

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

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4 ELIEZER WILLIAMS, a minor, by
5 Sweetie Williams, his guardian ad litem,
6 et al., each individually and on behalf
7 of all others similarly situated,
8 Plaintiffs,

9 vs.

No. 312236

10 STATE OF CALIFORNIA, DELAINE EASTIN,
11 State Superintendent of Public
12 Instruction, STATE DEPARTMENT OF
13 EDUCATION, STATE BOARD OF EDUCATION,
14 Defendants.

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15 Deposition of
16 WILLIAM (BILL) L. PADIA
17 Volume II, Pages 241 through 407
18 Friday, October 5, 2001

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22 Reported by:
23 TRACY LEE MOORELAND
24 CSR No. 10397
25 Ref No. 29408

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1 BE IT REMEMBERED, that on Friday, October 5,
2 2001, commencing at the hour of 9:56 a.m., thereof, at
3 the Law Offices of Morrison & Foerster LLP, 400 Capitol
4 Mall, Suite 2600, Sacramento, California, before me,
5 TRACY LEE MOORELAND, a Certified Shorthand Reporter in
6 the State of California, there personally appeared
7 WILLIAM (BILL) L. PADIA,
8 called as a witness herein, who, having been previously
9 duly sworn to tell the truth, the whole truth, and
10 nothing but the truth, was thereupon examined and
11 interrogated as hereinafter set forth.

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13 (Mr. Hamilton and Mr. Jordan not present.)

14 EXAMINATION BY MR. JACOBS

15 MR. JACOBS: Mr. Virjee, do you stipulate that
16 the witness is previously sworn and that this is a
17 continuation of the previous deposition?

18 MR. VIRJEE: Of course.

19 MS. READ SPANGLER: Shall we put our
20 stipulation regarding objections on the record? We've
21 been having a stipulation that if one party, other than
22 you, makes an objection, that it's deemed that everyone
23 else is joined so that we don't have to keep saying
24 "joined."

25 MR. JACOBS: I certainly agree to that.

1 (Mr. Jordan entered the room.)

2 Q. BY MR. JACOBS: Do you see the reference there
3 to nonacademic indicators?

4 A. Yes.

5 Q. And do you see the reference to staff
6 attendance rates?

7 A. Yes.

8 Q. Can you tell me the history of the
9 consideration of staff attendance rates as a nonacademic
10 indicator so far as you had some involvement with the
11 consideration of that indicator?

12 MR. VIRJEE: Objection. Calls for speculation.
13 Lacks foundation.

14 MS. READ SPANGLER: Assumes facts not in
15 evidence.

16 THE WITNESS: May I read this paragraph?

17 MR. JACOBS: Of course.

18 THE WITNESS: Okay. Could you read the
19 question.

20 MR. JACOBS: Could you read it back.

21 (Record read.)

22 MR. VIRJEE: Objection. Also vague as to time
23 and vague as to "history."

24 History with respect to the Department of Ed or
25 what?

1 And I take it you agree to the first
2 stipulation?

3 MS. READ SPANGLER: Yes, I do.

4 MR. JACOBS: Let's go off the record for a
5 second.

6 (Discussion held off the record.)

7 Q. BY MR. JACOBS: Dr. Padia, I'd like to ask you
8 about the topic of the inclusion of the nonacademic
9 indicator staff attendance rates in the API.

10 And maybe just to start us off, let me show you
11 some minutes from a superintendent's advisory committee
12 Public Schools Accountability Act of 1999 meeting dated
13 April 26th, 1999, and we'll mark this as the next
14 exhibit.

15 (Exhibit SAD-134 was marked.)

16 Q. BY MR. JACOBS: And I'm going to refer you to
17 page 4 of 7.

18 MR. VIRJEE: Any particular place?

19 MR. JACOBS: Yeah, right in the middle.

20 Q. Actually, I can't resist asking you to start
21 with time line of activities, because apparently you had
22 to give some presentation without electricity.

23 A. That's correct. This, I believe, was the first
24 meeting of the Public School Accountability -- PSAA
25 committee.

1 MR. JACOBS: Why don't you answer as best you
2 can, please.

3 THE WITNESS: The PSAA advisory committee
4 considered this issue early on and, based on the fact
5 that the data were not readily available, decided to
6 table the issue until such time as a comprehensive
7 student information system was operational in the state
8 of California.

9 Q. BY MR. JACOBS: The idea of possibly including
10 staff attendance rates in among the nonacademic
11 indicators, when did you first hear of that possibility?

12 A. I heard about it during the legislative
13 hearings on the bill. That's when I first became aware
14 of that it might become part of the actual legislation,
15 which, indeed, it was later.

16 Q. And did the legislation embody some flexibility
17 for the nonacademic indicators to be designed by the
18 State Board of Education and -- let me start over again.

19 I take it that it is not required without
20 flexibility that staff attendance rates be included in
21 the API; is that correct?

22 MR. VIRJEE: Objection. Vague and ambiguous as
23 to "required."

24 Are you asking what the legislation requires?

25 MR. JACOBS: Yes.

1 MR. VIRJEE: That calls for a legal conclusion.
2 Also the legislation speaks for itself.

3 THE WITNESS: The legislation calls for the
4 inclusion of these indicators when they're accurate and
5 reliable.

6 The PSAA advisory committee, based on
7 discussions and presentations from department staff and
8 others, concluded they're neither available and,
9 therefore, not reliable or accurate at this point in
10 time.

11 Q. BY MR. JACOBS: Did you participate in
12 discussions in which the possible benefits of including
13 staff attendance rates as a nonacademic indicator were
14 outlined?

15 MR. VIRJEE: Objection. Vague as to time and
16 also vague and ambiguous as to "discussions."

17 Are you talking about at the PSAA committee?

18 THE WITNESS: I was present at the PSAA
19 committee when they discussed nonacademic indicators,
20 yes.

21 Q. BY MR. JACOBS: How about other fora in which
22 that was discussed?

23 MR. VIRJEE: Objection. Vague as to time.
24 Also vague and ambiguous as to "fora."

25 THE WITNESS: I don't recall any other

1 aware of any other follow-up to try to gather staff
2 attendance rate data?

3 MR. VIRJEE: Objection. Vague and ambiguous as
4 to "follow-up."

5 THE WITNESS: No, I'm not aware of any.

6 Q. BY MR. JACOBS: As you sit here today, do you
7 see benefits to including that particular indicator in
8 the API --

9 MR. VIRJEE: Objection. Calls for speculation.

10 MR. JACOBS: -- assuming the data were
11 available?

12 MR. VIRJEE: Objection. Calls for speculation.
13 Lacks foundation. Also calls for testimony of an
14 expert, which this witness is not competent to give.

15 THE WITNESS: The law calls for additional
16 indicators other than academic indicators. Generally
17 speaking, personally I see a benefit to such indicators.

18 Q. BY MR. JACOBS: And how about staff attendance
19 rates in particular?

20 A. It's a question really of whether technically
21 it would work. I'd have to examine the nature of the
22 distribution of staff attendance to see whether it would
23 function adequately as an indicator. I don't have any
24 philosophical objections to it. To me it's clearly just
25 a technical issue about whether it fits.

1 occasions that we talked about it.

2 Q. BY MR. JACOBS: So no internal discussions in
3 the Department? Just to focus my question, I'm talking
4 about the benefits of inclusion.

5 A. I can't recall that there was ever a discussion
6 regarding the benefits. The discussion would have
7 focused around since the law provided for it, whether or
8 not it was a -- whether there were technical ways to put
9 it in. So the answer is, no, there were no discussions
10 on the benefits of it.

11 Q. Has there been follow-up in connection with the
12 design of the CSIS to include data relating to staff
13 attendance rates?

14 MR. VIRJEE: Objection. Calls for speculation.
15 Lacks foundation.

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

17 Q. BY MR. JACOBS: Are you aware of any other
18 follow-up with respect to trying to gather that
19 information?

20 MR. VIRJEE: Objection. Vague and ambiguous as
21 to "follow-up."

22 Are you talking about the student information
23 system?

24 THE WITNESS: Would you clarify?

25 Q. BY MR. JACOBS: Aside from the CSIS, are you

1 Q. Could you explain in a little greater detail
2 how you would go about assessing whether that would be a
3 useful component of the API, assuming the data were
4 available?

5 MR. VIRJEE: Objection. Vague and ambiguous as
6 to "useful."

7 Are you talking about the technically useful
8 components, because that's what he was testifying to.

9 MS. READ SPANGLER: And calls for a narrative.

10 THE WITNESS: The issue that I would look at
11 with respect to any indicator that goes into the API,
12 and, in particular, noncognitive indicators, is whether
13 or not the data quality is good enough to use. So the
14 problem is of data collection, data reliability. Then
15 once those are assured of, then the issue is does the
16 indicator have the statistical qualities that would
17 enable it to function successfully in the API system.

18 Q. BY MR. JACOBS: Are you assuming for purposes
19 of that analysis that the data itself is correlated with
20 student performance?

21 A. I'm not assuming any such thing.

22 Q. But I could gather data on a lot of things
23 accurately, but they wouldn't necessarily be relevant to
24 the API, to a useful API. How do you consider what
25 would be relevant?

1 A. The law says it's relevant, so therefore I
2 would look at it from the perspective of inclusion based
3 on what the law says.
4 Q. Because the law included it, you would take
5 that as a given in terms of its relationship to what the
6 law is trying to achieve?
7 MR. VIRJEE: Objection. Vague and ambiguous as
8 to "a given."
9 THE WITNESS: Yes.
10 MS. READ SPANGLER: And calls for a legal
11 conclusion.
12 Q. BY MR. JACOBS: Just let me ask the global
13 question. Are you aware of any plans to try to obtain
14 staff attendance rates -- staff attendance rate data for
15 inclusion in the API?
16 MR. VIRJEE: Objection. Calls for speculation.
17 Lacks foundation.
18 THE WITNESS: No.
19 Q. BY MR. JACOBS: Is that topic in any way, to
20 your knowledge, on anyone's working agenda in the
21 Department of Education?
22 MR. VIRJEE: Objection. Calls for speculation.
23 Lacks foundation. Vague and ambiguous as to "working
24 agenda."
25 THE WITNESS: I'm not aware of anything.

1 Q. BY MR. JACOBS: Let's turn to a summary of the
2 PSAA.
3 MR. JORDAN: While she's getting that, do you
4 have an extra copy of that?
5 MS. WELCH: That's yours.
6 MR. JORDAN: What's the number on it?
7 MR. VIRJEE: 134.
8 MR. JORDAN: Thank you.
9 (Exhibit SAD-135 was marked.)
10 Q. BY MR. JACOBS: This is a document printed from
11 the CDE website that's 19 pages in length, and it's been
12 marked as Exhibit 135.
13 Did your office prepare this document?
14 A. Yes.
15 Q. It was printed out on April 9th, 2001.
16 Are you aware of any changes to the form of
17 this document as it now appears on the website?
18 MR. VIRJEE: Objection. Calls for speculation.
19 Lacks foundation. Calls for a side-by-side comparison
20 with what's on the website now.
21 THE WITNESS: I don't know whether this
22 document includes any changes that may have occurred
23 since the original chaptering of the bill.
24 Q. BY MR. JACOBS: Have there been any legislative
25 changes since the Public School Accountability Act of

1 '99 was enacted that would lead to someone in your
2 office needing to revise this?
3 MR. VIRJEE: Objection. Calls for speculation.
4 Lacks foundation. Also calls for a legal conclusion.
5 THE WITNESS: There have been a couple of bills
6 that have affected certain aspects of the education code
7 as embodied in this document, and I can't recall all of
8 them.
9 Q. BY MR. JACOBS: Can you recall any of them?
10 A. There was one bill last year, Senate Bill 1552,
11 that changed the statutes related to the II/USP program,
12 and other technical corrections that I don't recall at
13 the time.
14 Q. Any others that you have in mind?
15 A. Not that I recall.
16 (Mr. Hamilton entered the room.)
17 Q. BY MR. JACOBS: Can you take a look at the
18 discussion -- description of the II/USP program. It
19 starts on page 5.
20 MR. VIRJEE: Is there a specific part you want
21 him to look at?
22 Q. BY MR. JACOBS: I wanted to know whether this
23 looks to be a current description of the statute as you
24 understand it.
25 MR. VIRJEE: The description, for the record,

1 is from page 5 to page 14, as far as I can tell, so it's
2 rather lengthy. Again, I think that calls for a
3 side-by-side comparison. It also calls for speculation.
4 THE WITNESS: The only way I could really
5 answer this question is to get the Bill 1552 side by
6 side with this and go through it in detail, otherwise I
7 can't speculate.
8 Q. BY MR. JACOBS: Do you recall any of the
9 particular changes that 1552 made to the II/USP program?
10 A. No.
11 Q. What is the intent of your office in putting a
12 document in this form on the website?
13 A. This document was placed up very early after
14 the passage of Senate Bill 1X. Our intent was to
15 reorganize the bill in a way that's more user friendly
16 for districts to look at and be able to understand.
17 Q. If you look at section 2D on the first page,
18 the legislative intent, it states, to remedy this, the
19 state is in need of an immediate and comprehensive
20 accountability system to hold each of the state's public
21 schools accountable for the academic progress and
22 achievement of its pupils within the resources available
23 to schools.
24 Do you see that?
25 A. Yes.

1 Q. As you understand the Public Schools
2 Accountability Act, the evolution of the implementation
3 of the Act, in what way has the phrase within the
4 resources available to schools been reflected in that
5 implementation?
6 MR. VIRJEE: Objection. Calls for speculation.
7 Lacks foundation. Also calls for a legal conclusion.
8 Also vague and ambiguous as to "reflected."
9 THE WITNESS: I don't really know.
10 Q. BY MR. JACOBS: When you say you don't know, do
11 you mean you can't think of any way that it has been
12 reflected?
13 A. No, it means I don't know what they mean by
14 this statement. This statement is in the intent section
15 of the bill. Intent sections tend to be more
16 philosophical in nature and not directive.
17 Q. Is there any component of the API that you
18 regard as reflective of the resources available to
19 schools?
20 MR. VIRJEE: Objection. Calls for speculation.
21 Vague and ambiguous as to "reflective of the resources
22 available." Calls for expert opinion.
23 THE WITNESS: I don't really know what they
24 would mean here by "resources."
25 Q. BY MR. JACOBS: Is there any interpretation of

1 THE WITNESS: There's nothing I'm aware of in
2 the API system that has to do with facilities.
3 Q. BY MR. JACOBS: Same question with respect to
4 training level of teachers.
5 MR. VIRJEE: Same objections. Also vague and
6 ambiguous as to "training level of teachers."
7 THE WITNESS: I'm not sure what you mean by
8 "training level of teachers," so I can't answer the
9 question.
10 Q. BY MR. JACOBS: Start with fully-credentialed
11 as opposed to emergency-credentialed teachers. Is there
12 any component of the API that reflects whether at a
13 particular school site there's a high ratio of
14 emergency-credentialed teachers?
15 MR. VIRJEE: Objection. Vague and ambiguous as
16 to "reflects." Also vague as to time.
17 THE WITNESS: The credentialing condition of
18 teachers is not a component of the API.
19 Q. BY MR. JACOBS: Is there any component of the
20 API that you regard as closely correlated with the
21 credentialing component of the teachers?
22 MR. VIRJEE: Objection. Vague and ambiguous as
23 to "closely correlated." Vague as to time. Calls for
24 speculation. Lacks foundation.
25 THE WITNESS: If you ran a correlation with the

1 the phrase "resources" that comes to mind to you that
2 you believe is reflected in the API?
3 MR. VIRJEE: Objection. Vague and ambiguous as
4 to "resources" and "reflected in the API." Also vague
5 as to time.
6 THE WITNESS: I wouldn't want to speculate.
7 Q. BY MR. JACOBS: The API does not take into
8 account per pupil expenditures, does it?
9 MR. VIRJEE: Objection. Calls for speculation.
10 Lacks foundation. Calls for a legal conclusion. Also
11 vague and ambiguous as to "take into account."
12 THE WITNESS: Per pupil expenditures are not
13 included in the API.
14 Q. BY MR. JACOBS: Is there any component of the
15 API that you regard as closely correlated with per pupil
16 expenditures?
17 MR. VIRJEE: Objection. Vague as to time.
18 Vague and ambiguous as to "closely correlated."
19 THE WITNESS: No.
20 Q. BY MR. JACOBS: And is there any component of
21 the API that reflects the quality of the facilities
22 available at a particular school site?
23 MR. VIRJEE: Objection. Vague and ambiguous as
24 to "reflects," "quality." Also vague as to time. Also
25 calls for speculation.

1 API and percent credentialed, you would find a
2 correlation, and it would be greater than zero.
3 Q. BY MR. JACOBS: Have you run such a
4 correlation?
5 MR. VIRJEE: Objection. Asked and answered.
6 THE WITNESS: I believe that we have run a
7 correlation since this indicator is one of the
8 background factors that's included in our similar
9 schools characteristics index.
10 Q. BY MR. JACOBS: The development of the similar
11 schools characteristics index, what options did the
12 legislation leave you in designing the components of
13 that index?
14 MR. VIRJEE: Objection. Calls for speculation.
15 Also calls for a legal conclusion. Also the legislation
16 speaks for itself. Vague and ambiguous as to "options."
17 THE WITNESS: The legislation specifies, I
18 believe, 14 indicators to use in the development of the
19 school characteristics index.
20 Q. BY MR. JACOBS: And given that identification
21 of 14 indicators, what administrative flexibility was
22 there in selecting additional indicators or removing
23 indicators from the list?
24 MR. VIRJEE: Objection. Calls for speculation.
25 Calls for a legal conclusion.

1 THE WITNESS: We wouldn't add indicators that
2 weren't on the list, but we would look at the technical
3 capabilities of the indicators that were on the list,
4 and we have a technical design group that looks at
5 issues like this.

6 Q. BY MR. JACOBS: Did the -- the credentialing
7 component was specified by statute?

8 A. Yes.

9 Q. In designing the weighting to be given to
10 various components of the similar schools index, did the
11 statute specify that?

12 MR. VIRJEE: Objection. Statute speaks for
13 itself. Calls for a legal conclusion.

14 THE WITNESS: No, it did not specify rates.

15 Q. BY MR. JACOBS: Did your office establish
16 those -- make recommendations with respect to those
17 weightings?

18 A. No.

19 Q. How was that work done?

20 A. The weightings are not specified on priority,
21 the weightings rather are an outcome of the statistical
22 analysis that we used in developing the school
23 characteristics index.

24 Q. Done on a one-time basis with intended
25 prospective application for several years?

1 Q. And if that school that pulls up its unique
2 list regards its placement on that list as inaccurate,
3 is there any mechanism to respond to that?

4 MR. VIRJEE: Objection. Vague and ambiguous as
5 to "inaccurate." Also calls for speculation.

6 THE WITNESS: If a school had a particular
7 complaint about that, we would look into the data that
8 was used to generate the list for their specific school,
9 and if there was an error, then we would respond
10 accordingly.

11 Q. BY MR. JACOBS: So how many times have you run
12 the multiple linear regression equation to develop a
13 similar schools index?

14 MR. VIRJEE: Objection. Vague and ambiguous as
15 to "run."

16 MR. JACOBS: That wasn't very good.

17 Q. For how many years now have you actually
18 created an SSI?

19 A. We created it for the first time last year, and
20 we will create another one this year in January.

21 Q. Have you started that process, that is, the
22 process for the one you'll publish in January?

23 MR. VIRJEE: Objection. Vague and ambiguous as
24 to "started the process."

25 THE WITNESS: We have not begun the analysis of

1 A. No, done on an annual basis.

2 Q. So can you describe that process?

3 A. Yes. Each year we collect background
4 information for use in the school characteristics index
5 and we run what's called, as I think I described in my
6 earlier deposition, a multiple linear regression
7 equation, which then yields the actual weights that are
8 used in the production of the school characteristics
9 index. We then, out of that, publish the list of
10 similar schools each year in January.

11 Q. Is there a process to revise the list based on
12 input gathered after the publication?

13 A. I don't think I understand your question.

14 Q. You publish the list with the idea that if
15 someone who sees the list regards the similar schools
16 correspondence as inaccurate, that they can provide you
17 with information as to why they think that's true?

18 MR. VIRJEE: Objection. Calls for speculation.
19 Lacks foundation.

20 THE WITNESS: Would you define what you mean by
21 "list"?

22 Q. BY MR. JACOBS: I understood you to say that
23 you publish a list of similar schools in January?

24 A. Yes, it's a unique set for each school, so each
25 school pulls up its own list of 100 similar schools.

1 that yet.

2 Q. BY MR. JACOBS: Is one of the things that you
3 will do -- will you again run the multiple linear
4 regression equation and establish weightings for the
5 components of the SSI?

6 A. Yes.

7 Q. And will that be done from scratch, or will it
8 take as a baseline the previous year's weightings?

9 MR. VIRJEE: Objection. Compound. Also
10 assumes one or the other. Vague and ambiguous.

11 THE WITNESS: The process is that we do it each
12 year anew, this is because characteristics of schools
13 change from year to year. So to assure that we have the
14 most accurate data, we do it annually.

