IN THE OFFICE OF THE ADMINISTRATIVE HEARINGS

STATE OF ARIZONA

In the Matter of:	) No. 14-F-FSRV-002-BCS
	)
	)
FOUNDING FATHERS	)
ACADEMIES, INC., a	)
non-profit corporation,	)
operating JEFFERSON ACADEMY	)
OF ADVANCE LEARNING, a	)
charter school.	)
	)
	)

ADMINISTRATIVE HEARING

Phoenix, Arizona
March 28, 2014
8:22 a.m.

Prepared by:
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(ORIGINAL)

1 AN ADMINISTRATIVE HEARING was taken upon
2 oral examination by the parties through their
3 respective attorneys before ALISA SMITH, RPR, a
4 Certified Reporter in the State of Arizona, at the
5 OFFICE of ADMINISTRATIVE HEARINGS, 1400 West
6 Washington Street, Suite 101, Phoenix, Arizona, on
7 the 28th of March, 2014, commencing at 8:22 a.m. of
8 said day. Further this hearing was taken pursuant to
9 the Arizona Rules of Civil Procedure.
10
11 * * *
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I N D E X

FOR THE CHARTER SCHOOL:

WITNESS	PAGE
JOEY REIDHEAD	
Direct Examination by Mr. Condos	517
Cross-Examination by Ms. Anderson	567
Redirect Examination By Mr. Condos	589
Examination by Administrative Law Judge	596
Recross-Examination by Ms. Anderson	606
VERA MEIER-BENNETT, M.D.	
Direct Examination by Mr. Condos	608
Cross-Examination by Ms. Anderson	634
SAMANTHA TORREZ	
Direct Examination by Ms. Stillman	638
Cross-Examination by Ms. Anderson	669
Redirect Examination By Ms. Stillman	686
Examination by Administrative Law Judge	687
Recross-Examination by Ms. Anderson	692
Further Redirect Examination By Ms. Stillman	695
KERRY PETTIT	
Direct Examination by Ms. Stillman	696
Cross-Examination by Ms. Anderson	736
KATHLEEN WINANS	
Direct Examination by Mr. Condos	741
Cross-Examination by Ms. Anderson	755

1 I N D E X

2 FOR THE CHARTER SCHOOL:

3 WITNESS PAGE

4 ARIEL WINANS

5 Direct Examination by Mr. Condos 758

6 JANICE STEWART

7 Direct Examination by Mr. Condos 767

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1 ADMINISTRATIVE HEARING
2 * * * * *
3 ADMINISTRATIVE LAW JUDGE: We are back
4 on the record in Docket Number 14-F-FSRV-002-BCS.
5 It is March 28th, 2014, at approximately 8:19 a.m.
6 My name is Tammy Eigenheer. Again, I
7 am the administrative law judge assigned to this
8 matter. If I could have the parties' appearances on
9 the record.
10 MR. CONDOS: Leo Condos on behalf of
11 the Founding Fathers and Charter School. To my
12 right here is Kathleen Stillman, my associate who is
13 participating with me as well. And directly behind
14 us we have Sandy Stewart, and also we have sitting
15 in, previous testimony from Chloe Reidhead, and also
16 as an observer, Ed Lawrence.
17 ADMINISTRATIVE LAW JUDGE: Okay.
18 MS. ANDERSON: Kim Anderson, Assistant
19 Attorney General, representing the State Board for
20 Charter Schools. To my right is DeAnna Rowe, the
21 executive director of the Arizona State Board for
22 Charter Schools. And behind me to the far right,
23 also with the Charter Board, is Katie Poulos and
24 Johanna Medina, and then also Deborah Sterling from
25 the Attorney General's Office.

1 ADMINISTRATIVE LAW JUDGE: Okay. Then
2 your next witness.
3 MR. CONDOS: We have Mr. Reidhead.
4
5 JOEY REIDHEAD,
6 the witness herein, having been first duly sworn by
7 the Administrative Law Judge, was examined and
8 testified as follows:
9
10 ADMINISTRATIVE LAW JUDGE: Will you
11 please state your name, spelling it for the record?
12 THE WITNESS: Joey Reidhead, J-o-e-y,
13 Joey, Reidhead, R-e-i-d-h-e-a-d.
14 ADMINISTRATIVE LAW JUDGE: Please
15 proceed.
16 MR. CONDOS: Thank you.
17
18 DIRECT EXAMINATION
19 BY MR. CONDOS:
20 Q. Joey, are you employed at Founding Fathers?
21 A. Yes, sir.
22 Q. Okay. And what do you do at Founding
23 Fathers?
24 A. I run a high school for Founding Fathers,
25 along with being a representative for special

1 education also, so I guess I run the special
2 education department as well.
3 Q. And what is your educational background that
4 gives you the ability to do this?
5 A. I've been a teacher for 30 years. I've got
6 a master's degree in education administration. I
7 teach -- my main degree is in -- that I'm proud of
8 is in English as a teacher. And so pretty much I
9 get involved in everything as far as the core
10 curriculum is concerned.
11 Q. Okay. How many students would you say is in
12 the high school portion of Founding Fathers?
13 A. Right now at this time we have 48, and I've
14 been off getting my new hip put in, and we've got
15 four more, Monday when I return back to work, to
16 look at that want to get in.
17 Q. Okay. And the level that the students that
18 are coming into school, where do most of the
19 students come from?
20 A. We get students that -- and I use this
21 phrase loosely -- that nobody else wants. They've
22 been around from school district to school direct
23 and haven't fit in for whatever reason. So they
24 come to Jefferson.
25 And the original statement that we always

1 hear from whoever brings them to us is that, "This
2 is their last chance. This is -- what do you want
3 to do with them?"
4 So we assess them, and we place them where
5 their ability level is, not necessarily their grade
6 level because they're always two to three grade
7 levels in most cases below or are low. And so we
8 try to play catch-up.
9 Q. Okay. As the special ed director, what are
10 your responsibilities at Founding Fathers?
11 A. I have -- I have a staff of two secretaries
12 that runs the SPED department. We take in and --
13 and service kids that are below grade level that
14 have an IEP or have come to teacher referral issues
15 where a teacher refers them because they are low.
16 And then we start the special education
17 process and see about placing them, having a psych
18 eval, having all the things necessary to get them in
19 there or not put them in there.
20 Q. Okay. And in the high school, what is
21 your -- what is your role with respect to the
22 students and the operation of the high school?
23 A. We use A Plus program. It's recognized by
24 states across the nation here. They are in tune
25 with the Common Core curriculum.

1 And so we used to use an Internet service
2 called -- called Novel Stars, but A Plus looked
3 better to us this year. This last year, we switched
4 over. And it -- and it has shown the results of --
5 you know, it backed up what Sandy and I thought.
6 It is better because it's really made the
7 kids accountable for their work, way -- way much
8 more intense than -- than Novel Stars.
9 And so my job, back to your original
10 question, is to monitor the kids as they work on
11 this, to answer questions, to do whole group
12 learning and small group learning.
13 We've hired a math teacher to teach math
14 and -- and that involves our A Plus program. Plus,
15 it involves just lower level math that doesn't
16 involve A Plus.
17 So, basically, I just teach all day and
18 whatever -- and answer whatever questions are
19 necessary for me to answer.
20 Q. Okay. Now, the teacher that teaches the
21 lower level math is below high school level; you're
22 trying to bring them back up at school?
23 A. Sometimes, yes. We've had high school
24 juniors come to get in school there, and they have a
25 fourth or fifth grade math level, and they might be

1 a junior in high school.
2 So we got to hurry and try to plug the holes
3 in the dam so we can move them forward in hopes
4 that, you know, they're not with us for another five
5 years.
6 Q. Okay. Now, when a new student -- you
7 touched on it a little bit, but when a new student
8 comes to Jefferson Academy, what's the procedure for
9 getting them enrolled and placed in a class?
10 A. It's a standard practice of any
11 district-type situation. You know, you have to have
12 your shot records and your birth certificate and all
13 those kinds of things.
14 But when they're actually sent to us in the
15 classroom we do a Woodcock-Johnson III assessment
16 test on them to find out -- give us a guideline of
17 where we -- a generality of where they need to be
18 placed.
19 Because when you first listen to a student
20 that comes to us, they will tell you, "Well, I'm a
21 junior," and the -- age-wise, they are a junior, but
22 credit wise, they're -- haven't made it to a
23 freshman yet. And sometimes these kids don't
24 understand credits drive the -- the curve.
25 And so we have to explain to them that we're

1 going to back them up, start them at sixth, seventh,
2 eighth, ninth grade math, English, whatever they're
3 deficient in, and move them forward.
4 Q. And you mentioned the Woodcock-Johnson test
5 that you give. If I could turn your attention to
6 the white book, and it should be in front of you
7 right there to your -- to your right, right there --
8 A. Okay.
9 Q. -- if you could look to Exhibit T?
10 A. AIMSweb, is that the Exhibit 2?
11 Q. T.
12 A. Oh, T.
13 ADMINISTRATIVE LAW JUDGE: Other way.
14 THE WITNESS: Other way? Sorry, sorry,
15 sorry. Exhibit T. All right. Okay. There we go.
16 BY MR. CONDOS:
17 Q. Now, is -- are those -- well, what are
18 those?
19 A. Okay. Just a second.
20 Q. What is Exhibit T?
21 A. Oh, okay. Woodcock-Johnson is indicators.
22 So we give a test -- the Woodcock-Johnson test. I
23 have an independent person that comes in, a
24 specialist from our -- it's the secretary of our
25 special ed department. She's been trained to give

1 this test.
2 And this is a -- a score sheet that's put
3 out after -- you know, when all -- all the clusters
4 of identifying have been turned in to her, and this
5 prints out what we want to know of placement. For
6 example, it says, "Broad reading." Go way over to
7 the far right-hand level. This person scored in the
8 eighth grade level.
9 Q. Before -- before you go there, let me get a
10 couple preliminaries in here.
11 A. Okay.
12 Q. So is this an accurate copy that's prepared
13 for the school at Founding Fathers?
14 A. Yes.
15 Q. And these are representative of scores that
16 have been done already?
17 A. Yes.
18 Q. Okay.
19 MR. CONDOS: Your Honor, we would
20 submit Exhibit T.
21 MS. ANDERSON: Your Honor, one of the
22 concerning issues is that these contain students'
23 names, and I just have some concerns about the
24 release of personal identifiable information, with
25 this information containing student names. Perhaps

1 before their admission they can be redacted.
2 MR. CONDOS: Judge, we -- evidently,
3 this one slipped -- slipped by us.
4 MS. ANDERSON: That's the whole -- the
5 whole exhibit contains student names.
6 ADMINISTRATIVE LAW JUDGE: Yeah.
7 MR. CONDOS: We would be glad to redact
8 all the names before the record is closed.
9 ADMINISTRATIVE LAW JUDGE: Okay. I
10 will admit Exhibit T into evidence with the
11 understanding that it will be replaced by a redacted
12 copy.
13 MR. CONDOS: Okay.
14 BY MR. CONDOS:
15 Q. Now, you were just getting ready to talk
16 about how you use the Woodcock-Johnson.
17 Could you go back to that and tell us --
18 well, this is a -- is this a test that's
19 administered at the very beginning when a student
20 comes in?
21 A. Yes, right when they come. That same day
22 they come or the next day. When they enroll, we
23 have them immediately tested, and the test is in
24 clusters and subgroups. And so down below there,
25 you see what drives the broad scores up at the top.

When -- when the top broad -- like "Broad Math," "Broad Written Language," those are -- those are the areas that we want to know, "What" -- "What is this kid's skills? What are they" -- "What's his strengths? What's his weaknesses? Is he" -- if he comes -- if he's a senior in high school and he scores a fifth grade math level, for example, we better do something about it, because it's not going to fly.

This gives us a quick overview to see where we're at, and, usually, by the time we get the transcripts from the -- from the other school, wherever they came from, this has -- this has helped us get started educating him and not wait until his transcripts get here.

Q. Now, you talked about -- if we could take a closer look at, at the top it talks about norms that are based on -- let's see. This first page anyway, let's use this as a representative sample.

It's got -- the norms are based on the age level of what we're looking for?

A. The norm -- well, not only age level, but you -- because there's like five different reports you can print out for this. You can go grade level. You can go age level. You can go national norms.

1 There's a whole bunch we choose.
2 We choose S to lead to grade equivalency at
3 the far right. So if we have a senior that comes in
4 and tries to snow us, and say, "Well, I'm a high
5 school senior. I'm from Show Low. I need two
6 credits," blah, blah, blah. We have to verify that.
7 What we want to know is, are we getting the right
8 scoop from the mom and the child or are we not?
9 And so when we do a Woodcock-Johnson, if
10 we're close to matching up, we go ahead and get him
11 started right in that subject.
12 If we've got a big gap from -- this says
13 he's in sixth grade math and he tells me he needs
14 senior math, we're not going to do that.
15 In the past, we've had kids enroll, tell us
16 what they want us to know. We place them in a
17 senior level class, and they immediately start
18 flunking.
19 Q. And the -- the headings across the top,
20 could you explain to us what, you know, each one of
21 those cluster tests -- raw data, AE -- what they
22 stand for?
23 A. It's just a national norm. It's a -- it's a
24 broad -- if you take all the things that drives
25 reading and you put them together, all these sub --

1 like down -- start maybe from brief -- our brief
2 reading, brief math, those are all the things that
3 go into giving you a broad score.
4 The broad score is just -- all these
5 subclusters form the broad score, and we go by the
6 broad score.
7 Now, if we -- if a kid is very low, we can
8 come down to the bottom, and we can look at what
9 they scored down here, and it will give us
10 indicators what they're strong in, what they're weak
11 in, and so we attack that specific deficiency.
12 Q. So if a child comes into the school that
13 is -- that believes he's a sophomore or a junior
14 just because of the number of years he's gone to
15 other schools, this will -- does this assist you in
16 not placing him into the junior category but exactly
17 where his level is?
18 A. Exactly.
19 Q. Okay. And then what kind of remedial steps
20 do you take to try to bring -- or does the school
21 take to try to bring him up to the level so he can
22 graduate?
23 A. He falls into the -- into what we have --
24 you know, it's not an official category across the
25 United States. It's our category of "specific need

1 for help."
2 And we put him at whatever ability level he
3 is, and we -- and we assess, practice, assess,
4 practice, assess, practice, in hopes that we can
5 start moving him up the ladder, so to say, to get
6 him to that grade level.
7 Q. And how do you check to see if the -- the
8 student is progressing?
9 A. We have several different ways. We've
10 got -- other than giving him -- we do give another
11 Woodcock-Johnson test somewhere about -- we give it
12 about three times a year.
13 But we use our own teacher-ready tests to do
14 that, and they're focused on each area. We use our
15 A Plus program, the assessment tests that are on the
16 A Plus, and it gives us an immediate printout so we
17 can give immediate feedback.
18 We use the Compass test. We use -- because
19 that goes along with our NPC structure to get them
20 into NPC. And it not only gives us an immediate
21 indicator of what's going on, but it also gets them
22 to progress towards our local junior college, NPC.
23 Q. And NPC is the junior college? That's
24 Northland?
25 A. Pioneer College.

1 Q. Okay. With respect to -- say -- normally, I
2 believe you said they come in lower. But what if a
3 student would come in with higher than grade level?
4 A. Oh, my. We've got one. Without using any
5 names, he came to us as an -- well, actually a
6 seventh grader. He was way too high for the junior
7 high to stay engaged and active in that curriculum.
8 They sent him over to us.
9 He's an eighth grader now, and he's pretty
10 much taken every class that we have on the A Plus
11 program. He's already enrolled in an AA degree set
12 up at the local junior college. We transport him
13 over.
14 And we give him all the higher classes off
15 of A Plus, and we -- we tune those classes in with
16 Northland Pioneer College so that he's on a college
17 level readiness situation.
18 Q. Okay.
19 A. And he's in the eighth grade.
20 Q. So, conceivably, would he be able to get an
21 associate's degree as well --
22 A. Yes.
23 Q. -- as a high school degree?
24 A. He is a -- he is a classical example of what
25 we're trying to do with our program. By the time --

1 if you get a kid at the freshman level, say, with --
2 you know, they don't even have any credits yet.
3 He's coming in from eighth grade to the
4 freshman level. By the time they leave us, he
5 should have not only a diploma, but he should also
6 have an AA degree from NPC that we pay for, by the
7 way.
8 Q. Now, in special education, there -- there
9 are usually plans that are set up in how to educate
10 the student or how to make adjustments for it.
11 A. Uh-huh.
12 Q. I believe they're called IEPs or independent
13 educational plans?
14 A. Yes, sir.
15 Q. Do you have anything similar to that since
16 you tailor working with each of the other students?
17 A. Yes. We -- for normal students at a ten, we
18 have what's called an ILP, an individual learning
19 plan. And we treat that the same way as an IEP for
20 special needs, individual education plan.
21 And we meet with the parents in accordance
22 with our -- disseminating the report cards out to
23 the parents. And we have parent/teacher
24 conferences.
25 And, basically, when the group came up to

1 observe us, the gentleman that was in our classroom
2 that watched what we do from the State Department,
3 the Charter Board, he asked some of the similar
4 questions, and he could not figure out which were
5 the special needs kids and which were individual
6 learning plan kids, regular ed kids.
7 And that's because we pretty much teach the
8 entire classroom like IEP students. It's just a --
9 it's just better learning, better teaching.
10 And so you probably wouldn't see any
11 difference between an ILP student or an IEP student.
12 It's just the -- it's just the special ed placement
13 takes care of one, and the regular ed placement
14 takes care of the other.
15 Q. So each child receives its own educational
16 plan for the school --
17 A. Yes.
18 Q. -- from the school?
19 A. Yes.
20 Q. Now, if I could turn your attention to
21 Exhibit R, which is about two or three before that
22 one.
23 A. Got it.
24 Q. Okay. And that's already been admitted into
25 evidence by agreement.

1 What is Exhibit R?
2 A. This is called an ECAP. It's an educational
3 plan that was put out by the State Department that
4 is required for the -- for high school level
5 students. Each student should have one of these to
6 help drive the education and the -- to identify
7 career-based learning for -- for a child grades 9
8 through 12.
9 And so when they come to us, I do an ECAP
10 for them, and at the very top, you can see, they
11 have a freshman year, a sophomore year, a junior
12 year, and a senior year. We meet twice a year.
13 I already know where they are academically,
14 but this has an academic portion, and if you will go
15 down, it talks about four-year high school plan.
16 Those are the general classes that a student
17 should take when he starts at a freshman level to
18 enroll, and it goes freshman, sophomore, junior,
19 senior from left to right. And then down below that
20 is the classes themselves and the credits that
21 they'll get for those classes.
22 Then if you turn the page there, it -- this
23 is just a standard state form that we got from the
24 State Department. I like it real well because it
25 has everything.

1 It talks about the same child -- 9th, 10th,
2 11th, and 12th grade -- for, what are they going to
3 do with themselves? Where are they headed? What is
4 their life -- you know, what career zone do we need
5 to guide them towards?
6 And that comes through all the many
7 different assessments that you see in that top box,
8 including what's called the ASVAB test, which is a
9 military entrance score, but it also gives us a
10 great knowledge of what to do with the kid
11 career-wise.
12 And that's why we have the ASVAB given every
13 year, and it helps us start that person thinking and
14 tracking toward where they want to go career-wise.
15 For example, we had a kid this last month
16 that, he's been graduated and gone from us for
17 several years now, but it indicated -- when he took
18 the ASVAB when he was with us, and he graduated from
19 Jefferson with a diploma and high honors and
20 whatnot.
21 He's worked for Taco Bell ever since, our
22 local Taco Bell, and he was just selected from
23 across the nation as the number one Taco Bell
24 employee of the year. And he got transported down
25 here. He got wined and dined and hurrahed and a big

1 check, you know, identifying him and a plaque and
2 all this stuff.
3 And this is a kid -- I'm very proud of him
4 because this is a kid that used to ride his bicycle
5 15 miles to get to work, you know.
6 And I'm not exaggerating about that. Out
7 where he lives, it's about 15 miles from there to
8 our Taco Bell, so I'm just ecstatic over it.
9 But without the ECAP situation, we
10 probably wouldn't have been known -- we probably
11 wouldn't have known that he needed to go into the
12 restaurant industry, which is where he always wanted
13 to be, but I wasn't totally sure that that was the
14 right placement.
15 And so that's what an ECAP is for, that
16 we identify the students 9th through 12th, and we
17 make sure we have a plan.
18 Q. Okay. Does this instrument also help you
19 track as to whether or not the student is on track
20 for graduation?
21 A. Yes, it does. If you turn back to the --
22 well, right here, for example, on the -- on the
23 second page, you have your AIMS results, your AIMS
24 scores. That's an immediate indicator of, what are
25 we doing? Is this kid going to get to graduate or

1 not?
2 But you can hop back over to the first page,
3 and all these classes that run up and down there,
4 that's just a standard straight mixture. We put our
5 own classes in there. And those are the
6 requirements to obtain 24 graduated -- credit
7 requirement to get a diploma.
8 And so as -- you know, it's just a great
9 quick glance, and we have many other indicators that
10 we look at.
11 But I can look at this, if -- if our
12 curriculum coordinator comes in, Mrs. Kami Tate, she
13 says, "Hey, what about this kid? How many classes
14 is he on?" I pull this right out and lay it out in
15 front of her, and she can see immediately where
16 we're at fault.
17 Q. And what other indicators do you utilize to
18 make sure that a student in high school is on track
19 to graduate?
20 A. We go to the ILP and the IEP. And with the
21 IEP students, it's a matter of determining if that
22 student has to take the AIMS test or the AIMS A, the
23 alternative test.
24 And -- but, basically, our A Plus program,
25 99.9 percent of our kids are on there, and I get a

1 printout, or a kick-out I call it, every week that
2 tells me where these kids are. Are they going down,
3 becoming deficient? Are they planing? Are they
4 going up?
5 Q. Okay. Now, this is -- is this A Plus a self
6 paced type of program.
7 A. Self-paced program. I think -- we used to
8 say you can go as fast as you want or as slow as you
9 want, but we quit using the "as slow as you want"
10 because some kids were really magnifying that. So
11 you can go as fast as you want.
12 So when we have a kid that's good in
13 English, like my daughter, my stepdaughter, she --
14 when she came to us, she loved English. And so she
15 just took off in English and got -- got all her
16 English finished. She's very OCD about that kind of
17 thing.
18 Then she came and got the next subject that
19 she liked best and worked on that. And she finally
20 narrowed it down to -- this year she's in the
21 subject area that she's least interested in or least
22 highly qualified in, and that's what she's pounding
23 away at right now.
24 Q. Okay. You mentioned previously that --
25 about the young man who received the Taco Bell

1 awards, having to pedal a long distance to his job.
2 Are the -- do many of the students have a
3 long distance to come to Founding Fathers?
4 A. It varies. We -- we -- we service the area
5 all the way -- you know, our community is kind of
6 spread out, and our high school is kind of right in
7 the middle of geographically the whole area.
8 And so we have kids that live like where he
9 lives, at White Mountain Estates -- White Mountain
10 Lake Estates. He's out there probably nine, ten
11 miles out of town.
12 And, you know, then we transport kids as far
13 in as Snowflake, which is 30 miles away. And then
14 we get kids from Pinetop, which is 11 miles, 12
15 miles up the hill.
16 And public transportation helps everybody
17 that lives within the public transportation
18 guidelines because we give out bus passes.
19 But there's all those that -- the parents
20 bring them in out of the -- we call it "coming in
21 out of the sticks," you know, because they live in
22 rural, rural situations, where they haul their own
23 water and make their own electricity with a
24 generator, solar panels.
25 And for a kid to be motivated or so focused

1 that he wants to ride his bicycle 15 miles to go to
2 work I find is -- that's a pretty good deal.
3 Q. Okay. So your attendance figures would
4 reflect -- well, the positive attendance figures
5 would reflect the desire of these students to, and
6 the parents, to weather long distances to get there?
7 A. Oh, yes. Very much so. They could easily,
8 you know, reach the ten absentee -- ten days of
9 absences and be dropped real quick. It's -- they're
10 very motivated to get there.
11 Q. Okay. Now, this -- this instrument here,
12 the one that's Exhibit R, did -- when -- first of
13 all, were you present at the time that the staff
14 group came up in November?
15 A. Yes, I was.
16 Q. Okay. Were you -- did you participate in
17 that meeting?
18 A. The meeting that we had in the high school?
19 Q. Yes.
20 A. Yes. It was in my office.
21 Q. Okay. Did you show the -- the staff from
22 the State Board for Charter Schools this instrument
23 here, the ECAP?
24 A. Yes, I did.
25 Q. Okay. And were there -- did you explain

1 like you've just explained to us -- but, of course,
2 they probably know a lot more -- the process and how
3 you were using it as far as the school?
4 A. Yes. And they also admonished the fact that
5 they didn't know what it was, and it's a standard
6 State form and -- yeah.
7 Q. Did they ask for any copies of those
8 documents?
9 A. You know, we -- we struggled with, what do
10 we copy? What do we not copy? And I don't see the
11 lady that -- that was there. Okay. I don't see her
12 here.
13 But she's -- she was very adamant about
14 saying, no, we don't need a 700-copy -- page copy
15 from each individual child. We'll let you know.
16 And that's why we went and had the meeting
17 in my office, and I set up the computer, opened up
18 A Plus where they could all see it on the page.
19 And, basically, what the meeting in my
20 office turned into was kind of like what we're
21 talking right now, what -- what drives our kids.
22 What -- you know, how far the distances they come,
23 what -- what classes are they taking? How do you
24 know when they're falling behind or they're staying
25 caught up or they're out in front of the game or,

1 you know . . .
2 Q. And did you relay all of that to the staff
3 that was there?
4 A. We sure did.
5 Q. Okay. And they didn't ask for any
6 additional information?
7 A. Nope.
8 Q. I think the lady you're talking about was
9 probably Martha Morgan --
10 A. Blonde hair, yeah.
11 Q. -- who is retired now?
12 MS. ROWE: No.
13 THE WITNESS: Who was it?
14 MS. ROWE: It was Martha Morgan, but
15 she does not have blonde hair.
16 THE WITNESS: Oh, well, I thought it
17 was blonde. I can't remember who it was, but, yeah.
18 BY MR. CONDOS:
19 Q. And did you also show her the initial --
20 what we have marked initially as Exhibit T, which
21 was your Woodcock-Johnson scores?
22 A. Yes, um-hmm. We talked about them.
23 Q. And did you explain to them how you utilize
24 that?
25 A. They were very ahead of the game on that.

1 They had already seen the Woodcock-Johnson. They
2 knew all about the Woodcock-Johnson test.
3 Q. Did you -- did they ask you to include any
4 of the Woodcock-Johnson scores as, you know, part of
5 the return --
6 A. No.
7 Q. -- submission?
8 A. No. They looked at them, and -- and we
9 talked about it, and basically in the meeting in the
10 office, there weren't any -- there weren't any items
11 that anybody -- that they needed to copy off.
12 We talked about all the items, but we didn't
13 make any copies of anything.
14 Q. Now, do the students -- you use these for
15 tracking, but do the students and the parents know
16 how they're doing? Do you ever have meetings with
17 them?
18 A. Yes. We have -- we have -- parent/teacher
19 meetings four times a year on -- when we disseminate
20 the report cards out. But we also -- as soon as the
21 child -- looks like they're struggling in a subject
22 for any reason, whether it be they want to talk too
23 much in class or they just don't know the material
24 or they're just -- they can't do it, we get a parent
25 in.

1 We immediately set up a parent/teacher
2 conference. They come in. We talk about what's
3 going to happen. And we talk -- we talk about
4 whether we're going to do whatever. What -- what
5 modification can we do for that child right down to
6 the smallest thing, like changing seating or
7 whatnot, or even changing classes or maybe have mom
8 or grandma come and sit with them in class so that
9 we can motivate them a little better. So we -- we
10 jump on that fast.
11 Q. And how often do you meet with the parents
12 of the students in a tracking process?
13 A. It varies. Four times for everybody.
14 There's four times a year that we meet for every
15 student, and then some students, we might meet every
16 other week, every week.
17 I've got a grandma raising grandsons right
18 now, and I meet with her every Friday. She comes
19 every Friday. We go over what the kids are doing.
20 That's the Taco Bell -- there's three brothers, and
21 we have all three of them in there. And I meet with
22 her on a weekly basis every Friday.
23 Q. Okay. Now, if you would turn over to
24 Exhibit S --
25 A. S.

1 Q. -- which has also been submitted by --
2 A. Okay. That's our standard ILP form.
3 Q. And what is the ILP?
4 A. ILP is an individual learning plan or
5 program, and it's basically used to -- it's a --
6 it's a quick reference check to show the parents and
7 show the student where they're headed, where they've
8 been, and where they're at. And it was developed as
9 an easy eye form so parents could understand what's
10 happening.
11 Like, you know, the top is just generality
12 stuff. You know, height, weight, date, you know,
13 all those kinds of things. The second part is
14 assessments. When did you screen them? What was
15 the results? Reading, spelling, writing, and so
16 forth.
17 And so it's just a generic nice look for
18 parents to see where their kids are and where
19 they're going.
20 Q. And who developed this form?
21 A. It's been there a long time, so I'm not
22 sure, so I'm going to say it was developed some
23 seven, eight years ago when I got there by the
24 faculty, by the teachers.
25 Q. Okay. Now, if you would turn to page 2, the

1 first page seems to be when they start off, the
2 placements.
3 A. Right.
4 Q. And then when you -- if you turn to page 2,
5 can you explain what that tells us --
6 A. It's just your --
7 Q. -- tells you?
8 A. It's your fall and winter benchmarks, so
9 that you -- you know -- you know, you can reassess
10 them. You don't want to -- you don't want to assess
11 them every other week, and pretty quick, the kid
12 learns the questions of the test; you know, the
13 assessment test.
14 So this is just a monitoring point. You
15 have certain points that you give the assessment
16 again to see where they're at and compare it to the
17 beginning.
18 Q. So you have benchmarks that each child is
19 supposed to reach by a certain time?
20 A. Yes.
21 Q. Okay. And all that is memorialized on this
22 ILP?
23 A. Yes.
24 Q. What happens if a child hasn't reached its
25 benchmark?

1 A. We immediately have to remediate and back
2 that child up and find out exactly what road did we
3 go down that was the wrong way to go and recoup
4 and -- and, you know, take off again in a different
5 direction.
6 And maybe put in place better modifications
7 or put in place whatever I think we need to do. I
8 meet with my aids. We sit down. We go over each
9 kid, and we say, "What can we do better to service
10 this kid in English, that kid in math, this kid in
11 reading," and so on.
12 Q. Okay. Now, when you meet with your aids,
13 are there any notes or anything taken or, you know,
14 as far as --
15 A. Yes.
16 Q. -- the school records?
17 A. We have those cataloged in individual
18 portfolio files in our classroom, and we just add to
19 it as we go.
20 Q. Okay. When -- did you provide the State
21 Board for Charter Schools examples of those
22 portfolios?
23 A. No. Those didn't come up in our meeting.
24 Q. Okay. Did you explain this ILP process to
25 them?

A. Yes. We talked about the ILP versus the IEP.

Q. Okay. And did you show them this form, or did you show them how -- how this process is done?

A. You know, I'm not sure that -- if -- I think they saw the form, but we were -- we were in tune and talking about other things so intense that we didn't really -- we didn't really spend a lot of time on the ILP.

We did talk more about an IEP and the special education process and how many SPED students do we have in class versus regular ed students and that kind of thing.

Q. Did they ask to see any of the special ed forms?

A. I had some there, yep.

Q. Okay. Did you -- did you send special ed form examples with the packages that were sent?

A. Nope. They didn't -- they didn't need to. Everybody read the folder, and we just visited about it.

Q. Okay. So they never requested or suggested that those should be included?

A. No. I offered, you know -- I'm just calling it the way I saw it from -- that's been a long time

1 ago.
2 But I offered to copy anything that we
3 needed to copy, and I don't know if Sandy copied
4 some things and gave it to them maybe or Kami or,
5 you know, whomever. But I personally was not asked
6 to run the copy machine and copy off anything.
7 Q. Okay. But you did explain the ILP
8 process --
9 A. Yes.
10 Q. -- and how you monitor and check?
11 Now, you talked about the curriculum that
12 the students are going through at the high school,
13 and that it's a computer-type of program that I
14 believe you called the A Plus?
15 A. Um-hmm.
16 Q. Okay. Can you give us a little bit more
17 detail about how the A Plus works with the student?
18 A. A Plus is just a computer-driven educational
19 curriculum program that's no different than your
20 curriculum you would have at a typical high school.
21 It's just like taking the book and putting each
22 chapter onto the computer.
23 And A Plus has a found curriculum that rides
24 and is very copasetic with the Common Core
25 standards. They were the first ones that jumped out

1 there and got in tune with Common Core instead of
2 the -- the other standards we used to have.
3 What it does is you just -- when you enroll
4 a student, you put all the geographical information
5 into A Plus. It allows you the opportunity to set
6 up the child's curriculum, their schedule, what you
7 want to give them, you know, what you want them to
8 do.
9 You can just -- you cannot do as much
10 background checking as we do, and just, if they say
11 they're a freshman, put them right in freshman
12 classes. It says rights on there, "Freshman
13 English, Freshman Science, Freshman Social Studies."
14 So you can go that way or you can do your
15 Woodcock-Johnson, and you might want to place them
16 lower. They might be right on -- right in tune for
17 three subjects and out of tune for one.
18 And so you sit down. If you spot that, like
19 we hope we do, then we have the parent come in and
20 say, "Hey, we're going to back this kid down to
21 seventh grade science," or whatever we're doing,
22 "because they failed. You know, by their
23 transcripts, by their assessment scores, it's fail,
24 fail, fail, fail, fail, fail. I think it's time to
25 try to do something other than fail."

