

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN FRANCISCO

ELIEZER WILLIAMS, a minor,)
by Sweetie Williams, his)
guardian ad litem, et al.,)

Plaintiffs,)

vs.)

No. 312236

STATE OF CALIFORNIA; DELAINE)
EASTIN, State Superintendent)
of Public Education; STATE)
DEPARTMENT OF EDUCATION;)
STATE BOARD OF EDUCATION,)

Defendants.)

DEPOSITION OF GENO FLORES
Sacramento, California
Thursday, July 17, 2003
Volume I

Reported by:
STEPHANIE SMITHSON, RMR

CSR No. 9770

JOB No. 43750

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR COUNTY OF SAN FRANCISCO

1 ELIEZER WILLIAMS, a minor,)
2 by Sweetie Williams, his)
3 guardian ad litem, et al.,)
4)
5 Plaintiffs,)
6)
7 vs.) No. 312236
8)
9 STATE OF CALIFORNIA; DELAINE)
10 EASTIN, State Superintendent)
11 of Public Education; STATE)
12 DEPARTMENT OF EDUCATION;)
13 STATE BOARD OF EDUCATION,)
14)
15 Defendants.)
16)
17)
18)
19)
20)
21)
22)
23)
24)
25)

Deposition of GENO FLORES, Volume 1, taken of
behalf of Plaintiffs at 400 Capitol Mall, Suite 2300,
Sacramento, California, beginning at 10:10 a.m. and
ending at 5:05 p.m., on Thursday, July 17, 2003, before
Stephanie Smithson, RMR, Certified Shorthand Reporter No.
9770.

1 APPEARANCES:
2
3 For Plaintiffs:
4 MORRISON & FOERSTER, LLP
5 BY: LEECIA WELCH
6 Attorney at Law
7 425 Market Street,
8 San Francisco, California 94105
9 (415)268-6924
10
11 For Defendants:
12 DEPARTMENT OF JUSTICE
13 ATTORNEY GENERAL'S OFFICE
14 BY: KARA READ-SPANGLER
15 Deputy Attorney General
16 1300 I Street, Suite 1101
17 Sacramento, California 94244
18 (916)327-0356
19
20 O'MELVENY & MYERS, LLP
21 BY: FRAMROZE M. VIRJEE
22 Attorney at Law
23 400 South Hope Street
24 Los Angeles, California 90071
25 (213)430-6000

CALIFORNIA SCHOOL BOARDS ASSOCIATION
BY: RICHARD L. HAMILTON
Attorney at Law
3100 Beacon Boulevard
West Sacramento, California 95691
(916)371-4691

LONG BEACH UNIFIED SCHOOL DISTRICT
BY: ANDREA BALL
Attorney at Law
1515 Hughes Way
Long Beach, California 90810
(562)997-8244

1 INDEX
2 WITNESS EXAMINATION
3 GENO FLORES

4
5 BY MS. WELCH 5
6

7 EXHIBITS
8 PLAINTIFFS'
9 287 Description of California's II/USP Program 108
10 288 Document entitled "New Directions and 127
11 Accountability"
12 289 Academic Performance Index 165

13 INSTRUCTION NOT TO ANSWER
14 Page Line
15 207 23
16
17
18
19
20
21
22
23
24
25

1 Sacramento, California, Thursday, July 17, 2003
2 10:10 a.m. - 5:05 p.m.
3

4 GENO FLORES,
5 having been first duly sworn, was examined and testified as
6 follows:
7 ///

8
9 EXAMINATION

10 BY MS. WELCH:

11 Q Good morning, Mr. Flores. My name is Leecia
12 Welch, and I introduced myself earlier, but to just remind
13 you, I represent the plaintiffs in the matter. How are you
14 doing?

15 A Fine.

16 Q Have you been deposed before?

17 A No.

18 Q Have you had an opportunity to discuss the ground
19 rules of a deposition?

20 A Yes.

21 Q Well, why don't I just go over a few quick ones.
22 You've just been sworn in by the court reporter, and all of
23 your answers here today will have the same effect as if you
24 were testifying in a court of law. Do you understand that?

25 A Yes.

1 Q The court reporter is going to be recording my
2 questions and your answers into a booklet. And when
3 everything is finished, we will send you a copy of the
4 booklet, and you'll have an opportunity to make changes to
5 your depositions responses, but the lawyers in the action
6 will be able to comment on the changes at trial if you make
7 them. Do you understand that?

8 A No. Explain that again.

9 Q Okay. So if you -- you will -- you will be
10 allowed to make changes to your deposition transcript when
11 you receive it, but if you make any changes, we'll be able
12 to comment on those changes at trial.

13 A What does that mean, you'll comment on them at
14 trial?

15 Q That means that if you say -- if you make a
16 change that's different from what you said here today and we
17 think that, you know, there's an issue with that or -- I
18 mean, we'll be able to comment on the fact that you've made
19 a change from what you said here today.

20 A Okay.

21 Q Does that make sense?

22 A Sure.

23 Q So the court reporter has a challenging task in
24 terms of recording everything that's said, and one of the
25 things that will help if you let me finish my question

1 before you answer and I'll let you finish your answer before
2 I ask another question.

3 Another thing that will happen today is the
4 various attorneys will make objections. So once I ask my
5 question, you might wait a second and see if there are any
6 objections that are going to be made so people aren't
7 talking over one another, because when you get the
8 transcript, it's difficult to follow if there's lots of
9 interrupting. Does that make sense?

10 A Okay.

11 Q Along those lines, if you could answer yes or no
12 instead of nodding your head or saying uh-huh, it will just
13 make it an easier transcript to read. Does that make sense?

14 A Yes.

15 Q If any of my questions are unclear or you don't
16 understand them, just let me know, and I can ask a better
17 question. Okay?

18 A Okay.

19 Q Okay. And if you need to take a break, just let
20 me know. We can take as many breaks as you need. The only
21 thing I ask is if I have a question pending you wait to give
22 your response until we take a break, and the only exception
23 to that would be if there is an issue of privilege, you
24 know, something that you spoke with about your law -- spoke
25 about with your lawyer and there's a question that the

1 attorneys have about whether or not it's appropriate for you
2 to respond. That would be the only time that you could take
3 a break when a question was pending. Does that make sense?

4 A Yes.

5 MR. VIRJEE: I want to clarify that. You can
6 take a break whenever you need to take a break. That's what
7 Leecia would like you to do. I appreciate that. I
8 understand that. If you feel there's a need to take a break
9 and there's a question pending, go ahead and take a break.

10 MS. WELCH: I'll probably comment on that.

11 BY MS. WELCH:

12 Q Is there any reason why you can't give your best
13 testimony today?

14 A No.

15 MS. READ-SPANGLER: Before we get started, we've
16 previously had a stipulation if one attorney makes an
17 objection all other attorneys are deemed joined so we don't
18 have to sit here and say join. Are you willing to enter
19 into that stipulation?

20 MS. WELCH: Absolutely.

21 MS. READ-SPANGLER: Thank you.

22 BY MS. WELCH:

23 Q Mr. Flores, what is your current position?

24 A I'm Deputy Superintendent of Public Instruction
25 for the State of California in charge of the assessment and

1 accountability branch.

2 Q And how long have you been in that position?

3 A Since January 2003. Specific date, I don't
4 recall. Date of the board meeting, I think, was my first
5 official date.

6 MR. VIRJEE: You've answered the question.

7 THE WITNESS: Oh, okay.

8 BY MS. WELCH:

9 Q You can finish your sentence, though.

10 A Probably, January 13th.

11 Q Okay. Thank you.

12 I'd like to just ask you some questions about
13 your educational background. If your attorneys would agree
14 to it if you could just give a brief description of your
15 educational background, that would make things go faster

16 MS. WELCH: If you don't agree, I can ask
17 individual questions. It's up to you.

18 MR. VIRJEE: That's fine.

19 BY MS. WELCH:

20 Q Could you just give a brief description of
21 your --

22 A K-12 public school education in Norwalk,
23 California; undergraduate degree, bachelor of arts in
24 history at Stanford University; master of arts in education
25 at Stanford University; ABD EDD at UCLA; my dissertation's

1 pending.

2 Q Did you get these degrees -- did you go straight
3 through to get these degrees, or did you work in between
4 getting any of them?

5 A Bachelors in masters between 1970 and 1975. The
6 doctoral program I started in 1997.

7 Q And you said your dissertation is pending; is
8 that correct?

9 A Correct.

10 Q What's the topic of the dissertation?

11 A It keeps moving.

12 MR. VIRJEE: Sounds like the --

13 MS. READ-SPANGLER: That's why he's ABD.

14 THE WITNESS: Yeah. On accountability -- on
15 public school accountability.

16 BY MS. WELCH:

17 Q Are you looking in your dissertation at
18 California or other states, or are you looking at general --
19 more generally?

20 MR. VIRJEE: Objection; compound, also assumes
21 one or the other.

22 MS. WELCH: Or something else?

23 A Specific database would be California.

24 BY MS. WELCH:

25 Q And what do you mean by specific database?

1 to accountability systems and student achievement.

2 THE WITNESS: In my review, there would be
3 notification and identification of other systems,
4 accountability systems, using other states.

5 BY MS. WELCH:

6 Q Is that -- I guess my question is a little bit
7 different. In your dissertation, are you trying to show
8 that accountability systems have certain effects, or is that
9 just -- are you pointing to other states because that's part
10 of the background of the paper?

11 A Correct.

12 MR. VIRJEE: Objection; compound and also
13 assumes that it's one or the other.

14 BY MS. WELCH:

15 Q As part of your dissertation, do you explore what
16 are elements of a good accountability system?

17 MR. VIRJEE: Objection; vague and ambiguous as
18 to good accountability system.

19 THE WITNESS: As part of my dissertation, I
20 describe existing accountability systems in other states.

21 MR. VIRJEE: Listen to her questions and answer
22 her questions.

23 THE WITNESS: Okay.

24 BY MS. WELCH:

25 Q Do you comment on whether those systems are

1 A Well, all dissertations entail some data
2 analysis. So the data analysis for my major points would be
3 using data from California as opposed to from other states.

4 Q And can you give me a general description of what
5 you are exploring in your dissertation?

6 A Sure. It was about policy applications of
7 accountability issues. It keeps changing, because the focus
8 was around Academic Performance Index in the Public School
9 Accountability Act. Now it's a little passe. With No Child
10 Left Behind, we're moving for adequate clear progress to
11 keep emphasis with student's improvement over time.

12 Q Do you have a thesis that you're trying to prove
13 with this dissertation?

14 A Sure.

15 Q What is that?

16 A That students do improve over time, that growth
17 modeling is a -- it's a good model to use.

18 Q And what does growth modeling mean?

19 A To show that there's improvement over time
20 individually by students and collectively as a measure of
21 determining whether schools are effective places.

22 Q Do you have a component of your dissertation
23 looking at whether accountability systems have improved
24 student achievement?

25 MR. VIRJEE: Objection; vague and ambiguous as

1 functioning well, or do you just describe the system? Or
2 could you elaborate a little bit?

3 MR. VIRJEE: Objection; calls for a narrative,
4 compound, vague and ambiguous as to functioning well.

5 THE WITNESS: In the lit review chapters, I'm
6 identifying other state's accountability systems and
7 describe how they exist and operate.

8 BY MS. WELCH:

9 Q But you don't -- you don't comment on whether or
10 not you think that system is effective or not effective --

11 MR. VIRJEE: Objection to vague and ambiguous as
12 to --

13 BY MS. WELCH:

14 Q -- is that correct?

15 MR. VIRJEE: Objection. Objection; vague and
16 ambiguous as to effective or noneffective.

17 THE WITNESS: My dissertation's still in
18 production.

19 BY MS. WELCH:

20 Q In the current draft of it, do you comment on the
21 effectiveness?

22 MR. VIRJEE: Objection; assumes facts not in
23 evidence, assumes there's a current draft; also, vague and
24 ambiguous as to effectiveness.

25 THE WITNESS: I cite current work from other

1 people -- other evaluators on existing accountability
 2 systems.
 3 BY MS. WELCH:
 4 Q Is your dissertation -- has it -- is it in a --
 5 Well, first of all, when do you expect it will
 6 be completed?
 7 MR. VIRJEE: Objection; calls for speculation.
 8 THE WITNESS: It's difficult to pick a time.
 9 BY MS. WELCH:
 10 Q Do you have an estimate?
 11 MR. VIRJEE: She doesn't want you to guess, but
 12 if you have an estimate, she's entitled to it.
 13 THE WITNESS: Possibly, within a year.
 14 BY MS. WELCH:
 15 Q Could you describe --
 16 You said that your dissertation initially was
 17 focused on API; is that correct?
 18 A That's correct.
 19 Q What was your -- what points did you make about
 20 the API?
 21 MR. VIRJEE: Objection. That misstates his
 22 testimony. I think it was based on the Public
 23 Accountability Act, not the API, but he's answered that now.
 24 I just want to make the record clear.
 25 MS. WELCH: Can you read back the question?

1 (Record read as follows:
 2 "Question: What was your -- what points did
 3 you make about the API?")
 4 MR. VIRJEE: Objection; vague and ambiguous.
 5 THE WITNESS: In the current draft of my
 6 dissertation, the explanation about the Academic Performance
 7 Index was in explaining how it operated at that point in
 8 time as well as defining how schools show improvement within
 9 that system.
 10 BY MS. WELCH:
 11 Q And did you comment on whether or not you thought
 12 the API was effective in increasing student achieve meant?
 13 MR. VIRJEE: Objection; vague and ambiguous as
 14 to effective.
 15 THE WITNESS: I've -- I haven't come to
 16 conclusions yet.
 17 BY MS. WELCH:
 18 Q If I ask you other questions with respect to your
 19 conclusions on aspects of the Public School Accountability
 20 Act in California, would your answer be the same, that you
 21 haven't reached conclusions?
 22 MR. VIRJEE: In the draft of his dissertation
 23 that he has right now?
 24 MS. WELCH: Exactly.
 25 THE WITNESS: Question again?

1 BY MS. WELCH:
 2 Q I guess I want to try to shortcut some of my
 3 questions. So if your response -- if I ask you questions
 4 about the effectiveness of the API or of the -- I mean, if
 5 you basically haven't reached conclusions and you're in the
 6 part of your dissertation that's focusing on a literature
 7 review, then I won't ask you questions about conclusions, if
 8 you understand what I'm saying.
 9 MR. VIRJEE: I'm not sure that there's a
 10 question pending.
 11 MS. WELCH: Okay.
 12 BY MS. WELCH:
 13 Q My question was originally if you had reached
 14 conclusions about different aspects of the accountability
 15 system in California.
 16 MR. VIRJEE: In the current draft of --
 17 BY MS. WELCH:
 18 Q In the current draft of your dissertation.
 19 A I'm not at that point.
 20 Q At what point are you?
 21 A Still within data analysis.
 22 Q And how did you -- what was your methodology for
 23 your data analysis?
 24 A The methodology was looking at a growth modeling
 25 identifying students who were in different frequent -- who

1 were at different points along the frequency distribution
 2 and determining which students and what percent of students
 3 were able to move into the next performance band.
 4 MR. HAMILTON: Leecia, can I interrupt and ask a
 5 question?
 6 MS. WELCH: Sure.
 7 MR. HAMILTON: Is he being deposed as an expert,
 8 in his personal capacity or as his capacity as a deputy
 9 superintendent?
 10 MR. VIRJEE: Certainly wasn't noticed as an
 11 expert. He's not on anybody's expert list.
 12 MR. HAMILTON: Thank you.
 13 MS. WELCH: I'm just asking questions about his
 14 background at this point. We haven't noticed him as an
 15 expert. I don't know if you intend to use him as an expert.
 16 MR. HAMILTON: Thank you.
 17 BY MS. WELCH:
 18 Q Could you read back his answer?
 19 (Record read as follows:
 20 "Answer: The methodology was looking at a
 21 growth modeling identifying students who were in
 22 different frequent -- who were at different points
 23 along the frequency distribution and determining which
 24 students and what percent of students were able to move
 25 into the next performance band.")

1 BY MS. WELCH:

2 Q What do you mean by able to move into the next
3 performance band?

4 A Based upon their individual results.

5 Q What -- I guess what do you mean by performance
6 band? How would you define that?

7 A Are you asking me to explain to you how the
8 academic performance index is calculated?

9 Q I don't think we need to go that far.

10 So are you using the structure of the API to
11 determine whether students are moving up in terms of
12 performance? Is that what you're referring to?

13 A The Academic Performance Index aggregates
14 individual students' scores and stats and uses a base to
15 growth model -- base year to growth year model. So
16 individual students generate parts of that index, and they
17 do that by improving from one year to the next. And if they
18 improve enough that they move into the next frequent -- into
19 the next performance band for which there's a point value
20 attributed to that movement, then they help, in essence,
21 generate this positive score that's attributed overall to
22 the school.

23 So the question is what are those students who
24 are making that improvement so that they move into the next
25 performance band, who in terms of demographic

1 well, in doing the data analysis that you described a little
2 bit ago, how are you able to identify -- or I guess the
3 question should be how are you able to identify specific
4 students to determine their -- to determine increases in
5 student achievement?

6 MR. VIRJEE: Objection; vague and ambiguous.
7 Are you asking about specific individual students?

8 BY MS. WELCH:

9 Q I guess that's what I'm trying to get at, if
10 you're looking at specific student achievement or if you are
11 aggregating by group characteristics.

12 MR. VIRJEE: You're asking about what's in his
13 dissertation, and now you want him to answer that question
14 aggregating -- is he determining by aggregation of students,
15 groups or individuals.

16 BY MS. WELCH:

17 Q You look confused by my question. Okay.

18 A I don't know what you want to know.

19 Q I'm wondering how you are able to track student
20 achievement for purposes of your data analysis.

21 A By tracking individual students.

22 Q And how do you have access to information on
23 individual students?

24 A Through an agreement with Long Beach Unified
25 School District.

1 characteristics of the students and where were they within
2 the frequency distribution at the previous performance band
3 and how do they contribute collectively to the overall
4 aggregate score.

5 Q How are you able to --

6 My understanding is that there is not currently
7 a CSIS system in place in California; is that correct? I
8 think there's certain districts that have functioning
9 systems, but that overall there is not such a system; is
10 that correct?

11 A Correct.

12 MR. VIRJEE: You're obviously not asking him to
13 validate your understanding. You're asking whether there is
14 a California student information system in place?

15 MS. WELCH: Right.

16 THE WITNESS: There is a California Student
17 information system in place.

18 MS. WELCH: But is it functioning statewide?

19 MR. VIRJEE: Objection; calls for speculation,
20 lacks foundation, vague and ambiguous as to functioning
21 statewide.

22 THE WITNESS: There is not universality of
23 membership, if that's what you mean.

24 BY MS. WELCH:

25 Q That is what I mean. So how are you able to --

1 Q Are you focusing specifically on Long Beach
2 Unified, or are you also looking at other districts?

3 MR. VIRJEE: In his dissertation?

4 MS. WELCH: In his dissertation.

5 THE WITNESS: My data set is Long Beach Unified
6 School District.

7 BY MS. WELCH:

8 Q Is Long Beach one of -- I'm assuming based on
9 your response that Long Beach is one of the districts that
10 has a functioning CSIS system.

11 A Long Beach has a functioning student
12 identification system. They're not currently a member of
13 the California student information system.

14 Q Okay. Do you have an understanding of how many
15 districts have functioning data systems?

16 MR. VIRJEE: Objection; vague and ambiguous as
17 functioning data systems, calls for speculation, lacks
18 foundation.

19 THE WITNESS: No.

20 BY MS. WELCH:

21 Q When you said that CSIS -- CSIS did not have
22 universality, what did you mean by that?

23 A That means that of the 1,060 -- I forget how many
24 we have -- 3 school districts in the state not all of them
25 are members of the California Student Information System.

1 Q Do you know approximately how many are members of
2 the student information system?

3 MR. VIRJEE: Objection; asked and answered,
4 calls for speculation, lacks foundation.

5 BY MS. WELCH:

6 Q Just to be clear, it's a little different
7 question of whether or not the district has a CSIS. You
8 answered that. I'm asking whether or not if you know how
9 many districts are part of the overall system.

10 MR. VIRJEE: Objection; vague and ambiguous as
11 to CSIS. I thought you were talking about the statewide
12 system only because he answered as to -- about individual
13 student identification systems.

14 BY MS. WELCH:

15 Q Maybe I misunderstood your answer. I understood
16 you to say when you were talking about Long Beach's system
17 that they did have a functioning system but that they
18 weren't part of CSIS statewide; is that correct?

19 A That's correct.

20 MR. VIRJEE: His testimony will speak for
21 itself.

22 BY MS. WELCH:

23 Q My question is, do you have an understanding of
24 how many districts are part of CSIS statewide?

25 MR. VIRJEE: Objection; asked and answered,

1 A Elementary.

2 Q Are you looking -- when you say that you're
3 identifying specific schools, are you trying to identify
4 schools that have particular characteristics?

5 A That's part of the analysis.

6 Q So could you explain the analysis generally?

7 A Because the point is to -- the point of the data
8 analysis is to verify my thesis statement. Then I'm looking
9 to see if the -- if the similar rules are applying to
10 various ethnic and racial groups as well as socioeconomic
11 groups across the district, across all schools.

12 Q What is your thesis statement?

13 A The thesis -- the point of the thesis statement
14 is that students show improvement over time, that all
15 students show improvement over time.

16 Q Why did you choose that thesis statement?

17 MR. VIRJEE: Objection; calls for a narrative,
18 vague and ambiguous.

19 THE WITNESS: Because the Academic Performance
20 Index is predicated on a base-to-growth model. In order for
21 schools to be successful in that system, they have to show
22 improvement over time. The whole point of looking at
23 individual students who are in the cross-sectional analysis
24 that occurs at the time because there is no statewide
25 individual student identification system for which you could

1 calls for speculation, lacks foundation.

2 THE WITNESS: I don't know exactly how many
3 districts are currently members of CSIS.

4 BY MS. WELCH:

5 Q Do you have an estimate in terms of percentage?

6 MR. VIRJEE: Objection; calls for speculation,
7 lacks foundation.

8 THE WITNESS: The best way I can answer for you
9 would be for me to tell you that roughly with the addition
10 of Los Angeles Unified School District this year that will
11 account for about a third of all the students in the state.

12 BY MS. WELCH:

13 Q Where are you with respect to your data analysis
14 of Long Beach? And by that, I mean are you just in the
15 collection process, or are you further along?

16 A Further along.

17 Q And where are you?

18 MR. VIRJEE: Objection; vague and ambiguous.

19 BY MS. WELCH:

20 Q If you can give me a general description of the
21 status of your analysis?

22 A There are about a little more than 80 -- almost
23 90 schools in Long Beach, so it's a large data set, and I'm
24 identifying particular schools.

25 Q What type of schools are you identifying?

1 then calculate some kind of value added index. Then we
2 needed to be able to see if that was occurring over time
3 with individual student improvement.

4 Q Why was your -- so as you were preparing your
5 dissertation, did you -- did you go into the dissertation
6 with any -- with a certain set of assumptions?

7 A In every dissertation, there's a certain set of
8 assumptions.

9 Q Can you describe to me what your assumptions were
10 going into the dissertation?

11 MR. VIRJEE: Beyond the thesis statement that
12 he's already provided to you?

13 MS. WELCH: Yeah.

14 THE WITNESS: That the point is to show students
15 have improved over time.

16 BY MS. WELCH:

17 Q Was that the only assumption that you had going
18 in?

19 MR. VIRJEE: Objection; vague and ambiguous as
20 to assumptions.

21 THE WITNESS: Yes.

22 BY MS. WELCH:

23 Q On what did you base that assumption?

24 A From my experience of being a public school
25 teacher, watching students learn and improve over time and

1 with my understanding of the premise of the Academic
2 Performance Index as captured by the Public School
3 Accountability Act.

4 Q What do you think the purpose of having an
5 accountability system is?

6 MR. VIRJEE: Objection; calls for speculation,
7 lacks foundation, vague and ambiguous as to purpose, may
8 call for a legal conclusion since it's a legal statute,
9 beyond the expertise of this witness. He is not going to
10 testify about the purposes of the act.

11 THE WITNESS: What do you mean by accountability
12 system?

13 BY MS. WELCH:

14 Q Well, do you have an understanding of what an
15 accountability system is?

16 MR. VIRJEE: In what context?

17 BY MS. WELCH:

18 Q In any context.

19 A I have an understanding of what California's
20 Public School Accountability Act is. I have a general
21 understanding about accountability systems as they exist in
22 other states which were, again, part of my lit review.

23 Q So based on how accountability systems exist in
24 this state and in other states, do you think that they have
25 a purpose?

1 set so that my data analysis was particular to Long Beach
2 Unified.

3 Q And so was your thesis statement specifically
4 Long Beach Unified, as well?

5 MR. VIRJEE: Objection; asked and answered.

6 THE WITNESS: No. To the Public School
7 Accountability Act.

8 BY MS. WELCH:

9 Q Did you think that there was something in
10 particular about California's system that would result in
11 student improvement over time?

12 MR. VIRJEE: Objection; vague and ambiguous as
13 to California's system. Are you talking about accounting
14 system? The educational system. Also, vague as to time,
15 calls for speculation, lacks foundation.

16 THE WITNESS: I don't understand your question.

17 BY MS. WELCH:

18 Q Well, I don't understand. The way you've
19 described your thesis statement to me is too broad for me to
20 understand.

21 So when you say that students will show
22 improvement over time, what do you mean by improvement?
23 Improvement in test scores?

24 MR. VIRJEE: Objection; asked and answered.

25 He's already described -- you asked him that exact question

1 MR. VIRJEE: Objection; vague and ambiguous as
2 to purpose, calls for speculation, calls for a legal
3 conclusion, calls for an expert opinion.

4 THE WITNESS: The Public School Accountability
5 Act has a specific purpose.

6 BY MS. WELCH:

7 Q What do you think those purposes are?

8 MR. VIRJEE: Objection; vague and ambiguous as
9 to think. And if you're asking what the statute says, the
10 statute speaks for itself.

