

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

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

9 vs.

No. 312236

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

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15 Deposition of

16 PAUL WARREN

17 Volume II, Pages 227 through 401

18 Thursday, May 24, 2001

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23 Reported by:

24 TRACY LEE MOORELAND

25 CSR No. 10397

APPEARANCES

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3 For the Plaintiffs Eliezer Williams, et al.:

4 ACLU FOUNDATION OF SOUTHERN CALIFORNIA
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6 PETER ELIASBERG, ESQ.
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10 For the Defendant State of California:

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16 For the Defendant Delaine Eastin, State Superintendent
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18 State Board of Education:

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25 /

I N D E X

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APPEARANCES, cont.

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1 BE IT REMEMBERED, that on Thursday, May 24,
2 2001, commencing at the hour of 9:06 a.m., thereof, at
3 the Law Offices of Morrison & Foerster LLP, 400 Capitol
4 Mall, Suite 2300, Sacramento, California, before me,
5 TRACY LEE MOORELAND, a Certified Shorthand Reporter in
6 the State of California, there personally appeared
7 PAUL WARREN,
8 called as a witness herein, who, having been duly sworn
9 to tell the truth, the whole truth, and nothing but the
10 truth, was thereupon examined and interrogated as
11 hereinafter set forth.
12 ---o0o---
13 EXAMINATION BY MR. ROSENBAUM
14 Q. You're aware you're still under oath?
15 A. Yes.
16 Q. Nice to see you again, Mr. Warren.
17 A. Thanks. Ditto.
18 Q. Do you have what we marked as Exhibit 31 in
19 front of you? I'm going to place it in front of you
20 now.
21 Did you review any documents last night?
22 A. No.
23 Q. Let me ask you, sir, if you wouldn't mind
24 turning, please, to page 17 of what's been marked as
25 Exhibit 31.

1 And, again, for any and all my questions that
2 relate to exhibits, you should feel free to read as much
3 as you'd like and take as much time as you need. Okay?

4 A. Yes. Thank you.

5 Q. On page 17 the last sentence says, we view the
6 state and district governance responsibilities as the
7 foundation for a state strategy in the heart of a K-12
8 master plan.

9 Do you see that sentence?

10 A. Yes.

11 Q. Why is that?

12 A. Well, I think you have to understand in context
13 what the report is trying to accomplish. I think if you
14 go back to chapter 2, we talk about governance
15 principles of separation and balance, and we talk about
16 why government is designed the way it is.

17 Then on page 16 we say in the middle of that
18 page, state and local governments bring different
19 strengths and weaknesses to the question of K-12 program
20 and fiscal control. The governance structure of
21 education should take advantage of the things the state
22 and local governments do well.

23 So we're -- this last statement is a conclusion
24 that separation and balance of power and an
25 understanding of what the different levels of government

1 consist of?

2 MR. VIRJEE: Objection. Lacks foundation.
3 Calls for speculation. There's been no evidence of any
4 training or experience that he has in the area of basic
5 educational inputs.

6 MS. READ SPANGLER: Join.

7 THE WITNESS: I think we're talking about a
8 kind of a common sense notion of the things that most
9 people would agree, you know, are part of an education,
10 so it would be a classroom, a teacher, instructional
11 materials, those kinds of things.

12 Q. BY MR. ROSENBAUM: You're not giving me an
13 exhaustive list, right?

14 A. It's not intended to be an exhaustive list as
15 we use it here. It's supposed to be suggestive.

16 Q. Okay. Now, what do you base that on?

17 MR. VIRJEE: What does he base what on?

18 MR. ROSENBAUM: Your answer that those are
19 basic educational inputs.

20 THE WITNESS: I'm not sure exactly what you're
21 asking.

22 Q. BY MR. ROSENBAUM: How do you reach that
23 conclusion, those examples you gave me, a classroom,
24 teacher, textbooks?

25 MR. VIRJEE: Actually, he didn't say

1 do well are critical components of a state strategy that
2 would be embodied in a master plan.

3 Q. Okay. Thanks. Let me ask you if you could
4 please turn to page 20 of Exhibit 31.

5 Do you have that in front of you?

6 A. Just a sec. Yes.

7 Q. Okay. And directing your attention,
8 Mr. Warren, to the section create a simple, adequate
9 funding system. Do you see that?

10 A. Yes.

11 Q. And beneath that there is a subheading, create
12 the right, in quotation marks, fiscal incentives?

13 A. Yes.

14 Q. And then you see the section, state
15 categoricals can diminish local responsibility?

16 A. Yes.

17 Q. Do you see the phrase in the first sentence,
18 basic educational inputs?

19 A. Yes.

20 Q. What did you mean by that phrase, basic
21 educational inputs?

22 A. Resources that are defined as basic part --
23 basic need in the process of educating kids.

24 Q. Okay. And based on your training and
25 experience, what would those basic educational inputs

1 "textbooks." He said "instructional materials."

2 MR. ROSENBAUM: Instructional materials. I'm
3 sorry.

4 THE WITNESS: Like I said, I think it's
5 intended to describe, in a general sense, things that
6 most people would agree are part of the normal education
7 that kids get.

8 Q. BY MR. ROSENBAUM: Okay. And in the following
9 paragraph you see the phrase -- the sentence, sorry,
10 first, the State imposes a financial solution to the
11 administrative problem of an inadequate supply of
12 textbooks? Do you see that?

13 A. Yes.

14 Q. Okay. Do you know, sir, what the State is
15 doing today to deal with this administrative problem?

16 MR. VIRJEE: Objection. Assumes facts not in
17 evidence. Assumes there is some problem.

18 MS. READ SPANGLER: Join.

19 THE WITNESS: Do I know what's happening today?

20 MR. ROSENBAUM: Yes, sir.

21 MR. VIRJEE: Objection. Vague and ambiguous
22 and overbroad.

23 THE WITNESS: I guess I have to answer the
24 question no.

25 Q. BY MR. ROSENBAUM: Have you ever made any

1 inquiry to find out?
 2 A. I didn't make an inquiry today.
 3 Q. But in the past have you made any inquiry?
 4 A. You asked do I know today what they're doing.
 5 Q. Right.
 6 A. And the answer is, no, I don't know today what
 7 they're doing.
 8 Q. I didn't mean literally at 9:12 on Thursday.
 9 A. Okay.
 10 Q. Do you know this year, for example, what the
 11 State is doing?
 12 MR. VIRJEE: With respect to what?
 13 MR. ROSENBAUM: With respect to the
 14 administrative problem that's described here.
 15 MR. VIRJEE: Objection. Vague and ambiguous
 16 and calls for speculation. Assumes facts not in
 17 evidence.
 18 MS. READ SPANGLER: Join.
 19 MR. VIRJEE: Assumes there is an administrative
 20 problem.
 21 MS. READ SPANGLER: Join.
 22 THE WITNESS: I have some knowledge of what the
 23 State is doing in terms of the area of textbooks.
 24 Q. BY MR. ROSENBAUM: Okay. And, specifically,
 25 sir, do you know what the State is doing with respect to

1 what you've defined here as the administrative problem?
 2 MR. VIRJEE: He hasn't defined anything as an
 3 administrative problem. Assumes facts not in evidence.
 4 Assumes there is an administrative problem today.
 5 MS. READ SPANGLER: Join.
 6 THE WITNESS: I think the phrase administrative
 7 problem is used in a different context, perhaps, than
 8 maybe what I understand your question.
 9 Q. BY MR. ROSENBAUM: Okay. Why don't you tell me
 10 the context in which you were using it.
 11 A. Providing adequate instructional materials,
 12 which includes textbooks, or can include textbooks, is a
 13 problem that administration is asked to address, a task.
 14 Okay? And then that's, I think, the context in which
 15 administrative problem is couched.
 16 Q. Okay. If I don't understand you correctly, you
 17 tell me.
 18 A. Sure.
 19 Q. I don't want to misrepresent anything. Do you
 20 know how administration -- when you say administration,
 21 do you mean state administration, local administration,
 22 both administrations? What do you mean by that?
 23 A. Well, obtaining appropriate instructional
 24 materials, it is an administrative task, right?
 25 Somebody has to go through the process of obtaining

1 them. That's what it means. Okay?
 2 Q. Do you know how that's being dealt with? Do
 3 you know -- do you know how it's being dealt with in
 4 California?
 5 MR. VIRJEE: Objection. Overbroad.
 6 MS. READ SPANGLER: Yeah.
 7 THE WITNESS: What is being dealt with?
 8 MR. ROSENBAUM: The issue of obtaining an
 9 adequate supply of instructional materials.
 10 MS. READ SPANGLER: By whom?
 11 THE WITNESS: Like I said before, I know some
 12 about the State role in the textbook issue, as it were.
 13 Q. BY MR. ROSENBAUM: What's your understanding of
 14 what the State does?
 15 A. The State provides funding. That's probably
 16 the area that I have more knowledge.
 17 Q. Do you know anything else that the State does
 18 besides provide funding?
 19 A. Well, at least -- I think we discussed this
 20 yesterday. I know there is a process for approval, a
 21 list, and that affects the textbook process, and I'm
 22 generally aware of that process. I'm not up-to-date on
 23 it though.
 24 Q. Do you know anything else about what the
 25 State's role is with respect to supplying an adequate

1 supply of textbooks?
 2 A. That's probably -- that's about it.
 3 Q. Do you know what any local districts or local
 4 schools are doing?
 5 A. Specifically?
 6 Q. Yes.
 7 A. No.
 8 Q. Have you ever made any inquiry to find out?
 9 A. I may have discussed the issue with a teacher
 10 or a principal at my children's school.
 11 Q. But besides that?
 12 A. No.
 13 Q. Okay. You get the results of the API, is that
 14 right, you see the results of the API, the ranking of
 15 the schools?
 16 MR. VIRJEE: Objection. Vague and ambiguous as
 17 to "you."
 18 MS. READ SPANGLER: Join.
 19 MR. ROSENBAUM: You personally.
 20 THE WITNESS: I have seen them, yeah.
 21 Q. BY MR. ROSENBAUM: Okay. Have you ever
 22 conducted any inquiry to see whether or not classrooms
 23 in schools in the lower -- the lowest three deciles,
 24 whether or not those classrooms had textbooks?
 25 MR. VIRJEE: Objection. Asked and answered

1 yesterday.

2 THE WITNESS: I don't think I've seen anything

3 on that.

4 Q. BY MR. ROSENBAUM: Okay. Do you know if any

5 comparison has been made between classrooms in schools

6 in the upper three deciles and classrooms in the lower

7 three deciles, and whether or not those classrooms

8 differed in terms of whether or not students had

9 textbooks?

10 A. I don't recall seeing anything like that.

11 Q. Do you know if any such inquiry has been made?

12 A. Not that I know of.

13 Q. If I change my question not to just make it the

14 three deciles at the top and three at the bottom, but

15 any comparison at such deciles, has any inquiry taken

16 place, to your knowledge?

17 A. Not that I know of.

18 Q. And you've never been asked to conduct such an

19 investigation?

20 A. No, not that I can recall.

21 Q. If you were asked to do that, how would you go

22 about doing?

23 MS. READ SPANGLER: Do what?

24 MR. VIRJEE: Objection. Calls for speculation.

25 Lacks foundation.

1 MR. ROSENBAUM: I'll withdraw that question.

2 Q. Do you know how you would go about doing that,

3 besides asking your staff?

4 MR. VIRJEE: Which is a perfect example of why

5 this is asked and answered. You asked him whether or

6 not he had seen or done anything with respect to the

7 availability of textbooks, and if not, how would he go

8 about doing it. We're going over the same stuff again.

9 Asked and answered.

10 THE WITNESS: I think the answer I gave you

11 yesterday was that if I were asked to develop a research

12 design, I'd probably do a survey.

13 Q. BY MR. ROSENBAUM: A survey of what?

14 A. A survey of schools -- or districts.

15 Q. If the issue were not textbooks, but what

16 you've described to me a few minutes ago about basic

17 educational inputs, to your knowledge, has any survey or

18 inquiry been made comparing the availability of basic

19 educational inputs in classrooms in schools in different

20 deciles for the API?

21 A. I think you need to be more specific when you

22 talk about "basic educational inputs."

23 Q. Okay. Regarding what you consider to be basic

24 educational inputs, to your knowledge, has there been

25 any inquiry about any of those inputs with respect to

1 their availability in schools in different deciles in

2 the API?

3 MR. VIRJEE: Objection. Assumes facts not in

4 evidence. Assumes that he has a specific set of basic

5 educational inputs.

6 MS. READ SPANGLER: Join.

7 MR. VIRJEE: That he regards to be basic.

8 MS. READ SPANGLER: It's also compound.

9 THE WITNESS: As I understand your question,

10 you want to know have I ever seen any work that says are

11 there missing basic educational inputs in schools in

12 different ranks of the API?

13 MR. ROSENBAUM: Yes, sir.

14 THE WITNESS: And I guess my answer would be

15 no.

16 Q. BY MR. ROSENBAUM: In the meetings that you've

17 attended with your superiors, has there ever been any

18 discussion, gee, it would be interesting to find out if

19 such resources are missing in schools that are not high

20 performing in the API?

21 MS. READ SPANGLER: Objection. Vague and

22 ambiguous as to "resources" and "high performing."

23 THE WITNESS: I don't recall any.

24 Q. BY MR. ROSENBAUM: And if I change the word

25 resources to basic educational inputs or some synonym

1 for that, has there ever been a discussion of that

2 nature, gee, it would be interesting, gee, we ought to

3 find out whether or not basic educational inputs are

4 missing?

5 MR. VIRJEE: Objection. Vague and ambiguous as

6 to "basic educational inputs" and synonyms for it.

7 MS. READ SPANGLER: Join. And calls for

8 speculation.

9 THE WITNESS: As I define basic educational

10 inputs, I'd have to say no.

11 Q. BY MR. ROSENBAUM: Okay. Or anything, anything

12 in a classroom, has anyone said -- have you ever been in

13 a meeting where anyone has said, we ought to look at any

14 variable and see whether or not it exists in schools

15 that are high performing as opposed to schools that are

16 low performing?

17 A. Any variable?

18 Q. Any factor.

19 A. A factor?

20 Q. In a school or classroom?

21 A. Children --

22 Q. Anything.

23 MS. READ SPANGLER: Objection. Vague and

24 ambiguous as to "factor" and "variable."

25 THE WITNESS: As part of our work under the

1 law, we do an analysis of how the demographic makeup of
2 the students affects school performance.

3 Q. BY MR. ROSENBAUM: Okay. I appreciate that
4 answer. You may have just answered this, and bear with
5 me if you did.

6 In terms of inputs, any discussion that you're
7 aware of where somebody says, we ought to check and see
8 if there are certain inputs in classrooms that are high
9 performing as opposed to schools or classrooms that are
10 low performing on the API?

11 MR. VIRJEE: Objection. Vague and ambiguous as
12 to "inputs."

13 MS. READ SPANGLER: Join.

14 THE WITNESS: As I understand what you're
15 asking, you're not asking basic educational inputs.

16 MR. ROSENBAUM: At this point I'm talking about
17 any inputs.

18 THE WITNESS: Yes.

19 Q. BY MR. ROSENBAUM: Okay. And what was the
20 input or inputs?

21 A. I received a copy of an analysis done for the
22 California Teachers Association that looked at a variety
23 of different inputs as it relates to schools ranked by
24 the API.

25 Q. Okay. Now, to your knowledge, has the State

1 schools that were low performing as compared to schools
2 that are high performing.

3 MR. VIRJEE: Objection. Vague and ambiguous
4 now as to "characteristics" and "inputs" in classrooms.

5 MS. READ SPANGLER: Join. And "resources."
6 Vague and ambiguous.

7 THE WITNESS: That's a very broad question.

8 The answer is yes.

9 Q. BY MR. ROSENBAUM: And what are you aware of?

10 A. Education has long looked at the relationship
11 between inputs and outputs.

12 Q. I'm asking a different question.

13 A. Okay.

14 Q. I'm asking you, regarding the API, has anyone
15 undertaken an investigation of schools that perform low
16 performing on API versus schools that perform higher
17 performing? That was my frame of references.

18 MR. VIRJEE: Anyone undertaken a?

19 MR. ROSENBAUM: In the State.

20 MR. VIRJEE: Undertaken a?

21 MR. ROSENBAUM: Investigation in terms of
22 comparing characteristics.

23 MR. VIRJEE: Vague and ambiguous as to
24 "investigation" and "characteristics."

25 MS. READ SPANGLER: Join. And calls for

1 conducted any such investigation about the existence or
2 lack of existence of inputs?

3 MS. READ SPANGLER: Objection. Vague and
4 ambiguous as to "inputs" and "investigation."

5 THE WITNESS: I really don't know how to answer
6 your question.

7 Q. BY MR. ROSENBAUM: Well, the survey you
8 mentioned, the investigation you mentioned was conducted
9 by CTA?

10 A. Conducted for CTA.

11 Q. I'm sorry. For CTA. Any similar sort of
12 investigation that you're aware of that any governmental
13 entity undertook?

14 A. I am aware of one response to the CTA analysis
15 that the Department did.

16 Q. Okay. Other than that?

17 MR. VIRJEE: Objection. Vague and ambiguous.

18 THE WITNESS: Can you ask me the question
19 again?

20 Q. BY MR. ROSENBAUM: If you've answered this,
21 just tell me because I don't mean to belabor this.

22 I'm interested in whether or not government has
23 done anything in terms of the characteristics of
24 classrooms, not interested in the demographics, but the
25 characteristics of inputs or resources in classrooms in

1 speculation.

2 THE WITNESS: No.

3 Q. BY MR. ROSENBAUM: Now, the response to the
4 CTA, was it a survey? How would you characterize what
5 CTA did?

6 A. I would characterize what CTA did as a study
7 looking at simple correlations between inputs and the
8 API rankings.

9 Q. Okay. And do you know who prepared the
10 response?

11 MS. READ SPANGLER: Response?

12 Q. BY MR. ROSENBAUM: You said the State prepared
13 a response, the Department prepared a response?

14 MR. VIRJEE: He just said he knows of a
15 response.

16 THE WITNESS: I know of a response.

17 Q. BY MR. ROSENBAUM: You're right. I'm sorry.
18 Do you know who prepared that response?

19 A. No.

20 Q. Do you have a copy of it?

21 A. I did. I don't know if I have it.

22 Q. Was it discussed at any meeting that you had?

23 A. I don't remember.

24 Q. Okay. If I wanted to get a copy of it, how
25 would I do that?

1 A. How would you do that? I do remember it was
 2 prepared by the folks in the facilities part of the
 3 Department.
 4 Q. Do you remember the names of any individuals
 5 who were involved?
 6 A. God, you're going to ask me for names again.
 7 I'm sorry, I can't remember the name of the director of
 8 that division.
 9 Q. Was it Mr. Brooks?
 10 A. Brooks?
 11 Q. Was it Mr. Brooks?
 12 A. Is it Dewayne Brooks? It may be. I'm sorry.
 13 Q. Okay. And do you remember what the conclusions
 14 were?
 15 A. I'm not sure that it drew a conclusion.
 16 Q. Do you know what -- tell me what you remember
 17 it saying.
 18 MR. VIRJEE: Objection. The document speaks
 19 for itself.
 20 MS. READ SPANGLER: Join.
 21 THE WITNESS: What I recall is it said --
 22 obviously this is what I recall. It said don't assume
 23 that this analysis has correctly identified the causes
 24 for low performance, in particular in relation to the
 25 facilities issue raised in the CTA report.

1 Q. BY MR. ROSENBAUM: Okay. Thanks. Still, sir,
 2 on page 20 of what's been marked as Exhibit 31. Do you
 3 see where it says -- this is the fourth paragraph down
 4 after create the right fiscal incentives. The sentence
 5 begins, second, by creating a State textbook budget, the
 6 State blurs accountability for the responsibility of
 7 providing adequate texts. Do you see that?
 8 A. Yes.
 9 Q. Okay. What do you mean by the phrase adequate
 10 texts?
 11 A. Adequate in instructional materials needed by
 12 the teacher in the class.
 13 Q. Okay. And when you say blurs accountability,
 14 what do you mean by that?
 15 A. It holds open the opportunity for confusion
 16 about who is bottom-line responsible for ensuring
 17 adequate texts.
 18 Q. And what are the consequences of blurred
 19 accountability in your judgment?
 20 MR. VIRJEE: Objection. Calls for speculation.
 21 THE WITNESS: Well, it says in the paragraph
 22 above, governing boards and administrators are
 23 responsible for budgeting and procuring a sufficient
 24 supply of books. So when the State provides funding, it
 25 provides the opportunity for local school district

1 officials to say it's not our fault.
 2 Q. BY MR. ROSENBAUM: And what do you think the
 3 consequences of that are?
 4 MR. VIRJEE: Objection. Calls for speculation.
 5 MS. READ SPANGLER: Join.
 6 THE WITNESS: In the context of this paper, it
 7 lessens accountability for decisions that are properly
 8 local, at the local level.
 9 Q. BY MR. ROSENBAUM: I want to see if I
 10 understand your report, Mr. Warren. One of your key
 11 principles, as I understand it, is that accountability
 12 lines should be clear; is that right?
 13 MR. VIRJEE: Objection. Vague and ambiguous as
 14 to "accountability lines."
 15 MS. READ SPANGLER: Join.
 16 THE WITNESS: I'd have to go back and kind of
 17 peruse the report to kind of get a flavor of exactly
 18 what we said and specifically how that is stated, and
 19 I'm a little concerned that I'm going to -- since I
 20 haven't had that opportunity to, that I will not say it
 21 accurately. But I think the report does try to
 22 encourage, whenever possible, clear lines of
 23 accountability.
 24 Q. BY MR. ROSENBAUM: Why is that?
 25 A. Because in our process, you know, the

1 governmental process, it works through -- elections
 2 primarily is the mechanism for accountability.
 3 Politicians and people should know or be able to measure
 4 how well their politicians are discharging their
 5 responsibilities.
 6 Q. And you correct me if I'm wrong here, sir, but
 7 on page 20, still of Exhibit 31, in the last sentence of
 8 the paragraph we've been looking at, the paragraph that
 9 begins with the word, second, the phrase off the hook,
 10 that's what you're talking about? What you just
 11 explained to me, that's what you mean by that phrase?
 12 A. What do I mean by what phrase?
 13 Q. The phrase off the hook.
 14 A. What are you saying?
 15 Q. Is that what you meant in your last answer, is
 16 that what you were talking about, lets district
 17 officials off the hook?
 18 A. I think if you read the whole sentence, it's
 19 fairly self-explanatory. State intervention and basic
 20 educational inputs -- okay. Maybe it doesn't. Sorry.
 21 I think by blurring accountability for the
 22 responsibility, that it is more difficult for voters to
 23 determine who is really responsible for, in this case,
 24 the provision of adequate instructional materials.
 25 Q. Okay. Thank you. Let me ask you, please, sir,

1 to turn to page 21 of what's been marked as Exhibit 31.
 2 See where it says funding adequacy?
 3 A. Yes.
 4 Q. Okay. You describe in this paragraph an
 5 approach that Ohio took?
 6 A. I'm sorry, which paragraph are you looking at?
 7 Q. I'm sorry, in the section that says funding
 8 adequacy, I'm looking specifically at paragraph 5 of
 9 that section, but --
 10 A. That begins with the word Ohio?
 11 Q. Uh-huh.
 12 A. Yes.
 13 Q. Okay. Now, when you talk about Ohio, are you
 14 saying that's the only approach, only applied approach
 15 that you can think about, or are you using that as an
 16 example?
 17 A. I think the paragraph preceding that talks
 18 about another way of determining.
 19 Q. Okay. Do you know if there's been any
 20 determination of what constitutes an adequate amount of
 21 funding, as you use that phrase in this chapter, in
 22 California?
 23 A. I think we talked about this yesterday, and
 24 I've discussed that I've seen one study done many years
 25 ago.

