

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

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

Plaintiffs, )

v. )

Case No. 312236

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

Defendants. )

\_\_\_\_\_ )

DEPOSITION OF GLORIA JOHNSTON  
San Francisco, California  
Wednesday, February 26, 2003

Reported by:  
RAMONA REINHARDT  
CSR No. 2677  
JOB No. 40112

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IN AND FOR THE COUNTY OF SAN FRANCISCO

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of Public Instruction, STATE )  
DEPARTMENT OF EDUCATION, STATE )  
BOARD OF EDUCATION, )  
)  
Defendants. )  
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Deposition of GLORIA JOHNSTON, taken on behalf  
of Plaintiffs, at 425 Market Street, 33rd Floor, San  
Francisco, California, beginning at 9:00 a.m. and  
ending at 4:30 p.m., on Wednesday, February 26, 2003,  
before RAMONA REINHARDT, Certified Shorthand Reporter  
No. 2677.

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71 21 Subject to the same understanding, if there is  
the same answer, that's fine. Are there any  
plans to use provisions of the existing  
contract in order to mitigate what might  
otherwise be differential teachers' choice  
among schools related to the consequences of  
layoffs?

APPEARANCES:

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For Defendant West Contra Costa School District:

MILLER, BROWN & DANNIS  
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71 Stevenson Street, 19th Floor  
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415 543-4111

San Francisco, California, Wednesday, February 26, 2003  
9:00 a.m. - 4:30 p.m.

GLORIA JOHNSTON,  
having been first duly sworn, was examined and testified  
as follows:

EXAMINATION

BY MR. LONDEN:

Q. State your name and business address, please.  
A. My name is Gloria Johnston, and my address --  
my office is 1108 Bissell Avenue, Richmond, California.  
Q. Have you testified at deposition before?  
A. Yes.  
Q. How many times?  
A. Oh, maybe three or four.  
Q. Can you describe the kinds of cases in general.  
A. Work related. Termination of employee, parent  
lawsuits.  
Q. I'm one of the lawyers for the plaintiffs in  
the case of Williams against State of California. I'm  
going to be asking you questions today, and if any  
questions I ask are unclear, let me know and I'll try to  
improve them.  
A. Okay.

1 Q. If you need a break, just let us know. We try  
2 not to do that when a question is unanswered, but between  
3 questions and answers, any time you need to break, just  
4 let us know and we'll accommodate you.

5 Could you give us, please, a brief summary of  
6 your educational background.

7 A. My education is I have an AA degree from Elgin  
8 Community College, Elgin, Illinois; a bachelor's of  
9 science and a master's of signs from Northern Illinois  
10 University, Dekalb, Illinois; Ph.D. in public policy  
11 analysis, University of Illinois at Chicago.

12 I have been a public educator since I returned  
13 from South America -- let me think when was -- in 1969, in  
14 the state of Illinois and in California.

15 Q. What was the year in which you received your  
16 Ph.D?

17 A. Officially 1992.

18 Q. And you wrote a dissertation on school  
19 superintendents?

20 A. Yes.

21 Q. Was that published?

22 A. Yes.

23 Q. Where was it published?

24 A. Well, there is an international dissertation  
25 abstracts for the state -- for the country, actually, for

1 every dissertation, and so it's available to anyone on  
2 line.

3 Q. Okay. You were a teacher in Venezuela for some  
4 years; is that right?

5 A. For three years, correct.

6 Q. And when you returned, what did you do for  
7 work?

8 A. Well, I worked very hard at raising two  
9 children for several years, and then I tutored English as  
10 a second language students part time in St. Charles  
11 Illinois until my children were in school. I was going to  
12 college at the same time, finishing my degree. Decided I  
13 wanted to be a bilingual educator after my experience in  
14 Venezuela, and began working full time in 1977.

15 In the meantime, I worked for a school  
16 district, a K-12 district, and I also taught classes for a  
17 community college part time.

18 Q. Did you at any point in your career obtain a  
19 CLAD or BCLAD credential?

20 A. Well, in Illinois I had a bilingual credential,  
21 and in California I -- when I came here, there was no such  
22 thing as a CLAD or a BCLAD. It was a language development  
23 specialist. So I have an LDS credential along with  
24 multiple subjects and administrative.

25 Q. Thank you. There came a time when you became

1 director of learning services for POWAY?

2 A. POWAY.

3 Q. POWAY?

4 A. Uh-huh.

5 Q. Can you describe briefly what your job was  
6 there.

7 A. I was responsible for all of their state and  
8 federal categorical programs and curriculum development,  
9 as well as human relations and community involvement.

10 Q. By the way, some people who have received their  
11 Ph.D.'s like to be called doctor and some don't. What's  
12 your preference?

13 A. It's up to you. I don't care. I know who I  
14 am.

15 Q. Right.

16 MR. STURGES: Just so long as we don't have a  
17 situation of where the court reporter put down that she  
18 had an ADD in education.

19 THE WITNESS: Yeah, I saw that.

20 BY MR. LONDEN:

21 Q. And in 1993 you went to the Banning Unified  
22 School District?

23 A. Correct.

24 Q. As their superintendent?

25 A. Yes.

1 Q. Can you give us a brief description of the  
2 Banning school district.

3 A. Banning is a school district, K-12 school  
4 district, located in Riverside County, approximately 5,000  
5 students at that time. It was a very good experience for  
6 me. A great place to start as a beginning superintendent.

7 Q. What were the relative challenges of your years  
8 at Banning?

9 A. Banning has a very high level of poverty. 85  
10 percent of the students were on free or reduced lunch.  
11 While it's perceived to be in a rural area, actually it is  
12 very much like an urban school district in terms of the  
13 issues of high dropout rate, low student achievement. It  
14 was a very difficult place to be, but I learned a lot and  
15 it was a great experience. Met some wonderful people, and  
16 some great students who have gone on to be quite  
17 outstanding citizens.

18 Q. And you left Banning in 1998?

19 A. '99.

20 Q. '99. All right. In 1999 you became  
21 superintendent of West Contra Costa Unified School  
22 District; correct?

23 A. Correct.

24 Q. Could you give me a summary of the challenges  
25 you perceived that you were facing when you arrived at

1 West Contra Costa.

2 A. Well, West Contra Costa is a large urban school  
3 district with issues around student achievement that were  
4 very complex. And not unlike most urban school districts  
5 in this country, mobility is an issue, mobility of  
6 students, mobility of teachers, aging school facilities, a  
7 sense of the community that I would say was not a  
8 community that believed that there could be high achieving  
9 schools and high achieving students, and a community that  
10 was still focused on the fiscal problems of the prior  
11 decade.

12 Q. You mentioned that there were student  
13 achievement issues that were very complex. What did you  
14 mean by calling them complex issues?

15 A. Oh, students who come from homes where English  
16 is not the primary language. Students who come from  
17 poverty, students who move from school to school so they  
18 don't have a stable learning experience, students whose  
19 parents are challenged to meet everyday basic necessities  
20 and who are not involved in their education.

21 Q. What are the causes in general of the mobility  
22 of students in the district?

23 A. Well, unstable family situations. Typically  
24 it's parents moving to find a place to live, find work,  
25 adequate housing.

1 A. Well, some of them still are. Kennedy High  
2 School.

3 Q. Are there any others that come to mind?

4 A. Lots of our urban schools our inner city  
5 schools, particularly in Richmond and San Pablo. We have  
6 around 60 schools, so many of them with high levels of  
7 poverty, 80, 90 percent of the students are on free and  
8 reduced lunch. Those are high mobility schools.

9 We also serve about 800 or 2000 students who  
10 are homeless and they're moving every day.

11 Q. What was the purpose of Illinois -- were you  
12 aware of the purpose for Illinois of having a measurement  
13 for mobility?

14 A. My understanding of that piece of data was so  
15 that when you were looking at schools and comparing  
16 schools, you would have a sense of what the factors were  
17 in identifying student achievement rates. And one of the  
18 factors is the mobility rate. There's a significant  
19 amount of research that shows that students who stay in  
20 one school and don't move achieve higher, and so it was a  
21 factor that was determined to be descriptive of a school.

22 Q. And is there any quantification of mobility  
23 that is published with respect to West Contra Costa?

24 A. No.

25 Q. Mobility has funding implications under

1 Q. At the time you arrived, did you learn any  
2 metrics for the mobility of students that describe that  
3 phenomenon at that point, measurements of teacher --  
4 rather, student dropout rates or other measures of  
5 mobility? Withdraw that question, and I'll ask it in a  
6 more straightforward way.

7 Is there any customary way of quantifying  
8 custom or quantifying mobility that you're familiar with?

9 A. Not in California. Illinois, for example, has  
10 a very straightforward process to report mobility rates on  
11 their annual report cards, but California does not do  
12 that. So school by school you gather data, and it's as  
13 simple as the logs that the school secretaries keep of  
14 students coming in each year and students going out each  
15 year. And our mobility rate ranges, and it's not formal  
16 because it's not formal and reported, but ranges from  
17 probably around 2 percent in some of our more affluent  
18 neighborhoods, to over 50 percent.

19 Q. And the over 50 percent means that half the  
20 students who are enrolled at the first day of the year are  
21 not enrolled at the last day of the year?

22 A. Correct.

23 Q. Can you give me any examples of schools in the  
24 district that are in that high -- were at the time you  
25 arrived in that high.

1 California's funding system; correct?

2 MS. LEE: Objection. Leading.

3 BY MR. LONDEN:

4 Q. Is that your understanding?

5 A. Yes, it is.

6 Q. Could you explain how that works generally.

7 A. Well, it has implications for the clerical  
8 people in the offices in that they are dealing with more  
9 student records. It has implications for the guidance  
10 counselors. They have more students that they are meeting  
11 with and programming during the school year. It has  
12 implications for the teachers in the classroom in terms of  
13 them trying to continually bring new students into the  
14 class and help them be a part of the class. It has  
15 implications for the textbooks and the instructional  
16 materials, that when students take books home and they go  
17 home at night and mom or dad says, "We're moving, let's go  
18 pack it up," the books go with them, they don't come back  
19 to school.

20 It really has implications for the involvement  
21 of parents or lack of involvement of parents in terms of  
22 supporting what's happening at the school through  
23 fund-raising or volunteerism. So the implications are  
24 pretty broad.

25 Q. A component of the district's state funding is

1 based on average daily attendance; is that right?

2 A. Yes.

3 Q. Okay. With respect to average daily attendance  
4 based funding, can you tell us what in general is the  
5 impact of high rates of mobility.

6 A. Well, no. I don't -- I'm not sure that there's  
7 a connection, so maybe I don't understand the question.

8 MR. STURGES: Ms. Johnston, in terms of your  
9 responses at the deposition today, you're not required to  
10 speculate. So I'd caution you, if you don't know the  
11 answer, just go ahead and say so. Counsel can rephrase it  
12 if he needs to.

13 THE WITNESS: Yeah.

14 BY MR. LONDEN:

15 Q. When an individual student leaves the school  
16 during the year and -- my first question is can you tell  
17 us whether or not that is reflected in the data that  
18 determines average daily attendance for funding purposes.

19 MS. GIORGI: Objection.

20 MR. LONDEN: In principle, not that it ever  
21 gets mistaken.

22 MS. GIORGI: Incomplete hypothetical.

23 THE WITNESS: Well, when kids are -- you know,  
24 there are certain points in the year when you turn in your  
25 attendance. All right? And whomever is there is counted,

1 Q. As going to the cost.

2 A. As adding to the cost?

3 Q. Yes.

4 A. Yes.

5 Q. Okay. Now I understand.

6 A. Okay.

7 Q. If one wanted to make a study of the difference  
8 in cost that is experienced by schools in your district  
9 that have a higher rate of mobility with an eye to  
10 determining the impact of that factor on what it cost to  
11 deliver an education, do you have a sense of how one might  
12 go about that?

13 A. Well, if I were setting up an evaluation study,  
14 I would identify what I perceive to be the factors, which  
15 I gave you initially, and then try to do some collection  
16 of data and then a comparison.

17 One example would be just the clerical staff.  
18 The clerical staff for a school of a thousand with a  
19 mobility factor of 2 percent as compared to the clerical  
20 staff of a school of a thousand and a mobility factor of  
21 50 percent, you could probably come up with some variation  
22 in the amount of staffing needed.

23 Q. And is it your experience in general that the  
24 schools with the higher levels of mobility have higher  
25 clerical costs?

1 and that's what counts for your funding. So whether or  
2 not it's student A or student B, the numbers of students  
3 that are sitting there is really what drives your ADA.

4 BY MR. LONDEN:

5 Q. I see. So when mobility has the same number of  
6 students coming out in a period as going in, the net  
7 number would be the same and the formula would be  
8 ineffective; that's where the point of your last answer  
9 leads me to, if I understood you correctly.

10 A. Well, the point is that ADA doesn't reflect  
11 mobility rates. It's not influenced by mobility rates,  
12 assuming that as students go out, new students are  
13 constantly coming in. So that you might be running a high  
14 school of a thousand students, but in one particular year  
15 you may have touched or had in your classes 14 or 15  
16 hundred students, but from first interim to second interim  
17 you original show a thousand students so you only generate  
18 the dollars for a thousand students.

19 Q. Earlier, after I first asked you about funding  
20 implications, you listed a number of factors that go to a  
21 higher level in some respects of cost of running a  
22 schooling with a high mobility rate compared to a low  
23 mobility rate. Have I correctly characterized what you  
24 were telling me in that list of factors?

25 A. I don't know how you characterized it, but --

1 A. We're trying to do that. It's a challenge to  
2 do that. It's an equity issue, quite frankly. And so  
3 I'll go back to my example of Kennedy High School. They  
4 have a school -- they have around a thousand students.  
5 And in our current teacher contract, that enrollment of a  
6 thousand students would generate just over one guidance  
7 counselor. It's an 800 to 1 ratio for guidance counselor.  
8 However, due to their high mobility rate, we give them two  
9 guidance counselors.

10 Q. And when you said it was an equity issue, could  
11 you explain what you meant by that.

12 A. Well, equity meaning that my definition of  
13 equity is not everyone gets the same thing. People get  
14 what they need, based on the needs of their school and  
15 their student population. And so if you just ran that  
16 formula of 800 to 1, that school with the high mobility  
17 rate, as I said, would only have 1.2 counselors, as  
18 opposed to two full time counselors.

19 Q. Is student absenteeism, or absence rates, if  
20 you prefer, has that been a problem at West Contra Costa  
21 Unified?

22 A. Well, it's always a problem, because when  
23 students aren't in school, we lose money. It's a higher  
24 problem -- it's a higher degree of problem at some schools  
25 than others, but it's a continual issue. And it's an

1 issue in every school in our district. Whether they're an  
 2 inner city school that has a high mobility rate or not,  
 3 it's an issue, or if they're a high performing school.  
 4 Attendance is a big deal for us.

5 Q. And attendance is reported for purposes of the  
 6 ADA computation; is that correct?

7 MS. LEE: Objection. Leading.

8 THE WITNESS: Well, ADA is our -- that's our  
 9 meat and potatoes, and we collect attendance in public  
 10 education on an hourly basis, so we have, as I have heard  
 11 people say, we have mandatory attendance in our public  
 12 schools. And we're the only organization that I know of  
 13 anyplace that checks every hour to make sure who's there.  
 14 BY MR. LONDEN:

15 Q. Where can one go to public sources in order to  
 16 get summaries of attendance rates at different schools?

17 A. Well, we do monthly attendance reports, so  
 18 those are public documents. Plus, we submit regular  
 19 attendance documents to the state.

20 Q. If you know, how does one obtain the monthly  
 21 attendance reports?

22 A. Write us a letter asking -- a public  
 23 information request, and we send you the information. As  
 24 I say, those documents are published monthly.

25 Q. Do you have in mind a range of absence rates

1 monthly report of the attendance at all schools. I go  
 2 through the report. And then if schools are significantly  
 3 below that target of 95, when I meet with the regional  
 4 superintendents who supervise those schools, I say you  
 5 need to when you go to these schools -- each of them has  
 6 somewhere around 15 schools, so I'll say you need to find  
 7 out what's happening at this school and why this  
 8 attendance is not coming up. The next time you're out  
 9 there, and we meet monthly -- the next time you come back,  
 10 I would like a report from you on what are they doing  
 11 about attendance.

12 Q. And is the implementation of effort to improve  
 13 attendance something that is common throughout the  
 14 district, or is that something that the principal is  
 15 responsible for coming up with at the school or some other  
 16 approach?

17 A. Well, it varies from school to school. We do  
 18 have an office, a department called Student Welfare and  
 19 Attendance, and they have provided some assistance to some  
 20 schools. We also have had schools with state and county  
 21 grants due to special projects to help them with their  
 22 attendance. But it's not a district -- we don't have a  
 23 district-wide model saying this is what you should do to  
 24 improve attendance.

25 Q. Have you reached any conclusions about things

1 that characterizes the schools with the lowest and the  
 2 schools with the highest rates?

3 A. Well, if you combine elementary through high  
 4 school, probably at the high school levels where we have  
 5 some of the lowest attendance rates, and they would be  
 6 running somewhere around 88 percent, maybe, on average,  
 7 all the way up to at some of our most affluent elementary  
 8 schools they're running 97, 98 percent. Our district's  
 9 target is 95 percent. That's what we're always trying to  
 10 get everyone, at 95 percent or above.

11 Q. And has the absence rate changed since you  
 12 arrived?

13 A. Yes. It's gone up.

14 Q. The absence rate has?

15 A. No. The attendance rate has gone up. Absence  
 16 rate has gone down.

17 Q. Has that been the result of, or do you perceive  
 18 that as beginning the result of some of the efforts that  
 19 the district has undertaken?

20 A. Yes. We made it a priority.

21 Q. Tell us how you went about making it a  
 22 priority.

23 A. Well, it's one of the district's priorities  
 24 along with achievement, and so we focus attention on it,  
 25 on those monthly documents. For example, I receive a

1 that have worked?

2 A. Yes.

3 Q. Tell us about those.

4 A. Involving the school community seems to have  
 5 the most success. For example, at Verde Elementary, which  
 6 is in north Richmond, they had one of the lowest  
 7 attendance rates, and they received a grant from the  
 8 county and they hired parents to help them with  
 9 attendance. So those parents called homes of children who  
 10 weren't in school, went to homes. When parents said, "I  
 11 don't have an alarm clock," they bought an alarm clock.  
 12 Or "My kid doesn't have any shoes to wear," they would  
 13 find a source to help buy shoes for that child.

14 They've had some really great success. They've  
 15 gone from somewhere in the low -- well, the mid 80s, up  
 16 into almost the mid 90's in their percentage of attendance  
 17 in a two year period.

18 Q. You said that when you arrived, the community  
 19 was still focused on fiscal problems of the prior decade.  
 20 Let me ask what's the status of the fiscal problems from  
 21 the early 1990s as we sit here today.

22 A. We still owe the state approximately \$18  
 23 million, a state loan. We pay 1.8 million per year.  
 24 That's principal and interest. We also have a state  
 25 trustee, Dr. Fred Stewart, who has absolute decision

1 control over finances.

2 Q. There was a time when the fiscal problems were  
3 accompanied by disqualification of West Contra Costa from  
4 some state programs and benefits.

5 MS. LEE: Objection. Leading, lack of  
6 foundation.

7 MS. GIORGI: Vague and ambiguous.

8 BY MR. LONDEN:

9 Q. Is that a fair statement?

10 A. Well, it's -- I have no facts of this, but it  
11 is my understanding in talking with people in the school  
12 district that the district was excluded from the state  
13 school building fund as part of the settlement with the  
14 state when they gave them the loan. So that for a number  
15 of years, somewhere between 5 and 7 years, the school  
16 district was forced to sell off school property and was  
17 not allowed to benefit from school building dollars that  
18 were available to other districts.

19 Q. During your tenure, has West Contra Costa  
20 Unified School District been disqualified or excluded from  
21 state funding programs or other state benefits because of  
22 the earlier fiscal problems?

23 A. No.

24 Q. So currently is there any adverse impact that  
25 you consider to be significant from the earlier fiscal

1 superintendent for many years, and so it's like having a  
2 consultant for me as the superintendent, which I think is  
3 terrific.

4 Q. When you arrived at West Contra Costa, was the  
5 district or any of its schools having difficulty in  
6 staffing the schools with fully certified teachers?

7 A. Yes.

8 Q. Can you generally characterize that situation  
9 when you arrived.

10 A. Generally at the beginning of the 1999, 2000  
11 school year, my recollection is we were about 80 teachers  
12 short to begin the school year, meaning we had 80  
13 positions that were not filled and they had substitutes in  
14 them.

15 In the 2000-2001 school year, we were down  
16 about 40 teachers. In the '01-'02 school year we started  
17 with a permanent teacher in every classroom. In the  
18 '02-'03 school year, we were turning people away.

19 Q. When you say turning people away, what do you  
20 mean by that?

21 A. We had teachers who were applying for positions  
22 who were qualified and credentialed, and we didn't hire  
23 them. We didn't have any openings.

24 Q. Does the district currently employ emergency  
25 permit teachers at any of the schools?

1 problems aside from having to service an \$18 million debt  
2 with \$1.8 million payments per year?

3 MS. LEE: Objection. Broad, ambiguous.

4 THE WITNESS: No. We're fully active, to my  
5 knowledge, in everything that we possibly can be to  
6 benefit the school district at the state level.

7 BY MR. LONDEN:

8 Q. Okay. Is it fair to say that aside from having  
9 to pay \$1.8 per year, you're past those earlier fiscal  
10 problems.

11 MS. LEE: Objection. Leading.

12 THE WITNESS: We have a very sound financial  
13 position right now, in spite of the fact that the state is  
14 looking to cut a lot of money out of our district. We're  
15 starting this whole budget cutting process in a very good  
16 position.

17 BY MR. LONDEN:

18 Q. And could you tell us whether or not you  
19 consider the assistance of the state trustee to be helpful  
20 in general.

21 A. It's terrific. I have no complaints. In fact,  
22 he his very much a consultant, advisor, and very committed  
23 to the success of the school district. So it's almost  
24 like having another experienced professional. This  
25 gentleman, Dr. Stewart, was a school district

1 A. Yes.

2 Q. And does it employ teachers who are employed  
3 based on a waiver?

4 A. Yes.

5 Q. Do you have current figures in mind for those  
6 two categories, numbers of teachers?

7 A. I can give you estimates.

8 Q. We understand they're not strictly -- you're  
9 not swearing by them being completely accurate. Give us  
10 your estimates.

11 A. Ballpark estimates. Approximately 85 percent  
12 of our teachers are fully credentialed. Around 6 percent  
13 or so are interns or pre-interns. Another 6 -- 5 or 6  
14 percent are emergency. Then there's probably 1 percent, 2  
15 percent on waiver. I don't know if that adds up to a  
16 hundred, but those are the numbers I carry around in my  
17 head.

18 Q. When you said at the beginning of 2001-2002 the  
19 district had no openings and turned applicants away, did  
20 the district turn away fully credentialed applicants?

