

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

3                               ---o0o---

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

9                               vs.

No. 312236

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

-----/

15                               Deposition of  
16                               PHILLIP EDWIN SPEARS  
17                               Volume II, Pages 270 through 382  
18                               Thursday, November 1, 2001

19  
20  
21  
22   Reported by:  
23   TRACY LEE MOORELAND  
24   CSR No. 10397  
25   Job No. 29132

APPEARANCES

1  
2  
3 For the Plaintiffs Eliezer Williams, et al.:

4     ACLU FOUNDATION OF SOUTHERN CALIFORNIA  
5     BY: MARK D. ROSENBAUM, ESQ.  
6     1616 Beverly Boulevard  
7     Los Angeles, California 90026  
8

9 For the Defendant State of California:

10    O'MELVENEY & MYERS LLP  
11    BY: PAUL SALVATY, ESQ.  
12    400 South Hope Street  
13    Los Angeles, California 90071  
14

15 For the Defendant Delaine Eastin, State Superintendent  
16 of Public Instruction, State Department of Education,  
17 State Board of Education:

18    DEPARTMENT OF JUSTICE  
19    OFFICE OF THE ATTORNEY GENERAL  
20    BY: KARA READ-SPANGLER, ESQ.  
21    1300 I Street, Suite 1101  
22    Sacramento, California 95814  
23  
24 /  
25 /

I N D E X

1  
2 Examination by: Page  
3 Mr. Rosenbaum 274  
4  
5  
6 ---o0o---  
7  
8

9 E X H I B I T S

10 Plaintiffs' Page  
11 SAD-149 Memorandum dated July 18, 2000,  
12 Bates stamped DOE 93200 -  
13 DOE 93204 337  
14 SAD-150 Executive Office Route Slip,  
15 Bates stamped DOE 93213 -  
16 DOE 93217 352  
17 SAD-151 California High School Exit  
18 Examination Evaluation  
19 (CAHSEE) Teacher Longitudinal  
20 Sample Survey Spring 2001,  
21 DOE 93100 - DOE 93145 360  
22  
23 ---o0o---  
24  
25

APPEARANCES, cont.

1  
2  
3 The Intervener:

4     CALIFORNIA SCHOOL BOARD ASSOCIATION  
5     BY: ABE HAJELA, ESQ.  
6     3100 Beacon Boulevard  
7     West Sacramento, California 95691  
8

9 For the Los Angeles Unified School District and the  
10 Pajaro Valley Unified School District:

11    LOZANO & SMITH  
12    BY: JUDD JORDAN, ESQ.  
13    20 Ragsdale Drive, Suite 201  
14    Monterey, California 93940  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1 BE IT REMEMBERED, that on Thursday, November 1,  
2 2001, commencing at the hour of 9:08 a.m., thereof, at  
3 the offices of Morrison & Foerster, 400 Capitol Mall,  
4 26th Floor, Sacramento, California, before me,  
5 TRACY LEE MOORELAND, a Certified Shorthand Reporter in  
6 the State of California, there personally appeared  
7 PHILLIP EDWIN SPEARS,  
8 called as a witness herein, who, having been previously  
9 duly sworn to tell the truth, the whole truth, and  
10 nothing but the truth, was thereupon examined and  
11 interrogated as hereinafter set forth.  
12 ---o0o---  
13 EXAMINATION BY MR. ROSENBAUM  
14 Q. How are you doing, Mr. Spears?  
15 A. I'm okay this morning.  
16 Q. Good. You're aware you're still under oath?  
17 A. Yes.  
18 Q. Okay. Any reason why we shouldn't go forward?  
19 A. No.  
20 Q. It's a lovely day.  
21 A. I'm sitting on the wrong side of the table.  
22 Did you guys get here first?  
23 Q. It's the first interrogation technique you're  
24 taught.  
25 Mr. Spears, we were talking about preparation

1 for the STAR program yesterday afternoon before we  
 2 broke. Do you have any knowledge, sir, as to whether or  
 3 not districts differ in the degree of preparation of  
 4 students for the STAR program?  
 5 A. No.  
 6 Q. Or whether schools differ in the degree of  
 7 preparation of students for the STAR program?  
 8 A. No.  
 9 Q. Or classrooms, whether classrooms differ in the  
 10 degree of preparation of students for the STAR program?  
 11 A. No.  
 12 Q. Or in the methods that are utilized for  
 13 preparation for the STAR program, do you have any  
 14 knowledge as to whether districts differ in the methods  
 15 that are utilized?  
 16 A. No.  
 17 Q. Same thing for schools?  
 18 A. No.  
 19 Q. Or classrooms?  
 20 A. No.  
 21 Q. What about the amount of time devoted to  
 22 preparation, do you have any knowledge as to whether or  
 23 not districts differ in the amount of time that's  
 24 devoted to preparation of the STAR program?  
 25 A. No.

1 Q. Or schools?  
 2 A. No.  
 3 Q. Or classrooms?  
 4 A. No.  
 5 Q. To your knowledge, does anyone in your division  
 6 have knowledge on any of the subject areas I just  
 7 mentioned?  
 8 A. I would say no.  
 9 Q. To your knowledge, has there been any inquiry  
 10 or investigation as to the degree or method or amounts  
 11 of time that districts use to prepare students for the  
 12 STAR program?  
 13 A. Not to my knowledge.  
 14 Q. Okay. Same thing for schools and classrooms?  
 15 A. Again, not to my knowledge.  
 16 Q. Okay. Does the State, to your knowledge, do  
 17 any monitoring of the preparation of students for the  
 18 STAR program?  
 19 MR. SALVATY: Objection. Vague and ambiguous.  
 20 THE WITNESS: You'd have to define "monitoring"  
 21 for me.  
 22 Q. BY MR. ROSENBAUM: Do they supervise  
 23 preparation, to your knowledge?  
 24 A. No.  
 25 Q. Review preparation?

1 MR. SALVATY: Objection. Vague and ambiguous.  
 2 THE WITNESS: No.  
 3 Q. BY MR. ROSENBAUM: Has your division, to your  
 4 knowledge, ever determined that a division improperly  
 5 prepared students for the STAR program?  
 6 MR. SALVATY: Objection. Vague and ambiguous  
 7 as to "improperly."  
 8 THE WITNESS: Repeat the question.  
 9 Q. BY MR. ROSENBAUM: To your knowledge, has your  
 10 division ever determined that a district improperly  
 11 prepared students for the STAR program?  
 12 MR. SALVATY: Same objection.  
 13 THE WITNESS: Not directly.  
 14 Q. BY MR. ROSENBAUM: What do you mean by that?  
 15 A. When we have an allegation of an improper adult  
 16 testing irregularity, that's investigated by the local  
 17 school district and the local school district may  
 18 determine that and report it to us, and we accept their  
 19 report.  
 20 Q. Okay.  
 21 A. We may accept their report --  
 22 Q. Okay.  
 23 A. -- as evidence that it occurred, and take the  
 24 actions that would be appropriate.  
 25 Q. Okay. Does your division keep records of those

1 reports?  
 2 A. Yes, we do.  
 3 Q. Okay. And under whose custody?  
 4 A. Les Axelrod.  
 5 Q. How do you spell -- is it a Mr. or Ms.?  
 6 A. Les Axelrod, L-e-s A-x-e-l-r-o-d. It's a  
 7 Mister.  
 8 Q. Who is Mr. Axelrod?  
 9 A. Consultant in the standards and assessment  
 10 division.  
 11 Q. Does he have particular duties and  
 12 responsibilities?  
 13 A. He's responsible for maintaining the record and  
 14 also for facilitating the communication.  
 15 Q. What does that mean?  
 16 A. Preparing the letters for signatures of others,  
 17 whether it be myself or Paul Warren.  
 18 Q. Regarding cheating or improper assistance?  
 19 A. Yes.  
 20 Q. Okay. So he would have under his custody  
 21 copies of all the letters that have been sent out and  
 22 the correspondence?  
 23 A. Yes, he would.  
 24 Q. Okay. Have you ever heard the concern  
 25 expressed that the -- strike that.

1 You're aware that under the API, teachers can  
 2 receive bonuses; is that right?  
 3 A. I'm aware of that, yes.  
 4 Q. Have you ever heard the concern expressed that  
 5 because of that feature of the API, that may encourage  
 6 cheating?  
 7 MR. SALVATY: Objection. Vague and ambiguous.  
 8 THE WITNESS: No.  
 9 Q. BY MR. ROSENBAUM: Or that it might encourage  
 10 testing irregularities by adults?  
 11 MR. SALVATY: Same objection.  
 12 THE WITNESS: I've heard that expressed.  
 13 Q. BY MR. ROSENBAUM: Okay. And what exactly have  
 14 you heard expressed?  
 15 A. That those kinds of consequences in a positive  
 16 nature could influence people to do things that would be  
 17 unacceptable behavior in relationship to how they are  
 18 handling the administration of the tests.  
 19 Q. And where have you heard that expressed?  
 20 A. I can't give you a specific, just in a general  
 21 comment. I can't tell you specifically where I've heard  
 22 that.  
 23 Q. Do you know who --  
 24 A. No.  
 25 Q. Who said it, is my question.

1 A. No.  
 2 Q. Mr. Spears, has your division, to your  
 3 knowledge, ever undertaken any inquiry or investigation  
 4 to determine whether or not that concern is well  
 5 founded?  
 6 MR. SALVATY: Objection. Vague and ambiguous.  
 7 THE WITNESS: No, we have not.  
 8 Q. BY MR. ROSENBAUM: Do you know if anyone in the  
 9 Department has?  
 10 A. Not to my knowledge.  
 11 Q. Okay. You may have already answered this, so  
 12 bear with me. Does your division have any specific  
 13 responsibilities with respect to the API with the  
 14 exception of reporting scores?  
 15 MR. SALVATY: Objection. Vague and ambiguous  
 16 again.  
 17 THE WITNESS: No.  
 18 Q. BY MR. ROSENBAUM: Okay. And same with II/USP?  
 19 A. The answer would be no.  
 20 Q. No, you don't have any responsibilities?  
 21 A. No, we do not.  
 22 Q. Okay. Have you ever heard of the group called  
 23 the technical advisory group?  
 24 A. Yes.  
 25 Q. What's the technical advisory group, so far as

1 you know?  
 2 A. It's a group of testing -- it's a group of  
 3 people that come together that have background in  
 4 testing to advise and consult with the standard and  
 5 assessment division, as well as the folks responsible  
 6 for the API.  
 7 Q. How many persons are in this group, as far as  
 8 you know?  
 9 A. Depends on the circumstance. Regular attendees  
 10 would be similar to the list I gave you yesterday of the  
 11 psychometricians that advise us.  
 12 Q. Okay. The persons whom we talked about  
 13 yesterday, do they con -- is that the technical advisory  
 14 group, so far as you know?  
 15 A. Yes.  
 16 Q. Are there other persons?  
 17 A. There may be other persons that come on  
 18 occasion for a specific topic or issue, but to name them  
 19 would be -- I would not be able to do that.  
 20 Q. And is there a particular chair? Is there a  
 21 person who is the chair of the technical advisory group?  
 22 A. How would you define "chair"?  
 23 Q. Big honcho.  
 24 A. No, I think -- you know, someone from our  
 25 division typically, and it could change, would

1 facilitate the meeting, but it would not necessarily be  
 2 I'm the chair and let's call this to order. It's more  
 3 of an informal atmosphere, not a formal atmosphere.  
 4 Q. Person who has the best view in the meeting?  
 5 A. Yes, exactly.  
 6 Q. Is there someone in your office, in your  
 7 division who has responsibilities as a liaison to the  
 8 technical advisory group?  
 9 A. There are two people that share that role.  
 10 Q. Who are they?  
 11 A. Lily Roberts and Richard Diaz, and supported by  
 12 Jim Grissom.  
 13 Q. And do you work with the technical advisory  
 14 group yourself?  
 15 A. I attend typically to give initial opening  
 16 remarks and report topics as an update of the assessment  
 17 program, but I would not call what I do with them as  
 18 working with them.  
 19 Q. Does the technical advisory group meet on a  
 20 regular basis, so far as you know?  
 21 MR. SALVATY: Objection. Vague and ambiguous.  
 22 THE WITNESS: Four to five times a year.  
 23 Q. BY MR. ROSENBAUM: And where do they meet?  
 24 A. They've met in a variety of places. More times  
 25 than not it's in the Sacramento area, but on occasion,

1 based upon activities that may be occurring, they could  
2 meet in a different location. Once we met in San Diego,  
3 once we met in Stockton, only because it was adjacent to  
4 other things going on.

5 Q. Does the technical advisory group prepare  
6 reports and memoranda on selected subjects?

7 A. Occasionally.

8 Q. And do you maintain copies of any of the  
9 reports that the technical advisory group prepares?

10 A. I don't personally maintain them.

11 Q. Does the division?

12 A. Yeah, I think we would. I think we would.

13 Q. Under whose custody would that be, would that  
14 be Mr. Diaz?

15 A. Mr. Diaz or Ms. Roberts.

16 Q. Okay. And the technical advisory group, does  
17 it have an independent existence, for example, does it  
18 have its own office?

19 MR. SALVATY: Objection. Vague.

20 THE WITNESS: No.

21 Q. BY MR. ROSENBAUM: Do you know who selected the  
22 membership for the technical advisory group?

23 A. No.

24 Q. Since you've become the director of the  
25 division, has there been any change in personnel of the

1 Q. And specifically the Stanford-9?

2 A. I don't know.

3 Q. How about the California standards portion of  
4 the STAR program?

5 A. I don't know.

6 Q. Okay. Has the technical advisory group  
7 consulted with respect to the high school exit exam?

8 A. Yes.

9 Q. Has it consulted with respect to the California  
10 English language development test?

11 A. I'm not sure on that one.

12 Q. How about the Golden State exam?

13 A. Yes.

14 Q. Okay.

15 A. Oh, I probably should put this in since it just  
16 crossed my mind. Another member that is a regular  
17 attendee is Mark Wilson from Berkeley.

18 Q. Who is he? Mr. Wilson or is it Doctor?

19 A. Yes. He's a psychometrician from Berkeley.

20 Q. Thanks.

21 A. Okay. Sorry.

22 Q. Has the technical advisory group, to your  
23 knowledge, consulted on the subject matter of the API?

24 A. Yes.

25 Q. The II/USP?

1 technical advisory group, so far as you know?

2 MR. SALVATY: Objection. Vague and ambiguous.  
3 He testified that it's been changing, there's different  
4 people on there.

5 THE WITNESS: To my knowledge, since I've been  
6 here, I don't know of any particular changes that have  
7 occurred.

8 Q. BY MR. ROSENBAUM: The reports that the  
9 technical advisory group prepares, to your knowledge,  
10 who receives copies of those reports?

11 A. I think it would be the person that -- for a  
12 particular program the lead consultant or the  
13 administrator, and I do not know in Mr. Padia's office  
14 if and who would receive copies that he has for his  
15 topics, so I would not have any knowledge in their area.

16 Q. Do you know specifically whether or not anybody  
17 outside your division receives copies of the reports?

18 A. No.

19 Q. Tell me so far as you know, Mr. Spears, on what  
20 subjects has the technical advisory group been  
21 consulted?

22 Let me offer a couple. Has the technical  
23 advisory group consulted on the subject matter of the  
24 STAR program?

25 A. Yes.

1 A. I don't know.

2 Q. Okay. Any other subjects besides the ones  
3 you've identified?

4 A. Not to my knowledge.

5 Q. Okay. And let's start with the high school  
6 exit exam. To your knowledge, has the technical  
7 advisory group prepared a report or reports about the  
8 high school exit exam?

