

CAUSE NO. D-1-GN-11-003130

TEXAS TAXPAYER & STUDENT	§	IN THE DISTRICT COURT
FAIRNESS COALITION, <i>ET AL.</i> ,	§	
	§	
Plaintiffs,	§	
	§	
EDGEWOOD INDEPENDENT SCHOOL	§	
DISTRICT, <i>ET AL.</i> , (consolidated)	§	
	§	
Plaintiffs	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	
MICHAEL WILLIAMS, in his official capacity	§	
as Commissioner of Education, <i>et al.</i> ,	§	
	§	
Defendants,	§	200TH JUDICIAL
	§	DISTRICT

**EDGEWOOD PLAINTIFFS' FIRST SUPPLEMENTAL  
 DEPOSITION DESIGNATIONS**

Edgewood Independent School District, *et al.*, (“Edgewood I.S.D. Plaintiffs”) hereby submits the following First Supplemental Deposition Designations. These depositions designations are submitted at this time because either the transcript of the deposition was not available at the time the initial deposition designations were due, or the deponent has since been withdrawn by a party as a witness at trial. Edgewood I.S.D. Plaintiffs reserve their right to designate additional deposition testimony from Defendants’ or Intervenor’s witnesses should Defendants or Intervenor’s later determine that they will not call such witnesses at trial.

**Deposition of Maria Carstarphen  
 Volume I  
 October 2, 2012**

Page: Line
7:3 – 8:2
9:10-12:23
14:11-30:21
31:1-38:15
41:8-45:5
45:15-47:23
53:20-54:6
57:2-58:3
63:3-63:10

63:23-64:5
65:4-65:15
66:12-66:19
67:16-67:25
68:18-69:2
70:1-70:9
71:16-72:11
73:10-98:1
99:21-102:9

**Deposition of Susie Coultriss  
Volume I  
October 4, 2012**

<b>Page:Line</b>
11:21-12:2
15:24-16:23
17:3-14
18:9-19:15
21:2-20
25:15-21
31:25-32:9
60:21-61:6
63:14-22
75:11-76:12
76:13-77:18
84:5-24
85:17-86:8
86:24-87:2
93:20-94:3
95:1-2

96:23-97:7
106:15-107:20
108:4-9
110:7-14
129:13-23
142:14-15
143:2-8
146:13-20
166:17-167:13
167:14-16
175:15-178:23
178:24-179:4
181:15-182:3
183:16-22
188:2-5
188:12-16

**Deposition of Tom Currah  
Volume I  
October 9, 2012**

<b>Page: Line</b>
9:6-11:1
11:23-12:15
13:1-2
13:16-14:20
15:1-10
15:20-16:20
20:5-16
23:6-12
23:25-24:6
39:8-40:9
41:18-20

46:12-23
47:4-18
54:21-55:7
74:1-4
74:25-75:23
76:8-77:1
77:22-78:16
79:19-80:4
81:8-21
82:4-25
83:19-24
84:1-18

85:11-88:6
89:1-17
89:24-92:8
92:14-95:25
96:15-100:6
101:7-102:14
103:11-105:23
106:7-15
108:13-17
108:24-110:3
110:12-18
110:25-111:5
111:11-24
114:3-17
115:24-116:9
116:25-117:2

119:15-120:13
122:10-19
125:5-126:3
126:13-127:3
127:10-25
129:6-15
130:19-131:7
131:21-132:13
133:6-25
134:11-135:15
138:11-139:5
140:17-141:14
142:7-143:11
175:22-176:6
186:14-187:16

**Deposition of Steven Flores**  
**Volume I**  
**October 7, 2012**

<b>Page:Line</b>
8:13-11:25
12:18-13:6
13:16-20
14:5-25
15:14-19
15:23-16:18
23:11-24:19
24:23-25:16
26:7-27:23
29:23-30:11
31:2-14
32:19-38:11
41:18-48:8
48:17-49:24
52:22-55:10
55:16-56:20
65:6-22
74:2-20

75:22-76:7
76:19-24
80:4-19
81:3-11
83:11-85:3
85:12-22
86:15-87:6
87:20-24
88:4 – 89:2
89:13-90:7
91:14-21
105:6-23
106:14-107:17
108:3-7
108:18-109:4
109:8-12
126:24 – 128:14
128:19-129:6
129:11-15

140:10-22
153:15-154:1
155:15-23
157:21-22
164:5-165:7
168:10-169:11
170:8-25
175:1-11
175:18 – 177:24
183:12-20
184:5-8
186:5-25
187:15-188:11
191:8-16
192:8-23

193:14-15
194:2-23
203:3-6
212:17-213:4
217:3-219:7
219:13-220:9
220:11-17
220:19-221:10
221:12-14
221:16
221:21-222:5
223:9-20
225:13-21
232:9-15

**Deposition of James Joseph Ponce, Ph.D.**  
**Volume I**  
**September 5, 2012**

<b>Page: Line</b>
9:12 – 12:18
19:4 – 20:20
22:13 – 23:4
23:12 – 24:6
66:5-10
66:18-25
70:22 – 71:5
76:15-20
77:6 – 78:1
80:5-16
86:2 – 87:22
91:3-7
99:23 – 100:25

101:22– 102:21
120: 8-19
127:9 – 128:17
128:22 – 129:1
162:5 – 163:11
164:16 – 166:19
172:17 – 173:13
194:23 – 196:12
199:4 – 200:13
265:20 – 267:3
278:25 – 280:1
292:12 – 293:4

DATED: November 19, 2012

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NO. D-1-GN-11-003130

TEXAS TAXPAYER & STUDENT ) IN THE DISTRICT COURT  
FAIRNESS COALITION, et al., )

Plaintiffs, )

v. )

EDGEWOOD INDEPENDENT SCHOOL ) TRAVIS COUNTY, TEXAS  
DISTRICT, et al., )  
(consolidated) )

Plaintiffs, )

v. )

ROBERT SCOTT, in his official )  
capacity as Commissioner of )  
Education, et al. )

Defendants. ) 200TH JUDICIAL DISTRICT

\*\*\*\*\*

ORAL DEPOSITION OF  
DR. MARIA CARSTARPHEN  
Austin, Texas

Tuesday, October 2, 2012

\*\*\*\*\*

Reported by:

SUSAN S. KLINGER, RMR-CRR, CSR

JOB NO. 53678

1 A. Yes.

2 Q. All right. And your testimony today can be used

3 at trial in this lawsuit. Do you understand that?

4 A. Yes.

5 Q. Very good. If I ask you any question or if any

6 of the other attorneys that are representing parties

7 here today might ask you a question, if you don't

8 understand the question, feel free to ask to have a

9 question clarified or restated. Do you understand you

10 can do that?

11 A. Yes.

12 Q. All right. Because we have a court reporter here

13 today and we have not yet figured out how to take down

14 gestures or head nods or things of that nature, I'm

15 going to try to make sure that every question that I ask

16 is verbally clear or orally clear. And if you will do

17 the same with your answers, I'm sure our court reporter

18 will appreciate that. Okay?

19 A. Okay.

20 Q. And also since our court reporter might have

21 difficulty taking down two individuals speaking at the

22 same time, when either I or other individuals today ask

23 you questions, I will try to be very clear and careful

24 not to speak when you're speaking, and if you will do

25 the same with me or any of the other attorneys, I'm sure

1 our court reporter will appreciate that. Okay?

2 A. I will comply.

3 Q. Very good. Dr. Carstarphen, would you tell us

4 just a little bit on the record about your professional

5 background. What degrees do you hold, where did you go

6 to college, what is your professional training and

7 background?

8 A. Sure. After graduation from high school, I went

9 to college at Tulane university in New Orleans,

10 Louisiana. I graduated in 1992 with a double major, one

11 in political science, the other in Spanish. I went back

12 to my hometown of Selma, Alabama, taught for four years

13 as a teacher in our local public school system, the

14 school system that I attended when I was in school.

15 After teaching, I went to Auburn university and

16 completed a master's, and then was accepted into Harvard

17 university in its doctoral program, which not only

18 included the doctorate but a concentration in urban

19 superintendency. I graduated with my degree in 2002.

20 And since then, I have been working in the capacity as a

21 senior leader on, in mostly urban settings, Washington,

22 D.C.; Columbus, Ohio; St. Paul, Minnesota, where I also

23 served as the superintendent. And then I am here in

24 Austin serving as a superintendent my current role.

25 Q. And how many years have you been superintendent

1 here in Austin ISD?

2 A. I am in my fourth year.

3 Q. Very good. When you were a teacher in Selma, did

4 you teach at the high school level, middle school, what

5 level did you teach?

6 A. Middle school.

7 Q. Very good. Did you find that to be challenging

8 on some days?

9 A. I loved it. It was a great match for me. It is

10 challenging, but it is, if you love that grade level, it

11 is a fabulous job. I really enjoyed my job.

12 Q. In addition to a doctorate at Harvard, did I also

13 understand you to say you received a master's from

14 Harvard?

15 A. I do have a master's from Harvard and a

16 doctorate.

17 Q. Very good. I'm going to hand you a document and

18 ask you if you can identify this document?

19 A. Yes. Staff and I worked on this PowerPoint to

20 provide information for this deposition.

21 Q. All right. I'm going to offer this and have it

22 marked as Exhibit 1722.

23 (Exhibit 1722 marked.)

24 Q. And Dr. Carstarphen, because we're doing this in

25 a deposition, I'm going to try to be very careful. I

1 may, it may almost sound like I'm being too repetitive

2 at times, but I'm going to try to be very careful to

3 refer to page numbers and specifically describe

4 different aspects of this document that we may look at

5 during the course of your deposition. Okay?

6 A. I understand.

7 Q. All right. What is page 1 of Exhibit 1722?

8 A. It is a cover page with our school district name

9 on it and today's date.

10 Q. Very nice. Let's turn to page 2 of Exhibit

11 Number 1722. What does page 2 tell us about just basic

12 demographic information of the Austin Independent School

13 District?

14 A. It talks about the average household income,

15 making comparisons to the state, median household

16 income, renter occupied housing comparisons, the median

17 monthly rent and languages other than English spoken in

18 our homes in AISD.

19 Q. And just for purposes of comparison, is the

20 average household income in Austin ISD higher or is it

21 lower than the state average in Texas?

22 A. It is lower.

23 Q. Is your median household income higher or lower

24 than state average?

25 A. It is lower.

1 Q. What about renters in the district. Do more  
 2 people in Austin ISD own homes or rent their residences  
 3 compared to state average in Texas?  
 4 A. They rent more in Austin.  
 5 Q. And is it close? I mean, what percentage of  
 6 people in Austin rent?  
 7 A. 55.3 compared to 36.4 statewide.  
 8 Q. So that is a fairly significant difference?  
 9 A. Yes, it is.  
 10 Q. What is the median rent in Austin?  
 11 A. 898, about 100 more than statewide.  
 12 Q. Okay. What percentage of people who live in  
 13 Austin ISD are in homes that speak a primary language  
 14 other than English?  
 15 A. A little more than a third.  
 16 Q. Okay. And are these other languages primarily  
 17 Spanish or is it a multitude of languages?  
 18 A. In our district, it will be a mix, but I would  
 19 say primarily Spanish.  
 20 Q. And does this background information, does this  
 21 demographic information on page 2 give us a little bit  
 22 of a sense of the homes from which the kids who you are  
 23 responsible for educating in Austin ISD come?  
 24 A. Yes.  
 25 Q. All right. Let's turn to page 3 and look at some

1 of your specific student data here in the district.  
 2 What does page 3 of Exhibit 1722 tell us about the  
 3 enrollment, student enrollment in Austin ISD over the  
 4 last decade?  
 5 A. Enrollment has grown.  
 6 Q. Just for purposes of comparison, if we look at  
 7 page 3, the red bar on the far left in the 2003-2004  
 8 school year, what was the student enrollment of the  
 9 district?  
 10 A. 78,155.  
 11 Q. And by comparison in the current school year  
 12 we're a little over a month into it, in 2012-2013, what is  
 13 your student enrollment?  
 14 A. 86,124.  
 15 Q. And if my math is correct, is that a growth of  
 16 about 8,000 students over the last decade?  
 17 A. Yes.  
 18 Q. All right. Does being a growing district present  
 19 educational challenges to the Austin ISD?  
 20 A. Yes.  
 21 Q. And what are some of those challenges?  
 22 A. Managing growth at this level means that you're  
 23 going to have to do things like hire more teachers, hire  
 24 teachers that match the demographics of the district.  
 25 It means that we will probably be transporting more

1 kids. That puts pressure on our budget. And you know,  
 2 anything related to facilities and, and human capital  
 3 are probably where you are going to see the most  
 4 pressures.  
 5 Q. Okay. And do these educational challenges, yes, just  
 6 to be clear, do they have financial implications for  
 7 your budget?  
 8 A. Yes. The more growth, the more cost.  
 9 Q. And as we sit here today, as a growing school  
 10 district and in your capacity as superintendent of  
 11 Austin ISD, do you feel like the current state school  
 12 finance system provides you the resources you need to  
 13 manage and deal with having this level of growth in your  
 14 student population?  
 15 A. No.  
 16 Q. Okay. Let's turn to page 4 of Exhibit 1722.  
 17 What does page 4 tell us about the make-up, the  
 18 composition of your student population here in Austin  
 19 ISD, Dr. Carstarphen?  
 20 A. It shows that we are diverse. We have a mix of  
 21 ethnic and racial students, African American, Hispanic,  
 22 white, Asian/Pacific Islander, and other students that  
 23 identify other races.  
 24 Q. And just to look at a couple of years for  
 25 comparison in the 2003-2004 school year, I'm looking at

1 the bar on the far right-hand side -- I'm sorry, far  
 2 left-hand side of page 4. Do you see the bar for the  
 3 2003-2004 --  
 4 A. Yes.  
 5 Q. -- school year?  
 6 A. Yes.  
 7 Q. Do you see a portion of that bar that is blue?  
 8 A. Yes.  
 9 Q. What does that represent?  
 10 A. African American.  
 11 Q. That is the African American percentage of your  
 12 total population?  
 13 A. Yes, 14.4 percent.  
 14 Q. And what does the red portion of that bar  
 15 represent?  
 16 A. Hispanic students at 51.5.  
 17 Q. And what does the green part of that bar  
 18 represent?  
 19 A. Caucasian or white at 31.2.  
 20 Q. And what does the purple portion of that bar  
 21 represent?  
 22 A. Asian/Pacific Islander, 2.7 percent.  
 23 Q. And I notice on the, at the bottom of the page,  
 24 there is a light blue for "other." Do you see any other  
 25 in the 2003-2004 school year?

1 A. Very minimal.

2 Q. Now, for purposes of comparison, let's go over to

3 the 2012-2013 school year. Do you see that bar on the

4 far left-hand side of page 4?

5 A. The far --

6 Q. The far right-hand side. I've got my directions

7 reversed this morning.

8 A. That is okay.

9 Q. Sorry.

10 A. Yes.

11 Q. So just for purposes of comparison, in the

12 current school year, looking at the blue portion of that

13 bar on the right-hand side, what percentage of your

14 population is African American?

15 A. The dark blue, 9.1 percent.

16 Q. Right, the dark blue at the bottom of the bar.

17 And is that a decline from the 14.4 percent to 9.1

18 percent over a decade?

19 A. It is.

20 Q. And what is the Hispanic portion of your total

21 student population in the current school year?

22 A. 60.5 percent.

23 Q. And is that an increase over the last decade?

24 A. Yes, it is.

25 Q. What is that change?

1 A. The change is roughly 9 percentage points.

2 Q. Okay. If we look at the green portion of that

3 bar, what percentage of your current student population

4 is white?

5 A. 24.5.

6 Q. And how does that compare to the 2003 school

7 year?

8 A. It has declined over time.

9 Q. And how much of a decline?

10 A. Roughly six percentage points.

11 Q. So from 31.2 to 24.5 percent?

12 A. Yes.

13 Q. What percentage of your population now is Asian

14 or Pacific Islander?

15 A. 3.4 percent.

16 Q. And is that an increase over the last decade?

17 A. It is an increase.

18 Q. All right. Looking at the light blue portion, is

19 there now a measurable portion of your population that

20 is "other"?

21 A. Yes.

22 Q. Dr. Carstarphen, does having a changing student

23 population present any particular educational challenges

24 to the district?

25 A. It does. It has, depending on who the students

1 and are what languages they speak, that typically means

2 that we're offering more services to English language

3 learners, bilingual students. And depending on their

4 socioeconomic background, we tend to find that ethnic

5 minorities often have a correlation to poverty factors.

6 So you, you, this typically means that you would have

7 student that have higher needs than other ethnic

8 majority students in the district.

9 Q. So do these educational challenges present

10 budgetary implications for the district?

11 A. It does put pressures on the budget.

12 Q. And that would be to hire more bilingual teachers

13 or provide some of those services you were just speaking

14 about?

15 A. Yes.

16 Q. All right. As we sit here today, do you believe

17 as superintendent of Austin ISD, that the current state

18 school funding system provides you the resources you

19 need to meet the needs of your changing student

20 population?

21 A. No.

22 Q. All right. Let's turn to page 5 of Exhibit 1722.

23 What does page 5 show us about the economically

24 disadvantaged student population in AISD over the last

25 decade?

1 A. The number of students have increased over time.

2 Q. And just for purposes of example, if we look at

3 the 2003-2004 school year, what percentage of your total

4 student -- I'm sorry, not percentage. What was the

5 number of your total student population that was

6 economically disadvantaged?

7 A. In 2003, 41,397.

8 Q. And if we compare that to the current school

9 year, looking at the blue bar on the right-hand side of

10 page 5, what is the number of economically disadvantaged

11 students in the district today?

12 A. 55,318.

13 Q. And if we compare that to page 3, is it a fair

14 statement that the number of economically disadvantaged

15 students grew much faster than the total growth in the

16 district?

17 A. Yes.

18 Q. If my numbers are correct, looking at page 5 of

19 Exhibit 1722, would you agree that the economically

20 disadvantaged population grew by about 14,000 students?

21 A. Yes.

22 Q. And that is compared to the total growth in the

23 population of about 8,000 students as depicted on page

24 3; is that correct?

25 A. That is correct.

1 Q. All right. Looking at page 5, Dr. Carstarphen,  
2 does having a growing number of economically  
3 disadvantaged students present any particular  
4 educational challenges to the Austin ISD?

5 A. Yes. Kids in poverty typically come to schools  
6 far less prepared than their counterparts. They haven't  
7 had the same opportunities and exposure and access to  
8 those things that, you know, help them be more prepared  
9 when they're coming in. So that does put pressures on  
10 the, on the district. Especially content areas like  
11 teaching kids how to read. Ensuring that, you know,  
12 they have their, the basic math skills and things of  
13 that sort to be successful over time.

14 It also means that they often bring social and  
15 emotional challenges, behavioral health issues come into  
16 play. And depending on the state of affairs, they can  
17 even be homeless and things of that sort that further  
18 complicates their life outside of school.

19 Q. Okay. Dr. Carstarphen, in your educational  
20 experience and in your professional training and  
21 research, does, does being educationally disadvantaged  
22 correlate more closely to student achievement than many  
23 other factors?

24 A. Educationally disadvantaged or economically?

25 Q. I'm sorry, economically disadvantaged.

1 A. Yes.

2 Q. But do you have different or lower expectations  
3 for your economically disadvantaged population than for  
4 other kids in the AISD?

5 A. Absolutely not. Neither the federal government  
6 nor the State of Texas or my school board allows us to  
7 differentiate at those levels. So all kids are expected  
8 to perform at high levels.

9 Q. Does having a growing population of economically  
10 disadvantaged students present educational challenges to  
11 the districts?

12 A. Yes.

13 Q. And are those some of the needs that we've just  
14 talked about in the last few minutes?

15 A. Yes.

16 Q. And do those educational needs of your growing  
17 economically disadvantaged student population, do they  
18 have budgetary implications?

19 A. Yes, they do.

20 Q. And what are some of those budgetary  
21 implications?

22 A. Like I said before, I mean sometimes it is about  
23 helping them. It is a lot of remediation. It is in  
24 part, you know, additional resources to get them up to  
25 speed so that they can, you know, start at a solid

1 baseline. We typically try to do things like have more  
2 you know, reduce the number of students being served by  
3 a teacher so that they can spend more one-on-one time or  
4 work in smaller groups with kids.

5 We also see that in our efforts to try to  
6 eliminate the achievement gap and things of that sort,  
7 we do very specific programming like early childhood  
8 education. That is not funded by the state anymore. We  
9 do additional programming like, you know, bridge  
10 programs and things of that sort to help kids really get  
11 up to speed and be able to catch up as quickly as  
12 possible so that we're building on that foundation.  
13 That just takes extra resources. And because we're so  
14 people heavy as, you know, just an institution, we are  
15 teachers by and large, it typically requires more people  
16 to do this kind of work. And that comes out of cost,  
17 tutoring, mentoring, it is, it is pretty comprehensive.

18 Q. As we sit here today, looking at page 5 of  
19 Exhibit 1722, thinking about your growing economically  
20 disadvantaged student population, does the current state  
21 school finance system provide you the resources that you  
22 believe you need to meet the educational needs of these  
23 students?

24 A. No.

25 Q. Let's turn to page 6 of Exhibit 1722. What does

1 page 6 tell us about the limited English proficient  
2 population in AISD over the last decade?

3 A. Those numbers have increased as well.

4 Q. And just for purposes of comparison if we look at  
5 the red bar on the left-hand side of page 6. I'm going  
6 to try to keep my right and left straight --

7 A. I appreciate that.

8 Q. -- for the whole day. If we look at the 2003-'04  
9 school year, how many limited English proficient kids  
10 did you have in AISD?

11 A. 16,191.

12 Q. If we look at the current school year, 2012-2013,  
13 how many limited English proficient kids do you have in  
14 the district?

15 A. 24,000.

16 Q. Is that nearly an 8,000 student increase over  
17 that decade?

18 A. Yes.

19 Q. So again, thinking back to the total enrollment  
20 growth in the district, is your growth in limited  
21 English proficient kids nearly equivalent to the total  
22 student growth in the district?

23 A. Yes.

24 Q. Okay. Do these kids who are limited English  
25 proficient present particular educational challenges

1 that you as superintendent of Austin ISD feel  
2 responsible for recognizing and addressing?

3 A. Yes.

4 Q. What are some of those educational challenges?

5 A. You know, the expectation of the State and our  
6 accountability system is tied to kids in the, certainly  
7 in the end and in some cases in short order, being  
8 prepared to be measured in our accountability system  
9 with an English test. There is an expectation in this  
10 state that English proficiency is a priority, and that  
11 we have to help these students be proficient in English  
12 to be able to demonstrate that they're meeting and  
13 exceeding state standards and expectations.

14 And in our district, in addition to the state and  
15 federal expectations, there is an expectation in Austin  
16 that we support and embrace the diversity of our  
17 district where there is, we -- one of our value  
18 statements is around ensuring that kids are, you know,  
19 proficient in English and in their home language. We  
20 really try, we're moving toward a culture of  
21 bi-literacy, bi-culturism and bilingualism. So all of  
22 those things kind of come into play in how we think  
23 about the use of our resources.

24 And by and large, the biggest piece here is  
25 really recruiting and retaining high quality bilingual

1 teachers. And that is a really hard area to recruit for  
2 and keep, given the competition for those jobs across  
3 the state.

4 Q. And in terms of recruiting and retaining highly  
5 qualified bilingual teachers, does that come as a cost,  
6 at a cost?

7 A. Yes.

8 Q. Does it have budgetary implications for the  
9 district?

10 A. Yes. And we found that, you know, in competing  
11 for those positions, and we even pay a little bit more  
12 to try to get those people to come to Austin. And you  
13 saw the earlier demographic information. So it is more  
14 expensive to be here and, you know, those salaries are,  
15 you can go anywhere in Texas and get these kinds of  
16 jobs. So it puts additional pressures on our budget.

17 Q. Okay. And when you look at your growing limited  
18 English proficient population as demonstrated on page 6,  
19 are these kids all Spanish speakers, or in Austin ISD do  
20 you have a multitude of languages other than English  
21 that you are seeing in your schools?

22 A. It is primarily Spanish, but there are a  
23 multitude of languages. Some schools have a high  
24 concentration of Vietnamese. Others, you know, other  
25 Asian languages like Chinese. We, we have many

1 languages spoke in our district. I mean, we're looking  
2 at 70 different languages. So there is a lot in here.  
3 So addressing that diversity within the English, the  
4 limited English proficient category just spreads the  
5 resources out even further. It is not like we go to  
6 concentrate everything in one language.

7 Q. Right.

8 A. We have to spread it out. And finding those  
9 teachers are even harder.

10 Q. Do you see kids who come to Austin ISD who fall  
11 into this category of being limited English proficient,  
12 are they all young kids just entering the schools, you  
13 know, grades 1st and 2nd, or do you also see high school  
14 kids and older kids coming into the district that are  
15 limited English proficient?

16 A. We see them at all grade levels and they come to  
17 us sideways, you know, bringing whatever they had in  
18 their earlier education into the district, and that  
19 varies in and of itself. So at the secondary level, you  
20 are putting a lot more resources on the back end of an  
21 education to try to get kids ready for the Texas state  
22 standards. And so it is harder as they get older.

23 Q. Yes. Dr. Carstarphen, do you as superintendent  
24 and does the Austin Independent School District have  
25 lower or different expectations for your limited English

1 proficient kids than for other kids?

2 A. No.

3 Q. Do you have the same expectations?

4 A. Yes.

5 Q. As we sit here today, does the current Texas  
6 school funding system provide you the resources you need  
7 to deal with your growing population of limited English  
8 proficient students?

9 A. No.

10 Q. Let's turn to page 7 of Exhibit 1722. What does  
11 page 7 tell us about the homeless population in Austin  
12 ISD over the past several years?

13 A. That it has had some increases and dips, but that  
14 it has on the aggregate, increased over time.

15 Q. Just for purposes of comparison, in the 2007-2008  
16 school year, what were the number of homeless kids that  
17 you had identified here in Austin ISD?

18 A. 1,795.

19 Q. And by comparison in the current school year, in  
20 the 2012-2013 year looking at the blue bar on the  
21 right-hand side of page 7, how many homeless kids have  
22 you identified in the district?

23 A. 1,975.

24 Q. And for a kid that is homeless, does being  
25 homeless present particular educational challenges to

1 the district?

2 A. Absolutely.

3 Q. And what are some of those challenges?

4 A. They tend to be more mobile. There is an, it has

5 a direct tie to mobility rates. We also see attendance

6 tends to be a problem. When kids are, you know,

7 homeless it is hard to, families are struggling with a

8 lot of things that are outside of school. They tend to

9 miss school more. They are often out for medical and

10 health issues as well. And you know, depending on how

11 much time they miss from school, there is a lot of

12 resources that we have to put into helping them catch up

13 when they're back in school. We try to do things at a

14 policy level to minimize that as much as possible,

15 allowing them to stay in their home school wherever they

16 entered, if that helps the family. Give them

17 flexibility if they need it. But at the end of the day,

18 it is still is a very resource-heavy portion of serving

19 kids.

20 Q. Do you have as superintendent and does the Austin

21 Independent School District have different or lower

22 expectations for homeless kids than for other kids?

23 A. No.

24 Q. Do you have the same expectation?

25 A. Yes.

1 Q. When we think about the school funding system

2 here in Texas, as we sit here today, do you have the

3 financial resources that you need to address your, the

4 educational needs of your homeless students?

5 A. No.

6 Q. Dr. Carstarphen, let's turn to page 8 of Exhibit

7 1722. You mentioned student mobility a minute ago.

8 What are some of the issues around mobility in AISD that

9 we see on page 8?

10 A. That about a third of our kids are mobile. And

11 that is broken down in residentially mobile, which is

12 about 18.6 percent. And there is campus mobility where,

13 you know, kids are enrolled on more than one campus

14 during a school year in AISD, but they're moving from

15 site to site. And that is about 17.2 percent. And

16 then 6 percent of the are both campus and residentially

17 mobile. 65 percent of the students, of the student

18 campus mobility is attributed to students who are

19 enrolled for less than a 145 days. Then 39 percent of

20 our pre-K and Kindergarten students move two or more

21 times before they even start at school in AISD.

22 Q. And does being mobile, does a kid who is either

23 residentially mobile which means they change residences

24 or campus mobile which means they're moving to different

25 campuses, does being mobile present particular

1 educational challenges that the district needs to

2 recognize and deal with?

3 A. Yes.

4 Q. And what are some of the challenges associated

5 with being mobile?

6 A. It is a break in the, in the flow of the school

7 year around, you know, the academic programming. So

8 when they're mobile, it doesn't mean that they

9 necessarily stop at one school and immediately pick up

10 in the next school. There is, there is often a delay or

11 a lag in parents getting their kids back into the new

12 site, whatever that may be. And so there is a lot of

13 catch up, depending on the school or their programming.

14 We have a lot of, we allow our school programming to be

15 different. We have a priority from the board around a

16 rich portfolio of options. So entering into a dual

17 language program is very different to entering into a

18 program that is more aligned around direct instruction.

19 And how those curricular things don't necessarily align

20 means that kids may, you know, need -- we have to go

21 back and catch them up and get them on target with what

22 is happening in that school. So there is that piece.

23 There is also the, around mobility, you know,

24 ensuring that when the kid comes in, you know, we have

25 to often, you know, check them for formative assessment

1 purposes, to be sure that we understand exactly where

2 they left off in their last school. So we, we do a lot

3 around baseline testing and things of that sort, that it

4 does help the kid, but it does require additional

5 resources to do.

6 Q. If we look at page 9 of Exhibit 1722, have you

7 seen correlations between being mobile and being absent?

8 A. Yes.

9 Q. What are some of those relationships?

10 A. Kids who are residentially mobile are twice as

11 likely to be absent for more than 10 percent of the days

12 that they're enrolled. And if it is campus mobility,

13 that is three times.

14 Q. Okay. Do you know whether you're seeing an

15 increase in the number of kids in AISD who are mobile

16 over, over the last several years that you have been a

17 superintendent?

18 A. Since I've been here, yes.

19 Q. As we sit here today, does the current state

20 funding system provide you with the resources you need

21 to address the educational needs of your of your mobile

22 student population?

23 A. No.

24 Q. And do you have any different or lower

25 expectations for kids who are mobile than for other

1 kids?  
 2 A. No.  
 3 Q. Dr. Carstarphen, we're getting ready to change  
 4 gears a little bit here in Exhibit 1722. But just to  
 5 sum up pages 2 through 9, is it, is it a fair summary  
 6 that Austin ISD has a growing, changing population and  
 7 that you're particularly growing in areas of students  
 8 who come to school with both educational needs and with  
 9 other types of needs outside of school that just affect  
 10 their lives?  
 11 A. Yes.  
 12 Q. And do those, does that -- and is it again fair  
 13 that that growth and change in your student population  
 14 presents educational challenges and financial challenges  
 15 to the district?  
 16 A. Yes.  
 17 Q. And again, just to sum up, does the current  
 18 school funding system provide you what you know you need  
 19 as superintendent, to address the educational needs of  
 20 your growing, changing student population?  
 21 A. No.  
 22 Q. All right. Let's change gears a little.  
 23 Starting with page 10, we're going to look at a number  
 24 of pages here that focus on how the district is faring  
 25 just from a financial point of view.

1 What does page 10 of Exhibit 1722 tell us about  
 2 the district's per pupil expense or expenditure over the  
 3 last decade?  
 4 A. It is, it has been pretty flat with a slight lift  
 5 in the fiscal year 2008-'09, but it has started to  
 6 decline again.  
 7 Q. All right. Over the last two to three years, has  
 8 your expenditure per pupil out of the general fund been  
 9 declining?  
 10 A. Yes.  
 11 Q. And as we look at page 10, I see some blue bars.  
 12 Do the blue bars represent the the actual or the  
 13 non-inflation adjusted operating expenditure per pupil?  
 14 A. Yes.  
 15 Q. And what does the red dotted line represent?  
 16 A. Inflation adjusted operating cost per pupil.  
 17 Q. Again, just for purposes of illustration, in  
 18 fiscal year 2009, look at the red inflation adjusted  
 19 point. What was the general fund expense per student in  
 20 the fiscal year 2009?  
 21 A. 6,137.  
 22 Q. And in fiscal year 2011, again, for comparison  
 23 looking at the red inflation adjusted line, what was the  
 24 expenditure for pupil out of the general fund?  
 25 A. 6,387.

1 Q. Is that a decrease if my math is right, of about  
 2 \$350 per pupil?  
 3 A. Yes.  
 4 Q. To your knowledge, over that period of time, did  
 5 the educational requirements and expectations of the  
 6 state increase or decrease?  
 7 A. They increased.  
 8 Q. Okay. Let's look at page 11 of Exhibit 1722.  
 9 What does page 11 show us about what is happening with  
 10 the district's taxable values?  
 11 A. That they are rising.  
 12 Q. Is that good news to the district? When your  
 13 values go up, does that mean you are generating extra  
 14 tax dollars that you get to keep and use in your, in  
 15 your budget for educational purposes?  
 16 A. No, it does not.  
 17 Q. What happens to the additional money that you  
 18 generate in property taxes as your values increase?  
 19 A. We pay more in recapture.  
 20 Q. Do you get to keep any of that at all in your own  
 21 budget, to meet your educational needs?  
 22 A. No.  
 23 Q. Okay. Let's look at page 12. Well, let me just  
 24 ask this. So about page 11, is it a fair statement that  
 25 your property taxpayers might pay more as values

1 increase, but none of that money associated with growing  
 2 values stays in Austin ISD to meet educational needs; is  
 3 that a fair statement?  
 4 A. That is a true statement.  
 5 Q. Okay. Let's look at page 12 of Exhibit 1722.  
 6 What does page 12 tell us about the district's tax rate?  
 7 A. Our tax rate is, is lower. Let's see. Yes, it  
 8 is, it has been reduced by about 28 percent since the  
 9 '02-'03 school year.  
 10 Q. Okay. And just by comparison again, if we look  
 11 on the far left-hand side of page 12, I see a bar for  
 12 the 2002-2003 school year, and there is a blue component  
 13 and a red component. Do you see that?  
 14 A. Yes.  
 15 Q. And does the blue component of that bar represent  
 16 the maintenance and operations portion of the tax rate?  
 17 A. Yes.  
 18 Q. What was the district's M&O rate in 2002-2003?  
 19 A. 1.5.  
 20 Q. What was the district's debt or I&S rate in 2002,  
 21 2003?  
 22 A. .9, .09, .09.  
 23 Q. And what was the district's, looking at the top  
 24 of the bar, what was the district's total rate?  
 25 A. 1.594.

1 Q. If we move forward to the 2007-2008 year, just  
 2 for comparison, what was the district's M&O rate in that  
 3 year, looking at the blue portion of that bar?  
 4 A. 1.04.  
 5 Q. Was that, to your knowledge, the maximum rate  
 6 that the district could have for maintenance and  
 7 operations without having a tax ratification election?  
 8 A. Yes.  
 9 Q. And just to simplify our conversation, I'm going  
 10 to refer to a tax ratification election as a TRE  
 11 election. Is that, would that be clear to you?  
 12 A. Yes.  
 13 Q. All right. And in 2007-2008, what was the  
 14 district's debt rate?  
 15 A. .12.  
 16 Q. All right. And if we look over to the '11-'12  
 17 school year, what is the district's M&O rate in the  
 18 '11-'12 school year?  
 19 A. 1.079.  
 20 Q. Okay. And does that mean that the district  
 21 between 2007-2008 and the 2011-2012 year, actually had a  
 22 TRE?  
 23 A. Yes, we did.  
 24 Q. And was it -- obviously, was it successful?  
 25 A. Yes, it was.

1 Q. Very good. And was that, was that an easy  
 2 election to have?  
 3 A. I was not the superintendent at the time. But as  
 4 I've been informed, it was, it was a, it was hard.  
 5 MR. DEANE: Objection, form.  
 6 Q. Do you believe, Dr. Carstarphen, as  
 7 superintendent that -- well, first of all, if you have a  
 8 TRE election, is any of the additional money that the  
 9 district raises subject to recapture or do you get to  
 10 keep all of it?  
 11 A. It is subject to recapture.  
 12 Q. Do you know what percentage of it is subject to  
 13 recapture?  
 14 A. 45 percent, or 45 cents of every dollar is  
 15 subject to recapture.  
 16 Q. Okay. Do you believe that will make it more  
 17 difficult to pass a TRE in Austin ISD?  
 18 MR. DEANE: Objection, form.  
 19 Q. You can answer.  
 20 A. Yes, I do.  
 21 Q. Let's turn to page 13 of Exhibit 1722. What does  
 22 page 13 illustrate?  
 23 A. Our recent election history over the last, since  
 24 the 1990s.  
 25 Q. Are some of these elections, bond elections?

1 A. It is a mixture of tax ratification and bond  
 2 elections, yes.  
 3 Q. Okay. In your experience and -- well, in your  
 4 knowledge and just what you have learned since you have  
 5 been in the district, has your community been supportive  
 6 of the schools here in Austin ISD?  
 7 A. I think they have.  
 8 Q. I see a portion of page 13 down at the bottom  
 9 talking about future considerations. Do you see that?  
 10 A. Yes.  
 11 Q. Is the district thinking, or at least having to  
 12 consider the option of having another tax ratification  
 13 election?  
 14 A. Yes. And I just want to be clear. On that year,  
 15 that should say 2012, I know they meant school year --  
 16 Q. Right.  
 17 A. -- '12-'13. I know what they meant. But I just  
 18 want to be clear, the actual election that we would be  
 19 considering would be in 2013 along with the bond.  
 20 Q. So on page 13, the next to the bottom block where  
 21 it says 2012, we should change that to 2013?  
 22 A. Yes.  
 23 Q. Do you want to mark that change?  
 24 A. I did on mine just now.  
 25 Q. Because you're working off the official one.

1 A. Is that wrong? Sorry.  
 2 Q. No. I asked you to do it, so it is fine.  
 3 Do I also see that the district is thinking about  
 4 having an additional bond election?  
 5 A. Yes, we are.  
 6 Q. And why is that?  
 7 A. Well, we have already been doing a lot of work.  
 8 We know that we have over \$350 million of just safety,  
 9 health, security needs alone. And we know that, you  
 10 know, working conditions are important. But we're  
 11 really trying to be, you know, more efficient in our, in  
 12 our building use and improvements to help bring down  
 13 those costs. And having older buildings that have not  
 14 been upgraded only complicates that. We also know that  
 15 we're a growing district. In some areas it is, it is  
 16 very extreme in parts of Austin, so we're seeing the  
 17 need for new buildings. And some of our buildings that  
 18 we have that are really old, in order for us to be able  
 19 to use them, we have to do some pretty extensive  
 20 renovations to bring them back into the fleet of  
 21 available and usable buildings for kids.  
 22 Q. Okay. Dr. Carstarphen, if the district did have  
 23 an additional TRE -- I'm looking at page 13 of Exhibit  
 24 1722 -- how much would, if you went all the way to the  
 25 \$1.17 maximum, how much money would nine additional

1 pennies raise?  
 2 A. About \$50 million.  
 3 Q. How much of that would you get to keep?  
 4 A. 35 million.  
 5 Q. And do you know, would the money that -- if you  
 6 had the maximum possible TRE and raised that additional  
 7 money, would the money that you got to keep in Austin  
 8 ISD replace the cuts or losses of state aid that you  
 9 have experienced in the last two school years?  
 10 A. Absolutely not. It is like half.  
 11 Q. Okay. And so if the money from a TRE even at the  
 12 maximum rate would not replace your losses in state aid,  
 13 would you regard those additional dollars as  
 14 discretionary?  
 15 A. No.  
 16 Q. Okay. As a practical consideration, looking  
 17 forward to the 2013 school year, do you believe as  
 18 superintendent that you could have both a TRE and a bond  
 19 election in the same year?  
 20 MR. DEANE: Objection, form.  
 21 Q. You can answer.  
 22 A. Could you repeat the question?  
 23 Q. Looking --  
 24 A. When you do that it throws me off. Sorry.  
 25 Q. Looking forward to the 2013 year.

1 A. Yes.  
 2 Q. As superintendent, do you believe that the  
 3 district could have -- or would you recommend to the  
 4 board, let me word it that way.  
 5 A. Okay.  
 6 Q. Would you recommend to the board to have both a  
 7 TRE and a bond election in the same year?  
 8 A. I may.  
 9 Q. Okay. Do you think that would be a difficult  
 10 recommendation to make?  
 11 MR. DEANE: Objection, form.  
 12 A. Yes, I think it would be a difficult  
 13 recommendation to make.  
 14 Q. Okay. If you had to prioritize between having a  
 15 TRE and a bond election, would you, would you be able to  
 16 prioritize one over the other as we sit here today?  
 17 A. Not here today, but I'm going to have to get to  
 18 that decision at some point.  
 19 Q. Okay. Let's turn to page 14 of Exhibit 1722.  
 20 What does page 14 tell us about the district's fund  
 21 balance over the last decade?  
 22 A. The fund balance has increased over time with  
 23 some, you know, peaks and lows. And it is starting to  
 24 dip again.  
 25 Q. All right. And as we look at each year over the

1 last decade, I see a dark blue bar. And does that  
 2 represent the total general fund balance for each year  
 3 for each fiscal year?  
 4 A. Yes.  
 5 Q. And then I see a green line going across on page  
 6 14. What does the green line represent?  
 7 A. The 14 percent requirement.  
 8 Q. And is that the absolute minimum that the State  
 9 requires the district to maintain in its fund balance?  
 10 A. Yes.  
 11 Q. All right. I also see a black line going across  
 12 each of those fiscal years. What does that represent?  
 13 A. Our unobligated general fund balance.  
 14 Q. Okay. Are there funds that you have in your fund  
 15 balance that actually are obligated, you have already  
 16 committed them for particular purposes?  
 17 A. Yes.  
 18 Q. Okay. Can you give us an example of what some of  
 19 those obligated fund balances might be?  
 20 A. Yes. We, there are some programming that we have  
 21 that we use specifically, that we have to fund through  
 22 the fund balance from the -- yes, from the fund balance.  
 23 We have had, when we made our decision to keep pre-K in  
 24 one of those years, we used it. We used our general  
 25 fund, our fund balance to be able to fund that. We also

1 use it for teacher salaries. So those are just some  
 2 examples.  
 3 Q. Okay. I see a red line going across all of the  
 4 fiscal years on page 14. What does the red line  
 5 represent?  
 6 A. The optimal cash flow for about two and a half  
 7 months.  
 8 Q. Okay. And is that -- well, let's look at fiscal  
 9 year 2013. First of all, compared to fiscal year 2012,  
 10 has your total fund balance increased or decreased,  
 11 looking at the blue bar for the fiscal year 2013?  
 12 A. It has decreased.  
 13 Q. Okay. And has your unobligated general fund  
 14 balance increased or decreased in 2013 compared to  
 15 fiscal year 2012?  
 16 A. It has decreased.  
 17 Q. Okay. Is your unobligated fund balance above or  
 18 below your optimal fund balance in fiscal year 2013?  
 19 A. I'm sorry, say that one more time. I want to  
 20 make sure I'm on the right line.  
 21 Q. Let's look in fiscal year 2013.  
 22 A. 13, yes.  
 23 Q. On the far right-hand side.  
 24 A. Yes.  
 25 Q. I want to compare of the red optimal cash flow

1 and the black unobligated general fund balance. Is the  
 2 unobligated general fund balance in 2013 more or less  
 3 than the optimal cash flow?  
 4 A. Less.  
 5 Q. All right. Does having an appropriate fund  
 6 balance have an impact on the district's bond rating, do  
 7 you know?  
 8 A. Yes, it does.  
 9 Q. And what is the, what is the impact?  
 10 A. Well, a strong fund balance actually helps us  
 11 with those ratings. And you know, good ratings help us  
 12 save money with our taxpayers, especially because we get  
 13 better interest rates and things of that sort.  
 14 Q. And does the district, do you know, does the  
 15 district receive any financial assistance or money from  
 16 the State to help with bond elections?  
 17 A. No.  
 18 Q. Okay. So having a good fund rating, a good bond  
 19 rating is very important to the district, would you  
 20 agree?  
 21 A. Yes.  
 22 Q. And did you -- I see an increase in the general  
 23 fund, in the total general fund balance particularly in  
 24 fiscal year 2010, '11 and '12. Did the district make  
 25 any intentional or conscious decisions to build up the

1 fund balance?  
 2 A. Yes. I mean, it started my very first year as  
 3 superintendent. We, my CFO and I really felt like there  
 4 was enough in the projections to show that it was going  
 5 to be tough financial times. At the beginning of my  
 6 tenure, we immediately triggered austerity planning. We  
 7 presented to our board a multiyear plan for addressing  
 8 that. And part of that strategy was to really work  
 9 spending controls and build up our fund balance, so that  
 10 we could then turn around spend it down in the years, so  
 11 that we wouldn't constantly be in financial exigency and  
 12 a cycle of reductions in force. So it was part of the  
 13 strategy.  
 14 Q. And as we sit here today, Dr. Carstarphen, in the  
 15 2012-2013 school year, is Austin ISD actually taking  
 16 money out of your fund balance to make, to spend in your  
 17 operating budget to make the budget work?  
 18 A. Yes.  
 19 Q. And are you going to be able to do that forever,  
 20 or is there a limit to how long you are going to be able  
 21 to keep funding your budget out of your fund balance?  
 22 A. It is not a permanent solution, so.  
 23 Q. Okay.  
 24 A. Until we have a new revenue stream. That is not  
 25 an ideal situation, and it can have an impact on your

1 bond ratings.  
 2 Q. Okay. And let's look at page 15 of Exhibit 1722.  
 3 And just comparing that, did page 14 show us sort of a  
 4 comparison across many years, is that what page 14  
 5 demonstrates about fund balance?  
 6 A. Yes, it reflects ten years.  
 7 Q. Right. And then by comparison, what does page 15  
 8 tell us about the district's cash flow within a year  
 9 from September through the following August?  
 10 A. It is incredibly varied. Lots of variation from  
 11 month-to-month.  
 12 Q. For example, do I see a spike right in the middle  
 13 in the January/February range, as in the blue line as  
 14 demonstrated on page 14?  
 15 A. Yes.  
 16 Q. Does that basically just reflect when the  
 17 district's tax revenues primarily come in?  
 18 A. Yes.  
 19 Q. And so do you have to use your fund balance to  
 20 sort of level out your cash flow over the course of a  
 21 school year?  
 22 A. Yes.  
 23 Q. And so are there times during the year where you  
 24 actually spend down your fund balance in order to meet  
 25 your cash obligations in a particular month?

1 A. Right. And we try not to borrow. We don't want  
 2 to borrow.  
 3 Q. Because if you had to go borrow money, that would  
 4 actually be increasing costs to your taxpayers; right?  
 5 A. Yes, it does.  
 6 Q. Again, maintaining that fund balance does have an  
 7 impact on the district's bond rating; right?  
 8 A. Yes.  
 9 Q. Do you know what the district's current bond  
 10 rating is?  
 11 A. We have a AAA. It was the, since my  
 12 administration came in, we've done that for two years,  
 13 two consecutive years. So we're really proud of that.  
 14 Q. Congratulations. Let's look at page 16 of  
 15 Exhibit 1722. What does page 16 tell us about the  
 16 impact of state cuts and federal funds on Austin ISD in  
 17 recent years?  
 18 A. For fiscal year 2012, we have a revenue loss of  
 19 35.6 million. And then in fiscal year 2013, it was an  
 20 additional 25.1 million. For a total of 60.7. And we  
 21 also had a loss of 60 million in the ARRA funding from  
 22 the federal level. And currently, in Senate Bill 1,  
 23 there are existing legislative actions that could  
 24 translate into additional losses for AISD of  
 25 approximately \$150 million by 2018.

1 Q. Again, if we think about that \$35.6 million loss  
 2 in one year in fiscal year 2012, or the 60.7 million  
 3 loss in state funding over a two-year period, even if  
 4 the district had a TRE and went to the maximum rate,  
 5 would you be able to make up that loss?  
 6 A. No.  
 7 Q. Even if the district had a maximum TRE, would you  
 8 be able to replace the loss of 60 million in federal  
 9 stimulus funds?  
 10 A. No.  
 11 Q. And even if the district had a maximum TRE, would  
 12 you even come close to making up the \$150 million loss  
 13 if the State fully phases out ASATR?  
 14 A. No.  
 15 Q. As you look at this scenario and think about the  
 16 fact that you can't make up these revenue losses out of  
 17 a TRE, do you see the discretion in your budget  
 18 increasing or decreasing?  
 19 A. Decreasing.  
 20 Q. And just to be clear, is the \$150 million loss,  
 21 the last bullet on the page, if ASATR is phased out, is  
 22 that an annual loss to the district?  
 23 A. That is over time.  
 24 Q. Okay.  
 25 A. Up to, you know, by the time we get to 2018.

1 Q. And if you lose these kind of revenues, what are  
 2 you, what kind of decisions are you going to have to  
 3 make in the district from a budget standpoint? How are  
 4 you going to have to deal with this inside your budget,  
 5 if you lose these kinds of revenues?  
 6 A. We don't have a complete answer to that. It  
 7 would be crushing to the budget, programming, staffing.  
 8 We know that we're still growing, so we know we won't be  
 9 able to serve all of our kids well. And I would expect  
 10 that it would mean that we absolutely wouldn't be able  
 11 to meet the goals set forth in our strategic plan, and  
 12 won't be achieving state and federal standards.  
 13 Q. Do you see, as we sit here today, do you see  
 14 state standards, expectations, performance, requirements  
 15 increasing or decreasing between now and 2018?  
 16 A. Increasing.  
 17 Q. Increasing, okay. Do you believe as we look at  
 18 the information on page 2016 and think about the current  
 19 state funding system, are you going to be able to meet  
 20 the educational needs of your kids and the standards  
 21 that the state has set in Austin ISD?  
 22 MR. DEANE: Objection, form.  
 23 A. No.  
 24 Q. Let's look at page 17. By the way, it is about  
 25 10:15. So if the court reporter or if anybody needs a

1 break from time-to-time. I will go a few more minutes  
 2 and then take a break.  
 3 A. Can I do that, too? I would love one.  
 4 Q. If you need a break at any point, by all means.  
 5 MR. DEANE: Let's take a break.  
 6 (Recess, 10:12 to 10:20 a.m.)  
 7 Q. Dr. Carstarphen, turn to page 17 of Exhibit 1722.  
 8 First of all, what is recapture?  
 9 A. Recapture, in a nutshell is what people  
 10 affectionately refer to as Robin Hood, where you take  
 11 from the tax base of Texas's wealthy, property  
 12 wealthy -- sorry, you can't see that, I'm putting quotes  
 13 with my fingers -- property wealthy districts, and then  
 14 redistribute those dollars to districts that don't have  
 15 these kinds of strong property tax bases.  
 16 Q. Is it, is it actually a payment that the district  
 17 makes to the State as opposed to other districts?  
 18 A. Yes.  
 19 Q. So when you raise property tax dollars in Austin  
 20 ISD, do you get to keep some of those dollars and then  
 21 have to pay some of those dollars to the State, for the  
 22 State to use in its general revenue budget?  
 23 A. Yes. And so nearly 40 percent of the M&O is  
 24 generated beyond the \$1.06 tax rate, and it is that that  
 25 is sent to the State under our recapture system.

1 Q. Just looking at page 17, the first bullet for the  
 2 fiscal year 2012, how much money total are you going to  
 3 have to pay to the State out of local property taxes?  
 4 A. \$135.2 million.  
 5 Q. And again, for anything above \$1.06, what  
 6 percentage of that, looking at the second bullet, would  
 7 you have to pay to the State?  
 8 A. 45 percent.  
 9 Q. When you look at all of the dollars you raise in  
 10 Austin ISD, what percentage do you pay to the State out  
 11 of total local property taxes raised?  
 12 A. 20 percent.  
 13 Q. Do you know where -- and a number of districts in  
 14 the state obviously make recapture payments to the  
 15 State. Do you know where Austin ISD ranks just in terms  
 16 of size of recapture payments?  
 17 A. We are the single largest payer, and that is  
 18 nearly 12 percent or represents 12 percent of the  
 19 recapture revenue that the State collects.  
 20 Q. Just looking here at the central Texas area, some  
 21 of the immediate districts around, do you know  
 22 percentage-wise how much all of these districts pay to  
 23 the State in the form of recapture?  
 24 A. Nearly a fifth, about 20 percent.  
 25 Q. Of the total?

1 A. Of the total.

2 Q. Let's look at page 18 quickly. What does page 18

3 show us about Austin ISD's recapture payments over the

4 last decade?

5 A. That AISD has paid 1.4 billion, that is with a B,

6 to the State in recapture payments since 2003.

7 Q. Okay. Looking at page 19 of Exhibit 1722, what

8 does page 19 tell us about Austin ISD and social

9 security?

10 A. That, that we are one of about 1,000 districts in

11 the State of Texas that -- I mean we are one of about 20

12 districts in the State of Texas out of the thousand

13 plus, that participate in social security.

14 Q. Okay. And AISD doesn't have the legal discretion

15 to stop participating in social security today, do you?

16 A. No, we do not.

17 Q. Okay. On an annual basis, how much do you pay in

18 social security out of your budget?

19 A. \$33 million.

20 Q. Is this an important benefit that you provide to

21 your teachers, or why, do you know why the district made

22 the decision back in the 1980s to participate in Social

23 Security?

24 A. I don't know the background to the decision

25 making around it. But our institutional history shows

1 that they, at the time they saw it as an additional

2 support to our teachers. And that it was viewed more

3 favorably by teachers that had the longest tenure in the

4 systems and with more experience, you were closer to

5 retirement and things of that sort.

6 Q. Does it make it more difficult to attract new

7 teachers into the district or to retain new teachers

8 into the district?

9 A. Our data shows that it makes it harder.

10 Q. Okay. When we look at this \$33 million annual

11 cost associated with Social Security, does our current

12 state school finance system recognize that cost to

13 Austin ISD in any way that you know of?

14 A. No.

15 Q. So that is strictly a cost you bear in Austin,

16 that the State funding system doesn't recognize or

17 compensate you for?

18 A. Correct.

19 Q. Dr. Carsiarphen, let's turn to page 20 of Exhibit

20 1722. I think you mentioned a few moments ago that the

21 district had actually been doing some austerity planning

22 for several years. What does the page 20 of this

23 exhibit show us about your planning over the last

24 several years?

25 A. That in our three years of austerity planning, we

1 cut \$77 million since fiscal year 2010. It was a

2 combination of cuts, cost avoidance and revenue

3 measures. But if you, and if you look at the pieces of

4 the pie, you can see that as the years progressed, so

5 from fiscal year 2010 and '11 and '12 that the the

6 austerity measures went deeper with each year. So we

7 started at \$14.5 million, increased to 30.8, and then

8 for fiscal year '12, it is 32.2.

9 Q. Okay. Let's turn quickly to page 21. Does page

10 21 give us some detail about what exactly the district

11 has cut in your austerity plan over those three years?

12 A. Yes, it does.

13 Q. And what are, just as an example, let's look. In

14 2010, what are some of the things that the district did

15 as part of its austerity plan?

16 A. Just to be clear, philosophically we started with

17 little to no cuts only until we must touch the

18 classrooms.

19 Q. Okay.

20 A. So you will see that progressively, it starts

21 with a focus in fiscal year 2010 on central

22 administration. It also reduced our, we reduced the

23 number of people that we were bringing on. Whenever we

24 had vacancies, we just did a centralized hiring freeze,

25 which still allowed us to take care of schools. By the

1 time we made it to fiscal year in 2011, we reduced 117

2 central office positions. And then we knew at that

3 point, we had taken as much as we felt like we could to

4 run the system under the current structure.

5 And by fiscal year 2012, we declared financial

6 exigency, eliminated over, approximately 1,153

7 positions. We asked our employees to make more employee

8 health contributions. We did a lot of operational

9 things like getting fixed pricing for our fuel. Did

10 efficiencies at the peak winter and summertimes with

11 complete district shutdowns. Starting on Fridays in the

12 summer, even. Doing a four-day work week, working 10

13 hours a day on those four days. We reduced

14 transportation and some of the things that were more

15 supports to students, but still trying not to touch

16 classrooms as much as possible. We went to, you know,

17 programming that while we believe is academic, but isn't

18 at the core of academics in some of these examples. So

19 that was by far the hardest year.

20 Q. In your three years with Austin ISD as

21 superintendent, have you made decisions or

22 recommendations like this in an effort to increase the

23 efficiency in terms of the district's use of your

24 existing dollars?

25 A. In some of it, yes. I mean, we are, we know we

1 have work to do there. So some of it. But the  
 2 overwhelming majority of this is because we,  
 3 literally don't have the resources after some of the  
 4 decisions in the last legislative session. So what does  
 5 have an element of efficiency was overshadowed by the  
 6 State cuts.

7 Q. Okay. Let's briefly look at page 22 of Exhibit  
 8 1722. What does this tell us about your budgeted  
 9 expenditures? And is fiscal year 2013, the year that  
 10 we're in, is this the budget for the 2012-2013 school  
 11 year?

12 A. Yes.

13 Q. Okay. When we look at your budgeted expenditures  
 14 including your Chapter 41, is that the recapture  
 15 payment?

16 A. Yes.

17 Q. What percentage of your total budgeted  
 18 expenditures do you spend on personnel?

19 A. 75.04 percent.

20 Q. And what percentage of your total budgeted  
 21 expenditures are represented by that state -- by that  
 22 recapture payment to the State?

23 A. 13.37 percent.

24 Q. Just to compare that, if you will turn to page  
 25 23. For the same fiscal year 2013, if we exclude your

1 recapture payment, what percentage of your total  
 2 budgeted expenditures go to payroll costs?

3 A. 86.6 percent.

4 Q. All right. Turning quickly to page 24. If we  
 5 look at the district's revenue per weighted student over  
 6 the last several years, what does page 24 tell us about  
 7 the district's revenue?

8 A. That our revenue over the years has remained  
 9 pretty flat, with a dip here at the end in fiscal year  
 10 2013.

11 Q. Even compared to fiscal year 2007, what was --  
 12 and I'm looking on the left-hand side of page 24. Do  
 13 you see a bar that is a combination of a blue and a red  
 14 component?

15 A. Yes.

16 Q. What does the blue component represent?

17 A. The M&O after recapture.

18 Q. What does the red portion of that bar represent?

19 A. State aid.

20 Q. In fiscal year 2007, looking at the blue portion  
 21 of that bar, how many dollars per weighted student did  
 22 the State -- or did the district have to use in your  
 23 budget?

24 A. After recapture, 4,978.

25 Q. And looking at the red portion of that bar, how

1 much state aid did you receive per weighted student in  
 2 fiscal year 2007?

3 A. 981.

4 Q. Let's just compare that. Come over to the far  
 5 right-hand side. In fiscal year 2013, which is the  
 6 current school year, right?

7 A. Correct.

8 Q. Looking at the blue portion of that bar, what is  
 9 the district's M&O revenue after recapture per weighted  
 10 student?

11 A. 4,657.

12 Q. Does that, if my math is correct, does that  
 13 represent a reduction in local M&O revenue of a little  
 14 over \$300 per weighted student compared to fiscal year  
 15 2007?

16 A. Yes.

17 Q. Looking at the blue portion of the fiscal year  
 18 2013 bar, how much state aid are you receiving?

19 A. 977.

20 Q. Again, compared to fiscal year 2007, is that a  
 21 very slight decrease, looks like about \$4 per weighted  
 22 student?

23 A. Yes.

24 Q. Over this period of time, have state performance  
 25 requirements and expectations increased or decreased?

1 A. They have increased.

2 Q. Is it a fair statement that you are dealing now  
 3 with increasing standards and less revenue?

4 A. Yes.

5 Q. Turning quickly to page 25. What does page 25  
 6 tell us about the district's staffing over the last  
 7 decade?

8 A. Our total staff by and large over the last decade  
 9 has -- was increasing.

10 Q. And I'm looking at the blue portion, the blue  
 11 bars on page 25 for each year. Do you see those blue  
 12 bars?

13 A. Yes, I do.

14 Q. What would you primarily associate that increase  
 15 in staff with?

16 A. Increasing enrollment.

17 Q. Do I also see a red dotted line that represents  
 18 the district's enrollment?

19 A. Yes.

20 Q. Do those two lines generally tend to trend  
 21 together?

22 A. Yes, they have.

23 Q. Just looking at the far right-hand side. For  
 24 2012, what happened with the district's staff?

25 A. We, we experienced a reduction in force and we

1 reduced the numbers.

2 Q. What happened with the district's enrollment?

3 A. The enrollment continued to increase.

4 Q. Dr. Carstarphen, we're going to make another  
5 transition here. We've looked at your demographics,  
6 we've looked at some of the district's basic financial  
7 information and history, and now we're going to look at  
8 your student performance data particularly on the  
9 end-of-course exams. Okay, beginning on page 26.

10 Are you familiar with the new STAAR, and for the  
11 record that is capital S-T-A-A-R and end-of-course  
12 exams -- and I may refer to those, for the record as EOC  
13 or EOCs. Are you familiar with the STAAR and EOCs that  
14 we are currently implementing in the State of Texas?

15 A. Yes.

16 Q. In your experience, how would the STAAR and  
17 end-of-course exams compare with the TAKS -- and for the  
18 record, that is capital T-A-K-S exams -- that we have  
19 been using for a number of years in Texas?

20 A. We believe they're more rigorous and they will  
21 help districts assess whether or not kids are, you know,  
22 college-ready, and that we're teaching at a higher  
23 standard.

24 Q. Do you support higher standards in Austin ISD?

25 A. Absolutely.

1 Q. Do you think it is going to take resources to  
2 meet higher standards?

3 A. Yes.

4 Q. Let's look briefly at page 26. And I'm looking  
5 at the far left-hand side. First of all, do you see a  
6 blue bar and a red bar that has a legend English 1  
7 reading?

8 A. Yes.

9 Q. What does the blue bar represent?

10 A. The blue bar represents the percent of students  
11 that were satisfactory in the initial standard for  
12 English 1 reading.

13 Q. In your understanding, is the initial standard a  
14 lower standard?

15 A. Yes.

16 Q. What does the red bar represent?

17 A. It represents the percent of students  
18 satisfactory at the final standard, which is a higher  
19 standard for English 1 reading.

20 Q. So just as an example, looking at the blue bar  
21 for English 1 reading, what percentage of your students  
22 on the spring 2012 end-of-course exam met the initial  
23 standard?

24 A. 69 percent.

25 Q. Looking at the red bar for English 1 reading, how

1 many met the final standard?

2 A. 50 percent, half.

3 Q. One out of two students?

4 A. Yes.

5 Q. If we look at the next set of bars for the  
6 English 1 writing, what percentage of your students met  
7 the initial standard?

8 A. 54 percent.

9 Q. What percent met the final standard?

10 A. 37 percent.

11 Q. And then in algebra I in the middle of page 26,  
12 what percentage met the initial standard?

13 A. 83 percent.

14 Q. And what percent met the final standard?

15 A. 42 percent.

16 Q. Looking at biology, what percentage met the  
17 initial standard?

18 A. 84 percent.

19 Q. What percent met the final standard?

20 A. 41 percent.

21 Q. And again in world geography on the far  
22 right-hand side, what percent met the initial standard?

23 A. 78 percent.

24 Q. And what percent met the final standard?

25 A. 43 percent.

1 Q. Turn page 28. We have a number of slides here.

2 What does page 28 tell us about algebra I end-of-course  
3 exam performance by students here in Austin ISD?

4 A. Page 28?

5 Q. Page 28. Did I --

6 A. 28, I'm there.

7 Q. Did I skip one? I did skip one. Let's back up.  
8 I'm sorry, my pages stuck together. Let's briefly look  
9 at 27.

10 What does page 27 tell us about your students  
11 that did not meet the standard? Let's pick English 1  
12 reading. Looking at the left-hand side of the --

13 A. The chart.

14 Q. -- chart on page 27, how many students were below  
15 the minimum standard for English 1 reading?

16 A. 1,181.

17 Q. And do you see a blue portion of that bar?

18 A. Yes.

19 Q. What does that represent?

20 A. It shows the number of students who were between  
21 minimum and satisfactory.

22 Q. Are these still students who did not meet the  
23 standard?

24 A. Yes.

25 Q. But does it mean their scores could in theory be

- 1 counted in their composite scores later on?  
 2 A. Yes, it does.  
 3 Q. Do you regard even these students as needing  
 4 remediation?  
 5 A. Yes, we do.  
 6 Q. Because they are still failures, aren't they?  
 7 A. Yes, they are.  
 8 Q. How many students total, looking at the red  
 9 portion of the bar and at the blue portion of the bar,  
 10 did not meet the standard and need remediation in  
 11 English I reading?  
 12 A. 1,529.  
 13 Q. In English I writing, combining both the red and  
 14 the blue portions of the bar, how many students did not  
 15 meet the standard and are going to need remediation?  
 16 A. 2,263.  
 17 Q. In algebra I, looking at the combination, how  
 18 many did not meet the standard and will need  
 19 remediation?  
 20 A. 817.  
 21 Q. In biology, again the combination, how many did  
 22 not meet the standard and will need remediation?  
 23 A. 767.  
 24 Q. And finally, on the right-hand side on page 27  
 25 for world geography, how many did not meet the standard

- 1 and will need remediation?  
 2 A. 1,104.  
 3 Q. Dr. Carstarphen, did the State to your knowledge,  
 4 provide the district in this first year that we were  
 5 implementing these new exams, any additional resources  
 6 to help with remediation for these students?  
 7 A. No.  
 8 Q. Are you having to fund all of the remediation  
 9 required for these students out of local tax dollars?  
 10 A. Yes, we have.  
 11 Q. Now, let's turn to page 28. What does page 28  
 12 tell us about your algebra I end-of-course exam  
 13 performance?  
 14 A. It tells us about how our students performed at  
 15 the initial and final standards by student group. So we  
 16 looked at what we call the subgroups of students within  
 17 our total population, or all students. And just to be  
 18 to be clear, this does not include our modified or  
 19 alternative assessments for special education students.  
 20 Q. So these are just, this is the performance on the  
 21 standard exam, not any modifications?  
 22 A. Yes.  
 23 Q. And you said this indicates our disaggregated or  
 24 sub pops. What are the categories that are represented,  
 25 just looking across on page 28?

- 1 A. All students, African American students, Hispanic  
 2 students, white students, economically disadvantaged  
 3 students, non-economically disadvantaged students,  
 4 special education students, limited English proficient  
 5 students.  
 6 Q. Okay. Let's just use a couple for example.  
 7 Looking at the economically disadvantaged students, do  
 8 you see a blue bar and a red bar?  
 9 A. Yes.  
 10 Q. And consistent with the previous couple of pages,  
 11 does the blue bar represent the initial standard?  
 12 A. Yes.  
 13 Q. And the red bar represents the final passing  
 14 standard?  
 15 A. Yes.  
 16 Q. What percentage of the district's economically  
 17 disadvantaged students met the initial standard for  
 18 algebra I end of course?  
 19 A. 76 percent.  
 20 Q. What percentage met the final standard out of  
 21 your economically disadvantaged students?  
 22 A. 25 percent.  
 23 Q. Compared to your non-economically disadvantaged  
 24 students, what percentage met the initial standard?  
 25 A. 93 percent.

- 1 Q. And what percentage met the fully phased in final  
 2 standard?  
 3 A. 64 percent.  
 4 Q. Dr. Carstarphen, do you have different  
 5 expectations for any of these disaggregated student  
 6 groups than you have for other student groups here in  
 7 Austin ISD?  
 8 A. No.  
 9 Q. As we look at this performance and look at the  
 10 performance particularly of these disaggregated student  
 11 groups in terms of meeting the final standard, as we sit  
 12 here today, do you have the resources in Austin ISD to  
 13 do the things that you need to do to get all of your  
 14 students to meet the State standards?  
 15 A. No.  
 16 Q. Let's look quickly at page 29. What does page 29  
 17 tell us about the biology end-of-course exam?  
 18 A. It is the same context as the earlier slide. It  
 19 doesn't include modified and alternative assessments for  
 20 students with disabilities. But again, we're looking at  
 21 students by subgroup and the percent satisfactory in the  
 22 initial and final standards.  
 23 Q. Just looking at the red bars, what percentage of  
 24 your African American students met the fully phased in  
 25 final standard?

1 A. 23 percent.  
 2 Q. What percentage of your Hispanic students met the  
 3 fully phased in final standard?  
 4 A. 24 percent.  
 5 Q. What percentage of your economically  
 6 disadvantaged students met the fully phased in final  
 7 standard?  
 8 A. 20 percent.  
 9 Q. In your LEP population, what percentage met the  
 10 final standard?  
 11 A. 6.  
 12 Q. Do you have different or lower expectations for  
 13 any of these disaggregated student groups than for other  
 14 groups or for other students in AISD?  
 15 A. No.  
 16 Q. And as we sit here today, do you have the  
 17 resources in the district to get all of your students to  
 18 the standards that the State has set for all students?  
 19 A. No.  
 20 Q. Look at page 30. What does page 30 tell us about  
 21 the district's performance on the world geography  
 22 end-of-course exams exam?  
 23 A. Same, same context with the, looking at the  
 24 initial and final standards by student group. Doesn't  
 25 include modified and alternative assessments for

1 students with disabilities. And it still breaks its  
 2 down by our subgroup populations.  
 3 Q. Again, just quickly, what percentage -- looking  
 4 at the red bars -- of your African American students met  
 5 the final standard?  
 6 A. 21 percent.  
 7 Q. What percentage of your Hispanic students met the  
 8 final standard?  
 9 A. 27 percent.  
 10 Q. What percentage of your economically  
 11 disadvantaged students met the final standard?  
 12 A. 22 percent.  
 13 Q. And of your LEP students, what percentage met the  
 14 final standard?  
 15 A. 5.  
 16 Q. Do you have any different or lower expectations  
 17 for any of these student groups than for other students  
 18 in the district?  
 19 A. No.  
 20 Q. As we sit here today, does the current school  
 21 funding system provide you the resources that you  
 22 believe you need to give all of these students a  
 23 meaningful opportunity to meet the standards that the  
 24 State has set for all students?  
 25 A. No.

1 Q. Let's look at page 31. What does this tell us  
 2 about English 1 writing?  
 3 A. Same context, broken down by student subgroup.  
 4 Q. Quickly looking on English 1 writing  
 5 end-of-course exam, looking at the red bars, what  
 6 percentage of your African American students met the  
 7 phased in final standard?  
 8 A. 19 percent.  
 9 Q. What percentage of your Hispanic students met the  
 10 final standard?  
 11 A. 23 percent.  
 12 Q. Economically disadvantaged students and final  
 13 standard?  
 14 A. 18 percent.  
 15 Q. And finally, what percentage of your LEP student  
 16 population met the final standard?  
 17 A. 3 percent.  
 18 Q. Do you have different or lower expectations for  
 19 any of these student groups in writing than for other  
 20 students?  
 21 A. No.  
 22 Q. Does the current school funding system provide  
 23 you the resources that you as superintendent believe you  
 24 need to have, to give all of these students an  
 25 opportunity to meet the standards the State has set for

1 all students?  
 2 A. No.  
 3 Q. Page 32. What does this tell us about English 1  
 4 reading?  
 5 A. Same context, percent satisfactory, not including  
 6 modified and alternative assessments for students with  
 7 disabilities. Initial and final standard percentages  
 8 for all the student groups, subgroups.  
 9 Q. Same blue bar, same red bar for each student  
 10 group?  
 11 A. Yes.  
 12 Q. All right. Looking at the red bars for your  
 13 African American students, what percentage met the final  
 14 standard?  
 15 A. 33 percent.  
 16 Q. And for your Hispanic students, what percentage  
 17 met the final standard?  
 18 A. 36 percent.  
 19 Q. For your economically disadvantaged students in  
 20 English 1 reading, what percentage met the final  
 21 standard?  
 22 A. 31 percent.  
 23 Q. And for your LEP student population, what  
 24 percentage met the final standard?  
 25 A. 5 percent.

1 Q. And one more time, do you as superintendent or  
2 does Austin ISD have any different or lower expectations  
3 for any of these student groups than for other students?

4 A. No.

5 Q. And as we sit here today, does the current school  
6 funding system provide you the resources to give all of  
7 your students a meaningful opportunity to meet the  
8 standards that the State has set for all students?

9 A. No.

10 Q. Dr. Carstarphen, I believe we are to the last  
11 page of Exhibit 1722. If you will look at page 33.  
12 What does this tell us about your summer end-of-course  
13 exam retakes here in Austin ISD?

14 A. The slide shows the number of exams below  
15 satisfactory that were on the May administration. The  
16 total was 6,480. We had July testers totaling 2,261.  
17 Then it shows the percentage of students below  
18 satisfactory who attempted the retest in July, with a  
19 total of 35 percent. Then there is a column on the  
20 number of students who achieved satisfactory on the July  
21 administration, and that is 656 students.

22 And then there a breakdown for the percent of  
23 students who achieved satisfactory, and the actual  
24 percentage is 29 percent.

25 Q. Okay. If we look at the total bar or the total

1 line on page 33, do you see that line?

2 A. Yes.

3 Q. If I'm reading it correctly, did you have 6,480  
4 students who did not perform satisfactorily on the  
5 initial exam in one or more of the, of the tests,  
6 end-of-course tests?

7 A. Yes, that's true.

8 Q. And if I move over, if I'm reading this  
9 correctly, only 656 of those students actually achieved  
10 satisfactory performance on the retest; is that correct?

11 A. Yes.

12 Q. Does that mean, is that 656, it looks like it is  
13 just a fraction over 10 percent of the 6,480; is that  
14 correct?

15 A. Yes.

16 Q. So is it a fair statement that 90 percent or  
17 slightly less than 90 percent of the students who did  
18 not -- who were not successful on the initial May  
19 administration of an end-of-course exam still need  
20 remediation?

21 A. Yes.

22 Q. Does the State provide you any resources to  
23 assist with the remediation of these students who still  
24 need remediation?

25 A. No.

1 Q. As we sit here today thinking about all the  
2 information that we talked about on Exhibit 1722,  
3 thinking about your growing, changing student  
4 demographics, your financial information and the  
5 austerity measures that the district has already  
6 implemented, and looking at your student performance,  
7 does the current State funding system give Austin ISD  
8 the ability to give all of its students an opportunity  
9 to meet the standards that the State has set for all  
10 students?

11 A. No.

12 MR. THOMPSON: Thank you very much, Dr.  
13 Carstarphen. I will pass the witness.

14 (Recess, 10:53 to 10:59 a.m.)

15 EXAMINATION

16 BY MR. FIGUEROA:

17 Q. Well, thank you, Doctor. Let me introduce  
18 myself. I am Luis Figueroa and I represent the Edgewood  
19 intervenors, and I'm here with my co-counsel Maribel  
20 Hernandez Rivera. We represent Edgewood, McAllen, San  
21 Benito, La Feria and Harlingen as well as parents of low  
22 income and English language learners who attend school  
23 in Pasadena and Amarillo school districts.

24 Thank you for taking the time today. I was just  
25 going to go over some of the rules that we kind of

1 covered before, just to make sure you're comfortable.  
2 You can feel free to ask any clarification questions.  
3 If you have any questions about what I'm asking about,  
4 feel free to let me know. And if you could, wait until  
5 the end of the question so that we can get a clean  
6 record. I appreciate it.

7 A. Okay.

8 Q. Does that sound good to you?

9 A. Sounds great.

10 Q. And I apologize if there is some overlap from the  
11 previous testimony you provided. I will try to avoid  
12 that as best as possible. I wanted to just start real  
13 quickly, you had gone over in your previous questions  
14 the number of students who qualify for free and reduced  
15 lunch, known as economically disadvantaged students in  
16 your district. And I was wondering if you knew the  
17 percentage of those students? And if not, I will give  
18 you a document that will help refresh your memory, but  
19 do you know it just off the top your head?

