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**Reporter's Verbatim Report of Proceedigns, September 15, 2009,  
Volume IX, Session 1 of 4 [Pages 1787-1851] 07-2-02323-2**

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1 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

2 IN AND FOR THE COUNTY OF KING

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3 MATHEW AND STEPHANIE McCLEARY on )  
 their own behalf and on behalf of )  
 4 KELSEY and CARTER McCLEARY, their )  
 two children in Washington's public )  
 5 schools; ROBERT AND PATTY VENEMA, )  
 on their own behalf and on behalf ) SUPREME COURT  
 6 of HALIE AND ROBBIE VENEMA, their )  
 two children in Washington's public )  
 7 schools; and NETWORK FOR EXCELLENCE) NO. 84362-7  
 IN WASHINGTON SCHOOLS, ("NEWS"), a )  
 8 state-wide coalition of community )  
 groups, public school districts, )  
 9 and education organizations, )  
 PETITIONERS, ) CASE NO.  
 10 )  
 VERSUS ) 07-2-02323-2SEA  
 11 )  
 STATE OF WASHINGTON, )  
 12 RESPONDENT. )

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13 Proceedings Before Honorable JOHN P. ERLICK

14 KING COUNTY COURTHOUSE  
15 SEATTLE, WASHINGTON

16 DATED: SEPTEMBER 15, 2009  
17 Volume IX, Session 1 of 4

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

19 FOR THE PETITIONERS:

20  
21 BY: THOMAS F. AHEARNE, ESQ.,  
CHRISTOPHER G. EMCH, ESQ.,  
22 EDMUND ROBB, ESQ.

23 FOR THE RESPONDENT:

24 BY: WILLIAM G. CLARK, ESQ.,  
CARRIE L. BASHAW, ESQ.  
25

1 P R O C E E D I N G S

2 (Open court.)

3 THE BAILIFF: All rise. Court is in  
4 session. The Honorable John P. Erlick presiding in  
5 the Superior Court in the State of Washington in and  
6 for King County.

7 THE COURT: Good morning. Please be  
8 seated.

9 We are back in the record in the matter of  
10 McCleary versus The State of Washington, King County  
11 cause number 07-2-02323-2 SEA. All counsel are  
12 present for the continued testimony this morning.

13 Counsel, preliminary matters, Mr. Ahearne.

14 MR. AHEARNE: Not that I know of, your  
15 Honor.

16 THE COURT: Mr. Robb.

17 MR. ROBB: We have a deposition that we  
18 would like to submit, your Honor. I am told that we  
19 should do that on the record.

20 THE COURT: Let's do that. Is that  
21 designated?

22 MR. ROBB: Your Honor, we have designated  
23 the written deposition of Secretary of State Sam Reed.  
24 We are submitting the whole thing along with the  
25 exhibits.

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1 THE COURT: You want me to read the  
2 entirety of it.

3 MR. ROBB: Yes, your Honor, it is pretty  
4 short.

5 THE COURT: All right. There are no  
6 objections?

7 MR. CLARK: There are objections, your  
8 Honor.

9 What we have done is we have lodged them in  
10 the pleadings that accompanies -- and petitioners have  
11 provided a response to it; so it is a complete package  
12 for your Honor to consider.

13 THE COURT: Are the objections with respect  
14 to the specific testimony?

15 MR. CLARK: The objections are to the  
16 testimony in general, your Honor, on the grounds of  
17 relevance.

18 THE COURT: All right.

19 MR. CLARK: It is a pretty neat and tidy  
20 package for you.

21 THE COURT: All right.

22 Why don't you give that to the clerk and  
23 then I will just, I guess, read it.

24 MR. ROBB: What we have done is we have got  
25 one original unbound, which makes it easier for you.

1 We have a bound set that has all of the exhibits  
2 attached.

3 THE COURT: Which are you filing?

4 MR. ROBB: We anticipate filing the unbound  
5 one, just so that it can be processed in whatever  
6 means. This is more like a copy for you, because it  
7 is easier.

8 THE COURT: A working copy?

9 MR. CLARK: Are our objections included in  
10 the package?

11 MR. ROBB: No. It is --

12 THE COURT: What we will need, also, do you  
13 have a file copy and a working copy of the objections  
14 or just one?

15 MR. ROBB: I have two copies of them.

16 THE COURT: All right. Same for you  
17 Mr. Clark.

18 MR. CLARK: We have the original and I have  
19 a copy back at the office. I don't know if we have a  
20 copy here.

21 THE COURT: Theresa after it is scanned,  
22 can I just get that back?

23 THE CLERK: Yes.

24 THE COURT: Thank you, counsel.

25 All right, we have Mr. Soria on the stand,

1 if you would like to retake the stand.

2 Am I pronouncing your name correctly or  
3 incorrectly?

4 THE WITNESS: Soria.

5 THE COURT: You remain under oath from  
6 yesterday's testimony. Good morning.

7 BENJAMIN SORIA,

8 Having been previously sworn,

9 Testified as follows:

10

11 THE COURT: Mr. Ahearne.

12 DIRECT EXAMINATION

13

14 BY MR AHEARNE:

15 Q. (Continued.) If we could please pick up where  
16 we left off yesterday, which is on Trial Exhibit 1619,  
17 we are almost done going through the photographs.

18 If I could ask you to please turn to what is  
19 numbered MELYAK 105, please. Are we there?

20 A. Yes.

21 Q. Could you please briefly describe what this is  
22 a picture of?

23 A. This is a picture of Hoover Elementary School.  
24 It is, perhaps, one of the oldest schools in the  
25 Yakima School District.

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1 Q. Approximately how old is this?

2 A. It is approximately nearing 54, 55 years of  
3 range.

4 Q. You mentioned yesterday in testimony, HVAC,  
5 ventilation and boilers and anything else there  
6 anything in respect to Hoover with the mechanical  
7 system?

8 A. The biggest concern that we have Hoover  
9 Elementary, it has the original boiler that that  
10 building was built with. We know that it is running  
11 on the absolute borrowed legs at this point.

12 Q. It is beyond the useful legs?

13 A. It is, absolutely.

14 Q. Is the entire school contained within the  
15 building, or another thing that is portables, or how  
16 is it laid out?

17 A. Yes, this facility has an additional wing that  
18 is mostly portable buildings, as well as other  
19 portable buildings right in the middle of the  
20 facility.

21 Q. You mentioned issues with portables in  
22 yesterday's testimony; would the same types of issue  
23 be with the portables in the Hoover?

24 A. Yes, absolutely.

25 Q. If I could ask you to turn to the next picture,

1 106, would you briefly describe what that is?

2 A. This is the hallway of, from the entry, which  
3 is the far end of Hoover Elementary.

4 Q. What is going on in the hallway is there --

5 A. As you can see, because of the one size of the  
6 school student population, as well as the lack of  
7 enough instructional facilities, we actually at times  
8 are tutoring kids in the hallways and our kids as well  
9 you can see that the teacher has moved out some --  
10 appears to be rolls of paper that normally would be in  
11 the work area -- out in that area to use it as an  
12 instructional space.

13 Q. How are the facilities at Hoover? Are they  
14 adequate?

15 A. No. This is not an adequate facility for  
16 today's environment of teaching and learning students.

17 Q. Why do you say that?

18 A. Because the one is that there is class size  
19 problems. There is lack of facility, bathroom  
20 problems, there is inadequate feeding space. The  
21 library is inadequate.

22 I mean, it has a lot of features that were not  
23 put in place for the size of the population that it  
24 now serves.

25 Q. With respect to the libraries, when do you --



1 how current are the books in your school's libraries?

2 A. Well, as I testified yesterday, the majority of  
3 the books that are purchased for the libraries were  
4 purchased at the time that the buildings are new.

5 You know, the district attempts to add a few on  
6 a year annual basis, but the majority of the books  
7 are -- they date to the school. That is when it was  
8 built, and that is the majority of the library books  
9 were purchased.