21 A. I don't have the details on who the teachers  
22 were that we didn't hire, but it's my understanding that  
23 there were teachers who were fully credentialed. I don't  
24 know in what subject area.

25 Q. Do you attribute the reduction in the number of

1 unfilled positions to any district level policies or  
2 issues?

3 A. Yes.

4 Q. Tell us about them.

5 A. We have -- we are very actively recruiting  
6 teachers. We have a director of certificated employees  
7 who takes principals and program directors to, I don't  
8 know, somewhere between 15 and 20 job fairs. We go to the  
9 Philippines, Spain, Mexico, and Canada to recruit.

10 This past year we were involved in Project  
11 Pipeline, a state program to help us reduce the number of  
12 emergency credentialed teachers, and the year before we  
13 participated in the state's Teaching As A Priority, the  
14 TAAP program.

15 I also do a lot of public speaking, and I  
16 recruit every place I go.

17 Q. Has it been part of the district's effort to  
18 attempt to reduce the number of emergency permitted  
19 teachers?

20 A. Yes, it has.

21 Q. Why?

22 A. Well, we want teachers who have completed all  
23 of their course work, and it's our belief that if you've  
24 finished your course work and you have your credential,  
25 that you are pretty prepared to teach in the classroom.

1 That's not always the case, but in general we're looking  
2 for fully credentialed teachers.

3 And we do have an intern and pre-intern program  
4 set up with Cal State Hayward, so we're bringing in people  
5 who have not fully finished their credential requirements,  
6 but we run an intern and pre-intern program in our own  
7 district.

8 Q. The intern, pre-intern category is a distinct  
9 category from emergency permits?

10 A. Yes.

11 Q. All right. How does the district try to reduce  
12 emergency permits?

13 A. Through our recruiting efforts. Specifically,  
14 Project Pipeline. Last year we did radio announcements,  
15 radio ads. I think we went to some different job fairs,  
16 and for the most part encouraged our principals to, when  
17 they were given the selection of people who were available  
18 for jobs that they had open at their schools, we  
19 encouraged them to select people who were fully  
20 credentialed first and then interns or pre-interns after  
21 that, as opposed to emergency credentials.

22 Q. Now, there still are emergency permitted  
23 teachers in the district, notwithstanding the efforts to  
24 reduce them?

25 A. Right.

1 Q. Why is that?

2 A. They're doing the job. They're working on  
3 their credentials, and the principals have been pleased  
4 with their performance.

5 Q. Is there any requirement or encouragement that  
6 the principals not retain emergency permitted teachers who  
7 are on staff unless they are one by one held to be doing a  
8 good job?

9 A. Well, we have, as part of our Project Pipeline  
10 agreement, I believe that we made a commitment to reduce  
11 the number of emergency credentialed teachers X number per  
12 year. So we have around a hundred of them now. A couple  
13 of years ago we had 200 or so.

14 And also, the requirements of the federal  
15 legislation, No Child Left Behind, NCLB, requires that we  
16 have fully credentialed teachers at underperforming  
17 schools. So we are pushing very hard to make sure that we  
18 have fully credentialed teachers at all of our schools.

19 You know, there's another thing we got  
20 involved in, and that was for Teach for America too -- I  
21 forgot, sorry -- in terms of our recruiting efforts.

22 Q. I'll come back to that.

23 In the Project Pipeline program, what, if  
24 anything, did the district receive from the state or  
25 private consultants or funders to assist the district in

1 its efforts to reduce emergency permits?

2 A. Well, I'm not sure of all the details of the  
3 contract because that's managed in the personnel division,  
4 but we did have free advertising. I did a radio  
5 commercial that was played on several radio stations, and  
6 we did not pay for that advertising.

7 Q. Did you receive any funding?

8 A. I don't know. I can find out, but I don't  
9 know. As I say, I don't manage that contract.

10 Q. Who does?

11 A. It's delegated to the personnel division.

12 Q. While you've been superintendent, tell us how  
13 the teachers' pay scale that your district pays compares  
14 to neighboring districts.

15 MS. LEE: Objection. Ambiguous as to time.

16 MS. GIORGI: Lacks foundation.

17 THE WITNESS: I've been in the district four  
18 years, and it's my understanding that we are still low  
19 compared to neighboring school districts.

20 BY MR. LONDEN:

21 Q. In successive contracts during your time as  
22 superintendent, have you raised the pay scale?

23 A. Yes.

24 Q. You mentioned sending people to other  
25 countries, the Philippines, Spain, Mexico, Canada. Why go



1 there specifically, those places specifically?

2 A. We go to the Philippines because there are many  
3 qualified and trained teachers who have special education  
4 credentials in that country and who are interested in  
5 coming to the United States. Special education teachers  
6 are very difficult to find in this country.

7 We go to Spain and Mexico because we find  
8 teachers who are bilingual, who speak Spanish, and our  
9 Spanish speaking population is growing dramatically.  
10 We're 30 percent and climbing each year.

11 And we went to Canada because they had an  
12 abundance of single subject teachers that we were looking  
13 for, such as math and science. And we actually even hired  
14 a principal from Canada.

15 Q. Have you found the system for credentialing or  
16 acknowledging the credentials of teachers with training  
17 experience from outside the state to be an obstacle or not  
18 an obstacle to obtaining good teachers?

19 MS. LEE: Objection. Vague and ambiguous.

20 THE WITNESS: It's not an obstacle for Spain,  
21 Mexico or the Philippines. It has been extremely  
22 difficult for Canada -- to get people credentialed from  
23 Canada, and so we're not doing -- we don't go there  
24 anymore.

25 BY MR. LONDEN:

1 Education Data System. We report that annually to the  
2 state.

3 Q. I should have asked a more precise question.  
4 Do you know if the data for the 2002-2003 school year is  
5 publicly available?

6 A. Yes. We report it in October.

7 Q. Can you tell us whether or not you considered  
8 the pay scale, the ability to pay teachers to be an  
9 impediment to hiring fully credentialed teachers at this  
10 point.

11 A. No.

12 MS. GIORGI: Objection.

13 MR. STURGES: I need to object on that one.  
14 It's vague as to whose pay scale.

15 BY MR. LONDEN:

16 Q. The district's pay scale. Thank you.

17 A. The district's pay scale is, as I said before,  
18 lower than neighboring districts. However, the district  
19 pays for those teachers who retire from our school  
20 district lifetime medical benefits for the employee and  
21 their spouse, and many people see that as a very  
22 attractive benefit. And there are also people who want to  
23 work in our school district because they think it's a good  
24 place to be. So I -- I'm very optimistic about being able  
25 to meet our targets.

1 Q. How about other states, are the requirements  
2 for obtaining or recognizing a credential for an out of  
3 state teacher an obstacle or not an obstacle for your  
4 recruitment?

5 A. I don't know the details for the other states.  
6 Again, that's a personnel division function. I can tell  
7 you that some states have reciprocity and some states  
8 don't, and I have my own experience in coming from  
9 Illinois. So that's all I have to go on.

10 Q. Are you able to identify any significant  
11 impediments right now to achieving the hiring of all fully  
12 credentialed teachers for low performing schools?

13 A. No. In fact, we expect the market to be very  
14 good for us, because of the economy. We went to a job  
15 fair last week, and they reported that they found several  
16 special education, fully credentialed special education  
17 teachers with experience, looking for jobs, which is  
18 unusual.

19 Q. Let me ask you. The figures that you gave us  
20 as estimates for the categories of teachers employed  
21 currently, are they published anywhere?

22 A. Yes.

23 Q. Where are they published?

24 A. The data about credentialed, pre-intern and so  
25 on teachers is published in CBEDS, the California Basic

1 Q. You mentioned the No Child Left Behind Act.  
2 Has the district undertaken to make plans about compliance  
3 with that act specifically?

4 A. Absolutely.

5 Q. What have you done?

6 A. We have notified parents whose children are  
7 enrolled in what's being called underperforming schools  
8 that they have the opportunity to transfer their children  
9 to schools that are not on the underperforming list, and  
10 we list what those schools are in the letter.

11 We then have told them that we will pay for  
12 their -- we don't have buses, so we will pay for their  
13 transportation on public transportation. We also for  
14 young children will pay for the bus passes for the adult  
15 to accompany them.

16 We are working out contracts with after school  
17 providers to provide supplemental services for those  
18 schools that are required to offer supplemental services  
19 to students after school.

20 We already comply with the rule to allow Boy  
21 Scouts to use our schools, so we haven't had to change  
22 that.

23 We have adopted the board policy to give  
24 information to military recruiters.

25 We don't have to change any board policy around

1 religious institution using our schools. We're in  
2 compliance.

3 That's all I can think of right now.

4 Q. You say you've notified parents in  
5 underperforming schools. How have you -- what criteria  
6 have you -- has the district used to define  
7 underperforming schools?

8 A. Well, we use the state testing system, and it's  
9 very carefully spelled out in the regulations as to how  
10 you're identified as an underperforming school.

11 Q. Regulations of the federal Department of  
12 Education?

13 A. Well, actually the state writes their own plan  
14 in response to the legislation, and then you, based on  
15 that plan, you identify which schools are underperforming.

16 Q. Now, you mentioned the No Child Left Behind Act  
17 in connection with seeking to hire fully credentialed  
18 teachers in underperforming schools. Is there a plan or  
19 effort underway to comply with what you understand to be  
20 the requirements of the act in that regard?

21 A. We haven't put a specific plan in place yet for  
22 that. We're also working on the issue of instructional  
23 assistants. They are required to have a higher level of  
24 educational training, and in fact, a minimum of an AA  
25 degree. And that's a new requirement, and we haven't --

1 we don't have a specific plan together for that either. I  
2 know they're working on something, but it's not been  
3 approved yet.

4 Q. When you say they're working on something --

5 A. Personnel division, along with the states and  
6 federal categorical department.

7 Q. Is there any document that reports on the plan  
8 or efforts to comply with No Child Left Behind Act where  
9 you have adopted a plan or undertaken efforts?

10 A. Well, it's not all in one place. No Child Left  
11 Behind, as you know, is a huge piece of legislation, with  
12 lots of details in it. And so those things that I listed  
13 are all individual efforts. Our state and federal  
14 categorical office, that department, they're the ones who  
15 are keeping track of making sure we're in compliance with  
16 that legislation. So I'm sure if they were asked, they  
17 could produce a couple of xerox boxes of paper.

18 Q. Do you know when the next due date is for an  
19 application to federal authorities in connection with  
20 Title I funding?

21 A. Well, there are several times during the year  
22 when we send in documents. In fact, this Thursday night  
23 the consolidated application goes to the board for  
24 approval, and that includes Title I, GATE, SIP, LEP -- all  
25 sorts of state and federal programs are in this big

1 document.

2 Q. Have you seen a draft?

3 A. No, I haven't looked at it. It's an annual  
4 document that we send in saying how we are going to spend  
5 our money. I've seen the budgets, but I haven't looked at  
6 the actual document.

7 Q. Now, do I understand what you said earlier  
8 correctly, that you will be accepting requests for  
9 transfer out of underperforming schools as of the  
10 beginning of next year?

11 A. No. We did it this year.

12 MS. GIORGI: Objection.

13 BY MR. LONDEN:

14 Q. Did it this year. And what was the experience?

15 A. We have an open transfer policy in our district  
16 already, so it wasn't a big impact.

17 We had -- I'll give you an estimate --  
18 somewhere around 200 families who are transferring their  
19 students, and somewhere around 40 to 60 bus passes that  
20 we're buying for people. I expect that will get larger  
21 next year.

22 Q. When you arrived at West Contra Costa, were  
23 there significant problems in providing textbooks and  
24 instructional materials at any of the schools in the  
25 district?

1 MS. GIORGI: Objection. Vague and ambiguous.

2 THE WITNESS: In terms of textbooks, I heard  
3 lots of stories about inadequate textbooks. And  
4 "inadequate" is a term that's very vague and ambiguous,  
5 because it means different things to different people. In  
6 some cases it meant that the textbooks were old and really  
7 needed to be replaced with more up-to-date textbooks. In  
8 some cases it meant that there weren't sufficient  
9 textbooks from the teacher's point of view for what he or  
10 she wanted to do in terms of using the textbooks. In some  
11 cases it meant that the teacher didn't have enough. In  
12 other words, the teacher wanted three or four or five  
13 different textbooks because they didn't feel one textbook  
14 was enough.

15 So I spent quite a bit of time just trying to  
16 understand what it meant when people were complaining that  
17 they didn't have enough textbooks, and started to put a  
18 lot of money into the textbook budgets, and there has been  
19 about a doubling of the textbook budget in the last four  
20 years districtwide.

21 And as an example, yesterday I was at a high  
22 school, Comprehensive high school, meeting with teachers  
23 at lunch time for a listening visit, and a math teacher  
24 said, "You know, now that we're pushing algebra into the  
25 middle schools, we need more advanced textbooks at the

1 high school." And of course, my first response was, what  
2 a great problem to have.

3 And secondly, then we need to plan for what to  
4 buy for next year, and we'll do that. So that teacher  
5 said, "Well, we don't have enough textbooks." And I said,  
6 "Well, what does that mean?" And then he told me this  
7 story. It didn't mean that he didn't have enough  
8 textbooks for the kids this year, but he's thinking  
9 forward, they'll not have adequate textbooks.

10 So when anyone says adequate textbooks, there's  
11 a lot more digging that has to go on in terms of trying to  
12 understand that.

13 Q. Why did you think it was appropriate to put a  
14 lot of money into textbook budgets in the last four years?

15 A. We needed --

16 MR. STURGES: I'm going to object, that that  
17 mischaracterizes the testimony. She didn't say she put a  
18 lot of money into the budget. She did say that the budget  
19 has doubled. Not necessarily the same thing.

20 You can answer the question if you can.

21 BY MR. LONDEN:

22 Q. Yeah. Answer the question if you're able. The  
23 transcript will always speak for itself on what you  
24 actually said.

25 A. Well, the cost of textbooks has gone up

1 significantly. They're very, very expensive. And we are  
2 replacing a lot of textbooks.

3 For example, this past year that we're in now,  
4 the '02-'03 school year, we bought all new language arts  
5 textbooks for grades K through 8, and then we put in a  
6 pilot program for language arts for English at the high  
7 school level. That was a couple million dollars.

8 Q. I'm sorry. Pilot program for?

9 A. Reading. For English, special reading classes  
10 at the high schools, the comprehensives and the  
11 alternatives.

12 Q. You, after arriving, did some things to find  
13 out in more detail what the status of textbooks was in the  
14 schools?

15 MS. LEE: Objection. Leading, vague and  
16 ambiguous.

17 BY MR. LONDEN:

18 Q. Is that fair?

19 MR. STURGES: I'm sorry. Can I have the  
20 question read back? I didn't hear it.

21 BY MR. LONDEN:

22 Q. I'll just restate.

23 Tell us what, if anything you did to find out  
24 more specifically about the status of the availability of  
25 textbooks.

1 A. I visited the schools and talked with the  
2 teachers.

3 I also asked the assistant superintendent who  
4 was responsible for purchase of textbooks to collect data  
5 from each of the schools.

6 Q. What was his or her title?

7 A. Well, the titles have changed over the last  
8 couple of years. Assistant superintendent for  
9 instructional support services. And that title now is a  
10 chief academic officer.

11 Q. If you know, what did that assistant  
12 superintendent do to implement your request?

13 A. She sent out a form to the principals and asked  
14 the principals to complete that document regarding their  
15 textbooks needs, and collected that information.

16 She also asked them to do textbook inventories  
17 and report that to her.

18 Q. What's a textbook inventory as you used the  
19 phrase?

20 A. Well, the notion is it comes down to do you  
21 have enough textbooks for next year. It's part of the  
22 process of determining how many new books do you need to  
23 order, additional books.

24 So she was collecting information about the  
25 numbers of textbooks as well as the age, in some cases, of

1 textbooks.

2 Q. Is it your understanding that the inventories  
3 were -- inventories themselves were delivered to the  
4 district offices?

5 A. I don't know what the forms look like, but she  
6 has -- she collected all of that information annually, so  
7 she got some kind of paperwork from them.

8 Q. Well, you said that she sent out a form to the  
9 schools.

10 A. Uh-huh.

11 Q. And that she asked the principals to take a  
12 textbook inventory. Do you know whether or not both the  
13 form and documentation of the inventory were reported to  
14 the district level?

15 A. Yes. She collected that in her office, yes.

16 (Whereupon, Plaintiff's Exhibit No. 1  
17 was marked for identification.)

18 BY MR. LONDEN:

19 Q. We have marked or asked the reporter to mark as  
20 Exhibit 1 to the record of this deposition a document  
21 that's entitled on the first page, "Textbook Analysis  
22 2001-2002," and it bears production numbers at the bottom  
23 DT-WC 004462 continuing to 4520.

24 If you turn to the second page of Exhibit 1,  
25 there is a copy of a form. Do you recognize this form?

1 A. I don't think I've seen this form before, but I  
2 knew there was a form.

3 Q. Its subject is textbook analysis, and it has 7  
4 items under the heading "Schools Activities." Item number  
5 4 is: "All teachers have sufficient books for their  
6 present classes. In language arts . . ." LA, is that the  
7 right --

8 A. Right. Right.

9 Q. ". . . math, science, and social science  
10 classes, each student was issued a text."

11 Have you seen any document that compiles the  
12 reports of the forms you referred to that the assistant  
13 superintendent sent to each school?

14 MS. GIORGI: Objection. Lacks foundation,  
15 calls for speculation.

16 THE WITNESS: Well, the only document that  
17 comes to mind is the board is required annually to approve  
18 a certification -- I forget what it is -- I think it's a  
19 certification to the state regarding adequacy of  
20 textbooks. And so Dr. VanDeVeer, who sent out this  
21 request for information, would present that certificate or  
22 certification request to the board for their approval.  
23 And the certification says that they have or will have  
24 sufficient -- I don't remember the wording -- maybe it's  
25 sufficient textbooks, for the school year.

1 frequently, so I hear firsthand if there are concerns, and  
2 sometimes I take those notes and send them to the chief  
3 academic officer and say please follow up.

4 Q. The dates on the bottom of these forms -- well,  
5 let me ask you. The instructions right under the title of  
6 the form say: "Please fill out this certification and  
7 return it to me by no later than June 1st, 2001." In  
8 looking at the dates, they seem to be dates in May -- or  
9 in one case I see June. Does that suggest that these  
10 particular forms are used to take action to address  
11 shortages?

12 A. Uh-huh. Well, action certainly. If they've  
13 been sitting there for a couple of months without  
14 textbooks, one would assume that they've done something.  
15 They haven't just waited until this form is filled out.  
16 And it does take action for the next school year. We  
17 order textbooks in the spring for the coming school year.

18 Q. In any event, does this appear to be the form  
19 that you were referring to?

20 A. Yes.

21 Q. As something that the assistant superintendent  
22 in charge of the purchase of textbooks did in response to  
23 your request?

24 A. Uh-huh.

25 MS. GIORGI: Objection. Again lacks

1 So it's my understanding that these logs, or  
2 these replies, would then cause her to take some action if  
3 people didn't have sufficient textbooks or whatever their  
4 needs were.

5 BY MR. LONDEN:

6 Q. By "these logs" --

7 A. These forms, these responses.

8 Q. In Exhibit 1?

9 A. Uh-huh.

10 Q. What actions and under what circumstances would  
11 be taken?

12 A. Well, I just -- I flipped through a page here  
13 saying teachers' manuals have not arrived. I would expect  
14 that she would follow up. She or one of her staff would  
15 follow up and say, "Well, did you order them. And if you  
16 didn't order them, you need to order them." And if they  
17 said, "Yes, we've ordered them," then she would track  
18 down. Are they in the warehouse, where are they.

19 Q. Is this something that you have any personal  
20 knowledge about?

21 A. No. Again, this is -- I delegate this to the  
22 academic support division. And periodically this would be  
23 a topic that come up in my monthly meetings with the  
24 assistant superintendent or with the chief academic  
25 officer. And as I said earlier, I visit the schools quite

1 foundation.

2 MR. STURGES: Ms. Johnston, let Mr. Londen  
3 finish his question.

4 THE WITNESS: I'm sorry. I "uh-huhed" and I  
5 was still reading.

6 MR. STURGES: Also caution you. If you have an  
7 affirmative response, say yes; a negative response, say  
8 no; so the court reporter can take your testimony down.

9 THE WITNESS: Thank you.

10 BY MR. LONDEN:

11 Q. Putting aside forms of this sort, do you recall  
12 having seen any documentation of textbook inventories at  
13 schools?

14 A. No.

15 Q. And do you recall having seen any compilation  
16 or report on the aggregated results of looking at textbook  
17 inventories?

18 A. No.

19 MR. LONDEN: Let's take a short break.

20 (Off the record, 10:40 - 10:50 a.m.)

21 BY MR. LONDEN:

22 Q. Back on.

23 What sources of money has the district used to  
24 purchase textbooks over the past four years?

25 A. The state instructional materials funds,

1 primarily.

2 Q. In general have those funds been sufficient in  
3 amount to accomplish what you have -- or what the district  
4 has accomplished by way of textbook purchases?

5 MS. GIORGI: Objection. Ambiguous.

6 MS. LEE: Calls for speculation.

7 THE WITNESS: No.

8 BY MR. LONDEN:

9 Q. The district has used funds from other sources  
10 than textbook specific state categorical grants, then?

11 MS. LEE: Objection. Leading. Vague and  
12 ambiguous.

13 BY MR. LONDEN:

14 Q. Is that true?

15 A. We've used general fund dollars to purchase  
16 textbooks also.

17 Q. Do you have in mind amounts of general fund  
18 dollars that have been used?

19 A. I can estimate somewhere around \$3 million.

20 Q. Is that a cumulative figure, or a figure for  
21 particular years?

22 A. That would be cumulative, during the last three  
23 or four years.

24 Q. And do you have in mind an amount of state  
25 instructional materials grants that the district has used

1 Q. When you began as superintendent of West Contra  
2 Costa, were there significant problems in the school  
3 facilities?

4 MS. LEE: Objection. Vague, over broad.

5 THE WITNESS: Well, the word "significant," you  
6 know, in my arena has some very specific interpretation,  
7 so I wouldn't use the term "significant."

8 I would say that some schools were old and in  
9 need of a variety of cosmetic upgrades. Some schools  
10 needed more serious upgrades in terms of utilities and  
11 seismic retrofitting. Essentially my assessment of the  
12 stock, the facility stock in the school district, was that  
13 it was aging and in need of modernization and  
14 reconstruction in general. Now, there are a couple of new  
15 schools, other schools that had been modernized 10 to 15  
16 years earlier, but overall the facility stock is old.

17 BY MR. LONDEN:

18 Q. Since you arrived, has the district undertaken  
19 to do anything about that?

20 A. Yes, indeed.

21 Q. Could you give us a general summary.

22 A. Upon my arrival in 1999, we were embarking on  
23 expending \$40 million of general obligation fund money  
24 that had been passed by the voters in 1998. Then in --  
25 let's see, the year before last. Was that 2000? 2001?

1 during that period?

