

STATE OF NEW JERSEY
OFFICE OF ADMINISTRATIVE LAW
DOCKET NO. EDU 11069-14

LEONOR ALCANTARA, :
individually and as :
Guardian ad Litem for :
E.A., et al., :
 :
Petitioner, :
 :
-vs- :
 :
DAVID HESPE, COMMISSIONER :
OF EDUCATION, NEW JERSEY :
STATE BOARD OF EDUCATION :
AND NEW JERSEY DEPARTMENT :
OF EDUCATION, :
 :
Respondent. :
 :
 :

TRANSCRIPT
OF
RECORDED PROCEEDINGS

July 10, 2019

BEFORE:

THE HONORABLE SUSAN M. SCAROLA, A.L.J.

APPEARANCES:

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Attorney(s) for Petitioner

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I N D E X

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CHRISTOPHER SOLEAU

By Ms. Hoff 13

By Mr. Lang 65

CATHERINE ANTHONY

By Mr. Stark 70

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RAYMOND ZIRILLI

By Mr. Stark 89

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R-7	Chapter 192 and 193 Programs		109
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1 THE COURT: So we're back on the record in the
2 matter of Alcantara vs. State Commissioner of
3 Education, et al. Our docket number is EDU 11069-14.

4 Appearing on behalf of the petitioners?

5 MR. LANG: Arthur Lang.

6 THE COURT: And on behalf of the State?

7 MS. HOFF: Yes, good morning, Your Honor.
8 Deputy Attorney General Jennifer Hoff. With me today
9 is also Deputy Attorney General Geoffrey Stark, and
10 from the Department of Education, Angela Roules
11 (phonetic).

12 THE COURT: Okay. Thank you.

13 MR. LANG: Your Honor? Before the respondents
14 --

15 THE COURT: How about the participant?

16 MR. LANG: Oh, I'm sorry.

17 MR. INZELBUCH: Good morning. Michael
18 Inzelbuch on behalf of Lakewood Board of Education. So
19 the parties are aware, we have Ed Dalger here, who is
20 an attorney who represents Lakewood Board of Ed. We
21 also --

22 THE COURT: I thought you represented the
23 Lakewood Board of Ed.

24 MR. INZELBUCH: We have special counsel (out
25 of microphone range).

1 THE COURT: Oh, okay.

2 MR. INZELBUCH: As every district does. Laura
3 Winters, Superintendent -- you've met her before; Ms.
4 Wise, Supervisor of Related Services; and Ms. Stein,
5 Math Supervisor, as well as Supervisor of 192.

6 THE COURT: Didn't some of these people
7 testify before?

8 MR. INZELBUCH: They did. They're here to
9 listen --

10 MS. HOFF: (Out of microphone range) from Ms.
11 Stein. I know that we're under sequestration. We have
12 no --

13 MR. INZELBUCH: They testified already.

14 THE COURT: Do you have any objection?

15 MS. HOFF: No, unless Mr. Lang plans on
16 potentially calling them back. If they do get called
17 back for rebuttal, we would object at that time.

18 THE COURT: Do you, Mr. Lang?

19 MR. LANG: I don't plan on it, but --

20 THE COURT: Okay. Just a few matters to clear
21 up, I guess, from yesterday. You know, I was thinking
22 about my comments. I'm really just concerned and when
23 I used the quote "Ponzi scheme," I'm really just
24 concerned about -- and I want one of the witnesses from
25 the State to address this -- how does the District pay

1 back when the loans keep going up, and without the
2 interest, but loans keep going up. Loans have to be
3 paid back. And if they get paid back from new loans,
4 how do you stop this from continuing to happen? So
5 that's my concern and I hope that one of the witnesses
6 might address that in terms of budgeting, because I
7 think the witness described it as trying to get a
8 balanced budget and if it keeps -- you know, if the
9 amount that's owed keeps going up, how are you ever
10 going to get a budget in balance? I'm hoping that one
11 of your witnesses will address that issue.

12 And also, I had some concerns with a
13 statement made by Mr. Inzelbuch concerning the fairness
14 of this particular forum. And Mr. Inzelbuch, I think
15 the record should reflect that I have been fair to
16 everyone and -- that has appeared before me and --

17 MR. INZELBUCH: I have known this Court for
18 many years and had no issues and still have no issues
19 with this Court. I'm taking the liberty of remaining
20 seated, as you said I could. No disrespect. However,
21 I don't think the Lakewood Board of Education has been
22 treated fairly here and that is not your doing. That
23 precedes you and that precedes me. But the Lakewood
24 Board of Education -- and you will hear more testimony
25 about today -- sits here and hopes to God that someone

1 will question or someone will ask a question like was
2 (out of microphone range) yesterday, because it's all
3 great that this is someone else's case, but it affects
4 the Lakewood Board of Education. In fact, I did write
5 a letter to Your Honor, which everyone got hand-
6 delivered July 8th, which I still have not heard from --
7 and I am not faulting anyone -- I am not faulting
8 anyone, but in fairness -- and unfortunately, we don't
9 have videos here, but we do have a transcript, and this
10 is not directed at the Court at all because this is the
11 third judge who has taken this case and made -- the
12 Lakewood District made, what I have said, the wrong
13 decision not to be a party, as you have commented.

14 THE COURT: Yes. We're not going to revisit
15 that issue.

16 MR. INZELBUCH: Well, so I do think we're
17 being treated not fairly, but not by Your Honor.

18 THE COURT: And I also understand that there
19 may be some decisions that say the Board should not be
20 a party to this --

21 MR. INZELBUCH: Yes.

22 THE COURT: -- that it only can be raised by
23 the --

24 MR. INZELBUCH: Yes.

25 THE COURT: -- by the parents or the resident.

1 MR. LANG: Right, but we're not going to
2 revisit it and I'm not going to argue it.

3 THE COURT: We're not revisiting it.

4 MR. INZELBUCH: Well, then I continue to say
5 the Board has not been treated fairly, so I -- not by
6 Your Honor, but by the system which, again, prior to my
7 re-attention as attorney again. So here we go.

8 THE COURT: Well, thank you.

9 MR. INZELBUCH: We're making record, too.

10 MR. LANG: Your Honor, I have something I want
11 to raise with the Court if it's possible.

12 THE COURT: Sure.

13 MR. LANG: And it has to do with testimony
14 that would be today and --

15 THE COURT: Well we don't even know whose
16 testimony it's going to be.

17 MR. LANG: Well it's just (out of microphone
18 range) we were told and I have (out of microphone
19 range) here, so I just want to bring up some points and
20 if we could just get past them, if I could just bring
21 them up in three minutes or four minutes and --

22 THE COURT: Briefly, Mr. Lang --

23 MR. LANG: Briefly.

24 THE COURT: -- because I'd like to continue
25 with this.

1 MR. LANG: Well, first of all, from my
2 understanding, the State is going to bring up audits
3 and testimony of what happened before the State
4 monitors came and the State monitors came in 2014,
5 before I filed actually. And if there's any residual
6 effects -- and by the way, also, the State monitors, it
7 seems like is going to be there forever because they
8 have to stay until all the loans are repaid. The loans
9 are supposed to be repaid for ten years and it seems
10 like they're just borrowing money just to pay the State
11 back --

12 THE COURT: And we're going to -- that's going
13 to be addressed.

14 MR. LANG: -- so they keep on going on and on.
15 So there's -- there's -- we're dealing with a whole
16 different situation now, that the District is under the
17 control, or whatever you want to call it, of the State
18 monitors. Any residual effects which they're going to
19 -- which is a possibility, can easily be discounted by
20 the fact that the budget just keeps on going up. If
21 you have a residual effect, maybe the budget will still
22 be not balanced, but it would start going down. So I
23 don't see the relevance of anything that happened
24 before the State monitors came. So instead of me
25 objecting and objecting and objecting every time, I

1 just want to air this --

2 THE COURT: So why don't we just note your
3 continuing objection --

4 MR. LANG: Yes.

5 THE COURT: -- and we can leave it at that.

6 MR. LANG: Yes.

7 THE COURT: Okay.

8 MR. LANG: All right. That's -- and I also
9 want to talk to you about something that Your Honor
10 discussed yesterday and that is that my -- my purpose
11 in wanting to talk about the 2019 and '20 school year -
12 - and I'll just leave it at this; let me just air this
13 -- is because it was about process. Our objective here
14 in this case is to show that funding has to be (out of
15 microphone range), continuous, and non-discretionary,
16 not arbitrary. So we have -- and one of the things
17 we're trying to show is that the DOE is at least
18 showing that they don't have a grip on this whole
19 thing, they don't know, or they're just saying they
20 don't know.

21 THE COURT: So what you're saying is really
22 more appropriate for a summation, Mr. Lang.

23 MR. LANG: Okay.

24 THE COURT: I understand your concerns. Why
25 don't we get to the State's witnesses --

1 MR. LANG: Okay.

2 THE COURT: -- and see what they have today?

3 MS. HOFF: Would you like me to respond, Your

4 Honor --

5 MR. LANG: Yeah.

6 MS. HOFF: -- to Mr. Lang's objection?

7 THE COURT: Certainly, you can put it on the
8 record if you like.

9 MS. HOFF: Okay. Simply that in terms of the
10 audit prior to the State monitor being installed, the
11 SFRA and revenue cannot be seen in a vacuum.

12 Understanding why the State monitor was installed and
13 what the condition of the District was at the time has
14 already been something in testimony that's been
15 elicited, and therefore, it would be appropriate and
16 proper to discuss that in State respondent's case.

17 In terms of the 19/20 school year, as stated
18 before, it's still pending litigation, and
19 additionally, it has not been completely finalized yet,
20 so there are multiple reasons it's not simply part of
21 this case at this moment.

22 THE COURT: So --

23 MR. LANG: Your Honor, just a one-sentence
24 rebuttal, if I may.

25 THE COURT: Certainly, Mr. Lang.

1 MR. LANG: Okay. We are not interested in
2 showing how much money Lakewood needs -- as that
3 lawsuit is pending -- how much Lakewood needs in 19/20.
4 The purpose was to show process, that -- how that --
5 how arbitrary the process is.

6 THE COURT: But you've -- but you've shown the
7 process for the past four years --

8 MR. LANG: Okay.

9 THE COURT: -- so I think you've shown what
10 happens here and I think the State is well-aware of
11 what it's done for the past four years.

12 MR. LANG: Okay.

13 THE COURT: And so now we have to deal with
14 the facts surrounding that, as well as what happened
15 prior, before the State monitors, because that was part
16 of the original petition when it was filed in 2014.

17 MR. LANG: Well, I did amend it.

18 THE COURT: I understand.

19 MR. LANG: I see.

20 THE COURT: But we certainly -- it hasn't been
21 amended to include 2019/2020. So why don't we proceed
22 with today's witnesses?

23 MR. LANG: Okay.

24 THE COURT: So, Ms. Hoff?

25 MS. HOFF: Thank you, Your Honor. The State

1 respondents call Christopher Soleau to the stand.

2 THE COURT: All right. Mr. Soleau, you can
3 bring your water up with you. And like I said,
4 everybody can take of their jackets if need be. This
5 place will get hotter.

6 So if you would just stand there, please.
7 Raise your right hand.

8 C H R I S T O P H E R S O L E A U, RESPONDENT'S
9 WITNESS, SWORN.

10 THE COURT: Have a seat. State your name.

11 THE WITNESS: Christopher Soleau.

12 THE COURT: And spell your last name.

13 THE WITNESS: S-O-L-E-A-U.

14 THE COURT: Okay. And everything is recorded
15 so you have to speak up and give verbal answers.

16 THE WITNESS: I should be close?

17 THE COURT: You don't have to stay so close.
18 It's not a microphone; it just picks up your voice.

19 THE WITNESS: Okay.

20 THE COURT: All right. So, Ms. Hoff?

21 MS. HOFF: Thank you very much.

22 DIRECT EXAMINATION BY MS. HOFF:

23 Q Good morning, Mr. Soleau.

24 A Good morning.

25 Q Are you currently employed?

1 A Yes.

2 Q And where are you employed?

3 A I work for the Office of Legislative Services, the
4 Office of the State Auditor.

5 Q And what is your position there currently?

6 A Principal Auditor.

7 Q And what does a principal auditor do?

8 A A principal auditor is a field supervisor that
9 supervises a team of auditors when we go out to conduct
10 an engagement.

11 Q Okay. And by "field supervisor," what do you
12 mean by that?

13 A I go out in the field with the team and I'm on
14 site at the auditee for the duration of the audit.

15 Q And what is your educational background?

16 A I have a bachelor's degree in accounting from
17 Rowan University.

18 Q And do you have a background in education
19 specifically?

20 A No.

21 Q How long have you been with the Office of
22 State Auditor?

23 A I started in June 2001. I just hit 18 years.

24 Q Have you held positions outside of the Office
25 of State Auditor since graduating college?

1 A No, this was my first and only job.

2 Q And have you always been an auditor at the
3 Office of the State Auditor?

4 A Yes. There's multiple auditor titles and you
5 progress through the ranks, but they're all auditing
6 titles, yes.

7 Q And when you start off at the office, are you
8 supervised?

9 A Yes.

10 Q Okay. And do you have any training in order
11 to audit?

12 A Yes, we're required by auditing standards to get
13 CP credits every two years. It's a two year cycle
14 required by auditing standards, so we get training in
15 various auditing topics.

