

**D-1-GN-11-003130**

IN THE DISTRICT COURT

200th JUDICIAL DISTRICT

200th JUDICIAL DISTRICT

TRAVIS COUNTY, TEXAS

**MOTION TO STRIKE CHARTER PLAINTIFFS' EXPERTS**  
**DR. ANTHONY ROLLE AND TONI TEMPLETON**

TO THE HONORABLE JUDGE DIETZ:

Defendants file this *Motion to Strike Charter Plaintiffs' Experts Dr. Anthony Rolle and Toni Templeton*.

## I. SUMMARY

The Charter Plaintiffs designated Toni Templeton and Anthony Rolle as experts, purportedly to address alleged claims of inequity, inadequacy, unsuitability and inefficiency as to the funding of charter schools by the State of Texas.<sup>1</sup> However, this Court should strike both Templeton and Rolle as experts for several reasons, to wit:

- (1) The Court's February 4, 2013 Order held that the Charter School Plaintiffs failed because "it is within the Legislature's discretion to fund charters differently than traditional public school districts. Any disparities do not rise to the level of rendering the entire system unconstitutional..." When the Court later reopened the record, it did so solely to consider whether the 2013 legislative changes impact its February 4, 2013 rulings. Neither Dr. Rolle nor Ms. Templeton squarely address the legal conclusions reached by the Court.
- (2) Without explanation or justification, the Charter Plaintiffs failed to provide any of either expert's underlying data until well after the deadline to do so, have admitted that certain underlying data were "cannibalized," and still have not provided other data reviewed by Dr. Rolle.
- (3) Dr. Rolle could not explain the numerous errors and discrepancies in his report (and the Excel spreadsheet purportedly underlying his report). These discrepancies remain unexplained.
- (4) Rather than utilizing peer-reviewed, published articles, some unspecified portion of Dr. Rolle's report is based on unpublished, non-peer reviewed resources.
- (5) Ultimately, Dr. Rolle's "opinion" is not the appropriate subject of expert testimony, as he is simply employing a specific method to average per student funding, which is not, in and of itself, an "opinion."
- (6) Because Templeton's role was to tabulate data in a spreadsheet for Dr. Rolle's review and admitted that Dr. Rolle is the person intended to offer the opinions on behalf of the Charter Plaintiffs, she should be stricken.

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<sup>1</sup>Defendants have filed a Motion to Strike the Charter Plaintiff's adequacy, suitability and efficiency claims, and in the event that the Court grants that motion, both Templeton and Rolle's opinions will likely be entirely moot. The instant Motion seeks to strike Templeton and Rolle regardless of the Court's ruling on the Defendant's Motion to Strike the Charter Plaintiff's pleadings.

## **II. RELEVANT HISTORY**

### **A. September 30, 2013: Written Request for Backup Data**

On Monday, September 30, 2013, Lead Counsel for Defendants requested all other parties provide their respective experts' backup data be provided along with their reports on October 14 in compliance with TRCP 194(f). In relevant part, Ms. Dahlberg's email stated:

I write to make clear that when you produce your expert reports on October 14 and October 21, we expect to receive the backup materials that underpin the reports. The backup materials should be sufficiently specific to allow us to see the actual source of each number used in any calculations, as well as the formulas used for any derived numbers...

*See Ex. A.*

### **B. October 1, 2013: Charter Plaintiffs' Expert Designation**

On October 1, 2013, the Charter Plaintiffs designated two substantive experts: Ms. Toni Templeton and Mr. Anthony Rolle, Ph.D. Their disclosures describe the scope of Ms. Templeton's testimony as follows:

Ms. Templeton will testify on the effect that HB 5 and SB 2 has on the Charter School Plaintiffs. She will also testify on (a) how the charter schools are inequitably funded by the State of Texas and demonstrate that the legislation passed in the 83rd Legislative Session dealing with schools has not changed the unsuitability, inadequacy and inefficiency of the public free schools; (b) why the funding of the charter schools does not make suitable provision for the support and maintenance of an efficient system of public free schools; (c) the failure of the legislature to provide for a general diffusion of knowledge; (d) how the overall school funding is in violation of the state Constitution; and (e) the inequality between children who attend charter schools and students who attend independent school districts' schools in property rich districts and are therefore not afforded a substantially equal opportunity to have access to educational funds.

*Charter Plaintiff's Response to RFD, Designation of Add'l Expert Witnesses, and Answer to Interrogatories*, (the "Designation," attached as Ex. B). Dr. Rolle's designation is virtually identical:

Dr. Rolle may testify regarding the Texas school finance system as it impacts open-enrollment charter schools. Dr. Rolle may further testify about issues within his area of expertise (as reflected in his résumé and writings), and as raised in testimony by other witnesses in this cause. Dr. Rolle may additionally be called as a rebuttal witness on issues raised by the testimony and reports of other witnesses. He may also testify on (a) how the charter schools are inequitably funded by the State of Texas and demonstrate that the legislation passed in the 83rd Legislative Session dealing with schools has not changed the unsuitability, inadequacy and inefficiency of the public free schools; (b) why the funding of the charter schools does not make suitable provision for the support and maintenance of an efficient system of public free schools; (c) the failure of the legislature to provide for a general diffusion of knowledge; (d) how the overall school funding is in violation of the state Constitution; and (e) the inequality between children who attend charter schools and students who attend independent school districts' schools in property rich districts and are therefore not afforded a substantially equal opportunity to have access to educational funds. He may also expound on the facts elicited from Ms. Templeton's testimony and report.

