

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN FRANCISCO

ELIEZER WILLIAMS, et al.,)	
)	
Plaintiffs,)	
)	
vs.)	No. 312236
)	
STATE OF CALIFORNIA, et al.,)	
)	
Defendants.)	
_____)	

DEPOSITION OF GLORIA JOHNSTON
San Francisco, California
Tuesday, April 29, 2003
Volume 2

Reported by:
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CSR No. 11926
JOB No. 881959

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ELIEZER WILLIAMS, et al.,)
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Deposition of Gloria Johnston, Volume
2, taken on behalf of the State of
California, at 275 Battery Street, 26th
Floor, San Francisco, California, beginning
at 9:59 a.m. and ending at 1:33 p.m. on
Tuesday, April 29, 2003, before ANA VIDA
REID, Certified Shorthand Reporter No. 11926

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San Francisco, California, Thursday, April 29, 2003
9:59 a.m. - 1:33 p.m.

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

EXAMINATION

BY MS. LEE:

Q Good morning, Dr. Johnston, my name is Jen Lee,
we've met before. Just want to remind you, I'm the
attorney representing the State of California in this
litigation.

Are you under any medication today?

A I take medication every day.

Q Is it --

A But should not affect my testimony.

Q Great. That's what I was looking for.

Any other condition that you're under that
would affect your testimony today?

A No.

Q Great. Can you start off by telling me about
your district's focus on literacy?

A Well, that is our focus for three years, and

1 our goal is to have 90 percent of our third graders by
2 the year 2005 reading on grade level, 90 percent of our
3 students passing algebra by the 9th grade, 100 percent
4 of our students passing the high school exist exam and
5 to close the achievement gap for African-American and
6 Latino students.

7 Q Okay. Great. I know you already testified a
8 little about the Open Court program. Does your focus on
9 literature include anything besides the implementation
10 of the Open Court reading program?

11 A Yes, and I might just say that our definition
12 of literacy is much broader than a reading program. So
13 one aspect of our focus on literacy is our language arts
14 adoptions of this current school year, and that includes
15 four new programs. And those programs are the Open
16 Court program for children no more than two grade levels
17 below average in grades K through five. A program
18 called High Point for children in grades four through
19 eight. A program -- who are more than two grade levels
20 below grade level. And then a program called Prentice
21 Hall for children in grades six through eight, and then
22 we are implementing on a small pilot level a program
23 called Read 180 for ninth and tenth grade students who
24 are more than two years below grade level.

25 Q Anything else as a part of your district's

1 the state test documents, local district tests,
2 attendance, behavior, discipline, records. Probably
3 those were the major indicators.

4 Q And who chose the Open Court, Prentice and High
5 Point programs?

6 A A group of teachers and administrators. There
7 were maybe 65 people on the committee who reviewed the
8 materials and then made recommendations.

9 Q Who appointed this group of teachers and
10 administrators?

11 A I believe they were appointed by principals and
12 probably volunteered to serve on the committee, but --
13 asked to serve. No one was forced to participate in the
14 process.

15 Q I'm going to hand you and your counsel a copy
16 of the deposition from last time. Just in case when I
17 refer to your testimony from last time, you can refer
18 back to it so you know exactly what was said or not.

19 Sorry, I don't have --

20 MS. WELCH: I have a copy, that's fine.

21 BY MS. LEE:

22 Q If you want to look back on page 17, starting
23 around -- I'm referring to the page numbers within the
24 boxes, there are four boxes on a page.

25 You testified that Kennedy High School receives

1 focus on literacy?

2 A Well, there's a lot of training going on to not
3 only use those materials, but also to learn effective
4 strategies in working with students in the classroom.
5 We're also working very hard at the administrative level
6 with the administrators and their leadership teams on
7 issues around institutional racism as part of our effort
8 to close the achievement gap.

9 Q Okay. Great. When was your focus on literacy
10 implemented?

11 A This fall. Actually, last summer we started
12 our training in July.

13 Q And who made the decision to implement this
14 focus on literacy?

15 A The board of education.

16 Q And why did they do that?

17 A Well, because our students were not achieving
18 at the levels that were satisfactory to the community,
19 and we all know that we could do better, so we set out
20 to be very specific with a very detailed plan to improve
21 achievement for all students and to close the
22 achievement gap.

23 Q And how did the board identify this need for
24 greater literacy for students within the district?

25 A Through a variety of indicators. Using some of

1 two counselors instead of one because of the high
2 mobility rate at that school, am I -- is that correct?

3 A Yes.

4 Q Who made that decision to allocate two
5 counselors to Kennedy?

6 A I did.

7 Q Why did you make that decision?

8 A Well, as I stated earlier, they have a very
9 high mobility rate of students coming and going through
10 that school. And that then causes a burden on
11 counselors and others at the school having to serve a
12 lot more students than a school with a much lower
13 number.

14 Q And how did you become aware of the higher need
15 for -- higher need for counselors at Kennedy due to the
16 higher mobility?

17 A That's my job to know what's going on in the
18 schools.

19 Q In your opinion, is it important for a
20 superintendent or a school district to have the
21 flexibility to make decisions like this based on
22 particular school needs?

23 A Yes.

24 Q And why is that?

25 A Well, one of our areas of focus is equity in

1 our school district, and equity means that people,
2 schools, students, get what they need. It doesn't mean
3 that everyone gets the same thing, and therefore, you
4 look at each school to determine what their needs are
5 and you that you expect that school to determine what
6 the needs of the students are and respond to them.

7 Q So your definition of equity would rely a great
8 deal on the person making decisions having the best
9 information about the needs of particular schools, am I
10 correct?

11 A That's why data is so important for decision
12 making.

13 Q Does the flexibility you currently enjoy as a
14 superintendent in decision making help you in getting
15 schools and students what they need?

16 A Flexibility is certainly a part of it. The
17 part that's most challenging, of course, is having the
18 resources.

19 Q Could you turn to page 21. If you look just at
20 the bottom half of that page, you testified during your
21 first day of testimony about the fiscal problems of the
22 early 1990s. Do you recall that?

23 A Yes.

24 Q Can you describe the exact nature of the fiscal
25 problems that occurred in the 1990s?

1 MR. STURGES: I'm going to object on relevancy
2 grounds. It's not reasonably calculated to lead to the
3 discovery of admissible evidence.

4 You can answer the question.

5 THE WITNESS: It's my understanding from
6 reading some of the history of the district that the
7 district was unable to meet its financial obligations in
8 late '80s, early '90s, and as a result of that, entered
9 into an agreement with the state to borrow money to meet
10 its financial obligation. And the district has been
11 repaying a loan since that time. And the loan payment
12 annually each year is \$1.8 million, principal and
13 interest, and I believe we will have finished paying
14 that loan by the year 2018.

15 BY MS. LEE:

16 Q Okay. Great. What caused the district to be
17 unable to meet its financial obligations at that time?

18 A Well, I don't have all of the details, as I
19 say, only from some of the documents I've read. The
20 whole state, of course, was in financial disarray in the
21 earlier '90s. All of us in other school districts were
22 having to make cut backs since our state seems to be
23 unable to manage money for public education, at least,
24 in a reasonable manner, so that was one cause.

25 Another cause was some anticipated revenues

1 that the district was counting on that didn't come in.
2 I believe a federal grant or two.

3 There also were -- and this I'm not sure about,
4 some concerns about whether or not categorical dollars
5 were spent appropriately, so dollars were spent and then
6 the district was told they couldn't spend money in that
7 manner so they had to move money around and that caused
8 a deficit in their budget.

9 So I think it was a variety of factors. I
10 wasn't there, so it's only my interpretation.

11 Q Was the budget deficit caused in any part by
12 mismanagement of funds by the district at that time?

13 A Well, that's not possible for me to say. No
14 one was prosecuted that I'm aware of, so I think that's
15 another question of interpretation.

16 Q Was a state trustee assigned to West Contra
17 Costa to oversee district finances as part of the state
18 deal with the district?

19 A Initially.

20 MR. STURGES: Objection, asked and answered.

21 MS. WELCH: Could we stipulate, instead of
22 having to say "join," that one objection by one person
23 will, you know, apply equally to other people?

24 MS. LEE: That's fine.

25 MS. GIORGI: Stipulated.

1 THE WITNESS: No, initially an administrator, a
2 state administrator, was assigned to the district, and
3 there's a distinction between administrator and a
4 trustee.

5 The administrator has absolute control over the
6 district, and the board, the elected board of education,
7 has no control, and there was an administrator there
8 for -- somewhere between 12 and 18 months, and that was
9 Dr. Fred Stewart. At the end of this time, then he
10 became a state trustee when the school board was seated
11 and they then had the authority of any school, elected
12 school board in the state. However, as trustee,
13 Dr. Stewart still can override any financial decision
14 made by the board that he believes would be
15 inappropriate for the district.

16 BY MS. LEE:

17 Q What caused the switch from Dr. Stewart's role
18 from administrator to trustee?

19 A Well, it was a question of the local community
20 demanding to have local control of their schools once
21 again.

22 Q And what action did they take in demanding
23 local control?

24 A You know, I don't know. I don't know how that
25 happened. My assumption is that it was --

1 MR. STURGES: I want to caution you not to
2 speculate in your response. If you don't remember,
3 that's fine.

4 THE WITNESS: I wasn't there, so I really don't
5 know.

6 BY MS. LEE:

7 Q Okay. How long will Dr. Stewart be working
8 with West Contra Costa as trustee?

9 A Well, my understanding of the agreement is that
10 as long as we owe money to the state, we will have a
11 state trustee, so Dr. Stewart, or a state trustee if
12 it's not Dr. Stewart, would be in that position until
13 the year 2018, or until such time the loan is completely
14 repaid.

15 Q Do you think the state intervention of
16 assigning a trustee with decision control over finances
17 was a helpful measure?

18 A I don't know. I wasn't there, and I don't know
19 exactly what happened at that time.

20 Q Do you think it's currently a helpful measure
21 in --

22 A Well, it certainly is a very good relationship
23 that I have with Dr. Stewart. As a superintendent, it's
24 nice to have another person who is connected to the
25 school district but yet can stand away from it and look

1 at it in a very objective point of view that I can
2 consult with. So I -- in some ways and sometimes, I
3 think every school district got to have someone like a
4 state trustee, or Dr. Stewart, to be sort of your
5 partner in discussing things. On the other hand, it
6 does encumber you by having an elected board of five
7 people that you have to work with on a regular basis,
8 and then you have another authority, the state trustee,
9 that you also have to keep informed and work with so
10 that he understands what you're trying to do in leading
11 the organization.

12 Q Is Dr. Stewart's assistance necessary to ensure
13 that West Contra Costa is in a sound financial position
14 currently?

15 A Well, I think that's an opinion. I guess it's
16 up to each individual person to say is it necessary or
17 not.

18 Q What is your opinion?

19 A I think it's helpful to me. I'm not sure that
20 it's necessary.

21 Q Could you turn to page 28. If you look at the
22 first five lines or so. You testified that emergency
23 credentialed teachers in the district are working on
24 their credentials and the principals have been pleased
25 with their performance. What is your basis for this

1 statement that principals are pleased with the teaching
2 performance of emergency credentialed teachers?

3 A It's based on the fact that there are very few
4 teachers who are in the pre-intern and intern program
5 that we release because we are satisfied with their
6 performance.

7 Q Okay. And emergency credentialed teachers
8 specifically?

9 A The same thing is true with them. Occasionally
10 we release some of them, but not very often.

11 Q Have you heard good things about their
12 performance from principals or students?

13 A Yes, I have.

14 Q What good things have you heard about them?

15 A Well, typically our teachers who are coming in
16 on emergency credentials who are in our pre-intern
17 program, for example, are very enthusiastic, they are
18 wanting to learn all of the strategies required to be
19 successful in the classroom, and so they are very
20 committed and passionate about their work. As I say,
21 occasionally we'll find a teacher who can't manage
22 students, can't manage the classroom, just doesn't seem
23 to be growing as a teacher, so we release those people,
24 but not very often. We've been very fortunate and we
25 have a pretty good hiring process.

