

APPENDIX I

TAB M

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 1 IN THE UNITED STATES DISTRICT COURT
 2 FOR THE MIDDLE DISTRICT OF PENNSYLVANIA
 3 TAMMY KITZMILLER, et al.,
 4 Plaintiffs CIVIL ACTION NO. 04-CV-2688
 5 vs.
 6 Dover Area School District, (JUDGE JONES)
 7 et al.,
 8 Defendants
 9
 10 Deposition of : SHEILA HARKINS
 11 Taken by : Plaintiffs
 12 Date : April 12, 2005, 10:00 a.m.
 13 Before : Vicki L. Fox, RMR,
 14 Reporter-Notary
 15 Place : 200 One Keystone Plaza
 16 North Front and Market Streets
 17 Harrisburg, Pennsylvania
 18
 19 APPEARANCES:
 20 PEPPER HAMILTON, LLP
 21 BY: CHRISTOPHER LOWE, ESQUIRE
 22 For - Plaintiffs
 23 THOMAS MORE LAW CENTER
 24 BY: PATRICK T. GILLEN, ESQUIRE
 25 For - Defendants

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 1 STIPULATION
 2 It is hereby stipulated by and between the
 3 respective parties that sealing, certification and filing
 4 are waived; and that all objections except as to the form
 5 of the question are reserved until the time of trial.
 6
 7 SHEILA HARKINS, called as a witness, being duly
 8 sworn, was examined and testified, as follows:
 9 BY MR. LOWE:
 10 Q. Good morning.
 11 A. Good morning.
 12 Q. I have introduced myself off the record. I would like
 13 to --
 14 A. I don't remember your name. I am sorry.
 15 Q. My name is Chris Lowe.
 16 A. Chris, Sheila Harkins.
 17 Q. I am from Pepper Hamilton, and I represent the
 18 plaintiffs in this case.
 19 Would you please say and spell your name for the
 20 record?
 21 A. S-h-e-i-l-a, Sheila, Harkins, H-a-r-k-i-n-s.
 22 Q. Now as I understand it, you have recently been deposed
 23 in this matter; is that correct?
 24 A. Well, not real recently. It was maybe two months ago.
 25 Q. Was it January I believe?

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 1 I N D E X
 2 WITNESS
 3 SHEILA HARKINS Examination
 4 By Mr. Lowe 3
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 9 EXHIBITS
 10 (None marked.)
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 1 A. Yes.
 2 Q. Correct me if I am wrong.
 3 A. Yeah.
 4 Q. We are here today, and I am going to ask you some
 5 questions at the beginning that are going to be
 6 repetitive of last time. This is so that we have the
 7 record straight.
 8 Once we get into the deposition itself, I am going
 9 to try to stay away from questions that will appear
 10 repetitive to you.
 11 Let me know if I am getting into a line of
 12 questioning -- I am sure that Pat will also let me know
 13 -- I see you are represented by counsel here today. If
 14 I get into a line of questioning that seems overly
 15 repetitive, feel free to let me know.
 16 I have reviewed your last deposition. It is
 17 possible I may start going into areas just without
 18 remembering that those areas have already been explored.
 19 You can feel free to let me know.
 20 In some instances, it may be because I plan to
 21 take it down just a different avenue than where it had
 22 gone last time. It might be to get a little bit of
 23 background. In most cases, I will probably just stop
 24 that line of questioning there.
 25 A. Now I feel bad in that I didn't review my last

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1 deposition.

2 Q. That was going to be my first question.

3 A. I am sorry.

4 Q. That's okay. That certainly is not an obligation of
5 yours at all.

6 With that in mind because this is on the record,
7 you have heard this before, and I'm going to go through
8 it again, it is going to be important that you answer
9 questions verbally.

10 A. Yes.

11 Q. That means with a yes or no. Even when I go through
12 these instructions, although you are going to be looking
13 right at me and it is clear to me that you have heard
14 me, I may ask you to say either yes or no just to
15 clarify your understanding of these instructions.

16 Is that clear?

17 A. Yes. And slow down for me, also. My mind doesn't work
18 that fast.

19 Q. There's my first procedural direction is that I do tend
20 to speak quickly. And if at any time I am speaking too
21 quickly, Vicki will probably stop me. But if Vicki
22 doesn't, you can feel free to. Just ask me to slow
23 down.

24 Over the course of the morning, I am sure I will
25 naturally slow down, but there will be other times I may

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1 comes to the transcript when we look at it later.

2 A. Thank you very much. And I tend to interrupt so please
3 stop me from doing that.

4 Q. Fair enough. Once again, Vicki will probably stop you
5 before I get a chance. I understand that you were
6 deposed before. You have already stated this so let's
7 get it for the record.

8 Have you reviewed your previous deposition
9 testimony?

10 A. No, I have not.

11 Q. Looking back to your previous deposition, are there any
12 answers that you gave at that time or any explanations
13 that you gave that since then you feel you need to
14 change or to clarify?

15 A. I reviewed my deposition immediately afterwards and made
16 a few changes. I have not looked at it since. So I'm
17 not aware of what I even said at the time.

18 Q. Okay.

19 A. Or what those changes were.

20 Q. We will assume that those changes were made. And, of
21 course, you are going to review this deposition before
22 we see it at any rate.

23 Between the past deposition and this deposition,
24 did you do anything to prepare?

25 A. I talked to Pat last evening.

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1 start to speed up naturally as well. Just let me know.

2 If I ask any questions that seem imprecise or
3 unclear, let me know that as well. By the same token,
4 if any of your answers seem to be a little unclear to
5 me, I may ask you to repeat or rephrase. Most likely
6 that will be because my question was less than precise.
7 But either way, if we could have an open line of
8 communication.

9 A. Thank you.

10 Q. Is that clear? Are you on any medications, or have you
11 taken any medication, or do you have any disabilities
12 that would affect your perception today?

13 A. Not to my knowledge.

14 Q. Okay. And in the past, let's say go back two years. In
15 the past two years, have you taken any medication or
16 suffered any handicaps that may affect your perception
17 or memory?

18 A. Not to my knowledge.

19 Q. Great. So that the transcript is clear, I am going to
20 also ask that you try to wait until I finish my
21 questions. I tend to pause on occasion during
22 sentences, but at the same time, generally I will hold
23 my pauses until I have completed the question. If you
24 give me a couple of seconds after you think the question
25 is done, that will make it a lot more clear when it

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1 Q. Approximately how long did you talk with Pat?

2 A. Less than an hour.

3 Q. Did you talk to anyone else about this deposition?

4 A. My husband knew I was coming.

5 Q. Other than your spouse, have you had conversations with
6 anyone that is not a party to this?

7 A. Excuse me?

8 Q. Have you had conversations with anyone else that is not
9 a party to this action?

10 A. No.

11 Q. About this deposition?

12 A. No.

13 Q. I am going to start asking some questions about the
14 resolution that was passed recently or passed this past
15 year for enriching the Dover biology curriculum.

16 Before you voted to pass the resolution, did you
17 conduct any research involving --

18 A. If you are talking --

19 MR. GILLEN: Please let Chris finish his question.

20 A. I am sorry. I thought he was finished. I apologize.

21 MR. GILLEN: That is all right. Forgive me,
22 Sheila.

23 A. I thought he was finished. I apologize.

24 BY MR. LOWE:

25 Q. And I did pause. Did you conduct any research involving

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 1 Intelligent Design?
 2 A. I looked at several websites involving Intelligent
 3 Design.
 4 Q. I believe in your prior testimony you had said that you
 5 don't recall at this time any of the articles that you
 6 had read; is that still the case?
 7 A. That is pretty much. That's correct.
 8 Q. Did you conduct any research with respect to Evolution?
 9 A. I looked at websites, yes, that covered both areas.
 10 Q. In what ways did you search the Internet? Do you recall
 11 search terms that you used when going to the Internet
 12 for your research?
 13 A. I used Google. I used Intelligent Design. I think I
 14 used Evolution. I used macro and micro Evolution.
 15 Q. In what way did you judge whether or not the contents or
 16 the information that you received on these websites
 17 was --
 18 A. I am sorry.
 19 Q. When looking at the websites, in what way did you
 20 determine whether or not the information that you
 21 received from these websites was accurate?
 22 MR. GILLEN: Objection to the form.
 23 MR. LOWE: Could you clarify?
 24 MR. GILLEN: Sure. You are assuming that she was
 25 evaluating it -- first of all, that she did conduct that

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 2 1 truth, and yet if you dig a little bit deeper, you can
 3 2 find that the person that published these articles or
 4 3 published the website either did so sarcastically or in
 5 4 farce or has absolutely no information about what it was
 6 5 that he or she posted.
 7 6 Was there any way going back to the information
 8 7 that you used, that you based your -- that you used to
 9 8 help you make your informed decision, did you in any way
 10 9 check to see that that information was accurate or
 11 10 truthful or scientific?
 12 11 A. No. I think that's why I said I was not considering it
 13 12 accurate. I was only trying to gather information.
 14 13 Q. Okay.
 15 14 A. I think we are all well aware of the information on the
 16 15 Internet is just out there.
 17 16 Q. If at any time during the course of this deposition you
 18 17 feel the need to take a break, if I ask you any
 19 18 questions that make you feel uncomfortable with
 20 19 consideration to my duty to my own clients --
 21 20 A. Sure. I would just ask you to slow down. My brain does
 22 21 not process fast.
 23 22 Q. I will continue to use my slow voice. Of the materials
 24 23 that you reviewed on the Internet, did you provide any
 25 24 of these materials to other Board members?
 26 25 A. No, I never downloaded to print anything out ever.

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 2 1 kind of evaluation, and second that she had some
 3 2 criteria to do so. Go ahead, Sheila.
 4 3 A. I did not assume it was accurate. I was just looking
 5 4 for information. In no way was I determining the
 6 5 accuracy of it.
 7 6 BY MR. LOWE:
 8 7 Q. To address Pat's objection, did you base your decision
 9 8 as to whether or not to vote for this policy on the
 10 9 information that you received from these websites?
 11 10 A. Very minimally.
 12 11 Q. When you say minimally, what did you use from those
 13 12 websites to help you in determining whether or not to
 14 13 vote for this resolution?
 15 14 A. Only to become somewhat more informed.
 16 15 Q. To the extent that you used the information from these
 17 16 websites, I realize it was only minimally to help you
 18 17 make an informed decision, the information that you
 19 18 used, did you do anything to verify that that
 20 19 information was accurate?
 21 20 A. I am sorry. I am not following your path of thought.
 22 21 Q. I am sure that you understand that on the Internet,
 23 22 anyone can pose anything?
 24 23 A. That is very true.
 25 24 Q. You can find things on the website that look extremely
 26 25 official, that look as if they are nothing but the

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 2 1 Q. When did you first hear about Intelligent Design?
 3 2 A. Could you expand on that?
 4 3 Q. Sure. Did you hear about Intelligent Design prior to
 5 4 the passing of the resolution?
 6 5 A. Oh, yes.
 7 6 Q. Did you hear about Intelligent Design prior to let's say
 8 7 the previous June Board meetings?
 9 8 A. Yes. I heard of Intelligent Design in several years
 10 9 past, but only in passing.
 11 10 Q. Do you recall in what way you were acquainted with
 12 11 Intelligent Design, how it was that you had heard of
 13 12 Intelligent Design?
 14 13 A. No, I don't. And I don't think I was informed really of
 15 14 what it really -- what different people's perception was
 16 15 it involved.
 17 16 Q. At what time did you start to research Intelligent
 18 17 Design?
 19 18 A. After it was brought up with the Board.
 20 19 Q. With your best recollection, was it brought up in the
 21 20 Board prior to the June meetings?
 22 21 A. Oh, yes.
 23 22 Q. Do you remember --
 24 23 A. I was at meetings with the teachers in the spring.
 25 24 Q. Do you remember at what point it was brought up with the
 26 25 Board first?

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2 1 A. I believe it was in early spring, April about.

3 2 Q. And you mentioned some meetings you had with teachers

4 3 prior to the June Board meeting. How many meetings did

5 4 you attend with teachers with respect to Intelligent

6 5 Design and/or the biology curriculum?

7 6 A. I'm not sure. I can recall at least two, maybe three in

8 7 the spring.

9 8 Q. Do you recall who else was in attendance at those

10 9 meetings?

11 10 A. Which teachers you are asking?

12 11 Q. We can start with the teachers, sure.

13 12 A. Bert Spahr, Jen Miller, Rob Eshbach. Those were the

14 13 teachers.

15 14 Q. Okay.

16 15 A. The administration was Mike Baksa. I believe, I'm not

17 16 sure if one or both it was Joel Reidel and our new

18 17 Assistant Principal Shane Miller. I'm not sure of him.

19 18 Board members, it was I believe myself, Bill

20 19 Buckingham, and I believe one of them Alan Bonsell was

21 20 at. I'm trying -- I am visually trying in my mind to go

22 21 around the table.

23 22 Q. Your memory is better than mine. By the end of this

24 23 week, I won't remember who was sitting at this table.

25 24 Let's take a look back at those meetings. I am going to

26 25 take them one at a time, and we are going to take a few

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2 1 that you are not entirely clear on what the date of

3 2 these meetings was?

4 3 A. No.

5 4 Q. Let's go to the first time that you met with the

6 5 teachers with respect to the change or the potential

7 6 change in the biology curriculum.

8 7 Do you recall whether that was at the end of the

9 8 winter or the beginning of the spring?

10 9 A. It was in the spring.

11 10 Q. We will continue to try and place it. Do you remember

12 11 approximately what month it was perhaps, before or after

13 12 Easter break, spring break?

14 13 A. I believe it was after Easter, but I believe it was

15 14 before the end of school. I'm sure it was.

16 15 Q. You had earlier mentioned Ms. Spahr, Ms. Miller and

17 16 Mr. Eshbach as the science teachers in attendance?

18 17 A. Yes.

19 18 Q. To save us some time, were these the same science

20 19 teachers in attendance at each of the meetings?

21 20 A. I do not believe Mr. Eshbach was at one of them. I'm

22 21 not sure of that though.

23 22 Q. Okay. At this first meeting, do you remember whether or

24 23 not Mr. Eshbach was there?

25 24 A. I believe he was.

26 25 Q. And which administrators do you recall being at that

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2 1 seconds just to see what it was that was discussed at

3 2 those meetings, what your recollection was.