1 And so, you know, that's where we go.
2 Q. And it's like -- if you have to back up a
3 child to, say, maybe a seventh grade instead of a
4 ninth grade, is that part of the computer program,
5 or do you have to do that differently?
6 A. It's part of the computer program. We
7 purchased down to the sixth grade. Anything below
8 the sixth grade, we take it on as a one-on-one,
9 teacher versus student plan, meaning that they sit
10 at a big table with me. I work with them one on one
11 all day long, and that's how we try to plug the
12 holes.
13 Q. And Mrs. Reid- -- the new Mrs. Reidhead
14 talked about how her daughter came to the school,
15 and she went from a fourth degree level -- a third
16 degree level to high school.
17 How did -- how did that happen? Was that --
18 were you there at the time that was going on?
19 A. I was. Mrs. Reidhead, my new wife,
20 brought -- brought Marina, my stepdaughter, and she
21 had been being bullied over at the local school
22 district.
23 There wasn't a whole lot of things being
24 done to change that, and I think my daughter's name
25 is Marina. I don't think that. I know my

1 daughter's Marina. I think -- that didn't come out
2 right.
3 Q. I don't want to get you in trouble.
4 A. Exactly.
5 Marina was on the -- on the grounds of
6 turning within. She was -- she was not wanting to
7 learn anymore. She was not wanting to attend
8 school.
9 MS. ANDERSON: Objection, Your Honor.
10 Cumulative. We heard this testimony yesterday.
11 MR. CONDOS: We're actually going
12 through the process.
13 ADMINISTRATIVE LAW JUDGE: You may
14 continue.
15 THE WITNESS: Okay. She just -- when
16 we got her, she just wasn't in tune with school
17 anymore, so we changed that by changing her social
18 outlook.
19 And as we --
20 BY MR. CONDOS:
21 Q. How did you change her social outlook?
22 A. We showed her that she can be successful,
23 that she did have a brain and it did work and that
24 all she had to do was apply herself and get after
25 it. Once --

1 Q. Is social outlook a part of the educational
2 program?
3 A. Sure is. We teach all -- all kinds of
4 social living type skills. A lot of -- my daughter
5 included. 95 percent of the kids that we get have
6 luggage that indicates terrible backgrounds,
7 terrible home lives, terrible social lives, terrible
8 whatever.
9 That's the first hurdle we have to cover, to
10 jump, to get the education. When we first get them,
11 education is not the -- is not the highest priority
12 on their list. You know, we have to get through
13 that barrier first to start educating them.
14 Q. And what tools do you use to do that?
15 A. Basically, if they buy into my system that
16 every child has the right to a free public
17 education, and you need to stand up for your rights
18 and you need to demand that I teach you, and once
19 they buy into that, they start getting good grades,
20 and they start having fun at school.
21 And it just -- you know, success breeds
22 success. And that's -- and that's how we take off.
23 And, you know, I've been doing it that way for 30
24 years, and it hasn't failed me.
25 Q. Now, Founding Fathers is a small school, so

1 would it be an accurate statement -- describe the
2 social relationship among the students there.
3 A. We're like a family. We have right now 48
4 students, and we teach a family concept. You know,
5 we have a big joke when we have our morning meeting
6 that this is kind of like Vegas, you know. What
7 we -- what we do here -- we have so much fun. What
8 we do here stays here.
9 And the kids, I don't think that they --
10 most of them have never been subjected to a -- a
11 warm heart, to a new way of doing things, get
12 outside the box.
13 They're so used to flunking, that, you know,
14 I hear the term, "Oh, I'm just stupid," a million
15 times in a day when I first get a child.
16 Well, they think they're stupid because
17 they've just been flunking. Nobody ever bothered to
18 back them up and plug the holes and give them the
19 foundation to move forward.
20 And once I get them to believe that that's
21 all we need to do, then we're pretty good.
22 Q. And did you explain this social obstacle and
23 the steps you take to the staff when they were out
24 there?
25 A. Yes.

1 Q. Okay. And did they make any comments about
2 it?
3 A. Smiled and said, "We understand," and, "Good
4 job," and -- yeah. "We need somebody like that."
5 You know, "We need to capture more of those kids."
6 Q. Now, after you've captured them and plugged
7 them into the system, how do you keep them motivated
8 to continue on to -- to keep doing their work?
9 A. Pretty much we have a sit-down. We call it
10 a one-on-one. And we put everything out in front of
11 them. And most kids say, "Well, I've never had that
12 done before. That was pretty cool."
13 Their -- their work examples -- examples of
14 their works and their portfolio, their report cards,
15 you know, how slow they're working on each subject
16 area and how fast they're working on others, old
17 reports from other district schools that indicated
18 to us what we needed to do when we got -- when we
19 got the girl or the boy.
20 We just let them read their whole family
21 history basically and say, "Okay. Now, do you think
22 you can learn?" You know, "What do you think you
23 can do?"
24 And once they really -- once it's identified
25 to them where they're at and what they need help in

1 and what they don't need help in, kids start
2 working.
3 Q. Now, with respect to the A Plus program, did
4 you show the staff how it worked?
5 A. Yes.
6 Q. Okay. Did you make any offers to them about
7 providing any copies, documents, or anything with
8 respect to that?
9 A. Yes. And they took -- they just took the
10 website of the -- we went through how to get on and
11 how to use it and how easy it was and, blah, blah,
12 blah.
13 And I -- if I think back correctly, they
14 said, "Yeah, we're going to get on it, check it out,
15 play with it."
16 Q. Okay. Did you offer to give them any -- any
17 of the documents that you had?
18 A. Yes. Because at the time building up to
19 that meeting, I told Sandy, I said, "Hey. Each of
20 these kids is about 700 pages."
21 And he said, "Whoa, whoa, whoa. Don't.
22 Let's wait until they want it printed. Don't start
23 printing 700 pages on every kid."
24 Q. So did you tell the staff that that would be
25 about 700 pages --

A. Yes.
Q. -- on an individual basis?
A. Yeah.
Q. And was it their decision not to get those copies at that particular time?
A. Yes, because I had also hauled the paper up there to be prepared to do it.
Q. And did you show the various reports that's included in these 700 pages per student to the staff?
A. Yes.
Q. And what specific reports, you know, or, generally, did you provide to them or at least show them on the computer?
A. As I turned on my computer, that was already up. Tracking progress seemed to be one of the main forms that they liked looking at. The graphics and stuff on it are pretty cool.
And all you got to do is run the pointer across, and it will cross the person's name, and it tells you, you know, who they are, where they come from, how many credits they got, what their grades are on each -- on each class they're taking now and which ones are in jeopardy of being flunked, and which ones are looking good and are being passed.

Q. Okay. And did they make any comments -- anybody make any comments from the staff about that?

A. They just said it was a nice program.

Q. Okay. If I turn your attention to UU --

A. UU?

Q. Yeah, a little farther back.

A. Okay.

Q. What is UU?

A. That's just a overall progress report that can be printed out at the touch of a button on A Plus, letting you know, is you teach your student -- we print these all the time for quick reference of how many lessons are in that subject -- that subject area that they're taking, how many they have done, when they started, how long they've been there, how many hours they've logged in at that -- at that area, and what's their score at that particular time, their grade.

It allows us to show the student whether or not they're on track, whether they're off track for whatever reason.

I can take a look at this and in two seconds tell you exactly why the kid's not passing his literature, because he doesn't like to read. This particular student I'm looking at here, they're

1 scheduled -- he has eight unfinished lessons. He's
2 been working on that -- there's been 62
3 instructional days. Hours logged is only 2.8.
4 And as I looked at this and contact -- made
5 contact with the student afterwards, he indicated to
6 me, "You're right, Mr. Reidhead. I'm falling behind
7 right there because I hate to read."
8 Q. And what remedial effect did you do with
9 this student?
10 A. Well, we had a multitude of kids that felt
11 the same way he did, so now we have reading group.
12 And they can read their literature while in that
13 group.
14 Q. Okay.
15 A. So this is just a quick way -- I walk around
16 the room with my -- with my iPad, lap, i- -- little
17 computer thing, and I can see -- it flags me.
18 Anytime a kid is getting offhand or not progressing
19 fast enough, it gives me a red flag.
20 Q. If you turn the page to the second child,
21 what does that tell you with respect to him or her?
22 A. I can look at it, that --
23 Q. I'm sorry. This is the first child, second
24 semester.
25 A. Second semester. The child picked up the

1 pace and got going. We've got one, two, three, four
2 finished subjects now. Pretty much engaged, pretty
3 much knows where he's headed. We still have some
4 problems with the fact that he does not like
5 science.
6 It tells you on the instructional days, now
7 we're at, basically, 112 days. He's still
8 struggling with pre-algebra, and that -- but then I
9 turn and look at my math sheet, and it tells me that
10 this kid is in Mrs. Reidhead's -- our math teacher,
11 Mrs. Reidhead's math class.
12 So I go over to her and talk to her about
13 his math skills and where we're at. She knew what
14 his grade is. And then it also gives me his grade
15 equivalencies to the far right and how much
16 credit-wise each of those classes are worth.
17 Q. Okay. And with respect to the science,
18 you've got reading groups that you focus on.
19 What do you do with respect to the students
20 who don't like science?
21 A. We do the very same thing. We sit down on a
22 one-on-one we call it, and we try to find out
23 what's -- what's hindering you. You know, I
24 personally believe -- and I'm not a science guy --
25 we have one of the best science programs on -- on

1 the Internet, on this A Plus program, that I've ever
2 seen.
3 And it's very hands-on. There's lots of
4 things they got to do. We supply all the supplies
5 for those things, and, you know, because we are on
6 an individual basis, we got kids working in science
7 here and people doing math over here and reading
8 with me in the back, and, you know . . .
9 Q. Now, if you go to page 3, I think this is
10 the second student, and we're not going to go
11 through all of them. Just so the hearing judge can
12 have a representative sample.
13 What does that tell you for this child?
14 A. Let me look here. It tells me that we have
15 a lot of lessons that he hasn't even started because
16 I know pretty much how many lessons there are in
17 each subject area.
18 So if you look under the unfinished lessons,
19 the kid does not like math, is struggling with
20 English because I think the sophomore English class
21 only has 38 assignments -- or, no, 58 assignments,
22 but he hasn't started it yet.
23 Out of -- if you look to the far right, his
24 grades indicate that he has pretty good grades. But
25 if you turn back into A Plus and pull his name up,

1 you're going to find that he's got great grades on
2 only four -- four submissions, four tests, when he
3 should be out at the 35 test mark. Okay?
4 A kid can -- a kid can try to say, "Well,
5 I'm doing really well. Look, Mr. Reidhead. I've
6 got a B."
7 "Yeah. Sure you do, but you've only done
8 five tests. You should have already done 35 tests."
9 And so it's taken us a while to have them
10 understand that we're tracking that religiously as
11 they move along.
12 Q. So this curriculum, this computer program,
13 has a number of ways that you can assess the
14 student's progress?
15 A. There's about 35 reports that tracks the
16 student's progress.
17 Q. And do you use most of those?
18 A. Yes. We -- we -- I would say out of 35
19 reports, we use 25 of them on a religious basis,
20 because it helps us let the kid see -- like looking
21 in a mirror -- "This is you. Look what's happening
22 to you. Why in January you were doing great, and
23 now here we are in March, you're doing terrible.
24 What happened to you? Did your -- did your dad die?
25 Did your dog run away," you know.

1 And we have to dig down and find out what's
2 going on. Because, educationally, they're all
3 pretty sound kids, pretty sound students. And so
4 the kids that I teach are kids that have a whole lot
5 more going on out in the world than you and I will
6 ever have. They know more about things in our area
7 than I can shake a stick at. I don't know.
8 Q. Now, do the external factors like, you know,
9 kids don't have a home, parents having issues,
10 whatever, does -- have you found that that affects a
11 child's ability to --
12 A. That's the number one thing that affects the
13 children that we have in our school. That's
14 definitely the number one thing.
15 Q. And how do you deal with that?
16 A. We try to create a family. You know, I tell
17 them all the time -- I've had kids come to school
18 crying. Meet them at the front door, their day is
19 already ruined. It's already over. It's time to
20 take the AIMS test inside. Now they don't want to
21 take the AIMS because they just got their butt
22 chewed out by mom or dad or whoever their guardian
23 is.
24 And so we have to say, "Hey, inside these
25 four walls, you remember, this is our family.

1 You're safe now. Cut it loose. Leave it outside.
2 Let's go in the bathroom, wash your face. Let's get
3 refocused, and let's try to get things rolling."
4 Q. Now, with the positive aspects that you have
5 at the school there -- the dual enrollment, the
6 checks and balances -- why are our students showing
7 lower grades on the AIMS, in your opinion?
8 A. In my opinion, they don't have a foundation.
9 They've gone from school to school to school, or
10 even been out of school for up to two years
11 probably.
12 There's -- there's just no foundation there.
13 There's no -- we have to recreate the wheel in some
14 cases to give them some mud to plug the hole in the
15 dams so it will stop leaking.
16 And they've flunked -- they've flunked so
17 many times, that that's just standard practice.
18 Q. And during the four years, do each of the
19 students, if they're going to graduate, pass the
20 AIMS?
21 A. You know, this last AIMS that we took was
22 probably the best -- or the AIMS report was probably
23 the best go-around. I think out of six people that
24 took it, four or five passed, and only one did not
25 pass it. We were very excited about it.

1 When we first -- when we first started
2 trying to pass the AIMS, it was terrible, because we
3 would give them AIMS practice tests, and those
4 foundation skills were not there to even implore a
5 good outcome.
6 We just -- we already knew going in as a
7 teacher, and me as the teacher, that we were already
8 whipped. We were -- there's no way that, you
9 know -- and I can see every kid's face in my mind,
10 and I already knew, no way they're going to pass
11 that AIMS test. They're just not ready.
12 They came to us too late. They've been out
13 of you school too long. They have no -- no skills.
14 And as they've stayed with us, now we've got people
15 finally passing the AIMS test.
16 You know, I might add, too, we have a lot
17 of --
18 MS. ANDERSON: Objection. Narrative.
19 BY MR. CONDOS:
20 Q. Now, would you consider the documents
21 your -- your instruments with respect to placement
22 instruments with checks and balances as to the
23 progress at least, would that be evidence to show
24 that the school is helping these students and
25 providing an increase in their educational

1 abilities?
2 MS. ANDERSON: Objection. Leading.
3 THE WITNESS: Yes.
4 ADMINISTRATIVE LAW JUDGE: Can you
5 rephrase?
6 MR. CONDOS: Yeah.
7 BY MR. CONDOS:
8 Q. Do you feel that the school and your
9 curriculum is helping the students' increase their
10 learning ability?
11 MS. ANDERSON: Objection. Leading.
12 ADMINISTRATIVE LAW JUDGE: Can you
13 rephrase?
14 MR. CONDOS: Yeah.
15 BY MR. CONDOS:
16 Q. What's your opinion on the growth of the
17 students and their learning ability as a by-product
18 of the high school education programs that you have?
19 A. I think we're headed in the right direction
20 definitely. That's why I asked Mr. Stewart to
21 purchase it.
22 I had researched it, you know, for many
23 months before we made the plan to switch and take --
24 and I had gone down and taken classes on it and
25 looked at it, and, you know, it -- it's a great

1 program.
2 Q. Do you have interaction and relationship or
3 contact with the surrounding district schools?
4 A. Yes.
5 Q. And what's the relationship between Founding
6 Fathers and the district schools?
7 A. Meaning -- the relationship meaning?
8 Q. I mean, do they -- have you discussed your
9 programs and your clientele, and have they looked at
10 it?
11 A. Sure. In fact, our neighboring school
12 there, Show Low High School, they -- they use the
13 same program we do in their White Mountain
14 Institute, which is a -- a credit recovery school
15 that they have inside the school.
16 Q. And do you ever get contact from any of the
17 districts with respect to maybe problem students
18 that they have?
19 A. When they send them to me, yes, definitely.
20 And they very much so suggest that, "Hey, you --
21 "you maybe not want to enroll here at Show Low
22 School District because Jefferson can help you
23 better. You probably need to go see Mr. Reidhead at
24 Jefferson Academy."
25 That's how we get a lot of the kids.

1 Q. All right. And did you provide to the staff
2 any documents that they may have requested at that
3 meeting that you guys had in November?
4 A. I didn't -- again, did not personally copy
5 any documents. They -- I had copied everything that
6 Mr. Stewart had asked me to copy before, and I had
7 surrendered it to him down at the office in case
8 they wanted to make copies for whomever was coming.
9 And I think that the group got to the high
10 school kind of -- kind of late, later than they
11 wanted to get there, because they were down at the
12 other building for so long.
13 And I think that kind of steered them away
14 from making a lot of copies.
15 Q. Okay. How long were they at the high
16 school?
17 A. I don't know. Three hours maybe.
18 Q. Okay. And throughout -- after you showed
19 them everything, did they raise any questions about
20 anything or -- or raise any issues?
21 A. Well, the gentleman that was left with me in
22 the actual high school while the other group was
23 doing something else, me and him talked about what
24 was going on and what we were doing and whatnot.
25 And that's kind of how it was run, and then

1 we all met in my office to discuss, and it was
2 pretty much just a question-and-answer thing. You
3 know, it wasn't rocket science.
4 Q. Okay.
5 MR. CONDOS: No further questions, Your
6 Honor.
7 ADMINISTRATIVE LAW JUDGE: Cross.
8
9 CROSS-EXAMINATION
10 BY MS. ANDERSON:
11 Q. The discussions that you were just referring
12 to --
13 A. Yes, ma'am.
14 Q. -- about the gentleman and people from the
15 Charter Board, what -- what visit did that occur on?
16 A. The last visit. I don't -- I don't know
17 what visit it was, what it's called.
18 Q. Were there more than one visit to the
19 school?
20 A. We've had more than one visit of people
21 there, yeah, and I -- and I could have that confused
22 with the --
23 Q. Thank you.
24 A. -- the other visit, but --
25 Q. Okay. So some of -- some of the things

1 you're saying could have been confused with things
2 that were said on a prior visit that the Board staff
3 made to the school?
4 A. Might be. I don't know. Yeah.
5 Q. So is Jefferson Academy, then, known in the
6 community to have a emphasis on serving special
7 education students?
8 A. Very much so, yes, ma'am.
9 Q. You talked about -- you talked about Novel
10 Star?
11 A. Uh-huh.
12 Q. Was that a math or a reading program?
13 A. That's a total curriculum program, similar
14 to A Plus. Just not as good as A Plus is, I
15 believe.
16 Q. So it's for a -- the high school program?
17 A. Uh-huh. We used it in the years prior to
18 purchasing A Plus.
19 Q. Okay. And that is a computer-based --
20 A. Yes, ma'am.
21 Q. -- program?
22 A. Yes, ma'am.
23 Q. So that's what had been used in the high
24 school prior to the A Plus curriculum?
25 A. Yes, ma'am.

1 Q. And when was the -- when did you switch to
2 the A Plus curriculum?
3 A. This -- this school year, the current school
4 year.
5 Q. So for this school year?
6 A. Yes, ma'am.
7 Q. And when the staff came up, did they ask you
8 about alignment of A Plus --
9 A. Yes.
10 Q. -- with the Common Core -- the Arizona
11 College and Career Ready Standards?
12 A. Yes, ma'am.
13 Q. If we could go to Exhibit T --
14 A. Two?
15 Q. T.
16 A. Oh, T. Excuse me.
17 Q. T as in Tom.
18 A. Got it. I'm just slow.
19 I past it. Got it right there. Okay.
20 Q. Who are the students -- what students are
21 contained in Exhibit T?
22 A. Special --
23 Q. I'm asking you to name them.
24 A. Special needs.
25 Q. Okay.

1 A. But we also use this for -- for assessment
2 of all students, which could indicate scores of
3 regular ed students also.
4 Q. Okay. So the only students whose
5 Woodcock-Johnson results are contained in Exhibit T
6 are the students that you're saying are special
7 education students?
8 A. No. That's why I clarified that it could
9 also be -- for example, you wanted the -- the name
10 stricken. The first student there is not special
11 ed, so we used those -- those results to -- when he
12 first came to us from Snowflake to find out where we
13 should place him.
14 Q. But are these the -- the -- I noticed that
15 some of these documents cross different years.
16 For example, page 74 --
17 ADMINISTRATIVE LAW JUDGE: The page
18 number on the bottom right.
19 BY MS. ANDERSON:
20 Q. The page number on the bottom right-hand
21 corner. There's a page that says 74.
22 A. All right.
23 Q. If you look at 74, this student is from --
24 at the top right, the date says, "January 22, 2013."
25 A. Exactly.

1 Q. So was this student new to the school on
2 January 22, 2013?
3 A. Yes.
4 Q. So this is -- is this test administered only
5 upon entry to the school?
6 A. Yes.
7 Q. So it's not administered on a yearly basis?
8 A. No. We -- well, it can be administered on a
9 yearly basis. Woodcock-Johnson does not like to be
10 administered more than year; wait, year; wait, year.
11 For -- so that --
12 Q. So do you or don't you administer the
13 Woodcock-Johnson to incoming students -- or to
14 students on a yearly basis?
15 A. Yes.
16 Q. And you do?
17 A. We do.
18 Q. But this doesn't contain -- okay.
19 To go back to my original question, we were
20 talking about the dates. Okay? The one on page 74
21 has a date of January 22, 2013?
22 A. Correct.
23 Q. The date on page 87 has a date of
24 November 13, 2008?
25 A. Yeah. I didn't print these, so I wouldn't

1 know where they -- you know, they -- they didn't
2 come to me to print current ones, so I don't know
3 where these came from.
4 Q. Okay. So these are various -- these are
5 incoming testing results of a selected number of
6 students -- a select number of students --
7 A. Right.
8 Q. -- for various dates, dating back to 2008?
9 A. Right.
10 Q. Okay. Do you know the basis on which it was
11 determined which students were going to be selected
12 to be included in Exhibit T?
13 A. No, I don't.
14 Q. Do you know whether Exhibit T indicates
15 that -- okay. Student A that's on page 74 --
16 A. Right.
17 Q. -- this was administered to Student A in --
18 Student A was there -- do you know how long -- how
19 many years Student A has been at the school?
20 A. Two.
21 Q. Okay. So we don't -- do you know whether
22 included in this exhibit are the scores from
23 Student A for last year when the student came at the
24 beginning of the year?
25 A. Uh-huh.

1 Q. It's in this document?
2 A. Yep.
3 Q. Okay. Where is that?
4 A. The scores?
5 Q. The scores -- okay. I'm sorry.
6 You said the student has been there two
7 years?
8 A. Right.
9 Q. So this would be year two for this student?
10 A. Right.
11 Q. How about year one student -- the score for
12 year one of the student? Is that contained on here?
13 A. No.
14 Q. Okay. So was this student here at the
15 beginning of the year?
16 A. This year, in August?
17 Q. The beginning of this school year, yes.
18 A. Yes.
19 Q. Okay. But would -- this test was
20 administered to this student in January of 2013?
21 A. January. So we did not retest the student
22 in August when he came back because there hadn't
23 been a big enough timeline change.
24 Q. Okay. When you say it wasn't a "big enough
25 timeline change," what do you mean?

1 A. Well, we want to go from one year, from
2 January 22nd, '13, he probably has a new one
3 January 22nd, '14 --
4 Q. Okay.
5 A. -- in his file.
6 Q. Do you know whether this student was tested
7 in August of 2012 or in January -- or, excuse me --
8 August of -- the beginning of the school year of
9 2012-13 school year or the middle of the school year
10 of the 2012-13 school year?
11 A. That would have been last August, and so,
12 no, he wouldn't have been retested.
13 ADMINISTRATIVE LAW JUDGE: Okay. Just
14 one second.
15 If I understood correctly --
16 THE WITNESS: Right.
17 ADMINISTRATIVE LAW JUDGE: -- he came
18 to your school in January 22nd, 2013?
19 THE WITNESS: Right. He was pulled out
20 of the school, existing school, right.
21 ADMINISTRATIVE LAW JUDGE: Let me --
22 THE WITNESS: Okay. I'm sorry.
23 ADMINISTRATIVE LAW JUDGE: So this was
24 the initial evaluation that was done when he came to
25 your school?

1 THE WITNESS: Right.
2 ADMINISTRATIVE LAW JUDGE: Based on the
3 Woodcock-Johnson protocol, you would not retest
4 using Woodcock-Johnson until January 22nd of 2014?
5 THE WITNESS: Perfect.
6 ADMINISTRATIVE LAW JUDGE: Do you know
7 if he was evaluated using the Woodcock-Johnson on
8 January -- or anytime after January 22nd, 2014?
9 THE WITNESS: That would have been his
10 last evaluation, 2014.
11 ADMINISTRATIVE LAW JUDGE: Do you know
12 if that was done?
13 THE WITNESS: Yes, it was.
14 ADMINISTRATIVE LAW JUDGE: And do
15 you -- is that evaluation included in this exhibit?
16 THE WITNESS: No.
17 MS. ANDERSON: Thank you, Your Honor.
18 You're much more able to get what I was trying to
19 get than I was. I apologize.
20 ADMINISTRATIVE LAW JUDGE: No, it's
21 fine.
22 MS. ANDERSON: I was confusing myself
23 with forgetting it was actually 2014 instead of
24 2013.
25 ADMINISTRATIVE LAW JUDGE: I know. It

1 seems crazy. Time flies.
2 BY MS. ANDERSON:
3 Q. So it looks like through the years, there
4 were different versions of the Woodcock-Johnson that
5 were used to evaluate students?
6 A. It changes, yes.
7 Q. So there were -- so there was different
8 versions through the years that are --
9 A. Right, right.
10 Q. -- used to evaluate?
11 A. The Woodcock-Johnson III is the newest one.
12 Q. If we refer to Exhibit R, I believe you
13 testified that Exhibit R is a document that is
14 required by State law. Is that correct?
15 A. It's a document that's required by John
16 Huppenthal, yeah.
17 Q. Okay. Who is our superintendent of
18 public --
19 A. Yes. Public schools, correct.
20 Q. Was this a document that was obtained off of
21 the Arizona Department of Education website?
22 A. Yes, ma'am.
23 Q. So is the intent of the document to -- to
24 make sure that students, as they go through, that
25 they're on track to graduate in their four years of

high school?

A. Yes. But I think Mr. Huppenthal puts an aggressive factor on what he is looking for is, what are they going to do when they graduate?

Q. All right. But in terms of -- ignoring for a fact what -- the portion that asks about what they're going to do when they graduate.

A. Okay.

Q. So the idea is to keep the student on track so that they have, within their four years of high school, completed the required number of credits --

A. Yes, ma'am.

Q. -- and the required number of subjects for graduation?

A. Yes, ma'am.

Q. Because graduation requires the students to have a certain number of credits in a certain number of subjects to graduate; correct?

A. Exactly. Yes, ma'am.

Q. I believe it's -- is it 22 credits?

A. Yeah, but we have 24. It's four, four, four, four for the -- your core classes, and then the rest of it is picked up by your elective classes.

Q. Okay. So if a student comes in in August of

1 2013 or a student -- actually, a student is a
2 freshman in August of 2013.
3 A. Um-hmm.
4 Q. Do you sit down with them, and you look at
5 the ECAP and determine, "Okay. What classes are you
6 taking freshman year"?
7 A. Yes, ma'am.
8 Q. Do you note that those classes are in
9 progress? Is that what you do?
10 A. Right.
11 Q. Because I noticed there's an "in progress"
12 column?
13 A. Yes. We -- we put it "in progress," right.
14 Q. Okay. So if Student A comes in in August of
15 2013 --
16 A. Um-hmm.
17 Q. -- and Student A is going to, that semester,
18 be taking English I --
19 A. Right.
20 Q. -- you note that Student One [sic] is in
21 progress for English I?
22 A. Yes, ma'am.
23 Q. And then -- do you then -- it looks like
24 there's a second date.
25 You then, in January of that school year,

1 meet again with the student to determine where
2 they're at?
3 A. Yes, ma'am.
4 Q. Okay. So does the class that was in
5 progress in August, if the student has graduated,
6 passed that class --
7 A. Yeah.
8 Q. -- does that then move over to "credit
9 earned"?
10 A. "Credit earned," yeah.
11 Q. And then -- and then for the second semester
12 English, there would be a box for "in progress"?
13 A. Right.
14 Q. Okay. So -- but student -- okay. If we
15 look at the student on page 42 --
16 A. Yep.
17 Q. -- there's nothing indicating that this
18 student is in progress of any of these classes. Is
19 that correct?
20 A. Looking at this sheet, yes, ma'am.
21 Q. Okay. So this student is in their second
22 semester sophomore year. Is that correct?
23 A. Sophomore year, yes, ma'am.
24 Q. Okay. And according to this ECAP for this
25 student, this student has earned the one credit of

1 English as of this school's second semester
2 sophomore year. Is that correct?
3 A. Yes, ma'am.
4 Q. There's nothing indicating that there's
5 credits in progress. Is that correct?
6 A. No. No, ma'am.
7 Q. So a student number -- this student on
8 page 42 has earned one credit in English and is a
9 second semester sophomore.
10 This student is not on track to graduate in
11 four years, is this student?
12 A. No, ma'am.
13 Q. And for this particular student on page 42,
14 this student, it's the -- does not reflect this
15 student has earned any math credits. Is that
16 correct?
17 A. Correct.
18 Q. And in order to graduate from high school,
19 this student has to have four credits in math. Is
20 that correct?
21 A. Yes, ma'am. Yes, ma'am.
22 Q. And it doesn't indicate there's any math
23 being taken by this student currently; correct?
24 A. Yes, correct.
25 Q. If we look at the student contained on

1 page 44 --
2 A. 44.
3 Q. -- for this student, this student also -- is
4 this student also a second semester sophomore?
5 A. Yes, ma'am.
6 Q. Okay. And as indicated on this student's
7 ECAP, this student as well, as a second semester
8 sophomore, has only earned to date two credits in
9 English. Is that correct?
10 A. Yes, ma'am.
11 Q. And this student needs four credits in order
12 to graduate from high school; correct?
13 A. English, yes, ma'am.
14 Q. Four credits in English?
15 A. Um-hmm.
16 Q. Yes, thank you.
17 And the same for math. It appears from
18 this, the student as a second semester sophomore has
19 earned one credit in math; correct?
20 A. Correct.
21 Q. Requires four credits for graduation?
22 A. Correct.
23 Q. And there's no indication that there's any
24 credits in progress; correct?
25 A. Correct.

Q. And if you could please refer to page 46 --
A. Yep.
Q. -- this student is a second semester senior. Is that correct?
A. Yes, ma'am.
Q. Okay. And as a second semester senior, this student has not either earned or have in progress four -- the four English credits necessary to graduate from high school. Is that correct?
A. Correct. I might add that --
Q. You've answered my question. Thank you.
And the same as for math. It doesn't reflect that this student as a second semester senior has the credits or is in the progress of earning the credits necessary to graduate from high school this year; correct?
A. Correct.
Q. And if you refer to the student on page 48, this student is a second semester freshman; correct?
A. Yes, ma'am.
Q. Is this student still at the school?
A. Yes, ma'am.
Q. And those other students, are they -- that we discussed, are those students still at the school?

A. Yes, ma'am.
Q. And as a second semester freshman, this document reflects that this student is in progress of earning a half a credit in English. Is that correct?
A. Correct.
Q. And a half a credit in math; correct?
A. Correct.
Q. And for students -- this student on page 48, there's no indication that -- that in January of 2014, that this ECAP was visited at that time. Is that correct?
A. That's correct.
May I add something?
ADMINISTRATIVE LAW JUDGE: Just --
THE WITNESS: Wait for her?
ADMINISTRATIVE LAW JUDGE: Yes.
THE WITNESS: Okay.
BY MS. ANDERSON:
Q. Are these the -- is what is contained in Exhibit R the ECAPs for all of the students currently in high school at Jefferson Academy?
A. I wouldn't know. I didn't look at it. I -- I did not print these. I think these are not up-to-date ECAPs, no, ma'am.

1 Q. You talked about the -- the teaching of
2 social and living skills that is done at Jefferson
3 Academy. Is that correct?
4 A. Yes, ma'am.
5 Q. Okay. There's other schools that also have
6 students with a lack of social and living skills in
7 their schools as well. Isn't that correct?
8 A. I wouldn't know. I don't teach there.
9 Q. Would you guess that there may be other
10 schools that would have students with social and
11 living --
12 A. I would rather not say because that's not in
13 my jurisdiction.
14 Q. Okay.
15 ADMINISTRATIVE LAW JUDGE: Please let
16 her finish the question before you start answering.
17 THE WITNESS: Okay.
18 BY MS. ANDERSON:
19 Q. If you could turn to Exhibit UU --
20 A. UU, okay.
21 Q. -- so is Exhibit UU reflective of a first
22 semester high school student's schedule?
23 A. No. It's a reflection of a child that has
24 come in. It does say "first semester" because
25 that's when he started with us.

1 But I see -- like he's -- he had -- he or
2 she had passed off some English somewhere. That's
3 why he's in a -- in a English 2-A, which is a
4 sophomore English. He's in a freshman history
5 class, a freshman math class, freshman science.
6 So there again, he was probably -- he or she
7 was probably not bad in some areas but worse in
8 others. And so we pressed him -- placed him
9 according to what he needed off of either his
10 transcript that he brought with him or the
11 Woodcock-Johnson test.
12 Q. Okay. So it looks like this student on
13 Exhibit 300 -- page 320 is in a combination of -- it
14 looks like a combination freshman/sophomore classes?
15 A. Uh-huh.
16 Q. And this printout, according to the bottom
17 right, is from March 17 of 2014?
18 A. Uh-huh.
19 Q. So for this student in algebra -- okay.
20 So this student, other than the
21 Literature 912, which is in the last row here --
22 A. Uh-huh.
23 Q. -- this student has been -- had 72
24 instructional days at Jefferson Academy, except for
25 the 70. I'm sorry.

1 So the instructional days, those represent
2 the number of instructional days the student's been
3 at Jefferson Academy?
4 A. Yes.
5 Q. And would that be for -- okay. So for
6 student Algebra 1 -- this student for Algebra 1-A,
7 the student has been in -- had 72 instructional
8 days, but in 72 instructional days, logged 8.3 hours
9 in algebra. Is that correct?
10 A. Yes, ma'am.
11 Q. While this student has logged 65.2 hours in
12 history. Is that correct?
13 A. Yes, ma'am.
14 Q. Would it be your guess this student likes
15 history better than algebra?
16 A. That, and the student has probably been
17 placed in a remedial math class with Mrs. Reidhead.
18 That would be my guess.
19 Q. Okay. So that would reduce the number of
20 hours the student would receive --
21 A. We wouldn't -- we wouldn't even pay
22 attention to that. Right now, we would go by her
23 grade book and her as the math teacher.
24 Q. So then we don't know whether the hours
25 logged for these students in these particular

courses would be accurate?