10 Q. What is the range of age of your buildings in  
11 your districts?

12 A. Well, the oldest --

13 Q. What is the newest building?

14 A. The newest are 20 years of age.

15 Q. How old are the oldest building?

16 A. The one that is new -- 60 years of age which is  
17 this building here.

18 Q. If I could ask you to turn to photograph 110,  
19 you briefly say what that is?

20 A. This is the playground equipment, in the middle  
21 of the quad of Hoover Elementary School.

22 Q. Approximately, if you were to take the full  
23 picture, how much further does this go down, like half  
24 of the equipment, a 10th of the equipment, a 20th of  
25 the equipment?

1           A. The playground equipment, this is half of the  
2 equipment that is at that facility for kid.

3           Q. How many kids are at that facility?

4           A. Over 500.

5           Q. This is half of the playground equipment for  
6 the 500 kids?

7           A. Yes, that is correct.

8           Q. You testified earlier the playground equipment,  
9 would this playground equipment would be paid for the  
10 same way as you testified earlier, you get a match  
11 from a local rotary club, or a lion's club, or  
12 something like that?

13          A. That is correct.

14                 Because like I said yesterday, most of the  
15 equipment, when I arrived was the old wooden plaque  
16 equipment. This is the approach that we have taken to  
17 try to replace the equipment.

18          Q. Next picture, 111, could you briefly describe  
19 what this is?

20          A. This is the cafeteria that I alluded to. It is  
21 a multi purpose room for Hoover Elementary School. It  
22 serves as a cafeteria as well as a small stage for  
23 activities for that school.

24          Q. How many kids does your cafeteria seat?

25          A. This, can you squeeze really squeeze

1 approximately 200 students in the cafeteria.

2 Q. How many kids are at this school?

3 A. Over 500.

4 Q. This is an elementary school?

5 A. Yes, it is.

6 Q. Picture 114, could you please say what that is?

7 A. This is the library at Hoover Elementary  
8 School.

9 Q. The age of the books there would be mostly in  
10 the age of the school itself?

11 A. That is correct.

12 I think that the one thing that is really  
13 wonderful about our staff, as you can see, they do  
14 make a huge effort to try to make it colorful and  
15 attractive for the kids, because it is an old  
16 building. These are very old books that they try to  
17 find a way to try to attractive, make it attractive  
18 for the student.

19 Q. Picture number 115 could you briefly say what  
20 that is?

21 A. This is, again, an area that the school has  
22 carved out, that serves to support the Weather for  
23 Reading Program.

24 Again, this is something that the school does  
25 with the help boosters, PTAs, whatever means that they

1 can do to support this equipment.

2 Q. Photograph 117, briefly say what this is a  
3 picture of?

4 A. This is the picture of -- on the back of that  
5 dome area is a building that houses a program for the  
6 highly capable, that is housed at that school.

7 It also has a picture of two portable buildings  
8 that are also on that site.

9 Q. I notice that it is condition of the paint, for  
10 example, in the upper left-hand corner there.

11 What is the maintenance schedule that Yakima has  
12 for maintaining its buildings?

13 A. I would like to tell that you we have a  
14 maintenance schedule, but we don't, basically. The  
15 buildings get painted when we get, hear sufficient  
16 complaints from the principal, or the staff, or the  
17 parents.

18 There is no resources to develop a schedule that  
19 would guarantee us that we could come back and paint  
20 those buildings every five years or six years.

21 Q. Last picture, photograph 124, could you please  
22 explain what that is?

23 A. This is, again, an area that has been set aside  
24 by the school for technology support for students at  
25 the Gilbert Elementary School.

1 Q. Was this one of the newer schools in your  
2 district?

3 A. This is one of the newer schools. This is one  
4 of the schools that is at 20 years of age. You are  
5 beginning to see from the standpoint of the equipment  
6 there, the mix-match of the equipment there, because,  
7 again, the district does not have a current policy  
8 that provides the number of resources or the replacing  
9 of the technology in any given time, just simply  
10 whatever the principal can scrounge up.

11 Q. One of the State's experts testified in his  
12 deposition that the facilities have to be pretty  
13 severely deteriorated in order for it to have an  
14 impact on the instruction.

15 Do you agree with that?

16 A. No. I don't.

17 Q. Why not?

18 A. Well, I think that there is various reasons.

19 One, it is sometimes is the comfort of the  
20 building for there to be too cold or too hot. We have  
21 instances in the older buildings that we can't control  
22 the temperature of the building.

23 The building could be too hot, or on a very cold  
24 day too cold. When you tax the systems, that is when  
25 the systems have a tendency to go out.

1           The other thing, that I think that there is a  
2 level of pride that goes with the new facility what  
3 appears to be the cleanliness of the facility.

4           Even though that the staff maybe do a good job  
5 of the cleaning it, it has the appearances that  
6 doesn't give the pride.

7           There is research that indicates that the  
8 students do better in facilities that are -- have a  
9 new sense to and level of pride is there. I think  
10 that that goes with the staff as well.

11          Q. What does pride have do with the education?

12          A. It has all to do with it.

13           I think that you are not proud of one, who you  
14 are or what you are, it has a sense of doesn't compel  
15 you to actually do your best.

16          Q. Do you think that the conditions of the  
17 facilities that the Yakima School District negatively  
18 impact the education?

19          A. I do. I absolutely do.

20          Q. Could you explain why?

21          A. Well, again, there is a variety of reasons,  
22 because the facilities in Yakima -- first of all, it  
23 is an urban area. It is very difficult to pass bond  
24 issues in Yakima.

25           It is, the other part is that the district is a

1 tax poor district. Even though that the  
2 administration may want to build in a program that is  
3 going to replace those facilities on a timely basis,  
4 that simply doesn't happen, because the resources are  
5 not there to make that happen.

6 Q. How long have you been -- were you the  
7 Superintendent Yakima School District?

8 A. I completed nine years.

9 Q. How long were the State's experts at the Yakima  
10 School District?

11 A. I believe three or four days.

12 Q. Who do you believe knows more about the  
13 condition of the facilities at the Yakima School  
14 District, you or someone who has been there a few  
15 days?

16 A. I do.

17 Q. Who do you think knows more about the programs  
18 that are offered at the Yakima School District, you or  
19 somebody who has been there a few days?

20 A. I do.

21 Q. Who do you think knows more about the ability  
22 of the students in the Yakima School District to learn  
23 the knowledge and skills and to comply with the state  
24 standard, you or somebody who has been there three  
25 days?

1 A. I do.

2 Q. What is the most recent year that the Yakima  
3 School District has audited financial statements?

4 A. That would be 2007-2008.

5 Q. Is that the F-196?

6 A. That is correct.

7 Q. Who audits your financial statements?

8 A. That is State auditor's office.

9 Q. Could you briefly describe what does the State  
10 auditor's office do to audit your financial  
11 statements?

12 A. They spend approximately five to six, sometimes  
13 a little bit longer, examining --

14 Q. Five or six what, days?

15 A. Weeks. Weeks. We actually have to clear a  
16 space for them in the central office for them to do  
17 their work.

18 They examine every document. They go all the  
19 way from school board records, meeting records, to the  
20 expenditures and revenues that are and how they are  
21 spent, in accordance with the certain policies and the  
22 regulation by both the State and the federal  
23 government.

24 Q. You were the superintendent of the Yakima  
25 School District that was 2007-2008 school year?

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1 A. Yes, I was.

2 Q. If I could ask you to look, please, at Exhibit  
3 520. Is Exhibit 520 the F-196 for the 2007-2008  
4 school year for Yakima School District?

5 A. Yes, it is.

6 Q. If I could ask you to look at the cover page  
7 under the debt service bond there is a 6.6, almost  
8 \$6.7 million amount under "expenditures."

9 Do you see that?

10 A. Yes, I do.

11 Q. What does that pay for?

12 A. This pays for the bonds that were issued for  
13 the four middle schools that were built as well as  
14 three elementary schools that were built at the same  
15 time. This pays for the debt or the interest for  
16 those bonds.

