

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

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LEONOR ALCANTARA, :  
INDIVIDUALLY and as :  
GUARDIAN AD LITEM FOR E.A.:  
et al. :  
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Petitioners, :  
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 :  
-vs- :  
DAVID HESPE, COMMISSIONER :  
OF EDUCATION, :  
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Respondents. :  
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TRANSCRIPT  
OF  
RECORDED PROCEEDINGS

February 7, 2018

BEFORE:

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

APPEARANCES:

BY: ARTHUR LANG, ESQ.  
BY: DANIEL GROSSMAN, ESQ.  
Attorney(s) for Petitioners

OFFICE OF THE ATTORNEY GENERAL  
By: Jennifer Hoff, Esq. DAG  
By: Geoffrey Stark, Esq. DAG  
By: Lauren Jenson, Esq, DAG  
By: Lori Prapas, Esq. DAG  
Attorney(s) for Respondents

BY: MICHAEL INZELBUCH, ESQ.  
Participant

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I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RE CROSS</u>
LAURA WINTERS				
By: Mr. Lang	7		107	
By: Ms. Hoff		76		
ROBERT FINGER				
By: Mr. Lang	138			

E X H I B I T S

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<u>NO.</u>	<u>DESCRIPTION</u>	<u>I.D.</u>	<u>EVID.</u>
P-10	Undated email from Thomas Henshaw	30	
P-29	State graduation rate		114

1 THE COURT: All right. So we're on the record.  
2 This is the continuing hearing in the matter of  
3 Alcantara, et al. vs. Hesse, et al. Our Docket Number  
4 EDU 11069-14. Your appearances, please.

5 MR. LANG: Art Lang for the petitioners.

6 MR. GROSSMAN: Daniel Grossman for  
7 petitioners.

8 THE COURT: Thank you.

9 MS. HOFF: Jennifer Hoff, Deputy Attorney  
10 General on behalf of the Department of Education, State  
11 Respondents to the Commissioner, State Board of  
12 Education. Here with me today is also DAGs, Deputy  
13 Attorneys General, Geoffrey Stark, Lauren Jenson and  
14 Lori Prapas.

15 THE COURT: Okay. And behalf of the --

16 MR. INZELBUCH: Michael Inzelbuch as the  
17 stirrer and participant.

18 THE COURT: You always bring a bit of levity,  
19 Mr. Inzelbuch.

20 MR. INZELBUCH: You got to go through life  
21 like that.

22 MR. LANG: Well, it makes me laugh.

23 THE COURT: Okay.

24 MS. HOFF: I just want to note for the record,  
25 Your Honor, that we are breaking in the middle of

1 somebody else's cross examination, which is a little  
2 unusual to accommodate another witness.

3 THE COURT: It happens. That witness was  
4 instructed not to discuss his testimony with anybody,  
5 so assuming that he complies there shouldn't be any  
6 problems. All right. So is it Ms. Winters? I assume  
7 Mr. Lang is calling Ms. Winters?

8 MR. LANG: Oh yes. Your Honor, I'd like to  
9 call Laura Winters, the superintendent of the Lakewood  
10 School District to the stand.

11 THE COURT: Ms. Winters. Right here.

12 MR. LANG: Oh, yes. Your Honor.

13 THE COURT: Oh, you have a book for me?

14 MR. LANG: Also I followed your instructions  
15 and put everything together.

16 THE COURT: Excellent. Perfect. Okay. Thank  
17 you.

18 MR. LANG: It's heavy. And also over here  
19 there's some CDs, which they're marked. One is a video  
20 of the state monitor about two years ago and this one  
21 here is just where the data came from for some of these  
22 exhibits.

23 THE COURT: All right. I assume we'll get to  
24 all of that during the course of the hearing.

25 MS. HOFF: Fortunately I still have the red

1 well.

2 THE COURT: Do you have a copy of this too?

3 MS. HOFF: I have the red well from the other  
4 day.

5 THE COURT: All right, very good. Ms. Winters,  
6 if you could just raise your right hand, please? State  
7 your name.

8 L A U R A W I N T E R S, PETITIONER'S WITNESS SWORN.

9 MS. WINTERS: Laura Winters.

10 THE COURT: Spell your last name for the  
11 record.

12 MS. WINTERS: W-I-N-T-E-R-S.

13 THE COURT: All right. Thank you. Have a seat.  
14 You must keep your voice up. Everything is being  
15 recorded and all your answers have to be verbally. You  
16 can't shake your head or nod your head or use "uh-huh"  
17 or things like that whether it's a "yes, no."

18 MS. WINTERS: Okay. Thank you.

19 THE COURT: Thank you. All right. So, who is  
20 doing Ms. Winters? Is it Mr. Lang?

21 MR. LANG: I am, yes.

22 THE COURT: Mr. Lang. Okay.

23 MR. LANG: All right, then we're going to have  
24 to mark it as Exhibit 30.

25 MR. INZELBUCH: While we're here, Ms. Winters

1 is here via court order to be here from Judge Jacobson.

2 MR. LANG: Your Honor, I apologize.

3 THE COURT: I would hope that shouldn't have  
4 been necessary.

5 MR. INZELBUCH: For the time and date as the  
6 manner.

7 MR. LANG: Your Honor, I'd like to enter the  
8 superintendent's report.

9 MS. HOFF: Objection.

10 THE COURT: Why don't we first find out who  
11 she is --

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

13 THE COURT: -- what is she, what she did.

14 MR. LANG: Okay, yes, I'm sorry. All right. So  
15 I want to go through the CD.

16 DIRECT EXAMINATION BY MR. LANG:

17 Q So please identify yourself.

18 A I'm Laura Winters, the superintendent of Lakewood  
19 School District.

20 Q How long have you been with the Lakewood  
21 School District?

22 A I started as a teacher in 2001.

23 MR. INZELBUCH: These microphones don't  
24 amplify.

25 THE COURT: Yes, you need to speak up more.

1 MR. INZELBUCH: They just record us.

2 THE COURT: Yes.

3 THE WITNESS: Okay. I have been a teacher in  
4 Lakewood School District since the year 2001.

5 BY MR. LANG:

6 Q Have you had any other positions with the  
7 Lakewood School District?

8 A Yes. I was a teacher from 2001 to 2008. From 2008  
9 to 2010, I was the assistant principal at the Oak  
10 Street School. From 2010 to 2011, I was supervisor of  
11 STEM.

12 Q What is STEM?

13 A Supervisor of Science Technology Engineering and  
14 Mathematics.

15 Q Then after that?

16 A After that I was principal of Oak Street School,  
17 2011 to 2012. While I was principal of Oak Street  
18 School, I was also assistant to the superintendent at  
19 that time and I became superintendent 2012 until now.

20 THE COURT: Until now?

21 THE WITNESS: Yes.

22 BY MR. LANG:

23 Q All right. Have you ever testified before?

24 A No, I have not.

25 Q You have never testified?

1 A No.

2 THE COURT: You've been here before though?

3 THE WITNESS: No, I have not.

4 THE COURT: No.

5 MR. INZELBUCH: Wrong person.

6 MR. LANG: Your Honor, I'd like to introduce

7 Ms. Winters to the court as Exhibit 27.

8 MS. HOFF: Objection.

9 THE COURT: No. Why don't you --

10 MS. HOFF: Objection. Is Ms. Winters being  
11 introduced as an expert?

12 THE COURT: I don't know yet, I'm trying to  
13 find out.

14 MS. LANG: Well, she per se is an expert in  
15 her field as her professional field much in the same  
16 way like a -- versus a car -- I don't want to say it's  
17 the same thing as being a car mechanic, but let's say  
18 you have a case where a tire falls of a car and a car  
19 mechanic would testify that it's normal for him to  
20 screw something in, the lug nuts in five or six times.  
21 It's kind of like that quasi type thing --

22 THE COURT: Well, not exactly. Why don't we go  
23 through what she has to offer as a fact witness as the  
24 superintendent.

25 MR. LANG: Okay.

1 THE COURT: I don't want to tell you how to  
2 handle your case, but how many students are in the  
3 district.

4 MR. LANG: Okay, that's exactly what I want to  
5 do.

6 THE COURT: Go through everything that --  
7 because her report, experts do reports, fact witnesses  
8 generally don't, unless they prepared a report for what  
9 they're doing, if they need to refer to it to refresh  
10 their recollection they can do that.

11 MR. LANG: Okay.

12 THE COURT: But right now we just need to find  
13 out what she knows and what she can share with us as a  
14 fact witness, because nothing's been laid out so far  
15 that she's an expert in anything.

16 MR. LANG: Okay, that's fine.

17 THE COURT: The fact that she's a  
18 superintendent doesn't make her an expert.

19 MR. LANG: That's fine.

20 MS. HOFF: So we're proceeding as if Ms.  
21 Winters -- we're proceeding that Ms. Winters is a fact,  
22 not an expert witness.

23 THE COURT: Yes. Now, if she has to be offered  
24 as an expert because of some special expertise, we'll  
25 get to that, but so far it seems like she's a fact

1 witness.

2 MS. HOFF: All right.

3 MR. LANG: May I give this to her to refresh  
4 her memory?

5 THE COURT: Not unless she needs it. She might  
6 have a perfect memory and doesn't need it.

7 MR. LANG: Okay.

8 MR. INZELBUCH: She has a stellar memory.

9 MR. LANG: Okay.

10 MR. STARK: Objection, Your Honor.

11 THE COURT: Mr. Inzelbuch, you have to  
12 restrain yourself, please.

13 MR. INZELBUCH: This is why we have a court  
14 order to be here.

15 THE COURT: Please, please, Mr. Inzelbuch.  
16 Should I get you a fidget spinner?

17 MR. INZELBUCH: No, I have my coffee, I put  
18 some green -- the relax to the max I told you about  
19 before in it, so I'm just going to mellow.

20 THE COURT: Okay, just restrain yourself.

21 MS. HOFF: Thank you, Your Honor.

22 THE COURT: I know it's hard to suppress the  
23 urge.

24 MR. LANG: Your Honor, I'm going to go through  
25 Ms. Winter's background. We did offer her as an expert

1 originally.

2 MS. HOFF: Right. I'm still objecting to her  
3 being offered as an expert because we don't know what  
4 she's offered in an expert --

5 THE COURT: As.

6 MS. HOFF: -- as what and this report does not  
7 seem to be an expert report itself.

8 THE COURT: Do you need a few minutes to  
9 consult?

10 MR. LANG: It's --

11 THE COURT: Maybe you should take a few  
12 minutes outside to consult, that might not be a bad  
13 idea.

14 MS. HOFF: Objection. Are participants allowed  
15 to consult during the middle of trial?

16 THE COURT: Sure, with the other attorneys, of  
17 course.

18 MR. LANG: Your Honor, when I submitted all my  
19 expert reports I submitted three experts and Ms.  
20 Winters was one of them.

21 THE COURT: Well, just because there's a  
22 report doesn't mean that she has to be accepted as an  
23 expert. If you want to have her testify as an expert,  
24 we need to find out what her expertise is. Just because  
25 she's the superintendent of schools doesn't make her an

1 expert in anything, but she certainly knows, I assume  
2 Lakewood. So have her testify about Lakewood.

3 MR. LANG: But, Your Honor, I think she's  
4 going to talk about what the students needs --

5 THE COURT: She can talk about that, she's the  
6 superintendent.

7 MR. LANG: Okay. All right.

8 THE COURT: Do you have any certifications in  
9 New Jersey, Ms. Winters?

10 THE WITNESS: I have a teaching certification.  
11 I'm a supervisor -- teaching certification, supervisor  
12 certification, principal certification and school  
13 administrative certification.

14 THE COURT: Okay. Do you have any advanced  
15 education beyond your bachelors degree?

16 THE WITNESS: Yes, I have a masters degree and  
17 I have all my credits for a doctorate, I'm just  
18 finishing my dissertation.

19 THE COURT: Okay. So you're ABD basically, all  
20 but dissertation?

21 THE WITNESS: Yes.

22 THE COURT: And what is that in?

23 THE WITNESS: It's a doctorate of education --  
24 it will be a doctorate of education with a speciality  
25 in curriculum instruction and assessment.

1 THE COURT: Okay. All right. So now you can  
2 ask her some questions about Lakewood.

3 MS. LANG: All right.

4 BY MR. LANG:

5 Q So, Ms. Winters, this year does Lakewood have  
6 a projected deficit?

7 A Yes. The projected deficit is projected to be 17  
8 to 20 million dollars.

9 THE COURT: Before we get into this year's  
10 budget, this case was brought in 2014, so why don't we  
11 talk about what the budget was, how many students there  
12 are, how many schools there are. Tell me about  
13 Lakewood.

14 MR. LANG: Okay.

15 THE COURT: The record is barren about what  
16 Lakewood is, except for the fact that it's Lakewood.

17 MR. LANG: Okay.

18 THE COURT: How many special needs to start  
19 out.

20 BY MR. LANG:

21 Q How many students are in the district?

22 A 6,092.

23 THE COURT: 6,092?

24 THE WITNESS: Correct.

25 THE COURT: Okay. That's public school

1 students?

2 THE WITNESS: Correct.

3 THE COURT: Can you break them down by grades?

4 THE WITNESS: I do not have a breakdown of  
5 grades.

6 THE COURT: Okay.

7 BY MR. LANG:

8 Q How many schools are in the district?

9 A There are eight schools. One high school, one  
10 middle school, five elementary schools and a preschool.

11 Q The middle school, what grades are the  
12 children in middle school?

13 A Sixth, seventh and eight.

14 Q And high school?

15 A Nine through twelve.

16 Q Is there a separate kindergarten school? Are  
17 all the rest of the schools kindergarten through fifth  
18 grade?

19 A There are two primary schools that are preschool  
20 through first grade and the other three elementary  
21 schools are grades two through five.

22 Q Is there any grade school that's K through  
23 five?

24 A No.

25 THE COURT: What are the ages of the

1 preschool?

2 THE WITNESS: The special education classes  
3 are three and four. The general education classes are  
4 ages four.

5 THE COURT: Okay.

6 BY MR. LANG:

7 Q Are any of the schools at full capacity right  
8 now?

9 A They are all at full capacity.

10 Q Are any of them over capacity where students  
11 have to be turned away?

12 A Well, public school can't turn kids away. Middle  
13 school the classes are full, they are -- the students  
14 are -- there are up to 32 kids in the classroom at the  
15 middle school, so that's a big concern.

16 Q Thirty-two kids in a classroom.

17 A At the middle school.

18 Q What is the regulation for kids in that grade  
19 level, how many -- according to regulation, how many  
20 kids are supposed to be in a class?

21 A So in grade six through twelve there should be 24  
22 students in a classroom.

23 Q That's the maximum?

24 A That's the maximum that should be for students at  
25 risk.

1 Q Ms. Winters, how many kids are in a classroom  
2 at the middle school?

3 A Up to -- between 28 and 32 students, so last year  
4 we did put in the budget to have, and it was board  
5 approved and the monitors also approved to have the  
6 architect of record do site plans to have four trailers  
7 put on site at the middle school and also to have an  
8 addition put at the -- for the cafeteria at the middle  
9 school, because it's a very small cafeteria, however,  
10 when the budget came out that was one of the things  
11 that were taken out of the budget.

12 Q So that's not in the budget for next year,  
13 the proposed budget?

14 A No.

15 Q And how much -- what would be -- how many  
16 trailers are -- what would be the total expansion that  
17 was proposed for the middle school, how many trailers  
18 and how many kids would have fit in those trailers?

19 A It was four classrooms.

20 MR. STARK: Objection, Your Honor. It's a  
21 compound question. I'm not sure what question Ms.  
22 Winters is answering.

23 THE COURT: I think she already answered it.

24 THE WITNESS: Well, it was four classrooms. It  
25 was four classrooms and an expansion of the cafeteria

1 that was proposed.

2 BY MR. LANG:

3 Q And that's not in the budget?

4 A It's not in the budget. It was put in last year.  
5 It was taken out.

6 Q Now, speaking of the budget, is the budget  
7 that -- from what I understand from what you said, that  
8 that would have been something new, but other than  
9 that, which you just said is not in the budget, is  
10 there anything significantly new in the proposed  
11 budget?

12 A In the proposed budget that we're short for 17 to  
13 20 million dollars, it would be the same exact what is  
14 in this year's budget that would include nothing new,  
15 the same program, no raises for teachers and nothing  
16 else put in the budget. That includes nothing.

17 Q So just to maintain the same program --

18 A Correct.

19 Q -- you need another -- are you saying that  
20 you need another 17 million dollars just to maintain  
21 the same program?

22 A Between 17 and 20 million dollars just to maintain  
23 what we have in this year's budget, that's with nothing  
24 going up, nothing improving, nothing.

25 Q How is that possible?

1 MS. HOFF: Objection.

2 THE COURT: Rephrase the question.

3 BY MR. LANG:

4 Q What does it cost 17 to 20 million dollars  
5 just to maintain the same program as this year?

6 MS. HOFF: Objection. There's been no  
7 foundation that she has the financial reason and  
8 background to answer the specifics and intricacies of  
9 the budget.

10 MR. LANG: Your Honor --

11 THE COURT: Well, why don't we go through the  
12 budget? Why don't we show her a budget and she can  
13 explain it.

14 MR. LANG: Okay.

15 THE COURT: Were you part of the people who  
16 helped develop the budget, were you part of that group?

17 THE WITNESS: Just based on the preliminary  
18 budget that the --

19 THE COURT: How about last year's budget, do  
20 you have input into that budget?

21 MR. INZELBUCH: Your Honor, as participant,  
22 there's another witness here today, I agree with Ms.  
23 Hoff, who is the business administrator who will be  
24 able to explain that and again, I know I'm just  
25 supposed to sit here and watch this, but there is

1 someone on call who has been ordered to be here.

2 THE COURT: Yes, but my question is did you  
3 have input into the budget?

4 THE WITNESS: Yes, I have some input into the  
5 budget.

6 THE COURT: So why don't you find out what  
7 kind of input she had in the budget, what the budget  
8 is.

9 MR. LANG: Yes.

10 BY MR. LANG:

11 Q So Ms. Winters, what is your role in  
12 developing the budget?

13 A The BA does the budget, he actually does most of  
14 the budget and I just have some input educationally  
15 into the budget. So I would not be able to answer the  
16 numbers part of the budget.

17 Q So what does it mean educationally, what  
18 specifically does that mean just to make sure that the  
19 teachers --

20 MS. HOFF: Objection, he's leading the  
21 witness.

22 THE COURT: Yes, just ask her --

23 MR. LANG: I'm sorry.

24 BY MR. LANG:

25 Q What does it mean that you have some

1 educational input to the budget?

2 A So that the programs are needed in the district  
3 are put into the budget, what teachers need, what  
4 educational programs are needed, what are needed for  
5 students.

6 Q I'm going to ask the same question again, I  
7 hope you don't mind. And is there anything new in this  
8 budget?

9 A No.

10 MS. HOFF: Objection, asked and answered.

11 THE COURT: If she's already answered it you  
12 don't have to ask it again.

13 MR. LANG: Okay. All right.

14 THE COURT: She said there's nothing new.

15 MR. LANG: Okay. Let me go to the next  
16 question.

17 BY MR. LANG:

18 Q What would happen if this budget was not  
19 covered?

20 THE COURT: What year budget are we talking  
21 about?

22 MR. LANG: This coming -- sorry.

23 BY MR. LANG:

24 Q What year budget are we talking about?

25 A The projected budget for 2018/2019.

1 THE COURT: School year 2018 to 2019?

2 THE WITNESS: Yes.

3 THE COURT: The projected budget, next year's  
4 budget.

5 BY MR. LANG:

6 Q When does a district typically prepare the  
7 next year's budget?

8 A January, February, we start looking at it.

9 Q So this is the time -- is this the time that  
10 a district typically --

11 A Yes.

12 Q What month we are here in February.

13 A Yes, February.

14 Q Now, what would happen to the education  
15 program, which is your responsibility, what would  
16 happen if this 17 to 20 million dollars is not covered?  
17 What will happen next year?

18 A We would have to do what we've been doing for the  
19 last three years. We would have to start looking at  
20 programs, cutting programs. Is that what you're asking  
21 me?

22 Q Yes, that's what I'm asking.

23 A We would have to RIF teachers, again, this would  
24 be the fourth year in a row.

25 Q What does "RIF" mean?

1 A Give out reduction in force letters to teachers.

2 Q That reduction in force means -- does that  
3 mean that they are getting fired?

4 A It means they would have to be let go, yes. And  
5 this would be the third -- this would make year four  
6 and each year that we have done that we have lost  
7 teachers and they have resigned. So, the first year we  
8 did it was 2014/2015, I gave out 22 RIF letters and I  
9 lost 51 teachers. The second year, I RIF'd teachers  
10 that was, I gave out 68 RIF letters and I lost 51  
11 teachers. The third year which was last year I gave out  
12 140 RIF letters and I lost 78 teachers. So, this coming  
13 year if I have to give out RIF teachers -- I actually  
14 have teachers who are actually resigning right now just  
15 anticipating that there will be RIF letters.

16 Q How many RIF letters do you -- I know you  
17 can't have an exact number yet, but in ballpark how  
18 many RIF letters do you anticipate --

19 MS. HOFF: Objection, that calls for  
20 speculation in that they're just starting to look at  
21 the budget right now and she has no idea how many RIF  
22 letters.

23 MR. LANG: Your Honor --

24 THE COURT: Maybe she does.

25 MR. LANG: Yes, that's what I was going to --

1 THE COURT: Maybe she does.

2 MR. LANG: So let's ask her.

3 THE COURT: He can ask her.

4 THE WITNESS: Based on the number, this number  
5 of 17 to 20 million would be more than 140. It would be  
6 more than 140.

7 BY MR. LANG:

8 Q Let's go back last year, I don't remember how  
9 many you said received RIF letters last year. In other  
10 words, for this year's budget, this year's teaching.

11 How many RIF letters went out at this time of year last  
12 year or perhaps maybe March, whenever they went out.

13 A They actually went out in May. It was 140  
14 Reduction in Force letters.

15 Q 140. Now, you mentioned that you lost less  
16 than 140 teachers?

17 A In the end we lost 78 teachers.

18 Q 78 teachers.

19 A 78 teachers.

20 Q Why did the RIF letters go out last year?

21 A Because we were in the same position, we were -- I  
22 believe we -- I had to -- 14 million, we were done 14  
23 million dollars last year.

24 Q Fourteen million.

25 A We had to cut 14 million dollars from the budget.

1 Q So what happened that you were able to save  
2 some of those teachers? What exactly happened?

3 A In the end we got an 8.5 million dollar loan from  
4 a State aid advance, which is a loan, for the third  
5 year in a row.

6 Q Third year?

7 A Right. The prior year before we got 5.6 million  
8 dollars, I believe loaned and the year before that was  
9 a 4.5 million dollar loan.

10 Q Do you have concerns about losing teachers --

11 MR. INZELBUCH: Wait, she's not done.

12 MR. LANG: Oh, sorry.

13 THE WITNESS: And the township also -- so in  
14 the end the township, we didn't have any sports in the  
15 district as well, so the township actually gave us back  
16 the sports program, so they gave us 1.1 million  
17 dollars.

18 BY MR. LANG:

19 Q Let me clarify that. Are you saying that even  
20 after you got an 8.5 million dollar loan, you still had  
21 to cut the sports program?

22 A Right. The sports program is over a million  
23 dollars, so the township came through and gave the kids  
24 the sports program.

25 Q Okay. So the township came through and gave

1       them money.

2       A     Correct.

3             Q     Is it possible that the township will give  
4       the district money this year?

5       A     No, the township --

6             MS. HOFF: Objection. That calls for  
7       speculation again.

8             THE COURT: It does.

9             MR. LANG: Let me introduce -- let me ask Ms.  
10       Winters if she can identify a particular exhibit.

11            MR. INZELBUCH: Based on your ruling I'm  
12       allowed to talk to him, right?

13            THE COURT: I don't have a problem with that.  
14       BY MR. LANG:

15            Q     Did the township tell you anything about this  
16       year's budget, whether they can give you money or not?

17       A     Actually I had a meeting with the township manager  
18       and he told me that he would not be giving us money  
19       this year. They would not be able to give us money  
20       other than money that they promised through a pilot  
21       program, so they would not be giving us any money, and  
22       he actually followed up with a letter stating that they  
23       could not give us money.

24            Q     Can you identify that letter if I show it to  
25       you?

1 A Yes.

2 Q So I have this marked as Exhibit 10, and I'm  
3 going to --

4 MR. LANG: Could I approach this witness?

5 MR. STARK: For point of clarification, Mr.  
6 Lang, we had -- when we discussed yesterday we had two  
7 separate documents identified as Exhibit 10.

8 MR. LANG: Yes.

9 MR. STARK: Is this the letter of the  
10 township?

11 MR. LANG: This is 10 and the other one will  
12 be 10A.

13 MR. STARK: Okay.

14 MR. LANG: 10-1, I sorry.

15 MR. STARK: Okay.

16 MR. LANG: This is just the letter from the  
17 town manager.

18 MR. STARK: I just wanted to clarify. Thank  
19 you.

20 MR. LANG: May I approach Ms. Winters to ask  
21 her to identify?

22 THE COURT: You may.

23 BY MR. LANG:

24 Q Is this the letter that you are referring to?

25 A Yes.

1 Q What does the first sentence in this letter  
2 say?

3 MS. HOFF: Objection, the document calls for -  
4 speaks for itself and it's also not addressed to Ms.  
5 Winters, there's nothing established that it was sent  
6 to her.

7 THE COURT: Nor is it dated, so maybe we  
8 should lay a foundation about that.

9 MR. LANG: Well, let me ask Ms. Winters how --

10 BY MR. LANG:

11 Q Ms. Winters, was this letter -- how did you  
12 obtain this letter?

13 A Mr. Henshaw emailed it to me.

14 Q Mr. Henshaw, and when did he email it to you?

15 A I don't know the exact date, but I could get it to  
16 you.

17 Q Well, ballpark?

18 THE COURT: Approximately?

19 THE WITNESS: I honestly don't remember the  
20 date. I can't give you a date. I don't remember the  
21 date.

22 BY MR. LANG:

23 Q Okay.

24 A It was after we met.

25 Q Do you know about the time that you met? Was

1 it -- let me rephrase the question.

2 A I don't remember.

3 Q Was it during this school year?

4 A Yes.

5 Q It was during this school year?

6 A Yes, it was during this school year.

7 Q So it's clear that this letter is referring  
8 to the next school year --

9 A Yes.

10 Q -- because it's talking about --

11 MS. HOFF: Objection. The attorney is  
12 testifying.

13 BY MR. LANG:

14 Q All right. So, are you certain that it's  
15 talking about the next school year?

16 THE COURT: What school year do you think it's  
17 talking about?

18 THE WITNESS: He was absolutely talking about  
19 2018/2019 school year.

20 MR. LANG: Okay. All right.

21 THE COURT: So that's what we're talking  
22 about, 2018/2019.

23 THE WITNESS: Yes, he said he could not give  
24 us money in the 2018/2019 school year.

25 MR. LANG: So with that I introduce this into

1 the record as Exhibit 10.

