

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

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

vs.

No. 312236

7 STATE OF CALIFORNIA, DELAINE EASTIN,
State Superintendent of Public
8 Instruction, STATE DEPARTMENT OF
EDUCATION, STATE BOARD OF EDUCATION,
9 Defendants.

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12 Deposition of

13 DR. SAM W. SWOFFORD

14 Volume I, Pages 1 through 156

15 Friday, October 19, 2001
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22 Reported by:

23 TRACY LEE MOORELAND

24 CSR No. 10397

25 Ref No. 29265

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1 BE IT REMEMBERED, that on Friday, October 19,
2 2001, commencing at the hour of 10:18 a.m., thereof, at
3 the Law Offices of Morrison & Foerster LLP, 400 Capitol
4 Mall, Suite 2600, Sacramento, California, before me,
5 TRACY LEE MOORELAND, a Certified Shorthand Reporter in
6 the State of California, there personally appeared
7 DR. SAM W. SWOFFORD,
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 MR. AFFELDT: Before we get going, David, I
14 haven't received from you any notification about what
15 areas Dr. Swofford is the person most knowledgeable for.

16 MR. HERRON: No, you haven't. I thought that
17 was by the wayside given the recent discussions back and
18 forth, but we can certainly, before this deposition
19 concludes, designate those areas.

20 I assume that one of them will be
21 teacher-credentialing related, but if that is -- I
22 didn't know if that was by the wayside or was still part
23 of the program. If it's still part of the program,
24 we'll certainly comply as soon as possible.

25 MR. AFFELDT: Do you have any areas you can

1 tell me about now, before we get started?
 2 MR. HERRON: I don't have the PMK notice before
 3 me, nor have I looked at it recently. I can tell you
 4 that he's quite experienced in teacher-credentialing
 5 matters. But if you have the PMK notice and I could
 6 have a copy of it, I'd be glad to look at it.
 7 MR. AFFELDT: I actually didn't bring it with
 8 me, but we'll get it faxed here.
 9 MR. HERRON: Good.
 10 MR. AFFELDT: By the end of the day.
 11 MR. HERRON: Great.
 12 EXAMINATION BY MR. AFFELDT
 13 Q. Dr. Swofford, as I stated to you off the
 14 record, and as we encountered each other previously, I'm
 15 John Affeldt, and I'll be taking your deposition today.
 16 Have you ever had a deposition taken?
 17 A. Yes, I have.
 18 Q. Uh-huh. On how many occasions?
 19 A. Five, six.
 20 Q. What kinds of litigation were those?
 21 A. In school district Workers' Compensation, also
 22 in law enforcement I was deposed, employment contract
 23 issues.
 24 Q. Okay. So you've gone through this routine
 25 before. But as you know, we've got a court reporter

1 recording your answers, and therefore you need to speak
 2 up so she can hear your answers. And a nod doesn't
 3 work, you have to affirmatively say "yes" or "no" to a
 4 question.
 5 Is that acceptable?
 6 A. I understand, yes.
 7 Q. And it's important to wait until I finish my
 8 question before you begin answering. Sometimes I draw
 9 out my questions, just to let you know ahead of time.
 10 So can we agree that you'll do that?
 11 A. Yes.
 12 Q. Okay. And I'll wait until you finish answering
 13 before I give you my next question. If I've interrupted
 14 you, just let me know.
 15 A. Yes, sir.
 16 Q. Okay. And if you don't understand a question,
 17 if you can tell me that you don't understand it, and I
 18 will try to rephrase it in a way that you can understand
 19 it.
 20 Is that agreeable?
 21 A. Yes.
 22 Q. Okay. If you need a break at any time, let us
 23 know and we'll try to accommodate that. I would just
 24 ask that you answer the pending question before we take
 25 the break.

1 Is that acceptable?
 2 A. Understand.
 3 Q. Are you taking any medication now that would
 4 affect your ability to answer truthfully today?
 5 A. No.
 6 Q. Are you currently under a doctor's care for any
 7 illness that would impact your ability to understand my
 8 questions or answer them truthfully?
 9 A. No.
 10 Q. Okay. Can you tell us your educational
 11 background starting with where you went to high school?
 12 MR. HERRON: Objection. Calls for a narrative.
 13 You may respond.
 14 MR. EGAN: Counsel, could we have a
 15 stipulation -- I'll join in his objection, but could we
 16 stipulate rather than saying "I'll join" in every
 17 objection, it's understood that that is the case.
 18 MR. AFFELDT: That's fine.
 19 Do you want the reverse?
 20 MR. HERRON: Yes, please. I'd like to join in
 21 any objection interposed by any party unless I otherwise
 22 indicate.
 23 MR. AFFELDT: That's fine.
 24 THE WITNESS: Attended Maplewood Richmond
 25 Heights Senior High School, Maplewood, Missouri.

1 Q. BY MR. AFFELDT: And where did you go to
 2 college and what did you major in?
 3 MR. HERRON: Objection. Compound.
 4 MR. AFFELDT: You can answer.
 5 THE WITNESS: I attended Southeast Missouri
 6 State University. I also attended California State
 7 University Hayward.
 8 Q. BY MR. AFFELDT: When did you graduate from
 9 Southeast Missouri State?
 10 A. I didn't graduate.
 11 Q. Did you declare any major while you were there?
 12 A. No, I did not.
 13 Q. How long did you attend Southeast Missouri
 14 State?
 15 A. Two years.
 16 Q. What were those years?
 17 A. 1963, 1965.
 18 Q. And why didn't you graduate?
 19 A. I went in the U.S. Marine Corps.
 20 Q. What rank did you rise to in the Marine Corps?
 21 A. A sergeant.
 22 Q. And when did you return from the Marines?
 23 A. 1969.
 24 Q. Did you go back to school at that time?
 25 A. Yes, I did.

- 1 Q. Where did you go to school then?
 2 A. Cal State Hayward.
 3 Q. How long were you at Cal State?
 4 A. Two years.
 5 Q. Did you graduate with a degree from Cal State?
 6 A. Yes, I did.
 7 Q. And what degree was that?
 8 A. I was an art major.
 9 Q. So was that 1971?
 10 A. That's correct.
 11 Q. And did you -- what did you do after you
 12 graduated from Cal State Hayward in terms of education?
 13 A. I went on to obtain a master's degree.
 14 Q. And what kind of master's degree did you get?
 15 A. In administration, supervision.
 16 Q. Where did you get that?
 17 A. California State University, Hayward.
 18 Q. And what year did you receive that degree?
 19 A. 1978.
 20 Q. And was that in the school of education?
 21 A. That's correct.
 22 Q. What did you do -- strike that.
 23 Did you seek employment after you graduated in
 24 1971 with your art major?
 25 A. I did seek employment.

- 1 Q. And what did you do?
 2 A. Worked for Macy's, California.
 3 MR. HERRON: You're talking between 1971 and
 4 '78, John?
 5 MR. AFFELDT: Uh-huh.
 6 Q. How long did you work for Macy's?
 7 A. Total of 13 years.
 8 Q. Was that full time?
 9 A. Full time and part-time.
 10 Q. What was your highest position with Macy's,
 11 California?
 12 A. I was a senior executive.
 13 Q. What does a senior executive do?
 14 MR. HERRON: Objection. Calls for speculation.
 15 Vague and ambiguous as phrased. You may respond if you
 16 understand.
 17 THE WITNESS: I need clarification in terms
 18 of --
 19 Q. BY MR. AFFELDT: What did you do as a senior
 20 executive for Macy's?
 21 A. I was a senior buyer.
 22 Q. So did you go to school for your master's
 23 degree while you were working at Macy's?
 24 A. Yes.
 25 Q. And did you hold any other positions during

- 1 those 13 years you worked at Macy's?
 2 A. Worked as a classroom teacher.
 3 Q. When was that?
 4 A. 1972.
 5 Q. For how long?
 6 A. Classroom teacher for eight years.
 7 Q. Was that full or part-time?
 8 A. Full time.
 9 Q. What were you teaching?
 10 MR. HERRON: Subjects, you mean?
 11 MR. AFFELDT: Uh-huh.
 12 THE WITNESS: I was an elementary teacher.
 13 Q. BY MR. AFFELDT: Did you have a credential from
 14 California?
 15 A. Yes, I did.
 16 Q. What credential was that?
 17 A. Elementary teaching credential.
 18 Q. Is it still valid?
 19 A. Yes.
 20 Q. So when you were working full time as an
 21 elementary teacher, you were also then working for
 22 Macy's full time or part-time?
 23 A. I was working part-time.
 24 Q. And did you hold any other positions between
 25 1972 and 1980?

- 1 MR. HERRON: Objection. Vague and ambiguous in
 2 the use of the term "positions."
 3 You may respond if you understand.
 4 THE WITNESS: I had other employment as a
 5 manager of a swimming pool.
 6 Q. BY MR. AFFELDT: A swimming pool?
 7 A. Right, swimming pool manager.
 8 Q. Any other employment positions?
 9 A. Worked for the city of Fremont Police
 10 Department.
 11 Q. In what capacity?
 12 A. I was the captain of the reserve police
 13 officers.
 14 Q. Was that a full or part-time position?
 15 A. Part-time.
 16 Q. What time frame did you work for the Fremont
 17 police?
 18 A. 1975 to 1981.
 19 Q. Did you have any special law enforcement
 20 training that qualified you for that position?
 21 A. Yes, I did.
 22 Q. What was that?
 23 A. I attended an officer training program.
 24 Q. As part of the Fremont Police Department's
 25 officer training program?

1 A. Fremont officer training program qualified me
 2 for the position.
 3 Q. And when did you attend that program?
 4 A. 1977
 5 Q. Any other employment positions between 1972 and
 6 1980?
 7 MR. HERRON: I think we've been talking about
 8 '71 through '78, but you may respond to the question.
 9 THE WITNESS: 1988 I was employed by Cupertino
 10 Union School District.
 11 Q. BY MR. AFFELDT: 1988?
 12 A. 1980.
 13 Q. In what capacity?
 14 A. Manager of personnel services.
 15 Q. What were your duties in that capacity?
 16 MR. HERRON: Objection. Calls for narrative.
 17 You may respond.
 18 THE WITNESS: My specific duty was the -- I
 19 acted on behalf of the associate superintendent in all
 20 matters related to personnel, and I was the chief
 21 evaluator for the school district.
 22 Q. BY MR. AFFELDT: By that you mean the chief
 23 evaluator of teacher personnel?
 24 A. Evaluator of teacher performance.
 25 Q. Where was your first job as an elementary

1 school teacher?
 2 A. San Lorenzo Unified School District.
 3 Q. Where is that?
 4 A. San Lorenzo, California.
 5 Q. Can you help me out, which part of California
 6 is it?
 7 A. It's the Bay Area.
 8 MR. EGAN: Alameda County.
 9 MR. AFFELDT: All right. Thanks.
 10 Q. Was that the highest position you had at San
 11 Lorenzo, an elementary school teacher?
 12 A. That's correct.
 13 Q. How long were you at Cupertino Union School
 14 District?
 15 A. Four years.
 16 Q. Did you hold any other positions other than
 17 manager of personnel services?
 18 A. No, I did not.
 19 Q. In between 1980 and '84, did you have any other
 20 employment?
 21 A. I was still with the Fremont Police Department,
 22 I was also with Macy's, California.
 23 Q. Any others that we haven't talked about?
 24 A. That's it. That's all.
 25 Q. And between 1978 when you got your master's

1 degree and 1984, did you pursue any other educational
 2 opportunities?
 3 A. I received an administrative credential.
 4 Q. And when was that?
 5 A. 1977.
 6 Q. And what did that authorize you to do?
 7 A. I can serve as administrator in any position in
 8 a school district.
 9 Q. Is that still valid?
 10 A. That's correct.
 11 Q. Do you hold any other credentials from
 12 California?
 13 A. Yes, I do.
 14 Q. What are those?
 15 A. Community college credential.
 16 Q. What does that authorize you to teach in
 17 community college?
 18 A. I can teach education courses and police
 19 science courses.
 20 Q. Have you ever taught at a community college?
 21 A. No.
 22 Q. Just wanted to have the credential. After your
 23 master's degree and obtaining your administrative
 24 credential, have you pursued any other educational
 25 opportunities, Dr. Swofford?

1 A. Yes, I did.
 2 Q. What was that?
 3 A. I attended the University of San Francisco.
 4 Q. And when was that?
 5 A. 1984 -- I'm sorry, 1983 to 1987.
 6 Q. And did you obtain any degrees from there?
 7 A. Yes, I did.
 8 Q. And what was that?
 9 A. I received a doctorate.
 10 Q. A doctorate in what field?
 11 A. Education.
 12 Q. That would be an EDD?
 13 A. That's correct.
 14 Q. And what was your emphasis of study?
 15 A. Labor law.
 16 Q. What does an EDD with a labor law emphasis
 17 study?
 18 A. My focus was on the constitutionality of
 19 education issues as they relate to collective
 20 bargaining.
 21 Q. Can you give me an example?
 22 A. My dissertation was on agency shop fees and the
 23 constitutionality of paying union fees.
 24 Q. What did you conclude?
 25 MR. HERRON: Objection. Relevance. Calls for

1 an awfully good memory as well. Vague and ambiguous as
2 phrased.

3 THE WITNESS: You have to be more specific
4 with --

5 Q. BY MR. AFFELDT: Did you conclude that union
6 fees were constitutional or unconstitutional?

7 MR. HERRON: Same objections.

8 THE WITNESS: That was not the attempt in the
9 dissertation.

10 Q. BY MR. AFFELDT: What was your overall
11 conclusion with respect to the dissertation?

12 MR. HERRON: Same objections.

13 If you recall, you can respond in some general
14 fashion or sufficient to respond to what he's asking.

15 THE WITNESS: I did not conclude, I basically
16 prescribed a method for handling objections to fee
17 payments through an arbitration model.

18 MR. AFFELDT: Uh-huh. Thank you.

19 Q. Have you pursued any other educational programs
20 since you received your EDD?

21 MR. HERRON: Objection. Vague and ambiguous in
22 the use of the term "programs."

23 THE WITNESS: I've not entered -- I've not
24 pursued an educational program.

25 Q. BY MR. AFFELDT: Haven't obtained any

1 Q. BY MR. AFFELDT: Were there any other assistant
2 superintendents?

3 A. Yes, there were.

4 Q. Were you the next in line if the superintendent
5 weren't there?

6 A. That's correct.

7 Q. Did you have any responsibilities with respect
8 to teacher-credentialing issues in the district?

9 A. I was responsible for credentialing of teachers
10 in the district.

11 Q. So what sorts of duties did you have pursuant
12 to that responsibility?

13 MR. HERRON: While at Lodi, right?

14 MR. AFFELDT: That's right.

15 MR. HERRON: Objection. Calls for a narrative.
16 Vague and ambiguous.

17 You may respond. You want it reread?

18 THE WITNESS: I'm okay. Thank you.

19 Ensuring that every individual employed for a
20 certificated position possessed the certification for
21 the assignment they were given, and monitoring all
22 matters relative to credentialing of teachers and other
23 professional educators in the school district.

24 Q. BY MR. AFFELDT: Did you have any
25 responsibility to monitor misassignment of teachers

1 additional degrees?

2 A. No.

3 Q. Certificates?

4 A. No.

5 Q. After you left the Capistrano School District,
6 what was your next employment?

7 MR. EGAN: Objection. I think that misstates
8 his testimony.

9 Q. BY MR. AFFELDT: Do you understand the
10 question?

11 A. Cupertino Union School District.

12 MR. AFFELDT: Thank you.

13 THE WITNESS: I was employed by Lodi Unified
14 School District.

15 Q. BY MR. AFFELDT: In what capacity?

16 A. Became the assistant superintendent for
17 personnel and employer/employee relations.

18 Q. And what were your duties in that position?

19 A. I had oversight of all personnel matters, as
20 well as responsibility for all negotiations, collective
21 bargaining.

22 Q. Any other areas that you were responsible for?

23 MR. HERRON: Objection. Vague and ambiguous.

24 THE WITNESS: I acted on behalf of the
25 superintendent in the absence of the superintendent.

1 then?

2 A. Yes.

3 Q. What do you understand the term "misassignment"
4 to mean?

5 MR. HERRON: In terms of what he was doing at
6 Lodi?

7 MR. AFFELDT: That's right.

8 THE WITNESS: To ensure that the credential
9 authorization that the individual possessed was assigned
10 with either the grade level subject or specialization
11 area that she were assigned to teach at.

12 Q. BY MR. AFFELDT: Is that the same understanding
13 of misassignment you have now with respect to your
14 duties at the Commission on teacher credentialing?

15 A. Not at a school district. It's not the same.

16 Q. What's the difference?

17 MR. HERRON: Objection. Vague and ambiguous.

18 THE WITNESS: I can't answer.

19 Q. BY MR. AFFELDT: Let me ask the question again.
20 I'm not asking if you have the same duties, just your
21 understanding and use of the term misassignment at Lodi.

22 Is that any different when you say the term
23 misassignment when that term comes up now as executive
24 director at the CTC?

25 A. There's no difference in my understanding.

1 Q. Thank you. Why is it -- strike that.
 2 Do you think it's important for teachers to be
 3 teaching classes for which they are properly
 4 credentialed and not misassigned?
 5 MR. HERRON: Objection. Vague and ambiguous.
 6 THE WITNESS: I'm going to have to ask you to
 7 rephrase that question for me.
 8 Q. BY MR. AFFELDT: What part didn't you
 9 understand?
 10 MR. HERRON: Why don't you reread it and maybe
 11 he can take another stab at it.
 12 (Record read.)
 13 MR. EGAN: Objection. It's a compound
 14 question.
 15 MR. HERRON: Vague and ambiguous.
 16 THE WITNESS: I wouldn't be able to answer the
 17 way the question is stated.
 18 Q. BY MR. AFFELDT: And what part didn't you
 19 understand so I can help in rephrasing it?
 20 A. The first part of the question and the second
 21 part of the question.
 22 Q. Let me try it this way. Part of your duties
 23 were making sure that teachers had the proper
 24 credentials, correct?
 25 MR. HERRON: At Lodi?