17 Q. Does the State pay that amount?

18 Where does the money come from to pay that  
19 amount?

20 A. That comes from the levy that was authorized by  
21 the voters to pay for these buildings.

22 Q. If I could ask you to turn to page 17, please.  
23 Looking at the column that is labeled, when I say page  
24 17, I am looking at all caps the upper corner of the  
25 "PAGE: 17."

1           Then the middle column that is labeled "Number  
2 Activity Title Amount."

3           Do you see that in the middle column?

4           A. I do.

5           Q. Can you look at activity code 61 through 64 and  
6 67. Could you generally describe what that is paying  
7 for?

8           A. Those are the costs that are associated with  
9 the operation and maintenance of the School District  
10 buildings.

11          Q. Does that include the custodial staff, the  
12 maintenance staff, et cetera?

13          A. Yes, it does.

14          Q. Does the State fund pay the full salary that  
15 Yakima School District pays its employees?

16          A. No.

17          Q. Why does Yakima pay more than what the State  
18 funds?

19          A. Well, the School District pays the costs that  
20 are -- that happen. We have no control on the actual  
21 costs that happen. That is what we pay.

22          Q. Why don't you pay a lower salary?

23          A. Well, part of our -- I think that almost any  
24 business, you have to meet the market demand and also  
25 you have negotiated agreements that you work with.

1           We do have 11 different unions that we work  
2 with. Basically, you have to enter into the  
3 negotiated agreements and that is what you pay.

4           Q. In the Yakima School District can you pay a  
5 lower salary and get the competent maintenance and  
6 grounds people, et cetera, that you need?

7           A. No, I don't think so.

8           Q. Does the State fund all of the needed  
9 maintenance, supplies and equipment?

10          A. No.

11          Q. If you add up activity Code 61 through 64 and  
12 67, and it comes to approximately \$15 million.

13                 Is that \$15 million what it costs the Yakima  
14 School District in the 2007-2008 school year to own  
15 and operate its buildings?

16          A. Actually, it probably costs us more. But that  
17 is what we have that we spend on.

18          Q. \$15 million for buildings, you mentioned  
19 actually probably costing you more. Were you  
20 referring to on the cover page in the capital project  
21 that year you actually paid also \$4.5 million?

22          A. That is correct.

23                 In addition, we also have some contributing  
24 costs that are provided through the various support  
25 groups of the individual schools.

1 Q. All right. Like the Boosters and the Kiwanis,  
2 and things like that?

3 A. Yes.

4 Q. If I could ask you to look at activity code 27,  
5 would you generally describe what that pays for?

6 A. That has the costs of all instructional, in  
7 classroom instructional services.

8 Q. Basically instruction inside of a classroom  
9 that is what activity code 27 is?

10 A. Yes.

11 Q. Would that include the classroom teachers?

12 A. That is correct as well as the instructional  
13 aids that may be involved.

14 Q. Does the State pay the full salary that you pay  
15 your teachers?

16 A. No, they do not.

17 Q. Why do you pay the State -- why do you pay your  
18 teachers more than the State funding formula amount?

19 A. Well, the response is the same as my prior  
20 answer. Again, to -- you have negotiated agreements.  
21 You also have the marketplace that -- and that is  
22 basically what we go on.

23 Q. Could you attract and retain qualified teachers  
24 for the amount that the State funds in their Program  
25 Funding Formula?

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1 A. No.

2 Q. Does the State pay for all of the textbooks, et  
3 cetera, that are used inside of the classroom?

4 A. No, they do not.

5 Q. How old -- are your textbooks in the classroom  
6 up-to-date?

7 A. No, they are not. We have some that are.

8 But we have some that are nearing 13, 14, 15  
9 years of age that have not been replaced.

10 Q. Can you give me some examples?

11 A. Some of those examples would be in the areas of  
12 the social studies, the foreign languages, the music,  
13 the arts, those are areas that we have not even  
14 thought about replacing.

15 Q. Why haven't you even thought about replacing  
16 them?

17 A. We have given, you know, the priorities is,  
18 that we have assigned is, basically, the areas of  
19 reading and writing, mathematics, science. All of  
20 those others have gone by the wayside at this point.

21 Q. When you mentioned the social studies  
22 textbooks, does that have a negative impact on the  
23 education?

24 A. Well, it does, because so much has changed over  
25 the last decade and the standpoint of the world is a

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1 different place than it was when many of those books  
2 were published.

3 The countries are now know known by a different  
4 name. Obviously, our students are not getting the  
5 most relevant information out of those textbooks.

6 Q. After the social studies you mentioned the  
7 other textbook that are out of date?

8 A. The other area that I was getting a lot of heat  
9 from the teachers is the foreign language area.

10 Q. Foreign language doesn't change. Why do you  
11 update the textbooks on that?

12 A. The strategies are changed. One could make the  
13 same argument for reading.

14 But, you know, we are now have found that we  
15 have other strategies that have really given us  
16 results. The same thing can be said for foreign  
17 languages as well.

18 Q. Do you believe up-to-date textbooks are  
19 necessary for foreign languages?

20 A. I do.

21 Q. Does Yakima have up-to-date textbooks for  
22 foreign languages?

23 A. No, we do not.

24 Q. If you look at activity code 27, then, that is  
25 86.9 million -- about \$87 million -- is \$87 million is

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1 what classroom teaching actually costs the Yakima  
2 School District in 2007-2008 school year?

3 A. Yes.

4 Q. If I could ask you to please turn to the cover  
5 of the F-196 again, the amount for transportation  
6 vehicle fund expenditures of \$473,000; do you see  
7 that?

8 A. Yes.

9 Q. What does that pay for?

10 A. That pays for the purchase of buses to replace  
11 buses that are in our bus fleet.

12 Q. Why did you spend money to replace buses?

13 A. Well, what this indicates is that, you know, I  
14 believe that the State utilizes the figure of 15 years  
15 as the life expectancy of school buses.

16 So we have responsibility to replace those as  
17 the life expectancy runs out, because it becomes more  
18 expensive for us to maintain the buses than actually  
19 to replace them.

20 Q. Are there any safety issues involved or are  
21 they still safe?

22 A. There are safety issues involved.

23 That is one of the reasons that you replace them  
24 on a timely basis, to the degree that you have and  
25 have the resources available.

Dolores A. Rawlins, RPR, CRR, CCR Official Court Reporter,

1 Q. But that the \$473,000, that is for replacing  
2 the school buses?

3 A. That is correct, yes, it is.

4 Q. If I could ask you to turn activity codes 51  
5 through 59, on page 17, please, would you briefly  
6 describe what those activity codes are paying for?

7 A. Those pay for the operation of the  
8 transportation service that we provide our students.

9 Q. Is that transportation to and from school?

10 A. That is correct.

11 Q. If you add those activity codes, 51 through 59,  
12 and then the transportation vehicle fund amount, you  
13 get about \$3 million?

14 Is that what to and from transportation actually  
15 costs the Yakima School District in the 2007-2008  
16 school year?

17 A. Yes, because it excludes any transportation for  
18 trip like an extra curricular or athletic activities.

19 Q. If I could ask you to, please, turn to page 17,  
20 again on the activity codes, 21 through 22 and then 24  
21 through 26. Can you summarize generally what those  
22 activities codes are paying for?

23 A. You said 21 to 22?

24 Q. Yes, and then 24 through 26.

25 A. Those pay for support services other than the



1 non-classroom actual in-classroom activities, such as,  
2 pays for the textbooks as well as the teaching and  
3 learning department, the folks who would be involved  
4 in that activity.

5 Q. When you say the textbooks, you mean the  
6 textbooks that aren't in the actual classrooms, or the  
7 other teaching facilities?

8 A. That is correct.

9 Q. That with include the library, for example?

10 A. That is correct.

11 Q. And librarians, as well?

12 A. That is correct.

13 Q. I notice that there is a 1.4 million on people  
14 management and safety under activity code 25. What is  
15 the safety stuff that Yakima pays for?

16 A. This relates to the costs associated with SRO  
17 officers. Those are the School Resource Officers that  
18 we have at four of our -- two at our middle schools  
19 and two at the high schools.