*Id.*

**C. October 4, 2013: The Court's Scheduling Order**

On October 4, 2013, after much negotiation between the parties, the Court entered a scheduling order which, among other things, required "any party seeking affirmative relief" to: (1) designate experts in compliance with TRCP 194.2(f) and 195, and (2) provide all parties with their experts' reports. *See* 10/4/13 Scheduling Order, attached as Exhibit C.<sup>2</sup>

**D. October 14, 2013: Dr. Rolle's Report**

On October 14, 2013, the Charter Plaintiffs provided Defendants with Dr. Rolle's report, attached as Ex. D. No backup materials were provided with the report.

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<sup>2</sup>Although the Court entered a subsequent Scheduling Order on November 11, 2013, it did not alter the referenced deadlines.



**E. November 8, 2013: Deposition of Toni Templeton**

Defendants deposed Toni Templeton on November 8, 2013, and learned for the first time that Ms. Templeton had prepared both the statistical components of Dr. Rolle's report, along with an Excel spreadsheet utilizing the data:

Q. Page 5 is described as "Table 1A Addendum." It is a "Charter Schools Facilities Funding Evaluation Analyzing the Concept of Efficiency within the Texas Education Foundation School Program, Academic Year 2011 and 2012, Revenue Per Student." Did you create this document?

A. I did the initial data analysis for the values in the table.

Q. Did you generate or was there some working document that you used to tabulate these data and calculate these information or these data points?

A. Publicly available TEA data.

Q. Right. That's where you got the information. But what I'm wondering is did you have some kind of document that was your working document that tabulated all this material?

A. Yes.

Q. And it's something other than this Page 5 of Exhibit 20023?

A. Yes. The actual calculation is not here. These are a summary of the calculation.

Q. Do you still -- is that in an Excel file?

A. What's that?

Q. The working document that tabulated these information.

A. That was sent to Dr. Rolle, yes.

Q. So it was in an Excel file that you sent to Dr. Rolle. Is that correct?

A. Yes.

Q. Do you still have that document?

A. I'm sure I do. At work.

Q. So if I asked your counsel to produce a copy of that data tabulation to us, he'd be able to get that to us?

A. At the moment, no, because I don't have my computer, but, yes, I can provide those.

Q. Right. I don't mean instantaneously.

A. Yeah, uh-huh.

Depo transcript of Toni Templeton, pp. 66 ln. 8 to 67 ln. 20, attached as Exhibit E.

Additionally, Ms. Templeton made it clear that her role was to generate the data upon which Dr. Rolle would rely, and not to offer any opinions separate from those of Dr. Rolle:

Q. So you're really not -- you're really not here to talk about whether the system as a whole is suitable, adequate or efficient at the end of the day. That's not your area of expertise?

A. I'm here to provide data points for that discussion.

Q. Data points that Dr. Rolle -- who is ultimately the mouthpiece for that component of the opinion. Is that fair?

A. Yes. Dr. Rolle's opinions are his own.

*Id.*, at p. 68 ln. 8-17.

**F. November 13, 2013: Email Requesting Backup Data**

On November 13, 2013, counsel for Defendants sent an email to both of the Charter School Plaintiffs' counsel again asking for the backup data supporting Dr. Rolle's opinions, the entirety of which reads as follows:

During Toni Templeton's deposition last week, she testified that she prepared an Excel spreadsheet that was used in the creation of Dr. Rolle's report. As you know, that data was not delivered to us, although per the court's 10/4 order, it should have been produced on or before October 14.

I asked for it during the deposition. Please deliver it as soon as possible. Thank you for your assistance with this matter.

*See* Ex. F. The Charter Plaintiffs' counsel did not respond to this request.

**G. November 22, 2013: Email Requesting Backup Data**

On November 22, 2013, counsel for Defendants again requested that the Charter Plaintiffs comply with the Court's order and previous requests for Dr. Rolle's backup data. *See* Ex. G.

**H. November 25, 2013: Excel Spreadsheets Produced**

On November 25, 2013, roughly forty-five days after the Court's deadline to do so, the Charter Plaintiffs provided five Excel spreadsheets ostensibly representing the universe of backup data for Dr. Rolle's report via email. *See* Ex. H.

**I. December 18, 2013: Deposition of Dr. Rolle**

(1) *Data Errors in Dr. Rolle's Report*

Numerous data errors were identified in Dr. Rolle's report during his deposition. Although he initially testified that he had "reviewed all of [the] numbers" in his expert report to "ensure that they were accurate," [Ex. I, p. 31 ln. 18-25], numerous errors nonetheless remained.

Pages 7 and 8 of Dr. Rolle's report have different numbers for the alleged "mean" for revenue per student (ADA) for charter schools; Dr. Rolle was unable to explain the discrepancy. *See* Ex. D at pp. 7-8 and Ex. I at pp. 121-22. Dr. Rolle testified that he was unsure whether the error spilled into other calculations provided in his report for the determined median, calculated standard deviation or the coefficient of variation associated with the original error. *Id.* at pp. 122-23.

But this was not the only error. Similar errors permeated Dr. Rolle's WADA based calculations as well:

Q. Right, okay. So Table 2A, 2B, 2C are similar from a methodology standpoint to 1A, B and C that we just looked at, except now we are using WADA instead of ADA; right?

A. That's correct.

Q. And let's just check. Again, on page 14, the ISD number does not correspond to the number reported on page 13; right?

A. It does not.

Q. And I assume you don't know why [that] is?

A. I do not.

*Id.*, at p. 133.