11 THE WITNESS: I think that the purpose of the
12 Public School Accountability Act is to determine an index
13 based on student achievement scores and other nonstudent --
14 and other nonstudent achievement indicators which are
15 currently not in use, to make some overall determination
16 about the effectiveness of the school.

17 BY MS. WELCH:

18 Q I guess I am trying to understand your thesis
19 statement a little bit more. I mean, are you focusing --
20 when you say your thesis statement is that students will
21 show improvement over time, are you focusing specifically on
22 California, or is that a more general idea that you have?

23 A As I said previously, I started this program in
24 1997. At that time, I was working for Long Beach Unified
25 School District. So, therefore, I had access to the data

1 a few minutes ago, and he described exactly what he meant by
2 it.

3 THE WITNESS: It's hard for me to give you an
4 answer. Every time I do, it leads me to some preliminary
5 conclusion that you don't understand how the Public School
6 Accountability Act system operates and that you're asking me
7 to explain it to you.

8 MR. VIRJEE: Okay. You don't need to give her a
9 narrative. You can answer her questions as asked or tell
10 her you don't understand the question. Okay.

11 BY MS. WELCH:

12 Q I do understand how the Public School
13 Accountability Act operates.

14 A Good.

15 Q And I do understand the API. I'm just trying to
16 figure out what your thesis statement is.

17 MR. VIRJEE: And he's described it now three
18 times, Leecia. We've been going for about 45 minutes, and
19 we're still on his dissertation. He's not an expert here in
20 this instance. You're here to depose him about what's going
21 on in his job as the assistant superintendent -- or deputy
22 superintendent. I hope we can move on pretty soon here,
23 because this is otherwise going to prolong the deposition
24 unnecessarily. I understand that you want to have some
25 information about an incomplete dissertation that he hasn't

1 finished yet, but I think I've given you a lot of leeway.
 2 MS. READ-SPANGLER: And I think the concept that
 3 students improve over time is pretty self-explanatory. I
 4 mean, it seems pretty self-evident. I think he's explained
 5 it to you the best that he can to help you understand it.
 6 MR. VIRJEE: I'm not trying to cut you off
 7 completely, but I would like you to move on fairly quickly.
 8 BY MS. WELCH:
 9 Q I'm just trying to understand -- I mean, when you
 10 say students will improve over time, do you have -- do you
 11 have a specific basis for why you think they will improve
 12 over time?
 13 MR. VIRJEE: You're asking about the dissertation?
 14 BY MS. WELCH:
 15 Q In your dissertation.
 16 MR. VIRJEE: Objection; asked and answered. He
 17 specifically answered that question already.
 18 MS. READ-SPANGLER: Do you have anything to add
 19 to what you've told her before?
 20 THE WITNESS: Repeat. The question is why I
 21 think students improve over time?
 22 BY MS. WELCH:
 23 Q What the basis for your belief that students will
 24 improve over time is.
 25 MR. VIRJEE: You asked him that exact question.

1 You asked what were your assumptions going in as to why
 2 students improved over time and what was the basis for that.
 3 He gave you that. It's the same question, and I think we're
 4 wasting time.
 5 THE WITNESS: I think I said it was my 20-plus
 6 years of teaching experience of watching students improve
 7 over time and that the premise of the PSAA, Public School
 8 Accountability Act, and, particularly, the API is based on a
 9 base growth model.
 10 BY MS. WELCH:
 11 Q I am not trying to get to you repeat that. I
 12 understand that you have answered that and that you've said
 13 that.
 14 When we look at -- why don't I -- I'll move on
 15 and ask you specifically about your experiences, and then if
 16 I have -- if I still have questions, then I can come back to
 17 this, but I'm not trying to get you to repeat yourself, and
 18 I'm not meaning to ask the same thing more than once. I
 19 just think that that for whatever reason I'm not -- you
 20 know, my questions are not kind of -- I'm not communicating
 21 my questions as well as I would like. So why don't we move
 22 on to another area of questioning, and I'll come back to it
 23 if I still have questions after we've gone through other
 24 things.
 25 Who is your advisor for preparing -- with whom

1 are you preparing your dissertation? Who's your advisor?
 2 A Eva Baker, UCLA.
 3 Q You had said before that after you completed your
 4 masters you began teaching; is that correct?
 5 A Correct.
 6 Q Did you have a teaching certificate before you
 7 began teaching?
 8 A Yes.
 9 Q What kind of credential did you have?
 10 A A single subject credential.
 11 Q Did you find it useful to have a credential
 12 before you started teaching?
 13 MR. VIRJEE: Objection; vague and ambiguous as
 14 to useful. Also, vague and ambiguous in that you're
 15 asking -- defined it useful to have the credential before he
 16 started teaching which could mean did he find it useful
 17 before he ever started or to have a prerequisite. It's a
 18 vague and ambiguous question.
 19 BY MS. WELCH:
 20 Q Do you understand my question?
 21 A No, I don't understand your question.
 22 Q Was it useful to you to have a credential before
 23 you started teaching?
 24 MR. VIRJEE: Objection; vague and ambiguous as
 25 to useful and the same problem.

1 THE WITNESS: In 1975, my employer required that
 2 I have one which signified that I had received additional
 3 training and methodology for instructing students.
 4 BY MS. WELCH:
 5 Q Were there -- when you started teaching, the
 6 system was such that there were no emergency credentials; is
 7 that correct?
 8 MR. VIRJEE: Vague and ambiguous as to system.
 9 THE WITNESS: I don't know. It didn't apply to
 10 me. I don't know.
 11 BY MS. WELCH:
 12 Q How did you know that your employer required you
 13 to have a full credential?
 14 MR. VIRJEE: Objection; vague and ambiguous as
 15 to the term full credential.
 16 THE WITNESS: It was stated in the general
 17 information regarding the availability of positions.
 18 BY MS. WELCH:
 19 Q And where did you begin teaching?
 20 A Lucia Mar Unified School district in San Luis
 21 Obispo County.
 22 Q What school did you start teaching in?
 23 A Arroyo Grande high school.
 24 Q How long were you at that school?
 25 MR. VIRJEE: Are you asking for the total number

1 of years he taught there?
 2 MS. WELCH: Yes.
 3 THE WITNESS: Between 1975 and 1979 and then
 4 from 1980 through 1994.
 5 BY MS. WELCH:
 6 Q So you took off a year between 1979 and 1980?
 7 A Correct.
 8 MR. VIRJEE: Objection; vague and ambiguous as
 9 to took off.
 10 BY MS. WELCH:
 11 Q What subject and grade did you teach?
 12 MR. VIRJEE: At which point?
 13 BY MS. WELCH:
 14 Q Let's start at the beginning. What did you start
 15 teaching in 1975?
 16 A Grade nine social science class.
 17 Q What was your single subject credential in? IN
 18 social studies; is that correct?
 19 A History, social sciences, physical education.
 20 Q So that at that point, was that two separate
 21 credentials or?
 22 A One credential with authorization in history,
 23 social science, physical education.
 24 Q So how long did you teach grade nine social
 25 science at Arroyo?

1 A Two years.
 2 Q And then what did you teach?
 3 A Through this period of time, grade 10 world
 4 history, grade 11 United States history, grade 12 American
 5 government and civics, grade 12 economics.
 6 Q When you took off the year between '79 and '80,
 7 were you doing something education related during that time?
 8 MR. VIRJEE: Objection; vague and ambiguous as
 9 to educational related.
 10 THE WITNESS: I was not in public education for
 11 that one-year period.
 12 BY MS. WELCH:
 13 Q Okay. Then when you began back in 1980, what did
 14 you teach?
 15 A I don't recall. It would have been one of the
 16 subjects that I identified.
 17 Q So between 1980 and 1994, were you teaching
 18 either social studies or history?
 19 MR. VIRJEE: Or American government or
 20 economics.
 21 BY MS. WELCH:
 22 Q Or American government or economics?
 23 A Correct.
 24 Q What did you do starting in 1994? Or was it
 25 1995? What was your next job?

1 A I was at the national center for research on
 2 evaluation standards and student testing at UCLA.
 3 Q What was your position there?
 4 A As project district director.
 5 Q Can you give any a general description of the
 6 responsibilities of the project director?
 7 A The project was to develop a prototype for
 8 assessment for the National Board for Professional Teaching
 9 Standards.
 10 Q Were you looking at a particular subject?
 11 A History, social science.
 12 Q And by assessments, what do you mean?
 13 A The National Board for Professional Teaching
 14 Standards as an organization has a set of standards by which
 15 they were in the process of creating board certification.
 16 It's currently in practice today. We were the -- we were
 17 the assessment development center for teachers to
 18 demonstrate their expertise in history, social science as it
 19 matched those standards.
 20 Q And how long were you the project director?
 21 A Two years.
 22 Q And then you went to Long Beach; is that correct?
 23 A After UCLA, yes.
 24 Q What was your position at Long Beach unified?
 25 A I was administrative assistant in research and

1 evaluation.
 2 Q What were the responsibilities of that position?
 3 MR. VIRJEE: Objection; vague as to time.
 4 BY MS. WELCH:
 5 Q When you started, and if they changed over time?
 6 A They changed over time.
 7 Q What were the responsibilities when you --
 8 A Responsibilities were in charge of or responsible
 9 for meeting state and federal reporting requirements, such
 10 as CBEDS, the California Basic Educational Demographic
 11 System, the state's language census survey known as the R30,
 12 the office of civil rights reports. Also, in -- I was a
 13 liaison to the schools to assist in interpretation of our
 14 local and state test results.
 15 Q Was this -- were you describing your original
 16 responsibilities, or did you describe all your
 17 responsibilities while you were in that position?
 18 A I was describing the general responsibilities,
 19 and then they expanded within each of those categories.
 20 Q How long were you in that position?
 21 A Until 2003.
 22 MS. READ-SPANGLER: When you're at a good point,
 23 can we take a break?
 24 MS. WELCH: We can take a break now.
 25 MS. READ-SPANGLER: Okay. Let's.

1 (Recess.)
 2 BY MS. WELCH:
 3 Q While you were the administrative assistant in
 4 research and evaluation at Long Beach, were you -- were you
 5 on any committees?
 6 MR. VIRJEE: In Long Beach?
 7 BY MS. WELCH:
 8 Q At the state level.
 9 A No.
 10 Q Did you have occasion to attend Board of
 11 Education meetings for any purpose?
 12 MR. VIRJEE: Objection, vague and ambiguous as
 13 to Board of Education. Long Beach? State board?
 14 BY MS. WELCH:
 15 Q State Board of Education.
 16 A Yes.
 17 Q Did you have an official role in attending the
 18 board meetings, like, were you the district liaison to the
 19 board, or did you have a particular role with respect to the
 20 board?
 21 MR. VIRJEE: Objection; vague and ambiguous to
 22 liaison and role.
 23 THE WITNESS: No.
 24 BY MS. WELCH:
 25 Q Were you during this time period -- from 1996

1 until you started in your current position, were you on any
 2 commission at the state level?
 3 A No.
 4 Q Were you a member of the California Curriculum
 5 Commission?
 6 MR. VIRJEE: Objection; vague as to time. While
 7 he was at Long Beach?
 8 BY MS. WELCH:
 9 Q At any time.
 10 A In my life?
 11 Q Sure.
 12 A Yes. 19 -- yes.
 13 Q What time frame?
 14 A 1990 through 1995.
 15 Q So this was in part while you were a teacher,
 16 correct?
 17 A Correct.
 18 Q Do you consider yourself to have expertise in the
 19 area of educational accountability?
 20 MR. VIRJEE: Objection; vague and ambiguous as
 21 expertise and educational accountability.
 22 THE WITNESS: No.
 23 BY MS. WELCH:
 24 Q Do you think you have specialized knowledge in
 25 this area?

1 MR. VIRJEE: Objection; vague and ambiguous as
 2 to specialized knowledge, and if this area refers to
 3 accountability, same objection as to accountability.
 4 THE WITNESS: Could you rephrase the question?
 5 BY MS. WELCH:
 6 Q Is there a part that you're having difficulty
 7 with?
 8 A The question is if I'm having difficulty?
 9 MR. VIRJEE: You don't understand her question,
 10 just tell her that.
 11 THE WITNESS: I don't understand the question.
 12 BY MS. WELCH:
 13 Q If there's a particular word that you need me to
 14 define, I'm happy to do so. I'm not trying to ask trick
 15 questions.
 16 A Could you repeat the question?
 17 Q The question was, Do you think you have
 18 specialized knowledge -- I did say in this area, because it
 19 was referring to the previous question, but the area is
 20 education accountability --
 21 MR. VIRJEE: Same objection.
 22 BY MS. WELCH:
 23 Q -- systems.
 24 MR. VIRJEE: Sorry. Same objection.
 25 THE WITNESS: Yes.

1 BY MS. WELCH:
 2 Q You do think you have specialized knowledge?
 3 A Yes.
 4 Q Have you taken course work in the area of --
 5 we've talked about your dissertation. So setting that
 6 aside, have you taken course work in the area of education
 7 accountability systems.
 8 MR. VIRJEE: Objection; vague and ambiguous as to
 9 education accountability systems and course work.
 10 THE WITNESS: Yes.
 11 BY MS. WELCH:
 12 Q Could you describe the courses that you've taken?
 13 A I have taken research methodology courses, taken
 14 particular courses about local and state accountability
 15 systems.
 16 Q Have the courses that you just described been at
 17 UCLA?
 18 A Yes.
 19 Q Have you taken any courses by Dr. Heinrich
 20 Mintrop?
 21 A No.
 22 Q Have you ever met him?
 23 A No.
 24 Q Are you familiar with his work?
 25 MR. VIRJEE: Objection; vague and ambiguous as

1 to familiar.

2 THE WITNESS: No.

3 BY MS. WELCH:

4 Q Have you heard of him?

5 A I've heard of him.

6 Q Have you -- how have you heard of him? Just in
7 passing or --

8 MR. VIRJEE: I'm going to object if it calls for
9 attorney-client privilege. You can answer otherwise.

10 THE WITNESS: I'm sorry. I don't understand.

11 MR. VIRJEE: To the extent it calls for you to
12 disclose anything in the context of a attorney-client
13 communication I'm going to object and instruct you not to
14 answer.

15 MS. READ-SPANGLER: She asked how you heard. If
16 you heard of him through conversations through any attorney,
17 you don't tell her.

18 BY MS. WELCH:

19 Q If that's the only way you've heard of, I'm not
20 interested in your conversations with your attorneys.

21 MR. VIRJEE: Just thought I'd make the
22 objection.

23 THE WITNESS: Just in name on documents as I did
24 lit review and searches, but I didn't use any of --

25 MR. VIRJEE: I think you've answered the

1 for the titles of their work?

2 BY MS. WELCH:

3 Q Why don't we start with authors?

4 A Ed Haertel, Stanford University; Brian Stecher,
5 Gran Corporation. I can't think of Hambilton's first name;
6 he's from Amherst. Dan Corrett from University of Boston;
7 he's now at Harvard. Ulman Toom, UCLA. I can't think of
8 his name from Kentucky. I'll stop there.

9 Q Okay. Are there any studies that you've found
10 instructive in preparing -- and when I -- studies on
11 accountability systems that you found instructive in
12 preparing your dissertation?

13 MR. VIRJEE: Objection; vague and ambiguous as
14 to studies and instructive.

15 THE WITNESS: The research on Kentucky's
16 accountability system, State of Kentucky.

17 BY MS. WELCH:

18 Q Who performed that research if you recall?

19 MR. VIRJEE: Objection; vague and ambiguous as
20 to perform.

21 THE WITNESS: It's a variety of numerous studies
22 on Kentucky from those that I have mentioned.

23 BY MS. WELCH:

24 Q Did any of the studies that you just mentioned
25 view Kentucky's accountability system as a model for other

1 question.

2 BY MS. WELCH:

3 Q So I'll ask the next one. Have you relied on any
4 of his research for your dissertation?

5 A No.

6 Q Are there any key research papers or studies that
7 you -- and maybe I won't say key. Are there any research
8 studies and papers that you have relied on -- I don't want a
9 list of every research study and paper that you've relied on
10 for your dissertation. If there are some primary research
11 studies and papers that you've relied on, I would like to
12 know those.

13 MR. VIRJEE: Again, for the record, he's
14 indicated that he hasn't finished his dissertation. It's in
15 the process, so you're obviously --

16 BY MS. WELCH:

17 Q For the current draft.

18 MR. VIRJEE: Up to this point?

19 MS. WELCH: Right.

20 MR. VIRJEE: Object as to vague and ambiguous as
21 to primary.

22 To the extent you can answer or recall, you can
23 answer.

24 THE WITNESS: Are you asking for authors? Are
25 you asking for the names of researchers, or are you asking

1 states?

2 MR. VIRJEE: Objection. Those studies speak for
3 themselves. Calls for speculation, vague and ambiguous as
4 to model.

5 THE WITNESS: They were descriptions of the
6 system in Kentucky. I don't -- they were descriptions of
7 the studies in Kentucky.

8 BY MS. WELCH:

9 Q Do you recall any of the names of the studies?

10 A No. The titles, no.

11 Q Are you familiar with the components of
12 Kentucky's accountability system?

13 MR. VIRJEE: Objection; vague and ambiguous,
14 vague as to time.

15 THE WITNESS: Familiar.

16 BY MS. WELCH:

17 Q Could you describe those components?

18 MR. VIRJEE: Objection; vague as to components
19 and time.

20 THE WITNESS: Yes.

21 BY MS. WELCH:

22 Q What are they?

23 MR. VIRJEE: Same objections.

24 THE WITNESS: It's a cross-sectional analysis,
25 various performance levels, point values attributed to each

1 performance level, aggregate scores, compensatory model
 2 resulting in an index.
 3 BY MS. WELCH:
 4 Q Are you familiar with how Kentucky approaches the
 5 issue of underperforming schools?
 6 MR. VIRJEE: Objection; vague because as to
 7 underperforming schools, vague as to time, calls for
 8 speculation, lacks foundation.
 9 THE WITNESS: I don't understand about approach.
 10 BY MS. WELCH:
 11 Q Do you understand what I mean by underperforming
 12 schools, like, schools that aren't performing to its own
 13 standards?
 14 A Yes.
 15 Q When I say approach, I mean whether -- what sort
 16 of resources for guidance they provide to underperforming
 17 schools or if they do. That's what I'm trying to get at.
 18 A No.
 19 Q So you haven't looked at that issue with respect
 20 to Kentucky's accountability system?
 21 A No.
 22 Q Are there components of Kentucky's accountability
 23 system that you were just describing that you think
 24 California should adopt?
 25 MR. VIRJEE: Objection; calls for speculation,

1 Q And my question is, Are there elements that are
 2 used in Kentucky that aren't used in California that you
 3 think as, you know, head of the accountability branch the
 4 State would be wise to try to adopt?
 5 MS. READ-SPANGLER: Objection; asked and
 6 answered.
 7 MR. VIRJEE: Asked and answered.
 8 MS. WELCH: It's been answered; I agree.
 9 MR. VIRJEE: She's asking --
 10 And now not about his dissertation. You're
 11 asking about his position now as he sits here as head of the
 12 accountability branch.
 13 THE WITNESS: No.
 14 MS. WELCH: What was my question?
 15 MR. VIRJEE: The same one that you asked and
 16 answered before which were, Are there elements of the
 17 Kentucky accountability system that he thinks California
 18 should adopt. You've asked him that twice, and he's
 19 answered it now twice.
 20 MS. WELCH: Could you read the question?
 21 (Record read as follows:
 22 "Question: And my question is, Are there
 23 elements that are used in Kentucky that aren't used in
 24 California that you think as, you know, head of the
 25 accountability branch the State would be wise to try to

1 lacks foundation, calls for an expert opinion.
 2 BY MS. WELCH:
 3 Q To the extent that California doesn't have it in
 4 place?
 5 MR. VIRJEE: Same objections.
 6 THE WITNESS: Could you repeat the question?
 7 BY MS. WELCH:
 8 Q I'm wondering if there are any components of
 9 Kentucky's accountability system that you would point to and
 10 say, hey, that's a good model for other states to follow
 11 and, you know, we should be working towards incorporating
 12 that component into our system.
 13 MR. VIRJEE: Objection; calls for speculation,
 14 lacks foundation, calls for an expert opinion, vague as to
 15 time, also assumes facts not in evidence.
 16 THE WITNESS: No.
 17 BY MS. WELCH:
 18 Q Is that because you haven't considered it in that
 19 way, or just because you don't have any familiarity to be
 20 able to make that sort of recommendation or some other
 21 reason?
 22 MR. VIRJEE: Objection; compound.
 23 THE WITNESS: There are elements of Kentucky's
 24 system that are similarly used in California.
 25 BY MS. WELCH:

1 adopt?")
 2 MS. READ-SPANGLER: □□Can you read the answer to
 3 the question so we can move on?
 4 BY MS. WELCH:
 5 Q I understand that he answered that question. I
 6 just because of all the objections and discussion I had
 7 forgotten what the original question was.
 8 MR. VIRJEE: Sure. No problem. Not a problem
 9 at all.
 10 MS. WELCH: Good.
 11 BY MS. WELCH:
 12 Q In the researchers that you gave a list of that
 13 you relied on in your literature review for your
 14 dissertation, are there any other states' accountability
 15 systems that have been the focus -- that were the focus of
 16 these researchers that you listed?
 17 MR. VIRJEE: Objection; calls for speculation as
 18 to who they might have focused on if you're asking about
 19 particular articles that --
 20 BY MS. WELCH:
 21 Q I not asking about particular articles. Could
 22 you recall any names? So I'm asking a more general
 23 question.
 24 MR. VIRJEE: The question was who were the
 25 researchers he focused on in other states. It calls for

1 speculation and lacks foundation.

2 MS. WELCH: That's actually not my question.

3 BY MS. WELCH:

4 Q My question is, In your literature review, you
5 talked about a number of researchers whose work you had
6 looked at. And I asked you if you knew the specific
7 studies, and you couldn't recall that, which is -- and what
8 I'm asking is if you recall if the researchers that you were
9 just talking about were looking at specific states'
10 accountability systems.

11 A Yes.

12 Q Do you recall the states?

13 A Other than Kentucky?

14 Q Yes, other than Kentucky.

15 A Tennessee, Texas.

16 Q For Tennessee, is that -- who is the researcher
17 that was looking at that issue?

18 MR. VIRJEE: Don't want you to guess or
19 speculate, but she's entitled to an answer if you have it.

20 THE WITNESS: William Saunders.

21 BY MS. WELCH:

22 Q Do you recall who was looking at Texas
23 accountability systems?

24 A No.

25 Q Is your dissertation far enough along that we

1 BY MS. WELCH:

2 Q I understand that. My question is a little bit
3 different. Did you feel prepared to begin teaching?

4 MR. VIRJEE: Objection; vague and ambiguous as
5 to prepared.

6 THE WITNESS: I don't understand what you mean
7 by prepared.

8 BY MS. WELCH:

9 Q Did you feel like your training program provided
10 you with the background that you needed to teach in the
11 classroom?

12 MR. VIRJEE: Objection; vague and ambiguous as
13 to background needed.

14 THE WITNESS: Yes.

15 BY MS. WELCH:

16 Q What components of your training program did you
17 find the most valuable?

18 MR. VIRJEE: Objection; vague and ambiguous as
19 to valuable. For what purpose?

20 THE WITNESS: Are you asking me for a single
21 component?

22 BY MS. WELCH:

23 Q No. I asked for a plural. If there are more
24 than one, can you give me as many as there are?

25 MR. VIRJEE: Leecia, I'm going to make the

1 could get a draft of it?

2 A No.

3 MS. WELCH: Is that your position, as well?

4 MS. READ-SPANGLER: If it's my client's
5 position, of course, it's my position. If he's not willing
6 to share it with you, then, yeah. I mean, I don't know if
7 he even has anything in writing.

8 BY MS. WELCH:

9 Q Do you have anything in writing?

10 A I have a draft.

11 Q How long is the draft?

12 MR. VIRJEE: Meaning how many pages?

13 BY MS. WELCH:

14 Q How many pages is the draft?

15 A I don't know.

16 Q Do you have an estimate?

17 A More than 50, less than a hundred.

18 Q So going back to your experiences teaching, when
19 you began teaching in 1974 -- 5 --

20 A 5.

21 Q -- is that correct -- did you feel prepared to
22 begin teaching?

23 MR. VIRJEE: Objection; vague and ambiguous as
24 to prepared.

25 THE WITNESS: I completed my training.

1 record clear here that Mr. Flores has been brought here to
2 answer questions about his position and what he does as a
3 member of the State Department of Education's management
4 team, specifically, the accountability and assessment
5 branch. I've given a lot of leeway already on spending over
6 an hour on his dissertation. Now we're going back and
7 asking him questions about what he thought was valuable as a
8 teacher. We're not going to spend days and days going
9 through his background and his views as a teacher. He's
10 here for a particular purpose, and we're going to have him
11 for that. I'll give you some leeway on this, but we're not
12 going to spend hours on this.

13 MS. WELCH: First of all, the deposition didn't
14 start until 10:15, and the questions about his dissertation
15 were about 30 minutes till 10:45, because I checked my
16 watch. And he said a couple times now that he's relied on
17 his experience in some of his opinions and understanding of
18 testing, and I don't intend to ask a lot of questions about
19 teaching, but I think it's completely appropriate to ask
20 some foundational questions about his teaching experience.

21 MR. VIRJEE: I said we'll give some leeway on
22 this, but we aren't going to be spending inordinate amounts
23 of time.