1 Q Great. How do you know that emergency
2 credentialed teachers within the district are working
3 towards their full credentials?

4 A We track that. We pay attention to that.

5 Q How do you track that?

6 A Through the personnel office. There's a
7 director of certificated employees and she's in contact
8 with them. We are, of course, under the obligation to
9 follow the mandates of No Child Left Behind legislation,
10 and so we are telling people what their time limits are
11 in getting their full credential if they're going to
12 work in our Title I schools.

13 Q And what are the time limits?

14 A Gosh, I think it's by the end of next year,
15 2004, all of the teachers in our Title I schools have to
16 be fully credentialed. And so, in fact, when we've been
17 hiring people, we're telling them what the requirements
18 are. Last year we did it, and we'll do it again this
19 fall. Although, I'm not sure we'll be hiring anyone. I
20 suspect we'll be laying off people, and if we hire
21 people, we'll hire our own people back.

22 Q Aside from the requirements of No Child Left
23 Behind in the Title I school, do you have the discretion
24 to retain non-credentialed teachers in your schools that
25 you feel are doing a good job?

1 A Yes.

2 Q Do you think that discretion to retain
3 non-credentialed teachers helps you in your ability to
4 provide good teachers for the district?

5 A Yes, it does.

6 Q Why do you feel that way?

7 A Well, because there are people who haven't
8 completed their credentials yet and you want to support
9 them and retain them while they are working on their
10 credentials, particularly those people who are high
11 performers.

12 Q And how do you identify high performers among
13 your teachers?

14 A We collect student achievement data at the
15 classroom level. We expect principals to be in the
16 classroom observing teachers. We have a formal
17 evaluation process. We get feedback from parents. We
18 have a variety of indicators.

19 Q Okay. Could you turn to page 29. If you look
20 from lines, about 12 where the question starts, to
21 around 19 where your answer ends, you testified that
22 it's your understanding that the pay scale in West
23 Contra Costa is low compared to other districts; is that
24 correct?

25 A Yes.

1 Q To which districts were you comparing West
2 Contra Costa when you made the statement?

3 A We get two documents put out by a firm in
4 California. One document compares us to the other --
5 it's called the top 20 of larger school districts in the
6 state, and the other document compares us to the school
7 districts that -- the 20 other school districts in the
8 Bay Area. And on both of those documents, we are still
9 in the bottom quarter. In fact, we are almost at the
10 absolute bottom in most comparisons.

11 Q Is that comparison based on average starting
12 salaries or some other figure?

13 A Well, the documents contain average starting
14 salaries, median salaries, top salaries, benefits, class
15 size. They're very comprehensive.

16 Q Okay. So would that document take into account
17 the lifetime medical benefits that you testified about
18 last time?

19 A No, I don't believe that's in there. I'm not
20 positive, but I don't believe it's in there. There are
21 only a handful of districts in the state that give
22 lifetime medical benefits.

23 Q You -- with those lifetime medical benefits
24 added to the total package, I know it's hard to compare
25 apples and oranges, but how would you, just in your

1 opinion, rate the compensation package that West Contra
2 Costa offers compared to other districts with that
3 thrown in?

4 A That would bring us up to an average, most
5 likely, at all points on the salary schedule. That's a
6 very valuable benefit.

7 Q Could you turn to page 67, please. If you look
8 starting around line -- line nine where the question
9 starts to about 15. You testified that the district
10 provides financial incentives for teachers to teach in
11 lower performing schools through the TAP program; is
12 that correct?

13 A Yes.

14 Q Is the district currently participating in the
15 TAP program?

16 A Yes, and unfortunately we understand that the
17 state is going to cut it completely next year, but yes,
18 we are.

19 Q Do you know what the dollar amount of that
20 financial incentive is?

21 MR. STURGES: Objection, vague. You mean the
22 total program or per teacher?

23 BY MS. LEE:

24 Q Per teacher.

25 A No, I don't.

1 Q How many of your -- of the schools in your
2 district receive TAP assistance in order to recruit
3 teachers?

4 A I don't know.

5 Q Are Teach for America teachers qualified
6 teachers in your opinion?

7 MS. WELCH: Objection; vague, calls for expert
8 testimony, calls for speculation.

9 THE WITNESS: I can only tell you that I have
10 observed up to 15 minutes, perhaps, four or five Teach
11 for America teachers this year, and have been very
12 impressed by their ability to engage students in the
13 classroom.

14 BY MS. LEE:

15 Q Could you turn to page 84, please, and review
16 line six down. You described the strategic focus
17 schools and the additional resources that they received,
18 last time?

19 A Yes.

20 Q Who implemented the strategic focus school
21 strategy?

22 A I did, along with the group called the
23 Superintendent's Cabinet.

24 Q And why did you do so?

25 A That's part of our goal, to improve achievement

1 for all students and close the achievement gap. So we
2 targeted the lowest performing schools, those schools
3 that had an API score of three or below, and then
4 designed specific intervention strategies for those
5 schools.

6 Q So this was a district initiative?

7 A Yes.

8 Q Would you describe the strategic focus schools
9 as a system in which schools or student populations in
10 greater need receive more resources?

11 A Yes.

12 Q Are you familiar with the II/USP program?

13 A Yes.

14 Q Does it -- is it a program that gives more
15 resources to under performing schools?

16 A Yes, but it's identifying a much broader group
17 than we did in our district.

18 Q Would you also describe the II/USP program as a
19 system of funding in which schools or student
20 populations with greater needs receive more resources?

21 A Didn't I just say yes to that? Wasn't that the
22 last question?

23 Q No, that was to the strategic. This is for
24 II/USP.

25 A Yes. However, I thought I answered, II/USP

1 funding was given to schools with an API of five, for
2 example. And as I say -- and some schools that were --
3 had an API of one or two did not receive any II/USP
4 funding, although we applied for it.

5 Q How many schools are in your district?

6 A Sixty-one.

7 Q Do you visit all your school sites?

8 A Yes, I do.

9 Q How often?

10 A I get to every school site at least once a
11 year. Some school sites I'm at more than once a year,
12 depends on if there are special occasions. This year
13 I'm visiting all of the strategic focus schools at
14 lunchtime with the president of the teachers union for
15 listening visits, we're calling them, where we take our
16 lunch and go and listen and have a conversation with the
17 staff in the lounge at lunchtime.

18 Q And what do you do during these visits?

19 A We have a dialog about whatever is on the
20 teachers' minds, principals, sometimes the custodian,
21 the secretary, the instructional aids.

22 Q Do you visit classrooms?

23 A Yes, I do. I'm not spending a lot of time in
24 classrooms this year, more time face-to-face, but I do
25 visit classrooms each year.

1 Q Do you check on instructional materials?

2 MS. WELCH: Objection, vague.

3 THE WITNESS: I guess I don't know what you
4 mean by "check on instructional materials."

5 BY MS. LEE:

6 Q Do some kind of check of whether students have
7 available to them text and instructional materials?

8 A Not directly. Occasionally I will have some
9 concern expressed to me by a teacher or student about
10 the materials.

11 Q Do you have occasion to speak to students
12 during your school visits as well as teachers and
13 principals?

14 A Occasionally. I also speak with students when
15 I meet with the All City Counsel or Saturday Stakeholder
16 meetings. I have a lot of opportunities to talk with
17 students.

18 Q Do regional superintendents visit school sites?

19 A Yes, they do.

20 Q And how often do they do that?

21 A They're expected to visit their strategic focus
22 schools at least twice a month and their other schools
23 at least once a month.

24 Q What do they do when they visit their school
25 sites?

1 A They review the data for each school. They
2 look at attendance, achievement levels, classroom
3 management. They actually go into classrooms. They
4 walk the campus with the principal. They talk about the
5 principal's professional development and the principal's
6 leadership at the school. They have a pretty clear set
7 of items that they're supposed to be monitoring, because
8 then they report to me once a month on what's happening
9 in the schools that they supervise.

10 Q Do they visit classrooms during their --

11 A Yes, they do.

12 Q Overall, do you believe that you and your staff
13 provide a good education to the students in your
14 district?

15 A Yes.

16 Q And why is that?

17 A Well, I guess we have to go -- how we define a
18 good education. We are making every effort to have high
19 performing teachers in all of our classrooms, principals
20 who serve as instructional leaders. We are working very
21 hard to improve our facilities that are old and in need
22 of a lot of improvements. We've passed \$450 million in
23 bonds, and we are engaging in a very, very ambitious
24 reconstruction and rebuilding program for the schools in
25 our district, and we're trying to provide the services

1 that students and their parents expect in terms of
2 support services.

3 Q Okay. Great. Can you remind me again when you
4 started as superintendent?

5 A February 1st, 1999. That's in West Contra
6 Costa?

7 Q Yes.

8 A Okay.

9 Q Can you describe any improvements that you've
10 made to teacher support and training since the time
11 you've been superintendent?

12 MR. STURGES: I'm going to object as asked and
13 answered.

14 THE WITNESS: Well, we've developed a very
15 comprehensive teacher training program since I've been
16 in the district, and we've probably had more
17 professional development opportunities for the teachers
18 in our district in the last three years than they had
19 experienced in many, many years. So teachers have an
20 opportunity to go to all sorts of workshops at a
21 district level, at -- participate in learning
22 opportunities at a school level. Many teachers attend
23 regional, state, national and even some international
24 professional conferences.

25 BY MS. LEE:

1 the students in West Contra Costa since the time you've
2 been superintendent?

3 A Yes. Again, we'd have to go back to our annual
4 budgets. There have been dramatic increases in the
5 expenditures for instructional materials. You can find
6 it in the line items in the budgets.

7 Q Improvements in the EL program that you can
8 think of?

9 A We are currently going through a whole review
10 of our EL program. We have a big task for us working on
11 that. Since I've been there, we've bought -- adopted
12 instructional materials, bought new materials for the
13 students. We will be buying Open Court in Spanish for
14 next year. And we've done quite a bit of training with
15 our staff. We have a large Title VII grant for, I
16 believe, eight schools, called Project Reel, r-e-e-l.
17 But I wouldn't say that we have had a comprehensive
18 improvement plan for EL yet. We will have that put
19 together next year and then begin some very specific
20 targeted training for EL students.

21 Q The instructional materials that you've
22 adopted, are those standards aligned?

23 MR. STURGES: Objection, vague. Did you say
24 "standards aligned"?

25 THE WITNESS: I know what she means, are they

1 Q Could you describe any improvements that you've
2 made to the level of teachers with appropriate
3 credentials since the time you've been superintendent?

4 MS. WELCH: Object, vague.

5 MR. STURGES: Also object, asked and answered.

6 THE WITNESS: Well, we typically don't sort out
7 the training for credentialed teachers as opposed to the
8 training for non-credentialed teachers.

9 BY MS. LEE:

10 Q I was referring to more the recruitment and
11 retaining of teachers with full credentials.

12 A Well -- so ask me again what you want to know.

13 Q Can you describe any improvements that have
14 been made in the level of or percentage of fully
15 credentialed teachers since the time you've been
16 superintendent?

17 A Oh, increasing the number of fully credentialed
18 teachers. I can't tell you that off the top of my head.
19 I know there's been an increase, but we'd have to look
20 at the CBEDS data for comparison.

21 MR. STURGES: Just for the record, CBEDS is in
22 all caps, no periods.

23 BY MS. LEE:

24 Q Can you describe any improvements that have
25 been made in the provision of instructional materials to

1 state standards aligned. I believe one of them, called
2 Language, is, but I'm not sure about the other
3 materials.

4 BY MS. LEE:

5 Q And the Open Court in Spanish?

6 A Yes. It's one of two programs that was adopted
7 by the state board, or approved by the state board, for
8 elementary students, and I'm assuming since it was
9 approved in English, that it's also approved in Spanish.
10 We will not buy it if it's not approved, if it's not on
11 the state list. Even though we may not get a penny next
12 year for instructional materials, we'll still follow the
13 state guidelines.