20 A. I think it is 64 percent.

21 Q. You talked about the raw numbers. Has that  
22 percentage increased or decreased over the past five  
23 years?

24 A. It has increased.

25 Q. And would you call that growth steady or would

1 you call it exponential?  
 2 A. It has, it has grown over time, steady percentage  
 3 increase.  
 4 Q. Do you happen to know the percentage of students  
 5 who are English language learners in your district?  
 6 A. That percentage is 30 percent, 32 percent.  
 7 Q. And you talked about the raw numbers before. Has  
 8 that percentage increased or decreased over the past  
 9 five years?  
 10 A. It has increased incrementally.  
 11 Q. Incrementally. And I'm going to hand you an  
 12 exhibit. It has been previously marked as Exhibit 1723.  
 13 (Exhibit 1723 marked.)  
 14 Q. Are you familiar with this exhibit?  
 15 A. This exhibit is the 2010-'11 AEIS report for the  
 16 Austin Independent School District. Yes, I have seen  
 17 this before.  
 18 Q. And it includes reporting of the performance of  
 19 your students on the TAKS for grades 3 through 11; is  
 20 that correct?  
 21 A. Yes.  
 22 Q. And the TAKS test did not test all subjects at  
 23 all grade levels; is that correct?  
 24 A. Correct.  
 25 Q. And for the subjects that were tested, the TAKS

1 was meant to test the knowledge of the State's  
 2 curriculum known as the TEKS; is that your  
 3 understanding?  
 4 A. Yes, it is.  
 5 Q. Now, you would want as a goal for your students,  
 6 to achieve the TAKS standards in all subjects at all  
 7 grade levels; would that be fair?  
 8 A. Yes, we did.  
 9 Q. And so would it be appropriate to look at the sum  
 10 of all grades tested under the "all test" standard in  
 11 order to gauge student learning against the "met"  
 12 standard?  
 13 A. Yes.  
 14 Q. We can look at that. It is on Section 1, page 4.  
 15 Do you see in the middle where it says TAKS met 2011  
 16 standards, sum of all grades tested?  
 17 A. Yes.  
 18 Q. And are you familiar with what that, with what  
 19 this indicator is?  
 20 A. Yes, it is the percent of students, looking at  
 21 2010 and 2011, that met the 2011 standard or the 2010  
 22 standard for five content areas.  
 23 Q. Thank you very much for that explanation. On the  
 24 flow that says, "District all test," for 2011, it says  
 25 that 75 percent of the students met the all test

1 standard for 2011?  
 2 A. Yes, it does.  
 3 Q. For Hispanic, it says 67 percent?  
 4 A. Yes, it does.  
 5 Q. And for LEP students, it says 56 percent?  
 6 A. Yes, it does.  
 7 Q. So the sum for all grades tested for LEP students  
 8 in 2010 was 55 percent in 2010, and 56 percent in 2011?  
 9 A. Yes.  
 10 Q. So after about eight years of testing, about 45  
 11 percent of the LEP students failed to meet the minimum  
 12 standards set by the State on all TAKS tests?  
 13 A. Yes.  
 14 Q. And about 35 percent of your economically  
 15 disadvantaged students failed to meet the standards set  
 16 by the State on all TAKS tests?  
 17 A. Yes.  
 18 Q. Now, previously you had stated that it is your  
 19 expectation that all students meet the standards. But  
 20 do you understand that under current state law, students  
 21 are expected to graduate college-ready?  
 22 A. Yes.  
 23 Q. Has the rigor of testing from TAKS to STAAR  
 24 increased?  
 25 A. We believe it has, yes.

1 Q. How would you describe the increase of rigor?  
 2 A. The standards are higher, and I think the  
 3 philosophical shift was, from TAKS to STAAR was more in  
 4 the TAKS environment, about students achieving a floor,  
 5 meeting or exceeding like a base model. Whereas the  
 6 STAAR in the most simple terms I can think of, is about  
 7 achieving a standard that measures whether or not kids  
 8 are more college-ready. So it is, it is a higher  
 9 standard and expectation.  
 10 Q. Was it your opinion that the TAKS met standard  
 11 reflected college readiness?  
 12 A. Not necessarily. We looked more toward like  
 13 commended, the percentage of students that met or  
 14 exceeded commended rates, things of that sort when we  
 15 look at this kind of data to give us a better indication  
 16 of college readiness.  
 17 Q. So in summary, you believe the commended level  
 18 represented a more accurate indicator of college  
 19 readiness?  
 20 A. One part college readiness, yes.  
 21 Q. Let's look at the commended level on the bottom  
 22 of Section 1, page 4 of Exhibit 1723. It looks like in  
 23 2010, 16 percent of your districts reached the commended  
 24 level on all tests; is that correct?  
 25 A. That is correct. I'm sorry, 18 percent. 18

1 percent.

2 Q. In 2011?

3 A. In 2011, yes.

4 Q. And for 2010?

5 A. 16.

6 Q. 16. And the percentage of Hispanic students in

7 2010 that reached the commended level?

8 A. 9 percent.

9 Q. And then for 2011?

10 A. 10 percent.

11 Q. Can you go over those numbers for the

12 economically disadvantaged?

13 A. 7 percent for 2010; 8 percent for 2011.

14 Q. And for the LEP students?

15 A. 7 percent and 7 percent for both years.

16 Q. Are you familiar that TEA also reports a number

17 of indicators that also reflect college readiness

18 standards?

19 A. Yes.

20 Q. I believe that those are on page 10 of Section 1.

21 What is your understanding of these college readiness

22 indicators as reported in the AEIS report that we're

23 looking at?

24 A. It is, like I said before, commended rates were

25 once part of it. But it includes the percent of kids

1 who take advanced courses, that are involved in dual

2 enrollment completion programs, AP advanced placement,

3 international baccalaureate, being able to meet certain

4 cut score levels on some of the exams with the 2,200 cut

5 rate, those kinds of things.

6 Q. Is it fair to say that they represent other

7 indicators that would show whether a student is

8 college-ready?

9 A. Yes.

10 Q. So turning to Section 1, page 10. TEA reports

11 about 21 percent of the district's Hispanic students had

12 advanced course or dual enrollment completion through

13 2010; is that right?

14 A. You are talking about the State or AISD?

15 Q. AISD for Hispanic.

16 A. AISD for Hispanic, okay. Which year?

17 Q. In 2010.

18 A. In the 2009 school year, 21.3 percent.

19 Q. And in the 2008-2009 school year?

20 A. 18.4.

21 Q. Okay. And continuing on that path there, can you

22 represent the percentages for the Anglo/white/Caucasian

23 students?

24 A. Sure. In 2008-'09, 35.2 percent, and in '09-'10,

25 38.7.

1 Q. Then continuing over towards the end of that row

2 for the economically disadvantaged students?

3 A. In 2008-'09, 16.4 percent. And in 2009-'10, 18.9

4 percent.

5 Q. And then finally, the LEP students?

6 A. In 2008-'09, 7.8 percent. In 2009-'10, 11.4

7 percent.

8 Q. And if we could move over to the Texas Success

9 Initiative through the year 2010. Well, first let's

10 start, what is your understanding of the Texas Success

11 Initiative or TSI?

12 A. It's another component of higher education or

13 college readiness. It is another indicator.

14 Q. And then looking at that column there, can you

15 give the percentage of the district that met the TSI

16 standard for English language arts in 2011?

17 A. I need you to repeat the question. I just want

18 to be sure you are not asking about AISD. Our district?

19 Q. Yes, for your district.

20 A. In English language arts for 2011, 64 percent. I

21 need a ruler. 64 percent.

22 Q. Thank you very much. And then continuing on

23 along that line, the Hispanic students who met the TSI

24 standard for English language arts in 2011?

25 A. 54 percent.

1 Q. And for economically disadvantaged?

2 A. 48 percent.

3 Q. And for the LEP students?

4 A. 14 percent.

5 Q. Now going to the subject area beneath that,

6 mathematics. I won't have you repeat all of them, but

7 can we just go over the Hispanic students who met the

8 mathematics TSI standard for 2011?

9 A. 63 percent.

10 Q. For the Anglo/white/Caucasian students?

11 A. 89 percent.

12 Q. And for the economically disadvantaged?

13 A. 57. Wait.

14 Q. Yes.

15 A. 57 percent.

16 Q. And the LEP?

17 A. 31 percent.

18 Q. If we could flip the page and take a look at the

19 SAT at or above criterion. Do you see that?

20 A. Yes.

21 Q. In 2010, it looks like about 80 percent of

22 Hispanic scored below the State's criterion for the

23 ACT/SAT in 2009 and 2010; is that correct?

24 A. 80 percent for 2010, a little more than 80

25 percent for 2009.

1 Q. For the Anglo students, more than 60 percent met  
2 the criterion --

3 A. Yes.

4 Q. -- in 2010 and 2009?

5 A. Yes.

6 Q. If we could just jump to the bottom for the  
7 college-ready graduates for both subjects. Do you see  
8 that?

9 A. Yes.

10 Q. And in 2009, only 50 percent of the graduates in  
11 the district were college-ready in both subjects?

12 A. Yes.

13 Q. And in 2009-2010, less than 35 percent of the low  
14 income graduates were college ready; is that right?

15 A. Yes.

16 Q. Less than 10 percent of LEP students were college  
17 for that same time period; is that right?

18 A. Yes.

19 Q. What is your opinion on the district's and Austin  
20 ISD's district students -- sorry.

21 What is your opinion on how your district's  
22 students are performing under the college readiness  
23 criteria we just went over?

24 A. That we can make improvements. There are some  
25 students clearly that are doing better than others, but

1 there are gaps in that performance.

2 Q. Particularly with the economically disadvantaged  
3 and the LEP students?

4 A. Yes.

5 Q. Now, you described the growth in population for  
6 low income students in your district. Has that student  
7 population created challenges for your district?

8 A. Yes.

9 Q. And could you describe the challenges that this  
10 student population faces, particularly talking about low  
11 income students?

12 A. As I discussed earlier, kids who are economically  
13 disadvantaged typically come to school with more needs.  
14 By and large, they are not prepared, especially at the  
15 early grades to be ready for school. There are a lot of  
16 things around access and opportunity that potentially  
17 has not happened in their life. That's not the case for  
18 every kid, but it is more than often true. It certainly  
19 requires a little, what we see as more attention to  
20 getting them to the minimum standards. And then that is  
21 a lot about, that has a lot to do with resources  
22 dedicated to remediation. And then there is a bigger  
23 part that has to happen to have them to meet these kinds  
24 of standards around college readiness. So it often  
25 requires, you know, the right kind of teachers, support

1 staff, and additional programming that comes as a, as a  
2 as a resource pressure on our, on our budgets.

3 Q. What is your district doing to try to meet those  
4 challenges?

5 A. We're doing a host of things. We're really  
6 trying to get in front of these achievement gaps before  
7 they start. We invest in early college -- I mean early  
8 childhood education, on the forefront. We partner with  
9 people like Head Start. Even though we don't have state  
10 grants or other resources to support early childhood  
11 education, we pay for that out of our general fund. We  
12 even do a pay for pre-K design for families that can  
13 afford it, so that we can offset those costs for serving  
14 poor families like you just described.

15 Once we get into elementary, we really try to  
16 manage our class size. We, we do a lot of work around  
17 rethinking the integration of technology, things of that  
18 sort. We change programming based on the demographics  
19 of kids. When we have the right mix of kids, sometimes  
20 we introduce things like dual language programs. We  
21 actually change our programming to match some of those  
22 demographics.

23 At the middle school level and the high school  
24 level, I think the biggest thing that we do is around  
25 how we structure our day. We provide a second planning

1 period for our teachers at the middle school and high  
2 school levels, so that they can plan across grade  
3 levels. They have more time to, in some cases tutor and  
4 support kids. We also, you know, allow that time to be  
5 flexible around professional development. It is a huge  
6 expenditure out of our budget to allow our professional  
7 staff that kind of time to really be the highest quality  
8 teachers that we can provide at the secondary level. So  
9 that is just a snapshot of some of the things that we do  
10 to be able to serve better the growing, diverse district  
11 that Austin has.

12 Q. And we will separate the English language  
13 learners from the low income, but just focusing on low  
14 income for now. You had mentioned some technology that  
15 you try to utilize. Could you describe in a little bit  
16 of detail on some of that, the programs or resources  
17 that you use?

18 A. Right. We at the, at the, even at the early  
19 grades in our pre-K centers, we try to -- we know that  
20 there is a digital divide for children in poverty. They  
21 often don't have the hardware or even the infrastructure  
22 in their, as you saw, they're rental homes and they're  
23 mobile and those kinds of things where the cost of even  
24 setting up technology in their homes, is a lost  
25 investment. You know, you pay for it once, you move,

1 you have to pay for it again.

2 So we try to do things like, we are moving toward  
3 trying to set up more hubs, schools as hubs for  
4 families. We're putting technology in the hands of  
5 kids. We even in one of our highest poverty schools,  
6 gave every child a laptop. We know they can't afford  
7 these things at home. But in addition to the academic  
8 gaps, the digital divide we think sets them up for  
9 future failure if they don't have this kind of exposure  
10 that we often have to provide from the public school  
11 setting, because they can't get it at home. And if we  
12 really want to graduate kids college and career ready,  
13 and we're saying all kids, we have to do these kinds of  
14 things to ensure that they are prepared for the  
15 workforce and not graduating needing remediation when  
16 they go to college.

17 Q. And would the district like to provide additional  
18 support for the economically disadvantaged students?

19 A. We absolutely would love to.

20 Q. And what would be some of these programs or  
21 additional support that you would like to implement?

22 A. Well, we've, we've been able to start some small  
23 things. But, but like at the heart of really serving  
24 kids well, our district looks a lot at teacher quality.  
25 So if there was one investment I could really make for

1 poor children in particular, because you know our Title  
2 I schools are Title I by neighborhood. Right. So if I  
3 could get the highest quality teachers to go and teach  
4 in these high poverty schools, we think we can make a  
5 really big difference. So we apply for a lot of grants.  
6 We actually didn't get the latest one, which was a  
7 disappointment. But one of the things that we do is we  
8 try to compensate teachers more.

9 We have a strategic compensation approach for  
10 these high at risk, high poverty schools to attract high  
11 quality teachers to those sites. So we look at  
12 compensation, we try to improve working conditions. We  
13 really want the best people to be willing to go to these  
14 schools that have a high concentration of, high  
15 concentrations of children in poverty. And at the heart  
16 of that, we know that teacher quality is one of the,  
17 research shows is one of the best, has the best impact  
18 on student achievement. So we want to get those people  
19 in those sites that have the high numbers of  
20 economically disadvantaged students.

21 Q. You have mentioned that you weren't able to get a  
22 grant. What would the grant have provided for?

23 A. An ability for us to expand our strategic  
24 compensation design. We do have some money. We even  
25 set aside a penny in the tax ratification election that

1 passed before I was superintendent, to do this kind of  
2 structure. We got a, we got a grant from the federal  
3 government about two years ago and we applied for  
4 another one, because the State discontinued their  
5 D.A.T.E. funding grant that allowed for this. So we're  
6 still, even though we don't have the funding, we're  
7 still working really hard to get new funding streams to  
8 be able to support these things. We just want, we know  
9 the best gift we can give to kids is high quality  
10 teachers. And those teachers will tell you they need  
11 resources like technology, you know, the right kinds of  
12 textbooks, they need more time. They will ask for time.  
13 That is also a very cost prohibitive approach. But time  
14 is another costly factor. And we pay for, we pay for  
15 tutoring and mentoring and things of that sort to help  
16 these kids as well.

17 Q. So if you are unable to find those additional  
18 resources, do you believe it will have a negative impact  
19 on the economically disadvantaged students?

20 A. Absolutely.

21 Q. If you had the resources, would you provide the  
22 tutoring technology and other programs that you just  
23 mentioned?

24 A. Yes.

25 Q. Now, if we could switch gears to English language

1 learners. Can you describe the challenges that that  
2 student population creates for your district?

3 A. Yes, as I discussed earlier, the biggest pressure  
4 we have around limited English proficient students is  
5 tied to finding those bilingual staff members. And it  
6 is not just Spanish that we're looking for. While that,  
7 that is a significant portion of these, these students'  
8 home language, we have a lot of diversity across those  
9 languages. So we, we know that we have pressures as it  
10 relates to finding the right staff with the right skills  
11 to help get English language learners to be able to make  
12 the transition into English. And like I said, in our  
13 district, we have a core value around diversity. We  
14 embrace it, we support it, and we don't want kids to  
15 lose it. So the concept of being bilingual, biliterate,  
16 and bicultural at minimum, is something we value in  
17 Austin.

18 Q. And you had mentioned before dual language  
19 programs. Do you have dual language programs in the  
20 Austin ISD?

21 A. We didn't before I became superintendent, but it  
22 was one of the first things I did in my first year, and  
23 we're really proud of that. We were able to, we took a  
24 couple of pages out of the Ysleta playbook for quality  
25 bilingual education. And we are, you know, the research

1 shows that not only does the English language learner  
 2 become stronger in their language arts skills because of  
 3 their, the support for their home language and English  
 4 language, pays off over time for the dollars invested in  
 5 that program. So we now have several bilingual schools  
 6 across the district. And we have started one-way dual  
 7 language immersion across all elementary schools that  
 8 are offering bilingual services. So we're doing K, 1  
 9 and 2 at every elementary school that offers bilingual  
 10 services. So we're introducing now more schools than  
 11 Spanish. We've added Chinese and we're looking at other  
 12 languages, too.

13 Q. For those that aren't familiar with one-way dual  
 14 language programs, can you just briefly describe -- you  
 15 kind of described it right now, but can you generally  
 16 describe how that program works?

17 A. One-way and two-way, at the heart of it, you  
 18 know, they are language immersion designs. Which allows  
 19 basically in a school day, for a child to learn in their  
 20 home language for certain subjects that are research  
 21 based and they, you know, different grade levels you do  
 22 different things. And you also learn in the, in the, in  
 23 your other language. So if you are an English speaker  
 24 for two-way, you are learning Spanish and then you also  
 25 learn in English. And for Spanish it is the other way.

1 And in one-way, we really focus on the Spanish language  
 2 learner in large part because it is not the exact design  
 3 as a two-way, but it allows us to really concentrate on  
 4 language learners in a bilingual program that, while it  
 5 doesn't have the same outcome and results as two-way, it  
 6 is very close.

7 Q. And is a two-way dual language program more  
 8 expensive?

9 A. It is, in large part because of the way you set  
 10 up the classrooms to be able to do the different subject  
 11 areas, and to have the right mix of kids in the  
 12 classroom to keep to the fidelity of the program.  
 13 Sometimes those classes are smaller. And as a result,  
 14 you have to hire more teachers to be able to offer the  
 15 program with fidelity. We are really, we have learned a  
 16 lot of good lessons from other districts in Texas. We  
 17 really want to stay to the fidelity of the program and  
 18 get the outcomes needed.

19 Q. Now, would the district like to provide  
 20 additional support for the English language learner  
 21 students?

22 A. Absolutely. You know, we even though we're  
 23 offering one-way and two-way dual language immersion,  
 24 remember we're starting. So we still have kids that are  
 25 in a late exit modeling design. We have some schools

1 that do early exit. We also have ESL, secondary  
 2 bilingual programs as well. Because some kids come to  
 3 us as I described before, from the side. They don't  
 4 start with us in pre-K. So we have to offer services  
 5 there, too. So there is a lot of extra support when you  
 6 have to offer multiple designs for kids who come to the  
 7 district with language needs at different grade levels.  
 8 So we know we need to do more investment and we know we  
 9 need to do a big lift at our secondary level, too.

10 Q. With that more investment and the implementation  
 11 of dual language two-way and the other programs you  
 12 mentioned, do you believe achievement rates can go up?

13 A. We do, and research has proven that.

14 Q. And so why isn't the district providing all of  
 15 these programs at the levels that you, that you would  
 16 like?

17 A. One, again, for fidelity of program  
 18 implementation, the best practice is to grow it. So one  
 19 is just, you know, doing the capacity and the growth of  
 20 the model in a way that is responsible, so that you  
 21 don't, you don't try to do too much at once. But even,  
 22 but even under this design with the growth, we know that  
 23 right now, like we have an application process and  
 24 things of that sort. We can't just, we don't have the  
 25 resources to offer it districtwide, you know, a full

1 two-way or anything. We just, we don't, we don't have  
 2 the resources to do that. So we really have tried to  
 3 narrow our focus around schools that have the right  
 4 match for the programming and have the interest, and  
 5 we're able to target our resources at some levels. And  
 6 we will, we're going to grow it over the next several  
 7 years.

8 Q. Now, providing you have the resources and you are  
 9 able to, to grow it, would you, would you expand the  
 10 programs to other schools?

11 A. Oh, absolutely. And we're trying to grow it  
 12 all -- in some cases, we're looking to grow the programs  
 13 all the way from pre-K to 12th grade. So we're trying  
 14 to get entire vertical teams, which involves dozens of  
 15 schools, given the size of Austin.

16 Q. Now, earlier when you were with your counsel, you  
 17 talked a little bit about budget cuts. Will those  
 18 budget cuts affect ELL students, were there any cuts  
 19 that you believe will have an impact on English language  
 20 learners?

21 A. Yes. You know we, like I said, we had to scale,  
 22 we have to scale back some of the programming, the pace  
 23 of the implementation. Some things we just won't be  
 24 able to offer. The other piece is, you know, we think  
 25 that it certainly when we look at our compensation

1 structure, it is, we're not, you know, comparable to our  
2 surrounding districts. So there is a fierce competition  
3 for keeping teachers in Austin when they make less than  
4 teachers in the surrounding districts. So there are a  
5 few things that we know will put pressures on the  
6 district to be able to continue to deliver these kinds  
7 of models.

8 Q. And that would be the same for your economically  
9 disadvantaged students?

10 A. Yes.

11 Q. And do you believe that these cuts will prevent  
12 you from improving the achievement gaps that we looked  
13 at earlier?

14 A. It will certainly slow down our ability to -- and  
15 in our case, because I know with the State says, but my  
16 board has goals. And that goal says eliminate the  
17 achievement gaps. So I don't get to just close it.  
18 We're on a trajectory to eliminate it. And we have  
19 targets within that, and we take those targets very  
20 seriously. So what we're starting to see is while we  
21 have made progress and we're really, you know, pleased  
22 about our performance, that that, that pace has slowed,  
23 is starting to slow down. So we were kind of really  
24 ramping up and then, you know, it does feel more like a  
25 closure. It is not big jumps in eliminating, so it will

1 take us longer.

2 Q. And I know you said this earlier, but you believe  
3 that the ELL students and economically disadvantaged  
4 students are capable of achieving the State standards?

5 A. Absolutely. We have high expectations for all of  
6 our kids, and we really believe that they can achieve  
7 the standards set by the State.

8 Q. Now, if we could, switching gears here. Do you  
9 need a break? If not, we can -- this a good breaking  
10 point. If not, we can keep going.

11 A. I'm fine, thank you.

12 Q. Sounds good. If we could switch back to the AEIS  
13 report, Exhibit 1723. And turn to Section 2, page 5.

14 A. (Witness complies.)

15 Q. Does this page reflect your tax and revenue  
16 information?

17 A. Yes.

18 Q. Looking at the actual revenue information in the  
19 middle of the page for 2009-2010 --

20 A. Yes.

21 Q. -- Do you see where it says, it says, "By source"  
22 and it says, "State"?

23 A. Yes.

24 Q. And can you read -- well, let's first of all  
25 describe, does that number reflect the amount of revenue

1 you received from the State?

2 A. Yes.

3 Q. What is that number?

4 A. For the general?

5 Q. Yes, for the general fund.

6 A. For the general fund, \$148,206,916.

7 Q. Now, beneath that, it talks about the equity  
8 transfers. Do you see that?

9 A. Yes.

10 Q. That is the amount of money you paid to the State  
11 in recapture?

12 A. Yes.

13 Q. That number is what?

14 A. \$111,937,679 for the '09-'10 school year.

15 Q. So assuming my math is close to accurate, it is  
16 the over -- you received from the State over \$30 million  
17 than what you pay in equity transfers; is that right?

18 A. Received from the State -- say that one more  
19 time.

20 Q. You receive an extra -- I'm sorry.

21 You receive over \$30 million more from the State  
22 than what you pay the State in equity transfers?

23 A. Yes.

24 Q. And I think you talked about these numbers before  
25 in your PowerPoint that you provided. And I think we're

1 looking at page 24 of your PowerPoint presentation,  
2 which is Exhibit 1722. Can you tell me what your  
3 revenue per WADA was in fiscal year 2013?

4 A. Revenue per WADA for fiscal year 2013 is 4,657  
5 plus 977.

6 Q. Sounds good, thank you. Do you happen to know  
7 off the top of your head the yield per penny per \$100 of  
8 valuation that Austin ISD is able to yield?

9 A. \$1.079.

10 Q. Okay.

11 A. \$1.079.

12 Q. So let me ask you, based on your revenue per WADA  
13 of 4,657 plus the 977 you get in state aid, how would  
14 your operations be affected at your current M&O tax rate  
15 if you received \$1,000 per WADA less?

16 A. Say that one more time. I have to do math?

17 Q. I'm just saying if you received \$1,000 less in  
18 revenue per WADA, how would your operations be affected?

19 A. We would have to cut programs. We would have to  
20 make further reductions.

21 Q. Would it be pretty drastic in terms of your  
22 day-to-day operations?

23 A. Yes.

24 Q. Would it affect your ability to present a  
25 meaningful opportunity to students?

1 A. Yes.

2 Q. Now, I think you talked about this earlier as

3 well. How many pennies above the compressed rate did

4 you approve?

5 A. How many pennies?

6 Q. Essentially how many golden pennies do you have?

7 A. We don't have any more golden pennies.

8 Q. How many, how many golden pennies have you

9 approved so far?

10 A. We have \$0.09. Nine, I think it is nine.

11 Q. It is nine, okay.

12 MR. THOMPSON: I'm going to object to the

13 form of the question.

14 MR. FIGUEROA: Okay. No problem.

15 Q. Let me just ask it this way. You have approved a

16 TRE to increase the amount of pennies above your -- let

17 me rephrase that again. Let me strike that.

18 Have you approved the golden pennies through an

19 election?

20 A. Have we approved the golden pennies through an

21 election, no.

22 Q. Have you, have you -- I'm sorry.

23 Have you approved additional revenue that needs

24 to go beyond -- that needs to be recaptured?

25 A. That needs to be recaptured? You have got to

1 repeat the question. I'm trying to --

2 Q. No problem.

3 A. Just one more time.

4 Q. I'm just wondering if you have approved

5 additional revenue for your district that is subject to

6 recapture?

7 A. Yes.

8 Q. Okay.

9 A. We had a tax ratification election.

10 Q. How much was that tax ratification, how many

11 additional pennies?

12 A. Beyond the golden, I can't tell you off the top

13 of my head.

14 Q. That is okay.

15 A. But they are subject to recapture.

16 Q. Okay. And do you know how much you increased

17 your tax rate in that election?

18 A. I didn't do that one.

19 Q. Okay.

20 A. It was done before I got here.

21 Q. No problem. Do you have any outstanding

22 construction needs?

23 A. Yes.

24 Q. Do you use your I&S funding for anything other

25 than construction? Are you familiar with I&S funding?

1 A. Yes. I'm trying to remember.

2 Q. I&S funding is traditionally used for

3 construction needs, is that your understanding?

4 A. Yes, construction, yes. That is our bond.

5 Q. Have you used that bond money or I&S funding for

6 anything other than construction?

7 A. No.

8 Q. What districts do you compete with for personnel?

9 A. Mostly it is right here in this region, so school

10 districts like Round Rock, Leander, Eams, Pflugerville.

11 Q. Do those districts, are they able to offer less

12 or more salary for teachers?

13 A. All I know is that they, like Round Rock and Eams

14 for example, they do pay teachers more than AISD.

15 Q. Are you asking for the Court in lawsuit, for the

16 State to eliminate recapture?

17 A. That is not at the heart of this lawsuit.

18 Q. And to your knowledge, are you asking to reduce

19 recapture?

20 A. We're, you know, the lawyers are working out the

21 strategy that best represents the collective group of

22 people who are in this lawsuit together. So while there

23 are some of us that are Chapter 41 districts, that may

24 or may not be the complete strategy or part of the

25 strategy.

1 Q. To your knowledge, they have not asked for a

2 reduction of recapture, or you just don't know?

3 A. I would say --

4 MR. THOMPSON: I'm going to instruct the

5 witness not to talk about any conversations that you may

6 have had with the attorneys representing the district.

7 A. Okay, then.

8 Q. Okay. That is fine. Why don't I rephrase the

9 question. Are you asking the Court to give your

10 students greater access to resources at similar tax

11 effort?

12 A. Do we talk --

13 MR. THOMPSON: If you can't answer, don't

14 answer.

15 A. So I know I've talked to our attorneys -- well,

16 then I don't feel -- I don't know -- the strategy is

17 still being, you know, worked out with the appropriate

18 lawyers.

19 Q. Is it your understanding that all school

20 districts and students of all school districts are held

21 to the same standards?

22 A. Yes.

23 Q. And do you believe that all of those school

24 districts and all of those students should be able to

25 access similar revenue?

1 A. Similar revenue. Can you explain what you mean  
 2 by that.  
 3 Q. Being able to access similar revenue for a  
 4 similar tax effort.  
 5 A. Now ask me the entire question one more time.  
 6 Q. Do you believe that students and school districts  
 7 throughout Texas should be able to access similar  
 8 revenue at a similar tax rate?  
 9 A. Yes.

10 MR. FIGUEROA: Thank you very much. Those  
 11 are all the questions I have.

12 (Recess, 11:42 to 12:36 p.m.)

13 EXAMINATION

14 BY MR. DEANE:

15 Q. I guess we're back on the record. Doctor, my  
 16 name is Bill Deane. I am an assistant attorney general  
 17 representing the defendant -- or defendants plural in  
 18 this lawsuit. You and I haven't met prior to today; is  
 19 that correct?

20 A. That is true.

21 Q. I would like to have with you, the same  
 22 agreements that your counsel made for deposition  
 23 questioning. Meaning that if you need a break, let me  
 24 know. Wait until I finish my question, no matter how  
 25 rambling I may appear. And I don't know if he said it

1 or not, but if you don't understand a question, please  
 2 stop and let me know that. Is that okay?  
 3 A. Yes.  
 4 Q. Of course, if you answer a question, I'm going to  
 5 presume that you understood it. Is that okay?  
 6 A. Yes.  
 7 Q. Other than talking to your attorney, what did you  
 8 do to prepare for this deposition today?  
 9 A. Helped with the PowerPoint, reviewed materials.

10 Q. Did you talk to anyone other than your attorneys?  
 11 A. Just the, just key staff.

12 Q. To make this exhibit?  
 13 A. The PowerPoint, yes. All I had time to do.

14 Q. Have you ever been deposed before?  
 15 A. Yes.

16 Q. What kind of case?  
 17 A. Human resources types of cases.

18 Q. Where you have terminated people from AISD?  
 19 A. From a former district and one or two in AISD.

20 Q. The former district was the St. Paul district?  
 21 A. Yes.

22 Q. How long were you superintendent at St. Paul  
 23 public schools?  
 24 A. Three years.

25 Q. What was your salary there when you left?

1 A. I don't remember. I don't remember.  
 2 Q. What is your salary today here at AISD?  
 3 A. The salary is about \$283,000.  
 4 Q. Do you get a car allowance or any other benefits?  
 5 A. Yes.

6 MR. DEANE: For the record, Ms. Dahlberg  
 7 just came in. She is also an assistant attorney  
 8 general. I don't know if you have met her.

9 THE WITNESS: No. Maria Carstarphen. Nice  
 10 to meet you.

11 Q. Tell me again, please, when you were hired as  
 12 superintendent?  
 13 A. July 2009.

14 Q. So any testimony that you gave this morning for  
 15 events prior to July of 2009, that would be just based  
 16 on the records that you have reviewed or on what others  
 17 have told you; is that correct?  
 18 A. That's fair, yes.

19 Q. What are your duties generally as superintendent  
 20 of AISD?  
 21 A. I have the overarching responsibility for  
 22 educational, managerial and community work as it relates  
 23 to ensuring that we achieve the goals of the district.

24 Q. Have you received any pay raises in the last  
 25 three years?

1 A. One, yes.  
 2 Q. When was that and how much?  
 3 A. It was a 3 percent increase with all the other  
 4 staff. It was somewhere near the beginning of my  
 5 tenure, the first or second year.

6 Q. Is your pay based on or pegged to student  
 7 achievement in any way?  
 8 A. Yes, it is.

9 Q. Do you get a bonus or additions in salary if the  
 10 scores on TAKS or scores now on STAAR should improve?  
 11 A. There is a portion in my contract that allows for  
 12 strategic compensation if I meet very specific  
 13 quantifiable measures as part -- that have to be  
 14 determined by the board in advance of the school year,  
 15 based on data from the previous year.

16 Q. So essentially, each year the Austin school board  
 17 meets and sets whatever those targets are?  
 18 A. For the strategic compensation, they have only  
 19 done it once. Because in very short order after I  
 20 started my tenure here, we then realized at the end of  
 21 the first year that it would not be fiscally possible  
 22 for strategic comp to be able to be applied in any of  
 23 the outgoing years for some time.

24 Q. Fiscally possible meaning budgeted funds?  
 25 A. Yes.

1 CAUSE NO. D-1-GN-11-003130  
2 TEXAS TAXPAYER & STUDENT ) IN THE DISTRICT COURT  
3 FAIRNESS COALITION, et )  
4 al., )  
5 )  
6 Plaintiffs, )  
7 )  
8 vs. )  
9 )  
10 EDGEWOOD INDEPENDENT )  
11 SCHOOL DISTRICT, et al., )  
12 (consolidated) )  
13 ) TRAVIS COUNTY, TEXAS  
14 Plaintiffs, )  
15 vs. )  
16 )  
17 ROBERT SCOTT, in his )  
18 Official Capacity as )  
19 Commissioner of Education,) )  
20 et al., )  
21 )  
22 Defendants. ) 200TH JUDICIAL DISTRICT

ORAL DEPOSITION  
TOM CURRAH  
October 9, 2012  
Austin, TX

Reported by:  
Rebecca J. Callow, RPR, CRR, CSR-8925  
Job No. 54159

NO.	EXHIBITS (cont.) DESCRIPTION	PAGE
1	Exhibit 959 9/8/2010 e-mail: Minton to Combs, et al.	92
2	Exhibit 960 6/22/2010 e-mail: Frank to Garza	96
3	Exhibit 961 Final Allocation Study for Texas 2010 Appendix	122
4	Exhibit 962 Financial Allocation Study for Texas 2010 School District Listings	135
5	Exhibit 963 Financial Allocation Study for Texas 2010 Smart Practices for Minimizing Costs	136
6	Exhibit 964 Financial Allocation Study for Texas 2010 Beyond K-12: Cost Efficiencies in Higher Education	136
7	Exhibit 965 Financial Allocation Study for Texas 2010 Appendix: Background, Methodology and Expanded Data for Recommendations	136
8	Exhibit 966 Financial Allocation Study for Texas website disclaimer	140
9	Exhibit 967 FAST Analyses Supplemental Report Two By Lynn M. Moak - October 1, 2012	161
10	Exhibit 968 How to Fill the Hole in the Texas Revenue System - February 2012	174
11	Exhibit 969 5/15/2012 e-mail: O'Brien to Currah, et al.	188

NO.	PREVIOUSLY MARKED EXHIBITS PAGE
1	(None.)
2	
3	
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1 TOM CURRAH,  
2 having been first duly sworn, testified as follows:  
3 EXAMINATION  
4 BY MR. DIAMOND:  
5 Q. Please state your name for the record.  
6 A. Tom Currah.  
7 Q. And, Mr. Currah, have you given a deposition  
8 before?  
9 A. Yes.  
10 Q. So you understand you're under oath?  
11 A. Yes.  
12 Q. And it's the same as if you were in front of  
13 the judge.  
14 A. Yes.  
15 Q. And you understand that I'll be asking you some  
16 questions today, you'll be giving answers?  
17 A. Yes.  
18 Q. And all I really ask is, if I ask something,  
19 which is highly likely I'll ask something that doesn't  
20 make sense or you zone out in the middle of a question,  
21 any reason at all, just ask me to rephrase the question.  
22 A. Okay.  
23 Q. If you need to take a break at any time, as  
24 long as there's not a question on the table, just let me  
25 know.

1 A. All right.  
2 Q. I don't think this is going to go too terribly  
3 long today, but, you know, whatever you need to do in  
4 that regard, to take a break is fine.  
5 A. Okay.  
6 Q. What is your current position?  
7 A. I am senior advisor and data analysis director  
8 of the Texas Comptroller's Office.  
9 Q. And what do you do in that position?  
10 A. A variety of things. I'm -- I have oversight  
11 of the data analysis section of the division, which does  
12 data analysis on a number of projects across different  
13 subject areas, including the FAST study, and advise the  
14 controller on various policy issues.  
15 Q. When you say "data analysis," what kind of data  
16 are you looking at?  
17 A. It's a lot of different kinds of data.  
18 Education data, economic data, spending data. It really  
19 crosses a lot of different areas.  
20 Q. So -- is the comptroller's office doing studies  
21 of different things --  
22 A. Yes.  
23 Q. -- to look at patterns and things like that  
24 or --  
25 A. Yes.

1 Q. What is your educational background?

2 A. I have a bachelor's degree from the University  
3 of Texas and master's degree from the University of  
4 Houston.

5 Q. And what's your bachelor's in?

6 A. Government.

7 Q. And your master's?

8 A. Political science.

9 Q. And how long have you been with the  
10 comptroller's office?

11 A. Since 1999, so 13 years.

12 Q. What did you -- just give me a quick thumbnail  
13 sketch of how you've moved up through the comptroller's  
14 office.

15 A. Okay. I was hired as an analyst, worked on the  
16 Texas performance reviews, which the controller at that  
17 time called E-Texas Reports. At some point, I think it  
18 must have been early 2001, was made assistant manager of  
19 that division. Was made manager of that division when  
20 Susan Combs arrived, but we were -- we were renamed  
21 research and analysis at the time.

22 Q. Okay.

23 A. Eventually was assistant director of that  
24 division, and then last year that division was disbanded  
25 and we were folded into a larger division, and that's

1 how I got my current position.

2 Q. Okay. I noticed through the FAST report,  
3 it's -- there's references to a research team. And I  
4 think at some point you were on the research team?

5 A. Yes.

6 Q. Okay. And at that time, you were in the  
7 department of research and analysis --

8 A. That's correct.

9 Q. -- and now it is data analysis?

10 A. Yes. I'm in the data analysis section of the  
11 data services division.

12 Q. Okay. Now, in that position, do you have  
13 people under you who gather that data and look at the  
14 data and all that kind of stuff?

15 A. Yes.

16 Q. Statisticians?

17 A. Yeah. Well, the economists, policy analysts.

18 Q. Okay. Are they employees or do you-all  
19 contract that out?

20 A. Employees.

21 Q. Okay.

22 A. But we do contract out for some things.

23 Q. At some point in your position with the  
24 comptroller you were assigned to work on the FAST  
25 project?

1 A. That's correct.

2 Q. And can you tell the Court what "FAST" stands  
3 for?

4 A. Financial Allocation Study of Texas. Actually,  
5 I believe it's Financial Allocation Study "for" Texas.

6 Q. Okay.

7 (Exhibit No. 951 marked.)

8 Q. (BY MR. DIAMOND) I've heard you what I've  
9 marked as Exhibit 951. And can you identify that  
10 document?

11 A. Yes. This is the executive summary from the  
12 2010 FAST report.

13 Q. When you say "the executive summary," what is  
14 that?

15 A. Can you be a little more specific?

16 Q. Yeah. When you say it's a summary, it's a  
17 summary of what?

18 A. Of the larger report. We had -- the study  
19 itself was in five parts. This was the first part, and  
20 then there were four other pieces that went with the  
21 larger study.

22 Q. Okay. And that's kind of the summary of what  
23 was found in the research, summary of the methodology,  
24 summary of the -- there was an appendix with  
25 recommendations, and things like that?

1 A. Yes. I think that's an accurate  
2 representation, yeah.

3 Q. Okay. Was this a project that naturally would  
4 have come to your department when it was created?

5 A. Yes.

6 Q. And is this -- is this kind of study anything  
7 new to your department? I mean, other than it being  
8 education --

9 A. New in what sense?

10 Q. Well, I mean, like you said, there's a lot of  
11 research and stuff going on with spending and economic  
12 issues and things like that.

13 A. Well, yeah. I think this report was unique  
14 probably for any -- anywhere it went, it would have been  
15 a unique project.

16 Q. Okay. What was unique about it?

17 A. It was the first time, I believe, that the  
18 state had asked for this kind of study to examine  
19 academic performance in conjunction with spending.

20 Q. Okay. And I've got down that you -- tell me if  
21 you can -- if this fits within the realm of your  
22 knowledge. But you were listed as "may testify about  
23 the coordination, development, and publication of the  
24 Financial Allocation Study for Texas."

25 A. That's correct.

1 Q. So when this thing comes down, are you given  
2 the task of heading it up?

3 A. When you say -- you mean when the legislation  
4 passed?

5 Q. Right.

6 A. So yeah. Our division was given responsibility  
7 for it. And honestly, I don't remember how the roles  
8 were assigned initially, but yeah. I was put in charge  
9 of it more or less.

10 Q. Okay. Who else did you work with? Was there  
11 anybody else in charge with you? Obviously the  
12 comptroller would have been --

13 A. Right.

14 Q. -- the head of that, but was there anybody else  
15 that worked with you as far as managing it?

16 A. Well, the division director at the time  
17 participated in that, particularly coordinating with our  
18 consultants.

19 Q. Who was that?

20 A. Lisa Minton.

21 Q. And did you report directly to Lisa Minton?

22 A. For the most part, yeah.

23 Q. Was there anybody between you and Lisa Minton  
24 as far as hierarchy?

25 A. No.

1 Q. And then did you have a team of people working  
2 around you, kind of, for lack of a better word, at your  
3 level, or was it you and then people under you in the  
4 hierarchy?

5 A. People under me.

6 Q. Who worked under you?

7 A. Gregg Shotwell, Olga Garza, Brandon Riggs,  
8 Michelle Boggs, Sam Miller. And that was the core team.  
9 There were -- we had other folks in our division that  
10 helped as needed, but that was the core team for FAST.

11 Q. Okay.

12 A. And then there were -- our IT division was  
13 involved as well because we developed a web site that  
14 went along with this report.

15 Q. Okay. Did the IT division participate in any  
16 of the actual data collection, study any of that, or was  
17 it simply, hey, we have this information, can you put it  
18 on the web site?

19 A. It was the latter.

20 Q. Okay. Just real briefly, if there's a  
21 delineation, what did Gregg Shotwell do?

22 A. Gregg did a lot of the data analysis, worked  
23 closely with our consultants who were developing  
24 methodology, and did -- was responsible for a lot of  
25 the -- oh, the gathering of the data and making sure it

1 got to our web site, worked with IT closely.

2 Q. And I'll get into the consultants in a moment.

3 A. Sure.

4 Q. What about Olga?

5 A. Olga was a project coordinator essentially.  
6 Worked with our various outside group pretty closely.  
7 Managed the production of the written report. I think  
8 project coordinator probably describe it best.

9 Q. Okay. What did Brandon Riggs do?

10 A. Brandon, Michelle, and Sam, all worked on  
11 various pieces of this. Helping write some of the  
12 report, testing the web site. Helping develop some of  
13 the -- some of the things that were in the report  
14 itself.

15 Q. Back to Mr. Shotwell. What's his background as  
16 far as educationally and professionally?

17 A. He's got a bachelor's and a master's in  
18 economics from -- I believe, a bachelor's from  
19 Southwestern in Georgetown, and I believe it's a  
20 master's from Johns Hopkins.

21 Q. Okay. And you said he worked with the  
22 consultants, such as -- we'll get more into that later,  
23 like Lori Taylor and Dr. Harrison?

24 A. Not so much Harrison Keller.

25 Q. I'm sorry. Dr. Keller.

1 A. The UT Dallas consultants.

2 Q. The ERC group?

3 A. Yes.

4 Q. And so as an economist, the stuff they were  
5 doing wasn't a foreign language to him.

6 A. Correct.

7 Q. How long had he been with the comptroller's  
8 office at the time, just ballpark?

9 A. When we started this?

10 Q. When you started the FAST project.

11 A. A couple years. I don't know exactly.

12 Q. Do you know what kind of things he had worked  
13 on before?

14 A. He worked at the Bureau of Economic Analysis in  
15 D.C.

16 Q. And what kind of things at the comptroller's  
17 office had he worked on prior to FAST?

18 A. Various things. He had done economic analysis  
19 for us, kind of whatever we needed to do. It was data  
20 analysis kind of stuff.

21 Q. Can you give me a flavor for some of the  
22 economic analysis you-all do?

23 A. Sure. I mean, well, let's take Gregg as an  
24 example.

25 Q. Yeah. And I don't need a full-fledged

1 universe.  
 2 A. So a few years ago we did a report on the need  
 3 for more graduates in career and technical fields with  
 4 sort of CTs, certificates, or associate's degrees. And  
 5 one of the things Gregg did was model what that would  
 6 mean to the economy if we graduated more students.  
 7 Q. So he actually -- that wasn't something he  
 8 consulted out with, he did the model himself?  
 9 A. Well, we have a -- we have a model that we use,  
 10 that we contract for the actual model itself, but  
 11 there's a lot of analysis that goes into determining  
 12 what to put in the model to get that, and so he does  
 13 that piece of it.  
 14 Q. Okay. Who does -- where do you get the model  
 15 from?  
 16 A. It's called Regional Economic Modeling. It's  
 17 REMI. They're out of Massachusetts.  
 18 Q. And is he still with the comptroller's office?  
 19 A. Yes, he is.  
 20 Q. And has continued to do the same kinds of  
 21 things?  
 22 A. Yes.  
 23 Q. So this project was right up his alley, at  
 24 least from the financial standpoint?  
 25 A. Well, and the statistical modeling as well.

1 Q. Even on the academic performance side?  
 2 A. Um-hmm.  
 3 Q. Is that a yes?  
 4 A. Yes. I'm sorry.  
 5 Q. Not picking on you.  
 6 And then I guess under this list you just  
 7 gave me of Shotwell, Garza, Riggs, Boggs, and Miller  
 8 would have just been staff working under them. Was  
 9 there any other teams under --  
 10 A. No. And we do have some folks -- we have a  
 11 graphics department that helped design some of those,  
 12 but as far as the technical details of it, that's the  
 13 core team.  
 14 Q. So the legislation comes down, I guess there's  
 15 a meeting saying, okay, we've got to get this thing  
 16 done, you're put in charge of that, you assemble your  
 17 team -- or have your team. What did you all do at that  
 18 point?  
 19 A. Well, we began to investigate how we might go  
 20 about doing this, what entities were out there that  
 21 could help with us. We began to put together a list  
 22 of -- oh, various stakeholder groups we might want to  
 23 talk to was the first step.  
 24 Q. And do background research on how this might  
 25 look?

1 A. Right.  
 2 Q. It was education related, and I guess y'all had  
 3 to get up to speed on various education factors?  
 4 A. Right.  
 5 Q. And at what point did y'all consult or get  
 6 your -- get the consultants?  
 7 A. We contracted with UT Dallas, I believe, in the  
 8 fall of '90.  
 9 Q. Okay.  
 10 A. I'm sorry, 2009.  
 11 Q. And what was UT Dallas' role? What is it that  
 12 they have?  
 13 A. So they have -- they host one of the education  
 14 research centers in the state which has access to  
 15 student-level academic performance data, and they have  
 16 expertise in developing models of academic progress.  
 17 Q. When you say access to student level academic  
 18 performance, that's unique -- right? -- to them.  
 19 A. I believe there were three education research  
 20 centers in the state and then, of course, Texas  
 21 Education Agency has it.  
 22 Q. Okay. But as far as accessing student-level  
 23 data, you can't do that on the web site. Right?  
 24 A. That's correct.  
 25 Q. And that's -- when I say "unique," it's

1 protected?  
 2 A. That's right.  
 3 Q. Under FERPA?  
 4 A. FERPA. That's right.  
 5 Q. In order to do this, was there a decision made  
 6 that we're not going to get broad level data, we want to  
 7 go down to the student level?  
 8 A. Right. We had some discussions with experts,  
 9 including some of the consultants, and it was  
 10 determined -- and the controller agreed -- that the best  
 11 way -- the best measure for the purposes of this study  
 12 would be an academic progress measure.  
 13 Q. And is there within TEA anything similar to  
 14 that academic process -- progress measure or would this  
 15 have been unique?  
 16 A. There's something similar. They have the Texas  
 17 Projection Measure. It's similar, but it's not really  
 18 what we needed for the purpose of this study.  
 19 Q. What did y'all need for the purpose of this  
 20 study?  
 21 A. Well, we needed -- we wanted to measure  
 22 progress from year to year, and it was actual progress  
 23 from last year to this year, for example. The  
 24 projection measure does -- they project how students  
 25 will do in the future based on current results.

1 Q. But y'all wanted to look at actual progress.  
 2 A. Right.  
 3 Q. And when you said, kind of, from the beginning,  
 4 is there a name for that kind of progress?  
 5 A. Yeah. Value-added measure is the industry  
 6 term.  
 7 Q. And what's your understanding of what that  
 8 means?  
 9 A. It means you're -- you're measuring the annual  
 10 progress a student makes academically.  
 11 Q. As opposed to what?  
 12 A. As opposed to a snapshot of how they performed  
 13 in a given year.  
 14 Q. So if -- if, out of a group of kids, 5 percent  
 15 of them were performing at say a grade level below where  
 16 they were, then it would look like they were behind.  
 17 But if you look at value added, they may have increased  
 18 by one and a half grade levels during the year?  
 19 A. It's possible, yeah.  
 20 Q. And that's what you were looking at, is that  
 21 increase?  
 22 A. Yes. But keep in mind, we were -- what we were  
 23 doing, we were looking at progress relative to other  
 24 school districts or campuses.  
 25 Q. How involved were you in designing the study?

1 A. So Dr. Taylor built the financial piece of the  
 2 model, the spending measure that we used. Harrison  
 3 Keller was general policy advice. We just relied on his  
 4 background and expertise in Texas education policy.  
 5 Q. Then who did the academic measures?  
 6 A. UT Dallas.  
 7 Q. Okay. Then there were a number -- tell you  
 8 what. Why don't we go ahead and get into Exhibit 951.  
 9 Probably walking through here will answer most of the  
 10 questions. Turn with me to page 1, and I apologize this  
 11 is kind of light.  
 12 We're on page 1 of the Executive Summary.  
 13 If you'll look down in the third paragraph, I'm going to  
 14 read a sentence. Just tell me if I read this right, and  
 15 we're going to talk about it.  
 16 "School districts that operate efficiently  
 17 - which is achieving strong academic performance while  
 18 keeping costs low, offer valuable examples for other  
 19 districts."  
 20 Did I read that right?  
 21 A. You did.  
 22 Q. After the word "efficiently," there's a big  
 23 dash there and there looks like an aside defining  
 24 "efficiently." Which would be achieving strong academic  
 25 performance and keeping costs low.

1 Like -- those kind of details. Like who made the  
 2 decision of we want this to be value added? A  
 3 value-added performance measure.  
 4 A. Well, that was a decision that was made after  
 5 quite a bit of discussion with various people.  
 6 Q. Okay. And then who -- let's see. Y'all  
 7 contracted with UT Dallas. Any particular people there  
 8 or just that group as a whole?  
 9 A. The -- at least the initial report, the main  
 10 participants from UT Dallas were Dan O'Brien, Jim  
 11 Parsons, and Kurt Baron, which is spelled K-u-r-t "Kurt"  
 12 but he pronounces it "court."  
 13 Q. I guess at that point if I understand what  
 14 you've been testifying, you kind of come up with a rough  
 15 model of what you want to do?  
 16 A. Um-hmm.  
 17 Q. And then any consultants retained after that?  
 18 A. Well, we had -- we also had Lori Taylor at  
 19 Texas A&M on a contract, and Harrison Keller at UT.  
 20 Q. In relation to contracting with Dallas -- the  
 21 ERC at UT Dallas, when did y'all contract with Lori  
 22 Taylor and Harrison Keller?  
 23 A. I believe it was around the same time, but I'm  
 24 not a hundred percent certain of that.  
 25 Q. What were the roles of Drs. Taylor and Keller?

1 Is that how y'all looked at "efficiency"  
 2 when you went through this project?  
 3 A. More or less. I mean, what we did was, we  
 4 took -- I guess I shouldn't say more or less. There's a  
 5 lot of nuance to that answer, so it's difficult to give  
 6 a straight, simple answer on this, because we did  
 7 different things to make sure we were comparing costs  
 8 spent by school districts in a manner that was fair, and  
 9 same thing on the performance side.  
 10 Q. Right.  
 11 A. But essentially we were looking at spending and  
 12 academic performance.  
 13 Q. Okay. And we're going to get into those  
 14 nuances, and I appreciate that.  
 15 But at a fundamental level, what this  
 16 study was doing is looking at academic performance or  
 17 the result of the education system as compared to how  
 18 much was being spent and how it was being spent to come  
 19 up with a factor?  
 20 A. What we did was to meet the requirements of the  
 21 legislation, which told us to use existing academic  
 22 financial data and to compare the two.  
 23 Q. Okay. Down right underneath where it says  
 24 "Project Overview," it says "The 2009 Legislature's  
 25 House Bill 3 directed the comptroller to 'identify

1 Q. Page 5. I'm sorry.  
 2 A. They were staff who worked on this report --  
 3 I'm sorry. Ted Holliday is somebody I should have  
 4 mentioned along with Brandon Riggs, Michelle Boggs, the  
 5 group of our staff that worked on the report.  
 6 Q. Okay.  
 7 A. Katherine Jolly was also a member of our staff.  
 8 She set up the meetings made sure that, you know, the  
 9 projector was going to work, things like that.  
 10 Q. Okay.  
 11 A. Made sure the people that were on the  
 12 conference call were on the call.  
 13 Q. And I know you gave me a list earlier, and I  
 14 know you're doing a lot of this from memory, so I'm not  
 15 trying to get a "gotcha" on that. I was just wondering  
 16 as I read through that list and I saw names, what about  
 17 Jay Waldo and Sam Levario?  
 18 A. They were with our IT staff.  
 19 Q. Victor Gonzalez?  
 20 A. Was the director of IT at the time.  
 21 Q. Okay. Dan O'Brien and Jim Parsons were with  
 22 ERC with UT Dallas, and they were the ones that worked  
 23 on the academic measures?  
 24 A. That's correct.  
 25 Q. And I think I've already covered this on page

1 7, the research team is Lisa Minton and yourself, and  
 2 throughout the FAST report that we have listed as 951 --  
 3 Exhibit 951, it refers to the research team. That is  
 4 referring to y'all. Correct?  
 5 A. Right.  
 6 Q. You and Ms. Minton?  
 7 A. And the other staff I mentioned earlier.  
 8 Q. Okay. On page 3 of Exhibit 951 which is the  
 9 FAST executive summary. The bottom paragraph says "The  
 10 research team met with teachers, principals, and other  
 11 education groups to discuss and address their concerns  
 12 regarding this project."  
 13 So that would have been you?  
 14 A. I would have been in most of these meetings,  
 15 yes.  
 16 Q. First of all, let's talk about teachers.  
 17 How many teachers did y'all meet with?  
 18 A. I can't remember.  
 19 Q. Okay. Are we talking a group of ten or could  
 20 there have been hundreds? I don't need the exact  
 21 number. I'm just trying to get a feel for how many  
 22 teachers y'all would have met with.  
 23 A. I don't know that we met with any specific  
 24 teachers. I can't remember.  
 25 Q. Would that have been more along the lines of,

1 for instance, in that list was Texas State Teachers  
 2 Association?  
 3 A. Correct.  
 4 Q. And so for that group being -- having a  
 5 stakeholder interest in teachers, that would have  
 6 concluded in the meeting with, quote/unquote, teachers?  
 7 A. That's right.  
 8 Q. Same thing with principals?  
 9 A. That's correct.  
 10 Q. So just so the record's clear, y'all didn't  
 11 contact, kind of like you did with superintendents, a  
 12 group of principals and meet with them; it would have  
 13 been through the various stakeholder groups that  
 14 represent principals?  
 15 A. That's right.  
 16 Q. And then other education groups, I guess, then  
 17 those would be in the list that follow this paragraph?  
 18 A. Right.  
 19 Q. Would you have met with somebody from each of  
 20 these groups separately, gone to their offices or had  
 21 them come to the comptroller and talk about concerns, or  
 22 was it more over-the-phone-type thing?  
 23 A. We met with most of these people.  
 24 Q. Who would have done those meetings?  
 25 A. Our staff, for the most part.

1 Q. When you say you wanted to address the concerns  
 2 regarding this project, what was -- what were some of  
 3 the big concerns that y'all were getting about the  
 4 project?  
 5 A. There were -- there were a number of concerns,  
 6 and they varied by group.  
 7 Q. Okay.  
 8 A. There were concerns that this was going to be a  
 9 new accountability system. There were concerns that we  
 10 were going to analyze individual teachers. Those are  
 11 two I can remember off the top of my head, but there  
 12 were a variety of concerns that were raised, and I can't  
 13 remember them all off the top of my head. Yeah.  
 14 Q. And this is, in fact, not a new accountability  
 15 system that affects funding and various schools or  
 16 anything like that. It was just merely informational?  
 17 A. Yes.  
 18 Q. And did y'all look at individual teachers in  
 19 this study?  
 20 A. No.  
 21 Q. Was that ever part of the original design of  
 22 the study and you decided not to?  
 23 A. No. That was never part of the design.  
 24 Q. On the meetings that y'all would have had with  
 25 these groups, were -- again, were notes made and then

1 then this is the team that was giving input?  
 2 A. Correct.  
 3 Q. That's what I was trying to get to, very  
 4 unartfully.  
 5 Same with the financial measures team;  
 6 Lori Taylor was the actual person putting it together.  
 7 Correct?  
 8 A. That's correct.  
 9 Q. And then this team was the one that was  
 10 providing input and critiques and things like that?  
 11 A. That's right.  
 12 Q. And then the peer-review panels, were they  
 13 provided with just an explanation of what the model was  
 14 or were they given the model so that they could take  
 15 some data and test it out?  
 16 A. Well, they saw the model -- the equation that  
 17 were used review for the model. But they would not have  
 18 been able to test it with data because they don't have  
 19 access to that data.  
 20 Q. Do you recall after peer review, were there any  
 21 changes made to the model?  
 22 A. I believe we made a few minor tweaks to the  
 23 model after that, yeah.  
 24 Q. Was there anybody on the peer-review panel of  
 25 academic measures who said, "This doesn't work. I don't

1 think this works at all. It's a bad idea."  
 2 A. I don't think anybody said it was a bad idea or  
 3 it doesn't work.  
 4 Q. I know there's a distinction between, "Hey, I  
 5 think if you did this little change to the formula or  
 6 looked at this or weighted this more, I think it would  
 7 work better," versus "Y'all are going in the wrong  
 8 direction."  
 9 Was there anybody who said that?  
 10 A. There was one academic member who did not like  
 11 some of the controls we were putting in the academic  
 12 equation.  
 13 Q. Ask who was that?  
 14 A. William Sanders.  
 15 Q. And do you recall what kind of things  
 16 Dr. Sanders wasn't happy with?  
 17 A. He didn't like that we were controlling for  
 18 economic advantage, ethnicity. As I recall, he doesn't  
 19 like to control for anything actually.  
 20 Q. Okay.  
 21 A. So yeah.  
 22 Q. The rest of the people, Drs. Herman, Podgursky  
 23 and Rivkin, did want to control for those things?  
 24 A. I believe so, yes.  
 25 Q. On the peer-review panel for financial

1 measures, other than "Hey, I think you should tweak the  
 2 formula this way or that," was there anybody who said  
 3 overall I don't like the way you are doing this?  
 4 A. No.  
 5 Q. So there was a general consensus as to the  
 6 format?  
 7 A. Nobody objected to it.  
 8 Q. Both of those processes, how involved were you  
 9 particularly in that?  
 10 A. I was in all the meetings.  
 11 Q. So this isn't something, kind of, arm's length  
 12 you're the, quote/unquote, head of it, but let's let  
 13 those guys do it? You were in the meetings deciding  
 14 what was happening. Even though you may have not had  
 15 expertise in the particular formulas and stuff, you were  
 16 on top of what everybody was doing?  
 17 A. I was in the meetings and participated.  
 18 Q. Okay. In the academic measures, there's this  
 19 concept of composite academic progress ratings described  
 20 there at the bottom of page 5. What's your  
 21 understanding of what that is and why it was important?  
 22 A. The composite academic progress rating is a  
 23 combination of an academic progress in reading, English  
 24 language arts, and math. And that's our measure that --  
 25 of academic progress that we used to develop the ratings

1 in the FAST system.  
 2 Q. And that composite academic progress rating  
 3 would have been something that the academic measures  
 4 team came up with and then was peer reviewed. Is that  
 5 correct? Is that part of what was peer reviewed?  
 6 A. Honestly, I don't recall if the composite was  
 7 used. The methodology that was used to derive the math  
 8 and reading progress was reviewed. They may have looked  
 9 at the composite. I don't remember.  
 10 Q. And then on the next page, page 6 of Exhibit  
 11 951, on this spending index that second bullet point  
 12 down talks about fiscal peers. What is that?  
 13 A. So our spending measure is designed so that  
 14 school districts and campuses are compared to similar  
 15 districts or campuses, so each -- let's just take  
 16 districts as an example.  
 17 Each district has a set of fiscal peers,  
 18 and the idea is that those are districts that operate in  
 19 a similar cost environment, and that's a district who it  
 20 was compared to on the spending side.  
 21 Q. What do you mean by "similar cost environment"?  
 22 A. Well, when we grouped these school districts --  
 23 when the consultant grouped the school districts, we  
 24 took into account a number of factors that can drive  
 25 costs in school districts.

1 Q. So for the -- you initially did it for the  
 2 '8-'9 school year, then you did it for the '9-'10 school  
 3 year, and then for the '10-'11 school year?  
 4 A. That's correct. But I just want to clarify one  
 5 thing. Our measure is both -- the academic progress and  
 6 the spending measure are three-year averages that  
 7 culminate in the years you mentioned.  
 8 Q. I understand. I understand.  
 9 And so, for instance, there are new  
 10 numbers out for the 2010-2011 school year posted on the  
 11 web site now. Correct?  
 12 A. That's right.  
 13 Q. And all of that is done through the work that  
 14 was done by the academic measures team and financial  
 15 measures team with peer-review panels, so your current  
 16 calculations are done with the work that was done by  
 17 those teams. Correct?  
 18 A. I'm not sure what you mean.  
 19 Q. Let me ask it again. That was a horrible way  
 20 to ask it.  
 21 Bottom line is, some formulas and methods  
 22 and models were developed initially, and you're still  
 23 using those same formulas and models today?  
 24 A. We made some adjustments on the spending side.  
 25 Q. What adjustments did you make on the spending

1 side?  
 2 A. We -- after the first year's data, we -- Lori  
 3 Taylor -- Lori Taylor's model gives a little bit more  
 4 weight now to enrollment, size. And we made some  
 5 adjustments to account for spending that is done by  
 6 school districts on behalf of other school districts in  
 7 the shared services arrangements.  
 8 Q. What was that done in response to? Why were  
 9 those two changes made?  
 10 A. We -- feedback we got back after the release of  
 11 the report.  
 12 Q. Who are you getting feedback from?  
 13 A. Well, after the initial release of the report,  
 14 we got the feedback from a lot of school district people  
 15 who just -- who thought we need to give more weight to  
 16 school district size. And then we got feedback on the  
 17 spending measure from various people. These would have  
 18 been sort of -- I think mostly the financial people at  
 19 the school districts who recognized that the spending  
 20 was off for -- in particular areas.  
 21 Q. So that the initial formulas would have been  
 22 for the 2008-2009 school year. When were the tweaks  
 23 made?  
 24 A. Before the first update. Before the  
 25 September 2011 release.

1 Q. And then the newest release is incorporating  
 2 obviously those changes. Were any other changes made in  
 3 the next school year?  
 4 A. No.  
 5 Q. Were there other -- was there more input made  
 6 for that year that was just disregarded for whatever  
 7 reason?  
 8 MS. PENN: Objection. Form. What year?  
 9 Q. (BY MS. PENN) After the second -- so you get  
 10 the second school year done for 2009-2010. Did you get  
 11 another round of, "Hey, you ought to change this or  
 12 tweak that"?  
 13 A. We got some more feedback, yes.  
 14 Q. And I guess none of that culminated in making  
 15 changes?  
 16 A. That's correct.  
 17 Q. Do you recall what the kind of feedback -- what  
 18 that was?  
 19 A. I can't really classify the different kinds of  
 20 feedback in any way.  
 21 Q. What I'm looking for is, was there a loud  
 22 chorus of, "Hey, you need to change this," and it was a  
 23 consistent chorus, or just kind of random stuff?  
 24 A. It was closer to the latter.  
 25 Q. Turn with me on page 8 of the report. So in

1 the previous section we just go through how did we  
 2 create this formula, this FAST rating, kind of the  
 3 process of that.  
 4 The second part is Public Education  
 5 Spending in Texas. What is the purpose of this as we go  
 6 through statistics of where we were financially in  
 7 Texas? What was the -- do you know why it was decided  
 8 to put this section in?  
 9 A. Background for the reader.  
 10 Q. Okay. In this first paragraph on page 8, it  
 11 talks about public and higher education being the  
 12 largest category of state spending, and then it goes on  
 13 on the next page to show the relationship between Texas  
 14 expenditures and enrollment over a ten-year period.  
 15 Where did this data come from?  
 16 A. TEA.  
 17 Q. So y'all would have gotten just straight  
 18 publicly available TEA data?  
 19 A. That's right.  
 20 Q. Was there anything that you got or went through  
 21 TRC -- ERC, or anything else to change that, or it's  
 22 just straight TEA data?  
 23 A. It's TEA data.  
 24 Q. Has there been on these graphs that -- for  
 25 instance, on the -- on page 9, right above the --

1 Q. Are you a statistician by -- would you describe  
2 yourself as a statistician in terms of your expertise  
3 and professional background?

4 A. No.

5 Q. Have you had statistics courses?

6 A. Yes.

7 Q. What specific courses have you had,  
8 undergraduate or graduate?

9 A. I had a series of econometrics courses in  
10 graduate school.

11 Q. And the reason I'm asking is, I want to ask you  
12 the right questions today, and that I don't take up all  
13 of our time asking you questions that might more  
14 appropriately be addressed to some of your technical  
15 experts. I want to stay within the right zone on that.

16 A. Okay.

17 Q. Would it be fair to describe your expertise at  
18 this point -- are you generally familiar with the  
19 statistical questions, issues, approaches used in both  
20 the student performance and the financial modeling that  
21 was done as part of FAST?

22 A. I'm sorry. I'm not sure I'm following your  
23 question.

24 Q. Let me give you a couple examples.

25 Are you familiar with propensity score

1 matching?

2 A. Familiar how?

3 Q. Do you know how it is used statistically in the  
4 models -- in the two separate models that are  
5 incorporated within FAST?

6 A. I know that we used propensity score matching.  
7 I have a general idea how it works, but I could not give  
8 you the statistical details of how it works.

9 Q. So it probably wouldn't be a good use of your  
10 time or my time this morning for me to ask you a whole  
11 series of questions about propensity score matching. Is  
12 that fair?

13 A. I can't really answer that question.

14 Q. Okay. Are you familiar with the concept of  
15 statistical -- a statistical concept of stochastic  
16 frontiers?

17 A. Yes.

18 Q. And do you know how that -- how the concept of  
19 stochastic frontiers is used in the two separate models  
20 that are incorporated within FAST?

21 Well, let me ask you if you know if it was  
22 used.

23 A. It was not used.

24 Q. After receiving quite a bit of input from  
25 consulting experts, technical advisors, is it a fair

1 statement that ultimately Lori Taylor at A&M actually  
2 made the final decisions on the operation of the  
3 financial model on the financial side, or were those  
4 decisions made by individuals in the comptroller's  
5 office?

6 A. When you say "operation," define "operation  
7 side." I'm not sure I understand.

8 Q. Well, let me give you a couple of examples. In  
9 the financial model, districts are divided into fiscal  
10 peer groups. Correct?

11 A. Correct.

12 Q. And how large is a fiscal peer group?

13 A. For most districts a fiscal peer group is 40  
14 school districts.

15 Q. And there are exceptions?

16 A. There are exceptions.

17 Q. For example, the group of the very largest  
18 districts doesn't have 40 districts, does it?

19 A. That's correct.

20 Q. And there also some other exceptions. For  
21 example, there's a group of very small districts that  
22 don't have high schools. Right?

23 A. Right.

24 Q. But, in general, the objective was to have 40  
25 districts in a fiscal peer group?

1 A. That's an accurate description.

2 Q. Who made the decision to use fiscal peer groups  
3 for purposes of the financial analysis?

4 A. That was a collaborative decision.

5 Q. All right. Collaborative with Dr. Taylor and  
6 comptroller staff, or who ultimately said this is the  
7 way we're going to go?

8 A. That was a discussion that was had with our --  
9 I believe we had that with our technical team.  
10 Certainly with the peer-review team, and comptroller  
11 staff, Dr. Taylor.

12 Q. Okay. And who actually made the decision on  
13 how to group districts into fiscal peers -- into fiscal  
14 peer groups?

15 A. Again, that was part of those same  
16 conversations with the technical review team, peer  
17 reviewers, comptroller staff.

18 Q. Okay. So there's no one individual that  
19 ultimately sat down and said we're going to put these 40  
20 together, we're going to assign these 40 together, et  
21 cetera?

22 A. Well, the 40 are determined by the model --

23 Q. Okay.

24 A. -- that was run.

25 Q. And on the student performance side, is it

1 correct that the districts are not grouped into -- for  
2 comparison purposes, into groups of comparable districts  
3 that the analysis on the performance side is all  
4 districts statewide. Correct?

5 A. Well, most districts statewide. Right.

6 Q. There are a few exclusions. And tell me why a  
7 few districts were excluded.

8 A. Some districts were excluded because we don't  
9 have sufficient data.

10 Q. But otherwise, all districts would be included.  
11 Right?

12 A. That's right.

13 Q. About the -- but the analysis on the student  
14 performance side does not attempt to group like  
15 districts with like districts. Correct?

16 A. That is correct.

17 Q. Why was that decision made? I'm trying to  
18 understand why would you analyze districts one way on  
19 the financial side and analyze districts a different way  
20 on the student performance side?

21 A. On the financial side, it was clear from the  
22 discussions we had with our groups that the districts  
23 operated in very different cost environments, and so we  
24 wanted to group them among similar school districts for  
25 the purposes of comparing their spending.

1 On the academic performance side, we felt  
2 that the model could control for variations across the  
3 state in student differences well enough that we could  
4 compare all school districts to one another.

5 Q. And was that a collaborative decision to do it  
6 that way?

7 A. To do...

8 Q. To not group districts on the student  
9 performance side into comparable districts.

10 A. Yes. The model was developed in a  
11 collaborative effort, just like with the financial side.

12 Q. And the ultimate FAST rating, it's simply a  
13 simple average of these two different models. Correct?

14 A. I don't know if I'd characterize it that way.

15 Q. How would you characterize it?

16 A. It's a combination of -- well, can you maybe be  
17 a little bit more specific of which part of the FAST  
18 rating you're talking about?

19 Q. The star part of the rating. When the  
20 FAST rating comes to the point of assigning a district  
21 a star between 1 and 5 in half-star  
22 increments, how are the financial analysis model or part  
23 of the overall model combined with the student  
24 performance part of the model to create a star for each  
25 district?

1 A. So based on the model we give -- give each  
2 district a 1 -- 1 to 5 points on their academic progress  
3 and 1 to 5 points on their spending side and that is an  
4 average -- the FAST rating is an average of those two.

5 Q. So they actually get a star on each side and  
6 then you average the two stars?

7 A. We never assign them stars for the academic or  
8 the financial, we just give them --

9 Q. It's a 1 to 5?

10 A. Right.

11 Q. And in half-point increments?

12 A. Not in half-point increments, on individual.

13 Q. So those are in whole increments?

14 A. Correct. On the -- the academic progress and  
15 the spending measure separately are 1 to 5, whole  
16 increments.

17 Q. Okay. I was interested when you were  
18 describing your background. Did I understand correctly  
19 that when you went to the comptroller's office in 1999  
20 you originally participated in some of the old Texas  
21 performance reviews?

22 A. That's correct.

23 Q. Is the comptroller's office still doing those  
24 reviews?

25 A. No, sir.

1 Q. Which ones did you participate in?

2 A. The report released before the 2001 session,  
3 before the 2003 session.

4 Q. Why did the comptroller's office stop doing the  
5 Texas performance reviews? If you know.

6 A. Legislation was passed that moved the  
7 responsibility to the legislative budget board.

8 Q. You referred a couple of times to the  
9 legislature directing the comptroller to do the analysis  
10 that resulted in FAST. Correct?

11 A. Yes, I believe I did refer to that.

12 Q. Are you specifically referring to  
13 Section 39.0821 of the education code? Is that the  
14 statute that directed the comptroller to do studies that  
15 ultimately resulted in FAST?

16 A. Yes.

17 Q. And I believe section 39.0821, was that  
18 passed -- that was passed in 2009. Correct?

19 A. That's correct.

20 Q. Part of House Bill 3?

21 A. That's correct.

22 Q. And I believe Section 39.0821 as part of the  
23 study directs the comptroller to look at the  
24 accreditation or accountability ratings or system of  
25 districts also. Right?

1 A. I don't believe so.  
 2 Q. It didn't mention that?  
 3 A. Well, I'm not sure.  
 4 Q. Do you have a general understanding of the  
 5 Texas accreditation/accountability system that is used  
 6 for districts and campuses?  
 7 A. A general understanding, yes.  
 8 Q. I want to ask you some questions, because there  
 9 seem to be some very significant policy decisions that  
 10 were made in FAST that are different from the structure  
 11 of our accountability/accreditation system. Would you  
 12 agree with that?  
 13 A. I'm not sure I understand the question.  
 14 Q. All right. Let me ask a couple of questions.  
 15 In our accountability/accreditation system  
 16 that TEA uses to look at school districts and campuses,  
 17 do you understand we disaggregate student data by -- by  
 18 student population for purposes of rankings?  
 19 A. Yes.  
 20 Q. And a district or campus has to have a  
 21 satisfactory level of performance on state-set metrics  
 22 in every student disaggregated category in order for the  
 23 campus or district to be acceptable or to achieve a  
 24 ranking above acceptable. Is that your understanding?  
 25 A. That's my understanding.

1 Q. And if a district had even one disaggregated  
 2 student group that underperformed, that would affect the  
 3 accountability or accreditation ranking for the district  
 4 as a whole, would it not?  
 5 A. I believe that's correct. Yes.  
 6 Q. And the same is true for the campus as well.  
 7 Right?  
 8 A. I think so, yes.  
 9 Q. And Texas made a decision -- that decision to  
 10 disaggregate student data and to use disaggregated  
 11 student groups was a fairly fundamental decision that  
 12 Texas made in the early '90s. Correct?  
 13 A. I can't answer that question.  
 14 Q. Do you know whether that approach to  
 15 disaggregate student data for purposes of accountability  
 16 accreditation was one of the sources that was carried  
 17 over at the federal level into No Child Left Behind?  
 18 A. I can't answer that question.  
 19 Q. All right. And do you -- do you have any  
 20 knowledge that part of the conversation around using  
 21 disaggregated student data for accountability  
 22 accreditation purposes was so that the performance of  
 23 lower-performing student groups did not get lost in  
 24 broad averages?  
 25 MS. PENN: Objection. Form.

