allocated
4 by the State, it does not have implication for school
5 maintenance operations budget. It can only have
6 implications through their bonds, the ability of a
7 district to raise bonds.

8 Q That is what the Jon Sonstelie research has
9 talked about?

10 A There is actually a lot of research on
11 capitalization in California that reaches back to a
12 paper by Katz & Rosen in the 1970s and there are a
13 series of papers.

14 Q I may be a couple steps behind you still, so
15 please bear with me.

16 I understood you to say that your paper, not
17 all finance equalizations are created equal, changed
18 the landscape and that paper, I understand, has been
19 published since the Katz & Rosen paper in the 1970s?

20 A Yes.

21 Q Is there research that built on the insights
22 in your paper all school finance equalizations are not
23 created equal that goes to the effective
24 capitalization in California?

25 A I don't think so, because there isn't a

1 policy question right now that is out there
 2 specifically about this. Usually people would do
 3 research specifically on California if California was
 4 doing something around changing a policy around this.
 5 Because California has not been changing any of its
 6 policies recently, I think people will take away from
 7 my paper a general understanding of what happens that
 8 they might apply to other states. They might study
 9 California particularly if California is considering a
 10 policy change in this area.

11 MS. LHAMON: It is about two o'clock. Do you
 12 want to take a break or keep going?

13 (Discussion off the record.)

14 BY MS. LHAMON:

15 Q Does local control guarantee that every
 16 student gets inputs that he or she needs the most?

17 MS. DAVIS: Vague and ambiguous and calls for
 18 speculation.

19 THE WITNESS: Local control is like local
 20 management. It guarantees that the local manager
 21 can -- let me back up.

22 Let's take two local managers, both have the
 23 same level of inputs. Let's say that one of the local
 24 managers is making sure that every child has the
 25 inputs that he or she needs, so we know the total

1 level of the inputs are adequate. Now, we are
 2 interested in whether the total level of inputs will
 3 translate into good inputs for every student in every
 4 school.

5 Local control guarantees that the manager
 6 should be able to do an effective job and efficient
 7 job with his inputs. Whether or not he does an
 8 efficient job with his or her inputs is really going
 9 to be a function of the incentives that he is given.
 10 Those incentives come from two places. One is from
 11 the state, which is monitoring performance.

12 Now, in every state, some of the incentives
 13 come from local parents who are monitoring his
 14 performance in a different way, because they go into
 15 the schools and see what kind of job he is doing.
 16 Local control guarantees he has the ability to do that
 17 if he is a good manager.

18 BY MS. LHAMON:

19 Q How does the State of California now monitor
 20 school performance?

21 A Well, this is a complex system. It uses the
 22 Star system of tests to weight the various tests that
 23 are given. Those tests receive different weights and
 24 the state builds its academic performance index then
 25 the state publicizes and records each school's

1 academic performance index. The state has set a
 2 standard for the academic performance index.

3 I think it is called the provisional target
 4 of eight hundred and has a potential range of between
 5 zero and one thousand. The state is trying to get
 6 every school to an eight hundred at least on this
 7 index and the state has various methods of intervening
 8 in schools that fall considerably below the standard
 9 target for improvement in this academic performance
 10 index.

11 For instance, if a school district does badly
 12 on the academic performance index and also not moving
 13 toward the target at a rate of five percent of a gap
 14 between the state's academic performance and the
 15 target, then the state can do, I think, what is called
 16 intermediate intervention where basically the district
 17 is encouraged to have an external evaluation done to
 18 come up with an action plan to apply to the state for
 19 funds to implement the action plan and so forth.

20 That is the main way in which the State of
 21 California is monitoring performance. It is using a
 22 variety of tests and graduation rates and things like
 23 that to monitor performance.

24 Q In your view, does that system of state
 25 monitoring adequately take into account student

1 outcomes?

2 A It is as good a system as the top, say 10 or
 3 15 percent of states right now, so it is among the
 4 best systems in the United States. It is not a system
 5 that we would probably think should be unchanged in 25
 6 years. Twenty-five years or 20 years is a long time
 7 and you could add additional measures of outcome to
 8 this system. You could end up with more holistic and
 9 more comprehensive measures of outcomes.

10 For a state that has been attempting to
 11 implement accountability as California has, it has
 12 actually moved quite rapidly. I wouldn't even
 13 advocate that a state try to do 20 years of work in
 14 one year. I don't even think that school districts
 15 could take in all the schools that state could monitor
 16 in a prolonged run.

17 Just to give an example, this state probably
 18 does have an interest in the long run in knowing
 19 something about the long run of students, whether they
 20 go to college, whether they finish college degrees,
 21 whether they end up with records of unemployment or
 22 criminality in the State of California. All kinds of
 23 things.

24 Maybe in the long run, the State of
 25 California will be able to monitor some of these other

1 outcomes. It is totally impractical to monitor them
2 right now. I think the State has moved about as fast
3 as districts are able to digest.

4 So, I wouldn't say that the system is perfect
5 or that I couldn't suggest a series of improvements,
6 but I wouldn't actually suggest that the State attempt
7 to implement them all right now.

8 Q Why do you say that the current system in
9 California is as good as the top 10 or 15 states?

10 A Because there are several reasons. One is
11 that the state has made a real effort to define the
12 curriculum that it is going to test. That is helpful,
13 because then districts have some guidance about what
14 curriculum will be tested.

15 The state has also made an effort to come up
16 with its own set of tests that are state specific. It
17 is not just using off-the-shelf tests. It is having
18 the students take some national tests, so you can
19 continue to compare your progress to that of students
20 in other states. But, it is not relying solely on
21 off-the-shelf, nationally known tests.

22 The state is testing a lot of grades. It is
23 not just testing one grade or two grades, so it is not
24 as though a child can go for five grades in a row and
25 not be tested and all of the sudden he is tested.

1 the California system among the top 10 or 15 that the
2 state has different expectations for different
3 populations of kids.

4 A I think that is common. I think what you are
5 asking me about, what made it different from that of
6 other states, because that is part of the No Child
7 Left Behind Act. All states are doing that. It is
8 certainly important in California that subgroups have
9 been monitored. In fact, California was not
10 monitoring two subgroups that the No Child Left Behind
11 Act has made it monitor. It is not particularly out
12 in front of the states in this regard.

13 Q You also said that you have a list of things
14 that you think the State of California might change
15 about its accountability, not now, but at some point
16 in the long run to improve its system. What are those
17 things?

18 A Actually the main thing that I would like to
19 see is the inclusion of more long run or more long run
20 outcomes for students. Frankly, I think that we don't
21 want to try and jump ahead 10 years and foresee all of
22 the things that the State might want to do. A lot of
23 the moving and accountability systems is to understand
24 what seems like it is not being picked up and make
25 sure that those things get picked up over time.

1 That doesn't help a school very much to find out where
2 the gaps are. The gaps could be second, third or
3 fourth grade and if you don't test a child very often,
4 it is difficult.

5 The state has fought relatively hard about
6 how to compose its academic performance record. Some
7 states still have to base their school rating on
8 perhaps only one test or one indicator. The academic
9 performance index is basically a multi indices, multi
10 grade and I think the state has made an effort to not
11 just monitor the level of performance, but also
12 measure improvement in performance.

13 Finally, there are even some provisions that
14 apply to school districts that are high performing to
15 begin with. Districts that are initially high
16 performing have absolutely nothing to do in the state
17 accountability system. They can stay the same every
18 year.

19 In California, the state has identified ways
20 in which they should also improve even if they start
21 with a relatively high base. So, it is a relatively
22 well thought out accountability system. It is
23 imperfect as all of the systems are, but it is
24 significantly less imperfect than many other states.

25 Q You don't list among the attributes that make

1 Right now, the State's accountability system
2 does not have a particular focus on high achieving
3 students. As I said, it has some. More than some
4 other states do. In the long run, I think we'd like
5 to see all states have some degree of focus on
6 students who start out being proficient or perhaps
7 even above average in proficiency.

8 It is reasonable that states not focus on
9 them to begin with, because they are not the most
10 troubled students, but I don't think they ought to be
11 totally neglected. I also think that districts that
12 start off with a high level of proficiency ought to
13 have some monitoring. Not just districts that start
14 with a low level of proficiency.

15 Q Why is it that the districts that start out
16 with high level of proficiency ought to have some
17 level of monitoring?

18 A In the State of California, the State is
19 giving those districts a lot of their money. The
20 State would like to know that districts are doing a
21 good job at handling their resources there, too.

22 The fact is, that if you start with a bunch
23 of kids who are very affluent or come from families
24 who are very educated, kids would come into the school
25 already with a high level of performance and you'd

1 like to see that the school is doing a good job
2 improving their level of performance. The school
3 still has some work to do.

4 Q I take it that is also the same reason why it
5 is important in the long run for the State to begin
6 monitoring or doing a better job of monitoring the
7 achievement of high achieving students?

8 A Yes. A lot of the long run outcome would be
9 things you would be picking up. Outcomes that I think
10 we'd care about a lot for students that are not just
11 test scores and that would reflect not just high
12 achieving students, but low achieving students.