14 Q Could you describe Project Reel in more detail?

15 A I don't -- I've never read the grant. I
16 attended a couple of their trainings with principals and
17 teachers, but my understanding, it is a professional
18 development program for schools with large numbers of EL
19 students, and so those schools then receive intensive
20 support and training to serve the students.

21 Q Okay. This is intensive support and training
22 for the teachers who --

23 A And the principals and their schools that have
24 large percentages of EL students. Primarily Spanish
25 speakers.

1 Q At the time that you started as superintendent,
2 did you find that the schools in West Contra Costa were
3 overcrowded?

4 A No, I didn't find that they were overcrowded.

5 Q Do you find them to be currently overcrowded?

6 A I guess it's your definition of what
7 overcrowded is. We have portable buildings on our
8 campuses, and so if that's the definition that you use,
9 yes. Some of the schools have grown more than others
10 and we've put more portables on the campus. At the
11 secondary level, some people would say we're overcrowded
12 because teachers -- all teachers don't have their own
13 classroom all day. In other words, there have to be a
14 handful of teachers roving, and secondary teachers don't
15 like that. They want to stay in their own room all day,
16 even during their prep period when they would be sitting
17 in a 980 square foot classroom all by themselves and we
18 couldn't use it for another class.

19 Q Okay. Do you think -- these roving teachers
20 without classrooms, do you think that impacts the
21 education of the students who were taught by them?

22 A No.

23 Q Why not?

24 A The students go into a room and the teacher is
25 there. The person who is impacted is the teacher who

1 State Architect very soon. And then we will -- within a
2 year, we'll have 18 elementary schools being
3 reconstructed or rebuilt.

4 We are in the schematic process of addressing
5 our secondary schools, which was Measure D, bond Measure
6 D, and that initially will involve five secondary
7 schools, and of those five secondary schools, four of
8 them will be -- I'm assuming, the board has not taken
9 action yet, but I am going to be recommending that they
10 completely demolish four of the five and build brand new
11 schools, and then modernize one of those -- one of the
12 schools.

13 Q Which are the four schools that you would
14 recommend to be --

15 A The secondary schools?

16 Q Yes.

17 A El Cerrito High School, DeAnza High School,
18 Helms Middle School, and Pinole Middle School to be
19 totally demolished and rebuilt.

20 Q When those schools are torn down and rebuilt
21 and this includes -- strike that.

22 Out of the elementary schools that will be
23 rebuilt, will they have a greater number of classrooms
24 when they're done?

25 A Some of them will have some enlargements,

1 has to be very organized to take his or her materials to
2 a different classroom.

3 Q Are you aware of any plans to build new schools
4 in your district?

5 A Yes, I am.

6 Q And could you describe those plans, please.

7 A Well, we've already opened one new school in
8 Hercules, Hercules Middle High School. It's currently
9 in its second year of operation. It has about 800
10 students.

11 Q What's it called?

12 A Hercules Middle High School.

13 In January we opened a second new school called
14 Lovonya DeJean Middle School in downtown Richmond. That
15 school opened with sixth graders in January, but next
16 year will have sixth, seventh and eighth graders in it.

17 We are in the process of implementing Measure
18 M, which was our bond measure of three years ago now.
19 So nine schools are in the Division State Architect.
20 The plans are in -- should be coming out any day. Of
21 those nine elementary schools, eight will be
22 reconstructed, one will be completely torn down and
23 rebuilt. We have a second nine elementary -- group of
24 nine elementary schools that we are in drawings on right
25 now. And those nine will be going into the Division

1 because we are taking the portable buildings away and
2 building permanent structure. We're also going to put
3 the preschool programs into the permanent buildings.
4 Currently preschool programs are all in portable
5 buildings. And then based on our enrollment projections
6 for those particular neighborhoods, some schools are
7 being enlarged, but there aren't -- really aren't any
8 dramatic increases for most of the elementary schools.

9 Q Will the opening of the two new schools that
10 you just described, I think you said Lovonya DeJean and
11 Hercules Middle High School, will that reduce some of
12 the need for roving teachers at the other secondary
13 schools?

14 A Yes. It drew population off of -- for example,
15 Hercules took students away from Pinole Valley High
16 School where they had somewhere around 23-, 2400
17 students and they went down to 17-, 1800 students at the
18 high school. They also drew several hundred students
19 away from Pinole Middle School. I think that school was
20 somewhere around 6- or 700 kids now and it was much
21 larger than that. So it lowers the population at the
22 other schools.

23 Q What improvements have been made in the area of
24 technology for students since the time you've been
25 superintendent?

1 A Not very many.

2 Q Okay.

3 A Schools have bought a lot of hardware and
4 software. We're connected at the elementary schools to
5 the student information system at the district level,
6 that was not done when I got there.

7 But in terms of an overall comprehensive
8 improvement plan, we've not had that in place. We are
9 working on that right now. We've developed a plan,
10 we've applied for E-rate dollars, and we'll be including
11 that as we rebuild these schools. We'll be rethinking,
12 rewiring and planning how we're going to be using
13 technology. But in terms of the instructional use of
14 technology, I would say we have not placed as much
15 emphasis on that as we will in the future. That will
16 really start to accelerate.

17 Q Do you believe that as a result of your efforts
18 and initiatives, the district does a better job of
19 educating its students?

20 A Yes. And that's based on the data that we
21 have. We can use our state test scores to show
22 improvement of student achievement. We can use our
23 attendance data to show improvements.

24 Q If you had the choice, would you prefer more or
25 less state restrictions on the district's current system

1 wonderful people.

2 Q So greater restrictions in this area would not
3 improve your ability to educate children, is that your
4 testimony?

5 A That's my testimony.

6 Q If you had the choice, would you prefer more or
7 less state restrictions with respect to purchasing
8 instructional materials for your district?

9 MS. WELCH: Same objections.

10 THE WITNESS: Of course, fewer restrictions.

11 BY MS. LEE:

12 Q And why is that?

13 A Again, it's a question of going back to what I
14 talked about earlier in terms of equity. You have to
15 look at what the needs of your particular students are
16 and then make decisions. And when the state and federal
17 level folks put restrictions, there is an assumption
18 that everyone's needs are the same, and that's not
19 correct.

20 Q Okay. Are teachers in your district given the
21 option of using outdated or non-adopted text if they
22 think it better suits the needs of their students?

23 A All of the teachers are expected to use the
24 adopted text as their core text. But teachers have a
25 great deal of flexibility to supplement with primary

1 of hiring teachers?

2 MS. WELCH: Objection; vague, incomplete
3 hypothetical.

4 THE WITNESS: What do you mean by
5 "restrictions"?

6 BY MS. LEE:

7 Q If the -- I know No Child Left Behind now
8 requires fully credentialed teachers for all the Title I
9 schools. If there was a similar state restriction for
10 all the schools, or any type of restriction placed on
11 the district, that currently is not in place that pretty
12 much mandates who you can or cannot hire as a teacher
13 for your district?

14 MS. WELCH: Same objections.

15 THE WITNESS: I, of course, would choose fewer
16 restrictions and greater flexibility.

17 BY MS. LEE:

18 Q And why is that?

19 A Because I believe that everyone doesn't always
20 fit the restrictions. Sometimes you can find really
21 outstanding people who don't have the background or
22 don't hold a specific credential and they might be a
23 great match for a particular school, but with the
24 current No Child Left Behind law, we would be unable to
25 hire them. It would be a real shame to lose some

1 source documents, might be older text, articles,
2 whatever they can find to supplement instruction.

3 Q Do you think that the teacher's flexibility in
4 using supplemental materials improves or detracts from
5 the quality of education?

6 A Oh, I think it improves.

7 Q If you had the choose, would you prefer greater
8 or fewer state restrictions with respect to deciding
9 teacher training priorities?

10 MS. WELCH: Same objections.

11 THE WITNESS: I prefer fewer restrictions for
12 the same reason that I gave before in terms of
13 instructional materials. I think we are better able at
14 the local level to determine the training needs for our
15 teachers.

16 BY MS. LEE:

17 Q And the same question regarding fewer or
18 greater restrictions with respect to deciding
19 student-teacher and student-administrator ratios.

20 MS. WELCH: Same objections.

21 THE WITNESS: I think it's totally
22 inappropriate for the state to be placing those kinds of
23 restrictions on schools.

24 BY MS. LEE:

25 Q And why is that?

1 A Again, because at the local level, for example,
2 we have an opportunity to have more administrators in
3 certain schools than others because of the needs of that
4 school.

5 Q If you had the choice, would you prefer greater
6 or fewer restrictions with respect to deciding how much
7 to spend on maintenance and facilities within your
8 district?

9 MS. WELCH: Same objections.

10 THE WITNESS: Same answer.

11 BY MS. LEE:

12 Q Okay. That's what I was expecting.

13 Are you generally familiar with the API scores
14 for the schools within your district?

15 A I can't name them for you off the top of my
16 head, but yes, I read the reports.

17 Q Do you have a general sense of how the schools
18 within your district are doing with respect to their API
19 scores?

20 A Yes, I do.

21 Q And what is that sense?

22 A The API scores are going up.

23 Q And have the schools been meeting their growth
24 targets?

25 A For the most part they have. A couple of them

1 have not. And the scores are increasing pretty much
2 across the board at the elementary level. There's mixed
3 results at the middle school level, and the high schools
4 are pretty flat, and now that the standards test have
5 been introduced, some of the high school scores have
6 actually gone down.

7 Q Okay. To the extent that there has been
8 improvement in the API scores, to what do you attribute
9 that improvement?

10 A I think it has to do with focusing the
11 curriculum and holding people accountable for what
12 they're teaching, and also the professional development
13 that we have been providing to the teachers and the
14 principals.

15 Q Do you think the API data, the SAT9 data and, I
16 think soon to be, the CAT6, are valuable tools for
17 gauging student performance?

18 A Yes, I think they're part of the picture that
19 we should have in terms of comparing students to a
20 national norm group, but they're only one piece of the
21 information that we use in looking at student
22 performance.

23 Q Are they also helpful in determining student
24 needs?

25 A No, because they are not directly tied to the

1 standards.

2 Q Okay.

3 A They're intended to be an overall assessment
4 based on a comparison to a normal -- a normed reference
5 group, and it doesn't help you then look at student
6 performance and say, how does that compare to what we're
7 expecting all students in the state of California to
8 perform. They are information, but not the kind of
9 information you need to determine what kids' needs are.

10 Q Is there any analysis of scores done to
11 identify problem areas for students on a district level?

12 A Yes, a great deal of it.

13 Q Could you describe your data analysis that goes
14 on.

15 A Well, the data is prepared for each individual
16 school, so each school principal receives a large binder
17 of information, the state data I'm talking about. Not
18 only the SAT9, the norm reference data, but the
19 standards data. And it is organized in a variety of
20 ways, so it's separated out by grade level, by the
21 various categories established for the -- the targeted
22 groups for each school, so typically it's by race --
23 ethnic, by EL. In some cases, it's by gender.

24 And the teachers and the principals sit down
25 and go over the data and identify individual students

1 that are having -- that are showing needs on these
2 tests. Particularly the ones that are in the lowest
3 quartiles, and talk then about what plans they are
4 putting in place to help those students. And that's
5 much -- they spend a lot more time in the California
6 standards test or the STAR test than they do on the
7 SAT9, because we're trying to get everyone focused on
8 teaching to the standards.

9 Q Okay. So is the data analysis done on the
10 district level for each of the separate schools or do
11 the schools --

12 A Dr. Hagen, the director of accountability,
13 prepares that at the district level, and it's not only
14 disseminated to the schools but she does workshops, for
15 example, for a whole group of principals or she'll go to
16 an individual school and do workshops at the individual
17 school level with the faculty.

18 Q And are those workshops designed to train the
19 teachers in interpreting the data --

20 A Yes.

21 Q -- or analyzing?

22 A Analyzing, interpreting and then planning what
23 kind of actions they're going to take.

24 Q Typically, what actions are planned in response
25 to the data?

1 A Well, they identify the needs of individual
2 students and then adjust instruction, regroup students
3 and set up a monitoring system just to make sure those
4 students are making progress.