24 MS. READ-SPANGLER: Why don't you ask your
25 questions?

1 MS. WELCH: Pardon me?
 2 MS. READ-SPANGLER: Just ask your questions.
 3 MS. WELCH: Sounds like a good idea.
 4 BY MS. WELCH:
 5 Q So we were --
 6 MS. WELCH: Could you repeat my last question?
 7 (Record read as follows:
 8 Question: "What components of your training
 9 program did you find the most valuable?")
 10 MR. VIRJEE: Objection; vague and ambiguous on
 11 most valuable.
 12 THE WITNESS: Learning theory, instructional
 13 pedagogue, techniques, service assessment, classroom
 14 management.
 15 BY MS. WELCH:
 16 Q When you were at CREST, did you -- did you
 17 complete the project that you discussed? I asked you what
 18 your responsibilities were, and you talked about developing
 19 a prototype to develop assessments for the National Board of
 20 Training Standards. Did you complete that project while you
 21 were there?
 22 A The project was terminated by the national board.
 23 Q Do you have an understanding of why it was
 24 terminated?
 25 A Costs.

1 Q Have you obtained national board certification?
 2 A No.
 3 Q Do you think that is a valuable certification to
 4 have?
 5 MR. VIRJEE: Objection; vague and ambiguous as
 6 to valuable, also calls for speculation, lacks foundation,
 7 also calls for an expert opinion, also incomplete
 8 hypothetical.
 9 THE WITNESS: I value the national board
 10 certification process.
 11 BY MS. WELCH:
 12 Q Why is that?
 13 MR. VIRJEE: Same objections.
 14 THE WITNESS: I believe it's a valuable
 15 demonstration of expertise in subject matter.
 16 BY MS. WELCH:
 17 Q Do you think that it's important for a teacher to
 18 have expertise in a subject matter other than which they're
 19 teaching?
 20 A In the subjects in which they teach, yes.
 21 Q You had said that you were -- I think you said
 22 that you were member of the California Curriculum Commission
 23 from 1990 to 1995; is that correct?
 24 MR. VIRJEE: His testimony speaks for itself.
 25 Is that correct?

1 THE WITNESS: Correct.
 2 BY MS. WELCH:
 3 Q What were your responsibilities on the
 4 commission?
 5 A The commission is an advisory body to the State
 6 Board of Education, and it deals with three major areas, the
 7 oversight of the --
 8 MR. VIRJEE: She didn't ask for a description.
 9 She asked you to tell her what your responsibilities were.
 10 Answer her questions, Geno, please, or we'll be here
 11 forever.
 12 THE WITNESS: My responsibilities were to make
 13 decisions as they came to the commission.
 14 BY MS. WELCH:
 15 Q Could you begin -- could you complete the answer
 16 that you began in terms of the -- I think you were starting
 17 to talk about the responsibilities of the --
 18 A Curricular framework, state adoption of
 19 instructional materials, other items as they came to the
 20 commission.
 21 Q Could you provide a little -- could you explain
 22 what you mean by making decisions? I mean, were there
 23 particular areas that were focused on when you were on the
 24 commission?
 25 MR. VIRJEE: Objection; vague as to time, also

1 vague and ambiguous.
 2 THE WITNESS: To approve curricular frameworks,
 3 to approve recommendations for adoptions of instruction
 4 materials, to make decisions upon other educational matters
 5 that were directed to us by the State Board of Education.
 6 BY MS. WELCH:
 7 Q Were you -- what was your position on this
 8 commission?
 9 MR. VIRJEE: Objection; vague as to time.
 10 BY MS. WELCH:
 11 Q If it changed over time, you can just tell me
 12 that.
 13 A I served as a member. I served as a vice chair
 14 of various committees. I served as a chair of various
 15 committees, served on the Comite committee, and I served as
 16 chair of the curriculum commission.
 17 Q How long were you chair of the curriculum
 18 commission?
 19 A One year.
 20 Q Was the commission focused on adoption of
 21 particular subject matters during the time frame that you
 22 were on it?
 23 MR. VIRJEE: During the time frame that he was
 24 there?
 25 MS. WELCH: During the time that he was on

1 commission.

2 MR. VIRJEE: The entire time?

3 MS. WELCH: Yeah.

4 THE WITNESS: There's a particular schedule for
5 reviewing or approving adoptions. I can't recall exactly
6 which adoption in which year.

7 BY MS. WELCH:

8 Q Okay. Were you also a member of the National
9 History Standards Committee?

10 A No.

11 Q Were you on another type of history standards
12 committee? Am I just -- do I have the name wrong, or do you
13 have no idea what I'm talking about?

14 A I served for the Association for Supervision and
15 Curriculum Department, ASCD, advisory committee. That was
16 in conjunction with the development of the national history
17 standards.

18 Q So you worked on developing the history national
19 standards; is that correct?

20 A Correct.

21 Q What time frame was that?

22 A Don't recall exactly, but it was in early 1990s.

23 Q I asked you earlier about your expertise in
24 educational accountability. And I'm wondering if you -- if
25 you think of anyone who you would consider an expert in

1 you involved in the development of the 1997 frameworks?

2 A Which?

3 Q Any.

4 A My term expired in 1995.

5 Q Were you -- did you work on any versions of the
6 frameworks? I think that the first version that was
7 published was in 1997, if I'm not mistaken.

8 MR. VIRJEE: Objection; vague and ambiguous as
9 to frameworks, also, assumes facts not in evidence.

10 BY MS. WELCH:

11 Q You understand what I mean by curriculum
12 frameworks, don't you?

13 A I understand what you mean by curriculum
14 frameworks.

15 Q Were you involved in the development of the
16 curriculum frameworks when on the commission?

17 A Yes.

18 MR. VIRJEE: Objection; vague and ambiguous
19 to -- he left before the 1997 frameworks. If that's what
20 you're referring to, then you should make it clear.

21 MS. WELCH: I think I just made it clear,
22 because he understood me.

23 MR. VIRJEE: You asked only if he understood what
24 you meant by curriculum frameworks. He answered that
25 question.

1 education accountability areas?

2 MR. VIRJEE: Vague and ambiguous education
3 accountability and about expert to the extent you're asking
4 whether a -- expertise for purposes of testifying, calls for
5 a legal conclusion.

6 THE WITNESS: Are you asking for names of
7 people?

8 BY MS. WELCH:

9 Q Yes. If -- I mean, you -- if you don't think
10 that you know of any experts, you can say you don't know,
11 but if you have people in mind who you think of with
12 expertise in education accountability, that's what I'm
13 getting at.

14 MR. VIRJEE: Objection; vague and ambiguous as
15 to expertise.

16 THE WITNESS: Ed Haertel, Stanford University;
17 Eva Baker, UCLA; James Poman, emeritus UCLA; Brian Stecher,
18 Gran Corporation; Dan Corrett, Harvard University.

19 BY MS. WELCH:

20 Q Any others that come to mind? I understand this
21 isn't a complete list. But just asking for what you can
22 recall as you sit here.

23 A Those are who I recall.

24 Q Okay. Thanks.

25 When you were on the curriculum commission, were

1 BY MS. WELCH:

2 Q You were involved in the development of the
3 curriculum frameworks with the commission; that's correct?

4 MR. VIRJEE: Objection; vague as to curriculum
5 frameworks, vague as to time.

6 THE WITNESS: I was involved in the development
7 of curriculum frameworks during the period of 1990 through
8 1995.

9 BY MS. WELCH:

10 Q And which subjects were you involved in?

11 A Health, physical education, visual and performing
12 arts.

13 Q Do you know when the first frameworks were -- I
14 guess I don't want to say published, but prepared, made
15 public?

16 MR. VIRJEE: Objection; vague and ambiguous as
17 to frameworks. You're talking about a specific set of
18 frameworks from a particular time period?

19 THE WITNESS: I don't know exact dates. Early
20 '80s.

21 BY MS. WELCH:

22 Q Did you ever work on the history frameworks when
23 you were on the commission?

24 MR. VIRJEE: So now we're talking about any set
25 of frameworks again? We're not talking about the 1997

1 framework? Otherwise, it's vague and ambiguous. I just
2 don't want you to get wrong testimony if that's what you
3 think you're after; that's the problem.

4 THE WITNESS: The history, social science
5 framework was adopted in 1987, came up for review in 1994.
6 The frameworks stayed in existence. It had some additions,
7 appendices, that were added that were part of that.

8 BY MS. WELCH:

9 Q And what time frame was that?

10 A 1994.

11 Q Do you consider the frameworks to be a component
12 of California's accountability system?

13 MR. VIRJEE: Objection; vague as to time, vague
14 and ambiguous as to frameworks and component.

15 MS. READ-SPANGLER: And accountability system.

16 THE WITNESS: Yes.

17 BY MS. WELCH:

18 Q In what way?

19 A They described the instructional ideals and goals
20 of the subject matter.

21 Q Do you think the frameworks are important?

22 MR. VIRJEE: Objection; vague and ambiguous as
23 to important, calls for speculation, incomplete
24 hypothetical.

25 THE WITNESS: Yes.

1 A I cannot name them nor their authors. I know
2 that there were -- there have been studies about
3 instructional materials and about curricular approaches.

4 Q Could you describe the studies with any more
5 particularity that you were thinking of?

6 A No.

7 Q Do you recall whether or not you're thinking of a
8 study that looks at the issue of whether students have
9 textbooks in their classrooms or the extent to which
10 students may not have textbooks in their classroom or other
11 instructional materials?

12 MR. VIRJEE: Objection; vague and ambiguous to
13 instructional materials and access. He also already said he
14 can't describe the studies with any greater particularity.

15 THE WITNESS: Not one in particular.

16 BY MS. WELCH:

17 Q Do you consider yourself an expert in the area of
18 testing?

19 MR. VIRJEE: Objection; vague and ambiguous as
20 to testing, calls for a legal conclusion, vague and
21 ambiguous as to expert.

22 THE WITNESS: No.

23 BY MS. WELCH:

24 Q Just so you know, some people do. I read
25 articles, and a number of different books described you as

1 BY MS. WELCH:

2 Q Do you think the frameworks provide teachers with
3 a useful road map to teaching the content standards?

4 A In their current format, yes.

5 Q When you were a member of the commission, did the
6 commission study whether or not students had access to
7 instruction materials?

8 MR. VIRJEE: Objection; vague and ambiguous as
9 to access, vague and ambiguous as to instruction, terms, and
10 calls for speculation.

11 THE WITNESS: No.

12 BY MS. WELCH:

13 Q Did you view that as part of their
14 responsibilities of the commission?

15 A It was not our direction.

16 Q At the time you were on the commission and up
17 until today, actually, are you aware of any studies that
18 relate to access to instructional materials in California
19 public schools?

20 MR. VIRJEE: Objection; vague and ambiguous as
21 to access and instructional materials, and also vague and
22 ambiguous as to studies.

23 THE WITNESS: I'm aware that there are studies.

24 BY MS. WELCH:

25 Q What studies are you aware of?

1 an expert, so you should hear that.

2 MR. VIRJEE: I guess if there's a question
3 pending, he'll answer it.

4 MS. WELCH: There's not.

5 BY MS. WELCH:

6 Q Do you have specialized knowledge of California's
7 use of testing?

8 MR. VIRJEE: Objection; vague and ambiguous as
9 to California's use of testing and also vague and ambiguous
10 as to specialized knowledge. It's overbroad. When you say
11 California's use, you mean state? Each individual?

12 Districts? State? Schools?

13 MS. WELCH: I think testing's pretty
14 self-explanatory.

15 MS. READ-SPANGLER: It's very broad.

16 BY MS. WELCH:

17 Q Do you know what I mean by standardized test?

18 MR. VIRJEE: You have no idea --

19 MS. READ-SPANGLER: That's not what you said.

20 MR. VIRJEE: You have no idea what she means by
21 anything. Please remember that.

22 THE WITNESS: I don't have any idea what you
23 mean.

24 MS. READ-SPANGLER: But that also wasn't what
25 your question was. You didn't refer to standardized test.

1 BY MS. WELCH:
 2 Q That was very good at answering the exact
 3 question posed.
 4 When I say testing, do you have an idea in mind
 5 of what I'm talking about?
 6 MR. VIRJEE: Objection; calls for speculation
 7 what you are talking about.
 8 THE WITNESS: No.
 9 BY MS. WELCH:
 10 Q Do you want me to define testing?
 11 A Please.
 12 Q Okay. I'm talking about California's use of
 13 standardized tests which would include, you know, in the
 14 past the SAT-9 -- why don't we just call it the STAR
 15 program? Does that make sense?
 16 A Yes.
 17 Q Do you think you have specialized knowledge of
 18 the STAR program?
 19 MR. VIRJEE: Objection; vague and ambiguous as
 20 to specialized knowledge.
 21 THE WITNESS: I have knowledge of the STAR
 22 program.
 23 BY MS. WELCH:
 24 Q Do you have -- were you on any advisory
 25 committees relating to California's use of standardized

1 tests?
 2 A Yes.
 3 Q Which advisory committees were you on?
 4 A In 19 -- early 1990s, advisory committee for the
 5 California Assessment Program, advisory committee for the
 6 California Learning Assessment System, and advisory
 7 committee for the Golden State Examination System. And
 8 under STAR, I was a member of the review committee for
 9 the -- for the contract proposals in selecting a norm
 10 reference test for STAR.
 11 Q In terms of California's reliance on a particular
 12 test as the basis for the STAR program, given your
 13 experience over time, do you think that the current test is
 14 an improvement over past tests that you were on the
 15 committee and were involved in analyzing?
 16 MR. VIRJEE: Objection; vague and ambiguous as
 17 to current test, which test you're talking about, vague and
 18 ambiguous as to improvement, also vague as to time.
 19 MS. READ-SPANGLER: Do you mean the CAT-6?
 20 MS. WELCH: Yeah.
 21 MS. READ-SPANGLER: Just say the CAT-6.
 22 THE WITNESS: Are you referring to the current
 23 version of STAR?
 24 BY MS. WELCH:
 25 Q Yes.

1 A And the question is?
 2 Q I'm just trying to ask a general question, and
 3 maybe I shouldn't do that and I should be more specific. Do
 4 you have -- when you were on the committee looking at the
 5 CAP --
 6 MR. VIRJEE: The what?
 7 BY MS. WELCH:
 8 Q Cap, C-A-P, test. Do you have an opinion on that
 9 particular test and whether it was a good test for
 10 California to be using?
 11 A Yes, I had an opinion.
 12 Q What was your opinion?
 13 A That it was a good measure of reading and
 14 mathematics.
 15 Q Did you have any concerns about the test?
 16 MR. VIRJEE: Objection; vague and ambiguous as
 17 to concerns.
 18 THE WITNESS: The CAP test did not assess
 19 history, social science or science content knowledge.
 20 BY MS. WELCH:
 21 Q Did you think that was a negative, that it didn't
 22 assess those things?
 23 MR. VIRJEE: Objection; vague and ambiguous as
 24 to negative.
 25 THE WITNESS: Thought it was an incomplete.

1 BY MS. WELCH:
 2 Q Were there any other aspects of that test that
 3 you thought were lacking?
 4 MR. VIRJEE: Objection.
 5 BY MS. WELCH:
 6 Q Or that you would have liked -- you had said that
 7 you thought it was a good measure of reading and mathematics
 8 as a general view. Do you -- and then I asked you if you
 9 have any concerns. And you said that there were two things
 10 that it didn't assess. Did you have any other concerns --
 11 and if concerns isn't the right descriptor, I can ask the
 12 question. Was there anything else about that test that you
 13 would have liked to have seen changed?
 14 A No.
 15 Q For what time frame was the CAP test administered
 16 if you recall?
 17 A Vaguely, late '80s to early '90s.
 18 Q And what test replaced the CAP test?
 19 A California Learning Assessment System.
 20 Q And did you have particular views on that test?
 21 MR. VIRJEE: Objection; vague as to time.
 22 THE WITNESS: Yes.
 23 BY MS. WELCH:
 24 Q What were your views?
 25 A It was an improvement over the CAP test.

1 Q Why was it an improvement?
 2 A Included student constructive responses and
 3 history, social science and science.
 4 Q Why did you think that including student
 5 constructive responses was an improvement?
 6 A Because it provided students opportunities to
 7 show different modalities of their knowledge.
 8 Q And do you think that's important?
 9 A Yes.
 10 Q Why is that?
 11 A Provides a fuller, more robust picture of student
 12 performance.
 13 Q Focusing on your current position, what are the
 14 responsibility -- what are your responsibilities as deputy
 15 superintendent?
 16 A Massive. Particularly?
 17 MR. VIRJEE: Leecia, here at this point, I want
 18 to make sure that it's clear and the record's clear that
 19 Mr. Flores' predecessor, Paul Warren, was deposed for three
 20 full days, and a lot of that had to do with the -- what the
 21 responsibilities of that position are and the structure of
 22 the department and what his obligations and tasks were in
 23 that position. So I'm hoping we're not going to retread all
 24 that and because you've already had the person here in the
 25 position. So I just want to make sure that's correct.

1 MS. WELCH: I don't have any intention to
 2 retread, but if I ask the question how are your
 3 responsibilities different from Mr. Warren's, I don't think
 4 Mr. Flores would be able to respond.
 5 MR. VIRJEE: I agree with that.
 6 BY MS. WELCH:
 7 Q So what are your responsibilities?
 8 A I have four divisions that report to me,
 9 standards and assessment, policy and evaluation, school and
 10 district accountability, data management.
 11 Q Do you have any knowledge of -- I'm just going to
 12 give you a little bit of background here. When we deposed
 13 Mr. Warren on the third day of his deposition, he told us
 14 that this school and district accountability branch had
 15 shifted from being under his purview to reporting directly
 16 to Scott Hill. Do you have any knowledge of that shift and
 17 when it may have shifted back to be in the structure that
 18 you just described?
 19 MR. VIRJEE: You don't have to assume anything
 20 that Paul said. She's just wants to know when that came
 21 under your purview again.
 22 THE WITNESS: It came under my purview when I
 23 agreed to accept Superintendent O'Connell's appointment in
 24 January of 2003.
 25 BY MS. WELCH:

1 Q Do you have knowledge of a shift in the structure
 2 of this division?
 3 A I don't understand the question.
 4 Q I'm sorry. That's not a good question.
 5 Are you aware that -- I mean, you don't have to
 6 believe me, but I could point you to the depo transcript
 7 page. But are you aware that the division was reporting
 8 directly to Scott Hill at one point?
 9 A Yes.
 10 Q And do you know when that shift occurred?
 11 A No.
 12 Q Okay. Do you have an understanding of why the
 13 school and district accountability branch is -- was shifted
 14 from a direct report to Scott Hill to a report to you? I'm
 15 just asking if you have any knowledge of that, the reasons
 16 for that shift.
 17 MS. READ-SPANGLER: And the fact that Scott
 18 Hill's no longer with the department.
 19 MS. WELCH: Okay.
 20 MR. VIRJEE: Objection; calls for.
 21 MS. WELCH: The position --
 22 MR. VIRJEE: I'm sorry. Objection; calls for
 23 speculation, lacks foundation. He said that it reported to
 24 him when he started the job.
 25 MS. WELCH: I know what he said.

1 BY MS. WELCH:
 2 Q I'm just wondering if you have any knowledge of
 3 why the shift occurred.
 4 A It was by direction of the superintendent and
 5 chief deputy superintendent.
 6 Q So it's your understanding that Superintendent
 7 O'Connell made the decision to restructure that reporting
 8 structure?
 9 A Correct.
 10 Q Who is in Scott Hill's position -- the position
 11 that Scott Hill used to have?
 12 MR. VIRJEE: Objection; assumes facts not in
 13 evidence and also vague and ambiguous as to Scott Hill's
 14 position.
 15 BY MS. WELCH:
 16 Q Are you familiar with Scott Hill?
 17 A I know Scott Hill.
 18 Q Does he work for the department?
 19 A No.
 20 Q Do you know who, if anyone, replaced him?
 21 MR. VIRJEE: Objection; vague and ambiguous as
 22 to replace.
 23 THE WITNESS: Gavin Payne is the Chief Deputy
 24 Superintendent and in his capacity takes on many of the
 25 responsibilities that were previously assigned to Scott

1 Hill.

2 Q Okay. Thank you. I couldn't remember what his
3 name was.

4 MS. READ-SPANGLER: Can we take another break?

5 MS. WELCH: Sure.

6 MS. READ-SPANGLER: Thanks.

7 (Recess.)

8 BY MS. WELCH:

9 Q So before I asked you about the programs of the
10 different divisions that you testified your position is
11 responsible for managing, I wanted to ask you if you have
12 any knowledge about the lawsuit that I think Superintendent
13 O'Connell may be filing regarding the budget. Does that
14 sound familiar?

15 A I have no particular knowledge. I just have a
16 general understanding that something's going to happen
17 today.

18 Q Is there anything about that lawsuit that you can
19 discuss, or is it information that you believe is
20 confidential or cannot be disclosed for whatever reason?

21 A I don't have anything to share other than what I
22 just said.

23 Q You don't know that something's going to happen
24 today? Do you know if it's being filed by the
25 superintendent versus the department?

1 test, contract for the California high school proficiency
2 examination. We have contractual obligations for the
3 general education diploma, and with the U.S. Department of
4 Education for the national assessment of educational
5 progress, and we're completing our contract with the Golden
6 State Examination System.

7 Q Do you have an estimate of how many department
8 employees worked for that -- work under that program?

9 MS. READ-SPANGLER: Division?

10 MR. VIRJEE: Which program?

11 BY MS. WELCH:

12 Q Division. The standard and assessment division.

13 A An estimate. I'm visually counting.

14 Approximately, 30.

15 Q What did you mean -- I can't remember your exact
16 verb -- but when you said, I think, managing the contracts
17 the department awards as part of the assessment system as
18 being the goal of that division. What did you mean by
19 managing the contracts?

20 A That division exists because each of the
21 assessments that I named are in statute, and so in order to
22 enact that statute and implement the assessment that's
23 defined with each of those statutes, the State awards a
24 contract to an independent contractor, and the department
25 oversees them -- oversees and monitors that contract to

1 MR. VIRJEE: Objection.

2 THE WITNESS: I don't know.

3 MR. VIRJEE: Calls for speculation lacks
4 foundation. He's told you he doesn't know anything.

5 BY MS. WELCH:

6 Q Okay. Let's start with the standards and
7 assessment program. What are the goals of the standards and
8 assessment program?

9 MR. VIRJEE: Objection; asked and answered in
10 Paul Warren's deposition, exactly the same question in
11 exactly the same area.

12 MS. WELCH: That was two years ago.

13 BY MS. WELCH:

14 Q So could you describe the current goals?

15 MR. VIRJEE: Objection; vague and ambiguous as
16 to goals and objectives and standards.

17 THE WITNESS: The standards and assessment
18 division is responsible for managing the contracts that the
19 department awards as part of its state data assessment
20 system.

21 BY MS. WELCH:

22 Q And what are those contracts currently?

23 A Contract for standardized testing reporting,
24 contract with California high school exit examination,
25 contract for the California English language development

1 ensure that it is implemented across the state.

2 Q Is that the only goal that you can think of that
3 division?

4 MR. VIRJEE: Objection; vague and ambiguous as
5 to goal, calls for speculation.

6 THE WITNESS: No.

7 BY MS. WELCH:

8 Q What are its other goals?

9 A Other than ensuring the implementation of and
10 meeting the intent of the statute?

11 Q Yes.

12 A That the assessment system has no flaws, that it
13 is -- that it meets the intent of it each of its pieces of
14 legislation.

15 Q Anything else?

16 A No.

17 Q So if I asked you what the programs of that
18 division were, would your answer basically be the same
19 focusing on the particular contracts that it's in charge of
20 monitoring?

21 A Yes.

22 Q What are the programs currently of the policy and
23 evaluation division?

24 MR. VIRJEE: Objection; vague and ambiguous as
25 to programs.

1 THE WITNESS: The Department of Education just
 2 announced reorganization and moved as part of that the
 3 policy and evaluation office consists of three units, the
 4 wards unit, the epic --
 5 BY MS. WELCH:
 6 Q I'm sorry?
 7 A E-P-I-C. And the research and analysis unit.
 8 Q Do you know if the reorganization is reflected in
 9 any document?
 10 A The organizational chart that's posted on the
 11 Department of Education website.
 12 Q Do you have an understanding of what the units
 13 had been before the reorganization on Monday?
 14 A Yes.
 15 Q What were they?
 16 A The awards unit, epic unit, the research and
 17 evaluation unit and analysis unit.
 18 Q Just general analysis?
 19 A Uh-huh.
 20 Q So did the research and evaluation unit and the
 21 analysis unit essentially come together into one unit?
 22 A Correct.
 23 Q Do you have an understanding of why those two
 24 units came together?
 25 A Yes.

