

1
2 SUPERIOR COURT OF THE STATE OF CALIFORNIA
3 COUNTY OF SAN FRANCISCO

4 ELIEZER WILLIAMS, a minor, by SWEETIE WILLIAMS,
5 his guardian ad litem, et al., each individually
6 and on behalf of al others similarly situated,

7
8 Plaintiffs,

9
10 -vs-

11
12 STATE OF CALIFORNIA, DELAINE EASTIN, State
13 Superintendent of Public Instruction; STATE
14 DEPARTMENT OF EDUCATION; STATE BOARD OF
15 EDUCATION,

16
17 Defendants.

18
19 Volume II
20 March 4, 2003
21 9:35 A.M.
22
23
24
25

Continued deposition of THOMAS SOBOL, Ed.D.,
taken by Defendants, pursuant to Notice, at the
offices of O'Melveny & Meyers, L.L.C., 153 East
53rd Street, New York, New York, before Linda J.
Greenberg, a Certified Shorthand Reporter and
Notary Public of the State of New York.

1 APPEARANCES:

2
3 ACLU FOUNDATION OF SOUTHERN CALIFORNIA
4 Attorneys for Plaintiffs
5 1616 Beverly Boulevard
6 Los Angeles, California 90026-5752

7 BY: CATHERINE E. LHAMON, ESQ.

8 STATE OF CALIFORNIA DEPARTMENT OF JUSTICE
9 OFFICE OF THE ATTORNEY GENERAL
10 1300 I Street, Suite 1101
11 P.O. Box 944255
12 Sacramento, California 94244-2550

13 BY: ANTHONY V. SEFERIAN, ESQ.
14
15
16
17
18
19
20
21
22
23
24
25

1
2 Q. Do you contend that if a school is
3 yielding student performance results consistent
4 with statewide goals, it should be allowed to
5 operate without many restrictions from the
6 state?

7 MS. LHAMON: Incomplete
8 hypothetical. Vague and overbroad.

9 A. I've tried to make the case in
10 earlier testimony that in states as large and
11 diverse as California and New York State, any
12 one way of doing things is likely to be
13 inappropriate for some subgroup of the
14 population, so that not only do I answer your
15 question in the affirmative, as I do; but I
16 would argue that unless a state is willing to
17 permit ample autonomy for local school districts
18 in how they attain the goals, the goals will not
19 be reached, period.

20 Q. In that part of your report in
21 paragraph 23, are you contending that it is more
22 important to look at the results of a school's
23 achieving than how the school is achieving its
24 results?

25 MS. LHAMON: Incomplete

1
2 THOMAS SOBOL, Ed.D.
3 having been previously duly sworn, was examined
4 and testified as follows:

5 CONTINUED EXAMINATION

6 BY MR. SEFERIAN:

7 Q. Dr. Sobol, do you realize you're
8 still under oath?

9 A. Yes, sir, I do.

10 Q. Since we adjourned the deposition
11 last evening, have you reviewed any documents
12 regarding this case?

13 A. No, I have not.

14 Q. Since that same time, have you
15 spoken with anyone regarding your deposition or
16 this case?

17 A. My wife asked me how it went and I
18 said, "Fine."

19 Q. If I can refer you to paragraph 23
20 on page 12 of your report, are you contending
21 that it is important to determine whether a
22 school program is yielding student performance
23 results that are consistent with statewide goals
24 for student performance?

25 A. Yes.

1
2 hypothetical again.

3 A. I think you have to look at both
4 things; but I do, to return to part of the
5 conversation we had yesterday, I think an
6 accountability system that is predicated on
7 achieving results is preferable to one
8 predicated on procedural compliance. So in that
9 sense, the outcomes are more important than the
10 process.

11 You do have to look at both,
12 however. You want to make sure that the process
13 is consistent with law and appropriate treatment
14 of school age children.

15 Q. In general, do you believe that it
16 is important for a state to have a system to
17 determine whether its schools yield student
18 performance results --

19 A. Yes.

20 MS. LHAMON: Let him finish the
21 question before you answer.

22 THE WITNESS: I thought the
23 question was done.

24 A. I beg your pardon.

25 Q. That's fine.

1
2 If a state has a system to
3 determine whether its schools yield student
4 performance results that are consistent with
5 statewide goals for student performance, do you
6 believe that that state is fulfilling an
7 important part of the state's educational role?

8 MS. LHAMON: Incomplete
9 hypothetical.

10 A. I think that the state is
11 fulfilling its proper role, but that's not the
12 entire role because while I would predicate my
13 accountability system on the attainment of
14 results and have a way for the state to set the
15 standards, evaluate progress toward attaining
16 the goals, I would still want to be assured that
17 students who were attaining the goals are living
18 each day in appropriate surroundings.

19 I'll give you one quick example.

20 It would not do, in my judgment,
21 for there to be a school where the learning
22 results were very high, but the building
23 circumstances were unsafe, a fire hazard, let's
24 say, and so on.

25 So, again, I would focus my

1
2 at the local level.

3 Q. In paragraph 24 of your report, on
4 page 12 you say, "Children and communities are
5 different from place to place and the state
6 should therefore allow local educators to adopt
7 state goals to student specific and community
8 specific needs."

9 Can you give an example of what you
10 mean by that statement?

11 A. Consider two school districts in
12 which the students come from widely differing
13 socioeconomic backgrounds.

14 School A has a population that
15 consists of a great many children who entered
16 kindergarten knowing already how to read; and
17 generally, the students in school A enjoy the
18 experience of educational enrichment in their
19 family as well as in their schooling.

20 In school B, many children entered
21 kindergarten not yet fully prepared to learn in
22 the ways that schools teach and lack the
23 enrichment and reinforcement that comes from
24 family life in the same way that the other
25 students experience it.

1
2 accountability system on results. Not
3 procedural compliance. But I would want to make
4 sure that other essential conditions of
5 schooling are being met as well.

6 Q. Do you agree that a statewide
7 accountability system is an effective way for
8 the state to determine if a school program is
9 yielding student performance results?

10 MS. LHAMON: I guess "statewide
11 accountability system," I'm not sure what you
12 mean by that.

13 A. It is one important way in which
14 the state makes that determination.

15 Q. Is it your opinion that if there
16 are too many specific state directives, that
17 will impede local educational officials' ability
18 to obtain effective results?

19 MS. LHAMON: Vague as to "specific
20 state directives."

21 A. In general, I think that the state
22 should focus on setting standards, providing
23 assistance, monitoring progress, and intervening
24 when necessary; and leave as much of the
25 decision making with respect to means to people

1
2 To have one way to teach reading to
3 both groups would be a great mistake to one
4 group or the other. The means that you would
5 employ -- the ends are the same, reading to a
6 high level, but the means by which you would
7 approach the task are very, very different; and
8 the state acts wisely, in my view, when it
9 permits local jurisdictions to determine the
10 means in light of their knowledge of local
11 circumstances.

12 Q. If a state has a system of local
13 control by school districts, is that state
14 allowing local educators to adapt state goals to
15 student specific and community specific needs?

16 MS. LHAMON: Vague as to "local
17 control." Are you using the same definition
18 that Dr. Sobol gave yesterday?

19 A. I don't understand the question
20 thoroughly.

21 Q. Using the definition of "local
22 control" that you testified to yesterday, if a
23 state has such a system, in your opinion, would
24 that state be allowing local educators to adopt
25 state goals to student specific and community

1
2 specific needs?
3 MS. LHAMON: Incomplete
4 hypothetical. Do you remember the definition of
5 "local control" that you gave yesterday?
6 THE WITNESS: More or less.
7 A. I don't think it's appropriate for
8 the state to permit variation in the broadest
9 goals.
10 I think the goals should be uniform
11 for all children in the population. We should
12 have high standards of student performance and
13 educational content, and they should apply to
14 all.
15 I'm arguing not for a variation in
16 goals, but for latitude and means to achieve
17 those goals.
18 Q. Does a state permit local officials
19 to have latitude in achieving those goals if it
20 has a system of local control by school
21 districts?
22 MS. LHAMON: Incomplete
23 hypothetical. The definition of local controls
24 yesterday was compliance with state laws, so I
25 don't know what laws you're talking about.

1
2 state does not provide that latitude, so I would
3 want to look at the facts of the situation
4 before I answer the question more specifically.
5 Q. In the last sentence in paragraph
6 24 on page 12 of your report you say, "This
7 desire for freedom in methods for implementing
8 state mandates makes sense from the standpoint
9 of efficacy." What do you mean by that?
10 A. It's the point that I've been
11 discussing.
12 That there's the role of the state,
13 in part, to set high standards, as well as to
14 provide resources and assistance for achieving
15 them, monitor results and maintain
16 accountability, but the state ought to afford
17 ample local autonomy in deciding the methods for
18 implementing the state mandates in reaching the
19 state goals.
20 And when I say that that makes
21 sense from the standpoint of efficacy, what I
22 mean is it's likely to be better education if
23 it's done that way than if the state were to
24 mandate uniform procedures for all schools and
25 all pupils, regardless of their differences.

1
2 How would Dr. Sobol be able to
3 answer that question?
4 Q. If you can answer. If you can't
5 answer it, you can tell me that.
6 A. I'm really not trying to play games
7 with you, but I would appreciate you telling me
8 the question again. Would you do that?
9 Q. In your opinion, if a state has a
10 system of local control by school districts,
11 within that system, is the state giving local
12 officials the latitude they need to adopt state
13 goals to a site specific need?
14 MS. LHAMON: Same objection.
15 A. You can't tell from the question,
16 from my point of view, because what one group of
17 people would call local control may not be what
18 other people would call local control.
19 A state acts wisely when it permits
20 that kind of local control, in my view, when it
21 permits local school districts latitude with
22 respect to deciding the means by which common
23 goals are to be pursued, but it's possible to
24 have a situation in which most people would talk
25 about as representing local control where the

1
2 Q. In the second sentence in paragraph
3 25 of your report you write, "A state that
4 adopts this posture toward education governance
5 generates standards that must be met and allows
6 for local adoption of practices that are
7 sensible and site specific in meeting the
8 standards."
9 Do you have an opinion as to which
10 states have adopted that posture toward
11 education governance?
12 MS. LHAMON: Assumes facts not in
13 evidence.
14 A. It is the posture that we adopted
15 during the years of my commissionership in New
16 York State, and I know that there's professional
17 literature that advocates the adoption of such a
18 posture by others, but I cannot tell you at
19 present how many states seek to operate in that
20 mode, period.
21 Q. Are you aware of any studies that
22 have examined the statewide effect of adopting
23 top-down support for bottom-up reform?
24 A. I don't know of any studies that
25 attempt to analyze the effects of that approach

1
2 by that name, but there are studies that talk
3 about the state role in conjunction with the
4 role of local school districts, and which urge a
5 similar approach.

6 Michael Fullan has written about
7 it. A woman named L-I-S-I, whose first name I
8 don't recall, has written about it. Richard
9 Elmore at Harvard University has written about
10 it.

11 While I can't cite the specifics of
12 each of the studies, what they all have in
13 common as a general matter is the view that you
14 need to -- that the way to achieve desirable
15 education reform is by melding the authority and
16 resources of the state with the energy and local
17 knowledge of field practitioners.

18 Q. How do you spell the names you just
19 mentioned?

20 A. Michael Fullan, F-U-L-L-A-N. He's
21 at the University of Toronto. The Lisi woman's
22 first name I don't remember right now. I'm
23 sorry. I can see the book on my shelf, but I
24 can't remember the first name. Richard Elmore,
25 E-L-M-O-R-E, he's a professor at the Harvard

1
2 states may be doing this already, and I have a
3 general knowledge that such activity is
4 underway, but I can't tell you what state nor
5 can I identify any specific pamphlets.

6 It's part and parcel of the
7 standards movement that we were talking about
8 yesterday, where state after state is setting
9 new, high learning standards for students to
10 attain. The general feeling is that the public,
11 parents in particular, and of course the
12 children themselves, should be informed as to
13 what those standards are and what they need to
14 do in order to meet them.

15 It's that kind of communication
16 that I sought to encourage in the footnote.

17 Q. To your knowledge, has New York
18 State ever generated pamphlets to distribute to
19 parents identifying those essentials a state
20 determines schools need to have in order to be
21 effective?

22 A. New York State has published some
23 material, but not recently, at least to my
24 knowledge, as user friendly as might be more
25 effective.

1
2 Graduate School of Education and widely known in
3 education circles.

4 Lisi's name may be Luci, L-U-S-I.
5 I'm not sure because I think my mind went off
6 track and I started thinking of Verna Lisa, who
7 was a movie star that you wouldn't know about
8 because it was before your time.

9 Q. In your answer, were you referring
10 to any particular studies by Fullan, Luci or
11 Elmore?

12 A. No, I can't recall the specific
13 studies.

14 Q. In footnote 19 on page 13 of your
15 report, you write, in part, "I would like to see
16 states generate short, readable pamphlets to
17 distribute to parents identifying those
18 essentials the state determines schools need to
19 have in order to be effective."

20 Are you aware of any states that
21 have generated pamphlets to distribute to
22 parents identifying those essentials a state
23 determines schools need to have in order to be
24 effective?

25 A. As I say in the footnote, some

1
2 Q. Has New York State ever published
3 what you would describe as a pamphlet
4 distributed to parents that discusses what you
5 mention in footnote 19?

6 A. We've certainly distributed stuff
7 that had parents as the intended audience.
8 Whether you call it a pamphlet or not, I'm not
9 sure.

10 Q. When you were Commissioner of
11 Education in New York, did you recommend that
12 the state generate pamphlets to distribute to
13 parents identifying those essentials the state
14 determines schools need to have in order to be
15 effective?

16 A. When I was nearing the end of my
17 commissionership, we were just beginning to
18 specify the new standards that were eventually
19 put in place, so the -- there was not the same
20 need then to distribute pamphlets as -- of the
21 sort that I'm describing here, as there
22 subsequently was.

23 We did publish material that was
24 intended for parents, but not the kind that I
25 contemplate in the footnote.

1
2 Q. In the last sentence of paragraph
3 28 of your report on page 15, part of that
4 sentence states that, "The commissioner should
5 be empowered to supersede local authority in
6 order to secure the educational rights of pupils
7 by means of corrective action where necessary."

8 Can you describe how this process
9 would work in practice?

10 A. You're referring to the sentence
11 near the top of page 15?

12 Q. Yes.

13 A. Okay.

14 Paragraph 28, which contains the
15 sentence about which you asked me, expresses my
16 continuing hope and belief that states must, at
17 a minimum, insist on provision of educational
18 essentials that will render differences in
19 academic performance dependant solely upon
20 individual talent and industry, rather than on
21 race or social class, or on the degree to which
22 a state or locality values the student
23 population.

24 Now, to return to your question,
25 sir, where those conditions are not met, where

1
2 And where I argued that in the
3 absence of such improvement, the state should be
4 empowered through the Office of the Commissioner
5 to take control of the district to improve
6 results for children.

7 Q. What document or documents contain
8 that discussion?

9 A. We proposed legislation, so it
10 would have been in the form of a bill that we
11 drafted with an accompanying statement of
12 rationale in the background.

13 Q. Does that legislation have a name
14 or a number?

15 A. It was enacted in the spring of
16 1995, and I don't recall the number and I don't
17 recall the name either, but it was a bill that
18 expressed -- it was a bill, an act, actually,
19 once passed, that authorized the commissioner
20 and the State Education Department to supersede
21 local authority in specific case of the school
22 district on Roosevelt, Long Island.

23 Q. The act you're referring to was
24 applicable only with respect to Roosevelt, is
25 that correct?

1
2 the state has been, up to the time we speak of,
3 negligent or ineffective in the discharge of its
4 responsibility, or local authority has not
5 achieved the desired results, the commissioner
6 should be empowered to supersede that local
7 authority in order to secure the rights of the
8 pupils.

9 I have a feeling I'm repeating the
10 text rather than affording you a different
11 answer, but that's what I meant.

12 Q. Have you ever set forth in detail
13 in writing the procedures that you believe
14 should be implemented to allow a state education
15 commissioner to supersede local authority in
16 order to secure the educational rights of pupils
17 by means of corrective action where necessary?

18 MS. LHAMON: Vague.

19 A. Yes. I did so in the case that I
20 mentioned yesterday in testimony concerning
21 Roosevelt school district on Long Island, where
22 it was demonstrably the case that students had
23 not been learning well for an extended period of
24 time, despite other efforts to improve the
25 situation.

1
2 A. Correct.

3 Q. Have you ever set forth in writing
4 in detail a plan for statewide provision for a
5 commissioner to supersede local authority in
6 order to secure the educational rights of pupils
7 by means of corrective action?

8 MS. LHAMON: Vague and ambiguous as
9 to "in detail."

10 A. There was much discussion about
11 doing that, but I never developed a specific
12 detailed plan in writing, as you say, for a more
13 general authority than that of the Roosevelt
14 district.

15 The reason for that was that until
16 that time, the commissioner lacked such
17 authority, and I knew that the legislature -- I
18 knew it might be difficult to persuade the
19 legislature to grant that authority across the
20 board. I felt that something needed to be done
21 specifically in the Roosevelt district because
22 of the very poor conditions there; and that if
23 we demonstrated that we could improve those
24 conditions, the legislature might be more easily
25 -- be persuaded to convert the authority more

1
2 generally.