4 3 A. Do you have particular dates for which meetings?

5 4 Q. I am actually going to be asking you if you recall these

6 5 meetings. I am going to take them chronologically first

7 6 to last. If you can remember a date, that would be

8 7 great. We will try to help you narrow it down to a

9 8 certain month, season if necessary, whatever it is you

10 9 are going to be remember is fine.

11 10 A. It would help me more if you could give me dates and

12 11 maybe I could recollect.

13 12 Q. I don't have the dates. Otherwise --

14 13 A. Okay.

15 14 Q. So that you understand, we are not trying to -- I am

16 15 trying to learn your story. I am actually not trying to

17 16 check your memory.

18 17 A. I thought maybe you could jog my memory more if you had

19 18 information and said well, what about this date. Okay?

20 19 Q. No, this is the first I heard of the meetings that you

21 20 have attended so I am just going to explore it.

22 21 A. Okay.

23 22 Q. That's okay. I will try and jog your memory by way of

24 23 questions.

25 24 A. Okay.

26 25 Q. I will try and help you pinpoint the date. I understand

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2 1 first meeting?

3 2 A. I believe Mike Baksa was at at least both of the

4 3 meetings. I am not sure if Dr. Nilsen was or not. And

5 4 if you want to include the principals, I'm not real

6 5 positive -- do you know what I mean? I am looking

7 6 around in my mind, and I'm not sure if the high school

8 7 principals were there or not.

9 8 Q. When I am speaking administration, generally speaking I

10 9 will be referring to either the administrators such as

11 10 or Superintendent or Assistant Superintendent or the

12 11 Principals or Vice-Principals.

13 12 A. Yes.

14 13 Q. What about members of the School Board other than

15 14 yourself at this school meeting?

16 15 A. Bill Buckingham and I am not sure about Alan. We were

17 16 the curriculum committee. Casey Brown was on the

18 17 curriculum. Alan Bonsell was Board President. Casey

19 18 Brown was also on the curriculum committee, and she

20 19 chose not to come.

21 20 Q. Do you recall what was discussed with respect to the

22 21 biology curriculum at that meeting?

23 22 A. We discussed the possibilities of the changes adding

24 23 gaps and problems of Darwin's Theory of Evolution. We

25 24 discussed the Miller-Levin textbook.

26 25 Q. At this first meeting, did the teachers share their

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 2 1 understanding of the proposed changes? Let me rephrase
 3 2 that.
 4 3 At this meeting, did the teachers share any
 5 4 concerns with the potential change to the biology
 6 5 curriculum?
 7 6 MR. GILLEN: Objection to the form.
 8 7 MR. LOWE: Could you explain?
 9 8 MR. GILLEN: Sure. I don't believe she mentioned
 10 9 that the changes to the biology curriculum were
 11 10 mentioned at this meeting.
 12 11 BY MR. LOWE:
 13 12 Q. Were changes -- were potential changes to the curriculum
 14 13 mentioned at this meeting?
 15 14 A. I believe it was discussed, yes.
 16 15 Q. With respect to the potential changes or with respect to
 17 16 the problems that were addressed with Darwin's Theory?
 18 17 A. No, they seemed very supportive and didn't seem to have
 19 18 a problem with it. They then said they would like to go
 20 19 back and discuss how they might change the curriculum
 21 20 and give us their suggestion of wording of the
 22 21 curriculum changes. But the meeting came out in a very
 23 22 positive light.
 24 23 Q. Was there any mention of Intelligent Design at this
 25 24 meeting?
 26 25 A. Yes.

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 2 1 A. Can I say all the same except as?
 3 2 Q. You certainly can.
 4 3 A. All the same except I do not believe Rob Eshbach was
 5 4 there. One of them was missing. Either it was Jen
 6 5 Miller or Rob Eshbach. I'm not sure which one. One of
 7 6 the two was not there. It may have been Jen.
 8 7 Q. Which administrators do you recall being at the second
 9 8 meeting?
 10 9 A. I believe Mike Baksa was there, and I am not sure about
 11 10 the high school principals. But they were very quiet
 12 11 through the whole meeting if they were there.
 13 12 Q. And with respect to the School Board, what other members
 14 13 than yourself were there?
 15 14 A. Bill Buckingham and Alan Bonsell.
 16 15 Q. With respect to Intelligent Design, was Intelligent
 17 16 Design discussed at this second meeting?
 18 17 A. Yes.
 19 18 Q. Do you remember the nature of these discussions?
 20 19 A. That is when the teachers I felt made us aware that they
 21 20 were no longer supportive of including it.
 22 21 Q. Do you remember which teachers spoke about their
 23 22 concerns at this meeting?
 24 23 A. Bert Spahr.
 25 24 Q. Do you remember what it was she said?
 26 25 A. I am trying to recollect. I don't recall her words

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 2 1 Q. Do you recall the context in which Intelligent Design
 3 2 was brought up?
 4 3 A. Just generally.
 5 4 Q. Was Intelligent Design brought up as a possible
 6 5 alternative to Evolution at this time?
 7 6 A. No, never.
 8 7 Q. Was Intelligent Design brought up as something that
 9 8 would be introduced to students at this time?
 10 9 A. Introduced as being made aware of.
 11 10 Q. Were the teachers at this time told that students may
 12 11 be -- that Intelligent Design might be something that
 13 12 the students would be made aware of?
 14 13 A. To consider it I believe.
 15 14 Q. Was a textbook of Of Pandas and People brought up at
 16 15 this meeting?
 17 16 A. No. Not that I recall.
 18 17 Q. Moving ahead to the second meeting.
 19 18 A. Yes.
 20 19 Q. Approximately how much later in the school year was that
 21 20 meeting?
 22 21 A. Within a month.
 23 22 Q. Can we just run through who was in attendance at this
 24 23 meeting starting with the teachers?
 25 24 A. All the same names?
 26 25 Q. Yes.

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 2 1 anymore. It was just that she wasn't supportive of
 3 2 including Intelligent Design.
 4 3 Q. Did any of the other teachers address this at that
 5 4 meeting?
 6 5 A. Not that I can recall.
 7 6 Q. Did you personally get a chance to respond to Mrs.
 8 7 Spahr's concerns?
 9 8 A. I didn't at the time feel they were strong concerns of
 10 9 hers, just that she wasn't that supportive of it.
 11 10 Q. Did anyone at the meeting, either administrators or the
 12 11 Board, respond in any way to Mrs. Spahr's concerns at
 13 12 that time?
 14 13 A. I don't remember.
 15 14 Q. You stated that the first meeting felt -- and correct me
 16 15 if I am wrong -- felt like it was relatively supportive,
 17 16 and you left there with a feeling of support?
 18 17 A. I felt the first meeting went very well.
 19 18 Q. Did you leave the second meeting with the same feeling?
 20 19 A. No, not the supportive.
 21 20 Q. You said that the science teachers' concerns didn't seem
 22 21 that great to you at this time?
 23 22 A. Yes.
 24 23 Q. Does that help you to recall at all what it was that
 25 24 specifically was said or even generally said by Mrs.
 26 25 Spahr?

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2 1 A. It was the first time I had heard any somewhat negative

3 2 comment made. The first meeting was very working, how

4 3 can we make this work. And I felt Bert came to the

5 4 second meeting not totally supportive any longer.

6 5 Q. But you can't recall what it was she said that gave you

7 6 that feeling?

8 7 A. Not exactly. It had something to do negative with

9 8 Intelligent Design, but it wasn't -- I can't recall what

10 9 she said, and it was very brief.

11 10 Q. Did anyone else share concerns at that meeting?

12 11 A. Not that I recall.

13 12 Q. Following that meeting, did you in any way research

14 13 these concerns or further investigate these concerns of

15 14 Ms. Spahr?

16 15 A. No, because I didn't feel her concerns were that strong.

17 16 Q. Are you aware of whether anyone else investigated these

18 17 concerns, anyone else from the School Board or the

19 18 administration?

20 19 A. No, I'm not.

21 20 Q. Did you discuss these concerns with either members of

22 21 the administration or the School Board after this

23 22 meeting?

24 23 A. No, because I really -- I might have had concerns about

25 24 something, but it's not great concerns. So I didn't,

26 25 no.

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2 1 Q. Were there any specifics shared as to how the teachers

3 2 would make these students aware or how these gaps in the

4 3 Theory of Evolution would be taught?

5 4 A. No, not at all. That wasn't our role.

6 5 Q. Do you recall then how Intelligent Design came into the

7 6 conversation at that time?

8 7 A. I believe one of the theories that they wanted to make

9 8 sure was presented because it was the only other theory

10 9 they knew of which was Intelligent Design.

11 10 Q. Who is they?

12 11 A. Either Alan or Bill. And I believe when we came up with

13 12 the wording, the teachers were supportive of the entire

14 13 change in presenting other theories. Saying other

15 14 theories would be presented, but they did not want the

16 15 word -- Bert Spahr did not want the words Intelligent

17 16 Design included.

18 17 Q. Do you recall anything else that occurred in that

19 18 meeting with respect to the change in Evolution -- the

20 19 change rather in the biology curriculum?

21 20 A. That is all we were discussing and the Miller-Levin

22 21 book.

23 22 Q. What was discussed with respect to the book at that

24 23 time?

25 24 A. Just reviewing it, and if anyone had any problems with

26 25 it.

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2 1 Q. Do you recall what it was that either the administration

3 2 or the Board shared with the teachers during the second

4 3 meeting with respect --

5 4 A. Excuse me.

6 5 Q. Do you recall what the administration or the School

7 6 Board shared with the teachers with respect to

8 7 Intelligent Design at that meeting?

9 8 A. I'm trying to recall other than the wording of what was

10 9 made in the resolution --

11 10 Q. And please --

12 11 A. -- for the curriculum change.

13 12 Q. Let me see if I can piece this together. It may save

14 13 some time. Correct me if I am saying anything that

15 14 doesn't match your recollection.

16 15 But at this time, I take it that this meeting was

17 16 -- at this meeting, you had a proposed message that

18 17 would be read to the students?

19 18 A. No, not at all.

20 19 Q. What did you come to this meeting with?

21 20 A. It was very brief and short, which was the curriculum

22 21 change. That's all we were discussing.

23 22 Q. What was the curriculum change at that time?

24 23 A. The students would be made aware of gaps and problems in

25 24 Darwin's Theory of Evolution, and that they would be

26 25 made aware of other theories.

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2 1 Q. Were any problems with the text shared at that point?

3 2 A. No, not really. Not that I recall.

4 3 Q. Was the possibility of another text or supplemental text

5 4 brought up at this meeting?

6 5 A. Yes. The teachers had reviewed another textbook, and

7 6 they had it there. It might have been at the first

8 7 meeting.

9 8 Q. Had Of Pandas and People been brought up at this point?

10 9 A. No, I don't know if anyone knew Of Pandas and People

11 10 existed at that time.

12 11 Q. We're going to move forward to the third meeting. Do

13 12 you recall the people in attendance at the third

14 13 meeting?

15 14 A. I am not real clear on the third. I am not sure there

16 15 was a third. That meeting doesn't -- you know, I'm not

17 16 clear on the third meeting.

18 17 Q. So it is possible that the last meeting you had -- the

19 18 last private meeting you had with the teachers with

20 19 respect to the change in the biology curriculum occurred

21 20 late in the spring?

22 21 A. Yes.

23 22 Q. Prior to the summer -- prior to the June meeting?

24 23 A. Yes. There may have been a third meeting, but I can't

25 24 visualize it in my mind.

26 25 Q. Then I won't ask any questions about it. We won't get

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 2 1 too far.
 3 2 A. Pat didn't kick me yet.
 4 3 MR. GILLEN: That would be improper, and therefore
 5 4 I will not be kicking you.
 6 5 BY MR. LOWE:
 7 6 Q. Did you at any time discuss with either the
 8 7 administrators or other members of the Board the
 9 8 concerns that Ms. Spahr had shared with you in the
 10 9 second meeting?
 11 10 A. Excuse me?
 12 11 Q. Did you at any time either prior to or after the June
 13 12 Board meeting discuss with any of the members of the
 14 13 School Board or with any members of the administration
 15 14 the concerns that Ms. Spahr had shared with you during
 16 15 the meetings you had with the staff?
 17 16 A. No. I believe at the June meeting is when Bert Spahr
 18 17 herself made the statement that she did not support the
 19 18 Intelligent Design phrase. That was the first time I
 20 19 became aware that she was opposed to the Intelligent
 21 20 Design statement in the resolution. Is that clear?
 22 21 Q. I believe so. It is a little bit inconsistent. Earlier
 23 22 you had said that she had stated some concerns with it?
 24 23 A. Right.
 25 24 Q. Is the difference at this meeting that she made her
 26 25 concerns much stronger; you understood at this point

1 00027
 2 1 with attorneys that represent you in any way. That
 3 2 would be privileged. If I start to go down that road, I
 4 3 can promise you Pat will be very quick to let me know
 5 4 and to let you know. Those are off the record. I don't
 6 5 have a right to those conversations.
 7 6 A. Okay.
 8 7 Q. You can, of course, tell me if you want, but that is not
 9 8 why I am here. And I am not curious about those.
 10 9 Other than I may ask questions about who was in
 11 10 attendance, but I don't want information about either
 12 11 conversations you had with your attorneys or
 13 12 conversations you had with other defendants in this case
 14 13 about what your attorneys said to you or what they
 15 14 discussed with you. Okay?
 16 15 A. Okay. Yes.
 17 16 Q. At this point, you have expressed that you did some
 18 17 Internet research, that you don't recall specifically
 19 18 what it was you looked at. Other than that, at any time
 20 19 did you conduct any more research with respect to
 21 20 Intelligent Design?
 22 21 A. Not that I recall.
 23 22 Q. At any time, did any member of the School Board or the
 24 23 administration or of the general public come to educate
 25 24 you as to Intelligent Design?
 26 25 A. I believe there were several people who talked at the

1 00026
 2 1 that they were strong concerns and not just mild
 3 2 questions, moderate questions?
 4 3 A. Yes, that's correct.
 5 4 Q. Did you investigate her concerns after the June meeting?
 6 5 A. No. I can't say I did.
 7 6 Q. Are you aware of whether other members of the School
 8 7 Board took the time to investigate Ms. Spahr's concerns
 9 8 with respect to including Intelligent Design?
 10 9 A. No, I'm not.
 11 10 Q. Did you as a Board discuss Ms. Spahr's concerns with
 12 11 respect to Intelligent Design?
 13 12 A. No, we didn't.
 14 13 Q. Are you aware of whether any of the Board members
 15 14 discussed either with each other or with the
 16 15 administration Mrs. Spahr's concerns?
 17 16 A. No, I'm not.
 18 17 Q. Are you aware of whether or not any of the School Board
 19 18 members further investigated Ms. Spahr's concerns?
 20 19 A. I don't know, no.
 21 20 Q. Did you personally discuss Ms. Spahr's concerns after
 22 21 this June meeting with anyone?
 23 22 A. I believe I discussed it with our school counsel.
 24 23 Q. So that you understand when I am asking you questions
 25 24 about discussions that you have had about anything
 26 25 today, I am not referring to discussions that you had

1 00028
 2 1 School Board meetings.
 3 2 Q. Aside from people that perhaps got up during public
 4 3 discussion at the School Board meetings, did the Board
 5 4 ever bring anyone in to discuss with you guys what
 6 5 Intelligent Design was, or did the School Board itself
 7 6 as a group ever get together to discuss Intelligent
 8 7 Design?
 9 8 A. No, not that I recall.
 10 9 Q. Is it your understanding that the research that was done
 11 10 by the School Board members with respect to Intelligent
 12 11 Design was done on an independent nature?
 13 12 A. Yes, that is correct.
 14 13 Q. Is it also your understanding -- and, again, I am just
 15 14 asking for your understanding -- that what the
 16 15 administration then did as well with respect to
 17 16 Intelligent Design was done on their own independently?
 18 17 A. That's my understanding. Pat is writing an awful lot of
 19 18 notes.
 20 19 MR. GILLEN: It's a habit.
 21 20 MR. LOWE: And he is going to get everything in
 22 21 print at the end of this.
 23 22 BY MR. LOWE:
 24 23 Q. At any time, were you presented with materials with
 25 24 respect to Intelligent Design by members of the Board?
 26 25 A. Not that I recall.