2 A. No, I don't. There are several different  
3 instructional materials funds, and I've never added all of  
4 those up in my mind as to how much they are.

5 Q. Does the district have a plan or an estimate of  
6 the ongoing cost of keeping the instructional materials in  
7 sufficient numbers and in current versions in the schools  
8 going forward?

9 A. No, we don't have a plan.

10 Q. If you assume that as part of current cutbacks  
11 the state will not be making categorical grants  
12 specifically for the purchase of instructional materials,  
13 do you know whether or not the district is going to be  
14 able to keep the schools supplied with current textbooks  
15 in sufficient supply?

16 MS. GIORGI: Objection. Compound, vague and  
17 ambiguous, and incomplete hypothetical.

18 MS. LEE: Join in the objection.

19 MR. STURGES: I'm going to object to the  
20 question as an incomplete hypothetical because calls for  
21 speculation as to the amount of cuts hypothesized.

22 You can answer if you can.

23 THE WITNESS: Well, I really can't answer  
24 because I don't know what the state budget is.

25 BY MR. LONDEN:

1 We passed a \$150 million general obligation bond to focus  
2 on our elementary schools. Then last year we passed a  
3 \$300 million general obligation bond to improve, upgrade  
4 our secondary schools.

5 In the meantime, we became much more focused on  
6 our deferred maintenance plans. We sent out RAMBO teams.  
7 Repair and Maintenance Building and Operations. They  
8 called themselves the RAMBO teams. And they went to  
9 specific schools with plans and did some on-site repairs  
10 all at one time to try and bring those schools up to at  
11 least an acceptable level where there were issues of  
12 repairs that needed to be made.

13 We -- I hired an assistant superintendent for  
14 operations, a gentleman who had just retired out of the  
15 Coast Guard. He had been the base commander in Miami  
16 Beach, Florida, and he in a previous career had also been  
17 a teacher and a principal, so had a good understanding of  
18 school districts, and he took over the operations division  
19 and made significant changes in how operations were  
20 handled in the school district. Operations, meaning  
21 maintenance and repairs, grounds keeping, and facilities.

22 We are currently embarking on modernizing those  
23 schools that are in greatest need. Nine elementary  
24 schools plans have been submitted to the Division of the  
25 State Architect. We expect them to be out in June. We

1 will go to bid, and we will begin reconstruction.  
 2 Actually, eight of them will be reconstructed. Nine will  
 3 be torn down and completely rebuilt.

4 The second nine are in plans now, the planning  
 5 schematics. They'll go within six months to Division of  
 6 the State Architect. And another nine schools, elementary  
 7 schools, will be upgraded, possibly 10 or 11. We are  
 8 negotiating on some partnerships with some of our cities.

9 We are in the process of -- we have identified  
 10 four secondary schools, two high schools, two middle  
 11 schools with greatest need, primarily seismic issues, and  
 12 we will begin the process, then, of reconstructing four  
 13 secondary schools.

14 We've done major roofing, asphalt, heating and  
 15 ventilating projects at schools.

16 We've contracted with a firm to come in and  
 17 deal with windows. The vast majority of the windows in  
 18 our school district are set in asbestos, and so broken  
 19 windows require properly trained and uniformed and  
 20 equipped people to go and deal with replacing windows.

21 So overall, it looks much better at many  
 22 schools, but the cosmetic work that comes with  
 23 reconstruction will make a significant difference in the  
 24 next couple of years.

25 Q. The major roofing, asphalt, heating ventilation

1 A. Right.

2 Q. One for 150 million which is measure M?

3 A. Yes.

4 Q. And one for \$300 million, which was Measure D?

5 A. Yes.

6 Q. Does the district publish reports available  
 7 through its website on the status of the bond funded  
 8 projects?

9 A. Yes, we do.

10 Q. And does the district publish reports of the  
 11 status of the deferred maintenance projects?

12 A. I don't know if that's on the website. We do  
 13 regular board status reports on facilities at each board  
 14 meeting, so they are available through board packets and  
 15 they're available to the public on request.

16 Q. Can you describe, please, how the status of the  
 17 deferred maintenance is documented.

18 A. Well, we would list on the board packet roofing  
 19 projects, for example. And when we were beginning a  
 20 process, sometimes we'll show the whole time line to the  
 21 board. Depends on, actually, on where we are in the  
 22 process. But at the beginning stages we'll show the board  
 23 the time line for the plans being completed, submitted to  
 24 the state, the time lines for going out to bid, the time  
 25 lines we're expecting to begin construction, at what point

1 and windows work, that's distinct from the RAMBO projects?

2 A. Right.

3 Q. And is it part of or distinct from the  
 4 modernization projects of the first nine elementary  
 5 schools and then another 10 to 11?

6 A. Yes.

7 Q. Which is it?

8 A. Separate.

9 Q. Separate. Is the major roofing, asphalt,  
 10 heating, ventilation and windows project financed with  
 11 bond funds?

12 A. The roof work has been financed through  
 13 Proposition E, which was the \$40 million, and critical  
 14 hardship money from the state.

15 The asphalt, heating and ventilating and some  
 16 restrooms -- actually, I forgot the mention restrooms is a  
 17 big deal -- some restrooms have also been financed through  
 18 bond money but primarily are maintenance, are district  
 19 maintenance money.

20 Q. Is there a name for the roofing, asphalt,  
 21 heating, ventilation and windows project?

22 A. Deferred maintenance.

23 Q. Deferred maintenance. Okay.

24 Now, the bond measures you referred to  
 25 consisted of one \$40 million which was measure E?

1 in time we expect the project to be completed, the overall  
 2 cost and the funding source. That level of detail is  
 3 available on almost every project in the district.

4 Q. Was Walter Helms Elementary School one of the  
 5 roofing work schools?

6 A. Yes.

7 Q. And what's the status of the roofing there?

8 A. My understanding is it's completed, and they  
 9 are very happy.

10 Q. And is there any documentation available to the  
 11 public from the district about the status of work on  
 12 restrooms?

13 A. Oh, yes.

14 Q. Where does one find that?

15 A. One requests that from the operations division.

16 Q. And what kind of content does the documentation  
 17 that's available there have?

18 A. Tells you which restrooms have been repaired,  
 19 how much money was spent, who did the repairs, what the  
 20 time was. They have very detailed reports. And we even  
 21 take people on tours.

22 Q. Did you have a view as to whether doing work on  
 23 restrooms would have any benefit on the students' ability  
 24 to learn?

25 MS. LEE: Objection. Calls for speculation.

1 THE WITNESS: No, I don't think it does.  
 2 BY MR. LONDEN:  
 3 Q. And how about the roofing work?  
 4 A. On their ability to learn?  
 5 Q. Uh-huh.  
 6 MS. LEE: Same objection.  
 7 THE WITNESS: If they can't be in their  
 8 classroom because the roof is leaking and move to another  
 9 classroom, that can upset them for a few minutes. But  
 10 kids are very adaptable. Typically it's the adults who  
 11 get more upset. No, it doesn't affect their ability to  
 12 learn.  
 13 BY MR. LONDEN:  
 14 Q. Were there heating and ventilation problems  
 15 that in your view affected the students' ability to learn?  
 16 MS. LEE: Objection. Calls for speculation and  
 17 expert testimony.  
 18 THE WITNESS: Well, I think that for some  
 19 people, if it's too warm or too cold, they may have some  
 20 problems paying attention if they're thinking about what  
 21 the climate is. But for the most part, it's not that hot  
 22 and not that cold in our schools.  
 23 I tell everyone I grew up in Iowa, so I have a  
 24 different point of view of what's hot and what's cold as  
 25 do people from California. And so most students I believe

1 are able to handle the temperature when it's 80 degrees or  
 2 the temperature when it may be in the upper 60s, mid 60s  
 3 in a classroom.  
 4 There have been classrooms, however, when  
 5 there's been no heat at all and the temperature could drop  
 6 into the 50s, and I think that's very uncomfortable. In  
 7 those cases, frequently the principal will move the class  
 8 to another room if they can, or they'll try and get  
 9 someone out to fix the heaters.  
 10 These are old buildings. They're 40 to 60  
 11 years old.  
 12 BY MR. LONDEN:  
 13 Q. Did the district undertake to prepare a master  
 14 plan related to facilities?  
 15 A. Yes. That was one of the first things I did  
 16 when I got there.  
 17 Q. During your tenure have there been any new  
 18 problems that have arisen that you consider to be  
 19 challenges for providing an opportunity to learn for all  
 20 the students in the district?  
 21 MS. LEE: Objection. Vague and ambiguous.  
 22 Calls for speculation.  
 23 MR. STURGES: I'll object. It's vague. New as  
 24 to what?  
 25 MS. GIORGI: Join.

1 BY MR. LONDEN:  
 2 Q. We've listed some problems. Have there been  
 3 other problems that have arisen while you've been there?  
 4 A. Well, the current state of the budget of the  
 5 state is probably what's on my mind today. And it's not  
 6 only the state of the state's budget, but the lack of  
 7 specific information from the state about what our funding  
 8 will be for this year and next year.  
 9 Q. Okay. Can you give us a summary of the  
 10 management staff at the district level as it stands right  
 11 now. You mentioned 15 regional superintendents, I think.  
 12 A. Let me tell you -- no, there aren't 15.  
 13 Q. Sorry.  
 14 A. Do you want me to give you -- I guess I'm not  
 15 clear on what you want.  
 16 MR. STURGES: Do you understand the question?  
 17 THE WITNESS: Yeah, maybe you could be more  
 18 specific.  
 19 BY MR. LONDEN:  
 20 Q. I will try. Can you talk me through an  
 21 organization chart of the senior district management.  
 22 A. Yes.  
 23 Q. Please do so.  
 24 A. There are 11 members of the superintendent's  
 25 cabinet. And those 11 members include 4 regional

1 superintendents who directly supervise the schools, one  
 2 assistant superintendent for fiscal services, one  
 3 assistant superintendent for personnel, a chief academic  
 4 officer, an associate superintendent for operations, an  
 5 assistant superintendent for pupil services, a  
 6 communications officer, general counsel. Is that 11?  
 7 MS. GIORGI: Yes.  
 8 MR. STURGES: Yes.  
 9 THE WITNESS: Good.  
 10 BY MR. LONDEN:  
 11 Q. And to whom do the principals of the schools  
 12 report in this?  
 13 A. Regional superintendents.  
 14 Q. I have some more questions for you about  
 15 teachers. First, what is the time period covered by the  
 16 current agreement with the teachers' collective bargaining  
 17 representatives?  
 18 A. We have a three year contract. This is year  
 19 two of the three year contract. And next year, '03-'04,  
 20 will be the third year.  
 21 Q. You've just been handed a lengthy document  
 22 which is a copy of what's called "Contractual Agreement  
 23 Between West Contra Costa Unified School District and the  
 24 United Teachers of Richmond, Richmond, California,  
 25 Effective July 1, 1998 to June 30, 2001." It bears

1 production numbers DT-WC 06698 through 06801.

2 I would be quite happy if other counsel agree  
3 to forego making a copy of this document an exhibit to the  
4 transcript so that the copying costs incurred in ordering  
5 copies of the exhibits are reduced. I will not do that if  
6 anyone objects. And I do it in reliance on the  
7 availability of the production copy with these numbers.

8 MR. STURGES: No objection, so long as specific  
9 questions are referenced to Bates stamp numbers.

10 MR. LONDEN: Yes. Okay?

11 MS. LEE: Yes.

12 MS. GIORGI: Yes.

13 MR. STURGES: By the way, for ease of reference  
14 I would suggest we call this document the teachers'  
15 agreement or the current teachers' agreement.

16 THE WITNESS: It's not current.

17 MR. STURGES: I'm sorry. My mistake.

18 MR. LONDEN: And so far I will just describe  
19 it. I'll do it for the record.

20 MR. STURGES: Okay

21 BY MR. LONDEN:

22 Q. Do you recognize this document?

23 A. Yes.

24 Q. What is it?

25 A. It's the agreement between the United Teachers

1 of Richmond, what is the professional teachers association  
2 of the school district, and the board of education.

3 Q. And can you tell whether it is or isn't the  
4 current agreement?

5 A. That's not the current agreement. This is  
6 prior, immediately preceding.

7 Q. All right. Could you describe for us the  
8 district's programs or activities to promote professional  
9 development on the part of teachers, if that's a  
10 meaningful question.

11 MS. LEE: Objection. Broad.

12 THE WITNESS: It's a very big question. Let me  
13 see if I can make it a little more coherent in a summary  
14 fashion.

15 BY MR. LONDEN:

16 Q. I'd be grateful for that. Thank you.

17 A. There are really two types of professional  
18 development for teachers in our district. Those that are  
19 carried out through district level efforts, and those that  
20 are carried out at the school level. And the district  
21 efforts are typically based on district initiatives. So  
22 for example, during this school year we engaged nearly  
23 1,000 teachers in 40 hours of training to use the new  
24 language arts materials. We also have teachers attending  
25 math workshops, science workshops, curriculum development,

1 training around conflict mediation, differentiated  
2 instruction to teach gifted and talented children -- those  
3 sorts of districtwide initiatives.

4 Teaching English language learners specific  
5 skills and strategies in curriculum.

6 At the school level, they determine what they  
7 want to spend their professional development dollars on.  
8 And it may be setting up small learning communities. It  
9 may be specific programs or projects that they want to  
10 start around something that they think will be unique to  
11 their own school. Or it may also be a supplement to a  
12 district initiative. So they may will also be sending  
13 their staff to workshops, conferences, trainings, or  
14 bringing consultants in to do trainings at their  
15 individual schools.

16 There is a significant amount of professional  
17 development that goes on in our school district. And  
18 significant at this point, as I use that term, meaning  
19 that it is within the realm of I would say somewhere close  
20 to 75 percent of our teachers are participating in  
21 professional development that's voluntary and over 90 some  
22 percent of our teachers are participating in what we call  
23 teacher buy-back days. Those are three days during the  
24 school year where we expect all teachers to participate in  
25 professional development activities.

1 Q. Look, please, at the page that has the ID  
2 number ending in 6764 in this contract that we've  
3 described just now. Now, I direct your attention to  
4 article 35 on professional growth. Have you seen this  
5 before?

6 A. No. I have not read this document word for  
7 word.

8 Q. And have you seen this section?

9 A. No.

10 Q. Do you have any understanding as to  
11 requirements imposed by the current, let's say collective  
12 bargaining agreement, since you haven't seen this  
13 particular document, with respect to professional  
14 development?

15 MS. LEE: Objection. Vague, ambiguous.

16 THE WITNESS: Well, each teacher during --

17 MR. STURGES: Wait. Answer the question.

18 THE WITNESS: Yes.

19 BY MR. LONDEN:

20 Q. What is your understanding?

21 A. Each teacher during their evaluation year sits  
22 down with their principal to talk about their professional  
23 growth objectives, and they develop a plan.

24 This is really very outdated, this professional  
25 growth article.



1 Q. Why do you say that?

2 A. Well, if you are an intern or a pre-intern and  
3 you don't have -- you're not fully credentialed, there is  
4 already a plan in place as part of you being in that  
5 program, in partnership with the university and the  
6 district. I don't even know what this is about, this 1985  
7 plan.

8 Q. For interns and pre-interns, you've told us  
9 that the district participates in a program with  
10 California State University?

11 MS. LEE: Objection. Leading.

12 BY MR. LONDEN:

13 Q. Do I understand that correctly?

14 A. We have a partnership with Cal State Hayward.

15 Q. And does that partnership -- or does  
16 participation in that -- withdraw that.

17 Are all of the interns and pre-interns in the  
18 district participants in the Cal State Hayward program?

19 A. I don't know. I would have to ask the  
20 personnel office about that.

21 Q. For those who participate in the Cal State  
22 Hayward program, there is a professional development  
23 program in place; is that your understanding?

24 MS. LEE: Objection. Leading.

25 Mischaracterizes testimony.

1 Q. At the hiring stage are there any formal  
2 criteria that the district uses to assess the quality of  
3 teachers beyond taking account of their years of  
4 experience in credentialing?

5 A. Yes. After they've done their credential  
6 stuff, they do some kind of interview questionnaire or  
7 process that's -- what is it called -- a Haberman  
8 questionnaire or something. I don't even know. I'm not  
9 even going to guess. I don't know what it's called. But  
10 they have a survey-type questionnaire that they administer  
11 to people as part of the interview process.

12 They also do reference checks. They call and  
13 talk with previous employers.

14 Q. When the district fills a teaching position,  
15 does it recruit for a position at a specific campus?

16 A. No. We go out and develop a pool of  
17 candidates, and then we let the principals select from  
18 that pool.

19 Now, that's not always true. Let me respond  
20 again. On specific positions, let's say a high school  
21 calculus teacher or a high school band director, on those  
22 very specific positions when we have some of those  
23 positions open, we'll go out specifically looking for that  
24 single school to fill that position.

25 Q. A pool of one, in effect?

1 THE WITNESS: My understanding is that they  
2 have a very specific plan to get them to being fully  
3 credentialed. I haven't seen their plan. I don't know  
4 how much detail is in it. But they have a very specific  
5 plan that they work through as a part of being in this  
6 program.

7 BY MR. LONDEN:

8 Q. Is there any professional development plan that  
9 is specific to emergency permit teachers?

10 A. I don't know. And again, I would have to find  
11 that out from the personnel office.

12 Q. And same question with respect to teachers on  
13 waivers.

14 A. Same answer.

15 Q. All right. When the district has a choice,  
16 does it prefer to hire teachers with more experience  
17 rather than less?

18 A. Yes.

19 Q. Why is that?

20 A. Well, just because you get a credential that  
21 says you're a teacher doesn't mean that you have had the  
22 kind of experience that helps you be a really high  
23 quality, high performing teacher. It really takes several  
24 years to become a good teacher. Doesn't happen the first  
25 day you walk in the classroom.

1 A. Uh-huh. We'll try to find two or three people  
2 who could be a band person. And that's for schools that  
3 only -- there's only one band director at a big high  
4 school, right? And you try not to lose those people.

5 Q. For let's say, for example, elementary school  
6 core subjects teachers, do I understand correctly that  
7 there is a pool created at the district level from which  
8 principals are asked to select?

9 A. Yes.

10 MS. LEE: Objection. Leading.

11 THE WITNESS: The multiple subject credential,  
12 which qualifies you to teach kindergarten through 6th  
13 grade, we create a pool for multiple subject teachers.

14 BY MR. LONDEN:

15 Q. And tell us whether the -- well, withdraw that.

16 How does it end up getting decided whether a  
17 teacher goes to one school or another school among  
18 multiple schools that have openings?

19 A. Well, I haven't actually participated in the  
20 process, but my understanding of how the process works is  
21 a principal, for example, has a third grade teacher who  
22 leaves, moves away, husband has another job, and so  
23 there's an opening. That principal contacts the personnel  
24 office and says, "Who do we have in the pool that I could  
25 hire for my third grade position." They either go into

1 the personnel office and review the documents or get a  
2 list of people, probably both, and decide whom they're  
3 going to interview.

4 Then depending on the school -- in some cases  
5 it's the principal alone, in other cases it's a principal  
6 and a team of teachers. Sometimes they even involve  
7 parents. They interview candidates and select someone.  
8 So that process goes on all year long.

9 Q. Are there some schools in the district that are  
10 harder to persuade applicant teachers who are in the pool  
11 to accept?

12 MS. GIORGI: Objection. Vague and ambiguous.

13 MS. LEE: Join.

14 MS. GIORGI: And calls for speculation.

15 THE WITNESS: Well, in some schools it's more  
16 difficult to fill unique positions, and that would be  
17 primarily true with the high schools. And it's just  
18 simply because it's hard to find those people to teach in  
19 those jobs. Those are specifically math, science, special  
20 education.

21 At some of our schools that are located in  
22 neighborhoods that are not very attractive, they're poor,  
23 they're I suppose you could say really typical of an urban  
24 poor inner city environment, there are people who don't  
25 want to teach in that kind of a setting, and so there are

1 whether the district will be able to fill the positions in  
2 less attractive neighborhoods or schools if there is no  
3 TAP or equivalent stipend available?

4 MS. LEE: Objection. Calls for speculation.

5 MR. STURGES: Join. You can answer if you can.

6 THE WITNESS: I can only speculate that if  
7 school districts lay off a lot of teachers in the state  
8 because of the state budget situation, that there will be  
9 greater opportunity for us to employ fully credentialed  
10 teachers in all of our schools because the market will be  
11 a very good market for employers.

12 BY MR. LONDEN:

13 Q. Do you now envision that there will be any  
14 teacher layoffs in your district?

15 A. Yes.

16 Q. And are you able to say at what level?

17 A. At this point the board has not taken any  
18 action. We will be noticing -- we anticipate noticing on  
19 March the 5th at that board meeting somewhere between  
20 three and four hundred teachers of potential layoffs,  
21 meaning that they'll get what's called a March 15 notice,  
22 and essentially it says you may be laid off.

23 We have until May 15 to determine who in fact  
24 shall be laid off. And then, of course, if the state ever  
25 makes up its mind about the budget, we'll be taking some

1 occasions where people will say, "I don't want to teach at  
2 this school, there's no parking lot for my car, I don't  
3 want to park my car on the street," or "this doesn't look  
4 like a place, a community that I want to work in, so I  
5 don't want to work at that school." But that's part of  
6 finding the right person for the right job. So it's just  
7 -- it's a matching process.

8 BY MR. LONDEN:

9 Q. Has the district used or considered using any  
10 pay differentials in order to overcome reluctance of  
11 potential teachers to work in particular schools?

12 A. We participated in the teaching as a priority  
13 program with the state, and that provided pay  
14 differentials for teachers coming into low performing  
15 schools.

16 Q. Have you formed any view as to the strengths  
17 and weaknesses of this program?

18 A. I don't have any official that I would call  
19 statistical or formal evaluations of the process, but Anna  
20 Souza, who's the director of certificated personnel,  
21 indicated that she felt we got some high quality people to  
22 go into some schools because we were offering stipends  
23 through that program that we might not otherwise have  
24 gotten.

25 Q. Looking forward, do you have any view as to

1 further action no doubt in the fall, and we have no idea  
2 how many students will show up in the fall, and so we  
3 adjust once again.

4 Q. What, if anything, is going to be done, if you  
5 can say, about the distribution of the schools' effect by  
6 layoffs?

7 MS. LEE: Objection. Vague.

8 THE WITNESS: Well, I can answer that. We are  
9 proposing to the board that the layoff process not be  
10 strictly based on seniority, because the more senior  
11 teachers are working at the higher performing schools as a  
12 generalization. And so we are asking that the board  
13 prioritize layoffs based on some other criteria, such as  
14 literacy training, holding of a CLAD or BCLAD credential,  
15 special education credential, a reading credential, some  
16 single subject areas such as math, science. But the board  
17 has not taken any action on that. And it's our belief  
18 that should they approve that, that will mean that many  
19 new teachers new to the teaching profession who have come  
20 in with those additional credentials and who have  
21 participated in this training, we will be able to retain  
22 them in their positions.