9 A. Not that I'm familiar with.

10 Q. Okay. Has it prepared a report or reports on  
11 the STAR program?

12 A. Yes.

13 Q. Do you know how many reports?

14 A. No.

15 Q. More than one?

16 A. I can't answer that. I don't know.

17 Q. Has the technical advisory group prepared a  
18 report or reports on the API?

19 A. I don't know.

20 Q. Okay. On what subject matters, to your  
21 knowledge, has the technical advisory group examined the  
22 high school exit exam?

23 A. I could not -- I do not recall.

24 Q. How about the STAR program?

25 A. I could not recall that.

1 Q. Okay. How about the API?  
 2 A. I don't know.  
 3 Q. Okay. Have you yourself read the reports  
 4 prepared by the technical advisory group?  
 5 A. I've read reports prepared by the group, but  
 6 not all the reports.  
 7 Q. Okay. What reports have you read?  
 8 A. I can't recall.  
 9 Q. Can you recall any of them?  
 10 A. No.  
 11 Q. Okay. One of the roles of the technical  
 12 advisory group is to express concerns or criticisms  
 13 about testing programs; isn't that right?  
 14 MR. SALVATY: Objection. Vague.  
 15 THE WITNESS: I would not put it that way.  
 16 Q. BY MR. ROSENBAUM: How would you put it?  
 17 A. I think that they offer advice to help us  
 18 improve the quality of our tests, our programs.  
 19 Q. They make recommendations?  
 20 A. Yes, they do.  
 21 Q. And they explain the bases of their  
 22 recommendations?  
 23 A. Yes, they do.  
 24 Q. And they evaluate the programs as part of  
 25 developing these recommendations?

1 MR. SALVATY: Objection. Vague and ambiguous.  
 2 THE WITNESS: On occasion.  
 3 Q. BY MR. ROSENBAUM: Can you tell me any of the  
 4 recommend -- strike that.  
 5 Did the technical advisory group offer advice  
 6 about the high school exit exam?  
 7 MR. SALVATY: Objection. Asked and answered.  
 8 THE WITNESS: Yes, they did.  
 9 Q. BY MR. ROSENBAUM: Okay. And can you tell me  
 10 any of the advice that the group offered regarding the  
 11 high school exit exam?  
 12 A. Not right now, I could not do that, no.  
 13 Q. When did they do that?  
 14 A. It's been ongoing. I think it's a topic at  
 15 most of their meetings when they're discussing those  
 16 with our staff. And I may not be present during those  
 17 times. I don't sit at the meetings.  
 18 Q. Do you try to attend the meetings?  
 19 A. No.  
 20 Q. How many meetings have you attended at a  
 21 technical advisory group?  
 22 A. From start to finish?  
 23 Q. Let's stay --  
 24 A. I've typically attended most of them at the  
 25 initial stages and not been there for the rest of the

1 time of the meeting.  
 2 Q. You told me this a moment ago. The two persons  
 3 in your shop, Mr. Spears, who work most closely with the  
 4 technical advisory group are Mr. Diaz and -- what's the  
 5 woman's name?  
 6 A. Lily Roberts.  
 7 Q. Ms. Roberts; is that right?  
 8 A. Dr. Roberts.  
 9 Q. I'm sorry. And do you have staff meetings at  
 10 which the heads of those units you talked to me about  
 11 attend?  
 12 MS. READ-SPANGLER: What units?  
 13 Q. BY MR. ROSENBAUM: You told me yesterday that  
 14 there were four units in your shop; is that right?  
 15 A. Yes.  
 16 Q. Do you have staff meetings from time to time  
 17 where representatives from those units, the heads of  
 18 those units attend?  
 19 A. Yes.  
 20 Q. And do they happen on a relatively regular  
 21 basis?  
 22 MR. SALVATY: Objection. Vague.  
 23 THE WITNESS: We have meetings with the  
 24 programs as needed, and some of them are scheduled.  
 25 Q. BY MR. ROSENBAUM And is one of -- have you

1 asked Mr. Diaz and Dr. Roberts to keep you apprised as  
 2 to developments with respect to the technical advisory  
 3 group?  
 4 A. Not specifically, no.  
 5 Q. Okay. Have they ever reported to you as to  
 6 recommendations from the technical advisory group?  
 7 A. Yes, they have.  
 8 Q. Okay. Have they ever reported to you as to  
 9 recommendations regarding the high school exit exam?  
 10 A. Yes.  
 11 Q. Can you tell me any of the recommendations that  
 12 they've reported to you?  
 13 A. No.  
 14 Q. Okay. If you've just answered this, I  
 15 apologize. Do you know if the recommendations of the  
 16 technical advisory group regarding the high school exit  
 17 exam have been adopted?  
 18 A. On occasion.  
 19 Q. Do you know which ones?  
 20 A. No.  
 21 Q. Do you know if some of them have been rejected?  
 22 A. Yes.  
 23 Q. Do you know which ones?  
 24 A. No.  
 25 Q. How about with respect to the STAR program, to

1 your knowledge, has the technical advisory group made  
 2 recommendations or offered advice with respect to the  
 3 STAR program?  
 4 A. Yes.  
 5 Q. Okay. And is that another ongoing area that  
 6 the advisory group is asked to examine?  
 7 MR. SALVATY: Objection. Vague and ambiguous.  
 8 THE WITNESS: Yes.  
 9 Q. BY MR. ROSENBAUM: Okay. And can you tell me  
 10 any of the recommendations that the technical advisory  
 11 group has made with respect to the STAR program?  
 12 A. No.  
 13 Q. I take it you can't tell me if the advice has  
 14 been either adopted or rejected with respect to the STAR  
 15 program?  
 16 A. No.  
 17 Q. With respect to the API, has the technical  
 18 advisory group made recommendations regarding that  
 19 program?  
 20 MR. SALVATY: Objection. Asked and answered.  
 21 THE WITNESS: I have no knowledge.  
 22 Q. BY MR. ROSENBAUM: Sitting here today, can you  
 23 think of a single recommendation on any subject matter  
 24 that the technical advisory group has examined that it  
 25 has made?

1 A. No.  
 2 Q. Okay. Do you know who David Ragosa is?  
 3 A. I've met him once.  
 4 Q. Okay. Who is David Ragosa, to your  
 5 understanding?  
 6 A. I think he's a professor at Stanford.  
 7 Q. Okay. And what was the occasion on which you  
 8 met him?  
 9 A. I'd met him like when I first got into the  
 10 division, at a TSG meeting.  
 11 Q. Okay. Let me go back to the technical advisory  
 12 group. Have you read any of the reports that the  
 13 technical advisory group has produced?  
 14 MR. SALVATY: Objection. Asked and answered.  
 15 THE WITNESS: Yes.  
 16 Q. BY MR. ROSENBAUM: Okay. And can you tell me  
 17 anything about the contents of any of the reports that  
 18 you've read?  
 19 A. No.  
 20 Q. Okay. How many reports would you say you've  
 21 read by the technical advisory group?  
 22 A. I don't know.  
 23 Q. More than five?  
 24 A. More than five, less than ten. Somewhere  
 25 between five and ten probably.

1 Q. Now, do you know if it's Dr. Ragosa or  
 2 Mr. Ragosa?  
 3 A. I don't know that.  
 4 Q. Okay. Did David Ragosa prepare a critique of  
 5 any of the tests or assessments that are the  
 6 responsibility of your division?  
 7 MS. READ-SPANGLER: Objection. Calls for  
 8 speculation.  
 9 THE WITNESS: Not to my knowledge.  
 10 Q. BY MR. ROSENBAUM: Do you know why he was at a  
 11 meeting of the technical advisory group?  
 12 MS. READ-SPANGLER: Objection. Calls for  
 13 speculation.  
 14 THE WITNESS: I don't recall.  
 15 MS. READ-SPANGLER: Assumes facts.  
 16 Q. BY MR. ROSENBAUM: Have you heard any concerns  
 17 or criticisms expressed by David Ragosa concerning any  
 18 of the tests or assessments under the supervision of  
 19 your division?  
 20 MR. SALVATY: Objection. Vague and ambiguous.  
 21 THE WITNESS: No.  
 22 Q. BY MR. ROSENBAUM: Okay. Have you heard any  
 23 criticisms -- during the period of time which you've  
 24 been chief of the division, have you heard any  
 25 criticisms of the Stanford-9?

1 MR. SALVATY: Objection. Vague and ambiguous  
 2 as to "criticisms."  
 3 MS. READ-SPANGLER: It's also really overbroad.  
 4 MR. SALVATY: Concerns from whom?  
 5 MR. ROSENBAUM: By anybody.  
 6 THE WITNESS: In my travels I hear many  
 7 concerns expressed by folks, yes.  
 8 Q. BY MR. ROSENBAUM: What concerns have you heard  
 9 expressed?  
 10 A. Most of the concerns center around the fact  
 11 that -- issues related to alignment to standards, and  
 12 those are mostly from people from the field.  
 13 Q. When you say "people from the field" --  
 14 A. Schools.  
 15 Q. Okay. Have you heard those concerns from  
 16 principals?  
 17 A. Oh, sure.  
 18 Q. From teachers?  
 19 A. Yes.  
 20 Q. Counselors?  
 21 A. No, I wouldn't say specifically those.  
 22 Q. District personnel, Board members?  
 23 A. District personnel, I would say yes.  
 24 Q. Okay. What do you mean by "district  
 25 personnel"?

1 A. The people that work in local district offices  
2 of school districts.  
3 Q. In what sorts of positions?  
4 A. Well, it could be superintendents, assistant  
5 superintendents, directors of testing.  
6 Q. Testing coordinators?  
7 A. Testing coordinators, sure.  
8 Q. Okay. And what's the nature of the concerns  
9 that you've heard expressed regarding alignment to  
10 standards?  
11 MR. SALVATY: Objection. Vague and ambiguous.  
12 THE WITNESS: I don't know that I could explain  
13 it any further than that.  
14 Q. BY MR. ROSENBAUM: It's what we talked about  
15 yesterday regarding whether or not the information  
16 tested on the Stanford-9 was aligned with the California  
17 standards; is that right?  
18 A. Yes.  
19 Q. Okay. And have you responded to these  
20 concerns?  
21 MR. SALVATY: Objection. Vague and ambiguous.  
22 THE WITNESS: No.  
23 Q. BY MR. ROSENBAUM: Any reason why not?  
24 MR. SALVATY: Objection. Vague and ambiguous  
25 as to "responded."

1 MS. READ-SPANGLER: Calls for speculation.  
2 THE WITNESS: No.  
3 Q. BY MR. ROSENBAUM: Okay. And have you heard  
4 any other concerns expressed regarding the Stanford-9?  
5 MR. SALVATY: Objection. Vague and ambiguous,  
6 "concerns."  
7 THE WITNESS: I'm sure that I have, but --  
8 specifically to say right now what they are, it would be  
9 difficult for me to do.  
10 Q. BY MR. ROSENBAUM: Or any other criticisms?  
11 A. No.  
12 Q. No, you haven't heard any other criticisms?  
13 A. No, I'm sure I've heard about other criticisms,  
14 but to be specific about them at this time, I can't do  
15 that.  
16 Q. Have you heard any concerns expressed about the  
17 high school exit exam from anybody?  
18 MR. SALVATY: Objection. Vague and ambiguous.  
19 MS. READ-SPANGLER: Overbroad.  
20 THE WITNESS: Sure. Yes.  
21 Q. BY MR. ROSENBAUM: And what concerns have you  
22 heard expressed about the high school exit exam?  
23 MR. SALVATY: Same objection.  
24 THE WITNESS: Probably the speed of  
25 implementation.

1 Q. BY MR. ROSENBAUM: What does that mean?  
2 A. That means the preparation of the test, getting  
3 the test out and the timing of the test, the speed that  
4 we've been working at.  
5 Q. That it happened too fast?  
6 A. Uh-huh.  
7 Q. You're saying yes?  
8 A. Yes.  
9 Q. And from whom did you hear those concerns?  
10 A. A variety of folks in the educational realm,  
11 similar to the folks that we talked about in the last  
12 question.  
13 Q. Principals?  
14 A. Yes.  
15 Q. Teachers?  
16 A. Uh-huh.  
17 Q. You're saying yes?  
18 A. Yes.  
19 Q. District personnel?  
20 A. Yes.  
21 Q. Like superintendents?  
22 A. Yes.  
23 Q. Assistant superintendents?  
24 A. Yes.  
25 Q. Testing coordinators?

1 A. Yes.  
2 Q. The concerns about the Stanford-9 we talked  
3 about a few moments ago, have you heard those concerns  
4 expressed by members of the State Board of Education?  
5 MR. SALVATY: Objection. Vague and ambiguous.  
6 THE WITNESS: I would say that the Board has  
7 had discussions about the speed that we are having to do  
8 our work based upon --  
9 MS. READ-SPANGLER: He asked about the  
10 Stanford-9.  
11 THE WITNESS: Oh, excuse me. Better ask me  
12 again.  
13 Q. BY MR. ROSENBAUM: You told me a few moments  
14 ago about concerns expressed regarding the Stanford 9.  
15 Do you remember that?  
16 A. Uh-huh.  
17 Q. You're saying yes?  
18 A. Yes.  
19 Q. And the concern that you talked to me about  
20 regarding alignment to standards, have you ever heard  
21 that expressed by any member of the State Board of  
22 Education?  
23 MR. SALVATY: Objection. Vague and ambiguous.  
24 THE WITNESS: Not that I can recall.  
25 Q. BY MR. ROSENBAUM: Okay. By the



1 superintendent?

2 MR. SALVATY: Same objection.

3 THE WITNESS: Yes.

4 Q. BY MR. ROSENBAUM: Okay. And by Mr. Hill?

5 MR. SALVATY: Same objection.

6 THE WITNESS: I don't recall.

7 Q. BY MR. ROSENBAUM: Or Mr. Warren?

8 MR. SALVATY: Same objection.

9 THE WITNESS: Yes.

10 Q. BY MR. ROSENBAUM: By Ms. Bidwell?

11 A. No.

12 Q. By anybody in your division?

13 MR. SALVATY: Same objection.

14 THE WITNESS: Yes.

15 Q. BY MR. ROSENBAUM: Who?

16 A. I can't recall specific people.

17 Q. Who is head of the unit that deals with the

18 Stanford-9?

19 A. Richard Diaz.

20 Q. By Mr. Diaz?

21 MR. SALVATY: Same objection. Vague and

22 ambiguous.

23 THE WITNESS: Yeah.

24 Q. BY MR. ROSENBAUM: Okay. By the secretary for

25 education?

1 MR. SALVATY: Same objection.

2 THE WITNESS: No.

3 Q. BY MR. ROSENBAUM: By any -- do you ever meet

4 with legislators or their staffs?

5 A. No. On occasion I have. I should say yes.

6 Q. Ever on the subject matter of the Stanford-9 or

7 the STAR program?

8 A. No.

9 Q. On the subject matter of the high school exit

10 exam?

11 A. Not met with them, no.

12 Q. Okay. Now, returning to the statements -- the

13 concerns expressed by Superintendent Eastin concerning

14 alignment to standards. What have you heard the

15 superintendent say?

16 A. I think the conversation in all of these

17 instances specifically relate to having the standards

18 test take its place as having more weight in terms of

19 the development of the program more than -- so it's kind

20 of -- I don't know if I'm expressing that effectively to

21 you, that that's where we should be moving towards.

22 Q. Okay. When you say "take its place," what do

23 you mean by that?