1 Q. The Serrano study?
 2 A. No.
 3 Q. I'm sorry, that's right. But that's the only
 4 study that you're aware of, the one you referenced
 5 yesterday?
 6 A. Yes.
 7 Q. Do you know if there's ever been an attempt to
 8 determine what would be the cost of supplying basic
 9 inputs to every classroom in the state?
 10 MR. VIRJEE: Objection. Vague and ambiguous as
 11 to "basic inputs." Vague as to time.
 12 MS. READ SPANGLER: Join.
 13 THE WITNESS: When you say basic educational
 14 inputs, you mean what?
 15 MR. ROSENBAUM: Let me break that down a little
 16 bit.
 17 Q. First of all, do you know if there's ever been
 18 an attempt in California to define basic educational
 19 inputs?
 20 MR. VIRJEE: Objection. Vague and ambiguous as
 21 to basic educational inputs.
 22 THE WITNESS: I think this long-ago study that
 23 I referenced had to do that in order to try to come up
 24 with a definition -- or an estimate of the funding
 25 needed, so, yes.

1 Q. BY MR. ROSENBAUM: Besides that study?
 2 A. I've never seen one.
 3 Q. Okay. Looking, sir, at page 21 in the third
 4 paragraph under funding adequacy, do you see the
 5 sentence that says, thus, with student performance
 6 standards, the State can begin determining adequacy by
 7 determining the cost of helping students achieve these
 8 performance levels?
 9 A. Yes.
 10 Q. Okay. Has that happened, sir? To your
 11 knowledge, has the State undertaken any inquiry to
 12 determine the cost of helping students achieve these
 13 performance levels as you use --
 14 MR. VIRJEE: Objection. Calls for speculation.
 15 Lacks foundation. No evidence that this witness has any
 16 expertise in this area.
 17 THE WITNESS: I've never seen a study that
 18 attempts to do that.
 19 Q. BY MR. ROSENBAUM: Do you consider yourself as
 20 having any expertise in this area?
 21 A. In what area?
 22 Q. The area of determining how to fund the cost of
 23 helping students achieve the performance levels.
 24 MR. VIRJEE: Objection. Vague and ambiguous as
 25 to "determining how to fund." I think you fund with

1 money. That's a vague and ambiguous question.
 2 THE WITNESS: I mean, in answering the question
 3 of do I think I'm an expert in how to fund schools to
 4 help students increase -- reach their highest potential
 5 or whatever, what you said, I think I have to say no.
 6 Q. BY MR. ROSENBAUM: And why is that?
 7 A. Well, this gets back to -- I think yesterday we
 8 discussed do I consider myself an expert in funding, and
 9 I think I can't do that.
 10 Q. Okay. Let me ask you to please turn to page 25
 11 of what's been marked as Exhibit 31.
 12 A. Okay.
 13 Q. Do you have that in front of you?
 14 A. Yes.
 15 Q. Directing your attention, please, to page 25 of
 16 Exhibit 31. Do you see the section that says, let
 17 district structure the local relationship?
 18 A. Yes.
 19 Q. Okay. And then the sentence says, the State's
 20 role in the school improvement process is improving the
 21 incentives for decision-making and assisting districts
 22 by supplying information and resources, do you see that?
 23 A. Yes.
 24 Q. What do you mean by information there?
 25 A. Well, I think it references a discussion on --

1 previous to that starting on page 23 which discusses the
 2 role that information plays, or the role that this
 3 report envisions that information should play.
 4 Q. When you say resources, what do you mean by
 5 that?
 6 A. I think it's broadly describing funding.
 7 Q. Okay. Let me ask you, please, Mr. Warren, to
 8 turn to page 27. And I'm looking, sir, at page 27 of
 9 Exhibit 31. Do you see the subheading provide annual
 10 facilities funds?
 11 A. Yes.
 12 Q. And you see the phrase -- the sentence, it's at
 13 the end of the first full paragraph, the amount provided
 14 for deferred maintenance has fluctuated in recent years
 15 from 35 million in 1996-97 to 160 million in 1998-99?
 16 Do you see that?
 17 A. Yes.
 18 Q. Do you have an opinion, sir, as to why that
 19 amount has fluctuated?
 20 MR. VIRJEE: Objection. Calls for speculation.
 21 Lacks foundation.
 22 THE WITNESS: Yes.
 23 Q. BY MR. ROSENBAUM: And what is that?
 24 A. The amount changed based on the state's fiscal
 25 condition.

1 Q. That's what was driving the funding; is that
 2 right?
 3 MR. VIRJEE: Objection. Calls for speculation.
 4 MR. ROSENBAUM: I'll withdraw that question.
 5 Q. Looking, sir, at page 28 of Exhibit 31, do you
 6 have that in front of you?
 7 A. I'm sorry, 28?
 8 Q. Yes.
 9 A. Yes.
 10 Q. And at the top of the page, the first full
 11 paragraph, do you see the second sentence? It says
 12 districts, for example, cannot depend on state funds
 13 being available to meet local needs?
 14 A. No, I'm not -- the second full paragraph?
 15 Q. The first full paragraph.
 16 MS. READ SPANGLER: Second sentence.
 17 THE WITNESS: Okay.
 18 Q. BY MR. ROSENBAUM: Do you see that sentence
 19 districts, for example, cannot depend on state funds
 20 being available to meet local needs?
 21 A. Yes, I see it.
 22 Q. Why is that, sir?
 23 MR. VIRJEE: The document speaks for itself.
 24 Just read the rest of the paragraph. And each one of
 25 these questions, if you read the document, the document

1 speaks for itself.
 2 If you're asking for him to testify separate
 3 and apart from what the document says, that's one thing.
 4 But this is a colossal waste of time when you pull out a
 5 single word or single sentence and ask him what he means
 6 by that or why that is, when the entire document speaks
 7 for itself. And if you take these sentences out of
 8 context that is objectionable and unfair to the witness.
 9 MR. ROSENBAUM: Go ahead, Mr. Warren.
 10 THE WITNESS: Well, the next sentence, I think,
 11 explains that sentence that you referred to. The state
 12 bond process requires the approval of the legislature,
 13 governor and statewide voters, all of which is not
 14 always forthcoming.
 15 Q. BY MR. ROSENBAUM: Let me ask you, sir, to turn
 16 to page 31 of what's been marked as Exhibit 31. Do you
 17 have that in front of you?
 18 A. Just need to catch up.
 19 Q. Okay.
 20 A. Okay.
 21 Q. Okay. And what I'm principally interested in,
 22 sir, is the second full paragraph under the heading
 23 refine state-level governance. Do you see that?
 24 A. Yes.
 25 Q. Where you say turf battles, a failure to

1 clearly define the responsibilities of State entities
 2 can cause agencies to compete for control, leading to,
 3 quote, turf battles, and inconsistent state policies, do
 4 you see that?
 5 A. Yes.
 6 Q. What did you mean by turf battles?
 7 A. This is a section that's discussing the
 8 governance process at the state level, and the previous
 9 paragraph talks about a number of different state
 10 entities that influence K-12 policy.
 11 And there's a sentence that says, in part, the
 12 multiplicity of institutional actors results in a great
 13 measure of separation in the state decision-making
 14 process act.
 15 Maybe that's not -- but a turf battle is when
 16 there's too little separation in responsibilities and
 17 both agencies play a role -- more than one agency plays
 18 a role in making decisions about a certain choice.
 19 A turf battle, I think, in that context, is
 20 generally where they both feel like each agency, if
 21 there's two in a hypothetical example, would feel like
 22 they are -- their agency is the one that should control
 23 the decision-making in that area, and so they fight
 24 about decision-making control.
 25 Q. In your experience, sir, you've witnessed

1 certain turf battles in the area of education at the
 2 state level, haven't you?
 3 MS. READ SPANGLER: Objection. Leading.
 4 MR. VIRJEE: Also assumes facts.
 5 THE WITNESS: I think so.
 6 Q. BY MR. ROSENBAUM: Okay. Turf battles between
 7 the State Board and the superintendent's office?
 8 A. Yes.
 9 Q. Turf battles between the governor and the
 10 superintendent's office?
 11 A. None that I recall.
 12 Q. Okay. What about between Governor Deukmejian
 13 and Superintendent Honig?
 14 MR. VIRJEE: Objection. Vague and ambiguous as
 15 to witness.
 16 THE WITNESS: I don't recall any that I recall.
 17 Q. BY MR. ROSENBAUM: Okay. What about between
 18 the legislature and the superintendent's office?
 19 A. No.
 20 Q. How about the legislature and the State Board?
 21 A. I guess I'd have to give you a maybe.
 22 Q. What about the legislature and the governor?
 23 MS. READ SPANGLER: Which governor?
 24 THE WITNESS: I think that's kind of a
 25 difficult -- I don't call those turf battles.

1 Q. BY MR. ROSENBAUM: What about between different
 2 agencies or entities responsible for issues concerning
 3 teachers?
 4 MR. VIRJEE: Objection. Vague and ambiguous,
 5 "issues concerning teachers."
 6 MS. READ SPANGLER: Join.
 7 MR. VIRJEE: And "responsible for." Completely
 8 vague.
 9 THE WITNESS: I guess I'd have to say no, as I
 10 understand your question.
 11 Q. BY MR. ROSENBAUM: Okay. What other turf
 12 battles are you aware of in your experience?
 13 MR. VIRJEE: Objection. Vague and ambiguous as
 14 to "other turf battles." And what context, at home, in
 15 the legislative analyst office, when he went to Harvard,
 16 on the playground? Ridiculous. This is a waste of
 17 time.
 18 MS. READ SPANGLER: I'm going to join. And say
 19 I don't see how any of this is reasonably calculated to
 20 lead to discoverable evidence.
 21 MR. ROSENBAUM: Go ahead.
 22 MR. VIRJEE: If you have any idea what he's
 23 talking about.
 24 THE WITNESS: Well, as turf battle is used in
 25 this report, that is agencies competing for

1 decision-making authority, yes.
 2 Q. BY MR. ROSENBAUM: And can you tell me what
 3 you're thinking about, the basis for your answer,
 4 please.
 5 A. In my previous work, before I started working
 6 on education, there was substantial competition between
 7 agencies in the employment area.
 8 Q. What about in education?
 9 A. No.
 10 Q. Now, you answered me yes when we talked about
 11 the superintendent's office and the State Board?
 12 A. Yes.
 13 Q. Can you tell me the basis for that answer?
 14 A. There's a -- I have seen instances where the
 15 two agencies were both trying to exert policy choices,
 16 exert the authority to make policy choices.
 17 Q. And what were those instances?
 18 A. I guess -- I guess I don't understand your
 19 question, or maybe I've forgotten it in trying to think
 20 about responding to it.
 21 Q. What were you thinking about when you said you
 22 remembered instances involving competition?
 23 MS. READ SPANGLER: Objection. Misstates his
 24 testimony.
 25 MR. VIRJEE: He never used the word

1 "competition" at all.
 2 THE WITNESS: I was thinking about the work
 3 that I've done since coming to the Department in the
 4 area of testing.
 5 Q. BY MR. ROSENBAUM: And can you describe what
 6 you're thinking about?
 7 A. Yes. There's a lack of clarity in the law
 8 about the role of the Board in the Department and it --
 9 it creates confusion about what role the Board should
 10 take in making decisions, what the Department would
 11 consider to be administrative or technical.
 12 Q. Can you give me some examples of that?
 13 A. Yeah. As part of our STAR standards test in
 14 the English language arts, we have what we call a
 15 constructed response question. All that is, it's an
 16 essay that children have to write based on a prompt, and
 17 children in grades 4-7 have to do this as part of their
 18 state STAR tests.
 19 The Department took the position that
 20 information based on one question is not reliable enough
 21 to report to students and parents, and that comes out of
 22 generally-accepted practices, assessment practices.
 23 The Board took the position that parents would
 24 want to know this information, and that was the issue.
 25 Q. Can you think of other examples?

1 A. Yes.
 2 Q. Can you tell me what they are?
 3 A. In the creation of the STAR test, the
 4 legislation gave the State Board a great deal of
 5 latitude in the design of the program. It was silent on
 6 the administration -- certain administrative activities
 7 that would normally be a part of the Department's
 8 responsibilities, and there was a great deal of conflict
 9 about whether it was appropriate for the Board to assume
 10 responsibility over those administrative decisions,
 11 whether those were more properly awarded to the
 12 Department.
 13 Q. Okay. Are you aware of turf battles between
 14 the secretary of education and the superintendent's
 15 office?
 16 A. Yes.
 17 Q. And can you tell me the basis for your answer?
 18 A. Yes. The Department is the administrative arm
 19 of the State in K-12 education. The secretary of
 20 education is, in statute, a policy advisor to the
 21 governor -- I'm sorry, may not even be in statute. The
 22 office of the secretary does not exist in statute, and
 23 the secretary, as part of the governor's budget
 24 proposal, would get certain administrative
 25 responsibilities in the area of K-12 education that the

1 Department felt was rightly, more appropriately seated
 2 in the Department.
 3 Q. Can you give me some examples of that?
 4 A. Sure. This year's governor's budget proposed
 5 to give administrative responsibility for creating a
 6 longitudinal database of testing scores to the secretary
 7 of education.
 8 Q. Can you think of other examples?
 9 A. I am aware that there are other examples, but
 10 I'm unaware of the specifics of them.
 11 Q. Do you know of any examples, sir, where the
 12 superintendent's office has been given certain
 13 responsibilities, but the funding has gone to the
 14 secretary of education?
 15 A. No.
 16 Q. Okay. But if that existed, that would be an
 17 example of a turf problem?
 18 MS. READ SPANGLER: Objection. Calls for
 19 speculation. Incomplete hypothetical.
 20 THE WITNESS: I'd need to understand the
 21 situation more clearly. I'm not sure I understand.
 22 MR. ROSENBAUM: Okay.
 23 MS. READ SPANGLER: Can we take a short break?
 24 MR. ROSENBAUM: Sure.
 25 (Recess taken.)

1 (Mr. Eliasberg not present.)
 2 Q. BY MR. ROSENBAUM: Are you doing okay,
 3 Mr. Warren?
 4 A. Yes.
 5 Q. On Exhibit 31, page 31, the sentence that
 6 follows the sentence we're been talking about, too much
 7 separation may also result in policy gaps, that's in
 8 quotation marks, program areas for which no agency is
 9 responsible, do you see that?
 10 A. Yes.
 11 Q. And then below that there is discussion of the
 12 roles of the superintendent and the State Board of
 13 Education, and then the State's apparatus for developing
 14 and training classroom teachers. Do you see that?
 15 (Mr. Eliasberg entered the room.)
 16 THE WITNESS: It goes on for some pages.
 17 MR. ROSENBAUM: Yes.
 18 THE WITNESS: Yes.
 19 Q. BY MR. ROSENBAUM: Are those two examples of
 20 the policy gaps program areas that you're referring to
 21 in the sentence?
 22 MR. VIRJEE: Are what two examples?
 23 MR. ROSENBAUM: The discussion of the role of
 24 the SPI and the SBE and the state's apparatus for
 25 developing and training classroom teachers.

1 MR. VIRJEE: Objection. Nonsensical. How can
 2 the roles of the SPI, SBE have anything to do with
 3 policy gaps?
 4 Q. BY MR. ROSENBAUM: What I'm trying to find out,
 5 Mr. Warren, you gave -- you offered this sentence that I
 6 just read to you about gaps program areas, and I'm
 7 trying to understand if the two subsections that follow
 8 it define the role of the SPI and SBE.
 9 And the section that begins consolidate teacher
 10 training programs on page 32 of Exhibit 31, were those
 11 your examples to support the statement too much
 12 separation may also result in policy gaps program area
 13 for which no agency is responsible?
 14 A. No.
 15 Q. Okay. Now, can you give me some examples of
 16 policy gaps program areas that you think can result
 17 where there's too much separation?
 18 A. Well, I believe the -- let me see. The report
 19 in the consolidate teaching programs section on page 32
 20 says -- or suggests that this is an area where policy
 21 perhaps is causing problems.
 22 Q. Okay. Can you give some other examples?
 23 A. Not at the moment, no.
 24 Q. Okay. At the time you wrote this, did you --
 25 to the best of your recollection, were there other areas

1 that you had in mind besides the area of developing and
 2 training classroom teachers?
 3 MR. VIRJEE: Objection. Calls for speculation.
 4 He says he doesn't remember.
 5 THE WITNESS: I don't recall.
 6 MR. ROSENBAUM: Okay. Let's go off the record
 7 for a second.
 8 (Break in the proceedings.)
 9 MR. ROSENBAUM: Mr. Warren, I'm going to have
 10 marked as Exhibit 32 an 18-page document. The cover
 11 sheet is titled a Special Session Guide to K-12 Reform.
 12 I'm going to ask that this be marked and placed before
 13 you, and I'm going to supply counsel with copies.
 14 (Exhibit SAD-32 was marked.)
 15 Q. BY MR. ROSENBAUM: I'd ask you to please take a
 16 look at that and see if you are familiar with it.
 17 A. Yes.
 18 Q. Are you familiar with this?
 19 A. Yes.
 20 Q. Tell me what it is, please.
 21 A. It was intended to assist the legislature in
 22 thinking about K-12 issues at the beginning of the new
 23 session in 1998-99.
 24 Q. Okay. And you authored part 1, is that right,
 25 of this document?

1 A. I was the primary author.
 2 Q. Okay. And did you supervise the writing of
 3 part 2?
 4 A. No.
 5 Q. What was your role, if any, with respect to
 6 part 2?
 7 A. I discussed the issues at various times with
 8 the different analysts who were working on it.
 9 Q. Okay. And do you recall disagreeing with any
 10 of the recommendations?
 11 A. I don't recall.
 12 Q. Incidentally, the document that we just
 13 reviewed, Exhibit 31, there are a number of
 14 recommendations in that document; is that correct?
 15 MR. VIRJEE: Objection. The document speaks
 16 for itself. Vague and ambiguous as to
 17 "recommendations."
 18 MS. READ SPANGLER: Join.
 19 THE WITNESS: I'd have to go back and look to
 20 make 100-percent sure.
 21 Q. BY MR. ROSENBAUM: Do you know if anything that
 22 was -- any reform that was suggested in Exhibit 31 was
 23 adopted by the legislature?
 24 MR. VIRJEE: Objection. Assumes facts not in
 25 evidence. The document speaks for itself as to whether

1 there are reforms. Also calls for speculation.
 2 MS. READ SPANGLER: Join.
 3 THE WITNESS: I don't know.
 4 Q. BY MR. ROSENBAUM: Okay. And were there
 5 meetings set up to discuss -- well, strike that.
 6 Do you see on page 1 --
 7 MR. VIRJEE: Of which document?
 8 MR. ROSENBAUM: Of what's been marked as
 9 Exhibit 32.
 10 Q. Do you see where it says K-12 reform?
 11 A. Yes.
 12 Q. Why was the word reform used?
 13 MS. READ SPANGLER: Objection. Calls for
 14 speculation.
 15 THE WITNESS: I don't recall.
 16 Q. BY MR. ROSENBAUM: Okay. What is your
 17 understanding of what the word reform means?
 18 MR. VIRJEE: Objection. Overbroad as to in
 19 what context.
 20 THE WITNESS: I think in this case it refers to
 21 efforts to improve the quality of K-12 education.
 22 Q. BY MR. ROSENBAUM: Okay. And do you know if
 23 any of the efforts discussed in Exhibit 32 were adopted
 24 by the legislature?
 25 A. Without going through all of the parts of part

1 2 and looking at the specific recommendations, I can't
 2 say in just a short response. I'd have to say I don't
 3 know.
 4 Q. Okay. Can you think of a single reform that
 5 was proposed in what's been marked as Exhibit 32 that
 6 was adopted by the legislature?
 7 A. Again, I'd have to familiarize myself with the
 8 contents of the report to be able to respond to that.
 9 Q. Okay. Let me ask you, sir, were there a series
 10 of meetings with legislators at which this document,
 11 referring to Exhibit 32, was discussed?
 12 MR. VIRJEE: Objection. Calls for speculation
 13 as to who had meetings and discussed this.
 14 MS. READ SPANGLER: Join.
 15 MR. ROSENBAUM: I'll actually withdraw that
 16 question. That's a fair objection.
 17 Q. To your knowledge, were there any meetings with
 18 legislators to discuss Exhibit 32?
 19 MR. VIRJEE: Are you asking whether he met with
 20 any legislators?
 21 MR. ROSENBAUM: The first question is just to
 22 his knowledge.
 23 MR. VIRJEE: Objection. Calls for speculation.
 24 THE WITNESS: There may have been, but I can't
 25 recall specifically.

