

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

THE TEXAS TAXPAYER &	§	
STUDENT	§	IN THE DISTRICT COURT
FAIRNESS COALITION, et al;	§	
CALHOUN COUNTY ISD, et al;	§	
EDGEWOOD ISD, et al;	§	
FORT BEND ISD, et al;	§	
TEXAS CHARTER SCHOOL	§	
ASSOCIATION, et al.	§	
Plaintiffs	§	
	§	
	§	
	§	
JOYCE COLEMAN, et al	§	
Intervenors	§	
	§	
vs.	§	200th JUDICIAL DISTRICT
	§	
MICHAEL WILLIAMS,	§	
COMMISSIONER	§	
OF EDUCATION, IN HIS OFFICIAL	§	
CAPACITY; SUSAN COMBS,	§	
TEXAS COMPTROLLER OF PUBLIC	§	
ACCOUNTS, IN HER OFFICIAL	§	
CAPACITY; TEXAS STATE BOARD	§	
OF EDUCATION, the TEXAS	§	
EDUCATION AGENCY, and the	§	
STATE OF TEXAS	§	
Defendants.	§	TRAVIS COUNTY, TEXAS

MOTION TO STRIKE EDGEWOOD PLAINTIFFS' EXPERT DR. ROBERTO ZAMORA

TO THE HONORABLE JUDGE DIETZ:

Defendants hereby file this *Motion to Strike Edgewood Plaintiffs' Expert Dr. Roberto Zamora* and would show the Court as follows:

I. INTRODUCTION

In support of their case, Edgewood Plaintiffs offer Dr. Roberto Zamora as an expert. In their disclosures, they describe the opinions he offers as relating to the “effects of SB 1, HB 1025 and HB 5 on the adequacy and suitability claims of the Edgewood Plaintiffs; his mental impressions and opinions and a brief summary of the basis for them.” Edgewood Plfs’ 3rd Supp. Resp. To Defs.’ Request for Initial Disclosures of Oct. 21, 2013. Moreover, Dr. Zamora’s Expert Report of October 14, 2013, purports to “provide[] an analysis of the financial and programmatic impact” of legislative changes resulting from the 83rd legislative session. Ex. A (Zamora Report), p. 3. His report is triparted. First, he purports to reveal the impact of funding changes on the districts’ spending power by comparing funds received per WADA in 2010-11 with funds projected to be received per WADA in 2013-14, after adjusting for inflation. *Id.* at pp. 5-6. Second, he surmises the possible impact that programmatic changes *may* have on districts by noting each such change effected through House Bill 5 and pontificating about how districts *might* implement these changes and how this *might* affect district spending/allocation of resources. *Id.* at pp. 7-14. Finally, he offers conclusions about the impact of funding changes in Senate Bill 1 on ELL allotments¹ and Compensatory Education (“Comp Ed”) allotments by comparing the actual respective allotments for 2010-11 to the projected respective allotments for 2013-14, after adjusting for inflation. *Id.* at pp. 15-16.² Based on his review of standardized test scores, and a projected cost analysis to districts to reduce class size using only funds from the weights, he offers the conclusion that the funding weights are inadequate. *Id.* pp. 25-31.

¹ Dr. Zamora uses interchangeably ESL, ELL, and BE throughout his report to reference funds provided to a district under the funding weights applicable to students that are classified as English Language Learners. Throughout this motion, Defendant refers to these funds as ELL allotments.

² Dr. Zamora also offers charts displaying “performance gaps” on standardized tests, Ex. A, pp. 17-20, and a summary of district spending and needs, Ex. A, pp. 21-24.

This Court should strike Edgewood's proffered expert Dr. Zamora. Dr. Zamora is not qualified to offer any of the opinions in his report relating to the purported "impact" of funding changes. Dr. Zamora does not have an economics or financial background and he has never used any price index as part of his work. Accordingly, his background does not qualify him to offer the opinions he does related to how inflationary pressures affect the spending power of districts. Also, these same opinions are not reliable. Dr. Zamora could not even identify which version of the Consumer Price Index he utilized in performing this analysis, much less why it was the appropriate index to use (other than the fact that someone in the case had already used it).

Similarly, all of his opinions regarding *possible* impacts of programmatic changes on district funding needs are properly excluded under Texas Rule of Evidence 702 as unreliable. Mere speculation is not reliable evidence.

Next, Dr. Zamora's opinions regarding the adequacy of the funding weights are unreliable. This section of his report examines the possible cost to a district to reduce classes to various sizes based solely on using funds available through either ELL and/or Comp Ed weight allotments. This is a false construct. Zamora's own report recognizes this fact when he notes that the applicable restrictions on the use of these funds does not permit use consistent with the hypothetical situations he creates and examines. Moreover these opinions are outside the scope of the re-opening of the evidence. Nothing about this section of his report relates to any legislative changes from the 83rd legislative session. In fact, the premise of this section of his report is that the weights did not change. As such, any opinion offered about legislation existing at the time of the September 2012 through February 2013 trial of this matter is outside the scope of the re-opening of the evidence and should not be permitted. Finally, the remaining opinions offered by Dr. Zamora do no require any specialized knowledge to aid the Court in

understanding the evidence or determining an issue of fact or are unreliable. For all of these reasons, this Court should strike Edgewood Plaintiffs' proffered expert, Dr. Zamora, as all of the opinions he offers are all properly excluded under Texas Rule of Evidence 702.

II. ARGUMENT & AUTHORITIES

Texas Rule of Evidence 702 provides that if specialized knowledge will assist the trier of fact to understand the evidence or determine a fact issue, than a witness "qualified as an expert by knowledge, skill, experience, training or education" may provide his expert opinion as testimony. TEX. R. EVID. 702. The trial court is the gatekeeper charged with ensuring at the outset that the proposed expert testimony is admissible. *E. I. du Pont de Nemours and Co. v. Robinson*, 923 S.W.2d 549, 592-93 (Tex. 1995). In order for expert testimony to be admissible, three requirements must be met. *Id.* at 556-57. First, the witness must be qualified to give the testimony he offers. *Id.* Second, the testimony must be relevant. *Id.* Third, the proposed testimony must be reliable. *Id.* The proponent of the expert testimony bears the burden of showing by a preponderance of the evidence that each of these requirements is met. *Id.* at 557.

A party may establish that its expert is qualified to offer certain testimony on the specific issue before the court based on the expert's knowledge, training, experience, or a combination of these factors. *Taylor v. DPRS*, 160 S.W.3d 641, 650 (Tex. App.—Austin, 2005, pet. denied). *Broders*, 924 S.W.2d 148, 153. This requires showing that the expert "possess[es] special knowledge as to the very matter on which he proposes to give an opinion." *Broders v. Heise*, 924 S.W.2d 148, 153 (Tex. 1996).

In order for the proponent of the expert testimony to show its expert's testimony is relevant, it must show that the proffered opinions are sufficiently tied to the facts of the case so

that it will help resolve a fact issue. *Robinson*, 923 S.W.2d at 556. When testimony is irrelevant, it fails 702's requirement that the offered testimony assist the trier of fact. *Id.* at 556.

The factors a court considers to make the reliability determination for nonscientific expert testimony is somewhat flexible. *Gammil v. Jack Williams Chevrolet, Inc.*, 972 S.W.2d 713, 726 (Tex. 1998). A court should start with any of the six nonexclusive factors announced in *E. I. du Pont de Nemours and Co. v. Robinson* by the Texas Supreme Court that are applicable to the testimony offered in a given matter. See *Helena Chem. Co. v. Wilkins*, 47 S.W.3d 486, 499 (Tex. 2001). Those factors include: (1) the extent to which the theory has been or can be tested; (2) the extent to which the technique relies upon the subjective interpretation of the expert; (3) whether the theory has been subjected to peer review and/or publication; (4) the technique's potential rate of error; (5) whether the underlying theory or technique has been generally accepted as valid by the relevant scientific community; and (6) the non-judicial uses which have been made of the theory or technique. *Robinson*, 923 S.W.2d at 556-557.

Then the court should "identify and employ other factors as necessary to assess the reliability of the proffered testimony." *Helena Chem. Co.*, 47 S.W.3d at 499. When an expert relies on his experience or training instead of scientific methodology to reach his conclusions, a court should also "determine whether there may be 'simply too great an analytical gap between the data and the opinion proffered' for the opinion to be reliable." *Wiggs v. All Saints Hea. Syst.*, 124 S.W.3d 407, 410 (Tex. App.—Fort Worth 2003, pet. ref'd) (citing *Gammill*, 972 S.W.2d at 728 (Tex.1998)). This gap occurs when the expert fails "to show how his observations, assuming they were valid, supported his conclusions." *Gammil*, 972 S.W.2d. at 727. A conclusion "is not so simply because 'an expert says it is so'". *Merrell Dow Pharmaceuticals, Inc. v. Havner*, 953 S.W.2d 706, 712 (Tex.1997) (citing *Viterbo v. Dow Chem. Co.*, 826 F.2d

420, 421 (5th Cir.1987)). “When the expert ‘br[ings] to court little more than his credentials and a subjective opinion,’” this is not reliable evidence. *Id.*

A. Dr. Zamora Is Not Qualified To Testify As An Expert On The Impact Of Funding Changes To Districts’ Spending Power Nor Are His Opinions On This Issue Reliable.

B.

Dr. Zamora purports to show the impact on districts’ spending power by examining district budgets and ELL and Comp Ed allotments in 2010-11 as compared to projected district budgets/allotments for 2013-14 after being controlled for inflation. Ex. A, pp. 5-6; *Id.* at 15-16. The very first and most essential requirement of an expert witness is that the expert be qualified to give the testimony for which he is designated. *Robinson*, 933 S.W.2d at 556-57. According to his vitae, Dr. Zamora has obtained a degree in secondary education supervision and a masters and PH. D. in educational administration. Ex. B (Zamora CV), p. 1. Dr. Zamora states that he did have to take “school finance” courses to obtain his master’s degree in 1973. Ex. C (Zamora Depo) (178:13-22).

Currently, he is a lecturer at the University of Texas Pan American University in Edinburg, Texas. Ex. B, p. 2. The bulk of Dr. Zamora’s professional experience relates to school administration, whether acting as an administrator or working as a consultant to help improve an entity’s organizational health. Ex. B, p. 2-3 (formerly employed as superintendent, assistant superintendent, principal, and assistant principal); Ex. C (180:1-15) (describing nature of consulting work); Ex. C (183:7-184:13) (describing work regarding improving organizational health). At no time has Dr. Zamora had any educational training, experience, or work regarding providing financial analysis that includes adjusting amounts for inflation to determine the impact on spending power. Ex. C (51:24-52:19) (admitting he has never used a price index for any purpose); Ex. C (179:17-19). In fact, at the time of his deposition, other than the Consumer Price

Index, he was unable to identify any other specific price index that exists. Ex. C (53:1-10); Ex. C (54:2-10).

For his study, the only reason Dr. Zamora selected the CPI was because he saw it was used by someone else in the lawsuit when he reviewed the draft findings of fact and conclusions of law. Ex. C (53:18-54:1); Ex. C (64:19-65:4); Ex. C (146:9-25); Ex. C (152:14-18). He was also unable to describe with any level of certainty or detail the types of things that are included in the CPI. Ex. C (54:11-56:20). He does not know who publishes the CPI, how frequently it is published, and what type of data is collected in making the index. Ex. C (63:5-22).

When pressed about which issued CPI he utilized, he was unable to identify it, but explained that “I just went to the Internet and got me one that’s provided there that does the calculations, and just entered the—amounts for each of the years and had the calculator do it for me.” Ex. C (60:25-61:23). He admitted that it may matter which index one uses for making the conclusions he makes, but that he was not sure because he did not know if different indices had different measurements. Ex. C (62:11-63:4). And while Dr. Zamora agreed that the biggest expenditure for district is the personnel costs, he did not know whether the CPI he utilized captures any information related to teacher salaries. Ex. C (65:5-13); Ex. C (148:7-11); Ex. C (152:22-153:3).

Dr. Zamora did not have an opinion regarding whether or not different indices could be better for different purposes. Ex. C (56:21-23). In fact, Dr. Zamora admitted that he did not have expertise in the area of how to determine which index would be better for determining the inflationary pressure on a given item when posed with a hypothetical about determining such pressure on the cost of oil. Ex. C (56:24-57:8). Moreover, Dr. Zamora was uncertain of the

source of the projected 2013-14 budgets for districts provided in his Table 1, other than that they were amounts provided to him by Edgewood Plaintiffs' counsel. Ex. C (66:2-22).

All of this shows that Edgewood Plaintiffs cannot meet their burden. Dr. Zamora is unqualified to offer the opinions he does related to funding impacts. Simply put, he has no "special knowledge as to the very matter on which he proposes to give an opinion." *Broders*, 924 S.W.2d at 153. Merely being aware that inflation exists, and that it can affect a person's buying power, is not enough to qualify Dr. Zamora to offer the opinions that he does. *See* Ex. C (52:5-17).

Nor are his opinions reliable. There is no way to test Dr. Zamora's analysis because he cannot identify which CPI he used. There is also too great an analytical gap between the data and the opinions offered. Dr. Zamora fails to show "how his observations . . . support his conclusions" when he does not know why he used the index he did, he is uncertain of the source of data in his own report's table, and generally lacks an understanding about the tool he uses in making his conclusions. *See Gammil*, 972 S.W.2d at 727. For these reasons, this Court should strike Dr. Zamora as an expert regarding the impact of funding changes on districts' spending power. To the extent that Edgewood Plaintiffs offer Dr. Zamora's Report as evidence for the Court's consideration on this issue, Defendants also respectfully request that pages 5-6 and pages 15-16 of his report be stricken for all of the reasons set out above.

B. Dr. Zamora's Opinions Regarding The Possible Impacts Of Programmatic Changes Are Wholly Unreliable.

Dr. Zamora opines that funding increases are necessary because of the programmatic changes made by HB 5. He does this by listing each separate change in curriculum, assessment, and accountability in the new system and describing ways this *may* cause a district to need more funding. *See* Ex. A, pp. 7-14. Dr. Zamora admits that many of the changes he identifies are not

yet in effect for the 2013-14 school year. Ex. C (71:25-72:13); Ex. C (74:12-19); Ex. C (75:6-8); Ex. C (91:24-9); Ex. C (95:17-96:1). Also, he did not collect any actual data of specific district costs regarding the impacts of these changes. Ex. C (75:9-11); Ex. C (79:20-80:13); Ex. C (94:3-7); Ex. C (126:23-127:3); Ex. C (131:13-132:1); Ex. C (144:11-15). Nor did he analyze whether or not existing budgets could be reworked to implement any of the changes. Ex. C (78:10-21); Ex. C (88:19-89:5); Ex. C (94:13-95:2); Ex. C (142:11-143:15). Sometimes he indicated things were an “impact” from HB 5 despite the fact that the cost/issue would have existed before HB 5. *See e.g.*, Ex. C (80:19-84:2); Ex. C (89:6-90:15); Ex. C (131:4-12). And at least one time, he anticipated additional costs to the districts based on a misreading of the statutory changes. *See* Ex. A, p. 11 (describing the need for additional funding for interventions which he purports must now be provided outside the school day); *But see* Ex. C (118:4-120:12) (misunderstanding the statutory requirement as precluding removal of students from class for remedial tutoring or test preparation to less than 10% of an instructional day when statute actually precludes the removal of students from class for remedial tutoring or test preparation to less than 10% of the school days on which a class is offered).

Each time Dr. Zamora offers the opinion in Table 2 of his Report that a change is going to require additional funds, he admits that opinion is not based on data, but just his experience running a district. Ex. C (97:13-20). Importantly, broad generalizations about the efficiency with which a single district may or may not be able to implement change do not necessarily hold true for districts state-wide or the system. To simply assume so does not make Dr. Zamora’s subjective opinion reliable evidence. *See Havner*, 953 S.W.2d at 712 (noting that when an expert brings to court “little more than his credentials and a subjective opinion” it is not reliable evidence). There is too great an analytical gap between the experience Dr. Zamora has and the

broad-brush opinions he offers for it to be reliable under Rule 702. *See Wiggs*, 124 S.W.2d at 728. For these reasons, this Court should strike Dr. Zamora as an expert regarding the financial impact to districts from the programmatic changes in HB 5. To the extent that Edgewood Plaintiffs offer Dr. Zamora's Report as evidence for the Court's consideration on this issue, Defendants also respectfully request that pages 7-14 of his report be stricken for all of the reasons set out above.

C. Dr. Zamora's Opinions Regarding The Adequacy Of Funding Weights Are Unreliable And They Are Outside The Scope Of The Re-Opening Of The Evidence.

Dr. Zamora opines that the ELL and Comp Ed allotments are inadequate. Ex. A, p. 25. In coming to this conclusion, he examines how many ELL and/or Comp Ed students a district would need in order to fund class size reductions using only these special allotments. *Id.* However, Zamora's own report recognizes that allotments from the weights are supplementary in nature and "must be spent for programs and services beyond what regular operations funds pay." *Id.* at 29. For this reason alone, his opinions related to this are unreliable. There is a wide chasm between the observations he makes (about an imaginary option) and the conclusions he offers about the adequacy of the weights. *Gammil*, 972 S.W.2d at 727.

Additionally, these opinions are outside the scope of the re-opening of the evidence. Nothing about this section of his report relates to any legislative changes from the 83rd legislative session. *See* Ex. A, pp. 25-31. In fact, the premise of this section of his report is that the weights did not change, but should be changed. *Id.* As such, any opinion offered about legislation existing at the time of the September 2012 through February 2013 trial of this matter is outside the scope of the re-opening of the evidence and should not be permitted. For all of these reasons, this Court should strike Edgewood Plaintiffs' proffered expert, Dr. Zamora, as all of the opinions he offers are all properly excluded under Texas Rule of Evidence 702. To the extent that

Edgewood Plaintiffs offer Dr. Zamora's Report as evidence for the Court's consideration on this issue, Defendants also respectfully request that pages 25-31 be stricken for all of the reasons set out above.

D. The Remaining Opinions Of Dr. Zamora Relating To Student Performance Are Either Not Opinions *Requiring Special Knowledge To Assist The Court In Understanding The Evidence Or Determining A Fact Issue Or Are Unreliable.*

Only two sections of Dr. Zamora's Report remain. First, there is a series of figures 2-4 which are graph depictions of ELL and Comp Ed students' performance, as compared to non-ELL and non-Comp Ed students' performance, at the Advanced and Unsatisfactory levels on the STAAR May 2013 exams in English Reading. Ex. A, pp. 17-20. Second, Dr. Zamora opines that the Edgewood Plaintiff districts cannot implement "best practices" because of inadequate funds. He maintains this opinion based on a review of these districts' "interest in implementing best practices"³ and by examining how they have allocated ELL and Comp Ed allotment dollars for the last two years. See Ex. A, pp. 21-24.

The first remaining section is information readily accessible on publicly-available state reports on the TEA website. It is no aid to the Court to have an "expert" report replicate the state reports containing identical information. Texas Rule of Evidence 702 provides that an expert may testify *if specialized knowledge will assist the trier of fact* to understand the evidence or determine a fact issue. Here, that condition is not met for the section of Dr. Zamora's Report related to STAAR performance. As such, this Court should strike Dr. Zamora as an expert because his testimony related to the STAAR performance will not aid the trier of fact.⁴

³ Dr. Zamora testified that although he did not read any of the other expert reports in this matter, he relied on the draft findings to identify what are best ELL practices as part of his report. Exhibit C (49:4-20).

The second remaining section is not reliable. While Dr. Zamora summarily concludes that the districts just do not have the money to implement best practices, he does not engage in the work necessary to reach such a conclusion. Dr. Zamora admits that two of the five Edgewood Plaintiff districts may not have provided complete survey responses. Ex. C (33:20-22). He also noted that for the districts that provided incomplete survey responses, he does not know if the blanks on the survey responses were because the district lacked the information or just failed to provide it. Ex. C (35:14-18). He also admits that he did not engage in any sort of review of the districts' expenses to determine if they were allocating their resources appropriately. Ex. C (175:9-18). Therefore, his conclusions about what districts do and do not have money for illustrate the type of analytical gap that Texas courts find is not reliable. *See Gammil*, 972 S.W.2d at 727. For all of these reasons, this Court should strike Dr. Zamora as an expert regarding these remaining two issues. To the extent that Edgewood Plaintiffs offer Dr. Zamora's Report as evidence for the Court's consideration on these two issues, Defendants also respectfully request that pages 17-24 of his report be stricken for all of the reasons set out above.

III.

CONCLUSION & PRAYER

Edgewood Plaintiffs cannot carry their burden to establish by a preponderance of the evidence that Dr. Zamora is qualified to offer the opinions he does and that this opinions are reliable and admissible under Rule 702. Defendants respectfully request, for all of the reasons described that the Court strike Dr. Zamora and exclude him as an expert.