1 Q Why is that?
 2 A To meet the direction of the Department of
 3 Finance's edict to reduce spending, consolidate.
 4 Q Was this edict memorialized in a document?
 5 A Yes.
 6 Q Do you know if this is something that's on the
 7 website?
 8 A Don't know.
 9 Q Do you have a copy of it?
 10 A Not with me.
 11 Q But in your office or someplace accessible to
 12 you?
 13 A Yes.
 14 Q Do you recall where?
 15 A It's on my desk.
 16 Q Okay. Do you have -- do you know when this
 17 document was prepared?
 18 MR. VIRJEE: The document for the Department of
 19 Finance?
 20 MS. WELCH: Yeah.
 21 THE WITNESS: Exact date, no.
 22 BY MS. WELCH:
 23 Q Just general estimate. This year?
 24 A Within the past month.
 25 Q Okay. Are you aware of any other reorganizations

1 in your branch based on the Department of Finance's
 2 recommendations?
 3 A No.
 4 Q Are you aware of any other -- any reorganization
 5 in other parts of the department based on the Department of
 6 Finance's recommendations?
 7 A Yes.
 8 Q What are you recalling?
 9 MR. VIRJEE: Objection; calls for speculation,
 10 lacks foundation.
 11 THE WITNESS: The Department of Education just
 12 announced its reorganization on Monday. In response to
 13 this, others because of the direction of Superintendent
 14 O'Connell.
 15 BY MS. WELCH:
 16 Q Can you describe any other aspects of the
 17 reorganization other than what you've already talked about
 18 with the three units under the policy and evaluation
 19 division?
 20 A In my branch, in the assessment and
 21 accountability, branch, yes.
 22 Q What are those?
 23 A In school and district accountability, a
 24 combining of the English learning monitoring unit and the
 25 Comite follow-up unit. In school and district

1 accountability division, a transfer of the consolidated
 2 applications unit from school and district accountability to
 3 data management, the acquisition of data management or the
 4 addition of data management to assessment and accountability
 5 branch from finance branch. In school and district
 6 accountability, the addition of Title I unit.
 7 Q I don't know if you're finished with your answer,
 8 but let me ask you a question about the Title I unit.
 9 A Excuse me. I'm just thinking to make sure that I
 10 give you a complete description and I didn't omit anybody.
 11 Q Okay. Then I'll give you a minute before I ask
 12 any more questions.
 13 A That's all.
 14 Q And we're talking specifically about your branch
 15 right now, correct?
 16 A Correct.
 17 Q Do you have an understanding of reorganizations
 18 in other branches?
 19 A Yes.
 20 Q Could you -- could you describe those changes to
 21 me?
 22 MR. VIRJEE: Objection; calls for speculation,
 23 lacks foundation.
 24 THE WITNESS: Not well.
 25 BY MS. WELCH:

1 Q Could you give me a general description?
 2 A A combining of -- in curriculum and instructional
 3 branch, a combining of units; within school improvement
 4 division, a combining of units; within specialized programs
 5 division, a combining of some programs -- excuse me -- some
 6 program units within the finance division -- or finance
 7 branch.
 8 Q Are you finished?
 9 A Yeah, I'm finished.
 10 Q You -- I know you said that the org chart would
 11 reflect these reorganization -- this new -- this reorganized
 12 structure. Are there any other item -- other documents that
 13 describe the changes?
 14 MR. VIRJEE: Objection; calls for speculation,
 15 lacks foundation.
 16 BY MS. WELCH:
 17 Q That you're aware of?
 18 A There's an accompanying internal memo from
 19 Superintendent O'Connell explaining the general principles
 20 behind the reorganization.
 21 Q Do you know if that document is on the CDE
 22 website?
 23 A I don't know.
 24 Q Do you have a copy of that document?
 25 A Yes.

1 Q Would that be on your desk as well?
 2 A Yes.
 3 Q Do you have an understanding of why the --
 4 focusing specifically on the school and district
 5 accountability division, do you have an understanding of why
 6 the EL monitoring unit and the Comite follow-up unit were
 7 merged?
 8 A Yes.
 9 Q What is that understanding?
 10 A Due to budget constraints, due to the difficulty
 11 in filling vacancies, as well as the need to meet the intent
 12 of the vacated Comite de Padres case with providing both
 13 monitoring and technical assistance with those two units for
 14 a greater efficiency.
 15 Q Is it your understanding that the department
 16 intends to continue to meet the -- the monitoring components
 17 of the Comite compliance even though it's been vacated?
 18 MR. VIRJEE: Objection; calls for a legal
 19 conclusion, calls for speculation, lacks foundation.
 20 MS. READ-SPANGLER: And it may call for
 21 attorney-client privilege information.
 22 THE WITNESS: As best we can with available
 23 resources.
 24 BY MS. WELCH:
 25 Q Want to take a break for a second?

1 A No; that's okay. I'm fine.
 2 Q Do you have a sense of how many staff members are
 3 going to be in the combined unit? And by combined, I mean
 4 EL unit and Comite unit. Does it have a name, a new name,
 5 so I can just use it as shorthand?
 6 A I don't know if we've named it.
 7 Q Okay. Can I just call it the EL unit?
 8 A Sure.
 9 Q Okay. Do you have a sense of how many staff
 10 members are going to be part of this unit?
 11 A Approximately, 25.
 12 Q You mentioned one of the reasons for combining
 13 the unit is because the department had not been able to fill
 14 certain positions; is that correct?
 15 MR. VIRJEE: His testimony speaks for itself.
 16 THE WITNESS: One consideration.
 17 BY MS. WELCH:
 18 Q And so do you know if there has been a reduction
 19 in the number of positions slotted for the combined unit?
 20 MS. READ-SPANGLER: Objection; vague and
 21 ambiguous.
 22 BY MS. WELCH:
 23 Q As compared to the number of positions that were
 24 in the two units when they were separate?
 25 A When they were separate, it was prior to the

1 governor's edict about vacancies.
 2 Q Could you be more specific about the governor's
 3 edict?
 4 A The governor's edict of last week was to freeze
 5 hiring and to vacate the vacancies.
 6 Q So if I'm understanding you correctly, the
 7 Comite -- was it the Comite unit that had the vacancy or the
 8 EL monitoring unit or both?
 9 A Both.
 10 Q So they both had vacancies, and because there's a
 11 hiring freeze, it made sense to combine the unit because
 12 those positions couldn't be filled at this point; is that --
 13 I'm trying to just understand.
 14 MR. VIRJEE: That misstates his testimony. He's
 15 already said that was one component in the decision to
 16 collapse the units.
 17 THE WITNESS: Right, that was one component in
 18 the decision.
 19 BY MS. WELCH:
 20 Q I understand. I'm just trying to have a better
 21 understanding of that component.
 22 So let's start again. Do you know how many
 23 positions had been slotted for the EL monitoring unit total?
 24 MR. VIRJEE: Objection; vague as to time.
 25 BY MS. WELCH:

1 Q Prior to this merger.
 2 A Exactly, no.
 3 Q Do you have an estimate?
 4 A Roughly, nine consulting positions.
 5 Q And were any of those vacant?
 6 MR. VIRJEE: Objection; vague as to time.
 7 BY MS. WELCH:
 8 Q Prior to the merger.
 9 A Yes.
 10 Q Do you know how many?
 11 MR. VIRJEE: Objection; calls for speculation,
 12 lacks foundation.
 13 THE WITNESS: Approximately, two.
 14 BY MS. WELCH:
 15 Q And do you know how many -- do you have an
 16 estimate for how many positions there were under the Comite
 17 unit?
 18 A Approximately, ten -- ten identified in the court
 19 order.
 20 Q And do you know how many of those were filled?
 21 A I'm sorry?
 22 Q Do you know how many of those positions were
 23 vacant?
 24 A Approximately, two.
 25 Q So I'm a little confused, because if the -- if

1 one of the goals was to -- well, let me go back.
 2 So if you total up those two -- the positions in
 3 those two units, you've got 19, and you testified --
 4 MS. READ-SPANGLER: 19?
 5 BY MS. WELCH:
 6 Q 19 positions.
 7 MS. READ-SPANGLER: Consultant positions.
 8 MS. WELCH: Okay.
 9 MR. VIRJEE: He's also indicated these are just
 10 estimates, not specific.
 11 BY MS. WELCH:
 12 Q Are there other positions in that unit besides
 13 consultants?
 14 A Yes.
 15 Q Okay. What are those? I didn't ask the right
 16 question. How many total positions were in the EL
 17 monitoring unit if you have an estimate?
 18 MR. VIRJEE: Prior to consolidation?
 19 BY MS. WELCH:
 20 Q Prior to consolidation.
 21 MS. READ-SPANGLER: Is what you really want to
 22 know -- do you want to know how many positions were lost?
 23 MS. WELCH: Well, if he has that information,
 24 that would be a good shortcut.
 25 THE WITNESS: It's difficult for me to answer

1 without looking at my personnel chart. There are other
 2 positions. The consultants are the positions that go out to
 3 the school districts to do the oversight.
 4 MR. VIRJEE: She's just asking you a question,
 5 Geno, which is how many positions were there total. If you
 6 can answer it, that's fine. If you can't, you tell her you
 7 can't answer.
 8 THE WITNESS: I can't give you an exact number
 9 without looking at my organizational chart.
 10 BY MS. WELCH:
 11 Q Do you have an estimate of how many positions
 12 were left in the merged two units?
 13 MR. VIRJEE: If you can estimate, please do, but I
 14 don't want you to guess or speculate.
 15 THE WITNESS: No.
 16 BY MS. WELCH:
 17 Q Okay. Let's go back. Do you have an estimate of
 18 the total number of individuals that were in the EL
 19 monitoring unit before the merger?
 20 MR. VIRJEE: Objection; asked and answered.
 21 THE WITNESS: Yes.
 22 BY MS. WELCH:
 23 Q What is that estimate?
 24 A Approximately, 15.
 25 Q And you've already testified that nine of those

1 were consultants approximately; is that correct?
 2 MR. VIRJEE: Testimony speaks for itself, asked
 3 and answered.
 4 THE WITNESS: Correct.
 5 BY MS. WELCH:
 6 Q Of the 15 total, do you recall how many vacancies
 7 there were before the merger?
 8 A No.
 9 MS. READ-SPANGLER: I'm also going to refer you
 10 to Peter Dibble's deposition.
 11 MS. WELCH: Okay. Did we cover this? I know
 12 this just occurred. I haven't read the transcript of this.
 13 Has this been covered?
 14 MS. READ-SPANGLER: Well, he covered his staff.
 15 I can't swear that he covered how many vacancies he had.
 16 You could certainly get a better idea of the number of
 17 staff.
 18 BY MS. WELCH:
 19 Q Do you know if the reduction in positions is
 20 reflected in a document?
 21 A Ask the question again.
 22 MR. VIRJEE: Vague and ambiguous as reflected in
 23 a document.
 24 BY MS. WELCH:
 25 Q Well, understandably, you don't remember the

1 exact numbers on all these things, and I can understand why.
2 And I'm wondering if there was a document that would refresh
3 your recollection.

4 MR. VIRJEE: Calls for speculation of what might
5 refresh his recollection.

6 THE WITNESS: The organizational chart of the
7 Department of Education.

8 BY MS. WELCH:

9 Q Does the organizational chart have the exact
10 number of positions under each unit?

11 A Correct.

12 Q Does it reflect vacancies as well?

13 A My version does. I don't know if the public
14 version does.

15 Q Okay. As a general matter, I take it there
16 was -- if you compared the total number of potential
17 positions for the EL monitoring unit and Comite unit before
18 the merger, there's been a reduction after the merger; is
19 that correct?

20 A Correct.

21 Q And I've asked you before if you had an estimate
22 for what that reduction was, and you've said that you don't
23 have an estimate.

24 MR. VIRJEE: Objection; asked and answered.

25 BY MS. WELCH:

1 current intentions in terms of EL monitoring?

2 MR. VIRJEE: Objection; vague and ambiguous as
3 to EL monitoring, also calls for speculation.

4 BY MS. WELCH:

5 Q What I mean by that -- I've read the Comite
6 compliance documents, and I've read a number of renditions
7 of them. And it's very specific. The requirements are very
8 specific. And I'm wondering if since the department --
9 since that plan has been vacated if the department intends
10 to or has created another document that encapsulates what
11 the department intends to do in terms of monitoring.

12 A No.

13 Q In talking about the changes under your branch, I
14 believe you also said that data management was moving to the
15 accountability branch from the finance branch; is that
16 accurate?

17 A Right.

18 MR. VIRJEE: Objection; asked and answered. His
19 testimony speaks for itself.

20 BY MS. WELCH:

21 Q Do you have an understanding of why that change
22 is occurring?

23 A Yes.

24 Q What's that understanding?

25 A Efficiency.

1 Q Just so that I can move on; is that correct?

2 A Correct.

3 Q Okay. When I asked you if the unit intended to
4 follow the requirements of the Comite consent decree even
5 though -- I guess Comite compliance plan even though it's
6 been vacated, you said as best we can with available
7 resources, something to effect. I'm just wondering if you
8 could -- if you have -- if you could describe to me what you
9 mean by, As best we can, if you could be a little more
10 specific.

11 MR. VIRJEE: Objection; calls for speculation,
12 lacks foundation, vague as to time.

13 THE WITNESS: We'll provide the monitoring the
14 EL unit continued to do as well as the technical assistance
15 that the Comite unit provided.

16 BY MS. WELCH:

17 Q And is there something that you're no longer
18 going to do?

19 MR. VIRJEE: Objection; calls for speculation,
20 lacks foundation.

21 BY MS. WELCH:

22 Q You don't have in mind aspects of the plan that
23 will not be followed at this point?

24 A Correct.

25 Q Is there a document that would reflect the unit's

1 Q Anything else?

2 A Better use of the personnel and resources.

3 Q I believe you also said that Title -- that school
4 and district accountability division was going to be getting
5 a Title I unit; is that correct?

6 A Correct.

7 MR. VIRJEE: Objection. His testimony speaks
8 for itself; asked and answered.

9 BY MS. WELCH:

10 Q Is that unit coming from another division of the
11 department or being merged from another division?

12 A It's coming from another division, another
13 branch.

14 Q Where is it coming from?

15 A Curriculum and instructional leadership branch,
16 specialized programs division.

17 Q Do you have an understanding of why that change
18 is occurring?

19 A Yes.

20 Q What's that?

21 A Because the State's requirements under No Child
22 Left Behind are that indicated schools meet adequate yearly
23 progress, and Title I schools have a particular series of
24 requirements should they not as to better monitor those
25 Title I schools.

1 Q Do you have an understanding of why the
2 reorganization you described in the other branches are
3 occurring? And I'm asking the general question, because if
4 you -- I know those aren't your branches. So if you don't
5 have information, then I won't go into them. But if you do
6 have general understanding, then I will.

7 A No.

8 Q Do you know when these things, these
9 reorganizational changes, are going to be put into effect?

10 MR. VIRJEE: Objection; vague and ambiguous as
11 to put into effect and asked and answered.

12 THE WITNESS: Announced on Monday, July the
13 14th. Operational budget-wise effective July 1.

14 BY MS. WELCH:

15 Q All right. So I think we started down this road
16 when I was talking with you about the policy and evaluation
17 division and we were discussing the programs under that
18 division. You testified that there were three units, the
19 awards unit, the epic unit and the research and analysis
20 unit. And I just want to ask you what are the current
21 programs of the awards unit.

22 MR. VIRJEE: Objection; vague and ambiguous as
23 to programs, assumes facts not in evidence.

24 THE WITNESS: Teacher of the Year Program,
25 California Distinguished Schools, NCLB, Blue Ribbon Schools,

1 BY MS. WELCH:

2 Q Okay. So do you have an understanding of whether
3 the monetary awards are going to be -- are on the chopping
4 block, basically?

5 MR. VIRJEE: Objection; vague and ambiguous as
6 to chopping block, calls or for speculation, lacks
7 foundation.

8 THE WITNESS: My belief -- my understanding is
9 that they won't be funded -- the financial awards won't be
10 funded.

11 BY MS. WELCH:

12 Q Could you describe for me what the other type of
13 award is besides the financial award?

14 A Nonmonetary award.

15 Q What does that mean?

16 A Schools are still recognized as meeting their
17 growth targets.

18 Q So they get, like, a ribbon or something?

19 A A logo. They get recognition. It's also one of
20 the requirements in the California Distinguished Schools
21 criteria for acknowledgement of -- it's one of the criteria
22 in that evaluation.

23 Q Thanks.

24 What are the programs in the epic unit? Could
25 you tell me what epic stands for?

1 Milken Foundation Award, Christa McAuliffe Award, PSAA
2 Award.

3 BY MS. WELCH:

4 Q What is the PSAA Award?

5 A In statute --

6 MR. VIRJEE: What does that stand for?

7 THE WITNESS: Public School Accountability
8 statute requires for there to be an awards program.

9 BY MS. WELCH:

10 Q Okay. And you're referring to the awards for
11 schools that meet their growth targets?

12 A Correct.

13 Q Okay. Are schools receiving such awards? Did
14 schools receive such awards this past year?

15 A Yes.

16 Q And will they be receiving awards for next year?
17 In other words, is this -- are the awards fully funded?

18 MS. READ-SPANGLER: Objection; calls for
19 speculation.

20 MR. VIRJEE: Vague and ambiguous.

21 MS. READ-SPANGLER: They don't have a budget
22 yet.

23 THE WITNESS: The Public School Accountability
24 Act, Governor's Performance Awards consist of monetary and
25 nonmonetary awards.

1 A No.

2 Q Okay. What are the programs?

3 A That unit --

4 MR. VIRJEE: Vague and ambiguous as to program.

5 THE WITNESS: That unit is responsible for
6 creating the Academic Performance Index reports annually and
7 by requirement under No Child Left Behind, the adequate
8 yearly progress report annually as well as also responsible
9 for providing the data that make up the School
10 Accountability Report Cards as required under Prop. 98 and
11 the NCLB.

12 BY MS. WELCH:

13 Q Do you know how many positions are involved in
14 analyzing the data that's required for the School
15 Accountability Report Cards?

16 MR. VIRJEE: Objection; vague and ambiguous as
17 to analyzing data, asked and answered at Paul Warren's
18 deposition, asked and answered in other depositions from the
19 heads of those divisions. He's repeating the same
20 information over.

21 BY MS. WELCH:

22 Q See, that's exactly why I'm asking the question,
23 because when Paul Warren talked about the School
24 Accountability Report Cards, he testified that the
25 department had recently added two positions who would be

1 responsible for monitoring SARC data and I'm wondering if
 2 those positions were filled and you know if --
 3 First of all, do you know if those positions
 4 were filled?
 5 MS. READ-SPANGLER: Objection; calls for
 6 speculation. How would he know if they were filled? I
 7 don't know --
 8 MR. VIRJEE: He doesn't know what positions Paul
 9 Warren's referring to.
 10 MS. READ-SPANGLER: I don't know how he could
 11 answer that.
 12 BY MS. WELCH:
 13 Q Do you have an understanding of how many
 14 positions under this unit are responsible for focusing on
 15 SARC?
 16 THE WITNESS: No.
 17 MR. VIRJEE: Objection; vague and ambiguous,
 18 calls for speculation.
 19 BY MS. WELCH:
 20 Q Do you have any sort of estimate?
 21 MR. VIRJEE: I don't want you to guess.
 22 THE WITNESS: At least two.
 23 BY MS. WELCH:
 24 Q Why do you say at least two?
 25 A I believe that there were some discussions about

1 reporting requirements for NCLB, and in discussions about
 2 the whole reorganization, we had talked about people. I can
 3 think of people. I could not name them for you, but I could
 4 think of organizationally on the chart.
 5 Q Do you know if there are less than five?
 6 MR. VIRJEE: Objection; calls for speculation,
 7 lacks foundation.
 8 THE WITNESS: In the epic unit?
 9 BY MS. WELCH:
 10 Q Yeah.
 11 A No, not less than five.
 12 Q Do you have a range of people, number of people?
 13 A More than six, fewer than 20.
 14 Q Other than the API reports and the NCLB, AYP
 15 report and this SARC data analysis, are there any other --
 16 does the epic unit have any other responsibilities?
 17 MS. READ-SPANGLER: That you know of?
 18 THE WITNESS: I can't recall.
 19 BY MS. WELCH:
 20 Q What are the current responsibilities of the
 21 research and --
 22 Is it now called research and analysis or
 23 research and evaluation?
 24 A Might be all three.
 25 Q Okay. You know what I'm talking about, correct?

1 A The combining of the research and analysis unit
 2 and the -- right, yes, I do.
 3 Q Okay. What are the responsibilities of this
 4 unit?
 5 A Evaluation -- that combined unit now has
 6 responsibilities for conducting data simulations upon
 7 request, of evaluating programs that are in existence for
 8 which statute requires evaluation such as the II/USP
 9 and High Priority Grants Program.
 10 Q Anything else?
 11 A It has oversight in the Reading First evaluation.
 12 That's all I can think of.
 13 Q Okay. What do you mean by data simulations upon
 14 request?
 15 A I mean that they do -- they conduct data analysis
 16 given certain hypothetical positions which the State Board
 17 of Education would like to consider.
 18 Q So is the Board of Education the only entity that
 19 would be making these requests to the unit?
 20 A It could also come from technical design group of
 21 the public school -- the advisor committee of the Public
 22 School Accountability Act.
 23 Q For shorthand, is that -- is that group called
 24 the -- I'm blanking on the name now. The PSAA Technical
 25 Advisory Committee?

1 MR. VIRJEE: I don't know if that's any
 2 shorthand.
 3 MS. READ-SPANGLER: I don't know if that was
 4 shorthand.
 5 BY MS. WELCH:
 6 Q Also called the technical design group, the same
 7 entity?
 8 A Same entity.
 9 Q Does that group still have regular meetings?
 10 A Yes.
 11 Q Do you know how often they meet?
 12 MR. VIRJEE: Objection; calls for speculation,
 13 lacks foundation.
 14 THE WITNESS: No.
 15 BY MS. WELCH:
 16 Q The reason I'm asking is because the minutes
 17 for - many of the meetings are available on the website, but
 18 I -- my best recollection is most recently they've only been
 19 available sporadically, and I don't know if it's because the
 20 committee is meeting less often or if the committee has made
 21 the decision not to make those minutes publically available
 22 on the website. Do you have any knowledge of that?
 23 A They're meeting less often.
 24 Q Okay. Is it your understanding that they are --
 25 they are continuing to make the minutes from the meetings

1 that do occur available on the website?
 2 A Yes.
 3 Q Could you describe to me what you mean by certain
 4 hypothetical positions?
 5 A The board just recently considered options for
 6 the inclusion of content standards results from the STAR
 7 science test. They had to make some decisions about what
 8 might be the outcome should they award a certain content
 9 percentage value to the overall API.
 10 Q And so that was something that this unit looked
 11 into; is that correct?
 12 A Correct.
 13 Q Can you think of any other recent simulations
 14 that they did?
 15 A Sure.
 16 Q What are those?
 17 A They would run projections based on requirements
 18 under NCLB for schools making their annual measurable
 19 objective targets.
 20 Q Anything else?
 21 A Other simulations related to both API and AYP
 22 requirements.
 23 Q When they -- when they do these simulations, do
 24 they prepare reports on them?
 25 MR. VIRJEE: Objection; calls for speculation,

1 of HPSG underway by that unit?
 2 A Yes.
 3 Q And could you describe that evaluation?
 4 A No.
 5 Q Do you have any understanding of when it will be
 6 completed?
 7 MR. VIRJEE: Objection; calls for speculation,
 8 lacks foundation.
 9 THE WITNESS: I believe by the end of the first
 10 term for cohort one of the High Priority School Grant
 11 Program.
 12 BY MS. WELCH:
 13 Q Do you know if there is a description of this
 14 evaluation available on the CDE website?
 15 A I don't know.
 16 Q How are you aware that this evaluation is
 17 occurring?
 18 A Because it's required within the statute.
 19 Q Do you know which entity --
 20 This evaluation being outsourced or is it
 21 happening internally?
 22 A I believe it's happening internally.
 23 Q Do you know who's doing it?
 24 A Which employees are assigned to it specifically?
 25 No.

1 lacks foundation.
 2 THE WITNESS: When it's a directive from the
 3 Board of Education, it's usually -- it's captured in an
 4 attachment for the items that are provided at the state
 5 board meetings.
 6 BY MS. WELCH:
 7 Q What about if it's for the PSAA Advisory
 8 Committee?
 9 A It would be captured in reports that are
 10 presented to the PSAA Advisory Committee as a
 11 recommendation. You'll find those captured on the web.
 12 Q You talked about one of their responsibilities
 13 being evaluating programs that are in existence such as
 14 II/USP and HPSG; is that correct?
 15 A Correct.
 16 MR. VIRJEE: Testimony speaks for itself.
 17 BY MS. WELCH:
 18 Q Can think of any other programs that they have
 19 evaluated or are evaluating?
 20 MS. READ-SPANGLER: For what time period?
 21 THE WITNESS: I can't recall.
 22 BY MS. WELCH:
 23 Q Does -- do they make their evaluations
 24 generally -- strike that.
 25 Do you know if there is currently an evaluation

1 Q Is there someone who -- someone on your staff who
 2 would have that information?
 3 MR. VIRJEE: Calls for speculation.
 4 THE WITNESS: Bill Padia.
 5 BY MS. WELCH:
 6 Q Does the policy and evaluation division prepare
 7 publications?
 8 MR. VIRJEE: Objection; vague and ambiguous as
 9 to publications.
 10 THE WITNESS: Yes.
 11 MS. READ-SPANGLER: Vague as to time.
 12 BY MS. WELCH:
 13 Q Are the recent publications of the division
 14 available on the website -- on the CDE website?
 15 MS. READ-SPANGLER: Objection; assumes facts not
 16 in evidence.
 17 THE WITNESS: Yes.
 18 BY MS. WELCH:
 19 Q Does the policy and evaluation division prepare
 20 documents called research briefs?
 21 A I don't know if that's what they're called.
 22 Q Do you recall that they prepare something
 23 relating to research?
 24 A Yes.
 25 Q Do you have an understanding of why this division

1 makes these research documents available on the website?
 2 A Yes.
 3 Q Why is that?
 4 A To provide information to schools and districts
 5 and the public regarding these programs.
 6 Q Are you familiar with any of the research briefs
 7 that are currently available on the website under this unit?
 8 MS. READ-SPANGLER: Objection; he said he isn't
 9 familiar with the research briefs at all.
 10 MS. WELCH: I meant to say research documents,
 11 because he didn't understand what I meant when I said that.
 12 THE WITNESS: What is the question?
 13 BY MS. WELCH:
 14 Q The question is, Are you familiar with any of
 15 these research documents that are currently available on the
 16 CDE website under this branch?
 17 A Some.
 18 Q Which ones are you familiar with?
 19 MR. VIRJEE: Objection; vague and ambiguous
 20 familiar with.
 21 THE WITNESS: There are, I believe, now two
 22 documents regarding the immediate intervention
 23 underperforming schools program following year one and year
 24 two of cohort one.
 25 BY MS. WELCH:

1 Q Anything else that you're familiar with or that
 2 you can recall?
 3 MR. VIRJEE: Same objection.
 4 THE WITNESS: I don't recall.
 5 MS. WELCH: A good time for a break? It's five
 6 to 1:00.
 7 MS. READ-SPANGLER: Let's go ahead and break.
 8 MS. WELCH: Okay.
 9 (Lunch recess taken from 12:55 to 1:42 p.m.)
 10 ///
 11 ///
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

1 (Deposition Exhibit 287 was marked for
 2 identification by the court reporter.)
 3 CONTINUING EXAMINATION
 4 BY MS. WELCH:
 5 Q Have you had a chance to look at Exhibit 287?
 6 A What is that?
 7 Q The document that's in front of you, could you
 8 take a look at it?
 9 A Sure.
 10 MR. VIRJEE: Why don't we just so the record's
 11 clear have him look at the one that's marked so there won't
 12 be an issue.
 13 MS. WELCH: Sure.
 14 MR. VIRJEE: That will help him.
 15 BY MS. WELCH:
 16 Q Just let me know whenever you've had a chance to
 17 review it.
 18 A (Brief PAUSE; witness reviewing document.)
 19 Q Are you finished reviewing the document?
 20 A Yes.
 21 Q Have you ever seen this description of the
 22 evaluation of California's II/USP program before?
 23 MR. VIRJEE: Has he ever seen this particular
 24 document before?
 25 THE WITNESS: Document 287?