1 00029

2 1 Q. Were you presented with any materials from members of

3 2 the administration?

4 3 A. I may have been, but I don't recall any. And if I would

5 4 have been, they would have given it to you.

6 5 Q. Sure.

7 6 A. I think they gave you copies of what was included in our

8 7 Board packets, but I don't keep this stuff so I don't

9 8 know that.

10 9 Q. I understand that. One reason we go down this avenue of

11 10 questions is because we realize that both with the

12 11 defendants, as well as with the plaintiffs, sometimes

13 12 these questions can just spark memories the way we ask

14 13 or, just something that has occurred can help you recall

15 14 something that you didn't remember before. That is why

16 15 I am going through this.

17 16 I am confident we have received everything you

18 17 guys have turned over. I am also confident at the time

19 18 you turned it over, you turned over everything you

20 19 remembered that was relevant to this case. I just might

21 20 be exploring a few avenues just to make sure that since

22 21 that time, you don't recall anything.

23 22 A. Okay.

24 23 MR. LOWE: Pat, we don't have that much more.

25 24 MR. GILLEN: That's fine. Off the record.

26 25 (An off-the-record discussion was had.)

1 00031

2 1 Q. Are you aware of any member of the administration

3 2 reaching out to any of these scientific organizations

4 3 for information on Intelligent Design?

5 4 A. Not that I'm aware of.

6 5 Q. Is it your understanding that Intelligent Design is in

7 6 fact sound science or good science?

8 7 A. Yes.

9 8 Q. Is it your understanding that Intelligent Design is a

10 9 scientific theory?

11 10 A. Yes.

12 11 Q. How did you come to this understanding that Intelligent

13 12 Design was sound science?

14 13 A. I read different things, saw different things, and it

15 14 sounded like sound science to me.

16 15 Q. When you are referring to things that you read and saw,

17 16 you are referring specifically to what you had seen on

18 17 websites?

19 18 A. Yes.

20 19 Q. At this time, do you recall anything else?

21 20 A. No, they were written by -- some of them by credible

22 21 biologists, people that sounded like they were credible

23 22 biologists.

24 23 Q. You have touched on my next question. How is it that

25 24 you determined that these people were, first of all,

26 25 biologists?

1 00030

2 1 (A recess was taken.)

3 2 AFTER RECESS

4 3 BY MR. LOWE:

5 4 Q. Did you ever participate in discussions with members of

6 5 the School Board in which you described your

7 6 understanding of Intelligent Design?

8 7 A. No.

9 8 Q. And did you ever participate in discussions with members

10 9 of the School Board in which they shared with you their

11 10 understanding of Intelligent Design?

12 11 A. No.

13 12 Q. To your knowledge, did any of the members of the Board,

14 13 yourself included, make any phone calls to any

15 14 scientific organizations with respect to Intelligent

16 15 Design?

17 16 A. Could you read the question again?

18 17 Q. Sure. Maybe I will be more specific. To the best of

19 18 your knowledge, did either you or any of the members of

20 19 the School Board make any phone calls or discuss

21 20 Intelligent Design with any scientific organizations?

22 21 And I will give you a couple of different

23 22 scientific organizations such as the American

24 23 Association for the Advancement of Science or the

25 24 American Federation of Biology Teachers.

26 25 A. Not that I'm aware of.

1 00032

2 1 A. Because the website said they were biologists. Whether

3 2 they were or not, I don't know that. It is just what

4 3 they claimed to be, and they had background information

5 4 on themselves.

6 5 Q. Did you go beyond the website to research whether any of

7 6 these individuals were biologists?

8 7 A. Ie?

9 8 Q. You are on a website put together by Mr. Gillen, and he

10 9 explains his background. Did you go beyond that website

11 10 to see whether or not what he said about himself was in

12 11 fact accurate or true?

13 12 A. I had on -- I don't remember the names, but one or two I

14 13 just put in their names.

15 14 Q. When you say put in their names, you mean --

16 15 A. Google.

17 16 Q. Do you recall what you got back when you Googled their

18 17 names?

19 18 A. No, I don't exactly. No.

20 19 Q. Google is wonderful; isn't it? Did you go further than

21 20 just Googling their names?

22 21 A. I might have hit one or two of them. In Google, you

23 22 read what it says, and I may have hit one or two.

24 23 Q. Do you recall any of these names?

25 24 A. I'm sorry.

26 25 Q. That's okay. Do you recall what any of these second

1 00033

2 1 level websites -- by that I mean the websites that you

3 2 retrieved from Google when you entered these people's

4 3 names, do you recall what any of those were?

5 4 A. No, I don't.

6 5 Q. I am going to ask a couple of questions about your

7 6 current understanding of Intelligent Design.

8 7 A. Okay.

9 8 Q. I do realize in your prior deposition, you gave a

10 9 definition of Intelligent Design. You also said at that

11 10 time, this definition may change tomorrow. You admitted

12 11 that you were not comfortable giving it.

13 12 A. I didn't even know I gave one.

14 13 MR. LOWE: Off the record.

15 14 (An off-the-record discussion was had.)

16 15 BY MR. LOWE:

17 16 Q. We are on page 74 of your prior deposition transcript.

18 17 I am going to read to you what it is that you at that

19 18 time defined your understanding of Intelligent Design to

20 19 be.

21 20 That every living cell possible --

22 21 A. Where are we at?

23 22 MR. GILLEN: Right here, line 18.

24 23 BY MR. LOWE:

25 24 Q. I am sorry, line 18. Answer: That every living cell

26 25 possibly is designed down to the tiniest organism. And

1 00035

2 1 Intelligent Design?

3 2 A. No, but I would love to.

4 3 Q. Is it your understanding that Intelligent Design

5 4 requires some consideration of supernatural action?

6 5 A. Could you explain that further?

7 6 Q. Sure. Do you understand that in order for one to accept

8 7 Intelligent Design, one needs to also accept that there

9 8 was some supernatural actor or some supernatural action

10 9 that took place, an action outside of what we would

11 10 consider natural, an action outside of what takes place

12 11 everyday?

13 12 MR. GILLEN: Objection to the form.

14 13 MR. LOWE: Could you explain?

15 14 MR. GILLEN: I think you are assuming she has an

16 15 understanding, and I am not sure the question is clear

17 16 to her.

18 17 A. That is very true.

19 18 BY MR. LOWE:

20 19 Q. Okay. Do you understand what I mean by a supernatural

21 20 being?

22 21 A. No.

23 22 Q. Or supernatural action?

24 23 A. No, I do not.

25 24 Q. If I were to define supernatural as something outside of

26 25 what we see and perceive here on earth, outside of

1 00034

2 1 if it is designed, how it may have been designed if

3 2 there was possibly a designer or something.

4 3 A. Okay. I didn't remember I said that, but that sounds

5 4 pretty good.

6 5 Q. At that time, you also were very open in sharing that

7 6 your opinion as to what Intelligent Design was may

8 7 change as of tomorrow -- I am paraphrasing?

9 8 A. Yes.

10 9 Q. Has your understanding of Intelligent Design changed

11 10 since that time?

12 11 A. No.

13 12 Q. Since the past deposition, have you had further

14 13 discussions with respect to Intelligent Design with

15 14 members of the School Board?

16 15 A. No.

17 16 Q. Since your last deposition, have you had any further

18 17 discussions about Intelligent Design with members of the

19 18 administration of Dover Area School District?

20 19 A. Since my last deposition?

21 20 Q. Since your last deposition in January.

22 21 A. No.

23 22 Q. And since this past January or the date of your last

24 23 deposition, it looks like it was the very beginning of

25 24 January, January 3rd, have you had any discussions with

26 25 members of the school staff, teachers with respect to

1 00036

2 1 people and animals and the natural things that we can

3 2 see or witness here on earth, would that help you to

4 3 understand what I mean by supernatural?

5 4 A. No. I'm sorry. Repeat that.

6 5 Q. I don't know if I can.

7 6 A. Maybe she could repeat it back.

8 7 Q. Do you want to repeat it for me, please?

9 8 (The question, "If I were to define supernatural

10 9 as something outside of what we see and perceive here on

11 10 earth, outside of people and animals and the natural

12 11 things that we can see or witness here on earth, would

13 12 that help you to understand what I mean by

14 13 supernatural," was read by the reporter.)

15 14 A. Gee. I apologize. Would you read that again?

16 15 (The question, "If I were to define supernatural

17 16 as something outside of what we see and perceive here on

18 17 earth, outside of people and animals and the natural

19 18 things that we can see or witness here on earth, would

20 19 that help you to understand what I mean by supernatural

21 20 stand what I mean by supernatural," was read by the

22 21 reporter.)

23 22 BY MR. LOWE:

24 23 Q. How about if I rephrase it this way --

25 24 A. I apologize.

26 25 Q. It certainly is not your fault, believe me. Do you

1 00037
 2 1 believe that something outside of what we can perceive
 3 2 needs to take an action according to Intelligent Design?
 4 3 A. Something?
 5 4 Q. Something, someone.
 6 5 A. Excuse me?
 7 6 MR. GILLEN: Objection to the form. Can we go off
 8 7 the record?
 9 8 MR. LOWE: Sure.
 10 9 (An off-the-record discussion was had.)
 11 10 BY MR. LOWE:
 12 11 Q. Is it your understanding that Intelligent Design
 13 12 requires an acceptance of the fact that there is some
 14 13 intelligent designer?
 15 14 A. I would say an acceptance that there is -- that it is
 16 15 designed by intelligence.
 17 16 Q. Do you have any understanding of what this intelligence
 18 17 is?
 19 18 A. No, I don't.
 20 19 Q. Do you think one needs an understanding of what this
 21 20 intelligence is in your opinion?
 22 21 A. Does one need? It is up to whether one does need.
 23 22 Q. To understand Intelligent Design, would one need an
 24 23 understanding of what this designer is?
 25 24 A. Only if one desired to know.
 26 25 Q. Would it be okay in your opinion for what the

1 00039
 2 1 am going to spend just a couple of seconds to talk about
 3 2 the donation of books in your School District.
 4 3 A. Okay. Do you want me to look at this anymore?
 5 4 Q. Not at this time. I doubt we will get back to this.
 6 5 And by this, she is referring to her own deposition, her
 7 6 previous deposition testimony.
 8 7 Who is it that made the decision to accept the
 9 8 donation Of Pandas and People?
 10 9 A. I believe the administration.
 11 10 Q. Did the School Board or any committee of the School
 12 11 Board review the books before they were accepted?
 13 12 A. There had been discussion of the book Of Pandas prior.
 14 13 Q. Do you recall who was involved with these discussions?
 15 14 A. It was at the Board meeting.
 16 15 Q. Did you personally review these books before the
 17 16 donation was accepted?
 18 17 A. Yes.
 19 18 Q. Do you recall if any other members of the Board reviewed
 20 19 the books prior them being accepted?
 21 20 A. I don't know that.
 22 21 Q. Is it my understanding that recently, you accepted the
 23 22 donations of a number of other textbooks that were
 24 23 donated by a group called Debunk Creation?
 25 24 A. A lot of those weren't textbooks.
 26 25 Q. Let me rephrase my question. Are you aware of some

1 00038
 2 1 intelligent designer was to be explored in the public
 3 2 school setting?
 4 3 A. Would it be okay?
 5 4 Q. Yes, in your opinion.
 6 5 A. I never crossed -- I never thought of that.
 7 6 Q. In your opinion, would it be okay to discuss in the
 8 7 public school setting what this intelligent designer
 9 8 was?
 10 9 A. That was never considered.
 11 10 MR. GILLEN: Object to the form.
 12 11 MR. LOWE: Could you explain?
 13 12 MR. GILLEN: Sure. I mean you are assuming she
 14 13 had an opinion.
 15 14 A. I don't have an opinion.
 16 15 BY MR. LOWE:
 17 16 Q. So you have no opinion as to whether or not the teaching
 18 17 of what an intelligent designer is would be appropriate
 19 18 in the public schools?
 20 19 A. There was never any thought given or consideration.
 21 20 Q. That is okay. I am asking if you were to give
 22 21 consideration to it at this moment. And it is fine to
 23 22 say what you have already said.
 24 23 A. I don't have one.
 25 24 Q. I am going to take a couple of minutes, and I am going
 26 25 to actually step back from that topic this time, and I