1 A. I believe I've heard that.  
 2 Q. (BY MR. THOMPSON) Let's talk about on the  
 3 student side in FAST. What performance measures did --  
 4 did UT Dallas include of student performance?  
 5 A. We used math and reading, English language  
 6 arts.  
 7 Q. Okay. And you combined math and English  
 8 language reading arts into -- into one combined measure.  
 9 Right?  
 10 A. Correct.  
 11 Q. And you also combined the performance of all  
 12 students into one measure for the district. Correct?  
 13 A. Yes.  
 14 Q. And UT Dallas actually had access to all of the  
 15 individual disaggregated student data. Correct? They  
 16 actually had TEA's individual student data files.  
 17 Correct?  
 18 A. I believe that's correct. Yes.  
 19 Q. So the analysis could have been done using the  
 20 same disaggregated student groups that Texas has used  
 21 for 20 years for accountability and accreditation  
 22 purposes. Right?  
 23 MS. PENN: Objection. Form.  
 24 A. I'm not sure about that.  
 25 Q. (BY MR. THOMPSON) You don't know whether the

1 data was there to look at individual groups of students  
 2 or disaggregated student groups as part of the FAST  
 3 analysis?  
 4 A. I believe the data was probably there.  
 5 Q. That's a fairly fundamental policy decision  
 6 whether you combine all students into just one  
 7 all-student measure or whether you'd look at  
 8 disaggregated student groups. Would you agree?  
 9 A. I can't really say whether that's a major  
 10 policy decision.  
 11 Q. Who made the decision in FAST to combine  
 12 English language arts and math into one measure and then  
 13 to only -- and to combine all of that into a one -- into  
 14 one measure for the district instead of looking at  
 15 disaggregated student groups by district?  
 16 A. It was part of that collaborative process of  
 17 the review teams.  
 18 Q. FAST does not tell us anything -- it doesn't  
 19 purport -- the design of the student performance side  
 20 isn't designed to tell -- it's not designed to report or  
 21 measure anything about the performance of disaggregated  
 22 student groups, is it?  
 23 A. I think that's accurate.  
 24 Q. Okay. Would you agree that the district  
 25 received concerns from some of your reviewers -- and I'm

1 specifically here speaking of some of the peer group  
2 reviewers -- about combining all of the students into  
3 just one measure instead of looking at disaggregated  
4 groups?

5 A. I can't remember if that was a specific point.

6 MR. THOMPSON: All right. I want to mark  
7 this as Exhibit 957.

8 (Exhibit No. 957 marked.)

9 Q. (BY MR. THOMPSON) Mr. Currah, have you seen  
10 this e-mail exchange between Dr. Sanders and Olga Garza  
11 before?

12 A. Yes, I have.

13 Q. At least on this e-mail thread, you're actually  
14 cc'd on at least part of it. Right? Down at the  
15 bottom.

16 A. I'm sorry. I don't see it.

17 Q. The very --

18 A. Okay. Yeah.

19 Q. Okay. Would you read at the very beginning on  
20 the top page -- first page, Dr. Sander's comment, the  
21 first paragraph there?

22 A. "To include adjustment for SES effects at  
23 either the student or group level was a major mistake.  
24 It will make it appear that the schools serving  
25 disadvantaged population will appear to be better than

1 they really are, which will tend to perpetuate  
2 inequities of schooling for these students. If Texas  
3 wants to hide many of these inequities, then the  
4 proposed model will do so."

5 Q. And then would you come down to the very bottom  
6 paragraph in that same top e-mail that starts "I am sure  
7 that the train has left" -- "has lefted the station." I  
8 assume that's a typo. Would you please read that  
9 paragraph?

10 A. "I am sure that the train has lefted the  
11 station. But it is sad to see Texas adopted a model  
12 which contains so many problems which can be avoided.  
13 Students and schools serving high percentages of poor  
14 and/or minority students will not be well served by the  
15 results coming from the proposed model."

16 Q. Do you remember -- well, first of all, did you  
17 understand that Dr. Sanders' concern -- let me rephrase  
18 that.

19 What did you understand Dr. Sanders'  
20 concern to be?

21 A. My understanding was, he did not think we  
22 should be controlling for various factors that we were  
23 controlling for in our models.

24 Q. And specifically Dr. Sanders' concern was  
25 controlling for socioeconomic status and minority

1 status. Correct?

2 A. To my -- as I recall, yes. That's correct.

3 Q. And his particular concerns were on the student  
4 performance side. That's what we're talking about now,  
5 not on the financial side. Right?

6 A. That is correct.

7 Q. And would you agree that his particular concern  
8 was that averaging all students in a district or on a  
9 campus into one measure would have the effect of -- or  
10 could have the effect of hiding the low -- the  
11 performance of lower-performing students in broad  
12 averages?

13 A. Can you rephrase that or can you say that  
14 again?

15 Q. He goes back to a fundamental choice Texas has  
16 made. When we disaggregate student data by student --  
17 by specific groups based on race or socioeconomic  
18 status, that tends to allow us to focus attention on  
19 our -- to see and focus attention on our  
20 lower-performing students, does it not?

21 A. I can't speak to whether we focus attention on  
22 it or not.

23 Q. It would allow you to see your lower-performing  
24 students. Right?

25 A. Yes.

1 Q. And if you just average all students in a group  
2 into one broad average, that would tend to not allow you  
3 to see as clearly those in the group who might be lower  
4 performing. Correct?

5 A. For that measure, that's correct.

6 Q. For that measure. Right. Right.

7 And Texas has made a decision, for  
8 accountability purposes specifically, to use  
9 disaggregated students so that we can see the  
10 performance of both our higher-performing students and  
11 also see the performance of groups that are lower  
12 performing. Correct?

13 A. I can't really speak to why we did it, but yes.  
14 We do it.

15 Q. But, again, FAST does not do that on the  
16 student performance side. Right?

17 A. On the FAST measure, that's correct.

18 Q. And could that have the effect on the student  
19 performance side of losing the performance of  
20 lower-performing students in broad averages for a  
21 district or a campus?

22 MS. PENN: Objection. Form.

23 A. I can't really answer that.

24 Q. (BY MR. THOMPSON) Have you looked to see if  
25 there is a correlation between the student performance

1 measures that districts have achieved in FAST and the  
2 percentage of low socioeconomic kids that a district  
3 might have?

4 A. I have not.

5 Q. Would you be surprised if there was a  
6 relationship?

7 A. I can't really say whether I'd be surprised or  
8 not.

9 MR. THOMPSON: I'm going to have this  
10 document marked as 958.

11 (Exhibit No. 958 marked.)

12 Q. (BY MR. DIAMOND) Mr. Currah, do you remember  
13 seeing this document?

14 A. I've seen the document from Amarillo.

15 Q. And Amarillo -- well, tell me what you  
16 understand this document to be.

17 A. I believe this is the Amarillo ISD's concerns  
18 about the FAST rating system.

19 Q. And this was -- I don't think there's a date on  
20 this documents. Correct?

21 A. I don't see one.

22 Q. Would you accept if I represented that this was  
23 their response to the initial 2010 FAST results?

24 A. I can't remember. I don't know.

25 Q. Why don't you turn to page 3 for just a minute.

1 Let's look at one of the concerns that Amarillo raised.

2 Do you see their concern No. 3?

3 A. I do.

4 Q. Would you read bullet No. 1?

5 A. "Scatter plots (see attached) of our 'fiscal  
6 peer' group appear to show a bias against districts with  
7 a higher percent of economically disadvantaged students,  
8 lower property wealth, and lower target revenue. It  
9 would seem that an appropriate methodology used should  
10 not result in such bias. It seems highly unlikely that  
11 poorer districts with higher ratios of economically  
12 advantaged students, by default, be less efficient at  
13 spending funds."

14 Q. And let's read bullet No. 2 just while we're on  
15 this point.

16 A. "The economically disadvantaged phenomenon  
17 appears to be further borne out by the fact that the  
18 average ED percentage for the 32, '5-star' rated  
19 districts is 38.1 percent. Only nine of these districts  
20 have an ED percentage above 50 percent. The statewide  
21 average is 59 percent. We believe this apparent bias  
22 needs further study."

23 Q. Does it surprise you if there is a correlation  
24 between districts that were able to achieve 5-star  
25 rating and that would include the charter districts that

1 also received 5-star rating and the percentage of their  
2 students that were economically disadvantaged or not?

3 A. I can't say whether that would surprise me or  
4 not.

5 Q. Do you know whether there have been any  
6 modifications to the model based upon this particular  
7 concern?

8 A. No, there are not.

9 Q. And is the result that Amarillo is pointing out  
10 in their concern No. 3, does it seem to be related to  
11 the concern that Dr. Sanders was raising in his e-mail  
12 to Ms. Garza?

13 A. I can't answer that.

14 MR. THOMPSON: I'm going hand you a  
15 document that I'm going to mark as Exhibit 959.

16 (Exhibit No. 959 marked.)

17 Q. (BY MR. THOMPSON) Mr. Currah, have you seen  
18 Exhibit 959 before?

19 A. Yes, I have.

20 Q. And what is 959?

21 A. It's -- it appears to be copies of a pair of  
22 e-mails, one from William Sanders to Olga Garza, one  
23 from Lisa Minton to Susan Combs, and other comptroller  
24 staff.

25 Q. And is the -- beginning in the middle of the

1 first page and at the bottom, is that the concern raised  
2 by Dr. Sanders that we just looked at a moment ago in  
3 Exhibit 957?

4 A. Are you talking about the bottom half of the  
5 page that starts "from William Sanders"?

6 Q. Correct?

7 A. Yes, that appears to be the same e-mail.

8 Q. And is the top part Lisa Minton's response to  
9 Dr. Sanders' concerns?

10 A. No.

11 Q. It's not?

12 A. It is Lisa Minton's e-mail to the comptroller  
13 and other staff summarizing Dr. Sanders' concerns.

14 Q. All right. I mischaracterized that. I  
15 apologize.

16 Would you read Ms. Minton's communication  
17 to Comptroller Combs?

18 A. The entire thing?

19 Q. Let's read it all into the record here.

20 A. "This morning you asked to see the comments  
21 from the peer reviewer (Dr. William Sanders with SAS)  
22 who sent negative remarks regarding our academic  
23 progress measures. His e-mail is below."

24 Q. And then would you read the part in parens?

25 A. I will.

1 "And please note that Sanders does agree  
2 with the premise of using value-added measures; in fact,  
3 his SAS EVAAS model is a value-added model. His  
4 criticism revolves around control variables used in our  
5 model. For example, he believes that we should not  
6 control for things like a student's socioeconomic status  
7 or SES. Some researchers feel that controlling for SES  
8 and related student charactering means that schools with  
9 high numbers of minority or economically advantaged  
10 students will not be held accountable for those  
11 students' academic performance. Given that we are not  
12 using those measures for accountability, and because of  
13 concerns about ensuring districts and campuses are  
14 fairly compared, other technical team members and peer  
15 reviewers agree that we should use variables that  
16 control for student characteristics. Also in our model  
17 we did not use all students. Instead, we only used  
18 students for whom there was data. Sanders, who uses  
19 imputed data in a later model, argues that there is a  
20 bigger bias if you leave these students off."

21 Q. Okay. Let's talk about which students are used  
22 on the performance side. Because the -- the student  
23 performance piece of FAST is doing a measure of progress  
24 over multiple years, does it only include students for  
25 whom there are scores in every year?

1 A. Yes.

2 Q. And are you aware that there is a concern --  
3 and just to be clear, if a student is not there in one  
4 of the years for which data is being compared, that  
5 student is simply left out of the analysis. Correct?

6 A. I believe that's correct.

7 Q. And I believe on the student performance side,  
8 do you look at -- you're looking at student performance  
9 over a three-year period. Right?

10 A. That's right.

11 Q. So if a student is not there for any one of the  
12 three years, that student is excluded from the analysis.  
13 Right?

14 A. I believe that's correct.

15 Q. And one of the points that Dr. Sanders was  
16 raising is that excluding those students has the  
17 potential to inject bias into the analysis. Correct?

18 A. I think that's correct.

19 Q. Do you understand -- or is it your  
20 understanding that -- that Dr. Sanders' concern is that  
21 low socioeconomic students, minority students, limited  
22 English proficient students, statistically are more  
23 likely to be absent or to be missing from the dataset in  
24 one of those multiple years than other students?

25 A. Actually I don't know.

1 Q. Okay. Do you understand that's why he thinks  
2 excluding those students has the potential to inject  
3 bias into the analysis?

4 MS. PENN: Objection. Form.

5 A. I honestly don't know.

6 Q. (BY MR. THOMPSON) Do you know whether or not in  
7 his approach to computing a value-added model,  
8 Dr. Sanders in EVAAS uses imputed data so that that  
9 student could be included in the analysis?

10 A. As I recall, he indicated that he did.

11 Q. Okay. Dr. Sanders was the only peer  
12 reviewer who raised concern about the potential bias in  
13 the model, was he?

14 A. I don't remember.

15 MR. THOMPSON: All right. I'm going to  
16 mark a document here as Exhibit 960.

17 (Exhibit No. 960 marked.)

18 Q. (BY MR. THOMPSON) Mr. Currah, can you identify  
19 Exhibit 960?

20 A. It is a copy of a pair of e-mails -- or  
21 actually it looks like three e-mails.

22 Q. From?

23 A. From -- the initial e-mail is from Olga Garza  
24 to members of the financial peer reviewer group. The  
25 second e-mail appears to be a forward of that e-mail to

1 Dr. Stephen Frank. And then the third e-mail is an  
2 e-mail from Stephen Frank to Olga Garza.

3 Q. Okay. Let's look on the front page of Exhibit  
4 960 in terms of -- and Dr. Stephen Frank was one of the  
5 national peer reviewers for FAST. Right?

6 A. That's correct.

7 Q. Let's look on the front page of Exhibit 960.  
8 Do you see the paragraph down at the bottom of  
9 Dr. Frank's message to Ms. Garza that starts "Second, I  
10 believe..."

11 A. I see that.

12 Q. Would you read that paragraph, please?

13 A. "Second, I believe you must have a racial  
14 factor in this mix or else you are quite likely to come  
15 up with the 'finding' that districts with higher numbers  
16 of minorities are less cost efficient than districts  
17 with out large number of minorities. While I understand  
18 this is a political sensitive" -- "politically sensitive  
19 issue, if it turns out to be important, as my research  
20 suggests it will, that will limit the usefulness of your  
21 findings and might also be seen as politically  
22 insensitive. For instance, I do not think we want the  
23 headline of reports that come from this data set to  
24 conclude: Study finds that districts with large numbers  
25 of minority students are run cost inefficiently. No

1 other factors were nearly as significant. If I read a  
2 report with that finding, I'd immediately conclude that  
3 research design was flawed and then ignore the report."

4 Q. Okay. Do you remember any discussions around  
5 Dr. Frank's concerns?

6 A. I don't remember specific discussions.

7 Q. Okay. Do you know whether any modifications  
8 were made in the model to address his particular  
9 concern?

10 A. We did not make any modifications based on his  
11 concern.

12 Q. Have you ever looked to see whether there is a  
13 correlation between districts with large numbers of  
14 minority students showing up in FAST as being run cost  
15 inefficiently?

16 A. I have not.

17 Q. All right. Are you aware of any -- you're not  
18 aware of any analysis whatsoever to look to see if there  
19 are any of those comparisons that might exist?

20 A. I can't remember any.

21 Q. All right. Under the FAST system, are  
22 financial performance and academic performance examined  
23 simultaneously or are they first examined separately and  
24 then aggregated or averaged together to establish a  
25 single rating?

1 A. They're separately. They're examined  
2 separately.

3 Q. And then as we've discussed previously, once a  
4 1-to-5 rating is determined on the academic side, and a  
5 1-to-5 rating is determined on the student performance  
6 side, those two ratings are simply averaged together?

7 A. That's right.

8 Q. So they're given equal weighting in the  
9 ultimate FAST star rating. Correct?

10 A. That's correct.

11 Q. Because they're done separately, FAST does  
12 not -- it's not actually designed to establish a causal  
13 relationship between spending and performance, is it?

14 A. I think that's right. Yeah.

15 Q. It's looking to see if there's a correlation,  
16 but it is not attempting to see if there is any form of  
17 causal relationship?

18 A. I don't know that.

19 MR. SKIDMORE: Objection. Form.

20 A. I'm not even sure that it's trying to find a  
21 correlation.

22 Q. (BY MR. THOMPSON) Okay. Then what is it  
23 looking for? If it's not looking for either causal  
24 relationships or correlations, what is it?

25 A. It is examining spending and academic

1 performance, and putting the two together to see how  
2 districts compare relative to one another.

3 Q. Is it fair to say that FAST ultimately only  
4 compares districts to other districts, not to an  
5 absolute standard?

6 A. Yes.

7 Q. So on the student performance side, let's talk  
8 about that for a bit.

9 The whole design of the student  
10 performance component, I believe you've previously  
11 testified about, it's to look -- it's a value-added  
12 measure. Correct?

13 A. That's correct.

14 Q. And there are different types of student  
15 progress or gain measures that exist in the literature.  
16 Correct?

17 A. That's correct.

18 Q. I think you've mentioned TPM previously, which  
19 I think TEA used for a couple years.

20 A. I mentioned it earlier, yes.

21 Q. And TPM is actually a form of a progress  
22 measure, isn't it?

23 A. I believe so. My understanding of it is, yes.

24 Q. Would you agree that TPM would fall into the  
25 broad category of being a predictive growth measure?

1 A. Yeah. I think so.

2 Q. And TPM is past data used to predict where  
3 students should be and then actual performance is  
4 measured against that to see if students met or exceeded  
5 certain predictive targets?

6 A. I can't answer that. I'm not sure.

7 Q. Are you familiar with the term "Growth to  
8 Standard" as a growth measure approach?

9 A. I don't know if I've heard that term, no.

10 Q. Have you heard of a concept where you first  
11 determine the goal or target or performance level that  
12 you expect students to reach and then what you measure  
13 each year is how much progress students are making  
14 toward that specific target?

15 A. Yes.

16 Q. That's not what the performance piece is within  
17 FAST, is it?

18 A. That's right.

19 Q. The performance piece within FAST simply looks  
20 to see whether it takes students where they are and  
21 simply looks each year to see whether they made progress  
22 or not. Is that correct?

23 A. Roughly speaking, yes.

24 Q. Let's talk about our state requirements for  
25 students for promotion and ultimately for graduation.

1 Does Texas, as you understand it -- as we  
2 sit here today, do we have the same requirements for all  
3 students for graduation?

4 A. Could you be a little bit more specific about  
5 that?

6 Q. Unless a student opts onto the -- a minimum  
7 plan, if a student is on the default recommended  
8 graduation plan, are all students required to meet the  
9 same curriculum requirements, at least as set by the  
10 state, for purposes of graduation?

11 A. I think so, yes.

12 Q. And are you -- are you generally familiar with  
13 the end-of-course exams?

14 A. Yes.

15 Q. And all students in Texas to graduate have to  
16 meet the satisfactory level on performance on the  
17 end-of-course exams. Correct?

18 A. Do you mean on all the exams?

19 Q. Let me be a little more -- I understand your  
20 caution. I appreciate it.

21 It's actually somewhat complicated because  
22 there's a cumulative measure where a student could  
23 actually score below satisfactory on some exams but if  
24 the cumulative score in a subject area within a group of  
25 exams exceeded the passing score, that student would be

1 deemed eligible to graduate. Is that correct?

2 A. I believe that's correct. Yes.

3 Q. But the state will actually set a passing score  
4 that students have to meet either on each individual  
5 exam or within cumulative groups of exams. Correct?

6 A. Yes.

7 Q. And that cumulative score is going to be the  
8 same score for all students. Right?

9 A. I'm not sure. I don't know.

10 Q. All right. Well, let me ask it this way:

11 Texas doesn't set a lower score for  
12 graduation for low socioeconomic kids than it does for  
13 non-low -- than non-low socioeconomic kids, does it?

14 A. That's correct.

15 Q. And Texas doesn't set a lower graduation score  
16 for limited English proficient kids than it does for  
17 other kids, does it?

18 A. I believe that's correct.

19 Q. Texas doesn't set a lower score for graduation  
20 for certain minority groups than it does for nonminority  
21 groups, does it?

22 A. That's correct.

23 Q. So what Texas expects and requires for all  
24 students is ultimately that they meet a measure in order  
25 to graduate. Correct?

1 A. Correct.

2 Q. FAST, in the student performance component,  
3 doesn't -- isn't designed to measure at all student  
4 performance towards that graduation requirement, is it?

5 A. Not a specific measure, no.

6 Q. It simply takes students where they are and  
7 looks each year to see if those students made progress  
8 relative to other districts in the state. Right?

9 A. That's right.

10 Q. So if a low socioeconomic kid is starting at a  
11 much lower point and shows some progress, that could be  
12 positively reflected in FAST, even though that student  
13 may not be moving toward the graduation requirement that  
14 the state has set. Right?

15 A. That's theoretically possible, yes.

16 Q. Have you looked at all -- the initial results  
17 of the STAAR or end-of-course exams?

18 A. Only what I've seen in the paper.

19 Q. Have you looked personally at any of the  
20 disaggregated student results on the initial  
21 end-of-course exams?

22 A. No, I haven't.

23 Q. Are you aware of significant differences in  
24 performance between low socioeconomic students and  
25 non-low socioeconomic students on the initial

1 end-of-course exams?

2 A. No, I wasn't aware of that.

3 Q. And there's nothing whatsoever in the design of  
4 FAST that would ever measure that, is there?

5 A. That would measure...

6 Q. How students are achieving versus the absolute  
7 standard that they have to meet for graduation.

8 A. Yeah. I think that's fair.

9 Q. Okay. Because the student performance rating  
10 and the academic -- and the financial rating are  
11 averaged, if a district is determined to be very high  
12 spending, what is the highest possible overall rating  
13 that that district could ever achieve under FAST?

14 A. 3 stars.

15 Q. So regardless of what -- regardless of what a  
16 district is doing on the student performance side, if  
17 the district is a 1 on the high spending side, even if  
18 it's a 5 on the student performance side, the highest  
19 possible rating for the district is a 3. Correct?

20 A. By "1" do you mean they got one point on the  
21 spending measure?

22 Q. Right.

23 A. Yes, that's correct.

24 Q. And just as an example, if Ysleta ISD was  
25 placed in the 5th percentile for positive academic

1 performance, that's the best. Right? 5 points.  
 2 A. Right. Yes.  
 3 Q. If it also received a very high spending, or a  
 4 1 on the financial analysis side, the highest rating it  
 5 could achieve would be a 3. Correct?  
 6 A. That is correct.  
 7 Q. And because in the design of FAST districts are  
 8 being compared not to an absolute standard, but to other  
 9 districts. Right?  
 10 A. That's correct.  
 11 Q. So by definition in the design of FAST, you're  
 12 always going to have a fairly stable distribution of  
 13 high-spending districts, mid-spending districts, and  
 14 low-spending districts. Right?  
 15 A. Yes.  
 16 Q. I mean, we're not measuring districts against  
 17 a -- an actual articulated standard of efficiency.  
 18 Right?  
 19 A. Correct.  
 20 Q. And by definition, because you're comparing  
 21 districts within groups of 40 to other districts, the  
 22 distribution of districts is always going to be fairly  
 23 stable. Would you agree with that?  
 24 A. Yes.  
 25 Q. And would you agree the same is going to be

1 true on the student performance side because we're  
 2 looking at student performance across the state and  
 3 we're just looking at gains, we're not looking at  
 4 gaining toward a standard? Would you agree districts  
 5 are only being compared with other districts?  
 6 A. Yes.  
 7 Q. And so would you agree on the student  
 8 performance side you're always going to have the --  
 9 basically the same pattern of distribution of the  
 10 districts you're also going to have roughly the same  
 11 distribution pattern from low-performing to  
 12 mid-performing to higher-performing. Would you agree?  
 13 A. And by that you mean the same -- roughly the  
 14 same --  
 15 Q. Not --  
 16 A. -- share of districts.  
 17 Q. Yes.  
 18 A. That's correct.  
 19 Q. Not necessarily the same district. A district  
 20 might slightly move from one category to the another in  
 21 a year, but the actual pattern of distribution is always  
 22 going to be the same. Right?  
 23 A. Right.  
 24 Q. And so is that going to tend to produce -- when  
 25 you do the ultimate FAST ratings, is that going to

1 produce -- and have you seen in the three years that  
 2 you've been doing it, a fairly stable distribution of  
 3 the star ratings when you do the averages of the  
 4 financial and the student performance piece?  
 5 A. Generally, that's correct. I don't have the  
 6 numbers in front of me, but yeah.  
 7 Q. But, again, the whole design of it -- and I'm  
 8 not questioning the validity of it, I want to make  
 9 clear. We're not measuring districts on the performance  
 10 side against a standard that students are expected to  
 11 achieve. Correct?  
 12 A. That's correct.  
 13 Q. And on the performance side -- and on the  
 14 financial side, we are not measuring districts against a  
 15 standard of performance or efficiency that districts are  
 16 expected to achieve. Correct?  
 17 A. That's correct.  
 18 Q. So under FAST, Texas will never be Lake Wobegon  
 19 where everybody's above average. Right?  
 20 A. It's not likely.  
 21 Q. The design of the system makes that impossible.  
 22 Correct.  
 23 A. Probably so. Yes.  
 24 Q. The technical supplement says that the  
 25 value-added measure measures growth and achievement by

1 controlling for the varying characteristics of students,  
 2 campuses, and districts to determine the annual impact  
 3 of each factor.  
 4 Do you remember that quote or something  
 5 similar to it?  
 6 A. I'm sorry. What are you reading from?  
 7 Q. I'm reading from my own notes. It's the  
 8 technical supplement.  
 9 A. That sounds like something that would be in  
 10 there, yes.  
 11 Q. Okay. Would you agree that some of the  
 12 variables that are controlled for under the FAST  
 13 academic measure would include things like prior year  
 14 TAKS-met score?  
 15 A. Yes.  
 16 Q. Prior year TAKS reading score.  
 17 A. Yes.  
 18 Q. Gender.  
 19 A. Yes.  
 20 Q. English proficiency.  
 21 A. Yes.  
 22 Q. Ethnicity.  
 23 A. Yes.  
 24 Q. Family income or at least the proxy of free and  
 25 reduced-price lunch eligibility?

1 A. Yes.

2 Q. Special education status.

3 A. I believe so, yes.

4 Q. And special ed is actually -- is that broken

5 into two broad categories? Low -- low cost and high

6 cost?

7 A. Are you referring to the academic methodology

8 right now? The academic progress?

9 Q. Yes. On the academic side.

10 A. I don't remember if it's split into two on the

11 academic side.

12 Q. Okay. And the value-added measure -- and you

13 also control for gifted and talented program status?

14 A. I think so, yes.

15 Q. The language of TAKS administration?

16 A. Yes.

17 Q. And the grade level?

18 A. Yes.

19 Q. All right. Do you think it would be

20 appropriate or inappropriate to look at the relationship

21 between spending and performance without controlling for

22 these contacts?

23 A. I can't really answer whether I think that

24 would be appropriate or not.

25 Q. Do you have an opinion -- again, because we're

1 differences in wage costs across the state?

2 A. Well, there were two -- there were two separate

3 wage measures we used. So which one are you asking

4 about?

5 Q. Well, why don't you tell me about both.

6 A. So Lori Taylor, I believe, designed both. One

7 of them, the professional wage index that we used, I

8 believe, is the same index that the National Center for

9 Education Statistics uses. The nonprofessional wage

10 index, I believe, was a Bureau of Labor Statistics

11 measure, as I recall.

12 Q. For both of those measures -- for both the

13 professional and the nonprofessional, did you use

14 current data or as current as you could obtain for

15 purposes of doing those comparisons?

16 A. Yes. I believe we used the most relevant --

17 most recent data that was available.

18 Q. Are you familiar with the Cost of Education

19 Index that is currently used in the school funding

20 formulas?

21 A. I'm familiar with it.

22 Q. All right.

23 A. I know that it exists.

24 Q. Did -- was there any discussion or

25 consideration given to using the CEI in FAST?

1 not measuring how students are achieving versus a

2 standard, have you ever thought about whether it has the

3 effect of creating different performance standards or

4 expectations for different groups of students?

5 A. No.

6 Q. You've never thought about that?

7 A. Well, in response to some of the -- some of the

8 e-mails, we may have thought about it. But maybe you

9 could be a little bit clearer with the question. I'm

10 not sure...

11 Q. All right. A high-performing student who is

12 already meeting or achieving the state standard for

13 graduation who makes progress, that's going to be

14 recognized in FAST. Correct?

15 A. Yes.

16 Q. A low performing student who makes some

17 progress is going to be recognized in FAST whether or

18 not that student actually achieves the performance

19 requirements that the state has set. Correct?

20 A. Yes.

21 Q. Would you agree that FAST is not designed and

22 is not appropriate to be used for accountability

23 purposes?

24 A. I would agree.

25 Q. What measure did you use in FAST to capture

1 A. I don't remember what we discussed about CEI.

2 Q. Do you know whether the current CEI that's used

3 in the funding formulas was developed in the 1990-1991

4 period? Is that your understanding?

5 A. That's my understanding.

6 Q. And do you know whether the decision to use a

7 different measure of variations in wages in FAST was

8 because those more current measures were better? Was

9 that the reason for that decision?

10 A. I honestly don't remember.

11 Q. Would you agree that using current data is

12 probably more accurate than using 20-year-old data?

13 A. On specific -- are you specifically referring

14 to wage the index?

15 Q. On the wage index.

16 A. Yes, I would agree.

17 Q. Was academic performance looked at at all in

18 creating peer groups or was the peer group explicitly

19 based on what I'm going to call certain financial

20 circumstances or student demographic condition?

21 A. I'm sorry. I missed the first part of the

22 question. Did you ask whether academic performance

23 was...

24 Q. Right. Whether academic performance at all was

25 used in grouping districts into the fiscal peers.

1 A. No.  
 2 Q. I didn't think so. I wanted to make sure.  
 3 Mr. Currah, do you understand -- do you  
 4 have a general knowledge of the Texas school finance  
 5 system right now?  
 6 A. General.  
 7 Q. Do you -- would you agree that districts are  
 8 charged with and are being held accountable for getting  
 9 students to a level of achievement sufficient for those  
 10 students to progress from grade to grade and ultimately  
 11 to graduate?  
 12 A. Yes.  
 13 Q. And, again, FAST -- FAST does not even  
 14 pretend -- it's not the design of FAST to try to measure  
 15 what it would take to achieve those performance levels  
 16 that are established by state law. Right?  
 17 A. That's correct.  
 18 Q. That's not even the design or purpose of it.  
 19 I'm trying to think how to ask it. I know  
 20 what I want to ask, and I want to see if I can ask it in  
 21 an intelligible way. And I'll invite you to tell me  
 22 that it wasn't intelligible if I get to that point.  
 23 A. I'll be happy to.  
 24 Q. You may have thought that about several things  
 25 I've asked already.

1 go to tax rates above \$1.04?  
 2 A. I didn't realize it was several hundred.  
 3 Q. Okay. Would you be surprised if FAST indicated  
 4 that districts that are actually at \$1.17 are no more  
 5 likely to be grouped as high or very high spending, as  
 6 to be grouped as low or very low spending?  
 7 MS. PENN: Objection. Form.  
 8 A. I can't really say whether I'd be surprised or  
 9 not.  
 10 Q. (BY MR. THOMPSON) You don't have an opinion  
 11 one way or the other?  
 12 A. Could you restate the question?  
 13 Q. Well, what I'm trying to get to is, if  
 14 districts that have actually gone to the trouble of  
 15 having TREs and are taxing at higher rates, if those  
 16 districts are as likely to be grouped as high or very  
 17 high spending as low or very low spending, what does  
 18 that -- does that tell us more about decisions of  
 19 districts to spend money or does it simply demonstrate  
 20 the variations in our school funding system in terms of  
 21 resources made available to districts?  
 22 MS. PENN: Objection. Form.  
 23 A. Yeah. And I can't answer that without doing  
 24 analysis.  
 25 Q. (BY MR. THOMPSON) But you've not done any

1 What I'm trying to figure out on the  
 2 financial allocation side is whether there was any  
 3 effort whatsoever to -- to differentiate between what  
 4 districts needed to spend in order to get their students  
 5 to the goal that the state has set.  
 6 A. So what's the -- what's the question?  
 7 Q. The question is, what I'm trying to get to is  
 8 whether the financial -- the differentiation that you  
 9 see in the financial model actually indicates districts  
 10 choosing to spend at different levels or does it simply  
 11 really demonstrate the variations in our school funding  
 12 system that make different levels of money available to  
 13 districts?  
 14 MS. PENN: Objection. Form.  
 15 Q. (BY MR. THOMPSON) Do you understand the  
 16 question?  
 17 A. I'm not -- when you say "differentiation in the  
 18 model," what do you mean?  
 19 Q. Let me give you a couple of examples. Would it  
 20 surprise you -- first of all, do you know -- are you  
 21 familiar with the concept of Texas Ratification  
 22 Elections, TREs?  
 23 A. Yes.  
 24 Q. And do you understand that we've had several  
 25 hundred districts in the state now that have had TREs to

1 analysis of a relationship to tax effort, have you?  
 2 A. No.  
 3 Q. Would you reclaim Exhibit 952, please. Do you  
 4 remember talking about this with counsel earlier?  
 5 A. I do remember.  
 6 Q. And this is Dr. Taylor's presentation to some  
 7 group. Is that correct?  
 8 A. That's correct.  
 9 Q. And if you'd turn with me to the page that is  
 10 attached at the top ending with 749 --  
 11 A. Okay.  
 12 Q. -- dealing with campus variations. Do you  
 13 remember talking about that?  
 14 A. I do.  
 15 Q. And I want to look at T.H. Rogers and just some  
 16 of Dr. Taylor's comments about T.H. Rogers. Do you see  
 17 those bullets, the last two bullets on that page?  
 18 A. I do.  
 19 Q. All right. It says "The T.H. Rogers Elementary  
 20 in HISD" -- "Houston ISD was rated exemplary and  
 21 commended in reading, writing, math, and science."  
 22 Do you see that?  
 23 A. I do.  
 24 Q. And that same bullet says, according to PEIMS  
 25 at the elementary level, they only spent \$101 per

1 student. Right?  
 2 A. Right.  
 3 Q. That doesn't look very realistic, does it?  
 4 A. I'll agree that does not look realistic.  
 5 Q. And I would have loved to have heard  
 6 Dr. Taylor's presentation. I assume the purpose of that  
 7 was to point out that that's probably not an accurate  
 8 representation of what they're spending at the  
 9 elementary level to achieve those performance levels.  
 10 Would you probably agree?  
 11 A. I agree, yes.  
 12 Q. And you'll see the last bullet says that "T.H.  
 13 Rogers secondary in HISD spent \$27,156 per pupil."  
 14 Do you see that?  
 15 A. I do see that.  
 16 Q. Do you have any knowledge about T.H. Rogers?  
 17 Do you know anything about it?  
 18 A. No, I don't.  
 19 Q. All right. If it's actually one campus that's  
 20 a K through 8 campus where everybody from kindergarten  
 21 through 8th grade is all on one campus, would that  
 22 surprise you?  
 23 A. It would be news to me.  
 24 Q. Okay.  
 25 A. It's not something I knew.

1 Q. If it was actually a magnet program  
 2 specifically designed to have gifted students attend  
 3 mainstream classes with handicapped students, would that  
 4 surprise you?  
 5 MS. PENN: Objection. Form. Are you  
 6 talking about the elementary and the secondary?  
 7 MR. THOMPSON: At both levels. At both  
 8 elementary and secondary.  
 9 A. I didn't know that.  
 10 Q. (BY MR. THOMPSON) If T.H. Rogers actually,  
 11 within HISD, is a high-spending campus because it is a  
 12 special ed magnet program, do you think that might  
 13 explain some of those variations in cost?  
 14 A. I can't say whether it would or not.  
 15 Q. Okay. And when we look at campuses across  
 16 Texas, would you agree that part of the -- part of the  
 17 issue with accounting for cost at the campus level is we  
 18 have such different structures on campuses. Right?  
 19 A. Yes. That's one factor.  
 20 Q. There are districts that have campuses that are  
 21 only kindergarten and kindergarten only. Right?  
 22 A. Right.  
 23 Q. And then there are campuses that are  
 24 kindergarten through 3rd grade or 4th grade or  
 25 5th grade or 6th grade. The cutoff point is at

1 different places. Right?  
 2 A. Right.  
 3 Q. And there are middle school campuses that are  
 4 6th, 7th, and 8th, and there are some that are 7th and  
 5 8th, and, again, you find a variety of configurations.  
 6 Right?  
 7 A. Right.  
 8 Q. And there are 9th-grade only campuses. Right?  
 9 A. Right.  
 10 Q. And then at high school, most high schools are  
 11 grades 9 through 12, but you even find variations at the  
 12 high school level. Right?  
 13 A. Yes.  
 14 Q. And you also find extreme variations in  
 15 programs on campuses, don't you?  
 16 A. Extreme?  
 17 Q. Well, let me give you an example. Particularly  
 18 in larger districts, you're more likely to find magnet  
 19 programs or specialized programs on one campus as  
 20 opposed to trying to replicate those programs on every  
 21 campus. Right?  
 22 A. Yes.  
 23 Q. Okay. And, in fact, I think in some of the  
 24 material, that may even have been identified as a best  
 25 practice to not spend the money to try to reinvent the

1 wheel on every campus, but to have magnet programs. Is  
 2 that -- do you remember that?  
 3 A. I don't remember if that was a practice or not.  
 4 Q. And in the development of FAST, you know that  
 5 districts actually internally account for funding in  
 6 different ways at the campus level. Right?  
 7 A. Yes.  
 8 Q. Some districts actually fund all staff in the  
 9 district at the district level, and then what the  
 10 campuses get is a smaller discretionary fund that they  
 11 can use for other programs. Right?  
 12 A. I can't speak to that specific example.  
 13 Q. Okay. There are a few districts that actually  
 14 give campuses a true allotment that the campuses are  
 15 then responsible for staffing decisions at the campus  
 16 level. Did you ever encounter any of those?  
 17 A. I don't remember that specific example.  
 18 Q. In developing FAST, because there's such -- and  
 19 also size of campus varies tremendously. Correct?  
 20 A. Size of campuses vary.  
 21 Q. Right. If a campus -- if an elementary campus  
 22 with 300 students has a principal and an art teacher and  
 23 a music teacher and a nurse, its costs per student are  
 24 going to look a lot higher than a campus with 600  
 25 students and those same campus support personnel.

1 Right?

2 A. Well, it would depend on a lot of other

3 factors.

4 Q. In funding at the campus level because --

5 because funds are not accounted for to the campus level,

6 you actually had to make a lot of decisions simply to

7 allocate funds to the campus. Right?

8 A. I don't remember exactly how we handled that

9 allocation at the campus level.

10 Q. Are you aware that Dr. Taylor has expressed

11 reservations about using the data that is currently

12 available at the campus level for comparative ratings

13 purpose simply because there's so much variation in

14 campus structures and funding?

15 MS. PENN: Objection. Form.

16 A. I'm aware that she's -- has reservations about

17 using that.

18 Q. (BY MR. THOMPSON) At the campus level?

19 A. At the campus level, yes.

20 (Exhibit No. 961 marked.)

21 Q. (BY MR. THOMPSON) I'm going to hand you a

22 document that I've marked as Exhibit 961. I'll ask if

23 you can identify this document.

24 A. It appears to be the cover from appendix to the

25 2010 Financial Allocation Study for Texas, along with

1 campus level as we sit here today?

2 A. I don't have an opinion on the question you

3 asked.

4 Q. Do you have an opinion on how to account for

5 funds at the campus level?

6 A. No. Not at this time, no.

7 MR. DIAMOND: Okay. Do we need to take a

8 break?

9 MS. PENN: It's noon. Do we want to break

10 for lunch?

11 (Discussion off the record.)

12 (Recess from 12:00 p.m. to 1:02 p.m.)

13 Q. (BY MR. THOMPSON) Mr. Currah, we're back on

14 the record after our lunch break. Hope you're refreshed

15 and ready for the afternoon.

16 A. Sure.

17 Q. All right. I can tell you're really looking

18 forward to it.

19 Just checking a couple of things on the

20 web site, is it correct that for 2012 the fiscal peer

21 groups were maintained the same as in 2011?

22 A. For most school districts, yes.

23 Q. Were there some that were moved?

24 A. There were some school districts who were new

25 because we had three years of data, and I believe there

1 page 33 from that appendix.

2 Q. Right. It's just -- this is a selected page.

3 Right?

4 A. Yes.

5 Q. And does point 7 on page 33 talk about just the

6 difficulties of dealing with campus financial data?

7 A. Yes.

8 Q. Do you think districts -- let me rephrase that.

9 In your work with FAST, do you believe

10 districts have legitimate different educational reasons

11 for how they structure campus -- assign programs to

12 campuses?

13 A. I can't really speak to whether they're

14 legitimate.

15 Q. In terms of a recommendation for accounting

16 down to the campus level, if you could only handle one,

17 which to you is more important? To get uniform

18 accounting so that the state can track things or for

19 districts to make educational decisions at the local

20 level reflective of the desires of their constituents?

21 A. I can't answer that.

22 Q. You wouldn't pick one over the other?

23 A. I can't say which one I would pick right now.

24 Q. All right. So you don't have an opinion as

25 to -- as to a right way to account for funds at the

1 were some districts that dropped out.

2 Q. Okay.

3 A. But for those who remained, yeah. They had the

4 same -- the same fiscal peers.

5 Q. Okay. And the comptroller's office just

6 released the September 2012, the -- is this the third

7 installment of the FAST ratings?

8 A. Yes.

9 Q. And the 2012 ratings were based on data from

10 the 2009 -- is it '9, '10, and '11 years?

11 A. The school years that end in '9, '10, and '11,

12 yes.

13 Q. To be clear, it's the 2008-2009, and the

14 2009-2010, and the 2010-2011 school years. Correct?

15 A. Correct.

16 Q. All right. And just to be clear, none of those

17 reflect any of the cuts in state funding for public

18 schools that occurred in the 2011 session, do they?

19 A. They would reflect spending through the '10-'11

20 school year.

21 Q. Right. So in answer to my question, nothing

22 that occurred subsequent to the cuts in 2011 are

23 reflected in this latest ranking. Correct?

24 A. Correct.

25 Q. Because the data -- there's nothing in the

1 latest ranking that reflects any of the initial  
 2 performance on STAAR or end-of-course exams. Correct?  
 3 A. Correct.  
 4 Q. Mr. Currah, because the TEA accountability  
 5 system uses disaggregate student data and the FAST  
 6 rating does not, is it possible for a district to get a  
 7 high rating -- and by that I'll define it as 4 or more  
 8 stars on FAST -- and get a low rating including an  
 9 unacceptable rating on the TEA accountability rating?  
 10 A. Yes.  
 11 Q. And would the same be true of a campus?  
 12 A. Yes.  
 13 Q. Have y'all done any analysis of whether there's  
 14 any relationship between FAST ratings and accountability  
 15 ratings?  
 16 A. Not that I recall.  
 17 Q. All right. And in the financial portion of  
 18 FAST, tell me what funds you include in the analysis.  
 19 A. It's operating expenditures with food services  
 20 and transportation removed.  
 21 Q. And food services are primarily federal funds.  
 22 Correct?  
 23 A. I'm not certain.  
 24 Q. Okay. Do you include all other federal funds,  
 25 including the Title I and Title II funds, IDEA, special

1 ed funds?  
 2 A. To the extent they're reflected in operating  
 3 expenditures, yes.  
 4 Q. And I want to give you a hypothetical and see  
 5 if this is a possible result in FAST.  
 6 If you had a district that had gotten a 3  
 7 on the financial side and a 3 on the student performance  
 8 side would that district's rating be a 3?  
 9 A. Yes.  
 10 Q. Let's say that there was a state or federal  
 11 grant program particularly focused on low-performing  
 12 students that a district applied for and received, and,  
 13 in fact, used those funds to improve the performance of  
 14 their low-performing students. Would it be possible for  
 15 the district's student rating to go up to a 4, but its  
 16 financial rating to go down to a 2 simply because it  
 17 applied for a grant?  
 18 A. It's theoretically possible. It would depend  
 19 on how it appears in its operating expenditures.  
 20 Q. And have y'all -- in the three years, have you  
 21 done any review of the methodology to see if there are  
 22 any unintended consequences that might discourage  
 23 districts from addressing the needs particularly of  
 24 low-performing students?  
 25 A. No.

1 Q. Would you have an opinion either way on that?  
 2 A. No.  
 3 Q. All right. And if individuals from districts  
 4 did have opinions on that, you wouldn't have a  
 5 contradictory opinion at this point?  
 6 A. I'm not aware of those opinions.  
 7 Q. All right. I very much appreciate your time.  
 8 MR. THOMPSON: I'll pass the witness.  
 9 EXAMINATION  
 10 BY MR. SKIDMORE:  
 11 Q. Mr. Currah, my name is Micah Skidmore. I  
 12 represent a group of Chapter 41 districts who are  
 13 plaintiffs in this case. I want to ask you a few  
 14 questions this afternoon and I'll try not to cover  
 15 things we've already gone over.  
 16 I did want to ask you a few follow-up  
 17 questions about some of the things you discussed earlier  
 18 today. I want to first talk about TPM.  
 19 You mentioned it a couple times in your  
 20 testimony earlier before lunch. Do you remember that  
 21 testimony?  
 22 A. I remember discussing TPM, yes.  
 23 Q. What is TPM exactly?  
 24 A. It's the Texas Projection Measure TEA used.  
 25 Q. How is -- generally how is the TPM model

1 different from the FAST model?  
 2 A. My understanding of the TPM model is it is used  
 3 to project how students will perform going forward,  
 4 whereas we are examining in FAST what they've done in  
 5 the past.  
 6 Q. Okay. So could you use the FAST model to  
 7 predict what a student would achieve under different  
 8 circumstances, say, for example, if funding was changed?  
 9 A. I can't answer that. I don't know.  
 10 Q. That was not the intent of the model when you  
 11 first set out to create it. Correct?  
 12 A. What was not the intent of the model? I'm  
 13 sorry.  
 14 Q. To use it as a predictive tool.  
 15 A. Correct.  
 16 Q. And you said that the -- the model that was  
 17 created looks at past -- or past circumstances and  
 18 specifically past performance. Right?  
 19 A. Right.  
 20 Q. Over what period of time?  
 21 A. Our measures, on the academic side, are the  
 22 three-year-average culminating in the most recent year  
 23 for which we have data available at the time we do the  
 24 ratings.  
 25 Q. And on the financial side?

1 A. The same.  
 2 Q. Also a three-year period?  
 3 A. Yeah. Also a three-year average.  
 4 Q. It's the same three-year period?  
 5 A. Same three-year period, yes.  
 6 Q. And as the model has -- as the data has been  
 7 updated over time, has that pattern been consistent? In  
 8 other words, you're still looking at just a three-year  
 9 period, even though you have more years of data to look  
 10 at?  
 11 A. That's correct.  
 12 Q. On both the academic and the financial side.  
 13 A. Yes.  
 14 Q. I want to look with you -- if you could turn to  
 15 the executive summary of the report, it's Exhibit 951.  
 16 If you look with me on page 8. This is the section that  
 17 describes public spending over time. Are you there?  
 18 A. I am.  
 19 Q. There's a bullet point right above Exhibit 2  
 20 that says "Texas public education spending is growing  
 21 rapidly, rising by 95 percent during the last decade."  
 22 Do you see that?  
 23 A. I see that.  
 24 Q. What is included in that spending level?  
 25 A. It's all state and local and federal

1 expenditures  
 2 Q. Would that include just operational expenses or  
 3 also I&S and facilities and everything?  
 4 A. It's everything.  
 5 Q. Do you know what the trend looks like if you  
 6 just deal with M&O spending, maintenance and operations?  
 7 A. I don't have that number.  
 8 Q. That's not something you looked at for purposes  
 9 of this report?  
 10 A. I don't recall if that number is in the  
 11 appendix or not.  
 12 Q. Okay. If you look with me on the next page  
 13 right above Exhibit 3, there's a sentence here that says  
 14 "In the last decade, total spending rose nearly five  
 15 times as fast as enrollment."  
 16 Do you see that?  
 17 A. I do.  
 18 Q. And that's depicted in the graphic below in  
 19 Exhibit 4?  
 20 A. Yes.  
 21 Q. The change in the spending is just an actual  
 22 change in spending, it's not controlled for any other  
 23 factors, is it?  
 24 A. It's just the spending, yes.  
 25 Q. So it's not adjusted, for example, for students

1 in high-need areas or the change in demographics over  
 2 time?  
 3 A. That's correct.  
 4 Q. And it's not adjusted for tax rates, for  
 5 example?  
 6 A. Right.  
 7 Q. And it doesn't reflect any potential changes in  
 8 wages over time?  
 9 A. Right.  
 10 Q. And it doesn't -- it doesn't reflect changes in  
 11 how students are distributed between large and small  
 12 districts over time?  
 13 A. No.  
 14 Q. And it doesn't reflect changes in performance  
 15 standards over the years?  
 16 A. I'm not sure I understand how that would be  
 17 reflected.  
 18 Q. Well, for example, the draft starts -- or the  
 19 period that you're looking at here starts in 1998-'99?  
 20 A. Right.  
 21 Q. And have the academic standards remained the  
 22 same since 1998-'99?  
 23 MS. PENN: Objection. Form.  
 24 A. In what sense?  
 25 Q. (BY MR. SKIDMORE) Are students evaluated in

1 Texas on the same bases today as they were in 1998-'99?  
 2 A. Are you asking are the tests the same?  
 3 Q. Yes.  
 4 A. They're different now than they were in  
 5 1998-'99.  
 6 Q. The change in how students are evaluated are  
 7 also not reflected in this data -- these data?  
 8 A. That's correct.  
 9 Q. If you'll look with me on the next page, 10.  
 10 The -- at the top of the page the bullet right in the  
 11 middle says "Texas public school districts spend \$11,567  
 12 per student in 2008-2009."  
 13 Do you see that?  
 14 A. I do.  
 15 Q. Can you explain how that was calculated; how  
 16 that number came about?  
 17 A. That was total expenditures as reported by  
 18 school districts to TEA, along with some other  
 19 expenditures captured at TEA. Textbooks and some TEA  
 20 administrative costs.  
 21 Q. So it includes -- would this number include  
 22 more than just maintenance and operations expenses?  
 23 A. Yes.  
 24 Q. Would it include everything?  
 25 A. Yes.

1 Q. And when it says "per student," how are  
2 students being measured?

3 A. I believe that's an enrollment number, but I'm  
4 not certain. I'd need to go back and look at what we  
5 did there.

6 Q. Where would we go to find out?

7 A. I would have to check our data at -- at the  
8 office.

9 Q. Okay.

10 A. Yeah.

11 Q. Fair enough. Okay. On page 11, if you could  
12 look with me at Exhibit 6. This -- could you describe  
13 for me what we're looking at in Exhibit 6, please?

14 A. This is -- this exhibit shows one line that has  
15 the change in education expenditures for students in  
16 Texas from 1998-'99 through 2008-'9, and a second line  
17 that shows the percentage change in inflation over that  
18 same period.

19 Q. And the expenditures that are being measured  
20 are, again, everything. Not just maintenance and  
21 operations, but everything.

22 A. That's correct.

23 Q. And the measurement per pupil you think is  
24 enrollment?

25 A. I believe so, yes.

1 Q. And the inflation, how is that determined?

2 A. That's a Consumer Price Index.

3 Q. Does the Consumer Price Index that was used in  
4 this graph reflect changes in wages?

5 A. No.

6 Q. Does it reflect changes in the cost of real  
7 estate?

8 A. I'm not certain if there's any real estate in  
9 the Consumer Price Index. I don't think so, but I'm not  
10 certain.

11 Q. Does the inflation -- the CPI that was used in  
12 this graph include the change in the cost of borrowing?

13 A. I don't believe so.

14 Q. Or other capital expenses?

15 A. I'm not certain.

16 Q. If you'll turn with me now -- I want to go back  
17 to the beginning of the report. If you'll look with me  
18 on page No. 5.

19 MR. SKIDMORE: Let me do this first.

20 Let's go ahead and mark the rest of the report into the  
21 record. I'm going to hand you what's going to be marked  
22 as Exhibit No. 962.

23 (Exhibit No. 962 marked.)

24 Q. (BY MR. SKIDMORE) Can you identify this,  
25 please?

1 A. This is Part II of the FAST report, and it's a  
2 listing of school districts and their FAST ratings along  
3 with some other data.

4 (Exhibit No. 963 marked.)

5 Q. (BY MR. SKIDMORE) I'm going to hand you now  
6 what's being marked as Exhibit 963. If you can identify  
7 this.

8 A. This is Part III of the 2010 FAST study, and it  
9 is the Smart Practices section of the report.

10 (Exhibit No. 964 marked.)

11 Q. (BY MR. SKIDMORE) And now I'm going to hand  
12 you what's being marked as Exhibit 964. And if you  
13 could also tell me what you're looking at.

14 A. This is Part IV of the 2010 FAST study, and  
15 it looks at some cost efficiencies in higher education.

16 (Exhibit No. 965 marked.)

17 Q. (BY MR. SKIDMORE) And last for just a moment  
18 here, I'm going to hand you 965, and can you please  
19 describe what this document is?

20 A. Yes, this is the appendix to the 2010 FAST  
21 study. It includes some background, a description of  
22 methodology, and recommendations.

23 Q. With the documents we've just marked, Parts I  
24 through IV -- or rather II through IV and the appendix,  
25 do we now have the entire FAST report?

1 A. We have the entire 2010 study, yes.

2 Q. Okay. And since -- what else is there that  
3 we're -- that's not included?

4 A. As part of this project, we also created a -- a  
5 web tool with -- that allows users to compare and sort  
6 districts crossed with a number of indicators and  
7 campuses.

8 Q. Apart from the web tool, are there any other  
9 reports or formal work product that describes what the  
10 FAST study is?

11 A. There may be -- currently on the web site there  
12 are -- there's a revised methodology description.

13 Q. And what does that describe?

14 A. The current methodology.

15 Q. And how it's changed from the original study in  
16 2010?

17 A. Well, it describes the current methodology  
18 which is slightly different than what it was in 2010.

19 Q. Anything else?

20 A. Not that I can think of.

21 Q. All right. With that, let's look back at where  
22 we were on page 5 of the executive summary. I want to  
23 just briefly ask you, you were a part of many of the --  
24 based on your discussion here this morning, you were  
25 part of a lot of discussions between what I'll call the

1 working group, which would include the technical team,  
2 the staff at the comptroller's office, and the other  
3 stakeholders who were involved in this process. Right?

4 A. Yes.

5 Q. And during that -- the course of developing  
6 this study, did anyone from the comptroller's office  
7 ever tell the stakeholders how this report was going to  
8 be used?

9 MS. PENN: Objection. Form.

10 A. Could you specify a little bit?

11 Q. (BY MR. SKIDMORE) Sure. When you were in these  
12 meetings and you were talking about the report that  
13 was -- or the study that was being done, did anyone from  
14 the comptroller's office ever explain how it was going  
15 to be used when it was done?

16 A. I believe so.

17 Q. And what was that explanation?

18 A. What we normally explain to anybody who asks  
19 about how it was going to be used was that this was  
20 going to be an informational study with emphasis on the  
21 fact that it was not an accountability measure.

22 Q. In those discussions that you were a part of,  
23 did anyone ever say that this was going to be used to  
24 demonstrate a correlation between performance and  
25 spending?

1 A. I would say indicators would probably be a good  
2 description of what we're describing there.

3 Q. Does the -- the study provide any limitations  
4 on how those lenses are to be used?

5 A. I'm not sure I understand.

6 Q. Someone who wants to go and use what's  
7 available on the web site, are there guidelines for how  
8 this data is supposed to be interpreted or applied?

9 A. When a user goes to the web tool the first time  
10 to use the web tool to look at data, there is a  
11 disclaimer page that says -- and I don't remember the  
12 exact language, but it makes it clear that you need to  
13 be careful when interpreting the data.

14 Q. Since you mentioned that, let's look at the web  
15 site page for just a minute.

16 (Exhibit No. 966 marked.)

17 Q. (BY MR. SKIDMORE) I'm going to hand you what  
18 I'm marking as Exhibit 966.

19 Can you identify this for me?

20 A. This appears to be the disclaimer I was  
21 discussing moments ago.

22 Q. Has this been changed at all during the times  
23 when the study or the data have been updated?

24 A. I'm not certain.

25 Q. If you'll look with me at the last paragraph,

1 A. Not that I recall.

2 Q. Did anyone ever say that this study could be  
3 used to predict how students would perform if funding  
4 was increased or decreased?

5 A. Not that I recall.

6 Q. If you'll look with me at the middle of page 5.  
7 The second paragraph under the heading "Methodology," it  
8 says "The FAST report and an online web tool also  
9 provide multiple lenses through which to examine campus  
10 and district performance."

11 Do you see that?

12 A. I do?

13 Q. What are the lenses that you're referring to --  
14 that the study is referring to there?

15 A. It's all those indicators that I stated  
16 previously are on our web site, and it's a wide range of  
17 education data that's available from TEA along with the  
18 measures we created for this report.

19 Q. So give me an example of what one of the lenses  
20 would be.

21 A. There are accountability rating, there are  
22 financial measures, there are academic measures, and you  
23 can examine any of those on the web site.

24 Q. Is "lenses" another word for "metrics" or  
25 "standards" perhaps?

1 the last sentence says "Given the number and variety of  
2 the factors affecting student performance, certain  
3 comparisons may be misleading and may not yield  
4 meaningful conclusions."

5 Do you see that?

6 A. I do.

7 Q. How can someone know when they're on the web  
8 site which of the comparisons they're looking at are  
9 going to be misleading or meaningful?

10 A. There's nothing on the web site to indicate  
11 which of those would be that.

12 Q. Is there anyplace else you can go to to find  
13 out what this means or how to apply that warning?

14 A. No.

15 Q. If you'll look with me now -- I want to go to  
16 the appendix, which I think is -- should be Exhibit 965.  
17 If you'll go with me to page 39.

18 If you'll look with me on the right-hand  
19 side -- the right-hand column at the bottom there's a  
20 series of bullet points there. Do you see that?

21 A. I do.

22 Q. The first one says "Prior-year TAKS math  
23 score," and there's a whole number of them.

24 What are these factors here. What's the  
25 list of bullet points we're looking at?

1 A. These are the different characteristics that we  
2 controlled for in the model that measures academic  
3 progress.

4 Q. Is this a complete list of the control factors  
5 that was used in the academic progress model?

6 A. No.

7 Q. If you'll look back with me at page 5 of the  
8 summary where we just were a second ago --

9 A. Um-hmm.

10 Q. -- it says at the bottom of the paragraph that  
11 is right before the heading "Academic Measures," it says  
12 "There are 32 control variables for measuring academic  
13 performance."

14 Do you see that reference?

15 A. I do.

16 Q. Where would we find the list in the appendix of  
17 those 32 control variables?

18 A. I believe if you turn to page 42, you can see  
19 the variables that are in the model itself.

20 Q. Okay. Among the variables that are here and  
21 included in the academic progress model, is there any  
22 control given for the level of spending either on a  
23 district level or on a campus level?

24 A. Are you asking about the academic progress  
25 measure?

1 Q. Yes.

2 A. No, there is not.

3 Q. Is there any control for district or campus  
4 size?

5 A. No.

6 Q. Is there any control for the wealth either by  
7 district level or on a campus level? And by that I mean  
8 property wealth.

9 A. No.

10 Q. Is there any control here for tax rates?

11 A. No.

12 Q. Of the controls I just mentioned, why did the  
13 working group decide not to include those in the  
14 academic performance model?

15 A. The measure -- the variables included in the  
16 model are measures that the working group thought were  
17 the important measures to include. I cannot speak to  
18 why specific ones are not in there.

19 Q. Did the working group discuss including any of  
20 those variables I just mentioned?

21 A. I don't remember.

22 Q. If you'll look with me back on page 39. One of  
23 the controls here is English proficiency. Do you see  
24 what?

25 A. Yes.

1 Q. How is that measured?

2 A. I believe it's the percent of students who are  
3 limited English proficient.

4 Q. So it's not a binary measure, it's an actual  
5 measure of the percentage?

6 A. No. I'm sorry. I believe I misspoke because  
7 we were looking at individual student level data, so it  
8 would have been limited English proficient or not. I  
9 believe that's correct.

10 Q. And family income, right below -- two below  
11 that. Is that a binary measure?

12 A. I believe so.

13 Q. So it indicates either you do get -- you do  
14 qualify for free and reduced lunch or you don't.

15 A. Right.

16 Q. Did the working group have available to it data  
17 that was more nuanced than that in terms of income?

18 A. Can you be a little bit more specific?

19 Q. Did the working group have access to  
20 student-level data on family incomes other than whether  
21 they qualified for free or reduced lunch or not?

22 A. I don't think so.

23 Q. If you'll look at the next page, the very top  
24 left-hand column. It says "The model also uses or  
25 includes 'interaction terms' or control variables made

1 from combinations of the factors above."

2 Do you see that?

3 A. I do.

4 Q. Why were interaction terms used in the model?

5 A. That's probably a question best answered by a  
6 technical expert.

7 Q. If you'll look with me below that, two  
8 paragraphs above the heading "Data Considerations."

9 In the middle of that paragraph it says "A  
10 Composite Academic Progress Percentile is calculated as  
11 the average of math and reading progress."

12 Do you see that?

13 A. I do.

14 Q. Is that average weighted in any way?

15 A. Can you clarify what you're asking?

16 Q. Is it weighted by student?

17 A. I'm not sure I understand.

18 Q. Is the average that you're calculating, is it  
19 done on a student-level basis or is it on a campus level  
20 or a district level? How is the average calculated?

21 A. For the campus ratings, it's a campus level.  
22 For the district rating, it's at the district level.

23 Q. And is that campus-level average, for example,  
24 weighted by the number of students in that campus?

25 A. That's a difficult question to answer. That's

1 (Exhibit No. 968 marked.)  
 2 Q. (BY MR. SKIDMORE) Can you identify this for  
 3 me, please?  
 4 A. It says it's a policy page from the Center for  
 5 Public Policy Priorities, titled "How to Fill the Hole  
 6 in the Texas Revenue System."  
 7 Q. Okay. If you'll look with me, second full  
 8 paragraph under the heading "What Happened," this talks  
 9 about how property tax rates were reduced, and the  
 10 second sentence says "To fund this commitment, the state  
 11 performed" -- "or reformed the franchise tax now  
 12 properly known as the margins tax for reasons claimed  
 13 below and increased the cigarette tax."  
 14 Is that what you're familiar with in terms  
 15 of the increase in the margins tax we just talked about?  
 16 A. Yes.  
 17 Q. And the second sentence after that says,  
 18 "However, the new state revenue raised by these changes  
 19 falls some \$10 billion short each biennium of replacing  
 20 property tax revenue given up by the school districts."  
 21 Do you see that?  
 22 A. I do.  
 23 Q. Is it your understanding that that is a --  
 24 generally speaking, an accurate statement as to how well  
 25 the margins tax has done in replacing property tax

1 revenue?  
 2 A. I can't say.  
 3 Q. Do you have any basis for generalizing as to  
 4 how effective the margins tax has been in replacing  
 5 property tax revenue?  
 6 A. No, I don't.  
 7 MS. PENN: Are we at a good place? We've  
 8 been going for about an hour.  
 9 MR. SKIDMORE: I'm almost done, if not  
 10 done.  
 11 A. Yeah. I did want to clarify an answer from  
 12 earlier.  
 13 Q. (BY MR. SKIDMORE) Sure.  
 14 A. I believe that you asked about whether the FAST  
 15 ratings were meant to indicate efficiency -- relative  
 16 efficiency of school districts, and I think I said no.  
 17 And I think I really should say, I don't know, because  
 18 the -- we did measure the school districts' spending  
 19 relative to one another and their academic performance  
 20 relative to one another, so I can't say whether that's a  
 21 measure of efficiency or not.  
 22 Q. Outside of a district's peer group, could --  
 23 would it be appropriate to compare the rating given to  
 24 one district versus another as a comparison of  
 25 efficiency?

1 A. I can't answer that.  
 2 Q. So your answer -- just to be very clear, then,  
 3 your answer to the question is the FAST rating given to  
 4 a district a measure of that district's efficiency, your  
 5 answer is I don't know.  
 6 A. I don't know.  
 7 Q. Who would know?  
 8 A. I don't know.  
 9 Q. If you'll look with me on Exhibit number -- I  
 10 think it's Part III of the FAST report. In the  
 11 Executive Summary there's a list of the recommendations  
 12 we just spoke about a minute ago. Are there any  
 13 recommendations in the Executive Summary that are -- let  
 14 me strike that.  
 15 Are there recommendations in Part III that  
 16 are not included in the Executive Summary?  
 17 A. I don't believe there are recommendations in  
 18 Part III.  
 19 Q. Okay. We're not looking at the same part. I'm  
 20 looking at Part III "Smart Practices for Minimizing  
 21 Costs."  
 22 A. Yes.  
 23 Q. And it's your understanding there are not  
 24 recommendations in this section?  
 25 A. Correct.

1 Q. How would you describe what's in Part III?  
 2 A. These are -- this is a collection of practices  
 3 we got from the school districts that either save money  
 4 or improve student performance.  
 5 Q. But these are not recommendations made  
 6 generally?  
 7 A. No.  
 8 Q. No, they are or no, they're not?  
 9 A. No. They are not.  
 10 Q. If you'll look with me at Part IV then. This  
 11 is "Cost Efficiencies in Higher Education." I'll ask  
 12 you the same question.  
 13 These -- the cost efficiencies that are  
 14 described in this part, are these recommendations for  
 15 school districts and campuses?  
 16 A. No.  
 17 Q. Mr. Currah, have you understood the questions  
 18 I've asked?  
 19 A. I believe so.  
 20 Q. Thank you for your time.  
 21 EXAMINATION  
 22 BY MR. GRAY:  
 23 Q. Mr. Currah, I'm Rick Gray, and I'm going to ask  
 24 some questions. I represent a group called the Texas  
 25 Taxpayer & Student Fairness Coalition, one of the

1 A. Yeah. I don't think so.  
 2 Q. No dramatic changes, just more updated  
 3 information?  
 4 A. I believe so, yes.  
 5 Q. Thank you, sir.  
 6 EXAMINATION  
 7 BY MR. CASTILLO  
 8 Q. How are you doing, Mr. Currah?  
 9 A. Good.  
 10 Q. My name is Jorge Castillo. I'm with Fried,  
 11 Frank, Harris, Shriver & Jacobson and we're helping out  
 12 MALDEF in their representation of the Edgewood  
 13 plaintiffs.  
 14 I basically only have four or five  
 15 questions about just the districts that the Edgewood  
 16 plaintiffs represent, which are Edgewood, Harlingen,  
 17 San Benito, La Feria, McAllen, and we have some  
 18 plaintiff parents who have children in Pasadena and  
 19 Amarillo.  
 20 With respect to those districts only, the  
 21 FAST report was not designed to point to their  
 22 expenditures in which -- which are appropriate or which  
 23 are inappropriate and how they were spending their  
 24 money. Is that correct?  
 25 A. Correct.

1 Q. And I think you testified earlier that the FAST  
 2 would not evaluate the effectiveness of individual  
 3 teachers. Is that a fair statement?  
 4 A. That is a fair statement.  
 5 Q. Does it -- it also doesn't make conclusions on  
 6 the quality of the pre-K instruction in these particular  
 7 districts, does it?  
 8 A. No. It does not.  
 9 Q. The FAST doesn't examine these districts'  
 10 ability to recruit or retain high-quality teachers. Is  
 11 that correct?  
 12 A. No, it does not.  
 13 Q. Or how about with the ability to recruit,  
 14 retain, or afford sufficient numbers of counselors and  
 15 other assistants?  
 16 A. No. It does not.  
 17 Q. Okay. That's it.  
 18 A. Man, you are easy. Thanks a lot.  
 19 EXAMINATION  
 20 BY MR. THOMPSON  
 21 Q. Mr. Currah, David Thompson again. I apologize.  
 22 A. And you weren't so easy.  
 23 Q. I have one document -- I tried to be very easy.  
 24 A. No. I understand.  
 25 Q. I have one document that I meant to ask about,

1 and I got in a hurry, and I didn't do it.  
 2 MR. THOMPSON: So I'd like to have this  
 3 marked as Exhibit No. 969.  
 4 (Exhibit No. 969 marked.)  
 5 Q. (BY MR. THOMPSON) So I'll hand you what's  
 6 marked as 969 and see if you can identify this.  
 7 A. It is an e-mail to -- from Dan O'Brien at UT  
 8 Dallas to me, with Olga Garza copied. And it has an  
 9 attachment with some of Dan O'Brien's thoughts on -- no.  
 10 I'm sorry -- it has an attachment about -- it's titled  
 11 "Data Request for FAST Higher Education Workforce  
 12 Success Initiative."  
 13 Q. And this is the same Daniel O'Brien who's sort  
 14 of the chief researcher or head of the project at UT  
 15 Dallas -- is that correct? -- on the academic  
 16 performance side?  
 17 A. He's one of the researchers at UT Dallas, yes.  
 18 Q. Would you look at the -- just the front page of  
 19 Exhibit 996, and it's very short. Would you read it in  
 20 its entirety?  
 21 A. It says, "Tom, attached is a very brief request  
 22 for data to begin exploring some possible measures of  
 23 college and workforce success. Dan O'Brien."  
 24 Q. To your knowledge, Mr. Currah, at least as part  
 25 of the FAST, have -- has there been any work to date to

1 begin to develop either college or workforce readiness  
 2 measures within FAST?  
 3 A. We have had a couple of conversations with  
 4 Dr. O'Brien.  
 5 Q. Is that all that's occurred so far?  
 6 A. That is it.  
 7 Q. All right. So, as we sit here today, is there  
 8 anything with any level of detail that is in a  
 9 developmental stage that you can tell us about?  
 10 A. No.  
 11 Q. Okay. Is there a plan to develop college or  
 12 workforce measures in some -- in some way as part of  
 13 FAST? Is that an intention down the road?  
 14 A. We would like to. We're trying to determine if  
 15 it's feasible.  
 16 Q. You do know you are on the "may call" -- or  
 17 "may testify" list at trial. Correct?  
 18 MS. PENN: Objection. Form.  
 19 Q. (BY MR. THOMPSON) Let me rephrase the  
 20 question.  
 21 A. I'm not sure -- I don't know what that is.  
 22 Q. Do you understand there is a possibility that  
 23 you may be asked to testify at the trial in this school  
 24 finance lawsuit?  
 25 A. Yes.

1 CAUSE NO. D-1-GN-11-003130  
2 TEXAS TAXPAYER & STUDENT ) IN THE DISTRICT COURT  
3 FAIRNESS COALITION, et )  
4 al., )  
5 )  
6 Plaintiffs, )  
7 )  
8 vs. )  
9 )  
10 EDGEWOOD INDEPENDENT )  
11 SCHOOL DISTRICT, et al., )  
12 (consolidated) )  
13 ) TRAVIS COUNTY, TEXAS  
14 Plaintiffs, )  
15 vs. )  
16 )  
17 ROBERT SCOTT, in his )  
18 Official Capacity as )  
19 Commissioner of Education,) )  
20 et al., )  
21 )  
22 Defendants. ) 200TH JUDICIAL DISTRICT

ORAL DEPOSITION  
SUSIE COULTRESS  
October 4, 2012

23 Reported by:  
24 Rebecca J. Callow, RPR, CRR, CSR-8925  
25 Job No. 53549

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ORAL DEPOSITION OF SUSIE COULTRESS, produced as a witness at the instance of the Plaintiffs and duly sworn, was taken in the above-styled and numbered cause on October 4, 2012, from 9:47 a.m. to 3:56 p.m., before Rebecca J. Callow, Registered Professional Reporter, Certified Realtime Reporter, Certified Shorthand Reporter in and for the State of Texas, reported by computerized stenotype machine at the Offices of the Attorney General, 300 West 15th Street, 11th Floor, Austin, Texas, pursuant to the Texas Rules of Civil Procedure and the provisions stated on the record or attached hereto.

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INDEX

	PAGE	
Appearances .....	3	
SUSIE COULTRESS		
Examination by Mr. Hinojosa .....	6	
Signature and Changes .....	196	
Court Reporter's Certificate .....	198	
EXHIBITS		
NO. DESCRIPTION PAGE		
Exhibit 1730	Expert Witness Report of Delia Pompa	14
Exhibit 1731	Expert Witness Report of Elena Izquierdo	17
Exhibit 1732	Site Visits to Texas Plaintiff Districts	17
Exhibit 1733	Chapter 89. Adaptations for Special Populations Subchapter BB. Commissioner's Rules Concerning State Plan for Educating English Language Learners	74
Exhibit 1734	Section 74.4 English Language Proficiency Standards	87
Exhibit 1735	Language Proficiency Assessment Committee Framework Manual	130
Exhibit 1736	PowerPoint: Language Proficiency Assessment Committee Framework Manual 2012-2013	130

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EXHIBITS (cont.)

EXHIBIT	DESCRIPTION	PAGE
Exhibit 1737	Linguistic Accommodation for ELLs Participating in the STAAR Program	149

PREVIOUSLY MARKED EXHIBITS

NO.	PAGE
Exhibit 29 .....	174

1 Q. Yeah. Do you ever review documents in your  
 2 line of work?  
 3 A. I have to give feedback when I review  
 4 something, but if that -- is that what you mean by  
 5 "review"?

6 Q. Okay. Let me start out basic terms. You  
 7 know -- and I appreciate you, you know, trying to  
 8 clarify things, because I don't want to fight with you.  
 9 I'm just trying to ask you pretty simple questions.

10 The -- have you read any -- did you read  
 11 the report of Dr. Elena Izquierdo?  
 12 A. I read it, yes.

13 Q. All right. Did you read the report of  
 14 Ms. Delia Pompa?  
 15 A. Yes.

16 Q. Did you read the report of Ms. Ayala?  
 17 A. No.

18 Q. Did you read any other reports connected with  
 19 this case?  
 20 A. No.

21 Q. Did you review any of the -- or did you read  
 22 any underlying data related to the reports of Ms. Pompa  
 23 or Dr. Izquierdo?  
 24 A. No.

25 Q. And what was the purpose of your reading the

1 difference from reading and there's a difference of just  
 2 looking.

3 Q. Okay. So what's the difference?  
 4 A. The difference is, when you read a report and  
 5 you review a report, you provide feedback. You read it  
 6 for comprehension. I looked at the report and that was  
 7 it.

8 Q. All right. So are you intending to offer any  
 9 opinion disputing any of the opinions written by  
 10 Ms. Pompa or Dr. Izquierdo?  
 11 MS. COCHRAN-McCALL: Objection. Form.

12 A. I -- what I'm intending to provide to you will  
 13 be what is the truth as far as my role -- in the realms  
 14 of my role as state director. So...

15 Q. (BY MR. HINOJOSA) So you said that you looked  
 16 at the reports of -- let's start with Ms. Pompa. Okay?  
 17 A. Um-hmm. Yes.

18 Q. With Ms. Pompa, are there any opinions in the  
 19 report that you may have looked at that you intend to  
 20 offer an opinion that is contrary to those opinions?  
 21 MS. COCHRAN-McCALL: And let me, just for  
 22 a moment, David. What -- I'm understanding your  
 23 question to kind of be geared toward getting at things  
 24 that would be covered by attorney-client privilege. And  
 25 so to the extent --

1 reports of Ms. Pompa and Dr. Izquierdo?  
 2 A. They were shared with me by legal, and I just  
 3 browsed through them, but that was it.