24 A. Take its place as more the centerpiece of the

25 assessment system rather than the norm reference test as

1 the program is developing.

2 Q. Okay. And did you hear any reasons expressed

3 by the superintendent as to why she believed that?

4 A. I think that it reinforces standards based

5 instruction, and is a part of what we had hoped to be a

6 standards based system that has quality.

7 Q. When you say "quality," what do you mean by

8 quality?

9 A. Implementations of standards based instruction

10 in classrooms in the state of California.

11 Q. Has the technical advisory group said the same

12 thing in sum or substance?

13 MR. SALVATY: Objection. Vague and ambiguous.

14 THE WITNESS: I don't know.

15 Q. BY MR. ROSENBAUM: And did you respond to

16 Superintendent Eastin when she expressed these views?

17 A. It wasn't directly to me.

18 Q. It was at a meeting that you were present?

19 A. I don't recall where it was.

20 Q. How about Mr. Warren, what's he said regarding

21 this question of alignment to standards?

22 MR. SALVATY: Objection. Vague and ambiguous

23 as to "this question."

24 THE WITNESS: I can't recall.

25 Q. BY MR. ROSENBAUM: Same thing as what you

1 characterized --

2 A. No, I would not say that. I can't recall.

3 Q. Do you recall anything that Mr. Warren said

4 about --

5 A. No.

6 Q. How about Mr. Diaz?

7 A. No.

8 Q. No?

9 A. No, I do not recall.

10 Q. Can't recall a single thing he said about it?

11 A. No.

12 Q. Okay. Have you -- regarding the speed, the

13 concerns you've heard expressed regarding the speed of

14 the development and implementation of the high school

15 exit exam -- am I correctly characterizing that concern?

16 A. Yes.

17 Q. Did you offer a response when you heard those

18 concerns?

19 MR. SALVATY: Objection. Vague and ambiguous.

20 You're talking verbal response, right?

21 MR. ROSENBAUM: Yes.

22 THE WITNESS: No.

23 Q. BY MR. ROSENBAUM: Were members of your staff

24 present at some occasions when this --

25 A. No, I wouldn't portray this as if we're having

1 a meeting discussing this and interacting. I think it's  
 2 just in some respects general comments or feelings about  
 3 the development of the program in general by a lot of  
 4 folks.  
 5 Q. Okay. Have you ever responded to that concern?  
 6 A. No.  
 7 Q. Okay. Have you heard any other concerns or  
 8 criticisms expressed about the high school exit exam?  
 9 MR. SALVATY: Objection. Vague and ambiguous  
 10 and overbroad.  
 11 THE WITNESS: I don't recall right now, no.  
 12 Q. BY MR. ROSENBAUM: Okay. Regarding the  
 13 California English language development test, have you  
 14 ever heard any concerns or criticisms expressed about  
 15 that test?  
 16 MR. SALVATY: Same objections.  
 17 THE WITNESS: Yes.  
 18 Q. MR. ROSENBAUM: What have you heard? Let me  
 19 strike that.  
 20 From whom?  
 21 MS. READ-SPANGLER: From whom what?  
 22 Q. MR. ROSENBAUM: From whom have you heard those  
 23 criticisms or concerns expressed?  
 24 MR. SALVATY: Objection. Vague and ambiguous.  
 25 THE WITNESS: It would be similar to the

1 principals, teachers, district level administrators,  
 2 board members.  
 3 Q. BY MR. ROSENBAUM: "Board members" meaning  
 4 State Board members?  
 5 A. Yes.  
 6 Q. How about local school board members?  
 7 A. I don't recall local school board members  
 8 making comments.  
 9 Q. How about county board members?  
 10 A. Not to my knowledge.  
 11 Q. Do you ever meet with county board members or  
 12 county boards?  
 13 A. No.  
 14 Q. Or county superintendents?  
 15 A. I would say that I don't have anything that's  
 16 formal. I'm assuming -- I shouldn't assume -- that we  
 17 when we have meetings there could be county  
 18 superintendents in the audience at a workshop or an  
 19 activity or a presentation where we're giving  
 20 information.  
 21 Q. But you can't specifically remember any  
 22 discussions or meetings you've had with them?  
 23 A. No. That was specifically all county  
 24 superintendents?  
 25 Q. No, it wouldn't have to be all.

1 A. No. I have lots of meetings.  
 2 Q. Mr. Spears, what concerns or criticisms have  
 3 you heard expressed about the California English  
 4 language development test?  
 5 MS. READ-SPANGLER: Objection. Vague and  
 6 ambiguous and overbroad.  
 7 THE WITNESS: Most of the concerns center  
 8 around the impact on the amount of time it takes to do  
 9 the testing. School districts have expressed concern  
 10 about the costs associated with administering the test.  
 11 Q. BY MR. ROSENBAUM: Have you heard that concern  
 12 expressed generally that students and teachers and  
 13 administrators have to spend a considerable amount of  
 14 time on the State's testing programs?  
 15 MR. SALVATY: Objection. Vague and ambiguous.  
 16 THE WITNESS: We've heard that -- I've heard  
 17 that expressed.  
 18 Q. BY MR. ROSENBAUM: And you've publically stated  
 19 that that is a concern, haven't you?  
 20 A. I'm sure that I have, yes.  
 21 Q. And specifically what have you heard regarding  
 22 the feeling that -- about the amount of time that is  
 23 consumed with testing?  
 24 MR. SALVATY: Objection. Vague and ambiguous  
 25 and overbroad.

1 THE WITNESS: That we're spending too much time  
 2 on testing.  
 3 Q. BY MR. ROSENBAUM: And have you made a  
 4 response?  
 5 MR. SALVATY: Objection. Vague and ambiguous  
 6 as to "response".  
 7 MR. ROSENBAUM: Other than what you already  
 8 testified to.  
 9 THE WITNESS: Other than expressing that I  
 10 understand what you're saying, you know, I don't know  
 11 that I made an official response that would be Phil  
 12 Spears' response to --  
 13 Q. BY MR. ROSENBAUM: Do you have an opinion  
 14 though?  
 15 MR. SALVATY: Objection. Vague and ambiguous.  
 16 As to what?  
 17 MR. ROSENBAUM: As to whether or not too much  
 18 time is spent on testing.  
 19 MR. SALVATY: Objection. Vague and ambiguous.  
 20 Overbroad.  
 21 THE WITNESS: No, I don't.  
 22 Q. BY MR. ROSENBAUM: Have you ever heard the  
 23 phrase "teaching to the test," "teachers teach to the  
 24 test"?  
 25 A. Yes.

1 Q. Okay. And what do you understand that to mean?  
 2 A. That you have an understanding of what is on  
 3 the test and -- the content of the test, and you are  
 4 preparing students for that specific test.  
 5 Q. And specific questions on the test?  
 6 A. Could be specific questions, specific content,  
 7 yes.  
 8 Q. Okay. And has your division ever undertaken  
 9 any inquiry or investigation to determine the degree to  
 10 which teachers do teach to the high school exit exam?  
 11 MR. SALVATY: Objection. Vague and ambiguous.  
 12 THE WITNESS: No.  
 13 Q. BY MR. ROSENBAUM: Or the STAR program?  
 14 MS. READ-SPANGLER: Same objection.  
 15 MR. SALVATY: Same objection.  
 16 THE WITNESS: No.  
 17 Q. BY MR. ROSENBAUM: Or what the impact of these  
 18 tests have in terms of teacher preparation?  
 19 MS. READ-SPANGLER: Objection. Vague and  
 20 ambiguous.  
 21 THE WITNESS: No.  
 22 Q. BY MR. ROSENBAUM: Or staff development?  
 23 MS. READ-SPANGLER: Same objection.  
 24 THE WITNESS: No.  
 25 Q. BY MR. ROSENBAUM: Or the degree to which

1 teachers spend their time teaching students how to take  
 2 tests?  
 3 MR. SALVATY: Objection. Vague and ambiguous.  
 4 THE WITNESS: No.  
 5 Q. BY MR. ROSENBAUM: I can go back and repeat  
 6 each of those areas if you'd like me to. To your  
 7 knowledge, has anyone in the Department ever looked into  
 8 any of those issues?  
 9 MS. READ-SPANGLER: Same objections.  
 10 MR. SALVATY: And calls for speculation.  
 11 THE WITNESS: Not to my knowledge.  
 12 Q. BY MR. ROSENBAUM: Have you ever been directed  
 13 to investigate or inquire into any of those areas?  
 14 MS. READ-SPANGLER: Same objections.  
 15 THE WITNESS: No.  
 16 Q. BY MR. ROSENBAUM: Have you ever directed any  
 17 member of your staff to inquire or survey or investigate  
 18 any of those areas?  
 19 A. No.  
 20 MR. SALVATY: Same objections.  
 21 Q. BY MR. ROSENBAUM: Now, we were talking a few  
 22 moments ago about the English language development test.  
 23 Did you tell me from whom you heard those concerns?  
 24 A. Yes, I did.  
 25 Q. Okay. And any other concerns beyond those

1 concerns, the cost to administer and the amount of time?  
 2 MR. SALVATY: Objection. Vague and ambiguous  
 3 and overbroad.  
 4 THE WITNESS: Perhaps on the English language  
 5 development test, redundancy or is there an ability to  
 6 consolidate. We seem to be -- folks may express the  
 7 concern that we seem to be having several tests  
 8 measuring the same kinds of concepts or information or  
 9 knowledge or skills or achievement.  
 10 Q. BY MR. ROSENBAUM: Is that what you mean by  
 11 "redundancy"?  
 12 A. Yes.  
 13 Q. And what other tests are alleged to be testing  
 14 the same areas?  
 15 MR. SALVATY: Objection. Vague and ambiguous.  
 16 MS. READ-SPANGLER: And calls for speculation.  
 17 THE WITNESS: In this particular case?  
 18 MR. ROSENBAUM: Uh-huh. Yes.  
 19 THE WITNESS: An example would be, from my  
 20 perspective in our work, is that on the California  
 21 English language development tests there's a reading and  
 22 writing portion of that test that's given to students.  
 23 Is there a relationship or correlation that  
 24 could be gained from using the results from the reading  
 25 and writing of the standards based test or the norm

1 reference test rather than testing kids again, will it  
 2 provide the same information? So I think it's a matter  
 3 of doing some examination to see if, in fact, one test  
 4 could be used for another purpose.  
 5 Q. BY MR. ROSENBAUM: Has that examination ever  
 6 taken place?  
 7 A. What's that?  
 8 Q. To see whether or not --  
 9 A. No, it has not.  
 10 Q. Is it underway? Is anyone planning to do it?  
 11 A. We are planning to do some research in that  
 12 area, yes.  
 13 Q. Under whose supervision, so far as you know?  
 14 A. Me.  
 15 Q. Do you have a plan of attack?  
 16 A. And the contractor. Excuse me.  
 17 MS. READ-SPANGLER: You have to let him finish  
 18 the question, if only to give us time to make our  
 19 objections. And she just can't type two people at once.  
 20 Q. BY MR. ROSENBAUM: When you say you will do it,  
 21 will your shop do it, will the division do it, or will  
 22 you contract out?  
 23 A. Our contractor for the program.  
 24 Q. Have you sought bids?  
 25 A. No. It's in the scope of work of our

1 contractors that we have.  
 2 Q. What does that mean?  
 3 A. Our contractors have, as part of their scope of  
 4 work under contract, this particular matching of scores  
 5 in the research project.  
 6 Q. What's the objective of the project?  
 7 A. The objective of the project is to do a match  
 8 of the California English language development test  
 9 results, those students -- the scores on that test, also  
 10 the scores on their Stanford-9 test in reading and  
 11 writing, and then from that do a research study to see  
 12 if there is a correlation or if there's any predictive  
 13 value on either of those or are they correlated in any  
 14 way.  
 15 Q. Who is doing that, which contractor or  
 16 contractors is looking at that?  
 17 A. CTB McGraw-Hill.  
 18 Q. Is there a date set as to when the results are  
 19 to be completed?  
 20 A. Yes, but I don't recall what the date is.  
 21 Q. Are we talking about sometime this calendar  
 22 year?  
 23 A. No, I think it will be in the next calendar  
 24 year, probably the spring of 2002.  
 25 Q. Okay. Do you know the methodology that

1 Q. Okay. Has there, to your knowledge, been any  
 2 inquiry or investigation to see whether or not there is  
 3 any relationship between the proficiency levels of  
 4 students on the English language development test and  
 5 whether those students had credential --  
 6 emergency-credentialed or fully-credentialed teachers?  
 7 MR. SALVATY: Objection. Vague and ambiguous  
 8 as to "relationship."  
 9 THE WITNESS: No.  
 10 Q. BY MR. ROSENBAUM: Or whether the students'  
 11 success on the English language development test was  
 12 correlated or related to whether or not students  
 13 attended overcrowded schools?  
 14 MR. SALVATY: Objection. Vague and ambiguous.  
 15 THE WITNESS: No.  
 16 Q. BY MR. ROSENBAUM: Or were in Concept 6  
 17 schools?  
 18 MS. READ-SPANGLER: Same objection.  
 19 THE WITNESS: No.  
 20 Q. BY MR. ROSENBAUM: Do you know what a Concept 6  
 21 school is?  
 22 A. You got me.  
 23 Q. That means no?  
 24 A. That means no.  
 25 Q. Or whether or not students had access to core

1 McGraw-Hill is using?  
 2 A. No.  
 3 Q. Has there been any attempt -- strike that.  
 4 What's your understanding of the purpose of the  
 5 English language development testing?  
 6 A. To determine the English language proficiency  
 7 of EL students, identified EL students.  
 8 Q. Who administers that exam?  
 9 MR. SALVATY: Objection. Vague and ambiguous.  
 10 MR. ROSENBAUM: It is vague and ambiguous.  
 11 Q. Who prepared the exam, who actually drafted the  
 12 questions and prepared the exam?  
 13 A. CTB McGraw-Hill.  
 14 Q. Were you involved in selecting McGraw-Hill, was  
 15 that --  
 16 A. No.  
 17 Q. That predated your becoming director?  
 18 A. Yes.  
 19 Q. Are the questions the same each year, so far as  
 20 you know?  
 21 MS. READ-SPANGLER: Objection. Vague and  
 22 ambiguous.  
 23 THE WITNESS: Some are and some are new.  
 24 Q. BY MR. ROSENBAUM: Do you know the percent?  
 25 A. No, I don't.

1 curriculum?  
 2 MS. READ-SPANGLER: Same objections.  
 3 THE WITNESS: No.  
 4 Q. BY MR. ROSENBAUM: Or anything about the  
 5 qualifications of their teachers?  
 6 MS. READ-SPANGLER: Same objections.  
 7 THE WITNESS: No.  
 8 Q. BY MR. ROSENBAUM: Or anything about the nature  
 9 of their facilities or classrooms?  
 10 MS. READ-SPANGLER: Same objections.  
 11 THE WITNESS: No.  
 12 Q. BY MR. ROSENBAUM: To your knowledge, has there  
 13 ever been any discussion about attempting to determine  
 14 whether or not correlations or relationships exist  
 15 between proficiency on the English language development  
 16 test and any of the factors that I mentioned?  
 17 MS. READ-SPANGLER: Objection. Vague and  
 18 ambiguous.  
 19 THE WITNESS: No.  
 20 Q. BY MR. ROSENBAUM: You've never been directed  
 21 to undertake any such inquiries or investigations?  
 22 MS. READ-SPANGLER: Same objection.  
 23 Q. BY MR. ROSENBAUM: Neither you or your  
 24 division, so far as you know?  
 25 A. So far as I know, no.