2 THE COURT: It's for identification right now  
3 subject to cross examination.

4 (P-10 was marked for  
5 Identification.)

6 MR. LANG: Okay.

7 THE COURT: You said you received that by  
8 email from him?

9 THE WITNESS: Yes.

10 BY MR. LANG:

11 Q Now, what led you to send -- what led him to  
12 send you that letter?

13 MS. HOFF: Objection, that calls for  
14 speculation.

15 THE COURT: Yes.

16 BY MR. LANG:

17 Q What were the events that you know of that  
18 you were involved in that led to you receiving that  
19 letter?

20 A Can you repeat that?

21 Q Was this letter sent to you randomly?

22 MS. HOFF: Objection, again that calls for  
23 speculation. She does not know the --

24 MR. LANG: Was the -- okay, let me say -- let  
25 me rephrase the question.

1 THE COURT: No, no, you must let her finish  
2 her objection. Please, Mr. Lang.

3 MR. LANG: Okay. Yes.

4 MS. HOFF: The intent behind the letter, the  
5 events surrounding the person who sent the letter, that  
6 calls for speculation and shouldn't be within her  
7 knowledge base.

8 THE COURT: Were you and Mr. Henshaw engaged  
9 in communications concerning the budget?

10 THE WITNESS: Yes. We actually had a meeting.  
11 Mr. Inzelbuch was actually at the meeting with -- it  
12 was a township committee -- another township committee  
13 member, the board president was actually at the  
14 meeting, they stated they could not give us any more  
15 money because they actually had a bad rating because of  
16 the district's -- a bond rating, it had something to do  
17 with the bond's -- the township's bond rating because  
18 they were giving the district too much money. So, he  
19 followed up, he said he couldn't give us any more  
20 money, he was pretty upset about it and he followed up  
21 with a letter, that's my recollection.

22 BY MR. LANG:

23 Q And was that meeting during this school year?

24 A Yes.

25 Q So are you certain that it was concerning any

1 money that -- are you certain that this meeting was  
2 concerning any money for next year's budget?

3 A I have no doubt about it. It was absolutely about  
4 the 2018/2019 school year.

5 Q And are you certain you got this letter --  
6 Mr. Crenshaw --

7 A Henshaw.

8 Q -- I'm sorry, Henshaw emailed this letter  
9 after the meeting?

10 A Yes.

11 Q All right. Now, you mentioned that last year  
12 there was --

13 MS. HOFF: Objection. Can I clarify how this  
14 participant status is working.

15 THE COURT: He certainly can communicate.

16 MS. HOFF: If he can, and that's fine, I just  
17 wanted to clarify for the record.

18 MR. INZELBUCH: I object. It was just  
19 clarified 21 minutes ago. I'm allowed to help him. The  
20 judge already said it.

21 THE COURT: He can help him, but you don't  
22 need to like pop up every second, Mr. Inzelbuch.

23 MR. INZELBUCH: Okay, but the question was  
24 answered already.

25 THE COURT: Okay.

1 MS. HOFF: I meant no disrespect.

2 THE COURT: I understand, Ms. Hoff.

3 MR. INZELBUCH: No, it's called, take

4 advantage.

5 THE COURT: No, it's not, Mr. Inzelbuch.

6 MR. INZELBUCH: Well, that's my opinion.

7 THE COURT: Mr. Inzelbuch, it's not.

8 MR. LANG: All right, let me ask a question.

9 MR. INZELBUCH: Let the record reflect.

10 THE COURT: It's not. I recognize Mr. Lang  
11 explained the other day that this is his first real  
12 involvement.

13 MR. LANG: Yes.

14 THE COURT: So he needs a little -- so we're  
15 trying to --

16 MR. LANG: Your Honor, let me -- I don't know  
17 if I want to say this on the record, but this is the  
18 first time I --

19 THE COURT: You don't have to say it for the  
20 record.

21 MR. LANG: Okay, any way.

22 MR. GROSSMAN: There always has to be a first  
23 time for everybody.

24 THE COURT: There does, absolutely.

25 MR. LANG: But I feel -- I like it, I really

1 like this.

2 BY MR. LANG:

3 Q Who is Mr. Henshaw?

4 A He's the township manager.

5 Q Now, you mentioned -- so just to -- the year  
6 before what was the deficit the year before? So could I  
7 just -- so I could be specific.

8 THE COURT: How about, what was the budget  
9 amount the year before? What was the deficit? How much  
10 of the deficit was covered?

11 BY MR. LANG:

12 Q All right. So this year's budget, this year,  
13 not what you're preparing for specifically --

14 THE COURT: Wait. Say it specifically. School  
15 year '17/'18.

16 BY MR. LANG:

17 Q Okay. School year '17 through '18.

18 A Right.

19 Q What is the budget, what is the operating  
20 budget? How much money is the operating budget?

21 A I believe it's 144 million. I believe.

22 Q Okay. And how much money was borrowed in  
23 order to get to the 143 million -- or 144 million?

24 A We had a state aid advance of 8.5 million.

25 Q Okay. The budget previous year, do you need

1 me to show you the budget document or do you know it  
2 offhand? What was the budget the previous year?

3 A The budget or the state aid?

4 Q I'm sorry, for 2016. What is the operating  
5 budget for 2016 through 2017?

6 A That I don't know.

7 Q Can I give you something to refresh your  
8 memory?

9 A Sure.

10 THE COURT: Are you really not very familiar  
11 with the budget, Ms. Winters?

12 THE WITNESS: No, no.

13 THE COURT: You're not?

14 THE WITNESS: Not in the context that you're  
15 asking.

16 MR. LANG: I have for Exhibit 5 -- I actually  
17 have for Exhibit 4 the budget for 2016/2017, but both  
18 of the budgets will have -- could I refresh your memory  
19 with Exhibit 5?

20 THE WITNESS: Sure.

21 THE COURT: You can show it to her to see if  
22 she -- but she said she's not that familiar with the  
23 budget. I assume she has more input into the  
24 educational part and the money part is taken care of by  
25 the business administrator. Is that right?

1 THE WITNESS: Yes.

2 BY MR. LANG:

3 Q May I give you your report to refresh your  
4 memory?

5 A Yes.

6 THE COURT: Do you need your report to refresh  
7 your memory?

8 THE WITNESS: Yes. Are you asking me about the  
9 deficit?

10 MR. LANG: No, we'll ask the business  
11 administrator these questions.

12 BY MR. LANG:

13 Q Concerning this document that I gave you,  
14 what is this document that I gave you?

15 A This is the document I prepared.

16 THE COURT: Does the document have a number?

17 MR. LANG: Yes, it does. I just didn't put it  
18 on there. If I have my list of exhibits.

19 THE COURT: Okay.

20 MR. LANG: So many things out, maybe this one.

21 THE COURT: Does anybody see it anywhere?

22 MR. LANG: This is --

23 MS. HOFF: Pardon me?

24 THE COURT: Do you see it anywhere, this  
25 exhibit?

1 MR. LANG: Yeah, Exhibit 27, superintendent  
2 report, Exhibit 27.

3 THE COURT: Okay.

4 MS. HOFF: I don't have -- do I have the  
5 updated list?

6 MR. LANG: We have a new updated list here.

7 MS. HOFF: Okay.

8 THE COURT: So P-27. And this is the report  
9 you wrote?

10 THE WITNESS: Yes.

11 THE COURT: And you need it to refresh your  
12 recollection, is that right?

13 THE WITNESS: Yes.

14 THE COURT: Okay. So why don't you take a look  
15 at it and see if it refreshes your recollection about  
16 the -- I guess we're on school year '16/'17 budget.

17 BY MR. LANG:

18 Q Well, we can come back to the budgetary  
19 information with Mr. Finger.

20 A Okay, that's fine.

21 Q We'll move onto something else. All right.  
22 What is the total enrollment for this year, for --  
23 well, I asked that question.

24 THE COURT: Sometimes you can repeat a  
25 question if you're coming back to a new area.

1 MR. LANG: Okay, well, all right, just to get  
2 us back into the groove over here.

3 THE COURT: 6,092, I think.

4 MR. LANG: 6,092.

5 THE COURT: Was that your answer, Ms. Winters?

6 THE WITNESS: Yes.

7 MR. LANG: So, can I refer to a page in this  
8 document, Your Honor?

9 THE COURT: First ask her the question and see  
10 if she knows the answer.

11 BY MR. LANG:

12 Q All right. How many -- let me ask first this  
13 question, what is an LEP student?

14 A Limited English Proficient student.

15 Q What is that more -- can you explain that a  
16 little bit more?

17 A They're not so proficient in the English language,  
18 so in the Lakewood School District that would be a  
19 child who might be a second language learner, who might  
20 -- their first language is Spanish.

21 Q Do these kind of students need extra support?

22 A Yes, usually. They have an ESL teacher. They would  
23 have an ESL teacher come in and support them maybe 40  
24 minutes a day, additional minutes a day in the  
25 elementary schools.

1 Q How many -- in the elementary schools?

2 A Correct, and the middle school. And the high  
3 school --

4 THE COURT: Both elementary and middle?

5 THE WITNESS: Yes.

6 THE COURT: High school?

7 THE WITNESS: In the high school they have a  
8 paraprofessional that gives them support.

9 BY MR. LANG:

10 Q In every single classroom that they go to?

11 Is that in every single classroom that they go to?

12 A No, not in every single classroom. It's only in  
13 specific classrooms. Some English classrooms, but not  
14 in all classrooms. It's dependent on the teacher --

15 Q It depends on?

16 A It depends on what classrooms on the schedule that  
17 they can actually support the teacher in those  
18 classrooms.

19 Q So yes or no, they are not getting -- are  
20 they getting the support, the ESL students, and let me  
21 even say it differently. A student who might not know  
22 English, is he getting a paraprofessional in a high  
23 school in every class that he goes to? In every class,  
24 I'm asking every class.

25 A Every single student in the high school, no.

1 Q Who doesn't know English, are they getting  
2 support in every class that they go to?

3 A No. Depending on their Spanish, no. It depends on  
4 their -- if they just -- if they're port of entry  
5 students, they're in the port of entry class. It  
6 depends on their -- on what they're rated, so the  
7 bilingual supervisor would test them and depending on  
8 how well they speak Spanish they would.

9 Q Okay. How many in this year's, this school  
10 year, 2017/2018, how many ESL students are there in the  
11 district? If I -- if you wish to refresh your memory I  
12 believe you --

13 MR. LANG: Could I direct her to a page, Your  
14 Honor?

15 THE COURT: Yes, you can.

16 BY MR. LANG:

17 Q Page six.

18 A So there is 1,538, that's 25 percent of our  
19 student population.

20 Q 25 percent?

21 A Correct.

22 Q 2016, how many ESL students are there -- were  
23 there?

24 A 1,426.

25 Q 2015 how many -- 2015/2016 how many were

1 there?

2 A 1,630.

3 Q Is that more than 25 percent? How many  
4 students were there in 2015/2016?

5 A There were 6,428. There were more students in the  
6 district.

7 Q So it still is around 25 percent?

8 A Mm-hmm.

9 Q All right, let me move on. All right. Now,  
10 you -- let me ask you something about the number of  
11 students that have free -- let me ask -- How many  
12 students are reported this year for free and reduced  
13 lunch?

14 A So all the students in the Lakewood School  
15 District through a program get 100 percent -- 100  
16 percent of them actually get free and reduced lunch,  
17 but there's about 80 percent actually reported get free  
18 and reduced lunch.

19 Q Now --

20 THE COURT: What does that mean?

21 THE WITNESS: Okay, so we have a program, it's  
22 a CEP program.

23 THE COURT: Which is what?

24 THE WITNESS: Community Eligibility Provision  
25 Program, so they're all eligible for a free and reduced

1 lunch, but they all still have to actually fill out the  
2 paperwork for free and reduced lunch, so it's hard to  
3 actually get the parents to actually fill out the  
4 paperwork, because since they -- they used to -- more  
5 parents, about 90 percent actually filled out the  
6 paperwork, but now that they're actually getting the  
7 free and reduced -- they're actually getting lunch and  
8 breakfast free, it's harder to actually get the parents  
9 to actually fill out the paperwork and return the  
10 paperwork, because they're getting the breakfast and  
11 lunch anyway through the program.

12 THE COURT: So all the students get a free  
13 lunch?

14 THE WITNESS: Yes, free lunch and breakfast.

15 THE COURT: And breakfast.

16 THE WITNESS: Right.

17 THE COURT: Everybody?

18 THE WITNESS: Everybody.

19 BY MR. LANG:

20 Q Is this an incentive for parents who really  
21 are below the -- well, let me ask you, what determines  
22 who gets free and reduced lunch?

23 A There's --

24 Q Is it income?

25 A Income.

1 Q And so if they're below a certain threshold  
2 of income they get free and reduced lunch, is that what  
3 you're saying?

4 A Correct.

5 THE COURT: But you have to report to the  
6 state how many parents actually asked for it?

7 THE WITNESS: Yes, we still have to report it  
8 to the state.

9 THE COURT: And that's about 80 percent  
10 actually fill out the forms?

11 THE WITNESS: Okay.

12 THE COURT: Okay.

13 BY MR. LANG:

14 Q So do I understand you correctly that every  
15 single student in the school whether or not -- every  
16 single student in the school get free and reduced --  
17 free lunch?

18 THE COURT: I just asked that and she said  
19 yes.

20 THE WITNESS: Yes. 80 percent qualify because  
21 they return the forms. Usually it's 90 percent, it's  
22 over 90 percent that qualify.

23 BY MR. LANG:

24 Q So how long has this program been going on,  
25 this community --

1 A The community eligibility.

2 Q Yeah.

3 A Probably about three years.

4 Q Three years. Before three years what were the  
5 numbers before this program went on, how many students  
6 were considered -- what was the number of free and  
7 reduced students, lunch students in the district?

8 A About 91 percent.

9 Q 91 percent.

10 A 91 percent because once they -- if they didn't  
11 return the forms they would not get the lunch and  
12 breakfast, so the parents were more apt to fill out the  
13 forms.

14 Q So is the community eligibility program that  
15 is allowing everyone to get a free lunch, a  
16 disincentive, has it shown to be a disincentive for  
17 students who otherwise would have filled out the form  
18 in order to get that free lunch?

19 A Well, it might be a disincentive for parents to  
20 fill out the form, but everyone is getting free and  
21 reduced lunch.

22 Q Okay.

23 THE COURT: Who is paying for this program?

24 THE WITNESS: The Department of Agriculture.  
25 It's a program it goes through.

1 BY MR. LANG:

2 Q Federal?

3 A Yes.

4 Q So before this program, let me just ask you  
5 again --

6 THE COURT: I think we got it. I think we got  
7 it. We got it.

8 MR. LANG: All right.

9 THE COURT: Before everybody got free lunch,  
10 90 percent, 91 percent reported, once they had  
11 everybody's getting it, some parents said, oh, I don't  
12 have to fill out the form. I got it.

13 BY MR. LANG:

14 Q So the more accurate in your -- what would be  
15 the most accurate -- what would be the actual number,  
16 the most accurate number? How many students are below  
17 this poverty level that qualifies?

18 A We believe it's closer to the 91 percent, but we  
19 can only go by who returns the form, so the 80 percent.

20 Q Now, on page 7 just to refresh your memory  
21 you have something down there that says "tuition" and  
22 it says "32 million." What is that, what does that mean  
23 "tuition"?

24 A That's how much the district pays for the out of  
25 district tuition cost, for the students who are out of

1 district.

2 Q Is this for non-public students or public  
3 students?

4 A We only pay for public school students. You have  
5 to be a public school student.

6 Q You only pay for public school students?

7 A Correct.

8 MR. GROSSMAN: Give her a chance to answer.

9 THE COURT: Yes, let her answer the question.

10 MR. LANG: I'm sorry.

11 THE COURT: So how much is the amount?

12 MR. LANG: So repeat your answer.

13 THE WITNESS: 32 million.

14 THE COURT: 32 million and that's for school  
15 year -- school year?

16 THE WITNESS: 2016/2017.

17 THE COURT: '16/'17.

18 THE WITNESS: Correct.

19 THE COURT: That's for tuition in private  
20 schools?

21 THE WITNESS: Out of districts.

22 THE COURT: Out of districts. Okay.

23 THE WITNESS: They're all public school  
24 students.

25 BY MR. LANG:

1 Q So this 2016/2017 cost, what exactly is the  
2 cost?

3 A \$32,766,776.

4 Q Does a dime of that money -- is it spent on  
5 non-public students?

6 A No, you have to be a registered public school  
7 student.

8 Q Is this -- okay, now, let me ask you  
9 something else. Is there any stream of funding for non-  
10 public students coming into the district?

11 A Only through federal and state grants.

12 Q Are you familiar with -- do you see -- okay,  
13 let me go back to this \$32,766,776.

14 THE COURT: You could round it off, just call  
15 it 32 million.

16 BY MR. LANG:

17 Q Do you see this number going up or down? In  
18 other words, more money or less money as the years  
19 progress?

20 A The number would only go up.

21 Q Do you know the number that's projected for  
22 next year?

23 A No.

24 Q Do you know the number that's projected for  
25 next year for tuition?

1 A I believe 36 to 38 million, I believe.

2 Q Okay. Well, Mr. Finger will probably clarify  
3 that number.

4 A Right, yes.

5 Q Now, let me ask you, is this number, is this  
6 number -- okay, all right. Well, one second. One  
7 second.

8 THE COURT: How many students does this cover,  
9 this 32 million, do you know?

10 MR. LANG: Pardon, what was the question?

11 THE COURT: How many students does this cover,  
12 the 32 million, these are public school students. How  
13 many does it cover?

14 MR. LANG: There are 400 students that are out  
15 of district.

16 BY MR. LANG:

17 Q And that's what this tuition is for, 400  
18 public school students?

19 A 400 public school students who are out of  
20 district.

21 Q Now, there is something --

22 MR. INZELBUCH: The Judge was asking a  
23 question.

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

25 THE WITNESS: 400 students were out of

1 district.

2 THE COURT: So out of your 6,092 is it really  
3 the minus 400?

4 THE WITNESS: Right, the --

5 THE COURT: Or plus 400 as the students are  
6 actually going to school in the public schools in  
7 Lakewood?

8 THE WITNESS: So, 6,000 that includes --  
9 that's plus the -- 6,092 are students sitting in the  
10 district and then there's 400 that are out of district.

11 THE COURT: So it's really 6,492 total  
12 students --

13 THE WITNESS: Right.

14 THE COURT: -- enrolled.

15 THE WITNESS: Right.

16 THE COURT: Okay.

17 BY MR. LANG:

18 Q Okay. Now, let me ask this question. Just  
19 getting back to the non-public funding, because -- I'm  
20 not going to tell you why, but are you familiar with  
21 Section 192, Section 193?

22 A Yes.

23 Q Is any of that money, that Section 192 and  
24 193 money coming from the state used for this tuition  
25 over here?

1 A No.

2 Q Why?

3 A Because it's federal and state grants, it has  
4 nothing to do with general --

5 Q For whom, 192 and 193, who is it for?

6 A The 192 and 193 grants are used for non-public  
7 school students.

8 Q And this tuition is for?

9 A Registered public school students.

10 Q Public school students.

11 A Public school students.

12 Q So there's no relation between the streaming,  
13 the funding for 192, 193 or for auxiliary services for  
14 non-public students. Is there any relation between the  
15 streaming of funding for 192 and 193 and auxiliary non-  
16 public services, is there any relation between that  
17 funding stream and this tuition expense?

18 A No, they have nothing to do with each other. They  
19 can't even touch -- no, they have nothing to do with  
20 each other.

21 Q All right, so now that we're clear about  
22 that. This in the district of 6,000 kids, is this a  
23 norm -- is this a high number, this 32 million -- well,  
24 actually 33, it rounds off to 33, 32.7.8 --

25 MS. HOFF: Objection. She's not -- she hasn't

1       been shown to know all of the other districts in the  
2       state what their numbers are.

3               MR. LANG: Let me rephrase it then.

4       BY MR. LANG:

5               Q       Does this expense, does this expense cause  
6       difficulty in meeting the needs of the students who are  
7       in district because of the money involved that has to  
8       be diverted to this tuition?

9               MS. HOFF: Objection. Again, the attorney is  
10       testifying as to what's going on with the financial  
11       status.

12              THE COURT: He is. Sustained.

13       BY MR. LANG:

14              Q       Is there adequate space in district for these  
15       children, these 400 children, is there adequate space  
16       in district for them to be -- to receive their free and  
17       appropriate public education?

18       A       No, there absolutely is not. There is no room in  
19       any buildings for 400 students to be educated in the  
20       public schools, absolutely not.

21              Q       No room?

22       A       No.

23              Q       What determines who goes out of district?

24       A       The child study team evaluates the students and  
25       they make a decision, a determination on what the best

1 educational placement for the child is.

2 Q Do you or any board member, or anyone outside  
3 of the child study team have any influence in that  
4 determination?

5 A Absolutely not. I've never heard any board member  
6 discuss a child. I've never discussed a placement with  
7 a child -- with a child study team member ever, nor  
8 have I ever heard anybody discuss.

9 Q Now, if the child study team determines --  
10 has it ever happened that the child study team  
11 determined that a student should not go out of  
12 district? Well, what is the recourse of a parent if  
13 they disagree with the child study team? Does the  
14 parent have recourse if they disagree with the  
15 determination of the child study team?

16 THE COURT: I think you just -- Mr. Lang, you  
17 just asked like four questions.

18 MR. LANG: Yeah, I meant to rephrase it.

19 MR. STARK: Thank you, Your Honor.

20 THE COURT: Okay. She gets one question at a  
21 time.

22 BY MR. LANG:

23 Q All right, the final, the last thing was the  
24 question. Does a parent have recourse if they disagree  
25 with the determination of a child study team?

1 A Sure, I think they can come here. They can come  
2 here.

3 MR. INZELBUCH: I love it.

4 BY MR. LANG:

5 Q Does that happen often?

6 A It's happened, yes.

7 Q Do you -- I don't know if you know this  
8 number, but it does -- how often?

9 A I don't know.

10 THE COURT: Often enough.

11 MR. LANG: Hmm?

12 THE COURT: Often enough.

13 MR. LANG: Often enough.

14 THE WITNESS: It's happened.

15 THE COURT: I think everybody here knows that  
16 we handle special ed cases from Lakewood.

17 BY MR. LANG:

18 Q So therefore when these students are sent out  
19 of district, it's either through the child study team  
20 --

21 A Correct.

22 Q -- or it's through this office, the  
23 Administrative Law that makes that determination?

24 A Correct.

25 MS. HOFF: Objection. That calls for --

1 MR. LANG: I'm asking the question. I meant --  
2 I'm asking, is it either of those two?

3 THE COURT: Won't you stipulate to that?

4 THE WITNESS: Correct.

5 MR. INZELBUCH: I think we -- sorry.

6 THE COURT: Would you stipulate to that?

7 MS. HOFF: I'm trying to listen to what the  
8 question was, but I just thought -- procedurally  
9 leading.

10 MR. LANG: Okay, so let me rephrase the  
11 question.

12 THE COURT: Would you just stipulate that out  
13 of district placements are because the child study team  
14 has decided it or because it's been ordered by the OAL  
15 and the Commissioner?

16 MS. HOFF: The child study team and the  
17 parent.

18 MR. LANG: The parent.

19 THE COURT: The parent is part of the child  
20 study team.

21 MS. HOFF: Right.

22 MR. STARK: We would stipulate that there is a  
23 process by which students who are so classified --

24 MS. HOFF: Can come here.

25 MR. STARK: -- can either be placed out of

1 district or have due process rights to pursue a  
2 placement that is in line with the parent.

3 BY MR. LANG:

4 Q Okay, so let's just clarify that the children  
5 -- is there any other way that a child gets sent out of  
6 district other than the determination of a child study  
7 team or the Office of Administrative Law, or Superior  
8 Court for that matter?

9 A Not that I know of.

10 THE COURT: Well, a parent can place their  
11 child out of district if they want.

12 THE WITNESS: Right.

13 THE COURT: And diss-enroll them from the  
14 school. Okay.

15 BY MR. LANG:

16 Q As we sit here right now is there any room  
17 for any preschool special education students in  
18 district?

19 A No.

20 Q What do you mean?

21 A We just -- we're running -- we have maybe two  
22 spots left in the last class.

23 Q Two spots left. And how many students -- now,  
24 who is eligible for preschool, what age?

25 A Three and four year olds.

1 Q Are they eligible before they turn three? In  
2 other words before they -- does it mean three --

3 A By their third birthday.

4 Q That you're going to turn three at the  
5 beginning of the year or the day they turn three?

6 A By their third birthday.

7 Q On their third birthday then they become  
8 eligible?

9 A Correct.

10 Q Like if they're two years and 364 days,  
11 they're not eligible? They're not eligible, is that  
12 what you're saying?

13 A Well, they have to be classified by their third  
14 birthday.

15 Q How many -- so how many students are applying  
16 each week for this program, for the preschool program?

17 A Well it varies.

18 Q An average?

19 A It's -- I don't know by the week, but I know we  
20 have between 500 and 600 preschool evaluations for the  
21 last couple of years. So I don't know by week. That's  
22 how many we conduct.

23 Q These are preschool evaluations. Are these  
24 special education students?

25 A Yes.

1 Q 500, what was the number you said?

2 A Between 500 and 600 preschool evaluations --

3 Q 500 to 600 --

4 THE COURT: Let her finish her answer.

5 MR. INZELBUCH: Let her answer.

6 THE COURT: Please, Mr. Lang.

7 MR. LANG: I'm sorry. I'm sorry.

8 THE WITNESS: So the district conducts between  
9 500 and 600 preschool evaluations each year.

10 BY MR. LANG:

11 Q 500 and 600 each year for preschool.

12 A Preschool evaluations. That's how many we conduct.

13 Q How many students total are there in  
14 kindergarten in Lakewood Public Schools?

15 A That doesn't mean they all get classified. That's  
16 how many that we do.

17 Q Okay. How many students are total in the  
18 kindergarten in Lakewood Public Schools?

19 A About 550.

20 Q 550, so that means every single student who  
21 ends up in kindergarten it's like a ritual or something  
22 that they go --

23 MS. HOFF: Objection.

24 MR. LANG: Okay, let me ask a question -- let  
25 me rephrase the question.

1 MR. INZELBUCH: Mr. Finger, you'll have to  
2 wait outside because there's a sequestration, but thank  
3 you for coming via court order.

4 BY MR. LANG:

5 Q Is everyone -- how many -- how many K through  
6 12 students are there total in Lakewood that reside in  
7 Lakewood? How many students are there, including non-  
8 public, public, how many students, how many kids who  
9 are the age from K to 12 in Lakewood?