15 Q. BY MR. JACOBS: Is the weighting given to each
16 component in the SSI also published?

17 A. Yes.

18 Q. And available on the website?

19 A. Yes.

20 Q. And if I understood your earlier testimony, you
21 don't have in mind the possibility that out of -- out of
22 the Department of Education itself, there might be
23 additional components included in the SSI as opposed to
24 some legislative change?

25 MR. VIRJEE: Objection. Asked and answered.

1 His testimony speaks for itself.
 2 MS. READ SPANGLER: And misstates his
 3 testimony.
 4 THE WITNESS: That's correct, I don't have any
 5 in mind.
 6 Q. BY MR. JACOBS: Are you aware of any evaluation
 7 of the -- are you aware of any evaluation of the SSI's
 8 reliability?
 9 MR. VIRJEE: Objection. Vague and ambiguous as
 10 to "reliability" and "evaluation." Also calls for
 11 speculation.
 12 THE WITNESS: I have no idea what you mean by
 13 that question.
 14 MR. JACOBS: If you didn't understand it, then
 15 it must not have been very good.
 16 Q. As I understand it, the legislature specified
 17 the 14 components and you run the multiple linear
 18 regression analysis to determine the weightings of the
 19 components. And so I'm wondering whether you're aware
 20 of any outside party who has analyzed the total effect
 21 of that and said in one way or other, yes, this is a
 22 high-quality SSI or, no, there are ways that the SSI
 23 needs to be improved.
 24 MR. VIRJEE: Objection. Vague and ambiguous.
 25 Calls for speculation.

1 THE WITNESS: We have our own set of quality
 2 control on this through interaction with the technical
 3 design group, which is an outside group of experts that
 4 looks at these data and advises us on its use.
 5 Q. BY MR. JACOBS: Does that group have as a
 6 possible role evaluating whether the list of indicators
 7 or components, rather, should be expanded or contracted?
 8 A. No.
 9 Q. So I guess that's what I was getting at. If
 10 you take the design of the SSI as you have these 14
 11 components and you run a multiple linear regression
 12 analysis to establish the weightings of the components,
 13 leaving aside issues like quality control on data, are
 14 you aware of any evaluations of the overall structure of
 15 the SSI?
 16 MR. VIRJEE: Objection. Vague as to time.
 17 Are you asking since it was legislatively put
 18 in place?
 19 MR. JACOBS: Yes.
 20 THE WITNESS: I'm not aware of any.
 21 Q. BY MR. JACOBS: Does the advisory committee
 22 have any role in evaluating the structure of the SSI?
 23 MR. VIRJEE: Objection. Vague and ambiguous as
 24 to "evaluating" and "structure." Vague as to time.
 25 THE WITNESS: The technical design group makes

1 recommendations to the PSAA advisory committee. With
 2 respect to the school characteristics index, they
 3 examined the recommendation from the TDG, and they
 4 accepted it.
 5 Q. BY MR. JACOBS: And how about on larger
 6 structural issues, does the advisory committee have as
 7 its charter reviewing the overall structure of the SSI
 8 and proposing possible revisions?
 9 MR. VIRJEE: Objection. Vague and ambiguous as
 10 to "larger structural issues."
 11 You mean as to including or excluding one of
 12 the 14 factors?
 13 MR. JACOBS: Or the process of weighting.
 14 MR. VIRJEE: Calls for a legal conclusion.
 15 Calls for speculation. Lacks foundation.
 16 THE WITNESS: The advisory committee generally
 17 works within the confines of the law and responds to
 18 their charter with respect to that structure.
 19 Q. BY MR. JACOBS: And the charter does not
 20 include looking at the components of the SSI or the
 21 weightings given --
 22 A. No, it includes looking at them, but it doesn't
 23 include going beyond what's there.
 24 Q. In what way does it include looking at them?
 25 A. In the sense that they look at the

1 recommendations from the technical design group about
 2 how they operationalize the definition for each of those
 3 indicators. They then accept that or not. In this case
 4 they did.
 5 Q. So, for example, the particular data sources
 6 used to populate the individual components?
 7 A. Yes.
 8 Q. I'd like to take you back to the early days of
 9 this effort and the Steering by Results study.
 10 And we'll mark as the next in order a copy of
 11 the report that we printed out from the CDE website.
 12 MR. VIRJEE: Just for the record, what you've
 13 provided to me has a number of different pages stapled
 14 together and then clipped together. Is this intended to
 15 be one entire document for the exhibit, or are they
 16 different documents?
 17 MR. JACOBS: I think you'll see that, for
 18 example, the first 1 of 2 is a table of contents to a
 19 document that starts again at 1 of 1 later on, but we
 20 believe we assembled it correctly. Individual chapters,
 21 for example, start over again.
 22 MR. JORDAN: It's the only way you can print it
 23 off the website.
 24 MR. VIRJEE: My question was just why you had
 25 it separated -- in separate integral pieces. I didn't

1 know if you wanted it as one document.
 2 MR. JACOBS: It is. For purposes of this
 3 deposition, it will be a single exhibit.
 4 MR. VIRJEE: Great. Thanks.
 5 (Exhibit SAD-136 was marked.)
 6 MR. JORDAN: I've got some stapled together if
 7 it would be more convenient for anybody.
 8 MR. JACOBS: With you?
 9 MR. JORDAN: Yeah.
 10 MR. VIRJEE: Is there a particular part of the
 11 document that you want the witness to look at?
 12 MR. JACOBS: We'll go through it.
 13 Q. Dr. Padia, what was your role in the
 14 preparation of this report?
 15 MS. READ SPANGLER: Actually, there's a part of
 16 the report -- no, I found it. Sorry.
 17 THE WITNESS: I was the department person in
 18 charge of staffing the report -- the committee rather.
 19 Q. BY MR. JACOBS: In practice, what did that mean
 20 in terms of your work on the report?
 21 A. In practice we set all the meetings up, we
 22 worked with the committee members in developing the
 23 report, and did all the usual kinds of staff work
 24 associated with any kind of committee work.
 25 Q. Did you do the drafting work on the report?

1 MR. JORDAN: When you say "you" --
 2 MR. JACOBS: We'll get to that.
 3 MR. VIRJEE: Objection. Vague and ambiguous as
 4 to "drafting work."
 5 MS. READ SPANGLER: And "you."
 6 MR. JACOBS: We'll get there.
 7 THE WITNESS: As staff we often would prepare
 8 the original drafts for the committee's reaction. In
 9 some cases the committee members themselves would write
 10 portions of this, so it's mixed.
 11 Q. BY MR. JACOBS: Looking at the forward, it's
 12 about five or six pages in, it states that the -- that a
 13 rewards and interventions advisory committee was
 14 convened by the superintendent of public instruction.
 15 Do you see that?
 16 A. Yes.
 17 Q. And is that the same committee under whose
 18 auspices this report was issued?
 19 A. Yes.
 20 Q. And then it was styled as a report to the
 21 superintendent of public instruction; is that correct?
 22 A. Yes.
 23 Q. Do you have information on what the flow was
 24 after it was presented to her; in other words, in terms
 25 of the next steps, did she present it to the State Board

1 of Education, was it immediately sent over to the
 2 legislature? What's your understanding of that process?
 3 MS. READ SPANGLER: If you have one.
 4 MR. VIRJEE: Objection. Calls for speculation.
 5 Lacks foundation.
 6 THE WITNESS: Since this was a legislatively
 7 mandated report, the flow would have gone from the
 8 superintendent to the legislature.
 9 Q. BY MR. JACOBS: And in establishing the
 10 legislation that asked for the report, did you play any
 11 role in that process?
 12 A. No.
 13 Q. Do you have any understanding of where the --
 14 whether any initiative toward that legislation came from
 15 the Department of Education?
 16 A. No.
 17 Q. No, it didn't, or, no, you don't know?
 18 A. I don't know.
 19 Q. Do you see down at the bottom of page 2 of 7 of
 20 the organization and introduction section of this, it
 21 says high stakes standards based reform?
 22 A. Yes.
 23 Q. Do you continue to use the phrase "high stakes"
 24 today in your discussion of the accountability system
 25 that you are currently involved with?

1 MR. VIRJEE: Does Dr. Padia use that?
 2 MR. JACOBS: Dr. Padia, yes.
 3 Q. Is that a phrase you use and could explain to
 4 me what you mean by the words "high stakes"?
 5 MR. VIRJEE: What's meant in this document?
 6 MR. JACOBS: No, how he means it.
 7 MR. VIRJEE: Objection. Compound.
 8 THE WITNESS: I'm sorry, do you want to know
 9 what I mean by it?
 10 MR. JACOBS: I was going to ask you if you use
 11 the phrase because I'm going to ask what you mean by it,
 12 yes.
 13 THE WITNESS: Occasionally I use the phrase,
 14 yes.
 15 Q. BY MR. JACOBS: In what meaning do you give it
 16 when you use it?
 17 MR. VIRJEE: Objection. Calls for speculation.
 18 Vague and ambiguous. Vague as to time and context.
 19 THE WITNESS: Typically there are two meanings
 20 associated with high stakes. One is with respect to
 21 individual students, in which case I would not be using
 22 the term in that way.
 23 The way I use the term is with high stakes
 24 involving decisions regarding schools either through
 25 reasonably large sums of money going to the schools or

1 interventions occurring in the schools as a result of
2 actions. That would mean that it's significant from the
3 school's perspective, and therefore high stakes from the
4 school's perspective.

5 Q. BY MR. JACOBS: When this report was being
6 prepared, there's a reference to frank discussions on --
7 far-ranging and frank discussions on the forward, and I
8 want to ask about your recollections of those
9 discussions.

10 Was there discussion about the implications of
11 a high-stakes system for schools that, for whatever
12 reason, lacked the essential educational infrastructure
13 of, say, facilities or trained teachers or sufficient
14 instructional materials?

15 MR. VIRJEE: Objection. Compound. Also
16 assumes facts not in evidence. Assumes he was there for
17 those discussions. Also calls for speculation and lacks
18 foundation.

19 MS. READ SPANGLER: And vague and ambiguous as
20 to "essential educational infrastructure," and calls for
21 a legal conclusion.

22 THE WITNESS: I don't recall any such
23 discussion.

24 Q. BY MR. JACOBS: Was it implicit in the
25 discussion -- in the discussions that you recall that

1 into different subgroups, as I recall, so obviously it's
2 not possible to go to all subgroups.

3 Q. BY MR. JACOBS: Do you recall which subgroups
4 you personally focused on?

5 A. No.

6 Q. So let me ask the question. I've been asking a
7 slightly different one. Do you recall anyone in these
8 meetings saying, hold it -- in words or substance, hold
9 it, what you're doing here with this program is --
10 assumes that the schools you're working with are
11 essentially healthy operationally, and there are a lot
12 of schools in California that are not?

13 MR. VIRJEE: Objection. Calls for speculation.
14 Lacks foundation.

15 THE WITNESS: No, I don't recall that.

16 Q. BY MR. JACOBS: And nothing that approximates
17 that in your mind?

18 MR. VIRJEE: Objection. Asked and answered
19 twice.

20 THE WITNESS: No.

21 Q. BY MR. JACOBS: In the consideration of the
22 resources that were to be made available pursuant to
23 action plans --

24 MR. VIRJEE: Are you in a particular part of
25 the document?

1 the focus of this program was on improving performance
2 in schools that had the basics of an educational
3 infrastructure?

4 MR. VIRJEE: Objection. Vague and ambiguous.
5 Calls for total speculation as to what may have been
6 implicit or explicit. Also vague as to time. Also
7 assumes facts not in evidence.

8 THE WITNESS: I don't really feel I could
9 answer the question.

10 Q. BY MR. JACOBS: And why is that?

11 A. Would you repeat it again?

12 (Record read.)

13 MR. VIRJEE: I'll also object that it assumes
14 facts not in evidence. He's not testified that he
15 recalls or was present at any discussion.

16 MS. READ SPANGLER: And it's vague and
17 ambiguous as to "educational infrastructure."

18 THE WITNESS: I don't recall such discussions,
19 or whether it was implicit or explicit, frankly.

20 Q. BY MR. JACOBS: Were you present at the
21 meetings of the group that prepared this report?

22 MR. VIRJEE: Objection. Compound. Also vague
23 and ambiguous as to "meetings."

24 THE WITNESS: I believe I was present at many
25 of them, I'm not sure about all of them. But we divided

1 MR. JACOBS: Well, I'm looking at a couple
2 places where action plans appear. I'm looking at 9 of
3 20, I think, in recommendations. Start at 8 of 20 where
4 it says establish an interventions program to assist
5 low-performing schools and schools in need of
6 improvement in reaching a long-term goal.

7 Q. Do you see that?

8 A. Yes.

9 Q. And then down at the bottom of page 9 it talks
10 about action plans.

11 A. Yes, I see that.

12 Q. Was there a discussion in the preparation of
13 the report about the level of resources that would be
14 needed to effectuate the kinds of changes in school
15 performance that the report was aiming to achieve?

16 MS. READ SPANGLER: Objection. Calls for
17 speculation.

18 MR. VIRJEE: Lacks foundation. Assumes facts
19 not in evidence. Assumes he was present at all
20 discussions.

21 THE WITNESS: I believe there was some
22 discussion about what it would cost to effectuate
23 changes, yes.

24 Q. BY MR. JACOBS: And if you'd maybe refresh your
25 recollection by looking at pages 9, 10 or 11, what was

1 your understanding of the -- of the kinds of changes
2 that the funding discussion was oriented towards?

3 MR. VIRJEE: Objection. Assumes facts not in
4 evidence. Assumes there was a funding discussion. Also
5 vague and ambiguous as to "funding discussions."

6 THE WITNESS: The funding discussions that I
7 recall had to do with how much it would cost for various
8 types of interventions to occur within a school.

9 Q. BY MR. JACOBS: And those -- and the
10 interventions were of what sort that were being
11 discussed?

12 A. Well, they ran the gamut from a curricular
13 intervention program to a more comprehensive school
14 intervention program involving more or less principles
15 of how to operate a school, as opposed to focusing on a
16 specific curriculum objective.

17 Q. So I understand the first category specific
18 curriculum objectives, that would be programs aimed at,
19 say, moving to a different reading curriculum if reading
20 performance needed to be improved?

21 MR. VIRJEE: Objection. Call for speculation.
22 Lacks foundation. Calls for an expert opinion.

23 THE WITNESS: There would be examples of things
24 like that, yes.

25 Q. BY MR. JACOBS: And on the other pole that you

1 Q. BY MR. JACOBS: And the interventions program
2 was not designed to cure baseline problems with the
3 schools, was it?

4 MR. VIRJEE: Objection. Calls for speculation.
5 Lacks foundation. Vague and ambiguous as to "designed
6 to cure." Also calls for a legal conclusion.

7 MS. READ SPANGLER: And it's leading.

8 MR. VIRJEE: Also calls for an expert opinion.

9 THE WITNESS: The program was designed to focus
10 on achievement outcomes. In the case that outcomes
11 weren't being met, to provide adequate resources to
12 improve the achievement until such time as they would be
13 met.

14 Q. BY MR. JACOBS: And how do you square that with
15 your answer to the previous line of questioning about
16 funding not being oriented toward, for example, hiring
17 enough trained teachers to overcome a high percentage of
18 emergency-credentialed teachers?

19 MR. VIRJEE: Objection. Vague and ambiguous as
20 to "how do you square."

21 MS. READ SPANGLER: And misstates his
22 testimony.

23 THE WITNESS: This committee worked with the
24 premise that there are existing programs across the
25 country that are used to turn around schools that have

1 were describing, I don't understand your answer.

2 A. The other pole, I'm speaking of programs like
3 success for all where the teachers and the staff, the
4 majority of them, have to agree up front to participate
5 in it, and there's well-laid, set-out general principles
6 that the teachers and staff would adhere to.

7 Q. And that is what you put in part two of your
8 previous answer?

9 A. Yes.

10 Q. So the funding discussion was not oriented
11 toward, for example -- well, I won't do for example.

12 The discussion of funding when this report was
13 being prepared was not about the possible need to fund
14 major facilities upgrades?

15 MR. VIRJEE: Objection. Calls for speculation.
16 Lacks foundation.

17 THE WITNESS: That's my memory of it.

18 Q. BY MR. JACOBS: The funding discussion was not
19 oriented toward the need to address large numbers of
20 emergency-credentialed teachers?

21 MR. VIRJEE: Objection. Calls for speculation.
22 Lacks foundation. Assumes facts not in evidence.

23 THE WITNESS: This was not about baseline
24 funding of the schools, this report was about developing
25 outcome measures.

1 low achievement that provide "X" amount of dollars per
2 pupil.

3 It did not go into how that money might be
4 used, whether it be for the hiring of credentialed
5 versus noncredentialed teachers or whatever. It simply
6 tried to get estimates of what it would take to turn
7 around a school that wasn't meeting its target based on
8 a review of other programs that have gone on across the
9 country.

10 Q. BY MR. JACOBS: And in looking at those other
11 programs, was -- did those other programs embody a
12 similar range of interventions that -- similar to the
13 range that you described a few questions and answers ago
14 to summarize success for all on one pole, which has to
15 be adopted by a large number of teachers, or maybe a
16 less substantial curriculum change?

17 MS. READ SPANGLER: Objection. Compound.

18 MR. VIRJEE: Assumes facts not in evidence.
19 Calls for speculation. Lacks foundation.

20 THE WITNESS: Yes.

21 Q. BY MR. JACOBS: What has been your involvement
22 in evaluating the II/USP program?

23 MR. VIRJEE: Objection. Vague and ambiguous as
24 to evaluate -- or "evaluating." Also vague as to time.

25 MS. READ SPANGLER: And assumes facts not in

1 evidence.

2 THE WITNESS: The PSAA advisory committee
3 formed a separate subcommittee for evaluation, since the
4 law itself calls for the evaluation of the entire act,
5 including II/USP.

6 The subcommittee developed a set of questions
7 relating to the evaluation, presented it to the full
8 committee for agreement, which it got, and then it was
9 presented to the State Board of Education for approval
10 of the pertinent questions. The State Board of
11 Education approved the questions and authorized the
12 release of an RFP to conduct an evaluation of the PSAA
13 Act, including II/USP.

14 We at the Department produced the RFP, we
15 released it, and in the subsequent process there were no
16 bidders that successfully met the standard. That was
17 last year.

18 This year there was additional funding in the
19 state budget to once again go through the procurement
20 process. We are currently in the process of awarding
21 and evaluating proposals for that RFP.

22 Q. BY MR. JACOBS: Is the RFP on the website?

23 A. I don't believe it is.

24 Q. Is it otherwise publically available?

25 A. Yes.

1 School's In, which is a statewide annual conference the
2 superintendent sponsors.

3 Q. BY MR. JACOBS: Were there some key findings in
4 that evaluation?

5 MR. VIRJEE: Objection. Vague and ambiguous as
6 to "key findings."

7 THE WITNESS: There were a lot of preliminary
8 findings in the document, yes.

9 Q. BY MR. JACOBS: Were they distilled into a set
10 of preliminary findings in the form of 1 through 15 or
11 something like that --

12 MR. VIRJEE: Objection. Vague and ambiguous.

13 MR. JACOBS: -- finding 1, finding 2?

14 THE WITNESS: Well, we didn't number them, but
15 there were a number of findings for both CSRSD and II/USP
16 schools.

17 Q. BY MR. JACOBS: How does the CSRSD program
18 relate to the II/USP program?

19 MR. VIRJEE: Objection. Vague and ambiguous as
20 to "relates." Also calls for a legal conclusion.

21 THE WITNESS: The CSRSD program is a
22 federally-funded program which, I believe, can be
23 thought of as a subset of II/USP. It started with the
24 first year implementation. And CSRSD schools, I believe,
25 are required to use a more rigorous research model than

1 Q. Through what ordinary vehicle?

2 A. Through our office.

3 Q. Through your office. Is there any other role
4 that you've played in II/USP evaluation?

5 MR. VIRJEE: Objection. Vague and ambiguous as
6 to "II/USP evaluation" and "role." Also vague as to
7 time.

8 THE WITNESS: My office is involved in the
9 evaluation of the CSRSD, which is a comprehensive
10 reform -- comprehensive school reform design, I believe,
11 and we did conduct what I would call a formative
12 evaluation of the CSRSD schools and some II/USP schools
13 for what we call Cohort 1, which was the first set of
14 430 schools that were in II/USP.

15 Q. BY MR. JACOBS: What was the final form of that
16 evaluation?

17 A. The final form was a write-up of basically
18 preliminary findings on this.

19 Q. And to whom was that presented?

20 MR. VIRJEE: Objection. Vague and ambiguous as
21 to "presented." Also vague as to time.

22 THE WITNESS: I believe the report was -- we
23 provided a copy of the report to the PSAA committee, we
24 sent it to the legislature, and we distributed it within
25 the Department. We've given some presentations on it at

1 II/USP schools.

2 So, in essence, the first Cohort implemented
3 the first year was an II/USP school they planned for the
4 first year, so that's a major distinction between the
5 two programs.