3 Q. Are you aware of any states where
4 the Commissioner of Education is generally
5 empowered to supersede local authority in order
6 to secure the educational rights of pupils by
7 means of corrective action where necessary?

8 A. I know that there are states in
9 which the state has intervened to supersede
10 local authority, but I don't know whether that's
11 been done through the Office of the Commissioner
12 or in some other way.

13 Q. In the first sentence of paragraph
14 29 of your report it states, "It is not enough
15 to be concerned only with average improvements
16 from year to year as distinct from the delivery
17 to each child of educational opportunity."
18 What did you mean by that
19 statement?

20 A. It's possible to look at groups of
21 pupils and make statements which are on average
22 correct, but the averages obscure important
23 differences among the individuals.

24 You could have, for example, a high
25 school in which the average graduation rates and

1
2 test scores were satisfactory or even better
3 than satisfactory, and yet have individual
4 students among the mix who were not achieving
5 well and who failed to graduate from high
6 school, perhaps.

7 Those individual cases tend to get
8 lost when you deal only with the averages, and
9 it's important that we attain the desired
10 results for all of the children of the society,
11 not only those who are at the level of average
12 or above.

13 Q. How does the state ensure that
14 individual cases not get lost?

15 A. By monitoring progress, by
16 evaluating progress, by looking at test scores
17 not only for their averages across the whole
18 population, but by looking at subgroups of the
19 population, by looking at individual scores as
20 well as averaged scores.

21 I sometimes think in this regard of
22 the man -- forgive this story, a quick one -- I
23 sometimes think of the man who is lying with his
24 head in a hot oven and his feet in a bucket of
25 ice who says that on average he feels fine.

1
2 It's an accurate statement, but it
3 doesn't really tell you very much about the
4 person's condition.

5 Q. Is an accountability system one way
6 to assess whether children are being provided
7 with education opportunity?

8 MS. LHAMON: Vague as to
9 "accountability system."

10 A. It's possible to devise an
11 accountability system that does that.

12 Q. What would be the primary features
13 of an accountability system that would assess
14 whether children are being provided with
15 education opportunity?

16 MS. LHAMON: Vague as to "primary
17 features."

18 A. I would look first to the results
19 of the education process, taking that look
20 through standardized tests and other assessment
21 procedures; but I would want to go beyond the
22 end results to look at the conditions in which
23 children live and work while they are trying to
24 attain the results as well.

25 Q. Did you say conditions in which the

1
2 children live and work?

3 A. Yes.

4 The reason I say live and work, I
5 don't mean how they're domiciled there, but our
6 children enter school at age 5 or thereabouts,
7 and for half the days of the calendar year,
8 spend the better part of the day in school for
9 the next 12 to 13 years.

10 It's a very important period of
11 their lives; and what is important is not only
12 what they come out with, but the quality of life
13 that they experienced while in the system.

14 Q. Do you regard the individuals you
15 mentioned earlier, Michael Fullan, Luci or Lisi
16 and Richard Elmore, as reliable authorities on
17 ways to achieve educational reform?

18 A. Yes, I do.

19 Q. When was the Compact schools
20 program in effect in New York?

21 A. In the early part of the 1990s.
22 Approximately 1991 to 1995.

23 Q. Why was the Compact schools program
24 in New York stopped?

25 MS. LHAMON: Calls for speculation.

1
2 A. I don't know. I left office.
3 Q. To your knowledge, has the Compact
4 schools program in New York resumed at any time
5 since 1995?

6 MS. LHAMON: Vague as to "Compact
7 schools program." Do you mean any specific
8 component of it or the entire --

9 MR. SEFERIAN: Either one.

10 Q. Do you know whether the entire
11 Compact schools program or what you would
12 consider to be a version of it has resumed in
13 New York at any time since 1995?

14 A. I'm going to ask you a question,
15 let me distinguish first in order to be clear.

16 The New Compact For Learning from
17 Compact schools, if I may make that distinction.
18 The New Compact For Learning, about which we
19 spoke yesterday, was the general plan for
20 educational reform for the state in the early
21 half of the 1990s.

22 The Compact school's initiative was
23 undertaken as part of the Compact as a whole,
24 but was only one of the, as I said yesterday, 16
25 to 20 specific initiatives that were undertaken

1
2 the New Compact For Learning any longer. That
3 was an initiative undertaken by a former
4 administration, and the new administration uses
5 different nomenclature and has different
6 emphases.

7 Q. In the first sentence of footnote
8 25 of your report it says that, "When I was
9 commissioner in New York, we had a program for
10 what we called Compact schools."

11 Is that the program you were
12 referring to that was in effect from 1991
13 through 1995?

14 A. Yes.

15 Q. When you were Commissioner of
16 Education in New York, would you assess
17 statewide needs to determine for which
18 categories additional funding was necessary?

19 MS. LHAMON: Vague as to "assess
20 statewide needs."

21 A. What is the question? The question
22 is, did I assess needs? I'm sorry, my head was
23 back in Compact schools when you asked the
24 question so it threw me. I'm sorry.

25 Q. In paragraph 30 of your report it

1
2 to enact the Compact in schools and school
3 districts.

4 The Compact schools program, in
5 that sense, identified outstanding schools where
6 people had made productive and successful
7 changes in ways that would be emulated, if not
8 copied exactly, by other schools and school
9 districts.

10 Now to come back, to answer your
11 question, it is the case both at the general
12 level of the Compact as a whole and the specific
13 initiative level of the Compact schools, it's
14 the same case, that much of that kind of
15 activity continues, but not under the name of
16 the New Compact For Learning.

17 People are still identifying
18 outstanding schools and calling their attention
19 to other schools and school districts, but they
20 don't call them Compact schools anymore.

21 People are still setting standards
22 and developing new assessment systems and new
23 accountability procedures in the state, all of
24 which were part, originally, of the New Compact
25 For Learning, but they don't bear the name of

1
2 says on page 15, "That means the state must
3 assess statewide its needs to determine for
4 which categories additional funding is necessary
5 and to determine for which areas schools and
6 districts need greater management support."

7 When you were Commissioner of
8 Education in New York, would you assess
9 statewide needs to determine for which
10 categories additional funding was necessary?

11 A. Yes.

12 Q. How would you do that?

13 A. In a variety of ways.

14 By examining the many reports on
15 needs and progress that schools and school
16 districts submitted to the State Education
17 Department. By visiting specific schools and
18 school districts. By talking to the
19 superintendents and Board of Education members
20 for schools and school districts.

21 From briefings with the district
22 superintendents, who I mentioned yesterday who
23 represented the State Education Department in
24 various regions of the state.

25 There are probably other ways in

1
2 which we got information that I don't think of
3 from the top of my head. We took information in
4 in many ways from many different sources and
5 focused our recommendations around the
6 legislative program each year, so that we would
7 make recommendations to the legislature if we
8 needed funding.

9 We also focused the time and energy
10 of the State Education Department's staff on
11 those places that we believed to be in greater
12 need of assistance than others, so it was a very
13 broad effort. A very extensive effort that
14 involved information from a great many sources
15 and took a variety of forms in response to what
16 we learned.

17 Q. If a state goes through a process
18 each year and examines its entire education
19 budget and decides where spending should be
20 increased or decreased and determines for which
21 categories additional funding is necessary,
22 would that state be acting in accordance with
23 the New Compact For Learning?

24 MS. LHAMON: Incomplete
25 hypothetical.

1
2 fiscal monitoring duties, and by suggesting
3 specific methods of carrying out the oversight
4 responsibilities and by providing fiscal advice,
5 would the state be providing part of the support
6 that those individuals need to succeed?

7 A. It would be providing part of the
8 support.

9 Q. In your opinion, should a state
10 provide management studies for school districts?

11 A. Well, I'd have to know what you
12 mean by "management studies."

13 In general, a state should be
14 giving management advice to local school
15 districts.

16 Q. In your opinion, should a state
17 provide a service wherein it analyzes the
18 management structure of a school district and
19 gives recommendations and suggestions for
20 improvement of the management structure of local
21 educational agencies?

22 A. Yes.

23 Q. If a state were providing
24 management studies for school districts, would
25 the state be providing part of the support that

1
2 A. In my judgment, yes. It would not
3 be doing all that the Compact requires or urges,
4 but it would be acting consistent with the
5 principles of the Compact.

6 Q. When you write in paragraph 30 on
7 page 15 that, "The state must assess statewide
8 needs to determine for which categories
9 additional funding is necessary and to determine
10 for which areas schools and districts need
11 greater management support," is it your opinion
12 that the state should help local educational
13 agencies fulfill their fiscal and management
14 responsibilities by providing fiscal advice,
15 management assistance, training and other
16 related school business services?

17 A. Yes.

18 Q. In your opinion, should a state
19 assist local officials in understanding their
20 fiscal monitoring duties and suggest specific
21 methods of carrying out the oversight
22 responsibilities?

23 A. Yes.

24 Q. In your opinion, if a state were
25 assisting local officials in understanding their

1
2 those individuals need to succeed, as indicated
3 on page 15 of paragraph 30 of your report?

4 A. It would be providing part of the
5 support.

6 (A recess was taken.)

7 Q. Dr. Sobol, should a state establish
8 a clearinghouse of helpful information for
9 school business officials?

10 A. Yes.

11 Q. If a state established a
12 clearinghouse of helpful information for school
13 business officials, would the state be providing
14 part of the support that those local individuals
15 need to succeed?

16 A. Yes, part of.

17 Q. In your opinion, should a state
18 provide fiscal management assistance to school
19 districts and county offices of education?

20 MS. LHAMON: Vague as to "fiscal
21 management assistance."

22 A. Yes.

23 Q. If a state established a special
24 unit to provide fiscal management assistance to
25 school districts and county offices of

1
2 education, would the state be providing part of
3 the support that those local entities need to
4 succeed?
5 MS. LHAMON: Same objection.
6 A. Yes. Part of.
7 Q. If a state's support efforts
8 included assisting local officials in
9 understanding their fiscal monitoring duties,
10 suggesting specific methods of carrying out the
11 oversight responsibilities, providing management
12 studies for school districts, establishing a
13 statewide clearinghouse of helpful information
14 for school business officials, and providing
15 fiscal management assistance to school districts
16 and county offices of education, would you agree
17 that the state was making substantial efforts at
18 providing the local officials with the support
19 they need to succeed, as referenced in paragraph
20 30 on page 15 of your report?
21 MS. LHAMON: The question is vague
22 and ambiguous and an incomplete hypothetical.
23 A. It depends what you mean by
24 "substantial." I think part of the things that
25 you enumerated are part of the state's

1
2 responsibility; and the state is discharging a
3 part of its responsibilities by doing those
4 things.
5 Whether it's substantial or not is
6 a subjective judgment we need to talk about.
7 Q. In your judgment, is it
8 substantial?
9 MS. LHAMON: The question is
10 hopelessly vague and ambiguous given you haven't
11 defined what the terms are and you haven't given
12 him any specifics about what the component parts
13 of those terms would be.
14 Q. Can you answer the question?
15 A. The question is, is the provision
16 of those services that you enumerated a
17 substantial part of the state's efforts -- it's
18 an important part. Some people would regard it
19 as substantial and some people would say it
20 doesn't go far enough yet.
21 In my judgment, it's important but
22 it's only part of what a state should do.
23 Q. In paragraph 30 on the top of page
24 16 of your report where you state, "This state
25 role does not excuse local people from an

1
2 obligation to change school conditions on their
3 own if they have the wherewithal to do so."
4 What did you mean by that
5 statement?
6 A. Where is it again?
7 Q. The first full sentence on the top
8 of page 16.
9 A. Thank you. I apologize.
10 I've read the sentence again, now.
11 Would you repeat the question, please?
12 Q. What did you mean when you wrote
13 that, "This state role does not excuse local
14 people from the obligation to change school
15 conditions on their own if they have the
16 wherewithal to do so"?
17 A. The state has its responsibilities.
18 Local school districts have their
19 responsibilities. Individual and groups of
20 teachers have their responsibilities. Students
21 themselves have responsibilities. Parents have
22 responsibilities.
23 There are many actors who have a
24 responsibility for helping students learn and
25 grow as we would wish them to do.

1
2 The fact that one or more than one
3 of these various parties is doing its job
4 doesn't mean that others don't need to do their
5 job.
6 So in this particular case, no
7 matter what the state is doing, the local school
8 district still has a responsibility to act
9 within its means to provide school conditions
10 and an instructional program which would help
11 students meet the state's goals.
12 Q. In the following sentence you
13 state, "But if and when these local people do
14 not rise to the occasion, the state is not
15 exonerated from its obligation to ensure that
16 students have access to educational essentials."
17 If the state intervenes when local
18 people do not rise to the occasion, how will
19 that affect the accountability of local
20 officials?
21 MS. LHAMON: Incomplete
22 hypothetical. Vague and ambiguous. It's not
23 clear what kind of intervention you're talking
24 about.
25 A. Local schools and school districts

1
2 and the officials who represent them should be
3 held accountable for the proper discharge of
4 their responsibilities and for their part of the
5 effort in attaining the goals that we have for
6 kids in the system.

7 However, if for whatever reason, or
8 a combination of reasons, students are
9 demonstrably not learning well over a period of
10 time and/or are experiencing conditions in the
11 schools that are not acceptable over a period of
12 time, then the state, which bears the ultimate
13 responsibility for the quality of education, has
14 a duty to intervene regardless.

15 It's not to excuse the local people
16 of their job. They need still to be held
17 accountable, but not at the expense of students.

18 It is the state's primary
19 obligation to see that the students are educated
20 well, even if local attempts prove futile.

21 Q. In paragraph 31 of your report it
22 says, "The state must develop a system for
23 scrutiny to ensure the existence of the
24 educational essentials on school sites and in
25 classrooms."

1
2 communications network that I described
3 yesterday of talking with superintendents of
4 schools, with district superintendents, with
5 Board of Education members, with representatives
6 of parent organizations and other
7 education-related groups, so that we gathered
8 information from many, many sources about the
9 conditions that prevailed in schools and the
10 outcomes that people were achieving.

11 There was such a widespread
12 comprehensive system for learning about schools
13 and providing the basis for our actions
14 concerning them, but whether I wrote it all up
15 in one document, I don't recall.

16 Q. For your assignment in this case,
17 did you set forth in detail in your report the
18 details of the structure of the system for
19 scrutiny to ensure the existence of the
20 educational essentials on school sites and in
21 classrooms?

22 A. No.

23 MS. LHAMON: The document speaks
24 for itself.

25 Q. While you were Commissioner of

1
2 Have you set forth in detail in
3 writing the structure of the system for scrutiny
4 to ensure the existence of the educational
5 essentials on school sites and in classrooms?

6 MS. LHAMON: Vague as to "in
7 detail."

8 A. I can tell you what we did.
9 Whether we described it all in one document or
10 whether it was scattered among various
11 documents, I don't recall, but I could tell you
12 what we did.

13 First of all, we maintained a
14 program of assessment on student learning,
15 testing program, and other forms of assessment
16 that enabled us to -- that informed us as to
17 whether students were making satisfactory
18 progress or whether they were not.

19 We had a system of annual building
20 inspections -- or at least if they weren't
21 annual, they were regular according to some
22 period of time, I don't recall exactly whether
23 it was annual or not -- so that we would be
24 informed as to the condition of the buildings.

25 We had that whole informal

1
2 Education, did you attempt to set forth in
3 detail the entire structure of the system for
4 scrutiny to ensure the existence of the
5 educational essentials on school sites and in
6 classrooms?

7 A. Well, as I just described, there
8 was more than one system. There were systems
9 for assessing student learning, systems for
10 looking at the physical condition of schools and
11 school buildings, systems for reviewing the
12 credentials of teachers and the extent of their
13 training and licensure.

14 There were multiple systems in
15 place, all of which played a part in forming
16 more holistic judgments about schools and
17 districts; and again, I don't know whether all
18 of these systems were ever described in one
19 place in one document or not, but I very much
20 recall that they all existed and were important
21 to us.

22 Q. In your opinion, does New York
23 State have a system for scrutiny to ensure the
24 existence of the educational essentials on
25 school sites and in classrooms?

1
 2 A. Yes.
 3 Q. Are there any other states in
 4 addition to New York that have a system for
 5 scrutiny to ensure the existence of the
 6 educational essentials on school sites and in
 7 classrooms?
 8 MS. LHAMON: Calls for speculation.
 9 A. To the best of my knowledge,
 10 practices vary widely from one state to the
 11 other state, but I do know that all states have
 12 assessment programs for determining the extent
 13 and kind and quality of student learning, for
 14 example.
 15 I should be very much surprised to
 16 hear about states that had no system for
 17 monitoring the condition of school buildings,
 18 but I don't -- again, I've not made a specific
 19 study of it and I don't pretend to know the
 20 detail of these systems one state after another.
 21 Q. In your opinion, what are the
 22 primary components that a state must have in
 23 place for scrutiny to ensure the existence of
 24 the educational essentials on school sites and
 25 in classrooms?