Unexplained errors in Dr. Rolle's data continued to arise throughout the deposition:

Q. Next page 17. The next data set also incorrectly reports the ISD calculated FSP revenue per WADA between page 17 and -- between page 17 and page 18; right?

A. The numbers are different, yes.

Q. And one of those is necessarily incorrect?

A. It may not be incorrect. It may be due to rounding.

Q. You think a rounding error could describe the difference between 6572 and 6564?

A. It's possible, but they are not the same.

*Id.*, at p. 135 ln. 10-19.

Dr. Rolle admitted that the numerous errors in his report were concerning:

Q. Does it concern you that now in the majority of tables that have been presented in these statistical calculations that there is at least one error on every page?

A. Yes, it does.

*Id.*, at p. 135 ln. 20-25. Despite this concern on Dr. Rolle's part, to date no corrections in any of the data have been provided by the Charter Plaintiffs.

(2) *Data Discrepancies in Dr. Rolle's Backup Data*

Dr. Rolle was also unable to explain numerous discrepancies in the data set utilized by Toni Templeton:

Q. You are not able to explain why two columns with the same heading have -- have such a disparity in the actual reported number?

A. Can I ask my attorney a question?

Q. Well, you can tell me you don't know, and then we can take a break.

A. Right. Yeah, I don't know.

MR. VINSON: Okay. Let's take a break.

(Off the record.)

Q. I just asked you whether you were able to explain why in a spreadsheet prepared by Toni Templeton for the purpose of generating your report, two columns with the same title, LDF per ADA have such a difference, are you able to explain that to me, now that you have had a chance to speak with Mr. Schwartz?

A. I don't know.

*See Ex. I, page 58 line 11 – page 59 line 1.*

Dr. Rolle was similarly unable to explain a discrepancy with respect to WADA based calculations:

Q. And again, I assume you are not able to tell me what the significance, if any, is of the numbers in column E, which is described as all. Do you know what those refer to -- what those numbers refer to?

A. No.

Q. And do you know why column F, total revenue per WADA, the numbers in column F do not match the numbers in Column C of LDF total per WADA?

A. No.

Q. In fact, in line 2, we see a very significant difference. Line F is described as -- is reported as \$20,700, whereas line C, it's \$5,388. Do you see that?

A. I see that.

Q. You are not able to explain the discrepancy of these two numbers?

A. No.

Q. Do you know which set of data ultimately Ms. Templeton used for her calculations, whether it was column F or column C?

A. No.

Q. Does it matter to you which one she used?

A. In her calculations?

Q. Yes.

A. Yes, data matters.

See Ex. I, pg. 73 line 20 – 74 line 10.

(3) “Cannibalized” Data

While attempting to minimize the significance of the above-described errors, Dr. Rolle revealed that he utilized a program to analyze data to double check certain data in his report called Statistical Package for Social Science (“SPSS”). See Ex. I, pg. 129 ln. 3-17. Inexplicably, he then “cannibalized” his work product after running the analyses:

Q. Okay. And what did you -- what did you do in SPSS to -- to do any of the work that you -- that you did in this case?

A. You typically will create a structure that asks the system to run means and mean differences.

Q. Did you do that in this case?

A. I did that in this case for tables 1A – excuse me, 1A, 1B and 1C.

Q. And do you still have that file somewhere?

A. I do not have that file. I cannibalized my original file.

Q. What do you mean, you cannibalized it?

A. I used various pieces of my original file instead of rewriting an entire new code.

Q. I’m trying to understand what you did here. I’m simply talking about the supplemental report here. It sounds like 1A, 1B, 1C, you used your SPSS program to run some analyses; is that correct?

A. Correct.

Q. And then what happened to those analyses?

A. Those analyses were used to check the data tables.

Q. And what did you do with them once you completed the analyses?

A. I did not keep them. I cannibalized them from the original data sets -- excuse me, the original code that I used in phase I of this trial.

*Id.*, pg. 130 ln. 23 – 131 ln. 24.

Dr. Rolle confirmed that the data from SPSS can be produced in Excel format:

Q. So you can import an Excel spreadsheet into that program; is that correct?

A. Yes.

Q. And you could export your data from SPSS into an Excel spreadsheet; is that correct?

A. It doesn't usually work like that. You usually import data to conduct analysis.

Q. So no, you can't do that?

A. You can, but most people usually don't.

Q. Well, I'm not asking about most people. I'm asking about whether you can or not?

A. Yes, you can.

*Id.*, pg. 129 ln. 12 – 130 ln. 7. To date, no version of Dr. Rolle's SPSS file relating to his supplemental report has been produced.

(4) *Other Unproduced Material*

Dr. Rolle also revealed that he had received a copy of the Excel spreadsheet prepared by Ms. Templeton, a copy of which was requested by counsel for Defendants:

Q. And so as a precursor to the actual generation of the data slides in 20267, Ms. Templeton first obtained from TEA data of all different types that were assembled in an Excel spreadsheet; is that correct?

A. Yes.

Q. And did you review the Excel spreadsheet as well at some point?

A. I did not review the Excel spreadsheet.

Q. Did she send you a copy of the Excel spreadsheet at some point?

A. I now have a copy of the Excel spreadsheet.

Q. When did she first send you a copy -- when did you first obtain a copy of the Excel spreadsheet?

A. I don't -- I don't recall.

Q. How could you -- well, was it before or after you generated this report 20267?

A. I believe it most likely was after receiving the first draft, I think I received the data somewhere in there. I would have to go back and check to make sure.