1 MR. AFFELDT: That's right.
 2 THE WITNESS: That's correct.
 3 Q. BY MR. AFFELDT: Did you consider that an
 4 important duty?
 5 A. It was an important duty, yes.
 6 Q. Why did you think that was important?
 7 MR. HERRON: Objection. Calls for a narrative.
 8 You may respond.
 9 THE WITNESS: My job was to have oversight
 10 whether or not individuals possessed appropriate
 11 certification, not just credentials, as well as other
 12 experience and academic preparation for a position, so
 13 it was not just limited to the review of a credential.
 14 Q. BY MR. AFFELDT: And when you say "appropriate
 15 certification," what do you mean?
 16 A. That there is a legal basis that the individual
 17 can be assigned to that classroom.
 18 Q. And why is it important that there be a legal
 19 basis for the individual to be assigned to a particular
 20 classroom?
 21 MR. HERRON: Objection. Vague and ambiguous.
 22 I think it's unfair for you to switch from Lodi, which
 23 we were discussing, to a question which could be
 24 interpreted to the present time. Can you please tell us
 25 whether you're talking about his job at Lodi or as a

1 general matter? It's a request, John.
 2 MR. AFFELDT: Uh-huh.
 3 MR. HERRON: Lodi, or as a general matter?
 4 MR. AFFELDT: We're talking about his time at
 5 Lodi. He can tell me if it's different now.
 6 MR. HERRON: Well, my point is it's not clear
 7 from your question whether that remained your focus or
 8 you were moving to more generally, so I'd appreciate it
 9 if you could let us know.
 10 MR. AFFELDT: I'm asking about the time that he
 11 was at Lodi.
 12 MR. HERRON: Okay. Excellent. Should we have
 13 the question reread?
 14 THE WITNESS: Please.
 15 (Record read.)
 16 THE WITNESS: It's a requirement in the law
 17 that individuals assigned to a certificated position
 18 possess the necessary or requisite license or
 19 certificate or credential to serve in that position. I
 20 was following the law.
 21 Q. BY MR. AFFELDT: Did you consider that a
 22 frivolous assignment?
 23 MR. EGAN: Objection. Vague and ambiguous.
 24 THE WITNESS: My duties prescribe that I ensure
 25 individuals had the appropriate document to serve in the

1 position.
 2 Q. BY MR. AFFELDT: Okay. And from a policy
 3 perspective did you consider that an important policy,
 4 that individuals be credentialed for the particular
 5 subject and grade level they were teaching?
 6 MR. HERRON: Objection. Vague and ambiguous.
 7 Assumes facts not in evidence. Assumes that he was in a
 8 policy-making position or had a policy position at that
 9 time.
 10 You may respond.
 11 THE WITNESS: I did not follow a policy, I
 12 followed what was provided in the education code.
 13 Q. BY MR. AFFELDT: I understand that. My
 14 question is asking for your opinion based on your
 15 training and experience.
 16 A. I applied the policy in the district that I was
 17 instructed to do to ensure that individuals were
 18 certified for the positions they were assigned to
 19 fulfill.
 20 Q. And I'm asking you for your opinion of whether
 21 that was a good policy or a bad policy, or you had no
 22 opinion on the policy whatsoever?
 23 A. I believe that's a good policy.
 24 Q. Uh-huh. And why is that?
 25 MR. HERRON: And why is what? Objection.

1 Vague and ambiguous.
 2 Q. BY MR. AFFELDT: Dr. Swofford, why do you
 3 believe that that was a good policy for you to be
 4 implementing at the time?
 5 A. I was prescribed to -- my duties required me to
 6 ensure that that individual was authorized to serve in
 7 those positions, and people who did not have that
 8 authorization were not to serve in those positions.
 9 That's a decision I did not make, that's a decision made
 10 by the legislature.
 11 Q. I understand. And I'm curious to know if you
 12 think that the legislature was wise in making that
 13 decision?
 14 A. I have no opinion on that.
 15 Q. You have no opinion. So your duty as an
 16 assistant superintendent, if I understand this
 17 correctly, you were merely implementing what the
 18 legislature had told you to implement in terms of
 19 assignment of teachers, their credentials?
 20 MR. HERRON: Objection. Vague and ambiguous.
 21 Asked and answered. Harassing.
 22 You may respond again.
 23 THE WITNESS: I carried out what was prescribed
 24 for me to do in terms of certifying individuals who were
 25 assigned to the classroom, whether they were authorized

1 to serve by some type of certification, whether it be a
 2 permit or credential or certificate.
 3 Q. BY MR. AFFELDT: And you had no opinion as to
 4 whether that was a substantively good policy or bad
 5 policy?
 6 MR. HERRON: Objection. Asked and answered.
 7 You may respond.
 8 I think what he's asking is what was your
 9 opinion at the time, did you think it was good or bad.
 10 THE WITNESS: I felt it was good.
 11 Q. BY MR. AFFELDT: And other than it being your
 12 job as the legislature ordered you to do it, why did you
 13 think it was a good policy that individuals be
 14 authorized and certified legally to teach in the public
 15 schools?
 16 MR. HERRON: Objection. Asked and answered
 17 several times now.
 18 You may respond yet again.
 19 THE WITNESS: It was determined that
 20 individuals serving in a certified position must have
 21 some form of authorization to be in that classroom with
 22 students. That was a good policy.
 23 Q. BY MR. AFFELDT: Do you think that individuals
 24 should be trained to -- in terms of their subject matter
 25 to teach students?

1 MR. HERRON: Objection. Vague and ambiguous.
 2 Vague as to time.
 3 Are we still in Lodi, or are we now moving
 4 generally then?
 5 MR. AFFELDT: I'm asking you generally if you
 6 think that's a good idea.
 7 MR. HERRON: It also asks for him to testify
 8 beyond the scope of his duties at the Commission.
 9 You may respond.
 10 MR. EGAN: I think it's also ambiguous as to
 11 "subject matter," trained in the "subject matter."
 12 MR. HERRON: Can we have the question reread?
 13 (Record read.)
 14 MR. HERRON: If you understand, you may
 15 respond.
 16 THE WITNESS: I'm unclear about the use of the
 17 word "trained" in terms of what that means.
 18 Q. BY MR. AFFELDT: In terms of academic training.
 19 So, for example, if a math teacher is teaching math, do
 20 you think it's appropriate that that individual be
 21 trained in the subject of math?
 22 A. The individual should have knowledge in math.
 23 Q. But they don't necessarily need to be trained,
 24 in your view?
 25 MR. HERRON: Objection. Vague and ambiguous.

1 Asked and answered. Vague as to time.
 2 You may respond.
 3 THE WITNESS: I need to understand the
 4 definition of "trained."
 5 MR. AFFELDT: I'm talking about academic
 6 training.
 7 MR. HERRON: In subject matter expertise; is
 8 that right?
 9 MR. AFFELDT: Uh-huh.
 10 THE WITNESS: Individuals should have subject
 11 matter knowledge.
 12 Q. BY MR. AFFELDT: And is it important for the
 13 State to make a determination that, in fact, that
 14 individual does have subject matter knowledge before
 15 they allow them to teach the subject matter?
 16 MR. EGAN: Objection. Vague and ambiguous.
 17 THE WITNESS: I need that question read back.
 18 (Record read.)
 19 MR. HERRON: Asks for him to testify as an
 20 expert, and it's therefore improper and I object on that
 21 ground. It's also an incomplete and improper
 22 hypothetical, and it's vague and ambiguous as to time.
 23 You may respond nonetheless.
 24 THE WITNESS: I won't be able to respond to
 25 that question because of the nature of the question.

1 MR. AFFELDT: You're here and you've sworn to
2 answer the questions that I'm asking. So if your
3 attorney tells you not to answer a question because of
4 privilege or some other reason, then you cannot respond,
5 but your attorney hasn't made that instruction.

6 MR. HERRON: No, but I have objected on
7 multiple grounds, and I think what he's doing is taking
8 you up on your offer to refine your question. You told
9 him earlier that if he didn't understand it or was
10 confused by it, that he could ask you to rephrase and
11 you would do so. I think that's the request.

12 MR. AFFELDT: I didn't hear a request or
13 statement that he didn't understand it, what I heard was
14 him responding to your coaching.

15 MR. HERRON: John, don't go there with respect
16 to my coaching. There is no coaching here and I take
17 issue at that and I take umbrage at that. He said that
18 he couldn't respond to it as phrased. You told him that
19 you would rephrase whenever there was a difficulty.
20 That's the request.

21 MR. AFFELDT: Can we have the question reread,
22 please?

23 (Record read.)

24 MR. HERRON: All the same objections.
25 You may respond if you're able.

1 THE WITNESS: I don't understand what's defined
2 as "the State." I'm sorry.

3 MR. AFFELDT: Okay. Any state agency
4 responsible for ensuring that teachers have subject
5 matter knowledge before they teach a particular subject
6 matter.

7 MR. HERRON: All the same objections. Also
8 asks him to testify beyond the scope of his duties at
9 the Commission.

10 You may respond.

11 THE WITNESS: The state agency, which is
12 supposed to be the Commission -- is that right, how I
13 understand the question?

14 MR. AFFELDT: That would make sense in the
15 current context.

16 THE WITNESS: Prior to certification, an
17 individual must demonstrate competencies in subject
18 areas.

19 Q. BY MR. AFFELDT: And do you think that's an
20 important duty for the Commission?

21 A. The legislature has indicated that that's an
22 expectation of the Commission.

23 Q. And based on your training and your experience,
24 do you think that's an important expectation for the
25 Commission?

1 A. Yes.

2 Q. And why is that?

3 A. Individuals possess the requisite knowledge and
4 skills in the areas that they're going to be teaching in
5 the classroom.

6 Q. And you agree that that is an important thing
7 for the Commission to verify before an individual begins
8 teaching in a classroom?

9 A. Yes.

10 Q. After the -- well, strike that.

11 Other than overseeing the teacher
12 credentialing, did you have any other duties that you
13 haven't told me about as assistant superintendent at
14 Lodi?

15 A. Duties in the district?

16 Q. Correct.

17 A. No other duties.

18 Q. Did you have duties outside of the district?

19 A. No.

20 Q. Did you have any other employment while you
21 were also assistant superintendent at Lodi?

22 A. I was still with Macy's, California.

23 Q. Anything else in terms of employment?

24 A. No.

25 Q. How long were you assistant superintendent at

1 Lodi?

2 A. About seven years.

3 Q. Is that 1984 to '91?

4 A. That's correct.

5 Q. And what was your next position of employment
6 after you were assistant superintendent in Lodi?

7 A. I was the superintendent of the school
8 district, of Lodi Unified.

9 Q. Were you appointed by the Board of Education
10 for the district?

11 A. I was appointed by the local school board.

12 Q. How long were you superintendent at Lodi?

13 A. Four years.

14 Q. Through 1995?

15 A. That's correct.

16 Q. What were your duties as superintendent for
17 Lodi?

18 A. I was the chief executive officer for the
19 school district.

20 Q. How many assistant superintendents did you
21 have?

22 A. Three.

23 Q. And what were their respective areas of
24 responsibility that you were overseeing?

25 A. Personnel, instruction, and school sites.

1 Q. What were the duties for the assistant
2 superintendent overseeing the school sites?
3 A. Actually supervising site administration
4 principles.
5 Q. That position oversee facilities maintenance?
6 A. No.
7 Q. Who did facilities maintenance?
8 A. Had a director of facilities.
9 Q. What were the duties for the assistant
10 superintendent of instruction?
11 A. Establishing the educational plan for the
12 school district.
13 Q. And I assume that personnel is the position
14 that you had come from?
15 A. That's correct.
16 Q. How big is Lodi Unified in terms of students?
17 A. Students, 25,000.
18 Q. And where is that in the geography of
19 California?
20 A. It's 40 miles south of Sacramento. It's in San
21 Joaquin County.
22 MR. HERRON: You could have your geography
23 credential right away. I'm sorry, John.
24 MR. AFFELDT: It's okay.
25 Q. What was the ethnic makeup of Lodi?

1 MR. EGAN: Objection. Are you talking about
2 the schools or the community?
3 MR. AFFELDT: The 25,000 students. Thank you.
4 THE WITNESS: About 25 percent minority.
5 Q. BY MR. AFFELDT: 75 percent white?
6 A. That's approximately correct.
7 Q. And among the 25 percent minority students, can
8 you give me your best estimate as to what different
9 ethnic minorities are composing that percentage?
10 MR. HERRON: Objection. Calls for speculation.
11 If you have a basis for answering, you may.
12 THE WITNESS: I can't give percentages.
13 Hispanic population was the largest, and then Southeast
14 Asian, and then black.
15 Q. BY MR. AFFELDT: Do you recall what portion of
16 the student population were still English language
17 learners?
18 MR. HERRON: Objection, to the extent it calls
19 for speculation.
20 MR. EGAN: And objection, it's ambiguous.
21 THE WITNESS: And I don't recall.
22 Q. BY MR. AFFELDT: You don't recall a specific
23 percent?
24 A. No, I don't.
25 Q. Do you recall if there were any English

1 language learners in the district?
2 MR. EGAN: Objection. Ambiguous.
3 THE WITNESS: There were students who did not
4 have the primary language of English.
5 Q. BY MR. AFFELDT: And were any of those students
6 not yet classified as fluent English proficient?
7 MR. HERRON: Objection. Vague and ambiguous.
8 Calls for speculation.
9 THE WITNESS: There were students who were
10 tested and determined not to be fluent in English.
11 Q. BY MR. AFFELDT: And do you recall
12 approximately how many of those students were so
13 determined?
14 A. I don't recall.
15 Q. So you don't know if -- you can't tell me if it
16 was 5 or 5,000?
17 A. I just don't recall it.
18 Q. Did you have within the district a department
19 or any office responsible for language minority
20 education?
21 A. Yes, I did.
22 Q. How many people were staffing that department?
23 MR. HERRON: Objection -- well, withdrawn.
24 THE WITNESS: I don't recall the numbers.
25 Q. BY MR. AFFELDT: Uh-huh. What was it, was it a

1 department, division, what did you call it?
2 A. It was a unit.
3 Q. Where does the unit fit in the organizational
4 structure of Lodi Unified?
5 A. It was part of the education side, the division
6 responsible for education issues.
7 Q. Do you recall how many teachers in the district
8 were certified to teach English language learners?
9 A. I don't recall.
10 Q. How many teachers did you have in Lodi Unified?
11 A. My best recollection would be about 1,200.
12 Q. Were there bilingual classes at Lodi Unified?
13 A. Yes, there were.
14 Q. Do you recall how many -- strike that.
15 How many schools are in the district?
16 MR. HERRON: Were in the district at his --
17 during his tenure?
18 MR. AFFELDT: Yeah.
19 THE WITNESS: Approximately 37 school sites.
20 Q. BY MR. AFFELDT: What was the breakdown in
21 terms of elementary, middle and high school among those
22 37?
23 A. There were three high schools, two continuation
24 schools, four middle schools, and the rest were
25 elementary or preschool facilities.

1 Q. And the two continuation high schools, was that
2 in addition to, or is that part of the three high
3 schools you mentioned?
4 A. They're stand-alone high schools, stand-alone
5 schools.
6 Q. Does that mean there were five high schools
7 altogether?
8 A. The one continuation was a work-experience
9 type, and we did not -- it was not truly a continuation
10 high school, but it was in the same -- technically about
11 five high schools.
12 Q. Okay. So you recall approximately how many of
13 those 37 schools had English language learner classes?
14 MR. HERRON: Objection. Calls for speculation.
15 MR. EGAN: I think it's also vague and
16 ambiguous.
17 THE WITNESS: And I don't recall the numbers.
18 Q. BY MR. AFFELDT: While you were superintendent
19 for Lodi Unified, did you hold any other employment
20 positions?
21 A. Yes.
22 Q. And what were those?
23 A. I was a visiting professor for the University
24 of the Pacific.
25 Q. Any others?

1 A. I also was an expert witness for the attorney
2 general's office.
3 Q. State attorney general?
4 A. That's correct.
5 Q. Any others?
6 A. I served as a member of the California
7 commission's committee on teacher credentialing. It was
8 Committee of Credentials.
9 Q. I'm sorry, the name of that committee again
10 was?
11 A. Committee of Credentials.
12 Q. Was that a paid position?
13 A. No, it was not.
14 Q. Any other paid or unpaid employment-related
15 positions during that time?
16 A. No.
17 Q. What did you teach at University of the
18 Pacific?
19 A. I taught in the doctoral program.
20 Q. My question was what did you teach?
21 A. I taught school law.
22 Q. Any other subjects?
23 A. Trends and issues course.
24 Q. What sorts of trends and issues did you discuss
25 in that course?

1 A. Education reform.
2 Q. K to 12 education reform?
3 A. K-12, and higher education.
4 Q. Any other subjects that you taught at UOP?
5 A. No.
6 MR. HERRON: We've been going about an hour.
7 When you reach a convenient stopping point, I'd like to
8 take a break.
9 MR. AFFELDT: Okay.
10 Q. How long did you teach at the University of the
11 Pacific?
12 A. Over the course of a year.
13 Q. What year was that?
14 A. So much time has passed. 1991.
15 Q. Other than that year, have you had any other
16 university level teaching positions at any time?
17 A. No.
18 Q. What were you an expert witness on for the
19 state attorney general?
20 A. Misconduct of educators.
21 Q. What sorts of misconduct did you testify about?
22 A. I testified on cases involving drugs, sexual
23 misconduct, matters involving fraud.
24 Q. And what was the nature of your testimony?
25 MR. HERRON: Objection. Vague and ambiguous.

1 Calls for a narrative.
2 THE WITNESS: I don't understand "the nature."
3 MR. AFFELDT: Let me rephrase it.
4 Q. I'm trying to get at why they wanted you. What
5 did you have to offer the state attorney general in
6 these misconduct cases as an expert?
7 A. I was --
8 MR. HERRON: Same objections. Sorry.
9 THE WITNESS: My job was to create the nexus in
10 my testimony between the misconduct and the license that
11 the individual possessed.
12 Q. BY MR. AFFELDT: So can you give me an example
13 of how you did that in a drug case?
14 A. Individual had full knowledge that marijuana
15 was growing on their property, and they were responsible
16 for the no-to-drugs program in the school district.
17 MR. EGAN: That's a good example.
18 Q. BY MR. AFFELDT: Was it a successful program?
19 A. I don't know.
20 MR. EGAN: After the teacher left, it was.
21 Q. BY MR. AFFELDT: And what did the -- I guess
22 what was the subject of your -- strike that.
23 How did you tie the drug use and the drug
24 growing to their license?
25 MR. HERRON: Objection. Vague and ambiguous.

1 Calls for speculation. Calls for a legal conclusion.
 2 Not relevant to the case.
 3 You may respond.
 4 THE WITNESS: Could you rephrase that? I don't
 5 understand.
 6 Q. BY MR. AFFELDT: I'm just trying to get a
 7 summary of what your testimony was in that drug case,
 8 specifically around how you tied the drug issues with
 9 their teaching license.
 10 MR. HERRON: All the same objections. Calls
 11 for a narrative.
 12 THE WITNESS: My response can only be directed
 13 in the area of my knowledge of the duties and
 14 responsibilities of a teacher or administrator or
 15 credential holder.
 16 MR. AFFELDT: Uh-huh.
 17 THE WITNESS: And how that is connected to the
 18 individual's ability to teach in a classroom when they
 19 have been convicted or have engaged in misconduct in any
 20 of those areas of offenses, say, drugs.
 21 Q. BY MR. AFFELDT: And what did you say about the
 22 individual who'd been convicted of a drug infraction,
 23 his ability to teach in a classroom after that?
 24 MR. EGAN: Objection. I think that misstates
 25 his testimony as to conviction.

1 THE WITNESS: I don't recollect my testimony.
 2 I was under direct questioning, and don't recall the
 3 questions that were posed.
 4 Q. BY MR. AFFELDT: What were your duties as
 5 the -- on the Committee of Credentials for the CTC?
 6 MR. HERRON: John, I request again that we get
 7 a break as soon as you finish.
 8 MR. AFFELDT: This is my last area.
 9 MR. HERRON: Okay.
 10 THE WITNESS: I was the administrative
 11 representative to the Committee of Credentials.
 12 Q. BY MR. AFFELDT: Meaning you were a
 13 superintendent, therefore administrator from the public
 14 school system representing that seat on the Committee of
 15 Credentials?
 16 A. At the time I was an assistant superintendent,
 17 evolved to a superintendent during the course of my
 18 service.
 19 Q. And what does the Committee of Credentials do?
 20 A. They adjudicate cases involving educator
 21 misconduct on behalf of the Commission.
 22 Q. And would those cases involve revoking teacher
 23 credentials from individuals?
 24 A. The committee recommends to the Commission
 25 whatever adverse action needs to be taken on a license.