1
 2 MS. LHAMON: Vague as to "primary
 3 components."
 4 A. I want to be sure I understand the
 5 question. You're asking me, as I understand,
 6 what system states have to have in place for
 7 assuring the provision of essentials? Did I get
 8 that right?
 9 Q. Yes.
 10 A. Without specifying the detailed way
 11 in which such systems operate, there needs to be
 12 a system for monitoring pupils' educational
 13 progress, for monitoring the training,
 14 certification, and effectiveness of teaching,
 15 counseling and administrative staffs.
 16 A way of monitoring the condition
 17 of school buildings, a way of monitoring the
 18 presence of up-to-date textbooks and other
 19 learning materials, a way of monitoring the ways
 20 in which school districts manage their money, a
 21 way of monitoring the uses to which public
 22 school property is put, and more. I can't think
 23 of all of the state responsibilities from the
 24 top of my head, but I'm sure that the elements
 25 that I've mentioned need to be part of a system.

1
 2 Now, what you do in order to do the
 3 monitoring is going to vary from one state to
 4 another, depending upon its size, its -- the
 5 complexity of its structure, political structure
 6 and so on.
 7 So I can tell you again about what
 8 we did with each of these elements in New York
 9 State, but I can't design from the top of my
 10 head a system for another state until I immerse
 11 myself in the specifics of that state's being.
 12 Q. Does New York monitor the
 13 effectiveness and training of teachers and
 14 counselors?
 15 MS. LHAMON: Lacks foundation as to
 16 the current conditions.
 17 A. New York State maintains a program
 18 of certification of teachers for entry into the
 19 profession. It deals with discipline cases that
 20 arise involving members of the teaching staff.
 21 It provides professional development and other
 22 training experiences for teachers in order to
 23 improve their knowledge and performance.
 24 I'm sure we do other things too
 25 that I can't think off the top of my head for

1
 2 the moment.
 3 The state worked with officials and
 4 faculty at teacher education institutions in
 5 order to monitor the standards of operation and
 6 to provide assistance where needed.
 7 Q. In your opinion, if a state had a
 8 system for the certification of teachers,
 9 discipline of teachers, professional development
 10 in assisting teacher educational institutions,
 11 would that state be adequately monitoring the
 12 effectiveness and training of teachers?
 13 MS. LHAMON: Incomplete
 14 hypothetical.
 15 A. I can't tell because of the word
 16 "adequately." I can't tell the extent to which
 17 the monitoring system has been effective or not.
 18 If, by the exercise of those
 19 measures, one could get an accurate reading on
 20 what the important realities are that one needs
 21 to come to know, then I would say yes. But I
 22 don't know that. It depends on how well they're
 23 carried out.
 24 Q. Does New York State monitor the
 25 presence of textbooks and instructional

1 materials in schools?
 2 MS. LHAMON: Calls for speculation.
 3 A. In a very general way we do.
 4 We don't count the number of
 5 textbooks school by school and get regular
 6 reports on those numbers, but through the
 7 program of School Quality Reviews that I
 8 mentioned earlier, and through the work that
 9 we've done with low performing schools which are
 10 most likely to lack those textbooks, we monitor
 11 the relative presence or absence of up-to-date
 12 textbooks and other learning material.
 13 Q. How does New York State monitor the
 14 presence or absence of textbooks and other
 15 learning materials through the School Quality
 16 Review program?
 17 A. In the School Quality Review
 18 program, selected teachers and parents and
 19 sometimes others visit schools to observe
 20 instruction, talk with the staff, talk with the
 21 pupils, examine the products of student work and
 22 so on in order to gain a full and richly
 23 textured picture of the school's operation and
 24 results.
 25

1 at the local level and at the state level to
 2 meet those needs.
 3 Making the provision of appropriate
 4 textbooks and other materials part of the school
 5 improvement plans that districts are required to
 6 develop if achievement falls below certain
 7 levels, and perhaps doing other things with the
 8 information that I can't think of now.
 9 Usually, the attention that we pay
 10 to the presence or absence of, and the quality
 11 of textbooks and others materials, was embedded
 12 in a more holistic look at the school and at the
 13 system.
 14 So here at this table, we're
 15 isolating and looking for the list of bad books
 16 or missing books. I really didn't work that
 17 way.
 18 There were attempts to understand
 19 what schools were doing. What was working, what
 20 was not working; and the textbooks and the
 21 instructional materials were an important
 22 component of that, but we didn't deal with it
 23 always as a separate issue onto itself.
 24 Q. When you say "holistic," are you
 25

1 And a part of that study that is
 2 made by the visiting teams entails looking at
 3 the instructional material and textbooks that
 4 are available to pupils and determining their
 5 appropriateness.
 6 Q. Does New York State compile any
 7 kind of list or log of the number of the
 8 presence or absence of textbooks in any
 9 particular school or district?
 10 A. I don't recall seeing such a list.
 11 Q. What does New York State do with
 12 the information regarding textbooks and
 13 instructional materials that it obtains in the
 14 School Quality Review program?
 15 MS. LHAMON: Lacks foundation.
 16 A. I can't say what it does now, but
 17 what it did when I was there is, first of all,
 18 talked with local school people, teachers,
 19 principals and so on, about the perceived needs,
 20 calling them to their attention.
 21 Writing reports of the school
 22 visits to the local board of education
 23 administrative staff to make them aware of the
 24 situation. Proposing the expenditure of funds
 25

1 referring to the School Quality Review program?
 2 A. Yes.
 3 Q. In your opinion, are there certain
 4 types of information for which it is not
 5 acceptable for the state to rely on
 6 self-reported and self-collected local data?
 7 A. We ask local school districts and
 8 the people in them often to send us
 9 self-reported data and found it very helpful in
 10 understanding the situations we were dealing
 11 with and in taking actions for improving them.
 12 But I would not rely entirely on
 13 local, self-reported data in the making of
 14 important decisions. I would consider it one
 15 useful source of information, but not an
 16 exclusive source.
 17 Q. Are there any other types of
 18 information for which it is acceptable for the
 19 state to rely exclusively on self-reported and
 20 self-collected local data?
 21 MS. LHAMON: When you say,
 22 "acceptable," for what purposes?
 23 A. I'm not sure exactly what the
 24 import of your question is. I can imagine
 25

1
2 circumstances in which it would be thoroughly
3 appropriate to elicit self-reported data and to
4 stop right there.

5 For example, how many times did the
6 board meet last month? We would expect a
7 straightforward answer from the superintendent
8 of schools and wouldn't feel the need to send
9 agents into the community to check on the number
10 of times that the board was meeting.

11 So I can -- that may be a poor
12 example, but I can imagine situations in which
13 eliciting self-reported data is appropriate and
14 useful in and of itself, but other situations in
15 which you would want a more fully rounded
16 picture.

17 Q. In your opinion, is the School
18 Quality Review program developed in New York in
19 the early 1990s an example of an effective state
20 monitoring program?

21 MS. LHAMON: Objection.

22 A. Yes.

23 Q. Is it your opinion that California
24 should adopt a program like New York's School
25 Quality Review program?

1
2 Q. What was your role in the
3 development of the Fiscal Quality Review program
4 in New York?

5 A. I worked -- I helped to devise it.
6 I included the idea in the New Compact For
7 Learning which was part of our overall plan for
8 education reform in the 1990s.

9 I then worked with key members of
10 the staff to develop the program. I assigned
11 the staff of the department that were necessary
12 that were needed to fulfill its functions.

13 I saw to it that there were
14 appropriate training experiences provided for
15 the people who would be conducting the reviews.
16 I read carefully the reports made by visiting
17 teams under the program concerning what they
18 found in schools and school districts.

19 I talked to the people who were
20 evaluating the program from Teachers College,
21 Columbia University, so I was pretty much
22 involved with it from its genesis on through its
23 implementation.

24 Q. Was there a stated written purpose
25 or purposes of the School Quality Review program

1
2 A. I think it important for California
3 and all other states to have programs that
4 provide the kind of information and insight that
5 the school quality reviews, when done properly,
6 do in New York State.

7 But whether the means of requiring
8 that information is the same as in New York is
9 another matter. I'm back to my distinction
10 between ends and means.

11 I think that the ends are desirable
12 for all states, California included. I think
13 the particular way in which you go to meet those
14 ends may vary with the circumstances in the
15 given situation.

16 Q. Are you familiar with California's
17 Coordinated Compliance Review program?

18 A. I've read a little bit about it,
19 but don't pretend to be thoroughly knowledgeable
20 about it.

21 Q. Are you sufficiently familiar with
22 California's Coordinated Compliance Review
23 Program to state the extent to which it differs
24 from New York's School Quality Review program?

25 A. No. I can't do that with accuracy.

1
2 in New York?

3 A. Yes. In the literature that we
4 wrote concerning the program we stated the
5 purpose, but I don't recall exactly what the
6 language was.

7 The general purpose was to inquire
8 into the operation of the schools to determine
9 whether or not students were making satisfactory
10 educational progress in appropriate
11 surroundings.

12 Q. Would the School Quality Review
13 program in New York evaluate school or school
14 district compliance with educational program or
15 statutory requirements?

16 A. The chief purpose of the School
17 Quality Review program, again, was to determine
18 the nature and quality of the teaching and
19 learning going on in the school.

20 It was not -- the members of the
21 school quality review teams did not go into the
22 situation with a checklist of state
23 requirements, and the objective of seeing the
24 extent to which those requirements were being
25 met.

1
 2 However, in those rare cases, when
 3 there was some violation of state requirement,
 4 the matter was included in the report that was
 5 sent to the local school officials and to people
 6 at the State Education Department.
 7 Q. Is the school program currently in
 8 effect in New York?
 9 A. I believe it is not.
 10 Q. When did the School Quality Review
 11 program in New York stop?
 12 A. Sometime after I left office in
 13 June of 1995.
 14 Q. Can you be more specific as to the
 15 date?
 16 A. No.
 17 Q. Do you have any understanding as to
 18 why the School Quality Review program in New
 19 York stopped?
 20 A. I don't know the exact reason why
 21 it stopped. I assume that it stopped because
 22 the people then in charge didn't want to
 23 continue it anymore.
 24 Q. Was the School Quality Review
 25 program in New York required by legislation?

1
 2 A. No.
 3 Q. In paragraph 27 of your report, you
 4 state, "The program's implementation changed
 5 before the five years expired."
 6 How did the School Quality Review
 7 program implementation in New York change?
 8 A. I'm trying to remember what I wrote
 9 here.
 10 I don't recall any fundamental
 11 change in the way in which the school quality
 12 reviews were conducted from the time they were
 13 originated in the early 90s until the time I
 14 left in 1995.
 15 What was clear was that the cycle
 16 that we had envisioned of schools -- all schools
 17 participating in the program, at least every
 18 five years, never came to fruition because time
 19 ran out on us and resources ran out before I
 20 finished.
 21 So when I say the implementation
 22 changed, I guess what I had in mind was we
 23 weren't able to bring the whole thing off in the
 24 way we had intended with the numbers and timing
 25 we had intended by the time that I left office.

1
 2 Q. Why did that occur?
 3 A. Because we didn't start the program
 4 until sometime in 1992 or 1993, and I left
 5 office on June 30, 1995. Five years had not yet
 6 elapsed so we had no opportunity to finish even
 7 one full cycle.
 8 Q. When the School Quality Review
 9 program in New York began, was it intended that
 10 the program review every school in the state?
 11 MS. LHAMON: Intended by whom?
 12 A. My intention was that every school
 13 in the state should be subject to review at
 14 least once every five years. But again, time
 15 elapsed before we could accomplish that
 16 intention.
 17 Q. Do you have any estimate as to
 18 approximately how many schools or what
 19 proportion of schools in New York were reviewed
 20 under the School Quality Review program?
 21 A. I don't have the exact numbers. I
 22 could check them for you, but I can't do it from
 23 the top of my head, but it was -- relative to
 24 the number of schools in New York State, it was
 25 relatively small.

1
 2 We're talking about thousands of
 3 schools. I don't recall the number any longer,
 4 and the number of school quality reviews
 5 actually completed were probably in the dozens.
 6 Q. Have any published studies analyzed
 7 the effectiveness of the School Quality Review
 8 program in New York?
 9 A. Yes. As I said yesterday, the
 10 center called NCREST at Teachers College,
 11 Columbia University conducted such a study and
 12 it's in publication -- it has been published.
 13 Q. After the School Quality Review
 14 program teams in New York would report back to
 15 the school community at the end of their school
 16 visits on areas of excellence and areas of
 17 improvement, would the teams conduct any
 18 follow-up visits to determine whether the areas
 19 for improvement had been implemented?
 20 A. It was our original intention that
 21 they do so. But once again, time ran out before
 22 we could finish the design.
 23 Q. To your knowledge, were any School
 24 Quality Review program follow-up visits
 25 conducted before the program stopped?

1
 2 A. I don't know.
 3 Q. Did the School Quality Review
 4 program teams in New York have authority to
 5 order schools or school districts to take
 6 certain actions?
 7 A. No.
 8 Q. Why didn't they have that
 9 authority?
 10 A. Why didn't they have that
 11 authority?
 12 MR. SEFERIAN: I'll withdraw that
 13 question.
 14 Q. Were the members of the School
 15 Quality Review program teams in New York paid?
 16 A. The teams were composed of teachers
 17 from nearby -- outstanding teachers from the
 18 area, parents, some members of the community,
 19 and a small number of cadre from the State
 20 Education Department.
 21 The State Education Department
 22 people were being paid for doing the work, but
 23 they were on the payroll already anyway.
 24 The teachers typically were given
 25 leave by their local districts to participate on

1
 2 the teams and they received their normal salary.
 3 They didn't get paid anything in addition, but
 4 we did provide a little bit of money to the
 5 local school district to hire substitute
 6 teachers for those teachers who comprised the
 7 review team. The parents and the other
 8 community members volunteered their time and
 9 were not paid. From my point of view, it was
 10 not an expensive operation.
 11 Q. In your opinion, is the
 12 Registration Review program discussed on pages
 13 17 and 18 of your report an example of an
 14 effective state monitoring program?
 15 A. I believe so, yes.
 16 MS. LHAMON: Vague as to effective.
 17 Q. Are you familiar with California's
 18 Immediate Intervention/Underperforming Schools
 19 program?
 20 A. Not in any detail, no.
 21 Q. How was it determined which schools
 22 in the Registration Review program in New York
 23 were classified as underperforming and/or
 24 offering a poor learning environment?
 25 A. As I noted in my report, at the

1
 2 bottom of page 17, when I first went to Albany
 3 and conceived with staff the so-called SURR
 4 program, the Schools Under Registration Review
 5 program, the criteria we employed for
 6 identifying schools in need of registration
 7 review would have led us to identify some 500 to
 8 600 schools.
 9 We didn't have the staff to work
 10 usefully with 5 or 600 schools to do the kind of
 11 -- to bring the kind of help that was needed to
 12 change the situation, so we developed a set of
 13 criteria that generated a much smaller sample of
 14 schools. Not that the others didn't need help,
 15 but they were not as badly off as the ones that
 16 we did identify.
 17 They had to do -- I don't remember
 18 the details of it, but it had to do with test
 19 scores, attendance data, high school graduation
 20 rates, so on; and it looked at patterns of
 21 achievement or lack of achievement over a period
 22 of three years. Not just a single year.
 23 And in that way, we generated a
 24 list of 30 to 50 schools as opposed to 5 or 600
 25 schools that we worked with closely.

1
 2 Q. Do you refer to the program as the
 3 Registration Review program or the Schools Under
 4 Registration Review program or some other name?
 5 A. Yes. I call it that. Is that what
 6 you're asking me?
 7 Q. I was asking you, which name do you
 8 refer to the program by?
 9 A. SURR schools. That's what they're
 10 called in New York State. Schools Under
 11 Registration Review.
 12 (A recess was taken.)
 13 Q. Were there any differences in the
 14 criteria that were used to classify schools as
 15 underperforming or offering a poor learning
 16 environment in the SURR schools program as the
 17 criteria were initially developed compared with
 18 the criteria to reduce the number of SURR
 19 schools to 30 to 50 schools?
 20 A. We had to change the criteria in
 21 order to generate a list that we could cope
 22 with.
 23 Q. What were the primary changes in
 24 the criteria?
 25 A. Test scores. Test scores. The

1
2 patterns -- we would look for patterns where
3 things were not improving or things were getting
4 worse over a three-year period. Low
5 achievement, not getting any better.

6 But if you can imagine all the
7 schools on a continuum of achievement throughout
8 the state, what we did was lower the bar,
9 effectively, so that it's only the schools in
10 greatest need that we were identifying.

11 Q. So you were examining the same
12 types of data, but you were just using the
13 schools who had scored the worst on --

14 A. That is correct.

15 Q. Was the SURR schools program in New
16 York required by legislation?

17 A. No.

18 Q. Is the SURR schools program
19 currently in effect in New York?

20 A. I believe so, yes.

21 Q. Have any published studies analyzed
22 the effectiveness of the SURR schools program in
23 New York?

24 MS. LHAMON: Calls for speculation.

25 A. I'm aware of two or three

1
2 A. I could find it out for you, but I
3 don't know off the top of my head. They were
4 all schools in New York City.