Respectfully submitted,

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CERTIFICATE OF CONFERENCE

On December 23, 2013, the undersigned counsel certifies that I conferred via e-mail with Edgewood Plaintiffs' counsel and she opposes Defendants Motion to Strike Edgewood Plaintiffs' Expert Dr. Roberto Zamora.

/s/ Amanda J. Cochran-McCall
SHELLEY N. DAHLBERG
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Unofficial copy Travis Co. District Clerk Velda L. Price

CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of December, 2013, I forwarded the foregoing document to all known counsel of record via email and/or by uploading to an FTP secure site:

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Impact of Senate Bill 1, HB 1025 and House Bill 5

Roberto Zamora, Ph. D.

10/14/2013

Unofficial copy Travis Co District Clerk Verna L. Price

EXHIBIT A

Introduction

This expert report is provided at the request of the Edgewood Plaintiffs. I am currently a Lecturer at the University of Texas at Edinburg. My qualifications includes an earned doctorate in Educational Administration from the University of Texas at Austin and a master's degree from The University of Texas, Pan American in Edinburg, Texas. I have earned the following professional certificates issued by Texas State Board for Educator Certification: Superintendent (PK-12), Mid-Management Administrator (PK-12), Supervisor (PK-12), Secondary Biology (6-12), and Secondary Chemistry (6-12).

My professional experiences include serving as a junior and high school science teacher, elementary school principal, junior high and high school assistant principal, high school principal, assistant superintendent for curriculum and instruction, and superintendent. At the regional level, I have served as Director for Administrative Services at Region XX Education Service Center in San Antonio, Texas and as Deputy Executive Director and Executive Director of the Region One Education Service Center in Edinburg, Texas. At the state level, I have served as Executive Assistant to the Associate Commissioners for School Accreditation and Program Evaluation and as Executive Assistant to the Commissioner of Education. Other professional services include having served in numerous regional, state, and national committees.

My further qualifications and a list of my publications for at least the last seven years can be found in my attached *curricula vitae*. Dr. Maria Roberts, an Assistant Professor at the University of Texas at Edinburg, worked under my supervision and assisted me in the creation of this report. Her qualifications and publications can be found in her attached *curricula vitae*. I am being compensated for this report at the rate of \$150 per hour and Dr. Roberts is being compensated paid at the rate of \$100 per hour. I am available for deposition the dates of November 18-22, 2013. I have not served as an expert witness by trial or deposition in the previous seven years.

Background

Article VII, Section 1 of the Texas Constitution states: A general diffusion of knowledge being essential to the preservation of the liberties and rights of the people, it shall be the duty of the Legislature of the State to establish and make suitable provision for the support and maintenance of an efficient system of public free schools.

In *Neeley v. W. Orange-Cove Consolidated Independent School District*, 176 S.W.3d 746, 785 (Tex. 2005) (“*WOC IP*”) the Texas Supreme Court pointed out that “to meet the constitutional mandate of adequacy, Texas school districts must reasonably be able to provide all students with

a meaningful opportunity to achieve the academic standards set by the legislature.” (TT&SFC, p. 2)

This “*general diffusion of knowledge*” clause and the continuing quest by school districts for equity and adequacy in public school finance were central issues in *The Texas Taxpayer and Student Fairness Coalition vs. Michael Williams* case adjudicated in February 2013. Evidence was provided to and accepted by the 200th Judicial Court of Texas that demonstrated a dramatic increase in academic standards had occurred when the Legislature adopted “college and career readiness” as the learning expectations for all children. Also demonstrated was that while the academic standards were being increased and state assessments were becoming more rigorous, the legislature significantly reduced the level of funding provided to school districts to help students attain higher academic standards.

The reduction in funds resulted in districts having to cut back on staff and/or services needed to help students attain the academic standards set by the legislature. Seriously affected were the supplemental services provided to students with the most serious academic needs, the English Language Learners and economically disadvantaged students. The evidence demonstrated that implementation of full-day PK programs, tutorial services, extended day, extended year programs, and class sizes, among other programs and services, were acutely affected. All these transpired at a time when significant achievement gaps existed between economically disadvantaged students and non-economically disadvantaged students and between English Language Learners and non-English Language Learners.

After hearing testimony from school officials and expert witnesses and reviewing evidence submitted, the Court ruled in favor of the districts declaring the following, specifically to Edgewood Plaintiffs’ claims:

1. The current public school finance system is financially and quantitatively inefficient under Article VII, Section 1 of the Texas Constitution;
2. The current public school finance system is constitutionally unsuitable and inadequate for the provision of the general diffusion of knowledge for low income and English Language Learner students under Article VII, Section 1 of the Texas Constitution;
3. Low wealth districts like the Edgewood Districts have been forced to tax at or near the cap of \$1.17 merely to fulfill State mandates and no longer have meaningful discretion in setting their tax rates, so as to constitute a statewide ad valorem tax. (*Judge Dietz decision, TT&SFC v. Williams*)

Report

By the conclusion of the 83rd legislative session in progress when the Court's decision was rendered, the legislature enacted legislation that provided additional funds to districts and seemingly reduces some academic requirements in the future, most of which pertain to high school students – course requirements, assessment requirements and graduation requirements.

This report provides an analysis of the financial and programmatic impact these legislative actions will likely have on the Edgewood Plaintiff Districts: Edgewood ISD, Harlingen ISD, La Feria ISD, McAllen ISD and San Benito ISD, in school years 2013-2014 and 2014-2015.

First, the impact of the General Appropriations Act, SB 1, considering reductions in funding experienced in the last biennium, will be presented. To do this, a comparison of funds received per WADA by the Edgewood districts in 2010-2011 and revenues projected to be received per WADA in 2013-2014 will be displayed. Changes in amounts received per WADA will be noted. The Consumer Price Index will be used to determine the impact of inflation between amounts received per WADA in 2010-2011 and the amount projected to be received in 2013-2014.

Second, the potential impact of HB 5 on the school districts will be examined. Attention will be devoted to changes in graduation requirements, assessment requirements, and the accountability system standards. How these changes may impact learning expectations and efforts to close the achievement gap between English Language Learners and non-English Language Learners and economically disadvantaged students and non-economically disadvantaged students will be examined. Additionally, other HB5 requirements that may have financial implications for districts will be highlighted.

Third, the impact of SB1 and HB 1025 on the funding allocations for English Language Learners and economically disadvantaged students, and the ongoing achievement gaps among these student groups and their counterparts first demonstrated during trial and now supplemented with the latest achievement data, will be reported. Focus will be given to determine if changes have occurred that will help districts sufficiently address the educational needs of these students, as described in the prior litigation. Potential costs for funding best practices previously presented to the court will be examined compared to the funds generated by the weights assigned to each program under the new legislation are a focus of this report.

Methodology

Information for this report was procured from four principal sources: survey responses from the Edgewood school districts, Texas Education Agency (TEA) website, case documents pertaining to the *Texas Taxpayer & Student Fairness Coalition (TT&SFC) vs. Michael Williams*, Commissioner of Education in his official capacity, Susan Combs, State Comptroller of Public

Accounts in her official capacity, and the State Board of Education; plus, research on effective school practices pertaining to English Language Learners and economically disadvantaged students as related to the prior litigation in this case. This information was analyzed as more specifically detailed below and is based on research in the field and on my personal experience and expertise in the field of education.

District Information Requests

A survey requesting budgetary and instructional program information was designed to collect information from districts. Of interest was determining the financial and programmatic impact of SB 1 and House Bill 5 (HB 5) enacted by the 83rd Legislature in 2013 on the Edgewood Plaintiffs. The survey was delivered and discussed with district staff, usually the Superintendent, an administrator from the Finance Office and an administrator from the Curriculum and Instruction Office. Due to type and amount of information requested, district staff was asked to respond as best possible to the survey items and questions.

The survey items and questions were designed to provide a comparison of the 2012-2013 and the 2013-2014 budgets. Emphasis was given to determining how state Bilingual Education/ESL (BE/ESL) and State Compensatory Education (SCE) funds were used in 2012-2013, how these funds will be used in 2013-2014 and to ascertain what changes in services will be implemented as a result of HB 5.

A second request for information was made to collect student performance data and additional Bilingual Education/ESL and State Compensatory Education Programs budget information. Student performance data was requested to determine grade levels or school levels where the performance of English Language Learners (ELLs) and economically disadvantaged students (EDs) may require the most attention. Data was also analyzed to determine if a pattern emerges giving insight into how funds may be best allocated to address the needs of ELLs and EDs. This request also asked districts to submit their overall district budget and the BE/ESL and SCE program budgets for the 2012-2013 and 2013-2014. The purpose of this request was to enhance our understanding of the districts' efforts to serve ELL and ED students in the year 2013-14, and whether, the additional funds provided in the 83rd Legislature coupled with the programmatic changes in statute, are expected to impact positively the educational services provided to these student populations.

Texas Education Agency Website

Three Texas Education Agency units were accessed for current information pertinent to this report: Funding, Testing/Accountability and Curriculum. Historical financial data such as the most recent Summary of Finances reports and districts' budgets were obtained from the Funding website. Recent statewide student performance data was accessed from Testing and Accountability. The primary purpose of these data was to ascertain the updated performance of ELL students and economically disadvantaged students. Curriculum information was acquired

from the Curriculum website. The primary purpose of these data was to ascertain possible programmatic and financial implications of HB 5 on districts and ELL students and economically disadvantaged students.

Financial Impact of SB 1

The General Appropriations Act, SB 1 and the Supplemental Appropriations Act HB 1025 added approximately \$3.4 billion dollars to the Foundation School Program. SB 1 also added \$419.3 million/year for the Instructional Materials Allotment, \$25.25 million/year for the Student Success Initiative and \$15 million of supplemental funding for pre-kindergarten programs.

Table 1.1 displays the amount of revenues per Weighted Average Daily Attendance (WADA) received by the Edgewood districts in 2010-2011 and the amounts projected to be received in 2013-2014. The amounts listed for 2010-2011 are amounts previously entered as evidence in *Texas Taxpayer & Student Fairness Coalition vs. Michael Williams* (2013). An examination of the data, without considering the impact of inflation, shows that three districts will be getting an increase in revenue ranging from \$162 to \$221 per WADA. One district will lose \$96 and one will lose \$109 per WADA. A second view of the data, considering a 7.3% CPI inflation rate for the period between 2010 and 2013, indicates a different picture. When this inflation rate is applied, the data shows all Edgewood Plaintiffs lose revenue per WADA. Losses per WADA range from \$188 to \$515 per district. Translating revenues received into "buying power", districts are able to purchase less, hence do less, with the revenues to be received in 2013-2014 than what they were able to purchase and do in 2010-2011.

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Table 1
District M & O Revenue per WADA

Edgewood Plaintiffs M & O Revenue per WADA from 2010-11 thru 2013-14							
District	2010-11 Final	Adjusted for Inflation*	2013-14 Projected	Difference 2011 & 2013	Difference Due to Inflation	2013-2014 WADA	Losses Due to Inflation
Edgewood	\$5,809	\$6,230.47	\$6,030.00	\$221.00	-\$200.47	14,744,425	-\$2,955,814.88
Harlingen	\$5,404	\$5,796.09	\$5,608.00	\$204.00	-\$188.09	24,424,281	-\$4,593,963.01
La Feria	\$5,559	\$5,963.23	\$5,450.00	-\$109.00	-\$512.23	4,909,817	-\$2,514,955.56
McAllen	\$5,777	\$6,196.15	\$5,681.00	-\$96.00	-\$515.15	32,025,243	-\$16,497,803.93
San Benito	\$5,842	\$6,265.86	\$6,004.00	\$162.00	-\$261.86	14,770,819	-3,867,886.66

*2010-2011 amounts are adjusted for inflation between 2010 & 2013 using the CPI index of 7.3%.
*2013-2014 amounts are estimates provided based on TEA projections

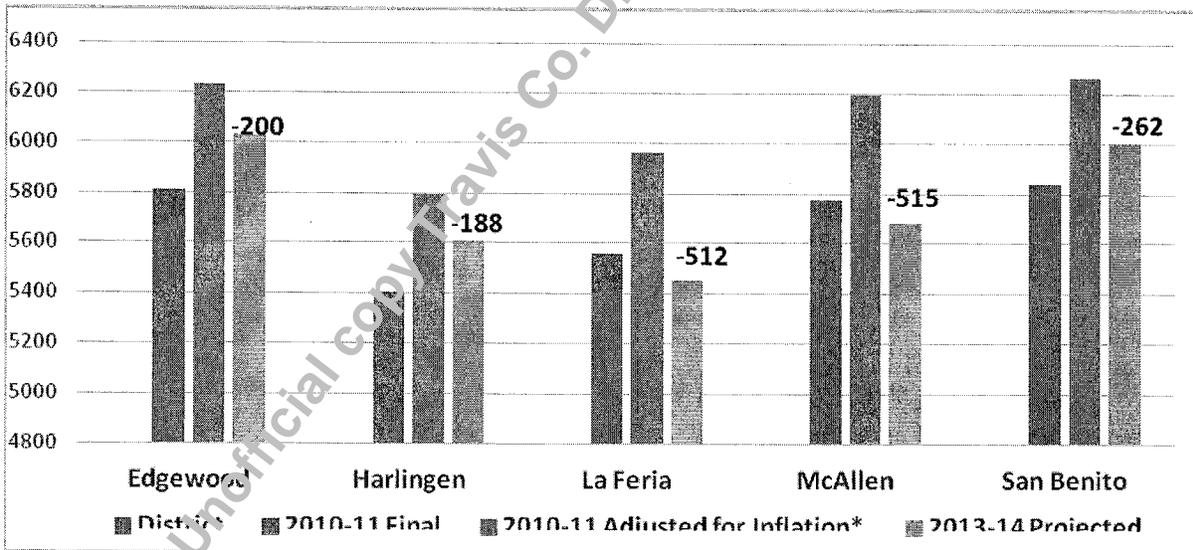


Figure 1 Graphic view of revenue losses per WADA due to inflation.

Impact of House Bill 5

House Bill 5 was reviewed to determine how it impacts graduation requirements, curriculum, assessment and accountability. The major impact of House Bill 5 was in graduation requirements and administration of End-of-Course assessments at the high school level. Adoption of the Foundation High School Plan decreases the number of courses required to graduate from 26 credits in the Recommended High School Plan and the Distinguished Achievement Plan to 22 credits. However, deletion of courses does not diminish the state's emphasis on graduating students ready for post-secondary education and for a career. The number of assessments required for graduation has been reduced to five (with the former ELA-Reading and Writing EOCs being combined into a single ELA EOC). This action is expected to reduce the amount of time for test preparation, testing and remediation compared to future years under the former requirements but it provides little relief to school districts compared to the current evidentiary record. First, four of the five EOCs (with the ELA I Reading and Writing now combined into one ELA course) presented during trial are still required under HB 5. The one EOC no longer required to be administered under current law, World Geography, also yielded the lowest remediation rates among the districts. Second, the future changes in required curriculum for graduation, assessment, and accountability do not eliminate the need to continue to examine student learning needs and to design curriculum, instruction and assessment interventions essential in the education of all students in order to prepare those students to be college and career-ready upon graduation.

It is important that changes brought about by House Bill 5 be examined to determine the possible financial impact and other implications it may have on districts as HB 5 requirements are implemented. Specific elements and their impact are addressed next.

Table 2

Possible Impact of House Bill 5

CURRICULUM

HB 5 Elements The Foundation High School Program - Graduation Requirements	Impact on School Districts
<p>Eliminates Algebra II requirement, a course previously required under the Recommended High School Program (RHSP) and Distinguished Academic Program (DAP); reduces social studies courses required from 4 to 3; allows students to substitute computer programming languages for the second Languages Other than English (LOTE) credit; eliminates Speech as a required course.</p>	<p>The default graduation plan under HB 5 reduces the <i>prescribed</i> courses students need to graduate but does not diminish the state's goal that students graduate prepared for post-secondary education and/or a career.</p> <p>While courses required for graduation may change the need to employ teachers for certain courses, resources needed to teach other courses is either not altered or may even increase.</p>
<p>Foundation School Program Requires Algebra II course be available to each high school student in the district beginning with the 2014–2015 school year. The SBOE ultimately will establish course requirements and those requirements could be equally or more rigorous; the top ten percent eligibility is contingent upon taking Algebra II</p>	<p>Initiating a computer programming class will require that districts develop the course, employ teachers, provide staff development, provide the required facilities, provide computers, software, and other essential supplies and materials.</p> <p>Some districts experience shortages of math teachers. To be competitive districts provide sign up incentives and pay stipends to recruit and retain math teachers.</p> <p>Because a course equal in rigor to Algebra II is required to be developed, and because students wanting to remain eligible for automatic admissions under the Top Ten Percent law must enroll in Algebra II, no major impacts on school districts like the Edgewood districts are expected under this provision.</p>

Requirement to provide Endorsement(s)

Establishes endorsements in five areas – STEM, Business and Industry, Public Services, Arts and Humanities, and Multidisciplinary. Districts must offer at least one endorsement (Multidisciplinary Studies). This requirement begins in the 2014-2015 school year.

Choices available to students may be dependent upon the financial resources, facilities and staff available to the district.

Should districts offer more than one endorsement, districts that have not been providing courses pertinent to these endorsements will need funding to implement courses needed.

Students enrolled in schools with existing facilities, staff, and resources needed to fulfill endorsement requirements will have an advantage over other students in districts without such.

Provisions need to be instituted that will ensure students are not “tracked” in ways that may be detrimental to their learning and future success.

CTE Certification Exam

Requires districts pay for the cost of the Certification Exam(s) to be taken by students and then request reimbursement from the state.

Districts rather than the students will pay for the cost of the Certification Exams before reimbursement.

College Preparatory Courses:

Districts *must partner* with at least one institution of higher education (IHE) to develop and provide college preparatory courses in English Language Arts and Math. These courses must be provided at the school, through distance learning or online.

Changes to graduation requirements, as per HB 5, have not changed the emphasis on districts offering and students taking College Preparatory classes. Districts currently offering such programs will have an advantage over districts having limited resources. Districts having an IHE in their district, or close to the district, will have an advantage over those that do not.

Funding may be needed for teacher salaries, facilities, meetings for course development, instructional materials and possible transportation for students.

Students who are enrolled in districts having the resources needed to offer these courses will have an advantage over other students.

Personal Graduation Plan (PGP)

Requires high school principals to identify a counselor or administrator to review and discuss, with the parent or guardian of each student entering the ninth grade, PGP options, endorsements available and distinguished level of achievement. The parent or guardian must confirm and sign the PGP for the student by the end of the school year.

Funding for additional counselors or administrators to develop and establish personal graduation plans with every ninth grade student. Time for meeting with parents/guardians will be important. Bilingual counselors or persons who can serve as translators will be needed.

Districts will need to provide the information in English and Spanish under HB 5 and may be required to provide the same in other languages under other laws.

A strong Parental Involvement component will be required to ensure that parents are involved in a meaningful manner.

Minimum Attendance Requirements

Effective with the 2013-2014 school year, it will be required that students enrolled in any grade level K-12 must be in attendance for at least 90 percent of the time the class is offered in order to earn credit or a final grade for the course.

If students in lower grade levels are retained, funding for more teachers will be needed.

This requirement will impact district placement and promotion and retention policies. Retention and repetition of courses when students who are unable to earn a grade due to absences can be costly to the district and state. Retention of students increases the probability for dropping out.

Provisions need to be made to respond to students who enroll in school after the school year starts or who must leave school before the end of the school year.

Counseling Requirements

Counselors will be expected to counsel all students about the importance of post-secondary education.

A review of counselors' roles and responsibilities will be needed. Revision of responsibilities may suffice; however, this requirement may lead to additional expenses.

ASSESSMENT

Assessments

The number of End-of-Course (EOCs) assessments required at the high school level have been reduced to five (with the prior ELA I & II Reading and Writing EOCs being combined into one ELA I and one ELA EOC). Effective with the 2013-2014 school year, satisfactory performance on the following exams will be required for graduation: English I, English II, Algebra I, Biology and U.S. History.

Scale scores needed for passing each test are to be determined.

Assessments requirements remained the same at the elementary and middle schools.

Reducing the number of tests decreases the amount of time required for testing and test preparation, although no major impacts are expected compared to the years 2011-12 and 2012-13 because many of the same EOCs in effect during trial remain.

Vigilance must be provided to ensure the learning needs of these students continue to be targeted because the rigor of the existing EOCs remains and low performance scores by ED and ELL students continue.

Tutoring and Test Preparation

School boards are required to adopt and enforce a policy that limits time students may be removed from a class for remedial tutoring or test preparation to less than 10% of instructional day.

Funding for tutoring and test preparation will need to be provided outside the school day before or after school, on Saturdays, and during the summer. Additional funds are needed when interventions are provided outside the school day.