13 For instance, we care a lot about whether
14 someone experiences unemployment, whether someone has
15 the skills to be in a good occupation. That is the
16 sort of thing you can study with long run outcomes and
17 that test scores are only going to be a partial
18 indicator of that. Test scores are a best quick
19 outcome, but they are not the only thing we care
20 about, I think.

21 Q Thank you.

22 Just so I understand, there is nothing you
23 think the State of California should add now to a
24 system of monitoring school performance?

25 A I didn't write the California law, so it

1 are going to write state specific curriculum.

2 The State has some of the highest per-pupil
3 spending on an accountability spending of any state.
4 It is certainly not the top five on a per-pupil basis.
5 I think one has to be practical and you can only do
6 things so fast and there is only so much in the
7 universe and it had a high degree of commitment.

8 Q Excepting that point, assuming that
9 California in 1988 had done all the things that it is
10 now doing and not made changes to the accountability
11 system since then, would you recommend that it change
12 things today?

13 MS. DAVIS: Calls for speculation.

14 THE WITNESS: I would think I would say that
15 the State should attempt to start using some of the
16 other data that it has already on people in this state
17 to try and monitor long run outcomes. The State
18 already has data on whether someone is unemployed and
19 data on a person's occupation and income. Those are
20 things that the State has data on. It does not make
21 an attempt to link that data to schools.

22 Similarly, the State knows a tremendous
23 amount about whether students go to college in the
24 State of California, whether they graduate from
25 college, what kind of financial aid they use. It

1 might not be exactly what I would have chosen. I
2 don't think there is a gaping problem right now. I am
3 aware of its rate of change in California's
4 accountability system and I think I would be wary of
5 adding a lot more to it right away.

6 In fact, if you just look at what has changed
7 this year as to last year, there is a fair amount that
8 has changed. I do think schools need time to absorb
9 any standards.

10 Q If California had not had such a high rate of
11 change, would you have things you should think we
12 should add now?

13 MS. DAVIS: Vague and ambiguous and calls for
14 speculation.

15 BY MS. LHAMON:

16 Q I think my question was, in fact, unclear.

17 If California had not had such a high rate of
18 change to its accountability system, would you
19 recommend any changes now?

20 A Well, I think, for instance, in 1988, I would
21 have recommended that it move in some of the direction
22 it has moved in. I think I would say that you need to
23 publish some curriculum if you want kids to be tested
24 on a certain set of skills. I think it would be a
25 good idea to write some state specific tests if you

1 really knows that information right now. That is not
2 linked to the schools. It could essentially be
3 linked. That is a big job that some states have
4 started to do.

5 BY MS. LHAMON:

6 Q Why would it be important, eventually, to
7 link that kind of information to the California
8 accountability system?

9 A Because I think we don't just care about test
10 scores. Test scores are very good indicators of many
11 of these other things. I don't mean to denigrate test
12 scores. They have a high predictive ability,
13 surprisingly high, and they are available soon after
14 the policy is implemented. You cannot find out soon
15 whether someone is going to graduate from college.

16 I think in the long run, we would like to
17 see, what if we saw a school that had low test scores
18 and everyone led a very productive life and everybody
19 was employed. We would want to know that. Surely it
20 is unlikely, but we would want to know that.

21 Q Do you know if California does anything now
22 to encourage parent involvement in schools?

23 MS. DAVIS: Vague and ambiguous.

24 THE WITNESS: Does the State?

25 BY MS. LHAMON:

1 Q I do mean the State when I say California.
2 Thank you.

3 A Well, I know that districts that are involved
4 in the intermediate intervention program have a series
5 of requirements for parental involvement in, I guess
6 it is the action plan. Parents have to be on a
7 committee. There are a series of parent committee
8 meetings that have to be held.

9 So, yes, I think California, in the case of
10 districts that it believes are not being managed well
11 are automatically mandating a level of, not parental
12 involvement, because you can't force people to come to
13 meetings, but it is mandating that parents be given
14 the opportunity to be involved.

15 Similarly, the federal legislation -- I don't
16 know whether you want to attribute this to the State
17 or not, but the federal legislation that mandates that
18 parents have choices in districts that don't make
19 adequate yearly progress. So, there will be some
20 necessary opportunities for parental involvement
21 there, but I don't think --

22 I don't know that any state can actually do
23 much more than create opportunities for parental
24 involvement. It cannot force parents to be involved.

25 Q When you talk about the schools that have

1 the IIUSP program provides sufficient incentives for
2 schools to encourage parent involvement?

3 A No one could know that yet. It is too
4 recent.

5 Q That is just because of the recency of the
6 program?

7 A You can't evaluate a program that is really
8 not fully implemented yet.

9 Q Is there a set period of time before someone
10 could answer the question I just asked or does it
11 depend on something else?

12 A Yes, I think there is a set amount of time
13 you have to wait until the program, all of its
14 provisions, could have been implemented, which is a
15 minimum of three years from the beginning of the
16 program. Plus, you have to allow time for students to
17 improve. In general, in education, students are not
18 improved tremendously rapidly. You might expect to
19 see some of the effects of this program three years
20 after some of the policies had been implemented.

21 So, if the program were to start in Year 1,
22 it would have to run in a school for three years and
23 if some of the policies were to be implemented in the
24 third year, you might easily be in the sixth year
25 before you could do a good evaluation. Then you have

1 these action plans, are we talking about the IIUSP
2 program?

3 A Yes.

4 Q Is it your understanding that the IIUSP
5 program creates incentives for schools to encourage
6 parent involvement?

7 A Yes, it is a framework wherein parents must
8 have an opportunity to be involved. It is also the
9 case that I think most of the external evaluators
10 would want to have parental involvement in the
11 process. In order to get the funding, they are going
12 to have to demonstrate they got recommendations from
13 parents. That is the system of incentives to get
14 parents involved. You cannot mandate that parents be
15 involved.

16 Q No one does.

17 A No one can mandate parents be involved.

18 Q I don't know how familiar you are with the
19 IIUSP program. Are you familiar with it?

20 A I am certainly familiar with it in the sense
21 of knowing what its provisions are. I have not
22 actually been involved in a particular school's
23 program.

24 Q Thank you for clarifying.

25 Do you have a basis for evaluating whether

1 to wait for data, which would probably take another
2 year.

3 Q Okay.

4 I would like to take a break now.

5 (Recess.)

6 MS. LHAMON: Back on the record.

7 Q Are there any activities that the State of
8 California is now involved with or engaged in
9 concerning K through 12 education that the State
10 shouldn't, in your view?

11 MS. DAVIS: Vague and ambiguous.

12 THE WITNESS: This is a difficult question,
13 because I think there are policies that if they had
14 not been implemented in the first place, the State
15 could have chosen a better policy. That doesn't mean
16 that once it is fully implemented, it is a good idea
17 to remove it suddenly.

18 For instance, I do not think that the State
19 chose the best system of school finance. I don't
20 think any school finance expert thinks the State chose
21 an ideal system.

22 What the State does now, given that it has
23 had this system for a long period of time, it is a
24 more difficult question because the whole politics of
25 the situation have changed very substantially as a

1 result of the policy being implemented.

2 So, I think yes, the State should probably
3 adjust its school finance system, but it can't adjust
4 in the same way it might have chosen to adjust if it
5 started from a cleaner slate.

6 Similarly, I think that the class size
7 reduction policy that was implemented very quickly was
8 probably not implemented in the ideal way. What do
9 you do now that you have implemented it and you have
10 hired all these people? It is a different question.

11 I think there are some adjustments to
12 policies that California could make, but I think
13 largely when we look at the policies in California
14 that are probably considered the least optimal, they
15 are not policies that you want to reverse overnight.
16 You don't want to wipe them out. You want to try to
17 adjust slowly to something you consider a better
18 implementation to the policy.

19 BY MS. LHAMON:

20 Q You have identified school finance and class
21 size reduction. Are there any other policies that the
22 State of California now has with respect to education,
23 that you think that the State should end?

24 MS. DAVIS: Same objections.

25 THE WITNESS: Not that I can think of, but

1 freedom and the state is treating everybody the same
2 way. We tend to think this is not an efficient
3 system.

4 Those are the major things.

5 You probably want to move toward allowing a
6 little more local freedom, especially for districts
7 that don't need very much state money. They'd have
8 more freedom and they'd also end up with more local
9 fiscal control and the state would be able to reorient
10 its energy toward districts that are more needy
11 districts. That is something you could do quite
12 gradually over a period of time.

13 Q I think I wrote down three major problems. I
14 think you testified two major problems and then I
15 listed three things, so I have either combined or
16 there were three.

17 I have very little incentive for local school
18 spending to rise. Parent involvement is not as high
19 as it otherwise might be and that the State uses
20 resources in a way that is very much the same across
21 the school district.

22 A All of this could be quite readily adjusted
23 with a law change, basically.

24 Q What do you mean by that?

25 A Well, right now, the State does not allow

1 there may be some.

2 BY MS. LHAMON:

3 Q Taking school finance, you have testified
4 that the State should probably adjust school finance
5 not immediately. What would you recommend that the
6 State do differently?