10 A 6,092.

11 Q No, I mean total public and non-public.

12 A I think you may have misunderstood me.

13 Q How many students that are that age. Okay.  
14 How many students are in non-public schools K through  
15 12?

16 A Approximately 30,000.

17 Q 30,000.

18 A Correct.

19 Q Does that make a total of 37,000?

20 A About 36 to 37,000.

21 Q Are some of the children who might end up in  
22 non-public schools applying to the preschool program?

23 MS. HOFF: Objection. She -- that would call  
24 for speculation as to the parents' wishes.

25 MR. LANG: Your Honor, I'm trying to

1 understand how you have 500 children who are applying  
2 to a program saying they have special needs while the  
3 kindergarten class is only 500. It sounds like every  
4 single kid who's going into kindergarten is applying to  
5 this program.

6 MR. INZELBUCH: It's preschool she was talking  
7 about.

8 THE COURT: Yeah.

9 THE WITNESS: Preschool.

10 THE COURT: It was preschool.

11 MR. INZELBUCH: It was preschool. One minute,  
12 please.

13 BY MR. LANG:

14 Q So, all right, so when does children who are  
15 applying to this program, if there's no room, where do  
16 these kids go? They just say -- you just say goodbye  
17 or is something done with these children who are  
18 eligible?

19 A So, some of the children go to the LECC, some of  
20 --

21 THE COURT: Which is what?

22 THE WITNESS: Which is the Lakewood Early  
23 Childhood Center. Some of the children go to the Stars  
24 Program and PSSP Program. Some children reject the  
25 placement and go to non-public schools. There's a

1 variety where they go.

2 BY MR. LANG:

3 Q So let me just go on that one there. Some  
4 children reject the placement and go to non-public  
5 schools?

6 A Correct.

7 Q Okay. That's what I meant by asking before.  
8 Okay. All right. But the children who are -- are these  
9 schools that are maintained by the district, that you  
10 mentioned the Stars School and these other schools, are  
11 those district schools?

12 A Yes, it goes through --

13 MR. INZELBUCH: The Stars School?

14 MR. LANG: I'm asking, well, she mentioned a  
15 whole bunch of schools.

16 BY MR. LANG:

17 Q Could you repeat the schools that they might  
18 be sent to?

19 A The district runs the Stars Program through IDEA,  
20 with IDEA funds.

21 Q Okay. What is that?

22 A That's run through the grant, it's run through the  
23 IDEA grant.

24 Q Is that federal?

25 A Yes.

1 Q So every single student has to be placed  
2 somewhere if they are eligible?

3 MS. HOFF: Objection.

4 BY MR. LANG:

5 Q Does every single student -- do some students  
6 just say sorry, we have no room?

7 A No, they can reject the IEP.

8 THE COURT: Well, preschool students don't  
9 have IEPs, do they?

10 THE WITNESS: Well, yes, they have an IEP if  
11 they go to public school.

12 THE COURT: They have an education learning  
13 plan?

14 THE WITNESS: Yes, right.

15 BY MR. LANG:

16 Q And if a public student as of today --

17 MR. STARK: Before we move onto the next  
18 question, the Court asked the witness a question. I did  
19 not hear the answer to --

20 MR. LANG: I'm sorry.

21 MR. STARK: -- the witness's answer to that  
22 question.

23 THE COURT: Okay.

24 MR. STARK: So could you just repeat that,  
25 please?

1 THE COURT: I asked -- I said that IEPs really  
2 are for children who are in the school. When they're  
3 doing the preschool, it's not really called an IEP,  
4 it's an educational plan or something of that nature.

5 MR. INZELBUCH: I'm just going to respond to  
6 the court. Actually every student has an IEP if they're  
7 a public student. If the child opts to go non-public,  
8 you're right, it becomes a service plan.

9 THE COURT: And that's what the preschool  
10 student have are service plans. Not formal IEPs.

11 MR. INZELBUCH: I'm not arguing with the  
12 court, but as you've seen many times with me, all  
13 preschool children have IEPs if they are public school  
14 children.

15 THE COURT: I haven't seen that, Mr.  
16 Inzelbuch.

17 MR. INZELBUCH: The state, I'm sure if they  
18 would want to help us here could stipulate whether  
19 you're preschool or not you need to have an IEP if  
20 you're --

21 THE COURT: You need to have a plan in effect  
22 as to where you're going to go to school.

23 MR. INZELBUCH: If you're a public student.

24 THE COURT: If you're enrolled in the public  
25 school system.

1 MR. INZELBUCH: Right.

2 THE COURT: And there's things like Child Fund  
3 that you have an obligation, you have to go out and  
4 find these students who might qualify.

5 MR. INZELBUCH: Ms. Winters was saying earlier  
6 there's about 500 students who they find and then they  
7 have to evaluate.

8 THE COURT: But it doesn't mean they're all  
9 going to be in the public school.

10 MR. INZELBUCH: It doesn't mean they're going  
11 to even be found eligible.

12 MR. STARK: Your Honor, who's testifying?

13 MR. INZELBUCH: The court and I are actually  
14 clarifying. It's very clear.

15 THE COURT: No, no. I wanted to make sure that  
16 --

17 MR. INZELBUCH: Don't show disrespect to me or  
18 the court.

19 THE COURT: I just wanted to make sure the  
20 record is clear.

21 MR. INZELBUCH: Don't. The court was asking me  
22 questions, sir.

23 MR. STARK: Mr. Inzelbuch.

24 THE COURT: Mr. Inzelbuch.

25 MR. INZELBUCH: I have watched you take

1 advantage of Mr. Lang. This whole trial is one big  
2 advantage of Mr. Lang. Five of you with a guy who's  
3 trying.

4 THE COURT: Mr. Inzelbuch, if you can't  
5 control yourself I'm going to ask you to be excused.

6 MR. INZELBUCH: Then my witnesses will be  
7 leaving with me, but I will try. Well, they're not my  
8 witnesses.

9 THE COURT: They're not your witnesses and  
10 they're here, so you can either control yourself,  
11 because Mr. Stark did absolutely nothing improper.

12 MR. INZELBUCH: Well, next time you ask me a  
13 question I'll ask Mr. Stark if I have permission to  
14 answer you, I guess.

15 THE COURT: Mr. Inzelbuch, please. Mr. Stark  
16 was not being disrespectful.

17 MR. INZELBUCH: If I'm going to answer a  
18 question of yours I'll get his permission from now on.

19 THE COURT: Now you're being disrespectful, so  
20 please, just, you know, calm down. This is hard enough.  
21 Okay. So I'm not so sure what it is that we're trying  
22 to elicit from this witness actually.

23 MR. LANG: We're trying to elicit that the  
24 district is overwhelmed with kids entering into its  
25 programs.

1 THE COURT: Well, how about how many students  
2 are in the district? How many students are special ed?  
3 What kind of facilities do you have? What plans are  
4 being made --

5 MR. LANG: How many --

6 MR. INZELBUCH: Let her finish.

7 THE COURT: -- what kind of programs do you  
8 have? What kind of programs did you have to cut? What  
9 do you anticipate to be the greatest need going  
10 forward. Very straight forward. This witness is a fact  
11 witness. She's telling you what the situation is in  
12 Lakewood.

13 MR. LANG: Okay.

14 THE COURT: Asking her how many preschool  
15 evaluations are conducted is not conducive to getting  
16 to that bottom line that you're looking for.

17 MR. LANG: Okay.

18 THE COURT: Which is what of the state of the  
19 Lakewood Public School System.

20 BY MR. LANG:

21 Q How many out of the -- what is the state of  
22 the district right now, Lakewood Public Schools?

23 THE COURT: Step by step, please.

24 THE WITNESS: Okay. So right now, if you were  
25 to evaluate several preschool students --

1 THE COURT: No, no, no, we're talking  
2 globally.

3 MR. INZELBUCH: Every area.

4 MR. LANG: The whole district, like all the  
5 way up to 12th grade.

6 THE COURT: What is the state of the Lakewood  
7 School system?

8 THE WITNESS: Okay. So right now we don't have  
9 any room for -- I think you were meaning special ed  
10 students, correct?

11 MR. LANG: Yes.

12 THE COURT: No, no. No.

13 MR. LANG: The whole district.

14 THE COURT: We're talking about the whole  
15 district.

16 MR. INZELBUCH: The judge wants the whole  
17 district.

18 MR. LANG: The whole district.

19 THE COURT: That's what this witness is here  
20 for to tell us about the state of the Lakewood Public  
21 School system.

22 MR. INZELBUCH: Everything.

23 THE COURT: That's what the state needs to  
24 know. That's what the record needs to know.

25 MR. LANG: Okay. So what is the state --

1 THE COURT: So let's start out -- do I have to  
2 say it again. How many students, how many buildings,  
3 what is --

4 MR. LANG: Okay. Let me ask --

5 THE COURT: Mr. Lang --

6 MR. INZELBUCH: Let her finish, she is the  
7 judge.

8 THE COURT: -- what is the class size, what  
9 are the programs in kindergarten, what are the programs  
10 in elementary school, what are the programs in middle  
11 school, high school, what did they have to cut out,  
12 what would they like to add, what is the funding  
13 differential, what efforts have they made, have they  
14 tried to find other funding. Now you can ask the  
15 question.

16 BY MR. LANG:

17 Q What is the state of the public schools, the  
18 condition, the state, I don't mean state like State of  
19 New Jersey. Condition. What is the state of the public  
20 schools in Lakewood?

21 A Okay. So I will tell you the biggest challenge we  
22 have right now is the teachers -- I can't get the  
23 teachers to -- I can't hire teachers, I'm having  
24 teachers already resigning, that is my biggest  
25 challenge, because they're expecting this big RIF. They

1 are probably one of the lowest teachers paid in the  
2 county from the research that we've been done. The  
3 moral is extremely low at this point. There is -- the  
4 union is already gathering everyone up in preparation  
5 of a bigger RIF than last year. The kids are worried  
6 about not having sports for next year and thinking  
7 about should they be going to other school districts,  
8 thinking that they are not good enough to have sports  
9 or programs. Teachers, we have so much turnover that we  
10 have teachers who are for professional development, we  
11 are constantly putting all this money for professional  
12 development, that I've actually had superintendents  
13 stand up and thank me in a public meeting to say  
14 whatever you're doing in Lakewood keep doing, keep  
15 training the teachers, because they're actually taking  
16 our teachers. So last year we spent, I guess between  
17 public and non-public, it's PD 2.7 million in PD, 2.4  
18 million the year before.

19 Q What's "PD?"

20 A Professional development. So we're training them  
21 and in return for -- and we're losing our non-tenured  
22 teachers, not the tenured teachers that we're losing.  
23 We're losing non-tenured -- we're losing our tenured  
24 teachers to other districts.

25 Q Tenured teachers?

1 A What's that?

2 Q Tenured teachers.

3 A So we're losing our tenured teachers to other  
4 districts, and in return we're getting -- this past  
5 year we got 53 first year teachers, 48 second year  
6 teachers, and 36 third year teachers. So we're  
7 constantly in a state of just retraining teachers.  
8 We're always in that first year state of just  
9 retraining, retraining, retraining. So, if the teacher  
10 is the one who makes the biggest impact in the  
11 classroom, we're always never going to be in that place  
12 making the biggest impact with our kids. Our kids are  
13 always never getting the high impact teacher, because  
14 they're always getting that first year teacher year  
15 after year, so that is our biggest challenge. When are  
16 our kids going to get the high quality teacher, the  
17 highly effective teacher that they deserve. So, that's  
18 basically where we are in the district.

19 Q Now, what about test scores, have there been  
20 any improvements in the test scores?

21 A Well, we're slow and steady we're making progress,  
22 but we're not making the progress that we want to see  
23 in the district. We're still well below where we should  
24 be. I mean our highest is probably maybe 27 percent.

25 Q Twenty-seven percent, what, meeting

1 expectations?

2 A Meeting expectations.

3 Q That means 70 -- you said 27, does that mean  
4 73 percent are failing the test?

5 A Correct. Well --

6 MS. HOFF: Objection. That's a  
7 characterization by the attorney.

8 THE COURT: Yes.

9 BY MR. LANG:

10 Q What does that mean 27 percent? What does  
11 that mean?

12 A That means that 27 percent of our students maybe  
13 in language arts are meeting expectations, so all the  
14 other kids -- so there might be a percentage, 24  
15 percent are approaching, 25 percent are partially  
16 meeting, so it's broken down by how many -- the  
17 percentage of the students are not yet meeting  
18 expectations. 25 percent are partially meeting  
19 expectations. 24 percent are approaching.

20 Q Which one of those means passing the test?

21 A Well level 4 is meeting expectations. Then level  
22 five would be exceeding expectations. Very few of our  
23 kids are exceeding expectations.

24 Q So 4 and 5 mean -- does 4 and 5 mean passing  
25 the test?

1 A By state standards, You want to see them at level  
2 4 or level 5.

3 Q Okay. So we're --

4 MR. STARK: Your Honor, can we just make a  
5 very brief objection to the question of whether or not  
6 the witness is testifying from her memory, or whether  
7 or not she's testifying from the packet of information  
8 that is before her.

9 THE WITNESS: From the packet of information.

10 MR. STARK: I just want to clarify for the  
11 record.

12 THE COURT: Okay. So you're really supposed to  
13 know it off your mind, you know, from your head.

14 THE WITNESS: That's a lot of grade levels.

15 THE COURT: Then if it's not, then you can  
16 look at your report to refresh your recollection.

17 THE WITNESS: Okay. I apologize.

18 THE COURT: That's okay. It's not a problem.

19 THE WITNESS: But there's a lot of grade  
20 levels and information to know from.

21 MR. STARK: Thank you, Your Honor.

22 THE COURT: Thank you, Mr. Stark.

23 BY MR. LANG:

24 Q How would you characterize even our highest  
25 improvements, our best improvements, the scores that

1 have been improved to the credit, I guess the teachers  
2 who are staying in the district.

3 A Well teachers are --

4 MS. HOFF: Objection.

5 MR. LANG: I'm sorry, I'm sorry. I'll rephrase  
6 it.

7 MS. HOFF: Mr. Lang is testifying again.

8 THE COURT: Yes. Just questions.

9 BY MR. LANG:

10 Q How would you compare the best of those  
11 scores with the same state -- the same test against the  
12 rest of the state? About half --

13 THE COURT: No, no, no, no, she answers the  
14 question.

15 MR. LANG: I'm sorry. All right.

16 BY MR. LANG:

17 Q How would they compare? Are they below the  
18 state average?

19 A Well, they're definitely below the state average.  
20 They're below the state average, but the teachers are  
21 working hard, the students are working hard. Everybody  
22 is working hard, but we're working against a system  
23 that's working against the district.

24 Q What do you mean? What do you mean, "the  
25 system is working against the district?"

1           A     Because no matter how hard the teachers and the  
2           students are working, we're working against ourselves.  
3           We can't -- you can't keep -- we're fighting ourselves  
4           because we keep getting loans, and then we have a RIF  
5           every year, and then we're back to the same starting  
6           point, the teachers, we can't keep getting teachers,  
7           and giving out RIFs ever year and going back to the  
8           same, back battling ourselves with starting over with  
9           new teachers. The kids are crying at the end of the  
10          year that they're losing their teacher again and you're  
11          talking about kids who are unstable, they don't have  
12          stable lives at home, so now they're going back to a  
13          school system that's not stable at school either, so  
14          yeah, you're hitting the same kid twice at home and in  
15          school, so it's not fair to the kids or the teacher.  
16          Everybody is looking for stability.

17                Q     Ms. Winters, is there any new track in any of  
18          the gyms?

19          A     No, we don't have a track.

20                Q     Is there a track in the gym, in the high  
21          school?

22          A     Yes, we have a track in the high school in the  
23          upstairs, it's a beautiful gym, but it's been there  
24          forever, as long as I know.

25                Q     Was it there when you entered the district?

1 What year did you enter the district?

2 A I entered the district in 2001, but I also grew up  
3 in Lakewood, and it's been there for as long as I  
4 remember in Lakewood. I've been there -- I don't want  
5 to tell my age, but I've been there a while.

6 Q Did Lakewood High School --

7 A Yes.

8 Q -- did Lakewood High School, you said you  
9 were in Lakewood for a long time, so I could ask you  
10 this question.

11 A Yes.

12 Q Did it used to have a wood shop, metal shop,  
13 did it used to have industrial arts?

14 A Yes, it did.

15 Q Does it have industrial arts now?

16 A It does not, but I don't know what happened to it  
17 honestly. I would love to answer that question, but I  
18 wasn't here.

19 Q But it's not -- I'm not asking what happened,  
20 why it's not here, but it's not here anymore?

21 A No, it is not.

22 Q Do you remember what it used to have, what  
23 kind of shops did it used to have?

24 A I know there was a wood shop, but other than that  
25 I don't know.

1 Q Was there an auto shop?

2 A There was an auto shop. I don't know what happened  
3 to it. I wasn't here.

4 Q It closed down though? I mean you do --

5 MS. HOFF: Objection.

6 THE COURT: No, no, Mr. Lang, you can't tell  
7 her what happened. She said she doesn't know what  
8 happened.

9 BY MR. LANG:

10 Q But when you say you don't know what happened  
11 to it, you mean you don't know why it's not there, but  
12 it's not there.

13 A I don't know why it's there, but it's been -- it  
14 hasn't been there for a long time. I don't know why.

15 Q It's not there?

16 THE COURT: How many years would you say it's  
17 not there? Since you were a teacher?

18 THE WITNESS: I don't remember. I honestly --

19 THE COURT: Years?

20 THE WITNESS: It's hasn't been there a long  
21 time. Years.

22 THE COURT: Okay.

23 MR. LANG: Okay.

24 THE WITNESS: And I don't know why.

25 BY MR. LANG:

1 Q Okay. That's all. I just wanted to clarify if  
2 it's still there.

3 A No. I think it's where my office was.

4 MR. LANG: All right. That's all.

5 THE COURT: All right. Thank you. Do you have  
6 any questions?

7 MS. HOFF: Sure. I do actually.

8 MR. STARK: As a point of housekeeping do we  
9 want to --

10 THE COURT: No.

11 MS. HOFF: As a point of procedure though, may  
12 I have two minutes to go to the bathroom?

13 THE COURT: See, that's what I just said was  
14 no, I just wanted to keep going.

15 MS. HOFF: Okay, then I will try to hold it.

16 THE COURT: But if you need to, go.

17 MS. HOFF: No, no, I will try to hold it.

18 THE COURT: I think you're going to be brief,  
19 right?

20 MS. HOFF: I don't know that I'm going to be  
21 brief, but I will try my best. It's not a very  
22 complicated cross.

23 THE COURT: Okay.

24 CROSS EXAMINATION BY MS. HOFF:

25 Q Just clarification. You're here because you

1 were subpoenaed by petitioners and here on this date  
2 pursuant to court order, that's correct?

3 A Correct.

4 Q Okay. So Lakewood is not a party to this case  
5 to the best of your understanding, correct?

6 A Correct.

7 Q Okay. And the report that you're looking at,  
8 or the stack of papers that you're looking at, you  
9 created this alone or with assistance from somebody  
10 else?

11 A I had assistance -- well, I had gotten feed --  
12 assistance from -- well, feedback from the state  
13 monitors.

14 Q Okay. But your board counsel did not assist  
15 you in creating this?

16 A No.

17 Q And Mr. Lang did not provide you any  
18 information to create this?

19 A No.

20 Q And did the school board review the report?

21 A No.

22 Q So the report is not a board approved report  
23 or anything?

24 A No, no.

25 Q Okay. Just checking it out.

1 A No.

2 Q In going through some of these pages of the  
3 reports, you didn't discuss everything here --

4 MR. LANG: Your Honor, I object because I  
5 thought we weren't entering this report?

6 MS. HOFF: That's fine. If you're not entering  
7 the report then --

8 THE COURT: You're not.

9 MR. LANG: Well, are we or not?

10 THE COURT: No.

11 MS. HOFF: I'd like to object if we are.

12 THE COURT: No, there's no reason to enter  
13 this report.

14 MS. HOFF: No.

15 THE COURT: She's testified. It's like a  
16 police report, the officer testifies, the report  
17 doesn't go into evidence unless everybody agrees.

18 MR. LANG: Okay.

19 MS. HOFF: All right.

20 THE COURT: She's testified. You don't need a  
21 report.

22 MR. INZELBUCH: She's allowed to ask her  
23 questions.

24 BY MS. HOFF:

25 Q So you testified that 100 percent of students

1 are receiving free and reduced lunch, correct?

2 A That's correct.

3 Q And that is funded through a program with the  
4 Department of Agriculture, is that correct?

5 A Yes, the CEP program.

6 Q And that you're estimating that the tuition  
7 for your out of district placed students will be going  
8 up, is that correct?

9 A That's correct.

10 Q And by out of district placed students, you  
11 mean students that are placed as part of the study  
12 team, child study team, correct?

13 A Child study team.

14 Q And parents are involved in placement  
15 decisions as well, is that correct?

16 A Absolutely.

17 Q Okay. And you say that approximately 400  
18 students are considered out of district placements?

19 A Yes.

20 Q Okay. And they're counted toward your public  
21 school enrollment obviously?

22 A Right.

23 Q So the formula does account for them in some  
24 regard because they are publically enrolled students,  
25 is that correct, the funding formula?

1 A Right.

2 Q Okay. Now, in regards to Exhibit No. 10,  
3 which was --

4 MR. INZELBUCH: Do you still have that?

5 THE COURT: The letter.

6 THE WITNESS: No. Thank you.

7 BY MS. HOFF:

8 Q This letter basically, the letter from Mr.  
9 Henshaw to -- that you state you received stating that  
10 they would not be providing any additional funds, is  
11 that correct?

12 A Yes.

13 Q Okay. And that they're trying to maintain a  
14 safe environment, it says "with regard to sidewalk  
15 construction." Yes?

16 A Yes.

17 Q "Repaving of roads." Correct?

18 A Yes.

19 Q Okay. And if I were to tell you that the  
20 Department of Community Affairs and the township report  
21 that they have a 30 million dollar surplus, would you  
22 have any reason or knowledge to dispute that?

23 A I would have no knowledge of what the township  
24 surplus is.

25 Q Okay. You further stated that the township

1 assisted in providing funding to restore your athletics  
2 programs, correct?

3 A Yes.

4 Q And that was done recently over the summer in  
5 a board meeting?

6 A 1.1 million dollars.

7 Q Right. And 1.1 million dollars was given,  
8 that was the total amount given, correct?

9 A At that time, yes.

10 Q All right. And about \$557,000 of it was meant  
11 for -- was delineated for the public schools sports  
12 programs, correct?

13 A Yes.

14 Q And then the other \$600,000, approximately,  
15 was delineated to non-public special education  
16 students, is that correct?

17 A That's correct.

18 Q So it's a fair assessment that half of it was  
19 given to the public school students, correct?

20 A Correct.

21 Q And half of it was given for non-public  
22 services?

23 A Correct.

24 Q And IDEA services?

25 A IDEA services.

1 Q And your non-public students do get IDEA  
2 funding from the federal government for services,  
3 correct?

4 A Public and non-public.

5 Q Public and non-public. Okay. Hold on one  
6 moment. I'm just trying to gather my thoughts. So in  
7 looking at the state aid you received last year, you  
8 received 8.5 million dollars in state aid, is that  
9 correct? A state aid advance.

10 A State aid advance which is a loan.

11 Q Which is a loan.

12 A Mm-hmm.

13 Q I'm not disputing that.

14 A Right.

15 Q And you had asked for 10 million dollars from  
16 the state, is that correct?

17 A Yes, I believe so.

18 Q And the state deferred 1.5 million dollars in  
19 deferred repayment, is that correct?

20 A That I'm not sure.

21 Q Of prior loans?

22 A Oh, yes, deferred the loans, yes, that's correct.

23 Q So 8.5 million dollars and then the 1.5  
24 dollar deferment in the loan.

25 A Right.

1 Q Correct. So these were -- and so the RIF that  
2 you said of 140 teachers, you had the ability  
3 financially to rehire the teachers?

4 A Based on the loan.

5 Q Based on the loans, correct. Yes.

6 A Yes.

7 Q Okay. Certain reallocations were made so that  
8 you could keep like guidance counselors in the  
9 elementary schools and so forth?

10 A Based on the loan.

11 Q Based on the loan. I'm not saying not based  
12 on the loans. All of this is based on the loans?

13 A Based on the loans.

14 Q Okay. And so the loans helped you in  
15 restoring these budget cuts that you stated had to have  
16 happened pre-loan, correct?

17 A Without the loans we wouldn't be able to do that,  
18 correct.

19 Q Right, but the loans helped you do that?

20 A Correct.

21 Q And pursuant to Statute 1887F5C, "A district  
22 must certify its budget provides a thorough and  
23 efficient education." Is that not correct?

24 A Yes.

25 Q Okay. Is that your understanding?

1 MR. LANG: Can I hear the question?

2 MR. INZELBUCH: She doesn't know statutes.

3 Someone has to help this poor lady.

4 MR. LANG: Yeah.

5 MS. HOFF: I can show you the statute.

6 MR. LANG: What is the question?

7 MR. INZELBUCH: She's not a lawyer.

8 THE COURT: Why don't you ask her what --

9 BY MS. HOFF:

10 Q So the question is, does a school district  
11 have to certify that a budget provides a thorough and  
12 efficient education?

13 MR. LANG: Your Honor --

14 THE COURT: Well, that's a reasonable  
15 question.

16 MR. INZELBUCH: That's a nice question.

17 THE COURT: Does a district have to? She's the  
18 superintendent.

19 MR. LANG: Your Honor, let me -- all right.

20 THE WITNESS: It's true. Yes.

21 BY MS. HOFF:

22 Q Okay. And after the loan you stated to the  
23 board that you could certify the budget, is that  
24 correct?

25 A Well, actually I said I couldn't at one point.

1 Q At one point you said you couldn't and then  
2 you stated that you could?

3 A After we -- after I believe after the township  
4 gave us money for sports.

5 Q Right.

6 A We still couldn't, and then I said I would not,  
7 and then the township gave us money.

8 Q And then you could certify the budget?

9 A And then I think I still said we couldn't until we  
10 got the guidance counselors back.

11 Q But you did get the guidance counselors back?

12 A After I had to RIF a director.

13 Q But the question was, you did get the  
14 guidance counselors back? Yes?

15 A After getting other things back, but I still was  
16 confused because no one could tell me what actually was  
17 a thorough and efficient education quite honestly. I  
18 was still asking the monitors, I was asking the county,  
19 I was asking everybody what actually quantifies a  
20 thorough and efficient education --

21 Q All right. But wait, hold --

22 MR. INZELBUCH: Let her answer the question.

23 MS. HOFF: Excuse me.

24 THE COURT: Mr. Inzelbuch, you don't have to

25 --

1 MR. STARK: This is cross examination, Your  
2 Honor.

3 MS. HOFF: Excuse me.

4 MR. INZELBUCH: Yeah, but let her answer the  
5 question, right, is that a rule here?

6 THE COURT: She was answering it.

7 MS. HOFF: She was answering and I was about  
8 to start my next question.

9 MR. INZELBUCH: But she wasn't done.

10 THE COURT: I thought she was done.

11 THE WITNESS: No.

12 MS. HOFF: I thought she was done and I had  
13 asked for a yes or no question, but regardless --

14 THE COURT: No one could tell her what a  
15 thorough and efficient education was.

16 THE WITNESS: So I was very -- it was very  
17 confusing because no one actually could tell me. I  
18 wanted to -- my questions were, to everybody, to the  
19 county and to the monitors, what exactly quantifies a  
20 thorough and efficient education, because I honestly  
21 was not sure. Was it, did I need guidance counselors,  
22 did I need -- because I was told you don't really need  
23 librarians, do you really need guidance counselors.  
24 What is it that you actually need.