16 Q Okay. And so, when you say you're an
17 auditor, what do you audit?

18 A Our office audits State agencies and programs that
19 are funded by the State of New Jersey.

20 Q Okay. And what is the goal of any audit?

21 A To improve accountability of public funds and
22 improve operations of government. Also, to improve
23 efficiency and effectiveness of public spending.

24 Q Have you ever audited a school district?

25 A Yes.

1 Q Which school districts or school district?

2 A Trenton, Asbury Park, and Lakewood School
3 District.

4 Q Okay. And what was your role in the audit of
5 Lakewood School District?

6 A I was principal auditor, so I was a site
7 supervisor.

8 Q Okay. And when you say you were a site
9 supervisor, did you actually go to the District?

10 A Yes.

11 MR. LANG: Objection, Your Honor. We don't
12 know when he worked there.

13 THE COURT: Well, let her --

14 MS. HOFF: I was going to --

15 THE COURT: She's got to finish.

16 MS. HOFF: -- establish that next.

17 MR. LANG: Okay.

18 BY MS. HOFF:

19 Q And when were you on-site in Lakewood School
20 District?

21 A We started sometime in January 2013 and left
22 sometime in June 2014.

23 Q Okay. And do you know why your office
24 determined to audit Lakewood School District?

25 A I believe there was a general fund deficit in 2007

1 and the district got put on our audit plan. Once it's
2 put on our audit plan, we periodically would come back
3 to re-audit the district.

4 Q Okay. And when was the audit period -- when
5 -- what were you looking at, what period of time, when
6 you went into Lakewood?

7 A We looked at -- our audit period was July 1st, 2011
8 through December 31st, 2013.

9 Q Okay. And pardon my coughing. It's been a
10 constant battle over the last week.

11 Generally with any audit, what do you do to
12 conduct an audit?

13 A An audit is typically conducted in three phases.
14 We have a planning phase, typically, a testing phase,
15 and a reporting phase.

16 Q Okay. What is a "planning phase?"

17 A During our planning phase, we would meet with key
18 personnel of the district, review laws, regulations,
19 guidelines of the various programs, look at financial
20 trends, obtain data from the financial systems, review
21 financial reports. I'm sure I'm leaving out some
22 stuff, but --

23 Q And what's the testing phase?

24 A During the testing phase, we would actually review
25 supporting documentation for transactions and verify

1 that processes are functioning as intended and there's
2 controls in place.

3 Q And what is a reporting phase?

4 A A reporting phase is we comply all the audit
5 evidence, the team comes up with findings and create a
6 draft report. It goes through a multi-level approval
7 process through our office, it's discussed with upper
8 management and eventually a final report would be
9 issued to the public.

10 Q And did you do this in the case of Lakewood
11 School District?

12 A Yes.

13 Q And when you went into Lakewood School
14 District, did you meet with any personnel there?

15 A Yes.

16 Q And were they cooperative?

17 A Yes.

18 Q And you stated that in the reporting phase,
19 your office issues a report. Is that correct?

20 A That's correct.

21 Q So I'd like you to turn to what has been
22 labeled as R-15 in the binder in front of you. There
23 is a (out of microphone range). Can you please take a
24 look at that for me?

25 A Yes.

1 Q Do you recognize this document, Mr. Soleau?

2 A Yes.

3 Q And what is this document?

4 A This is the audit report we issued.

5 (R-15 Marked for
6 Identification)

7 Q And did you participate in authoring this
8 document?

9 A Yes.

10 Q And was this audit report made near or at the
11 time you conducted your audit of Lakewood?

12 A Yes, it was issued in August 2014.

13 Q And was this audit report made in the regular
14 course of business at the Office of the State Auditor?

15 A Yes.

16 Q And then was it maintained in the regular
17 course of business at the Office of the State Monitor?

18 A Yes.

19 Q I mean State Auditor -- sorry.

20 MS. HOFF: Your Honor, I would like to admit
21 R-15 into evidence at this time.

22 MR. LANG: Same objection, continuing. Your
23 Honor, do I need to, every single time, object?

24 THE COURT: No, it's a continuing objection
25 but you need just to say that you object and I'm going

1 to say that you're overruled and the item will be
2 admitted into evidence.

3 (R-15 Marked in
4 Evidence)

5 MS. HOFF: And Your Honor, I would just submit
6 that this has been established via foundation as a
7 business record and the relevance has also been
8 responded to prior to this witness starting to testify.

9 THE COURT: Thank you.

10 MS. HOFF: Is there a ruling on the objection?

11 THE COURT: I did. Already said it's
12 admitted.

13 MS. HOFF: Oh, okay. I did not hear that.
14 I'm sorry.

15 THE COURT: I just thought you needed to put
16 that on the record anyway.

17 MS. HOFF: Okay. Thank you, Your Honor.

18 BY MS. HOFF:

19 Q Let's turn to your report, Mr. Soleau. I am
20 looking at page one of your report. Are you there?

21 A Yes.

22 Q Okay.

23 MR. INZELBUCH: Is that Bates stamp 828?

24 THE COURT: 830.

25 MS. HOFF: 0830.

1 MR. INZELBUCH: Oh, sorry (out of microphone
2 range).

3 THE WITNESS: The first numbered page.

4 MS. HOFF: Uh huh.

5 MR. INZELBUCH: Thank you.

6 BY MS. HOFF:

7 Q So, you list the scope. What do you mean by
8 this?

9 A This would give the reader an idea of what we
10 looked at during the course of the audit.

11 Q All right. And in that scope, do you recall
12 how much money was -- the District was funded by the
13 state or federal government?

14 A I believe about 49 percent of the funding was from
15 the state or federal government.

16 Q And you list in your scope section how many
17 public school kids and how many non-public school kids
18 are. Why?

19 A To give an idea of the number of students that are
20 educated in the township.

21 Q What is your understanding of what a public
22 school student is?

23 A A public school student is someone who would
24 attend one of the public schools.

25 Q And what is your understanding of a non-

1 public school student?

2 A A student that would attend -- that lives in the
3 district that would attend one of the non-public
4 schools of their choice.

5 Q Okay. And you then go on to an "Objective"
6 section.

7 A Yes.

8 Q And you state -- I'm looking on page one --
9 that "The objectives of our audit were to determine
10 whether financial transactions were related to the
11 school districts programs, were reasonable, and were
12 recorded properly in the accounting systems." Is this
13 correct?

14 A Yes.

15 Q Is that the objective?

16 A One of them, yes.

17 Q Okay. And generally, did you find any
18 transactions that were unreasonable and/or not properly
19 recorded?

20 A Yes.

21 Q Do you go into this in detail in your report?

22 A Yes.

23 Q And is it important for transactions to be
24 properly recorded?

25 A Yes.

1 Q Why is it important?

2 A To provide transparency and accountability for
3 funds that were expended -- funds that were spent by
4 the District.

5 Q And you next go on to "Methodology." Why is
6 this section here?

7 A This basically spells out how we conducted our
8 audit, that it was conducted in accordance with the
9 government auditing standards. It tells a little bit
10 about what we did in preparation for our testing.

11 Q Okay. And what are the government auditing
12 standards?

13 A The government auditing standards is a framework
14 that -- that is utilized to conduct audits objectively,
15 with integrity, with independence and confidence.

16 Q The next section is "Conclusions."

17 A Yes.

18 Q Why do you list conclusions (out of
19 microphone range)?

20 A This is generally a summary of what we found
21 during the course of the audit.

22 Q And do you go into detail about these
23 conclusions throughout this report?

24 A Yes.

25 Q You also state that you referred certain

1 issues to the Division of Criminal Justice. Is that
2 correct?

3 A That is correct.

4 Q Why, in general, would you refer anything to
5 the Division of Criminal Justice?

6 A We're required to refer any potential fraud by
7 auditing standards and State statute.

8 Q Your next section is entitled "Projected
9 Deficit" on page three. Is that correct?

10 A Yes.

11 Q Why do you have a section entitled "Projected
12 Deficit"?

13 A During our field work, a report was issued by the
14 financial statement auditors of the district that
15 projected a budgetary deficit of five million dollars
16 for the end of that --

17 Q As part --

18 A -- fiscal year.

19 Q Pardon me. As part of your audit, did you
20 seek to find what may have contributed to the deficit?

21 A According to the report, there were -- there were
22 increases in student transportation and for costs --
23 increases in student transportation costs for both
24 public and non-public schools and increases in special
25 education tuition.

1 Q And was there anything else that you felt
2 contributed to the deficit?

3 A Some of the issues noted in our report, we felt
4 could contribute to a potential deficit.

5 Q And is that listed anywhere?

6 A Yes, it is.

7 Q And where is that listed?

8 A It's on page four.

9 Q Okay. And can you tell the Court what some
10 of the other issues are?

11 A Purchasing procedures, salary allocations, leaves
12 of absences.

13 Q Okay. Are anything else -- is anything else
14 listed there on page four?

15 A Yeah, there's a bunch. There's legal costs,
16 purchasing procedures, special education tuition, extra
17 compensation, final leave balance payment, salary
18 allocation, leaves of absence, and salary increases.

19 Q Okay. And do you go into detail about these
20 in your report?

21 A Yes.

22 Q Okay. You then follow up with a section
23 entitled "Control Environment". Is that correct?

24 A Yes.

25 Q What is a control environment?

1 MR. INZELBUCH: What page are you on?

2 MS. HOFF: 832.

3 BY MS. HOFF:

4 Q What is a control environment?

5 A The control -- a control environment is a key
6 component of internal control and what we're referring
7 to in this paragraph is the tone at the top. We
8 noticed that there was -- the key position of business
9 administrator had turned over quite a bit within the
10 district.

11 MR. INZELBUCH: Your Honor, I'm sorry. I
12 can't find it (out of microphone range). Is it page
13 eight (out of microphone range)?

14 THE COURT: Page three.

15 MS. HOFF: Page 832.

16 MR. INZELBUCH: Oh.

17 THE COURT: Page three of the report.

18 MR. INZELBUCH: Thank you. I'm sorry.

19 BY MS. HOFF:

20 Q And why do you have -- why is that important,
21 if at all?

22 A We feel -- we felt the lack of stability in this
23 key position could have interfered with the ability to
24 establish and enforce controls and ensure district
25 resources were expended efficiently and effectively.

1 Q You next list a section called "Growing
2 Population." Is that correct?

3 A Yes.

4 Q And to what are you referring?

5 A We summarize financial data and we noticed that
6 the growth in the non-public schools seemed to be
7 growing every single year.

8 Q You then, in this particular section, state,
9 "General fund revenue generated from the local property
10 tax levy increased an average of just 0.3 percent per
11 year between fiscal years 2009 and 2013." Is that
12 correct?

13 A 0.83 percent, yes.

14 Q Zero point -- is that 0.83 or 0.38?

15 A 0.38.

16 Q Why do you note this?

17 A We felt this was -- keeping property taxes flat
18 was something that could maybe affect the budget and
19 the deficit.

20 Q And why did you feel -- I mean, does this
21 stand out to you?

22 A We just -- we saw growth in the non-public school
23 and we thought there would be added costs and we saw
24 tax revenues staying flat.

25 Q And then you note that the levy increased

1 nine percent in the fiscal year 2014. Is that correct?

2 A That's correct.

3 Q Okay. You have a paragraph here entitled

4 "Recommendations." Is that correct?

5 A Yes.

6 Q Do you typically make recommendations?

7 A Yes, every finding should have a recommendation.

8 Our audit observations listed at the end would not have
9 a recommendation.

10 Q And did you deviate from that throughout your
11 report or is there a recommendation for every finding?

12 A There's a recommendation for every finding.

13 Q Your next major section is entitled "State
14 and Federal Grant Programs." Is that correct?

15 A That's correct.

16 Q And what are state and federal grant programs
17 in your understanding?

18 A These are grants that are provided to -- for
19 specific purposes within the district.

20 Q And are there rules and regulations
21 associated with the state and federal grant programs?

22 A Yes.

23 Q And did your audit team review those rules
24 and regulations prior to auditing the district?

25 A Yes, the team reviewed applicable rules and

1 regulations.

2 Q I'm turning to your first section within
3 "State and Federal Grant Programs." It's entitled
4 "Title One Program." Is that correct?

5 A That's correct.

6 Q And what is a Title One program, to the best
7 of your understanding?

8 A A Title One program is a grant program that is
9 provided to low income students to provide education
10 services.

11 Q Okay. Under this section, you have something
12 called "Reconciliation Procedures." Is that correct?

13 A That is correct.

14 Q What is a reconciliation procedure?

15 A This referred to procedures that were in place to
16 reconcile between the State's -- the District's
17 accounting system and the required grant reporting
18 applications through the DOE.

19 Q And why is this section here?

20 A We thought it was important that these match and
21 show how much was spent, how much was available for
22 spending, how much was left over that you could spend.
23 We identified a risk that, like, if this isn't properly
24 tracked, there could be a risk of funds averting back
25 to the federal government.