20 Q. Those are just like the employees of the School  
21 District going around and telling kids to behave, or  
22 what?

23 A. These are full-fledged police officers  
24 commissioned police officers.

25 Q. You hire off-duty police officers?

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1           A. They are not off duty. They are actually on  
2 duty. This is agreement that we have with the Yakima  
3 Police Department.

4           Also included in there as well there is also  
5 some non-commissioned security personnel as well, that  
6 work at the -- both at the high schools and the Middle  
7 schools as well.

8           Q. The on-duty police officers on, at the School  
9 District, the School District pays for those?

10          A. Yes, we do.

11          Q. Are they armed?

12          A. Yes, they are.

13          Q. Why do you have armed on-duty police officers  
14 at your schools?

15          A. Well, we have the same issues that you find in  
16 urban school districts across the country, as it  
17 relates to the gang activity and other activity  
18 involving the youth.

19                 We have our major responsibility for the safety  
20 of those students that the parents have entrusted to  
21 us on a daily basis. We need to make sure that we  
22 provide a safe environment.

23                 In fact, that is a huge priority over the School  
24 District to provide a safe environment for all kids in  
25 order for them to be able to learn and for our

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1 teachers to be able to teach.

2 Q. Is having a safe environment like that, does  
3 that have any impact on the education?

4 A. It absolutely does.

5 If you don't have a safe environment, it is  
6 going to be very difficult to teach, or learn in that  
7 environment.

8 Q. Also notice that there is an included within  
9 the grouping of the non-classroom teaching stuff is  
10 guidance and counseling.

11 Why are counselors important to the district  
12 like Yakima?

13 A. Well, I think that the guidance and counseling  
14 counselors today are playing even a greater role than  
15 ever before for a variety of reasons.

16 Number one, we have had a huge change in the  
17 demographics in our community, which means that  
18 parents are not often aware of the changing -- ongoing  
19 changes of the requirements just for graduation.

20 So, the counselors serve a very important role  
21 there as well.

22 We have also have, as the system has evolved,  
23 that is loss of social services that were involved, or  
24 provided these kids in the past.

25 So, our counselors work on a daily basis with

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1 the students that have many, many needs, psychological  
2 needs, just day-to-day needs that need to be  
3 addressed.

4 But again --

5 Q. Does that have anything to do with the  
6 education, though?

7 A. It does.

8 I think that the students have to, we have to  
9 understand that the problems and the issues that these  
10 kids bring to the school.

11 We have to attempt to resolve them and address  
12 them and help them so that they can get their mind on  
13 to learning.

14 Q. You had testified yesterday about a lot of the  
15 parents in the Yakima School District are illiterate  
16 and don't understand the system.

17 Do counselors play any role dealing with that  
18 part of your problem?

19 A. Absolutely.

20 In fact, as I testified just a bit earlier, is  
21 that is one of the major roles that they play,  
22 because, again, the parents cannot -- because of the  
23 constant change of policies and the regulations,  
24 parents are not aware of these changes.

25 It becomes the counselor's role to make sure

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1 that this students are aware of all of the graduation  
2 requirements so they can graduate on time.

3 Q. Yakima spends a lot of time and resources on  
4 that; is that true?

5 A. Yes, we do.

6 Q. If you add up those activity codes that come  
7 about to about \$17 million.

8 Would \$17 million be the what the non-classroom  
9 instructional support actually cost Yakima School  
10 District in the 2007-2008 school year?

11 A. Yes.

12 Q. If I could ask you to please turn to activity  
13 code 23 on page 17. Could you briefly say what  
14 activity code 23 is?

15 A. That is the school administration associated  
16 costs.

17 Q. Is that the School District or each school  
18 building?

19 A. That is the school buildings that includes all  
20 of the offices of the principal, as well as the office  
21 personnel in the school office.

22 Q. Does the State --

23 A. -- clerk, secretary.

24 Q. Sorry.

25 Does the State fund the full salary pay, for

1 example, for your principals?

2 A. No, they do not.

3 Q. Why do you pay more than the State fund formula  
4 amount?

5 A. Well, again, this is something that, again, we  
6 have to meet the market rate, if you want to acquire  
7 quality individuals to work in your system. That is  
8 something that we do.

9 Q. Could you hire and retain competent qualified  
10 principals at the salary that is in the State funding  
11 formula?

12 A. No, absolutely not.

13 Q. Activity code 23 is 8.2, 8.1 -- call it \$8  
14 million. Is \$8 million is what it actually costs the  
15 Yakima School District in the 2007-2008 school year  
16 for building administration?

17 A. Yes.

18 Q. If I could please ask you to stay on page 17  
19 there, and briefly describe what activity codes 11  
20 through 15 pay for?

21 A. These codes pay -- or the activity codes here  
22 are related to what you would normally be known as  
23 central services costs, associated with the  
24 administration of the School District.

25 Q. Would that include, for example, the

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1 superintendent office?

2 A. That is correct; the superintendent office,  
3 Human Resources, the board of directors, et cetera.

4 Q. The business office as well?

5 A. Yes.

6 Q. By business office, is that -- are you running  
7 a for profit business, or is this more just the  
8 operations of the School District, district-wide?

9 A. This is the operations of the School District  
10 district-wide, which includes all of the accounting,  
11 the payroll accounts, payable office.

12 Q. Does this State fund the full salaries that the  
13 Yakima School District pays for the personnel in these  
14 activities?

15 A. No, they do not.

16 Q. Why does Yakima School District pay more than  
17 the State funding formula amount?

18 A. Once again, we have to attract and to meet the  
19 market demand for these jobs.

20 Q. Could you attract and obtain competent people  
21 for those positions at the salary amount that the  
22 State funding formula has?

23 A. No.

24 Q. Activity code 65, could you briefly say what  
25 that is?

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1           A. That is the costs of what the district pays for  
2 utilities, such as electricity, gas, water.

3           Q. Activity code 68, briefly, what is that?

4           A. That is the cost of insurance and that is both  
5 insurance of all of the district facilities, as well  
6 as the liability insurance that the district carries.

7           Q. That does not include the bus transportation  
8 insurance. That is one of the ones that we previously  
9 talked about; correct?

10          A. That is correct.

11          Q. Activity code 72 through 74, would you briefly  
12 say what that is?

13          A. The activity 72 relates to the information  
14 support system for student information services, as  
15 well as the operations of the School District.

16          Q. Is that, like, in a private business, would be  
17 the IT Department?

18          A. Yes, it is.

19          Q. All right.

20          A. The activity code 74 relates to the warehousing  
21 and distribution of the School District that includes  
22 both instruction materials as well as food services.

23          Q. Is that -- that is the warehousing distribution  
24 supplies and materials for the School District?

25          A. That is correct.



1 Q. Are these activity codes that we have gone  
2 through, are those sometimes referred to as the  
3 District-wide expenses?

4 A. Yes.

5 Q. If you add them up, it is about \$8 million. Is  
6 that \$8 million the costs of the utilities and the  
7 insurance, IT, and other District-wide expenses that  
8 Yakima School District actually paid in the 2007-2008  
9 school year?

10 A. Yes.

11 Q. If I could ask you to look at activity code 28,  
12 would you explain what that pays for in the Yakima  
13 School District?

14 A. This pays for what is listed here as extra  
15 curricular activities involving the students in the  
16 School District.

17 Q. By "extra curricular activities," what kind of  
18 activities in Yakima are you referring to?

19 A. I would like to actually label those more as  
20 co-curricular, because I do believe that they go  
21 hand-in-hand with the instructional curriculum of the  
22 district.

23 This involves the opportunities for students to  
24 be involved in cases like drama, speech, band, as well  
25 as educational, as well as physical activities in the

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1 district.

2 Q. Why do you say that the -- that you think of  
3 them co-curricular and they go hand-in-hand?

4 A. Because I think that it is important for  
5 students to be well-rounded individuals, versus simply  
6 just the knowledge that they are retained by  
7 participating in the classroom.