23 BY MR. LONDEN:

24 Q. The attributes that you've listed would be as  
25 you envision but the board had not yet approved,

1 attributes that would be retained of teachers who would be  
2 obtained instead of strictly relying on seniority for  
3 retention; do I understand that correctly?

4 A. Yes.

5 Q. And the reason for doing that is?

6 A. We believe those qualification really match the  
7 needs of our students who are currently in our classrooms.  
8 And we have other teachers who may have been in the  
9 district for 30 years who have not gone to get their CLAD  
10 or BCLAD credential, who have not participated in any  
11 literacy training, and we believe that those skills and  
12 credentials are important for the students who are in the  
13 classrooms.

14 Q. Is there any plan to do anything to control in  
15 any way which schools lose teachers?

16 A. That's very difficult, because of the contracts  
17 that we have with the teachers' union.

18 MR. STURGES: Hold on a second here. I'm going  
19 to instruct the witness not to answer with respect to  
20 confidential board deliberations as to decisions made  
21 about the layoff process generally. The witness may  
22 answer with respect to her understanding of the proposal  
23 before the board, but not of any confidential board  
24 communications.

25 Do you understand the instruction?

1 A. Yes.

2 MS. GIORGI: Objection.

3 MS. LEE: Objection.

4 MR. STURGES: I'm sorry. I need that answer  
5 stricken. I'm going to instruct the witness not to answer  
6 that one. I believe it implicates the confidential board  
7 decision process.

8 You need to wait for my objections.

9 THE WITNESS: Sorry.

10 MR. STURGES: I mean, I'm happy, Counsel, to  
11 explore this with you. Perhaps there's an aspect about  
12 the question that would be outside of that process. But I  
13 think it's sort of a fundamental decision in this whole  
14 layoff thing, and I'm not sure we can separate it out.  
15 You can try.

16 BY MR. LONDEN:

17 Q. Yeah. Let me try this. Is there a time when  
18 the decisions that affect these matters will have been  
19 made so we could in principle know the answer?

20 A. Well --

21 Q. Well, let me withdraw that and ask it more  
22 simply. When did you expect these things to be decided by  
23 the board?

24 A. Layoffs, the actual layoff notices, must be  
25 delivered to certificated employees prior to May 15th.

1 THE WITNESS: Yes, I do. Thank you.

2 BY MR. LONDEN:

3 Q. And I also want to frame my questions in a way  
4 that doesn't cause you any problems. I'm not interested  
5 in intruding with your relationships with collective  
6 bargaining representatives. I'm not interested in asking  
7 you to disclose legal advice. And that may leave you with  
8 nothing you can say; and if so, just say so.

9 A. Yeah, I really think that I can't answer that  
10 question at this point.

11 Q. With the similar understanding that you may or  
12 may not be able to answer, so take those as permissible  
13 ways of responding, is the district able to direct a  
14 transfer by a teacher from one school to another school  
15 within the district?

16 A. Yes, there are some guidelines in the contract  
17 that allow us to do what's called an involuntary transfer.

18 Q. And those would be spelled out in the current  
19 teachers' agreement?

20 A. Yes.

21 Q. Subject to the same understanding, if there is  
22 the same answer, that's fine. Are there any plans to use  
23 provisions of the existing contract in order to mitigate  
24 what might otherwise be differential teachers' choice  
25 among schools related to the consequences of layoffs?

1 MR. STURGES: Counsel, if you don't mind, I  
2 think there was a second component to the question which  
3 is not just the layoff notices, but the actual assignment  
4 decisions.

5 THE WITNESS: Well, assignment decisions are  
6 supposed to be made by June 30th for everyone.

7 BY MR. LONDEN:

8 Q. Again, subject to the same understanding, I  
9 don't want to cause you any problems.

10 Is it one possibility that there may be  
11 reassignments of teachers from their current -- or this  
12 year's school assignments to other schools in connection  
13 with the layoffs?

14 MS. GIORGI: Objection. Calls for speculation.

15 MS. LEE: Join.

16 THE WITNESS: Well, that's always a  
17 possibility. That people will be transferred -- people  
18 will transfer voluntarily or involuntarily every year.

19 BY MR. LONDEN:

20 Q. So do I correctly understand that between now  
21 and sometime in June, we won't know how the layoffs affect  
22 the distribution of teachers at the schools in the  
23 district?

24 MS. GIORGI: Objection. Vague and ambiguous.

25 MS. LEE: Objection. Leading.

1 THE WITNESS: We will be able to identify what  
2 the distribution of teachers looks like when school starts  
3 in August and when we do our CBEDS. We will continue to  
4 move teachers around all the way up through the beginning  
5 of the school year based on enrollment. It's a constant  
6 shuffling. Not enough students show up at a school, we  
7 take teachers away. If more teachers -- more students  
8 show up than expected, we add teachers. We settle all of  
9 that -- all of that settles down by the first part of  
10 October.

11 BY MR. LONDEN:

12 Q. And the total teacher force in the district is  
13 about 1900?

14 MS. LEE: Objection. Leading.

15 BY MR. LONDEN:

16 Q. Well, give me your best estimate.

17 A. It's around -- teachers called certificated  
18 folks, who are in or out of the classrooms, is around  
19 2200.

20 Q. How many classroom teachers are there?

21 A. I don't know.

22 Q. Okay. And the three to four hundred who may be  
23 laid off are among that 2200?

24 A. Right. Some are in the classroom and some are  
25 not.

1 Q. Has the district done anything over the course  
2 of its participation in class size reduction to assess the  
3 extent of benefits from class size reduction?

4 MS. LEE: Objection. Vague as to "benefits."

5 THE WITNESS: Well, we have not done an  
6 in-depth evaluation of the programs. That has been  
7 conducted, actually, at the state level with a variety of  
8 groups participating in a study, you know, from --  
9 including West Ed and the Rand Corporation and other  
10 evaluators.

11 At the district level we have simply done a  
12 comparison of our state high test scores over the years  
13 I think going back to 1998, and we report that  
14 information to the board and the public each year.

15 BY MR. LONDEN:

16 Q. Does that enable you to assess class size  
17 reduction programs specifically?

18 A. No.

19 Q. Okay. Let's take a quick additional break. It  
20 will be the last one before lunch, because I'll put  
21 together some papers to go through quickly after the  
22 break.

23 (Off the record, 11:45 - 11:50 a.m.)

24 (Whereupon, Plaintiff's Exhibit No. 2  
25 was marked for identification.)

1 Q. Have there been any plans or decisions that you  
2 can disclose subject to our earlier understandings about  
3 whether the -- well, withdraw that. Let me ask a  
4 foundational question.

5 Has the district participated in class size  
6 reduction programs?

7 A. Yes, we have.

8 Q. And have there been plans or decisions that you  
9 can disclose about whether class size reduction programs  
10 will be affected by actions taken in response to budget  
11 cuts?

12 MS. GIORGI: Objection. Vague and ambiguous.

13 MR. STURGES: Again I'm going to caution the  
14 witness to respond based on her understanding and not  
15 based on confidential board communications.

16 THE WITNESS: We have published a public  
17 document of proposed cuts to the budget for this year and  
18 next. The first document went out a couple of weeks ago,  
19 and on that document we were listing cutting K through 3  
20 class size reductions. However, no action has been taken  
21 by the board at this time.

22 BY MR. LONDEN:

23 Q. So right now that's possible action, not an  
24 approved action?

25 A. Yes.

1 BY MR. LONDEN:

2 Q. I've provided the reporter with three documents  
3 in similar form but covering different time frames which I  
4 will describe. I'll designate them as Exhibit 2A, B and  
5 C, of which I'm designating as A, Classroom Teacher  
6 Credential and Experience Report by District by School for  
7 the year 2001 through 2002 for West Contra Costa Unified.  
8 B is 2002-2001, and C is 1999 to 2000. Have I described  
9 them accurate actually, Dr. Johnston?

10 A. I believe so.

11 Q. Are you familiar with documents of this type?

12 A. Yes.

13 Q. And what is the source of the information that  
14 appears in these documents?

15 MR. STURGES: Objection. Calls for  
16 speculation.

17 THE WITNESS: Yeah. I'm assuming that this is  
18 the data we submit.

19 MR. STURGES: Don't assume.

20 THE WITNESS: Don't assume. I don't know what  
21 the source is.

22 MR. LONDEN: Let me mark another document as 3.

23 (Whereupon, Plaintiff's Exhibit No. 3  
24 was marked for identification.)

25 BY MR. LONDEN:

1 Q. Exhibit 3 is a document that bears  
2 identification numbers DT-WC 004626 through 4630. The top  
3 page bears West Contra Costa Unified School District  
4 Accountability and Evaluation heading, and it appears to  
5 be a fax transmittal sheet, followed by four pages. Have  
6 I described it accurately?

7 A. Uh-huh. Yes.

8 Q. Contra Costa Unified School District provides  
9 CBEDS with information about numbers of teachers by  
10 credential category every year; right?

11 A. Yes, we do.

12 Q. And does Exhibit 3 appear to be such a  
13 transmission?

14 A. Yes.

15 Q. So is it your understanding that Exhibit 3 sets  
16 forth accurate totals for CBEDS of the total number of  
17 teachers in each of the district schools and then the  
18 numbers in each of the credentialing categories set forth  
19 there?

20 A. Yes.

21 Q. In Exhibit 3, this fax is dated January 18th,  
22 2002.

23 A. Yes, it is.

24 Q. And your understanding would be that this would  
25 be data accurate as of what time?

1 MS. GIORGI: Objection. Lacks foundation.  
2 Speculative.

3 MS. LEE: Join.

4 MR. STURGES: I'll join.

5 THE WITNESS: My understanding is this is the  
6 data from the '01-'02 school year, which is the last  
7 school year.

8 BY MR. LONDEN:

9 Q. And your understanding is that CBEDS  
10 re-publishes information that it obtains from you in this  
11 form?

12 MS. GIORGI: Objection. Lacks foundation.

13 BY MR. LONDEN:

14 Q. Right or not?

15 MS. LEE: Join. Leading.

16 MR. STURGES: I'm sorry. Mr. Londen, when you  
17 said "this form" do you mean --

18 BY MR. LONDEN:

19 Q. I'll withdraw the question.

20 Tell us whether you have any understanding  
21 about what CBEDS does with the information submitted in  
22 the form we see here in Exhibit 3.

23 A. I really don't know what they do with it. I  
24 know they put some of it on the web page, but I don't know  
25 how they slice and dice it and publish it. I have no

1 idea.

2 Q. Okay. Looking at Exhibit C -- sorry. Looking  
3 at Exhibit 3, Helms Middle School is listed toward the  
4 bottom of the second page of the exhibit.

5 MR. STURGES: Counsel, is that Bates 4627?

6 MR. LONDEN: It is.

7 MR. STURGES: Thank you.

8 BY MR. LONDEN:

9 Q. This document shows Helms Middle School for  
10 2001-2002 to have employed 67.7 percent fully credentialed  
11 teachers. Do you know of any reason to believe that this  
12 is not an accurate account?

13 A. No.

14 Q. And of the 65 total teachers, 9.2 percent were  
15 on emergency permits and 5 percent -- rather, 7.7 on  
16 waivers; is that also -- do you have any reason to doubt  
17 the accuracy of those figures?

18 A. No, I don't.

19 Q. Can you tell us whether or not Helms was harder  
20 to hire fully credentialed teachers for than other  
21 elementary schools.

22 MS. LEE: Objection. Vague.

23 MS. GIORGI: Lacks foundation.

24 THE WITNESS: Well, first of all, Helms is a  
25 middle school. It's not an elementary school.

1 BY MR. LONDEN:

2 Q. I'm sorry.

3 A. And I really don't know if Helms is harder than  
4 anyplace else. It's very hard to draw conclusions from  
5 these numbers.

6 Q. Do you have any information about why the Helms  
7 Middle School fully credentialed teachers percentage was  
8 lower than the overall district percentage?

9 A. No, I don't.

10 Q. If you would look at the top of the next page.  
11 Kennedy High School in 2001-2002 employed a lower  
12 percentage of fully credentialed teachers than the  
13 district as a whole; right?

14 MS. LEE: Objection. Leading.

15 THE WITNESS: Yes.

16 BY MR. LONDEN:

17 Q. And do you have any understanding about why  
18 that's so?

19 A. No, I don't.

20 Q. Do rates of teacher turnover and retention  
21 differ among the schools at the district?

22 A. Yes, they do.

23 Q. Do you have any understanding in general about  
24 reasons why?

25 A. Yes.

1 MS. GIORGI: Objection. Calls for speculation.

2 THE WITNESS: At some schools you have large  
3 turnovers of teachers that happen in one year because  
4 you'll have a staff that came in at a similar time and  
5 there will be several of them that retire all at once.  
6 The same thing happens with schools that hire a number of  
7 young teachers. They'll have several of them that go out  
8 on maternity leave all at once. Those are phenomenons  
9 that are unexplainable as to why those things happen, but  
10 they happen quite frequently.

11 Also, at the beginning of the school year, as I  
12 indicated earlier, in October things are fairly well  
13 settled, but in some cases at the schools we still haven't  
14 found some special teachers, so we will have emergency  
15 credentialed or waiver teachers in these positions in  
16 October. And so if you run these numbers again later in  
17 the school year, they may change based on the fact that we  
18 filled hard-to-fill positions.

19 And at some of the schools that are the low  
20 performing schools, that don't have a great reputation in  
21 terms of student achievement, teachers go in and realize  
22 that this is not the place that they feel comfortable  
23 teaching. They're not accustomed to teaching highly  
24 mobile populations. They're not accustomed to teaching  
25 lots of English learners. They don't like the location of

1 diligently to make sure that they get more training and  
2 more resources to meet their unique needs, and we believe  
3 that this indirect approach will keep teachers at the  
4 schools, and we're seeing some evidence of that in some of  
5 these very challenging schools.

6 Q. Is there a name for this program of targeting  
7 25 strategic focus schools?

8 A. No. It's just they are called the strategic  
9 focus schools, and they get different kinds of resources  
10 than the other schools do. So I might give you a example  
11 of Stege Elementary School. Stege at one time had a very  
12 high turnover rate and had a low number of fully  
13 credentialed teachers. And this is just anecdotal  
14 information that the principal has given me. She's now  
15 been there 7 years, and you can see last year she had  
16 96.6 per of percent of her teachers fully credentialed,  
17 and she would attribute that to the work that she has  
18 done as an instructional leader at that school.

19 Q. You mentioned different kinds of resources for  
20 the 25 strategic focus schools. Could you explain what  
21 you mean by that.

22 A. Well, they, through our Title 1 program, are  
23 receiving -- the elementary schools all have a curriculum  
24 guide that's a full-time master teacher that is in the  
25 classrooms, coaching and giving feedback to teachers,

1 the school. They don't like the classroom they're  
2 teaching in. They don't like the principal. There are a  
3 variety of reasons people leave.

4 Sometimes they'll come to our district and work  
5 a year or two to finish their credential. We actually  
6 have a pretty high retention rate on our interns,  
7 pre-intern and intern program, but we do have teachers who  
8 stick with us through those programs, finish their  
9 credential, and then they move out to the suburban schools  
10 and say, "I really don't want to stay in the urban arena."

11 So there are a variety of reasons that people  
12 leave schools. Some people leave our inner schools, our  
13 lower performing schools, and move to higher performing  
14 schools. They think it will be easier to teach there,  
15 they'll have greater parent support, fewer discipline  
16 problems. And that's all a matter of perception.

17 Q. Has the district done anything to address  
18 relatively higher rates of teacher turnover at low  
19 performing schools?

20 A. No, not directly. Indirectly we have. We've  
21 worked very hard to make sure that we have skillful and  
22 highly trained principals in our low performing schools.  
23 In fact, in what we call our low performing schools, we've  
24 targeted 25 strategic focus schools. Those are schools  
25 that have an API of 3 or below. And we are working very

1 working with them on their curriculum and instruction.  
2 They have special training opportunities, coaching  
3 opportunities that other schools don't have.

4 The regional superintendents, each of them has  
5 a strategic focus specialist who is a master teacher who  
6 works with the SFS schools in that region specifically.

7 Q. On what?

8 A. With the teachers in particular, and supporting  
9 the principal, helping the principal collect data and make  
10 plans and professional development strategies related to  
11 improving student achievement.

12 So a strategic focus specialist will go to a  
13 elementary school, for example, and meet with the  
14 principal and say, "How can I help prepare data for your  
15 instructional leadership team activities? How can I  
16 support?" Or "Here are some ways I'm supporting other  
17 principals at other schools. Are you interested in this  
18 kind of support?"

19 Q. Would it be fair to describe that as sharing  
20 best practices?

21 A. Yes.

22 Q. And are there any written materials that  
23 describe best practices that have emerged through the use  
24 of the strategic focus leaders, was it?

25 A. Yes. Once again, I'm sure we could produce

1 several Xerox boxes full of documents about this process,  
2 from a very specific district plan called improving  
3 student achievement and closing the achievement gap, all  
4 the way to individual materials that go out to the various  
5 schools to support them in their efforts to improve  
6 student achievement and close the gap.

7 Q. Now, I gather -- well, is mentoring and  
8 coaching by experienced teachers of less experienced  
9 teachers an important part of these measures?

10 A. Yes.

11 Q. Why is that?

12 A. Well, it's not only less experienced teachers,  
13 it's all teachers, to teach them new strategies that will  
14 be more successful with the students than the ones they'd  
15 been using in the past.

16 And for example, we adopted all new language  
17 arts materials this year, and so we are trying to make  
18 sure that the teachers are using those materials in the  
19 most effective and efficient way possible. So we have  
20 opportunities for teachers to walk through other teachers'  
21 classrooms to do very structured observations, and then  
22 meet and talk about what they saw, what was working, what  
23 wasn't working -- really engage in professional dialogue  
24 about their craft.

25 Q. You mentioned Title 1 as one source of funding.

1 Are there others? Funding specifically for the efforts  
2 under the strategic focus schools programs.

3 A. We are working with those schools to -- most of  
4 those schools get a great deal of money from the state and  
5 federal government for their categorical programs because  
6 of their eligibility for the most part of English language  
7 language learners and the poverty index in those schools.  
8 So they have dollars coming in from Title 1, from EIALEP.  
9 They have money coming in from various grants. They may  
10 be federal bilingual grants. They may be state after  
11 school grants. They have school improvement money -- many  
12 of these elementary schools have now developed some very  
13 specific and targeted plans to improve student achievement  
14 using these categorical dollars. In fact, we are  
15 insisting that that happen, and we are measuring their  
16 progress.

17 Q. How?

18 A. Through their school site plan. We use a  
19 district template that the schools have to follow to  
20 develop their site plans.

21 We're also measuring student achievement  
22 through state and district assessments. We monitor their  
23 attendance.

24 Trying to think what else.

25 Q. Are you now describing the contents of the

1 district plan for improving student achievement?

2 A. Yes.

3 Q. And when you referred to school site plans, are  
4 those the plans that you said many of the schools have  
5 developed for improving student achievement?

6 A. Yes. And they have become much more focused in  
7 the last several years around the targets of the school  
8 district, and they include all of the plans that schools  
9 are supposed to submit for compliance with state and  
10 federal programs. So in the past a school might have had  
11 a separate library plan, technology plan, safety plan,  
12 academic plan, and then as IIUSP and HPSG came into being.  
13 Those were separate plans. We're now trying to get them  
14 all into one focused plan with targets and benchmarks for  
15 improving student achievement.

16 Q. Can you give us examples of the kinds of  
17 targets and benchmarks that are used.

18 A. Well, at the district level, for example, there  
19 are five student achievement targets for the year 2005,  
20 which we called five by five. And the first one is that  
21 90 percent of the students will read on grade level by the  
22 end of third grade. So then each school takes that  
23 district goal and breaks it down at their school year by  
24 year based on where they are. So if, for example, 40  
25 percent of their students are reading on grade level in

1 the '01-'02 school year, they start laying out a plan of  
2 what will our targets be get us to '05, 90 percent, how  
3 much do we have to grow, and then what will our specific  
4 activities be to grow and how will we be taking interim  
5 measures as benchmarked to see if we are making that grow.  
6 So each school site plan is specific to their population.

7 Q. The measures that are used with respect to  
8 grade level performance in that context are SAT 9, or that  
9 plus something else? What other?

10 A. We started out -- yes. We started out using  
11 SAT 9, But as, you know, the state is now switching to the  
12 CAT 6, and so we will be using one of the measures will be  
13 the standard test, the California Standards Test, the CST.

14 And we are also using districtwide assessments  
15 as our benchmark testing. So for example, we're using  
16 open court as our core language and arts program, and we  
17 are collecting data districtwide three times a year, but  
18 schools, individual schools, are collecting data much more  
19 frequently so that they can benchmark where they are at  
20 their individual school.

21 Q. In connection with the open court program, what  
22 kinds of data are collected?

23 A. The unit test. Results on the unit test.

24 They're also collecting fluency tests on an  
25 assessment called Ame's web.

1 Q. Now, do these assessment mechanisms apply to  
2 all of the strategic focus schools?

3 A. They actually apply to all of the schools, but  
4 we are monitoring more closely the strategic focus  
5 schools, and one of the monitoring mechanisms are these  
6 strategic focus specialists that go into those schools.

7 Q. Subject to all the same concerns about not  
8 wanting to cause you any problems, does the budget crisis  
9 threaten to impair your ability to carry out the strategic  
10 focus program?

11 MS. GIORGI: Objection. Vague and ambiguous.

12 MS. LEE: Join.

13 MR. STURGES: I'm also concerned it calls for  
14 speculation.

15 You can answer if you can.

16 THE WITNESS: I can only say -- I guess the  
17 best thing for me to say is we're going to do everything  
18 we can to continue with our plan to improve achievement  
19 and close the achievement gap in spite of the state's  
20 budget crises.

21 BY MR. LONDEN:

22 Q. Okay.

23 A. But since we haven't taken any action, I can't  
24 tell you yet what it means.

25 Q. As far as the plan goes, is it the district's

1 the Berkeley Algebra Test Or the California Standards  
2 Test, the math section. So they haven't decided yet, that  
3 I know of. They may have decided and I don't know the  
4 answer.

5 Q. Are there according to the district plan,  
6 consequences that follow from the failure of a school to  
7 make its targeted level of progress in a given year?

8 MS. LEE: Objection. Vague as to  
9 "consequences."

10 THE WITNESS: Yeah. What do you mean by  
11 "consequences?"

12 BY MR. LONDEN:

13 Q. Let me try to ask the question a little bit  
14 differently. I'm not asking right now what they are. I'm  
15 trying right now to get at whether at the district level  
16 there are consequences or forms of support or things that  
17 happen. And I want to distinguish that -- and I'm sorry  
18 if this is long, but I'm trying to make my question  
19 clearer, if this works. Or is that something that's left  
20 to the schools to put into their plans but not prescribed  
21 at the district level or something else? Do you follow  
22 me?

23 A. Yes, there are consequences.

24 Q. In the district level plan?

25 A. Yes.

1 plan to retain the state strategic focus leaders?