1 Q And did you make any findings with regard to
2 the reconciliation procedures?

3 A Yes.

4 Q And what were those findings?

5 A The two -- the system and the report were not
6 reconciled.

7 Q What exactly does that mean?

8 MR. INZELBUCH: And if the witness could just
9 tell us what page he's reading from so we can follow
10 it.

11 THE WITNESS: It's on page four, into page
12 five. These reports should match -- they reflect the
13 activity and the expenditure activity that was in these
14 -- in these programs. If it doesn't match, it could
15 result in improper allocations of Title One.

16 BY MS. HOFF:

17 Q Your next section is entitled "Title One
18 Waiver." To the best of your understanding, what is a
19 Title One waiver?

20 A A waiver was granted to utilize unspent Title One
21 funds for other purposes.

22 Q And why do you have this section here?

23 A We took exception to -- there was an RFP that was
24 issued and one consultant was not paid in accordance
25 with the RFP.

1 Q And why is that an issue?

2 A If you put out an RFP to solicit certain services
3 and you don't pay on it --

4 Q And did you find that anyone was paid
5 improperly under Title One?

6 A It was our understanding that --

7 MR. INZELBUCH: I just need to know where he
8 was reading and I think the record should know.

9 MS. HOFF: I believe he was reading under the
10 "Title One Waiver" section --

11 THE COURT: I think that's where we are,
12 "Title One Waiver."

13 MS. HOFF: -- on 834.

14 MR. INZELBUCH: Okay. I just (out of
15 microphone range).

16 THE WITNESS: The consultant was introduced to
17 us as a school principal and from our understanding,
18 this is a position that would not be paid with Title
19 One funds.

20 BY MS. HOFF:

21 Q Okay. You have another section following
22 this immediately called "Supporting Documentation."

23 A Yes.

24 Q What kind of supporting documentation are you
25 talking about?

1 A Typically, supporting documentation is -- is
2 included with expenditures to show accountability for
3 what was purchased; it meets the needs of the program.

4 Q And why is this section here?

5 A We found certain transactions that we sampled that
6 did not have sufficient supporting documentation in our
7 opinion.

8 Q Okay. Do you have any examples of that? Are
9 any examples listed?

10 A There was a vendor that was paid for professional
11 development. There was minimal documentation of what
12 was actually covered within that professional document
13 -- professional development training and there was no
14 sign-in sheets to see which teachers attended.

15 Q Okay. And is that just one example?

16 A That's just one of the examples, yes.

17 Q And why is it important to have supporting
18 documentation?

19 A If you don't have supporting documentation,
20 expenditures could potentially be deemed unallowable
21 and potentially be paid -- require the District to pay
22 back funds to the Title One program.

23 Q Okay. Your next section is entitled "IDEA
24 Program." Is that correct?

25 A Yes, it is.

1 Q What is your understanding of what an IDEA
2 program is?

3 A This is a grant program to provide special
4 education services to children with disabilities.

5 Q Your first section here is "Budget and Board
6 Approval." Is that correct?

7 A Yes.

8 Q I'd like to turn your attention to the
9 section which is on the bottom of page seven of your
10 report, DOE-0836. Do you see this section?

11 A "Budget and Board Approval?"

12 Q Yes.

13 A Yes.

14 Q You state, "Although the non-public school
15 IDEA allocation was 4,809,682 for the 12/3 grant year,
16 the District entered into contracts totaling 4,834,700
17 with third-party vendors to provide services to the
18 non-public schools." Is that correct?

19 A Yes.

20 Q So were they spending over their IDEA
21 allocation on non-public schools?

22 A Based on the documentation we reviewed, yes.

23 Q And you further state, "We also noted other
24 IDEA expenditures that were paid out of the general
25 fund and would have further added to the program

1 funding deficit." Is that a correct statement?

2 A Yes.

3 Q What is the general fund?

4 A It's the general operating fund of the district.

5 Q Why do you have a section entitled "Budget
6 and Board Approval"?

7 A We took exception to contracts being entered over
8 the allocation amount and the approval in the minutes
9 reference that they would be paid through IDEA funds
10 but they were paid with general fund appropriations for
11 IDEA and there was no account number listed, so we felt
12 it was not transparent.

13 Q Okay. I'd like to turn your attention to
14 page eight, the same section, DOE-0837, the first full
15 paragraph. It says, "The total additional general fund
16 amount spent for non-public school IDEA expenditures
17 during the 12/13 school year was at least one million
18 dollars." Is that correct?

19 A Yes.

20 Q Your next subsection is entitled
21 "Supplemental Resource Center Program, SRCP, Class
22 Size." Is that correct?

23 A Yes.

24 Q My first question is, what is your
25 understanding of what the Supplemental Resource Center

1 Program was or is?

2 A These were classes that were developed to provide
3 reading, writing, and mathematics instruction in small
4 groups.

5 Q And why do you have the subsection
6 specifically on class size?

7 A There was a contract that was entered by the
8 District that specified a minimum enrollment and we
9 found classes that were below that minimum.

10 Q And how did the District pay for these
11 classes?

12 A I'm not sure of your question.

13 Q Did the District pay for the classes in a
14 lump sum or per child? How -- what was the financial
15 arrangement?

16 A It was a lump sum, flat rate per class.

17 Q And do you remember how much that lump sum
18 was?

19 A I believe it was 60,000 plus the cost of any
20 instructional assistants.

21 Q And was this regardless of the class size?

22 A I believe so, yes.

23 Q You then go on to a section entitled
24 "Supplemental Resource Center Program Class
25 Scheduling." Is that correct?

1 A Yes.

2 Q Why is this section listed?

3 A There was a -- so the contract called for a
4 certified teacher to oversee each class. We found that
5 one -- one of the teachers was assigned to two separate
6 classes and that would be not in accordance with the
7 contract.

8 Q The next section is entitled "Service Plan."
9 Is that correct, on page nine?

10 A Yes.

11 Q And what is your understanding of what a
12 service plan is?

13 A This is a plan that outlines special education
14 services that are to be provided to a student.

15 Q And are these public school students or non-
16 public school students, to the best of your
17 understanding?

18 A Service plans, I believe, are for non-public
19 school students.

20 Q And why do you have a section here about
21 this?

22 A We reviewed service plans for a sample number of
23 students and found the information within the service
24 plan did not match the services that they were being
25 provided.

1 Q And moving on, you have -- your next section
2 refers to "Non-Public Supplemental Services Program
3 Lease." Is that correct?

4 A Yes.

5 Q What is this?

6 A This is a lease for an early childhood program, a
7 non-public early childhood program.

8 Q Okay. And why is it here? Why is this
9 section here?

10 A It was -- the lease specified a 10 month period
11 and we saw utility costs that fell outside of that 10
12 month period that are paid by the District.

13 Q And what does that mean?

14 A There was costs for utility bills in the summer
15 and the lease was from September to June. July and
16 August, the payments were made.

17 Q You then have a section entitled "Chapter 192
18 and 193 Programs." Is that correct?

19 A Yes, that's correct.

20 Q Is this money that comes from the state or
21 the federal government?

22 A This is a state grant program.

23 Q Okay. And what is your understanding of
24 Chapter 192 and 193 programs?

25 A Chapter 192 provides auxiliary services such as

1 compensatory education, ESL, and home instruction and
2 Chapter 193 provides remedial services such as speech
3 language services and any determination for
4 eligibility.

5 Q Did you review any regulations surrounding
6 Chapter 192 or 193 during your planning phase?

7 A Yes.

8 Q All right. Do you know how much the District
9 may have spent on 192 and 193 during the fiscal years
10 you looked at?

11 A There was 13 million -- 13.9 million in fiscal
12 year 2012 and almost 15 million -- 14.8 million in
13 2013.

14 Q And you have a subsection here, turning to
15 the next page, on page 11, DOE-0840, entitled
16 "Compensatory Education." Is that correct?

17 A Yes.

18 Q And what is compensatory education?

19 A These are education services in the areas of
20 reading and writing and mathematics.

21 Q Why do you list it?

22 A We found consultants that were paid through this
23 dedicated account that did not seem to be providing
24 compensatory education services.

25 Q Okay. And when you say "a dedicated

1 account," what do you mean by that?

2 A You're required by Uniformed Chartered Accounts by
3 DOE to record expenditures in certain accounts that
4 account for the activity of that function or program.

5 Q You have a subsection, moving on, called
6 "Speech Language." Is that correct?

7 A Yes.

8 Q Why is this listed?

9 A We found vendors were paid not in accordance with
10 the state-allocated rates.

11 Q What's a state-allocated rate?

12 A So there's funding for each category in different
13 rates and it's a per pupil amount, I believe.

14 Q And were these vendors being paid under the
15 state-allocated rate, over the state-allocated rate?

16 A We found them to be overpaid.

17 Q Okay. Your next section is called "Home
18 Instruction." Is that correct?

19 A Yes.

20 Q And what is home instruction?

21 A Home instruction would be instruction within a
22 student's home who was unable to attend school for some
23 kind of medical reason.

24 Q And why is this section here?

25 A We noted one vendor that was an employee of the

1 one contract -- one of the contract vendors and seemed
2 to be providing home instruction at the same time that
3 they were scheduled to provide other Chapter 192
4 services in a non-public school.

5 Q Is that an issue?

6 A Yeah, I don't think you can be in two places at
7 the same time.

8 Q Turning the page to page 12, DOE-0841, you
9 have a subsection called "School Visits."

10 A Yes.

11 Q Did you visit any schools in Lakewood?

12 A Yes.

13 Q In this particular section, what type of
14 schools were you visiting?

15 A Non-public schools.

16 Q Why did you go and visit them?

17 A We were trying to obtain an understanding of how
18 the various non-public services were being provided.

19 Q Okay. And was this in your better -- was
20 this in your understanding of how Chapter 192 and 193
21 funds were being expended?

22 A I'm not sure of your question.

23 Q These non-public schools, were you trying to
24 look at how Chapter 192 and 193 money was being
25 expended there?

1 A Yes, I guess. Yes.

2 Q So when you went to these school visits, did
3 you encounter any issues?

4 A Yeah, we were -- we went out to these visits to
5 determine if services were being provided in accordance
6 with the schedules and we found one class that when we
7 arrived at the scheduled time, the students weren't in
8 attendance.

9 Q Okay. And did you just leave it at that?

10 A We asked the people we were with to try to locate
11 the students and they weren't sure.

12 Q Okay. Were the students ever located?

13 A Not the students that were supposed to be
14 receiving services at that time.

15 Q Were there any students located?

16 A There were students that were in a later time
17 schedule that were brought in.

18 Q That were what?

19 A There were students that were scheduled at a later
20 time schedule that were brought to the class.

21 Q Okay. Who brought them to the class?

22 A I'm not sure.

23 Q Was it the school or did you bring them to
24 the class?

25 A No, I didn't bring them to the class.

1 Q Did you visit any other schools?

2 A We tried to.

3 Q What do you mean by you tried to?

4 MR. INZELBUCH: Can you just keep your voice
5 up? I'm sorry.

6 THE WITNESS: I'm sorry.

7 MR. INZELBUCH: (Out of microphone range)

8 THE COURT: Because everything needs to be --

9 THE WITNESS: Recorded.

10 THE COURT: -- recorded, so --

11 THE WITNESS: Sorry.

12 THE COURT: That's okay.

13 BY MS. HOFF:

14 Q Do you want me to repeat the question?

15 A Sure.

16 Q You said you tried to visit other schools.
17 What do you mean by you tried to?

18 A There was a misunderstanding for the confirmation
19 of our visit and we were told that coming at the later
20 time would not be beneficial because there would be no
21 services provided at that time.

22 Q And did you look into that assertion?

23 A Yeah, we reviewed documentation from the vendor to
24 see if there would have been classes scheduled and
25 students attending and there were.

1 Q How many?

2 A According to the schedules, there would have been
3 34 classes in session.

4 MR. INZELBUCH: I'm sorry. Thirty-four
5 classes?

6 THE WITNESS: Thirty-four classes in session.

7 MR. INZELBUCH: And there weren't?

8 THE WITNESS: Well, we didn't go.

9 BY MS. HOFF:

10 Q You have the next section entitled "Legal
11 Costs." Is that correct?

12 MR. INZELBUCH: Is that page 13?

13 MS. HOFF: It is, indeed.

14 THE COURT: Yes.

15 MR. INZELBUCH: April 2012, yes.

16 BY MS. HOFF:

17 Q You have a section entitled "Legal Costs."
18 Is that correct?

19 A Yes.

20 Q Why do you have this section there?

21 MR. INZELBUCH: (Out of microphone range)

22 THE COURT: Mr. Inzelbuch, please control
23 yourself.

24 MR. INZELBUCH: I was just asking Mr. Lang,
25 and I don't want to (out of microphone range).

1 THE COURT: Mr. Lang.

2 Go ahead. You can answer.

3 THE WITNESS: So the Administrative Code
4 requires districts with legal costs that exceed the
5 state-wide average cost per pupil, 130 percent of the
6 state-wide cost per pupil, to implement procedures to
7 reduce the costs.

8 BY MS. HOFF:

9 Q And did Lakewood School District meet that
10 criteria?

11 A Yes.

12 Q And -- pardon me -- and how much -- in fiscal
13 year 2013, you note the District paid a firm a total of
14 1.1 million dollars for legal services. Is that
15 correct?