Q. And did you receive it via email from Ms. Templeton?

A. Yes.

Q. Do you still have that email?

A. Probably.

Q. So if I asked for a copy of that email so we could know for sure when you got the actual Excel spreadsheets that you were used to generate the data tables in 20267, you would be able to produce that?

A. If I have the email, yes.

MR. VINSON: Mr. Schwartz, I'm asking you now for a copy of that email, please.

MR. SCHWARTZ: Exactly the email -- what is it -- what would you call it, an email sending you the spreadsheet or --

THE WITNESS: Sending me the spreadsheet and report.

MR. SCHWARTZ: The first one?

THE WITNESS: Yes.

MR. SCHWARTZ: First.

MR. VINSON: The earliest.

MR. SCHWARTZ: Earliest.

*Id.*, pgs. 32 ln. 8 – 33 ln. 23. The Charter Plaintiffs have not provided the requested email.

(5) *Reliance on Unpublished and Other Incompetent Supporting Materials*

On redirect examination by the Charter Plaintiffs' counsel, a doctoral thesis written by Texas A&M Ph.D. candidate William West in 2013 was introduced in evidence without further discussion. It was the first time Defendants' counsel had ever heard of or seen the document.

On re-cross, Dr. Rolle testified that he "may" rely on certain chapters of West's dissertation.

Q. And do you intend to rely on anything in this 20269 in support of the opinions you are rendering in this case?

A. I may.

Q. Can you point me to what portions you are relying on?

A. I have not read this in some time, but particularly Chapters 1, which is kind of the introduction and outline, the analytical section, which is Chapter 4, and the conclusions, which are Chapter 5.

*Id.*, pg. 192 ln. 2-11. Although Dr. Rolle conceded that West's thesis had no data regarding charter schools or charter students (*id.*, pg. 194 ln. 13-15), he took numerous positions regarding the role of West's unpublished dissertation in creating his own opinions:

Q. Would you have been able to make these – provide this perspective in the absence of this dissertation, Exhibit 20269?

A. Some, based on my previous work...

*Id.*, at pg. 196 ln. 2-13. Upon further inquiry, Dr. Rolle identified his own narrative regarding Tables 11 and 12 as those most informed by West's dissertation:

Q. I guess what I'm trying to figure out is what -- what portion of your report, 20267, relies on this dissertation?

A. A portion of the discussion of adequacy.

Q. Which portion of the discussion of adequacy? Tell me, show me where -- where?

A. Well, in the narrative form on tables 11 and 12, that's where the preponderance of the adequacy discussion lies, and what this dissertation does, it provides us

additional information about the context within which that discussion can take place.

*Id.*, at pg. 196 ln. 14-24.

Dr. Rolle then changed course and denied that the dissertation was critical to his opinions:

Q. So it sounds like what you are telling me is this dissertation is critical to the conclusions that you have reached in table 11; is that correct?

A. No, I wouldn't say it's critical.

*Id.*, at pg. 198 ln. 6-12.

Dr. Rolle next admitted that he "probably" could have come to all the conclusions he reached in his report "without reference to [West's dissertation]," and that Ms. Templeton, the person who actually collated the TEA data in an Excel spreadsheet, and created the tables that make up the bulk of Dr. Rolle's report, had not had the benefit of West's dissertation. *Id.*, at pg. 198 ln. 25 – pg. 199 ln. 11.

Despite repeated efforts to ascertain the significance, if any, of West's unpublished dissertation on Dr. Rolle's opinions, counsel for Defendants was unable to elicit a cogent statement from Dr. Rolle on the subject:

Q. What statistical relationship exists -- relationship exists between the funding components and student outcomes, and in what way does the information in this Exhibit 20269 actually show itself on page 39?

A. It doesn't show itself specifically on page 39. It helps provide -- it helps me provide a context for analysis.

Q. But you didn't actually provide any of that context for analysis in your report; right?

A. No, but it helps form my opinion.

*Id.*, at p. 198 ln. 15-24. Attempts to understand the role of West's dissertation in Dr. Rolle's report continued:

Q. In what way did 20269 shape your opinions in this case?



A. It helps understand the relationship between FSP and TAKS scores and helps to understand the relationship between FSP and accountability.

Q. So you're actually relying on the finding in this dissertation to make your conclusions -- to draw your conclusions about funding levels and outcomes, is that correct, in college readiness indicators?

A. Not about funding levels specifically, but explaining how FSP is related to both student outcomes as well as accountability standards.

*Id.* at pg. 199 ln. 19 – 200 ln. 5.

Attempts were made to ascertain whether specific portions of West's dissertation were essential to Dr. Rolle's opinions in this case:

Q. You also mentioned table what -- paragraph -- or sorry, Chapter 4 as being important to your opinion in this case?

A. We're still in Chapter 4.

Q. Okay. Was there another component of Chapter 4 that you also felt --

A. Well, there are I believe four or five discussions of Chapter 4. I guess it's probably easier to work through the tabular motions, so I would suggest moving through -- around tables 8 through table 16, as well as table 16 to the end of the chapter.

Q. How specifically did table 8 impact the report that you issued in this case?

A. Can you clarify the "how"?

Q. I cannot.

A. As I worked with Dr. West in developing this dissertation, different types of ideas relating to adequacy were generated through -- through his work that I considered as we moved forward in developing the outlines for our continued work.