Is that what you're saying?

A. Well, they would be accurate.

Q. Okay.

A. But if we told the student, "You are now going to attend Mrs. Reidhead's math class, so don't worry about your math on a computer," the computer is still going to log how many days -- instructional days there are even if the child doesn't open up the program.

Q. Okay. So then for this student as well in literature has 62 instructional days, and it reflects that the student's logged 2.8 hours in literature. Is that correct?

A. Correct.

Q. And this student is -- is -- class list reflects the student is in Algebra 1-A and pre-algebra. Is that correct?

A. Yep.

Q. And in pre-algebra, this student logged 2.4 hours out of 72 instructional days. Is that correct?

A. No. You're -- you're looking at the hours logged. That's not for a specific date, because I can tell you that -- no, that would be correct.

I'll go with that, yes, because he has 44 unfinished lessons, yes.

Q. How many hours a day does the high school student spend at the computer-based instruction?

A. We start school at 7:45, and we get out at 3:30, and we take a five-minute to ten-minute break every hour.

Q. So how many hours a day, then, is a student logged on to -- is a student -- can a student be logged on to the online instruction?

A. Eight hours a day.

Q. Eight hours a day.

A. If they go home and log on again, it could be ten hours a day. Go to the library, it could be 20 hours a day. That's why it's a self-paced program.

Q. Thank you. You answered my question.

So if we look at student -- the student on page 321 --

A. Okay.

Q. -- for pre-algebra is "assigned" -- the date for "assigned," does that mean the date in which the student began?

A. It's the -- it's the date that I put it on the computer for that student, yes.

1 Q. Okay. So this student reflects that since
2 August 4th in 2013, the student has had 111
3 instructional days. Is that correct?
4 A. Um-hmm.
5 Q. And the student, in the 111 instructional
6 days, has logged .5 hours in pre-algebra. Isn't
7 that correct?
8 A. Yes.
9 Q. And that there's 43 unfinished lessons --
10 A. Lessons.
11 Q. -- that this student has?
12 A. Yes.
13 Q. But this student has a grade of
14 89.2 percent.
15 A. Yes. But you need to remember that the
16 grade is --
17 Q. You answered my question. Thank you.
18 MS. ANDERSON: I have no further
19 questions, Your Honor.
20 ADMINISTRATIVE LAW JUDGE: Redirect?
21 MR. CONDOS: Yes, Your Honor.
22
23 REDIRECT EXAMINATION
24 BY MR. CONDOS:
25 Q. Now, the items that you've gone through so

1 far in the exhibits here, are those testing tools
2 that the school uses regularly?
3 A. Excuse me. Say it again.
4 Q. These -- these exhibits here and the
5 printout from the 812 --
6 A. Yes.
7 Q. -- are those tools that are used to monitor
8 the students' progress?
9 A. Yes.
10 Q. Okay. You were just asked a question here
11 on page 321 of the student who had only put in a
12 half-hour but had an 89.2 percent score.
13 What is that reflective of?
14 A. That's reflective of just the work that he
15 opened up and did right -- right at that particular
16 time.
17 Q. So for his half-hour worth of work, whatever
18 lessons --
19 A. He got -- that's why I tried to explain it,
20 right.
21 Q. Okay. And -- and that's what that
22 percentage would show, anyway.
23 Now, the fact that he has 43 unfinished
24 lessons and a half-hour period, what does that mean?
25 A. The 43 unfinished lessons is -- is what

1 encompasses the whole course. That's why it says
2 pre-algebra 1-B pull. There's so many tests that he
3 has to turn in in the first half of that algebra
4 class before we can release the second half. And so
5 however many lessons there are in there, he's got 43
6 that still have not been done yet.
7 Q. Okay. And do we use these same computer
8 printouts for all the students that are in the high
9 school curriculum on the A Plus?
10 A. Yes.
11 Q. Okay. Now, I think you've testified before,
12 but are -- are these the norm, average-type of
13 students that Founding Fathers has that would be
14 comparable to a normed average of the school
15 districts around?
16 MR. CONDOS: Objection. Leading.
17 Calls for speculation.
18 ADMINISTRATIVE LAW JUDGE: You can
19 answer, if you know.
20 THE WITNESS: Okay. She caught me off
21 guard. Could you repeat it?
22 BY MR. CONDOS:
23 Q. Are they -- they similar -- the average
24 student you have similar to the average students in
25 the district schools?

1 A. No. We're much lower.
2 Q. Okay. And because they're lower, you have
3 to -- do you have to do a considerable amount of
4 remedial before they can even get into this testing?
5 A. Yes, sir.
6 Q. Okay. So this computer printout that we
7 were just looking at and some of the other items
8 that we've looked at, do they reflect the remedial
9 time that you have -- that the school has to spend
10 with these students to get them up to the level
11 where they can actually take the --
12 A. No, ma'am -- or, no, sir. It may or may not
13 reflect it. In some cases where the -- where the
14 child is taking -- a student is taking the work,
15 periodically, there's an assessment that will let
16 them go forward or reverse them back to where their
17 weaknesses are.
18 And it will show -- it will reflect that --
19 that remedial, but it does not reflect what else we
20 do in the classroom to try to get them there.
21 Q. Okay. And the fact that they come into the
22 school behind, would that affect their ability to
23 graduate in four years like a normal high school
24 student?
25 A. Sure would. If they -- you know, if they

1 want to work around the clock on this program in
2 school, out of school, at the library, a student
3 probably can achieve that.
4 You know, we had a student that is now at
5 Utah State University that is in love with what --
6 how the program worked because it allowed her to
7 play catch-up, and she was just a brilliantly smart
8 human being, but she got hooked on marijuana and --
9 MS. ANDERSON: Objection. Relevance.
10 THE WITNESS: -- her mind frame was not
11 to -- not to do the work.
12 And so once we got her back on track,
13 this program was great for her because she could do
14 it at work. She could do it at home. She could do
15 it in another city. She could do it wherever.
16 BY MR. CONDOS:
17 Q. Do most of your high school students finish
18 high school in four years, or does it take them
19 longer?
20 A. From the time that I've been there, most of
21 them finish in four years.
22 Q. And how does that happen, you know, with
23 them being behind?
24 A. A lot of extra work. We have, you know --
25 we firmly believe in integrity, and we do not give

1 away grades, so once the student believes that, then
2 they either have to make a decision to work harder
3 and faster to achieve it or to disenroll and move
4 on, and we've had many not do it.
5 Q. Okay. Now, if I was to ask you what an
6 appropriate learning environment is for students,
7 what would -- what would you -- how would you define
8 that?
9 MS. ANDERSON: Objection. Exceeds the
10 scope of cross-examination.
11 MR. CONDOS: You were the one that said
12 it didn't have to go --
13 MS. ANDERSON: No. On cross, your
14 objection was that my cross exceeded the scope of
15 direct.
16 MR. CONDOS: Let me rephrase that.
17 ADMINISTRATIVE LAW JUDGE: Okay.
18 BY MR. CONDOS:
19 Q. Is -- you were asked a question about social
20 and living skills.
21 Do you think that's an important part of the
22 educational environment?
23 A. Oh, yeah. We don't -- we don't allow --
24 MS. ANDERSON: Objection. Narrative.
25 ADMINISTRATIVE LAW JUDGE: You can

1 answer the question.
2 THE WITNESS: Answer it?
3 Yeah. We -- we don't allow a lot of
4 things that students come to us -- the reasons
5 students come to us, we don't allow those things
6 that are going on in district schools -- the
7 bullying, the social -- the -- the being -- the
8 availability, when classes are changed, they can hit
9 the exit door and go downtown and leave school and
10 not go the rest of the time.
11 We're pretty much an environment that's
12 self-contained, and, you know, we keep track of what
13 the kids are doing and where they're going.
14 MR. CONDOS: No further questions, Your
15 Honor.
16 Oh, wait, wait. I'm sorry. I forgot.
17 BY MR. CONDOS:
18 Q. You were asked questions about the ECAP,
19 and, again, this goes back to credits that were
20 earned.
21 And it was implied -- it seemed to be
22 implied that they weren't on schedule to graduate
23 because they only had a few credits earned, and they
24 didn't have certain things in progress.
25 Why would that be?

1 A. As I looked at these ECAP forms, I think
2 they're not caught up to date. I think in each
3 student's file portfolio at the school, you would
4 find an ECAP form that's -- that would indicate
5 that.
6 Q. Okay. If they were taking remedial subjects
7 to learn, say, low-level math to get to the level,
8 would they be indicated on here in any way?
9 A. No, sir.
10 MR. CONDOS: No further questions.
11
12 EXAMINATION
13 BY ADMINISTRATIVE LAW JUDGE:
14 Q. Okay. Looking at the ECAPs, going to
15 Exhibit R --
16 A. R.
17 ADMINISTRATIVE LAW JUDGE: Which I will
18 note these also need to be redacted.
19 MR. CONDOS: Right.
20 THE WITNESS: Okay. I'm there.
21 BY ADMINISTRATIVE LAW JUDGE:
22 Q. -- looking at that first page --
23 A. Okay.
24 Q. -- you were asked, this is a second semester
25 sophomore?

A. Yes.
Q. And that's their current status? As of today, they're a second semester sophomore?
A. Yes.
Q. But the last update to this form was at the beginning of their first semester sophomore year?
A. Yes.
Q. Okay. So what's reflected on here is credits earned would be what they earned in their freshman year?
A. Yes.
Q. And, obviously, nothing's marked "in progress."
A. Right. That's why I think this is not up to date. I didn't print these, so I think you would find an up-to-date ECAP in the student's folder, yes.
Q. Well, is this -- would this be the same form that's used -- let me ask, so when -- when you would meet again in January 2014, would you just build on this form?
A. Yes, ma'am.
Q. You wouldn't start fresh?
A. No.
Q. So clearly in the August 2012 and the

1 January 2013, nothing was marked as "in progress"?
2 A. That's what I'm saying. I haven't seen this
3 form, these forms. These could have been printed a
4 long time ago and been in the file.
5 I know that all of our forms that we have in
6 the portfolios that are ECAPs are all up-to-date
7 and --
8 Q. Okay. I guess my question is, in -- if this
9 were a starting fresh blank, you're meeting on
10 August 2012 freshman year --
11 A. Right.
12 Q. -- should you have marked "in progress"
13 those classes the student was taking?
14 A. Yes.
15 Q. And then when you met again in January 2013,
16 say English 1?
17 A. Recap two --
18 Q. Please let me finish my question.
19 A. Okay.
20 Q. The January 2013 when you met, there would
21 already be a mark on "in progress English 1," and
22 then credit earned for English 1, assuming they took
23 it for a semester freshman year?
24 A. And assuming they passed it.
25 Q. Right.

1 A. Right.
2 Q. And then at that point, you would also
3 presumably -- again, just hypothetically speaking --
4 mark "in progress, English 2," or "English 1,
5 semester two"?
6 A. Yes, ma'am.
7 Q. And then when you revisit it in August 2013,
8 you would add a mark to "credit earned," assuming
9 they passed, in the second semester of their
10 freshman year?
11 A. Yes, ma'am.
12 Q. So would you acknowledge that you tend not
13 to mark "in progress" on this form?
14 A. On this form, it is not marked, correct.
15 Q. Would that lead you to believe that the
16 student did not take any classes from August 2012 to
17 August 2013?
18 A. Not being his regular teacher, I know -- I
19 know where the student is at but, yes, ma'am, if you
20 walked in to look at it, yes.
21 Q. I'm saying, do you believe that this student
22 did not take any classes their freshman year --
23 A. No.
24 Q. -- because it's not marked as "in progress,"
25 or do you think this form, that you failed to mark

1 "in progress" at some point?
2 A. I'm confused.
3 Q. Okay. In August 2012 review you should have
4 marked "in progress" on all those classes the
5 student was taking, and in the January 2013 review
6 of this form, you should have marked "in progress"
7 for all those classes the student was taking. Only
8 "credit earned" is marked.
9 Do you believe that means the student did
10 not take any classes during their freshman year?
11 A. According to this form, yes, right, I would
12 say that.
13 Q. Did the student take any classes at Founding
14 Fathers in their freshman year?
15 A. Yes.
16 Q. Okay. Then -- and they're -- it appears
17 regularly throughout that none of the "in progress"
18 are marked.
19 I mean, obviously, on page 48, freshman year
20 2013, August 2013, those are marked "in progress."
21 This is what you would -- how the form should be
22 used.
23 Would you agree with that?
24 A. Looking at Form 48?
25 Q. Page 48.

A. Page 48, "in progress," this kid's a freshman, yes.

Q. And then when you revisit this in -- when you did revisit this, I presume, in January 2014, you would have added a check to "credit earned" for those classes the student passed?

A. Yes.

Q. And would also mark "in progress" those classes the student started taking in their second semester?

A. Yes, ma'am.

Q. Okay. I believe I heard your testimony to be at one point that you do the Woodcock-Johnson III to figure out where they should be placed when they first come to your school?

A. Yes, ma'am.

Q. And then after that, you said you give the Woodcock-Johnson three times a year.

A. No, no, no. I said, we give it -- we do not give the Woodcock-Johnson inside of a year gap.

Q. You said that later?

A. Yeah.

Q. But, initially, you said, "We give it when they start, and then we give it three times a year to evaluate where they're progressing."

1 A. No, we don't. So if I said that, I'm wrong.
2 Q. Okay. Do you do other assessments three
3 times a year to evaluate where they are?
4 A. Yes, ma'am.
5 Q. And what would those assessments be?
6 A. We use the Compass test. We use BRIGANCE.
7 We use -- there's a million different -- well, I
8 shouldn't say that. There's 50 or so assessment
9 tests on the A Plus program that we use. We use
10 teacher-made tests.
11 Q. Okay.
12 A. All that stuff.
13 Q. Okay. Going back to UU. Okay? Just
14 looking at the first page --
15 A. First page, got it.
16 Q. -- you were asked about the 72 instruction
17 days?
18 A. Uh-huh.
19 Q. Is that 72 instruction days simply the
20 number of days from the date it was assigned until
21 the end of the semester?
22 A. It's the date from the date that he or she
23 showed up to school, yeah, whether it be August 4th,
24 the very first day of school, or whenever, until
25 this report was printed.

Q. Until the date the report was printed or until the end of the semester.

A. End -- well, end of the semester.

Q. Okay. So the -- most of them were assigned on 8/4?

A. 8- -- yes, ma'am. That's when I gave them the assignments, right.

Q. But the PE was assigned on 8/7, and is that why there are fewer instruction days?

A. Right.

Q. And then literature was 8/21?

A. Yes, ma'am.

Q. Okay. And so the hours logged reflect the hours logged for that semester?

A. Yes, ma'am.

Q. Okay. So just to clarify, looking at the second page, this is the same student; correct?

A. I don't know. There's no name on it.

Q. I think -- and it may not be clear.

A. Somebody's White Out or something?

Q. Right.

A. I didn't print these. If you would like to have these reports reprinted, I can do that.

Q. No. I'm just -- we're looking at the second page.

1 A. Yes, ma'am.
2 Q. Specifically, you were asked about
3 pre-algebra, and there was half an hour logged?
4 A. Um-hmm.
5 Q. And 111 instruction days?
6 A. Um-hmm.
7 Q. But that was assigned on August 4th, 2013?
8 A. Okay.
9 Q. So are the 111 instruction days since the
10 date it was assigned?
11 A. I think that the 111 instruction days is --
12 that's why I say, I didn't print these reports.
13 This report could have been before we got it cleared
14 up, that some students logged on and would leave --
15 leave the computer logged on around the clock and
16 thinking that they were beating the system for
17 accumulated work time.
18 And I -- you know, just me looking at this
19 report, I would say, "Wait a minute. Wait a minute.
20 I need to reprint this, because that doesn't look
21 right. 111 instruction days does not correspond
22 with what's there." So we've now got that -- that
23 error fixed where the kids can't do that.
24 Q. I'm looking down at physical education with
25 an assigned date of 8/7/2013.

A. Yes, ma'am.
Q. 109 instruction days.
A. Right.
Q. Would you agree that that's the number of days from the date it was assigned?
A. 109 instruction days from April 7th, 2013?
Q. From August 7, 2013, to the date this report was printed in March 17, 2014?
A. I would look at my calendar on my desk and see if -- how it corresponded. I don't believe that there's -- let's see. Go August, September, October, November, December, January, February, March. Yeah, that's probably pretty close.
Q. Okay.
A. Thirty days a month.
Q. Then looking at -- going back to the pre-algebra, you were asked, in 111 instruction days, this student logged half an hour?
A. Right.
Q. Is that half an hour for this semester only?
A. Probably so, or that could have been -- that half an hour could have been anytime, because I think I recall this student here is -- now is in remedial math, yeah.
Q. Okay. And assuming that this is the same

1 student as the first page --
2 A. Right.
3 Q. -- they had logged 2.4 hours --
4 A. Right.
5 Q. -- in pre-algebra in the first semester?
6 A. Right.
7 Q. So the hours logged on this page are simply
8 from the beginning of the second semester to
9 March 17th, 2014?
10 A. Right.
11 ADMINISTRATIVE LAW JUDGE: Okay. Any
12 questions based on my questions?
13 MR. CONDOS: No, Your Honor.
14 MS. ANDERSON: I do.
15
16 RECROSS-EXAMINATION
17 BY MS. ANDERSON:
18 Q. When did the first -- when did the second
19 semester start at Jefferson Academy?
20 A. Can we reference Mr. Stewart and ask him for
21 a date? January 6, is that when we came
22 back from --
23 ADMINISTRATIVE LAW JUDGE: It's your
24 best guess.
25 MS. STILLMAN: If you don't know, you

1 don't know.
2 BY MS. ANDERSON:
3 Q. If you know.
4 A. So something like that, yeah.
5 Q. Okay. So January 6th.
6 So with regard to the student on page 321 we
7 were just talking about for pre-algebra that logged
8 .5 hours, if point -- if .5 hours is the number of
9 hours that the student has logged on since the
10 beginning of this semester to the date on the bottom
11 right-hand corner of March 17th, 2014, and since the
12 beginning of the semester to March 17th, the student
13 was on -- logged on for half an hour. Is that
14 correct?
15 A. Yes.
16 MS. ANDERSON: I have no further
17 questions, Your Honor.
18 ADMINISTRATIVE LAW JUDGE: All right.
19 You may be excused.
20 THE WITNESS: Thank you.
21 ADMINISTRATIVE LAW JUDGE: Thank you.
22 MR. CONDOS: We're done having
23 Mr. Reidhead testify anymore, so could he sit here
24 if he would like?
25 ADMINISTRATIVE LAW JUDGE: Yes.

1 We will take a brief recess. We will
2 go off the record at this time.
3 (Short recess was taken.)
4 ADMINISTRATIVE LAW JUDGE: Okay. We
5 are back on the record. And your next witness?
6 MR. CONDOS: Dr. Vera Meier-Bennett.
7
8 VERA MEIER-BENNETT, M.D.,
9 the witness herein, having been first duly sworn by
10 the Administrative Law Judge, was examined and
11 testified as follows:
12
13 ADMINISTRATIVE LAW JUDGE: Would you
14 please state your name, spelling it for the record?
15 THE WITNESS: Dr. Vera, V-e-r-a, Ann,
16 A-n-n, Meier, M-e-i-e-r, hyphen Bennett,
17 B-e-n-n-e-t-t.
18 ADMINISTRATIVE LAW JUDGE: Please
19 proceed.
20 MR. CONDOS: Thank you.
21
22 DIRECT EXAMINATION
23 BY MR. CONDOS:
24 Q. Doctor, many folks just refer to you as
25 Dr. Bennett without the "Meier-Bennett."

1 Would that be okay for me to do today?
2 A. Absolutely.
3 Q. That will save me messing everything up too.
4 What is your profession?
5 A. I'm a pediatrician.
6 Q. Okay. And in what locale are you a
7 pediatrician?
8 A. Show Low, Arizona.
9 Q. Okay. How long have you been a
10 pediatrician?
11 A. More than 20 years.
12 Q. Okay. And what kind of training have you
13 had with respect to your profession?
14 A. I did four years of medical school, three
15 years of residency, and then I've had ongoing
16 medical education for the last 20-plus years.
17 Q. Okay. Do you have any focus or a
18 specialization or an area that you feel is higher
19 for you than any other area?
20 A. Several. The one most important to this
21 Court is special needs children.
22 Q. Okay. And what kind of training have you
23 had with respect to special needs children?
24 A. I have a special needs child of my own, and
25 so I went out of my way to learn more about autism

1 Asperger's, a lot of reading, a lot of conferences
2 with classes and such.
3 Q. Okay. Now, if I'm correct, you succeeded a
4 practice in Show Low as a pediatrician, or am I
5 wrong on that?
6 A. Explain to me what you mean by that, please.
7 Q. Okay. So you work in Show Low.
8 Do you work with the hospital there, or how
9 is -- you have your own private office as well?
10 A. I have a private office that is owned by the
11 hospital.
12 Q. Okay. And do the patients -- are there any
13 restrictions as far as patients coming to you or
14 just anyone in Show Low who has children?
15 A. Anyone in Show Low who has children.
16 Q. Okay.
17 A. Or the surrounding areas, actually. My
18 catching area is much farther than that.
19 Q. All right. Now, when did you first come to
20 Show Low?
21 A. July of 2011.
22 Q. Okay. And where had you practiced prior to
23 that?
24 A. Pompton Lakes, New Jersey, for five years,
25 six years, and Wayne, New Jersey, for 11.

1 Q. Okay. You stated, I believe, that you had a
2 son with a disability?
3 A. My son has Asperger's, although the term
4 Asperger's is -- has been removed now. It's just
5 autism.
6 Q. Okay. And what -- how does -- how does that
7 manifest itself in his ability to learn?
8 A. He's very, very intelligent. However, he
9 struggles to display that because he has a harder
10 time with writing, reading, putting things to paper.
11 He can talk your ear off, but to actually write it
12 down for you is much more of a struggle for him.
13 Q. Okay. Do you have any other children?
14 A. I have three other children.
15 Q. Okay. And what are their ages and grades?
16 A. My first son, Jacob, is 20, and he is
17 graduated already. He was also special needs with
18 dyslexia and dysgraphia, and so he was my foray into
19 the special needs children area.
20 My second son, Matthew, is 18. He is
21 currently joining the Navy and taking some classes
22 at NPC. He graduated last year. He was considered
23 special needs because of posttraumatic stress from
24 bullying issues. And then my daughter is 13, and
25 she is in 9th grade.

1 Q. Okay. Does your daughter -- does your son
2 attend Founding Fathers?
3 A. Founding Fathers?
4 Q. Jefferson Academy?
5 A. Jefferson Academy? My 16-year-old son
6 attends Jefferson Academy, yes.
7 Q. Okay. How about your daughter?
8 A. My daughter attends Show Low.
9 Q. Okay. Now, with respect -- how did you
10 first hear about Founding Fathers, Jefferson
11 Academy?
12 A. When I first moved here and, actually, even
13 prior to moving here, when I first interviewed here,
14 my office manager's children all go to Jefferson
15 Academy. They're all somewhat special needs, some
16 more so than others.
17 And so when I was looking for a school for
18 my son and the rest of my children, it was one of
19 the suggestions that was made.
20 We had originally actually looked at Blue
21 Ridge first because I was given the impression that
22 it -- that it had a good working relationship with
23 special needs children. And I was told that my
24 children couldn't go there because we were out of
25 district, and they wouldn't take any more special

needs children out of district.

So we looked around and determined that the best fit for my son -- I went and actually interviewed the school for my son and found that it was a fit for his needs.

Q. Okay. What did you observe and find when you first went to Founding Fathers, Jefferson Academy during this interviewing process to find the right place for your son?

A. Well, the first thing that happened is I was shown a video, and the video actually spoke to what I felt was important for autistic children, which was teaching to the child.

My son is very smart, and my opinion was that he shouldn't be held back because -- and be considered stupid because he was autistic. He just struggled with his ability to show that. He struggled with his social skills, but he wasn't stupid.

And a lot of the times the school will coordinate and put all the children into the same box of being stupid and not teach them the things that the children need to be taught to advance in life, but will instead just let them go on their merry way and not teach them anything.

1 That's not what I wanted for my son. I
2 wanted somebody to teach my son the way he needed to
3 learn, and the video really demonstrated that as
4 they taught to the child.
5 Q. And after review of the video, did you
6 observe anything else that you thought would be
7 beneficial for your son at the school during this
8 interviewing process?
9 A. I liked the -- the single classroom that I
10 went into initially for him was the junior high, and
11 I liked that aspect of it. Also, the owner of the
12 school had special needs children, so she understood
13 them. I mean, that's pretty much what I saw at that
14 time.
15 Q. What specifically was it that you liked
16 about the junior high class?
17 A. I liked the fact that it was a single class,
18 so it allowed the kids to interact with each other
19 as they needed to, and they were able to teach not
20 to the child's age, but to the -- their abilities.
21 Q. Now, was he in public school while you were
22 in New Jersey at the various practices there?
23 A. He was. He was in a public -- public
24 grammar school from kindergarten through fifth
25 grade, I think.

1 Q. That's fine.
2 A. And he was -- where he was in a
3 self-contained class where they mainstreamed him for
4 a couple of classes.
5 We had various trouble. Not as much trouble
6 as we would have if he had been mainstreamed for
7 everything. He was diagnosed as special needs
8 before he hit kindergarten, so they put him in a
9 self-captained class in kindergarten. He stayed
10 there until about third grade, where they would send
11 him out to mainstream in a couple of classes.
12 Once they did that, then they were going to
13 move him to the junior high school. The junior high
14 school happened to be the school that my other son
15 experienced his posttraumatic stress syndrome.
16 I refused to allow him to go to that school
17 where they would chew him up and spit him out. And
18 so I -- I said, "No." And I had already put my son
19 in another school called Barnstable Academy, which
20 the school -- the school system didn't really
21 approve of because it wasn't one of their schools
22 that they send special needs children to but which
23 also taught to the child more and had a lot more of
24 the autistic spectrum kids.
25 So I put him in that school with his sister

and brother at the time. The school system didn't fight me for putting him in like they did with my first.

Q. Was that a private school?

A. That was a private school.

Q. Okay.

A. And a very expensive one.

Q. And the school was obligated to pay that?

A. The school was obligated to pay that.

Q. Okay. And that school was a -- did they specialize in these students, or was it --

A. That wasn't what they --

MS. ANDERSON: Objection. Relevance.

MR. CONDOS: I'll just go on.

ADMINISTRATIVE LAW JUDGE: Okay.

BY MR. CONDOS:

Q. After you came here, do you -- and put him into that school, did you -- how did he do when he started off there?

A. He did okay.

MS. ANDERSON: I'm sorry.

Are we talking about "that school" being Jefferson Academy?

MR. CONDOS: Okay.

///

1 BY MR. CONDOS:
2 Q. No. The Founding Fathers.
3 A. He did okay initially. It took him -- it
4 took them some time and him some time to find his
5 strengths and weaknesses. Currently he's doing much
6 better. It's the first time I've ever seen him do
7 homework on his own without being prodded.
8 He actually planned his own birthday party,
9 invited all of his friends, and planed the thing
10 from soup to nuts, including invitations and
11 everything else all on his own without my help,
12 which is something he would never have done.
13 He's got a girlfriend, scary as that may be,
14 which I never expected that he would ever have. But
15 he's -- he's doing things. He's working at the
16 animal shelter. They're taking him there once a
17 week, and they've arranged for him to go and get
18 some job counseling so he can get a job.
19 Q. Okay. Now, when you say "they arranged,"
20 was that the school?
21 A. The school.
22 Q. Okay.
23 A. The school sent the papers to the -- the DES
24 place.
25 Q. Okay. Do you attribute the independence of

1 the being able to plan his own birthday to skills or
2 education that he received from Founding Fathers,
3 Jefferson Academy?
4 A. I do.
5 MS. ANDERSON: Objection. Leading.
6 ADMINISTRATIVE LAW JUDGE: Can you
7 rephrase?
8 BY MR. CONDOS:
9 Q. What do you attribute his independence now
10 of planning his own birthday party for?
11 A. To the teachers and counselors that he's had
12 experience with at Jefferson Academy.
13 Q. And -- and why would you say that?
14 A. Because they worked hard with him to help
15 him develop his social skills. I get calls
16 frequently to ask about, "Oh, can he work with this
17 child," or telling me how well he's working with
18 this other child.
19 And they would encourage those small groups
20 to the point where now he's been able to interact
21 with a large group.
22 Q. Okay. And you mentioned, as a true mother
23 would, the girlfriend.
24 Do you attribute that in any way -- I mean,
25 what do you attribute that to?

1 A. From the time he first got there, he and
2 McKayla had developed a friendship, and the funny
3 thing is the friendship was based on gummy bears.
4 She would bring -- and she brought him gummy bears
5 for his birthday for the first time.
6 And so over that time frame, they developed
7 that friendship, and then that blossomed into the
8 girlfriend thing, which I don't know what they do as
9 girlfriend and boyfriend. He's 16. I don't know
10 exactly how old she is. I'm hoping they're only
11 holding hands.
12 Q. So how did -- how did the school -- if you
13 feel the school helped in that -- in his ability to
14 have a girlfriend?
15 Would he have had a girlfriend, do you
16 think, if the school hadn't been involved?
17 MS. ANDERSON: Objection. Relevance.
18 MR. CONDOS: We're talking about
19 growth.
20 ADMINISTRATIVE LAW JUDGE: You can
21 answer if you know.
22 THE WITNESS: I don't know whether he
23 would have or he wouldn't have. I know that he
24 didn't have the social skills to even talk to
25 anybody or make friends prior to going to Jefferson.