6 Beyond that, the issue of meeting their growth
7 targets and all of that are essentially the same for
8 both.

9 Q. BY MR. JACOBS: In terms of whether one is a
10 CSRSD school or not, how is that determined?

11 A. There's a separate application process for CSRSD
12 schools.

13 Q. So it is voluntary?

14 A. Yes, both programs are voluntary.

15 Q. But a school could be in both programs
16 simultaneously?

17 A. No.

18 Q. How is that distinction maintained?

19 A. The schools decide whether or not they want to
20 go the route of the CSRSD or not.

21 Q. And if they go CSRSD, they can't also
22 participate in II/USP?

23 A. Technically they're considered an II/USP, it's
24 just a subset. So the funding, you can't get double
25 funding. Your funding is from one or the other. It's

1 the same amount of funding, just coming out of a
2 different pots.
3 Q. So what you were doing in looking at the II/USP
4 program for purposes of that study, you were looking at
5 schools that were in the overall II/USP structure, some
6 of whom were in II/USP and in the planning stages
7 because they were going down the II/USP first year
8 planning stage path, and some schools were in the CSRSD
9 structure which contemplated an action plan in the first
10 year?

11 MR. VIRJEE: Objection. Asked and answered.

12 THE WITNESS: Correct.

13 Q. BY MR. JACOBS: And the total number of schools
14 that you looked at that were CSRSD schools was what?

15 A. The study, you mean?

16 Q. Correct.

17 A. I don't recall.

18 Q. Do you have a rough rule of thumb as to the
19 proportion of II/USP schools are in one program or the
20 other?

21 MR. VIRJEE: That he looked at, or that are in
22 the program?

23 MR. JACOBS: Well, either way, I guess.

24 MR. VIRJEE: Objection. Compound. Vague and
25 ambiguous. I don't know what you're asking him.

1 THE WITNESS: Could you restate the question.

2 Q. BY MR. JACOBS: The report is currently in a
3 state of preliminary findings; is that correct?

4 A. That's correct.

5 Q. And will those findings move beyond the
6 preliminary stage?

7 MR. VIRJEE: Objection. Vague and ambiguous as
8 to "preliminary stage." Simply because they're
9 preliminary findings doesn't mean it's in the
10 preliminary stages of the report. Also vague as to
11 time.

12 THE WITNESS: That report will stand on its
13 own. As we move into this next year, we will, once
14 again, publish a list of what I would still continue to
15 call preliminary findings. This is, after all, what we
16 call a formative evaluation, which means that we're
17 looking at processes that are going on in the schools.

18 All of the conclusions that we make should be
19 viewed as tentative until we get the full body of
20 evidence from three or four years of studies.

21 MS. READ SPANGLER: Let's take a break.

22 MR. JACOBS: Okay.

23 (Recess taken.)

24 Q. BY MR. JACOBS: You were asked in day one of
25 your deposition about your role with the school

1 THE WITNESS: My estimate is of the 430 schools
2 in the first Cohort of II/USP/CSRSD, is there were, say,
3 70 to 90 schools in the CSRSD. The remainder would be in
4 II/USP. And I don't recall the sample numbers that we
5 used to do the study.

6 Q. BY MR. JACOBS: Got it. And is this report
7 available on the web?

8 A. Yes, it is.

9 Q. What's the -- is there a next stage to this
10 evaluation?

11 MR. VIRJEE: Objection. Vague and ambiguous as
12 to "next stage" and "evaluation."

13 THE WITNESS: We are required by the federal
14 government to annually look at the CSRSD schools, so we
15 are in the midst of doing a second year study now.

16 Q. BY MR. JACOBS: Is there any other way in which
17 the preliminary findings that you mentioned a few
18 minutes ago will be developed into some sort of final
19 recommendations?

20 MR. VIRJEE: Objection. Vague and ambiguous.

21 Final recommendations for those particular
22 schools, is that what you're asking?

23 Remember, if you answer his questions, he's
24 going to assume that you understand the question and
25 your answer is responsive.

1 accountability report card, and you described your
2 role -- by your I mean your office's role -- as limited
3 to designing the template.

4 Do you recall that testimony, and have I
5 accurately summarized what you said?

6 MR. VIRJEE: Objection. His testimony will
7 speak for itself.

8 You have to remember what you said in your
9 earlier deposition. You have to remember what you said.

10 If you want to ask him a question, that's fine.

11 His testimony will speak for itself.

12 THE WITNESS: I can't remember what I said
13 exactly.

14 Q. BY MR. JACOBS: Would you answer the same
15 question the same way today, or do I have to start from
16 scratch?

17 A. I would say I'm responsible for the template
18 and for putting up some statewide data up on the
19 website.

20 Q. Are you involved in a process that we heard
21 about from another witness to revise -- that's currently
22 underway to revise the template?

23 A. Staff in my office are involved in that, yes.

24 Q. Who in your office?

25 A. Bruce Gordon is the primary consultant on that.

1 Q. Does your office have a particular interest in
2 that process; in other words, is there a particular
3 angle from which you approach the revision to the
4 template?
5 MR. VIRJEE: Objection. Compound. Vague and
6 ambiguous as to "interest" and "angle." I don't know
7 what any of them means.
8 THE WITNESS: My office historically has gotten
9 the assignment to do anything associated with school
10 accountability report cards since 1988.
11 Q. BY MR. JACOBS: So your office has an overall
12 view of the school accountability report card as opposed
13 to a particular interest, such as, we happen to know
14 what data is available already, so therefore we
15 especially provide input into that aspect of the
16 template?
17 That's what I'm trying to distinguish, a
18 particular interest from an overall interest.
19 MR. VIRJEE: Objection. Vague and ambiguous.
20 Also vague and ambiguous as to "overall view of the
21 school accountability report card" for an office.
22 THE WITNESS: The school accountability report
23 card is assigned to my office. That's our interest in
24 fulfilling the obligations of that assignment.
25 Q. BY MR. JACOBS: What's the scope of the

1 Q. BY MR. JACOBS: What is the status of the work
2 to adjust the template?
3 A. The State Board, I believe it was in July,
4 approved of the recommendations for the school
5 accountability report card advisory committee regarding
6 some of the definitions that were associated with the
7 school accountability report card.
8 Q. And what work remains to be done?
9 A. There are other indicators that aren't defined,
10 and I believe we have until July of 2002 to complete
11 that work.
12 Q. And by "other indicators," you mean other
13 components of the template?
14 A. Let me distinguish between the template, which
15 is just the format structure, as opposed to the various
16 conditions that are required by law to be in the school
17 accountability report card.
18 The remaining work needs to be done on the
19 definition of the conditions which are required,
20 including some minor work with the template as well.
21 Q. So the legislation provides you with a
22 relatively short statement of a condition, and it's your
23 job to expand on that so that -- in order to provide a
24 better definition for the schools in filling out the
25 template; is that right?

1 assignment?
2 MS. READ SPANGLER: Objection. Calls for a
3 legal conclusion.
4 THE WITNESS: The current scope of that
5 assignment is to implement the passage of -- which, I
6 believe, is AB 1635, which was the most recent piece of
7 legislation which modified statutes, education code
8 related to the school accountability report cards.
9 Q. BY MR. JACOBS: Did your office play any role
10 in the development of AB 1635?
11 MR. VIRJEE: Objection. Vague and ambiguous as
12 to play a role.
13 THE WITNESS: I believe that we were consulted
14 regarding technical questions during development of that
15 bill, yes.
16 Q. BY MR. JACOBS: Do you have any information on
17 where the initiative to revise the school accountability
18 report card legislation that led to AB 1635 came from?
19 A. Well, it was sponsored by Senator Poockigian,
20 but I have no knowledge of that.
21 Q. To your knowledge, it didn't stem from some
22 initiative in the Department to propose changes to the
23 legislature?
24 MR. VIRJEE: Objection. Asked and answered.
25 THE WITNESS: Not that I'm aware of.

1 MR. VIRJEE: Objection. The legislation speaks
2 for itself. To the extent that you're asking him what
3 the legislation says, that calls for a legal conclusion.
4 THE WITNESS: As I recall, the legislation
5 requires the State Board to approve of these
6 definitions.
7 Q. BY MR. JACOBS: And you said that your office
8 is involved in some work on statewide data relating to
9 the template?
10 MR. VIRJEE: Objection. Misstates his
11 testimony.
12 THE WITNESS: Our involvement is to try to make
13 it easier for local schools and school districts to put
14 together their school accountability report card. So to
15 the extent that there is data within the Department that
16 speaks to some of the issues on the school
17 accountability report card, my office would be involved
18 in putting that information up on the website so that
19 data could be downloaded specific to that district or
20 school to make it easier for them to then display the
21 data in their local report card.
22 Q. BY MR. JACOBS: What data elements have you
23 identified as available on a statewide basis for such
24 purposes?
25 A. I'm not familiar with the details of the work

1 that's going on now, but an example would be the API and
2 SAT-9 scores, and maybe some information off of CBEDS.
3 Q. Is that task statutorily mandated?

4 MR. VIRJEE: Objection. Calls for a legal
5 conclusion.

6 THE WITNESS: I believe it is.

7 Q. BY MR. JACOBS: And in substance the statutory
8 direction that you are carrying out is what?

9 MR. VIRJEE: Objection. The statute speaks for
10 itself. Calls for a legal conclusion.

11 THE WITNESS: What I recall from the statutory
12 charge is that we are to convene an advisory committee
13 to make recommendations to the State Board of Education
14 on the definitions of the elements of the template, and
15 then, in addition, we are charged with responsibility of
16 putting up information that we have statewide on certain
17 indicators to make it easier for districts to download
18 the information.

19 Q. BY MR. JACOBS: So the charge does not include,
20 as you understand it -- strike that.

21 You're not currently engaged in a task of
22 looking in a variety of places for data that might be
23 useful to download? You understand the charge to be
24 limited to particular data elements?

25 MS. READ SPANGLER: Objection. Misstates his

1 districts?

2 MR. VIRJEE: Objection. Misstates his
3 testimony. Calls for a legal conclusion. Calls for
4 speculation. Lacks foundation.

5 THE WITNESS: Yes.

6 Q. BY MR. JACOBS: And what state is that task in?
7 MS. READ SPANGLER: What?

8 Q. BY MR. JACOBS: What stage is that task in?
9 What stage is that task in, state having
10 multiple meanings.

11 A. Which task?

12 Q. The one that we were just discussing, the
13 statewide data.

14 A. It's an ongoing task, and my best sense of it
15 today is that I don't believe that we have put any data
16 up yet. We're still in the process of figuring out the
17 proper technical format to put it up. But my sense is
18 that it will go up within the next month or so.

19 Q. And what's this timing of the preparation of
20 the school accountability report card?

21 MR. VIRJEE: Objection. Calls for speculation.
22 Are you asking about the template, or the
23 individual cards for each school district?

24 MR. JACOBS: The latter.

25 Q. How does that timing relate to the task

1 testimony.

2 MR. VIRJEE: Also to the extent you're asking
3 him what the statute says, the statute speaks for itself
4 and that calls for a legal conclusion.

5 THE WITNESS: Our charge would be with respect
6 to the data that we have control over and that we have
7 information on statewide to put that information up on
8 the Internet.

9 Q. BY MR. JACOBS: But is it open-ended in the
10 sense that if you -- that you are to go look for
11 possible data you may have on a statewide basis, or is
12 it close-ended in its scope?

13 MS. READ SPANGLER: Objection. Calls for a
14 legal conclusion.

15 MR. VIRJEE: Objection. Compound. Calls for
16 speculation.

17 THE WITNESS: My estimate is that it's
18 obviously related to the conditions that are defined in
19 the law to the extent that there is comparable statewide
20 data available for the stated conditions in the law.

21 Q. BY MR. JACOBS: So your task, then, as you
22 understood it, is to determine whether you have data
23 that corresponds to a stated condition in the law, and
24 if you have it, to make the technical arrangements
25 necessary for it to be available to the local school

1 assigned to the school districts in preparing their
2 SARC?

3 MR. VIRJEE: Objection. Calls for speculation.
4 Lacks foundation. Assumes facts not in evidence.
5 Assumes it does relate.

6 THE WITNESS: The schools are required to do
7 the school accountability report card annually. As I
8 recall, there used to be a November deadline, but I do
9 believe that that was overturned by subsequent statute.
10 I know that typically schools do it in November.

11 Q. BY MR. JACOBS: And you're trying to have it up
12 in time for this November cycle?

13 A. Yes.

14 Q. Have there been any discussions in the school
15 accountability report card advisory committee about
16 compliance rates with respect to the requirement to post
17 SARCs?

18 MR. VIRJEE: Objection. Vague and ambiguous as
19 to "compliance rates." Also calls for speculation.
20 Lacks foundation.

21 THE WITNESS: I haven't attended any of the
22 meetings for more than 10 or 15 minutes, so I didn't
23 overhear anything like that.

24 Q. BY MR. JACOBS: And aside from attendance,
25 you've never heard of such a discussion?

1 A. I haven't heard that, no.
 2 Q. Do you have any information on compliance with
 3 SARC requirements?
 4 MR. VIRJEE: Objection. Vague and ambiguous as
 5 to "compliance." Calls for speculation. Lacks
 6 foundation.
 7 THE WITNESS: I don't know what you mean by
 8 compliance of SARC.
 9 Q. BY MR. JACOBS: What's the ambiguity that
 10 you --
 11 A. I don't understand it, so I can't answer the
 12 question.
 13 MS. READ SPANGLER: Are you asking whether --
 14 MR. JACOBS: You specified the requirements at
 15 various times in your testimony that the statute imposes
 16 on local school districts, and so by compliance I mean
 17 whether local school districts are in compliance with
 18 statutory mandate.
 19 MR. VIRJEE: Objection. That misstates his
 20 testimony, and also calls for a legal conclusion. Calls
 21 for total speculation.
 22 THE WITNESS: Schools are required to do school
 23 accountability report cards. We have never monitored
 24 whether or not they've done it, and, secondly, we've
 25 never monitored, if they did it, what the quality of the

1 reporting categories would have been. There is, I
 2 believe, in 1635, a requirement for us to take a look at
 3 these report cards in the near future.
 4 Q. BY MR. JACOBS: Have you started the process of
 5 planning for that -- I'll call it a review. You called
 6 it looking at. I'll call it a review. Have you started
 7 the process of planning that review?
 8 A. I don't believe that the advisory committee has
 9 taken up that issue yet. I know that I have not been
 10 party to any such discussions yet.
 11 Q. And will the -- I'm looking at the statutes. I
 12 don't know if we have copies or not. But subsection M
 13 of 33126.1 says the State Department of Education shall
 14 monitor the compliance of local educational agencies
 15 with the requirements to prepare and to distribute
 16 school accountability report cards.
 17 Do you understand that to be the provision that
 18 you were just referring to in terms of what the statute
 19 required?
 20 A. Yes.
 21 Q. And has that function been assigned in the
 22 Department of Education to your office?
 23 A. It hasn't explicitly been assigned. It's not
 24 clear to me where that and how that would occur at this
 25 point.

1 Q. And do you understand it to be on anybody's --
 2 on any agenda to decide that issue?
 3 A. Well, certainly on my agenda to decide it
 4 because we are basically responsible for that. So I am
 5 aware of the requirement, it's just a question of
 6 working on a time line for when it would begin. Since
 7 the report cards aren't finalized until July of 2002, my
 8 sense is we would wait a while, but, again, I would have
 9 to think about it more.
 10 Q. In the design of the template for the newer
 11 version of the SARCs, are you aware of consideration
 12 being given to how the design might itself be
 13 constructed to facilitate this monitoring function that
 14 you are going to have to carry out at some point?
 15 A. No, we haven't considered that.
 16 Q. I believe one of the people I asked about this
 17 before said something along the lines of the template
 18 being -- resulting in greater standardization of the
 19 SARCs.
 20 Is that your understanding as well?
 21 MR. VIRJEE: Objection. Calls for speculation.
 22 Lacks foundation. Vague and ambiguous as to "greater
 23 standardization."
 24 THE WITNESS: A template, by definition, is a
 25 standardized document, but districts aren't required to

1 use it, so I couldn't speculate how eventually it will
 2 turn out.
 3 Q. BY MR. JACOBS: So the template you're
 4 proposing, as you understand it, the districts can have
 5 the option of whether to use the template or their
 6 current -- or some narrative form like the one they may
 7 be using now?
 8 A. Correct.
 9 Q. Now, the statute says that the superintendent
 10 of public instruction shall additionally review and the
 11 State Board of Education shall consider any empirical
 12 research data that becomes available concerning barriers
 13 to equal opportunities to succeed educationally for all
 14 California pupils, regardless of socioeconomic
 15 background. Upon obtaining this information, the Board
 16 shall evaluate whether there's any need to revise the
 17 school accountability report card.
 18 Has that statutory language been made
 19 operational in the Department of Education, to your
 20 knowledge?
 21 MR. VIRJEE: Objection. Vague and ambiguous as
 22 to "made operational," and also calls for speculation.
 23 Lacks foundation.
 24 THE WITNESS: It's not something that I've
 25 looked at at this point. It may well be something that

1 the committee has considered, but it's more likely that
 2 everyone is focused on the definition of the elements at
 3 this point, the data providing and the template
 4 development rather than that.
 5 Q. BY MR. JACOBS: There's an allocation in the
 6 statute of -- I'm looking at 33126.2. I'm sorry, I'm
 7 not reading this right. It's section 5 of the statute.
 8 The sum of \$330,000 is appropriated from the general
 9 fund to the superintendent of public instruction for
 10 allocation according to the following schedule. And
 11 then there's a subsection B, \$230,000 for two personnel
 12 years and associated data processing costs to provide
 13 support services for the implementation of sections
 14 33126 and 33126.1 of the education code, including the
 15 monitoring of compliance of local education agencies,
 16 the monitoring of the contract for the posting of
 17 standardized templates, technical assistance to local
 18 educational agencies, and the preparation of data files.
 19 My question is this, how does an allocation
 20 like that flow through to your office? What's the
 21 mechanism by which that -- by which the statute is
 22 passed and then you can go out and hire people?
 23 MR. VIRJEE: Objection. Compound. Vague and
 24 ambiguous.
 25 MS. READ SPANGLER: Calls for speculation.

1 MR. VIRJEE: Calls for speculation. And lacks
 2 foundation.
 3 THE WITNESS: The statutes provide
 4 appropriations, not allocations. These appropriations,
 5 what it basically does is set the money aside. We then
 6 have to ask for it formally in a structure that's called
 7 a budget change proposal or a BCP, which lays out how we
 8 will spend the money and sets up the positions. We did
 9 that.
 10 That goes to the Department of Finance. It
 11 then becomes part of the governor's budget, if the
 12 Department of Finance agrees with that, and then they
 13 fund it, that those steps have occurred.
 14 Q. BY MR. JACOBS: So with respect to the
 15 particular item that I mentioned, the \$230,000, you have
 16 prepared the BCP for that allocation --
 17 A. Yes.
 18 Q. -- for that appropriation, right?
 19 A. Yes.
 20 Q. And the BCP went through the process you just
 21 identified and became part of the governor's budget?
 22 A. Yes.
 23 Q. And then the budget was passed?
 24 A. Yes.
 25 Q. So now what happens?

1 MR. VIRJEE: Objection. Vague and ambiguous.
 2 THE WITNESS: Then we set up the mechanisms
 3 within the Department, money is transferred, we set up
 4 the positions, and the funding flows.
 5 Q. BY MR. JACOBS: Have you done the set-up of the
 6 positions step?
 7 A. Yes.
 8 Q. And those positions will then be in your
 9 office?
 10 A. Yes.
 11 Q. And in a particular division?
 12 A. Yes.
 13 Q. Which one will they be in?
 14 A. I'm sorry?
 15 Q. Where will they be located underneath you in
 16 the organizational chart?
 17 A. They're in the evaluation and analysis unit.
 18 Q. Have the positions been filled?
 19 A. Yes.
 20 Q. So somebody -- so that meant you now have how
 21 many incremental personnel pursuant to this
 22 appropriation?
 23 A. Two.
 24 Q. And are they currently working on the template
 25 definition?

1 A. Oh, yes.
 2 Q. And that task needs to be done before the
 3 template can be completed; is that correct?
 4 MR. VIRJEE: Objection. Vague and ambiguous as
 5 to "template," "completed."
 6 THE WITNESS: Those staff members are assigned
 7 to staff the advisory committee and then to make
 8 recommendations to the Board, so this is ongoing work.
 9 The template is a living document, if you will.
 10 Q. BY MR. JACOBS: Do you have an estimate of the
 11 percentage of their time they're working on template
 12 definitions now?
 13 MR. VIRJEE: Objection. Calls for speculation.
 14 Lacks foundation.
 15 THE WITNESS: No estimate.
 16 Q. BY MR. JACOBS: But is it your understanding
 17 that they're not currently working on the monitoring
 18 assignment specified in the statute?
 19 MR. VIRJEE: Objection. Vague and ambiguous as
 20 to "monitoring assignment."
 21 THE WITNESS: Since the definitions aren't out
 22 yet, since the template has not been developed yet,
 23 since the data have not been provided on the website
 24 yet, there's really nothing to monitor with respect to
 25 this.