2 A. We haven't taken any action on that yet.

3 Q. You mentioned five by five priorities.

4 A. We must have sent you everything.

5 Q. This was on the web, I think.

6 (Whereupon, Plaintiff's Exhibit No. 4  
7 was marked for identification.)

8 THE WITNESS: The middle is missing.

9 MR. LONDEN: Yeah. We have a copying problem.  
10 So we'll keep this as Exhibit 4, but I'm going to defer  
11 the questioning to solve the double sided conflict page  
12 copying problem.

13 BY MR. LONDEN:

14 Q. You told us about district assessments for  
15 achieving the target of reading on grade level in the  
16 third grade. Can you tell us what the second target is.

17 A. The second target is that 90 percent of the  
18 students will pass algebra by the end of 10th grade.

19 Q. What assessment mechanisms are used or to be  
20 used for that purpose?

21 A. Well, we're going to -- again, we're having to  
22 shift gears because of the state's shift. We'll use the  
23 -- well, I'm not sure if the math teachers have actually  
24 agreed on this yet or not.

25 They were talking about using something called

1 Q. What are they?

2 A. All strategic focus schools, for example, are  
3 required to have a coach who works with them this year.  
4 And that means that this coach, in most cases an external  
5 consultant, not only helps them develop their plan but  
6 coaches and monitors their implementation of the plan.

7 Other consequences may be the possibility that  
8 the principal will be moved, that additional support will  
9 be provided to the principal, additional staff will be  
10 hired at the school or specific targeted activities, and  
11 additional training will be provided to the staff, to the  
12 principal and the staff.

13 Q. Is it the case that as contemplated a school's  
14 budget might be affected for a subsequent year or years  
15 based on the results of their progress under the strategic  
16 focus plan?

17 A. Yes, it's possible in that their budget might  
18 be increased. For example -- not necessarily directly,  
19 but in resources. My example -- my prior example of  
20 Kennedy High School. For example, we gave an extra  
21 counselor to that school. So when you look at their  
22 overall the budget, their resources increased. They might  
23 also be directed to apply for an IIUSP or an HPUSG grant  
24 to help them improve student achievement.

25 Q. Have these site plans -- can I call them



1 consolidated site plans?

2 A. Uh-huh.

3 Q. -- been implemented yet?

4 A. Yes.

5 Q. What was the first year of implementation for  
6 any school?

7 A. Well, I believe last year was the first year we  
8 got it all together.

9 Q. The 2001-2002 school year?

10 A. Right.

11 Q. And did all of the 25 strategic focus schools  
12 implement consolidated plans, or less?

13 A. All 60 schools are required to submit a site  
14 plan.

15 Q. Now, I mean to ask not just about submission,  
16 but about acting on the plan after it's submitted. Were  
17 all 60 schools acting on the site plans during the  
18 2001-2002 school year?

19 A. Yes.

20 Q. Is there any mechanism for reporting on  
21 progress?

22 A. Yes.

23 Q. Tell us about that.

24 A. There are a number of people who monitor  
25 implementation of those plans, from the regional

1 Q. And have those monitoring documents been  
2 generated yet for covering any period of time that had  
3 passed?

4 A. Yes.

5 Q. What period of time?

6 A. From the beginning of this school year. The  
7 SFS specialists were hired this year, '02-'03. New  
8 position. And they have actually been revising and  
9 improving these documents, and I then see the documents  
10 when I meet with the regional superintendents. Sometimes  
11 I look at them, sometimes they have them and they just  
12 tell me about them.

13 Q. What are they called?

14 A. Monitoring something. I don't know.

15 Q. Are those documents available to the public?

16 A. I suppose they are. I mean, I would -- you  
17 know, I don't know.

18 MR. STURGES: Actually --

19 THE WITNESS: They may not be, now that I think  
20 about it.

21 MR. STURGES: That calls for a legal  
22 conclusion, so.

23 THE WITNESS: Yeah. I don't know.

24 MR. STURGES: Object on that basis. The  
25 conclusion being that under the Public Records Act,

1 superintendent to the state and federal categorical  
2 people, meaning the Title 1 folks, the gifted and talented  
3 people, the English learner division, the preschool folks,  
4 the people who are monitoring the state IIUSP and HPSG  
5 programs. Those are the central office coordinators who  
6 manage state and federal categorical programs. All of  
7 those people get involved in what's going on at these  
8 schools that receive all of those dollars. And then they  
9 report and communicate with the regional superintendent  
10 who's ultimately held accountable for those schools.

11 Q. This approach involves having a single  
12 consolidated plan for every school. Is there a  
13 consolidated progress or status report for each school?

14 A. No, I don't think so. This year we're doing a  
15 little better in terms of putting all of their academic  
16 achievement strategies together in one monitoring  
17 document, and that's being done by the strategic focus  
18 specialist at the SFS schools. But in terms of Title 1  
19 and all the other categorical folks putting together a  
20 single report, we haven't done that. Good idea.

21 Q. The one monitoring document that the --

22 A. SFS specialist.

23 Q. -- SFS specialist is putting together, that's  
24 one monitoring document per school?

25 A. Uh-huh.

1 documents in draft form are not required to be produced.

2 THE WITNESS: Right. And there could be  
3 personnel matters in those documents that would be  
4 considered confidential.

5 MR. STURGES: So it also say may call for  
6 speculation.

7 BY MR. LONDEN:

8 Q. Do you know who besides you has received or is  
9 supposed to receive copies of the monitoring documents?

10 A. No.

11 MR. LONDEN: Let's break for lunch.

12 (Off the record, 12:30 - 1:40 p.m.)

13 BY MR. LONDEN:

14 Q. Back on the record.

15 You'll find before you now a copy of what we've  
16 marked as Exhibit 4, which has all of its pages. This was  
17 taken yesterday from the website of the West Contra Costa  
18 Unified School District. And it's entitled "Mission,  
19 Priorities, Values and Student Achievement Targets." It  
20 has three pages. Have I described it correctly?

21 A. Yes.

22 Q. Do you know this?

23 A. Yes, I do.

24 Q. Give us a brief description of the document.

25 A. Well, it's the board's adopted mission

1 statement for the school district and the 7 strategic  
2 priorities that frame the work of the district. And then  
3 it's followed by the core values that talk about how we  
4 act, how we behave in our work, followed by the five  
5 student achievement targets for the year 2005, which  
6 focuses and targets our work.

7 Q. And that list of five targets to be achieved by  
8 2005 is the same list you were telling us about before the  
9 lunch break?

10 A. It's been updated. Yes, it is the list.

11 Q. I asked you before we had the document in front  
12 of us about the second target. Does the reference -- it  
13 says 90 percent of students will pass algebra in the 9th  
14 grade. By using the word "pass," does it have to do with  
15 results in a class?

16 A. Yes.

17 Q. Is the assessment of algebra related to  
18 standardized test results instead of grades in a class?

19 A. Well, the math teachers were working on  
20 determining what will be the definition of "pass" algebra.  
21 Will it be passing the Berkeley Algebra Test, will it be a  
22 score on the California Standards Test, or some other  
23 measure. That's what -- I think that's what we talked  
24 about before, and I don't know the answer to that.

25 Q. All right. Tell us about the third target.

1 board than African American and Latinos.

2 Q. Is there a metric that's been decided on for  
3 assessing the achievement gap for purposes of the fourth  
4 and fifth targets?

5 A. Well, these needs to be revised again in  
6 response to what the state has done. We were using the  
7 SAT 9 to target and monitor the achievement gap, but now I  
8 believe we're going to use the California Standards Test.  
9 This is a conversation that's been taking place with the  
10 literacy cabinet. And so the language will change. It  
11 will still be about closing the achievement gap for  
12 African American and Hispanic or Latino students, but the  
13 wording will be different in terms of quartiles, because  
14 the California Standards Test does not report by  
15 quartiles.

16 Q. At the district level are there approaches or  
17 programs or specific -- generally specific approaches that  
18 have been either adopted or suggested for schools for  
19 accomplishing the fourth and fifth targets?

20 A. Yes.

21 Q. Tell us about them, please.

22 A. All schools are expected to disaggregate their  
23 achievement data and develop plans, targeting their  
24 African American and Latino low performing students. And  
25 that varies from grade level to grade level as to what

1 A. This one is that 50 percent of the students  
2 will pass the language arts and math sections of the high  
3 school exam in ninth grade. And in fact, that needs to be  
4 revived to tenth grade, because the first year the exit  
5 exam was given was for ninth graders. That was the year  
6 that the state was deciding right up to the last minute  
7 whether or not they would administer the test as a pilot,  
8 and they did, and they gave it to ninth graders. Now the  
9 first time you can take that exam is in the tenth grade.  
10 So that will be changed to tenth grade. And then the  
11 concluding part of that target is that 100 percent will  
12 pass in twelfth grade.

13 And then the other two are very specifically  
14 about closing the achievement gap. Number 4 is closing  
15 the achievement gap in reading, targeting the African  
16 American and Hispanic students in the school district.  
17 And number 5 is closing the achievement gap in math.

18 Q. What's meant by achievement gap?

19 A. In our school district, as the vast majority of  
20 large urban districts across the nation, when you look at  
21 any kind of norm referenced or standardized tests or even  
22 grades, there is a gap between -- typically between white  
23 and Asian students and African American and Latino  
24 students in terms of what their scores are, meaning that  
25 the white and Asian students are scoring higher across the

1 those plans might entail.

2 All principals have been instructed to develop  
3 instructional leadership teams. And those instructional  
4 leadership teams are focussing on doing a disaggregation  
5 of data analysis and then putting plans into place at  
6 their schools.

7 All administrators are participating in  
8 training around issues of racism and equity with -- we  
9 have a consulting group called Leading for Racial Equity,  
10 and they're doing training for us.

11 Q. The plans to be developed using disaggregated  
12 achievement data to improve performance to narrow the gap,  
13 can you tell us whether or not those plans are to be  
14 incorporated into the plan that I call a consolidated plan  
15 for the school?

16 A. Yes, they are.

17 Q. And have schools implemented efforts yet to  
18 accomplish the fourth and fifth targets?

19 A. Yes.

20 Q. And have you seen any reports on the status or  
21 progress of those efforts?

22 A. Yes.

23 Q. We spoke before lunch about a single monitoring  
24 document that SFS specialists prepared. Can you tell us  
25 whether the reports you've seen on progress on these

1 targets, or is that documenting something else?  
 2 A. The monitoring documents are simply notes taken  
 3 during visits to the schools. They might refer to the  
 4 work being done around disaggregating data and developing  
 5 plans and implementing plans.

6 Typically they don't have the results data in  
 7 those documents. Some cases they might show some data,  
 8 some kind of benchmark data. But we've just begun this  
 9 process, so it's all -- we're developing as we go along.

10 Q. With respect to any of the five student  
 11 achievement targets, does the district prescribe interim  
 12 progress goals for schools? That is, 2005 you're supposed  
 13 to be all the way there. Does the district say how far  
 14 you're supposed to be by 2003, 2004?

15 A. Dr. Hagan from the accountability and  
 16 evaluation office breaks out the data school by school,  
 17 and then gives them suggested targets year by year.

18 Q. And are those suggested targets confidential,  
 19 or are they disclosed to people outside district and  
 20 school management?

21 A. They are public documents.

22 Q. What are they called?

23 A. I don't know. They're probably each school's  
 24 disaggregated data. I don't know. You'd have to ask Dr.  
 25 Hagan.

1 Q. If one wanted to get them, how would one go  
 2 about it?

3 A. One would write a request to Dr. Hagan's  
 4 office.

5 Q. Okay. Are there district level approaches or  
 6 suggested or required programs for schools with respect to  
 7 how they attempt to achieve the third goal?

8 A. Yes.

9 Q. Tell us about them, please.

10 A. We have directed all comprehensive high schools  
 11 to identify the students who are this year's current 11th  
 12 graders and who are required to pass the high school exit  
 13 exam to receive a diploma next year, and then they are to  
 14 develop plans to help those students pass the exam.

15 So for example, letters have been sent home to  
 16 parents over my signature to all students who have not  
 17 passed the exam, notifying the parents of the seriousness  
 18 of the issue and telling them that we will have  
 19 intervention programs during the day, after school, on  
 20 Saturdays, during the summer, and we need their support to  
 21 make sure that the students participate so they can pass  
 22 both sections of the exam.

23 Q. You spoke of developing plans for 11th graders.  
 24 Are these plans at the school site level as distinguished  
 25 from some smaller group or for individual students?

1 A. They're at the school level.

2 Q. And is that also something you'd expect to find  
 3 reported in what I've called the consolidated school site  
 4 fund?

5 A. No, because these plans were directed to the  
 6 schools based on the data we received this fall as to who  
 7 had passed the exam and who had not, and the school plans  
 8 are typically written in the spring and approved in the  
 9 spring. Now, some of the schools may have written  
 10 addendums or revisions to their plan, but it's likely that  
 11 if you looked at their school site plan, you wouldn't see  
 12 in all of them the high school exit exam interventions.

13 Q. What kinds of intervention programs are  
 14 envisioned for use of 11th graders?

15 A. Well, as I stated, tutorial programs during the  
 16 school day, during lunch time, before school, after  
 17 school, Saturdays, and during summer school.

18 Q. Do those tutorials involve time spent instead  
 19 of doing core subject class work?

20 A. No.

21 Q. And who staffs them?

22 A. It varies from school to school. In some cases  
 23 it's the regular classroom teachers. In some cases it's  
 24 bringing in university staff, university students. It  
 25 could be volunteers, alums, Ph.D. types who come in and

1 say, "I want to help kids, I want to give some  
 2 volunteering." Some business people, churches. It just  
 3 varies from school to school.

4 Q. Are you using any earmarked state funds for --  
 5 or do you know whether schools are using earmarked state  
 6 funds for measures taken to accomplish targets 3, 4 or 5?

7 MS. GIORGI: Objection. Vague and ambiguous.

8 THE WITNESS: Yes. We're using state  
 9 intervention dollars and state categorical funds.

10 BY MR. LONDEN:

11 Q. What do you mean by state intervention dollars?

12 A. There is a program for this kind of an  
 13 intervention program for after school, and it's an hourly  
 14 fee or an hourly dollar amount that you receive per  
 15 student, and some schools have gone after those dollars.

16 Q. What categorical, if you know?

17 A. Depends on the school. Could be SIP dollars.  
 18 Could be Title 1. I don't know. There probably are other  
 19 categorical funds they could be using.

20 They have after-school grants. Some schools  
 21 have 21st century grants, after-school safe neighborhood  
 22 grants.

23 Q. Now, I think I've asked you about all five of  
 24 them -- I know I've asked you about all five of the  
 25 student achievement targets. My question now is whether

1 anything comes to mind by way of implementation plans or  
2 efforts at the district level to assist schools in  
3 achieving these targets that we haven't already talked  
4 about.

5 A. No. I think we've covered most everything in  
6 general terms.

7 Q. You mentioned earlier that the district has  
8 used Teach for America program participant assistance.

9 A. Yes.

10 Q. Can you tell us about that.

11 A. This was the first year. I don't remember how  
12 many teachers we hired from them. Somewhere between 10  
13 and 15, maybe.

14 Q. For the year 1999 through 2000?

15 A. For this year. For '02-'03.

16 Q. '02-'03. I'm sorry.

17 I'm sorry if you told me the number of Teach  
18 for America teachers.

19 A. I think it's somewhere around 10 to 15. I'm  
20 not sure.

21 Q. Why is the district using Teach for America  
22 this year?

23 A. It just seemed like an opportunity for us to  
24 find some more quality teachers.

25 Q. And is there a single category for the

1 two primary areas. One on literacy, and the other one on  
2 leadership. And they have given us money to pay for  
3 professional development, and then they have given us  
4 people to actually help us accomplish our professional  
5 development plans.

6 Q. Does part of that program or one of its two  
7 parts address professional development for principals?

8 A. Yes. That's the leadership piece.

9 Q. Working with the Rudy crew?

10 A. Rudy and consultants that we have identified  
11 through Rudy and through the Stubski Foundation. In  
12 particular, a group from -- I think their headquarters are  
13 in Boston, called Focus on Results. And they've been  
14 doing training with our principals now for two years.  
15 They're also funding parts of this Leading for Racial  
16 Equity, those consultants. And then I think there may be  
17 some funding from the Stubskis paying for the Consortium  
18 on Reading Excellence. They're the trainers helping us in  
19 our new language arts materials.

20 Q. Has that been a beneficial program?

21 A. Absolutely.

22 Q. Is there a component or condition of the  
23 Stubski grant that relates to outcomes, student  
24 achievement outcomes?

25 MS. LEE: Objection. Vague and ambiguous.

1 reporting purposes as to credentialing that the Teach for  
2 America teachers belong to?

3 A. Frankly I don't know about the credentials on  
4 those teachers, but my guess is -- I will just give you an  
5 estimate. I would think most of them are interns, but I  
6 don't know that to be the case. Some of them may be fully  
7 credentialed. A lot of them come in from out of state, so  
8 they have to take some more courses to meet our  
9 credentialing requirements.

10 Q. And are the Teach for America teachers sent to  
11 any particular set of schools, or kind of schools?

12 MS. LEE: Objection. Vague and ambiguous.

13 THE WITNESS: I don't know how they were  
14 assigned, quite frankly.

15 BY MR. LONDEN:

16 Q. Who does? Personnel?

17 A. Ann Souza in personnel.

18 Q. Thank you. The district has received grants  
19 from the Stubski Foundation?

20 A. Yes.

21 Q. Could you tell us about that program.

22 A. The Stubski Family Foundation. This is our  
23 second year to be in a relationship with them. They have  
24 given us, I think the first year it was over \$500,000,  
25 this second year somewhere around \$450,000, to focus on

1 THE WITNESS: I'm not sure I understand that.

2 BY MR. LONDEN:

3 Q. Are test scores or academic results for  
4 students part of the criteria for follow-up grants from  
5 the Stubski Family Foundation?

6 A. Well, we are expected to give them data about  
7 our progress, but it's not just student achievement data.  
8 It's the participation and growth and development of a  
9 number of aspects of the school district, the levels of  
10 leadership, involvement of leadership development.

11 I have an organizational development coach  
12 funded by the Stubskis who works with me at the district  
13 level, and she makes reports to the foundation. We have a  
14 program development person who is our program officer, I  
15 guess is what he is called, and he reports to the  
16 foundation on the progress that we're making.

17 Q. Do you know whether the district has submitted  
18 those follow-up -- any follow-up reports?

19 A. Yes. That's how we were funded for year two.  
20 And we are in conversation now about being funded for year  
21 three.

22 Q. Okay. No outcome on that discussion yet?

23 A. No.

24 Q. What has the state done that has helped West  
25 Contra Costa Unified with respect to identifying and

1 hiring and retaining qualified teachers?

2 MS. LEE: Objection. Over broad.

3 MS. GIORGI: Objection. Compound, and vague  
4 and ambiguous.

5 BY MR. LONDEN:

6 Q. And I'm looking for a list rather than an  
7 exhaustive discussion, if there are programs that you  
8 could give me their names.

9 A. Well, I think I've already mentioned them. The  
10 state programs, the Teaching As A Priority program, the  
11 Project Pipeline. We are also a part of a regional center  
12 that I vaguely know about that helps -- that the state  
13 funds that helps school districts identify fully qualified  
14 or fully credentialed teachers. Those are the three that  
15 come to mind immediately.

16 Q. Can you tell us more about the regional center,  
17 just so I can identify it.

18 A. They are funded centers set up and funded by  
19 the state to help school districts identify, sort of make  
20 matches with people who are looking for jobs. So it's  
21 putting resources together. And I don't know exactly how  
22 it works, but I've vaguely heard about them. That's the  
23 best I can do.

24 Q. Does the district receive BITSA funding?

25 A. Yes.

1 Q. And what is the district doing with that  
2 funding?

3 A. We provide coaches or mentors for new teachers  
4 through the BITSA money. So we'll take a master teacher  
5 and pair that master teacher up with a new teacher.

6 Q. Are those master teachers the master teachers  
7 who work full time as you described it on each of the  
8 campuses?

9 A. No. These are typically teachers who are in a  
10 classroom on the same campus with a new teacher.

11 Q. So those grants pay for some of their time to  
12 be spent monitoring and coaching?

13 A. Additional stipends.

14 We also do a whole week orientation at the  
15 beginning of the school year for new teachers. And then  
16 there are ongoing workshops during the year for new  
17 teachers.

18 Q. And those whole week -- the whole week  
19 orientation, of ongoing orientations, are funded by the  
20 BITSA fund?

21 A. Yes.

22 Q. Does the district or its schools use IIUSP  
23 funds for measures that are aimed at identifying, hiring,  
24 retaining qualified teachers?

25 MS. LEE: Objection. Compound, over broad.

1 THE WITNESS: Yeah, I -- off the top of my head  
2 I would have to say I don't know that they're using -- if  
3 they are using IIUSP dollars to recruit or retain  
4 teachers. I couldn't even speculate on that.

5 BY MR. LONDEN:

6 Q. Are you aware of the amount of money that the  
7 IIUSP program provides for schools that are accepted as  
8 participants?

9 A. No, not specifically. It varies from school to  
10 school. Total I don't know off the top of my head. I can  
11 find it out, however. I'm sure we have a document that  
12 lists all of that.

13 MR. STURGES: It's okay to say "I don't know."

14 THE WITNESS: Okay.

15 MR. LONDEN: I'm going to show the witness the  
16 Helms IIUSP application. It's another lengthy document  
17 that I propose we do not copy for the exhibits to this  
18 deposition. Although if someone objects --

19 MR. STURGES: That's fine.

20 MS. LEE: That's fine.

21 MR. LONDEN: We'll provide copies, and you can  
22 take them or leave them behind.

23 BY MR. LONDEN:

24 Q. The document that is before Dr. Johnston has  
25 got many pages identified as D0U 00048345 through 48450,

1 and its first page is entitled Immediate Intervention  
2 Underperforming Schools Program, IIUSP, School Application  
3 for IIUSP Funding.

4 The second page, numbered 48346, is entitled  
5 District Application for Funding For All Schools, and it's  
6 got West Contra Costa Unified School District's name as  
7 the local educational agency, and your name and a  
8 signature. Is that your signature?

9 A. Yes, it is.

10 Q. Was there more than one school within the  
11 district that was covered by the district's grant  
12 application?

13 A. Yes.

14 Q. And the total grant amount requested for all  
15 schools shown on the second page of this exhibit is  
16 \$1,636,408. Do you have an understanding of whether  
17 that's the amount for all of the schools in the aggregate?

18 A. I don't know.

19 Q. Did you review any or all of the school  
20 applications for IIUSP funding?

21 A. Yes, I did.

22 Q. Give us a brief description of the process.

23 A. I reviewed the executive summaries on the  
24 schools but did not read the detail plans. Dr. Slater,  
25 Carolyn Slater, was the regional superintendent that was

1 responsible for running this process, and so she along  
2 with her consultants, the IIUSP consultants, reviewed all  
3 of these applications and made sure that they included all  
4 of the proper elements before they were submitted.