1 Q. Now I cut you off, Mr. Spears. You were  
2 telling me that -- if I understood you correctly there  
3 was also concern about redundancy between the English  
4 language development test and the high school exit exam,  
5 parts of that. Did I misunderstand you?

6 A. I don't think I said.

7 Q. You started to talk about the high school exit  
8 exam, and I cut you off and referred you back to the  
9 STAR program.

10 Do you remember that, with respect to the  
11 English language test?

12 A. No.

13 Q. Has there ever been any correlation of results  
14 on the English language development test and results on  
15 the high school exit exam?

16 MS. READ-SPANGLER: Objection. Vague and  
17 ambiguous.

18 MR. SALVATY: Calls for speculation.

19 THE WITNESS: No.

20 Q. BY MR. ROSENBAUM: Okay. Is there any plan  
21 underway, so far as you know, to get to the question  
22 whether or not there's a relationship between  
23 proficiency on the English language development test and  
24 proficiency and success on the high school exit exam?

25 MS. READ-SPANGLER: Objection. Vague and

1 that expressed.

2 Q. Tell me exactly what you've heard expressed  
3 with respect to that.

4 A. These would be my words, but not necessarily --  
5 this is how I would recall it. It would be that just by  
6 the nature of having a test that -- in place that is  
7 administered year to year there is a natural phenomena  
8 that occurs that scores will improve.

9 Q. The Stanford-9 is used in other states besides  
10 California, so far as you know?

11 MR. SALVATY: Objection. Vague and ambiguous  
12 as to used. Calls for speculation.

13 MR. ROSENBAUM: I'm going to withdraw my  
14 question and restate it more clearly.

15 Q. Do you know whether or not the Stanford-9 is  
16 administered in other states besides California?

17 A. It is administered in other states. To be  
18 specific about which states would be something I'm not  
19 prepared to do.

20 Q. Do you know how many?

21 A. No, I don't.

22 Q. Okay. Do you know if when the Stanford-9 is  
23 administered in other states, the same questions are  
24 used each year?

25 MR. SALVATY: Objection. Vague and ambiguous.

1 ambiguous.

2 THE WITNESS: Not that I know of.

3 Q. BY MR. ROSENBAUM: You've never been directed  
4 to undertake any such inquiry or investigation?

5 MS. READ-SPANGLER: Same objections.

6 THE WITNESS: No.

7 Q. BY MR. ROSENBAUM: Has that concern ever been  
8 expressed, so far as you know?

9 MR. SALVATY: Same objection, and calls for  
10 speculation.

11 MR. ROSENBAUM: That proficiency on the English  
12 language development test would correlate with whether  
13 or not a student would pass or fail on the high school  
14 exit exam.

15 MS. READ-SPANGLER: Objection. Vague and  
16 ambiguous.

17 THE WITNESS: Not to my knowledge.

18 Q. BY MR. ROSENBAUM: Okay. Have you ever heard  
19 the concern expressed, Mr. Spears, that scores will  
20 improve on the STAR -- strike that?

21 Have you ever heard the concern expressed that  
22 scores will improve on the Stanford-9 test just by  
23 virtue of its repeated use?

24 A. I've heard that expressed. I don't necessarily  
25 know where I've heard that expressed, but I've heard

1 Calls for speculation.

2 MS. READ-SPANGLER: Don't guess. If you know,  
3 fine.

4 Q. BY MR. ROSENBAUM: That's how it works, isn't  
5 it?

6 MS. READ-SPANGLER: Objection. Calls for  
7 speculation.

8 THE WITNESS: The reason I'm hesitating is that  
9 there are forms of the Stanford-9, okay, and so the  
10 Stanford-9, to use that term alone without -- in  
11 California we use the Stanford-9 Form T.

12 Q. BY MR. ROSENBAUM: Do you know if Stanford-9  
13 Form T is used in other states?

14 A. I don't know.

15 Q. Do you know -- have you ever looked at results  
16 in other states, results of the Stanford-9 in other  
17 states?

18 A. No.

19 Q. Okay. Have you ever undertaken any  
20 investigation or inquiry to determine whether or not the  
21 concern we talked about a few moments ago, that scores  
22 will improve by virtue of the test being used in  
23 subsequent years, whether or not that's a valid concern?

24 A. No, I haven't.

25 MR. SALVATY: Objection. Vague and ambiguous.

1 THE WITNESS: No, I have not.  
 2 Q. BY MR. ROSENBAUM: Have you ever directed  
 3 anyone on your staff to look into that question?  
 4 MR. SALVATY: Same objection.  
 5 THE WITNESS: No.  
 6 Q. BY MR. ROSENBAUM: Or asked for assistance from  
 7 the technical advisory group regarding that question?  
 8 MS. READ-SPANGLER: Same objection.  
 9 THE WITNESS: No.  
 10 Q. BY MR. ROSENBAUM: Do you know if there's any  
 11 psychometric or other professional literature that has  
 12 explored that question?  
 13 MS. READ-SPANGLER: Same objection.  
 14 THE WITNESS: No.  
 15 Q. BY MR. ROSENBAUM: Have you ever made any  
 16 inquiry to find out if there is any such literature?  
 17 MS. READ-SPANGLER: Same objection.  
 18 THE WITNESS: No.  
 19 Q. BY MR. ROSENBAUM: Have you ever directed  
 20 anybody on your staff to check into that?  
 21 MS. READ-SPANGLER: Same objection.  
 22 THE WITNESS: No.  
 23 Q. BY MR. ROSENBAUM: Any reason why not?  
 24 MR. SALVATY: Same objection.  
 25 MS. READ-SPANGLER: And calls for speculation.

1 MR. SALVATY: Do you know the question?  
 2 THE WITNESS: I think I know the question. Say  
 3 it again.  
 4 Q. BY MR. ROSENBAUM: Is there any reason why not,  
 5 that you haven't done that?  
 6 MS. READ-SPANGLER: Same objection.  
 7 THE WITNESS: That I've not?  
 8 MS. READ-SPANGLER: Asked someone --  
 9 Q. BY MR. ROSENBAUM: Is there any reason why you  
 10 haven't asked any member of your staff or the technical  
 11 advisory group to look into the question about whether  
 12 or not improvements in test scores on the Stanford-9 is  
 13 attributable to it being administered in successive  
 14 years?  
 15 A. No.  
 16 MS. READ-SPANGLER: Objection. Calls for  
 17 speculation. Incomplete hypothetical.  
 18 THE WITNESS: No.  
 19 Q. BY MR. ROSENBAUM: Have you ever heard the  
 20 concern expressed that improvement in school scores is  
 21 attributable to specific training in test taking skills  
 22 by teachers?  
 23 MS. READ-SPANGLER: Objection. Vague and  
 24 ambiguous.  
 25 THE WITNESS: No.

1 Q. BY MR. ROSENBAUM: Do you know what I mean by  
 2 that?  
 3 A. No.  
 4 Q. Have you ever heard the concern expressed that  
 5 scores -- improvement in scores in schools is a result  
 6 of teachers teaching their students how to -- about test  
 7 taking skills as opposed to knowledge that's covered on  
 8 the exam?  
 9 MR. SALVATY: Objection. Vague and ambiguous  
 10 and overbroad.  
 11 THE WITNESS: No.  
 12 Q. BY MR. ROSENBAUM: To your knowledge, has  
 13 anyone in your division ever investigated that question,  
 14 whether or not improvement in test scores is  
 15 attributable to teachers training their students in test  
 16 taking skills as opposed to the knowledge that's covered  
 17 on the exam?  
 18 MR. SALVATY: Same objections.  
 19 MS. READ-SPANGLER: Join.  
 20 THE WITNESS: No.  
 21 Q. BY MR. ROSENBAUM: Do you know if any such  
 22 investigation or inquiry has ever been undertaken?  
 23 MR. SALVATY: Same objections. Calls for  
 24 speculation.  
 25 THE WITNESS: By?

1 MR. ROSENBAUM: By anybody.  
 2 THE WITNESS: Not to my knowledge.  
 3 Q. BY MR. ROSENBAUM: Do you know if there's any  
 4 psychometric literature on that subject?  
 5 MR. SALVATY: Same objections.  
 6 MS. READ-SPANGLER: Same objections.  
 7 THE WITNESS: I don't know.  
 8 Q. BY MR. ROSENBAUM: Okay. Have you ever heard  
 9 the concern expressed that improvement in school scores  
 10 on the Stanford-9 from year to year is explainable for  
 11 reasons other than increased student knowledge?  
 12 MR. SALVATY: Same objections.  
 13 THE WITNESS: No.  
 14 Q. BY MR. ROSENBAUM: Okay. Do you have an  
 15 opinion, Mr. Spears, as to how questions not aligned  
 16 with knowledge taught in classrooms serve the objectives  
 17 of the STAR program?  
 18 MR. SALVATY: Objection. Vague and ambiguous.  
 19 THE WITNESS: Repeat the question.  
 20 Q. BY MR. ROSENBAUM: Do you have an opinion as to  
 21 how questions which are not aligned with knowledge  
 22 taught in California classrooms serve the objectives of  
 23 the STAR program?  
 24 A. No.  
 25 Q. Okay. Or serve the objectives of the API as

1 you understand them?  
 2 A. No.  
 3 Q. Do you have any concerns in comparing  
 4 performances of schools between years where one year had  
 5 augmentation -- let me withdraw that and break it down  
 6 for you.  
 7 You told me yesterday that the way that the  
 8 STAR program has developed is that there have been  
 9 augmentations in certain years of questions; isn't that  
 10 right?  
 11 MR. SALVATY: Objection. Vague and ambiguous.  
 12 Misstates testimony.  
 13 THE WITNESS: On two of the tests, yes.  
 14 Q. BY MR. ROSENBAUM: Do you have any -- and those  
 15 involved adding California standards questions; is that  
 16 right?  
 17 A. To?  
 18 Q. To the core Stanford-9 questions.  
 19 MR. SALVATY: Objection. Vague and ambiguous.  
 20 MS. READ-SPANGLER: Misstates his testimony.  
 21 Q. BY MR. ROSENBAUM: Let's go back. In the first  
 22 two years all the questions were norm reference  
 23 questions, isn't that right, nationally normed  
 24 reference --  
 25 A. Stanford-9 Form T, yes.

1 Q. Then in 2000 there were some questions that  
 2 were aligned with California standards; is that right?  
 3 MR. SALVATY: Objection. Vague, ambiguous.  
 4 You just said 2000; is that right?  
 5 MR. ROSENBAUM: Yes.  
 6 THE WITNESS: Yes.  
 7 Q. BY MR. ROSENBAUM: And then in 2001 there were  
 8 some additional questions that were aligned with  
 9 California standards; is that right?  
 10 MR. SALVATY: Which tests are we talking about?  
 11 THE WITNESS: Depends on what you're talking  
 12 about, additional items.  
 13 Q. BY MR. ROSENBAUM: Weren't there more questions  
 14 added in 2001?  
 15 A. No.  
 16 Q. There were new questions added that were  
 17 aligned with California standards, right?  
 18 A. There were questions replaced. Same number of  
 19 questions has always been there. The number of  
 20 questions has never changed with respect to this line of  
 21 questioning.  
 22 Q. Okay. So some Stanford 9 questions would be  
 23 pulled out, Stanford-9 Form T, and replaced by  
 24 California standards questions; is that right?  
 25 A. No.

1 Q. Then I'm confused. In 1999 the questions are  
 2 all California -- all Stanford-9 Form T?  
 3 A. Yes.  
 4 Q. Okay. Then in 2000 there's an augmentation; is  
 5 that right?  
 6 A. Yes.  
 7 Q. And that augmentation is California standards  
 8 questions?  
 9 A. Yes, in addition to selected items from the  
 10 norm reference tests to complete the full number of  
 11 questions that are named the California standards test.  
 12 Q. Okay. Then in 2001 -- I'm just trying to get a  
 13 picture. The same number of questions were on the test,  
 14 the total test?  
 15 A. The same Stanford-9 Form T questions existed in  
 16 2001 from 2000, exactly the same questions.  
 17 Q. Okay.  
 18 A. There was a replacement of the unique items  
 19 that formed the augmentation, but the number of  
 20 questions remained the same.  
 21 Q. Okay. I appreciate that. Do you have any  
 22 concern, Mr. Spears, in comparing school performances on  
 23 the STAR program between years where there were  
 24 different numbers of norm reference questions?  
 25 MR. SALVATY: Objection. Vague and ambiguous.

1 MS. READ-SPANGLER: And misstates his  
 2 testimony.  
 3 MR. ROSENBAUM: No, it doesn't.  
 4 MR. JORDAN: Assumes facts not in evidence.  
 5 MR. ROSENBAUM: No, it doesn't.  
 6 MS. READ-SPANGLER: The norm reference --  
 7 THE WITNESS: There have never been different  
 8 numbers of norm reference questions. They have remained  
 9 the same since the first time it was administered.  
 10 Q. BY MR. ROSENBAUM: But in 2000 there were  
 11 California standards questions asked?  
 12 A. Yes.  
 13 Q. So my question is, do you have any concern in  
 14 comparing school results on the 2000 test versus the  
 15 1999 test?  
 16 MR. JORDAN: Assumes facts not in evidence.  
 17 MR. SALVATY: Vague and ambiguous. Calls for  
 18 speculation.  
 19 THE WITNESS: I have no knowledge of that  
 20 comparison taking place.  
 21 Q. BY MR. ROSENBAUM: Okay. Do you know if under  
 22 the API there is a comparison of growth?  
 23 MR. JORDAN: Mark, can we go off record a  
 24 second?  
 25 MR. ROSENBAUM: No. Let me restate my

1 question.  
 2 Q. Under the API there are measurements of whether  
 3 or not there is growth in school results, isn't that  
 4 right, from year to year?  
 5 A. On the Stanford-9 test, yes.  
 6 Q. And my question to you is, do you have any  
 7 concern about determining whether or not there has been  
 8 growth between years where there were different -- where  
 9 one test had California standards questions and the  
 10 prior year's test did not?  
 11 MR. JORDAN: Assumes facts not in evidence.  
 12 MS. READ-SPANGLER: And misstates his  
 13 testimony.  
 14 MR. SALVATY: And calls for speculation. Vague  
 15 and ambiguous.  
 16 MR. JORDAN: I think you've got an incorrect  
 17 assumption here, Mark.  
 18 MR. ROSENBAUM: I'm willing to hear what that  
 19 is.  
 20 MR. JORDAN: Can we go off the record a second  
 21 so we don't burn the record?  
 22 MR. ROSENBAUM: Yeah.  
 23 (Recess taken.)  
 24 Q. BY MR. ROSENBAUM: Do you know what the Public  
 25 Policy Institute is?

1 A. No, I don't.  
 2 Q. Do all students take the Stanford-9? Strike  
 3 that.  
 4 Do all students take the STAR program if  
 5 they're present in school when it's administered?  
 6 A. No.  
 7 Q. Who does not?  
 8 A. Students whose parents have asked that they be  
 9 exempted from the test or waived from the test, special  
 10 ed students that may have an IEP that says they don't  
 11 participate, or they're absent.  
 12 Q. Does your division maintain the numbers of  
 13 special ed students who don't take the exam?  
 14 A. Yes, we do.  
 15 Q. And as to the number of students who are  
 16 exempted?  
 17 A. Yes, we do.  
 18 Q. Do you know the number of students this past  
 19 year who did not take the exam by virtue of either a  
 20 waiver or special ed?  
 21 A. 2001?  
 22 Q. Yes.  
 23 A. No, I don't.  
 24 Q. Do you have a ballpark number?  
 25 A. No.