1 00040
 2 1 books being donated by a group called Debunk Creation?
 3 2 A. Yes.
 4 3 Q. Was that donation handled in a different manner than the
 5 4 donation of the book Of Pandas and People?
 6 5 A. Oh, yes.
 7 6 Q. In what ways was it handled differently?
 8 7 A. They just showed up at the door.
 9 8 Q. When you say they just showed up at the door, could you
 10 9 elaborate?
 11 10 A. I think Dr. Nilsen got an e-mail from Debunk Creation
 12 11 saying they had a UPS slip that we got the books, if we
 13 12 accepted them or something like that. And he didn't
 14 13 even know where the books were. That is incorrect
 15 14 English. It hurt my ears when I said it.
 16 15 Q. It's okay. Do you know who received those books?
 17 16 A. They had a slip saying with some secretary's name. Then
 18 17 they were hunted down. Is that what you are asking?
 19 18 Q. Yes. I just wanted to know if you had personal
 20 19 knowledge whether they were sent to the School Board. I
 21 20 am trying to pursue who it was sent to.
 22 21 A. I don't know who they were addressed to, but I just know
 23 22 one of the secretaries in the building signed the UPS
 24 23 slip.
 25 24 Q. That's good enough. Other than the fact that they
 26 25 showed up unannounced, was there any other way in which

1 00041
 2 1 this donation was handled differently than the donation
 3 2 of the textbook Of Pandas and People?
 4 3 A. I don't know that. Is that what you are asking? I am
 5 4 not sure what you are asking.
 6 5 Q. I will break that question down. Let's take a look at
 7 6 how Of Pandas and People came into the School Board --
 8 7 into the School District.
 9 8 I take it they didn't just show up like these
 10 9 books, because you said it was different. In what way
 11 10 did Of Pandas and People come to the School District?
 12 11 A. I'm not real sure.
 13 12 Q. With respect to the School Board's actions regarding
 14 13 these donated books, are you aware of any way in which
 15 14 the donation of the books from Debunk Creation was
 16 15 treated differently than was the donation of the book Of
 17 16 Pandas and People?
 18 17 A. I knew some people on the Board wanted the Of Pandas
 19 18 books, and no one had a clue about the Debunk Creation
 20 19 books coming.
 21 20 Q. So in what way was it handled differently? I understand
 22 21 it sounds like this was a surprise to the School Board?
 23 22 A. Correct.
 24 23 Q. No one had any prior knowledge of these books?
 25 24 A. Correct.
 26 25 Q. Did this change the way in which you handled the

1 00043
 2 1 A. Yes.
 3 2 Q. You also said that some members of the Board -- and
 4 3 again, correct me if I am speaking incorrectly. Some
 5 4 members of the Board were familiar with the textbook Of
 6 5 Pandas and People?
 7 6 A. Correct.
 8 7 Q. What I am trying to piece together is whether members of
 9 8 the Board were familiar with Of Pandas and People prior
 10 9 to the time they were donated to the school?
 11 10 A. Yes.
 12 11 Q. And how is it that you are aware that people were
 13 12 familiar?
 14 13 A. We looked at the book for a couple of months.
 15 14 Q. Do you know how books are typically handled when they
 16 15 are donated to the School District?
 17 16 MR. GILLEN: Objection to the form.
 18 17 MR. LOWE: Can you explain?
 19 18 MR. GILLEN: Sure. It's assuming there is a
 20 19 typical way of handling donations. I am not sure there
 21 20 is one.
 22 21 BY MR. LOWE:
 23 22 Q. Is there a typical way of handling donations?
 24 23 A. Yes and no. How is that for an answer?
 25 24 Q. That's a great one. Let's start with the yes part and
 26 25 then we will move to the no, and then --

1 00042
 2 1 acceptance process?
 3 2 A. We wanted to know what books these were that came
 4 3 unannounced.
 5 4 Q. And then it is your understanding that members of the
 6 5 Board did have prior knowledge of the textbook Of Pandas
 7 6 and People?
 8 7 A. That's correct.
 9 8 Q. And is it your understanding that some people on the
 10 9 School Board had done some research or at least some
 11 10 understanding of what was included in Of Pandas and
 12 11 People prior to the time at which they were donated?
 13 12 Would you like me to repeat it?
 14 13 A. Are you saying more had a desire for the books?
 15 14 Q. No, I am actually asking --
 16 15 A. I am not sure what you are asking.
 17 16 Q. You had said -- I am just trying to get a picture here.
 18 17 A. Okay. I am trying to understand what you want.
 19 18 Q. You said that the books from Debunk Creation came
 20 19 completely unannounced?
 21 20 A. Yes.
 22 21 Q. And that you, the members of the Board, were completely
 23 22 unaware of what these books were?
 24 23 A. Yes.
 25 24 Q. You wanted some time to explore the nature of these
 26 25 books?

1 00044
 2 1 A. We have an organization called Friends of the Library.
 3 2 And Friends of the Library donate books that possibly
 4 3 the librarians really want, a teacher wants, puts in a
 5 4 request that maybe the Friends of the Library will
 6 5 donate, or books that the Friends of the Library find
 7 6 and think would be good. Those donations are handled in
 8 7 different ways.
 9 8 If someone requests it -- that they donate it,
 10 9 that is handled one way. Whereas if Friends of the
 11 10 Library finds a book and says this would be a good book,
 12 11 then someone would probably look at it and review it.
 13 12 Q. Is the someone your understanding of the process?
 14 13 A. That's just one particular donation. There are many
 15 14 different ones.
 16 15 Q. And as I understand it, actually I am not sure of this,
 17 16 was Of Pandas and People handled in any way through this
 18 17 Friends of the Library group?
 19 18 A. No, not at all. I don't think they were ever
 20 19 approached. I don't know if they were or not. I
 21 20 shouldn't say that. I don't know if they were.
 22 21 Q. And is it your understanding that Friends of the Library
 23 22 was approached in any way with the books that were
 24 23 donated by Debunk Creation?
 25 24 A. Not that I'm aware of.
 26 25 Q. Was the School Board involved in the acceptance of the

1 00045
 2 1 textbooks Of Pandas and People?
 3 2 A. I don't know that we were.
 4 3 Q. Is it your understanding --
 5 4 A. I don't know that any Board member had a problem with
 6 5 the donation. Is that fair?
 7 6 Q. That's fair. Was it your understanding though that the
 8 7 administration made the decision to accept the donation?
 9 8 Earlier you said that the administration had accepted
 10 9 the Of Pandas and People.
 11 10 Did the administration come to the School Board to
 12 11 ask for information with respect to the books Of Pandas
 13 12 and People? Again, I am asking for your understanding
 14 13 or your recollection.
 15 14 A. Did the administration ever come? I am trying to think.
 16 15 Did the administration ever come you are asking?
 17 16 Q. Yes. I am asking if the administration ever came to
 18 17 you, the School Board, at any time prior to the
 19 18 acceptance of the donated texts to discuss whether or
 20 19 not it should be accepted?
 21 20 A. Not to the Board as a whole, no.
 22 21 Q. Are you aware --
 23 22 A. Not that I'm aware of.
 24 23 Q. Are you aware of the administration coming to any
 25 24 committees within the Board with respect to donation of
 26 25 Of Pandas and People?

1 00047
 2 1 MR. GILLEN: Objection to the form.
 3 2 MR. LOWE: Can you explain?
 4 3 MR. GILLEN: Sure. Has it been the practice in
 5 4 the past assumes there is a practice.
 6 5 A. How about they have the ability to get the books and
 7 6 review them if they so desire?
 8 7 BY MR. LOWE:
 9 8 Q. And for the time that you have been on the School Board,
 10 9 do you recall the School Board taking the time to do
 11 10 this?
 12 11 A. Yes. Numerous times.
 13 12 Q. When you say numerous --
 14 13 A. I don't know how many different ones. It depends on
 15 14 their particular interest.
 16 15 Q. Fair enough. Could I just try -- I am going to try and
 17 16 get within a number, but I understand if you can't even
 18 17 fathom it. Would it be greater than 50?
 19 18 A. I don't have an idea. I don't. The School Board is
 20 19 consistently changing. So every individual has
 21 20 different interests.
 22 21 Q. Sure. Did you personally ever review books that were
 23 22 being donated prior to this occasion?
 24 23 A. Yes.
 25 24 Q. Do you recall how many times you may have?
 26 25 A. No, not too many.

1 00046
 2 1 A. I don't recall.
 3 2 Q. Did the administration ever come to you for information
 4 3 with respect to accepting the donation Of Pandas and
 5 4 People?
 6 5 A. Not that I recall.
 7 6 Q. With respect to the books donated by Debunk Creation,
 8 7 was the administration involved in the acceptance of
 9 8 those books to the best of your knowledge?
 10 9 A. I don't know that they have been accepted. I think the
 11 10 only thing that has happened is the Board said they had
 12 11 no problem with the books.
 13 12 Q. When did the Board say they had no problem with these
 14 13 books?
 15 14 A. About a week ago.
 16 15 Q. Approximately how long after the books were received if
 17 16 you recall -- approximately how long after the books
 18 17 were received -- or do you recall when the books were
 19 18 received?
 20 19 A. I think -- let's see -- it would be about three or four
 21 20 weeks. I would say a month ago. Approximately a month
 22 21 ago, we were made aware the books were there, and I went
 23 22 personally and got the books.
 24 23 Q. And has it been the practice in the past of the School
 25 24 Board to make it known whether or not they objected or
 26 25 accepted books that were donated to the School District?

1 00048
 2 1 Q. Are you aware of the fact that Mr. Baksa called
 3 2 various --
 4 3 A. Who.
 5 4 Q. Mr. Baksa.
 6 5 A. Baksa.
 7 6 Q. Baksa.
 8 7 A. Mike Baksa.
 9 8 Q. You know these actors a lot better than me.
 10 9 A. We are all cohorts -- I didn't finish it.
 11 10 Q. That he called various private Christian high schools to
 12 11 find out --
 13 12 A. Excuse me. I'm sorry. I wasn't paying attention.
 14 13 Q. As a former teacher, I am going to have to give you a
 15 14 detention.
 16 15 A. Yes, I apologize.
 17 16 Q. The time out spot is right back there. Are you aware he
 18 17 had called various private Christian high schools to
 19 18 find out what biology textbook they used?
 20 19 A. No, I was not.
 21 20 Q. Were you aware before today's deposition that this
 22 21 occurred?
 23 22 A. I read it in his deposition I think it was.
 24 23 Q. Did you at any time become aware of how the survey came
 25 24 about?
 26 25 A. I have no clue.

1 00049

2 1 Q. Have you discussed this survey with other members of the

3 2 School Board?

4 3 A. No, I haven't.

5 4 Q. Have you discussed this survey with any member of the

6 5 administration?

7 6 A. No.

8 7 Q. I have a newsletter that we're actually going to take a

9 8 few seconds to discuss.

10 9 A. Okay.

11 10 MR. LOWE: I am going to ask Vicki to mark this as

12 11 an exhibit.

13 12 BY MR. LOWE:

14 13 Q. Let's make this easy for you. This exhibit was

15 14 previously marked as P-19 in a deposition from it looks

16 15 like March 9th. And if it is okay with you, Pat, we

17 16 will keep it the same.

18 17 MR. GILLEN: Certainly.

19 18 MR. LOWE: I am giving a copy of this to Sheila

20 19 and Pat.

21 20 A. Okay.

22 21 BY MR. LOWE:

23 22 Q. Are you familiar with this newsletter -- let me give you

24 23 a second to take a look at it.

25 24 While you are looking at it for the record, I am

26 25 referring to it as a newsletter. If that is okay with

1 00051

2 1 Q. Do you remember who it was that actually put the

3 2 newsletter together?

4 3 A. No, I don't know that for sure.

5 4 Q. Okay. Did the Board actually vote to approve the

6 5 newsletter? Was there an actual vote?

7 6 A. I don't recall that there was.

8 7 Q. And you earlier said that you personally reviewed the

9 8 contents of this newsletter?

10 9 A. Yes.

11 10 Q. Do you remember -- you say that the Board wanted a

12 11 newsletter to be put out. Do you recall who it was on

13 12 the Board that specifically spoke or brought up this

14 13 idea of having a newsletter put out?

15 14 A. I believe it was more so community people coming before

16 15 the Board saying they would like more information.

17 16 Q. There is a frequently asked question section which you

18 17 can see on the left-hand column of the first page?

19 18 A. Excuse me?

20 19 Q. There is a frequently asked questions --

21 20 A. Okay.

22 21 Q. -- section on the left hand column of the first page,

23 22 and it continues to the top of the second page?

24 23 A. Okay.

25 24 Q. Do you know who developed the questions that are --

26 25 A. No, I don't.

1 00050

2 1 you, I will continue to do so.

3 2 It is actually titled the Dover Area School

4 3 District News, Biology Curriculum Update, and it is

5 4 dated February of 2005?

6 5 A. Yes.

7 6 Q. So from this point forward, when I refer to the

8 7 newsletter --

9 8 A. Do you want me to read it all?

10 9 Q. You do not need to read it all. Are you familiar with

11 10 this newsletter?

12 11 A. Yes.

13 12 Q. Have you seen this before today?

14 13 A. Yes.

15 14 Q. Were you in any way involved in the creation of this

16 15 newsletter?

17 16 A. I reviewed it prior to its going out.

18 17 Q. Do you recall who it was that was involved in the

19 18 creation of this newsletter? Let me rephrase that. Do

20 19 you recall who it was that actually created this

21 20 newsletter, who presented it to you for review?

22 21 A. How about I know it was created because we wanted to

23 22 inform the community better.

24 23 Q. Do you remember whose idea it was to create the

25 24 newsletter?

26 25 A. It was the Board's desire to produce something.

1 00052

2 1 Q. Do you know who it was that developed the answers?

3 2 A. No, I don't.

4 3 Q. Was there any discussion with respect to the frequently

5 4 asked questions section?

6 5 A. No, not at all that I'm aware of.

7 6 Q. Are you familiar with anyone that may have been

8 7 consulted with respect to the contents to the creation

9 8 of the frequently asked questions section? For

10 9 instance, are you aware of whether or not the teachers

11 10 were consulted?

12 11 A. No. I'm not sure. I don't know who would have done the

13 12 consulting.