5 Q. And to the best of your knowledge, the factual  
6 statements in these applications were correct when  
7 submitted?

8 A. Yes.

9 Q. Look at page 48363, please. The heading is  
10 Barriers to Improvement in Student Achievement, and  
11 there's a box entitled Teacher Issues. I'll tell you that  
12 as I read this report, this is not in the executive  
13 summary. My question is whether you have any recollection  
14 of having reviewed this section before.

15 A. No, I did not.

16 Q. Do you have any reason to believe it's not an  
17 accurate summary of the Helms study as it stood at the  
18 time of this application?

19 MS. GIORGI: Objection. Calls for speculation.

20 MS. LEE: Join.

21 MR. STURGES: Is your question only as to this  
22 page?

23 BY MR. LONDEN:

24 Q. Yes. Do you have any reason to believe that  
25 this was not an accurate summary of the facts it states as

1 to that is by looking at the issues that are listed here  
2 on this page, and --

3 MR. STURGES: I want to caution you not to  
4 speculate. You've already testified you don't know one  
5 way or the other whether it's true or not, so.

6 THE WITNESS: Well, that's what I'm saying. If  
7 I start with the assumption that these are true  
8 statements, I can respond to one of them in particular,  
9 and that is I believe they started the school year this  
10 year with a full complement of teachers so that they did  
11 not have a school with a lot of substitutes going through  
12 their school at the beginning of the year. That's about  
13 the only thing that I can say with any certainty.

14 MR. LONDEN: Okay. We can put that aside.

15 MS. LEE: What exhibit was this?

16 MR. LONDEN: It was not. This was one of these  
17 stipulations as to asking questions based on page numbers  
18 so that we don't have to impose expense for copying on the  
19 parties. And the page numbers I was asking about I think  
20 are on the record.

21 BY MR. LONDEN:

22 Q. Do you have in mind anything that you consider  
23 that the state could do that would be of substantial  
24 assistance to West Contra Costa Unified in identifying,  
25 hiring, and retaining fully qualified teachers other than

1 of the time of the application?

2 MS. GIORGI: Same objections.

3 THE WITNESS: It would be -- I don't have any  
4 way to say it was accurate or not accurate at this point  
5 in time.

6 BY MR. LONDEN:

7 Q. Are you able to say whether Helms today has  
8 achieved an acceptable level of teacher credentialing? Do  
9 you know the statistics? Well, let me withdraw the first  
10 question.

11 Do you know what the percentage of fully  
12 credentialed teachers are at Helms today?

13 A. No, I don't.

14 Q. I'll understand if you can't answer this  
15 question, but do you have any understanding or view as to  
16 whether Helms has solved any problems it had in 1999 and  
17 2000 of identifying, hiring and retaining fully qualified  
18 teachers?

19 MS. GIORGI: Objection. Are you done? I'm  
20 sorry.

21 MR. LONDEN: Yeah, I'm done.

22 MS. GIORGI: Objection. Compound, lacks  
23 foundation, vague and ambiguous.

24 MS. LEE: Join in that.

25 THE WITNESS: Well, the only way I can respond

1 the things that it has done in the past?

2 MS. GIORGI: Objection. Vague and ambiguous,  
3 and compound.

4 MS. LEE: Calls for speculation.

5 BY MR. LONDEN:

6 Q. And I'm really not asking you to speculate and  
7 make things up, now, but it occurs to me, having the  
8 experience that have, that you may have something in mind  
9 that you would feel comfortable stating.

10 MS. GIORGI: Same objections.

11 MS. LEE: Join.

12 MR. STURGES: Do you understand the question?

13 THE WITNESS: Yeah. At this point I think the  
14 state has been very supportive and has done a significant  
15 amount in terms of helping us hire fully credentialed  
16 teachers. And I don't have any other suggestions, because  
17 we've been very successful.

18 BY MR. LONDEN:

19 Q. When you said the state's done a significant  
20 amount, are you referring to the programs you mentioned  
21 earlier, those being Teachers as a Priority, Project  
22 Pipeline, the regional center fund to help find fully  
23 qualified teachers and make matches, and BITSA?

24 A. Yes.

25 Q. Okay. Do you have anything else in mind than

1 that list?

2 A. No.

3 Q. Are you familiar with the Fiscal Crisis  
4 Management Assistance Team?

5 A. Yes, I am.

6 Q. Has there been an involvement between FCMAT  
7 and West Contra Costa Unified?

8 A. An involvement?

9 Q. Yeah. I'm trying to ask a general question.

10 A. I wasn't exactly sure what that meant.

11 MR. STURGES: Counsel, could you rephrase?

12 BY MR. LONDEN:

13 Q. All right. What has FCMAT done for West Contra  
14 Costa Unified?

15 A. The FCMAT teams, and there are five teams, have  
16 come in and conducted what they call an audit on the  
17 school district. It is a deficit audit designed to  
18 determine what you are not doing according to the  
19 professional standards that they have developed. And then  
20 once that document was presented to us, they have come  
21 back every six months and done an update and either  
22 dropped certain of the audit items that they wanted us to  
23 focus on because they felt they had been met and added new  
24 ones, or continued to work on some items that they felt  
25 had not been met adequately. They have done three of the

1 A. Some parts of it were helpful. For the most  
2 part it was burdensome, time consuming, and a waste of our  
3 time.

4 Q. Are you able to characterize what parts were  
5 helpful?

6 A. Let me think how I can do this in less than two  
7 days. Let me go through it piece by piece in my mind.

8 The governance and community relations section  
9 was not helpful. There were no significant problems or  
10 concerns found by the audit, and it ultimately was a paper  
11 exercise.

12 The fiscal audit was helpful in that it helped  
13 us bring to public attention some issues that are in our  
14 contracts that need to be addressed, such as the growing  
15 burden of lifetime medical benefits and the ironclad  
16 seniority and transfer items in some of our labor union  
17 contracts that actually provide barriers to improvement of  
18 the school district.

19 The personnel audit was a helpful audit in that  
20 it pointed out the need for desk manuals and other systems  
21 that were weak and needed to be improved in the personnel  
22 division.

23 The facilities section at the end of their  
24 third reporting period, which was just a couple of months  
25 ago, made comments about the fact that the programs and

1 four six month visits. We have one more to go in June.

2 Q. What are the five teams?

3 A. Student achievement, community relations and  
4 governance, fiscal services, facilities, and personnel.

5 Q. When was the initial report by FCMAT done?

6 A. Oh, about two years ago.

7 MR. STURGES: I don't want one.

8 MR. LONDEN: This is a big document that I  
9 really urge the lawyers to feel free to leave behind, and  
10 I don't intend to --

11 MR. STURGES: For the record, it's about the  
12 size of two phone books.

13 MS. LESNIAK: It's single sided. That's why.

14 BY MR. LONDEN:

15 Q. I'm showing you a document, the cover page of  
16 which bears identification number FCMAT 3543, and the  
17 pages that follow are a lengthy reporting exhibit. Do you  
18 recognize this?

19 A. Yes.

20 Q. What is it?

21 A. It is the first document that was presented to  
22 us based on their audit and is what they call their  
23 assessment and improvement plan.

24 Q. Was this document a helpful thing for West  
25 Contra Costa, in your view?

1 models that we're using in our school district ought to be  
2 models for the entire state. That gave that division a  
3 nice boost, so that was a positive in response to all the  
4 paper they generated and all the time they spent on it.

5 And the student achievement reporting was a  
6 joke. The consultants that came into our district were  
7 inexperienced and were not helpful to us, and in fact, we  
8 had to find ways to work with them that did not inhibit  
9 the strategic plan and the priorities that we had going in  
10 our school district. They actually got in our way.

11 So over all, as I said at the beginning, there  
12 were some positive aspects to it, but for the most part it  
13 was not helpful to us.

14 Q. With respect to student achievement, is it fair  
15 to say that your judgment is that you were ahead of their  
16 recommendations or doing better than their recommendations  
17 in trying to accomplish those kinds of improvements?

18 A. No.

19 MS. LEE: Objection. Leading.

20 MS. GIORGI: Join.

21 THE WITNESS: No, I wouldn't say that. I would  
22 say that we had already developed a plan. We were on a  
23 path. We knew what the needs of this large urban school  
24 district were. And the consultants who came in did not,  
25 and they made recommendations that we did not feel were

1 appropriate for where we were and what the needs of our  
 2 community were.  
 3 BY MR. LONDEN:  
 4 Q. Look at page 3753, please.  
 5 MS. GIORGI: Have we marked this as an exhibit?  
 6 MR. LONDEN: No. I thought I had asked -- I  
 7 suggested that we would make reference to page numbers in  
 8 lieu of marking it as an exhibit because of its great  
 9 length. And I'm not going to ask many questions about it,  
 10 but I want to have it available.  
 11 MS. GIORGI: Thank you.  
 12 BY MR. LONDEN:  
 13 Q. Page 3753 is entitled Exhibit E, Results of  
 14 Teacher Survey. Is this something you've seen before?  
 15 A. Yes.  
 16 Q. Are you familiar with a teacher survey having  
 17 been done in the course of the work with FCMAT?  
 18 A. Yes.  
 19 Q. Tell us what you understand about how that work  
 20 was done.  
 21 A. I really don't recall the process for  
 22 conducting this survey as to how many teachers responded,  
 23 but I just understand that they did a survey.  
 24 Q. So the survey was done by the FCMAT staff?  
 25 A. Yes.

1 Q. And did you see any further documentation of  
 2 the survey questions that were asked or any of the data  
 3 beyond what's presented in this report?  
 4 A. No, I did not.  
 5 Q. Do you have any other information about survey  
 6 methods or the way this document was prepared?  
 7 A. No. I would just suggest to you that you could  
 8 probably give this survey to most any teacher in any  
 9 school district in the country and get similar responses.  
 10 Q. Has the district had occasion to conduct  
 11 teacher surveys?  
 12 A. Not of this nature that I'm aware of. We have  
 13 not set up a process for regularly, you know, spending  
 14 this kind of money on surveys. You know, this document  
 15 represents \$800,000 paid to the FCMAT team to come into  
 16 our school district.  
 17 MR. STURGES: About a buck a page. No. I'm  
 18 just kidding.  
 19 THE WITNESS: Well, not all of it. It's about  
 20 like that.  
 21 MR. STURGES: Well, no, I'm just kidding.  
 22 BY MR. LONDEN:  
 23 Q. Did the district submit written responses to  
 24 the FCMAT reports?  
 25 A. Yes, sir. To every page.

1 Q. Look for a moment at 3979. I'm sorry about  
 2 having to go back through.  
 3 MR. STURGES: That's all right. What's the  
 4 number?  
 5 MR. LONDEN: 3979.  
 6 MR. STURGES: And what was the other page?  
 7 MR. LONDEN: And 80. It's entitled 2.4  
 8 Curriculum-Instructional Materials.  
 9 BY MR. LONDEN:  
 10 Q. First off, have you seen this before?  
 11 A. Yes.  
 12 Q. Take a moment and read to yourself, please,  
 13 through the findings section. My question is going to be  
 14 whether you can tell us if these findings were accurate or  
 15 not at the time it was written.  
 16 A. I don't have any way to tell you whether or not  
 17 they're accurate.  
 18 Q. That's good enough. The next page is 3981, 2.5  
 19 Curriculum-Instructional Materials. Finding one says:  
 20 "According to district administrators, an estimated 80  
 21 percent or more of the instructional materials in the  
 22 district are not standards-aligned." I'm ending my quote  
 23 and noting that that's as of the time the information was  
 24 gathered.  
 25 Can you give us a brief explanation of what it

1 means for instructional materials to be or not to be  
 2 standards-aligned.  
 3 A. Yes. The State Board of Education adopted  
 4 standards for the core curriculum areas in the 1990s, the  
 5 late 1990s, and then the textbook publishers took those  
 6 standards and developed new textbooks that responded to  
 7 the standards identified by the state, and then the way it  
 8 was supposed to work was that the state would provide  
 9 adequate money to the school districts to buy all new  
 10 textbooks that were aligned with the standards adopted by  
 11 the state board.  
 12 And our district was no different from any  
 13 other district in that we were looking at the prospect of  
 14 having to buy all new textbooks over a very short period  
 15 of time to make sure that they were standards-aligned.  
 16 Now, we have, of course, begun that process, but it is a  
 17 major financial investment to buy new textbooks for any  
 18 school district. So we're moving. I'm sure that we're  
 19 better than we were a couple of years ago.  
 20 I don't know how anyone came up with an 80  
 21 percent estimate. I find that interesting, but there it  
 22 is.  
 23 Q. Becoming standard aligned or acquiring standard  
 24 aligned materials includes buying new textbooks after  
 25 they're approved by the state; do I understand you



1 correctly?

2 A. Yes.

3 MS. LEE: Objection. Leading.

4 BY MR. LONDEN:

5 Q. And are you able to say anything that would let  
6 us know where the district is in that process, either in  
7 quantitative terms or subject matters upon which the  
8 textbooks that have been approved post standards have or  
9 have not been acquired?

10 A. Well, I can give you some information. I don't  
11 think I have all of the information. You'd have to get  
12 that from the chief academic officer.

13 Q. Okay.

14 A. But for example, as I stated earlier, we bought  
15 all new language arts materials for kindergarten through  
16 8th grade. All of those textbooks are standards aligned,  
17 standards based, and are on the state approved list for  
18 instructional materials funding. And of course at the  
19 high school level, none of those books are put on the  
20 list, so you're pretty much on your own.

21 Q. Other than language arts?

22 A. I believe a couple of years ago we bought new  
23 science books for the middle schools, but I'm not positive  
24 if those books were purchased the year that the standards  
25 were adopted or the year before.

1 We also bought new math textbooks, new  
2 elementary math and some middle school math textbooks, and  
3 I'm not positive if they are on the current list. You  
4 know, the state has been changing the list from year to  
5 year, so you could invest a couple million dollars and buy  
6 new textbooks one year that were on the state approved  
7 list and the next year they wouldn't be on the list. And  
8 the state tells you that textbooks are to be good for  
9 seven years; however, they don't follow that rule. They  
10 change the list. And so I'm not sure about math at the  
11 elementary level.

12 We were buying new math books when I came into  
13 the district in the spring of 1999. And now that I think  
14 about it, I -- I don't know if those are standards based  
15 or not.

16 Q. Have there been instances where the district  
17 would have bought texts if the state's approval cycle had  
18 been completed, but because the approval cycle wasn't  
19 completed, the district delayed in buying them?

20 MS. GIORGI: Objection. Incomplete  
21 hypothetical.

22 MR. STURGES: It's also vague as to "approval  
23 cycle."

24 Do you understand the question?

25 THE WITNESS: Well, I'm assuming he means

1 approval by the state board.

2 BY MR. LONDEN:

3 Q. That's right.

4 A. We waited to buy our language arts materials  
5 until the state came out with their list last year. So we  
6 waited all the way until January, when the state board  
7 published its list of standards-based elementary  
8 publishers. There were two choices for elementary  
9 schools, and we waited until January.

10 Typically you would start with your team of  
11 teachers in the fall and work through a process of  
12 piloting and reviewing materials and then adopt, make your  
13 adoption decision in the spring for the coming school  
14 year, but we didn't start until January because the state  
15 board didn't tell us what the materials were. A  
16 neighboring school district, a large urban district of  
17 ours, went ahead and adopted Open Court a year or two  
18 years before, and they were -- we felt it was a huge risk,  
19 and so we waited. I would have gone forward the year  
20 before if I had been guaranteed it would be on the list.

21 Q. Has the district decided any sequence or set  
22 of priorities for which subject matters will be purchased  
23 in the future?

24 A. You saw them on the five by five. It's math,  
25 after reading -- after language arts, it's math.

1 Q. And does the district's ability to buy the  
2 texts it needs depend on whether state funding is  
3 available for instructional materials in the future?

4 A. Yes.

5 Q. Do most classes in the K through 8 -- leave out  
6 K. Do most classes in elementary schools after  
7 kindergarten use textbooks?

8 A. Most classes do, yes.

9 Q. Where textbooks are used, does the district  
10 have a policy about whether all students in the class  
11 should receive a personal copy, whether it should be  
12 available for use at home or -- well, let's leave it at  
13 that. Is there a policy of the district on that part?

14 A. I don't know if there's an adopted board policy  
15 on that.

16 Q. Is there an informal practice that people know  
17 about, whether or not it's been formalized, been put into  
18 writing or not?

19 A. The informal practice is that students  
20 typically have a book to take home in most classes.

21 Q. Why is that?

22 A. The reason they take a book home is because  
23 they have homework assignments out of the textbook. Now,  
24 there are many teachers who give other homework  
25 assignments and who actually put together homework

1 packets, and so it's not required for the students to take  
2 a textbook home in the evening.

3 Q. As a matter of the informal practice, does the  
4 district want teachers to be able to choose for  
5 pedagogical reasons whether to send a book home or  
6 something else home or nothing?

7 A. I don't think the district has a position on  
8 that. The district wants the students to learn the  
9 standards, and we want the students to have an opportunity  
10 to have access to the materials they need to learn the  
11 standards. And in some cases the teachers don't use a  
12 textbook very much. They use supplemental materials. In  
13 other cases they may rely much more heavily on the  
14 textbook. It depends on the teacher and depends on the  
15 course.

16 Q. Do you know whether or not there have been  
17 examples during your period as superintendent, there have  
18 been classes in which because of lack of funds, there were  
19 not sufficient textbooks to give every child, every  
20 student his or her own textbook for use in class?

21 A. Yes, I've heard that from teachers.

22 Q. And tell us whether or not that's an acceptable  
23 situation.

24 A. Well, no, it's not acceptable. I think, for  
25 example, of the middle school science issue. The textbook

1 them, so they don't have them in class.

2 In some cases the schools order textbooks and  
3 they weren't received, they weren't available from the  
4 publisher, publisher was behind in orders. In some cases  
5 they didn't order the textbooks. In some case they  
6 ordered the textbooks and the textbook orders were lost,  
7 were not processed. I mean, I've heard several different  
8 versions of stories of the past about what has happened to  
9 the textbooks. I don't know how accurate they are. I've  
10 just heard these anecdotal reports.

11 Q. And has it come to your attention that people  
12 had said that there were instances in which there were too  
13 few textbooks for use by all the students because of lack  
14 of funds?

15 A. Yes.

16 Q. Tell us whether or not that instance, that is,  
17 too few texts for all the students to use one in class  
18 because of lack of funds, obtains this year.

19 A. I'm not aware of that this year, although in a  
20 district of 35,000 students, anything is possible at any  
21 point in time. We've spent a lot of additional money out  
22 of the general fund on textbooks.

23 I did hear of a case this year from a parent  
24 who said his child didn't have a textbook for a math class  
25 at a high school. And I asked the chief academic officer

1 were out of print. The adopted textbooks were out of  
2 print. It was not possible to buy additional textbooks.  
3 So we had to go through a whole process of involving  
4 teachers, looking at textbooks, making recommendations of  
5 what texts should we buy. And that takes a whole year.  
6 And so that whole first year after it came to my  
7 attention, we were waiting to buy more textbooks, as an  
8 example, and then we finally bought the textbooks and put  
9 them in at the middle schools.

10 So it's -- while it may seem on the surface  
11 that there should be a simple solution to just buy more  
12 textbooks, it's not always that simple.

13 Q. And it wasn't that simple in the case of the  
14 science books that were out of print, as an example?

15 A. Right.

16 Q. Are all of the examples that have come to your  
17 attention of textbooks that were not available in  
18 sufficient quantity for all students to have their own  
19 copy for use in class cases in which the textbooks were  
20 not available to be purchased from the publisher?

21 A. No. In some cases the students don't bring the  
22 books to class so there aren't books to use in class.  
23 They take them home and leave them at home or lose them.  
24 And the schools -- the teachers get upset when they expect  
25 the teachers to bring the books back every day and use

1 to follow up, and what we found was that the teacher was  
2 in fact using five different textbooks to teach this class  
3 and therefore there was not one textbook to be sent home  
4 with the student. She was taking pieces and xeroxing  
5 chunks out of different textbooks. So again, when we  
6 really started to dig into what is it, "what do you mean  
7 there is not enough -- there are not enough books for this  
8 class," it was a very different answer when we got to the  
9 bottom of it.

10 Q. That particular instance, would you  
11 characterize that as a pedagogical choice made by a  
12 teacher?

13 A. Yes.

14 Q. Is your chief academic officer -- withdraw  
15 that.

16 How long has your current chief academic  
17 officer been an assistant superintendent or at that level?

18 A. Well, she -- gosh, I don't know. She was the  
19 deputy superintendent in Hayward Unified for a number of  
20 years, probably, oh, five, six years. She was an  
21 assistant superintendent in San Francisco Unified. She  
22 might have 18 years of executive level experience.

23 Q. And how long has she been at West Contra Costa  
24 Unified School District?

25 A. This is her second year with us.

1 Q. Was there someone else before her who was  
2 involved in sending forms to principals about the  
3 availability of textbooks and asking for textbook  
4 inventories to be done?

5 A. Well, Dr. LeBlanc, who's the chief academic  
6 officer now. That is her position this year. It's the  
7 first year she's doing this with us as chief academic  
8 officer. Prior to that it was Dr. VanDeVeer, whose memo  
9 you showed me earlier. And prior to that was the deputy  
10 superintendent, Anna Blackman.

11 Q. Are Mr. VanDeVeer and Ms. Blackman still with  
12 the district?

13 A. No.

14 Q. Do you know whether the district does --  
15 withdraw that.

16 Do you know what, if anything, the district  
17 does in addition to sending the forms and requesting the  
18 principals do textbook inventories to determine whether  
19 there are sufficient textbooks in the hands of students?

20 MS. GIORGI: Objection. Speculative.

21 THE WITNESS: I don't -- there's not a formal  
22 process, no. It's informal monitoring by the regional  
23 supes and formal monitoring visits to the schools. My  
24 guess is that there are textbook issues. If they come up  
25 during those visits, the supervisors act on them.

1 regarding textbooks and instructional material.

2 Q. And is there a process that the district goes  
3 through to prepare for that hearing?

4 A. I think we talked about that this morning.

5 Q. Yes. I just want to connect the dots.

6 A. It seems so long ago. Yes, we did. Yes, there  
7 is. The assistant superintendent or the chief academic  
8 officer -- those are the same department, different  
9 titles, changed from the prior year -- gathers information  
10 from the schools, from the principals, about the status of  
11 their textbooks and prepares this resolution for the  
12 board.

13 Q. The second page, 4387, is what?

14 A. This is the certification of the resolution of  
15 availability of textbooks.

16 Q. And the third "Whereas" says authority of "the  
17 governing board of the public hearing adopted a resolution  
18 determining whether sufficient textbooks and instructional  
19 materials were available for all pupils," and I'm ending  
20 my quote there. Do you know the criterion for determining  
21 sufficiency as that was used in this context?

22 A. No, I don't. And I don't think it's even clear  
23 in the Ed Code. There's no definition of that.

24 Q. Has the board of the district administration  
25 adopted an interpretation of sufficiency for purposes of

1 BY MR. LONDEN:

2 Q. You mentioned earlier -- I'll hold that  
3 thought. I've kept you a little past the time I would  
4 usually break, so we're about to turn to something else.  
5 We'll do it after the break.