1 Q. And what are the potential adverse actions that
 2 could be taken?
 3 A. No action, public reproof, suspension, up
 4 through revocation.
 5 Q. Last question. What types of misconduct did
 6 you adjudicate while you were on the Committee of
 7 Credentials?
 8 MR. HERRON: Objection. Calls for a narrative.
 9 Go ahead.
 10 THE WITNESS: What's provided in the statute
 11 that gives the Commission jurisdiction over matters
 12 involving misconduct or criminal conduct.
 13 Q. BY MR. AFFELDT: And you saw the full range of
 14 whatever's in the statute?
 15 A. That's correct.
 16 MR. AFFELDT: Okay. Why don't we take a break.
 17 MR. HERRON: Thank you.
 18 (Recess taken.)
 19 Q. BY MR. AFFELDT: Have you served as an expert
 20 witness in any other cases other than the teacher
 21 misconduct area that you told me about?
 22 A. No, I haven't.
 23 Q. Do you recall what particular area you were
 24 certified as an expert in?
 25 A. It was specific to whether an individual

1 possessing a license should retain that license as a
 2 result of the conduct engaged in, so it was general
 3 application of any misconduct, whether it be criminal or
 4 otherwise.
 5 Q. Uh-huh. Was that expert witness service
 6 related to your position on the Committee of
 7 Credentials?
 8 MR. HERRON: Objection. Vague and ambiguous.
 9 MR. AFFELDT: I'll rephrase it. Thanks.
 10 Q. Were you an expert because you were a
 11 superintendent, or because you were on the Committee of
 12 Credentials?
 13 MR. HERRON: Objection. Incomplete and
 14 improper hypothetical. You may respond. Calls for a
 15 legal conclusion as well.
 16 MR. AFFELDT: If you know.
 17 THE WITNESS: I don't know why they certified
 18 me.
 19 Q. BY MR. AFFELDT: Okay. What was your next
 20 position of employment after you were superintendent at
 21 Lodi?
 22 A. The California Commission on Teacher
 23 Credentialing.
 24 Q. And I believe you told us before the deposition
 25 you started on April Fool's Day 1996?

1 A. That's correct.
 2 Q. When did you leave Lodi? 1995 was what I
 3 believe you testified to earlier.
 4 A. That's correct.
 5 Q. What month in 1995?
 6 A. I believe September.
 7 Q. What did you do between September and April
 8 1st, '96?
 9 A. Worked for the attorney general as an expert
 10 witness and served as a consultant on labor matters.
 11 Q. For whom were you a consultant?
 12 A. For the chamber of commerce.
 13 Q. At the Stockton Chamber of Commerce?
 14 A. Greater Stockton.
 15 Q. Any other chambers of commerce you consulted
 16 for?
 17 A. No.
 18 Q. Were you an expert witness full time or
 19 part-time for the attorney general during that period?
 20 MR. HERRON: Objection. Asked and answered.
 21 Vague and ambiguous.
 22 THE WITNESS: I served on contract based upon
 23 cases available.
 24 Q. BY MR. AFFELDT: Approximately how many cases
 25 have you served as an expert witness for the attorney

1 general on during your -- the entire period you served
 2 in those positions?
 3 A. Four or five.
 4 Q. When you were hired on April 1st, 1996, was
 5 that into your current position of executive director?
 6 A. That's correct.
 7 Q. What are your duties as executive director at
 8 the CTC?
 9 MR. HERRON: Presently, or at the time of
 10 hiring?
 11 MR. AFFELDT: Let's go with presently.
 12 THE WITNESS: I'm the chief executive officer
 13 for the Commission.
 14 Q. BY MR. AFFELDT: And as chief executive officer
 15 of the Commission, what are your duties?
 16 MR. HERRON: Objection. Calls for a narrative.
 17 THE WITNESS: My specific oversight
 18 responsibilities include licensing and certification of
 19 professional educators; the design, development,
 20 implementation of standards for the preparation of
 21 professional educators; the enforcement of professional
 22 practices for professional educators; and the
 23 disciplining of professional educators.
 24 Q. BY MR. AFFELDT: Any other oversight
 25 responsibilities that you have?

1 A. No.
 2 Q. And other than your oversight responsibilities
 3 as CEO, are there any other major areas of
 4 responsibilities that you have with the Commission?
 5 A. I'm responsible for the conduct of Commission
 6 meetings.
 7 Q. Do you oversee the human resources aspects of
 8 the -- with respect to employees of the Commission?
 9 A. Yes.
 10 Q. Any other major areas of responsibility that
 11 you can identify?
 12 A. Working on legislation.
 13 Q. What are your responsibilities with respect to
 14 working on legislation?
 15 A. Working with the legislature and the governor's
 16 office on legislature.
 17 Q. What does it mean when you work with the
 18 legislature, with the governor's office on legislation?
 19 A. If there's legislation introduced, we do an
 20 analysis of legislation, and we also propose
 21 legislation.
 22 Q. What percentage of your job is dealing with
 23 legislative matters?
 24 MR. HERRON: Objection. Vague and ambiguous.
 25 Calls for speculation. Vague as to time.

1 THE WITNESS: I don't -- if you were to ask me
 2 the legislation and enacted legislation, then that
 3 drives the activity of the agency.
 4 Q. BY MR. AFFELDT: I'm referring to your
 5 testimony that part of your job is working on
 6 legislation and legislative matters.
 7 And as you've defined it, what percentage of
 8 your job is working on legislation and legislative
 9 matters presently?
 10 MR. HERRON: Same objections.
 11 THE WITNESS: I have a staff that is assigned
 12 to work on legislation, and I'm informed as to the
 13 progress, but I wouldn't be able to quantify the amount
 14 of time.
 15 Q. BY MR. AFFELDT: And your staff keeps you
 16 up-to-date on what the major pieces of legislation are
 17 that might affect the Commission?
 18 MR. HERRON: Objection. Calls for speculation.
 19 Vague and ambiguous.
 20 You may respond.
 21 THE WITNESS: I'm provided with updates on
 22 legislation that's being proposed.
 23 Q. BY MR. AFFELDT: Do you have input into the
 24 legislation that gets proposed by the Commission?
 25 MR. HERRON: Objection. Misconstrues prior

1 testimony. Vague and ambiguous as phrased.
 2 THE WITNESS: The Commission is responsible for
 3 making recommendations for legislation.
 4 Q. BY MR. AFFELDT: My question was, do you have
 5 input into the Commission's decisions on what
 6 legislation they recommend?
 7 MR. HERRON: "You" being Dr. Swofford
 8 personally?
 9 MR. AFFELDT: That's correct.
 10 THE WITNESS: Yes, I have input in terms of the
 11 formulation and recommendations for the Commission's
 12 review.
 13 Q. BY MR. AFFELDT: Uh-huh. Can you give me an
 14 example of what kind of input you have with respect to
 15 legislation that's proposed or recommended by the
 16 Commission?
 17 MR. HERRON: Objection. Vague and ambiguous.
 18 MR. EGAN: And I'm also going to object. I
 19 think it's vague and ambiguous, and I think it may also
 20 call for information that is privileged if you're asking
 21 for specific input on specific information which is
 22 being used or has been used to deliberate on a proposed
 23 piece of legislation.
 24 So if you can answer the question generally
 25 with respect to the process, I think that's okay, not as

1 to any specific piece of legislation.
 2 THE WITNESS: May I have the question restated?
 3 Q. BY MR. AFFELDT: Sure. Generally speaking, can
 4 you give us some examples of the type of input you have
 5 when legislative proposals are formulated at the
 6 Commission?
 7 A. Well, I approve the agenda items relative to
 8 legislation that goes to the Commission for their
 9 consideration, and I provide testimony, on occasion,
 10 before the legislature.
 11 Q. Does the Commission ask your opinion on
 12 legislation during Commission meetings?
 13 A. The Commission staff provides an analysis of
 14 the legislation, and a recommendation may or may not go
 15 forward to the Commission.
 16 Q. Is it your decision as to whether or not that
 17 recommendation does or does not go forward?
 18 A. It is my determination.
 19 Q. Do you have input into what the staff
 20 recommendation is on a particular piece of legislation?
 21 MR. HERRON: Objection. Asked and answered.
 22 Vague and ambiguous.
 23 You may respond.
 24 THE WITNESS: Staff will consult with me as to
 25 whether or not the analysis is correct from my

1 perspective, as well as the recommendations are
 2 consistent with the mission of the agency.
 3 Q. BY MR. AFFELDT: Okay. Can you give me the
 4 organizational structure of the Commission and its
 5 various divisions?
 6 A. We have an organizational chart. There are
 7 divisions and units within the Commission, there is a
 8 professional service division, a professional practice
 9 division, a certification division, a business division,
 10 personnel division, and a legislative unit.
 11 Q. What are the professional practices division
 12 responsibilities?
 13 MR. HERRON: Did you say "practices"?
 14 MR. AFFELDT: Yeah.
 15 THE WITNESS: That unit has the responsibility
 16 of handling misconduct cases involving credential
 17 holders.
 18 Q. BY MR. AFFELDT: Is that a unit or a division?
 19 A. It's a division.
 20 Q. What are the responsibilities of the
 21 certification division?
 22 A. They are responsible for evaluating transcripts
 23 and all documents and recommendations for individuals
 24 seeking a credential, certification, permit or waiver,
 25 and they issue those documents.

1 Q. And the business division, what do they do?
 2 A. They monitor our fiscal operations of the
 3 agency.
 4 Q. CTC is a self-funded state agency; is that
 5 right?
 6 A. The Commission, the majority of the funding is
 7 fee driven, from fees collected.
 8 Q. And those would be fees collected from what
 9 sources?
 10 A. For applicants for licenses or credentials.
 11 Q. And tests?
 12 A. We'd collect fees for exams as well.
 13 Q. And do those fees -- strike that.
 14 What about the personnel division, what are the
 15 responsibilities for that division?
 16 A. They have the major responsibility of
 17 employment personnel activities and employer/employee
 18 relations.
 19 Q. Which division oversees accreditation?
 20 A. That would be the professional service
 21 division.
 22 Q. What are the responsibilities of that division?
 23 A. The first responsibility is the setting of
 24 standards for all professional educator programs. They
 25 create, they design and implement all standards. The

1 division is also responsible for program approval of
 2 those programs in higher education and in school
 3 districts or counties, if those programs are there, and
 4 that is the accreditation component. They also are
 5 responsible for test design, development and
 6 implementation.
 7 Q. Any other responsibilities for that division?
 8 A. Those are the major responsibilities. There's
 9 the shared governance role between the Commission and
 10 the Department of Education on the beginning teacher and
 11 support assessment program, acronym is BTSA.
 12 Q. What is the CTC's mission?
 13 MR. HERRON: Objection. Vague and ambiguous in
 14 the use of the term "mission."
 15 THE WITNESS: If you mean what is our
 16 jurisdictional responsibilities, I can answer that
 17 question.
 18 Q. BY MR. AFFELDT: Does the CTC have a mission
 19 statement?
 20 A. It has a mission statement.
 21 Q. What is that?
 22 MR. HERRON: Objection. I'm sure there's a
 23 document that speaks to that issue.
 24 THE WITNESS: I can't recall what the statement
 25 is.

1 Q. BY MR. AFFELDT: Okay. So what do you consider
 2 the mission of the CTC to be?
 3 A. The organization is an independent, autonomous
 4 standards board, and our primary responsibility is to
 5 set those standards and monitor that standards are being
 6 implemented.
 7 Q. When you say "standards," what standards are
 8 you referring to?
 9 A. Standards that identify what preparation
 10 programs need to include in preparing professional
 11 educators.
 12 Q. Are those the only standards you're referring
 13 to, are teacher preparation program standards?
 14 MR. HERRON: Objection. Vague and ambiguous.
 15 THE WITNESS: You're asking me the standards
 16 for, meaning the requirements for certification, and
 17 also for character fitness.
 18 Q. BY MR. AFFELDT: So you see the CTC also as a
 19 standards board for setting certification standards for
 20 teachers in the state; is that fair?
 21 MR. HERRON: Objection. Argumentative.
 22 THE WITNESS: You're asking me what is our
 23 primary responsible for setting standards?
 24 Q. BY MR. AFFELDT: I'm just trying to clarify
 25 your answer. When I asked you what the -- your view of

1 what the mission of the CTC was, you said it was an
 2 independent, autonomous standards board. I'm just
 3 trying to clarify what standards we're talking about.
 4 A. The standards for certification.
 5 Q. Okay. Of public schoolteachers?
 6 A. Of public schoolteachers.
 7 Q. Okay. CTC is one of the oldest separate
 8 standards boards in the country, isn't it?
 9 A. It's the oldest standards board in the country.
 10 Q. When did the CTC come into existence?
 11 A. It was the Rhine Act of 1970.
 12 Q. And do you know what the intent was in making
 13 the CTC an autonomous credentialing agency?
 14 A. I don't know.
 15 Q. Do you know if other states have independent
 16 teacher credentialing boards like the CTC?
 17 A. Yes.
 18 Q. How many other states?
 19 MR. HERRON: Objection. Calls for speculation.
 20 THE WITNESS: I can only give the variety of --
 21 there's variations of standards boards across the
 22 country. There are probably less than five or six that
 23 have all the jurisdictional responsibilities that our
 24 commission has.
 25 Q. BY MR. AFFELDT: Uh-huh. Am I correct that the

1 CTC is independent of the California Department of
 2 Education?
 3 MR. EGAN: Objection. Vague and ambiguous.
 4 MR. HERRON: Asked and answered.
 5 THE WITNESS: What do you mean by
 6 "independent"?
 7 Q. BY MR. AFFELDT: Is the CTC subject to the
 8 jurisdiction of the California Department of Education?
 9 A. We're not subject to the jurisdiction of the
 10 Department.
 11 Q. Are you an equal -- let me ask it this way, is
 12 the Department of Education subject to CTC's
 13 jurisdiction?
 14 MR. HERRON: Objection. Vague and ambiguous.
 15 Calls for a legal conclusion. Calls for speculation.
 16 THE WITNESS: I'm not aware of jurisdictional
 17 linkage between the Commission and the -- other than
 18 shared governance responsibility between the Department
 19 and the Commission.
 20 Q. BY MR. AFFELDT: On the BTSA program for
 21 example, that you mentioned?
 22 A. That's correct.
 23 Q. Any other areas of shared governance between
 24 the CTC and the Department of Education?
 25 A. I don't know of any other.

1 Q. I'm going to hand you what will be marked as
2 Exhibit 144, and ask you if you can identify that.
3 (Exhibit SAD-144 was marked.)

4 MR. HERRON: I object to the use of this
5 document as a deposition exhibit. All such documents
6 like this have been requested in discovery. This has
7 never been produced to us as far as I know, unless you
8 know otherwise, John, and I'm sure you'd represent if
9 you did. It's a continuing pattern of attempting to use
10 surprise and ambush at depositions.

11 And I will also note that I had requested in a
12 letter that the documents that you were going to be
13 using that hadn't been produced should be produced to us
14 before the deposition. That's my objection.

15 Dr. Swofford, take your time to review it and
16 see if you recognize it.

17 THE WITNESS: I recognize the document.

18 MR. AFFELDT: Let me just say I'm not going to
19 respond to Mr. Herron's objection, but the matter will
20 be dealt with in another form and at other time.

21 MR. HERRON: It's being dealt with now.
22 There's a motion to compel.

23 MR. AFFELDT: I'm aware of your motion.

24 MR. HERRON: Yeah. It would be nice if you
25 guys would stop withholding documents you obviously

1 to you from the CTC web page?

2 A. Yes.

3 Q. Now that you've reviewed it, is there anything
4 about that that indicates to you it's not from the CTC
5 website?

6 MR. HERRON: Well, why don't we give him a
7 chance to review it. Earlier you asked him to look at
8 this to see if he recognized it.

9 THE WITNESS: It appears to be consistent with
10 my recollection of what I've seen before.

11 Q. BY MR. AFFELDT: Okay. Thank you. And is that
12 true as well with respect to the mission statement,
13 which says, for the record, the mission of the
14 California Commission on Teacher Credentialing is to
15 assure the fully prepared and effective educators all
16 students deserve and our communities require. The
17 Commission will carry out its statutory mandates by,
18 colon, and then lists a number of bullet points.

19 MR. HERRON: That's a question?

20 Q. BY MR. AFFELDT: Does that mission statement
21 also comport with your recollection of what the
22 Commission's mission statement is?

23 A. Yes.

24 Q. Is the Commission's mission carried out by
25 pursuing these activities listed in the bullet statement

1 consider important enough to use as exhibits at
2 deposition.

3 Q. BY MR. AFFELDT: Dr. Swofford, you said that
4 you recognize this?

5 A. Yes, I do.

6 Q. Can you tell us what this is?

7 A. It is a --

8 MR. HERRON: Objection. Document speaks for
9 itself.

10 You may respond.

11 THE WITNESS: It's what's extracted from the
12 web page, a document about the Commission.

13 Q. BY MR. AFFELDT: Does this document accurately
14 state the CTC's vision statement?

15 MR. HERRON: Objection. Vague and ambiguous.

16 THE WITNESS: I would have to verify this with
17 a hard document that I have, hard copy.

18 Q. BY MR. AFFELDT: You see at the bottom of the
19 left-hand corner a particular http address. Is that the
20 Commission's address?

21 A. That's correct.

22 Q. In the right-hand corner it's dated September
23 10th, 2001, correct?

24 A. The document before me is dated 9/10, 2001.

25 Q. Based on the markings, does this appear to be

1 there then?

2 A. Yes.

3 Q. What does the mission -- strike that.

4 What does the CTC consider to be a fully
5 prepared and effective educator?

6 MR. HERRON: I'm sorry, are you pointing to a
7 particular part of the document?

8 MR. AFFELDT: Yeah, the phrase which exists in
9 the mission statement there.

10 THE WITNESS: That a teacher is able to or
11 other professional educators are prepared to deliver
12 instruction to students or services to students.

13 Q. BY MR. AFFELDT: Is that another way to say a
14 fully prepared and effective educator, competent
15 educator?

16 MR. HERRON: Objection. Vague and ambiguous.
17 Incomplete and improper hypothetical. Calls for
18 speculation. Document speaks for itself.

19 THE WITNESS: I can't respond to the -- what is
20 your definition of competent? It's a term that's not
21 used in the document.

22 MR. AFFELDT: I'm not asking you about the
23 document right now.

24 THE WITNESS: Okay.

25 MR. AFFELDT: I'm asking about your definition

1 of competent.

2 Q. Is the Commission trying to ensure that there

3 are competent educators in the classroom?

4 MR. HERRON: Same objections. You may respond.

5 THE WITNESS: I believe the statement is that

6 our efforts are to assure that there are fully prepared,

7 professional educators in the classroom.

8 Q. BY MR. AFFELDT: And if they're fully prepared

9 and effective, would they be competent educators, in

10 your view?

11 MR. HERRON: Same objections as interposed to

12 the last two questions.

13 You may respond.

14 THE WITNESS: That decision would be made by

15 the employing district with respect to the competency

16 for a position.

17 Q. BY MR. AFFELDT: And it's your job, then, to

18 make sure that they're fully prepared and effective

19 educators and not the employing district's job do that;

20 is that correct?

21 MR. HERRON: Objection. Argumentative. Vague

22 and ambiguous as phrased, and in the use of "your."

23 Incomplete and improper hypothetical. Calls for a legal

24 conclusion.

25 You may respond.

1 THE WITNESS: If you're asking me if the

2 Commission is charged by statute in using either the

3 fully prepared or effective educators, this is not in

4 the statute, this is a goal or an interest of the

5 Commission.

6 Q. BY MR. AFFELDT: Why is that the Commission's

7 interest and goal?