14 13 Q. Okay. Did you see any drafts of this -- did you see any

15 14 earlier drafts of this?

16 15 A. Yes.

17 16 Q. Were they significantly changed; do you recall?

18 17 A. No, not at all.

19 18 Q. To the best of your memory, were the earlier drafts the

20 19 same as the draft that was eventually published?

21 20 A. Pretty much, yes. A few words may be changed.

22 21 Q. Do you have any recollection when it was?

23 22 A. I know I changed something, but I don't even know what

24 23 it was I changed.

25 24 Q. Do you recall for what reason you made the change?

26 25 A. I didn't like the way it read.

1 00053

2 1 Q. So it was more of a grammatical or stylistic change than
3 2 it was a substantive change?

4 3 A. Yes.

5 4 Q. Do you recall anyone else making changes to the
6 5 newsletter prior to its publication?

7 6 A. I don't know that.

8 7 Q. Okay. We are on to my last section. It is my
9 8 understanding of the Intelligent Design or rather of the
10 9 curriculum policy or the curriculum update that when
11 10 Intelligent Design is presented in class, students are
12 11 not allowed to ask questions about Intelligent Design;
13 12 is that correct?

14 13 MR. GILLEN: Objection to the form.

15 14 MR. LOWE: Could you explain?

16 15 MR. GILLEN: Yeah. Did you say students aren't
17 16 allowed to ask or teachers aren't allowed to answer?

18 17 MR. LOWE: I started students aren't allowed to
19 18 ask. I am trying to get an understanding.

20 19 A. That is really not something the Board deals with.

21 20 BY MR. LOWE:

22 21 Q. Is it your understanding that students -- let me go to
23 22 the teacher's end of it. That might be easier for you.
24 23 It is my understanding that teachers aren't
25 24 allowed to respond to any questions concerning
26 25 Intelligent Design that may be brought up?

1 00055

2 1 Q. I don't want you to guess. Is it your belief, your
3 2 opinion that Intelligent Design should be allowed to be
4 3 more fully explored in the science classroom?

5 4 MR. GILLEN: Objection to the form.

6 5 MR. LOWE: Could you explain?

7 6 MR. GILLEN: You are assuming she has a belief or
8 7 opinion on that issue.

9 8 BY MR. LOWE:

10 9 Q. Do you have an opinion as to whether Intelligent Design
11 10 should be allowed to be fully explored in the science
12 11 classroom?

13 12 A. We never got that far because the teachers made us aware
14 13 they weren't educated in the area and preferred not to
15 14 teach it. So that's where it stopped.

16 15 Q. Would you personally have a problem if Intelligent
17 16 Design were fully explored in the science classroom --
18 17 more fully explored?

19 18 A. I never gave it consideration.

20 19 Q. If I were to ask you to give it consideration now, would
21 20 you have an opinion either way?

22 21 MR. GILLEN: Objection. Calls for speculation.

23 22 BY MR. LOWE:

24 23 Q. I am asking for your opinion.

25 24 A. We are a standards driven district. It would have to be
26 25 explored more fully how it would relate to the standards

1 00054

2 1 A. That is my understanding.

3 2 Q. Are you aware of any other subject that is covered in
4 3 the Dover area curriculum in which students or rather in
5 4 which teachers aren't allowed to answer questions?

6 5 A. No, I'm not.

7 6 Q. Can you explain why it is that Intelligent Design is
8 7 treated differently than any other subject that is
9 8 introduced in school?

10 9 MR. GILLEN: Objection to the characterization of
11 10 the evidence.

12 11 MR. LOWE: Can you explain?

13 12 MR. GILLEN: Just she said she doesn't -- she is
14 13 not aware of anything else. I am not sure there are any
15 14 other subject matters that teachers can't address, and
16 15 therefore --

17 16 MR. LOWE: Fair enough.

18 17 BY MR. LOWE:

19 18 Q. Could you explain why it is -- according to your
20 19 understanding, there's no other subjects in which the
21 20 teachers aren't allowed to address questions.

22 21 With this in mind, could you explain why
23 22 Intelligent Design is treated differently?

24 23 A. I think it was an administrative decision, possibly
25 24 because of the lawsuit. I don't know. I only would be
26 25 guessing then.

1 00056

2 1 before I could form an opinion I think.

3 2 Q. That's fine. In your opinion, is not allowing questions
4 3 with respect to a topic that is brought up or introduced
5 4 in schools, is that consistent with your general
6 5 understanding of good educational practice?

7 6 MR. GILLEN: Objection to the form.

8 7 MR. LOWE: Could you explain?

9 8 MR. GILLEN: Sure. I think you are assuming she
10 9 has got an understanding of good educational practice
11 10 and how certain questions and certain subject matters
12 11 should be dealt with according to standard educational
13 12 practice.

14 13 MR. LOWE: Fair enough. Are you instructing her
15 14 not to answer?

16 15 MR. GILLEN: No. I am saying -- read back the
17 16 question, please. May I ask you to read back the
18 17 question?

19 18 (The question, "In your opinion, is not allowing
20 19 questions with respect to a topic that is brought up or
21 20 introduced in schools, is that consistent with your
22 21 general understanding of good educational practice," was
23 22 read by the reporter.)

24 23 BY MR. LOWE:

25 24 Q. Again, I believe I was clear in both instances that's
26 25 your opinion in each instance.

1 00057
 2 1 A. I have to give that some thought. I believe questions
 3 2 are good. Answers aren't always necessary.
 4 3 Q. Taking another step back from questions aren't
 5 4 necessarily necessary as you put it, with respect to
 6 5 Intelligent Design, is it your opinion that answers are
 7 6 not necessary if a student were to ask questions?
 8 7 MR. GILLEN: Objection to the form. Go ahead if
 9 8 you can answer it.
 10 9 A. I believe --
 11 10 BY MR. LOWE:
 12 11 Q. Let me just ask a preliminary question, and maybe we can
 13 12 forego this line of questioning. Have you given any
 14 13 thought really up until this time as to the fact that
 15 14 teachers are not allowed to answer questions with
 16 15 respect to Intelligent Design in the classroom?
 17 16 A. No, I haven't.
 18 17 Q. Has this ever been discussed between the members of the
 19 18 Board to your knowledge?
 20 19 A. No, I'm not aware if it was ever discussed. I am aware
 21 20 that the administration made a statement of that.
 22 21 Q. Are you aware of anyone in the School Board that had any
 23 22 involvement in that aspect of this change?
 24 23 A. No, I am not.
 25 24 Q. If you can give me a second, I think I may be done.
 26 25 A. Sure.

1 00059
 2 1 Q. Did she discuss with you how she felt in terms of the
 3 2 tone of this conversation, whether she felt he was
 4 3 actively pushing or whether she felt he was just asking?
 5 4 A. No. I think he was actively pushing.
 6 5 Q. You say you think. What was it that gave you the
 7 6 impression that he was actively pushing?
 8 7 A. Just the way she told me.
 9 8 Q. Do you recall any specifics about how it was that she
 10 9 told you?
 11 10 A. No.
 12 11 Q. Do you recall whether she told you that he said --
 13 12 questioned her in any way about her religious
 14 13 background?
 15 14 A. No. I think it just was can you give me this one? Will
 16 15 you vote for it for me?
 17 16 Q. Do you recall whether she told you how many times he had
 18 17 this sort of discussion with her?
 19 18 A. No. She didn't tell me that.
 20 19 Q. And do you recall how many times you and Ms. Yingling
 21 20 had the discussion or discussions related to
 22 21 Mr. Buckingham's conversations with her or conversation?
 23 22 A. I don't remember. I don't know that. I don't remember.
 24 23 Q. Okay. Do you recall any other -- other than
 25 24 Mr. Buckingham trying to persuade Ms. Yingling, do you
 26 25 recall any other instances of a member of the Board

1 00058
 2 1 Q. Let me make sure I hit everything. Going back to the
 3 2 passing of the resolution.
 4 3 A. Yes.
 5 4 Q. Did you try to persuade anyone on the School Board to
 6 5 pass this resolution?
 7 6 A. No.
 8 7 Q. Did anyone on the School Board in your best recollection
 9 8 try to persuade you to pass this resolution?
 10 9 A. No.
 11 10 Q. Are you aware of anyone on the School Board trying to
 12 11 persuade other members of the School Board to pass this
 13 12 resolution?
 14 13 A. Yes.
 15 14 Q. Could you explain what it is, who it is that you recall,
 16 15 or are aware of trying to make others or trying to
 17 16 persuade others?
 18 17 A. Angie told me - Angie Yingling told me that Bill tried
 19 18 to persuade her.
 20 19 Q. Did she tell you in what way Bill -- and I am assuming
 21 20 by Bill, you mean Bill Buckingham?
 22 21 A. Yes.
 23 22 Q. Did she tell you in any way how Mr. Buckingham tried to
 24 23 persuade her?
 25 24 A. I am trying to recall. Just that he would have liked --
 26 25 he would have liked her to vote for it.

00060
 1 trying to persuade any other members of the Board as to
 2 this resolution?
 3 A. No.
 4 MR. LOWE: I have no further questions.
 5 A. Can I expand on that, Pat?
 6 MR. GILLEN: Do you want to talk to me for a
 7 second?
 8 MR. LOWE: I can step out.
 9 MR. GILLEN: We will step out. Thanks.
 10 (A recess was taken.)
 11 AFTER RECESS
 12 MR. GILLEN: I have no questions either.
 13 (The deposition was concluded at 11:50 a.m.)
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00061

1 COMMONWEALTH OF PENNSYLVANIA :

2 :

3 COUNTY OF CUMBERLAND :

4 I, Vicki L. Fox, Reporter and Notary Public in and
5 for the Commonwealth of Pennsylvania and County of
6 Cumberland, do hereby certify that the foregoing
7 testimony was taken before me at the time and place
8 hereinbefore set forth, and that it is the testimony of:

9 SHEILA HARKINS

10 I further certify that said witness was by me duly
11 sworn to testify the whole and complete truth in said
12 cause; that the testimony then given was reported by me
13 stenographically, and subsequently transcribed under my
14 direction and supervision; and that the foregoing is a
15 full, true and correct transcript of my original
16 shorthand notes.

17 I further certify that I am not counsel for nor
18 related to any of the parties to the foregoing cause,
19 nor employed by them or their attorneys, and am not
20 interested in the subject matter or outcome thereof.

21 Dated at Camp Hill, Pennsylvania, this 26th day of
22 April, 2005.

23 _____
24 Vicki L. Fox
25 Reporter - Notary Public

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11:50 [1] 60:13
18 [2] 33:22,24

2
2005 [2] 50:4 61:22
26th [1] 61:21

3
3rd [1] 34:24

5
50 [1] 47:17

7
74 [1] 33:16

9
9th [1] 49:15

A

a.m [1] 60:13
ability [1] 47:5
absolutely [1] 11:4
accept [4] 35:6,7 39:7 45:7
acceptance [6] 37:12,14 42:1 44:25 45:18 46:7
accepted [9] 39:11,16,19,21 40:12 45:8,19 46:9,25
accepting [1] 46:3
according [3] 37:2 54:18 56:11
accuracy [1] 10:5
accurate [6] 9:21 10:3,19 11:9,12 32:11
acquainted [1] 12:10
action [7] 8:9 35:4,8,9,10,22 37:2
actions [1] 41:12
actively [3] 59:3,4,6
actor [1] 35:8
actors [1] 48:8
actual [1] 51:5
actually [10] 14:4,15 38:25 42:14 44:15 49:7 50:2,19 51:1,4
adding [1] 16:22
address [4] 10:7 20:3 54:14,20
addressed [2] 17:16 40:21
administration [25] 13:15 16:8 21:18,21 22:1,5 25:13 26:15 27:23 28:15 29:2 31:1 34:18 39:9 45:7,8,10,14,15,16,23 46:2,7 49:5 57:20
administrative [1] 54:23
administrators [5] 15:25 16:9 19:7 20:10 25:7
admitted [1] 33:10
advancement [1] 30:23
affect [2] 6:12,16
afterwards [1] 7:15
ago [4] 3:24 46:14,20,21
ahead [3] 10:2 18:17 57:7
al [1] 1:7
alan [5] 13:19 16:15,17 19:14 23:11
allowed [10] 53:11,16,16,17,24 54:4,20 55:2,10 57:14
allowing [2] 56:2,18
already [3] 4:18 7:6 38:22

alternative [1] 18:5
although [1] 5:12
american [2] 30:22,24
and/or [1] 13:5
angie [2] 58:17,17
animals [3] 36:1,10,17
another [3] 24:3,5 57:3
answer [8] 5:8 33:24 43:23 53:16 54:4 56:14 57:8,14
answers [5] 6:4 7:12 52:1 57:2,5
apologize [5] 8:20,23 36:14,24 48:15
appear [1] 4:9
appearances [1] 1:19
approached [2] 44:19,22
appropriate [1] 38:17
approve [1] 51:4
approximately [6] 8:1 15:11 18:19 46:15,16,20
april [2] 13:1 61:22
area [5] 1:6 34:18 50:2 54:3 55:13
areas [3] 4:17,18 9:9
aren't [8] 53:15,16,17,23 54:4,20 57:2,3
around [2] 13:21 16:6
articles [2] 9:5 11:2
aside [1] 28:2
aspect [1] 57:22
assistant [2] 13:17 16:10
association [1] 30:23
assume [2] 7:20 10:3
assumes [1] 47:4
assuming [7] 9:24 35:14 38:12 43:18 55:6 56:8 58:19
attend [1] 13:4
attendance [6] 13:8 15:16,19 18:22 24:12 27:10
attended [1] 14:20
attention [1] 48:12
attorneys [4] 27:1,11,13 61:19
avenue [2] 4:21 29:9
avenues [1] 29:20
aware [38] 7:17 11:14 18:9,12 19:19 21:16 22:23,25 23:2 25:19 26:6,13,17 30:25 31:1,4 39:25 41:13 43:11 44:24 45:21,22,23 46:21 48:1,16,20,23 52:5,9 54:2,13 55:12 57:19,19,21 58:10,15
away [1] 4:9
awful [1] 28:17