5 Q. What were the results of the
6 individual doctoral studies of the SURR schools
7 in New York City?

8 MS. LHAMON: Calls for speculation.

9 A. Well, as best as I remember them,
10 in one case, school results improved and the
11 school involved went off the SURR list.

12 Another case is, there was a
13 prolonged -- let me strike "prolonged." The
14 schools remained on the list and didn't evidence
15 the kind of improvement that was sought.

16 I think it would be imprudent to
17 make judgments of the efficacy or the lack of
18 efficacy on the program as a whole on the basis
19 of those three individual schools. However,
20 because one of the things that the writers
21 discovered was that it is very difficult to
22 tease out the effects on school achievement or
23 simultaneously operating programs and
24 conditions.

25 The SURR school business was one

1
2 individual doctoral studies that have looked at
3 the effects that the program has had on specific
4 schools, but I'm not aware of any statewide
5 systematic look at the program in general.

6 Q. Have the two or three individual
7 doctoral studies that you referred to been
8 published?

9 A. No, I believe not. They're
10 available through the college library, but
11 they're not published.

12 Q. What are the titles of those
13 doctoral studies?

14 A. I don't know.

15 Q. Who are the authors?

16 A. I don't know. They were -- the
17 authors were students at Teachers College under
18 my tutelage, but each of those studies gives a
19 close-up look at an individual school and what
20 the effect of the SURR program was upon that
21 school as opposed to looking systemically at the
22 state as a whole and looking at the program as a
23 whole.

24 Q. Do you recall which schools were
25 the subject of those doctoral studies?

1
2 thing that was going on, but there was a lot of
3 other stuff going on at the schools as well.
4 It's hard to know what affects what.

5 Q. Do the SURR program teams in New
6 York have authority to order schools or school
7 districts to make certain changes or take
8 certain actions?

9 MS. LHAMON: Vague as to "certain
10 actions" and calls for speculation as to the
11 current status.

12 A. I don't know with what authority
13 those teams are operating at present.

14 During the period of my
15 commissionership, members of such teams had the
16 authority to require certain planning activities
17 on the part of schools and school districts, but
18 they did not affect the authority of local
19 school boards or local school officials.

20 Q. What criteria would the School
21 Quality Review teams use to review the quality
22 of teaching that is taking place on the campus?

23 MS. LHAMON: Calls for speculation.

24 A. What were the criteria?

25 Q. Yes.

1
2 A. The quality of interaction among
3 teachers and students as observed by members of
4 the quality team. The quality of student work
5 that was being done. The gains made by students
6 on standardized tests and other forms of
7 educational assessment.
8 Q. How many schools are currently
9 reviewed under the SURR schools program?
10 A. I don't know.
11 MS. LHAMON: Lacks foundation.
12 Q. Can you describe how the SURR
13 school reviews were conducted in New York?
14 MS. LHAMON: Vague as to time.
15 You mean when Dr. Sobol was commissioner?
16 MR. SEFERIAN: Yes.
17 A. We would look at the state's
18 assessment data and the reports that we have
19 from local schools and determine which schools
20 are to be designated, and it was determined
21 annually which schools should be designated
22 Schools Under Registration Review and generate a
23 list.
24 We then assigned a team of staff
25 members of the State Education Department for

1
2 each school; that is, each school had a team,
3 but some teams worked in more than one school,
4 who would visit the school and work with local
5 school administrators and teachers to review the
6 data, come to some understanding about what
7 needed to be done, and develop plans for
8 changing the situation; and then the State
9 Education Department team members would remain
10 in close communication with local people as they
11 implemented those plans and catalogued the
12 results.
13 In some cases, we stood back from
14 this school by school operation and looked at
15 the whole and said, "What are these schools
16 lacking or in need of that we can help to
17 provide?" And then we would make
18 recommendations to the legislature for
19 additional funding where it was needed.
20 Q. Are the SURR school reviews in New
21 York conducted annually?
22 A. Yes. There is an annual list
23 generated.
24 Q. Do the SURR school review teams
25 visit the schools?

1
2 A. Yes, they do.
3 Q. In every case?
4 A. I believe it's in every case.
5 Q. How many people are on the SURR
6 school review teams?
7 MS. LHAMON: Lacks foundation as to
8 the current status.
9 A. During the years when I was
10 commissioner, my recollection is it would be two
11 to four members on a team. The team would also
12 call upon for help other members of the State
13 Education Department who had a particular
14 expertise in some area of need.
15 For example, if there was a problem
16 with the building facility, a perceived problem
17 with the building facilities, the members of the
18 review team would call upon people in our office
19 of school facilities, or whatever the formal
20 designation was, and they would visit the school
21 and make appropriate recommendations.
22 Q. What type of intensified state
23 scrutiny would the SURR schools be subjected to?
24 A. The review team would look
25 carefully at the extent to which and the

1
2 effectiveness with which local schools -- people
3 in local schools, I should say, executed --
4 implemented the plans that they were required to
5 make for improvement. They were in regular
6 touch about it, communication was much more
7 frequent. Communication was ongoing. It wasn't
8 just an annual affair.
9 Q. Did the state have any enforcement
10 mechanisms under the SURR school program?
11 A. I don't think that the SURR school
12 program changed or added to or subtracted from
13 the authority that the state had prior to the
14 program, if that's responsive to your question.
15 I'm not sure it is.
16 The Schools Under Registration
17 Review teams were not given an additional
18 increment of authority to exercise in the
19 schools. They had what authority they had as
20 members of the State Education Department to
21 begin with.
22 Q. Are you aware of any changes to the
23 SURR schools program that have been made since
24 you left office?
25 A. No. I'd be surprised if there were

1
2 not changes, because one learns all the time;
3 and conditions change over time and people need
4 to be responsive to it, so I'd be surprised
5 again if there were not changes, but I don't
6 know specifically what changes may have
7 occurred.

8 Q. Who originally conceived the SURR
9 schools program in New York?

10 MS. LHAMON: Calls for speculation.

11 A. I did, together with some of my
12 fellow members of the State Education
13 Department.

14 Q. What resources and staff capacity
15 would have been necessary for the SURR schools
16 program in New York to provide the necessary
17 attention to 500 schools?

18 A. Ten times the number we had
19 available.

20 Q. How many did you have available,
21 approximately?

22 A. I don't know, but if the teams were
23 two to four people for each school, and we're
24 talking about a list of 30 to 40 schools, you
25 can do the arithmetic very quickly.

1
2 superintendents of schools from California who
3 participated in one or more of the professional
4 development activities we conduct at the college
5 for school superintendents.

6 I don't pretend to know the detail
7 thoroughly of public education in the State of
8 California, but the information I just described
9 was sufficient to form an overall impression of
10 gross inequities and inadequacies.

11 Q. Would you agree that you're not
12 familiar with the overall conditions statewide
13 in California of the educational system?

14 MS. LHAMON: The question is vague
15 and ambiguous.

16 A. I certainly don't know the detail
17 of the operation. I have an overall impression.

18 Q. Did you perform any studies before
19 you began work on the New Compact For Learning?

20 A. Ever?

21 MS. LHAMON: Vague as to "studies."

22 Q. In connection with the drafting of
23 the New Compact For Learning, did you perform
24 any studies before you began work on it?

25 MS. LHAMON: The question is still

1
2 But the original list that was
3 generated before we changed the -- the cutoff
4 point for designating schools so that we could
5 have a manageable number was 5 to 600. If you
6 multiply that by the number of people on a team,
7 you get some sense of the additional resources
8 that would be needed.

9 Q. In the first sentence of paragraph
10 36 of your report, you state, "Gross inequities
11 and inadequacies exist in the provision of
12 public education to many children in the State
13 of California."

14 What is the basis of that
15 statement?

16 A. What I have read in education
17 publications. What I read in some of the
18 material that Ms. Lhamon shared with me when she
19 first made my acquaintance a year or so ago.

20 For example, the decision -- I
21 think it's in the Bute case (ph.), you call it.
22 Conversations that I've had with students who
23 have been or some are still teachers in the
24 State of California.

25 Conversations I've had with

1
2 vague.

3 A. I sort of made a study of education
4 for my entire life. I started going to schools
5 when I was 4 years old, with the exception of
6 three years in the Army. Here I am at age 71 --
7 not my fault -- I just showed up every day and
8 that's what happened. That's what I thought I
9 was supposed to do.

10 But my serious point is, with the
11 exception of three years in which I served in
12 the United States Army, I've either been a
13 student or a teacher or an administrator or a
14 policymaker of some kind in schools.

15 That's a study. That's a long time
16 to come to know a topic. Now, I didn't sit and
17 craft for publication a tidy little social
18 science study on the New Compact For Learning,
19 but I tried to bring to bear in the writing of
20 the contract the fruits of that experience over
21 several decades.

22 Q. To your knowledge, did anyone else
23 who worked on the New Compact For Learning
24 perform any academic research studies in
25 connection with the drafting of the New Compact

1
2 For Learning?
3 A. Remember that the New Compact For
4 Learning is a large and elastic document. One
5 of its provisions, for example, concerns the
6 provision of resources by the state to schools
7 and school districts throughout the state.
8 And there certainly were studies
9 done on the funding of education in New York
10 State prior to the execution of the Compact.
11 I'm sure there were studies that
12 were done having to do with the training and
13 certification of teachers, but all of this stuff
14 is ongoing. These topics are being studied all
15 the time and publications are coming out all of
16 the time. Nobody sat down with a clean sheet of
17 paper and said, "Let's do a study on the
18 possible New Compact For Learning."
19 Rather, we drew on existing
20 knowledge and emerging knowledge that was
21 already at hand to inform ourselves as we
22 proceeded.
23 Q. Was there a bibliography that
24 accompanied the New Compact For Learning?
25 A. No.

1
2 Q. Has the New Compact For Learning
3 ever been updated or revised since 1991?
4 A. I believe we made some small
5 changes in it between 1991 and 1995. Nothing
6 fundamental, and I don't know what has happened
7 since.
8 Q. What changes to the New Compact For
9 Learning were made between 1991 and 1995?
10 A. I don't remember. Whatever was
11 changed was small and of relatively little
12 importance. There was no major change made
13 during that period of time.
14 Q. Did you make the changes?
15 A. I would have been -- yes. I was
16 one of the people that made the changes.
17 Q. Are you aware of any documents that
18 would show what changes were made to the New
19 Compact For Learning after 1991?
20 A. No. I could revisit the file and I
21 could take a look at it. I could see, but I
22 don't recall there was -- we never reviewed the
23 entire document to look for change. There was
24 no significant issue that caused us to change
25 anything.

1
2 Q. When did you last review the New
3 Compact For Learning?
4 A. Sunday night.
5 Q. Are there any portions of the New
6 Compact For Learning that you would change now
7 or that you no longer agree with?
8 A. In general, yes. You're going to
9 ask me, understandably and appropriately, what
10 changes would I make, and I don't know. Let me
11 explain what I mean. I want to look for
12 something in the Compact here. Just a minute.
13 Would you be kind enough to look
14 with me quickly at page 19 of the New Compact
15 For Learning, section X, entitled, "The Compact:
16 A Changing Plan for Changing Conditions."
17 I'll read a little bit from that.
18 The first sentence of the section reads, "The
19 new Compact is not a short-term project or a
20 quick fix. It is not a new program to be 'put
21 in place.' It is a context of restructured
22 relationships within which the energies of all
23 participants in the system may find more
24 effective scope. Unlike some past efforts at
25 educational reform, it does not prescribe what

1
2 participants must do. Rather, it sets clear
3 goals, provides support and procedural freedom
4 and invites people in all parts of the system to
5 exercise initiative in making desired
6 improvements."
7 I'll read two more sentences.
8 "As programmatic and organizational
9 changes are made, our understanding of effective
10 school practice, the context of relationships,
11 and society itself will change. For this
12 reason, the Compact should be regarded as a
13 growing, developing, long-term effort, one which
14 should be subject to ongoing scrutiny and
15 revision."
16 The point is, I can see the Compact
17 and the people with whom I worked and see the
18 Compact as being a living, growing document
19 which would inevitably and necessarily change
20 over time, as our experience grew, and as
21 conditions around us changed as well.
22 So would I have made changes in the
23 Compact between the way it was on June 30, 1995
24 and when I left office and now? Absolutely,
25 yes. But I don't know exactly what they would

1
2 be because I've not put my mind to it. I simply
3 haven't sat with hordes of people, as I did with
4 the formation of the Compact, to solicit their
5 thinking and bring that to bear and be informed
6 by that as well. I've not undertaken that
7 activity.

8 But change would have come surely
9 because it was intended to do so right from the
10 very beginning.

11 Q. On page 2 of the New Compact For
12 Learning in the third paragraph under Section B,
13 what did you mean that, "Too many teachers and
14 supervisors feel that the system is 'beyond
15 them,' that they lack the authority to do their
16 own job well and that too many decisions are
17 made by people remote from the action"?

18 A. I've spent a lot of time in
19 schools, as you know, talking with people and
20 getting them to speak about what they feel good
21 about, what they don't feel as good about, what
22 their frustrations are, what their aspirations
23 are and so on. And cumulatively, over a long
24 period of years, I've come to have the
25 impression that many good people, meaning well

1
2 making important gains by introducing new
3 methods of accountability?

4 A. If they were effective, yes.

5 Q. In your opinion, would a state be
6 making important gains if its students showed
7 improved scores on tests of basic skills?

8 A. Yes.

9 Q. If a state sets forth specifically
10 the skills, knowledge and values students should
11 acquire as a result of elementary and secondary
12 education, would that state have accomplished
13 one of the primary goals of the New Compact For
14 Learning?

15 A. Yes.

16 Q. If a state established performance
17 standards in each subject, would that state have
18 accomplished one of the primary goals of the New
19 Compact For Learning?

20 A. Yes.

21 Q. The New Compact For Learning
22 recommended performance standards at grade
23 levels 4, 8 and 12, correct?

24 A. Yes.

25 Q. Would you agree that to the extent

1
2 intended, intelligent, potentially effective
3 people feel trapped by a large bureaucratic
4 system that they can't influence, much less
5 control.

6 And they're required to go through
7 the paces of doing things not always in ways
8 that they would deem professionally most
9 effective; and they're frustrated by that
10 condition. They feel that they do not have the
11 authority or the autonomy they need in order to
12 exercise their capacities effectively.

13 Q. Referring to page 4 of the New
14 Compact For Learning in the first paragraph
15 under, "The State," is it your opinion that the
16 New York Regents Action Plan, which raised
17 standards, introduced new methods of
18 accountability and channelled new resources made
19 important gains?

20 A. Yes.

21 Q. In your opinion, would a state be
22 making important gains by raising educational
23 standards?

24 A. Yes.

25 Q. In your opinion, would a state be

1
2 a state established performance standards for
3 grades in addition to 4, 8 and 12, that state
4 would be accomplishing even more than that which
5 was recommended by the New Compact For Learning?

6 MS. LHAMON: The question is vague.

7 You mean even more than what is recommended in
8 page 4, the specific bullet point, or even more
9 than the entire Compact calls for?

10 A. I can't answer your question
11 without you answering her question on this one.

12 MR. SEFERIAN: Let me back up.

13 Q. In the third bullet point in the
14 right-hand column on page 4 in the New Compact
15 For Learning in reference to where it says,
16 "Performance standards will be established for
17 both minimum capacity and for proficiency in
18 each subject as levels corresponding to
19 traditional grades 4, 8 and 12," with that
20 reference, would you agree that to the extent a
21 state established performance standards for
22 grades in addition to 4, 8 and 12, that state
23 would be accomplishing even more than that which
24 was recommended in the New Compact For Learning?

25 A. Not necessarily because students

1
2 don't learn at the same pace. All students
3 don't learn at the same pace; and learning is
4 not linear, so that I think it may be wiser to
5 have a system that assesses progress after an
6 increment of years than to conduct a yearly
7 assessment.

8 By analogy, you wouldn't want to
9 assess students' progress every day. You
10 wouldn't want to look at their entire learning
11 experience each day and make a judgment upon it.
12 It would get in the way of teaching and
13 learning.

14 Similarly, I'm a little bit dubious
15 about the efficacy of annual assessment, even
16 though I'm aware, of course, as we sit here and
17 speak that it's now the law of the land because
18 it's -- that kind of provision is embodied in
19 the Leave No Child Behind Act.

20 Q. Is it your opinion that a state
21 should not establish performance standards for
22 any grades other than 4, 8 and 12?

23 A. No. That's stretching it too far
24 in the other direction.

25 It might be that certain standards

1
2 sciences, social sciences and humanities and
3 arts, would that state have accomplished one of
4 the goals of the New Compact For Learning?

5 A. Yes.

6 Q. In your opinion, is it wrong for a
7 state to impose on schools and school districts
8 a requirement to use state syllabi or curricula?

9 A. It depends on how the syllabi and
10 the curricula are defined. Let me explain what
11 I mean by that.

12 I think the state has both the
13 right and the duty to set forth in broad terms
14 what it is that students should come to know and
15 be able to do.

16 But the state errs, in my judgment,
17 if it becomes overly specific in designating
18 curricula for use at the local level.

