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**Reporter's Verbatim Report of Proceedings, Tuesday, September
1, 2009, Volume II--Sessions 2 and 3 of 4 [Pages 321-454]
07-2-02323-2**

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1 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
2 IN AND FOR KING COUNTY

3

4 MATHEW and STEPHANIE McCLEARY,)
 on their own behalf and on)
 5 behalf of KELSEY and CARTER)
 McCLEARY, their two children in)
 6 Washington's public schools;)
 ROBERT and PATTY VENEMA, on their) SUPREME COURT OF WA
 7 own behalf and on behalf of HALIE) No. 84362-7
 and ROBBIE VENEMA, their two)
 8 children in Washington's)
 public schools; and NETWORK)
 9 FOR EXCELLENCE IN WASHINGTON)
 SCHOOLS ("NEWS"), a state-wide)
 10 coalition of community groups,)
 public school districts, and)
 11 education organizations,)
)
 12 Petitioners,) KING COUNTY CAUSE
) No. 07-2-02323-2 SEA
 13 vs.)
)
 14 STATE OF WASHINGTON,)
)
 15 Respondent.)

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REPORTER'S VERBATIM REPORT OF PROCEEDINGS

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TUESDAY, SEPTEMBER 1, 2009
VOLUME II - Sessions 2 and 3 of 4

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22 Heard before the Honorable John P. Erlick, at King
23 County Courthouse, 516 Third Avenue, Room W-1060,
24 Seattle, Washington.

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A P P E A R A N C E S:

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THOMAS F. AHEARNE, CHRISTOPER G. EMCH, and EDMUND W. ROBB, Attorneys at Law, appearing on behalf of the Petitioner;

WILLIAM G. CLARK and CARRIE L. BASHAW, Assistant Attorney Generals, appearing on behalf of the Respondent.

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EXHIBIT

ADMITTED

1031

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1 SEATTLE, WASHINGTON
2 TUESDAY, SEPTEMBER 1, 2009
3 MORNING SESSION - 10:45 A.M.

4 --oOo--

5 THE COURT: Please be seated.

6 We are back on the record. Cross-
7 examination of Mr. Blair, and we were going over the
8 additional funding of both the teachers and the
9 non-teachers certificated staff.

10 Mr. Clark.

11 MR. CLARK: Thank you, Your Honor.

12 BY MR. CLARK:

13 Q. Supplemental contracts and TRI contracts are
14 TRI responsibility and set of contracts are pretty much
15 the same thing, are they not?

16 A. Yes.

17 Q. And the total amount of compensation that
18 Chimacum provides to its staff consists of the amounts
19 provided by the state for a base salary plus
20 supplemental or TRI compensation, correct?

21 A. Yes.

22 Q. I think you indicated there was a
23 co-curricular category that contained expense
24 information for supplemental contract holders like
25 athletic coaches and the like.

1 A. Yes.

2 Q. I don't know if I can read it, but are you
3 referring to the co-curricular category here that looks
4 like it's 230,000?

5 A. Yes.

6 Q. How much of that is supplemental compensation
7 that's funded locally for the coaches you mentioned?

8 A. Including the advisors, the academic advisors
9 and the coaches, all of that is under that category and
10 that is, I would say, transportation costs pulled out
11 of that, so 180,000.

12 Q. Added to about the 250 we were talking about
13 before?

14 A. Right.

15 Q. So that's about 430,000 in supplemental or
16 TRI contract compensation paid to your staff?

17 A. Yes. Remember, Mr. Clark, that some of that
18 staff is what we call community members. They're not
19 certificated. In fact, most of our coaches are not
20 teachers anymore. They're mostly people in the
21 community that we give a supplemental contract to.

22 Q. And there is a state law that you're aware of
23 that governs and pertains to supplemental contracts,
24 correct?

25 A. Yes.

1 Q. And you make every effort to comply with that
2 law, do you not?

3 A. Yes.

4 MR. CLARK: With the court's indulgence, this
5 is a document that is not marked as an exhibit and I
6 don't intend to mark it as an exhibit. I'll provide it
7 to counsel. It is a statute I'd like to ask Mr. Blair
8 about, and I took it off the internet this morning, and
9 I'd like to hand a copy of it up to the court as well,
10 if counsel doesn't object.

11 MR. AHEARNE: Actually, I'm trying to think
12 of a way to be consistent with my requesting the
13 witness to see things like the constitutional statutes
14 and the state objecting and then --

15 THE COURT: Well, I think the state's
16 objection, counsel, was to the admissibility of Exhibit
17 2. The state did not object to your examining the
18 witness regarding Exhibit 2, which was the citation to
19 the case.

20 Now, there were objections with regard
21 to the witnesses. We don't have any questions yet.

22 MR. AHEARNE: Okay. I'm not trying to fowl
23 things up. I'm just trying to make sure that both
24 sides are playing by the same rules.

25 THE COURT: Okay.

1 MR. AHEARNE: I won't object at this time to
2 his asking questions on whatever is in this statute.

3 THE COURT: All right. Very good. Thank
4 you, Mr. Ahearne.

5 MR. CLARK: Your Honor, I'd like to hand a
6 copy up to the court. That leaves me a little shy of
7 copies though. I mentioned yesterday I want --

8 THE COURT: I'll tell you what. Give me
9 the -- if you don't --

10 MR. CLARK: Could I hand this to the witness
11 and have him describe it and then provide it to the
12 court?

13 THE COURT: Actually, I can just pull it up.
14 I can pull it up on Westlaw, so --

15 MR. CLARK: Great. The citation is RCW
16 28A.400.200.

17 THE COURT: RCW 28A.400.200.

18 MR. CLARK: Yes. It's called salaries and
19 compensation for employees, et cetera.

20 THE COURT: All right. Very good. Thank
21 you.

22 MR. CLARK: May I hand the witness a --

23 THE COURT: You may, counsel.

24 BY MR. CLARK:

25 Q. I'll wait for everyone to catch up. Perhaps,

1 Mr. Blair, you could peruse the statute 28A.400.200 for
2 me.

3 A. (Referring.)

4 MR. AHEARNE: Mr. Clark, is there a
5 particular part of this you want us to read?

6 MR. CLARK: There will be. We'd like the
7 witness to familiarize himself with it, Mr. Ahearne,
8 because my questions are going to jump around.

9 So pardon me for the colloquy with
10 counsel.

11 THE COURT: That's all right, counsel.

12 All right. I wait the statute.

13 MR. CLARK: All right.

14 BY MR. CLARK:

15 Q. Mr. Blair, it's kind of lengthy so would you
16 just tell me when you've had a chance to read it and
17 then -- so I can wait until then?

18 A. (Reviewing.) I think I have an idea of what
19 it is, yeah.

20 Q. All right. Are you familiar with this
21 statute?

22 A. Yes, I am, to some degree, particularly the
23 supplemental contract portion of it.

24 Q. That would be subpart four, correct?

25 A. Yes.

1 Q. Okay. And subpart four of this statute is
2 statutory authorization to local school districts in
3 Washington pay supplemental or TRI contract pay,
4 correct?

5 MR. AHEARNE: To the extent it's asking for a
6 legal conclusion, I would object.

7 THE COURT: The way that the question was
8 phrased I believe does request a legal conclusion. You
9 can ask this witness's understanding.

10 BY MR. CLARK:

11 Q. What is your understanding --

12 A. My understanding of this gives us direction
13 on supplemental contracts.

14 Q. All right.

15 A. I don't know if it refers to tri in this. I
16 don't see that.

17 Q. But supplemental contracts and tri are the
18 same thing to you, are they not?

19 A. Yes.

20 Q. Okay. In the third sentence, it begins,
21 Supplemental contracts shall be subject to the
22 collective bargaining provisions of Chapter 41.59 RCW,
23 et cetera.

24 Do you see that?

25 A. Yes.

1 Q. And your supplemental contracts are the
2 subject matter for collective bargaining agreements,
3 are they not?

4 A. Yes. The ones for the academic competitions
5 and the TRI days, not the ones for the coaches.

6 Q. Not the ones for the coaches. Okay.

7 The last sentence of subsection four of
8 the statute says, No district may enter into a
9 supplemental contract under this subsection for the
10 provision of services which are a part of the basic
11 education program required by Article IX Section 3 of
12 the State Constitution.

13 Do you see that sentence?

14 A. Yes.

15 Q. Are you familiar with that provision of this
16 statute?

17 A. Yes.

18 Q. Are your supplemental contracts granted in
19 compliance with this statute?

20 A. Yes, they're outside of the basic education
21 program --

22 Q. All right.

23 A. -- provided by the state.

24 Q. And they are entirely paid for with local
25 funds, correct?

1 A. Yes.

2 Q. You don't expect the state to provide money
3 to pay for the Chimacum School District supplemental
4 contracts, do you?

5 A. I don't expect them to according to law. I
6 would be hopeful that the state would begin to consider
7 the importance, particularly of the academic
8 competitions, in regard to the education of all
9 children. But, according to the law, I do not expect
10 them to.

11 Q. Okay. And you, and by you, I mean the
12 Chimacum School District on whose behalf you're
13 testifying today, you do not provide supplemental
14 contracts to your staff to provide basic education
15 services, do you?

16 A. We do not provide supplemental contracts as
17 it is not legal for the basic education program.

18 Q. All right. Thank you.
19 In its funding formula statutes that
20 you're generally aware of, the state has ratios of
21 staff to students that it funds, correct?

22 A. Yes.

23 Q. Okay. It funds so many certificated staff
24 per 1,000 students, for example.

25 A. Yes.

1 Q. And does it have a similar ratio with regard
2 to classified staff?

3 A. Yes.

4 Q. Does it have a similar ratio for
5 administrative staff?

6 A. Yes.

7 Q. Okay. Isn't your district free, however, to
8 hire employees -- to hire more employees, that is, than
9 the state funding ratios fund?

10 A. Yes, I think the state funding ratios, for
11 example, of let's just take a simple number. Let's say
12 I have a funding ratio of 50 teachers for every 1,000
13 students, for example. That's what the math, let's
14 say, calculates. That does not -- that does not mean
15 that I can -- that I have to hire 50. I could hire
16 less than 50. I could hire, you know, more than 50.
17 That's just simply an allocation, a funding
18 allocation. It does not direct me on how many teachers
19 I can hire or have to hire, correct.

20 Q. So it is within your prerogative to hire more
21 staff than the state funds.

22 A. More or less, yes.

23 Q. And that's true for all three levels of
24 staff, certificated, classified and administrative.

25 A. Yes.

1 Q. And those are the three categories that are
2 -- that are funded by the state.

3 A. Salary, yes. Staff salary --

4 Q. Okay.

5 A. -- funding, yes.

6 Q. And those are the three categories of
7 employees that you employ in your district.

8 A. Yes.

9 Q. Do you hire more staff than the state funding
10 formula provide state funds for?

11 A. There are staff that are hired above and
12 beyond what the allocation gives us, yes.

13 Q. And how do you pay for that staff?

14 A. That would be with local dollars.

15 Q. Okay. Because you understand, do you not,
16 that if you hire more staff than the state funds, the
17 state expects you to pay for those employees with local
18 funds?

19 A. I don't know what the state expects, but if I
20 hire staff, they expect to get paid, yes. Absolutely.

21 Q. And you do hire -- the staff that you hire
22 above and beyond what the state funds, you do hire them
23 and pay them with local funds.

24 A. Yes.

25 Q. And that's appropriate, is it not?

1 A. It's appropriate to pay staff that I hire,
2 yes.

3 Q. And it's appropriate to pay them with local
4 funds since you're hiring more staff than the state
5 funds --

6 A. Yes.

7 Q. -- in the formula.

8 A. Yes.

9 Q. Yes.

10 A. Yes.

11 Q. I want to return to the statute very briefly
12 again, subsection four. Do you still have it with you,
13 sir?

14 A. I do, yes.

15 Q. The second sentence of subparagraph four
16 states, and I quote, Supplemental contracts shall not
17 cause the state to incur any present or future funding
18 obligation.

19 Do you see that language?

20 A. Yes.

21 Q. And do you understand that to be what the
22 statute provides in part?

23 A. Yes.

24 Q. And you comply with that, do you not?

25 A. Yes.

1 MR. CLARK: And I'm through with the statute,
2 Your Honor.

3 THE COURT: Thank you.

4 MR. CLARK: Can I hand the book to --

5 THE COURT: You may, counsel.

6 MR. CLARK: I want to go to Exhibit 1031
7 next.

8 BY MR. CLARK:

9 Q. Have you found Exhibit 1031?

10 A. Yes.

11 Q. What is document 1031?

12 A. That is an agreement -- collective bargaining
13 agreement between the Chimacum School District and the
14 Chimacum Education Association.

15 Q. All right. And on page, I believe, 37 of the
16 document is your -- is your signature on that page?

17 A. I'm sorry, but I'm not finding that page.
18 What page did you say?

19 Q. Page 37. That's the page numbering way on
20 the document.

21 A. 39.

22 Q. No. Sorry if I'm reading it wrong.

23 But you do find -- it's right under
24 Article 25, duration and openers, there are signature
25 blocks?

1 A. Yes.

2 THE COURT: Just for reference, it's a Bates
3 stamp.

4 MR. CLARK: Oh, Bates stamp 39, yes.

5 THE COURT: But it is 37 of the actual
6 document.

7 MR. CLARK: Thank you, Your Honor.

8 BY MR. CLARK:

9 Q. Your signature appears on this collective
10 bargaining agreement on the line for the superintendent
11 and the date, does it not?

12 A. Yes.

13 Q. Do you recognize the board chair signature?

14 A. Yes.

15 Q. Who's that?

16 A. That's Dave Robacher.

17 Q. And at the time he was the board chair?

18 A. Yes.

19 Q. Okay. And the signature block on the left
20 that says for the association, do you recognize that
21 signature?

22 A. I don't recognize the signature, and I'm
23 trying to think who that was, but I would assume it's
24 our -- the president of the association.

25 Q. And that's the labor union?

1 A. Yeah, right.

2 MR. CLARK: And we would offer Exhibit 1031,
3 Your Honor.

4 THE COURT: Any objection to 1031?

5 MR. EMCH: No objection to this exhibit, Your
6 Honor.

7 THE COURT: 1031 is -- admitted.

8 EXHIBIT ADMITTED

9 BY MR. CLARK:

10 Q. Is this the collective bargaining agreement
11 for the 2008 to 2010 for your certificated staff?

12 A. Yes.

13 Q. A separate document, I take it would, involve
14 the collective bargaining agreement that applies to
15 classified staff.

16 A. Yes.

17 Q. And would there also be a separate agreement
18 that would apply to administrative staff?

19 A. No.

20 Q. Are you a member of any of the bargaining
21 units that are involved in the collective bargaining
22 agreements with your district?