B

back [14] 6:14 7:11 11:6 13:24 17:19 32:16 36:6 38:25 39:4 48:16 56:15,16 57:3 58:1
background [4] 4:23 32:3,9 59:13
bad [1] 4:25
baksa [8] 13:15 16:2 19:9 48:1,4,5,6,7
base [1] 10:7
based [1] 11:7
became [1] 25:19
become [2] 10:14 48:23
beginning [3] 4:5 15:8 34:23
belief [2] 55:1,6

believe [29] 3:25 9:4 13:1,15,18,19 15:13,13,20,24 16:2 17:8,14 18:13 19:3,9 23:7,11 25:16,21 26:22 27:25 36:25 37:1 39:9 51:14 56:24 57:1,9
bert [5] 13:12 19:23 21:3 23:15 25:16
best [5] 12:19 30:17 46:8 52:18 58:7
better [3] 13:22 48:8 50:22
between [3] 3:2 7:23 57:17
beyond [2] 32:5,9
bill [8] 13:18 16:15 19:14 23:11 58:17,19,20,20
biologists [5] 31:21,22,25 32:1,6
biology [11] 8:15 13:5 15:6 16:21 17:4,9 23:19 24:19 30:24 48:18 50:3
bit [3] 4:22 11:1 25:21
board [75] 11:24 12:7,18,20,25 13:3,18 16:13,17 19:12 20:11 21:17,21 22:2,6 25:7,12,13 26:7,10,13,17 27:22 28:1,3,3,5,10,24 29:7 30:5,9,12,19 34:14 39:10,11,14,18 40:19 41:6,17,21 42:5,9,21 43:2,4,8 44:25 45:4,10,17,20,24 46:10,12,24 47:8,9,18 49:2 51:4,10,12,15 53:19 57:18,21 58:4,7,10,11 59:25 60:1
board's [2] 41:12 50:25
bonsell [3] 13:19 16:17 19:14
book [8] 23:21,22 39:12 40:4 41:15 43:13 44:10,10
books [36] 39:2,11,15,19 40:1,11,13,15 41:9,13,14,18,19,23 42:2,13,18,22,25 43:14 44:2,5,22 45:11 46:6,8,11,13,15,16,17,21,22,25 47:5,21
both [5] 9:9 13:16 16:2 29:10 56:24
brain [1] 11:20
break [4] 11:17 15:12,12 41:5
brief [2] 21:9 22:20
bring [1] 28:4
brought [13] 12:18,19,24 18:2,4,7,14 24:4,8 51:12 53:25 56:3,19
brown [2] 16:16,18
buckingham [6] 13:19 16:15 19:14 58:20,22 59:24
buckingham's [1] 59:21
building [1] 40:22

C

called [7] 3:7 39:23 40:1 44:1 48:1,10,17
calls [3] 30:13,19 55:21
came [9] 17:21 21:3 23:5,11 41:6 42:2,18 45:16 48:23
camp [1] 61:21
case [4] 3:18 9:6 27:12 29:19
cases [1] 4:23
casey [2] 16:16,17
cause [2] 61:12,18
cell [2] 33:20,24
center [1] 1:23

certain [3] 14:8 56:10,10
certainly [4] 5:4 19:2 36:25 49:17
certification [1] 3:3
certify [3] 61:6,10,17
chance [2] 7:5 20:6
change [19] 7:14 15:5,6 17:4,19 22:11,21,22 23:13,18,19 24:19 33:10 34:7 41:25 52:24 53:1,2 57:22
changed [5] 34:9 52:16,20,22,23
changes [11] 7:16,19,20 16:22 17:1,9,12,12,15,21 53:4
changing [1] 47:19
characterization [1] 54:9
check [2] 11:9 14:16
chose [1] 16:19
chris [3] 3:15,16 8:19
christian [2] 48:10,17
christopher [1] 1:21
chronologically [1] 14:5
claimed [1] 32:3
clarify [3] 5:15 7:14 9:23
class [1] 53:10
classroom [4] 55:3,11,16 57:15
clear [11] 5:13,16 6:10,19,25 15:1 24:14,16 25:20 35:15 56:24
clients [1] 11:19
clue [2] 41:18 48:25
cohorts [1] 48:9
column [2] 51:17,21
come [9] 16:19 22:19 27:23 31:11 41:10 45:10,14,15 46:2
comes [1] 7:1
comfortable [1] 33:11
coming [4] 8:4 41:19 45:23 51:14
comment [1] 21:2
committee [3] 16:16,18 39:10
committees [1] 45:24
commonwealth [2] 61:1,5
communication [1] 6:8
community [2] 50:22 51:14
complete [1] 61:11
completed [1] 6:23
completely [2] 42:19,21
concerning [1] 53:24
concerns [25] 17:4 19:22 20:7,8,11,20 21:10,13,13,15,17,20,23,24 25:8,14,22,25 26:1,4,7,10,15,18,20
concluded [1] 60:13
conduct [5] 8:17,25 9:8,25 27:19
confident [2] 29:16,17
consider [2] 18:13 35:10
consideration [6] 11:19 35:4 38:19,21 55:18,19
considered [1] 38:9
considering [1] 11:11
consistent [2] 56:4,20
consistently [1] 47:19
consulted [2] 52:7,10
consulting [1] 52:12
contents [3] 9:15 51:8 52:7
context [1] 18:1
continue [3] 11:22 15:10 50:1
continues [1] 51:22
conversation [3] 23:6 59:2,21

conversations [6] 8:5,8 27:5,11, 12 59:21
copies [1] 29:6
copy [1] 49:18
correct [14] 3:23 4:2 9:7 20:14 22:13 26:3 28:12 41:22,24 42:7 43:3, 6 53:12 61:15
counsel [3] 4:13 26:22 61:17
county [2] 61:3,5
couple [6] 6:24 30:21 33:5 38:24 39:1 43:13
course [4] 5:24 7:21 11:16 27:7
court [1] 1:1
covered [2] 9:9 54:2
create [1] 50:23
created [2] 50:19,21
creation [11] 39:23 40:1,10 41:14, 18 42:18 44:23 46:6 50:14,18 52:7
credible [2] 31:20,21
criteria [1] 10:2
crossed [1] 38:5
cumberland [2] 61:3,6
curious [1] 27:8
current [1] 33:6
curriculum [21] 8:15 13:5 15:6 16:16,17,18,21 17:5,9,12,19,21 22:11, 20,22 23:19 24:19 50:3 53:9,9 54:3

D

darwin's [3] 16:23 17:16 22:24
date [6] 1:13 14:6,18,25 15:1 34:22
dated [2] 50:4 61:21
dates [3] 14:3,10,12
day [1] 61:21
deals [1] 53:19
dealt [1] 56:11
debunk [8] 39:23 40:1,10 41:14,18 42:18 44:23 46:6
decision [6] 10:7,17 11:8 39:7 45:7 54:23
deeper [1] 11:1
defendants [4] 1:9,25 27:12 29:11
define [3] 35:24 36:8,15
defined [1] 33:18
definition [2] 33:9,10
depends [1] 47:13
deposed [2] 3:22 7:6
deposition [26] 1:11 4:8,16 5:1 7:8,11,15,21,23,23 8:3,11 11:16 33:8,16 34:12,16,19,20,23 39:5,6 48:20,22 49:14 60:13
described [1] 30:5
design [67] 9:1,3,13 12:1,3,6,8,11, 12,17 13:5 17:23 18:1,4,7,11 19:15,16 20:2 21:8 22:7 23:5,9,16 25:18,20 26:8,11 27:20,24 28:5,7,11, 16,24 30:6,10,15,20 31:3,5,8,12 33:6,9,18 34:6,9,13,17 35:1,3,7 37:2,11,22 53:8,10,11,25 54:6,22 55:2,9,16 57:5,15
designed [4] 33:25 34:1,1 37:15

designer [6] 34:2 37:13,23 38:1,7, 17
desire [3] 42:13 47:6 50:25
desired [1] 37:24
detention [1] 48:14
determine [1] 9:20
determining [1] 31:24
determining [2] 10:4,12
developed [2] 51:24 52:1
difference [1] 25:24
different [11] 4:21 12:14 30:21 31:13,13 40:3 41:9 44:7,14 47:13,20
differently [6] 40:6 41:1,15,20 54:7,22
dig [1] 11:1
direction [2] 5:19 61:14
disabilities [1] 6:11
discuss [13] 17:19 21:20 25:6,12 26:10,20 28:4,6 30:19 38:6 45:18 49:8 59:1
discussed [14] 14:1 16:20,22,24 17:14 19:16 23:22 26:14,22 27:14 49:1,4 57:17,19
discussing [2] 22:21 23:20
discussion [8] 28:3 29:25 33:14 37:9 39:12 52:3 59:17,20
discussions [10] 19:18 26:24,25 30:4,8 34:13,17,24 39:13 59:20
district [10] 1:1,6 34:18 39:2 41:7, 10 43:15 46:25 50:3 55:24
doing [1] 7:3
donate [3] 44:2,5,8
donated [11] 39:23 40:1 41:13 42:11 43:9,15 44:23 45:18 46:6,25 47:22
donation [14] 39:2,8,16 40:3,4 41:1,1,14,15 44:13 45:5,7,24 46:3
donations [4] 39:22 43:19,22 44:6
done [7] 6:25 28:9,11,16 42:9 52:11 57:24
door [2] 40:7,8
doubt [1] 39:4
dover [5] 1:6 8:15 34:18 50:2 54:3
down [11] 4:21 5:17,23,25 11:20 14:7 27:2 29:9 33:25 40:17 41:5
downloaded [1] 11:25
draft [1] 52:19
drafts [3] 52:13,14,18
driven [1] 55:24
duly [2] 3:7 61:10
during [5] 6:21 11:16 22:2 25:14 28:2
duty [1] 11:19

E

e-mail [1] 40:10
each [3] 15:19 26:14 56:25
earlier [6] 15:15 25:21 45:8 51:7 52:14,18
early [1] 13:1
ears [1] 40:14
earth [6] 35:25 36:2,10,11,17,18
easier [1] 53:22
easter [2] 15:12,13
easy [1] 49:13

educate [1] 27:23
educated [1] 55:13
educational [4] 56:5,9,11,21
either [16] 5:14 6:7 11:3 16:9 19:4 20:10 21:20 22:1 23:11 25:6,11 26:14 27:10 30:18 55:20 60:12
elaborate [1] 40:9
employed [1] 61:19
end [5] 13:22 15:7,14 28:21 53:22
english [1] 40:14
enough [5] 7:4 40:24 47:15 54:16 56:13
enriching [1] 8:15
entered [1] 33:2
entire [1] 23:12
entirely [1] 15:1
eshbach [6] 13:12 15:16,20,23 19:3,5
esquire [2] 1:21,24
et [1] 1:7
evaluating [1] 9:25
evaluation [1] 10:1
even [7] 5:11 7:17 20:24 33:12 40:13 47:16 52:22
evening [1] 7:25
eventually [1] 52:19
everyday [1] 35:11
everything [4] 28:20 29:16,18 58:1
evidence [1] 54:10
evolution [8] 9:8,14,14 16:23 18:5 22:24 23:3,18
exactly [2] 21:7 32:18
examination [1] 2:3
examined [1] 3:8
except [3] 3:4 19:1,3
excuse [6] 8:7 22:4 25:10 37:5 48:12 51:18
exhibit [2] 49:11,13
exhibits [1] 2:9
existed [1] 24:10
expand [2] 12:2 60:5
explain [14] 17:7 35:5,13 38:11 43:17 47:2 53:14 54:6,11,18,21 55:5 56:7 58:14
explains [1] 32:9
explanations [1] 7:12
explore [2] 14:20 42:24
explored [7] 4:18 38:1 55:3,10,16, 17,25
exploring [1] 29:20
expressed [1] 27:16
extent [1] 10:15
extremely [1] 10:24

F

fact [6] 31:6 32:11 37:12 40:24 48:1 57:13
fair [6] 7:4 45:5,6 47:15 54:16 56:13
familiar [6] 43:4,8,12 49:22 50:9 52:6
far [2] 25:1 55:12
farce [1] 11:4
fast [2] 5:18 11:21

fathom [1] 47:17
fault [1] 36:25
february [1] 50:4
federation [1] 30:24
feel [9] 4:15,19,25 5:22 7:13 11:17, 18 20:8 21:15
feeling [3] 20:16,18 21:6
felt [8] 19:19 20:14,15,17 21:3 59:1, 2,3
few [5] 7:16 13:25 29:20 49:8 52:20
filing [1] 3:3
find [5] 10:24 11:2 44:5 48:11,18
finds [1] 44:10
fine [4] 14:9 29:24 38:21 56:2
finish [3] 6:20 8:19 48:9
finished [2] 8:20,23
first [20] 5:2,19 9:25 12:1,25 14:5, 19 15:4,22 16:1,25 20:14,17 21:1, 2 24:6 25:18 31:24 51:17,21
following [2] 10:20 21:12
follows [1] 3:8
forego [1] 57:12
foregoing [3] 61:6,14,18
forgive [1] 8:21
form [13] 3:4 9:22 17:6 35:12 37:6 38:10 43:16 47:1 53:13 55:4 56:1, 6 57:7
former [1] 48:13
forth [1] 61:8
forward [2] 24:11 50:6
four [1] 46:19
fox [2] 61:4,24
free [3] 4:15,19 5:22
frequently [4] 51:16,19 52:3,8
friends [7] 44:1,2,4,5,9,17,21
front [1] 1:17
full [1] 61:15
fully [5] 55:3,10,16,17,25
further [9] 21:13 26:18 32:19 34:12,16 35:5 60:4 61:10,17

G

gaps [3] 16:23 22:23 23:2
gather [1] 11:12
gave [8] 7:12,13 21:5 29:6 33:8,12 55:18 59:5
gee [1] 36:14
general [3] 27:23 56:4,21
generally [4] 6:22 16:8 18:3 20:24
getting [1] 4:11
gillen [36] 1:24 8:19,21 9:22,24 17:6,8 25:3 28:19 29:24 32:8 33:22 35:12,14 37:6 38:10,12 43:16,18 47:1,3 49:17 53:13,15 54:9,12 55:4,6,21 56:6,8,15 57:7 60:6,9,12
give [11] 6:24 14:10 17:20 30:21 38:20 48:13 49:22 55:19 57:1,24 59:14
giving [4] 29:4 38:19 57:12 61:12
giving [2] 33:11 49:18
google [5] 9:13 32:15,19,21 33:2
googled [1] 32:16
googling [1] 32:20
got [7] 28:2 32:16 40:10,11 46:22