25 BY MS. HOFF:

1 Q All right. Just going back then --

2 A Okay.

3 Q -- something that you did cover on direct.

4 You do have your bachelors in psychology and elementary  
5 education, is that correct?

6 A That's correct.

7 Q And you have a masters in curriculum and  
8 instruction, is that correct?

9 A That is, but it didn't -- it never covered what a  
10 thorough and efficient education was.

11 THE COURT: Just answer yes or no.

12 BY MS. HOFF:

13 Q It's just a yes or no. I'm not asking what it  
14 covered.

15 A Okay.

16 Q And you are working on your EDD, currently  
17 you're just short of a dissertation.

18 A Correct.

19 Q In curriculum and instruction, correct?

20 A Correct.

21 Q Okay. And you stated that, you know, the  
22 RIFs, you know, certain teachers did not come back to  
23 your school district?

24 A Seventy-eight.

25 Q Seventy-eight. You don't break that down

1 between retirement, resignation --

2 A That was just RIF.

3 Q -- relocation.

4 MR. INZELBUCH: You have to let her finish.

5 THE COURT: Yes, let her answer the question.

6 She wasn't finished.

7 MS. HOFF: Oh, I thought she was finished and  
8 then I -- sorry.

9 THE COURT: I thought she wasn't.

10 MR. INZELBUCH: She wasn't.

11 THE COURT: She wasn't finished. So finish  
12 your answer. Seventy-eight teachers did not come back?

13 THE WITNESS: Seventy-eight RIFs did not -- it  
14 had nothing to do with retirements.

15 BY MS. HOFF:

16 Q Each and every teacher --

17 A Every teacher was RIF, that was just counting  
18 teachers that were RIF.

19 Q And none of those teachers had other personal  
20 reasons for not coming back?

21 A No.

22 Q And you stated that you're getting only first  
23 year, second year, third year teachers, is that  
24 correct?

25 A That was the -- I didn't say only, that was the

1 number of teachers that were first, second and third  
2 year.

3 Q Okay. But your average -- but your average  
4 experience of teachers that you're actually getting,  
5 that you hired this past year was between four and five  
6 years of experience, is that correct?

7 A Yes.

8 Q Okay.

9 MR. INZELBUCH: Could I have a -- are you --

10 MR. GROSSMAN: It's my son.

11 THE COURT: He can watch.

12 MR. GROSSMAN: He can watch.

13 MR. INZELBUCH: Your son is here.

14 THE COURT: He's not testifying.

15 MR. GROSSMAN: My son is an attorney, he works  
16 for the state actually, I mean for the Offices of  
17 Legislative Services in Trenton.

18 THE COURT: Okay. All right. Average is four  
19 or five years. Go ahead.

20 MR. STARK: Can we clarify then if he's  
21 working for the Office of Legislative Services, is he  
22 here in a representative capacity, or is he here in an  
23 observing capacity.

24 MR. GROSSMAN: No, he's just watching.

25 MR. STARK: Are you in an official capacity?

1 UNIDENTIFIED MALE: No, I'm not.

2 MR. STARK: Okay. Thank you.

3 UNIDENTIFIED MALE: Just came to watch.

4 BY MS. HOFF:

5 Q Okay. Moving onto your facilities. Without  
6 conceding the point that your schools are overcrowded,  
7 or the Board of Education -- the Board of Education  
8 could put it up to voters on a special question in  
9 order to see if the community would approve certain  
10 funding to assist the district, is that not correct?

11 A That's correct.

12 Q And the board has previously put up special  
13 questions either through the monitor or so forth to do  
14 that, correct?

15 A Correct.

16 Q And the community does not vote in favor of  
17 those measures, to the best of your knowledge?

18 A That's correct.

19 Q Okay. So you've received no additional  
20 funding based on these votes, correct?

21 A Correct.

22 Q So in going to PARC. You list the various  
23 performance levels, but you do not provide further  
24 explanation of what these performance levels mean, is  
25 that correct?

1 A It says in the box.

2 Q Right, it says, "Approaching expectations,  
3 meeting expectations" but you do not tell us what the  
4 increments are between approaching expectations and  
5 meeting expectations, is that correct? You did not  
6 testify to that?

7 A No, I did not.

8 Q Okay. And while you stated that it's below  
9 average in terms of state scores, you did not testify  
10 to what the state averages were, correct?

11 A Correct.

12 Q And so the students are not passing PARC at  
13 100 percent meeting expectations?

14 A No.

15 Q You're not aware of that?

16 A Of course I'm aware of that.

17 Q Well, no, you're not aware of any district  
18 that's meeting its expectations at a 100 percent,  
19 correct?

20 A No, correct.

21 Q Okay. And all that being said, in reviewing  
22 the PARC scores for the district, the district is as  
23 you stated providing slow and steady growth, is that  
24 not correct?

25 A That's correct.

1 Q Right. You're increasing your scores?

2 A That's correct.

3 Q Okay.

4 THE COURT: Not as fast as she would like.

5 THE WITNESS: Correct.

6 MS. HOFF: I understand that.

7 BY MS. HOFF:

8 Q You are -- in terms of growth and  
9 measurement, you're aware of the Every Student Succeeds  
10 Act?

11 A Yes.

12 Q Okay. And that's the successor to No Child  
13 Left Behind?

14 A Right.

15 Q And now the state sets growth standards for  
16 district to meet under ESSA, which is Every Student  
17 Succeeds Act, correct?

18 A Yes.

19 Q Okay. And certain goals are supposed to be  
20 met by districts, is that correct?

21 A Yes, performance targets.

22 Q Right. So that's sort of an incremental  
23 process, is that correct?

24 A Very slow, yes.

25 Q Year by year by year by year?

1 A Correct.

2 Q Do you ever see an ESSA -- do you know what  
3 an ESSA accountability sheet is?

4 A Yes, I have them all and we met all the targets,  
5 yes.

6 Q You met all of the targets?

7 A Yes, we did.

8 Q But for chronic absenteeism?

9 A Correct.

10 Q So you're not a district based on your ESSA  
11 accountability --

12 MS. HOFF: Can I actually approach, Your  
13 Honor? I have -- actually you know something, never  
14 mind, I'll get it in later. Let's not take up Ms.  
15 Winters' time.

16 BY MS. HOFF:

17 Q In terms of ESSA accountability, you met all  
18 of your targets, is that correct?

19 A Yes, except for the middle school which is  
20 overcrowded, which would make sense.

21 Q Right, but your school district has no  
22 schools that's been noted as comprehensive --  
23 reoccurring comprehensive support under ESSA standards,  
24 correct?

25 A Lakewood High School is a priority school.

1 Q Right. That wasn't the question though. My  
2 question is you have not -- you have no schools in your  
3 district that are comprehensive support schools under  
4 ESSA, correct?

5 A That is correct.

6 Q And you have no schools in your district  
7 under ESSA standards that are targeted support schools  
8 either, correct?

9 A That's correct, but the --

10 Q Again -- thank you.

11 THE COURT: Just answer the question.

12 THE WITNESS: That's correct, but the levels  
13 are so low, the targets are so low.

14 BY MS. HOFF:

15 Q So you are talking about growth, and maybe  
16 not as fast as you want it to be, but you are looking  
17 to have the county in its next interim review look at  
18 Lakewood's growth, is that correct?

19 A That's for QSAK (phonetic)

20 Q Right. So you've submitted an equivalency  
21 application to the county office for your next interim  
22 review, is that correct?

23 A That is correct because we failed under  
24 compliance. The old process was under compliance, so we  
25 would fail under compliance, because they're not

1 looking at our growth.

2 Q Right. There's a new system that's currently  
3 in place --

4 A Correct.

5 Q -- that looks at growth, correct?

6 A Correct.

7 Q And you feel like Lakewood would perform  
8 better in instruction and program if they looked at you  
9 under this new system, is that correct?

10 A Correct.

11 Q Okay. And the old QSAK also looks at test  
12 data from four years ago, is that correct?

13 A That's what I'm being told, yes.

14 Q The latest review looks at the NJASK as  
15 opposed to the PARC testing data? Do you know? If you  
16 don't know, you don't know.

17 A Well, I've been told different things, so I'm not  
18 sure.

19 Q Okay. So as superintendent who's responsible  
20 for education programming and so forth, you are aware  
21 that there are graduation requirements?

22 A Yes.

23 Q Okay. I am going to look at the regulations  
24 on these and I'm happy to stand there with you and do  
25 it, or happy to have you trust me, whichever you

1 prefer.

2 MR. INZELBUCH: We trust you.

3 MS. HOFF: Thank you.

4 BY MS. HOFF:

5 Q 6A85.1, and if I could just get there it  
6 would be good. So, under the graduation requirements,  
7 you are required to have 20 credits in English language  
8 arts available to your students, correct?

9 A Yes.

10 Q And you offer students English language arts,  
11 20 credits, the opportunity to take 20 credits of  
12 English language arts?

13 A Yes.

14 Q And the graduation requirements also state  
15 that you are supposed to have 15 credits of math, which  
16 would approximate three years in high school?

17 A Right.

18 Q So you have the opportunity for students to  
19 take three years of math in high school, is that  
20 correct?

21 A Correct.

22 Q Including algebra I or content equivalent?

23 A Correct.

24 Q And geometry or content equivalent?

25 A Correct.

1 Q And then some other math course that builds  
2 upon this like algebra II or trigonometry?

3 MR. INZELBUCH: We stipulate that the district  
4 has all the courses needed to comply with the law.

5 MS. HOFF: I don't know that --

6 THE COURT: Mr. Inzelbuch.

7 MS. HOFF: -- you can stipulate.

8 MR. GROSSMAN: We'll stipulate.

9 MR. LANG: Your Honor, we'll stipulate.

10 MS. HOFF: Okay.

11 BY MS. HOFF:

12 Q In looking at your CV, you have planned,  
13 developed and implemented alternative high school,  
14 middle school program in your district, is that  
15 correct?

16 A That's correct.

17 Q Okay. And in order to help your ELL students,  
18 you have implemented a response intervention reading  
19 program in K through 2, correct?

20 A That's correct.

21 Q And a district wide phonics and phonemic  
22 awareness program, Letter Land in K through 2?

23 A Correct.

24 Q You also talk about implementing -- my God,  
25 my voice gets dry. Career academies, is that correct?

1 A That's correct.

2 Q And that is a program that is currently in  
3 effect at the high school for freshman, correct?

4 A No, the entire high school.

5 Q Oh, okay. And that is basically to divide  
6 various students into learning cohorts, is that  
7 correct?

8 A Correct.

9 Q And to sort of peak their areas of interest,  
10 correct?

11 A Yes.

12 Q And in developing the career academy, you  
13 have also developed some sort of -- you supported them  
14 at the middle school through robotics, correct?

15 A Yes.

16 Q And you supported the middle school through  
17 coding, correct?

18 A That's correct.

19 Q Instruction, and you supported it at the  
20 middle school through journalism instruction?

21 A Correct.

22 Q And you also supported it at the middle  
23 school through horticulture?

24 A Yes.

25 Q Okay. And in fact, as of 2017, the middle

1 school was equipped with a brand new technology  
2 classroom, correct?

3 A Yes.

4 Q And that classroom was equipped with  
5 robotics, correct?

6 A Yes.

7 Q And with 3D printers, correct?

8 A Correct.

9 Q And an Apple T.V., correct?

10 A Correct.

11 Q And Mac Air Cart?

12 A Correct.

13 Q So this is sort of like a maker space?

14 A Right.

15 Q Okay. Now to Lakewood's credit it's trying to  
16 aggressively raise its PARC scores, correct?

17 A Correct.

18 Q And so your library at the high school is  
19 open three days a week for student use and to help  
20 students improve their PARC scores, correct?

21 A Correct.

22 Q And students can also receive extra help  
23 through remedial intervention, is that correct?

24 A Correct.

25 Q And at the middle school there's even a

1 homework club that meets three days a week staffed by  
2 different area teachers, correct?

3 A Correct.

4 Q At the high school you do provide the  
5 opportunity for students to take some advanced  
6 placement and honors classes, correct?

7 A Correct.

8 Q And you have advanced placement calculus AP?

9 A Yes.

10 Q And advanced placement English?

11 A Yes.

12 Q And advanced placement physics I and II?

13 A Yes.

14 Q And advanced placement Spanish language?

15 A Yes.

16 Q And advanced placement US History?

17 A Yes.

18 Q Okay. You also briefly touched upon  
19 vocational technical education. You send students to  
20 the Ocean County Vocational Technical School through a  
21 shared program, correct?

22 A Yes.

23 Q The system pretty much prepares students to  
24 enter into a career field after graduation, correct?

25 A Correct.

1 Q Okay. And you also do have some career  
2 programs in house as well, correct?

3 A Yes.

4 Q All right. One moment. If I don't have you  
5 make you look at a document I won't. Let's see.  
6 Lakewood Township has been approved to have a graphics  
7 design program, is that correct?

8 A Through Perkins, yes.

9 Q And you have a fashion and apparel program,  
10 correct?

11 A Perkins, yes.

12 Q Pardon me, I can't hear you.

13 MR. INZELBUCH: I couldn't hear that. Through  
14 what.

15 THE COURT: It's Perkins.

16 THE WITNESS: Perkins grant.

17 MR. INZELBUCH: What is --

18 MS. HOFF: Through Perkins grant.

19 THE WITNESS: These are all Perkins grants.

20 BY MR. HOFF:

21 Q But you have these programs in house?

22 A Yes.

23 Q And you have a photographic and film, video  
24 technology, technician and assistant program in house  
25 as well?

1 A Yes.

2 Q And you have a business management --

3 MR. LANG: I couldn't hear Ms. Winters.

4 THE WITNESS: These are all Perkins grants,  
5 program.

6 BY MS. HOFF:

7 Q Right, I'm asking you if you have the  
8 programs.

9 A Yes, yes.

10 Q And you have a business data entry technology  
11 program as well?

12 A Correct.

13 Q And you also have an Army Junior, ROTC, ROTC  
14 program as well?

15 A Correct.

16 Q And that's in addition to the Ocean County  
17 Tech School programs, correct?

18 A Correct.

19 Q That your students have the opportunity to  
20 participate in?

21 A Correct.

22 Q All right. Your high school has a new  
23 culinary classroom?

24 A A couple years old.

25 Q Couple years old. And you have a T.V.

1 production studio?

2 A Yes, these were all through the Title I programs,  
3 yes.

4 Q Right. I'm just asking what you have, not  
5 where they come from.

6 A Right.

7 Q And you have math labs at the high school?

8 A Yes, Title I funding, yes.

9 Q Again, I'm asking you, you have them.

10 A But it's important to know how we got the money  
11 for it.

12 Q You have the resources for it?

13 A Had.

14 MR. INZELBUCH: She said had.

15 MR. LANG: She said had.

16 THE COURT: They got the money for it.

17 BY MS. HOFF:

18 Q You got the money for it?

19 A Right.

20 Q So, the T.V. production studio is no longer  
21 in existence?

22 A No, it's there. That's correct, it's there.

23 Q Okay. And you have a media center, correct?

24 A The library, yes.

25 Q And you have a recording arts studio?

1 A It's the same thing, it's one.

2 Q Okay. And you have digital photography  
3 studio?

4 A It's basically the same, they're all connected.

5 Q You did testify earlier that you have full  
6 day preschool programs for students in the district?

7 A Grant funded. Yes.

8 Q Okay. And you added nine preschool general ed  
9 classrooms in '15/'16?

10 A Yes, grant funded.

11 Q And three more in '16/'17?

12 MR. LANG: Wait, wait, I didn't hear the  
13 answer.

14 THE WITNESS: They're all grant funded.

15 THE COURT: She said "grant funded."

16 THE WITNESS: They're all grant funded.

17 BY MS. HOFF:

18 Q Right. And you offer a full day kindergarten  
19 in your school, correct?

20 A Yes.

21 Q In your district. Sorry.

22 A Yes.

23 Q You have an academically gifted program in  
24 your elementary schools?

25 A Yes.

1 Q And you have guidance counselors for students  
2 at every level, correct?

3 A There's one guidance counselor in each elementary  
4 building.

5 Q And computer -- but you have guidance  
6 counselors at the middle and the high school too,  
7 correct?

8 A Yes.

9 Q And you have computer skills classes, part of  
10 every elementary schools student schedule?

11 A Yes, sometimes they're half a year though.

12 Q But they're on the schedule?

13 A Right.

14 Q And library skills are part of something that  
15 your elementary students are exposed to?

16 A Yes.

17 Q And you have art teachers at every student  
18 level, is that correct?

19 A Yes.

20 Q So art classes in your elementary school,  
21 correct?

22 A Yes.

23 Q And you have music teachers at every level,  
24 elementary, middle school and high school, correct?

25 A Right, correct.

1 Q So music education is part of --

2 A They might be half a year though.

3 Q Right, but music education is part of your  
4 elementary school students -- student schedules,  
5 correct?

6 A Correct.

7 Q And you have a chorus in your schools?

8 A Yes.

9 Q And you have band in your schools?

10 A Yes.

11 Q And orchestra in your schools?

12 A Yes.

13 Q And your school also provides lessons  
14 starting in fourth grade --

15 A Fourth grade, yes.

16 Q -- to these students, the school provides the  
17 lessons?

18 A Right. Only during school hours though.

19 Q Right. No, yes, of course. All right.

20 MS. HOFF: No further questions.

21 THE WITNESS: Okay.

22 MR. LANG: Redirect.

23 THE COURT: All right. Are you going to be  
24 brief, otherwise we'll take a break.

25 MR. LANG: I beg your pardon?

1 THE COURT: Are you going to be brief?

2 MR. GROSSMAN: Why don't we take a break.

3 MR. LANG: I could do it fast.

4 THE COURT: You could do it really fast he  
5 said, okay. If you need to.

6 MS. HOFF: I'm good. Thank you.

7 REDIRECT EXAMINATION BY MR. LANG:

8 Q So based on everything that she's saying,  
9 what's the problem?

10 A That we don't have highly qualified teachers to do  
11 all that. There's still a problem of the teachers, and  
12 the continued teacher turnover rate, the continuous low  
13 salaries, the --

14 Q You mentioned before about -- a lot of things  
15 being Perkins grant, what is Perkins grant?

16 A So Perkins grant is a grant that we get -- it goes  
17 through the high school for different career programs.

18 Q Is it federal?

19 A Like fashion.

20 Q Is it federal?

21 A I think it might be state. I'm not sure whether  
22 it's state or federal, the Perkins grant.

23 Q All right, that can be clarified.

24 A I have to look into that. I believe it's through  
25 the state though.

1 Q And the Mac carts, where does the money from  
2 the Mac carts, I didn't hear where that comes from?

3 A Title I.

4 Q Title I. That you know is what?

5 A Federal.

6 Q Now, we mentioned the library before. Does  
7 Lakewood High School have a librarian?

8 A No.

9 Q No librarian?

10 A No librarian.

11 Q So who's in charge of the library, a  
12 substitute teacher -- oh, I'm sorry. Who's in charge of  
13 the library?

14 THE COURT: Who's in charge of the library?

15 THE WITNESS: A paraprofessional.

16 BY MR. LANG:

17 Q Paraprofessional.

18 A Runs the library.

19 Q Okay.

20 A And also about the Title I, I just wanted to  
21 mention last year we got 7 million --

22 MS. HOFF: Objection. There's no question.

23 THE COURT: There's no question.

24 MR. LANG: I didn't ask a question.

25 BY MR. LANG:

1 Q So, it's my understanding that the school  
2 district is held together by bubble gum from the  
3 federal government, is that --

4 MS. HOFF: Objection.

5 THE COURT: That's not an appropriate  
6 question, Mr. Lang.

7 MR. LANG: Okay.

8 BY MR. LANG:

9 Q What is the status of Title I, in other words  
10 how much --

11 THE COURT: One question.

12 BY MR. LANG:

13 Q What is the status of Title I?

14 A So Title I funding we always had a lot of money in  
15 Title I funding because we were always classified as a  
16 district in needs of improvement. The high school was a  
17 priority school, but under the new ESSA guidelines, we  
18 apparently don't need help all of a sudden, so the high  
19 school was a priority school, they got about 1.3  
20 million dollars itself over the last few years. So, the  
21 district had 7 million dollars in Title I funding last  
22 year. This year we only had 3 million dollars and next  
23 year we're slated to get even less money, so the Title  
24 I money paid for a lot of the computers, they paid for  
25 a lot of professional development, which helped

1 especially with the teacher turnover. They paid for a  
2 lot of the computers. They paid for a lot of the -- the  
3 computer intervention programs, the reading programs,  
4 the mathematics intervention programs. They paid for a  
5 lot of the things in the district. Libraries.

6 Q Do you have money in the budget to replace  
7 that loss of federal funding money?

8 A No.

9 Q No. Now, QSAK was mentioned before, was there  
10 a recent QSAK report?

11 A Yes, there was a recent QSAK.

12 Q What did it say?

13 A The QSAK report we passed. There were five  
14 components. We passed -- you have to get an 80 percent  
15 in each of the components in order to be compliant. We  
16 passed in personnel and -- we passed in personnel and  
17 operations, 95 and 100 percent. We received less than  
18 80 percent in fiscal management, in instruction and  
19 programming and in governance.

20 Q Now, why did we fail in instruction? Why did  
21 we fail in instruction?

22 A Because the way the instruction in the model they  
23 used when we had the review was because the way it was  
24 set up, the first six questions we just received zero  
25 points in everything, it was just based on compliance.

1 The questions were based on just all instruction, so  
2 did you pass the PARC, was zero points, and everything  
3 -- every question on the first six, and then I was told  
4 they redid our numbers, they reconfigured the numbers.

5 Q Who is they?

6 A The county office. And they suggested that we go  
7 through and apply for the equivalency waiver.

8 Q And why did we fail on the fiscal on the  
9 QSAK?

10 MS. HOFF: Objection.

11 THE WITNESS: Because we're in a deficit.

12 MS. HOFF: Wait. Objection to that, just  
13 because she's already stated that she's more involved  
14 in the educational programming and so forth and really  
15 can't discuss the finance.

16 BY MS. LANG:

17 Q Ms. Winters, do you have to sign off on the  
18 budget?

19 A Yes, I sign off on the budget.

20 THE COURT: I'll permit the question.

21 BY MR. LANG:

22 Q So why did we fail on the fiscal?

23 A So the fiscal we failed because we were in a  
24 deficit.

25 Q Okay.

1 A So most of the questions were just deficit related  
2 and we just --

3 Q Now, has there been an improvement --

4 MR. INZELBUCH: She's not done.

5 MR. LANG: I'm sorry.

6 THE WITNESS: So all the questions were  
7 basically the county put in there because we failed  
8 because we were in a deficit.

9 BY MR. LANG:

10 Q Has there been an improvement in graduation  
11 rate?

12 A Yes.

13 Q Do you know what the improvement was?

14 A When I first started in 2012 it was 69 percent and  
15 it is now 75.7 percent.

16 Q 75 percent you said?

17 MR. LANG: Can I introduce this to the court,  
18 this is Exhibit 29, and it's bates numbers 734, it's  
19 from the State website, it's a media list from David  
20 Sanz (phonetic). I'll just give it to Ms. Winters so  
21 she could read it.

22 MS. HOFF: Is there a question to your  
23 foundation?

24 THE COURT: Yeah, is there a question?

25 MR. LANG: Okay. I'd like to introduce this as

1 evidence.

2 THE COURT: No.

3 MR. STARK: Well, what's the question.

4 THE COURT: What's the question?

5 MR. LANG: Well, what is the state average  
6 graduation rate?

7 THE COURT: Well, she might know it.

8 MS. HOFF: Maybe she knows it.

9 BY MR. LANG:

10 Q Do you know the state average graduation  
11 rate?

12 A No, not off the top of my head, no.

13 MR. INZELBUCH: Well, I --

14 MR. STARK: A document is being offered with  
15 no foundation for it --

16 THE COURT: Yeah, she doesn't know.

17 MR. STARK: -- whatsoever.

18 MR. LANG: This is from the Department of  
19 Education, it's an administrative notice possibly.

20 THE COURT: Well, if you show it to them maybe  
21 they would agree to it.

22 MR. LANG: Well, yes. Can we stipulate to  
23 this? It's from the respondents.

24 MR. STARK: If it's a question of judicial  
25 notice, I mean we can take --

1 MS. HOFF: Yeah, we can --

2 MR. LANG: Can we stipulate to what the state  
3 average is.

4 MR. INZELBUCH: That's what he's saying.

5 MS. HOFF: We can stipulate to that, sure,  
6 that the --

7 MR. LANG: Thank you.

8 THE COURT: The state average is what?

9 MS. HOFF: That the high school graduation  
10 increased to -- as of January 20 -- in 2016 to 90.1  
11 percent.

12 MR. LANG: Can we stipulate --

13 THE COURT: All right.

14 MS. HOFF: We can stipulate to that.

15 MR. LANG: Could we stipulate also to what it  
16 says for Hispanic?

17 THE COURT: 91 point what percent?

18 MR. INZELBUCH: 90.1 percent.

19 THE COURT: 90.1.

20 MR. INZELBUCH: That's what I thought I heard.

21 THE COURT: State average.

22 MS. HOFF: 90.1. 90.1.

23 THE COURT: Okay.

24 MS. HOFF: We can stipulate to this document.

25 MR. GROSSMAN: To the entry of the document?

1 MS. HOFF: Yeah, we can stipulate to this  
2 document.

3 THE COURT: Okay, fine.

4 MR. LANG: Okay. We're stipulating to the  
5 document. Okay.

6 MR. INZELBUCH: Which is one page.

7 THE COURT: Exhibit 29.

8 (P-29 was received in  
9 Evidence.)

10 MS. HOFF: Right. Stipulating. Do you need  
11 this bak?

12 MR. LANG: I do. One second.

13 MS. HOFF: And the document speaks for itself?

14 THE COURT: It does.

15 MR. LANG: The document speaks for itself.

16 BY MR. LANG:

17 Q So we just stipulated. So are we below the  
18 state average?

19 A Yes, we are.

20 THE COURT: I think I can figure that out.

21 MR. LANG: Pardon?

22 MR. INZELBUCH: The judge said, despite not  
23 going to Lakewood School she could figure it out.

24 MR. LANG: Yes. Okay.

25 THE COURT: You're putting words in my mouth,

1 Mr. Inzelbuch.

2 MR. LANG: All right.

3 MR. STARK: Can I just make one question.  
4 Counsel keeps asking questions and referring to "we"  
5 and I'd like to be clear as to who counsel is referring  
6 to --

7 MR. LANG: We.

8 MR. STARK: -- "we" -- no, but when you refer  
9 to "we are below the state average" "we are" --

10 MR. LANG: Oh, because I --

11 MS. HOFF: So you're stating that --

12 MR. LANG: I'm sorry.

13 THE WITNESS: Lakewood.

14 MR. STARK: It has a potential to create --

15 THE COURT: Difficulty, yes, it does.

16 MR. STARK: -- confusion in the record --

17 MR. LANG: The district.

18 MR. STARK -- considering the district is  
19 being represented by a different party and it's not a  
20 party in this case.