7 A Right now, there are two problems, two major
8 problems with the State system of school finance.

9 The first is that there is very little
10 incentive for local school spending to rise, because
11 you can't really raise your local school spending. As
12 a result, private schooling is probably higher than it
13 would otherwise be in California. The local parents
14 are not as involved as they probably would be in a
15 system that had a larger degree of local control at
16 the margin, at least.

17 The State is using its resources in a way
18 that is so much the same across all districts that, in
19 fact, it is not focusing its energy particularly on
20 the districts. It is not focusing either its energy
21 or money on the districts that most needed help.

22 It is, in general, more efficient for a state
23 to not give every district the same amount of money,
24 but instead, focus on districts that need help and
25 allow more districts more freedom. Nobody has more

1 districts to raise any local money. One thing it
2 could move toward doing is allowing districts to raise
3 local money and providing matching money for the
4 poorest districts in the state, but allowing more
5 local control at the margin of the local financing.

6 That would be something that would not create
7 any more inequality in the state, but would probably
8 have more of a role for local participation and
9 greater incentives for local parents to be involved,
10 local parents to monitor school spending. You would
11 probably raise the local spending in the State of
12 California and reduce private schooling.

13 All these things would happen gradually.

14 Q Why would allowing more local control at the
15 margins, in terms of school finance, not create more
16 inequality in California?

17 Let me rephrase that.

18 How do you know that allowing more local
19 control at the margins would not create --

20 A If you wrote a formula that said everybody
21 spends however much they feel like spending, of
22 course, you could have inequality. You write a good
23 formula by ensuring that all districts really have the
24 same resources available to them, but that districts
25 that are more affluent are forced to use their own

1 resources. Those are the formulas that are not
2 impossible to write. California just has a
3 particularly simple formula. It more or less says
4 everybody gets the same amount.

5 Q Simplicity is not entirely a virtue.

6 You said that we have worked with other
7 states to write such formulas. Who is we?

8 A Experts in school finance. Economists who
9 are experts in school finance.

10 Q Did you have anybody in particular in mind?

11 A Well, for instance, I know that a number of
12 people at the University of Michigan helped Michigan
13 to write its new school finance laws and I think it
14 had a very beneficial effect in the laws written.

15 I know that the State of Texas has consulted
16 quite a number of economists to try to think of a
17 school finance law.

18 Some states are, in fact, consulting people.

19 Q Are you involved in those situations in
20 Michigan and Texas?

21 A Michigan's consultation took place before I
22 had a Ph.D. I am involved in the Texas consultation
23 and often I will just get calls from the State and
24 talk to state representatives or the governor's office
25 about school finance quite in an informal way. It is

1 Q What is the formula that will ensure that
2 districts have the same resources available, but that
3 affluent districts don't get as much state money?

4 A The simple formula that I recommend is that
5 states look at the total income available to
6 households in a district and then they look at the
7 revenues that a district has from other sources. It
8 might have commercial property tax revenues or
9 something like that. It looks at that pool of income
10 as the total resources available to a district.

11 Then the state gives per-pupil grants to
12 poorer districts that are funded with state funds so
13 that if all districts taxed that pool of resources to
14 the same degree, the same percentage, they are willing
15 to give the same percentage of their resources, that
16 the State would come up with enough money so that each
17 district could be equal.

18 This is a system in which local districts are
19 still responsible for raising that last dollar, but we
20 know that no district is required to give a very
21 disproportionate share of its income to school
22 finance. So, it is a system that maintains a balance
23 between local and state control.

24 You'd actually see affluent districts with
25 basically no state aid. They would basically do it

1 not always testifying.

2 Q And the Texas involvement, in what capacity
3 are you involved in that?

4 A I am on the joint committee between the house
5 and senate and the governor to try to think about ways
6 to revamp their school finance system so that the
7 current system, which is breaking down, can be
8 revitalized and made sustainable again.

9 Q What are the other states from which you have
10 received calls for consultation about school finance
11 reform?

12 A Arizona, Nevada, Vermont, New Hampshire. It
13 is not unusual for me to receive a call quite
14 casually.

15 For example, that happened in New Hampshire
16 after the litigation concluded in that state. Most
17 states, it is normal for there to be some degree of
18 ongoing consideration around education about school
19 finance. Almost always someone is thinking about
20 whether school finance should change, even if there is
21 no pending litigation.

22 As far as I know, they have been thinking
23 about school finance every year since I have been
24 aware that they are worried about their property
25 taxation, so they are always thinking about it.

1 themselves. The state is going to be hands-off. But,
2 poorer districts would get a lot of money from the
3 state. They'd still have to make efforts locally at
4 the margins, but we think that is probably good.

5 So, they maintain a relationship between
6 voters and local parents and the school district, even
7 though it may be a small share of the total they are
8 contributing. Still, that last dollar is their
9 dollar, so they need to think about whether they think
10 it is being well spent.

11 I think this is a nice formula, because it
12 means that even poor people feel that their local
13 school districts need to be responsible to them. But,
14 they also are not given a disproportionate burden that
15 they somehow can't pick up, that richer people can.
16 This is a very simple type of formula. You can add
17 all kinds of bells and whistles to it, but that basic
18 formula is one I think that works better for many
19 states than, for instance, the system in California.

20 Q Are there any states that have such a formula
21 for applied school finance?

22 A Most states are someplace along the spectrum.
23 There are states that have systems that are more like
24 that. You could look at Michigan's system, which is a
25 little bit like that. School finance is a very

1 detailed thing. Most state systems, you can't easily
2 put them in a little box and say they are like this or
3 not like this, because most of them have lots and lots
4 of bells and whistles. There will be historical
5 things built into them that will be built into the
6 system.

7 So, there are a variety of states that are
8 closer to that type of system. States have gotten
9 there kind of accidentally through trial and error.
10 Michigan made an effort to move to this type of
11 system. It also has a lot of historical oddities
12 built into that system.

13 New York has a system that moved dramatically
14 into that direction in the 1990s. Again, there is a
15 lot of unusual things about it. New York City is very
16 special.

17 So, yes, there are states that have moved
18 toward systems like that, but a typical state system
19 has a lot of peculiarities.

20 Q Do you think that the Michigan and New York
21 systems of school finance are well implemented with
22 respect to equality?

23 A The Michigan system is very equal. One of
24 the difficulties with the Michigan system is that they
25 built in a lot of strange spending limits so that the

1 Very special exception in the system. I am not
2 confident that actually New York City has been dealt
3 with in a way that is very sensible.

4 Q Well, taking Michigan first, could you tell
5 me, what are the kinds of things that concern you
6 about educational quality based on what you know about
7 Michigan and its school finance system?

8 A Most of these things are not concerned about
9 equality, per se. They have oddities that are having
10 a greater impact over time. When Michigan implemented
11 its system, it set a certain level of spending in 1994
12 and then it set this level of spending to grow at the
13 same rate as the following types of revenues in the
14 state.

15 That doesn't sound like a bad system, but it
16 doesn't allow any flexibility for districts that grew
17 faster or slower than other districts. A district
18 that is growing quickly in Michigan relative to other
19 districts can have a problem that it doesn't have
20 enough money to adjust for its enrollment. That was
21 probably a mistake in retrospect. It didn't become
22 apparent immediately.

23 An ideal system has two sides to it. It
24 allows districts to have local control at the margin
25 and the role for the state equalizing the basic

1 system has been very equal and some people complain
2 that it does not allow spending to grow as fast as
3 people like it to grow or adjust when, say a district
4 gets more enrollment and things like that. There are
5 some problems in the system, but it is certainly more
6 equal. It is equal and still has more local control
7 than California does.

8 Q I misspoke. I am remembering that you
9 testified that questions of equal educational
10 opportunity are questions of school finance. So, what
11 I meant to ask and didn't was if you think that the
12 school finance system in Michigan and the New York
13 school system are well implemented in ensuring
14 educational quality for the students in those states?

15 A I think I would say that the Michigan system
16 has been well implemented. I think that has some
17 problems that I could discuss with you, but I think we
18 have to always think in relative terms. Relative to
19 other states, I think it has done a good job. That
20 does not mean that I think there are no problems with
21 the system.

22 New York, I think is such a special example
23 that one could say that I think the system has been
24 well implemented in upstate New York, but New York
25 City is a very special sort of example in the system.

1 resources that districts have. In Michigan, they more
2 or less decided which set of districts were going to
3 have a reasonably large role for local finance in 1994
4 and that set of districts is unchanging over time.
5 Again, there is very little room for flexibility in
6 the system.

7 As districts change, status should probably
8 move more into having more local control and they need
9 less state money. They really can't change status in
10 the Michigan system. Most of the problems are the
11 problems having been written in the way that did not
12 provide for the fact that circumstances would change
13 in the future and it is now 2003.

14 The system has been in place 11 years and, of
15 course, some districts have changed and they no longer
16 are the same as they were in 1994. The system did not
17 make provisions for those types of changes. It has
18 made more strange differences between districts.

19 Q For New York, you testified that the New York
20 school finance has been well implemented in upstate
21 New York. Putting aside New York City, because you
22 testified you are not confident that city is dealt
23 with well, do you have any concerns about the
24 implementation of the New York school finance system
25 outside of New York City?