1 Q. Do you know if that number increased from 2000  
 2 to 2001?  
 3 MS. READ-SPANGLER: Are you talking gross  
 4 number, or like percentage?  
 5 MR. ROSENBAUM: Well, let's do both.  
 6 THE WITNESS: No, I don't.  
 7 Q. BY MR. ROSENBAUM: Either one?  
 8 A. No.  
 9 Q. Or from 1999 to 2000, do you know if there was  
 10 an increase in either the gross number or the percent?  
 11 A. No.  
 12 Q. Who would have that data?  
 13 A. Linda Lownes. Well, Richard Diaz.  
 14 Q. Just because it's in the record, can you  
 15 spell --  
 16 A. Richard Diaz.  
 17 Q. The first person, could you spell --  
 18 A. L-o-w-n-e-s, Linda.  
 19 Q. Okay. Have you ever heard the concern  
 20 expressed that certain schools discourage certain  
 21 students from taking the exam?  
 22 A. Repeat the question again.  
 23 Q. I'm thinking about the API and the rewards  
 24 system. And my question is, have you ever heard the  
 25 concern expressed that some schools will discourage

1 certain students from taking the exam?  
 2 MR. SALVATY: Objection. Vague and ambiguous  
 3 and overbroad.  
 4 THE WITNESS: I would say I've heard that  
 5 expressed. In what context or where, I would not be  
 6 able to identify that.  
 7 Q. BY MR. ROSENBAUM: Okay. And specifically what  
 8 have you heard expressed?  
 9 MR. SALVATY: Objection. Vague, ambiguous and  
 10 overbroad.  
 11 THE WITNESS: That schools may engage in some  
 12 way of discouraging students to participate to  
 13 artificially improve their schools.  
 14 Q. BY MR. ROSENBAUM: And is one of the ways  
 15 you've heard that as taking place by designating  
 16 students as special ed students, have you heard that?  
 17 A. No.  
 18 Q. Have you heard that by encouraging parents to  
 19 seek waivers for students?  
 20 MR. SALVATY: Same objections.  
 21 THE WITNESS: I have heard that.  
 22 Q. BY MR. ROSENBAUM: Has your division ever  
 23 undertaken any investigation or inquiry to determine  
 24 whether or not there's any validity to that concern?  
 25 MR. SALVATY: Same objections. Calls for



1 speculation.  
 2 THE WITNESS: No.  
 3 Q. BY MR. ROSENBAUM: Do you know if anyone in the  
 4 division has ever looked into that question?  
 5 MR. SALVATY: Same objections.  
 6 THE WITNESS: No.  
 7 Q. BY MR. ROSENBAUM: Anyone in the Department?  
 8 A. No.  
 9 Q. Anyone outside the Department?  
 10 MR. SALVATY: Same objections.  
 11 THE WITNESS: Not to my knowledge.  
 12 Q. BY MR. ROSENBAUM: From whom have you heard  
 13 that concern expressed?  
 14 A. I don't recall.  
 15 Q. Some of the same players we talked about  
 16 earlier?  
 17 MR. SALVATY: Objection. Vague and ambiguous.  
 18 THE WITNESS: I don't recall.  
 19 Q. BY MR. ROSENBAUM: Okay. Have you ever looked  
 20 at the numbers of the students designated as special  
 21 education to see if you could detect any trends from  
 22 year to year?  
 23 MR. SALVATY: Objection. Vague and ambiguous.  
 24 THE WITNESS: No.  
 25 MS. READ-SPANGLER: Trends in what?

1 MR. ROSENBAUM: In increase or decrease in  
 2 designation.  
 3 THE WITNESS: No, I have not.  
 4 MR. SALVATY: Same objections.  
 5 Q. BY MR. ROSENBAUM: Okay. And I take it you  
 6 mean you haven't done that either across the board or by  
 7 individual schools?  
 8 MR. SALVATY: Same objection.  
 9 THE WITNESS: No.  
 10 Q. BY MR. ROSENBAUM: Have you ever looked to see  
 11 whether or not schools that showed improvement on the  
 12 API had increases in the number or percent of students  
 13 designated as special education from year to year?  
 14 MR. SALVATY: Objection. Vague and ambiguous.  
 15 THE WITNESS: No, I have not.  
 16 Q. BY MR. ROSENBAUM: Do you know if anybody's  
 17 ever done that?  
 18 MR. SALVATY: Same objection. Calls for  
 19 speculation.  
 20 THE WITNESS: Not to my knowledge.  
 21 Q. BY MR. ROSENBAUM: Okay. Tell me, Mr. Spears,  
 22 whether this would come under your shop or Mr. Padia's  
 23 or somebody else's. Have there been districts which did  
 24 not participate in the API program with respect to  
 25 their -- because of concerns about their English learner

1 students?  
 2 MR. SALVATY: Objection. Vague and ambiguous.  
 3 Calls for speculation.  
 4 THE WITNESS: I don't know if districts have a  
 5 choice to participate or not to participate.  
 6 Q. BY MR. ROSENBAUM: Okay. Have there been  
 7 districts that have not administered the exam to English  
 8 learner students, so far as you know?  
 9 MR. SALVATY: What exam?  
 10 THE WITNESS: What exam?  
 11 MR. ROSENBAUM: The Stanford-9.  
 12 THE WITNESS: Repeat the question.  
 13 Q. BY MR. ROSENBAUM: I'll restate it, reconfigure  
 14 it a little bit. Have you heard claims -- strike that.  
 15 Do you know of districts who encouraged parents  
 16 to seek waivers for the Stanford-9?  
 17 A. No.  
 18 Q. Have you heard the names of specific districts  
 19 alleged to have done that?  
 20 A. No.  
 21 Q. Or specific schools?  
 22 A. No.  
 23 Q. Okay. Do you know what the similar schools  
 24 ranking is with respect to the API?  
 25 A. I have some understanding of that, yes.

1 Q. Do you have any involvement with that?  
 2 MR. SALVATY: Objection. Vague and ambiguous  
 3 as to "involvement."  
 4 THE WITNESS: Does our division have any  
 5 involvement in that, or me personally?  
 6 Q. BY MR. ROSENBAUM: First of all, you  
 7 personally?  
 8 A. No.  
 9 Q. Your division?  
 10 A. Only with respect that through the test  
 11 administration, we gather information about the  
 12 demographics of a school or community and that  
 13 information is used to identify similar schools.  
 14 Q. You don't actually put together the rankings  
 15 themselves; is that right?  
 16 A. No.  
 17 Q. Neither you nor your division?  
 18 A. No.  
 19 Q. And do you know what the school characteristics  
 20 index is?  
 21 A. No. I'm going to say no.  
 22 Q. Okay. The meetings of the technical advisory  
 23 group you were telling me about, you told me that you  
 24 may be in attendance at those meetings in whole or in  
 25 part, you may come to the beginning of the meetings, you

1 may not stay through the meetings; is that right?  
 2 A. Yes.  
 3 Could I just make one comment about technical  
 4 advisory. That is not exactly the name of the group, so  
 5 I want to make sure we're talking about the same group  
 6 now that we've gone through all of this. It's a TSG,  
 7 technical study group, not technical advisory group.  
 8 Q. Okay. Have you ever heard of a group called  
 9 the technical advisory group?  
 10 A. No.  
 11 Q. Okay. Are there -- the meetings at which  
 12 you've attended, Mr. Spears, have there been personnel  
 13 there from other divisions besides yours?  
 14 MS. READ-SPANGLER: Objection. Calls for  
 15 speculation.  
 16 MR. ROSENBAUM: So far as you know.  
 17 THE WITNESS: During the time I was present?  
 18 MR. ROSENBAUM: Yeah.  
 19 THE WITNESS: Yes, there has been.  
 20 Q. BY MR. ROSENBAUM: Who? Who do you recall?  
 21 A. Bill Padia, Pat McCabe.  
 22 Q. And who is Pat McCabe?  
 23 A. He works for Bill Padia.  
 24 Q. Mr. Warren ever present that you recall?  
 25 A. I don't recall Mr. Warren being present.

1 Q. Or Mr. Hill?  
 2 A. I don't recall Mr. Hill being present.  
 3 Q. Or anyone from the superintendent's staff?  
 4 MS. READ-SPANGLER: Objection. Vague and  
 5 ambiguous.  
 6 THE WITNESS: Not to my knowledge.  
 7 Q. BY MR. ROSENBAUM: The superintendent?  
 8 A. No.  
 9 Q. Secretary for education?  
 10 A. No.  
 11 Q. Anyone from the LAO's office, to your  
 12 knowledge?  
 13 MR. SALVATY: Objection. Vague and ambiguous.  
 14 THE WITNESS: Not to my knowledge.  
 15 Q. BY MR. ROSENBAUM: Have you ever heard any  
 16 concerns or criticisms about the API program?  
 17 MR. SALVATY: Objection. Vague and ambiguous  
 18 and overbroad.  
 19 THE WITNESS: No.  
 20 Q. BY MR. ROSENBAUM: Okay. Do you know what AB  
 21 961 is?  
 22 MS. READ-SPANGLER: Objection. Calls for a  
 23 legal conclusion.  
 24 THE WITNESS: No.  
 25 Q. BY MR. ROSENBAUM: Okay. Do you personally,

1 Mr. Spears, have any criticisms of the high school exit  
 2 exam, other than those that we have discussed?  
 3 MR. SALVATY: Objection. Vague and ambiguous.  
 4 Overbroad.  
 5 THE WITNESS: No.  
 6 Q. BY MR. ROSENBAUM: Or of the STAR program?  
 7 MR. SALVATY: Same objections.  
 8 THE WITNESS: No.  
 9 Q. BY MR. ROSENBAUM: Or of the English language  
 10 development test?  
 11 A. No.  
 12 Q. Let me please mark as Exhibit 149 a copy of a  
 13 five-page document that I'll represent was turned over  
 14 to plaintiffs in discovery. It bears Bates Nos. DOE  
 15 93200 through 93204. It's dated 7/18/00, and it is --  
 16 the subject matter is paper on the beginning of a  
 17 strategic plan for CDE to implement the high school exit  
 18 examination, to Paul Warren via Phil Spears, Robert  
 19 Anderson, from Jan Chladek and Lily Roberts.  
 20 I'm going to have it marked as Exhibit 149 and  
 21 placed in front of you, and I'll supply counsel with  
 22 copies.  
 23 (Exhibit SAD-149 was marked.)  
 24 Q. BY MR. ROSENBAUM: Mr. Spears, I'm just going  
 25 to ask you if you would briefly take a look at it.

1 You're free to look at it in as much detail as you'd  
 2 like, but I'm just going to ask initially whether you're  
 3 familiar with it.  
 4 Have you had a chance to review what's been  
 5 marked as Exhibit 149?  
 6 A. Yes.  
 7 Q. And are you familiar with this document?  
 8 A. I recall the document.  
 9 Q. Okay. And when you say you recall the  
 10 document, what do you mean?  
 11 A. I remember reviewing the document, reading the  
 12 document and sending it forward.  
 13 Q. Okay. And when you say "sending it forward,"  
 14 you mean sending it forward to Mr. Warren?  
 15 A. Yes.  
 16 Q. If you'd take a look at No. 149, Mr. Spears.  
 17 On page 1, do you see where it says via Phil Spears  
 18 director?  
 19 A. Yes.  
 20 Q. And there is handwritten initials PCS?  
 21 A. PES, thank you.  
 22 Q. Is that your handwriting?  
 23 A. Yes.  
 24 Q. And to your knowledge -- do you know who  
 25 prepared this document?

1 A. Jan Chladek and Lily Roberts.  
 2 Q. Did you review a draft or drafts of the  
 3 document?  
 4 A. I reviewed the final copy that was signed, but  
 5 I would not recall if I had talked to them about making  
 6 changes or adjustments. So at some point I reviewed the  
 7 document before I signed it, yes.  
 8 Q. Okay. And do you know, Mr. Spears, whose idea  
 9 was this memorandum, to prepare this memorandum?  
 10 MR. SALVATY: Objection. Vague and ambiguous.  
 11 MR. ROSENBAUM: I want to get at the origins.  
 12 THE WITNESS: No.  
 13 Q. BY MR. ROSENBAUM: Did Mr. Warren ask you to  
 14 prepare a document on the beginning of a strategic plan  
 15 to implement the high school exit exam?  
 16 A. I don't recall.  
 17 Q. Do you remember directing Ms. Chladek or  
 18 Ms. Roberts to prepare a memorandum of this nature?  
 19 A. No.  
 20 Q. Okay. You're not saying you don't --  
 21 A. I don't remember.  
 22 Q. It either happened or it didn't, but you --  
 23 A. I don't know.  
 24 Q. -- you don't know one way or the other?  
 25 A. No.

1 Q. Now, looking, sir, at Exhibit 149, page 93201.  
 2 A. Which one?  
 3 Q. I'm on the second page of Exhibit 149 and the  
 4 Bates number is 93201. Do you have that in front of  
 5 you?  
 6 A. I have it.  
 7 Q. Feel free to read as much as you need  
 8 contextually to answer any questions that I have.  
 9 You see the first bullet point? It follows the  
 10 sentence, the following is a list of major actions that  
 11 we believe must be completed to ensure a successful  
 12 spring of 2001 test, do you see that?  
 13 A. Yes.  
 14 Q. Do you see the first bullet point? It says,  
 15 develop a valid and reliable test with accuracy around  
 16 the pass/fail cut point, on page 93201?  
 17 A. Yes.  
 18 Q. What's your understanding of what is meant by  
 19 the accuracy around the pass/fail cut point?  
 20 MS. READ-SPANGLER: Objection. Calls for  
 21 speculation.  
 22 He didn't author this and you haven't even  
 23 established that he discussed it with them, so I kind of  
 24 have a problem with you asking him to interpret a  
 25 document that he didn't write.

1 MR. ROSENBAUM: He testified that he reviewed  
 2 it before it was passed on.  
 3 MS. READ-SPANGLER: Well, reviewing it doesn't  
 4 mean that he knows what was in Jan Chladek's or Lily  
 5 Robert's mind.  
 6 MR. ROSENBAUM: I'm not asking what was in  
 7 their mind.  
 8 Q. I'm asking you what was your understanding of  
 9 what was meant by accuracy around the pass/fail cut  
 10 point?  
 11 MS. READ-SPANGLER: If you have one.  
 12 THE WITNESS: Accuracy around the pass/fail cut  
 13 point on any test at any point that you set a pass/fail  
 14 score there is going to be error, and you want that  
 15 error to be as small as possible.  
 16 Q. BY MR. ROSENBAUM: When you say "error," what  
 17 do you mean by that?  
 18 A. That a student could be misidentified or could  
 19 pass the test when in actuality he may not have the  
 20 knowledge or skills that are tested at that particular  
 21 point based upon their responses.  
 22 Q. Okay. And, to your knowledge, in your judgment  
 23 was a valid and reliable test with accuracy around the  
 24 pass/fail cut point developed?  
 25 MR. SALVATY: Objection. Vague as to time.