5 Q On the district level, do you use the data to
6 determine particular professional training needs of the
7 teachers?

8 A Not as much with the state tests. We collect
9 district level tests. For example, the -- I'll give you
10 an example of an adjustment we made this year using the
11 Open Court series. On our fall and winter data
12 collection, by school, by classroom, we discovered that
13 the kindergarten students were not making the kind of
14 progress that we thought they should be making so we
15 readjusted our professional development and put more
16 resources into the kindergarten classrooms to help those
17 teachers better implement and have better success with
18 their students, and that was done through a district
19 wide analysis.

20 Q Are you familiar with something called data
21 warehouse?

22 A Yes.

23 Q Could you describe it?

24 A Well, the data warehouse -- TetraData, the
25 system that we bought, was to help us be able to access

1 our data more effectively. What we had and still have
2 in our district is a number of silos of data, so there's
3 a special education silo, there's the EL silo, there's
4 the food services data -- every department has their own
5 set of data, and there was no way for anyone to talk
6 with all of those different data sets. And so by
7 purchasing the TetraData system and training people to
8 use it, you can sit down and access data about one
9 particular student. You can go into the special
10 education system and the EL system and various other
11 systems and look at the student's attendance and put all
12 of the information together.

13 Q Are the teachers trained in use of data
14 warehouse?

15 A I don't know how many teachers have been
16 trained in that yet. I know that a number of
17 administrators have been trained. My assumption is
18 they've gone back and done some training at their
19 school, but I don't know how many people. We do not
20 have computers on every teacher's desk to enable
21 teachers to access that kind of data. That's one of our
22 real concerns that -- in terms of the need to improve
23 our technology and access and use at the school level.

24 Q And once problem areas are identified, are
25 intervention programs such as tutorials or summer school

1 or other --

2 A We have a lot of intervention programs. We
3 have before school programs, lunchtime programs,
4 in-school intervention, after school programs, summer
5 school programs. Every school -- every high school has
6 been required to have an intervention program for
7 students who have not passed the high school exit exam.
8 We target students for the summer school program. There
9 really is no longer any kind of enrichment summer
10 school, it's all targeted instruction for students who
11 are not performing on grade level.

12 Q And the need for these intervention programs
13 are identified by looking at the data, is that --

14 A That's correct.

15 Q Okay.

16 A Another thing we do is we -- for students at
17 the middle school level, and now we're implementing for
18 the high school level, those students who are not
19 reaching the expected levels in math and reading are
20 expected to take a double block, two periods each day.

21 Q And are these intervention measures proving
22 successful?

23 A Yes.

24 Q And how do you know that?

25 A We look at the data.

1 Q Okay. How many schools in your district are in
2 the II/USP program?

3 A I don't know. I don't know off the top of my
4 head.

5 Q Do you have any broad estimate or --

6 A Maybe around 16, 12 to 16, I'm not sure.

7 Q Do these schools apply themselves, or does the
8 district apply for them?

9 A We -- the district applies.

10 Q And why is that?

11 A Just simply because we made a decision that all
12 schools that were eligible to apply for II/USP would be
13 submitted as schools that were interested in the
14 funding.

15 Q So it's district practice to apply on behalf of
16 eligible schools?

17 A Yes.

18 Q And why is that district practice in place?

19 A We felt that if there was additional funding to
20 help these low performing schools, we should take
21 advantage of the opportunity.

22 Q What is the scope of your involvement with that
23 II/USP process?

24 A My involvement is very limited. I delegate
25 that to a regional superintendent, and a regional

1 superintendent then has an administrator on special
2 assignment who manages those programs.

3 Q Have you received any feedback from principals,
4 students, parents, teachers, regarding the II/USP
5 program?

6 A Well, some feedback, but not much.

7 Q Okay. What has been the nature of the feedback
8 that you have received?

9 A The teachers have appreciated the professional
10 development. They have had an opportunity to
11 participate in professional development activities that
12 they would have not been able to attend without that
13 funding. And the principals have had an opportunity to
14 have coaches working with them and with their schools
15 that they would not have been able to afford without the
16 funding.

17 Q Aside from the professional development and the
18 coaches, how else do the schools spend the II/USP funds?

19 A I think they buy some materials, instructional
20 materials, and frankly, I really don't know in detail
21 how they spend the money. What I'm focused on are the
22 results.

23 Q And what are the results?

24 A Well, right now we're making good progress.

25 Q And that's shown by the standardized test

1 scores?

2 A Not only the state test scores but the district
3 scores.

4 Q What standardized district assessments do you
5 have in place?

6 A The Open Court assessments are done -- we
7 implemented that three times a year. We're doing
8 something else, a web based -- a reading fluency test.
9 We are doing a district-wide testing in mathematics for
10 some eighth grade -- I think it's eighth grade students.
11 And I'm not sure, but I think we're starting now, the
12 second semester, district-wide testing with High Point,
13 and we're collecting data in our Read 180 program at the
14 high schools.

15 Q Okay. Great. And does this data get analyzed
16 in the same way that the state standardized test scores
17 get analyzed?

18 A Yes, but not as broadly. And I haven't sat in
19 on any data analysis yet of High Point or Read 180, but
20 I know that the regional sups and the literacy
21 department are looking at those numbers.

22 Q Okay. So the district test scores have also
23 shown an improvement --

24 A Yes.

25 Q -- in student performance?

1 MS. LEE: Can we take a short break, please?

2 (Recess.)

3 BY MS. LEE:

4 Q When was the last CCR review process for your
5 district?

6 A Last year.

7 Q What was the scope of your involvement?

8 A It was very limited.

9 Q And who was the main person from the district
10 that was involved with the CCR review?

11 A An administrator named Liz Torio.

12 Q What is her --

13 A She was a coordinator of GATE, CCR, EQR, WASC,
14 W-A-S-C.

15 Q Did the CCR review process inform you of any
16 problems with the district that you didn't already know
17 about?

18 A No.

19 Q Do you know if a -- the curriculum in your
20 district was reviewed as a part of the CCR process?

21 MS. WELCH: Objection, vague.

22 THE WITNESS: I don't know. I don't know about
23 that.

24 BY MS. LEE:

25 Q Okay. Do you know whether there are any

1 findings of noncompliance that were identified?

2 A Yes, there were.

3 Q And what were they?

4 A Well, I don't know -- I couldn't tell them to
5 you specifically, but they were in the areas of GATE,
6 EL, and I'm not sure where else. Those were the two
7 that I paid particular attention to.

8 Q And what steps are -- have been taken by you or
9 somebody else on your staff to address those findings of
10 noncompliance?

11 A Well, those -- we are required, under the
12 regulations of CCR, to write detailed improvement plans,
13 and so we have written those plans, and I believe most
14 of them have been signed off by now.

15 Q Okay.

16 A I'm not sure all of them have.

17 Q By "signed off," do you mean --

18 A Approved by the state.

19 Q Okay. As being resolved?

20 A Yes.

21 Q What are some ways that you think the CCR
22 review process could improve?

23 A Well, I think it would be helpful if it was
24 more of a partnership in doing a review. In other
25 words, a district and the state work together in

1 identifying concerns and then resolving those concerns.

2 Q How would you characterize the review process
3 as it is now?

4 A It's a process designed to be implemented
5 exactly the same across the entire state, and it's a
6 very top down one-sided process.

7 Q Do you think that top down one-sided process is
8 less effective in improving education?

9 A Yes, I do.

10 Q Do you think that having the CCR process as it
11 is now improves the quality of education for students in
12 West Contra Costa?

13 A No.

14 Q Why not?

15 A Because we are going way beyond, above and
16 beyond, what is in the CCR compliance review, and we are
17 really focused on improving academic achievement.
18 Whereas, that review is limited to compliance with the
19 state rules and regulations.

20 Q Do you think it would improve the quality of
21 education for students in the district if the CCR
22 process was a more stringent system of oversight?

23 A No.

24 Q Why not?

25 A Because more oversight doesn't mean that you're

1 A Well, we are using the assessments found in the
2 language arts materials that we adopted, and they are
3 all standards based.

4 Q Okay.

5 A Same thing is true with math.

6 Q What is the -- is there a similar program
7 installed for mathematics?

8 A Well, the math adoption was done a couple of
9 years ago. We are not currently collecting math data
10 district wide, but it is being evaluated -- assessed and
11 evaluated at the school level.

12 Q Okay. And the language arts implementation
13 plan that's referred to under that bullet point, is that
14 the Open Court program that they're referring to or
15 something else?

16 A Well, it's a written plan for the literacy
17 program. There's a specific plan that's written out
18 talking about phase one of implementation. Phase two is
19 being written for next year.

20 Q Okay. What does phase one of implementation
21 involve?

22 A It involves purchase and delivery of materials,
23 training of teachers, classroom walk-throughs, principal
24 training, a variety of things.

25 Q Okay. Could you turn to -- the page numbers

1 meeting the needs of students in the school district.

2 That means that you're spending more time focusing on
3 compliance, not on high levels of academic achievement.

4 MS. LEE: I'd like to mark as Exhibit 6, West
5 Contra Costa Unified School District, the Third Six
6 Month Progress Review done by FCMAT dated January 2nd,
7 2003.

8 (Defendant's Exhibit 6 was
9 marked for identification.)

10 BY MS. LEE:

11 Q The exhibit contains the executive summary of
12 the Third Six Month Progress Review and also has the
13 Pupil Achievement and Facilities Management sections of
14 that review. Doesn't contain all five of the areas of
15 review.

16 Could you turn to page nine of this executive
17 summary. In the first bullet point in the middle of
18 page it states that "The district has begun to implement
19 a standards based assessment program in mathematics and
20 language arts."

21 Is that a true statement of the district
22 currently?

23 A Yes.

24 Q And what is that standards based assessment
25 program?

1 start and stop again, depending on the section, so I
2 know it's a little confusing, but page one of Pupil
3 Achievements, and if you could take a look at number
4 two. What is -- what exactly is "Focus on Results" that
5 is referred to in this paragraph?

6 A That's a consulting group that does training
7 for our administrators and leadership teams, and they
8 are -- their primary contact is located in Boston, but I
9 think a couple of the consultants actually reside here
10 in California.

11 Q And does this consulting program provide
12 teacher coaching at the school site level?

13 A Not teacher coaching, no, but it is
14 specifically training for principals and their school
15 leadership teams.

16 Q How often do they provide training?

17 A Once a month.

18 Q Could I direct you to paragraph five where it
19 refers to "Principals are required to attend workshops
20 and meetings."