21 MR. INZELBUCH: That is correct, we are not a  
22 party and he is not representing the district.

23 MR. LANG: That's for sure.

24 BY MR. LANG:

25 Q Now, is there any courtesy busing?

1 MS. HOFF: Wait, wait, this goes beyond the  
2 scope of cross.

3 THE COURT: This goes beyond the scope of  
4 cross.

5 MR. LANG: What?

6 MS. HOFF: That goes beyond the scope of --

7 MR. LANG: I missed this question, Your Honor.

8 THE COURT: I'll permit the question.

9 BY MR. LANG:

10 Q Is there any courtesy busing?

11 A The Lakewood School District does not pay for  
12 courtesy busing.

13 Q Okay. Now, you mentioned before --

14 MR. STARK: Objection, that was not an answer  
15 to the question.

16 THE COURT: Is there any, she said, none.

17 MR. STARK: She said the district isn't paying  
18 for it. She didn't say there isn't any.

19 THE WITNESS: The Lakewood Township pays for  
20 courtesy busing for Lakewood Public School students.

21 MR. LANG: Okay.

22 BY MR. LANG:

23 Q So, no courtesy busing is coming out of the  
24 budget, is that correct?

25 A That is correct.

1 Q Okay. Now, you mentioned before also that  
2 that -- was restored? All right. Now, among the cuts  
3 last year, was the athletic director position cut?

4 A Yes, there's a part --

5 Q Has that position been restored?

6 A No. The Lakewood town -- with the money that the  
7 Lakewood Township gave us there was a stipend for the  
8 Lakewood athletic director.

9 Q Well, what does that mean?

10 A It means we pay a part time athletic director a  
11 stipend.

12 Q Is it a teacher who has a stipend?

13 A Yes. We posted the position and a teacher is  
14 getting paid for that.

15 Q Did the Lakewood district used to have a  
16 sports trainer?

17 A Yes, we do have a sports trainer. It's just an out  
18 of district person gets paid for it. We pay someone.

19 Q Is the sports trainer -- did the sports  
20 trainer used to be full time, full time employee?

21 A Yes, it was an employee, yes.

22 Q Is the sports trainer now full time?

23 A It's not a full time employee, no.

24 Q Not a full time.

25 THE COURT: Well, is it a full time position

1 or not?

2 THE WITNESS: No.

3 THE COURT: It's part time.

4 THE WITNESS: It's a consultant, yes.

5 THE COURT: And you had one before and you  
6 still have one?

7 THE WITNESS: Yes, we have one, but he's just  
8 not an employee of the district.

9 BY MR. LANG:

10 Q Do we need a full time director, athletic  
11 director?

12 A Yes.

13 MR. LANG: Could I ask the witness if she  
14 recognizes this Exhibit 28?

15 MS. HOFF: Don't ask me.

16 MR. LANG: Could I ask the witness if she  
17 recognizes Exhibit 28?

18 THE COURT: Did you show it to counsel?

19 MS. HOFF: I mean what's the foundation? Is  
20 there a question?

21 THE COURT: Yeah, what is it.

22 MS. HOFF: I'm going to ask her if she knows  
23 what this is.

24 THE COURT: Well, why don't you ask the  
25 question. What are you trying to show her?

1 MS. HOFF: It's a letter from the New Jersey  
2 -- actually NJI --

3 THE WITNESS: NJSIA.

4 MR. INZELBUCH: NJSIA that --

5 BY MR. LANG:

6 Q Well are you familiar with what the NJSIAA  
7 is?

8 A It's the sport affiliation. Yes.

9 Q Okay. Have you been notified by the NJS --

10 MS. HOFF: Objection. This is again going  
11 beyond --

12 THE COURT: I know, he missed these questions.  
13 I'll permit, otherwise we're going to --

14 MR. LANG: These were all planned.

15 BY MR. LANG:

16 Q Had you been notified by the NJ -- even after  
17 -- after the program was restored by the township  
18 during this school year, have you received any report  
19 from the NJSIAA citing deficiencies in the Lakewood  
20 athletic program?

21 A Well, he conducted a compliance report with the  
22 part time athletic director and he just cited that we  
23 should have a full time athletic director and a  
24 secretary.

25 Q Secretary?

1 A We have a part time secretary as well in the  
2 sports department, so he suggested that we have a full  
3 time athletic director and a full time secretary in  
4 that department.

5 Q Last year was there a full time secretary?

6 A Yes.

7 Q And last year there was a full time trainer?

8 A Yes.

9 Q And now there -- why don't we have it? We  
10 don't we have a full time athletic director? Why don't  
11 we have a full time trainer and why don't we have a  
12 full time --

13 MS. HOFF: Objection to the multiple --

14 THE COURT: Why, the we, the we.

15 MR. LANG: I'm sorry with the we.

16 BY MR. LANG:

17 Q Why does the district not have a full time  
18 athletic director?

19 A They were cut last year due to budget costs. The  
20 trainer, the athletic director and the secretary were  
21 all cut.

22 Q Was there enough money from what the township  
23 gave in order to rehire these people?

24 A No, there was only enough money to hire the  
25 stipend, the athletic director gets a stipend part time

1 and the secretary is part time as well. The trainer  
2 gets paid as a consultant.

3 Q How has this affected the kids?

4 A It's affected the kids because they don't have a  
5 trainer full time and its affected more the coaches.  
6 The athletic director has to work -- put in a lot of  
7 hours and its affected the students because of the  
8 scheduling in the high school.

9 Q Okay. Does the high school have any foreign  
10 languages?

11 A They have foreign language teachers only in  
12 Spanish, but they could take a foreign language on line  
13 through Ed Momentum.

14 Q You mentioned before that their -- is it the  
15 same to take a course on line or to be in a classroom  
16 with a teacher?

17 A Obviously educationally it's better to have a  
18 teacher in front of you always.

19 MS. HOFF: Objection. She's -- this is going  
20 into expert opinion and she's providing no basis for  
21 that opinion. Whether I disagree with the statement or  
22 not she's providing no basis for that opinion.

23 MR. LANG: Well, Your Honor, the  
24 superintendent has to make that kind of decision what's  
25 good for the students as the person who is in charge of

1 the academic program.

2 THE COURT: I understand, but she is giving an  
3 opinion.

4 MR. LANG: Okay. Fine.

5  
6 THE WITNESS: I base it on the kids do not --  
7 not one student has taken a computer class.

8 MR. LANG: Pardon?

9 THE WITNESS: Not one student has taken the  
10 computer class. From what I understand they've all  
11 taken the class with the teacher.

12 BY MR. LANG:

13 Q So everyone has taken -- is it correct to say  
14 that everyone in Lakewood High School who is taking a  
15 foreign language is taking Spanish, is that what you're  
16 saying?

17 A Yes.

18 Q Now, what percent of the district is  
19 Hispanic?

20 A Eighty-six percent.

21 Q Eighty-six percent. What percent is black --  
22 African American?

23 A 8.1 percent.

24 Q 8.1 percent. Okay. All right. So if I get --  
25 am I getting you correct that a district that is 86

1 percent Hispanic is that the only course offered is  
2 Spanish?

3 A Yes, but they don't read and write in their own  
4 language.

5 Q Okay. It might help them.

6 A Yes.

7 Q You mentioned before that there is AP  
8 courses. How many students take AP courses?

9 A That I can't give you the number offhand.

10 Q Okay. Perhaps the high school principal when  
11 she comes. Now, I think I'm almost finished. Now, you  
12 mentioned before about students going to the vocational  
13 school. Are there any issues with students wanting to  
14 get into this vocational school, but they cannot?

15 A It's very difficult to get in a vocational school.

16 Q So are you saying that every student who  
17 wants to go cannot go? In other words, there are  
18 students who can't go who want to go? What's the  
19 difficulty?

20 A Well, there's a strict attendance policy. They  
21 have to have good grades, and we don't have a lot of  
22 kids that feel comfortable leaving the high school that  
23 want to go to the vocational school honestly.

24 Q Why?

25 A Because they feel out of -- they don't feel

1 comfortable being out of Lakewood High School because

2 --

3 Q Have these kids expressed -- why is that?

4 A Because they feel that they're Hispanic, or  
5 they're African American, they don't feel comfortable  
6 being out of their element.

7 MS. HOFF: Objection. This calls for  
8 speculation --

9 MR. LANG: Well, have they expressed --

10 MS. HOFF: Hold on, hold on.

11 THE WITNESS: It's not speculation.

12 MS. HOFF: Can I please finish --

13 THE COURT: Some don't want to leave the high  
14 school.

15 BY MR. LANG:

16 Q What's this based on?

17 A It's based on the kids telling the principal and  
18 the their teachers that they don't feel comfortable in  
19 an all white school, or all white vocational school.  
20 They have expressed it to their guidance counselors.  
21 This is not speculation.

22 Q Have these kids expressed an interest that  
23 the high school should have its own program?

24 A Yes.

25 Q Is it possible for the high school to have

1 its own program given the budgetary constraints?

2 A We don't have the money, no.

3 Q When you were talking about before about  
4 computers and Perkins and all this stuff, you mentioned  
5 the word had. Do you mean that we had the money for all  
6 this --

7 MS. HOFF: Please.

8 MR. LANG: I'm sorry again.

9 BY MR. LANG:

10 Q What do you mean "the district had the money"  
11 do you mean it -- doesn't that mean it doesn't any  
12 more?

13 A It means the Title I funding has been cut severely  
14 this year and that the district just -- we had after  
15 school programs and we haven't been able to do that  
16 again this year, so we just -- a lot of money has been  
17 cut.

18 MR. LANG: No further questions. Thank you,  
19 Ms. Winters.

20 THE WITNESS: Mm-hmm.

21 THE COURT: Anything else, Ms. Hoff?

22 MS. HOFF: No, I'm fine.

23 THE COURT: All right. So we will take a  
24 break. It's 1:20. We can be back let's say at 2  
25 o'clock.

1 MR. LANG: Thank you, Your Honor.

2 (LUNCHEON BREAK)

3 THE COURT: All right, so we're on the record.

4 All right, so we're back on the record. Okay.

5 MR. STARK: Who would you like to hear from  
6 first, Your Honor?

7 MR. LANG: Well, could I say something?

8 THE COURT: Well, I guess it's petitioners  
9 burden, so I'll hear --

10 MR. LANG: Is it Your Honor's position that  
11 the matter that's going on, when petitioners have  
12 standing when they filed that they have to constantly  
13 keep on checking their standing until all the way at  
14 the end, because Abbott vs. Burke took five years.  
15 Those students were in school when they filed. Five  
16 years later they weren't in school, and concerning a  
17 lot of the other questions here also about the role at  
18 the OAL, the Supreme Court has made it clear that the  
19 role of the OAL is to create a record. In Bacon, it was  
20 filed in Superior Court, it was sent down. Abbott it  
21 was sent down. In fact in Abbott, the last moment, the  
22 State motioned -- move to dismiss saying that, "oh,  
23 that it really shouldn't be in the OAL," and the court  
24 said, "this is not even a close question for us,  
25 because the OAL is going to be useful either way,

1 because the OAL has the expertise to create the record  
2 to determine what is going on." It could be the  
3 Superior Court will ultimately have to decide, but it's  
4 going to be based on the record that is created.

5 THE COURT: I understand, but I have a  
6 transmittal that comes to me from the Department of  
7 Education and this is the transmittal. "Petitioners  
8 challenge the allocation method and amount of state  
9 funding received by the Lakewood School District."  
10 That's what's transmitted to me.

11 MR. LANG: When was this?

12 THE COURT: When was this, in 2014. This is  
13 how the case comes here. That's the transmittal.

14 MR. LANG: Right. We addressed this with Judge  
15 Kennedy.

16 THE COURT: Well, there's nothing here that  
17 says that you're seeking a declaratory judgment,  
18 because that's a different petition.

19 MR. LANG: The declaratory judgment is that,  
20 for instance, Judge McFelt (phonetic) in Abbott, he  
21 actually felt -- his conclusions if you look say that  
22 "I find this not to be meeting the standard of  
23 education" -- I find this, I find this, I find this.  
24 Went to the Commissioner, Commissioner rejected it,  
25 went back to Superior Court and then eventually go to

1 the Supreme Court.

2 THE COURT: Mr. Lang, if you go to the  
3 regulations, the regulations have two different kinds  
4 of petitions. There's a petition that just asks for a  
5 certain matter to be heard and then there's petitions  
6 that ask for a declaratory judgment and when the  
7 commissioner gets that, the commissioner certifies a  
8 certain statute or regulation regarding certain parties  
9 and then he says this is what I want the OAL to do on a  
10 declaratory judgment issue. That hasn't happened here.  
11 This is just a regular transmittal of a "contested  
12 case." As to the issue of standing, at this point,  
13 because the board is not a petitioner. The City is not  
14 a -- the township is not a petitioner. I need to know  
15 at this juncture that these people, you can do it by  
16 certification or whatever, still live in Lakewood,  
17 they're taxpayers --

18 MR. LANG: They live in Lakewood, but that  
19 doesn't make standing, standing is --

20 THE COURT: Yes, it does.

21 MR. STARK: Yes, it does.

22 MR. LANG: They live in Lakewood.

23 THE COURT: Living is not enough. Are they  
24 taxpayers in Lakewood, or do they have children in the  
25 school system? It's very simple. We don't even have to

1 waste too much time.

2 MR. LANG: Okay, oh, that's true, that's  
3 right, they do, yes. I can bridge that, if that will  
4 take care of that.

5 MR. STARK: Your Honor, one of the witnesses  
6 -- the next witness is in the room, so if you want to  
7 do this in front of the witness --

8 THE COURT: Oh, I'm so sorry.

9 MR. LANG: Your Honor, I can have that for you  
10 by tomorrow.

11 THE COURT: Step outside.

12 MR. INZELBUCH: Don't go too far.

13 MR. LANG: They have sisters and brothers.  
14 Yes.

15 MR. STARK: So, the state's position regarding  
16 these questions is that, you know, there's four issues  
17 here, three of -- excuse me, five issues here. Four of  
18 which have the potential to impact the tenure of the  
19 case, the evidence that's presented and the arguments  
20 that are made and therefore we would want to elicit  
21 from the witnesses either on direct or on cross. These  
22 questions are things that need to be -- in our opinion  
23 need to be dealt with, and they need to probably be  
24 dealt with in writing, because I don't want to speak  
25 for Mr. Inzelbuch, I don't want to speak for the

1 petitioners, but again, I would speak for the state and  
2 saying we probably are not equipped to handle this on  
3 our feet after, you know, consideration of about an  
4 hour.

5 THE COURT: These are just questions as I'm  
6 doing what I have to do in preparation for the hearing  
7 and going through the entire file have come to my mind  
8 that they need to be addressed. They don't need to be  
9 addressed now, but certainly at some point as you're  
10 presenting your case you might want to consider where  
11 the concerns are laying at this time, and if I come up  
12 with more I'll share them with you.

13 MR. LANG: Your Honor, that's fine.

14 MR. STARK: The reason that we raised that and  
15 what our point was is that, you know, we welcome the  
16 opportunity to brief these questions, but if we're  
17 going to brief these questions I do not know that it's  
18 appropriate to continue with large amounts of testimony  
19 over the course of that briefing, simply because the  
20 testimony that's presented may be impacted and what  
21 testimony we want to elicit may be impacted by a  
22 decision about, you know, by the Court.

23 THE COURT: Yours might be, but I think we can  
24 continue with today's witnesses.

25 MR. STARK: Certainly, we're not going to --

1 MR. LANG: Your Honor, may I address the  
2 declaratory and address what he's saying --

3 MR. GROSSMAN: No, no, no, Arthur you are  
4 wasting --

5 MR. LANG: Wait, wait --

6 THE COURT: You are wasting precious time, Mr.  
7 Lang.

8 MR. LANG: But let me just comment on one  
9 thing -- one second.

10 MR. INZELBUCH: We would ask that the  
11 department --

12 MR. LANG: Your Honor, there was a lot of talk  
13 at the beginning at declaratory. The petition is asking  
14 to create a record. It's not declaratory. It's normal  
15 procedure when there's --

16 THE COURT: Then that's how the petition is  
17 written, so at the end of the case when you move for  
18 relief, say the relief that you want, then perhaps you  
19 won't be saying that you want declaratory judgments,  
20 you want findings of fact, blah, blah, blah.

21 MR. LANG: Exactly.

22 THE COURT: Then that's what you have to do.

23 MR. LANG: Okay.

24 THE COURT: But because of the way the  
25 petition is written, it is written that you are seeking

1 all of these things.

2 MR. LANG: Yes.

3 THE COURT: So perhaps by the end of the  
4 presentation of your case, you will clarify as to  
5 actually what it is out of all those counts and all  
6 those where for's and whereas's --

7 MR. LANG: We'll take care of that.

8 THE COURT: -- you will put down exactly what  
9 it is that you want the State to address.

10 MR. LANG: Wait, let me just finish.

11 MR. STARK: In stunning turn of events, Your  
12 Honor, I am going to say that I believe that the  
13 participant does have an opportunity to weigh on this  
14 as well.

15 MR. LANG: Wait, let me finish though. I know  
16 for a fact that those students they have siblings still  
17 in the school and I could get them for you tomorrow.

18 THE COURT: Just certify. That's all that the  
19 state needs to have it, I need to have it.

20 MR. LANG: All right, I'll get that.

21 THE COURT: You need to have somebody who's  
22 got an interest in the outcome of this case somewhere.

23 MR. LANG: All right. And we don't need to  
24 brief on the issue with whether they need to still have  
25 standing, I'll just take care of it like that, and it's

1 that easy.

2 THE COURT: Well, you'll get a certification  
3 signed by, you know, someone.

4 MR. LANG: Wait one minute, I just want to  
5 please get clear what I need to do.

6 THE COURT: Well, Mr. Grossman will tell you  
7 that after we hear from the next witness.

8 MR. GROSSMAN: After we're done, please.

9 THE COURT: Yes. All right, Mr. Inzelbuch, do  
10 you have anything to say?

11 MR. INZELBUCH: Yes, on these questions.

12 THE COURT: Can you keep it very brief?

13 MR. INZELBUCH: Yes, very briefly. I think  
14 that these questions need to be answered immediately.  
15 We do have Mr. Finger here. We have presented him via  
16 court order of Judge Jacobson. He's been here, we'd  
17 like him to be able to testify today.

18 THE COURT: Yes.

19 MR. INZELBUCH: But we do agree with the point  
20 that, and that's not for the state or against the  
21 state, nor for the petitioners, but unless these  
22 questions are answered, again, I don't know how you  
23 continue this, because the evidence is going to be  
24 presented, you have witnesses that are going to have to  
25 address certain issues, so we do side with the state on

1 this issue that before additional testimony is taken  
2 that these issues -- which I think Mr. Lang will  
3 prevail on, but they need possibly, but they need to be  
4 addressed. It seems like almost we're having this rush  
5 game here, because due to the system which no one is  
6 responsible for, it's been four years or so, but I  
7 agree with the state and again, we're not in a rush.  
8 This is going to effect many children for many years,  
9 but to have to have rulings after testimony, I've never  
10 heard that in my life. Procedurally, no, you addressed  
11 this correctly, procedurally we need to have these  
12 addressed so we don't bring extra people here.

13 THE COURT: I understand, but let's get Mr.  
14 Finger's testimony done.

15 MR. INZELBUCH: Yeah, of course, he's here.  
16 The state doesn't object to Mr. Finger going. He's  
17 here.

18 MR. STARK: Yeah, we're at the court's  
19 discretion, he's here.

20 THE COURT: Let's get him done.

21 MR. LANG: Yeah, but I would like you to  
22 consider what the state and --

23 THE COURT: I understand. When's our next day,  
24 not to next week anyway.

25 MR. STARK: Our next day is next week.

1 THE COURT: Next week.

2 MR. STARK: We would reasonably, I think -- if  
3 there were -- excuse me. If the court were to want  
4 briefing on the issues and discussion of that, in light  
5 of, you know, in light of the compressed time and in  
6 light of Mr. Inzelbuch's and Mr. Tractenberg's absence  
7 being out of town, you know, I think that we could  
8 probably have some form of briefing by the date on the  
9 22nd, and have an --

10 THE COURT: Why don't we see how we do today.

11 MR. STARK: Yeah, we'll see how we do today  
12 and then before we leave today.

13 THE COURT: Go get Mr. Finger.

14 MR. INZELBUCH: I did ask during the break of  
15 Ms. Winters who is the superintendent, who is done, to  
16 observe the --

17 THE COURT: Is there any problem with that?

18 MS. HOFF: Only if anyone wants to recall her  
19 that would affect the sequestration.

20 THE COURT: I can't imagine that you would  
21 want to recall her.

22 MS. HOFF: I don't know that at this time  
23 considering.

24 THE COURT: All right, let her stay outside  
25 then.

1 MR. INZELBUCH: Well, then I'm going to let  
2 her go.

3 THE COURT: Yes, let her go.

4 MR. GROSSMAN: Yes, Your Honor, there's always  
5 a possibility for rebuttal.

6 THE COURT: Always a possibility. Okay. Thank  
7 you.

8 MR. INZELBUCH: Ms. Winters, you can leave.  
9 Mr. Finger come in. You have a safe trip. Who is here  
10 via court order.

11 THE COURT: All right, Mr. Finger, would you  
12 come up here please to the witness stand. And if you  
13 would just stand there. Please raise your right hand.  
14 Thank you. Have a seat. Just state your name, your  
15 first name.

16 R O B E R T F I N G E R, PETITIONER'S WITNESS SWORN.

17 MR. FINGER: First name is Robert, last name  
18 is Finger, F-I-N-G-E-R.

19 THE COURT: All right. Thank you. Just keep  
20 your voice up, everything is being recorded. It's not a  
21 microphone, it's a recording device. All right, so, Mr.  
22 Lang.

23 MR. LANG: Yeah, I'm trying to find my  
24 questions.

25 THE COURT: Okay. Do you have exhibits that

1 you want the witness to refer to?

2 MR. LANG: Yes, Exhibit 5 which is the budget.  
3 I just need to get everything ready. I have the budget  
4 somewhere here, it's Exhibit 5. Here it is, Exhibit 5.

5 THE COURT: Okay. So, Mr. Finger, by whom are  
6 you employed?

7 THE WITNESS: I work for the Lakewood Board of  
8 Education.

9 THE COURT: And in what capacity?

10 THE WITNESS: I work for them as the interim  
11 assistant business administrator.

12 THE COURT: All right.

13 DIRECT EXAMINATION BY MR. LANG:

14 Q Have you done this job for other districts?

15 A Well, I retired in 2015 from the Teaneck Board of  
16 Ed, where I was the board secretary and BA for five  
17 years. Prior to that I was in Lakewood for two and a  
18 half, almost three years. Prior to that I was in  
19 Keansburg as the board secretary and BA for six years.  
20 Prior to that fourteen years with the Department of  
21 Education starting out as an auditor, was a supervising  
22 auditor and eventually ended my career there as county  
23 BA up in Hudson and Essex County, and prior to that I  
24 was a tax auditor for the New York State Department of  
25 Labor. So, it's confirmed I'm old.

1 Q When were you hired most recently by  
2 Lakewood?

3 A I was hired as the interim assistant BA it was in  
4 October 18th's board meeting and I started the next day  
5 on the 19th.

6 Q What were the years you were previously the  
7 BA for Lakewood?

8 A I was in Lakewood from February of 2008 to  
9 November of 2010 as the BA and board secretary.

10 Q Okay. What's your education, your background  
11 in that, you know, leads up to your role as a BA?

12 A Well, my bachelors degree is in accounting from  
13 City University of New York, Brooklyn College, 1978 and  
14 from that point on I started working with the  
15 Department of Labor as a tax auditor and we eventually  
16 moved out to New Jersey and that's how I ended up  
17 starting the job with the Department of Education in  
18 New Jersey.

19 Q Have you ever testified before?

20 A Several times, yes, over the years.

21 Q Where?

22 A OAL several times and PERC, it's Public Employment  
23 Relations Commissions, I've testified there several  
24 times.

25 Q Okay. Were the monitors in Lakewood when you

1 left in 2010?

2 A No, there were no monitors in Lakewood when I  
3 worked there, no.

4 Q Are you familiar with when the monitors  
5 arrived?

6 A I believe it was 2014.

7 Q 2014. Are you familiar with the financial  
8 situation in 2014 when they arrived -- before they  
9 arrived?

10 A At that time, no, I wasn't working there, I was  
11 working up in Teaneck. Other than what I read in the  
12 newspapers.

13 Q So the situation in 2010 when you left were  
14 the finances balanced?

15 A When I left in 2010, I left in November, the audit  
16 report was through June of 2010 and when the audit  
17 report was issued right before I left we had  
18 approximately 5 million dollars in surplus.

19 MS. HOFF: I just want to object. I'm sorry,  
20 so I'm going to object to any part of your testimony  
21 that speaks to Lakewood's finances between 2010 and  
22 2017 if you weren't serving as BA at that time.

23 THE COURT: But he asked about when he was  
24 there.

25 MS. HOFF: So he was there after 2017. This

1 petition was filed in 2014, so I don't know how he can  
2 testify as to any of the state of the district between  
3 2014 --

4 MR. LANG: The last question was 2010.

5 THE COURT: No, it was 2010.

6 MS. HOFF: Okay.

7 THE COURT: When he left what was the budget.

8 MS. HOFF: Okay.

9 MR. LANG: Now I'm going to ask about that.

10 BY MR. LANG:

11 Q Have you seen the books -- how far back are  
12 you familiar with the books of what's going on? Have  
13 you seen it?

14 THE COURT: How far back?

15 THE WITNESS: I've looked at the annual audits  
16 for the last couple of years in order to get a handle  
17 on what the situation is there in Lakewood, but  
18 obviously I have not done anything more than that,  
19 other than looking at historical records, because I  
20 wasn't there in those years.

21 BY MR. LANG:

22 Q How far back have you seen historical  
23 records?

24 A I've looked back to '13/'14 school year.

25 Q '13/'14, so that was the time before the

1 monitors came, was it?

2 A I believe so, yes.

3 Q The monitors came in 2014, so you at least  
4 looked at the books in 2014?

5 A Looked at the audit reports, yes.

6 Q Audit reports. Has the financial situation  
7 improved since the monitors came?

8 A Well, the district was going into a deficit in  
9 '13/'14 and they are still in a deficit. The deficit is  
10 actually a little less, I think the high point was at 6  
11 and a half million in deficit, and now officially June  
12 of 2017, it was down to about 4.3 million in deficit,  
13 but it's still a deficit.