1 THE WITNESS: I don't have the expertise to  
 2 answer that question.  
 3 Q. BY MR. ROSENBAUM: Okay. Looking, sir, at the  
 4 last full paragraph on page 93201 of Exhibit 149, do you  
 5 see the sentence, educators have been saying for years  
 6 that all students must have access to the same  
 7 high-quality curriculum? Do you see that?  
 8 A. Yes.  
 9 Q. What's your understanding of the phrase "access  
 10 to the same high-quality curriculum"?  
 11 MS. READ-SPANGLER: Objection. Calls for  
 12 speculation. Document speaks for itself.  
 13 THE WITNESS: I don't know that I could add  
 14 anything to the statement.  
 15 Q. BY MR. ROSENBAUM: Okay. And do you agree that  
 16 educators have been saying for years that all students  
 17 must have access to the same high-quality curriculum?  
 18 A. Well, it's a generalization. I don't know that  
 19 we could say that every single educator has made that  
 20 statement.  
 21 Q. But do you agree that many educators have been  
 22 saying that?  
 23 A. I don't know that I'd say "say." Again, it's  
 24 my opinion that I think people that have chosen the  
 25 profession of working with young people in schools have

1 a general sense that we would enjoy the -- and would  
 2 welcome an opportunity for all students to have the same  
 3 high-quality curriculum. I think that would be an  
 4 accurate thing for me to state.  
 5 Q. You certainly share that belief?  
 6 A. Personally?  
 7 Q. Yes.  
 8 A. Yes, I do.  
 9 Q. Why is that?  
 10 A. I guess because I've chosen to be in this  
 11 profession from day one, and I care about young people  
 12 and want them to have the fruits of a quality education.  
 13 Q. Of course. And to your knowledge, do all  
 14 students in public schools have access to the same  
 15 high-quality curriculum?  
 16 A. I'm not prepared to state whether they do or  
 17 don't.  
 18 Q. Has your division ever undertaken any inquiry  
 19 to determine whether or not all students in California,  
 20 all public students in California have access to the  
 21 same high-quality curriculum?  
 22 MR. SALVATY: Objection. Vague and ambiguous  
 23 and overbroad.  
 24 MS. READ-SPANGLER: Calls for speculation.  
 25 THE WITNESS: No.

1 Q. BY MR. ROSENBAUM: Do you know if anybody in  
 2 your department has?  
 3 MR. SALVATY: Same objection.  
 4 THE WITNESS: No, I don't.  
 5 Q. BY MR. ROSENBAUM: Okay. Looking still at page  
 6 93201 of what's been marked as Exhibit 149, do you see  
 7 where it says at the last bullet point -- and we're  
 8 under the sentence, the following is a list of major  
 9 actions that we believe must be completed to ensure a  
 10 successful spring of 2001 test. Do you see the last  
 11 bullet point, link with the California Teacher's  
 12 Commission and institutions of higher education to  
 13 ensure that California has fully-credentialed teachers  
 14 in mathematics and language arts?  
 15 A. Yes.  
 16 Q. And do you know if that was done?  
 17 A. No, I don't.  
 18 Q. Was your division ever asked to undertake any  
 19 inquiry or investigation to determine whether or not  
 20 that action was completed?  
 21 MR. SALVATY: Objection. Vague and ambiguous.  
 22 THE WITNESS: No.  
 23 Q. BY MR. ROSENBAUM: Do you know if anyone in the  
 24 Department ever has?  
 25 MR. SALVATY: Same objection.

1 THE WITNESS: No, I don't.  
 2 Q. BY MR. ROSENBAUM: Okay. You see the third  
 3 from the bottom bullet point, still under the sentence,  
 4 the following is a list of major actions that we believe  
 5 must be completed to ensure a successful spring of 2001  
 6 test? Do you see the third to last bullet point, offer  
 7 teachers professional development in standards-based  
 8 instruction and assessment? Do you see that?  
 9 A. Yes, I do.  
 10 Q. Do you know if that was done?  
 11 MR. SALVATY: Objection. Vague and ambiguous.  
 12 Calls for speculation.  
 13 THE WITNESS: No, I do not.  
 14 Q. BY MR. ROSENBAUM: Okay. Do you believe that  
 15 that's an appropriate action for the California  
 16 Department of Education to undertake, that is, offering  
 17 students professional develop -- offering teachers  
 18 professional development in standards-based instruction  
 19 and assessment?  
 20 MR. SALVATY: Objection. Vague and ambiguous.  
 21 MS. READ-SPANGLER: Are you asking for his  
 22 personal opinion?  
 23 MR. ROSENBAUM: Yeah, based on your training  
 24 and experience.  
 25 THE WITNESS: I don't think that I'm in a

1 position to make a judgment as to whether that should be  
 2 CDE or someone else. I don't see myself in that role.  
 3 Q. BY MR. ROSENBAUM: Okay. If I asked you this  
 4 yesterday, I apologize. You can just tell me that.  
 5 A. No problem.  
 6 Q. Looking again to the final bullet, do you know,  
 7 sir, the percent of teachers who teach math in  
 8 California's public schools who are fully credentialed?  
 9 A. I do not.  
 10 MR. SALVATY: Objection. Vague and ambiguous  
 11 as to "fully credentialed."  
 12 (Discussion held off the record.)  
 13 Q. BY MR. ROSENBAUM: Do you know, first of all,  
 14 the percent of teachers teaching language arts in  
 15 California's public schools who are fully credentialed?  
 16 MR. SALVATY: Objection. Vague and ambiguous.  
 17 THE WITNESS: No.  
 18 Q. BY MR. ROSENBAUM: Do you know if anyone in the  
 19 Department of Education has ever investigated to  
 20 determine the percent of teachers in California's public  
 21 schools in either mathematics or language arts who are  
 22 fully credentialed?  
 23 MR. SALVATY: Same objection.  
 24 THE WITNESS: No, I do not.  
 25 Q. BY MR. ROSENBAUM: Okay. Does your division

1 keep dropout data?  
 2 A. I don't believe so.  
 3 Q. I take it neither you nor your division have  
 4 ever been asked to compile dropout data?  
 5 MR. SALVATY: Objection. Calls for  
 6 speculation.  
 7 MR. ROSENBAUM: So far as you know.  
 8 THE WITNESS: No.  
 9 Q. BY MR. ROSENBAUM: Okay. Let me ask you, sir,  
 10 to turn to page 4 of Exhibit 149. That's Bates No.  
 11 93203. And, again, feel free to read as much of this  
 12 document as you need contextually to respond to any of  
 13 my questions.  
 14 Directing your attention specifically to No. 7  
 15 under remediation/intervention, can you read that to  
 16 yourself? It begins, need more of what is working, such  
 17 as academics, more counselors, mentoring, et cetera, to  
 18 provide one-on-one adult attention to students, and then  
 19 there's a paragraph.  
 20 Do you see that, first of all?  
 21 A. Yes. Yes, I see the paragraph.  
 22 Q. Okay. Have you had a chance to review that  
 23 paragraph?  
 24 A. Yes, I have.  
 25 Q. Do you see the second sentence, counselors are

1 Q. BY MR. ROSENBAUM: Anyone in the Department of  
 2 Education?  
 3 MR. SALVATY: Same objection.  
 4 Q. BY MR. ROSENBAUM: To your knowledge, has  
 5 anyone done that?  
 6 A. Not to my knowledge.  
 7 Q. Okay. And to your knowledge, has there been  
 8 any inquiry to determine the relationship -- whether or  
 9 not a relationship exists between whether students pass  
 10 or fail the high school exit exam and access to  
 11 counselors?  
 12 MR. SALVATY: Objection. Vague and ambiguous.  
 13 THE WITNESS: Not to my knowledge.  
 14 Q. BY MR. ROSENBAUM: Okay. Still looking at No.  
 15 7 on page 93203, do you see the sentence that says, we  
 16 need credentialed teachers in mathematics and English  
 17 language arts providing remediation, and if the  
 18 remediation is outside of the school day or year, who is  
 19 providing it, question mark? Do you see that?  
 20 A. Yes.  
 21 Q. With respect to the first part of that phrase  
 22 on page 93203 of Exhibit 149, we need credentialed  
 23 teachers in mathematics and English language arts  
 24 providing remediation, do you know the extent to which,  
 25 if any, credentialed teachers in mathematics and English

1 especially vital because if the students aren't  
 2 scheduled into the right courses, they won't be able to  
 3 graduate, on page 93203?  
 4 A. Yes, I do.  
 5 Q. Okay. Do you agree with that based on your  
 6 training and experience?  
 7 A. I agree that counselors are vital.  
 8 Q. And why is that?  
 9 A. I think they provide services to students that  
 10 are needed.  
 11 Q. Okay. And do you know whether -- do you know  
 12 what the access of high school students, public high  
 13 school students is with respect to counselors?  
 14 MR. SALVATY: Objection. Vague and ambiguous  
 15 and overbroad.  
 16 THE WITNESS: No.  
 17 Q. BY MR. ROSENBAUM: Have you ever undertaken any  
 18 inquiry to determine what the access of public high  
 19 school students is to counselors?  
 20 MR. SALVATY: Same objections.  
 21 THE WITNESS: No.  
 22 Q. BY MR. ROSENBAUM: To your knowledge, has  
 23 anyone in your division ever done that?  
 24 MR. SALVATY: Same objections.  
 25 THE WITNESS: No.

1 language arts provided remediation to students for  
 2 purposes of the high school exit exam?  
 3 MR. SALVATY: Objection. Vague and ambiguous.  
 4 MS. READ-SPANGLER: Assumes facts not in  
 5 evidence.  
 6 THE WITNESS: No.  
 7 Q. BY MR. ROSENBAUM: Okay. Have you ever  
 8 directed anyone in your division to investigate that  
 9 question?  
 10 MR. SALVATY: Same objections.  
 11 THE WITNESS: No.  
 12 Q. BY MR. ROSENBAUM: Do you know if anyone in  
 13 your division has inquired into that question?  
 14 MR. SALVATY: Same objections.  
 15 THE WITNESS: No.  
 16 Q. BY MR. ROSENBAUM: Or anyone in the Department?  
 17 MS. READ-SPANGLER: Same objection.  
 18 THE WITNESS: I don't know.  
 19 Q. BY MR. ROSENBAUM: Okay. Let me have you look  
 20 at page 93204, it's page 5 of what's been marked as  
 21 Exhibit 149, and specifically No. 1 on page 93204. Our  
 22 linkages with CTC, all caps, and higher education need  
 23 to be used to influence their preparation and licensing  
 24 of teachers prepared to teach standards-based  
 25 instruction aligned to the California standards. How do

1 we deal with noncredentialed teachers, question mark.  
 2 Do you see that?  
 3 A. Yes, I do.  
 4 Q. Do you know, Mr. Spears, what, if anything, was  
 5 done to deal with noncredentialed teachers in the  
 6 context in which it's used in this paragraph?  
 7 MR. SALVATY: Objection. Vague and ambiguous.  
 8 THE WITNESS: No.  
 9 Q. BY MR. ROSENBAUM: Has your division undertaken  
 10 to investigate to what extent, if any, that question has  
 11 been dealt with, how do we deal with noncredentialed  
 12 teachers?  
 13 MR. SALVATY: Objection. Vague and ambiguous  
 14 and overbroad.  
 15 THE WITNESS: No.  
 16 Q. BY MR. ROSENBAUM: Do you know if anyone in the  
 17 Department has looked into that question?  
 18 MR. SALVATY: Same objections.  
 19 THE WITNESS: I don't know.  
 20 Q. BY MR. ROSENBAUM: Did you ever attend a  
 21 meeting in the governor's office at which the  
 22 superintendent was present and the subject matter of the  
 23 high school exit exam was discussed?  
 24 A. No, I do not.  
 25 Q. Let me mark as 150 a document, the front page

1 of which says executive office route slip, and it bears  
 2 the Bates Nos. 93213 through 93217, and I'll represent  
 3 that I obtained this document in discovery. I'm going  
 4 to have this marked as Exhibit 150 and supply it to you,  
 5 Mr. Spears, and I'll also supply copies to counsel.  
 6 (Exhibit SAD-150 was marked.)  
 7 Q. BY MR. ROSENBAUM: I'm just going to ask you if  
 8 you could review -- take as much time as you want, but  
 9 I'm just going to initially ask you if you're familiar  
 10 with this.  
 11 MS. READ-SPANGLER: I know it's kind of soon,  
 12 but can we take another little break?  
 13 MR. ROSENBAUM: Sure.  
 14 (Recess taken.)  
 15 Q. BY MR. ROSENBAUM: Have you had a chance,  
 16 Mr. Spears, to look at what's been marked as Exhibit  
 17 150?  
 18 A. Yes, I have.  
 19 Q. And directing your attention, sir, to the first  
 20 page, do you see where it says from Delaine Eastin and  
 21 then there's a series of rectangles with two colons. Do  
 22 you see that?  
 23 A. Yes.  
 24 Q. And in the second rectangle do you see where it  
 25 says in the fourth column, Spears, and there's an "X" by

1 the name Spears?  
 2 A. Yes.  
 3 Q. That's you?  
 4 A. Yes.  
 5 Q. Do you recall receiving a copy of what's been  
 6 marked as Exhibit 150?  
 7 A. I've seen this before.  
 8 Q. Can you tell me approximately when you saw  
 9 this? Was it on or about October 2000 that you saw it?  
 10 A. I would assume so, but I don't --  
 11 Q. You'd assume so because that's the date of the  
 12 document?  
 13 A. Yes.  
 14 Q. Okay. Turning to page 93214 of what's been  
 15 marked as Exhibit 150, the letter itself is dated  
 16 October 11th, 2000. Do you see that at the top?  
 17 A. Yes.  
 18 Q. Okay. And did you review this document when  
 19 you received it?  
 20 A. I read the document.  
 21 Q. Okay. For what purpose did you read it?  
 22 A. Boss sends it, I read it.  
 23 Q. And by "boss" you mean the superintendent; is  
 24 that right?  
 25 A. Yes.

1 Q. And did she ask you for any comment?  
 2 A. I don't recall her asking for any comment.  
 3 Q. When you read it, did you disagree with any of  
 4 the statements in the document?  
 5 MR. SALVATY: Objection. Vague and ambiguous.  
 6 THE WITNESS: I don't remember in October of  
 7 that year, or when I read this letter, what I felt.  
 8 Q. BY MR. ROSENBAUM: Let me go back a minute. Do  
 9 you know who Maben is, M-a-b-e-n? I'm looking at page  
 10 93213 of Exhibit 150, the name under Eastin.  
 11 A. I know Maben, yes.  
 12 Q. Who is that?  
 13 A. She's a member of the superintendent's staff.  
 14 Q. Do you know what her full name is?  
 15 A. Camille.  
 16 Q. Do you know what duties and responsibilities  
 17 she has?  
 18 A. No.  
 19 Q. And there's another name under Maben Mishima,  
 20 M-i-s-h-i-m-a. Do you see that?  
 21 A. Yes.  
 22 Q. Am I pronouncing that wrong?  
 23 A. I don't know.  
 24 Q. Okay. Do you know who Mishima is?  
 25 A. Yes.