1 Q. BY MR. ROSENBAUM: Do you recall if you
2 attended any?
3 A. That's what I'm -- I have a memory of one
4 meeting.
5 Q. Okay. Was that --
6 A. But I'm not sure necessarily whether it was on
7 this document or not.
8 Q. Okay. Was that a meeting with -- who do you
9 recall being at that meeting?
10 A. I'm sorry, I -- who was at the meeting? I
11 don't know who we met with, which legislator we met. I
12 would have gone with several of my colleagues normally.
13 Q. And Elizabeth Hill?
14 A. I don't recall.
15 Q. Do you remember, sir, was DeDe Alpert present?
16 A. Not that I recall.
17 Q. Or Kerry Mazzoni?
18 A. Not that I recall.
19 Q. Do you remember during this period, sir, any
20 legislator saying, I'd like to support or sponsor
21 legislation that adopts some or all of the reforms in
22 the master plan?
23 MR. VIRJEE: Objection. He's already said he
24 can't recall what all the reforms are that are
25 suggested, if there are any. And I don't know whether

1 you're talking about the master plan as described in
2 this document, in Exhibit 31, or some other master plan.
3 It's vague and ambiguous.
4 MR. ROSENBAUM: I'll restate that question.
5 Q. Do you remember any legislator at any point
6 saying with respect to anything in either Exhibit 31 or
7 32, I'd like to get behind this?
8 MR. VIRJEE: I'll make the same objection.
9 He's already said, without reading Exhibit 32 in detail,
10 he doesn't recall what is actually contained in it,
11 especially section 2, which he had nothing to do with
12 writing.
13 THE WITNESS: I don't know if there were any
14 initiatives that were generated specifically because of
15 this document.
16 Q. BY MR. ROSENBAUM: Referring to Exhibit 32?
17 A. Yes.
18 Q. What about Exhibit 31?
19 A. I think I've already answered that question,
20 and I don't know of any.
21 Q. Okay. Thank you. Directing your attention,
22 sir, to page 3 of what's been marked as Exhibit 32. See
23 where it says reform principles?
24 A. I'm sorry, you're on page 2?
25 MS. READ SPANGLER: Page 3.

1 MR. VIRJEE: Page 3.
2 MR. ROSENBAUM: I'm sorry. If I said 2, I
3 meant 3.
4 THE WITNESS: Yes.
5 Q. BY MR. ROSENBAUM: Do you see the fourth bullet
6 point under reform principles, foster a learning
7 environment?
8 A. Yes.
9 Q. Did you have -- what did you mean by the phrase
10 learning environment?
11 A. That educators in schools need to be more
12 reflective about the work that they do and to learn from
13 their successes and failures.
14 Q. Help me understand this. When you say -- you
15 said educator and who else?
16 A. I'm sorry, I don't know.
17 Q. My fault. Educators have to be more reflective
18 of what?
19 MR. VIRJEE: Are you asking him to repeat what
20 he said?
21 MS. READ SPANGLER: Why don't you have her read
22 back the answer.
23 MR. ROSENBAUM: That's fine. Read it back.
24 (Record read.)
25 Q. BY MR. ROSENBAUM: And to your knowledge, sir,

1 has any individual or entity for the State ever
2 attempted to define what an appropriate learning
3 environment would include?
4 MR. VIRJEE: Objection. Vague and ambiguous as
5 to "learning environment."
6 MR. ROSENBAUM: As you use the phrase here.
7 THE WITNESS: I'm not sure.
8 Q. BY MR. ROSENBAUM: You're not aware of any,
9 sitting here today?
10 A. No, I'm not sure -- I guess I'm not sure that I
11 fully -- you know, fully understand your question, and
12 that it's specific enough for me to be able to answer
13 it.
14 Q. Sure. What I'm interested in is has any state
15 governmental entity to your knowledge ever sat down and
16 said, we should define, we should look at what the
17 characteristics of what an appropriate learning
18 environment would --
19 A. As it's used in here?
20 Q. Yes.
21 MS. READ SPANGLER: I'll object to the phrase
22 that "appropriate learning environment." It isn't used
23 in here.
24 MR. VIRJEE: Nor is the characteristics issue
25 defined here. We're talking about educators in schools

1 reflecting on what they do and learning from their
 2 successes and failures.
 3 THE WITNESS: I think there are various things
 4 that the State contributes to in trying to help define
 5 or help local school officials and teachers understand
 6 how to improve the learning environment as it's used in
 7 this context.
 8 Q. BY MR. ROSENBAUM: Okay. And can you give me
 9 some examples of that, please.
 10 A. Sure. There's a whole branch of the education
 11 research community which is generally called teachers as
 12 researchers, where teachers are very involved in
 13 defining the questions, obtaining the evidence,
 14 evaluating the evidence. That's one.
 15 There's a second that takes place in my own
 16 branch where we are trying to provide resources to
 17 districts to help them better understand how well
 18 students are doing, understand how to use data, analyze
 19 data, have that reflect back on their own work and how
 20 they might improve their program.
 21 Q. Okay. And that's all appropriate for State
 22 entities to do?
 23 MR. VIRJEE: Objection. Vague and ambiguous as
 24 to "appropriate." Incomplete hypothetical.
 25 MS. READ SPANGLER: Join.

1 THE WITNESS: I think it's important work, yes.
 2 Q. BY MR. ROSENBAUM: Okay. On page 4,
 3 Mr. Warren, do you see where it says State roles?
 4 A. Yes.
 5 Q. Like districts, the State's role also has
 6 support and oversight dimensions. Do you see that?
 7 A. Yes.
 8 Q. What do you mean by oversight?
 9 A. Well, I think it's described in the paragraph
 10 before that where it says, districts -- district
 11 governing boards must also fulfill their duties as
 12 public's representative. This includes creating
 13 accountability mechanisms, et cetera. I don't know if
 14 that answers your question.
 15 Q. Well, the paragraph before that you just
 16 referenced, that talks about what district governing
 17 boards should do, right?
 18 MR. VIRJEE: The document speaks for itself.
 19 MS. READ SPANGLER: Join.
 20 THE WITNESS: That portion is talking about the
 21 district.
 22 Q. BY MR. ROSENBAUM: And my question is, in the
 23 following sentence after the heading State roles, you
 24 talk about the State's role with respect to oversight
 25 dimensions, support and oversight dimensions. Do you

1 see that?
 2 A. Yes.
 3 Q. I'm trying to figure out what you meant by, the
 4 State's role with respect to oversight.
 5 MR. VIRJEE: Objection. Asked and answered.
 6 MS. READ SPANGLER: Join.
 7 MR. VIRJEE: You asked him to tell you what he
 8 meant by oversight dimensions, and he told you.
 9 THE WITNESS: I think as a representative for
 10 the public, that part of the job of politicians is to
 11 monitor, to -- to monitor the operation of their area of
 12 responsibility to ensure that it is efficiently and
 13 effectively operating.
 14 Q. BY MR. ROSENBAUM: Why is that important?
 15 A. Well, I think that's part of their job as a
 16 public servant.
 17 Q. Okay. Then you say, sir, the State should
 18 establish -- strike that.
 19 Going back to your last answer, sir, what, in
 20 judgment, sir, are the consequences if that role is not
 21 met?
 22 MR. VIRJEE: Objection. Calls for speculation.
 23 Incomplete hypothetical.
 24 MS. READ SPANGLER: Join.
 25 THE WITNESS: That those officials can't

1 demonstrate to the public that programs are being
 2 efficiently and effectively monitored or run.
 3 Q. BY MR. ROSENBAUM: And what about at the
 4 classroom level, what's your judgment as to what the
 5 consequences are if that role hadn't been satisfied?
 6 MR. VIRJEE: Objection. Calls for an expert
 7 opinion. Calls for information this witness is not
 8 competent to testify to. Incomplete hypothetical.
 9 MS. READ SPANGLER: Join.
 10 THE WITNESS: I don't know.
 11 Q. BY MR. ROSENBAUM: Has anyone looked into that,
 12 sir, to your knowledge?
 13 A. That's an extremely vague --
 14 MR. VIRJEE: Vague and overbroad.
 15 THE WITNESS: When you say what are the
 16 consequences in the classroom for lack of oversight, I
 17 don't know what you mean.
 18 Q. BY MR. ROSENBAUM: You say first the State
 19 should establish a State structure that ensures funding
 20 adequate to meet State goals, local flexibility and
 21 information and data for the school improvement process.
 22 Do you see that?
 23 A. Yes.
 24 Q. To your knowledge, sir, has that State
 25 structure been established?

1 A. In its entirety?
 2 Q. Yes.
 3 A. Or any portion of it?
 4 Q. In its entirety as you've written here.
 5 MR. VIRJEE: Objection. Calls for speculation.
 6 Vague and ambiguous.
 7 THE WITNESS: This section of the master plan
 8 doesn't -- of this document doesn't really make any
 9 recommendation or describe what it is this means in any
 10 detail, so I guess it's a hard question to answer.
 11 Q. BY MR. ROSENBAUM: Has the -- to your
 12 knowledge, sir -- strike that.
 13 To your knowledge, sir, has the structure of
 14 State funding for education changed since you wrote this
 15 part of the document?
 16 MR. VIRJEE: Objection. Vague and ambiguous as
 17 to "structure of State funding for education." Also
 18 calls for speculation. Lacks foundation.
 19 MS. READ SPANGLER: Join.
 20 MR. VIRJEE: He's already said he's not an
 21 expert in school finance.
 22 THE WITNESS: I would say the State funding
 23 structure changes every year, so the answer is yes.
 24 Q. BY MR. ROSENBAUM: Okay. Looking at the second
 25 paragraph, second, the State should monitor the

1 operation of the K-12 system, do you see that sentence,
 2 sir, in Exhibit 32?
 3 A. Yes.
 4 Q. Have you given any thought as to how the State
 5 should go about monitoring the K-12 system?
 6 A. Yes.
 7 Q. Okay. And how do you think the State should do
 8 that?
 9 MR. VIRJEE: Other than what's already put in
 10 the document? The document speaks for itself, both this
 11 one and Exhibit 31.
 12 MR. ROSENBAUM: I'm interested operationally
 13 how the State should do it.
 14 MR. VIRJEE: Objection. Vague and ambiguous.
 15 Q. BY MR. ROSENBAUM: Have you given any thought
 16 as to what the operation would look like, the
 17 operational monitoring?
 18 A. Yes.
 19 Q. The nuts and bolts of it?
 20 MR. VIRJEE: Objection. Vague and ambiguous as
 21 to "nuts and bolts." Again, the document speaks for
 22 itself.
 23 THE WITNESS: If you mean the details, yes.
 24 Q. BY MR. ROSENBAUM: And what would they be?
 25 MR. VIRJEE: Objection. Overbroad with respect

1 to any particular area.
 2 THE WITNESS: That the State should primarily
 3 monitor student performance in academic achievement and
 4 that -- our academic index, I've learned about the
 5 details of that. I'm not being very coherent.
 6 Q. BY MR. ROSENBAUM: You say "details of that."
 7 What do you mean?
 8 MR. VIRJEE: He said he knows about the details
 9 of that. That's what you asked him.
 10 MR. ROSENBAUM: I'm sorry, I thought you said
 11 learned details of that.
 12 Q. Did I mishear you?
 13 A. Well, you asked if I thought about the details
 14 of the monitoring system, and so I was trying to tell
 15 you that I have learned about the details of our public
 16 school accountability act, which API is a part of.
 17 Q. Okay. My question is a little bit different.
 18 If someone said to you, if you can design any system you
 19 want that you think will meet your objective of having
 20 the State monitor the operation of the K-12 system,
 21 what's the system you would come up with, system of
 22 monitoring?
 23 MS. READ SPANGLER: Objection. Misstates his
 24 testimony. Calls for speculation. Incomplete
 25 hypothetical.

1 MR. ROSENBAUM: I'll respect one part of that.
 2 Q. Have you given thought as to if someone just
 3 said, here's a blank sheet of paper or blank check, tell
 4 us how you think the State should monitor the operation
 5 of the K-12 system, have you thought about what your,
 6 the Warren's, ideal system would look like?
 7 MR. VIRJEE: Other than the 35 pages we just
 8 spent almost a day going through, and the other
 9 documents that you've put on the record, or do you want
 10 him to go through and repeat all that too?
 11 MS. READ SPANGLER: Actually, it's just a yes
 12 or no question.
 13 THE WITNESS: I'm not sure I understand the
 14 question.
 15 Q. BY MR. ROSENBAUM: Okay. In the second
 16 sentence where it says, in its monitoring role the State
 17 would fix problems that result from a local control
 18 policy, do you see that?
 19 A. Yes.
 20 Q. Okay. Have you given thought as to how the
 21 State would fix those problems?
 22 A. Yes.
 23 Q. Okay. And how would the State go about fixing
 24 those problems?
 25 A. Well, the next sentence talks about

1 establishing an outcome-based accountability system that
 2 encourages districts to improve the performance of all
 3 schools.
 4 Q. Okay. Anything else?
 5 MR. VIRJEE: Other than where it says, in
 6 addition?
 7 MR. ROSENBAUM: Yeah.
 8 MR. VIRJEE: You want him to read the sentences
 9 for you on the record?
 10 MR. ROSENBAUM: Go ahead.
 11 THE WITNESS: I don't think the report goes
 12 beyond that.
 13 Q. BY MR. ROSENBAUM: Okay. And have you given
 14 any thought beyond this?
 15 A. Yes.
 16 Q. Okay. First of all, with respect to the
 17 optimal size of schools in districts, to your knowledge,
 18 has the State looked into that question, what's the
 19 optimal size of schools in districts?
 20 A. I think so, yes.
 21 Q. Okay. Who in the State has done that?
 22 A. I am aware indirectly of a report that was done
 23 by the State department maybe 10 years ago, something on
 24 that scale.
 25 Q. Do you know what the conclusions of that report

1 are?
 2 A. Not specifically.
 3 Q. Okay. Do you know if there's been any report
 4 subsequent or any investigation subsequent to what
 5 you're referring to?
 6 A. I do recall hearing of reports done outside of
 7 California on the same topic.
 8 Q. How about within California?
 9 A. I'm not aware of any specific reports, no.
 10 Q. And do you know -- this report that you're
 11 referring to, do you know the title of that report?
 12 A. I don't.
 13 Q. Do you have a copy of it yourself?
 14 A. I don't.
 15 Q. Okay. And you told me a few moments ago that
 16 you've given additional thought besides the points that
 17 are made in this paragraph; is that right?
 18 A. I'm not sure I said that.
 19 Q. Have you given -- have you given thought as to
 20 how the State would go about fixing problems in addition
 21 to the examples that follow in this paragraph?
 22 MR. VIRJEE: Objection. Overbroad as to how
 23 "the State would go about fixing problems."
 24 THE WITNESS: I have -- the report mentions two
 25 other areas of where the State could potentially

1 contribute in improving the system, and to the extent
 2 that I've identified what could be issues, I've thought
 3 about general fixes to them. Specific fixes, no.
 4 Q. BY MR. ROSENBAUM: Okay. Let me ask you, sir,
 5 to turn to page 6 of what's been marked as Exhibit 32.
 6 A. I'm sorry, what page?
 7 MS. READ SPANGLER: 6.
 8 Q. BY MR. ROSENBAUM: And at the top of the page,
 9 sir, the central purpose of accountability is to improve
 10 the quality of education provided to students, the need
 11 for effective accountability in California's public
 12 schools has become increasingly apparent over the last
 13 several years based on a wide range of evidence of poor
 14 student achievement, do you see that?
 15 A. Yes.
 16 Q. What's the wide range of evidence of poor
 17 student achievement that you're referring to?
 18 MR. VIRJEE: Objection. Calls for speculation.
 19 Lacks foundation. He said he's not the author of part
 20 2.
 21 THE WITNESS: I didn't write this.
 22 MS. READ SPANGLER: Join.
 23 Q. BY MR. ROSENBAUM: Do you have any knowledge of
 24 what's being referred to there?
 25 A. No.

1 Q. Do you know what the NAEP test is, N-A-E-P?
 2 A. Yes.
 3 Q. What's the NAEP test?
 4 A. It's the National Assessment of Educational
 5 Progress.
 6 Q. And is that -- has that ever been administered
 7 in California, to your knowledge?
 8 A. Yes.
 9 Q. When was that?
 10 MS. READ SPANGLER: You mean every single time,
 11 the last time? I think your question is vague as to
 12 time.
 13 THE WITNESS: That was administered in 2000.
 14 Q. BY MR. ROSENBAUM: To who, to all students?
 15 A. No.
 16 Q. Do you know to what group of students?
 17 A. Specifically what group of students?
 18 Q. I don't mean the names of the students, but I
 19 mean high school students, elementary students, middle
 20 school students, some sample of those students?
 21 A. The NAEP test uses sampling procedures.
 22 Q. Okay. Do you know how many students in
 23 California?
 24 A. No.
 25 Q. Do you know what the results of the tests were?

1 MR. VIRJEE: For the one that was administered
2 in 2000?
3 MR. ROSENBAUM: Yeah. Thank you.
4 THE WITNESS: No.
5 Q. BY MR. ROSENBAUM: Do you know the purpose for
6 which it was administered?
7 A. I'm not sure.
8 Q. Okay. Do you know if it's going to be
9 administered this year?
10 A. I don't believe so.
11 Q. Do you know why?
12 A. Yes.
13 Q. Why is that?
14 A. Because at the current time it's only
15 administered every two years.
16 Q. Was it -- who was in charge of administering
17 it, if you know?
18 MR. VIRJEE: Objection. Vague and ambiguous.
19 MR. ROSENBAUM: In the year 2000.
20 MR. VIRJEE: Vague and ambiguous as to "in
21 charge."
22 MS. READ SPANGLER: Join.
23 THE WITNESS: NAEP is the responsibility of the
24 federal government.
25 Q. BY MR. ROSENBAUM: Did any State agency, so far

1 as you know, work with the federal government in terms
2 of administration?
3 MS. READ SPANGLER: Are you referring to
4 California?
5 MR. ROSENBAUM: Yeah.
6 THE WITNESS: When you say "administration" --
7 Q. BY MR. ROSENBAUM: Your office, some other
8 office within the Department. Did any State people --
9 were any State people involved in the process of
10 administering the NAEP test?
11 MR. VIRJEE: Objection. Vague and ambiguous as
12 to "involved."
13 MS. READ SPANGLER: And as to "State people."
14 THE WITNESS: State departments are asked to
15 assist in certain parts of the administration process.
16 Q. BY MR. ROSENBAUM: Was your branch involved?
17 A. The assessment -- standards and assessment
18 division in my branch was involved, yes.
19 Q. Okay. And do you know of any other departments
20 or branches in other parts of the Department who were
21 involved?
22 A. I'm not aware of any.
23 Q. Okay. Was the NAEP test administered in
24 California in 1998?
25 A. I believe so.

1 Q. And '96?
2 A. Yes, I believe so.
3 Q. And do you know what the results of the '98
4 administration was?
5 MS. READ SPANGLER: Objection. Vague and
6 ambiguous as to "results."
7 THE WITNESS: I don't know the results.
8 Q. BY MR. ROSENBAUM: Are they published anywhere
9 so far as you know?
10 A. Yes.
11 Q. Do you have copies?
12 A. Of?
13 Q. The results.
14 A. From?
15 Q. 1998.
16 A. I don't know.
17 Q. Do you know how the sample was selected?
18 A. No.
19 Q. Have you ever been in a meeting where the NAEP
20 results were discussed any time in your -- let's say the
21 2000 NAEP results.
22 A. Yes.
23 Q. And what meeting did you attend where they were
24 discussed?
25 A. The results -- I was in a meeting where we

1 discussed the fact that the results for the 2000 test
2 are soon to be released by the federal government.
3 Q. And when did that meeting occur?
4 MR. VIRJEE: Before their release.
5 THE WITNESS: I can't say specifically when,
6 but in the past several months.
7 Q. BY MR. ROSENBAUM: Have you made any effort to
8 find out what those results are?
9 A. I may have actually seen a preliminary copy of
10 some information on the results.
11 Q. Do you have any recollection of what you may
12 have seen?
13 A. A vague recollection.
14 Q. What is that?
15 A. I think what we -- what I saw was California's
16 score, the score of the western states and the national
17 average, I think it's the average. I may be mistaken on
18 that.
19 Q. And did you keep a copy of this document?
20 A. I don't know.
21 Q. If I wanted to get it, how would I go about
22 doing that?
23 MR. VIRJEE: Objection. Calls for speculation.
24 MR. ROSENBAUM: Strike that.
25 Q. To your knowledge, does anyone in your branch

1 have a copy of it?
 2 A. I don't know for sure.
 3 Q. Okay. Have you assigned any responsibility to
 4 anyone in your branch to analyze the results of the NAEP
 5 2000 test?
 6 A. No.
 7 Q. Okay. Have you been asked to analyze the
 8 results of the NAEP 2000 test?
 9 A. We don't have the results beyond what I've
 10 already told you, so there's nothing to analyze.
 11 Q. What you've seen, have you -- have you been
 12 asked to analyze those?
 13 MR. VIRJEE: Objection. Vague and ambiguous as
 14 to "analyze."
 15 THE WITNESS: Like I said, I don't think
 16 there's enough information to do an analysis at this
 17 point.
 18 Q. BY MR. ROSENBAUM: Do you have any plans to
 19 analyze the results of the NAEP test?
 20 A. Yes.
 21 Q. And what are your plans?
 22 A. I have asked staff to look at the results and
 23 provide a context for the California score.
 24 Q. What does that mean, "provide a context for the
 25 California score."