14 Q That's for the current year?

15 A For the prior year, '16/'17.

16 Q '16/'17. Could you repeat that again, the  
17 deficit?

18 A '16/'17 deficit according to the annual audit  
19 report I believe it's about 4.3 million in deficit.

20 Q Okay. Now, what about the '17/'18 budget?

21 A Well, we're halfway through the year now.

22 Q Are you familiar with that budget?

23 A Yes.

24 Q Did the district borrow money against future  
25 state aid for this '17/'18 year?

1 A No, for '17/'18 they received 8.6 million as a  
2 state aid advance and loan.

3 Q Now, I don't know, I'm not so familiar with  
4 how the books work, but is there a deficit in the  
5 current school year, '17/'18?

6 A Well, when a budget is put together it has to be  
7 balanced, okay, so officially the budget for 2017/2018  
8 is a balanced budget. You still have the fund balance  
9 deficit sitting there as of June 30, 2017. The hope is  
10 that during the course of the '17/'18 school year  
11 you'll spend less than what you have appropriated,  
12 therefore giving you a surplus that could hopefully,  
13 probably not erase the deficit that's still sitting  
14 there, but at least bring it down a little further.

15 Q So from your knowledge of what's going on, is  
16 that going to happen?

17 A I don't have a crystal ball, but I will say this  
18 as of December 31st, because we haven't closed the  
19 books yet for January, we're in the process of closing  
20 the January books. As of December 31st, we still have  
21 -- we have -- revenue is more than expenditures as of  
22 right now. However, there are still items that we are  
23 looking at this year in terms of transportation, more  
24 so in terms of tuition that can change that drastically  
25 between now and June 30th.

1 Q Okay. Why?

2 A Well, since I've gotten there we have undertaken  
3 the task of going really through what goes on in  
4 special ed, in our special ed office as far as  
5 contracts, as far as the students being sent out of  
6 district, tighten that up a little bit, some of the  
7 internal controls in there to make sure A. We're not  
8 paying more than we should, getting any credits we're  
9 entitled to get and making sure that if the school says  
10 we're sending five kids there, then in fact there are  
11 five kids there that are our kids, so we've been really  
12 tightening up on that, but what we're finding is that  
13 in some cases there are more students going to some of  
14 these schools that we knew about, and therefore tuition  
15 at the end of the school year may be more than we  
16 actually budgeted for. Again, that's why I'm saying as  
17 of right now, or technically for the current school  
18 year we're not adding to the deficit. There is a  
19 potential to yet have another deficit for this year.

20 Q Are all those extra kids going to school that  
21 you did a budget for, are they going legally?

22 A Oh, they're going to school legally and to schools  
23 that have been budgeted for, yes.

24 Q But the cost is increasing?

25 A Right.

1 Q For instance, the tuition cost, has that  
2 increased since the time that the budget was created?

3 A Well, no, there's Department of Education issues  
4 that -- as matter of fact this time of year, usually  
5 middle, end of January, they're estimated tuitions for  
6 the following year so school districts can budget, and  
7 those are the tuitions that you are going to pay, the  
8 daily rate for the following year. What happens though  
9 is for example, '16/'17 was done, audits have been done  
10 for the private schools for the handicap, okay, which  
11 are state approved schools --

12 Q Could I interrupt. What exactly is --

13 THE COURT: Let him finish his answer. Yes.

14 MR. INZELBUCH: Let him answer.

15 MR. LANG: But I want a definition.

16 THE COURT: Let him finish his answer.

17 MR. LANG: Okay. Sorry.

18 THE WITNESS: So, those schools at the end we  
19 had to use an estimated tuition that the Department of  
20 Ed approved. When they have their annual audits done  
21 they then come back to the district and say oh, by the  
22 way, here's a copy of our annual audit, it shows that  
23 we charged you, make it simple, we charged you \$100 a  
24 day, but the annual audit shows it's really \$105 a day,  
25 so we're now going to bill you, you know, for \$5 a day

1 for the number of days little Johnnie or little Sally  
2 attended school. It's what they call a rebill and they  
3 have to show it and prove it with a copy of their  
4 annual report. Well, we just got socked with rebills  
5 for almost 2 million dollars from '16/'17. That was not  
6 sufficiently budgeted for.

7 BY MR. LANG:

8 Q So the actual cost of '16/'17 just went up?

9 A Right.

10 THE COURT: And that's reflected in the next  
11 budget? How do you do that?

12 THE WITNESS: Well, what the Department of Ed  
13 regulations allow -- that's '16/'17, now, they're  
14 presenting that bill in '17/'18. Now, if the school  
15 district wants to, they can pay it in '17/'18, but the  
16 law does allow, the regulations allow to say, okay, I  
17 got your '16/'17 bill in '17/'18, I have one more year  
18 to pay for that, so I could budget that going into  
19 '18/'19, and that's what we're doing, we're going to  
20 budget that going into '18/'19, which will only make  
21 our shortfall that much worse for next year, for the  
22 '18/'19 year.

23 BY MR. LANG:

24 Q When the budget was done in '17/'18, how much  
25 did the district have to borrow?

1 A Well, it was agreed 8.6 million in state aid  
2 advances, which are loans. We also got additional  
3 funding from the township of like 1.6 million dollars  
4 towards courtesy busing -- no, I'm sorry, towards --  
5 well, sports, courtesy busing and related services.

6 Q Courtesy busing for whom, non-public or  
7 public school students?

8 A For public school students.

9 Q Are any non-public students getting courtesy  
10 busing out of the -- from the district?

11 A The district -- the district under this new pilot  
12 program, it's with the Lakewood School Transportation  
13 Authority which was passed, I believe this was the  
14 second year. We give to the Lakewood School  
15 Transportation Authority the State mandated amount,  
16 \$1,000 a student. They then have the ability under this  
17 pilot program to -- if it would cost them less than  
18 that money they can use that money to provide courtesy  
19 busing, so the answer to your question is, we don't  
20 provide courtesy busing for non-public students, the  
21 Lakewood School Transportation Authority does if they  
22 could afford to do it.

23 Q You said they passed, who is "they"?

24 A The State Legislature.

25 Q It's the Legislature. So that's mandated that

1 you have to pay \$1,000 to the LSTA for each student?

2 A Well, the \$1,000 is the amount that every school  
3 district would pay. Okay, there's what they call aid in  
4 lieu. If a school district cannot provide busing for a  
5 student, the state mandated amount is to give to that  
6 parent is \$1,000. When they set up this pilot program  
7 in the legislation, it was made very simply to say,  
8 okay, Lakewood, you're in this pilot program, for each  
9 student being bused by the LSTA, you give them \$1,000  
10 state maximum amount.

11 Q How does that affect our budget -- I mean the  
12 district's budget?

13 A Well, this year we'll be handing the -- for  
14 '17/'18, budgeted right now and it looks like we'll be  
15 on target for that number. We'll be handing the LSTA  
16 approximately 20.2 million dollars.

17 Q Can I show you Exhibit 5, the budget? So I'm  
18 going to give the witness the budget, Exhibit 5. Could  
19 you identify what this is?

20 A Okay. This is the '17/'18 budget generated --  
21 right, July of '17 after everything was approved.  
22 Petitioner's Exhibit 5.

23 Q Page 1, what's the enrollment for '17/'18?

24 A Well, the enrollment -- the estimate for October  
25 15th of '17 was -- okay, 6,090 on roll plus another 361

1 in private schools, another 17 sent to other, 173  
2 received and 6 in state facilities, you're talking like  
3 6,600 students estimated.

4 MS. HOFF: Objection. So I just wanted to  
5 object because -- so this document, this budget here  
6 was generated on October 5th, 2017, and Mr. Finger was  
7 hired on October 19th, 2017, he said, and my  
8 understanding is that the only time that he has had to  
9 review these documents was in preparation for  
10 litigation and he hasn't established foundation that  
11 he's ever reviewed this before independently for any  
12 reason.

13 THE COURT: So you can establish a foundation.  
14 Has he reviewed these documents?

15 BY MR. LANG:

16 Q Have you ever seen this document before? Have  
17 you reviewed it?

18 A Well, the one that's generated July 11th, that was  
19 the final. This is the advertised -- I'm sorry, this is  
20 the final, well, user friendly budget. Yeah, I've used  
21 this since I've been there since October, yes.

22 MS. HOFF: So you've used this program before,  
23 the budget software program, but you're not familiar  
24 with this particular budget, this set of data that's  
25 been inputted for the 2017/2018 school year because it

1 was input and generated before you were hired?

2 MR. INZELBUCH: Is that an objection? Is she  
3 asking questions?

4 MS. HOFF: That's a question.

5 MR. INZELBUCH: Well, he doesn't answer her  
6 questions.

7 THE COURT: Is there an objection?

8 MS. HOFF: Yes, that's an objection. It's the  
9 same objection that he -- he hasn't established a  
10 foundation for it. He said he's familiar with the  
11 software, but not with this particular set of data,  
12 with this particular document.

13 THE COURT: Well, let's find out if he's  
14 familiar with the set of data. I thought he said he  
15 was.

16 MR. INZELBUCH: He did say he was.

17 THE COURT: Are you familiar with this?

18 THE WITNESS: Yes, I am familiar with this. I  
19 use this quite extensively, plus it's the same exact --  
20 as far as the dollar value it's the same exact data  
21 that's on our accounting system.

22 BY MR. LANG:

23 Q Is this budget on the district's website?

24 A Yes.

25 Q Could anybody access it?

1 A It's a user friendly budget, yes.

2 Q All right. So what is the operating budget  
3 for 2017/2018?

4 A Well, for the general fund we're \$143,455,116,  
5 it's burned into my head.

6 THE COURT: What page are you on?

7 THE WITNESS: That is on -- oh, I'm sorry,  
8 page 2 right at the very bottom.

9 THE COURT: What does it mean advertised?

10 Advertised this, advertised that?

11 THE WITNESS: Well, when the district -- the  
12 districts do -- in March you introduce your budget, you  
13 get it approved by the county superintendent for  
14 advertising, and when that budget is advertised it's  
15 advertised with the date of your public hearing. The  
16 public hearing is usually very end of April, up until  
17 around the 7th or 8th of May. Once you have your public  
18 hearing then the budget is, if it's approved it becomes  
19 final, but that's what the state calls it. Your  
20 advertised revenues and your advertised enrollments,  
21 what was advertised in the paper and what will be  
22 advertised now as your user friendly budget if anybody  
23 goes on your website to see it.

24 THE COURT: Okay.

25 THE WITNESS: And that's for all districts,

1 not just Lakewood.

2 BY MR. LANG:

3 Q Let's look on page 5 of that budget. Are any  
4 of those expenses on page 5 for non-public students?  
5 Page 5?

6 A No, none are for non-public students.

7 Q Page 6, the first thing on page 6,  
8 transportation. I was asking about page 5. Okay. Would  
9 transportation include non-public students?

10 A Well, on page 6 the first item, "Undistributed  
11 expenditure, student transportation", yes. Of that 27.6  
12 million dollars, 20.2 million approximately is non-  
13 public, that's the money that goes to the Lakewood  
14 School Transportation Authority.

15 Q Okay. I'm going to ask a question that I  
16 asked before, but not to you. The auxiliary expenses  
17 for non-public students used for anything on page 5?

18 A I'm sorry?

19 Q The auxiliary?

20 THE COURT: Page 5 or page 6?

21 THE WITNESS: You're talking on page 6?

22 MR. LANG: Is it on page 6, I'm sorry, page 6  
23 where it says, "non-public auxiliary" -- any of those  
24 non-public expenses used for anything on page 5?

25 MS. HOFF: And clarify for the record, are we

1 looking at page 6?

2 MR. LANG: Page 6.

3 THE WITNESS: Page 6.

4 MS. HOFF: Okay. But are you asking whether  
5 they're for anything on page 5 or page 6?

6 THE COURT: Right, I'm trying to figure it  
7 out.

8 MR. LANG: I'm asking the expenses you asked  
9 about auxiliary in 192, were any expenses that are  
10 earmarked in that budget for non-public students, are  
11 they used for anything that is included, any of those  
12 budgetized lines of budget on page 5.

13 THE WITNESS: No, these, non-public textbooks,  
14 auxiliary services, handicapped services, nursing,  
15 technology and security aid are a state grant for the  
16 use of -- only for non-public students.

17 BY MR. LANG:

18 Q Okay. I want to ask you about what some of  
19 those things are. What is the line item, speech OT, PT  
20 and related services. What is related services? What  
21 does it mean related services?

22 A In general, related services are occupational  
23 therapy, physical therapy and speech. It could be some  
24 other things, but those are the three main ones.

25 Q Okay. And those, I'm just going to ask the

1 same question again. Those are for public school  
2 students only?

3 A What page are we looking at?

4 Q On page 5. Speech, OT, PT and related  
5 services.

6 A Line item 11-000216-XXX, yes. Well, on the budget  
7 here. Yes, those are for public school students.

8 Q All right. Going down to other -- I think  
9 it's the one underneath it, other support services,  
10 extra services, what is that?

11 A Those are what they call extraordinary services,  
12 that could be nursing services, it could be intensive  
13 nursing services, it's anything other than OT, PT and  
14 speech and that is for -- and I will say this, because  
15 for the most part, that is public school students, and  
16 the reason for that is any student sent out of district  
17 under state regulations, OT, PT and speech are included  
18 in the tuition of the private school for the handicap.  
19 Extraordinary services are billed separately, usually  
20 from my experience they will then charge the tuition  
21 line account, not to the extraordinary services line  
22 account, which is really just for district students who  
23 need extraordinary services.

24 Q So, if I understand you correctly, the  
25 students, they are public school students, the ones

1 sent out of district, they are public school students?

2 A Correct.

3 Q The cost to the district is one, the tuition,  
4 the line item tuition.

5 A Correct.

6 Q Part of the -- also those students are coming  
7 -- that are sent out of district, part of their expense  
8 is coming out of the line item other support services  
9 that you're saying is extraordinary services?

10 A If they receive extraordinary services.

11 Q Like what?

12 A Like intensive nursing services of some type. The  
13 one that I always kind of remember, having a private  
14 duty nurse, feeding tube, things like that. Normally,  
15 normally you're going to pay that -- the private school  
16 for the handicap will bill you for that as part of your  
17 contract and it will be in the state approved tuition  
18 contract what the extraordinary service amount is. Most  
19 districts that I've always worked in when they get that  
20 bill is charged to the tuition line account. It is  
21 possible it could be charged to the -- some districts  
22 may charge it to the extraordinary service line  
23 account, but it is for public school students attending  
24 and out of district school, right.

25 Q That's what I wanted to clarify. So all these

1 students go into the private school for the handicap,  
2 are they public school students?

3 A They are registered in the district, they are a  
4 public school student, they are counted on the  
5 application for state school aid as a resident student.

6 Q And part of their expenses are coming out of  
7 the line item -- are part of their expenses also coming  
8 out of the line item speech, OT, PT and related  
9 services?

10 A No, because under state regulations the tuition  
11 the private school for the handicap charges is  
12 inclusive of OT, PT and speech services.

13 Q So, let me make sure I have my conclusion  
14 correct. So, the students are being sent out of  
15 district, the public school students who are sent out  
16 of district who are attending private schools for the  
17 handicap, their costs are coming out of two different  
18 line items, the tuition line item and the other support  
19 services, extra services, which we are calling  
20 extraordinary services?

21 A Well, the tuition line account absolutely 100  
22 percent. The only way it would come -- some of it might  
23 get charged to the extraordinary services if they're  
24 receiving extraordinary services.

25 Q Do you know if any of them are receiving

1 those services?

2 A I have not looked through every single of our 400  
3 contracts, no.

4 Q But it is possible?

5 A But there are some students that are, yes, it's  
6 possible.

7 Q Okay. So the line item that says "tuition"  
8 might not be the only cost of these students that are  
9 going out of district, it is possible the line item  
10 that also says "other support student services", I wish  
11 I could see the budget so I could read the number if  
12 it's okay.

13 MR. INZELBUCH: You don't have a copy?

14 MR. LANG: You know, I had it.

15 BY MR. LANG:

16 Q If I could read it, this is line item,  
17 "undistributed expenses, other supports serve SPD extra  
18 service 11-000-217-XXX" it is possible that some of the  
19 expenses -- is it possible -- I mean I just want to  
20 make sure that we're referring to the same line.

21 A Yes.

22 Q Extraordinary services.

23 A Extraordinary services, correct.

24 Q All right. So 31 -- I got to look at it  
25 again. So, the 31 million dollars for tuition,

1 \$31,963,753 might not be the total cost, there might be  
2 some of that -- you're saying -- are you saying that  
3 there might be additional cost coming out of that line?

4 A Correct.

5 Q All right. Would it be true to say regardless  
6 -- would this statement be true -- is this statement  
7 true regardless either way --

8 MS. HOFF: Objection, leading.

9 THE COURT: Yes, form of the question.

10 MR. LANG: I'm sorry.

11 BY MR. LANG:

12 Q So let me just ask again, are those two line  
13 items for public school students?

14 A Yes, they are.

15 Q Okay. Now, is this expense, the tuition  
16 expense and the extraordinary services expense, I don't  
17 know how much if you add the two together, I don't have  
18 that in front of me, but a quick addition may be 35  
19 million. If you add those two expenses together, I got  
20 to look at it again, I'm sorry.

21 THE COURT: He already said that not all the  
22 money --

23 THE WITNESS: Approximately 34 and a half  
24 million of budgeted.

25 BY MR. LANG:

1 Q Okay. That 34 and a half million for those  
2 two expenses, is that -- and you've worked for other  
3 districts, is that normal for a district of about 6,000  
4 students?

5 MR. STARK: Objection. We don't have a  
6 foundation for the size of other districts that the  
7 witness has worked for.

8 THE COURT: We don't.

9 MR. STARK: Or the breath of, you know.

10 THE COURT: Yes.

11 BY MR. LANG:

12 Q How does this compare to other districts?  
13 Have you compared this to other districts?

14 A We did a recent budget presentation last week on  
15 the 31st, and I went and I did a comparison, obviously  
16 not the entire state, but I looked at Freehold Borough,  
17 Jackson Township, Brick Township, and Toms River  
18 Regional. Toms River, Brick and Jackson are neighboring  
19 districts that have at least the same 6,000 students,  
20 actually they have more students than we do, at least  
21 6,200, 6,300 or more, and we looked at Freehold  
22 Borough, which has a lot less students, but has a very  
23 high Hispanic population, very actually similar in the  
24 demographics to the population within our schools, and  
25 as I said to the board in my presentation, looking at

1 just those four districts, and plus my own experience  
2 having worked in Teaneck and Keansburg, usually  
3 transportation and tuition for an average district  
4 budget wise and population same as ours, or more, will  
5 average somewhere between 4 percent on the low side, 4  
6 percent of total budget, you know, the cost of  
7 transportation, not combined, cost of transportation 4  
8 percent, cost of tuition 4 percent. It can range as low  
9 as 4. The highest I've seen in our review of those  
10 districts was a little over 7. I know when I worked in  
11 Teaneck, it was about 9ish, about 9 percent, it was a  
12 little higher that last year, so most districts I would  
13 say of the ones we've looked at they range between 4  
14 and 7 percent, meaning for both of those areas, tuition  
15 and transportation, it could be anywhere from 8 to 14  
16 percent of your budget for those two combined.

17 Q What percent of the budget is it in Lakewood?

18 A We're looking this year we're already at between  
19 the two, approximately 38 percent of our budget.

20 Q 38 percent.

21 A And projected for next year it will be like 40  
22 percent of our budget.

23 Q 40 percent of the budget.

24 A Combined, combined.

25 Q Do you have any -- how could you account for

1 this disparity?

2 A They are -- as we said at the -- as I said at the  
3 board meeting in my presentation, these are mandated  
4 expenditures. Transportation is mandated. If you live  
5 two or two and a half miles from home, whether it be  
6 elementary two miles, high school two and a half,  
7 you're mandated to get transportation. The state law  
8 mandates that if we provide mandated transportation to  
9 public school students, we must provide it to non-  
10 public school students. Tuition goes to students who  
11 are evaluated by the child study team, the child study  
12 team makes the recommendation of where they need to go.  
13 Okay. It's kind of, I don't want to say out of the  
14 hands of the school district, but once a placement is  
15 made in free appropriate public education in the least  
16 restrictive environment, it's very hard to change that  
17 placement and most times if a school district tries to  
18 change those placements they usually end up here at  
19 OAL.

20 Q How many students out of the 37,000, do you  
21 know how many students are eligible for special  
22 education students -- special education services?

23 A Of?

24 Q How many students --

25 A District students?

1 Q How many students have been evaluated in  
2 Lakewood out of the total population?

3 MR. STARK: Objection, Your Honor, it's not  
4 clear that this witness has a foundation to understand  
5 that.

6 THE COURT: He doesn't.

7 THE WITNESS: No, I couldn't answer that.

8 THE COURT: He's the business administrator.

9 BY MR. LANG:

10 Q Do you -- you did mention though, Lakewood  
11 was what, 40 percent for tuition and transportation?

12 A Combined.

13 Q And other districts are 7 to 14?

14 A About 8 to 14 combined.

15 Q So therefore, what, what are the  
16 implications?

17 A Well, as I said at our public discussion on the  
18 31st, it's an unsustainable situation and it's due to  
19 the unique demographics of the town. There is no other  
20 district that I know of where you've got 6,000 students  
21 in the public schools and 30,000 in the non-public  
22 schools. I worked in Teaneck for many years. We had  
23 4,200 in the public schools and 2,200 in non-public,  
24 and that was considered -- that was the highest in  
25 Bergen County, but there is, as far as I know, there is

1 no other district with that kind of situation where you  
2 have five times the number of students in non-public  
3 versus public. It really has a major bearing on the  
4 transportation obviously, where as in most districts,  
5 average district, let's say you had 6,000 students in  
6 the public school and you might have 800 students in  
7 non-public schools. Well, if you had to pay \$1,000 per  
8 student for 800 students it certainly would be pricey,  
9 you know, \$800,000, it certainly would be cheap, but  
10 here we're paying \$1,000 a student for almost 22,000  
11 students, and that's just not something you see  
12 anyplace else.

13 Q I'm trying to understand why tuition is so  
14 high in Lakewood. If someone, a child attending right  
15 now let's say, a non-public school and then one day he  
16 wakes up and he says, I want to go to the public  
17 schools because I could get -- or his parents would be  
18 saying, because I am classified, I've been evaluated  
19 and I am classified to get special education services,  
20 is he allowed to do that? Could he do that?

21 THE COURT: Do what?

22 MS. HOFF: Objection. He hasn't laid a  
23 foundation to answer that question.

24 MR. LANG: Okay.

25 BY MR. LANG:

1           Q     What do you mean, "that it's an unsustainable  
2 situation?"

3           A     Well, it's unsustainable for several reasons. I  
4 mean obviously districts can't afford to spend 40  
5 percent of their budget on transportation and on  
6 tuition. The problem is as you -- those from what we've  
7 seen and what I've seen since I've come back to the  
8 district now working as the interim, for next year  
9 those are going up. Tuition alone will be going up,  
10 let's see, we estimated almost 7, closer to 8 million  
11 dollars more in tuition for next year and another 3 to  
12 4 million more in transportation for next year, so the  
13 problem that -- the reason I say unsustainable,  
14 remember, districts have a 2 percent tax cap, can't  
15 raise your taxes more than 2 percent. For us, a 2  
16 percent increase is approximately 2 million dollars.

17           We're -- it's like a million nine in change, but  
18 for ease of discussion, approximately 2 million  
19 dollars. Our expenses for next year, as of right now  
20 not even including a raise, because we haven't  
21 finished, we just started basically our negotiations  
22 with our unions, so without including any raises, we're  
23 estimating next year anywhere between 17 and 23 million  
24 dollars additional funds needed, you know, that would  
25 be our deficit, the additional funds we would need, 17

1 to 23 million. How do we come up with that, well, 23  
2 would be assuming that there's no full funding of SFRA  
3 for next year. In other words, continuation of what the  
4 funding levels are now and that there's no full funding  
5 with extraordinary aid, because extraordinary aide that  
6 we get is like at 52 or 56 cents on the dollar. If  
7 there was full funding then we would be in the hole for  
8 17 million, if there isn't then we're in the hole for  
9 23 million. Two things that's not including a raise,  
10 because we haven't discussed raises yet with our unions  
11 and that's not including 2.2 million dollars that the  
12 Department of Education has deferred so far for paying  
13 back those loans that we got.

14 If we have to start paying those loans back next  
15 year, which we've been told at least budget wise while  
16 preparing your budget to prepare for that, then that 17  
17 to 23, add another 2 million dollars, so that's 19 to  
18 25, and raises, which haven't even been discussed, but  
19 as I told the board, 1 percent raise is approximately a  
20 half a million, so if you gave a 2 percent raise throw  
21 another million onto that.

22 Q So if the SFRA was fully funded, Lakewood  
23 would still have a deficit?

24 A Yes, Lakewood would still -- based upon the  
25 '17/'18 calculations that every district gets when you

1 get your budget and your state aid numbers they tell  
2 you well, had SFRA been fully funded you would have  
3 gotten X, but you're only getting this because it's  
4 been frozen. Based on that, we would have gotten about  
5 3 and a half million dollars more in '17/'18 if SFRA  
6 was fully funded. If extraordinary aid was fully funded  
7 we would have gotten about another 3.4, 3.5 on that.

8 Q And next year if SFRA was fully funded there  
9 would still be a deficit of how much?

10 A Well, again we said at the meeting, again, not  
11 taking into account the state aid repayment or raises,  
12 17 to 23 million. So, 23 million if there is no full  
13 funding of SFRA or extraordinary aid, 17 million if  
14 there is full funding, so yes, there's still a deficit  
15 with full funding.

16 Q Why are we discussing raises right now?

17 A Well --

18 Q Why is the district discussing raises right  
19 now?

20 A Well, the contracts for our teachers' union and  
21 our administrators' union are expiring June 30th. Right  
22 now we have had one meeting with our teachers' union,  
23 but we have suspended any meetings right now waiting to  
24 see. We asked the state monitor to get back to us  
25 talking to his folks as to what we could expect or

1 should be looking at for raises of next year.

2 Obviously, we need to get state monitor somewhat input  
3 from them as to what we could negotiate for since we  
4 are at a deficit.

5 Q Have you heard from the state monitors?

6 A I have not heard back, no.

7 Q Okay.

8 A One of them has been on vacation for the last  
9 three weeks.

10 Q Could I show you a document and ask you -- I  
11 think you created this document.

12 THE COURT: What number is this?

13 MR. LANG: This is 23.

14 THE COURT: P-23.

15 MR. LANG: Exhibit 23.

16 BY MR. LANG:

17 Q It has two pages, it's Exhibit 23.

18 MR. LANG: Does everyone have it?

19 THE WITNESS: I don't.

20 BY MR. LANG:

21 Q Do you recognize this document?

22 A Yes, I do.

23 Q What is it?

24 A I was asked -- well I prepared this on Sunday for  
25 you.

1 Q What is it?

2 A It's an analysis of our special ed cost and our  
3 transportation cost from '14/'15 up through '17/'18 the  
4 current year and projected for '18/'19. I had been  
5 given this by Mr. Lang to look at it. It had been  
6 prepared previously by a business administrator who is  
7 no longer with the district.