8 A. The desire is to prepare educators that will

9 meet the needs of students in classrooms.

10 Q. Why is that the Commission's desire, is my

11 question.

12 A. I'm not sure I understand how to interpret the

13 word "desire" from your perspective.

14 Q. It's your word, I'm just asking you to

15 interpret it.

16 MR. HERRON: It's his word, but out of context.

17 Objection. Vague and ambiguous.

18 MR. EGAN: Objection. Also calls for

19 speculation.

20 THE WITNESS: I'm reading from the document.

21 It is their interest to ensure that they work towards

22 having standards in place that would enable professional

23 educators to be successful with students in classrooms,

24 whether it be a teacher or administrator or a

25 psychologist, and that's the effort that the Commission

1 is involved in.

2 Q. BY MR. AFFELDT: Do you think it's important

3 that educators be fully prepared and effective to teach

4 in the classroom?

5 A. My personal opinion?

6 Q. Yes, based on your training and experience.

7 A. Individuals need to have sufficient preparation

8 to serve in a classroom.

9 Q. What are the consequences if individuals don't

10 have sufficient preparation to serve in the classroom?

11 MR. HERRON: Objection. Vague and ambiguous as

12 phrased as to whether it's consequences in the classroom

13 or to the unprepared teacher. Also an incomplete and

14 improper hypothetical. Calls for speculation.

15 Q. BY MR. AFFELDT: What are the consequences for

16 a student who learns from an individual who is not

17 sufficiently prepared as you defined it?

18 MR. HERRON: Same objections. You may respond.

19 THE WITNESS: It's too general for me to

20 speculate as to what would be the consequences. I mean,

21 this is an individual who has been prepared to teach in

22 a particular classroom setting. Depends on the

23 classroom setting, and it depends on the individual in

24 terms of their preparation, so I wouldn't want to

25 generalize on whether or not there's specific adverse

1 actions relative to students' performance as a result of

2 a hypothetical. I don't know.

3 Q. BY MR. AFFELDT: Do you think that teachers who

4 are fully prepared are an important component in student

5 achievement?

6 A. I think it is important that a teacher be

7 adequately prepared, but it's the decision of the

8 employers as to whether or not that preparation meets

9 the needs of students in that classroom.

10 Q. And is that according to the Commission --

11 strike that.

12 Do you see the second bullet under the mission

13 statement, quote, developing preparation and performance

14 standards in alignment with state adopted content

15 standards, unquote?

16 A. Yes, I do.

17 MR. EGAN: It wasn't quite an accurate quote.

18 State adopted academic content standards.

19 Q. BY MR. AFFELDT: Are you familiar with the

20 state adopted content standards referenced here?

21 A. Yes, I am.

22 Q. What are those, please? Can you explain

23 generally what state adopted academic contents are,

24 rather than reciting 150 pages standard by standard?

25 A. The statement is intended to mean that the

1 State Board of Education has adopted subject matter
 2 standards for students and that the Commission is
 3 aligning its standards for preparing educators to teach
 4 to those academic content standards.
 5 Q. And do you think that an important endeavor for
 6 teachers, for the Commission standards to be aligned
 7 with the State's adopted academic content standards?
 8 A. I believe the teacher needs to know the subject
 9 matter that is being prescribed by the State Board, and
 10 that would be part of their preparation program.
 11 Q. Why does a teacher need to know what is being
 12 prescribed by the State Board?
 13 MR. HERRON: Objection. Incomplete, improper
 14 hypothetical. Calls for speculation.
 15 You may respond.
 16 THE WITNESS: The State Board made the decision
 17 that students need to know specific areas of -- of
 18 subject matter independent of what the Commission does,
 19 so that's a State Board matter.
 20 Q. BY MR. AFFELDT: Do you think it important that
 21 teachers teaching in the classroom be able to teach
 22 students the adopted academic content standards?
 23 A. Teachers need to be prepared to teach in those
 24 areas when they are assigned to classrooms.
 25 Q. What is the CTC doing, if anything, to make

1 sure that the teachers are prepared to teach the
 2 academic content standards?
 3 MR. HERRON: Objection. Calls for a narrative.
 4 THE WITNESS: If you're asking our current role
 5 in aligning with the academic content standards --
 6 MR. AFFELDT: Let's start there.
 7 THE WITNESS: -- then we establish, again, the
 8 standards that will be used to approve preparation
 9 programs. And those standards, academic content
 10 standards for students, will also be used in our
 11 assessment, and our exams will be aligned as well. So
 12 it's both preparing teachers and that this information
 13 is used as far as any examination a teacher candidate
 14 must take in order to be qualified for a credential.
 15 Q. BY MR. AFFELDT: Can you spell out for me how
 16 the Commission influences the teacher preparation
 17 programs to ensure that its graduates are trained to
 18 teach the content standards?
 19 MR. HERRON: Objection. Vague and ambiguous.
 20 Calls for a narrative.
 21 THE WITNESS: If you're asking me do we have an
 22 approval process of higher education programs that are
 23 being offered to teacher candidates, we have that
 24 process.
 25 Q. BY MR. AFFELDT: How do you use that process or

1 any other processes to ensure that teacher education
 2 programs train their graduates to teach the content
 3 standards?
 4 MR. HERRON: Same objections. Compound.
 5 You may respond.
 6 THE WITNESS: The process in place is an
 7 accreditation process, site visits to institutions, and
 8 reviewing their programs.
 9 Q. BY MR. AFFELDT: And what happens if they don't
 10 pay any attention to your desire that they train their
 11 graduates in a certain way?
 12 A. Well, there are conditions that we have,
 13 there's stipulations that are made that they have time
 14 frames to make -- take corrective action or be
 15 remediated, if you will. If there is a situation where
 16 there is a refusal, then the Commission can eliminate
 17 the program from the institution.
 18 MR. HAMILTON: John, we're there.
 19 MR. AFFELDT: Okay. Why don't we take a break
 20 now.
 21 (Lunch recess taken.)
 22 (Mr. Jordan now present.)
 23 Q. BY MR. AFFELDT: How are you doing?
 24 A. Fine.
 25 Q. Before we left for lunch, we were talking about

1 the accreditation process. Has the CTC ever shut down a
 2 teacher preparation program?
 3 MR. HERRON: Objection. Vague and ambiguous.
 4 Calls for speculation.
 5 THE WITNESS: You're asking if we've ever taken
 6 adverse action against an institution?
 7 Q. BY MR. AFFELDT: What you described as the most
 8 extreme adverse action, in particular is my question,
 9 have they ever closed down a teacher preparation
 10 program?
 11 A. No.
 12 Q. What kinds of adverse actions have you taken?
 13 MR. HERRON: You're asking during his tenure, I
 14 take it?
 15 MR. AFFELDT: That's an acceptable time period
 16 to focus the question on. Thank you. Yes.
 17 THE WITNESS: We have indicated to institutions
 18 that they need to correct certain deficiencies, and it
 19 becomes a requirement that they do so within a specified
 20 period of time, and then we monitor and ask for
 21 documents to support that they have made the
 22 corrections.
 23 Q. BY MR. AFFELDT: What are the measures, short
 24 of shutting down an institution, that the CTC's
 25 accreditation process can take against a teacher ed

1 program?
 2 MR. HERRON: Objection. Asked and answered.
 3 THE WITNESS: An institution is given
 4 conditional approval if, in fact, they have not met the
 5 standards.
 6 Q. BY MR. AFFELDT: Is there any other adverse
 7 action other than conditional approval that the
 8 Commission can take to sanction a teacher ed program?
 9 A. We can indicate that they can no longer accept
 10 students into their program.
 11 Q. Have you done that during your tenure?
 12 A. We have not done that.
 13 Q. Are you aware of if the Commission has ever
 14 ordered that particular sanction?
 15 A. I'm not aware of that.
 16 Q. I'm going to hand you what will be marked as
 17 Plaintiffs' Exhibit 145.
 18 (Exhibit SAD-145 was marked.)
 19 Q. BY MR. AFFELDT: Can you tell me if you
 20 recognize that document?
 21 A. I recognize the document.
 22 Q. What is it?
 23 A. I do recognize the document.
 24 Q. And what is the document?
 25 A. It's a bulletin issued by the Commission on

1 K-12 academic content standards and how they have been
 2 incorporated in the teacher preparation standards.
 3 Q. Did that come out of your office?
 4 A. Yes, it does.
 5 Q. So when it says in the upper left-hand corner
 6 on page 1, office of the executive director, that's your
 7 office?
 8 A. That's correct.
 9 Q. Can you review the document for me and let me
 10 know if you're still in agreement with its contents as
 11 of today?
 12 MR. HERRON: I object to the use of this
 13 document for all the reasons stated as to Exhibit 144.
 14 You should take your time to review it.
 15 Q. BY MR. AFFELDT: Are you ready, Dr. Swofford?
 16 A. I've read the document.
 17 MR. AFFELDT: Can you read the question that's
 18 pending?
 19 (Record read.)
 20 MR. HERRON: Objection. Vague and ambiguous.
 21 You may respond.
 22 THE WITNESS: The document represents the
 23 action taken by the Commission at its September 6th
 24 meeting and October 4th meeting of this year.
 25 Q. BY MR. AFFELDT: Does that document reflect the

1 views of the Commission?
 2 A. If you're saying does it reflect the action
 3 taken by the Commission, it reflects the action.
 4 Q. My question was, do the statements in the
 5 document also reflect the views of the Commission?
 6 MR. HERRON: Objection. Vague and ambiguous.
 7 Calls for speculation. Document speaks for itself.
 8 It's a ridiculous question, really.
 9 THE WITNESS: I can't speak on behalf of the
 10 Commission, I can only indicate that they took action to
 11 accept the recommendations for the standards.
 12 And may I just make one statement. And also to
 13 reconsider one aspect of what the adoption was. As
 14 you'll note on the second from the bottom paragraph it
 15 indicates that there was a motion for reconsideration of
 16 the induction standards, which was approved, and right
 17 now held in abeyance until further presentations.
 18 Q. BY MR. AFFELDT: Who drafted this document?
 19 A. Members of my staff.
 20 Q. Did you review it before it went out?
 21 A. Yes, I did.
 22 Q. Is this a document that went to the press?
 23 A. The -- no.
 24 Q. Where did you send this document?
 25 MR. HERRON: Objection. Vague and ambiguous.

1 THE WITNESS: I don't have the mailing list of
 2 who would be the recipient of this document.
 3 Q. BY MR. AFFELDT: Maybe you can tell me
 4 generally what the purpose of a bulletin is when the
 5 Commission issues a bulletin?
 6 A. The bulletin would go to the field, and that
 7 could be school districts, higher education
 8 institutions, county office of education. It would be
 9 a -- that would be a general blanket of those interested
 10 stakeholders.
 11 Q. As part of your job to -- strike that.
 12 You see in the first paragraph of the third
 13 sentence, if we want students to meet world-class
 14 standards, our teachers must know how to teach to the
 15 student performance standards so that every child can
 16 succeed? Do you see that sentence?
 17 A. I see the sentence.
 18 Q. Do more than a nod so that our reporter --
 19 A. Yes, I see the sentence.
 20 Q. Does that accurately reflect your views?
 21 MR. HERRON: "Your" being his personally?
 22 MR. AFFELDT: His personal views based on his
 23 performance and training and experience.
 24 THE WITNESS: Yes, they do.
 25 Q. BY MR. AFFELDT: And do those views comport

1 with the Commission on Teacher Credentialing views as
2 well?

3 MR. HERRON: Objection. Calls for speculation.
4 Calls for a legal conclusion.

5 THE WITNESS: The Commission adopted the
6 recommendations, so it is the decision of the Commission
7 that these standards be implemented.

8 Q. BY MR. AFFELDT: Has any commissioner ever let
9 you know that they objected to that sentence?

10 A. I have no recollection of any conversation
11 about objecting to the standards in total.

12 Q. My question just went to that particular
13 sentence that we read.

14 A. I'm not aware of any objection.

15 Q. Do you believe that the most powerful factor in
16 student achievement is the quality of the teacher?

17 MR. HERRON: Objection. Asked and answered
18 before lunch. Calls for speculation. Calls for him to
19 speak beyond his role and authority at the Commission.
20 Incomplete and improper hypothetical.

21 You may respond.

22 THE WITNESS: I believe there's other factors
23 that go into providing a student with the opportunity to
24 be successful in a classroom, one of them being a
25 prepared teacher.

1 position of the Commission. This is not my document.

2 Q. So is it the position of the Commission that
3 the most powerful factor in student achievement is the
4 quality of the teacher?

5 A. The Commission has taken that position.

6 Q. Would that be your personal view as well based
7 on your training and experience?

8 A. My view is that there's other factors that
9 contribute to the success of students in a classroom,
10 including having a qualified teacher.

11 Q. Is it your statement, then, that the quality of
12 the teacher is not necessary -- strike that.

13 Is it your statement that you can't say whether
14 or not the quality of the teacher is the most powerful
15 factor?

16 MR. HERRON: Objection. Misconstrues prior
17 testimony.

18 THE WITNESS: I believe there are cases when
19 the teacher's performance is superior in ensuring a
20 specific child achieves in a classroom, but there's
21 other factors that must be included in terms of whether
22 or not the teacher could be powerful in terms of their
23 ability to instruct students.

24 Q. BY MR. AFFELDT: My question is whether you
25 think, on average, that the teacher's quality is the

1 Q. BY MR. AFFELDT: My question was, do you
2 believe that the quality of the teacher is the most
3 powerful factor in student achievement?

4 MR. HERRON: Same objections.

5 THE WITNESS: I don't believe I'm able to opine
6 on whether a power -- I don't know what "powerful" means
7 by definition.

8 Q. BY MR. AFFELDT: Well, this is a sentence that
9 went out on a document from your office that you
10 reviewed. I'm looking in particular at the second to
11 last sentence on page 2 which says, quote, the most
12 powerful factor in student achievement is the quality of
13 the teacher, unquote.

14 MR. HERRON: So you're asking him about the
15 document now, you're not asking him for his personal
16 opinion or his opinion in his role at the Commission.

17 MR. AFFELDT: Right now I asked him if that
18 sentence exists on this document.

19 MR. HERRON: It seems obvious that it does, so
20 I'll object that the document speaks for itself.

21 THE WITNESS: Yes.

22 Q. BY MR. AFFELDT: So when you approved this
23 document going out of your office with that sentence on
24 it, did you believe that that was an accurate statement?

25 A. I'll respond by saying this reflects the

1 most powerful factor or not?

2 MR. HERRON: You've asked him that about three
3 times. I object on that basis.

4 MR. AFFELDT: And he hasn't answered it.

5 MR. HERRON: He has. You just don't like the
6 answer so you're asking again. That's improper and I
7 object on that basis.

8 You may respond yet again.

9 THE WITNESS: Depends on the student, depends
10 on the teacher, and it depends on other factors, such as
11 support from home, the preparation that that student had
12 in terms of his academic abilities prior to arriving in
13 a classroom.

14 There are multiple variables that contribute to
15 whether or not a teacher can be successful in a
16 classroom, one of them being that they are adequately
17 prepared to teach that particular subject or classroom.

18 Q. BY MR. AFFELDT: Do you ever speak to the press
19 as part of your job at the Commission?

20 A. Yes, I do.

21 Q. Do you recall speaking to an individual from
22 the Seattle Post Intelligencer?

23 A. No, I don't.

24 (Exhibit SAD-146 was marked.)

25 Q. BY MR. AFFELDT: I'm going to hand you

1 Plaintiffs' Exhibit 146, which purports to be an
2 Internet printout, copyright 1999, Seattle Post
3 Intelligencer, October 24th, 1999, headline, "Oops, Not
4 So Fast on Education Accountability." If you could
5 review that for me, please.

6 In particular I can tell you most of this is
7 about the state of Washington, but there is a quote from
8 you on the last page, and I'll read the quote for the
9 record.

10 MR. HERRON: Hold on. Go ahead.

11 MR. AFFELDT: It's about the middle of the
12 page. The quality of teachers is the biggest predictor
13 of student success, said Sam Swofford, executive
14 director of the California Commission on Teacher
15 Credentialing, even a stronger predictor than poverty or
16 ethnic background.

17 MR. HERRON: You're representing that as a
18 quote?

19 MR. AFFELDT: I'm representing it as a quote
20 from the article.

21 MR. HERRON: Right.

22 MR. AFFELDT: There are not quote marks around
23 the statement.

24 MR. HERRON: Right. So you're quoting the
25 article which doesn't even purport to quote

1 newspaper.

2 Q. BY MR. AFFELDT: Have you made that statement
3 publically anywhere?

4 MR. HERRON: It's awfully overbroad, and I'll
5 object on that basis.

6 THE WITNESS: If you were to ask me whether or
7 not that statement has been made by others and have I
8 repeated that statement that other people have
9 indicated, then I would say yes, I may have said that.
10 But it is not a position I've taken in an interview with
11 newspaper or media.

12 Q. BY MR. AFFELDT: So if you made a statement to
13 the effect that the quality of teachers is the biggest
14 predictor, most powerful component of student
15 achievement, you were repeating other people's
16 statements?

17 A. I'm aware that there are other individuals who
18 made this same statement, and I may have been asked on
19 occasion about those statements, but I have not
20 represented the position from my perspective in that
21 fashion.

22 Q. Uh-huh. And is that -- when you've made those
23 statements, have you been -- have you agreed with that
24 statement?

25 MR. HERRON: Objection. Vague and ambiguous.

1 Dr. Swofford.

2 MR. AFFELDT: It purports to quote Dr. Swofford
3 insofar as it says, said Sam Swofford.

4 MR. HERRON: Okay.

5 Q. BY MR. AFFELDT: Having reviewed that --

6 MR. HERRON: Well, he hasn't reviewed it, nor
7 have I. Can we have a minute?

8 MR. AFFELDT: Certainly.

9 Q. Let me know when you're ready.

10 A. Okay. I'm ready.

11 MR. EGAN: David, is this a document that's
12 been produced?

13 MR. HERRON: No, I haven't seen it before.
14 It's hard to tell when they got it. But I do object for
15 all the reasons -- to the use of this document for the
16 same reasons interjected with respect to 144 and 145,
17 depo by ambush.

18 Is there a question?

19 Q. BY MR. AFFELDT: Is that -- whether it's a
20 quote or a paraphrase, is the article's sentence here
21 attributed to you something you remember saying?

22 MR. HERRON: Those exact words?

23 MR. AFFELDT: The paraphrase of it.

24 THE WITNESS: I can answer this. I did not
25 make that statement, nor have I been interviewed by this

1 I'm not going to -- I don't think that's a fair
2 question. I'd appreciate it if you'd rephrase it.

3 Q. BY MR. AFFELDT: When you've been repeating the
4 notion that teachers are the most powerful component of
5 student achievement, have you been agreeing with that
6 conclusion?

7 A. I have not gone out and made a public statement
8 using the word "powerful," and I have not used, to my
9 recollection, the verbiage that is in this document,
10 other than citing there are other individuals who may
11 believe that.

12 Q. Before lunch you started to tell me about what
13 the Commission has done to ensure that teachers are
14 prepared to teach the content standards. One of the
15 things you mentioned was the accreditation process to
16 ensure that teacher program graduates are trained in
17 content standards.

18 Has the Commission taken other steps to ensure
19 that teachers are able to train -- are able to teach the
20 State Board adopted content standards?