1 The only person he really talked to were his
2 brothers and sisters, and most of the time, not very
3 nicely.
4 It was only going to Jefferson that he
5 developed real friendships.
6 BY MR. CONDOS:
7 Q. Okay. Now, we've talked about the social.
8 What do you -- how do you perceive his
9 educational progress while he's been at Jefferson
10 Academy?
11 A. He's learned to read, which he hadn't
12 before. He's learned to write. Not great, but
13 he -- he's writing at -- I would have to ask
14 Mr. Reidhead where he is now, but from my looking at
15 his invitations, I would say about a third grade
16 level, and that's a -- that's a guess.
17 But he certainly was capable of making
18 invitations, which putting pen to paper would have
19 been a challenge prior.
20 He's learned to use the computer. Sometimes
21 he's learned to use it in ways I would prefer he not
22 use it, but he has learned to use the computer to do
23 different things.
24 His math skills are out of this world.
25 Jefferson doesn't make him do a sheet of paper

1 that's, you know, 100 problems long. They make him
2 show his ability. Because it's -- he struggles to
3 do things quickly. So he's shown growth in academic
4 areas.
5 He's more thoughtful than other children.
6 He's slower to process things. He's -- he can't do
7 a whole math page really, really fast, but he knows
8 the concepts. And to me, that was important, that
9 he be taught the concepts.
10 Q. Okay. Now, you said he couldn't read
11 initially when he went to --
12 A. Not very well at all.
13 Q. What did Founding Fathers -- I mean,
14 Jefferson Academy do to help him develop the reading
15 skills?
16 A. You would have to ask his teachers that.
17 Q. Okay.
18 A. I just know that they did it.
19 Q. Okay. Did you meet with teachers on -- with
20 respect to your son's progress?
21 A. I did. Not as regularly as I would have
22 liked to because I'm the only pediatrician in town
23 pretty much, so I didn't have as much time as I
24 would have liked to.
25 But I did meet with them, you know, and they

1 did help me arrange individual education programs in
2 the meetings that we had regularly.
3 Q. Do you feel that they adequately kept you
4 informed of your son's progress?
5 A. Oh, yes.
6 Q. Okay. And do you believe that he did
7 achieve progress at his education there?
8 A. I do.
9 Q. What grade is he in right now?
10 A. Tenth.
11 Q. Okay. You also mentioned that they assisted
12 him in obtaining a job.
13 Why is that important?
14 A. Because eventually he needs to become a
15 productive member of society, as I would hope all of
16 my children, and all the children possible, can be.
17 Q. Okay. And does he work every day or how
18 often does he work?
19 A. Right now he works one day a week with the
20 Humane Society, and they take him there. They've
21 expedited that process, something I never could have
22 done.
23 Q. "They" being the school?
24 A. The school.
25 Q. The school takes him to -- there, and who

1 picks him up?
2 A. The school takes him there and picks him up.
3 It's part of -- of their process. I don't know what
4 it's called. It could be a work study program, but
5 they take him on Wednesdays and pick him up.
6 And they're there with him, and he works
7 with the animals to walk, and he actually had to
8 take some special training to walk the dogs, which
9 was really neat for him because he really loves
10 animals.
11 Q. Okay. Now, you said he does his homework
12 without prompting.
13 Is that something new when -- that occurred
14 after he started attending Jefferson Academy?
15 A. It is, and it's been really only in this
16 last year or so. Initially -- as you know, I'm a
17 pediatrician. My hours are long. By the time Mark
18 would get home from school, it would be very
19 difficult to get him to do his homework, so people
20 would have to sit with him.
21 And anybody else didn't have the patience to
22 sit with him and get him to do his homework, and he
23 would fight it. And his feeling was, I've worked my
24 eight hours or my six hours or however many hours
25 I'm in school. I'm done. And I understand where

1 he's coming from.
2 But with a child with autism, they see the
3 world differently than we do. So telling him,
4 "Well, you still have to do this. This is still
5 part of what you have to do," he didn't get it.
6 He's like, "I'm done. I've already been in school."
7 And it became more and more of a fight. And
8 by the time I got through some of his IEPs, I said,
9 "He's just not going to do it. He's not going to do
10 homework. You need -- if he's going to do
11 schoolwork, you need to make him do it in school.
12 I'm not going to get him do it after school, and I
13 don't have -- I'm not home necessarily to be over
14 him to do it."
15 Besides the fact that I'm a pediatrician, I
16 have -- I have three other children, and so that was
17 part of our IEP is that Mark didn't do homework.
18 And maybe that made him special in some
19 people's eyes but, you know what, he learned without
20 doing homework. He didn't need to do homework.
21 Some people need it. He didn't.
22 He was able to recite so many different
23 things that he knew. You could just tell him once,
24 so he didn't do homework.
25 And then this -- you know, this last year or

1 so, he was starting to -- Mr. Reidhead was really
2 getting on him about making sure he was getting his
3 work done. And he insisted that Mark go home and do
4 it.
5 And there were consequences when Mark didn't
6 go home and do it from Mr. Reidhead, and Mark would
7 sit down and do his homework.
8 Q. And the homework you're talking about is
9 basically work that he hadn't completed during the
10 school day?
11 A. It would be work that he hadn't completed
12 during the school day for the most part, yes.
13 Q. So he had -- he was held accountable?
14 A. He was being held accountable for doing his
15 work, yes.
16 Q. Okay. Now, are there other pediatricians in
17 Show Low or --
18 A. That's a loaded question. There is another
19 pediatrician in Show Low currently who is leaving on
20 June 7th. He's been here for less than a year.
21 There is another pediatrician in Taylor
22 who's 81.
23 MS. ANDERSON: Objection. Relevance.
24 BY MR. CONDOS:
25 Q. As -- in your position as the -- as a

1 pediatrician, you see many children from Show Low.
2 Is that -- would --
3 A. That is correct.
4 Q. Okay. And in your treatment of them, have
5 you identified problems with some of the students at
6 times -- learning problems? Aside from the typical
7 illness problems, but learning problems and
8 disabilities?
9 A. Yes. I -- I am the go-to person and the
10 go-to pediatrician for special needs kids in our
11 area. Not only Show Low but the surrounding areas.
12 Unfortunately, Arizona split its money up so
13 a lot of these kids are trying to get into community
14 counseling programs, but they don't have the skills
15 that I have.
16 And so people from far and wide come to see
17 me with their special needs kids who they don't have
18 any answers for.
19 Q. And if the parents of these students ask for
20 advice about schools or anything else, do you
21 provide any advice?
22 A. I do.
23 Q. What advice do you usually provide?
24 A. I recommend that they go to Jefferson.
25 Q. And why do you -- do you give them a reason

1 as to why you recommend Jefferson?
2 A. Because Jefferson will teach to their child.
3 Jefferson will be able to handle their special needs
4 children, especially the kids on the autistic
5 spectrum, those that are more autistic than others.
6 I've had several success stories come out of sending
7 children to Jefferson. I haven't had any failures.
8 Q. Okay. And in those success stories, did
9 they relay to you any -- any type of educational
10 acceleration or mastery?
11 A. I can't say that we've talked so much about
12 educational acceleration, because some of these kids
13 can't excel educationally until you can reach them
14 emotionally and socially.
15 So I have, as a "for instance", one little
16 boy who I've been working with for a couple of years
17 now who we sent to Jefferson. He had been on some
18 medications, anything to control some of his
19 behavior, his sleep issues.
20 He has now become less withdrawn. He's able
21 to -- he comes out from under the chair even when I
22 have a medical student in the room, so he's actually
23 able to interact a little bit better.
24 You can't get them educationally until you
25 can reach them through their social and emotional

1 abilities.
2 Q. How old was this child that you're talking
3 about?
4 A. He's five.
5 Q. Okay. Now, was your son on medication in
6 New Jersey and before he went into Founding
7 Fathers -- I mean Jefferson Academy?
8 A. He's been on --
9 MS. ANDERSON: Objection. Relevance.
10 MR. CONDOS: I think if you will allow
11 us, we'll show that Jefferson Academy also made a
12 difference with respect to that part of his life.
13 ADMINISTRATIVE LAW JUDGE: You can
14 answer the question.
15 THE WITNESS: My son was put on
16 medication when he was four years old, and he has
17 been on multiple medications since then.
18 I believe it was the first November we
19 were here, he got quite ill with a stomach bug and
20 couldn't keep medications down. And I was asked to
21 keep him off of them because, for the first time,
22 they saw a better light in his eyes.
23 He's been off all medications since
24 then. I think that was November of 2011.
25 ///

1 BY MR. CONDOS:
2 Q. Okay. And do you attribute that process in
3 any way as a by-product of the actions of the
4 teachers at -- and the school at -- at Jefferson
5 Academy?
6 MS. ANDERSON: Objection. Leading.
7 BY MR. CONDOS:
8 Q. Let me rephrase.
9 What do you -- what do you -- what are any
10 of the factors that you attribute that he may
11 have -- may have less medication?
12 A. I think Jefferson Academy, as opposed to
13 other schools who feel that children who can't sit
14 still need to be medicated with ADHD medication or
15 children who have behavioral issues need to be
16 medicated with behavioral medications, Jefferson was
17 willing to reach his mind and redirect his needs as
18 needed within the classroom so that they were able
19 to teach him more effectively, rather than just
20 having him zoned out on medications.
21 Q. Okay. And has your son made educational
22 progress since he's been at Jefferson Academy?
23 MS. ANDERSON: Objection. Asked and
24 answered.
25 MR. CONDOS: Did I ask that? Okay.

1 BY MR. CONDOS:
2 Q. If -- if -- you know, you understand that
3 this hearing is -- is with regard to the
4 continuation of Jefferson Academy because it
5 received an "F" in the State.
6 Does the fact that it received an "F" affect
7 your opinion of Jefferson Academy in any way?
8 A. No, it does not.
9 Q. Okay. If the school would be closed, how
10 would it affect your son?
11 A. He would have to go into the Show Low school
12 system where they chew him up and spit him up.
13 Q. When you say "chew him up and spit him out,"
14 what are we talking about really?
15 A. They would either have to put him in a
16 self-contained class with special rules where they
17 would not teach him any of the harder stuff, or they
18 would mainstream him where he would fail.
19 Q. Okay. And how about the -- the students
20 that you have -- the children that you've referred
21 to Jefferson Academy? Do you think it would affect
22 them in any way?
23 A. It would.
24 MS. ANDERSON: Objection. Calls for
25 speculation.

1 BY MR. CONDOS:
2 Q. In your professional opinion, since you
3 referred to them, do you think that would affect
4 them in any way?
5 MS. ANDERSON: Objection. Calls for
6 speculation.
7 ADMINISTRATIVE LAW JUDGE: You can give
8 an opinion if you know -- if you have one.
9 THE WITNESS: In the two and a half
10 years, almost three years that I've worked here, I
11 have worked with many students and parents that come
12 to me from many different schools.
13 I have been hard-pressed at a lot of
14 schools to get IEPs done. IEPs are individual
15 education plans done or even have them looked at.
16 When they do get done, a lot of the
17 schools just ignore them. Jefferson Academy is the
18 one that doesn't. If I have to send these children
19 back out -- or if the State has to send these
20 children back out to these other schools, they're
21 going to be lost in the shuffle.
22 I have people that are teachers that I
23 know that are in other schools who say, "We can't
24 pay attention to these IEPs even though State law
25 says we have to."

1 MS. ANDERSON: Objection. Hearsay.
2 MR. CONDOS: A limited amount is
3 permissible.
4 ADMINISTRATIVE LAW JUDGE: We don't
5 operate under the formal rules of evidence, so you
6 can testify to that, and I will give it the weight I
7 deem appropriate.
8 THE WITNESS: So they said they can't
9 pay attention to the IEPs because they don't have
10 the resources to do so, that they ignore the IEPs.
11 I refer them to Jefferson -- sometimes
12 I write letters to say that they have to have an
13 IEP, but whether they pay attention to it or not,
14 I'm hard-pressed to say.
15 What I can say is that Jefferson pays
16 attention to IEPs.
17 BY MR. CONDOS:
18 Q. Is there anything that you think would be
19 relevant for our hearing judge to know about
20 Jefferson Academy as she ponders the decision of
21 whether or not to revoke the charter or not?
22 A. Jefferson Academy is a school that caters to
23 special needs kids. It is a high need in our very
24 poor community.
25 Most of the schools that have the ability to

1 do IEPs don't do them as often as they should or
2 don't pay attention to them as often as they should.
3 Some of the schools don't even have that ability.
4 Most of our parents are ignorant,
5 unfortunately. We have a very low income, low
6 educational area, and Jefferson has been one of the
7 godsends to allow these kids a place so that they're
8 not going to fall through the cracks.
9 I think that we as a society need to create
10 members -- members -- working members of society,
11 not just people who can pass tests. There are a lot
12 of people in our community that are special needs
13 that are in the workforce now that are bagging
14 groceries at Safeway, that are taking tickets at the
15 movie theater.
16 These people can work too, but if they fall
17 through cracks because nobody's taking care of them
18 at these other schools, just because they can't pass
19 a test, then you and I are going to be paying for
20 them through our tax dollars.
21 Q. Okay. Do you believe that Jefferson Academy
22 provides a appropriate learning environment to
23 advance students' education?
24 A. I believe they -- they are providing an
25 appropriate learning environment, and they're

1 providing the learning environment to each
2 individual child to allow them to expand their
3 skills as much -- as they can.
4 Q. And do you believe that they -- Jefferson
5 Academy is an appropriate choice for parents in your
6 area there?
7 A. I do.
8 Q. And, obviously, they -- they operate a
9 little differently than the traditional public
10 schools?
11 A. Correct.
12 Q. Okay.
13 MR. CONDOS: And -- I think that's it,
14 Judge.
15 ADMINISTRATIVE LAW JUDGE: Cross?
16 MS. ANDERSON: Thank you.
17
18 CROSS-EXAMINATION
19 BY MS. ANDERSON:
20 Q. Your student that is currently at Jefferson
21 Academy is -- you said he's 16 years old?
22 A. Yes.
23 Q. What grade is your student in?
24 A. Tenth.
25 Q. And when did your student come to first

1 become enrolled at Jefferson Academy?
2 A. July of 2011, which would -- well -- or in
3 August. That would make it eighth, I think. I've
4 got four kids.
5 Q. And prior to Jefferson Academy, was it your
6 testimony that your -- your son was at a school in
7 New Jersey?
8 A. Yes. My son was at two different schools in
9 New Jersey.
10 Q. Okay. So with regard to -- okay. So with
11 regard to -- so was his placement -- his placement
12 was at Jefferson Academy following the move you made
13 from New Jersey to Arizona?
14 A. Yes.
15 Q. Has your son been in any other district --
16 has your son attended any of the other district or
17 charter schools in the Show Low area?
18 A. No.
19 Q. Your other children, are they older or
20 younger than --
21 A. I have two older children and one younger.
22 Q. Does your younger child attend Jefferson
23 Academy as well?
24 A. No. She attends Show Low.
25 Q. And what grade is that student in?

1 A. She's in ninth.
2 Q. You indicated that you were aware that
3 Jefferson Academy has an "F" letter grade. Is that
4 correct?
5 A. That is correct.
6 Q. Do you know what letter grade Show Low
7 school has that your ninth grade daughter attends?
8 A. I do not.
9 Q. Does your student have an IEP, an
10 individualized education plan?
11 A. My son?
12 Q. Yes.
13 A. Yes, he does.
14 Q. And does the IEP also include items with
15 regards to social skills?
16 A. Yes.
17 Q. So the school has requirements under the
18 student's IEP to provide social skills training --
19 A. Yes.
20 Q. -- to your child?
21 A. Yes.
22 Q. Sorry. We had a little crossover of our
23 question and answer.
24 ADMINISTRATIVE LAW JUDGE: Just let her
25 finish the question before you answer.

BY MS. ANDERSON:

Q. Are you familiar with the Arizona State Board for Charter Schools' Academic Performance Framework?

A. I'm afraid not.

MS. ANDERSON: Thank you. I have no other questions.

ADMINISTRATIVE LAW JUDGE: Redirect?

MR. CONDOS: No redirect, Your Honor.

ADMINISTRATIVE LAW JUDGE: You may be excused. Thank you very much.

THE WITNESS: Thank you.

ADMINISTRATIVE LAW JUDGE: And your next witness is?

MR. CONDOS: Samantha Torrez, Your Honor.

SAMANTHA TORREZ,

the witness herein, having been first duly sworn by the Administrative Law Judge, was examined and testified as follows:

ADMINISTRATIVE LAW JUDGE: Could you please state your name, spelling it for the record?

THE WITNESS: Samantha,

1 S-a-m-a-n-t-h-a, Torrez-Baca, T-o-r-r-e-z hyphen
2 B-a-c-a.
3 ADMINISTRATIVE LAW JUDGE: Please
4 proceed.
5
6 DIRECT EXAMINATION
7 BY MS. STILLMAN:
8 Q. Ms. Torrez, could you please -- let's see.
9 Are you currently a teacher at Jefferson
10 Academy?
11 A. Yes, I am.
12 Q. And could you tell us a little bit about
13 your educational background?
14 A. I got a bachelor's in education at Northern
15 Arizona University, and I've gotten my master's at
16 Grand Canyon University, and that is in special
17 education.
18 Q. All right. And what is your position at
19 Jefferson Academy?
20 A. I currently teach fourth -- fourth and fifth
21 grade.
22 Q. All right. How many fourth grade students
23 do you have?
24 A. Five.
25 Q. And how many fifth grade students?

1 A. Ten.
2 Q. And how many -- so you've got 15 students?
3 A. Yes.
4 Q. How many of those students are special
5 education students?
6 A. I have four on IEPs.
7 Q. When you -- when the school year starts, do
8 you have a procedure for -- because you have
9 multi- -- a multiage classroom, do you have a
10 procedure for -- for the incoming students that come
11 into your classroom as far as determining
12 educational levels?
13 A. We do placement assessments in math and
14 reading and writing.
15 Q. And do you have a specific instrument that
16 you use for that?
17 A. Most of the time, we use what is given to us
18 by Mrs. Stewart, an assessment binder. It's got a
19 math assessment, a writing assessment, and a reading
20 assessment in there.
21 This year, though, we did start doing
22 Envision Math, which came with its own assessments,
23 a diagnostic testing that we gave at the beginning
24 of the year.
25 So if they were in fourth grade, they would

1 have got -- taken a third grade test at the
2 beginning just to make sure there was no gaps in
3 their third grade education.
4 And then my fifth graders took the fourth
5 grade testing at the beginning of the year to make
6 sure there was no gaps in their fourth grade
7 education.
8 And we've started Teach your Children to
9 Read Well where they did their placements to tell us
10 where they placed in reading for their program.
11 Q. All right. And then from that assessment
12 tool, what do you do with the information that you
13 get from that -- those results?
14 A. If the students do have gaps, which most of
15 the time they do, we go back and try and fill in
16 those gaps. There's tools that come with that
17 Envision curriculum that allows us to go back in and
18 fill in some of those gaps.
19 Like I know my students were lacking in
20 fractions, for example, so I was able -- the
21 majority of them were. So I was able to pull the
22 fraction section from that curriculum that they gave
23 us and fill in some of those gaps that they had.
24 Q. All right. Can you walk us through kind of
25 your daily schedule?

1 A. We start out with reading groups. That's
2 the very first thing we do first thing in the
3 morning is reading groups.
4 After that, we usually end up going to
5 recess, which is about a 15- to 20-minute break for
6 them, and they have their snack. They come in. We
7 do math.
8 From there, usually, we go into lunch.
9 After lunch, we have a science or social studies
10 lesson and a writing lesson, and then we do labs,
11 which is where they can independently work on skills
12 that they need to work on.
13 And then they have another recess between 15
14 and 20 minutes, and then they come home, get
15 ready -- get ready to clean up, go home type thing
16 after that.
17 Q. Okay. So this is kind of the typical
18 schedule --
19 A. Yes.
20 Q. -- correct?
21 Are there times when you sometimes have to
22 deviate from that schedule?
23 A. Oh, yes. There's lots of times we have --
24 not lots of times, but, I mean, there's times when
25 the school schedules something for them to do as a

1 group that we have to rearrange our schedule a
2 little bit.
3 Some of our kids get pulled out for
4 specials -- or not specials, but like Ms. Anne's
5 reading specialist or speech therapy, so I've had to
6 rearrange my schedule quite a few times so they're
7 not missing math when they got pulled out or they
8 weren't missing reading when they pulled out.
9 But that's just part of making sure they're
10 in class for all the lessons they need to be in
11 class for.
12 Q. So a change in the schedule doesn't mean
13 that they don't still receive those same items
14 throughout the day. Is that correct?
15 A. Right.
16 Q. Is there -- because you know that there are
17 gaps based on this initial assessment, is there some
18 form of regular process that you use to reassess to
19 determine whether or not they are making progress?
20 A. We have weekly probes in math and reading,
21 so those are assessments that are given to them
22 weekly. And, in fact, the reading probes are given
23 to them maybe -- we have the AIMS reading probably,
24 and then we have a probe that goes with the Teach
25 your Children to Read Well graphs. And those are

given to them every day a week.

They either have the AIMS probe or they have a Teach your Children to Read Well assessment, one or the other. And then the math probes are given to them twice a week.

Q. If you could turn to -- in the white binder --

A. This one?

Q. Yes.

-- Exhibit KK. It's about midway through.

A. Got it.

Q. Okay. If you turn to what is technically the second page in there, it's page 208 at the bottom right-hand corner.

A. Um-hmm.

Q. Can you tell me what this is?

A. That's my fourth graders in my class, and it tells us whether they're in Tier 3, Tier 2, or Tier 1.

Q. We went over this a little bit yesterday, but could you just remind us the difference between what makes a Tier 1, a Tier 2, and a Tier 3 student?

A. Tier 1 are pretty much my mainstream students. They don't need any extra help on the side. They pretty much pick up the concepts pretty

well and understand them just with the regular teaching of the lesson.

Tier 2, they may need a little help, fall a little behind. They're usually -- a lot of them can be quick fixes. Like, if you go through and look at some of their math, and see their work, you notice, "Oh, okay. They may not be borrowing. Let's just go over a quick lesson on borrowing," and then they're fine, and they get the lesson, and they can move on.

Tier 3 are usually my students who seek extra tutoring in the math or reading and need the extra help and the extra guidance a lot more than my other students.

Q. All right. In looking at this where we have the two triangles, can you explain to us what this demonstrates?

A. The first triangle is my fall and the second triangle is the winter. And it just shows how many students I had in Tier 1 and Tier 2 because there were no Tier 3 students.

Q. And this is for math computation. Is that correct?

A. Yes, it is.

Q. Can you turn the page to page 209?

1 A. Um-hmm.
2 Q. In looking at these students in the triangle
3 that are listed at the top, can you identify what --
4 what information you can gather from looking at this
5 here?
6 A. This is math computation as well, and this
7 is my fifth graders. The first triangle is once
8 again fall. The second triangle is winter scores,
9 and these are scores that are put in at benchmark
10 times. The top of the triangles are my Tier 3, the
11 yellow are my Tier 2s, and the green are my Tier 1s.
12 Q. So does this mean that the number of
13 students -- because it went from 27 in fall to 20 in
14 winter, does that mean that -- explain if -- if --
15 are they the same students represented in those two,
16 or does that mean that there's been a difference in
17 the number of students in which level they fall into
18 during that time frame?
19 A. It means that some of my students have moved
20 from Tier 2 to Tier 3, and I have had some students
21 come and go out of the classroom. So that makes a
22 difference there as well for my fall to my winter.
23 Q. So the fact that, in fall it was 46 and it
24 went up to 60, does that mean that we now have -- in
25 winter, we have more students achieving in the Tier

1 1 --
2 A. Yes. We have more students who have been
3 moved from either Tier 3 or Tier 2 to Tier 1.
4 Q. Okay. So from looking at this type of a
5 representation, are you able to tell -- and this is
6 an overall from the entire student population of
7 your class, your fifth graders?
8 A. Um-hmm.
9 Q. In looking at this data, are you able to
10 tell that there's been student growth?
11 A. Yes.
12 Q. And how are you able to tell that?
13 A. Just from the amount of -- the students have
14 gone down in Tier 3, and it's gone down in Tier 1,
15 and my -- or Tier 2, and my Tier 1 have gone up.
16 Q. Okay. And you had mentioned these are
17 benchmark times, so --
18 A. Um-hmm.
19 Q. -- what does -- what significance does the
20 benchmark have?
21 A. The benchmark is pretty much the same
22 testing, the probes that we do for reading and
23 writing and math. But those are taken and put into
24 the computer at benchmark.
25 So that would be when school started, they

1 do their benchmarks, at Christmastime, and then
2 right now it's springtime, we'll do their
3 benchmarks.
4 And we turn those into Mrs. Tate, and she
5 puts them into the computer, and she can see if
6 students are making any achievement, if they're
7 falling back, so we can go ahead and figure out, if
8 a student is digressing, why? What's going on?
9 And if they are achieving and moving
10 forward, then we can praise them and give them the
11 praise that they deserve for achieving.
12 Q. Now, are the benchmarks at grade level?
13 A. Yeah.
14 Q. Okay. For the weekly probes, are you given
15 the weekly probes at grade level?
16 A. For the majority, yes. There's a few who
17 are below grade level on the weekly probes.
18 Q. Okay. So for the benchmarks, when those are
19 done, how frequently are the benchmarks taken?
20 A. Three times a year --
21 Q. Okay.
22 A. -- four times a year. Three.
23 Q. Three times a year.
24 So that's a system where three times a year
25 they are tested at grade level for those benchmarks?

1 A. Yes.
2 Q. But then the weekly system, why would they
3 maybe not be tested at their grade level on the
4 weekly probe?
5 A. Because they're not performing at grade
6 level in everyday classroom material. I have --
7 say, reading, I think I have three or four of them
8 that are doing reading probes at a lesser grade
9 level than what they are.
10 Majority of them are on IEPs, so they're not
11 reading as fast, because the reading probe is a
12 fluency probe. If they don't have the vocabulary or
13 if they're missing certain letter combinations, then
14 it's just going to frustrate them to give them a
15 fifth grade reading passage when they're only
16 successfully reading at third and fourth grade.
17 Q. Okay. How did you use those -- you give
18 them the weekly probe. You have that data.
19 What do you do with that -- with that data?
20 A. We look at them every week to see, okay.
21 They're constantly -- in the last two weeks they've
22 missed a percentage question. I knew that I've
23 already taught percentage to the class, so now I
24 need to figure out what he's missing in percentages
25 and why he isn't getting it in the weekly probes.

1 And then we call him over to our table, and
2 we go over -- do a reteach of percentages with the
3 student and have him do homework on it and then
4 practice on it and independent on -- independent
5 practice on it to see if -- just to help him get the
6 concept down.
7 Q. Okay. And you're doing that type of
8 individual assessment on each student that you
9 have --
10 A. Yeah.
11 Q. -- each week?
12 A. Weekly.
13 Q. And is there a tie-in from the probes that
14 you're using to the curriculum that you're using?
15 A. Yes. The Envision math has the Common Core
16 curriculum and the AIMS probe. It's been
17 benchmarked -- or cat-walked to where we can look at
18 the probe and see, okay, they're missing this. Why
19 are they missing this? And it tells us -- right
20 there in the book, we can go straight into Envision
21 and find the lesson that it's taught in and
22 correspond it to what they're missing there.
23 Q. Okay. So the data analysis is happening
24 every week?
25 A. Yes.

1 Q. Is there some form of -- you know, are you
2 writing some type of a journal every week to
3 document the data analysis that you're doing every
4 week?
5 A. On the Tier 3 students and some of the Tier
6 2 students, we have our tutor binder, our tutoring
7 binders, where we put in there weekly what we're
8 working on that student with and why we're working
9 on them with it -- with that. And we have to write
10 in that week -- daily, in fact. But it's not for
11 every single student. It's for our Tier 3 and Tier
12 2 students.
13 Q. The ones that are basically showing below
14 grade level. Is that correct?
15 A. Yes.
16 Q. All right. If I could have you turn to
17 page 210, please, and under "classroom" -- if we can
18 just walk through this graph real quickly.
19 Classroom, you have a letter A. Is that --
20 A. That's a student.
21 Q. Right.
22 So this is a fifth grade student under
23 "grade." It's a little hard to --
24 A. Yeah, fifth grade.
25 Q. Fifth grade.

1 And then in the "Notes" section, what sort
2 of information do you include on the "Notes"
3 section?
4 A. For this math score, she's a Tier 2, and
5 she's on an IEP, and she's got a mild intellectual
6 disability.
7 Q. Okay. And then -- I mean, if you can walk
8 us through it. On the bottom, it looks like these
9 are dates. Is that --
10 A. Yes.
11 Q. -- correct?
12 A. Those are dates that -- where she hit her
13 highest score on her math scores for the computation
14 of those weeks.
15 Q. Okay. And then there's two different colors
16 shown here on this particular --
17 A. The blue -- blue is second grade, and then
18 she accomplished everything she had to pass, the
19 second grade comps completely, and we were able to
20 move her into a third grade comp.
21 Q. So the blue represents the second grade, and
22 then the third -- the green is the third grade?
23 A. Yes. So she made growth from second to
24 third grade.
25 Q. So what can we tell -- obviously, when it

1 connects the blue to the green, we have a downturn
2 there.
3 Is that because she --
4 A. Went to a different level.
5 Q. -- went to a different grade level?
6 So the comp level starts at a different
7 level?
8 A. Um-hmm. She went down because it was a
9 harder comp at first.
10 Q. All right. If you could turn to page 211,
11 and this is a fifth grade student?
12 A. Um-hmm.
13 Q. And then in your notes, what sort of
14 struggles might this student have or does the
15 student have, I should say?
16 A. He does the math comp, so he's a Tier 2, and
17 the student is still -- he's on an IEP, and he's
18 autistic.
19 Q. Okay. I can vaguely see --
20 A. I know.
21 Q. I'm seeing that the color didn't come out.
22 It looks like -- can you give us some insight on to
23 the -- well, maybe we should just move to one that's
24 a little better. Why don't we go to 212?
25 A. Okay.

1 Q. Rather than -- I think there's some agenda
2 there, but --
3 A. I know.
4 Q. -- rather than speculate, we'll just move
5 on.
6 A. Because there's dates that go further than
7 that, but I can't see that line.
8 Q. On page 212, we have Student C.
9 A. Um-hmm.
10 Q. And the description for this student is?
11 A. She's a Tier 3 for math comp, IEP, and
12 her -- the disability of the student is SLD.
13 Q. So this is a fifth grade student, but we're
14 showing a color of blue, so that's letting us
15 know --
16 A. Yes.
17 Q. What information does that give us?
18 A. That tells us -- if you look at the key,
19 that tells us it's a second grade math comp that
20 she's taking.
21 Q. Okay. And from looking at the results, what
22 type of results are we having with her progress?
23 A. She goes the -- dots are the days that she
24 had achievement higher than before, so she is making
25 some growth, but she is one that goes -- some days,

they'll retain the information, and then you take a test, and she'll get 100 percent. And the next day, you give them the same information, and she can't recall any of it.

Q. And is that part of her disability?

A. Yes, it is.

Q. Page 213, Student D, what can you tell us about Student D?

A. Fifth grader. This one is also a Tier 3 in -- in the math comp. He is also on an IEP, and the student is also autistic.

Q. So this student is -- based on our color coding, is performing at the second grade level --

A. Um-hmm.

Q. -- currently in math?

A. Yes.

Q. Is this student a student that will be taking the AIMS test?

A. Yes.

Q. Is this student, based on the chart here of the three score dates, showing improvement?

A. Um-hmm. He is also one that it just depends on what kind of day they're having. If they come in and something in their morning routine, because of the autism, has thrown them off, it's very hard to

1 get him back on track to have any kind of good day
2 at school. That plays a big key with this
3 particular student.
4 Q. All right. If I can have you look at the
5 next Exhibit, LL, if we can look at page 215, and
6 this is the -- do you recognize this?
7 A. Yes. It's my fourth graders' reading
8 curriculum.
9 Q. All right. And what can we tell has
10 happened between fall and winter for the fourth
11 grade in reading?
12 A. In fall I had one student who was falling
13 below grade level, and come wintertime, they are all
14 at grade level.
15 Q. All right. And turn the page to page 216.
16 This is?
17 A. My fifth graders and their reading
18 curriculum.
19 Q. All right. And in this snapshot, what can
20 we tell is happening between the results that you're
21 getting between fall and winter --
22 A. Well, in fall I had--
23 Q. -- comps?
24 A. -- had -- 64 percent of my students were in
25 Tier 3, 18 percent were in Tier 2, and 18 were in

1 peer -- or Tier 1. And that has gone -- my Tier 3
2 and Tier 2 have gone up, while my Tier 1 have gone
3 up in winter.
4 Q. Okay. And curriculum-based measurement,
5 what type of things are being assessed in reading
6 for curriculum-based measurement?
7 A. Reading fluency and reading comprehension.
8 Q. All right. If you take a look at page 217,
9 Student A is a fifth grader.
10 A. Um-hmm.
11 Q. Tell us what this chart represents and tells
12 us.
13 A. This student is fifth grade, Tier 3 in
14 reading, IEP. She's got the mental intellectual
15 disability. She does see our reading specialist.
16 She has hit -- her highest score has been --
17 it looks like it's about 117 words per minute. Our
18 goal in our reading fluency is to get them at 200
19 words per minute reading. I can't tell what color
20 that is on here. Is that --
21 Q. Oh, is that first?
22 A. I don't know. Is that green or blue? I
23 can't tell on here what color it's showing.
24 Q. We printed it out to color, but --
25 A. To me, it looks like a blue, which is second

1 grade, which is right on target for her. She's in
2 the Teach your Children to Read Well program, but
3 she's in the toolbox. She is also an ELL student.
4 Q. So she has multiple --
5 A. Um-hmm.
6 Q. -- things impacting her education?
7 A. Yes. She is -- Spanish was her first
8 language.
9 Q. All right. If you look at page 218, the
10 color is a little bit brighter.
11 Student B, another fifth grade student.
12 A. Um-hmm.
13 Q. And explain the notes and results.
14 A. She -- this student is Tier 3, ELL student,
15 and he does see the reading specialist, but there is
16 no IEP on that.
17 Q. Okay. And the student's blue, so we're
18 talking about --
19 A. Second grade.
20 Q. -- second grade?
21 A. His highest looks like has been 150 words
22 per minute. When he first started reading, he's
23 gotten to -- started out at 110, so he's made quite
24 a bit of progress in getting those words faster.
25 Q. All right. Can you take a look at 219

1 through 224, if you can look over those, rather than
2 going student by student?
3 A. Okay.
4 Q. And then we -- those are an accurate
5 reflection of the results of those students'
6 progress?
7 A. I noticed in all of them that -- they're
8 mainly my students with the IEPs, and they do see
9 our -- and every single one of them does see our
10 reading specialist except for two, it looks like.
11 Q. And how is the determination made that
12 they're going to see the reading specialist? If
13 they aren't on an IEP, do some students still see
14 the reading specialist?
15 A. Yes.
16 Q. And how is that determination made?
17 A. There is testing done. I don't -- I don't
18 personally do the testing for them, so I don't know
19 how it's done. I know that our reading specialist
20 does pull them out and test them.
21 Q. And do you refer the student, or how is it
22 determined if they're going to --
23 A. If I have a concern about a student, I will
24 go talk to her, and she will come up with a plan
25 with me to help the student become better.