19 Because, again, what you want to
20 have is a system that has clear goals for all
21 students, but provides flexibility of means for
22 the people who have to implement the program.
23 So you want a curriculum that is clear enough
24 and specific enough to provide overall guidance
25 and direction, but elastic enough and flexible

1
2 should be explored annually and others not. It
3 might be that students would be sampled in a
4 given year instead of all students submitting to
5 the testing in a given year, so there's a
6 variety of ways to organize an assessment
7 program around the purposes that you have, and I
8 wouldn't want to say you've got to do it every
9 year or you can't do it every year. I would
10 like to see a more nuanced approach to the
11 matter.

12 Q. If a state were applying its goals
13 and desired learning outcomes to all pupils,
14 would that state have accomplished one of the
15 primary goals of the New Compact For Learning?

16 A. Yes.

17 MS. LHAMON: Objection as to
18 "primary goals" in the New Compact For Learning.

19 It's unclear how many goals you or
20 Dr. Sobol would consider to be primary and
21 you've listed now quite a few.

22 Q. If a state's statements of desired
23 outcomes is specific enough to ensure that all
24 students acquire a core of skill and knowledge
25 in the use of English, mathematics, and natural

1
2 enough to permit local variation.

3 Q. After the New Compact For Learning
4 was written, did the New York Regents relax or
5 remove any rules or regulations that inhibited
6 practitioners in their efforts to reach state
7 goals effectively and officially?

8 A. Yes.

9 MS. LHAMON: Hopelessly vague and
10 ambiguous. Which rules or regulations were
11 relaxed or removed?

12 A. I can't remember all of them, so
13 this would be an incomplete list, but let me
14 exemplify the kind of thing that happened.

15 The Regents authorized the
16 provision by the commissioner of variances from
17 the state's assessment program to local schools
18 -- certain local schools and school districts
19 who applied for and qualified for it.

20 So that progress was measured in
21 those schools by -- toward the same goals but by
22 different means than in those schools that were
23 subject to the state's testing program.

24 Another illustration is that we
25 encouraged schools and school districts, many of

1
2 whom had been complaining about the state's
3 regulations for years, to make proposals to us
4 for variances from regulations that would
5 enhance the quality of student learning.

6 Most of the those applications that
7 we got had to do with state syllabi and the
8 state testing program and the request that we
9 permit other curricula approaches or other forms
10 of assessment.

11 Q. What did you mean in the New
12 Compact For Learning, "The standard is not the
13 quality of input, but equity of outcome"?

14 MS. LHAMON: You asked that
15 yesterday and it was answered.

16 MR. SEFERIAN: I'll withdraw that.

17 Q. Referring on page 5 of the New
18 Compact For Learning under section 3, in the
19 third bullet, do you believe it's important for
20 a state to provide incentives to schools and
21 school districts to attain statewide goals and
22 desired learning outcomes by more effective and
23 cost-effective means?

24 A. Yes.

25 Q. Why do you say that?

1
2 right column, do you believe in each state high
3 school graduation should be contingent upon
4 satisfactory completion of a secondary school
5 assessment?

6 A. Do I believe that in each state
7 there should be that? I don't know that. I
8 don't know.

9 I think it's important that each
10 state have means of determining whether students
11 who graduate from high school have achieved at
12 an acceptable level the goals we've set for
13 them; but the means by which that assessment is
14 made might very well vary from one state to the
15 next.

16 Q. When you were the Commissioner of
17 Education in New York, was high school
18 graduation contingent upon satisfactory
19 completion of a secondary school assessment?

20 A. Not always, no.

21 Remember, the passage that you
22 referred to in the New Compact For Learning was
23 a proposed action, but we never developed a
24 system -- we never developed a secondary school
25 assessment that applied across the board.

1
2 A. Because the Board of Regents should
3 want, and I believe does want, schools and
4 school districts to exercise an initiative to
5 attain statewide goals and desired learning
6 outcomes by more effective and cost-effective
7 means, and any incentive that can be provided is
8 helpful to that end.

9 Q. And referring to the next point on
10 page 5, one of the ways for a state to provide
11 incentive to school and school districts is to
12 relax regulations, correct?

13 A. Correct.

14 Q. What did you mean in the New
15 Compact For Learning when you said, "The Regents
16 will also to continue to conduct a statewide
17 program of educational assessment"?

18 A. Just what it says.

19 The Regents have had a program of
20 assessment of pupil progress in place for a
21 great many years. Regents examinations, other
22 examinations at various grade levels, and the
23 idea was that that program would continue.

24 Q. On page 6 of the New Compact For
25 Learning, referring to the fourth bullet on the

1
2 During the years that I was
3 commissioner, there were two kinds of high
4 school diploma issued in the State of New York.
5 If I didn't start this arrangement, it would
6 have been there for a great many years.

7 One was a so-called Regents
8 diploma, where students who received it had to
9 have passed five or six -- I don't remember
10 anymore -- Regents examinations in the various
11 subjects of the high school curriculum.

12 The second kind of a diploma was
13 called a local diploma, where students may or
14 may not have taken one or more Regents
15 examinations but they did satisfy the course
16 work that was called for by the commissioner's
17 regulations.

18 And we granted -- we graduated
19 students, depending upon the number of kind of
20 courses they had completed, and not upon any
21 kind of overall secondary kind of school
22 assessment.

23 I hope that wasn't too confusing.

24 Q. To your knowledge, does New York
25 State currently have a high school graduation

1
 2 contingent upon satisfactory completion of a
 3 second school assessment?
 4 A. Not of a secondary school
 5 assessment per se, but the current regulations
 6 in New York State, as I understand them, that
 7 are being phased in over a period of time -- and
 8 I'm not sure what year I'm in right now, where
 9 the process is -- but the current regulations
 10 require all students to have taken and passed
 11 five examinations in core high school subjects
 12 as a condition of high school graduation.
 13 Q. You believe the standards for the
 14 high school graduation assessment should be
 15 high, correct?
 16 A. Yes, sir.
 17 Q. Referring to the next bullet point
 18 on page 6 of the New Compact For Learning, you
 19 believe that a state should have assessment
 20 measures to promote progress and foster
 21 accountability, correct?
 22 A. Yes.
 23 MR. SEFERIAN: Off the record.
 24 (Discussion held off the record.)
 25 (A recess was taken.)

1
 2 Q. Referring to page 6 of the New
 3 Compact For Learning and the fifth bullet point
 4 on the right, how are measures constructed to be
 5 useful to teachers, counselors, students,
 6 parents, and community members?
 7 MS. LHAMON: I assume you mean how
 8 are state assessment measures constructed as
 9 opposed to measures in general?
 10 MR. SEFERIAN: Yes.
 11 Q. How are state assessment measures
 12 constructed to be useful to teachers,
 13 counselors, students, parents and community
 14 members?
 15 A. We want the overall assessment
 16 program not only to provide information
 17 concerning the educational progress of groups
 18 and subgroups of students and of individual
 19 students for accountability purposes, you want
 20 at least portions of the program to provide
 21 diagnostic information to teachers, parents and
 22 students about how well a student is doing in
 23 this or that respect so that you can plan
 24 instruction accordingly.
 25 The teacher who receives nothing

1
 2 more than a score is not terribly helped by that
 3 information; but a program that breaks the score
 4 down and shows the kinds of items that the
 5 student did well at and the kinds of items that
 6 the student did not do well at provides useful
 7 information to a teacher in formulating
 8 instructional activity.
 9 Similarly, a program that provides
 10 nothing more than a single score to a parent or
 11 to a child has a useful function in describing
 12 the student's overall progress, but it doesn't
 13 give you very much to go on if you're trying to
 14 plan to do better.
 15 So once again, the most specific
 16 information you can generate for all parties,
 17 the more likelihood that it will be used wisely
 18 and for instructional purposes.
 19 Q. Referring to the first bullet point
 20 on page 7 of the New Compact For Learning,
 21 should a state assess whether educational
 22 spending will be cost-effective?
 23 A. It should attempt to do so, surely.
 24 Q. What did you mean by
 25 "cost-effectiveness" in the first bullet point

1
 2 on page 7 in the New Compact For Learning?
 3 A. An expenditure that is wisely made,
 4 that makes it more likely that state standards
 5 and state goals will be achieved in
 6 cost-effective fashion.
 7 Q. Under heading 5 on page 7 in the
 8 New Compact For Learning, does New York evaluate
 9 its teachers and administrators on the
 10 performance of their students?
 11 A. In part.
 12 Q. How does it do that?
 13 MS. LHAMON: Are you asking about
 14 the current system or about when Dr. Sobol was
 15 commissioner?
 16 MR. SEFERIAN: Currently.
 17 MS. LHAMON: Calls for speculation.
 18 A. It assesses student's educational
 19 progress in the various subjects in the
 20 curriculum and holds teachers and principals and
 21 other school people at least partly responsible
 22 for what is achieved.
 23 Q. How does it hold them responsible?
 24 A. It publishes the results of the
 25 testing program or other assessment for -- so

1
2 that parents and other members of the community
3 know what it is.
4 If there is unsatisfactory
5 achievement over a period of time, teachers may
6 be reassigned or the school may be dissolved and
7 reconstituted.
8 Q. Referring to the last sentence of
9 that, the second bullet point under heading 5 on
10 page 7 of the New Compact For Learning, how do
11 you determine whether a teacher is unsuccessful?
12 A. By looking at the outcomes and
13 products of student work, by looking at the
14 quality of the teaching as it is observed by
15 sophisticated observers, such as supervisors and
16 principals. By making a professional judgment.
17 Q. When you were commissioner, did New
18 York reassign or remove unsuccessful teachers?
19 A. Sometimes in some places.
20 Q. Under what circumstances?
21 A. I'm not sure what you mean. Under
22 -- what was the teacher doing wrong? Do you
23 mean by that, circumstances?
24 Q. What was the authority that allowed
25 New York to reassign or remove unsuccessful

1
2 limited to advising and guiding local boards of
3 education, not to directing them or supervening
4 them.
5 Q. In New York, does the Commissioner
6 of Education have the power to impose a
7 state-required corrective action plan, including
8 reasonable reallocation of local resources?
9 A. Yes.
10 MS. LHAMON: Are you asking the
11 current conditions?
12 MR. SEFERIAN: Yes.
13 A. During the time that I was there.
14 My "yes" applies to the time I was commissioner.
15 I think the conditions remain, but
16 I'm not positive of that.
17 Q. Under what circumstances would the
18 commissioner have that authority to impose a
19 state required corrective action plan?
20 MS. LHAMON: You're limiting it to
21 the time when Dr. Sobol was certain about it
22 when he was commissioner?
23 MR. SEFERIAN: Yes.
24 A. When there was a pattern of
25 unsatisfactory student achievement or when there

1
2 teachers?
3 MS. LHAMON: The question is vague.
4 Do you mean a specific section or code?
5 A. Section 3020 A, as I recall it,
6 authorizes local superintendents of schools to
7 recommend the dismissal of teachers whose
8 performance does not meet established standards
9 and invokes the formation of a hearing panel
10 which would make the final determination.
11 Q. If teachers are evaluated in part
12 on the performance of their students, would that
13 provide an incentive for some teachers to avoid
14 teaching in schools where students were not as
15 likely to perform well?
16 A. It might, yes.
17 Q. In the next bullet point on page 7
18 of the New Compact For Learning, in New York,
19 does the Commissioner of Education have the
20 power to appoint a special deputy to direct and
21 supervise corrective action at a school?
22 A. As I said yesterday, with the
23 exception of the legislation that we were able
24 to obtain regarding the Roosevelt school
25 district, the commissioner's authority is

1
2 is evidence of mismanagement of public funds or
3 some other violation of education law.
4 Q. During the time that you were
5 Commissioner of Education in New York, did you
6 ever impose a state required corrective action
7 plan on a school district?
8 A. Yes.
9 Q. In which districts?
10 A. Those that were designated as
11 schools -- those which contained schools which
12 were designated Schools Under Registration
13 Review. It was part of the SURR process, to
14 require a plan and to expect people to adhere to
15 it.
16 Q. When you were Commissioner of
17 Education, was there authority for the
18 commissioner to order temporary closure of a
19 school for reorganization?
20 A. I didn't do that, and I think it's
21 because the authority didn't exist at the time;
22 and whether it does now or not, I'm not sure.
23 What I did do was work with the
24 chancellor -- one of the chancellors seriatim of
25 the New York City School District to do just

1
2 that. And that action has been taken in New
3 York City under the authority of the chancellor
4 of the city schools, but I didn't, in my own
5 capacity as commissioner, take officially that
6 action.

7 Q. When you were Commissioner of
8 Education in New York, did the commissioner have
9 the authority with parental concurrence to
10 reassign students to other public schools?

11 A. No. That's a proposal that we
12 made, but it didn't come to fruition. It's a
13 provision, by the way, which is now part of the
14 federal legislation, "Leave No Child Behind,"
15 but we did not succeed in securing it.

16 Q. Are you aware of any studies that
17 have assessed the effectiveness of empowering a
18 state education commissioner to supersede local
19 authority in the circumstances described on page
20 7 of the New Compact For Learning?

21 A. We talked about that, I believe,
22 yesterday to some degree, and I said that while
23 I couldn't cite specific studies, my general
24 recollection of the reading I have done about it
25 is that studies have shown that it is easier for

1
2 A. Yes.
3 Q. Why did you write that?
4 A. Because I believe it to be one of
5 the duties of the principal, and because
6 students deserve to work in a clean, safe,
7 orderly and supportive learning environment;
8 and, in fact, will not achieve well unless they
9 are given a clean, safe, orderly and supportive
10 environment in which to learn.

11 Q. Do you agree that the school must
12 be the primary unit of accountability, correct?

13 A. Yes.

14 Q. On page 13 of the New Compact For
15 Learning at the end of the second paragraph
16 under section P, what source is quoted in the
17 last sentence of that paragraph?

18 A. New York State Education law, but I
19 can't give you the citation.

20 Q. Do you agree with that law, that
21 school boards have the legal obligation for the
22 superintendent's management and control of
23 educational affairs at the district level?

24 MS. LHAMON: The question is vague
25 and ambiguous. Do you mean does he agree that

1
2 states to correct building deficiencies or
3 straighten out financial matters than it is for
4 them to reform the culture of a school or to
5 change the nature of its instructional program.

6 Q. To the extent that a state
7 education commissioner has the power to appoint
8 a special deputy to direct and supervise
9 corrective action at the school, impose a state
10 required corrective action plan, temporarily
11 close a school for reorganization, and/or
12 reassign students to other public schools, would
13 you agree that the state is providing technical
14 assistance to make needed improvements?

15 MS. LHAMON: Incomplete
16 hypothetical.

17 A. I would believe that the action
18 certainly has that intent, and I hope it would
19 have that effect.

20 Q. On page 10 of the New Compact For
21 Learning in the third bullet point on the left,
22 one of the responsibilities of the principal is,
23 "To maintain a clean, safe, orderly and
24 supportive learning environment in which all
25 students can be successful," correct?

1
2 the law is appropriately assigning the
3 responsibility or does he agree that that law
4 says that?

5 Q. Do you agree that state law should
6 provide that school boards have the legal
7 obligation for the superintendent's management
8 and control of educational affairs at the
9 district level?

10 A. In our kind of system, yes. In our
11 kind of system of local control, as we discussed
12 it yesterday, I do believe that that's a wise
13 provision.

14 Q. Are you agreeing with that system?

15 A. Yes, generally. Like all systems,
16 it can be improved, but it makes general sense
17 to me.

18 Q. On page 18 of the New Compact For
19 Learning at the end of the first paragraph under
20 section W, with that reference, was a set of
21 more specific recommendations for action to give
22 effect to the New Compact For Learning prepared?

23 A. Yes.

24 Q. What document or documents contain
25 those recommendations?

1
2 A. They were made in memoranda that I
3 wrote to and for the members of the New York
4 State Board of Regents. I don't recall what the
5 caption on the memos were, but they were part of
6 the agenda of public meetings that occurred in
7 the year 1991 and 1992 as well.

8 Q. Are those public documents?

9 A. They're not published in any
10 conventional sense, but I'm sure they're
11 available to the public. I don't have them now.

12 I moved several boxes of stuff from
13 my Albany office when I moved down to Columbia,
14 but I didn't bring everything in the files, but
15 they're probably recoverable.

16 Q. Have those recommendations, to give
17 effect to the principles and provisions to the
18 New Compact For Learning, ever been published?

19 A. It depends again on what you mean
20 by "published." They've not been published in a
21 journal or in the newspaper, but they are made
22 in public documents that were considered in open
23 public meetings by the Board of Regents and
24 presumably are still available from the files.

25 Q. Do you recall any of the

1
2 (Sobol Exhibit No. 2 - Letter dated 2/5/02
3 from Ms. Krulak to Dr. Sobol, Bates PLTF-XP-TS
4 0001 to 0006 - was marked for identification.)