1 A. To help me understand how well we did compared
 2 to other states, and how the underlying student
 3 demographics affect the state scores.
 4 Q. And why was that interesting to you?
 5 A. Because I think you always have to understand
 6 this data in context to really understand it.
 7 Q. And do you have a recollection, sir, of what --
 8 where California stood as opposed to the national
 9 average from what you saw?
 10 A. Not specifically.
 11 Q. What's your best recollection?
 12 A. That it was below the national average.
 13 Q. Do you know how far below?
 14 A. I don't recall.
 15 Q. Was it broken down by subject matter, like
 16 reading or math or English, arts or science?
 17 A. It was.
 18 Q. Do you remember how it was broken down, what
 19 subject matters?
 20 A. I don't.
 21 Q. Did you ever look at the 1998 results, NAEP
 22 results?
 23 A. I don't recall.
 24 Q. Do you have -- maybe you just answered this,
 25 but I just want to be clear. Do you know, based on what

1 you've seen, how California did in 2000 versus how it
 2 did in 1998?
 3 A. No.
 4 Q. Okay. When you say the federal government
 5 administers NAEP, what branch of the federal government?
 6 A. The executive.
 7 Q. Okay. Well, that's a start.
 8 MS. READ SPANGLER: Objection. As to "branch."
 9 Q. BY MR. ROSENBAUM: With the Department of
 10 Education, Mr. Bush -- retract that -- Department of
 11 Education?
 12 A. You know, I'm not 100-percent sure the
 13 structure of the federal agencies.
 14 Q. Have you ever looked at the NAEP test?
 15 MR. VIRJEE: At the test itself?
 16 MR. ROSENBAUM: Yes.
 17 THE WITNESS: No.
 18 Q. BY MR. ROSENBAUM: When you say you assigned
 19 staff to analyze the results, are there particular staff
 20 members you asked to look into this?
 21 A. Yes.
 22 Q. Who was that?
 23 A. Phil Speers.
 24 Q. Okay. Were you involved at all, Mr. Warren, in
 25 the decision-making to use the Stanford-9 for purposes

1 of the API?
 2 A. No.
 3 Q. Do you know who made that decision?
 4 A. I believe it is in the enabling statute.
 5 Q. Do you have any understanding of the process
 6 that led up to the decision to put that in the enabling
 7 statute?
 8 A. No.
 9 Q. Do you know who received copies of Exhibit 32,
 10 and specifically was it specifically distributed to
 11 certain individuals so far as you know?
 12 A. Yes.
 13 Q. To whom?
 14 A. Members of the legislature.
 15 Q. Every member of the legislature?
 16 A. That was our standard practice. I don't know
 17 if, in fact, it went to every member of the legislature.
 18 Q. And would that also be true of Exhibit 31, that
 19 it would be a practice to furnish copies to each
 20 legislator?
 21 A. Yes.
 22 Q. Now, besides legislators, to your knowledge,
 23 was it distributed by the LAO's office to any other
 24 office or individual?
 25 A. Yes.

1 Q. The governor's office?
 2 A. You'd have to be more specific.
 3 Q. Why don't you tell me who else.
 4 A. Well, it went to the press.
 5 (Mr. Eliasberg left the room.)
 6 MS. READ SPANGLER: Are we talking about 32 or
 7 31?
 8 Q. BY MR. ROSENBAUM: So far as you know, was a
 9 different procedure in place for 32 as opposed to 31?
 10 A. Yes.
 11 Q. Okay. What's the difference?
 12 A. 32 was probably less widely distributed than
 13 31.
 14 Q. To whom did 31 go, so far as you know?
 15 A. Well, beyond the legislature, it also went to
 16 the press. I believe I provided copies to the
 17 Department of Education and the secretary of education's
 18 office. That's all I can recall. And, of course, it's
 19 also distributed to people who request copies, and it's
 20 on the Internet.
 21 Q. Okay. Did you meet with any legislative aides
 22 about either 31 or 32?
 23 A. Yes.
 24 Q. Whom did you meet with?
 25 A. On which one?

1 Q. 31.
 2 A. The only meeting I can specifically recall is
 3 meeting with Stephen Blake, who was staff to DeDe
 4 Alpert.
 5 Q. Do you remember anything that was said in that
 6 meeting?
 7 A. We discussed the contents of the report.
 8 Q. Did you inquire as to whether DeDe Alpert would
 9 support legislation furthering the objectives of 31?
 10 A. No.
 11 (Mr. Eliasberg entered the room.)
 12 THE WITNESS: That's very vague. I don't know
 13 what you mean by "furthering the objectives."
 14 MR. ROSENBAUM: Supporting the master plan.
 15 THE WITNESS: I think by that time she had
 16 already introduced a resolution to develop a legislative
 17 committee on the K-18 master plan.
 18 Q. BY MR. ROSENBAUM: And did that measure pass?
 19 A. I don't know specifically, but there is a
 20 legislative committee on that topic.
 21 Q. Okay. Has it drafted a master plan so far as
 22 you know?
 23 A. Not to my knowledge.
 24 Q. Are you a consultant to that committee?
 25 A. I'm not.

1 Q. Is anyone from your branch a consultant?
 2 A. You have to define for me what that means,
 3 "consultant."
 4 Q. Anyone -- sometimes committees have
 5 consultants, people to whom they regularly speak, seek
 6 advice and counsel.
 7 MR. VIRJEE: So that's your definition you're
 8 asking him to use, one to which they regularly speak and
 9 seek advice.
 10 THE WITNESS: I don't know.
 11 Q. BY MR. ROSENBAUM: Have you assigned anybody to
 12 work with that committee?
 13 A. No.
 14 Q. Have you been asked to assign anybody to work
 15 with that committee?
 16 A. No.
 17 Q. To your knowledge, is anyone in the Department
 18 of Education meeting with that committee?
 19 A. Yes.
 20 Q. Who is that?
 21 A. I know that my boss, Scott Hill, is a
 22 participant on one subcommittee of their effort. His
 23 counterpart, Leslie Faucette, also has participated in
 24 some of the different subcommittee's group.
 25 Q. Do you know what the status of that committee's

1 work is?
 2 A. No.
 3 Q. Have you had any briefings from Mr. Hill about
 4 the committee's work?
 5 A. Yes.
 6 Q. What have you been told?
 7 A. He has reported to me some of the discussions
 8 in -- that the subcommittee that he has participated in,
 9 some of the discussions.
 10 Q. What subcommittee is he on?
 11 A. He's on the governance subcommittee.
 12 Q. Do you know how many other subcommittees, if
 13 any, exist?
 14 A. I know there are others, but I don't know how
 15 many.
 16 Q. You don't know anything about the structure of
 17 the way this overall committee is operating?
 18 A. I have a general notion of it.
 19 Q. What's that?
 20 A. That it's broken up into committees, and each
 21 committee is trying to address separate areas.
 22 Q. Do you know what areas?
 23 A. Not with any accuracy, no.
 24 Q. Is there a target date, to your knowledge, as
 25 to when the work of this committee is going to be

1 completed?

2 A. I have heard that, yes.

3 Q. When is that?

4 A. End of this calendar year.

5 Q. Okay. And what has Mr. Hill told you about his

6 subcommittee?

7 A. He's related the discussion they've had about

8 the governance issues.

9 Q. What's he told you?

10 A. That the discussion has focused on whether the

11 superintendent should be elected or appointed.

12 Q. Okay. Has he told you -- so far as you know,

13 has a position been formed as to whether that's a good

14 idea or not a good idea?

15 A. I don't know for sure.

16 Q. Anything else he's told you about, any other

17 items?

18 A. Not really, no.

19 Q. Okay. You told me yesterday morning that your

20 branch has some responsibilities with respect to the

21 high school exit exam?

22 A. Yes.

23 Q. What is the high school exit exam?

24 A. What is the high school exit exam? Can you be

25 more specific?

1 Q. Why don't you tell me first what the duties and

2 the responsibilities of your branch are with respect to

3 the high school exit exam.

4 A. The standards and assessment division is

5 charged with developing and administering the high

6 school exit exam, and that is within my branch.

7 Q. And is there a particular individual who has

8 got that responsibility, principal responsibility for

9 overseeing it?

10 A. Phil Speers is the director of that division,

11 and then within that there's a high school unit.

12 Q. Do you know who is in that unit?

13 A. The manager of that unit is Jan Chladek,

14 C-h-l-a-d-e-k.

15 Q. Spell that again, please.

16 A. C-h-l-a-d-e-k.

17 Q. Thank you. Is that a man or a woman?

18 A. Woman.

19 Q. Okay. And can you -- do you have an

20 understanding as to where Mr. Speers is in terms of the

21 development of the high school exam?

22 MR. VIRJEE: Objection. Vague and ambiguous as

23 to where he is in the development.

24 THE WITNESS: Yes.

25 Q. BY MR. ROSENBAUM: Where?

1 A. The exam has already been administered, and we

2 have yet to set the passing score.

3 Q. How many times has it been administered?

4 MR. VIRJEE: Objection. Vague and ambiguous as

5 to "administered."

6 MS. READ SPANGLER: Join.

7 THE WITNESS: Once or twice, depending on how

8 you want to count it.

9 Q. BY MR. ROSENBAUM: Okay. And the first time --

10 let's assume twice, when was the first time that it was

11 administered?

12 A. In March of this year.

13 Q. Did your branch prepare the exam that was

14 administered in March of this year?

15 A. No.

16 Q. Who did?

17 A. A contractor.

18 Q. That's Harcourt Brace?

19 A. No.

20 Q. Who is it?

21 A. American Institutes for Research.

22 Q. Okay. And are they still involved in the

23 process of developing the high school exit exam?

24 MR. VIRJEE: Objection. Vague and ambiguous as

25 to "involved" and "process."

1 MS. READ SPANGLER: Join. Also misstates his

2 testimony.

3 THE WITNESS: AIR is still working for the

4 Department on the high school exit exam.

5 Q. BY MR. ROSENBAUM: Were you involved in the

6 selection of AIR?

7 A. I need to understand what you mean by

8 "involved."

9 Q. Do you have any understanding of the process by

10 which AIR was selected?

11 A. Yes.

12 Q. What's your understanding?

13 A. We had several proposals, they were evaluated

14 based on certain criteria, and AIR was selected.

15 Q. What were the criteria that were used to

16 evaluate?

17 A. You know, I can't really recall specifically.

18 I'd have to refer back to some --

19 Q. Do you have a file on this?

20 A. I do have a file on this, on the high school

21 exit exam.

22 Q. And that's that file titled?

23 A. High school exit exam.

24 Q. And is it maintained in your office?

25 A. Yes.

1 Q. If I wanted to find it, how would I do that?
 2 A. I only have one file cabinet.
 3 Q. Okay. This first administration, you told me
 4 took place in March 2001, right?
 5 A. Yes.
 6 Q. And what was the grade level or levels of the
 7 students who took that exam?
 8 A. Ninth graders were intended to take the exam.
 9 Q. When you say "were intended," why do you say
 10 that?
 11 A. Well, I don't know who exactly took the exam.
 12 Q. And was that a legislative decision?
 13 MR. VIRJEE: Was what a legislative decision?
 14 MR. ROSENBAUM: That 9th graders take the exam.
 15 THE WITNESS: It's in the enabling statute.
 16 Q. BY MR. ROSENBAUM: Do you know how many 9th
 17 graders took the exam?
 18 A. I have an estimate that I think represents
 19 approximately.
 20 Q. How many?
 21 MS. READ SPANGLER: Just a point of
 22 clarification. You're talking about just the first
 23 time?
 24 MR. ROSENBAUM: Yes.
 25 THE WITNESS: My recollection is about 350,000

1 students took one or both of the sections of the test.
 2 Q. BY MR. ROSENBAUM: Okay. And the -- do you
 3 know approximately how many 9th graders there are in the
 4 California public school system?
 5 A. I have a general sense of that.
 6 Q. What is it?
 7 A. It's around 450,000.
 8 Q. Okay. Do you know why 350,000 as opposed to
 9 450,000 students took it?
 10 A. I know some of the reasons.
 11 Q. Okay. Why is that?
 12 MR. VIRJEE: Why is it that he knows some of
 13 the reasons, or are you asking him for the reasons?
 14 MR. ROSENBAUM: That's not helpful.
 15 Q. What are some of the reasons that you're aware
 16 of?
 17 A. Some of the reasons why not all students took
 18 it was that, first of all, the exam was voluntary, so
 19 not all students were required to take it, so I assume
 20 that some students didn't take it because they didn't
 21 want to take it. Also, not all students were in school
 22 at the time that the exam was administered, and so they
 23 had no way to take the exam.
 24 Q. Has any analysis taken place as to the racial,
 25 ethnic composition of the students who did take the

1 exam?
 2 MR. VIRJEE: Can you repeat that, please.
 3 MR. ROSENBAUM: I'll restate it.
 4 Q. Any analysis made of the racial and ethnic
 5 composition of the students who did volunteer to take
 6 the exam?
 7 A. I don't know for sure.
 8 Q. Have you directed anyone to do that?
 9 A. Yes.
 10 Q. And why did you do that?
 11 A. To understand better the range of students'
 12 performance and how students actually did on the test.
 13 Q. When you say how "students actually did," what
 14 do you mean by that?
 15 A. Well, I don't think you can understand really
 16 how well students did on any test unless you
 17 understand -- unless you have a more accurate
 18 understanding of who the students were that took the
 19 test and how different subgroups performed.
 20 Q. Okay. And whom did you ask to look at this
 21 question?
 22 A. The American Institutes for Research.
 23 Q. Have you gotten a report back from them?
 24 A. I have not gotten a report back from them.
 25 Q. Do you know if a report has been prepared in

1 response?
 2 A. I believe data was provided to Phil Speers and
 3 his staff yesterday.
 4 Q. Okay. Have you had any discussions with
 5 Mr. Speers?
 6 A. I have not seen him.
 7 Q. Okay. And the data AIR compiled on the
 8 students who took the exam, that included racial and
 9 ethnic information?
 10 A. I don't know that for sure, but I assume that
 11 that was a part of the analysis, but I don't know.
 12 Q. Did the test itself or any part attached to the
 13 test ask for racial and ethnic data?
 14 A. I believe so.
 15 Q. What else did it ask for in terms of
 16 characteristics of the students taking the exam?
 17 A. Asked for sex, it asked for previous -- it
 18 asked for courses that have been taken, at least in
 19 mathematics. That's all that I recall right at this
 20 time.
 21 Q. Okay. Do you know if there were questions
 22 about courses other than mathematics courses?
 23 A. I don't know.
 24 Q. Was there thought -- were you involved, sir, in
 25 a process prior to the administration of the March exam

1 to identify characteristics of students taking the exam?
 2 A. I don't think I was.
 3 Q. Okay. To your knowledge, was anyone in your
 4 branch involved in such a process?
 5 A. Yes.
 6 Q. Mr. Speers?
 7 A. And his staff.
 8 Q. And this exam, sir, you said it was in two
 9 sections?
 10 A. Yes.
 11 Q. One was in math; is that right?
 12 A. Yes.
 13 Q. And the other was in what?
 14 A. English language learners.
 15 Q. Did the math section include algebra?
 16 A. You have to be more specific.
 17 Q. Did it have algebra questions?
 18 A. I guess the answer is yes. I mean, it has
 19 algebra, yeah.
 20 Q. Do you know, sir, how many high schools -- how
 21 many high schools there are in the public school system
 22 in California?
 23 A. I don't know for sure.
 24 Q. Do you know if there are high schools in
 25 California that do not offer algebra?

1 MR. VIRJEE: Objection. Vague and ambiguous as
 2 to "algebra."
 3 MS. READ SPANGLER: Join.
 4 THE WITNESS: I don't know.
 5 Q. BY MR. ROSENBAUM: Have you ever made any
 6 inquiry to find out?
 7 MR. VIRJEE: Objection. Vague and ambiguous as
 8 to "inquiry."
 9 THE WITNESS: No.
 10 Q. BY MR. ROSENBAUM: Have you ever been asked to
 11 undertake any such inquiry?
 12 MR. VIRJEE: Same objection.
 13 THE WITNESS: No.
 14 Q. BY MR. ROSENBAUM: Have you ever directed
 15 anyone in your branch to undertake any such inquiry?
 16 MR. VIRJEE: Same objection.
 17 THE WITNESS: No.
 18 Q. BY MR. ROSENBAUM: Do you have plans to do
 19 that?
 20 MR. VIRJEE: Same objection.
 21 THE WITNESS: No.
 22 Q. BY MR. ROSENBAUM: Are you familiar with a
 23 course called prealgebra?
 24 A. No.
 25 Q. The -- was there -- with respect to the

1 database that is -- that's being compiled with respect
 2 to the 350,000 students taking this exam, does -- will
 3 you have the ability to find out the schools where they
 4 attend?
 5 A. I believe so.
 6 Q. Okay. Will you have the ability to find out
 7 the middle schools that the students attend?
 8 A. No.
 9 Q. Or the elementary schools they attended?
 10 A. No.
 11 Q. Was there ever any discussion about obtaining
 12 information as to the middle schools that the students
 13 attended?
 14 A. Not to my knowledge.
 15 Q. Or the elementary schools?
 16 A. Not to my knowledge.
 17 Q. Will you have the ability to determine whether
 18 or to what extent students were taught by
 19 emergency-credentialed teachers?
 20 A. I don't know.
 21 Q. You're not aware of any ability to determine
 22 that?
 23 MR. VIRJEE: He said he didn't know.
 24 THE WITNESS: I just don't. I'm not aware.
 25 Q. BY MR. ROSENBAUM: Were you -- there were

1 discussions about the administration of the high school
 2 exit -- strike that.
 3 You're aware, are you not, sir, of meetings
 4 about the development and the implementation of the high
 5 school exit exam?
 6 A. That encompasses an awful lot.
 7 Q. I know that.
 8 A. Yes, I'm aware that there were meetings
 9 involved in the development.
 10 Q. There were discussions at the State Board of
 11 Education?
 12 A. Yes.
 13 Q. There were discussions involving the
 14 superintendent?
 15 A. Yes.
 16 Q. There were discussions involving the secretary
 17 of education?
 18 A. Yes.
 19 Q. There were discussions in your department?
 20 A. Yes.
 21 Q. Can you tell me approximately how many?
 22 A. No.
 23 Q. Many?
 24 A. Many.
 25 Q. Were you present at many of those meetings?

1 A. Yes.
 2 Q. Was there ever any discussion at any meeting at
 3 which you attended at which it was discussed, we ought
 4 to see if there is any relationship between students
 5 having emergency-credentialed teachers and how well they
 6 perform on the high school exit exam?
 7 A. No.
 8 Q. Or whether students who had textbooks, how well
 9 they perform on the high school exit exam?
 10 A. Not that I can recall.
 11 Q. Or whether students who were in multi-track
 12 schools, how well they did on the high school exit exam?
 13 A. Not that I recall.
 14 Q. Or the state of the facilities of the schools
 15 at which they attended?
 16 A. No.
 17 Q. Any -- any -- what characteristics -- strike
 18 that.
 19 Or any characteristics with the exception of
 20 their racial and ethnic composition and their gender?
 21 MR. VIRJEE: And the courses taken? I mean,
 22 he's already given you that.
 23 MR. ROSENBAUM: And the courses that you
 24 mentioned, yes. I appreciate that.
 25 THE WITNESS: I was not very involved in the

1 development of the supplemental data, if you want to
 2 call it that, that was collected on the students.
 3 Q. BY MR. ROSENBAUM: But at any meeting that you
 4 were at, do you remember any such discussion?
 5 A. Beyond the course-taking patterns?
 6 Q. Yes.
 7 A. Not that I can recall.
 8 Q. Anything about whether or not students had
 9 teachers who were qualified to teach the subjects they
 10 were teaching?
 11 MR. VIRJEE: Objection. Vague and ambiguous as
 12 to "qualified."
 13 MS. READ SPANGLER: Join.
 14 THE WITNESS: I'm not sure I know what you're
 15 asking.
 16 MR. ROSENBAUM: Whether or not they were
 17 certified.
 18 MR. VIRJEE: Objection. Vague and ambiguous as
 19 to "certified."
 20 MS. READ SPANGLER: Join.
 21 THE WITNESS: I don't know what you're asking.
 22 Are you asking did that topic ever come up?
 23 MR. ROSENBAUM: Yes.
 24 THE WITNESS: In terms of development of the
 25 high school exam?

1 MR. ROSENBAUM: Yes.
 2 MS. READ SPANGLER: Same objection.
 3 THE WITNESS: Certified teachers?
 4 MR. ROSENBAUM: Yes.
 5 THE WITNESS: I'm not sure that it ever came up
 6 in that way.
 7 Q. BY MR. ROSENBAUM: What about
 8 fully-credentialed teachers?
 9 MR. VIRJEE: Objection. Vague and ambiguous as
 10 to "fully-credentialed."
 11 MS. READ SPANGLER: Join.
 12 THE WITNESS: I'm not sure it ever came up.
 13 Q. BY MR. ROSENBAUM: You don't have any
 14 recollection sitting here today?
 15 A. I have a recollection of discussions about
 16 whether there was a sufficient number of teachers to
 17 teach algebra.
 18 Q. And what was that discussion, sir?
 19 A. Well, the discussion was that not even all math
 20 teachers who might have certification in mathematics
 21 would necessarily be prepared to teach algebra.
 22 Q. Sitting here today, do you know the number of
 23 teachers -- strike that.
 24 Can I have the last answer read back, please.
 25 (Record read.)

1 Q. BY MR. ROSENBAUM: Do you know, sir, the number
 2 of high school teachers prepared to teach algebra in the
 3 California school system today?
 4 MR. VIRJEE: Objection. Vague and ambiguous as
 5 to "prepared" and "algebra."
 6 MS. READ SPANGLER: Join.
 7 THE WITNESS: I don't know anything about the
 8 numbers of teachers.
 9 Q. BY MR. ROSENBAUM: Do you know if any
 10 investigation has been made?
 11 A. I don't know.
 12 Q. Okay. When did this discussion or discussions
 13 take place?
 14 A. I think they've taken place throughout the
 15 development of the test.
 16 Q. Have you ever been asked to find out the number
 17 of teachers prepared to teach algebra?
 18 MR. VIRJEE: Objection. Vague and ambiguous as
 19 to "prepared to teach algebra."
 20 MS. READ SPANGLER: Join.
 21 THE WITNESS: It's a little hard to answer your
 22 question because "prepared" can mean a lot of things.
 23 Q. BY MR. ROSENBAUM: Were you ever asked -- do
 24 you know the number in the State system certified to
 25 teach algebra?