23 A. No.

24 Q. And you do not receive supplemental TRI pay
25 compensation, do you?

1 A. No.

2 Q. Is your salary entirely funded by the State
3 of Washington?

4 A. No.

5 Q. Is it funded, in part, locally?

6 A. Yes.

7 Q. How much of it is funded by the state and how
8 much funded locally?

9 A. I can be approximate. I would say about
10 56,000 by the state and about 56,000 locally.

11 Q. Okay.

12 A. Pretty much down the middle.

13 Q. So that would be for a total of 112,000?

14 A. 116,000 is my salary.

15 Q. All right. 116,000 a year. Roughly half and
16 half state funds?

17 A. Roughly half and half, yes.

18 Q. Do you have a contract with the school
19 board --

20 A. Yes.

21 Q. -- or a contract with the school district?

22 A. Yes.

23 Q. And it specifies what your salary will be,
24 does it not?

25 A. Yes.

1 Q. Okay. It is entirely permissible, as you
2 understand it, for the district to pay you more than
3 the state funds for your position, correct?

4 A. Yes.

5 Q. And the district, in fact, does that,
6 correct?

7 A. Yes.

8 Q. Okay. And that's done pursuant to an
9 agreement that you and the district reach amongst
10 yourselves.

11 A. Yes.

12 Q. The state is not involved in the negotiation
13 of that contract.

14 A. No.

15 Q. Just as the state is not involved in the
16 negotiation of any collective bargaining agreement that
17 applies to district employees, correct?

18 A. Correct.

19 Q. And do you believe that it is appropriate for
20 the school district, in effect, to provide compensation
21 to you above and beyond what the state funds?

22 A. It's appropriate for the school district to
23 fund my salary and any administrative salary according
24 to what the competitive wage is, which in the case does
25 include local funds.

1 Q. Okay. When you say the competitive wage,
2 it's actually the wage that you agreed to in your
3 private agreement, correct?

4 A. Correct.

5 Q. And if we turn to -- let's see. Page 54 of
6 Exhibit 1031.

7 MR. AHEARNE: May I ask a clarifying
8 question? The Bates number 54 or page number 54?

9 MR. CLARK: Thanks, Tom. I was going to leap
10 to that. But it would be Bates number 56.

11 THE COURT: Thank you.

12 MR. CLARK: But the document page number is
13 54.

14 THE WITNESS: I think I'm there. I
15 understand now, yes.

16 BY MR. CLARK:

17 Q. Okay. The salary allocation schedule for
18 certificated instructional staff on this page, what is
19 that?

20 A. That's the salary schedule for our
21 certificated staff, and it indicates the salary that
22 our staff is to be paid according to their years of
23 service and their educational experience.

24 Q. So this is the state funded salary schedule
25 for the certificated instructional staff in your

1 district.

2 A. Yes.

3 Q. And the tri or supplemental pay is in
4 addition to what's reflected in this schedule.

5 A. Supplemental pay would be in addition to
6 this, yes.

7 Q. Now, do you believe that the total
8 compensation paid to your certificated administrative
9 and instructional staff is what the market bares in the
10 Chimacum area?

11 A. Are we through with this? I'm sorry.

12 Q. Yes. I'm sorry. Let me take it back from
13 you.

14 Do you want me to re-ask my question?

15 A. No, I remember the question, Mr. Clark.

16 Yes, I believe that our salaries are
17 competitive with what the market bares in our area.

18 Q. Okay. You don't know of any teachers who
19 have left the Chimacum School District due to
20 compensation issues, do you?

21 A. I believe one did.

22 Q. And when did that occur?

23 A. About four years ago.

24 Q. Okay. Do you recall in your deposition you
25 testified differently?

1 A. I may have, but, as you asked it today, I
2 think I do remember one that did leave for compensation
3 reasons.

4 Q. Okay. And how did you find out that it was
5 for compensation reasons?

6 A. That's what she had indicated.

7 Q. So that's what she told you.

8 And that's one in the last four years?

9 A. Yes, that's all I'm aware of, yes.

10 Q. And where did she go?

11 A. She went to North Kitsap.

12 Q. North Kitsap. And how many teachers do you
13 currently employ?

14 A. We have about 60.

15 Q. 60? And how many did you have four years
16 ago?

17 A. 70, probably, 65.

18 Q. So of the 60 to 70 or 75 teachers you've
19 employed over the last four years, only one has left
20 for compensation reasons.

21 A. Right.

22 Q. Thank you. Did she come back?

23 A. No.

24 MR. CLARK: Okay. I want to hand the witness
25 Exhibit 689. Is it okay?

1 Q. Tab three is the Chimacum School District
2 portion of this exhibit, I believe, Mr. Blair.

3 Could you turn to that?

4 A. Yes, I can. I'm there.

5 Q. All right. Now, do you recall testifying in
6 this case in deposition as a Rule 30(b)(6) witness for
7 petitioner NEWS?

8 A. Yes.

9 Q. That occurred this past July?

10 A. Right.

11 Q. Okay. And we spoke, you and I, about various
12 positions that we wanted to inquire NEWS about,
13 vis-a-vis House Bill 2261 for example.

14 A. Yes.

15 Q. Okay. And we also talked, and you testified
16 as the spokesperson for NEWS with regard to the remedy
17 that the petitioners in this case were seeking.

18 Do you recall that testimony as well?

19 A. Yes, I do.

20 Q. Correct me if I'm wrong, you believe that
21 NEWS would like the court to order the state to
22 determine the actual on-the-ground cost to get all
23 students to state standards, such as reading with
24 comprehension, et cetera, the four standards in House
25 Bill 1209, correct?

1 A. Yes, and the Essential Academic Learning
2 Requirements.

3 Q. Okay. In essence, NEWS is asking the court
4 to order the state to determine what it costs to make
5 all Washington students meet the standards that are
6 reflective in House Bill 1209 and EALR's, correct?

7 A. Correct.

8 Q. And you want the court to order the state to
9 do that promptly.

10 A. Yes.

11 Q. And you don't have any particular time frame
12 in mind, just promptly is what you want.

13 A. Yes.

14 Q. And as far as you know, all the petitioners,
15 NEWS, the McClearys, the Venemas wants the remedy you
16 described.

17 A. More than that, as I recall.

18 Q. At least the remedies you describe.

19 A. Yes, at least that.

20 Q. Could you turn to tab three, the cover page
21 in Exhibit 689 --

22 A. Yes.

23 Q. -- where the 2008-2009 WASL results are.

24 A. Yes.

25 Q. When Mr. Ahearne asked you questions about

1 this document you indicated dissatisfaction with the
2 WASL performance.

3 A. Yes.

4 Q. You found it unsatisfactory?

5 A. Yes.

6 Q. More than unsatisfactory? You feel more
7 strongly about that?

8 A. I feel it's unacceptable.

9 Q. All right. So it's unacceptable that 77.7
10 percent of the 10th graders passed the reading?

11 A. Well, it's not as unacceptable as the fact
12 that 41.5 percent passed math. But it is still
13 unacceptable because that means about 20 percent of my
14 10th graders did not pass and, therefore, are not in
15 the position to take those junior and senior classes.
16 So that's what I'm referring to there, Mr. Clark.

17 Q. All right. So what's unacceptable to you is
18 the failure rate, not the passing rate.

19 A. Well, one in the same, I think.

20 Q. Okay. You find the writing result of 10th
21 grade of 89.1 percent to be unacceptable?

22 A. Not as unacceptable, but I. --

23 Q. Do you find -- I'm sorry. I --

24 A. Well, what I'm saying is it's not as
25 unacceptable as some of the other results I see, but I

1 want to see all of our children write in 10th grade at
2 10th grade level. Yes, that's acceptable.

3 Q. So nothing less --

4 A. I believe we can do that, Bill, as I shared
5 with you.

6 Q. Okay. Nothing less than 100 percent in these
7 WASL exams, 100 percent passing rate would be
8 acceptable to you, correct?

9 A. We can do it. We can get our kids to those
10 standards, yes.

11 Q. All right. You believe that the state should
12 provide funding to your district to ensure that all
13 your students get 100 percent passing rate on the
14 WASL.

15 A. That all of our students need those knowledge
16 and skills that allow them to participate in a
17 democratic society. I only have -- there's only two
18 tests here. There's a lot of other areas that aren't
19 tested, so I'm going to say what's responsible -- the
20 state's responsible for is providing ample provisions
21 for all of those areas, not the nine Essential Academic
22 Learning Requirements, not just the two that you've
23 pointed out, so, yes.

24 Q. You believe it's the state's obligation to
25 provide you with whatever funding it takes to get all

1 your students to pass the WASL 100 percent, correct?

2 A. Yes.

3 Q. You believe it's the state's obligation to
4 provide the Chimacum School District with enough state
5 funding so that 100 percent of its classes graduate on
6 time, correct?

7 A. Yes.

8 Q. Let me ask you this. Have you ever studied
9 or analyzed the amount of money it would take to make
10 sure that every student in your district, 100 percent
11 of them, pass the WASL?

12 A. No.

13 Q. Have you ever conducted such a study or
14 analysis to determine what it would cost to make sure
15 that 100 percent of your students graduate every year?

16 A. No.

17 Q. Has Mr. Clark, your CFO --

18 A. No.

19 Q. -- the one that has --

20 A. No.

21 Q. -- has he done any such analysis?

22 A. No.

23 Q. On 689, under student demographics, the first
24 page of Exhibit 689, it indicates that in the '07-'08
25 year, your students had an on-time graduation rate of

1 81.7 percent, correct?

2 A. '07-'08.

3 Q. Are we lost?

4 A. Yeah, I have to find '07-'08.

5 Q. Yeah. I can clarify that for you, I think,
6 Mr. Blair.

7 If you look at the first page of tab
8 three, the one with reading, math, writing, WASL result
9 graphs.

10 A. Right.

11 Q. On the right there's a student demographics
12 chart?

13 A. But this is for '08-'09.

14 Q. I realize it's a report card, but hang with
15 me.

16 A. I'm sorry. Okay.

17 Q. If you drift down the student demographics
18 column, you see other information.

19 A. I see where you are now, yes.

20 Q. So it's a report card for '08-'09 but the
21 graduation statistics were for the previous school
22 year.

23 A. Right, '07-'08.

24 Q. Okay. And that indicates that for '07-'08,
25 on-time graduation in the Chimacum School District was

1 81.7 percent.

2 A. Correct.

3 Q. And on-time graduation means that they start
4 as a freshman, they go four years, and they graduate
5 with their peers, correct?

6 A. Yes, correct.

7 Q. Extended may take a bit longer than that
8 process.

9 A. Yes.

10 Q. Your extended graduation rate for the '07-'08
11 year is 83.4 percent.

12 A. Yes.

13 Q. And consider both those figures to be
14 unacceptable?

15 A. Yes.

16 Q. I see under teacher information on this
17 document, cover page for 2008-2009, it indicates
18 classroom teachers of 64, correct?

19 A. Yes.

20 Q. It indicates that the average years of
21 teacher experience 14.4 years, correct?

22 A. Correct.

23 Q. It indicates further down that the percent of
24 classes taught by teachers meeting NCLB highly
25 qualified definition, is 99.3 percent.

1 A. Yes.

2 Q. Do you understand what the NCLB highly
3 qualified definition is a reference to?

4 A. Yes. This is referencing No Child Left
5 Behind requirements.

6 Q. Those are federal law requirements, right?

7 A. Federal law requirements, yes.

8 Q. And this would indicate --

9 A. We report to the federal folks on that one.

10 Q. And this would indicate that nearly 100
11 percent of your teachers meet those federal
12 requirements.

13 A. Yes.

14 Q. If we look at the financial data information
15 at the bottom right, on the first page, of tab three of
16 Exhibit 689, it says total revenues of 9793?

17 A. Yes.

18 Q. That's total revenues per student, correct?

19 A. Correct.

20 Q. And if we flip the page over, we see total
21 expenditures of 9539, correct?

22 A. Yes.

23 Q. And that's expenditures per student.

24 A. Correct.

25 Q. So for the -- and the financial data relates

1 to the prior year, 2007-2008, correct?

2 A. Yes.

3 Q. For that year, your total revenue exceeded
4 the total revenues in your district, correct?

5 A. Yes.

6 Q. And I see under total expenditures that
7 teaching represents 64 percent of --

8 A. Yes.

9 Q. -- the cost per student of providing
10 education in your district, correct?

11 A. Yes.

12 MR. CLARK: I'd like to give the witness,
13 Your Honor, Exhibit 1183.

14 THE WITNESS: Thank you. You say 1183?

15 MR. CLARK: Yes. 1183.

16 THE WITNESS: I'm there.

17 BY MR. CLARK:

18 Q. All right. You've seen this document before,
19 haven't you?

20 A. Yes.

21 Q. Okay. We discussed it in your deposition in
22 July, did we not?

23 A. Correct.

24 Q. Okay. And it's on OSPI stationery. It's a
25 two-page printout of the document or a copy of a

1 document, and it refers to the Washington State Basic
2 Education Funding Coalition?

3 A. Yes.

4 Q. Are you familiar with that organization?

5 A. Somewhat.

6 Q. And is WASA a member of that organization?

7 A. Yes.

8 Q. Is the Washington Education Association also
9 a member?

10 A. Yes.

11 Q. Is the Washington School Directors
12 Association a member of that coalition?

13 A. Yes.

14 Q. Are the Public School Employees Group a
15 member of that coalition?

16 A. I believe so, yes.

17 Q. And is OSPI a member of that coalition?

18 A. That I'm not sure of.

19 Q. OSPI stands for the Office of Superintendent
20 of Public Instruction?

21 A. Right, it does.

22 Q. Okay. It's a state agency?

23 A. Yes.

24 MR. CLARK: Now, I don't think there's any
25 objection to this document, Your Honor. Your Honor, we

1 would offer it at this time?

2 THE COURT: 1183 is offered.

3 MR. EMCH: No objection, Your Honor.

4 THE COURT: 1183 is admitted.

5 EXHIBIT ADMITTED

6 BY MR. CLARK:

7 Q. Now, underneath the heading of the Washington
8 State Basic Education Funding Coalition, it says, The
9 following are those people or organizations in support
10 of Engrossed Substitute House Bill 2261.

11 Do you see that?

12 A. Yes.

13 Q. Now, again, you spoke somewhat about 2261
14 yesterday.

15 A. Yes.

16 Q. And you called it a good start.

17 A. A first step, yes.

18 Q. First step. You felt it contained
19 promises --

20 A. Yes.

21 Q. -- correct? And I believe you used the
22 reference about it being a carrot on a stick or a
23 carrot or something like that, correct?

24 A. Yes.

25 Q. Okay. But you weren't entirely satisfied

1 with 2261 --

2 A. Correct.

3 Q. -- I take it. Have you read 2261?

4 A. Most parts of it, yes.

5 Q. Okay.

6 A. Primarily the prototypical model, the fact
7 that there's some committees that are going to go out
8 and evaluate the funding models. I like that part that
9 I read. I think there is some talk about -- I believe
10 I'm -- I'm not sure this is still in 2261, but at one
11 time there was talk about full-day kindergarten. It
12 may still be in there, so I remember reading about
13 that. I remember reading about a concept known as core
14 24.

15 So those are the highlights that I
16 remember reading about.

17 Q. Do you have any problem with core 24?

18 A. I really don't know what that means.

19 Q. You don't know if that means requiring 24
20 credits for seniors to graduate from high school?

21 A. What I think they referred to in the bill was
22 that they would implement core 24 when funding is
23 available, and there was no funding with it, so I -- to
24 be honest with you, I didn't pay a whole lot of
25 attention to it since there was no funding with it. I

1 haven't studied it that much.