16 A Yes.

17 Q And what was your recommendation on -- about
18 anything with regard to legal costs?

19 A We thought it would be beneficial to utilize
20 competitive bidding procedures to procure future legal
21 services.

22 Q And was this a law firm you were referring to
23 or a solo practitioner?

24 A These were law firms, I believe.

25 Q Okay. At that time.

1 A Yes.

2 Q Okay. You have a section entitled
3 "Purchasing Procedures." Is that correct?

4 A Yes.

5 Q What's a purchasing procedure?

6 A So, state regulations and district policy require,
7 typically, a purchase order to be issued prior to the
8 receipt of goods or services being rendered.

9 Q And why do you have a section entitled
10 "Purchasing Procedures"?

11 A We noted instances where this wasn't the case and
12 the purchase orders were just generated after goods or
13 services were received.

14 Q Is this an issue?

15 A Yes.

16 Q Why?

17 A Because it can result in the District not having
18 full knowledge of all the obligations that they would
19 be required to pay.

20 Q Is that an issue?

21 A Yes, it can result in overspending of the budget.

22 Q Okay. You have a section entitled "Lease
23 Agreements." Is that correct?

24 A Yes.

25 Q And lease agreements for what?

1 A These were facility -- facilities contracts to
2 provide Chapter 192 and 193 services within the non-
3 public schools.

4 Q And why do you have this section listed?

5 A We were provided a letter from the Department of
6 Education stating that this was not an allowable cost.

7 Q Okay. And what is a non-allowable cost?

8 A Something that you cannot pay.

9 Q Okay. And was there any other documentation
10 you were provided regarding the lease agreements?

11 A Yes, there was a series of e-mails.

12 Q Okay. E-mails between whom and whom?

13 A Former Board attorney and the Department of
14 Education.

15 Q Regarding?

16 A The allowability of these payments.

17 Q Okay. And did you take one documentation --
18 did you value one over the other -- e-mails or a letter
19 from the Department of Education?

20 A Our office felt the letter was better
21 documentation.

22 Q Briefly, you have a section entitled
23 "Information Technology." Is that correct?

24 A Yes.

25 Q Is this something you would look at typically

1 in an audit?

2 A Yes.

3 Q Okay. You have a brief section called

4 "System Access." Is that correct?

5 A Yes.

6 Q All right. And what is system access?

7 A System access is access that are provided to
8 employees to access the various financial systems that
9 the District would use.

10 Q And why do you have this section here?

11 A We found system access was not disabled upon
12 employee separation. We found system levels that
13 didn't seem to be properly segregated. There was no
14 access request forms and password requirements could
15 have been strengthened.

16 Q Is this a problem?

17 A Yes.

18 Q Why?

19 A It could lead to inappropriate access to your
20 accounting system.

21 Q And you have a brief section called "Business
22 Continuity." Is that correct?

23 A Yes.

24 Q And that's on page 16 of your report?

25 A Yes.

1 Q And what is this section?

2 A The District did not have a written disaster
3 recovery plan.

4 Q Okay. And --

5 MR. INZELBUCH: I'm sorry. I just missed -- a
6 written what?

7 THE WITNESS: The District did not have a
8 written disaster recovery plan.

9 MR. INZELBUCH: Oh, sorry.

10 BY MS. HOFF:

11 Q And what is a written disaster discovery --
12 disaster recovery plan?

13 A This would be a written plan that would address
14 how to get the district back up and running if a
15 disaster were to occur.

16 Q Okay. And you go into -- your next major
17 section is "Special Education Tuition." Is that
18 correct?

19 A Yes.

20 Q What are you referring to in this particular
21 section?

22 A This is tuition for students that would be placed
23 in, typically, approved private schools for the
24 disabled to provide special education services that the
25 District couldn't otherwise provide.

1 Q And you said that about students typically
2 provide -- placed in approved public schools for the
3 disabled. Is that correct?

4 A Yes.

5 Q Were there any students attending unapproved
6 schools?

7 A Yes, we found -- we noted students that were
8 placed in non -- unapproved non-public schools, yes.

9 Q And what is your understanding of an
10 unapproved non-public school?

11 A This is a school that isn't specifically approved
12 by the Department of Education to provide special
13 education services.

14 Q Okay. I'd like to turn your attention to the
15 bottom of the first paragraph. It says, "We
16 judgmentally selected 31 of the 324 students that were
17 sent out-of-district during the 2012/2013 school year,
18 of which 16 were attending unapproved non-public
19 schools." What do you mean you "judgmentally selected
20 31 of the 324 students"?

21 A That was the sampling technique we use. We pick
22 students from the entire population to test.

23 Q And when you say that "16 were attending
24 unapproved non-public schools," is that 16 of those 31
25 children?

1 A Yes.

2 Q And did you review the laws and regulations
3 regarding special education placements?

4 A Yes.

5 Q Okay. And you state that, on that same page,
6 in bold, "Proper approval, tuition documentation, and
7 attendance records should be obtained for students
8 placed in unapproved non-public schools." Is that
9 correct?

10 A Attendance documentation should be provided
11 regardless if it's unapproved or approved.

12 Q And you say "proper approval." What do you
13 mean by that?

14 A It was our understanding that to be placed in an
15 unapproved non-public school, it would require approval
16 from the Commissioner of Education, a court, or an
17 administrative law judge.

18 Q Okay. Were you provided any documentation
19 suggesting approval by the Commissioner of Education, a
20 court order, or an order from an administrative law
21 judge for any of those 16?

22 A No.

23 MR. INZELBUCH: I'm sorry.

24 THE WITNESS: No.

25 BY MS. HOFF:

1 Q Did you ask for any documentation?

2 A Yes.

3 Q Is this -- was this an issue for you?

4 A Yeah, they're not --

5 Q Pardon me?

6 A Yes.

7 Q Okay. Sorry. I understand not wanting to
8 speak loudly, believe me.

9 A I'm monotone. I (out of microphone range).

10 Q It's okay. I'm coughing, so, you know, I'm -
11 -

12 Why was this an issue?

13 A Why was it an issue?

14 Q That there was no proper documentation.

15 A It's not in compliance with the law.

16 Q And were you able to determine how tuition
17 costs for these unapproved public schools were
18 calculated?

19 A No.

20 Q Not -- I'm so sorry.

21 A (Out of microphone range)

22 MR. LANG: You've got to speak up a little
23 bit.

24 MS. HOFF: He said he's drinking water.

25 MR. INZELBUCH: That's all he's saying?

1 BY MS. HOFF:

2 Q Why were you unable to determine how these
3 tuition costs were calculated?

4 A There was no documentation for it.

5 Q Okay. Your next section is "Payroll and
6 Personnel." What are you talking about in this major
7 section?

8 A These were issues that we found regarding the
9 payroll and personnel functions.

10 Q So your first subsection here is "Extra
11 Compensation Monitoring." What is that?

12 A What is extra compensation monitoring or what is
13 extra compensation?

14 Q Well, let's go with extra compensation first.
15 What is that?

16 A Extra compensation is payments to staff for
17 various reasons that could include sports stipends,
18 overtime, home instruction, extracurricular activities.

19 Q And so, when you say "extra compensation
20 monitoring," does that mean extra compensation should
21 be monitored?

22 A Yes.

23 Q Okay. And so, why do you have a section
24 devoted to this?

25 A We found payments that seemed to be improper

1 payments that lacked supporting documentation, lacked
2 proper approval.

3 Q Were all employees in the district eligible
4 for extra compensation?

5 A This would be something that would be Board
6 approved.

7 Q Pardon me?

8 A This would be something that would have to be
9 Board approved and they would, I guess, have to apply
10 for it.

11 MR. INZELBUCH: Your Honor, I'm sorry. I
12 think the gentleman -- the microphones don't amplify,
13 so you --

14 THE COURT: Yeah, it's not an amplifier. It
15 just catches your voice, so you have to keep your voice
16 up.

17 MR. INZELBUCH: Correct. And going closer
18 doesn't help.

19 THE COURT: No, it's not a microphone.

20 MR. INZELBUCH: That's why -- I see him going
21 (out of microphone range).

22 THE COURT: Oh, okay.

23 BY MS. HOFF:

24 Q So I'm looking at page 17, DOE-0846, the
25 first bullet point. It says, "For example, three

1 employees received overtime payments totaling 53,000
2 dollars. According to their employee contract, they
3 were ineligible to receive overtime payments." Did you
4 review their contracts?

5 A Yes.

6 Q Is this an issue for you?

7 A Yes.

8 Q Why?

9 A It said they were ineligible to receive the
10 overtime payments and they were paid.

11 Q Okay. And do you have any other examples of
12 findings in this section?

13 A We took exception to vouchers that were approved
14 using signature stamps.

15 Q Why?

16 A It depends on who has access to the stamp and
17 anyone could stamp it. You're not really sure who's
18 actually approving it.

19 Q Why is that important?

20 A Because all your vouchers should have some sort of
21 approval process to be paid.

22 Q Your next subsection is "Criminal History
23 Background Checks." Is it not?

24 A Yes, it is.

25 MR. INZELBUCH: That's page 18?

1 MS. HOFF: Yes.

2 THE WITNESS: 18 and 19.

3 BY MS. HOFF:

4 Q And why do you have a section on criminal
5 history background checks?

6 A Because all employees of school districts are
7 required to obtain a criminal history background check.

8 Q And did you make any findings with regard to
9 this?

10 A Yes.

11 Q And what were those findings?

12 A Certain employees did not have a criminal history
13 background check.

14 Q And is this an issue?

15 A Yes.

16 Q Why?

17 A If some kind of disqualifying offense occurs and
18 the District is not notified, it could compromise the
19 safety of the students.

20 Q Okay. Is there any potential financial
21 ramifications?

22 A I guess it could result in litigation.

23 Q You then go on to a section called "Final
24 Leave Balance Payments." What is a final leave balance
25 payment?

1 A These were payments that were made for unused
2 leave time when an employee retires.

3 Q Okay. And why do you have a section on this?

4 A Why do we have a section on this?

5 Q Yes, why do you have a section regarding --

6 A Because we wanted to test to see that final leave
7 balance payments were proper.

8 Q And what did your testing reveal?

9 A We found certain payments that were improperly
10 calculated. We noted --

11 Q And is that an issue?

12 A Yes.

13 Q Why is that an issue?

14 A Because you could potentially overpay or underpay
15 an employee for the leave time that they had.

16 Q And did you find that the District was
17 overpaying or underpaying any of its employees?

18 A Both.

19 Q Was there more of an overpayment or more of
20 an underpayment?

21 A We noted more of an overpayment.

22 Q You next address "Salary Allocations." Is
23 that correct?

24 A Yes.

25 Q What is a salary allocation?

1 A So, certain grants can be charged an employee's
2 salary who work -- work on that specific grant.

3 Q Okay. Is that similar to charging to a
4 proper account?

5 A Yes.

6 Q Okay. And did you find any issues here?

7 A Yeah, we found some salary expenses that seemed to
8 be eligible to be charged to a grant that were not.

9 Q Okay. And were they charged to that grant?

10 A No.

11 Q And is that an issue?

12 A Yes.

13 Q Why is that an issue?

14 A If they could be charged to a grant instead of the
15 general fund, it would relieve a potential burden on
16 the general fund.

17 Q Okay. And then you have a section called
18 "Employee Contracts and Salary Increases." Is that
19 correct?

20 A Yes.

21 Q What are you referring to here?

22 A The employees that did not have current contracts
23 on file.

24 Q Pardon me. Can you repeat that?

25 A Employees that did not have current contracts on

1 file.

2 Q Okay. And why is that an issue?

3 A Because the contract would document what kind of
4 compensation and benefits that an employee would be
5 receiving.

6 Q All right. And you also note "salary
7 increases." Did you find any issues with salary
8 increases?

9 A We noted some employees that seemed to have large
10 salary increases.

11 Q By "large," what are you talking about?

12 A In comparing that to salaries -- salary increases
13 in the negotiated agreement, they seemed to be
14 significantly more.

15 Q So are we talking about non-contract
16 employees?

17 A These are non-union employees.

18 Q Non-union employees. And how much were those
19 salary increases, for example?

20 A One was as much as 38 percent.

21 Q Is that from one year to the next?

22 A I believe that was for the whole period that we
23 summarized in our chart.

24 Q Okay. And what does this -- you have a chart
25 here. What does that show?

1 A That shows the salary increases.

2 Q You have a subsection entitled "Leaves of
3 Absence." Is that correct?

4 A Yes.

5 Q Why do you have this here?

6 A When an employee goes on leave, they are
7 responsible for paying any health contributions that
8 they may be required to make when they're normally
9 getting a salary.

10 Q And did you find any issues here?

11 A Yes, we found some unpaid contributions.

12 Q Okay. How many employees did you look at?

13 A (Out of microphone range)

14 Q How many employees were you looking at in
15 your sampling?

16 A We sampled 20 employees.

17 Q And how many employees did you find weren't
18 contributing to their health benefits, of those 20?

19 A Twelve of 20.

20 Q Okay. And do you have any idea how much that
21 cost the District?

22 A We estimated unpaid contributions of 95,000.

23 Q Is that --

24 MR. INZELBUCH: Where is he reading?

25 MS. HOFF: Page 22.

1 MR. INZELBUCH: Thank you.

2 BY MS. HOFF:

3 Q And that was for those 12 employees only?

4 A Yes.

5 Q You have a section called "Observations."
6 What is an observation? In your audit report, not in
7 general?

8 A An observation is something that we represent in
9 our audit report to promote discussion and potential
10 policy changes.