8 I think that they need to be able to be involved  
9 with competition. This is also in many instances, the  
10 hook that keeps kids in school.

11 Many kids in school stay simply because they can  
12 participate in the band, or in the other arts area,  
13 plays, as well as sports activities.

14 Q. You mentioned teaching kids to compete. What  
15 does that have to do with the education for today's  
16 world?

17 A. Well, I think that today's world is all about  
18 competition.

19 I think that it is important for our students to  
20 be able to understand on how you can compete, in  
21 particularly in the global society.

22 Q. Are there any other educational values or  
23 benefits that you, as a long time superintendent, see  
24 from these co-curricular activities?

25 A. Well, that it other piece that this does, it

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1 does help to mold character of students from fair  
2 play. And even when you lose, how do you deal with  
3 that.

4 I think that that is an important element that  
5 students need to walk away from with our schools.

6 Q. Look at line 28 there of extra curricular, it  
7 is over 2.4, so \$2 million of the athletic, academic  
8 the arts, the competitions that you have described.

9 Is \$2 million the actual costs to the Yakima  
10 School District in the 2007-2008 for the extra  
11 curricular -- co-curricular activities?

12 A. That is the extra costs to the district. But  
13 it is actually, it costs more than what you see here.

14 Q. Is that -- are you referring to, for example,  
15 if you look at the cover under ASB Fund there is  
16 almost .7 million dollars there?

17 A. Yes.

18 Q. What does the ASB Fund pay for?

19 A. That is the student Associated Student Body  
20 fund. The students contribute to the extra curricular  
21 activities by paying for such things as the coaches,  
22 also contribute to the transportation, when they have  
23 teams that go to the State.

24 Those are the areas, as well as the equipment,  
25 uniforms.

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1 Q. So, if we look, though, at activity code 28,  
2 then and say that there is a -- we put down two  
3 million, would the extra curricular activities that  
4 the Yakima School District -- the costs of extra  
5 curricular activities for the Yakima School District  
6 2007-2008 school year would be at least that \$2  
7 million amount?

8 A. Yes.

9 Q. Last, if I could ask you to look at activity  
10 codes 41 through 49, please. Would you tell me what  
11 those are, just generally, what is that?

12 A. That pays for the -- our food services  
13 operation for students.

14 Q. How does food services relate to education, if  
15 at all?

16 A. Well, it is -- first of all, we have mandatory  
17 attendance at the schools. It means that the students  
18 have to be in school all day.

19 I think that students have to -- if students are  
20 hungry, students aren't going to be able to think and  
21 participate in the education program.

22 So it is something that is an essential element  
23 of the program.

24 Q. When you say "the program," you mean educating  
25 kids in the Yakima School District?

Dolores A. Rawlins, RPR, CRR, CCR Official Court Reporter,

1 A. Educating kids in the Yakima School District.

2 Q. You add up the activity codes that is about \$6  
3 million, is \$6 million, with the food service actually  
4 costs the Yakima School District in the 2007-2008  
5 school year?

6 A. Yes.

7 Q. If I add up just what we have gone through on  
8 those activity codes, and the vehicle transfer fund  
9 and the debt service fund comes to \$147 million.

10 Is that the actual costs of running the Yakima  
11 School District in the 2007-2008 school year, at least  
12 \$147 million?

13 A. That is correct, Mr. Ahearne.

14 Q. If I ask you to look at the cover of the F-196,  
15 on the total expenditures, far right-hand side, there  
16 is actually 151.8 or \$152 million number.

17 Do you see that?

18 A. Yes, I do.

19 Q. Is that the total costs of running the School  
20 District, including the capital projects fund and the  
21 ASB Fund, as well?

22 A. Yes.

23 Q. Is this picture of the actual costs that you  
24 have described for the 2007-2008 school year, does  
25 that differ much from other years?

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1 A. No.

2 Q. Is the trend costs going higher, lower, stable?

3 A. The trend would be higher.

4 Q. Now, has the State specified in any way the  
5 knowledge and the skills that the Yakima School  
6 District is supposed to be teaching its students?

7 A. It has.

8 Q. Where has the State specified that the  
9 knowledge and the skills that Yakima School District  
10 is supposed to be teaching its students?

11 A. That would be in House Bill 1209 and the EALRs,  
12 as well as the Seattle Court case.

13 Q. When the, if I could ask you to look at the  
14 Trial Exhibit 144, please.

15 A. I am sorry, what is that?

16 Q. Exhibit 144, do you have Trial Exhibit 144 in  
17 front of you?

18 A. Yes, I do.

19 Q. When you refer to House Bill 1209, were you  
20 referring to those four numbered paragraphs that are  
21 on Exhibit 144?

22 A. On the right-hand side there?

23 Q. Yes, the read with comprehension, apply core  
24 concepts, et cetera.

25 A. Yes.

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1 Q. As a long time superintendent of the Yakima  
2 School District, what significance, if any, did those  
3 four numbered paragraphs have to you?

4 A. Well, significance is that that is the  
5 responsibility of the School District to assure that  
6 that students -- very minimum -- meet these standards  
7 as they graduate from the school.

8 Q. You would also referenced the Essential  
9 Academic Learning Requirements; correct?

10 A. Yes.

11 Q. If you look on the 144, it refers to the  
12 Essential Academic Learning Requirements, on the top  
13 as EALRs, are the those Essential Academic Learning  
14 Requirements?

15 A. Yes.

16 Q. Reading math, science, et cetera?

17 A. Yes.

18 Q. What is the significance, if anything, do the  
19 Essential Academic Learning Requirements have to you  
20 as a long time superintendent of the Yakima School  
21 District?

22 A. This, again, clearly defines what all students  
23 must know as at each grade level as they matriculate  
24 through our school system.

25 Q. I notice on the sentence right above the chart

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1 that has the box that has the EALRs listed. "These  
2 standards define what all students should know and be  
3 able to do at each grade level."

4 Do you see that?

5 A. I do.

6 Q. What is your understanding of what "all  
7 students" means?

8 A. That means all students.

9 Q. Each and every student in the Yakima School  
10 District?

11 A. Yes.

12 Q. Do you believe all students in the Yakima  
13 School District can learn the knowledge and skills  
14 specified in the House Bill 1209, or the Essential  
15 Academic Learning Requirements?

16 A. I absolutely do.

17 Q. Is the Yakima School District equipping all of  
18 the student with those knowledge and skills?

19 A. No, we are not.

20 Q. Is the Yakima School District providing all  
21 students a realistic or effective opportunity to learn  
22 those knowledge and skills?

23 A. No, we are not.

24 Q. Why not?

25 A. We don't have the resources available.

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1 Q. Do you believe if you had the resources, you  
2 could accomplish that?

3 A. I absolutely do.

4 Q. You referred to the Seattle School District  
5 case?

6 A. Yes.

7 Q. If I could ask you to look at Exhibit 2,  
8 please. Do you have Exhibit 2 in front of you?

9 A. Yes.

10 Q. Is that what you were referring to?

11 A. Yes, it is.

12 Q. What is the significance, if any, does  
13 paragraph in Exhibit 2 have to you as a long time  
14 superintendent of the Yakima School District?

15 A. Well, this clearly articulates that it is not  
16 simply about teaching our kids reading, and writing,  
17 and mathematics. But it goes beyond that; that is,  
18 that we need to provide the students with the  
19 knowledge and capacity to be able to adequately  
20 complete and in an open political system, as well as  
21 the -- in the world market to be able to contribute to  
22 positively towards that.

23 Q. As we sit here today, is the Yakima School  
24 District equipping the students in its district about  
25 the knowledge and the skills that are described in

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1 Trial Exhibit 2?

2 A. No. No, we are not.

3 Q. Is Yakima School District providing the  
4 students a realistic and effective opportunity to  
5 learn the -- what this knowledge and the skills are  
6 described in Exhibit 2?

7 A. No.

8 Q. Do you believe that all children in the Yakima  
9 School District can learn the types and the knowledge  
10 and skills that are described in Trial Exhibit 2?