8 MS. HOFF: Could you hold on one second while  
9 we look through the document.

10 MR. STARK: I just want to make sure we have  
11 it so we could give it back to Mr. Lang. You said it  
12 was created on Sunday, so we just want to make sure --

13 MR. LANG: Sorry for not having the papers --  
14 BY MR. LANG:

15 Q All right. So, you created -- I'm sorry, you  
16 said you created this document here?

17 A Yes.

18 Q So looking at the 2017 to 2018 current, I  
19 understand that it looks to me like there's special ed  
20 transportation in two places, so without double dipping  
21 -- well, let me just ask you before that, what is the  
22 total special education cost to the district, the 2017  
23 to 2018 current? The total cost for special education  
24 without the transportation. I'm sorry. Without the  
25 transportation.

1 A Let me go first. Total --

2 MS. HOFF: Objection. I need to object as to  
3 there's no foundation as to how he arrived at this  
4 calculation. This is a document that he created.

5 BY MR. LANG:

6 Q How did you arrive at --

7 MS. HOFF: Or what the data source is.

8 THE COURT: How did you put this together?  
9 How did you put this together?

10 BY MR. LANG:

11 Q How did you put this together?

12 A Well, for '14/'15, '15/'16 and '16/'17, I note on  
13 the bottom my sources, I used our annual audit reports,  
14 those are public records, anybody could get them,  
15 they're even on the state website, so those numbers all  
16 come out of our annual audit. '17/'18 comes out of our  
17 accounting records. I call it "current" because that's  
18 our "current" appropriation. Remember, school districts  
19 can make transfers every month, so what you have on  
20 your original budget as your line account, those  
21 numbers change every month. It's not the total budget,  
22 but the lines themselves, because school districts can  
23 make transfers, so business administrators tend to call  
24 that, either you have a budgeted column or you have a  
25 current column. I set it up as a current column, so

1 that column represents our most recent line item  
2 appropriations for all of these items listed here. The  
3 '18/'19 column of projected is using the budget  
4 projection software within our accounting system.  
5 Again, we don't have a final budget yet obviously for  
6 '18/'19, that's not due till March. It doesn't get  
7 introduced until March, but of course we've been  
8 working on it. So, within the accounting software that  
9 we have, we actually have a budget projection module  
10 that you could use to create budgets for the following  
11 fiscal year. So that is as of, as of Sunday morning  
12 that is our most updated projection for what we're  
13 looking at for '18/'19, that's the final column.

14 Q Which is how much for special education?

15 A Including the transportation associated with it,  
16 because by the way I looked at this and from what had  
17 been done on previously on other exhibits similar to  
18 this, this first exhibit was all total special ed cost  
19 including transportation, because that gives you the  
20 complete picture of what it cost to educate a special  
21 ed student. We're projecting for '18/'19, 58.6 million,  
22 the transportation component is approximately 3  
23 million.

24 Q For how about '17/'18 current?

25 A For the current year 52, approximately 52 and a

1 half million, take 3 million off for transportation.

2 Q Is any of this money used for non-public  
3 students?

4 A No, this is public school students.

5 Q All right. Is this '17/'18 number going to go  
6 down before the end of the year?

7 A My guess that number will go up by the end of the  
8 year.

9 Q Why?

10 A Well, because as I said earlier, there's more than  
11 likely going to be some additional cost for tuition for  
12 students, not rebill for the previous year, but for the  
13 current year, additional students -- additional  
14 students are coming into the district constantly.  
15 Whether it be the public school or students that are in  
16 special ed, you know, not general ed, special ed, or  
17 special ed students going out of district, it could be  
18 three students, three additional students a day  
19 sometimes are coming in and registering, okay, on  
20 average.

21 Q On average?

22 A On average. Because we're looking at 15 to 20 new  
23 kids coming in every week.

24 Q Now, you said that the operating budget that  
25 you're operating with in '17/'18 it was 143 million.

1 This \$52,438,739 current is what percent of that, just  
2 quick mathematics, what percent of the operating  
3 budget?

4 A Basically a third.

5 Q A third of the operating budget?

6 A Well, more.

7 Q It's more actually.

8 A Well, a little more, about 35, 35 percent, yeah.

9 Q All right. And projected of course you have  
10 no way of knowing because you don't have a budget, you  
11 don't know if you're going to get the 17 million loan  
12 or what.

13 A And to be clear, the projected column, again, we  
14 have not completed doing our budget process yet, so  
15 those numbers are going to change more than likely up,  
16 not down.

17 Q So you can't really project what the actual  
18 total budget will be, but these costs over here are  
19 likely going to be -- are you saying they're likely  
20 going to be a cost or even higher?

21 A Well, once the budget is completed it could be the  
22 same or higher, my guess would be --

23 Q Why, why would it be higher and not lower for  
24 instance? Why do you anticipate it going up?

25 A Well, we're still refining the number on tuition,

1 again, the latest number --

2 Q What is the number for tuition?

3 A Almost 36 million dollars going to private schools  
4 in state, that's the largest component of the tuition  
5 for next year, private school for the handicapped in  
6 state. Again, I don't -- that's the number we have  
7 right now. By March we'll have a final count of how  
8 many kids as of February in private schools for the  
9 handicapped, out of district, and that's when we have  
10 to kind of lock down that number. My guess is that  
11 number is going to go up a little higher.

12 Q Okay. So that fifty-eight million, six  
13 hundred, twenty-two, that's projected special education  
14 cost. Let's go to the second page, the transportation.  
15 So going back to the column 2017/2018 current.

16 A Well, again if I could just clarify, again, '14/  
17 '15, '15/'16 and '16/'17 are based on our annual audit  
18 reports.

19 Q Okay. All right. What was the -- why we're  
20 talking about that, the '16/'17 budget, how much was  
21 that budget -- I'm sorry, the operating budget, how  
22 much was it, in '16/'17 what was the operating budget,  
23 do you remember the number?

24 A I believe it was like 138 million.

25 Q Well, I have --

1 A Actually we have it right here, we have it right  
2 here.

3 MR. STARK: Objection. What document?

4 THE COURT: What are you looking at?

5 THE WITNESS: The user friendly budget.

6 MR. STARK: P-5?

7 MS. HOFF: P-5.

8 THE WITNESS: Number 5. Well, as reported on  
9 the user friendly budget, the '16/'17 revised budget  
10 was 137.8 million.

11 BY MR. LANG:

12 Q Okay. So 52 million -- it's correct to say 52  
13 million of that went to special education?

14 A In '16/'17, correct, that's from the annual order,  
15 correct.

16 Q Let's go to the transportation. Now, what's  
17 the current 2017/2018 transportation cost and you know,  
18 you could -- what's the current cost?

19 A Currently, our budget reflects on our accounting  
20 system 28.7 million is our current appropriation for  
21 transportation, the major line item there is the 21.5  
22 million state title for that is contracted routes home  
23 to school, that number represents our -- the amount  
24 we're spending for non-public.

25 Q That transportation, let's talk about the

1 non-public. The non-public, the \$21,561,893, is that  
2 born by the district or does the state provide any  
3 money for that?

4 A The state provides aid for transportation in two  
5 ways. They do calculate aid based on the number of  
6 students transported for special ed, regular general  
7 education and for non-public students, okay, that are  
8 receiving mandated transportation, either they meet the  
9 two mile limit for elementary or the two and a half  
10 mile limit for high school, so you do get aid for that.  
11 That's not only used for transportation. They call it  
12 transportation aid, it's part of your general fund  
13 budget, it's not specifically set aside just for  
14 transportation, it goes into your general fund. For  
15 non-public, we also get, and all districts get, I  
16 should say, the difference in price between \$710 which  
17 is an amount the state sets and now the \$1,000 maximum  
18 that you have to pay for a non-public student, so we do  
19 it year end, we file a report, all districts do, to get  
20 back that difference of \$290, between the \$1,000  
21 maximum and the \$710. For us it's actually become  
22 rather easy, because of the fact that we hand over to,  
23 under the legislation to the Lakewood School  
24 Transportation Authority, we say how many students,  
25 here's \$1,000 for each, and then when you put the

1 reimbursement into the state, it's okay, number of  
2 students, \$1,000 minus -- so we would get \$290 for each  
3 one of those students. So technically, it should be  
4 \$710 is what it should cost the district per student  
5 for non-public students, because you're spending  
6 \$1,000, but we're getting back that \$290, then you have  
7 the general transportation money that gets into the  
8 whole budget.

9 MR. LANG: I'd like to show the witness  
10 Exhibit 26.

11 MS. HOFF: I don't have it. Can I see it? When  
12 did you provide this?

13 MR. LANG: I might have emailed it to you and  
14 maybe I didn't give you a copy.

15 THE COURT: What exhibit is this? P what?

16 MS. HOFF: 26.

17 MR. LANG: I gave it this morning, I gave it  
18 to Jenn this morning.

19 MS. HOFF: I don't think I have a copy of  
20 this.

21 MR. STARK: In hard copy or in electronic  
22 form?

23 MR. LANG: No, I gave her -- did I give you --

24 MS. HOFF: Whatever exhibit was given --

25 MR. LANG: Let me -- I have five of them.

1 MR. INZELBUCH: But the question is, do they  
2 have it?

3 MR. STARK: I have it.

4 MR. LANG: So can I have one? Sorry. Your  
5 Honor, you have one, Exhibit 26. Can I give this to the  
6 witness?

7 BY MR. LANG:

8 Q Do you recognize this document?

9 A Yes, I prepared this for the superintendent.

10 Q What is it? Pardon?

11 A It's an analysis of our transportation costs for  
12 non-public, for public, special ed, broken down per  
13 student.

14 Q Who created this document?

15 A I did.

16 Q So what's that number on the top,  
17 transportation aid that says "\$4,199,793"?

18 A That's what we're receiving in the '17/'18 school  
19 year is transportation aid.

20 Q You mentioned before there was another type  
21 of aid that you get, and how much is that aid that  
22 you're getting?

23 A Well, that additional aid and the state calls it  
24 additional, non-public transportation aid, that if you  
25 look under the second bar graph there where it says

1 "non-public mandated busing cost" you'll see it says  
2 "less additional non-public state aid" that's your  
3 \$290, times the \$19,170 -- I used -- let me go back.

4 MS. HOFF: Objection, Your Honor.

5 MR. STARK: We don't know where these numbers  
6 are coming from.

7 BY MR. LANG:

8 Q So, where are these numbers coming from?

9 A The number of students that are reported, starting  
10 at the top, transportation aid, that comes off of the  
11 state aid printout that we received for 2017/2018, they  
12 said we were getting \$4,199,793 of state aid. On that  
13 printout it says how they based it, and they based it  
14 on 2,336 public students, 730 special ed students,  
15 19,174 non-public students for a total of 22,240  
16 students in the calculation. I then took that  
17 information and said okay, well, based on those  
18 numbers, a total population being used to calculate the  
19 aid by the state, 73.14 percent of 22,240 is the  
20 \$19,174, so we say what's the percentage for non-  
21 public, public and special ed. The next paragraph, or  
22 bar graph I should say "non-public mandated busing  
23 costs." What we're projecting for '17/'18 that we're  
24 going to spend, 23.2 million dollars, state aid  
25 calculated, well, 4,199,793, that's 73.14 percent a

1 portion of that, that's a little over almost 3.1  
2 million. The additional non-public state aid, that's  
3 what you get at year end when you send that report in  
4 for reimbursement for the state, that's the difference  
5 of \$710 and the \$1,000 that we're paying for each  
6 student, so that's \$290 a student times 19, that 19 may  
7 be more by year end, okay, because by year end it may  
8 turn out that we bused more than the -- the LSTA's  
9 bused more than the 19,174 that the state used in their  
10 calculation, and if they do bus more we would get that  
11 extra money, but keeping it all constant, \$290 times  
12 19,174 is 5.5 million, so the net cost to the district,  
13 right, the cost minus the aid, the net cost, 14.6,  
14 divided by that 19,174 students comes out to \$763 a  
15 student, net cost.

16 Q And next -- okay. The special education, is  
17 that just for public school students that you have  
18 here? Special ed, the bottom box?

19 A Yes, that's for public school students.

20 Q Okay. So therefore what, what does all this  
21 mean?

22 A Well, we used this at our budget discussion  
23 because we wanted to break out for -- prepare it for  
24 the superintendent, for her budget book, for my budget  
25 book to explain to the public, you know, what it

1 actually cost -- that even though we're getting all  
2 this state aid for transportation, there still is a  
3 bottom line cost of \$763 out of the taxpayers pockets  
4 for non-public, \$677 for public, and \$3,858 for special  
5 ed. That does seem high, but one has to understand that  
6 with special ed you cannot, normally, and I've never  
7 seen it, you can't put 54 special ed students on a bus.  
8 Normally special ed students, you may have as little as  
9 two, or three or four on a bus going to the same  
10 school. Obviously when you bus like that, the costs are  
11 higher for special ed then when you just put 54  
12 students on a public school bus and take them  
13 someplace.

14 Q Now, you said before the 14 million, 624 from  
15 the taxpayer, do you mean that that's some kind of  
16 separate tax, or is that actually coming out of the  
17 school budget that is -- for the kids, for special  
18 education?

19 A Coming out of the school budget.

20 Q It's not a separate tax?

21 A No.

22 Q However the school gets money --

23 MS. HOFF: Objection, leading.

24 MR. LANG: Well, I'm asking the question.

25 THE COURT: Ask the question.

1 BY MR. LANG:

2 Q Okay. So it's coming out of the school  
3 budget. Okay. That's the answer.

4 MS. HOFF: Objection. He just answered the  
5 question for the witness.

6 THE COURT: I think the witness said yes.

7 MR. INZELBUCH: The witness already said that.

8 MR. LANG: He said, yes.

9 BY MR. LANG:

10 Q So, all right, so the 14 million dollars or  
11 so for non-public goes out of the public budget, is  
12 that what you're saying?

13 A Yes.

14 Q The budget that's meant for public school  
15 students, is that correct?

16 A Yes, it's the public school budget, correct.

17 Q Okay. All right. So, getting back to -- all  
18 right. So, what's the total state reimbursement 4  
19 million -- how much of total state reimbursement for  
20 transportation overall?

21 A We get approximately 4.2 million as transportation  
22 aid. We get that in 20 payments during the course --  
23 two payments every month for ten months from September  
24 to June and then at year end we file for the  
25 reimbursement of the \$290 per student for all the non-

1 public students that were transported.

2 Q So, is it fair to say that the total state  
3 reimbursement for transportation is around a little bit  
4 less than 10 million dollars?

5 A It's about 10 million dollars, yes.

6 Q Okay. Now, this is for fiscal year '18, so  
7 that would be the -- is that the 2017/2018, or is that  
8 projected? Which year is this sheet on?

9 A This is for '17/'18.

10 MR. STARK: For the record when you refer to  
11 "this sheet" you're referring to P --

12 MR. LANG: I'm sorry.

13 THE COURT: P-26.

14 MR. LANG: Exhibit 26.

15 MR. STARK: Okay.

16 BY MR. LANG:

17 Q Now, let's go back to Exhibit 23. So, on  
18 Exhibit 23 what does it say in the column 2017/2018  
19 current as the total transportation expense?

20 A 28.7 million.

21 Q 28.7. So, deducting the state reimbursement,  
22 what's the total cost coming out of the budget for  
23 transportation?

24 A It would be approximately 18.7 net cost.

25 Q Okay. All right. Now, together, special

1 education, let's stay with 2017/2018, current. Special  
2 education, you have on the first column 52 million --  
3 you said that, and if you add together -- what is the  
4 total cost, let me just ask the question. 2017 to 2018,  
5 what is the total cost for transportation and special  
6 education? And I understand that you might have special  
7 education twice in here.

8 A Well, on the special ed on the first page of it,  
9 we included the transportation that goes along with it,  
10 so we have 52.4, 3 million for transportation, so it's  
11 really 49.4. 49 million 4 plus, you're talking about 77  
12 million dollars. I don't have my calculator handy.

13 Q What was the number?

14 A If you take the --

15 Q I have a calculator.

16 A If I take the 52.4 minus 3, so that's 49.4, it's,  
17 yeah, and the 28.7, so, well, again, without a  
18 calculator I'm not going to add it up, but you're  
19 talking about 77, 78 million dollars.

20 Q Do you need a calculator? So what was the  
21 number ballpark?

22 A 77, 78 million dollars.

23 Q What is the total operating budget?

24 A 144 million.

25 MR. STARK: Can the witness just identify,

1 when you refer to those figures, can you identify which  
2 line item and which column, which row and which column  
3 and which year we're taking these numbers from?

4 THE WITNESS: Okay. Page 1, '17/'18 column,  
5 the bottom of the column is 52,438,739. We need to  
6 subtract out from that the 3,063,195, because that's  
7 for transportation, we already have that on the other  
8 page, so we don't want to double count it. Then you  
9 would -- after doing that you would then add to that  
10 and the transportation on this page is --

11 MR. INZELBUCH: What page?

12 THE WITNESS: On the second page, '17/'18  
13 column, 28,703,031, you would add that to it.

14 THE COURT: But you really get 10,000 off of  
15 that, don't you, isn't that what you just said?

16 THE WITNESS: Right, then we get approximately  
17 -- well, you also get state aid for special ed as well.

18 THE COURT: All right.

19 BY MR. LANG:

20 Q Yeah, that's true. So we have a total of,  
21 what did you say, 77 million?

22 A About 78 million.

23 Q 78 million and the operating budget of that  
24 year is?

25 MS. HOFF: Objection to that question. That

1 wasn't a question, so what do we have --

2 MR. LANG: The question is, I want to know  
3 what percent of the operating budget that is. What is  
4 the operating budget.

5 MS. HOFF: No, the question before, you asked  
6 a question before that.

7 MR. INZELBUCH: Are you objecting to the way  
8 he's asking his questions?

9 MS. HOFF: No, I just didn't understand the  
10 question.

11 MR. LANG: Okay. So the question is, what is  
12 the operating budget for 2017 to 2018. You said it  
13 before.

14 THE WITNESS: 143,455,116.

15 BY MR. LANG:

16 Q And you just said the total transportation  
17 and special education cost is 78 million?

18 A Approximately 78 million.

19 Q That seems -- I mean is this more than 50  
20 percent?

21 MS. HOFF: Objection.

22 THE WITNESS: Yes, it is.

23 BY MR. LANG:

24 Q About how much?

25 A I'd say without a calculator in my hand and not

1 having prepared on -- been asked these questions  
2 earlier, I would say it's more than 50 percent,  
3 probably about 52, 53 percent.

4 Q What does this mean to trying to create a  
5 budget for a thorough and efficient education and I'm  
6 not asking him to make a determination, but what does  
7 this mean for everything else in the budget --

8 A I don't understand your question.

9 Q The question is, how does this effect the  
10 creation of a budget for the kids in public schools  
11 getting regular education students getting education in  
12 the public schools?

13 A I really have no answer for that.

14 Q Okay.

15 A I'm not an educator.

16 Q No, I wasn't asking that. I was talking about  
17 for the fiscal point of view. Having a -- let me  
18 rephrase the question. Having a budget in which you're  
19 spending 52 percent of special education expenses and  
20 transportation, which is -- how does that effect you in  
21 preparing a budget for the kids at public school?

22 MS. HOFF: Objection. He said that he doesn't  
23 know.

24 THE COURT: He doesn't know.

25 THE WITNESS: Yeah, I have no idea what you're

1 even driving at.

2 MR. INZELBUCH: Relax, relax.

3 BY MR. LANG:

4 Q All right. Has anyone asked you to make  
5 recommendations of how to -- well, let's go on to  
6 something else. We already established how much the  
7 transportation and special education is costing, what  
8 percent of the budget it is.

9 THE COURT: I don't need to know your thought  
10 process.

11 MR. LANG: Pardon?

12 THE COURT: I don't need to know your thought  
13 process.

14 MR. LANG: Yeah, I don't want to go on further  
15 with that. Okay. Let me get back to my questions.

16 MR. INZELBUCH: Do you need a break? Are you  
17 okay, Mr. Finger?

18 THE WITNESS: Yeah, I'm okay.

19 BY MR. LANG:

20 Q All right --

21 MS. HOFF: And I just -- I'll note here, I  
22 don't know how much time we have left, I don't know if  
23 they're planning to bring him back or not but --

24 MR. LANG: We're not. How much time do we have  
25 left?

1 THE COURT: We are. We're not going to finish  
2 Mr. Finger today, I could see that.

3 MR. INZELBUCH: No, but he's not here Monday.

4 THE COURT: So, you know, we could work it  
5 out.

6 MR. INZELBUCH: Right.

7 MR. LANG: So let me --

8 MR. INZELBUCH: Remember, we're ending at  
9 4:15, it's 3:47.

10 MR. LANG: Well, we're not getting done.  
11 They're not going to have the cross, right?

12 MR. INZELBUCH: Well, they have the right to  
13 cross, so then they have to do it another day.

14 MR. LANG: So could they finish the cross  
15 before?

16 MR. INZELBUCH: If you stop now you may ask  
17 them that.

18 MR. LANG: Would you be able to finish if I  
19 stop now?

20 MR. STARK: No.

21 MR. INZELBUCH: And then there's the lingering  
22 question which has to be discussed.

23 THE COURT: How much more do you have, Mr.  
24 Lang? Ask your questions, please.

25 MR. LANG: I just have a little bit more, it

1 looks like a half a page left.

2 THE COURT: Okay, so just ask your questions.

3 BY MR. LANG:

4 Q So now, going to the -- I'm sorry, but I want  
5 to ask this.

6 MR. INZELBUCH: You have a half an hour.

7 BY MR. LANG:

8 Q Going to 2018 to 2019, what's the total cost  
9 for projected cost for special education?

10 A 58,622,034.

11 Q What is the total projected cost for  
12 transportation?

13 A 33,078,756.

14 Q Now, of course not counting transportation on  
15 special education students twice, what is the total  
16 between those two expenses?

17 A About 88 million dollars.

18 Q 88 million dollars.

19 A Mm-hmm.

20 Q So it's my understanding, is this correct,  
21 out of this budget that you're going to be preparing in  
22 March, 88 million dollars is going to be appropriated  
23 for transportation and special education services?

24 A Projected to be spent, yes.

25 Q Projected.

1 A Yes, could be more.

2 Q All right. Why are these expenses going up,  
3 if they're going up every year?

4 A Well, the basic -- the driving force on the  
5 transportation is the non-public, the mandated non-  
6 public transportation at \$1,00 a student.

7 Q Are the busing companies asking for more  
8 money? I mean what is causing the expenses to go up?

9 A Well, that is just -- that has nothing to do with  
10 the busing companies, because that is under the pilot  
11 program, we just give for every student who is  
12 eligible, every non-public student that is eligible for  
13 busing, meeting the mileage requirements, we give them  
14 \$1,000 per student.

15 Q So it seems to me from what you're saying --

16 A They have to go out and do the bids.

17 Q Is this a logical conclusion that the numbers  
18 are just increasing, the number of students are  
19 increasing?

20 A Every year the estimate that we use to put the  
21 budget -- I was using it back in 2008 through 2010 and  
22 it's pretty -- from talking to our transportation  
23 manager, that pretty much stayed the same. You're  
24 adding between 2,500 and 3,000 new non-public students  
25 every year that are eligible for busing. I mean grant

1 it, you have those students in 12th grade who are done  
2 with school, you have the new students coming in at  
3 kindergarten, but on average for budgeting purposes  
4 it's pretty -- usually pretty close if you budget  
5 between 2,500 and 3,000 new students every year on non-  
6 public, again, being in this pilot program, you're  
7 taking that number and multiplying it out by a straight  
8 \$1,000 per student.

9 Q Now, your analysis here, are the monitors  
10 aware of these expenses? Do they agree with what you  
11 put here? I don't know if you can answer that.

12 MS. HOFF: Objection.

13 MR. STARK: They can't.

14 MR. LANG: Okay, you can't answer that.

15 BY MR. LANG:

16 Q Are they aware of these expenses?

17 A I would hope they would be. I certainly would hope  
18 so. That's the monitor part of monitor.

19 Q Yes, I thought that was an obvious answer.  
20 Okay. Now, you mentioned 15 -- 17 to 23 million dollar  
21 budget you said next year?

22 A I'm sorry, what?

23 Q What was the budget that you mentioned for  
24 next year? The deficit, the budget deficit for next  
25 year?

1 A We're estimating now it could be between 17 and 23  
2 million, add on the salary increase, add another  
3 million more, and if we got to pay the 2.1 million back  
4 to the state for the loan, add that on top of it.

5 Q And that's just to maintain the current level  
6 of services?

7 A Yes, as a matter of fact, as we said at the budget  
8 presentation, that was essentially taking what we have  
9 this year and projecting it forward to next year. It's  
10 not any new positions, programs, services or anything.  
11 It's essentially saying here's what we go in our school  
12 buildings, staffing, programs, services, project that  
13 forward a year, obviously including into that that's  
14 projections for tuition and transportation.

15 Q Okay, I'm almost finished. All this  
16 transportation expense, is all of it mandated?

17 A Yes.

18 Q It's all mandated?

19 A It's all mandated.

20 Q And this special education, is it all  
21 mandated?

22 A Yes.

23 Q It's all mandated. Okay. What would be a  
24 permanent fix from the budgetary perspective?

25 MR. STARK: Objection. It's not clear that

1 this witness is able to opine on that.

2 THE COURT: I'm not even sure what a permanent  
3 fix means.

4 MR. LANG: Well, apparently we have -- that  
5 the district has deficits every year and the expenses  
6 keep on increasing.

7 THE COURT: Well, it's easy to -- it's like  
8 anybody's pocketbook, either spend less or make more.

9 BY MR. LANG:

10 Q Is it possible to spend less? Is it possible  
11 in any way whatsoever that you can think of to get  
12 these numbers down?

13 A There's always a way to get the numbers down. The  
14 problem is because -- like I like to call your trimming  
15 at the edges. Okay. Keep in mind -- look at it this  
16 way. We have a 2 percent cap on how far we can raise  
17 our property tax. Okay. But in general, if you look  
18 back historically, the budget keeps going up every year  
19 at least a minimum of 10 percent, a minimum of 10  
20 percent, so if I could only raise taxes 2, but my costs  
21 are going up every year by 10, okay, there's an 8  
22 percent spread between there, okay. Even if there are  
23 items that you could look through in the budget that  
24 you could, again, trimming around the edges, you would  
25 literally every year have to be able to trim around the

1 edges 8 to 10 million dollars in order to keep pace  
2 with the increasing expenditures and that's, again,  
3 that would literally be impossible to do, okay, even if  
4 you said let's try to out source some people, maybe cut  
5 a program, maybe increase class size. Those things  
6 would maybe trim two, in my opinion, because I haven't  
7 done a thorough study of it, nor have I been asked to  
8 do it, but in my opinion as a BA that's been doing this  
9 for years, even if I could trim 2 or 3 million dollars  
10 each year out of the budget, that's not going to come  
11 close to how much in general and on average and  
12 historically expenses have gone up, so while it would  
13 be helpful, okay, there's really no way to say, okay,  
14 in order to cover the extra cost of transportation and  
15 tuition, I would just cut that out of the other part of  
16 the budget so we'll be even, or live within the 2  
17 percent cap you couldn't do it, unless as we said last  
18 year, one thing we asked the state for additional  
19 money, well, the choice is, raising class size to 50  
20 students per class and firing 115 teachers.