1 Q. Who is that?  
 2 A. She at the time was another member of the  
 3 superintendent's staff.  
 4 Q. Okay. Do you know what duties and  
 5 responsibilities she had?  
 6 A. No.  
 7 Q. Is she still on the staff, so far as you know?  
 8 A. On the superintendent's staff?  
 9 Q. Yes.  
 10 A. I think she has another position.  
 11 Q. She's still on the superintendent's staff, but  
 12 in another position, is that what you're saying?  
 13 A. She's a division director now.  
 14 Q. Okay. Do you know what division?  
 15 A. No.  
 16 Q. Did you communicate to the superintendent --  
 17 strike that.  
 18 Do you recall -- strike that.  
 19 Did you receive a draft of this letter, or is  
 20 this the actual letter you received, so far as you  
 21 remember?  
 22 A. I don't recall receiving a draft of this  
 23 letter.  
 24 Q. Okay. Did you ever communicate to the  
 25 superintendent disagreement with any of the statements

1 Q. Okay. At the time this letter was written,  
 2 October 2000, did you have a view as to the percent of  
 3 students who took algebra in high school?  
 4 A. No.  
 5 Q. Okay. Let me turn your attention to 93215  
 6 still. You see the sentence at the bottom of the page,  
 7 providing students with an adequate opportunity to  
 8 learn, and opportunity to learn is in quotes, the  
 9 material on the test is a critical factor in ensuring  
 10 the test is fair to students? Do you see that?  
 11 A. Yes, I do.  
 12 Q. Okay. What was your understanding as to what  
 13 "opportunity to learn" meant in the context of this  
 14 letter?  
 15 MS. READ-SPANGLER: Objection. The document  
 16 speaks for itself. Calls for speculation.  
 17 THE WITNESS: I never gave thought to what it  
 18 means in this letter.  
 19 Q. BY MR. ROSENBAUM: Okay. Did you ever state in  
 20 sum or substance, Mr. Spears, that with respect to the  
 21 high school exit exam, that most states would take  
 22 three-plus years to do that kind of test?  
 23 A. Yes.  
 24 Q. What was the basis of that statement?  
 25 MR. SALVATY: Objection. Vague and ambiguous.

1 in the letter?  
 2 MR. SALVATY: Objection. Vague and ambiguous.  
 3 Overbroad.  
 4 THE WITNESS: I don't recall expressing any  
 5 disagreements.  
 6 Q. BY MR. ROSENBAUM: Okay. Prior to receiving  
 7 the letter, did you know that the superintendent wanted  
 8 to send a letter to the governor about the issues raised  
 9 herein?  
 10 A. I don't know if I had awareness of that at all,  
 11 no.  
 12 Q. Had there been discussion, as best you can  
 13 recall, about we need to communicate to the governor  
 14 certain points about the high school exit exam?  
 15 A. I don't recall that.  
 16 Q. It could have been, you just don't remember?  
 17 A. It could have been and I don't remember.  
 18 Q. Okay. And directing your attention to page  
 19 93215 of Exhibit 150, do you see the bullet point, many  
 20 students never take algebra in high school?  
 21 A. Yes, I do.  
 22 Q. Okay. Do you know -- strike that.  
 23 Do you have a view as to the percent of  
 24 students who take algebra in high school now?  
 25 A. No, I don't.

1 THE WITNESS: I would characterize the basis of  
 2 that statement as my work within the division on tests  
 3 and knowing -- learning about what other states had done  
 4 in relationship to this kind of a test and this kind of  
 5 development, and from experts -- well, from testing  
 6 folks around the state that we were consulting with or  
 7 talking with that that topic had come up and that that  
 8 was a prudent thing to do.  
 9 Q. BY MR. ROSENBAUM: Okay. When you say "a  
 10 prudent thing to do," what do you mean by that?  
 11 A. That's the most effective way to develop such a  
 12 test.  
 13 Q. Okay.  
 14 A. That's the most effective time to develop such  
 15 a test at minimum.  
 16 Q. What do you mean by "effective time"?  
 17 A. Minimum amount of time.  
 18 Q. Okay. And when you say this kind of test, what  
 19 do you mean by that?  
 20 A. High-stakes test.  
 21 Q. Okay. And what was the period of time in which  
 22 California did it?  
 23 MR. SALVATY: Objection. Vague and ambiguous.  
 24 THE WITNESS: I only -- I only know from the  
 25 time that I was here, which was June 5th of 2000, and so

1 there was some work that had gone on prior to that. I'm  
 2 not exactly knowledgeable of the exact time, but it was  
 3 somewhere in the neighborhood of 18 months to two years.  
 4 Q. BY MR. ROSENBAUM: Okay. Was there a problem  
 5 with a supplemental math test at some point with respect  
 6 to the Stanford-9?  
 7 MR. SALVATY: Objection. Vague and ambiguous.  
 8 MS. READ-SPANGLER: Objection. Vague and  
 9 ambiguous.  
 10 THE WITNESS: I don't know what you're  
 11 referring to.  
 12 Q. BY MR. ROSENBAUM: Was Harcourt ever asked to  
 13 add five questions to the exam?  
 14 MS. READ-SPANGLER: Which exam?  
 15 THE WITNESS: Which exam?  
 16 MR. ROSENBAUM: The STAR program exam.  
 17 MS. READ-SPANGLER: Which STAR program exam?  
 18 MR. ROSENBAUM: At any point the Stanford --  
 19 THE WITNESS: I don't know what you're  
 20 referring to or talking about.  
 21 Q. BY MR. ROSENBAUM: Still with respect to  
 22 Exhibit 150, do you know what, if anything, was the  
 23 response from the governor to this letter?  
 24 MR. SALVATY: Objection. Vague and ambiguous  
 25 as to "response."

1 THE WITNESS: I have no knowledge of the  
 2 response, or if there was a response.  
 3 Q. BY MR. ROSENBAUM: Okay. Did you ever make any  
 4 inquiry to determine, what, if any, response came from  
 5 the governor's office?  
 6 A. I don't recall doing so.  
 7 Q. Did you ever direct anybody in your division to  
 8 find out what, if any, response the governor made?  
 9 A. No.  
 10 Q. Okay. Let me have marked as 151 a multipaged  
 11 document. I don't want to represent this is all one  
 12 document, it's just some pages -- it's a number of pages  
 13 that was turned over to plaintiffs, and these documents  
 14 bear the Bates stamp Nos. DOE 93100 through 93145. And  
 15 you can take as much time as you'd like to take a look  
 16 at it. Let me have that marked as Exhibit 151, and I'll  
 17 supply counsel with copies.  
 18 (Exhibit SAD 151 was marked.)  
 19 Q. BY MR. ROSENBAUM: Have you had a chance just  
 20 generally to review what's been marked as Exhibit 151?  
 21 A. I have glanced at the document.  
 22 Q. Okay. And as to pages of Exhibit 151 DOE 93100  
 23 through 93131, are those your understanding of the  
 24 HumRRO surveys for spring 2001 for teachers?  
 25 A. I believe that's what it is, yes.

1 Q. Okay. Thanks. Directing your attention,  
 2 Mr. Spears, to page 93100 of what's been marked as  
 3 Exhibit 151, No. 10. Do you see where it says -- first  
 4 of all, above question 10, about you and your classes,  
 5 for the purposes of this survey, please think of your  
 6 typical classes and answer the following set of  
 7 questions with an emphasis on your 9th and 10th grade  
 8 students, do you see that?  
 9 A. Yes, I do.  
 10 Q. Looking in particular at question 10, think  
 11 about the level of preparation that students in your  
 12 classes have in your subject area, dash, math or English  
 13 language arts, parens, E-LA, close parens, double dash,  
 14 for proficiency on the CAHSEE. Do you see that?  
 15 A. I sure do.  
 16 Q. It says if you are a mathematics teacher,  
 17 estimate the overall average percentage of students in  
 18 each of the following categories, and they go from  
 19 excellent, to good, to fair, to poor math preparation.  
 20 A. Yes, I do.  
 21 Q. To your knowledge, was any follow-up done by  
 22 your division as to where it was marked poor math  
 23 preparation?  
 24 MR. SALVATY: Objection. Vague and ambiguous.  
 25 MS. READ-SPANGLER: And assumes facts not in

1 evidence.  
 2 THE WITNESS: No.  
 3 Q. BY MR. ROSENBAUM: Okay. Now, maybe we can  
 4 shortcut a lot of this. Yesterday, if I understood you  
 5 correctly, you told me that with respect to the survey  
 6 that was filled out by principals, that results were not  
 7 maintained by the Department by school; is that correct?  
 8 A. That is correct.  
 9 Q. Okay. Is that true of teachers also?  
 10 A. That is correct.  
 11 Q. And is that true of testing coordinators also?  
 12 A. That is correct.  
 13 Q. So there would be no way for your department to  
 14 do any follow-up on any of the questions as to  
 15 particular respondents; is that right?  
 16 MR. SALVATY: Objection. Vague and ambiguous.  
 17 MS. READ-SPANGLER: Calls for speculation.  
 18 Incomplete hypothetical.  
 19 THE WITNESS: I don't know.  
 20 Q. BY MR. ROSENBAUM: Did your division do any  
 21 follow-up with respect to any of the answers on the  
 22 teachers survey?  
 23 MR. SALVATY: Objection. Vague and ambiguous  
 24 as to follow-up.  
 25 THE WITNESS: No.



1 Q. BY MR. ROSENBAUM: Okay. To your knowledge,  
2 did anyone in the Department?  
3 A. I don't know.  
4 Q. You're not aware of any?  
5 A. No, I'm not.  
6 Q. Okay. You don't have any information as to  
7 whether or not there was a relationship between how  
8 students from a particular school did on the high school  
9 exit exam and response to any of the survey questions;  
10 is that right?  
11 MR. SALVATY: Objection. Vague and ambiguous.  
12 THE WITNESS: I do not.  
13 Q. BY MR. ROSENBAUM: Okay. No one in your  
14 division does, so far as you know; is that right?  
15 MR. SALVATY: Same objections.  
16 THE WITNESS: I don't believe so.  
17 Q. BY MR. ROSENBAUM: No one in the Department, as  
18 far as you know; is that right?  
19 MR. SALVATY: Same objections.  
20 THE WITNESS: I don't know that.  
21 Q. BY MR. ROSENBAUM: You're not aware of any?  
22 A. I'm not aware.  
23 Q. Okay. Did persons from your -- strike that.  
24 If I understand you correctly, you told me that  
25 you reviewed the principal survey before it was actually

1 finalized; is that right?  
2 A. Yes, I did.  
3 Q. Did you also review the teachers survey?  
4 A. Yes, I did.  
5 Q. Did you also review the testing coordinator's  
6 survey?  
7 A. Yes, I did.  
8 Q. For what purpose did you review the teachers  
9 survey?  
10 A. To offer whatever input I could for the survey.  
11 Q. And same thing for the testing coordinator  
12 survey?  
13 A. Yes.  
14 Q. Okay. And did anyone else, to your knowledge,  
15 in your division, review the teacher survey prior to it  
16 being finalized?  
17 A. Yes.  
18 Q. Who was that?  
19 A. Chladek and Roberts.  
20 Q. Did you ask them to do that in the general  
21 sense that they were working with HumRRO?  
22 MR. SALVATY: Objection. Vague and ambiguous.  
23 THE WITNESS: I don't know that I would  
24 specifically ask them to do that, it's part of -- it was  
25 part of their job responsibility.

1 Q. BY MR. ROSENBAUM: Okay. Thanks. Let me ask  
2 you, if you would, Mr. Spears, to take a look at pages  
3 93132 through pages 93137 of what's been marked as  
4 Exhibit 151.  
5 A. Yes.  
6 Q. Have you had a chance generally to look at  
7 those documents?  
8 A. Yes.  
9 Q. Okay. These documents, 93132 through 93137 of  
10 Exhibit 151, that's not part of the survey, right?  
11 A. No.  
12 Q. Okay. Were these documents prepared by a  
13 person or persons within your division, so far as you  
14 know?  
15 A. No.  
16 Q. Do you know who prepared these documents?  
17 A. Employees of CTB McGraw-Hill, I believe.  
18 Q. Do you know who there?  
19 A. It was either Ross Greene or Dan Lewis.  
20 Q. Okay. And who is Mr. Greene?  
21 A. Mr. Greene is an employee of CTB McGraw-Hill.  
22 He's a psychometrician at that company.  
23 Q. Do you know him personally?  
24 A. Yes.  
25 Q. Okay. Who is Mr. Lewis?

1 A. He's also an employee of CTB McGraw-Hill in  
2 their testing division.  
3 Q. Is he also a psychometrician, so far as you  
4 know?  
5 A. I can't speak to his expertise.  
6 Q. Did you ask McGraw-Hill to prepare these  
7 documents or to undertake the analysis that's reflected  
8 in these documents?  
9 MR. SALVATY: Objection. Vague and ambiguous.  
10 THE WITNESS: I did not do that, no.  
11 Q. BY MR. ROSENBAUM: Do you have an understanding  
12 as to what the purpose of these documents are?  
13 MR. SALVATY: Objection. Documents speak for  
14 themselves.  
15 THE WITNESS: Yes.  
16 Q. BY MR. ROSENBAUM: What's your understanding?  
17 A. To determine the relationship between a  
18 student's performance on the California English language  
19 development test as it relates to their performance on  
20 the SAT-9 test.  
21 Q. Okay. Is SAT-9 the same thing as Stanford-9?  
22 A. Yes, it is.  
23 Q. Okay.  
24 A. Form T.  
25 Q. And do you have an understanding as to the

1 origins of this analysis, how it came into being?  
 2 MS. READ-SPANGLER: Objection. Vague and  
 3 ambiguous.  
 4 Q. BY MR. ROSENBAUM: Did somebody go to  
 5 McGraw-Hill and say, can you undertake to determine  
 6 whether or not such a relationship exists as you've just  
 7 described?  
 8 A. I did not do that.  
 9 Q. Do you know who, if anyone, did?  
 10 A. I don't know who did that.  
 11 Q. Did you ever have any discussions with  
 12 Mr. Lewis or Mr. Greene about the information contained  
 13 on these documents?  
 14 A. I was at a meeting where this was discussed,  
 15 yes.  
 16 Q. What's your best recollection as to when that  
 17 meeting took place?  
 18 A. Best recollection, spring of 2001.  
 19 Q. Okay. And where did this meeting occur?  
 20 A. In my office, I believe it was in my office, at  
 21 the least that's the one time that I remember when I  
 22 remember seeing these documents and they were being  
 23 discussed.  
 24 Q. Okay. And Mr. Greene was present?  
 25 A. Yes, he was.

1 Q. And was Mr. Lewis present?  
 2 A. I don't recall.  
 3 Q. Was anyone else from McGraw-Hill present?  
 4 A. I don't recall.  
 5 Q. Was anyone from your division present besides  
 6 yourself?  
 7 A. Yes.  
 8 Q. Who else?  
 9 A. Mark Fetler, Richard Diaz, Janette Spencer  
 10 perhaps.  
 11 Q. Who is Janette Spencer?  
 12 A. She's the lead consultant for the California  
 13 English language development test.  
 14 Q. And who employs her?  
 15 A. California Department of Education.  
 16 Q. Okay. And, Mr. Spears, was anyone else  
 17 present?  
 18 A. I don't recall.  
 19 Q. Was Mr. Warren present?  
 20 A. I don't recall.  
 21 Q. Mr. Hill?  
 22 A. I don't believe so.  
 23 Q. Okay. Ms. Bidwell?  
 24 A. No.  
 25 Q. Stu Greenfeld?