1 A It doesn't come very close to the edge I
2 talked about. It could move significantly closer to
3 that ideal. The basis structure of the system is a
4 reasonably good system in New York. There is no
5 indication that there are problems with the
6 distribution of school spending in upstate New York.

7 The total state has problems fully
8 implementing equal education opportunity, because New
9 York City is a very big portion of the state in total.
10 You can't ignore the fact that this is the part of the
11 state that contains 10 million people and you have one
12 school district with over 1.2 million children. So,
13 it takes a lot of the state's total budget and
14 probably the state does less intervention in other
15 parts of upstate New York.

16 I think the state has moved in the right
17 direction, but also it has got a very difficult
18 exception and that is a lot of politicking in New York
19 on how to deal with New York City.

20 Q One of the things that you testified is
21 important, if you write a formula the right way, is to
22 take care of concerns about education and equality.
23 You want to write the formula by ensuring that all
24 districts have the same resources available, but that
25 the affluent districts don't get as much of the

1 appreciate your response about affluent districts and
2 I take it to mean that you think affluent districts
3 are going to spend what it takes for those kids,
4 because that is something they value? Is that fair to
5 say?

6 A That is fair.

7 Q For not poor and not affluent districts, the
8 districts in the middle, is there a way to ensure that
9 there is not a free-rider problem, to ensure that
10 districts that can afford to fund their schools
11 appropriate do and still have a school finance system
12 that protects districts that can't afford to fund
13 their schools fully?

14 A Right. Districts in the middle, between rich
15 and poor, generally are going to receive some state
16 aid, just not as much as districts that are poor.

17 When the state chooses what it is spending,
18 what its resource targets should be for districts, it
19 should think about what it considers to be an adequate
20 level of spending. Now, that doesn't mean necessarily
21 it is going to mandate that level of spending would be
22 every place. It will give school districts incentives
23 to reach that level of spending.

24 My own analysis is based on the evidence that
25 when districts have adequate resources and have local

1 state's money.

2 Is that a fair characterization?

3 A Yes.

4 Q How can such a formula ensure that affluent
5 districts don't feel jealous of getting more state
6 money or have appropriate incentives to fund their
7 schools without concern about the loss of state money?

8 A Right.

9 This is an interesting trade-off. I believe
10 that in Florida, we do not see that affluent
11 districts, if we leave them to their own devices, they
12 spend an insufficient amount on children. In general,
13 affluent districts are concerned about having the
14 freedom to control their own school and if they have a
15 lot of control of their own schools, they spend quite
16 a lot.

17 Affluent districts in California are some of
18 the lowest spending affluent districts in the United
19 States and that is probably because they do not have
20 very much local control. There is no reason to think
21 that they would not spend more if they had more local
22 control, but then probably all districts in California
23 would spend more if they had local control.

24 Q I want to come back to that question, but
25 taking the inarticulately worded question before, I

1 control of their last dollar, getting them to spend
2 enough is generally not a problem. Most districts
3 that are very low spending either have inadequate
4 resources or they have no incentives to spend. They
5 cannot spend their local tax dollars, so they decide
6 they are not going to be in the business of paying tax
7 dollars when they are not going to be -- they cannot
8 see them showing up in their local schools.

9 So, we do not see -- states seem to have a
10 problem with local spending when they are in a form
11 that both provides adequate resources and allows local
12 spending to stay at home on the margin. Typically
13 some of those states -- I don't think states seem to
14 have increased spending as a share of family spending
15 every year. It just does not look like they are not
16 spending enough.

17 Q A few moments ago, you stated that a state
18 can write a formula to give incentives. What kind of
19 things can the state put in a formula to make sure the
20 districts have incentives?

21 A I think I described the basics of the
22 formula. One of the key things a state needs to start
23 looking at is family income in the district. Not to
24 look at property values. That is one of the biggest
25 mistakes the states make. They focus on property

1 value.

2 States like California have an income tax, so
3 they know the household income of everybody in
4 California. That information is not actually used in
5 that state school formula. That is a very important
6 piece of information to use.

7 Q Are there any states that do use family
8 income as distinct from property values?

9 A Yes.

10 Q Who?

11 A New York does, for instance. Connecticut
12 does. A lot of states use some of both. Massachusetts
13 uses some household income and some property values.
14 Most states that use household income use both
15 property values and household income. They use a
16 combination of the two. That is not actually optimal.
17 I think this is a leftover part of history.

18 What you really want to know is how much
19 money they have. Someone's property value is not
20 necessarily a very good indicator of what resources
21 they have to spend, both because of things like
22 capitalization, which we talked about earlier, but
23 also if you look at, say, an elderly couple might have
24 bought a house in 1970. This house might be worth a
25 lot of money. That doesn't mean they have a

1 tremendous amount of income to spend. That is what
2 they have to pay taxes with. Your house does not pay
3 taxes. You pay taxes. Your house does not write
4 checks. You write checks. It is important to look at
5 how much money a family actually has.

6 Q Does Michigan use family income or does it
7 use a mix of property values and family income?

8 A It uses a combination of property values and
9 actually sales tax revenues. So, sales tax revenues
10 are an indicator of household income. It also uses
11 some household income. It uses all three.

12 Q That is not optimal, either?

13 A You really want to just use household income
14 to judge how poor a school district is, because that
15 is ultimately the measure of how much income you have.

16 Q Is there any state in your view that does
17 school funding finance right?

18 MS. DAVIS: Vague and ambiguous.

19 THE WITNESS: There are states that do school
20 finance better than other states. It is not an area
21 in which most states -- in fact, all states could
22 probably improve their school finance system
23 substantially. Some states could improve their school
24 finance situation radically.

25 BY MS. LHAMON:

1 Q Where in that spectrum does California fit?

2 A The state that could probably improve
3 dramatically. I think it would also be difficult
4 politically, so you probably have to do it gradually.

5 Q For example, in Texas when you have been
6 advising the state as part of this committee on school
7 finance, are you recommending that Texas takes bits
8 and pieces from the other states' school finance
9 formula to implement a better formula in Texas?

10 A I am not really recommending anything. I
11 have not made recommendations to the committee. I am
12 part of the committee. We are there to consider
13 recommendations that are made to the committee.

14 However, I would certainly use my expertise
15 on the committee to try and distinguish among
16 recommendations that seem to me to be wiser versus
17 recommendations that seem to be less wise. I don't --

18 The system that they have right now is so
19 broken that almost nobody wants to keep the system as
20 is. I think it is which system should replace the
21 system.

22 Q When answering that question of which system
23 should replace that system, do you anticipate taking
24 pieces of other states' systems or do you anticipate
25 not even looking at other states and thinking in a

1 vacuum about what is the right thing for Texas to do?

2 A I think it has been a mistake for states to
3 copy other state systems as much as they have instead
4 of thinking about what they should do on the basis of
5 starting with more of a blank slate. Most states'
6 school finance systems incorporate a tremendous amount
7 of historical accidents from their own states and
8 sometimes historical accidents from other states.
9 Sometimes this is done for reasons that are political.

10 It seems it is done because states imitate
11 other states' formulas. These do not usually
12 contribute to the quality of school spending or
13 efficient use of state funds in the state. Most of
14 the time, they are peculiar provisions because of
15 historical things.

16 Q I misunderstood your role in Texas. The
17 bipartisan committee of which you are part, will that
18 committee make that final decision about Texas changes
19 in the school finance?

20 A No, it can just make recommendations to the
21 legislature.

22 Q Who else is part of that committee in Texas?

23 A I believe 30 -- I could give you a list.
24 Several members from the house and many members from
25 the senate. Probably 30 people from the house and 30

1 people from the senate.

2 Q Are you the only person on the committee who
3 is not a member of the state legislature in Texas?

4 A There are three people appointed by the
5 governor. I am one of them.

6 Q Who are the other two?

7 A An attorney from Midland, Texas, named Jack
8 Ladd and someone who was recently appointed whose name
9 I cannot recall, because I have not met him.

10 Q Will the legislature hear views from any
11 other committee on school finance reform before making
12 a final decision?

13 A This committee is a big committee that has
14 several subcommittees, so there are probably 10
15 subcommittees and each of the 10 subcommittees is
16 hearing its own testimony. There is a subcommittee on
17 facilities and on accountability and so on and so
18 forth. I don't know what other provisions are made
19 for the state, but there is a lot of testimony being
20 heard by the committee.

21 Q Are you familiar with the master plan in
22 California?

23 A I am not sure what you are referring to.

24 Q California has a master plan for K through 12
25 education. It has committees that compose part of the

1 MS. DAVIS: Vague and ambiguous and calls for
2 speculation.

3 THE WITNESS: Well, there are a variety of
4 things that the State of California could do. I
5 actually think this type of question is very difficult
6 to answer, because in most states, part of the answer
7 is what is politically feasible in the state. That is
8 probably the single most important piece of
9 information to have.

10 If I were to answer that question seriously
11 for someone in the State of California, a policymaker,
12 one of the first things I would ask him or her is what
13 is going to be politically feasible, and I could run
14 through a lot of scenarios. If it is not going to
15 work politically, then you don't do it. I think
16 politics are probably the main thing that would make
17 you choose between one policy and another.