21 How often are those workshops?

22 A Well, they meet with Focus on Results or
23 Leading for Racial Equity or some kind of core training,
24 c-o-r-e, on a monthly basis, and then they have
25 additional meetings by region and sometimes by special

<p style="text-align: right;">Page 233</p> <p>1 topic also. I would say they probably attend two or 2 three meetings per month, maybe more. Some during the 3 day, some after school, some in the evening. 4 Q And aside from these meetings, are -- what 5 other professional training do principals and 6 administrators of schools receive? 7 A Well, principals, as do teachers, attend 8 conferences regionally, the state level, national level, 9 and there are occasional other workshops for principals, 10 such as workshops around special education, gifted and 11 talented, EL, special needs. 12 Q Okay. Could you turn to page three of Pupil 13 Achievement and look at paragraph D where it states that 14 "Standards based levels are being generated for language 15 arts and ELD." 16 Could you describe in more detail what 17 standards base levels are being generated for the ELD 18 students? 19 A Well, we're using the state tests and our own 20 language arts materials to identify where students are 21 and then developing action plans to prescribe their 22 instruction. 23 Q Okay. And when it says "standards based," are 24 they referring to state standards? 25 A Yes.</p>	<p style="text-align: right;">Page 235</p> <p>1 paragraph under number one. It starts, "District has 2 developed." Are you familiar with the lesson planning 3 templates for ELD teachers? 4 A No, I'm not. 5 Q Okay. Do you know who generates these 6 templates? 7 A The ELD department. 8 Q Are you familiar with the homework policy? 9 A Yes, I am. 10 Q Could you describe the homework policy, please? 11 A Well, it's a description of what the 12 expectations are of students and parents and teachers in 13 relationship to homework. It's a general statement 14 that's included in the district basic commitment 15 document. 16 Q What do you think will be the benefits of 17 having a homework policy in the district? 18 A Well, the research says students who do 19 homework achieve higher, so we hope it contributes to 20 higher student achievement. 21 Q And what will be done to enforce the district 22 homework policy? 23 A Well, that's done by the school at each 24 individual school. 25 Q So the principals will have the responsibility?</p>
<p style="text-align: right;">Page 234</p> <p>1 Q Under paragraph I it refers to a MAST, Math and 2 Science Team. Are you familiar with that program? 3 A Yes. 4 Q What exactly does MAST do? 5 A The MAST teachers, there are a couple of 6 teachers from each school, go to professional 7 development training and then they go back to their 8 schools and engage all of the teachers at their schools 9 in school based professional development. 10 Q How is the MAST program funded? 11 A I don't know. 12 Q Under paragraph two it refers to a director of 13 language arts who has been hired to oversee the language 14 arts implementation. Who is your director of language 15 arts for this year? 16 A Actually, it's the director of literacy, and 17 his name is Harlan Kerr, K-e-r-r. 18 Q K-e-r-r. 19 And what exactly are his duties? 20 A He's responsible for implementing the literacy 21 program. In particular this year, the language arts 22 adoption and all of the professional development support 23 related to those adoptions. 24 Q Could you turn to page five under Pupil 25 Achievement. If you could take a look at the second</p>	<p style="text-align: right;">Page 236</p> <p>1 A Yes. 2 Q Okay. Could you turn to page eight under 3 Facilities Management. Under Facilities Management, not 4 Pupil Achievement. 5 A Different consultant groups prepare the 6 reports. 7 Q If you can look at paragraph number one. It 8 refers to a bond oversight committee, governing board 9 and a district facility staff all working together on 10 the bond revenues. Could you describe in more detail 11 exactly what these committees are and how they work 12 together? 13 A The bond oversight committee is composed of 14 community members who are appointed by board members and 15 cities and county supervisors. They meet, I think, 16 monthly and review how we are spending our bond money. 17 Of course, the governing board, the school 18 board, receives regular updates and opportunities to 19 hear recommendations and then take action on 20 recommendations on how we're spending our facility's 21 money. 22 And we hired a team, an architectural company 23 and engineering company that work together under the 24 direction of the assistant superintendent for operations 25 to do all of the master planning and master engineering</p>

1 on our facilities projects so they all meet together.
 2 The associate superintendent for operations is
 3 responsible for all of that work in his division.

4 Q Okay. And who is on the district's facilities
 5 staff, would that be the associate superintendent?

6 A Associate superintendent is head of that
 7 division, and then there's, you know, director of
 8 facilities, there's the chief operations officer,
 9 there's assistant director of facilities, maintenance
 10 and operations staff, ground staff. A lot of people.
 11 In that division is police services, safety, food
 12 services, management information systems, all -- it's
 13 all of the operations departments in the district.

14 Q Okay. And which of these -- the bond oversight
 15 committee or the governing board or the district
 16 facilities staff, which of these determines the
 17 priorities in terms of how the bond money will be spent?

18 A The board.

19 Q The board?

20 A Staff makes recommendations, board approves or
 21 not.

22 Q And what's the role of the bond oversight
 23 committee in determining priorities?

24 A In the law, the bond oversight committee is
 25 expected to report to the public and monitor how the

1 monies, the bond monies, are being spent in the school
 2 district. That's their responsibility.

3 Q Okay. So they just monitor?

4 A Uh-huh.

5 Q What does the governing board take into
 6 consideration when setting these priorities?

7 A Primarily the staff recommendations.

8 Q Okay. And what are the staff recommendations
 9 based on?

10 A Well, the staff, for example, in looking at the
 11 39 elementary schools, worked with the master architect
 12 and the master engineer to determine which schools
 13 should come first in the reconstruction program. And so
 14 that included information from the engineer about
 15 seismic, the condition of the building, et cetera, and
 16 all of that data was put together and a priority list
 17 was presented to the board.

18 Q Okay. And will the governing board be the body
 19 that will determine whether the four secondary schools
 20 that you mentioned will be completely rebuilt versus
 21 just reconstructed?

22 A Yes, they will.

23 Q And do you know when they will make that
 24 decision?

25 A I think it's going to be on the agenda of the

1 first meeting in May. I'm not positive. May or June.

2 Q And where does -- the reconstruction of
 3 secondary schools, where is it in the rank of priorities
 4 with the reconstruction of the elementary schools and
 5 other modernization projects that are envisioned?

6 A It's running simultaneously. The bond measure
 7 to start the reconstruction of the elementaries passed
 8 first, about a year and a half earlier, than the one to
 9 work on secondaries, so it's about a year behind but
 10 it's moving along. So we will have somewhere around 23
 11 schools under construction in about a year and a half.

12 Q Okay. Does that mean --

13 A That's my guesstimate.

14 Q Does that mean the elementary -- just to get
 15 this clear, the elementary reconstruction was determined
 16 to have more priority or it's just a different set of
 17 funds?

18 A It's a different set of funds, and that bond
 19 measure was passed before the secondary bond measure.

20 Q Okay. Going back to -- do you know whether
 21 certain schools out of the four will have more priority
 22 over others in terms of which ones will get
 23 reconstructed first?

24 A Are you talking about the secondary schools?

25 Q Yes.

1 A Well, of the five secondary schools, I expect
 2 the work will proceed simultaneously. It will all be
 3 concurrent work.

4 Q Currently, are there enough funds that will
 5 cover the reconstruction of those four secondaries?

6 A Those five.

7 Q Five.

8 A We certainly hope so. It all depends on how
 9 the bids come in.

10 Q Okay. Could you turn to page 14 of Facilities
 11 Management. Right under Professional Standard it states
 12 that "Procedures are in place for evaluating the work
 13 quality of maintenance and operation staff."

14 Are you aware of this?

15 A Yes.

16 Q And could you describe some of the procedures?

17 A Well, my understanding is that they have, in
 18 the operations division, established some kind of
 19 checklist. I'm -- I haven't seen them, but I've been
 20 told about what they're doing, and we also use a
 21 district adopted evaluation process.

22 Q Okay. When was that evaluation process
 23 implemented?

24 A It's been around for a long time. It was there
 25 when I got there.

1 Q Does the district have a time line for
2 determining or identifying teacher vacancies for the
3 upcoming year?

4 A Well, this year is a most unusual year. We are
5 in the process of laying off a -- hundreds of staff, and
6 so -- we are also being told that the state will not
7 tell us what our budget is for next year until we are
8 probably going to be halfway into the budget year. So I
9 wish I could tell you we have a time line for what we're
10 going to do. We are just taking it each day step by
11 step. Normally, we have a very clear, concise,
12 predictable time line of what we do, but these are not
13 normal times.

14 Q Okay. Usually, let's just take last year as an
15 example. What would be that time line?

16 A Well, prior to the end of the school year,
17 typically in April, we would have identified our
18 enrollment projections for the coming year and we would
19 begin a transfer process where teachers could apply for
20 transfer to either schools based on anticipated
21 vacancies and then also they could transfer to a school
22 based on anticipated enrollment growth for positions
23 that would be added.

24 Q Would you start hiring new teachers at that
25 point?

1 or the district level?

2 A The person who is going to be absent calls a
3 sub finder telephone number and gives their information
4 and then the sub finder people identify the substitutes
5 and send them to the schools.

6 Q Are there instances in which there are no
7 substitutes to cover the absences?

8 A Yes.

9 Q How often does that happen?

10 A I don't know.

11 Q Okay. Have you heard complaints from
12 principals or teachers that -- that they have to cover
13 substitute -- that they have to cover teacher absences
14 too frequently?

15 A Yes. Well, I can't tell you about the
16 frequency, but I can tell I have heard complaints.

17 Q And is the district doing anything to address
18 that issue currently?

19 A Well, we do a couple of things. We continually
20 recruit substitutes and we also try hard to manage our
21 master schedules so that there aren't several major
22 professional development activities going on on the same
23 day taking teachers out of the classrooms.

24 Q Okay. And what's done to recruit substitutes?

25 A I'm assuming they advertise in the newspaper

1 A Once the transfer rounds are completed, which
2 is in May and June, then we start hiring new teachers.

3 Q After June?

4 A Right.

5 Q Are you aware of any schools in your district
6 that started this past school year without all the
7 teaching positions filled?

8 A No, I'm not.

9 Q You testified during the first day that there
10 were district internship and pre-internship programs to
11 assist teachers in obtaining their full credits. Are
12 you aware of anything else that the district does?

13 A We have a BTSA program, B-T-S-A.

14 MR. STURGES: Actually, before the response,
15 I'm going to object as asked and answered.

16 THE WITNESS: We have a BTSA program. It's the
17 Beginning Teacher Support and Assessment program funded
18 by the state. We also have a peer assistance and review
19 program funded by the state, another program we expect
20 to disappear next year. And we have a department called
21 the New Teacher Support Department that provides support
22 to new teachers in our district.

23 BY MS. LEE:

24 Q Are substitute teachers for teacher absences on
25 a day-to-day basis, are those filled at the school level

1 and at various other venues. I really don't have the
2 details.

3 Q Okay. Do you know what criteria is used by the
4 district to determine if substitutes are qualified?

5 A No, I don't.

6 Q Are you aware if there's currently a shortage
7 of qualified teachers teaching EL in your district?

8 A I'm not aware of that, no. I guess I don't
9 know what you mean by "qualified."

10 Q Having the CLAD credentials.

11 A I don't know where we stand on that.

12 Q Okay. Do you know if there's any staff
13 development particularly aimed at EL teachers?

14 A Yes, there is regular staff development for EL
15 teachers.

16 Q Okay. And any programs or staff development
17 designed to encourage non-credentialed EL teachers to
18 get their credentials?

19 A Well, all of the people coming out of the
20 universities now are required to come out with a CLAD or
21 BCLAD. So people who are finishing their credential
22 enter the district with it. And many of the teachers
23 who graduated several years ago are working on getting
24 their CLAD credential now.

25 Q And what do you base that statement on?

1 A Well, we are encouraging them. Our EL
2 population is at 30 percent, approximately, and growing.
3 And what we're saying to the staff is, if you want to
4 teach in our district, you need to have a CLAD or BCLAD.

5 Q Was having a CLAD or BCLAD one of the criteria
6 by which you said you hoped to work the teacher layoffs
7 around?

8 A We -- when we went into the layoff hearings, we
9 asked to be able to skip over CLAD and BCLAD and special
10 education teachers in the layoff process, as opposed to
11 using straight seniority.

12 Q Okay. And do you know what --

13 A No ruling yet from the administrative law judge
14 has been received.

15 Q Okay. Do you know if the district conducts a
16 survey of EL students for feedback on their school
17 experience?

18 A I don't know.

19 MS. LEE: I'd like to mark as Exhibit Number 7
20 a document entitled, WCCUSD Program for English Learners
21 Centralized Services Provided by ELD Services.

22 (Defendant's Exhibit 7 was
23 marked for identification.)

24 BY MS. LEE:

25 Q If you could take a moment to review the last

1 A Well, subsequent to the state's mandated use of
2 the CELDT tests, that's now the test that's used
3 annually for all students, and it's C-E-L-D-T.

4 Q Does the -- is the RAP Center also responsible
5 for redesignation of students?

6 A No, they're responsible for the assessment.
7 The redesignation process takes place -- involving the
8 school, the teachers, the principal, the parents.

9 Q What's involved in that process, if you know?

10 A They collect the data on the student's
11 achievement on assessments and classroom achievement and
12 make a decision as to whether or not the student will be
13 redesignated.