1 Q. BY MR. JACOBS: So is the answer to my
2 question, you're correct?
3 A. You're correct.
4 Q. Before the break you spoke about the
5 preliminary findings about the II/USP/CSRD schools, and
6 I just want to ask you if you think that is embodied in
7 something called a research summary report?
8 MR. VIRJEE: Let's let the record reflect that
9 Mr. Jacobs is showing something to the witness. I don't
10 know what it is, but he's showing something to him.
11 THE WITNESS: I'd need to see what that link
12 is.
13 MR. JACOBS: That was our problem, the link
14 was -- there was some technical problem with getting the
15 document. Let me just show you this. It's an II/USP
16 printout. I don't need to make it an exhibit. It's
17 something from the website somewhere in the II/USP
18 program.
19 MR. VIRJEE: What was your question?
20 MR. JACOBS: Is the research summary report the
21 preliminary findings that Dr. Padia had discussed
22 earlier.
23 MR. VIRJEE: Objection. Calls for speculation.
24 Lacks foundation.
25 I don't want you to guess or speculate as to

1 what that is. If you know, please tell us.
2 THE WITNESS: This isn't off of our website --
3 I mean, off my division's website, so I don't really
4 know what this report is.
5 MR. JACOBS: Okay. Thank you.
6 Let me mark as the next exhibit the explanatory
7 notes for the 2000 academic performance index base
8 report.
9 (Exhibit SAD-137 was marked.)
10 Q. BY MR. JACOBS: This is Exhibit 137. Is this
11 document prepared by your office?
12 A. Yes.
13 Q. And the time period covered by this particular
14 report results from testing conducted in the 1999, 2000
15 academic year; is that correct?
16 A. Correct.
17 Q. So the 2001 report, when it comes out, will
18 cover the academic year 2000, 2001; is that correct?
19 A. Correct.
20 Q. And that's the one that is -- would likely come
21 out in early 2002; is that correct?
22 A. Yes.
23 Q. Looking at the first page, it says, eventually
24 the API will incorporate a number of indicators;
25 however, for 2000 the API will continue to consist

1 solely of results from the Stanford-9 norm referenced
2 assessment that is administered in conjunction with the
3 STAR program.
4 Do you see that?
5 A. Yes.
6 Q. For 2001 what indicators will the API
7 incorporate?
8 A. It will incorporate the Stanford-9 norm
9 reference assessment, and in addition it will
10 incorporate the English language arts California
11 standards based test.
12 There's an outside possibility that it would
13 also include, for grades 2 through 7, the California
14 mathematics standards test.
15 Q. What is the status of consideration for what
16 the 2002 API will consist of?
17 MR. VIRJEE: Objection. Calls for speculation.
18 Lacks foundation. Assumes facts not in evidence.
19 THE WITNESS: At this point in time neither the
20 PSAA advisory committee nor the State Board have really
21 talked about what will be in the 2002 base year.
22 Q. BY MR. JACOBS: Is there -- before the PSAA
23 advisory committee talks about or will talk about it,
24 will there be prefatory work within your office?
25 A. Yes.

1 MR. VIRJEE: Objection. Vague and ambiguous.
2 Q. BY MR. JACOBS: Has that prefatory work begun?
3 MR. VIRJEE: Objection. Vague and ambiguous as
4 to "preparatory work."
5 THE WITNESS: I'd say at this point we're
6 planning for eventualities that could occur.
7 Q. BY MR. JACOBS: And the eventualities are --
8 what kind of eventualities are you referring to?
9 A. Whether or not other indicators would come on
10 line.
11 Q. And some of that is out of your control,
12 correct?
13 A. Basically most all of it is out of our control.
14 Q. Because you're dependent on what test results
15 are available?
16 A. We're dependent on what test results are
17 available, we're dependent on what the will of the Board
18 might be and of the advisory committee, and we're
19 dependent on the technical characteristics of each of
20 the indicators that may possibly be under consideration.
21 Q. So the eventualities include the possibility
22 that existing indicators, which heretofore were not
23 included, would, for the 2002 report, be included; is
24 that one such eventuality?
25 A. Yes.

1 MR. VIRJEE: Objection. Calls for speculation.
 2 Lacks foundation.
 3 Q. BY MR. JACOBS: And another eventuality is that
 4 new indicators might come on line; is that correct?
 5 MR. VIRJEE: Objection. Assumes those are
 6 mutually exclusive. Vague and ambiguous.
 7 THE WITNESS: I guess I don't know how to
 8 answer that question.
 9 MR. JACOBS: Maybe on line was ambiguous.
 10 Q. There are existing tests that are administered
 11 and consideration might be given to, including those
 12 existing tests, that existing test data in the API,
 13 that's the first category.
 14 And my second category is that there be new
 15 tests administered that were not previously
 16 administered. That's what I meant by my two questions.
 17 Should we start it again?
 18 A. The answer would be yes to both.
 19 Q. Yes to both. And in the second category, what
 20 eventualities are you preparing for in that connection?
 21 A. Define again the second category.
 22 Q. The possibility that there might be new test
 23 instruments and their associated data available.
 24 A. If they would be new tests, then we wouldn't
 25 really be involved in that discussion, that would be an

1 assessment division question.
 2 We simply take, of the existing set of tests,
 3 which ones might go into the API. So we can't plan on
 4 the possibility that a test out two or three years from
 5 now could be used in the API until it comes on line.
 6 Q. Is it a -- is there interaction between the
 7 assessment division and your office in the sense that
 8 your office would express a desire to have particular
 9 instruments available?
 10 A. I would characterize it more in the sense that
 11 whatever comes out of the assessment system is what's on
 12 the table for our consideration to use within the
 13 confines of the law. The assessment -- state of
 14 assessment in California is driven by the State Board of
 15 Education.
 16 Q. So in that sense it is something you take as a
 17 given?
 18 MR. VIRJEE: Objection. Vague and ambiguous as
 19 to what that means.
 20 THE WITNESS: As I said, we would take the
 21 output from the assessment division, which would be
 22 whatever test that they're given, yes.
 23 Q. BY MR. JACOBS: Are you involved in any
 24 organization of accountability colleagues in other
 25 states?

1 MR. VIRJEE: Objection. Asked and answered
 2 last time.
 3 THE WITNESS: We are a member of an
 4 organization that's called CSAAS, is the acronym --
 5 which I'm not sure I can duplicate right now. It's
 6 C-S-A-A-S -- which is a subset of the council of chief
 7 state school officers. This particular suborganization,
 8 CSAAS -- there are separate subdivisions within the
 9 CSAAS network, one of them has recently formed
 10 accountability in California, and my office is a member
 11 of that organization.
 12 Q. BY MR. JACOBS: Do you participate in that?
 13 MR. VIRJEE: Objection. Vague and ambiguous as
 14 to "participate."
 15 And do you mean Dr. Padia in particular?
 16 MR. JACOBS: Yes.
 17 THE WITNESS: I attended one meeting.
 18 Q. BY MR. JACOBS: Do you intend to be a regular
 19 participant in those discussions?
 20 MR. VIRJEE: Objection. Vague and ambiguous as
 21 to "you," "regular" and "participant."
 22 THE WITNESS: My intention is to have my office
 23 represented at some of the meetings.
 24 Q. BY MR. JACOBS: And it may be you or it may be
 25 a designee?

1 A. Yes.
 2 Q. Is there information exchanged -- is there a
 3 vehicle for information exchange in this subgroup, aside
 4 from participation in meetings?
 5 MR. VIRJEE: Objection. Calls for speculation.
 6 Lacks foundation. Also vague and ambiguous as to
 7 "information exchange."
 8 THE WITNESS: There is an informal list serve
 9 for this organization.
 10 Q. BY MR. JACOBS: And by the organization, you're
 11 referring to the subgroup of accountability officers?
 12 A. Yes.
 13 Q. And what's that list serve called?
 14 A. I don't recall.
 15 Q. Have you formed a view as to -- whether through
 16 this vehicle or other vehicles, as to other states'
 17 corresponding measure to California's API, and whether
 18 it's called the API or not?
 19 And, in particular, what I want to ask you
 20 about is this issue of other indicators and whether
 21 looking at other states' academic performance
 22 indicators, you've come to a view that maybe there are
 23 some indicators that other states use that California
 24 should consider adopting?
 25 MR. VIRJEE: Objection. Vague and ambiguous.

1 Vague as to time. Overbroad.

2 THE WITNESS: We are generally aware of what's
3 going on in other states. We're driven by law, and so
4 we work within the confines of the law rather than
5 what's going on in other states.

6 Q. BY MR. JACOBS: And what's the vehicle for
7 possibly conveying to the lawmakers information you
8 gleaned from your awareness of what's going on in other
9 states?

10 MR. VIRJEE: Objection. Overbroad. Vague and
11 ambiguous as to "vehicle." Calls for speculation.

12 THE WITNESS: We are extremely responsive to
13 any requests from the legislative -- either house of the
14 legislature, so if asked what we know, we tell them. We
15 have representatives from the senate education committee
16 that are on our PSAA advisory committees, so they're
17 very much in the loop.

18 Q. BY MR. JACOBS: Are they staff members to
19 legislators, or are they legislators themselves?

20 A. They're staff members.

21 Q. Do you regard it as within your charter to
22 proactively convey to the legislature information that
23 you gather from observing other states that might be
24 useful to consider for adoption in California?

25 MR. VIRJEE: Objection. Calls for speculation.

1 California, that we would definitely communicate with
2 the PSAA advisory committee. And there are channels
3 within the Department through our legislative advocates
4 to move that information forward, the staff on the
5 various committees, and we keep them well advised of
6 this stuff.

7 Q. BY MR. JACOBS: And I take it that that has not
8 yet, to date, occurred with respect to the API, that is,
9 that since the API was adopted, you haven't learned of
10 something in another state that led to any of the
11 processes you've described in your previous answer
12 taking place?

13 MR. VIRJEE: Objection. Calls for speculation.
14 Lacks foundation. Vague and ambiguous. Also vague as
15 to "you."

16 THE WITNESS: I would say that there's a lot of
17 information floating back and forth about indicators
18 either in the API or not in the API with respect to
19 legislation that may be or may not be proposed, so it's
20 not a case that there's a formal transmission of a paper
21 on a particular issue.

22 MR. JACOBS: So that's what I think I'm getting
23 at a little. Maybe I should have just said that.

24 Q. What are the informal communications vehicles
25 for that information flowing around?

1 Lacks foundation. Vague as to time. Vague as to
2 "within your charter."

3 THE WITNESS: That's a vague question. If a
4 legislator or legislative aide asks for information
5 regarding other states, we provide it. During the
6 development of the PSAA legislation, we provided a lot
7 of information based on other states.

8 The staff in each of the subcommittees in the
9 legislature did their independent research on this, so
10 it was reasonably well known what was going on in other
11 states with respect to accountability.

12 Q. BY MR. JACOBS: And is that a static situation,
13 or are other states changing their systems as well?

14 MR. VIRJEE: Objection. Calls for speculation.
15 Lacks foundation. Vague as to time.

16 THE WITNESS: It's dynamic.

17 Q. BY MR. JACOBS: So I guess my question is, if
18 you learn about something that seems very promising from
19 another state, do you regard it as within your job
20 description to take the initiative in having that
21 information considered by the legislature?

22 MR. VIRJEE: Objection. Vague and ambiguous.
23 Overbroad. Vague as to time.

24 THE WITNESS: I think that anything that comes
25 from another state that has potential for our use in

1 MR. VIRJEE: Other that's what he's already
2 testified to?

3 THE WITNESS: For example --

4 MR. VIRJEE: Repeat everything you said unless
5 he wants you to testify to other than what you testified
6 to.

7 THE WITNESS: There's the PSAA advisory
8 committee, of which legislative staff are there.
9 There's Department's formal structure. Through
10 legislative advocates. There is an exchange of
11 information based on phone calls, on proposed
12 legislation, which may or may not actually come to
13 fruition. That's all I can think of.

14 Q. BY MR. JACOBS: So now, you, Dr. Padia, have
15 you observed anything in the calendar year 2001 in
16 another state with respect to accountability that you
17 considered worthy of mention in any of these processes
18 that you're describing?

19 MR. VIRJEE: Objection. Vague and ambiguous as
20 to "accountability." Overbroad. Calls for speculation.

21 THE WITNESS: From time to time I get requests
22 about what's going on in other states. I recently
23 directed a staff member to prepare a paper of what's
24 going on in the states of Texas and Florida.

25 Q. BY MR. JACOBS: And the focus of that question

1 was what?

2 A. Focus of the question is to handle the kinds of
3 questions that we're continually getting from any number
4 of sources regarding what's going on in other states.
5 So it would be a piece of information that we'd put up
6 on our website that will allow people to access the
7 information directly from our website rather than going
8 to the individual states.

9 Q. By "a piece of information," what do you mean?

10 A. Somebody wants to know, for example, if
11 Kentucky, which is another state I forgot to mention
12 that's on our paper, has an index. That would be
13 answered in this paper. We can also go to the Kentucky
14 web page and find out the same thing.

15 Q. So this will be a summary that your office will
16 prepare of what other states are doing in the area of an
17 academic performance index?

18 A. No, in the area of accountability.

19 Q. And accountability with a particular definition
20 of accountability?

21 MR. VIRJEE: Objection. Asked and answered.

22 THE WITNESS: The commonly-accepted word
23 accountability is used in both states.

24 Q. BY MR. JACOBS: So it's not limited to the
25 definition of accountability in the Public School

1 Q. Where did the request come from?

2 A. I requested --

3 MS. READ SPANGLER: Objection. Assumes facts
4 not in evidence.

5 THE WITNESS: -- this person to do that because
6 we are continually getting requests from either school
7 districts, legislators or whatever on other states, and
8 since these states are probably the closest to
9 California in terms of their accountability systems, I
10 felt it would be a useful piece of information to have
11 up on our website.

12 Q. BY MR. JACOBS: And presumably if it turns out
13 to be useful, you would consider expanding it, updating
14 it, et cetera?

15 MR. VIRJEE: Objection. Calls for speculation.
16 Lacks foundation.

17 THE WITNESS: I couldn't say at this point.

18 Q. BY MR. JACOBS: Now, are you aware of any state
19 that has a statewide accountability system that measures
20 facilities quality?

21 MR. VIRJEE: Objection. Vague and ambiguous as
22 to "facilities quality." Calls for speculation. Lacks
23 foundation.

24 THE WITNESS: I have no knowledge of that.

25 Q. BY MR. JACOBS: Have you ever been asked that

1 Accountability Act?

2 A. If you call up Texas and ask them about their
3 accountability program, it's limited to what they sent
4 us about that, similarly in each of the states.

5 Q. So the scope of this study is what in terms of
6 the number of states?

7 MR. VIRJEE: Objection. Vague and ambiguous as
8 to "scope."

9 You mean what they're studying within the
10 states or how many states they're studying, or what?

11 The question is vague and ambiguous.

12 THE WITNESS: It's not a study, as such. It's
13 simply an exposition of what's going on in the states of
14 Texas, Florida, Kentucky.

15 Q. BY MR. JACOBS: And somebody in your office is
16 preparing that exposition?

17 A. Yes.

18 Q. Who is that?

19 A. It's a staff member, consultant.

20 Q. In which box in the --

21 A. In the evaluation and analysis unit.

22 Q. And is there an intent to -- strike that.

23 This has been stimulated by a specific
24 legislative request?

25 A. No.

1 question?

2 A. Not that I recall.

3 Q. Are you aware of any state that has conducted a
4 survey of its school facilities?

5 MR. VIRJEE: Objection. Vague and ambiguous as
6 to survey of school facilities. Lacks foundation.

7 THE WITNESS: I have no personal knowledge of
8 such.

9 Q. BY MR. JACOBS: Have you ever been asked that
10 question?

11 A. No.

12 Q. Are you aware of any state that collects data
13 at a statewide level about the condition of facilities
14 that are owned by local educational agencies?

15 MR. VIRJEE: Objection. Vague and ambiguous as
16 to state of facilities and "owned by local education
17 agencies."

18 THE WITNESS: No, I'm not aware.

19 Q. BY MR. JACOBS: Are you aware of any state that
20 has statewide -- that maintains statewide data that
21 would allow -- strike that.

22 The school accountability report card
23 historically has asked the schools to report on the
24 condition of their facilities, correct?

25 MR. VIRJEE: Object. If you're asking him what

1 the legislation says, the legislation speaks for itself.
2 That calls for a legal conclusion.

3 THE WITNESS: I'm not certain specifically what
4 either the proposition stated nor subsequent legislation
5 stated.

6 Q. BY MR. JACOBS: How about the template
7 currently under development?

8 A. I don't recall.

9 Q. Are you aware of any state that maintains a
10 statewide report card on the condition of the school
11 facilities in that state?

12 MR. VIRJEE: Objection. Vague and ambiguous as
13 to "statewide report card." Calls for speculation.
14 Lacks foundation.

15 THE WITNESS: I'm not aware of any state.

16 Q. BY MR. JACOBS: Are you aware of any other
17 states that have local educational agency report cards
18 that correspond in concept to the SARC?

19 A. I believe other states have requirements for
20 locals to do report-card-like reports, and no doubt many
21 of those have passed through my desk at some time, but I
22 can't recall any at the time.

23 Q. Do you know if those state report-card-like
24 reports are being used as a source of -- as an input
25 into the template design process that is currently

1 Q. BY MR. JACOBS: Are you aware of any state that
2 has conducted a survey of the availability of textbooks
3 or instructional materials to schoolchildren?

4 MR. VIRJEE: Same objections. Vague and
5 ambiguous as to availability of instructional materials.

6 THE WITNESS: I have no knowledge of that.

7 Q. BY MR. JACOBS: Does the definition of
8 accountability that you're using for your -- for the
9 study that -- for the exposition that you referred to
10 earlier, would that exclude the kinds of information
11 that I've been asking about in the last couple minutes?

12 I can narrow that down if you like, but I have
13 a feeling I can ask it in summary fashion.

14 A. It would be neutral, it would neither exclude
15 or include. It's strictly an exposition of what's going
16 on in that state.

17 Q. And whether in that state they labeled that
18 particular activity as an accountability activity?

19 A. Correct.

20 Q. That's the decision-making rule for inclusion;
21 is that correct?

22 A. Well, whatever the rule for that state was.

23 Our rule was to try to describe what's going on in that
24 state.

25 Q. And if they call that accountability, then it

1 underway?

2 MR. VIRJEE: Objection. Lacks foundation.
3 Calls for speculation.

4 THE WITNESS: I don't know in the discussions
5 with the school accountability advisory committee
6 whether or not they actually looked at other states, but
7 I do know that there were vendors present from other --
8 from this state that would -- they would be selling
9 their materials in other states, so it's certainly
10 possible.

11 Q. BY MR. JACOBS: Vendors of materials meaning?
12 What kind of materials do you have in mind?

13 A. Vendors that produce the report cards for
14 schools.

15 Q. They produce them, meaning they contract with
16 schools to prepare report cards for those schools, is
17 that the idea?

18 A. Yes.

19 Q. Are you aware of any state that maintains
20 statewide data on the availability of textbooks or
21 instructional materials to individual schoolchildren?

22 MR. VIRJEE: Objection. Lacks foundation.
23 Calls for speculation. Also vague and ambiguous as to
24 "textbooks" and "instructional materials."

25 THE WITNESS: I'm not aware of any.

1 will come into your description?

2 A. Yes.

3 Q. Is that the first such exposition of what other
4 states are doing that your office has prepared?

5 MR. VIRJEE: Objection. Vague and ambiguous as
6 to "exposition." Also asked and answered. Also vague
7 as to time.

8 THE WITNESS: No, in the Steering by Results
9 report that we discussed earlier, we did a lot of work
10 on collecting information from other states to present
11 that to the committee.

12 Q. BY MR. JACOBS: Was that work embodied itself
13 in a document?

14 A. I don't recall, but -- specifically, but I
15 don't believe it was in a separate document.

16 Q. And how about since then?

17 A. Well, during the various legislative hearings
18 on SB 1X and the predecessor bills that didn't pass,
19 there was this constant exchange of information related
20 to other states, and so we relied heavily on what we had
21 learned from Steering by Results, plus additional probes
22 into each of these states, but there was never a formal
23 document that was put together.