4 Q. All right. So in this case, you've been  
 5 designated by the agency as a person with knowledgeable  
 6 facts related to English language learners at the state  
 7 level. Do you understand that?  
 8 A. Yes.

9 Q. But you haven't been designated as an expert in  
 10 this case on ELL programs. Do you understand that as  
 11 well?  
 12 A. Yes.

13 Q. So are you intending to present testimony in  
 14 this case -- let me strike that.  
 15 Are you intending to provide expert  
 16 testimony in this case?  
 17 A. In the realms of what my role is as state  
 18 director, that's what I intend to do. But you just  
 19 defined expert as -- as what? Can you clarify?  
 20 Q. Let me ask this another way. Sure.  
 21 Dr. Izquierdo and Ms. Pompa have certain  
 22 opinions in their report. Correct? Did you -- you read  
 23 the reports. Correct?  
 24 A. I did not read the reports. I looked at the  
 25 reports. There's a difference in my -- there's a

1 MR. HINOJOSA: No. This is not. I'm  
 2 trying to figure out whether or not she's going to  
 3 provide testimony to rebut the expert testimony of  
 4 Dr. Izquierdo and Ms. Pompa. That's perfectly fine as a  
 5 question. Now, I'm not asking her right now, you know,  
 6 to discuss what you told her. I'm asking her to -- I'm  
 7 trying to discover whether or not she has any opinions.  
 8 Because she did not write a report in this  
 9 case, she has not been designated as an expert in this  
 10 case, and we're not going to be playing games with, you  
 11 know, TEA saying, oh, well, this person, you know, has  
 12 expertise, but they're not going to be offering an  
 13 expert opinion; but at the same time they're going to be  
 14 offering opinions that rebut the testimony of our  
 15 experts.

16 MS. COCHRAN-McCALL: I think I understand  
 17 what you're getting at. I just -- the way the  
 18 question's phrased makes me a little uncomfortable  
 19 because it does seem geared toward getting at  
 20 conversations we have had or may have had regarding what  
 21 her testimony at trial may be.  
 22 So I think, just as a suggestion, it might  
 23 be more fruitful maybe to just ask about the areas that  
 24 we've indicated in our initial disclosures.  
 25 MR. HINOJOSA: No. No. I'm going to ask

1 the questions the way I want to ask them.  
 2 MS. COCHRAN-McCALL: Okay. okay.  
 3 MR. HINOJOSA: I appreciate that, but --  
 4 MS. COCHRAN-McCALL: Okay. That's fair.  
 5 I would just advise you, then, that any  
 6 conversations we've had, that you are not to provide any  
 7 information regarding those conversations in response to  
 8 Mr. Hinojosa's questions.  
 9 MR. HINOJOSA: But to the extent that she  
 10 has conversations with you that touch upon the expert  
 11 reports of our experts, you can't hide -- she can't hide  
 12 behind those conversations.  
 13 MS. COCHRAN-McCALL: No. No, I'm not --  
 14 MR. HINOJOSA: And I think you're  
 15 confusing her by saying that.  
 16 MS. COCHRAN-McCALL: Okay. Well, to the  
 17 extent he's asking you a question and you have a  
 18 specific opinion that relates to the question he's  
 19 asking you, you could go ahead and answer that.  
 20 A. Okay.  
 21 MR. HINOJOSA: Let me do this another way.  
 22 (Exhibit No. 1730 marked.)  
 23 Q. (BY MR. HINOJOSA) Ms. Coultriss, I've handed  
 24 you what's been marked as Exhibit 1730, and this is  
 25 entitled "Expert Opinion Report of Delia Pompa, Adequate

1 Service for English Learners in Texas."  
 2 Do you recognize Exhibit 1730?  
 3 A. Yes.  
 4 Q. And this is the report that you said that you  
 5 looked at but did not review. Correct?  
 6 A. Correct.  
 7 Q. So since you have not reviewed this report and  
 8 that you've only looked at it, is it fair to say that  
 9 you don't have an opinion that contradicts the opinions  
 10 by Ms. Pompa alleged in this report?  
 11 MS. COCHRAN-McCALL: Objection. Form.  
 12 A. Will you state the question again? Thanks.  
 13 MR. HINOJOSA: Can you read it back,  
 14 please?  
 15 (The record was read as requested.)  
 16 A. No. That would be incorrect.  
 17 Q. (BY MR. HINOJOSA) All right.  
 18 A. My opinion would be that what I read -- what I  
 19 reviewed, what I saw, what I saw -- what I saw here, a  
 20 lot of it has to do with statute. So I have -- other  
 21 than the fact that I saw that they -- she wrote a lot  
 22 about what's in statute.  
 23 Q. I'm not sure I'm understanding your question --  
 24 or your response there. Earlier you stated that you had  
 25 not reviewed the report. Correct? Yes or no.

1 A. Yes.  
 2 Q. All right. And you said that when you review a  
 3 report, it's because you read it, you understand it, and  
 4 then you provide feedback. Correct?  
 5 A. Yes.  
 6 Q. All right. And you distinguished -- and you  
 7 said this under oath when I asked you earlier. You  
 8 distinguished what you did between what you normally do  
 9 in reviewing a report versus what you did here with  
 10 Ms. Pompa's. And you said you just looked at it.  
 11 Correct?  
 12 A. Um-hmm -- yes.  
 13 Q. So are you changing your testimony now?  
 14 A. No.  
 15 Q. All right. So go ahead and explain to me more  
 16 specifically what you did with Ms. Pompa's report.  
 17 A. What I'm doing right now of turning the page.  
 18 And I looked at it like this, and I saw some things in  
 19 here that had to do with statute. That is what I did  
 20 with the report.  
 21 Q. And how long did you look at Ms. Pompa's  
 22 report?  
 23 A. Maybe five minutes at the most.  
 24 Q. When did you do that?  
 25 A. About a month ago.

1 Q. Have you looked at it since then?  
 2 A. No.  
 3 Q. So sitting here today, regarding Ms. Pompa's  
 4 report, Exhibit 1730, can you tell me any inaccuracies  
 5 of any facts reported in Ms. Pompa's report?  
 6 A. Can I tell you any inaccuracies in Ms. Pompa's  
 7 report as I sit here today? I did not read it, so I  
 8 could not tell you if there are any inaccuracies.  
 9 Q. Okay. Can you tell me about any opinions  
 10 written in Ms. Pompa's report that -- which you disagree  
 11 with sitting here today?  
 12 A. Since I only looked at the report, I cannot  
 13 offer an opinion because I do not know what it is that  
 14 she wrote.  
 15 Q. Okay. And I appreciate that. I mean, that's  
 16 exactly where I'm trying to go. I'm not trying to trick  
 17 you or anything. You seem very apprehensive, you know,  
 18 in answering the questions. But believe me, I'm just  
 19 trying to figure out what you might say compared to what  
 20 Ms. Pompa reported. Okay?  
 21 A. Um-hmm -- yes.  
 22 Q. All right.  
 23 (Exhibit Nos. 1731, 1732 marked.)  
 24 (Discussion off the record.)  
 25 Q. (BY MR. HINOJOSA) I'm handing you what has

1 been marked as Exhibit 1731. And this is the expert  
2 witness report by Dr. Elena Izquierdo from UTEP titled  
3 "Adequate Resources for ELLs in Texas." And have you  
4 seen Exhibit 1731 before?

5 A. Yes.

6 Q. And Exhibit 1731, is that the expert report of  
7 Dr. Izquierdo that you also looked at?

8 A. Yes.

9 Q. All right. And based on your definition of  
10 "review" that you stated earlier, did you review  
11 Dr. Elena's expert witness report?

12 A. I looked at Dr. Elena Izquierdo's report.

13 Q. So you looked at it, but you did not review it.  
14 Correct?

15 A. Correct.

16 Q. All right. So, sitting here today, regarding  
17 Exhibit 1731, are there any factual inaccuracies in this  
18 report that you can tell me today?

19 MS. COCHRAN-McCALL: Objection. Form.

20 A. Are there any factual inaccuracies?

21 Q. (BY MR. HINOJOSA) Yes. Are there any  
22 inaccurate facts or -- that you noticed when you looked  
23 at this report that you can tell me here today?

24 A. Since I only looked at the report and did not  
25 read it to decipher what was there, I could not tell you

1 if there were any inaccuracies.

2 Q. And in this expert witness report, Dr. Elena  
3 Izquierdo also offers opinions. Can you tell me any  
4 opinions of Dr. Izquierdo as written in Exhibit 1731  
5 that you disagree with or that you -- well, that you  
6 disagree with, sitting here today?

7 A. Point of clarification with your question.

8 Q. Sure.

9 A. You're asking were there any of Dr. Izquierdo's  
10 opinions that were stated here that I disagree with?

11 Q. Yes.

12 A. Because I did not review it for comprehension,  
13 I did not review it to see what she wrote. I did look  
14 at it, I could not tell you if there are any  
15 inaccuracies as far as her opinions are concerned.

16 Q. Okay. And not just related to inaccurate  
17 opinions, but are there any opinions written in the  
18 report -- well, tell me, are you even aware of any of  
19 the opinions written by Dr. Elena Izquierdo in her  
20 report?

21 A. As I looked at the report, I saw that she --  
22 there was a lot of verbatim that's in statute. There  
23 was a lot of verbatim that's in PEIMS.

24 Q. Okay. But my question is just regarding  
25 opinions. You understand the difference between a fact

1 and an opinion?

2 A. Yes.

3 Q. All right. So regarding any -- and what is an  
4 opinion to you?

5 A. An opinion to me is what you as an individual  
6 are stating you believe in.

7 Q. Okay. Are there -- and those opinions might  
8 also be based on one's expertise in the field. Correct?

9 A. Correct.

10 Q. All right. So are there any opinions written  
11 by Dr. Izquierdo that you can tell me here today that  
12 are written here -- let me strike that.

13 Are there any opinions written by  
14 Dr. Izquierdo in Exhibit 1731 that you can tell me,  
15 sitting here today, that you disagree with?

16 A. As I stated before --

17 Q. It's just a yes-or-no question.

18 A. Restate the question.

19 Q. I'll restate it.

20 Are there any opinions written by  
21 Dr. Izquierdo in Exhibit 1731 that you disagree with and  
22 that you can tell me, sitting here today?

23 A. A yes -- no to that. I disagree when I have  
24 not read the report is what you're asking me to state?

25 Q. No. That's not it.

1 A. Oh. Then can you restate the --

2 Q. I'll represent to you that Dr. Izquierdo has  
3 written opinions in this report -- expert opinions in  
4 this report.

5 A. Yes.

6 Q. Okay. Are any of these opinions that she's  
7 written in Exhibit 1731, can you tell me, sitting here  
8 today, that you disagree with any of those opinions?

9 A. No. I cannot tell you because I have not read  
10 the report.

11 Q. That's fine. Now we're going to go to Exhibit  
12 1732. Exhibit 1732 is titled "Site Visits to Texas  
13 Plaintiff Districts," and it has the five school  
14 districts that we represent. Have you seen this report?

15 A. No.

16 Q. All right. So it's fair to say that you're not  
17 prepared here -- sitting here today, to state whether or  
18 not you disagree with any of the facts or opinions  
19 written in 1732. Correct?

20 A. Yes.

21 Q. Did you come away with any impression of  
22 Exhibit 1730 after reading it -- or looking at it?

23 Sorry.

24 A. No.

25 Q. Did you come away with any impressions after

1 looking at Exhibit 1731?  
 2 A. No.  
 3 Q. And do you know Ms. Delia Pompa?  
 4 A. Yes.  
 5 Q. So there was some hesitation there. What was  
 6 the reason for the hesitation? Do you maybe not know  
 7 her personally?  
 8 A. I -- I have met her once, but -- I have met her  
 9 once, so I don't know if "do you know her" ...  
 10 Q. So do you know of Ms. Pompa's reputation in the  
 11 field of English language learners?  
 12 A. I have heard her name stated before, yes.  
 13 Q. Do you know if -- how long have you been in the  
 14 field of English language learners?  
 15 A. Quite a number of years.  
 16 Q. Approximate how many?  
 17 A. 40.  
 18 Q. And how long have you been aware of Ms. Pompa  
 19 since you've been in the field?  
 20 A. I know -- I have heard Ms. Pompa's name because  
 21 of her sister. So I heard her name back in -- when I  
 22 was in college I have heard her name. I knew about her  
 23 when she was affiliated with NABE, National Association  
 24 of Bilingual Education.  
 25 Q. So do you know of her reputation in the field

1 an expert. But I respect the knowledge that she brings  
 2 in all her years of working with English language  
 3 learners.  
 4 Q. (BY MR. HINOJOSA) All right. How about  
 5 Dr. Izquierdo? Do you know Dr. Izquierdo either  
 6 personally and/or of her work?  
 7 A. Yes.  
 8 Q. And do you know her personally?  
 9 A. Yes.  
 10 Q. And professionally, that's what I want to  
 11 concentrate on right now. Do you have an opinion about  
 12 her professionally in the field of English language  
 13 learner programs?  
 14 A. She is also passionate about English language  
 15 learners.  
 16 Q. How about her competency and her expertise in  
 17 the field of English language learner programs? Do you  
 18 have an opinion about her?  
 19 A. She's knowledgeable about English language  
 20 learners.  
 21 Q. So would you say that she is not competent in  
 22 the field of English language learner programs?  
 23 A. I would not say that she is not competent. I  
 24 would say she is knowledgeable.  
 25 Q. Would you say that Dr. Izquierdo is not an

1 of English language learners? And let me qualify that.  
 2 Let me say English language learner programs.  
 3 A. Yes.  
 4 Q. And what is your impression of her reputation  
 5 in the field of English language learner programs?  
 6 A. When she was, I believe, president at NABE, she  
 7 did speak about English language learners and was  
 8 passionate about them.  
 9 Q. Would you regard her as a competent and  
 10 trustworthy authority in the field of English language  
 11 learners?  
 12 A. Based on hearing her name or based on  
 13 information that I hear or based on --  
 14 Q. If you don't feel comfortable stating whether  
 15 or not you can testify about her reputation in the field  
 16 of English language learner programs, you can tell me  
 17 that. But if you do feel comfortable testifying, you  
 18 know, about her reputation, that's what I'm trying to  
 19 find out here. Okay?  
 20 MS. COCHRAN-McCALL: You can just answer  
 21 the question and just -- the question that he's asking  
 22 you -- just explain what he's asking.  
 23 A. She is knowledgeable on English language  
 24 learners, but I have never been -- worked with her or  
 25 have been anywhere where she has presented to say she is

1 expert in the field of English language learner  
 2 programs?  
 3 MS. COCHRAN-McCALL: Objection. Form.  
 4 A. Define what you mean by "expert in the field of  
 5 English language learners."  
 6 Q. (BY MR. HINOJOSA) Well, do you know what it  
 7 means to be an expert?  
 8 A. What I know -- I know that some people have  
 9 more knowledge than others in a certain field, but I  
 10 wouldn't necessarily call them experts.  
 11 Q. Do you consider yourself an expert in the field  
 12 of English language learner programs?  
 13 A. I consider myself knowing a lot about English  
 14 language learners.  
 15 Q. That's not my question. Do you consider  
 16 yourself, using your own definition of an expert --  
 17 well, let me backtrack, because I don't think that  
 18 you've told me what you consider an expert to be.  
 19 So can you tell me what you believe an  
 20 expert is?  
 21 A. I don't believe in the word "expert."  
 22 Q. Okay. Well, we'll just move on.  
 23 A. Yes, thank you.  
 24 Q. Well, before we move on, let me just close this  
 25 door.

1 Q. Sure.

2 A. This was a program that was offered to

3 students -- we received a scholarship to attend the

4 university, and this was a program that dealt with

5 minority students, minority districts. At that time

6 they were called chapter schools.

7 Q. Okay. So was there any emphasis when you were

8 getting your bachelor's degree in education that focused

9 on ELL students?

10 A. When I went to the university and in my

11 education courses, no. But in the program itself of

12 Upward Bound, yes.

13 Q. Okay. And describe the elements of ELL

14 students as part of Upward Bound.

15 A. Working with students whose first language was

16 other than English.

17 Q. So were you learning different pedagogical

18 approaches for ELL students as opposed to non-ELL

19 students?

20 A. I don't remember the specifics of it to that

21 detail.

22 Q. Okay. Do you have any certifications?

23 A. Yes.

24 Q. What are your certifications in?

25 A. I'm certified in bilingual, ESL, early

1 childhood, pre-kinder, and kindergarten.

2 Q. So you say that you're certified in early

3 childhood and pre-K. Are those different

4 certifications?

5 A. During the time that I received my

6 certification, yes.

7 Q. Okay. So let's talk about your bilingual

8 certification. Was that separate from your ESL

9 certification?

10 A. No.

11 Q. So when did you get your bilingual/ESL

12 certification?

13 A. In 19 -- well, it was at the same time that I

14 was in the university. I just extended my coursework.

15 Q. So was that in 1972?

16 A. I believe it was, yes. Yes.

17 Q. And what type of courses did you have to take

18 in order to get your bilingual certification?

19 A. I do not recall the courses I took -- the names

20 of the courses that I took.

21 Q. Did you have to take certain courses?

22 A. Yes.

23 Q. Do you know approximately how many?

24 A. I do not recall.

25 Q. What was the purpose of you taking specific

1 courses for your bilingual certification?

2 A. There were different methodologies to learn

3 about English language acquisition.

4 Q. And why do you need to learn different

5 methodologies for ELL students?

6 A. In teaching an English language learner, you

7 need to learn about second language acquisition and you

8 need to learn the methodology regarding learning that

9 second language.

10 Q. Did you learn to use manipulatives or was that

11 something more during your actual education of the ELL

12 students?

13 A. Response to your question, did I learn to use

14 manipulatives while in the university?

15 Q. Yes. Sorry.

16 A. Yes.

17 Q. Okay. And what was the purpose of using

18 manipulatives -- well, describe for me first, you know,

19 what a manipulative is.

20 A. A manipulative is something that you can show

21 the student that they can -- tangible objects that they

22 can use to get an objective across.

23 Q. And what different types of manipulatives are

24 you aware of in the field of ELL programming?

25 A. I'd like for you to define "manipulatives" for

1 me, because I want to make sure -- a manipulative to me

2 is a tangible object. Is that what you are referring

3 to, manipulative?

4 Q. Yes. Using your definition of a manipulative.

5 So I'm just asking you what sort of manipulatives -- you

6 know, I understand, for example, that maps might be a

7 manipulative, globes might be a manipulative in a

8 classroom to help students acquire the English language.

9 A. That is a manipulative you use with any

10 student, regardless if they're an English language

11 learner. So I did not use manipulatives solely for

12 English language learners. I learned it in my education

13 courses to use with all students.

14 Q. And are you aware of in the field of ELL

15 programs that educators use manipulatives specifically

16 for ELL students to acquire the English -- to help them

17 acquire the English language?

18 A. I don't know specifically. I have not done a

19 study of what educators are using manipulatives, but as

20 a former educator, that is something that you would use,

21 a manipulative in your classroom.

22 Q. Okay. After you graduated in 1972, tell me

23 your work history.

24 A. My total work history up to the present?

25 Q. Yes.

1 to produce for their -- for their campuses.  
 2 Q. When you said that you assisted in the writing  
 3 of benchmark testing, was that benchmark testing for ELL  
 4 students?  
 5 A. Yes.  
 6 Q. Only for ELL students?  
 7 A. That was the main intent, yes.  
 8 Q. So there was other benchmark testing that was  
 9 done by other curriculum specialists but not for ELL  
 10 students. Is that right?  
 11 A. It was a committee. It was a group of  
 12 individuals who all worked together, so...  
 13 Q. Okay. But you -- did you work on -- with  
 14 respect to writing the benchmark testing, did you work  
 15 on that -- let me back up.  
 16 Was there benchmark testing that was for  
 17 ELL students that was different than the benchmark  
 18 testing for non-ELL students?  
 19 A. No, because the texts are the same for all. It  
 20 was just in the language that it was done and the  
 21 delivery that was different.  
 22 Q. What do you mean by the language and the  
 23 delivery?  
 24 A. The language was that the test needed to be  
 25 translated into Spanish. It would be in the language

1 of -- the Spanish language.  
 2 The delivery is in helping teachers know  
 3 how to be able to do the instruction using different  
 4 strategies to be able to assist the students.  
 5 Q. And how would that differ for ELL students with  
 6 respect to the delivery?  
 7 A. Besides the fact that you might have to  
 8 instruct them in their primary language, the delivery  
 9 might be comparable to what you would do for a  
 10 struggling learner, but it's the dynamics of using  
 11 different strategies. And the strategies is what I mean  
 12 by delivery.  
 13 Q. What do you mean by "strategies"?  
 14 A. A strategy is an approach that you use to --  
 15 earlier you stated that you learned to use  
 16 manipulatives. Using manipulatives is a strategy to get  
 17 an objective across.  
 18 Another strategy can be TPR, total  
 19 physical response, for a student who does not know the  
 20 language, but he knows the concept. This is a table, I  
 21 point to the table -- that's a strategy -- and I say the  
 22 word "table."  
 23 And then there's different strategies that  
 24 can be used with the students. So multiple -- multiple  
 25 types of strategies.

1 Q. Was this a full-time position that you had as  
 2 curriculum specialist?  
 3 A. Yes.  
 4 Q. And how long were you a curriculum specialist?  
 5 A. One year.  
 6 Q. And why did you transfer from being a  
 7 kindergarten teacher at Bluebonnet to becoming a  
 8 curriculum specialist?  
 9 A. It was a promotion.  
 10 Q. Did you get paid more?  
 11 A. Yes.  
 12 Q. Do you know how much more?  
 13 A. I don't recall.  
 14 Q. Was -- that position as a curriculum  
 15 specialist, did you see it as beneficial?  
 16 MS. COCHRAN-McCALL: Objection. Form.  
 17 A. I felt that at that time in my career, I could  
 18 be able to assist in a different format other than just  
 19 with the teaching. Now I could work with the  
 20 individuals who work with our students.  
 21 Q. (BY MR. HINOJOSA) So why was it important  
 22 that -- well, did you think that it was important for  
 23 the district to hire a curriculum specialist who had a  
 24 background in ELL programs?  
 25 A. Yes.

1 Q. Why do you think it was important?  
 2 A. For the same reason that I think it's important  
 3 to hire a curriculum specialist that has a background in  
 4 science or in any of the content areas. It assists to  
 5 be able to know that you have some knowledge base that  
 6 might be able to assist that teacher.  
 7 Q. And this benchmark testing that was done by the  
 8 district, at this time there was the TAAS testing. Is  
 9 that right?  
 10 A. It may have been.  
 11 Q. And were these benchmark testing -- was this  
 12 benchmark testing developed each year by the district?  
 13 A. Benchmark tests were addressing the Texas  
 14 Essential Knowledge and Skills. So no -- the response  
 15 to your question, no, because the Texas Essential  
 16 Knowledge and Skills did not change every year.  
 17 Q. So what was the purpose, as far as you're  
 18 aware, of why the district decided to do benchmark  
 19 testing in 1997?  
 20 A. If I recall correctly, it had to do with  
 21 ensuring to see that the students were -- that the  
 22 instruction that was in the classrooms was being  
 23 conducive with some of the questions that were being  
 24 asked in the assessments. So, therefore, benchmarks  
 25 were used to make sure that we were on the right track

1 to be able to ensure that those students would be  
 2 successful with the test.  
 3 Q. And when you say "the test," do you mean the  
 4 state test?  
 5 A. When I say "test," I'm meaning the state test,  
 6 yes.  
 7 Q. All right. How long -- you said you were a  
 8 year as a curriculum specialist. Is that right?  
 9 A. Correct.  
 10 Q. And then what did you do?  
 11 A. Then I got a promotion, and I worked at a -- it  
 12 was kind of like a pseudo-assistant director/teacher  
 13 leader in the district.  
 14 Q. In Round Rock?  
 15 A. Yes.  
 16 Q. What were your duties and responsibilities as  
 17 this assistant director/teacher leader?  
 18 A. It was -- the teacher leader, I was only  
 19 working with one campus at the time. It was Purple  
 20 Sage. The assistant director was an assistant with the  
 21 bilingual -- the ESL programs.  
 22 Q. Okay. Can you define for me more specifically  
 23 what your duties and responsibilities were as an  
 24 assistant director of the bilingual ESL programs?  
 25 MS. COCHRAN-McCALL: Objection. Form.

1 A. I was an assistant to the director, and I would  
 2 assist with the trainings that the district was going to  
 3 do in regards to English language -- to educators of  
 4 English language learners.  
 5 Q. (BY MR. HINOJOSA) And so day to day, what did  
 6 you do?  
 7 A. Okay. Responded to questions from bilingual --  
 8 from teachers of ELL in the different campuses in  
 9 regards to what they were doing in the classrooms.  
 10 Assisted in the training of -- of the campus leaders in  
 11 the language proficiency assessment committee. Assisted  
 12 in the training of the raters for TELPAS, and that's  
 13 what I can recall at the moment.  
 14 Q. And did you feel that this -- that the work  
 15 that you were carrying out as the assistant to the  
 16 director of bilingual ESL programs was helping students?  
 17 A. Yes.  
 18 Q. Do you believe that your work in carrying out  
 19 your duties as the assistant to the director of  
 20 bilingual ESL programs was helping to improve student  
 21 learning?  
 22 A. Yes.  
 23 Q. And do you recall what your salary was as an  
 24 assistant?  
 25 A. About 60 -- 60,000.

1 Q. And this was in 1997?  
 2 A. It might have been like in 2000. I held  
 3 several roles, so it may have been around 2001-2002. I  
 4 don't recall the exact year.  
 5 Q. And how long did you hold that position?  
 6 A. I was assistant director until -- well, in  
 7 2003, then I became coordinator, so it was some of the  
 8 same duties, but the title changed. But at that time,  
 9 they gave me migrant as well and pre-K. So I guess I  
 10 held the position two years, year and a half, something  
 11 to that effect.  
 12 Q. As the assistant director, you mean?  
 13 A. Um-hmm.  
 14 Q. And then what was your next position?  
 15 A. Coordinator of bilingual ESL, pre-K, and  
 16 migrant.  
 17 Q. Was there still a director of bilingual and ESL  
 18 programs?  
 19 A. No.  
 20 Q. Do you know why the positions were  
 21 consolidated?  
 22 MS. COCHRAN-McCALL: Objection. Form.  
 23 A. Positions were never consolidated. What  
 24 happened was that the director was now the director of  
 25 the total -- all of the umbrella -- everything that fell

1 under that particular unit that they had. So...  
 2 Q. (BY MR. HINOJOSA) Okay. So the position that  
 3 you took as the coordinator of bilingual and migrant and  
 4 pre-K, did that exist before you assumed that position?  
 5 A. The director at the time was overseeing the  
 6 pre-K and the migrant program. So when I became  
 7 coordinator, then those duties were given to me because  
 8 she was given some additional duties.  
 9 Q. And did you get a pay raise from being an  
 10 assistant director to being a coordinator?  
 11 A. Yes.  
 12 Q. Did you have additional duties as a coordinator  
 13 compared to what you did as an assistant director?  
 14 A. Yes.  
 15 Q. So do you think that you deserved a pay raise  
 16 because you had additional duties?  
 17 A. It comes with the cost of living.  
 18 Q. How about related to the additional duties?  
 19 You know, and I'm sorry. I didn't  
 20 understand that comment, because I just asked you  
 21 whether or not -- you know, you're obviously assuming  
 22 additional responsibilities, and they're giving you a  
 23 bump in pay. And I'm asking you whether or not you  
 24 think it's right to receive a bump in pay because your  
 25 additional duties have expanded.

1 A. I do not recall.

2 Q. Are you aware of any materials in the field

3 right now that are purchased by school districts in

4 Texas that are not helping students improve learning?

5 ELL students specifically.

6 A. I am not aware.

7 Q. You mentioned this summer school for pre-K and

8 K that you helped organize at Round Rock. Can you

9 explain a little bit more about what that program

10 offered?

11 A. By statute, a district is supposed to provide a

12 pre-K-K program for English language learners, and that

13 summer program is an extension of what -- during the

14 school year, what those students have been learning.

15 So they are -- we are to provide them, and

16 we provided it in Round Rock, a summer program for all

17 the English language learners whose parents wanted them

18 to come to the summer school that were in pre-kinder

19 going to kindergarten and in kindergarten going to

20 1st grade.

21 (Exhibit No. 1733 marked.)

22 Q. (BY MR. HINOJOSA) I've handed you what's been

23 marked as Exhibit 1733. And this is titled the "Chapter

24 89 Adaptations for Special Populations, Subchapter BB,

25 Commissioner's Rules Concerning State Plan for Educating

1 English Language Learners."

2 Are you familiar with this document?

3 A. Yes.

4 Q. And do you recognize Exhibit 1733 as being a

5 correct copy of subchapter BB of the commissioner's

6 rules --

7 A. Yes.

8 Q. -- concerning ELLs?

9 A. Yes.

10 Q. Sorry. I paused. It's my fault.

11 What is the purpose of providing summer

12 school for pre-K and K students?

13 A. It's to be able to ensure that these students

14 when they go into the following grade that they are

15 better prepared to be able to learn the essential

16 knowledge and skills that are needed during that

17 particular grade level.

18 Q. How does -- how does the needs of pre-K and K

19 students differ from, for example, a 1st grade and

20 2nd grade student? In other words, do you know why

21 there would be a requirement for pre-K and K students

22 but not for 1st and 2nd grade ELL students?

23 MS. COCHRAN-McCALL: Objection. Form.

24 A. Pre-K and K are those first primary grades of

25 the students. That may be their first -- first time

1 that they go to school.

2 So in providing additional assistance to

3 these students, additional instruction for these

4 students will better enable them to be able to -- to be

5 successful.

6 And as an educator, that would be the

7 stance I would take with any child whose first

8 experience is pre-K. Any additional help that you can

9 give them is beneficial to those students.

10 Q. (BY MR. HINOJOSA) Would a 1st-grader, for

11 example, not benefit from summer school?

12 A. All students would benefit from summer school.

13 Q. And when we're speaking specifically of ELL

14 students who sometimes -- you're familiar with the loss

15 of learning during the summer months?

16 A. Um-hmm.

17 Q. Yes?

18 A. Yes.

19 Q. And so -- and please explain your understanding

20 of what the loss of learning during the summer months

21 refers to with respect to ELL students.

22 A. With respect to ELLs? These students during

23 the course of the year have learned certain materials,

24 they have learned their certain -- Texas Essential

25 Knowledge and Skills. I'm going to divide them into two

1 categories for you.

2 If it's a newcomer student, a student that

3 has never had any type of schooling, then that year he

4 has learned some of the vocabulary, has learned some of

5 the concepts, but the summer school will help him to be

6 able to enhance the knowledge base that he has learned

7 and go into the -- whatever grade level he is going to

8 be going to.

9 If it's a student who has been in school

10 before, it's just going to refresh his memory of what he

11 has learned during the course of the year.

12 So in reference to loss of learning, some

13 of those students may lose some of the concepts, some of

14 the knowledge base that they have during the school

15 year, because during the summer, that may not be a

16 priority for -- for them to -- to go and go to the

17 library and refresh whatever concepts they learned

18 regarding any of the core content areas.

19 Q. And so when you were at Round Rock, did the

20 school district provide summer school for all ELL

21 students?

22 A. We provided summer school for pre-K, K, that I

23 am aware of. They provided summer school for other

24 grade levels as well, yes.

25 Q. But was it for all ELL students regardless of

1 ensuring that we provide the training that is needed to  
2 be able to fill out that certificate of eligibility.

3 Q. What are the difficulties, if any, regarding  
4 the identification and the recruitment of migrant  
5 students in Texas?

6 A. In the process of identifying the students,  
7 what is the difficulty? Is that your question?

8 Q. Yeah. Are there any difficulties with respect  
9 to identifying migrant students?

10 A. Possibly going to the family's location. The  
11 recruiter having to go to the family's home, and the  
12 possibility that the family may not be there. And so  
13 there have to be these reoccurring visits to the family.  
14 As far as identification, that's it.

15 Q. And are there any difficulties that you're  
16 aware of with respect to the recruitment process?

17 A. Our migrant population is decreasing. As it is  
18 decreasing nationwide, I think it would be beneficial to  
19 be able to recruit -- to be able to go out and recruit  
20 more families, if there were more families. But I  
21 don't -- I don't recall of there being any difficulties  
22 in -- as far as the recruitment.

23 Q. Okay. Of the 837,000 -- and I know that's an  
24 estimate; approximate -- of ELL students in Texas public  
25 schools, do you know approximately what percentage of

1 those students are also low income?

2 A. No, I don't.

3 Q. Do you know -- well, I think I asked  
4 approximately. Right?

5 And sometimes there's people who don't  
6 understand the difference between language needs for ELL  
7 students and educational needs for students in  
8 overcoming poverty issues. Are you familiar with this  
9 concept that I'm speaking of?

10 A. Yes.

11 Q. So can you tell the Court what are the  
12 different needs in ELL students acquiring academic  
13 proficiency in the English language as opposed to just  
14 simply overcoming issues related to poverty?

15 A. For an English language learner to be able to  
16 be successful and be able to acquire that second  
17 language, when they enrolled in a district and they're  
18 placed in a classroom, the teacher needs to be very  
19 cognizant of the proficiency of where that student is.

20 If as an educator you're not aware of what  
21 that proficiency level is, then you're not going to be  
22 able to give them the instructions commensurate to what  
23 their needs are.

24 I may be a student that is poor, but I may  
25 still have some background knowledge that enables me to

1 be able to be successful in school.

2 So the poverty level may not necessarily  
3 equate to not knowing -- not being successful in a  
4 particular -- in a particular school district or campus.

5 Q. And you would agree with me that there's very  
6 specific needs that -- educational needs that ELL  
7 students have, and services that they require that might  
8 be in addition to the needs that they might have related  
9 to their poverty if they are impoverished?

10 A. Yes.

11 Q. So, for instance, if we were to speak of  
12 before- or after-school tutoring, are you generally  
13 familiar with those programs?

14 A. Yes.

15 Q. If a student is struggling in becoming  
16 academically proficient in English, those before- or  
17 after-school programs should be tailored to their needs  
18 as English language learners but not necessarily just  
19 some generic wholesale after-school tutoring because  
20 students are just behind. Correct?

21 MS. COCHRAN-McCALL: Objection. Form.

22 A. Are you asking if I agree with that?

23 Q. (BY MR. HINOJOSA) Yes.

24 A. Yes.

25 Q. And some of the software manipulatives that you

1 spoke of earlier today with respect to ELL students,  
2 that software and some of those manipulatives are  
3 specifically geared towards ELL students acquiring  
4 academic proficiency in English. Correct?

5 A. I didn't specify software. I just said  
6 software in general. So it's dependent on what software  
7 is purchased that it would deal with English language  
8 learners.

9 Q. Sure. And you're familiar with software that  
10 is out there that is meant to supplement ELL programs.  
11 Correct?

12 A. To supplement -- can you clarify what you mean  
13 by "supplement"? In addition to?

14 Q. Yes.

15 A. Yes. I am aware.

16 Q. And -- I forgot my point.

17 With respect to professional development,  
18 can you tell me whether or not you believe that  
19 professional development specifically geared towards the  
20 learning needs of English language learner students is  
21 important?

22 A. I agree. It is important.

23 Q. Why is it important?

24 A. It's very critical that whatever professional  
25 development is provided, that they address those

1 particular needs of English language learners. It is  
2 very important that it addresses -- that it helps the  
3 educator understand. Because just because a teacher is  
4 bilingual certified or ESL certified does not mean that  
5 she's going to be a quality teacher for those students.

6 So professional development has to be such  
7 that it enhances that instructor's knowledge of what she  
8 is doing in the classroom.

9 Q. And you're familiar with the broad array of the  
10 quality of professional development programs out there.  
11 Correct?

12 A. Yes.

13 Q. What are -- are you familiar with some of the  
14 national professional development programs for ELL  
15 students?

16 MS. COCHRAN-McCALL: Objection. Form.

17 A. Nationally, no.

18 Q. (BY MR. HINOJOSA) Like there's -- for  
19 instance, there's a program, I believe, out of New York  
20 or New Jersey that is highly sought after by a number of  
21 ELL teachers in the field. Are you familiar with, you  
22 know, such programs as that?

23 A. I don't recall. No.

24 Q. Related to professional development, would you  
25 agree that the professional development for teachers of

1 ELL students also needs to be ongoing?

2 A. I agree.

3 Q. And what importance is there to professional  
4 development when there have been curriculum changes in  
5 the TEKS, for example?

6 MS. COCHRAN-McCALL: Objection. Form.

7 A. Rephrase -- what was your question?

8 Q. (BY MR. HINOJOSA) Sure. What role does  
9 professional development play with respect to changes in  
10 the curriculum?

11 A. The professional development should be aligned  
12 with what -- if the objective is for the teachers to be  
13 able to know how to instruct -- and the objective is a  
14 certain Texas Essential Knowledge and Skills, that  
15 professional development needs to be aligned with the  
16 most current Texas Essential Knowledge and Skills.

17 Q. And in Texas, there's the English Language  
18 Proficiency Standards. Correct?

19 A. Correct.

20 (Exhibit No. 1734 marked.)

21 Q. (BY MR. HINOJOSA) I'm handing you what's been  
22 marked as Exhibit 1734. And this is titled  
23 "Section 74.4, The English Language Proficiency  
24 Standards," taken out of Chapter 74 of the Texas  
25 Administrative Code.

1 Are you familiar with this document?

2 A. Yes.

3 Q. And you recognize Exhibit 1734 as a true copy  
4 of the English Language Proficiency Standards created by  
5 the state?

6 A. Yes.

7 Q. And can you describe what the English Language  
8 Proficiency Standards are?

9 A. The ELPS, as we call them, the English Language  
10 Proficiency Standards, were -- are the standards which  
11 originally used to be the ESL standards that the State  
12 used to have only in the English language arts and  
13 aligned with the English language arts TEKS, they had  
14 the ESL TEKS.

15 What the State did was that now the  
16 English Language Proficiency Standards are those  
17 standards that are needed to be learned by all students  
18 and ELLs in reference to their second language  
19 acquisition.

20 These are included in all core content  
21 areas -- these standards, and they are also non-grade  
22 level, which means that all students, regardless of the  
23 grade level, but that are identified as ELLs, teachers  
24 have access to this to be able to make the content  
25 comprehensible.

1 Q. How do these fit in line, if at all, with the  
2 TEKS?

3 A. The Texas Essential Knowledge and Skills, which  
4 is the TEKS that you're referring to, those are the  
5 content objectives.

6 The ELPS, the English Language Proficiency  
7 Standards, are the language objectives. In order for an  
8 ELL to be able to understand what the content is, the  
9 teacher will be able to use the language objective to  
10 meet -- to make that content objective comprehensible  
11 for them.

12 Q. So these ELPS can be used by teachers to help  
13 students learn physics -- ELL students -- they will help  
14 ELL students learn physics as well as 2nd grade science?

15 A. The strategies that are part of the ELPS, yes,  
16 if the teacher uses them in the manner that they're  
17 supposed to be used, which means that she is going to  
18 take an ELPS strategy cooperative learning, and be able  
19 to use that second language acquisition component and be  
20 able to explain to the student what the content is.

21 If it's used in alignment, yes. It will  
22 help that 2nd grade student as well -- in science as  
23 well as that physics student.

24 Q. And how do teachers learn to implement the  
25 ELPS?

1 A. There has been various professional development  
 2 sessions that the State has provided. It began with an  
 3 overview of the ELPS, letting them know what it was, and  
 4 then it went into how to use the ELPS into different  
 5 content areas. So there has been face-to-face  
 6 professional development throughout the state, as well  
 7 as online professional development, in regards to the  
 8 ELPS.

9 Q. And has there been an analysis on how  
 10 successful the -- this professional development offered  
 11 by the State related to ELPS has been?

12 A. My unit, I personally have not done, so I'm not  
 13 sure if there is or not.

14 Q. All right. So are you aware of any analysis of  
 15 the professional development offered by the state that  
 16 showed or did not show improved student learning and  
 17 outcomes?

18 A. I am aware that the teachers receive, the  
 19 individuals who take this professional development  
 20 receive a certificate of completion. In order to  
 21 receive that certificate of completion, it's stating  
 22 that they understand how these are supposed to be  
 23 implemented in the classroom.

24 Our hope is that the correct  
 25 implementation is being done in the classrooms, but I

1 specifically do not have any data to show you or I'm  
 2 aware of.

3 Q. Are you aware of complaints in the field about  
 4 the difficulty teachers are having related to  
 5 integrating the ELPS?

6 A. I am not aware.

7 Q. You've never heard any complaints about that  
 8 from any teachers?

9 A. No.

10 Q. No districts?

11 A. No.

12 Q. Do you receive any complaints in districts --  
 13 do you receive any complaints from school districts  
 14 and/or teachers?

15 A. Regarding? Or just in general?

16 Q. Regarding ELL programs and services.

17 A. I'm not sure if I would identify them as  
 18 complaints. They are concerns. But once we discuss  
 19 them, they're rectified.

20 Q. All right. So do you directly field yourself  
 21 concerns from schoolteachers?

22 A. No.

23 Q. How about from school districts?

24 A. Concerns from school districts, some.

25 Q. And what sort of concerns do you address from

1 school districts?

2 A. They want to know in particular regarding are  
 3 they implementing the bilingual program correctly; do  
 4 they have to have 20 students or more in one grade  
 5 level; do they have to start in pre-K or K; we have not  
 6 had ELLs -- the magic number -- of 20 for five years, do  
 7 we have to continue a program; do I have to have the  
 8 home language survey; keep the original or can I have a  
 9 copy, can I send a copy to another - to another  
 10 district.

11 They are more on the programmatic part of  
 12 the concerns that I receive.

13 Q. Under No. 2 on Exhibit 1734, under the  
 14 introduction it says "In order for ELLs to be  
 15 successful, they must acquire both social and academic  
 16 language proficiency in English. Social language  
 17 proficiency in English consists of the English needed  
 18 for daily social interactions. Academic language  
 19 proficiency consists of the English needed to think  
 20 critically, understand, and learn new concepts, process  
 21 complex academic material, and interact and communicate  
 22 in English academic settings."

23 And my question to you is, do you agree  
 24 with that statement?

25 A. Yes.

1 Q. The next statement says, "Classroom instruction  
 2 that effectively integrates second language acquisition  
 3 with quality content area instruction ensures that ELLs  
 4 acquire social and academic language proficiency in  
 5 English, learn the knowledge and skills in the TEKS, and  
 6 reach their full academic potential."

7 Do you agree with that statement?

8 A. Yes.

9 Q. Number 4 it says, "Effective instruction in  
 10 second language acquisition involves giving ELLs  
 11 opportunities to listen, speak, read, and write at their  
 12 current levels of English development while gradually  
 13 increasing the linguistic complexity of the English they  
 14 read and hear and are expected to speak and write."

15 Do you agree with that statement?

16 A. Yes.

17 Q. Are you aware of changes within the last couple  
 18 of years that were made to TEKS?

19 A. In some of the core content areas, yes.

20 Q. And has the ELPS been amended or reviewed in  
 21 order to determine whether or not it still aligns with  
 22 the current TEKS?

23 A. The ELPS are not core content specific. The  
 24 ELPS are proficiency level specific and domain specific;  
 25 listening, speaking, reading, and writing. Those

1 components do not change, proficiency levels do not  
2 change. So, therefore, these ELPS are aligned with the  
3 new TEKS that are coming, that have been formulated.

4 Q. Are you familiar with the changes that were  
5 made in the TEKS?

6 A. Yes.

7 Q. What changes were made in the TEKS that you're  
8 familiar with?

9 A. Well, in the English language arts, there were  
10 some changes to the student expectations. And at that  
11 time is when the ELPS were also integrated into that  
12 core -- into the textbooks for English language arts.

13 Q. What were some of the changes that were made in  
14 English language arts?

15 A. I can't -- I mean, I can tell you in general,  
16 but I can't -- I don't recall a specific one.

17 Q. Was it part of your duties with TEA to ensure  
18 that the ELPS aligned with the new TEKS changes?

19 A. It was part of my duty during the textbook  
20 review and their -- and the review of the TEKS that I  
21 knew that the ELPS were being integrated.

22 But I was not -- and if the reviewers had  
23 a question, I was there. But I was not part of, okay,  
24 we're going to change the TEKS, we want to make sure  
25 that these are aligned with the English language arts.

1 that that student is mastering the TEKS in any given  
2 content area. Correct?

3 A. In which domain are you referring to? Because  
4 if -- in which domain are you referring to that this  
5 child is an advanced high? Listening? Speaking?  
6 Reading? Writing?

7 Q. Well, would you say that there's a  
8 difference -- let me go ahead and refer you back to  
9 Exhibit 1733. If we look under both B and C, because  
10 I'm going to just be referring to the last sentence in  
11 both of those, but using them interchangeably because  
12 under 89.1201, the policy -- the goal of the bilingual  
13 and ESL programs, it looks like there's the same  
14 requirement in the last two sentences of these.

15 And that is that "The bilingual education  
16 programs and the ESL programs shall emphasize the  
17 mastery of English language skills as well as  
18 mathematics, science, and social studies as integral  
19 parts of the academic goals for all students to enable  
20 ELLs to participate equitably in school."

21 Correct?

22 A. Correct.

23 Q. And so ELL programs aren't just about helping  
24 students acquire academic English proficiency. Correct?

25 A. Correct.

1 Because, as I stated, the ELPS are not core content  
2 specific.

3 Q. So are you aware of any criticisms out there  
4 that the ELPS have not been amended to align more  
5 closely with the changes made in TEKS?

6 A. I do not recall.

7 Q. Are you familiar with the different levels of  
8 proficiency regarding the domains of listening,  
9 speaking, reading, and writing?

10 A. Yes.

11 Q. And what are those?

12 A. They're -- the domains are the beginner, the  
13 intermediate, the advanced, and the advanced high within  
14 listening, speaking, reading, and writing.

15 Q. And just because a student is identified as --  
16 well, let me back up.

17 Do you know what "advanced high" means?

18 A. Yes.

19 Q. What does "advanced high" mean?

20 A. "Advanced high" in -- are the characteristics,  
21 the attributes that that student should have, whereas in  
22 ELL, they would have little or no support, and then they  
23 have them...

24 Q. And simply because a student might be  
25 identified as advanced high would not necessarily mean

1 Q. They are also to ensure that students master  
2 these other subjects listed here. Correct?

3 A. The academic part. Correct.

4 Q. Because if they don't master those subjects,  
5 then they're not able to participate equitably in  
6 school. Correct?

7 A. Correct.

8 Q. And so looking at just TELPAS scores, for  
9 example, TELPAS scores judge the domains that you  
10 mentioned earlier. Correct?

11 A. Correct.

12 Q. And if you look just at TELPAS scores, you  
13 can't tell even if students are scoring advanced high;  
14 you can't tell whether or not they're mastering  
15 mathematics, science, social studies. Correct?

16 A. I don't work that closely with the TELPAS  
17 within my realm as the programmatic part, so I will not  
18 venture to address that question because that is more on  
19 TELPAS as an assessment.

20 Q. So you -- I think you stated earlier in your  
21 testimony that -- you said one of your responsibilities  
22 and duties was related to TELPAS.

23 A. No. What I stated was when I was in the  
24 district level.

25 Q. Yes. And that's what I'm talking about.

1 learner students, if provided the necessary tools to  
 2 succeed in the classroom, can achieve on par with  
 3 non-English language learner students?  
 4 A. Yes, I believe that.  
 5 Q. And what would be some of these necessary tools  
 6 that ELL students might need? And I know that we've  
 7 talked about a few of them probably today. Would you  
 8 say, you know, for instance, some of the manipulatives  
 9 that you've spoken of?  
 10 A. I would say products, yes. But before you even  
 11 go to a product, you can have as much materials as  
 12 possible in a classroom, but if you don't have an  
 13 effective teacher, then all those materials are not  
 14 going to be, you know, effective for those students.  
 15 Q. And an effective teacher -- in order to develop  
 16 an effective teacher, you would need very strong ongoing  
 17 professional development. Correct?  
 18 A. You would need professional development for  
 19 them, yes.  
 20 Q. And you would need support from the  
 21 administration both on campus and in the district.  
 22 Correct?  
 23 A. Yes.  
 24 Q. And when we're talking about professional  
 25 development, I think that we've spoken about it in terms

1 of teachers teaching ELL students. Right?  
 2 A. Yes.  
 3 Q. But you would agree that professional  
 4 development -- the importance of professional  
 5 development also would apply to, for example, principals  
 6 at schools that serve ELL students. Correct?  
 7 A. Yes.  
 8 Q. And it would also apply to other  
 9 administrators. Correct?  
 10 A. Yes.  
 11 Q. And so it's a whole commitment process  
 12 throughout the district. Correct?  
 13 A. Correct.  
 14 Q. And even when we speak of professional  
 15 development for teachers, it's not just, for example, in  
 16 high school, just the ESL teacher who should receive  
 17 high-quality professional development. Correct?  
 18 A. I believe that anyone instructing an ELL, since  
 19 we are talking about ELLs, should be part of those  
 20 components that receive that professional development.  
 21 Q. What are some of the challenges that ELL  
 22 students face? In the home first, let's talk about  
 23 that. And I know we're talking generally speaking, but  
 24 as a group, what do ELL students generally experience,  
 25 the challenges that they face in the home?

1 A. Yes. And I am going to say generally, because  
 2 I have not done a study or have any type of data that  
 3 shows me some of those challenges.  
 4 So generally speaking, what I would say  
 5 would be -- in the home, having the support of the  
 6 parents in helping them with their -- with homework that  
 7 they have brought, whether it's -- well, in Spanish, if  
 8 it's given to them in Spanish. So the need that  
 9 support at home.  
 10 You also need that buy-in from the  
 11 family -- from the parents, to know that they truly  
 12 believe that the program that their ELLs are in --  
 13 whether it be in bilingual or in ESL -- is an effective  
 14 program that is going to be able to help them to make  
 15 that transition into English.  
 16 Q. And as far as challenges in the home, generally  
 17 speaking again, a parent's lack of education might  
 18 inhibit their ability to help the student. Correct?  
 19 A. Are you defining education as far as schooling?  
 20 Q. Yes.  
 21 A. If they -- I believe very strongly that if a  
 22 parent may not necessarily have the educational  
 23 background but he has the experiences, that those  
 24 experiences will help them to be an effective parent in  
 25 helping that child be able to be -- to take that

1 knowledge base, to take that philosophy, that perception  
 2 to the classroom, and will be able to help them.  
 3 Q. Well, how about, you know, if a student's  
 4 taking algebra, for example, but the parent's had only  
 5 had, you know, a 5th grade education? You know, more  
 6 specifically to helping them on their -- with their  
 7 algebra homework or something like that, might that be,  
 8 you know, a barrier?  
 9 A. Yes.  
 10 Q. And I understand what you're saying. You're  
 11 kind of thinking like if a parent shows a determination  
 12 or, you know, a philosophy of doing your best and trying  
 13 to succeed, that that might itself transfer to the  
 14 student to perform well in the classroom. Is that  
 15 right?  
 16 A. That is correct.  
 17 Q. How about resources in the home as well,  
 18 generally speaking, for ELL students, such as access to  
 19 computers or access to the proper bandwidth for  
 20 computers in the home? Are you generally familiar with  
 21 that?  
 22 A. If your question is, does the child need to  
 23 have access to a computer at home to learn or does the  
 24 student have to have access to a computer away from the  
 25 school?

1 Q. Well, what's your answer to that? That wasn't  
 2 my question, but what's your answer to that?  
 3 A. Well, I was asking -- I need clarification.  
 4 That's why I posed it in that manner. Can you clarify  
 5 then what you mean "at home" specifically? In the  
 6 physical of the house?  
 7 Q. Sure. Do you believe that students learning in  
 8 today's schools need access to a home in order to  
 9 improve their learning?  
 10 A. Access to a home to improve their learning?  
 11 Q. Access to a computer at home.  
 12 A. At home?  
 13 Q. Yes.  
 14 A. Yes. It would be very beneficial.  
 15 Q. And are you aware of, generally speaking,  
 16 families of ELL students not having access to a computer  
 17 in the home?  
 18 A. I am aware that some students do not have  
 19 access to a computer at home.  
 20 Q. And are you aware of lack of computer access  
 21 even in communities? For instance, at the public  
 22 library there might only be X amount of computers so  
 23 that all the students wouldn't have access to it?  
 24 A. I am aware that there are computers in the  
 25 library -- in public libraries that students have access

1 to. I don't know how many students actually go to the  
 2 library and how many computers they have. I do not know  
 3 that.  
 4 Q. Now, how about -- what are some of the  
 5 challenges that face ELL students at school?  
 6 A. I am going to speak to you generally because I  
 7 have not done any type of study as state director as to  
 8 what are some of things that are needed or that they  
 9 have or don't have in the classrooms.  
 10 So I really can't say what are the  
 11 challenges because if I have a classroom that doesn't  
 12 have anything, then the child is just going to be that;  
 13 they need some type of materials. They're going to need  
 14 some type of textbooks.  
 15 But if you have a classroom that has some  
 16 textbooks -- well, they should have all textbooks --  
 17 materials, manipulatives, literacy books, then it's  
 18 going to be how effective is that teacher in providing  
 19 those materials to the student.  
 20 Q. And speaking of textbooks, are you aware of  
 21 whether or not public school districts have access to  
 22 current updated textbooks in both English and Spanish in  
 23 all subject areas?  
 24 A. I am aware that districts receive an allotment  
 25 to purchase whatever books they feel that they need for

1 their students.  
 2 Q. Do you know whether or not school districts  
 3 have the sufficient funds to both purchase the books  
 4 that they need in both English and Spanish?  
 5 A. I am aware that districts receive funds based  
 6 on the population that they -- the ELLs that they have,  
 7 to be able to purchase books that are needed for that  
 8 population.  
 9 Q. And I'm asking you something a little bit  
 10 beyond that, which is, do you know whether or not school  
 11 districts have the sufficient funds under a textbook  
 12 allotment to purchase all the books they need in both  
 13 English and Spanish for all subjects at all grade  
 14 levels?  
 15 A. I am not aware because that is not something  
 16 that I do in my role as state director.  
 17 Q. And are you aware whether or not textbooks  
 18 currently exist in all subjects at all grade levels,  
 19 when necessary both in English and Spanish, that reflect  
 20 the current TEKS?  
 21 A. I am aware that there are textbooks that  
 22 reflect the TEKS that are up to date as of now.  
 23 Q. But do you know -- I know that you seem to be  
 24 saying that you think -- you're aware that there are  
 25 "some" textbooks that reflect the current TEKS now. But

1 I'm asking you altogether at all grade levels, all  
 2 subject areas, in both English and Spanish, are there  
 3 currently existing textbooks that have been approved by  
 4 the state and that reflect the TEKS -- the current TEKS?  
 5 A. Point of clarification, because you're stating  
 6 all grade levels. Spanish books would only go up to --  
 7 for the bilingual program, which would be up to  
 8 5th grade or 6th grade or commensurate. I am aware that  
 9 there are textbooks for those grade levels with the TEKS  
 10 that are in existence at the -- currently.  
 11 Q. In all subject areas? And if you're not aware,  
 12 then that's fine.  
 13 A. Yeah. Then I'm not -- as you point, in all  
 14 subject areas, I will defer to the textbook department  
 15 for that.  
 16 Q. Okay. And, you know, I'm not trying to trick  
 17 you. I just want to know what you know right now, what  
 18 you can tell me here under oath. And if you don't know,  
 19 that's fine. You can tell me that as well.  
 20 Do you know how many ELL students are  
 21 immigrants in Texas public schools?  
 22 A. No. I can't think of the number right now.  
 23 Q. Do you know approximately what percentage?  
 24 A. No.  
 25 Q. I think it was reported in 2009-2010 that out

1 program models; and under ESL you have the two program  
2 models.

3 Q. Okay. Thank you.

4 You're familiar with foreign language  
5 classes that are offered in school?

6 A. I'm aware that they offer foreign language  
7 classes, yes.

8 Q. Like Spanish 1, French 1. Correct?

9 A. Yes.

10 Q. How do those programs -- or how do those  
11 classes differ than a program or program model for ELL  
12 students in acquiring academic proficiency in the  
13 English language?

14 MS. COCHRAN-McCALL: Objection. Form.

15 A. Those classes are courses. The Spanish 1,  
16 Spanish 2, French, German, those are courses. Bilingual  
17 program and an ESL program, that is a substantive amount  
18 of time that a student -- an ELL student spends in  
19 acquiring that second language.

20 Q. (BY MR. HINOJOSA) So is there a difference  
21 between simply taking a foreign language class as  
22 opposed to being enrolled in a bilingual program?

23 A. Yes.

24 Q. And is there a difference even of obtaining  
25 fluency in a foreign language through a foreign language

1 class as opposed to obtaining academic proficiency for  
2 ELL students?

3 A. Because I have -- I have not taught a course in  
4 high school or have not worked in any way with the  
5 foreign language department, I have no response to that  
6 one.

7 Q. You taught adult ESL classes. Right?

8 A. Um-hmm.

9 Q. Yes?

10 A. Well, adult classes in oral language. Not a  
11 course.

12 Q. And was there a difference between how you  
13 taught students or adults to learn English versus what  
14 you did in the classroom for your students?

15 A. Absolutely.

16 Q. What was the difference?

17 A. The difference was, with the employees at  
18 Wal-Mart, it was based on which department they worked  
19 and what were the vocabulary that they need to learn to  
20 be able to meet the needs of their customers.

21 When I taught the parents, the vocabulary  
22 that they wanted to know was -- dependent on the type of  
23 work that they did, that was the vocabulary that they  
24 wanted to learn. I was not teaching the Texas Essential  
25 Knowledge and Skills for a course.

1 Q. Earlier we were talking a little bit about  
2 parental involvement. And under, you know, the  
3 Education Code 4.001(a), it states that -- you know,  
4 regarding the mission of the Texas public schools is  
5 that, "It is further grounded on the conviction that a  
6 successful public education system is directly related  
7 to a strong, dedicated, and supportive family, and that  
8 parental involvement in the school is essential for the  
9 maximum educational achievement of a child."

10 Would you agree that that statement  
11 equally applies to ELL students?

12 A. Yes.

13 Q. And you would agree that it would be in a  
14 child's best interest for students to not deny entry  
15 into a bilingual program, assuming that the bilingual  
16 program is resourced and implemented appropriately.  
17 Correct?

18 A. Yes.

19 Q. And are you familiar with parental denials to  
20 the bilingual and ESL programs in the State of Texas?

21 A. I'm familiar that there are parents that deny  
22 the programs, yes.

23 Q. Have you ever -- well, do you know what the  
24 rate of parental denial is in the State of Texas?

25 A. We have a total number. I can't recall the

1 exact number of parental denials.

2 Q. Do you know if it's in the range of 7 or  
3 8 percent?

4 A. I don't know by percentage. It would be -- we  
5 get them more by numbers, totals.

6 Q. And are you familiar with any study being done  
7 by the agency or any contracted entity that has studied  
8 the reasons behind parental denials?

9 A. No. I'm not aware of any.

10 Q. How about generally familiar? Based on your  
11 experience, do you know why parents tend to deny the  
12 bilingual or ESL programs?

13 A. Generally speaking, our parental denials are  
14 not always due to programmatic issues. They're due more  
15 to transportation issues. But I don't have any data to  
16 prove that. It's anecdotal information.

17 Q. Transportation issues, you mean being able to  
18 get to, for example, a cluster school?

19 A. That is correct.

20 Q. And transportation is not required to be  
21 provided by school districts for the pre-K and kinder  
22 program summer school for ELL students. Correct?

23 A. That is correct.

24 Q. Do you do work regarding LPACS?

25 A. Yes, I do.

1 they had, what type of professional development were  
 2 they also going to do with those teachers that were  
 3 instructing our ELLs.  
 4 Q. And when did these denials occur?  
 5 A. It was 2008 -- I'm sorry. I don't know the  
 6 year. I just know it was when my predecessor was there.  
 7 Q. It was while Georgina was there?  
 8 A. Yes.  
 9 Q. Have you -- since you've become the state  
 10 director, which was when?  
 11 A. February of 2010.  
 12 Well, point of clarification. I became  
 13 the director of bilingual/ESL in February 2010. In  
 14 September of 2011, I became the state director of  
 15 bilingual/ESL, Title III, and migrant.  
 16 Q. So are you saying in September 2011 that  
 17 you're -- you had additional duties related to Title III  
 18 and migrants that were added to your duties as the  
 19 director of bilingual education?  
 20 A. I was the recipient of two additional programs.  
 21 Q. All right. Let me get back, so we can finish  
 22 out this denial issue.  
 23 Since you've become director in  
 24 February 2010, have you denied any applications for  
 25 exceptions?

1 A. That would -- no.  
 2 Q. And how many applications of -- for exceptions  
 3 do you get on an average year?  
 4 A. I can tell you what we received last year. I  
 5 don't know -- I know they have been decreasing. Last  
 6 year we had 175 districts submit for an exception, and  
 7 we had -- an approximate number for ESL waivers, I  
 8 believe it was 65 or 66 districts.  
 9 Q. Okay. And just explain briefly for the record  
 10 what a waiver is under ESL as opposed to an exception to  
 11 bilingual.  
 12 A. An ESL waiver means that the district is  
 13 letting us know that they do not have enough certified  
 14 personnel to be able to instruct ELLs in the ESL  
 15 program.  
 16 Q. So it essentially serves the same purpose  
 17 except for ESL programs as an exception does for  
 18 bilingual?  
 19 A. That is correct.  
 20 Q. And how many waivers have been denied that  
 21 you're aware of since February of -- October -- no.  
 22 Well, yeah. October of 2005.  
 23 A. Since October of 2005, waivers, I do not  
 24 recall. I don't believe there have been any denials  
 25 of -- of ESL waivers.

1 Q. And what is the purpose of requiring an ESL  
 2 teacher to be certified in ESL?  
 3 A. What is the purpose of that teacher to be  
 4 certified? As you stated before, there's very little  
 5 difference as far as the requirement for an ESL waiver  
 6 and an exception. It is the same reason. You want to  
 7 make sure that you have a certified teacher for the  
 8 students -- those English language learners in the  
 9 class -- in the class that they're taking, the ESL  
 10 class.  
 11 Q. And would the same risks that you mentioned  
 12 regarding having a non-bilingual teacher teach a  
 13 bilingual class apply also to a teacher teaching an ESL  
 14 class without ESL certification?  
 15 A. The big difference between the teacher that's  
 16 instructing a bilingual classroom and the teacher  
 17 instructing an ESL classroom is the fact that the ESL  
 18 teacher does not need to know the language of the  
 19 student. So there is more English that is done in an  
 20 ESL classroom.  
 21 It is critical that she be certified in  
 22 ESL to be able to know those strategies of second  
 23 language acquisition with those students even though she  
 24 is instructing them in English.  
 25 Q. But a bilingual teacher, one who's not

1 certified in bilingual education, would not necessarily  
 2 know the language of the child -- the children that  
 3 they're teaching. Correct?  
 4 A. In a bilingual program here in the State of  
 5 Texas, not -- almost 92 percent of our students speak  
 6 Spanish, so --  
 7 Q. What I'm getting at is that if -- if a teacher  
 8 is not bilingual certified, just because they know  
 9 Spanish isn't going to mean that that teacher has the  
 10 same qualifications as -- even though a teacher who  
 11 lacks certification in bilingual education, just because  
 12 they know the language of the students doesn't mean that  
 13 they're going to be on equal terms as a bilingual  
 14 certified teacher. Is that correct?  
 15 A. That is correct.  
 16 Q. Regarding Exhibit 1735, are you familiar with  
 17 any misrepresentations or inaccuracies that have come to  
 18 mind?  
 19 A. No.  
 20 Q. So you said that the bilingual exceptions have  
 21 been on the decline and your best estimate is about 175  
 22 districts submitted exceptions last year. And so would  
 23 you say that in the prior years there was at least 175  
 24 exceptions over the previous years?  
 25 A. Yes.

1 Q. And how about the waivers for ESL? How many  
2 waivers on average are there?

3 A. As I stated, I can't give you an average, but I  
4 know they have decreased. It was approximately 66 that  
5 were submitted this year. I don't know an approximate  
6 percentage.

7 Q. And the exceptions that are applied for under  
8 the bilingual program, those can be for multiple schools  
9 in a district. Is that right?

10 A. The exception is submitted by the district as a  
11 district with the different campuses they have. So yes,  
12 multiple schools refers to multiple campuses, yes.

13 Q. So, in other words, there haven't been just 175  
14 teachers lacking in bilingual certification, there's  
15 likely been many more because you're talking about  
16 potentially more than one teacher in a given district  
17 for which an exception applies. Correct?

18 A. If I understand your question correctly -- or  
19 your comment correctly, the 175 is reflecting districts.  
20 It is not reflecting number of teachers.

21 Q. So I know, for example, in past years, Dallas  
22 ISD had submitted for, you know, dozens of exceptions at  
23 its campuses, but it would only have one form that it  
24 might apply for all of those exceptions.

25 A. Dallas ISD would submit as a district, and in

1 that one form, it would show the campuses.

2 Q. Okay. And how many districts serve ELL  
3 students through bilingual programs? Do you know?

4 A. I don't know.

5 Q. How about, do you know how many different  
6 districts across Texas have ELL students enrolled in  
7 their schools?

8 A. A number of districts. I don't know.

9 Q. Do you know the approximate percentage?

10 A. I'm not going to venture to guess.

11 Q. And who makes up an LPAC?

12 A. It has to be a campus administrator, a parent  
13 of a child participating in the program. If it's for  
14 the bilingual -- for the bilingual program, a bilingual  
15 certified teacher. If it's an ESL, a ESL certified  
16 teacher.

17 Q. And how many LPACs -- is there a maximum number  
18 of students for which an LPAC should serve?

19 A. The LPAC is a committee that's supposed to  
20 serve all students identified as ELLs, so I'm not  
21 understanding what you're asking as far as a maximum  
22 number of --

23 Q. Well, you know, if you have a school, for  
24 example, that has 300 ELL students and they have one  
25 LPAC --

1 A. Are you referring to the LPAC as the committee  
2 or are you referring to the LPAC as the actual LPAC  
3 committee meeting and discussing that student's work?

4 Q. All right. So are you saying that there's an  
5 individual LPAC for every student?

6 A. The LPAC is a committee comprised of  
7 individuals. That committee can meet -- is supposed to  
8 meet, by law, at the beginning of the school year or at  
9 the end of the year. Beginning of the year is for  
10 identifying the students, at the end of the year for  
11 exiting of the students. During midyear they meet to  
12 determine assessment decisions.

13 So an LPAC -- the committee can meet for  
14 the number of students that is needed dependent on what  
15 the need of that particular campus is.

16 Q. So -- but I think you earlier stated that an  
17 LPAC has a campus administrator, a parent of an ELL  
18 student who also cannot be an employee of the school  
19 district. Correct?

20 A. Correct.

21 Q. And then there's one other?

22 A. Either a bilingual certified teacher, an ESL  
23 certified teacher, dependent on...

24 Q. And so is this -- is there only one committee  
25 at a school? That's what I'm trying to get at.

1 A. Yes.

2 Q. So if there's 300 kids at a school, then that  
3 one LPAC would have to take the time to review entrance  
4 and identification, and then issues related to testing  
5 midyear and at the end of the year exiting. Is that  
6 right?

7 A. That is correct. But I'd like for the record  
8 to show that the state requires that you have an LPAC  
9 committee. If the district chooses to have several  
10 members of an LPAC committee be different committees,  
11 they can do that. As long as those committee members  
12 are trained, that can comprise an LPAC committee.

13 Q. Are you familiar with the accommodations with  
14 respect to standardized testing?

15 A. Accommodations?

16 Q. Yeah. Linguistic accommodations for ELL  
17 students.

18 A. I have heard the assessment department talk  
19 about them, but I'm not that astute with them. That is  
20 part of assessment.

21 (Exhibit No. 1737 marked.)

22 Q. (BY MR. HINOJOSA) I'm handing you what's been  
23 marked as Exhibit 1737, and this is titled "Linguistic  
24 Accommodations for ELLs Participating in the STAAR  
25 Program."

1 students?  
 2 A. Not overly identified.  
 3 Q. Okay. And regarding the special education  
 4 students and the services and identification of ELL  
 5 students as -- I know you mentioned that there might be  
 6 an overidentification of ELL students. And can you  
 7 speak a little bit more about that issue?  
 8 A. Overidentification of ELL students as  
 9 special-ed?  
 10 Q. Yes, ma'am.  
 11 A. The criteria that we have for identifying our  
 12 ELLs is the same for all students. So, therefore, there  
 13 may be some students that are identified as special-ed  
 14 that due to their disability, because of the test that  
 15 they took, it is not a language portion but rather their  
 16 disability that therefore caused them to be identified.  
 17 Q. Are you familiar with concerns of school  
 18 districts being able to appropriately identify ELL  
 19 students as special education?  
 20 A. I am concerned, and that is something that --  
 21 feedback that I received from the ESCs and the LEAs  
 22 regarding that we have started discussions at the agency  
 23 in regards to creating a new identification process,  
 24 just as we created the new exit process for special-ed.  
 25 Q. And even when -- once students are identified

1 as special education services, are you familiar with  
 2 concerns that school districts have in serving the ELL  
 3 students who are identified as special education and  
 4 ensuring that they're meeting their language needs as  
 5 well as their special education needs?  
 6 A. I am aware that -- in 2007 there was a change  
 7 in Chapter 89 regarding the special populations in  
 8 regards to special-ed. And in there it talked about the  
 9 importance of having the ARD in conjunction with key  
 10 members of the LPAC to determine what were the needs of  
 11 the student. And based on what -- key members  
 12 decided on and voted on the IEP, that would be what  
 13 would be the best for that particular student.  
 14 Q. Are you aware of a shortage of bilingual  
 15 education teachers in the State of Texas?  
 16 A. Yes.  
 17 Q. And do you know approximately how much of a  
 18 shortage there is?  
 19 A. No. Other than what they provide on the  
 20 application for exception. That is how I'm aware that  
 21 there is a shortage.  
 22 Q. And would the same go to the shortage of the  
 23 ESL teachers in Texas?  
 24 A. The same would go for that, yes.  
 25 Q. And are you familiar with the process that it

1 takes for a teacher to become bilingual certified in  
 2 Texas?  
 3 A. I'm familiar, but because that is not within  
 4 the realms of my role as state director, I would have to  
 5 defer that to educator certification.  
 6 Q. And do you know how much it costs for a teacher  
 7 to become certified in bilingual education?  
 8 A. I would defer to educator certification.  
 9 Q. How about ESL?  
 10 A. I would also defer to educator certification.  
 11 Q. Do you administer any grants from the migrant  
 12 program?  
 13 A. Yes.  
 14 Q. Do you know what those grants are supposed to  
 15 address?  
 16 A. Migrant students.  
 17 Q. But what type of services are they supposed to  
 18 offer?  
 19 A. There are different ones. We have a grant that  
 20 has been sent to education service center Region XX, and  
 21 it deals with Math Matters and it has to do with math  
 22 and instructing migrant students. We have --  
 23 Q. Let me ask real quick. What's the amount of  
 24 that grant?  
 25 A. I don't recall the exact number. I'm sorry.

1 Q. About approximate?  
 2 A. Because I don't recall -- because it's broken  
 3 into a contract and a grant, I don't recall which is the  
 4 exact amount, because that's not -- we just say where  
 5 it's going to go. It's within the grants division.  
 6 Q. Okay. What other grants?  
 7 A. We have a -- through the University of Texas,  
 8 through credit accrual, and through working with migrant  
 9 students and providing them -- helping them to be able  
 10 to assess the credits that they need for courses that  
 11 they may not -- it's like a distance learning.  
 12 And then we have Texas Migrant Intrastate  
 13 Project, TMIP, that addresses the needs of students that  
 14 are migrating to other states and ensuring that they  
 15 have -- that the other states are aware of the texts and  
 16 the assessments that are needed for our migrant  
 17 students.  
 18 Q. And are you aware of the amounts of any of  
 19 these grants that you're mentioning?  
 20 A. I want to say -- no. Because they change, so  
 21 I'm not going to venture. I can give you an  
 22 approximate.  
 23 Q. Sure. That would be fine.  
 24 A. 450 to 500 for TMIP -- 450,000 to 500,000. And  
 25 these are federal funds.

1 with implementing the program models. Is that right?  
 2 A. That is correct. But you asked for my opinion  
 3 and generalization, and that's what I gave in  
 4 generalization.  
 5 Q. And you would agree with me that school  
 6 districts also need the resources in order to effectuate  
 7 the program models. Correct?  
 8 A. That is correct.  
 9 Q. And that students might vary even from grade  
 10 level -- or within grade level about their particular  
 11 needs with respect to language instruction?  
 12 A. That is correct.  
 13 Q. Are you familiar with the performance of ELL  
 14 students as a group in the State of Texas?  
 15 A. Am I familiar with the performance of the ELLs  
 16 in the state of Texas?  
 17 I have not seen anything recently.  
 18 Q. Did you look at the STAAR results when they  
 19 came out to see how ELL students were doing?  
 20 A. I have not.  
 21 Q. I hand you what was previously marked as  
 22 Exhibit 29.  
 23 MR. HINOJOSA: And I'll represent to your  
 24 counsel here that this exhibit does have a couple of  
 25 lines that I had done, you know, previously. Nothing

1 shocking or anything like that, but that -- those lines  
 2 don't exist on the original Exhibit 29.  
 3 Q. (BY MR. HINOJOSA) And Exhibit 29 is the House  
 4 Committee on Public Education. It was a report that was  
 5 apparently submitted by Criss Cloudt and Gloria  
 6 Zyskowski and Shannon Housson from TEA.  
 7 And in this report on page 5, beginning on  
 8 page 5, there are STAAR results. This is only a  
 9 phase-in summary. Do you understand what the phase-in  
 10 summary is under Level II of the STAAR?  
 11 A. Yes.  
 12 Q. So that's not the final recommended standard.  
 13 Do you understand that?  
 14 A. Yes.  
 15 Q. And if we look at the LEP student group, in  
 16 English I Writing, English I Reading, Algebra I,  
 17 Biology, and World Geography, aside from special  
 18 education students, although they do outperform ELL  
 19 students in some of these subject areas, you would agree  
 20 with me that LEP students are performing much lower than  
 21 the other student groups identified here. Correct?  
 22 A. Correct.  
 23 Q. And they're in the single digits under the  
 24 phase-in recommended standard for English I Writing.  
 25 Correct?

1 A. Correct.  
 2 Q. English I Reading, it's 18 percent phase-in  
 3 standard, 6 percent recommended standard. Correct?  
 4 A. Correct.  
 5 Q. Algebra I, 60 percent the phase-in standard,  
 6 only 15 percent on the recommended standard. Correct?  
 7 A. Correct.  
 8 Q. Biology, it was 58 percent on the phase-in  
 9 standard but only 8 percent on the recommended standard.  
 10 Correct?  
 11 A. Correct.  
 12 Q. And World Geography, the phase-in standard was  
 13 43 percent versus 7 percent on the recommended standard.  
 14 And so you've never seen these numbers  
 15 before?  
 16 A. I have not seen this, no.  
 17 Q. Not this exact document, but have you never  
 18 looked at the performance of LEP students?  
 19 A. I had not, no.  
 20 Q. Was it not concerning to you about how LEP  
 21 students would perform on the STAAR test?  
 22 A. Was it not concerning to me? Yes.  
 23 Q. And so why haven't you bothered to look at the  
 24 STAAR results when we're months down the road from them  
 25 having taken this test?