11 Q Okay. And you have a section entitled
12 "Transportation."

13 A Yes.

14 Q And why is that an observation in your
15 report?

16 A So observations, there is no compliance or a
17 control issue that we noted. It's just kind of there
18 to spell out the facts and, like I said, get the
19 discussion going.

20 Q And what was your observation of
21 transportation?

22 A There were proposals of initiatives that could
23 have saved -- could have achieved cost savings.

24 Q Okay. And are those proposals listed in your
25 report?

1 A Yes.

2 Q And what kind of cost savings are you talking
3 about? Like how much money are you talking about that
4 you observed some of these proposals could have saved?

5 A There was estimates of 6.7 million for one,
6 750,000 for another, 1.2 million for the other.

7 Q And do you know if Lakewood modified their
8 transportation situation at any point?

9 A I'm not sure.

10 MR. INZELBUCH: I'm sorry. Until now or
11 during the time? Because I can't imagine 18/19 would
12 be spoken about if you're not allowed to speak about
13 the budget.

14 THE COURT: Nineteen/twenty.

15 MS. HOFF: That's 19/20.

16 MR. INZELBUCH: Okay. That's (out of
17 microphone range).

18 BY MS. HOFF:

19 Q Do you know -- do you happen to know if
20 transportation changed up through 18/19 school year
21 from this time?

22 A I know there is legislation that created some kind
23 of transportation authority that would handle non-
24 public school transportation for the District.

25 Q Did you have any involvement in

1 transportation changes after your audit report in
2 Lakewood?

3 A Did we have any involvement?

4 Q Did you have any personal involvement in any
5 transportation changes in Lakewood, if any?

6 A No.

7 Q Can you --

8 A No.

9 Q Okay. And then you have another section
10 called "IDEA Program." Is that correct?

11 A Yes.

12 Q And this is an observation?

13 A This is an observation.

14 Q Okay. And how is this --

15 MR. LANG: Your Honor, can I just make a
16 general objection, not from based on what I said
17 before, but none of this federal and earmarked funding
18 has anything to do with this case.

19 THE COURT: We're just --

20 MR. LANG: The relevancy.

21 THE COURT: Thank you, Mr. Lang. Your
22 objection is overruled.

23 MR. LANG: Okay.

24 THE COURT: Let's continue.

25 BY MS. HOFF:

1 Q So how is this section different from your
2 other IDEA program section earlier in your report?

3 A So we compared Lakewood to five other districts
4 within the state that received IDEA funding.

5 Q Why?

6 A Just to get an idea of the percentage of students
7 that they were serving with the funds that they were
8 provided and comparing it.

9 Q How did you choose the other districts?

10 MR. INZELBUCH: On page 24.

11 BY MS. HOFF:

12 Q On 23, 24. Do you remember at this point,
13 five years later?

14 A I don't remember, no.

15 Q Okay. And what were your findings or what
16 were your observations?

17 A Observation --

18 Q Yes.

19 A -- was there was a lot less students served than
20 were identified in the district compared to some of the
21 other districts within the state.

22 Q Okay. And was the amount per student --
23 amount of money per student served higher or lower at
24 Lakewood?

25 A It seemed to be higher.

1 Q Now after you issue your report, where does
2 it go? What happens next?

3 A After it's issued?

4 Q After -- yes, after your report is issued.

5 A It goes on the Internet and it's issued to the
6 people that are addressed on the front cover letter.

7 Q Does the school district have an opportunity
8 to respond?

9 A Yes.

10 Q And did they respond?

11 A Yes.

12 Q And is that included as part of your report?

13 A Yes, all responses from any auditee are always
14 included with the report and that's the final document.

15 Q Okay. And is this a public document?

16 A Yes, it is.

17 Q And do you know if Lakewood was able to fix
18 any of the problems located in your report?

19 A Yes, they were.

20 Q And were these fixes going forward in time?

21 A Yes.

22 Q Yes?

23 THE COURT: You have to speak up.

24 THE WITNESS: Yes.

25 MS. HOFF: I have no further questions at this

1 time.

2 THE COURT: All right.

3 MR. LANG: I just have one question. Really
4 jumping on, but I'll just ask this based on (out of
5 microphone range)

6 CROSS EXAMINATION BY MR. LANG:

7 Q This whole section on state and federal grant
8 programs, these are coming out of 192, Title One, 193,
9 correct?

10 A Yes.

11 Q So the only thing I hear really coming out of
12 the general -- are you familiar with what a general
13 operating budget is for a district?

14 A Somewhat, yes.

15 Q The only thing coming in here maybe would be
16 the legal costs. Is that correct?

17 MS. HOFF: Objection.

18 MR. LANG: What?

19 MS. HOFF: Objection. This was not the
20 testimony. He actually talked about interspersing
21 general funds.

22 MR. LANG: I don't -- I don't need to ask
23 these questions. I'll withdraw them.

24 THE COURT: You withdraw the questions? Do
25 you have any other questions, Mr. Lang?

1 MR. LANG: No.

2 THE COURT: Okay.

3 MS. HOFF: No redirect.

4 THE COURT: I mean, I think the document
5 speaks for itself. It was provided to Lakewood and --

6 MR. INZELBUCH: Well, actually, I know as a
7 participant, we have a right to ask or say we heard
8 that there was a response from Lakewood. Is that part
9 of this exhibit?

10 MS. HOFF: Indeed, it is.

11 MR. INZELBUCH: Well, I'm sorry (out of
12 microphone range).

13 THE COURT: Are we going to get to that?

14 MR. LANG: So the exhibit is the whole R --

15 MR. INZELBUCH: (Out of microphone range), Mr.
16 Lang.

17 THE COURT: So is --

18 MS. HOFF: It is well-listed in this. The
19 responses were just responses to the findings.

20 THE COURT: Okay.

21 MR. INZELBUCH: I'm sorry. Can you just tell
22 me what page that's on?

23 MS. HOFF: You can see that as part of this
24 exhibit starting on DOE-857 and it's all there.

25 MR. INZELBUCH: I just need a second.

1 THE WITNESS: It actually starts on 854.

2 MR. INZELBUCH: (Out of microphone range)

3 THE COURT: Eight fifty-four?

4 MR. LANG: We would have gone through the
5 documents that they sent us.

6 MR. INZELBUCH: Mr. Lang, I'm addressing the
7 Court. Don't address me.

8 "Please find attached (out of microphone
9 range) comments," but then, in all due respect, Ms.
10 Hoff, I am seeing -- unless I have the wrong copy,
11 which I did go through -- this is the same exact
12 report. Where are the comments?

13 MS. HOFF: Your Honor, if I may address the
14 Court with regards to that charge?

15 THE COURT: Yes. Yes, you may.

16 MS. HOFF: It is the same report, however,
17 Lakewood makes comments after each particular section.
18 It is highlighted in the report (out of microphone
19 range). It is an entire public document. It was
20 already established by this witness, also, that
21 Lakewood fixed a lot of these problems.

22 THE COURT: Oh, I see. It says, "Lakewood
23 School District Response," apparently, on some of the
24 pages.

25 MR. INZELBUCH: Oh, like -- oh, it's like

1 black a little? Okay, I'm sorry.

2 THE COURT: Okay. All right. Very good.

3 MR. INZELBUCH: Glad to hear we fixed (out of
4 microphone range).

5 THE COURT: Okay. Anything else?

6 MS. HOFF: No further questions for this
7 witness.

8 THE COURT: Anything else, Mr. Lang?

9 MR. LANG: (Out of microphone range)

10 THE COURT: All right. Thank you very much.
11 You're excused.

12 You have another witness?

13 MR. STARK: We do, Your Honor. As we set
14 forth yesterday, we had witnesses -- we weren't sure
15 how long this witness would go. We had two witnesses
16 scheduled to arrive at one, however, we will reach out
17 to one of those individuals who is currently at the
18 Department of Education and she can be here -- I'm
19 going to say, probably, we'll endeavor to get her here
20 at 11:30.

21 THE COURT: Sure, that's fine.

22 MR. STARK: And then we'll have her completed,
23 we'll have lunch, and then we'll have the final witness
24 in the afternoon at one o'clock, if that's all right.

25 THE COURT: All right. That's fine. All

1 right, so we'll take a short recess and then as soon as
2 you're ready, just let the officer know.

3 MR. STARK: We will do. Thank you.

4 THE COURT: Thank you.

5 (BRIEF RECESS)

6 THE COURT: Shall we continue, Mr. Stark?

7 MR. STARK: Yes, Your Honor. Thank you. The
8 State's next witness is Ms. Catherine Anthony from the
9 Department of Education.

10 THE COURT: All right. Please come up here,
11 please. Remain standing and raise your right hand.

12 C A T H E R I N E A N T H O N Y, RESPONDENTS'S
13 WITNESS, SWORN.

14 THE COURT: State your name.

15 THE WITNESS: Catherine Anthony.

16 THE COURT: Catherine with a --

17 THE WITNESS: C.

18 THE COURT: C.

19 THE WITNESS: C-A-T-H-E-R-I-N-E.

20 THE COURT: All right. A-N-T-H-O-N-Y?

21 THE WITNESS: Correct.

22 THE COURT: All right. Thank you.

23 All right, Mr. Stark.

24 MR. STARK: Thank you, Your Honor.

25 And thank you, Ms. Anthony, for coming over

1 earlier than we anticipated.

2 THE WITNESS: You're welcome.

3 DIRECT EXAMINATION BY MR. STARK:

4 Q So what is your current title?

5 A My current title is Dispute Resolution Specialist.

6 Q And you work for the Department of Education?

7 A Yes.

8 Q Okay. And would you mind giving -- just
9 giving the Court the benefit of your post-secondary
10 education?

11 A I have a bachelor of science from Purdue
12 University.

13 Q Okay. And how long have you been with the
14 Department?

15 A Three years.

16 Q And has your service with the Department been
17 entirely in the role that you're currently in now?

18 A Yes.

19 Q Okay. And so would you mind outlining for
20 the Court the nature of your responsibilities in your
21 current role?

22 A Sure. So I currently open mediation due process
23 requests for special education matters. I schedule the
24 mediations for those matters, transmit the cases to the
25 Office of Administrative Law, close cases as requested,

1 and any other special projects assigned.

2 Q So we'll kind of take you through those
3 things one by one. When you say you open cases for the
4 Department of Education, what does that mean?

5 A That means when our department -- when our office
6 receives a request for either mediation or a due
7 process, we go through, make sure all the necessary
8 information is there when we place the information in
9 our database, which creates a new case.

10 Q And so when you say a request for due
11 process, you're referring to, essentially, a contested
12 case regarding the special ed needs of a child?

13 A Sure, whenever the parents or the district have a
14 dispute with either the district or the parents, they
15 file with us.

16 Q Okay. And so take us through the process of
17 your responsibilities when it comes to intaking a case.

18 A We receive cases either via fax, via mail, or via
19 e-mail and when those arrive, it's our responsibility
20 to make sure that, again, all the necessary information
21 is there. Once all that's done, we open the case, we
22 put it in our database, we make sure that we create an
23 electronic file, and then the case gets a hard copy
24 created by another one of the associates in the office.

25 Q Okay. And so -- excuse me as I take a drink

1 of water -- your supervisor in your current role is
2 whom?

3 A Dominick Roda.

4 Q And so you mentioned that there are hard copy
5 files created for all of the cases that come through
6 your office. What is the -- what is the Department's
7 responsibility regarding those -- the management of
8 those case files?

9 A In regards to when they're --

10 Q When a case is -- let me rephrase the
11 question. I apologize. When the -- when cases
12 eventually resolve, as cases do, does the Department
13 maintain or retain the case files?

14 A We are required to maintain any mediation due
15 process case files for 20 years.

16 Q Okay. And so those things are then stored,
17 I'm assuming, either on-site or at an off-site
18 location?

19 A Off-site.

20 Q And what information does the Department
21 maintain in -- does the Department -- strike that.
22 I'll rephrase. Does the Department maintain any form
23 of a database, tracking cases?

24 A We do. Yes, we have a database that tracks the
25 cases.

1 Q Okay. And what information is maintained in
2 that database?

3 A All the information that's within the request
4 itself, as well as when the case was opened, when it
5 was closed, if it was transmitted to the Office of
6 Administrative Law, if it was transmitted to the Office
7 of Administrative Law, who the judge was, what the
8 outcome was, the EDS number -- that sort of thing.

9 MR. INZELBUCH: Could I just ask that the
10 witness slow down a little? I'm trying to take notes
11 and I'm not getting it. I'm sorry. I'm very
12 interested.