24 Q. And there was a particular interest in
25 particular states?

1 MR. VIRJEE: Objection. Vague as to time.
 2 MR. JACOBS: In the period -- that is fair. In
 3 the instance you were just describing.
 4 MR. VIRJEE: Which one?
 5 MR. JACOBS: In your last answer.
 6 THE WITNESS: The majority of information that
 7 we would tend to share would be from the states that are
 8 more like California, they're not in states that we
 9 pretty much know have pretty good assessment systems or
 10 accountability systems in place, hence the focus on
 11 places like Kentucky and Texas, Florida, New York, North
 12 and South Carolina and cities like Philadelphia.
 13 Q. BY MR. JACOBS: Since that activity, that is,
 14 the leading up to the enactment of, I think you called
 15 it SB 1X, has there been any other review of what is
 16 going on in other states?
 17 MR. VIRJEE: Other than what he already
 18 testified to?
 19 MR. JACOBS: Yes. Sorry.
 20 THE WITNESS: As I said, there has not been a
 21 formal review, other than the fact that we respond to
 22 these questions periodically and the staff tends to keep
 23 up on these things.
 24 Q. BY MR. JACOBS: And the responses to those
 25 questions, the kind of periodic questions that come in,

1 what has the form of that response typically been?
 2 MR. VIRJEE: Objection. Asked and answered a
 3 couple times now.
 4 THE WITNESS: As I described already, the
 5 responses typically are either a phone call or a
 6 presentation from the advisory committee, and so on.
 7 Q. BY MR. JACOBS: Those are very different. A
 8 phone call is something somebody does orally, a
 9 presentation is embodied in something.
 10 Have there been presentations prepared about
 11 what other states are doing in the accountability area?
 12 MR. VIRJEE: Objection. Vague and ambiguous.
 13 Assumes facts. Assumes that a presentation is embodied
 14 in something.
 15 MS. READ SPANGLER: And that it's not oral.
 16 MR. VIRJEE: Also asked and answered.
 17 THE WITNESS: It would be more than likely when
 18 the discussion is on some other aspect of
 19 accountability, staff would mention, well, gee, in Texas
 20 we think that, along the lines of that, as opposed to a
 21 formal presentation specifically on Texas's
 22 accountability system.
 23 Q. BY MR. JACOBS: Or on accountability systems in
 24 other states?
 25 A. Yeah.

1 Q. So to the best of your knowledge, say, for the
 2 period 1999 to the present, there hasn't been such a
 3 formal presentation?
 4 MR. VIRJEE: Objection. Vague and ambiguous as
 5 to "formal presentation."
 6 THE WITNESS: The formal presentations that
 7 occurred on accountability systems in those states took
 8 place in the early meetings of the PSAA advisory
 9 committee back in April through June of '99 where we
 10 actually invited Texas to come out and heard about other
 11 states. The former commissioner of Kentucky is on our
 12 advisory committee. There were formal presentations
 13 early on.
 14 Q. BY MR. JACOBS: And since then, there --
 15 A. Since then there have not been.
 16 (Lunch recess taken.)
 17 (Mr. Hamilton not present.)
 18 Q. BY MR. JACOBS: Dr. Padia, have you looked at
 19 the rates of participation of eligible schools in the
 20 II/USP program?
 21 MR. VIRJEE: Objection. Vague and ambiguous as
 22 to "rates of participation" and "eligible schools."
 23 MS. READ SPANGLER: Are you asking which
 24 eligible schools have applied to participate, because
 25 there's a fixed number of participants, you know.

1 MR. JACOBS: Okay. I'll take it that way.
 2 Thanks.
 3 THE WITNESS: I didn't hear what she said.
 4 MR. JACOBS: Shortcut. A little back and
 5 forth.
 6 THE WITNESS: What's the question again?
 7 Q. BY MR. JACOBS: Have you looked at the rates of
 8 application of eligible schools to participate in the
 9 II/USP program?
 10 MR. VIRJEE: Objection. Vague and ambiguous as
 11 to "rates of application."
 12 THE WITNESS: The process that we do yearly is
 13 that we post the list of eligible schools and wait for
 14 applications to come in, and then out of those
 15 applications we select a fixed number of participants,
 16 which is set at 430.
 17 Q. BY MR. JACOBS: And this cycle that you've
 18 described, how many times has that occurred?
 19 A. We're currently in the third cycle.
 20 Q. And you're in the third cycle meaning that you
 21 will, in the next couple of months, post the list -- the
 22 third list of eligible schools?
 23 A. In the next two weeks.
 24 Q. How many schools were on the first eligible
 25 schools list, roughly?

1 A. I'd have to estimate that the eligibility the
2 first year was around 1,200.
3 Q. And in the second year?
4 A. Somewhat less than that. Maybe around a
5 thousand. But I'm not confident of these estimates, but
6 I think they're in the ballpark.
7 Q. And then for this cycle, how many will be
8 eligible on the eligibility list?
9 MR. VIRJEE: Objection. Calls for speculation.
10 THE WITNESS: I believe what we put up on the
11 Internet was around 900 schools that are eligible.
12 Q. BY MR. JACOBS: And how is it in the operation
13 of the program that the number of schools that are
14 eligible has declined?
15 A. The eligibility is based on whether or not
16 schools meet their growth target, whether or not they're
17 in the lower five deciles, and whether or not they
18 already participate. So naturally, we take out the
19 participants already, so each year you have to remove
20 430. So for this year, for example, 860 schools
21 wouldn't even be in the eligible pool because they're
22 already selected.
23 Q. Then in the first year do you recall roughly
24 how many schools applied to participate in the program?
25 (Mr. Hamilton entered the room.)

1 MS. READ SPANGLER: If you have an estimate,
2 that's fine, but don't guess.
3 THE WITNESS: It would just be a rough estimate
4 on the record of 7 or 800 probably.
5 Q. BY MR. JACOBS: Same question for the second
6 year?
7 A. I don't recall.
8 Q. And do you recall it being lower as a
9 percentage than the previous year, do you recall any
10 qualitative sense?
11 I'll ask a simple question. Do you recall
12 qualitatively what the application rate was in the
13 second year?
14 A. I don't recall.
15 Q. Is that information available?
16 A. Oh, yes.
17 Q. Where would you go to look for it?
18 A. It's probably on our website. We certainly
19 have it in our files.
20 Q. The eligibility criterion that you just
21 referred to as being in the lower five deciles, that's
22 in the lower five deciles of the base API, or of the
23 similar schools adjusted?
24 A. It's in the lower five deciles of what we call
25 the statewide decile ranking.

1 Q. So does the similar schools index, the similar
2 schools ranking play a role in eligibility for the
3 II/USP program?
4 A. No.
5 Q. I take it that that means that it also doesn't
6 play a role in setting growth targets; is that correct?
7 A. That's correct.
8 Q. So going at it from the other direction, one
9 role of the similar schools index is as a reportorial
10 matter, you report that information so that the school
11 districts can compare themselves to similar schools; is
12 that correct?
13 A. Yes.
14 Q. What other role does the similar schools index
15 play in the state's accountability system?
16 MR. VIRJEE: Objection. Vague and ambiguous as
17 to "role."
18 THE WITNESS: We publish the ranking, and
19 generally it's used as a contextual piece of
20 information.
21 Q. BY MR. JACOBS: The factors that the statute
22 prescribes include such things as pupil socioeconomic
23 status, pupil ethnicity, pupil mobility, et cetera, and
24 I can give you a list if don't have one there in one of
25 the documents.

1 But my question to you is, I believe you were
2 asked last time about the most heavily weighted
3 characteristic, and you answered that pupil
4 socioeconomic status was the most heavily weighted?
5 A. Correct.
6 Q. After that, what was the order?
7 MR. VIRJEE: Objection. Asked and answered.
8 THE WITNESS: I would have to look at the
9 technical report to answer that.
10 Q. BY MR. JACOBS: And that technical report is
11 exactly which report?
12 A. It's on our website.
13 Q. It's called what?
14 A. I believe it's called the similar schools
15 technical report, something like that.
16 Q. In the first year the report was -- the school
17 characteristics index was prepared by doing a multiple
18 regression analysis against the -- against which test?
19 MR. VIRJEE: Are you talking about for the
20 similar schools ranking now --
21 MR. JACOBS: Yes.
22 MR. VIRJEE: -- or for the absolute ranking,
23 the statewide ranking?
24 MR. JACOBS: No, I think it's pretty clear.
25 MR. VIRJEE: No, it's not or I wouldn't ask it.

1 Q. BY MR. JACOBS: The school characteristic
 2 index, that's clear to you, right, what that is?
 3 A. Yes, it is.
 4 Q. Okay. And my question to you is, in the first
 5 year the multiple regression analysis was run against
 6 the test results for which assessment vehicle?
 7 MR. VIRJEE: Objection. Vague and ambiguous as
 8 to first-year analysis.
 9 THE WITNESS: The way the procedure works is
 10 that the 14 variables are the independent variables.
 11 The dependent variable on which it is run on is the API.
 12 Q. BY MR. JACOBS: Have you ever disaggregated the
 13 dependent variable to run the independent variables
 14 against particular assessment instruments?
 15 A. If I understand your question, the answer is
 16 no.
 17 Q. And aside from preparing the school
 18 characteristics index, have you ever conducted studies
 19 of these -- some or all of these characteristics where
 20 the dependent variable is a particular assessment
 21 instrument?
 22 MR. VIRJEE: Objection. Vague and ambiguous.
 23 THE WITNESS: For PSAA purposes we always use
 24 the API as the dependent variable.
 25 Q. BY MR. JACOBS: And how about for other

1 purposes?
 2 A. We don't -- I haven't used it for other
 3 purposes.
 4 Q. Meaning you haven't run -- let me generalize
 5 the question.
 6 Have you run any studies in which independent
 7 variables or school characteristics of the type that are
 8 used in the school characteristics index and the
 9 dependent variable is the result of a particular
 10 assessment instrument?
 11 MR. VIRJEE: Objection. Asked and answered, I
 12 think, and also overbroad.
 13 You mean other than what he's already testified
 14 to?
 15 THE WITNESS: Would you like to give a decade?
 16 MR. JACOBS: I'll take the --
 17 THE WITNESS: That would help.
 18 MR. JACOBS: -- last 10 years.
 19 THE WITNESS: The last 10 years we have
 20 probably done this, which I think I mentioned in the
 21 first part of my deposition, was within the study of the
 22 schools that -- middle and high schools that performed
 23 better than expected, and in that study by AR, called
 24 the effective elements study, we actually assisted them
 25 in running a multiple regression based on more or less

1 socioeconomic indicators against test scores.
 2 Q. BY MR. JACOBS: That was a study that was
 3 conducted by an outside contractor?
 4 A. Yes, American Institutes for Research.
 5 Q. And you participated in that by providing some
 6 data and data analysis?
 7 A. Yes, we were the contract monitor on that.
 8 Q. Are you aware of any more recent studies that
 9 have been aimed at the same question; that is, why some
 10 schools do better than others when the schools are
 11 matched against each other for some set school
 12 characteristics?
 13 MR. VIRJEE: Objection. Asked and answered.
 14 THE WITNESS: I can't recall anything specific.
 15 It's a very common type of analysis that any number of
 16 people would and could do.
 17 Q. BY MR. JACOBS: But you're not aware of a more
 18 recent such study in California?
 19 A. No.
 20 MR. VIRJEE: Objection. Asked and answered.
 21 Q. BY MR. JACOBS: And how about school district
 22 comparisons as opposed to school-by-school comparisons,
 23 are you aware of any studies aimed at identifying
 24 effective school districts when matched against some set
 25 of socioeconomic characteristics or other

1 characteristics of the sort that go with the school
 2 characteristics index?
 3 MR. VIRJEE: Objection. Vague and ambiguous as
 4 to "effective school districts." Also asked and
 5 answered. Also vague as to time.
 6 THE WITNESS: I'm certainly not aware of any
 7 kind of regression analysis on school districts that
 8 went on.
 9 Q. BY MR. JACOBS: Now, in looking at the II/USP
 10 program schools, will you be doing or have you done
 11 studies of the same sort, that is, sort of an effective
 12 element study comparing improvements in II/USP schools
 13 against each other?
 14 MR. VIRJEE: Objection. Calls for speculation.
 15 Lacks foundation. Vague as to time.
 16 THE WITNESS: I don't know what will happen in
 17 the mandated evaluation that we're about to contract,
 18 but my guess is that --
 19 MR. VIRJEE: We don't want you to guess.
 20 THE WITNESS: Thank you.
 21 Q. BY MR. JACOBS: Your hope is that? What is
 22 your hope?
 23 MR. VIRJEE: You can testify to what you know.
 24 I don't want you to guess.
 25 THE WITNESS: We will continue to look at a

1 simple display of how II/USP schools do vis-a-vis their
 2 targets and whether they meet them.
 3 Q. BY MR. JACOBS: In the contracted-for study,
 4 will it not go beyond that into such areas as what the
 5 components of the school improvement program were and
 6 whether they were successful or not?
 7 MR. VIRJEE: Objection. Asked and answered.
 8 Calls for speculation and lacks foundation. He said he
 9 doesn't know what will happen.
 10 THE WITNESS: That wasn't the particular
 11 research question that was asked in the RFP.
 12 Q. BY MR. JACOBS: So can you summarize the
 13 research question that's been posed?
 14 MR. VIRJEE: Objection. The RFP speaks for
 15 itself.
 16 THE WITNESS: There were, I believe, five or
 17 six research questions. I don't recall them.
 18 Q. BY MR. JACOBS: But I take it that you're
 19 pretty confident that one of them is not measuring the
 20 components of the school improvement programs across a
 21 set of II/USP schools to diagnose which components seem
 22 to be more effective than others in improving school
 23 performance?
 24 MR. VIRJEE: Objection. Asked and answered.
 25 THE WITNESS: My sense is that there would be a

1 general question about the efficacy of the II/USP model.
 2 The particular in which that efficacy is judged is left
 3 to the contractor.
 4 Q. BY MR. JACOBS: Are you evaluating, you meaning
 5 your division, office, are you evaluating the awards
 6 components of the Public School Accountability Act?
 7 MR. VIRJEE: Objection. Vague and ambiguous as
 8 to "evaluating."
 9 THE WITNESS: I believe there is one question
 10 on the RFP that speaks about looking into the awards
 11 aspect of PSAA.
 12 Q. BY MR. JACOBS: Is there any other evaluation
 13 of the awards component underway?
 14 MR. VIRJEE: Objection. Vague and ambiguous as
 15 to "evaluation."
 16 THE WITNESS: No.
 17 Q. BY MR. JACOBS: Do you recall what the question
 18 is in the RFP that relates to the awards component?
 19 A. No.
 20 Q. I want to ask you about a discussion at the
 21 PSAA advisory committee meeting that relates to the
 22 school characteristics index. I'll mark draft minutes
 23 of November 16th, 1999 as the next exhibit.
 24 (Exhibit SAD-138 was marked.)
 25 Q. BY MR. JACOBS: Could you turn, please, to page

1 4 of the exhibit that is Exhibit 138. Feel free to scan
 2 the rest of it, if you like, but I'm going to focus you
 3 on something in particular.
 4 At the bottom of the page there's a discussion
 5 of the information to be made available about the school
 6 characteristics index.
 7 Do you see that?
 8 A. Uh-huh.
 9 MS. READ SPANGLER: Is that a yes?
 10 THE WITNESS: Yes.
 11 MR. VIRJEE: Can you tell me where you're
 12 referring to, Counsel?
 13 MR. JACOBS: Right under variables used to
 14 determine schools with similar characteristics.
 15 MR. VIRJEE: Thank you.
 16 Q. BY MR. JACOBS: My question is this, you see
 17 there is it says from the public standpoint, we will
 18 communicate only that all these variables were
 19 considered in comparison?
 20 A. Yes.
 21 Q. Is it your belief that the technical
 22 characteristics, I think you called it the technical --
 23 I'm sorry, what was it called, the technical report
 24 that's on the web that you referred to earlier?
 25 A. Technical report on similar schools.

1 Q. Similar schools technical report, right. That,
 2 in fact, does break out the significance of particular
 3 variables?
 4 A. Yes, it does.
 5 Q. So what you were -- did you say something along
 6 the lines of from the public standpoint, we will
 7 communicate only that all these variables were
 8 considered in comparisons?
 9 A. Yes, and what I meant by that is our yearly
 10 release. We only present the similar schools ranking
 11 and list of variables. We don't give the technical
 12 details in that kind of form.
 13 Q. But that information is available if one wants
 14 to look for it?
 15 A. Oh, yes.
 16 Q. And you see there it reports you saying student
 17 mobility drops out at certain grade spans when arrayed
 18 within the constellation of all the other variables.
 19 A. Yes.
 20 Q. Do you recall saying something along those
 21 lines?
 22 A. I don't recall that.
 23 Q. Do you believe that the minutes accurately
 24 captured the discussion on that?
 25 MR. VIRJEE: Objection. Calls for speculation.

1 Lacks foundation.

2 THE WITNESS: Minutes are notoriously snapshots
3 of various portions of the discussion.

4 MR. VIRJEE: And note for the record these are
5 identified as draft minutes in any event.

6 Q. BY MR. JACOBS: Looking at the statement
7 student mobility drops out at certain grade spans when
8 arrayed within the constellation of all the other
9 variables, does that bring to mind a belief that you had
10 in November 1999?

11 A. What it means to me is that I probably looked
12 at some data and made that statement in the context of
13 certain, specific data which I don't recall.

14 Q. What does the statement mean?

15 A. It would mean that student mobility in certain
16 grade spans would take on less of a weight in the
17 predictor equation when it's involved with the entire
18 set of predicted variables. It would vary by grade
19 level.

20 Q. So it has greater weight at lower grade levels?

21 A. I didn't say that. I don't know that to be
22 true. I'd have to check the technical report.

23 Q. But that's what you think that statement means,
24 is that it starts out -- as compared with itself, it
25 starts out as being relatively important, and then less

1 on as of November 6th, 1999, for that conclusion?

2 MR. VIRJEE: That assumes facts not in
3 evidence. Assumes that it's his conclusion.

4 THE WITNESS: I don't know.

5 Q. BY MR. JACOBS: Do you have any data on
6 multi-track year-around schools as an independent
7 variable and its significance?

8 MR. VIRJEE: Objection. Vague and ambiguous as
9 to "significance" and "independent variable." Also
10 vague as to time.

11 THE WITNESS: The fact of being a multi-track
12 year-around school or not isn't an indicator, it's a
13 variable in the regression equation.

14 We also have looked at multi-track year-around
15 schools separately, not in a regression sense, but only
16 in the sense of looking at how they do compared to other
17 urban schools.

18 Q. BY MR. JACOBS: And taking those two cases one
19 by one, what is the result of that analysis?

20 A. The first case in the API, similar schools
21 regression model, I'd have to look at the data. My
22 estimate is that it would not be a factor, that once you
23 eliminate the effect of socioeconomic status, there's a
24 high correlation between multi-track year-around schools
25 and urbanicity and lower socioeconomic status. So once

1 important with grade progression; is that correct?

2 A. No, that's not correct.

3 MS. READ SPANGLER: Objection. Misstates his
4 testimony.

5 MR. VIRJEE: Are you asking him if that's what
6 the statement says or what he believes, or what he
7 believed then?

8 Q. BY MR. JACOBS: In what way was that incorrect,
9 Dr. Padia?

10 A. There's nothing about progressive grade levels
11 as it goes up, it just says certain grade spans, so it
12 could well be it dropped out at the lower levels instead
13 of the higher levels. It doesn't respond to that. But
14 I wouldn't know without looking at data itself.

15 Q. BY MR. JACOBS: And the next sentence
16 multi-track year-around schools tend to score lower,
17 what is that a reference to?

18 MR. VIRJEE: Objection. Calls for speculation.
19 Lacks foundation.

20 THE WITNESS: This is a case of minutes being
21 of a snapshot nature since it doesn't follow from the
22 first statement. The statement says multi-track
23 year-around schools tend to score lower. That would be
24 a true statement.

25 Q. BY MR. JACOBS: And what data were you relying

1 you remove the effects of one of those variables, you
2 tend to account for it fully.

3 Q. And in the second case?

4 A. In the second case we actually produced a two-
5 or three-page paper which talked about performance in
6 multi-track year-around schools.

7 Q. When was that?

8 A. It was within the last year.

9 Q. And what were the circumstances under which
10 that paper was prepared?

11 A. It was in response to a comment that the
12 superintendent made regarding performance of multi-track
13 year-around schools, and I attempted to summarize their
14 performance.