1 If she feels that it's somebody that she
2 needs to be seeing, then she will take the steps
3 needed to get the student in her program.
4 Q. I'm going to have you turn to Exhibit MM at
5 page 227. Here we have a different form of the
6 graphs we've been looking at. We've got three
7 separate lines.
8 Can you explain that, three --
9 A. Oh, I was looking on the graph page. Sorry.
10 Q. Sorry.
11 A. Yes. Let me see. This student is fifth
12 grade, Tier 3, does see the reading specialist, and
13 each one of those lines is a different story.
14 So once they hit the 200 mark in a story, we
15 move them on into another story that's in the Teach
16 your Children to Read Well curriculum. That's where
17 the passages come from.
18 Q. Okay. So you're tracking that story by
19 story? That's where there's the three lines?
20 A. Yes. He did the first fluency, hit his 200
21 words a minute, and then we moved him on to the
22 second fluency. And when he hit his 200 words
23 there, we moved on to the third fluency.
24 Q. Okay. And if you could look through the
25 rest of those exhibits, 228 through page 238, to

1 verify that those are results from students that are
2 in your class?
3 A. Yes, they are. And the last page shows my
4 Student A, who is my MM -- MIID student on an IEP
5 and my ELL one. And they start in their letter
6 sounds, so that's why she's got some orange on
7 there.
8 Q. And they're making growth from a fluency of
9 95 up to the 200 --
10 A. Yes.
11 Q. -- which is the transition point for a new
12 fluency passage?
13 A. Yes.
14 Q. Okay. Now, you have in your classroom --
15 because you're multiage, you have fourth graders and
16 the fifth graders.
17 How does that work as far as the -- meeting
18 the standards? So, say, for example in math, when
19 you go to teach math and you've got this multiage
20 group, what does instruction look like so that
21 you're meeting the standards of both the fifth grade
22 and the fourth grade?
23 A. Well, at group time, we do do it to the
24 fifth grade standard, and they come sit down. We do
25 fifth grade -- say, if we're adding fractions, and

1 in fifth grade it's the unlike denominators. So we
2 just kind of go over that with them, and then we
3 break into groups.
4 My fifth graders, some of them go -- who are
5 reteach might go to one table. My independent
6 students may go to another. And I pull my fourth
7 graders -- especially since none of my fourth
8 graders are in Tier 3, so I group my fourth graders
9 together, because they've all Tier 1 students
10 anyways. And they pull a fourth grade book, and I
11 usually have the corresponding lesson that's the
12 same standard but in the fourth grade book, and we
13 work on that in their fourth grade book.
14 Q. So the standards are being addressed at both
15 the fifth grade and the fourth grade level?
16 A. Yes.
17 Q. And then you had said that your reteach
18 group -- expand a little bit on that.
19 How do you know who's in the reteach group,
20 who's in the enrichment, those different groups?
21 A. After the lesson, you usually do a quick --
22 the curriculum comes with a quick check, and so we
23 administer that to the students.
24 And if -- whatever their score is, it tells
25 you right there it's a reteach, independent

1 practice, or enrichment.
2 Q. All right. So you're having to assess that
3 data --
4 A. Um-hmm.
5 Q. -- a quick teach, and from that data, you're
6 making a determination -- when you say a "reteach,"
7 what does that look like?
8 A. The reteach is pretty much giving the lesson
9 to them again but broken down into smaller chunks.
10 The independent practice is pretty much what you
11 would see a standard worksheet looking like that you
12 would see students with.
13 And then enrichment is for the students who
14 got 100 percent on the quick check. They understood
15 the lesson, they got it 100 percent, and their
16 homework is expanding on it to a higher thinking
17 level.
18 Q. So the homework, then, is on an individual
19 level based on their understanding from the lesson?
20 A. Right. All on the same lesson, though, so
21 I'm not pulling different lessons for different
22 kids. If it's a fraction lesson, then they all have
23 homework on fractions, just at different levels of
24 it.
25 Q. Okay. And how does that system -- does that

1 system serve to motivate the students in any way?
2 A. Oh, yes. They all want to get the
3 enrichment, because they see right on there. I
4 don't tell them, "Well, so and so got enrichment,"
5 or, "So and so is this." But when they get their
6 paper and they see, "Oh, practice. I only got
7 practice. That means I missed something on my test.
8 What did I miss?"
9 And then they come over to me, and they ask
10 me, "What did I miss on that? I want to know."
11 And then I take their paper out, and we go
12 over it, and they're like, "Oh, I knew that."
13 Q. And so that -- the analysis of that is
14 having to happen basically on the fly every day?
15 A. Yes.
16 Q. All right. Fridays, your schedule has
17 changed.
18 Now, how long have you been at Jefferson?
19 A. This is my fifth year.
20 Q. Your fifth year.
21 At what point do you -- if you remember, do
22 you remember when they changed from a five-day
23 schedule to a four-day schedule?
24 A. Last school year.
25 Q. So this is the second school year with that

1 schedule?
2 A. Um-hmm.
3 Q. And do you know what the purpose was for
4 changing from a five- to a four-day student
5 schedule?
6 A. So that we, as teachers, can meet together
7 and with the administration, and we can work on any
8 workshops or anything to improve ourselves. And if
9 we had any problems that arise in the classroom, we
10 could work on it as a group. Instead of trying to
11 individually solve our problems by yourself, we had
12 others to guide us and help us.
13 Q. Okay. For those meetings, are you given
14 some form of agenda when you attend those meetings?
15 A. Yes.
16 Q. Do you find that the agenda is followed?
17 A. For the most part, yes.
18 Q. All right. If there's a deviation from that
19 agenda, is it addressed at a different time?
20 A. Yes. And it depends on what the deviation
21 is. I mean, sometimes we just run a little late
22 talking about a topic so the times get thrown off.
23 Not that big of a deal.
24 You know, if we're talking about a student,
25 and it says on the agenda -- the agenda, okay, 30

1 minutes to do this, sometimes it takes an hour for
2 us to finish our conversations because of what's
3 being discussed. But the problem gets solved
4 and . . .
5 Q. Do you take notes at those meetings?
6 A. I do depending on what's being addressed.
7 If it's like scheduling stuff, yeah, I have my
8 planner, and I'll mark down certain days that may
9 have changed. Or if something's come up for a day
10 and there's a change in the plan, I mark it down in
11 the planner.
12 And I do have a note of sheets of ideas that
13 we may have tried with the student that didn't work.
14 I mean, they're not very formal notes, but they're
15 notes. Maybe one or two words per sentence or
16 something.
17 Q. Um-hmm. And then at those meetings, are
18 you -- is analysis of some of your results, is that
19 something that is a topic at these meetings?
20 A. Yes.
21 MS. ANDERSON: Objection. Leading.
22 ADMINISTRATIVE LAW JUDGE: Can
23 you rephrase?
24 BY MS. STILLMAN:
25 Q. What sorts of topics are addressed at the

1 meetings?
2 A. We have all kinds of stuff addressed. We
3 address our scores. We address progress that a
4 student has made, or if the student is flatlining,
5 we address, how can we help them?
6 We give each other ideas on how to help the
7 student. Administration comes in and says, "Okay.
8 We need -- have you tried this, or have you tried
9 that?" They help us a lot with that too if we're
10 having trouble reaching a student. So all kinds of
11 things are addressed in those meetings.
12 Q. Are the things that are addressed in the
13 meeting, are those things then implemented into the
14 classroom?
15 A. Yes. And we have to bring feedback, too, to
16 the next meeting. If we go and implement an idea
17 that was given to us, then we go into the classroom,
18 implement it. We take our notes on how it's
19 working, what's not working with that idea.
20 And we take it back to the following meeting
21 and be like, "Okay. I tried this, and it worked
22 great. The student's exceeding and making progress,
23 and everything's good," or we come back and we say,
24 "Okay. That didn't work. It didn't work for that
25 student. Who has another idea?"

1 Q. Okay. And is the feedback portion a regular
2 part of your weekly meetings?
3 A. Yes.
4 MS. STILLMAN: I don't think I have any
5 further questions, Your Honor.
6 ADMINISTRATIVE LAW JUDGE: Okay. In
7 that case, we will take our lunch break, and we will
8 come back after lunch. We'll do cross-examination
9 at that time.
10 So we will go off the record at this
11 time.
12 (Lunch recess was taken.)
13 ADMINISTRATIVE LAW JUDGE: We are back
14 on the record in Docket Number 14-F-FSRV-002-BCS.
15 Just one other thing I wanted to mention before we
16 get back to the witness.
17 As far as the outstanding motion to
18 quash, since -- well, first of all, the -- the date
19 of the requested appearance has already come and
20 passed, but I do still have an outstanding motion.
21 Since we're not going to finish today,
22 I don't have to rule on it immediately, and I
23 understand you were -- you're still trying to work
24 something out with the attorney?
25 MR. CONDOS: Right. We are.

1 ADMINISTRATIVE LAW JUDGE: Okay.
2 Then -- do you have any idea of what kind of time
3 frame you're looking at?
4 MR. CONDOS: Well, now with -- with the
5 trial up in May, I would say two or three weeks at
6 the most we should be able to work things out.
7 ADMINISTRATIVE LAW JUDGE: Okay.
8 Then -- I'm just trying to think about a technical
9 way to address this.
10 Would you be willing to withdraw your
11 subpoena?
12 MR. CONDOS: I can with- -- yes.
13 ADMINISTRATIVE LAW JUDGE: Okay. So if
14 you would just file something saying that you're
15 withdrawing the subpoena, and, therefore, you
16 believe the motion to quash would be moot at that
17 point, then that would take care of the outstanding
18 motion. Then either you work things out or you
19 don't.
20 MR. CONDOS: And we start it all over
21 again.
22 ADMINISTRATIVE LAW JUDGE: And we start
23 it all over again if necessary. And then hopefully
24 we would get a more timely motion to quash, and the
25 Board would have an opportunity also to respond to

1 that, as would Founding Fathers, and deal with it in
2 a little more timely fashion.
3 So with that, we were ready for
4 cross-examination, and I will remind you, you're
5 still under oath.
6 THE WITNESS: Thank you.
7 ADMINISTRATIVE LAW JUDGE: So please
8 proceed.
9
10 CROSS-EXAMINATION
11 BY MS. ANDERSON:
12 Q. Is it Ms. Torrez-Baca or just Ms. Baca?
13 A. Actually, they call me Ms. Torrez.
14 Q. Ms. Torrez?
15 A. Yes. I know those hyphenated names get
16 confusing.
17 Q. Ms. Torrez, I believe it was your testimony
18 that your fourth/fifth grade combined classroom
19 contains 15 students. Is that correct?
20 A. Yes.
21 Q. Now, yours is not the only class that
22 contains -- yours is not the only class that has the
23 fourth grade students; correct?
24 A. Correct.
25 Q. Of the 15 students in your class, you said

how many were fourth graders?
A. Five.
Q. And of those five fourth graders, do you know how many attended Jefferson Academy last year?
A. All but one. Wait. Hold on. Two, sorry. There is two.
Q. All but two of --
A. Yes.
Q. -- your fourth graders attended Jefferson Academy last year?
A. Yes. And one of those just started like two weeks ago, so up until two weeks ago, I had four fourth graders. And I think that's what the paperwork shows. It was four.
Q. Okay. So -- so of the three students that attended last year, do you know how many attended Jefferson Academy the prior year?
A. All of them. I'm pretty sure the other three have been with Jefferson since kindergarten.
Q. So you think they've been with Jefferson Academy up until --
A. Yes.
Q. -- they're in your fifth grade classroom?
A. Fourth grade, yes.
Q. I'm sorry. Fourth grade classroom.

1 How about your fifth graders? You have ten
2 fifth graders?
3 A. Um-hmm.
4 Q. And how many of those fifth graders attended
5 Jefferson last year?
6 A. I would say about six of them, and I had one
7 that left. She had been attending since first
8 grade, and she left for a year, and then she came
9 back.
10 Q. Okay. And of the six fifth graders that
11 attended Jefferson Academy last year, do you know
12 how many attended Jefferson Academy in the prior
13 school year?
14 A. I don't. I didn't have the students the
15 prior year. I was in first grade, so I was only
16 really aware of my class and the students I had had
17 in first grade.
18 Q. Were there any students that you had in
19 first grade that you now have in --
20 A. Yes.
21 Q. -- fifth grade?
22 A. The one that left for the year and came
23 back.
24 Q. Okay. Thank you.
25 Was it your testimony that you use Envision

as a placement assessment at the beginning of the year?

A. Yeah. We do their diagnostic testing.

Q. But this year you didn't get the Envision math program until September. Is that right?

A. Correct.

Q. So that diagnostic testing wouldn't have occurred until September?

A. Until September.

Q. You testified this morning with regard to there being a three-tiered system?

A. Yes.

Q. What drives what tier the students are placed into?

A. Our benchmark testing that we turn in. We usually get a printout sheet, and it shows their scores and where they should have been. And if there's a checkmark, then we know they've passed, they met their goals for AIMSweb.

And we also look at grades throughout the year as well. Are they passing their math, are they passing their reading, throughout the year.

Q. Okay. But in terms of -- if we go to Exhibit KK at page 208, I guess my question is, what drives what goes into these tiers here?

A. These -- these ones right here were our AIMSweb scores, and those are the scores that we turn in -- we turn in our benchmark, and we also turn in our weekly scores once a week to Mr. Stewart or Megan. I don't know.

Q. So do the tiers here represent the testing that occurs three times a year, or does it reflect the weekly testing?

A. I'm pretty sure this is the three times a year testing.

Q. Could you please refer to the other notebook that is Exhibit 15 at the very back, page 632?

MS. STILLMAN: What was the page?

MS. ANDERSON: 632.

BY MS. ANDERSON:

Q. There's the -- the table there -- the first table there in the middle of the page, the third column to the right states, "Reached fall target of 35."

What does it mean to meet the fall target of 30- -- it could be 36. It's in the clear.

But what does it mean to meet the fall target of -- I think it's 36?

A. Yeah, I think it's 36. On their math -- this is math comp, yes.

1 On their math comp, there's a certain amount
2 of questions on there that they have to answer each
3 week, and -- well, this is actually the benchmark,
4 so it's three times a week. And they have to have a
5 target score of 36, which means they have to have 36
6 correct answers on it.
7 Q. Okay. So if we look at the -- if you look
8 at the other notebook on page 208 --
9 A. Yes.
10 Q. -- before we look at that, continue to look
11 at page 632.
12 A. Okay.
13 Q. So we have three students indicated in the
14 impact of -- and the students at benchmark at fall
15 of the year; correct?
16 A. Um-hmm.
17 Q. But one of the students has not yet reached
18 the fall target; correct?
19 A. Correct.
20 Q. And if we go to page 209 of the white
21 notebook, okay, I believe it was your testimony that
22 this indicated an increase in the number of students
23 scoring at Tier 1 between fall and winter of the
24 2013-14 school year?
25 A. Yes.

1 Q. If we look at the bottom of the page, we see
2 that in the fall, there were 11 students that
3 took -- were scored, and then in the winter, we see
4 that ten students were scored. Is that correct?
5 A. Yes.
6 Q. So could it be that part of the change in
7 the Tier 1 could be as a result of this less number
8 of students?
9 A. Yes. One student may have moved.
10 Q. If we look at Exhibit 15, page 633, and we
11 have two students that scored at benchmark in the
12 fall of the year 2013-14 school year; correct?
13 A. Yes.
14 Q. And one of them reached the fall target of
15 22; correct?
16 A. Correct.
17 Q. Now, I believe it was your testimony that
18 with regard to the different tiers, that the
19 students in Tier 1 are the mainstream students
20 receiving regular teaching; correct?
21 A. Yes.
22 Q. And the students in Tier 2 might need a
23 little extra help. Is that right?
24 A. Yes.
25 Q. And the students in Tier 3 are the ones who

need extra tutoring?

A. Yes.

Q. Okay. If we look at page 633, if we look at Student 42 on the far right --

A. Yes.

Q. -- Student 32, excuse me -- 42 and Student Number 59, 40- -- Student Number 42 has a score of three and Student 59 has a score of seven. But if we look in the students at strategic at fall of the year, Student Number 10 has a two.

So is it that the students who are -- even though Student 42 and 59 scored higher than Student Number 10, those two students are in tutoring whereas Student Number 10 is not?

A. I don't -- oh, according to this, Student Number 2 would be in tutoring too. It's the stop signs that have the strategic support program. You can see the two -- underneath the Student 16 and 26, how they have the little stop sign or the "PM" -- I can't really make out what it is on the copy --

Q. Um-hmm.

A. -- those are the students that receive the stratic [sic] support program, and the ones with the checkmark meet, so all the other students would

1 receive the tutoring is how --
2 ADMINISTRATIVE LAW JUDGE: She's asking
3 about Student 10.
4 THE WITNESS: He would -- she would be
5 receiving tutoring.
6 BY MS. ANDERSON:
7 Q. Okay. Are Students 16 and 26 also receiving
8 tutoring?
9 A. They would be receiving a little extra help
10 during the lesson and maybe the reteach program,
11 rather than independent practice after a lesson.
12 Q. Okay. And you said that Student Number 16
13 and 26 -- just I'm not clear. Student 16 and 26
14 have what?
15 A. They have --
16 Q. Because they have the little stop sign after
17 that?
18 A. Yeah. Right after the name before the
19 number.
20 Q. And that means?
21 A. The strategic support program, or is that --
22 they're not the -- they're the Tier 2 students.
23 Q. Okay. But --
24 A. So Student 10 would be receiving intense
25 tutoring. She -- they -- I don't know if it's a

1 "he," but he would be in my little binder that I
2 told you guy about that I would be recording on a
3 daily basis what I do with them.
4 Q. Okay. And then Student 55, who also has a
5 little stop sign after him or her, would also be in
6 the strategic support?
7 A. I think he's on there, to be honest, because
8 he's got an ELL. I know exactly who that is. He no
9 longer goes to school there, but he was ELL.
10 Q. So what -- what tier then -- okay. If we --
11 if you would refer to page -- Exhibit Z --
12 A. In the black one?
13 MS. STILLMAN: In the white one.
14 MS. ANDERSON: I'm sorry. You're
15 right. Z is in the white notebook.
16 BY MS. ANDERSON:
17 Q. Page 135, it's the only page that's in
18 Exhibit Z -- I'm sorry. It's not page -- page --
19 no. Page 135, which is the third -- it's the third
20 page in in Z.
21 A. Um-hmm.
22 Q. Now, because on page -- Exhibit 15, page 633
23 is for grade five math computation, and so in
24 Exhibit Z at page 135, it's math computation, and if
25 we look at grade five, in order to be in Tier 1, the

1 student has to, in the fall, have a 12 or better.
2 Is that correct?
3 A. Yes, to be Tier 1.
4 Q. Okay. So the students on -- in Exhibit 14
5 at page -- Exhibit 15 at page 633 that are in Tier 1
6 are the two students that are in the -- the students
7 at benchmark at fall of year; correct?
8 A. Yes.
9 Q. Also Student Number 26?
10 A. Yes.
11 Q. The student above Number 26 whose name is
12 blacked out?
13 A. Yes.
14 Q. Student Number 16?
15 A. Yes.
16 Q. So Student Number 16 who was in Tier 1 is
17 receiving strategic support services, Student 16 and
18 26, and the other two students in benchmark, they --
19 they're not receiving strategies support services?
20 A. Which one? Which students?
21 Q. The two students that are in -- students at
22 benchmark at fall of year, because they're all in
23 Tier 1 -- correct? -- the students we just
24 discussed?
25 A. Yes.

1 Q. And some of the students in Tier 1 receive
2 the strategic support indicated by the stop sign and
3 some do not; correct?
4 A. If they're receiving strategic monitoring
5 and they're in Tier 1, it's because they have an
6 IEP, and they need certain strategies to be able to
7 stay at grade level.
8 Q. So there are some students who have IEPs
9 that are --
10 A. Yes.
11 Q. -- performing at Tier 1?
12 A. Yes.
13 Q. Could you please turn to Exhibit KK at
14 page 210?
15 At the top of the page, it says, "AIMS comps
16 math score sheet."
17 A. Yes.
18 Q. Is the information reflected on these
19 exhibits that have -- kind of look like graphs, are
20 those -- are those scores from weekly assessments?
21 A. Yes.
22 Q. So assessments that are given each week. Is
23 that right?
24 A. Correct.
25 Q. And since when have these weekly assessments

1 been given that would be reflected on page 210 in
2 Exhibit KK?
3 A. I can't -- I'm pretty sure it was back in
4 September that we started the weekly assessments,
5 but the first date that I have written down there,
6 it's blocked out on mine. I can't really make it
7 out.
8 Q. Well, let's -- let's look at page 211.
9 A. Yes. So September 3rd, the beginning of
10 September. I put the first test given on all of
11 them. That way, we knew what their baseline was.
12 Q. Okay. But between September 3rd, and then
13 it looks like the last notation is March 11th. Is
14 that correct?
15 A. On this one, yes.
16 Q. Okay. But wouldn't there have been more
17 weekly benchmark assessments --
18 A. Yes. We were told to --
19 Q. Excuse me. Let me finish the question.
20 ADMINISTRATIVE LAW JUDGE: Let her
21 finish the question.
22 THE WITNESS: Sorry.
23 BY MS. ANDERSON:
24 Q. Wouldn't there have been more weekly
25 assessments between September 3rd and March 11th

1 than nine?
2 A. Yes. We were told to only graph the dates
3 that they showed improvement. So the first one
4 would have been their benchmark where they came in
5 at and what they were. The first score they ever
6 received.
7 And then each time it got higher, we put a
8 benchmark, and then the next one, if they were one
9 or two below that, we didn't graph it. We waited
10 until they went back above whatever that last mark
11 was before we put another dot on these graphs.
12 Q. So then none of the graphs that are
13 contained in Exhibit KK would show any trajectory
14 downward because you're only tracking dates where
15 improvement was shown; correct?
16 A. On the graph, yes.
17 Q. And if we go to Exhibit LL at page 215, the
18 triangles at the top of the page indicate that
19 75 percent of the students in the fall scored at
20 Tier 1, and 25 percent of the students scored at
21 Tier 3, and then in the winter, 100 percent of the
22 students scored at Tier 1. Is that correct?
23 A. Correct.
24 Q. But if we look down at the bottom, in the
25 fall, there were four students that took the test,

1 and in the winter, there were three students that
2 took the test; correct?
3 A. Correct.
4 Q. So it's safe to say since -- we don't know
5 which of the students left; correct?
6 A. Correct.
7 Q. And if you would turn to page 216 of this
8 exhibit, Exhibit LL, and we also turn to -- keep
9 your hand on that page, and then also turn in
10 Exhibit MM to page 226.
11 These are the exact same graphs; correct?
12 They're both -- both of these represent grade
13 five --
14 A. Yes.
15 Q. -- reading curriculum-based measurement for
16 the 2013-2014 school year; correct?
17 A. Right.
18 Q. Is there anything in Exhibits K, L -- KK,
19 LL, or MM that demonstrates students' performance
20 this year compared to last year?
21 A. No.
22 Q. The assessment tests that are conducted
23 three times a year, those are the AIMSweb tests. Is
24 that correct?
25 A. AIMSweb, and there's a -- there's an SRA

1 assessment for reading comprehension that's given at
2 benchmark point too, and there's a writing
3 assessment that's given to them as well.
4 Q. Okay. So we have a -- is AIMSweb -- -web is
5 both reading and math?
6 A. Yes.
7 Q. So we have AIMSweb reading and math that's
8 administered -- the assessment administered three
9 times a year?
10 A. Yes.
11 Q. We also have a -- what you said is an SRA
12 reading assessment administered three times a year?
13 A. Yes.
14 Q. And also a writing assessment administered
15 three times a year?
16 A. Yes.
17 Q. The AIMSweb, if we look at page --
18 Exhibit LL, page 216, which is the AIMSweb for
19 reading grade five --
20 A. Um-hmm.
21 Q. -- how many questions are on that test?
22 A. There's different -- I don't know. There's
23 three tests, and they each have three different
24 questions on it. I know the last one I gave them
25 had 42. I'm not sure what the other two have.

1 Q. Okay. And is there -- are the tests timed?
2 A. Yes. For reading, yes.
3 Q. Okay. So for reading, how long is the test?
4 A. For the reading fluency, they get a minute
5 to see how fast -- how many words they can read in a
6 minute. And for reading comp, they get three.
7 Q. Three minutes?
8 A. Yes.
9 Q. How about for the reading curriculum-based
10 measurement?
11 A. That goes with the probes that we just --
12 that I just said. The reading fluency is a minute,
13 and the comp is three minutes.
14 Q. How about the math AIMS?
15 A. During the weekly probes that we do from
16 AIMS --
17 Q. No. I'm talking about the ones that are
18 given three times a year.
19 A. Those ones -- those ones aren't timed.
20 Q. Okay. The ones given three times a year are
21 not timed?
22 A. No.
23 Q. So when you said the reading fluency is one
24 minute, you were talking about the weekly --
25 A. No. Those -- the benchmarks are timed on

1 those on the reading. The math, though, is not.
2 Q. Okay. So just the math is not timed?
3 A. Yes.
4 Q. Got it.
5 MS. ANDERSON: I have no further
6 questions. Thank you.
7 ADMINISTRATIVE LAW JUDGE: Redirect?
8
9 REDIRECT EXAMINATION
10 BY MS. STILLMAN:
11 Q. Ms. Torrez, if you would look back to --
12 let's go to KK, page 210.
13 You said that you were putting on -- you're
14 graphing only points of improvement. Is that
15 correct?
16 A. Yes.
17 Q. So if the student did not -- if there was no
18 improvement in a student over time, would there be
19 any subsequent dots --
20 A. No.
21 Q. -- graphed?
22 A. No.
23 Q. And on these graphs, they each have
24 subsequent dots following them?
25 A. Yes.

1 Q. Okay.
2 MS. STILLMAN: I have no further
3 questions, Your Honor.
4
5 EXAMINATION
6 BY ADMINISTRATIVE LAW JUDGE:
7 Q. Just very quickly. Looking at LL --
8 A. Yes.
9 Q. No, not LL. MM, Exhibit MM --
10 A. Yes.
11 Q. -- do you know -- it went from 11 to 10
12 students. Do you know which student left?
13 A. I would say --
14 Q. Or what tier they were in?
15 A. Tier two.
16 Q. Tier two, okay.
17 So looking up above those numbers, from the
18 fall to winter, you had -- you had seven in Tier 3
19 in the fall and six in Tier 3 in the winter?
20 A. Yes.
21 Q. And then in Tier 2, you went from two to
22 one?
23 A. Yes.
24 Q. And then in Tier 1, you went from two to
25 three?

1 A. Yes.
2 Q. So even though you had a decrease of a
3 student, you have one more move into the Tier 1
4 either from Tier 2 or Tier 3?
5 A. Yes.
6 Q. And you lost a student from Tier 2 or Tier
7 3?
8 A. Yes.
9 Q. Okay. And did I understand that you said
10 you taught the fifth graders their math lesson, and
11 then when they were put into either the reteach
12 independent practice or enrichment, that's when you
13 then went and taught the fourth graders their
14 lesson?
15 A. No. The fourth graders come to group time
16 with the fifth graders, and they take part in that
17 lesson. So if it's adding fractions, they're down
18 there with us adding the fractions, coming up with
19 the denominators and everything.
20 But when they go back and do their
21 independent work, they have their fourth grade book,
22 and they have it open to the adding fractions in
23 their fourth grade book, which of course in the
24 fourth grade book is pretty much the same. The only
25 difference is they're not finding a common

1 denominator. They have the common denominator given
2 to them in the fourth grade book.
3 So they're just kind of taking that extra
4 step when they're down at group time, but they're
5 actually completing the fourth grade work.
6 Q. So you teach the entire class the same
7 lesson --
8 A. Yes.
9 Q. -- and then when you break out, the fifth
10 graders get the reteach, independent practice, or
11 enrichment, and the fourth graders do the fourth
12 grade lesson?
13 A. Yes. And they'll get a quick check too.
14 The fourth graders will have a fourth grade quick
15 check as well to see if they are falling under the
16 enrichment, the reteach, or the independent
17 practice, because I have both the fourth grade books
18 in my class.
19 Q. So in a way, the fourth graders are actually
20 being taught more advanced lessons?
21 A. Yeah.
22 Q. And then reinforcing it with the fourth
23 grade lesson?
24 A. Yes.
25 Q. And I will admit I am not that familiar with

1 the Common Core.
2 Do those -- would the same standard in
3 fourth grade and fifth grade be similar, but fifth
4 grade goes that extra step, like the common
5 denominator kind of thing?
6 A. So far in what I've seen in the Envision, it
7 seems like they do just match up pretty well. And
8 the way the Envision is set up, it's easy to find
9 the corresponding lesson with the standards.
10 And that's basically what I've seen, is the
11 fifth grader just takes it that one extra step that
12 the fourth graders don't have to complete.
13 Q. Okay. And you mentioned there were fourth
14 grade students -- you're not the only teacher with
15 fourth grade students?
16 A. No.
17 Q. Is there some method to determine who gets
18 which students? Do you get --
19 A. I don't know. I don't determine who's in my
20 class. The administration does. I know she takes
21 into consideration if they're advanced, if they're
22 lower, if -- their maturity-wise type of thing.
23 Q. And the other fourth grade students, are
24 they with fifth grade students, or are they with
25 third grade students?

1 A. They're with third grade students.
2 Q. Okay. So looking forward, how -- how would
3 your yearly class change? Would -- I guess
4 composition-wise, would you keep a large number -- a
5 larger number of fifth grade students and bring in a
6 smaller number of fourth grade students, or would --
7 I don't know how to ask this.
8 So, basically, would -- like right now, you
9 have five fourth grade and ten fifth grade, you
10 said?
11 A. Yes.
12 Q. So would those -- all those fifth graders
13 move into the next class next year, and you would
14 keep your fourth graders and get some new fourth
15 graders as your fourth graders move to fifth grade,
16 or is it kind of shaken up every year?
17 A. Technically, that's how it would work. I am
18 the only fifth grade teacher there because right
19 after fifth grade, they go into sixth grade, and
20 that's more the -- with Common Core, that's grouped
21 with the junior high kids. So sixth, seventh, and
22 eighth, they're all together.
23 So my fifth graders, because they're in
24 fifth and there's no other fifth grade for them to
25 go into, would automatically move them to junior

high sixth grade if they were not to be held back.

Q. And so all of the fourth graders would move into your class?

A. All of the current fourth graders would be moved in, you are correct.

Q. So that's why you have a larger fifth grade population?

A. Yeah, because there's only one fifth grade class.

Q. Okay.

ADMINISTRATIVE LAW JUDGE: I think that's all I have. Any questions on my questions?

MR. CONDOS: No, Your Honor.

ADMINISTRATIVE LAW JUDGE: Any questions?

MS. ANDERSON: If I could just have one moment.

ADMINISTRATIVE LAW JUDGE: Go right ahead.

MS. ANDERSON: Just briefly, Your Honor.

RECROSS-EXAMINATION

BY MS. ANDERSON:

Q. If you could go to Exhibit -- in the black

1 notebook, it's going to be Exhibit 9-C, and
2 Exhibit 9-C are the Arizona College and Career Ready
3 Standards for math for fourth grade.
4 A. Yes.
5 Q. And if you would look at page 332, and hang
6 on to that page and then look at Exhibit 9-D, which
7 is the fifth grade College and Career Ready
8 Standards for math at page 368.
9 ADMINISTRATIVE LAW JUDGE: What was the
10 first page?
11 MS. ANDERSON: 332.
12 ADMINISTRATIVE LAW JUDGE: Oh. There
13 it is.
14 BY MS. ANDERSON:
15 Q. So for fourth grade, if we look at -- in the
16 left-hand side, for number and operations and
17 fractions, and it says "NF" in parentheses. Do you
18 see where that is?
19 A. Um-hmm. Yes, I do.
20 Q. And so for fourth grade for number and
21 operations and fractions, the standards are "to
22 extend understanding of fraction equivalence and
23 ordering"?
24 A. Yes.
25 Q. "Build fractions from unit fractions by

1 applying extended" -- "extending previous
2 understandings of operations on whole numbers." The
3 third is "Understand decimal notation for fractions
4 and compare decimal fractions"; correct?
5 A. Correct.
6 Q. And if we look at numbers and fractions on
7 page 368 for fifth graders, what fifth grade is
8 doing is "Use equivalent fractions as a strategy to
9 add and subtract fractions and apply and extend
10 previous understandings of multiplication and
11 division to multiply and divide fractions."
12 So is it your testimony that you would teach
13 all of those items to both your fourth and fifth
14 grade students?
15 A. I would teach the fifth grade standard to
16 the whole class as a group time. And then I would
17 take the fourth graders to the side and -- what's
18 the word I'm looking for? My mind just went
19 blank -- and concentrate on their specific standard.
20 So, for example, they have -- fifth graders
21 right here, it says, "Use equivalent fractions as a
22 strategy to add and subtract fractions." Well, in
23 fourth grade, they should be learning how to have
24 equivalent fractions.
25 As it so happened in my class, both of

them -- both grade levels needed to learn how to make equivalent fractions because a fifth grader couldn't -- fifth grade couldn't finish the adding and subtracting of common denominators until they understood what an equivalent fraction was.

So I'm hitting both of those even with my fourth graders because they're just learning what an equivalent fraction is. So as I'm reteaching the fifth graders that, the fourth graders are getting it.

Q. I'm sorry. What was the last statement?

A. As I'm reteaching the fifth graders what the equivalent fractions are, the fourth graders are getting it.

Q. Okay. Thank you.

MS. STILLMAN: Your Honor, can we ask a clarification on that?

ADMINISTRATIVE LAW JUDGE: Sure.

FURTHER REDIRECT EXAMINATION

BY MS. STILLMAN:

Q. In looking at these two, both of these are showing overviews of standards, not specific standards; correct?

A. Right, correct.

MS. STILLMAN: Okay. Thank you. No other questions.

ADMINISTRATIVE LAW JUDGE: Okay. You may be excused.

Your next witness.

MR. CONDOS: Kerry Pettit, Your Honor.

KERRY PETTIT,

the witness herein, having been first duly sworn by the Administrative Law Judge, was examined and testified as follows:

ADMINISTRATIVE LAW JUDGE: Would you please state your name, spelling it for the record?

THE WITNESS: Kerry, K-e-r-r-y, Allison Nelow, A-l-l-i-s-o-n N-e-l-o-w, Pettit, P-e-t-t-i-t.

ADMINISTRATIVE LAW JUDGE: Please proceed.

DIRECT EXAMINATION

BY MS. STILLMAN:

Q. All right. What is your current position at -- or do you work for Jefferson Academy?

A. Yes.

Q. And what is your current position there?

1 A. I teach the third/fourth grade.
2 Q. And what is your educational background?
3 A. I have a BA in history, and I have both a
4 single subject and a multiple subject credentials
5 that started in California, and I taught for 15
6 years there.
7 Q. All right. And how many years have you been
8 at Jefferson Academy?
9 A. This is my first year.
10 Q. And you have third and fourth graders.
11 How many third graders do you have?
12 A. Seven third graders at this moment and eight
13 fourth graders.
14 Q. Okay. And of your third graders, of those
15 seven, how many are on IEP?
16 A. One is currently on an IEP, and the other
17 one is in the process of becoming on an IEP, and
18 he's -- actually, it's pretty much a done deal at
19 this point. It's just getting paperwork at this
20 point.
21 Q. All right. Of the eight fourth graders, how
22 many are on IEP?
23 A. One, two, three. I believe three. Yes,
24 three.
25 Q. All right. Can you tell us about your --

1 what your daily schedule looks like?
2 A. In the morning I have a short period of time
3 to settle in, get something started right away.
4 Then we move into math lesson currently. I found
5 that doing math lesson after recess was not as
6 effective. I moved it to the morning.
7 I find a great deal more success with that.
8 A math lesson usually lasts for about an hour or so,
9 and then we move into reading groups for half an
10 hour with Teach Your Children Well [sic].
11 They go to recess. They come back. They do
12 their classwork for the math lesson. I start
13 pulling kids that I can see already they're having
14 problems with the lesson that we've accomplished.
15 So I already start reteaching as soon as I notice
16 that they're just not getting it, and we monitor
17 around the room.
18 At that time also, they'll do their SRAs,
19 and then we come back to another reading group time
20 where we focus more on writing. And then there's
21 lunch, and after lunch, there is a lab time.
22 The other part has lab time, too, but the
23 SRA and stuff is if they finish earlier. And from
24 there, I start pulling up kids to individually teach
25 them wherever their deficiencies are.

1 Q. And does that daily schedule fluctuate from
2 time to time?
3 A. It fluctuates, yes, but that's fairly
4 consistently what we do at this point.
5 Q. All right. At the beginning of the year,
6 what process do you use to evaluate your students
7 when they start the school year?
8 A. The testing that was provided by Jefferson
9 Academy. So it has to do with the AIMS probes,
10 there's a BRIGANCE which dealt with different
11 levels, where they would fall mathematically.
12 There were reading tests that were both
13 based on fluency and comprehension because those
14 seem to be two different skills for a lot of them.
15 Some students can read fluently, but they don't
16 comprehend. Other students can comprehend better
17 but can't read fluently out loud. So it depends on
18 where they're at.
19 Q. Is this process required of every teacher?
20 A. Yes.
21 Q. And so everyone is going through this same
22 system --
23 A. Correct.
24 Q. -- at the beginning of the year?
25 A. Um-hmm.