Accelerated Instruction

Districts must provide Accelerated Instruction to high school students who are not successful on the EOC exams. Instruction must be provided at no cost to the students. Districts must set aside state compensatory education (SCE) funds and adopt a budget for this purpose.

Funding will be needed for teachers, for materials, and for transportation for possible extended day, week, and year.

At-Risk Students

The age of students considered “at-risk” for dropping out of school is increased from 21 to 26 years. These students will be eligible for SCE funds.

Teachers, facilities, materials and resources will be needed to serve students who remain eligible for a longer period of time.

This requirement will increase the need for additional SCE funds. Since these students may have greater needs than other students, programs and interventions required will be more expensive. This will impact the funds available to serve other “at-risk” students currently being served.

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ACCOUNTABILITY

Student Achievement Indicators

Three new achievement indicators will be added beginning with the 2013-2014 school year:

1. % of students completing the distinguished level of achievement;
2. % of students completing an endorsement; and
3. Three additional indicators of student achievement, which must include either:
% of students completing the TSI college readiness benchmarks in reading, writing and math

OR

Number of students that earn at least 12-plus or 30-plus hours of post-secondary credit, an associate's degree, or an industry certification.

Current STAAR results indicate the performance levels of English Language Learners and economically disadvantaged students is lower than the performance levels of their counterparts. There is an ongoing need for increasing the rigor of the curriculum delivery and increasing the need for providing interventions for students in grades pk-12, especially ELL and ED students.

Adding these student achievement indicators will require schools to offer students the opportunities to more rigorous courses.

This has implications for staffing needs; master's degrees will be needed to teach dual/concurrent enrollment courses.

Community and Student Engagement Accountability System

This system will require that each district report to TEA and make available to the public a self-evaluation of the district and each campus related to community and student engagement.

Funding needed to conduct needs analysis, plan, implement, and evaluate indicators with community involvement.

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Special Accreditations Investigations

The Commissioner shall authorize special investigations when:

1. a significant pattern of decreased academic performance has developed as a result of the promotion in the preceding two school years of students who did not perform satisfactorily;
2. excessive numbers of students eligible to enroll fail to complete an Algebra II course;
3. a disproportionate number of students of a particular demographic group is graduating with a particular endorsement; and when
4. an excessive number of students is graduating with a particular endorsement.

Schools must pay attention to these achievement expectations by providing the supports and interventions needed.

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Impact of Senate Bill 1 on Bilingual Education/ESL Allocations

To determine the impact of Senate Bill 1 on Bilingual Education/ESL allocations, allocations for each of the plaintiff districts were acquired from the Districts' Summary of Finances available on the Texas Education website. The adjusted basic allotment provided on the reports for the school years 2010-2011 and 2013-2014 was used to determine the financial impact. The report for the 2010-2011 school year was a final summary. The report used for 2013-2014 provided a projected adjusted allotment per WADA amount.

Due to prior litigation focusing on the significant budget cuts made during the 82nd legislative session, examining the changes between 2010-2011 and 2013-2014 were determined to be appropriate. Another factor deemed appropriate for consideration was the inflation rate which had been experienced between 2010 and 2013. The impact of the inflation rate was determined by using the U.S. Consumer Product Index (CPI), which was also used during the prior litigation. The results are displayed in Table 3.

The data show that there was a slight overall increase in the per ADA allocations between 2010-2011 and 2013-2014. When the inflation rate is applied to the per ADA allocations, there is a slight difference. The column headed "Differences Due to Inflation" provides the loss of purchasing power each district will experience as a result of inflation. Given the challenges of educating English Language Learners as determined in the prior litigation, losses due to any reason will have a great impact on programs and services provided.

Table 3

Bilingual Education/ESL Allocations per District

Bilingual Education/ESL Allocations Per District Summary of Finances						
	2010-11	Adjusted for Inflation*	2013-14	Difference Due to Inflation	LPE ADA BE/ESL	Differences Due to Inflation
Edgewood	\$527	\$565	\$548	-\$17	1,848	-\$31,416
Harlingen	\$522	\$560	\$542	-\$18	2,290	-\$41,220
La Feria	\$500	\$536	\$517	-\$19	421	-\$7,999
McAllen	\$534	\$573	\$555	-\$18	6,262	-\$112,716
San Benito	\$518	\$556	\$538	-\$18	2,108	-\$37,944
State	\$524	\$562	\$545	-\$17		

*2010-2011 amounts are adjusted for inflation between 2010 & 2013 using the CPI index of 7.3% and projected to 2013-2014.

Impact of Senate Bill 1 on Compensatory Education Allocations

To determine the impact of Senate Bill 1 on Compensatory Education allocations, the sources used to determine the Bilingual/ESL allocations were used. The same process was used to determine the financial impact. The results are displayed in Table 4. The adjusted basic allotment are the same for each district, but the values are doubled due to SCE having a .2 weight and bilingual/ESL having a .1 weight. The differences due to inflation are more noticeable and will have more impact because of the larger number of students eligible for compensatory education funds.

Table 4

CSE Funding Allocations for Plaintiff Districts

Compensatory Education Allocations for Each District Summary of Finances

	2010-2011	Adjusted for Inflation*	2013-2014	Difference Due to Inflation	2013-2014 LPE ADA SCE	Differences Due to Inflation
Edgewood	1,054	1,130	1,095	-35	10,506	-367,710
Harlingen	1,043	1,119	1,084	-35	15,655	-547,925
La Feria	1,000	1,073	1,034	-39	3,377	-131,703
McAllen	1,068	1,145	1,109	-36	17,550	-631,800
San Benito	1,035	1,110	1,076	-34	10,234	-347,956
State	1,055	1,132	1,096	-36		

*2010-2011 amounts are adjusted for inflation between 2010 & 2013 using the CPI index of 7.3% and projected to 2013-2014.

Student performance data from the state substantiate that a significant performance gap continues to exist between English Language Learners and Non-English Language Learners and between Economically Disadvantaged and Non-Economically Disadvantaged students.

Four of a set of sixteen graphs are displayed below as Figures 1, 2, 3, and 4 to point out the achievement gap. The percent of students scoring at the Advanced Level and the Unsatisfactory Level are provided. A similar pattern emerges when the mathematics data is examined. Additional graphs depicting reading and math performance are provided in the appendix.

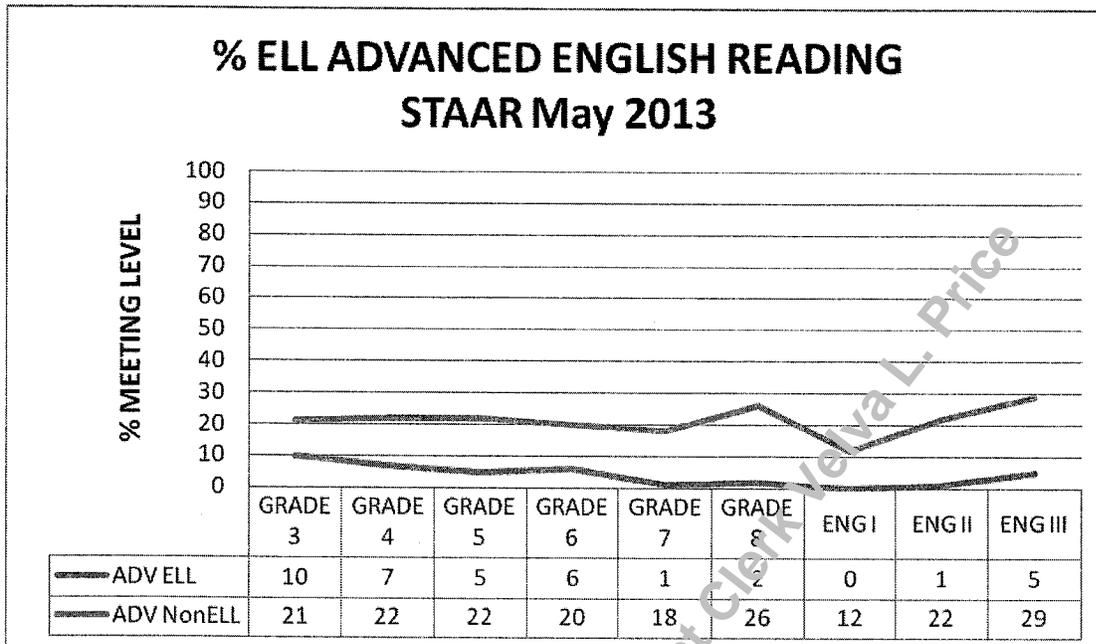


Figure 2. ELL achievement results.

Data displayed in Figure 2 show the percentage of students scoring at the Advanced level on the STAAR English Reading Assessment administered in May 2013. The percent of ELL students scoring at the advanced level decreases as they progress through the grades. This has implications for funding and implementation of best practices previously presented to the court.

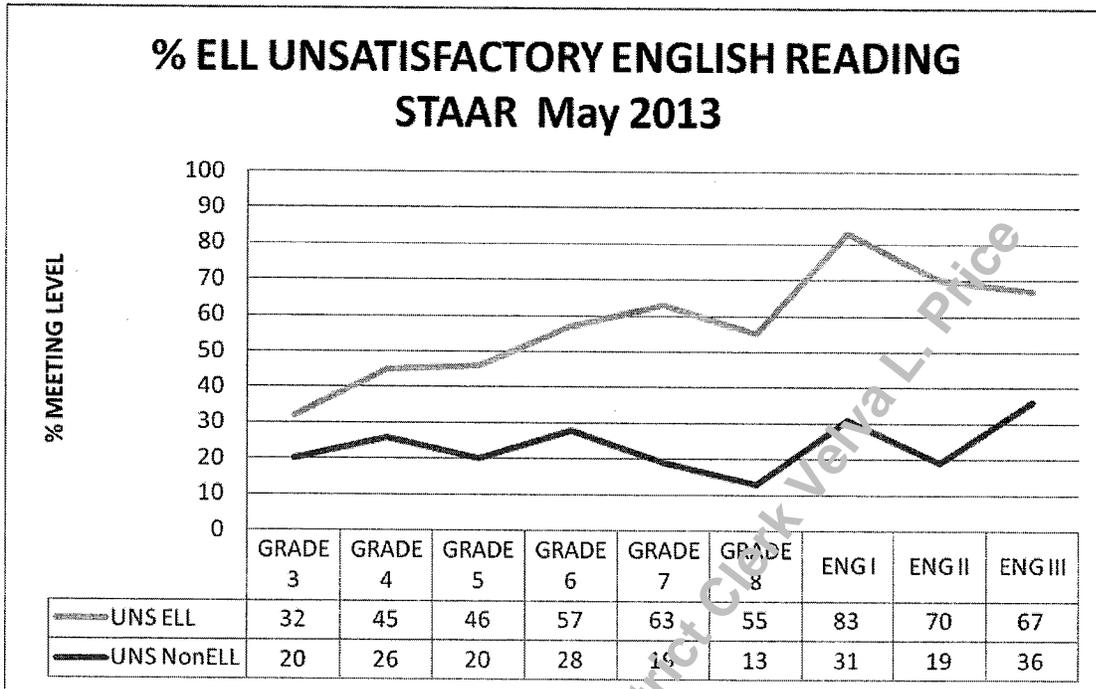


Figure 3.

Figure 3, presented displays the percent of ELL and non-ELL students who scored at the Unsatisfactory on the same test. The achievement gap is more pronounced and widens as students move from 3rd grade to high school. The implications for funding and implementation of best practices are further supported by these results.

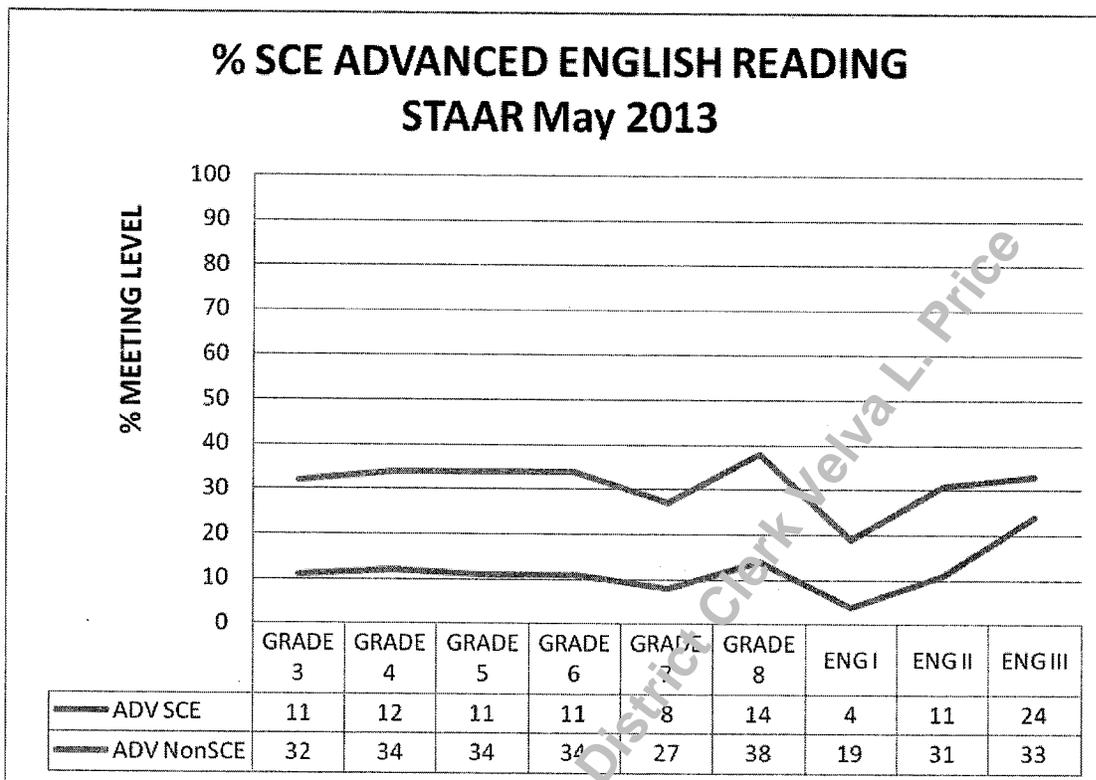


Figure 4. Graph of SCE student performance at the Advanced Level.

Student performance results for the Economically Disadvantaged, indicated as SCE on Figures 4 and 5, show the existing achievement gap based on the English STAAR Reading Assessment administered May 2013. While the performance of the Economically Disadvantaged may be slightly higher than the performance of the English Language Learners, their performance is still well below the performance of the non-Economically Disadvantaged students. Figure 4 shows that in grades 3 through 8, the gap for the students scoring at the Advanced Level ranges between 19 and 24 points. Between 9th and 11th grade, the gap ranges between 9 and 20 points.

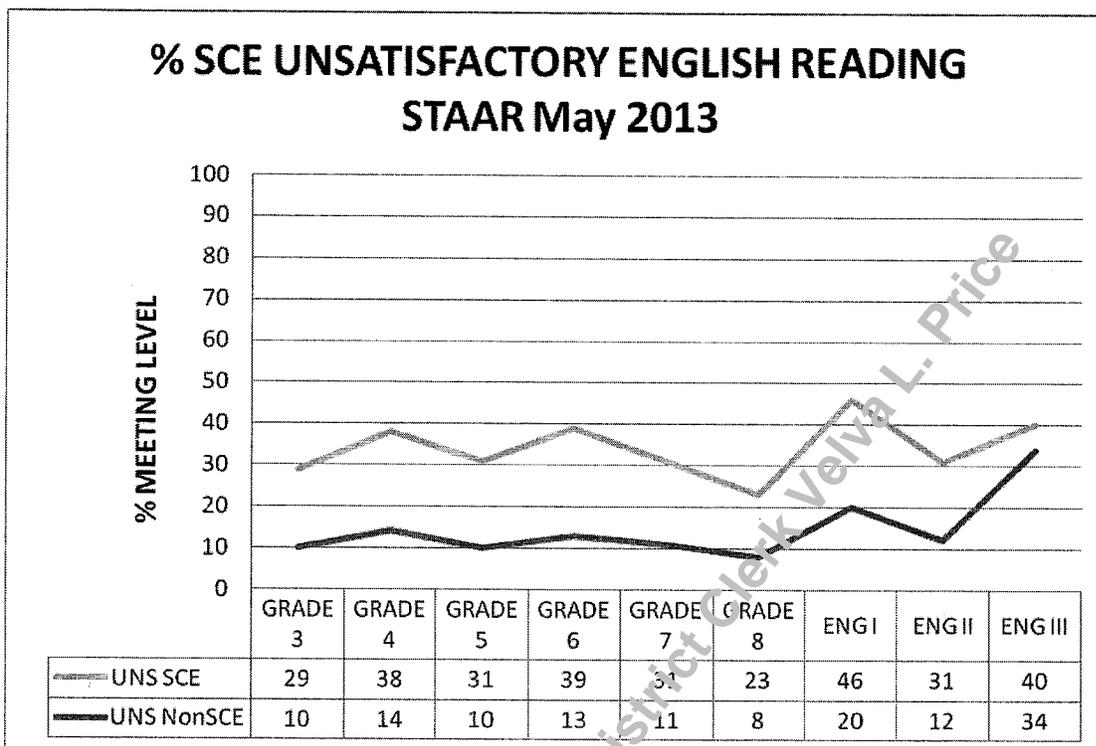


Figure 5. Graph of SCE student group performing at Unsatisfactory level.

Figure 5 provides the percent of SCE students scoring at the Unsatisfactory level ranges from 29 to 46 percent. The highest level of unacceptable performance for the Economically Disadvantaged occurs at the high school: English I- 46%, English II-31%, and English III 40%. Again, this has implications for examining current practices and interventions being provided and needed system wide.

After reviewing the more recent student performance data, one may conclude that it remains imperative that current practices be evaluated against best practices and that determinations be made regarding funding requirements for ELLs and Economically Disadvantaged students. In evidence presented to the court, it was pointed out that the program weight allocated in the Foundation School Program has been in existence since 1984. In light of the student performance results, the existing achievement gap, and the minimal increases in per WADA allocations that resulted from the 2010-2011 to 2013-2014, it is imperative that the state revisit the weights currently assigned to these two student groups and align the weights with the actual cost of providing ELL and ED students the educational opportunities they need to meet the rigorous standards in Texas.

Potential Costs for Funding Best Practices Previously Presented to Court

Funding Best Practices

Evidence previously presented to the court has shown “that money spent well matters” (TT & FFC V Williams, FOF p. 60). State’s expert witness, Dr. Michael Podgursky, testified that “ 1) resources are required to provide a quality education to students, 2) poverty has a significant impact on learning and low-income students are more costly to educate, and 3) additional resources may be required as the state increases its expectations for students (12/12 TR.at 96-99)”.

Also presented to the court have been best practices essential to increasing the success of ELL and economically disadvantaged students. Among those practices are: 1) providing extended time for learning—extended day, extended week, extended year/summer school, 2) quality professional development—specifically targeting the needs of ELL and ED students, to include academic coaching, use of content curriculum specialists, and certification processes that will ensure learning and implementation of skills necessary to deliver quality instruction, 3) reduction in class size, 4) quality Pre-Kindergarten programs, 5) guidance and counseling, 6) parental outreach and 7) high-quality materials and technology. It is important to note that the educational needs of ELLs and economically disadvantaged students are not wholly synonymous.

Implementing these practices by the Edgewood plaintiffs is not a matter of not wanting to, but a matter of not having adequate funding to provide them and that situation does not appear to have changed as a result of the legislation passed by the 83rd Legislature. Feedback received from the plaintiff districts indicate interest on their part to implement practices that will best serve their students.

In Edgewood, the district is adjusting their pre-Kindergarten program to create more student space and prevent over-crowding. Pre-K students have been moved to Headstart centers. Two campuses have lost their libraries, science lab, and teachers’ conference rooms to accommodate Pre-K students. Additional paraprofessionals have been hired to preserve teacher-student ratios. In addition, they are still unable to provide all of their Pre-K students access to quality, full-day programs due to lack of space.

Among the needs that Harlingen identified are extending Pre-K, providing quality, ongoing professional development, providing quality extended learning time/day/week/year, additional guidance and counseling, and dropout prevention.

La Feria stated that if additional dollars were to be allotted to Bilingual Education, the money would be used for summer programs, instructional coaches (1 per campus), updating computers, employing a consultant to provide sheltered instruction training and quality professional development for teachers, and for providing quality instructional resources.

In McAllen, several positions were frozen due to shortage of funds. Efforts were made to keep all positions by using other funds. In spite of these efforts, some positions remained unfilled. Additional monies are needed to: 1) employ and retain highly-qualified bilingual teachers, 2) increase bilingual stipends for all bilingual teachers at the elementary level in order to retain teachers, 3) offer quality extended day/year opportunities for all bilingual children, 4) reduce the teacher-student ratio of bilingual classrooms to 18:1, and offer the opportunity for teachers to acquire their master's degree in bilingual education to better serve English language learners.