2 Q. Okay. You haven't studied it that much.

3 When was the last time you looked at it?

4 A. I would say three months ago.

5 Q. Okay. Now, when you spoke to me as a
6 representative of NEWS in deposition, you indicated
7 that NEWS neither supports nor opposes 2261, correct?

8 A. Correct.

9 Q. And is that still the case today?

10 A. Correct.

11 Q. So if the State of Washington goes ahead and
12 carries out 2261, you have no objection to that?

13 A. I have no objection to the state carrying
14 that out.

15 Q. It's true, is it not, with reference to
16 Exhibit 1183 that a number of the organizations that
17 are listed here as supporters of 2261 are members of
18 the NEWS Coalition, correct?

19 A. Correct.

20 Q. For example, Auburn supports 2261, and it's
21 listed on this document, correct?

22 A. I'm not sure what you mean by Auburn. The
23 Auburn superintendent does, yes.

24 Q. All right. Okay. The superintendent of
25 Auburn is the superintendent of the Auburn School

1 District, correct?

2 A. Correct.

3 Q. And the Auburn School District is a member of
4 NEWS.

5 A. Yes.

6 Q. Bellevue is also a member of NEWS.

7 A. Yes.

8 Q. And its school board endorses 2261.

9 A. Yes.

10 Q. Bethel is a member of NEWS, is it not?

11 A. You know, I'll say -- I believe it is.

12 There's a lot of members. I'm having trouble
13 remembering them all, but I believe Bethel is.

14 Q. Well, you can only tell me what you can tell
15 me, Mr. Blair. I understand.

16 A. Okay.

17 Q. The Bethel superintendent, Mr. Siegel,
18 supports 2261, correct?

19 A. Yes.

20 Q. Clover Park is a member of NEWS, is it not?

21 A. Yes.

22 Q. Clover Park is a focus district in this case,
23 is it not?

24 A. I believe it is.

25 Q. And the Clover Park superintendent, Deborah

1 LeBeau supports 2261.

2 A. Yes.

3 Q. Okay. Is Federal Way a member --

4 A. Yes.

5 Q. -- of NEWS?

6 Federal Way superintendent Mr. Murphy

7 supports 2261?

8 A. Yes.

9 Q. Is Kent a member of NEWS?

10 A. Yes.

11 Q. I see the Kent school board endorses 2261.

12 A. And along with the superintendent, yes.

13 Q. Along with the Kent superintendent, yes.

14 Is Northshore a member of NEWS?

15 A. Yes.

16 Q. And the Northshore school board supports 2261

17 along with its superintendent, correct?

18 A. Yes.

19 Q. Okay. Is the Peninsula School District a

20 member of NEWS.

21 A. Yes.

22 Q. And I see that the Peninsula superintendent

23 supports 2261.

24 A. Yes.

25 Q. Puyallup is a member of NEWS.

1 A. Yes.

2 Q. And its superintendent supports 2261,
3 correct?

4 A. Correct.

5 Q. Seattle is a member of NEWS, is it not?

6 A. Yes.

7 Q. The Seattle school board and its
8 superintendent support 2261, correct?

9 A. Yes.

10 Q. Snoqualmie, Steilacoom, Sumner, and Spokane,
11 they're all NEWS members, are they not?

12 A. I believe so.

13 Q. And the superintendents or school boards of
14 each of those four districts supports 2261, correct?

15 A. Yes.

16 Q. Vashon Island, is that a member of NEWS?

17 A. I believe so. Yes.

18 Q. And its superintendent supports 2261,
19 correct?

20 A. Yes.

21 Q. Is the state PTA a member of NEWS?

22 A. Washington State PTA is a long-standing
23 member of NEWS, yes.

24 Q. And it's on this document as well.

25 A. Yes.

1 Q. NEWS does not have its own proposal for how
2 to fix the funding situation with Washington K-12
3 schools, correct?

4 A. Correct.

5 Q. NEWS does not have any proposal, for example,
6 as to how the state should identify stable and regular
7 funding sources for K-12 education, correct?

8 A. Correct.

9 Q. NEWS believes that those issues ought to be
10 left up to the state.

11 A. The responsibility of fully funding,
12 providing applicable provisions for all children is
13 left up to the state.

14 Q. You identified a number of photos taken at
15 your school district yesterday. And some of it related
16 to the condition of the grounds.

17 A. Yes.

18 Q. Okay? Are you aware of any Chimacum School
19 District students who have not met standards because of
20 the condition of the grounds?

21 A. No.

22 Q. Are you aware of any students in the Chimacum
23 School District who have not met standards because of a
24 need for meals during the school day?

25 A. Not aware of any, no.

1 Q. Are you aware of any Chimacum School District
2 students who have not met standards because appliances
3 or computers are not running at the schools?

4 A. That would be a concern.

5 Q. Are you aware of any that haven't met
6 standard because of that?

7 A. I'm not aware of any.

8 Q. Okay. You testified yesterday that you
9 believe art education has some importance, correct?

10 A. Correct.

11 Q. One of the photos was of the art room or art
12 rooms?

13 A. Correct.

14 Q. Your district does offer art classes to its
15 students.

16 A. Yes.

17 Q. You testified yesterday about a number of
18 personal life experiences that have taught you many
19 things that you apply as Chimacum superintendent,
20 correct?

21 A. Yes.

22 Q. Do you believe that it is the state's
23 obligation to fund whatever you have found, based upon
24 your personal life experiences, are beneficial to
25 education?

1 A. I believe my personal life experiences give
2 me the experience and the knowledge to recognize what
3 the accountability and responsibility of the state is
4 and, as an agency of the state, what my responsibility
5 and accountability is. And that's based on all of our
6 experiences.

7 Q. All right. Do you believe that the State of
8 Washington has to provide you with whatever funding is
9 necessary based on your personal life experiences to
10 provide an education to students?

11 A. I believe the State of Washington has to
12 provide, again, ample provisions for all children to
13 meet the knowledge and skills to participate in the
14 democratic society, to thrive out there, and
15 marketplace of ideas. And my knowledge of my personal
16 experiences is related to that, Mr. Clark.

17 Q. I understand all that. But do you believe
18 that the state has to provide you with whatever funding
19 is necessary based on your personal life experiences to
20 provide an education in your district?

21 A. Only in how they are related to knowledge and
22 to meet those.

23 Q. Is the answer to my question yes?

24 A. No.

25 Q. You don't believe the state has to provide

1 that level of funding.

2 A. Based on my personal experiences?

3 Q. Yes.

4 A. I believe that the state has to fund those
5 experiences that I have that give me the information
6 that, again, from my experience, what our children need
7 to met those standards. That is the best I can answer
8 on that, I think, though.

9 Q. The answer to my question is a yes or no.

10 A. How it ties in, yes.

11 MR. CLARK: May I have 30 seconds, Your
12 Honor?

13 THE COURT: Of course.

14 (Pause in proceedings.)

15 MR. CLARK: Thank you, Your Honor. Thank you
16 Mr. Blair. No further questions.

17 THE COURT: Thank you, Mr. Clark.

18 And, Mr. Ahearne, redirect examination?

19 MR. AHEARNE: Your Honor, may I proceed?

20 THE COURT: You may.

21 MR. AHEARNE: I'm handing the witness Exhibit
22 375 which is that F-196 financial statement.

23 And, Your Honor, I'm going to try to
24 just go in the same order that Mr. Clark did because,
25 frankly, that's how I kept my notes. So instead of

1 jumping around, I will charge through it that way.

2 THE COURT: Okay. You may proceed counsel.

3 REDIRECT EXAMINATION

4 BY MR. AHEARNE:

5 Q. Mr. Blair, if I can ask you to turn to the
6 cover page of Exhibit 375, the F-196 for the '07-'08
7 school year. Do you have that in front of you?

8 A. Yes, I do.

9 Q. And Mr. Clark asked you some questions about
10 the fund balance -- the ending fund balance lines that
11 are the last lines of dollar figures on that page. Do
12 you see that?

13 A. Yes.

14 Q. And the fund balance total is the \$2.3
15 million amount. Do you see that?

16 A. Yes.

17 Q. The largest chunk of that is under the debt
18 service funding, \$1.6 and \$1.2 million amount. Do you
19 see that?

20 A. Yes.

21 Q. What's the purpose of that amount of money
22 being in the ending fund balance?

23 A. Well, we have to show that as the fund
24 balance of the local bond and the collection of taxes
25 from our local taxpayers and we keep that until we pay

1 that bill just like a home mortgage would and we pay
2 that in December so that is money kept aside.

3 Q. And is it kept aside pursuant to any bond
4 provisions or covenants?

5 A. Yes, we have to keep that aside to pay for
6 our buildings, and the taxpayers pay us and we pay the
7 fund.

8 Q. And then with respect to the general fund,
9 the other large portion of the general fund, \$1 million
10 ending fund balance. Do you see that?

11 A. Yes, 1.1 million.

12 Q. Is there any reason the school district
13 cannot just take that 1 million and spend it to
14 supplement the 12.4 or the 12.7 in resources?

15 Why do you need an ending fund balance,
16 if you do?

17 A. Rainy day fund. We have things happen to us
18 that are emergencies. I mentioned the time we had 60
19 students not show up. We could have a heater blow,
20 which is \$300,000.

21 Also, as you know, the state -- you need
22 a certain amount of money just to meet cash flow. For
23 example, in our district, I'm going to say that's
24 probably right around \$300,000. So if I don't have
25 that in reserve, I would -- and this happened in my

1 last district, you would have to borrow from the county
2 treasurer to make payroll and then you would get your
3 allocation and then you would pay that off.

4 So that's why you keep those funds,
5 emergencies, cash flow. And in this particular area we
6 had a -- that year, why, we ended with 40 more students
7 than we had planned on and we were able to set those
8 dollars aside anticipating possible problems in the
9 future.

10 Q. Moving on. Mr. Clark had asked you some
11 questions about, have you at Chimacum, done any
12 research or studies or hired any consultants or
13 anything to determine the amount of resources you would
14 need to provide kids the education you testified
15 about?

16 You have not done that, have you?

17 A. No, we have not done that.

18 Q. Why have you not done that?

19 A. You know, I'm busy enough as it is. I don't
20 have any money to go out and hire like the state and
21 their studies, and various organizations. You can see
22 my problem. I'm scraping enough money to try to get my
23 kids to standard so I'm not going to go out and do a
24 study to determine this. I'm just not going to set
25 that as a priority.

1 Q. And are you aware of the state -- anyone from
2 the state doing any district by district analysis of
3 how much it would cost to implement certain reforms,
4 district by district?

5 A. Mr. Ahearne, the only one I'm aware of that
6 may have been district by district is the
7 transportation Jaylocks (phonetic). Now, that may have
8 been district by district. But, as I recall, we sent
9 dollar figures into the Jaylocks (phonetic) Commission
10 in 2005, or whatever it was, and that's when they
11 determined they were about \$100 million short, and I
12 assumed that was based on district by district data.
13 That's the only one I'm aware of.

14 Q. Okay. In your responses to Mr. Clark, you
15 said you are hopeful for local funding every year.

16 A. Yes.

17 Q. Why are you hopeful for local funding?

18 A. I need that funding to just get by. If I
19 didn't get that funding, it's catastrophic. Programs
20 are cut, folks are -- kids are hurt. And without 20
21 percent, one out of every \$5 of your budget, you would
22 end up closing some doors.

23 Q. Okay. And, again, trying to move on quickly
24 here. Mr. Clark had asked you some questions about, I
25 believe it's House Bill 1209, where you find provisions

1 sufficiently.

2 Do you recall that generally.

3 A. Right.

4 Q. I just want to make sure the record's clear.

5 The provisions that you testified were sufficient, are

6 those four numbered provisions you were talking about

7 earlier?

8 A. Yes, that's what he asked me about, yes.

9 Q. Mr. Clark had asked you about the alternative

10 school that was opened in Chimacum?

11 A. Yes.

12 Q. And you referred to that as being a local

13 choice?

14 A. Yes.

15 Q. Do you recall that?

16 Why did the Chimacum School District

17 make the choice to open that alternative school?

18 A. Again, in consultation with my board, staff,

19 building staff, teachers, parents, it was determined

20 that this was something that was really needed in our

21 district. We did not have an opportunity for children

22 that had dropped out of school to re-enter the school

23 system and survive and succeed without a place where

24 they could do that. We felt strongly that would be an

25 alternative high school, and we didn't -- there's no

1 money from the state to do that so we used local
2 dollars to get that started.

3 Q. And was the decision -- the local decision to
4 open that alternative school, was that in any way
5 related to the state's educational standards in the
6 Essential Academic Learning Requirements or House Bill
7 1209 or Exhibit 2?

8 A. Yes, it's very much related. All children
9 need an opportunity to get through knowledge and skills
10 including those that have dropped out of school, and
11 they have just as much need and just as much importance
12 as anyone else.

13 Q. In response to Mr. Clark's questions you said
14 that there was local dollars that paid for that
15 alternative school.

16 A. Yes.

17 Q. Why did you use local dollars to pay for that
18 alternative school?

19 A. Again, we felt it was a critical area that
20 was a huge gap in other district. It was important
21 enough to allocate local dollars into that.

22 Q. Okay. Mr. Clark asked you some questions
23 about your buildings and areas that were insufficient.
24 Do you recall that generally?

25 A. Generally I do, yes.

1 Q. Okay. And do you consider the computers that
2 you testified about earlier part of those buildings?

3 A. No. The computers are -- to me, that's why I
4 had a little hesitation when he shared -- when he
5 talked about all our kids meeting standards or not
6 meeting standers, I would be concerned because of our
7 lack of technology. Particularly that ninth standard,
8 Essential Academic Learning Requirement, the states of
9 technology, I would be concerned that our computers are
10 not sufficient.

11 Q. Okay. And this sort of then jumps -- I'll go
12 now out of order to end there, when Mr. Clark had asked
13 you a question along the lines of, are you aware of any
14 individual student who has not met standards because of
15 computer issues.

16 Do you believe, as the Chimacum
17 superintendent, that having up-to-date computers are
18 important to teaching the knowledge and skills of the
19 state's standards?

20 A. Particularly Essential Academic Learning
21 Requirement number nine, and also important for our
22 kids to go out and get jobs and succeed in this 21st
23 century absolutely. Absolutely. Those are knowledge
24 and skills that I shared before. You needed the
25 paperwork or you needed a logging mill, or you needed

1 the hospital. So, yes, computer skills are critical.

2 Q. Okay. Mr. Clark asked you some questions
3 about Dr. Murphy, the state's expert that came
4 through.

5 A. Yes.

6 Q. Did you answer every question Mr. Murphy
7 asked of you?

8 A. Yes.

9 Q. And who do you think knows more about your
10 schools, you or a sight visitor like Dr. Murphy?

11 A. I would hope that I do.

12 Q. Do you have any doubt that you do?

13 A. I have no doubt that I know more than
14 Dr. Murphy knows.

15 Q. Mr. Clark had asked you several questions
16 about the number of students at your school or your
17 district that don't get high school diplomas because of
18 WASL.