1 MR. VIRJEE: Objection. Assumes facts not in
 2 evidence. Also vague and ambiguous as to "certified."
 3 MS. READ SPANGLER: Join.
 4 THE WITNESS: I don't know how many
 5 credentialed math teachers there are, if that's what
 6 you're asking.
 7 Q. BY MR. ROSENBAUM: Okay. Have you ever been
 8 asked to find out -- have you ever been asked in sum or
 9 substance, Superintendent Warren, let's find out how
 10 many teachers are out there that are credentialed to
 11 teach math who are teaching math?
 12 A. No.
 13 Q. Or certified to teach math?
 14 MR. VIRJEE: Objection. Vague and ambiguous as
 15 to "certified to teach math."
 16 THE WITNESS: As math credentialed, no.
 17 Q. BY MR. ROSENBAUM: Or as you used the phrase
 18 before, prepared to teach algebra?
 19 MR. VIRJEE: Vague and ambiguous as to
 20 "prepared to teach algebra."
 21 MS. READ SPANGLER: Join.
 22 THE WITNESS: I think it's hard to answer your
 23 question because what prepared really means is in the
 24 eye of the beholder.
 25 Q. BY MR. ROSENBAUM: So far as you know, has

1 anyone in the State Department of Education been asked
 2 to find out what is the competence of -- what are the
 3 competence of high school teachers to teach algebra?
 4 MS. READ SPANGLER: Objection. Vague and
 5 ambiguous as to "competence."
 6 THE WITNESS: I don't know of any.
 7 Q. BY MR. ROSENBAUM: And you've never asked
 8 anybody on your staff to undertake such an
 9 investigation?
 10 MS. READ SPANGLER: Same objection.
 11 THE WITNESS: No.
 12 Q. BY MR. ROSENBAUM: Okay. And why is that?
 13 Strike that.
 14 THE WITNESS: You know what, I'd like to take a
 15 break, if I could.
 16 MR. ROSENBAUM: You sure can.
 17 (Recess taken.)
 18 Q. BY MR. ROSENBAUM: You doing okay, Mr. Warren?
 19 A. Yes.
 20 Q. Do you know, sir, if geometry is offered in any
 21 high school in California?
 22 A. I believe it is.
 23 Q. And do you know the number of high schools that
 24 it's offered in?
 25 MR. VIRJEE: Objection. Vague and ambiguous as

1 to "geometry."
 2 THE WITNESS: I don't --
 3 MR. ROSENBAUM: Or the percent of high schools.
 4 MR. VIRJEE: Same objection.
 5 THE WITNESS: I don't know.
 6 Q. BY MR. ROSENBAUM: Or the socioeconomic
 7 composition of schools where geometry is offered?
 8 MR. VIRJEE: Same objection.
 9 MS. READ SPANGLER: Are we limiting this to
 10 public high schools?
 11 MR. ROSENBAUM: All my questions are limited to
 12 public.
 13 Q. You understand that, sir?
 14 A. That's how I answered.
 15 Q. Do you know about the socioeconomic composition
 16 of the schools where geometry is offered?
 17 MR. VIRJEE: Objection. Asked and answered.
 18 Same objection as to geometry. Vague and ambiguous as
 19 to "geometry."
 20 THE WITNESS: I don't know.
 21 Q. BY MR. ROSENBAUM: Or the racial and ethnic
 22 composition of the students where geometry is offered?
 23 MR. VIRJEE: Same objection.
 24 THE WITNESS: I don't know.
 25 Q. BY MR. ROSENBAUM: Has anyone ever asked you to

1 undertake an investigation or inquiry to find out the
 2 degree to which geometry is offered in high schools in
 3 the state of California?
 4 MR. VIRJEE: Objection. Vague and ambiguous as
 5 to "geometry."
 6 MS. READ SPANGLER: And as to "the degree to
 7 which."
 8 THE WITNESS: No.
 9 Q. BY MR. ROSENBAUM: Have you ever directed or
 10 asked anyone on your staff to do that?
 11 MR. VIRJEE: Same objection.
 12 THE WITNESS: No.
 13 Q. BY MR. ROSENBAUM: If I took any subject
 14 matter, any curriculum subject matter, do you have any
 15 information as to whether or not particular curriculum
 16 subjects are offered in all California high schools?
 17 MR. VIRJEE: Objection. Vague and ambiguous as
 18 to "offered," and also compound and overbroad.
 19 MS. READ SPANGLER: Join.
 20 THE WITNESS: Is your question whether
 21 certain -- you want to know if I have any information
 22 about whether certain courses are taught in all
 23 California schools.
 24 MR. ROSENBAUM: Yes.
 25 THE WITNESS: That's the important part of that

1 question?
 2 MR. ROSENBAUM: Yes, it is.
 3 THE WITNESS: No.
 4 Q. BY MR. ROSENBAUM: Or elementary schools?
 5 MR. VIRJEE: Same objection. Overbroad. Vague
 6 and ambiguous as to "taught."
 7 THE WITNESS: That's a difficult question to
 8 answer.
 9 Q. BY MR. ROSENBAUM: How about middle schools?
 10 MR. VIRJEE: Same objection.
 11 THE WITNESS: Again, the way your question is
 12 phrased, I'm not sure I can answer it.
 13 Q. BY MR. ROSENBAUM: Why is that?
 14 A. Because I believe that all elementary school
 15 and all middle schools teach English language arts and
 16 mathematics.
 17 Q. Do you know that for a fact?
 18 MR. VIRJEE: Are you asking for his own
 19 personal knowledge?
 20 MR. ROSENBAUM: Yes.
 21 MR. VIRJEE: He wants to know whether you know
 22 if that happens in every school.
 23 THE WITNESS: No.
 24 Q. BY MR. ROSENBAUM: Okay. Now, is there any
 25 state statute or regulation or standard or policy that

1 "algebra." Vague and ambiguous also as to "policy" and
 2 "standard."
 3 THE WITNESS: Because there's a requirement
 4 that all students be able to take that course -- that
 5 all students take the course prior to graduation, that
 6 would impose a requirement on schools to provide it.
 7 Q. BY MR. ROSENBAUM: How about geometry, do you
 8 know of any statute or regulation or standard or policy
 9 that requires that a course in geometry be available in
 10 every California high school?
 11 MR. VIRJEE: Objection. Calls for a legal
 12 conclusion. Vague and ambiguous as to "standard or
 13 policy" and "geometry."
 14 THE WITNESS: No.
 15 Q. BY MR. ROSENBAUM: Okay. Do you know, sir,
 16 whether -- has the State, to your knowledge, ever
 17 conducted any sort of research or investigation
 18 comparing curricular offerings among high schools across
 19 the state?
 20 A. Not that I know of.
 21 Q. Or in middle schools?
 22 A. Not that I know of.
 23 Q. Or at elementary school?
 24 A. Not that I know of.
 25 Q. Okay. And have you ever been asked to conduct

1 you're aware of that requires that algebra be offered in
 2 every high school in the state of California, public
 3 high school?
 4 MR. VIRJEE: Objection. Vague and ambiguous as
 5 to algebra being offered. Also calls for a legal
 6 conclusion.
 7 MS. READ SPANGLER: Join.
 8 Q. BY MR. ROSENBAUM: That there be a course in
 9 algebra in every California public high school, do you
 10 know of any statute or regulation or policy or standard
 11 that requires that?
 12 MR. VIRJEE: Objection. Calls for a legal
 13 conclusion. Also vague and ambiguous as to "policy" and
 14 "standard."
 15 MS. READ SPANGLER: Join.
 16 THE WITNESS: I know of a law that requires
 17 students to take algebra prior -- as a condition of
 18 graduating.
 19 Q. BY MR. ROSENBAUM: Okay. My question is a
 20 little bit different. Do you know whether or not there
 21 is any statute or regulation or policy or standard that
 22 requires that a course in algebra be offered in every
 23 high school?
 24 MR. VIRJEE: Objection. Asked and answered.
 25 Also vague and ambiguous as to course be offered and

1 any such research or investigation?
 2 A. No.
 3 Q. To your knowledge, has anyone in your branch
 4 been asked to conduct any investigation or research?
 5 A. Not that I know of.
 6 Q. Has there been, to your knowledge, sir, any
 7 research undertaken in the state of California to
 8 determine whether or not there are credentialed teachers
 9 in the areas where teachers are assigned curriculum?
 10 That's a miserable question.
 11 What I'm interested in is this, for teachers
 12 teaching in particular subject areas, has there ever
 13 been any research, to your knowledge, as to whether or
 14 not teachers are credentialed in those areas in high
 15 schools in the state of California?
 16 MR. VIRJEE: Objection. Vague and ambiguous as
 17 to "credentialed in those areas." Also calls for
 18 information way beyond the expertise of this witness.
 19 There's been no evidence he has any basis for testifying
 20 about the credentialing of teachers or what's required
 21 or not required.
 22 THE WITNESS: I do know there's a program
 23 funded by the State that requires county offices of
 24 education to review the placement of teachers in
 25 relation to the credentials.

1 Q. BY MR. ROSENBAUM: Do you know what that
 2 involves, what the county boards are actually asked to
 3 do?
 4 A. Not in a lot of detail, no.
 5 Q. What do you know?
 6 A. That the county offices review documentation
 7 provided by districts about the placement of their
 8 teachers and their credentialing status.
 9 Q. Have you looked at -- and then what, the
 10 counties are supposed to prepare reports?
 11 A. I don't recall.
 12 Q. Have you ever seen anything with respect to
 13 what you're talking about?
 14 A. No.
 15 Q. Okay. You never sought any such information?
 16 A. I don't remember seeking any.
 17 Q. You never asked anyone on your staff to compile
 18 such information?
 19 A. No.
 20 Q. Do you know if the information exists anywhere
 21 in your branch?
 22 MS. READ SPANGLER: What information?
 23 MR. ROSENBAUM: Any information that the county
 24 boards may have compiled.
 25 MR. VIRJEE: He didn't say the boards compiled,

1 he said the county offices.
 2 MR. ROSENBAUM: Thank you. County offices.
 3 THE WITNESS: I don't know that my staff has
 4 any of those.
 5 Q. BY MR. ROSENBAUM: Mr. Warren, the March
 6 example that you talked to me about, who actually
 7 administered the exam, I mean, operationally was there
 8 someone -- I just want to understand how it worked. Was
 9 there someone at the front of the classroom who handed
 10 out exams and the students took the exams? Do you know
 11 how it worked?
 12 MR. VIRJEE: Calls for speculation. Also
 13 compound as to what happened in every high school where
 14 it was offered.
 15 THE WITNESS: I believe our regulations require
 16 that in whatever setting a student actually takes the
 17 exam, that there is adequate supervision by nonstudents,
 18 by adults.
 19 Q. BY MR. ROSENBAUM: Okay. And I'm interested in
 20 who those adults are. Do you know if they are adults --
 21 is there any rules or procedures that you're aware
 22 specifying who those adults should be, I don't mean
 23 names of the persons, but whether they should be
 24 teachers, administrators of the school, whether they
 25 should be outside individuals?

1 A. Yes.
 2 Q. And what is the rule?
 3 A. Well, I don't recollect the rule specifically.
 4 MR. VIRJEE: The rules speak for themselves.
 5 THE WITNESS: But I know there are rules.
 6 Q. BY MR. ROSENBAUM: Do you know if teachers are
 7 permitted to be the individuals?
 8 A. Like I said, I just am not --
 9 Q. If I wanted to get a copy of those rules, how
 10 would I do that?
 11 A. I believe those rules are part of the State
 12 regulations.
 13 Q. Okay. Have you seen the results of the March
 14 exam?
 15 A. No.
 16 Q. Do you know what the results are?
 17 A. "Results" is a pretty big word.
 18 Q. You've testified, have you not, sir, as to the
 19 percent of students who passed?
 20 MS. READ SPANGLER: Objection. Misstates his
 21 testimony.
 22 THE WITNESS: No.
 23 MR. VIRJEE: He's already said that hasn't been
 24 scored yet. He already told you that. He's already
 25 told you it's been taken, but not yet scored, so I don't

1 know how he could do that.
 2 MR. ROSENBAUM: I think you misunderstand.
 3 MR. VIRJEE: No, I didn't misunderstand.
 4 That's what he testified to.
 5 Q. BY MR. ROSENBAUM: The March exam, has that
 6 been scored?
 7 A. Yes.
 8 Q. And what was the passing grade on that exam?
 9 A. That has not been set yet.
 10 MR. VIRJEE: Thank you.
 11 Q. BY MR. ROSENBAUM: And who is involved in
 12 determining the passing grade?
 13 MR. VIRJEE: Objection. Overbroad,
 14 "determining the passing grade."
 15 THE WITNESS: The State Board has the
 16 responsibility for setting the actual passing score. Is
 17 that what you're asking?
 18 Q. BY MR. ROSENBAUM: Yeah. And do you know the
 19 names of any individuals -- do you know if there are
 20 staff people who are working on that?
 21 A. Working on?
 22 Q. Establishing what the scores should be.
 23 A. Staff persons meaning?
 24 Q. Staff of the State Board or staff at the
 25 Department of Education.

- 1 A. Yes.
- 2 Q. Who is involved, to your knowledge?
- 3 A. Phil Speers and his staff. And I believe they
4 had a first discussion yesterday with the State Board
5 staff.
- 6 Q. Okay. Do you know anything about the contents
7 of that discussion?
- 8 A. I was here.
- 9 Q. Okay. Now, was there algebra on that exam?
- 10 MR. VIRJEE: Objection. Vague and ambiguous as
11 to "algebra."
- 12 MS. READ SPANGLER: Also asked and answered.
- 13 THE WITNESS: Yes.
- 14 Q. BY MR. ROSENBAUM: Do you know what other math
15 subjects were covered?
- 16 THE WITNESS: Generally, yes.
- 17 Q. BY MR. ROSENBAUM: Incidentally, when you say
18 you know algebra was on it, how do you know that?
- 19 A. I'm generally familiar with the contents of the
20 examination.
- 21 Q. And how do you know algebra was included?
- 22 A. Because the standards that were -- mathematics
23 content standards that were to be tested as approved by
24 the State Board include 7th grade and 8th grade
25 mathematics standards, which includes algebra.

- 1 Q. Okay. And what other math subjects?
- 2 A. Probability and statistics.
- 3 Q. What else?
- 4 A. I believe there is some -- I believe the 7th
5 grade standards include some geometry, but that may be
6 from an earlier grade, it may not be 7th grade.
- 7 Q. And what other subjects?
- 8 A. That's all I can recall.
- 9 MR. VIRJEE: Objection. Vague and ambiguous as
10 to "subjects."
- 11 Q. BY MR. ROSENBAUM: And these were 9th graders,
12 you told me, who took the exam?
- 13 A. Yes.
- 14 Q. Do you know how many of those students had been
15 taught algebra in the 7th or 8th grade?
- 16 MR. VIRJEE: Objection. Vague and ambiguous as
17 to "algebra."
- 18 THE WITNESS: No.
- 19 Q. BY MR. ROSENBAUM: The requirement that you --
20 to your knowledge, has anyone -- have you ever been
21 asked to look into that question?
- 22 A. The question of whether students were taught
23 algebra in 7th or 8th grade?
- 24 Q. Yes.
- 25 A. Yes.

- 1 Q. Okay. And who asked you to do that?
- 2 A. I don't recall.
- 3 Q. Okay. And what did you do -- I take it it was
4 your superior?
- 5 A. Frankly, I don't know if I asked the question
6 or whether it was just a question that was under
7 discussion.
- 8 Q. What, if anything, are you doing to answer that
9 question?
- 10 A. We looked at the data that the Department does
11 have on course taking.
- 12 Q. And when you say "we," who is "we"?
- 13 A. It would have been Phil Speers and his staff,
14 or might have actually been before Phil Speers was
15 employed at the Department, but the assessment division
16 staff.
- 17 Q. Okay. And what conclusions, if any, were
18 reached?
- 19 A. That we do not have grade level breakdowns, at
20 least at that time, of students course-taking patterns.
- 21 Q. When you say "at that time," what do you mean?
- 22 A. Well, I may have seen another piece of
23 information more recently that suggested that perhaps we
24 did have some data on that.
- 25 Q. I'm a little confused here.

- 1 A. I am too. That's why you're confused.
- 2 Q. Okay. To your knowledge, does data exist that
3 would tell us whether or not students took algebra in
4 the 7th or 8th grade?
- 5 A. The reason for my confusion is that the
6 original data that I became familiar with did not have
7 sufficient detail to break it down by grade level, it
8 had total students taking algebra.
- 9 More recently I was given some other data that
10 seemed to suggest that there were grade level
11 breakdowns. I have not had time to go back to that and
12 fully understand what it is telling me.
- 13 Q. Okay. When you say "total students taking
14 algebra," would that include high school students?
- 15 A. Yes.
- 16 Q. But the first -- your first experience with
17 this, it wasn't segregated by 12, 11, 10, 9, 8, 7
18 grades, right, those grades?
- 19 A. That's correct.
- 20 Q. Okay. And now I want to just get a sense of
21 the degree of certainty you have. Are you certain that
22 there is information that would tell you 7th or 8th
23 graders?
- 24 A. No, it's just a recollection.
- 25 Q. The document or documents that you're thinking

1 about, if I wanted to find those documents, how would I
 2 go about doing that?
 3 A. Well, I believe that the earlier information
 4 came from our CBEDS, C-B-E-D-S, which is the primary
 5 data repository for the departments. I don't know where
 6 this subsequent information came from.
 7 Q. Would it be in a file of yours?
 8 A. I'm not sure.
 9 Q. If I asked you to give me your best judgment on
 10 how I could find that information, what would you tell
 11 me?
 12 A. Say you'd have to talk to the staffer who gave
 13 it to me.
 14 Q. Who was that?
 15 A. Pat McCabe.
 16 Q. And which area is she in?
 17 A. He. We have a lot of those gender --
 18 Q. Seems to be a requirement to get a job in
 19 there.
 20 Which division or section?
 21 A. He works for Bill Padilla.
 22 Q. And I asked you a few moments ago, Mr. Warren,
 23 about requirements for teaching algebra with respect to
 24 high school.
 25 A. What kind of requirements?

1 Q. I'm going to ask you a fresh question. To your
 2 knowledge, is there any statute or regulation or
 3 standard or policy that requires that there be a course
 4 in algebra offered in the 7th grade in schools
 5 throughout -- public schools throughout California?
 6 MR. VIRJEE: Objection. Calls for a legal
 7 conclusion. Also vague and ambiguous as to "algebra,"
 8 "standard" and "policy."
 9 MS. READ SPANGLER: Join.
 10 THE WITNESS: The State content standards call
 11 for instruction in algebra in mathematics in that grade.
 12 Q. BY MR. ROSENBAUM: In the 7th grade?
 13 A. Yes.
 14 Q. And what about the 8th grade?
 15 A. Yes.
 16 Q. Both grades?
 17 A. Both grades.
 18 Q. Do they call for geometry in the 7th grade?
 19 MR. VIRJEE: Same objection. Vague and
 20 ambiguous as to "geometry."
 21 THE WITNESS: I'm not sure, as I said before.
 22 Q. BY MR. ROSENBAUM: How about the 8th grade?
 23 MR. VIRJEE: Same objection.
 24 THE WITNESS: I'm not sure.
 25 Q. BY MR. ROSENBAUM: Do you know, sir, the extent

1 to which 7th graders in public school in California are
 2 taught algebra in the 7th grade?
 3 MR. VIRJEE: Objection. Asked and answered.
 4 Also vague and ambiguous as to "algebra."
 5 MS. READ SPANGLER: And vague and ambiguous as
 6 to the extent the students are "taught."
 7 Q. BY MR. ROSENBAUM: What I mean -- that is a
 8 little vague. What I mean is -- when I say extent to
 9 which, I mean do you know if 100 percent of students are
 10 taught algebra in the 7th grade, 50 percent, 20 percent?
 11 Do you have any information as to that?
 12 MR. VIRJEE: Same objections.
 13 THE WITNESS: No.
 14 Q. BY MR. ROSENBAUM: Okay. Same thing for the
 15 8th grade?
 16 MR. VIRJEE: Same objections.
 17 THE WITNESS: The extent to which students are
 18 taught algebra?
 19 MR. ROSENBAUM: Yeah.
 20 THE WITNESS: We would have information on
 21 that.
 22 Q. BY MR. ROSENBAUM: But do you presently have
 23 that information?
 24 A. We have it to the extent that they've taken the
 25 appropriate STAR examination in 8th grade.