15 Q. Stimulated by the comment, or by a request that
16 followed from the comment?

17 A. Stimulated by a request that followed the
18 comment.

19 Q. And who made the request?

20 A. The superintendent did.

21 Q. And what was the conclusions of the paper
22 you're describing?

23 MR. VIRJEE: Objection. The document speaks
24 for itself.

25 THE WITNESS: I'm hesitant to draw the

1 conclusion without rereading the paper. It's been a
 2 while. I don't recall.
 3 Q. BY MR. JACOBS: Who prepared it?
 4 A. My staff did.
 5 Q. Anybody in particular?
 6 A. I believe that the manager of that unit at that
 7 time was Linda Carstens, and she was responsible for
 8 putting it together. She's no longer with us.
 9 Q. Did the report confirm the -- what do you
 10 recall the superintendent said in her comments?
 11 A. I don't have a clear memory of what exactly she
 12 said, so I don't care to speculate.
 13 Q. Do you recall whether the report contradicted
 14 the viewpoint she expressed?
 15 MR. VIRJEE: Objection. Calls for speculation
 16 and lacks foundation if he can't recall her comment.
 17 THE WITNESS: I don't know.
 18 Q. BY MR. JACOBS: Did you -- were you the
 19 intermediary between Ms. Carstens and the superintendent
 20 in terms of the transmission of the report?
 21 MR. VIRJEE: Objection. Assumes facts not in
 22 evidence. Assumes there needed to be an intermediary.
 23 THE WITNESS: I was the first in the chain of
 24 command of a review, yes.
 25 Q. BY MR. JACOBS: And who, after that, reviewed

1 it?
 2 A. Probably Paul Warren, who was my boss.
 3 Q. And then, as you understand the chain of
 4 command, it likely went from Paul Warren to the
 5 superintendent?
 6 MR. VIRJEE: Objection. Calls for speculation.
 7 Lacks foundation.
 8 THE WITNESS: It could have gone that way. It
 9 could have gone to Scott Hill, or it could have gone
 10 simultaneously to all of them. We do it various ways.
 11 Q. BY MR. JACOBS: And the title of the document
 12 was what?
 13 A. I don't recall the exact title.
 14 Q. Were there any other topics that were discussed
 15 in the document other than the one that you've mentioned
 16 in the course of this questioning?
 17 A. My recollection was that it was -- it had to do
 18 with API performance in year-around schools.
 19 Q. Going back to the first case, the multiple
 20 regression analysis, as I understand your testimony,
 21 socioeconomic status and multi-track year-around schools
 22 are themselves closely correlated; is that correct?
 23 A. Yes.
 24 MR. VIRJEE: Objection. That misstates his
 25 testimony. His testimony will speak for itself.

1 THE WITNESS: Yes.
 2 Q. BY MR. JACOBS: And can you explain, as a
 3 statistical matter, then, how you would isolate
 4 multi-track year-around schools from socioeconomic
 5 status to measure the impact of that particular
 6 independent variable?
 7 A. Well, we don't do that. In fact, we do -- we
 8 look at the full set of 14 indicators and, as a
 9 composite set of variables, how they then interact with
 10 the SCI; in other words, you essentially adjust for the
 11 vector of 14 conditions at schools and it gives a
 12 predicted score, which then translates in the SCI.
 13 Q. If you were to, though, as a statistical
 14 matter, want to isolate the effect of multi-track
 15 year-around schools on school performance, given that
 16 close correlation between socioeconomic status and
 17 multi-track year-around schooling, how would you do
 18 that?
 19 A. You can't because they are highly correlated
 20 with one another, therefore you cannot isolate the
 21 effects of year-around schools specifically. You can
 22 only say in the context of these 14 indicators, if we
 23 adjust for them, this is what we get.
 24 Q. So in the case of the 14 indicators, is there
 25 any weighting given to multi-track year-around schools

1 given the close correlation between socioeconomic status
 2 and year-around schooling?
 3 A. There would be some weighting that would be
 4 given to it probably.
 5 Q. And how would that be -- how has that weighting
 6 been assigned given that close correlation?
 7 A. Well, because of the fact that it's so highly
 8 correlated with other things that are in there, the
 9 actual weighting may be very small. So, in other words,
 10 the other factors pick up the adjustment for being in a
 11 multi-track year-around setting because it's so highly
 12 correlated with these other indicators.
 13 Q. And do you recall the methodology that was used
 14 in the preparation of the paper for the superintendent
 15 that you described?
 16 A. What we did on that was just to look at is -- I
 17 believe we looked at the percent of year-around
 18 multi-track schools that met their growth targets or
 19 didn't meet their growth targets. It was a fairly basic
 20 kind of analysis with no regression involved.
 21 Q. And with that question and answer, does that
 22 refresh your recollection at all as to the conclusion of
 23 the paper?
 24 A. My sense of it is that the percent mean target
 25 was approximately the same as it was in the other

1 schools, it wasn't a huge variance, although I'd have to
 2 look at it to be sure.
 3 Q. And are you aware of any other efforts to
 4 answer that question?
 5 MR. VIRJEE: What question?
 6 MR. JACOBS: The question you answered in the
 7 paper that you gave to the superintendent.
 8 MR. VIRJEE: Objection. Vague and ambiguous.
 9 Overbroad. Calls for speculation.
 10 THE WITNESS: I can't think of any recent
 11 analysis other than the analysis I already mentioned in
 12 the first part of my deposition, which occurred years
 13 ago.
 14 Q. BY MR. JACOBS: And that was on a slightly
 15 different question, right, it wasn't about meeting
 16 growth targets, it was about rather multi-track
 17 year-around education as a contributor to low student
 18 performance, right?
 19 A. Yes.
 20 Q. Let me tie this down. Other than the one that
 21 you testified to years ago about that second question,
 22 that is, the contribution of multi-track year-around
 23 schooling to low student performance, you're not aware
 24 of any other studies that attempt to answer that
 25 question?

1 MR. VIRJEE: Objection. Asked and answered.
 2 THE WITNESS: No.
 3 Q. BY MR. JACOBS: No, you are not aware?
 4 A. No, I'm not aware.
 5 Q. I want to ask you about the external evaluators
 6 criteria in the Public Schools Accountability Act
 7 program. Did your office play a role in developing the
 8 evaluation criteria?
 9 A. No.
 10 Q. Did you personally participate in the
 11 development of those criteria?
 12 A. No.
 13 MS. READ SPANGLER: Objection. Vague and
 14 ambiguous as to "criteria."
 15 THE WITNESS: No.
 16 Q. BY MR. JACOBS: Just to be sure we're talking
 17 about the same thing, what are the external evaluators
 18 criteria?
 19 MR. VIRJEE: Are you asking what they -- what's
 20 called out in the statutes, in regulation? Vague and
 21 ambiguous.
 22 Q. BY MR. JACOBS: What's your understanding of
 23 the term that I used in my question?
 24 A. My understanding is that the set of criteria is
 25 the Board adopted regarding who is certified as an

1 external evaluator.
 2 Q. And how about the criteria for evaluation that
 3 have been developed, that is, what the external
 4 evaluators are supposed to look at when they're
 5 evaluating schools?
 6 First of all, am I talking about something
 7 you're familiar with?
 8 A. I'm familiar it, but I didn't have anything to
 9 do with it.
 10 Q. And your office didn't?
 11 A. No.
 12 Q. I want to just ask you if -- why don't we make
 13 as an exhibit a set of related -- I believe related
 14 documents we downloaded from the website on the model
 15 school accountability report card. We'll mark this set
 16 of documents as the next exhibit, please.
 17 (Exhibit SAD-139 was marked.)
 18 MS. READ SPANGLER: This looks like two
 19 different documents or several different documents. Are
 20 you wanting to mark -- these all have the same header,
 21 but this doesn't.
 22 MR. JACOBS: Actually, you're right, so let's
 23 take off the second half of that, the management
 24 bulletin.
 25 So I will only be asking you about the

1 documents that have the header CDE model school
 2 accountability report card.
 3 Q. Are these documents documents that your office
 4 prepared?
 5 A. Yes.
 6 Q. And are they -- to the best of your knowledge,
 7 this document, which we downloaded in -- strike that.
 8 Let me start over again.
 9 At some point the model school accountability
 10 report card described in this document will be
 11 superseded by the new template; is that correct?
 12 A. Yes.
 13 Q. That has not yet occurred, correct?
 14 A. I believe that we have on our website now the
 15 new -- some of the new definitions and new template.
 16 Q. And is it intended that those will be used for
 17 the next accountability report card that a school
 18 prepares, even if not all the definitions and not all
 19 the template has been completed?
 20 A. Yes.
 21 Q. In other words, it will be phased it?
 22 A. Yes.
 23 Q. Turning to item 6 on page 2 of 5 in the first
 24 part of the document, quality and currency of textbooks
 25 and other instructional materials. Do you see that?

1 A. Yes.

2 Q. Do you see where it states whether they are
3 sufficient in supply and of acceptable quality and
4 currency to fully support the school's instructional
5 program?

6 A. Yes.

7 Q. Have you participated in any discussions
8 about -- let me start over again.

9 Under 6 where it says quality and currency of
10 textbooks and other instructional materials and it says
11 describe, do you see that?

12 A. Yes.

13 Q. The bullet under describe, is that what you
14 mean by definition?

15 MR. VIRJEE: Objection. Vague and ambiguous.
16 Are you asking whether this document, this text
17 is a definition?

18 MR. JACOBS: Yes.

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

21 Q. BY MR. JACOBS: Is my question unclear to you
22 in terms of the use of the word "definition" as you've
23 been using it over the course of the deposition?

24 A. Yes.

25 Q. So you've been working on definitions, you

1 stated, for the template?

2 A. Yes.

3 Q. Are there definitions that correspond
4 functionally in the existing SARC?

5 MR. VIRJEE: Objection. Vague and ambiguous,
6 function, "correspond."

7 THE WITNESS: I don't believe it goes much
8 beyond what you see here. This is a request to have
9 them described without stating what it is.

10 Q. BY MR. JACOBS: So, actually, in the new
11 template there is more detail than is provided here as
12 to what's being asked for?

13 A. Actually, I don't think there is.

14 Q. So is there -- in the new template is there a
15 data element that corresponds to quality and currency of
16 textbooks and other instructional materials?

17 A. I believe so.

18 Q. Is it called quality and currency of textbooks
19 and other instructional materials?

20 A. Something close to that.

21 Q. And is the definition in the new template
22 substantially similar to the language described as
23 school's textbooks, et cetera, in that bullet?

24 MR. VIRJEE: Objection. Calls for speculation.
25 Lacks foundation.

1 THE WITNESS: I believe at the current time
2 it's fairly close to that. The Board recently acted on
3 this particular item, and I believe the resolution of it
4 was something very close to what you see here.

5 Q. BY MR. JACOBS: Did you participate in any
6 discussions about whether this language was sufficiently
7 precise to enable schools to prepare report cards on the
8 quality and currency of textbooks and other
9 instructional materials?

10 MR. VIRJEE: This particular language that's
11 referenced on page 2, bullet 6, is that the language
12 you're talking about?

13 Q. BY MR. JACOBS: Sir?

14 MR. VIRJEE: Objection. Vague and ambiguous as
15 to "this language."

16 THE WITNESS: I didn't participate in any of
17 this language right here.

18 Q. BY MR. JACOBS: And how about generally, was
19 the quality and currency of textbooks and other
20 instructional materials definitional language, was that
21 a topic of discussion in which you participated?

22 A. It was a topic of discussion at the State
23 Board, at which I was present.

24 Q. And was there any discussion at the State Board
25 about whether this language was sufficiently precise to

1 enable schools to respond?

2 MR. VIRJEE: Objection. Vague and ambiguous as
3 to "this language." There's no clarity as to what
4 language you're talking about.

5 THE WITNESS: When you say "this language," the
6 language that is in front of me is not the same language
7 that went to the State Board. That's on a separate
8 document, and I can't recall it precisely.

9 What ended up as the final approved board (sic)
10 is similar, but not identical to this language. And,
11 again, I'd have to see that in front of me to comment
12 exactly.

13 Q. BY MR. JACOBS: As a qualitative matter, do you
14 regard the new language as more precise than the
15 language in the bullet described as school's textbooks?

16 A. I couldn't say.

17 Q. In your judgment is the language in describe
18 the school's textbooks and other instructional materials
19 bullet sufficiently precise to enable schools to
20 complete school accountability report cards that are --
21 that meet the purpose of the SARC?

22 MR. VIRJEE: Objection. Vague and ambiguous as
23 to which bullet you're talking about, this one or the
24 one that was before the school board.
25 Also calls for speculation, lacks foundation.

1 Calls for an expert opinion which this witness is not
 2 competent to give. Lacks any foundation at all.
 3 MS. READ SPANGLER: And to the extent you're
 4 asking him to tell you the purpose of the SARCs, that
 5 calls for a legal conclusion.
 6 MR. VIRJEE: Do you understand his question,
 7 Dr. Padia?
 8 THE WITNESS: No, I don't
 9 MR. VIRJEE: I'm not surprised.
 10 MR. JACOBS: Could you read it back, please.
 11 (Record read.)
 12 MR. VIRJEE: Same objections. Nonsensical.
 13 Vague and ambiguous.
 14 THE WITNESS: All I can say is that schools
 15 have filled in this data element for years with
 16 descriptions. Since we haven't done it in any
 17 particular study of the nature of those comments, I
 18 can't say whether or not this would be enough for them
 19 to do an adequate job on it.
 20 Q. BY MR. JACOBS: Under 8, availability of
 21 qualified substitute teachers, the bullet says, report
 22 whether the school has had any difficulties in securing
 23 qualified substitute teachers, if so, report whether the
 24 lack of available credentialed substitute teachers has
 25 impacted the regular operation of the instructional

1 Fresno Bee.
 2 And you see there in the middle of the article
 3 it says, shortly after the State disclosed the rankings,
 4 it was determined that similar school rankings were
 5 flawed because numerous schools inaccurately reported
 6 information such as how many students were eligible for
 7 free lunches. In addition, students were relied on to
 8 provide information on their parents' educational levels
 9 and income.
 10 Do you see that?
 11 A. Yes.
 12 Q. And then it quotes -- it reports that you said,
 13 doesn't quote you, but it reports that you said about
 14 4,100 of the 7,000 schools ranked turned in incomplete
 15 or inaccurate data, said Bill Padia, director of the
 16 office of policy and evaluation for the state Department
 17 of Education, and then it goes on to describe the --
 18 your view of the reason for that.
 19 And then it says, Padia said 44 percent of
 20 schools will see no change in their score, 38 percent of
 21 schools' scores will increase or decrease by 1 point.
 22 Do you see that?
 23 A. Yes.
 24 Q. So first of all, this is for the 1999, 2000
 25 similar school rankings, have I got the dates right?

1 program. Do you see that?
 2 A. Yes.
 3 Q. Has that -- first of all, is availability of
 4 qualified substitute teachers in the new template?
 5 A. I don't know.
 6 Q. Have you participated in any discussions about
 7 that element?
 8 A. No.
 9 Q. Do you know whether a revision to that element
 10 has been in front of the State Board?
 11 MR. VIRJEE: Objection. Calls for speculation.
 12 Lacks foundation.
 13 THE WITNESS: I don't recall.
 14 Q. BY MR. JACOBS: And how about in front of the
 15 advisory committee?
 16 MR. VIRJEE: Objection. Calls for speculation.
 17 Lacks foundation.
 18 THE WITNESS: I don't recall.
 19 Q. BY MR. JACOBS: Let me ask you about issues
 20 with the -- with incompleteness or accuracy of the data
 21 for the API. Let me show you an article in which you're
 22 quoted on this topic.
 23 (Exhibit SAD-140 was marked.)
 24 Q. BY MR. JACOBS: We've marked as SAD-140 a
 25 printout of an article dated April 27th, 2000, from the

1 A. These similar school rankings would be based on
 2 testing that occurred in 1999, yes.
 3 Q. And, in particular, the '98, '99 school year or
 4 the '99 --
 5 A. Yeah, '98, '99 school year.
 6 Q. And that was the first year you created these
 7 similar school rankings, correct?
 8 A. Yes.
 9 Q. And then you've done it one more year, and
 10 you're doing it now for the third year, right?
 11 A. Correct.
 12 Q. So in the second year, what was your experience
 13 with inaccuracy in school data?
 14 MR. VIRJEE: Objection. Vague and ambiguous as
 15 to "inaccuracy" of the school data and "experience."
 16 THE WITNESS: In the second year we had
 17 significant improvement in the quality of the data,
 18 demographic data used for the computation of the similar
 19 schools ranks, and we set up a procedure so the
 20 districts could correct those data and actually go back
 21 to the contractor if they had to. So by the second year
 22 we were confident that the data were fine.
 23 Q. BY MR. JACOBS: And did you conduct any
 24 assessment of that question?
 25 MR. VIRJEE: Assessment of what question?

1 Objection. Vague and ambiguous.
 2 THE WITNESS: We have built in many, many data
 3 checks, and using independent sources of data in the
 4 Department for various fields to ascertain whether or
 5 not the data are correct. Ultimately it's the
 6 responsibility of each local education agency, i.e.,
 7 districts, to certify if these data are correct to us.
 8 Procedures that we set up allow them to view
 9 the data that they gave to us and to review the data
 10 vis-a-vis the other independent sources that we have,
 11 and then to have an opportunity to correct the data,
 12 turn it back into us, which they did.
 13 Q. BY MR. JACOBS: There were two parts to your
 14 answer. The second part was -- followed the part about
 15 the responsibility of local school districts, the first
 16 part was that you have built in many, many data checks
 17 and using independent sources of data in the Department.
 18 I want to ask you about that part of your answer.
 19 First of all, in terms of independent data
 20 checks, what do you mean?
 21 MR. VIRJEE: Objection. Overbroad. Vague and
 22 ambiguous with respect to which data point.
 23 THE WITNESS: We have CBEDS enrollment
 24 information by ethnicity to compare against the
 25 ethnicity enrollment that they report to us on the STAR

1 header sheets, which these data are generated from.
 2 Further, we have an independent source of the
 3 percent of English language learners on what is called
 4 the R30 LC, which is a document that's gathered in
 5 another part of the Department, to use as a test against
 6 what they report on the STAR header sheet, which is used
 7 for similar schools rankings.
 8 Q. BY MR. JACOBS: And when you say to check it,
 9 do you mean for someone in Sacramento to check as
 10 opposed to someone in the -- or in addition to someone
 11 in the local school district?
 12 A. I mean both.
 13 Q. So, in fact, have you built in a mechanism to
 14 check the data that's reported to you by school
 15 districts against those independent data sources?
 16 A. Yes.
 17 Q. And where is that done in the Department?
 18 A. That's done in my office.
 19 Q. And is it done on a sampling basis?
 20 A. No, it's done on a survey basis, which means
 21 everyone.
 22 Q. And what's the next step if you discover a
 23 discrepancy?
 24 A. We have developed discrepancy indicators, and
 25 the process is that we put all of these data up on the

1 Internet site for every district to look at, along with
 2 our indicators, that says to us this is out of alignment
 3 compared to what you did last year, compared to these
 4 independent sources, please look at it and tell us
 5 whether or not it's okay, and we want a positive
 6 response from you if it is.
 7 Q. And have you been through that exercise, that
 8 cycle once?
 9 A. Yes, we are in the second time now.
 10 Q. And the first time that you went through the
 11 cycle, do you get 100-percent compliance with your
 12 request for a positive response?
 13 A. No, we had to conduct follow-ups to make sure
 14 the data are right.
 15 Q. And by "follow-ups," what do you mean?
 16 A. We do phone calls, and we harass them until we
 17 get a response.
 18 Q. And did that result in -- at the end of the day
 19 did you have every discrepancy resolved one way or the
 20 other?
 21 A. The process yields as close as you can ever get
 22 to every response positive. The system, the way it
 23 works is that in October we do a release. The districts
 24 that have not provided incomplete data but are doing
 25 corrections are in the process of correcting that, and

1 then we do a second release of the API in October with a
 2 set of all corrections that are in there.
 3 And it's certainly possible that a district on
 4 their own would not make the correction. If that
 5 occurred, then it's highly likely that we would just
 6 suppress their API or put some other kind of flag on the
 7 report out that would indicate the data are not -- don't
 8 have integrity.
 9 Q. I think you said October twice there. What was
 10 the first month you had in mind?
 11 A. I'm sorry, I meant to say October and then
 12 December.
 13 Q. So the first event is in October, and the
 14 second event is December?
 15 A. Correct.
 16 Q. And in the way you believe the cycle will work
 17 this year, for example, is if you don't have data that
 18 you regard as having integrity, you will flag or
 19 suppress the API for the relevant local entity in the
 20 December report?
 21 A. Yes.
 22 Q. And is there any mechanism beyond that to
 23 secure compliance with the data reporting obligations?
 24 A. Well, there is a regulation. We went to the
 25 State Board and developed a regulation which requires

1 districts to do this, so it's part of law.
 2 Q. And have you given any consideration to how you
 3 might enforce that regulation if you have to?
 4 MR. VIRJEE: Objection. Calls for speculation.
 5 Lacks foundation. Also asked and answered.
 6 THE WITNESS: The answer is it's usually not
 7 difficult since there's a lot of money on awards riding
 8 on this, and if the districts don't clean their data,
 9 they don't get the money. We've found that that's a
 10 very good motivating force.
 11 Q. BY MR. JACOBS: Have you given consideration in
 12 connection with the monitoring function that you're
 13 going to be assuming responsibility for the school
 14 accountability report cards?
 15 Have you given consideration to what the steps
 16 will be to securing compliance if you discover a school
 17 or school district is not in compliance with the SARC
 18 requirements?
 19 A. I think I already indicated that we haven't yet
 20 had those discussions.
 21 Q. I think I asked you what your experience was
 22 with the reliability of the data the second time around,
 23 but I don't believe I asked you if you have any view of
 24 the reliability of the data that's in the current cycle,
 25 this third time around.