5 MR. SEFERIAN: This document is
6 marked PLTF-XP-TS 001 through 006 --

7 MS. LHAMON: There are three zeros,
8 for what it's worth.

9 MR. SEFERIAN: 0001 through 0006.

10 Q. Do you recognize this document?

11 A. I do.

12 Q. Is the first page of Exhibit 2 a
13 letter you received regarding this case?

14 A. I didn't hear you. I'm sorry.

15 Q. Is the first page of Exhibit 2 a
16 letter you received in this case?

17 A. Yes, it is.

18 Q. Do you know who prepared the other
19 pages of Exhibit 2 behind the cover letter?

20 MS. LHAMON: Vague as to
21 "prepared."

22 Q. Pages 2 through 6.

23 A. I know that the material was sent
24 to me by Catherine Lhamon's assistant, but I
25 don't know whether Catherine herself prepared

1
2 recommendations you made to the Board of Regents
3 to give effect to the principles and provisions
4 of the New Compact For Learning that were
5 adopted?

6 A. I mentioned a few yesterday. I'll
7 try to do it again today in the order in which I
8 think of them.

9 The School Quality Review program,
10 recommendations for the provision of state aid
11 to the schools, the establishment of a system of
12 Compact schools to give greater visibility to
13 effective practices, the creation of a statewide
14 parent council to make recommendations
15 concerning the role of parents in the schools,
16 the setting of new high standards of academic
17 content and student performance.

18 The extension of the then existing
19 programs of assessment to measure pupil progress
20 toward the standards. Those were the some of
21 the specific actions that were taken pursuant to
22 the New Compact.

23 MR. SEFERIAN: I'd like to show you
24 a document which I'll ask the court reporter to
25 mark as the next exhibit in order.

1
2 the material or not.

3 Q. I'd like to ask you to look at
4 another document, which we'll mark as Exhibit 3.
5 (Sobol Exhibit No. 3 - E-mails dated 2/5/02
6 from Ms. Auchincloss to Ms. Regan, Bates
7 PLTF-XP-TS 0063 to 64 - was marked for
8 identification.)

9 Q. Do you recognize Exhibit 3,
10 Dr. Sobol?

11 A. I've never seen it before. I'm
12 aware that the correspondence occurred, but I've
13 never seen a copy of this memorandum.

14 Q. Do you believe that Exhibit 3
15 contains e-mail correspondence between your
16 office and plaintiffs' attorney's office?

17 A. Yes, I do.

18 Q. Were you aware of that e-mail
19 correspondence at or around the time it
20 occurred?

21 A. Yes.

22 Q. Who is Gosia?

23 A. Gosia Kolb is my assistant.

24 Q. Did you attend a meeting regarding
25 this case on February 15, 2002?

1
 2 A. I'd have to consult my calendar.
 3 I met with Catherine Lhamon sometime last
 4 January or February, but I don't recall the
 5 date.
 6 Q. Where did the meeting take place?
 7 A. I believe it was in San Diego. I
 8 was attending a conference of public school
 9 superintendents, the American Association of
 10 School Administrators, and my wife and I met
 11 with Ms. Lhamon nearby that event.
 12 Q. Was that the first time you met
 13 Ms. Lhamon, in January/February 2002?
 14 A. Yes. I had spoken with her on the
 15 telephone, but I had not met her previously.
 16 Q. Does Exhibit 3 refresh your
 17 recollection that the meeting occurred on
 18 February 15, 2002?
 19 A. I can't vouch for February 15. It
 20 may well have been February 15. It was sometime
 21 in January or February of 2002.
 22 Q. How long did the meeting last?
 23 A. Oh, I don't know. An hour, hour
 24 and-a-half.
 25 Q. Was anyone else present?

1
 2 A. My wife was present.
 3 Q. What was discussed in the meeting
 4 you had in January or February of 2002 with
 5 Ms. Lhamon?
 6 A. In general, we talked about the
 7 lawsuit in which Ms. Lhamon is involved and the
 8 possibility of my serving as a witness in that
 9 proceeding.
 10 Q. How many times had you spoken with
 11 Ms. Lhamon on the telephone prior to your
 12 January or February meeting with her in 2002?
 13 A. I don't know. I know we had spoken
 14 on the telephone before I met her. Obviously
 15 that's how we set it up, but I don't recall if
 16 that was a single conversation or two or three
 17 conversations. It was not more than that.
 18 Q. In the meeting you had with
 19 Ms. Lhamon in January or February of 2002, did
 20 you agree at that time to serve as an expert
 21 witness for the plaintiffs in this case?
 22 A. Yes, I did.
 23 (A luncheon recess was taken from
 24 1:30 p.m. to 2:11 p.m.)
 25 (Sobol Exhibit No. 4 - E-mail dated 2/5/02)

1
 2 from Ms. Auchincloss to Ms. Regan, Bates
 3 PLTF-XP-TS 0065 to 0071 - was marked for
 4 identification.)
 5 Q. Dr. Sobol, do you recognize Exhibit
 6 4?
 7 A. Once again, I've never seen this in
 8 typed form. These are e-mail messages that have
 9 been downloaded and I'm aware that there was an
 10 e-mail transaction at the time, but I've never
 11 seen it in document form.
 12 Q. Exhibit 4 is marked 0065 through
 13 0071. Do you recognize pages 0066 through 0071
 14 of Exhibit 4?
 15 A. Yes, I do.
 16 Q. What are those pages?
 17 A. One page is a very short form bio,
 18 one paragraph, and the other is a somewhat more
 19 complete curriculum vitae.
 20 Q. Does the last page of Exhibit 4
 21 contain a list of your publications?
 22 A. Yes.
 23 Q. Are there any other publications
 24 that you authored that are not listed on the
 25 last page of Exhibit 4?

1
 2 A. Yes. Mostly short articles that
 3 appeared in such publications as Parent
 4 Magazine, American Schoolboard's Journal, New
 5 York State Schoolboard's Journal.
 6 The publication that was pending
 7 that is listed has now been published, a book by
 8 Jossey-Bass called, "The Principal as Moral
 9 Leader."
 10 Q. Has the title of the book changed?
 11 A. Yes. The title of the book is -- I
 12 wrote a long chapter in the book. I didn't
 13 write the whole book.
 14 The title of the book is, "The
 15 Principal Challenge"; and the title of the
 16 chapter that I wrote is, "The Principal as Moral
 17 Leader."
 18 Q. So the title changed from "The
 19 Ethical Preparation of School Administrators"?
 20 A. Yes.
 21 Q. Who is the publisher?
 22 A. Jossey-Bass in San Francisco,
 23 J-O-S-S-E-Y B-A-S-S.
 24 Q. What were the subjects of your
 25 formal decisions of the Commissioner of

1
 2 Education?
 3 A. There was a great range of them.
 4 The commissioner, under New York
 5 State law, has a judicial function; and any
 6 exercise of that function. I heard appeals from
 7 decisions and actions of local boards of
 8 education of local school superintendents and
 9 other school people; and the kinds of issues
 10 that arose, well, they were very varied.
 11 Some had to do with school district
 12 boundary lines. Some had to do with budget
 13 votes and whether they were done properly or
 14 not. Some were teacher discipline cases. Some
 15 were what I think of as Freedom of Information
 16 cases, where censorship of material was
 17 involved.
 18 Some had to do with whether or not
 19 parents would have the right to keep their
 20 children and people out of certain educational
 21 experiences, like sex education or family living
 22 or something.
 23 It was a wide variety of decisions
 24 -- rather, of issues.
 25 (Sobol Exhibit No. 5 - E-mail dated 2/8/02

1
 2 received from Ms. Lhamon with enclosures?
 3 A. Yes.
 4 (Sobol Exhibit No. 7 - Letter dated 2/26/02
 5 from Ms. Lhamon to Dr. Sobol, Bates PLTF-XP-TS
 6 0213 to 0214 - was marked for identification.)
 7 Q. Dr. Sobol, do you recognize Exhibit
 8 7?
 9 A. Yes, I do.
 10 Q. What is Exhibit 7?
 11 A. Exhibit 7 is a letter to me from
 12 Catherine Lhamon dated February 26, 2002.
 13 Q. Was Exhibit 7 contained in the
 14 terms of the agreement under which you were
 15 retained to perform expert consulting services
 16 in connection with the plaintiffs in the
 17 Williams versus California class action?
 18 A. Yes.
 19 (Sobol Exhibit No. 8 - Letter dated 2/26/02
 20 from Ms. Krulak to Dr. Sobol, Bates PLTF-XP-TS
 21 0215 to 0220 - was marked for identification.)
 22 Q. Does Exhibit 8, which is marked
 23 0215 through 0220, contain a letter you received
 24 and enclosures regarding this case?
 25 A. Yes.

1
 2 from Ms. Auchincloss to Ms. Regan, Bates
 3 PLTF-XP-TS 0075 - was marked for
 4 identification.)
 5 Q. Do you recognize Exhibit 5?
 6 A. Yes, I do.
 7 Q. What is that document?
 8 A. It is an e-mail message that was
 9 sent to me by Catherine Lhamon on February 8,
 10 2002.
 11 Q. Does Exhibit 5 contain the first
 12 contact you had regarding this case?
 13 A. It was either first or second. I
 14 don't recall whether this was preceded or
 15 followed by a phone call that Ms. Lhamon and I
 16 had with each other. I just don't remember
 17 which came first, the phone call or the e-mail
 18 message.
 19 Q. Was Ms. Lhamon the first person you
 20 spoke to about this case?
 21 A. Yes.
 22 (Sobol Exhibit No. 6 - Letter dated 2/18/02
 23 from Ms. Lhamon to Dr. Sobol, Bates PLTF-XP-TS
 24 0076 - was marked for identification.)
 25 Q. Is Exhibit 6 a copy of a letter you

1
 2 Q. Did you request the materials that
 3 are part of Exhibit 8?
 4 A. Yes, I did.
 5 Q. Why did you request those
 6 materials?
 7 A. Because Ms. Lhamon had asked me to
 8 serve as an expert witness in the trial and I
 9 wanted to inform myself as well as I could.
 10 (Sobol Exhibit No. 9 - E-mail dated 2/26/02
 11 from Ms. Auchincloss to Ms. Regan, Bates
 12 PLTF-XP-TS 0221 - was marked for
 13 identification.)
 14 Q. Do you recognize Exhibit 9, marked
 15 0221?
 16 A. Yes, I do.
 17 Q. What is that document?
 18 A. It's a copy of an e-mail message
 19 sent by a Megan Auchincloss, if I'm pronouncing
 20 it right. I'm not sure -- to a woman, I guess,
 21 named Stich Regan, with a note from Catherine
 22 Lhamon indicating that she had attached to the
 23 e-mail the transcripts of certain focus groups
 24 that Professor Michelle Fine and her graduate
 25 students had conducted with students here in New

1
 2 York City and elsewhere.
 3 Q. Is your e-mail address
 4 TS171@Columbia.EDU?
 5 A. Yes, it is.
 6 Q. Did you receive an e-mail message
 7 from Ms. Lhamon that had attached to it
 8 transcripts of the focus groups Michelle Fine
 9 and her graduate students conducted with
 10 students who attend school in the Williams
 11 conditions?
 12 A. Yes.
 13 Q. Did you read all of the transcripts
 14 of the focus groups that were sent to you by
 15 Ms. Lhamon?
 16 A. Yes, I did.
 17 (Sobol Exhibit No. 10 - E-mail dated 2/27/02
 18 from Ms. Auchincloss to Ms. Regan, Bates
 19 PLTF-XP-TS 0623 - was marked for
 20 identification.)
 21 Q. What is Exhibit 10?
 22 A. Is Exhibit 10 the one that ends
 23 with the number 0623?
 24 Q. Yes.
 25 A. Exhibit 10 is an e-mail message

1
 2 from Megan Auchincloss to Patricia Stich Regan
 3 that has been forwarded to Catherine Lhamon to
 4 Gosia Kolb, my assistant, sending Gosia Kolb the
 5 fax number to which she was to send the
 6 affidavit that I executed for the case at hand.
 7 Q. Which case are you referring to?
 8 A. The Williams case that we're here
 9 to discuss today.
 10 Q. Which affidavit are you referring
 11 to?
 12 A. I don't remember. It may have been
 13 an affidavit that I sent expressing my agreement
 14 with the terms of the agreement that we
 15 referenced earlier, but I'm not sure of that.
 16 I don't remember sending any other kind of
 17 affidavit.
 18 MS. LHAMON: Dr. Sobol, when you
 19 were testifying about what is contained in
 20 Exhibit 10, were you just testifying based upon
 21 what you are reading here and not based on
 22 independent recollection?
 23 THE WITNESS: Yes, based on what's
 24 here. I've never seen this before.
 25 Q. Do you recall asking Gosia Kolb to

1
 2 fax an affidavit to Ms. Lhamon?
 3 A. Not specifically I don't. I may
 4 very well have done so, but the office is a busy
 5 place and I just don't remember.
 6 (Sobol Exhibit No. 11 - Multi-page document,
 7 fax cover sheet from Ms. Kolb to Ms. Lhamon,
 8 Bates PLTF-XP-TS 0624 to 0635 - was marked for
 9 identification.)
 10 Q. Exhibit 11 is marked 0624 through
 11 0635.
 12 Does Exhibit 11 contain affidavits
 13 or declarations that you executed?
 14 A. Yes, it does.
 15 Q. Were the affidavits that you
 16 executed in the same form as the affidavits that
 17 are contained in Exhibit 11?
 18 A. I don't understand your question.
 19 Exhibit 11 is the affidavit that I executed, is
 20 it not?
 21 Q. The affidavits in Exhibit 11 don't
 22 appear to be signed.
 23 Were there any changes made to the
 24 affidavits in Exhibit 11 before you signed them?
 25 A. I think not, but bear with me for

1
 2 just a minute, all right? I want to be sure
 3 we're talking about the same thing.
 4 We're talking about the document
 5 that begins on page 0625, right?
 6 Q. Yes.
 7 A. And runs through whatever it runs
 8 through.
 9 There's a notation in my own
 10 handwriting in the upper right-hand corner, the
 11 first page, page 0625, which says, "Signed and
 12 mailed on July 23, 2001."
 13 That would suggest to me that I
 14 made no changes in it, that this was the copy
 15 that was sent.
 16 Q. There appears to be another
 17 affidavit beginning on page 0632.
 18 Do you recall if you signed that
 19 affidavit in the same form as it appears in
 20 Exhibit 11?
 21 A. Yes. Yes, I do recall that.
 22 Q. What case did the affidavits in
 23 Exhibit 11 pertain to?
 24 A. I don't know how to identify the
 25 case with a legal title, but I recall what the

1
 2 issue was and who the parties were.
 3 Q. Who were the parties?
 4 A. The parties were a consortium of
 5 New York high schools drawn together in
 6 something called the New York City Performance
 7 Consortium, I think that's the way the title
 8 was.
 9 They were -- it's in the affidavit,
 10 the New York Performance Standards Consortium.
 11 Those schools had enjoyed the
 12 benefit of a waiver that I executed while I was
 13 still Commissioner of Education permitting them
 14 to substitute alternative assessment measures
 15 for the state's otherwise required testing
 16 program.
 17 And the proceeding was one in which
 18 the members of the consortium were attempting to
 19 obtain from the then commissioner, my successor,
 20 Richard Mills, a continuation of that variance;
 21 and I wrote these two affidavits in pursuit of
 22 that request.
 23 Q. Were these affidavits drafted by
 24 you or the attorneys?
 25 A. Both.

1
 2 I think originally they gave me
 3 something to look at it and I rewrote most of it
 4 in my own hand.
 5 Q. What was the result of the case?
 6 A. The commissioner denied the appeal
 7 and declined to extend the waiver.
 8 Q. Did your assistant fax these
 9 affidavits to Ms. Lhamon?
 10 MS. LHAMON: Calls for speculation.
 11 A. I don't recall that specifically;
 12 but the cover page of document we're looking at,
 13 page 0624, contains in her handwriting a note
 14 from Gosia Kolb, my assistant, to Catherine
 15 Lhamon indicating that she is enclosing the
 16 affidavits.
 17 Q. Do you recall asking your assistant
 18 to fax these affidavits in Exhibit 11 to
 19 Ms. Lhamon?
 20 A. I don't recall specifically asking
 21 her to do that, but she wouldn't have done it
 22 without my asking her to, so assume that I did,
 23 but I have no specific recollection of it.
 24 Q. Do you recall discussing the
 25 affidavits in Exhibit 11 with Ms. Lhamon?