1 BY MS. WELCH:
 2 Q Not the actual document, the description in some
 3 other form.
 4 MR. VIRJEE: Vague and ambiguous as to
 5 description in some other form.
 6 THE WITNESS: I can't recall.
 7 BY MS. WELCH:
 8 Q Are you generally familiar with the contents in
 9 the document?
 10 A I'm familiar there is a document.
 11 Q Do you have an understanding of this particular
 12 study that the document describes?
 13 A Do I have what kind of?
 14 Q Do you have an understanding of --
 15 A Yes.
 16 Q -- this study?
 17 MR. VIRJEE: Objection; vague and ambiguous to
 18 understanding one exists or the content of the study. It's
 19 vague and ambiguous.
 20 BY MS. WELCH:
 21 Q Do you -- are you familiar with the data
 22 collection techniques that are being used or that were used
 23 for this study?
 24 MR. VIRJEE: Objection; vague and ambiguous as
 25 to familiar and data collection techniques.

1 THE WITNESS: As they're described here, yes.
 2 BY MS. WELCH:
 3 Q Do you have any other -- other than -- you're
 4 probably pointing to the sentence that says, "Following are
 5 the study's three major data collection techniques;" is that
 6 correct?
 7 A Correct.
 8 Q So you have an understanding of these three
 9 techniques; is that right?
 10 A Correct.
 11 Q Do you have any more knowledge about any of the
 12 techniques than what is written in this bullet point?
 13 A No.
 14 MR. VIRJEE: Objection; vague and ambiguous.
 15 BY MS. WELCH:
 16 Q So your knowledge is you just have a general
 17 understanding that techniques are used, but you don't have
 18 more background information regarding the techniques?
 19 MR. VIRJEE: Based on the fact that he's seen it
 20 in the document or independent of the document?
 21 BY MS. WELCH:
 22 Q Did you hear my question?
 23 A Yes, I heard your question.
 24 MS. READ-SPANGLER: Do you understand it?
 25 THE WITNESS: No, I don't understand your

1 question, though.
 2 BY MS. WELCH:
 3 Q Okay. If I asked have you -- are you familiar
 4 with the surveys that were provided to school principals and
 5 district school administrators as part of this evaluation?
 6 A No.
 7 Q So you have not seen any of those surveys; is
 8 that correct?
 9 MR. VIRJEE: Objection; asked and answered.
 10 THE WITNESS: No.
 11 BY MS. WELCH:
 12 Q Are you familiar with how the database of
 13 participating school demographic attributes and of school
 14 and student achievement results was created or who created
 15 it?
 16 A What's your question?
 17 Q Let's start with the first one.
 18 A No.
 19 Q Okay. Do you know who created it?
 20 A Yes.
 21 Q Who created it?
 22 A The research and evaluation unit.
 23 Q So were all aspects of this evaluation conducted
 24 by the research and evaluation unit, or was any aspect
 25 outsourced to another entity?

1 MR. VIRJEE: Objection; calls for speculation,
 2 lacks foundation.
 3 THE WITNESS: I don't know.
 4 BY MS. WELCH:
 5 Q So do you have an understanding of whether or not
 6 another entity was involved in this study in any regard?
 7 MR. VIRJEE: Objection; calls for speculation,
 8 lacks foundation. He just said he didn't know.
 9 THE WITNESS: I don't know.
 10 BY MS. WELCH:
 11 Q Do you have the sense of who would have more
 12 information than is reflected in this general description
 13 than you and your division?
 14 A Yes.
 15 Q Who would that be?
 16 A Bill Padia and Rachel Perry.
 17 Q Is Ann Just an employee in the research and
 18 evaluation unit currently?
 19 A No.
 20 Q Do you know when she left the unit?
 21 A Approximately, two months ago.
 22 Q Is she still working for the department, or has
 23 she left the department as well?
 24 A Still currently with the Department of Education.
 25 Q Do you know what her current position is?

1 A She's manager of the Title I policy office.
 2 Q What about Terry Wong, is that a male or female;
 3 do you know?
 4 A I don't know.
 5 Q Okay. Do you know if Terry Wong is still working
 6 for the research and evaluation unit?
 7 A I don't know specifically.
 8 Q Do you have any idea? I mean you say
 9 specifically. Do you know generally or --
 10 MR. VIRJEE: I don't want you to guess or
 11 speculate.
 12 MS. READ-SPANGLER: Do you even know who Terry
 13 Wong is?
 14 THE WITNESS: No.
 15 BY MS. WELCH:
 16 Q Are you familiar with the name?
 17 A I don't know if I'm familiar with the name.
 18 Q Okay. Have you -- so do you think that Bill
 19 Padia would be the person with the most knowledge in your
 20 division about this evaluation?
 21 MR. VIRJEE: Objection; calls for speculation,
 22 lacks foundation and asked and answered.
 23 THE WITNESS: I believe Bill Padia and Rachel
 24 Perry would be the ones who would know most about this.
 25 BY MS. WELCH:

1 Q Okay. You mentioned earlier that as part of this
2 study reports had been prepared; is that correct?
3 MR. VIRJEE: Part of which study, counsel?
4 MS. READ-SPANGLER: Objection; misstate his
5 testimony.
6 MR. VIRJEE: Vague and ambiguous. I don't know
7 what study you're asking.
8 MS. WELCH: The study I've been asking him
9 questions.
10 MR. VIRJEE: You're talking about the study
11 referenced in 287? I have to agree with counsel. That
12 misstates his testimony. He didn't say anything about
13 studies.
14 BY MS. WELCH:
15 Q Earlier we had talked about various publications
16 of the research and evaluation unit. You recall that
17 testimony?
18 A Yes, I do.
19 Q And you had -- I believe that you said that the
20 research and evaluation unit had prepared reports regarding
21 II/USP; is that right?
22 MR. VIRJEE: His testimony will speak for
23 itself.
24 THE WITNESS: Yes.
25 BY MS. WELCH:

1 Q Is this the study about which those reports
2 relate?
3 A This is the study that I had in mind when I
4 answered that question.
5 Q Have you -- have you reviewed the first year
6 report from the study?
7 A Yes, in my capacity in a public school district.
8 Q Do you have any recollection of its findings?
9 MR. VIRJEE: Objection; findings, and the
10 studies speak for themselves.
11 THE WITNESS: General recollection.
12 BY MS. WELCH:
13 Q What's your general recollection?
14 MR. VIRJEE: Objection -- same objection. The
15 findings and the studies speak for themselves.
16 THE WITNESS: The year one study was about the
17 beginning of the II/USP program focusing specifically on two
18 various categories of schools, the CSRD schools versus
19 the -- what were called the action plan school.
20 BY MS. WELCH:
21 Q Do you recall anything else about the findings?
22 MR. VIRJEE: Same objection; document speaks for
23 itself.
24 THE WITNESS: Much of the first year's report
25 was about the process involved in the action plan schools

1 and how they went about developing their action plans.
2 BY MS. WELCH:
3 Q Do you recall anything more?
4 MR. VIRJEE: Same objection.
5 THE WITNESS: No.
6 BY MS. WELCH:
7 Q Have you reviewed the second year study?
8 A In my capacity when I was at Long Beach Unified
9 School District.
10 Q Do you have a recollection of any of the findings
11 of that study?
12 MR. VIRJEE: Objection. The document speaks for
13 itself.
14 THE WITNESS: General recollection.
15 BY MS. WELCH:
16 Q What is that?
17 MR. VIRJEE: Same objection.
18 THE WITNESS: It was a comparison, again, of the
19 two groups of schools in terms of how they met their first
20 year's growth targets with -- my recollection is there was a
21 better percentage rate of the CSRD schools than the action
22 plan schools.
23 BY MS. WELCH:
24 Q In your capacity as -- I can't remember your
25 exact title at Long Beach. But in your position at Long

1 Beach at the time, did you find either of these studies
2 instructive in terms of the decisions that you were making
3 in that role?
4 MR. VIRJEE: Objection; vague and ambiguous as
5 to decision being made in the role and instructive.
6 THE WITNESS: They were pieces of information
7 provided to my administration about the II/USP program.
8 BY MS. WELCH:
9 Q Did Long Beach have schools in the II/USP program
10 at that time?
11 MS. READ-SPANGLER: At which time?
12 THE WITNESS: At which time?
13 BY MS. WELCH:
14 Q At the time that -- okay. Well, let's start --
15 I'm trying to think.
16 MS. READ-SPANGLER: Do you want to break it by
17 cohort?
18 BY MS. WELCH:
19 Q Yeah. Cohort one?
20 A No.
21 Q What about cohort two?
22 A No.
23 Q Were you there for cohort three?
24 A Yes.
25 Q Did they have any schools in cohort three?

1 A Yes.
 2 Q Do you recall how many?
 3 A I believe four.
 4 Q Did you play any role in advising the district on
 5 whether or not it made sense for schools to participate in
 6 II/USP in Long Beach?
 7 A Yes.
 8 Q What was that role?
 9 A Providing information, some base from these
 10 research reports.
 11 Q Did you have any recommendations as to whether it
 12 made sense for Long Beach to participate?
 13 A I'm sorry. What's the question?
 14 Q If you have any recommendations about whether it
 15 made sense for Long Beach to participate in II/USP?
 16 A Yes.
 17 Q What were your recommendations?
 18 A Not to participate in cohort one.
 19 Q Why was that?
 20 A To see the program -- to see the effects of the
 21 program.
 22 Q Did you have any other recommendations as time
 23 went on?
 24 A Yes.
 25 Q Could you provide me with some?

1 A Not to participate in cohort two.
 2 Q And why was that?
 3 A At the time there was not enough information, I
 4 felt, for my advice to the leadership regarding success of
 5 II/USP.
 6 Q Any other reasons?
 7 A It's a voluntary program, invitees have a choice.
 8 Q Right.
 9 A My recommendation was -- based on what I just
 10 told you was for the school district not to volunteer.
 11 Q And you said that your recommendation was at
 12 least in cohort one and two was based on the fact that you
 13 wanted more information to see if it was -- if there are --
 14 the -- I think you said to see if it was, I guess -- well,
 15 let me ask you.
 16 Did you -- what kind of improvements or
 17 successes were you hoping to see from II/USP?
 18 MR. VIRJEE: Objection; vague as to time.
 19 THE WITNESS: My recollection from reading year
 20 one and year two studies was that schools that had a very
 21 specific plan, CSRD schools, had initially a better success
 22 rate. So my recommendation to the district was to have a
 23 plan in mind and ready for operation before beginning the
 24 process.
 25 BY MS. WELCH:

1 Q Sounds like a good plan.
 2 Did you have a recommendation as to whether the
 3 district should participate in cohort three?
 4 A Yes.
 5 Q What was that recommendation?
 6 A To participate.
 7 Q And why did you recommend that they participate?
 8 A Because simultaneous to cohort three of II/USP
 9 was the first year of the High Priority Schools Grant
 10 Program.
 11 Q And what about the High Priority Schools Program
 12 did you think -- I mean, did you think that made
 13 participating in II/USP more attractive?
 14 MR. VIRJEE: Objection; vague and ambiguous as
 15 to attractive.
 16 THE WITNESS: There was a financial advantage to
 17 participating in High Priority Schools Grant Program.
 18 BY MS. WELCH:
 19 Q Isn't there also -- wasn't there also a financial
 20 advantage to participating in II/USP?
 21 A Yes.
 22 Q So what was the difference? I mean, what kind of
 23 put you over the edge and say, okay, now let's participate?
 24 What were the factors? Sorry.
 25 A A greater financial incentive.

1 Q Anything else?
 2 A A longer period of time before the sanctions took
 3 place.
 4 Q Anything else?
 5 A No.
 6 Q Have you had an opportunity to review the third
 7 and what I understand to be last in a series of progress
 8 reports on this, on II/USP?
 9 A Yes.
 10 Q Do you have -- do you recall what the findings
 11 were of the third year study?
 12 MR. VIRJEE: Objection. The documents and the
 13 studies speak for themselves.
 14 THE WITNESS: No.
 15 BY MS. WELCH:
 16 Q Do you recall anything about the study?
 17 MR. VIRJEE: Objection; vague and ambiguous.
 18 The document and the study speaks for itself.
 19 THE WITNESS: I recall it had some results after
 20 year three in cohort one of II/USP in terms of the schools
 21 that met their growth targets and were able to exit the
 22 program versus those that did not.
 23 BY MS. WELCH:
 24 Q Do you know if the HPSG study that we talked
 25 about earlier and you said you thought was in progress -- do

1 you know if it's continuing on any of the research and data
 2 from this II/USP study?
 3 A I don't know.
 4 Q Other than the analysis of the II/USP program
 5 this research and evaluation unit is doing, does your branch
 6 have any other involvement with II/USP?
 7 MR. VIRJEE: Objection; vague and ambiguous as
 8 to involvement.
 9 THE WITNESS: The policy and evaluation division
 10 creates the annual API reports, the growth reports, which
 11 answer -- which are essential in this II/USP program.
 12 BY MS. WELCH:
 13 Q Right. I understand that. So I understand
 14 there's -- understand there's the relationship. Is there
 15 any other interrelationship as far as you can tell?
 16 A The policy and evaluation unit extends -- is
 17 the -- excuse me. The policy and evaluation division is the
 18 division that extends the invitation to eligible schools
 19 within districts, receives the intent to participate.
 20 Because of the way the requirements are for II/USP, it's the
 21 policy and evaluation division that makes the determination
 22 as to which are the actual schools that are selected to
 23 participate.
 24 Q For II/USP?
 25 A Correct.

1 Q Do you know if -- well, to your knowledge, has
 2 your division undertaken any studies of the contents of
 3 II/USP action plans?
 4 MS. READ-SPANGLER: Can you read back the
 5 question?
 6 (Record read as follows:
 7 "Question: Do you know if -- well, to your
 8 knowledge, has your division undertaken any studies of
 9 the contents of II/USP action plans?")
 10 THE WITNESS: I don't know.
 11 MS. READ-SPANGLER: Hang on.
 12 MR. VIRJEE: I don't think Kara was asking you
 13 that question.
 14 MR. VIRJEE: Objection; vague and ambiguous as
 15 to studies.
 16 MS. READ-SPANGLER: What do you mean by his
 17 division? I guess, vague and ambiguous as to his division.
 18 You mean his branch?
 19 BY MS. WELCH:
 20 Q I'm sorry. I meant branch. Do you know if your
 21 branch has undertaken any studies of II/USP action plan --
 22 of the contents of II/USP action plans?
 23 MR. VIRJEE: Vague and ambiguous as to studies.
 24 THE WITNESS: My recollection is in completing
 25 these research studies, but the evaluation of action plan

1 were done by the school improvement division.
 2 BY MS. WELCH:
 3 Q I'm not sure I understand your answer. Are you
 4 saying that the school improvement division studied the
 5 action plans?
 6 A Correct.
 7 Q Do you know for what purpose?
 8 A Approving them.
 9 Q Okay. All right. So is it your understanding
 10 that that branch reviews the action plans as part of the
 11 review?
 12 MR. VIRJEE: Reviews the actions plan as part of
 13 reviews?
 14 BY MS. WELCH:
 15 Q I'm sorry. Reviews the action plan as part of
 16 decision-making process on whether to approve the school
 17 into the program?
 18 A No.
 19 Q Okay. Then I didn't understand your answer.
 20 Could you explain what you mean by what they --
 21 what they do review?
 22 A Who reviews?
 23 Q What the school improvement reviews.
 24 A The actual action plan as submitted to the II/USP
 25 schools after they've been selected.

1 Q Do you have an understanding of whether they
 2 currently review the plans or whether they review a summary
 3 of the plans?
 4 MR. VIRJEE: Objection; calls for speculation,
 5 vague and ambiguous.
 6 THE WITNESS: It's my understanding that they
 7 review the plan.
 8 BY MS. WELCH:
 9 Q Okay. Do you know if they keep a copy of the
 10 plan?
 11 A I don't know.
 12 Q I think that my use of the word "study" may have
 13 been what caused the confusion. By "study" I mean like a
 14 analysis of the plans, not kind of an individual
 15 plan-by-plan review to see if the school, you know, has
 16 complete -- has appropriately prepared the plan as part of
 17 entering into the program, but a study such as, you know,
 18 the overall -- the study that we were just talking, of
 19 II/USP. That's what I mean by "study".
 20 MR. VIRJEE: I'm going to object as to vague and
 21 ambiguous as to study. The first description doesn't
 22 involve analysis, and the second somehow does.
 23 MS. READ-SPANGLER: I'm going to object as asked
 24 and answered.
 25 THE WITNESS: And what is the question?

1 BY MS. WELCH:

2 Q The question is, Do you know if anyone in your
3 branch has -- actually, you did answer that question.

4 Do you know if anyone at the department has done
5 a study of the contents of the action plans?

6 MR. VIRJEE: Objection; vague and ambiguous as
7 to study, asked and answered.

8 THE WITNESS: Policy and evaluation division in
9 completing the reports that we're talking about in Exhibit
10 287 analyzed or did a study of those, but approval of action
11 plans were conducted by the school improvement division.

12 BY MS. WELCH:

13 Q So other than the II/USP study that we were
14 talking about previously, do you know of any other studies?

15 A No.

16 MR. VIRJEE: Same objections.

17 MS. WELCH: I would like to mark an exhibit as
18 288.

19 MR. VIRJEE: 288?

20 Why don't we have the court reporter mark the
21 ones that he gets so he has the right -- so there's no
22 question in case there's any marks put on it or anything
23 like that.

24 (Deposition Exhibit 288 was marked for
25 identification by the court reporter.)

1 the bottom says, "Cohort four of II/USP." And then the
2 bullet says, "Succeeded by High Priority Schools Grant
3 Program."

4 And my question for you is, Do you have an
5 understanding of what is meant by succeeded?

6 MR. VIRJEE: I'm going to object as a lack of
7 foundation. There's been no foundation he's ever seen this
8 document before, had any participation in its preparation,
9 and, therefore, there's no foundation for whether he would
10 know what was meant by whoever prepared this document in
11 writing that. It's dated 2002. It's September. Before he
12 ever came to the department.

13 But I don't want you to guess or speculate as to
14 what is meant.

15 THE WITNESS: I'm not familiar with this
16 document.

17 BY MS. WELCH:

18 Q Has II/USP been succeeded by HPSG as far as you
19 know?

20 MR. VIRJEE: Objection; vague and ambiguous as
21 to succeeded.

22 THE WITNESS: I don't know what the word
23 "succeeded" refers -- what it means or what it refers to.

24 BY MS. WELCH:

25 Q As far as you know, is II/USP currently in

1 MS. READ-SPANGLER: Hasn't this already been
2 marked? Maybe not.

3 MS. WELCH: We haven't received back the
4 exhibits so if it has...

5 BY MS. WELCH:

6 Q You're welcome to spend as much time with the
7 document as you like, but I'll tell you that for present
8 purposes I'm only interested in a statement that's made on
9 page 11.

10 MS. READ-SPANGLER: Just for the record, 288 is
11 entitled, "New Directions and Accountability." It's a CCR
12 Institute presentation. It appears to be a California
13 Department of Education policy and evaluation division
14 September 2002 document, pages 1 through 44. Looks
15 inclusive.

16 I'm sorry. What page were you directing him to?

17 MS. WELCH: Page 11.

18 THE WITNESS: (BRIEF PAUSE; witness reviewing
19 document.)

20 Okay. I'm on page 11.

21 BY MS. WELCH:

22 Q My question is -- is about the last bullet point
23 on the page. The document goes -- it has II/USP as the
24 heading at the top, and then it talks about cohort one,
25 cohort two and cohort three, and then the final header at

1 existence?

2 MR. VIRJEE: Objection; calls for a legal
3 conclusion, vague and ambiguous as to in existence.

4 THE WITNESS: My understanding is that II/USP is
5 specifically mentioned in statute of PSAA legislation.

6 BY MS. WELCH:

7 Q I understand that, as well. But my question was,
8 Is it still in existence as far as you know as a program
9 that your department oversees?

10 MR. VIRJEE: Objection; vague and ambiguous as
11 to still in existence, asked and answered. He answered your
12 question.

13 THE WITNESS: There is currently a cohort two of
14 II/USP, and there's currently a cohort three of II/USP.

15 BY MS. WELCH:

16 Q Do you know if there is going to be a cohort four
17 of II/USP?

18 A I do not know that.

19 Q Do you know if that is -- where that is in terms
20 of planning?

21 MS. READ-SPANGLER: Objection; calls for
22 speculation.

23 THE WITNESS: I don't know that.

24 BY MS. WELCH:

25 Q Do you know what -- whether -- is it your

1 understanding that there's a question as to if cohort four
2 will be funded?
3 MR. VIRJEE: Objection; vague and ambiguous as
4 to funded, lacks foundation, calls for speculation.
5 THE WITNESS: I'm sorry. What is your question?
6 MS. WELCH: Could you repeat it back?
7 (Record read as follows:
8 "Question: Do you know what -- whether -- is
9 it your understanding that there's a question as to if
10 cohort four will be funded?")
11 THE WITNESS: I'm sorry. Read the question
12 again.
13 (Record read as follows:
14 "Question: Do you know what -- whether -- is
15 it your understanding that there's a question as to if
16 cohort four will be funded?")
17 THE WITNESS: Yes.
18 BY MS. WELCH:
19 Q Yes, you think that there is a question as to
20 whether it will be funded?
21 A Yes.
22 Q Do you know what will ultimately resolve that
23 question?
24 MR. VIRJEE: Calls for speculation, lacks
25 foundation, also vague and ambiguous as to ultimate

1 resolve -- as to ultimately resolve.
2 THE WITNESS: No.
3 MS. READ-SPANGLER: Make sure you pause after
4 her question so we can make our objections.
5 BY MS. WELCH:
6 Q Do you know who is going to decide whether or not
7 there will be a cohort four?
8 MR. VIRJEE: Objection; assumes facts not in
9 evidence and calls for speculation.
10 THE WITNESS: No.
11 BY MS. WELCH:
12 Q So is it your testimony that you don't have any
13 knowledge of the status of the II/USP program?
14 MR. VIRJEE: Objection; overbroad, vague and
15 ambiguous as to the status, and he's already told you what
16 he knows or doesn't know. He's told you about the II/USP --
17 things about it already. So that's not a fair question.
18 THE WITNESS: It's my understanding it's
19 contingent on the budget.
20 BY MS. WELCH:
21 Q Could you look at page 19 of this document, as
22 well?
23 A (BRIEF PAUSE; witness reviewing document.)
24 Okay.
25 Q Okay. I'm going to ask you more specific

1 questions about AYP when we talk about NCLB.
2 My question for purposes of this document is
3 whether or not the definition at the third bullet point
4 which said, "In California, AYP is currently defined as
5 meeting the API growth target (schools and sub groups)." Is
6 that the current definition of AYP?
7 MR. VIRJEE: Objection; vague and ambiguous as
8 to current definition as to whether you mean that in
9 California under No Child Left Behind or for some other
10 purpose.
11 THE WITNESS: In September of 2002, that's a
12 correct statement.
13 BY MS. WELCH:
14 Q I understand that. I'm asking if that is the
15 current definition here in California.
16 MR. VIRJEE: Same objections.
17 THE WITNESS: No.
18 BY MS. WELCH:
19 Q Have you reviewed any of the State's expert
20 reports in this case?
21 A No.
22 Q Are you aware of any of the -- who the State's
23 experts are in this case?
24 A Vaguely aware.
25 Q Do you have an understanding of any of their

1 opinions?
2 MR. VIRJEE: I'm going to object on the grounds
3 of attorney-client privilege and instruct you not to answer
4 to the extent that would invade the attorney-client
5 privilege. You can answer otherwise.
6 THE WITNESS: What is the question?
7 BY MS. WELCH:
8 Q If you have an understanding of their opinions.
9 I'm not asking what this opinion is at this point. I'm just
10 asking if you have an opinion.
11 A I haven't reviewed their documents or work
12 submitted.
13 Q Are you interested in what their opinions are?
14 MR. VIRJEE: Calls for speculation and lacks
15 foundation.
16 Also instruct you not to answer to the extent it
17 will invade the attorney-client privilege. I don't know how
18 you could answer that without knowing what the opinions are.
19 MS. WELCH: I asked if he was interested.
20 THE WITNESS: As a researcher, I'm always
21 interested.
22 BY MS. WELCH:
23 Q You're always interested in what?
24 A Research and findings.
25 Q But as an employee of the Department of

1 Education, you're not interested in what the positions that
 2 your employer's taking in this lawsuit?
 3 MS. READ-SPANGLER: Objection; argumentative.
 4 MR. VIRJEE: Also instruct you not to answer if
 5 it would invade the attorney-client privilege.
 6 MS. WELCH: I'm certainly not trying to be
 7 argumentative, and I think that it's clear from my tone that
 8 I'm not.
 9 MR. VIRJEE: You're tone doesn't have anything
 10 to do with it. The question is a silly question. He
 11 doesn't even know whether the expert reports are back. What
 12 he told you is he had no idea what the findings are so he
 13 could know if he would be interested about them or not.
 14 MS. WELCH: He said that --
 15 BY MS. WELCH:
 16 Q You said that you were interested as a
 17 researcher. Are you interested as an employee of the
 18 department of, as well?
 19 A Yes.
 20 MR. VIRJEE: Same objections.
 21 BY MS. WELCH:
 22 Q And why is that?
 23 MR. VIRJEE: Why is what? Vague and ambiguous,
 24 nonsensical.
 25 MS. READ-SPANGLER: Do you understand the