San Benito shared a need for funding to increase the bilingual stipends for all bilingual teachers at the elementary level, to employ clerks to help with the Language Proficiency Assessment Committee (LPAC) documentation and other state record-keeping demands of the bilingual/ESL program, to improve the quality of instruction by providing quality staff development in differentiated instruction specific to English Language Learners, and for instructional coaches.

All districts expressed the continuing importance of providing quality full-day Pre-K programs for all of their eligible students.

Financial information was collected from these districts to determine how Bilingual/ESL and state compensatory funds are used. Budget information was requested for the 2012-2013 and the 2013-2014 school years. This was done to determine if any changes could be discerned related to how the funds were used from one year to the next. To determine the level of funding devoted to implementing some of the practices identified above, districts were asked to provide the amounts of bilingual education/ESL and state compensatory funds being used for these purposes. A summary of data received from the districts is displayed for each fund in Figures 6 and 7.

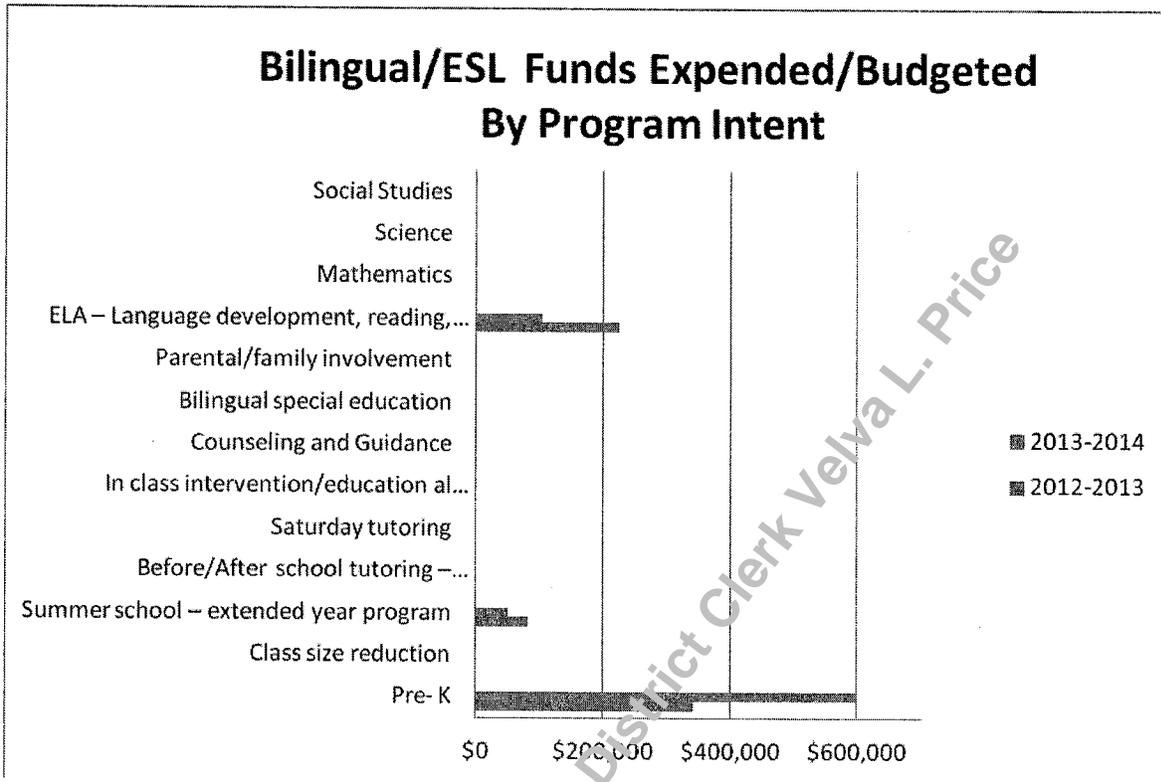


Figure 6. Graph showing expenditures of Bilingual/ESL funds.

Figure 6 displays the information for the Bilingual/ESL funds. It shows that the monies are being spent in three areas: the kindergarten program, summer school, and English Language Arts development programs. Additional monies are being used for Pre-K in 2013-2014. Less dollars are being used for summer school and to supplement English Language Arts instruction. It is clearly evident that funds are not available for other practices listed.

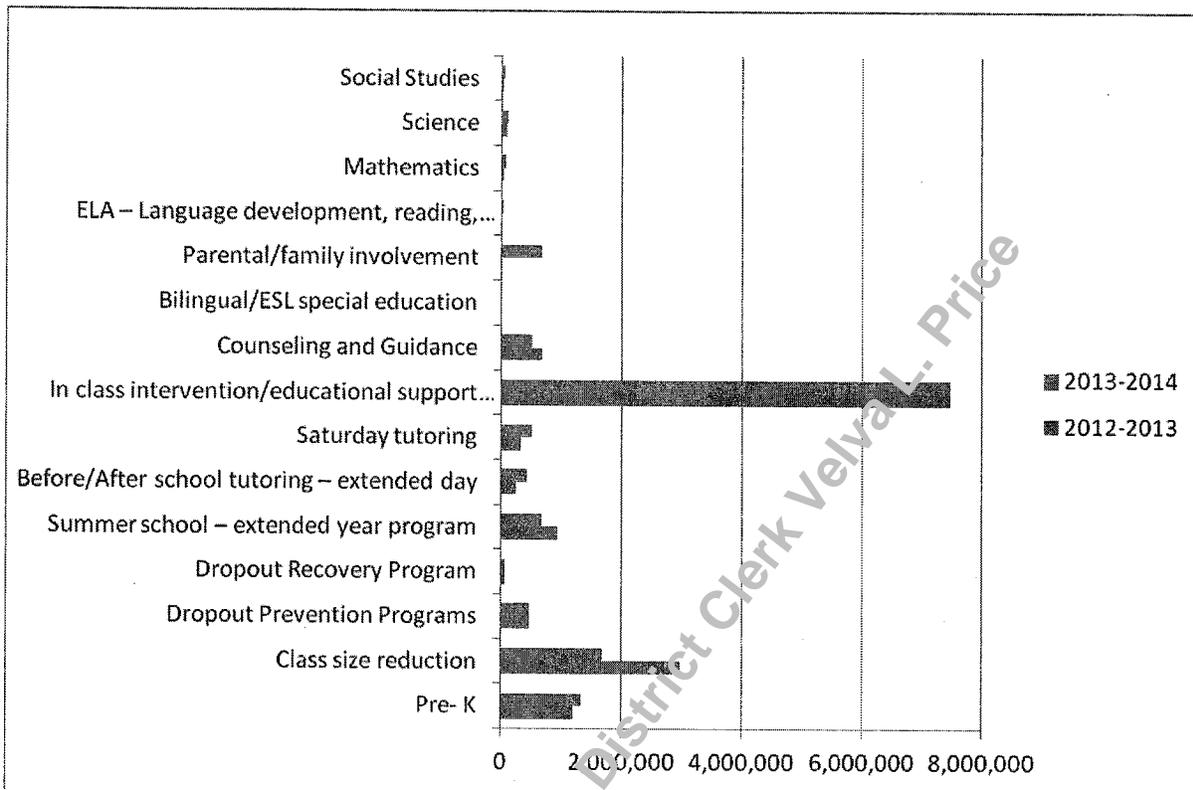


Figure 7. *Graphic representation of expenditures by programs/practices.*

Figure 7 shows expenditures of State compensatory funds. The funds are predominantly used to provide interventions and support in the classroom. Class size reduction and Pre-Kindergarten programs are also funded from this source. There is little change from one year to the next in the amounts used for classroom interventions. There has been a slight increase in the funds used for Pre-Kindergarten and a decrease in the amounts used to reduce class size. It is possible that funds appropriated for in-class interventions are being used for supplementing instruction in social studies, science, math, and English language arts. Also noticeable is that no funds are appropriated for bilingual/ESL special education and a minimal amount is used for dropout prevention and recovery programs. The data support the feedback provided by districts as previously noted. A graphic display of expenditures for these two sources by function and object are provided in the appendix.

Program Weights and Adequacy

By assigning weights to different programs, the state recognizes that different student populations have different needs. This approach to addressing differentiated student needs is used by states other than Texas. The weights assigned vary from state to state. The topic of weights is usually discussed when the issue of adequacy is brought to the forefront. The question is, "Are funds currently provided districts adequate to ensure districts offer educational opportunities that help students attain the learning expectations set by the state?" Delivering educational opportunities, including identified best practices needed by ELL and ED students, is crucial to the students' academic success. The best practices implemented by schools are highly dependent upon the funding available. Costs do make a difference.

The evidence in this case demonstrated that a highly qualified teacher and reduced class size can have a demonstrable effect on ELL and economically disadvantaged student performance. Accordingly, it is instructive to consider the costs for reducing class size in light of the funds available based on program weights. Essentially, what will it cost to reduce the class size from the current 22:1 to 17:1 in a typical school? How many ELLs and economically disadvantaged students will it take to fund additional teachers required to reduce class sizes, as per the research offered in this case (17:1), at current program weights? Do the current additional monies allocated under SB 1 and HB 1025 provide districts the resources necessary to reduce class size? To answer these questions, one elementary school was randomly selected and various options by which class size may be reduced were applied.

The following scenario using a randomly selected school from an Edgewood plaintiff district will demonstrate the investment required for six options a campus may choose from to reduce class size. The option(s) selected may be dependent on the number of students served and the weights assigned to the program. Consideration is given to having students who are bilingual (.1), economically disadvantaged (.2), and both (.3). Also included in the analysis was the impact of .4, .5, and .6 weights. These weights may be achieved by increasing current weights to bilingual/ESL and economically disadvantaged.

Option 1: Reduces class size to a 15:1 ratio in grades K-5.

Option 2: Reduces class size to 17:1 in grade K-4 and maintains the current class size for grade 5.

Option 3: Reduces class size to 15:1 in grades K-3 and maintains current class sizes for grades 4 and 5.

Option 4: Reduces class size to 15:1 in grades K-2 and maintains current class sizes for grades 3-5.

Option 5: Adds one class size reduction teacher in grades K-3 and maintains current class sizes for grade 4 and 5.

Option 6: Adds one Reading, one math, and one science content specialist for targeted interventions in each content area.

Table 5 shows the number of additional teachers required for each option.

Table 5

Sample Plaintiff Campus Enrollment and Teachers Needed Based on Chosen Teacher-Student Ratio

Sample Plaintiff Campus								
Grade Levels		K	1	2	3	4	5	Total
Enrollment		75	78	85	90	77	80	485
# Ts at 22:1 Class Size		3	4	4	4	4		18
# Ts at 25:1 Class Size							3	3
Total teachers for Campus K-5								22
# Ts at 15:1 Class Size		5	5	6	6	5	5	32
Add'l Ts at 15:1 for K-5	Option 1	2	2	2	2	2	2	11
Total Ts at 15-17 k- 4 CS-17		4	5	5	5	5	3	27
Add'l Ts at 17:1 for K-4	Option 2	1	1	1	1	1		5
Add'l Ts at 15:1 for K-3	Option 3	2	2	2	2			7
Add'l Ts at 15:1 for K-2	Option 4	2	2	2				5
Add'l 1 CSR 1 Teacher/grade K-3	Option 5	1	1	1	1			4
Add'l Ts needed: 1 M; 1R; 1Sc	Option 6							3

Table 6 shows the number of students that must be enrolled in the program(s) to generate the costs for the amounts needed to pay for the additional teachers required for each option. The average teacher salary varies from district to district based on teacher experience and district salary schedules. For the purpose of this scenario, an average teacher salary of \$54,500 is used. At this salary rate, 100 bilingual/ESL (.1) students enrolled in the program will generate the money required to pay one additional teacher. Fifty state compensatory (.2) students will generate money required to pay one additional teacher. Thirty-four students who are both bilingual/ESL and state compensatory (.3) will generate the funds needed for one additional teacher.

La Feria ISD enrolls 513 ELL students and receives \$255,801 in funds under the BE/ESL allotment to serve 513 students. At this rate they are able to fund 5 teachers for the entire district. This district receives \$3,229,652 under the SCE allotment to serve 3,241 ED students. At this rate, they will be able to employ 32 additional teachers for the district. If they were to decide to use all their funds for class size reduction, no funds would be available for any other purpose. Combining the funds from the two programs, La Feria would be able to employ 37 additional teachers, but would not have funds available to implement other best practices.

Edgewood receives \$1,012,219 in funds for the BE/ESL allotment and serves 1,848 bilingual/ESL students. At this rate, they are able to fund 18 additional teachers. This district receives \$11,508,069 under the SCE allotment to serve 10,506 ED students. At this rate it, Edgewood will be able to employ 105 additional teachers. Combining the funds forming the two programs, Edgewood would be able to employ 123 additional teachers.

Table 6 provides the number of students needed to fund a teacher at .4, .5, and .6 weights. Funding ELL programs at these levels would provide additional funds to reduce class size and allow leaders to implement other best practices.

Table 6

Options For Determining Number of Students Needed to Fund Given Number of Teachers

Options For Campus	Average T-s Salary	Cost for Add'l Teachers	Current Weights			Other Weights for Consideration		
			BE/ESL	SCE	Comb	0.4	0.5	0.6
			0.1	0.2	0.3	2180	2750	3270
			545	1090	1635			
Students needed to Fund Each Option								
Option 1	\$54,500	\$584,471.21	1072	536	357	268	213	179
Option 2	\$54,500	\$295,086.90	541	271	180	135	107	90
Option 3	\$54,500	\$379,187.88	696	348	232	174	138	116
Option 4	\$54,500	\$275,142.42	505	252	168	126	100	84
Option 5	\$54,500	\$218,000.00	400	150	133	100	79	67
Option 6	\$54,500	\$163,500.00	300	150	100	75	59	50

An inference that may be drawn from the scenario displayed in Tables 5 and 6, plus the description of the impact of reducing class size in these plaintiff districts, is that implementing any class size reduction option significantly depletes funds available to implement other complimentary best practices suggested in literature and in this case.

One district was selected to make this determination San Benito CISD. Total enrollment for each campus, enrollment by grade level, total number of students enrolled in bilingual education, and total number of economically disadvantaged students was acquired using the district's October 9, 2013 PEIMS Students Report.

The average teacher's salary for a teacher with 6-10 years experience at San Benito CISD, according to the 2011-2012 AEIS information was \$42,364. For the purpose of this scenario \$44,000 will be used. This will allow for salary increases and stipends since 2011-2012. The average teacher's salary will vary by district based on teachers' experience and the district's salary schedule. San Benito CISD generates \$5,180 per WADA. At the current weights, bilingual education students are applied a .1 weight which equals to \$518 per student. Economically disadvantaged students are applied a .2 weight which equals to \$1,036 per student.

At this average teacher's salary and a \$518 per WADA amount it requires 85 students to be enrolled in bilingual education classes at one school to generate the funds required to pay one teacher. Also, it requires that 43 economically disadvantaged students be enrolled in the school to generate funds needed to pay one teacher.

Both bilingual and state compensatory funds are supplementary funds and must be spent for programs and services beyond what regular operational funds pay. The use of bilingual funds is more restrictive since these funds may only be used to serve bilingual education students.

Table 7 displays all elementary schools in the San Benito Independent School District. Enrollment and number of students per grade level are shown. Also, the number of teachers needed -per grade level - at the current 22:1 class size and a 17:1 class size is provided. The additional number of teachers needed to reduce the class size to 17:1 is provided in column headed **Total CSR Teachers Needed**. The number of teachers that may be paid *for if all funds earned* by the number of students enrolled in bilingual education and the number of economically disadvantaged students enrolled on campus is provided in Column headed Total appearing under the cell titled **CSR Teachers Generated by**.

The Column headed **With Indirect Costs** displays the number of teachers that may be funded when indirect costs are deducted.

Results of the analysis indicate all campuses earn sufficient funds to pay for teachers needed if all bilingual and SCE funds are used to reduce class size. Restrictions on the use of bilingual funds would need to be lifted for these funds to be used in this manner. The supplemental nature of these funds makes it difficult for these funds to be totally allocated for this purpose and applied in this manner. Lifting restrictions would create other concerns which impede educational opportunities provided to these students. Expecting districts to use all funds for reduction of class size only, would negatively impact districts due to commitments being paid using funds presently being used for indirect costs

When the amount of indirect funds is considered, 5 campuses do not have sufficient bilingual and educationally disadvantaged students to earn enough funds to pay for teachers needed to reduce class size to 17:1 in grades K-4. These campuses are highlighted in Table 7.

Table 7

Bilingual/ESL and State Compensatory Enrollment and Generation of Class Size Reduction Teachers

Campus	Total Enr	# Bil	# SCE	PK	K	1	2	3	4	5	Total CSR Ts Needed	Total CSR Teachers Generated by			#Ts if Indirect
												Bil	SCE	Total	
Cash	604	119	355	52	97	88	80	85	92	124					
Teachers Needed at 22:1					5	4	4	4	5	5					
Additional Teachers at 17:1					1	1	1	1	0		4	1	8	9	4
Garza	392	104	319	40	71	47	55	71	58	45					
Teachers Needed at 22:1					4	3	3	4	3						
Additional Teachers at 17:1					1	0	1	1	1		4	1	6	7	3
Downs	468	25	267	44	51	66	63	79	79	74					
Teachers Needed at 22:1					3	3	3	4	4						
Additional Teachers at 17:1					0	1	1	1	1		4	0	5	5	2
Encantada	574	272	511	73	81	66	95	92	81	75					
Teachers Needed at 22:1					4	4	5	5	4						
Additional Teachers at 17:1					1	1	1	1	1		5	3	11	14	7
Landrum	330	80	282	62	35	37	59	44	46	41					
Teachers Needed at 22:1					2	2	3	2	3	2					
Additional Teachers at 17:1					1	1	1	1	0		4	0	6	6	3
La Paloma	471	201	357	56	49	72	82	57	69	75					
Teachers Needed at 22:1					3	4	4	3	4						
Additional Teachers at 17:1					0	1	1	1	1		4	2	8	10	5
Leal	523	258	457	38	75	78	85	90	77	80					
Teachers Needed at 22:1					4	4	4	4	5	4					
Additional Teachers at 17:1					1	1	0	0	1		3	3	10	13	6
Rangerville	402	128	351	28	53	75	57	61	64	64					
Teachers Needed at 22:1					3	4	3	3	3						
Additional Teachers at 17:1					1	1	1	1	1		5	1	7	8	4

Roberts	438	114	411	40	59	53	71	54	83	76					
Teachers Needed at 22:1					3	3	4	3	4						
Additional Teachers at 17:1					1	1	1	1	1		5	1	9	10	5
Sullivan	483	92	366	71	58	77	85	50	71	64					
Teachers Needed at 22:1					3	4	4	3	4						
Additional Teachers Nat 17:1					1	1	1	0	1		4	1	8	9	4
OLDF	438	140	368	49	55	66	72	64	66	65					
Teachers Needed at 22:1					3	3	4	3	3						
Additional Teachers at 17:1					1	1	1	1	1		5	1	8	9	4
Booth	589	171	488	68	79	105	82	87	71	94					
Teachers Needed at 22:1					4	5	4	4	4						
Additional Teachers at 17:1					1	0	1	2	1		5	2	11	13	6

An inference that may be drawn from the scenario displayed in Table 7, is that under current state rules regarding the use of bilingual and state compensatory funds is that this district, San Benito ISD, does not receive sufficient funds to reduce its class size to 17:1 in all its elementary campuses in grade K-4.

The evidence in this case demonstrated, however, that a comprehensive approach is needed to address the educational needs of ELL and ED students, which on top of reduced class sizes, includes high quality, ongoing professional development, small learning communities with mentoring opportunities, instructional materials and technology, high quality extended day programs and high quality pre-K programs, among others. For example, if districts were to put all of their SCE and BE/ESL monies in reducing class size for grades K-5, such would not impact the quality of Pre-K offered, nor would it provide the necessary instructional materials and technology for students in grades K-5. It also would not do anything to meet the educational needs of ELL/ED students in grades above K-5, such as offering high quality professional development and high quality extended day programs. The limited increased funding provided by SB 1 and HB 1025, for the Edgewood school districts falls far short of providing the resources necessary to implement best practices and provide reasonable, effective learning opportunities for ELL and ED students. This is due, in large part, to the State's failure to study and modify the SCE and BE/ESL weights to conform to best practices and the current standards.

Conclusion

Meeting the needs of special student groups is a daunting task that requires funding for the employment and development of quality teachers, quality instruction, and quality instructional resources. The achievement gap persistent throughout the twelve-plus years of school for English Language Learners and for economically disadvantaged students indicates that their learning needs are not being met. The weights being used currently do not provide sufficient funds to districts to effectively implement research-based practices.