18 BY MS. LHAMON:

19 Q Is it your view that you don't have enough of
20 an understanding of what is politically feasible in
21 California to be able to answer the question of what
22 California should do to raise student achievement?

23 A It is my view that there are a series of
24 policies that might be useful in the State of
25 California and that you would probably want to choose

1 plan and they have heard testimony. If you knew about
2 it, I was just going to ask if your committee in Texas
3 was a parallel. If you don't know that --

4 A No.

5 Q You testified earlier that you have received
6 phone calls from people in the governor's office and
7 at the state level from a number of states asking
8 questions about school finance reform; is that
9 correct?

10 A Yes.

11 Q Have you ever received calls from anyone in
12 California involving questions about school finance?

13 A I think the answer is I don't know. I get a
14 lot of telephone calls and I believe that I have
15 received telephone calls from California state
16 legislators at various times. I do not recall any of
17 them at this time except that I have a rather vague
18 memory of having talked to some people at various
19 points in time. I talk to many people each year about
20 this subject and I just don't, unless it is a
21 conversation that actually turns into serious
22 analysis, I usually don't recall the conversation.

23 Q If you were to advise the State of California
24 about how it should raise student achievement, what
25 would your advice be?

1 among them based on a careful analysis of how much the
2 policies would cost in the state and what would be
3 politically feasible. You can have a menu of policies
4 out there to think about, but without having looked
5 carefully at both the cost and the political
6 feasibility, I think it is difficult to make a
7 specific recommendation.

8 Q How can one go about determining what is
9 politically feasible?

10 A I think most legislators have a pretty good
11 idea of what is politically feasible. It is not
12 something I am expert in, so I would ask them what
13 they think.

14 Q Based on their assessment of what they think
15 others would accept, that is the kind of determination
16 that goes into determining what is politically
17 feasible?

18 A What the voters would like, more than what
19 the voters would accept.

20 In addition, California is a very big state
21 and at this point, does not have a loose budget
22 situation. So, it would probably be a good idea, for
23 many policy makers, to think about doing them on a
24 somewhat experimental basis than gathering evidence on
25 how well they work in the first couple of years.

1 The state does not have enough money to
2 implement policies in a complete way and immediately
3 across the state, anyway. In those circumstances, it
4 is often a good idea to try an experimental version of
5 a policy and see what the evidence is.

6 Q You testified that there is a variety of
7 things that a state like California could do. You
8 would need to find out from a person asking the
9 question about how politically feasible those things
10 would be; is that correct?

11 A Yes.

12 Q What is on your list of the variety of things
13 California could do to raise achievement?

14 MS. DAVIS: Vague and ambiguous and calls for
15 speculation.

16 THE WITNESS: California could revise its
17 system of school finance. That would probably be the
18 first thing I would talk about, because it is such a
19 very big thing in the state.

20 I think it would probably have long-run
21 impact on a variety of other things. I think it would
22 probably be a good idea to think about how to make
23 some form of choice more available to children who are
24 in certain very large metropolitan school districts
25 that are not now performing very well.

1 BY MS. LHAMON:

2 Q Those are the only two things in your list?

3 A I think it could probably improve the
4 accountability system in some ways that we talked
5 about earlier.

6 Finally, I think that California, because it
7 has such an important public college system where the
8 public college and university system is such an
9 important part of higher education in the state, it
10 probably could create more useful linkages between
11 K through 12 and higher education. It has opportunity
12 to make those linkages that other states do not have,
13 because the public university system is not as
14 important in many other states. I don't think
15 California has taken full advantage of those
16 opportunities.

17 Again, it is very difficult to really make or
18 speculate about what would be the best thing to do
19 without thinking seriously about the cost of some of
20 these things, what budget is available right now and
21 really talking to the people involved. You can't
22 implement any policy successfully if people aren't
23 interested in doing it.

24 Q Why is that?

25 A Because you can't implement a policy by just

1 writing laws. People have to want to carry it out.

2 Q The second on your list was to make some form
3 of school choice more available to kids and I think
4 you testified to kids in very large metropolitan
5 areas.

6 Do you believe that the form of school choice
7 needs to be available only to students of very large
8 metropolitan areas or is that something that could be
9 made available throughout?

10 A Large metropolitan areas or school districts
11 that occupy large parts of large metropolitan areas
12 are the most amenable to school choice, because people
13 are already living in the dense environment and they
14 are living in a very big school district that need not
15 occupy the entirety of the metropolitan area. So, it
16 is simply the place where you would start and it would
17 also be the place where it would have the largest
18 impact.

19 If you tell people they have school choice
20 and they live in some rural area of California, it
21 really is not likely to make much of a difference. If
22 you have to make complicated policies, you need to
23 understand the area you are working in very well
24 before you make the right policy decision. You want
25 to understand the cost of educating. It might be a

1 good idea to start in an area where the plan would
2 work if it was implemented correctly.

3 Q When you testified that school choice might
4 not make that much difference in a rural area of
5 California, is that because there isn't another nearby
6 school?

7 A Some areas are too sparsely populated to
8 support much in school choice. You might have some
9 very unusual choice that would work there, but if your
10 child already has to get on a bus for 45 minutes just
11 to get to the nearest school, it is not very likely
12 that the area can support a lot more schools.

13 Q Do you have a view of which are the areas in
14 California that could benefit from some form of school
15 choice if it were politically feasible in those areas?

16 A Well, let me back up and say there are many
17 forms of school choice that are possible. You
18 don't -- the idea is not that there is not one size
19 fits all here.

20 I think the idea is that you need to look
21 particularly at the cost differences for educating
22 different kinds of students and try to implement a
23 plan sensitive to cost and also the income composition
24 and racial composition and so forth of the area. You
25 have to think of whether a desegregation plan is also

1 there that can be implemented.

2 The big school districts like the L.A.
3 Unified are obviously the most obvious candidate.
4 There are already some form of choice available within
5 the district.

6 So, I personally would want to study what has
7 already happened in the types of plans that have been
8 implemented already. It is not as though L.A. has
9 done nothing. It has taken some action. I actually
10 want to look hard at the evidence of what has happened
11 there before I even think about what was appropriate
12 for the future.

13 Q What are the forms of school choice that are
14 already available in Los Angeles?

15 A My understanding is there is a lottery, sort
16 of stratified lottery system that allows school
17 choice, but also implements a desegregation plan. I
18 am not an expert in this. I have read articles about
19 it and have seen the formula, but it is not something
20 I am an expert in; the L.A. Unified plan.

21 Q When you said that Los Angeles Unified School
22 District is one of the most obvious districts that
23 could benefit from some form of school choice, what
24 was your basis for that?

25 A First of all, it is one of the largest

1 Q Are there any other districts in California
2 that you think come to mind immediately as potential
3 recipients of school choice that would make good use
4 of it?

5 MS. DAVIS: Vague and ambiguous.

6 THE WITNESS: I think all very big districts
7 are probably the most appropriate for thinking about
8 this. So, the big districts in California, as you
9 know, are places like San Francisco, Oakland, San
10 Diego. These correspond to the big cities in
11 California.

12 BY MS. LHAMON:

13 Q You are referring to student population?

14 A Student population. Not physical size.

15 Q The reason that a big district is likely to
16 benefit from some form of school choice is just the
17 sheer number of schools in the district so the ability
18 to implement school choice?

19 A Yes, because implementing school choice would
20 make a bigger difference in a big district. They are
21 more densely populated, so it is more feasible for
22 children to choose a different school.

23 In a very small district that only has one
24 high school, it is not clear what it means to
25 implement school choice within the district, anyway,

1 districts in the United States. It is simply very,
2 very large relative to what we think is efficient for
3 a school district.

4 In addition, L.A. Unified has some areas
5 that, some schools that are poorly performing.
6 Therefore, they have very little to lose. They
7 really, we would hope, would be able to improve and we
8 also think that parents should have better choices.

9 Q You said "we think." Who else are you
10 referring to?

11 A When I say "we," I am also referring, in
12 general, to the research community on education.

13 Q So, there is widespread consensus in the
14 education community that Los Angeles Unified School
15 District would benefit from school choice?

16 A No, there is widespread consensus on almost
17 nothing in the research community. Widespread
18 consensus implies that many people agree on something.
19 I'd say that it is something on which more people
20 would agree than on many other things, but the
21 education community is not uniform and some of the
22 parts of it are very scientific and hence, being the
23 end on which I operate. Some parts of the education
24 community are very much nonscientific in their
25 approach to policy issues.

1 because there is pretty much only one high school you
2 can offer. The benefits are going to be smaller
3 unless you have developed a more complicated school
4 choice system. That can be done, but we are talking
5 about as we start to add more complexity, it is a more
6 difficult plan to implement.

7 I am not saying it is terribly hard, but it
8 certainly requires more systems. So, the place where
9 you like to start are the places you think you could
10 do the most with the simplest type of plan.

11 Q In the discussion we have just been having
12 about school choice, I take it from your last answer
13 that we are or that you have been referring to choice
14 among existing schools in an area; is that correct?

15 A No. I think most good choice plans should
16 allow for growth. I think it is essential to allow
17 for the entry and exit of new schools, so you often
18 start off with your existing population of schools so
19 that the plan starts to do something from the
20 beginning.