Q. So which page of your report incorporated the data shown in table 8?

A. None.

*Id.*, at pg. 203 ln. 10 – 204 ln. 7. This continual and bizarre insistence that West's dissertation somehow "shaped" Dr. Rolle's report while nonetheless conceding that his report would have been identical had he never seen West's work in the first place persisted throughout the deposition:

Q. I'm really having a hard time understanding what role or significance this document played in the generation of your report, because try as I may, I am finding little evidence that anything in this dissertation shows itself to have played a role or influenced what is a pretty straightforward analysis of data that was compiled from the TEA and then provided in these -- these slides that are in your

report. Can you explain to me in simple terms the significance, if any, of this dissertation in the generation of the report in this case that you -- that you issued?

A. Again, the simplest terms I can say is it helps discuss the concept of adequacy in Texas, and it's the most recent piece of research regarding adequacy in Texas.

Q. If this article had not been written, how -- how, if at all, would your report differ?

A. *The actual report --*

Q. Yes.

A. -- *would not differ*, but the *context of my discussion would have changed*, meaning I would be less informed about adequacy in Texas and how the concept is derived.

Q. But at the end of the day, it really doesn't have any effect on the actual opinions that you have rendered in this report or you have relayed to me in our -- in this deposition today; is that fair?

A. I don't believe it would change the structure of the report, *but it has helped shape my opinion*.

*Id.*, pg. 207 ln. 18 – 208 ln. 21 (emphasis added).

### **III. ARGUMENT & AUTHORITIES**

#### **A. Procedural Rules Governing Expert Production**

Texas Rule of Civil Procedure 194.2(a) outlines the scope of discovery regarding experts which, among other things, includes “all documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert’s testimony.” *See* TRCP 194.2(f)(4)(A).

#### **B. Effect of Failure to Timely Comply with Expert Discovery Requirements**

TRCP 193.6(a) provides an automatic exclusionary rule for any failure to timely comply with a party’s discovery obligations absent good cause or a lack of prejudice to the other party. Although the exclusionary rule does not expressly contemplate the situation presented here, where a party’s compliance with the rule is incomplete, at least one court upheld exclusion of an expert for the proponent’s failure to comply with TRCP 194.2(f). *See Moore v. Memorial Hermann Hosp. System, Inc.*, 140 S.W.3d 870, 875 (Tex.App—Houston [14<sup>th</sup> Dist.], 2004, no

pet.) (“Because appellant failed to make, amend, or supplement her discovery response to include all required relevant information concerning Dr. Mohamed [under TRCP 194.2] the trial court did not abuse its discretion in excluding Dr. Mohamed’s opinion testimony under Rule 193.6(a) of the Rules of Civil Procedure.”).

### **C. Substantive Requirements for Expert Testimony**

Texas Rule of Evidence 702 provides that if specialized knowledge will assist the trier of fact to understand the evidence or determine a fact issue, than a witness “qualified as an expert by knowledge, skill, experience, training or education” may provide his expert opinion as testimony. TEX. R. EVID. 702. The trial court is the gatekeeper charged with ensuring at the outset that the proposed expert testimony is admissible. *E. I. du Pont de Nemours and Co. v. Robinson*, 923 S.W.2d 549, 592-93 (Tex. 1995). In order for expert testimony to be admissible, three requirements must be met. *Id.* at 556-57. First, the witness must be qualified to give the testimony he offers. *Id.* Second, the testimony must be relevant. *Id.* Third, the proposed testimony must be reliable. *Id.* The proponent of the expert testimony bears the burden of showing by a preponderance of the evidence that each of these requirements is met. *Id.* at 557.

The factors a court considers to make the reliability determination for nonscientific expert testimony is somewhat flexible. *Gammil v. Jack Williams Chevrolet, Inc.*, 972 S.W.2d 713, 726 (Tex. 1998). A court should start with any of the six nonexclusive factors announced in *E. I. du Pont de Nemours and Co. v. Robinson* by the Texas Supreme Court that are applicable to the testimony offered in a given matter. *See Helena Chem. Co. v. Wilkins*, 47 S.W.3d 486, 499 (Tex. 2001). Those factors include: (1) the extent to which the theory has been or can be tested; (2) the extent to which the technique relies upon the subjective interpretation of the expert; (3) whether the theory has been subjected to peer review and/or publication; (4) the technique’s potential rate

of error; (5) whether the underlying theory or technique has been generally accepted as valid by the relevant scientific community; and (6) the non-judicial uses which have been made of the theory or technique. *Robinson*, 923 S.W.2d at 556-557.

Then, the court should “identify and employ other factors as necessary to assess the reliability of the proffered testimony.” *Helena Chem. Co.*, 47 S.W.3d at 499. When an expert relies on his experience or training instead of scientific methodology to reach his conclusions, a court should also “determine whether there may be ‘simply too great an analytical gap between the data and the opinion proffered’ for the opinion to be reliable.” *Wiggs v. All Saints Hea. Syst.*, 124 S.W.3d 407, 410 (Tex. App.—Fort Worth 2003, pet. ref’d) (citing *Gammill*, 972 S.W.2d at 728 (Tex.1998)). This gap occurs when the expert fails “to show how his observations, assuming they were valid, supported his conclusions.” *Gammil*, 972 S.W.2d. at 727. A conclusion “is not so simply because ‘an expert says it is so.’” *Merrell Dow Pharmaceuticals, Inc. v. Havner*, 953 S.W.2d 706, 712 (Tex.1997) (citing *Viterbo v. Dow Chem. Co.*, 826 F.2d 420, 421 (5th Cir.1987)). “When the expert ‘br[ings] to court little more than his credentials and a subjective opinion,’” this is not reliable evidence. *Id.*

**D. Dr. Rolle and Ms. Templeton should be Stricken as Experts**

1. *The Report Does Not Squarely Address whether the Legislative Changes Impacted the Charter School Claims to the Point of Constitutional*

The Court’s February 4, 2013 Order held that the Charter School Plaintiffs failed because “it is within the Legislature’s discretion to fund charters differently than traditional public school districts. Any disparities do not rise to the level of rendering the entire system unconstitutional...” When the Court later reopened the record, it did so solely to consider whether the 2013 legislative changes impact its February 4, 2013 rulings. Neither Dr. Rolle nor Ms. Templeton squarely address the legal conclusions reached by the Court. Instead, they are

essentially repeating the claim made in the first phase of the trial – that Charter Schools are not funded in the same manner as their traditional ISD counterparts – which the Court has already rejected.