19 Do you recall those generally?

20 A. Yes.

21 Q. In Chimacum, does getting a high school
22 diploma mean that the student is equipped with the
23 knowledge and skills that are specified in the
24 Essential Academic Learning Requirements?

25 A. Getting a diploma means he's passed writing,

1 passed reading, passed culminating product. Has
2 presented that to a committee. In our district we
3 require 30 community service hours, and he has earned
4 24 credits.

5 If he's done those things or she has
6 done those things, they earn a diploma. It does not
7 mean necessarily that they have obtained the knowledge
8 and skills that is required of the students to
9 participate in the democratic society. I have concerns
10 about other areas, but they did obtain those five
11 categories.

12 Q. Okay. Does obtaining a diploma in -- high
13 school diploma in Chimacum School District mean that
14 the student has learned the basic knowledge and skills
15 and Essential Academic Learning Requirements?

16 A. No.

17 Q. Does it mean the student has learned the
18 basic knowledge and skills in those four numbered
19 paragraphs of House Bill 1209?

20 A. No.

21 Q. Does it mean the student has learned the
22 basic knowledge and skills that are described in
23 Exhibit 2?

24 A. No.

25 MR. AHEARNE: Mr. Clark, Exhibit 1028.

1 BY MR. AHEARNE:

2 Q. Handing you Exhibit 1028. Mr. Clark had
3 asked you some questions about this exhibit, correct?

4 A. Yes.

5 Q. And turning to what is Bates numbered three
6 at the top.

7 A. Okay.

8 Q. He'd asked you if you'd read the provision
9 that says, We hereby certify that the Board of
10 Directors has been apprised and that Chimacum School
11 District meets all the requirements relating to the
12 minimum requirement of the state basic education
13 programs and that the deviations from these rules and
14 regulations of the Washington State Board of Education
15 are recorded.

16 Do you see that?

17 A. Yes.

18 Q. And when it refers to the minimum
19 requirements of the state education -- state basic
20 education programs, what do you understand that to be
21 referring to?

22 A. That refers to those checkmarks up above
23 the -- an example would be that our kids do go 180 days
24 a year. They attend so many minutes. We adhere to
25 kindergarten minutes and C-time that's required.

1 And this used to be called M808 and we
2 send this into the state board and they certify that.
3 So it's those program funding stipulations.

4 Q. And when you said M808, you mean the form
5 number that's down at the bottom.

6 A. Yes.

7 Q. And the form number now is -- it's currently
8 the -- you can't read it here, but I believe it's the
9 1497?

10 A. Yes, I believe it changed when they started
11 adding the high school --

12 Q. Okay.

13 A. -- portion of it.

14 Q. Okay. I ask you to turn to what's Bates
15 numbered four of the upper right-hand corner.
16 Mr. Clark also read the provision to you that's above
17 that certificate of compliance line.

18 A. Okay.

19 Q. And there's one sentence there that says,
20 Minimum state credits 19 in all subject areas are lined
21 with the high school standard or at a minimum to grades
22 9-12th grade level expectations or state Essential
23 Academic Learning Requirements at benchmark three,
24 parens high school, close parens.

25 You see that?

1 A. Yes. We have aligned our curriculum to the
2 state standards. We had to have that done, as you can
3 see, by 2007 and we followed that and had our
4 curriculum aligned to the state's standards. Staff
5 spent a lot of hours and time and energy on aligning
6 those standards.

7 Q. Okay. And then the next sentence states,
8 District high schools meet all state minimum graduation
9 requirements.

10 Do you see that?

11 A. Yes.

12 Q. What are the state's minimum high school
13 graduation requirements?

14 A. I tried to describe that. I'll do it again.
15 It's changing somewhat and I believe that this coming
16 year, Your Honor, there will be an additional math
17 credit. But, at this time I think the graduation
18 requirements are 19 credits, a culminating project. It
19 may be 20 credits now because of the math. You have to
20 do a culminating project. You have to have what they
21 refer to as a 13th year plan. So you have to have a
22 plan that's documented, written out, that says what
23 you're going to do when you get out of high school.
24 And, of course, you have to pass writing and reading to
25 graduate. You do not have to pass math or science

1 until the year 2013.

2 Q. Okay. And has the 2013 date for the
3 requirement that you pass math, has it always been
4 2013?

5 A. I believe it was extended. I think it was
6 originally 2008 and it was moved out --

7 Q. Okay.

8 A. -- to 2013.

9 Q. Mr. Clark had also asked you some questions
10 about Exhibit 1029, which is a web page printout.

11 A. Yes.

12 Q. And do you have that in front of you?

13 A. Yes, I do.

14 Q. Look at Bates number four. And this may end
15 up being one of those examples if you won't ask a
16 question you don't know the answer to.

17 But can you -- he read a provision under
18 Chimacum High School that says, The high school is
19 recognized for promoting and maintaining a well-
20 balanced education program and from meeting with
21 academic standards considered essential for a quality
22 education.

23 Do you see that?

24 A. Yes.

25 Q. Could you explain what you understand that to

1 mean?

2 A. Yes. High schools go through an
3 accreditation process, and it's not mandatory, but
4 schools choose to do that to take a look at their
5 staffing, to take a look at their libraries, to work
6 with -- used to be colleges. I think there's an
7 association that does this. It's almost a school
8 improvement process that you look at every six years.
9 That's what that is.

10 Q. Does that have any tie or correlation to the
11 states education standards?

12 A. No, it's more related to this association's
13 standards.

14 Q. Okay.

15 A. They probably pull in some as they evaluate
16 your school.

17 Q. Okay. On Bates number 6 of this exhibit,
18 that the state's introduced, in bold face again, it
19 says, America's future is in our schools today.

20 Do you see that?

21 A. Yes.

22 Q. Why does the school district put that in
23 there?

24 A. We've had that -- it was before I came to the
25 school district, so it's been there for a number of

1 years, and it is our belief that not only American's
2 future but the State of Washington and many of our
3 future is with the children that we are trying to
4 educate, trying to get to those standards, trying to
5 bring forth healthy vibrant participants, energetic
6 young people. They are our future.

7 So the State of Washington's future is
8 in the children of our state.

9 Q. Okay. Mr. Clark -- I'm trying to just go as
10 quickly as I can through here.

11 Mr. Clark had asked some questions about
12 how Chimacum spends -- or pays teachers supplemental
13 pay and TRI pay, correct?

14 A. Yes.

15 Q. And that he referred to the state salary
16 schedule --

17 A. Yes.

18 Q. -- on that?

19 Okay. If I can ask you to turn to,
20 please, Exhibit 1031, which would be in that same book,
21 I think.

22 A. Oh, is it? You're right. Okay.

23 Q. And if I can ask you to turn to Bates number
24 56. That's the page in the upper right-hand corner.

25 A. Got it.

1 Q. And there's a salary schedule that Mr. Clark
2 asked you about?

3 A. Yes.

4 Q. Is that the state's salary schedule?

5 A. Yes.

6 Q. And this is what you've also sometimes
7 referred to as part of that program funding formula?

8 A. Yes.

9 Q. Can Chimacum School District hire and retain
10 competent teachers and staff if all it pays is the
11 salary on the state funding schedule?

12 A. We believe that we need to be competitive
13 with surrounding school districts. And, in that
14 setting, to retain and recruit folks. We know that
15 they look at those supplemental contracts, so we do
16 address that at the bargaining table.

17 Q. And as the superintendent of Chimacum School
18 District, do you believe the district can hire and
19 retain competent teachers if the only salary that was
20 paid was the salary in the state's salary schedule?

21 A. No.

22 MR. CLARK: This has been asked and answered.

23 MR. AHEARNE: Mr. Clark --

24 THE COURT: Overruled on the asked and
25 answered.

1 MR. AHEARNE: Thank you, Your Honor.

2 BY MR. AHEARNE:

3 Q. Mr. Clark had asked you some questions about
4 keeping your teachers and how you had 70 and you're
5 down to approximately 60; is that correct?

6 A. As best I can recall.

7 Q. And those --

8 A. Over a three, four year period, correct.

9 Q. All right. Going from 70 to 60, was that the
10 firing or just attrition?

11 A. There were some people that I had to fire,
12 and there were some people that retired. There was
13 some folks that didn't retire but they changed careers
14 or changed jobs, or a couple folks went overseas, but,
15 yes. A little bit of everything.

16 Q. And the people you fired, did you fire them
17 because they are incompetent -- or why did you fire
18 them generally?

19 A. A couple because of issues and a couple
20 because it was a reduction in force.

21 Q. And as the current staff you have the
22 approximately 60 that Mr. Clark was asking you about?

23 A. Yes.

24 Q. And as the superintendent of the Chimacum
25 School District, do you believe that you can -- you

1 could retain those teachers if the only salary you paid
2 was what's on the state salary schedule?

3 A. No.

4 Q. Mr. Clark also handed you a statute and asked
5 you to read it.

6 A. Yes.

7 Q. I believe a copy is up there?

8 A. Right.

9 Q. And the statute he asked to you read was RCW
10 28A.400.200. Do you see that?

11 A. Yes

12 Q. And he then in sub parens four, he'd asked
13 you some questions about a sentence that says, No
14 district may enter into a supplemental contract under
15 this subsection. The provision of services, which are
16 part of the basic education program, required by
17 Article IX, Section 3 of the State Constitution.

18 Do you see that?

19 A. Yes.

20 Q. And you answered some questions of his on
21 that, right?

22 A. I did.

23 Q. And what do you understand the basic
24 education program required by Article IX, Section 3 to
25 be?

1 A. Those are those math calculations, so many
2 teachers per 1,000. So many classified per 1,000.
3 Those are the provisions that they speak to here.

4 Q. Okay. And then he also asked you some
5 questions about a sentence a little earlier that says,
6 The supplemental contract shall not cause the state to
7 incur any present or future funding obligation.

8 Do you see that?

9 A. Yes.

10 Q. Since he has asked you questions about
11 statutes, I'll ask you one as well.

12 Do you believe that the statute can
13 override the Constitution?

14 MR. CLARK: Well, Your Honor --

15 THE WITNESS: I don't believe I can --

16 MR. CLARK: Calls for a legal conclusion.

17 THE COURT: Counsel, that is a legal
18 conclusion.

19 BY MR. AHEARNE:

20 Q. Do you have any understanding one way or the
21 other based on your civics courses and --

22 A. My understanding is that the --

23 MR. CLARK: Wait a minute, Your Honor. It's
24 the same question, isn't it? I mean, it's calling for
25 a legal conclusion.

1 THE COURT: Well, I'm not sure of the
2 relevance of his understanding of a statute.

3 MR. AHEARNE: I'll withdraw the question,
4 Your Honor.

5 THE COURT: Thank you, counsel.

6 BY MR. AHEARNE:

7 Q. Mr. Clark had asked you some questions
8 regarding the state funding ratios and number of
9 staff.

10 Do you recall those?

11 A. Yes.

12 Q. And were those funding ratios and staff
13 numbers part of the program funding formulas you were
14 talking about?

15 A. Yes, they are.

16 Q. And Mr. Clark had, if my notes are correct,
17 you had in response to his question said Chimacum hires
18 more staff than are provided in those program funding
19 formulas?

20 A. Yes, I did respond in that way.

21 Q. And why did Chimacum hire more staff than the
22 state's program funding formula is providing?

23 A. Well, we're not able to do the job we have to
24 do to keep our buildings running, to teach our
25 children, provide whatever we can with what we scrape

1 together.

2 Q. Okay.

3 A. Do the job.

4 Q. Mr. Clark had asked you some questions about
5 the superintendent pay --

6 A. Yes, he did

7 Q. -- in Chimacum.

8 A. Yes, he did.

9 Q. And your response was that the -- what is --

10 MR. CLARK: I'm sorry. I object as leading.
11 Objection.

12 BY MR. AHEARNE:

13 Q. What is the state's fund with respect to the
14 superintendent's salary in Chimacum?

15 A. What is the state's fund --

16 Q. Yes.

17 A. -- with respect to that?

18 Yeah, like I said, it's probably 56,
19 \$59,000 for certificated administrators.

20 Q. And could Chimacum hire and retain a
21 competent superintendent for that 56 to \$59,000 amount?

22 A. I would say no.

23 Q. Mr. Clark had asked you several questions
24 about trial Exhibit 689, which is that book of the
25 report cards.

1 A. Yes.

2 Q. And just as a technical matter, he led with
3 that -- with some statements you made in your
4 deposition, correct?

5 A. Yes, uh-huh.

6 Q. And that deposition actually occurred before
7 the '08-'09 numbers came out, right?

8 A. Yes.

9 Q. Would your answers be generally the same?

10 A. Yes, they would be.

11 Q. Okay.

12 A. Yes.

13 Q. And he asked you some questions about the
14 WASL passage, and is it your --

15 A. Acceptable.

16 Q. Were these acceptable?

17 A. Yes.

18 Q. And your thoughts on how many kids should
19 pass the WASL, right?

20 A. Yes.

21 Q. And is it your -- do you have an
22 understanding as to whether -- what standards the WASL
23 measures against?

24 A. Yes. They measure the Essential Academic
25 Learning Requirements and the four standards as set

1 forth in the House Bill 1209. They were developed for
2 that purpose.

3 Q. And do you, as school superintendent,
4 consider those to be minimum standards?

5 A. Yes. I call them minimum. For example, Your
6 Honor, there's a standard that says read with
7 comprehension. I mean, I just can't imagine putting
8 students out in the world that can't read with
9 comprehension, so, yes, there are minimal standards.

10 Q. Okay. Mr. Clark had also on that same -- the
11 report card that the state publishes on your school
12 district, noted the highly qualified definition and how
13 99 plus the percent plus of your teachers are highly
14 qualified under the mickelfy (phonetic) definition?

15 A. Yes.

16 Q. Do you know what it takes to be a, quote,
17 highly qualified, close quote, instructor?

18 A. Not entirely. My personnel department makes
19 that determination when looking over their personnel
20 files. But, basically, it's certification. Most of
21 our teachers that are hired in this state are highly
22 qualified because of their certification. And that's
23 their teaching in their core subject area. That's
24 primarily it.

25 Q. Since Mr. Clark brought up the federal

1 mickelfy (phonetic) highly qualified definition and how
2 you fair into that.

3 How does Chimacum School District fair
4 under the AYP provisions of the federal law?

5 A. We're measured every year on progress, on
6 annual yearly progress, and two years ago, we failed in
7 math at my middle school, high school and elementary
8 school. This last year we, again, failed at math in my
9 middle school, my high school and my elementary
10 school. So we are now on step one. We are in failure.

11 THE COURT: Counsel, what is AYP, please?

12 THE WITNESS: Annual yearly progress.

13 THE COURT: Thank you.

14 THE WITNESS: I'm sorry.

15 BY MR. AHEARNE:

16 Q. Mr. Blair, could you explain briefly what AYP
17 is in the Annual Yearly Progress Program?

18 A. Yes. The No Child Left Behind legislation
19 that came out basically is stipulated to schools across
20 the country, including Washington, that by the year
21 2014 that 100 percent of those students will show --
22 will pass the standards established by the state. And
23 then along the way, there are stair steps to that. And
24 as the tests of the WASL came out -- and this is just
25 for reading and math. That's the only thing that's

1 measured under No Child Left Behind. So every year
2 we're tested by the WASL in reading and math. And then
3 there's a stair step requirement.