13 THE COURT: Okay.

14 MR. STARK: I don't have any objection.

15 THE COURT: Can you just --

16 THE WITNESS: Sure. Any information that --
17 I'm not sure what was gathered and what was not -- so
18 any information that's in the petition itself, when it
19 was opened, when it was closed, when it was
20 transmitted, mediation information, if it was
21 transmitted to the Office of Administrative Law, then
22 judge information, EDS number, the outcome at OAL --
23 excuse me -- I think that's --

24 BY MR. STARK:

25 Q Now when you said "EDS number," one of the

1 things that education has, as we all know, is a lot of
2 acronyms. So when you say "EDS number," what is an EDS
3 number?

4 A I honestly don't know what EDS stands for but it's
5 the number assigned to the case once it arrives here at
6 the Office of Administrative Law.

7 Q So it's a -- it's a docket number or an
8 identifying number for that case?

9 A Correct, right.

10 Q Okay. So in the course of your
11 responsibilities, did there come a time that your
12 supervisor, Mr. Roda, asked you to conduct some
13 research regarding settlements?

14 A Yes.

15 Q And what district did he ask you to research?

16 A Lakewood.

17 Q And so I'm going to ask you to open --
18 there's a binder on the desk in front of you and I'm
19 going to ask you to open to tab 16, R-16. And take a
20 moment to just quickly review this two-page document.

21 MR. INZELBUCH: Is that page 1952 and 53?

22 MR. STARK: Yes, it is. It's Bates labeled
23 DOE-1952 and 1953.

24 MR. INZELBUCH: Thanks.

25 BY MR. STARK:

1 Q Have you had a chance to look at the
2 document?

3 A Yes.

4 Q Okay. Have you seen this document before?

5 A Yes.

6 Q Okay. And where do you recognize this
7 document from?

8 A I created the document.

9 Q Okay. And why did you create this document?

10 A Mr. Roda asked me to pull this information
11 together.

12 Q Okay. And where did you -- strike that.
13 What were you asked to pull together?

14 A We were asked to pull together any Lakewood
15 agreements that disenrolled a student from the school.

16 (R-16 Marked for
17 Identification)

18 Q Okay. And where did you pull this
19 information from?

20 A I utilized the database and I did a search of
21 Lakewood and we compiled all of the Lakewood cases and
22 then we requested all the case files to be returned to
23 us so we could go through and research the agreements.

24 Q Okay. Did Mr. Roda ask you to conduct any
25 analysis of the, I guess, the legal sufficiency of

1 these -- of these settlements?

2 A No.

3 Q Okay. So this was a -- essentially, a
4 collection of data?

5 A Correct.

6 Q Okay. And does the chart that you see in
7 front of you at R-16 -- is that an accurate
8 representation of the chart that you created?

9 A Yes.

10 Q Okay. And so I'm going to ask you, Ms.
11 Anthony, to kind of take me through this document.
12 When we look at it, going from left to right, it
13 appears that there are six columns. Under the first
14 column, what's the heading for that column?

15 A The agency reference number.

16 Q Okay. And what is the agency reference
17 number?

18 A The agency reference number is a number that's
19 generated by our database sequentially each time we
20 open a case in our database.

21 Q So this is tied to a particular matter or a
22 particular case?

23 A Correct.

24 Q Okay. And this number -- does this number
25 contain any student information?

1 A No.

2 Q Okay. And so -- then the next two columns
3 appear as "Date of Board of Education Resolution" and
4 "Date of Settlement Order." Those appear to me to be
5 self-explanatory. Is that -- do you think that that is
6 an accurate representation of what is represented
7 there?

8 A Yes.

9 Q Okay. And then the fourth column, what is
10 the heading for the fourth column?

11 A "Enrollment Status of Student Post-Settlement."

12 Q And it appears that for all of the items
13 listed here, the designation is "Disenrolled."

14 A Correct.

15 Q What -- what -- when you created this
16 document, what did that term, disenrolled, mean?

17 A It means part of the settlement agreement listed
18 that the student would be disenrolled from the
19 district.

20 Q Okay. So they would no longer be a
21 registered public school student in the District of
22 Lakewood.

23 A I am assuming, yes.

24 MR. INZELBUCH: I'm sorry. "I'm assuming,
25 yes?"

1 THE WITNESS: Uh huh.

2 MR. INZELBUCH: Is that what you said?

3 THE WITNESS: Uh huh.

4 BY MR. STARK:

5 Q So then the fifth column over there, what is
6 the heading for the fifth column?

7 A "Number of Years Covered by Settlement Agreement."

8 Q Okay. And so I see a number of different --
9 in addition to different numbers, I see a number of
10 different terms in there. So if we look at the first
11 number -- excuse me -- the first row in that column,
12 it's a number three. What does that three represent?

13 A Three school years.

14 Q Okay. So is that the term of the settlement
15 agreement that you reviewed?

16 A Yes.

17 Q Okay. And so then the -- if we look at the
18 second row in that -- in that column, it says, "One
19 plus two ESY." Going back to these myriad of acronyms,
20 what is "ESY"?

21 A ESY is extended school year.

22 Q Okay. And so what is extended school year?

23 A Typically, the summer -- like a summer program.

24 Q Okay. And so when we see that designation
25 "One plus two ESY," what does that mean?

1 A One school year plus the summer prior and the
2 summer after.

3 Q Okay. So if we start a -- if we -- if we say
4 an academic year starts in -- starts July 1, but the
5 school -- the normal school year starts -- I'm throwing
6 out a date, a hypothetical date of September 1, is it
7 your testimony then that one plus two ESY would run a
8 term of approximately July 1 through, say, August 31 of
9 the following year?

10 A That would be my interpretation of it.

11 MR. INZELBUCH: Your Honor, as an Officer of
12 the Court and as this Court knows, ESY doesn't go -- so
13 we can sit here and we can make it very clear -- ESY
14 never goes to August 31st. Number two, as an Officer of
15 the Court, we could say whatever we want, but I'm going
16 to say what I want.

17 THE COURT: Mr. Inzelbuch, you're not going to
18 say whatever you want.

19 MR. INZELBUCH: Well, I'm going to say it, so
20 you can hold me out of order.

21 THE COURT: You are out of order.

22 MR. INZELBUCH: This chart -- this chart is
23 not correct.

24 THE COURT: You're --

25 MR. INZELBUCH: This chart has changes.

1 THE COURT: Then -- then Mr. Lang will be able
2 to question.

3 MR. INZELBUCH: Mr. Lang is not able to do
4 anything of the sort.

5 THE COURT: Mr. Lang represents the
6 petitioners.

7 MR. INZELBUCH: That has nothing to do with
8 this chart.

9 THE COURT: You do not, Mr. Inzelbuch.

10 MR. INZELBUCH: I'm just letting you know, and
11 I'll say it for the record --

12 THE COURT: I don't want to have to hold you
13 in contempt.

14 MR. INZELBUCH: I understand. You can hold me
15 what you want. This chart -- Mr. Lang has nothing to
16 do with Mr. Lang's doing cross.

17 THE COURT: Mr. Lang can make -- do whatever
18 questioning he wants.

19 So the witness can continue.

20 MR. STARK: Thank you, Your Honor. And I --
21 strike that. The dates that I threw -- the dates that
22 I put out -- and I will put this on the record, Your
23 Honor -- the dates that I put were hypothetical dates,
24 and so, we don't have the details of any of these
25 individuals. This chart does not reflect any of the

1 details of any of these individual settlement
2 agreements. I was using that date of August 31st to
3 reflect a date that was prior to September 1st, which
4 was also a hypothetical.

5 BY MR. STARK:

6 Q And so the last column in this chart, what's
7 the heading of the last column of this chart?

8 A "District Monies to be Paid to Student Estimated
9 Cost Based on Terms of Agreement Over the Course of the
10 Entire Agreement."

11 Q And so the dollar amounts there, how did you
12 arrive at those dollar amounts that are listed in those
13 -- in that column?

14 A We reviewed the information that was in the
15 settlement agreement, the tuition, and any related
16 services that might have been listed with -- in the
17 agreement.

18 Q Okay. And so the last -- the last item I
19 wanted you to ask -- I wanted to ask you is to turn to
20 the second page of the document, Bates labeled DOE-
21 1953. There is a number at the bottom of the -- the
22 bottom right of the chart, 10,176,771 dollars. What
23 does that number represent?

24 A It represents the sum of all of these rows added
25 together.

1 Q Okay. And so when you say "all of the rows,"
2 that's all of the rows in column six?

3 A Correct.

4 Q Okay.

5 MR. STARK: Your Honor, I'd like to move this
6 exhibit into evidence.

7 THE COURT: Well it's subject to cross
8 examination first.

9 MR. STARK: Of course.

10 BY MR. STARK:

11 Q Does this -- and so it's your testimony that
12 this chart is an accurate representation of the work
13 that you conducted?

14 A Yes.

15 Q Okay. Thank you.

16 MR. STARK: Your Honor, I have no more
17 questions.

18 THE COURT: Mr. Lang, do you have any cross?

19 MR. LANG: Your Honor, I have no questions,
20 but just out of deference to Mr. Inzelbuch, I just will
21 ask that question that he asked.

22 CROSS EXAMINATION BY MR. LANG:

23 Q I believe the question was, what is ESY? How
24 long does it go to? Does it go to August 31st?

25 A I can't answer that.

1 THE COURT: I think I can take judicial notice
2 that, generally speaking, ESY is a summer session and
3 the specific dates depend on the specific child and the
4 specific program, which I have seen here over the
5 years. I'm not testifying. I'm saying that's what
6 I've seen.

7 MR. STARK: Your Honor, it's our understanding
8 that ESY is -- I was using that as a hypothetical non -
9 - a date range that existed between June 30th and
10 September 1st. ESY is generally student-specific and
11 all of the terms set forth in each individual
12 settlement agreement are not represented in this chart.
13 It's just that that represents an extended school year.

14 THE COURT: All right.

15 MR. INZELBUCH: Under your prior ruling, I am
16 allowed -- and I can pull up the ruling if you like,
17 because I have it -- under your prior ruling, I am
18 making a motion to have this Court acknowledge judicial
19 notice. This Court actually -- I think needs to be
20 disclosed -- has, as have others -- many of these
21 settlements have been approved by this Court under OAL
22 decisions --

23 THE COURT: Mr. Inzelbuch --

24 MR. INZELBUCH: No, I'm going make -- I have
25 your order.

1 THE COURT: Mr. Inzelbuch, I can tell you, if
2 there has been a settlement and it's been approved by
3 the Court, it is what it is, okay.

4 MR. INZELBUCH: Okay.

5 THE COURT: I assume that every single one was
6 approved by the Commissioner if, in fact, it's been
7 filed with the Commissioner and in the appropriate
8 court.

9 MR. INZELBUCH: Thank you.

10 MR. STARK: And the purpose of this testimony
11 is in no way to question the legal sufficiency of any
12 of the settlements listed therein, just to demonstrate
13 the costs related to disenrolled students.

14 THE COURT: Okay.

15 MR. INZELBUCH: And Your Honor --

16 THE COURT: But I'm sure Mr. Lang would
17 stipulate to that, that the cost is high for Lakewood.

18 MR. LANG: Well --

19 THE COURT: I mean, it depends on each --

20 MR. STARK: But for students who are no longer
21 enrolled in the district.

22 MR. INZELBUCH: Your Honor, that is why --

23 THE COURT: But that's why -- that's how it
24 works sometimes.

25 MR. INZELBUCH: Your Honor, I'm sorry. I

1 would be -- it would be an unfair advantage to
2 Lakewood, since Your Honor actually -- and we have
3 transcripts -- to Your Honor's credit, before any
4 settlement I did -- I -- not suing, but representing --
5 this Court, on the record, puts every settlement on the
6 record. Not only that, these numbers are not accurate
7 because -- let me please just finish my one statement
8 and then I'll try to -- but actually, an analysis was
9 done showing that it's a savings to the district
10 because when these kids went to out-of-district
11 approved placements, it was more, and I have already
12 counted 11 that Your Honor has heard and decided. So
13 this document represents nothing.

14 THE COURT: All right. So you can discuss
15 that with Mr. Lang.

16 MR. INZELBUCH: I'm not discussing that with
17 anyone.

18 THE COURT: With Mr. Lang when we're done.

19 MR. LANG: Your Honor, I would just say that
20 there's going to be briefs after this case. He could
21 submit that. I personally don't have that information,
22 so I --

23 THE COURT: Okay.

24 MR. LANG: -- and anyway, I have no questions.

25 THE COURT: All right.

1 MR. INZELBUCH: The Court does.

2 THE COURT: All right. So thank you.

3 MR. STARK: And without -- with the exception
4 of moving the document into evidence --

5 THE COURT: Well, there's no objection, is
6 there, Mr. Lang? It shows (out of microphone range).

7 MR. LANG: Other than, you know, whatever
8 papers will come out -- I mean, it's going to go into
9 evidence. It is what it is, like you say.