There is no question that it is difficult to determine exactly the level of funding needed for an adequate education. What is certain is that an unacceptable achievement gap exists between the bilingual/ESL and non-bilingual/ESL students and the economically disadvantaged and non-economically disadvantaged students and that the resources currently provided by the State fall far short of providing those students with the educational opportunities they need to succeed. This situation does not appear to have changed with the key legislation enacted by the 83rd Legislature. With the ever-increasing student enrollment of English language learners and economically disadvantaged students, it is important that a highly concerted effort be made to ensure that districts have the resources needed to provide quality educational opportunities for these and all students of the state. An investment in our children is an investment worth making.

Unofficial copy Travis Co. District Clerk/County Clerk

Roberto R. Zamora Ph. D.

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Education

1977 – 79 PH. D. December 1979 University of Texas at Austin
Austin, Texas
Field of Study: Educational Administration
Dissertation: Information and Managerial Decision Making in a Governmental Agency
(The Texas Education Agency)

1974 – 77 Post Graduate Studies Pan American University
Edinburg, Texas
Educational Administration

Spring 1975 Post Graduate Studies Sul Ross State University
Alpine, Texas
Educational Administration

1973 M. Ed. Pan American University
Edinburg, Texas
Major: Secondary Education, Supervision

1968 B. S. Pan American College
Edinburg, Texas
Major: Biology
Minor: Chemistry

1964 HS Diploma La Joya High School,
La Joya, Texas

Certification

09/20/79 Life Professional Superintendent

12/16/75 Life Professional Mid-Management Administrator

08/01/73 Life Professional Supervisor

08/01/70 Life Provisional High School- Biology

08/01/70 Life Provisional High School - Chemistry

EXHIBIT B

Professional Experience

9/12- Present - Lecturer, University of Texas Pan American University, Edinburg, Texas

2005 – 2012 – Self Employed
Partner, Institute for School Excellence
Self – Employed

9/04 – 5/05
Faculty Member, College of Education – Educational Leadership Department
The University of Texas Pan American, Edinburg, Texas

3/03 – 1/04
Regional Director, Texas Migrant Head Start Program
Texas Migrant Council (Current Name – Teaching and Mentoring Communities)
Regional Office, Donna, Texas
Headquarters, Laredo, Texas

3/97 – 3/03
Superintendent,
La Joya Independent School District, La Joya, Texas

9/94 – 2/97
Executive Director,
Region One Education Service Center, Edinburg, Texas

06/92 – 9/94
Executive Assistant to the Commissioner of Education
Texas Education Agency, Austin, Texas

04/87 - 06/92
Superintendent,
La Joya Independent School District, La Joya, Texas

01/85 - 04/87
Deputy Executive Director,
Region One ESC, Edinburg, Texas

07/81 - 12/84
Assistant Superintendent for Curriculum and Instruction
McAllen Independent School District, McAllen, Texas 78501

07/80 - 06/81
Principal, La Joya High School
La Joya Independent School District, La Joya, Texas

08/79 - 06/80
Director, Administrative Services Education Service Center,

Region XX, San Antonio, Texas

08/77 – 07/79

Executive Assistant to the Director of the Division of Program Evaluation and to the Director of the Division of School Accreditation,

(Assignment while enrolled in the University of Texas at Austin and Texas Education Agency Doctoral Cooperative Superintendency Program)

Texas Education Agency, Austin, Texas

08/75 – 07/77

Principal, Alton Elementary School

Mission Consolidated Independent School District, Mission, Texas

08/74 – 06/75

Assistant Principal, Fort Stockton High School

Fort Stockton Independent School District, Fort Stockton, Texas

08/73 – 06/74

Assistant Principal, Mission Jr. High School

Mission Independent School District, Mission, Texas

08/69 – 06/73

Teacher, Biology/Physical Science, Mission High School,

Mission Independent School District, Mission, Texas

08/68 - 06/69

Teacher, Life Science, Mission Jr. High School

Mission Independent School District, Mission, Texas

Graduate Classes Taught

Lecturer, University of Texas Pan American, 2004-2005 & 9/2012 – Present

Course	Title	Semester
EDUL 7310	Administration of School Facilities (UTPA)	1999
EDUL 8336	Problems in Education	Fall 2004
EDUL 6338	The School Principalship	Fall 2004 & Spring 2005
EDUL 6392	School and Community Relations	Spring 2005
EDUL 6398	Principal Internship	Fall 2004 and Spring 2005
EDUL 6338.01X:	The School Principalship	Fall, 2012
EDUL 6385.01X	Public School Law	Fall, 2012
EDUL 6398.	The Principal Internship Program	Fall, 2012
EDUL 6385.01X	Administration of School Business Services	Spring, 2013
EDUL 6385.02X	Administration of School Business Services	Spring, 2013
EDUL 6398.06R	The Principal Internship Program	Spring, 2013

EDUL 6389	Administration of School Business Services	Summer I, 2013
EDUL 6385.01	Public School Law	Summer II, 2013
EDUL 6398.	The Principal Internship Program	Fall, 2013
EDUL 6335.01X	Leadership for Successful Schools in a Changing Society	Fall, 2013
EDUL 6389.02	Administration of School Business Services	Fall, 2013

University of Texas at Austin and University of Texas Pan American Cooperative Doctoral Program

- EDA 685 Educational Leadership Spring 1998
- This course was a problem based doctoral education leadership class focusing on transformation of high schools. Drs. Ben Harris and Jay Scribner of the University of Texas served as Lead Professors.

Professional Activities

Co-founder and Partner - Institute for School Excellence, 2005- 2012

- From 2006 to 2011, the Institute for School Excellence (ISE) was engaged - as one of three partners funded by the Bill and Melinda Gates Foundation – in assisting six high schools with High School Redesign Project (HSRP). The other partners were Region One Education Service Center, Edinburg, Texas and the Institute of Research and Reform in Education, Toms River, New Jersey. The partners provided consultative assistance and supports in implementing a systemic and comprehensive High School Redesign Framework which included creating a culture of excellence, improving organizational health, enhancing leadership effectiveness, improving instruction, creating smaller learning communities, and implementing a family advocacy program. ISE was the primary provider of services related to enhancing school culture, improving organizational health, and enhancing leadership effectiveness and served in a support role for the other strategies.
- From 2006 to 2013, ISE partnered with Organizational Health: Diagnostic and Development Corporation (OHDDC) to provide diagnostic and consultative services to assist 44 schools and 2 districts enhance organizational health, leadership effectiveness, staff productivity and student performance. ISE provides consultative assistance and support in a school improvement process that includes data collection, data analysis and interpretation, identification of priority dimensions, plan development on targeted dimensions, and follow up and support services. Over the past three decades of research, OHDDC has found a strong relationship between organizational health and student performance. This is especially true in schools and districts serving the most challenging student populations.
- From 2007 to 2011, the Institute for School Excellence provided consultative assistance and support to 21 high schools in the Region One Education Service Center's GEAR UP Bridges to the Future Project. Two years prior, the ISE served 23 middle schools feeding into these high schools.

Through the Organizational Health Improvement Process, I provide consultative assistance for superintendents, assistant superintendents, principals, assistant principals, and teachers to enhance their leadership effectiveness and organizational productivity. This assistance is provided utilizing one – on –

one coaching sessions as well as team meetings with the schools' and departments' leaders and leadership teams.

Educational Committees

Regional and State

- South Texas Association of Schools, President 2000- 2003
- The Equity Center, President, 2001- 2003
- Texas Business and Education Coalition, Education, Chair 1999-2000
- Texas Business and Education Coalition, Education, member, 1998 – 2000
- State Alternative Assessments for Special Education, member
- University of Texas - Pan American Center for Academic Research Education Committee, 2000-2003
- University of Texas – Pan American Doctoral Program Advisory Committee, 2000-2001
- Commissioner of Education TASA Superintendents' Advisory Council, 1999-2000
- Texas Task Force on Performance Accountability, member
- Advisory Committee of the Center for Leadership in Higher Education, Texas A & M, 1995-1996
- Chairperson, Superintendents' Leadership Council for Educating Language Minority Students, initiated by the Southwest Educational Development Laboratory, 1990 - 1991
- Texas Task Force on Middle School Education, 1990
- Administrators Appraisal Committee, Texas Association of School Administrators, 1989
- Commissioner's Advisory Committee on the Long Range Plan, 1988 - 1990
- Texas Education Agency, Texas Teacher Appraisal System Standards Committee, 1987
- State Board of Education Review Panel for Improving the Texas Teacher Appraisal System, 1987
- Chairperson, TEA Master Teacher Advisory Committee (Career Ladder)
- Governor's Task Force on Teacher Appraisal and Career Ladder, 1987
- Texas Association for Supervision and Curriculum Development: Legislative Professional Relations Resolutions Committee, 1986
- Instructional Leadership Training, Resource Materials Committee, TEA, 1986
- Region One Committee for Developing Principals' Appraisal Instrument, Fall, 1986
- Texas State Textbook Committee, 1984
- South Texas Regional High School for Health Professions, Steering Committee Member and Chairman of the Curriculum and Instruction Committee, 1983-84

National

- Council for Academic Affairs for the College Board, New York City, New York, 1983-1985
- Board of Directors, Network for Outcomes Based Schools, Syracuse, New York, 1988-1994
- National Council on Education Standards and Testing - Standards Task Force member, Washington D.C., 1991

Other Professional Activities

I have participated in numerous activities to enhance my personal and professional knowledge and skills. Three are listed below.

- Superintendents' Leadership Academy Lamar University
Beaumont, Texas
2001 – 2002
- Executive Directors' Leadership Academy Lamar University
Beaumont, Texas
1994 – 1995
- Meadows Executive Leadership Program AASA/ TASA
Austin, Texas
1987 – 1989
- Superintendents' Work Conferences Teachers' College
Columbia University
New York City, New York
July 1983 and July 2002

Workshops and Presentations

Regional and State

- Creating High School Excellence: A Systemic Approach, Region One Education Service Center, High School Redesign Conference, McAllen, Texas, April 2005
- Creating Effective Schools Using the Outcomes Driven Development Model, Pasadena, Texas, presented to district administrators, November 20, 1990
- A Step Towards Excellence: Outcomes Drive the System, Co-presenter with Dr. John Champlin, Executive Director, National Center for Outcomes Based Education, TASA/TASB Pre-conference, Houston, Texas, September, 1990
- Problem Solving and Decision Making in Effective Schools, presented to the Effective Schools Project Consortium, sponsored by Tarleton State University and directed by Dr. Jim Boyd, Dean of Education, Granbury, Texas, September 18, 1990
- Creating Effective Schools, Keynote speaker. Tenth Annual Conference for Texas Administrators of Community Schools, Texas Tech University, Lubbock, Texas, fall, 1990
- Excellence in Education: The La Joya Instructional Model, 42nd Annual Superintendents' Workshop for Educational Leaders, Austin, Texas, July 9, 1990
- Presenter, Third Annual Texas Conference on At-Risk Students, sponsored by the Texas Education Agency, April, 1990
- Creating Responsive Organizations/Schools: Key Considerations, Keynote speaker, Texas State Migrant Conference, Corpus Christi, Texas, fall, 1988
- Building Support for Bilingual Education and ESL Programs in the School and Community, Texas Association of Bilingual Education Conference, Corpus Christi, Texas, fall, 1987

- Developing Professional Growth Plans, TI-IN Television Network, San Antonio, Texas, November 20, 1986
- Issues and Concerns in Migrant Education, Presenter, Texas Migrant Conference, Laredo, Texas, November 12, 1986
- Texas Teacher Appraisal System (TTAS) Training of Trainers Sessions. State Trainer
 - Training of College and University Professors, Lead Trainer, Lago Vista, Texas, September 27-October 4, 1986
 - Training of Trainers, Lead Trainer, Austin, Texas, June 15-21, 1986
 - Trainer, Dallas, Texas, May 18-24, 1986
 - Developed TTAS training tapes for TEA. Austin, Texas. December, 1986
- The Outcomes Driven Developmental Model: The Region One Experience, Presenter, Conference on School Excellence, Lubbock, Texas, June 1-3, 1986
- Utilizing Effective Schools Research for School Improvement Various Aspects, Presenter 1982-87
- Excellence in Education: Making it Happen, Keynote Speaker, San Benito ISD, August 26, 1985
- The Impact of HB72 on Accounting, Presiding, 1985 Superintendents' Workshop for Educational Leaders, Austin, Texas, July 15, 1985
- The Teacher Appraisal Process, Summer Conference on Special Education, South Padre Island, Texas, June 11, 1985
- Teacher Evaluation: Key Elements. Second General Session Speaker, Texas Association of Secondary School Principals, Assistant Principals' Conference, Austin, Texas, February 3, 1985
- Does Instruction Really Make A Difference in TABS and Achievement and Test Results Presenter, Texas Testing Conference, San Antonio, Texas, February 9, 1984
- Numerous Presentations on Chapter 75, State Curriculum Requirements and HB72 -School Reform, 1982-87
- Impact of Single Parents on Education Futures, Reactor. Superintendents' Summer Workshop, sponsored by the University of Texas at Austin, Educational Administration Department, July, 1982
- Equivalency Time In-service Program, Presenter. TASA/TASB Conference, San Antonio, Texas, September, 1981
- Improving Student Achievement, Presenter. Superintendents' Summer Workshop, sponsored by the University of Texas at Austin, Educational Administration Department, July, 1980
- Keynote speaker, delivered Dedicatory Address, Dedication of Flores Elementary, La Joya School District, March, 1981
- As Director of the Administrative Services Division and Project Manager of the Leadership Training Project for Principals, I coordinated three major conferences:
 - Alternative Strategies for School Discipline, November, 1979
 - Texas Assessment of Basic Skills: Using its Results for Program Planning, February, 1980
 - Making the Management Team Effective, April, 1980
- Using TABS Results for Program Planning, Presenter, Presentations to:
 - School Administrators and Supervisors, South San Antonio ISD, Spring, 1980
 - Bexar County Elementary School Principals, Spring, 1980
- Joining Objectives and Management Behaviors, A Workshop for Alice ISD District and School Administrators. Summer, 1979
- Utilizing Evaluative Information for Program Planning, Presenter. Regions I, II, IV, VI, VIII, December, 1978 - January, 1979. School presentations were made to school district administrators in charge of Program Planning, Accreditation, and Federal Programs. 1978-1979

- Evaluation of Personnel Unit Allocations for Instructional Resource Center, Panelist. Instructional Resource Centers Conference, Austin, Texas, September 22, 1978
- Motivating the Average and Below Average Students, Presenter. ESC II Superintendents' and Principals' Conference, Sinton, Texas, August 31, 1978
- Classroom Management by Objectives, Presenter. Donna Independent School District Teachers, Donna, Texas, August 22-23, 1978
- Criteria for Evaluating the Five Years Priorities Plan, Presenter. Superintendents' Summer Workshop, sponsored by the University of Texas at Austin, Texas, Educational Administration Department, July, 1978
- Management Team Concepts, Presenter. Texas Association of Secondary School Principals, Austin, Texas, June 8-9, 1978
- Involving the Staff in Decisions that Affect Them, Presenter. School Administrator's Advisory Conference, Austin, Texas, January 1978
- Evaluation of Program Effectiveness in Areas of the Curriculum, Presenter. School Administrator's Advisory Conference, Austin, Texas, January, 1978

National

- Creating Systemic Change in GEAR UP Schools: Supporting a College Bound Culture, co-presenter, NCCEP/GEAR UP National Conference, San Francisco, Ca. July 2007
- The Quality District Model: The La Joya Experience, Racine Wisconsin, June, 2003
- An Introduction to the Outcomes Driven Development Model, presented at the Quality District Conference, Sponsored by the National Center for Outcomes Based Schools, Phoenix, Arizona, November, 1990
- Removing Barriers in the Education of Migrant Students, 1989 State In-service for Migrant Education, Oshkosh, Wisconsin, September 19, 1989
- Implementing the Outcomes Driven Development Model, co-trainer with Dr. John Champlin, a one-week training session for teachers and administrators from approximately ten districts (Dr. Lyle Wright, Utah State Ed. Dept. Project Director), Richfield, Utah, summer, 1988
- Compacting the Curriculum, co-presenter, American Association of School Administrators Conference, Orlando, Florida, Spring, 1988
- Toward Wider Access to Knowledge: Some High Schools Have Put the "E" in EQuality, Moderator, 1986 National forum of the College Board, New York City, New York, October 28, 1986
- The School Principal and You, Presenter. Newspapers in Education, National Conference, San Antonio, Texas, June 23, 1978

Summary of Workshops and Presentations 1990 – Present

I have served as workshop leader or presenter at regional, state and national conferences. Some topics which I have presented are listed below:

- Organizational Health and Enhancing Leadership Effectiveness
- Creating Effective Schools: Key Considerations,
- Creating Responsive Learning Environments for English Language Learners,
- Building Support for Bilingual Education and ESL in the School and Community,
- Issues and Concerns in Migrant Education,

- Using Evaluative Information for Program Planning and Instructional Decision Making,
- Instructional Leadership
- Creating Cultures of Excellence,
- The Instructional Process: Research to Practice
- Maximizing Learning Time,
- Managing the Change Process
- Building Responsible Behaviors and Relationships,
- Problem Solving and Decision Making in Effective Schools,
- Teacher Expectations and Student Achievement (TESA), 1982 & 2006 Certified as TESA trainer
- Inspiring Minds and Encouraging Hearts, and
- Developing College and Career Readiness Cultures
- Public School Finance: Issues Impacting South Texas

Testimony

- National Commission on Agriculture and Rural Development Policy, McAllen, Texas, September, 1990
- Designing and Implementing Migrant Programs That Do Not Create Caste Systems, presented to the U. S. Congressional Committee on Migrant Education, December 3, 1990

I have provided testimony and/or presentations to State Board of Education and Legislative committees on various education issues including public school finance.

Professional Organizations

- Texas Association of School Administrators, 1987-1992 & 1997-2003
- Rio Grande Valley Association of School Administrators, 1987-1992
- Association for Supervision and Curriculum Development, Member 1984-87 & 2011-2012
- Texas Association for Supervision and Curriculum Development, Member 1984-87
- Texas Association for Planning, Evaluation and Research, Vice-President 1985-86
- Lower Rio Grande Valley Association for Supervision and Curriculum Development, President, 1985-86

Honors Received

- Selected Region One Education Service Center Superintendent of the Year, 2002
- Selected to the City of Palms Hall of Honor, presented at the City of Palms Football Clinic sponsored by The Rio Grande Valley Coaches Association, January 2001
- Named Excellence in Education Award Recipient, Presented by the South Texas District, League of United
- Latin American Citizens. March 2002
- Had Peñitas Neighborhood Facility named the Dr. Roberto Zamora Neighborhood Facility. This building currently houses the City of Peñitas Library, 1997
- Received scholarship from the University of Texas, School of Educational Administration, 1978-79
- Selected for the University of Texas - TEA Superintendency Program 1977-79

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

1 TEXAS TAXPAYER & STUDENT) IN THE DISTRICT COURT OF
 2 FAIRNESS COALITION, ET)
 3 AL., CALHOUN COUNTY ISD,)
 4 ET AL.; EDGEWOOD ISD, ET)
 5 AL. FORT BEND ISD, ET)
 6 AL.; TEXAS CHARGER SCHOOL)
 7 ASSOCIATION, ET AL.,)

8 Plaintiffs,)

9 JOYCE COLEMAN, ET AL.,) TRAVIS COUNTY, TEXAS
 10)

11 Intervenors,)

12 VS.)

13 MICHAEL WILLIAMS)
 14 COMMISSIONER OF)
 15 EDUCATION, IN HIS)
 16 OFFICIAL CAPACITY; SUSAN)
 17 COMBS, TEXAS COMPTROLLER)
 18 OF PUBLIC ACCOUNTS, IN)
 19 HER OFFICIAL CAPACITY;)
 20 TEXAS STATE BOARD OF)
 21 EDUCATION,)

22 Defendants.) 200TH JUDICIAL DISTRICT

23 ORAL DEPOSITION OF ROBERTO R. ZAMORA, PH.D.
24 11/19/2013

25 Job No: 67344

1 ORAL DEPOSITION OF ROBERTO R. ZAMORA, PH.D.,
2 produced as a witness at the instance of the Defendants
3 and duly sworn, was taken in the above styled and numbered
4 cause on Wednesday, 11/19/2013, from 9:07 a.m. to
5 2:32 p.m., before Tamara Chapman, CSR in and for the State
6 of Texas, reported by computerized stenotype machine, at
7 the offices of MALDEF, 110 Broadway, Suite 300, San
8 Antonio, Texas, pursuant to the Texas Rules of Civil
9 Procedure and the provisions stated on the record herein.