But on this point, Dr. Rolle conceded that he has not analyzed any data regarding the 2013-2014 school year to predict how students at standard accountability charter schools will perform relative to their traditional ISD counterparts (Ex. I at pg. 116 ln. 8-17). Furthermore, his own report belies the very premise of Charter Plaintiff's case, as standard accountability charter students exceeded their ISD peers in each of the three available measures for the 2012-13 school year: percentage of students taking the SAT or ACT, the average SAT score, and the average ACT score. *See* Ex. D.

2. *Failure to Comply with Rules Concerning Expert Discovery and the Texas Supreme Court's Requirements for Expert Testimony*

As outlined extensively above, the Charter Plaintiffs failed to timely comply with their discovery obligations. Data reviewed and relied upon by Dr. Rolle remains unproduced to this day. He “cannibalized” his own efforts to double-check Ms. Templeton's work, yet numerous errors in Dr. Rolle's report remain. He relied on unpublished, non-peer reviewed materials that were not presented until late in the afternoon of his deposition, then refused to set forth how these previously undisclosed documents impacted his opinions, all the while insisting that there was some influence, or “context” provided by the undisclosed, unpublished materials – an approach expressly forbidden nearly twenty years ago by the Texas Supreme Court in *Robinson*, 923 S.W.2d at 592-93.

3. *The Excel Spreadsheet Used to Generate Dr. Rolle's Report is Fraught with Unexplained Errors and Inconsistencies*

Dr. Rolle testified that he has seen the Excel spreadsheet generated by Ms. Templeton, but was entirely unable to explain the discrepancies in her spreadsheet, as outlined above. What this suggests is that Dr. Rolle relied solely on his own calculations utilizing the SPSS program, which he “cannibalized.” This represents an incurable discovery violation and should, on its own, establish that Dr. Rolle’s opinion is not demonstrably founded upon reliable backup data. Accordingly, Dr. Rolle and Ms. Templeton should be excluded from testifying under *Robinson*.

4. *Dr. Rolle’s “Opinion” is not the Appropriate Subject of Expert Testimony.*

Dr. Rolle’s purported “opinions” in this case are hard to discern. Utilizing a specific method of averaging, Ms. Templeton calculated a numerical gap between the average funding per charter and the average funding per ISD at various percentiles, and Dr. Rolle appears to adopt these calculated gaps as his own. These calculations, assuming that they are performed correctly utilizing accurate data, are not in and of themselves “opinions” any more than any objective mathematical calculation is an “opinion,” and does nothing to suggest that the calculated per student average funding differences between charters and traditional ISDS in the 2013-14 school year are now constitutionally significant, given the Court’s holding that the calculated differences in the prior school years were not constitutionally significant.

In fact, the data Rolle presents in his own report paint a picture of overall success by the students attending standard accountability charters. In addition to the positive data concerning SAT and ACT testing cited above from Table 12B, Table 12A shows that even in the 2011-12 school year, the percentage of college ready graduates based on the TAKS testing for standard accountability charter students was within two percentage points of their ISD peers, and those same charter students outperformed their ISD peers on the ACT and SAT by a similar margin. *See Ex. D.*

Apparently bound to manipulate the data until the appearance of a gap between standard accountability charter students and ISD students arose, Dr. Rolle then took the averages from Table 12A (the 2011-12 year) and 12B (the 2012-13 year) and calculated the *average difference between the average calculated gaps in 2011-12 and the 2012-13* to create the appearance of an existing gap between ISD students' performance and standard accountability charter schools where none actually exists.

Inasmuch as Dr. Rolle's "opinion" is reflected in the narrative portions of his report, it is hardly helpful to this Court. After quoting *Neely v. West Orange Cove*, citing the calculated per student funding gaps between charter students and their traditional ISD counterparts, Dr. Rolle repeats the following boilerplate conclusion regarding the Charter Plaintiffs' efficiency claims:

Thus, given the definition of West Orange Cove, it is demonstrated for the Court's consideration that (1) children in Open Enrollment Charter Schools for the additional three years "...have not had substantially equal opportunity to have access to educational funds" for school facilities; and (2) the recent changes to the laws as passed by the 83rd Legislature have not remedied the lack of equal opportunity to have access to educational funds for school facilities as enjoyed by students who attend independent public schools.

*See* Ex. D. The concept of "access" to educational funding in the context of charter school students is a complete non sequitur that does not depend on calculated funding gaps, as the charter school option is precisely that: an option. A parent who chooses to send their child to a charter school remains able, at any time, to have access to their ISD alternative school, and the funding that choice would entail – a point David Dunn conceded at the first phase of the trial.

As such, Dr. Rolle's purported "opinions" regarding efficiency are nothing more than the Charter Plaintiffs' desired legal conclusion masquerading as expert opinion, and should be stricken.