1 Q. What do you do with that information? Once
2 that information is collected, you've given that
3 test, what happens with that information?
4 A. I start seeing where the students are at at
5 that point, what deficiencies they have. For
6 instance, what I found a lot for them in mathematics
7 was subtraction, especially with borrowing, seemed
8 to be an area that they struggled in. So those were
9 some things I focused on early on in just basic math
10 problems.
11 They were put into grade level comps and
12 caps as to where they were so I could see
13 specifically what those holes were because BRIGANCE
14 is kind of a little bit vague, and they did on grade
15 level for the caps and comps with AIMSweb.
16 So we go back and see where exactly is the
17 pinpoint in that deficiency and fill those holes and
18 go through it.
19 Q. All right. So to -- as part of this
20 process, the benchmark testing, how often is that
21 done?
22 A. Three times a year.
23 Q. Three times a year.
24 And that's at grade level; correct?
25 A. Correct. And they're timed.

1 Q. And then are there -- is there another form
2 of assessment that's given on a more frequent basis?
3 A. Yes.
4 Q. And what's that?
5 A. There are caps and comps that are given
6 frequently. There's also weekly reading fluencies
7 that are given. Also monitoring where they are in
8 their SRA levels. If they're having trouble with
9 that, what skills are they lacking.
10 If I find a student isn't able to pass it
11 the first time -- the first we pretty much let them
12 do it themselves. If they're not able to pass it,
13 we pull them forward and say, "Okay. What exactly
14 is it that you're missing? Is it a comprehension
15 skill? Is it a writing skill? What is it that
16 you're missing?"
17 What I find a lot of them struggle the most
18 with is context clues, which is something that's
19 comprehension-based.
20 Q. When you said "caps and comps," kind of some
21 lingo, what does --
22 A. I'm sorry. Those are the AIMSweb tests that
23 are nationally normed.
24 Q. All right. And caps?
25 A. Is concept and application.

Q. All right. And the comps?
A. Is computation.
Q. Okay. With the weekly caps and comps that you're giving, are those at grade level?
A. At the beginning of the year, they weren't as much, but as we went through the year, they became [sic] to be at grade level.
So the ones that were not having a lot of holes, they were at grade level from the beginning. Some students were having more difficulty -- the holes, they were filled, and then they were at grade level.
Q. Are there students that are maybe above grade level?
A. Oh, lots of them.
Q. And what do you do with those students?
A. Those students I push to make sure that they understand everything in those tests, and then basically most of them are fifth or fourth grade caps and comps at this point.
Q. So they do get to progress at their level?
A. Um-hmm. Oh, yeah.
Q. The weekly information that you gather for those -- all the testing --
A. Um-hmm.

1 Q. -- what do you do with that information?
2 How do you utilize that data?
3 A. Well, I analyze it, and I look at, okay,
4 what have I actually taught so far? Because those
5 are concepts that they should be familiar with. If
6 I see that they're not familiar with those concepts,
7 those are the concepts I need to go back and reteach
8 to them because they are not mastering those
9 concepts.
10 So something different needs to happen, a
11 different presentation, more one-on-one or small
12 groups in order to make sure that that skill that
13 has already been presented is mastered.
14 Q. Okay. Is there a correlation between the
15 AIMSweb and the curriculum that you're using?
16 A. Yes.
17 Q. And how do you utilize that?
18 A. It's set out where it tells you which
19 lessons that are correlating with which questions,
20 and so I make sure that those are questions that I
21 have covered or areas that I have covered or not
22 covered.
23 If they're areas I haven't covered, I can do
24 a small group lesson quickly with them, but I don't
25 expect them to master that area yet if it hasn't

1 been taught.
2 If you haven't taught it, they're not going
3 to know it, so there's only so much progress you're
4 going to make as you go through.
5 What I've noticed is now that we've hit
6 fractions, there's a huge jump, because a lot of
7 what they were missing were fractions.
8 Q. Okay. Can you please turn to -- in the
9 white binder --
10 A. Um-hmm.
11 Q. -- it's going to be NN, and if you look at
12 the lower right-hand corner, it's page 235.
13 A. Okay.
14 Q. Is this a graph that you prepared?
15 A. Yes.
16 Q. And --
17 MS. ANDERSON: I'm sorry. Which page
18 are we on?
19 MS. STILLMAN: 235.
20 BY MS. STILLMAN:
21 Q. In looking at that graph, it looks a little
22 different than the one we just looked at, so explain
23 how you set up.
24 Obviously, under "Student," you put your
25 name --

1 A. Correct.
2 Q. -- for your class, and then maybe walk us
3 through the right-hand side, your distinctions and
4 then how you charted things.
5 A. Okay. Can I look at mine so it's a little
6 clearer or not?
7 MS. STILLMAN: Is she allowed to look
8 at the one that she turned in that's --
9 ADMINISTRATIVE LAW JUDGE: You have the
10 same document?
11 THE WITNESS: Yes. I have the same
12 document.
13 ADMINISTRATIVE LAW JUDGE: May I see
14 it, please?
15 THE WITNESS: Um-hmm. It's just a
16 little more clearer.
17 ADMINISTRATIVE LAW JUDGE: Yeah, you
18 can look at that.
19 THE WITNESS: Thank you.
20 BY MS. STILLMAN:
21 Q. Okay. If you would walk us down the
22 information that you've noted on the right-hand
23 side.
24 A. On the right-hand side it is words per
25 minute that the students are reading. Along the

1 bottom is --
2 Q. Well, let me stop you just a second.
3 A. Okay.
4 Q. The right-hand side where it talks about,
5 "Student grade, notes."
6 A. Oh, I'm sorry. Notes, I have Student 33 who
7 is currently an on IEP; Student 35, who is in the
8 process of getting the IEP. He is going to be
9 determined OHI. He is severely ADHD, the most
10 severe case I've seen. And 37 lost her father just
11 before school started.
12 Q. Okay. And then explain, where it says,
13 "Date," you have letters and numbers. Can you
14 explain that?
15 A. The numbers are denoting which student
16 number, and at the bottom, it's basically fall,
17 winter, and their current -- what they're doing at
18 this moment.
19 Q. So are these the benchmark, or are these the
20 weekly probes?
21 A. The fall and winter are the weekly probes.
22 The current is one of the more recent probes of
23 where they're at at the moment.
24 Q. So these are all still AIMSweb, but you
25 chose --

1 A. These are fluencies, yes.
2 Q. And all third grade students?
3 A. Yes. These are all my third grade students
4 on this page.
5 Q. So each probe is not individually monitored
6 on there?
7 A. I do have individual monitoring. It's just
8 for this purpose, I put it all together so that you
9 can see what I found. When I was doing all this,
10 one, I found I was extremely proud of my students.
11 They're doing awesome. And I saw a great deal of
12 growth in this last quarter.
13 Q. Okay. And then you have a line drawn at,
14 approximately, 115, but it's, I guess, noted on the
15 side as 112, and that represents?
16 A. What the current meets at this point would
17 be according to AIMSweb.
18 Q. Now, these are in blue. On the side to the
19 right, it shows second grade is blue.
20 A. It's actually purple. That's one of the
21 reasons why I wanted to look at mine.
22 Q. Oh, so those lines are purple?
23 A. Those lines are purple, yes. There's also
24 some scores in there that are fourth grade scores of
25 how they're doing. Because they're doing so well at

1 third grade, I have moved them to fourth grade to
2 see where they're at.
3 Q. So Student 2 --
4 A. Um-hmm.
5 Q. -- is Student 2 a third grader?
6 A. Yes.
7 Q. Student --
8 A. These are all third graders.
9 Q. So Student 2 is a third grader. However,
10 Student 2 is performing and working on fourth grade
11 probes?
12 A. Yes.
13 Q. Okay.
14 A. She's way past what she needs to have in
15 order to show proficient at the third grade probe,
16 so she's on to a fourth grade probe, so I'm
17 monitoring her progress there.
18 Q. Okay. And then any adjustments are made on
19 a weekly basis based on those probes?
20 A. Um-hmm. And you can see, I have two
21 students that are just excelling beyond, beyond,
22 that they just need to move on to the next grade
23 level and see where they're at.
24 Q. When you assess this data on a weekly basis,
25 are you -- is there some form of documentation

1 that --
2 A. Um-hmm.
3 Q. -- where you're analyzing that information?
4 A. Yes.
5 Q. And what's that documentation?
6 A. There's the actual probe, and there's -- per
7 student in the classroom, there's the page and we
8 mark what errors they have and computes to get how
9 many words per minute --
10 Q. Okay. If you turn --
11 A. -- and that's record.
12 Q. Okay. I'm sorry.
13 On page 236 --
14 A. Um-hmm.
15 Q. -- so this graph looks different than the
16 one we just looked at.
17 A. Um-hmm.
18 Q. If you would go down that right-hand column
19 on the right that -- where we started last time --
20 A. Um-hmm.
21 Q. -- and explain.
22 A. This student is on -- currently on an IEP.
23 She's SLD. She's also a bilingual student. She
24 does not have a very good home life. It's not
25 incredibly stable. So on top of her learning

1 disability, she's also struggling with home life,
2 and we work on providing her a concrete place for
3 her to be.
4 Q. And then along the bottom of this graph --
5 A. Um-hmm.
6 Q. -- are dates.
7 Are these the dates for the ending of the
8 week for each?
9 A. Yes. It's the beginning of the week.
10 Q. Okay. And the line marked "Benchmark," what
11 does that represent?
12 A. That's her third grade score of her
13 benchmarks at winter and at fall -- at fall and
14 winter, yes.
15 Q. Okay. And then there are two other lines.
16 What do those represent?
17 A. Those represent fluencies that she was doing
18 based on the AIMSweb, and she started out in first
19 grade, and I saw her making some progress, but what
20 I noticed is that it wasn't as much of an increase
21 as I would like to see. So I put her at a third
22 grade probe and have been working with her on that,
23 and she has greatly increased.
24 Q. So according to this, the benchmark or -- is
25 still at 112, so that's what you're shooting for --

A. Um-hmm.
Q. -- in order to meet? She's below that, obviously?
A. Correct.
Q. However --
A. She's made huge progress.
Q. -- this student is making progress?
A. Especially in this last quarter.
Q. All right.
A. First we had to fill in the holes where she was because she didn't know all the sounds.
Q. If you would turn to page 237 --
A. Um-hmm.
Q. -- and this student is also a third grader?
A. Yes.
Q. And the results for this -- and there's kind of a short thing and a much longer line.
A. The -- well, we have the benchmark one, so I've labeled that "Benchmark," and that's from the fall to the winter benchmark. And the other one -- the other points are points of growth that she's made over the year.
And as you can see, she's well above where the meet should be, but she wasn't there to begin with.

1 Q. Page 238 --
2 A. Um-hmm.
3 Q. -- and another third grade student?
4 A. Um-hmm. This is the one who has severe ADHD
5 and is in the process of getting his IEP in place.
6 Q. And the benchmark started off much lower?
7 A. Um-hmm. And that's already showing an
8 increase from fall to winter, and then if you look
9 at the weekly probes, you can see he's well above at
10 this point.
11 Q. So there isn't a mark for the weekly probes
12 in that August/September. We don't see a mark for a
13 probe until October.
14 A. Um-hmm.
15 Q. What -- what -- if you can recall, what was
16 going on with that or why there might not be some
17 marks?
18 A. Well, we were at that point getting some
19 instruction in, because we had already seen where
20 they were at, so we were giving them instruction.
21 Where are they at? What do we need to fill some of
22 those holes before we start probing again?
23 And in about October is when we started --
24 actually, that's the end of September.
25 Q. End of September?

A. Yeah.
Q. Right.
If you would take a look at the next two pages, 239, 240 --
A. Um-hmm.
Q. -- and if those are accurate representations for those students that you provided?
A. Um-hmm.
Q. All right. If you could look at Exhibit OO --
A. Um-hmm.
Q. -- is this the same information but for your fourth graders?
A. Um-hmm.
ADMINISTRATIVE LAW JUDGE: Is that a "yes"?
THE WITNESS: Yes. I'm sorry.
ADMINISTRATIVE LAW JUDGE: She just needs you to say "yes" or "no."
THE WITNESS: I'm sorry.
BY MS. STILLMAN:
Q. All right. If we could look at page 243 --
A. Um-hmm, yes.
Q. -- and that's a fourth grade student?
A. Yes, it is.

1 Q. This is another student on an IEP?
2 A. Um-hmm. This one is on an IEP for ED.
3 Q. All right. How does ED impact the learning
4 for this student?
5 A. Hugely. He basically has a tendency to
6 sabotage himself.
7 Q. What do you mean by that?
8 A. He does not believe in his own mind that he
9 can be successful and he is worthwhile. And so he
10 was doing really, really well, and then his
11 medication stopped working at one point, and so he
12 had to get back on -- on track.
13 And during those couple of weeks while he
14 was getting back on track, it was like night and
15 day. It was like I was dealing with a student that
16 I was at the beginning of the year.
17 Q. What type of characteristics does this ED
18 student -- what characteristics manifest themselves
19 in the classroom?
20 A. Refusal to do work because he basically
21 wants you to feed into his concept that he is
22 stupid, and he's not. He's an extremely bright
23 young man who is wonderful, but his self-concept of
24 himself is extremely low. He doesn't feel he's
25 worthwhile at all.

1 So it's -- it's a lot of working, coaching.
2 You can't punish him once he's at that point because
3 that just feeds into his manifestation of his own
4 belief system because that's what he wants you to do
5 instead of saying that he is a great kid, because he
6 is.
7 Q. When we look at the benchmark, the benchmark
8 is at grade level; correct?
9 A. Yes.
10 Q. So he started with a performance of 15 and
11 then went to a performance of --
12 A. Um-hmm.
13 Q. -- 75 by winter. Is that correct?
14 A. Um-hmm, yes.
15 Q. And then -- so the benchmark has increased?
16 A. Hugely.
17 Q. The probes aren't showing for every week,
18 so --
19 MS. ANDERSON: I'm sorry. What page
20 are you on?
21 MS. STILLMAN: I'm sorry. 243.
22 THE WITNESS: That was when his
23 medicine stopped working was basically at the end of
24 February, in that period of February, and there
25 wasn't going to be any growth during that time and

1 what I chose, to plot his growth.
2 BY MS. STILLMAN:
3 Q. Okay. So --
4 A. During that time, we were working on getting
5 him back.
6 Q. Right. I understand.
7 So from October 21st to January, we don't
8 have any weekly probes, so there --
9 A. No. There were weekly probes. It just
10 wasn't showing growth.
11 Q. That's what I was going to say.
12 A. Okay. I'm sorry.
13 Q. That's fine.
14 A. Which is one of the --
15 Q. You felt there was a contributing factor to
16 that?
17 A. Yes. And that's one of the reasons I moved
18 him when I did. You're not showing growth here, but
19 it's like, "We just need to move him to his grade
20 level probe." And as you can see, he was making
21 progress, and then we had the real meltdown.
22 Q. All right.
23 A. Because we've been working -- this child was
24 just recently diagnosed.
25 Q. Okay. If you will turn to page 244, another

1 fourth grade student?
2 A. Um-hmm.
3 Q. And this student is also on an IEP?
4 A. Yes.
5 Q. In looking at the benchmark, again, the
6 benchmark is at grade level?
7 A. Um-hmm.
8 Q. Now we have some different colors. You
9 know, at first glance when you look at this, you see
10 a high to the left, and then you see a low down here
11 to the right.
12 Can you explain the color differences and --
13 A. Well, the benchmark is on grade level.
14 Then, because he was so far below grade level, we
15 wanted to -- he went into Toolbox, which is the
16 Teach Your Children Well [sic]. Basically, so did
17 the other boy. They went through Toolbox, as
18 well -- there's five of them, basically, that were
19 in Toolbox to begin with it.
20 And what that went through is going through
21 the sounds that they were not able to process quick
22 enough. So it went through and retaught them those
23 sounds and so they could process them quick enough
24 that they would be able to accomplish on the
25 fluency.

1 This particular young child, his is a
2 processing problem. If you give him anything
3 orally, he is brilliant, but if you have to have him
4 read, process, do all of that, come back, and then
5 put it on paper or read it to you, that's where he
6 has difficulty.
7 Q. Okay.
8 A. He's very much an auditory learner.
9 Q. The -- I'm showing it blue. Is that middle
10 one a purple, the third grade --
11 A. It was first -- it was first -- it's easier
12 to see on these ones because they're not as blurry.
13 Anyways, it's -- there was a first. There's
14 a second. I tested him at third, and then I moved
15 him into fourth grade.
16 Q. So even though the lines to the far right
17 are lower --
18 A. Those are on grade level.
19 Q. -- they're on grade level?
20 A. Yes. And that was after he finished the
21 Toolbox series or was moved from the Toolbox into
22 the third/fourth grade reading level.
23 Q. Okay. So from looking at this graph, we
24 know he's still not meeting fourth grade standards
25 at this point?

A. Correct.

Q. But the student is progressing?

A. Growing hugely, and a lot of that is due to his processing.

Q. If you could look through -- if you could look through 245 to 267, if you would look over those to verify that those are graphs that were created for your students and are an accurate representation of the testing that was done?

A. Yes. These were ones that weren't quite meeting at benchmark, and so I wanted to plot those out, or there were some that were doing fine. It just depended.

Like, for instance, if you look at the child on 246, she wasn't testing as well outside the classroom, but when she was in a more familiar setting, even before then, she's just way above as far as her fluency was concerned.

So these were ones that didn't meet at winter, but I wanted to show the growth that they have made, which is huge.

When you get to 248, this is my child that has CP, cerebral palsy, and she also has attention problems. But she's making huge growth for a child with CP. And she's an awesome, very intelligent

1 young lady.
2 Q. All right.
3 A. To what page am I going to?
4 Q. PP, page 259.
5 A. Okay. And then the 249 is where it was --
6 the fourth graders all plotted out together.
7 Q. Right.
8 A. So you can see some of them are already in
9 fifth grade probes. 259, you said?
10 Q. Yes. So it's in PP. It should be the
11 first --
12 A. Okay.
13 Q. And this is your third graders for math?
14 A. Um-hmm. This is on the concepts and
15 applications, so it's more of a real world, can you
16 read a thermometer, measure? Can you solve a word
17 problem?
18 Q. And the fall and winter, this represents the
19 benchmark testing?
20 A. Um-hmm.
21 Q. And the benchmark testing is done by
22 everyone three times a year?
23 A. Yes.
24 Q. Do you use the information from this
25 benchmark testing?

A. Yes.

Q. How do you use that information?

A. Again, I look to see which concepts have been covered and which have not. If they are concepts that have been covered, I go back, and I reteach those concepts to the students that are showing deficiencies in those particular areas.

Other than that, I also analyze what's to come. You know, what do I see the majority of my students having problems with? Is that something I've covered or not covered?

And so that's where I go from there. I need to determine if they're -- they're retaining what they've been taught.

Q. Okay. In looking at those two charts, you have seven students both at fall and wintertime?

A. Um-hmm.

Q. Are those the same seven students? Do you know if you have the same --

A. It doesn't show there are any new students or unscored students, so these should be the same students.

Q. All right. So from fall to winter, there was a three student -- three students that moved from --

A. -- Tier 2 to Tier 1.

Q. And the tier system, how do you use information for the tiers in your classroom?

A. The ones that are in Tier 3 are the ones that usually require intensive intervention. They're ones that are either -- they're not understanding the concepts of math.

As you can see, I still have one student there, and that student is my CP student. It's my student with cerebral palsy. But she has made tremendous growth as well, so it just depended on --

Q. The growth just hasn't reached the benchmark level?

A. No.

Q. Okay.

ADMINISTRATIVE LAW JUDGE: May I -- while we're here --

MS. STILLMAN: Sure.

ADMINISTRATIVE LAW JUDGE: -- rather than coming back to it?

This column in the middle that says "Transition" --

THE WITNESS: Um-hmm.

ADMINISTRATIVE LAW JUDGE: -- does that mean that from fall to winter, that one student

1 transitioned out of Tier 3 into Tier 2 because it's
2 in the yellow? And then below that, that one of the
3 Tier 2 transitioned to Tier 3 and three
4 transitioned --
5 THE WITNESS: Yes.
6 ADMINISTRATIVE LAW JUDGE: -- to Tier
7 1?
8 THE WITNESS: That would be how I would
9 read this.
10 ADMINISTRATIVE LAW JUDGE: So you had a
11 Tier 3 move up and a Tier 2 move down?
12 THE WITNESS: Um-hmm.
13 ADMINISTRATIVE LAW JUDGE: And three
14 Tier 2s moved to Tier 1?
15 THE WITNESS: Correct.
16 ADMINISTRATIVE LAW JUDGE: Okay. I
17 just wanted to clarify.
18 THE WITNESS: Some students aren't
19 going to concept one portion, and it's -- you know,
20 depending on where they're at and what's been
21 taught.
22 If they haven't understood that
23 particular concept that I was teaching at that time,
24 then I need to go back and reteach that so that they
25 are moved to the appropriate tier at the end.

1 ADMINISTRATIVE LAW JUDGE: Okay.
2 BY MS. STILLMAN:
3 Q. If you would turn to page 260 --
4 A. Um-hmm.
5 Q. -- this represents your fourth grade
6 students in math?
7 A. Yeah.
8 Q. So starting off the year, according to this
9 chart, you didn't have any students that fell in
10 that Tier 1 --
11 A. No.
12 Q. -- classification?
13 Then by winter, six moved into the Tier 1,
14 although it looks like you started with 12, and you
15 lost two students?
16 A. Yes.
17 Q. But there's still -- if you only lost two
18 students and you had six students move to Tier 1,
19 there's still a transition happening there; correct?
20 A. Yes.
21 Q. All right. Move on to page 261. Actually,
22 let's try page 264. That will be fourth grade.
23 All right. If you could go down the
24 right-hand side and explain the information included
25 on this graph, please.

A. These are the students according to the numbers who are on IEPs of one form or another. Student 43 is my cerebral palsy student. Student 45 is on an IEP. She is bilingual, and she's in speech currently. We are concerned that she has processing problems with math. We're just going to have to see how that pans out after the speech goes through. She does read fluently, but she has trouble with math.

Q. Okay.

A. My Student 47 is on the IEP for ED; 48 is on an IEP for specific learning disabilities. He has trouble processing. Again, if you give him anything orally -- you read something to him orally and ask him questions, it's night and day from what he can produce written versus what he can produce orally.

Q. All right. And the lines on this graph, we have the -- what the level meeting would be for the caps?

A. Correct.

Q. What the benchmark would be, which looks about 16 or 17?

A. Um-hmm.

Q. And then each of these points that are marked on here, it looks like you have three time

1 frames, so you've got the fall, winter, and then
2 their current --
3 A. Correct.
4 Q. Each of these students since they started --
5 A. Have shown growth.
6 Q. -- has shown growth.
7 Not all of them are necessarily meeting the
8 benchmark?
9 A. No. But I only have one currently who is
10 not meeting benchmark, and she is my cerebral palsy
11 student.
12 Q. Okay.
13 A. Which is huge. I'm really proud of them.
14 I'm proud of all of them.
15 Q. If you would take a look at the pages that
16 follow that, page 265 to 268, to verify that those
17 are graphs that you have made that are accurate
18 representation of the growth that you've charted?
19 A. Yes. And one thing I would like to mention
20 on those graphs is that we also for their report
21 card grades give them an untimed of the AIMSweb.
22 And you can see several of them, if you look
23 at page 265, you can see this child is my CP
24 student, cerebral palsy, and if you have her
25 untimed, she shows more growth than she does timed.

1 You can see the same thing with basically
2 all of them. There's a big difference between timed
3 and untimed for some of them.
4 Q. And this type of testing and assessment,
5 is -- is the work multiple choice or is it they're
6 answer --
7 A. They're mostly answer questions. They have
8 to write down an answer. There are a few multiple
9 choice, but they're not many.
10 Q. So give me a breakdown.
11 A weekly probe would usually consist of how
12 many questions?
13 A. Well, the total amount of points possible is
14 49 for the fourth graders, but it's broken down to
15 about 25 questions, I believe.
16 Q. And so of those 25, about how many of the 25
17 would you say are multiple choice?
18 A. Maybe a fifth at the most. Most of them
19 require them to have an answer, and it has to be in
20 the correct format. Otherwise, it does not count.
21 Q. Okay. You have a combination of third and
22 fourth grade?
23 A. Um-hmm.
24 Q. Do you know how that composition is broken
25 up?

1 There are fourth graders that Ms. Torrez
2 has. Plus, there's fourth graders that you have.
3 How is that -- is there some method to which
4 students are in your class with third graders?
5 A. Yes.
6 Q. What would that be?
7 A. The third graders that are in my class
8 currently are the ones that were at the upper levels
9 already for the most part. I do have two that
10 weren't, but they weren't going to be a good fit
11 into the classroom below them. They're just larger
12 students to go into that two/three classroom that's
13 below me.
14 They're also more emotionally mature, that
15 they needed to be with an older group of kids, not
16 with a younger group of kids.
17 Q. Okay. And then what about the fourth
18 graders that are kind of -- I won't say down, but
19 they're with the third graders. They're with
20 lower --
21 A. Yes.
22 Q. And is there something that helped
23 distinguish those students from the fourth graders
24 they were chosen for --
25 A. The fourth graders that I believe were

1 chosen for Ms. Torrez's class are the ones that were
2 already exceeding. They were doing really, really
3 well already, and so they were moved into that
4 class.
5 Q. All right.
6 A. And so I have the majority of the fourth
7 graders. I have the majority of the third graders
8 too.
9 Q. When you're teaching math and you have these
10 multiple standards, so you've got the standards for
11 the fourth graders and the standards for the third
12 graders, how is it that you are instructing to meet
13 those standards when you are working with that --
14 you know, the complexity of working with a multiage
15 classroom?
16 A. Well, I look to see where the third grade
17 standards fit in with the fourth grade standards and
18 teach that lesson. And then expectations are at a
19 third grade level for a third grader and a fourth
20 grade level for the fourth graders.
21 Q. Do you teach a whole -- a whole group
22 instruction at one particular grade level or do
23 you -- are they taught separate times? Like, I
24 teach third graders, and then I teach the fourth
25 graders?

1 A. Majority of the time, I teach them
2 altogether. Most of my third graders, as you can
3 see, especially in math, are excelling. They're at
4 the point where they can be taught at a fourth grade
5 level with the core curriculum.
6 With Common Core, it's really one skill
7 building on the other, and if they already have the
8 skill at third grade, they have that skill. So you
9 up that skill, which is what the fourth grade has
10 done. And then it ups the skill again, and it's the
11 fifth grade.
12 And they're still following the same concept
13 going through. Does that make sense? I don't know
14 if you guys have worked with Common Core.
15 So especially with third, fourth, and fifth,
16 it's very much one building block on top of another
17 on top of another, on top of another.
18 Q. Okay. On the -- well, you haven't been
19 there, so this year as a new teacher to Jefferson
20 Academy, there are these Friday meetings that take
21 place.
22 A. Um-hmm.
23 Q. What activities happen in those Friday
24 meetings?
25 A. Sometimes we would go through the Intel,

1 which is things we have done in order to enrich our
2 math skills -- it was a class that we were in -- as
3 well as discuss students -- discuss with the teacher
4 prior, you know, how -- how were they able to work
5 with this student? What do I need to know in order
6 to have this student achieve?
7 Also, especially with students like 33 and
8 47, I've also keyed into Dr. Merrill, who is our
9 school psychologist, and asked, "Okay. Where do I
10 go from here, because this is where we're at, and I
11 want them to achieve more, and they can achieve
12 more."
13 Q. Is it your -- is it your understanding that
14 math was an area of concern for the teachers leading
15 into this school year?
16 A. That seems to be a general concern across
17 states and across grade levels, so I've taught in
18 California for many, many years, and I taught here
19 for a couple of years. And it seems to be a
20 consistent trend, at least in those two states, that
21 I can see --
22 Q. All right.
23 A. -- that math, especially as the standards
24 have moved -- the math they're teaching now in some
25 of the lower levels is math I was doing in high

1 school. The standards have changed.
2 Q. Would you say that the -- this professional
3 development that's happening on Fridays is
4 addressing the need of -- the need for additional
5 support in math?
6 A. Yes.
7 MS. ANDERSON: Objection. Leading.
8 ADMINISTRATIVE LAW JUDGE: Can you
9 rephrase?
10 MS. STILLMAN: Sure.
11 BY MS. STILLMAN:
12 Q. What are the benefits of those Friday
13 meetings in addressing the math curriculum?
14 A. Well, we delve into where our students --
15 talk about what worked in one class might have
16 worked in another. Different things of that nature.
17 I mean, that's one of the things I like teaching at
18 Jefferson is it's not, "It's mine." Because that I
19 don't feel is a benefit to the students.
20 I mean, our whole purpose in being in
21 teaching is to benefit our students. Not to be
22 "mine." And so it allows us to look at what was
23 working. You know, did you have a good idea of how
24 to teach fractions? You know, this one worked
25 really well in the book. This is one I came up with

on my own. This seemed to help them.

Okay. Give it a try, especially for my students that aren't -- from the lesson taught in the book, they're not necessarily getting that. Then you have to go at it another way.

I mean, that's what all students do. They're not a cookie-cutter. Each child is an individual.

Q. How are you implementing the information that you get during your Friday meetings?

A. I go back and take the suggestions that have been given and implement those and see if they work and report back as to how they -- how that affected the students not only for math but in reading or whatever else that was discussed at that time.

Q. Is the reporting back part of the process for that collaboration?

A. Um-hmm, yes. Sorry.

Q. Do you have any children yourself at Jefferson Academy?

A. I have two, and I don't want this school to close because for my kids this has been huge.

Q. What grades are your students in?

A. My daughter is currently in first grade. She is currently performing at second grade level,

1 and by the end of the year, she will probably be
2 performing into the beginning of third grade.
3 She's also more than likely ADHD, like I am
4 and my son. In any other classroom, she would get
5 bored and she would be in trouble. And I, as a
6 parent, wouldn't want that to happen.
7 And my son is currently in sixth grade. My
8 son has not cared for school, especially since we've
9 moved here from California. He has been bullied.
10 He has -- the understanding of the local district of
11 him has been pathetic. I am just -- I'm very glad
12 that this occurred.
13 Q. Was he in a school in the Show Low area
14 before --
15 A. Yes.
16 Q. -- Jefferson?
17 A. Um-hmm. Because I wasn't working at
18 Jefferson, and I had -- one of the reasons I put my
19 daughter into Jefferson is because they would take
20 her as a four-year-old.
21 She was so ready to learn it wasn't even
22 funny. She needed to go to school so bad, and in
23 California, she would have been in school. That
24 local district would not allow that to happen. And
25 she would have been bored out of her mind from day

one.

Q. And at the other school, your son was struggling?

A. Not academically; socially. He's always done well academically for the most part, but even in California, he had problems in that district. His kindergarten teacher did not have good classroom management. She didn't understand the child with ADHD at all, and that was a big struggle for us, especially for my husband, because though he has -- I believe he has ADHD, he was not diagnosed and was not given help when he was growing up, and so he had a troubled school career. You know, I looked at his grades when he applied to be a sheriff, and I was like, "What the heck did you do during high school?" They were pathetic. I'm like, "You've got to be kidding me."

Q. What are some of the strategies that they use at Jefferson to help your son?

A. Well, one, he's in a -- just an entirely different environment. One, it's more accepting. Bullying is not tolerated at all. And there's a great deal more supervision for the students.

I found at the district school that he was at before, I mean, the things that he would tell me

1 when he came home, I'm just like, "Oh, my gosh."
2 And we're not ones to fight our children's
3 battles all the time. It's like, you know, there's
4 a certain point where you just have to let it roll
5 off your back, but it was getting to ridiculous
6 points that we had gone into the principal several
7 times.
8 MS. STILLMAN: I don't have any further
9 questions, Your Honor. Thank you.
10 ADMINISTRATIVE LAW JUDGE: Okay.
11 Cross?
12 MS. ANDERSON: Yes. Thank you.
13 MR. CONDOS: I think 3 o'clock is a
14 good time to break.
15 MS. ANDERSON: I should be brief, Your
16 Honor.
17 ADMINISTRATIVE LAW JUDGE: I assumed it
18 wouldn't be long, so . . .
19
20 CROSS-EXAMINATION
21 BY MS. ANDERSON:
22 Q. Could you please refer back to Exhibit PP at
23 page 259?
24 A. Yes.
25 Q. I thought it was your testimony that the

1 student in Tier 3 was the student with cerebral
2 palsy. Is that correct?
3 A. I believe so. I don't have the names of
4 those students available.
5 Q. But it was your anticipation it was the same
6 student that stayed in Tier 3 from fall to winter?
7 A. Yes.
8 Q. Okay.
9 A. I did have another student who left after
10 the winter. She was MI. Basically -- I don't know
11 what the proper terminology is now, but she was
12 basically mentally retarded.
13 Q. But if we follow up on the questions that
14 the judge asked you --
15 A. Um-hmm.
16 Q. -- in fall for Tier 3, the student who was
17 in Tier 3 in the fall, according to the transition
18 information, moved into Tier 2 for the winter;
19 correct?
20 A. Um-hmm.
21 Q. And there was a student from Tier 2 in the
22 fall that moved into Tier 3 in the winter. Is that
23 correct?
24 A. I think it could have been one of my
25 transition students who left in the middle of the

year, because --

Q. So we don't know which student was moved?

A. No. We don't have the names, but if I look at the --

Q. You answered my question. Thank you.

A. Huh?

Q. You answered my question. Thank you.

A. Okay.

Q. Would you -- in terms of the students' movement into Tier 1 from Tier 2 --

A. Um-hmm.

Q. -- would it be your expectation that, as the school year progresses, that students are going to move into Tier 1 from Tier 2?

A. No.

Q. It's not your expectation that they would move into a different tier?

A. I would hope they moved into tiers that would be doing better.

Q. Okay. Maybe I asked it wrong.

A. Not doing worse.

Q. No, okay.

Was it your expectation that as the school year progresses, that there would be students who would move from Tier 2 into Tier 1?