21 Q Have you had discussions with the state  
22 monitors about this problem?

23 A Very briefly. With the state monitors, we have  
24 one who's actually there on a daily -- well, three days  
25 a week, and most of my discussion with him was about

1 the budget presentation, he gave me some input on the  
2 transportation, because that's his baby so to speak, he  
3 does a lot of work on transportation, and he gave me  
4 some input on the tuition side.

5 Q What kind of input?

6 MS. HOFF: I'm just going to object. That's  
7 hearsay.

8 MR. INZELBUCH: Hearsay is allowed at the OAL.

9 THE COURT: It is.

10 MS. HOFF: Okay, I just wanted to put that on.

11 BY MR. LANG:

12 Q So then if hearsay is allowed, do the state  
13 monitors, do they understand what's going on here?

14 MR. STARK: Objection.

15 MR. LANG: Let's put it this way. What have  
16 your --

17 THE COURT: Wait, Mr. Lang.

18 MR. STARK: If I could lodge my objection, Mr.  
19 Lang, first. We do have -- we're asking one witness to  
20 testify to what the state monitors know with full  
21 knowledge that both state monitors are on the witness  
22 list and have been subpoenaed.

23 MR. INZELBUCH: Have they been subpoenaed?

24 MR. STARK: It's my understanding that they  
25 have been.

1 MR. LANG: I didn't subpoena them, but they  
2 said they'll come. I mean one of them will come.

3 MR. STARK: My error, I thought they had been  
4 subpoenaed.

5 MR. INZELBUCH: I would think they would be  
6 too, but they're not.

7 BY MR. LANG:

8 Q All right, so let me ask the question a  
9 little differently. Has there been disagreement among  
10 -- I mean according to -- what do you see as the  
11 problem here, the overall problem year after year going  
12 on in this district causing these deficits, causing  
13 these expenses going up? What exactly is causing it and  
14 what --

15 THE COURT: Mr. Lang, you asked a question.

16 MR. LANG: Yes.

17 THE COURT: Let him answer your question. You  
18 don't have to explain your question. Just let him  
19 answer your question. What is the problem in the  
20 district?

21 THE WITNESS: The problem in the district is a  
22 revenue problem. The state aid funding formula as I see  
23 it, and I'm not an expert on how the formula works, but  
24 in my experience in looking at it, the formula works  
25 well for 99 percent of the districts in the state. It

1 just doesn't work well for Lakewood, and it doesn't  
2 work well due to the fact that it's looking at ability  
3 to pay, you know, how much, you know, the wealth of the  
4 district is to contribute toward the adequacy budget,  
5 okay, but it's taking it -- again, there is no district  
6 out there where you got that split of 6,000 in the  
7 public school and five times the number in non-public  
8 schools.

9 MS. HOFF: Objection. He's testified that he's  
10 only looked at a couple different districts that he  
11 identified to compare with. He hasn't looked at all the  
12 districts. He's not an expert in state aide, which he  
13 has admitted. There's no foundation for him to testify  
14 to this.

15 MR. INZELBUCH: I don't understand this. Is  
16 there an objection? Is it a question?

17 THE COURT: He was in the middle of his  
18 answer.

19 MS. HOFF: I'm sorry.

20 THE COURT: So let him finish.

21 THE WITNESS: I could say it's just my  
22 opinion.

23 MS. HOFF: I should have objected to the  
24 question.

25 THE COURT: I'll permit it as it goes to the

1 budget. As it goes to the budget.

2 MR. INZELBUCH: You can't object to answers  
3 here.

4 MS. HOFF: Sorry.

5 THE COURT: Okay. So you said, it doesn't work  
6 for Lakewood because the district can contribute to the  
7 adequacy budget.

8 BY MR. LANG:

9 Q You were saying there's no district like  
10 that?

11 A As far as I know there is no other district like  
12 that.

13 THE COURT: It doesn't have a revenue base is  
14 what you're saying?

15 THE WITNESS: Well, what happens is from my  
16 understanding of how the state aid is calculated,  
17 because the wealth and the ratables are taken into  
18 account, okay, that determines what the fair share that  
19 the district taxpayers can pay towards the adequacy  
20 budget. If it's less than that then the district gets  
21 equalization aid, which we get some equalization aid.  
22 The problem is, is that you're looking at a base,  
23 again, of 36,000 students, and no place else that I  
24 know of is it split where 1/6ths is in the public  
25 schools and 5/6ths are not attending the public schools

1 and that's where the problem comes in, because if you  
2 only looked at just the public school students and the  
3 wealth of that group of folks, we would be getting a  
4 lot more in the way of state aid, okay, and again,  
5 normally you're not -- the number of non-public  
6 students in a town normally is not that great a level  
7 where it would make such a major difference in the  
8 calculation of the wealth and the rateables, because  
9 it's just so skewed so differently.

10 BY MR. LANG:

11 Q Let me ask you this question, because you're  
12 talking about how the state calculates what is adequate  
13 for the district, and it goes by from what I understand  
14 the number of -- does it go by the number of public  
15 school students when it determines how much money is  
16 adequate for a district, is that what you're saying?  
17 That it's looking at -- is the state -- let's put it  
18 this way. Is the number of non-public kids residing in  
19 the district in any way whatsoever go into this  
20 calculation?

21 A No, other than for transportation purposes. For  
22 those that are transported.

23 Q So what the state is saying -- are you saying  
24 that the state when they determine how much money  
25 Lakewood needs, they're only looking at the 6,000 or so

1 public school kids? And then from -- yeah, then I'll  
2 ask next.

3 A For determining the adequacy budget they're  
4 looking at the 62, 63, 6,400 public school kids.

5 Q And then from there they subtract -- do they  
6 -- from there how does the local fair share effect the  
7 equalization aid based on that calculation?

8 A Well, the fair share of what the township  
9 residents could put in towards as far as the tax levy,  
10 it used to be called, "minimum tax levy," but towards  
11 the tax levy, is determined by not just the families of  
12 the 66, 64, whatever, hundred students in the public  
13 school, it's everybody living in the town, okay,  
14 including the families of the 30,000 non-public  
15 students, because that's the total wealth of the town  
16 determined by income taxes that are filed with the  
17 Division of Taxation and by the rateables as determined  
18 by the Ocean County Board of Taxation. Okay. So there's  
19 a far higher pot of money available, okay, towards  
20 putting in as the tax levy, okay, and obviously if  
21 there's more that could come from the local side, then  
22 there's less that comes from the state side.

23 Q Are you familiar with what the state says  
24 should be -- the local fair share is right now?

25 A I don't have it in front of me.

1 Q How much money are the taxpayers paying right  
2 now?

3 A It's probably 96, 97 million in tax levy this  
4 year.

5 Q Okay. And then --

6 A For this year the tax levy is 96.9 million.

7 Q What document are you looking at?

8 A It's from the user friendly budget.

9 THE COURT: Thank you.

10 BY MR. LANG:

11 Q So the overall -- I'm not really concerned in  
12 this question about how much the local fair share is  
13 and how much the equalization aid is, but I want to  
14 just make sure I understand this correctly. What the  
15 state considers is adequate for Lakewood, the amount of  
16 money needed to run the district, provide a thorough  
17 and efficient education is using the --

18 MS. HOFF: Objection, this is --

19 MR. LANG: I'm sorry.

20 BY MR. LANG:

21 Q Is this using the non-public number in any  
22 way whatsoever, other than the transportation aid?

23 MS. HOFF: Objection. I don't understand the  
24 question. Can you rephrase that?

25 MR. LANG: Okay, let me ask the question

1 again.

2 BY MR. LANG:

3 Q If I understand you correctly, the state is  
4 determining what is adequate for Lakewood by using non  
5 -- the public school count?

6 A Yes, only the public school count, right.

7 Q Okay.

8 MR. INZELBUCH: You got it.

9 MR. LANG: That's it. We're finished. Thank  
10 you. No further questions, Your Honor.

11 THE COURT: All right. Thank you. I just have  
12 a question about the transportation. You said it's  
13 \$1,00 a pupil, correct?

14 THE WITNESS: Correct.

15 THE COURT: For the non-public school student?

16 THE WITNESS: Correct. For non-public school  
17 students, correct.

18 THE COURT: Do they count whether they need  
19 the transportation or not, in terms of are they withing  
20 the 2 miles or 2.5 miles?

21 THE WITNESS: It's only for students that are  
22 eligible for mandated busing, meaning that if they're  
23 elementary they're two miles or more away from home. If  
24 they're high school they're 2 and a half miles or more  
25 away from home.

1 THE COURT: Okay. So show me again how much it  
2 is for those students.

3 THE WITNESS: That would be on Exhibit 26.

4 THE COURT: 26.

5 THE WITNESS: Yeah, shut the light off.

6 MR. INZELBUCH: Oh, I'm sorry, I don't know  
7 how to shut it off. I'm sorry.

8 MS. HOFF: Swipe up the bottom. Can you swipe.

9 MR. INZELBUCH: Okay, I'm sorry.

10 MS. HOFF: It's blinding me.

11 THE COURT: So it's 23 million dollars, is  
12 that what you're saying?

13 THE WITNESS: Is the projected cost at \$1,000  
14 a student, actual students who have been proved.

15 THE COURT: Okay. How many square miles is  
16 Lakewood?

17 THE WITNESS: I believe it's 26 square miles.  
18 I may be wrong about that, but that's the number that  
19 sticks in my head. I think Lakewood is 26 square miles.

20 THE COURT: Okay. It just seems to me like --  
21 so a big proportion of the 30,000 require  
22 transportation.

23 MR. INZELBUCH: Your Honor, based on your  
24 questions I'm going to address the witnesses here. The  
25 LS -- I would just like to make it clear. The LSTA,

1 which is a state creation, we have to pay \$1,000 per  
2 head. It's only for mandated, not courtesy.

3 THE COURT: No, I understand that, but it just  
4 seems that there's an awful lot of mandated students.

5 MR. INZELBUCH: Yes.

6 THE COURT: You're talking about that  
7 essentially out of the 30,000, 23,000 -- it's like  
8 4/5ths of the students.

9 MR. INZELBUCH: Yes, and that's why the state  
10 monitors who are on the LSTA review that daily.

11 THE COURT: Oh good.

12 MR. INZELBUCH: So that is a mandated number.

13 THE COURT: I was just wondering how many of  
14 them. All right. So then we're done for today?

15 MR. INZELBUCH: Well, actually what is with  
16 this appending question or issue you had?

17 MR. LANG: Well, can I address that? You're  
18 talking about the issue what judge --

19 THE COURT: No, no, no, are we finished with  
20 this witness for direct examination?

21 MR. INZELBUCH: We're finished with Mr. Finger  
22 for today.

23 THE COURT: We're not going to start cross  
24 today.

25 MR. STARK: No, no, no, we'll do cross at a --

1 MR. INZELBUCH: Mr. Finger, you could leave.  
2 It's been nice.

3 THE COURT: Thank you very much. I'm going to  
4 go off the record now, I guess.

5 MR. INZELBUCH: Thank you, Mr. Finger. Please  
6 stay with Lakewood.

7 (RECESS)

8 THE COURT: We're back on the record. The  
9 issue as to standing, I think can be resolved quite  
10 easily. You'll get proof that these people either have  
11 children in the school system, still have children in  
12 the school system, or that they are in fact taxpayers  
13 in Lakewood who have a financial interest in the  
14 outcome of this case and you can attach the appropriate  
15 state documents that the state should accept as being  
16 valid. Okay. That's number one. The other issues that I  
17 raise in those questions, are really questions based on  
18 reading that petition that asked for numerous  
19 declaratory rulings, some of which seem to be  
20 impossibilities as far as I could see, and frankly I  
21 don't understand why they weren't dealt with earlier,  
22 but that's not for me at this juncture. You're  
23 presenting your case, I'd like to hear your witnesses.  
24 I don't really want to stop now. I'd like to finish up,  
25 at least Mr. Finger and Mr. --

1 MR. LANG: Mr. Haber.

2 THE COURT: -- Mr. Haber, get them done and  
3 then depending on the outline that we shall get from  
4 the petitioners as to exactly what it is that they are  
5 seeking, then we'll be in a better position to know  
6 whether we should continue or just stop and let that be  
7 addressed --

8 MR. INZELBUCH: When is that outline, do you  
9 want to see that outline from the petitioners?

10 THE COURT: I would think they should know  
11 what they want by next week.

12 MR. INZELBUCH: So there's a hearing Monday,  
13 is Mr. Haber coming back?

14 MR. LANG: Yes.

15 THE COURT: We'll go through Mr. Haber.

16 MR. INZELBUCH: And just so it's clear,  
17 because I think this is an excellent point to clarify  
18 what they are seeking, just so we all know, the  
19 petitioners are going to provide that by whatever date  
20 you say. The state is going to review that and then if  
21 need be, if the state takes a position -- Mr. Lang, I  
22 don't respond to you, I'm here as a participant. And I  
23 am asking to know when that date is and when the state  
24 should respond to, so we don't lose valuable court  
25 time, but we don't waste court time.

1 THE COURT: Correct.

2 MR. INZELBUCH: Because while I heard Monday  
3 now Mr. Haber is coming, there are other district  
4 employees who have been asked to come.

5 THE COURT: On Monday?

6 MR. INZELBUCH: Yeah, and we're asking until  
7 this gets sorted out, there's Mr. Haber who I just  
8 heard is coming Monday.

9 THE COURT: Who else is coming? Who else is  
10 coming from the district?

11 MR. LANG: Your Honor, wait, wait, wait, Your  
12 Honor, this is very easy. All I have to do is just  
13 rephrase the kind of relief that we're seeking. This is  
14 not a proper --

15 THE COURT: I'm not so sure it's quite that  
16 easy, Mr. Lang, but I think you should have it by  
17 Friday afternoon.

18 MR. LANG: Okay.

19 MS. HOFF: This Friday?

20 THE COURT: This Friday afternoon.

21 MR. INZELBUCH: All right. Are you able to do  
22 that?

23 MR. LANG: Of course.

24 MR. INZELBUCH: Okay. And then when should the  
25 state give some sort of response, whenever is --

1 THE COURT: They can take a look at it on  
2 Monday.

3 MR. INZELBUCH: So on Monday, Mr. Haber is  
4 coming.

5 THE COURT: Mr. Haber can come on Monday.

6 MR. INZELBUCH: Okay. Mr. Finger will not be  
7 here nor will any other district employees.

8 MR. LANG: Why?

9 THE COURT: Well, when can Mr. Finger come  
10 back?

11 MR. INZELBUCH: Because the court just said  
12 she'd like --

13 THE COURT: No, no, I'd like to finish up at  
14 least these two.

15 MR. INZELBUCH: Yeah, and Mr. Haber should be,  
16 I don't know where he left --

17 THE COURT: He should be first, but he'll  
18 probably take a while is my guess.

19 MR. INZELBUCH: Right.

20 THE COURT: So let's just bring Mr. Haber and  
21 then if need be we'll bring in the other witnesses from  
22 the district on Tuesday.

23 MR. LANG: Well, Tuesday the state monitors  
24 are coming and our expert.

25 THE COURT: Okay.

1 MR. INZELBUCH: Are you bringing the state  
2 monitors and the experts? Didn't you just say you want  
3 to first hear -- I thought I just heard you say --

4 MR. LANG: Why do we have to start canceling  
5 it?

6 MR. INZELBUCH: Excuse me, please don't  
7 interrupt me. I thought you just said Mr. Haber and  
8 finish up Mr. Rosaro?

9 THE COURT: Mr. Finger.

10 MR. INZELBUCH: Mr. Finger. I'm sorry.

11 THE COURT: Mr. Finger and then we will see  
12 where we're going.

13 MR. INZELBUCH: So Monday is going to be Mr.  
14 Haber. The participant, I will not be here because I  
15 will be out of the country. The next court date after  
16 Monday is when?

17 THE COURT: Tuesday.

18 MR. LANG: Tuesday.

19 MR. INZELBUCH: Okay. Well, Mr. Finger won't  
20 be here Tuesday either, because I will be out of the  
21 country.

22 MR. LANG: Your Honor, we had planned on  
23 calling the principal of Lakewood High School, the  
24 curriculum supervisor. Mr. Inzelbuch, this is the first  
25 time he's telling us that they can't accommodate him.

1 THE COURT: Do you need to be here for them?

2 MR. INZELBUCH: No, I don't mind. Excuse me,  
3 please don't again, I have no -- I don't need to be  
4 here for them to testify, but I just thought I heard  
5 that you want to finish Mr. Haber, and Mr. Finger  
6 before we start schelping in other people.

7 THE COURT: Although I have to say, if they're  
8 not going to be very long, I'd rather just get them in  
9 and out and get them done.

10 MR. LANG: They'll be one, two, three these  
11 other witnesses.

12 MR. INZELBUCH: Since one of them is the high  
13 school principal, and we have one --

14 MR. LANG: She's willing to come.

15 MR. INZELBUCH: Excuse me. You don't  
16 represent her.

17 THE COURT: Mr. Lang.

18 MR. INZELBUCH: Number two, the supervisor who  
19 we have one, we have no problem with them coming, but  
20 we don't want them sitting here all day, so as I  
21 understand, Mr. Haber is coming here at nine.

22 THE COURT: That's on Monday.

23 MR. INZELBUCH: Monday. And therefore what  
24 time can we -- the principal should be here at one  
25 time, because she's not going to sit here all day.

1 THE COURT: No, I totally agree.

2 MR. STARK: Let me ask a question because I'm  
3 just not familiar geographically, how long is the drive  
4 from Lakewood?

5 MR. INZELBUCH: About an hour.

6 MR. LANG: About 45 minutes.

7 MR. STARK: So, why don't we do this, would it  
8 be possible --

9 MR. INZELBUCH: I'll call.

10 MR. STARK: If we have her available, the  
11 principal available on call and we will revisit where  
12 we are at -- because if we assume the lunch break is  
13 going to be somewhere around the travel time, if it  
14 looks like we're going to finish Mr. Haber, we can  
15 contact her, say, "okay, we're going to break for a  
16 period for lunch --"

17 THE COURT: That's fine.

18 MR. LANG: Your honor, it's three quick  
19 witnesses. It's the basketball coach, they have their  
20 reports, the principal and the supervisor of  
21 curriculum. These are very quick witnesses.

22 THE COURT: Yes, I'm sure they're very quick,  
23 but the fact is that they are getting paid and they  
24 have jobs to do and to have them sit here all day is  
25 really a waste of time.

1 MR. LANG: No, I was going to say they could  
2 all come in the afternoon.

3 THE COURT: If they all come in the afternoon,  
4 that's fine.

5 MR. INZELBUCH: What we're going to do, what I  
6 heard from the state say, we're going to have them,  
7 because we are not at this time, even though we think  
8 these questions must be answered before this continues,  
9 we have no problem with the high school principal being  
10 on call. I assume, I'll ask the petitioner, is that  
11 the first district witness he wants after Mr. Haber?

12 MR. LANG: I'm asking that if we resolve this  
13 --

14 THE COURT: He wants all of them.

15 MR. INZELBUCH: Well, then I'm going to --

16 MR. LANG: -- then all three of those  
17 witnesses can come in the afternoon on Monday. They're  
18 going to be very quick.

19 THE COURT: He thinks they're going to be very  
20 quick, so maybe they can all come together.

21 MR. INZELBUCH: Maybe they could come  
22 together.

23 THE COURT: And save transportation expenses.

24 MR. LANG: Yes.

25 MR. INZELBUCH: Well, there's no LSTA for

1 them. So they will be here at 1:30? Is that an --  
2 approximate 1:30.

3 THE COURT: Approximately.

4 MR. STARK: Would it be appropriate for us to,  
5 I guess us being someone involved in this proceeding to  
6 contact either the individual at their office or to  
7 contact your office in your absence?

8 MR. INZELBUCH: Contact my office, Sandra.

9 MR. STARK: Sandra will then --

10 THE COURT: Call Lakewood.

11 MR. INZELBUCH: Yes, you know Sandra, an hour  
12 in advance and they will be here.

13 THE COURT: That's fine.

14 MR. INZELBUCH: But I am -- just so Mr. Lang  
15 doesn't raise any issues in any other court, they're  
16 not being here at nine, that's what I understood.

17 MR. LANG: 1:30.

18 MR. INZELBUCH: They're being here at 1:30.

19 THE COURT: Or it could be one if we finish  
20 up.

21 MR. INZELBUCH: But they're not being here at  
22 nine.

23 THE COURT: Correct.

24 MR. STARK: We will provide an hour of advance  
25 notice.

1 MR. INZELBUCH: They don't have to be here at  
2 nine?

3 THE COURT: Yes.

4 MR. INZELBUCH: Okay. Thank you.

5 MR. STARK: We will contact your office.

6 THE COURT: We don't need to have all this --

7 MR. INZELBUCH: Thank you.

8 THE COURT: All right. So I think we're clear.  
9 We'll see you all next week. Have a very good weekend.

10 (BRIEF RECESS)

11 THE COURT: All right, so now we're back on  
12 the record. So, Monday is going to be Haber. I think  
13 the cross is going to be a while from what I gather.

14 MR. STARK: Yes.

15 THE COURT: So that might take up the whole  
16 day. I don't really want Mr. Finger sitting around at  
17 all, so I thought that what you were talking is that  
18 Mr. Finger is going to come in on Tuesday morning first  
19 thing, afternoon will be the --

20 MR. INZELBUCH: He cannot be here Tuesday,  
21 unless you want him to be here without me.

22 THE COURT: Well, it's up to you, Mr.  
23 Inzelbuch.

24 MR. INZELBUCH: Well, I would prefer him not  
25 being here Tuesday without counsel, but we want to

1 assist this court in resolving your questions, so Mr.  
2 Haber, then I was told, we'll have these supervisors  
3 and principals here with an hour notice, so I highly  
4 doubt the state is going to be done with Mr. Haber so  
5 quickly, but if they are they will be available, if not  
6 --

7 THE COURT: On Monday.

8 MR. INZELBUCH: -- Monday.

9 THE COURT: If not then on Tuesday.

10 MR. INZELBUCH: Then on Tuesday, as long as my  
11 office -- please just send an email, copy me, because I  
12 get emails.

13 MR. STARK: Yes.

14 MR. INZELBUCH: So when is the next day after  
15 Tuesday?

16 MR. LANG: Can I just --

17 THE COURT: He's got the state examiners or  
18 the state monitors coming in Tuesday.

19 MR. LANG: Right, that's what I wanted to  
20 discuss with Your Honor. Mr. Shafter, which you said  
21 that you didn't want to do remote, he said he could  
22 come in on Tuesday at nine o'clock, I could ask him a  
23 different time, but he said he could come in. Mike  
24 Rosaro, the other state monitor, he's going to find out  
25 on Thursday if he can come in in person so we don't

1 have to go to New Brunswick.

2 THE COURT: Okay.

3 MR. INZELBUCH: I thought you just said -- you  
4 have state people. I would love him to come here  
5 actually, I have great things to say if they stick to  
6 what they told us, but the question is, are they coming  
7 -- I thought you said you're finishing -- I'm trying to  
8 put my hands around this. I thought you said you're  
9 finishing Haber --

10 MR. STARK: This is --

11 MR. LANG: Why are you even involved, they're  
12 no longer your witnesses?

13 THE COURT: Yeah, let's --

14 MR. INZELBUCH: We're involved because this is  
15 not about you learning to be a lawyer.

16 MR. LANG: No, you're wrong about that. One  
17 second. You're wrong about it because it's not the  
18 school board who has standing over here, it is th  
19 students who have standing.

20 MR. INZELBUCH: The judge will let me know.  
21 What were you saying, State?

22 MR. STARK: This is the schedule as I  
23 understand it. On Monday morning we will continue the  
24 cross examination of Ross Haber. At the conclusion of  
25 his cross examination if there is sufficient time we

1 will provide Mr. Inzelbuch's office one hour's notice  
2 for the first individual, which is the principal of  
3 Lakewood High School to then come here and appear if  
4 there is sufficient time. If there is not sufficient  
5 time I would propose that then that person, since Mr.  
6 Lang wants to get those three witnesses done in  
7 succession, that that individual come first thing  
8 Tuesday morning if they can't get done on Monday, they  
9 would come Tuesday morning. I know that there's three  
10 of them, Mr. Inzelbuch, so I think it is reasonable to  
11 assume that if we start one of them that witness will  
12 take 45 minutes to an hour approximately, and so then  
13 we can provide the same notice once we start the  
14 principal, we can provide notice for the second person  
15 to come. Once we start that person, we provide notice  
16 for the third person to come, that way nobody is  
17 sitting here with wasted time and we're minimizing the  
18 potential --

19 THE COURT: And we'll put the monitors off to  
20 another day.

21 MR. STARK: And we will put the monitors off  
22 to another day.

23 MR. LANG: Are we talking about Monday or  
24 Tuesday?

25 MR. STARK: We're talking about Monday into

1 Tuesday.

2 MR. LANG: We don't have to call if we're  
3 going to go into Tuesday I could just drop some of  
4 those witnesses.

5 THE COURT: No, no, no, Mr. Lang this is your  
6 case and if you want these people called we're going to  
7 have them here. So we'll see how we do with them on  
8 Monday and then we can decide what's going to happen  
9 for Tuesday.

10 MR. LANG: So what should I tell the state  
11 monitors?

12 MR. INZELBUCH: What's the next day after  
13 Tuesday?

14 MR. STARK: The 22nd.

15 MR. LANG: The 22nd, what should I tell them  
16 because --

17 THE COURT: Do you want to tell them the 22nd,  
18 are they available on the 22nd?

19 MR. LANG: I'll find out, they might be.

20 MR. INZELBUCH: Could you subpoena them too so  
21 they're here?

22 MR. LANG: Mr. Rubin gave me his word that  
23 they'll come. Okay. I mean I could. I got to find out  
24 their address.

25 THE COURT: So you'll take care of that.

1 MR. LANG: I could. Yes.

2 THE COURT: Very good. So I'll see everybody  
3 then on Monday.

4 MR. STARK: Thank you.

5 MR. LANG: Thank you.

6 MS. HOFF: Thank you.

7 (Whereupon, the proceedings were adjourned.)

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1 STATE OF NEW JERSEY }

2 COUNTY OF OCEAN }

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I, Kelly Sellers, AD/T#544, assigned

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transcriber, do hereby affirm that the foregoing is a

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true and accurate transcript of the proceedings in the

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matter of Leonor Alcantara, Individually and as

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guardian ad litem for E.A., et al. vs. David Hespe,

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Commissioner of Education, bearing Docket No. EDU

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11069014 heard on February 7, 2018 before the Office of

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Administrative Law Court.

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