Dr. Rolle's purported "opinions" regarding adequacy have different, but similarly fatal, flaws. Again, after citing *West Orange Cove*, and various alleged data gaps, sweeping generalizations ensue. But recall that the data in Table 12B show that standard accountability charter students outperformed their ISD peers in the most recent testing. Dr. Rolle's solution to this dilemma takes advantage of the fact that the degree to which these charter students outperformed their ISD peers in 2012-13 is less than the degree to which their ISD peers outperformed them in these measures in 2011-12.

This distortion of the current situation – particularly where the sole question in this second phase of the trial is whether the legislative changes in 2013 impacted the Court's February 2013 findings – is, at best, disingenuous; at worst, it is a clumsy attempt at outright deception of this Court. Either way, it does not "assist the trier of fact" as required by Tex. R. Evid. 702 and both Dr. Rolle and Ms. Templeton should be excluded as experts in this case.

5. *Alternatively, Toni Templeton does not have Unique Opinions Relative to Dr. Rolle, and Thus her Testimony would be Duplicative.*

As outlined above, Ms. Templeton's sole work was to compile data at Dr. Rolle's direction for the purpose of generating his report. Her name does not so much as appear on that report, and she had nothing to do with the narrative sections of the brief by her own account. As such, solely as an alternative request, Defendants move to strike Toni Templeton as an expert in the case as (1) incapable of rendering the admittedly flimsy "opinions" of Dr. Rolle, and (2) at best, duplicative of Dr. Rolle's testimony.



### **III. CONCLUSION & PRAYER**

Charter Plaintiffs cannot carry their burden to establish by a preponderance of the evidence that Dr. Rolle and Ms. Templeton's purported opinions are reliable and admissible under Rule 702. Defendants respectfully request, for all of the reasons described, that the Court exercise its gatekeeper role and strike and exclude Dr. Rolle and Ms. Templeton as experts in this cause.

Respectfully submitted

GREG ABBOTT  
Attorney General of Texas

DANIEL T. HODGE  
First Assistant Attorney General

DAVID C. MATTAX  
Deputy Attorney General for Defense Litigation

JAMES "BEAU" ECCLES  
Division Chief, General Litigation Division

/s/ Shelley N. Dahlberg  
SHELLEY N. DAHLBERG  
Assistant Attorney General  
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General Litigation Division

NICHOLE BUNKER-HENDERSON  
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General Litigation Division

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Phone: (512) 463-2121  
Fax: (512) 320-0667  
*Attorneys for Defendants*

**CERTIFICATE OF CONFERENCE**

I hereby certify that on January 13, 2014, I contacted Leonard J. Schwartz, attorney for The Charter Plaintiffs, and he stated that he is opposed to Defendants' Motion to Strike Charter Plaintiffs' Experts Dr. Anthony Rolle and Toni Temperton.

/s/ Shelley N. Dahlberg  
SHELLEY N. DAHLBERG

## **CERTIFICATE OF SERVICE**

I hereby certify that on the 13<sup>th</sup> day of January, 2014, I forwarded the foregoing document to all known counsel of record via email and/or by uploading to an FTP secure site:

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Toni Hunter  
GRAY & BECKER  
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/s/ Shelley N. Dahlberg  
SHELLEY N. DAHLBERG  
Deputy Chief – General Litigation Division

1/13/2014 5:39:30 PM

Amalia Rodriguez-Mendoza

District Clerk

Travis County

Case No. 13-003130

**From:** Dahlberg, Shelley

**To:** David Hinojosa; David Thompson; Philip Fraissinet; Richard Gray IV (richard.grayIV@graybecker.com); Rick Gray; Mark Trachtenberg; John Turner; Robert A. (Bob) Schulman (rschulman@slh-law.com); Ischwartz@slh-law.com; Chris Diamond

**Cc:** Bunker-Henderson, Nichole; Halpern, Linda; Chester, Bonnie; Hernandez, Sylvia

**Subject:** Back Up Data to Your Experts" Reports

**Date:** Monday, September 30, 2013 2:20:47 PM

Dear Counsel:

I write to make clear that when you produce your expert reports on October 14 and October 21, we expect to receive the backup materials that underpin the reports. The backup materials should be sufficiently specific to allow us to see the actual source of each number used in any calculations, as well as the formulas used for any derived numbers. Thus, for example, if an expert performs some sort of analysis based upon Wealth/WADA, a 'derived' term, we expect the backup materials accompanying the report to include one or more spreadsheets/data sets containing the raw values for every variable that is used in the calculation of Wealth/WADA, and would likewise expect that the cells in the spreadsheet containing the values for Wealth/WADA would contain the formula used to calculate the numerical value, and not merely the value alone, saved as a number.

Please let me know if you have any questions or concerns.