6 (Off the record, 2:50 - 2:55 p.m.)

7 BY MR. LONDEN:

8 Q. You mentioned before lunch a board resolution  
9 that is addressed periodically about the sufficiency of  
10 instructional materials. Are you familiar with the  
11 designation Education Code 60119?

12 A. Not off the top of my head, no.

13 Q. Before you now is a document which we will have  
14 market as Exhibit 5.

15 (Whereupon, Plaintiff's Exhibit No. 5  
16 was marked for identification.)

17 BY MR. LONDEN:

18 Q. Which bears identification numbers DT-WC 004386  
19 through 4396. The first page is entitled West Contra  
20 Costa Unified School District Resolution Number 70-0001,  
21 Notice of Public Hearing, bearing a notice date of June  
22 20, 2001. Do you recognize this?

23 A. Yes.

24 Q. What is this about in general?

25 A. This is the required annual public hearing

1 making this certification?

2 A. Not that I know of.

3 Q. Do you have a criterion in mind that you have  
4 used in communicating with board members about this?

5 A. No.

6 Q. Do you know whether the assistant  
7 superintendent or chief academic officer has explained  
8 what sufficiency means in dealing with the board?

9 MS. GIORGI: Objection. Lacks foundation.

10 MS. LEE: I join in that.

11 THE WITNESS: I'm trying to think about the  
12 latest presentation we just did this again, and what Dr.  
13 LeBlanc said when she explained this. I think she used  
14 the terms that were in the Ed Code, actually. Something  
15 to the effect that students have access to or will have  
16 access to or will have sufficient textbooks by the end of  
17 the school year. Certainly not anything that you could  
18 call a definition of sufficiency.

19 BY MR. LONDEN:

20 Q. Let me ask you to assume for purposes of this  
21 question that there's a school in which there were  
22 textbooks in core subjects but not enough for every  
23 student to use one at the same time in class. Do you know  
24 whether or not that would be sufficient within the meaning  
25 of this certification?

1 A. It would not be sufficient if the teacher was  
 2 instructing the whole class at the same time out of the  
 3 same textbook. That's my opinion.  
 4 Q. And is that an opinion you've articulated  
 5 before in the context of the meaning of "sufficiency"?  
 6 A. Yes.  
 7 Q. In what context?  
 8 A. When a teacher said, you know, "I'm short one  
 9 textbook in math analysis," for example, and "in my math  
 10 analysis class I need another textbook" I'd say, "Well, I  
 11 agree with you, you need another textbook. Order it."  
 12 Q. So if there aren't enough books for a class set  
 13 and instruction is done using the book to the class,  
 14 there's not enough books?  
 15 A. Right. I would agree with that.  
 16 Q. Let's assume that there are enough books for a  
 17 class set in a core subject, not enough to send the book  
 18 home because the class set must stay in class for use by  
 19 other groups of students, and the teachers pedagogical  
 20 choice would be to use the textbook for homework if there  
 21 were enough. Do you know whether for purposes of this  
 22 determination that would be sufficient textbooks or not?  
 23 MS. GIORGI: Objection. Incomplete  
 24 hypothetical.  
 25 THE WITNESS: Well, it depends on who you ask.

1 A teacher may say it's not sufficient because the teacher  
 2 wants to send the book home with everyone, and the  
 3 district may have a reason for saying we're not going to  
 4 buy more than one class set at this point in time, so you  
 5 need to prepare homework packets for students to take  
 6 home, or you may place books in the library for students  
 7 to check out periodically.  
 8 BY MR. LONDEN:  
 9 Q. Has that last thing happened, that is, that the  
 10 district has made a determination that a class set is  
 11 enough?  
 12 A. Yes, sure.  
 13 Q. Would that determination be documented in the  
 14 ordinary course?  
 15 A. No.  
 16 Q. How would it come about?  
 17 A. Well, you have a class that may not be taught  
 18 every year, may be taught every couple of years. Could be  
 19 an advanced foreign language class. Could be some  
 20 specific class that you don't get enough students to take  
 21 it and so you teach it every two or three years. And the  
 22 decision has been made not to make a major investment in  
 23 buying a lot of books because it's a huge investment and  
 24 they're not used every year.  
 25 It could be that there is a process under way

1 to change the textbook adoption and you don't want to go  
 2 out and buy new books or supplement the numbers of books  
 3 while you're in the process of working on a new adoption.  
 4 Couple of examples.  
 5 Q. Has that last happened, to your knowledge?  
 6 A. Yes.  
 7 Q. Was that the case with science?  
 8 A. Well, the science books were actually out of  
 9 print. It wasn't a choice for us to go buy new science  
 10 books.  
 11 My understanding is that has happened around  
 12 math in the past, that they were looking to go for a new  
 13 adoption. And in fact, we haven't even resolved all of  
 14 the issues around math right now because we're changing  
 15 where we teach certain math classes, moving, as I stated  
 16 earlier, moving classes from the high school to the middle  
 17 school, and so we really need to buy some math books in  
 18 some schools. But I think we're looking at major changes  
 19 in textbook purchases next year, so I'm very reluctant to  
 20 spend a lot of money on books that may not be used even a  
 21 whole school year.  
 22 Q. Are there classes now where math books are  
 23 being used in class sets only rather than sent home  
 24 because of a desire not to spend extra money on math texts  
 25 until those decisions are made?

1 A. I don't know if that's happening in math, but  
 2 it's probably happening in some courses in the district.  
 3 Could be happening in math.  
 4 Q. So for purpose of knowing how -- well, withdraw  
 5 that.  
 6 Is the following a fair statement of your  
 7 understanding, that "sufficient," as it's used in this  
 8 resolution, is a matter for the judgment of individual  
 9 teachers or board members or administrators with respect  
 10 to whether sufficient numbers of books to send home for  
 11 homework is required?  
 12 MS. LEE: Objection. Leading.  
 13 MS. GIORGI: Vague and ambiguous.  
 14 BY MR. LONDEN:  
 15 Q. It was an awkward question. If you're not able  
 16 to answer, just tell me.  
 17 A. I would just say to you you could probably line  
 18 up ten teachers and ask them how they would interpret  
 19 "sufficient textbooks" and they'll all give you a  
 20 different answer.  
 21 Q. I want to show you an earlier year's -- what I  
 22 take to be and I'll ask you about it -- an earlier year's  
 23 assertion of a form and what's numbered Exhibit 1 by way  
 24 of identification.  
 25 The document before the witness now is

1 identified by numbers DT-WC 004397 through 4461. The  
 2 first page is a cover page entitled Textbook Analysis  
 3 1999-2000, and each of the following pages is a form  
 4 filled out differently, but each entitled West Contra  
 5 Costa Unified School District, May 19, 2000 Textbook  
 6 Analysis 1999-2000. Have I correctly described it so far?

7 A. Yes.

8 Q. Have you seen this before?

9 A. No.

10 Q. The exhibit we marked Exhibit 1, if you'd look  
 11 at the second page, at question 4 of Exhibit 1, which was  
 12 dated 2001 through 2002, and I'd like to you compare that  
 13 to question 5 in the 1999-2000 analysis. The earlier,  
 14 1999-2000 question says: "All teachers have had sufficient  
 15 books for their classes by the end of the first quarter of  
 16 school year." Question 4 for 2001-2002 says: "All  
 17 teachers have sufficient books for their present classes.  
 18 In language, arts, math, science and social science  
 19 classes, each student was issued a text."

20 Now, my question is does the difference in  
 21 wording between those two reflect any difference in the  
 22 policy or practice of the district with respect to  
 23 textbooks.

24 A. Not in terms of a policy of the school  
 25 district, but certainly in terms of the attention that we

1 were placing on textbooks, on having adequate textbooks,  
 2 is reflected in the change in the question.

3 Q. Is this the first time that you've noticed or  
 4 known anything about the difference?

5 A. Right. Yes.

6 Q. So if I were to ask you to give a view about  
 7 the significance of the difference of the question  
 8 wording, would you be doing anything more than  
 9 speculating?

10 A. No, I didn't know there was a difference, quite  
 11 frankly. I've not read these documents.

12 Q. Okay. As a matter of process, is it your  
 13 understanding that forms which these forms and their  
 14 content resemble -- well, let me ask it differently.

15 How does the assistant superintendent or chief  
 16 academic officer inform herself for purposes of making a  
 17 presentation to the board?

18 MS. GIORGI: Objection. Calls for speculation.

19 BY MR. LONDEN:

20 Q. On sufficiency of textbooks resolution, an  
 21 example of which we see in Exhibit 5?

22 MS. GIORGI: Objection. Calls for speculation.

23 MS. LEE: Join.

24 MR. STURGES: I'll join.

25 MS. LEE: The witness has no knowledge.

1 MR. STURGES: I'll join.

2 THE WITNESS: I don't know how she prepares  
 3 herself.

4 BY MR. LONDEN:

5 Q. Okay. Have you heard her make these  
 6 presentations?

7 A. Yes.

8 Q. What does she tell the board by way of  
 9 information about the sufficiency of textbooks?

10 A. She tells them that she's surveyed the schools,  
 11 got information from the individual schools, and that she  
 12 believes that we have met the requirement on the Ed Code  
 13 and she recommends that they approve the resolution.

14 Q. Does she present any quantitative information?

15 A. Typically this is an annual procedural item  
 16 that comes up on the board agenda each year.

17 Q. And the last time it came up was recently?

18 A. Uh-huh, yes.

19 Q. About how much time during the board meeting  
 20 did it consume?

21 A. A couple minutes.

22 Q. Have you ever considered -- well, withdraw  
 23 that.

24 Is this process of any benefit to the school  
 25 district other than staying in compliance with the

1 requirement?

2 MS. LEE: Objection. Vague as to "benefit."

3 MR. STURGES: Join.

4 MS. GIORGI: Join.

5 THE WITNESS: Well, one would hope that when  
 6 there are textbook problems -- I think I said this earlier  
 7 today -- that principals are not waiting until this  
 8 document is sent out to address their problems, that they  
 9 are taking action to have their needs met long before  
 10 these surveys go out. So essentially what this process is  
 11 about is to ensure that when we're taking a recommendation  
 12 to the board, that we have signed off certification by the  
 13 principals so that we don't go to the board meeting and  
 14 say, yes, everything is -- we're meeting the requirements  
 15 of the law and we have no backup data. So that's what  
 16 this is. This is not intended to be an action plan to  
 17 address issues of textbooks.

18 BY MR. LONDEN:

19 Q. Looking at Exhibit 1. I want you to feel free  
 20 to refer to it if you're not able to answer it. I don't  
 21 mean to ask you to speculate. But if this is the form  
 22 used as part of the gathering of information by the chief  
 23 academic officer, and given that some of the responses  
 24 have a negative answer to the question about sufficient  
 25 textbooks, do you have as a matter of process any

1 explanation for how to reconcile those two things?

2 MS. LEE: Objection.

3 BY MR. LONDEN:

4 Q. I'm sorry. I don't think I gave you the two  
5 things.

6 A. No, I was about to say.

7 Q. All right. I would like to know if you have in  
8 mind a basis for getting from a negative answer by some of  
9 the principals to a resolution that there are sufficient  
10 textbooks.

11 MS. GIORGI: Objection. Asked and answered.

12 MS. LEE: Join.

13 THE WITNESS: It's my understanding that the  
14 chief academic officer or her staff follow up on issues  
15 that are identified here.

16 As I read these, some of these are comments  
17 that have already taken place. They were late, we got  
18 books that we didn't have. We called around to other  
19 schools. And -- but some of them do require some kind of  
20 response, and so it's my understanding that she would be  
21 responding to this. She wouldn't just put these in a  
22 file.

23 BY MR. LONDEN:

24 Q. Look at page 4506 for a moment. The response  
25 -- or the explanation column next to question 4 about

1 Q. But you would expect it to happen based on  
2 this?

3 A. Right. And I can tell you very clearly now  
4 that the current principal would make sure that she had  
5 ordered those books if she needed them.

6 Q. You say that based on your confidence in her  
7 diligence?

8 A. Yes.

9 Q. Do you have any specific experience with her on  
10 textbook problems in mind when you say that?

11 A. No.

12 Q. Tell us whether or not the following is a  
13 complete list of the funding sources for textbooks and  
14 instructional materials. Categorical funding from the  
15 state for textbooks and instructional materials and  
16 district general funds.

17 A. I think that's it. We don't typically use  
18 other categorical materials to buy district adopted  
19 textbooks. We use other categorical funds to buy  
20 supplemental materials.

21 Q. Do you have a view about whether the  
22 continuation of renewal of categorical funding for  
23 textbooks and instructional materials is important to the  
24 district's ability to meet its textbook needs in the  
25 future?

1 sufficiency for this school, which is Helms, says: "We  
2 did not have sufficient funds to order a book for every  
3 kid." Now, I know you haven't seen this before. Is it  
4 your belief as a matter of the process that there should  
5 have been a process after this and before the  
6 certification of sufficiency?

7 A. Well, no, not before the certification. When  
8 this kind of information came in, if we didn't know about  
9 it, there should have been an immediate response from Dr.  
10 VanDeVeer to Mr. Muzinich, who was the principal at the  
11 time. "So have you ordered the books? Have you done your  
12 part to produce the orders that are needed for students?"  
13 Because to my knowledge, from the time that I have come  
14 into the school district, when schools have been saying  
15 and have a legitimate -- and I'm very specific about what  
16 legitimate means, it's not just that "I would like to have  
17 additional books," but that "I need additional books to be  
18 able to teach this class," I have made every effort to be  
19 able to find the funds to buy those books. Now, I would  
20 have expected Dr. VanDeVeer to call him and say, "Have you  
21 ordered the books, and where are the orders," if they were  
22 not in her office.

23 Q. And again, you don't know whether that  
24 happened?

25 A. No, I don't.

1 MS. LEE: Objection. Calls for speculation.

2 MS. GIORGI: Join. Vague and ambiguous.

3 MS. LEE: Join.

4 THE WITNESS: It's a very important concern for  
5 us that we have adequate funds and that the state funds  
6 not be reduced.

7 BY MR. LONDEN:

8 Q. Let me change subjects. With respect to  
9 facilities, tell us whether or not the district has  
10 problems of overcrowding of schools.

11 MS. GIORGI: Objection. Vague and ambiguous.

12 MS. LEE: Join.

13 THE WITNESS: Some of our schools have more  
14 students right now in their attendance area than the  
15 school can accommodate, therefore those students are  
16 identified as displaced residents and sent to neighboring  
17 schools.

18 BY MR. LONDEN:

19 Q. What's the process for determining capacity of  
20 the school for purposes of deciding whether someone is  
21 above the number -- whether a number is larger than the  
22 school can accommodate?

23 A. Well, typically it's how many classrooms do you  
24 have. But our districts operates in a very rich fashion  
25 than the way that other school districts in which I have

1 worked and I'm aware of don't operate, in that at the  
2 secondary level teachers are allowed to stay in their own  
3 classroom even during their prep period, so they're  
4 sitting in a 960 square foot classroom or larger and it's  
5 completely empty during one period of the day. And so we  
6 run at a very, as I call it, a very rich model in the  
7 school district.

8 In other school districts, classrooms are used  
9 every period of the day. So when you start to figure a  
10 capacity of a school, if you allow the teacher to sit in  
11 his or her classroom during their prep period, you are  
12 losing one classroom space for each of the FTE's that you  
13 have on your campus. So if you have 60 teachers, you lose  
14 60 opportunities to have students in that classroom during  
15 the day. And that's very expensive. And so that's a key  
16 factor in figuring out what's your capacity at the  
17 secondary level.

18 Q. And the capacity at the secondary level, you  
19 mean middle school, high school?

20 A. Right.

21 Q. And is that practice followed at the elementary  
22 school level?

23 A. Well, it doesn't apply at the elementary school  
24 level because the same students stay with the same teacher  
25 all day.

1 Q. There's no prep period in which the teacher is  
2 there at the same time?

3 A. Well, the teachers do have a prep period, but  
4 the students go with another teacher typically to physical  
5 education, arts or music, and sometimes that takes place  
6 in their classroom and sometimes out on the playground or  
7 in the gym or wherever. It's not as big an issue at the  
8 elementary level. It's a huge issue at the secondary  
9 level.

10 Q. Have some schools in the district converted  
11 non-classroom space to classroom usage for the sake of  
12 dealing with capacity problems?

13 A. Sure. Everyone. That's done by every school.

14 Q. And do you have a view as to whether those  
15 practices have interfered with the students' learning?

16 A. No.

17 MS. LEE: Objection. Calls for speculation.

18 THE WITNESS: I don't believe it has interfered  
19 with students' learning.

20 BY MR. LONDEN:

21 Q. What kinds of things are done with the  
22 displaced students who are in an area but the school is  
23 full?

24 A. They go through the transfer office, and we  
25 identify schools that have room -- a school that would

1 have room for them, and then they are assigned to that  
2 school, and sometimes they get a choice, sometimes they  
3 don't get a choice.

4 Q. So if the school is full is one limit on the  
5 open transfer policy?

6 MS. LEE: Objection. Leading.

7 THE WITNESS: Well, if you move into a  
8 neighborhood school and you go in to enroll and the  
9 secretary says, "Sorry, all of the classes are full up to  
10 the contract limits, call the transfer office," and the  
11 transfer office will tell you in the surrounding  
12 neighborhood what schools have room at the grade level  
13 your child needs to go, and then you go and you enroll at  
14 those schools.

15 BY MR. LONDEN:

16 Q. You just referred to being full up to the  
17 contract limits. What contract do you ever in mind?

18 A. That would be the teachers' contract.

19 Q. Does the basis for determining whether the  
20 school is full according to the teachers' contract -- I'll  
21 withdraw that question for purposes of taking a break,  
22 since your document has arrived.

23 A. Thank you.

24 (Off the record, 3:30 - 3:35 p.m.)

25 MR. LONDEN: I've had put before the witness

1 another large document.

2 THE WITNESS: We'll just do with one. That's  
3 good.

4 MR. LONDEN: And again, Counsel, I would  
5 propose referring to this one based on its production  
6 numbers, rather than consuming paper and transcript.

7 MS. LEE: Fine.

8 BY MR. LONDEN:

9 Q. It is identified as DT-WC 005695 through 6081.  
10 The first page bears the title, "Long Range Master Plan  
11 for West Contra Costa Unified School District. It's dated  
12 October 2, 2000. Have I described it accurately?

13 A. Yes.

14 Q. What is it?

15 A. It is the first analysis that was done  
16 districtwide on our facilities while I was -- well, during  
17 my tenure as superintendent.

18 Q. How did it come to be done?

19 A. I directed the associate superintendent for  
20 operations to employ a consultant to develop an analysis  
21 of the district's facilities and a long range master plan.

22 Q. And you said it was the first analysis. Has  
23 there been follow-up analytical work done?

24 A. Yes.

25 Q. Tell us about that.

1 A. As a result of the bond measures that were  
 2 approved, we then hired architects and engineers to come  
 3 in and do very detailed analyses of the schools.  
 4 Q. On the district's website there is a link to  
 5 progress reports that are organized by bond measure as to  
 6 Measure M and Measure D. Do those progress reports refer  
 7 to the more detailed work that you just mentioned?  
 8 A. I don't know. I haven't looked at that web  
 9 page.  
 10 Q. Okay. Are there publicly available progress  
 11 reports?  
 12 A. Yes.  
 13 Q. That summarize the status of work on the  
 14 detailed planning and submissions to the state architect's  
 15 board?  
 16 A. Yes.  
 17 Q. Okay. In the process of doing a master plan,  
 18 was there any sort of follow-up document prepared by these  
 19 same consultants before the work done to implement the  
 20 bonds or to use the bond money?  
 21 A. No. This document was given to the  
 22 architectural and engineering firms that were hired to  
 23 carry out the bond measures. So they took this document  
 24 and worked off of this document and then created much more  
 25 detailed documents based on their detailed reviews of the

1 schools. So engineers went in and did studies on seismic  
 2 issues, for example. Architects looked at space and  
 3 looked at standards for the space. And then those --  
 4 there are mountains of documents now that have been  
 5 developed around each school that is on the priority list.  
 6 So for example, the elementary schools, there  
 7 are four phases. We have 39 elementaries. Phase 1-A has  
 8 got the 9 elementaries I referred to earlier. They're in  
 9 DSA, very detailed analysis of those schools. And the way  
 10 you got to be on 1-A was based on the greatest level of  
 11 need identified for schools. So there's 1-A, 9 schools,  
 12 1-B, 9 schools that we're working on, and they were moved  
 13 to the top of the list because of their needs.  
 14 Same thing is true with secondary schools.  
 15 There are four schools based on the very detailed work  
 16 done by the various specialists. These schools have the  
 17 highest level of need.  
 18 Q. Does the plan contemplate adding capacity to  
 19 district schools?  
 20 A. It depends -- it's a school by school answer,  
 21 and we use enrollment projections. It's a formula that  
 22 you crank into the computer, and it's probably only as  
 23 good as the economic outlook in a community is year by  
 24 year. We'll do a ten year enrollment projection, but no  
 25 one really knows what's happening ten years down the road.

1 Most of the schools are not going to be  
 2 increased that much in terms of size. Some of them are  
 3 pretty much the same. A few of them we were adding a  
 4 little bit of space. We are adding permanent facilities  
 5 for preschool programs, which for the most part now are in  
 6 portable buildings, and there are on most of our campuses  
 7 portable buildings that were added for additional  
 8 students. We're doing away with all portables, and all  
 9 the students will be housed in hard construction.  
 10 Q. In all grades?  
 11 A. Yes.  
 12 No. Not unless the neighborhood grows once the  
 13 school is done, which could very well happen, and then we  
 14 get back in the situation of adding more portable  
 15 buildings.  
 16 Q. At least in terms of the budget as it now  
 17 stands, as you now foresee it being used, is there  
 18 sufficient funding between the local funding and state  
 19 matching funds to replace all of the portables that now  
 20 exist with permanent capacity?  
 21 A. Well, it's not only the cost of replacing  
 22 portable buildings.  
 23 Q. Sure.  
 24 A. It's reconstructing the schools. And there is  
 25 not sufficient money in the bonds, in the local and state

1 bonds to do all of the work that needs to be done.  
 2 Q. Can you give me the total of the funds you  
 3 have in hand or have a basis for expecting you will be  
 4 able to obtain.  
 5 A. Well, we raised locally the 40 million, the 150  
 6 million. So that's 190. And then another 300 million.  
 7 So that's 490 million.  
 8 We expect to get, oh, depending on what happens  
 9 with the state funding, somewhere in the neighborhood of  
 10 maybe 20 million from the state. We estimate that we  
 11 really need around 800 million to completely fix all of  
 12 the schools, and know that that's a moving target because  
 13 prices go up every day.  
 14 Q. So the 800 million total would replace all  
 15 portables with permanent capacity?  
 16 A. Would fix all of our schools and part of --  
 17 when I say fix, means doing away with portable buildings  
 18 and putting everyone in hard construction.  
 19 Q. Is it possible for you to meaningfully describe  
 20 in general terms the criteria for need with respect to  
 21 priority and the cure for funds?  
 22 A. Sure.  
 23 MS. LEE: Objection. Vague and ambiguous.  
 24 BY MR. LONDEN:  
 25 Q. Please do.