4 So, if you drop below that as we move to
5 2014, you're considered not making annual yearly
6 progress. And you're classified as a non-AYP school.
7 Once you're not successful two years in a row, you
8 enter the first step of annual yearly -- of not making
9 annual yearly progress, which means you have to set
10 aside some dollars from your Title One program to
11 facilitate a child going to another school, tutorial
12 services, things like that. And then there's steps
13 every year up to, I believe, step six, which I haven't
14 looked at it lately to see what's involved there, but
15 that's the No Child Left Behind legislation.

16 THE COURT: Mr. Ahearne, we're at the noon
17 hour.

18 MR. AHEARNE: I'm just about to switch
19 topics. I've got -- I'll be probably about five
20 minutes more. I'm happy to stop now and come back.

21 THE COURT: Let's recess now. We'd like to
22 keep to our regular recesses. We've got the lower
23 bench also that I want to respect their time in
24 recess.

25 So we'll take a recess now for an hour

1 and a half and resume at 1:30 p.m.

2 Court is at recess.

3 MR. AHEARNE: Thank you, Your Honor.

4 (Noon recess.)

5 --oOo--

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1 SEATTLE, WASHINGTON

2 TUESDAY, SEPTEMBER 1, 2009

3 AFTERNOON SESSION - 1:30 P.M.

4 --oOo--

5 THE COURT: Good afternoon. Please be
6 seated.

7 Mr. Blair, if you'd like to retake the
8 stand.

9 THE WITNESS: Okay.

10 THE COURT: Any preliminary matters before we
11 continue redirect?

12 MR. AHEARNE: Not that I'm aware of, Your
13 Honor.

14 THE COURT: Mr. Clark, anything?

15 MR. CLARK: Not that I'm aware of, Your
16 Honor.

17 THE COURT: Okay. Very good.

18 BY MR. AHEARNE:

19 Q. Mr. Blair, if I can ask you to please look at
20 Exhibit 1183, please.

21 A. I'm there, yes.

22 Q. Do you have Exhibit 1183 in front of you?
23 This is one of the exhibits that Mr. Clark had asked
24 you some questions about.

25 A. Yes.

1 Q. Do you know the date on this document?

2 A. No, I do not know the date.

3 Q. Do you know if this is from before or after
4 House Bill 2261 passed?

5 A. No.

6 Q. Do you know if this is before or after the
7 final amendments were made to the House Bill 2261?

8 A. No.

9 Q. Do you know if this is before or after the
10 governor vetoed certain sections out of 2261?

11 A. No.

12 Q. Do you know whether this is before or --
13 strike that. Do you know if this is with or without
14 the early learning portions in 2261?

15 A. No.

16 Q. But in your answers to Mr. Clark, you'd
17 mentioned when funds become available with respect to
18 part of 2261.

19 Do you recall that?

20 A. Yes, I do.

21 Q. Could you explain what you were referring to
22 by when funds become available?

23 A. Well, what I'm referring to there is House
24 Bill 2261 is a stipulation or an edict (phonetic) for
25 work study groups, study groups, work groups to go out

1 and evaluate the various funding mechanisms and then
2 bring back proposals to the state regarding funding,
3 and if it continued that process and those proposals
4 led to funding, when that became available then that's
5 what I'm referring to.

6 Q. And does 2261 provide funding for the
7 Chimacum School District for education this coming
8 year?

9 A. No.

10 Q. Does 2261 provide Chimacum funding for
11 education in any year?

12 A. No.

13 MR. AHEARNE: Thank you.

14 (Pause in proceedings.)

15 THE COURT: Mr. Clark, do you have any
16 recross?

17 MR. CLARK: Yes, Your Honor, very briefly.

18 RECCROSS-EXAMINATION

19 BY MR. CLARK:

20 Q. Mr. Blair, you mentioned the situation within
21 your year-in progress that's going on in your district
22 now. And I wanted to ask you a few follow-up questions
23 about the situation you described in redirect
24 examination.

25 Have you sought any assistance from the

1 state with regard to the annual yearly progress issues
2 you've described on redirect?

3 A. The assistance we receive from the state is
4 through their -- through SPS website when it deals with
5 school improvement planning. We use some of the
6 state's consultants to help us with student
7 achievement, student learning, those kinds of things.

8 Q. So the Office of Superintendent of Public
9 Instruction, state agency, is helping the Chimacum
10 School District with regard to the AYP situation you
11 described.

12 A. Through it's website primarily, yes.

13 Q. You mentioned that a high school diploma in
14 your district doesn't necessarily mean that the student
15 has mastered all of the Essential Academic Learning
16 Requirements?

17 A. Yes.

18 Q. But you mentioned that they have to take a
19 certain amount of credits in order to graduate from
20 high school; is that correct?

21 A. Yes, that's correct.

22 Q. And those credits do include courses that
23 develop skills in reading, don't they?

24 A. Yes.

25 Q. And those credits they have to earn in high

1 school do develop skills that relate to math, do they
2 not?

3 A. Yes.

4 Q. And those credits that they have to earn in
5 high school do develop skills as they relate to science
6 and writing, do they not?

7 A. Yes.

8 MR. CLARK: No further questions, Your
9 Honor.

10 THE COURT: Mr. Ahearne, your witness.

11 MR. AHEARNE: Your Honor, one question.

12 FURTHER REDIRECT EXAMINATION

13 BY MR. AHEARNE:

14 Q. To get a credit in the Chimacum School
15 District, what grade do you have to have to pass?

16 A. A D.

17 MR. AHEARNE: Thank you.

18 THE COURT: All right. Anything further from
19 counsel?

20 MR. CLARK: Nothing further.

21 MR. AHEARNE: Nothing further, Your Honor.

22 THE COURT: Okay. I have a few questions,
23 Mr. Blair before you run off the stand.

24 THE WITNESS: Okay.

25 EXAMINATION BY THE COURT

1 Q. Do you have 1031 available?

2 A. I don't.

3 Q. 1031 not there?

4 (Pause in proceedings.)

5 A. I'm there.

6 Q. All right. If you would turn to page 54,
7 which is the Bates 56.

8 A. Okay.

9 Q. All right. I'm trying to determine how the
10 school district gets funding and whether -- is it per
11 student allocation that you get?

12 A. There is sort of several formulas. One is
13 per student.

14 Q. Okay.

15 A. One is a staff allocation per student. So,
16 for example, I'll do the easiest one for me.

17 We get funding for four administrators
18 per 1,000 students. The same is true for classified
19 staff. I believe that's 49 per 1,000 -- but don't
20 quote me on those numbers at this point. And then we
21 get so many teachers per 1,000. Let's say 54.

22 And the funding allocation that I shared
23 with you before. So when it says four administrators
24 for 1,000 kids -- and we have about 1,000 kids, so that
25 would be \$56,000 per administrator allocation times

1 four. That's what we would receive based on that
2 allocation model.

3 Q. All right. So this talks about per certified
4 instructional staff, which I assume is certificated
5 instructional staff.

6 A. That's correct.

7 Q. Which I assume means teachers.

8 A. Yes, sir.

9 Q. All right. So depending upon the number of
10 students it would be determined how many of the
11 certificated instructional staff you got.

12 A. Yes.

13 Q. All right. And then does the state
14 compensate you based upon the level of achievement of
15 the teachers?

16 A. They basically compensate on this salary
17 schedule here.

18 Q. Right.

19 A. So they would allocate out my staff and they
20 take the experience of my staff --

21 Q. Right.

22 A. -- and they would allocate. You have 50
23 teachers at this grade level -- excuse me, with this
24 experience and with this number of years in the system.

25 Q. Okay.

1 A. That's how they calculate it.

2 Q. All right. So if you had 10 teachers with
3 masters and 45 points with 10 years experience, you
4 would get 52,580 dollars --

5 A. That's correct.

6 Q. -- times 10.

7 A. That's correct.

8 Q. What about benefits, social security, FICA,
9 all of that?

10 A. Okay. We get some funding from the state
11 regarding benefits. For example, I'll take the one
12 that we're -- is the hot item right now, health care.
13 I'll take myself and certificated folks.

14 So the state provides an allocation that
15 is a benefit and they determine that every year, and
16 that changes a little bit. So, for example, health
17 care. The benefit now that we receive from the state
18 is around \$700. So for every allocated teacher, we'll
19 get a benefit of \$700 for health care. For retirement
20 benefits, we get a benefit that we both match, so the
21 district matches, the state provides funding for that
22 up to those allocated numbers for retirement benefits
23 and then the employees put money in retirement.

24 Q. Is that PERS or --

25 A. Yeah, that's CERS for us, yes.

1 Q. All right.

2 A. Right.

3 Q. Okay. What about social security and FICA
4 and those?

5 A. Yes. We pay social security and they -- the
6 state provides funding with those allocated teachers
7 for social security and FICA. So we -- the employee,
8 just like all social security, the employee makes a
9 contribution and the employer makes a contribution, and
10 it's passing money from the state for those allocated
11 teachers.

12 Q. All right. So if my calculations are
13 correct, and my math teacher taught me properly -- \$5.5
14 million with 60 teachers, there's just an average of
15 just over \$90,000?

16 A. Yes, with benefits. If I'm going to -- in my
17 mind think about, well, I'm going to hire a teacher to
18 do something and I'm at the -- I'm looking around
19 \$90,000, 80 to \$90,000. At the low end of the scale,
20 that would be less this number here. But generally if
21 a teacher's in the middle with a masters making 55,000,
22 50,000 a year benefits would be 80 to 90,000. With
23 benefits 80 to 90.

24 Classified now is a very similar
25 funding, very similar benefits, everything is very

1 similar to the certificated teachers.

2 Q. You mentioned this with regard to Exhibit
3 1029 -- which you don't need to look at. I'm sure
4 you'll remember it. It was the Chimacum School
5 District website.

6 You had responded the high schools don't
7 do any voluntary or non-mandatory accreditation
8 process.

9 A. Yes.

10 Q. Which organization is that, or association?

11 A. I believe it's the Northwest Colleges I think
12 it's who does that. Now, that's -- I wasn't involved
13 the last time, but it's the Northwest College
14 Association, something like that. It's an independent
15 group of college professors, of superintendents, of
16 teachers that gather together and go out and do
17 accreditations of high schools. It's not a state
18 agency.

19 Q. All right. Then you also mentioned an
20 alignment with regard to 1028, which is the minimum
21 basic education requirement compliance certificates
22 that go to OSPI, I think the State Board of Education?

23 A. Right. State Board of Education.

24 Q. That you aligned the district standards to
25 the state standards.

1 A. We aligned the district curriculum to the
2 state standards.

3 Q. And then you mentioned 19 credits, maybe 20
4 culminating project, 13-year plan, writing and
5 reading.

6 And my question is, is that the state
7 standard, the five items I just mentioned?

8 A. Yes, that's the state standard.

9 Q. Okay. And where's that set forth?

10 A. That's in law. I mean, it is put in law.
11 It's a law we have to follow.

12 Q. A law as in a regulation or as in a statute,
13 or do you know what the source of that is?

14 A. I believe it's in statute.

15 Q. Okay. All right.

16 A. The only difference Chimacum would have, Your
17 Honor, from those state requirements that's in statute,
18 I believe, is that we require 24 credits to graduate.

19 Q. Okay.

20 A. The state is either 19 or 20.

21 Q. Okay. And 24 is the goal under the new bill?

22 A. Yes, it is.

23 Q. Oh, you mentioned supplemental contracts with
24 outside academic competitions.

25 A. Yes.

1 Q. Does Chimacum have classes like IV classes or
2 AP classes?

3 A. Yes.

4 Q. And is that supplemented or not?

5 A. No.

6 Q. That's not supplemental?

7 A. Pardon me? The AP class itself that's taught
8 during the day is not supplemental. We do provide a
9 supplemental contract to our AP teachers so that they
10 can stay abreast of the requirements of the AP exam.

11 Q. Okay.

12 A. Their curriculum changes so they have
13 on-going demands of the AP program. They change their
14 curriculum. So, for example, our AP biology class,
15 that teacher has to stay abreast of those
16 requirements. We do pay a supplemental for that.

17 We want to offer AP. So the teacher
18 could be part of the allocation, but to teach AP, we do
19 provide a supplemental contract for that teacher to
20 continue to work on preparing for AP.

21 Q. So, in other words, is that essentially paid
22 training --

23 A. Yes.

24 Q. -- that you're talking about?

25 A. Essentially.

1 Q. Okay. Are any of the teachers -- other than
2 your AP teachers, are any of them compensated for
3 continuing teaching education?

4 A. Well, what we do is we have professional
5 development days and they're compensated for those. In
6 our district, we have six of them.

7 Q. Okay.

8 A. The state provides one and so that's called
9 the Learning Improvement Day. You'll hear the term
10 LID, and so there used to be three LIDs and now there's
11 one, and the state provides the funding for that one
12 and then we provided six days of professional
13 development for our teachers.

14 THE COURT: Okay. Well, I may have one more
15 question, perhaps this is the most important question I
16 have. Which is, when you were with the Red Socks, were
17 you pitching for the Pawtucket Pods?

18 THE WITNESS: Yeah, I actually pitched for
19 the Winterhaven -- what were they called, Judy? The
20 Winterhaven -- Winterhawks.

21 THE COURT: All right.

22 THE WITNESS: All right. And I can tell you
23 that when I left the Red Socks organization, because in
24 that era, they could not repair a torn rotator cuff and
25 they sent me packing, Your Honor, just like I assume

1 you're going to do now.

2 THE COURT: No, actually, I give counsel an
3 opportunity to follow up on the court's questions,
4 so --

5 THE WITNESS: Oh.

6 THE COURT: And it's Mr. Ahearne's witness,
7 so you get to follow up.

8 MR. AHEARNE: Thank you, Your Honor.

9 I have some questions, but frankly, I
10 don't know the answers to, but I need to help clarify
11 your question.

12 FURTHER REDIRECT EXAMINATION

13 BY MR. AHEARNE:

14 Q. Mr. Blair, when you talked about the health
15 care payment that the state makes, is that the full
16 amount that Chimacum School District pays for the
17 health care benefit to its employees?

18 A. Yes, we do not pay additional health care
19 benefits.

20 Q. And with respect to the FICA payment that the
21 state pays, is that the FICA percentage on the state
22 funded salary or on the total salary?

23 A. I don't know the answer to that.

24 Q. Okay. And then when the judge asked you
25 about the 24 credits being the goal under the new bill,

1 do you recall that?

2 A. Under House Bill 2261, yes.

3 Q. Is 2261 the one you were talking about?

4 A. Yes.

5 Q. And by the goal, is that one of the things
6 that you were referring to when you were talking about
7 when funding becomes available?

8 A. Yes, 424.

9 Q. And the judge asked you questions about the
10 AP, are those the Advanced Placement classes?

11 A. Yes.

12 Q. In your experience as a superintendent, does
13 the school offering the Advanced Placement classes play
14 any role in keeping kids in school or providing the
15 knowledge and skills that are in the basic knowledge
16 and skills that are in the Essential Academic Learning
17 Requirements?