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Unofficial copy Travis Co. District Clerk Velva L. Price

A P P E A R A N C E S

COUNSEL FOR MICHAEL WILLIAMS COMMISSIONER OF EDUCATION, IN HIS OFFICIAL CAPACITY; SUSAN COMBS, TEXAS COMPTROLLER OF PUBLIC ACCOUNTS, IN HER OFFICIAL CAPACITY; TEXAS STATE BOARD OF EDUCATION:

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ATTORNEY GENERAL OF TEXAS
300 West 15th Street
Austin, Texas 78701

COUNSEL FOR FORT BEND INDEPENDENT SCHOOL DISTRICT PLAINTIFFS:

Ms. Holly McIntush
THOMPSON & HORTON
400 West 15th Street
Austin, Texas 78701

COUNSEL FOR EDGEWOOD INDEPENDENT SCHOOL DISTRICT PLAINTIFFS AND THE WITNESS:

Mr. David Hinojosa
MALDEF
110 Broadway
San Antonio, Texas 78205

ALSO PRESENT:

Mr. Lynn Moak - Moak, Casey & Associates
Mr. Ernest Herrera - MALDEF

* * *

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1 Basically that was it.

2 Q. And so in terms of the information requests that
3 you made to districts, which specific information requests
4 from the districts did you make to collect this
5 information?

6 A. Those would be the initials -- the surveys that
7 we discussed earlier, the three surveys.

8 Q. And did all five of the Edgewood plaintiff
9 districts provide you responses to all three of your
10 surveys?

11 A. They all responded to them, but they responded
12 with different levels of information.

13 Q. Okay. Did any of the five Edgewood plaintiff
14 districts provide you incomplete responses to your survey
15 requests?

16 A. Yes, ma'am.

17 Q. Can you identify for me which districts provided
18 incomplete responses to your survey requests?

19 A. I would need to go through the surveys again.

20 Q. Okay. Do you think it was more than one district
21 that provided incomplete responses?

22 A. We could have had two districts that did that.

23 Q. That provided incomplete responses?

24 A. Yes, ma'am. And if -- to me I'm interpreting
25 incomplete responses -- because this was a lengthy survey,

1 said. I don't think that I said that they did not have an
2 answer.

3 Q. Okay.

4 A. I really asked them to respond to the information
5 that we had requested as best as they could. And then
6 when I meant "incomplete," I said if they -- I am
7 responding to your question of it being incomplete in the
8 sense that they did not respond to every blank that was
9 within that report.

10 Q. If they would have put in the blank "no
11 information," would that have been a response?

12 A. That would have been a response that would have
13 made -- yes, ma'am.

14 Q. Okay. But what you're telling me is that on some
15 of the surveys, at least, there are just blanks, and so
16 you don't know if they don't have the information or if
17 they just failed to provide it. Is that right?

18 A. Yes, ma'am.

19 Q. Okay. We're going to move on Page 4 to the next
20 section, which you've entitled the "Texas Education Agency
21 website." And you note that you accessed the TEA website
22 for various data to see possible programmatic and
23 financial implications of House Bill 5 on districts. Is
24 that right?

25 A. Yes, ma'am.

1 findings of fact and conclusions of law as support for
2 your opinions in this report?

3 A. They did not influence my writings on the report.

4 Q. And so in addition to not influencing them, did
5 you rely on them in any way?

6 A. Where I relied on them was in looking at best
7 practices.

8 Q. So only those best practices that were
9 represented in the findings of fact and conclusions of law
10 would be the ones you relied on?

11 MR. HINOJOSA: Objection; form.

12 A. Please repeat.

13 Q. (BY MS. COCHRAN-MCCALL) Yes. So the best
14 practices that were in the findings of fact and
15 conclusions of law, it's fair to say you relied on those
16 in making your opinions in this report?

17 A. To the extent that when I was collecting
18 information, I wanted to see if the districts were
19 budgeting any monies for those best practices.

20 Q. Okay. Thank you.

21 And is it fair to say you also didn't review any
22 of the expert reports of the defendants in this lawsuit?

23 A. I did not.

24 Q. The fourth area that you identify as a source of
25 information that you reviewed was research on effective

1 related to effective school practices regarding ELLs and
2 economically disadvantaged students?

3 MR. HINOJOSA: Objection; form.

4 Go ahead.

5 A. I'm not aware of anything that I reviewed that I
6 would say was specific to Texas that was used in writing
7 the report.

8 Q. (BY MS. COCHRAN-MCCALL) And just so we're both
9 clear on what I'm talking about, I'm talking about a study
10 that was performed in Texas using data from Texas students
11 or districts.

12 MR. HINOJOSA: Objection; form.

13 A. I was not -- I did not do it.

14 Q. (BY MS. COCHRAN-MCCALL) Okay. Thank you.

15 How would you describe what your regular work is
16 as a professional?

17 A. Right now or --

18 Q. Yes, sir.

19 A. -- what I have been in or both?

20 Q. Just currently what is your current --

21 A. Currently I am a professor -- lecturer at the
22 University of Texas Pan American. And I also do some
23 consulting work with school districts.

24 Q. And as part of your regular work in either of
25 those roles, do you often use price indices?

1 A. The CPI, I do not.

2 Q. Okay. For any purpose in either of those roles,
3 do you use a price index?

4 A. No, neither one, no, ma'am.

5 Q. In any of your prior professional roles, have you
6 ever as part of your work used a price indices for some
7 purpose?

8 A. I have not used the CPIs -- the price indices for
9 any purposes, but I have been very much aware of the
10 changes in costs as we move from one year to the next and
11 how that impacts our budget, that -- I've known that
12 inflation does make a difference and that when I have the
13 same amount of monies going from one year to the next in
14 budget-making, that doesn't necessarily mean that I'm
15 going to be able to purchase the same goods and products
16 as I did the prior year just because of increases in
17 prices.

18 MS. COCHRAN-MCCALL: Objection;
19 nonresponsive.

20 Q. (BY MS. COCHRAN-MCCALL) Which indices are you
21 aware of regarding inflation in various markets?

22 A. For the purpose of this report, the only one that
23 I became aware of and used was the CPI U.S.

24 Q. And what does CPI stand for?

25 A. Consumer price index.

1 Q. And are you aware of any other price indices?

2 A. I'm familiar that there are -- that there are
3 others for the states.

4 Q. Can you identify or list any price indices that
5 you're aware of?

6 A. I don't know what their exact terms are, but I
7 know that there's a CPI for Texas. I didn't go into other
8 details, but I was not able to come up with any means for
9 making the determination as it applied to the work I was
10 doing.

11 Q. Let me make sure I understand what you mean by
12 that. You weren't -- maybe you could just explain what
13 you mean by that. I'm not sure I'm following what you're
14 saying.

15 A. On the Texas CPI?

16 Q. In regard to what you're referencing, I'm not
17 understanding what you're saying.

18 A. It was easy for me to look at the CPI. And the
19 reason that I used the CPI that I used was because that is
20 also one that is in the facts of finding.

21 Q. Okay.

22 A. And I believe that there's reference to it, I
23 don't know whether it was with the state comptroller that
24 was using it or who it was for. But there was a reference
25 made to. Because that was what was in the facts of

1 finding, that is the one that I used.

2 Q. Okay. And apart from another one that you
3 referenced that was Texas-specific, are you aware of
4 whether or not there are other indices regarding price and
5 inflation?

6 A. I am -- I am aware that there are, but I did not
7 use any other others.

8 Q. And you're not able to identify any of those
9 others as we sit here today?

10 A. If they have a specific name, I am not.

11 Q. For the index that you did use, do you know what
12 things are included in that index?

13 A. I didn't really go through all the details,
14 ma'am. But looking at consumers, goods. As I looked at
15 some items, different things can be priced into it.

16 Q. Okay. And so could you just generally explain
17 for me your understanding of what things the index that
18 you used considers?

19 A. My use of the index was simply looking at what's
20 the inflation rate.

21 Q. And let me clarify because that's not my
22 question. I would like for you to explain to me what your
23 general understanding is of what the CPI that you're
24 referencing includes generally. Could you describe it and
25 explain it to me?

1 A. Increases in the prices of goods and services
2 that are available to -- to the public.

3 Q. Okay. Do you know what type of goods generally?

4 A. Housing, gasoline, construction goods, salaries.

5 Q. Okay. And you also noted that the CPI includes
6 information regarding services. What services are
7 included in the CPI?

8 A. Will you direct me to what you're referring to?

9 Q. I'm referring to your answer to the question I
10 just asked you when I said, what types of things are
11 included in the index, and you said goods and services.
12 And we just spoke generally about which type of service --
13 pardon me -- goods that you understand are included in the
14 CPI you utilized. And so what I'd like for you to do now
15 is to identify generally which type of services are
16 included in the CPI that you used.

17 A. In my response to that, I'm thinking of goods and
18 services that districts avail themselves of and that when
19 we move from one year to the next, there is an inflation
20 cost that's linked to it to get goods to the district,
21 whether it is -- in my thinking we have salaries that --
22 we have transportation costs, we have materials, and as
23 the producers increase their prices, they're going to
24 affect the schools.

25 MS. COCHRAN-MCCALL: Objection;

1 nonresponsive.

2 Q. (BY MS. COCHRAN-MCCALL) What information I would
3 like you to provide me is an explanation of what services
4 that you understand the index includes that you -- the
5 index that you utilized in making your report.

6 MR. HINOJOSA: Objection; form.

7 Q. (BY MS. COCHRAN-MCCALL) A general explanation of
8 what type of services are included in that index.

9 MR. HINOJOSA: Objection; form.

10 A. And what I believe I had said was that some of
11 the items that are considered could be housing costs,
12 could be transportation costs, could be salaries, and
13 that's the extent of what I would -- how I would respond
14 to that.

15 Q. (BY MS. COCHRAN-MCCALL) Okay. So you're not
16 able to give me a more detailed explanation --

17 A. No, ma'am.

18 Q. -- on that?

19 A. No, ma'am.

20 Q. Okay. Thank you.

21 Do you have an opinion regarding whether or not
22 different indices could be better for different purposes?

23 A. I do not have one.

24 Q. All right. If you were trying to determine the
25 inflationary pressure on oil, for example, do you have an

1 opinion regarding whether or not you would want to use an
2 index that includes oil as part of the index?

3 A. I do not have any opinion on that, ma'am.

4 Q. When you say you don't have an opinion, is that
5 because you don't know if it would be better to use an
6 index with oil or without?

7 A. I have no expertise in the area.

8 Q. Okay. Thank you.

9 Let's look at your report again, which is
10 Exhibit 20062. And I want to look at Page 6 of your
11 report, which is Table 1. And this is the table you've
12 entitled "District M&O Revenue Per WADA." Do you see
13 that?

14 A. Yes, ma'am.

15 Q. And what does M&O mean?

16 A. Maintenance and operation.

17 Q. And what about WADA, what does WADA mean?

18 A. Weighted average daily attendance.

19 Q. Are you familiar with the term "ADA"?

20 A. Yes, ma'am.

21 Q. And what does that term mean?

22 A. Average daily attendance.

23 Q. Now, why in this table did you look at revenue
24 per WADA as opposed to ADA?

25 A. My -- the -- the information that is included in

1 Q. Okay.

2 A. -- the document itself.

3 Q. Do you know whether or not those numbers are the
4 most final numbers for each of the districts?

5 MR. HINOJOSA: Objection; form.

6 A. I do not.

7 Q. (BY MS. COCHRAN-MCCALL) And do these numbers in
8 this column 2010-11 Final, do these represent the actual
9 WADA amounts to each of the districts in 2010-11?

10 A. I believe they do.

11 Q. And do you have an idea of when those numbers
12 were finalized?

13 A. No, ma'am.

14 Q. Okay. Now, the next column is entitled "Adjusted
15 for Inflation." Do you see that column?

16 A. Yes, ma'am.

17 Q. And then there's an asterisk and that indicates,
18 if you go down below your table, that these are amounts
19 that have been adjusted for inflation between 2010 and
20 '13. Is that right?

21 A. Yes, ma'am.

22 Q. And then you also note that you use the CPI index
23 of 7.3. Is that correct?

24 A. Yes, ma'am.

25 Q. Okay. Now, which specific CPI index did you

1 utilize?

2 MR. HINOJOSA: Objection; form.

3 Q. (BY MS. COCHRAN-MCCALL) For example, do you know
4 which year or month?

5 A. Yes. We use the -- a comparison of 2010 to 2013.

6 Q. Okay. And so I understand that that's how you
7 use the number, but do you understand that the -- the
8 index is, I'll say, published or issued on a regular
9 basis? Are you aware of that?

10 A. Yes, ma'am.

11 Q. And so when I'm asking which index you're using,
12 I'm wanting you to identify for me which version of the
13 index you're using, because it's not a constant. So can
14 you describe for me which version of the index you used in
15 this report?

16 A. What I was using was the one that is provided --
17 I just went to the Internet and got me one that's provided
18 there that does the calculations, and I just entered
19 the -- the amounts for each of the years and had the
20 calculator do it for me.

21 Q. So are you able to identify which issuance of
22 that index you actually utilized?

23 A. No, ma'am.

24 Q. But the interest rate or the -- pardon me -- the
25 percentage of inflation represented in that index was 7.3?

1 A. Yes, ma'am.

2 Q. And what are you trying to show by adjusting the
3 2010 amount for inflation?

4 A. I wanted to see if there's any -- when we apply
5 the inflation rate, to see what that amount would be in
6 purchasing power now, the changes from 2010 through 2013,
7 and you see there on adjusted for inflation, there is an
8 increase, and I wanted to see if there's a gain or loss
9 when we look at the 2013-14 in comparison to the adjusted
10 for inflation amount.

11 Q. Do you think it matters -- in terms of what
12 you're trying to show using the 2010-11 data, do you think
13 it matters which CPI index you utilized?

14 MR. HINOJOSA: Objection; form.

15 A. It may, ma'am. But for this purpose, that's what
16 I used.

17 Q. (BY MS. COCHRAN-MCCALL) And so when you say "it
18 may," does that mean you are not certain whether or not it
19 matters?

20 A. Repeat it, please.

21 Q. I want to understand what you mean when you said
22 "it may matter." And my question is, does that mean
23 you're not certain whether or not it does matter which
24 index you utilized?

25 A. If indices have different measurements, then it

1 would make a difference.

2 Q. Do you know if different indexes have different
3 measurements?

4 A. I don't know, ma'am.

5 Q. Do you know who's responsible for publishing or
6 issuing the CPI?

7 A. I didn't check into that.

8 Q. Do you know how frequently the index is
9 published?

10 A. I've seen some where they come out monthly.
11 Monthly or quarterly.

12 Q. Do you know if they're also issued annually?

13 A. I believe they are.

14 Q. If you were to look at the index from one month
15 to the next month, what would that show possibly? Like
16 what information would be included in those index -- what
17 things you would you be able to tell from looking at that?

18 A. I don't know.

19 MR. HINOJOSA: Objection; form.

20 Q. (BY MS. COCHRAN-MCCALL) Do you know what kind of
21 data is collected in making the index?

22 A. I do not know.

23 Q. And apart from seeing the CPI referenced in the
24 findings of fact or conclusions of law, is there any other
25 reason you selected the CPI to make this adjustment in

1 your table?

2 A. Only to show that there is a difference in terms
3 of how much I can purchase, a district can get.

4 Q. And apart from what you were trying to show, is
5 there any other reason why you as the person who made this
6 report honed in on the CPI as the index that you wanted to
7 utilize apart from the fact that it was in the findings of
8 fact or conclusions of law?

9 A. Only that as a superintendent I know from moving
10 to one year to another I'm going to have additional costs,
11 and from my experience that is due to inflation. My best
12 work at it was to look at CPI and then determining which
13 one to use. And then I went to a document that said that
14 the CPI was referenced before, I basically went and looked
15 at what is it that can be used for this purpose. I used
16 it to show the difference in the buying power of what I
17 was able to do with the money back in 2010 and '11 and
18 what I would be able to do now.

19 Q. Okay. And so really to separate out what you
20 were trying to do by utilizing the CPI, would you agree
21 with me that there's no other reason apart from the fact
22 that the CPI was referenced in the findings of fact and
23 conclusions of law that caused you to hone in and select
24 the CPI as the index you wanted to use?

25 MR. HINOJOSA: Objection; form.

1 A. In selecting that particular one, no, ma'am.

2 Q. (BY MS. COCHRAN-MCCALL) There were no other
3 reasons?

4 A. No, ma'am.

5 Q. Okay. Do you know what the biggest expenditure
6 item is or was for any of the five Edgewood plaintiff
7 districts in 2010-11?

8 A. They're typical districts and they are its
9 personnel.

10 Q. And do you know whether or not the CPI you
11 utilized captures any information related to teacher
12 salaries?

13 A. I do not.

14 Q. Apart from utilizing the CPI that you did choose
15 to use, did you run the numbers looking at any other
16 indexes?

17 A. No, ma'am.

18 Q. And okay. Let's look at the column entitled
19 "2013-14 Projected." Do you see that column?

20 A. Yes.

21 Q. And where are those numbers pulled from?

22 A. That was after -- oh, sorry. I was going in
23 another direction.

24 The 6,030, those were, as it is noted there,
25 amounts that come from TEA projections that I received

1 from Mr. Hinojosa.

2 Q. Okay. Did you pull those numbers from the
3 summary of finance report for the districts?

4 A. No, the initial source I received them from,
5 Mr. Hinojosa.

6 Q. Okay. So Mr. --

7 MR. HINOJOSA: If you want, I can tell you
8 that --

9 MS. COCHRAN-MCCALL: Maybe on a break. I
10 don't want to do it on the record. Thank you.

11 MR. HINOJOSA: I'm not going to do it off
12 the record.

13 MS. COCHRAN-MCCALL: That's fine. I just
14 would like to continue with my questioning without
15 testimony from counsel.

16 MR. HINOJOSA: Go ahead.

17 MS. COCHRAN-MCCALL: Thank you.

18 Q. (BY MS. COCHRAN-MCCALL) Okay. So you're not
19 certain what the source says, other than your counsel, for
20 the numbers in the column entitled "2013-14 Projected."
21 Correct?

22 A. Yes, ma'am.

23 Q. And so is it fair to say that you did not verify
24 the accuracy of the numbers counsel provided to you?

25 A. I trusted that those numbers were accurate.

1 from?

2 A. Those were the projected WADA for this year,
3 '13-'14.

4 Q. And what was the source for you obtaining those
5 numbers?

6 A. I believe those came from the summary of finances
7 projected.

8 Q. And the final column that's out there a little
9 bit farther to the right is entitled "Losses Due to
10 Inflation." Can you explain to me how you came up with
11 these numbers in this final column that's bolded?

12 A. I multiplied the difference due to inflation
13 times the numbers in the 2013-2014 column.

14 Q. Okay. Let's turn the page, and, actually, let's
15 go ahead and do two pages. We're going to go Page 8,
16 Table 2. And I want to walk through this Table 2 of yours
17 regarding House Bill 5 to make sure I understand all the
18 information that you've included.

19 So let's start with the Page 8, the bolded
20 heading entitled -- it's the left column that -- that
21 relates to House Bill 5, Elements, and you've included the
22 "Foundation High School Program Graduation Requirements."
23 Do you see that heading?

24 A. Yes.

25 Q. Okay. Do you know whether or not the graduation

1 requirements for students included in House Bill 5, if
2 those are fully determined at this point?

3 A. I heard two parts to the question. Will you
4 repeat it again?

5 Q. Of course. Do you know whether or not the things
6 that you describe there in that column related to the
7 foundation high school graduation requirements, whether or
8 not the things you described there have been fully
9 determined or finalized?

10 MR. HINOJOSA: Objection; form.

11 Go ahead.

12 A. They have not been finalized in terms of whatever
13 the State board is going to be doing.

14 Q. (BY MS. COCHRAN-MCCALL) And what --

15 A. We --

16 Q. Go ahead. I'm sorry.

17 A. I'll pass it.

18 Q. What is your understanding of what the State
19 board still needs to do regarding the things you describe
20 there in that paragraph?

21 A. Right now they're making decisions regarding
22 Algebra II.

23 Q. Okay.

24 A. And making decisions regarding -- I would think
25 that they will need to make decisions on that Computer

1 MR. HINOJOSA: Objection; form.

2 A. Do they have the authority to do that?

3 Q. (BY MS. COCHRAN-MCCALL) Yes, sir.

4 MR. HINOJOSA: Same objection.

5 A. I would have to say the same thing. But in that
6 recommendation that you're saying -- think that they are
7 dealing with endorsements right now.

8 Q. (BY MS. COCHRAN-MCCALL) But you're not certain?

9 A. I believe they are dealing with them and
10 providing regs, I would think, that they -- that they've
11 been empowered to do that.

12 Q. Do you have any idea of when any portion of the
13 things you list there that the State Board of Education
14 has the authority to determine, do you have any concept of
15 when those determinations will be finalized?