21 But, it does not make sense to implement a
22 plan that relies entirely on the existing population
23 of schools. You would like a new school that is very
24 good and very successful and makes many parents happy
25 to be able to enter. You would not like a plan to

1 forbid that from happening.

2 Q In the discussion we have been having on
3 school choice, are you referring to public schools or
4 are you referring to non-public schools among the
5 options?

6 A I think it depends on how you decide to
7 implement the plan. If you decide to include
8 non-public schools in the plan -- for instance, if I
9 decide to include charter schools in the plan, those
10 are a type of public school. You have to think
11 appropriately about finances for them.

12 If you decide to include private schools in
13 the plan, you have to decide whether they have to take
14 students by lottery. So, then you have to think about
15 how you are going to deal with disabled kids and
16 whether they have to be treated the same way in
17 private schools.

18 All of these things -- there are a lot of
19 options open in a school choice plan. What I would
20 tend to do is go to a district and say, "What is it
21 you are trying to achieve? What concerns do you have?
22 How much money do you have? Do you want to include
23 the type of schools -- are you worried about inclusion
24 of disabled kids?"

25 You really need to have people tell you what

1 money?

2 A There are a variety of other state aid lines
3 in the school finance formula and they are made to
4 adjust for different pupil population. There are
5 adjustments --

6 The most important adjustments are for
7 students who are disabled in some fashion; limited
8 English proficient and socioeconomical disadvantaged.
9 We are talking about poor students.

10 There are a variety of minor adjustments as
11 well. Most of the differences in spending are related
12 to the first items I mentioned.

13 Q Do you know where California ranks among the
14 states in amount of per-pupil expenditure for
15 education?

16 MS. DAVIS: Vague and ambiguous.

17 THE WITNESS: Yes, I do know in the sense
18 that I have looked at this series many times. I do
19 not have the numbers -- I could not give you the
20 numbers right now. This is something I keep on my
21 computer when I need to look at it.

22 BY MS. LHAMON:

23 Q Do you have an approximation? You don't know
24 29th or 46th, top half or bottom half?

25 A Usually we look at where California is

1 their goals are and then try to implement what they
2 want as opposed to impose a one-size-fits-all plan on
3 every district.

4 Q We have talked at some length today about
5 school finance. I have got some more questions and I
6 hope you don't mind if we turn back to a topic.

7 Do you know if all California public
8 schools -- let me say that I am excluding from this
9 question the hold harmless.

10 Do you know if all California public schools,
11 including those schools, receive the same amount of
12 money from the State of California?

13 A No, all public school districts do not,
14 because there are a variety of adjustments to the
15 basic per-pupil allotment. A lot of the standards are
16 the same, but there are a variety of adjustments.

17 Q What do you mean when you say the basic
18 per-pupil allotment? That is the amount that, under
19 Serrano, is implemented in California that all schools
20 or all school districts receive from the State except
21 for the hold harmless schools?

22 A Yes.

23 Q And then what is it on top of that basic
24 per-pupil allotment that comes from the State that
25 changes whether all schools receive the same amount of

1 relative to its state household income. That is
2 perhaps the more relevant measure. Cost of living in
3 the State of California is not the same as the cost of
4 living in, say Louisiana, Mississippi or Arkansas.

5 It is not all that useful to compare just
6 levels of per-pupil spending if we want to think
7 analytically what the state is spending. Normally we
8 compare it to other states with similar levels of
9 household income. California is low relative to other
10 states with a similar level of household income and it
11 has been since 1978.

12 Although, before Serrano II, it was high. It
13 has a long history of having high per-pupil spending
14 before that.

15 Q Which are the other states? It doesn't have
16 to be an exhaustive list -- with relatively high
17 household income.

18 A New York, Massachusetts, Pennsylvania, New
19 Jersey, Connecticut.

20 Then you drop down a little bit to a series
21 of states that have quite high, but not as high.
22 Ohio, Illinois, Virginia, Maryland, Delaware.

23 I am probably leaving out a few.

24 Then you start to get into some more central
25 states, but the key group for comparison is actually

1 the other quite high income states and those are the
2 ones I mentioned first.

3 Q Why is that?

4 A Because they are the other very high income
5 states in the United States.

6 Q What is your basis for the statement that
7 California is among the highest household income
8 states?

9 A The United States census of the population.
10 It is what is generally used. We also use the current
11 population survey, but because there is a recent
12 census, we tend to rely on that until it gets out of
13 date.

14 Q You testified that California is low relative
15 to other states with similar household income in terms
16 of its per-pupil expenditure. What does low mean?
17 Does it mean it is at the bottom of the five states
18 that you listed as a key comparison?

19 A Yes, it is.

20 Q Do you think that the amount of per-pupil
21 expenditure in California now is enough?

22 MS. DAVIS: Vague and ambiguous.

23 THE WITNESS: I think that question of
24 whether the level of spending is adequate is a
25 difficult question to answer. I think what one needs

1 spend money efficiently -- some states like New
2 Jersey, unless they have stronger incentives, are
3 perhaps spending too much, but might have better use
4 of their money if they had stronger incentives to use
5 that money well.

6 BY MS. LHAMON:

7 Q So, how would you go about evaluating whether
8 a state is spending the right amount of money on
9 public schools?

10 A I think you really need to look at student
11 performance, the key thing.

12 Q When you say you look at student performance
13 to evaluate that question, a few answers ago, you told
14 me the best performing schools in California perform
15 at high level of achievement. Is it sufficient to
16 look at that to determine whether the per-pupil
17 expenditure is sufficient?

18 A Right. You want to look at the best
19 performing schools, but not look at schools that are
20 the best performing judged on the basis of just their
21 level of achievement. You want to look at -- really,
22 that is not how you judge whether a school is high
23 performing, because you could come in with kids who
24 come in with very good family background and still not
25 end up with a high level of achievement.

1 to look at more is outcomes for the state.

2 I think California's best performing schools
3 actually are performing at a very good level of
4 achievement and that suggests that the amount of money
5 is, in fact, adequate when a school is managed very
6 well. It is simply not people who have this notion
7 that there is a level of per-pupil spending that is
8 adequate and that is going to work. It is probably
9 just not the right way to think about it.

10 Instead, I would say given the fact that
11 there is -- that the incentives for student
12 performance have not been very strong in California in
13 the past, it might be that the level of spending is
14 now about right, given the way the incentives are.

15 I would not be surprised that if California
16 were to continue the accountability incentives and it
17 were to allow somewhat more local control, that school
18 spending would rise in the state. The things move
19 together. They don't -- you can't just jack up
20 spending and expect something to happen while leaving
21 everything else the same.

22 Whether spending is effective or not depends
23 also on the incentives, so how the state is monitoring
24 performance, whether the state is monitoring
25 performance, whether there are local incentives to

1 When we look at a school, a high performing
2 school, we want to take account of the demographics.
3 When I say a high performing school, I don't mean one
4 with high test scores. You could have a high
5 performing school that actually has relatively average
6 scores if it started off with enough demographics.

7 Q Let me see if I understand that correctly.

8 To evaluate whether per-pupil spending in the
9 state is sufficient, one would want to look at the
10 value added in the schools with the highest value
11 added to make that determination?

12 A Yes.

13 Q And that would be sufficient?

14 MS. DAVIS: Vague and ambiguous.

15 THE WITNESS: There are many things you try
16 to look at to try to make that determination. I am
17 not the person who is actually a big believer in going
18 down this path and saying I am going to find an amount
19 of money and it is going to be adequate. I don't
20 think that is the way school spending decisions get
21 made, anyway.

22 BY MS. LHAMON:

23 Q I appreciate that. I am probably being
24 unfair.

25 You used the phrase "adequate." When I ask

1 this question, what I really want to know is, what do
2 you mean by that, that California spending is --

3 A I think that when school spending falls in a
4 state after a school finance plan is put into effect,
5 we can infer that the school finance plan is having
6 bad effects on the incentives of parents, local
7 voters, et cetera, to be involved in and supportive of
8 their school.

9 What we are seeing is a withdrawing of
10 support and that, I think, is always ominous, because
11 one thing that schools always need is support from the
12 local parents and local voters. Schools just cannot
13 exist in a world where people, the local people are
14 not supporting them.

15 Q In your view, since 1970, has the real
16 per-pupil cost of elementary and secondary education
17 risen?

18 MS. DAVIS: Vague and ambiguous.

19 THE WITNESS: Yes, for two reasons.

20 One is that women's other alternative wages
21 have risen, so you want higher quality teachers. It
22 would cost more. So, that is one thing to take
23 account of.

24 The other thing is that standards for
25 particularly educating disabled children has changed a

1 would say it has been. Up until very recently, I
2 would say there is not a big change in standards. Let
3 me give you an example.

4 After A Nation at Risk was written in 1980,
5 published in 1983, most states were encouraged to move
6 toward requiring more mathematics and science
7 education and also some computer science and foreign
8 language education.

9 If you look at both The Letter of the Law in
10 most states and also what schools claim to be doing,
11 you would see they have made significant changes in
12 their expectations for students in math, science,
13 foreign language and computer science.