11 A. I absolutely do.

12 Q. Does the State assess in any way whether  
13 students in the Yakima School District are actually  
14 learning the knowledge and the skills in the State  
15 standards?

16 A. Yes, they do.

17 Q. Do they issue any kind of a report that  
18 describes their assessment?

19 A. The State utilizes what is known now as the  
20 WASL. It also issues a report of those results in it  
21 is -- what is now known as a report card.

22 Q. If I could ask you to turn to Exhibit 689,  
23 please.

24 I will ask you to turn to tab 13, if you have  
25 that in front of you?

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1 A. Tab 13, all right.

2 Q. Is this the report card that you were referring  
3 to for the Yakima School District?

4 A. Yes, it is.

5 Q. Is this for under -- where it says "select  
6 year" it says "2008-2009" is that 2008-2009 report  
7 card for the Yakima School District performance?

8 A. Yes.

9 Q. State experts have testified in their  
10 deposition that Yakima WASL scores are acceptable.

11 Do you agree with that?

12 A. I do not.

13 Q. If I look at, for example, the 10th grade, of  
14 the WASL scores shows that four out of five of your  
15 10th graders don't know the State mandated science  
16 standard.

17 Is that acceptable to you?

18 A. That is embarrassing to me as a superintendent.

19 Q. Is that acceptable?

20 A. No, it is not.

21 Q. It says that three of four students in the  
22 Yakima School District don't know the math skills of  
23 the State specified as the minimum math skills. Is  
24 that acceptable to you?

25 A. No, it is not.

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1 Q. It shows that 1 out of 3 don't know the reading  
2 skills that the State has specified. Is that  
3 acceptable to you?

4 A. No, it is not.

5 Q. It shows that more than 1 out of 4 don't know  
6 the writing skills that the State specified as the  
7 minimum standards.

8 Is that acceptable to you?

9 A. No, it is not.

10 Q. If I could ask you to turn to pages, the eighth  
11 page -- counting -- actually it is the ninth page.

12 It says "page 1 of 2" at the top, where it says  
13 "select category of students," in the middle, "10th,  
14 Hispanic 2008-2009."

15 Do you see that?

16 A. Yes.

17 MR. AHEARNE: Your Honor, do I have the  
18 right page in your book?

19 THE COURT: I think so. You will have to  
20 inquire, it says "10th grade WASL," in the middle.

21 MR. AHEARNE: And "10th grade Hispanic."

22 THE COURT: Yes, that is what I have.

23 MR. AHEARNE: Counsel, do you have that?

24 THE WITNESS: It is hard to see.

25 BY MR AHEARNE:

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1 Q. Look at this, I see under reading not reading  
2 standard it is 33.6 almost 34 percent of the Hispanic  
3 students in your School District don't have the basic  
4 reading skills specified by the State.

5 Is that acceptable to you?

6 A. No, it is not.

7 Q. Looking at math, it shows that over 85 percent  
8 of the Hispanic students don't know the math that the  
9 State has specified.

10 Is that acceptable to you?

11 A. No, it is not.

12 Q. Looking at the writing it shows that over 30  
13 percent don't meet the writing standards is that  
14 acceptable to you?

15 A. No, it isn't.

16 Q. On the next page, under science, shows that  
17 over 86 percent do not know the science, basic science  
18 knowledge and skills that have been specified by the  
19 State.

20 Is that acceptable to you?

21 A. No, it is not.

22 Q. Is the gap between Hispanic students or Latino  
23 students' performance and other students, is that  
24 acceptable to you?

25 A. No.

1 Q. Why not?

2 A. Well, it definitely -- it is, as a  
3 superintendent, again, I feel that have the  
4 responsibility to make sure that all students -- all  
5 students -- have the necessary skills and knowledge.

6 And if I am not able to do that, obviously I am  
7 not doing my job as a superintendent making sure that  
8 they all walk away with those skills and knowledge to  
9 be able to do that.

10 Q. Do you believe that all students in your  
11 district can meet the math, science, reading and  
12 writing skills?

13 Are they capable of doing that?

14 A. Absolutely do.

15 I think that we have ample proof in the Yakima  
16 School District that we have been able to show that,  
17 indeed, all students can learn, given the right  
18 resources and opportunities.

19 Q. When you say that "all students in the Yakima  
20 School District can meet the State standards," is that  
21 does that include the poor kids?

22 A. Absolutely.

23 Q. Does that include the Latino kids?

24 A. Yes.

25 Q. It includes the kids of parents, who are

1 illiterate, and don't speak English very well?

2 A. You know, all means all -- that includes,  
3 Latinos, students of different color, et cetera, that  
4 means all to me.

5 Q. You mentioned that you there is proof in the  
6 Yakima School District. Are you, for example, closing  
7 the gap the achievement gap in Yakima School District?

8 A. We are.

9 Q. How are you doing that?

10 A. We are doing it through a lot of hard work for  
11 sure.

12 The other piece that we are doing it through --  
13 as we do everything else in Yakima cobble things  
14 together to try to make it work, that includes  
15 utilizing the resources, maybe grants, our local levy,  
16 the federal programs.

17 Q. Could you just describe for the Court some  
18 examples of the kinds of things that you were doing in  
19 Yakima School District to close the achievement gap?

20 A. We are doing a variety of things.

21 One of the things that we are working with is,  
22 we did this with the grant from the Stupstki Family  
23 Foundation of some \$2 million, that to provide the  
24 inservice training to our teachers, given them the  
25 cultural awareness of how to work and teach students

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1 of from poverty. We have also done that for our  
2 administrators as well.

3 We have also have provided leadership training  
4 to our principals, as to how to work with the teachers  
5 on how they can best work with the students of a  
6 different culture.

7 We also have made some dramatic changes in the  
8 reading curricular, as well as in the district.

9 We have also spend a lot of time reaching out to  
10 the Hispanic community in making sure that they  
11 understand that their role in the effort.

12 Q. Again, you mentioned, I am not going to ask you  
13 about absolutely everything, but to get more concrete  
14 ideas of what you are talking about.

15 "The cultural awareness of teaching kids in  
16 poverty," what kind of cultural awareness are you  
17 talking about, and how does that impact education?

18 A. It is important for the teachers to be able to  
19 recognize and be aware of the cultural differences  
20 between the various cultures.

21 For example, it is in the Latino-Hispanic  
22 culture, when a teacher is addressing the student,  
23 most generally, the student will have their head down.

24 I had to work as an individual to not do that.

25 So one of the things is that we want to make

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1 sure is that right off the bat as a teacher is working  
2 with the student, student is not putting their head  
3 down because they think that they are being  
4 admonished. The first thing that the teacher is going  
5 to say is "look at me."

6 So it is important for the teachers to  
7 understand that part of the culture of respect is to  
8 not look at the other person in the eye.

9 So we have to make sure that our teachers  
10 understand that this is an important piece that they  
11 have to make sure that they don't make this mistake,  
12 as they are correcting students that they don't say to  
13 them, often it is said in frustration, "look at me."  
14 That is an important piece for example.

15 Q. Is that just one example --

16 A. That is one example.

17 Q. -- that you are talking about?

18 A. Yes.

19 Q. The closing of the achievement gap that Yakima  
20 School District is starting to build to be able to  
21 accomplish, is that something that has taken 14, 19  
22 years or how long -- how long does it take to get  
23 results?

24 A. Some of those results can be immediate. We  
25 have been able to show that. Again, it is based on

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1 the strategic use of resources, as well as the  
2 application of the interventions that you put in  
3 place. You can get some relatively immediate results.

4 Q. That is your experience in the Yakima?

5 A. It has been.

6 Q. Going back to the report cards here issued by  
7 the State on Yakima School District for the 2008-2009  
8 report card, there is a box on the right that says  
9 "student demographics."