1 Q. Tell me what that means.
 2 A. STAR exams are based on the State content
 3 standards by grade, so 8th graders would take a test
 4 that's aligned with the standards in that grade. To the
 5 extent that they've taken Algebra I in that year, or a
 6 course -- similar course called integrated mathematics
 7 that included algebra, and they took the appropriate
 8 test under STAR, then we will know how many students
 9 took algebra in that grade, yes.
 10 Q. Is every student -- does every student take
 11 that STAR test?
 12 A. The intent of the law is that every student who
 13 can reasonably access the test is supposed to take it,
 14 yes.
 15 Q. When you say "reasonably access," what do you
 16 mean by that?
 17 A. Special education students who are far behind
 18 in their studies would not be asked to take that test.
 19 Q. Okay. If you just answered this for me, I
 20 apologize. Are you saying that because students have
 21 taken the test, we know that they've taken algebra, or
 22 are you saying we independently inquire to find out if
 23 the student has taken algebra? Do you understand the
 24 difference?
 25 A. Yes, they're only supposed to take the test if

1 they have covered the material beginning in 8th grade.
 2 Q. Do you know what, if anything, is done to
 3 verify that, in fact, the students have taken the
 4 subject matter?
 5 A. Indirectly, yes.
 6 Q. How is that?
 7 A. Because students who would not have taken the
 8 subject matter would not be able to answer many
 9 questions on the test, and if -- well, if a significant
 10 number of students at a school took the test without
 11 having taken the course, they would likely not get a
 12 score that was a meaningful score and we would be able
 13 to detect that.
 14 Q. Do you know of any direct inquiry that the
 15 Department has made to specifically ask the question,
 16 have students in 8th grade taken algebra or the
 17 counterpart that you mentioned?
 18 A. No.
 19 Q. Okay. And you've never been asked to check
 20 that out?
 21 A. No.
 22 Q. Okay. Now, has there been any investigation --
 23 and if you've already answered this, just tell me. I
 24 won't go through the series of questions.
 25 Has there been any investigation, to your

1 MR. VIRJEE: Objection. Vague and ambiguous as
 2 to "research" and "investigation."
 3 THE WITNESS: No.
 4 Q. BY MR. ROSENBAUM: And that's true for both the
 5 7th and the 8th grade?
 6 A. Yes.
 7 Q. And that's true for geometry also?
 8 A. Yes.
 9 Q. And have you ever been asked to undertake any
 10 such investigation?
 11 A. Not that I can recall, no.
 12 Q. Okay. Now, there are State standards that you
 13 talked to me about that mention that algebra should be
 14 one of the subjects covered; is that right?
 15 A. State standards call for Algebra I in 8th
 16 grade.
 17 Q. Okay. And is there any -- if you just answered
 18 this, just tell me that. Is there any investigation or
 19 inquiry that you're aware of that looks into whether or
 20 not there are textbooks, whether or not students have
 21 textbooks or other instructional materials aligned with
 22 Algebra I as stated in the curriculum standards?
 23 A. So aligned with constant standards?
 24 Q. Yes.
 25 MR. VIRJEE: Objection. Calls for speculation.

1 knowledge, as to whether or not teachers teaching
 2 algebra in the 7th or 8th grade are credentialed to
 3 teach algebra?
 4 MR. VIRJEE: Objection. Vague and ambiguous as
 5 to "credentialed to teach algebra."
 6 MS. READ SPANGLER: Join.
 7 THE WITNESS: I think you've asked me this
 8 question, but the answer is no.
 9 Q. BY MR. ROSENBAUM: Okay. Or whether or not
 10 students in the 7th or 8th grade have had textbooks
 11 aligned with State curriculum standards regarding
 12 algebra or the equivalent?
 13 MR. VIRJEE: Objection. Vague and ambiguous as
 14 to "textbooks" and also "investigation."
 15 THE WITNESS: Well, I think there's another
 16 vagueness, which is "aligned."
 17 Q. BY MR. ROSENBAUM: Let's break it down. First
 18 of all, to your knowledge, has the State -- does the
 19 State have information as to whether students in the 7th
 20 or 8th grade have textbooks or other instructional
 21 materials that instruct in algebra or the counterpart
 22 that you mentioned?
 23 A. Have we conducted any research to determine
 24 that?
 25 Q. Yes.

1 THE WITNESS: Well, there are textbooks that
 2 are aligned with standards.
 3 Q. BY MR. ROSENBAUM: Do you know whether or not
 4 the extent which -- strike that.
 5 Do you know -- has the State ever looked into
 6 the question of whether or not students, in fact, have
 7 textbooks or other instructional materials that are
 8 aligned with those standards?
 9 MR. VIRJEE: Objection. Vague and ambiguous as
 10 to "State" and "investigation" and "looked into."
 11 THE WITNESS: I don't know of any study that
 12 examines that question.
 13 Q. BY MR. ROSENBAUM: And you've never been asked
 14 to do that?
 15 A. Not to my knowledge.
 16 Q. And you've never directed anybody to do that?
 17 A. No.
 18 Q. The exams that students took in March on the
 19 ancillary information, not the exam itself, but the --
 20 A. Additional information?
 21 Q. -- did it ask any questions about what
 22 textbooks students used?
 23 A. I don't know.
 24 But you just triggered something for me that I
 25 need to make sure that I tell you, which is that there

1 is an external evaluator for the exit exam who has
 2 discussed the issues, at least I know -- I'm pretty sure
 3 about textbooks with school districts.
 4 Q. First of all, to your knowledge, is that being
 5 specifically surveyed as part of that ancillary
 6 information?
 7 A. That's what I recall.
 8 Q. You recall what?
 9 A. The state law, I believe, directs the external
 10 evaluator to assess whether instructional materials
 11 are -- whether the test is consistent with the
 12 instructional materials that are being used in school
 13 districts.
 14 Q. Okay. Now, maybe you've just answered this. I
 15 want to be a little more precise. Do you know if -- the
 16 state law that you're talking about -- is it state law
 17 and regulations, or is it just state statute?
 18 A. State law.
 19 Q. Does the state law also direct there to be
 20 inquiry as to whether or not students actually receive
 21 those materials?
 22 MR. VIRJEE: Objection. Calls for a legal
 23 conclusion. Any state law speaks for itself.
 24 THE WITNESS: I don't know.
 25 Q. BY MR. ROSENBAUM: Okay. Who is the external

1 evaluator?
 2 A. It's a firm called HumRRO, Human -- I can't
 3 remember what the acronym stands for H-u-m-R-R-O. Human
 4 Resources Research Associates, or something.
 5 Q. Do you know where they're based?
 6 A. In Alexandria, Virginia.
 7 Q. Do you know the names of any individuals who
 8 were involved in that?
 9 A. The chief investigator is a man named Laurie
 10 Wise.
 11 Q. Figures.
 12 And do you know -- have you seen any research
 13 model as to what HumRRO is planning to do for
 14 evaluation?
 15 A. I have seen copies of surveys that they have
 16 developed for the purpose of this evaluation.
 17 Q. Do you have copies of those?
 18 A. I don't know.
 19 Q. Okay. Is there someone in your office who is
 20 working with HumRRO?
 21 A. Yes.
 22 Q. Who is that?
 23 A. Phil Speers and his staff.
 24 Q. Okay. Do you think, sir, that it would be
 25 important to know whether students taking the high

1 school exam have had courses in 7th or 8th grade that
 2 taught Algebra I?
 3 MR. VIRJEE: Objection. Vague and ambiguous as
 4 to "taught Algebra I." Also calls for an expert opinion
 5 to which this witness is not competent to testify.
 6 THE WITNESS: From an assessment standpoint it
 7 is important that students have had the opportunity to
 8 learn the material that they're tested on.
 9 Q. BY MR. ROSENBAUM: Why is that?
 10 A. Because it's not reasonable to expect a student
 11 can master the subject area without having a course in
 12 that -- on that subject matter.
 13 Q. Do you think it's important to know whether or
 14 not students have had textbooks or other instructional
 15 materials that are aligned with State curriculum
 16 standards?
 17 MR. VIRJEE: Same objections.
 18 THE WITNESS: I'm not sure.
 19 Q. BY MR. ROSENBAUM: And do you think it's
 20 important to know whether or not students have had
 21 teachers who are credentialed to teach the subjects
 22 which are on the high school exit exam?
 23 MR. VIRJEE: Same objections.
 24 THE WITNESS: Not necessarily.
 25 Q. BY MR. ROSENBAUM: Why is that?

1 A. I think you can be a great teacher without
 2 having a credential.
 3 Q. Do you think it's important to know the
 4 competence of the teacher to teach the subject matter
 5 that is tested on the high school exam?
 6 MS. READ SPANGLER: Objection. Vague and
 7 ambiguous as to "competence."
 8 THE WITNESS: I guess I don't understand your
 9 question. Is it important that --
 10 MR. ROSENBAUM: I'll come back to that.
 11 Q. Now, prior to the March exam, am I right, sir,
 12 that students also took -- they also took a high school
 13 exit exam or a part of it?
 14 A. No.
 15 Q. Wasn't there some exam that was administered as
 16 part of the high school exit exam program prior to the
 17 March exam?
 18 A. We did field testing of the -- some of the
 19 questions that eventually made it on to the examination.
 20 Q. And when did that field testing occur?
 21 A. It occurred at two times, once in the spring of
 22 2000, and once in the fall of 2000.
 23 Q. Okay. And how many students took it in the
 24 spring of 2000?
 25 A. I don't know.

1 Q. Was AIR involved in that?
 2 A. Yes.
 3 Q. And do you know how many students were involved
 4 in the fall of 2000?
 5 A. I don't know.
 6 Q. Were those 9th graders or 10th graders?
 7 A. I'm not sure.
 8 Q. Okay. Do you know the results of the fall --
 9 of the spring of 2000?
 10 MR. VIRJEE: Objection. Vague and ambiguous as
 11 to "results."
 12 MS. READ SPANGLER: Join.
 13 MR. ROSENBAUM: Let me pull back on that.
 14 Q. The passing grade for the spring field test was
 15 50 percent; isn't that right?
 16 A. No.
 17 Q. For the fall was it 50 percent?
 18 A. No.
 19 MR. VIRJEE: Objection. Vague and ambiguous as
 20 to "passing."
 21 Q. BY MR. ROSENBAUM: What was the passing grade?
 22 A. There was no passing grade.
 23 Q. Okay. There was no passing grade because it
 24 was just a field test, is that why?
 25 A. Because we had not set a passing score at that

1 point.
 2 Q. Was there a presumed passing grade?
 3 MR. VIRJEE: Objection. Vague and ambiguous as
 4 to "presumed passing grade."
 5 MS. READ SPANGLER: Join.
 6 THE WITNESS: No.
 7 Q. BY MR. ROSENBAUM: Do you know the percentage
 8 of students who scored over 50 percent?
 9 MR. VIRJEE: Meaning got over 50 percent of the
 10 questions correct?
 11 MR. ROSENBAUM: Right.
 12 THE WITNESS: I did at one time. I don't
 13 recall now.
 14 Q. BY MR. ROSENBAUM: Okay. Do you have those
 15 results?
 16 A. I believe I have a copy of the HumRRO report
 17 that describes some of the results.
 18 Q. Okay. And where would I find that?
 19 A. If I have it, it's in my files.
 20 Q. Under high school exit exam?
 21 A. Yeah.
 22 Q. Okay. And what were the results, if any, of
 23 the field test?
 24 MR. VIRJEE: Objection. Vague and ambiguous as
 25 to "results."

1 MR. ROSENBAUM: You're right.
 2 Q. What conclusions, if any, did you draw from the
 3 two field tests?
 4 A. Well, the field tests were for the purpose of
 5 testing items and testing forms, not for drawing
 6 conclusions about necessarily how well students would
 7 do.
 8 Q. Isn't it true, sir, that somewhere in the
 9 neighborhood of 12,000 students took the field test,
 10 took these field tests?
 11 MR. VIRJEE: Objection. Asked and answered.
 12 He says he doesn't remember.
 13 THE WITNESS: I don't remember.
 14 Q. BY MR. ROSENBAUM: Okay. Does it refresh your
 15 recollection, sir, if I told you that 60 percent of the
 16 students got above 50 percent in English? Does that
 17 sound right to you?
 18 MR. VIRJEE: You don't need to guess or
 19 speculate, but if that refreshes your recollection, he's
 20 entitled to know.
 21 THE WITNESS: It doesn't sound like what I
 22 recall.
 23 Q. BY MR. ROSENBAUM: And 50 percent of those
 24 students got over 50 percent in math?
 25 A. Sorry.

1 Q. With respect to the students who took the field
 2 test, sir, was there any analysis made as to the racial
 3 and ethnic composition of those students?
 4 MS. READ SPANGLER: Objection. Calls for
 5 speculation.
 6 THE WITNESS: I think in any field test there's
 7 an attempt to get a cross-section of the student
 8 population, and one way that you do that is by trying to
 9 get a cross-section of the different racial and ethnic
 10 characteristics.
 11 Q. BY MR. ROSENBAUM: Okay. And do you know
 12 whether or not there was any analysis made of how
 13 students of different racial and ethnic compositions did
 14 on the field test?
 15 A. I believe in the analysis that was in the
 16 HumRRO report, that they did look at that.
 17 Q. Okay. Do you remember what the results were?
 18 A. Not specifically.
 19 Q. Do you remember generally?
 20 A. Generally some ethnic or racial groups did
 21 better than others.
 22 Q. Which ones did better?
 23 A. I believe it's consistent with other data that
 24 we have that shows -- well, I'll tell you what I
 25 remember. Whether this is accurate or not, I'm not

1 going to attest to with great certainty. What I recall
 2 is that black and Latino students tended to do worse
 3 than Asian or white students.
 4 Q. Do you remember what the magnitude of the
 5 difference is?
 6 A. I don't.
 7 Q. Was there any analysis of looking at the
 8 schools at which students came from and how those
 9 schools related to performance?
 10 A. Not that I recall.
 11 Q. Or whether students had textbooks and
 12 instructional materials, was that inquired into?
 13 A. Inquired in what --
 14 Q. Would there be an analysis as to student
 15 performance and you could draw a relationship between
 16 student performance and whether or not kids had
 17 textbooks or other instructional materials on the
 18 subjects tested?
 19 A. Not that I know of.
 20 Q. Or whether or not they had
 21 emergency-credentialed teachers?
 22 A. Not that I know of or can recall.
 23 Q. Incidentally, the March high school exit exam
 24 that we were talking about several minutes ago, does
 25 that inquire as to whether or not students had

1 emergency-credentialed teachers?
 2 MR. VIRJEE: Objection. Asked and answered.
 3 THE WITNESS: I don't know.
 4 Q. BY MR. ROSENBAUM: Okay. The field tests, were
 5 they broken down by English learners?
 6 A. I don't remember.
 7 Q. How about the March exam?
 8 A. I don't know.
 9 Q. Okay. The high school exit exam, what's your
 10 judgment, sir, as to when the high school exit exam --
 11 there was legislation establishing the high school exit
 12 exam; is that right?
 13 A. Yes.
 14 Q. When was that passed, to the best of your
 15 recollection?
 16 A. 1999.
 17 Q. And that exam, sir, that has been modified by
 18 subsequent statutes and regulations; isn't that right?
 19 A. Not that I can recall.
 20 Q. Do you know, has the date by which students are
 21 to pass that exam, has that changed?
 22 A. No, not that I'm aware of.
 23 Q. When is that supposed to be?
 24 A. When is what supposed to be?
 25 Q. When is the date by which students must pass it

1 in order to graduate?
 2 MR. VIRJEE: Objection. Vague and ambiguous.
 3 THE WITNESS: The legislation identifies the
 4 class of 2004 as the first class that must pass the exit
 5 exam as a condition of high school graduation.
 6 Q. BY MR. ROSENBAUM: They're to be administered
 7 the exam on more than one occasion, is that right, they
 8 can be?
 9 A. On at least one occasion.
 10 Q. And what's the maximum number of occasions?
 11 A. Well, the law is not specific on that.
 12 Q. Okay. And is that in the process of being --
 13 are there regulations that talk about that?
 14 A. I don't know.
 15 Q. Have you heard different proposals regarding
 16 that?
 17 A. Yes.
 18 Q. What are the different proposals you've heard?
 19 A. About how many times a student can take it in
 20 the time that they're -- between 9th grade and when they
 21 would normally graduate?
 22 Q. Yes.
 23 A. Well, it's easy for me to describe it in a
 24 slightly different way, if that's okay.
 25 Q. Sure.

1 A. I've heard proposals that they should be
 2 afforded the opportunity it take the test twice a year,
 3 after the first time they take it as a 9th grader, three
 4 times a year or even four times a year.
 5 Q. Okay. And where have you heard those different
 6 proposals?
 7 A. Just in different discussions with a variety of
 8 people.
 9 Q. That's been discussed at the State Board?
 10 A. I don't remember.
 11 Q. Has that been discussed in the staff meetings?
 12 A. Yes.
 13 Q. Okay. And have you heard the reasons expressed
 14 for those different numbers, 2, 3 and 4?
 15 A. Yes.
 16 Q. Okay. And what are the reasons you've heard?
 17 A. What are the reasons?
 18 Q. There are individuals who support four times a
 19 year, isn't there?
 20 A. Yes.
 21 Q. Who are some of those proponents?
 22 A. I can't recall.
 23 Q. Okay. Do you know any of the reasons that are
 24 given for permitting it up to four times?
 25 A. I think, if I understand and remember

1 correctly, it's that they want to afford as many
 2 opportunities as possible for students.
 3 Q. And have you heard concerns expressed that --
 4 about substantial numbers of students failing the high
 5 school exit exam?
 6 A. Yes.
 7 Q. And what are the concerns you've heard?
 8 A. That a substantial number of students will fail
 9 the test.
 10 Q. And when you use the word "substantial," what
 11 do you mean by that?
 12 A. Substantial is a relative term that I think can
 13 mean a lot of different things.
 14 Q. Okay. You've heard that word, somebody --
 15 A. Sure.
 16 Q. And have you heard the superintendent express
 17 that concern?
 18 A. I don't remember.
 19 Q. Mr. Hill?
 20 A. Yes.
 21 Q. Ms. Mazzoni?
 22 A. No.
 23 Q. Ms. Burr?
 24 A. I don't recall.
 25 Q. Ms. Lazano?

1 A. Yes, I think so.
 2 Q. Other members of the State Board?
 3 A. I think so, yes.
 4 Q. Can you remember the names of any of those
 5 individuals?
 6 A. Marion Joseph is the one that I can remember.
 7 Q. Okay. Has there been any analysis of what the
 8 likely pass rates will be?
 9 MR. VIRJEE: Objection. Vague and ambiguous as
 10 to "pass rates." Calls for speculation when the pass
 11 rate hasn't even been set yet.
 12 MS. READ SPANGLER: Join.
 13 THE WITNESS: The HumRRO report contains some
 14 discussion about how well students did on the field
 15 tests that could be interpreted as an analysis of how
 16 kids will do ultimately.
 17 Q. BY MR. ROSENBAUM: And what do you remember
 18 them saying?
 19 A. Well, we were discussing this previously, that
 20 they looked at the percentage of items that kids got
 21 correct and made some inferences about what that meant
 22 about what kids really knew.
 23 Q. And what were the inferences that were drawn?
 24 A. Well, it's kind of a statistical discussion.
 25 You know, on a multiple choice test you can get 25

1 percent by guessing if there's four answers. They tried
 2 to adjust for the fact of guessing that always -- I
 3 think this is correct, but I'm not an expert in
 4 assessment, but I think it always reduces the estimate
 5 of what kids really know.
 6 Q. And do you remember any more specifically in
 7 terms of what inferences were drawn?
 8 A. Well, what I recall is the suggestion that kids
 9 may know less than what the overall statistics might
 10 suggest.
 11 Q. Because of the guessing factor?
 12 A. Yes.
 13 Q. Are you concerned, sir, that substantial
 14 numbers of students are going to fail the high school
 15 exit exam?
 16 MR. VIRJEE: Objection. Vague and ambiguous as
 17 to "fail."
 18 THE WITNESS: I'm concerned that students have
 19 an adequate opportunity to learn the material that's on
 20 the high school exit exam before the consequences of not
 21 passing the exam are -- they experience that.
 22 Q. BY MR. ROSENBAUM: And using your phrase here,
 23 sir, do you believe at the present time students have
 24 that adequate opportunity?
 25 MR. VIRJEE: Objection. Calls for speculation.

1 Overbroad.
 2 MR. ROSENBAUM: I'm going to withdraw the
 3 question.
 4 Q. Do you believe, Mr. Warren, at the present time
 5 that all students have that adequate opportunity?
 6 MR. VIRJEE: Objection. Calls for speculation.
 7 Lacks foundation.
 8 THE WITNESS: I don't know.
 9 Q. BY MR. ROSENBAUM: Have you ever made any
 10 investigation to find out?
 11 A. I think, as I discussed before, the HumRRO
 12 report does speak to issues -- this issue in its report.
 13 Q. Okay. My question is a little bit different.
 14 Putting aside the HumRRO report, have you independently
 15 undertaken any investigation to find out?
 16 MR. VIRJEE: Same objection.
 17 THE WITNESS: Yeah.
 18 Q. BY MR. ROSENBAUM: What have you done?
 19 A. Well, I think we've discussed this before, of
 20 trying to find what data the Department did have on
 21 course-taking patterns of students.
 22 Q. That was the data that existed ten years ago?
 23 A. No. There were two different potentially
 24 conflicting data sources that I was discussing earlier.
 25 Q. Besides that, have you undertaken any other

1 investigation?
 2 A. An investigation about?
 3 Q. Whether students have adequate opportunity as
 4 you described it.
 5 A. Not that I recall.
 6 Q. Have you directed anybody on your staff to do
 7 that, besides the HumRRO report, besides the
 8 investigation in the course-taking patterns?
 9 A. I don't believe so.
 10 Q. Have you been asked to do that?
 11 A. I don't think so.
 12 Q. Are you aware of anyone in the Department who
 13 is looking into this question?
 14 MR. VIRJEE: Objection. Vague and ambiguous as
 15 to "this question." Also calls for speculation.
 16 THE WITNESS: If you're asking has anybody else
 17 in the Department that I know of done an investigation
 18 about whether kids have the opportunity to learn this
 19 material, the answer is no.
 20 Q. BY MR. ROSENBAUM: Now, you told me a little
 21 bit earlier that you understood Superintendent Eastin to
 22 be concerned?
 23 A. I think I have discussed this issue with her.
 24 Q. On more than one occasion?
 25 A. I don't recall.