55:12 56:9 grammatical [1] 53:1 great [5] 6:19 14:7 20:21 21:24 43:24 greater [1] 47:17 group [4] 28:6 39:23 40:1 44:17 guess [1] 55:1 guessing [1] 54:25 guys [2] 28:4 29:17	instructing [1] 56:13 instructions [2] 5:12,15 intelligence [3] 37:15,16,20 intelligent [7] 9:1,2,13 12:1,3,6,8,11,12,16 13:4 17:23 18:1,4,7,11 19:15,15 20:2 21:8 22:7 23:5,9,15 25:18,19 26:8,11 27:20,24 28:5,6,10,16,24 30:6,10,14,20 31:3,5,8,11 33:6,9,18 34:6,9,13,17 35:1,3,7 37:2,11,13,22 38:1,7,17 53:8,10,11,25 54:6,22 55:2,9,15 57:5,15 interest [1] 47:14 interested [1] 61:20 interests [1] 47:20 internet [6] 9:10,11 10:21 11:15,23 27:17 interrupt [1] 7:2 introduced [6] 3:12 18:8,9 54:8 56:3,20 investigate [3] 21:13 26:4,7 investigated [2] 21:16 26:18 involved [6] 12:15 39:13 44:25 46:7 50:14,17 involvement [1] 57:22 involving [3] 8:17,25 9:2 isn't [1] 32:19 issue [1] 55:7 itself [2] 4:8 28:5	line [7] 4:11,14,24 6:7 33:22,24 57:12 little [4] 4:22 6:4 11:1 25:21 living [2] 33:20,24 llp [1] 1:20 long [3] 8:1 46:15,16 longer [2] 19:20 21:4 look [8] 7:1 10:24,25 13:24 39:3 41:5 44:11 49:23 looked [5] 7:16 9:2,9 27:18 43:13 looking [6] 5:12 7:11 9:19 10:3 16:5 49:24 looks [2] 34:23 49:14 lot [4] 6:25 28:17 39:24 48:8 love [1] 35:2 lowe [46] 1:21 3:9,15 8:24 9:23 10:6 17:7,11 25:5 28:20,22 29:23 30:3 33:13,15,23 35:13,18 36:22 37:8,10 38:11,15 43:17,21 47:2,7 49:10,12,18,21 53:14,17,20 54:11,16,17 55:5,8,22 56:7,13,23 57:10 60:4,8	13 message [1] 22:16 met [1] 15:4 micro [1] 9:14 might [8] 4:22 17:19 18:11 21:23 24:6 29:19 32:21 53:22 mike [4] 13:15 16:2 19:9 48:7 mild [1] 26:1 miller [4] 13:12,17 15:15 19:5 miller-levin [2] 16:24 23:20 mind [6] 5:6,17 13:20 16:6 24:24 54:21 mine [1] 13:22 minimally [3] 10:10,11,16 minutes [1] 38:24 missing [1] 19:4 moderate [1] 26:2 moment [1] 38:21 month [5] 14:8 15:11 18:21 46:20,20 months [2] 3:24 43:13 morning [3] 3:10,11 5:24 most [2] 4:23 6:5 move [2] 24:11 43:25 moving [1] 18:17 ms [11] 15:15,15 21:14 25:8,14 26:7,10,18,20 59:19,24 much [6] 7:2 9:7 18:19 25:25 29:23 52:20 myself [2] 3:12 13:18
<hr/> H <hr/> h-a-r-k-i-n-s [1] 3:21 habit [1] 28:19 hamilton [2] 1:20 3:17 hand [1] 51:21 handicaps [1] 6:16 handled [9] 40:3,6 41:1,20,25 43:14 44:6,9,16 handling [2] 43:19,22 happened [1] 46:10 harkins [5] 2:3 3:7,16,21 61:9 harrisburg [1] 1:18 hear [3] 12:1,3,6 heard [6] 5:7,13 12:8,11 14:19 21:1 help [11] 10:12,16 11:8 14:7,10,25 20:23 29:13 36:2,12,19 hereby [2] 3:2 61:6 hereinbefore [1] 61:8 herself [1] 25:17 high [4] 16:6 19:10 48:10,17 hill [1] 61:21 himself [1] 32:10 hit [3] 32:21,22 58:1 hold [1] 6:22 hour [1] 8:2 hunted [1] 40:17 hurt [1] 40:14 husband [1] 8:4	<hr/> J <hr/> january [5] 3:25 34:20,22,24,24 jen [3] 13:12 19:4,6 joel [1] 13:16 jog [2] 14:17,22 jones [1] 1:6 judge [2] 1:6 9:15 june [8] 12:7,20 13:3 24:22 25:11,16 26:4,21	<hr/> M <hr/> macro [1] 9:14 made [17] 7:15,20 18:9,12 19:19 21:2 22:9,23,25 25:17,24 39:7 45:7 46:21 52:24 55:12 57:20 manner [1] 40:3 many [7] 13:3 44:13 47:13,24,25 59:16,19 march [1] 49:15 mark [1] 49:10 marked [2] 2:10 49:14 market [1] 1:17 match [1] 22:14 materials [4] 11:22,24 28:23 29:1 matter [2] 3:23 61:20 matters [2] 54:14 56:10 mean [10] 16:5 32:14 33:1 35:19 36:3,12,19,20 38:12 58:20 means [1] 5:11 medication [2] 6:11,15 medications [1] 6:10 meeting [52] 13:3 15:22 16:1,14,21,25 17:3,10,13,21,24 18:15,17,20,23 19:8,11,16,22 20:4,10,14,17,18 21:2,4,10,12,22 22:3,7,15,16,19 23:18 24:4,7,11,13,15,16,17,18,22,23 25:9,12,16,24 26:4,21 39:14 meetings [17] 12:7,20,23 13:2,3,9,24 14:2,3,5,19 15:2,19 16:3 25:15 28:1,3 member [5] 27:22 31:1 45:4 49:4 59:25 members [31] 11:24 13:18 16:13 19:12 21:20 25:7,12,13 26:6,13,18 28:10,24 29:1 30:4,8,12,18 34:14,17,25 39:18 42:4,21 43:2,4,7 49:1 57:17 58:11 60:1 memories [1] 29:12 memory [6] 6:17 13:22 14:16,17,22 52:18 mention [1] 17:23 mentioned [5] 13:2 15:15 17:8,10,	<hr/> N <hr/> name [4] 3:14,15,19 40:16 names [8] 18:24 32:12,13,14,17,20,23 33:3 narrow [1] 14:7 natural [4] 35:10 36:1,10,17 naturally [2] 5:25 6:1 nature [3] 19:18 28:11 42:24 necessarily [1] 57:4 necessary [4] 14:8 57:2,4,6 need [7] 13:11 17:37 21:21,22 50:9 needs [3] 35:7 37:2,19 negative [2] 21:1,7 never [8] 11:25 18:6 38:5,5,9,19 55:12,18 new [1] 13:16 news [1] 50:3 newsletter [15] 49:7,22,25 50:7,10,15,18,20,24 51:2,5,8,11,13 53:5 next [1] 31:23 nilsen [2] 16:3 40:10 none [1] 2:10 nor [2] 61:17,19 north [1] 1:17 notary [2] 61:4,25 notes [2] 28:18 61:16 nothing [1] 10:25 number [2] 39:22 47:16 numerous [2] 47:11,12
<hr/> I <hr/> idea [3] 47:18 50:23 51:13 ie [1] 32:7 immediately [1] 7:15 important [1] 5:8 imprecise [1] 6:2 impression [1] 59:6 improper [1] 25:3 include [1] 16:4 included [4] 23:16 29:6 30:13 42:10 including [3] 19:20 20:2 26:8 inconsistent [1] 25:21 incorrect [1] 40:13 incorrectly [1] 43:3 independent [1] 28:11 independently [1] 28:16 individual [1] 47:19 individuals [1] 32:6 inform [1] 50:22 information [19] 9:16,20 10:4,9,15,17,19 11:4,6,9,12,14 14:18 27:10 31:3 32:3 45:11 46:2 51:15 informed [4] 10:14,17 11:8 12:13 instance [2] 52:9 56:25 instances [3] 4:20 56:24 59:25	<hr/> K <hr/> keep [2] 29:7 49:16 kick [1] 25:2 kicking [1] 25:4 kind [1] 10:1 knowledge [9] 6:13,18 30:12,18 40:19 41:23 42:5 46:8 57:18 known [1] 46:24	<hr/> O <hr/> object [1] 38:10 objected [1] 46:24 objection [13] 9:22 10:7 17:6 35:	

12 37:6 43:16 47:1 53:13 54:9 55:4,21 56:6 57:7
objections [1] 3:4
obligation [1] 5:4
occasion [2] 6:21 47:22
occurred [4] 23:17 24:19 29:13 48:21
off-the-record [3] 29:25 33:14 37:9
official [1] 10:25
okay [36] 5:4 6:14 7:18 11:13 13:14 14:13,18,21,22,24 15:22 27:6,14,15 29:22 32:25 33:7 34:3 35:19 37:25 38:3,6,20 39:3 40:15 42:17 49:9,15,20,25 51:4,20,23 52:13 53:7 59:23
once [2] 4:8 7:4
one [29] 13:16,19,25 15:20 19:4,5,5 23:7 29:9 32:12,21,22 33:12 35:6,7 37:19,21,21,22,24 38:23 40:22 41:18,23 43:20,24 44:9,13 59:14
ones [2] 44:14 47:13
only [8] 10:14,16 11:12 12:9 23:8 37:24 46:10 54:24
open [2] 6:7 34:5
opinion [18] 34:6 37:20,25 38:4,6,13,14,16 55:2,7,9,20,23 56:1,2,18,25 57:5
opposed [1] 25:19
order [1] 35:6
organism [1] 33:25
organization [1] 44:1
organizations [4] 30:14,20,22 31:2
original [1] 61:15
other [31] 5:25 8:5 11:24 16:13 19:12 20:3 22:8,25 23:8,13,13 25:7 26:6,14 27:9,12,18 39:18,22 40:24,25 49:1 54:2,7,14,19 58:11 59:23,23,25 60:1
others [2] 58:15,16
otherwise [1] 14:12
out [12] 11:15,25 17:21 31:2 48:11,16,18 50:16 51:11,13 60:8,9
outcome [1] 61:20
outside [9] 35:9,10,24,25 36:9,10,16,17 37:1
over [4] 5:24 29:17,18,18
overly [1] 4:14
own [3] 11:19 28:16 39:5

P

p-19 [1] 49:14
packets [1] 29:7
page [4] 33:16 51:17,21,22
pandas [21] 18:14 24:8,9 39:8,12 40:4 41:2,6,10,16,17 42:5,10 43:5,8 44:16 45:1,9,11,25 46:3
paraphrasing [1] 34:7
part [1] 43:24
participate [2] 30:4,8
particular [3] 14:3 44:13 47:14
parties [2] 3:3 61:18
party [2] 8:6,9
pass [4] 8:16 58:5,8,11

passed [2] 8:14,14
passing [3] 12:4,9 58:2
past [9] 6:14,15 7:23 8:14 12:9 34:12,22 46:23 47:4
pat [10] 4:12 7:25 8:1 25:2 27:3 28:17 29:23 49:15,19 60:5
pat's [1] 10:7
path [1] 10:20
patrick [1] 1:24
pause [2] 6:21 8:25
pauses [1] 6:23
paying [1] 48:12
pennsylvania [4] 1:18 61:1,5,21
people [31] 18:14 24:8,9,12 27:25 28:2 31:21,24 36:1,10,17 39:8 40:4 41:2,6,10,16,17 42:6,8,11 43:5,8,11 44:16 45:1,9,12,25 46:4 51:14
people's [2] 12:14 33:2
pepper [2] 1:20 3:17
perceive [4] 35:25 36:9,16 37:1
perception [3] 6:12,16 12:14
perhaps [2] 15:11 28:2
person [1] 11:2
personal [1] 40:18
personally [7] 20:6 26:20 39:15 46:22 47:21 51:7 55:15
persuade [8] 58:4,8,11,16,18,23 59:24 60:1
phone [2] 30:13,19
phrase [1] 25:18
picture [1] 42:16
piece [2] 22:12 43:7
pinpoint [1] 14:25
place [5] 1:16 15:10 35:9,10 61:7
plaintiffs [3] 1:22 3:18 29:11
plan [1] 4:20
please [6] 3:19 7:2 8:19 22:10 36:7 56:16
point [6] 12:24 24:1,8 25:25 27:16 50:6
policy [2] 10:8 53:9
pose [1] 10:22
positive [2] 16:5 17:22
possibilities [1] 16:22
possibility [1] 24:3
possible [4] 4:17 18:4 24:17 33:20
possibly [4] 33:25 34:2 44:2 54:23
posted [1] 11:5
potential [4] 15:5 17:4,12,15
practice [7] 46:23 47:3,4 56:5,9,12,21
precise [1] 6:6
preferred [1] 55:13
preliminary [1] 57:11
prepare [1] 7:24
presented [6] 23:8,14 28:23 29:150:20 53:10
presenting [1] 23:13
president [1] 16:17
pretty [3] 9:7 34:4 52:20
previous [4] 7:8,11 12:7 39:6
previously [1] 49:14
principal [1] 13:17
principals [4] 16:4,7,11 19:10

print [2] 11:25 28:21
prior [20] 9:4 12:3,6,20 13:3 24:22,22 25:11 33:8,16 39:12,19 41:23 42:5,11 43:8 45:17 47:22 50:16 53:5
private [3] 24:18 48:10,17
privileged [1] 27:2
probably [4] 4:23 5:21 7:4 44:11
problem [5] 17:18 45:4 46:11,12 55:15
problems [5] 16:23 17:16 22:23 23:24 24:1
procedural [1] 5:19
process [3] 11:21 42:1 44:12
produce [1] 50:25
promise [1] 27:3
proposed [2] 17:1 22:16
provide [1] 11:23
public [7] 27:23 28:2 38:1,7,18 61:4,25
publication [1] 53:5
published [3] 11:2,3 52:19
pursue [1] 40:20
pushing [3] 59:3,4,6
put [7] 32:8,13,14 51:1,11,13 57:4
puts [1] 44:3