1 A. No.  
 2 Q. Okay. Was anyone participating by telephone?  
 3 A. I don't recall.  
 4 Q. Okay. What was -- at this meeting, or sometime  
 5 before, were the documents marked here as 93132 through  
 6 93137 distributed to you?  
 7 A. Prior to the meeting?  
 8 Q. Yeah.  
 9 A. I don't recall.  
 10 Q. But they were definitely at the meeting, is  
 11 that right, these documents?  
 12 A. Yes.  
 13 Q. Were there any other documents?  
 14 A. I don't recall.  
 15 Q. What was said about these documents at the  
 16 meeting by Mr. Greene or Mr. Lewis?  
 17 A. I'm not prepared to describe his portrayal of  
 18 these documents. It's technical beyond my expertise.  
 19 Q. Did you form an understanding as to whether or  
 20 not there was any relationship between performance on  
 21 the ELD test and performance on the SAT-9?  
 22 MR. SALVATY: Objection. Vague and ambiguous.  
 23 THE WITNESS: At the time I may have. At this  
 24 time I don't recall what that would have been.  
 25 Q. BY MR. ROSENBAUM: Okay. Was there any

1 memorandum from either Greene or Lewis that summarized  
 2 their interpretation of the results of their analysis?  
 3 MR. SALVATY: Other than this that we're  
 4 looking at?  
 5 MR. ROSENBAUM: Yes. And by "this" you mean  
 6 93132 through 93137.  
 7 THE WITNESS: I don't know. I don't recall  
 8 one. Doesn't mean there isn't, but I don't recall one.  
 9 Q. BY MR. ROSENBAUM: Do you recall anything that  
 10 was said at the meeting about whether or not a  
 11 relationship existed?  
 12 MR. SALVATY: Same objection.  
 13 THE WITNESS: I would be speculating to  
 14 describe that. No.  
 15 Q. BY MR. ROSENBAUM: Okay. Did your division do  
 16 any follow-up with respect to any of the information  
 17 that you learned at this meeting?  
 18 MR. SALVATY: Objection. Vague and ambiguous  
 19 as to "follow-up."  
 20 THE WITNESS: At the time?  
 21 MR. ROSENBAUM: Yeah.  
 22 THE WITNESS: No.  
 23 Q. BY MR. ROSENBAUM: Subsequently?  
 24 A. We are about to.  
 25 Q. And is that -- that's the study that you talked

1 to me about earlier?  
 2 A. No, it's a different study.  
 3 Q. What is that?  
 4 A. We are going to do a research study on  
 5 validating the cut scores for the proficiency levels on  
 6 the California English language development test and --  
 7 wait a minute. Did we talk about the matching scores?  
 8 Yes. So that's the one I'm talking about. I take that  
 9 back.  
 10 Q. Let's clarify that a little bit. What  
 11 follow-up, if any --  
 12 A. We're doing the matching scores for the  
 13 Stanford-9 and the results of students that are taking  
 14 the live test, the California English language  
 15 development test, and we're going to do the matching  
 16 scores and the research, which we've already talked  
 17 about, so I apologize.  
 18 Q. Okay.  
 19 A. The one I was describing to you is unrelated to  
 20 this.  
 21 Q. Okay. Have you had any discussions with the  
 22 superintendent about the question of whether or not a  
 23 relationship exists between proficiency in English  
 24 language and results on the -- in the STAR program?  
 25 MS. READ-SPANGLER: Objection. Vague and

1 only in English; isn't that right?  
 2 MR. SALVATY: Objection. Vague and ambiguous  
 3 and overbroad.  
 4 THE WITNESS: Repeat that again.  
 5 Q. BY MR. ROSENBAUM: To your knowledge, were  
 6 there concerns expressed by members of the State Board  
 7 as to administering the SAT-9 in English only?  
 8 MR. SALVATY: Same objection.  
 9 THE WITNESS: I have no knowledge of that.  
 10 Q. BY MR. ROSENBAUM: Okay. Do you ever say in  
 11 sum or substance, Mr. Spears, with respect to -- strike  
 12 that.  
 13 There were reports of students cheating at  
 14 Trabuco Hills High School. Are you aware of that?  
 15 MR. SALVATY: Objection. Vague and ambiguous.  
 16 THE WITNESS: I don't recall that name.  
 17 Q. BY MR. ROSENBAUM: Did you ever say in sum or  
 18 substance, we want to make sure to the best of our  
 19 ability that all students are having equal opportunity,  
 20 folks are telling me that the number of reports we're  
 21 receiving is much increased with respect to either  
 22 cheating or testing irregularities?  
 23 A. I could have said that.  
 24 Q. Why do you say that? What's the basis of your  
 25 answer?

1 ambiguous.  
 2 THE WITNESS: I don't recall having a  
 3 conversation with the superintendent about that.  
 4 Q. BY MR. ROSENBAUM: Or on the SAT-9?  
 5 MS. READ-SPANGLER: Same objection.  
 6 THE WITNESS: I don't recall having a  
 7 conversation, no.  
 8 Q. BY MR. ROSENBAUM: Do you ever recall being at  
 9 a meeting where this matter was discussed, that is,  
 10 whether or not there was a relationship between  
 11 proficiency in English language and performance on the  
 12 SAT-9 or the STAR program at which the superintendent  
 13 was present?  
 14 MS. READ-SPANGLER: Same objection.  
 15 MR. SALVATY: Same objection.  
 16 THE WITNESS: I would have to say the only  
 17 place that that might have occurred was when a  
 18 discussion about that topic of is there a relationship  
 19 was at a State Board meeting, and I'm assuming that --  
 20 the superintendent may or may not have been present, or  
 21 if someone else was sitting in her chair, that would be  
 22 the only spot that I could recall that that may have  
 23 happened.  
 24 Q. BY MR. ROSENBAUM: There were objections from  
 25 members of the State Board to administering the SAT-9

1 A. We had a presentation at the State Board  
 2 meeting in relationship to reports of adult testing  
 3 irregularities, and I portrayed that there had been an  
 4 increase from 2000 to 2001, those types of reports.  
 5 Q. Okay. And as to the phrase, we want to make  
 6 sure to the best of our ability that all students are  
 7 having an equal opportunity, do you agree with that  
 8 statement, does that accurately reflect your sentiments?  
 9 MR. SALVATY: Objection. Vague and ambiguous.  
 10 THE WITNESS: I believe I probably used those  
 11 words, yes.  
 12 Q. BY MR. ROSENBAUM: What did you mean by all  
 13 students are having an equal opportunity, what did you  
 14 mean by that phrase?  
 15 A. I would have to take it a little bit further,  
 16 an equal opportunity to participate equally on the test  
 17 because we are, in fact, using those scores for  
 18 comparison purposes in that we want to have some ability  
 19 to identify that students had a similar experience.  
 20 Q. Okay. Did you ever say in sum or substance  
 21 around April 2001, a lot of people at state level are  
 22 concerned about time commitment involved in testing,  
 23 it's an issue that's on everyone's radar screen right  
 24 now, something needs to be done to address that? Did  
 25 you ever state that?

1 A. I think I did state that, yes.  
 2 Q. Okay. And when you said something needs to be  
 3 done to address this, what did you mean by that?  
 4 A. I would portray that as we need to do what we  
 5 can, in whatever way that would be, without really  
 6 describing that, to make reductions in the amount of  
 7 time that we may be spending testing.  
 8 Q. Has that been done, to your knowledge?  
 9 MR. SALVATY: Objection. Vague and ambiguous  
 10 and overbroad.  
 11 THE WITNESS: To date that has not occurred  
 12 that I'm aware of.  
 13 Q. BY MR. ROSENBAUM: Okay. Do you know who Eva  
 14 Baker is?  
 15 A. I know the name. UCLA? I don't know other  
 16 than that.  
 17 Q. How about Brian Stecher, S-t-e-c-h-e-r?  
 18 A. Don't know that name.  
 19 Q. Do you know if in the development of the high  
 20 school exit exam some algebra questions have been  
 21 removed from the exam, there was a reduction in the  
 22 number of algebra questions?  
 23 MR. SALVATY: Objection. Vague as to time.  
 24 THE WITNESS: From the original form there was  
 25 a reduction in the number of algebra questions on the

1 high school -- Algebra I questions on the high school  
 2 exit exam.  
 3 Q. BY MR. ROSENBAUM: Do you know why that is, why  
 4 that occurred?  
 5 A. I think for two reasons.  
 6 Q. What are they?  
 7 A. We wanted to reduce the length of the test in  
 8 whole to reduce testing time and the impact on schools  
 9 and students' ability to take the test, and we went from  
 10 100-plus items down to 80 items. There was also a  
 11 decision that was made to reduce the number of algebra  
 12 items to give less emphasis to Algebra I versus the  
 13 other content of the test.  
 14 Q. Why was that?  
 15 MS. READ-SPANGLER: Objection. Calls for  
 16 speculation.  
 17 THE WITNESS: I would portray it as trying to  
 18 be reasonable with the test in terms of the particular  
 19 cohort of students that were going to be taking the exam  
 20 and the numbers of students that had had a complete  
 21 Algebra I experience, and/or instruction in the other  
 22 content -- some of the other content that's on the test  
 23 as well.  
 24 Q. BY MR. ROSENBAUM: When you say to be fair,  
 25 what did you mean by that?

1 MR. SALVATY: Objection. Misstates testimony.  
 2 MR. ROSENBAUM: I don't want to misstate the  
 3 testimony. I thought that was part of the phrase.  
 4 MS. READ-SPANGLER: He said "reasonable."  
 5 Q. BY MR. ROSENBAUM: When you said to me  
 6 "reasonable," what did you mean by that?  
 7 A. I think it goes to the fact of trying to --  
 8 fairness of the test for the students.  
 9 Q. And what do you mean by "fairness of the test"?  
 10 A. Instruction, curriculum, what they've learned.  
 11 Q. And why is that related to fairness of the  
 12 test?  
 13 A. Well, the test should be measuring what  
 14 students have had instruction in.  
 15 Q. Why is that? It's pretty elemental, right?  
 16 A. That's kind of like the basis of testing in  
 17 general.  
 18 Q. Do you know what the American Educational  
 19 Research Association is, AERA?  
 20 A. I've heard the name.  
 21 Q. Have you ever read any reports or studies by  
 22 the American Educational Research Association about  
 23 high-stakes testing?  
 24 A. I may have, but I don't know for sure.  
 25 Q. Or ever had any reports or studies by the AERA

1 summarized for you?  
 2 A. May have, but I don't recall.  
 3 Q. Do you know what the CSIS is?  
 4 A. No.  
 5 Q. California Student Informational System?  
 6 A. Oh, okay.  
 7 Q. Have you heard of that?  
 8 A. I've heard of it.  
 9 Q. Is there such a thing?  
 10 A. No.  
 11 Q. Are you involved at all in the development of a  
 12 student informational system?  
 13 A. Only to the extent that I think the State's  
 14 testing system provides a vehicle to perhaps support  
 15 such an informational system through the assessment  
 16 program.  
 17 Q. You're not involved in the day-to-day  
 18 development though?  
 19 A. No.  
 20 Q. Is anybody in your division?  
 21 A. No.  
 22 Q. Do you know what the Comite case is,  
 23 C-o-m-i-t-e-e?  
 24 A. Heard the name, but not familiar with the case,  
 25 no.

1 Q. You have no understanding of the case, anything  
 2 about the case?  
 3 A. No.  
 4 MR. ROSENBAUM: Very gracious with your time,  
 5 Mr. Spears. Thank you very much. No further questions.  
 6 MS. READ-SPANGLER: Do you have questions?  
 7 MR. JORDAN: Not for this witness.  
 8 MS. READ-SPANGLER: Abe?  
 9 MR. HAJELA: No questions.  
 10 MS. READ-SPANGLER: I think we're done.  
 11 (The deposition concluded at 11:41 a.m.)

12  
13 ---oOo---

1 DEPONENT'S CHANGES OR CORRECTIONS  
 2 Note: If you are adding to your testimony, print the  
 3 exact words you want to add. If you are deleting from  
 4 your testimony, print the exact words you want to  
 5 delete. Specify with "Add" or "Delete" and sign this  
 6 form.  
 7 DEPOSITION OF: PHILLIP EDWIN SPEARS, VOL. II  
 8 CASE: WILLIAMS VS STATE  
 9 DATE OF DEPOSITION: THURSDAY, NOVEMBER 1, 2001  
 10 I, \_\_\_\_\_, have the following  
 11 corrections to make to my deposition:

12 PAGE LINE CHANGE/ADD/DELETE

13	_____	_____	_____
14	_____	_____	_____
15	_____	_____	_____
16	_____	_____	_____
17	_____	_____	_____
18	_____	_____	_____
19	_____	_____	_____
20	_____	_____	_____
21	_____	_____	_____
22	_____	_____	_____
23	_____	_____	_____
24	_____	_____	_____

25 \_\_\_\_\_  
 PHILLIP EDWIN SPEARS DATE

1 Please be advised that I have read the foregoing  
 2 deposition. I hereby state there are:  
 3  
 4 (check one) \_\_\_\_\_ NO CORRECTIONS  
 5 \_\_\_\_\_ CORRECTIONS ATTACHED  
 6  
 7 \_\_\_\_\_  
 8 Date Signed  
 9  
 10 \_\_\_\_\_  
 PHILLIP EDWIN SPEARS  
 11 Case Title: Williams vs State, Volume II  
 12 Date of Deposition: Thursday, November 1, 2001

13 ---oOo---

1 REPORTER'S CERTIFICATE

2  
 3 I certify that the witness in the foregoing  
 4 deposition,  
 5 PHILLIP EDWIN SPEARS,  
 6 was by me duly sworn to testify the truth, the whole  
 7 truth, in the within-entitled cause; that said  
 8 deposition was taken at the time and place therein  
 9 named; that the testimony of said witness was reported  
 10 by me, a duly certified shorthand reporter and a  
 11 disinterested person, and was thereafter transcribed  
 12 into typewriting.  
 13 I further certify that I am not of counsel or  
 14 attorney for either or any of the parties to said cause,  
 15 nor in any way interested in the outcome of the cause  
 16 named in said deposition.  
 17 IN WITNESS WHEREOF, I have hereunto set my hand  
 18 this 14th day of November, 2001.

19  
 20  
 21  
 22 \_\_\_\_\_  
 23 TRACY LEE MOORELAND, CSR 10397  
 24 State of California  
 25

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

5 Mr. Phillip Edwin Spears  
6 721 Capitol Mall, Sixth Floor  
7 Sacramento, CA 95814

8 Re: Williams vs State, Volume II  
9 Date Taken: Thursday, November 1, 2001  
10 Dear Mr. Spears:  
11 Your deposition is now ready for you to read, correct,  
12 and sign. The original will be held in our office for  
13 45 days from the date of this letter.  
14 If you are represented by counsel, you may wish to  
15 discuss with him/her the reading and signing of your  
16 deposition. If your attorney has purchased a copy of  
17 your deposition, you may review that copy. If you  
18 choose to read your attorney's copy, please fill out,  
19 sign, and submit to our office the DEPONENT'S CHANGE  
20 SHEET located in the back of your deposition.  
21 If you choose to read your deposition at our office, it  
22 will be available between 9:00 a.m. and 4:00 p.m.  
23 Please bring this letter as a reference.  
24 If you do not wish to read your deposition, please sign  
25 here and return within 45 days of the date of this  
letter.

\_\_\_\_\_  
19 PHILLIP EDWIN SPEARS DATE  
20 Sincerely,

21 TRACY LEE MOORELAND, CSR  
22 Esquire Deposition Services  
23 Job No. 29132

24 cc: Mark Rosenbaum, Esq. Judd Jordan, Esq.  
25 Paul Salvaty, Esq. Kara Read-Spangler, Esq.  
Abe Hajela, Esq.

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

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

9 Re: Williams vs State  
10 Deposition of: Phillip Edwin Spears, Vol. II  
11 Date Taken: Thursday, November 1, 2001

12 Dear Ms. Welch:

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

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

18 \_\_\_\_\_ The witness has waived signature.

19 \_\_\_\_\_ The time for reading and signing  
20 has expired.

21 \_\_\_\_\_ The sealed original deposition is  
22 being forwarded to your office.

23 \_\_\_\_\_ Other:

24 Sincerely,

25 TRACY LEE MOORELAND, CSR  
Esquire Deposition Services  
Ref. No. 29132