21 A. I need to clarify the process. The Board the
22 past year adopted the academic content standards for
23 K-12 students. What I had before me, one of the
24 documents you shared with me was just the recent release
25 of the Commission adopting new standards, so these new

1 standards are now evolving into implementation, but
 2 they have not been implemented to this date. That does
 3 not mean, though, that the standards that have been
 4 adopted are not already, in some fashion, already in
 5 place in institutions. But the recency of the adoption
 6 by the Commission means these are new standards and have
 7 yet to be established in programs throughout the state.

8 Q. So you're not currently in a position where all
 9 the programs in the state have been determined to be
 10 training their graduates in the content standards?

11 MR. HERRON: You mean aligned?

12 THE WITNESS: Aligned with content standards.

13 We're not in a position now to say that. We
 14 cannot verify because this is brand-new. It takes time
 15 for these standards to be incorporated in the programs
 16 out in the institutions, then we will go out and make
 17 assessments, see whether or not they have, in fact,
 18 aligned their programs within the new academic K-12
 19 content standards for students. So this will take time.
 20 Over into 2004 is the projected date.

21 MR. JORDAN: I think there was an extra "not"
 22 in your answer. Could you read the answer back, please.
 23 (Record read.)

24 THE WITNESS: We cannot verify at this time
 25 because they have not been introduced into the field and

1 new standards from the Board. We're making sure that
 2 what happens in the programs are aligned with those
 3 standards.

4 It does not mean that they aren't aligned now,
 5 it's just that for our process we have to give them the
 6 time to reevaluate their programs to see if there's any
 7 changes required, modifications or additions or
 8 deletions.

9 Q. Have you studied the programs currently just to
 10 determine whether or not they are aligned?

11 MR. HERRON: Objection. Vague and ambiguous in
 12 the use of the term "you."

13 I take it you mean the Commission?

14 MR. AFFELDT: Uh-huh.

15 THE WITNESS: The Commission has not done a
 16 comparability study of the new standards with what is
 17 currently being implemented by universities.

18 Q. BY MR. AFFELDT: The teacher induction program
 19 that you referred to, that has to do with new teachers,
 20 doesn't it?

21 A. Teacher induction would be for new teachers.

22 Q. And how do you find "new teachers"?

23 A. A new teacher is someone who is a graduate or
 24 has matriculated through a fifth-year program and now
 25 have been advanced to a preliminary credential and

1 incorporated in their programs, so it is still in the
 2 process of moving out in the field for their
 3 implementation.

4 Q. BY MR. AFFELDT: So is it fair to say that the
 5 class graduating this year, you cannot verify that those
 6 graduates have received training that will enable them
 7 to teach the content standards?

8 MR. HERRON: Objection. Vague and ambiguous.

9 THE WITNESS: I cannot verify that they have
 10 incorporated the new standards. We already are
 11 accrediting universities and colleges based upon current
 12 standards. As to whether or not they are aligned with
 13 the new standards, I can't speak to today.

14 Q. BY MR. AFFELDT: And that process to make sure
 15 that teacher ed programs are aligned with the content
 16 standards adopted by the State Board will be completed
 17 in 2004?

18 A. For us there's another component in there,
 19 there's a teacher induction component, and there's also
 20 a new requirement in the standards that's called a
 21 teacher performance assessment, which is a way to assess
 22 student teachers in terms of their ability to deliver
 23 the content. That will take some time to bring into
 24 place, but currently institutions do much of that in
 25 assessing their student teachers now. So we now have

1 they're working in a classroom.

2 Q. How many years are teachers teaching in a
 3 classroom before they're no longer eligible for this
 4 program?

5 A. The induction standard that's proposed and is
 6 still under reconsideration, the proposed standard, I
 7 must qualify that, would be a BTSA-like program, which
 8 is a two-year program. Beginning teacher support and
 9 assessment program is for two years once they're
 10 employed.

11 Q. So a third-year teacher would not be considered
 12 a new teacher under the proposed induction standards?

13 A. That's correct.

14 Q. And is the BTSA program a different induction
 15 program or the same animal that you're talking about
 16 now?

17 A. The BTSA program has been a voluntary program
 18 heretofore. The induction standards will make it a
 19 requirement in order for the teacher to clear their
 20 preliminary credential, so it will be a requirement --
 21 so it will be a mandate in order to -- for them to
 22 establish a clear credential. In the past it was not.

23 Q. How will the induction program differ, if at
 24 all, from the current voluntary BTSA program?

25 A. The difference will only be if they have their

1 own program in the school district that would meet our
2 standards, that is certainly equivalent to the BTSA
3 program.

4 Q. Is the induction program not yet in place?

5 A. The BTSA program itself has been in place for a
6 number of years.

7 Q. But the new proposed mandatory induction
8 program for everyone to get a clear credential is not
9 yet in place; is that correct?

10 A. That's correct.

11 Q. When will that go on line?

12 A. I can't give a specific date because it's being
13 reconsidered by the Commission at a future date, the
14 entire induction standard, not just that one component
15 but all the standards for induction.

16 Q. Is that program pursuant to a legislative
17 mandate?

18 A. The revision, the review, if you will, revision
19 of the credential was by statutory mandate, Senate Bill
20 2042.

21 Q. And did the mandatory induction aspect grow out
22 of Senate Bill 2042 mandated revision?

23 MR. HERRON: Objection. Vague and ambiguous.
24 Misconstrues prior testimony.

25 You may respond.

1 Q. BY MR. AFFELDT: They may have access to a BTSA
2 program, but do they go through the BTSA program, do you
3 know?

4 A. The 90 percent or above are those who are
5 participating in BTSA programs.

6 Q. Are teachers that go through the BTSA program
7 trained to teach the Board's academic content standards?

8 MR. HERRON: Objection. Calls for speculation.
9 Asked and answered in part.

10 THE WITNESS: I don't know if they are trained.

11 Q. BY MR. AFFELDT: Has the Commission ever done a
12 study or made an investigation to determine if BTSA
13 programs around the state are training their teachers to
14 the content standards?

15 MR. HERRON: Objection. Calls for speculation.

16 THE WITNESS: We've not done a study.

17 Q. BY MR. AFFELDT: The Commission has no official
18 information on that topic one way or another?

19 MR. HERRON: Objection. Calls for speculation.
20 Assumes facts not in evidence. Argumentative. Vague
21 and ambiguous.

22 THE WITNESS: I'm not -- there's no information
23 I have that would give you a yes or no.

24 Q. BY MR. AFFELDT: What about the teachers who
25 aren't new teachers, to what extent is the Commission

1 THE WITNESS: The Commission was charged to
2 review the current credential structure and propose a
3 new credential structure, if appropriate, and the
4 induction standards were an outgrowth of that review
5 based upon past experience with this induction
6 program -- past experience with the BTSA program.

7 Q. BY MR. AFFELDT: Is there any estimated time
8 line when the new induction program might come on line?

9 A. If I can just state, the BTSA program is
10 already in operation, but the mandate is still held in
11 abeyance until we bring it back to the Commission to
12 review all the standards for induction, and that would
13 be incorporated in that.

14 Q. How many new teachers are served by the BTSA
15 program annually now?

16 A. Approximately 25, 26,000 teachers.

17 Q. And what percent of new teachers across the
18 state is that?

19 MR. HERRON: Objection. Calls for speculation.
20 He's not asking you to guess or speculate, but
21 if you have a basis to provide a well-founded estimate,
22 you should do so.

23 THE WITNESS: I can only approximate. Of all
24 new teachers that are credentialed in California, over
25 90 percent have access to a BTSA program.

1 taking any steps to ensure that those, let's call them
2 veteran teachers, are being trained to teach the State
3 Board's academic content standards?

4 A. Do I understand the question to mean veteran
5 teachers?

6 Q. Any teacher who is not in that one- to two-year
7 new teacher period that you talked about earlier.

8 A. I can't speak to whether or not individuals in
9 their school districts are being trained to teach the
10 new standards.

11 Q. Why is that?

12 MR. HERRON: Why is what?

13 MR. AFFELDT: Why can't he speak to why
14 individuals in school districts are being trained or not
15 trained on the content standards.

16 MR. HERRON: Aside from the fact that there are
17 250,000 teachers? Objection. Vague and ambiguous.
18 Vast and overbroad. Calls for speculation.

19 THE WITNESS: I don't know what districts are
20 doing in terms of preparing teachers with respect to the
21 new academic content standards.

22 Q. BY MR. AFFELDT: Has the Commission studied
23 what districts are doing with respect to training their
24 teachers to teach the academic content standards?

25 MR. HERRON: Objection. Asked and answered.

1 THE WITNESS: No, and we don't have
 2 jurisdiction over school district staff development or
 3 professional development programs.
 4 Q. BY MR. AFFELDT: Does any state agency have
 5 jurisdiction over school district staff development or
 6 professional development programs?
 7 MR. HERRON: Objection. Vague and ambiguous.
 8 Calls for a legal conclusion. Calls for speculation.
 9 THE WITNESS: I don't know that any agency has
 10 that responsibility.
 11 Q. BY MR. AFFELDT: Dr. Swofford, have you
 12 reviewed the plaintiffs' amended complaint in this case?
 13 A. I have not reviewed it.
 14 Q. Are you aware as to whether or not there are --
 15 there is a teacher shortage in California?
 16 A. I'm aware that there's -- there's a teacher
 17 shortage in California, correct.
 18 Q. What is your understanding of the teacher
 19 shortage in California in terms of its magnitude?
 20 A. That there are insufficient numbers of
 21 fully-prepared teachers to fill specific positions that
 22 are existing within school districts within the state.
 23 Q. And what do you mean when you use the term
 24 "fully prepared"?
 25 A. Individual who has received a preliminary or

1 clear credential.
 2 Q. What is your understanding of the magnitude of
 3 the teacher shortage that you described?
 4 MR. HERRON: Objection. Asked and answered in
 5 part.
 6 You may respond.
 7 THE WITNESS: Would you rephrase that.
 8 Q. BY MR. AFFELDT: In terms of -- I'm trying to
 9 determine if this is an isolated issue or is it a
 10 shortage in every district.
 11 Based on your day-to-day work with the
 12 Commission on Teacher Credentialing, what's your
 13 understanding of the breadth and depth of the teacher
 14 shortage in California?
 15 MR. HERRON: Objection. Compound. You can
 16 pick any of those and respond.
 17 THE WITNESS: It's a regional shortage issue,
 18 both urban and rural, and it's in areas of -- in subject
 19 areas, in certain specific subject areas and grade
 20 levels.
 21 MR. HAMILTON: I'm sorry, I didn't hear the
 22 last part.
 23 THE WITNESS: And grade levels.
 24 MR. HAMILTON: Thank you.
 25 Q. BY MR. AFFELDT: What are the subject areas

1 you're referring to?
 2 A. Subject areas would be math, science, bilingual
 3 education, special education, and elementary education.
 4 Q. BY MR. AFFELDT: What are the grade levels
 5 you're referring to?
 6 MR. HERRON: Objection to the extent it calls
 7 for speculation.
 8 THE WITNESS: Elementary.
 9 Q. BY MR. AFFELDT: Just to be clear, when you say
 10 "bilingual education," what do you mean?
 11 A. Teachers with -- who can speak another language
 12 other than their primary language for students who have
 13 limited English proficiency.
 14 Q. Are you familiar with Proposition 227?
 15 MR. HERRON: Objection. Vague and ambiguous.
 16 THE WITNESS: I recall the initiative.
 17 Q. BY MR. AFFELDT: And have you had experience
 18 implementing the initiative vis-a-vis your duties at the
 19 Commission?
 20 MR. HERRON: Vague and ambiguous in terms of
 21 the word "implementing."
 22 THE WITNESS: I've had no direct involvement in
 23 implementing Proposition 227.
 24 Q. BY MR. AFFELDT: Do you know what an English
 25 immersion classroom is under the proposition?

1 A. Yes, I do.
 2 Q. Do you know what a mainstream classroom is
 3 under the proposition?
 4 A. Yes, I do.
 5 Q. Do you have an understanding of what an
 6 alternative classroom is under the proposition?
 7 A. No, I don't. I'm not clear on that one.
 8 Q. Are you aware that there are still classrooms
 9 in the state that are not following the Proposition 227
 10 English immersion model, but continue to follow
 11 traditional bilingual education?
 12 A. I'm not aware of that.
 13 MR. HERRON: I'll object also as calling for
 14 speculation. Asking him to testify outside his role at
 15 the Commission.
 16 Q. BY MR. AFFELDT: What is your understanding of
 17 what an English immersion classroom is under the
 18 Proposition 227?
 19 MR. HERRON: Objection. Calls for speculation
 20 and a legal conclusion.
 21 THE WITNESS: Since I'm not involved in
 22 implementing those programs, they can be different, and
 23 I don't know how districts are implementing that
 24 program, English immersion.
 25 Q. BY MR. AFFELDT: The Commission does issue

1 credentials that authorize teachers of English language
 2 learners, correct?
 3 A. We issue certifications that would authorize
 4 individuals to serve students who are limited English
 5 proficient.
 6 Q. Do you know what those certifications are?
 7 A. They're bilingual certificates that would
 8 authorize them.
 9 Q. Would that be a BCLAD?
 10 A. BCLAD, that's correct.
 11 Q. Do you know what a CLAD is?
 12 A. CLAD is the other, but that individual is not
 13 proficient in the language. BCLAD there's a proficiency
 14 in the language. A teacher has to have a proficiency in
 15 the language for a BCLAD.
 16 Q. Do you know what an SB 1969 or SB 395
 17 certificate is?
 18 A. I'm familiar with both.
 19 Q. And what are those?
 20 A. Senate bills.
 21 Q. What are those certificates authorizing the
 22 holder to do?
 23 A. To teach students in a classroom who are
 24 limited English speaking. It's a training that teachers
 25 undergo in order to be the teacher of record in those

1 rooms.
 2 Q. So earlier when you were referring to a
 3 shortage area in bilingual education, which, if any of
 4 those certificates and authorizations were you referring
 5 to?
 6 MR. HERRON: Objection. Calls for speculation.
 7 THE WITNESS: I don't know because each -- the
 8 determination of whether or not the authorization serves
 9 the purposes for meeting student needs at a district is
 10 a decision made at the local level and is not made by my
 11 agency.
 12 MR. HERRON: Can we have the question read
 13 back, please, and the answer?
 14 (Record read.)
 15 MR. HERRON: I think he's actually asking you
 16 where is the shortage, if you know.
 17 THE WITNESS: I don't know that, where the
 18 shortage is.
 19 Q. BY MR. AFFELDT: So when you earlier said you
 20 know there to be a shortage in the area of bilingual
 21 education, were you referring to all of those possible
 22 authorizations, or just a BCLAD?
 23 A. I'm referring to the BCLAD, individuals with
 24 the proficiency in the language.
 25 Q. Do you know if there's a shortage with respect

1 to teachers needing CLAD credentials?
 2 A. I can't speak to that. I don't know.
 3 Q. And why is that?
 4 A. School districts don't report that information
 5 to me.
 6 Q. Do you know if there's a shortage with respect
 7 to individuals holding the SB 395 or 1969 certificate?
 8 A. I have no specific knowledge of individual
 9 district needs. The information I have is that
 10 districts are providing training in these areas in order
 11 to meet student needs in school districts. To what
 12 degree that shortage exists in varying school districts,
 13 I don't know.
 14 Q. Is that the Commission's position as well with
 15 respect to the types of credentials required for
 16 teachers of English language learners?
 17 MR. HERRON: Objection. Vague and ambiguous as
 18 phrased. Misconstrues prior testimony. He didn't state
 19 the Commission's position. Also object to the last
 20 several questions.
 21 You're asking the chief executive officer of
 22 this entity to testify about statistics about which
 23 you've not established he has any knowledge. I don't
 24 think you perceive the level of his job here.
 25 Can we have the question read back, please?

1 (Record read.)
 2 MR. HERRON: Again, is what the position of the
 3 Commission? Object as vague and ambiguous.
 4 MR. AFFELDT: I'll take that. Let me ask it
 5 again.
 6 Q. Has the Commission undertaken any study to
 7 determine whether or not there's a shortage of teachers
 8 possessing the CLAD credential in the state of
 9 California?
 10 A. I don't recall at this point whether or not
 11 there's been a study conducted by the Commission on that
 12 area.
 13 Q. Have they undertaken a study to determine if
 14 there's a shortage of teachers possessing SB 395 or 1969
 15 certificates?
 16 A. I'm not aware of a study.
 17 Q. Has there been a study to determine if there
 18 are a shortage of teachers possessing BCLAD
 19 certificates?
 20 MR. HERRON: You're talking about a study by
 21 the Commission, correct?
 22 MR. AFFELDT: That's right.
 23 THE WITNESS: I'm not aware of a study being
 24 conducted on BCLADs.
 25 Q. BY MR. AFFELDT: Are you aware of any study

1 being conducted by anyone that indicates whether or not
 2 there are shortages of any of these types of credentials
 3 for English language?
 4 A. I'm not aware of any study.
 5 Q. Has the Commission determined what type of
 6 credential an individual teacher must hold to teach
 7 English learners in a structured immersion classroom?
 8 MR. HERRON: I'm sorry, I missed that.
 9 (Record read.)
 10 MR. EGAN: It's vague and ambiguous, and I
 11 think it assumes facts that haven't been established.
 12 MR. AFFELDT: You can answer.
 13 THE WITNESS: The Commission is not engaged
 14 in -- I need the question asked again. I'm sorry.
 15 (Record read.)
 16 THE WITNESS: The decision as to whether or not
 17 a credential authorizes service in that -- in that
 18 environment is a matter that does not rest with the
 19 Commission, it's with the school district.
 20 MR. HERRON: We've been going for over an hour.
 21 Could we please have a break?
 22 MR. AFFELDT: Sure.
 23 (Recess taken.)
 24 Q. BY MR. AFFELDT: Has the Commission determined
 25 what credential a teacher must hold who teaches English

1 learners in a mainstream environment classroom?
 2 A. The Commission has an authorization provided
 3 for anyone teaching limited English speaking students.
 4 Again, the decision about whether or not that's an
 5 appropriate credential for the students that are being
 6 served is, again, the district's determination.
 7 Q. So your answer is the same with respect to a
 8 mainstream classroom, that it's the district who
 9 determines what credential that teacher needs?
 10 MR. HERRON: Objection. Misconstrues prior
 11 testimony. Vague and ambiguous.
 12 THE WITNESS: My knowledge of what happens in
 13 that environment is the district needs to decide whether
 14 or not the authorization we provide indeed meets the
 15 requirements for those students in that classroom.
 16 Q. BY MR. AFFELDT: Now, looking at a bilingual
 17 education classroom where the primary language of the
 18 student is used to convey content, has the Commission
 19 determined what kind of credential authorization a
 20 teacher needs to teach in a traditional bilingual
 21 education classroom?
 22 MR. HERRON: Objection. Asked and answered.
 23 You may respond.
 24 THE WITNESS: The Commission has made a
 25 determination that an individual who possess fluency in

1 the language is authorized to provide instruction in a
 2 bilingual classroom through the authorization of the
 3 credential -- of the certification.
 4 Q. BY MR. AFFELDT: Is that a BCLAD certification
 5 then?
 6 A. That's correct.
 7 Q. So with respect to a bilingual education
 8 classroom, the Commission has said, you need a BCLAD,
 9 but with respect to a mainstream classroom or an English
 10 immersion classroom, the Commission has said it's up to
 11 the district to decide what credential you need to teach
 12 that.
 13 MR. HERRON: Objection. Misconstrues prior
 14 testimony. Compound. Calls for a legal conclusion.
 15 THE WITNESS: We know that it's a bilingual
 16 classroom, and an individual is required to have the
 17 fluency in the language to teach that student
 18 population. The other classroom's composition, makeup
 19 and programmatic needs are district decisions. They
 20 need to determine whether or not these authorizations
 21 meet the needs of the students given that type of
 22 program.
 23 Q. BY MR. AFFELDT: Does the Commission have any
 24 position on what a -- strike that.
 25 Does the Commission have an individual who is

1 the person primarily responsible for dealing with
 2 English language learner authorizations?
 3 A. If we have someone on staff whose primary
 4 duties are to deal with that, no.
 5 Q. Who would be the person most knowledgeable at
 6 the Commission who deals with English language learner
 7 credentials?
 8 MR. HERRON: Objection to the extent it calls
 9 for speculation.
 10 THE WITNESS: I'd have to research who would be
 11 the best. I don't have a name at this point in time.
 12 Q. BY MR. AFFELDT: Do you feel sufficiently
 13 knowledgeable about English learner authorizations to
 14 discuss them?
 15 A. No.
 16 Q. But you don't know who on your staff would be
 17 able to discuss English learner credentials?
 18 A. I have a large staff.
 19 MR. HERRON: That wasn't your prior question.
 20 Misconstrues his prior testimony. You said person most
 21 knowledgeable.
 22 Can you read it back?
 23 (Record read.)
 24 THE WITNESS: I have a number of credentialed
 25 technicians and staff members who are responsible for

1 making decisions about what requirements are necessary
2 to obtain that particular certification. I'd have to
3 find out who would be the -- who has that specific
4 responsibility in my credential division.