Q

question [18] 3:5 5:2 6:6,23,24 8:19 30:16 31:23 35:15 36:8,15 39:25 41:5 51:16 56:16,17,18 57:11
questioned [1] 59:12
questioning [4] 4:12,14,24 57:12
questions [33] 4:5,9 5:9 6:2,21 8:13 11:18 14:23 24:25 26:2,2,23 27:9 29:10,12 33:5 51:19,24 52:4,8 53:11,24 54:4,20 56:2,10,19 57:1,3,6,14 60:4,12
quick [1] 27:3
quickly [2] 5:20,21
quiet [1] 19:10

R

rate [1] 7:22
rather [3] 23:19 53:8 54:3
reaching [1] 31:2
read [17] 9:6 22:17 30:16 31:13,15 32:22 33:17 36:13,14,20 48:22 50:8,9 52:25 56:15,16,22
real [4] 3:24 16:4 24:14 41:11
realize [3] 10:16 29:10 33:8
really [7] 12:13,14 21:23 24:2 44:3 53:19 57:13
reason [2] 29:9 52:24
recall [60] 9:5,10 12:10 13:6,8 14:4 15:7,25 16:20 18:1,16 19:7,25 20:5,23 21:5,8,11 22:1,5,8 23:5,17 24:2,12 27:17,21 28:8,25 29:3,13,21 31:19 32:16,23,25 33:3 39:13,18 46:1,5,16,17 47:9,24 50:17,19 51:6,11 52:16,24 53:4 58:14,24 59:8,11,16,19,23,25
received [8] 9:16,21 10:9 29:16 40:15 46:15,17,18
recently [4] 3:22,24 8:14 39:21
recess [4] 30:1,2 60:10,11

recollect [2] 14:11 19:25
recollection [6] 12:19 14:2 22:14 45:13 52:21 58:7
record [10] 3:12,20 4:7 5:6 7:7 27:4 29:24 33:13 37:7 49:24
refer [1] 50:6
referring [6] 16:9 26:25 31:15,16 39:5 49:25
regarding [1] 41:12
reidel [1] 13:16
relate [1] 55:25
related [2] 59:20 61:18
relatively [1] 20:15
relevant [1] 29:19
religious [1] 59:12
remember [20] 3:14 12:22,24 13:23 14:6,9 15:10,22 19:18,21,24 20:13 29:14 32:12 34:3 50:23 51:1,10 59:22,22
remembered [1] 29:19
remembering [1] 4:18
repeat [5] 6:5 36:4,6,7 42:12
repetitive [3] 4:6,10,15
rephrase [5] 6:5 17:1 36:23 39:25 50:18
reported [1] 61:12
reporter [5] 36:13,21 56:22 61:4,25
reporter-notary [1] 1:15
represent [2] 3:17 27:1
represented [1] 4:13
request [1] 44:4
requests [1] 44:8
requires [2] 35:4 37:12
research [11] 8:17,25 9:8,12 12:16 21:12 27:17,19 28:9 32:5 42:9
resolved [1] 3:5
resolution [11] 8:14,16 10:13 12:4 22:9 25:20 58:2,5,8,12 60:2
respect [33] 9:8 13:4 15:5 16:20 17:15,15 19:12,15 22:3,6 23:18,22 24:19 26:8,11 27:19 28:10,15,24 30:14 34:13,25 41:12 45:11,24 46:3,6 52:3,7 56:3,19 57:4,15
responsive [1] 3:3
respond [3] 20:6,11 53:24
retrieved [1] 33:2
review [8] 4:25 7:21 39:11,15 44:11 47:6,21 50:20
reviewed [8] 4:16 7:8,15 11:23 24:5 39:18 50:16 51:7
reviewing [1] 23:24
road [1] 27:2
rob [3] 13:12 19:3,5
role [1] 23:4
run [1] 18:22

S

s-h-e-i-l-a [1] 3:21
same [9] 6:3,22 15:18 18:24 19:1,3 20:18 49:16 52:19
sarcastically [1] 11:3
save [2] 15:18 22:12
saw [2] 31:13,15
saying [7] 22:13 23:13 40:11,16

42:13 51:15 56:15 says [2] 32:22 44:10 school [56] 1:6 15:14 16:6,13,14 18:19 19:10,12 21:17,21 22:5 25:13 26:6,17,22 27:22 28:1,3,5,10 30:5,9,19 34:14,18,25 38:2,7 39:2,10,10 40:19 41:6,7,10,12,21 42:9 43:9,15 44:25 45:10,17 46:23,25 47:8,9,18 49:2 50:2 54:8 57:21 58:4,7,10,11 schools [5] 38:18 48:10,17 56:4,20 science [11] 15:16,18 20:20 30:23 31:6,6,12,14 55:3,10,16 scientific [6] 11:10 30:14,20,22 31:2,9 sealing [1] 3:3 search [2] 9:10,11 season [1] 14:8 second [13] 10:1 18:17 19:7,16 20:18 21:4 22:2 25:9 32:25 49:23 51:22 57:24 60:7 seconds [4] 6:24 14:1 39:1 49:8 secretaries [1] 40:22 secretary's [1] 40:16 section [5] 51:16,21 52:4,8 53:7 see [16] 4:13 7:22 11:9 14:1 22:12 32:10 35:25 36:2,9,11,16,18 46:19 51:17 52:13,13 seem [4] 6:2,4 17:17 20:20 seemed [1] 17:17 seems [1] 4:14 seen [2] 31:16 50:12 sent [2] 40:19,20 sentences [1] 6:22 set [1] 61:8 setting [2] 38:2,7 several [3] 9:2 12:8 27:25 shane [1] 13:17 share [3] 16:25 17:3 21:10 shared [7] 22:2,6 23:1 24:1 25:8,14 30:9 sharing [1] 34:5 sheila [8] 2:3 3:7,16,21 8:22 10:2 49:18 61:9 short [1] 22:20 shorthand [1] 61:16 shouldn't [1] 44:20 show [1] 41:8 showed [3] 40:7,8,25 signed [1] 40:22 significantly [1] 52:16 since [9] 7:13,16 29:20 34:10,12,16,19,20,22 sitting [1] 13:23 slip [3] 40:11,16,23 slow [5] 5:17,22,25 11:20,22 someone [4] 37:4 44:8,11,12 sometimes [1] 29:11 somewhat [2] 10:14 21:1 sorry [9] 3:14 5:3 8:20 9:18 10:20 32:24 33:24 36:4 48:12 sort [1] 59:17 sound [3] 31:6,12,14 sounded [2] 31:14,21	sounds [2] 34:3 41:21 spahr [9] 13:12 15:15 19:23 20:25 21:14 23:15 25:8,14,16 spahr's [7] 20:7,11 26:7,10,15,18,20 spark [1] 29:12 speaking [4] 5:20 16:8,8 43:3 specific [1] 30:17 specifically [4] 20:24 27:17 31:16 51:12 specifics [2] 23:1 59:8 speculation [1] 55:21 speed [1] 6:1 spell [1] 3:19 spend [1] 39:1 spoke [2] 19:21 51:12 spot [1] 48:16 spouse [1] 8:5 spring [7] 12:23 13:1,7 15:8,9,12 24:20 staff [2] 25:15 34:25 stand [1] 36:20 standard [1] 56:11 standards [2] 55:24,25 start [7] 4:17 6:1 8:13 12:16 13:11 27:2 43:24 started [1] 53:17 starting [1] 18:23 stated [3] 7:6 20:14 25:22 statement [3] 25:17,20 57:20 states [1] 1:1 stay [1] 4:9 stenographically [1] 61:13 step [4] 38:25 57:3 60:8,9 still [1] 9:6 stipulated [1] 3:2 stipulation [1] 3:1 stop [4] 4:23 5:21 7:3,4 stopped [1] 55:14 story [1] 14:15 straight [1] 4:7 streets [1] 1:17 strong [3] 20:8 21:15 26:1 stronger [1] 25:25 student [1] 57:6 students [11] 18:8,10,12 22:17,23 23:2 53:10,15,17,21 54:3 stuff [1] 29:7 stylistic [1] 53:1 subject [5] 54:2,7,14 56:10 61:20 subjects [1] 54:19 subsequently [1] 61:13 substantive [1] 53:2 suffered [1] 6:16 suggestion [1] 17:20 summer [1] 24:22 superintendent [2] 16:10,10 supernatural [12] 35:4,8,8,19,22,24 36:3,8,13,15,19,20 supervision [1] 61:14 supplemental [1] 24:3 support [2] 20:16 25:17 supportive [8] 17:17 19:20 20:1,9,15,19 21:4 23:12 surprise [1] 41:21	survey [3] 48:23 49:1,4 sworn [2] 3:8 61:11 <hr/> T <hr/> table [2] 13:21,23 talked [2] 7:25 27:25 taught [1] 23:3 teach [1] 55:14 teacher [2] 44:3 48:13 teacher's [1] 53:22 teachers [32] 12:23 13:2,4,10,11,13 15:5,16,19 16:25 17:3 18:10,23 19:19,21 20:3 22:2,6 23:1,12 24:5,18 30:24 34:25 52:9 53:16,23 54:4,14,20 55:12 57:14 teachers' [1] 20:20 teaching [1] 38:16 tend [3] 5:19 6:21 7:2 terms [2] 9:11 59:1 testified [1] 3:8 testify [1] 61:11 testimony [6] 7:9 9:4 39:6 61:7,8,12 text [3] 24:1,3,3 textbook [7] 16:24 18:14 24:5 41:2 42:5 43:4 48:18 textbooks [3] 39:22,24 45:1 texts [1] 45:18 thanks [1] 60:9 themselves [1] 32:4 theories [4] 22:25 23:7,13,14 theory [6] 16:23 17:16 22:24 23:3,8 31:9 there's [2] 5:19 54:19 therefore [2] 25:3 54:15 thereof [1] 61:20 third [6] 24:11,12,14,15,16,23 thomas [1] 1:23 though [2] 15:21 45:6 three [2] 13:6 46:19 tiniest [1] 33:25 titled [1] 50:2 today [5] 4:4,13 6:12 26:25 50:12 today's [1] 48:20 together [5] 22:12 28:6 32:8 43:7 51:2 token [1] 6:3 tomorrow [2] 33:10 34:7 tone [1] 59:2 took [2] 26:7 35:9 top [1] 51:22 topic [3] 38:25 56:3,19 totally [1] 21:4 touched [1] 31:23 transcribed [1] 61:13 transcript [4] 6:19 7:1 33:16 61:15 treated [3] 41:15 54:7,22 trial [1] 3:5 tried [2] 58:17,22 true [4] 10:23 32:11 35:17 61:15 truth [2] 11:1 61:11 truthful [1] 11:10 try [10] 4:9 6:20 14:7,22,25 15:10 47:15,15 58:4,8	trying [20] 11:12 13:20,20 14:14,15,15 19:25 22:8 40:20 42:16,17 43:7 45:14 53:18 58:10,15,15,24 59:24 60:1 turned [3] 29:17,18,18 two [8] 3:24 6:14,15 13:6 19:6 32:12,21,22 typical [2] 43:19,22 typically [1] 43:14 <hr/> U <hr/> unannounced [3] 40:25 42:3,19 unaware [1] 42:22 unclear [2] 6:3,4 uncomfortable [1] 11:18 under [1] 61:13 understand [17] 3:22 7:5 10:21 14:14,25 26:23 29:9 35:6,19 36:3,12,19 37:22 41:20 42:17 44:15 47:16 understanding [38] 5:15 17:1 28:9,13,14,17 30:6,10 31:5,8,11 33:6,18 34:9 35:3,15 37:11,16,19,23 39:21 42:4,8,10 44:12,21 45:3,6,12 53:8,18,21,23 54:1,19 56:5,9,21 understood [1] 25:25 united [1] 1:1 until [4] 3:5 6:20,23 57:13 up [22] 6:1 12:18,19,24 18:2,4,7,14 23:11 24:4,8 28:2 37:21 40:7,8,25 41:8 51:12 53:25 56:3,19 57:13 update [2] 50:3 53:9 ups [2] 40:11,22 <hr/> V <hr/> various [3] 48:2,10,17 verbally [1] 5:9 verify [1] 10:18 vice-principals [1] 16:11 vicki [6] 5:21,21 7:4 49:10 61:4,24 visualize [1] 24:24 visually [1] 13:20 voice [1] 11:22 vote [6] 10:8,13 51:4,5 58:25 59:15 voted [1] 8:16 <hr/> W <hr/> wait [1] 6:20 waived [1] 3:4 wanted [7] 23:7 40:18 41:17 42:2,24 50:21 51:10 wants [1] 44:3 way [30] 6:7 9:15,19 10:4 11:6,8 12:10 14:22 20:11 21:12 27:1 29:12 36:23 40:25 41:9,13,20,25 43:19,22 44:9,16,22 50:14 52:25 55:20 58:19,22 59:7,12 ways [3] 9:10 40:6 44:7 website [6] 10:24 11:3 32:1,5,8,9 websites [11] 9:2,9,16,19,21 10:9,12,16 31:17 33:1,1 week [2] 13:23 46:14 weeks [1] 46:20 whatever [1] 14:8
---	--	---	---

whereas ^[1] 44:9
whether ^[25] 9:15,20 10:8,12 15:7,
22 21:16 26:6,13,17 32:1,5,10 37:
21 38:16 40:19 43:7 45:18 46:24
52:9 55:9 59:2,3,11,16
whole ^[3] 19:11 45:20 61:11
will ^[29] 4:9,12,23 5:21,24,25 6:6,
22,25 7:4,20 11:22 14:7,22,25 15:
10 16:9 25:4 27:3 30:17,21 39:4
41:5 43:25 44:4 49:16 50:1 59:14
60:9
winter ^[1] 15:8
within ^[3] 18:21 45:24 47:16
without ^[1] 4:17
witness ^[6] 2:2 3:7 36:2,11,18 61:
10
wonderful ^[1] 32:19
word ^[1] 23:15
wording ^[3] 17:20 22:8 23:12
words ^[3] 19:25 23:15 52:20
work ^[2] 5:17 21:3
working ^[1] 21:2
writing ^[1] 28:17
written ^[1] 31:20

Y

year ^[2] 8:15 18:19
years ^[3] 6:14,15 12:8
yingling ^[3] 58:17 59:19,24
yourself ^[3] 16:14 19:13 30:13