16 A. Some are to be finalized this year and -- some
17 are to go into effect this year and some are to go into
18 effect the following year and there may be some that go
19 into effect afterwards.

20 Q. And do you have an understanding of what options
21 students in Texas may have in terms of graduation plans
22 under the House Bill 5?

23 A. Well, they have the Foundation School Program,
24 and then depending upon when they went into the ninth
25 grade, they may choose to do the minimum recommended or

1 the DAD, depending on where they are now.

2 Q. Do you know how many endorsements are available
3 for districts to choose to provide?

4 A. Five with multidisciplinary being the one they
5 offer if they cannot do any of the others.

6 Q. Okay. And do you know for which academic year
7 districts will have to begin to offer an endorsement?

8 A. I believe it's 2014-15.

9 Q. And do you know at this time which endorsement
10 the Edgewood plaintiff districts intend to offer?

11 A. I did not ask that question, ma'am.

12 Q. Okay. Without knowledge of which endorsements a
13 district will offer as well as what any specific
14 endorsement will require, are you able to provide an
15 accurate analysis regarding the impact on any given
16 district in terms of their human resource or final
17 allocations?

18 MR. HINOJOSA: Objection; form.

19 A. I think that based on my experience in the
20 district and just looking ahead, one of my -- one of my
21 responsibilities was to analyze what was in legislation
22 and how it would impact our district in terms of potential
23 cost or what things we would have to do moving forward.

24 Q. (BY MS. COCHRAN-MCCALL) Would you agree with me
25 that any potential costs or impact are going to be greatly

1 Q. (BY MS. COCHRAN-MCCALL) Okay.

2 A. And -- I'll stop at that.

3 Q. And so just to be clear to make sure I understand
4 what you mean by that, so it's your position it would be
5 better for districts to offer all the endorsements to
6 their students. Is that right?

7 A. If I was in their shoes, I would want to offer as
8 many as possible. I think that to do less would be to
9 really shortchange our students.

10 Q. Do you know whether or not districts would be
11 able to offer the multidisciplinary endorsement without
12 any additional funding or staffing?

13 A. Do I -- do I know if they will be able to do it
14 without additional funding or staffing? I did not ask
15 that question to be able to tell you that. But I know
16 that if they do not have it, that they will have to get
17 it. Not only will they have to get staffing, they will
18 have to get facilities, they will have to get equipment.

19 And I go back to say if they are not going to
20 provide them, I think that to go back from 26 to 22
21 credits is just not enough to get our kids ready.

22 Q. You also note in the next -- it's the next row on
23 this Page 8 of your Table 2, the Foundation School
24 Program, you note that House Bill 5 eliminates Algebra II
25 as a requirement to graduate. Right?

1 A. Yes.

2 Q. Do you know whether or not students that complete
3 an endorsement will be required to complete Algebra II?

4 A. Do I know?

5 Q. Do you know whether that's the case?

6 A. Right now my understanding as I did a quick scan
7 is that Algebra II is being recommended for inclusion in
8 all of the endorsements.

9 Q. Do you know when we'll have a final answer on
10 whether or not that indeed ends up being a requirement of
11 an endorsement?

12 A. I do not know.

13 Q. You also note that Speech is eliminated as a
14 required course. Right?

15 A. Yes, ma'am.

16 Q. Do you know whether or not the State Board of
17 Education draft rules still include Speech as a required
18 course?

19 A. I do not.

20 Q. You also note that initiating computer
21 programming classes will require several things of the
22 districts. I think you have that listed there in the
23 first row about computer programming.

24 Do you know whether or not any of the Edgewood
25 plaintiff districts currently offer computer programming

1 as classes?

2 A. I do not know.

3 Q. Do you know if any of the Edgewood plaintiff
4 districts currently offer Algebra II?

5 A. They offer Algebra II. I don't know across the
6 board how many students are...

7 Q. Do you know whether or not any of the Edgewood
8 plaintiff districts currently have a shortage of
9 Algebra II teachers?

10 A. I did not ask that question.

11 Q. Okay. Do you know whether or not any of the
12 Edgewood plaintiff districts currently offer Speech?

13 A. I do not know.

14 Q. Okay. Do you know whether or not all districts
15 in the State of Texas will be required to offer computer
16 programming classes regardless of the endorsement they
17 offer?

18 A. I have not looked at that.

19 Q. Okay. On the row related to Algebra II, the
20 Foundation School Program where you talk about Algebra II
21 and possible course requirements, on the right-hand side
22 where you say "Impact on School District," you say, "Some
23 districts experienced shortages of math teachers."

24 Do you see that?

25 A. Yes, ma'am.

1 Q. Okay. Now, before the implementation of House
2 Bill 5, you'd agree with me that districts were teaching
3 Algebra II. Right?

4 A. Yes.

5 Q. Okay. So to the extent there's any shortage of
6 Algebra II teachers, that wouldn't be a -- an impact of
7 House Bill 5, right, because that was a requirement that
8 existed before House Bill 5?

9 MR. HINOJOSA: Objection, form.

10 A. Well, whether it is a requirement under House
11 Bill 5 or a prior need, the districts have the need for
12 stipends. The need for incentives is -- is there.

13 Q. (BY MS. COCHRAN-MCCALL) Okay. Fair enough. But
14 just to make sure I understand, this Table 2 is not
15 intended to represent every possible need a district has.
16 Right? It's my understanding by the title of Table 2 that
17 it's a possible impact of House Bill 5. Right?

18 A. Yes, ma'am.

19 Q. So it's fair to say that you haven't endeavored
20 to include every possible need a district has in this
21 table. There wouldn't be enough room, right, to put
22 everything they need in this table. Right?

23 A. That is accurate.

24 Q. So is it fair --

25 A. There is also -- doesn't mean that they don't

1 have additional expenses because they're not appearing
2 there.

3 Q. Exactly. Okay.

4 So is it fair, then, to assume that if you've
5 included it in the right-hand side as an impact on school
6 districts of House Bill 5, that's something that you're
7 contending is something different than how the system was
8 before or is that not a fair assumption?

9 A. To the extent that Algebra II is not offered to
10 the districts, then that would create an additional
11 expenditure.

12 MS. COCHRAN-MCCALL: Objection;
13 nonresponsive.

14 Q. (BY MS. COCHRAN-MCCALL) My question is more
15 broad than Algebra II. I want to make sure I understand
16 your table.

17 So is it a fair assumption on my part, when I'm
18 looking at the right-hand column on your table where it
19 says "impact on school districts," is it a fair assumption
20 on my part to understand that to mean these are things
21 you're identifying that have an impact on the school
22 districts that is somehow different than how the system
23 was before?

24 A. That was my intent.

25 Q. And so with that being your intent, at least when

1 we're talking about in the row called Foundation School
2 Program, regarding possible shortages of math teachers,
3 you would agree with me that that's not something
4 different that districts could be experiencing because
5 Algebra II was required before?

6 MR. HINOJOSA: Objection; form.

7 A. And right now the way that I am trying to
8 remember here, all the math requirements, we had a
9 four-by-four requirement with four maths. I don't think
10 that even though we've gone to the Foundation School
11 Program, that the number total maths because of the
12 options that are given that you really are reducing them
13 in such a manner that you would need less teachers.

14 Q. (BY MS. COCHRAN-MCCALL) So it's a constant --

15 A. So that districts are having the option to
16 develop other advanced course, math courses. And
17 depending on whether those math courses teachers are out
18 there to deliver that content, districts may have to,
19 depending on the level of the course, because it also says
20 that they must be approved by institutions of higher ed
21 and others to be of high level. Then depending on the
22 nature of the course that they produce, as the third math
23 or fourth, that it will impact the districts.

24 Q. So it's your contention that districts offering a
25 course equal in rigor to Algebra II, that that course

1 could not be taught by an Algebra II teacher?

2 A. I do not know.

3 Q. Let's look on Page 9, the section called
4 "Requirement to Provide Endorsement." Do you see that?

5 A. Yes.

6 Q. And is it fair to say that you're representing
7 here that districts that offer more than one endorsement
8 will need more funding than what they currently have if
9 they haven't offered that same course before? I think
10 that's that second paragraph in the right-hand-side
11 column.

12 A. That is to say that districts that are currently
13 not offering one or more of those endorsements, that they
14 are now -- that they would be implementing one, that they
15 will have additional expenses to go with them.

16 Q. How do you know they're going to have additional
17 expenses?

18 A. My -- from my experience anytime we create a new
19 program, we're going to have additional expenditures.

20 Q. Do you know whether or not the districts -- any
21 of the districts could reallocate their resources in a way
22 that doesn't require additional funds?

23 A. Well, if we're reallocating monies, that means
24 we're taking monies away from what they're already needed.
25 I would think that the monies that they currently have are

1 MS. COCHRAN-MCCALL: And could we not have
2 the testimony from counsel.

3 Q. (BY MS. COCHRAN-MCCALL) What I understand your
4 testimony to be, and correct me if I'm wrong, is that in
5 your opinion any change to curriculum incurs cost to the
6 district. Is that your testimony?

7 A. Any time that we implement a change in the school
8 that is going to require adding courses or changing the
9 title of the course, while it may not need additional
10 staff, there are still costs that are incurred, either
11 with professional development, the resources that are
12 required with curriculum development, that those are part
13 of it. The biggest expense that go with it would be the
14 facilities, the staffing, those two big areas.

15 Q. Sure. Okay. So in terms of your testimony
16 related to change causes increased financial need, let's
17 set that aside because I understand what you're saying
18 about that.

19 You would agree with me, though, that we don't
20 know what any particular district's need is going to look
21 like until we know specifically what changes that district
22 has to make. Right?

23 MR. HINOJOSA: Objection; form.

24 A. We do not know until they make that decision. We
25 don't know the amount that they're going to need to add to

1 their budget.

2 Q. (BY MS. COCHRAN-MCCALL) And we don't know what
3 amount, if any, that they will be able to reallocate
4 current resources for the new needs. Right?

5 A. I wouldn't know.

6 Q. Do you know whether or not districts had to offer
7 any of the CTE courses prior to House Bill 5?

8 A. They do. Districts offer CTE courses.

9 Q. Do you know how many courses districts had to
10 offer prior to House Bill 5 of that nature, CTE courses?

11 A. I know they have a range of options, but I don't
12 know the numbers.

13 Q. Do you know how many possible clusters there are
14 available for districts to pursue under the prior system
15 in regard to CTE courses?

16 A. I know they have career pathways. I don't
17 recollect whether there's six or eight -- there's career
18 paths. Let me just say that.

19 Q. Would it surprise you if I told you it was 16
20 possible clusters?

21 A. It won't surprise me if that's what you're
22 saying.

23 Q. Do you know how many coherent sequences of CTE
24 courses that districts were required to offer under the
25 prior system?

1 A. I'm not aware of the total.

2 Q. Presumably you'd agree with me that districts
3 were complying with that requirement to off CTE resources.
4 Right?

5 A. Yes, ma'am.

6 Q. Do you know whether or not districts could
7 utilize their current coherent sequences to provide any of
8 the available endorsements?

9 A. It's possible.

10 Q. If a district were able to do that and to meet
11 the requirements of an endorsement, would you agree with
12 me if they could use those current coherent sequences,
13 that that would allow them to avoid additional expense?

14 A. If they already have them in place, they have
15 them in place.

16 Q. Let's look at Page 9, the row entitled "CTE
17 Certification Exam." Do you see that?

18 A. Yes, ma'am.

19 Q. Can you explain to me your understanding of how
20 this requirement is going to impact the districts as
21 compared to how it was compared before? I'm not sure I
22 understood it from looking at this.

23 A. It's just when they're going to get paid for it.

24 Q. When who's going to get paid?

25 A. The district. Because they're going to get

1 paid -- they're going to pay up front and then they will
2 get reimbursed.

3 Q. Could you describe how it was before?

4 A. The districts had -- the students had an
5 obligation to pay that.

6 Q. So the student paid it before?

7 A. And then districts. I think that that may have
8 been the way that it was. But the districts in this case
9 are going to wait for the -- they're going to have to pay
10 before getting reimbursed.

11 Q. Okay. And I just want to make sure I understand.
12 So your testimony is that before the students paid, and
13 did the students seek reimbursement from the district or
14 not?

15 A. I don't know how the districts operationalized
16 it.

17 Q. Do you have an opinion regarding whether or not
18 this change in how CTA certification exams are purchased
19 if that's a negative or a positive for each district?

20 A. It should be zero.

21 Q. So no impact really?

22 A. Yes. The only thing that it's doing is maybe the
23 operational, how it all works.

24 Q. Let's look at that last row, the "College
25 Preparatory Courses" on Page 9. And you talk about the

1 schools don't have that, then they're going to need to
2 make sure that they get that taken care of.

3 Q. Uh-huh. Do you know whether or not the -- any of
4 the Edgewood plaintiff districts offer any classes online
5 at this time?

6 A. I do not know, ma'am. I did not ask that
7 question.

8 Q. Okay. And if we don't know what a district's
9 current capabilities are, infrastructure, you'd agree with
10 me that we aren't going to be able to know how offering an
11 online course would affect that district. Right?

12 A. Please repeat that question.

13 Q. Sure. You'd agree with me that districts -- that
14 if we don't know what a district's specific capabilities
15 are in terms of infrastructure for an online course, for
16 example --

17 A. Uh-huh.

18 Q. -- that at this time without knowing that, we
19 don't know whether or not there will be a financial impact
20 on that district?

21 A. We do not know. But then I'd like to go back to
22 your second paragraph here in terms of what we had said
23 earlier about new courses. What happens with staff
24 development? What about the resources that are going to
25 be required? But those are additional expenses that we

1 may not be -- that we at this time know that they're going
2 to be there.

3 Q. If a district offers a course online and the
4 instructor is provided by the Institute of Higher
5 Education, is it your position that the district will
6 still incur salary and professional development costs?

7 A. I don't know what arrangements have been made or
8 what in new legislation in terms of how they get paid. I
9 know that in dual enrollment, there was always that
10 concern, who pays who. So I am not able to comment on
11 that because I don't know what current legislation says
12 regarding the funding of the dual enrollment features.

13 Q. Okay. Let's look at Page 10 of your Table 2.
14 And you have the Personal Graduation Plan row.

15 Do you see that?

16 A. Yes.

17 Q. Okay. And you talk about the requirement that
18 school principals have to designate someone to be
19 responsible for reviewing the personal graduation plan
20 of -- with the parents of all the ninth graders. Right?

21 A. Yes.

22 Q. Okay. And do you know when districts are
23 required to implement this requirement?

24 A. I was going to say this year. If they're not,
25 they should have. I am not certain if it's next year

1 or -- or this school year.

2 Q. Do you know whether districts currently provide
3 any similar counseling for any of their student
4 population?

5 A. I know that they provide counseling. And I would
6 think that they need to provide some information related
7 to -- to their future; the development of PGPs, to the
8 extent that they're here; and how they're expected to
9 detail it out. I think that may -- that those
10 requirements are more than what they may be doing now.

11 Q. Do you know whether or not it is more than what
12 they're doing now?

13 A. Just based on what I'm seeing and my experience
14 with my kids, I would say yes.

15 Q. Okay. Would you agree with me that until a
16 specific district implements this requirement, we're not
17 going to know whether or not that district needs
18 additional funding to implement it?

19 A. Well, that, again, goes to the point that I've
20 been make -- that I have made. Any time there is a
21 change, we're going to have additional costs. And here my
22 thought was that even if we do have counselors now, that
23 new requirements are going -- just the paperwork in
24 itself, I'm thinking, "Who's going to help them with all
25 this?" Counselors, as it is already, are -- they have

1 more on their plate, you know, from what we hear. And
2 then I also saw in the facts of finding in terms of
3 pupil-teacher ratios and all that, or counselor ratios,
4 just how their staffed would make a difference.

5 Q. Uh-huh. Would it be accurate to say that for
6 every instance on your Table 2 where you've said that
7 implementing the change is going to require additional
8 funds, that that position is based on the assumption on
9 your part that districts cannot implement a change without
10 additional cost?

11 MR. HINOJOSA: Objection; form.

12 A. I think that that's too general.

13 Q. (BY MS. COCHRAN-MCCALL) Okay. And I'm just
14 trying to understand where you're coming from in terms of
15 Table 2 because it's my understanding, and correct me if
16 I'm wrong, you'd agree with me that those positions aren't
17 based on specific data points. Right?

18 A. Well, data has not been collected, but it is
19 coming from just my experiences in terms of running a
20 school or a school district.

21 Q. Okay. And so that's what I'm trying to get at.
22 So each instance on your Table 2 where you've noted that
23 implementing any given change is going to cause a need for
24 new funds or resources, that's based on your experience.

25 But it is an assumption that you've included in

1 Preparation."

2 Do you see that?

3 A. Yes, ma'am.

4 Q. And you talk about a requirement that, "School
5 boards are required to adopt and enforce a policy that
6 limits time students may be removed from a class for
7 remedial tutoring or test preparation to less than 10% of
8 an instructional day."

9 Do you see that?

10 A. Yes, ma'am.

11 Q. Okay. And let's look at Page 3 of Exhibit 20073,
12 which is House Bill 5. And, specifically, I'd like to
13 look at Line 15, Section 25.038 (sic).

14 Is this the section of the education code that
15 you're referencing in this part of your table?

16 A. Yes, ma'am.

17 Q. Okay. Now, the statute says -- and I'll point
18 you to the line here in a moment --

19 MR. HINOJOSA: And make sure you, you know,
20 take the time to read the entire section if you need to in
21 responding to a question.

22 Go ahead. Sorry.

23 MS. COCHRAN-MCCALL: Sure.

24 Q. (BY MS. COCHRAN-MCCALL) I'm going to start on
25 Line 23 of House Bill 5 on Page 3, Section 25.083.

1 "The board of trustees of each school district
2 shall adopt and strictly enforce a policy limiting the
3 removal of students from class for remedial tutoring or
4 test preparation. A district may not remove its student
5 from a regularly scheduled class for remedial tutoring or
6 test preparation if, as a result of removal, the student
7 would miss more than 10 percent of the school days on
8 which the class is offered."

9 And I want to focus your attention on that part
10 of the sentence, "10 percent of the school days on which
11 the class is offered."

12 Do you see that?

13 A. Yes.

14 Q. Okay. Now, that requirement that's set out in
15 the statute is not what you've described here in your
16 Table 2, is it?

17 (Witness reviews document.)

18 A. I thought it is.

19 Q. When you're looking at it now, does it appear to
20 be the same? And I'll direct you specifically to your
21 language where you say, "Students cannot be removed for
22 remedial tutoring or test preparation to less than" -- let
23 me read your whole sentence.

24 "School boards are required to adopt and enforce
25 a policy that limits time students may be removed from a

1 class for remedial tutoring or test preparation to less
2 than 10 percent of an instructional day."

3 You've represented the requirement as not
4 removing them if it would cause them to be removed for
5 more than 10 percent of a given instructional day.

6 MR. HINOJOSA: Objection; form.

7 Q. (BY MS. COCHRAN-MCCALL) Is that what you've
8 done?

9 A. My interpretation at that time was to be
10 "10 percent of the instructional day." Reading it now and
11 the way you're emphasizing it, could be "or 10 percent of
12 the instructional days."

13 Q. That the class is offered. Right?

14 A. So either way, it would still be 10 percent.

15 Q. Okay. But it's 10 percent of something
16 different. Right?

17 MR. HINOJOSA: Objection; form.

18 A. I don't think so.

19 Q. (BY MS. COCHRAN-MCCALL) Okay. So --

20 A. I don't interpret it that way because my
21 experience is as to what's happening out in the schools
22 and my -- and what may be the basis for that -- for that
23 particular requirement.

24 Q. Okay. Well, let's use an example. The
25 requirement, as you've set it forth here, if there were

1 to him, that this is, in fact, what he has in his report
2 is accurate. That's "yes" or "no."

3 MR. HINOJOSA: Objection; form.

4 Q. (BY MS. COCHRAN-MCCALL) You may answer the
5 question.

6 A. Well, my answer would still be my interpretation,
7 was that the 10 percent included that. That it may be --
8 that it may be that 10 percent of the days that I would
9 agree that it could be possible.

10 Q. Okay. So as you sit here at this time, are you
11 saying you don't know if what you have here is accurate or
12 not?

13 A. No. I'm saying that what I know based on this
14 discussion, it is 10 percent can apply to the
15 instructional day, but 10 percent could also be ten days
16 as the whole.

17 Q. Okay. And your basis for maintaining that it
18 could be 10 percent of the instructional day is what?

19 A. The first part of the requirement that they are
20 limiting the removal of students from a class. It doesn't
21 say for the day.

22 Q. Okay. I got you. Thank you for clarifying that.

23 As part of your analysis, did you collect any
24 information from the districts to represent what amount of
25 tutoring or test prep they have provided in the past years

1 that equalled more than 10 percent of the total number of
2 days the class was caught?