1
 2 A. Not really. I may have mentioned
 3 them, but I don't remember any substantive
 4 discussion about the issue or the case.
 5 Q. Do you have any recollection why
 6 these affidavits were sent?
 7 A. I know that Ms. Lhamon was very
 8 intent on reading virtually everything that I
 9 ever wrote, and this was part of that record, I
 10 guess, so I assume that's what it was about.
 11 (Sobol Exhibit No. 12 - Multi-page document,
 12 fax cover sheet from Ms. Kolb to Ms. Lhamon,
 13 Bates PLTF-XP-TS 0636 to 0637 - was marked for
 14 identification.)
 15 Q. Do you recognize Exhibit 12?
 16 A. I'm not sure I've seen it before,
 17 but I recognize the communication.
 18 Ms. Lhamon had asked me for a list
 19 of those superintendents that had attended the
 20 Annual Superintendents Work Conference that we
 21 conduct at Teachers College, and I asked my
 22 assistant to send her that information.
 23 Q. Did Ms. Lhamon tell you why she
 24 wanted that information?
 25 A. I think when we were talking about

1
 2 the background that I was trying to acquire to
 3 be of use to anybody in the case, I mentioned
 4 the fact that I had had conversations with
 5 superintendents from California; and she had
 6 wanted me to extend her a list of them, so I
 7 did.
 8 Q. Have you spoken with any
 9 superintendents in California about this case?
 10 A. Well, I must have, but I don't
 11 recall any focus conversations on it. It came
 12 up in passing. It was never the subject of
 13 discussion in any formal or planned sense, but I
 14 may have mentioned it to people with whom I was
 15 interacting.
 16 Q. Who do you recall that you may have
 17 mentioned this case to?
 18 A. Well, I know I mentioned it to Skip
 19 Meno, but he's not a superintendent now. He's a
 20 former superintendent and former chief state
 21 school officer in Texas who is now Dean of
 22 Education in San Diego.
 23 I know for sure I talked with Skip
 24 about it, but I go to meetings with
 25 superintendents all the time and they're

1
2 attended by people from California as well as
3 other places, and I may have mentioned casually
4 the suit, but it's never been the subject of
5 focused, systematic, sustained attention.

6 Q. Do you recall anyone who is
7 involved in education in California who you've
8 spoken to about this case?

9 MS. LHAMON: Broad and vague as to
10 "involved in education in California." Anyone
11 who is a parent of a child in a California
12 school?

13 A. First of all, I don't represent
14 myself as somebody who is intimate with the
15 details of education in California. I made that
16 clear yesterday.

17 That having been said, I've done a
18 fair amount of reading and I've talked with
19 people in a more or less casual way.

20 I've talked with superintendents of
21 schools, some that are listed here, with other
22 colleagues and friends from the State of
23 California, with a number of teachers at
24 Teachers College, Columbia University who are
25 from California, so --

1
2 identification.)

3 Q. What is Exhibit 13, which is marked
4 0640?

5 A. It's a printout of an e-mail
6 message, I guess, sent to me by Catherine Lhamon
7 dated February 28, 2002.

8 Q. Did Ms. Lhamon attach to the e-mail
9 which is in Exhibit 13 the draft expert report?

10 A. Yes, she did.

11 Q. Does the e-mail in Exhibit 13
12 reference the initial draft of the expert
13 report?

14 A. Yes, it does.

15 Q. Who prepared the initial draft of
16 the expert report?

17 A. It depends what you mean by
18 "prepared."

19 Ms. Lhamon and I had conversation
20 with one another in which she asked me questions
21 and I did my best to answer them; and she
22 recorded my answers and included them in the
23 draft report.

24 So who was it who prepared it? The
25 content was mine. The writing down on the page

1
2 Q. Do you recall anyone by name, any
3 teacher or administrator in California or any
4 other public school official who you've
5 specifically discussed this case with?

6 A. I could get you the names of the
7 teachers with whom I talked, because I drew them
8 together in a little afternoon conversation
9 session we had one day and I have a list in the
10 office. I don't have it in the top of my head.

11 But I've talked with people, other
12 people in the state. A woman named Judy Coddling
13 who was -- who lives in Beverly Hills who is the
14 former principal of Pasadena High School and now
15 is an officer with the National Center for
16 Education and the Economy based in Washington.

17 Who else did I talk with in
18 California -- I don't recall specifically
19 because, once again, it was not the subject of
20 sustained, systematic focus. It was incidental.

21 Q. How do you spell Judy Coddling?

22 A. J-U-D-Y C-O-D-D-I-N-G.
23 (Sobol Exhibit No. 13 - E-mail dated 2/28/02
24 from Ms. Auchincloss to Ms. Regan, Bates
25 PLTF-XP-TS 0640 - was marked for

1
2 was hers.

3 Q. Was that based on telephone
4 conversations you had with Ms. Lhamon?

5 A. Yes, it was.

6 Q. How many telephone conversations
7 did you have with Ms. Lhamon before February 28,
8 2002?

9 A. Well, I never counted them. But it
10 can't have been that many because if the
11 February 18th date that we looked at earlier is
12 accurate, and that was the date of our meeting
13 in San Diego, less than two weeks elapsed
14 subsequently before the signing of this draft
15 report.

16 Q. Was the meeting you had with
17 Ms. Lhamon in San Diego the first time you
18 discussed the case substantively?

19 A. Yes.

20 Q. Do you have any estimate of how
21 many telephone conversations you had with
22 Ms. Lhamon between February 15 and February 28,
23 2002?

24 A. One to three.

25 Q. Do you have any estimate of how

1
2 long those one, two, three telephone
3 conversations were?
4 A. Not really. Maybe -- first of all,
5 I'm not sure that the number was plural. It may
6 have been only one conversation, but it may have
7 been plural. I say one, two, three. I'm not
8 sure.
9 I would guess that the
10 conversations lasted 30 minutes, maybe 40
11 minutes. The conversation or conversations must
12 have lasted 30 to 40 minutes.
13 MS. LHAMON: One of the things that
14 Tony hasn't told you about a deposition is that
15 he doesn't want a guess.
16 If you have an estimate or if you
17 know something for sure, you should say it.
18 But if you're just making it up out of thin air,
19 it's not something that Tony actually wants.
20 THE WITNESS: I apologize.
21 Q. In the e-mail, Exhibit 13, it says,
22 "As we agreed, you can dictate to me a
23 conclusion after you've had a chance to review
24 the whole document."
25 Did you dictate a conclusion to the

1
2 THE WITNESS: Oh, okay.
3 Q. At any time during your work in
4 this case, do you recall sending any e-mails to
5 Ms. Lhamon wherein you attached a draft of the
6 report or a version of the report?
7 A. Well, as I said, when I got the
8 draft report, the first draft of the report, I
9 wrote out some changes, but I don't recall how I
10 transmitted them to her.
11 I may have e-mailed them to her or
12 I may have dictated them on the telephone, but I
13 don't recall which.
14 Q. What changes did you make to the
15 draft report?
16 A. I don't recall them all. I know
17 that I wrote a conclusion; and I think that I
18 made some other relatively minor changes in what
19 appeared earlier, but I don't recall
20 specifically.
21 (Sobol Exhibit No. 14 - E-mail dated 2/28/02
22 from Ms. Auchincloss to Ms. Stich, Bates
23 PLTF-XP-TS 0638 - was marked for
24 identification.)
25 Q. Does Exhibit 14, marked 0638,

1
2 report?
3 A. I wrote a conclusion to the report
4 and submitted it to Ms. Lhamon and she included
5 it in the final version of the report.
6 Q. Can you describe how you wrote that
7 and transmitted the conclusion to Ms. Lhamon?
8 A. One hand.
9 Q. Did you transmit the conclusion to
10 Ms. Lhamon by mail, by e-mail, over the
11 telephone?
12 A. I don't recall. I really don't
13 recall.
14 Q. At any time, do you recall in this
15 case sending any letters or documents to
16 Ms. Lhamon in the mail?
17 A. No. In fact, it was a long period
18 of time during which -- it seemed to be long, it
19 was some months, during which I didn't hear from
20 Ms. Lhamon and I thought the whole thing had
21 gone by the boards someplace.
22 In fact, I think I called her to
23 ask her if that was the case. Did I?
24 MS. LHAMON: Tony has the e-mail
25 that you sent me asking if that was the case.

1
2 contain a printout of e-mail correspondence
3 between you and Ms. Lhamon?
4 A. Yes, it does.
5 Q. On February 28, 2002, did you send
6 Ms. Lhamon the e-mail, "I have received your
7 draft and will review it over the weekend. The
8 group of California teachers and I will meet on
9 Tuesday afternoon. Cheers"?
10 A. Yes.
11 Q. Does the word "draft" refer to the
12 first draft of the expert report?
13 A. Yes, it does.
14 Q. Do you recall if you reviewed the
15 draft of the expert report over that weekend?
16 A. Yes. I believe I did.
17 Q. What was the meeting referred to in
18 Exhibit 14 with California teachers?
19 A. I had some students in one of my
20 courses who had taught recently in California
21 schools, and I thought it might be instructive
22 to sit with them and hear some of their
23 experiences there.
24 Q. Was the meeting with the group of
25 California teachers held specifically for this

1
2 case?
3 A. Yes.
4 Q. Whose idea was that meeting?
5 A. That was my idea.
6 MS. LHAMON: I just want to note
7 for the record that we're on the 15th exhibit;
8 and since the first exhibit contained
9 exclusively correspondence between Dr. Sobol and
10 myself or Dr. Sobol's assistant to my assistant,
11 I don't see the need to make these exhibits to
12 this deposition transcript.
13 I have offered to stipulate to save
14 copying costs that that's what these documents
15 are and you declined. I just don't think this
16 is great use of time or cost.
17 MR. SEFERIAN: I only have about
18 ten pages of exhibits remaining, and the
19 exhibits are not many pages. So for that
20 reason, I prefer to attach them.
21 (Sobol Exhibit No. 15 - E-mail dated 2/28/02
22 from Ms. Auchincloss to Ms. Regan, Bates
23 PLTF-XP-TS 0639 - was marked for
24 identification.)
25 Q. Dr. Sobol, does Exhibit 15 contain

1
2 Q. How many drafts of your expert
3 report were prepared in total?
4 A. I recall only two.
5 Q. The e-mail in Exhibit 17 references
6 "changes discussed."
7 Do you recall discussing any
8 changes with Ms. Lhamon?
9 A. Well, as I said, when I got the
10 first draft report I wrote a new conclusion and
11 there were a couple of other changes that I
12 made, but I didn't recall particularly what they
13 were.
14 I remember that Ms. Lhamon wrote me
15 by e-mail on one occasion to say that she had
16 incorrectly referred to two books that my wife
17 and I had written as a multi-volume work instead
18 of a two volume work, and she wanted to make
19 that correction. But other than that, I have no
20 specific recollection of changes.
21 (Sobol Exhibit No. 18 - E-mail dated 3/11/02
22 from Ms. Auchincloss to Ms. Regan, Bates
23 PLTF-XP-TS 0643 to 0645 - was marked for
24 identification.)
25 Q. Exhibit 18 is marked 0643 through

1
2 a printout of e-mail correspondence between
3 yourself and Ms. Lhamon?
4 A. Yes.
5 (Sobol Exhibit No. 16 - E-mail dated 3/5/02
6 from Ms. Auchincloss to Ms. Regan, Bates
7 PLTF-XP-TS 0641 - was marked for
8 identification.)
9 Q. Do you recognize Exhibit 16?
10 A. No.
11 Q. Do you recall sending an e-mail to
12 Ms. Lhamon on or about March 5, 2002?
13 A. I don't recall this communication
14 at all.
15 (Sobol Exhibit No. 17 - E-mail dated 3/8/02
16 from Ms. Auchincloss to Ms. Regan, Bates
17 PLTF-XP-TS 0642 - was marked for
18 identification.)
19 Q. Does Exhibit 17 contain an e-mail
20 sent to you by Ms. Lhamon with an attached
21 revised draft of your expert report?
22 A. Yes.
23 Q. Do you recall if that was the
24 second draft of your expert report?
25 A. I believe it was the second draft.

1
2 0645.
3 Are those documents in Exhibit 18
4 e-mail correspondence between you and
5 Ms. Lhamon?
6 A. Yes.
7 Q. At one point, did you have
8 difficulty in accessing the document that
9 Ms. Lhamon sent you by e-mail?
10 A. Yes.
11 Q. Was that resolved?
12 A. Yes.
13 (Sobol Exhibit No. 19 - E-mail dated 3/27/02
14 from Ms. Lhamon, Bates PLTF-XP-TS 0646 - was
15 marked for identification.)
16 Q. Does Exhibit 19 contain an e-mail
17 from Ms. Lhamon to you wherein she attached a
18 formatted version of your expert report?
19 A. Yes.
20 Q. Were there any changes to your
21 report between the second draft and the draft
22 that was sent with the e-mail in Exhibit 19?
23 A. Not that I recall. I believe there
24 were none.
25 (Sobol Exhibit No. 20 - E-mail dated 5/28/02

1
 2 from Ms. Auchincloss to Ms. Noguera, Bates
 3 PLTF-XP-TS 0647 - was marked for
 4 identification.)
 5 Q. Is Exhibit 20 an e-mail that you
 6 sent to Ms. Lhamon in May 2002?
 7 A. Yes.
 8 (Sobol Exhibit No. 21 - Multi-page document,
 9 fax cover sheet from Ms. Kolb to Ms. Lhamon,
 10 Bates PLTF-XP-TS 0648 to 0651 - was marked for
 11 identification.)
 12 Q. Exhibit 21, marked 0648 through
 13 0651, do you recognize those documents?
 14 A. Yes.
 15 Q. What are those documents?
 16 A. They were notes that I took of the
 17 session that I had with my students who had been
 18 teachers in California at a meeting we arranged
 19 on March 5, 2002, a year ago tomorrow.
 20 Q. Is there a typewritten version and
 21 a handwritten version of your notes?
 22 A. That is correct.
 23 Q. Who prepared the typewritten
 24 version?
 25 A. Gosia Kolb, my assistant.

1
 2 Q. Did she transcribe the typewritten
 3 version of your notes from the handwritten
 4 version of your notes?
 5 A. Yes, she did.
 6 Q. Are the student teachers listed in
 7 Exhibit 21 former students of yours?
 8 A. All but one, who continues to be a
 9 student of mine.
 10 Q. Who is that?
 11 A. Charlene Baldwin.
 12 Q. On page 0649 under the heading,
 13 "Materials," the entry, "Need bilingual
 14 materials, threw them out," what does that refer
 15 to?
 16 A. One of the students told me that
 17 when California law with respect to the
 18 education of children who do not speak English
 19 as a native language was changed, that then
 20 extant bilingual education material was thrown
 21 out of the schools, in the school in which he or
 22 she was teaching.
 23 Q. What do the entries under
 24 "Teachers" refer to on page 0649?
 25 A. Well, you got me, Tony. I'm sorry,

1
 2 these were quick notes that I made. Trying to
 3 recapture a conversation -- you don't want me to
 4 guess.
 5 I believe that the first one,
 6 "seniority may choose" with a question mark
 7 alludes to the practice of permitting teachers
 8 who have seniority to select their own teaching
 9 assignments rather than accept the assignment
 10 that would otherwise be made by the
 11 superintendent or the board.
 12 I'm not positive that that's the
 13 case, but I believe that to have been the case.
 14 I don't know what "it's about pedagogy" means
 15 anymore. I don't recall that conversation.
 16 Q. Did you have any other meetings
 17 with any California teachers or administrators
 18 in addition to the March 5, 2002 meeting?
 19 A. I've had numerous meetings with
 20 other teachers. I had no other meetings with
 21 teachers or others with respect to this
 22 litigation.
 23 Q. Have you authored any publications
 24 regarding school conditions in California?
 25 A. No, I have not.

1
 2 Q. Before your report was finalized,
 3 did you discuss it with anyone other than
 4 Ms. Lhamon?
 5 A. No, I did not.
 6 Q. Have you performed any work on this
 7 case since you prepared the report?
 8 MS. LHAMON: Vague as to "work on
 9 this case." I assume you mean separate from
 10 coming to this deposition today or --
 11 A. The only work I've done is to
 12 prepare for the deposition today by re-reading
 13 some of the material that we've looked at
 14 together here today: The expert report, the
 15 Compact For Learning.
 16 (Sobol Exhibit No. 22 - List of materials -
 17 was marked for identification.)
 18 Q. Do you recognize Exhibit 22,
 19 Dr. Sobol?
 20 A. I don't believe I've ever seen it
 21 before. I think I know to whom it refers, but I
 22 don't think I've seen the document itself
 23 before.
 24 Q. Does Exhibit 22 contain a list of
 25 materials that were provided to you to review

1
 2 for this litigation?
 3 MS. LHAMON: Lacks foundation.
 4 A. Yes. My recollection is that when
 5 Ms. Lhamon and I met on or about February 15,
 6 2002, and she asked me to serve as a witness in
 7 this case, I asked her for help in acquiring
 8 additional background information for it, and
 9 this is a list of the material that she sent me
 10 subsequent to that conversation.
 11 Q. Did you read all of the material
 12 that's listed in Exhibit 22?
 13 A. Yes, I did.
 14 Q. Do you have any estimate of how
 15 long it took you to review all of the material
 16 in Exhibit 22?
 17 A. Some hours. I don't recall
 18 exactly.
 19 Q. Did you prepare any notes or
 20 summaries of the materials that you reviewed,
 21 the materials listed in Exhibit 22?
 22 A. No, I did not.
 23 Q. Have you kept any log of the work
 24 that you performed in this case?
 25 A. No.