1 question?
 2 THE WITNESS: I'm sorry, no, I don't understand
 3 the question.
 4 BY MS. WELCH:
 5 Q I asked you why you're interested as a
 6 researcher, and you explained that to me. And then I asked
 7 you why you're interested as an employee of the department.
 8 MR. VIRJEE: Same objections.
 9 THE WITNESS: Because I would be interested in
 10 knowing what our experts have written and are reported.
 11 BY MS. WELCH:
 12 Q Based on your prior testimony, I understand that
 13 you're familiar with the High Priority Schools Grant
 14 Program, correct?
 15 MR. VIRJEE: His prior testimony will speak for
 16 itself.
 17 THE WITNESS: Correct.
 18 BY MS. WELCH:
 19 Q What is your understanding of the goals of this
 20 program, if you have any?
 21 A I'm sorry.
 22 Q What is your understanding of HPSG's goals?
 23 MR. VIRJEE: I'm going to object as vague and
 24 ambiguous as to goals.
 25 THE WITNESS: To assist our lowest performing

1 schools in the state to assist them in improving.
 2 BY MS. WELCH:
 3 Q Anything else?
 4 A No.
 5 Q Do you have an understanding of what the status
 6 of this program is?
 7 MR. VIRJEE: Objection; vague and ambiguous to
 8 status.
 9 THE WITNESS: In operation.
 10 BY MS. WELCH:
 11 Q Do you know what year?
 12 MR. VIRJEE: I'm sorry. What year what?
 13 BY MS. WELCH:
 14 Q Do you understand the question?
 15 A No.
 16 Q Okay. Do you understand -- how many cohorts have
 17 there been in HPSG?
 18 A This is the second cohort currently that we've
 19 funded.
 20 Q Do you have an understanding of whether there is
 21 a cohort starting in -- I'm sorry. Strike that.
 22 You talked about the fact that II/USP funding is
 23 up the air. Do you have an understanding HPSG funding is
 24 up -- has been decided?
 25 MR. VIRJEE: Objection; vague as to time, vague

1 as to which cohort.
 2 THE WITNESS: It's my understanding the Board of
 3 Education of one of these previous meetings this year
 4 selected cohort two of the High Priority Grants Program.
 5 BY MS. WELCH:
 6 Q And do you have an understanding of whether that
 7 cohort will receive funding?
 8 MR. VIRJEE: Objection; calls for speculation,
 9 lacks foundation.
 10 MS. READ-SPANGLER: There's no state budget.
 11 There's no understanding that anything in the state will
 12 receive funding. So your question's nonsensical. It -- I
 13 agree. It calls for speculation.
 14 THE WITNESS: I don't know.
 15 BY MS. WELCH:
 16 Q You don't know whether -- you don't know whether
 17 the cohort schools will get funding?
 18 MR. VIRJEE: Objection; asked and answered,
 19 calls for speculation, lacks foundation.
 20 THE WITNESS: I don't know because of the budget
 21 situation.
 22 BY MS. WELCH:
 23 Q Is HPSG in the same boat as II/USP in terms
 24 whether or not it will fund?
 25 MR. VIRJEE: Speculation. Objection. And vague

1 and ambiguous as the same boat.
 2 THE WITNESS: That I don't know.
 3 BY MS. WELCH:
 4 Q Do you know who would know?
 5 MR. VIRJEE: Calls for speculation, lacks
 6 foundation, vague and ambiguous.
 7 THE WITNESS: My guess would be the big five.
 8 BY MS. WELCH:
 9 Q Who is that?
 10 A The -- my guess would be the legislature would
 11 know.
 12 Q Has the department made recommendations as to
 13 whether or not II/USP should be funded for cohort four?
 14 MR. VIRJEE: Objection; calls for speculation.
 15 THE WITNESS: I don't know.
 16 BY MS. WELCH:
 17 Q Do you know if the department has made any
 18 recommendations as to whether cohort two of HPSG should
 19 receive funding?
 20 MR. VIRJEE: Objection; calls for speculation,
 21 lacks foundation.
 22 MS. READ-SPANGLER: Are you asking for contents
 23 of, like, BCPs? Because if so, that actually is
 24 all privileged.
 25 MS. WELCH: No, that's not what I'm asking.

1 THE WITNESS: What are you asking?
 2 BY MS. WELCH:
 3 Q I'm asking -- I mean, I asked you what the status
 4 of the programs were, and that wasn't an effective line of
 5 questioning. So I'm basically trying to understand whether
 6 or not these programs are going to happen next year and if
 7 the only issue is, you know, what happens with the budget.
 8 Do you -- do you know if in the current budget II/USP is
 9 slated to happen?
 10 MR. VIRJEE: Objection; vague.
 11 MS. READ-SPANGLER: What current budget? I
 12 think there's budget proposals floating out there right now.
 13 So I don't know what you're referring to.
 14 I don't think we're trying to be picky. I just
 15 think it's an impossible line of questioning because of the
 16 budget situation.
 17 MS. WELCH: Well, it was based on this document
 18 that says that there won't be a cohort four and that it's
 19 been succeeded by HPSG.
 20 MS. READ-SPANGLER: Right. But now you're
 21 talking about High Priority School Grant Program and --
 22 MS. WELCH: Well, I'm actually talking about
 23 both of them together.
 24 MR. VIRJEE: He's -- there's been no -- he's
 25 told you he's never seen this document before. He doesn't

1 remember hearing what the basis of it was. So the fact that
 2 document says something doesn't help Mr. Flores.
 3 MS. WELCH: Well, the issue is that this is a
 4 document that is currently on the policy and evaluation
 5 division's website, and it says that there's not going to be
 6 a cohort four. So my question is really trying to ascertain
 7 whether or not this document is accurate.
 8 MR. VIRJEE: And he's answered the question the
 9 best he can so far by telling you he didn't know the answers
 10 to your questions. He's asked, and he says he does not
 11 know. The questions have been asked and answered.
 12 THE WITNESS: Can I have a moment to look at
 13 this document?
 14 MS. WELCH: Absolutely.
 15 THE WITNESS: Because it's possible the answer
 16 to your question is on here.
 17 MR. VIRJEE: If she wants, Geno, she can find
 18 it. That's her job, not yours. Just answer her questions.
 19 THE WITNESS: Okay.
 20 BY MS. WELCH:
 21 Q Do you know whether page 11 of this document is
 22 accurate?
 23 MR. VIRJEE: Objection; calls for speculation,
 24 lacks foundation, also asked and answered.
 25 MS. READ-SPANGLER: And the document --

1 MR. VIRJEE: He says it was accurate as of the
 2 date of the document.
 3 MS. READ-SPANGLER: The document speaks for
 4 itself.
 5 BY MS. WELCH:
 6 Q Is it accurate --
 7 Actually, if you could just answer my question.
 8 MS. WELCH: If you want to read it back.
 9 MS. READ-SPANGLER: You know what, I'm trying to
 10 instruct him not to answer, because he indicated he's never
 11 seen the document before so he has no basis for answering
 12 that question.
 13 BY MS. WELCH:
 14 Q All I'm asking about is the information. I don't
 15 care about this particular document. This is just where I
 16 happen to have learned the information. So setting aside
 17 this document, do you know whether there's not going to be a
 18 cohort four of II/USP?
 19 MR. VIRJEE: Objection; asked and answered,
 20 calls for speculation, lacks foundation. He's told you he
 21 does not know. You've asked it twice or already.
 22 THE WITNESS: I don't know.
 23 BY MS. WELCH:
 24 Q Let me ask you this, Is whether or not there's
 25 going to be a cohort four dependent on what happens with the

1 current budget?
 2 MS. READ-SPANGLER: Objection; asked and
 3 answered.
 4 MR. VIRJEE: Also, vague and ambiguous as to
 5 whether that would be the only issue, calls for speculation
 6 and lacks foundation.
 7 THE WITNESS: The budget may not be the only
 8 reason.
 9 BY MS. WELCH:
 10 Q What other reason might there be?
 11 MR. VIRJEE: Objection; calls for speculation,
 12 lacks foundation.
 13 I don't want you to guess.
 14 THE WITNESS: Requirements of the
 15 reauthorization of the elementary and secondary school act
 16 requires that there be one state accountability system.
 17 Currently, with II/USP and High Priority as well as
 18 requirements under NCLB, you have the potential of three
 19 various forms. There is consideration about trying to align
 20 all three.
 21 BY MS. WELCH:
 22 Q Thanks.
 23 Are you familiar with the SAIT interventions
 24 that the department has undertaken?
 25 A What's the verb?

1 Q SAIT.
 2 A No. You asked me if I understand?
 3 MR. VIRJEE: Familiar.
 4 MS. READ-SPANGLER: Familiar.
 5 BY MS. WELCH:
 6 Q Are you familiar? Sorry.
 7 A Generally.
 8 Q Does your branch play a role in these
 9 interventions?
 10 MR. VIRJEE: Objection; vague and ambiguous as
 11 to a role.
 12 THE WITNESS: No.
 13 BY MS. WELCH:
 14 Q Is that still the domain of the school
 15 improvement division?
 16 A Correct.
 17 Q Do you have any knowledge of the status of the
 18 interventions at the 13 program improvement schools?
 19 A No.
 20 Q Do you have any knowledge about the interventions
 21 at those schools?
 22 MR. VIRJEE: Objection; vague as to time and
 23 also vague as to intervention.
 24 THE WITNESS: No.
 25 BY MS. WELCH:

1 Q Do you have any knowledge about the planned
 2 interventions at the 24 schools that did not meet the
 3 significant growth marks designated by the department?
 4 A No.
 5 Q And I take it that is still the domain of the
 6 school improvement division; is that correct?
 7 A Correct.
 8 Q And is that Wendy Harris?
 9 A Correct.
 10 Q Switching gears for one second. When we were
 11 talking about the combined EL monitoring unit and Comite
 12 compliance unit earlier, is Laurie Burnassi still working
 13 for that unit?
 14 A Yes.
 15 MR. VIRJEE: For the combined unit?
 16 THE WITNESS: For the combined unit, yes.
 17 BY MS. WELCH:
 18 Q Do you know what her position is in that unit?
 19 A Yes.
 20 Q What is that?
 21 A Manager.
 22 Q Of the combined unit?
 23 A Yes.
 24 Q Okay. I would like to -- we had originally
 25 started off all of this -- all these questions because I was

1 asking you about the responsibilities of your branch, and I
 2 think we've gone through standards and assessment, policy.
 3 And now I'd like to ask you some questions about the school
 4 and district accountability branch -- I'm sorry -- division
 5 of your branch.
 6 MS. READ-SPANGLER: Why don't we take a short
 7 break before we switch gears if that's okay?
 8 MS. WELCH: Okay. Sounds good.
 9 (Recess.)
 10 BY MS. WELCH:
 11 Q Before we talk about the school and district
 12 accountability division, are you familiar with an evaluation
 13 that the policy unit did of the California statewide system
 14 of school support?
 15 A No.
 16 Q Do you have any knowledge of whether that
 17 evaluation resulted in a study?
 18 MR. VIRJEE: Which evaluation? The one you just
 19 mentioned that he said he wasn't familiar with the
 20 evaluation? That would call for speculation.
 21 THE WITNESS: I don't know.
 22 BY MS. WELCH:
 23 Q Would Bill Padia be the person with knowledge of
 24 studies -- let's see -- I don't actually know the date of
 25 this study. Would he be the person that would know about

1 evaluations that that unit has conducted?
 2 A Which unit?
 3 Q The policy and evaluation unit.
 4 A Yes.
 5 Q Are you familiar with the S-4 program?
 6 A Vaguely.
 7 Q What is your understanding?
 8 A My vague understanding is that it's connected to
 9 oversight of our schools identified as low performing.
 10 Q Do you know who in the department is responsible
 11 for the S-4 program?
 12 MR. VIRJEE: Objection; assumes facts not in
 13 evidence, calls for speculation.
 14 THE WITNESS: No.
 15 BY MS. WELCH:
 16 Q Do you have an understanding of which division
 17 it's in?
 18 MR. VIRJEE: Same objections.
 19 THE WITNESS: School and -- curriculum and
 20 instructional leadership branch.
 21 BY MS. WELCH:
 22 Q Would that be under the school improvement
 23 division?
 24 MR. VIRJEE: Objection; calls for speculation,
 25 lacks foundation.

1 THE WITNESS: I don't know.
 2 BY MS. WELCH:
 3 Q Okay. What are the programs of the school and
 4 district accountability division?
 5 MR. VIRJEE: Objection; vague and ambiguous as
 6 to programs.
 7 THE WITNESS: School and district accountability
 8 division consists of the complaints unit, the Cumatae/EL
 9 monitoring units combined, the consolidated -- no. Excuse
 10 me -- the -- oh, my gosh. What does CCR stand for?
 11 Coordinated Compliance Review unit, and the Title I office.
 12 BY MS. WELCH:
 13 Q What are the responsibilities of the complaints
 14 unit?
 15 A The complaints unit handles complaints that come
 16 to the department through the uniform complaint procedure.
 17 Q What are the responsibilities of the combined
 18 Comite and EL monitoring unit?
 19 MR. VIRJEE: Other than what he's already
 20 testified to?
 21 BY MS. WELCH:
 22 Q Other than what you've already testified to if
 23 you recall.
 24 A Provide oversight and monitoring of school
 25 districts to programs for English learners.

1 Q What are the responsibilities of the Title I
 2 office?
 3 A The Title I office which was just assigned to me
 4 as of Monday of this week?
 5 Q Right.
 6 A Are to oversee the requirements of the federal
 7 Title I program.
 8 Q Who's the head of that office?
 9 A Ann Just.
 10 Q That's right. You told me that.
 11 Who's currently the head of the CCR?
 12 A Rosie Thomas.
 13 Q Is there currently an associate superintendent
 14 for the curriculum and instructional leadership branch --
 15 I'm sorry -- leadership division under the curriculum and
 16 instruction branch?
 17 A I'm thinking.
 18 Q I'll just tell you the reason I'm asking is
 19 because I took a look at the org chart that's on the CDE
 20 website, and the most recent version that I just
 21 downloaded says --
 22 MS. READ-SPANGLER: That's the old chart.
 23 BY MS. WELCH:
 24 Q -- that it's vacant.
 25 MS. READ-SPANGLER: That's the old chart.

1 THE WITNESS: Maybe our new one's not accessible
 2 yet. I don't know. My answer would be I don't know. I
 3 don't think so.
 4 BY MS. WELCH:
 5 Q You don't think that it's vacant?
 6 A I don't think -- you asked originally if there's
 7 an associate superintendent.
 8 MR. VIRJEE: In charge of the division, that was
 9 her question.
 10 BY MS. WELCH:
 11 Q Yeah.
 12 A In there, and I said I don't know, but I don't
 13 think so.
 14 MS. WELCH: Okay. I can mark this org chart as
 15 an exhibit, or he can just take a look at it. It's up to
 16 you.
 17 MS. READ-SPANGLER: It's the old org chart.
 18 MS. WELCH: You know that?
 19 MS. READ-SPANGLER: I know that, yeah.
 20 MS. WELCH: Okay.
 21 MS. READ-SPANGLER: Because I just looked at it
 22 the other day. That one off the website is the old one.
 23 THE WITNESS: It's the old one.
 24 MS. READ-SPANGLER: This is really old.
 25 THE WITNESS: Well, no, because this one

1 shows --

2 MS. READ-SPANGLER: Oh, yeah, it's not that old,

3 but that's wrong.

4 THE WITNESS: This is prior to Monday's

5 reorganization.

6 MS. READ-SPANGLER: Yeah.

7 MR. VIRJEE: There's no question pending.

8 MS. READ-SPANGLER: In any event, it's not the

9 most current.

10 BY MS. WELCH:

11 Q Do you -- I take it you probably don't have an

12 understanding of when the most current one will be on the

13 website.

14 A (No verbal response).

15 Q I didn't think so, but I had to ask.

16 You also -- I think you testified that the

17 fourth division under your branch is the data management

18 unit or division; is that correct?

19 A Division, correct.

20 Q And that's still the case? That hasn't changed

21 with the reorg?

22 A That came to me on Monday.

23 Q Oh, okay. Where was it?

24 MR. VIRJEE: Asked and answered.

25 BY MS. WELCH:

1 Q You did answer this. Can you just refresh my

2 memory? Which division did it come from?

3 A Finance.

4 Q Do you have an understanding of the

5 responsibilities of this division?

6 A Since Monday, generally. It consists of a unit

7 that is responsible for the educational demographics

8 collection known as CBEDS. There's a unit that is

9 responsible for the Department of Education's connection to

10 the California Student Information System, CSIS. There's a

11 unit that is responsible for educational technology, such as

12 CLERN, C-L-E-R-N, C tap squared, and other educational

13 technology programs.

14 Q Anything else that you can think of?

15 A Since Monday, no.

16 Q Okay. Who's in charge of CBEDS?

17 A CBEDS?

18 Q The CBEDS unit.

19 A Carl Sheff.

20 Q With the reorganizations that you've talked

21 about, have there been a number of shifts in terms of the

22 leadership of different divisions and branches, or has that

23 stayed pretty stable? And if that's too general of a

24 question, I can break it down, but I wanted to try to avoid,

25 you know --

1 MR. VIRJEE: Objection as to vague and

2 ambiguous.

3 THE WITNESS: The deputy superintendents have

4 remained the same. The reorganization has created a fourth

5 branch. There's an unnamed -- there's no named deputy

6 superintendent for that branch.

7 BY MS. WELCH:

8 Q What is that branch called?

9 A School and district operations branch.

10 Q Do you have an understanding of what this -- what

11 the responsibilities are of this new branch?

12 MR. VIRJEE: Objection; calls for speculation,

13 lacks foundation.

14 THE WITNESS: Vaguely. It's charter schools.

15 It's special schools. It's something else. No. That's

16 all.

17 BY MS. WELCH:

18 Q Do you have --

19 A We're going to call it the school operations

20 branch, but that would be S.O.B. I don't think people would

21 like that.

22 Q Do you have an understanding of why this branch

23 was created?

24 A Because of the unique needs in this state for

25 which that branch should -- if I were able to fully describe

1 its entities, would be self-evident. Has to do with the

2 special needs that are not -- that don't exist -- are not

3 well met in the other existing branches.

4 Q Do you know which branch had looked at charter

5 schools or been responsible for charter school issues?

6 A Finance.

7 Q Have the directors in your -- the division

8 directors in your branch changed since the reorg?

9 A No. All division directors have remained the

10 same.

11 Q In your branch or?

12 A In my branch.

13 Q Is that true for all of CDE to your knowledge?

14 A No. There have been some changes.

15 Q Do you know who the current director of

16 curriculum frameworks and instructional resources is?

17 A Yes.

18 Q Who's that?

19 A Tom Adams.

20 Q Is Dwayne Brooks still the director of the school

21 facilities planning division?

22 MR. VIRJEE: Objection; calls for speculation,

23 lacks foundation.

24 THE WITNESS: I think so.

25 BY MS. WELCH:

1 Q Who is in charge of the CSIS unit?
 2 A The CSIS unit, Derek Ashley.
 3 Q As things currently stand, is participation in
 4 the CSIS system voluntary on the part of the districts?
 5 MR. VIRJEE: Objection; asked and answered.
 6 THE WITNESS: It's my understanding that the
 7 answer's yes.
 8 BY MS. WELCH:
 9 Q Is your division -- well, I'll make it more
 10 specific. Is school and district accountability branch
 11 responsible for the program related to what's called the
 12 Single Plan for Student Achievement?
 13 A Yes.
 14 Q Do you know what the status of this -- I don't
 15 know if you want to call it program or -- I'll just call it
 16 program. Do you know what the status of it is?
 17 MR. VIRJEE: Objection; vague and ambiguous,
 18 calls for speculation, vague as to status.
 19 THE WITNESS: It's in existence.
 20 BY MS. WELCH:
 21 Q Do you know if it's being utilized by districts?
 22 MR. VIRJEE: Objection; calls for speculation,
 23 lacks foundation, and vague as to utilized.
 24 THE WITNESS: Yes.
 25 BY MS. WELCH:

1 Q Yes, it is being used --
 2 A Yes.
 3 Q -- utilized.
 4 Do you know if there are plans underway to
 5 modify the Single Plan for Student Achievement program?
 6 A No.
 7 Q No, you don't know, or, no, there are not plans?
 8 A No, I don't know.
 9 Q What is your understanding of what the single
 10 plan for student achievement is?
 11 MR. VIRJEE: Objection; vague and ambiguous,
 12 calls for speculation, and lacks foundation.
 13 THE WITNESS: My understanding is that there --
 14 the legislation created a mechanism by which schools were to
 15 identify their operational plans along certain criteria that
 16 are identified within the legislation and submit their plan
 17 in that way.
 18 BY MS. WELCH:
 19 Q Do you know whether the Single Plan for Student
 20 Achievement replaced the PQR process?
 21 MR. VIRJEE: Objection; vague and ambiguous as
 22 to replaced, also calls for speculation.
 23 THE WITNESS: No. But the PQR process is no
 24 longer in operation.
 25 BY MS. WELCH:

1 Q Are you familiar with a process or project that
 2 was referred to in CDE documents as reengineering CCR?
 3 A No.
 4 Q Have you ever heard -- so you've never heard that
 5 term before?
 6 A I've not heard the term reengineering CCR.
 7 Q Do you have any familiarity with revisions made
 8 to CCR? I mean, do you think you know what I'm talking
 9 about but it's called something else, or do you just have --
 10 MR. VIRJEE: Objection; vague and ambiguous.
 11 MS. READ-SPANGLER: Calls for mind reading.
 12 MR. VIRJEE: Speculation -- calls for
 13 speculation.
 14 THE WITNESS: I don't know. I'm sorry. I don't
 15 know to what you're referring.
 16 BY MS. WELCH:
 17 Q I'm just saying if you have in mind something
 18 that sounds like revisions to CCR but it's not called
 19 specifically reengineering CCR.
 20 MR. VIRJEE: I don't think there's a question
 21 pending. What's your question?
 22 BY MS. WELCH:
 23 Q Do you have an understanding of whether or not
 24 CCR is in the process of being redesigned?
 25 A I do.

1 Q What's that understanding?
 2 A It's under consideration.
 3 Q And what is under consideration?
 4 A Some -- some reorganization of the Coordinated
 5 Compliance Review.
 6 Q Do you know if this consideration has a name? I
 7 mean, so you've never heard of the concept of redesigning
 8 CCR?
 9 MR. VIRJEE: That misstates his former testimony
 10 if that was supposed to be an attempt to state his
 11 testimony, because you've been using the word
 12 "reengineering" and now you're using "redesigning."
 13 BY MS. WELCH:
 14 Q Redesigning, reengineering, have you used either
 15 term in connection with CCR?
 16 MR. VIRJEE: Ever?
 17 THE WITNESS: Since my arrival in the Department
 18 of Education, I have not used nor have I heard the term
 19 redesigning or reengineering CCR.
 20 BY MS. WELCH:
 21 Q Does the current evaluation of CCR have a name?
 22 A No.
 23 Q Do you know what stage this redesign is in?
 24 MR. VIRJEE: Objection; assumes facts not in
 25 evidence. He never testified there was a redesign going on.

1 He testified it was under considerations. Misstates his
2 testimony.
3 THE WITNESS: Your question is what stage is it
4 in?
5 BY MS. WELCH:
6 Q Yes.
7 A It's in consideration stage.
8 Q And who's considering it?
9 A The assessment and accountability branch.
10 Q Do you know the specifics of what they're
11 considering?
12 A Specifics are under consideration now.
13 Q What are those specifics?
14 MS. READ-SPANGLER: I'm going to object to the
15 extent it calls for information that's protected by the
16 deliberative process privilege.
17 THE WITNESS: So what does that mean?
18 MS. WELCH: Good question.
19 MS. READ-SPANGLER: Let's take a break.
20 (Recess.)
21 (Record read as follows:
22 "Question: Do you know the specifics of what
23 they're considering?")
24 THE WITNESS: And my answer was?
25 (Record read as follows:

1 "Answer: Specifics are under consideration
2 now.")
3 BY MS. WELCH:
4 Q So do you know the specifics of what they're
5 considering in terms of revising this CCR process?
6 A Oh, no.
7 Q What specifics do you know, or were we just not
8 communicating with one another?
9 A That the CCR process -- we have certain
10 obligations to monitor and oversee state and federal
11 categorical programs, and so we are looking at ways in which
12 we can do that.
13 Q Different from the ways that you are currently
14 doing it?
15 A Correct.
16 MS. WELCH: Well, I think -- I can't remember
17 which deposition it was, but you gave us a draft of the
18 2003, 2004 CCR guide.
19 MS. READ-SPANGLER: Right.
20 THE WITNESS: The guide?
21 MS. READ-SPANGLER: Right. Which I'm still --
22 which I will Bates stamp and send on. I just haven't done
23 it, because I've been out of the office.
24 BY MS. WELCH:
25 Q Are you talking about changes in addition to what

1 is -- to the changes that are in that training guide?
2 MR. VIRJEE: Objection; calls for speculation,
3 lacks foundation.
4 BY MS. WELCH:
5 Q When you're talking about what is being
6 considered, are you talking about changes that would not
7 be -- well, I guess -- the reason I'm asking is it is a
8 draft. So I'm wondering if you're talking about aspects of
9 that draft that are not final, or if you're talking about
10 things that are not reflected in that draft?
11 MS. READ-SPANGLER: And just for the record, I
12 think that draft might be dated September 2002, so that
13 predates him. It's --
14 BY MS. WELCH:
15 Q You may not be able to answer it that way.
16 MR. VIRJEE: I think the document speaks for
17 itself, and it calls for speculation and lacks foundation.
18 BY MS. WELCH:
19 Q Can you give me any specifics in terms of what is
20 being considered?
21 A No.
22 Q And why is that?
23 MR. VIRJEE: He told you he didn't know them
24 already. You asked him do you know any of the specifics,
25 and he said no.