A. Yes.
Q. Okay. That was what I was intending to ask. Thank you.
A. Okay. And as you can see from the chart, a great deal of them did, if you look at the percentage of the class. I've also had --
Q. Thank you you've answered the question.
ADMINISTRATIVE LAW JUDGE: Just answer the question that's asked.
THE WITNESS: See, I don't have that page. That page would tell me their names.
ADMINISTRATIVE LAW JUDGE: It doesn't.
THE WITNESS: Oh, they're blocked out?
BY MS. ANDERSON:
Q. So in terms of the information -- the information in the exhibits that we've been discussing --
A. Um-hmm.
Q. -- it's looked at students that -- their movement from fall to winter in the 2013-14 school year; correct?
A. As -- yes.
Q. Okay. But there's nothing in the exhibits that demonstrates the students' performance for fall and winter -- the students' performance this year

compared to last year in these exhibits, is there?

A. No. I was not here last year.

Q. Thank you.

MS. ANDERSON: I have no other questions. Thank you.

ADMINISTRATIVE LAW JUDGE: Any redirect?

MS. STILLMAN: No, I don't think so, Your Honor.

ADMINISTRATIVE LAW JUDGE: You may be excused. And we will take a short recess. We'll go off the record at this time.

(Short recess was taken.)

ADMINISTRATIVE LAW JUDGE: We're back on the record.

Your next witness.

MR. CONDOS: Kathleen Winans.

ADMINISTRATIVE LAW JUDGE: I'm sorry. Last name?

MR. CONDOS: Winans.

ADMINISTRATIVE LAW JUDGE: Okay. I'm going to try my best.

KATHLEEN WINANS,

the witness herein, having been first duly sworn by

1 the Administrative Law Judge, was examined and
2 testified as follows:
3
4 ADMINISTRATIVE LAW JUDGE: Would you
5 please state your name, spelling it for the record?
6 THE WITNESS: My name is Kathleen
7 Winans, and the spelling is W-i-n-a-n-s.
8 ADMINISTRATIVE LAW JUDGE: Okay.
9 Please proceed.
10 DIRECT EXAMINATION
11 BY MR. CONDOS:
12 Q. Okay. Ms. Winans, do you presently live in
13 Show Low?
14 A. Lakeside, sir, yes.
15 Q. Lakeside, okay.
16 And do you -- are you familiar with Founding
17 Fathers?
18 A. Yes, sir, I am.
19 Q. How are you familiar with them?
20 A. My daughter Ariel attends school there.
21 Q. Okay. How long have you been in -- in Show
22 Low? I mean, in the area there?
23 A. I've been in the area since January 2012.
24 Q. Okay. And prior to that, where did you
25 live?

1 A. Chandler.
2 Q. Okay. Did -- has Ariel -- does Ariel have
3 some sort of learning issues?
4 A. Yes, she does.
5 Q. What kind of issues does she have?
6 A. Ariel had seizures between the ages of 19
7 months until five years old, which left her with
8 acquired brain injury, TBI, traumatic brain trauma,
9 which enabled [sic] her to learn and retain her --
10 her memory.
11 Q. Okay. Now, how long had you lived in -- did
12 you live in Chandler?
13 A. We moved to Chandler in 1993 until 2012.
14 Q. And --
15 A. Nineteen years.
16 Q. I'm sorry.
17 Was Ariel attending school in Chandler?
18 A. Ariel's attended school since 1996 at three
19 years old -- I'm sorry -- 1999 at three years old,
20 yes.
21 Q. Okay. And how -- what was your experience
22 with the -- well, how did Ariel deal in the Chandler
23 school system?
24 A. To start off in -- prior to preschool, they
25 found her as a behavior problem and did not accept

1 that she had a learning disability I felt during
2 that time.
3 When I moved her into kindergarten at Basha
4 Elementary, they put her in a regular kindergarten
5 class, and within the second week, we had an aid
6 that told Ariel she was going to be line leader,
7 because Ariel looks and acts normal. She does not
8 look or act like someone that you would expect to
9 have a learning disability.
10 And they dragged Ariel to the front of the
11 line by her knees. When I picked Ariel up from
12 school that day, she had bloody knees. No one had
13 attended to her. No one had called me.
14 Later in the year, kindergarten, she had a
15 seizure in the classroom. Her seizures lasted over
16 45 minutes long. It took paramedics 20 minutes to
17 get to our house -- from Dobson and Chandler to our
18 house on Queen Creek and Alma School.
19 By the time she got to Desert Sam from the
20 Ocotillo area in Chandler, she was still seizing
21 walking into the emergency room doors.
22 They didn't call me at the Chandler schools
23 to let me know that Ariel had had a seizure in the
24 classroom.
25 At that point, I contacted the district, and

1 Ariel was moved from Basha Elementary to Hull
2 Elementary where my two older daughters had attended
3 with that principal, Jan Weyenberg.
4 Ariel stayed at Hull Elementary from first
5 grade to fifth grade. When they changed principals,
6 they asked Ariel to go back to her home school of
7 Basha, which they put her in the special needs
8 classroom.
9 At that point, Ariel again is cognitive.
10 She is like talking to you or I. To put her in a
11 special needs classroom was insulting, and it caused
12 Ariel great amounts of depression.
13 She went into a music class playing the
14 violin. Ariel's disability is in reading and could
15 not decipher the music in the notes, but she could
16 play by ear well enough to play at the Chandler
17 Center for the Arts. The Chandler schools told her
18 that she could no longer play violin with them
19 because she couldn't read the notes.
20 So then she tried choir, because she has a
21 gift in music. In seventh grade, the choir teacher
22 told her that she could not because she could not
23 read the music, though she could follow along on her
24 own.
25 So these are the problems that we had dealt

1 with just to that point.
2 Q. Now, reading seems to be the -- one of the
3 biggest problems that you've identified and
4 identified at that time.
5 What level had Ariel reached up to the time
6 that you were ready to move?
7 A. She was still at a kindergarten level in
8 reading and math.
9 Q. And how old was she then?
10 A. She was 15 and a half.
11 Q. Okay. And how old is she now?
12 A. She is 18.
13 Q. Okay.
14 A. I'm sorry. She had just turned 16 when we
15 started -- when we left Chandler schools that year.
16 She's born December 20th.
17 Q. When -- with your frustration with Chandler,
18 did you look at other options for schools for Ariel?
19 A. Absolutely. I looked into private schools.
20 I looked into charter schools. And they actually
21 cater to kids with a higher academic level, not with
22 a lower academic level. I found nothing.
23 I sent her to a learning academy called
24 Learning RX on my own. It was a five-week program.
25 It was over $7,000 for that program. And Ariel was

1 guaranteed to be two grade levels above. If she was
2 not, I would be refunded my money. I was refunded
3 my money.
4 Q. And did something drastic happen to make you
5 decide that something needed to change as far as
6 Ariel's education?
7 A. Yes. We were attending Hamilton High. It
8 was her second year in the special needs program.
9 And because of her academic level, they kept her in
10 special needs classes.
11 Ariel had been attending the schools in
12 Chandler since she was three. I was a Scout leader
13 for 11 years. I was Ariel's Scout leader, and I
14 knew most of the parents in that area. I knew most
15 of the moms in that area and the students.
16 We did not discuss Ariel's disability in
17 reading because she, like I said, was cognitive like
18 you and I. So I didn't want her to be sorted out
19 amongst her peers. So we always did extracurricular
20 activities that were related to normal or
21 above-average students.
22 In Hamilton when she was in the special
23 needs class, they took those kids and told Ariel she
24 needed to be part of their recycling club. The
25 recycling club consisted of Ariel going from the

1 special needs class with other special needs
2 students and going from classroom to classroom while
3 classes were in session and collect the papers out
4 of their trash cans and save them for their classes
5 to earn money so they could go on field trips.
6 Ariel's peers were in those classrooms
7 and afterwards came up to her and told her that
8 she -- they had had no idea that she was special
9 needs.
10 At that point, they started to not
11 invite her places and not have lunch with her and
12 shun her. I didn't find out about this until I came
13 to pick up Ariel from school and found her in a
14 fetal position in front of the school, holding
15 herself crying.
16 Q. And besides that, was there anything else
17 that caused you concern about her safety?
18 A. Yes. At that point, I found some letters
19 and some notes on her computer, some drawings, and
20 one of the drawings was a persona. If anyone knows
21 what a persona is, that's a cartoon image of
22 yourself that the teenagers do to express
23 themselves.
24 And her persona was of herself hanging with
25 blood coming out of her mouth with the words,

1 "Please don't hate me."
2 Q. And so you took her -- I think you said you
3 looked and found a private place, but that didn't
4 help.
5 Did you then seek other institutions or took
6 her someplace else to --
7 A. I was affiliated with a company called
8 AmeriServe where Jim Soto was to come with us with
9 her IEP meetings and such. And I didn't feel like
10 that was getting us anywhere, so I contacted -- I
11 told one of my friends who had students up at
12 Jefferson Academy about the things that had been
13 going on.
14 Now, my friend had known Ariel since she was
15 born. In fact, she watched my other children while
16 I went to the hospital to have Ariel. And she had
17 seen Ariel go from a healthy baby to a child that
18 had a seizure disorder to, you know, being
19 different; you know, being slightly different
20 academically.
21 And she had heard about the problems that we
22 were having in the Chandler schools all along, and
23 she suggested that we go look at Jefferson.
24 So I took Ariel to Jefferson, and I
25 introduced her to the high school teacher

1 Mr. Reidhead. Mr. Reidhead immediately had a
2 rapport with Ariel, immediately.
3 And he did not look upon her like she was
4 special needs. He did not judge her. I asked
5 Ariel, "Would you like to go here to school?"
6 The other students -- everyone was doing
7 their own work independently. It was a quiet
8 classroom. It was organized. It wasn't a special
9 needs class where people -- where there was a
10 changing table for someone to have their diapers
11 changed or, you know, physical therapy. It was a
12 regular classroom. And Ariel said, "Yes, I would
13 like to go here."
14 Q. And after -- after that, did you end up
15 making a major life change?
16 A. Absolutely.
17 Q. What did you do?
18 A. I rented out my house in Chandler, and I
19 bought a condo in the White Mountains so that Ariel
20 could attend Jefferson Academy. Absolutely.
21 Q. And was that the primary reason for your
22 move?
23 A. Absolutely.
24 Q. Okay. Did Ariel end up -- she was admitted
25 to Founding Fathers there, Jefferson Academy?

1 A. Yes, sir.
2 Q. Okay. How did -- well, as she stands right
3 now, she's 18 years old and -- and, basically,
4 what -- what grade would you say she's in as far as
5 credits and things?
6 A. We just went to the DES to have her
7 evaluated for life skills and DES tested her at a
8 3.5 grade level from a kindergarten grade level in
9 math in two years.
10 Q. So she was kindergarten level at --
11 A. At Hamilton High, yes.
12 Q. Up until the age of 15?
13 A. Up until the age of 16, yes.
14 Q. And so in the couple of years that she's
15 been at Jefferson, she's already increased three
16 grades?
17 A. Yes.
18 Q. Now, had you -- had any type of
19 professionals tell you that reading was just going
20 to be something that wasn't going to be for Ariel?
21 A. I took Ariel at age seven to Dr. Drake
22 Dwayne, who is a neurological evaluator, and he did
23 brain testing on Ariel, which included an EKG and an
24 EEG and an MRI.
25 And at that time, he concluded that the

1 damage that was done to Ariel's left front lobe was
2 enough significant damage that she would probably
3 never read, his words, yes.
4 Q. And, fortunately, today that -- those words
5 didn't prove --
6 A. No.
7 Q. -- truthful?
8 A. No, they did not.
9 Q. Tell me how Ariel is now as far as how she's
10 functioning at -- you know, in real life, as well as
11 at Jefferson Academy.
12 A. In real life, Ariel's self-esteem has gone
13 up dramatically. We no longer see suicide notes.
14 The drawings that she makes are positive and happy.
15 She's made numerous friends in her peer
16 group, and she had 16 children come to her birthday
17 party, her 18th birthday party. Now, this may not
18 seem significant to someone else, but when your
19 child constantly has maybe one or two friends show
20 up to 16 students in support and love, it was -- it
21 was a miracle. It was an absolute miracle.
22 Ariel can text me and tell me, which is the
23 first time in her life, has ever been able to take
24 written language and text me, "Mom, can you pick me
25 up?" And I can text her back for the first time in

her life, "Yes. I'll be right there."

So she can communicate to me through e-mail. She can communicate to me through Facebook. She can communicate to me through her phone, which were things I was told would never happen for my daughter.

These are things that I was told could not happen, and up until the age of 16, were things that were not happening for my daughter.

Q. Aside from reading, have you seen development in any of the other educational courses, modes?

A. Absolutely. I've seen improvement in her reading, as you know. I've seen improvement in her math skills. I've seen improvement in her language and spoken language.

Ariel's IEP, I was just looking at it a few minutes ago, and she was in speech and language classes because she could not speak or verbalize or express herself verbally. At that time at 16 years old, she had a glassy appearance on her eyes. I could not hold a regular conversation with her for a lengthy period of time.

Today, I hope you get the opportunity next to meet Ariel, and you will see that everything that

1 this IEP says from just two years ago no longer
2 holds water.
3 Q. Ariel, she's going to school regularly now;
4 right?
5 A. Correct.
6 Q. Is she doing anything extra, as far as
7 extracurriculars or outside of school?
8 A. Yes. She's attending -- as a volunteer,
9 she's going to be starting at Sierra Blanca, which
10 is a rehabilitation program for people that are
11 disabled or injured. And she is going to work in
12 their kitchen as a volunteer.
13 Ariel is a remarkable artist. She can make
14 cakes and create cakes. She -- her goal in life is
15 to be on Cake Boss and to decorate cakes. And if
16 you saw her cakes -- without any training, she made
17 a Lord of the Rings cake -- she has a photo of it on
18 her phone, if you would like to see it -- that is
19 professional. It's got the hobbits on it and has a
20 handmade out of fondant dragon that she sculpted to
21 lay on these golden coins that she stamped out with
22 the back of a pencil to look like coins and then
23 spray painted them gold like it's laying on the
24 treasures. And then took candy pieces and laid
25 those around, the rock candy, to look like jewels.

1 And it is so beautifully done, that you would think
2 that this was something that was from Cake Boss.
3 Q. Now, had she done any of this before
4 attending Jefferson Academy?
5 A. No. Absolutely not. Her creative skills
6 and her self-esteem were so low, I could barely get
7 her out of bed. I had to give her Monsters and
8 promise her Monster drinks to get her to go to
9 Hamilton.
10 Q. So do you believe that your choice of
11 leaving Chandler Unified School District and going
12 all the way to Show Low for this school was
13 beneficial to her or was a good choice?
14 A. I would have done it 100 -- I would have
15 done it when she started kindergarten had I known.
16 Q. Okay.
17 A. Absolutely.
18 Q. And do you know what Chandler Unified is
19 rated from the A through F ratings?
20 A. Absolutely. It's a five -- it's a five A
21 school. Absolutely. And my two older daughters who
22 are healthy, normal students did very well at
23 Hamilton. Now, Ariel's the youngest of three.
24 Q. And if the school would be closed as a
25 by-product of what we're going through right now,

1 what do you think would happen to Ariel?
2 A. I think that we would be in the same
3 situation, where she would -- her self-esteem would
4 drop. She would be depressed. Her relationship
5 with her teachers that have gotten her this far
6 would -- she would no longer have that support
7 system.
8 She would no longer have an alumni. You
9 know, we all have our alumnus. We all have a place
10 to go when we finish high school that we can go back
11 to.
12 Q. And if that happened, where do you see her
13 potential future?
14 A. I really don't want to think about that.
15 Q. Okay. That's fine.
16 MR. CONDOS: No further questions.
17 THE WITNESS: Okay. Thank you.
18 ADMINISTRATIVE LAW JUDGE: Cross?
19 MR. CONDOS: They need to ask you . . .
20 THE WITNESS: Okay.
21
22 CROSS-EXAMINATION
23 BY MS. ANDERSON:
24 Q. Okay. So just for clarification, when was
25 it that Ariel was first enrolled at Jefferson

1 Academy?
2 A. It was the -- it was the spring semester of
3 2012, January of 2012.
4 Q. And you said prior to that, her attendance
5 was at the Chandler schools?
6 A. Correct.
7 Q. Now, you mentioned several different
8 schools, but are all those schools within the
9 Chandler Unified --
10 A. Yes, they are.
11 Q. -- School District?
12 A. Yes, they are, and they are all five A
13 schools.
14 Q. While you -- so I'm assuming you lived in
15 the Chandler Unified School District?
16 A. Yes, I did.
17 Q. Did you explore any other public school
18 placements outside of Chandler Unified School
19 District?
20 A. I tried for Dobson Academy, which is a
21 charter school, and I also tried several other
22 charter schools. I have a child who is autistic,
23 and she's five and a half years older than Ariel,
24 so, yes, I did.
25 I looked into the other charter schools. I

1 enrolled my daughter Courtney into a charter school,
2 and it did not provide her with the IEP services
3 that were required for her at that time. So we
4 returned to the Chandler schools. On behalf of
5 Courtney, yes.
6 Q. Are you aware of -- did you explore the
7 possibility of using State fund monies that students
8 get to attend a public school for your daughter to
9 attend a placement other than a public school while
10 you were in Chandler?
11 A. Well, I have three daughters. One of them
12 had a seizure disorder. How far out would you go
13 from your home school, from your hospitals --
14 Q. I'm just asking you a question.
15 A. So yes, I did. Yes, I did. And that was
16 not an option.
17 Q. Okay.
18 A. Okay.
19 MS. ANDERSON: I have no further
20 questions.
21 ADMINISTRATIVE LAW JUDGE: Redirect?
22 MR. CONDOS: I have no further
23 questions.
24 ADMINISTRATIVE LAW JUDGE: You may be
25 excused.

THE WITNESS: Okay. Thank you.

ADMINISTRATIVE LAW JUDGE: Your next witness.

MR. CONDOS: I'll go get Ariel.

Ariel Winans.

ARIEL WINANS,

the witness herein, having been first duly sworn by the Administrative Law Judge, was examined and testified as follows:

ADMINISTRATIVE LAW JUDGE: And would you please state your name, spelling it for the record?

THE WITNESS: Ariel, A-r-i-e-l, Winans, W-i-n-a-n-s.

ADMINISTRATIVE LAW JUDGE: Okay. And I'm just going to let you know right now, you're going to have to speak up just a little bit so that she can hear you and get everything you say. Okay?

DIRECT EXAMINATION

BY MR. CONDOS:

Q. Besides that, I'm getting old, and I can't hear as well as I used to.

1 Now, Ariel, where do you go to school?
2 A. I go to school at Jefferson Academy.
3 Q. Okay. You need to speak up just a little
4 bit more.
5 A. Okay. I go to school at Jefferson Academy.
6 Q. And how -- how long have you been going to
7 school there?
8 A. Two years.
9 Q. Okay. Do you like Jefferson Academy?
10 A. Oh, yes. I love that school.
11 Q. Okay. Prior to that, where did you go?
12 A. I went to Hamilton High School in Chandler,
13 Arizona.
14 Q. Okay. What was your experience at Chandler?
15 MS. ANDERSON: Objection, Your Honor.
16 Cumulative.
17 ADMINISTRATIVE LAW JUDGE: You can
18 answer the question.
19 Go ahead.
20 THE WITNESS: Sorry.
21 They weren't -- they didn't -- I'm
22 trying to put this into words, but they didn't
23 physically, like, knew what to do with me. Like,
24 they thought, because I have a brain damage, we
25 should, you know, just shun her kind of thing.

1 So I've been -- I didn't have a great
2 time at Hamilton. I was depressed and I was
3 suicidal, and it was really bad, yeah.
4 BY MR. CONDOS:
5 Q. Now that you're at Jefferson Academy, has
6 your attitude changed?
7 A. Oh, yes, it has.
8 Q. Okay.
9 A. I've been much happier and I see, you know,
10 the beauty of life now because, you know, back then
11 I didn't. I thought there was -- like, you know, no
12 one cared.
13 Q. What -- what did Jefferson Academy or the
14 teachers or staff there -- can you point to anything
15 specific or any specifics as to why it's different
16 than the prior school?
17 A. Well, they actually care about you. They --
18 they want you to succeed. They want you to be
19 successful in life, unlike what Hamilton did for me.
20 Q. Okay. How do they say they want you to
21 succeed?
22 A. They want you to be an adult. They want you
23 to improve, you know. They want you to go forward
24 with your life and, you know, succeed with what you
25 want to do, you know. Like, what you want to do

1 when you graduate.
2 Q. Your mom says that you had difficulty in
3 reading before you went --
4 A. Yes.
5 Q. -- to Jefferson Academy, and she says that
6 you've increased.
7 What did Jefferson Academy do to help you
8 increase your ability to read?
9 A. I think that the teachers, of how they want
10 me to learn and, like I said, be successful, really
11 helped me with the grade -- you know, like made me
12 read better.
13 Q. Did they check with you as you were going
14 along to see --
15 A. Yes.
16 Q. -- how you were doing --
17 A. Yes.
18 Q. -- and see -- and, first of all, to see how
19 you were doing? Did they do that?
20 A. Yes, they did.
21 Q. Okay. When they -- did they ever say,
22 "Ariel, you're not doing as good as we can? We want
23 you to do this today"?
24 Did they ever work on any of those programs
25 with you?

A. Yes, they did. They said, "because you're struggling a little bit on this subject, but let me help you."

Q. Okay. And -- and how did they help you? How did they try to help you?

A. Well, they explained it a little more to me, and they kept explaining it until I got it. And then I finally got what they were trying to tell me.

Q. Now, aside from reading, have your other subjects gotten better?

A. Math, language, yeah.

Q. And is that also the same education plan that they used in reading or -- to increase those, or did they do anything special that you can think of?

A. They took their time with me. Because I tend -- like, if I'm on a subject that's hard, I get frustrated, but they say, "Okay. We can take a little breather, but then we have to continue," so it helped me.

Q. Now, your mom says that you've got a new passion that everybody should take a look at because it's just amazing?

A. Yeah.

Q. So what is it?

1 A. It's -- it's culinary arts, and I want to be
2 a cake designer when I get older.
3 Q. And what kind of cakes? Your mom talked
4 about one cake that you did that was off of the
5 Hobbit mode.
6 A. Oh, Lord of the Rings.
7 Q. What caused you to create a Hobbit cake?
8 A. Just the thought that we were going to go
9 see the Hobbit for my birthday movie, so, oh, I
10 should do a Hobbit-themed cake.
11 Q. And what made you think of making the cake
12 the way you wanted? You did it?
13 A. I just thought of like, you know, I should
14 put a hobbit here or put a dragon on the other side.
15 You know, just things that were popping into my
16 head, and then I just went along with it.
17 Q. Aside from looking pretty, did the cake
18 taste good?
19 A. Oh, yes, it did.
20 Q. What other kind of cakes have you made?
21 A. I made -- I made an M&M cake for
22 Mr. Reidhead for his birthday, and it was chocolate
23 icing with strawberries in-between. And if you cut
24 into it, M&Ms would pour out of the cake. And then
25 I made one for my niece for her birthday. She was

1 turning three.
2 Q. And your mom presently said that you're --
3 you're working somewhere?
4 A. It was -- I'm trying to remember the name of
5 it. I keep saying Sierra Blanca, but it was like --
6 it is? Okay. Good.
7 Q. That's it. So what do you do there?
8 A. You help people who had, like, drug
9 addictions and, like, you -- you know, it's a
10 rehabilitation center. So I help them out.
11 Q. And how do you help them, and what do you do
12 there?
13 A. I haven't really worked there yet. I'm
14 still applying.
15 Q. What do you think you'll be doing there?
16 A. Probably like, you know, showing them arts
17 and crafts and maybe give them food.
18 Q. Okay. So you're going to be -- so if you
19 had a choice right now to tell us what you would
20 like to do with the rest of your life, do you have
21 any profession that you would like to do?
22 A. I would like to move to Hoboken, New Jersey,
23 and hopefully work for Carlo's Bakery when I get a
24 little older.
25 Q. And that's the guy on TV; right?

1 A. Yeah, Buddy.
2 Q. If Jefferson Academy would be forced to
3 close, what -- what would you do?
4 A. I would cry, because that's the first school
5 that ever really cared about me, who -- I see
6 Jefferson as my family. And sorry if I get a little
7 emotional, but I -- I want my niece to go there one
8 day.
9 I want her to, you know, be able to bask in
10 the glory of what the teachers can teach her and,
11 you know, be a successful young lady that I wish to
12 see one day and, hopefully, she'll be successful.
13 Q. Okay. And I know that not only can you
14 read, but I've seen your little thumbs work back and
15 forth on that little phone that you've got, texting
16 left and right.
17 So that is a typical teenage move; right?
18 A. Yeah.
19 Q. Okay. Is there anything that you would like
20 to tell the hearing judge here about Jefferson
21 Academy and -- and so that she can understand it
22 better as she thinks about the decision?
23 A. Well, if Jefferson ever did close down, all
24 of the kids that have learning disabilities would
25 have to go to public school where they would have to

1 be shunned and neglected like I was. And I don't
2 think anybody should go through that.
3 And I'm so happy that I'm here today,
4 because I don't know where I would be without
5 Jefferson right now.
6 Q. Well, you're at a very good place, so thank
7 you very much from me.
8 Now -- now, the attorney general here gets
9 to ask you some questions as well -- assistant
10 attorney general. Not the --
11 ADMINISTRATIVE LAW JUDGE: You got a
12 promotion.
13 MR. CONDOS: Not the top dog. Just --
14 just --
15 MS. ANDERSON: Actually, I'm going to
16 pass on that. It was nice to meet you.
17 THE WITNESS: Thank you.
18 ADMINISTRATIVE LAW JUDGE: You may be
19 excused.
20 Your next witness.
21 MR. CONDOS: Judge, could I have just
22 about a couple minutes? I just got a text about my
23 daughter, so --
24 ADMINISTRATIVE LAW JUDGE: We'll go off
25 the record at this time.

(Short recess was taken.)

ADMINISTRATIVE LAW JUDGE: We're back on the record.

JANICE STEWART,

the witness herein, having been first duly sworn by the Administrative Law Judge, was examined and testified as follows:

ADMINISTRATIVE LAW JUDGE: And would you please state your name, spelling it for the record?

THE WITNESS: Janice, J-a-n-i-c-e, Stewart, S-t-e-w-a-r-t.

ADMINISTRATIVE LAW JUDGE: Please proceed.

DIRECT EXAMINATION

BY MR. CONDOS:

Q. Okay. Janice, are you gainfully employed anywhere?

A. Yes, I am.

Q. And where is that?

A. Jefferson Academy.

Q. Okay. Are you one of the founders of -- of

1 Jefferson Academy?
2 A. Yes, I am.
3 Q. Okay. What -- what do you do at Jefferson
4 Academy now?
5 A. That's a long list. Primarily, I teach
6 sixth, seventh, and eighth grade. I also act as a
7 consultant with Kami and Sandy on administrative
8 things, issues.
9 I am otherwise president of the governing
10 board and work with the governing board, as far as
11 making decisions for the school.
12 Q. Okay. And when you talk about you're in a
13 consultant position, what all are you asked to do in
14 that -- in that stage?
15 A. Because I'm teaching in a classroom, I don't
16 really do much of the day-to-day administration, as
17 far as you know just daily things that -- that Kami
18 and Sandy do.
19 However, decisions that need to be made
20 administratively, we all do that together. There's
21 not a decision -- a unilateral decision that's made
22 between any three of us. We all three work together
23 to -- to make decisions, major decisions.
24 Q. Now, some of the previous folks that
25 testified, specifically Joey, talks about when a new

1 student comes in, that there's a procedure, first of
2 all, of some testing, and then it's reviewed by you
3 or -- or Sandy and then decisions are made.
4 Can you take us through that process,
5 please?
6 A. Yes. I developed that process, so I'll be
7 happy to.
8 Basically, this process started years ago
9 when -- before we heard of Common Core, any of this,
10 because we had kids coming from lots of different
11 developmental stages, lots of different places, and
12 I really wanted to know where we were at with these
13 children.
14 So we tested them using a modified BRIGANCE.
15 Now we use that, plus the math assessment testing
16 and some -- some of the other reading tests that we
17 have, to just find out exactly where they're at
18 academically.
19 And then we place them based on what we see
20 on the tests. These are basically screeners to kind
21 of give us a guide as to where to place them
22 initially.
23 And then as we go along, we may tweak a
24 little or a lot, depending on what we see with the
25 children, so that we are very precise as to what

they're teaching or what they're learning and -- and helping them to move from where they're at to the goals that we have set -- "we" meaning the parent, the child if they're old enough, and the teacher -- in what we call an "individualized learning plan."

Q. So every student has an individual learning plan unless they're special education?

A. All children have an individualized learning plan, even children with an -- with an IEP. The IEPs are correlated or the ILP is correlated with what the IEP says. They connect.

Q. Okay. And what are some of the components of a typical student? When is that ILP plan initially prepared?

A. Once we get the initial testing done with the child and we see where they're at, the teacher watches them or should be watching them for a couple of weeks, just to kind of tweak, find out what kind of learning style they have, get used to the child, let the child get used to the classroom.

Basically, get over the honeymoon period. Everybody does great in the honeymoon period, and then we find out what they're really like. But once we get a good feeling of where they're at, then the teacher will come up with a proposed plan and -- and

1 go from there.
2 Then she'll sit with the -- the child and
3 the parent, unless a child is real tiny. Usually
4 they're playing with magnet A, B, Cs or something
5 and come in at the end.
6 The teacher will sit with the parent and the
7 child and discuss what they found on the testing and
8 talk to the parents about some options that they
9 have as far as what kind of -- what kind of
10 learning, what kind of goals they want to set.
11 Some parents say, you know, they want their
12 kid to be bigger, badder, and better faster, and
13 they want more of a skyrocket-type of goal where,
14 you know, I want to get my kid as high as I possibly
15 can.
16 Many times we have children with
17 disabilities, so they may be two or three grade
18 levels below, and we want to get them -- you know,
19 the parents' main goal is to get them up to grade
20 level.
21 Other parents, especially children that are
22 gifted, they don't want to have the -- the high
23 approach. They would rather go wide and deep and
24 would prefer a different kind of option for that.
25 And so there's a lot of factors, but

1 parents -- I don't care how many years I've been
2 teaching or how many degrees I have, and I tell this
3 to parents -- nobody knows their child like a parent
4 does. And they need to make those decisions and
5 help me make those decisions.
6 And in the 30 years I've been teaching --
7 three decades, I guess -- parents, 99.9 percent of
8 the time, they have steered me in a good direction
9 with their child.
10 Q. What is your educational background?
11 A. I have a bachelor's degree in elementary
12 education.
13 Q. Okay. And you said you've been teaching
14 for --
15 A. 30 years.
16 Q. -- three decades? That sounds worse than
17 "30 years."
18 So in that teaching venture, what all --
19 what grades? Where have you -- where have you
20 taught, and what have you thought?
21 A. I worked at or I taught at a private school
22 in Salt Lake City, Utah, for a bit, for a year. I
23 ran their summer school and worked their program
24 there, developed a bigger class size, did a bunch of
25 things there. But worked with -- with gifted

1 children. And that's when I very first realized
2 that a lot of kids don't -- "Well, I don't fit in
3 the box."
4 And I knew that, but it was -- it was -- I
5 found out then that other children don't fit in a
6 box either, and these very gifted children also had
7 learning disabilities.
8 And this is where I first developed the idea
9 of having an individualized learning plan where each
10 child is sat at their -- I don't want to say as low
11 as they want to go, but at a pace that works best
12 for them.
13 I did my student teaching in Bothell,
14 Washington. Then I worked at the private school in
15 Salt Lake City. I also worked as a reading
16 specialist for a learning clinic there in Salt Lake.
17 I taught in inner city, in LA, in Baldwin
18 Park, California. I taught sixth grade there. When
19 I was in Salt Lake, it was first, second, and third.
20 I taught sixth grade in Baldwin Park, California.
21 LA and I didn't agree. I moved from
22 Los Angeles back to Arizona, and, honestly, I quit.
23 I had taught in Bothell, Washington. That was upper
24 socioeconomic. I had taught in a private school.
25 That was also -- I taught in East LA in the ghettos

there, which was totally opposite. And I found the same things happening. I felt like my hands were tied behind my back and I wasn't teaching, so I quit.

And I had two little girls at the time and just assumed I would homeschool them because, as a teacher, I just didn't feel like what I was seeing was right.

So I -- I stayed home and ran the kindergarten preschool in my home for several years until the charter school movement came about, and I was part of the team that wrote the first charter for the State Board of Charters in 1995. So I've been -- I've been doing Charter Board stuff for a long time.

Then I started -- with that school, it lasted -- I was there for a year. That was a rodeo. Then I went to Life School and taught there for several years under a man by the name of Jim Anderson. Jim got cancer, and by that time, I had married Sandy, and we worked together to open our own charter, and I've been with Jefferson Academy ever since.