1
 2 deposition?
 3 A. Given a deposition about what? A
 4 deposition in any form to anyone?
 5 Q. In a lawsuit, have you given any
 6 depositions other than the Campaign for Fiscal
 7 Equity and this case?
 8 A. Yes.
 9 Q. Approximately how many times?
 10 A. Half a dozen.
 11 Q. Did any of those depositions,
 12 approximately half dozen depositions, involve
 13 your work as commissioner?
 14 A. Yes, they did.
 15 Q. Did all of them involve that?
 16 A. I believe so.
 17 Q. Do you recall the names of those
 18 cases?
 19 A. No.
 20 Q. How many times have you testified
 21 in court as an expert witness?
 22 A. Twice, I think.
 23 Q. When did you testify as an expert
 24 witness in addition to the Campaign for Fiscal
 25 Equity case?

1
 2 Q. How much time have you spent in
 3 your work for this case in total?
 4 A. I don't know.
 5 Q. Do you have any estimate?
 6 A. No. I mean, hours, but I don't
 7 know how many hours.
 8 I've certainly not taken time away
 9 from my regular work to do this. I've been busy
 10 right along; so spare time, weekends.
 11 Q. Between the time you were first
 12 contacted in this case and the time that your
 13 expert report was finalized, can you give an
 14 estimate of how much time you've spent on this
 15 case?
 16 A. Several days, probably. It took a
 17 while to read all of the material.
 18 Q. Have you been paid for any of your
 19 work in this case to date?
 20 A. No, I have not.
 21 Q. What is your fee for deposition and
 22 trial testimony?
 23 A. I have no fee.
 24 Q. Other than the Campaign for Fiscal
 25 Equity case and this case, have you given a

1
 2 A. I testified in a school finance
 3 called Levittown versus Nyquist in the late
 4 1970s. It was at the Supreme Court level. The
 5 Trial Court level in Nassau County.
 6 MS. LHAMON: Was that as an expert,
 7 though?
 8 THE WITNESS: I don't know. I
 9 remember being there as Superintendent of
 10 Schools in Scarsdale and they asked me a lot of
 11 questions and I did my best to answer them. I
 12 don't know if I was an expert or not.
 13 (A recess was taken.)
 14 Q. What is an AM in Teaching?
 15 A. Master of arts, just done in Latin.
 16 Q. What was the focus of your doctoral
 17 studies at Columbia?
 18 A. It had to do with policy decision
 19 making in education.
 20 Q. Is your book, "Is Your Child in
 21 School," still in print?
 22 A. I don't think it's in print, but
 23 it's in a number of libraries right now. My
 24 wife and I see it cropping up here and there.
 25 Q. Have you authored any books other

1
 2 than, "Is Your Child in School"?
 3 A. No.
 4 MS. LHAMON: Objection.
 5 The CV speaks for itself.
 6 Q. Do you have any publications
 7 concerning school finance?
 8 A. No. May I add a comment? I don't
 9 have any publications concerning school finance,
 10 but I've administered a lot of school finance.
 11 During the years that I served as
 12 commissioner, we were responsible for the
 13 distribution and appropriate use of close to
 14 \$12 billion annually in aid to the schools.
 15 The operating budget of the State Education
 16 Department that I directed was in excess of
 17 \$250 million, so while other people were writing
 18 the publications, I was busy doing what they
 19 were writing about.
 20 Q. What courses in curriculum in
 21 teaching policy do you teach?
 22 A. I teach a course. It's called "A
 23 Course in Curriculum and Teaching Policy" in the
 24 Department of Curriculum and Teaching at
 25 Teachers College, Columbia University; and I

1
 2 also teach courses in leadership, in public
 3 education, and in ethical issues in educational
 4 leadership.
 5 Q. Where do your students typically
 6 teach?
 7 MS. LHAMON: Objection. The
 8 question is overbroad and assumes facts not in
 9 evidence, that there is a typical school where
 10 they teach.
 11 A. The student body at Teachers
 12 College, Columbia University is very diverse and
 13 very eclectic. There are people from all over
 14 the country, literally, and from many foreign
 15 countries. They are quite dispersed when they
 16 go back to work after obtaining degrees with us.
 17 So it's in all kinds of schools,
 18 literally in all pockets of the country and
 19 various parts of the world.
 20 Q. You applied for the position of
 21 Commissioner of Education of New York State,
 22 correct?
 23 A. Yes, I did.
 24 Q. You obtained the position of
 25 Commissioner of Education of New York State by

1
 2 being appointed by the Board of Regents,
 3 correct?
 4 A. That is correct.
 5 Q. You were involved in New York State
 6 with the development of the state's academic
 7 content and student performance standards in the
 8 accompanying assessment program, correct?
 9 A. Yes. I started that work.
 10 Q. In connection with your work in the
 11 development of the state's academic content and
 12 student performance standards, you worked
 13 closely with Linda Darling-Hammond, correct?
 14 A. Yes, I did.
 15 Q. Would it be accurate to say that
 16 while you were Commissioner of Education, once
 17 the legislature had set the educational programs
 18 for state aid and decided what amounts would be
 19 allocated to each of those funds or programs,
 20 the State Education Department had very
 21 circumscribed discretion to make allocations of
 22 state aid?
 23 A. Yes.
 24 Q. As Commissioner of Education, you
 25 served as a member of the governor's cabinet,

1
 2 correct?
 3 A. Nominally. I didn't attend most
 4 meetings. The commissioner is not appointed by
 5 the governor of New York State. It's appointed
 6 by the Board of Regents, as you've noted. So by
 7 courtesy, I was made a member of the cabinet,
 8 but did not attend with regularity. I was not
 9 one of the governor's appointees.
 10 Q. What do you mean on your resume
 11 when you said you developed and supervised
 12 fiscal profiles of school districts?
 13 A. When I went to Albany as
 14 commissioner, I became aware that it was
 15 difficult to track the pattern of expenditure in
 16 local school districts. It wasn't clear who was
 17 spending what money on what purpose, or it
 18 wasn't sufficiently clear. It was all audited
 19 property, but from a programmatic standpoint, it
 20 was hard to track what the money was being used
 21 for.
 22 So I developed, or had staff
 23 develop, actually, and refined and approved a
 24 set of profiles that tracked expenditure
 25 category by category in school districts during

1
2 a given year and over the course of a period of
3 years.

4 Q. What lawsuits have you been
5 involved in involving school finance, school
6 integration and special education?

7 A. I think first of all as
8 commissioner, I was a named defendant in more
9 suits than I was aware of. Just, there were
10 multiple that were handled routinely by office
11 of counsel and by other staff in the department.

12 The proceedings in which I'm more
13 aware having a direct role in -- you're asking
14 me what lawsuits? I have provided advice to
15 attorneys for the American Civil Liberties Union
16 here in New York City, who have brought suit
17 against the state arguing that some students are
18 deprived of their sound, basic education that is
19 their right by virtue of lack of resources.

20 Nothing else that has claimed my
21 personal time that I recall; but if you would
22 look at the record, you would find my name
23 listed as defendant again and again and again
24 over the time I served as commissioner. I just
25 can't remember them all.

1
2 that in certain school districts in New York
3 State, but outside New York City, students are
4 deprived of a sound, basic education because
5 they lack the resources that are requisite to
6 it; and I'm thinking of communities such as
7 Roosevelt, we talked about earlier, Hempstead,
8 Wyndanch; others across the state.

9 Q. What's the name of that litigation?

10 A. I don't know what the name is.

11 Q. Is it still pending?

12 A. Yes.

13 Q. Have you been asked to be an expert
14 witness in that case?

15 A. No, no.

16 I've met with the attorneys. We've
17 talked about it. They've asked my opinion from
18 time to time on various matters concerning it,
19 but I've not been asked to testify.

20 Q. Has a lawsuit been filed in that
21 case?

22 A. I believe so. I'm not certain of
23 that, but I believe that it has.

24 Q. Who are the defendants in that
25 case?

1
2 Q. Is the lawsuit you referred to in
3 New York City the Campaign for Fiscal Equity
4 case?

5 A. No. As I heard the question, it
6 was in addition to the Campaign for Fiscal
7 Equity.

8 I have worked with the people who
9 are the plaintiffs in the Campaign for Fiscal
10 Equity. In addition to that, I provided
11 unofficial advice to a group of attorneys from
12 the New York Civil Liberties Union here in town.

13 Q. Was that in regard to a specific
14 litigation?

15 A. Yes. They brought suit against the
16 state arguing that in this case, not New York
17 City, but -- I just realized that I misspoke a
18 minute ago. Am I permitted to correct what I
19 said?

20 Q. Yes.

21 A. Please.

22 I said I thought that the group was
23 the New York Civil Liberties Union. It was not.
24 Could not have been. Must be ACLU as opposed to
25 NYCLU because the suit that they brought argues

1
2 A. State of New York. I don't know
3 who they named.

4 Q. Do you know who the plaintiffs are
5 in that lawsuit?

6 A. No. They're individuals who live
7 in the towns that are affected. I could get you
8 that information. I'm not trying in any way to
9 conceal it from you, I just don't recall the
10 detail.

11 Q. What do you consider to be your
12 areas of expertise?

13 MS. LHAMON: The report speaks for
14 itself.

15 A. You're awaiting an answer?

16 Q. Yes, please.

17 A. Educational reform, educational
18 policy making, ethical issues in education
19 leadership.

20 My grandchildren think I make the
21 best root beer floats in the world. That's an
22 expertise that counts.

23 Q. Have you spoken with any other
24 attorneys or staff for the plaintiffs other than
25 Ms. Lhamon?

1
2 A. I'm not sure what you mean.
3 Spoken about this suit?
4 Q. Yes.
5 A. No.
6 Q. Do you know any of the plaintiffs'
7 other expert witnesses in this case?
8 MS. LHAMON: Other than Linda
9 Darling-Hammond, of which we've already spoke?
10 MR. SEFERIAN: Yes.
11 A. I think I've been told that Jeannie
12 OAKS is one of them. I know her work. I don't
13 know her personally. I've been told that
14 Michelle Fine is one of them, and I have -- I
15 know her work too and I know her somewhat
16 personally; and I have a junior colleague at
17 Teachers College, Columbia University named Luis
18 Huerta who is to testify, but I've not really
19 discussed the case with any of them other than
20 to acknowledge the fact that we're mutually
21 involved.
22 Q. Have you ever attended any meetings
23 in person or by telephone with any of
24 plaintiffs' other experts in this case?
25 A. No, I have not.

1
2 Q. What did you do to prepare for your
3 deposition in this case?
4 A. I re-read the expert report and the
5 New Compact For Learning.
6 Q. Did you have any discussions with
7 Ms. Lhamon?
8 A. Yes, I did.
9 Q. When were those discussions?
10 A. Fairly recently as we approached
11 the date for the deposition. She advised me to
12 tell the truth and be clear. Just very useful
13 advice. That's all.
14 Q. Did you have any meetings with
15 Ms. Lhamon before the deposition began to
16 prepare for the deposition?
17 A. Yes.
18 Q. When was that?
19 A. It would have been recently.
20 Within the last month or so. It may have been
21 longer than that, but relatively recently
22 anyway.
23 Q. Would you agree with the statement
24 that, "It is the decentralized nature of the
25 educational system that has made it very

1
2 difficult, if not impossible, for a partisan
3 group or individual demagog to seize control of
4 the public education system"?
5 A. I wrote it.
6 Q. Is that your opinion?
7 A. Yes, it is.
8 Q. Do you have an opinion as to
9 whether California elementary and secondary
10 schools are structured and governed similarly to
11 schools across the nation?
12 MS. LHAMON: The question is
13 overbroad and vague and ambiguous as to
14 "governed and structured."
15 A. Well, my general impression is with
16 respect both to school organization and school
17 governance, California schools are more like
18 other schools in other states in the union than
19 they are different from them. It doesn't mean
20 they're the same in all respects.
21 Q. Would you agree that empirical
22 studies seeking to determine the best ways to
23 direct resources to improve school performance
24 have produced inconsistent findings?
25 MS. LHAMON: Lacks foundation.

1
2 Calls for speculation.
3 A. Are you asking whether I'm aware of
4 such studies? Could you please just repeat the
5 question, please?
6 Q. Would you agree with the statement
7 that empirical studies seeking to determine the
8 best ways to direct resources to improve school
9 performance have produced inconsistent findings?
10 A. Yes.
11 MR. SEFERIAN: I don't have any
12 other questions. Thank you.
13 (Time Noted: 3:57 p.m.)
14
15
16
17
18
19
20
21
22
23
24
25

1
 2 THOMAS SOBOL, Ed.D.
 3 STATE OF NEW YORK)
 4 ss:
 5 COUNTY OF NEW YORK)
 6 I wish to make the following changes, for the
 7 following reasons:
 8 Page Line ____
 9 Change From: _____
 10 Change To: _____
 11 Reason: _____
 12 Page Line ____
 13 Change From: _____
 14 Change To: _____
 15 Reason: _____
 16 Page Line ____
 17 Change From: _____
 18 Change To: _____
 19 Reason: _____
 20 Page Line ____
 21 Change From: _____
 22 Change To: _____
 23 Reason: _____
 24
 25 THOMAS SOBOL, Ed.D.
 Subscribed and sworn to before me
 this ____ day of _____, 2003.

1 INDEX
 2 WITNESS EXAMINED BY PAGE
 3 THOMAS SOBOL, Ed.D. Mr. Seferian 170
 4
 5 EXHIBITS
 6 NO. PAGE
 7 2 - Letter dated 2/5/02 from Ms. Krulak to
 8 Dr. Sobol, Bates PLTF-XP-TS 0001 to
 9 0006 271
 10 3 - E-mails dated 2/5/02 from Ms. Auchincloss
 11 to Ms. Regan, Bates PLTF-XP-TS
 12 0063 to 64 272
 13 4 - E-mail dated 2/5/02 from Ms. Auchincloss
 14 to Ms. Regan, Bates PLTF-XP-TS 0065
 15 to 0071 274
 16 5 - E-mail dated 2/8/02 from Ms. Auchincloss
 17 to Ms. Regan, Bates PLTF-XP-TS 277
 18 6 - Letter dated 2/18/02 from Ms. Lhamon
 19 to Dr. Sobol, Bates PLTF-XP-TS 0076 .. 278
 20 7 - Letter dated 2/26/02 from Ms. Lhamon
 21 to Dr. Sobol, Bates PLTF-XP-TS 0213
 22 to 0214 279
 23 8 - Letter dated 2/26/02 from Ms. Krulak
 24 to Dr. Sobol, Bates PLTF-XP-TS 0215
 25 to 0220 279
 9 - E-mail dated 2/26/02 from Ms. Auchincloss
 to Ms. Regan, Bates PLTF-XP-TS 280
 10 - E-mail dated 2/27/02 from Ms. Auchincloss
 to Ms. Regan, Bates PLTF-XP-TS 0623 .. 281
 11 - Multi-page document, fax cover
 sheet from Ms. Kolb to Ms. Lhamon,
 Bates PLTF-XP-TS 0624 to 0635 283
 12 - Multi-page document, fax cover sheet
 from Ms. Kolb to Ms. Lhamon, Bates
 PLTF-XP-TS 0636 to 0637 287
 13 - E-mail dated 2/28/02 from Ms. Auchincloss
 to Ms. Regan, Bates PLTF-XP-TS 0640... 290
 14 - E-mail dated 2/28/02 from Ms. Auchincloss
 to Ms. Stich, Bates PLTF-XP-TS 0638... 295
 15 - E-mail dated 2/28/02 from Ms. Auchincloss
 to Ms. Regan, Bates PLTF-XP-TS 0639... 297
 16 - E-mail dated 3/5/02 from Ms. Auchincloss
 to Ms. Regan, Bates PLTF-XP-TS 0641... 298

1
 2 CERTIFICATE
 3
 4
 5 I, Linda J. Greenberg, Professional Shorthand
 6 Reporter and Notary Public in and for the State
 7 of New York, do hereby certify that, THOMAS
 8 SOBOL, Ed.D., the witness whose deposition is
 9 hereinbefore set forth, was duly sworn and that
 10 such deposition is a true record of the
 11 testimony given by the witness to the best of my
 12 skill and ability.
 13 I further certify that I am neither related
 14 to or employed by any of the parties in or
 15 counsel to this action, nor am I financially
 16 interested in the outcome of this action.
 17 IN WITNESS WHEREOF, I have hereunto set my hand
 18 this 20th day of March, 2003.
 19
 20
 21
 22
 23 Linda J. Greenberg
 24
 25 My commission expires: May 17, 2007

1 CONTINUED
 2 INDEX:
 3 EXHIBITS
 4 NO. PAGE
 5 17 - E-mail dated 3/8/02 from Ms. Auchincloss
 6 to Ms. Regan, Bates PLTF-XP-TS 0642... 298
 7 18 - E-mail dated 3/11/02 from Ms. Auchincloss
 8 to Ms. Regan, Bates PLTF-XP-TS
 9 0643 to 0645 299
 10 19 - E-mail dated 3/27/02 from Ms. Lhamon,
 11 Bates PLTF-XP-TS 0646 300
 12 20 - E-mail dated 5/28/02 from Ms. Auchincloss
 13 to Ms. Noguera, Bates PLTF-XP-TS 0647..300
 14 21 - Multi-page document, fax cover sheet from
 15 Ms. Kolb to Ms. Lhamon, Bates
 16 PLTF-XP-TS 0648 to 0651 301
 17 22 - List of materials 304
 18
 19
 20
 21
 22
 23
 24
 25