1 THE WITNESS: Because they're just in a
2 consideration stage.
3 BY MS. WELCH:
4 Q But there are things that are being considered,
5 correct?
6 A Well, the things being considered are our
7 obligations to monitor and oversee what's required under the
8 state and federal categorical programs.
9 Q And what types of changes are being contemplated.
10 MR. VIRJEE: Objection; calls for speculation,
11 lacks foundation.
12 THE WITNESS: I can't speak about any in
13 particular, because they're just in a discussion stage.
14 BY MS. WELCH:
15 Q So can you give me a general sense of what's
16 being discussed.
17 A Uh-huh, no.
18 Q Why is that?
19 A I can't recall all of the particular things we've
20 discussed.
21 Q Where are the discussions taking place?
22 A Within the Department of Education.
23 Q At board meetings?
24 A Within the -- within the assessment and
25 accountability branch meetings with my division directors in

1 the assessment and accountability branch.
 2 Q Are there -- I'm not trying to be difficult I'm
 3 just trying to have wondering if there are aspects of those
 4 discussions that you can describe to me.
 5 MR. VIRJEE: Objection; asked and answered.
 6 THE WITNESS: No, because they're just in a
 7 discussion and consideration stage.
 8 BY MS. WELCH:
 9 Q So do you have a specific meeting in mind at
 10 which these issues were discussed?
 11 A No.
 12 Q Do you have a specific conversation in mind that
 13 you had with someone in which these issues were being
 14 discussed?
 15 A No.
 16 Q So I guess I don't understand what the basis for
 17 your statement is that things are being considered.
 18 MR. VIRJEE: What's your question? That's a
 19 statement. Ask a question, he can answer it.
 20 BY MS. WELCH:
 21 Q What is the basis for your statement that things
 22 are being considered?
 23 A That in my branch when I have meetings with my
 24 division directors we've had discussions about that process,
 25 the current CCR process.

1 Q And what sorts of things have you discussed?
 2 A About ways in which we can conduct the CCR
 3 process in a more -- considering a more efficient manner or
 4 any possibilities of becoming more efficient.
 5 Q Could you give me an example of a way that it
 6 could be done in a more efficient manner?
 7 MR. VIRJEE: Objection; calls for speculation,
 8 lacks foundation.
 9 THE WITNESS: As an example, of a possible way
 10 there could be some consideration to looking at school or
 11 district indexes such as APIs in making some determinations.
 12 BY MS. WELCH:
 13 Q In terms of the level of the review?
 14 A That's one possibility.
 15 Q I've seen various documents that the CDE has put
 16 out that talk about differentiated reviews. Is that what
 17 you're referring to here?
 18 A I don't know the document you're referring to.
 19 Q Are you familiar with the term "differentiated
 20 review" as it applies to CCR?
 21 A No.
 22 Q As it applies to anything?
 23 A As it applies to differentiated reviews.
 24 Q What is your understanding of the term?
 25 MR. VIRJEE: Generically, or in some specific

1 context?
 2 BY MS. WELCH:
 3 Q In the context of the CDE. I don't need you to
 4 describe what you think those two words mean.
 5 A That's what I was going to do.
 6 Q So you don't have an understanding of the
 7 differentiated review in connection to CDE; is that right?
 8 A Correct.
 9 Q Can you think of any other examples?
 10 MR. VIRJEE: Are you asking him for examples
 11 that have been discussed, or are you asking him to think of
 12 examples on his own? Because I think the question was
 13 unclear on that point.
 14 BY MS. WELCH:
 15 Q Economy examples of considerations that have been
 16 discussed.
 17 MR. VIRJEE: That had been discussed.
 18 THE WITNESS: Not at this moment.
 19 (Deposition Exhibit 289 was marked for
 20 identification by the court reporter.)
 21 BY MS. WELCH:
 22 Q I've handed you a document entitled the "Academic
 23 Performance Index (API): A six-year plan for development
 24 (2001-2006)." The document states on the front that it's a
 25 paper presented to the Board of Education April 25th, 2002

1 and it was prepared by the California Department of
 2 Education Accountability Branch Policy and Evaluation
 3 Division. Could you take some time to just look at this
 4 document?
 5 A Sure.
 6 MR. VIRJEE: You want him to read the whole
 7 document?
 8 MS. WELCH: I don't think it's --
 9 MR. VIRJEE: Or familiarity if he's seen it
 10 before?
 11 She just wants you to look to see if you've seen
 12 it before.
 13 THE WITNESS: I'm familiar with this format.
 14 I'm familiar with the fact that there is a six-year plan for
 15 API development. This looks familiar to me, vaguely
 16 familiar, to me as I flip through the pages. The content
 17 within it looks familiar.
 18 BY MS. WELCH:
 19 Q Okay. Could you for the time being take a look
 20 at the guiding principles that are on page 1 and let me know
 21 when you've had a chance to review that?
 22 A (BRIEF PAUSE; witness reviewing document.)
 23 Okay.
 24 Q Are you familiar with the guiding principle of
 25 API in general?

1 MR. VIRJEE: Are you familiar with these that
2 are referenced?
3 BY MS. WELCH:
4 Q Well, as you probably know, these principles are
5 based on the statute. So I'm wondering first if you're --
6 you know, outside of what you just read, are you familiar
7 with the guiding principle of the API?
8 MR. VIRJEE: Are you asking whether he's seem
9 them in the statute or -- it calls for speculation, lacks
10 foundation, vague and ambiguous as to guiding principles.
11 MS. READ-SPANGLER: And, also, I don't think
12 it's in the statute. It says they're right here they're
13 adopted by the state board.
14 BY MS. WELCH:
15 Q I'm sorry.
16 My question was not about these specific
17 principles that are right here.
18 MR. VIRJEE: Okay. So what's your question?
19 BY MS. WELCH:
20 Q My question was, Are you familiar with the
21 guiding principle of the API?
22 MR. VIRJEE: Objection; vague and ambiguous as
23 to guiding principles. Are you asking what's set forth in
24 the statute? What commentators have said? What the state
25 board has said? The Department of Ed has said? It's vague

1 THE WITNESS: And whom they may be important to.
2 Who? The state board who adopted them? The superintendent?
3 Secretary of Education? School districts?
4 BY MS. WELCH:
5 Q You can answer my question.
6 MR. VIRJEE: If you can.
7 THE WITNESS: What is the question?
8 MS. WELCH: Do you want to read it back?
9 (Record read back as follows:
10 "Question: Do you think that the guiding
11 principles as set forth on page 1 of this document are
12 important?")
13 THE WITNESS: Yes.
14 BY MS. WELCH:
15 Q Why is that?
16 MR. VIRJEE: Same objections.
17 THE WITNESS: As principles, they set forth the
18 importance of the development of the Academic Performance
19 Index.
20 BY MS. WELCH:
21 Q Do you know what the status of adding attendance
22 and graduation rates to the API is?
23 MS. READ-SPANGLER: Objection; compound, vague
24 and ambiguous.
25 THE WITNESS: There's an existing bill to make

1 and ambiguous.
2 THE WITNESS: I'm familiar with the fact that
3 there are guiding principles to the API.
4 BY MS. WELCH:
5 Q Do you have an understanding of what the state
6 board has said about those -- has set forth in terms of
7 guiding principles?
8 A They adopted them.
9 Q So when you -- when you -- strike that.
10 Do you know if there have been any changes in
11 the guiding principles since they were adopted by the state
12 board in '99?
13 MR. VIRJEE: Any changes at this -- by the state
14 board in their adoption of the guiding principles?
15 MS. WELCH: Yes.
16 MR. VIRJEE: If you know.
17 THE WITNESS: I don't believe so.
18 BY MS. WELCH:
19 Q Do you think that the guiding principles as set
20 forth on page 1 of this document are important?
21 MR. VIRJEE: Objection; vague and ambiguous as
22 to important, also, vague and ambiguous as to meaning of the
23 guiding principles.
24 MS. READ-SPANGLER: It's also compound.
25 MR. VIRJEE: Also calls for speculation.

1 changes to the API system So it will be consistent with
2 federal NCLB requirements.
3 BY MS. WELCH:
4 Q Does it involve attendance rates?
5 MR. VIRJEE: The existing bill -- pending bill?
6 MS. WELCH: Yeah.
7 THE WITNESS: The pending bill. I don't
8 think --
9 MR. VIRJEE: The bill speaks for itself.
10 BY MS. WELCH:
11 Q Why does it involve graduation rates?
12 MR. VIRJEE: The bill speaks for itself.
13 THE WITNESS: I can't recall.
14 BY MS. WELCH:
15 Q I'm not quite clear on -- my question was, Do you
16 know the status of --
17 MS. WELCH: Could you actually repeat my
18 question?
19 (Record read as follows:
20 "Question: Do you know what the status of
21 adding attendance and graduation rates to the API is?")
22 THE WITNESS: Yes.
23 BY MS. WELCH:
24 Q What is the status?
25 A They're not currently added.

1 Q Do you know if there is -- I mean, when you
2 originally answered that question, you answered it
3 referencing a bill. I'm wondering why you referenced a
4 bill.

5 A Because in meeting our requirements under NCLB,
6 we are to have one accountability system, and we've decided
7 the API will be the other indicator. So we wanted to make
8 it consistent. So my initial reaction was to consider the
9 bill for which is currently in its -- in its current state
10 and consider whether graduation requirements was a component
11 of that.

12 Q And it's not, correct?

13 A I don't believe it is.

14 Q Who is the sponsor of the bill?

15 A I believe McPherson.

16 Q Do you have any understanding of the status of
17 the bill and the adoption process?

18 A No.

19 Q Do you know what it's called?

20 MR. VIRJEE: You mean, the number of the bill?

21 BY MS. WELCH:

22 Q Or if it has a name.

23 A I know it has a number. I know it has a name. I
24 can't recall, though.

25 Q Okay. Other than issues --

1 Well, do you know the components of the bill?
2 You described it generally. I'm wondering if you could be
3 more specific.

4 MR. VIRJEE: The bill speaks for itself. He's
5 told you generally what it entails already.

6 THE WITNESS: There is a need to --

7 MR. VIRJEE: She's asking what the bill says, if
8 you know what the bill says. That's her question.

9 THE WITNESS: I can't repeat verbatim what the
10 bill says.

11 MR. VIRJEE: Okay. She's asking you to tell her
12 any specifics you know about the bill other than what you've
13 already said. That's all she's asked for.

14 BY MS. WELCH:

15 Q What is there a need to do?

16 A In the API to include students with disabilities
17 as a significant subgroup, to add EL students in the
18 calculation of API as a significant subgroup.

19 Q So the bill has various components which will
20 align the California State Accountability System with the
21 requirements of No Child Left Behind; is that right?

22 A Correct.

23 MR. VIRJEE: Objection; vague and ambiguous as
24 to align; calls for speculation, and the bill speaks for
25 itself.

1 BY MS. WELCH:

2 Q Has there -- is there continuing discussion at
3 board meetings about adding attendance rates to the API?

4 MS. READ-SPANGLER: Objection; calls for
5 speculation.

6 MR. VIRJEE: Leecia just for clarification. The
7 state board?

8 MS. WELCH: Yeah, California State Board.

9 MR. VIRJEE: To the extent you know.

10 THE WITNESS: I can't recall.

11 BY MS. WELCH:

12 Q Do you recall any discussions of current
13 discussions of adding graduation rates?

14 A To the API.

15 Q To API?

16 A No.

17 Q If you could turn to page 5 of this document, and
18 feel free to read as much of the page as you want. But I'm
19 going to ask you specifically about the last paragraph where
20 it says, "Value added measure."

21 A (BRIEF PAUSE; witness reviewing document.)
22 Only this last paragraph?

23 Q That's all I have questions about right now.

24 A Okay. I've read it.

25 Q Okay. Focusing on the issue of value added

1 measures, do you know if there's plans underway to measure
2 growth based on student level longitudinal data?

3 A Plans, no.

4 Q There are not plans; is that correct?

5 MR. VIRJEE: Objection; asked and answered.

6 THE WITNESS: Are there plans? No.

7 BY MS. WELCH:

8 Q What are there?

9 A There are ideas captured in bills.

10 Q Do you have any particular bills in mind?

11 A I think it's AB 257.

12 Q And I take it this is a different bill than the
13 one we were just talking about.

14 A Correct.

15 Q And this bill focuses on this issue of value
16 added measures.

17 MR. VIRJEE: Objection; vague and ambiguous as
18 to value added measures.

19 THE WITNESS: I can't repeat verbatim the words
20 in the bill, but there is an idea about using some kind of a
21 value index as a result of 257.

22 MS. WELCH: You want to take a break?

23 MS. READ-SPANGLER: No. I'm okay.

24 BY MS. WELCH:

25 Q Other than this -- other than AB 257, are you

1 aware of any other plans to add this measure?
 2 A I can't recall.
 3 Q Is that an issue that has been discussed at board
 4 meetings that you've attended?
 5 A Not that I've attended.
 6 Q If you could take a look at page 10 of this
 7 report. If you could just review page 10 and 11.
 8 A (BRIEF PAUSE; witness reviewing document.)
 9 Okay.
 10 Q My question relates to the last paragraph where
 11 it talks -- where it says, "The underlying guide, the
 12 federal AYP requirement as the California Accountability
 13 Systems are the same (improved academic and comparable
 14 improvement by numerically significant student subgroups),
 15 the CDE is asking for flexibility in application --
 16 A I'm sorry. My last paragraph doesn't say that.
 17 MR. VIRJEE: She's referring to the last
 18 paragraph of the first page.
 19 BY MS. WELCH:
 20 Q On page 10. I'm sorry.
 21 MR. VIRJEE: You had asked him to read page 10
 22 and 11.
 23 BY MS. WELCH:
 24 Q No worries.
 25 Where did I leave off? You want me start over?

1 MR. VIRJEE: You don't have to read it into the
 2 record. You're referring to -- you're asking him to look at
 3 the last paragraph of page 10.
 4 BY MS. WELCH:
 5 Q That's correct.
 6 MR. VIRJEE: Do you have a question?
 7 BY MS. WELCH:
 8 Q Yeah. Are you finished reviewing?
 9 A Oh, sure.
 10 Q Do you know has the CDE asked for flexibility in
 11 application of the AYP requirements?
 12 MR. VIRJEE: Objection; vague and ambiguous as to
 13 asking who and vague and ambiguous as to flexibility.
 14 THE WITNESS: The State of California proposed in
 15 some of its accountability workbooks that was submitted to
 16 the federal government January 31, 2003.
 17 BY MS. WELCH:
 18 Q And do you know whether -- I mean, I'm going to
 19 get to the workbook so we -- maybe we can just talk about it
 20 then, but I'm -- you know, whether or not the CDE has asked
 21 for flexibility that the documents suggests?
 22 A It did.
 23 MR. VIRJEE: Objection; vague and ambiguous as
 24 to flexibility and how this document might suggest that. He
 25 didn't prepare the document so who knows what that means.

1 BY MS. WELCH:
 2 Q Do you know who prepared this document?
 3 MR. VIRJEE: Other than the reference on the
 4 front to what it says?
 5 BY MS. WELCH:
 6 Q I understand that it says that the accountability
 7 branch, his branch, the policy and evaluation division
 8 prepared it. I'm wondering if you know the individual that
 9 prepared it or group of individuals.
 10 MR. VIRJEE: It's also dated April 25, 2002
 11 before he ever got there.
 12 MS. WELCH: I totally am aware of that.
 13 THE WITNESS: No.
 14 BY MS. WELCH:
 15 Q Do you know if your -- the policy and evaluation
 16 division is using this document as the basis for development
 17 of the API?
 18 MR. VIRJEE: Objection; vague and ambiguous as
 19 to development of the API and using the development. I
 20 should also reflect the fact that he did not read the entire
 21 document he looked at the pages that you've asked him to
 22 look at. So it's probably an unfair question to ask without
 23 reading the document cover to cover.
 24 THE WITNESS: Some of the ideas expressed within
 25 this document are in operation as the time line suggests,

1 for example, the inclusion of the California Alternate
 2 Performance Assessment, CAPA, into the API; is moving forth
 3 with consideration.
 4 BY MS. WELCH:
 5 Q Since you started at the department, has this
 6 document been discussed?
 7 MS. READ-SPANGLER: By anyone?
 8 MR. VIRJEE: Objection; calls for speculation as
 9 to who might have discussed it.
 10 THE WITNESS: The document has not been
 11 discussed, but certain aspects within the document as, for
 12 example, the example I previously gave in the last question
 13 have been referenced under the six-year plan.
 14 BY MS. WELCH:
 15 Q Do you know whether that plan has been updated?
 16 A No.
 17 Q Are there -- do you know whether there are
 18 plans -- no, you don't know, or, no, it hasn't been updated?
 19 A No, I don't know.
 20 Q Are you aware of any discussions about updating
 21 it?
 22 MS. READ-SPANGLER: Updating the particular
 23 CBEDS.
 24 BY MS. WELCH:
 25 Q The plan.

1 MR. VIRJEE: As set forth in the document?
 2 THE WITNESS: No.
 3 BY MS. WELCH:
 4 Q Are you familiar with analysis of the API that
 5 was performed by Credo?
 6 A No.
 7 Q Are you familiar with any of the research that
 8 has been performed by Margaret Raymond?
 9 A No.
 10 Q In your opinion, what are the goals of
 11 California's public education system?
 12 MR. VIRJEE: Objection; overbroad, vague and
 13 ambiguous as to goals, calls for speculation, lacks
 14 foundation, calls for an expert opinion.
 15 THE WITNESS: The goals of what?
 16 BY MS. WELCH:
 17 Q California's public education system.
 18 MR. VIRJEE: Same objections.
 19 THE WITNESS: To educate students.
 20 BY MS. WELCH:
 21 Q Anything else?
 22 A No.
 23 Q What do you mean by educate students?
 24 A What do you mean by education system?
 25 Q I mean, the system of schools that's in place in

1 California.
 2 MR. VIRJEE: To the extent you think that term
 3 is self-explanatory, you can tell her that it sounds
 4 self-explanatory to me.
 5 THE WITNESS: To educate students in the state
 6 of California in our public school system to the academic
 7 content standards that the State Board of Education has
 8 adopted.
 9 BY MS. WELCH:
 10 Q Do you think that schools serve any other purpose
 11 in educating students on the content standards?
 12 MR. VIRJEE: Vague and ambiguous as to serve any
 13 purpose, calls for speculation and overbroad and ridiculous
 14 question.
 15 THE WITNESS: There are other purposes that are
 16 identified in separate pieces of legislation which are not
 17 necessarily specifically identified within the contents
 18 standards.
 19 BY MS. WELCH:
 20 Q What are those other purposes?
 21 A I could not name them all, but as an example,
 22 there are separate ideas that are described within
 23 legislation around character education, let's say, or around
 24 moral and ethical guidance.
 25 Q Anything else besides educating students on the

1 content standards, character education and moral and ethical
 2 guidance you can think of?
 3 A Those were examples.
 4 Q Can you think of others?
 5 A There are quite of number of them captured in the
 6 California Education Code Statute. Are you asking me to
 7 repeat what I know of the California Education Code Statute?
 8 Q I'm just asking you what the purpose of the
 9 educational system is in California.
 10 MR. VIRJEE: You need -- he's answered that
 11 question.
 12 MS. WELCH: And he's given three examples.
 13 BY MS. WELCH:
 14 Q And I'm wondering if you have any other examples
 15 of the purpose.
 16 A Not at this time.
 17 Q When --
 18 You were a teacher for how many years?
 19 A Approximately, 20.
 20 Q 20 years.
 21 What were your goals in terms of educating your
 22 students?
 23 MR. VIRJEE: Objection; vague as to time.
 24 Objection; vague and ambiguous to goals in educating
 25 students.

1 THE WITNESS: When I started in 1975, they were
 2 directed by my employer the Lucia Mar Unified School
 3 District as captured in their curriculum district guides.
 4 BY MS. WELCH:
 5 Q So you didn't have any of your own personal goals
 6 in terms of the aspects of an education you wanted to
 7 instill within the students that were in your classroom?
 8 MR. VIRJEE: Objection; vague and ambiguous as
 9 to goals.
 10 THE WITNESS: They were formalized by the school
 11 district by which I was employed within their curriculum
 12 guides and outcomes.
 13 BY MS. WELCH:
 14 Q Can you give some examples of the goals?
 15 A Because I was instructing students in history,
 16 social science, they were related to the curriculum goals
 17 and outcomes for that subject matter which included other
 18 aspects such as becoming active participants in the
 19 democratic society, specifically, becoming active in the
 20 community, supporting and being knowledgeable of local
 21 actions and events and decisions, specific examples, such as
 22 attending school board meetings, community meetings, and
 23 other legislative bodies in the community that were making
 24 decisions, becoming productive citizens within the community
 25 and within our state.

1 Q Do you think these are all good goals?
 2 MR. VIRJEE: Objection; vague and ambiguous as
 3 to good goals, lacks foundation, calls for speculation.
 4 Relative to what?
 5 THE WITNESS: Yes.
 6 MS. READ-SPANGLER: Can we take a break when you
 7 get to a good point?
 8 MS. WELCH: This is a good breaking point.
 9 (Recess.)
 10 BY MS. WELCH:
 11 Q Based on your experience in education, what do
 12 you think are the components of an effective accountability
 13 system?
 14 MR. VIRJEE: Objection, vague and ambiguous as
 15 to components and accountability system.
 16 THE WITNESS: A sound curriculum, a valid and
 17 reliable assessment and an account -- account -- and some
 18 measure of using the results of the assessment system to
 19 make determinations about an effectiveness of schools.
 20 BY MS. WELCH:
 21 Q Can you think of any other components?
 22 A Well, within each one of those components, there
 23 are some characteristics that --
 24 Q All right. Well, why don't we talk about the
 25 characteristics of a sound curriculum. What are the

1 characteristics of a sound curriculum?
 2 A Should be available for all students. It should
 3 be continuous throughout the system, in this case K-12. It
 4 should be based upon accepted -- publicly-accepted
 5 acknowledgement of the value of the subject matters that are
 6 taught to students.
 7 Q Anything else that you can think of?
 8 A Not at this time.
 9 Q What do you mean by being -- that it should be
 10 continuous throughout the system?
 11 A Meaning there should be some expectations at each
 12 of the grade levels and developmental stages of students. I
 13 think you used the reference -- the term K-12.
 14 Q What do you mean by available for all students?
 15 A Meaning that it's accessible, it's -- one can --
 16 meaning that one can access it, it's readily available, it's
 17 not hidden in any format, it's clear and concise so that
 18 those who are responsible for helping students to learn the
 19 expected curriculum can access it and provide it for
 20 students.
 21 Q What do you think the characteristics of a valid
 22 and reliable assessment are?
 23 A Valid meaning that it's measuring what it says it
 24 purports to measure. And reliable means that the results
 25 fall within accepted standards of statistical reliability,

1 generally meaning, that the results indicate fairly how the
 2 students do. And under definitions of reliability, meaning
 3 within a reasonable time frame should you reassess the
 4 students you come up with approximately the same score.
 5 Q What would you say the characteristics of the
 6 third requirement that you mentioned -- I don't have the
 7 exact words, but measurement of using results to make
 8 determinations about effectiveness of schools as a general
 9 concept?
 10 A I think that principles that are captured in this
 11 document we just looked at, the six-year plan the principles
 12 of API, are very sound guiding principles.
 13 Q Is that what you have in mind when you're talking
 14 about the third point?
 15 A Yes.
 16 Q Based on your definition, do you think that
 17 California has a sound curriculum?
 18 A Yes.
 19 Q And why is that?
 20 A Because it meets the definition that I have
 21 described in its characteristics, that it's accessible, it's
 22 continuous. It's readily available to those who are
 23 responsible for helping students to learn it.
 24 Q What would you say are the primary components of
 25 California's curriculum as you're using the term?

1 MR. VIRJEE: Objection; vague and ambiguous as
 2 to primary components of a curriculum; also, calls for
 3 speculation, expert opinion.
 4 THE WITNESS: They're captured in California's
 5 Curricular Frameworks as well as in California's Academic
 6 Content Standards.
 7 BY MS. WELCH:
 8 Q Do you think California currently has a valid and
 9 reliable assessment?
 10 A Yes.
 11 Q Why is that?
 12 A Why do I think that?
 13 Q Yes. What is that thought based on?
 14 A The thought is based on the evaluation of the
 15 current products that we use in assessing California
 16 students that they meet the industry standards that are
 17 captured in the APAM, CAARA standards for assessment
 18 development.
 19 Q And by products, what are you referring to?
 20 A The actual instruments that we administer to
 21 students, that make up our STAR, our California High School
 22 Exit Exam, that make up the California English Language
 23 Development Assessment.
 24 Q Are there aspects of the current curriculum as we
 25 were discussing as you were discussing it that you would

1 like to see improved in California?

2 MR. VIRJEE: Objection; vague and ambiguous as
3 to aspects of curriculum; also, lacks foundation as to the
4 degree of familiarity he has with the curriculum in every
5 subject area, calls for an expert opinion which this witness
6 is not competent to give.

7 THE WITNESS: California's curriculum
8 frameworks -- curricular frameworks go under review
9 periodically to ensure that they are providing guidance for
10 instructors in that subject, in that discipline. So as part
11 of the continuous cycle of improvement, I think that
12 depending upon where -- at what point you ask me this
13 question within this cycle I might have to say yes or no,
14 because it may be in. -- currently in one of the cycles of
15 revision.

16 BY MS. WELCH:

17 Q I think that's a fair response. What I would
18 like to understand is whether sitting here today -- and if
19 you can't answer the question you can tell me you can't
20 answer the question. But from kind of a conceptual
21 standpoint as the head of the accountability system in
22 California, if you think that there are ways that curriculum
23 component could and should be improved.

24 MR. VIRJEE: Objection; calls for speculation,
25 lacks foundation as to his knowledge of the curricular

1 discussed and decided and argued, debated that would enable
2 the assessment system to be most efficient, provide us the
3 most useful and reliable information for its purposes which
4 are helping to determine whether students are acquiring the
5 knowledge that we have put forth in our curriculum.