1 Have you been through enough of it to know?
 2 MR. VIRJEE: Objection. Calls for speculation.
 3 THE WITNESS: We're in the midst of the process
 4 right now, and early indications are that the data look
 5 very good.
 6 Q. BY MR. JACOBS: Now, one of the components is
 7 this parental educational level and income component
 8 that's referred to in the article.
 9 A. Yes.
 10 Q. Is that still a component that you are
 11 eliciting data from school districts on?
 12 A. It's a part of the STAR assessment data
 13 collection. It's on what we would call the header sheet
 14 for each individual student. That information is
 15 collected there.
 16 Q. Meaning when the STAR examinations are
 17 administered?
 18 A. Yes.
 19 Q. And is that -- it's still a self-reporting
 20 function, then, in terms of the students -- strike that.
 21 So the mechanism is that the student reports on
 22 the educational level and income of his or her parents;
 23 is that correct?
 24 A. It varies by district and by grade level. Some
 25 districts get the information when the child registers,

1 the parent fills out a card and they ask them their
 2 education level. So the district simply transforms it
 3 electronically into the file and then does what we call
 4 preslugging the form where the student never has to
 5 answer that at all.
 6 Q. Preslugs the STAR form?
 7 A. Yes.
 8 Q. Have you done any assessments of the
 9 reliability of that information in the second or third
 10 years?
 11 MR. VIRJEE: Objection. Asked and answered.
 12 THE WITNESS: We know from our first-year
 13 experience that since this is not a required data field,
 14 that there will always be cases of districts that for
 15 various privacy reasons in their community may not wish
 16 to go through this, so in those cases we use the other
 17 indicator of socioeconomic status, which is free and
 18 reduced lunch.
 19 Q. BY MR. JACOBS: And are those alternatives, or
 20 in some cases do you use both?
 21 A. We gather both.
 22 Q. And how about in the way they're used?
 23 A. They're used both together. Essentially the
 24 parent education level tends to be the better variable
 25 of the two, so that in the case that we have most of the

1 data for a school that's accurate on that, that would
 2 load in. In the case that we don't have it, we would
 3 use the other variable, free and reduced lunch.
 4 Q. And how do you assess the overall accuracy of
 5 the parental education level from data you get?
 6 A. We assess it based on whether or not we have
 7 it. If we have it and we've done all kinds of external
 8 checks that we have, we assume it's good.
 9 Q. And the external checks in this case amount to
 10 what?
 11 MR. VIRJEE: Objection. Asked and answered.
 12 THE WITNESS: We have an independent source in
 13 the Department for free and reduced lunch, so we have a
 14 pretty good estimate of those figures that we can run it
 15 against.
 16 Q. BY MR. JACOBS: So you can actually check the
 17 free and reduced lunch data against your independent
 18 source of that data?
 19 A. Yes.
 20 Q. And do you draw inferences from that check as
 21 to the accuracy of the parental educational level and
 22 income information?
 23 A. No.
 24 Q. So in that case you don't have a check and
 25 you're relying on the district's reporting; is that

1 correct?
 2 A. Yes, our only check is whether or not they do
 3 it or not, whether they report it. We're assuming it's
 4 accurate if they report it.
 5 Q. And I take it that even at the level of --
 6 typically reduced lunch program and education level and
 7 income are correlated in the following way, this school
 8 is reporting something that's outside the -- a couple
 9 standard deviations. Do you any kind of sanity check on
 10 that?
 11 A. Yes.
 12 MR. VIRJEE: Objection. Asked and answered.
 13 Q. BY MR. JACOBS: And how do you conduct that
 14 check?
 15 A. The same way I described the other checks, if
 16 it's out of the range, we flag it and it's part of a
 17 demographic report that we send back. We ask the
 18 district to check it and get back to us.
 19 Q. And in particular do you do that test with
 20 respect to the parental education level and income
 21 information?
 22 A. Yes.
 23 Q. And you check it against all the other
 24 socioeconomic -- all the other indicators, or just
 25 against reduced lunch program?

1 MR. VIRJEE: Objection. Asked and answered.
 2 THE WITNESS: We check it against all the
 3 indicators. I just wanted to correct. You said parent
 4 education, income. We do not collect income.
 5 Q. BY MR. JACOBS: Oh, it's just parental
 6 educational level now?
 7 A. Yes.
 8 Q. In this year that's described in this article,
 9 were you relying on some data about parental income
 10 also?
 11 A. I would never have used the term income.
 12 Q. So it is only -- it has been and is now
 13 strictly data about parental educational levels?
 14 A. Yes.
 15 Q. Let me just tie this down. You check
 16 information you've got about parents' education against
 17 what other information to determine whether it's out of
 18 range?
 19 MR. VIRJEE: Objection. Asked and answered
 20 about four times now.
 21 You keep asking the same question over and over
 22 again, he keeps giving you the same answer.
 23 THE WITNESS: Once again, we send it back to
 24 the district, ask them to check it. We even give them
 25 last year's report to see if there's been any change in

1 it. They then tell us whether or not it's okay.
 2 MR. JACOBS: I'm sorry, I must not be being
 3 clear.
 4 Q. You get that data and do you compare that data
 5 with data about any other component, like multi-year --
 6 year-around schooling or number of uncredentialed
 7 teachers or emergency-credentialed teachers, or
 8 whatever, to determine whether the parental educational
 9 level data is outside of predicted ranges?
 10 MR. VIRJEE: Objection. Vague and ambiguous as
 11 to "component" and "whatever," and asked and answered.
 12 THE WITNESS: I think what you're suggesting is
 13 that we would somehow do a regression on our predictors,
 14 which is certainly something we wouldn't do.
 15 What we do is put up the whole set of data, and
 16 when we have independent ways of checking on each of the
 17 data elements, we provide it. If we don't have that, we
 18 use last year's data, and we ask the districts then to
 19 check on it and report back whether it's accurate. We
 20 don't predict demographic characteristics.
 21 Q. BY MR. JACOBS: And in this one case where you
 22 have two sources of information about socioeconomic
 23 status, that is, reduced lunch program and district
 24 reporting on parental educational level, you don't run
 25 analyses of one against the other to see whether one is

1 out of range of what would be predicted given the other?
 2 MR. VIRJEE: Objection. Asked and answered.
 3 THE WITNESS: I think I just answered that,
 4 that we don't predict one from the other.
 5 Q. BY MR. JACOBS: Have you had any discussions
 6 about how data checking will be done in the fourth cycle
 7 that might be different from the way you're doing it in
 8 the third cycle?
 9 A. We haven't even got our heads out of the third
 10 cycle yet, but certainly will be a discussion that we
 11 will have as soon as we publish the results and talk
 12 about what we can do to make things better.
 13 Q. Let me ask you about another article. This is
 14 an article from the Sacramento Bee, more precisely a
 15 nexus printout of the Sacramento Bee dated October 14th,
 16 2000, school rewards program unfair to poor, critics
 17 say. We'll mark this as the next exhibit, please.
 18 (Exhibit SAD-141 was marked.)
 19 Q. BY MR. JACOBS: You'll see that you are quoted
 20 as saying at the top of the third page of the printout,
 21 the system was designed to be as equitable as possible,
 22 Padia said. Do you see that?
 23 Did you say that in words or substance around
 24 this time?
 25 A. To the best of my recollection I did.

1 Q. And what were you relying on for the statement
2 that the system was designed to be as equitable as
3 possible?
4 A. The context of this article is with respect to
5 awards and award dollars, and the question is whether or
6 not schools that are in the lower deciles get
7 essentially the same share of money as the schools in
8 the upper deciles, and the answer is that the system
9 actually gives more money to the lower decile schools
10 than it does to the upper decile schools overall.
11 Q. And how is that?
12 A. When you add up the governor's performance
13 awards, the certificated teacher awards and the school
14 site awards and II/USP all together and you do it on per
15 pupil basis, you find that the per pupil amount in
16 schools in the lower five deciles is significantly
17 higher than the per pupil amount in the schools in the
18 upper deciles.
19 Q. And are you saying that the -- if you divide
20 the schools at the 50-percent mark, below 50 percent
21 would get more as so calculated than the schools above
22 50 percent?
23 A. Yes.
24 Q. And if you take II/USP out of that equation, is
25 that still true?

1 A. I'd have to calculate it. I'd have to look at
2 the calculations to see whether or not that would be
3 true or not, but it would remove a significant amount of
4 money at the lower deciles.
5 Q. And in the case of II/USP -- well, in the case
6 of all of the components of that equation, were you
7 looking at the aggregate amounts available under those
8 programs?
9 MR. VIRJEE: Objection. Vague and ambiguous as
10 to "aggregate amounts available."
11 Q. BY MR. JACOBS: Actually, maybe you could just
12 tell me how would one duplicate your math. What would
13 one do?
14 A. You would just add up all of the money that was
15 available for those different programs by deciles and
16 then divide by the total population to get at a per
17 pupil adjusted level.
18 Q. And which programs are targeted at the below 50
19 percent versus above 50 percent?
20 MR. VIRJEE: Objection. Assumes facts not in
21 evidence. Also overbroad.
22 Q. BY MR. JACOBS: Let me come at this a slightly
23 different way. Obviously II/USP is aimed at the lowest
24 performing schools, right?
25 A. II/USP is aimed at the deciles one through

1 five, yes.
2 Q. And the certificated teacher award, how does
3 the eligibility for that vary above 50 percent versus
4 below 50 percent?
5 A. It's intended for those schools in deciles one
6 through five.
7 Q. And if you are in a school above the 50-percent
8 decile, are you positively ineligible for that award?
9 A. Yes.
10 Q. And then the next one you mentioned was which
11 program?
12 A. The two other award programs are the governor's
13 performance award, and the one that existed last year
14 but doesn't exist this year was what we called the
15 school site award, which gives money to all employees at
16 a school site, with an equal amount going to the school
17 for schoolwide purposes.
18 Q. Was that just in existence that one year?
19 A. Yes.
20 Q. And the performance award, how was that
21 directed as between below 50 percent and above 50
22 percent?
23 A. The governor's performance award?
24 Q. Correct.
25 A. That was based on whether or not schools met

1 their growth targets across the entire distribution.
2 Q. And when it was in existence, the school site
3 award, how was that targeted?
4 A. In the same manner.
5 Q. And the year that you're describing is year two
6 or year one?
7 MR. VIRJEE: Objection. Vague and ambiguous as
8 to "year two" and "year one."
9 THE WITNESS: It's based on the 2000 API.
10 MR. JACOBS: Probably a better way to talk
11 about it, the 2000 API.
12 Q. So far the awards that will be based on the
13 2001 API, how have the awards changed as against the
14 awards that you were just discussing?
15 MR. VIRJEE: Objection. Vague and ambiguous as
16 to "awards." Also calls for speculation.
17 THE WITNESS: The one program for school site
18 is no longer in existence. The certificated staff award
19 is directed at the lower five deciles, and the
20 governor's performance award is still directed across
21 the spectrum of one through ten deciles, and based on
22 the growth target.
23 There have been some changes in the actual
24 eligibility of those programs based on the budget, which
25 actually makes it more difficult for schools that are

1 800 or more to actually receive funds.

2 Q. BY MR. JACOBS: And what's the mechanism by
3 which that benchmark figures into the award of funds?

4 A. The criterion for meeting your target if you're
5 a school that scores an 800 or above is that you
6 maintain 800 above, so you could go from 820 to 810 and
7 still meet your target.

8 The new criterion for an award -- for last
9 year's award you had to grow one point to be awards
10 eligible. So, in fact, awards eligible is a stronger
11 criterion than meeting your target.

12 This year you have to grow five points if
13 you're a high-performing school in order to get an
14 award, even though you meet your growth target.

15 Q. And the growth target is -- taking a school
16 that scored 800 the previous year, the growth target
17 would be what for the first threshold evaluation of
18 eligibility?

19 A. For the criterion of whether or not they met
20 their growth target, they have to stay over 800.

21 Q. I see. So now there's now, in addition, a new
22 criterion besides meeting your growth target, which is?

23 A. Last year there was an additional criterion of
24 meeting one point growth for an award. This year it's
25 ramped up to five points.

1 Q. BY MR. JACOBS: Has the superintendent of
2 public instruction made a recommendation on whether that
3 bill should be signed?

4 MS. READ SPANGLER: Objection. Deliberative
5 process privilege. I'm going to instruct him not to
6 answer. And legislative process privilege too.

7 THE WITNESS: I'm not aware of what the
8 superintendent's feelings on that bill are.

9 Q. BY MR. JACOBS: Has your office conducted any
10 analysis of that legislation?

11 A. Yes.

12 Q. In what form?

13 A. Informal analysis along the way, as the
14 legislation was being developed, in response to
15 committee requests through our legislative liaison.

16 Q. So you conveyed information to the legislature
17 through your legislative liaison about the proposed
18 legislation?

19 A. Yes.

20 Q. And what was the substance of the viewpoint
21 that you so expressed?

22 MS. READ SPANGLER: Again, I'm going to assert
23 the deliberative process privilege and instruct him not
24 to answer. You're not entitled to know that. Don't
25 answer.

1 Q. Got it. Now, II/USP eligibility did not
2 change, right?

3 MR. VIRJEE: Objection. Vague and ambiguous as
4 to "II/USP eligibility."

5 MR. JACOBS: For the 2001 API.

6 THE WITNESS: That's correct.

7 Q. BY MR. JACOBS: There was talk of a sort of a
8 supplement II/USP program in the legislature, and that
9 was not enacted; is that correct?

10 MR. VIRJEE: Objection. Calls for speculation.
11 Lacks foundation. Also vague and ambiguous as to an
12 II/USP supplemental program.

13 THE WITNESS: What is your question?

14 Q. BY MR. JACOBS: As I recall the press over the
15 summer there was discussion in the legislature over a
16 supplemental program aimed at underperforming schools
17 that would have added amounts available under the II/USP
18 program. Is my understanding correct?

19 MR. VIRJEE: Objection. Vague and ambiguous as
20 to "under the II/USP program."

21 THE WITNESS: There is a bill on the governor's
22 desk that's called AB 961 that in its form appropriates
23 \$200 million for schools in the lower deciles and
24 creates a relationship with II/USP. That bill has not
25 been signed into law yet.

1 Q. BY MR. JACOBS: Are you going to follow your
2 counsel's instruction on this?

3 A. Pardon?

4 Q. Are you going to follow your counsel's
5 instructions?

6 A. Yes, I'm going to follow them.

7 Q. Did you make any public comments on AB 961?

8 MR. VIRJEE: Objection. Vague and ambiguous as
9 to "public comments."

10 Q. BY MR. JACOBS: Did anyone from the Department,
11 to your knowledge, testify on AB 961?

12 A. Yes.

13 Q. Who?

14 A. Our legislative liaison, Terrie Burns.

15 Q. That testimony was public?

16 A. It was done in the committee hearing, so all
17 committee hearings are public.

18 Q. What was the substance of the viewpoint that
19 she expressed?

20 A. I have no knowledge of it.

21 Q. Literally no knowledge of what the Department's
22 position through its legislative liaison was of AB 961
23 in a public hearing?

24 MR. VIRJEE: Objection. Misstates his
25 testimony.

1 THE WITNESS: I didn't watch the hearing, and I
2 don't know if the Department took a formal
3 responsibility.
4 Q. BY MR. JACOBS: Were you consulted in the
5 preparation of her testimony?
6 A. If I were consulted, it would be strictly a
7 question of running numbers of who might be eligible and
8 who might not, not whether or not I agreed with this in
9 concept.
10 Q. Did you?
11 A. I don't have an opinion.
12 Q. Now, I took it from the article that we were
13 looking at that there was some view that there was an
14 inequity in the availability of award monies. Do you
15 see the middle paragraph on page 1?
16 MR. VIRJEE: Middle paragraph starting with the
17 word "according"?
18 MR. JACOBS: Correct.
19 Q. Do you see that paragraph? It says 80 percent
20 of the state's higher-performing schools, many in upper-
21 or middle-class communities, qualify for awards. But
22 just 62 percent of lower-performing schools, many
23 serving low-income children, qualify for the rewards,
24 even though some lifted their scores significantly.
25 Do you see that?

1 A. Yes.
2 Q. First of all, did you do any analysis of
3 whether this calculation was essentially correct?
4 MR. VIRJEE: Objection. Vague as to time.
5 Vague and ambiguous as to which calculation.
6 THE WITNESS: At the time that we released the
7 scores, we actually do the calculation. Whether or not
8 it is exactly these percentages, I can't say unless I
9 have those in front of me.
10 Q. BY MR. JACOBS: And is the calculation you run
11 a calculation in which you take the above-50-percent
12 schools, look at how many of them got how much, and
13 compare that with the below-50-percent schools and look
14 at how many got how much?
15 A. No, the calculation that we -- that we'll do a
16 week and a half from now will give the percentages of
17 schools that meet their target and are awards eligible
18 by decile.
19 Q. And then -- is the difference then -- I'm
20 sorry, I'm not following the difference between the way
21 I said it and the way you said it, except that I did
22 it --
23 MS. READ SPANGLER: You did it halves, he did
24 it in tenths.
25 Q. BY MR. JACOBS: Is that the only difference?

1 A. That's the only difference.
2 Q. So if one summed the first five deciles, as you
3 heard my question, you'd get the same result as the way
4 I did it?
5 A. Yes.
6 Q. Let's run it again to make sure we're talking
7 about the same thing. You look at -- on a
8 decile-by-decile basis you look at exactly what?
9 A. We look at the percentage of schools by decile
10 that meet their growth target and who are awards
11 eligible, so the percentage would drop down because the
12 awards eligibility is a stronger criteria. And we do
13 that for every decile from the lowest to the highest.
14 Q. And you mentioned one place where you could
15 be -- meet your growth target and not be awards
16 eligible. That was in the case of the over 800 schools
17 that don't grow by five points, right?
18 A. Yes.
19 Q. What other -- how else do you fall off the
20 train here if you meet your growth target and then turn
21 out not to be awards eligible?
22 A. There are several other areas where it could
23 happen. The first is the Board adopted a regulation for
24 participation rate, so in cases where schools -- say, an
25 elementary school where less than 95 percent of the

1 students at that school took the SAT-9 exam, they could
2 meet their growth targets, but they would be ineligible
3 for awards.
4 Another significant case would be where they
5 have excessive numbers of students who opted out of the
6 exams. If there were over 15 percent last year and 10
7 percent this year, then they would not be awards
8 eligible.
9 There's also the case where there might be an
10 irregularity, testing irregularity involving an adult,
11 which is a cheating situation, in which case they would
12 not be awards eligible.
13 (Recess taken.)
14 (Mr. Hamilton not present.)
15 Q. BY MR. JACOBS: After your last -- after the
16 first day of your deposition, did you do any work in
17 connection with document production for this case?
18 MR. VIRJEE: Objection. Vague and ambiguous
19 with respect to work for document production.
20 THE WITNESS: I don't recall.
21 Q. BY MR. JACOBS: Did you look for any of the
22 documents that you had mentioned in the first day of
23 your deposition?
24 A. No.
25 Q. Did you have any discussions with any of the

1 lawyers representing the State or the State agency
 2 defendants on the topic of documents that were perhaps
 3 relevant to the case? You can just answer that yes or
 4 no.
 5 MR. VIRJEE: Objection. Calls for
 6 attorney/client privilege.
 7 MS. READ SPANGLER: Yeah, it does.
 8 MR. JACOBS: You're going to instruct him not
 9 to answer the question whether he had discussions on
 10 that topic?
 11 MS. READ SPANGLER: Yeah. You're asking him
 12 about a subject matter.
 13 MR. JACOBS: Yes, exactly.
 14 MS. READ SPANGLER: Yes. And you're not
 15 entitled to know subjects that he's discussed with his
 16 attorneys. So, yes.
 17 MR. JACOBS: And that's the instruction you're
 18 going to give?
 19 MS. READ SPANGLER: Yes, I'm instructing him
 20 not to answer.
 21 MR. JACOBS: To state it very clearly, you
 22 understand that I'm asking him about the subject of
 23 document production and whether he had any discussions
 24 with any of the lawyers from the State or State agency
 25 defendants about that subject since the first day of his

1 deposition, and you're going to instruct him not to
 2 answer on that question?
 3 MS. READ SPANGLER: Yes.
 4 Q. BY MR. JACOBS: And you're going to follow
 5 counsel's instruction?
 6 A. Yes.
 7 Q. You've testified several times that the
 8 multi-track -- that multi-track year-around schooling
 9 and socioeconomic status are closely correlated.
 10 Do you have any information about why that
 11 correlation is so close?
 12 MR. VIRJEE: Objection. Misstates his
 13 testimony. Also calls for expert opinion. Calls for
 14 speculation. Lacks foundation.
 15 THE WITNESS: I believe I already answered
 16 that.
 17 Q. BY MR. JACOBS: You can refer me to the answer
 18 you gave me, but I'm not recalling it.
 19 A. What I said before was that multi-track
 20 year-around schools are typically located in urban
 21 areas. Urban areas tend to have lower socioeconomic
 22 status than nonurban areas, and urban areas, therefore,
 23 tend to score lower on tests than nonurban areas.
 24 Q. Do you have any information as to why
 25 multi-track year-around schools are commonly located in

1 such urban areas?
 2 MR. VIRJEE: Objection. Lacks foundation.
 3 Calls for speculation. Calls for the testimony of an
 4 expert witness, which this witness is not competent to
 5 provide.
 6 THE WITNESS: The purposes of a multi-track
 7 year-around school is to handle overcrowding. I would
 8 speculate --
 9 MR. VIRJEE: We don't want you to speculate or
 10 guess.
 11 THE WITNESS: I would estimate that that's the
 12 reason why. That's where the urban population is and
 13 that's where the overcrowdedness takes place. That's
 14 where the large population centers are, I should have
 15 said.
 16 Q. BY MR. JACOBS: And have you conducted any
 17 analysis on that question of the reasons for the
 18 relationship, or is it based on your general
 19 understanding of the educational environment in the
 20 state?
 21 MR. VIRJEE: Objection. Vague and ambiguous as
 22 to "analysis." Asked and answered.
 23 THE WITNESS: I haven't conducted any
 24 additional analysis other than the ones I already
 25 mentioned.