5 MR. HERRON: We'd be willing to leave a blank
6 in the deposition transcript at this point so that when
7 it's corrected he could provide that, or alternately we
8 could even discuss providing that information outside
9 the deposition process if you'd like to talk about that.

10 MR. AFFELDT: Why don't we do that.

11 MR. HAMILTON: What are you going to do?

12 MR. HERRON: The discussion was just he's
13 asking for -- he, John, is asking for information
14 concerning the English language learners, and we'd be
15 willing to, I think, discuss providing that information
16 outside of this deposition in an informal rather than
17 pursuant to a formal request.

18 Q. BY MR. AFFELDT: How is it that the CTC has
19 become aware of the teacher shortage issue we were
20 acknowledging and discussing earlier?

21 A. The information we receive through data when
22 school districts request emergency permits or waivers.
23 They file with us annually a declaration of need, and
24 this declaration of need for the year informs us as to
25 what they have approximated to be their need in specific

1 credential areas.

2 Q. Any other ways the Commission becomes aware of
3 teacher shortages in California?

4 A. Yes.

5 Q. And what are those?

6 A. Anecdotal kinds of discussions that take place
7 between individuals in school districts and members of
8 my staff.

9 Q. Other than declarations of need from districts
10 and anecdotal discussions, are there any other ways that
11 the Commission becomes aware of teacher shortages in
12 California?

13 MR. HERRON: Object to the extent it calls for
14 him to speculate.

15 THE WITNESS: My reliance is on the actual
16 submission of documents by districts or counties that
17 identify what those needs are. That's my source for
18 data.

19 Q. BY MR. AFFELDT: Does the Commission generate
20 any reports about the numbers of teachers in California
21 teaching on emergency permits?

22 MR. HERRON: Objection. Vague and ambiguous in
23 the use of the term "reports." Assumes facts not in
24 evidence. Calls for speculation.

25 THE WITNESS: On occasion we will provide

1 reports, documents to the Commission on the shortage
2 areas in California and the use of emergency permits and
3 waivers.

4 Q. BY MR. AFFELDT: How often do you do that?

5 MR. HERRON: Objection. Calls for speculation.

6 THE WITNESS: My recollection is we've done one
7 this year, this past year.

8 Q. BY MR. AFFELDT: Was that the first one you've
9 ever done?

10 A. No.

11 Q. So when was the one you did before that?

12 A. I don't recall.

13 Q. Do you make annual reports to the Commission as
14 to the number of emergency credentials and waivers in
15 California?

16 MR. HERRON: Objection. Calls for speculation.

17 THE WITNESS: During my tenure I have provided
18 reports within the year, each year, about shortage
19 areas.

20 Q. BY MR. AFFELDT: And just for my understanding,
21 when you say "within the year," what does that phrase
22 mean?

23 A. There is a delay in when we get data and can
24 compile it, so if it's a 2000, 2001 school year, that
25 would be into 2002, 2003 year for having that data

1 compiled and presented to the Commission.

2 Q. Do you present those reports on a regular basis
3 to the Commission, or on an ad hoc basis?

4 MR. HERRON: Objection. Asked and answered.
5 Calls for speculation. Vague and ambiguous.

6 You may respond.

7 THE WITNESS: I have provided information on
8 emergency permits and waiver shortage areas annually.

9 Q. BY MR. AFFELDT: And where do you get the data
10 to put in those reports?

11 MR. HERRON: I believe he's told you that, and
12 therefore I object as asked and answered.

13 THE WITNESS: When districts file for emergency
14 permits or waivers, then those numbers are then
15 reflected in a subsequent report to the Commission.

16 Q. BY MR. AFFELDT: Those numbers are estimates of
17 how many emergency permits the district thinks they're
18 going to need for the coming year; isn't that right?

19 A. The declaration of need is an annual filing by
20 school districts or counties to the Commission that runs
21 from July 1 to June 30th, and within that year they may
22 be less than, meet or exceed what their estimate is, but
23 the document itself is an estimate in specific areas.

24 Q. Because you are just giving them authorization
25 to hire teachers on emergency permit, and then it's up

1 to them after that to hire one or --
 2 A. You're asking me a process question?
 3 Q. Yes, I am. Isn't it true that you're not
 4 authorizing them to hire only the number that they
 5 report to you as their estimate, in fact, you're
 6 authorizing them to hire as many as they need, whether
 7 it's more or less than their estimate?
 8 MR. HERRON: Objection. Assumes facts not in
 9 evidence. Argumentative. Calls for speculation. Vague
 10 and ambiguous as phrased.
 11 You may respond.
 12 THE WITNESS: If you're asking me if the
 13 declaration of need gives them the authority to hire,
 14 the answer is no.
 15 MR. AFFELDT: No, that wasn't my question.
 16 THE WITNESS: I'm sorry.
 17 Q. BY MR. AFFELDT: In their declaration of need,
 18 they've given you an estimate of how many
 19 emergency-permit teachers they think they're going to
 20 need for the coming year, correct?
 21 A. That's correct.
 22 Q. And when you approve -- based on their
 23 declaration of need, when you approve, what you're
 24 approving is the authority to hire teachers on emergency
 25 permits without regard to a specific number of teachers

1 to be hired; isn't that correct?
 2 A. No.
 3 Q. Can you clarify for me where I'm mistaken?
 4 A. The statement of need goes on file with my
 5 certification division, then we look at the number of
 6 requests as they come in for emergency permits and
 7 waivers against their declaration of need.
 8 The declaration of need is a document that has
 9 to be adopted by a school board in a public meeting, and
 10 that declaration gives the public the information that
 11 within that school year they expect to hire individuals
 12 in these particular areas.
 13 That document comes to us. That gives us an
 14 idea of what the demand is in that district for
 15 potentially utilizing emergency permits. It's
 16 information to us. But then it's incumbent on the
 17 school district to then, on an individual basis, get
 18 approval from the Commission to authorize an individual
 19 to have an emergency permit or waiver to serve in a
 20 classroom.
 21 Q. And how does an individual district go about
 22 getting individual permission for an emergency permit?
 23 A. There's a process that we have that they must
 24 file an application for that with the Commission. They
 25 must -- certainly we verify the information,

1 baccalaureate degrees, passage of CBEST, fingerprints
 2 for background checks. And then that information is --
 3 and we review, for example, with emergency permits, the
 4 number of units an individual has completed that would
 5 make them eligible for that permit. If they meet the
 6 requirements, then that request is submitted to the
 7 Commission, and they may either grant or deny that
 8 request.
 9 Q. And that request must come from a district,
 10 correct?
 11 A. That's correct, or a county.
 12 Q. Which is different when, say, a preliminary or
 13 full credential, the request comes from the individual
 14 themselves?
 15 MR. HERRON: Objection. Vague and ambiguous.
 16 Calls for speculation.
 17 THE WITNESS: If I understand -- rephrase the
 18 question. With respect to how preliminary clear
 19 credentials come, they can either come from an
 20 individual or from higher institutions who will make
 21 recommendations, but most of those are for preliminary
 22 credentials, not for clears.
 23 And individuals who may have experience out of
 24 state and credentialed out of state may file a direct
 25 app, as we call it, direct application to the Commission

1 for licensing. So there's multiple ways individuals can
 2 access our Commission to get approval for a credential.
 3 Q. BY MR. AFFELDT: Getting back to the statement
 4 of need. It is a prerequisite for the district to have
 5 on file a statement of need in order for the Commission
 6 to consider an emergency permit application for an
 7 individual; is that correct?
 8 A. That's correct.
 9 Q. In terms of the reports that the Commission
 10 generates on numbers of emergency permits issued in a
 11 year in the state, are you relying on the estimates the
 12 districts have made in their declarations of need, or
 13 are you relying on the actual numbers based on the
 14 individual applications you've received?
 15 MR. HERRON: Objection. Misconstrues prior
 16 testimony.
 17 THE WITNESS: I don't recall what role the
 18 declaration of need falls in our reporting to the
 19 Commission, I know we just report usage numbers.
 20 Q. BY MR. AFFELDT: Does the Commission have a
 21 database of credentials?
 22 Let me put it this way, does the Commission
 23 have a database whereby it tracks individuals and their
 24 credentials in California?
 25 A. I don't understand what you mean by "tracks,"

1 by tracking credentials.
 2 Q. Why don't you tell me what kind of database
 3 does the Commission maintain with respect to the
 4 credentialing process in California?
 5 A. We certainly maintain a database of those who
 6 have credentials. We do have a system, if you've
 7 applied for a credential, that you can call up and have
 8 a status report on where that credential happens to be
 9 in the process as it moves through the system for
 10 approval. That's our current system for housing data on
 11 credentials.
 12 Q. What kind of data is maintained on that system
 13 for each individual who is on the system?
 14 MR. HERRON: Objection. Calls for speculation.
 15 THE WITNESS: I'd have to review the system
 16 itself. The system is designed to indicate information
 17 about the individual meeting the requirements to be
 18 licensed and demographic data, such as home address and
 19 so forth, social security numbers.
 20 Q. BY MR. AFFELDT: Does it maintain information
 21 about where that individual is teaching?
 22 A. No, it does not.
 23 Q. Are you sure about that, or would you have to
 24 check?
 25 A. Our system is not designed to include

1 information relative to their employment. Unless it's
 2 been a district submitted for an emergency permit or
 3 waiver, then we'll know the district that has submitted
 4 for that information or the county that has made that
 5 request.
 6 Q. Do you rely at all on this database to generate
 7 reports about numbers of emergency permits issued in
 8 California?
 9 MR. HERRON: Objection. Calls for speculation.
 10 I'll just again say he's not a data-entry clerk, he's
 11 the chief executive officer of a 230-person entity. I
 12 object to the extent it calls for him to speculate on
 13 that.
 14 MR. AFFELDT: You can answer.
 15 THE WITNESS: I don't know the technical way
 16 that they gather the specific data for the report,
 17 whether it's by documents that are filed or that it was
 18 keyed into the computer system.
 19 Q. BY MR. AFFELDT: Are you familiar at all with
 20 the DataQuest database maintained by the Department of
 21 Education?
 22 A. No.
 23 Q. You haven't had occasion to review the numbers
 24 generated by the Department of Education's DataQuest
 25 database with respect to the teacher shortage in

1 California?
 2 MR. HERRON: Objection. Calls for speculation.
 3 Vague and ambiguous as phrased.
 4 THE WITNESS: I don't recall reviewing their
 5 data on teacher shortage.
 6 Q. BY MR. AFFELDT: Are there any other means by
 7 which the Commission educates itself on the teacher
 8 shortage in California?
 9 MR. HERRON: Objection. Calls for speculation.
 10 Vague and ambiguous.
 11 THE WITNESS: I don't know what -- again, my
 12 prior statement was that it's actually based upon
 13 specific data from districts.
 14 Q. BY MR. AFFELDT: And you don't, in your
 15 capacity as executive director, forward to the
 16 Commission information from the DataQuest website?
 17 MR. HERRON: Asked and answered three questions
 18 ago.
 19 THE WITNESS: I'm not familiar with the
 20 DataQuest system. The Department of Education does send
 21 information out. I may have seen it, it may have been
 22 used for some purpose, but I have no recollection.
 23 Q. BY MR. AFFELDT: Are you familiar with the
 24 center for the future of teaching and learning?
 25 A. Yes, I am.

1 Q. Are you familiar with reports that they have
 2 put out with respect to the teacher shortage in
 3 California?
 4 A. Yes.
 5 Q. Is the Commission familiar with those reports?
 6 A. Yes.
 7 Q. How has that process happened?
 8 A. They attend forums that they conduct, members
 9 of the Commission.
 10 Q. But you haven't forwarded those reports to the
 11 Commission as part of your official duties?
 12 A. They may have been distributed from time to
 13 time, but not as part of -- a recent forum was conducted
 14 by the center, one or two commissioners attended that.
 15 I did not send out copies of their report to
 16 commissioners.
 17 Q. When was that forum?
 18 A. September 10th.
 19 Q. And where was that?
 20 A. Right here in Sacramento.
 21 Q. And who was invited to that forum?
 22 MR. HERRON: Objection. Calls for speculation.
 23 THE WITNESS: I don't know who the list of
 24 invitees were.
 25 Q. BY MR. AFFELDT: Were you there?

1 A. Yes.
 2 Q. So how many people were there, approximately?
 3 MR. HERRON: Objection. Relevance.
 4 You may respond.
 5 THE WITNESS: I would only guess because I
 6 wasn't there very long, 50 to 100 people. I don't know.
 7 Q. BY MR. AFFELDT: Were there Sacramento
 8 policymakers there?
 9 MR. HERRON: Objection. Calls for speculation.
 10 Vague and ambiguous as phrased.
 11 THE WITNESS: I was only there for about an
 12 hour, hour and a half. There are individuals who are
 13 interested in education at all levels in attendance.
 14 But I don't know how I would define the policymaker
 15 aspect of the question.
 16 Q. BY MR. AFFELDT: What was the subject of the
 17 forum?
 18 A. I just indicated it was based upon the number
 19 of teachers that are serving in school districts, and
 20 that part of that discussion was on shortage.
 21 Q. Has the Commission done any analysis about
 22 whether the teacher shortages are disproportionately
 23 prevalent in low-income schools?
 24 MR. HERRON: Objection. Calls for speculation.
 25 Vague and ambiguous as phrased.

1 Did you say studies?
 2 MR. AFFELDT: Analysis.
 3 THE WITNESS: My recollection is that we have
 4 collected data for reports and provided data for reports
 5 about the utilization of emergency permits and waivers.
 6 Q. BY MR. AFFELDT: And have any of those reports
 7 addressed whether or not emergency-permitted teachers
 8 are disproportionately prevalent in low-income schools?
 9 MR. HERRON: Objection. Calls for speculation.
 10 Vague and ambiguous as phrased.
 11 THE WITNESS: I'm not aware of the Commission
 12 having a report that addresses the issue of a
 13 disproportionate number of those teachers in schools.
 14 Q. BY MR. AFFELDT: What about with respect to
 15 high minority schools where large numbers of the student
 16 population are minorities, has the Commission done any
 17 analysis to determine whether high-minority schools are
 18 disproportionately served by teachers under emergency
 19 permits?
 20 A. Not aware of any study.
 21 MR. HERRON: Objection. Vague and ambiguous.
 22 Calls for speculation. And I believe he's already
 23 testified to this.
 24 You may respond.
 25 THE WITNESS: I'm not aware of any studies done

1 during my tenure.
 2 Q. BY MR. AFFELDT: Are you personally aware of
 3 whether or not emergency-permitted teachers are
 4 disproportionately teaching in high-minority schools?
 5 MR. HERRON: Objection. Vague and ambiguous.
 6 Calls for speculation.
 7 THE WITNESS: I have been made aware of that
 8 issue through information I've read in the newspapers
 9 and other reports that have been done by researchers,
 10 external organizations.
 11 Q. BY MR. AFFELDT: Did you say have or have not?
 12 A. I'm sorry, have been done.
 13 Q. You have been made aware?
 14 A. Through my -- through reading of news media
 15 article and other reports.
 16 MR. HERRON: He just wants to know if you said
 17 have or have not.
 18 THE WITNESS: I have been made. I'm sorry.
 19 Q. BY MR. AFFELDT: Has the Commission been made
 20 aware that emergency-permitted teachers are
 21 disproportionately located in high-minority schools?
 22 MR. HERRON: Objection. Calls for speculation.
 23 Vague and ambiguous as phrased.
 24 You may respond.
 25 THE WITNESS: They have not been informed by my

1 staff through any kind of a report or study, so I don't
 2 know what they know from their own experience.
 3 Q. BY MR. AFFELDT: Is that not a fact that you
 4 think important to inform the Commission about?
 5 MR. HERRON: Objection. Vague and ambiguous.
 6 THE WITNESS: I don't know what important means
 7 in terms of my responsibility to issue licenses. I
 8 issue licenses when people meet specific criteria, and
 9 it would be up to the school district to make
 10 determinations as to where individuals are placed, in
 11 what classroom, and what populations of students are
 12 being served. I don't have that information.
 13 Q. BY MR. AFFELDT: So you do not consider it
 14 within the scope of your duties to examine whether or
 15 not emergency-permitted teachers are disproportionately
 16 teaching in high-minority schools?
 17 MR. HERRON: Objection. Asked and answered.
 18 Calls for speculation. I mean, he's already told you
 19 about their data gathering here.
 20 THE WITNESS: The responsibility of the
 21 Commission has been to certify individuals, set the
 22 standards for the certifications, review the documents
 23 that are submitted, and to make decisions about either
 24 granting, denying credentials or certifications or
 25 permits.

1 That jurisdiction does not extend into policy
2 issues relative to school districts and the populations
3 of students that are being served by the school
4 districts and whether or not they are being underserved
5 by the teachers that are being assigned to those
6 classrooms. It's strictly a local issue.

7 Q. BY MR. AFFELDT: Is there any state agency that
8 you're aware of that has the responsibility to examine
9 whether high-minority schools are being
10 disproportionately served by emergency-credentialed
11 teachers?

12 MR. HERRON: Objection. Vague and ambiguous.
13 Calls for speculation. Asks him to testify outside of
14 his role at the Commission.

15 THE WITNESS: I don't know what statutorial
16 requirements exist out there for other agencies to
17 monitor or examine that particular issue.

18 Q. BY MR. AFFELDT: And within your experience,
19 you haven't come across any state agency that monitors
20 or examines that issue; is that correct?

21 MR. HERRON: Objection. Vague and ambiguous.
22 Calls for speculation.

23 THE WITNESS: I'm not aware of what agencies do
24 outside my area of responsibility.

25 Q. BY MR. AFFELDT: What about with respect to

1 MR. AFFELDT: I'll take that as an answer if
2 you're saying your last answer applied to the Commission
3 as opposed to just your individual position.