6 Q What are the characteristics of the third
7 component that you mentioned of an effective accountability
8 system?

9 A I believe I was describing -- or I believe I
10 answered that.

11 Q I'm sorry. It's getting --

12 A That principles that are captured in our Academic
13 Performance Index, I believe those guiding principles are
14 excellent ones, meaning that -- I could repeat them for you
15 here, but they're captured in the document.

16 Q So in terms of making determinations about the
17 effectiveness of schools, these would be the characteristics
18 that you think are important?

19 A Yes.

20 Q Are there ways that you think California could
21 improve upon its current measurement?

22 MR. VIRJEE: Which measurement?

23 MS. WELCH: I'm referring to the third prong.

24 MR. VIRJEE: The third prong wasn't the
25 measurement. The third prong was the use of results to make

1 standards in the state in any specificity, calls for an
2 expert opinion.

3 THE WITNESS: I believe -- my evaluation of the
4 curricular frameworks in our academic standards are that
5 they're excellent.

6 BY MS. WELCH:

7 Q Do you think that in evaluating the standards and
8 the frameworks looking at the -- actually, strike that.

9 Are there ways that you would like the
10 assessment mechanism of California's system to be improved?

11 A I believe a system should always look for
12 continual improvement. Improvement can come in a variety of
13 forms. Could come in access, the way in which the actual
14 assessment is accessed or -- accessed by students. For
15 example, we currently use kind of paper pencil. Maybe there
16 could be some futuristic way of improving the assessment way
17 by advancing in technology. There may be ways in which we
18 improve assessment systems, inclusion of other subjects
19 rather than the traditional ones that are assessed core
20 curriculum of reading or English and math and history and
21 science to include others.

22 There are also delicate balances between time,
23 cost, approaches to assessment in terms of sampling versus
24 all students taking exactly the same CBEDS. There's a
25 number of considerations that can always be reviewed and

1 determination of school effectiveness.

2 MS. WELCH: Measuring use of results to make
3 determination of results of effectiveness, that's what I'm
4 referring to.

5 MR. VIRJEE: He never used the word measurement.
6 I just want to make sure that's clear. You've asked about
7 measurement now twice in that question. Well, you said use
8 of the results to make determination of school effectiveness
9 that is what CBEDS --

10 BY MS. WELCH:

11 Q The record will reflect what you said. You
12 understand what I'm talking about, right, that third prong?

13 A So the question is are there other ways to
14 improve. I believe there's always consideration on ways to
15 improve that system.

16 Q Do you have any ideas in mind for California in
17 particular?

18 A Certainly, as I had said earlier when you asked
19 about the actual assessment, then some consideration could
20 be applied in terms of the value that's attributed to
21 results from certain areas. Those are -- those are both --
22 there are some technical decisions to be made. And there's
23 also some policy decisions to be made, meaning, do
24 mathematics and reading have equal value and weight in our
25 system, equal to mathematics, equal to history, social

1 science and science or art or health or any of the other
2 subject matters.

3 There are some -- again, some technical
4 decisions that could be made, but largely they are political
5 decisions that are made, so considerations there.

6 As well as, it's more related to the techniques
7 and the assessment, but how the results are then used for
8 example and a sampling, as I said, versus every student
9 taking exactly the same question and, therefore, some
10 consideration as to how you attribute, again, the value
11 related to that.

12 Q I remember reading a quote, and I think it may
13 have been an article on Long Beach's website talking about
14 your new role at the CDE, and it quoted as you saying
15 something to the effect of that your goal in taking this new
16 position was to develop that best accountability system in
17 the nation. Do you recall that quote?

18 A Vaguely.

19 Q Did you have in mind what you meant by the best
20 accountability system in the nation?

21 MR. VIRJEE: If he used those words?

22 THE WITNESS: What I had in mind is the question
23 is in that California being the largest state in the union
24 in terms of student population, numbers of schools, and all
25 states being required to have some form of state

1 A It's still in process, but an example would be
2 earlier in this calendar year, most particularly in January
3 and February -- in February and March, as other states
4 accountability plans were being approved by the Department
5 of Education Indiana, Ohio, for example, others, we -- I
6 would look at those plans as they were posted on the CCSO
7 website. So I could read through them, get some idea of how
8 they are approaching the requirements as well as how they're
9 putting their components together.

10 Q And you're focusing specifically on the NCLB
11 requirements; is that right?

12 A In particular, the current focus which is
13 captured in the immediacy of the work when I became deputy
14 superintendent starting in January.

15 Q Right. Were there any state workbook -- are you
16 talking -- they weren't workbooks. What were they called so
17 I'm using the right term?

18 A Well, they were -- that's the right term. They
19 were accountability plans that were captured on the guidance
20 of the workbook.

21 Q Were there any state plans that you recall
22 reading and being impressed with?

23 MR. VIRJEE: Objection; vague and ambiguous was
24 to impressed with.

25 THE WITNESS: What was interesting rather than

1 accountability systems, my goal was to ensure that it, the
2 full system, was transparent and was explainable.

3 One of the goals of the six-year plan says to
4 have a Academic Performance Index that's reasonable and
5 explainable to parents, community. I think that we want to
6 strive as best we can to ensure that that happens and that
7 our stake holders, our parents, our students, our community
8 members and supporters of our schools, which are generally
9 our tax payers, understand the role and the value of our
10 schools and what they provide for our students and how
11 that's -- how all the elements are added together in this
12 system.

13 BY MS. WELCH:

14 Q In trying to create the best accountability
15 system in the nation, have you reviewed what other states
16 are doing with respect to developing their accountability
17 systems?

18 MR. VIRJEE: You're asking since making that
19 statement since coming to State Department of Ed?

20 THE WITNESS: Since in my new role?

21 BY MS. WELCH:

22 Q Your new role? As researcher? I mean, in
23 general.

24 A Yes.

25 Q And what -- how have you done that review?

1 impressive were ways in which other states were meeting the
2 requirements of NCLB and including them in their plans for
3 which we in California considered and have implemented some.

4 BY MS. WELCH:

5 Q I'm not quite sure I'm following.

6 A Maybe if I gave you an example.

7 Q Okay. That would be great.

8 A NCLB guidelines allow for intermediate goals. If
9 you look at our -- the California's accountability plan, we
10 have two intermediate goals starting immediately and going
11 from 2002 to 2004. That's the first intermediate goal. And
12 then a second intermediate going from 2005, I believe,
13 through 2007. Therefore, if you look at linear projection,
14 it looks more like a stair step.

15 Q Right. I've seen that.

16 A That's an example of an idea that was captured in
17 another state from which we went through laws we thought
18 that could be applicable in California.

19 Q Anything else that comes to mind?

20 A Other ideas related to definitions regarding
21 English learners and how you can account for their progress,
22 for which we incorporated some ideas and used them in our
23 accountability workbook.

24 Q Anything else that you can think of?

25 A There were other ideas that you saw some for

1 which we did not consider to be worthwhile or to be of
2 interest in California.

3 Q Setting aside the workbooks or the accountability
4 plans that you've reviewed, have you reviewed other state's
5 accountability systems generally in thinking about models or
6 components that California might want to replicate?

7 MR. VIRJEE: Other than what he testified to
8 this morning as well in his dissertation and analysis that
9 he did there? I don't want him to have to repeat all that.

10 BY MS. WELCH:

11 Q You don't have to repeat anything.

12 A Okay. Yes.

13 Q And what was that?

14 A We reviewed information that is provided -- I
15 reviewed information that was provided by other states on
16 state education websites using, for example, the Princeton
17 Review's latest report in which they rated all the states'
18 testing systems for which California was one of the top ten.
19 I looked at the other eight to see what they have that we
20 didn't have.

21 Q And that was Princeton Review you said?

22 A Correct.

23 Q Anything else that you recall?

24 A Since January, no.

25 Q Okay. Do you think having equal access to

1 opportunities to learn the content is a characteristic of
2 any of your components of a effective accountability system?

3 MR. VIRJEE: Objection; vague and ambiguous as
4 to equal access, vague and ambiguous as to opportunities to
5 learn.

6 THE WITNESS: I need more explanation on what
7 opportunities to learn mean.

8 BY MS. WELCH:

9 Q Have you heard the term "opportunity to learn" in
10 any context before?

11 A Yes.

12 Q In what context?

13 A In educational context around describing a
14 variety of ways. That's why I was asking for your
15 interpretation so that I -- so we speak the same language.

16 Q Okay. Are you familiar with any legislation that
17 would create an opportunity to learn index in California?

18 A I believe there's a pending bill by Senator
19 Vasconcellos to create a opportunity to learn index.

20 Q Are you familiar with that bill?

21 A Vaguely.

22 Q Based on your understanding of it, are you in
23 favor of such an index?

24 MR. VIRJEE: Calls for speculation, lacks
25 foundation since he's only vaguely familiar with the bill.

1 THE WITNESS: My vague familiarity with the bill
2 is that it doesn't have any specifics, it directs the
3 department to -- I'm not sure what the verb is -- analyze,
4 investigate or research the possibilities of an opportunity
5 to learn index.

6 BY MS. WELCH:

7 Q Are you in favor of the concept of an opportunity
8 to learn aspect setting aside your view on components of
9 this bill that may not be specific enough?

10 MR. VIRJEE: Objection; vague and ambiguous as
11 to an opportunity to learn aspect which is, I think, what
12 you said. I'm not sure what that means.

13 THE WITNESS: There are lots of different
14 interpretation about what opportunity to learn means. So
15 creating an index of value, a numeric value, based upon at
16 this point unspecific characteristics, I would say I'm not
17 in favor of.

18 BY MS. WELCH:

19 Q Would you be in favor of any type of index that
20 measured whether students have equal access to a variety of
21 components of education?

22 MR. VIRJEE: Objection; calls for speculation,
23 lacks foundation, calls for an expert opinion. Also, vague
24 and ambiguous as to the term "equal access."

25 THE WITNESS: It's a difficult concept to roll

1 into an index.

2 BY MS. WELCH:

3 Q Do you think that it should be monitored in
4 another way besides an index?

5 MR. VIRJEE: Objection; vague and ambiguous as
6 to it and what it is referring to and what you would be
7 monitoring.

8 THE WITNESS: I believe that California's
9 current system of utilizing student results from our
10 assessments based on our content standards is an excellent
11 beginning.

12 BY MS. WELCH:

13 Q And what is the next step?

14 MR. VIRJEE: Objection; calls for speculation.
15 That lacks foundation, also vague, ambiguous to next step.
16 For what?

17 BY MS. WELCH:

18 Q He said it was a beginning. I'm just wondering
19 what the next step is.

20 MR. VIRJEE: Objection; assumes facts not in
21 evidence.

22 THE WITNESS: That in California we see some
23 differentiation of results using our current system and we
24 have some interventions in place to assist schools who are
25 performing less well than others. So our next steps would

1 be ways in which we're helping all schools to meet our
 2 targets of hundred percent of the students proficient and
 3 all of our schools above our intermediate target of 800 in
 4 our API system.
 5 BY MS. WELCH:
 6 Q Do you know whether the department has taken an
 7 official position on the Vasconcellos bill?
 8 A I can't recall.
 9 Q You haven't seen anything, though?
 10 A Seen the department's position?
 11 Q Any kind of document that discusses the bill or
 12 reflects what the position is in the department.
 13 A I've seen -- we have a legislative tracking
 14 system for which bills are assigned to certain divisions for
 15 analysis, and all of this goes through our -- through our
 16 governmental affairs division. So I can't recall what our
 17 position is on this at this point.
 18 Q Do you think you may have seen something that
 19 reflected that position?
 20 MR. VIRJEE: Objection; calls for speculation,
 21 lacks foundation.
 22 THE WITNESS: I recall seeing the bill, and I
 23 recall reviewing an initial analysis of the bill. I don't
 24 recall what the department's official position is.
 25 BY MS. WELCH:

1 Q Okay. That's fair.
 2 Do you think that an effective accountability
 3 system should have mechanisms to ensure that students have
 4 basically equal learning conditions?
 5 MR. VIRJEE: Objection; vague and ambiguous to
 6 basically equal learning systems and accountability system.
 7 MS. WELCH: I said conditions.
 8 MR. VIRJEE: Conditions. I'll modify my
 9 objection --
 10 MS. WELCH: Objection accordingly.
 11 MR. VIRJEE: -- accordingly. Thank you.
 12 THE WITNESS: I don't understand what conditions
 13 mean.
 14 BY MS. WELCH:
 15 Q Conditions in schools.
 16 MR. VIRJEE: Objection; vague and ambiguous as
 17 to conditions in schools, especially related to basically
 18 equal.
 19 THE WITNESS: The question is do I believe.
 20 BY MS. WELCH:
 21 Q Should an effective accountability have
 22 mechanisms to ensure that students have basically equal
 23 learning conditions in their schools?
 24 MR. VIRJEE: Same objections; vague and
 25 ambiguous as to basic -- basically equal and learning

1 conditions.
 2 THE WITNESS: I don't know.
 3 BY MS. WELCH:
 4 Q Is there a part of my question that is confusing,
 5 or you just don't know the answer?
 6 A I don't know. I haven't thought about that.
 7 Q Are you familiar with the term "costing out an
 8 adequate education"?
 9 A No.
 10 Q So I take it that you don't have any knowledge of
 11 any steps that California may be currently taking to cost
 12 out an adequate education?
 13 A Correct.
 14 MS. WELCH: I can either start up with a new
 15 line of questioning, or we can call it a day. It's up to
 16 you all.
 17 MR. VIRJEE: Why don't you take some time and
 18 start up with a new line.
 19 MS. WELCH: Yeah? Now?
 20 MR. VIRJEE: Sure.
 21 MS. WELCH: It's ten till, but that's fine.
 22 Is that your preference, as well?
 23 THE WITNESS: You bet.
 24 BY MS. WELCH:
 25 Q Okay. Did you attend a program at the Ed Source

1 annual forum called Show Me the Data?
 2 A I did.
 3 Q Did you attend Brian Stecher's presentation at
 4 that program -- at that forum? Excuse me.
 5 A In Santa Clara, California.
 6 MS. READ-SPANGLER: She asked you a yes or no
 7 question.
 8 THE WITNESS: Oh.
 9 BY MS. WELCH:
 10 Q I asked if you attended Brian Stecher's
 11 presentation at that forum.
 12 A Which forum?
 13 Q At the Show Me the Data program at the Ed Source
 14 annual forum.
 15 A In which location?
 16 Q Oh, I'm sorry. I didn't realize there was more
 17 than one. Did you attend more than one?
 18 A No.
 19 Q Which one did you attend?
 20 A The one in Santa Clara, California.
 21 Q Okay. Was Brian Stecher at that one?
 22 A Yes.
 23 Q Did you attend his presentation?
 24 A Yes.
 25 Q Okay. What did you think of it?

1 MR. VIRJEE: Objection; vague and ambiguous as
 2 to what did you think of it.
 3 THE WITNESS: Brian is an excellent researcher
 4 and presenter.
 5 BY MS. WELCH:
 6 Q Did you agree with his findings?
 7 MS. READ-SPANGLER: And each and every one of
 8 them?
 9 THE WITNESS: There were numerous findings.
 10 BY MS. WELCH:
 11 Q Generally?
 12 MS. READ-SPANGLER: Objection; compound.
 13 THE WITNESS: Some.
 14 BY MS. WELCH:
 15 Q Do you recall which ones you agreed with?
 16 A One of his findings was that we needed better
 17 oversight system of our students.
 18 Q And you agree with that finding?
 19 A Yes.
 20 Q And any other findings that you recall that you
 21 agreed with?
 22 A His analysis showed that there's still some
 23 achievement gaps among groups of students.
 24 Q And you agree with that finding?
 25 A Yes.

1 Q Anything else that you can recall?
 2 A That his analysis found that there were
 3 achievement gaps based on parents' level of education.
 4 Q And when you responded to the previous question
 5 about achievement gaps among some students, which students
 6 are you referring to when you say some students?
 7 MR. VIRJEE: Which students did Mr. Stecher's
 8 presentation identify? Which of those that he agreed to?
 9 The question's compound and vague and ambiguous.
 10 BY MS. WELCH:
 11 Q Do you understand my question?
 12 A My recollection is that Brian Stecher referred to
 13 groups of students using California's term for numerically
 14 significant subgroups which are along racial, ethnic
 15 categories as well as low SES.
 16 Q And did he find that there were achievement gaps
 17 among each those subgroups?
 18 MR. VIRJEE: Objection. His findings speak for
 19 themselves. Calls for speculation.
 20 THE WITNESS: My recollection of his
 21 presentation was that there were gaps between those groups.
 22 BY MS. WELCH:
 23 Q And those were findings that you agreed with; is
 24 that correct?
 25 MR. VIRJEE: That he agreed with Mr. Stecher's

1 findings; is that the question?
 2 MS. WELCH: Yes.
 3 MR. VIRJEE: Calls for speculation, lacks
 4 foundation, calls for an expert opinion.
 5 THE WITNESS: I agree that there are -- from the
 6 data that is available there are achievement gaps among
 7 groups of students.
 8 BY MS. WELCH:
 9 Q Any other findings that you recall that you
 10 agreed with?
 11 A Can't recall.
 12 Q You gave a presentation at that annual forum, as
 13 well; is that correct?
 14 A That's correct.
 15 Q Could you tell me the general components of the
 16 presentation that you gave?
 17 A I was asked to make a presentation of general
 18 information about California's assessment and accountability
 19 system.
 20 Q And could you tell me the components of that
 21 presentation?
 22 A I described for the audience the current
 23 assessments that are in place in California, STAR,
 24 California High School Exit Exam, California English
 25 Language Development Test, Golden State examinations. I

1 described -- I presented how we currently apply those in the
 2 API and showed how California is approaching requirements
 3 for NCLB to create an adequate yearly progress report, as
 4 well as an update as to some changes within our assessment
 5 system, meaning at the time a linking of the Golden State
 6 and STAR system for grade 11 students as part of what we
 7 call the California State University Early Assessment.
 8 Q Anything else?
 9 A A few jokes.
 10 Q Those are always good.
 11 A Not mine.
 12 Q Did you also give a presentation at the CSULB
 13 conference this past year?
 14 A I'm sorry when?
 15 Q I think the name of the conference is
 16 "Transforming Tough Times." Do you recall that?
 17 A Yes, I do. That would be this year.
 18 Q That's what I thought. Did you give a
 19 presentation at that conference?
 20 A Yes, I did.
 21 Q What was that presentation about?
 22 A It was mostly about California's accountability
 23 plan to meet the requirements of No Child Left Behind.
 24 Q I believe the title was "How K through 16
 25 Partnerships Meet the Challenges of the NCLB Act;" is that

1 correct?
 2 A Correct.
 3 Q What do you mean by K through 16 partnerships?
 4 A When I served for Long Beach Unified School
 5 District, we -- Long Beach Unified were in a partnership
 6 arrangement with the local community college, Long Beach
 7 City College, and California State University Long Beach in
 8 a collaborative process of sharing information about
 9 students, about programs, about standards in an attempt to
 10 build a K-16 system so that we had expectations for our
 11 students throughout this period of their education.
 12 Q So was there an aspect of your presentation that
 13 focused on what the partnership -- what steps partnerships
 14 can take to meet the challenges of No Child Left Behind?
 15 A Because of the title of the conference for which
 16 I can't -- I don't know specifically, but you probably
 17 have -- I was trying to acknowledge what are the tough times
 18 for which partnerships would be invaluable.
 19 Q Do you have ideas in mind?
 20 MR. VIRJEE: Did he present ideas then, or does
 21 he have ideas now?
 22 BY MS. WELCH:
 23 Q Why don't we talk about what you presented in
 24 terms of your idea.
 25 A I presented to the audience about the California

1 accountability system to meet the requirements for No child
 2 left behind as well as showed to them the annual measurable
 3 objectives as a way of saying that these are the
 4 expectations of our oversight, some of our early projections
 5 are that there could be some tough times for some of our
 6 schools. That was the context of the tough times portion.
 7 Q What do you mean by tough times?
 8 A Challenges that lie ahead for our schools and our
 9 school -- and our educational system and in helping students
 10 to become proficient on our state standards test.
 11 Q And what are those challenges?
 12 A The challenges are that there is an expectation
 13 of a status or an improvement that occurs between now, our
 14 starting point of 2002, and the ending point of 2004 that
 15 require students to eventually -- to have a system where a
 16 hundred percent of our students are proficient.
 17 Q So you were focusing on the challenges created by
 18 the No Child Left Behind Act; is that right?
 19 A Correct.
 20 Q Have you and Superintendent O'Connell discussed
 21 his priority that schools should not be required to --
 22 that -- let me rephrase it.
 23 Have you and Superintendent O'Connell discussed
 24 that having schools spend less time on testing should be a
 25 priority?

1 MS. READ-SPANGLER: Objection. I'm going to
 2 assert the deliberative process privileges to any
 3 conversation he's had with Superintendent O'Connell and
 4 instruct him not to answer.
 5 BY MS. WELCH:
 6 Q Has this issue been discussed in context of board
 7 meetings?
 8 MS. READ-SPANGLER: Outside of, obviously,
 9 closed executive session which would way be privileged.
 10 THE WITNESS: Superintendent O'Connell --
 11 MR. VIRJEE: The question has moved now from has
 12 that -- issue not with Superintendent O'Connell, but has
 13 that issue been discussed in board meetings where you've
 14 been present, meetings of the Board of Education.
 15 BY MS. WELCH:
 16 Q And just as an aside, I mean, this is in
 17 newspaper articles I can pull one out. It's a very public
 18 thing. So I'm just trying to get at Superintendent
 19 O'Connell's priorities in terms of spending less time on
 20 testing. Is this a topic that you have familiarity with?
 21 A Yes.
 22 Q What is your familiarity based on?
 23 MS. READ-SPANGLER: And, again, to the extent
 24 it's based on conversations he's had with Jack O'Connell
 25 directly, I'll assert deliberative process privilege.

1 Any knowledge you had other than in speaking to
 2 the board or in other nonprivileged settings, you can go
 3 ahead and testify to.
 4 THE WITNESS: Thank you.
 5 The Superintendent publicly spoke to the Senate
 6 Budget Committee and said that -- he invoked my name and
 7 said that he directed Deputy Superintendent Geno Flores to
 8 reduce testing time so that students spend more time in
 9 classrooms. I believe he's made some presentations in
 10 public arenas in which he's repeated similar ideas.
 11 BY MS. WELCH:
 12 Q And do you know why he's made that a priority?
 13 MS. READ-SPANGLER: Objection; calls for
 14 speculation.
 15 THE WITNESS: Because people in our public
 16 school systems now consider the test to be time consuming
 17 and in some areas to be repetitive, and he's directed me to
 18 use my staff to look for ways in which we can reduce
 19 redundancies in testing therefore by reducing the amount of
 20 time and making the system more efficient.
 21 BY MS. WELCH:
 22 Q Is there someone on your staff that's
 23 specifically focusing on this topic?
 24 A Specifically, no.
 25 Q Generally focusing on?

1 A Yes.
 2 Q Who's that?
 3 A All of the people who work in my -- especially my
 4 managers of each of my independent assessment units, high
 5 school exit and STAR.
 6 Q Is there a time line for everything a set of
 7 recommendations on how to spend less time on testing?
 8 A Is there a time line?
 9 Q I'm just wondering what the status is. He's
 10 given a directive. I'm wondering what the status is of the
 11 directive.
 12 A The status of the directive is as soon as
 13 possible. And the ultimate decisions about changes in our
 14 system would have to be approved by our Board of Education.
 15 Q Are you in the process of putting together -- is
 16 there -- is it a situation where each -- each of your
 17 employees who's focused on specific test has this idea in
 18 mind when they're thinking of ways to improve upon it, or is
 19 there a particular plan in place to effectuate this goal or
 20 something else?
 21 MR. VIRJEE: Objection; compound.
 22 THE WITNESS: Always in mind as we review each
 23 of the tests and the system with the model of Carpegeum as
 24 our forefront.
 25 BY MS. WELCH:

1 Q Always a good model.
 2 When you were a teacher --
 3 MS. READ-SPANGLER: If you're going to start a new
 4 line, you might want to stop for the day, because we're
 5 after 5:00.
 6 MS. WELCH: That's fine with me.
 7 MS. READ-SPANGLER: I didn't mean to cut you
 8 off.
 9 MS. WELCH: No. It would be a new line.
 10 MR. VIRJEE: Well, if it would be helpful to go
 11 longer today so we can go for a shorter time tomorrow -- I
 12 don't know how the witness or court reporter feel -- but I'm
 13 happy to go forward.
 14 (The deposition concluded at 5:05 p.m.)
 15
 16 //
 17 //
 18
 19
 20
 21
 22
 23
 24
 25

1
 2
 3
 4
 5
 6
 7
 8 I, GENO FLORES, do hereby declare under penalty of
 9 perjury that I have read the foregoing transcript; that I
 10 have any corrections as appear noted, in ink, initialed by
 11 me; that my testimony as contained herein, as corrected is
 12 true and correct.
 13
 14 EXECUTED this _____ day of _____,
 15 200____, at _____, _____
 (City) (State)
 16
 17
 18 _____
 GENO FLORES
 19
 20
 21
 22
 23
 24
 25

1
 2
 3
 4 I, the undersigned, a Certified Shorthand Reporter
 5 of the State of California, do hereby certify:
 6 That the foregoing proceedings were taken before
 7 me at the time and place herein set forth; that any
 8 witnesses in the foregoing proceedings, prior to testifying,
 9 were placed under oath; that a verbatim record of the
 10 proceedings was made by me using machine shorthand which was
 11 thereafter transcribed under my direction; further, that the
 12 foregoing is an accurate transcription thereof.
 13 I further certify that I am neither financially
 14 interested in the action nor a relative or employee of any
 15 attorney of any of the parties.
 16 IN WITNESS WHEREOF, I have this date subscribed my
 17 name.
 18
 19 Dated: _____
 20
 21
 22
 23 _____
 STEPHANIE SMITHSON, RMR
 CSR No. 9770
 24
 25