3 A. I did not.

4 Q. So it is possible that right now districts
5 currently provide all the necessary test prep and tutoring
6 in a way that equals less than 10 percent of the day the
7 class is taught. Right? That's possible?

8 A. Yes, ma'am. Now, whether it is 10 percent or
9 less than 10 percent, the amount of time that they would
10 not be able to provide tutoring or test preparation during
11 the instructional day or even within those ten days would
12 require additional cost for the school.

13 If I'm going to pull out students for ten days,
14 somebody's going to have to take -- somebody's -- if it's
15 the teacher, somebody's got to take care of the other
16 students that are not needing remediation. So you could
17 even have higher expenditures if you go to ten days than
18 if you just go to extended day programs.

19 Q. Here on the right where you talk about that
20 "Funding for tutoring or test prep will need to be
21 provided outside the school day," do you maintain that
22 that is still an impact of the requirement that you've
23 identified?

24 A. Yes, ma'am.

25 Q. And so there is nothing about that impact that

1 A. I just wanted to clarify that because I think
2 that that further supports the position that I had
3 presented.

4 Q. Okay. Let's refocus back on the "Accelerated
5 Instruction" row. Do you know whether or not districts
6 have been required in the past to provide additional
7 instruction to students that did not perform well on the
8 State administered exam?

9 A. They have been required to do so.

10 Q. Okay. Do you know whether or not districts had
11 to do that at no cost to the students?

12 A. That is -- that is true.

13 Q. Let's look at Page 12 of your table, the at-risk
14 students.

15 Okay. Now, you note that the definition of
16 "at-risk" has been expanded, the at risk for dropping out,
17 to allow districts to consider students age 21 to 26 as
18 part of this at risk for dropping out group. Right?

19 A. Yes.

20 Q. Okay. And do you know whether or not any of the
21 Edgewood plaintiff districts have decided to serve
22 students age 21 to 26?

23 A. I do not.

24 Q. Okay. Do you have any idea of how many districts
25 statewide have decided to serve students ages 21 to 26?

1 A. I do not.

2 Q. Okay. And to the extent a district decides not
3 to serve students ages 21 to 26, you'd agree with me that
4 this provision has zero effect on those districts?

5 A. If that is -- if that is the case, that is true.
6 But what is occurring out in the school districts is that
7 they're all into these graduation requirements and dropout
8 rates and, thus, this matter of allowing State comp monies
9 to be used. So districts, in responding to the
10 requirements for increasing graduation requirements and
11 reducing dropout rates, will certainly be looking at this
12 as an option.

13 Q. Okay. Now, a district that chooses -- that does
14 not choose to serve students age 21 to 26, if a district
15 doesn't serve that age of students, then you'd agree with
16 me that those age students are not going to be included in
17 any data the district provides to the State because
18 they're not serving those students. Right?

19 A. Well, I don't have any data to say that -- you
20 know, to give a response to that. So this, again, goes to
21 my emphasis before that if you do implement it, that it is
22 going to cost you money.

23 Q. Okay. Do you know whether or not districts are
24 required to serve students age 21 to 26?

25 A. I know that districts are serving more students

1 be -- that is so.

2 Then if there is an additional person, then it
3 calls for an additional person would be added to that. If
4 they don't have a person, then they'll have to add one.
5 This one here does not at this point say that there is a
6 person -- an additional person hired.

7 Q. Do you know, for any of the Edgewood plaintiff
8 districts, whether or not an individual or a system has
9 been established to create the self-evaluation report?

10 A. I do not know, ma'am.

11 Q. Okay. So at this time, are you able to tell the
12 Court whether or not the Edgewood plaintiff districts will
13 need additional funding above what they already have in
14 order do the self-evaluation?

15 A. I would be able to say that they'll have costs
16 that would be related to what I have noted here to do a
17 needs assessment -- or needs analysis to develop the plan,
18 to implement the plan, to disseminate the plan, that there
19 will be costs incurred.

20 Q. Right. But at this time, are you able to say if
21 they'll need additional funds to cover those costs?

22 MR. HINOJOSA: Objection; form.

23 A. Well, they will be using funds that they were
24 currently -- or that they were previously not using for
25 that purpose.

1 Q. (BY MS. COCHRAN-MCCALL) Okay. And so does that
2 mean your contention is they will need additional funds or
3 you don't know?

4 A. Well, they will need funds that they're currently
5 not using for that purpose.

6 Q. I understand your point. My question goes to
7 whether or not they'll need additional funds above and
8 beyond what they already have budgeted? That's different
9 than the answer you're giving me.

10 MR. HINOJOSA: Objection; form.

11 A. And I have no access to that information from
12 them.

13 Q. (BY MS. COCHRAN-MCCALL) Okay. So you're not
14 certain?

15 A. I'm not.

16 Q. Okay. Let's turn to Page 14 of your report, and
17 this is the part entitled "Special Accreditation
18 Investigations" under the "Accountability" section of your
19 Table 2.

20 Do you see that?

21 A. Yes, ma'am.

22 Q. Okay. And you note that, "There are four new
23 conditions triggering a special investigation by the
24 Commissioner." Right?

25 A. Yes, ma'am.

1 Q. Now, are you aware of whether or not the
2 commissioner had authority to do investigations prior to
3 these four instances being added to the code?

4 A. The commissioner has a set authority to conduct
5 investigations.

6 Q. Do you have any idea of the number of instances
7 in which the commissioner has authority to conduct a
8 special investigation?

9 MR. HINOJOSA: Objection; form.

10 A. I am not aware of the numbers, no.

11 Q. (BY MS. COCHRAN-MCCALL) Did you collect any data
12 from the Edgewood plaintiff districts regarding whether or
13 not they previously monitored their achievement related to
14 the old triggers for a special investigation?

15 A. I did not.

16 Q. Do you have any idea about how many of these
17 investigations per year are performed?

18 A. No, ma'am.

19 Q. Okay. Let's look at Page 15. Okay. And I'd
20 like to look at Table 3 on the bottom of Page 15 entitled
21 "Bilingual Education/ESL Allocations per District."

22 Do you see that table?

23 A. Yes, ma'am.

24 Q. Okay. And I want to talk about what you did in
25 Table 3 and make sure that I understand where everything

1 A. Yes.

2 Q. Thank you.

3 Now, why did you use data from the years 2010-11
4 and 2013-14 for your table?

5 A. Only to see there was a difference in the amounts
6 that they were receiving, and that was the difference
7 between 2010 and '11 and 2013-14, whether there were gains
8 or losses in those amounts.

9 Q. Okay. And let's focus on the third column there,
10 and it's entitled "Adjusted for Inflation."

11 Do you see that?

12 A. Yes, ma'am.

13 Q. And in the note below, there is an asterisk in
14 that column heading. And in the note below, it reads,
15 "2010-2011 amounts are adjusted for inflation between
16 2010 & 2013 using the CPI index of 7.3% and projected to
17 2013-14."

18 Did I read that accurately?

19 A. And the projected -- yes, ma'am.

20 Q. Okay. And so for this table, did you utilize the
21 same index that you utilized on Table 1 of your report?

22 A. Yes, ma'am.

23 Q. Okay. And did you select that index for the same
24 reason for Table 3 that you selected it for Table 1?

25 A. Yes, ma'am.

1 I understood what you said.

2 A. Okay. The monies can -- I mean, any monies are
3 supposed to be used in a way that they're not meeting what
4 is already required, so it's over and above. What do we
5 do over and above what is required of all students? So
6 that's how that supplemental nature comes in.

7 Q. Oh, okay. Thank you.

8 Do you know whether or not the index that you
9 used here accounts for a district's expense in paying
10 staffing needs?

11 A. I do not know it.

12 Q. Now, if we look at Column 2 of Table 3, the
13 adjusted basic allotment amount for 2010-11 data points
14 that you've entered, can you tell me the source for where
15 you pulled those dollar amounts?

16 A. That was a result of the figures under 2010 and
17 '11 multiplied to the 7.3 and added to that. So that
18 would be the result when we applied a -- the 7.3 factor to
19 it in inflation.

20 Q. Okay. Maybe I misspoke. I'm looking at Column 2
21 of your table, which is what you told me earlier
22 represents the adjusted basic allotment amount for
23 2010-11.

24 A. Okay. I was looking in this Column 2.

25 Q. Okay. Let's start with Column 2. Do you see

1 the summary of school finances.

2 Q. Okay. And utilizing the most final drafts of
3 those that were available at the time you were preparing
4 your report. Is that right?

5 A. For that year, yes, ma'am.

6 Q. Okay. And then we move to Column 3 which is
7 entitled "Adjusted for Inflation."

8 Do you see that?

9 A. Yes, ma'am.

10 Q. And there is an asterisk which, again, indicates
11 that you used the CPI index of 7.3 and projected to
12 2013-14 using 2010-11 numbers. Is that right?

13 A. Yes, ma'am.

14 Q. Okay. And just like in your previous tables
15 where you utilized the CPI index of 7.3, did you choose
16 that index for this table for the same reasons you did in
17 the other tables?

18 A. I did.

19 Q. And did you compare the same years for the same
20 reasons that you did in those other tables?

21 A. I did.

22 Q. And for this student population, the SCE
23 population, is the district's top budgetary expenditure
24 staffing, like it is for ESL/bilingual ed students?

25 A. I would expect that to be so, yes.

1 Q. Okay. And do you know whether or not the CPI
2 index accounts for staffing amounts?

3 A. I do not, ma'am.

4 Q. Okay. Now, for Column 3 of your report entitled
5 "Adjusted for Inflation," is it correct that you took the
6 number in Column 2 and added 7.3 percent to that number?
7 7.3 percent of the amount in Column 2, you added that to
8 that column to get the amount in Column 3?

9 MR. HINOJOSA: Objection; form.

10 Q. (BY MS. COCHRAN-MCCALL) If I've misstated it,
11 please clarify. I'm not trying to trick you.

12 A. No. Just repeat your question.

13 Q. Maybe it might be easier if I just have you --
14 can you explain to me how you arrived at the number in
15 Column 3?

16 A. The numbers that you have in Column 3 are equal
17 to the numbers that are in Column 2, multiplied times the
18 .73 percent, added those up and that's your total.

19 Q. Okay. And for the fourth column, the
20 "2013-2014," are these also adjusted basic allotment
21 amounts for that year?

22 A. Yes, ma'am.

23 Q. And where did you find these amounts?

24 A. In the summary of finances.

25 Q. And in the fifth column entitled, "Difference Due

1 there is anybody else's interpretation. Maybe -- but I
2 would say that it is -- an adequate education is when the
3 student is able to achieve that which is expected by the
4 State. And in this case, I've looked at the overall
5 mission of the State and say, "The overall mission of the
6 State is to get all students college and career ready, and
7 that everything else that we're doing is to ensure that
8 that occurs."

9 Q. (BY MS. COCHRAN-MCCALL) Okay. And as part of
10 your report, is it fair to say that you did not engage in
11 any sort of budget audit of any districts whatsoever in
12 preparing your report?

13 A. In specific audits like auditors do, I did not.

14 Q. Okay. And apart from an audit that like an
15 auditor would do, did you review the line item expenses of
16 any district to evaluate and to determine whether or not
17 you felt their budgets were being allocated appropriately?

18 A. No, ma'am.

19 MS. COCHRAN-MCCALL: I have one final
20 exhibit. We're going to look at Exhibit 20074.

21 (Exhibit 20074 was marked.)

22 Q. (BY MS. COCHRAN-MCCALL) And this is a copy of
23 your CV, Dr. Zamora.

24 Okay. And is this your CV, Dr. Zamora?

25 A. Yes, ma'am.

1 background, did you have any specialty or focus on any
2 finance studies?

3 A. Yes, ma'am.

4 Q. And can you describe those for me?

5 A. Well, as part of my experiences, I have -- from
6 being a superintendent -- first, at the campus level as a
7 principal doing budget.

8 Q. Well, let me stop you there --

9 A. Okay.

10 Q. -- because I'll ask you related to your
11 professional experience.

12 A. Oh, sorry.

13 Q. But I want to focus on just your educational
14 background.

15 A. Okay. Those would be the courses that I took for
16 the master's degree.

17 Q. Okay. And which courses did you take?

18 A. I do not recall, ma'am.

19 Q. They were finance courses?

20 A. Yes, ma'am.

21 Q. Related to what?

22 A. Public school finance.

23 Q. Okay.

24 A. In fact, my first paper in school finance was one
25 on equity.

1 Q. Well, that seems, then, ironic, doesn't it?

2 A. Yes, because at that time, it was the Cervan
3 versus Grace (phonetic), the Rodriguez case. That started
4 in 1971, '72.

5 Q. Okay. Do you have any background in statistics?

6 A. Only the statistical courses that I took --

7 Q. Do you a --

8 A. -- tests and measurements.

9 Q. Okay. I apologize.

10 THE REPORTER: What "measurements"?

11 THE WITNESS: Oh, the tests and measurements
12 course at the university in my graduate work, and then
13 statistics at the University of Texas along with data --
14 what was it? Data analysis or -- there were two courses
15 there. One was in -- computer based, and the other one
16 was in (inaudible).

17 Q. (BY MS. COCHRAN-MCCALL) As part of your studies,
18 did you complete any economics focus?

19 A. Economics? No, ma'am.

20 Q. And currently you're a lecturer at UT Pan Am. Is
21 that right?

22 A. Yes, ma'am.

23 Q. Okay. And I know earlier you described that you
24 also provide consulting to districts. Is that true?

25 A. Yes, ma'am.

1 Q. Okay. Can you describe for me the nature of the
2 consulting work that you do for districts?

3 A. Okay. In the last few years, I've done work with
4 the Educational Service Center where we were working on a
5 GEAR UP project with the focus on getting students ready
6 for careers in college, starting with middle schools and
7 then moving up a grade at a time all the way through high
8 school, senior level.

9 Then I was involved with a high school redesign
10 project. It was also out of the Education Service Center
11 and funded by the Melinda Gates Foundation. We had six
12 high schools. We had more to begin with. Some didn't
13 stick it out. We had a small district, Zapata; then two
14 high schools in Weslaco ISD; and three high schools in
15 ESJS, first one was in Alamo (phonetic).

16 Q. And what was --

17 A. And I've also done organizational work.

18 Q. Okay. And let me stop you in regard to the high
19 school redesign project.

20 A. Yes, ma'am.

21 Q. Just to make sure I understand, can you kind of
22 describe for me the nature or the goal of that redesign
23 project in terms of what the project entailed or was
24 oriented toward achieving?

25 A. Yes, ma'am. We had four main areas. Four, yeah.

1 A. Yes, ma'am --

2 Q. Okay.

3 A. -- organizational health. And now I'm working
4 with a district just with organizational health. I work
5 with two districts, and La Feria is one of the districts
6 that I've done some organizational health with.

7 Q. And when you say "organizational health," could
8 you describe what that means for those of us that aren't
9 familiar with what that means?

10 A. Organizational health, really when -- let's look
11 at -- let me start it this way. The work that we're doing
12 really looks at having surveys conducted at a district
13 where they can -- it's a survey that measures their -- how
14 can I say it? -- they're doing in ten different dimensions
15 all the way from go focus, communications, cohesiveness,
16 how well they work together, how well they adapt to
17 change, adaptation.

18 We have resources, how they're using their staff.
19 And that one is not -- not numbers, but just the manner in
20 which people in the campus feel related to how their
21 experiences or expertise are being used, problem solving,
22 adequacy.

23 So, anyway, there is ten dimensions. The work
24 got started by Dr. Fairman (phonetic) and Dr. Martin out
25 of -- at the time, they were in Arkansas. Now their main

1 office is out of Dallas. And we provide them assistance
2 to the schools. Once the surveys are in, we help them
3 with the analysis of the data, we provide them -- we do an
4 interpretation of data with them, help them identify what
5 their strengths are, what their needs are. And then based
6 on the needs identified in one part of the dimension, at
7 least we provide for a specific assistance with their --
8 their participation in developing plans for that.

9 They participate along with teams from their
10 school in doing that work. We come back to them, as we
11 have moved, over the last four years in this last
12 district. We are in there less time because we want to
13 build the capacity there so that they can do the work.

14 Q. In regard to obtaining the funding from the Bill
15 and Melinda Gates Foundation, were you responsible for
16 writing the grant for those dollars?

17 A. I had some part in it with the Education Service
18 Center staff, Region I.

19 Q. Okay. And when you say you had some part in it,
20 can you describe what that means?

21 A. Well, just in developing the grant, looking at
22 what we were going to do, what -- how much money it was
23 going to cost, how much to appropriate, how much to
24 request.

25 Q. Okay. That's what I was curious about.

1 the witness at this time.

2 MS. McINTUSH: No questions from us.

3 MR. HINOJOSA: I reserve questions.

4 MS. COCHRAN-MCCALL: In that case, I think
5 we just -- I appreciate your time, Dr. Zamora, and your
6 willingness to cooperate and answer my sometimes
7 convoluted questions.

8 THE WITNESS: You're welcome.

9 MS. COCHRAN-MCCALL: You can go off the
10 record.

11 (THE DEPOSITION CONCLUDED AT 2:31 P.M.)
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SIGNATURE PAGE

I, ROBERTO R. ZAMORA, Ph.D., have read the foregoing deposition and hereby affix my signature that same is true and correct, except as noted on the correction page.

ROBERTO R. ZAMORA, Ph.D.

THE STATE OF TEXAS)
COUNTY OF _____)

Before me _____ on this day personally appeared _____ known to me [or proved to me on the oath of _____ 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 he/she executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this _____ day of _____, 2013.

NOTARY PUBLIC IN AND FOR
THE STATE OF T E X A S

My Commission Expires:

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

TEXAS TAXPAYER & STUDENT) IN THE DISTRICT COURT OF
FAIRNESS COALITION, ET)
AL., CALHOUN COUNTY ISD,)
ET AL.; EDGEWOOD ISD, ET)
AL. FORT BEND ISD, ET)
AL.; TEXAS CHARGER SCHOOL)
ASSOCIATION, ET AL.,)

Plaintiffs,)

JOYCE COLEMAN, ET AL.,) TRAVIS COUNTY, TEXAS

Intervenors,)

VS.)

MICHAEL WILLIAMS)
COMMISSIONER OF)
EDUCATION, IN HIS)
OFFICIAL CAPACITY; SUSAN)
COMBS, TEXAS COMPTROLLER)
OF PUBLIC ACCOUNTS, IN)
HER OFFICIAL CAPACITY;)
TEXAS STATE BOARD OF)
EDUCATION,)
Defendants.) 200TH JUDICIAL DISTRICT

REPORTER'S CERTIFICATION
DEPOSITION OF ROBERTO R. ZAMORA, Ph.D.
TAKEN NOVEMBER 19, 2013

I, Tamara Chapman, Certified Shorthand Reporter and
Notary Public in and for the State of Texas, hereby
certify to the following:

That the witness, ROBERTO R. ZAMORA, Ph.D., was duly

1 sworn by the officer and that the transcript of the oral
2 deposition is a true record of the testimony given by the
3 witness;

4 That the deposition transcript was submitted on
5 November 26, 2013 to the witness or to the attorney for
6 the witness for examination, signature and return to TSG
7 Reporting, by December 16, 2013;

8 That the amount of time used by each party at the
9 deposition is as follows:

Ms. Amanda Cochran-McCall - 4:03

10 Mr. David Hinojosa - 00:00

Ms. Holly McIntush - 00:00

11

12 That pursuant to information given to the deposition
13 officer at the time said testimony was taken, the
14 following includes counsel for all parties of record:

15 Ms. Amanda Cochran-McCall - ATTORNEY FOR MICHAEL
16 WILLIAMS COMMISSIONER OF EDUCATION, IN HIS OFFICIAL
17 CAPACITY; SUSAN COMBS, TEXAS COMPTROLLER OF PUBLIC
18 ACCOUNTS, IN HER OFFICIAL CAPACITY; TEXAS STATE BOARD OF
19 EDUCATION

20 Ms. Holly McIntush - ATTORNEY FOR FORT BEND
21 INDEPENDENT SCHOOL DISTRICT PLAINTIFFS

22 Mr. David Hinojosa - COUNSEL FOR EDGEWOOD INDEPENDENT
23 SCHOOL DISTRICT PLAINTIFFS

24 I further certify that I am neither counsel for,
25 related to, nor employed by any of the parties in the

1 action in which this proceeding was taken, and further
2 that I am not financially or otherwise interested in the
3 outcome of the action.

4 Further certification requirements pursuant to Rule
5 203 of TRCP will be certified to after they have occurred.

6 Certified to by me this 26th day of November, 2013.
7
8

Tamara Chapman, CSR, RFR

9 CSR No. 7248

Expiration Date: 12/31/14

10 TSG Reporting, Inc.

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