10 Do you see that?

11 A. What page?

12 Q. The first page on tab 13?

13 A. Okay, yes.

14 Q. Last two lines on that top box is "on-time  
15 graduation rate of 75.3 percent."

16 Do you see that?

17 A. Yes, I do.

18 Q. In the extended graduation rate of 91.6  
19 percent; do you see that?

20 A. Yes, I do.

21 Q. Are those graduation rates acceptable to you?

22 A. No, they are not.

23 Q. Why not?

24 A. Well, again, when you know that the intent of  
25 the constitution that clearly point out that all means

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1 all, if you take that to that word, this is not  
2 acceptable to me.

3 Q. Can a citizen get a living wage family job in  
4 your area with without a high school diploma?

5 A. No.

6 Q. Can a citizen get a living wage family job  
7 without the knowledge and the skills in the State  
8 standards?

9 A. No.

10 Q. If I look at your on-time and extended  
11 graduation rates, they are actually moving up; right?

12 A. Yes, they are.

13 Q. Last year, were they much lower?

14 A. Yes, they were.

15 Q. Approximately, how much have they moved up in  
16 the past year?

17 A. They have actually moved up about 10 to 11  
18 percent points.

19 Q. Do you know why?

20 A. Well, again, it has been a -- this has been an  
21 area of focus and emphasis on the part of the  
22 schools -- high school, as well as alternative  
23 schools.

24 Q. Can you explain to the Court what kind of  
25 effort, or emphasis that you are doing to increase

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1 your graduation rates that quickly?

2 A. We put in place a very aggressive school  
3 retention program, that actually we had individuals,  
4 who were assigned to chase down students, who had left  
5 our schools.

6 We went knocking on the doors, bringing those  
7 students back, giving those students options to be  
8 able to obtain their graduation.

9 We have also made it very difficult in the  
10 reporting responsibilities of the principals to the  
11 superintendent that they must approve or be  
12 knowledgeable of all individuals students that are  
13 leaving the schools and must sign up on the themselves  
14 and are responsible to the superintendent for those  
15 responses.

16 Q. Where is the bulk of the funding pay for the  
17 drop-out prevention and the treatable programs that  
18 you are describing?

19 A. This, again is a cobbling together of a variety  
20 of sources, including the grants, as well as federal  
21 programs, as well as the local levy dollars, as well  
22 as others.

23 Q. All right. Would this be an example of in your  
24 experience, at least in Yakima School District, of how  
25 devoting more resources, for example, the high school

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1 drop-out problem produces results?

2 A. Yes, it is.

3 Q. Are those results, do they take 14, 15 years to  
4 come to fruition?

5 Are they prompter?

6 A. No, they are absolutely prompter.

7 Q. If can I ask you to look at Exhibits 646 and  
8 649. You don't have it in front of you yet, I will  
9 get the notebook.

10 I will let everybody else know what exhibits we  
11 are going to look at. I believe I misspoke, it is  
12 Exhibit 659 not Exhibit649.

13 A. Exhibit 659.

14 Q. First, Exhibit 646 and then Exhibit659, they  
15 are both in the same notebook. We have Exhibit 646 in  
16 front of you?

17 A. -- no, Exhibit 646? I do.

18 Q. This is an interrogatory that went to the  
19 State, the State responded I asked you to look at page  
20 2, where it says,"Interrogatory 10" at the top.

21 Do you see that?

22 A. Yes.

23 Q. Under subparagraph A, it says:

24 "Please state the dollar amount of what the  
25 State determined it costs to provide the

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1 constitutionally required Basic Education to every  
2 child residing in that district, list the school  
3 year, including the 2007-2008 school year."

4 Do you see that?

5 A. Yes.

6 Q. I ask you to look at Exhibit 659, do you have  
7 in front of you, upper left-hand corner, it says  
8 "Yakima School District"?

9 A. Yes.

10 Q. This is the response that the State provided  
11 with respect to the Yakima School District, first --

12 MR. AHEARNE: Your Honor, we would move to  
13 admit Exhibit 659.

14 THE COURT: Exhibit 659 is offered.

15 MS. BASHAW: No objection.

16 THE COURT: Exhibit 659 is admitted.

17 ( Exhibit No. 659 received in evidence.)

18

19 Q. Looking down under the column A, under the  
20 "Yakima School District" you will see on line 13 there  
21 is a Basic Education portion listed line 17, Special  
22 Ed, and then LAP, bilingual, transportation; do you  
23 see those?

24 A. Yes.

25 Q. Do you recognize those as the Program Funding

1 Formulas of the State?

2 A. This is the funding program of the funding for  
3 the State, yes.

4 Q. If I could ask you to look at line 33, where it  
5 says, "Total Basic Education Allocations;" do you see  
6 that?

7 A. Yes.

8 Q. Look under column D, "2007-2008 school year."  
9 Do you see that?

10 A. Yes.

11 Q. At 79.6 -- round up for the State \$80 million  
12 amount; do you see that?

13 A. Yes.

14 Q. The \$80,000,000 that is produced by the State  
15 Program Funding Formulas, does that provide enough  
16 resources to equip all children in the Yakima School  
17 District with the knowledge and the skills that are  
18 specified in the Essential Academic Learning  
19 Requirements?

20 A. You are saying the \$79 million from the State  
21 whether that is adequate?

22 Q. Round up to \$80 million, does that provide --  
23 the \$80 million on the chart -- do you see that?

24 A. Yes, I do.

25 Q. Does that \$80 million dollars produces by the

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1 State funding programs funding formulas produce enough  
2 resources for the Yakima School District to equip all  
3 students in that district with the knowledge and the  
4 skills in the Essential Academic Learning  
5 Requirements?

6 A. No, it does not.

7 Q. Does it provide enough resources by the State's  
8 funding programs in the Yakima School District to  
9 equip the students with the knowledge and skills  
10 identified in House Bill 1209?

11 A. No, it does not.

12 Q. Does it provide with all children in the Yakima  
13 School District with all of the skills and knowledge  
14 and described in the Exhibit 2 the Seattle School  
15 District decision?

16 A. No, it does not.

17 Q. Does the \$80 million amount provide enough  
18 resources in the Yakima School District to give all  
19 students the realistic or effective opportunity to  
20 learn the knowledge and skills in the Essential  
21 Academic Learning Requirements, or House Bill 1209, or  
22 the Seattle School District decision?

23 A. No, it dos not.

24 Q. Why do you say that?

25 A. Well, if you look at the just the comparison



1 that you did that indicated that the district spends  
2 \$147 million, if you then reduce that by the \$80  
3 million, you can see that there is a huge piece  
4 missing that -- the \$147 million is not all that we  
5 could use to provide the skills and the knowledge to  
6 our students.

7 The answer is absolutely does not; doesn't even  
8 come close.

9 Q. When you say "all that you can use," as the  
10 long time superintendent of the Yakima School  
11 District, does the School District need more the \$147  
12 or the \$152 million, total, to provide all students a  
13 realistic or effective opportunity to learn the  
14 knowledge and the skills in the State standards?

15 A. Yes, it does.

16 Because what we are now forced to do -- in even  
17 spending this amount of money, we are often forced to  
18 choose the students with the lowest test scores, or  
19 the highest needs, that we provide additional  
20 opportunities, whether it would be through summer  
21 school, or extended learning opportunities after  
22 school.

23 Even using this number, we are still having to  
24 prioritize where we are going to provide the biggest  
25 band aid.

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1 Q. When you say prioritize, is that a more  
2 politically polite term for triage?

3 A. That is correct.

4 Q. Could the Yakima School District even operate  
5 on the \$80 million amount?

6 A. We have to close the doors.

7 Q. If I could ask you to look at the other years  
8 on line 33, the amounts for the total Basic Education  
9 allocation, would your answers be the same for the  
10 other years as well, with respect to the level of  
11 resources provided by those amounts?

12 A. Yes, they would be.

13 Q. If I could ask you to turn back to Trial  
14 Exhibit 520 again, please, which is the F-196.

15 If I could ask you to please turn to page 3 and,  
16 again, when I am talking about it, it is in all caps,  
17 in the upper right-hand corner, page 3, entitled  
18 "Statement of Revenues Expenditures," et cetera.