1 A. I have not looked at them.  
 2 Q. But why not? I mean, you're the state director  
 3 for bilingual and ESL education. You've talked about,  
 4 you know, how if the dots are connected, students, you  
 5 know, should be learning -- ELL students should be  
 6 learning. And yet your testimony is that you've never  
 7 looked at these outcomes.  
 8 A. I have not looked at these outcomes because the  
 9 face of my role as state director is to ensure that the  
 10 program is occurring, that I am addressing the needs of  
 11 what the LEAs -- that does not mean that I am not going  
 12 to look at it. It just means that I have not looked at  
 13 it. Am I concerned? Yes, we're always concerned  
 14 regarding any aspect of an ELL.  
 15 Q. And you understood that the rigor of STAAR was  
 16 going to be jumping from the rigor of TAKS. Correct?  
 17 A. That is correct.  
 18 Q. And do you understand that ELL students and all  
 19 other students are going to have to achieve a minimum  
 20 score in order to graduate?  
 21 A. That is correct.  
 22 Q. And they're going to have to achieve a minimum  
 23 cumulative score as well. Do you understand that?  
 24 A. That is correct.  
 25 Q. And these are new changes that have never

1 been -- well, these are new changes that was made to the  
2 state accountability system. Correct?

3 A. Correct.

4 Q. What's your impression of the performance of  
5 LEP students sitting here today, looking at these STAAR  
6 results?

7 A. Well, as we stated, they are lower than what  
8 it's supposed to be. So my impression is that, yes,  
9 they are much lower than what they should be.

10 Q. The Fifth Circuit described the performance of  
11 ELL students in Texas, particularly at the secondary  
12 level, as dismal back around 2008 or so in the U.S. v.  
13 Texas case. Would you also describe these performance  
14 levels of ELL students as dismal?

15 A. By just looking at numbers, I can say that. I  
16 cannot address anything else regarding the assessment.  
17 I'm just solely looking at numbers. By looking at these  
18 numbers, yes.

19 Q. So it's possible that because -- you know, ELL  
20 students shouldn't be performing this badly just because  
21 they're ELL students. Correct?

22 A. No student should be performing, that's  
23 correct.

24 Q. So it's possible that school districts might be  
25 lacking the resources they need in order to help the ELL

1 students achieve the standards that have been put in  
2 place by the State. Correct?

3 A. I have not done a study, so I'm only going to  
4 speak in general terms. That could be a possibility,  
5 but I don't have anything to show that that is what --  
6 the reason why this is occurring.

7 Q. And as state director, are you generally  
8 familiar with the premise that sometimes school  
9 districts don't look out in the best interest of all  
10 children?

11 A. Am I --

12 Q. And not to say -- let me qualify.

13 Not to say that they're doing it  
14 intentionally or with some hidden agenda, but that --  
15 generally speaking, ELL students aren't normally at the  
16 forefront of school districts' concerns?

17 MS. COCHRAN-McCALL: Objection. Form.

18 A. I have not done a study, so I'm not going to  
19 address that when I don't have anything to prove that  
20 that is the case.

21 Q. (BY MR. HINOJOSA) How about as the state  
22 director? Do you not receive any concerns about  
23 students not being served?

24 A. Students not being served because there are  
25 parent denials?

1 Q. No.

2 A. Those are the concerns I receive.

3 Q. About ELL students not being served or not  
4 being served appropriately?

5 A. I don't receive calls that say what do I do,  
6 because we have a student that's identified as ELL and  
7 he's not being served. Is that your question?

8 Q. Well, I'm asking you whether or not you receive  
9 any calls about either students not being served or  
10 being served inappropriately.

11 A. I may receive calls asking about ELLs, but not  
12 specifically about the fact that they're not being  
13 served.

14 Q. Are you familiar with the phrase "robbing Peter  
15 to pay Paul"?

16 A. Uh-huh. Yes.

17 Q. And based on your experience, are you familiar  
18 with any of -- any school districts having to spread its  
19 limited resources among many students and possibly not,  
20 you know, affording certain student groups the  
21 opportunities they need to succeed?

22 MS. COCHRAN-McCALL: Objection. Form.

23 A. I'm familiar, I have heard, but I would not  
24 even be able to tell you what districts those are or  
25 what the dynamics of the amount of money that they were

1 referring to that they had to allocate to other  
2 students. I would not be able to address that.

3 Q. (BY MR. HINOJOSA) If school districts are  
4 being provided the necessary resources to in turn  
5 provide the educational opportunities that ELL students  
6 need to succeed, would you expect to see the results  
7 that we see here on Exhibit 29, page 5?

8 MS. COCHRAN-McCALL: Objection. Form.

9 A. If districts have the effective, efficient  
10 teachers in the classrooms and they have the resources,  
11 one -- just resources alone will not ensure success of  
12 students. There's different dynamics that occur. You  
13 need multiple components to ensure success of all the  
14 students.

15 Q. (BY MR. HINOJOSA) What other components would  
16 you need other than the necessary resources?

17 A. I am defining resources -- and please correct  
18 me if I'm wrong -- as materials for the classroom. I am  
19 defining resources as professional development.

20 But aside from those things that I am also  
21 considering resources, I feel that in order for a  
22 student to be effective, you have to have the personnel  
23 that buys into the program as well as into the  
24 instruction that is occurring for that student; that you  
25 have the support of parents; that you have the support

1 of the community, that you have resources available for  
2 them. All of that together, I believe will ensure  
3 success.

4 Q. And so assuming that school districts have, you  
5 know, the appropriate amount of revenue to purchase many  
6 of these items that you said might be needed -- and I  
7 understand not all of them are items that you can  
8 purchase -- but some of them, for example, professional  
9 development and materials, you know, cost money.

10 So assuming the districts have the  
11 appropriate amount of revenue to put in place this type  
12 of language program that you just described and are  
13 affording their students the opportunity to succeed,  
14 would you expect to see these results that we see here  
15 on page 5, Exhibit 29?

16 MS. COCHRAN-McCALL: Objection. Form.

17 A. Within my realm as state director, I do not  
18 address resources, funding, things that districts should  
19 purchase. So I will not -- I have no opinion on that.

20 In regards to program, are certain things  
21 needed to ensure that the program is effective? Yes.  
22 Those resources, those components are needed.

23 Q. (BY MR. HINOJOSA) All right. So -- so this  
24 program that you're talking about that the resources are  
25 needed, if districts have those resources and are fully

1 implementing them accordingly, would you expect to see  
2 the results that we see here on page 5, Exhibit 29?

3 A. If districts had the resources plus all the  
4 other components that I mentioned, yes. There should be  
5 an increase in the success of the students -- of all  
6 students.

7 Q. So the performance of LEP students represented  
8 here would not be representative of such a program that  
9 you just described. Correct?

10 A. I apologize, but I'm not understanding your  
11 line of questioning there.

12 Q. Sure. You've described the program that, you  
13 know, needs to be, you know, fully resourced, as you  
14 described. Correct?

15 A. With all the components that I stated, yes.

16 Q. So assuming that a district is implementing a  
17 program with all those components that you stated, would  
18 you expect to see these results that we see here?

19 A. No.

20 Q. And that's with respect to LEP students.

21 Correct?

22 A. That is with respect to LEP students.

23 Q. What is your opinion of Georgina Gonzalez? You  
24 know, you've taken her seat, so what is your opinion  
25 professionally of Georgina Gonzalez as she carried out

1 her duties as the former bilingual director?

2 A. Professionally? She was the state director. I  
3 don't think she may have been as efficient and effective  
4 as I am.

5 Q. Why not?

6 A. I feel that the -- the initiatives that I have  
7 compiled in my two years as state director -- and I  
8 believe very strongly that open communication and  
9 consistency of responses is very critical to ensure that  
10 everybody's on the same page. I feel that that is a  
11 component that may have been lacking at some time.

12 Q. Would you -- do you see her as a credible  
13 person?

14 A. She was the state director, and as state  
15 director -- or she was the director. That was her  
16 title, director. There were times that, yes, she was  
17 credible.

18 Q. Were there times that she was not credible?

19 A. Not necessarily not credible. There was times  
20 that responses may have contradicted at one time or  
21 another.

22 Q. During the last school finance trial,  
23 Ms. Gonzalez had testified that the weight for bilingual  
24 education should be probably at least .3, if I remember  
25 correctly. Just assume for purpose of this deposition

1 that I am remembering correctly.

2 Do you have an opinion as to whether or  
3 not she was right or wrong on that?

4 A. I have no opinion because I do not -- that is  
5 not within the realms of my role as state director  
6 regarding weight. I know there are weights, but I'm not  
7 going to venture to tell you exactly what they are  
8 because I do not recall.

9 Q. So you don't have an opinion regarding whether  
10 or not the current weight is adequate in order to  
11 provide and implement all the resources that you've  
12 spoken of here today necessary for a quality ELL  
13 program. Correct?

14 A. As I stated, that is not within the realms of  
15 my workload, and I'm not going to venture to address it  
16 if I am not comfortable.

17 Q. Do you know anybody at the agency who evaluates  
18 or determines whether or not there's sufficient  
19 resources to implement quality ELL programs for ELL  
20 students in the State of Texas?

21 A. There is a division at the agency that takes  
22 care of the funding, but I'm not sure with the  
23 reorganization -- I would not be able to tell you  
24 exactly the name of that division at this time.

25 Q. How many persons work under you?

1 A. I have four individuals.  
 2 Q. And how many work on the bilingual/ESL program?  
 3 A. Myself and another person.  
 4 Q. And what percentage of your work is devoted to  
 5 bilingual/ESL?  
 6 A. It's -- me personally, it's like a 50/50.  
 7 50 percent state, 50 percent federal.  
 8 Q. And the individual who works under you, who is  
 9 that?  
 10 A. Roberto Manzo.  
 11 Q. And what percentage of Roberto's work is  
 12 dedicated to bilingual/ESL?  
 13 A. Dependent on the workload, I would say maybe 65  
 14 or 60/40. 60 percent state, 40 percent federal.  
 15 Q. 60 percent state bilingual?  
 16 A. Um-hmm.  
 17 Q. And 40 percent, do you mean Title III?  
 18 A. I mean federal.  
 19 Q. Okay.  
 20 A. Federal encompasses migrant and Title III.  
 21 Q. And is Roberto certified in bilingual or ESL?  
 22 A. No.  
 23 Q. What are you -- are you head of a division or a  
 24 department? What is it?  
 25 A. I'm in the division of curriculum. That

1 encompasses several units. I am one of five units, and  
 2 so I oversee a unit. I oversee the ELL/Migrant unit.  
 3 And under that unit is ELL initiatives, which is what  
 4 Roberto takes care of, and I have the migrant. I have  
 5 two individuals for migrant, Title I, Part C. And then  
 6 I have one individual for Title III, Part A.  
 7 Q. And what are the ELL initiatives that Roberto  
 8 is responsible for?  
 9 A. The LEP SSI grants that I shared with you  
 10 earlier.  
 11 Q. What are the LEP SSI grants?  
 12 A. Those are funding that was received from the  
 13 legislature in regard to assisting English language  
 14 learners.  
 15 Q. And do you know how much that is?  
 16 A. I don't recall exactly the amount.  
 17 Q. And what was the purpose of those funds?  
 18 A. To provide professional -- to provide  
 19 professional development -- to create professional  
 20 development for educators of English language learners.  
 21 Q. So it's just the creation of professional  
 22 development, not necessarily the delivery of  
 23 professional development?  
 24 A. Thank you for that clarification. Yes, we  
 25 contract to create, to develop, and to enlist. And some

1 of them are being posted at Project Share.  
 2 Q. And are you aware of any cuts that were made to  
 3 the LEP SSI during the last legislative session?  
 4 A. I believe there were some cuts. I don't know  
 5 the exact amount.  
 6 Q. And so these weren't grants specifically given  
 7 to school districts. Right?  
 8 A. No. They're -- they're grants that were given  
 9 to education service centers and to institutes of higher  
 10 ed to create the courses that were needed to assist the  
 11 teachers and administrators, educators and LEAs.  
 12 Q. And did you say you're not sure how much that  
 13 was?  
 14 A. The total amount I don't recall --  
 15 Q. Mas o menos.  
 16 A. It's in the millions. I'm not even going to  
 17 venture.  
 18 Q. "More or less."  
 19 All right. Do you have an opinion as to  
 20 how LEP students have performed under AYP?  
 21 A. As I stated before, that's not part of my  
 22 programmatic role as state director, and I would have to  
 23 defer to --  
 24 Q. Do you have an opinion of how LEP students have  
 25 performed under the old TAKS test?

1 A. I had heard that the students that -- some  
 2 students in the ELLs in some grade levels were much  
 3 lower than what the state standard was.  
 4 Q. And do you know how LEP student outcomes are  
 5 under the college readiness indicators?  
 6 A. I would have to defer that, so no.  
 7 Q. Do you know if anybody at the state level  
 8 actually looks at the performance of ELL students  
 9 against the college readiness indicators and evaluates  
 10 them? I know they report it, but whether or not they  
 11 evaluate the performance of ELL students under the  
 12 college ready indicators?  
 13 A. I'm not sure.  
 14 Q. You've never seen a report on that, have you?  
 15 A. No.  
 16 Q. Do you know how LEP students are performing  
 17 under the dropout indicators or graduation rate  
 18 indicators?  
 19 A. Not this year, but in years past, I would  
 20 work -- no, not work. Let me rephrase that.  
 21 I would attend a meeting with Rachel  
 22 Harrington where they would show how the LEP graduation  
 23 and the LEP -- the dropout, but I have not seen a recent  
 24 report.  
 25 Q. Do you recall how LEP students as a group were

1 MR. HINOJOSA: Yes. Go ahead.  
 2 MS. COCHRAN-McCALL: -- related to  
 3 Exhibit 1732. And this is the site visits to Texas  
 4 Plaintiff Districts Edgewood, Harlingen, McAllen,  
 5 San Benito, and La Feria ISDs that Mr. Hinojosa offered  
 6 this morning. And we went off the record because I  
 7 communicated to Mr. Hinojosa that I have no record of  
 8 receiving this and have never seen it before.  
 9 And is it accurate, Mr. Hinojosa, to say  
 10 that when this was entered, it was represented as a  
 11 supplement to Dr. Elena Izquierdo's report? Is that  
 12 contract.  
 13 MR. HINOJOSA: Yes.  
 14 MS. COCHRAN-McCALL: And so just to the  
 15 extent -- because I have no record of receiving it, and  
 16 to the extent that there's the possibility that  
 17 defendant hasn't received it, I just want to object to  
 18 the untimely -- the untimely provision of this  
 19 supplement to an expert report --  
 20 MR. HINOJOSA: Yeah. And I'll  
 21 represent --  
 22 MS. COCHRAN-McCALL: -- with the  
 23 qualification that Mr. Hinojosa has communicated that it  
 24 was sent.  
 25 Go ahead. I didn't mean to cut you off.

1 MR. HINOJOSA: Sure. And I am looking at  
 2 an e-mail with an attachment that says "Izquierdo Site  
 3 Visit Report Addendum, Final." And this was sent on  
 4 August 20th, 2012, to Shelley Dahlberg, and copied to  
 5 Robert O'Keefe, Nicole Bunker-Henderson, Mary Cisler,  
 6 among others.  
 7 MS. COCHRAN-McCALL: Okay. Do you mind  
 8 just re-forwarding that? Thank you for clarifying.  
 9 MR. HINOJOSA: I can ask our staff, but  
 10 there's other communications since it's been all through  
 11 the BlackBerry e-mail.  
 12 MS. COCHRAN-McCALL: Of course. Of  
 13 course. Do you mind asking your staff to just forward  
 14 it, the original e-mail?  
 15 MR. HINOJOSA: Sure.  
 16 MS. COCHRAN-McCALL: Thank you very much.  
 17 (Proceedings concluded at 3:56 p.m.)  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

1 CHANGES AND SIGNATURE  
 2  
 3 WITNESS NAME: SUSIE COULTRESS DATE: October 4, 2012  
 4  
 5 Reason Codes: (1) to clarify the record; (2) to conform  
 6 to the facts; (3) to correct a transcription error; (4)  
 7 other (please explain).  
 8  
 9 PAGE LINE CHANGE REASON CODE  
 10 \_\_\_\_\_  
 11 \_\_\_\_\_  
 12 \_\_\_\_\_  
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 24 \_\_\_\_\_  
 25 \_\_\_\_\_

1 I, SUSIE COULTRESS, have read the foregoing  
 2 deposition and hereby affix my signature that same is  
 3 true and correct, except as noted above.  
 4  
 5 \_\_\_\_\_  
 6 SUSIE COULTRESS  
 7  
 8 THE STATE OF \_\_\_\_\_ )  
 9 COUNTY OF \_\_\_\_\_ )  
 10  
 11 Before me, \_\_\_\_\_, on this day  
 12 personally appeared SUSIE COULTRESS, known to me or  
 13 proved to me on the oath of \_\_\_\_\_ or through  
 14 \_\_\_\_\_ (description of identity card  
 15 or other document) to be the person whose name is  
 16 subscribed to the foregoing instrument and acknowledged  
 17 to me that he/she executed the same for the purpose and  
 18 consideration therein expressed.  
 19 Given under my hand and seal of office on this \_\_\_\_  
 20 day of \_\_\_\_\_, \_\_\_\_\_.  
 21  
 22 \_\_\_\_\_  
 23 NOTARY PUBLIC IN AND FOR  
 24 THE STATE OF \_\_\_\_\_  
 25 My Commission Expires: \_\_\_\_\_

1 CAUSE NO. D-1-GN-11-003130  
 2 TEXAS TAXPAYER & STUDENT ) IN THE DISTRICT COURT  
 3 FAIRNESS COALITION, et )  
 4 al., )  
 5 )  
 6 Plaintiffs, )  
 7 vs. )  
 8 )  
 9 EDGEWOOD INDEPENDENT )  
 10 SCHOOL DISTRICT, et al., )  
 11 (consolidated) )  
 12 ) TRAVIS COUNTY, TEXAS  
 13 Plaintiffs, )  
 14 vs. )  
 15 )  
 16 ROBERT SCOTT, in his )  
 17 Official Capacity as )  
 18 Commissioner of Education,) )  
 19 et al., )  
 20 )  
 21 Defendants. ) 200TH JUDICIAL DISTRICT

15 REPORTER'S CERTIFICATE  
 16 ORAL DEPOSITION OF SUSIE COULTRESS  
 17 October 4, 2012

19 I, Rebecca J. Callow, Certified Shorthand Reporter  
 20 in and for the State of Texas, hereby certify to the  
 21 following:

22 That the witness, SUSIE COULTRESS, was duly sworn  
 23 and that the transcript of the deposition is a true  
 24 record of the testimony given by the witness;  
 25

1  
 2  
 3  
 4 Further certification requirements pursuant to  
 5 Rule 203 of the Texas Code of Civil Procedure will be  
 6 complied with after they have occurred.  
 7 Certified to by me on this 16th day of  
 8 October, 2012.

14 \_\_\_\_\_  
 15 Rebecca J. Callow, CSR, RPR, CRR  
 16 Texas CSR 8925  
 17 Expiration: 12/31/2013  
 18 Firm Registration No. 615  
 19 TSG Reporting  
 20 747 Third Avenue  
 21 New York, New York 10017

1 That the deposition transcript was duly submitted  
 2 on October 16, 2012 to the witness or to the attorney  
 3 for the witness for examination, signature, and return  
 4 to me by November 5, 2012.

5 That pursuant to information given to the deposition  
 6 officer at the time said testimony was taken, the  
 7 following includes all parties of record and the amount  
 8 of time used by each party at the time of the  
 9 deposition:

10 David Hinojosa (5h03m)  
 11 Attorney for Edgewood Independent School  
 12 District  
 13 Amanda Cochran-McCall (0h0m)  
 14 Attorney for the State of Texas Defendants and  
 15 the witness

16 I further certify that I am neither counsel for,  
 17 related to, nor employed by any of the parties in the  
 18 action in which this proceeding was taken, and further  
 19 that I am not financially or otherwise interested in the  
 20 outcome of this action.

24 //  
 25 ///

1 FURTHER CERTIFICATION UNDER TRCP RULE 203

2  
 3 The original deposition was/was not returned to the  
 4 deposition officer on \_\_\_\_\_.  
 5 If returned, the attached Changes and Signature  
 6 page(s) contain(s) any changes and the reasons therefor.  
 7 If returned, the original deposition was delivered  
 8 to \_\_\_\_\_, Custodial Attorney.  
 9 \$ \_\_\_\_\_ is the deposition officer's charges to the  
 10 Plaintiffs for preparing the original deposition and any  
 11 copies of exhibits;  
 12 The deposition was delivered in accordance with Rule  
 13 203.3, and a copy of this certificate, served on all  
 14 parties shown herein, was filed with the Clerk.  
 15 Certified to by me on this \_\_\_\_ day of  
 16 \_\_\_\_\_, \_\_\_\_\_.

20 \_\_\_\_\_  
 21 Rebecca J. Callow, CSR, RPR, CRR  
 22 Texas CSR 8925  
 23 Expiration: 12/31/2013  
 24 Firm Registration No. 615  
 25 TSG Reporting  
 747 Third Avenue  
 New York, New York 10017

NO. D-1-GN-11-003130

TEXAS TAXPAYER & STUDENT ) IN THE DISTRICT COURT  
FAIRNESS COALITION, et al., )

Plaintiffs, )

v. )

EDGEWOOD INDEPENDENT SCHOOL ) TRAVIS COUNTY, TEXAS  
DISTRICT, et al., )  
(consolidated) )

Plaintiffs, )

v. )

ROBERT SCOTT, in his official )  
capacity as Commissioner of )  
Education, et al. )

Defendants. ) 200TH JUDICIAL DISTRICT

\*\*\*\*\*

ORAL DEPOSITION OF

DR. STEVE FLORES

San Antonio, Texas

Tuesday, October 9, 2012

\*\*\*\*\*

Reported by:

SUSAN S. KLINGER, RMR-CRR, CSR

JOB NO. 54329

1 DR. STEVE FLORES,  
 2 having been first duly sworn, testified as follows:  
 3 EXAMINATION  
 4 BY MR. VINSON:  
 5 Q. Dr. Flores, good morning.  
 6 A. Good morning.  
 7 Q. My name is Eric Vinson. You understand that I  
 8 represent the defendants in this case?  
 9 A. Yes, I do.  
 10 Q. Have you ever had your deposition taken before?  
 11 A. Yes, I have.  
 12 Q. Approximately how many times have you given a  
 13 deposition?  
 14 A. One time.  
 15 Q. And what were those circumstances under which you  
 16 gave a previous depo?  
 17 A. I was in the Dallas School District, and I was a  
 18 member of the ad hoc committee as the deputy  
 19 superintendent for schools. And there was a purchasing  
 20 card situation that occurred where we were part of a  
 21 review, and so I gave a deposition on an employee.  
 22 Q. I understand. Well, how long ago was that,  
 23 approximately?  
 24 A. 2007 maybe, 2006, '07.  
 25 Q. All right. Well, hopefully the things you

1 learned in that in terms of the process will carry over  
 2 to this deposition. I'm going to probably repeat some  
 3 things you have heard before, but just some ground rules  
 4 that will help today's process go more smoothly. You  
 5 are doing a good job so far, but if you will continue to  
 6 let me finish a question before you answer it, and I'll,  
 7 by the same token, as long as you're still answering my  
 8 question, I'll let you continue to speak before I ask  
 9 another question. Does that sound fair?  
 10 A. Yes, sir.  
 11 Q. All right. Because you will understand my  
 12 question a lot of times before I'm actually done asking  
 13 it, and it's normal to kind of start talking, but I need  
 14 you to -- I may put my hand up. I'm not trying to be  
 15 rude, but we do need to have a good break between the  
 16 question and the answer.  
 17 If at any time you don't understand a question  
 18 that I ask you, will you please let me know that and  
 19 I'll either try and rephrase it or give you some other  
 20 indication to help you understand the questions. Does  
 21 that sound fair?  
 22 A. All right.  
 23 Q. And if you will continue to answer out loud with  
 24 "yes" or "no" as opposed to head nods or "uh-huhs" or  
 25 "huh-uhs," it makes it much more clear on the record.

1 There's no doubt, you know, what your testimony is if  
 2 you say "yes" or "no," and "uh-huh" and "huh-uh" are  
 3 kind of bleed into each other.  
 4 And, of course, if you need take a break for any  
 5 reason, I'm absolutely fine with that. This does not --  
 6 this is not a, you know, a marathon or anything like  
 7 that. You are free to take break. If you need to talk  
 8 to your lawyer, if you need to make a call, you need to  
 9 step down the hall, anything is fine. Just let me know.  
 10 All I would ask is that you answer any pending question  
 11 before we take a break. Does that sound fair?  
 12 A. Yes, sir.  
 13 Q. Okay. Let's talk a little bit about your -- just  
 14 your own background. Where did you graduate from  
 15 college?  
 16 A. I graduated from Angelo state University, 1986,  
 17 December.  
 18 Q. What was your degree?  
 19 A. It was in history and physical education, and I  
 20 was a teacher in San Angelo schools. I remained at  
 21 college, Angelo state, to work on my master's, completed  
 22 that in '92 in school administration.  
 23 From that standpoint, in '95 or so, I started  
 24 working on my superintendent certificate at Texas Tech,  
 25 and finished my doctorate degree at the University of

1 Texas at Austin.  
 2 Q. Okay. So you started your superintendency  
 3 certificate in 1995 at Tech. And then what year did you  
 4 obtain your Ph.D. from the University of Texas at  
 5 Austin?  
 6 A. 2001.  
 7 Q. And were you working full-time while you were  
 8 also completing the master's and the superintendent  
 9 certification and your Ph.D.?  
 10 A. Yes.  
 11 Q. Okay. So let's talk about your employment  
 12 history. You mentioned you were a teacher in San  
 13 Angelo. When was the last year that you taught school  
 14 in San Angelo?  
 15 A. Let's see. That would be -- I moved into  
 16 administration in May of 1992, so 1992 would have been  
 17 my last year.  
 18 Q. And tell me again what year you obtained your  
 19 master's.  
 20 A. May of 1992.  
 21 Q. And did you go into administration in the San  
 22 Angelo School District?  
 23 A. Yes, I did.  
 24 Q. How long did you remain in administration in the  
 25 San Angelo School District?

1 A. Until 1999, approximately May of 1999, because I  
 2 got accepted to Austin to work on my doctorate in '99.  
 3 Q. So you moved to Austin, and where did you work  
 4 starting in the fall of 1999?  
 5 A. Actually moved to Round Rock, and 1999 began work  
 6 actually in the summer '99 at Texas Association of  
 7 School Administrators in Austin.  
 8 Q. What did you do for them?  
 9 A. I was assistant to the executive director.  
 10 Q. In functional terms, what did being the assistant  
 11 to the executive director require you to do?  
 12 A. It required me to do a little bit of assistance  
 13 on some professional development, wherever professional  
 14 development was for TASA. It allowed me to also attend  
 15 state Board of Education meetings, aspect meetings and  
 16 other things like that for the association. And also  
 17 during the legislative session in 2001, that legislative  
 18 session was able to spend some time with the  
 19 governmental relations department.  
 20 Q. How long did you remain in that role with TASA?  
 21 A. Two years.  
 22 Q. Where did you transition to after that?  
 23 A. Pflugerville ISD.  
 24 Q. And so was that 2001?  
 25 A. 2001.

1 Q. What role did you serve at the Pflugerville ISD?  
 2 A. Assistant superintendent.  
 3 Q. And how long were you the assistant  
 4 superintendent at Pflugerville ISD?  
 5 A. One year.  
 6 Q. And where did you go after that?  
 7 A. To Dallas ISD in 2002.  
 8 Q. Why did you move from Pflugerville -- why did you  
 9 take -- what led you to leave Pflugerville and join the  
 10 Dallas School District in 2002?  
 11 A. It was an advancement from an assistant  
 12 superintendent to an area superintendent. An area  
 13 superintendent, I would say. Area 6 in Dallas ISD. At  
 14 that time there were eight areas, and I was the area  
 15 superintendent for Area 6 under Mike Moses'  
 16 administration.  
 17 Q. I'm sorry. How long were you an area  
 18 superintendent at the Dallas ISD, from what time period?  
 19 A. Two -- a little less than two and a half years.  
 20 Q. Two and a half years. So that takes us to the  
 21 2004-2005 time frame, somewhere in there?  
 22 A. Yes, yes.  
 23 Q. Where did you go in the beginning of 2005, I  
 24 guess?  
 25 A. Round Rock as an assistant superintendent.

1 Q. Why did you leave the Dallas ISD as area  
 2 superintendent and come to Round Rock in 2005?  
 3 A. The reason was I had -- my family didn't make the  
 4 move. They lived in Round Rock, so I basically commuted  
 5 on weekends, so I drove 169.8 miles from Round Rock to  
 6 Area 6 on Friday. And if there was a function on a  
 7 Saturday, I would not forego that function and my  
 8 responsibilities in Dallas, but that became rather  
 9 hectic. So I decided -- there was a job opening, I  
 10 received a call at Round Rock, and I became the  
 11 assistant superintendent.  
 12 Q. Is that an approximate mileage that you gave us  
 13 just a minute ago?  
 14 A. I know for a fact. I know for a fact. I knew  
 15 it, and I could hit that sometimes in two hours and 34  
 16 minutes. That probably shouldn't be reflected in the  
 17 record.  
 18 Q. We won't do the math on that, for your benefit.  
 19 All right. So you came back to Round Rock to be  
 20 the assistant superintendent in 2005 because of your  
 21 family for two and a half years, you had been living  
 22 essentially in two different worlds, and you wanted to  
 23 live and work in the same world?  
 24 A. Exactly.  
 25 Q. And how long did you remain the assistant

1 superintendent in Round Rock, starting in 2005?  
 2 A. Until 2006, I became the acting superintendent,  
 3 which was -- when the superintendent resigned and left,  
 4 and so I was acting superintendent for a month to start  
 5 the school year, and then went back to Dallas in October  
 6 as the deputy superintendent for schools.  
 7 Q. Did you put yourself up as a candidate to be the  
 8 superintendent for Round Rock ISD in the vacancy that  
 9 opened up in the beginning of the 2006 school year?  
 10 A. I did not.  
 11 Q. Why was that?  
 12 A. Because I had told Michael Hinojosa when he took  
 13 the Dallas job and he called me one day, and I had  
 14 already told him, committed that I would be the deputy  
 15 superintendent for school operations.  
 16 Q. I see. So you became the acting superintendent  
 17 for Round Rock after you had already made a commitment  
 18 to become the deputy superintendent in Dallas. Do I  
 19 have that correct?  
 20 A. That's correct.  
 21 Q. And why did you agree to go be the deputy up in  
 22 Dallas -- the deputy superintendent, having already  
 23 tried to live in two worlds and decided that it wasn't  
 24 working out?  
 25 A. Well, this time, the family was going to move, so

1 there is no doubt. However, the school started that  
2 October when I moved, so they stayed until the spring,  
3 and then the spring, they came at the end of that  
4 spring.

5 Q. So how long did you remain the deputy  
6 superintendent in Dallas ISD?

7 A. I would say two years, and then I became the  
8 chief of staff for the next year, so I was there three  
9 years the second time.

10 Q. I got you. So let me see if I got the time line  
11 right. October 2006, you started as the deputy  
12 superintendent in Dallas ISD. You served that role  
13 approximately two years, and then the third year, you  
14 worked as the chief of staff for the Dallas ISD; is that  
15 correct?

16 A. Yes.

17 Q. And reported presumably directly to the  
18 superintendent?

19 A. Yes, sir.

20 Q. And what was this gentleman's name?

21 A. Michael Hinojosa.

22 Q. And why did you only serve as chief of staff for  
23 a year?

24 A. Because of the fact that I became the  
25 superintendent in Harlingen in July of '08.

1 Q. Did you have previous ties to Harlingen? Did you  
2 grow up in that area or --

3 A. None at all.

4 Q. You became aware of a position opening there, you  
5 put your name in the hat, and they ended up hiring you?

6 A. Yes. I was aware of Harlingen. Part of my study  
7 was in Los Fresnos. I did a single case study on my --  
8 on my dissertation. As a result, I knew Region 1 in  
9 Edinburg was where the service center was, so I knew of  
10 Harlingen.

11 Q. You had some previous familiarity in your Ph.D.  
12 studies?

13 A. That's correct.

14 Q. And again, make sure I have the timeline here.  
15 July of what year? 2008?

16 A. 2008.

17 Q. 2008. Okay. I see. And you have been the  
18 superintendent in Harlingen ever since July 2008?

19 A. Yes, sir.

20 Q. And is it your plan to stay there for the  
21 foreseeable future as the superintendent?

22 A. Yes, sir.

23 Q. How would you describe your job duties as  
24 superintendent for the Harlingen ISD to someone who  
25 didn't really know anything about a superintendent's job

1 for an ISD?

2 A. I would describe it as the chief education  
3 officer for the educational leader that oversees the  
4 day-to-day operations for facilities, finances, district  
5 operations, so on and so forth, so the full gamut of  
6 what goes on in a school district. But for the lay  
7 person, it's just -- I'd always say that when I go to a  
8 school, I always tell students, I work for you, I work  
9 for your parents, I work for the teachers, I work for  
10 the community, so that's in general.

11 Q. Sure. Although you are literally and  
12 figuratively the head of the organization, you view your  
13 role as one that's meant to support the participants in  
14 the process, both on the teaching side and the student  
15 and parent side as well?

16 A. Exactly. Systems support is a big moniker, not  
17 only a moniker, but a way of doing things for us in  
18 Harlingen. It's a way of supporting the classroom.

19 Q. What did you focus on, or did you focus on the  
20 prior administration, the prior superintendents' world  
21 view philosophy, and how much did you try and  
22 incorporate that into your approach, or did you try and  
23 basically start with a clean slate and build your  
24 approach from the ground up?

25 A. I would say that obviously honoring the past is

1 important anywhere. As you saw, I moved several times,  
2 but always honoring the past, but still doing things in  
3 a way that builds upon what was left. I began with an  
4 entry plan. There was an entry plan that -- that kind  
5 of set the first hundred days in motion, but that entry  
6 plan was discussions with boards from a qualitative  
7 approach because I was a qualitative researcher. So  
8 just basic questions of the board.

9 And then I did the same with -- with the  
10 principals and the superintendent staff and tried to  
11 determine what were the priority needs at that time  
12 within the first 30 to 45 days, and then some action  
13 steps that emanated from that. So I took what was  
14 there, but I also took a qualitative approach from those  
15 that -- that were stakeholders. And so honoring of the  
16 past is important, but I think everyone has their own  
17 niche to say, so to speak.

18 Q. You mentioned the term a couple of times, and I  
19 want to drill into this a little bit, you use the  
20 expression or the term "qualitative approach." Could  
21 you describe to the Court what you mean by that term?

22 A. The qualitative approach would be from a speak --  
23 you know, a conversation from a -- from not -- not a  
24 telling, but more of a collaborative approach, more  
25 opportunity for one to participate in dialogue rather

1 even find out about the existence of this lawsuit?  
 2 A. Gosh, I mean, I don't know, per se, the exact --  
 3 I think there is multiple ways. I mean, there was  
 4 discussions prior to -- on the TASA legislative  
 5 committee. I was on the executive committee, so there  
 6 was discussions of -- of possible litigation. So as far  
 7 as hearing directly from whom and when, I -- I don't  
 8 know directly.  
 9 Q. Did you consult with any other administrators in  
 10 Harlingen in connection with making the decision to join  
 11 this litigation? And I mean to exclude attorneys from  
 12 that question. I don't want to know about conversations  
 13 you had with your lawyers.  
 14 A. Administrators within my own -- we call it -- I  
 15 don't call it cabinet, so if I use the term  
 16 "superintendent staff," superintendent staff was at a  
 17 discussion. Yes, there was discussions.  
 18 Q. What about principals from Harlingen ISD? Did  
 19 you talk to principals and get their input on whether to  
 20 join this litigation or not?  
 21 A. No.  
 22 Q. What about teachers, did you talk to any teachers  
 23 about whether it would be a good idea to join -- for  
 24 Harlingen ISD to join this litigation?  
 25 A. No.

1 Q. What about parents, did you talk to any of the  
 2 parents of any students at Harlingen ISD about whether  
 3 it would be a good idea for Harlingen ISD to join this  
 4 litigation?  
 5 A. No.  
 6 Q. What about taxpayers in the community, did you  
 7 talk to any taxpayers in the community which you-all  
 8 serve about whether it would be a good idea for  
 9 Harlingen ISD to join this litigation?  
 10 A. No.  
 11 Q. You mentioned your staff, and I do want to just  
 12 get a run-down of who your staff is in the present time.  
 13 Who -- who makes up your staff and what roles do they  
 14 serve?  
 15 A. The superintendent staff, again, it's probably  
 16 the last time I will say "cabinet," but most people  
 17 refer to cabinet, but I will say it here, would be  
 18 deputy superintendent, Art Cavazos. Assistant  
 19 superintendent for finance or for business services,  
 20 Julio Cavazos. Assistant superintendent for human  
 21 resources, Rosalinda Vargas. Assistant superintendent  
 22 for district operations, Oscar Tapia. Assistant  
 23 superintendent for C&I --  
 24 Q. C&I?  
 25 A. Curriculum and instruction --

1 Q. C&I, got you.  
 2 A. -- Michelle Everett.  
 3 Q. Everett?  
 4 A. Everett, E-V-E-R-E-T-T. And then those are the  
 5 assistant superintendents, but we also have a director  
 6 of communications, Shane Strubhart.  
 7 Q. Shane or Shannon?  
 8 A. Shane.  
 9 Q. What is the last name?  
 10 A. Strubhart, S-T-R-U-B-H-A-R-T. Our athletic  
 11 director, Randy Cretors, and Lori Romero, executive  
 12 director for leadership.  
 13 Q. Okay. Let me just run through those folks and  
 14 just get a sense of how -- of their tenure in the role  
 15 that they're serving. The deputy, Art Cavazos, how long  
 16 has he been your deputy?  
 17 A. He has been my deputy -- I've been there four  
 18 years, a little over four, he became deputy in January,  
 19 so I would say three and a half.  
 20 Q. And just rough figures, we don't need it down to  
 21 the month, though I do appreciate your tendency to be  
 22 highly accurate, I can assure you.  
 23 Julio Cavazos is with us here today, yes?  
 24 A. Yes.  
 25 Q. And how long has he been the assistant director

1 for business, was it services?  
 2 A. For business services.  
 3 Q. Yes. How long has he served in that role,  
 4 roughly?  
 5 A. The whole time since I've been here.  
 6 Q. Was he in that role before you came in?  
 7 A. Prior.  
 8 Q. So that's -- you're four years in?  
 9 A. Uh-huh.  
 10 Q. And business services, you almost said, I think  
 11 finances or accounting before you said business  
 12 services, if I remember correctly. What is the role of  
 13 the assistant director for business services?  
 14 A. Finance is really -- chief financial officer  
 15 would be more of an appropriate term if I had the chief's  
 16 rather than assistant.  
 17 Q. Understood. And any relation between Julio and  
 18 Art?  
 19 A. No.  
 20 Q. Ms. Vargas, the assistant director for HR, how  
 21 long has she served in that capacity?  
 22 A. She was there prior to my arrival.  
 23 Q. All right. Oscar, was it Tappas?  
 24 A. Tapia.  
 25 Q. Tapia. I can't read my own writing, Tapia. He

1 sounds like the operations guy?  
 2 A. Uh-huh.  
 3 Q. Yes? Is that a "yes"?  
 4 A. Yes, I'm sorry.  
 5 Q. That's okay. I will remind you occasionally.  
 6 I'm not trying to be a jerk, but it just comes out  
 7 naturally, I guess. In any event, how long has Oscar  
 8 been the operations guy?  
 9 A. We hired him from Brownsville I would say going  
 10 on three years. Yes, this -- in fact, I would imagine  
 11 right about now it's three years.  
 12 Q. And C&I, again, is that curriculum and  
 13 instruction?  
 14 A. Right.  
 15 Q. And that's Michelle Everett?  
 16 A. Right.  
 17 Q. Roughly how long has she served in that capacity?  
 18 A. Two and a half years.  
 19 Q. And your communications director, Shane  
 20 Strubhart, how long has Shane served in that capacity?  
 21 A. Two and a half years.  
 22 Q. And Mr. -- was it Cretors --  
 23 A. Cretors.  
 24 Q. -- your AD, how long has he been there?  
 25 A. He has been there the full time I've been there.

1 Q. And the executive director for leadership, Lori  
 2 Romero, how long has Lori served in that capacity?  
 3 A. Since July, so four months.  
 4 Q. Four months. What -- what is that role, the  
 5 executive director for leadership, what is that -- is  
 6 that a role you created?  
 7 A. Yes, yes.  
 8 Q. Was it -- did it exist before Lori held it?  
 9 A. It did not.  
 10 Q. What is the function of that position?  
 11 A. Primarily working with principals, assisting  
 12 principals in the day-to-day operations of -- prior to  
 13 that, I was the evaluator prior to this year, the  
 14 evaluator of principals at the elementary, and  
 15 Dr. Cavazos is at the secondary. What we found was that  
 16 what's not probably in the best interest as far as time  
 17 goes, so that position -- she was an elementary  
 18 principal, and that position was something that the  
 19 board actually had said so that we work on  
 20 transformation and other things that the district is  
 21 doing, may lend itself to a suggestion, so the board  
 22 made the suggestion and it makes sense, so that's what  
 23 Lori...  
 24 Q. Does Lori report to Oscar?  
 25 A. No, no, no, to school leadership -- well,

1 Dr. Cavazos still sees the secondary principals, the  
 2 middle school. He's the deputy for transformation and  
 3 school support. So it's a school support function.  
 4 Q. I see.  
 5 A. He used to be, prior to the deputy superintendent  
 6 for secondary -- deputy superintendent for school  
 7 support and secondary education.  
 8 Q. You've used the expression "transformation" a  
 9 couple of times. Can you tell me in broad terms what  
 10 you mean by that term, "transformation"?  
 11 MS. BONO: Objection, form.  
 12 MR. VINSON: What is the basis of the  
 13 objection?  
 14 MS. BONO: That he's used it in different  
 15 contexts, so it's a vague question. You need to specify  
 16 which -- which time. It could have different meanings,  
 17 depending on when he said it.  
 18 Q. Okay. The various times you have used the word  
 19 "transformation," did you mean it to mean different  
 20 things when you have used it today?  
 21 A. No.  
 22 Q. Okay. So can you tell me what you mean by that  
 23 term "transformation"?  
 24 A. Transformation is doing things in a different way  
 25 or change.

1 Q. What -- as applied to the management, the  
 2 operations, the philosophy of Harlingen ISD, how do you  
 3 see that change? What is the -- what is the hope for  
 4 the change that you hope to see in Harlingen ISD? From  
 5 what situation to what situation?  
 6 A. Harlingen ISD to be a bellwether for the -- not  
 7 only the state, but the nation because of obviously the  
 8 change in demographics that are occurring. The Rio  
 9 Grande Valley in general is -- has been and will  
 10 continue to be important. However, in this date and  
 11 time, what transformation for us means doing things  
 12 differently in a way that it can lend itself from the  
 13 traditional way of doing things.  
 14 Q. But surely you're not implementing a system of  
 15 change in Harlingen, and I'm going to -- let me just  
 16 take a detour here. I'm going to apologize, because I'm  
 17 used to saying ISD. I understand you are a consolidated  
 18 ISD, so --  
 19 A. That's fine.  
 20 Q. -- please don't hold that against -- you  
 21 understand what I mean when I talk about Harlingen ISD?  
 22 A. (Nods head affirmatively.)  
 23 Q. Okay. So back to my question: It sounds like  
 24 you're a part of, and you are trying through your  
 25 leadership to implement changes in the way Harlingen ISD

1 has been operating and doing things, and you're not  
 2 doing that for its own sake; right? You are not  
 3 changing things just for its own sake?  
 4 A. Oh, no, for the betterment of the 21st century.  
 5 Q. And what led you to decide that there needed to  
 6 be a change in the way Harlingen ISD had been running  
 7 things prior to your arrival as superintendent?  
 8 A. I think the rapid changes in technology, the  
 9 rapid movement of systems that allow for doing things  
 10 differently in a classroom, and getting caught up to  
 11 maybe the rest of the state.  
 12 Q. Did you feel like Harlingen was behind the rest  
 13 of the state in terms of its use of technology when you  
 14 arrived as superintendent in 2008?  
 15 A. I wouldn't say that they were behind. I think  
 16 they've been progressive. You know, they had tech  
 17 academies at the high school for several years and  
 18 different things like that, so they have been one of the  
 19 first districts in the Rio Grande Valley to have teacher  
 20 laptops issued several years back, so technology, but to  
 21 continue to move in the direction of technology as a  
 22 tool.  
 23 Q. Why is -- and why is it that you think that  
 24 it's -- some of these questions may sound stupid or they  
 25 may sound confrontational, and they really aren't meant

1 to -- I'm really wanting to get your perspective on  
 2 these things. Why is it that you believe that keeping  
 3 up with progressive technology is necessarily a better  
 4 model or method for teaching students?  
 5 A. Well, we've got to meet the needs of students  
 6 today. They live in a digital world. You and I were  
 7 digital -- well, I'm going to assume that you weren't  
 8 born prior to 1980 -- or after 1980.  
 9 Q. Correct.  
 10 A. So digital native, we're digital immigrants, you  
 11 know, from that standpoint. And from that, students  
 12 born into technology, a world of technology, it has  
 13 shifted and it's changed and evolved and it's a part of  
 14 who they are and what they are.  
 15 Now, also I want to make sure that when we speak  
 16 of transformation and change, we're not saying wholesale  
 17 widespread, and it's one moment we go one-to-one laptops  
 18 and this, that, and the other. I'm sure at some point  
 19 we'll talk about digital information libraries and  
 20 different things that we're doing in initiatives, but as  
 21 a result of what we can live within our means, but I'm  
 22 way ahead, so...  
 23 Q. No, that's okay. I did want to get a sense of  
 24 the scope of -- of the change that you are hoping to see  
 25 in Harlingen ISD, because I assume when you inherited

1 the role, that you surveyed the ISD and you saw many  
 2 things about the ISD that were operating well and  
 3 smoothly and didn't require, you know, drastic wholesale  
 4 change, whereas other components of the -- the model,  
 5 for lack of a better term, probably did -- you did see  
 6 some opportunities to change some things and improve the  
 7 way that things were running. And so I do want to get a  
 8 sense of where -- where in the management of the  
 9 district you have focused the desire for change within  
 10 the district, if that makes sense. Can you talk to me a  
 11 little bit about that?  
 12 A. That's -- to me, that's very broad. I don't  
 13 know -- I mean, I don't know how I can bring that down  
 14 to a specific or specificity.  
 15 Q. Well, when I've asked you about change a couple  
 16 of times, your answers have typically been centered  
 17 around technology, about the use of technology and  
 18 focusing on technology and improving access to  
 19 technology. And I'm wondering if there are other  
 20 components of the way that the district operates in any  
 21 respect that you feel like change was necessary from  
 22 your perspective?  
 23 A. Yes. Systems of support, I think we used that  
 24 word earlier, systems of support that allows through the  
 25 use and utilization of Professional Learning

1 Communities, and Professional Learning Communities  
 2 are -- allow for collaborative planning time on  
 3 campuses, do some things -- we can talk about that, I'm  
 4 sure, later. That is the delivery model of our system  
 5 of support and what we actually call the Harlingen  
 6 learning community, the HLC, and that's -- you know,  
 7 Professional Learning Communities are not anything new,  
 8 but they're something that allows for teacher  
 9 collaboration, teacher input, principal walk-throughs  
 10 and different things that allow for monitoring  
 11 instruction and allowing for more. So when we talk  
 12 about transformation, I don't want our conversation to  
 13 be fixated on technology as much as I would on systems  
 14 support.  
 15 Q. Okay. Well, that's very helpful. So help me  
 16 understand what we mean by the phrase "systems of  
 17 support." What does that generally describe within a  
 18 district -- within your district?  
 19 A. Beginning with the -- we talked about the  
 20 superintendent staff. Our jobs exist because we support  
 21 campuses. I think that sometimes -- well, I'm not going  
 22 to speculate. I can tell you that -- so if that's the  
 23 case, then how do we zero in on assistance to the  
 24 campus, and that includes the superintendent staff. The  
 25 functioning unit that has to be successful is the

1 classroom. So allowing for systems support, in other  
2 words, asking the simple question, how does my job, how  
3 does this function support the classroom.

4 Q. Okay. And let's -- let's take a step sort of out  
5 of the superintendent's perspective on support, and help  
6 me understand more generally, when we talk about  
7 support, what are we talking about? Like what do we  
8 mean by the idea of support for a campus, for example?

9 A. For a campus?

10 Q. Yes, sir.

11 A. From an instructional standpoint, I'm defining  
12 instructionals. From a grade level, if their  
13 kindergarten teacher is a system of support, having an  
14 instructional facilitator and a principal leading what  
15 they -- an actual collaborative planning time looks like  
16 or a meeting, a grade-level meeting. Having those  
17 discussions be centered on student achievement, be  
18 focused on different things.

19 So allowance of systems that allow for teacher  
20 collaboration was something that I think has more than  
21 anything than technology transformed or will transform  
22 what we're doing. It's more targeted and allows for a  
23 system. As the stakes get higher and collaboration is  
24 more important, we can no longer say, well, this campus  
25 does this, and that campus does that without

1 cross-collaborative functioning.

2 Q. And help me understand who the collaborative --  
3 who are the participants in this collaborative model  
4 that you are describing?

5 A. Well, the superintendent staff, also principals,  
6 collaboration, understanding what a Professional  
7 Learning Community we implemented or the discussion for  
8 implementation was about -- my first year we didn't  
9 really -- again, we didn't make any major changes.

10 But the second year, the Professional Learning  
11 Community became part of the teaching, the framework of  
12 what that is, is there acceptance of it, is that  
13 something that -- that campuses do.

14 And so the last two years have really  
15 crystallized into what we consider high-functioning  
16 Professional Learning Communities. So the systems of  
17 support allow from the principal standpoint not only --  
18 I mean, now we actually visit campuses. There is --  
19 there is what we call highlight walks from that. So  
20 whatever could be working at one campus or what we feel  
21 principals, from the first time they've been to a  
22 campus, they've been there, one principal 18, 19 years  
23 and never stepped foot in another elementary campus  
24 until there was a highlight walk.

25 So the collaborative process of what works I

1 think is -- again, I don't want us to focus on the  
2 technology, but focus on what allows teachers to feel  
3 supported.

4 Q. Okay. And I probably -- you know, just kind of  
5 stumbled into this area without really organizing it  
6 properly, but it sounds like the overarching concept  
7 that you -- the term that you have used a couple of  
8 times is the professional learning communities, and  
9 could you describe that -- what that concept means?

10 A. Yeah. And again, I mean this is not anything  
11 that -- that it's -- Professional Learning Communities  
12 in the literature is Rick and Becky Dufour, D-U-F-O-U-R.  
13 But it's what we do want our kids to learn, what is it  
14 that -- what do we do when they're not learning, how do  
15 we extend to other things, and we've added how do we  
16 prepare them for post-secondary. So those are  
17 post-secondary education.

18 So in other words, the full gamut of -- of what  
19 that is, is kind of the -- the questions behind our HLC,  
20 and then the system support, how do we assist the  
21 classroom teacher.

22 Q. Okay. But I guess what I'm trying to understand  
23 is literally, like if I -- if I'd never heard the term  
24 "Professional Learning Community," and I understand you  
25 didn't come up with the concept, but what does that

1 describe? What does that mean? What is a Professional  
2 Learning Community?

3 A. A Professional Learning Community is a system  
4 that allows for -- for teachers to -- to collaborate, to  
5 be a part of learning that is not independent, but with  
6 a group. And it allows for the grade-level planning  
7 that before a lot of times, and I think teachers -- and  
8 this is in general, their conference, their planning,  
9 and there are things that they do, is something that  
10 they do. This allows -- I mean, this allows for them to  
11 actually participate.

12 Once a week they have Professional Learning  
13 Community time, HLC time embedded in some part of their  
14 day, not within their 45 minutes, but -- so again, what  
15 does it do? It allows for the teachers to zero in on  
16 what their strengths and what their weaknesses are, and  
17 try to work with others who are having success as well.

18 Q. Okay. So from the students' perspective at an  
19 elementary school, let's say -- let's just take a 2nd  
20 grader, for example, at one of your elementary schools.  
21 How would I see the Professional Learning Community  
22 impact my education as opposed to a traditional  
23 classroom, let's say, with a single teacher the whole  
24 day who teaches all subjects and then comes back the  
25 next day and does the same thing?

1 A. Well, in a Professional Learning Community, one,  
2 even the central office might be there, so a 2nd grader  
3 might see central office, seeing what is going on.

4 Q. In the classroom?

5 A. In the classroom. Also, they may see another  
6 teacher who is observing as well and part of that  
7 collaboration that they do. So a student might then be  
8 asked what they're doing as well, what is it by another  
9 teacher other than -- just to get the framework of what  
10 is highly effective for that teacher, so that's how that  
11 might impact a 2nd grader.

12 Q. I see. So it almost sounds like the  
13 collaborative process that you are describing is one  
14 more of absorption by other people who are watching a  
15 learning environment, and then taking that information  
16 and perhaps incorporating it into a different learning  
17 environment for other students. Is that -- do I have  
18 that correctly?

19 A. That's -- yes.

20 Q. It's not the case where teachers will sit down  
21 and sort of game plan or brainstorm, you know, how do we  
22 teach this particular aspect of the curriculum, what are  
23 good ways to do it, it's really more about observing the  
24 experience of the educational process and then taking,  
25 again, what appears to work for different students into

1 other environments and sharing that with other -- other  
2 classrooms, other students, other teachers; is that --  
3 is that correct?

4 MS. BONO: Objection, form.

5 A. I think -- yes, I think you've got the gist of  
6 that.

7 Q. We're going to take another detour here into the  
8 less-exciting portion of our time together, and I'm  
9 going to mark a number of these AEIS reports for the  
10 various years. You're familiar with the AEIS reports?

11 A. Yes, sir.

12 Q. What is an AEIS report?

13 A. Basically a district report card, a campus report  
14 card.

15 Q. You use the term "report card." Why would you  
16 say that it's a report card as opposed to simply data  
17 relating to the district's operations?

18 A. Well, because it gives you the student  
19 performance. I think the student performance, the  
20 importance of that and a data analysis of how campuses  
21 do, but it can -- it can -- obviously, I chose the term  
22 "report card," I could have substituted "data" for a  
23 campus.

24 Q. But there's something -- I'm sorry, I didn't mean  
25 to cut you off. There is something qualitative about

1 the AEIS report; right?

2 A. Yes.

3 MR. VINSON: I'm marking Exhibit 1738.  
4 (Exhibit 1738 marked.)

5 Q. I believe that is the AEIS report for -- these  
6 aren't stapled, I'm sorry -- that's 1738. That's the  
7 AEIS report for Harlingen ISD for the 2010-2011 time  
8 frame; is that correct?

9 A. Yes.

10 Q. And if you will hand that back to me, I will  
11 staple it so we don't have a huge mess by the end of the  
12 day. And we are going to do the same thing here for  
13 various years.

14 MR. VINSON: Let's go off the record for a  
15 second.

16 (Off the record.)

17 (Exhibits 1739 - 1743 marked.)

18 Q. Dr. Flores, we've just taken a break and marked a  
19 number of exhibits. I just want to briefly run through  
20 them for the purposes of identifying them for the  
21 record. Exhibit 1738 -- and they may be in -- you've  
22 got it right. 1738 is the 2010-2011 AEIS report for  
23 Harlingen ISD; is that correct?

24 A. Yes, sir.

25 Q. And 1739 is the AEIS report for 2009-2010; is

1 that correct?

2 A. Yes, sir.

3 Q. Exhibit 1740 is the AEIS report for 2008-2009; is  
4 that correct?

5 A. Yes, sir.

6 Q. Exhibit 1741 is the AEIS report for 2007-2008 for  
7 Harlingen; is that correct?

8 A. Yes.

9 Q. Exhibit 1742 is the 2006-2007 AEIS report; is  
10 that correct?

11 A. Yes.

12 Q. And last, but not least, 1743 is the 2005-2006  
13 AEIS report for Harlingen CISD; right?

14 A. Right.

15 Q. And those are all true and correct copies for the  
16 AEIS reports for those various years; is that correct?

17 A. Yes.

18 Q. Do you use AEIS reports in your planning,  
19 decision making, management of Harlingen CISD?

20 A. Yes, we do.

21 Q. How do you use -- let's just take, for example,  
22 the most recent one. Let's focus on Exhibit 1741 -- 38  
23 like I said, 1738, the 2010-2011 AEIS report. How would  
24 you use this in your consideration of how to manage the  
25 Harlingen ISD, what directions to take it in going

forward?

A. Well, what we do, we look at where we compare, not only to the region in the state, but where we have our -- our strengths and our weaknesses. Obviously this is the district, so it's going to have the compilation of all, but I think more independently use this with the campus by campus as well to see how they fare.

So the -- the data is rich with obviously where strengths, weaknesses that are highlighted on student performance is -- is evident. So we use that quite a bit, specifically our curriculum and instruction department, but we use that at the superintendent staff level as well as we frame what could be the next topic for Harlingen Learning Community, or HLC, which on the campus is a PLC.

Q. Harlingen ISD has been rated either acceptable or even recognized each of the last five years; is that correct?

A. Yes, sir.

Q. And, in fact, I believe it was in the 2009-2010 time frame that Harlingen was recognized under the state's accountability rating system; is that correct?

A. Yes.

Q. And the other years it was viewed as acceptable; is that correct?

A. Right.

Q. Do you have an understanding of the formula by which TEA determines whether a district itself is either acceptable, recognized, exemplary, etcetera? Do you have an understanding of how that works?

A. Yes.

Q. Do you know why it was in 2008 -- excuse me, 2009-2010, why Harlingen was rated as recognized?

A. There was a Texas projection measure, a TPM was utilized for that year. And TPM utilized a student may not have met the minimum requirement, but if there were gains made, then the TPM would be factored in, and the state factored that in to allow that through time and that student would be passing thus, the TPM factored in and didn't allow us to be a rated recognized district.

Q. Okay. So the TPM was a -- perhaps a metric projection, as you said, that -- that allowed not only Harlingen, but perhaps other districts as well, it was a tool to essentially evaluate whether a particular student, by the time they were set to graduate from high school, whether they would be forecasted to meet the minimum standard. And if so, that student who may have failed to meet the standard for that particular year was considered passing for purposes of evaluating the district? Do I have that correctly?

A. Yes, sir.

Q. And did that tool -- was 2009-2010 the only year that tool was used that you are aware of?

A. That I'm aware of, yes. In the TAKS system, yes.

Q. What is -- and we can dig it out. I've got it somewhere in the documents here, but in general terms, what is Harlingen ISD's mission, from your perspective?

A. To provide a -- an excellent educational system for our students, or a system of excellence for our students. I --

Q. Do you believe -- I'm sorry, were you completed?

A. I was going to expand.

Q. Please.

A. -- but that's fine.

Q. Okay. Do you believe that at the present time, Harlingen ISD is meeting that mission, to provide an excellent educational system for its students?

A. I believe we can do better, so the answer to that would be no, I'm sorry.

Q. And how do you determine or measure whether or not Harlingen ISD is providing an excellent educational system for its students?

A. Well, obviously the AEIS is what a lot of individuals will use. So the AEIS is important, but -- and some of the metrics in that college readiness as

well, the determination of college readiness. And the standard for that as far as the excellence that an indicator system does, it does provide for one to ascertain if, in fact, a campus specifically or by subgroups or by what have you, is -- is meeting the mark.

So when -- for us to say that we're an excellent system on AEIS data would say that we're at or above the state, but even then, that's relative. At some point our students compete with Eanes Independent School District to get into universities, to get into college. We live in a global world. It's not just Eanes, so it's not just -- China and India as well, but -- so for an excellent system, we have to look at multiple measures.

Q. Okay. What are the components that go into making up the educational system? And I'll start with the easy one, which is the quality of your teachers. Would you agree with me that that's part of the educational system for your students is the quality of the teachers?

A. Yes, I would, that's a -- that's a major component.

Q. And would you say that currently, Harlingen ISD has excellent teachers?

A. I value our teachers, so I would say they're

1 excellent.

2 Q. Okay. What are the other major components of an  
3 excellent educational system besides teachers?

4 A. That's a very broad term, or a broad question. I  
5 believe a strong factor for a highly effective school  
6 system is the readiness level of students entering --  
7 the first point of entry in a school system. And I'm  
8 not saying that from a deficit standpoint. I'm saying  
9 that from a value add, knowing that there is a word gap,  
10 not so much an ability gap.

11 I'm never -- one thing a superintendent of  
12 schools for Harlingen CISD will never say is before we  
13 speak of achievement gaps, we need to speak of the word  
14 gaps that exist with children of poverty.

15 So the readiness -- to answer the question, a  
16 component that I look for for an effective -- highly  
17 effective school or an excellent school system is an  
18 early childhood component that has to be evident and  
19 allows for immediate work on the word gap issue.

20 Q. And I'm sorry, you are --

21 A. Speaking educations.

22 Q. You are using lingo that I just frankly don't  
23 know what you're talking about. What do we mean when we  
24 say "word gap"? Is that a language deficiency?

25 A. No, a word gap could be language, but let me be

1 specific and I'll cite the actual study. Hart & Risley  
2 at the University of Kansas, I believe, or Kansas State,  
3 their contention is that a child -- there's a 32 million  
4 word gap by age four. That's the contention. The  
5 contention is based upon the fact that a child born of  
6 poverty, extreme poverty may hear three to 500 words,  
7 where a child born with affluence may hear 2,000 to  
8 2,500 words.

9 I don't know the exact numbers to get to the  
10 point where their contention of the theory is that by  
11 one year, from birth to one, there is an 8,000-word gap,  
12 and it could be in English, it could be Spanish, but  
13 dependent upon poverty and the type of words spoken.  
14 And you pronounce or you expand that to grade 2, 3, and  
15 4, so therefore, the contention would be that the 32  
16 million words exist, the gap exists, which then lends  
17 itself to the readiness or unreadiness of students to  
18 enter -- to learn at pre-K or K.

19 So a quality or a highly effective school system,  
20 in my estimation, that's paramount to have understanding  
21 that word gaps exist, so that you're working that word  
22 gap not by the time they come at grade 3 or 4, and our  
23 pre-Ks at four, but that you're working that, if at all  
24 possible, with extended summer programs and libraries  
25 open in the most needy areas, which we can get into all

1 of that, but I think you are asking about components  
2 that allow for a highly effective -- and I'm speaking of  
3 Harlingen.

4 Q. Right.

5 A. I'm speaking of school districts across the Rio  
6 Grande Valley where poverty is high and economic  
7 disadvantaged students are high and the LEP population  
8 is high. So, again, and I don't want anyone to  
9 misunderstand what I'm saying, it is not about the  
10 achievement that one can't do because of that. It's the  
11 imperative nature of schools in the Rio Grande Valley in  
12 Harlingen -- I'm only going to speak for Harlingen -- to  
13 start bridging that word gap.

14 Q. Okay. I think I'm understanding what you're  
15 telling me. I need to unpack it a little bit into some  
16 component pieces.

17 First of all, just definitionally nomenclature,  
18 when we talk about a word gap, what we're talking about  
19 is the difference between perhaps a child born of  
20 poverty who isn't exposed literally to as many words per  
21 day, which has a --

22 A. Per hour.

23 Q. -- per hour, which has a compounding effect per  
24 day, per week, per month, per year, versus someone in a  
25 perhaps -- again, hypothetically, a more affluent family

1 who would be exposed to a more robust level of  
2 conversation and literally exposure to the number of  
3 words spoken --

4 A. Right.

5 Q. -- and your point about word gap from a  
6 structural perspective is that in Harlingen, it's your  
7 belief that this phenomenon of the word -- of children  
8 entering school with a higher word gap than the average  
9 population, first of all, it exists and it needs to be  
10 addressed?

11 A. Yes, sir.

12 Q. Okay. And so you need to have systems and  
13 structures in place that recognize the presence of  
14 students who may have a word gap coming in the door, and  
15 then has some system and structure in place to address  
16 those students who haven't been exposed to literally as  
17 much language as other students coming in?

18 A. Right.

19 Q. Okay. And what would you say -- how would you  
20 describe Harlingen ISD's current ability to deal with  
21 incoming students with significant word gaps? Are  
22 you -- would you say they're excellent systems, would  
23 you say they're average systems, would you say they're  
24 below average systems?

25 A. So let me make sure I'm understanding the

1 question, because there is some variables here that --  
 2 that -- are we saying the first day prior to a --  
 3 because what I don't want it to seem like is that we're  
 4 blaming anyone, there's no one to blame. The reality is  
 5 that discussions don't occur, talk doesn't occur, the --  
 6 I mean, words don't exist, but to go in to, say, pre-K  
 7 with our 17 elementary schools, the pre-K program, which  
 8 is half day because of state funding is another issue,  
 9 where we could look at for a full day.

10 I mean, there is issues -- I don't want to say  
 11 the first day -- if the question is, do we address it  
 12 and do we do it well, the answer to that is yes. But to  
 13 say that immediately it's really because we have  
 14 excellent systems, that that's addressed and it's done  
 15 away with, that's -- that would not be true.

16 Q. Well, okay. I want to be real clear. I'm not  
 17 trying to play word games or trap you into ideas. I  
 18 want to get a sense of where you think --

19 A. Excellent.

20 Q. -- that the ISD is in terms of performance,  
 21 understanding that there is probably room for  
 22 improvement --

23 A. Right.

24 Q. -- anywhere, and then you are free to tell me  
 25 that. I'm not suggesting by using the term "excellence"

1 that you have maximized --

2 A. Okay.

3 Q. -- your achievement in a particular area. So it  
 4 sounds like from your perspective, Harlingen ISD is  
 5 doing an excellent job addressing --

6 A. Identifying.

7 Q. Identifying?

8 A. Identifying.

9 Q. Okay.

10 A. Addressing, we're -- that's I think something  
 11 that we're going to definitely making a priority.

12 Q. Okay. So let's break that down. Again, this is  
 13 as much -- or primarily for me, an information  
 14 gathering --

15 A. Right.

16 Q. -- sense of where you think Harlingen is in the  
 17 grand scheme of its delivery of educational services,  
 18 and so I want to get that accurately. It sounds like  
 19 you are describing the identification tools as excellent  
 20 for children who might have word gaps coming into your  
 21 school system?

22 A. Right.

23 Q. But perhaps, your tools available to you now to  
 24 address that situation, that need, is not excellent. Do  
 25 I understand that correctly?

1 A. Repeat that.

2 Q. Yes.

3 A. I'm sorry, the last part.

4 Q. Yes. Let me just ask it as a standalone  
 5 question: Would you describe Harlingen ISD's ability to  
 6 address those students who have been recognized as  
 7 having a word gap as excellent?

8 A. Yes.

9 Q. Okay. So what are -- we've talked in a big  
 10 picture about elements of an excellent school system,  
 11 particularly for Harlingen ISD, what it would take to  
 12 make an excellent school system. We've talked about the  
 13 quality of the teachers, we've talked about the need to  
 14 address the word gap phenomenon that you-all deal with  
 15 in that population. Again, I'm not --

16 A. Right.

17 Q. -- not trying to blame anybody, but --

18 A. That's true.

19 Q. -- that's the reality?

20 A. That's true, yes.

21 Q. Those are the students you inherit, and that's  
 22 the need that's there. What are the other major  
 23 components of an excellent school system -- excuse me,  
 24 an excellent educational system in Harlingen?

25 A. An aligned coherent curriculum, pre-K to 12. In

1 other words, the district having a framework of -- it's  
 2 not 27 independent school districts, or we have 27  
 3 campuses that -- so it is an aligned system, curricular  
 4 framework that allows for -- because of our mobility  
 5 factor, if a child moves from grade 2 and if we have  
 6 varied curricula in another campus, then who's -- I  
 7 mean, that's shock to that system.

8 The code for reading might have just been a week  
 9 away in the schema, and the design of that is taken away  
 10 in a difference because we're having much, much variance  
 11 is -- I don't think -- so when you are talking about an  
 12 excellent system, an aligned coherent curriculum, pre-K  
 13 to 12, you also have systems of support. It comes  
 14 back -- campuses are supported, teachers are supported.  
 15 They're not just left on their own, and that in a highly  
 16 effective school district, I believe that it's -- there  
 17 is concern about the data at their own campuses. They  
 18 are across at other campuses, and that may seem -- in  
 19 other words, there's cross -- that's a high level of --  
 20 that's what we're trying to do to where it's -- it's not  
 21 just about that one campus, but it's a system of  
 22 excellence rather than pockets of excellence.

23 Q. I see. That from the central office's  
 24 perspective, the districts have a relatively uniform and  
 25 consistently excellent delivery of services, that it's

1 not just confined to the good side of the tracks or the  
2 right part of town?

3 A. Core content specialists, for example, are  
4 systems support, the instructional facilitators. All  
5 these things that now, all of a sudden, become part of  
6 what a system -- in other words, it's not just an  
7 isolated, okay, we need system support. Well, what does  
8 that mean? Well, we don't know. It just sounds good.  
9 No, that's not -- we're going to have -- now, can we  
10 have more individuals in the curriculum department  
11 instructional facilitators? I believe we do have  
12 instructional facilitators at each campus, but we should  
13 have reading specialists. We just talked about the word  
14 gap, but we don't have that. So when we're speaking of  
15 funds and funding issues, obviously there are some  
16 things that we can do.

17 The word gap going back though, tomorrow morning,  
18 I am having -- Valley Baptist, they're doing a health,  
19 literacy component. I'm doing a literacy component to  
20 welcome Valley Baptist, the CEO and I will begin that  
21 symposium on the importance of not only -- because  
22 literacy is literacy. The fact that Valley Baptist  
23 identifies it as health literacy to them is an excellent  
24 point.

25 So what does that mean? That we have to be a

1 collective impact of the community, understanding that  
2 there is going to -- I believe it's not, you know, a  
3 system that says, you know, the school district needs  
4 help, we need help. Yes, funding would -- would  
5 obviously help us with that, but in Harlingen CISD --  
6 and we can't just wait for the state to determine what  
7 adequate funding is. We have to do things that will  
8 allow hopefully for people to see that this is not any  
9 longer just an isolated incident of what happens when  
10 you underfund schools.

11 That's more than you've asked, so let me --

12 Q. That's okay. I appreciate you sharing, you know,  
13 your perspective on this for me. I do want to get back  
14 a little bit to the components that would make up an  
15 excellent educational system in Harlingen.

16 We've identified the quality of teachers, we've  
17 identified the need to address the word gap for children  
18 coming into the educational system. We've identified an  
19 excellent coherent --

20 A. Aligned curriculum.

21 Q. -- aligned curriculum from pre-K to 12th grade,  
22 and as a part of that, I think you also shared with me  
23 another component of the answer, which is the idea --  
24 the concept of support given to the campuses in order to  
25 be able to achieve these goals, and that at the end of

1 the day, the quality of the education across the  
2 district be relatively consistent and uniform and not  
3 sporadic or scattered?

4 A. One of the other things to a highly effective  
5 school district if we're speaking in terms of the highly  
6 effectiveness, then I think it also requires -- a  
7 cohesive governance model with the superintendent and  
8 board as well. So having those things aligned I think  
9 contribute or assist in the quality of education. That  
10 doesn't mean that if there is not uniformity or unity  
11 there that it can't happen, but it's better when those  
12 targets are all moving in the same direction.

13 Q. Well, that just makes sense from a -- from a  
14 management perspective. If all of the managing voices  
15 are on the same page and working for the same goals and  
16 buying into the same model, you are going to get  
17 typically better outputs than you might be from a  
18 gridlocked, you know, dysfunctional management  
19 structure; right?

20 A. Right.

21 Q. I don't think anyone is going to fight too hard  
22 on that.

23 Let's talk about your current curriculum. Do you  
24 have a cohesive curriculum that carries students from  
25 pre-K to 12th grade?

1 A. We have -- we have CSCOPE. We have CSCOPE. I  
2 think that CSCOPE is something that is a curriculum  
3 tool. It's not the entire -- I mean, it's not the  
4 curriculum.

5 Q. It's not the curriculum?

6 A. No.

7 Q. It's a management --

8 A. And I don't know if management is the -- it's the  
9 alignment piece that I think that is so important. So  
10 utilization and fidelity of that implementation is  
11 really -- is really key.

12 Q. And I guess what I'm wondering is, do you feel  
13 that the curriculum that's being offered to Harlingen  
14 ISD students through CSCOPE is excellent?

15 A. I think the framework with the teachers, the  
16 teachers being the key here, being adequately trained  
17 and adequately -- I think the -- I think CSCOPE's  
18 adequate. I think it does its purpose, but it comes  
19 back to the effective teacher, understanding the years  
20 at a glance, what's called the YAGs and the -- the  
21 design and the scope and sequence and those things.

22 Failure to have that, then you would have a  
23 system or a curricula that's being utilized that is  
24 done -- or sparsely done where it's give and take, and  
25 so it has got to be more, again, aligned. That doesn't

1 So, I mean, the framework is there. I don't want  
 2 it to -- I mean, obviously our AEIS and our student  
 3 achievement isn't at the state level or above, so for us  
 4 to say excellent, we've got a lot of work to do. And  
 5 again, I want to make sure I'm clear that we value the  
 6 people who make it happen, and that's the teacher in the  
 7 classroom. I don't want it to sound by any means, the  
 8 superintendent in San Antonio is not supportive of the  
 9 teachers because I'm their biggest -- I believe I'm  
 10 their biggest fan, so I just want to make sure I get to  
 11 say that.

12 Q. Absolutely. I think you have been very clear  
 13 that you feel that the quality of teachers at -- in  
 14 Harlingen is excellent. I don't think there is any  
 15 question about that. And I'm in no position to argue  
 16 with you.

17 You mentioned the -- that the governing model  
 18 essentially needs to be -- ideally would be functional  
 19 and not dysfunctional, and I think we're speaking  
 20 primarily of the relationship between the board and the  
 21 central administrative office of the ISD; is that right?

22 A. Right.

23 Q. How would you describe your relationship with the  
 24 Harlingen ISD board?

25 A. Excellent.

1 Q. Excellent, good?

2 A. Outstanding. It's a great board. It's -- and  
 3 part of what has sustained, I think, Harlingen through  
 4 several years is their board. Their board is -- you  
 5 know, you asked earlier when I came in the changes and  
 6 this, that, and the other, but this board has been very  
 7 high functioning, so it's one of the major highlights.  
 8 That's why it's, in and of itself, something that I have  
 9 for an excellent system.

10 Q. Sure. Are there other components that we would  
 11 describe as major components to the educational system  
 12 in Harlingen ISD, outside of those we've discussed,  
 13 being quality of the teachers, the systems in place to  
 14 address word gaps, the curriculum, the level of support  
 15 given to campuses, and then the relationship of the  
 16 governance model itself between the board and the  
 17 central office? Are there other components of an  
 18 excellent and highly effective educational system for  
 19 Harlingen?

20 MS. BONO: Objection, form.

21 A. I mean, the community support -- I mean, I think  
 22 the community is a strong indicator as well. So the  
 23 fact that they're supportive of their schools in  
 24 Harlingen is, I believe, a strong testament to the  
 25 overall effectiveness of that whole model.

1 Q. And would you -- it sounds like what you're  
 2 telling me, if I'm understanding you correctly, is that  
 3 the community support of Harlingen ISD in achieving its  
 4 mission, you would describe as excellent?