10 (R-16 Entered into
11 Evidence)

12 THE COURT: These were all approved by the
13 Commissioner, as far as I know.

14 MR. LANG: And whatever -- whatever there is,
15 we'll see during the briefs.

16 THE COURT: All right. Thank you.

17 MR. INZELBUCH: (Out of microphone range).
18 Your Honor, I'm sorry. I don't want you to be
19 reversed. It was approved, as we heard from the --

20 THE COURT: It was approved by the ALJ but --

21 MR. INZELBUCH: That's all --

22 THE COURT: -- then it ultimately goes to the
23 Commissioner.

24 MR. INZELBUCH: No, it doesn't, Your Honor.

25 MS. HOFF: No.

1 MR. STARK: No, they're approved by the ALJ.

2 THE COURT: Oh, you're right.

3 MR. INZELBUCH: Your Honor --

4 THE COURT: Okay. Sorry. You're right. I'm
5 getting my --

6 MR. INZELBUCH: I just don't anyone to say
7 negative about this Court.

8 THE COURT: All right. All right. So they're
9 approved by not a court -- we're like a forum --
10 they've been approved by an administrative law judge
11 and accepted. So -- okay, so --

12 MR. STARK: Thank you, Your Honor.

13 THE COURT: That's it?

14 MR. STARK: We're done with -- we're completed
15 with this witness.

16 MS. HOFF: So did that go in?

17 MR. STARK: Yes, it was in evidence, yeah.

18 THE COURT: All right. So then you're
19 excused. Thank you.

20 THE WITNESS: Thank you.

21 THE COURT: Okay.

22 MR. LANG: Your Honor, I wanted to just ask
23 you, just as a matter of procedure, we talked earlier
24 about the briefs at the end, with the 10 pages. Would
25 that be --

1 THE COURT: No, I was just saying that I'd
2 like to keep them brief. They're supposed to be
3 briefs.

4 MR. LANG: Right.

5 THE COURT: They're not supposed to be a re-
6 hearing of the whole matter.

7 MR. LANG: But that doesn't include exhibits.
8 I mean, the brief can be short but exhibits -- let's
9 say something someone (out of microphone range) --

10 THE COURT: All right. We're getting -- we're
11 going off the record for a second.

12 (BRIEF RECESS)

13 THE COURT: So we're back on the record.

14 All right, Mr. Stark?

15 MR. STARK: Thank you, Your Honor. The next -
16 - the State's next witness is Ray Zirilli.

17 THE COURT: If you'd just stand there, please.

18 THE WITNESS: Yes, ma'am.

19 THE COURT: Raise your right hand.

20 R A Y M O N D Z I R I L L I, RESPONDENT'S WITNESS,
21 SWORN.

22 THE COURT: State your name.

23 THE WITNESS: Raymond J. Zirilli, Jr.

24 THE COURT: Raymond J. -- and spell your last
25 name for the record.

1 THE WITNESS: Z-I-R-I-L-L-I.

2 THE COURT: All right. Thank you. Have a
3 seat. Just keep your voice up. This is not a
4 microphone; it just records.

5 THE WITNESS: Okay.

6 THE COURT: All right. Thank you.

7 All right, Mr. Stark.

8 MR. STARK: Thank you, Your Honor.

9 DIRECT EXAMINATION BY MR. STARK:

10 Q Thank you, Mr. Zirilli. I generally start
11 off with a little bit of background information. Now
12 it's -- I understand that you are recently retired, and
13 so, congratulations.

14 A Thank you.

15 Q Would you -- would you let the Court know the
16 benefit of your most recent title at the Department of
17 Education?

18 A I was the Senior Pupil Transportation Specialist.

19 Q And how long were you in that role?

20 A Just shy -- a month shy of 20 years.

21 Q Okay. And so prior to that role, is that --
22 strike that. Was that the only position you held at
23 the Department of Education or did you hold other
24 positions at the Department?

25 A That was the only position I held at the

1 Department of Education.

2 Q Okay. And so would you please give the Court
3 the benefit of what your post-secondary education is?

4 A I have an associate's degree in aerospace
5 technology.

6 Q Okay. And prior to coming to -- prior to
7 coming to the Department of Education, did you have any
8 significant experience in transportation outside of the
9 Department?

10 A I did. I worked six years in student
11 transportation -- five years with a school bus company
12 as the director of transportation and then one year in
13 a school district as the transportation supervisor.

14 Q Okay. And so as I'm going -- I'm going
15 through my little outline here, so give me one second
16 if I'm not looking directly at you. So can you let the
17 Court know what is -- what were the responsibilities
18 that you held in your duties as the senior
19 transportation coordinator at the Department?

20 A Well, my job was -- my primary function was to pay
21 state aid, gather data, collect data to pay state aid
22 for student transportation. We also develop policies
23 and procedures for regulating the student
24 transportation industry and, you know, function to
25 provide analysis of some of that transportation data.

1 Q So kind of other duties as assigned by the
2 Commissioner?

3 A Exactly.

4 Q Okay. So over the course of your work with
5 the Department, did you become aware of any
6 transportation concerns with the Lakewood School
7 District?

8 A Off and on, yes.

9 Q Okay.

10 A Yes.

11 Q Okay. So when did the Lakewood School
12 District's transportation situation first come to your
13 attention?

14 A When I first started.

15 Q Okay. And so --

16 A I remember my counterpart briefing me on, you
17 know, an audit that he did in Lakewood.

18 Q Okay. And that was -- you said that was 20
19 years ago.

20 A Right, 1999.

21 Q Okay. And so over the course of your time,
22 did -- did you have occasion to become familiar with
23 some of the issues that were -- that were discussed
24 regarding Lakewood's transportation?

25 A Yes.

1 Q Okay. And what was the nature of the issues
2 that you became familiar with?

3 A Most of the -- most of the issues were their
4 transportation efficiency.

5 Q Okay.

6 A You know, how efficiently they were routing. Some
7 of the issues with separating some of the religious --
8 separating some of the students because of their
9 religious beliefs.

10 Q Okay. And so they had -- those students just
11 had particular requirements for their transportation
12 needs?

13 A Yes.

14 Q Okay. And so how did those -- how did those
15 things manifest as -- or can you provide a little bit
16 more detail as to how those things manifested with
17 regard to the efficiency of the transportation system?

18 A Well, if you -- so if you separate male and
19 female, you don't have enough to fill a bus. So let's
20 say you may be running a bus -- and I'm just using
21 these numbers; I'm not sure what the numbers actually
22 are -- but you may be running a 54 passenger bus with
23 30 kids on it.

24 Q Okay.

25 A You know? And that's not an efficient practice.

1 Q So is what you're saying that the District
2 may have been running -- may have been running more
3 buses than were necessary based upon the number of
4 students?

5 A Correct.

6 Q Okay. And so is there -- were there any
7 other types of concerns with regard to efficiency that
8 you became familiar with?

9 A Not -- not off the top of my head.

10 Q Okay.

11 A Not that I can think of now.

12 Q Did you ever have any -- did you ever have
13 any attention to the bell times of schools that were
14 receiving transportation services?

15 A Not specifically.

16 Q Okay.

17 A But I know that there have been efforts to try to
18 coordinate some of those bell times --

19 Q Okay.

20 A -- between schools so that they could use the bus
21 for more than one route, therefore, an efficient
22 practice.

23 Q Okay. So can you -- can you, I guess, break
24 that down or explain that a little bit more in terms of
25 how the bell times lining up would make the process

1 more efficient?

2 A Sure. If you stagger bell times, you're able to
3 use the bus on more routes, thus making that vehicle
4 more efficient.

5 Q Okay.

6 A Some of the more efficient districts have
7 staggered bell times where they can use the bus for
8 more than one route. So, in other words, you have a 54
9 passenger bus doing three routes. Maybe you have 40
10 kids on each -- on each route. Now you have 120 kids
11 on that 54 passenger bus. That's typically a real
12 efficient operation.

13 Q Okay. And what, in light of these -- in
14 light of these concerns, were there communications
15 between the Department and the District that you were
16 familiar with?

17 A Yeah.

18 Q What was the nature of those -- were those
19 concerns communicated to the District then?

20 A Yeah. Mr. Farrah, my counterpart for 20 years,
21 was -- he was the main contact for Lakewood. But, of
22 course, we always discussed things, you know, so that
23 we both knew what was going on throughout the state.

24 Q Okay. Was there ever a concern that you
25 became aware of regarding the practice of courtesy

1 bussing?

2 A Yes.

3 Q Okay. And what was the nature of that
4 concern?

5 A There was a lot of courtesy bussing for non-public
6 school students, for private school students.

7 Q Okay. And so I'd like to direct your
8 attention -- there's a binder in front of you on the
9 desk and I'd like to direct your attention to tab R-18
10 in the binder.

11 MR. INZELBUCH: Eighteen?

12 MR. STARK: Eighteen, yes.

13 BY MR. STARK:

14 Q And this a -- we'll represent to the Court
15 this is a one-page document, Bates labeled DOE-1956,
16 and if you just take a brief moment and take a look at
17 that document.

18 MR. INZELBUCH: And I'm sorry. R?

19 MR. STARK: R-18.

20 MR. INZELBUCH: Okay. I'm sorry.

21 BY MR. STARK:

22 Q So you mentioned -- you mentioned non-public
23 -- student bussing for non-public students and we used
24 the term "courtesy bussing." Just for the record,
25 would you mind defining the term "courtesy bussing"?

1 A Courtesy bussing is bussing that is provided at
2 the discretion of the local board of education and at
3 the local taxpayers' expense.

4 Q Okay.

5 A So in other words, they get no state aid for
6 courtesy bussing.

7 Q Okay. So the -- when you said they get no
8 state aid for courtesy bussing, does that mean that the
9 transportation aid segment of the school funding
10 formula is based upon -- does that take courtesy
11 bussing into account?

12 A It does not.

13 Q It does not. Okay.

14 A Just for those kids that are mandated to be
15 transported by law.

16 Q Okay. And so in the -- how is the
17 determination made that a student is mandated versus
18 non-mandated to be transported?

19 A So the statute defines "mandated" as any student
20 that is -- that resides greater than two miles from an
21 elementary school or greater than two and a half miles
22 from their high school.

23 Q Okay. So it's a -- so whether a student is
24 mandated for transportation or not mandated is a
25 statutory determination.

1 A Yes.

2 Q Okay. So I directed you to R-18 and you took
3 a -- you took a look at this document. Have you ever
4 seen this document before?

5 A Yeah, I actually put this together with one of our
6 programmers.

7 Q Okay. Well that was the next question.
8 Where did you see this document before? You said you -
9 - you testified that you put it together. And so what
10 was the purpose of putting this together?

11 A We were asked -- you know, it was awhile ago that
12 I put this together, so we were asked by somebody to
13 compile this data.

14 Q Okay. And where did this -- well, before I
15 ask that question, what does this document represent?

16 A This represents the mandated -- non-public school
17 transportation for mandated and non-mandated
18 transportation and it's based on their district report
19 of transported resident students, which is the data
20 collection to process state aid.

21 (R-18 Marked for
22 Identification)

23 Q So you said district-reported --

24 A District report of transported resident students.

25 Q And is that commonly --

1 A Short for DRTRS.

2 Q I was -- we -- we earlier talked about
3 acronyms, the other direction. So that is the DRTRS?

4 A Yes.

5 MS. HOFF: DRTRS.

6 MR. STARK: DRTRS -- I apologize.

7 BY MR. STARK:

8 Q Okay. And so I'm going to ask you to take me
9 through what this chart indicates. School year seems
10 to be fairly self-explanatory. That's the particular
11 school year. That column is the particular school year
12 in question. So the first two columns after that,
13 columns two and three, have a header of "Mandated" and
14 then there's a sub-header of "Transported" and "AIL."
15 What does "Transported" mean?

16 A Those are kids who were actually being transported
17 on a school bus.

18 Q Okay. And so "AIL," what is "AIL"?

19 A That is equal to a payment that is equal to the
20 maximum statutory amount and that changes according to
21 the budget each year.

22 Q So AIL is an acronym for what?

23 A Aid in lieu of transportation.

24 Q So that is -- what is aid in lieu of
25 transportation?

1 A It is a -- if they -- if a district cannot provide
2 transportation according to the law for the maximum
3 amount, then the law says that they'll pay the parents
4 aid in lieu of transportation.

5 Q Okay. Is that --

6 A Instead of providing the service, which could be
7 over 1,000 dollars.

8 Q Okay.

9 A Well --

10 Q So that statutory amount is -- is just -- is
11 a fixed number based on some sort of a calculation?

12 A Yes.

13 Q Okay. And so where, for example, in
14 2009/2010, it says "8914 transported" and "156 AIL,"
15 that would --

16 A Mandated.

17 Q -- that would -- and those are -- yeah, those
18 are the mandated numbers. So that would indicate that
19 the District transported 8914 students in mandated
20 transportation to non-publics and that there were
21 mandated students that they were unable to provide
22 transportation for in the amount of 156.

23 A Correct. And they paid the parents the maximum
24 statutory amount in that year.

25 Q Okay.

1 A Those 156 parents, they paid them.

2 Q And so the reason that a district would be --
3 what would -- what would be the reason that a district
4 would be unable to pay -- to transport and would then
5 have to pay aid in lieu? What are -- what is an
6 example of a reason that that might occur?

7 A Yeah, they may have went out to bid and the cost
8 came in over the maximum amount --

9 Q Okay.

10 A -- in which case, the law says that they shall not
11 award but pay aid in lieu of transportation.

12 Q Okay. So there could be like -- could there
13 be a geographic concern if the student was -- lived in
14 a particular area that would be very difficult to get
15 to or very costly to get to or something like that?