Q. And how many children do you have now?

A. Ten.

1 Q. Ten children?
2 A. Um-hmm.
3 Q. And do any of them have special needs?
4 A. Eight out of our ten children have special
5 needs. Seven of them are autistic, and two of them
6 have -- I think I've got my numbers wrong. But six
7 of them are autistic, and two of them have traumatic
8 brain injuries. They were adopted, and they were
9 abused as babies and have cranial fractures because
10 of the injuries that they sustained.
11 Q. And are they doing better now or . . .
12 A. Yes, they are.
13 Q. Okay. So you've had experience with the
14 upper gifted students?
15 A. Yes, I have.
16 Q. And now -- you've also had gifted with the
17 inner city kids?
18 A. Um-hmm.
19 Q. What's the difference from an educational
20 and teaching standpoint?
21 A. They're children. There's not a difference.
22 They're children. Every child is different. I
23 can't say that -- in every group I've worked with,
24 I've had children that who have come from parents
25 who cared, and I've had children that have come from

1 parents that didn't care.
2 Generally, I have children that -- if for
3 some reason they're the odd man out, it's probably
4 because parents are trying to figure out what's
5 going on with them. Sometimes we know. Sometimes
6 we don't know.
7 They all have their problems, and they all
8 have their good things. Some of it was poverty and
9 some of it was affluence, honestly. They create the
10 same problem sometimes.
11 Q. Okay. And when you started the charter
12 school, when was it that you first obtained your
13 charter?
14 A. I have to remember how old Jeffrey is. I
15 go -- I chronologically go by my children's births.
16 2001 -- wait. How old is Malka (phonetic)? I have
17 to go backwards. 2002.
18 Q. 2002.
19 So 2014 would be going into the twelfth year
20 of operations?
21 A. Yes.
22 Q. Okay. Prior to the last couple three years,
23 how had the school been doing as far as -- we only
24 had ratings for about the last six years.
25 But prior to that, how would you have

1 evaluated your own school from an educational
2 standpoint?
3 A. You're talking to a mother with a child, and
4 we always see improvement. This is my baby. I have
5 to tell you this.
6 Sandy's worked very hard so that I could do
7 my hobby. This is what I love so much, and I think
8 that we could always make improvements.
9 Love the Common Core. I love what it's
10 doing. It started back in the '40s and -- and a lot
11 of the things that I'm seeing now are things that my
12 teachers taught me, retiring teachers as a little
13 girl. And the methods that are being used are the
14 same methods that they're asking us to use now, so
15 that's a breath of fresh air.
16 As -- as we go through this, I see that
17 sometimes some of the things that the State is
18 asking us to do is -- we laugh because they're
19 catching up with a lot of our ideas. It's great to
20 see other people out there coming to the same kind
21 of conclusions we are.
22 So when you ask how our school is doing, our
23 school, just like a child, is growing, and I feel
24 like it's grown quite a bit.
25 I can't say, well, it's -- it was bad then

1 and it's better now. I can say that we're learning
2 a lot. We did things differently, perhaps naively
3 in some ways, three years ago. Some of it worked.
4 Some of it didn't.
5 As we continue through this, we still do
6 things naively in some ways, and some ways, farther
7 ahead than the -- than what they're asking us to do.
8 So I think we're doing great. I think that
9 we are continuing to learn.
10 Q. Are the children continuing to learn?
11 A. The children are continuing to learn.
12 Q. So a child that comes to your school, do you
13 believe that you -- you better him or her as far as
14 education? Do they progress at your school?
15 A. Yes.
16 Q. Okay. Do you believe that a uniform -- a
17 uniform test is an indication as to whether or not a
18 school is successful or not successful?
19 A. You know, there's a saying that Einstein
20 says about, if you ask a fish to climb a tree, he
21 won't be able to do it, but that doesn't make him
22 less of a fish. I didn't -- I paraphrased that, but
23 it's the same thing.
24 I was always a good tester and -- and tests
25 were great for me, but they're not always great for

1 every kid because it shows what they know, but it
2 doesn't show you -- show you what they can do, and
3 we're about what they can do.
4 Q. And what would be some example of what they
5 can do over and above testing well?
6 A. Well, I have a little boy in my classroom
7 right now who we will be -- we will be able to say,
8 "I knew him when." Who on paper does not look good.
9 He's clumsy, and -- and he doesn't write well.
10 If given the standard form of writing, he
11 doesn't test well. He doesn't -- if you -- you
12 know, he can -- he can read what is being asked of
13 him, but that doesn't mean he can do it necessarily.
14 However, if you ask him to tell you what's
15 going on, he can tell you a whole lot more. He's
16 the kid that sits at lunchtime and stares over
17 somebody's shoulder. He's autistic, and he stares
18 over someone's shoulder and talks and talks and
19 talks and talks. And before you know it, there's
20 eight, ten, twelve kids standing around him rolling
21 because he's so brilliantly funny. The kid is a
22 genius.
23 But the types of tests that we have to use
24 don't necessarily show he's a genius. If I tell
25 him, "We're doing the cell theory. Give me a video

on the cell theory," he'll come back with an amazing video that is more educational than anything I can find on YouTube and teach the cell theory to my students.

Q. How old is he?

A. He's 12.

Q. Okay. And he can put together -- he puts together the movie himself?

A. He does stop motion claymation, as well as stick figures or whatever he can get his hands on. He also does an interview type where he interviews in front of his own video camera and uses all kinds of different multimedia to teach the lesson. He can do it better than I can.

Q. On the AIMS test, did he exceed, meets, fall behind? What -- if you remember, what did he get?

A. He -- he is at "falls far below."

Q. Okay. What would -- how would you define an appropriate learning environment that enhances the child's ability to learn?

A. It has to be a place where they feel like they can learn. If I had to do anything right, that's what I excel at is every child has to feel safe and they have to feel like they are a good learner.

1 Sometimes that takes time, especially if I
2 get them in junior high, because they've been taught
3 otherwise by their peers or by the school that they
4 were at. And sometimes their parents, sometimes
5 just as they've observed that they seem different
6 than other kids. They don't necessarily think that
7 they can learn.
8 Many of my students come from a poverty-type
9 background. I have kids living in motels, tents, in
10 and out of different -- grandma's house and their
11 parents' houses. I have kids whose parents are
12 going through divorce, which isn't unusual, but it's
13 still traumatic.
14 I've had -- I have children whose parents
15 are going through their eighth or ninth divorce. I
16 have kids that come to school hungry and don't have
17 enough to eat.
18 Then on top of that, they have their
19 learning disabilities and other things, so they have
20 to feel like when they come to school that they are
21 accepted and loved and that they are capable
22 learners no matter what their morning was like and
23 what their afternoon is going to be like.
24 If I can get them to that place, I can -- I
25 can work with them, and I can help them learn. But

much of my time is taken with getting them to that place.

Q. The factors you just described which are more environmental factors, do you think that affects their ability to -- to take uniform tests to -- you know, and their scores?

MS. ANDERSON: Objection. Leading.

THE WITNESS: I didn't get it.

BY MR. CONDOS:

Q. That's okay.

A. I was going to ask you to repeat it.

Q. You've mentioned a number of what I would call environmental factors or outside factors of school.

How do you think that affects a child in -- in taking a standardized test like this, or does it have an effect?

A. I don't know if the environment does as much as the child themselves. It can --

Q. Okay.

A. -- but it may not be all of it. I've had kids come from horrible environments and do great on tests. I've had kids come from great environments and do horrible on tests.

It just depends on whether they're a good

1 test-taker or not. Some of it is environmental.
2 I've had -- I think my worst test-takers have come
3 from upper socioeconomic groups where there's a lot
4 of pressure put on children to be the best, the
5 best, the best.
6 But I also have kids that just give up
7 before they ever take the tests because they see all
8 those dots, and they see all those words, and they
9 say, "I can't do that."
10 Q. Now, you've mentioned that you have to get
11 the child to a level before you can really teach
12 them.
13 What kind of -- is that something that
14 Jefferson Academy does?
15 A. Our teachers have Jefferson Academy T-shirts
16 that say "Jefferson Academy" on the front, and on
17 the back it says, "Get to the bottom line."
18 There is a mindset in a lot of places that
19 say that they're dealing with -- the -- the problem
20 gets dealt with and not the child. "You're doing
21 this. Make it stop," is what they tell the child.
22 Sometimes the kid can stop. Sometimes they
23 can't. And our job has been to find out why they're
24 doing what they're doing, whether it's bouncing
25 around in their seat, talking, talking, talking all

1 the time, twiddling around, not being able to sit
2 down, looking at their paper and just staring at it
3 and not knowing what to do.
4 So whatever the behavior is, when it's
5 chronic -- and we get a lot of chronic kinds of
6 behaviors -- we step back and ask why.
7 And that's -- Kami calls it drilling down,
8 and we do that with our test scores, but sometimes
9 it's not -- you have to go -- before -- before the
10 test scores has to come a child who can test, a
11 child who can attend to test, and a child before
12 that that can -- can attend and learn in a way
13 that's appropriate for them.
14 A lot of what we do is helping the child do
15 school. I have a 13-year-old in my classroom right
16 now that I'm sure you've seen his scores. He's
17 flatlining clear at the bottom. If you look at his
18 scores, you would go, "Oh, okay. She hasn't done
19 anything with him today or at all this whole year."
20 But we have triumphed with this child
21 because he can now sit in a chair for two hours and
22 work. He wasn't able to do that when I had him --
23 when we got him two years ago. He can -- we're
24 working on a quiet voice. That hasn't gotten there
25 yet.

1 But he can speak appropriately to his peers,
2 where he couldn't before. So that next year when I
3 get him, he is going to be able to succeed and
4 excel, but this year, his success has been in being
5 more socially appropriate within the classroom.
6 Q. Now, with the changes in the Arizona
7 standards and the implementation of what -- what
8 used to be called or underlying, Common Cores,
9 what -- what efforts did you take in trying to make
10 sure that the curriculum that was being taught was
11 going to be aligned with the State to help these
12 children?
13 A. Well, first of all, the Common Core was
14 exciting for me because I -- I loved it. I embraced
15 it from the beginning. It's so much easier as a
16 master teacher to be able to -- to look at what's
17 expected of us and be able to combine it throughout
18 the whole curriculum and use it. So -- so mine was
19 more of backflips.
20 I was pretty excited to get -- to get that
21 kind of a -- to get a little easier curriculum for
22 us to understand.
23 As far as aligning goes, everything I did
24 had to do with the Common Core. I took the Common
25 Core at the beginning of the year and just went down

1 and planned from that.
2 Q. Now, prior to about 2010-2011, Founding
3 Fathers had performing -- using the old standards,
4 the legacy standards as they call them now,
5 performing, performing plus, and then all of a
6 sudden, it fell off, and we fell behind standards.
7 Can you think of why -- you know, what may
8 have happened during that time to kind of change
9 from -- you know, change the school?
10 A. Yeah. Vera Bennett, she happened to us.
11 That was about the time Vera Bennett decided that
12 she loved our school, and she started prescribing
13 Jefferson Academy to every child with learning
14 disabilities that came through her doctor's office.
15 And I'm being -- I'm being a little flippant
16 but what is happening is that we're good at what we
17 do. We take children from where they were, and
18 we're moving them forward in lots of different ways,
19 kids that did not fit in the box in other places.
20 Word got out, and what has happened is, as
21 our special needs population went up, our test
22 scores went down. Just because our -- our -- we
23 were good at -- at what we do.
24 Q. And did you recognize that back then, that
25 scores were -- I mean, the whole structure was

1 changing?
2 A. I don't think I did.
3 Q. Okay.
4 A. I look at kids as kids, and I didn't look at
5 things -- and maybe that's my fault, but I didn't
6 look at things as, "Oh, we're getting dumber here."
7 You know, I just looked at it that we
8 were -- we were helping a population that was not
9 getting their needs met. We thought it was a
10 triumph that people were recognizing that we could
11 help and we were watching, you know, these parents
12 come in with these little guys, holding them in
13 hand, and, you know, the moms got the look on her
14 face and, you know, the child is looking around.
15 And they tell me their stories, you know.
16 We felt like we were -- or we feel like we
17 are a haven for children that aren't fitting in a
18 district school.
19 Q. Does that also apply to non-special needs or
20 non- --
21 A. Yeah, and I didn't -- I had -- I gave a
22 writing probe the other day, and I didn't get it to
23 Sandy in time to submit.
24 But my junior high students wrote some
25 letters -- or some papers on just -- I asked them,

1 "What did Jefferson" -- you know, "Where did you go
2 before Jefferson Academy? How has it helped you
3 learn?"
4 And the one thing that really surprised me
5 that came out was, "I'm not bullied anymore.
6 Mrs. Stewart helps me learn. I have lots of aids to
7 help me." And they see their aids as advocates for
8 them, not helpers that hold their little hands but
9 as someone that they can go to and get -- and can
10 advocate for them or can help them get through
11 problems.
12 But their big deal was, here I can be who I
13 want to be, and I'm comfortable here. I'm not
14 afraid anymore. It's easier for me to learn here.
15 The pressure, I think, was off to go beyond
16 their gaps. Many of our students -- I can't say
17 all, but pretty close to all, are students that come
18 in with big learning gaps, and my job is to fill in
19 those gaps -- our job, I should say -- but is to
20 fill in those gaps.
21 So when they come in with these big gaps,
22 when we finally fill them in and the light bulbs
23 come on and go, "Oh, okay. I get it now," it's kind
24 of fun to watch because you'll fill in a gap, and
25 then they'll have, you know, a mile of stuff that

they already know, and then there's another gap and then a mile of stuff.

So it's kind of fun to watch them, and it shows on our test scores where it kind of goes like this because they'll hit a gap, and they learn it, and all of a sudden, they'll do really good.

And then they'll hit a gap, and then they'll learn it, but it's exciting to see them walk in and -- and say, "I know I can do this."

We had a big party with a little girl who finally got her division where she wasn't able to get it for such a long time, and she finally was able to get her division.

Q. If I could have you take a look at the white folder.

A. White.

Q. And look at what's marked as QQ, double Q, towards the back there, the middle --

A. QQ.

Q. About at least halfway through.

A. I'm getting to R.

MS. STILLMAN: It's double Q, so --

THE WITNESS: Oh.

MS. STILLMAN: -- it's going to go Z, and then it's going to double up.

1 THE WITNESS: Sorry. I was looking for
2 Q within the Q. Okay.
3 BY MR. CONDOS:
4 Q. Okay. And at the bottom corner to the
5 right, there's page -- little page -- little
6 numbers.
7 A. Um-hmm.
8 Q. If you could flip over right after the
9 exhibit page to 270, which is basically the very
10 first graph there.
11 A. Um-hmm.
12 Q. What is that graph?
13 A. This is test scores from their -- or
14 their -- yeah, their AIMSweb probes that were given
15 to them once a week.
16 Q. Okay. And in the right-hand corner, it's
17 got grade six.
18 Would that be some of your children?
19 A. Those are my students.
20 Q. Okay. And you were talking just a minute
21 ago about they fill in the gap and then they get it,
22 and then they crash down a little bit, and then they
23 get it again.
24 Is that indicative of what you were just now
25 talking about?

1 A. Yes.
2 Q. So that particular child, what -- how did
3 his education development proceed, if you remember?
4 A. I wish I had the names on these. I have it.
5 Can I -- I have a sheet --
6 Q. Do you know who it is?
7 A. I have a sheet right here that has all their
8 names on it. Can I look at that? It will just help
9 me know which child I'm dealing with.
10 ADMINISTRATIVE LAW JUDGE: Did the
11 notes on the side of the page --
12 THE WITNESS: I actually have about 18
13 kids in sixth grade that would be very similar, so
14 it doesn't -- I can get a little bit more.
15 ADMINISTRATIVE LAW JUDGE: Do you have
16 any --
17 THE WITNESS: This is my cheat sheet
18 that has their names on it, and I can be more
19 specific on what's going on here.
20 ADMINISTRATIVE LAW JUDGE: Just of
21 course don't use the student's name.
22 THE WITNESS: I would not.
23 ADMINISTRATIVE LAW JUDGE: Okay.
24 THE WITNESS: With this little -- with
25 this little girl in particular, this is just a

1 typical -- I don't want to -- this one could be
2 about gaps, but this one -- I'm seeing a lot of L --
3 learning disability, LD kinds of things.
4 Her mom is just now beginning to trust
5 me where we might be able to get some testing done
6 soon. She came in just absolutely adamant that her
7 child would not be tested, so I'm developing a
8 relationship with the mom that is going really well.
9 But what we see is -- there's two
10 things going on here. She -- she -- we're filling
11 in gaps, but about the time we fill in a gap with
12 her, she forgets it, and we have to go back.
13 So if you see we've gone -- we've gone
14 way up to 30, and then we go all the way down to
15 ten. So it almost looks like we're flatlining.
16 However, her next score on the 17th
17 actually went up. We don't have that. I don't have
18 that with me. But that one in particular did go up.
19 She's got a mom that's an alcoholic,
20 and there's good days and bad days, so her -- she's
21 kind of duck soup, us trying to figure out what's --
22 which part of it is -- is getting her.
23 She's eager to learn, which is a new
24 thing for her. She feels like she's a good learner
25 and wants to talk school, which is something we

1 didn't have from her when we first got her.
2 I can't wait. She's a sixth grader,
3 and I really can't wait to have her next year,
4 because I think once she -- once her mom's
5 comfortable with me -- and that's -- that's
6 coming -- and she's feeling comfortable within her
7 own skin, I think next year is going to be --
8 we're -- we're going to see a lot more improvements
9 with her.
10 BY MR. CONDOS:
11 Q. This is the first year she was with the
12 school?
13 A. This is the first year that she was with me.
14 I think she was in our class- -- I think she was in
15 the fifth grade last year in our school.
16 Q. Okay. If I could get you to flip over a
17 couple more pages to 272 --
18 A. I don't even have to look at the name. I
19 know -- I'm pretty sure I know who this is.
20 Q. -- that one seems to be going up for a while
21 and then all of a sudden it flatlines real quick?
22 A. Real quick. And it's going to continue to
23 do this. This little guy is having some -- little?
24 He's like six-foot, big feet. He's kind of like
25 Marmaduke.

1 This guy is having some problems with
2 processing information. Step-by-step stuff is real
3 hard. He's real bright, super, super bright. This
4 is not indicative of what he's able to do.
5 But when it comes to step-by-step stuff, he
6 has -- some days he has it, and some days he hasn't.
7 We see on three -- or is it 2/19 he did really
8 great.
9 And then we've kind of -- the last few weeks
10 with him, he's got some -- we started some other --
11 on some of the instruction that we were giving him
12 in math, really kind of confounded him.
13 And he's the kind, if he gets confused on
14 one concept, everything else is all jumbled up too,
15 and he wants to put it all together. And, "If I do
16 this in division, I'm supposed to do this with
17 fractions; right? And there's a remainder."
18 And he really -- it really takes a
19 step-by-step process, and we drilled down with him
20 his multiplication -- even though we've worked on it
21 all year, his multiplication still isn't as strong
22 as it needs to be, which causes him to slow down in
23 his processing.
24 He also -- when you -- when you put that
25 with the fact that step-by-step instruction is very

1 difficult for him -- or not instruction, but
2 step-by-step processes like algebra, changing a
3 mixed number into a proper fraction, whether it's
4 more than one step, he -- he gets it, and he'll do
5 good and it will be great, and then all of a sudden,
6 it's like "blah," and he can't do it again.
7 So we're just slowing down with him and
8 really working through it. I've done some things
9 with him as far as just going through the steps, you
10 know, multistep directions. Go over and pick up the
11 book and then take it over to Ms. Johnny (phonetic),
12 just things like that so he just physically is doing
13 multistep processes.
14 Q. Now, is this young man a special ed student?
15 A. No, he's not. He's another one that I would
16 really like to test.
17 One thing about charter schools -- and this
18 has been from the beginning -- we get some folks in
19 that, I don't know if some of them are conspiracy
20 theorists, and they think if they're at a charter
21 school, that they're hidden and Uncle Sam is not
22 going to see them.
23 And some of them come in with, "I don't want
24 my child to be labeled, and the district is making
25 me label them." And so they'll come in and say, "My

1 child will not be tested."
2 I think sometimes they don't want the psych
3 eval because they don't know -- they don't want
4 everything to come out. And this is one of my
5 little guys that I'm working on some -- some trust
6 with his mom so that we can perhaps get him tested.
7 He also has a tremendous amount of absences.
8 Mom is -- we've worked with her for years with -- he
9 had a -- an adopted sister that got turned back into
10 the State because she didn't want her anymore. Mom
11 is real funny when it comes to being consistent with
12 things. So he's got some familial things that are
13 getting him as well, and it makes him absent a lot.
14 Q. So the erratic scoring, is that because
15 that -- the curriculum you're using is not doing the
16 job, or is it because of the other factor you
17 just --
18 MS. ANDERSON: Objection. Leading.
19 ADMINISTRATIVE LAW JUDGE: You can
20 answer the question.
21 THE WITNESS: I really -- I think the
22 curriculum is really good, and I see it doing good
23 things. I think with -- like again, you've got me
24 with a sixth grader who's needing to get stabilized
25 some.

I don't think we would have had any of the successes that we had with him had we not been using the curriculum that we've been using.

And I notice here on this note it says "big spike," that was an untimed test, and this guy is not a timed test kind of person. He does much better when he has plenty of time to do it. Then he can slow down on his multistep processing, and he does better.

Q. Do you meet with the teachers? I think Fridays is meeting days.

A. Um-hmm.

Q. Do you -- when they have these meetings, do you share portions of what you believe needs to be done or what you've observed?

MS. ANDERSON: Objection. Leading.

BY MR. CONDOS:

Q. Do you participate in the meetings on the Fridays?

A. Yes, I do.

Q. Okay. How do you participate in the meetings?

A. Depends on the day. I do a lot of listening. Kami is amazing, and Kami does a lot of the -- of the directing. I do a lot of listening.

1 And as specific questions come up, I give examples
2 and try to support in examples what Kami is asking
3 them to do.
4 Q. Do you see improvement in your teachers
5 following these Friday meetings and other meetings
6 you may have with them?
7 MS. ANDERSON: Objection. Leading.
8 BY MR. CONDOS:
9 Q. After the meetings where people have
10 relayed, including Kami, what has been your
11 observation of the teachers?
12 A. They're really neat staff. The teachers --
13 I think the Friday meetings do a couple of things.
14 They bring them together with allowing them to have
15 the same language, the same culture within -- within
16 the staff.
17 I think we stay on the same page a lot
18 better since we've been having our Friday meetings.
19 That's something that will continue forever. I love
20 them.
21 Because we're all -- we're all learners as
22 teachers. My teachers are great learners and are so
23 good to say, "Okay. Look at this kid. What am I
24 going to do?" And talk about -- you know, talk
25 about what challenges they're having, and they learn

1 from each other.
2 And it's -- it's neat, and I learn from
3 them. You know, I'll say, "I tried this in the
4 classroom."
5 I guess my job -- I'm kind of the mom in
6 that my job with the staff is to encourage and
7 support and pat on the back or, you know, pat the
8 backs that need to be patted. Sometimes I listen to
9 things that later on I will go privately to the
10 teacher and say, "Let's" -- "Let's try something,"
11 or, "Let's work on your tone," or "Let's work on,"
12 you know, something personal with them. "Let's try
13 this thing."
14 I don't generally get on a teacher in front
15 of anybody, but we do a lot of praising, and I think
16 that has helped them grow in that they themselves
17 feel safe as teachers in our environment, that they
18 can really get to a child and do what they feel like
19 is best for them other than what's just on paper.
20 Q. Okay. And so following these meetings that
21 you've had and the professional development of your
22 teachers, have you observed success as these
23 teachers have taken some of those ideas back?
24 MS. ANDERSON: Objection. Leading.
25 ADMINISTRATIVE LAW JUDGE: You can

1 answer the question.
2 BY MR. CONDOS:
3 Q. In the classroom with the students?
4 A. I hate to do this to you. I didn't really
5 understand what you were saying.
6 Q. It was probably a bad question.
7 After the meetings, have you seen -- have
8 you had opportunities to observe the students and
9 whether or not they're growing?
10 A. Yes, I have.
11 Q. Okay. Could you -- why do you make that --
12 that assertion?
13 A. When you talk about students, do you mean
14 school-wide?
15 Q. Yes.
16 A. From time to time, I will go down and -- and
17 observe classrooms, talk to teachers. I look at
18 test scores always and watch growth and regression.
19 Fridays, you know, we do that as a group as well.
20 We look at the -- we're very astute at
21 looking at the -- the data and looking, you know,
22 looking back and seeing where they're going, and if
23 we see a dip, then we talk about why there's a dip
24 there, and then we watch that dip. If it was just a
25 bad day for the kid or they have the flu. And I

1 want to see what the next -- the next week's score
2 is going to be to see if it truly was because they
3 had the flu or if it was because of something else.
4 Q. Do you observe the teachers into [sic] the
5 classroom often?
6 A. Not as much as I'd like to. Kami is very
7 good at that, and she does most of that. She is the
8 one that will do the -- the formal observations
9 because she's down there.
10 Mine are more informal, and mine are kind of
11 the -- the gentle good cop if you want to say.
12 Sometimes Kami will say, "Can you come watch this?
13 Can you come see if you're seeing what I am?" And
14 I'll come in and just do a look.
15 Sometimes I'll have a teacher come in and
16 ask me, "Can you just watch this kid and see what
17 I'm doing wrong? I'm doing something. What am I
18 dong to set him off?"
19 And I'll come in and observe and just see
20 what's -- what's up.
21 Q. Do you have instantaneous feedback with the
22 teacher?
23 A. It depends on what's happening. I can.
24 I -- it would be within the day. If I did it in the
25 morning, it would be at lunchtime.

1 Q. Is it usually verbal or memorandum or what
2 is it?
3 A. Generally, it's verbal. There has been a
4 time where -- you know, a time or two where I've
5 texted them and said, "I want to see what you're
6 saying," you know, or something like that and give
7 them the support. "Let's try this. Call me at ten,
8 whatever, and we'll talk about it." But generally
9 it's -- it's a verbal thing.
10 Q. Okay. Can -- can you explain how you use
11 the curriculum in your classroom of sixth, seventh,
12 and eighth graders?
13 A. Which curriculum?
14 Q. Let me rephrase it.
15 I forgot to ask you, how many students do
16 you have in your sixth, seventh, and eighth grade?
17 A. I have 35 students in my class.
18 Q. Okay. Are you there by yourself, or do you
19 have some aids?
20 A. No. I'm not stupid, no. I have three
21 instructional aids. I also have -- when it's math,
22 I have a math person that comes in and teaches math.
23 And I can get into that more specifically if you
24 would like.
25 But I also have our special ed aid that

1 comes in at certain times during the day that works
2 with our special needs students inside the classroom
3 and out, depending on their need.
4 Q. How many special ed students -- let me do it
5 this way: How many identified special education
6 students do you have in your class?
7 A. Eleven.
8 Q. Okay. Now, you mentioned the math person
9 who comes in. What does he do, he or she?
10 A. She. The way that I have insisted that
11 things work since the get-go is we -- we spiral. We
12 were -- have been very interested in -- and because
13 I'm nervous, I can't think of the name of it, and
14 it's always right there. In -- tonight at
15 three o'clock I'll tell you what the name of it is.
16 We've been interested in the -- with spirals. Come
17 on.
18 MS. STILLMAN: Saxon?
19 THE WITNESS: No. It's professor.
20 MS. STILLMAN: Saxon spirals.
21 THE WITNESS: No. Saxon spirals. No,
22 I'll think of it in a minute. We do have -- I love
23 it. I'll think of it in a minute.
24 But we've been very interested in where
25 you teach the full class the -- the same concept,

1 knowing that there's some that aren't going to get
2 it, there's some that already have it, and there are
3 some that are right there.
4 Then we take the group and the ones
5 that already have it, we'll -- we'll do small group
6 instruction, and they'll move forward. The kids
7 that are right there and they're -- you know, that's
8 where they're at, that's where we'll start.
9 We have kids that they're not going to
10 get it, but it's a great -- it's a great foundation
11 builder and kids listen. Kids hear.
12 And pretty soon -- and I'm a pretty
13 ding-dong teacher, I guess, in that we do enough
14 activities when -- that when we're instructing, that
15 the kids will remember, "Oh, yeah. That's when you
16 used this puppet," or "you used" -- or "you did this
17 dance," or something where they will remember. So
18 that by the time they get to that, they'll have some
19 way to hook it to what -- to what they've already
20 learned, and it's more comfortable for them.
21 Ladeen (phonetic) is our math teacher.
22 She does the instruction, the full group instruction
23 in our math, and then we break off into groups that
24 are very fluid depending on how quickly a child
25 learns.

1 We have some kids that, you know, we
2 call it the sixth grade group. It doesn't
3 necessarily mean they're all in the sixth grade, and
4 we don't say that to them, but the sixth grade
5 group, seventh grade group, and eighth grade group.
6 I have six graders that go to the seventh and eighth
7 grade group so that everybody is in an instructional
8 level that they need to be in.
9 BY MR. CONDOS:
10 Q. How do you determine -- after you've taught
11 the general concept to all the class, is there some
12 sort of measuring tool that you use to say, "Oh,
13 this one's got it. This one doesn't have it"?
14 What do you -- how do you do that?
15 A. We do entry and exits. We'll do an entry --
16 a couple of problems at entry to just kind of see
17 where they're at. Then we'll do an exit that will
18 say, "Okay. This guy's got it. You know, these
19 guys don't."
20 It's -- it happens very quickly where we can
21 sort them out, so in any given day, depending on the
22 concept that they're learning, the groups that we
23 put are very fluid.
24 Q. And, you know, it seems like the other
25 teachers do something similar to that.

1 Is that memorialized in writing or, you
2 know, how -- how do they all know what to do?
3 A. Well, that's part of the curriculum that we
4 have is it -- it allows -- it has the different
5 levels of, they have the reteach, they have the
6 enrichment, They have just the -- the basic lessons.
7 Q. Are the teachers then taught --
8 A. Yes.
9 Q. -- taught this?
10 A. Yes.
11 Q. Okay. In your sixth grade junior high,
12 first of all, how do you address the standards as
13 you're teaching these students?
14 A. The Core standards?
15 Q. Yes.
16 A. Meaning that, are they different?
17 Q. Well, if you have some standards that you're
18 supposed to be teaching today, I mean, do you have
19 like -- do you have -- do you have a yearly plan,
20 teaching plan, so to speak?
21 A. I had -- it was kind of the best laid plan
22 of my teammates. I had a beautiful plan. It was
23 lovely at the beginning of the year. It was so
24 nice. It was all done.
25 However, I got a group of kids -- and I kind

1 of knew this -- I did know this going in. I --
2 there's always that group. Well, I have that group
3 this year.
4 I had them in kindergarten when I was
5 teaching kindergarten, and I have them now, and they
6 have been -- they're a really different group of
7 kids.
8 And I thought maybe it was just some kids
9 that we had, but when they all came together from
10 all the different districts, I don't know if it's
11 just that generation or that age group, that group
12 of kids, they're just -- they're just different.
13 So my yearly plan went out the window about
14 the second week, and it has been tweaked and tweaked
15 and re-tweaked until it's unrecognizable.
16 But I do have -- I do have a plan that I
17 follow that changes very rapidly to keep up with the
18 things that we're doing.
19 One of the things that really got me was, we
20 didn't get our curriculum until October, the junior
21 high didn't. It just didn't come. We had come --
22 we had already come up with a plan. It's not like
23 they weren't doing math, because they were. They'll
24 attest to it. They hate me. But we had a pretty
25 similar idea of how to move them forward, and we

1 were working on that with their math.
2 When the curriculum came in, we felt like we
3 were behind the eight ball a little bit on some
4 things that we felt like they needed to know. And
5 we threw a lot of math in. They were getting about
6 three or four hours of math a day in different ways,
7 including math games and all kinds of stuff.
8 But we did -- we really pushed the math.
9 I -- I made sure -- I'm an English teacher, so I had
10 given them a lot of English and language arts at the
11 beginning.
12 And I -- I really did push the math more
13 prior to -- prior to this, so I do have a plan.
14 Like I said, what happens is I embed a lot of my --
15 of the Common Core standards within our routine
16 throughout the day.
17 And so a lot of the things that we're doing,
18 it's hard to put on a lesson plan because it happens
19 every day. It's not hard, but it looks pretty
20 redundant.
21 I feel like vocabulary is something that has
22 to happen every single day. I think that -- that
23 math is some -- like estimating in math and
24 measurement in math is something that has to happen
25 every day. It just can't be taught as a unit.

1 So those things are happening within our
2 classroom on just a routine, and it's -- I like to
3 start with routine first, and see how much I can
4 embed within the routine and then teach the lessons
5 off based -- teach my lessons based off of that.
6 Q. And do you put this down in notes or
7 writing, "This is what we've covered today. This is
8 what we're going to cover tomorrow"?
9 A. Yes.
10 Q. Okay. And -- and what -- do you retain that
11 paperwork, or what happens with it after you're
12 finished with this day's lesson or adjust it?
13 A. I keep it all. It's a mess right now, but
14 I -- I keep it.
15 Q. So does each teacher keep their own lesson
16 plans for the day and their own --
17 A. Yes. They're required to. You know, I have
18 been keeping -- doing yearly lesson plans for the
19 last -- I don't know -- 15 years, 20 years.
20 Before, they never asked. They just asked
21 for weekly and monthly lesson plans, but I always
22 insisted that we do a yearly plan, and my teachers
23 have been doing those for years.
24 However, this is the year that my lesson
25 plans have not -- they've had to be tweaked a lot.

1 They've had to be adjusted. And it happens when you
2 get new curriculum in, especially when you don't
3 get -- you know, I didn't have any foresight as to
4 what our math was going to look like.
5 This has been the year where there's been --
6 there's been a lot of tweaking. There's been a lot
7 of looking at the child -- the children and seeing
8 that they're not getting what they needed in their
9 math especially, but their -- their reading as well,
10 and putting a lot more priority time into those
11 subjects, which has changed a lot of, you know, what
12 we're doing, what we've done.
13 Q. Does the school as a whole teach to the
14 standards?
15 A. Yes.
16 Q. If the State Board didn't see them, what
17 evidence could you show the State Board that you're
18 teaching the Standards besides just telling them and
19 showing them?
20 Is there any evidence that you could easily
21 muster or that's part of the school's operation, or
22 does each individual teacher have their own?
23 A. Each of our teachers have their yearly
24 lesson plans. I have to say that mine is probably
25 the one that's not as pretty and well-done as the

1 others because of all the tweaking that we've had to
2 do this year.
3 I -- I didn't turn it in, and I didn't -- on
4 purpose. If you saw my lesson plan, it looks
5 beautiful, but it also would have been a lie. And
6 I'm not about lying. I'm about doing what really
7 happened.
8 Q. Okay.
9 MR. CONDOS: Judge, I think this is
10 probably as good a place to break without getting
11 into anything.
12 ADMINISTRATIVE LAW JUDGE: Okay. Then
13 we will go off the record, and that will conclude
14 today's proceedings.
15 (Hearing was in recess at 5:01 p.m.)
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STATE OF ARIZONA)
COUNTY OF MARICOPA)

I, ALISA SMITH, Registered Professional Reporter, Certified Court Reporter, Certificate No. 50712, in and for the State of Arizona, do hereby certify that the foregoing pages constitute a full, true, and accurate transcript of all proceedings had in the foregoing matter, all done to the best of my skill and ability.

I FURTHER CERTIFY that I am not related to nor employed by any of the parties hereto, and have no interest in the outcome.

WITNESS my hand this 14th day of April, 2014.

/s/ Alisa Smith
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