14 Q Could you turn to page four of this document
15 under Training and In Service. The first bullet point
16 under Training and In Service states that "CLAD and
17 BCLAD preparation series and addition review sessions
18 are provided for teachers in training."

19 Do you know if that's currently true?

20 A Yes, it is.

21 Q And are these preparation series and review
22 sessions, do they take place at the district level or at
23 the school sites?

24 A At the district level.

25 Q If you look at bullet point number two, are you

1 four bullet points on the page.

2 What is ELD services?

3 A English language development services.

4 Q And could you describe --

5 A Well, it's an instructional program designed to
6 support the needs of English learners, whatever content
7 area it is.

8 Q And who is -- how is ELD services staffed?

9 A Well, EL services are not a distinct program.
10 They are delivered by classroom teachers who have had
11 training in the appropriate instructional strategies and
12 content.

13 Q Okay. The third bullet point from the bottom
14 refers to a RAP Center. Do you know what that's
15 referring to?

16 A That's the assessment center.

17 Q What does the assessment center do?

18 A They assess the student's language proficiency
19 upon entering the district.

20 Q And after entering the district, do you know
21 how often they assess ELD students?

22 A Well, all of the students are assessed at least
23 once a year, not necessarily at the RAP Center but at
24 the school level.

25 Q And using what tests?

1 aware if Spanish classes are currently being provided
2 for these teachers in need of these units to complete
3 their CLADs?

4 A Yes, I believe they are.

5 Q Is this also at the district level?

6 A Yes.

7 Q Is the district currently involved in the
8 Lawrence Hall of Science Title VII Beam program?

9 A I don't know.

10 Q And the Title VII SABER Career Ladder?

11 A Yes, we are.

12 Q Can you describe that program, please.

13 A That's a program for instructional assistants
14 who are seeking to complete the university training to
15 get their teaching credentials.

16 Q Okay. Do all ELD classes currently have
17 primary language aides?

18 A I don't know.

19 Q Okay. Can you turn to page five of this
20 document. If you look at the first bullet point under
21 New Teacher Support where it says, "Multiple training
22 series and coaching opportunities are provided for all
23 new bilingual and SDAIE teachers."

24 Could you describe some of these multiple
25 training opportunities?

1 A Well, the trainings for bilingual and SDAIE
2 teachers are around using the instructional materials
3 and the appropriate instructional strategies to help
4 students learn the content.

5 Q Okay. Would that be the same training that
6 they receive described in bullet point number two,
7 training in district ELD curriculum, or is that
8 something else?

9 A No, it's the same thing. One is talking about
10 instructional strategies and one is talking about the
11 content, the curriculum.

12 Q Okay. Are you aware of mentor projects for EL
13 learners?

14 A No, I'm not.

15 Q Okay. Could you turn to page six of this
16 document. It says, "The district ELD curriculum is
17 developed, teachers are trained in the delivery of this
18 curriculum."

19 Are you aware of a district ELD curriculum?

20 A Yes.

21 Q And is it currently implemented in all the
22 schools?

23 A Well, they're supposed to be implementing it,
24 and my assumption is, yes, they are.

25 Q What do you know about its -- what stage it's

1 Q So it's a state plan implemented at district
2 level; is that correct?

3 A Yes.

4 Q Are there ELD coaches at the schools with high
5 EL student populations?

6 A I don't know about the ELD coaches.

7 Q Okay.

8 A I'm sorry. I feel bad I don't know about that.
9 There probably are and I don't know. It's hard to know
10 everything --

11 Q Yeah, I understand.

12 A -- in a district this big.

13 Q Who on your staff would be -- would know that?

14 A There are two people. Toni Oklan-Arko, who is
15 a director of state and federal categorical programs,
16 and then Susan Dunlap who is the coordinator of EL
17 programs.

18 Q You testified during your -- do you need a
19 break?

20 A No, I'm fine.

21 Q You testified during your first day that there
22 was an informal practice in place in the district
23 requiring that each student is provided their own
24 textbook to take home; is that correct?

25 A Yes.

1 in in terms --

2 A I don't. I don't have any detailed
3 information.

4 Q Okay. Does the district ELD curriculum also
5 revolve around a certain set of instructional materials?

6 A Yes.

7 Q And what are those instructional materials?

8 A Well, they are instructional programs and
9 textbooks, such as the program I mentioned earlier
10 called Language. In fact, now at the middle school and
11 high school level, we're using the High Point materials
12 for language arts classes for EL students.

13 Q Okay. So EL students have access to standards
14 aligned EL curriculum materials; is that correct?

15 A Yes, they do.

16 Q Do you have a general sense of the
17 redesignation rate of EL students in West Contra Costa?

18 A No, I don't.

19 Q Are you aware of a district master plan for
20 English learners?

21 A Yes.

22 Q What is that district master plan?

23 A Well, that is the entire plan required by the
24 state that tells how we serve, assess and redesignate
25 our English learners.

1 Q Is this practice followed?

2 MS. WELCH: Objection, calls for speculation.

3 THE WITNESS: I don't recall that I said each
4 person has a textbook to take home. I think I said each
5 person has a textbook. Is it followed, my assumption is
6 yes.

7 BY MS. LEE:

8 Q Okay. So do students have a textbook to take
9 home in West Contra Costa currently?

10 A That's my assumption.

11 MR. STURGES: I'm going to caution you not to
12 speculate.

13 THE WITNESS: I don't know.

14 BY MS. LEE:

15 Q Based on your school visits, the reports from
16 your regional superintendents, your conversations with
17 teachers, principals, students, do you have any reason
18 to think that each student does not have a textbook to
19 take home?

20 A No.

21 MS. WELCH: Objection, calls for speculation.

22 BY MS. LEE:

23 Q So to the best of your knowledge, this practice
24 is followed?

25 MS. WELCH: Same objection.

1 THE WITNESS: Yes.

2 BY MS. LEE:

3 Q Is this practice of requiring the students
4 having a textbook to take home, is it written down?

5 A No.

6 Q Do you think it would make any practical
7 difference if it were written down?

8 MS. WELCH: Objection, calls for speculation.

9 THE WITNESS: No.

10 BY MS. LEE:

11 Q Do you think it would improve the quality of
12 education if you had to report to the state that each
13 student had a textbook to take home?

14 MS. WELCH: Same objection.

15 THE WITNESS: We report annually to the state
16 about our -- the status of our textbooks, and in that
17 report we state that it is our expectation that each
18 student has or will have by the end of that school year
19 a textbook in the core curriculum areas.

20 BY MS. LEE:

21 Q Is there a district policy or informal practice
22 requiring that students be provided their own textbooks
23 in class, that means they don't have to share classroom
24 copies?

25 A Yes, that's an expectation.

1 Q So do you know if that practice is followed in
2 the schools in your district?

3 MS. WELCH: Objection, calls for speculation.

4 THE WITNESS: I assume it is. I'm not
5 monitoring it myself.

6 BY MS. LEE:

7 Q Okay. But based on your reports.

8 A It's my expectation.

9 Q Okay. Is this practice written down, that
10 students have their own classroom copy?

11 A No.

12 Q Do you think it would make any difference if it
13 were written down?

14 MS. WELCH: Objection, calls for speculation.

15 THE WITNESS: No.

16 MS. LEE: I'd like to mark as Exhibit Number 8
17 a document that says, Instruction Equipment, Books and
18 Materials at the top, Bates stamped DTWC7301.

19 (Defendant's Exhibit 8 was
20 marked for identification.)

21 BY MS. LEE:

22 Q If you could look at the second paragraph. The
23 first sentence of that paragraph states that "The
24 superintendent or designee shall develop procedures for
25 determining the obsolescence of instructional materials."

1 Could you describe what those procedures are?

2 A Well, we do -- we follow the state's textbook
3 adoption calendar fairly closely. Of course, that's
4 always based on whether or not we have money to buy
5 instructional materials. But textbooks in the state of
6 California come up for review and adoption approximately
7 every seven years, so it's expected that a textbook, a
8 basic textbook, in the core curriculum area will be
9 updated every seven years.

10 Now, the state has, of course, changed that
11 recently, in that they have adopted new materials that
12 are standards based, and so, for example, we were using
13 the language arts program that had only been in place
14 for four years and then the state came out and said your
15 materials are not standards based, and if you want to
16 use state textbook money to buy additional language arts
17 materials, you have to buy new ones that have been
18 approved by the state board of education, so we did.
19 And we go through the process on an annual basis, as I
20 said, following that routine that the state has put in
21 place, and determining whether or not we will buy new
22 textbooks.

23 Q Is there a policy or a practice in place at the
24 district requiring that these students be provided with
25 textbooks in good condition?

1 A I don't know. Let me read the board policy and
2 I'll tell you.

3 Q You can take a few more minutes to --

4 A Board policy is only a few thousand pages long,
5 I may have missed this one. Maybe you should tell me,
6 is it in here?

7 Q I wasn't planning to point you to anything,
8 that's all I'm going to commit to.

9 A I would say it's on expectation that we have
10 books in good condition.

11 Q To the best of your knowledge, do the students
12 at West Contra Costa have books in good condition?

13 MS. WELCH: Objection, calls for speculation.

14 THE WITNESS: Yes.

15 BY MS. LEE:

16 Q So you haven't heard anything in your reports
17 from regional superintendents or conversations with
18 teachers, principals, students, that would lead you to
19 believe otherwise?

20 A No.

21 Q Is there a procedure for schools to be able to
22 place emergency orders of books when enrollment is
23 unexpectedly high or there are missing or damaged books?

24 A Yes.

25 Q What is that procedure?

1 A Well, if we don't have any extra books in the
2 warehouse on hand, then they get on the group wise
3 Internet within the school district and put out a call
4 to their fellow principals and ask for response on extra
5 textbooks, that's the emergency response. Beyond that,
6 if they then -- we start ordering to backfill. We'll
7 order books. It can take up to a couple of weeks,
8 sometimes longer, to get textbooks.

9 Q If they have to be ordered from the publisher?

10 A Right.

11 Q Do books go from the publisher through the
12 district to the schools, or are they ordered -- do they
13 go straight from the publisher to the schools?

14 A They come into our warehouse where they are
15 checked in and then distributed out to the schools.

16 Q Are there any procedures or practices in place
17 for distributing textbooks, time lines, policies, et
18 cetera?

19 A Yes, there's an annual process for doing a
20 textbook inventory, identifying which books you might be
21 short on, and then those books are ordered for the whole
22 district.

23 Q Okay. And can you describe further what that
24 time line --

25 A Well, it happens in the spring. They do it in

1 conjunction with their enrollment projections.

2 Q Who is responsible for that at the district?

3 A The chief academic officer.

4 Q When are textbooks distributed to the schools
5 from the warehouse?

6 A Well, as quickly as they can get them unpacked
7 and packed up to distribute to the schools. And if the
8 materials are ordered in the summer, they take them out
9 before school starts. Sometimes we order materials
10 midyear and they'll come in during the middle of the
11 school year.

12 Q Okay. What does the district do to enforce the
13 timely distribution of text to the schools before school
14 starts?

15 A Well, based on what we can control, once the
16 books arrive to us, you know, we've got an ordering
17 system in place that the books are ordered before school
18 ends, and then we rely upon the publishers. And when
19 the state goes down to two books, for example, as they
20 did with two core language arts texts for the entire
21 state, puts a huge burden on the publishers, so the
22 publishers sometimes are not very timely, but as soon as
23 the books come in, we move them out of the warehouse,
24 and we do monitor our warehouse delivery system.

25 Q Do you think it would improve the quality of

1 education if there were state policies and procedures in
2 place governing the purchasing and distribution of
3 textbooks?

4 A No.

5 Q Why not?

6 A I just -- that one takes my breath away. I
7 just think it would be another layer of bureaucracy
8 which would slow us down and have us spend more money
9 hiring people to do work that can be done at the local
10 level.

11 Q Do you think it would improve the quality of
12 education if there were requirements -- if you were
13 required to report to the state on your distribution --
14 that the distribution of textbooks were timely to the
15 schools?