19 Do you have that in front of you?

20 It is "Entitled Statement of Revenues,  
21 Expenditures and Changes in the Fund Balance." Do you  
22 see that?

23 A. I haven't yet. Yes, I do, sorry.

24 Q. Under "Revenue: State Total," if you look all  
25 the way on the right-hand side, it shows \$106 million.

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1 A. Yes.

2 Q. Do you see that?

3 A. Yes.

4 Q. What kind of money is -- additional money is  
5 involved in the difference between the \$80 million,  
6 that we have talked about the Program Funding Formula  
7 amounts, and the 106, that is shown here?

8 What other kind of money does the State provide  
9 to Yakima School District?

10 A. That would include I-728 dollars, as well as  
11 I-732 dollars that are not part of the Basic  
12 Education, but results of initiatives.

13 Q. In the I-28 dollars, those were in existence --  
14 Yakima School District was getting the dollars in the  
15 2007-2008 school year; correct?

16 A. Yes.

17 Q. Is the I-728 money some of the money that was  
18 cut for the upcoming school year?

19 A. Yes.

20 Q. The I-732 is that the COLA adjustments?

21 A. Yes, it is.

22 Q. Did the -- does the Yakima School District --  
23 strike that.

24 Is the I-732 money what was cut for the upcoming  
25 school year as well?

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1 A. Yes.

2 Q. Can the Yakima School District count on this  
3 additional State money from year-to-year?

4 A. No.

5 That is probably, that is part of the problem  
6 that we face, is that we can't count on it.

7 Q. If I can ask you still, on page 3, if you look  
8 at "Revenue Federal Total," all the way on the  
9 right-hand side shows 23 million.

10 Do you see that?

11 A. Yes.

12 Q. If I -- what kind of money is that?

13 What kind of federal money is the federal money  
14 that Yakima School District gets?

15 A. When you say "what kind of money," are you  
16 talking about the --

17 Q. Can you describe some various examples to the  
18 Court that the kinds of the programs and the money at  
19 that -- the federal government gives you?

20 A. The Title One dollars also funds associated  
21 with the Special Education.

22 Q. For the upcoming school year, would that also  
23 include the stimulus dollars?

24 A. It does include the stimulus dollars.

25 Q. But it does not for this particular year,

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1 2007-2008; correct?

2 A. That is correct.

3 Q. Can the School District count on its federal  
4 funding amount from year-to-year?

5 A. No, it can't.

6 Obviously, as you mentioned the other stimulus  
7 dollars, that creates yet another major problem for  
8 the school districts to accept that -- because, in  
9 fact, as I was leaving out the door we were  
10 considering not accepting the Special Education  
11 dollars, because of the law that requires "maintenance  
12 of effort."

13 Q. Could you explain to the Court why -- the feds  
14 are saying, "here is the bucket of money, take it,"  
15 you are saying "maybe I don't want it."

16 What does maintenance of effort have to do with  
17 it?

18 A. Well, these dollars have lots of strings  
19 attached to them, you have to meet those strings in  
20 order to be able to accept those dollars.

21 Especially, in the case of the Special Ed, means  
22 if the district spends those dollars towards the  
23 Special Ed, it must maintain that same level of effort  
24 for the follow year.

25 You can't apply \$3 million dollars to the effort

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1 this year, then as a result of budget reductions, you  
2 pull that out the following year. You have to put  
3 that in there regardless -- even if it means reducing  
4 other areas.

5 Q. Do you have to do that, even if the feds aren't  
6 funding it that second year?

7 A. Absolutely.

8 Q. If I add that \$23 million, showing here for the  
9 feds, bring it up to \$129,000,000 -- between the  
10 States's program Basic Education funding formula, the  
11 additional cash, the State sometimes gives, and the  
12 additional cash that the feds sometimes give, at least  
13 with the 2007-2008 school year totals \$129 million  
14 approximately?

15 A. That is correct.

16 Q. How does the Yakima School District fill this  
17 void here between its actual costs of operating and  
18 the \$129 million?

19 A. The majority of that is through local levy  
20 dollars, as well as other grants that we solicit from  
21 other -- other than the local, the educational  
22 agencies and foundations.

23 Q. Would that include also the ASB funds that the  
24 students themselves pay?

25 A. Yes.

1 Q. Would that include the \$2 million grant, that  
2 you mentioned, for example, for one of your programs?

3 A. Yes.

4 Q. Now, if you say that you need more money to  
5 provide all of the students in your district the  
6 knowledge and the skills -- or even an opportunity to  
7 learn the knowledge and the skills in the State's  
8 standards -- why don't you raise more levy dollars?

9 A. One of the things that I have found out -- went  
10 from the west side to the east side -- was that there  
11 is a considerable difference between what you can run  
12 in your levies between the west side and the east  
13 side.

14 What I mean by that, when I worked in Tacoma, we  
15 were always at the upper limit whatever that max cap  
16 was, we always went for that amount and we passed it.

17 Q. If I make sure that we are clear. When you say  
18 the upper limit, the State imposes caps on how much  
19 each district can raise with the local levies; is that  
20 correct?

21 A. That is correct.

22 Q. Sometimes called the levy lid?

23 A. That is correct.

24 Q. When you were talking about Tacoma, you were  
25 able to get up to the levy lid?

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1 A. That is correct.

2 Q. I interrupted you, go ahead.

3 A. Thank you, one of the things that I found out  
4 very early on, is that the levy lid doesn't matter in  
5 most of the Eastern Washington, because they are tax  
6 poor districts.

7 Even if you were to put -- if you were to put it  
8 at the maximum levy lid, you simply wouldn't pass the  
9 levy in the district.

10 So in our case, we only collect approximately 60  
11 percent of what the law says that we can collect,  
12 because, again, the taxpayers simply will not accept  
13 it.

14 Q. Is this the picture that you have described now  
15 here, for the 2007-2008 school year, of the difference  
16 between the school districts' actual costs and the  
17 revenues from various sources that come in, is this an  
18 atypical year or a typical for your term as the  
19 superintendent?

20 A. This is typical for year-to-year in Yakima  
21 School District.

22 Q. Is there a trend, is this gap getting worse,  
23 getting better, stabilized?

24 A. Well, the trend is getting worse, because  
25 Yakima School District -- as far as wealth is

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1 concerned -- is not accruing it is as the level of the  
2 west side. The gap is continues to grow between the  
3 haves and the have nots.

4 MR. AHEARNE: Your Honor, I am about to  
5 switch topics.

6 Do want to take the break now or keep going  
7 for four more minutes?

8 THE COURT: We can recess now. That is  
9 fine, counsel.

10 Why don't we take our morning recess and we  
11 will resume at about 10:42.

12 The Court would be in recess. Thank you.

13 THE CLERK: All rise.

14

15 (Court was recessed.)

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I N D E X

W I T N E S S E S

BENJAMIN SORIA

DIRECT EXAMINATION BY MR AHEARNE 1791

E X H I B I T S

Exhibit No. 659 received in evidence 1839

1 C E R T I F I C A T E

2 REPORTER'S CERTIFICATE

3 STATE OF WASHINGTON)

4 SS:

5 COUNTY OF KING )

6

7 I, DOLORES A. RAWLINS, an official reporter of  
 8 the State of Washington, was appointed an official  
 9 court reporter in the Superior Court of the State of  
 10 Washington, County of King, on January 15, 1987, do  
 11 hereby certify that the foregoing proceedings were  
 12 reported by me in stenotype at the time and place  
 13 herein set forth and were thereafter transcribed by  
 14 computer-aided transcription under my supervision and  
 15 that the same is a true and correct transcription of  
 16 my stenotype notes so taken.

17 I further certify that I am not employed by,  
 18 related to, nor of counsel for any of the parties  
 19 named herein, nor otherwise interested in the outcome  
 20 of this action.

21 Dated: September 15, 2009

22

23 -----

24 DOLORES A. RAWLINS, RPR, CRR, CCR

25 King County Superior Court, Seattle, WA

Dolores A. Rawlins, RPR, CRR, CCR Official Court Reporter,