5 A. I do. I'm sure I've left some things out, but  
 6 for that -- that's fine.

7 Q. I mean, it's pretty -- if there were more items,  
 8 I would start to question how major, you know, 13 items  
 9 could be, but we have one, two, three, four, five --  
 10 roughly six major components to an excellent educational  
 11 system?

12 A. Parental involvement.

13 Q. Parental involvement. How would you -- how would  
 14 you describe the parental involvement in Harlingen ISD?  
 15 How would you describe it?

16 A. I think it's second to none. Again, the ability  
 17 to meet and greet and be a part of, do we need more, you  
 18 know, the effectiveness that they -- I think that they  
 19 show in the workloads that they have speaks volumes.

20 So I think, again, the parental involvement group  
 21 and involving our parents is critical. You have  
 22 community, you have parents, you have board governance,  
 23 you have the framework within. I think that's --  
 24 that's -- I agree that if everything is important, then  
 25 really nothing is important.

1 Q. All right. Would you say that Harlingen is  
 2 meeting the educational requirements placed upon it by  
 3 the state?

4 MS. BONO: Objection, form.

5 A. No.

6 Q. What do you believe the standard from the state  
 7 to be that you're not meeting -- that Harlingen ISD is  
 8 not meeting?

9 A. Well, we've talked about the data, and I've  
 10 already stated we're not meeting the -- the gaps that  
 11 exist with regard to the state level of students, and so  
 12 that being said, I mean, I think that's  
 13 self-explanatory.

14 Q. So you are basing that on the -- the, for example  
 15 the TAKS test data?

16 A. I mean, your college-readiness indicator at the  
 17 criterion ACT, SAT is also below the state. So, I mean,  
 18 we've got some work to do. I'm not -- I'm not here to  
 19 say that we're satisfied where we are. That's why I'm  
 20 hoping I'm speaking to the system that can allow for us  
 21 to be able to do that so that I can answer in  
 22 affirmative next time it's asked.

23 Q. If you will look with me on Exhibit 1740 -- no,  
 24 1738, excuse me, I'm sorry. Are there SAT and ACT data  
 25 reported in there?

1 that in your answer if it's meaningful, but what I'm  
2 trying to get at is what requirements, if any, the state  
3 imposes upon the district in terms of the education of  
4 its students that you feel that Harlingen is not meeting  
5 in terms of a requirement from the state?

6 A. As far as -- I mean, the data, let me -- there is  
7 not a specific requirement, but if you don't meet at a  
8 certain -- at this point, it's no longer -- you're rated  
9 unacceptable or acceptable, so the ratings play into a  
10 factor of that.

11 Other things that happen, you know, because TEA  
12 or the state doesn't say that being published, business  
13 and community members understand and say, well,  
14 college-ready, because that term is utilized quite a  
15 bit. So it may not be -- the implication may not be  
16 directly from the state, or it may just be implied, but  
17 the consequences are for us to address those issues,  
18 whether the state -- and other than the reporting  
19 requirements of the label in previous years, then  
20 obviously.

21 MR. VINSON: Let's take a break.

22 (Recess taken 10:48 to 11:17 a.m.)

23 Q. Dr. Flores, we were talking about meeting the  
24 requirements of the state and previously we talked about  
25 the standards, and I think I kind of mixed our language

1 up a little bit. I think that caused a little confusion  
2 in the dialogue, so I apologize for that. Let's go back  
3 to talking about state standards, and not so much about  
4 requirements, but about standards.

5 What do you understand the state standard to be  
6 for the expectation of its district in terms of  
7 percentage of college-ready seniors?

8 MS. BONO: Objection, form.

9 A. I don't know if they have a set standard.

10 Q. Because you don't -- you don't -- you don't  
11 believe that the state expects that all of the districts  
12 are going to have 100 percent of their students meet the  
13 standard for college-bound preparedness in any  
14 particular year, right?

15 MS. BONO: Objection, form.

16 A. I can't answer for the state. My expectation is  
17 that we should work that hard to lose that, I mean, 100  
18 percent, what do we say don't, but what the state  
19 says and what I say at the local level.

20 Q. Well, and I'm trying to get -- I understand that  
21 you may have a different goal, maybe higher, but I want  
22 to understand your -- I want to find out what your  
23 understanding is of what the state standard is for  
24 percentage of college-prepared seniors, whatever that  
25 standard may be, and ask you whether you know whether

1 the state expects, let's say more than 50 percent of  
2 its -- of the graduating seniors from a particular  
3 district to be meeting the college-prepared standard?

4 MS. BONO: Objection, form.

5 A. I don't know.

6 Q. You don't know?

7 A. I don't think they have a state standard.

8 Q. I see. You are aware of the actual standard that  
9 the state uses to measure whether a particular student  
10 is or is not college prepared, right?

11 A. Yes.

12 Q. And we looked at some data about that in Exhibit  
13 1739, 1738. We saw on page 10 the college-ready  
14 graduates in both subjects for the district show as 47  
15 percent for 2010 minus the statewide average was 52  
16 percent, and your point is that you're five percent  
17 behind the state average, yes?

18 A. Yes.

19 Q. And you also -- I understand from your previous  
20 statement that you would like to see a higher percentage  
21 of Harlingen ISD students meet that college-ready  
22 standard, regardless of what the rest of the state is  
23 doing, right?

24 A. Yes.

25 Q. In terms of your understanding of the state's

1 expectations of percentage of college-ready graduates  
2 meeting the standard in both subjects, math and English  
3 language arts, would you say that Harlingen is or is not  
4 succeeding in its mission relative to this -- to this  
5 state standard?

6 A. We're below the state in both subjects.

7 Q. Yes. So is that a no, you don't believe you are  
8 meeting the state standard?

9 A. That's a no.

10 Q. Sure. And do you have any ability to estimate  
11 how much additional funding it would take for Harlingen  
12 ISD to meet the state standard for college-ready  
13 graduates?

14 A. I don't have a specific dollar, no.

15 Q. What about a percentage?

16 MS. BONO: Objection, form.

17 Q. Dollars relative to your current budget?

18 MS. BONO: Objection, form.

19 A. I don't know the answer to that. I mean, we need  
20 more resources obviously, but, you know, to meet that  
21 standard, to get to that standard, I don't have a  
22 specific dollar amount.

23 Q. Do you have a general dollar amount that would --  
24 that would answer that question about what it would take  
25 for Harlingen ISD to meet the state standard for

1 college-ready graduates?  
 2 MS. BONO: Objection, form.  
 3 A. I don't.  
 4 Q. Would you say that Harlingen's financial  
 5 situation is serious?  
 6 MS. BONO: Objection, form.  
 7 A. I would say so.  
 8 Q. And by "serious," we mean seriously lacking in  
 9 terms of what you would think would be necessary to  
 10 provide -- let me start over.  
 11 I assume you're telling me that Harlingen ISD is  
 12 not meeting its mission, either its own mission or the  
 13 mission as relative to the state's expectations, based  
 14 on these test scores and in Exhibit 1738 that show the  
 15 number and percentage of college-ready graduates for  
 16 Harlingen Consolidated ISD; is that correct?  
 17 A. I'm saying that we're not meeting the standard,  
 18 that we're lower. So if that's a yes, then that's a  
 19 yes, but we're -- we're below the state average.  
 20 Q. Right. But is that -- is that the standard, as  
 21 you understand it, the state average?  
 22 A. No.  
 23 MS. BONO: Objection, form.  
 24 Q. It is not -- it is not the standard, is it?  
 25 A. It is not the standard.

1 Q. And if you were -- if Harlingen ISD was above the  
 2 average, would you say then that Harlingen is meeting  
 3 the standard?  
 4 MS. BONO: Objection, form.  
 5 A. I stated earlier that I think 100 percent would  
 6 be -- we would continue to strive for what -- so...  
 7 Q. I understand that that's certainly the goal. I  
 8 mean, we -- when we talk about standards, we sometimes  
 9 talk about targets and goals, and we also, you know,  
 10 talk about floors and ceilings; right? We're talking  
 11 about what is the highest that we could do, and what  
 12 would be something that we would view that's lower than  
 13 that as acceptable, adequate, sufficient, whatever term  
 14 you want to insert there?  
 15 And I am really more interested in the lower end  
 16 of the rank, whether you have done any thinking about,  
 17 you know, whether Harlingen ISD meets its own standard  
 18 for percentage of college-prepared graduates or the  
 19 state's standard for college-prepared graduates or  
 20 anything like that?  
 21 MS. BONO: Objection, form.  
 22 A. The answer is right now, we're not meeting it  
 23 when we're below the state average, and that's --  
 24 Q. Would you feel that you were meeting the minimum  
 25 if you were at -- if Harlingen ISD were at or above the

1 state average for college-ready graduates?  
 2 MS. BONO: Objection, form.  
 3 A. Repeat your question.  
 4 Q. Sure. I asked you about whether Harlingen is or  
 5 is not meeting its own minimum standard for the  
 6 percentage of college-prepared graduates, and your  
 7 answer was no, because we're behind the state average.  
 8 Did I understand that correctly?  
 9 A. Right.  
 10 Q. And so what I'm wondering is if Harlingen were  
 11 meeting -- or had an equivalent or a higher percentage  
 12 of college-ready graduates relative to the state, would  
 13 you then conclude that Harlingen was meeting its own  
 14 minimum standard for college-ready graduates for the  
 15 class of 2010?  
 16 MS. BONO: Objection, form.  
 17 A. What I would be saying is that at that point, we  
 18 can do better, yes. So 52 percent to 47, where we are  
 19 as a district, but is that sufficient, the answer is no.  
 20 Q. So if the district in 2010 had 52 percent of its  
 21 students meeting the standard -- excuse me, yes, meeting  
 22 the standard for college-ready graduates, as a  
 23 percentage of its total class, you would say that  
 24 doesn't meet Harlingen ISD's standard for college-ready  
 25 graduates; is that correct?

1 A. We want -- we want to do better than the state  
 2 average.  
 3 Q. What -- what would you view as the successful  
 4 percentage relative to the state average on a minimum  
 5 basis? That is, we would like to be at least two points  
 6 ahead of the state average, we would like to be five  
 7 points ahead of the state average with respect to  
 8 college-ready graduates?  
 9 MS. BONO: Objection, form.  
 10 A. I don't -- I don't have a minimum. I have a  
 11 maximum, and that's a hundred.  
 12 MR. VINSON: Okay. And again, I object to  
 13 the nonresponsive portion of the answer.  
 14 Q. If the answer is you don't have a minimum, then  
 15 that's all I need to know.  
 16 Is it your testimony that failure -- the failure  
 17 of Harlingen ISD to have 100 percent of its students  
 18 meet the college-ready graduate standard for both  
 19 subjects shows that Harlingen is not providing a general  
 20 diffusion of knowledge to its students?  
 21 MS. BONO: Objection, form.  
 22 A. No, I'm saying that that -- we would strive for  
 23 100 percent. If we're not meeting that, I'm not saying  
 24 that we're not providing what we -- what we're working  
 25 hard to try to do. We're going to aim high.

1 Q. Sure. And again, I understand that completely.  
 2 What I'm trying to figure out is whether there is any  
 3 thought given to or planning around the idea of  
 4 measuring the success of Harlingen ISD's efforts to  
 5 provide a general diffusion of knowledge to its students  
 6 in the form of a minimum score under the college-ready  
 7 graduate testing results that are -- percentage results  
 8 that are or not?

9 MS. BONO: Objection, form.

10 A. Again, 47 percent we're striving hard to improve  
 11 that, and we will continue to work on that.

12 Q. Let's go at it this way: Do you believe that  
 13 currently, Harlingen ISD is providing a general  
 14 diffusion of knowledge to its students?

15 MS. BONO: Objection, form.

16 A. Yes, but let me clarify. Again, we've got  
 17 improvement obviously to do, and we're going to continue  
 18 to do that. We're not satisfied.

19 Q. Understanding, again --

20 A. Okay.

21 Q. -- that --

22 A. I just wanted it clear.

23 Q. -- there is room for improvement, I'm not trying  
 24 to hem you in or put you into the box that you said that  
 25 you can't do any better. I get that, but it does sound

1 like what you are telling me you do feel like Harlingen  
 2 currently is able to provide a general diffusion of  
 3 knowledge to the student population that it serves; is  
 4 that correct?

5 MS. BONO: Objection, form.

6 A. Yes.

7 Q. Understanding that there could be room for  
 8 improvement as well?

9 A. Yes.

10 Q. Do you believe that additional revenue that  
 11 Harlingen ISD -- let me ask it this way: If Harlingen  
 12 ISD were able to obtain additional revenue, funding,  
 13 regardless of source in current or future budgets that  
 14 that would result in improved TAKS or STAAR scores?

15 A. I do.

16 Q. What do you base that on?

17 A. You start off, we can go back to the word  
 18 "achievement gap" that we talked about pre-K -- funding  
 19 for pre-K. I think full day is required. I think that  
 20 speaks to that. I think as we -- that the gaps that are  
 21 state -- STAAR, EOC, or what have you, that we can  
 22 definitely utilize economically disadvantaged students  
 23 and more resources for us. We talked about systems  
 24 earlier, again, specifically to some core content  
 25 specialists and reading specialists, I believe, are

1 sorely needed.

2 Parent involvement, I stated we have an  
 3 excellent -- that's parent involvement, but I want to be  
 4 clear that that's excellent with what we have now. It  
 5 can be much better, so when -- I think the question was,  
 6 can we do better with more resources on TAKS and STAAR,  
 7 the answer to that is yes.

8 Q. Okay. I guess what I'm wondering is where would  
 9 you spend the money in order to increase TAKS or STAAR  
 10 scores? What would you dedicate those funds to that you  
 11 would expect to then ultimately result in better TAKS or  
 12 STAAR results?

13 MS. BONO: Objection, form.

14 A. I think -- again, I speak to early childhood, I  
 15 think that money is sorely needed there. I think  
 16 students of economically disadvantaged backgrounds,  
 17 right now the funding is, you know, state compensatory  
 18 .20. So when you ask, what can we do to address that, I  
 19 think we can address smaller class sizes and different  
 20 things at the lower grades and our early literacy and  
 21 move that pronoun to middle school and high school as  
 22 well.

23 One of the things earlier as a result of the  
 24 budget cuts, the high schools no longer have block  
 25 scheduling, so when you ask what was the impact to that,

1 if we're block scheduling something that -- that, you  
 2 know, or at least have a common planning period for all  
 3 teachers. Those are some things, but --

4 Q. I understood, I think, very clearly your  
 5 testimony about the early childhood component only  
 6 currently being a half-day program, and by expanding it  
 7 to a full-day, you would expect you would see gains from  
 8 that, that's a concrete, good example of where funding  
 9 could go if you had additional resources.

10 A. But that -- can I add something there?

11 Q. Sure.

12 A. That's not all. I mean, when we're talking about  
 13 early literacy, that's when we -- when we have them at  
 14 pre-K. I think having libraries open in our communities  
 15 year-round and summer in our most needy, if it's not  
 16 possible, you know, one of the things we're going to try  
 17 to do, if we can't open all 17, but libraries have to be  
 18 open, access has to be targeted, and we have to expose  
 19 that more money would allow obviously that initiative in  
 20 itself, so I don't want it to just say that it's, you  
 21 know, something that -- you know, a finite thing. We  
 22 could do quite a few things.

23 Q. Sure. And I didn't get to ask you the question,  
 24 so I didn't get to ask you what other things you would  
 25 do, so that's where I was going. I understood, again,

1 and there may be a laundry list somewhere of other  
2 little things that you can do, but I want to get just a  
3 general sense, as you sit here. This isn't a quiz or  
4 this isn't the only chance you'll get to talk about what  
5 you might do with additional funding if that actually  
6 ever were to come to fruition.

7 What I'm trying to get a sense of is where  
8 you-all could actually spend the money in a way that  
9 would make a difference to students from their  
10 perspective. Again, my point is I understand completely  
11 the idea of a half-day program for early childhood  
12 growing into a full-day program, and I understand the  
13 need for the -- or the idea how additional funding might  
14 impact that.

15 What I'm not understanding is how additional  
16 funding could help children who are at-risk or otherwise  
17 come from economically disadvantaged backgrounds? Where  
18 would the funding go? I mean, would they still be --  
19 they would still have a teacher and a classroom and the  
20 same curriculum. What would actually change about their  
21 experience if you had additional funding?

22 A. You could have smaller class size, obviously.  
23 You can also have after-school extended day, extended  
24 year services. There is -- there is -- I mean, and it's  
25 not just set to -- to, you know, one or two items. I

1 mean, these are things that --

2 Q. Sure.

3 A. -- students can benefit from throughout their  
4 schooling as well with more access to -- to technology  
5 as well. I mean, so, you know, those are just some  
6 examples.

7 Q. Additional technologies. And that's all I'm  
8 looking for is some examples. I can understand --

9 A. Parent resources that we talked about.

10 Q. Let me -- I haven't asked you a question.

11 A. I'm sorry.

12 Q. I'm trying to get you out of here, okay, so you  
13 can either talk or we can try and get it done.

14 MS. BONO: Well, I mean, you asked him for  
15 more examples.

16 MR. VINSON: No. I was middle of setting up  
17 a question, and then he started talking.

18 MS. BONO: I don't think he was done with  
19 his answer.

20 Q. Okay. Well, if I cut you off, you are free to  
21 tell me more.

22 A. Well, I was saying that -- I mean, we were  
23 talking about at-risk and ELL, and I said that more  
24 parent specialists as well, I mean, so anyway --

25 Q. Sure.

1 A. -- I won't cut you off anymore.

2 Q. That's okay. You also mentioned earlier a  
3 reference to block scheduling that you don't have  
4 anymore. Can you tell me what block scheduling is in  
5 the high school? What is block scheduling?

6 A. Block scheduling is if it's an A/B, four classes  
7 per day, four classes per day, the teacher has a  
8 conference period, teaches three. The next day, four  
9 classes per day, hour and a half. The teacher teaches  
10 three, an hour and a half. So you could use that block  
11 scheduling. For one, the classes are elongated for the  
12 students, and two, it allows for 45 minutes of that day  
13 to be common collaborative planning time.

14 Q. Why is that a more expensive model than a  
15 traditional model?

16 A. Because if you go to a seven- or eight-period  
17 day, the seven- or eight-period day, obviously you've  
18 got each day for every -- every day that you have a  
19 block, that one hour and a half, that's 45 minutes that  
20 is funded where you could have had a class if you go  
21 through a seven-period, eight-period day, so you're  
22 going to have more students per semester than you would  
23 in a regular class. So that's block scheduling. There  
24 is variations of that as well, you know.

25 Q. So if I understand what you are telling me, it's

1 that the classes are actually effectively larger, so you  
2 can have --

3 A. I didn't say --

4 MS. BONO: Let him finish.

5 Q. No, I think I may have gotten it backwards.  
6 Again, I'm just trying to understand, this block  
7 scheduling is more expensive per student than the  
8 traditional seven or eight classes a day; right?

9 MS. BONO: Objection, form.

10 Q. Or not. Tell me, because I really don't -- I'm  
11 not understanding this. I'm not trying to fight with  
12 you. I just don't understand.

13 A. No, a block schedule -- so if there is four  
14 periods in a day, you have four, one and a half periods  
15 a day. The teacher teaches three of those. The next  
16 day, does the same, teaches three, that hour and a half.  
17 45 minutes is obviously their -- their conference time,  
18 but 45 minutes can also be used for tutoring or  
19 collaboration with -- within their Professional Learning  
20 Community.

21 But what makes that more expensive obviously for  
22 every one of those sessions that you have, that would be  
23 time that they would be with students, so thus it drives  
24 obviously contact with students more and renders block  
25 scheduling more expensive because it requires more

1 teacher units.

2 Q. Do you have any data to support the idea that  
3 block scheduling would improve TAKS or STAAR scores?

4 A. I don't have that specific data, but again,  
5 utilization of a collaborative planning time and  
6 monitoring and assessment and determining that I think  
7 would definitely be able to support that.

8 Q. So more generally, you're aware of data that  
9 support the notion that the collaborative process that  
10 we've described does lead to improved standardized test  
11 results?

12 MS. BONO: Objection, form.

13 A. We're talking about what?

14 Q. I began this line of questioning asking you  
15 whether additional revenue would result in improved TAKS  
16 or STAAR scores. And you gave me a number of different  
17 components of things that you would do with additional  
18 resources. And one of the things you mentioned was --

19 A. Possibly return to the block --

20 MS. BONO: Let him finish.

21 Q. -- returning to block scheduling. I'm trying to  
22 understand --

23 A. Yes.

24 Q. -- what the relationship is, if any, between  
25 block scheduling and test scores. And it sounds like

1 what you are telling me is that the block scheduling  
2 integrates with this collaborative model that we've been  
3 talking about today can sort of -- even though there is  
4 no specific data on block scheduling and test results,  
5 that there may be data that talks more generally, or  
6 examines more generally the relationship between this  
7 collaborative model and test scores. Do I have that  
8 correctly?

9 MS. BONO: Objection, form.

10 A. Professional Learning Communities allow for  
11 teacher collaboration that's effective. I do believe  
12 there are -- there is some data to support that. I  
13 don't have that with me obviously.

14 Q. Sure, I understand. Do you have any reason to  
15 believe that any of those items we discussed would  
16 change the dropout rate at Harlingen?

17 MS. BONO: Objection, form.

18 A. Parent involvement specialists and counselors, I  
19 don't think we brought up counselors, but parent  
20 resources, I do believe, can impact and assist in -- in  
21 lowering the dropout rates, yes.

22 Q. Would you say that Harlingen has a problem with  
23 dropouts relative to the rest of the state?

24 MS. BONO: Objection, form.

25 A. I think it's fairly consistent with the rest of

1 the state.

2 Q. Do you believe that any of those things we've  
3 talked about would improve the accountability ratings of  
4 Harlingen as a school district or any of the particular  
5 schools within Harlingen?

6 MS. BONO: Objection, form.

7 A. I do believe that they would improve.

8 (Exhibit 1744 marked.)

9 Q. I'm going to hand you what I've marked as 1744.  
10 I'll just represent to you that that's what is referred  
11 to as the PEIMS report data for Harlingen Consolidated  
12 School District dating back as early as 2005 to 2006  
13 through 2010 to 2011. Do I have that correctly?

14 A. Yes.

15 Q. Are those all true and correct copies of those  
16 reports?

17 A. Yes.

18 MS. BONO: Well, some of these go back to  
19 before your tenure, so do you need to review these  
20 and --

21 A. 2007-2008 is before me.

22 Q. Okay. Then let's break it down. The 2007-2008  
23 data, have you ever looked at that data or relied on  
24 that report before today?

25 A. I have not.

1 Q. I assume that the same answer would be true for  
2 2006-2007 and 2005-2006; is that correct?

3 A. Well, 2007-2008, we would use that as a baseline  
4 for the previous years, so for me to say no to that, I  
5 don't have the actual document where we used that, but  
6 obviously we would use that.

7 Q. Sure.

8 A. And possibly we could have as well with the  
9 others because it's multi-years, but as far as me having  
10 that other than a form of reference...

11 Q. So if I understand what you're telling me is the  
12 2007-2008 data, you probably did -- you probably have  
13 looked at it and utilized it was a baseline for the  
14 situation that you inherited in 2008?

15 A. For the district that we use, yes, the preceding  
16 year's finance.

17 Q. What is your current salary?

18 A. Current salary?

19 Q. Yes.

20 A. 225,000.

21 MR. VINSON: Let's mark this as 1745.

22 (Exhibit 1745 marked.)

23 Q. Have you seen this document before, these  
24 region -- excuse me, these superintendent salaries by  
25 region?

1 A. Dr. Montoya.  
 2 Q. Dr. Montoya was earning \$117,000 and change for  
 3 the nearly 50,000 students in Brownsville; did I read  
 4 that correctly?  
 5 A. I see that, yes.  
 6 Q. Do you have any provision in your contract  
 7 relating to student performance?  
 8 A. Specific provision?  
 9 Q. Yes, sir.  
 10 A. It's stated in general. I don't have a contract.  
 11 Q. You're reviewed annually. Do I understand it  
 12 correctly by the board?  
 13 A. Yes, sir. I think it's January actually.  
 14 Q. Do the teachers, principals, or other  
 15 administrators have input to your performance  
 16 evaluation, do you know?  
 17 A. The board solely does.  
 18 Q. Whether they accept input from teachers,  
 19 principals, or other administrators is up to them?  
 20 A. That's the board document, yes, sir.  
 21 Q. Do you know whether the form of your evaluation  
 22 is the one prescribed by the state that is literally the  
 23 form that's used for your evaluation, is that the state  
 24 form or do you know?  
 25 A. I believe there's a variation, but most of the

1 same tenets are there.  
 2 Q. Do you get financial compensation, I should say  
 3 additional financial compensation if your students  
 4 improve overall? Is there any part of your contract  
 5 that's tied to student performance?  
 6 A. That specific -- that's the general portion, not  
 7 specific.  
 8 Q. And I guess by the same token, your contract  
 9 doesn't impose any penalty upon you if your student  
 10 performance declines?  
 11 A. It does not.  
 12 Q. In this year's review of you, that is, the one in  
 13 January of 2012, were there any deficiencies noted by  
 14 the board in areas in which you needed to improve as a  
 15 superintendent?  
 16 A. This past January?  
 17 Q. Yes, sir.  
 18 A. The last, the most current, no.  
 19 (Exhibit 1746 marked.)  
 20 Q. I've marked this as Exhibit 1746 to your  
 21 deposition and ask you whether this is the teacher base  
 22 salaries, actually it's a number of things, but we will  
 23 walk through it. I will make a copy for your counsel as  
 24 well. It's just sort of a collection of different data  
 25 points that's Exhibit 1746. Let's just walk through

1 them page-by-page here. The first page shows the  
 2 Harlingen ISD's base teacher salaries for 2012-2011; is  
 3 that correct?  
 4 A. Yes, sir.  
 5 Q. And then the second page are the stipends for  
 6 Harlingen ISD; is that correct?  
 7 A. Yes.  
 8 Q. And the third page, I should say the third and --  
 9 yes, the third and fourth page are the 2011-2012 staff  
 10 salaries and FTE counts for Harlingen Consolidated ISD;  
 11 is that correct?  
 12 A. The third that's labeled page 1 of 2?  
 13 Q. Yes, sir.  
 14 A. Yes.  
 15 Q. And that continues onto the second page; right?  
 16 A. Right.  
 17 Q. And then the next page after that is the same  
 18 data for the time period 2010-2011; is that correct?  
 19 A. Yes.  
 20 Q. And that's a two-page document; right?  
 21 A. Right.  
 22 Q. Then the next document after that is, again, the  
 23 same data for 2009-2010, two pages; is that correct?  
 24 A. That's correct.  
 25 Q. And then the last page of the -- the last two

1 pages of the exhibit should be the 2008-2009 staff  
 2 salaries and FTE counts for Harlingen Consolidated; is  
 3 that correct?  
 4 A. That is correct.  
 5 Q. Turning back to the first page of the exhibit,  
 6 how did -- how did Harlingen Consolidated come up with  
 7 this base scale for teachers?  
 8 A. Reviewing the area's salary scales and looking at  
 9 a comparative, since we compete with other districts in  
 10 the Valley.  
 11 Q. Let's talk about the districts with which you  
 12 compete. And actually before we get into that, I want  
 13 to know a little bit about the geographic make-up of  
 14 Harlingen ISD. I'm familiar with Harlingen, the city.  
 15 There are two other cities, I believe you mentioned,  
 16 that are part of the consolidated school district; is  
 17 that correct?  
 18 A. Uh-huh.  
 19 Q. What cities are those?  
 20 A. Well, townships, I guess. I don't know if you  
 21 would call them cities. They're very small.  
 22 Q. Yes.  
 23 A. Combes, C-O-M-B-E-S, and Primera.  
 24 Q. Primera?  
 25 A. Uh-huh.

1 Q. Do you know what roughly the total population is  
2 of Harlingen and Combes and Primera together is?

3 A. Best guesstimate, about 75,000.

4 Q. And do you have a rough sense of the -- I'm  
5 trying to figure out how to ask this -- the total square  
6 miles that the district covers or a distance, a physical  
7 distance from end-to-end that the district covers?

8 A. Square miles, anywhere from 80 to 90. I believe  
9 it's more around 84.67, but I don't want to be wrong on  
10 that, so I would say 80 to 90 square miles.

11 Q. What if we just got really loose and called it  
12 84.7 miles, would that be okay?

13 A. That's fine.

14 Q. And what are the nearby districts with which  
15 Harlingen views itself as being in potential  
16 competition, particularly for teachers?

17 A. We border another 5A district, which would be San  
18 Benito, we border that. The next 5A district -- if  
19 we're just talking 5A, then we will come back to  
20 proximity -- Weslaco. Donna is another 5A district.  
21 McAllen, that is getting a little far, but it's all  
22 considered Valley. There is the Upper and Lower Valley.

23 Q. Understood.

24 A. So we could even include La Joya, multiple 5A.

25 Q. Is that two words, La Joya?

1 A. Yes, sir. Now, smaller districts, Lyford, La  
2 Feria, Raymondville.

3 Q. I'm sorry, Lyford and La Feria, is that two  
4 districts or one?

5 A. I'm sorry, two districts.

6 Q. Lyford, La Feria. What else?

7 A. Raymondville. Those are class 3A districts, then  
8 there is a few 2A districts, Santa Rosa and Progreso.  
9 Progreso may be 2A or 3A, but those are some of the  
10 districts in the Valley. That's not inclusive of all of  
11 them.

12 Q. Roughly how far a drive is it from Harlingen to  
13 let's say La Feria?

14 A. It borders.

15 Q. Okay. To the west?

16 A. Yes, to the west, it borders. You're here in  
17 five minutes.

18 Q. Okay. So it's essentially a suburb of Harlingen,  
19 if that's meaningful? I don't know.

20 A. They would not want to be known as a suburb.  
21 They're a pretty -- these districts take great pride in  
22 their community schools, so they don't -- but that would  
23 be a border to Harlingen, a friendly neighbor, but  
24 nonetheless --

25 Q. Just in very general terms, people live in La

1 Feria and work in Harlingen, that's not uncommon?

2 A. No, not uncommon.

3 Q. How far is it to McAllen from Harlingen?

4 MS. BONO: The city, right, not the school  
5 district?

6 Q. I mean the cities, yes, ball-park?

7 A. 35, 40 miles.

8 Q. So you-all compete with districts as far as  
9 McAllen to the west. Are there other districts?

10 A. Weslaco.

11 Q. Is Weslaco farther west than that?

12 A. No, farther west than McAllen?

13 Q. Yes, sir.

14 A. No. La Joya is farther west.

15 Q. It is. I'm just seeing that here. That's a long  
16 way away, though, isn't it? La Joya is -- just the city  
17 to city is nearly measured in kilometers?

18 A. Edinburg.

19 Q. Edinburg?

20 A. I didn't list Edinburg.

21 Q. Sure. Raymondville to the north. Do you compete  
22 with the Brownsville for teachers?

23 A. We do.

24 Q. Is that a 5A?

25 A. Brownsville is 5A. I didn't think -- it's in

1 Cameron County as well, and Los Fresnos, both in Cameron  
2 County 5A, so Los Fresnos is another.

3 Q. What about Port Isabel, is that its own district?

4 A. It's a 3A.

5 Q. Do you compete with districts north of the  
6 Raymondville for teachers in any meaningful way?

7 A. I don't -- not generally.

8 Q. Do you have survey data that you -- so you know  
9 what these various school districts' salary structures  
10 look like?

11 A. Our HR department does, and Mr. Cavazos would as  
12 well.

13 Q. Why does Harlingen -- let me -- let's just go  
14 back to Exhibit 1746 here. We have, on the first page,  
15 the salary, base salary for teachers, and the first  
16 column is years of experience.

17 The next column is bachelor's. I assume for  
18 people who can't figure this out on their own, that a  
19 teacher with a bachelor's degree will receive the amount  
20 listed based on the years of experience that they bring  
21 to Harlingen; is that correct?

22 A. Yes, sir.

23 Q. So, for example, a teacher with five years of  
24 experience is going to earn -- with a bachelor's is  
25 going to earn a base salary of \$44,000?

1 A. I would expect at least some district somewhere  
 2 or districts somewhere where they are actually targeting  
 3 and doing the things that -- that may lead to the  
 4 performance down the road, so I don't want to say that  
 5 in 1,000 districts, you will not find where at-risk  
 6 students may outperform. I mean, so I don't want to  
 7 just say that as a blanket statement, because I believe  
 8 that provided -- students provided the opportunity with  
 9 resources to build upon gaps that -- whether it be word  
 10 gap, opportunity gaps, or what have you, that they may  
 11 very well do as well, if not better.

12 Q. Are you aware of any districts in which the  
 13 at-risk population scored better than their overall  
 14 peers in any particular district?

15 A. I am not.

16 Q. And you would agree with me that the majority of  
 17 districts, the trend that you're seeing in Harlingen  
 18 would be a similar trend that the other districts are  
 19 experiencing, that is, that the overall average is  
 20 higher than the at-risk average for meeting the all test  
 21 TAKS standard for 2011?

22 MS. BONO: Objection, form.

23 A. I would agree.

24 Q. The goals -- continuing with Exhibit 1747, the  
 25 district goals, there are five of them listed there.

1 academic knowledge and skills for all students," do you  
 2 believe that Harlingen ISD is meeting that fourth goal?

3 A. I believe we are a work in progress in that one  
 4 as well. As far as meeting it, you know, just like the  
 5 others I've stated, that's something that we're still  
 6 working very hard to do, but in general, yes.

7 Q. And item 5: "Inspire students to pursue their  
 8 passion in the post-secondary education," do you believe  
 9 you are meeting that goal, that Harlingen ISD is meeting  
 10 that goal?

11 A. Again, work in progress, and we're hoping to get  
 12 better and better with regards to all five of our goals.  
 13 That's why it's constant improvement, but in general,  
 14 yes.

15 Q. So understanding that there may be room to  
 16 improve in all of these areas, as a general matter, it's  
 17 your belief that the district is meeting the five stated  
 18 goals in Exhibit 1747; is that correct?

19 A. Again, inspiration of students and whether they  
 20 are getting there through the readiness indicators are  
 21 two different matters, but as stated there, inspiration  
 22 for students so they have that access, we continue to  
 23 strive for that, yes.

24 Q. Well, my question wasn't limited to the fifth  
 25 item. It was to all of the goals, and it sounded like

1 The first one is, "to retain safe and secure learning  
 2 environments for all students." Is it your belief that  
 3 currently Harlingen is meeting that first goal?

4 A. Yes, sir.

5 Q. The second goal is "To embrace and support  
 6 meaningful involvement of parents in the entire  
 7 community in the education of our students." Do you  
 8 believe that Harlingen is meeting that goal?

9 A. I believe it's a work in progress and we will get  
 10 better, but generally, the entire community we're hoping  
 11 to -- to involve, so in general, yes.

12 Q. And the third item, "To employ highly effective  
 13 teachers, principals, and staff that are committed to  
 14 achieving the mission of Harlingen Consolidated ISD."  
 15 Do you believe that Harlingen is -- that the ISD is  
 16 currently meeting that goal?

17 A. Again, this is a work in progress, but in  
 18 general, can we do better, we do, and that's why we have  
 19 targeted, I believe, a competitive salary scale teacher.  
 20 So can we do better, on all of these we can do better.  
 21 Are we doing what we need to do? I think that was a yes  
 22 or no, so yes.

23 Q. The fourth item: "Create a learning organization  
 24 that ensures high-quality instruction," results in  
 25 rigorous academic knowledge -- "resulting in rigorous

1 from what I understood your testimony on each of the  
 2 items, you felt like the district was either clearly  
 3 meeting the goal or generally meeting the goal with room  
 4 for improvement; is that -- is that accurate?

5 A. I think it's accurate to say they're all works in  
 6 progress.

7 Q. Okay. And also that you're generally meeting the  
 8 goal; yes?

9 A. Generally meeting the goal.

10 Q. Yes.

11 A. There's still work in progress, probably more  
 12 work than not, so that I would say we're striving.  
 13 We're not there yet. We'll get there. For us to say  
 14 that we're meeting that goal, I just -- I think  
 15 that's -- we're trying. That's my answer, we're trying.

16 Q. Are there any of these goals that you are clearly  
 17 not meeting?

18 A. That we can't improve upon?

19 Q. No, that is not my question. I understand, and  
 20 you understand that there is always room to improve, no  
 21 matter how well somebody is doing?

22 A. Having said that, yes.

23 Q. Does Harlingen have a digital library?

24 A. Digital media center or literary media center,  
 25 yes, we do. We have an initiative that is ongoing at

1 A. Yes.  
 2 MS. BONO: Objection, form.  
 3 Q. The next component would be some connection so  
 4 that those computers and devices could actually connect  
 5 to the internet or a network of some sort, maybe a  
 6 limited access that the school might provide that would  
 7 allow some type of collaboration research, etcetera, to  
 8 go on between the students and the -- and some aspect of  
 9 the rest of the world; is that -- is that correct?  
 10 A. Yes.  
 11 Q. And understanding that within that framework, it  
 12 might be possible for students to bring their own  
 13 technology in and essentially plug into whatever access  
 14 that the school was providing; is that correct?  
 15 A. That's not -- right now, that's not -- that's  
 16 something we're exploring.  
 17 Q. That could be a part of it?  
 18 A. That could be, yes.  
 19 Q. Okay. And then obviously, once you have this  
 20 technology, from an educational perspective, you also  
 21 have to integrate that technology into your learning  
 22 process; right? If you just -- if you leave all the  
 23 computers in the -- in the boxes on the -- in the  
 24 cupboards and you teach from the old books and you do  
 25 the old thing, you're not utilizing the technology,

1 right, so you have to figure out how to utilize the  
 2 technology with the curriculum; right? And that  
 3 represents a cost to the district?  
 4 A. Yes. Staff development as well.  
 5 Q. Right, staff development as well, okay. Do you  
 6 have a sense of how much more expensive it is to -- for  
 7 Harlingen and its version of a digital classroom, how  
 8 much more expensive it is per classroom to have a  
 9 digital classroom as opposed to a traditional classroom?  
 10 A. I have a general estimate, and I don't have that  
 11 obviously in front of me, but 20 to \$25,000 per  
 12 classroom. That's why we could only go with 20.  
 13 Q. Have you seen that the test scores of the  
 14 students in the digital classrooms or any measurable  
 15 standard of the students who have been in the digital  
 16 classrooms versus those who haven't has been different?  
 17 MS. BONO: Objection, form.  
 18 A. We have just implemented it this fall.  
 19 Q. So you haven't had a chance to see any results  
 20 from any of that?  
 21 A. Yes, sir.  
 22 Q. All right. The curriculum management that y'all  
 23 utilized, what is that called, CSCAPE?  
 24 A. Yes.  
 25 Q. Does that involve or include what we might call

1 benchmark tests during the school year to make sure that  
 2 the students are learning what's intended from the  
 3 curriculum?  
 4 A. It has item banks, but usually teachers generate,  
 5 or a curriculum department will generate the -- what we  
 6 call district curriculum assessments, DCAs, what you  
 7 call benchmark.  
 8 Q. I'm happy to use your term.  
 9 A. That's fine. "Benchmark" is fine.  
 10 Q. Are the teachers expected, based on those  
 11 benchmarks or DCAs, to focus time and attention on areas  
 12 where students are showing that they didn't learn a  
 13 particular part of the curriculum, if they show that,  
 14 you know, that maybe a particular student or a  
 15 particular group of students didn't do well on the math  
 16 portion that they already covered and they might need  
 17 some remediation or more additional attention there, are  
 18 they instructed to adjust their go-forward curriculum to  
 19 address that shortcoming?  
 20 A. Yes. Analyze the data -- yes, they're expected  
 21 to analyze the data, and if it's warranted, then an  
 22 adjustment is made.  
 23 Q. Are you familiar with Harlingen's -- what's  
 24 called an M&O tax rate?  
 25 A. I believe.

1 Q. I believe it's \$1.04; is that correct?  
 2 A. It is.  
 3 Q. Do you know the last time Harlingen had a tax  
 4 rate election to contemplate raising that rate from  
 5 \$1.04 to something else?  
 6 A. We have not.  
 7 Q. Has that been something you have discussed with  
 8 the board to see whether it would be necessary to have  
 9 an election to increase the tax rate?  
 10 A. As far as a formal discussion or a topic on  
 11 budget workshops, that has been discussed, but not --  
 12 not in depth.  
 13 Q. You understand the concept of golden pennies? Do  
 14 you know what that term refers to?  
 15 A. Yes, the Austin yield.  
 16 Q. Yes. And you understand that if Harlingen raises  
 17 the tax rate from \$1.04 to \$1.06, those two additional  
 18 pennies would be, quote, unquote, golden pennies?  
 19 A. Yes.  
 20 Q. Which is to say that in addition to the 2  
 21 cents -- additional 2 cents per hundred dollars -- I'm  
 22 sorry, do you have a question?  
 23 A. Come back -- come back to that.  
 24 Q. I will ask it again.  
 25 A. We're at \$1.04.

1 15 percent cut to off-campus support budget and 10  
 2 percent to campus operating budgets." Did I read that  
 3 correctly?  
 4 A. Yes.  
 5 Q. That \$3.1 million federal jobs grant, was that  
 6 what we call stimulus money from the federal government?  
 7 A. Yes, that was.  
 8 Q. And how did you cut 15 percent in the off-campus  
 9 support budget? What was that?  
 10 A. That's the division's -- each division, for  
 11 example, the -- the campuses and then the central office  
 12 units -- the central office units, each unit was cut 15  
 13 percent, and campuses were -- well, you didn't ask that  
 14 question.  
 15 Q. I haven't asked you about that though. 10  
 16 percent to campus operating budget, where -- where were  
 17 the campuses able to cut 10 percent from their operating  
 18 budgets?  
 19 A. From their allocation, during the budgeting  
 20 process.  
 21 Q. Okay. What does that mean in terms of -- what  
 22 was different at the school in the year before and the  
 23 year after on what the 10 percent cut -- what went away?  
 24 MS. BONO: I'm sorry, which school?  
 25 MR. VINSON: Any school.

1 answered, and I'm also going to say, you have already  
 2 asked this question three times. He's responded each  
 3 time, and I will say if you want a specific example, I  
 4 would give him a campus, a budget. I mean, he's  
 5 answered the question multiple times now.  
 6 MR. VINSON: Well, he's told me that they  
 7 had a 10 percent cut, and I get that.  
 8 Q. But we're not getting -- as in example, any  
 9 campus you want, how did the campus deal with that 10  
 10 percent cut?  
 11 A. Again, that's each campus, through their site  
 12 base.  
 13 Q. Okay. What are the high schools in your school  
 14 district?  
 15 A. What?  
 16 Q. Is there a -- what are the --  
 17 A. I'm sorry, Harlingen High School, Harlingen High  
 18 School South.  
 19 Q. And then how did Harlingen High School -- where  
 20 did they make their 10 percent cuts in their operating  
 21 budget? What did they do to deal with the 10 percent?  
 22 A. Again, I don't have that information in front of  
 23 me, so I don't --  
 24 Q. If the answer is you don't know, that's okay.  
 25 A. I don't know.

1 Q. I guess as an example?  
 2 A. Yes. There is 30 campuses, and 10 percent --  
 3 roughly 30, so 10 percent cut. That was from their --  
 4 their campus budget. We have a site-based budget at  
 5 each campus, so an automatic 10 percent after that  
 6 legislative session. That's why it was a 10 percent  
 7 cut, and 50 percent for central office.  
 8 Q. No, I get -- I get -- I get the whys, why all of  
 9 this happened. My question is, how did campuses cut --  
 10 where did they cut 10 percent in their operating  
 11 budgets? How did they do -- how did they do that?  
 12 A. That was their campus allocation, through their  
 13 campus allocation. Each campus has -- I don't have the  
 14 campus, but, for example, we generate -- with some of  
 15 the moneys, the campuses, with their site-based, each  
 16 one has -- a student at the high school I believe is  
 17 150, and it may be give or take, you know, the cost for  
 18 that, and then their revenue stream that the  
 19 campus -- that the district gives them they had to cut  
 20 by 10 percent.  
 21 Q. I understand that they were -- they were given 10  
 22 percent less than the prior year's budget. What I'm  
 23 wondering is, how did the campuses -- where did they  
 24 make the cuts?  
 25 MS. BONO: Objection, form, asked and

1 Q. All right. Do you know how -- do you know how  
 2 any of the campuses in your district, high school,  
 3 elementary, or junior high or middle school,  
 4 intermediate, any school, do you know how any of them  
 5 actually dealt with the 10 percent cut in their budget?  
 6 A. I do not, because, again, it was site based.  
 7 Q. All right. So you left it up to the schools to  
 8 figure that out?  
 9 A. Yes.  
 10 Q. And did they -- did you collaborate with them on  
 11 how they might trim their -- their budgets?  
 12 A. I believe, yes. Julio Cavazos, our assistant  
 13 superintendent, definitely -- he met with them during  
 14 the budget process.  
 15 Q. All right. You were quoted in this article as  
 16 saying, "Public education in this state was put in a  
 17 difficult position last year, superintendent Dr. Steve  
 18 Flores said, but this district overcame the adversity,  
 19 this district found solutions to the state revenue  
 20 shortfall and allowed us to think about the future of  
 21 this community as opposed to biting our fingernails  
 22 until the next biennium." Did they quote you correctly  
 23 in that -- in this article here?  
 24 A. That's -- yes.  
 25 Q. Those are your words?

1 A. Yes.

2 Q. And what did you mean when you said that "the

3 district overcame the adversity"?

4 A. The cuts to the funding from the previous

5 biennium that the district had to compensate for.

6 Q. And so when you said that "the district found

7 solutions to the state revenue shortfall that allowed us

8 to think about the future of this community," what did

9 you mean by that?

10 A. We had to make cuts, and solutions were found and

11 they were noted in this little article.

12 Q. "As opposed to biting our fingernails until the

13 next biennium," what did you mean by that?

14 A. I mean, instead of, you know, the -- the next

15 biennium, which is -- or the legislative session coming

16 up, we are being proactive with regards to where we need

17 to be at -- at a bare minimum, so we're -- that's what

18 that means.

19 Q. So the intended message, if I understand it, was

20 if I -- let's say I was a parent in the community, if a

21 read your statement, you intended to tell those folks,

22 did you not, that the district overcame the adversity,

23 that the district was planning for the future, even with

24 the -- with the cuts, and that they weren't going to

25 wait around for a bailout or some other solution to come

1 why not raise the taxes to achieve those goals?

2 A. I stated earlier that we passed the bond in 2010

3 at 17.8 cents. Additional levy for us do that right

4 now is something that -- it has to be on the table, but

5 it isn't right now, as of today, as of right now.

6 Q. The goals of the district are the goals of the

7 community; right?

8 A. They're reflective of what our board -- our

9 superintendent and thus the community is reflected, and

10 the board is reflective of the community, yes.

11 Q. So the -- to the extent that the district is not

12 able to meet its goals by virtue of this lawsuit, the

13 hope is that the state will fund that perceived gap

14 between where you are now and where you want to be

15 financially; right?

16 A. Restate the question.

17 Q. Sure. The point of this lawsuit, as I

18 understand, and you can tell me if I'm wrong, is that

19 Harlingen is wanting the state to provide additional

20 funding to Harlingen so that you can meet certain goals

21 that you are currently not able to meet; right?

22 A. Yes, additional funds are needed.

23 Q. Yes. But you could, by virtue of an election or

24 TRE, you could -- you could get some or all of those

25 funds through an election as well, couldn't you?

1 down the road, that you guys were going to continue to

2 provide high-quality education to your students in the

3 present day; is that correct? Is that the message you

4 wanted to deliver?

5 MS. BONO: Objection, form.

6 A. I did not say "bailout." I said that our

7 district, and my job as superintendent is to assure that

8 we take the necessary means. What this is saying,

9 opposed to biting our fingernails, we did what we had to

10 do for now.

11 Q. Well, you didn't really have a choice; right?

12 When you had -- you can't run at a deficit as a school

13 district; right?

14 A. I mean, it's not good practice.

15 Q. Yes. And so is that what you're referring to as

16 opposed to biting our fingernails and that is running at

17 a deficit and hoping that the legislature will somehow

18 give you enough funding to pay a debt?

19 A. I meant what I said here. As opposed to biting

20 our fingernails, we had to take action at the local --

21 we did not count on the state at that point, and that's

22 no to say that we have solved our funding issues by any

23 means.

24 Q. Sure. If Harlingen is in dire financial -- in

25 need of additional finances in order to meet its goals,

1 MS. BONO: Objection, form.

2 A. Going out to an election -- the answer to that

3 would not be necessary -- not necessarily so. It would

4 depend on the outcome of the election and who goes to

5 vote and the prevailing thoughts of what that could

6 mean.

7 So for us to go ask the voters at this point in

8 time after, again, going to a bond election that they --

9 they supported 60/40, we're going to need them possibly

10 down the road again for us to continue at a rapid rate

11 is not, in my opinion as superintendent, the best -- the

12 best use of -- of how we should do business at this

13 point in time. Will we need to? That's a whole

14 different question.

15 Q. So you don't need to right now?

16 A. Do we need to --

17 Q. Yes.

18 A. -- go to the voters?

19 Q. Do you need --

20 A. What is the question?

21 Q. Do you need the additional funds right now?

22 A. We need the additional funds.

23 Q. Why not go to the voters?

24 A. Again, the referendum, as you well know, it can

25 be voted for or against. At some point in time, we have

1 locally generated tax funds not being properly  
2 distributed, or I'm not sure what. I'm trying to find  
3 out what your understanding of that component of the  
4 lawsuit is, if you have one. If you don't understand,  
5 then --

6 A. It's not that I don't understand. I just  
7 don't -- I mean, one of the things that I know that we  
8 need, when you say that Eanes is funding for Harlingen,  
9 or this is a state -- I mean, this is -- this is a  
10 collective --

11 Q. I understand.

12 A. -- group, so individuals in Harlingen still pay  
13 their taxes --

14 Q. I understand.

15 A. -- and collection to that and the rate. For them  
16 it's -- so I don't want to get to, you know, something  
17 that might be problematic or perceive that we, in our  
18 community, aren't doing what we need to do through our  
19 local effort.

20 Q. Well, but let's talk about like the copper  
21 pennies, for example. When we talked about one penny  
22 being worth, I think you said just in terms of locally  
23 generating additional funds of approximately 3 to  
24 \$400,000 per penny; is that --

25 A. About 300,000.

1 Q. \$300,000 per penny? And then there's a premium  
2 that you get from the state --

3 A. For the effort.

4 Q. -- for the effort, and that's another 3 or  
5 \$400,000; right?

6 A. Yes.

7 Q. And that component from the state are dollars  
8 coming from somewhere other than Harlingen; right?

9 A. That's true.

10 Q. I mean, so we're talking about redistributing  
11 dollars from other jurisdiction, and I mean, I'm not  
12 trying to get you in a fight with the Eanes folks or  
13 anyone else, but --

14 A. I just want to be very careful.

15 Q. I understand that I won't make reference to any  
16 particular district because I'm not here to cause  
17 problems for you. But the concept of this lawsuit is to  
18 compel other to compel the state through taxation of  
19 other districts to redistribute those funds in a way  
20 that provides Harlingen with essentially a better --  
21 better return on its tax effort than other more affluent  
22 districts; isn't that correct?

23 MS. BONO: Objection, form.

24 A. Again, I stated earlier that the tax effort -- I  
25 don't want to minimize the tax effort of Harlingen in

1 respect to the tax effort of others. Our district is a  
2 property-poor 42 district, so that's --

3 MR. VINSON: I will object to the  
4 nonresponsive.

5 Q. Let me ask it to you this way: What do you  
6 understand -- what relief is Harlingen seeking by this  
7 lawsuit? What is it that you-all are hoping to  
8 accomplish by this lawsuit?

9 A. We're hoping for funding that allows us, and I've  
10 stated it probably six, seven times, that it comes back  
11 to targeted illiteracy in early childhood, meeting the  
12 needs of our LEP students, our bilingual students, I  
13 mean, ESL bilingual students, and meeting those needs  
14 for the long term, so that when we work a quality pre-K,  
15 a full-day pre-K, when we talk about the libraries open,  
16 when we talk about counselors there, reading specialists  
17 and different things, that it's not something that we're  
18 saying from Harlingen CISD, oh, this is a lawsuit, let's  
19 join, because this is something that -- this is  
20 something that we definitely need with regard to the  
21 gaps that exist, not the deficit in ability.

22 And I want to make -- again, and I know that I  
23 probably don't have to make myself clear again with you,  
24 but the ability to -- to give the students the  
25 opportunity that they deserve, you know, there was a

1 select committee in 2010 that stated, you know, that  
2 state compensatory dollars should be funded at .4 rather  
3 than the .2, and at .6 for LEP students, I'm not saying  
4 that that's something that -- all I'm saying is, I think  
5 they were right on point. The committee did not come  
6 out of committee, but at the same time, I think they  
7 were right on point.

8 I think a return to the foundation, school  
9 program dollars that were taken, I think that's a  
10 starting point. But as far as what dollar amount, I  
11 think we have proven that we will be as prudent as  
12 possible. So the insinuation that we would gain from  
13 others because of their efforts yielding more than us,  
14 and we're -- it's not an I want. This is -- this is a  
15 critical point where we are in this day and time.

16 MR. VINSON: Okay. I will object to the  
17 nonresponsive portion.

18 Q. As I understood, the responsive portion of your  
19 answer was you are seeking to compel the state to  
20 provide the district with additional fundings to --  
21 to -- again, without delineation to where it goes, to  
22 support the programs, as you understand and feel like  
23 you need them to go; right?

24 A. That's fair, yes.

25 Q. And those funds are going to come from other

1 areas other than Harlingen; right?  
 2 MS. BONO: Objection, form.  
 3 A. I thought I stated -- maybe we're at an impasse  
 4 on this. I think the tax effort and the state's ability  
 5 will -- you know, we've talked about that, but --  
 6 Q. So that's yes, they will come from somewhere  
 7 other than Harlingen?  
 8 MS. BONO: No, it's not. He's answered this  
 9 question repeatedly. Just because he's not giving you  
 10 the answer you want doesn't mean that you have the  
 11 opportunity to harass him by asking the same question  
 12 over and over.  
 13 MR. VINSON: No, I don't have -- I don't  
 14 have a straight answer to this question.  
 15 Q. And so I'm going to ask you again to just answer  
 16 this simple question: Those funds that you are seeking  
 17 to compel from this lawsuit, are they or are they not  
 18 funds that are -- that originally generated from  
 19 Harlingen or not?  
 20 MS. BONO: If you know.  
 21 Q. If you know. If the answer is you don't know,  
 22 then that's okay, too.  
 23 A. I don't know.  
 24 Q. Okay. But if, in fact, those funds that you are  
 25 seeking to compel the state to pay are not from

1 negative, so we have got to restore their faith as well  
 2 so that those individuals know just because we passed  
 3 the bond, just like if the voter referendum is passed,  
 4 there is still those that voted against, so even if that  
 5 that TRE was to pass, we're understanding and cognizant  
 6 that even those that voted no once or twice -- could  
 7 have voted twice, we don't -- at this point in time, we  
 8 are being as fiscally prudent as possible, but even at  
 9 this point, that's why I'm here.  
 10 Q. Okay. Let's talk about the budget. How does --  
 11 how does the district's budget -- how is it assembled  
 12 each year? Who puts it together?  
 13 A. Usually -- the budget is -- there is a budget  
 14 process, let me begin here, the HCISD budget process,  
 15 and I don't have the calendar with me, but it begins --  
 16 what I've tried to do is have kind of a preliminary  
 17 budget workshop kind of January with the board, or if  
 18 not January, even December, just so that we can, you  
 19 know, just have discussions, especially I think it's  
 20 going to be prudent for us this year to have a budget  
 21 workshop in December prior to the legislative session.  
 22 So with that, December, and then we go into the  
 23 budget process in late January, February, where  
 24 divisions then start working on their -- on their  
 25 budgets, and then campuses within the next month, but

1 Harlingen, what this lawsuit seems to want to do is to  
 2 compel other jurisdictions to fund the things at  
 3 Harlingen that Harlingen's own citizens are not willing  
 4 to fund on their own; is that correct?  
 5 MS. BONO: Objection, form.  
 6 A. I think -- well, to answer that question would be  
 7 speculating that there would have been a voter  
 8 referendum that was turned down, and that's not  
 9 something that I've even said. I've stated clearly that  
 10 I would not do it as the superintendent at this point in  
 11 time. So for me to answer a question based on something  
 12 prior to, I'm not comfortable with.  
 13 Q. So the answer is you don't know?  
 14 A. The way you asked the question, then the answer  
 15 to that is I don't know.  
 16 Q. I mean, do you know what would happen if you had  
 17 had a referendum this year to raise your -- raise the  
 18 M&O tax rate?  
 19 A. I do not know.  
 20 Q. And you assume that the answer would be no,  
 21 though, don't you? That's why you didn't ask for it?  
 22 MS. BONO: Objection, form.  
 23 A. I think I stated that we went to the voters in  
 24 2010, voter approval. We're restoring that -- there is  
 25 those that -- there were 40 percent that voted in the

1 all of that, there is training and staff development and  
 2 timeline. So going through the process, the end result  
 3 is an August board workshop and then a board meeting to  
 4 take action on adoption of the budget for that. But in  
 5 between, there are obviously public hearings that we  
 6 have to have. There is stakeholder input from the  
 7 campus if they're site-based, division input.  
 8 So without having that calendar in front of me,  
 9 just know that -- I'm not going to say it's an arduous  
 10 process, but I will say that it's a comprehensive  
 11 process that allows for multiple stakeholders.  
 12 Q. Sure. It's a lot of money. You guys -- where is  
 13 the PEIMS report? Exhibit 1744 just shows your -- your  
 14 total revenue for 2000 -- let's say 2010-2011, it was in  
 15 the hundreds of millions.  
 16 A. Right.  
 17 Q. This is not something that should be taken  
 18 lightly. I wouldn't suggest that.  
 19 A. I didn't mean to say that.  
 20 Q. And I get that. Your fiscal year runs from  
 21 September to August, I assume?  
 22 A. Yes.  
 23 Q. And so when we talk about sort of working  
 24 backwards from an August board meeting that is intended  
 25 to approve the final --

1 A. Right.  
 2 Q. -- you're talking about the process that starts  
 3 as early as December or January --  
 4 A. With a budget -- with a board workshop to address  
 5 the board and then -- and then divisions are met with as  
 6 far as our budgeting process and our outlines, and then  
 7 campuses as well.

8 Q. Does Harlingen look to other districts as a  
 9 reference or a benchmark in setting its own guidelines  
 10 and goals for revenues and spending? Do you look at  
 11 other districts' budgets? Do you collaborate?

12 A. Mr. Cavazos speaks -- I mean, he -- let me just  
 13 say that we're fortunate in Harlingen, and not just  
 14 because he is here. He's the best of the best, but he  
 15 does review multiple district sets and so on and so  
 16 forth, but yes.

17 Q. Does Harlingen also look to state average  
 18 spending? Do you have access to that data and  
 19 information when you are making your budgets?

20 A. Yes, yes.

21 Q. Where do you get that information from?

22 A. I don't know exactly. There is multiple sets.  
 23 You can get actually the -- the previous AEIS, but the  
 24 AEIS is -- obviously wasn't printed from last year, but  
 25 also -- you know, Moak Casey and others.

1 Q. Moak Casey, the individual who testified on  
 2 Friday in this case?

3 A. I don't know particularly when he testified.

4 Q. Okay.

5 A. But Moak Casey -- we are a Texas School Alliance  
 6 school district, which means we're a member.

7 Q. All right.

8 A. So we get a lot of those forecasts.

9 Q. Do you have any shared service arrangements with  
 10 other school districts?

11 A. I don't believe the -- only special ed, but I  
 12 don't even think we have that, so I would say no to  
 13 that.

14 Q. You are familiar with that concept, shared  
 15 service arrangements?

16 A. Yes.

17 Q. And you saw that when you were in Dallas, I'm  
 18 sure, and other districts as well. Why -- it seems like  
 19 are there multiple districts in the same geographic  
 20 region that could benefit from something like the shared  
 21 service arrangement with the other districts nearby.

22 Why not contemplate building something along those  
 23 lines?

24 A. I think that's -- I mean, that's obviously  
 25 something to be discussed, but that's not something that

1 we have done to this point.

2 Q. Do you know if there is one that McAllen and  
 3 Edinburg and other districts might be participating in  
 4 that you could simply plug into, or do you know for sure  
 5 that there just isn't one?

6 A. I don't know.

7 Q. What about a Regional Education Service Center,  
 8 do you participate in any of those?

9 A. Yes, we do.

10 Q. What you are in Region 1; is that correct?

11 A. Right.

12 Q. What services do you obtain from that -- let me  
 13 ask it this way: I'll go through the list of services  
 14 and you can tell me yes or no, whether or not Harlingen  
 15 participates. Do you participate in purchasing co-ops  
 16 through a Regional Education Service Center?

17 A. Yes, we do.

18 Q. And what is that? What are -- what is a  
 19 purchasing co-op?

20 A. A co-op is just a -- not a consortium, but  
 21 obviously a group of vendors that -- through that co-op  
 22 get the best rates such as sometimes electricity and  
 23 other things, but we don't -- there is several other  
 24 factors. We do participate, but not -- not -- I mean,  
 25 that's one -- one of several things that we do, but it's

1 dependent upon where we can determine the best rates,  
 2 and we've got in-house people, Tony Gracia as well and  
 3 Julio Cavazos, so I rely a lot on our in-house people,  
 4 but when they go to collective -- or to those co-ops,  
 5 that is, usually it's a better deal.

6 Q. Okay. So if I understand what you're telling me,  
 7 and I may or I may not, you do participate in co-ops,  
 8 but not necessarily exclusively, that is, if you can get  
 9 a better deal outside of the co-op, you'll buy outside  
 10 of the co-op --

11 A. Yes.

12 Q. -- and if it's a better deal inside the co-op --  
 13 yes, okay, all right. If the better deal is inside the  
 14 co-op, you will purchase through the co-op?

15 A. Yes.

16 Q. Do you obtain your CSCOPE through a co-op --  
 17 excuse me, through the Regional Education Service  
 18 Center?

19 A. CSCOPE, it started in Region 13. I do -- it is  
 20 through the -- through the co-op.

21 Q. Okay. What about teacher training, do you obtain  
 22 teacher training through the Regional Education Service  
 23 Center?

24 A. Yes.

25 Q. What about -- are you -- do you participate in

1 any transportation co-ops?  
 2 A. No.  
 3 Q. Do you participate in any educational co-ops with  
 4 the Regional Education Service Center?  
 5 A. No, not that I'm aware of, so I don't know  
 6 exactly on that one.  
 7 Q. Do you participate in a virtual school -- Virtual  
 8 School Network?  
 9 A. No.  
 10 Q. And by "you," of course, I mean Harlingen ISD?  
 11 A. No.  
 12 Q. No. Are you aware of the Virtual School Network?  
 13 A. Yes.  
 14 Q. Are you aware of what it would take to have  
 15 schools at Harlingen ISD to participate in the Virtual  
 16 School Network?  
 17 A. I'm not.  
 18 Q. Is that something that -- that you think might  
 19 help the students of Harlingen either through efficiency  
 20 or other flexibility benefits from the Virtual School  
 21 Network?  
 22 A. I believe so. I think it could help. One of the  
 23 things that -- I know Michelle Everett, our C&I person,  
 24 has been reviewing that. She will come back with some  
 25 recommendations.

1 Q. You have a pre-K program, I believe you touched  
 2 on a bit before lunch. Could you tell me a little bit  
 3 more about the program that you-all offer?  
 4 A. 17 elementary schools, Texas readiness project,  
 5 it's -- when we talk about assessing the gap, I think  
 6 that's a -- that's a very good -- that's why I'm very  
 7 confident where we utilize that, and so with that,  
 8 that's part -- and it's half day, and it's part of what  
 9 we do at the -- and we find it to be very rich with  
 10 regard to centers and activities to -- to begin working  
 11 on that word gap.  
 12 Q. Do you also offer early childhood intervention,  
 13 ECI --  
 14 A. Yes.  
 15 Q. -- to pre-K students?  
 16 A. Wait. No, I'm not sure about that. I'm not  
 17 sure. I'm not sure.  
 18 Q. How does the student gain admission to the  
 19 half-day program that you-all offer pre-K?  
 20 A. Obviously the -- if they're economically  
 21 disadvantaged or a language other than English.  
 22 Q. It looks like, in broad terms, Harlingen is set  
 23 up with three classes of schools that you-all group your  
 24 schools into: elementary schools, middle schools, and  
 25 high schools; is that correct?

1 A. Yes.  
 2 Q. And the elementary schools cover what grades?  
 3 A. Pre-K to 5.  
 4 Q. And the middle schools cover what years?  
 5 A. 6 to 8.  
 6 Q. 6th to 8th grade. And the high school -- the  
 7 traditional 9 to 12; is that correct?  
 8 A. Yes.  
 9 Q. How many elementary schools do you have?  
 10 A. 17.  
 11 Q. How many middle schools do you have?  
 12 A. Five.  
 13 Q. You have the two traditional high schools. Do  
 14 you have the KEYS Academy, you have S-A-C, SAC, and then  
 15 Early College High School; is that correct?  
 16 A. Yes.  
 17 Q. All right. Harlingen High School and Harlingen  
 18 South are both the traditional 9 to 12 high school;  
 19 right?  
 20 A. Traditional comprehensive high schools.  
 21 Q. Comprehensive high schools?  
 22 A. Yes.  
 23 Q. And what the KEYS, K-E-Y-S, all caps, Academy?  
 24 A. Students that are deficient in credits and credit  
 25 accumulation, so they need a smaller -- they aren't

1 doing well in the high schools, or even there is a  
 2 program for the middle schools as well so that they can  
 3 get caught up.  
 4 Q. Okay. But the five middle schools as stated are  
 5 all --  
 6 A. Yes.  
 7 Q. -- comprehensive middle schools?  
 8 A. Yes, right. These are overage students that --  
 9 that may be in middle school so that they get an  
 10 opportunity to get caught up to get back to a high  
 11 school.  
 12 Q. Understood.  
 13 A. But the --  
 14 Q. The KEYS Academy accepts --  
 15 A. Well, the KEYS --  
 16 Q. Let me just finish. The KEYS Academy accepts  
 17 students who are in a grade lower than 9th grade for the  
 18 purpose of remediating them and helping them catch up  
 19 with their peers; is that correct?  
 20 A. Yes.  
 21 Q. So even though -- but the focus or the primary  
 22 majority of students at the KEYS Academy are roughly  
 23 high school age?  
 24 A. Yes, sir.  
 25 Q. And is this for, sort of -- back to the KEYS

1 district's economic position?  
 2 A. We have to look at all options.  
 3 Q. And you're going to look at that?  
 4 A. Well, we have to. We don't have a choice.  
 5 MS. BONO: When you get to a good stopping  
 6 point, we've been going over an hour and a half.  
 7 MR. VINSON: This is as good a time as any.  
 8 (Recess taken 3:07 to 3:25 p.m.)  
 9 Q. Dr. Flores, we covered a lot of ground. There's  
 10 just a few things I want to kind of get through on my  
 11 outline and then a few little exhibits I want to get  
 12 admitted and then I think we can wrap up.  
 13 What is the district's transportation policy?  
 14 And let me ask it -- let me just -- let me say it this  
 15 way: Let me ask you some questions about the district's  
 16 transportation policy, the first of which is, is there  
 17 busing available for students over two miles from the  
 18 school?  
 19 A. Busing over two miles?  
 20 Q. Yes, sir.  
 21 A. Yes.  
 22 Q. Is that the line?  
 23 A. Yes. Special needs, obviously.  
 24 Q. Sure. I was going to ask you the other questions  
 25 too. Busing is available for transfer students? Is

1 busing available for transfer students?  
 2 A. No.  
 3 Q. And you have -- you have busing for special needs  
 4 students, of course?  
 5 A. Yes.  
 6 Q. Do you know what percentage of the students are  
 7 using the school buses? Do you track that?  
 8 A. I don't know the exact number, but we do track  
 9 that.  
 10 Q. All right. We talked a little bit before about  
 11 some stimulus funding that Harlingen received, at least  
 12 in the 2011-2012 time frame. Are you receiving any  
 13 stimulus funding for this budget year?  
 14 A. No.  
 15 Q. How did the district spend the stimulus money it  
 16 received, the federal stimulus money?  
 17 A. Well, we funded the instructional facilitators at  
 18 each campus. That's one big ticket item. We also  
 19 funded through a core content specialist through  
 20 stimulus dollars. That is -- those are the two general.  
 21 Without having position-by-position code, I don't know,  
 22 but that's --  
 23 Q. I'm not -- I'm not trying to quiz you. I just  
 24 want to get a sense of what your understanding is and  
 25 what your knowledge is.

1 A. Right.  
 2 Q. Are there roughly 28 campuses total in the  
 3 Harlingen district?  
 4 A. Yes.  
 5 Q. Is there any unspent funds still remaining in  
 6 your -- your general funds from the stimulus money you  
 7 received from the federal government the past few years?  
 8 A. I'm not aware of any.  
 9 Q. Do you have an Educational Foundation issue?  
 10 A. We do.  
 11 Q. What is -- what is an Educational Foundation?  
 12 A. Educational Foundation is a community group that  
 13 supports the schools through, you know, raising  
 14 general -- raising funds and some other things. One of  
 15 the things that it has been -- it has been literally --  
 16 I need -- I need -- I need to work a little harder at  
 17 that -- with that group. That's -- I think that's  
 18 something that has some potential during budget times.  
 19 Q. And the Educational Foundation, as I understand  
 20 it, is able to essentially control within certain  
 21 guidelines and parameters presumably from the district  
 22 certain educational projects that they wish to fund at  
 23 whatever funding that they have available; is that  
 24 correct?  
 25 A. That's right.

1 Q. And then the -- literally they -- they actually  
 2 provide the money to the schools so that it shows up in  
 3 the school's budget so that it is not funded outside the  
 4 school funding process; right?  
 5 A. Right.  
 6 Q. And then -- and then the school is obligated to  
 7 having received the funds, to spend them in the manner  
 8 designated by the foundation; is that correct?  
 9 A. That's right.  
 10 Q. Do you know roughly how much the Education  
 11 Foundation provided to Harlingen in the 2011-2012 time  
 12 period approximately?  
 13 A. Approximately -- no, I don't want to -- I don't  
 14 want to be inaccurate, because anything that they  
 15 provide is something that is important, but it's -- let  
 16 me just say that it has gone down drastically since --  
 17 since probably the last -- since it has been around --  
 18 it has been around several years, but that's obviously  
 19 something, again, we need to really work with.  
 20 Q. Sure. All right. Student attendance is  
 21 important for all kinds of reasons from a district's  
 22 perspective, not the least of which is that it goes into  
 23 literally the amount of funding that the district  
 24 receives from the state; right?  
 25 A. Correct.

1 Q. And so it's important for a district to make sure  
2 that it's doing everything it can to keep attendance as  
3 high as possible; right?

4 A. Right.

5 Q. And what are you-all doing to make sure that  
6 the -- that you're maintaining a high student attendance  
7 rate at Harlingen?

8 A. Well, as far as a district initiative, there is  
9 not, per se, a district initiative. It's a  
10 campus-by-campus -- obviously they -- they seek that.  
11 We used to -- before I was there -- they had some  
12 targeted assistance by district initiatives, but due to  
13 some costs for that, it's now a campus function for the  
14 most part with the district assisting in monitoring, and  
15 also having parental involvement, a family specialist as  
16 well to help with that.

17 Q. How does the district determine how much money is  
18 going to be allocated to each campus in your district?

19 A. Again, the budget process we talked about  
20 earlier, you know, that's how -- the campus -- you know,  
21 the district generates through Julio's office, the  
22 campus allocations, electricity, cost of electricity,  
23 cost of staff and those things, and then the general  
24 appropriation per campus that -- it's by a formula which  
25 I don't have.

1 formula that would allocate additional resources to that  
2 campus?

3 A. Prior to class size reduction, teachers that we  
4 could not find, there were class size reduction,  
5 teachers allocated, but currently, it's not enough to --  
6 to say this is a targeted assistance, but the -- it comes  
7 back also to the Professional Learning Communities which  
8 I spoke to earlier with targeted assistance through  
9 highlight walks and different things like that, so there  
10 is a system. They're not just left alone. Again, it's  
11 a -- it is a process of -- or learning communities.

12 Q. And you know, Doctor, I think I understand what  
13 the point of your answer, and, you know, I can only ask  
14 you about one piece of it at a time --

15 A. Right.

16 Q. -- so we don't need to talk about the whole case  
17 every time.

18 A. Right.

19 Q. The record will reflect that we've talked about  
20 other pieces, and right now, I'm just talking about  
21 literal funding allocation decisions, and that campus  
22 community visit concept isn't part of the funding;  
23 right?

24 A. No, no, no. It's part of the systems support.

25 Q. It's part of the systems of the support, but not

1 Q. Okay. So the part of the answer that I'm most  
2 interested in that you just gave me is that there was a  
3 formula which determines essentially the discretionary  
4 allegation amount of funding --

5 A. Right.

6 Q. -- that each campus is going to receive from the  
7 district; is that correct?

8 A. Yes.

9 Q. And, therefore, because it's formulaic, it  
10 doesn't take into account, you know, the popular campus  
11 or the not popular campus or what part of town it's in,  
12 is it a truly 100 percent formulaic for that  
13 discretionary component?

14 A. Yes.

15 Q. And what -- again, I'm not here to quiz you, but  
16 what generally does the formula take into account? What  
17 is it looking to do?

18 A. By campus, the high school, elementary, middle  
19 school, by student participation of extracurricular  
20 activity, choir, different things like that, also the  
21 bilingual student or LEP, so some of that is in that  
22 campus allocation.

23 Q. If a particular campus is underperforming  
24 relative to your expectations, to the district's  
25 expectations, is there some measure or component of the

1 part of the funding decision?

2 A. Right.

3 Q. So do you do anything with teacher salaries to  
4 encourage teachers, the more experienced teachers to  
5 teach at the schools at which the students are  
6 underperforming relative to expectations?

7 A. We don't.

8 Q. Who determines where teachers are able to teach  
9 in a particular year? Is that made on the campus level?

10 A. Right. It's made on the campus level through the  
11 application process through the central office. That's  
12 who initiates the hiring process.

13 Q. And if a teacher wants to transfer from one  
14 school to another, how does he or she go about doing  
15 that?

16 A. In the spring, there's a transfer process that  
17 all they do is submit a form that says that they're  
18 willing to transfer and submit that form prior to a due  
19 date. I don't know that particular date.