18 A. Yes.

19 Q. And what role is that?

20 A. Well, they -- again, they provide AP, and an
21 AP course is like a hook. It's advanced class. A
22 child, after he graduates from that -- or gets out of
23 that class, Your Honor, he can take an examine that
24 awards him college credit. So it's another way of
25 encouraging kids to stay -- stay on top of their

1 education. AP classes are an expansion of knowledge
2 and skills. They go in more depth, and they result in
3 the college credit. If you get a score of three, four
4 or five on the college AP exam, you earn a college
5 credit that can be applied to some colleges, not all.

6 Q. And in your experience as a superintendent,
7 do AP classes have any influence on the SAT scores that
8 a school will have?

9 A. Yes.

10 Q. And what influence would that be?

11 A. Well, again, those are college -- basically
12 college entrance examinations and your students are
13 attempting to get into college. And part of that
14 preparation is to take these AP classes so that they're
15 ready to take those college entrance exams.

16 MR. AHEARNE: Thank you. That's all the
17 clarification I have.

18 THE COURT: Thank you, Mr. Ahearne.

19 Mr. Clark?

20 MR. CLARK: At the risk of making this
21 exchange become a punch line for a lawyer joke, I do
22 have follow-up questions.

23 FURTHER RE-CROSS-EXAMINATION

24 BY MR. CLARK:

25 Q. The Advanced Placement courses you refer to,

1 the state does have highly capable student funding,
2 doesn't it?

3 A. Yes.

4 Q. Okay. And so the state does provide money to
5 your district for AP course instruction through the --

6 A. Like, many of their funding, they don't tell
7 you how to allocate that.

8 Q. Okay.

9 A. You can choose your way to do it. So when we
10 get 8,000 bucks, approximately, we can use that \$8,000
11 in academic competition. We can use it in building
12 robots. There's really no restriction on that funding.

13 Q. Okay. There's no restriction, but the state
14 does provide highly capable funding.

15 A. Yes.

16 Q. Okay. And providing highly capable funding
17 is something that's contemplated under the process
18 that's set in motion by House Bill 2261, correct?

19 A. I think that was pulled by the governor.

20 MR. CLARK: Okay. All right. Fair enough.

21 My other question would relate to the
22 calculation of the earned run average, but I think I'll
23 save that for another proceeding. Thank you.

24 THE COURT: Your witness, Mr. Ahearne.

25 MR. AHEARNE: I don't have anything further,

1 Your Honor.

2 THE COURT: Okay. Any objection to excusing
3 Mr. Blair?

4 MR. CLARK: No, not at all, Your Honor.

5 THE COURT: Mr. Blair, thank you very much.

6 THE WITNESS: Thank you, Your Honor.

7 THE COURT: Mr. Ahearne?

8 MR. AHEARNE: Can I call my next witness?

9 THE COURT: You may.

10 MR. EMCH: Your Honor, petitions call
11 Stephanie McCleary.

12 THE COURT: Mrs. McCleary, if you would
13 please come to the stand.

14 (Witness sworn by the court.)

15 THE COURT: For the record, please state your
16 full name, spelling for us your last name and give us
17 your contact address.

18 THE WITNESS: Stephanie McCleary,
19 M-C-C-L-E-A-R-Y. I live at 201 Dryden Avenue, Port
20 Hadlock, Washington 98339.

21 THE COURT: Thank you. Counsel?

22 MR. EMCH: Your Honor, good afternoon. For
23 the record, again, my name is Chris Emch and I'm one of
24 the attorneys representing the petitioner in this case.

25 STEPHANIE MCCLEARY,

1 called as a witness herein, having been first duly
2 sworn, was examined and testified as follows:

3 DIRECT EXAMINATION

4 BY MR. EMCH:

5 Q. Mrs. McCleary, good afternoon.

6 A. Good afternoon.

7 Q. Mrs. McCleary, the judge just had you provide
8 your address. Can you tell me where that is exactly,
9 the state?

10 A. It's on the Olympic Peninsula.

11 Q. Which county is that?

12 A. Jefferson County.

13 Q. Is that the Chimacum School District?

14 A. I'm sorry?

15 Q. Is that within the Chimacum School District?

16 A. Yes, it is.

17 Q. Mrs. McCleary, have you ever testified in
18 court before?

19 A. No.

20 Q. Are you a little nervous?

21 A. Terrified.

22 Q. So it's a little bit out of your comfort
23 zone, that's fair to say?

24 A. Absolutely.

25 Q. Well, I'll try to make my questions as clear

1 as possible. If at any point you don't understand,
2 just let me know. Okay?

3 A. Okay.

4 Q. And if the court reporter can't understand my
5 questions, please let me know as well.

6 Mr. McCleary, are you married?

7 A. Yes.

8 Q. And what is your husband's name?

9 A. Mathew McCleary.

10 Q. And how many children do you have?

11 A. I have two children, one daughter who is 15.
12 Her name is Kelsey, and one son who is 10. His name is
13 Carter.

14 Q. And with respect to Kelsey, which grade will
15 she be in this year?

16 A. Kelsey will be in the 10th grade at Chimacum
17 High School.

18 Q. What about Carter?

19 A. He'll be in the 5th grade at Chimacum
20 Elementary School.

21 Q. Mrs. McCleary, where do you work?

22 A. I work for Chimacum School District.

23 Q. What are your responsibilities for the
24 Chimacum School District?

25 A. I work in the administration and support the

1 business management superintendent and school board. I
2 coordinate personnel and technology.

3 Q. Mrs. McCleary, I'm going to ask you a few
4 more questions about your family and your job just a
5 little bit. But first I'd like to get a little
6 background on you yourself.

7 Can you tell the court where you grew
8 up, Mrs. McCleary?

9 A. I grew up in Sequim, Washington.

10 Q. And did you attend public schools in the
11 State of Washington?

12 A. Yes. I started in the Edmonds School
13 District kindergarten and 1st grade. And then we
14 relocated to Sequim when I went into 2nd grade.

15 Q. And upon your relocation to Sequim starting
16 in 2nd grade, did you continue on with public schools
17 in the State of Washington?

18 A. Yes, I did.

19 Q. And did you remain at Sequim through high
20 school in public schools?

21 A. Yes, I did.

22 Q. Which high school did you attend?

23 A. Sequim High School.

24 Q. Okay. And did you graduate high school?

25 A. I graduated in 1983.

1 Q. What kind of grades did you get in school,
2 Mrs. McCleary?

3 A. B's and C's.

4 Q. After you graduated high school, what
5 happened next?

6 A. I went to college at Western Washington
7 University.

8 Q. Was that right after high school?

9 A. Yes.

10 Q. And did you graduate from college?

11 A. I did not.

12 Q. What happened?

13 A. I left. About spring semester, I left
14 college.

15 Q. Was that spring semester of your first year,
16 or when was that?

17 A. It was my first yeah, yeah.

18 Q. And what is the reason for dropping out?

19 A. I felt overwhelmed and under prepared. I
20 didn't feel that I was ready to step into the college
21 life. The classes were above, you know -- for
22 instance, I'd taken accounting in high school, and
23 that's kind of my interest. I had taken, you know,
24 accounting one and two, and I started in accounting
25 class in college and I was just so far behind, it was

1 beyond -- and so I decided to leave and try to figure
2 out what I was going to do.

3 Q. So based on your experience in public schools
4 in the State of Washington prior to college, do you
5 feel like you have the knowledge and skills necessary
6 to prepare yourself for college?

7 A. I did not.

8 Q. So what happened after you dropped out of
9 college, Mrs. McCleary? What did you do next?

10 A. That summer I worked as a waitress for the
11 summer.

12 Q. Where was that?

13 A. That was up at Roche Harbor in the San Juan
14 Islands.

15 Q. And how long did that job last?

16 A. It was just a summer job.

17 Q. After that summer, what happened next?

18 A. I moved to Seattle and worked in a gas
19 station car wash that a friend of ours owned.

20 Q. You said you worked in a car wash?

21 A. Yes.

22 Q. And how long did you stay at the car wash?

23 A. It was probably a few months.

24 Q. Why did you leave?

25 A. I was robbed and I didn't feel comfortable

1 going back.

2 Q. So after that experience, what did you do
3 next?

4 A. I moved out to Burien and I went through an
5 employment agency to find a job, and I was placed in a
6 construction company in the secretarial field.

7 Q. So how long were you at that particular
8 position in the construction company?

9 A. Just under a year.

10 Q. And why did you leave that, or why did you
11 leave that position?

12 A. The company went bankrupt.

13 Q. So after that experience, what was the next
14 thing you did?

15 A. I went back to the employment agency and got
16 placed at a debt collection agency.

17 Q. Then what happened with the debt collection
18 agency job?

19 A. They went bankrupt after two months.

20 Q. So, if I understand it, after college you
21 worked as a waitress, you worked at a gas station and a
22 car wash, you were robbed, and then you worked at a
23 construction company that went bankrupt and then a debt
24 collection agency that went bankrupt; is that right?

25 A. That's correct.

1 Q. So what did you do after all that happened?

2 A. I moved home.

3 Q. To sort of regroup maybe?

4 A. That's right.

5 Q. Okay. So you moved home, you were
6 regrouping. What happened next?

7 A. A job came open at a school district and I
8 applied for it and eventually got the position.

9 Q. And what kind of position was that?

10 A. It was a secretarial.

11 Q. How long did you stay in that position?

12 A. I was there for approximately 11 years. I
13 started in the administration office and spent about
14 eight years in elementary school.

15 Q. And so could you tell the court how you ended
16 up at Chimacum?

17 A. My husband sells wine and so when we realized
18 we could relocate it was in an area that we wanted to
19 move, and so the position came open in Chimacum School
20 District and I applied and got the job.

21 Q. And about when did you start at Chimacum?

22 A. I think was about 1997.

23 Q. And have you been at Chimacum School District
24 ever since?

25 A. Yes.

1 Q. Mrs. McCleary, looking back now as an adult,
2 how do you feel about the sufficiency of your own
3 education from the Washington State public schools?

4 A. I don't feel very -- I don't feel very good
5 about it, I guess. It's, you know -- it's been a long
6 struggle to get to where I am, and I think that where I
7 am is because of my willingness to learn and being a
8 good employee, I think has gotten me to my current
9 position.

10 Q. Did you feel like you had the knowledge and
11 skills that you needed to prepare yourself for life
12 after high school from your Washington State public
13 school experience?

14 A. No.

15 Q. Did it take effort on your part to get where
16 you are today?

17 A. Yes, it did.

18 Q. Mrs. McCleary, were both your children born
19 on the Olympic Peninsula?

20 A. Yes.

21 Q. And is that where they grew up as well?

22 A. Yes.

23 Q. You mentioned your husband. Could you just
24 say again what does your husband do for a living?

25 A. He sells wine and his territory is the

1 Olympic Peninsula, which means he probably drives over
2 500 miles a week, you know, to the different parts of
3 the Peninsula, and puts in some pretty long days.

4 Q. So is that a full-time position?

5 A. Correct. And more.

6 Q. It takes a lot of time away from the home; is
7 that right?

8 A. Yes.

9 Q. So your family has two full-time working
10 parents; is that right?

11 A. Yes.

12 Q. Mrs. McCleary, let's talk a little bit about
13 your son Carter.

14 Could you tell the court again what
15 grade Carter's going into this year?

16 A. Carter is going into the 5th grade.

17 Q. And did he go to preschool?

18 A. He went to preschool at a Lutheran church,
19 yes.

20 Q. Was that a private preschool?

21 A. Yes.

22 Q. And did he go to kindergarten at Chimacum?

23 A. He went to an all-day program at Chimacum.

24 Q. Was that an all-day program that was provided
25 by the school district, or how did that -- what kind of

1 program was that?

2 A. We paid \$240 a month for him to go to that
3 program.

4 Q. So a full-day kindergarten at Chimacum,
5 parents have to pay for a portion of that; is that
6 right?

7 A. That's correct.

8 Q. Is full-day kindergarten available every year
9 at Chimacum?

10 A. No.

11 Q. What happens if there's, for example, not
12 enough parents to pay for a full-day kindergarten?

13 A. Well, their child wouldn't get a full-day
14 kindergarten. For example, this year we're maybe going
15 to have one class, and that's only if there are enough
16 parents to pay so we won't be able to offer it
17 otherwise.

18 Q. Has kindergarten -- full-day kindergarten
19 classes been cancelled at Chimacum before because of an
20 inability of parents to pay?

21 A. Well, the funding fluctuates a little bit
22 there, and with the loss of I-728 this year, that's why
23 we have reduced our offering.

24 Q. Mrs. McCleary, can you describe what kind of
25 student Carter's been in elementary school?

1 A. He's a good student. He loves school. He
2 loves going to school. Seems to do just fine in the
3 primary school.

4 Q. Is he in a regular classroom?

5 A. He's in a multi-age classroom, which is the
6 three, four, five combination class.

7 Q. And how did he get placed in that classroom?

8 A. I requested him to be put in there.

9 Q. And why did you have him placed in a multi-
10 age classroom?

11 A. It was a classroom that I thought would fit
12 very well with his personality and learning style, and
13 the teacher does some real creative things with his
14 class, and I thought it would be a good experience for
15 him.

16 Q. What kinds of things are you referencing
17 there? Can you explain to the court what kind of
18 activities are involved in a multi-age classroom?

19 A. Sure. They have a -- the multi-age class --
20 this particular class, has a benefactor that donates
21 2,500 to \$3,500 a year to the class. And this has
22 happened, I believe, three years now.

23 So with those dollars, they're able to
24 go on outdoor experiences. They can go the Audubon
25 Center. They go to the Marine Science Center. They

1 come over to different areas in Seattle here. And they
2 also purchase a on-line math program called ALEKS,
3 which is A-L-E-K-S, and it's -- I think it's about \$50
4 per student for that.

5 And what else do they do. And most
6 recently, they're looking at -- they're looking into
7 purchasing the little laptop notebook computers for
8 each student and fundraising for that.

9 Q. So you mentioned a benefactor. Is that a
10 local person in the community then who provides that
11 money?

12 A. Yes.

13 Q. So it's a private citizen. It's not state
14 money; is that correct?

15 A. That's correct. It's a private citizen that
16 the teacher met at the gym one day who donated to local
17 charities and decided to donate his money to the school
18 instead.

19 Q. Is that money consistent year in, year out?
20 How does that work?

21 A. It's been consistent so far. He said as long
22 as he has a good year, you know, that's when he can
23 determine how much he can donate. So far it's been
24 consistent for three years.

25 Q. Based on your experience with your son and

1 Chimacum School District, what would happen if that
2 money was not there for that program?

3 MS. BASHAW: Objection, calls for
4 speculation.

5 THE COURT: Counsel, would you please lay a
6 foundation of her knowledge for what might happen?

7 The objection is sustained.

8 BY MR. EMCH:

9 Q. Mrs. McCleary, have you observed the
10 activities and the resources that are the result of the
11 money that's provided by this benefactor?

12 A. Absolutely. If they didn't -- if they didn't
13 have that benefactor, the class would be a whole
14 different setup for sure.

15 Q. Mrs. McCleary, that donation that you
16 referenced from this benefactor, does that cover all
17 the money and resources that is needed for the multi-
18 age program?