1 Q. How recently?
 2 A. I can't say.
 3 Q. Was it a one-on-one discussion or was it in the
 4 context of other individuals being present?
 5 A. It was in the context of other individuals.
 6 Q. Mr. Hill was present?
 7 A. You know, you're going to try to pin me down,
 8 and I don't recall the specifics of when we --
 9 Q. I just want your best recollection. Do you
 10 remember anyone else who was present?
 11 A. No.
 12 Q. What was said, as far as you can recall?
 13 A. I think it took place in the context of
 14 Ms. Eastin's advocacy for ensuring that all kids take
 15 algebra prior to graduation. She has been an advocate
 16 of that for a quite a number of years. And in the light
 17 of the passage of the high school exit exam, she felt
 18 even more strongly that students should be required as a
 19 condition of graduation to take the test.
 20 Q. Do you remember any discussion about any other
 21 subjects that it was important that students take?
 22 A. Well, she has long advocated that students also
 23 take geometry as a condition of graduation.
 24 Q. Okay. Any other subjects?
 25 A. I think she feels that in high school that

1 science requirements that are required currently for
 2 high school graduation should also include at least one
 3 of those courses to be a lab course, not just a pencil
 4 and paper, but they actually have a laboratory element
 5 to it.
 6 Q. To your knowledge, does that requirement now
 7 exist?
 8 A. Not to my knowledge.
 9 Q. Do you know whether or not there are labs at
 10 all high schools in the State of California?
 11 A. I don't know.
 12 Q. Do you know if anyone has looked into that
 13 question?
 14 MR. VIRJEE: Objection. Vague and ambiguous as
 15 to "lab."
 16 THE WITNESS: I know the legislature
 17 appropriated some money some years ago, I believe, that
 18 would assist districts in purchasing lab equipment.
 19 Q. BY MR. ROSENBAUM: Do you know if anyone in the
 20 State has undertaken any monitoring to find out the
 21 extent to which that money was used for labs?
 22 A. I don't know.
 23 Q. Or the extent which that money was needed to
 24 purchase laboratory equipment?
 25 A. No, I don't know of any.

1 Q. Okay. Have you ever been asked to undertake an
 2 investigation to determine the extent to which -- to
 3 determine whether or not all high schools, in fact, have
 4 labs?
 5 A. I don't know of any research. That's what you
 6 asked?
 7 Q. You've never been asked to do that?
 8 A. No.
 9 Q. You've never directed anyone to do that?
 10 A. No, but that would not really be appropriate in
 11 my current role.
 12 Q. Do you know if anyone in the Department is
 13 looking into that question?
 14 A. I don't know.
 15 Q. Okay. And when you say that that wouldn't be
 16 appropriate in your role, that's because you regard your
 17 role as dealing with testing assessments; is that right?
 18 A. My role is the development and implementation
 19 of the different accountability programs that are laid
 20 out in legislation, and that really is, at the current
 21 time, not a part of state law or is not asked by statute
 22 that we include that in any of our accountability
 23 programs.
 24 Q. Okay. Thank you. In your discussion with
 25 Superintendent Eastin that we were talking about, was

1 there any discussion about whether or not there were
 2 adequate supplies of teachers qualified to teach
 3 algebra?
 4 MR. VIRJEE: Objection. Vague and ambiguous as
 5 to "adequate" supply and "qualified" and "algebra."
 6 MS. READ SPANGLER: Join.
 7 THE WITNESS: I don't recall.
 8 Q. BY MR. ROSENBAUM: Anything at all, any
 9 discussion at all about teachers, algebra teachers?
 10 A. I don't recall.
 11 Q. Okay. Have you ever heard -- strike that.
 12 Now, the Board member whom you talked about,
 13 could -- not Lazano, the other one, could you spell her
 14 name?
 15 A. M-a-r-i-o-n, Joseph, I believe it is. I don't
 16 know if it has an "S" on it or not, but J-o-s-e-p-h. Is
 17 that how you spell it?
 18 Q. Am I correct, sir, that you've been at board
 19 meetings where you've heard Board Member Joseph express
 20 that concern?
 21 A. I don't know if it was at a board meeting.
 22 Q. Have you had personal discussions with her?
 23 A. I've had personal discussions with her, yes.
 24 Q. And what has she said?
 25 A. About what?

1 Q. About the subject of the number of students who
 2 failed the high school exam.
 3 A. She expressed concern about the standards that
 4 we were considering to include at that time on the high
 5 school exit exam.
 6 Q. What standards are you referring to?
 7 A. Well, we went through probably about a
 8 year-long process with an advisory group to determine
 9 what of the content standards grades K-12 should be
 10 included on the high school exit exam.
 11 Q. And am I correct, sir, that as a result of --
 12 were you personally involved in that process?
 13 A. Yeah.
 14 Q. And am I correct, sir, that as a result of
 15 that, the initial notion of the exam, the length of the
 16 exam, was changed?
 17 MR. VIRJEE: As a result of what?
 18 MR. ROSENBAUM: Those discussions.
 19 Q. It was reduced; is that right?
 20 MR. VIRJEE: With Marion Joseph, or the process
 21 that we were talking about?
 22 MR. ROSENBAUM: I appreciate that. The
 23 process.
 24 THE WITNESS: I guess I'm not sure I know what
 25 time frame.

1 Q. BY MR. ROSENBAUM: You're right. I'm
 2 confusing. I apologize. The amount -- the length of
 3 the exam, what's the present length of the exam?
 4 A. I think it's 82 questions in mathematics and
 5 approximately the same number in language arts.
 6 Q. And the amount of time in minutes or hours to
 7 be allocated for that?
 8 A. It's an untimed test.
 9 Q. Was it always to be an untimed test?
 10 MR. VIRJEE: Objection. Vague and ambiguous as
 11 to "always."
 12 Q. BY MR. ROSENBAUM: Was there an initial --
 13 strike that.
 14 Was there a concept at some time that it would
 15 be a timed exam?
 16 MR. VIRJEE: You mean was that considered at
 17 some point?
 18 MR. ROSENBAUM: Yeah.
 19 THE WITNESS: In order to get to a place where
 20 we decided it was untimed, I guess, by inference, the
 21 answer is yes.
 22 Q. BY MR. ROSENBAUM: And was there a particular
 23 time that was discussed, like three and a half hours?
 24 A. Not that I recall.
 25 Q. Okay. And the 82 questions, was it always --

1 were certain subject matters -- strike that.
 2 The process that you're talking about -- let me
 3 strike that.
 4 As a result of the field test, were decisions
 5 made to change -- to reduce some of the areas that were
 6 on the exam?
 7 MR. VIRJEE: Objection. Vague and ambiguous as
 8 to reduce the areas.
 9 Are you asking him whether you're reducing the
 10 number of questions?
 11 MR. ROSENBAUM: No, reduce the subject areas.
 12 MR. VIRJEE: Objection. Vague and ambiguous as
 13 to "subject areas" and "reduce."
 14 THE WITNESS: No.
 15 Q. BY MR. ROSENBAUM: To reduce the number of
 16 questions in certain subject areas?
 17 MR. VIRJEE: Objection. Vague and ambiguous as
 18 to "subject areas."
 19 THE WITNESS: It wasn't based on the field
 20 test, no.
 21 Q. BY MR. ROSENBAUM: There was a decision made to
 22 reduce the number of algebra questions; is that right?
 23 A. The test at one point -- at one point we had to
 24 instruct the contractor and develop a blueprint for the
 25 test which was based on a kind of preliminary

1 determination that the test was going to be -- each
 2 portion of the test was going to be roughly 100 items
 3 long, questions. The final test was shorter, as we've
 4 discussed.
 5 Q. Was there a decision made to trim particular
 6 subject areas?
 7 MR. VIRJEE: Objection. Vague and ambiguous as
 8 to "subject areas" and "trim."
 9 THE WITNESS: Well, in order to reduce the
 10 number of questions, you had to decide where they would
 11 come from.
 12 Q. BY MR. ROSENBAUM: And was one of the areas
 13 where it was decided to come from algebra?
 14 A. Yes, the number of algebra questions was
 15 reduced.
 16 Q. What's your understanding as to why algebra
 17 questions were selected?
 18 A. Well, first of all, the test has a substantial
 19 amount of algebra on it, so to shorten it just would not
 20 have been -- to shorten it and not include algebra, it
 21 would have substantially reduced other portions of the
 22 test and made it difficult to accurately measure
 23 students' performance on those.
 24 Also we got -- there is -- we got some advice
 25 that suggested that some of our algebra standards for

1 Algebra I were substantially more difficult than Algebra
 2 I content from across the nation, and that -- and so
 3 some of the questions that were considered to be Algebra
 4 II content in many places in the country were eliminated
 5 from the test. I don't know if that's completely
 6 eliminated, but perhaps it's either eliminated or the
 7 number of questions in those areas was reduced. I'm not
 8 sure which.
 9 MR. ROSENBAUM: Let's go off the record for a
 10 minute.
 11 (Lunch recess taken.)
 12 (Mr. Hamilton not present.)
 13 Q. BY MR. ROSENBAUM: You doing okay, Mr. Warren?
 14 A. Yes.
 15 Q. Good. Mr. Warren, regarding the Stanford-9, I
 16 asked you some questions about that earlier today.
 17 A. Okay.
 18 Q. There were -- there were a number of districts
 19 that at one point refused to take the test; is that
 20 right?
 21 MR. VIRJEE: Refused to take the Stanford-9?
 22 Objection. Vague and ambiguous.
 23 THE WITNESS: I don't know.
 24 Q. BY MR. ROSENBAUM: Weren't there districts that
 25 refused to administer the test to their students?

1 MR. VIRJEE: Objection. Vague as to time.
 2 THE WITNESS: Your question is too vague.
 3 (Mr. Hamilton entered the room.)
 4 Q. BY MR. ROSENBAUM: Okay. Isn't it true, sir,
 5 that there were some Bay Area schools where -- that
 6 opted out of administering the Stanford-9s?
 7 A. I don't believe so.
 8 Q. Were there districts where the Stanford-9 --
 9 where the district opted not to administer the tests to
 10 students of limited English ability?
 11 MR. VIRJEE: Where the districts made that
 12 decision?
 13 MR. ROSENBAUM: Yes.
 14 MS. READ SPANGLER: Objection. Calls for
 15 speculation.
 16 THE WITNESS: I believe that's correct.
 17 Q. BY MR. ROSENBAUM: That would be San Francisco?
 18 A. Yes.
 19 Q. And Berkeley?
 20 A. Yes.
 21 Q. And Oakland?
 22 A. I believe so.
 23 Q. And Hayward?
 24 A. I believe so.
 25 Q. What's your understanding of what took place?

1 MR. VIRJEE: Objection. Vague and ambiguous.
 2 THE WITNESS: My understanding is that the
 3 districts opted not to test their limited English
 4 students on the STAR exam.
 5 Q. BY MR. ROSENBAUM: And when did that take
 6 place, so far as you know?
 7 A. I'm pretty certain that they did not test those
 8 students in 1999.
 9 Q. Okay. Did you have any discussion with any
 10 persons in those districts regarding this matter?
 11 A. No.
 12 Q. Okay. Do you know if anyone in your branch
 13 did?
 14 A. No.
 15 Q. You don't know?
 16 A. I don't know.
 17 Q. Okay. Do you know how many students that
 18 affected?
 19 A. I don't --
 20 MR. VIRJEE: Objection. Vague and ambiguous as
 21 to "affected."
 22 MR. ROSENBAUM: How many students didn't take
 23 the exam.
 24 THE WITNESS: I don't know.
 25 Q. BY MR. ROSENBAUM: Do you know how many

1 schools?
 2 A. No.
 3 Q. Okay. Were there districts in addition to the
 4 four districts that I mentioned that did not administer
 5 the test to their limited English speaking students?
 6 MR. VIRJEE: Objection. Calls for speculation.
 7 MS. READ SPANGLER: Join. Also I'm going to
 8 make an objection on attorney/client privilege grounds
 9 to the extent you know any of this based on
 10 conversations you've had with an attorney.
 11 THE WITNESS: Okay. Not that I know of.
 12 Q. BY MR. ROSENBAUM: Okay. Has there been any
 13 analysis -- do you know what happened in 2 -- do you
 14 know if those districts then administered it in 2000?
 15 A. I can't remember.
 16 Q. Okay. Mr. Warren, do you know the number of
 17 students who took the Stanford-9 in 2000 who were of
 18 limited English speaking, were ELS students?
 19 A. I don't know the number.
 20 Q. Okay. Has that been compiled so far as you
 21 know?
 22 A. Yes.
 23 Q. Okay. Has there been any analysis to determine
 24 the English proficiency of the students who took the
 25 Stanford-9s in the year 1999 so far as you know?

1 MR. VIRJEE: Objection. Vague and ambiguous as
 2 to "English proficiency."
 3 MR. ROSENBAUM: Then my question wasn't clear.
 4 I corrected it, and it wasn't clear. I apologize.
 5 Q. Do you know the number of -- strike that.
 6 Has there been any effort to determine what
 7 the -- and I'm going to use this word now. Has there
 8 been any effort to determine the proficiency in English
 9 of students who took the Stanford-9 in 1999?
 10 MR. VIRJEE: Objection. Vague and ambiguous as
 11 to "proficiency in English."
 12 THE WITNESS: To the extent that the Stanford-9
 13 measures students' ability to read and write and
 14 understand English on the English language portion of
 15 the test, yes.
 16 Q. BY MR. ROSENBAUM: Besides that?
 17 MR. VIRJEE: Besides that? The question is
 18 vague and ambiguous.
 19 THE WITNESS: I don't know.
 20 Q. BY MR. ROSENBAUM: Do you know to what extent
 21 the Stanford-9 does measure a student's proficiency in
 22 English?
 23 MR. VIRJEE: Objection. Vague and ambiguous as
 24 to "proficiency in English." Also calls for
 25 speculation. Calls for an expert opinion which this

1 witness is not competent to give.
 2 THE WITNESS: No.
 3 Q. BY MR. ROSENBAUM: Okay. And if I change it to
 4 proficiency in the English language, would that change
 5 your answer?
 6 MR. VIRJEE: Objection. Vague and ambiguous.
 7 THE WITNESS: Say it again for me.
 8 Q. BY MR. ROSENBAUM: Sure. Do you know, has
 9 there been any inquiry to determine the proficiency in
 10 English language of students taking the Stanford-9 in
 11 1999?
 12 MR. VIRJEE: Same objections.
 13 THE WITNESS: Independent of the actual score
 14 that they get on the SAT-9?
 15 MR. ROSENBAUM: Yes.
 16 THE WITNESS: I don't know.
 17 Q. BY MR. ROSENBAUM: Or in 2000?
 18 A. I don't know.
 19 Q. Or this year?
 20 A. Yes.
 21 Q. Okay. For 1999-2000, are you aware of any
 22 investigation or research going forward in the state to
 23 find that answer out?
 24 A. Yes.
 25 Q. What?

1 A. Students are assessed routinely in school
 2 districts on the proficiency of students in English, if
 3 they're limited English speaking, at one point.
 4 Q. And has there been any analysis of those
 5 assessments and performance on the Stanford-9?
 6 MR. VIRJEE: Objection. Vague and ambiguous
 7 THE WITNESS: I don't know.
 8 Q. BY MR. ROSENBAUM: You're not aware of any?
 9 A. No.
 10 Q. You've never asked anybody on your staff to
 11 look into that?
 12 A. For those two years specifically we're talking
 13 about?
 14 Q. Right.
 15 A. No.
 16 Q. No one's asked you to check into that?
 17 A. No.
 18 Q. Now, for the year 2001, did the circumstances
 19 change?
 20 A. Yes.
 21 Q. Okay. And what happened in 2001?
 22 A. We looked at the relationship of field test
 23 data on the develop -- field test data from the English
 24 language development test and related that to the
 25 Stanford-9 information that we had on students who were

1 part of the field test.
 2 Q. Okay. And do you know how many students were
 3 in the field test?
 4 A. I don't.
 5 Q. Who was in charge of that?
 6 A. It would be under Phil Speers.
 7 Q. Okay. Do you know what the results were?
 8 A. You'd have to be more specific than that.
 9 Q. Did Mr. Speers prepare a written report
 10 analyzing the data?
 11 A. No.
 12 Q. Okay. Did anyone prepare a written report so
 13 far as you know?
 14 A. What do you mean by "written report"?
 15 Q. The analysis. An analysis was undertaken; is
 16 that right?
 17 A. Yes.
 18 Q. Is that analysis complete so far as you know?
 19 A. Complete?
 20 MS. READ SPANGLER: You mean has it been
 21 finished?
 22 MR. ROSENBAUM: Yeah, done.
 23 THE WITNESS: Yeah, I guess.
 24 Q. BY MR. ROSENBAUM: And has there been a written
 25 report or summary that describes that analysis?

1 A. There are a series of charts.
 2 Q. And is there any text to them?
 3 A. Not that I recall.
 4 Q. And if I wanted to find that series of charts,
 5 how would I get them?
 6 A. I guess I would ask Mr. Speers.
 7 Q. Do you have a set of them?
 8 A. I may.
 9 Q. Okay. And if you kept them in a file, where
 10 would they be?
 11 A. They'd be in my file cabinet under ELD test.
 12 Q. And help me understand this, this looked at
 13 Stanford-9 results for -- what were the -- what was the
 14 comparison made?
 15 A. There were charts that showed student
 16 performance on the Stanford-9 and the ELD test.
 17 Q. And do you know what year for the Stanford-9?
 18 A. It would have been 2000 data.
 19 Q. And the ELD test?
 20 A. It would have been field test data from 2000.
 21 Q. Okay. And do you know how the sample was
 22 selected of students?
 23 A. No.
 24 Q. Okay. And how many different charts are we
 25 talking about?

1 A. Maybe six. Something on that order.
 2 Q. Okay. And tell me your best recollection as to
 3 what those charts showed.
 4 A. In general they show a fairly direct
 5 relationship between the score on the Stanford-9 and the
 6 ELD test.
 7 Q. Meaning?
 8 A. If you scored -- the students that scored
 9 higher on the test of English language development also
 10 tended to do better on the Stanford-9.
 11 Q. Okay. And what does the ELD test?
 12 MR. VIRJEE: What does the ELD test test?
 13 MR. ROSENBAUM: Right.
 14 THE WITNESS: It's designed -- its purpose is
 15 to measure the English language skills of a student who
 16 is identified as an English language learner.
 17 Q. BY MR. ROSENBAUM: Okay. And do you know the
 18 ages or the grades of the students who were part of this
 19 test, the field test?
 20 A. It was all grades.
 21 Q. Who conducted the field test?
 22 A. Our contractor is CTB. I'm sorry. I don't
 23 know what the acronym stands for.
 24 Q. And do you anticipate there's going to be some
 25 text written up to accompany these charts?

1 A. No.
 2 Q. Okay. Were the charts distributed to anybody?
 3 Obviously to you.
 4 A. Yes.
 5 Q. To anyone else?
 6 A. They were distributed to Phil Speers and his
 7 staff. I'm not sure whether they also went to State
 8 Board staff or not.
 9 Q. That's what I was going to ask you. Would it
 10 be your practice to distribute them to the State Board?
 11 MR. VIRJEE: Objection. Overbroad. Also
 12 assumes facts not in evidence. It assumes there's a
 13 practice.
 14 MR. ROSENBAUM: No foundation.
 15 MR. VIRJEE: Lacks foundation. Calls for
 16 speculation. Incomplete hypothetical.
 17 MS. READ SPANGLER: Assumes facts not evidence,
 18 did you get that one?
 19 MR. ROSENBAUM: Join.
 20 Q. To your knowledge, has it been discussed at a
 21 meeting of the State Board of Education?
 22 A. I don't recall.
 23 Q. Do you know, sir, whether or not Superintendent
 24 Eastin has received a copy of these charts?
 25 A. Not that I know of.

1 Q. Or Secretary Mazzoni?
 2 A. Not that I know of.
 3 Q. When did you get a copy of the charts?
 4 A. Several months ago.
 5 Q. Have they been publicly released?
 6 MR. VIRJEE: Objection. Vague and ambiguous as
 7 to "publicly."
 8 THE WITNESS: I don't think that they're -- my
 9 recollection is that as far as I know, they weren't
 10 distributed outside of the Department and the Board
 11 staff. That would be my guess.
 12 Q. BY MR. ROSENBAUM: Was there any discussion
 13 about doing that?
 14 A. No.
 15 Q. Do you have a view as to whether they should be
 16 publicly distributed?
 17 A. Yes.
 18 Q. What is that?
 19 A. The field test was not designed for the purpose
 20 of evaluating the test itself. Similar to the
 21 discussion that we had on -- I'm sorry. The field test
 22 was not designed to evaluate student performance on the
 23 test, it was designed to evaluate the items on the test
 24 and whether they were, quote, well-functioning items.
 25 So that the performance data, as it were, is unknown

1 exactly what it means because you don't necessarily have
 2 a representative sample of students and you don't
 3 necessarily -- and also a field test is different from a
 4 live test in that students aren't necessarily motivated
 5 to do well. So for various reasons you have to be
 6 careful about data that you get from a field test of
 7 that nature.
 8 Q. What was the purpose of the field test?
 9 A. The purpose of the field test was to evaluate
 10 questions that might eventually go on the ELD test.
 11 Q. Okay. And do you know if anyone in the
 12 governor's office received copies of these charts?
 13 A. I don't know.
 14 Q. Or any legislators?
 15 A. I don't know.
 16 Q. How about Mr. Hill?
 17 A. I don't know.
 18 Q. Have you discussed these charts or the results
 19 of these charts with Mr. Hill?
 20 A. I don't recall.
 21 Q. Have you been at a meeting -- have you been at
 22 any meeting where the results of these charts were
 23 discussed?
 24 A. Yes.
 25 Q. What meeting was that?

1 A. The meeting with Phil Speers and his staff and
 2 our contractor.
 3 Q. Okay. And that took place months ago?
 4 A. Yes.
 5 Q. In whose office?
 6 A. I think it was in Mr. Speers' office.
 7 Q. Okay. And at any of your staff meetings have
 8 you discussed these charts?
 9 A. What do you mean "staff meetings"?
 10 Q. You told me yesterday you have staff meetings.
 11 A. With whom?
 12 Q. Let's break it down. You have staff meetings
 13 with your staff, right?
 14 A. My staff?
 15 Q. The people under you.
 16 A. The people who report directly to me?
 17 Q. Yes.
 18 A. Yes.
 19 Q. With the exception of this one meeting with
 20 Mr. Speers, members of his staff and the contracting
 21 outfit, have these charts or the material contained on
 22 these charts been discussed at any of your staff
 23 meetings?
 24 A. No, I don't think so.
 25 Q. Why is that?