4 THE WITNESS: Yes, it applies to the
5 Commission.

6 Q. BY MR. AFFELDT: Do you have any idea how many
7 teachers will be needed in California over the next
8 decade?

9 A. I have read reports that have projected needs
10 over this decade.

11 Q. What have those reports told you?

12 A. One report, I believe, from the Center for the
13 Future of Teaching, indicated somewhere around 195,000.

14 Q. Has the Commission done any projections for how
15 many teachers are going to be needed over the next
16 decade?

17 A. No.

18 MR. AFFELDT: Why don't we take a break, get
19 some water and come back for one last stretch.

20 (Recess taken.)

21 Q. BY MR. AFFELDT: Dr. Swofford, is the
22 Commission concerned at all about the large numbers of
23 teachers on emergency permits in California?

24 MR. HERRON: Objection. Assumes facts not in
25 evidence. Calls for speculation.

1 overseeing the teacher supply in California, is it, in
2 your view, the Commission's responsibility to ensure
3 there's an adequate supply of credentialed teachers in
4 California?

5 MR. HERRON: Objection. Vague and ambiguous.
6 Calls for a legal conclusion.

7 You may respond.

8 THE WITNESS: I haven't been charged with that
9 responsibility during my tenure. The Commission is a
10 regulatory agency. We establish regulations for
11 approving programs and credentialing and ensuring that
12 people who hold credentials are fit academically and
13 personally, character fitness. That is our
14 responsibility. The Commission has developed programs
15 to enable different pathways for certification in order
16 to deal with a shortage issue.

17 Q. BY MR. AFFELDT: Is it the Commission's
18 responsibility -- I know you just answered with respect
19 to your responsibility. Is it the Commission's
20 responsibility, in your view, to ensure there's an
21 adequate supply of teachers in California?

22 MR. HERRON: He just answered that question.
23 He's talked about that. But if you want to ask him
24 about that, then go ahead ask him about that. Come on.
25 Asked and answered.

1 THE WITNESS: The Commission has initiated
2 specific programs, credentialing programs to reduce the
3 numbers of emergency permits.

4 Q. BY MR. AFFELDT: My question was, are they
5 concerned about the large numbers of
6 emergency-credentialed teachers?

7 MR. HERRON: Same objections. Asked and
8 answered. He responded.

9 THE WITNESS: In response to the numbers of
10 emergency permits, the Commission has enacted programs
11 that would move to reducing their need.

12 Q. BY MR. AFFELDT: Does that reflect a concern
13 for the fact that there are so many emergency-permitted
14 teachers in the state?

15 MR. HERRON: Same objections.
16 You may respond.

17 THE WITNESS: It characterizes the Commission's
18 understanding that there are needs to find other
19 alternative pathways to get more fully-prepared teachers
20 in classrooms and minimize the use of emergency permits.

21 Q. BY MR. AFFELDT: Why is that important, to
22 maximize the fully-prepared teachers and minimize the
23 emergency permits?

24 A. If I can pose the response that would support
25 an answer to your question, it's designed to get people

1 into career paths, these programs. So emergency permits
2 are granted annually for up to five years, so an
3 individual can keep coming back every year and get an
4 emergency permit.

5 The pathways that have been created by the
6 Commission, internships, preintern programs, are
7 designed to get people into a formal support system
8 along with mentor teachers at the school sites, and then
9 becoming fully qualified in subject matter areas, or
10 whatever their area they're assigned to do in that
11 position -- I mean, whatever they are assigned to do in
12 that district.

13 So they provide them with the mentoring support
14 and then provide them with academic preparation. And
15 then the retention rate is higher. So you will have
16 individuals who are in these programs who will stay in
17 teaching. So it's more desirable to have someone in a
18 program matriculating through the program for the
19 purposes of increasing the numbers of fully-prepared
20 people in the system.

21 Q. And would the Commission prefer to see there be
22 no emergency-credentialed teachers in this state, but
23 only fully-prepared teachers in the classrooms?

24 A. There's a recognition by the Commission that it
25 would be very difficult to eliminate all emergency

1 have taken action to provide alternative pathways to
2 have fully-prepared teachers in classrooms.

3 Q. BY MR. AFFELDT: What about your personal
4 opinion based on your training and experience, do you --
5 would you prefer to see only fully-prepared teachers in
6 the classrooms?

7 A. Personal experience is I believe there are
8 individuals who serve on different certification
9 documents that do an excellent job in a classroom. Some
10 are emergency permits, some are interns, preinterns, and
11 also people who are fully credentialed.

12 Q. And putting the unusual cases aside, is it your
13 experience that large numbers of teachers serving on
14 emergency permits would be an acceptable state of
15 affairs in the district, say, 15 percent or more?

16 MR. HERRON: Objection. Incomplete and
17 improper hypothetical. Calls for speculation. Assumes
18 facts not in evidence. Vague and ambiguous. Calls for
19 a legal conclusion. I think that's an unfair question.

20 THE WITNESS: If I could have the question
21 restated again.

22 (Record read.)

23 THE WITNESS: I don't know the answer to that
24 because it would depend in what subject area, grade
25 levels, what the distribution was within the school

1 permits in California given the growth of the state in
2 terms of numbers.

3 And in special areas where it's always very
4 difficult for school districts to recruit at different
5 times of the year, et cetera, there's a variety of
6 circumstances that would require that someone be hired
7 on an emergency permit.

8 Q. Let's try the question I asked, which was,
9 would the Commission prefer to see emergency permits
10 phased out and only fully-prepared teachers teaching in
11 all of the classrooms in the state?

12 MR. HERRON: Objection. Vague and ambiguous.
13 Calls for speculation. Asked and answered.

14 You may respond.

15 THE WITNESS: The Commission has not taken that
16 position.

17 Q. BY MR. AFFELDT: So is the Commission -- is it
18 acceptable to the Commission to have emergency-permitted
19 teachers remaining in the teaching force in California?

20 MR. HERRON: Objection. Vague and ambiguous.
21 Asked and answered. Vague in the term "acceptable to
22 the Commission." Calls for speculation.

23 You may respond.

24 THE WITNESS: I'm not able to respond on behalf
25 of the Commission and their perspective on that. They

1 districts in terms of numbers and -- and I'm not able to
2 access the individual competencies or qualifications of
3 those teachers who are on emergency permits. So absent
4 having that knowledge, I would not be able to make a
5 judgment on whether or not that would be acceptable or
6 not.

7 Q. BY MR. AFFELDT: Does it concern you that a
8 school might have 50 percent of its teachers on
9 emergency permits, such as Caesar Chavez Academy in
10 Ravenswood?

11 MR. HERRON: Objection. Assumes facts not in
12 evidence. Calls for speculation. I would appreciate it
13 if you would identify in what context you're asking him
14 the question, his own personal opinion, Dr. Swofford
15 speaking from his training and experience, or in his
16 role at the Commission.

17 MR. AFFELDT: Starting with his own personal.

18 THE WITNESS: I'd have to evaluate the
19 circumstances of why there are 50 percent of the
20 teachers on staff who are on emergency permits or
21 waivers. I don't know what that impact would be, and
22 if, in fact, those individuals may be competent in their
23 area of teaching. It's something I wouldn't be able to
24 speak to until I was at that school site and able to
25 look at what's happening with students and test scores

1 and observations of classrooms. That would be my
2 personal experience. Then I would make a judgment based
3 upon collection of data.

4 Q. BY MR. AFFELDT: So you wouldn't be able to
5 make a judgment if you knew that half of a school's
6 teaching force was made up of emergency-permit teachers,
7 you wouldn't be able to make a judgment as to whether
8 that was cause for concern or not for you? Am I
9 understanding that?

10 MR. HERRON: Objection. Incomplete and
11 improper hypothetical. Calls for speculation. It's
12 vague and ambiguous. I think he's explained why he
13 answered that way. Asked and answered.

14 THE WITNESS: My personal experience, I went
15 out and evaluated schools who had fully-credentialed
16 teachers in every grade and there were concerns about
17 student progress and achievement scores. So I would
18 have to look at the specific context of the situation
19 and see whether or not this had a beneficial, neutral or
20 adverse impact on student performance, so I would have
21 to have evidence before me to make a decision.

22 I think my previous response relative to the
23 importance of having people on career pathways, for
24 having them in the pipeline, if you will, for becoming
25 fully-certified teachers, that that minimizes turnover

1 than 80 percent of the faculty are on emergency permits?

2 MR. HERRON: Objection. Assumes facts not in
3 evidence. It's vague and ambiguous.

4 Are you asking him, Dr. Swofford, or what
5 approach or view the Commission might have?

6 MR. AFFELDT: I'm starting with Dr. Swofford.

7 THE WITNESS: Again, I would want to review why
8 there was an 80-percent emergency permit requirement at
9 that school site. I'd need to know more specifics about
10 the individuals that have those emergency permits and
11 the qualifications they have. That's an assessment
12 that's done by the school site. I'd have to look again
13 at performance and all the other issues that would give
14 me some indicators of whether or not that was, again, a
15 positive, a neutral or adverse impact on students.

16 Q. BY MR. AFFELDT: Knowing nothing else about the
17 school other than that 80 percent of its faculty was on
18 emergency permit, you would not have a concern at that
19 point in your analysis, am I understanding that
20 correctly?

21 MR. HERRON: No, but you are misconstruing his
22 testimony, and you've again asked him a question that's
23 vague and ambiguous. Calls for speculation. And I
24 object on all those grounds. It's asked and answered as
25 well.

1 in staffing. Again, I would have to evaluate the impact
2 of the turnover on the performance of kids over time.

3 Q. BY MR. AFFELDT: What schools are you referring
4 to where you saw 100-percent certified staff and
5 unsatisfactory academic progress?

6 A. I didn't say it was unsatisfactory. I believe
7 I said I had concerns about the progress of the
8 students, and in light of that, that's been in every
9 school district I've worked in. That's been an issue in
10 terms of assessing staffing and school site leadership.

11 Q. Have you ever examined a school that had 50
12 percent of its staff on emergency permits?

13 A. No, I haven't.

14 Q. So you've never seen a school with 50 percent
15 of its staff under emergency permits that was performing
16 satisfactorily?

17 MR. HERRON: Objection. Incomplete and
18 improper hypothetical. Vague and ambiguous. Calls for
19 speculation.

20 THE WITNESS: If you're asking me if I've been
21 in a school to assess or evaluate or review progress of
22 students where there's a 50-percent emergency -- no, I
23 haven't.

24 Q. BY MR. AFFELDT: Would it concern you if there
25 were a school, as there are in California, where more

1 THE WITNESS: If a school had 80 percent, I
2 would look at the school and see why we're not having --
3 are unable to recruit and retain teachers who were not
4 on emergency permits, but I would not be able to make a
5 decision as to whether or not there is a concern about
6 what's happening with respect to student performance.

7 Q. BY MR. AFFELDT: Okay. What about with respect
8 to the Commission's perspective, would the Commission
9 have a concern knowing that there's a school in
10 California where 50 percent of its staff are emergency
11 permitted?

12 MR. HERRON: I'm sorry, did you say school or
13 district?

14 MR. AFFELDT: School.

15 THE WITNESS: With respect to a school, the
16 Commission has not extended itself out to look at
17 individual schools within school districts. It does
18 look at school districts.

19 Q. BY MR. AFFELDT: So if the Commission receives
20 word that a school has, say, 80 percent of its staff on
21 emergency permits, the Commission would not respond to
22 that situation in any way?

23 MR. HERRON: Objection. Incomplete and
24 improper hypothetical. Assumes facts not in evidence.
25 Vague and ambiguous. Calls for speculation.

1 THE WITNESS: I don't know what the Commission
 2 would do if we received a phone call relative to 80
 3 percent. I've not been informed of such a phone call,
 4 and I don't know what the response would be until such
 5 time I had a phone call. Then I would look at what my
 6 jurisdictional responsibilities are if that phone call
 7 came in.
 8 Q. BY MR. AFFELDT: Do you know if the Commission
 9 has any jurisdictional responsibilities to respond to
 10 individual schools and their level of staffing of
 11 emergency-permit teachers?
 12 A. The only jurisdiction that the Commission has
 13 is with respect to whether or not there's assignment,
 14 misassignment of people who are not authorized to be in
 15 a classroom, and that is through the county office and
 16 the school district.
 17 Q. And emergency-permitted teachers who have gone
 18 through the process we were talking about earlier would
 19 be characterized as correctly assigned; isn't that
 20 right?
 21 A. I can only attest if they, in fact, accurately
 22 represented what the person was teaching and submitted
 23 it on documents to the Commission and the Commission
 24 took action to approve, that they would be authorized.
 25 Q. They wouldn't show up as a misassignment?

1 A. That's correct.
 2 Q. Now, looking at the district level, does the
 3 Commission have concerns when a district has a large
 4 number of emergency credentialed or waived teachers?
 5 A. The Commission currently looks at districts
 6 with a 20 percent or greater number of emergency permits
 7 and encourages those districts to access our preintern
 8 and intern programs, because the governor has provided
 9 considerable money over the last several years for that
 10 purpose of extending those alternative preparation
 11 opportunities to individuals who want to become
 12 fully-credentialed teachers. And the money is
 13 available, and we make sure districts are aware that
 14 that money is available and they can access that. So
 15 that's basically what we do. It's really for us to
 16 encourage districts to access in terms of preinterns
 17 programs.
 18 Q. Does the Commission have any authority to order
 19 districts to take any action when a certain percentage
 20 of teachers are found to be on emergency permits?
 21 A. Not on percentage.
 22 Q. In what context do they have authority to order
 23 a district to take certain action?
 24 A. If you're asking me if we have any kind of
 25 authority to act relative to granting or denying

1 emergency permits, we just received authority through
 2 recent legislation.
 3 Q. And what authority was that?
 4 A. Under Senate Bill 837, Senator Jack Scott
 5 codified requirements that school districts, when
 6 submitting their statement of need, their declaration of
 7 need, must indicate that they have exhausted or utilized
 8 a number of possibilities to fill that position by --
 9 through advertisements, through the six teacher
 10 recruitment centers that are around the state of
 11 California.
 12 So you must attest -- we're in the process of
 13 developing this. This was only signed a week ago by the
 14 governor, so it's very brand-new. But procedurally it
 15 needs to be drafted up and placed on forms and
 16 information out to school districts of how this will
 17 work, but the intent will be that they have to say
 18 they've done all these things to find a fully-prepared
 19 teacher, and they have to attest to that. And that
 20 is -- that gives the Commission the ability to look at
 21 whether or not they're acting in good faith to find
 22 qualified teachers before they submit for emergency
 23 permits.
 24 Q. When is that process going to be finalized, by
 25 that I mean the process of determining what exactly it

1 is districts are going to have to do to fulfill the
 2 legislative mandate?
 3 A. The newly-enacted statute is very specific on
 4 what areas they need to -- what areas they need to
 5 follow through on. We will try and do this as soon as
 6 possible. The Commission has not been informed of any
 7 specificity on this as yet because, again, it was just
 8 enacted. I'll take it back to the Commission for their
 9 review, and then I will get direction from the
 10 Commission how I will proceed in terms of implementing
 11 the bill, now law. But certainly we're going to move as
 12 quickly as possible because we -- I'm not sure what date
 13 it is expected, but I would assume it would be
 14 January 1.
 15 Q. Is that the usual process that you just
 16 described for me in terms of how the Commission
 17 implements a new piece of legislation? Specifically I'm
 18 concerned about your role in the process.
 19 A. Once the legislation is handed down to me after
 20 the governor's signed it, then I take it back to the
 21 Commission with recommendations of how staff plans to
 22 implement the statutory requirements.
 23 And some of it may require simple revamping of
 24 forms, it may require that we go to Title 5 regulations
 25 and redo our regulations, I'm not sure. We have to

1 evaluate the requirements of the law and see whether or
2 not we can enact it without any further action on the
3 part of the Commission.

4 But much of what we do is really subject to the
5 approval of the Commission. Most bills will go to them
6 and they will give me the go-ahead to implement, so I
7 will recommend, within the next several months, the
8 process.

9 Q. And is the Commission going to investigate in
10 any way the areas of outreach that the districts have
11 attested to to comply with this legislation?

12 A. That still would have to be discussed in terms
13 of how we would operationalize the statute.

14 Q. Getting back to the prior question about
15 whether or not the CTC can order a district to take
16 action when large numbers of its teaching force are
17 undercredentialed, other than this new bill that you've
18 talked about, are there any other ways that the
19 Commission can order districts to modify their behavior
20 to deal with large numbers of undercredentialed
21 teachers?

22 MR. HERRON: Objection. Vague and ambiguous.

23 THE WITNESS: There's no authority on the part
24 of the Commission to order a district. The power of the
25 Commission is to either grant or deny requests for

1 certification.

2 Q. BY MR. AFFELDT: Are you aware of any other
3 state agencies that have authority to order districts to
4 take action to reduce the number of emergency-permitted
5 teachers?

6 A. I'm unaware of any agency that has that power.

7 Q. You mentioned the 20-percent tipping point for
8 when the Commission will talk to districts about
9 encouraging them to follow certain preintern and intern
10 programs. Where did the 20-percent figure derive from?

11 MR. HERRON: Objection. Calls for speculation.

12 You may respond.

13 THE WITNESS: I don't have a detailed
14 recollection of what was the genesis for the 20 percent.
15 My knowledge is that the average is about 9 to 10
16 percent of districts are emergency permit. And when I
17 looked at that, the availability of additional funds
18 that came from the governor for preinterns and interns
19 that we looked at internally, staff agreed that 20
20 percent would be the threshold that we would look at
21 districts to see if we could assist them in getting
22 individuals in those programs.

23 Q. BY MR. AFFELDT: Have you seen that 20 percent
24 figure used in any other context?

25 A. I don't recall I've seen it anywhere else other

1 than in our own internal operations.

2 MR. JORDAN: Is it possible to ask a clarifying
3 question?

4 MR. AFFELDT: Sure.

5 MR. JORDAN: You said 9 to 10 percent of
6 districts on emergency permits. You mean 9 to 10
7 percent of the teachers in districts, or districts?

8 THE WITNESS: I'm sorry, it's 9 to 10 percent
9 is the average for all school districts.

10 MR. JORDAN: Average of what, the percent of
11 teachers or percent of districts?

12 THE WITNESS: Percent of teachers.

13 MR. JORDAN: Thank you.

14 (Exhibit SAD-147 was marked.)

15 Q. BY MR. AFFELDT: I've just handed you
16 Plaintiffs' Exhibit 147, and I'd ask if you could
17 identify what that is once you've had a chance to review
18 it.

19 A. I recall this.

20 Q. Can you identify for the record what this is?

21 A. This is a letter I signed that was directed to
22 Assembly Member Scott indicating that Commission support
23 of Assembly Bill 877, which was the APLE, assumption of
24 loan program, assumption program of loans for education.

25 Q. It says at the beginning of the second

1 paragraph there of the letter that you signed that
2 because of the Commission's concern about the high
3 number of teachers serving in the classroom on emergency
4 permits, we are pleased to see your emphasis on helping
5 credential candidates complete a full teacher education
6 program before entering the classroom.

7 What concern of the Commission were you
8 referring to there?

9 MR. HERRON: Objection. Document speaks for
10 itself.

11 THE WITNESS: I think we were interested in
12 seeing that there be additional money made available to
13 individuals who want to pursue a full credential as
14 opposed to remain in the emergency-permit status, and
15 this would enable people to get subsidy for college
16 coursework and textbooks.

17 Q. BY MR. AFFELDT: And why was it important to
18 the Commission to reduce the number of teachers serving
19 on emergency permits?