16 MS. WELCH: Objection; vague, calls for
17 speculation.

18 MR. STURGES: It's a bit convoluted, Counsel,
19 would you rephrase a bit? I think you got caught up in
20 the middle there.

21 MS. LEE: I'll just start again.

22 Q Do you think it would improve the quality of
23 education if you were required to report to the state
24 that books were distributed on a timely fashion?

25 A No.

1 MS. WELCH: Same objection.

2 BY MS. LEE:

3 Q Why not?

4 A I don't see any nexus between the quality of
5 education and reporting on the timeliness of
6 distribution of textbooks.

7 Q Regarding all the textbook issues that we've
8 just been talking about, availability of books in the
9 classroom, their good condition, availability to take
10 them home, their distribution and -- strike
11 distribution -- do you think it would be preferable if
12 there were state policies on these matters?

13 A No.

14 I was waiting for an objection.

15 MR. STURGES: Actually, I'll object to it as
16 being vague.

17 You can answer if you're able.

18 THE WITNESS: No.

19 BY MS. LEE:

20 Q Why not?

21 A I don't believe that placing more restrictions
22 on all of the aspects of the textbook question will
23 improve the quality of education. I just don't see how
24 it could contribute to making any improvements.

25 Q Would increase state monitoring of these

1 textbook issues increase your ability to provide
2 textbooks to students?

3 A No.

4 MS. WELCH: Objection; calls for speculation,
5 incomplete hypothetical.

6 MR. STURGES: I need to join that. That calls
7 for a high degree of speculation.

8 You can try to answer it if you can. I think
9 you already did.

10 THE WITNESS: No.

11 I'm waiting for you to ask me the question that
12 I can answer yes to.

13 BY MS. LEE:

14 Q And why do you think it's no?

15 MR. STURGES: Please, just wait for the
16 question.

17 THE WITNESS: I'm sorry.

18 Increased monitoring --

19 MS. WELCH: Maybe you should ask her some
20 questions.

21 MR. STURGES: Actually, let's go home for a
22 second. I don't even know if there's a question
23 pending. If you could just --

24 THE WITNESS: I'm sorry.

25 MR. STURGES: Could we have the question read

1 schools.

2 Q And what is the maximum number of students in
3 one classroom according to the teacher contracts?

4 A Well, it depends on the grade level and the
5 subject area.

6 Q Okay. Could you --

7 A I'll give you the best I can remember. K
8 through three, it's 20 to 1. Four through five at the
9 elementary level, it's 33 to 1. Then when you get into
10 secondary levels, EL classes are limited to -- or the
11 SDAIE classes are limited to 25. Core curriculum
12 classes, I believe, are 33. PE and band classes are
13 somewhere around 40. And there may be other
14 restrictions that I can't recall.

15 Q Does the district conduct projections for the
16 number of future enrollments?

17 A Yes, we do enrollment projections each year.

18 Q During what month of the year?

19 A Typically that's done in April.

20 Q And are those enrollment projections done
21 school by school or district wide?

22 A School by school.

23 Q Are there any plans to build additional
24 portables, or are the plans focused around just
25 reconstructing permanent buildings?

1 back, please.

2 (Record read.)

3 THE WITNESS: No.

4 BY MS. LEE:

5 Q Why not?

6 A There is nothing about the monitoring function
7 that would help me provide the quantity and quality of
8 textbooks that I need to provide.

9 Q Just to be clear on that, I know you men- --
10 you just mentioned -- so the district has followed the
11 adoption cycles for textbooks?

12 A Since I've been there, yes.

13 MS. LEE: Can we take a short break?

14 (Recess.)

15 BY MS. LEE:

16 Q Are there any policies or procedures at West
17 Contra Costa relating to the number of students allowed
18 to enroll in each school?

19 A Yes.

20 Q And what are those policies?

21 A Well, we have an agreement with the United
22 Teachers of Richmond as to class size per grade level,
23 and that every teacher has to be teaching in classrooms,
24 so based on the number of classrooms and the
25 teacher-student ratio, we limit the enrollment at our

1 A There are no plans for future portables that
2 I'm aware of right now. In fact, we're planning to move
3 people who are currently in portables into permanent
4 construction as we reconstruct.

5 Q Who determines how many janitors are staffed
6 per school?

7 A The operations division.

8 Q Do you have any idea what the staffing ratio,
9 number of custodians to number of students are?

10 A No, I don't. No.

11 Q I know we discussed this, but could you remind
12 me, who is responsible for oversight of all the
13 maintenance that goes on?

14 A Vince Kilmartin, associate superintendent for
15 operations.

16 Q Do you know what the procedure is for
17 responding to a request from the school sites for
18 repairs?

19 A They write a work order and submit a work order
20 to the maintenance and operations department.

21 Q In your opinion, is district maintenance
22 understaffed?

23 A Yes.

24 Q How many more maintenance workers would you
25 need in order to consider the staff adequately filled?

1 A I don't have a number, but I know the
 2 maintenance department would like to have more
 3 maintenance workers and custodians.
 4 Q Does the fact that they need more workers
 5 affect their response time to requests for repairs?
 6 A Yes.
 7 Q Is anything being done to alleviate that
 8 situation?
 9 A Well, we're trying to be more efficient. We've
 10 tried a number of strategies, but we don't have the
 11 money to put a lot more people in the maintenance
 12 department.
 13 Q Aside from putting more people in the
 14 maintenance department, what are those other strategies
 15 to improve efficiency?
 16 A A couple of things, trying to be more proactive
 17 in preventive maintenance. We have sent teams out to
 18 schools called RAMBO teams -- Repair and Maintenance
 19 Buildings and Operations is what RAMBO stands for -- to
 20 go and fix a whole lot of things at a school at one
 21 time.
 22 Q Do you know, generally, how long it takes the
 23 district to respond to a request for repairs?
 24 A No.
 25 Q Is there a system for prioritizing certain

1 repair requests over others?
 2 A Yes.
 3 Q What is that system?
 4 A They determine in that department whether or
 5 not something is an emergency, and emergency is
 6 determined whether or not it affects health and safety.
 7 Q So every repair request that goes into the
 8 district is determined whether it's an emergency or not?
 9 A Yes.
 10 Q Are you aware that there are allegations in
 11 this case of broken, boarded up windows at helms
 12 remaining boarded up for long periods of time, even up
 13 to several years?
 14 A Yes, I am.
 15 Q Do you know anything about that situation?
 16 A Well, most of the windows in our older schools
 17 were put in with asbestos containing materials -- putty
 18 or whatever that stuff is that they put the windows
 19 in -- so when windows are broken, they are boarded up,
 20 and then when we have a sufficient number of windows and
 21 sufficient money, we hire people with special skills to
 22 come out and replace the windows.
 23 Q Okay. And so are there instances in which the
 24 district has left windows boarded up for a period of
 25 more than four years, let's say?

1 A Not that I'm aware of.
 2 Q What's the longest time that you're aware of?
 3 A My understanding is that we've had broken
 4 windows for a year, and then we've had a contract with a
 5 company to go and fix them.
 6 Q Is there a district policy or practice
 7 regarding response time on work orders?
 8 A No.
 9 Q To the best of your knowledge, do the schools
 10 in your district have a problem keeping the bathrooms at
 11 the schools clean and sanitary?
 12 A We have the same problem that every school has.
 13 Q Which is?
 14 A Heavy usage by children.
 15 Q Okay. Do you think that schools do a good job
 16 of keeping the bathrooms clean and sanitary, you know,
 17 keeping in mind that there is heavy usage by young
 18 children?
 19 MS. WELCH: Objection, vague.
 20 MR. STURGES: Also, is that question with
 21 respect to district schools?
 22 MS. LEE: Yes.
 23 MS. WELCH: Also calls for speculation.
 24 THE WITNESS: You know, I really can't answer
 25 that. I don't inspect the bathrooms.

1 BY MS. LEE:
 2 Q Okay. If the state required you to monitor the
 3 cleanliness of the bathrooms and whether the bathrooms
 4 are stocked, do you think that would improve the quality
 5 of education for the students in West Contra Costa?
 6 MS. WELCH: Objection; vague, calls for
 7 speculation, may call for expert testimony.
 8 THE WITNESS: No.
 9 BY MS. LEE:
 10 Q Why not?
 11 A I don't believe inspecting bathrooms will help
 12 bathrooms be cleaned or stay clean. I don't think
 13 there's a nexus.
 14 Q How about reporting whether bathrooms are
 15 cleaned and stocked?
 16 A The same answer.
 17 MS. WELCH: Also same objections.
 18 BY MS. LEE:
 19 Q Do you think it would improve the quality of
 20 bathrooms if the -- someone at the state level monitored
 21 and inspected the bathrooms?
 22 MS. WELCH: Same objections, incomplete
 23 hypothetical.
 24 THE WITNESS: Same answer.
 25 BY MS. LEE:

1 Q Do you think it would improve the quality of
2 education at West Contra Costa if there were state
3 regulations regarding the temperature of the schools?

4 A No.

5 MS. WELCH: Same objections.

6 BY MS. LEE:

7 Q Why not?

8 A I don't think there's a relationship between
9 the temperature of the schools and the quality of the
10 education.

11 Q Do you think it would improve the quality of
12 education if there were monitoring and reporting
13 requirements?

14 A No.

15 MS. WELCH: Same objections.

16 BY MS. LEE:

17 Q Why not?

18 A I don't think that will help the quality of
19 education.

20 Q What type of categorical funding do you
21 receive?

22 A State and federal categoricals.

23 Q And what percentage of your annual budget is
24 made up of categorical funding versus general funding?

25 A I don't know that off the top of my head.

1 Q Do you have some sense?

2 A No. I'll just tell you it's millions of
3 dollars.

4 Q If the amount of money in your budget remained
5 the same, would you prefer to have the categorical
6 restrictions removed on your spending?

7 A Yes.

8 Q Would that help you provide a better quality of
9 education for your students?

10 A Yes.

11 Q How so?

12 A We would be able to spend the money where we
13 felt it would best make an impact on our students. With
14 the restrictions that we have now, we're limited as to
15 how we spend the dollars.

16 Q Are you and your staff in the best position to
17 know where the greatest need for your students are and
18 where the greatest impact would be?

19 MR. STURGES: I'm --

20 MS. WELCH: Objection.

21 MR. STURGES: I'm sorry, go ahead.

22 I'm going to object that that one calls for
23 speculation. Could you please, if you're willing, of
24 course, rephrase that within her own experience or
25 something like that.

1 BY MS. LEE:

2 Q In your experience?

3 A I believe that people at the local level are
4 always best prepared, and that we in our district are
5 the best informed people in terms of how to spend money.

6 MS. LEE: Those are all my questions.

8 EXAMINATION

9 BY MS. GIORGI:

10 Q My name is Suzanne Giorgi. I'm the attorney
11 with the Department of Justice, and my clients in this
12 case are the Board of Education, State Board of
13 Education, State Department of Education and the State
14 Superintendent of Public Instruction.

15 Earlier today, and I believe also in your prior
16 deposition, you were given a variety of advisements
17 to -- if you don't understand the question, please ask
18 me to rephrase, et cetera. Do you recall those
19 advisements?

20 A Yes, I do.

21 Q I ask that --

22 MR. STURGES: Can I clarify? Do you recall the
23 instructions you received about the deposition at the
24 beginning of the last depo?

25 THE WITNESS: Yes.

1 MR. STURGES: You still understand those
2 instructions?

3 THE WITNESS: Yes, I do.

4 BY MS. GIORGI:

5 Q I just ask you to follow the same instructions
6 to my, I think, only one question.

7 A Thanks.

8 Q On your prior testimony in February 26, you
9 mentioned, I believe, Kennedy High School and that there
10 was a WASC, W-A-S-C, review. Was that in '99 or 2000,
11 do you recall?

12 A I don't recall if it was '99 or 2000.

13 Q Okay. It resulted in, I believe, a one-year
14 accreditation?

15 A Yes.

16 Q And you testified that many things had changed.
17 I believe that it was cleaner school, a lower teacher
18 turnover. And my question is, what caused Kennedy to
19 change, to make such changes?