14 If you look at student achievement, you'd say
15 schools have not changed their standards at all. I
16 think you should probably look at what they do and not
17 what they say they do when looking at cost. It is
18 very easy to rename a cost, but what we really need to
19 know is whether they changed the content of what they
20 are teaching.

21 Q When you say that based on student
22 performance, it seems very clear that standards have
23 not been raised, you are referring to what is actually
24 being taught to the students has not been elevated
25 since 1970?

1 lot since 1970 and there are costs associated with
2 those changes and standards.

3 BY MS. LHAMON:

4 Q These are particularly for --

5 Have standards for educating non-disabled
6 children also changed in a way that has increased
7 cost?

8 A Standards have changed. Since student
9 performance has not changed at all for the other
10 students, I don't know that we can say that. We have
11 attempted to raise the standards especially for the
12 inputs going into other student performance, but
13 student performance in math and science and reading
14 has not changed measurably since 1970 in the United
15 States. It is not sensible to say it should cost more
16 to raise standards in theory even if they are not
17 being raised in practice.

18 Q I got lost in there.

19 When you say it is not sensible to say that
20 it costs more to raise standards in theory if not
21 raised in practice, does that mean that the standards
22 have not been raised in practice since 1970 across the
23 United States for education of non-disabled students?

24 A It appears that they have not. I think if
25 you would just look at the letter of the law, you

1 A It appears not, based on student performance.

2 Q You are distinguishing aspirational goals as
3 set out in state standards --

4 A A state can say it would like every student
5 to learn trigonometry, geometry and precalculus, but
6 that is just a goal. If none of the schools are
7 implementing that or very few are, we should see costs
8 incurred that look like what they are implementing and
9 not what they are thinking about implementing.

10 Q But, you testified earlier that the standards
11 for educating disabled students have changed since
12 1970. Is it your view that, in fact, disabled
13 students are learning more in terms of performance, so
14 it does cost more to educate them?

15 A We are treating disabled students in a way --

16 We are educating them in a way that is very
17 different and is undoubtedly more expensive. Whether
18 or not they are learning more from that method of
19 education is actually somewhat difficult to test. If
20 they are tested, they are not tested using traditional
21 tools. It is very difficult to judge exactly how much
22 they are learning.

23 Also, what we consider to be disabled
24 students has changed a lot in the United States over
25 this period of time. Learning disabilities have

1 become a much wider category of student classification
2 than they were in 1970. Many of these things have
3 been changing over time.

4 I would say that most of the changes that
5 have occurred would have led to cost increases in most
6 schools. Most of the individual education programs
7 that are now recommended for students are involved
8 types of activities that are costly and that would not
9 have occurred in 1970.

10 Q I have a technical question about the report.
11 On Page 4, you say in Section 3.2, the second sentence
12 of the first bullet, "California schools have among
13 the most equal spending in the United States."

14 A Yes.

15 Q And then on Page 25, at the top, in the first
16 line, you refer to California's high level of spending
17 in equality.

18 I would like to understand how those two
19 sentences work together.

20 A Okay.

21 California has an unusual system of spending
22 money on students getting special education. Some of
23 the students are allocated to special education
24 districts. These districts focus exclusively on
25 students with relatively very serious disabilities.

1 mentally put those students back in their residential
2 districts or you have to leave out those districts in
3 some way, because it is just not comparable to other
4 states.

5 So, when we try to make a comparable to other
6 states, California has a relatively equal level of
7 spending compared to other states. It is only if you
8 don't reallocate those students back to their
9 districts that you see there is some very, very high
10 spending districts in California that seem very
11 unusual.

12 The reason why I did not do --

13 On Page 25, I could have taken those
14 districts out entirely and California would then have
15 been very close to the bottom and physically would be
16 much lower on this graph. It would be down toward the
17 bottom. I could have tried to reallocate those
18 children back to their residential school districts.

19 The only reason I didn't do that, I don't
20 really like to make graphs that are highly
21 nontransparent to someone else. I would have had to
22 spend a few pages saying this is how I reallocated the
23 students and I don't do this for any other state. I
24 would have been creating a graph harder for anyone to
25 recreate. This graph would be relatively easy to

1 No other state does that, so the districts
2 that focus exclusively on children's disabilities tend
3 to have very high per-pupil spending, but we do not.
4 They are really in part and parcel of the regular
5 school finance system in California. Nor is there
6 anything comparable in some other states. Other
7 states do not do that, do not call them separate
8 districts and would not record them as separate
9 districts in the data that is selected by the United
10 States Department of Education.

11 So, when I said that schools have a
12 relatively equal level of resources and California
13 schools have among the most equal spending in the
14 United States, I was referring to California's regular
15 districts or California's regular districts if you
16 were to attribute back to each district those students
17 who are now being sent to the special education
18 district.

19 I am just noting that you can't or we
20 shouldn't pretend that special education district is
21 really like Palo Alto as a district. It is not a
22 residential district. It doesn't correspond to a
23 geographic area. It corresponds to a special set of
24 students.

25 If you want to make a comparable, you have to

1 anyone to recreate.

2 Q What is your basis for saying no other states
3 allocate these students in this special district?

4 A I am very aware of most states' district
5 structure. There are some states that have schools
6 for the blind and schools for the deaf. These are
7 usually residential facilities and/or do get special
8 status in their school finance system. However, they
9 don't -- most states don't treat them as districts.

10 California is unique in having special
11 education districts and calling them districts so that
12 they make it into the United States Department of
13 Education school finance data system as districts. I
14 think that is what makes California unusual.

15 Q It is only California that really treats them
16 so they are regular districts?

17 A They make it into the data -- if you look
18 carefully, you might note that they are special
19 education districts.

20 Q The basis is your wealth of experience
21 researching the districts?

22 A Yes.

23 Q On Page 4, in the first bullet point when you
24 say California schools have among the most equal
25 spending in the United States, is there a reason that

1 you didn't explain that there is this anomaly of the
2 special education districts that throws out of whack
3 the quality of spending?

4 A I think under Section 3.2, I am trying to
5 talk about the role that a state can play. So, I was
6 trying to focus on things that I think the state can
7 do and noting that California schools are among the
8 most equal spending was not the main focus of this
9 particular section. It was a note on the side so that
10 people reading along would understand that.

11 Q Thank you.

12 Turn to Page 36, the final page of the
13 report.

14 At the top of the second paragraph, it
15 states: "It has been shown to be a prime cause of
16 Proposition 13."

17 There is no unanimity of opinion about that
18 view, is there?

19 A Well, I don't know whether there is unanimity
20 of opinion about that. I know that among the experts
21 with whom I deal on school finance, there is a
22 widespread agreement on that. However, I have no
23 doubt that like so many other things in education,
24 there is controversy on all kinds of things.

25 There is probably not unanimity out there in

1 understand the details of what happened in the
2 California state legislature.

3 Q How about the citation that says Silva and
4 Sonstelie paper?

5 A The paper by Favio Silva, it is not actually
6 about the connection between Proposition 13 and
7 Serrano per se. It is about whether California school
8 spending declined following Serrano and whether it was
9 Serrano that caused this school spending.

10 I think the paper or the evidence in that
11 paper, although straightforward, is very reasonable.
12 They do what you would expect a good analyst to do.
13 There is no perfect way to know what countereffects
14 there would have been, but I think they do a perfectly
15 sensible thing.

16 Q I should have asked, you have a cite that
17 runs at the end of that paragraph. Which of those
18 cites support the opinion that Serrano has been shown
19 to be a prime cause of Proposition 13?

20 A The paper by William Fischel, Did Serrano
21 Cause Proposition 13 in the National Tax Journal and
22 How Serrano Caused Proposition 13. He has done more
23 work on this. I think there are many other people who
24 have done work on property tax limitations generally
25 who believe that the two of them are connected.

1 the world. I have not encountered anyone who says
2 there is research and who disagrees on that
3 proposition recently, although I have no doubt there
4 is someone out there like that.

5 Q Have you encountered anyone out there that
6 seriously disagrees with you?

7 A No. I have not encountered anyone who
8 actually made an argument that disagrees with that
9 view. I am aware that there are probably people who
10 don't, but I don't know whether they actually have an
11 alternative argument. If they have one, I have not
12 heard it articulated.

13 Q Thank you.

14 Have you evaluated the quality of the
15 research used in the citations you listed on Page 36
16 that support the view that it is shown to be a prime
17 cause of Proposition 13?

18 A Yes.

19 Q What is your view of the quality of that
20 research?

21 A Well, most of it is by William Fischel, who
22 is at Dartmouth. I think he is a savvy political
23 analyst and has a very good understanding of
24 California politics in the 1970s, so I think it is
25 high quality research. I think he really does

1 For instance, I didn't cite it here, because
2 I think this is the best work on this question, but
3 there is work by a man named David Figlio at the
4 University of Florida who has also looked at the
5 connection of school finance and property tax
6 limitation laws. He has looked across the United
7 States in general. Not just in California.

8 Q There is also not unanimity of opinion about
9 your statement on the same page that Serrano has been
10 shown to be a prime cause of low per-pupil spending in
11 California?