19 A. No.

20 MS. BASHAW: Objection, lack of foundation.

21 THE COURT: Well, she works in the school
22 administration and I'll allow it. Overruled.

23 BY MR. EMCH:

24 Q. Mrs. McCleary, do you know, based on your
25 experience in the Chimacum School District as a parent

1 of someone in an multi-age class, do you know if the
2 parents have to pay anything for these activities and
3 trips?

4 A. No, they do not.

5 Q. So parents don't -- parents don't pay
6 anything for some of the activities in the classroom?

7 A. They don't pay for the students to
8 participate in the activities or to go on the field
9 trips because that's covered with their classroom
10 dollars that they get. They spend time fundraising as
11 well to add to those dollars in order to do the things
12 that they want to do.

13 Q. And what kind of fundraising is involved in a
14 multi-age classroom?

15 A. They make calendars that they kind of put in
16 CD cases and mass produce for sale, and they make
17 cookbooks and they make Santa Claus ornaments out of
18 oyster shells. And I believe we have a local business
19 for sale. It's a jump rope business. They're looking
20 about making jump ropes.

21 Q. And these various type of fundraising items
22 that are generated, is that items that are generated
23 during class time or after class time, or when does
24 that happen?

25 A. It would be during class time. When it gets

1 closer to the -- to the arts and crafts fair, there's
2 probably some after school time as well.

3 Q. And is that fundraising, is that something
4 that every child is expected to participate in the
5 classroom?

6 A. In the classroom, yes, those students.

7 Q. So at the end of the year, just to get a
8 ballpark for how much time, for example, during the
9 holiday season, about when would that fundraising
10 activity start?

11 A. Probably in November they start drawing their
12 pictures and things for the calendar, and then it would
13 probably take more time during the December month as it
14 gets closer.

15 Q. Other than those type of fundraising
16 activities, I think you mentioned jump ropes, can you
17 explain what you mean by that? What is that all about?

18 A. Well, as I mentioned with the computer
19 laptops they're looking to buy it for every child,
20 they're \$400 for every computer, and they're looking
21 for a couple ways to do that, either to approach people
22 to get them to purchase one outright and maybe put your
23 name on it as the sponsor, or other avenues of funding
24 businesses, and then this jump rope business is kind of
25 a new possibility that they're looking at. I suppose

1 they would make jump ropes and sell them to put toward
2 these computers.

3 Q. And is your son someone who's making jump
4 ropes or scheduled to make jump ropes?

5 A. He would be if they do that.

6 Q. Do you know how much money is raised during
7 these fundraising activities?

8 A. I don't actually.

9 Q. As a parent, how does this fundraising by the
10 children in the classroom, how does that make you feel?

11 A. As a parent, it makes me feel frustrated that
12 so much time is being spent on fundraising, and it just
13 doesn't seem like it's an education. I mean, it
14 provides him some educational opportunities, but I
15 believe it's taking away from their class time.

16 Q. Mrs. McCleary, has Carter taken his 4th grade
17 WASL's?

18 A. Yes.

19 Q. And how did he do on those WASL's?

20 A. He passed his math and reading and had failed
21 his writing.

22 Q. And as a parent of a son who failed a portion
23 of the WASL, how does that make you feel?

24 A. I'm concerned about that because I believe
25 he's a totally capable kid. I know he's a capable kid

1 I don't understand why he didn't pass the writing.

2 Q. So you think Carter's capable of reaching --
3 capable of reaching his potential and maximizing his
4 capabilities?

5 A. Absolutely.

6 Q. Do you think he's capable of learning the
7 knowledge and skills he needs to meet state standards?

8 A. Yes, I do.

9 Q. Mrs. McCleary, I'm going to have you take a
10 look at Exhibit 144, which is --

11 MR. EMCH: Your Honor, may I approach the
12 witness?

13 THE COURT: You may. You may approach
14 without requesting.

15 MR. EMCH: Thank you. Let's put this right
16 here.

17 THE COURT: Could I get that?

18 MR. EMCH: 144, please.

19 BY MR. EMCH:

20 Q. Mrs. McCleary, I put in front of you what was
21 previously marked as Exhibit 144. It was something
22 that was admitted into evidence previously in these
23 proceedings.

24 Just to identify it for the record, can
25 you please read under teaching what it says at the top,

1 please?

2 A. Washington State standards is the Essential
3 Academic Learning Requirements, grade level
4 expectations.

5 Q. Okay. And this is a OSPI or Office of the
6 Superintendent of Public Instruction Washington State
7 Printout, is that --

8 A. Yes, it is.

9 Q. -- right? And have you seen this before,
10 Mrs. McCleary?

11 A. I have.

12 Q. And do you see the four numbered provisions
13 there beginning with read with comprehension and write
14 effectively and communicate successfully?

15 A. Yes.

16 Q. And do you see the short paragraph there
17 underneath those four numbered provisions which
18 concludes with the sentence, These standards define
19 what all students should know to be able to do each
20 grade level?

21 A. Yes.

22 Q. And in the previous answer about your son and
23 his capabilities in meeting state standards, are these
24 the state standards you were referring to?

25 A. Yes.

1 Q. Do you know where those four numbered
2 provisions came from, Mrs. McCleary?

3 A. House Bill 1209.

4 Q. As a parent, do you think it's important for
5 your kids to meet those state standards?

6 A. Yes.

7 Q. Why do you think that?

8 A. Well, I think that it's -- it's -- I think
9 it's the minimum to go out there and leave school with
10 those skills to be able to participate in our current
11 society and committee and global economy.

12 Q. When you graduated from high school and
13 entered college and then dropped out into the
14 workforce, did you feel like you had the knowledge and
15 skills that were outlined on this exhibit?

16 A. I did not.

17 Q. Mrs. McCleary, let's talk a little bit about
18 your daughter, Kelsey. If you could remind the court
19 what Kelsey's going into this year.

20 A. Kelsey's going into 10th grade at Chimacum
21 High School.

22 Q. And did Kelsey attend kindergarten at
23 Chimacum?

24 A. Yes, she did.

25 Q. Was that a full-day or half-day kindergarten?

1 A. It was a half-day program. The full day
2 wasn't offered at that time.

3 Q. So there was no opportunity for her to have a
4 full-day kindergarten experience?

5 A. That's correct.

6 Q. How did Kelsey do?

7 A. She did well. She loves school and she,
8 again, did real well with her work. She always was
9 taking on extra credit. She had, you know, additional
10 time after here work was done and did real well in
11 elementary school.

12 Q. What junior high, which school did Kelsey go
13 to for junior high school?

14 A. She went to Chimacum Middle School.

15 Q. And how did she do at Chimacum -- that starts
16 with the 7th grade; is that right?

17 A. 6th grade.

18 Q. How did she do when she started junior high?

19 A. She did well initially in 6th grade. I
20 believe 6th grade was good, and 7th grade started out
21 well and then she seemed to start losing her lust for
22 being there. Her energy -- she wasn't being
23 challenged. She was not wanting to go to school. It
24 was -- it was getting frustrating for me, as a parent,
25 I guess.

1 Q. Do you have any idea why she was having some
2 of these problems? Did you observe anything?

3 A. Well, in 7th grade, you know, I'm not really
4 sure exactly what happened except, you know, still the
5 extra credit. I think there just wasn't a challenge
6 there, and then she, you know, is looking at different
7 options on what she wanted to do. If there were any
8 other options for her. She would talk about Running
9 Start when she's in high school. I mean, she was
10 always thinking ahead.

11 And anyways, so, we ended the 7th grade
12 year, and we talked a lot about -- a lot about it, and
13 she started in 8th grade there. One of her teachers
14 that she had had in 6th grade moved to 8th grade so
15 that was kind of the way to try this again and see if
16 it can be a better year for you.

17 Q. You mentioned she started developing some
18 problems. You also said she was involved in extra
19 credit.

20 Can you explain a little more about what
21 that means? She was in the class working on the
22 initial projects, or how did extra credit get
23 assigned? Was that during class time?

24 A. It would be during class time when she's
25 already completed the work assigned that other students

1 hadn't finished and/or she would work ahead and finish
2 that work, and so she would be assigned extra credit-
3 type things to do to keep here busy.

4 Q. So 8th grade, was that any better? How did
5 that go in 8th grade with respect to Kelsey?

6 A. 8th grade started out well. Again, she had
7 this great teacher that kept her real interested, but,
8 then again, in the spring things started changing
9 again. She started getting stomach aches, and head
10 aches, and she was depressed. She didn't want to go to
11 school. In her spring semester she was a teacher's
12 assistant for two of her six classes, which means that
13 she goes into maybe an elementary classroom and helps
14 that teacher Xerox papers and/or helps students or, you
15 know, whatever needs to be done for that classroom.

16 Q. So that was on regular school time she was
17 serving as a teacher's assistant?

18 A. It was.

19 Q. And were there course offerings she could
20 have taken instead of being a teacher's assistant? Or
21 how did she end up in that position?

22 A. I went to -- I went to her photography
23 teacher to see if maybe he would do an advanced class
24 for her because I didn't really want her in two
25 teacher's assistant classes, and he said he didn't have

1 time to put together a program for her in his regular
2 photography class so there just wasn't any course
3 offered for her to take during that time that she
4 hasn't already taken. Sorry.

5 Q. Based on your experience as a parent, did you
6 think there were sufficient course offerings for
7 Kelsey?

8 A. No.

9 Q. When she was serving as a teacher's
10 assistant, did that count as class work or course work?

11 A. It's a pass fail.

12 Q. And how many classes, again, did she serve as
13 a teacher's assistant?

14 A. Two.

15 Q. Out of how many subjects or how many --

16 A. Six.

17 Q. -- classes?

18 A. Six periods in a day.

19 Q. So two of six?

20 A. Yes.

21 Q. How did that make you feel as a parent when a
22 third of her time was spent being a teacher's
23 assistant?

24 A. I could feel her frustration almost and why
25 she was getting frustrated and feeling unchallenged at

1 school, and it made me feel frustrated myself because
2 there wasn't another option at that point.

3 Q. I believe you mentioned some physical
4 conditions some as stomach ache, headaches, and things
5 like that, was that related in any way to her
6 education?

7 A. I believe it was. I believe it had to do
8 with, you know, her not wanting to go to school or
9 feeling stressed from it. When I would try to get her
10 up in the morning, sometimes the only way to get her to
11 go to school was she can't dance at the end of the day
12 and so that was my motivation to -- so I could make her
13 go, as a parent. And just make her go on her own was
14 that, you know, you can't go to dance if you don't go
15 to school and --

16 Q. So her dance class was a private class or --

17 A. She takes dance in Port Townsend. It's a
18 private dance program. She goes four days a week.

19 Q. And based on your observations as a parent,
20 is that an important hook for her to keep her
21 interested in school?

22 A. Yes.

23 Q. So about this time period, 8th grade, what
24 did you observe with respect to her enthusiasm for
25 school?

1 A. There wasn't a lot of enthusiasm at all. It
2 was -- at that point my husband and I started looking
3 at different options for her. She wanted to change
4 schools, you know, we just started looking. So I
5 looked into a private school in Port Townsend, and that
6 was \$750 a month for her to attend that.

7 Q. And was that something that you could afford?

8 A. No. It wasn't an option for us.

9 Q. Okay. So you looked into a private school
10 and you couldn't decide not to do that for financial
11 reasons?

12 A. That's correct.

13 Q. What other options did you consider that
14 private school wasn't a realistic option for your
15 family?

16 A. One of the things she wanted to do was attend
17 Port Townsend High School. It's 10 miles away from
18 Chimacum, and a lot of the girls that she dances with
19 go to school there. And first we had said no, we
20 didn't want to do that, but, as time went on, I thought
21 maybe it was worth giving it a try if that gave her the
22 boost she needed to get interested in education again.

23 Q. Before she went to Port Townsend, did --
24 still in 8th grade, did she get involved in any
25 activities of any sort?

1 A. In 8th grade she ran track in the spring of
2 her 8th grade year. Well, she started track.

3 Q. And about how long did she participate in the
4 track program?

5 A. Approximately three weeks to a month.

6 Q. And what was the reason for that? How did
7 that experience go?

8 A. Well, one of the problems she was having, we
9 have -- our track is not -- it wasn't in shape to be
10 running on. There were a lot of holes and divots in
11 it, and it was like concrete that had been years and
12 years of, you know, we can't afford to put a surface on
13 it.

14 So, anyway, that's where they were
15 practicing their track, and she got shin splints which
16 made it difficult for her to go to dance so. Now we
17 didn't -- neither one of those options were working for
18 her, dance or track.

19 Q. So you mentioned the track. Is this the
20 track that's at the Chimacum School District track?

21 A. Yes.

22 Q. And where's that track located?

23 A. It's located behind our middle school and
24 high school.

25 Q. And is that a track that you personally

1 observed?

2 A. I walked out there many times during my lunch
3 hour for exercise.

4 Q. And based on those observations, can you
5 describe in a little bit more detail what you saw on
6 the track in terms of its condition?

7 A. There's lots of divots. It's really hard.
8 It's really compact dirt. And it has lots of holes,
9 and it's just very uneven.

10 Q. Was Kelsey the only one who developed
11 problems on that track?

12 MS. BASHAW: Objection, foundation.

13 THE COURT: Sustained.

14 BY MR. EMCH:

15 Q. Mrs. McCleary, did you observe her
16 communicate with anyone else who was connected with the
17 track program?

18 A. I talked with Kelsey's coach about it because
19 I didn't want her --

20 MS. BASHAW: Objection, calls for hearsay.

21 THE COURT: Well, she's just saying -- the
22 question is whether she talked to anyone else, so she
23 could answer that question. The content of that
24 question is likely to be hearsay.

25 So you may answer the question about

1 whether you talked to anyone else.

2 THE WITNESS: Okay.

3 BY MR. EMCH:

4 Q. Mrs. McCleary, did you talk to anyone else
5 about the track at Chimacum High School?

6 A. I talked to her coach about it because I
7 didn't want to let her quit track. My rule has always
8 been that if you start a sport, you need to follow it
9 to the end. The problem was she was in a lot of pain
10 and couldn't dance, and so neither one of them were
11 working. She had to give something up there. And he
12 said a lot of kids had been having the same trouble.

13 Q. So based on --

14 MS. BASHAW: Your Honor, I move to strike the
15 answer. It was a yes or no question and then it drew
16 into a discussion and hearsay.

17 MR. EMCH: Your Honor, I believe there's a
18 hearsay exception 803 talking about a then existing
19 mental or physical conditions so I'd request a little
20 latitude in regard to this answer.

21 THE COURT: Well, it's actually double
22 hearsay. Theoretically you might be right if the
23 students, the runners, were complaining about their
24 having running problems to her and it was then
25 existing. In other words, my leg hurts or I have shin

1 splints. That's the exception.

2 The witness's testimony is the students
3 making those comments assumably to the coach and then
4 the coach relaying that to this witness. So it's at
5 least one level of hearsay, if not two.

6 Motion to strike is granted.

7 BY MR. EMCH:

8 Q. Let me try a different way. Mrs. McCleary,
9 at the time that Kelsey dropped out of the track
10 program, were you generally aware of any other students
11 dropping out of the program?