1 A. I don't know.
 2 Q. Okay. So have you discussed these with
 3 Mr. Padilla, these charts?
 4 A. I don't know. I may have. I don't know.
 5 Q. You don't have a recollection sitting here
 6 today?
 7 A. No.
 8 Q. Did you ever ask Mr. Speers to discuss the
 9 results of these charts with Mr. Padilla?
 10 A. No, I don't think so.
 11 Q. Sitting here today, do you know if Mr. Speers
 12 or any member of Mr. Speers' staff has discussed the
 13 results of these charts or the charts with Mr. Padilla?
 14 A. No, I don't.
 15 Q. Okay. Regarding Mrs. Clark-Thomas, have you
 16 discussed these charts with Mrs. Clark-Thomas?
 17 A. No.
 18 Q. Do you know if Mr. Speers has?
 19 A. No.
 20 Q. Do you know if Mrs. Clark-Thomas has received
 21 these charts?
 22 A. No.
 23 Q. Have you done anything to direct that
 24 Mrs. Clark-Thomas receive these charts?
 25 A. There would be no reason for me to do that.

1 Mrs. Clark-Thomas' work doesn't really have a lot to do
2 with this particular issue.
3 Q. So the answer is no?
4 A. The answer is no.
5 Q. Have you directed Mr. Speers or any member of
6 his staff to share these charts with Mr. Padilla?
7 MR. VIRJEE: Objection. Asked and answered.
8 MR. ROSENBAUM: I think it was.
9 Q. The CCR reviews a number of categorical
10 programs; isn't that right?
11 MR. VIRJEE: Objection. Asked and answered.
12 MR. ROSENBAUM: It's just a predicate question.
13 Go ahead.
14 THE WITNESS: The coordinated compliance review
15 is a process whereby we coordinate the reviews of a
16 variety of different programs to make it easy for
17 schools.
18 Q. BY MR. ROSENBAUM: And one of those programs
19 involves EL's, right?
20 A. Yes.
21 Q. And do you know who was head of that program?
22 MR. VIRJEE: Objection. Vague and ambiguous as
23 to head of the program.
24 MR. ROSENBAUM: Head of the EL program.
25 THE WITNESS: There is no such person.

1 Q. BY MR. ROSENBAUM: Do you know who is involved
2 with EL in the State?
3 MR. VIRJEE: Objection. Vague and ambiguous as
4 to "involved."
5 MR. ROSENBAUM: It is. I agree with you.
6 Q. Who was responsible for the categorical
7 programs dealing with English learners?
8 MR. VIRJEE: Objection. Vague and ambiguous as
9 to "responsible."
10 THE WITNESS: Also there are no categorical
11 programs directly related to English language learners.
12 Q. BY MR. ROSENBAUM: Are there persons in your
13 branch with special responsibilities with respect to
14 English learners?
15 A. Yes.
16 Q. Who is that?
17 A. There's more than one.
18 Q. Who are they?
19 A. Well, there are two entire units that -- I
20 better be careful because there's possibly more than
21 that. There's the office in the assessment division
22 that work on the ELD test.
23 Q. That's Mr. Speers' unit?
24 A. A unit within his division, yes. There is the
25 unit that is responsible for conducting the CCR's. One

1 topic of the CCR is English language learner services.
2 And then there's a second unit that does
3 follow-up work. I think we discussed that yesterday.
4 Q. Okay. Who is the person or persons that deal
5 with ELS?
6 MR. VIRJEE: That deal with what?
7 MR. ROSENBAUM: ELS.
8 THE WITNESS: I don't know what that refers to.
9 Q. BY MR. ROSENBAUM: I thought that you said to
10 me, as part of the CCR --
11 MR. ELIASBERG: ELL.
12 Q. BY MR. ROSENBAUM: Who were the person or
13 persons who have responsibilities with respect to ELL?
14 MR. VIRJEE: As part of the CCR?
15 MR. ROSENBAUM: Yes.
16 THE WITNESS: That's the important -- well,
17 Keric Ashley is the manager of that unit.
18 Q. BY MR. ROSENBAUM: Could you spell that,
19 please.
20 A. K-e-r-i-c and then Ashley, A-s-h-l-e-y.
21 Q. Anyone else?
22 A. Well, he has a variety of staff.
23 Q. Do you know, sir, whether the charts that we've
24 been talking about or the substance of the information
25 on those charts have been shared with Mr. Ashley?

1 A. Your questions are implying that it's
2 appropriate to do so, or perhaps could be interpreted to
3 imply that it was appropriate to do so. And I think I
4 want to go back to the statement that I made earlier,
5 which is that this data are unreliable. We would not
6 disseminate data to the people throughout the Department
7 if we did not have confidence that they were
8 sufficiently reliable to help inform the Department in
9 its work. Okay?
10 Q. Okay. But the answer to my question is
11 Mr. Ashley didn't receive any?
12 A. Not that I know of.
13 Q. You never directed anyone to do it?
14 A. No.
15 Q. Okay. After receiving these charts, sir -- you
16 said you had a discussion with Mr. Speers and members of
17 his staff and individuals from the testing company?
18 A. Yes.
19 Q. Who else from Mr. Speers' staff was present?
20 A. I can't say for sure.
21 Q. What was the nature of that discussion?
22 A. It was part of the discussion that went on for
23 several months about setting proficiency levels that
24 would be used to report student performance on the ELD
25 test.

1 Q. Was there any discussion about the relationship
2 between proficiency levels and scoring on the
3 Stanford-9?
4 A. Yes.
5 Q. What was said about that?
6 A. Well, there's the discussion of the charts
7 themselves and the meaning of those charts.
8 Q. What was said?
9 A. About?
10 Q. The information on the charts and the meaning
11 of that information.
12 A. Again, I think I already said that students
13 did -- the general relationship that students that
14 scored higher on the ELD test also scored higher on the
15 Stanford-9 English language arts portion of the test was
16 the general conclusion that was drawn.
17 Q. Anything else said on that subject matter?
18 A. It actually raised the issue of whether the
19 Stanford-9 does a reasonably good job at measuring the
20 English proficiency of students, of English language
21 learner students.
22 Q. And what was said about that?
23 A. Well, like I said, I think it just raised the
24 issue about that. And, as I've said before, the quality
25 of data or the purpose for which the data was collected

1 doesn't really allow you to draw a lot of hard and fast
2 conclusions.
3 Q. Did anyone say at that meeting, Mr. Warren, we
4 ought to go out and try and get some reliable data to
5 see the relationship between English -- level of English
6 language skill and scores on the Stanford-9?
7 A. I don't recall.
8 Q. Has anyone ever said to you, see if you can
9 undertake some research or an investigation to see if
10 there's a relationship between level of English language
11 skill and scores on the Stanford-9s?
12 A. Yeah.
13 Q. Who said that?
14 A. Well, I don't know if it was somebody who asked
15 me or if it was just in a discussion, but it is
16 something I've discussed with Phil Speers.
17 Q. And what have you said to Mr. Speers?
18 A. We need to investigate further this
19 relationship to see if it can shed some light on how
20 well the Stanford-9 actually measures students' English
21 language proficiency, or ELL students, English language
22 proficiency.
23 Q. Did you ask Mr. Speers to go out and conduct an
24 assessment or survey or an investigation?
25 A. I think we discussed how we might do that.

1 Q. And what was said?
2 A. I'm not sure that in that conversation it
3 reached a conclusion.
4 Q. Is anything going forward to investigate that
5 so far as you know?
6 A. Anything "going forward"?
7 Q. Is there any research or investigation to find
8 the answer to your question?
9 A. Not at the current time.
10 Q. And what about the issue whether or not there's
11 a relationship between English proficiency levels --
12 strike that.
13 What about the issue of the level of English
14 language skills and a student's performance on the
15 Stanford-9, that issue isolated, has there been any
16 discussion about --
17 A. Wait. Help me understand what you're talking
18 about.
19 Q. Okay. You talked to me a few moments ago about
20 looking at data to see whether or not there was a
21 relationship -- how well the Stanford-9 measures English
22 proficiency; is that right?
23 A. Of this particular group of students, of the
24 English language learner students.
25 Q. Right. I'm asking a slightly different

1 question. Has there been any discussion about trying to
2 find out whether or not there's a relationship between a
3 student's English language skill and how well he or she
4 does on the Stanford-9?
5 MR. VIRJEE: Objection. Vague and ambiguous,
6 and assumes those are different things.
7 MS. READ SPANGLER: Join.
8 You can answer if you understand what he's
9 asking.
10 THE WITNESS: To me it's two sides of the same
11 coin, so I'm not sure I do understand.
12 Q. BY MR. ROSENBAUM: Do you regard one of the
13 objectives of the Stanford-9 to test English language
14 proficiency?
15 MR. VIRJEE: Objection. Vague and ambiguous as
16 to "English language proficiency" and "objectives."
17 THE WITNESS: I think the Stanford-9 is
18 designed to measure how well students can perform on
19 English language arts.
20 Q. BY MR. ROSENBAUM: But my question is
21 different. What is your understanding of the purpose of
22 the ELD?
23 MR. VIRJEE: Of the ELD?
24 MR. ROSENBAUM: Yes.
25 MS. READ SPANGLER: Test?

1 MR. ROSENBAUM: Test.
 2 THE WITNESS: It's designed to measure the
 3 English proficiency of English language learner
 4 students.
 5 Q. BY MR. ROSENBAUM: Do you remember that to be
 6 an identical objective of the Stanford-9?
 7 A. Identical objective, no.
 8 Q. And why is that? What's the difference?
 9 A. Can't be an identical objective because the
 10 English language development test has an oral portion
 11 which assesses a totally different domain of listening
 12 and speaking than does the Stanford-9.
 13 Q. Okay. And the ELD test also has a written?
 14 A. That's correct.
 15 Q. And --
 16 A. Pencil and paper, let's put it that way.
 17 Q. Do you regard the written portion, pencil and
 18 paper portion of the ELD, the objective of that to be
 19 identical to the written -- the pencil and paper part of
 20 the Stanford-9?
 21 A. The purpose, is that what you said?
 22 Q. Yes, sir.
 23 A. I'd say they were pretty similar. Whether
 24 they're identical or not I think is a question to be
 25 answered.

1 Q. Okay. What do you understand the oral -- the
 2 purpose of the oral piece of the ELD to be?
 3 A. To determine the extent to which students can
 4 understand spoken English and themselves also speak it
 5 with proficiency eventually. But to measure their
 6 proficiency in those.
 7 Q. Let me ask you, when do you expect the results
 8 of the Stanford-9 that's been administered this year?
 9 A. Statutory date for the release of data is
 10 August 15th.
 11 Q. Okay. Have you seen any preliminary data?
 12 A. No.
 13 Q. Okay. And are there uniform procedures for
 14 preparation for the Stanford-9 in California?
 15 MR. VIRJEE: Objection. Vague and ambiguous as
 16 to "uniform procedures for preparation."
 17 MS. READ SPANGLER: Join.
 18 THE WITNESS: What does that mean?
 19 Q. BY MR. ROSENBAUM: There are schools that
 20 prepare students to take the Stanford-9?
 21 MR. VIRJEE: Objection. Vague and ambiguous as
 22 to "prepare students."
 23 MS. READ SPANGLER: Join.
 24 Q. BY MR. ROSENBAUM: Isn't that right?
 25 MR. VIRJEE: Objection. Calls for speculation,

1 and also vague and ambiguous as to "prepares students."
 2 MS. READ SPANGLER: Join.
 3 THE WITNESS: The beginning of the test -- let
 4 me go back. It is a standard procedure encouraged by
 5 the Department to inform students about the nature of
 6 the test, the way that they're to -- to go through the
 7 test and answer questions, make sure the bubbles are all
 8 filled in completely. I believe they are also informed
 9 about whether there's a penalty or not for guessing. So
 10 the rules underlying the test and how they're to
 11 complete the test. So those are uniform.
 12 Q. BY MR. ROSENBAUM: Okay. Now, in addition to
 13 that, to your knowledge, do schools have special
 14 preparation for the Stanford-9? I don't mean the
 15 coursework that they take necessarily, but special
 16 preparatory sessions for taking the Stanford-9.
 17 MR. VIRJEE: Objection. Vague and ambiguous as
 18 to special "preparatory sessions," and also calls for
 19 speculation.
 20 MS. READ SPANGLER: Join.
 21 THE WITNESS: I don't know.
 22 Q. BY MR. ROSENBAUM: Have you ever made any
 23 investigation to find that out?
 24 A. Find?
 25 Q. To determine how schools prepare students for

1 Stanford-9 outside of what their coursework is?
 2 MR. VIRJEE: Objection. Vague and ambiguous.
 3 THE WITNESS: That's a different thing than
 4 what you just asked.
 5 Q. BY MR. ROSENBAUM: Okay. So if you could,
 6 could you answer that question, please.
 7 A. So have I ever tried to determine how schools
 8 prepare students for taking the SAT-9?
 9 Q. Yes.
 10 A. Like a systematic study of it, that's what
 11 you're asking?
 12 Q. That's the first question, yes.
 13 MR. VIRJEE: Objection. Vague and ambiguous.
 14 THE WITNESS: No.
 15 Q. BY MR. ROSENBAUM: Has anyone in your
 16 department done that so far as you know?
 17 A. I believe we have a variety of data on what
 18 some schools do that's anecdotal, but we do get
 19 information from time to time on that.
 20 Q. Okay. How do you get that information?
 21 A. I would say for the most part it's from
 22 reports, not formal reports, but informal reports that
 23 we might get verbally or in a letter from somebody who
 24 is concerned about a certain practice in the school
 25 district.

1 Q. Besides the information that -- do you solicit
2 that information?
3 MR. VIRJEE: Objection. Vague and ambiguous as
4 to "solicit."
5 THE WITNESS: How would we solicit it? Give me
6 an example.
7 Q. BY MR. ROSENBAUM: You could put out a
8 directive, please send information to us as to how a
9 particular school prepares its students.
10 A. We solicit information from districts when they
11 believe that there has been inappropriate preparation.
12 Q. Let me see if I understand the sequence. You
13 get information that raises a possibility of
14 inappropriate preparation, and then you respond by
15 seeking information as to how the preparation took
16 place; is that a fair summary?
17 A. If we receive a report, we'll ask a district to
18 investigate the circumstances and report back to us.
19 Q. Okay. And those reports that you receive, did
20 you solicit those reports, or did they come in
21 voluntarily?
22 MR. VIRJEE: Objection. Vague and ambiguous as
23 to "solicit."
24 THE WITNESS: Many times it is the district
25 itself which reports it to us. And, yes, those are

1 A. We have received one or -- I know of one school
2 district that had a rather extensive test preparation
3 booklet that it prepared for its teachers that contained
4 questions that were similar to the SAT-9.
5 Q. What district was that?
6 A. I'd rather not tell you.
7 Q. Was it a large district?
8 A. Medium.
9 Q. What, if anything, was done as a result of
10 that?
11 A. I'm not sure.
12 Q. What year was that for?
13 A. I think it would have been for 2000.
14 Q. Is the SAT-9 administered in the same way in
15 every school?
16 Let me tell you what I mean by that. My son
17 just got through taking it. It was over a two-week
18 period. Is that true throughout? He's a 3rd grader.
19 A. It's not unusual. I don't know if it's true
20 across the board.
21 Q. There's no rule or regulation or statute or
22 standard that says, for example, for all 3rd graders, it
23 must be administered over a two-week period?
24 A. Not that I know of.
25 Q. Schools are given latitude --

1 solicited in that it is their responsibility and we have
2 made that clear to them that it is their responsibility
3 to tell us.
4 Q. BY MR. ROSENBAUM: Okay. Has the Department on
5 its -- strike that.
6 What are some of -- tell me the information
7 you've received as to how preparations take place in
8 different schools that fall under this category as
9 potentially inappropriate.
10 A. Well, it's a variety of things. For instance,
11 there's what's known as an alternate form, which is a
12 form that is similar in almost all aspects, except the
13 actual questions themselves, similar from all
14 psychometric properties to the SAT-9 form that is used
15 for purposes of testing California students. And
16 sometimes teachers or somebody in a school district
17 obtains a copy of that alternate form and uses it to
18 either -- to indirectly or directly prepare students for
19 taking the State form of the SAT-9.
20 Q. Other examples?
21 A. Inappropriate preparation? Well, I'm concerned
22 about the label "inappropriate." That has a legal
23 context.
24 Q. And that's why I said potentially
25 inappropriate.

1 MR. VIRJEE: Objection. Vague and ambiguous as
2 to "latitude."
3 Q. BY MR. ROSENBAUM: -- as to how to administer
4 it; is that right?
5 A. I don't know.
6 Q. Has any investigation been made as to the
7 degree of uniformity in the administration of the test?
8 MR. VIRJEE: Objection. Vague and ambiguous as
9 to "uniformity."
10 THE WITNESS: Since I don't -- well, if the
11 regulations do contain guidelines about the way that the
12 test is administered, then it wouldn't be sensible to
13 necessarily do any research. Okay? So it's kind of
14 hard for me to know --
15 Q. BY MR. ROSENBAUM: Are you aware of any
16 regulations that deal with the number of days over
17 which -- period of time which the test must be
18 administered?
19 A. Yeah, they have a window during which to give
20 them some administrative flexibility, you know,
21 vacations and field trips and all that stuff that they
22 can schedule their testing.
23 Q. You answered the question fairly, but my next
24 question is a little bit different.
25 As to the number of days over which it should

1 be administered.
 2 A. I don't know of it. I just don't know what the
 3 policy is in this area.
 4 Q. My son didn't have any homework on any other
 5 nights that he was administered the Stanford-9. Do you
 6 know if that's a uniform rule or procedure?
 7 A. I don't know.
 8 Q. You don't know how many kids are given homework
 9 or --
 10 A. I just don't know.
 11 Q. And that's true for any grade, is that right,
 12 3rd grade, 5th grade?
 13 A. That there's no homework policy?
 14 Q. Yeah.
 15 A. I don't know.
 16 Q. Okay. My son was given homework before the
 17 Stanford-9 to prepare him for the Stanford-9.
 18 MR. VIRJEE: You don't have to assume that's
 19 true just because he's telling you that.
 20 Q. BY MR. ROSENBAUM: Do you know if that practice
 21 is followed uniformly across the -- uniformly for all
 22 students taking the Stanford-9?
 23 MR. VIRJEE: Objection. Vague and ambiguous as
 24 to prepare for. Also calls for an expert opinion on
 25 what would prepare and not prepare a student for the

1 Stanford-9.
 2 THE WITNESS: I can tell you my students didn't
 3 come up with any homework to prepare them for the SAT-9,
 4 my children, so I guess it's not totally uniform.
 5 Q. BY MR. ROSENBAUM: Did your children have
 6 homework on the nights of the Stanford-9?
 7 A. I think they may have on a couple, yes.
 8 Q. Do you know, Mr. Warren, whether
 9 teacher/student ratio in all grades is uniform
 10 throughout the California public school system, that is,
 11 the same teacher/student ratio in 5th grade is true in
 12 all 5th grades across the State?
 13 MR. VIRJEE: Objection. Vague and ambiguous as
 14 to "teacher/student ratio" and "uniform."
 15 MS. READ SPANGLER: Join.
 16 THE WITNESS: I know from personal experience
 17 that in my children's elementary school that teachers in
 18 the same grade have different numbers of students.
 19 Q. BY MR. ROSENBAUM: Has there been any
 20 systematic examination to see what the range in
 21 teacher/student ratio is in grades across the state?
 22 MS. READ SPANGLER: Objection. Calls for
 23 speculation.
 24 THE WITNESS: What the range is? I don't know.
 25 Q. BY MR. ROSENBAUM: Or the degree of uniformity.

1 A. I believe I've heard something about, you know,
 2 looking at, for instance, the percentage of K-3 classes
 3 that have exercised the class size reduction options.
 4 Q. Besides that?
 5 A. Not that I know of.
 6 Q. So far as you know, is there anyone in your
 7 branch looking into that question, either the range or
 8 the degree of uniformity of teacher/student ratios in
 9 grades?
 10 A. Like I said earlier, that falls outside of the
 11 responsibilities of my branch, and I don't think there
 12 would be any reason that my staff or I would consider
 13 such a thing.
 14 Q. Has there been any examination in terms of
 15 results on the API and classroom teacher/student ratios?
 16 MS. READ SPANGLER: Objection. Calls for
 17 speculation.
 18 THE WITNESS: I believe that participation in
 19 class size reduction is a piece of data that is part --
 20 I have some recollection that that data is a part of
 21 some analysis that goes on with API, but I'm sorry, I
 22 can't remember a lot of specifics.
 23 Q. BY MR. ROSENBAUM: Who knows that? If it
 24 exists, who would know that?
 25 A. Bill Padilla.

1 (The deposition concluded at 2:27 p.m.)
 2 Please be advised that I have read the
 3 foregoing deposition. I hereby state there are:
 4
 5 (check one) _____ NO CORRECTIONS
 6 _____ CORRECTIONS ATTACHED
 7
 8 _____
 9 Date Signed
 10
 11 _____
 12 PAUL WARREN
 13 Case Title: Williams vs State
 14 Date of Deposition: Thursday, May 24, 2001
 15 ---o0o---
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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: PAUL WARREN, VOL. II
8 CASE: WILLIAMS VS STATE
9 DATE OF DEPOSITION: THURSDAY, MAY 24, 2001
10 I, _____, have the following
11 corrections to make to my deposition:

12 PAGE LINE CHANGE/ADD/DELETE

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

25 _____
PAUL WARREN DATE

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

5 Mr. Paul Warren
6 721 Capitol Mall, Suite 524
7 Sacramento, CA 95814

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

19 _____ DATE _____
20 Sincerely,
21 TRACY LEE MOORELAND, CSR
22 Esquire Deposition Services
23 Job No. 26740
24 cc: Mark Rosenbaum, Esq. Peter Eliasberg, Esq.
25 Franroze Virjee, Esq. Kara Read Spangler, Esq.
Richard Hamilton, Esq.

1 REPORTER'S CERTIFICATE

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

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

16 IN WITNESS WHEREOF, I have hereunto set my hand
17 this 7th day of June, 2001.

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

1 ESQUIRE DEPOSITION SERVICES
2 Certified Shorthand Reporters
3 1801 I Street, Suite 100
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6 ATTN: LOIS K. PERRIN, ESQ.
7 429 Market Street
8 San Francisco, CA 94105-2482

9 Re: Williams vs State
10 Deposition of: Paul Warren, Vol. II
11 Date Taken: Thursday, May 24, 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. 26740