20 MR. HERRON: Objection. Asked and answered. I
21 think it also misconstrues his last response.

22 You may respond.

23 THE WITNESS: The Commission, again, believes
24 that individuals need to be in a -- in some formalized
25 program. The BTSA program, which I mentioned before,

1 was designed to increase retention of teachers in
2 teaching through formal support.

3 It is our belief that when you're on emergency
4 permits that there is not this same level of one
5 commitment to be in the teaching profession, and by
6 providing all sorts of support, whether it's preinterns,
7 interns, loan assumptions program, these individuals
8 will decide that teaching will be a career.

9 So instead of coming into the system for one or
10 two years, that they, in fact, will stay for five to ten
11 years and be successful in a classroom. So the idea is
12 to sweeten the pot, if you will, as recruitment to get
13 individuals into a career path.

14 Q. BY MR. AFFELDT: In addition to helping those
15 individuals get into a career path for teaching, is the
16 Commission at all concerned about improving the quality
17 of teaching so that the students in the classrooms can
18 improve their academic success?

19 A. The Commission's always concerned about
20 teachers having the requisite skills, knowledge that
21 would enable them to be successful as teachers in
22 classrooms and help students perform at their highest
23 level.

24 Q. And, in fact, the second sentence in that same
25 second paragraph says: As you know, research clearly

1 Commission has taken to reduce the number of
2 emergency-permitted teachers in California?

3 A. Well, if you're indicating -- the governor
4 through signing of legislation has provided substantial
5 enhancements in terms of dollars for intern programs,
6 preintern programs, loan assumptions for prospective
7 teacher candidates, a paraprofessional program, for
8 example, that went from \$2 million to 11. Our intern
9 programs have gone from \$2 million to \$31 million and
10 this has all been in this decade. That has allowed us
11 to increase capacity for participation in these programs
12 by districts throughout the state.

13 We also have had enabling legislation signed by
14 the governor, and California is the only state that did
15 this, that did equivalency studies of standards of other
16 states in terms of their credentialing of teachers to
17 see whether or not -- and this is a word that is used
18 most frequently in this discussion -- reciprocity. So
19 if you're in Connecticut or New York, do the
20 requirements in that state have equivalency in terms of
21 our standards, and then we can bring you in on a
22 preliminary, or even if you've had teaching experience,
23 on a clear credential in California. So that's a major
24 initiative, and that's been within the last two or three
25 years. The BTSA program, which was like \$17 million

1 shows that the preparation of a child's teacher is one
2 of the most potent factors in the child's learning.

3 Was that one of the instances where you
4 publically stated the view that teaching was one of the
5 most potent factors in learning?

6 A. I think that's a different statement.

7 MR. HERRON: Yeah, but that's okay. Go ahead
8 and just respond to what he said.

9 THE WITNESS: It is a potent factor.

10 Q. BY MR. AFFELDT: And you believe it is a potent
11 factor, don't you?

12 A. I believe that preparing individuals for the
13 positions they're going to assume is a potent factor. I
14 did not use the word "powerful," but I did use the word
15 "potent." For whatever reason, I believe that it was
16 intended to say that is a -- one of the factors, and
17 it's an important factor.

18 Q. Would you agree that having individuals on an
19 emergency permit or a waiver in the classroom should be
20 a measure of last resort?

21 MR. HERRON: Objection. Incomplete and
22 improper hypothetical.

23 THE WITNESS: I don't know how to answer that
24 question. I don't know.

25 Q. BY MR. AFFELDT: What are the steps that the

1 when I came to the Commission, is now \$100 million.

2 It's a tremendous effort to deal with the
3 retention of new teachers who are fully credentialed
4 because there was an attrition rate. So that program
5 focuses on retaining those who have been trained and the
6 investment -- this is a cost benefit issue, that you've
7 invested in their preparation, now you're going to
8 retain them. So those major investments by the
9 governor, and also by the previous governor, Governor
10 Wilson, to ramp up, if you will, optional pathways.

11 Another program is the Troops to Teachers
12 Program. So you have experienced individuals who come
13 into that program. Aerospace and defense worker corps
14 started in 1994, people who were laid off from -- during
15 the Defense Department reduction in contracts in the
16 state of California, we brought in engineers.

17 Another initiative has been can we move people
18 quickly through the pipeline by having them test out,
19 which is new legislation for us signed by the governor.
20 It's SB 57, again, Senator Jack Scott. Which means we
21 can find out where this person is on the continuum of
22 experience and knowledge and get them faster into
23 classrooms. Also the blended program, which is
24 identified in this document -- it's very helpful to have
25 that.

1 MR. HERRON: Which is Exhibit 147.

2 THE WITNESS: Yes. It indicates down here that
3 your induction -- also integrates fortuitously with the
4 Commission's recent work to support early deciders as
5 they complete undergraduate programs in blended subject
6 areas. In other words, someone in freshmen or sophomore
7 year can now get into education-type coursework, field
8 experience with kids early on, and then they can
9 graduate four, four and a half years instead of having
10 that fifth-year requirement in front of them so they get
11 faster into the work force.

12 The intern programs are designed to do as well
13 because individuals who may have been in private sector
14 for 25, 30 years teaching at Stanford University do not
15 want to go without income for a year, so the intern
16 programs provide them with a full salary as they go
17 through that.

18 So all these initiatives have been enacted by
19 the governor through legislation, and the Commission
20 certainly has embraced those and carried them out.

21 Q. BY MR. AFFELDT: Any others that you can recall
22 that the Commission is currently working on to reduce
23 emergency-permitted teachers?

24 A. One of the beautiful ones is the
25 paraprofessional programs. That needs to be accentuated

1 on sites, they prepare them to be fully-credentialed
2 teachers using technology, and they have on-site
3 at-school site supervision and support through mentoring
4 programs, and that's another one.

5 So we're using distance learning, a traditional
6 model to go to the university or college, so that's
7 the -- that's probably the major programs that we have
8 in place.

9 Q. Okay. Have you left any out?

10 MR. HERRON: Objection. Calls for speculation.
11 I would propose that you show him the State's response
12 to discovery, because we've listed every -- not every,
13 but many of the programs. That might refresh his
14 recollection, if you have it. If not --

15 MR. AFFELDT: I'm just working on his
16 recollection at this point.

17 MR. HERRON: That's fine.

18 THE WITNESS: There may be more, but these are
19 the ones that are sizable investments for the
20 Commission.

21 Q. BY MR. AFFELDT: Have you worked on
22 implementing any of these?

23 A. They're -- each one of those programs I've
24 indicated are in operation.

25 Q. Let's take the reciprocity program.

1 because that's a high minority, ethnic minority
2 participation program. There's a 98-percent retention
3 rate. These are largely individuals who are
4 instructional assistants in bilingual classrooms and
5 special ed classrooms, and they live in their
6 communities and they stay there and they have
7 experiences in structural assistance. They're going
8 through, getting their four-year degree, and this
9 program is -- pays for textbooks and coursework.
10 Another way to tap on that. There's about 3,300
11 individuals in that program right now.

12 So there are some shining star programs out
13 there that are designed to recruit and retain, and
14 that's the objective of the Commission.

15 Q. The objective of the Commission is to recruit
16 and retain credentialed teachers?

17 A. Utilizing programs. There are specific
18 organizations that are responsible for actual
19 recruitment.

20 I'm sorry, I left out another one. There was
21 the Cal State Teach Program. Cal State Teach is run by
22 the California State University system through the
23 chancellor's office. Its fundamental design is to
24 utilize technology. Where you have an individual, say,
25 on an emergency permit working at school districts out

1 A. Yes.

2 Q. Have you been involved in implementing and
3 operationalizing that statute?

4 A. There's two statutes, one is that if you've
5 been in another state and have taught for three to five
6 years and you have met the standards and passed CBEST in
7 California, then you can be granted either a preliminary
8 or a clear credential. That's already in place.

9 Q. That's the Pachenco (ph.) Bill?

10 A. Yes, that's correct. And that bill allowed us
11 to -- I believe it was Scott. I'm sorry, I'm losing my
12 authors now. It's 5:00 on Friday.

13 But it was two years ago, and that bill was --
14 has been already operationalized. Any individual coming
15 from another state who has got three or five years of
16 demonstrated successful experience can be credentialed
17 in California.

18 The reciprocity issue also deals with the
19 national board-certified teachers as well. Nationally
20 board-certified teachers can come to California and
21 teach in their subject areas. And the reciprocity, we
22 have now embraced 32 states, have deemed them to be
23 comparable. Some may be comparable in everything, other
24 states may not be. They may not be comparable, say, in
25 English or math or some other subject area, but there is

1 some component within that state that is comparable, and
2 we're working on getting all 50. We targeted the
3 largest states and the ones that had surpluses in their
4 states at the initial outset.

5 So we do not have reciprocity, just for the
6 record. Other states don't want to lose anybody, they
7 want to keep their own, but if someone wants to come
8 here, we can get them in.

9 Q. Have you participated in any meetings
10 discussing the implementation of these reciprocity
11 bills?

12 A. Yes, I have.

13 Q. Can you recall for me what those meetings were?

14 MR. HERRON: Objection. Vague and ambiguous.
15 I also object to the extent that that would disclose
16 attorney/client privilege information or might invade
17 the deliberative process privilege.

18 I don't understand your question, actually, to
19 be calling for any of that information.

20 MR. AFFELDT: No, it's not. And we're talking
21 about implemented bills, so the deliberative process
22 isn't an issue.

23 MR. HERRON: Well, no, I disagree with that.
24 It well could be. We don't know.

25 Q. BY MR. AFFELDT: When were the meetings you're

1 other states who are teachers of coming into California
2 without having to redo coursework or meet other
3 requirements that the state had; for example, being
4 reading requirements, which changed in California, and
5 special ed requirements that we believe strongly in in
6 California, and computer technology, those types of
7 requirements. We now have the ability to evaluate
8 whether states are doing what we're doing in terms of
9 their standards.

10 But California is one of the first states in
11 the United States to have subject matter competence as a
12 requisite requirement for credentialing. Many states
13 did not have that. And it came to our -- and it came to
14 light that many states had moved in that direction, so
15 it was timely for us to look at what states were doing
16 and see if that could happen, if we could credential
17 them in California.

18 Q. You mentioned that at least some of the
19 comparability studies have gone on. What has the
20 Commission concluded with respect to whether or not
21 there were arbitrary barriers for out-of-state teachers?

22 A. We believe that states were, since the early
23 '90s, making considerable movement in adopting standards
24 similar to ours. They were not always identical, that's
25 why equivalency is the term. They are within the band

1 thinking of in which you discussed, after the bill was
2 passed and signed, implementing it?

3 A. When bills are concepts, there are frequently
4 meetings with the authors of those bills. And I
5 certainly have conversations with the governor's office,
6 which is the secretary of education's office, on bills.
7 I can't speak specifically to any to these of who I had
8 conversations with. I don't have recollections of who I
9 had conversations with.

10 Q. Are you talking about before the bills were
11 signed into law?

12 A. That's correct.

13 Q. So you were part of the process of designing
14 the bills; is that fair to say?

15 A. That's correct.

16 Q. And were those Commission-sponsored bills?

17 A. Some of those bills are Commission-sponsored
18 bills, some are not. But I'd have to go back and look
19 at which ones. I don't have that information at this
20 time.

21 Q. Why did the Commission consider sponsoring the
22 reciprocity bills that it sponsored?

23 A. There was a demonstrated interest to look at
24 whether or not California had arbitrary barriers in
25 place that would preclude qualified applicants from

1 of acceptability in terms of our own standards. And,
2 again, for the issue of teacher shortage in California,
3 this was another way, another prong to use in terms of
4 minimizing that -- the shortage.

5 Q. Did you participate in meetings after the
6 bill -- the reciprocity bills were signed with
7 individuals outside the agency to implement the
8 statutory mandates?

9 A. Yes.

10 Q. What kind of meetings were those?

11 MR. HERRON: Objection. Vague and ambiguous.

12 THE WITNESS: If you're asking me if I met with
13 people in the field, like county offices and school
14 districts and informed them of this new opportunity for
15 their ability to recruit out of state, staff and myself
16 did that. And then I also meet with states when I
17 happened to be in that state to see if they had an
18 interest of engaging in reciprocity with California.

19 Q. BY MR. AFFELDT: Do you think the new
20 reciprocity has decreased the teacher shortage in
21 California?

22 A. I can't answer whether it's decreased. I can
23 indicate that we believe we increased the numbers of
24 out-of-state applicants in the pool and have minimized
25 turnover because they do not have to pursue additional

1 requirements within a five-year period of time.
 2 Many would drop out. Instead of having to take
 3 the coursework, they would just run out that five years
 4 and then not teach anymore. So I think some we know
 5 early, but it's going to be a while before we have
 6 definitive data.
 7 Q. Are you aware of any analyses that have
 8 studied, quantified how many teachers you've increased
 9 the pool by through the reciprocity bills?
 10 A. We have not conducted an analysis of it, we're
 11 just looking at numbers now because the program is new.
 12 We only have a couple of years of moving forward with
 13 this program, and the equivalency has been within the
 14 last year, so it's too early to tell.
 15 Q. Are you aware of any analysis that reflects the
 16 reduction in turnover because of the new reciprocity
 17 bills?
 18 A. At this time we have a study being conducted by
 19 an outside firm to review the BTSA program, and we have
 20 substantial anecdotal information, along with my own
 21 experience in school districts that indicates that
 22 retention rate is higher when you have a formalized
 23 induction program. But we want to have that done by an
 24 objective outside organization to make some
 25 determinations about the efficacy of the program that

1 we're engaged in.
 2 Q. That's the BTSA induction program.
 3 A. Correct.
 4 Q. My question was just asking about the
 5 reciprocity program.
 6 Have you studied the extent to which teacher
 7 turnover has been reduced because of the new reciprocity
 8 opportunities?
 9 A. Again, it's premature at this point because of
 10 the limited time frame this has been in place.
 11 Q. What's the name of the firm that's doing the
 12 BTSA induction --
 13 A. I believe it's --
 14 Q. You have to wait until my question --
 15 A. I apologize.
 16 Q. No problem. What's the name of the firm that's
 17 doing the BTSA induction study?
 18 A. I believe it's West Ed who is doing that. I
 19 would have to check that. I believe it's West Ed, which
 20 is in San Francisco.
 21 MR. HERRON: May I request and suggest that
 22 perhaps we consider closing down at this point. The
 23 deponent has indicated he's tired, and I certainly need
 24 to get to the airport. I know we were going to try and
 25 make 5:00. It seems like we're awfully close.

1 MR. AFFELDT: Are you tired, Dr. Swofford?
 2 THE WITNESS: I'm getting there.
 3 MR. AFFELDT: What time is your flight, David?
 4 MR. HERRON: I was hoping to get on a 5:55, but
 5 there's one after that as well.
 6 MR. AFFELDT: I've just got a few more
 7 questions.
 8 Q. When is the West Ed study due?
 9 A. I'd have to check on that. I'm sorry. I
 10 believe it's around the first of the year, but I need to
 11 double-check the progress of that review.
 12 Q. And what is the purpose of that study?
 13 A. The purpose of the study is to look at the
 14 efficacy of the program. We scaled up, we ratcheted up.
 15 We went from \$17 million to \$100 million. We want to
 16 make sure that you can demonstrate to the legislature
 17 and the governor that, in fact, the program does make a
 18 difference. And that's the purpose of the study, to
 19 look at the efficacy of the program and see what kind of
 20 modifications or any kind of alterations need to -- in
 21 terms of programs, how the program is funded, do we have
 22 qualified mentors out in the field working directly with
 23 individuals. It's the whole program itself being looked
 24 at, not just the financial underpinnings.
 25 Q. And one piece of it, as I understand it, is to

1 determine whether or not induction programs reduce
 2 attrition?
 3 A. We want to look at the attrition rate, if, in
 4 fact, there is a higher retention of those individuals
 5 who have experienced the program versus those
 6 individuals who have not.
 7 Q. You mentioned 32 states that have been deemed
 8 comparable in one fashion or another. Where can we get
 9 the chart or list of what those states are and what
 10 their specific equivalencies are?
 11 A. We do have a report that did go to the
 12 Commission, and we go to the Commission on a periodic
 13 basis and update them on the progress of our number of
 14 states and the areas for which they have equivalency.
 15 So we have documents that have that information.
 16 Q. Do you recall, sitting here, when the most
 17 recent report that you went to the Commission with was?
 18 A. I believe last month.
 19 MR. AFFELDT: Thank you. Why don't we wrap it
 20 up for today.
 21 (The deposition concluded at 4:55 p.m.)
 22
 23
 24
 25

1 Please be advised that I have read the
2 foregoing deposition. I hereby state there are:
3
4 (check one) _____ NO CORRECTIONS
5 _____ CORRECTIONS ATTACHED
6
7

8 _____
9 Date Signed

10 _____
11 DR. SAM W. SWOFFORD

12 Case Title: Williams vs State, Volume I
13 Date of Deposition: Friday, October 19, 2001
14 ---o0o---

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25

1 REPORTER'S CERTIFICATE

2
3 I certify that the witness in the foregoing
4 deposition,
5 DR. SAM W. SWOFFORD,
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 31st day of October, 2001.

19
20
21
22
23
24
25

TRACY LEE MOORELAND, CSR 10397
State of California

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: DR. SAM W. SWOFFORD, VOL. I
8 CASE: WILLIAMS VS STATE
9 DATE OF DEPOSITION: FRIDAY, OCTOBER 19, 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	_____	_____	_____
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24	_____	_____	_____

25 DR. SAM W. SWOFFORD _____ DATE

1 ESQUIRE DEPOSITION SERVICES
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3 1801 I Street, Suite 100
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5 Dr. Sam W. Swofford
6 STATE OF CALIFORNIA
7 COMMISSION ON TEACHER CREDENTIALING
8 1900 Capitol Avenue
9 Sacramento, CA 95814

10 Re: Williams vs State, Volume I
11 Date Taken: Friday, October 19, 2001
12 Dear Dr. Swofford:
13 Your deposition is now ready for you to read, correct,
14 and sign. The original will be held in our office for
15 45 days from the date of your last day of deposition.
16 If you are represented by counsel, you may wish to
17 discuss with him/her the reading and signing of your
18 deposition. If your attorney has purchased a copy of
19 your deposition, you may review that copy. If you
20 choose to read your attorney's copy, please fill out,
21 sign, and submit to our office the DEPONENT'S CHANGE
22 SHEET located in the back of your deposition.
23 If you choose to read your deposition at our office, it
24 will be available between 9:00 a.m. and 4:00 p.m.
25 Please bring this letter as a reference.
If you do not wish to read your deposition, please sign
here and return within 30 days of the date of this
letter.

DR. SAM W. SWOFFORD DATE

21 Sincerely,
22 TRACY LEE MOORELAND, CSR
23 Esquire Deposition Services
24 Job No. 29265

cc: John Affeldt, Esq. Joseph Egan, Esq.
25 Richard Hamilton, Esq. David Herron, Esq.
Judd Jordan, Esq.

1 ESQUIRE DEPOSITION SERVICES
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3 1801 I Street, Suite 100
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5 MORRISON & FOERSTER
6 ATTN: LOIS K. PERRIN, ESQ.
7 429 Market Street
8 San Francisco, CA 94105-2482

9 Re: Williams vs State
10 Deposition of: Dr. Sam W. Swofford, Vol. I
11 Date Taken: Friday, October 19, 2001

12 Dear Ms. Perrin:

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

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

18 _____ The witness has waived signature.

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

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. 29265