12 A. I was not aware of other students dropping
13 out of the program at that time.

14 Q. Mrs. McCleary, can track meets take place at
15 Chimacum's track?

16 A. No.

17 Q. And how many years has that -- the conditions
18 with Chimacum's track, how long had that existed?

19 A. It had been like that since I was there,
20 so --

21 Q. And you've been there --

22 A. I've been there 12 years now, I think 13
23 years.

24 Q. So after the track experience in 8th grade
25 you said she moved to Port Townsend High School; is

1 that right?

2 A. Yes.

3 Q. And why Port Townsend?

4 A. Well, one, it was the only other option to
5 try something different for us there. There weren't
6 other options. And, two, a lot of her friends went
7 there that she danced with. So she thought -- we
8 thought maybe that would help renew her educational
9 interest.

10 Q. After she left the track program, was she
11 able to continue to participate in dance?

12 A. Yes.

13 Q. And was dance, based of your observations as
14 a parent, was that a good hook to keep her interested
15 in school?

16 A. That's a great hook.

17 Q. Is Port Townsend a neighboring district?

18 A. It is. It's about 10 miles away from
19 Chimacum.

20 Q. And, Mrs. McCleary, someone who worked at
21 Chimacum in the Chimacum School District, what kind of
22 decision is that to send your child outside the
23 district?

24 A. It was a really hard decision particularly
25 because I worked there. One, it was nice to have my

1 child there where I knew what was going on. And to
2 send her to another school was really difficult.

3 Q. How was Kelsey's experience at Port
4 Townsend? Can you describe how that experience was
5 based on your observations as a parent?

6 A. Kelsey didn't have textbooks in any of her
7 classes. She had textbooks -- I should rephrase that.
8 In French she had textbooks but they were in such old
9 condition they couldn't be brought home because they're
10 fragile.

11 She did not use a textbook in geometry
12 class and that teacher Xeroxed work sheets on half
13 sheets to reduce paper usage. You reduced then the
14 font, you know, the paper, and -- and then they took
15 notes from his lectures. So if she had a question
16 about what was going on, what had happened, you know,
17 she had to refer back to her own notes.

18 In science she had Xeroxed copies of
19 workbooks that the teacher had put together, and some
20 of the covers were just handwritten on, unit two, you
21 know. They're all tattered on the edges and horrible
22 condition.

23 Q. Do you know how old they were?

24 A. There wouldn't be a copyright date on them.
25 I don't know where the worksheets came from. Some of

1 them were handwritten, and, quite frankly, I'm sure
2 they don't lineup to the state's standards.

3 Q. Did Kelsey express any concern to you, as a
4 parent, about the textbooks?

5 A. Well, it was difficult to help her with her
6 homework. She'd often have to come to my husband to
7 get help because she didn't understand the concept of
8 what was going on. And, as a parent, of course, you
9 can sometimes just get them to answer, but in teaching
10 them how to get there is the difficult part, which is
11 what the textbook provides for the students and the
12 parent.

13 Q. And so what about homework, did Kelsey bring
14 homework home, or what was your observations about the
15 level of homework at Port Townsend?

16 A. I didn't see a lot of homework, and perhaps
17 that's because of the, you know -- it could have been a
18 worksheet, you know. A lot of time she was working on
19 a worksheet. They weren't, like, sitting out with a
20 textbook and working through math homework or anything
21 like that. She didn't have a lot.

22 Q. And as a parent, is it hard to help with
23 homework when there's no textbook?

24 A. Yes.

25 Q. Based on that experience, the textbooks, lack

1 of homework, how did that make you feel, as a parent,
2 about Kelsey's education?

3 A. I was really becoming frustrated, you know,
4 between having no textbooks and the facilities she's
5 in, the high school building is over 90 years old, they
6 can't pass the bond there in their building. She said
7 the kids talk about mold, you know, afraid there's mold
8 in the buildings. Their administration office is in,
9 like, in a condemned building. It's in really bad
10 shape there.

11 Q. And so Kelsey only spent one year at Port
12 Townsend; is that right?

13 A. Kelsey is coming back to Chimacum High
14 School, yes.

15 Q. Did you try to help challenge Kelsey? You
16 mentioned you got her involved in dance and the track
17 just didn't work out.

18 Did you try anything else?

19 A. One of the things we did is we brought in a
20 foreign exchange student into our home. The summer
21 that Kelsey went into Chimacum or Port Townsend High
22 School, so the summer of her freshman year.

23 Q. And what country was that exchange student
24 from?

25 A. She came from Italy.

1 Q. And what grade was that student in?

2 A. I believe 11th grade.

3 Q. And that exchange student lived with your
4 family; is that correct?

5 A. Yes.

6 Q. So you got to observe her on a daily basis?

7 A. Yes.

8 Q. Okay. Can you describe your experience and
9 what you observed with respect to the exchange student
10 who lived in your house?

11 A. The experience was great. Right off the
12 get-go the kids loved her and they loved asking her
13 questions and learning about her country and her
14 educational experience, and it was really fun that
15 first week she joined us.

16 Q. And based on your observations, how did that
17 exchange student's educational level compare to your
18 daughter's educational level, for example?

19 A. Well --

20 MS. BASHAW: Objection, lack of foundation,
21 calls for hearsay.

22 MR. EMCH: Well, Your Honor, she's testifying
23 as a mom and a parent as someone who observed an
24 exchange student in her house.

25 MS. BASHAW: Observing the exchange student

1 is not the same thing as knowing anything about that
2 exchange student's educational background. If there
3 was, unless it was something the student said, so
4 there's no foundation and would call for hearsay.

5 THE COURT: Well, I think that this witness
6 has been asked to give a lay opinion. If, in fact,
7 she's conveying what the exchange student stated or
8 said and its being offered for the truth of the matter
9 asserted, it would be hearsay. If it's this witness's
10 observations on the educational abilities or of the
11 exchange student, I suppose it might be admissible.
12 I'm just not sure how you can make that assessment
13 without going into hearsay.

14 MR. EMCH: Well, I'm asking the questions
15 about her observations but --

16 MR. AHEARNE: With your permission, Your
17 Honor?

18 (A discussion was had off the record between
19 Mr. Ahearne and Mr. Emch.)

20 MR. EMCH: We'll start this a little bit
21 differently, Your Honor. Thank you for the
22 clarification.

23 BY MR. EMCH:

24 Q. Based on your observations as a parent and
25 someone with an exchange student in your house, can you

1 compare what you observed about this exchange student
2 relative to your daughter?

3 A. Yes. When I registered the student in the
4 high school, I went to register her for math for her
5 grade level in math. She'd already taken that math
6 program in 8th grade in her country, and so we were
7 having a little bit of difficulty finding out where to
8 place her. We got her in some classes and she began
9 school.

10 I know -- I mean, the know the classes
11 she was taking in Italy because I had the documentation
12 from it, you know, from when she came to the country
13 that tells me all about her and what classes she's
14 taking. And some of those classes were Greek, Latin,
15 French, Italian, history, philosophy, physics. I mean,
16 she had these 10 different classes that she was taking
17 there and, in fact, was going to be doing Greek
18 lessons. She had to study up on her Greek lessons
19 while she was in our country with her teacher online.

20 MS. BASHAW: Your Honor, this is
21 non-responsive to the question. Again, it's a
22 narrative answer and it's hearsay.

23 MR. EMCH: Your Honor, I think it was
24 responsive to this comparing of the two.

25 THE COURT: Well, it wasn't really comparison

1 but she was talking about the education that she was
2 receiving back in Italy and what she needed to do to
3 follow through on that education here in the states.
4 It seems to me that the only basis for that information
5 would have been from the student, which would be
6 hearsay.

7 The objection is sustained.

8 BY MR. EMCH:

9 Q. Mrs. McCleary, you said you saw a course list
10 as well?

11 A. Yes.

12 Q. Are some of your observations based on that
13 course list?

14 A. Yes.

15 MS. BASHAW: Your Honor, if the information
16 is on some piece of paper, it's still hearsay.

17 THE COURT: It is hearsay unless it falls
18 within an exception. I don't --

19 MS. BASHAW: I don't think we have any of
20 this so-called paperwork to evaluate whether it fits
21 within one of the exceptions.

22 THE COURT: The objection is sustained.

23 BY MR. EMCH:

24 Q. Mrs. McCleary, based on your observations as
25 a parent and having some exchange student in your house

1 can you compare the exchange student's knowledge and
2 skills based on your observations to your daughters?

3 A. Yes. Just in our day-to-day dealings with
4 her, she was miles ahead of where we were, and even, in
5 fact, where I was, and at times it made me feel pretty
6 inadequate as a parent. You know, the knowledge that I
7 had to help my own kids with, you know, this
8 information she would talk to my kids about.

9 Q. Mrs. McCleary, how long was the exchange
10 student supposed to stay with you?

11 A. One year.

12 Q. And did she, in fact, stay for that year?

13 A. She left about September 21st.

14 Q. And so how long of a time period would that
15 be from the time she started to the time she left?

16 A. Approximately three weeks.

17 Q. When she was staying with you and
18 attending -- she was attending Chimacum High School; is
19 that right?

20 A. Yes.

21 Q. Okay. And what did you observe during the
22 time she was staying with you? What did you observe
23 about how -- what kind of courses and things she was
24 taking at Chimacum High School?

25 A. She kind of joked about them at the end of

1 the day. They were pretty easy for her. And she --

2 MS. BASHAW: Objection, nonresponsive, move
3 to strike. The witness is repeating hearsay.

4 THE COURT: It's hearsay, counsel.
5 Sustained.

6 BY MR. EMCH:

7 Q. What kind of observations did you have, if
8 any, about your experience with the exchange student
9 while she was at Chimacum High School?

10 A. Probably within about a week of starting high
11 school she came to me one day and she was crying and
12 she said she wanted to go home.

13 MS. BASHAW: Objection, calls for hearsay.
14 This is also not relevant to the exchange student's
15 educational experience in her own country. She's not a
16 resident or citizen of the State of Washington and
17 really isn't relevant.

18 THE COURT: Well, first of all, with her
19 crying I don't think is a nonverbal statement, and her
20 statement I want to go home is also not being offered
21 for the truth of the matter asserted but rather her
22 state of mind, so the objection on that is sustained.

23 On relevance, it's probably not highly
24 relevant because we're really not comparing our system
25 with the Italian system, which I'm sure is a very

1 different system, although the testimony is rather
2 interesting. But, I will allow it for what it's worth
3 to give it the appropriate weight.

4 MR. EMCH: Thank you, Your Honor.

5 Just a clarification. You mentioned
6 about the kind -- I believe you said the objection was
7 sustained.

8 THE COURT: No. Did I say sustained? I'm
9 overruling the objection. I'm sorry.

10 MR. EMCH: Okay. Thank you, Your Honor. I
11 would --

12 THE COURT: Thank you.

13 MR. EMCH: -- refer you to the hearsay
14 exception that talks about a state of mind or a motion.

15 THE COURT: Yes, I overruled the objection.

16 MR. EMCH: Okay. Thank you. Thank you, Your
17 Honor.

18 THE COURT: I meant to say overruled, and I
19 was relying on the exception you were citing.

20 MR. EMCH: Okay. My apologies for --

21 THE COURT: That's quite all right. It was
22 my error.

23 BY MR. EMCH:

24 Q. So just to continue, did you observe any
25 signs of her being upset?

1 A. Yes.

2 Q. And what did you attribute that to?

3 A. She told me that she wanted to go home, that
4 she was afraid she would fall too far behind in her
5 studies being here and that she wanted to go home. I
6 encouraged her to stay because we were really enjoying
7 here. I thought that maybe, you know, if she could
8 just stay two months that she would, you know, get in
9 the groove of it and it would be okay. But her school
10 started September 25th and if she didn't get there by
11 the time it started she would fall too far behind there
12 so she left.

13 Q. What was Kelsey's reaction to the exchange
14 student leaving under the circumstances?

15 A. She was sad. We were all sad. We had gotten
16 quite attached to her in that short amount of time.

17 Q. Given that experience with the exchange
18 student and living in your house and under the
19 circumstance, how did that make you feel as a parent
20 about the education that was available to your kids?

21 A. I was really -- I was really sad as a parent
22 because it showed me a contrasting education that I
23 hadn't seen before, so, to me, it opened my eyes, and I
24 know it's another country, but why don't we have the
25 same opportunities.

1 Q. And so where's Kelsey going to be going to
2 school this year?

3 A. Chimacum High School.

4 Q. Has she taken the 10th grade WASL?

5 A. No, she will this year.

6 Q. Has she met the standard of previous WASL
7 tests?

8 A. Yeah, she has.

9 Q. And right now, are those prior WASL tests,
10 were they for -- which subjects, do you know?

11 A. Well, I think our system piloted many
12 different ones as the kids went through school, so I
13 think she's taken maybe science, math, reading at
14 different times.

15 Q. Do you know whether the WASL's covered all
16 the state standards reflected on Exhibit 144?

17 A. No, they cover math, reading, writing, and
18 science only.

19 Q. Just those subjects?

20 A. Yes. Those are the subjects she's tested on.

21 Q. So heading into the 10th grade WASL, are you
22 concerned about Kelsey's education?

23 A. I'm particularly concerned now following her
24 9th grade year and about how she's going to do on her
25 WASL's.

1 Q. As a mom and a parent, what kind of education
2 do you think Kelsey's received so far?

3 A. I think that Kelsey's learned what's been
4 offered to her. I think there's -- in my opinion, I
5 think there's a lot missing from that. I don't think
6 it's been great so far.

7 Q. Looking at Exhibit 144, do you think she's
8 been offered opportunities realistic and effective
9 opportunities to learn the knowledge and skills
10 reflected on that Exhibit?

11 A. I do not.

12 Q. Mrs. McCleary, do you do any fundraising work
13 for the Chimacum School District?

14 A. I participate on the levy committees. I've
15 participated on the bond committee. I belong to the
16 Friends of Chimacum Schools Education Foundation. And
17 I attend the fundraising events that the kids
18 participate in.

19 Q. Let's talk about those in order. Tell me
20 what you do for the levy committee and what that
21 experience is about.

22 A. The levy committee, we run a campaign and get
23 the information out to people on why they need to
24 support the school and what that means to our schools
25 and that we really need their support.

1 Q. And what kind of effort or commitment is
2 involved with that?

3 A. It varies with every committee. But, you
4 know, our campaign probably runs two to three months
5 and we meet weekly and sometimes there's a little more
6 time put in one week than another.

7 Q. Do you ever have any kind of -- other than
8 meetings, what kind of work do you do? Do you do
9 telephone work or community work, or what's involved in
10 that?

11 A. I've been on the bond. We had to do door to
12 door and a lot of phone calling, which obviously is out
13 of my comfort zone. I did not care to do that.

14 Q. And when you're cold calling, what was the
15 purpose for trying -- what were you trying to get?

16 A. Identify the people that supported the school
17 district.

18 Q. Is that hard work to get people motivated on
19 levy's?

20 A. This was for the bond in particular so that
21 was real hard work, yes.

22 THE COURT: Mr. Emch, we're at our afternoon
23 recess time. Let's take our recess at this time for 15
24 minutes and continue with Mrs. McCleary's testimony
25 afterwards.

1 (Whereupon a recess was taken and there was a
2 change in court reporters.)

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