20 Q. I'm not concerned about the date. I'm more  
21 concerned about the process. Let's start with the  
22 particular elementary school. Is there a particular  
23 elementary school amongst your elementary schools that  
24 is viewed, in your estimation, as particularly desirable  
25 or particularly undesirable to work at from the

1 teachers' perspective?  
 2 A. No. Our campuses districtwide, the AEIS report,  
 3 2010-'11, 76.9 economically disadvantaged, and the  
 4 numbers are -- so there is not a lot of variance in our  
 5 schools, so as far as undesirable or not, is it more  
 6 desirable than the others, I don't believe that -- that  
 7 we have -- and I think we're fortunate in that regard.  
 8 In Harlingen CISD, our campuses are a majority of  
 9 at-risk students, so there's not going to be a wide  
 10 variance.  
 11 Q. Right. So you don't have a spectrum of, like,  
 12 the better schools on the better side or better part of  
 13 town or anything like that, worse schools in the worst  
 14 part of town?  
 15 A. Well, I mean, our schools that -- no, there is  
 16 not. The answer to that is no.  
 17 Q. And would you say the same thing relative to the  
 18 middle schools?  
 19 A. Yes.  
 20 Q. And would you say the same thing, I assume,  
 21 relative to the two comprehensive high schools?  
 22 A. Yes.  
 23 Q. What kind of demand are you seeing for the Early  
 24 College High School? Is that a program that's -- are  
 25 you able to meet the demand on the students for students

1 who want to participate in that program, or do you have  
 2 to restrict access to that program?  
 3 A. It's not unlimited. It's 9th grade, 100  
 4 applicants per grade, and through attrition we can pick  
 5 up some students later down the road, but we're probably  
 6 at 330 to 350, somewhere -- we fluctuate there, so there  
 7 is still some room to grow.  
 8 Q. Does the formula that you were describing earlier  
 9 for figuring out how much each campus is going to get  
 10 for the discretionary component of their funding from  
 11 the district, does it take into account increased  
 12 funding for WADA and state or federal grants for  
 13 specific populations?  
 14 A. For specific populations?  
 15 Q. Yes, sir.  
 16 A. It does, yes.  
 17 Q. Does the formula also address relative student  
 18 performance at each of the campuses?  
 19 A. No.  
 20 Q. Can a campus keep money it doesn't spend in a  
 21 budgetary cycle and use it for some purchase of its own  
 22 discretion down the road?  
 23 A. No, it goes back to the general.  
 24 Q. So from the -- if you're -- this happens on all  
 25 kinds of different levels in the state funding process

1 that if an agency doesn't spend the money it's allocated  
 2 for specific purposes in a particular time period, it  
 3 loses it. It goes back to the state, and so the campus  
 4 obviously at that point will be encouraged to spend the  
 5 money that it's allocated to it and let it fall back to  
 6 the district; right?  
 7 A. Right.  
 8 Q. Let's talk a bit about principals in your  
 9 schools. Who interviews and hire the principals at the  
 10 various schools?  
 11 A. Committees, and eventually I hire or make the  
 12 recommendation to the board of the finalists. I  
 13 interview the final two or three. The committee process  
 14 allows for community members, allows for stakeholders  
 15 from the campus, and they -- but the first thing they do  
 16 is create a profile. The campus -- the HR goes to the  
 17 campus and creates a profile on what the leadership  
 18 attributes or what the skill sets are that they're  
 19 solely seeking, and then it comes back to a committee  
 20 that -- when they apply for the job, they're given a  
 21 task that they will make a presentation to the committee  
 22 and so on and so forth, but overall, it's a committee  
 23 process that we're quite proud of.  
 24 Q. Okay. Is this a process that you were part of  
 25 designing, or is it something you inherited when you

1 arrived at Harlingen?  
 2 A. I helped design that. I think stakeholder  
 3 contribution's critical when you are hiring a principal  
 4 or leader to that campus.  
 5 Q. Who determines the principal's salary?  
 6 A. Who determines?  
 7 Q. Yes.  
 8 A. That is by -- by form -- within the pay scales.  
 9 The pay scales determine that and years of experience,  
 10 so...  
 11 Q. Do you-all have a scale similar to that for the  
 12 teachers, but one that would apply to principals?  
 13 A. Yes.  
 14 Q. Are principals evaluated on their performance?  
 15 A. Yes.  
 16 Q. Are you the one who evaluates principals?  
 17 A. I evaluate the elementary up until this year.  
 18 This year was the last year -- I won't be evaluating  
 19 them, per se, and then Dr. Cavazos, the secondary.  
 20 Q. This is the role that has fallen to Lori Romero;  
 21 is that correct?  
 22 A. Yes.  
 23 Q. I was listening. The -- in the past evaluations  
 24 you were a part of, did you use the form provided by the  
 25 state for that purpose?

1 A. In the past, as in prior to Harlingen or --  
 2 Q. No, I'm sorry. In your time at Harlingen, when  
 3 you were evaluating the principals, did you use the form  
 4 provided by the state for that purpose?  
 5 A. It's a modification of that. It's its own  
 6 process or evaluation.  
 7 Q. How often were principals evaluated while you  
 8 were doing the evaluation of principals?  
 9 A. Yearly, but as far as discussions, two to three  
 10 times prior to the summary conference.  
 11 Q. What are the criteria on which principals are  
 12 evaluated?  
 13 A. The ability to address, you know, the physical  
 14 plant, also the -- which is the facilities, the ability  
 15 to -- to collaborate with other principals. You know,  
 16 their ability to manage effectively, to communicate  
 17 effectively with parents and community, and even -- a  
 18 part of that also as well is student achievement.  
 19 Q. As measured by the TAKS tests?  
 20 A. Yes.  
 21 Q. Will that continue with the integration of the  
 22 STAAR test?  
 23 A. It will.  
 24 Q. Who has input on a principal's evaluation besides  
 25 you -- or in the past besides you?

1 A. Actually, as the evaluator now, will I take into  
 2 account part of the -- the discussion through the  
 3 formative addresses, the climate culture, yes, but as  
 4 far as stakeholder input from -- from others, I do not  
 5 use.  
 6 Q. Are principals eligible to receive performance  
 7 bonuses at Harlingen?  
 8 A. No.  
 9 Q. Are principals' compensations tied to their  
 10 students' performance?  
 11 A. The compensation, I'm sorry, did you --  
 12 Q. Yes.  
 13 A. No.  
 14 Q. What should happen to a principal whose students  
 15 continue to underperform year after year, in your mind,  
 16 if anything?  
 17 A. Well, I think support, counseling, to  
 18 determine -- you know, many -- support and many meetings  
 19 to determine are there some things that our system  
 20 support can assist and other things, but constant  
 21 feedback is a critical must.  
 22 Q. Who has the authority to remove or terminate a  
 23 principal?  
 24 A. The termination process is -- I can make  
 25 recommendation to the board. The board then acts on the

1 recommendation.  
 2 Q. Ultimately the board will --  
 3 A. Hire.  
 4 Q. -- decide up or down whether to follow your  
 5 recommendation on terminating?  
 6 A. Yes.  
 7 Q. Have you terminated a principal in your tenure as  
 8 Harlingen's superintendent?  
 9 A. No.  
 10 Q. Let's talk about teachers. Do your teachers have  
 11 a reserved planning or preparation time during the  
 12 school day?  
 13 A. Preparation time or outside their -- their --  
 14 their -- I went blank -- the conference period? Is  
 15 that -- what is the question again?  
 16 Q. Do the teachers have a reserved planning or  
 17 preparation time set out for them during the school day?  
 18 A. On some campuses, depending on when they have  
 19 Professional Learning Communities, yes.  
 20 Q. How many days does each teacher get for  
 21 professional development each year?  
 22 A. I believe it's two, 187-day contracts, 180 --  
 23 Q. Two?  
 24 A. Two days, yeah.  
 25 MR. CAVAZOS: Probably about three.

1 MS. BONO: You can't --  
 2 A. I don't know.  
 3 Q. I want the right information.  
 4 A. It's two to three, two to three.  
 5 Q. We'll call it two to three.  
 6 Are you part of the hiring process for teachers  
 7 on the campus level?  
 8 A. No.  
 9 Q. Do you get involved in that?  
 10 A. No.  
 11 Q. Do you even approve hirings or anything like  
 12 that? Do you even rubber stamp approve or anything like  
 13 that?  
 14 A. No. I mean, monthly the teacher recommendations  
 15 come from HR. You know, I may purview it, but as far  
 16 as -- the board takes action on the final hiring of the  
 17 teachers.  
 18 Q. Do you know roughly how many new teachers, at  
 19 least new to the district Harlingen hired in the  
 20 2012-2013 school year?  
 21 A. New to the district?  
 22 Q. Yes, sir.  
 23 A. I don't have that, no.  
 24 Q. Do you know anything about the teachers that were  
 25 hired as a class? Do you know anything about whether

1 Q. And did the district win that hearing?  
 2 A. Yes.  
 3 Q. Would you describe Harlingen ISD's teacher as  
 4 high-quality educators?  
 5 A. Yes.  
 6 Q. What do you base that on? How do you know that  
 7 they're good? And I'm not suggesting otherwise.  
 8 A. Observations, I've been to every campus. Have I  
 9 been to every classroom, no, but enough to know that  
 10 through our learning communities and the collaboration,  
 11 I would say there might be obviously some that require  
 12 some attention, but that's a principal decision, but for  
 13 overall general, yes, I believe they -- our teachers are  
 14 good.  
 15 Q. How are the teachers evaluated? Is there -- let  
 16 me ask you a series of questions about that. Do you all  
 17 use the state form in the evaluation of teachers?  
 18 A. PDAS.  
 19 Q. What is the PDAS?  
 20 A. Professional Development -- I mean, Professional  
 21 Appraisal System.  
 22 Q. Okay. Are you aware that -- that Harlingen is  
 23 not required to use that form when it evaluates  
 24 teachers?  
 25 A. Yes.

1 Q. Are you satisfied with the use of that PDAS form?  
 2 A. Yeah, overall -- I mean, generally, yes.  
 3 Q. Who performs the evaluations of teachers?  
 4 A. Principals or assistant principals.  
 5 Q. How frequently are teachers evaluated?  
 6 A. Yearly.  
 7 Q. And roughly what time of year are those reviews  
 8 given typically?  
 9 A. Usually the summers, obviously, or at the end of  
 10 the year, but at the first of the year -- I don't know  
 11 when they actually do the -- the review or the  
 12 walk-through.  
 13 Q. Do you know what the evaluation criteria are in  
 14 your review of teachers, what they're evaluated on on  
 15 the PDAS?  
 16 A. General, but not -- not -- I don't -- I don't  
 17 evaluate teachers, so I don't have that instrument.  
 18 Q. Sure. Do you know whether teachers are given  
 19 their evaluations in person, or is it just given to them  
 20 in a written form?  
 21 A. I do not know that. It's my hope that they have  
 22 a formal consultation. That's why it's a formative  
 23 meeting.  
 24 Q. Sure. Under the collaborative model that you  
 25 support, it would be preferred to be exchanging

1 information in person rather than just handing each  
 2 other forms and saying, here is your evaluation?  
 3 A. It would.  
 4 Q. Right. Are teachers assessed based on student  
 5 performance, if you know?  
 6 A. I think that principals, they know -- I think  
 7 it's part of their overall, but as far as specific, I  
 8 don't know.  
 9 Q. Do you know whether students are evaluated on the  
 10 improvement -- I'm sorry, let me start over. Do you  
 11 know whether the teachers are evaluated on the  
 12 improvement of their students over the year?  
 13 A. I don't know.  
 14 Q. Do you know whether the district makes any  
 15 attempt to determine whether the teacher is provided any  
 16 measurable value added to his or her students?  
 17 A. Yes.  
 18 Q. How is that measured?  
 19 A. We have what's an Inova Process on the campus,  
 20 and Inova Process looks at value add from a teacher.  
 21 Q. You're using the term "Nova"?  
 22 A. Inova Process.  
 23 Q. What is the Inova Process?  
 24 A. Basically when a child comes to a teacher, you  
 25 can see their scale score, what they've done, academic

1 history, and also our DMAC from our -- there is multiple  
 2 measures, but they can see there is some value add.  
 3 Q. Now you have used another term, "DMAC." What is  
 4 DMAC?  
 5 A. That's part of the CSCOPE. That's a data  
 6 management -- we just call it data management.  
 7 Q. Do you know in layman's terms how the district  
 8 measures value -- the value added by a teacher to his or  
 9 her students in a year?  
 10 A. Not in layman's terms.  
 11 Q. We talked about teacher salaries already. You'll  
 12 agree with me that the salary structure for teachers  
 13 that we looked at earlier is above the TEA minimum  
 14 salary structure; right?  
 15 A. It is.  
 16 Q. Do you know whether the district could -- well,  
 17 you will agree with me that the district could pay the  
 18 teacher less than the stated salary; right?  
 19 MS. BONO: Objection, form.  
 20 A. Yes.  
 21 Q. The structure could be -- well, let me ask this  
 22 several ways: The district could have a salary  
 23 structure where the salary -- the base salaries were  
 24 less than they currently are; right?  
 25 MS. BONO: Objection, form.

1 A. I don't have -- no, I don't have that knowledge.  
 2 Q. You don't know whether that happened or not?  
 3 A. No.  
 4 Q. In the normal course of events -- tell me if I've  
 5 got this correctly or incorrectly. I'm happy to be  
 6 corrected -- when a student fails the TAKS exam, the  
 7 normal expectation is that -- passing that exam is  
 8 required to move on to the next grade level; is that  
 9 correct?  
 10 A. That's right.  
 11 Q. But I understand also that there are some  
 12 exceptions to that, and I'm wondering whether --  
 13 A. Well, there are -- I mean, there are -- I mean,  
 14 the need for summer school and the attendance for summer  
 15 school and going there, I think that we do -- the  
 16 expectation is -- so I don't know the number, or I don't  
 17 know if students would pass, so that's why I answered  
 18 that.  
 19 Q. Yes. Does the district keep a record of  
 20 performance on subsequent TAKS tests when a child fails  
 21 the TAKS in his or her grade, but is nonetheless  
 22 promoted to the next grade level, sort of the follow-up  
 23 tracking? Do you all do anything like that, or do you  
 24 know?  
 25 A. The campuses do, yes, and so there is our

1 research evaluation.  
 2 Q. When a student fails the TAKS exam, what specific  
 3 interventions does Harlingen provide to those students  
 4 to help them succeed on subsequent tests?  
 5 A. The TAKS exam failing at any grade requires --  
 6 obviously we hope that summer school is an option, and  
 7 also sometimes when they get back to school -- the  
 8 school year, then we have opportunity for them to  
 9 have -- with the teacher after school or, you know,  
 10 after-school tutoring and so on.  
 11 Q. Let's talk about the TEKS T-E-K-S. Your  
 12 teachers, I assume, are teaching the TEKS?  
 13 A. Right.  
 14 Q. How do you know that they're doing that?  
 15 A. Well, again, part of the CSCOPE takes into  
 16 consideration, and obviously with the need and  
 17 specificity with end-of-course that's required.  
 18 Q. Are you aware of any teachers in Harlingen who  
 19 are unable to complete the curriculum in a particular  
 20 school year?  
 21 A. I'm not aware.  
 22 Q. Let's talk about the STAAR test. When did you  
 23 first learn that the state would be administering the  
 24 STAAR test?  
 25 A. When, I mean, legislation came back. I guess

1 that was two years ago.  
 2 Q. Was anyone from Harlingen selected to serve on  
 3 the TEA STAAR test item review committee?  
 4 A. I don't know. I believe we had some -- some  
 5 individuals. I don't know the exact.  
 6 Q. There were other committees too, I was going to  
 7 ask you about them and maybe --  
 8 A. Yes.  
 9 Q. -- if you just generally believe that someone  
 10 from your district may have served on some committee in  
 11 connection with the STAAR test --  
 12 A. There were -- there were.  
 13 Q. But you don't know any person?  
 14 A. No.  
 15 Q. And you don't know what committee they served on?  
 16 A. No.  
 17 Q. Before the 2011-2012 school year, what did  
 18 Harlingen do to prepare for the administration of the  
 19 STAAR test?  
 20 A. Staff development was held. We have Michelle  
 21 Everett, who oversees curriculum instruction, did an  
 22 extensive review of what the expectations were with  
 23 STAAR, attended sessions at Region 1, with Region 1  
 24 really taking the lead on that. And then coming back  
 25 through core content specialists as well as the -- the

1 instructional facilitators for determination of what was  
 2 the expectations. So there was -- there was some --  
 3 some -- there was some definite work with regard to  
 4 advising teachers of what to expect.  
 5 Q. Okay. After the administration of the STAAR  
 6 test, did you receive any reports that the test was not  
 7 covering or not testing items covered by the TEKS?  
 8 A. I myself did not. Discussions with  
 9 Ms. Everett -- she would know that better than I would.  
 10 Q. But she didn't tell you --  
 11 A. No.  
 12 Q. -- that the TEKS -- that there were aspects of  
 13 the TEKS that were not tested --  
 14 A. She did not.  
 15 Q. She didn't?  
 16 MS. BONO: Let him finish his question.  
 17 Q. You have actually done a very good job. We are  
 18 so -- we are burned into our brain to communicate in a  
 19 certain way. In a deposition, most of that goes out the  
 20 window, so you are doing fine. We're getting very close  
 21 to the end, so just hang with me here. We're almost  
 22 done.  
 23 Did you get in your reports from anyone that  
 24 the -- that the STAAR test covered material that was not  
 25 in the TEKS?

1 A. I did not.  
 2 Q. How would you describe your students' performance  
 3 on the initial administration of the STAAR test?  
 4 A. The initial review that we have at the  
 5 elementary, at the middle school, STAAR, I think we  
 6 were -- above region average, below the state average.  
 7 At the elementary level, we were very close to the  
 8 region average, but not quite where we needed to be, and  
 9 away from the state average, but again, where we look at  
 10 this is also a baseline year, so what's going on last  
 11 year was sort of the baseline year, so what's going on  
 12 now, I believe that our -- our support systems that we  
 13 have in place will address that, so we feel comfortable  
 14 with that.  
 15 Q. You probably weren't affiliated with Harlingen  
 16 when the Harlingen students first took the TAKS test,  
 17 right?  
 18 A. Not when they first, no.  
 19 Q. Right. Do you know whether Harlingen students'  
 20 performance on the TAKS tests tended to improve over  
 21 time?  
 22 A. I would say it did improve over time.  
 23 Q. Do you expect your students' performance on the  
 24 STAAR test to also improve over time?  
 25 A. The expectation is, yes.

1 1753. It's the one entitled "Total Revenue of All  
 2 Funds." Do you have that? And did you get a chance to  
 3 confirm that all the data points there on Exhibit 1753  
 4 from 2006 through 2011 are correct?  
 5 A. Yes.  
 6 Q. Okay. And they are correct?  
 7 A. Yes.  
 8 (Exhibit 1754 marked.)  
 9 Q. Okay. All right. 1754 I've marked as the total  
 10 revenue for all funds per WADA. Did you get a chance to  
 11 review those data points?  
 12 A. Yes.  
 13 Q. And did you -- were you able to confirm that all  
 14 of those reported data points are correct?  
 15 A. Yes.  
 16 Q. All right. And they are, in fact, correct?  
 17 A. Yes.  
 18 (Exhibit 1755 marked.)  
 19 Q. 1755 is the total receipts per WADA. Did you get  
 20 a chance to review those data points?  
 21 A. Yes.  
 22 Q. Okay. And are all of those data points from 2006  
 23 through 2011 correct?  
 24 A. Yes, they are.  
 25 MR. VINSON: Pass the witness.

1 MR. VINSON: Let's go off the record for a  
 2 second.  
 3 (Recess taken 4:08 to 4:47 p.m.)  
 4 (Exhibit 1752 marked.)  
 5 Q. Sir, starting with the chart that's labeled  
 6 "Total Revenue General Fund" --  
 7 A. Yes.  
 8 Q. -- I've marked that as Exhibit 1752, and I'm  
 9 going to hand that to you. Did you get a chance to  
 10 confirm whether those -- let me just take just a second.  
 11 We took a break about 45 minutes ago with the -- in the  
 12 interest of streamlining the process of just confirming  
 13 that these data points are correct. Have you had a  
 14 chance to go through all the data points on these four  
 15 charts that I handed you before the break?  
 16 A. Yes.  
 17 Q. Okay. So starting with Exhibit 1752, are you  
 18 satisfied that those data points accurately reflect the  
 19 total revenue for the general fund for the years 2006  
 20 through 2011 for the Harlingen School --  
 21 A. Yes.  
 22 Q. -- District?  
 23 A. Yes.  
 24 (Exhibit 1753 marked.)  
 25 Q. All right. And the next exhibit I've marked as

1 EXAMINATION  
 2 BY MS. BONO:  
 3 Q. Dr. Flores, I have some quick questions for you.  
 4 Earlier there was some conversation about the  
 5 Professional Learning Communities in Harlingen School  
 6 District. Do you recall that testimony?  
 7 A. Yes.  
 8 Q. You stated that one aspect of Professional  
 9 Learning Communities in Harlingen was classroom  
 10 observations, whereby teachers or administrators could  
 11 offer feedback --  
 12 A. Right.  
 13 Q. -- is that fair? And you said they also created  
 14 learning opportunities for the teachers who are  
 15 performing the observations; is that right?  
 16 A. Yes.  
 17 Q. Do Professional Learning Communities also include  
 18 any meetings between teachers?  
 19 A. Yes.  
 20 Q. Does it include meetings between teachers and  
 21 principals?  
 22 A. Yes.  
 23 Q. And what are the purposes of those meetings?  
 24 A. To impact instruction on their campus and to --  
 25 to focus in on strengths and weaknesses.

1 Q. You also mentioned six components of what you  
2 defined as an excellent educational system in Harlingen;  
3 is that right?

4 A. Yes.

5 Q. And those components were teacher quality, school  
6 readiness, aligned coherent curriculum, systems of  
7 support, a strong governance model, and community  
8 support. Is that -- did I state that accurately?

9 A. Yes.

10 Q. You said that you believed Harlingen currently  
11 has quality teachers. Does Harlingen currently have  
12 enough teachers to meet its mission and goals?

13 A. No.

14 Q. And how do you know?

15 A. Again, the number of teachers required at the  
16 early grades, as I spoke to earlier, that would focus on  
17 reducing class sizes in early grades, particularly with  
18 the early literacy and bilingual students as well. Also  
19 economically disadvantaged students would benefit by  
20 smaller class sizes.

21 Q. You also mentioned that you -- that the district  
22 is good at identifying students who are not school ready  
23 or students who have what you defined as a literacy gap.  
24 Is the district currently able to address that gap for  
25 every student?

1 A. No.

2 Q. You also said that the community support that the  
3 district has is excellent. Is the district currently  
4 able to conduct sufficient community outreach to get all  
5 of the community support needs to meet its missions and  
6 goals?

7 A. No.

8 MR. VINSON: Objection, vague. Objection,  
9 form.

10 MS. BONO: An objection on form is fine.

11 MR. VINSON: Yes. I meant to correct  
12 myself.

13 Q. Does professional development play a role in the  
14 provision of systems of support in Harlingen School  
15 District?

16 A. Yes are.

17 Q. Please describe that role.

18 A. Professional -- repeat the question.

19 Q. What role does professional development play in  
20 the provision of systems of support in Harlingen  
21 Consolidated School District?

22 A. Professional development allows the teachers to  
23 know -- or students to know the needs of our students  
24 through -- through various forms of staff development  
25 that focuses on the needs of particular groups of

1 students in our district, primarily students that are  
2 not prepared to come to school as a result of factors  
3 coming in. So professional development and staff  
4 development allows for extensive things such as that as  
5 well as addressing the needs of our students.

6 Q. Okay. And is the district currently able to  
7 offer sufficient professional development to provide  
8 adequate support for teachers in order to meet the  
9 district's missions and goals?

10 MR. VINSON: Objection, form.

11 A. No.

12 Q. You also said that parental involvement in the  
13 district is second to none. Do you recall that  
14 testimony?

15 A. Yes.

16 Q. Were you referring to the parental involvement  
17 that the district already has?

18 MR. VINSON: Objection, form.

19 A. We could definitely do more. I mean, parental  
20 involvement is very strong, but -- repeat the question.

21 Q. When you said that the parental involvement in  
22 your school district is second to none, were you  
23 referring to the parental involvement that the district  
24 already has?

25 A. No.

1 Q. What were you referring to?

2 A. That the second to none -- the group right now  
3 that works together is -- was second to none, but if we  
4 had more -- they're limited and stretched as a result,  
5 but as far as the current group there, the reference is  
6 second to none, but as far as -- can we increase on that  
7 capacity with more, yes.

8 Q. So -- okay. So you were referring to the parents  
9 who were already involved with the district?

10 A. Right.

11 MR. VINSON: Objection, leading.

12 Q. Is it your understanding that the state has an  
13 expectation that Harlingen get all of its students  
14 college and career ready by the time they graduate?

15 MR. VINSON: Objection, leading.

16 A. College and career ready, yes.

17 Q. When you said that Harlingen is providing a  
18 general diffusion of knowledge for its students, did you  
19 mean some students or did you mean all students?

20 MR. VINSON: Objection, form.

21 Q. Let me rephrase. Is Harlingen providing a  
22 general diffusion of knowledge to all of its students?

23 A. No.

24 Q. There was also some discussion earlier about  
25 federal stimulus moneys. Is it your understanding that

1 those stimulus dollars will be reoccurring?

2 A. No.

3 Q. Is it your understanding that they -- it was a  
4 one-time deal?

5 A. Yes.

6 MS. BONO: That's all the questions I have.  
7 I pass the witness.

8 FURTHER EXAMINATION

9 BY MR. VINSON:

10 Q. Let's just follow up with a couple of those  
11 points. If you could refer back first to Exhibit 1738,  
12 which is the AEIS reports for 2010-2011. It's  
13 specifically -- I think if you go to page -- section 2,  
14 page 2, which has the class size data.

15 A. What, section 2?

16 Q. Yes, sir.

17 A. Page 2, okay, got it.

18 Q. So if you look in the middle of the page there,  
19 we see the class size data for the district in the  
20 middle of the -- the middle column there, kindergarten,  
21 18.7, grade 1, 19.7, etcetera, down through grade 6,  
22 mixed grades and then secondary levels as well; is that  
23 correct?

24 A. Yes.

25 Q. And it looks like at least in grades 1 through 4,

1 the class size is well under the state maximum of 21  
2 students per class; is that correct?

3 A. Up to -- up to grade 4, did you say?

4 Q. Yes, sir.

5 A. Yes.

6 Q. And beyond grade 4, there is no maximum class  
7 size; right?

8 A. Correct.

9 Q. And how many students per class would you need to  
10 average in order to be able to provide -- or in order  
11 for the district to meet its goals of educating all the  
12 students equally?

13 MS. BONO: Objection, form.

14 A. The number of exact teachers, I don't know, but I  
15 will say with regard to FLL and LEP, those particular  
16 students especially as it comes back to the word gap,  
17 and again, this would be something that should not  
18 exceed 16 students. The smaller class size, the better  
19 with regard to the needs for those students, so that's  
20 what I was referring to.

21 Q. I mean, but in your mind, if -- if there are more  
22 than 16 per class, are the students not receiving, or is  
23 the district not meeting its goals if there is -- unless  
24 the class size is 16 or smaller for that population?

25 MS. BONO: Objection, form.

1 A. No. What I'm saying is that -- that reducing the  
2 size for those particular -- in those particular areas  
3 when possible, obviously benefits.

4 Q. Right. But I think the question that was posed  
5 to you was whether you have enough teachers, and you  
6 said no, we don't have enough teachers. And --

7 A. Yes.

8 Q. -- the way that is reflected, of course, is in  
9 this class size data; right?

10 MS. BONO: Objection, form.

11 A. In this current -- yes.

12 Q. Yes.

13 A. Yes.

14 Q. Because if you had enough teachers, the class  
15 size data would be different; right? And I'm wondering  
16 how many is enough teachers?

17 A. Again, to determine that would be the -- the  
18 number of students in those programs, and then 16 to  
19 1 -- staff at 16:1. I don't -- I don't have that.

20 Q. Where do you get that 16:1 number? Where did  
21 that come from?

22 A. I think that any -- I say 16:1. Any class  
23 that -- where students need extensive remediation or the  
24 possibility of understanding the smaller the class size,  
25 the better, thus 16:1 is more conducive to -- to meeting

1 their needs.

2 Q. But is there any data behind the idea that 16:1  
3 is the -- is the most number -- the highest ratio of  
4 students to teachers which will allow the population to  
5 receive the education that the school district wants to  
6 give it?

7 A. I don't have that particular data, no.

8 Q. Are you aware of any data that exists that --

9 A. On class size?

10 Q. -- on the 16:1 as a benchmark or an appropriate  
11 standard?

12 A. I'm not aware of any particular.

13 Q. And is it your testimony that the difference  
14 between 16:1 and say 18.7:1 actually makes a material  
15 difference in the entirety of the classes, experience  
16 with the teacher that two and a half to three students  
17 per teacher can make a difference between the district's  
18 ability to meet its goals and not meet its goals?

19 A. Again, the important -- yes, to that, for the  
20 fact that smaller class sizes in these areas that are  
21 targeted.

22 Q. Well, but until -- until you strengthen your  
23 class sizes down to 1:1, couldn't it always be said that  
24 smaller is better, and therefore, a smaller standard  
25 should be used, that is, if right now Harlingen had an

1 will be some consequence, some negative consequence to  
 2 the district?  
 3 A. That's my expectation.  
 4 Q. What negative consequence would happen if the  
 5 state -- if you didn't meet the state's stated goal of  
 6 what you described as all of your graduates, 100 percent  
 7 of graduates being college and career ready?  
 8 A. I don't -- I mean, the question -- is that a  
 9 "yes" or "no" question?  
 10 Q. No, it's an open-ended question to find out what  
 11 consequence do you understand would be -- would happen  
 12 to Harlingen or any other district if the state  
 13 determined, based on whatever criteria they're going to  
 14 use, that not all of the district's graduating seniors  
 15 are college and career ready? What consequence could  
 16 the state dole out or punish? How could a state punish  
 17 the district for that outcome, if you have -- if you  
 18 understand what that might be?  
 19 A. It's an expectation for -- for the district and  
 20 for the state.  
 21 MR. VINSON: I'm going to object as  
 22 nonresponsive.  
 23 Q. Do you understand the question that I'm asking  
 24 you?  
 25 A. I do.

1 Q. Okay. Because the question is not about what the  
 2 expectation is. It's the consequence for failing to  
 3 meet your described expectation, and it sounds like you  
 4 don't know what the consequence would be?  
 5 A. I've stated it's the expectation.  
 6 Q. Okay. Again, that doesn't answer my question.  
 7 My question is, do you know what consequence the state  
 8 administers to any district?  
 9 A. No.  
 10 Q. Okay. And, in fact, has -- during your tenure,  
 11 have all of your high school graduates been college and  
 12 career ready?  
 13 A. It is my hope that they are, yes.  
 14 Q. That's not my question. My question is, since  
 15 you have started as the superintendent at Harlingen ISD,  
 16 have all of your high school graduates been college and  
 17 career ready?  
 18 A. No.  
 19 Q. Okay. And what consequence, if any, has happened  
 20 to you from the state because less than 100 percent of  
 21 Harlingen's high school graduates were college and  
 22 career ready?  
 23 A. There is none.  
 24 Q. There has been no consequence; right?  
 25 A. To this point, no.

1 Q. So the truth is there isn't a consequence to  
 2 failing to meet the state expectation as you've  
 3 described it?  
 4 A. That I'm aware of, yes.  
 5 Q. Okay. You were asked about general diffusion of  
 6 knowledge, and I asked you earlier about whether the  
 7 district was providing a general diffusion of knowledge  
 8 to its students, and you said yes. And then on  
 9 redirect, you said it's not giving the general diffusion  
 10 of knowledge to all of its students. Is the state  
 11 withholding a general diffusion of knowledge to certain  
 12 students?  
 13 A. I believe, yes, in the sense that we talked about  
 14 the gaps with LEP students and economic disadvantaged  
 15 students.  
 16 Q. Well, but from the district's perspective, you  
 17 are diffusing, you are --  
 18 A. Right.  
 19 Q. You are diffusing the knowledge to all the  
 20 students. Whether it's retained or not or understood is  
 21 a separate question, but you are diffusing the knowledge  
 22 to all of the students; right?  
 23 MS. BONO: Objection, form.  
 24 A. Right.  
 25 Q. Right? You are doing that?

1 A. Yes.  
 2 Q. Whether they can receive that, understand it,  
 3 digest it, perform on a test is a different question,  
 4 but from the district's perspective, you are diffusing  
 5 that knowledge to all of your students; right?  
 6 MS. BONO: Objection, form.  
 7 A. Yes.  
 8 MR. VINSON: No further questions. Pass the  
 9 witness.  
 10 MS. BONO: We'll reserve the remainder of  
 11 our questions until the time of trial.  
 12 (Deposition adjourned at 5:10 p.m.)  
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1 APPEARANCES

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1 \* \* \*  
2 EXAMINATION INDEX

3  
4 Page  
5 EXAMINATION BY MR. SEAQUIST ..... 7  
6 EXAMINATION BY MS. SABERIAN ..... 307  
7 EXAMINATION BY MS. BONO ..... 321  
8  
9

10 \* \* \*  
11 INDEX OF EXHIBITS

12 Page  
13 Exhibit 575..... 23  
14 McAllen ISD Organizational Chart  
15 2012-2013  
16 Exhibit 576..... 27  
17 Career Connections: A Plan For Your  
18 Future brochure  
19 Exhibit 577..... 31  
20 McAllen ISD E-Newsletter, 2010-11,  
21 Edition 17 "TLC3 Gaining Speed - iPads on  
22 the way"  
23 Exhibit 578..... 37  
24 Article "Forbes lists district among  
25 world leaders"  
26 Exhibit 579..... 40  
27 Article "District receives grant from  
28 NAASA"  
29 Exhibit 580..... 41  
30 Printout from MISD website "Advanced  
31 Learners"

1 Exhibit 581..... 51  
2 Printout from MISD website "About Us"  
3 Exhibit 582..... 54  
4 Printout from MISD website "Challenge  
5 (GT) Program"  
6 Exhibit 583..... 57  
7 McAllen ISD E-Newsletter, 2011-2012,  
8 Edition 8  
9 Exhibit 584..... 60  
10 Printout from MISD website  
11 "Extraordinary Student Recognitions"  
12 Exhibit 585..... 62  
13 2006-7 AEIS Report for McAllen ISD  
14 Exhibit 586..... 63  
15 2007-8 AEIS Report for McAllen ISD  
16 Exhibit 587..... 69  
17 2008-9 AEIS Report for McAllen ISD  
18 Exhibit 588..... 71  
19 2009-10 AEIS Report for McAllen ISD  
20 Exhibit 589..... 81  
21 2010-11 AEIS Report for McAllen ISD  
22 Exhibit 590..... 93  
23 Printout from MISD website  
24 "Extraordinary Student Recognitions"  
25 (Same document as Exhibit 584; was marked  
again after reprinting)  
Exhibit 591..... 100  
Printout from MISD website "Top  
Schools Honored by McAllen..."  
Exhibit 592..... 102  
2010-11 AEIS Report for Houston  
Elementary  
Exhibit 593..... 114  
2010-11 AEIS Report for Fields  
Elementary

1 Exhibit 594..... 121  
2 2010-11 AEIS Report for McAuliffe  
3 Elementary  
4 Exhibit 595..... 124  
5 2010-11 AEIS Report for Travis Middle  
6 School  
7 Exhibit 596..... 137  
8 2010-11 AEIS Report for Brown Middle  
9 School  
10 Exhibit 597..... 139  
11 2010-11 AEIS Report for Lamar Academy  
12 Exhibit 598..... 146  
13 2010-11 AEIS Report for McAllen High  
14 School  
15 Exhibit 599..... 174  
16 Budget Summary Report for McAllen ISD  
17 2011-12 "Actual Budget" and 2012-11  
18 "Proposed Budget"  
19 Exhibit 600..... 175  
20 Adopted Budget for McAllen ISD - Date  
21 Adopted by Board: June 18, 2012  
22 Exhibit 601..... 184  
23 McAllen ISD Tax Rate History  
24 Exhibit 602..... 185  
25 Resolution for Tax Rate for MISD  
1/1/11 and ending 12/31/11  
Exhibit 603..... 192  
Business Wire article "Fitch Affirms  
McAllen ISD, Texas' \$104.85MM ULT Bonds  
at 'AA-', Outlook Stable"  
Exhibit 604..... 211  
McAllen ISD Organizational Chart  
2012-2013  
Exhibit 605..... 229  
Article from TheMonitor.com "New  
McAllen leachers ready for the task"

1 Exhibit 606..... 243  
 2 2012-2013 Minimum Salary Schedule  
 3 Exhibit 607..... 294  
 4 McAllen ISD STAAR Summary Report -  
 5 Algebra I for Spring 2012  
 6 Exhibit 608..... 298  
 7 McAllen ISD STAAR Summary Report -  
 8 Algebra I for Summer 2012

6  
7  
8  
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1 JAMES JOSEPH PONCE, Ph.D.,  
 2 having been first duly sworn, testified as follows:  
 3 EXAMINATION  
 4 BY MR. SEAQUIST:  
 5 Q. Good morning, Dr. Ponce. My name is Gunnar  
 6 Seaquist. I'm a lawyer with the Attorney General's  
 7 office.  
 8 A. Good morning.  
 9 Q. Have you ever given a deposition before?  
 10 A. Yes. A long time ago.  
 11 Q. So you know kind of the ground rules, but just a  
 12 quick refresher. The court reporter is here trying to  
 13 take down our conversation today. So if you can, do your  
 14 best to let me finish my question before you give your  
 15 answer, and I'm going to do my best to let you finish your  
 16 whole answer before I ask you my next question. Okay?  
 17 A. Okay.  
 18 Q. Also, since she is taking a transcript, please  
 19 try to answer out loud verbally with a "yes, no, I don't  
 20 know," or whatever the appropriate answer is. "Uh-huhs"  
 21 or "huh-uhs," shakes of the head or nods of the head are  
 22 hard to get on the record. Okay?  
 23 A. Okay.  
 24 Q. If you say "uh-huh" or "huh-uh" and I prompt you  
 25 to say yes or no, I'm not trying to be rude to you, I'm

1 just trying to get a good record. Okay?  
 2 Also, at some point today I will ask you a  
 3 question, I'm sure, that is poorly phrased or somehow  
 4 unintelligent. If you would do me a favor and just, if  
 5 you don't understand a question I've asked for any reason,  
 6 will you ask me to rephrase it for you?  
 7 A. Sure.  
 8 Q. And if you do answer a question, I'm going to  
 9 assume that you understood it and gave the best answer you  
 10 could. Is that fair?  
 11 A. Sure.  
 12 Q. Will you state your full name for the record,  
 13 please?  
 14 A. James J. Ponce. Joseph Ponce.  
 15 Q. And what is your current position, sir?  
 16 A. Superintendent of schools, McAllen ISD.  
 17 Q. And how long have you been in that position?  
 18 A. I'm going into my fourth year.  
 19 Q. Where were you before that?  
 20 A. McAllen -- Dallas ISD.  
 21 Q. What was your position in Dallas?  
 22 A. When I left Dallas, I was the deputy chief of  
 23 staff.  
 24 Q. Can you tell me just a thumbnail sketch of what  
 25 your duties were as the deputy chief of staff at DISD?

1 A. I supervised the LEAs, athletics, the  
 2 Transformation Management Office, parent involvement.  
 3 There was one other, I can't recall at this time, but that  
 4 was the -- one of my primary functions.  
 5 Secondary function was immediate response to the  
 6 chief of staff, which is a lot of the day-to-day  
 7 operations in the district.  
 8 Q. Did you have any oversight of the instructional  
 9 side?  
 10 A. Not in that capacity.  
 11 Q. All right. What about in terms of budgeting, did  
 12 you have any direct budget responsibilities in that  
 13 position?  
 14 A. Oversight of the groups that I was supervising.  
 15 I didn't -- and we had somewhat of a budget, but I think  
 16 the deputy chief of staff really had the chief of staff's  
 17 budget, so it wasn't really that I constructed a budget in  
 18 that position.  
 19 Q. So you kind of had a preordained budget that came  
 20 from above you?  
 21 A. Pretty much.  
 22 Q. And you were responsible for operating within  
 23 that budget?  
 24 A. Yes.  
 25 Q. What years were you at DISD, sir?

1 A. '93 through '09. That's about the time period.  
 2 Q. Okay. What were you doing before that?  
 3 A. I was managing Wendy's restaurants.  
 4 Q. So DISD was your first school district  
 5 experience?  
 6 A. Yes.  
 7 Q. And what was your starting position at DISD?  
 8 A. I was a bilingual educator. Kindergarten.  
 9 Q. And how long did you serve as a teacher before  
 10 you went into administration?  
 11 A. I was there from '93 to '98, about. I started at  
 12 the middle of the year, so they gave me six years of  
 13 credit. It was about five years, five and a half years.  
 14 Q. And was that always at the kindergarten level or  
 15 did you --  
 16 A. No, kindergarten and second grade. I got  
 17 promoted to second grade. I think it's a promotion, but  
 18 it's not really a promotion.  
 19 Q. And as a bilingual educator, what were your  
 20 responsibilities?  
 21 A. It was the -- the primary function was the  
 22 instructional leader within the classroom of the 22  
 23 students, 22-plus students, give or take, that came to my  
 24 classroom each year to adhere to stated curriculum,  
 25 prepare them for third grade and beyond, whatever the

1 standards were at the time.  
 2 Q. And so you were teaching the standard  
 3 curriculum --  
 4 A. Yes.  
 5 Q. -- for that -- whatever the grade, be it  
 6 kindergarten or second grade, correct?  
 7 A. Yes.  
 8 Q. To students who were English as a second  
 9 language?  
 10 A. Correct.  
 11 Q. All right. And how did you come to -- how did  
 12 you come to have the position as superintendent down in  
 13 McAllen?  
 14 A. There was -- I received a call at one point  
 15 asking me if I would be interested in applying, doing my  
 16 research, talking to my mentors, and everyone said to put  
 17 my name in the hat, so I put my name in the hat and was  
 18 selected as superintendent.  
 19 Q. In your current position there as the  
 20 superintendent, do you have an employment contract?  
 21 A. Yes.  
 22 Q. And what was your starting salary, sir?  
 23 A. \$195,000.  
 24 Q. Have you received any raises or increases since  
 25 then?

1 A. No.  
 2 Q. 195 is still your current salary?  
 3 A. Yes.  
 4 Q. Does your contract allow you any other financial  
 5 or monetary benefits?  
 6 A. Health care. There is a communications stipend  
 7 and a travel stipend.  
 8 Q. Communications stipend like a cell phone?  
 9 A. Yeah, everything that encompasses me being out  
 10 and about, mobile.  
 11 Q. Do you know what the communications stipend is?  
 12 A. It's \$150 a month.  
 13 Q. And what about the travel stipend, sir?  
 14 A. It's \$500 a month.  
 15 Q. And is that specific to travel associated with  
 16 your superintendent duties or is that to spend as you  
 17 wish?  
 18 A. It's aligned with my superintendent duties.  
 19 Q. Business travel?  
 20 A. No, it's travel within the region.  
 21 Q. Oh, okay. So mileage reimbursement, things like  
 22 that?  
 23 A. To campuses when I have to go to Region 1 or  
 24 whatever my role is, like now we're part of Collective  
 25 Impact. So anything that has me doing work through the

1 region is where I get compensated.  
 2 Q. What did you say -- I'm sorry. You probably  
 3 answered and I just don't remember.  
 4 What did you say the travel stipend was?  
 5 A. \$500 a month.  
 6 Q. That's right.  
 7 Do you get any monthly car allowance?  
 8 A. No. That's part of --  
 9 Q. So that's kind of all under that same umbrella?  
 10 A. Yes.  
 11 Q. Any kind of deferred compensation, 401(k) or  
 12 anything like that?  
 13 A. No.  
 14 Q. Does your contract spell out how your performance  
 15 as a superintendent is evaluated? Is there a process for  
 16 that?  
 17 A. It spells out that I'm -- that I'm to be  
 18 evaluated, but it doesn't give a specific on the  
 19 procedure.  
 20 Q. In practice, how are you -- how is your  
 21 performance as a superintendent evaluated?  
 22 A. I'm evaluated twice a year formally. And  
 23 informally every now and then, just through board  
 24 president conversations and those. And then the rest of  
 25 the board, if need be, if there's an issue that needs

1 A. No, I'm aware they're not there.  
 2 Q. You are aware that they are not there?  
 3 A. Yeah.  
 4 Q. As a superintendent, I mean, does your district  
 5 have a mission?  
 6 A. Yes, we do.  
 7 Q. Was that a mission that was in existence before  
 8 you got there or is that a mission that you created when  
 9 you came on board?  
 10 A. It was in existence before I got there.  
 11 Q. What is the mission, to the best of your  
 12 knowledge or recollection?  
 13 A. To educate the whole child to the level of  
 14 college and career readiness and to include all the  
 15 stakeholders in that process.  
 16 Q. And when you say the stakeholders, who are you  
 17 referring to?  
 18 A. The parents and the community and anybody who's  
 19 involved with the district.  
 20 Q. In your opinion, you know, what are the most  
 21 important factors in terms of student learning?  
 22 MS. BONO: Objection; form.  
 23 A. There are several factors in student learning.  
 24 The informal side and the formal side is the readiness,  
 25 how ready do you come to school.

1 On the formal side is how ready are we with the  
 2 highly skilled, highly engaging teacher. When it comes  
 3 down to it, it's -- the instructional core is the teacher  
 4 in front of the students and then all of the supporting  
 5 resources to ensure that that child, through our whole  
 6 process, gets what they need.  
 7 Q. (BY MR. SEAQUIST) Okay. So in terms of factors  
 8 that foster student learning, one of them is how ready  
 9 they are when they get to the school; is that right?  
 10 A. Correct.  
 11 Q. And how would you rate that on importance on a  
 12 scale of 1 to 10?  
 13 MS. BONO: Objection; form.  
 14 A. It's not important as how they come in. A  
 15 student comes through our doors -- that's the beauty of  
 16 public education. They come to our door as they come in.  
 17 So given how ready they are is where we take them. I  
 18 don't know where -- how you can put -- I don't know it's --  
 19 we never looked at how important it is or not. I've never  
 20 looked at it from that perspective.  
 21 Q. (BY MR. SEAQUIST) Would you agree with me that  
 22 students come to schools in the McAllen Independent School  
 23 District at different points in their educational career,  
 24 correct?  
 25 A. We have a diversity of learners and a diversity

1 of backgrounds, and that diversity lends to coming in at  
 2 different levels, yes.  
 3 Q. Well, some kids are going to start at pre-K  
 4 level, are going to come in at pre-K, right?  
 5 A. Yes, some of our students enter at pre-K.  
 6 Q. Some are going to come in at kindergarten?  
 7 A. Correct.  
 8 Q. Some are going to come in later, junior high?  
 9 A. Yes.  
 10 Q. Some are even going to start high school, maybe  
 11 even late high school?  
 12 A. Yes.  
 13 Q. In terms of your ability to educate those folks,  
 14 is it important when they come to the district, when they  
 15 show up at school?  
 16 MS. BONO: Objection; form.  
 17 A. Given the expectation to educate a child at the  
 18 college and career ready level, the earlier we can get a  
 19 child into the McAllen district, the better off it bodes  
 20 for the child.  
 21 Q. (BY MR. SEAQUIST) It's going to be easier to  
 22 educate a child that you have more time to work with than,  
 23 say, one that comes in their junior year of high school?  
 24 A. I wouldn't say easier. It's not easier, less  
 25 easier, more easier, it just gives us more time with a

1 child.  
 2 Q. Can you be more effective in transmitting the  
 3 information you need to transmit to a child that you have  
 4 a longer time to work with?  
 5 MS. BONO: Objection; form.  
 6 A. It would all depend on when the child came in.  
 7 Q. (BY MR. SEAQUIST) And then the other component  
 8 you talked about was just the teacher in the classroom?  
 9 A. (Witness nods.)  
 10 Q. Is that what you -- I think the way you put  
 11 was -- well, I'm not going to paraphrase. I don't  
 12 remember how you put it.  
 13 But in terms of the actual instructor in the  
 14 classroom, is that something you consider to be one of the  
 15 most important factors to a student's success, who the  
 16 teacher is?  
 17 A. Not who the teacher is but the skill set that the  
 18 teacher possesses. When you look at the tier model that  
 19 the state uses, Tier 1, Tier 2, Tier 3, the first tier is  
 20 the first teacher, that first 85 percent of what the child  
 21 should be acquiring. So that's why the teacher is -- that  
 22 first teach of the initial lesson, the design lesson and  
 23 actual execution of the lesson is very important.  
 24 Q. Your district is -- currently has a rating from  
 25 the state of academically acceptable; is that correct?

1 A. Yes.

2 Q. Has it been academically acceptable throughout

3 your tenure there?

4 A. Yes.

5 Q. Are you aware of any point previous to your

6 coming when the district was either a higher or lower

7 rating?

8 A. I can't -- right now, I wouldn't be able to

9 answer that if it was higher or lower.

10 Q. So not to your knowledge?

11 A. Not to my knowledge.

12 Q. What -- you talked about the mission of the

13 school being to get students -- and again, I'm

14 paraphrasing you -- to educate the whole child to college

15 and/or career readiness; is that right?

16 A. Yes.

17 Q. What kind of career training does the McAllen ISD

18 offer to its students?

19 A. Specifically through CATE coursework we offer

20 certifications to our students.

21 Q. What certifications do you offer, sir, if you

22 know?

23 A. There is an abundance of. I wouldn't want to

24 leave one out. I just know we have a good handful of

25 certificates we offer.

1 Q. Any of them come to mind? And I'm not holding

2 you to an exhaustive list, so if you don't say one, that's

3 okay.

4 A. I know we have computer related certifications.

5 I know we have the health and beauty certifications

6 that -- along that line.

7 (Exhibit 575 was marked.)

8 Q. (BY MR. SEAQUIST) I'm going to hand you what I

9 have marked as Exhibit 575. Do you recognize 575, sir?

10 A. Yes.

11 Q. 575 appears to be an organizational chart; is

12 that correct?

13 A. Correct.

14 Q. At the top of this particular chart is Raquel

15 Arcuate?

16 A. Yes.

17 Q. Who is the assistant superintendent for

18 instructional services. Is Ms. Arcuate a direct report to

19 you?

20 A. Yes, she is.

21 Q. And she is over essentially the instructional

22 part of the district, correct?

23 A. Correct.

24 Q. Okay. I note that underneath her is -- are

25 several departments devoted to instruction of the

1 students, and it looks like one of those departments is

2 career and technology education; is that correct?

3 A. Yes.

4 Q. All right. So McAllen ISD has a department that

5 is specifically dedicated to developing career and

6 technology education opportunities for its students?

7 A. Correct.

8 (Exhibit 576 was marked.)

9 Q. (BY MR. SEAQUIST) Hand you what I've marked as

10 Deposition Exhibit 576. Do you recognize 576, Dr. Ponce?

11 A. Yes, I do.

12 Q. What is 576, sir?

13 A. That is our brochure related to the CATE

14 coursework and/or certification.

15 Q. Okay. This is some informational material for

16 students and their parents, telling them about what kind

17 of career preparation courses McAllen ISD offers; is that

18 correct?

19 A. Correct.

20 Q. Just by way of example, will you turn to Page 6.

21 And it talks about there a career option in area of

22 agriculture, food and natural resources. Do you see that?

23 A. Yes.

24 Q. You had mentioned earlier cosmetology and also

25 computer or technology related certificates that you

1 offer. Do you guys also offer coursework in agriculture,

2 food and natural resources?

3 A. Yes, we do.

4 Q. So in the middle of the page there it says:

5 Suggested Course Options?

6 A. Correct.

7 Q. And are these courses that the McAllen ISD offers

8 to students?

9 A. Mostly, yes.

10 Q. Okay. And are these courses available to any

11 qualified student who might want to take them?

12 A. Correct.

13 Q. And are they available at all the campuses? And

14 let me be a little bit more specific. These courses are

15 obviously only high school courses that are listed here.

16 A. Yes.

17 Q. But are those -- I mean, are those courses

18 available to any of the high school students who are

19 qualified for them?

20 A. Correct.

21 Q. Okay. Regardless of what campus they may be at,

22 correct?

23 A. Correct.

24 Q. And I'm not going to go through each of the

25 course offerings. There are several of them listed in

1 haven't seen this document before so I don't know what it  
2 says there. Is this Texas colleges or colleges in general  
3 or certain Texas colleges? South Texas colleges?

4 MR. SEAQUIST: I'm going to have to reprint  
5 it on a break.

6 Q. (BY MR. SEAQUIST) You know what, let's do this.  
7 Let's save this exhibit.

8 MR. SEAQUIST: We'll reprint it on a break,  
9 if that's okay.

10 MS. BONO: I just --

11 MR. SEAQUIST: No, I agree with you.

12 MS. BONO: The district has so many  
13 partnerships with colleges in the southern part of the  
14 state, I don't know if this is limited to a certain part  
15 of the state.

16 MR. SEAQUIST: I don't think it has an  
17 express limitation on that one, but we'll print it on a  
18 break and we'll come back to it.

19 MS. BONO: All right.

20 THE WITNESS: May I use the rest room?

21 MR. SEAQUIST: Yeah. This is a good time.

22 (Break.)

23 (Exhibits 585 to 589 were marked.)

24 Q. (BY MR. SEAQUIST) Dr. Ponce, I've marked and put  
25 in front of you several years of Academic Excellence

1 Indicator System data from the Texas Education Institute.  
2 Exhibit 585 is 2006 to 2007. Exhibit 586 is 2007 to 2008.  
3 Exhibit 587 is 2008 to 2009. Exhibit 588 is 2009 to 2010.  
4 And Exhibit 589 is 2010 to 2011.

5 Do you see those?

6 A. Yes.

7 Q. Okay. I'd like to just kind of look through  
8 these and try to keep it as manageable as possible. But  
9 to look at some of the trends that have been going on in  
10 terms of your district over those periods. And now to be  
11 clear -- what year did you actually start in McAllen ISD?

12 A. My first day of work was May 5th of 2009.

13 Q. Okay. 2009.

14 We'll focus more on the years that you were  
15 there, but I do want to go through and see what the trends  
16 are in terms of your district's numbers.

17 Looking at Exhibit 585, for the year 2006 to  
18 2007, the district was rated as academically acceptable;  
19 is that correct?

20 A. Correct.

21 Q. Looking at Section I, Page 1, one of the things I  
22 wanted to ask you about was from the test scores there in  
23 2007, the TAKS test scores. And I know that you weren't  
24 there, but I'd like to ask you just about kind of what  
25 your experience is in terms of these scores.

1 In looking at the third grade English -- well, I  
2 tell you what, let's do this first. Can you turn with me  
3 to Section II, Page 1?

4 A. Okay.

5 Q. In terms of ethnic demographics of your district,  
6 in 2006 to 2007, do you see ethnic breakdowns there?

7 A. Yes.

8 Q. It appears to me that the African American  
9 students made up .5 percent of the student population in  
10 the district? Does that look right to you?

11 A. 2006-2007?

12 Q. Yes, sir.

13 A. Okay. Yes.

14 Q. And then the Hispanic population was  
15 approximately 91.4 percent of students?

16 A. Correct.

17 Q. And then the white population was approximately  
18 6.4 percent of students?

19 A. Correct.

20 Q. And then smaller percentages for both native  
21 American and Pacific Islanders?

22 A. Correct.

23 Q. Let me ask you, is this generally -- is that  
24 generally, even today, the demographic breakdown of the  
25 district?

1 MS. BONO: Objection, form.

2 A. If I go back and look at this.

3 Q. (BY MR. SEAQUIST) Okay. If you need to, that's  
4 fine.

5 My question is, even today the district is  
6 primarily Hispanic, correct?

7 A. Correct.

8 Q. With small populations of African-Americans and  
9 white students?

10 A. Correct.

11 Q. We'll look at what the 2010-2011 numbers are, but  
12 I just want to get your general impression.

13 Below the ethnic distribution data there is the  
14 data that is broken down by economically disadvantaged,  
15 limited English proficient, students with disciplinary  
16 placements and at-risk students. Do you see that?

17 A. Yes.

18 Q. In 2006 to 2007, the economically disadvantaged  
19 population was 70.2 percent?

20 A. 70.2 percent?

21 Q. Yes. Is that what's written there?

22 A. Yes.

23 Q. And then the limited English proficient, or LEP,  
24 students were approximately 32.1 percent?

25 A. Correct.

1 Q. Do you have any feel for whether 32.1 percent LEP  
 2 students, where that compares on the scale of other  
 3 districts around the state?  
 4 MS. BONO: Objection; form.  
 5 A. I haven't done a state comparison.  
 6 Q. (BY MR. SEAQUIST) Okay. Is there any population  
 7 in your district that you consider to be particularly  
 8 difficult to educate?  
 9 A. Any student population? The student population  
 10 that comes from outside of Texas, the student population  
 11 that comes from outside of the country, student population  
 12 where the education level in the household is at below a  
 13 high school education, student population where English  
 14 isn't their first language. It's not that it's  
 15 difficult -- you used the term "difficult," but I would  
 16 say it's more challenging.  
 17 Q. In terms of -- let me see if I understand what  
 18 you're identifying. If we look at the metrics that the  
 19 State calculates for us here, you had mentioned both  
 20 students where English is not their first language; is  
 21 that right?  
 22 A. Correct.  
 23 Q. As well as students who are from out of the  
 24 country. Does being out of the country as the primary  
 25 barrier there also the language barrier, or are there

1 other cultural barriers that you are referring to?  
 2 MS. BONO: Objection; form.  
 3 A. There is a -- I don't want to say barrier. There  
 4 is a group -- there's variables attached to those students  
 5 that make adjustment to one a different -- a totally  
 6 different education system sometimes. Language may or may  
 7 not be a problem, but it's just the whole idea of  
 8 adjusting to a new educational system with the state  
 9 standards, one of the most rigorous standards in the  
 10 United States, so that combination makes it difficult. Or  
 11 more challenging.  
 12 Q. (BY MR. SEAQUIST) Do you think the State should  
 13 have rigorous standards in terms of education?  
 14 A. Very much so.  
 15 Q. All right. So there may be some issues that are  
 16 language related and then some issues just stem from  
 17 coming to a new educational system, in terms of students  
 18 who are coming from out of the country?  
 19 A. Correct. The level of education as you come in  
 20 through the system.  
 21 Q. Do you have a figure as to what percentage of the  
 22 students in a given year, roughly, are from outside of the  
 23 country?  
 24 A. No, I don't.  
 25 Q. Let me ask this in terms of the numbers and then

1 I'll see if we can get kind of a more general principle  
 2 out of it.  
 3 In 2006 to 2007, the LEP students in the McAllen  
 4 ISD was at 32.1 percent. Do you see that?  
 5 A. Yes.  
 6 Q. And so are LEP students put into a bilingual  
 7 program?  
 8 A. If they qualify and if the parent's going to be  
 9 part of a bilingual.  
 10 Q. Okay. Do you have some students whose parents --  
 11 who might otherwise qualify for a bilingual program but  
 12 whose parents who won't let them participate in it?  
 13 A. There have been parents who have denied bilingual  
 14 education.  
 15 Q. Do you have an understanding of why that would  
 16 have been?  
 17 A. That's a personal choice.  
 18 Q. Okay. So for a first student whose parents deny  
 19 bilingual education, how do you handle that?  
 20 A. Me personally or the district?  
 21 Q. Well, the district, yeah.  
 22 A. One is as you make aware the eligibility for  
 23 bilingual education, you give them the opportunity to  
 24 accept. If they deny, to the best of my knowledge, we  
 25 want to find out why and then from that point on you

1 counsel the advantages and disadvantages and leave the  
 2 choice up to the parent.  
 3 Q. And if the parent ultimately refuses, are you  
 4 required then to just continue educating the student in  
 5 the language that they -- their first language?  
 6 A. Correct.  
 7 No. Rephrase that.  
 8 Q. If you have a student whose parents ultimately  
 9 say, "We're not going to participate in the bilingual  
 10 education program," for example if they're a  
 11 Spanish-speaker, are you required then -- do you have any  
 12 choice but to keep teaching in Spanish, or how do you  
 13 handle that?  
 14 A. No, that child would then go into the general ed  
 15 setting.  
 16 Q. I guess that would be pretty difficult. If they  
 17 weren't accepting any bilingual education, that would be  
 18 pretty difficult for them to participate in that general  
 19 ed setting, right?  
 20 MS. BONO: Objection; form.  
 21 A. It's dependent on a lot of factors.  
 22 Q. (BY MR. SEAQUIST) How long does it usually take  
 23 to -- if you have a student who's -- who comes to you, for  
 24 example, in kindergarten who's LEP who needs to be put in  
 25 a bilingual program and who indeed accepts bilingual

1 education, how long does it generally take to get that  
2 student off of LEP status?

3 A. I don't know if you ever get off of LEP status.  
4 But to move into the CALP, the cognitive academic language  
5 proficiency, it takes a good five to seven years.

6 Q. One of the things I notice is that on Section I,  
7 Page 1, for 2007 were the TAKS test scores. At the top of  
8 the page is Grade 3 for the English portion of the TAKS  
9 test. Do you see that?

10 A. Yes.

11 Q. And I'm looking at the reading portion under the  
12 LEP. And as of the third grade it looks like the district  
13 is able to get 82 percent of its LEP students to pass the  
14 English reading portion of the TAKS test. Do you see  
15 that?

16 A. What are you looking at?

17 Q. The LEP is on the far right over here.

18 A. Restate, please.

19 Q. Absolutely.

20 This is by the third grade, the district has 82  
21 percent of its LEP students passing the reading, the  
22 English reading portion on the TAKS test. Am I reading  
23 that correctly?

24 MS. BONO: Objection; form.

25 A. Meeting the minimum standard, correct.

1 meet the minimum skills for reading English; is that  
2 right?

3 MS. BONO: Objection; form.

4 A. I don't know about for reading English. But for  
5 passing the TAKS, yes.

6 Q. (BY MR. SEAQUIST) Well, passing the English  
7 reading portion of the TAKS, right?

8 A. Correct.

9 Q. All right. In terms of -- looking at Section I,  
10 Page 5, do you see there the top half of the page has to  
11 do with met the 2007, for the TAKS test, Sum of All Grades  
12 Tested.

13 A. Correct.

14 Q. All right. And so here are figures specifically  
15 for the whole district there. Do you see that?

16 A. Yeah, the "excluding Grade 8 science," that one,  
17 the top part?

18 Q. Yes, sir.

19 A. Yes.

20 Q. All right. And so in 2006 to 2007, 67 percent of  
21 all grades tested -- or All Tests met the minimum  
22 standards; is that correct? In 2007?

23 A. Correct.

24 Q. And that was an increase over the year before,  
25 2006, where only 65 percent?

1 Q. (BY MR. SEAQUIST) Okay. So in looking at that,  
2 to your mind, does it appear that the district is doing a  
3 good job in terms of getting its LEP students up to  
4 minimum standards in terms of English reading?

5 MS. BONO: Objection; form.

6 A. What do you mean, good job?

7 Q. (BY MR. SEAQUIST) Well, I mean, do you consider  
8 82 percent -- I mean, 82 percent of LEP students being at  
9 the minimum standards by the third grade for reading and  
10 English, do you think that's a good score or a good  
11 percentage?

12 MS. BONO: Objection; form.

13 A. For those students, it's a good score. For the  
14 balance of the students, not.

15 Q. (BY MR. SEAQUIST) What do you mean the balance  
16 of the students?

17 A. The students who failed.

18 Q. Okay. Sure.

19 But based on this number, the bilingual program  
20 at the McAllen ISD has brought 82 percent of its LEP  
21 students --

22 And those are English as a second language  
23 students, correct?

24 A. Correct.

25 Q. -- have gotten 82 percent of those students to

1 A. Correct.

2 Q. Is it true, sir, that the district and campuses  
3 generally are graded on improvement rather than what the  
4 overall score is?

5 MS. BONO: Objection; form.

6 A. Yeah. Restate.

7 Q. (BY MR. SEAQUIST) Sure. In terms of looking at  
8 these numbers, what's important or what is essential is  
9 the value added, correct?

10 MS. BONO: Objection; form.

11 A. At the time there is no value added.

12 Q. (BY MR. SEAQUIST) 2006 and 2007?

13 A. Yes.

14 Q. Well, let me ask you this. When you look at it,  
15 do you judge the district's performance on the improvement  
16 that it makes in terms of its numbers?

17 MS. BONO: Objection; form.

18 A. Relative to --

19 Q. (BY MR. SEAQUIST) Yeah, let me see if I can get  
20 at this a better way. I'm sorry I'm doing this kind of  
21 unartfully.

22 The issue is not as much what the ultimate number  
23 is but, rather, what the improvement is over the previous  
24 year. Isn't that fair?

25 MS. BONO: Objection; form.

1 A. The issue based upon the state is the ultimate  
 2 number.  
 3 Q. (BY MR. SEAQUIST) Well --  
 4 A. The state looks at pass/fail. They don't look at  
 5 improvement or --  
 6 Q. Okay. Fair enough. But in terms of your  
 7 evaluating how the district is doing, do you look at just  
 8 what the ultimate number is or do you look at whether or  
 9 not there has been improvement?  
 10 MS. BONO: Objection; form.  
 11 A. About evaluating the district around the TAKS  
 12 test, I look at if the number is actually a true  
 13 improvement, because you need to look at the cohort --  
 14 that cohort of students moving forward. So that cohort  
 15 may have scored something differently last year, so that's  
 16 what you have to take into account, too.  
 17 So one is the pass/fail, one is also how many  
 18 students are continuing to fail, and then you look at that  
 19 trend in making sure that you're not looking at the trend  
 20 wrong.  
 21 Q. (BY MR. SEAQUIST) But the fact, for example,  
 22 that --  
 23 All right. In this year, looking at All Tests  
 24 graded for the district there was an improvement from 62  
 25 to 65 percent between 2006 and 2007; is that right?

1 Excuse me, I'm sorry, 65 to 67 percent?  
 2 A. 65 -- yes. A 2 percent.  
 3 Q. And that increase seems to have carried out  
 4 throughout -- there is an increase in terms of -- if you  
 5 look over on the right side of the page it lists the  
 6 economically disadvantaged students. Do you see that?  
 7 A. 3 percent increase, correct.  
 8 Q. So an increase between 2006 and 2007 for those  
 9 students; is that right?  
 10 A. Correct.  
 11 Q. For the LEP students there was an increase from  
 12 37 to 43 percent?  
 13 A. Correct.  
 14 Q. And then for the at-risk students --  
 15 Let me ask you, what is your understanding of  
 16 what makes up an at-risk student.  
 17 A. According to the State, there's 13 criteria that  
 18 you fall under and that -- I think it's 13 criteria you  
 19 fall under that qualify you in that -- fall into the  
 20 category of at risk.  
 21 Q. You had mentioned, sir, that one of the concerns  
 22 is that the educational level in the house is less than a  
 23 high school level, that that can propose a challenge in  
 24 terms of educating a student from that household; is that  
 25 right?

1 A. Yes.  
 2 Q. Is it that one of the factors that goes into  
 3 at-risk, where the education level of parents is?  
 4 A. Off the top of my head, I can't recite the 13.  
 5 Q. You don't know if that's one of the factors?  
 6 Are you aware, sir, whether or not the general  
 7 trend in terms of the TAKS test scores from the time that  
 8 you started with the district until they went to the STAAR  
 9 test this last year, was the general trend to increase  
 10 passage rate for the district?  
 11 A. Depends on the student population. I know prior  
 12 to the TAKS -- I mean, STAAR, we plateaued, or went down,  
 13 a couple points. But I know that our LEP population, our  
 14 special ed population, our migrant population, our  
 15 socioeconomic population have always lagged the All  
 16 category. The lagging depending on science, math, social  
 17 studies is all dependent, but that's been the trend.  
 18 I'm trying to recall. There was a year or two  
 19 back where it trended down somewhat.  
 20 Q. Whether you'd like to see it or not, you expect  
 21 some lag in terms of those populations that you mentioned,  
 22 LEP students?  
 23 MS. BONO: Objection; form.  
 24 A. Did I expect it?  
 25 Q. (BY MR. SEAQUIST) Right.

1 A. No, that's not the expectation.  
 2 Q. Well -- I mean, have you ever had a year where  
 3 that was not the case?  
 4 A. Not to my knowledge.  
 5 Q. Same in terms of the economically disadvantaged  
 6 students, their passage rates are just generally lower  
 7 than the All category, correct?  
 8 MS. BONO: Objection; form.  
 9 A. Given the trends, have been, yes.  
 10 Q. (BY MR. SEAQUIST) Same question for at-risk  
 11 students, their scores are generally lower than the All  
 12 category in terms of the TAKS test, correct?  
 13 MS. BONO: Objection; form.  
 14 A. Given the trend, yes.  
 15 Q. (BY MR. SEAQUIST) Okay. But those populations  
 16 have also seen an increase in their own score -- even if  
 17 they lagged behind what the All scores were, those  
 18 populations have increased their passage rates as well,  
 19 correct?  
 20 MS. BONO: Objection; form.  
 21 A. For the most part, yes.  
 22 Q. (BY MR. SEAQUIST) Well, for example, if we're  
 23 looking here on Section I, Page 5, I think what we just  
 24 looked at was between 2006 and 2007, the LEP students,  
 25 although they were behind the All score, did increase

1 their passage rate, correct?  
 2 A. The 37 to the 43, is that what you're talking  
 3 about?  
 4 Q. Yes.  
 5 A. Yes.  
 6 Q. Let's look at the next year. 2007 to 2008, which  
 7 is Exhibit 586, if we look at that same section,  
 8 Section I, Page 5, we look at that same category for All  
 9 Tests.  
 10 A. Yes.  
 11 Q. If we look at the LEP students, there was an  
 12 increase in passage rate from 2007 to 2008 of 41  
 13 percent -- or from 41 percent in 2007 to 45 percent -- or  
 14 excuse me -- 46 percent in 2008. Am I reading that  
 15 correctly?  
 16 A. Correct.  
 17 Q. And also in terms of the economically  
 18 disadvantaged students there was an increase from 60  
 19 percent in 2007 to 65 percent in 2008; is that correct?  
 20 A. Correct.  
 21 Q. All right. In terms of looking at these types of  
 22 figures, certainly you want to see improvement in those  
 23 passage rates, correct?  
 24 A. Correct.  
 25 Q. All right. I think we can agree that that kind

1 of improvement is what the school district is striving  
 2 for?  
 3 MS. BONO: Objection; form.  
 4 A. That 3 percent or 5 percent improvement?  
 5 Q. (BY MR. SEAQUIST) Well, I'm not saying you  
 6 wouldn't like to see higher numbers of improvement, but  
 7 improvement generally in the passage rate is what the  
 8 school district is striving for, correct?  
 9 A. Partially, yes, correct.  
 10 Q. You say partially. What else? What is the  
 11 partial part?  
 12 A. We look at, within those passing, how many  
 13 students are commended. The marginally passing student is  
 14 not necessarily looked upon as the goal. It's the  
 15 higher -- higher passing student, higher levels of  
 16 passing, commendable levels.  
 17 Q. You'd agree with me, though, that you've got to  
 18 get a student to meeting the minimum standards to pass  
 19 before you can get them up to commendable, right?  
 20 MS. BONO: Objection; form.  
 21 A. Would I agree with you? In most cases.  
 22 Q. (BY MR. SEAQUIST) Okay. Let's look at the next  
 23 year.  
 24 A. Okay.  
 25 Q. 2008 to 2009. 587?

1 A. Yes.  
 2 Q. Looking at the same area, Section I, Page 5. And  
 3 if we look again at the All Tests portion of the TAKS test  
 4 for 2009, Sum of All Grades Tested, first I'd like to look  
 5 at the district generally, which is actually the third  
 6 column, I believe. Do you see that?  
 7 A. Yes.  
 8 Q. All right. So between 2008 and 2009, the  
 9 district as a whole increased its TAKS passage rating from  
 10 70 percent in 2008 to 73 percent in 2009, correct?  
 11 A. Yes.  
 12 Q. And then looking at the special subpopulations  
 13 that we discussed, economically disadvantaged students  
 14 kept pace with that and increased from 65 percent in  
 15 2008 -- excuse me -- yeah, 2008 to 68 percent in 2009; is  
 16 that correct?  
 17 A. Correct.  
 18 Q. LEP showed a little bit greater improvement of a  
 19 5 percent increase from 46 percent in 2008 to 51 percent  
 20 in 2009; is that correct?  
 21 A. Correct.  
 22 Q. And then at-risk students, an even larger  
 23 increase from 51 percent to 59 percent from 2008 to 2009;  
 24 is that right?  
 25 A. Correct.

1 Q. Let's look at Exhibit 588, which is 2009 to 2010.  
 2 Again, Section I, Page 5. Sum of All Grades Tested for  
 3 the 2010 TAKS test. Looking at the district, the district  
 4 from the year 2009 to the year 2010 showed an improvement  
 5 in passage rates from 71 to 76 percent. Do you see that?  
 6 A. Yes.  
 7 Q. Have I read that correctly?  
 8 A. Yes.  
 9 Q. In terms of the special subset populations,  
 10 economically disadvantaged from 2009 to 2010 increased  
 11 from 66 percent to 71 percent, correct?  
 12 A. Correct.  
 13 Q. LEP increased from 48 percent to 56 percent?  
 14 A. Correct.  
 15 Q. And at-risk increased from 56 to 63 percent?  
 16 A. Correct.  
 17 Q. If we look at 589, which are the numbers for the  
 18 year 2010 to 2011. Section I, Page 5. Is that right?  
 19 A. Yes.  
 20 Q. Yeah.  
 21 Okay. Again, the district showed an improvement,  
 22 this time from 51 percent in 2010 to 56 percent in 2011;  
 23 is that correct?  
 24 A. Yes, 51 to 56? I'm trying to make sure.  
 25 Q. Yes, sir. Should be under the district.

1 A. Yes, yes.  
 2 Q. And then economically disadvantaged students went  
 3 from 52 up to 57 percent from 2010 to 2011?  
 4 A. Correct.  
 5 Q. LEP students, from 51 percent to 56 percent?  
 6 A. Correct.  
 7 Q. And at-risk students, from 51 to 55 percent?  
 8 A. Correct.  
 9 Q. Okay. And so would you agree with me, sir, that  
 10 in terms of at least the trend of the passage rate, there  
 11 has been an increasing trend from 2006 to 2007 through the  
 12 present?  
 13 MS. BONO: Objection; form.  
 14 A. An increasing trend relative to or just  
 15 increasing trend?  
 16 Q. (BY MR. SEAQUIST) Yeah. I mean, in each year  
 17 the district, McAllen ISD, has shown some improvement in  
 18 its passing rate for the TAKS test?  
 19 MS. BONO: Objection; form.  
 20 A. Yes.  
 21 Q. (BY MR. SEAQUIST) Okay. And that's the district  
 22 numbers for, what, the All Students, I guess, correct?  
 23 A. As you showed me, yes.  
 24 Q. Okay. And then also there have been similar  
 25 increases within those subset populations that we looked

1 at. The LEP students have a higher passage rate today  
 2 than they did back in 2006 as -- well, the last time they  
 3 took the TAKS test. We'll talk about the STAAR test a  
 4 little bit later.  
 5 But in terms of the last time they took the TAKS  
 6 test, the LEP students had increased their passage rate  
 7 from back in 2006, correct?  
 8 A. Correct.  
 9 Q. The economically disadvantaged students had also  
 10 increased their passing rate; correct?  
 11 A. Correct.  
 12 Q. And the at-risk students as well; is that right?  
 13 A. That's correct.  
 14 Q. And I know you probably don't comb through  
 15 demographic data on a daily basis, but do you have any  
 16 feel for whether or not the demographics in your district  
 17 have changed in any significant fashion between 2006 and  
 18 as we sit here today?  
 19 MS. BONO: Objection; form.  
 20 A. I know -- specifically which populations or  
 21 which  
 22 Q. (BY MR. SEAQUIST) Yeah. For example, if I told  
 23 you -- and we can look through the data if you want.  
 24 But if I told you that the LEP -- the percentage  
 25 of students that are LEP in the district had actually

1 decreased by around 5 percent since 2006, does that seem  
 2 correct to you?  
 3 A. Correct.  
 4 Q. If I told you the economically disadvantaged  
 5 students had also decreased by around 5 to 6 percent since  
 6 2006, would that also seem correct to you?  
 7 A. Correct.  
 8 Q. In terms of the total student population, have  
 9 you had a large increase in the number of students in  
 10 McAllen ISD since you've been there?  
 11 A. We had a no-growth year, a bump of about 150, if  
 12 I recall correctly, and then a no-growth year.  
 13 Q. Okay. So not a marked increase in the number of  
 14 students you guys had in the district?  
 15 A. Correct.  
 16 MR. SEAQUIST: It's 11:30. Do you want to  
 17 take a break?  
 18 MS. BONO: Sure. That would be great.  
 19 (Break for lunch.)  
 20 Q. (BY MR. SEAQUIST) Dr. Ponce, we are back after  
 21 lunch. Do you understand you're still under oath, sir?  
 22 A. Yes.  
 23 Q. Okay. We were talking about some of the trends  
 24 in the district back in 2006, and particularly from when  
 25 you came on board in 2009. And we talked about some test

1 score trends and we talked about some demographic trends.  
 2 Have you had any observation in terms of trends  
 3 regarding dropout rates since the time you've been at  
 4 McAllen?  
 5 A. The dropout rate over the time that I've been  
 6 there has slightly decreased.  
 7 Q. So the dropout rate has been going down?  
 8 A. Correct.  
 9 Q. Is that something that McAllen ISD identifies as  
 10 as a particular crisis at this point in time?  
 11 MS. BONO: Objection; form.  
 12 A. I don't know if we identify it as a crisis or  
 13 very concerned that not a hundred percent of our students  
 14 are making it through our system.  
 15 Q. (BY MR. SEAQUIST) What are you doing to reach  
 16 out to try to decrease dropouts?  
 17 A. Well, several things. For one, you're fortifying  
 18 that -- if you look at our tier model -- I keep referring  
 19 to the intervention model that we have, Tier 1, Tier 2,  
 20 Tier 3. Tier 1 being the solid first teach. Tier 2, any  
 21 intervention that we need to bolster that. And then the  
 22 third one is if we need to refer the child to special  
 23 services beyond the classroom.  
 24 So we're bolstering all of our tier models as far  
 25 as focusing in on giving the new standards a more rigorous

1 assessment that we have, focusing on that so the students  
2 will get what they need to in the first year.