20 A Well, a variety of steps were taken. We have a
21 new principal, a new -- completely new administrative
22 team. We provided additional resources to the school.
23 We've recruited teachers who specifically wanted to
24 teach in an urban setting. A lot of professional
25 development has taken place for the administrative team

1 and the teaching staff.

2 Q Was it the WASC review that triggered these
3 changes?

4 A No.

5 Q Was there something else?

6 A It was an assessment of where that school was
7 in terms of student achievement.

8 Q And was that assessment evaluation at Kennedy
9 High School, was that a function of your administration?

10 A Yes.

11 Q And in determining the things that needed to be
12 changed, was that a determination by your
13 administration?

14 A Yes.

15 Q And did you get input from the teachers and
16 parents and the local community?

17 A Yes, I did, and the students.

18 MS. GIORGI: Nothing else.

19 MS. WELCH: I need to take about five or so
20 minutes just to go through and kind of consolidate my
21 questions.

22 (Recess.)

23 EXAMINATION

24 BY MS. WELCH:
25

1 her at the conference, that the expectation is there
2 will be no money for instructional materials for
3 '03-'04.

4 Q Do you know if this information is reflected in
5 a document?

6 A No, I don't.

7 Q Who would know that information?

8 A The assistant superintendent.

9 Q I'm sorry, you said her name --

10 A Her name is Ruth Vedovelli.

11 MR. STURGES: Can we go off the record for a
12 second?

13 (Off the record discussion.)

14 BY MS. WELCH:

15 Q What did you say was the name of the conference
16 again?

17 A She went to CASBO. It's the California
18 Association of School Business Officials. In one of the
19 workshops she attended, I don't know who gave the
20 workshop, that information was shared.

21 Q Do you know if this is a state organized entity
22 or if it's a private entity, CASBO?

23 A CASBO is an association, a professional
24 association. So it's not state organized. And of
25 course the information she received is based on

1 Q Hi, Dr. Gladstone, my name is Leecia Welch, and
2 I'm an attorney for the plaintiffs in this matter, and I
3 promise I will keep my questions down to a minimum.

4 The first area I'd like to talk with you about
5 a little bit is textbooks. You have testified, and I
6 don't want to mischaracterize your testimony, and I know
7 the record will speak for itself, but I just want to
8 generally paraphrase or summarize so that I can get to
9 my question quickly.

10 You testified that your money for instruction
11 materials comes from the instruction materials fund
12 sources and also from your general fund; is that
13 correct?

14 A Yes. And also we buy some instructional
15 materials with categorical funds, but those are not core
16 instructional materials.

17 Q And I believe that you also testified earlier
18 today that you're not sure if -- how much money you'll
19 get, if any, from the state for instruction materials
20 for next year,

21 A That's correct.

22 Q On what do you base this statement?

23 A Our assistant superintendent for fiscal
24 services attended the business officials conference last
25 week, and that was the information that was delivered to

1 someone's opinion, because the legislature hasn't taken
2 action yet.

3 MR. STURGES: For the record, CASBO stands for
4 California Association of School Business Officers or
5 Officials.

6 THE WITNESS: I'm not sure officials. I think
7 might be officers.

8 BY MS. WELCH:

9 Q If this information is correct and you don't
10 receive funding next year, how do you plan to ensure
11 that the students in your district have the instruction
12 materials that they need?

13 A I don't know.

14 Q You talked earlier about your system for
15 ordering textbooks and distributing them. Have you made
16 any adjustments to this system or the time line that you
17 talked about in light of the current budget
18 uncertainties?

19 A No, we have not.

20 Q You've talked on a couple of occasions now
21 about your -- the successes that you've had in reducing
22 the number of emergency credentialed teachers in your
23 district since you became superintendent in 1999. And
24 you've also talked about the fact that the current
25 emergency permit holders are around because they are

1 working on their credentials and because principals have
2 been pleased with them. Is that generally correct?

3 A Yes.

4 Q Do you recall hearing anything about the
5 quality of teachers on -- I'm sorry, strike that.

6 Do you recall hearing anything about the
7 quality of teaching of emergency permanent holders
8 during the 2001-2002 school year?

9 A No, I don't.

10 Q What about the 2000-2001 school year?

11 A No, nothing -- no formal documentation, no
12 formal reporting.

13 Q Do you recall hearing anything about the
14 quality of teaching of emergency permit holders in the
15 1999-2000 school year?

16 A No.

17 Q You've also discussed that teachers in your
18 district will very likely be laid off next year; is that
19 correct?

20 A Yes.

21 Q Do you have a projection at this point of the
22 number of teacher layoffs?

23 A Approximately 300.

24 Q Do you know when this number will be
25 solidified?

1 of an after the fact objection, but the subject matter
2 of the question is inherently speculative due to the
3 state's situation.

4 MS. WELCH: I understand that. I think that's
5 clear from her testimony, too.

6 Q Have you seen -- other than what you've
7 testified to in terms of people attending hearings, have
8 you seen any kind of written documentation about how the
9 budget cuts will impact your district next year?

10 A Yes. Miss Vedovelli has developed documents
11 within our district based on the information she's
12 received from various professional sources.

13 Q How are you utilizing this information?

14 A Well, our expectation right now, based on the
15 best information we have today in terms of projected
16 cuts and projected increases, is that we will have to
17 cut \$12 million out of our general fund. And so we
18 use -- we're using that information then to determine
19 which programs we will cut back on, cut out completely
20 and which people we will layoff or reduce their
21 unemployment calendar.

22 Q Do you have a date in mind by which your
23 budgeting for next year will be completed?

24 A We're required by the state to submit our
25 budget for '03-'04 to the county office prior to June

1 A May 7th.

2 Q You also mentioned that it was your
3 understanding that the state may not be funding the TAP
4 program next year?

5 A Yes.

6 Q Is that information from the same individual
7 who attended this conference or is it from a different
8 source?

9 A It's the same source.

10 Q Are you aware of any other programs that the
11 state may not be funding next year?

12 A Well, there's a long list of potential cuts, as
13 I understand it. Some of them are percentage cuts, for
14 example, the school improvement program, and some of
15 them are deferrals. In other words, we won't receive
16 the money until after June 30th, so it will be
17 forthcoming in the next year or whenever. Deferral, we
18 may never get the money at all. For example, mandated
19 cost, we understand that may be cut, but then perhaps
20 reinstated. Since the legislature hasn't taken any
21 action right now, all we're getting is information from
22 people who are in Sacramento attending all of the
23 committee hearings and listening to what the legislators
24 are proposing.

25 MR. STURGES: Counsel, I realize this is sort

1 30th, and we will follow that state requirement, even
2 though we probably will have no budget information sent
3 to us from Sacramento.

4 Q Earlier we were talking about the II/USP
5 program, and you had mentioned that some of the schools
6 from your district that applied had not gotten funding.
7 Do you have an approximate number of how many schools
8 that was?

9 A No, I don't.

10 Q Do you know -- do you have an understanding of
11 why the schools didn't get the funding?

12 A I don't know exactly how the process worked,
13 but I understand there was some sort of a lottery and
14 that certain number of schools in the API grouping of
15 one through three were selected and then another certain
16 number of schools in the API category of four and five
17 were selected.

18 Q Based on your experience, do you think that
19 II/USP funding should be directed to schools in the
20 lower two or three deciles versus in all five?

21 A Yes, I do.

22 Q Why do you think that?

23 A Well, I think that's where the greatest need
24 is. If I were making a suggestion, I would have it be
25 the three and below.

1 Q You mentioned earlier that your district is
2 currently in the process of reviewing its ELL program.
3 Are you preparing a document as part of this review?

4 A Yes, we will have a very detailed document
5 prepared for next year.

6 Q Do you know when it will be available?

7 A No, I don't.

8 Q Do you know the name of this document?

9 A It hasn't gotten a name yet. It will be
10 something -- a report prepared and presented by the EL
11 task force.

12 Q Okay. You spoke earlier about one of the new
13 schools recently opened in your district, and I'm sorry,
14 I'm going to butcher the name, but I believe it was
15 something like Lovonya DeSchwan?

16 A DeJean.

17 Q And you mentioned that the kids, the students,
18 started in January in that -- strike that -- that the
19 school opened in January; is that correct?

20 A Yes.

21 Q Do you know where the students who are now
22 attending that school attended the first semester of
23 this school year?

24 A Yes, I do.

25 Q What school is that?

1 A Well, they were at several different schools,
2 but when they started at those other schools, for
3 example, at Portola Middle School or Nystrom Elementary
4 School, they were clustered in a class with a teacher
5 that had been designated to go. So they went in as a
6 total unit in January.

7 Q And that was the case at each of the several
8 schools?

9 A Yes.

10 Q You also mentioned that there are nine
11 elementary schools whose plans have been completed as
12 part of the bond, and I think you said that eight of
13 those schools were going to be reconstructed and one was
14 going to be destroyed and rebuilt; is that correct?

15 A Yes.

16 Q Do you know the name of the school that's going
17 to be destroyed and rebuilt?

18 A Yes.

19 Q What's the name?

20 A Hercules Elementary.

21 Q You also spoke earlier today about standardized
22 tests, and I believe that you agreed that standardized
23 tests were a helpful tool; is that correct?

24 A Yes.

25 Q But you said that they are, and I believe your

1 word was "just one piece", of what you do in order to
2 monitor student achievement. Could you tell me the
3 other pieces?

4 A Yes. Beyond a standardized norm reference
5 test, we're using the California standards test which we
6 believe is more valuable in terms of responding to
7 instructional programs and prescribing improvement
8 programs for students. We also use district level tests
9 that are based on the curriculum so they're criterion
10 referenced tests. The teachers themselves do
11 assessments in the classroom, and there are a number of
12 schools that do some school wide assessments that they
13 have developed themselves. You take all of those pieces
14 and you put them together to help you make decisions and
15 plans for individual students.

16 Q You mentioned earlier that you have heard some
17 complaints about substitute teachers at times; is that
18 correct?

19 A Yes.

20 Q If you recall, are the complaints worse for
21 particular schools in your district than for others?

22 A Yes.

23 Q Do you recall which schools have a more
24 difficult time?

25 A Our inner city -- schools that are designated

1 as inner city schools, higher levels of poverty, those
2 schools have a more difficult time getting substitutes.

3 Q Do you have an understanding of why that is?

4 A My understanding is that there are concerns
5 about -- from substitutes about going into some of the
6 neighborhoods where the schools are located. They don't
7 feel safe. There are no parking lots, they have to park
8 their cars on the street. Cars are vandalized
9 occasionally. They don't feel comfortable working with
10 the students in those schools. There's probably a lot
11 more reasons, but those are the ones that I hear.

12 MR. STURGES: Thanks, that's it for my
13 questions.

14 MS. LEE: We're all done.

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9 I, GLORIA JOHNSTON, do hereby declare under
10 penalty of perjury that I have read the foregoing
11 transcript of my deposition; that I have made such
12 corrections as noted herein, in ink, initialed by me,
13 or attached hereto; that my testimony as contained
14 Herein, as corrected, is true and correct.
15 EXECUTED this ____ day of _____,
16 2003, at _____, _____.
(City) (State)

17
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19 _____
GLORIA JOHNSTON
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3
4 I, the undersigned, a Certified Shorthand
5 Reporter of the State of California, do hereby certify:

6 That the foregoing proceedings were taken
7 before me at the time and place herein set forth; that
8 any witnesses in the foregoing proceedings, prior to
9 testifying, were placed under oath; that a verbatim
10 record of the proceedings was made by me using machine
11 shorthand which was thereafter transcribed under my
12 direction; further, that the foregoing is an accurate
13 transcription thereof.

14 I further certify that I am neither
15 financially interested in the action nor a relative or
16 employee of any attorney of any of the parties.

17 IN WITNESS WHEREOF, I have this date
18 subscribed my name.

19
20 Dated: _____
21
22 _____

23 ANA VIDA REID
24 CSR No. 11926
25