1 MR. JACOBS: I have no further questions.
 2 EXAMINATION BY MR. JORDAN
 3 Q. BY MR. JORDAN: Do you have a copy of the
 4 transcript of your first session of your deposition
 5 here, Mr. Padia?
 6 A. Yes, I do.
 7 Q. I've got a few clarification questions on your
 8 earlier testimony.
 9 First of all, have you had a chance to review
 10 the transcript of your deposition on April 18?
 11 A. Yes.
 12 Q. We haven't received any changes or corrections
 13 to the transcript. Did you have any that you noticed?
 14 MS. READ SPANGLER: We have that stipulation
 15 that we don't have to send those out until 45 days after
 16 we receive the last deposition transcript.
 17 MR. JORDAN: Okay.
 18 MS. READ SPANGLER: I just wanted to remind
 19 you.
 20 MR. JORDAN: That may be why we didn't get
 21 them.
 22 Q. Do you have any changes that you recall offhand
 23 that you want to make to your original transcript?
 24 MR. VIRJEE: As he sits here right now does he
 25 have any changes that he wants to make?

1 MR. JORDAN: As he sits here right now.
 2 THE WITNESS: No.
 3 (Mr. Hamilton entered the room.)
 4 Q. BY MR. JORDAN: Okay. I'd like to refer you to
 5 page 32, lines 8 through 12. There's a reference to a
 6 study of a statistical procedure called a value-added
 7 model.
 8 I think you said Linda Carstens was the unit
 9 manager for that study?
 10 A. Yes.
 11 Q. Okay. You said that that was available on your
 12 website. I must not have been looking for it the right
 13 way, because I can represent to you that I've looked and
 14 I could not find it.
 15 Can you tell us where we would find that on our
 16 website?
 17 MR. VIRJEE: Objection. Vague and ambiguous.
 18 Also calls for speculation.
 19 THE WITNESS: It's, I believe, up on the
 20 division -- policy and evaluation division site under
 21 the evaluation analysis unit.
 22 Q. BY MR. JORDAN: Do you remember what the name
 23 of the study is?
 24 A. I don't recall it exactly, but it has
 25 value-added in the title, I believe.

1 Q. Okay. Any other search terms that might be
 2 helpful in finding that study that you can identify?
 3 MR. VIRJEE: Objection. Calls for speculation.
 4 Lacks foundation.
 5 THE WITNESS: No.
 6 Q. BY MR. JORDAN: Do you remember whether
 7 value-added is hyphenated or not?
 8 A. I believe it's hyphenated.
 9 Q. Okay. At the next page of your depo transcript
 10 at lines 2 through 6 you said that you were determined
 11 it would be useful to study that because it's a
 12 potentially useful model to use within the state of
 13 California. Do you see that?
 14 A. Yes.
 15 Q. Do you have any information whether anyone in
 16 the Department of Education has done anything further
 17 with respect to the value-added model?
 18 MR. VIRJEE: Objection. Vague and ambiguous as
 19 to "value-added." Calls for speculation. Lacks
 20 foundation.
 21 THE WITNESS: Nobody in the Department of
 22 Education.
 23 Q. BY MR. JORDAN: Okay. I suggest a further
 24 question. Do you know of anybody else who has done
 25 anything further with this model within the state of

1 California?
 2 MR. VIRJEE: Objection. Calls for speculation.
 3 Lacks foundation. Vague and ambiguous.
 4 THE WITNESS: Actually, we asked Professor
 5 Haertel from Stanford to take a look at the value-added
 6 approach, and he produced a paper that's in draft form
 7 at this point for us.
 8 Q. BY MR. JORDAN: Could you spell his name,
 9 please.
 10 A. Yes, it's H-a-e-r-t-e-l.
 11 Q. Okay. Is that draft available to the public?
 12 A. Not at this time.
 13 Q. Do you have any expectation as to when it will
 14 be available?
 15 A. Our plan is to put it up on our website as soon
 16 as we can get to it. There are a few minor edits that
 17 we have to make to it, corrections.
 18 Q. Would you expect that would be within the next
 19 month or two?
 20 MR. VIRJEE: Objection. Calls for speculation.
 21 Lacks foundation.
 22 THE WITNESS: My hope is within the next few
 23 months.
 24 Q. BY MR. JORDAN: I'd like you to look at page
 25 57, lines 5 through 10. You recalled that was a

1 correlation analysis of the percent of credentialed
 2 teachers and emergency-credentialed teachers by decile
 3 of the API. And I'd like to mark a document next, which
 4 I believe is the analysis you're referring to.
 5 (Exhibit SAD-142 was marked.)
 6 Q. BY MR. JORDAN: Could you look at Exhibit 142
 7 and tell us whether that is the analysis you were
 8 referring to?
 9 A. It appears to be, yes.
 10 Q. Now, on this document we don't see any
 11 correlation coefficients, do we?
 12 A. No.
 13 Q. Okay. Do you know whether anybody in the
 14 Department has calculated correlation coefficients for
 15 these data?
 16 A. The answer is yes, and it's on the file of the
 17 technical report for similar schools.
 18 Q. Technical report for what schools?
 19 A. Similar schools.
 20 Q. Oh, similar schools. And while we're on that,
 21 I had a later question I was going to ask you anyway.
 22 Again, you said that was available on your
 23 website. I tried to find that. I can't find that. Can
 24 you tell me where I would find that report?
 25 A. I believe you would go to our website

1 CDE/PSAA/API, and then under there there's a section
 2 called technical reports, if you click on that, it
 3 should get you to these and others.
 4 Q. Okay. And do you remember the title of that
 5 particular one or any search terms?
 6 A. That one has similar schools in the title.
 7 Q. Okay. Do you know what correlation coefficient
 8 was calculated in that technical report?
 9 There are different kinds of correlation
 10 coefficients, Kendall correlation coefficient, for
 11 example, or could you tell us which types were
 12 calculated?
 13 A. I believe it's a straight Pearson correlation
 14 coefficient because this is a continuous variable
 15 against the API.
 16 Q. That would be the Pearson Product Moment
 17 correlation coefficient?
 18 A. I believe that to be.
 19 Q. I'd like you to look at page 103 lines 3
 20 through 16 of your deposition in which you were
 21 describing a report called Steering by Results.
 22 A. Yes.
 23 Q. And the plaintiffs had marked earlier today as
 24 Exhibit 136 a report which appears to be the report you
 25 were referring to.

1 Can you verify whether that is the report
 2 called Steering by Results?
 3 A. Yes, it is, that's the one I looked at.
 4 Q. And that's the one you were referring to
 5 earlier in your deposition at page 103?
 6 A. Yes.
 7 Q. On the same page at lines 21 and 24 you said
 8 that that report called for a matrix sample test to be
 9 used in the state accountability system.
 10 A. Yes.
 11 Q. Can you show us where in the report it calls
 12 for that?
 13 MR. VIRJEE: The report speaks for itself.
 14 THE WITNESS: You want me to look in the report
 15 and find it?
 16 MR. JORDAN: I was hoping you could help us
 17 find it because frankly I've looked through the report
 18 and I can't find where it calls for a matrix sample test
 19 to be used.
 20 THE WITNESS: You want me to take time now and
 21 go through it?
 22 MR. JORDAN: Either that or take a break.
 23 MR. VIRJEE: I don't think there's going to be
 24 a break. You're last.
 25 THE WITNESS: By the way, I see a correction on

1 line 25, as long as we're there. Is not a matrix test.
 2 MR. JORDAN: That was going to be another one
 3 of my questions.
 4 MR. VIRJEE: 136.
 5 THE WITNESS: On page 1 of 20 under
 6 recommendations, item No. 1, use of comparable and valid
 7 measures, the last sentence, the only assessment that
 8 appears to meet those criteria is the to-be-developed
 9 state matrix sample test.
 10 MR. JORDAN: Okay. Thank you.
 11 THE WITNESS: There may be other areas here
 12 that refer to that, but my impression is there was a
 13 stronger recommendation than just that comment.
 14 (Ms. Welch left the room.)
 15 Q. BY MR. JORDAN: I think you jumped ahead of
 16 what my next question was going to be, which was to
 17 clear up this "not" versus there is a matrix.
 18 In other words, there is not a matrix test in
 19 California today, right?
 20 A. Correct.
 21 Q. Okay. And to be real specific so we have a
 22 clear record on your transcript, there should be a "not"
 23 on page 103, line 25 of your deposition transcript
 24 before -- after the word "is," there should be a "not,"
 25 correct?

1 A. Correct.
 2 Q. I'd like you to look at page 164, line 24.
 3 First thing I'd like to do, you testified
 4 earlier today about this variation in the API accounted
 5 for by SES or socioeconomic status, but the transcript
 6 in several places refers to SCS. That should be
 7 corrected to SES, should it not?
 8 A. Yes, that's correct.
 9 Q. Okay. I apologize for not being able to find a
 10 technical tables report on your website where I could
 11 ask these questions easier.
 12 Can you tell us how the intercorrelation matrix
 13 in the technical tables was calculated?
 14 A. Yes, the standard way is the 14 indicators
 15 across the top of the column and the 14 indicators
 16 across the row. The diagonal are all ones since they
 17 correlate to each other, one, and the off-diagonal
 18 correlation represents the Pearson product moment
 19 correlations between two variables.
 20 Q. And so in deducting the effect of the strongest
 21 correlation of the coefficient, which was SES, how would
 22 you then -- you've got a number of factors in there.
 23 I'm sorry if I'm being a little informal here, but I'm
 24 trying to arrive at just how physically you calculated
 25 these numbers.

1 How is the effective SES deducted from the
2 remaining variables?
3 A. Well, it's all sort of done at once in the
4 regression protocols, but if you wanted to look at those
5 effects separately, you would run a stepwise regression
6 and then look independently at which point they come in.
7 You could also run partial correlations, in which case
8 you look at the correlation of one variable with another
9 with the effect of a third removed from that. But the
10 data is the standard printout of a multi-regression.
11 Q. And you've seen the report, and in your view,
12 it lays out adequately how all those were calculated?
13 A. Yes.
14 Q. Now, the API database -- referring now not just
15 to the API itself, but to the other data that's in the
16 API database, that includes data for 1999 and 2000
17 currently, doesn't it?
18 A. Yes.
19 Q. But not for earlier years?
20 A. That's correct.
21 Q. 1999 was the first year for which API was
22 calculated for schools in California?
23 A. Yes.
24 Q. Okay. Do you know of any data from which a
25 comparable API could be computed for earlier years for

1 effect for some time before the API was first calculated
2 in California?
3 MR. VIRJEE: Objection. Vague and ambiguous as
4 to "some time."
5 THE WITNESS: For a couple of years, yes.
6 Q. BY MR. JORDAN: There's a study being done on
7 whether or not the class size reduction program has been
8 successful in increasing academic performance in
9 California schools; isn't that correct?
10 MR. VIRJEE: Objection. Calls for speculation.
11 Lacks foundation.
12 THE WITNESS: The study that's going on is a
13 comprehensive evaluation of the class size reduction
14 program. One aspect of the study seeks to understand
15 the relationship between reduced classes and
16 achievement.
17 Q. BY MR. JORDAN: Okay. And do you know which
18 data in the study should indicate whether a class size
19 reduction program has had an effect on academic
20 performance?
21 MR. VIRJEE: Objection. Calls for speculation.
22 Lacks foundation.
23 THE WITNESS: The data that would be used would
24 be SAT-9 scores.
25 Q. BY MR. JORDAN: Okay. And any other data, for

1 schools in California?
2 A. I believe you could take the 1998 SAT-9 data
3 and possibly get close to computing the API, if you
4 apply the same rules.
5 Q. How about for years earlier than 1998?
6 MR. VIRJEE: Objection. Calls for speculation.
7 Lacks foundation.
8 THE WITNESS: I don't believe you could do that
9 for the state of California earlier than 1998 because
10 there was no uniform statewide assessment. You could do
11 it for a specific district that used the same
12 nationally-normed tests and then compute an API.
13 Q. BY MR. JORDAN: Okay. Do you remember when the
14 class size reduction program began?
15 MR. VIRJEE: Objection. Vague and ambiguous as
16 to "began."
17 THE WITNESS: My estimate would be about four
18 years ago.
19 Q. BY MR. JORDAN: About 1996, 1997 school year?
20 MR. VIRJEE: You don't need to guess or
21 speculate. If you can recall, that's fine. If you
22 can't, that's fine too.
23 THE WITNESS: That's as close as I can give
24 you.
25 Q. BY MR. JORDAN: In any event, it had been in

1 example, class size?
2 A. Well, they would use class size in the analysis
3 and try to make a connection. The actual methodology is
4 detailed out very thoroughly in the first two annual
5 reports for that evaluation that was conducted by, and
6 is being conducted by the American Institutes of
7 Research, Rand Corporation, R-a-n-d, West Ed.
8 Q. Okay. And in the API base data there's a field
9 for the average class size in grades K through 3; isn't
10 there?
11 A. Yes.
12 Q. Would that be some of the data being used for
13 this study?
14 MR. VIRJEE: Objection. Calls for speculation.
15 Lacks foundation. Also vague and ambiguous as to data
16 used for this study.
17 THE WITNESS: I'd have to examine the technical
18 report from the contractor to determine precisely what
19 they used.
20 Q. BY MR. JORDAN: Do you know -- putting aside
21 the study being done outside the Department by an
22 independent contractor, do you know of any study within
23 the Department of the relationship between the class
24 size or this data field for average class size in grades
25 K through 3 and API numbers?

1 A. I'm not aware of any study, no.
 2 Q. Okay. Do you have any expectation whether
 3 there would be an inverse correlation between that field
 4 and API numbers if class size reduction is successful?
 5 MR. VIRJEE: Objection. Calls for speculation.
 6 Lacks foundation. Calls for an expert opinion beyond
 7 which this witness is not competent to testify. Also
 8 incomplete hypothetical.
 9 THE WITNESS: I couldn't say.
 10 Q. BY MR. JORDAN: Okay. Same question as to any
 11 other variable that you think would be important to look
 12 at in determining whether or not class size reduction
 13 has been successful in increasing academic performance.
 14 MR. VIRJEE: Same objections.
 15 THE WITNESS: The whole reason there was an
 16 independent evaluation is to answer just those
 17 questions. We've spent roughly -- the State has spent
 18 about \$400,000, \$500,000 a year to get at that question,
 19 so you might well want to review the last two annual
 20 reports.
 21 Q. BY MR. JORDAN: Well, I was trying to put aside
 22 what the study has said. Do you know of any other
 23 variables that you think would relate to determine
 24 whether or not the class size reduction program has been
 25 successful in increasing academic performance?

1 We're checking the website to see if we can find it at
 2 that location.
 3 MR. JORDAN: The technical report?
 4 MR. JACOBS: Yeah. Because we were hunting
 5 too. If you could stand by for just a sec.
 6 (Ms. Welch entered the room.)
 7 MR. JACOBS: This says descriptive statistics
 8 and correlations tables for California's 2000 school
 9 characteristics index and similar schools ranks.
 10 Is this the report you were referring to?
 11 THE WITNESS: Yes.
 12 MR. JORDAN: Great.
 13 MR. JACOBS: Thank you very much.
 14 MR. JORDAN: It would be nice to mark it as an
 15 exhibit so there's no question that this is the one.
 16 MR. JACOBS: Do you have any questions?
 17 MR. VIRJEE: No.
 18 MR. HAMILTON: I have no questions.
 19 (Exhibit SAD-143 was marked.)
 20 (The deposition concluded at 3:03 p.m.)
 21 ---o0o---

1 MR. VIRJEE: Objection. Asked and answered.
 2 Calls for speculation. Lacks foundation. Incomplete
 3 hypothetical.
 4 THE WITNESS: No, I don't.
 5 Q. BY MR. JORDAN: There was some discussion
 6 earlier today about including new components in the API.
 7 Do you remember that?
 8 A. Yes.
 9 Q. If we do that, how do we compare the API for
 10 the new year, in which we have this new component added,
 11 with the API for earlier years, in which it is not
 12 included, without running into the apples and oranges
 13 problems, if you understand what I'm saying?
 14 A. Yes. The API growth cycle is always compared
 15 with the same set of achievement indicators that are in
 16 the API, so, for example, between 2000 and 2001 the
 17 growth will be measured only on the SAT-9.
 18 Q. Okay. You wouldn't start to compare growth on
 19 the new components until you had more than one year to
 20 compare?
 21 A. Yes, the comparison is always between two
 22 successive years on the same indicators.
 23 Q. That's what I was asking.
 24 MR. JORDAN: I'm done.
 25 MR. JACOBS: If we could just wait a minute.

1 Please be advised that I have read the
 2 foregoing deposition. I hereby state there are:
 3
 4 (check one) _____ NO CORRECTIONS
 5 _____ CORRECTIONS ATTACHED
 6
 7 _____
 8 Date Signed
 9
 10 _____
 11 WILLIAM (BILL) L. PADIA
 12 Case Title: Williams vs State
 13 Date of Deposition: Friday, October 5, 2001
 14 ---o0o---

1 DEPONENT'S CHANGES OR CORRECTIONS

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

7 DEPOSITION OF: WILLIAM (BILL) L. PADIA, VOL. II
8 CASE: WILLIAMS VS STATE

9 DATE OF DEPOSITION: FRIDAY, OCTOBER 5, 2001

10 I, _____, have the following
11 corrections to make to my deposition:

12 PAGE LINE CHANGE/ADD/DELETE

13	_____	_____	_____
14	_____	_____	_____
15	_____	_____	_____
16	_____	_____	_____
17	_____	_____	_____
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23	_____	_____	_____
24	_____	_____	_____

25 _____
WILLIAM (BILL) L. PADIA DATE

1 ESQUIRE DEPOSITION SERVICES
2 Certified Shorthand Reporters
3 1801 I Street, Suite 100
4 Sacramento, California 95814

5 Dr. William (Bill) Padia
6 State Department of Education
7 721 Capitol Mall, 4th Floor
8 Sacramento, CA 95814
9 Re: Williams vs State, Volume II
10 Date Taken: Friday, October 5, 2001

11 Dear Dr. Padia:

12 Your deposition is now ready for you to read, correct,
13 and sign. The original will be held in our office for
14 45 days from the date of your last day of deposition.

15 If you are represented by counsel, you may wish to
16 discuss with him/her the reading and signing of your
17 deposition. If your attorney has purchased a copy of
18 your deposition, you may review that copy. If you
19 choose to read your attorney's copy, please fill out,
20 sign, and submit to our office the DEPONENT'S CHANGE
21 SHEET located in the back of your deposition.

22 If you choose to read your deposition at our office, it
23 will be available between 9:00 a.m. and 4:00 p.m.
24 Please bring this letter as a reference.

25 If you do not wish to read your deposition, please sign
here and return within 30 days of the date of this
letter.

WILLIAM (BILL) L. PADIA DATE

Sincerely,

21 TRACY LEE MOORELAND, CSR
22 Esquire Deposition Services
23 Job No. 29408

24 cc: Michael Jacobs, Esq. Leecia Welch, Esq.
Richard Hamilton, Esq. Framroze Virjee, Esq.
Kara Read Spangler, Esq. Judd Jordan, Esq.

1 REPORTER'S CERTIFICATE

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

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

16 IN WITNESS WHEREOF, I have hereunto set my hand
17 this 10th day of October, 2001.

23 TRACY LEE MOORELAND, CSR 10397
24 State of California

1 ESQUIRE DEPOSITION SERVICES
2 Certified Shorthand Reporters
3 1801 I Street, Suite 100
4 Sacramento, California 95814

5 MORRISON & FOERSTER
6 ATTN: LOIS K. PERRIN, ESQ.
7 429 Market Street
8 San Francisco, CA 94105-2482

9 Re: Williams vs State
10 Deposition of: William (Bill) L. Padia, Vol. II
11 Date Taken: Friday, October 5, 2001

12 Dear Ms. Perrin:

13 We wish to inform you of the disposition of this
14 original transcript. The following procedure is being
15 taken by our office:

16 _____ The witness has read and signed the
17 deposition. (See attached.)

18 _____ The witness has waived signature.

19 _____ The time for reading and signing
20 has expired.

_____ The sealed original deposition is
being forwarded to your office.

_____ Other:

Sincerely,

21 TRACY LEE MOORELAND, CSR
22 Esquire Deposition Services
23 Ref. No. 29408