12 A I do not know of any economist who does not
13 think that, actually. I am not aware. I think many
14 economists who disagree on many other things, all
15 agree on that point. I am not aware of any
16 disagreement.

17 Q Do you know that there is a paper that
18 suggests that had California moved from a foundation
19 system to a peer local system, total expenditures
20 would have decreased on the level of 10 percent?

21 A First of all, actually I don't think they are
22 contradicting what I just said. California was not
23 moving from its foundation system to a system of peer
24 local finance. I think the question is whether moving
25 from a system it had to a system in Serrano II

1 decreased school spending. Many people think that is
2 true.

3 Frankly, I think that it is important to
4 distinguish between economists who do empirical work
5 and economists who purely theorize and come to
6 theories of what happened. These are theorists and
7 they are not involved in creating empirical evidence.

8 I think the way we tend to use work like this
9 in economics is they propose hypotheses or propose
10 theories that you want to test with data. So, that is
11 a theory that I would want to test with some data.

12 When you give, I think opinions to a state
13 about policy, it is better if it is based on evidence.
14 If there is absolutely no data, no evidence, maybe you
15 have to rely entirely on theory. In the case of
16 school finance, we have a fair amount of evidence. It
17 is better to rely on evidence.

18 Q So, that is why you didn't refer to this
19 theory in the paper, because it is theoretical and not
20 based on evidence?

21 A It is also not about the Serrano system.
22 They also have some other assumptions that do not
23 particularly fit California well. For instance, they
24 treat California school finance system as though it
25 were financed by an income tax. It is not financed by

1 the most effective state role in public education?

2 MS. DAVIS: Her view?

3 THE WITNESS: In Section 3.2, I say three
4 things about the effective role the state can play.
5 One is about ensuring that schools have relatively
6 equal level of resources. Making sure they use them
7 efficiently. Providing resources and monitoring their
8 performance and the third is providing information to
9 schools.

10 What is the basis of that view?

11 Well, I think it is a few different things.
12 One is, I am not trying to go beyond what I think
13 states actually are attempting to do. I am also
14 thinking about what a state is actually capable of
15 implementing if it tries hard.

16 So, I think the state can try to ensure that
17 schools have relatively equal level of per-pupil
18 spending and I think states also can monitor
19 performance reasonably effectively. I think states
20 can provide schools with information that helps them
21 improve achievement.

22 So, I think it is a combination of what
23 states want to do and what states can do and the
24 intersection of those two things is what I would view
25 is the most effective role states can play.

1 an income tax. It has never been financed by an
2 income tax. There is no income tax finance of local
3 public schools in California and never has been.

4 Therefore, extrapolating from a paper about
5 income taxes to a state that really had a local
6 property tax system is always a big extrapolation and
7 it is not one that I would use if I were trying to
8 make recommendations to a state, because it is just
9 too much of a leap of faith.

10 Q That is very helpful.

11 You do respect the quality of Fernandez and
12 Robertson's work, don't you?

13 A They are both very good theorists. There are
14 different types of skills and economics is another
15 thing. Theorists have a very important role to play.
16 They just do not replace empirical information.

17 Frankly, I didn't think they gave the best
18 policy guidance. There is a big difference between
19 somebody who has been looking at real data and
20 understands what really happened and someone who gets
21 the hypothesis of what might happen in a world that is
22 somewhat different, where assumptions are different
23 than what was actually in place on the ground.

24 Q Thank you.

25 On Page 4, what is the basis for your view of

1 BY MS. LHAMON:

2 Q How do you go about determining what it is
3 the state is trying to do?

4 A I think we try and really infer what a state
5 wants to do from its own legislation. States usually
6 state their goals for what they want to do at numerous
7 points in time in their legislation.

8 Typically a state's education provisions
9 start off with some paragraphs about this state wishes
10 to educate children to be good citizens and to
11 participate fully in society and so forth. They are
12 usually a set of things at the beginning of the
13 state's law and from that, we try to infer what the
14 states want to do.

15 Also, people like myself talk to state
16 legislators a fair amount and try to find out what
17 their goals are. We try and take a state's goals from
18 people who are actually state policymakers. We don't
19 try to make state's goals for them. I am not a state
20 representative.

21 Q How would you go about determining what a
22 state is capable of doing?

23 A I think that is more a question of, does the
24 evidence show that a state can do something if it
25 implements a policy effectively. I think we know that

1 states have a certain capability of achieving an equal
2 level of resources. I think we have a clear sense
3 that states can monitor performance on a variety of
4 grounds. We know that states have implemented
5 accountability systems.

6 Again, these are things that when the state
7 can actually have some effect. It is not that it is
8 going to be perfect. It is not that there are no
9 costs to doing some of these things, but these are
10 things we know the state can do. But, largely this
11 has to be based on evidence. Just a view of the
12 evidence on whether it looks like the state has been
13 effective. At least some states have been effective
14 in trying to implement these policies.

15 Q When you say there is no evidence that states
16 are capable of achieving completely equal levels of
17 resources without negative consequences, are you
18 referring to the kind of negative consequences in
19 California with equalized funding?

20 A Right. So, in California, we think there
21 have been some negative consequences. The problem is,
22 if you want to have absolutely complete equality,
23 there is no way to do that without removing all local
24 discretion. Once you remove that, there is some
25 negative consequences. You may want to get very close

1 to that boundary without going all the way there.

2 So, that is why I said you can achieve a
3 relatively equal level of resources, but you may not
4 want to push that 100 percent, because that is when
5 some of the negative consequences set in.

6 Q I take it from your understanding of the
7 basis for the description of the state role in
8 Section 3.2 of your report, that that basis is
9 specific to the states that we are talking about, by
10 which I mean that one has to look at California to
11 figure out what the most effective role California can
12 play, one would have to look at Texas to find out what
13 the most effective role Texas would play?

14 A Different states have different
15 constitutions, some of which set out different goals
16 for the state. Some of which impose different
17 constraints on what the state can do. In addition,
18 states have very different circumstances
19 demographically and socioeconomically. You have to
20 take all those things into account.

21 However, I think that there is a lot of
22 generality or a lot of general truths about what
23 states can and cannot do effectively. I don't think
24 that part differs tremendously. You have to take
25 account of the circumstances of the state and make

1 some judgments. Evidence from one state is usually
2 quite useful for understanding other states.

3 I think one of the biggest differences among
4 states is that some states have different goals than
5 other states do. States are not allowed to intervene
6 in their local districts to which other states do.

7 Q The description of the most effective role a
8 state can play in Section 3.2 of your report, is that
9 specifically California or are the points that you
10 listed universal truisms for any state?

11 A I would say the answer to that question is
12 someplace in between your two extremes. I wrote these
13 paragraphs specifically with California in mind, so
14 there are a number of things that refer specifically
15 to California way of doing things.

16 If I had attempted to write them in a way
17 that was fully general and would apply equally to
18 other states, I probably would have written them
19 slightly differently. But, it is the case that most
20 of these points do apply, at least somewhat, to all
21 states. It is just that in some states, you would
22 probably not say curriculum framework or something
23 like that. That would not be something that applies
24 well in that state.

25 It is really the use of specific words that

1 are geared toward California's way of doing things
2 that I wouldn't want to just change the name of the
3 state. I'd probably want to change some of the other
4 things.

5 Q Is there research that supports the view of
6 what the most effective role California could play in
7 public education?

8 A I think this is based on my judgment of a lot
9 of evidence rather than my having written a specific
10 study saying let me figure out what the effective role
11 California can play. It is really a judgment based on
12 a lot of evidence.

13 Q What are the categories of evidence you are
14 talking about?

15 A It is evidence on the effective inputs on
16 student performance, evidence on the effect of school
17 spending on students' performance, evidence on the
18 effect of performance incentives on what schools do
19 and how they use their resources. Evidence on the
20 effectiveness of having curriculum frameworks or other
21 types of information interventions in a situation
22 where there is also performance monitoring.

23 It is evidence from just a wide variety of
24 studies that someone like me uses to try and
25 understand the whole field of economics of education.

1 So, I would particularly focus on studies
 2 that are related to the effectiveness of school inputs
 3 in school spending, the effectiveness of
 4 accountability systems and what happens when you
 5 implement a curriculum framework type of system
 6 coincidentally with an accountability system and
 7 finally studies of the effectiveness of school finance
 8 equalization legislation.

9 Those are the types of studies that I am
 10 thinking about when I make these types of judgments.

11 Q Thank you.

12 I think we are at a good stopping point for
 13 the day.

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 4 I, the undersigned, a Certified Shorthand
 5 Reporter of the State of California, do hereby
 6 certify:

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

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

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

20
 21 Dated: _____

22
 23
 24
 25 _____
 STEVEN M. ORENSTEIN
 CSR No. 2321

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 9 I, CAROLINE MINTER-HOXBYP, do hereby declare
 10 under penalty of perjury that I have read the
 11 foregoing transcript; that I have made any corrections
 12 as appear noted, in ink, initialed by me; that my
 13 testimony as contained herein, as corrected, is true
 14 and correct.

15 EXECUTED this ____ day of _____,
 16 200__, at _____,
 17 (City) (State)

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 22 CAROLINE MINTER-HOXBYP
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