1 A. The highest level of need for schools that were  
2 placed on the priority list was their seismic condition  
3 and any other elements that were considered to be health  
4 and safety issues, such as lighting, heating and  
5 ventilating, fire alarm systems, electrical systems --  
6 those sorts of things. So the highest priority is  
7 seismic, and then what's called health and safety.

8 And then after that, it moves along to more  
9 cosmetic kind of work. Replacing ceiling tiles, floor  
10 tiles, changing out chalkboards to white boards, painting,  
11 replacing some windows, doors, locks, redoing bathrooms --  
12 actually, bathrooms are typically up in the health and  
13 safety category.

14 Q. The window replacement projects, would they be  
15 in the high priority?

16 A. No. Putting in new windows isn't necessarily a  
17 high priority. It depends on whether or not they're  
18 leaking. If they're really -- if the window casements are  
19 in really bad shape -- we have a lot of windows that some  
20 years ago someone thought it was a good idea to put Lexan  
21 in those windows, and Lexan is easily etched and very  
22 difficult to deal with once it's been etched, so we  
23 replace a lot of those.

24 Q. And tell us whether or not there have been  
25 problems with glass blocks that leak.

1 A. A couple of schools have glass blocks. Helms  
2 has glass blocks. And I think Portola also has glass  
3 blocks. And whatever is required to address those. I  
4 don't know if they will replace them with glass blocks or  
5 some other kind of permanent material. But they leak.  
6 We're having a very difficult time. I think we have them  
7 in a couple of other schools too.

8 And for example, even at Helms, we've got a new  
9 roof on that school. When the wind blows from the right  
10 -- just the right angle, they still leak. So I don't know  
11 what the solution would be to that, but we have good  
12 experts dealing with that.

13 Q. The glass blocks problems, are they planned to  
14 be dealt with as part of the bond funded projects as  
15 distinguished from the RAMBO and ventilation windows  
16 projects that we distinguished earlier today?

17 A. It would be part of the whole bond  
18 reconstruction.

19 Q. How does the district supervise the quality of  
20 facilities maintenance functions at site level?

21 A. That's the responsibility of the principal.

22 Q. And does the district involve itself at all in  
23 assessing whether the principal's doing a good job on  
24 that?

25 A. Yes, indeed.

1 Q. How is that?

2 A. When I visit a school, I -- if I see things  
3 that haven't been taken care of, I ask the principal why  
4 not. The same thing is true with the regional supes and  
5 any of the other district level staff that are out at  
6 schools. Or if we get complaints from teachers or  
7 parents, we follow up. So it's a continuous process.

8 Q. Are there any standards that you use in  
9 assessing whether maintenance is being performed  
10 adequately?

11 A. Well, probably so, but I don't know what they  
12 are. My understanding of the custodial department is that  
13 they have established certain standards for cleaning, for  
14 example, how many times the floors are to be mopped and  
15 what materials are to be used, what cleaning instruments  
16 they use. The same thing is true with the bathrooms.  
17 What are the processes and materials and strategies  
18 they're supposed to use to clean the bathrooms. How they  
19 go about -- when they go into a classroom, what do you do  
20 when you walk in the classroom. What are the steps that  
21 you take, what does it mean to clean a classroom. The  
22 custodial department has a long list of that.

23 Q. Is the custodial department a district level --  
24 does it exist at the district level, or at each school?

25 A. Each school has a custodian or several

1 custodians, in fact, day custodians and night custodians.  
2 But the district level supervisor is the one who trains  
3 and responds to -- trains the custodians and responds.  
4 Let's say the principal calls the custodial supervisor and  
5 says, you know, "My custodian isn't -- I'm not happy with  
6 the way my bathrooms are being cleaned, and I told my  
7 custodian to clean them but I'm still not happy, so please  
8 come out here and help me work with my custodian." And so  
9 then the custodial supervisor will go and do some training  
10 or set up some type of a plan to help the custodian do a  
11 better job.

12 Q. During your tenure, have there been budgetary  
13 constraints that you understand limit the ability of the  
14 custodial staff to comply with what would otherwise have  
15 been the custodial department's standards for how to clean  
16 and maintain the facilities?

17 MS. GIORGI: Objection. Vague and ambiguous.

18 MS. LEE: Join.

19 THE WITNESS: No.

20 BY MR. LONDEN:

21 Q. Have there been decisions to -- well, how do  
22 you decide how many custodians to employ?

23 A. Well, it's kind of like the question of  
24 sufficiency of textbooks. It depends on who's making the  
25 decision. Currently the custodial supervisors along with

1 the director of maintenance decides how many custodians  
2 are employed at a school. And if you ask a school  
3 principal, some principals will tell you, "I have  
4 sufficient custodial support," and other principals will  
5 say, "I need six more custodians," or "I need another  
6 person on the night crew," depending on how they perceive  
7 what the needs of their schools are.

8 Q. Tell us whether it's been the case that funding  
9 restrictions, at least up until now, have led to decisions  
10 to forego maintenance below the level deemed necessary by  
11 the custodial supervisors.

12 MS. LEE: Objection. Leading.

13 MS. GIORGI: Objection. Vague and ambiguous.

14 THE WITNESS: I really can't speak to what  
15 happened before my arrival in the school district. I  
16 don't know why decisions were made or how decisions were  
17 made on how to spend money on custodians and their  
18 supplies. I can't speak to that.

19 I have made it a priority to have the schools  
20 cleaned, and certainly that doesn't mean that there are  
21 unlimited resources to do that, but we have put  
22 significant amounts of money into the budgets to make sure  
23 that the custodians have supplies and training and  
24 supervision.

25 BY MR. LONDEN:

1 team, that we would receive -- and the audit was found to  
2 be acceptable in terms of us making progress, we would  
3 receive \$800,000 per year for five years. And the nexus  
4 to the state was -- the reason that it was approved was,  
5 as I understand it, the district was not allowed to  
6 participate in the state school building program for five  
7 to seven years after the fiscal crisis.

8 Q. Let me change subjects. You have told us about  
9 the relatively new strategic focus schools program. My  
10 question now is whether there are other ways in which --  
11 formal ways in which the district oversees and assesses  
12 the quality of its schools. I know that's what you do in  
13 many different ways, but are there formal programs of  
14 assessment?

15 A. Yes, there are. We are, of course, involved at  
16 the high school level in the Western Association of  
17 Schools and Colleges, the WASC accreditation process.  
18 WASC stands for Western Association of Schools and  
19 Colleges. That's the statewide process for accrediting  
20 high schools. We are required by the state to participate  
21 every three years in a coordinated compliance review.

22 We have -- gosh I'm trying to think of all of  
23 the reviews that we have. We have some advisory groups in  
24 the district that conduct their own sort of formal program  
25 reviews and revisions. For example, the Gifted and

1 Q. Why have you made that a point of importance?

2 A. I just think that that's something that you do  
3 in any building, and it's part of my belief system and  
4 it's -- in fact, what I say to people as we may be poor,  
5 but we'll be neat and clean.

6 Q. Aside from providing matching funds for  
7 facilities, is there anything that the state has done that  
8 has assisted West Contra Costa Unified School District in  
9 dealing with facilities' conditions that need to be  
10 improved?

11 MS. GIORGI: Objection. Vague and ambiguous.

12 MS. LEE: Join in that.

13 THE WITNESS: Beyond matching funds. Well, in  
14 spite of my complaints about the FCMAT process, we did  
15 receive \$800,000 for the past two years and will receive  
16 \$800,000 for a total of four years -- or five years,  
17 actually, it's \$4 million, and that was -- it was great to  
18 get that money, and that money was given to us because of  
19 prior punishment of the school district because of its  
20 fiscal problems.

21 BY MR. LONDEN:

22 Q. What was the relations between FCMAT report and  
23 receiving that money?

24 A. Well, the legislation was that if we  
25 participated in this extensive audit done by the FCMAT

1 Talented Education, the GATE, Community Advisory Group.  
2 The Citizens Advisory Group for Special Education. That's  
3 the CAC. That's all I can think of at this moment.

4 Q. Are all of the district's high schools  
5 currently WASC accredited?

6 A. Yes, they are.

7 Q. What's the length of the accreditation period  
8 for Kennedy High School right now?

9 A. I think it's two or three years right now.  
10 Maybe three years.

11 Q. When you arrived at Kennedy High School -- or  
12 I'm sorry.

13 What was the length of the accreditation for  
14 Kennedy after its first assessment after you arrived?

15 A. One year.

16 Q. Are you able to summarize the issues that led  
17 to the one year accreditation determination?

18 A. Well, in terms of just a summary, the systems  
19 that were lacking at that school were of grave concern to  
20 the WASC team. The systems that were needed to supervise  
21 teachers were not in place, to manage discipline were not  
22 in place, to maintain the campus were not in place.  
23 Those are probably the three big ones.

24 Q. By "maintain the campus," what do you mean?

25 A. Keep the campus in good working condition.

1 Every comprehensive high school has a full-time  
2 maintenance person assigned to that campus along with the  
3 regular custodians. And there were a lot of issues on  
4 that campus that needed to be addressed that hadn't been  
5 addressed.

6 Q. Was there a problem with teacher turnover?

7 A. Yes.

8 Q. And Kennedy remains a relatively high turnover  
9 school?

10 MS. LEE: Objection. Leading.

11 BY MR. LONDEN:

12 Q. Teacher turnover school; is that true?

13 A. I would say that's not true as of this year.  
14 They -- I can't remember exactly how well they did, but I  
15 know they made a significant improvement there. I would  
16 have to think about that and run those numbers through my  
17 head in order to come up with them. But according to just  
18 I think a conversation with the principal, they maintained  
19 a lot of their teachers, almost all of their teachers, in  
20 fact, from last year to this year. And the school is  
21 making tremendous progress.

22 Q. What in general is the status, if you know, of  
23 the problem of systems to maintain that campus?

24 MS. LEE: Objection. Vague and ambiguous.

25 BY MR. LONDEN:

1 MS. LEE: Objection. Leading.

2 MS. GIORGI: Objection. Vague and ambiguous.  
3 Calls for speculation.

4 THE WITNESS: Well, I -- when I first came to  
5 the district, I had people tell me that Kennedy received  
6 more than its share of transfer -- discipline transfers.  
7 And so I asked Mr. Greenwood, who's the assistant  
8 superintendent for pupil services, to give me a printout  
9 of where he was sending student discipline transfers, and  
10 Kennedy did not receive more than its share. And I did  
11 that for two years, and I think I put an end to that myth.

12 BY MR. LONDEN:

13 Q. Just a minute before I change direction.

14 Again, I just have one page to ask about. This  
15 isn't as long as some of the other documents, but I would  
16 still suggest that we refer to it by identification  
17 number.

18 The document I've put before you is identified  
19 by the numbers WASC 16555 through 16581. On the first  
20 page it has the heading, "Focus on Learning, John F.  
21 Kennedy High School." It last a date stamp of May 22,  
22 2000. And I want to ask you if you recognize this.

23 A. Well, it looks like the WASC report for  
24 Kennedy. I don't think I've ever seen it.

25 Q. Look at the page that bears the ID number

1 Q. At Kennedy.

2 A. I don't know what the genesis of that was. I  
3 think it was partly a matter of expectations on the part  
4 of the prior principal, paying attention to the condition  
5 of the campus, and proper supervision of the maintenance  
6 person and the custodians. And that has changed  
7 dramatically on that campus.

8 Q. How has it changed?

9 A. Well, the campus is cleaner. There are fewer  
10 burned out lightbulbs. There are fewer complaints in  
11 terms of things that aren't working on the school campus.  
12 That campus is -- it sounds crazy, but it's relatively  
13 new. It was built in the '60s. And so it just needs some  
14 cosmetic upgrading, really, at this point in time as  
15 opposed to major work. If you compared it to El Cerrito  
16 High School that was built in the 1930s, for example,  
17 Kennedy High School is in pretty good shape structurally,  
18 and overall it's cosmetics. They need paint and some  
19 plumbing done, new bathrooms sorts of things done.

20 Q. Is Kennedy High School a school to which  
21 students with disciplinary problems are assigned?

22 A. No. It's a regular comprehensive high school.

23 Q. Have you understood that in the past Kennedy  
24 was described as a school to which students with  
25 disciplinary problems were transferred?

1 16558. And I don't want to limit you to this. I'm going  
2 to ask you about a sentence in the first paragraph, but  
3 you can look for context if you would find that helpful.

4 The sentence is, "A high number of students  
5 transferring to Kennedy High School are for disciplinary  
6 reasons." And my question is do you think based on the  
7 investigation you've told us about, that that's not -- it  
8 wasn't correct?

9 A. Yes, it's not correct.

10 Q. And was that the subject of any discussion and  
11 follow-up correspondence or exchange of documents with  
12 WASC?

13 A. No. It was with me and the principals.

14 Q. Okay. Your determination was that it's a myth?

15 A. Right.

16 Q. Okay. Does the district do any analysis or  
17 assessment of standardized test scores for students as a  
18 matter of policy rather than incidentally, other than the  
19 things you've told us about so far today?

20 MS. LEE: Objection. Vague and ambiguous.

21 THE WITNESS: Well, the district doesn't, but  
22 individual schools go all the way down to identifying  
23 students who are in the bottom quartile or the bottom  
24 three stanines or whatever, and then developing plans for  
25 those students. But at the district level, we analyze

1 districtwide but we don't go into details on individual  
 2 students. So I don't think anything beyond what we've  
 3 talked about.  
 4 BY MR. LONDEN:  
 5 Q. And when you say analyze it districtwide, is  
 6 that for purposes other than things we've talked about?  
 7 A. No.  
 8 MR. LONDEN: If we take one more break, I'm  
 9 going to shorten up the remaining questions so I can give  
 10 my co-counsel a chance to ask questions before the day's  
 11 done.  
 12 MS. LEE: I'm going to have about two or three  
 13 more hours of question.  
 14 MR. LONDEN: Any chance we can finish today?  
 15 MS. LEE: Not unless we finish at about 7:00.  
 16 MR. LONDEN: Let's take a break. For whatever  
 17 it's worth, I'm going to try to shorten up.  
 18 (Off the record, 4:10 - 4:15 p.m.)  
 19 BY MR. LONDEN:  
 20 Q. Back on.  
 21 Have other high schools been given one year  
 22 accreditation, to your knowledge, aside from Kennedy?  
 23 MS. GIORGI: Objection. Calls for speculation.  
 24 MS. LEE: Join.  
 25 THE WITNESS: Not since I've been in the

1 district. Not that I'm aware of.  
 2 BY MR. LONDEN:  
 3 Q. Okay.  
 4 A. They might have before I got there.  
 5 Q. Is the coordinated compliance review process  
 6 something that is beneficial to the district in terms of  
 7 information it provides to the district?  
 8 MS. GIORGI: Objection.  
 9 BY MR. LONDEN:  
 10 Q. Or in other ways.  
 11 MS. GIORGI: Vague and ambiguous.  
 12 THE WITNESS: Well, it's better than it used to  
 13 be. It does help you identify some weaknesses. But it's  
 14 a very onerous review and takes a lot of time, generates a  
 15 lot of paper. I suppose that I would say that it's mixed.  
 16 Some good, some bad.  
 17 BY MR. LONDEN:  
 18 Q. Are you able to point to the parts that are  
 19 beneficial?  
 20 A. Well, it makes you focus on all of the  
 21 regulations for each of the categorical programs so that  
 22 everyone gets a refresher course, basically, on what are  
 23 the regulations for the GATE, the gifted and talented  
 24 regulations program, what are the regulations for school  
 25 improvement or SB 65 or whatever it is that's being

1 reviewed, so that everyone comes up to speed -- or E0, the  
 2 services to English learners. Everyone's up to speed.  
 3 "Oh, yes, this is what we're supposed to be doing." So  
 4 that's probably a plus.  
 5 But the down side is you have to gather all  
 6 these documents and put them all in a big box, and a lot  
 7 of it is, as I say, a waste of time and energy to put all  
 8 of that evidence together.  
 9 Q. Does the district have policies at the district  
 10 level with respect to qualifications you seek in teachers  
 11 of English language learners?  
 12 A. Well, we follow the CTCC, the California  
 13 Teacher Credential Commission guidelines. We're looking  
 14 for people who hold CLAD and BCLAD credentials.  
 15 Q. And does the district collect and disseminate  
 16 information that aggregates information about schools as  
 17 to the percentage of teachers or the extent to which the  
 18 teachers who are teaching English language learners have  
 19 CLAD and BCLAD certifications?  
 20 A. Yes. That's part of the CCR.  
 21 Q. Is it collected and disseminated as part of the  
 22 CCR?  
 23 A. I don't know.  
 24 Q. As a person with experience teaching English  
 25 language learners yourself, do you have a view about

1 whether -- well, first of all, do you have knowledge about  
 2 levels of training for teachers of English language  
 3 learners below the CLAD and BCLAD?  
 4 MS. LEE: Objection. Vague and ambiguous.  
 5 MR. STURGES: Do you understand the question?  
 6 THE WITNESS: No, I don't.  
 7 BY MR. LONDEN:  
 8 Q. Okay. Does your experience lead you to have  
 9 any view about whether a CLAD or a BCLAD are necessary for  
 10 a teacher to be qualified to teach English language  
 11 learners?  
 12 A. Yes, I believe they are necessary.  
 13 Q. Why is that?  
 14 A. Because they teach specific skills and  
 15 understanding of the English language acquisition process  
 16 and skills to help students acquire English as a second  
 17 language.  
 18 Q. If a teacher who does not have the training  
 19 that goes into receiving a CLAD or BCLAD, is assisted by a  
 20 bilingual teacher's aid, is that the equivalent for the  
 21 students of being taught by someone who has a CLAD or  
 22 BCLAD?  
 23 A. No.  
 24 MS. LEE: Objection. Speculation.  
 25 MS. GIORGI: Objection. Calls for expert

1 testimony.

2 BY MR. LONDEN:

3 Q. Currently is the district -- if you know, is  
4 the district able to provide teachers with a CLAD and  
5 BCLAD for all of its English language learners?

6 A. I don't know.

7 Q. The CCR materials would be a place to look for  
8 documentation on that, is your understanding?

9 A. Yes.

10 Q. And who would you expect to -- or who  
11 supervises that area of responsibility at the district  
12 level?

13 A. Starts with the chief academic officer, who  
14 supervises the director of state and federal programs, who  
15 supervises the director of English learner programs. And  
16 that director of English language learner programs, she's  
17 the one who would know.

18 Q. What's her name?

19 A. Her name is Susan Dunlap.

20 Q. Thank you. You spoke earlier of equity in the  
21 sense of getting to students what they need. Do you have  
22 in mind any ways in which the state system of distributing  
23 funds gets in the way of accomplishing that?

24 MS. GIORGI: Objection. Vague and ambiguous.

25 MS. LEE: Join in that.

1 BY MR. LONDEN:

2 Q. I'll fry to frame a question.

3 My question is whether your experience has led  
4 you to hold views about ways in which the state of  
5 California's system for distributing state funds for  
6 education might be modified so as to assist schools in  
7 meeting the different needs of students equitably.

8 MS. LEE: Objection. Vague and ambiguous.

9 Calls for speculation.

10 MS. GIORGI: Join.

11 THE WITNESS: Well, I guess the general  
12 statement would be that students with greater need should  
13 have more time and resources to be successful in schools,  
14 and that would sort of drive any particular topic that I  
15 would talk about in terms of how to divide state dollars  
16 among schools.

17 BY MR. LONDEN:

18 Q. In the Illinois work that you did, was there a  
19 report produced?

20 A. Yes, there was.

21 Q. Do you remember a title or any other way of  
22 locating it?

23 A. "School Resource Model" is the only title that  
24 I can think of at this point.

25 Q. And the sponsoring organization was, if you

1 THE WITNESS: Well, I spent two years in  
2 Illinois on the governor's committee working on a model to  
3 fund school districts based on what their needs were, and  
4 -- actually, maybe it was a little more than two years --  
5 and the outcome of that was that there was not the  
6 political will to be able to address school districts in  
7 an equitable manner because it means that some schools and  
8 some districts get more money than others based on their  
9 need. And so I quite frankly haven't spent much time  
10 thinking about it in the state of California because my  
11 expectation is that it would be extremely difficult for  
12 that to happen. I could give you some quick things off  
13 the top of my head.

14 BY MR. LONDEN:

15 Q. I'm not asking you to guess or speculate. I  
16 ask the question thinking that you might have thought  
17 about this. And if you have thoughts you think are  
18 responsive and not simply guessing or speculating, I'd be  
19 interested, based on your experience.

20 A. Just a general response.

21 MR. STURGES: Hold on a second here. I think  
22 we're getting into territory where we don't necessarily  
23 have a clearcut question pending and we're getting a  
24 native response, and I'm not quite sure where we're going.  
25 So I'd appreciate it if you could hold it a bit.

1 recall?

2 A. The State of Illinois.

3 Q. And the time period of the report?

4 A. 1984-'85, '86. The consultants were Parish and  
5 Chambers from Stanford. Not bad. Old memory.

6 Q. And your role was?

7 A. I was on one of their working committees.

8 Q. I thank you for your responsive answers to my  
9 questions and your time today.

10 A. You're welcome.

11 MR. LONDEN: That's all my questions.

12 MS. LEE: Can we go off the record.

13 (Deposition adjourned at 4:30 p.m.)  
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8 I, GLORIA JOHNSTON, do hereby declare under  
9 penalty of perjury that I have read the foregoing  
10 transcript; that I have any corrections as appear noted,  
11 in ink, initialed by me; that my testimony as contained  
12 herein, as corrected, is true and correct.  
13 EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_,  
14 2003, at \_\_\_\_\_, \_\_\_\_\_.  
(City) (State)

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GLORIA JOHNSTON  
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2 STATE OF CALIFORNIA )  
3 : ss  
4 COUNTY OF ALAMEDA )  
5

6 I, the undersigned, a Certified Shorthand  
7 Reporter of the State of California, do hereby certify:

8 That the foregoing proceedings were taken  
9 before me at the time and place herein set forth; that  
10 any witnesses in the foregoing proceedings, prior to  
11 testifying, were placed under oath; that a verbatim  
12 record of the proceedings was made by me using machine  
13 shorthand which was thereafter transcribed under my  
14 direction; further, that the foregoing is an accurate  
transcription thereof.

15 I further certify that I am neither financially  
16 interested in the action nor a relative or employee of  
17 any attorney of any of the parties.

18 IN WITNESS WHEREOF, I have this date subscribed  
19 my name.

20  
21 Dated: \_\_\_\_\_  
22  
23  
24

25 \_\_\_\_\_  
RAMONA REINHARDT  
CSR No. 2677