16 A Could be.

17 Q Okay. And there could be any other reason?

18 A Yeah.

19 Q Okay. So I'm going to next direct your
20 attention over to the next two columns which appear
21 under the heading of "Courtesy" and there's also
22 "Transported" and "Aid in Lieu" sub-columns there. We
23 talked earlier about courtesy bussing as something that
24 is discretionary, and so this would indicate that these
25 are students -- the numbers there in that "Transported"

1 column are all students that the District, in their
2 discretion, chose to bus to non-public school
3 facilities.

4 A Yes.

5 Q Is that correct?

6 A Yeah.

7 Q Okay. And then the next column over, "Total
8 Mandated," what does that number represent?

9 A It represents just a total of the two mandated
10 columns, both the "Transported" and "AIL."

11 Q Okay. And so it would stand to reason that
12 if the total "Courtesy" was a similar sum of --

13 A Yes.

14 Q Okay. And then the total "Transported" is
15 just a sum of those previous two columns?

16 A Yes.

17 MR. INZELBUCH: I'm sorry. Your Honor, I just
18 want to make sure I have the right exhibit. Are we
19 looking -- or Mr. Stark -- at 1956?

20 MR. STARK: Yes, 1956.

21 MR. INZELBUCH: And is this a typo where it
22 says, "021" under "Courtesy" for the 16/17 year and
23 onward?

24 THE WITNESS: No, it is not.

25 THE COURT: Let him finish his questions.

1 MR. INZELBUCH: Oh, okay.

2 BY MR. STARK:

3 Q So when we -- when we look at this -- when we
4 look at this -- or these figures, it seems to be that
5 there is a change after the 2015/16 school year. What
6 occurs after the 2015/16 school year?

7 A It established the Lakewood Transportation
8 Authority -- I forget what we called that -- the LSTA.

9 Q Okay. And so where -- let's take --

10 MR. INZELBUCH: For the record, it's Lakewood
11 Student Transportation Authority.

12 THE COURT: Thank you, Mr. Inzelbuch.

13 MR. INZELBUCH: No problem. I want the record
14 to be complete.

15 BY MR. STARK:

16 Q And so -- so if we look at the -- if we look
17 at column two in 2016/17, the number goes from 15919
18 the year before to -- under "Mandated Transported" --
19 it goes from 1519 the year before to eight in the -- in
20 2016/17.

21 A Yeah, those are -- okay, so let me explain that.
22 Those are -- eight kids are transported by Lakewood.
23 They were not transported by the LSTA.

24 Q Okay.

25 A What the State collected from -- from Lakewood

1 regarding the DRTRS was just the kids that they were
2 paying aid in lieu of transportation to the LSTA.

3 Q Okay. So the --

4 A So that's what that 19166 represents. They were
5 paying aid in lieu of transportation, by law, to the
6 LSTA.

7 Q And that was -- that was the next question I
8 was going to ask, is that the aid in lieu number went
9 up dramatically between 15/16 and 16/17, and it sounded
10 like what you testified to was that the District paid
11 aid in -- the aid in lieu amount to the LSTA to provide
12 mandated transportation services for non-public
13 students.

14 A That's right.

15 Q Okay. And so let's move over to the -- to
16 the following two columns, columns four and five, the
17 "Courtesy" columns. And it looks like the numbers of
18 transported courtesy students fell dramatically in the
19 years following the passage of the LSTA or the
20 enactment of the LSTA.

21 A And again, those numbers are only those courtesy
22 kids that are transported by the Lakewood School
23 District. We didn't collect courtesy numbers from the
24 LSTA.

25 Q Okay. So you did not collect courtesy

1 numbers from the LSTA.

2 A Correct. We have no idea how many courtesy kids
3 they're transporting.

4 Q And is that why the number of aid in lieu
5 students in the "Courtesy" column did not rise in the
6 same fashion that it did for the mandated students?

7 A Correct. Again, that's just what the District
8 provided, as far as aid in lieu of transportation.

9 Q Okay. And the data -- you said the data that
10 is on this document was pulled from the DRTRS?

11 A Yes.

12 MR. STARK: Okay. Thank you, Mr. Zirilli.
13 Those are all the questions that I have for you.

14 I would like to move the document referenced
15 at R-18 into evidence.

16 THE COURT: Any objection, Mr. Lang?

17 MR. LANG: No.

18 THE COURT: Okay. It will be admitted.

19 (R-18 Entered into
20 Evidence)

21 MR. INZELBUCH: Your Honor, per your earlier
22 decision, I would like the Court to recognize -- which
23 you can take judicial notice this was in my letter
24 which was not responded to -- Initial Decision Granting
25 Respondent's Motion for Summary Judgment, George

1 Osborne vs. Township of Lakewood, EDU 6438-02, agency
2 docket number 241-802, which was upheld by the
3 Commissioner and upheld by the Appellate Division,
4 Judge Steven Rhinebeck's decision, 8477503T2, which was
5 exhibit F in my letter of recent, which upheld the
6 legality of bussing when girls and boys are bussed
7 separately.

8 THE COURT: Okay. It's not an issue right
9 now, Mr. Inzelbuch.

10 MR. INZELBUCH: Well, I heard about girls and
11 boys.

12 THE COURT: I understand.

13 MR. INZELBUCH: And it seems to be something
14 it must have been brought up for summaries in, when
15 Judge Rhinebeck -- Steven Rhinebeck, who left us, the
16 Commissioner and the Appellate Division upheld. It
17 also dealt with bell times, which I heard about today,
18 so if we're --

19 MR. STARK: Your Honor, the --

20 MR. INZELBUCH: (Out of microphone range)

21 THE COURT: Mr. Inzelbuch, okay. First of
22 all, I'm not unfamiliar with that decision.

23 MR. INZELBUCH: Oh, you're not unfamiliar.
24 That's all I want to make sure.

25 THE COURT: Okay. So, Mr. Lang, cross

1 examine? Any questions?

2 MR. LANG: I really don't have any questions.
3 No, Your Honor.

4 MR. INZELBUCH: And per your order --

5 MR. STARK: Your Honor, if I can just --

6 THE COURT: Mr. Inzelbuch --

7 MR. INZELBUCH: I can quote your order.

8 MR. STARK: I'd like to make just a very quick
9 question.

10 MR. INZELBUCH: I have my rights here. I'm
11 sorry. We have limited rights here --

12 MR. STARK: Mr. Inzelbuch is --

13 MR. INZELBUCH: -- but your order -- and I
14 don't want to be spoken over because I can speak louder
15 than you.

16 THE COURT: Mr. Inzelbuch --

17 MR. INZELBUCH: But the bottom line here is,
18 there is no testimony regarding the 2900 public school
19 students who currently receive courtesy and hazardous
20 bussing with the Department of Education's knowledge
21 and blessing, paid for by the Township.

22 THE COURT: Mr. Inzelbuch, this document will
23 speak for itself.

24 Mr. Lang?

25 MR. LANG: (Out of microphone range) but I

1 don't think it's really relevant to what we're fighting
2 for so --

3 THE COURT: I understand, Mr. Lang.

4 MR. LANG: So, you know, I can't make it into
5 an issue.

6 THE WITNESS: Thank you, ma'am.

7 THE COURT: Thank you. You're excused.

8 MR. STARK: Your Honor, that's the last
9 witness that we have. I just want to verify before we
10 end for the day, I just want to verify for the record,
11 so my records are accurate, that --

12 Thank you, Mr. Zirilli. Have a nice day.
13 Enjoy your retirement.

14 THE WITNESS: Thank you.

15 (Whereupon the witness exits the courtroom)

16 MR. STARK: I want to just verify that the
17 documents that we've moved in today were, in fact,
18 admitted. I think that Your Honor made a -- made a
19 ruling on them but I just wanted to verify for the
20 record.

21 MR. INZELBUCH: Could you just go slow when
22 you do that, please?

23 THE COURT: Yes, why don't we start at --

24 MR. STARK: Oh, yeah, yeah, yeah.

25 THE COURT: Okay.

1 MR. STARK: And so the ones that we -- the
2 ones that we talked about today, R-18 just now, I
3 believe that was admitted into evidence?

4 THE COURT: It was.

5 MR. STARK: Mr. Lang had no objection.

6 MR. LANG: What? R-18?

7 MR. STARK: Yes.

8 MR. LANG: The one we're just doing now.

9 MR. STARK: Yes.

10 THE COURT: Right.

11 MR. LANG: Okay.

12 MR. STARK: And then R-16 from earlier today,
13 I believe that was admitted into evidence, correct,
14 about the --

15 THE COURT: That's correct.

16 MR. STARK: And then R-15 that was discussed
17 by the witness this morning.

18 THE COURT: Correct.

19 MR. STARK: I believe that was also admitted
20 into evidence?

21 THE COURT: That was, yes.

22 MR. STARK: Okay. And then from the previous
23 day's testimony, R-1, I have in evidence.

24 THE COURT: Yes.

25 MR. STARK: R-2?

1 THE COURT: Yes.

2 MR. STARK: R-3?

3 THE COURT: Yes.

4 MR. STARK: R-5?

5 THE COURT: Yes.

6 MR. STARK: And I believe Mr. Lang lodged

7 objections to the next three, R-7 --

8 MR. LANG: Which ones? R-7? That's the one -

9 -

10 MR. STARK: That was 192, 193.

11 MR. LANG: Yes, just relevance. I mean, it is
12 what it is, so --

13 THE COURT: Right, so it will be admitted.

14 (R-7 Entered into
15 Evidence)

16 MR. STARK: Okay. R-8, which was Other Non-
17 Public School Aid.

18 MR. LANG: Same thing -- relevance.

19 THE COURT: All right.

20 MR. LANG: It's -- you know --

21 THE COURT: R-8 will be admitted. I can
22 decide the weight to give it.

23 (R-8 Entered into
24 Evidence)

25 MR. LANG: Right.

1 MR. STARK: R-9, which was Total Public and
2 Non-Public Aid from District Notices.

3 MR. LANG: One second. Yeah, I didn't -- oh,
4 did I object to that?

5 THE COURT: Okay. It will be admitted.

6 (R-9 Entered into
7 Evidence)

8 MR. STARK: Okay. And then the last -- let's
9 see -- 10, I had as -- I had listed as in evidence.

10 MR. LANG: Your Honor, but on that one, before
11 I could think, it's given the weight, you know, that
12 it's relevant because I see that it's got that non-
13 public auxiliary.

14 THE COURT: I understand.

15 MR. STARK: We, of course, understand that the
16 Court is going to give it whatever weight the Court
17 believes is necessary.

18 MR. LANG: Right. And then you made the
19 correction in the other one.

20 MR. STARK: Yes, we did.

21 And then the R-13?

22 THE COURT: R-12, you didn't offer.

23 MR. STARK: R-12, we did not offer, Your
24 Honor.

25 THE COURT: R-13 was admitted.

1 MR. STARK: And then R-14, which was Equal Act
2 School Tax Rate History for K12 Districts. That was
3 the graph.

4 MR. INZELBUCH: That was -- Mr. Lang had a
5 problem with R-14.

6 MR. LANG: Well, the -- but I don't think it's
7 relevant but I'll put in a brief that --

8 THE COURT: All right.

9 MR. LANG: -- (out of microphone range). I
10 even have papers there that show that they're --

11 THE COURT: All right.

12 MR. LANG: -- within those numbers and one of
13 those towns is not in the numbers, but I didn't want to
14 waste time on that.

15 THE COURT: All right. It will be admitted
16 and whatever weight it -- it deserves.

17 (R-14 Entered into
18 Evidence)

19 MR. STARK: And those are all the exhibits
20 then that we have offered and we're done for the day
21 then.

22 THE COURT: All right. Very good.

23 MR. INZELBUCH: Before we go off the record,
24 there are no more -- there's no -- I just want to be
25 clear. I'm sorry. I have a learning disability. Is

1 there, tomorrow, any testimony here?

2 THE COURT: No.

3 MR. STARK: We do not have any scheduled
4 testimony tomorrow.

5 MR. INZELBUCH: And the next day is the 22nd?

6 MR. STARK: Monday the 22nd.

7 THE COURT: Monday, we'll be here.

8 MR. INZELBUCH: At 9 a.m.?

9 MR. STARK: I believe so, yes.

10 MR. INZELBUCH: And who was that again?

11 MR. STARK: Bob Ortley.

12 MR. INZELBUCH: Great. And the next day, Mr.
13 Forney?

14 MR. STARK: Mr. Forney.

15 MR. INZELBUCH: At 9 a.m.?

16 MR. STARK: Yes, on the 23rd.

17 MR. INZELBUCH: Thank you so much.

18 THE COURT: Very good. All right. So
19 everybody have a good weekend.

20 {Whereupon, the proceedings were adjourned.}

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1 STATE OF NEW JERSEY }

2 COUNTY OF }

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4 I, Peggy Wasco, assigned transcriber, do
5 hereby affirm that the foregoing is a true and accurate
6 transcript of the proceedings in the matter of Leonor
7 Alcantara, individually and as Guardian ad Litem for
8 E.A., et al. vs. David Hespe, Commissioner of
9 Education, New Jersey State Board of Education and New
10 Jersey Department of Education, bearing Docket No. EDU
11 11069-14, heard on July 10, 2019 before the Office of
12 Administrative Law Court.

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