3 On the intervention side, we're streamlining  
4 the -- and standardizing more so, so we're aware of and  
5 have some quality control around what we're doing with  
6 children once they get into Tier 2.

7 And then, of course, Tier 3 is all the  
8 appropriate -- given their IEP modifications that they  
9 need in the classroom.

10 Programatically, we also have evening school. We  
11 have part of the options. We have course recovery during  
12 the school day at the comprehensive high schools. That's  
13 at the high school level.

14 In the K-8 realm, we're also looking at our  
15 transition times and our failure rates and then retention  
16 rates also to see what we can do about not putting that  
17 child on that path.

18 And then, of course, back to you're talking about  
19 the state exam, you know, working to make sure that more  
20 of the students are going to pass the exam. That's  
21 because it's one of the indicators of you failing out all  
22 the way.

23 Q. So what you just described to us are practices  
24 that are already in place?

25 A. Yes.

1 Q. For LEP students was 10.8 percent?

2 A. Yes.

3 Q. And for at-risk students it was 6.7 percent. Do  
4 you see that?

5 A. Correct.

6 Q. Now, if we look back at our 2010-2011 numbers,  
7 which is 589, corresponding dropout rate for the 2009-2010  
8 school year, which is the last school year I have data on  
9 from the AEIS reports, was 4.1 percent dropout rate for  
10 the district?

11 A. I see it there.

12 Q. So a little over a 1 percent decrease from 2006  
13 which we looked at before, which was 5.3, as I recall.

14 A. 5.3, yes.

15 Q. All right. And the same, about a 1 percent  
16 decrease in -- 1 percent or a little more decrease for the  
17 economically disadvantaged?

18 MS. BONO: For what year?

19 Q. (BY MR. SEAQUIST) Between 2005 to 2006 to 2009  
20 and 2010?

21 A. It's 4.5, and this one says 4.0.

22 Q. Okay. So 4.5 to 4.0. So about a half percent  
23 decrease there.

24 For LEP students in 2005-2006, the dropout rate  
25 was 10.8 percent. Do you see that?

1 Q. Okay. And those are activities you've been able  
2 to meet with your current staff?

3 A. Meet with what's available to us, yes.

4 Q. Okay. And as you stated, the -- you've observed  
5 some decrease in the dropout rate since you've been there?

6 A. Percentage points, tenths of a percent, also.

7 Q. Let's just look at what those numbers are. If we  
8 look at -- I'm not going go all the way back to -- well  
9 let's start at the beginning. We'll look back at the 2006  
10 numbers. This is Exhibit 585. If you'll look at  
11 Section I, Page 10.

12 A. Yes.

13 Q. In the middle there it indicates that the dropout  
14 rate for the 2005-2006 school year for the district was  
15 5.3 percent. Do you see that?

16 A. Page 10?

17 Q. Section I, Page 10.

18 A. Restate that.

19 Q. Sure.

20 A. The dropout rate is 5.3 percent?

21 Q. Yes, sir. For the district.

22 A. Okay. I see now.

23 Q. And then for economically disadvantaged over on  
24 the right side, those figures, was 4.5 percent?

25 A. Yes.

1 A. Yes.

2 Q. For 2009 to 2010 it was 9.7?

3 A. Correct.

4 Q. So about a 1 percent drop there?

5 A. Correct.

6 Q. 1.1, I guess.

7 And then at-risk students, 2005 to 2006 was 6.7,  
8 and now here in 2009 to 2010 we're at 5.1 percent?

9 A. Correct.

10 Q. So again about a 1 percent, give or take,  
11 decrease, correct?

12 A. Yes. Given the numbers we're looking at, yes.

13 Q. And I think you've told me you don't -- we don't  
14 have data beyond this, at least I don't at this point, but  
15 to your understanding that rate has not increased since  
16 the 2009-2010 school year?

17 A. We haven't received that information yet.

18 Q. Okay. Do you have any expectation that it's  
19 going to have increased?

20 MS. BONO: Objection; form.

21 A. The expectation is that it goes down, but I  
22 don't -- I can't speculate.

23 Q. (BY MR. SEAQUIST) All right. So in terms of the  
24 dropout rate, it's remained relatively constant with some  
25 decrease over the time you've been at McAllen; is that

1 correct?  
 2 A. Correct.  
 3 Q. If you had, for example, a top five list of  
 4 things to fix, dropout rate, would that be on it?  
 5 MS. BONO: Objection; form.  
 6 A. Top 5, that's one of the priorities, yes, I would  
 7 say.  
 8 Q. (BY MR. SEAQUIST) Okay. Conversely, have you  
 9 observed any trends since your time at McAllen ISD in  
 10 terms of the completion rate for your students?  
 11 A. Yes.  
 12 Q. And what trend have you observed there?  
 13 A. We've had -- the latest, it was about  
 14 approximately a 3 percent increase.  
 15 Q. So there has been an increase in completion  
 16 rates?  
 17 A. Of about 3 percent.  
 18 Q. By my count there are approximately 34 campuses  
 19 in McAllen ISD. Does that sound right to you?  
 20 A. 33 campuses.  
 21 Q. Do any of those campuses individually present a  
 22 specific, more special or different challenge than the  
 23 others?  
 24 MS. BONO: Objection; form.  
 25 A. There's campuses that we invest more in moving

1 them in the right direction, but they all have their  
 2 challenges.  
 3 Q. (BY MR. SEAQUIST) So when you say invest more  
 4 and moving in the right direction, that means allocating  
 5 resources differently based on what the district perceives  
 6 as the needs at different campuses?  
 7 A. Based on need, correct.  
 8 Q. Okay. And so as superintendent, are you  
 9 ultimately the one with the authority to allocate  
 10 resources as you feel they're needed between campuses?  
 11 A. To make a suggestion within the budget, yes, and  
 12 then the board approves the budget.  
 13 Q. Within the budget, once it's approved, if, for  
 14 example, at the time the budget is being created if a need  
 15 arises after that and you need to funnel or allocate some  
 16 resources a little bit differently, do you have some  
 17 discretion within the budget to allocate resources amongst  
 18 the campuses even after a budget's passed?  
 19 A. Correct.  
 20 Q. You can do that?  
 21 A. Yes.  
 22 Q. Okay.  
 23 MS. BONO: Wait. I think there was a  
 24 disconnect there. What question are you answering?  
 25 THE WITNESS: The one if I have the ability

1 to reallocate.  
 2 MS. BONO: So you do have discretion?  
 3 THE WITNESS: Yes.  
 4 MR. SEAQUIST: Okay.  
 5 Q. (BY MR. SEAQUIST) And have you had to do that,  
 6 in fact?  
 7 A. Have I had to do --  
 8 Q. Yeah. Have you had to -- have you identified a  
 9 need in a particular campus and thought that you needed to  
 10 allocate some additional resources there to try to resolve  
 11 that need?  
 12 A. Yes.  
 13 Q. How does that process -- can you give me an  
 14 example?  
 15 A. In the middle schools, we allocated a -- we have  
 16 our staffing formulas and we adhere tightly to the  
 17 staffing formulas. However, in the middle schools that  
 18 we -- we're seeing that aren't trending like the rest of  
 19 our schools, we added a school improvement facilitator.  
 20 So those four -- I'm trying to think -- those four  
 21 schools -- yeah, I think those four schools have a school  
 22 improvement facilitator regardless of the staff -- I mean,  
 23 the student population, and the other three do not have a  
 24 school improvement facilitator.  
 25 Q. Okay. And so you talked about during the budget

1 process you can make a recommendation, but in terms of --  
 2 and you may have already answered this when you said you  
 3 had discretion, but I just want to be clear as to kind of  
 4 how the process works.  
 5 When you, as the superintendent, recognize that  
 6 you need an additional staff member at one of the  
 7 campuses, do you just make that determination or do you  
 8 need to seek approval to do that?  
 9 A. If it's a new position to the district, I need to  
 10 seek approval.  
 11 Q. If you want to move one teacher from one campus  
 12 to another campus, can you do that without seeking  
 13 approval?  
 14 A. Yeah, the personnel movements are at my  
 15 discretion.  
 16 Q. I want to back up. Earlier we had marked  
 17 Exhibit 584, which is the one that had some margin  
 18 problems. I'm going to leave that original exhibit marked  
 19 just so we don't get confused, but I'm going to mark a  
 20 more complete copy.  
 21 (Exhibit 590 was marked.)  
 22 Q. (BY MR. SEAQUIST) So 590 is a corrected version  
 23 of Exhibit 584. And so once again, 590 was off of McAllen  
 24 ISD's website, I think under the heading of the bragging  
 25 board. Is that correct, sir?

1 Q. Okay. Only four high schools named to the 2011  
2 Washington Post National Challenge Index for top high  
3 schools in the state.

4 Are you familiar with the Washington Post  
5 National Challenge Index?

6 A. I'm familiar with that -- I'm familiar that we  
7 had the award. Again, the index, me studying the index,  
8 that we sat down to make sure we were moving in that  
9 direction. I wouldn't be able to tell you specifically  
10 what the index is comprised of.

11 Q. Is the index a measure that's well -- well, I  
12 mean, is the Washington Post National Challenge Index kind  
13 of a standard by which districts would normally measure  
14 themselves?

15 MS. BONO: Objection; form.

16 A. Normally -- I don't know about other districts.  
17 I just know that we were eligible to be measured against  
18 the Washington Post National Challenge Index.

19 Q. (BY MR. SEAQUIST) And four of the high schools  
20 were named in the index for top high schools in the state?

21 A. Correct, given the tests.

22 Q. How many high schools are there in McAllen ISD?

23 A. There are -- we say three comprehensive high  
24 schools and two nontraditional high schools, which is the  
25 Early College High School and the Options.

1 (Exhibit 591 was marked.)

2 Q. (BY MR. SEAQUIST) In 2010 to 2011, am I correct  
3 that 23 schools in McAllen ISD were honored as either  
4 exemplary or recognized?

5 A. Correct.

6 Q. And is it true -- is the Options school also  
7 referred to as Southwest Key Program, or is that something  
8 different?

9 A. No, that's not -- we've not been able to, for  
10 whatever reason, get that straightened out. We don't  
11 operate the Southwest Key.

12 Q. So that's not part of the McAllen ISD?

13 A. No, it's not.

14 Q. All right. And it's true that 20 out of 21  
15 elementary schools in McAllen ISD were either exemplary or  
16 recognized?

17 A. This past year?

18 Q. Yes, sir.

19 A. Recognized -- we only have 20 elementary schools.  
20 But previous year -- I want to say yes. We closed a  
21 school last year.

22 Q. What school did you close last year?

23 A. David Crockett Elementary School.

24 Q. What was the rating of that school when you  
25 closed it, do you know?

1 Q. We talked about Early College. What is the  
2 Options?

3 A. Options is either -- just the nontraditional,  
4 it's not the same high school, you're on track, four-year,  
5 junior, senior. You take all four years. It's either an  
6 accelerated or a remedial to get you back on track so we  
7 don't have the same school day, you don't have the same --  
8 you don't have -- if you just think of a comprehensive  
9 high school with all the electives and all the hoopla  
10 around sports and prom. And at Options, that's not --  
11 you're basically either accelerating your way through or  
12 catching up to be able to get through.

13 Q. So kind of a self-paced program?

14 A. Self-paced but with a eye on that you have to  
15 graduate within the time frame that's given to you.

16 Q. Got it. So if four of the McAllen ISD high  
17 schools were ranked amongst the top high schools in the  
18 state, which four would that have been?

19 A. To my recollection, it was the three  
20 comprehensive high schools plus the Early College High  
21 School.

22 Q. The three comprehensive are?

23 A. Memorial, McHi and Rowe.

24 Q. And then the Early College High School?

25 A. Yeah.

1 A. If I recall, it was a recognized campus, if I  
2 recall correctly.

3 Q. And why did you close that school?

4 A. We didn't have the resources to build the school  
5 back up to what it needed to be.

6 Q. Are you referring to the building?

7 A. The facilities, yes.

8 Q. What did you do with the students from Crockett?

9 A. We consolidated into two other schools, Navarro  
10 and Wilson Elementary School.

11 Q. And was last year the first year that those  
12 schools -- that Crockett had been consolidated into those  
13 schools?

14 A. Yes.

15 Q. What are you doing with the property where  
16 Crockett was?

17 A. It currently houses -- we consolidated -- as part  
18 of our cost savings, we consolidated central staff  
19 offices. We had portables and a couple of other  
20 structures that are uninhabitable and so we moved the  
21 people out of there and moved them into Crockett.

22 Q. Okay. And so out of 33 campuses, 24 for the last  
23 year that we have data, which is 2010-2011, out of 33  
24 campuses, 24 were either exemplary or recognized?

25 A. The 23 here that we have or 24?

1 A. No, I was just referring that we're talking about  
 2 this document.  
 3 Q. Okay. I just wanted to make sure there wasn't  
 4 something else you needed to tell me about that.  
 5 All right. What is your understanding of why  
 6 Fields then fell below recognized?  
 7 A. The understanding of -- again, I'm trying to  
 8 remember back. We go big and then we try to mine down to  
 9 which grade level, within the grade level, which teachers.  
 10 I'm trying to think back through, but I know it was,  
 11 again, back to one grade level and a couple of the  
 12 students that did -- I mean a couple of the teachers that  
 13 didn't meet the expectation. But I can't recall right now  
 14 how specific we were there.  
 15 Q. Okay. In terms of Fields Elementary, then, when  
 16 you're talking about a situation where you have a couple  
 17 of teachers in one grade that are causing problems that  
 18 are sufficient to reduce the school's rating, would you  
 19 agree with me that that is not a budgetary issue?  
 20 MS. BONO: Objection; form.  
 21 A. State that again.  
 22 Q. (BY MR. SEAQUIST) Sure. It wasn't a matter of  
 23 you needing to pay those couple of teachers more money,  
 24 right?  
 25 MS. BONO: Objection; form.

1 We're not talking about students, right?  
 2 A. Teachers that need -- in need of assistance.  
 3 Q. All right. And teachers in need of assistance  
 4 is that -- I mean, is it always additional training?  
 5 A. Not a hundred percent always additional training.  
 6 Q. Is it fair to say that some teachers just need to  
 7 be told to increase their efforts?  
 8 A. I don't know if it's effort. Some of it's  
 9 ability. It's just a combination that we have to find out  
 10 what it is, because they could be trying their darnedest  
 11 and...  
 12 Q. So you have some teachers who, try though they  
 13 might, ultimately can't meet the expectations that the  
 14 school and the district have on them?  
 15 A. Correct.  
 16 Q. And when you have a teacher like that, you've got  
 17 to replace them, right?  
 18 A. Correct.  
 19 Q. Let me ask you this. In terms of Fields  
 20 Elementary, which has already been paid \$600 more a  
 21 student than Houston, when you, as the superintendent, go  
 22 to address the issue there, did you allocate more funding?  
 23 A. Not direct funding. Indirectly. I know central  
 24 staff was spending more time at that campus. That was an  
 25 indirect cost.

1 A. It wasn't salary rated.  
 2 Q. (BY MR. SEAQUIST) It was actually some  
 3 performance issues you were having in relation to a couple  
 4 of teachers?  
 5 A. I know -- I don't know about a couple, but I know  
 6 it was within a grade level, within the subjects, it was  
 7 not -- they weren't performing like they needed to.  
 8 Q. You went in and took some action to try to either  
 9 remediate those teachers or remove them altogether and  
 10 replace them; is that right?  
 11 A. There was an action plan around what we would do,  
 12 yes.  
 13 Q. Okay. And so that doesn't require additional  
 14 funding allocated, it just requires either getting those  
 15 teachers to improve their performance or to put a new  
 16 teacher in that position?  
 17 A. Not directly funding, but indirectly, the more  
 18 intervention with the teacher causes more time spent on  
 19 individuals.  
 20 Q. Okay. Having to work with the teacher is more  
 21 expensive than replacing that teacher?  
 22 A. Any remedial is expensive. So you have staff  
 23 that's spending more time with the individuals than they  
 24 should.  
 25 Q. And by individuals, you mean problem teachers.

1 Q. But in terms of overhead, I mean, central staff  
 2 is paid for and on -- is paid for, right?  
 3 A. Correct.  
 4 Q. Okay. So they're going to be spending their time  
 5 somewhere, it's just a matter of where you allocate those  
 6 particular people?  
 7 A. Correct.  
 8 Q. Okay.  
 9 (Exhibit 594 was marked.)  
 10 Q. (BY MR. SEAQUIST) 594 is the AEIS report from  
 11 McAuliffe Elementary. Are you familiar with that campus?  
 12 A. Yes.  
 13 Q. McAuliffe has an exemplary rating.  
 14 A. Yes.  
 15 Q. Have they had that prior to 2010-2011?  
 16 A. I think that was the -- in my recent  
 17 recollection, that was the first time in recent history.  
 18 Q. Do you recall what they were rated as before  
 19 that?  
 20 A. If memory serves me right, it was a recognized  
 21 campus.  
 22 Q. So it went from recognized to exemplary?  
 23 A. (Witness nods.)  
 24 Q. So comparing this campus to Fields, sir. First I  
 25 would like to look at the -- on Page -- on Section II,

1 Q. Than the elementary schools we looked at.  
 2 A. Yes.  
 3 Q. Is that typical?  
 4 MS. BONO: Objection; form.  
 5 Q. (BY MR. SEAQUIST) Is it typical that as the  
 6 grades progress that the LEP numbers go down?  
 7 A. I would say it follows that pattern. It just  
 8 depends on the influx of students into the middle school.  
 9 Q. So you would hope to see that, right? In terms  
 10 of students who had progressed through your elementary  
 11 schools, you would hope that by the time they get to the  
 12 middle school they no longer need to be classified as LEP,  
 13 right?  
 14 A. Not hope to see. That's just part of the exit  
 15 criteria that they pass at the minimum standard.  
 16 Q. Okay. So criteria is they have to learn English  
 17 as they progress through school?  
 18 A. Not learn English. It's actually a little more  
 19 sophisticated than that. It's, again, back to the -- when  
 20 you say "learn English," the way I interpret you saying  
 21 the basic and personal communication skills. We're more  
 22 at the cognitive academic language, BICs and CALPs. I  
 23 don't want to get too clinical, but that's the big  
 24 difference, that's the challenge.  
 25 Q. Right. They have to be able to learn in English.

1 first of all, right?  
 2 A. Biliterate, yes.  
 3 Q. And they have to be able to test in -- take the  
 4 test for the English basic minimum skills, right?  
 5 A. They have to be able to process in English.  
 6 Q. Right. They have to be able to read and  
 7 comprehend English writing?  
 8 A. Correct.  
 9 Q. And the criteria, for students who progress  
 10 through the school system, is that as they progress they  
 11 meet those minimum criteria?  
 12 A. Rephrase, please.  
 13 Q. Yeah. The expectation is that as these students  
 14 progress through elementary school they learn those skills  
 15 and meet the basic criteria for having cognitive English  
 16 functioning?  
 17 A. Yes, the way you stated it the second time.  
 18 Q. Okay. And as result of that, kind of a natural  
 19 result of that is by the time you get to middle school,  
 20 your LEP population has gone down?  
 21 A. Yes.  
 22 Q. And by the time you get to high school from  
 23 middle school, the same process continues through middle  
 24 school, right, in terms of increased cognitive abilities  
 25 in English?

1 A. Yes.  
 2 Q. And so by the time you get to high school, the  
 3 LEP population has gone down even further than it -- even  
 4 lower than it was at the middle school level?  
 5 A. That -- it all started back in the day, back as  
 6 they entered -- this is all premised that they started  
 7 kindergarten or pre-K with us and went through.  
 8 Q. Well, right. And so the folks that you end up  
 9 with who are still LEP in middle school and/or high school  
 10 are frequently folks who came in later in the game, right?  
 11 MS. BONO: Objection; form.  
 12 A. I wouldn't know what -- if it's frequently or if  
 13 it's part of the product of going through.  
 14 Q. (BY MR. SEAQUIST) Well, you wouldn't expect to  
 15 have someone start in kindergarten as an LEP student at  
 16 Sam Houston and still be an LEP student when they hit  
 17 McAllen High, right?  
 18 A. You don't want that to be the case.  
 19 Q. In fact, that would be indicative of a problem,  
 20 right, either with the student or with the way the  
 21 material is being taught?  
 22 MS. BONO: Objection; form.  
 23 A. Indicative of a problem, yeah. We'd see a little  
 24 more in the student and the program and teacher and  
 25 environment.

1 Q. (BY MR. SEAQUIST) So more factors than the two  
 2 that I listed?  
 3 A. Correct.  
 4 Q. Okay. Would you agree with me that the two that  
 5 I listed are potential factors?  
 6 A. I would --  
 7 Q. Student, program?  
 8 A. -- I would say they're part of the effect, yes.  
 9 Q. Okay. But once we get to Travis Middle School,  
 10 we have an LEP population that's 24.9 compared to the 66  
 11 percent population that we saw back at Sam Houston  
 12 Elementary School, right?  
 13 A. Right.  
 14 Q. And the at-risk population has dropped somewhat  
 15 as well to 59.4 percent. Do you see that?  
 16 A. Correct.  
 17 Q. All right. Looking at Section II, Page 4. What  
 18 is the amount per student at Travis Middle School?  
 19 A. Section II -- the All Funds, 7,413.  
 20 Q. And so that's a pretty significant increase from  
 21 the funds we were looking at allocated to the students at  
 22 the elementary school level; is that correct?  
 23 MS. BONO: Objection; form.  
 24 A. It is. But there are different programs there.  
 25 Q. (BY MR. SEAQUIST) Okay. All right. What is

1 whole system that I just talked to you about.  
 2 Q. Are they charging you to do that?  
 3 A. Yes, they are.  
 4 Q. Okay. Have they provided you any kind of written  
 5 reports as to how -- as a result of this work product?  
 6 That's my question. Have they provided you any kind of  
 7 written work product on that?  
 8 A. On -- what's that?  
 9 Q. In terms of their analysis of how you can put  
 10 into practice a new teaching model?  
 11 A. It's not so much a written report, that we're  
 12 building a framework. Part of it is the surveys through  
 13 online training, some face-to-face training. Now we're  
 14 moving into the on campus training, on campus learning.  
 15 It's not so much a training as it's a learning of how to  
 16 redo the day. And a lot of that now is moving into the  
 17 phase on that's what's going to be taking place on a  
 18 campus, utilizing the resources we have.  
 19 Q. How much would you say you've spent with Abilene  
 20 Christian University as a district?  
 21 A. I think right now we're less than -- up to this  
 22 point I think we're less than \$50,000.  
 23 Q. And how are you funding that liability?  
 24 A. It's multiple sources. But I think currently --  
 25 if I recall, it's out of the general fund.

1 Q. Okay. Other than Abilene Christian, have you had  
 2 to pay anybody else to come in and train teachers?  
 3 A. Indirectly, the first cadre, Apple came in with  
 4 the first cadre.  
 5 Q. Who were those folks? And maybe I misunderstood  
 6 the cadre that you described earlier because I assumed  
 7 that it was teachers and administrators from your  
 8 district. Is that wrong?  
 9 A. Yes. Yes, it was.  
 10 Q. It was?  
 11 A. Yes.  
 12 Q. Okay. But Apple had come in with people before  
 13 that?  
 14 A. No. As part of that process, they came in and --  
 15 see, part of that was trying to figure out what training  
 16 is going to be necessary. Are we going to train with just  
 17 starting -- you know, actually doing any training around  
 18 just somebody getting the device and here's how you turn  
 19 it on or do we need training to the extent that we're  
 20 saying here is how you integrate the tool into a lesson.  
 21 So a lot of that was -- part of that first cadre  
 22 was feeling through, well, what kind of training are we  
 23 going to need. Because we don't want to do all this  
 24 training around turn on an iPad when we need to really say  
 25 that needs to be included in -- okay, once you learn how

1 to turn the iPad on, this is how you use it to enhance the  
 2 deliverable of a lesson.  
 3 So that's what Apple did, some of that  
 4 training us. They tiered it also to kind of get a gauge  
 5 of that group of teachers, that approximately 170  
 6 teachers, where would they all fall, you know, if we gave  
 7 them Tier 1, Tier 2, Tier 3. You just start the program,  
 8 here's 2 and here's 3. That was one of the parts of doing  
 9 that.  
 10 The second part was to say how do they feel  
 11 that -- you know, would somebody really go into Tier 1  
 12 really knowing that they're really on a Tier 3 so that we  
 13 had to kind of figure that out, too.  
 14 So that was a lot of the work there, so as we go  
 15 to scale, we really know, okay, where do we need to hone  
 16 in on what we're trying to do. That was Apple.  
 17 The other part with the ACU was we did a lot of  
 18 surveying of where you think you with respect to  
 19 technology and the use of technology in the classroom and  
 20 instruction.  
 21 Q. I want to talk to you a minute about the Apple  
 22 part. Did Apple charge the district to do that or was  
 23 that part of their sales of the iPads?  
 24 A. I want to say it was part of, but I don't know --  
 25 I can't recall if it was actually a separate.

1 Q. So sitting here today you don't know that the  
 2 district paid Apple any money for those services?  
 3 A. Not directly as a separate charge of what we were  
 4 already doing.  
 5 Q. Now, in terms of those things you've just  
 6 described, it sounds to me that that is generally your  
 7 efforts to present the material to the students in a more  
 8 technologically advanced and user friendly manner. Is  
 9 that directed specifically at college readiness rates or  
 10 are you hoping that will be a positive consequence or  
 11 result of the TLC3 program?  
 12 MS. BONO: Objection; form.  
 13 A. It's directed at what we feel is necessary going  
 14 forward within that learning environment. Now, directed,  
 15 say, when we ask is this going to affect -- yeah, we hope  
 16 what the residual effect of is that student achievement  
 17 ultimately goes up.  
 18 I mean, that's the primary purpose of doing  
 19 anything in the district, is to ensure that student  
 20 achievement moves in the directions that's necessary, one,  
 21 to say that when we say you're college and career ready,  
 22 it's beyond the measures you told me in this AEIS.  
 23 Because the state only uses those two indicators, but we  
 24 know a child leaving that there's much more, and  
 25 especially when we tie to it the 21st century. Are you a

1 collaborator, are you an innovator, are you a creator.  
2 How is your critical thinking with unknown problem and  
3 unknown solutions, not past solution where a new problem  
4 is going to deal.

5 So that's all put together. And our -- it's our  
6 intent to take it up that level and that -- that -- kind  
7 of the second order change is that now the child does as  
8 well in their exam, but we can truly say when they leave  
9 us they have the skill set necessary to survive beyond  
10 knowing that, well, I passed the TAKS, I passed the STAAR,  
11 I passed the end of course.

12 Q. (BY MR. SEAQUIST) So you're hoping to create  
13 this environment and your hope is that that environment  
14 will then engender better performance and ultimately  
15 college readiness in the students.

16 A. Hope -- not in hope as that's our strategy  
17 because hope isn't a strategy. Hope in the big hope, kind  
18 of like the critical -- hope in the sense that we've  
19 talked to staff and we've looked at data and if we wanted  
20 more engaging classroom, given the 21st century learner  
21 now and that student who is more connected as ever before  
22 and she's learning beyond the teacher, that that's the  
23 environment created. That was a big piece.

24 The locus of control and information is no longer  
25 the teacher. So that's a lot of the unlearning that we

1 have to do with staff, that we have to say that you are  
2 truly now the facilitator of learning. We have to know  
3 that kids see that the social aspects of learning -- the  
4 social aspects of being connected also transform to  
5 learning and then how do we take all this information and,  
6 again, make a bigger difference. And then build those  
7 high cognitive skills that allow us to be that student  
8 that we want as they leave us.

9 Q. Okay. I guess I'm still trying to understand  
10 what specifically the data was that you saw that ties  
11 together putting in place the changes that you're talking  
12 about, making the teacher the facilitator rather than the  
13 locus. Getting kids plugged into the iPads in order to  
14 absorb the information rather than absorbing it directly  
15 from the chalkboard in the front of the classroom.

16 I'm curious as to whether or not you have seen  
17 any data that then ties that once it's accomplished, if  
18 you can get it accomplished, to increased college  
19 readiness?

20 MS. BONO: Objection; form.

21 A. There's what I'll say I think the difference is.  
22 You're coming from the perspective that we're using data  
23 to prove, and I'm using data to improve.

24 The data I had was that here we have a STAAR that  
25 is more rigorous, an end of course that's more rigorous.

1 We have depth of knowledge. We did -- the state invested  
2 a boatload of money to show and go into this new  
3 assessment. Therefore, any time you change the  
4 assessment, and in Texas here we have manage curriculum,  
5 manage assessment, failure to change the -- that is the  
6 three portions. The middle part of instruction is at your  
7 own peril. So that's the data we use. That's one part of  
8 data. It wasn't now saying -- that was to prove, that  
9 was what was sitting in front of us.

10 The second piece of data was that we don't have  
11 the same child coming through our system. We have  
12 children coming in connected and plugged, and we look at  
13 our policies that say no phone use, no -- you know, unplug  
14 yourself, power down and I come to school. So that's  
15 another piece of data that we use.

16 The third data is that we do our conversations  
17 about are we engaging in our lessons, and in the classroom  
18 and as we walk around and still see rows and teachers  
19 lecturing when we know lecture is the least effective  
20 method of acquisition of learning, when we see that there  
21 is no authentic assessment, that's the data we use to say  
22 here's an exam that's requiring authentic assessment,  
23 choice, a higher level of thinking, a higher level -- and  
24 then we look at our reality and say we don't have that.

25 So it was more data to improve rather than say,

1 well, prove to me how it's going to work. Well, I can  
2 almost prove to you that if we don't do something in that  
3 direction we're not going to move in that direction.  
4 Because everything that we're currently using is quickly  
5 becoming archaic.

6 So that's -- that's the way -- we're not a pure  
7 science. It's not a pill where you say you -- this pill  
8 will be used for everyone. You can't say do this in this  
9 district and it will work for every kid. So everyone has  
10 to take their community and look at what they -- resources  
11 they have and say, "With the resources we have, what can  
12 we do?"

13 Now, in some cases it's not enough, in some cases  
14 it is, and then we work with what we have. So the tie-in  
15 directly, it's not going to be as you're asking where is  
16 the proof that this is going to work. We just know I can  
17 prove that -- not prove but we have a pretty good idea  
18 that if we don't change like that, we don't know what  
19 results we're going to get.

20 Q. (BY MR. SEAQUIST) So you know you need to do  
21 something?

22 A. More than something. It has to be more than just  
23 let's do something. It has to be very purposeful in what  
24 we're trying to do. And that's the -- our movement is  
25 that direction.

1 Q. (BY MR. SEAQUIST) Yeah.

2 A. I don't know about the initial outlay. I know

3 that as I walked in and started the analysis that it was

4 going to cost us 5 to \$6 million to get every classroom

5 outfitted like we had previously thought. So that played

6 part of our -- into our decision set of are we going to

7 continue to move in this direction and invest this money

8 or are we going to change the direction and invest in

9 hardware differently.

10 Q. Ultimately, what do you estimate the iPad, iPod

11 Touch program to cost? The TLC3 program to cost?

12 A. It's difficult to pinpoint because there's still

13 a lot that we haven't been able to pay for. Because TLC3

14 does also reflect retooling our program around our LEP

15 students. Right now we have -- in a perfect world we'd

16 have about a \$4 million price tag for that. We look at

17 the special ed retooling, which in a perfect world, again,

18 I think it's a \$1.5 million price tag.

19 You know, we revisit our dropout and know if

20 that's the correct -- if Options is a correct place. Is

21 that model that we currently have the correct model and

22 know that there is an investment that probably we can

23 make.

24 So that's TLC3. You know, connecting every child

25 to home, that's TLC3. So some of that you can quantify.

1 Right now investing is the device plus the staff

2 development. There's other big pieces there that --

3 Q. What is the device plus the staff development?

4 A. The device plus the staff development cost is

5 probably, when it's all said and done, a \$4 million price

6 tag just right now. That's with what we have and what

7 we -- we've currently allocated.

8 Q. You said some of those iPads are going to be

9 leases?

10 A. Yeah, there is a combination of buying and

11 leasing, and that's what we're currently doing. I know we

12 just reevaluated the structure with Apple and I'm not

13 quite sure what we came out.

14 Q. Okay. Are you purchasing -- do the iPads and

15 iPod Touches come with a data plan?

16 A. No, these only connect in hot spots.

17 Q. What is your general fund balance?

18 A. Right now undesignated, approximately \$33

19 million, and designated, I think we're at 42, \$43 million.

20 Q. For the record, what is the distinction between

21 the undesignated and the designated?

22 A. The designated -- the undesignated is -- the

23 designated pieces is there's other funds, like child

24 nutrition, that have their own fund balances that we as a

25 district can't go take that money and use it at our

1 discretion.

2 Q. Okay.

3 A. I want to think of the other two, but I can't

4 recall. I know that's the big one in the district. It

5 has that balance of funding.

6 The undesignated piece is, you know, the optimal

7 two months' operating costs, plus then whatever we have on

8 top of that. And right now in our district, given the

9 other requirements, there's about 3 million that we could

10 actually -- right now if we wanted to spend without going

11 into affecting our first rating and not going into --

12 which we can't go into the designated part, there is about

13 \$3 million that we can actually spend.

14 Q. And that's because you are trying to keep two

15 months' reserve in the fund?

16 A. That's part of -- part of our requirements in the

17 first rating, we want to make sure that we keep our

18 superior rating.

19 Q. What do you designate the monthly operating costs

20 to be?

21 A. If you take -- I think -- I don't want to

22 misstate. I think we have about 16, \$18 million.

23 Q. Per month?

24 A. Per month, yes.

25 Q. How does that compare to the fund balance, for

1 example, last year? What was your fund balance last year?

2 A. Last year I want to say it was in the high 20s.

3 Q. So higher fund balance this year than last year?

4 A. Correct.

5 Q. What about 2010?

6 A. I think it was in the low 20s. I can tell you

7 when I got there we did a \$10 million amendment to the

8 fund balance, which pushes that 9 undesignated by 13

9 designated. It ended up being more like a \$6 million hit

10 after we put the brakes and stopped everything. That was

11 one of my first order of business. And then thereafter we

12 built ourselves back up to having the two months operating

13 and then covering our --

14 Q. So fair to say that the fund balance has

15 increased each year that you've been there?

16 A. Correct.

17 MS. BONO: When you get to a good stopping

18 point, Gunnar, can we take a break?

19 MR. SEAQUIST: Sure.

20 (Break.)

21 Q. (BY MR. SEAQUIST) Dr. Ponce, back on the record

22 after a break. I can't remember if you told me, what

23 revenue are you using to fund the iPad purchases? By

24 "you" I mean the district, of course.

25 A. It's now part of the general revenue, part of

1 A. Undesignated? Re-ask that.  
 2 Q. Yeah. Did any of the surplus that came from the  
 3 tax increase and the extra reimbursement from the state  
 4 get put just as undesignated general fund revenue?  
 5 A. No, everything is designated to be used somehow.  
 6 Q. And so that tax rate was in effect through  
 7 December 31st of 2011; is that right?  
 8 A. If I recall, yes. Just the one year.  
 9 Q. So for this year what is district's tax rate  
 10 going to be?  
 11 A. The same as 2010-2011.  
 12 Q. So the tax rate is going back to \$1.04 for  
 13 maintenance and operations; is that right?  
 14 A. Correct.  
 15 Q. In terms of debt service, the tax rate going back  
 16 to 12 and a half cents?  
 17 A. Correct.  
 18 Q. Has there been any discussion about having a tax  
 19 ratification election to actually increase the M&O tax?  
 20 A. It's part of a discussion but it's never -- it  
 21 never has been able to get off high center.  
 22 Q. Okay. What do you mean by that?  
 23 A. Whenever you go out to increase taxes you do a  
 24 lot of informal conversations to see if the climate is  
 25 there for us to be able to -- to execute and actually be

1 successful in something like that. And during my time,  
 2 during my tenure, that climate has never been where we  
 3 would even venture in that direction.  
 4 Q. Have you ever sought any consultants to evaluate?  
 5 A. Formally, no.  
 6 Q. You do know that's something you could, in your  
 7 discretion, try to do?  
 8 A. Yeah -- yes, I do know that that's an option  
 9 available to us.  
 10 Q. What's the feedback from the community you get  
 11 when you've discussed a possible tax ratification  
 12 election?  
 13 A. It's not the climate.  
 14 Q. Can you be more specific? What do they tell you?  
 15 MS. BONC. Objection; form.  
 16 A. It's just in general that the climate isn't there  
 17 for us to be successful in a TRE.  
 18 Q. (BY MR. SEAQUIST) Do they tell you that they  
 19 think you should be able to make do with what you're  
 20 getting under the current tax rate?  
 21 A. No, it has to do more with economic climate, and  
 22 the status of that mainly is what we're looking at.  
 23 Q. But to this date you've never actually sought to  
 24 have a tax ratification election in order to increase your  
 25 taxes above \$1.04?

1 A. Other than informal conversations, no.  
 2 Q. Are there any plans within the district to have a  
 3 bond election?  
 4 A. We know, given our current hundred million dollar  
 5 plus needs, that we're going to have to have that  
 6 conversation. It's just that's another one where we have  
 7 to do the informal are -- is the district ready, is the  
 8 city ready, I mean, to do something like that.  
 9 Q. So you haven't started that process yet?  
 10 A. Formally, no.  
 11 (Exhibits 603 and 604 were marked.)  
 12 Q. (BY MR. SEAQUIST) Dr. Ponce, Exhibit 603 is an  
 13 article from the Business Wire in regards to a Fitch  
 14 rating for a bond debt for McAllen ISD. Are you familiar  
 15 with this article, sir?  
 16 A. I'm familiar with the rating, but I don't know if  
 17 I read the article or not.  
 18 Q. Article was written in January 9th, 2012, and I  
 19 just want to go through some of this with you. Under key  
 20 rating drivers -- so you're aware that -- it looks like  
 21 the last bond series was from 2005, right?  
 22 A. I want to say correct.  
 23 Q. And that's currently rated at AA-minus?  
 24 A. As I recall, yes. And it's stated here, also.  
 25 Q. And if anything in here doesn't match with your

1 recollection, feel free to tell me because I'm just going  
 2 through this.  
 3 Under "Key Rating Drivers," the first element is:  
 4 Solid Fund Balance.  
 5 It said: The district increased reserves in  
 6 fiscal 2010 and 2011, benefitting from small enrollment  
 7 gains, cost savings, and federal stimulus monies which  
 8 funded teacher salaries.  
 9 Would you agree with me that the district has a  
 10 solid fund -- or would you agree with this, that the  
 11 district has a solid fund balance?  
 12 A. I would agree that it was better than when I got  
 13 there.  
 14 Q. And you agree, I think we've already discussed,  
 15 that it did, in fact, increase in 2010 and in 2011?  
 16 A. Correct.  
 17 Q. And in terms of this -- attributing that to your  
 18 benefitting from small enrollment gains, I think you did  
 19 mention that there was -- those were years where there was  
 20 either no increase in enrollment or actually some decrease  
 21 in student enrollment; is that right?  
 22 A. Yes.  
 23 Q. What cost savings were you able to obtain in 2010  
 24 and 2011?  
 25 A. Well, the majority of -- we put the brakes on

1 spending. Every -- just because you have it in the  
 2 budget, it doesn't mean it's spent. So everything's  
 3 really evaluated from -- starting from the top, off the  
 4 top of my head, consolidation of buildings, closing a  
 5 school, we took \$22 [sic] from the employees in their  
 6 health insurance. We were paying 90 percent of their  
 7 insurance costs, now I think we pay 80, a little bit over  
 8 80 percent, if I recall. Really raking the central staff  
 9 budgets.

10 What else? Taking some of the supply from the  
 11 schools. What else is in there? Consolidate some  
 12 departments, too. I'm just trying to go back down. It's  
 13 kind of what we've been doing over the past -- since I've  
 14 been there, consolidating. Just because you have it in  
 15 the budget doesn't mean you spend it. Ensuring that  
 16 everything's covered but you don't just go spend it  
 17 because, you know, it's there in the budget.

18 Q. Under "Mitigating State Funding Declines" it  
 19 says: School officials offset fiscal 2012 and 2013  
 20 statewide funding reductions with cost saving measures  
 21 including voluntary staff reductions.

22 Did you guys offer retirement incentives?

23 A. That was one and then the staffing formula was a  
 24 big one, adhering to the staffing formulas. Prior to my  
 25 getting there, there wasn't a formal adoption of staffing

1 formulas so we put that into play and have adhered pretty  
 2 much to that.

3 Q. How has that reduced costs? What is the staffing  
 4 formula?

5 A. State mandated. The 1-22 K-4, 1 to 25 at the  
 6 high school schools, 1 to 26 at the middle schools.  
 7 Previous to that it was at the high schools and middle  
 8 schools, even though that was kind of the implied  
 9 budgeting, we were finding 1 to 18 was really the ratio so  
 10 we had to either say we plan for 1 to 18 in budget and  
 11 staff or we plan for 1 to 25, budget and staff. So that  
 12 was that --

13 Q. When did you first put that staffing formula into  
 14 play?

15 A. Immediately when I got there that was one of the  
 16 major recommendations, and we had moved in that direction  
 17 knowing, okay, well, it's the staff that's established  
 18 these staffing budgets. So as we go into -- I was in the  
 19 '09-'10, and that was my first year.

20 So as a teacher leaves, we have to say, okay, now  
 21 let's look at a staffing formula, because it used to be a  
 22 teacher leaves, we just hired back without recognizing  
 23 whether we were adhering to the staffing levels or not.

24 Q. But when you came in you instituted the new  
 25 policy in terms of a staffing formula?

1 A. We made it more formal and actually took it  
 2 before the board and made it part of what we were adopting  
 3 and showing that that's the direction we were moving. We  
 4 knew that was going to be looked at as increasing class  
 5 sizes and more work, so to speak, as opposed to adhering  
 6 to what we had planned on budgeting -- budgeted for,  
 7 staffed for and paid for.

8 Q. Have you been able to adhere to that closely?

9 A. Very much so.

10 Q. Has that worked well for you?

11 A. Very much so.

12 Q. You didn't have to do any forced layoffs, right?

13 A. No. We did use voluntary -- when was it, last  
 14 year? We did the voluntary one of the years to try to  
 15 take those individuals out of the equation to get down to  
 16 meeting our staffing levels. And it was part of it,  
 17 because that's when the State was saying, "We're going to  
 18 take 25 million or 10. We know it's going to be anywhere  
 19 between 25 and 10 where we're going to take it."

20 So that was another reason we did that.  
 21 Fortunately the Edujobs money came so we didn't have to  
 22 let anyone go.

23 Q. The other way that this article indicates that  
 24 you mitigated state funding declines was facility  
 25 consolidations.

1 I think we've already talked about some of that.  
 2 Specifically what facilities did you consolidate?

3 A. It was -- everybody that's in -- it was in  
 4 Crockett now. We had a police department there, we have  
 5 migrant office there, we have nursing there, we have our  
 6 student supports services there. What else was there? I  
 7 think our federal programs is there now.

8 We were just taking everybody that was in those  
 9 old buildings that were high maintenance, high energy  
 10 consuming portables, high maintenance, high energy  
 11 consuming and moved it to the one building.

12 Q. And the building is still structurally sound  
 13 enough to house those people in the administrative  
 14 offices?

15 A. Yes. That was one of the things -- gaining a  
 16 building rating for big people is different from gaining a  
 17 building rating for little people.

18 Q. It states here that the district has moderately  
 19 low debt. Says: Overall debt levels are moderately low,  
 20 considering state support.

21 Do you agree with that statement?

22 A. Given -- however you define it, that's basically  
 23 what it is.

24 Q. Well, you understand that the rating firm that  
 25 was rating your credibility as bond issuer deems it to be

1 moderately low?  
 2 A. That's what I'm saying. Given their parameters,  
 3 I'm not going to say no.  
 4 Q. All right. It says also: Officials do not plan  
 5 to issue new debt in the next several years, as the  
 6 schools' infrastructure is adequate to serve planned  
 7 enrollment growth.  
 8 MS. BONO: Was that a question?  
 9 Q. (BY MR. SEAQUIST) Yeah, my question is, do you  
 10 agree with that statement?  
 11 A. I know that as far as growth-wise we don't have  
 12 to do anything, but given that in '08 the facility  
 13 advisors committee came up with that 160 million of needs  
 14 of -- that 30 million was wants, really 130 million worth  
 15 of needs, and now we probably have a hundred million  
 16 dollars and -- what is it now? -- five years later, I'm  
 17 sure some of that back, if we did it again, is going to  
 18 increase so we're going to have to do something.  
 19 MS. BONO: That word was "facility advisors  
 20 committee."  
 21 THE WITNESS: I'm sorry.  
 22 THE REPORTER: That's all right.  
 23 A. The brick and mortar of building like other  
 24 districts around us just because of low growth, no, but to  
 25 look at some of our existing facilities and say is it just

1 that time, given the age and cost of -- is just going to  
 2 have to be on the table.  
 3 Q. (BY MR. SEAQUIST) If you had the money today and  
 4 could fix one thing, what would be the first thing you  
 5 fixed?  
 6 A. If we had the money today to fix one thing  
 7 facilities-wise?  
 8 Q. Uh-huh. Out of the hundred million dollars list.  
 9 A. Basically have -- we'd have roofs on there.  
 10 Q. Okay. In addition to the roofs you repaired  
 11 during Hurricane Alex, there are other roofs that need to  
 12 be repaired?  
 13 A. Correct.  
 14 Q. Any of the roofs leaking or otherwise being  
 15 unsatisfactory caused you to not to be able to hold  
 16 classes in those buildings?  
 17 A. Well, see, what compounded that was the hailstorm  
 18 that we had. So it's difficult to answer that in the  
 19 affirmative because that -- those events took whatever we  
 20 had structure there and just took it to the point that it  
 21 became imperative that we fix it.  
 22 Q. You said that there were \$3 million in the  
 23 general fund that were not designated at this point. Are  
 24 there any plans to use any of that to repair any of the  
 25 roofs?

1 A. I think we have a plan now to use some of that  
 2 money to reinvest in our infrastructure.  
 3 Q. Does that include the roofs or is it other stuff?  
 4 A. It's other stuff. It's the other part of that  
 5 hundred million plus dollars that's sitting out there.  
 6 Q. Who determines how much of the district's budget  
 7 each campus needs allocated for maintenance and operation?  
 8 A. We rely more on the -- on our director of  
 9 facilities maintenance and operations to direct that.  
 10 Q. What about just instructional budget for the  
 11 campuses, what -- I mean, who decides how much money goes  
 12 to campuses?  
 13 A. Basically from -- it's more a centralized  
 14 process, given -- like I say, we look at one -- the  
 15 formulas, staffing formulas to say here's what a school  
 16 looks like, here's what you're going to get given your  
 17 enrollment. And then we try to standardize all the other  
 18 services, from clerks to copiers to -- if we say that the  
 19 district is using READ 180, then we're using READ 180 so  
 20 that the school doesn't -- so any beyond --  
 21 Basically, when I go back to Tier 1, the teacher  
 22 in front of the students, with the lights, with the air  
 23 working, that's kind of Tier 1. Then on top of the Tier 1  
 24 is, okay, what are the interventions, so that's how we  
 25 start building our budget or look at it and say how do you

1 protect instructional core, which is the teacher in the  
 2 classroom.  
 3 Q. So the decision is made at the centralized level,  
 4 superintendent's office?  
 5 A. Through that, pretty much.  
 6 Q. Do the campuses submit a proposed budget or  
 7 budget request to your office?  
 8 A. Yes. They look at kind of the benchmarks and  
 9 then they have an opportunity to kind of talk to us about  
 10 what they agree with or disagree with.  
 11 Q. Have you ever had a campus that has run out of  
 12 money before the end of the year?  
 13 A. Run out of money? Like to pay -- like run out  
 14 of --  
 15 Q. Just to buy chalk. On anything.  
 16 A. I mean, some of that you want them to run out of  
 17 money because the kids enter on Day 1, you're supposed to  
 18 invest that money in all the interventions or supplemental  
 19 activities. The only thing you want at the very end of  
 20 the campus as you go into the spring is your tutoring  
 21 money. That's -- you know, some intervention money may be  
 22 for the second administration, that kind of stuff.  
 23 Q. All right. But you've never had a campus come to  
 24 you and say, "Listen, we had asked for this budget for  
 25 intervention, we've spent it now and we're only three

1 them all together very purposefully to tutor you as it has  
2 to do with now the STAAR end of course.

3 Q. So basically if the teacher decides a student  
4 needs it?

5 A. Some of that is that but also the data showing  
6 that when we do a report showing that James has these  
7 objectives, we do all these color coding that within the  
8 color coding scheme, James has these six objectives that  
9 he's showing to be weak in. So does James, so do these  
10 five other kids or eight other kids. So then we sit down  
11 and purposefully sit down and purposely schedule out,  
12 okay, when are we going to start to hit these objectives  
13 with these kids.

14 Q. There can be group tutoring?

15 A. Correct.

16 Q. Do you offer summer school?

17 A. Yes, we do.

18 Q. Did you provide it this last summer?

19 A. Yes, we did.

20 Q. Or this summer, I guess.

21 What about last year?

22 A. Yes.

23 Q. All right. Any plans to cut any of your summer  
24 school programs?

25 A. Well, there's two summer -- actually, we have

1 two. One is tuition based for ones that want to move --  
2 Q. Get ahead?

3 A. -- ahead, so to speak. The other one is when we  
4 find that you weren't successful in something.

5 Q. So one is a remediation type program?

6 A. Yeah.

7 Q. In terms of the remediation summer school, are  
8 there any plans to cut that program in any way?

9 A. No, we can't afford to cut. A lot of times those  
10 are the earmarked dollars for it, also.

11 Q. How do you handle LEP students?

12 MS. BONO: Objection, form.

13 A. What do you mean, "handle"?

14 Q. (BY MR. SEAQUIST) Well, how do you -- what is  
15 your model for bilingual education?

16 A. Right now we have a -- we call it the early exit  
17 or early transition model. We're moving very quickly, as  
18 I talked earlier, to the dual language model. So right  
19 now we're in that transition stage, realizing that the  
20 model that we had isn't the model that we need now. The  
21 demands are -- the demands on student achievement for a  
22 student is one that that current model is not working.

23 Q. Okay. You said it was early entrance, early  
24 exit?

25 A. Early exit.

1 Q. How does that work?

2 A. Early transition. It's --

3 Q. Is it pull-out program?

4 A. It's a transitional model.

5 No, you have a bilingual teacher and you're  
6 transitioning to a second language as quickly as possible,  
7 given certain benchmarks or metrics or -- but we're  
8 finding that it's been very inconsistent with -- it's not  
9 following the tenets, it's more of my opinion of trying to  
10 move you to the next -- to the -- out of the biliterate,  
11 bilingual setting.

12 Q. So the way the current system is or what you're  
13 moving away from is students have a special bilingual  
14 class, they're not -- it's not a dual program?

15 A. It's not a special class. It's a class that's --  
16 that's -- the teacher -- that the student goes into, that  
17 the teacher is certified for and that the students goes  
18 into.

19 Q. But are the bilingual -- I guess I'm just trying  
20 to understand the way you operate it. Are the bilingual  
21 students, in the courses, are the bilingual students in  
22 with the English speaking -- or the English native  
23 language students in those classes?

24 A. No.

25 Q. Or that's a special bilingual class?

1 A. Yeah, the class is -- I think there may be cases  
2 where we have a level of cognitive academics that we're  
3 able to blend a class. We have a teacher that's  
4 certified. A general ed teacher cannot teach bilingual.  
5 A bilingual teacher can teach a DSL and a general ed  
6 child. So in some cases we're able to --

7 Q. To have a blended class.

8 Okay. And what is the system you're moving to  
9 now?

10 A. To the dual language. We're looking at -- there  
11 is a two-way and one-way dual language, but we're looking  
12 at both of those, implementing at some extent both the two  
13 way and one way.

14 Q. And what is the expected benefit of the dual  
15 language?

16 A. Research-wise and the figures I gave to you last  
17 time, that's -- that really is the most effective, and  
18 it's proven over time to continue to be the most effective  
19 model for the building of the CALP, the cognitive academic  
20 language. So that's why we're moving in that direction.  
21 We're still struggling -- as you pointed out how low those  
22 scores were earlier, we're still struggling with that.

23 Q. Which scores?

24 A. The LEP scores and how the gap is, and I said,  
25 you know, how we've always --

1 Q. Okay. Yeah, and so --

2 A. I think I was saying how we were showing that

3 it's lagging. As we move forward, it continues to lag.

4 Q. Are you familiar with any district in the state

5 where the LEP scores do not lag behind the general scores?

6 MS. BONO: Objection; form.

7 A. I -- to have time to look at my district, I don't

8 think we've studied like that, me personally.

9 Q. (BY MR. SEAQUIST) Do you know when you were in

10 Dallas ISD if that was the case as well?

11 A. Comparatively?

12 Q. Uh-huh.

13 A. That the LEP scores lagged?

14 Q. Uh-huh.

15 A. Yes, they did.

16 Q. How long do the LEP students remain in the

17 program on average?

18 MS. BONO: Objection; form.

19 A. I wouldn't know on the average.

20 Q. (BY MR. SEAQUIST) Okay. What's the longest

21 you're aware of a student being in the LEP program?

22 A. That I'm aware of? In my history or just at

23 McAllen ISD?

24 Q. At McAllen ISD.

25 A. You know, I don't know if -- I don't want to

1 blend the two experiences. That's why I'm saying I don't

2 know if -- I'm just trying to think -- I'm trying to

3 remember that in my office, I'm sitting down with -- with

4 our director of bilingual ed and they're telling me that.

5 So I don't know that I've ever done that, to find out how

6 long has someone been in this program.

7 Q. Okay. Do your schools have parent-teacher

8 associations?

9 A. There are PTA and PTOs.

10 Q. And do they provide any record of the campuses of

11 how many volunteer hours they provide?

12 A. I know we track it, but I'm not sure if we're

13 consistently tracking like throughout.

14 Q. Okay. So you couldn't tell me for a given campus

15 what the volunteer contribution was for a --

16 A. No. No.

17 Q. What about in terms of dollars raised by the PTA

18 or PTO for a given campus?

19 MS. BONO: Objection; form.

20 A. Dollars raised? We don't get a -- we don't get a

21 report that I know of.

22 Q. (BY MR. SEAQUIST) Okay. You guys don't track

23 that?

24 A. (Witness nods.)

25 Q. That was a no?

1 A. No, not that I know of. We may track it, but

2 I've never seen -- I don't recall seeing a report saying

3 here we are by PTO and here's the dollars raised.

4 Q. We talked earlier about the career and/or tech

5 and trade programs offered by the McAllen ISD. Do you

6 have any idea how many students -- the number of students

7 that are enrolled in those programs?

8 A. Not off the top of my head.

9 MS. BONO: Involved in the career and

10 technology programs?

11 MR. SEAQUIST: Yes.

12 A. Not off the top of my head.

13 Q. (BY MR. SEAQUIST) Are you familiar with what

14 your district's attendance rate is?

15 A. We -- I want to say it's 96 percent. I want to

16 say that. I'm racking my brain to...

17 Q. Okay. In your opinion, is that a good attendance

18 rate?

19 A. We always want it higher.

20 Q. What efforts are you making to increase the

21 attendance rate?

22 A. Part of the restructuring I told you earlier, we

23 took the -- the part of student support services that did

24 that and we merged it with the police department because

25 school policing is different than community policing, so

1 it's really taking those two entities of -- of bringing

2 that together. So at the high schools we actually have a

3 more connection with those kids that seem to not be at --

4 and then it follows through the pattern.

5 We look at families more than we look at

6 individuals because usually it's a family pattern. So

7 within the vertical team, if I go to the house of the high

8 school, I'm usually talking that there's kids in the other

9 schools, too. So that was part of it, that merging and

10 the reconstituting the functions of that group.

11 The second thing we've done is we've worked with

12 attention to attendance -- a lot of what -- I'm about

13 frameworks and that we've standardized practices so we can

14 do some quality control, and attention to attendance is a

15 group that's purporting and showing some promise that it's

16 going to standardize our processes and help us pinpoint

17 better is it the system, is it the people, is it the

18 people and the system and help us work that. And then

19 ultimately that we're able to be proactive about helping

20 families out that seem to show a tendency to have more

21 often than not going to school than they are.

22 Q. When did you begin to initiate this practice?

23 A. Last spring.

24 Q. Okay. So spring of '12?

25 A. Yeah.

1 Q. Okay. Does the district employ a curriculum  
 2 director?  
 3 A. When you look back at that -- I don't know if you  
 4 call -- we don't call it the curriculum director, but out  
 5 of the instructional services and assistant supe and  
 6 associate supe, those are the two individuals primarily  
 7 responsible.  
 8 Now, directors and coordinators are responsible  
 9 for their portion of the TEKS, whether it's in our --  
 10 within CSCOPE you have a place for the supplemental pieces  
 11 in there. So when we have our coordinators or directors  
 12 look at CSCOPE and then we add our supplemental pieces,  
 13 that's all covering what's to be taught during that period  
 14 of time.  
 15 Q. You said the word "supe." What is that?  
 16 A. Superintendent. Assistant superintendent or  
 17 associate superintendent.  
 18 Q. All right. And there is one of those over the  
 19 instruction?  
 20 A. Yes.  
 21 Q. And that person helps to -- what specifically  
 22 does that person do in terms of what the curriculum is, or  
 23 how the curriculum is taught?  
 24 A. The how it's taught, it is more -- that's up to  
 25 the teacher. How something is taught is left to the

1 teacher.  
 2 Q. Then what the curriculum is, how does the  
 3 assistant superintendent for instruction affect what the  
 4 curriculum is, if at all?  
 5 A. They don't affect the -- the curriculum is the  
 6 TEKS. So we don't -- we don't mess with the TEKS or  
 7 modify the TEKS. So we assure that we have a guaranteed  
 8 and viable curriculum which is saying, okay, here's the  
 9 TEKS. We have CSCOPE which breaks it down to another  
 10 notch. If you feel like you're filling in a gap here and  
 11 CSCOPE takes part -- the TEKS is very global. You use  
 12 some alignment document. We use those CSCOPE. Other  
 13 districts use their own or find another way.  
 14 And then the last piece to filling that is the  
 15 teacher. So we say, "Here -- out of the instructional  
 16 services, here's the resources by which you're able to  
 17 execute what you're expected to do."  
 18 Q. How do, then, the superintendent of  
 19 instruction -- how do they -- what improvements to the  
 20 district do they make?  
 21 A. Well, they evaluate the programs. Like I was  
 22 talking earlier about the READ 180, like go back to the  
 23 tier model, say, "In Tier 1 you're expected to do this."  
 24 So then we say, "And here are the resources for you to  
 25 execute. We have an instructional coach, we have the

1 principal, we have the assistant principal. If you need  
 2 help, we have our campus instructional leadership team."  
 3 So we build that base.  
 4 Then Tier 2 is saying if students struggle, then  
 5 now across the district we have READ 180. So then  
 6 students -- and there's a select group of students that go  
 7 to READ 180.  
 8 And at the very top of the third, whenever anyone  
 9 is going to like special ed referral or referral beyond,  
 10 that our interventions aren't working, she's responsible  
 11 for all those pieces to ensure that the child and teacher  
 12 are gaining the support necessary to be successful.  
 13 Q. She sort of facilitates the tier process?  
 14 A. Yeah. Our central staff philosophically, just  
 15 meaning you have a product or a service. So that's the  
 16 product our services come out of, out of central staff.  
 17 She yeas or nays the products we're using and how it's to  
 18 be used and the support personnel that we put on the  
 19 campus.  
 20 Q. Okay. Are your core subject teachers required to  
 21 undergo any type of professional development in order to  
 22 teach the TEKS?  
 23 A. Well, we have professional development, yes.  
 24 Q. Is there any specific training that's directly  
 25 related to how to teach the TEKS?

1 A. How to teach the TEKS? The TEKS are objectives.  
 2 So you don't -- you don't -- there's a group of objectives  
 3 that you teach. You don't -- you don't say, "Okay, today  
 4 we're going to teach this TEKS." You say, "Here's the  
 5 objectives we're going to teach." And one lesson cycle  
 6 may knock out several -- several TEKS.  
 7 Q. All right. Well, it sounds like your answer to  
 8 my question may be no, then.  
 9 My question is specifically whether or not the  
 10 teachers attend or are required to undergo any particular  
 11 training that is designed to help them better teach the  
 12 TEKS.  
 13 A. We don't have instruction like that.  
 14 Q. Okay. Do any of your teachers attend online or  
 15 in-person training on how to teach the new curriculum  
 16 standards?  
 17 A. They attend online -- like webinars? Is that  
 18 what you mean?  
 19 Q. Uh-huh.  
 20 A. I don't know online work. I know online we had  
 21 over the summer over what we're doing with the lesson  
 22 design and some other things we were doing with  
 23 integrating the iPad as a tool. But TEKS specific, not to  
 24 my knowledge.  
 25 Q. I think you told me that in terms of Edujobs that

1 your district has received some stimulus funding for  
 2 Edujobs but that for the upcoming year there are no  
 3 Edujobs funds?  
 4 A. No --  
 5 Q. What about ARRA funds?  
 6 A. That was back -- that was '09-'10.  
 7 Q. Has your district spent all the ARRA funds you  
 8 got?  
 9 A. To my knowledge.  
 10 Q. Same with Edujobs, have you spent all the Edujobs  
 11 funding you got?  
 12 A. To my knowledge.  
 13 Q. What specifically did you spend the ARRA funds  
 14 on?  
 15 A. There was -- what did we spend all that on? That  
 16 was personnel, that was program, that was infrastructure.  
 17 I walked into when we already had the money, and it was  
 18 already allocated.  
 19 Q. So you didn't make those decisions?  
 20 A. We modified some of the decisions. We modified  
 21 some of the decisions.  
 22 Q. Okay. What about the Edujobs money, what  
 23 specifically did that go for?  
 24 A. That was to stave off laying teachers off.  
 25 Q. And you were successful at that?

1 A. Correct. We -- yeah, we were.  
 2 Q. And now that the Edujobs money -- there is not  
 3 going to be a reissue of Edujobs money this year, you're  
 4 still not planning on laying any teachers off, correct?  
 5 A. We're now very close to our staffing models.  
 6 Q. Which is where you want to be --  
 7 A. Yes.  
 8 Q. -- as a superintendent?  
 9 MS. BONO: Objection; form.  
 10 Q. (BY MR. SEAQUIST) Was any of the money, to your  
 11 knowledge, from either the ARRA or the Edujobs money,  
 12 spent on professional development for teachers?  
 13 A. Out of the first group, I would want to say that  
 14 I recall yes. Now, the Edujobs money was not.  
 15 Q. Okay. Do you recall the ARRA money being  
 16 spent -- what professional development do you recall the  
 17 ARRA money being spent on?  
 18 A. I can't specifically recall at this time. I'd  
 19 have to revisit.  
 20 Q. Okay. You came to the district in 2009; is that  
 21 correct?  
 22 A. In May of 2009.  
 23 Q. Did you come after the TAKS test had already been  
 24 administered that spring?  
 25 A. I think there was still a second administration

1 possibly.  
 2 Q. So you've been here at least -- possibly for the  
 3 TAKS administration in 2009 but at least for the TAKS  
 4 administration in 2010-2011, right?  
 5 A. Yes.  
 6 Q. In terms of your experience with your students'  
 7 scores on the TAKS test, was it your experience that the  
 8 performance on those tests tended to trend up for each  
 9 consecutive year of the administration?  
 10 MS. BONO: Objection; form.  
 11 A. When you break it down by student population,  
 12 there was some of the student populations that didn't  
 13 necessarily trend in that direction. And then here at the  
 14 end, we plateaued or decreased.  
 15 Q. (BY MR. SEAQUIST) Okay. I think we looked at  
 16 the figures earlier and it looked like you had small  
 17 increases each consecutive year.  
 18 A. On the All category. But then when I say if you  
 19 look at the low socioeconomic, migrant, LEP, special ed --  
 20 there is one other group. Those -- that group -- I'm just  
 21 remembering the graphs. We have the line graphs,  
 22 moving -- they all move -- they are moving up, but there's  
 23 occasions there when I know the line dips.  
 24 Q. Okay. Is it your experience, though, in terms of  
 25 students taking that test, the TAKS test, that they got

1 better at the actual testing process as they continued  
 2 through subsequent administrations of them?  
 3 MS. BONO: Objection; form.  
 4 A. They got better at the testing process? Help me  
 5 out.  
 6 Q. (BY MR. SEAQUIST) Yeah. Did they get better at  
 7 sitting down and just taking the test?  
 8 A. It's still -- I'm not -- just sitting down and  
 9 taking the test? What is that? I'm still trying to see  
 10 what you mean. I chuckle because I just imagine a kid  
 11 getting better at bubbling.  
 12 Q. Do they get more comfortable -- and that's part  
 13 of it, quite frankly. I mean, do they get more  
 14 comfortable with the process of going and sitting in a  
 15 room and having a multiple choice test passed out and  
 16 knowing when you can open the booklet and just getting  
 17 more comfortable with the test-taking process such that  
 18 they are more comfortable taking the test?  
 19 MS. BONO: Objection; form.  
 20 A. I would say they get more conditioned. I don't  
 21 know if they ever get comfortable, but you just get more  
 22 conditioned to being able to -- that this is what you do.  
 23 Q. (BY MR. SEAQUIST) Okay. Do teachers -- as the  
 24 tests come out and as the students take the test, do  
 25 teachers get better at teaching the materials that are on

1 departments to handle that shift, also. So the preaching  
 2 and teaching was at the principal level, was at the  
 3 department level and at the division level, so --  
 4 Q. So rather than bringing in anybody new, you  
 5 handled that internally with the resources you had?  
 6 A. Correct.  
 7 MS. BONO: Can we take a break when we get  
 8 to a stopping point.  
 9 MR. SEAQUIST: Yes.  
 10 (Break.)  
 11 Q. (BY MR. SEAQUIST) Back on the record, Dr. Ponce.  
 12 Have you done any reviews of the STAAR data for the pass  
 13 rates by campus?  
 14 A. Yeah, we looked at -- we looked at what we've --  
 15 yeah, we've taken a look at it.  
 16 Q. And have you narrowed it down to specifics as to  
 17 pass-fail rate by teacher?  
 18 A. We haven't looked at it like that.  
 19 Q. What about per course?  
 20 A. Per course, yes.  
 21 Q. Why was it not important to look at what the  
 22 pass-fail rate per teacher was?  
 23 MS. BONO: Objection; form.  
 24 A. It's not that's not important. We're looking at  
 25 letting the campuses look at that first and give us what

1 their evaluation is.  
 2 Q. (BY MR. SEAQUIST) So the campuses are going  
 3 through the process of -- first of all, the campuses are  
 4 able to or the district is able to get the data in the  
 5 form of pass-fail by teacher; is that right?  
 6 A. Through DMAC, correct.  
 7 Q. So your testimony is that the campuses are going  
 8 to be in the process of reviewing that data first and then  
 9 it will filter up to you?  
 10 A. Filter to me in some sense, yes, but I don't know  
 11 exactly by teacher like that.  
 12 Q. Do you believe that the students' positive  
 13 performance on a STAAR test indicates a mastery of the  
 14 curriculum?  
 15 MS. BONO: Objection; form.  
 16 A. I believe they met that minimum standard at the  
 17 very least.  
 18 Q. (BY MR. SEAQUIST) Do you see that as different  
 19 from having mastered the objectives that the STAAR test is  
 20 tested on?  
 21 A. At mastery level? Because the mastery level, to  
 22 me you begin to get into the commended. See, because we  
 23 have a passing minimum standard and we have a commended  
 24 standard.  
 25 Q. So in your opinion, mastery is indicated by a

1 student who gets a commended level?  
 2 MS. BONO: Objection; form.  
 3 A. I would say that you move closer to mastery as  
 4 you get into the commended.  
 5 Q. (BY MR. SEAQUIST) And does the district have a  
 6 plan to address students who had a low pass rate on the  
 7 STAAR test?  
 8 A. Yes.  
 9 Q. What about campuses that had low pass rates?  
 10 A. Yes.  
 11 Q. Teachers --  
 12 A. Yes.  
 13 Q. -- that have low pass rates?  
 14 What are the district's plan to remediate those?  
 15 We'll start first, what are the district's plan to  
 16 remediate students who had a low pass rate on the STAAR  
 17 test?  
 18 A. Part of it is by objectives. That's where we  
 19 start looking at what are the objectives that students  
 20 are not strong in. What we're trying to do now is find  
 21 the correlation between what are the objectives that our  
 22 teachers aren't strong in and then we're trying to find  
 23 ways to make them stronger than that so that we don't  
 24 repeat the same pattern, and then we start looking at the  
 25 kids that aren't strong in those objectives. So it's by

1 objective kind of intervention at that level.  
 2 Q. Are the results presented to you in such a way  
 3 that you can identify specific objectives -- or, excuse  
 4 me -- objectives that were problematic?  
 5 A. Correct.  
 6 Q. And I don't think I asked you, but do you think  
 7 it's important to know which teachers have a low pass  
 8 rate?  
 9 A. It's important to mine it through the student  
 10 level through the teacher, yes.  
 11 Q. So you've got to know which teachers are having  
 12 problems in order to help them improve their objectives,  
 13 right?  
 14 A. Correct.  
 15 Q. Is it important to know or understand whether  
 16 there is a correlation between the grade assigned to a  
 17 student in a particular class versus their STAAR  
 18 performance and scores?  
 19 MS. BONO: Objection; form.  
 20 A. It's important to look at that relationship, but  
 21 I don't know if we're sophisticated enough to see the  
 22 correlation.  
 23 Q. (BY MR. SEAQUIST) Well, I mean, if you  
 24 compare -- if you've got an A student in a class failing  
 25 the STAAR test, obviously that's not a good sign, right?

CHANGES AND SIGNATURE

PAGE LINE CHANGE REASON

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JAMES JOSEPH PONCE, Ph.D.

I, JAMES JOSEPH PONCE, Ph.D., have read the foregoing deposition and hereby affix my signature that same is true and correct, except as noted above.

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JAMES JOSEPH PONCE, Ph.D.

THE STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

Before me, \_\_\_\_\_, on this day personally appeared JAMES JOSEPH PONCE, Ph.D., known to me (or proved to me under oath or through \_\_\_\_\_) (description of identity card or other document)) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

NOTARY PUBLIC IN AND FOR  
THE STATE OF \_\_\_\_\_  
COMMISSION EXPIRES: \_\_\_\_\_

CAUSE NO. D-1-GN-11-003130  
TEXAS TAXPAYER & STUDENT ) IN THE DISTRICT COURT  
FAIRNESS COALITION, ET )  
AL., )  
Plaintiffs, )  
VS. )  
EDGEWOOD INDEPENDENT )  
SCHOOL DISTRICT, ET AL., )  
(CONSOLIDATED) ) TRAVIS COUNTY, TEXAS

Plaintiffs, )  
VS. )  
ROBERT SCOTT, IN HIS )  
OFFICIAL CAPACITY AS )  
COMMISSIONER OF EDUCATION, )  
ET AL., )  
Defendants. ) 200TH JUDICIAL DISTRICT

REPORTER'S CERTIFICATION  
DEPOSITION OF JAMES JOSEPH PONCE, Ph.D.  
September 5, 2012

I, Tamara K. Chapman, Certified Shorthand Reporter in and for the State of Texas, hereby certify to the following:

That the witness, JAMES JOSEPH PONCE, Ph.D., was duly sworn by the officer and that the transcript of the oral deposition is a true record of the testimony given by the witness;

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That the deposition transcript was submitted on September 17th, 2012 to the witness or to the attorney for the witness for examination, signature and return to me by October 7th, 2012;

That the amount of time used by each party at the deposition is as follows:

- Mr. Gunnar Seaquist - 7:52
- Ms. Marisa Bono - 00:21
- Ms. Amy Leila Saberian - 00:21

That pursuant to information given to the deposition officer at the time said testimony was taken, the following includes counsel for all parties of record:

- Mr. Gunnar Seaquist - COMMISSIONER SCOTT, IN HIS OFFICIAL CAPACITY; TEA; COMPTROLLER OF PUBLIC ACCOUNTS, SUSAN COMBS, IN HER OFFICIAL CAPACITY
- Ms. Marisa Bono - COUNSEL FOR EDGEWOOD INDEPENDENT SCHOOL DISTRICT PLAINTIFFS
- Ms. Amy Leila Saberian - COUNSEL FOR INTERVENORS, JOYCE COLEMAN, ET AL.

I further certify that I am neither counsel for, related to, nor employed by any of the parties or attorneys in the action in which this proceeding was taken, and further that I am not financially or otherwise interested in the outcome of the action.

Further certification requirements pursuant to Rule

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203 of TRCP will be certified to after they have occurred.  
Certified to by me 17th day of September, 2012.

Tamara K. Chapman, Texas CSR 7248  
Expiration Date: 12/31/12  
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FURTHER CERTIFICATION UNDER RULE 203 TRCP

The original deposition was/was not returned to the  
deposition officer on \_\_\_\_\_;  
If returned, the attached Changes and Signature page  
contains any changes and the reasons therefor;

If returned, the original deposition was delivered to  
\_\_\_\_\_, Custodial Attorney;

That \$ \_\_\_\_\_ is the deposition officer's charges  
to the Defendant(s) for preparing the original deposition  
transcript and any copies of exhibits;

That the deposition was delivered in accordance with  
Rule 203.3, and that a copy of this certificate was served  
on all parties shown herein on and filed with the Clerk.

Certified to by me this \_\_\_\_\_ day of

\_\_\_\_\_, 2012.

Tamara K. Chapman, Texas CSR 7248  
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Unofficial copy Travis Co. District Clerk *Wanda L. Price*