Shelley N. Dahlberg  
Deputy Division Chief  
General Litigation Division  
(512)463-2120  
[shelley.dahlberg@texasattorneygeneral.gov](mailto:shelley.dahlberg@texasattorneygeneral.gov)

PRIVILEGED AND CONFIDENTIAL

EXHIBIT A

**Cause No. D-1-GN-11-003130**

**The Texas Taxpayer and  
Student Fairness  
Coalition, *et al.***

§  
§  
§  
§

**IN THE DISTRICT COURT**

**Consolidated Case:  
Mario Flores, *et al.*,**

§  
§  
§  
§

**Plaintiffs**

**TRAVIS COUNTY, TEXAS**

**vs.**

§  
§  
§  
§

**Michael Williams, *et al.*,**

**Defendants.**

§

**200TH JUDICIAL DISTRICT**

**TEXAS CHARTER SCHOOLS ASSOCIATION PLAINTIFFS'  
RESPONSE TO DEFENDANTS' REQUESTS FOR DISCLOSURE,  
DESIGNATION OF ADDITIONAL EXPERT WITNESSES,  
AND ANSWER TO DEFENDANTS' INTERROGATORIES**

**A. Response to Requests for Disclosure**

The Texas Charter Schools Association Plaintiffs (Charter or Charter School Plaintiffs) hereby file their Response to defendants' Requests for Disclosure pursuant to Tex. R. Civ. P. 194.2 and 194.3, and designate the following persons who may be called as Expert Witnesses:

**(b) The name, address and telephone number of any potential parties.**

The names of the parties are correct and the names, addresses and telephone numbers of potential parties are equally accessible to the defendants as they have possession the names, addresses, and telephone numbers of each Texas Charter School; and/or the Charter Schools' administrators, teachers and other employees.

**(f) Any testifying expert:**

**(1) the expert's name, address, and telephone number;**

**(2) the subject matter on which the expert will testify;**

**(3) the general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to the**

**control of you or your attorney, documents reflecting such information.**

**(4) if the expert is retained by you or your attorney:**

**(a) all documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and**

**(b) the expert's current resume and bibliography.**

1. Toni Templeton, Quality Initiatives Data Analyst, Texas Charter Schools Association, 700 Lavaca St., Suite 930, Austin, Texas 78701, Telephone: (512) 584-8282. Ms. Templeton will testify on the effect that HB 5 and SB 2<sup>1</sup> has on the Charter School Plaintiffs. She will also testify on (a) how the charter schools are inequitably funded by the State of Texas and demonstrate that the legislation passed in the 83rd Legislative Session dealing with schools has not changed the unsuitability, inadequacy and inefficiency of the public free schools; (b) why the funding of the charter schools does not make suitable provision for the support and maintenance of an efficient system of public free schools; (c) the failure of the legislature to provide for a general diffusion of knowledge; (d) how the overall school funding is in violation of the state Constitution; and (e) the inequality between children who attend charter schools and students who attend independent school districts' schools in property rich districts and are therefore not afforded a substantially equal opportunity to have access to educational funds.

Ms. Templeton's resumé and bibliography is attached hereto and incorporated herein by reference.

2. R. Anthony Rolle, Ph.D., Wood Rolle & Associates, 8711 Southwest 46th Lane, Gainesville, Florida 32608, Telephone: (979) 595-7976. Dr. Rolle may testify regarding the Texas school finance system as it impacts open-enrollment charter schools. Dr. Rolle may further testify about issues within his area of expertise (as reflected in his resumé and writings), and as raised in testimony by other witnesses in this cause. Dr. Rolle may additionally be called as a rebuttal witness on issues raised by the testimony and reports of

---

<sup>1</sup> She will also discuss other legislation passed by the 83rd Legislature.

other witnesses. He may also testify on (a) how the charter schools are inequitably funded by the State of Texas and demonstrate that the legislation passed in the 83rd Legislative Session dealing with schools has not changed the unsuitability, inadequacy and inefficiency of the public free schools; (b) why the funding of the charter schools does not make suitable provision for the support and maintenance of an efficient system of public free schools; (c) the failure of the legislature to provide for a general diffusion of knowledge; (d) how the overall school funding is in violation of the state Constitution; and (e) the inequality between children who attend charter schools and students who attend independent school districts' schools in property rich districts and are therefore not afforded a substantially equal opportunity to have access to educational funds. He may also expound on the facts elicited from Ms. Templeton's testimony and report.

Dr. Rolle's résumé (vita) and bibliography was previously made available to the defendants.

3. Robert Schulman will testify on the amount of attorneys' fees due to the Charter Plaintiffs, the time expended and the reasonableness of the hours and rates. His report on fees will be made available to the defendants upon completion of the trial and a judgment allowing Charter Plaintiffs their fees and costs.

The Charter School Plaintiffs' experts are yet to be deposed for the continuation of the trial scheduled for January 12, 2014. Charter Plaintiffs may utilize, at trial, the reports of said experts, any or all parts of the deposition testimony and deposition exhibits offered by other witnesses yet to be deposed, deposition testimony and deposition exhibits marked or included by any party, and data from public records.

As of this time, new reports by the designated experts have not been prepared. As soon as reasonably possible, the revised or new reports will be disclosed to the other plaintiffs and the adverse parties.

Depending on the evidence brought by all parties and a determination of the scope and issues to be determined in the continuation of this trial, Charter Plaintiffs reserve the right to call rebuttal witnesses or supplement this list, and also cross-designate each and every (Fact and Expert) witness identified by all Plaintiffs and/or Interveners to this action on their respective trial witness designations.

**(c) The legal theories and, in general, the factual bases of your claims or defenses (you need not marshal all evidence that may be offered at trial).**

In further response, the Charter Plaintiffs hereby incorporate and adopt by reference the responses previously set forth in their previous Answers to Interrogatories, Answers to Requests for Admissions and Responses to Requests for Production. Furthermore, the defendants have equal access to the names, addresses, and telephone numbers of each Texas charter school and each organization whose membership is, in whole or in part, comprised of charter schools, and each organization that has either or both, in whole or in part, administrators and teachers of charter schools.

The legal theories and, in general, the factual bases of the Charter Plaintiffs' claims, for the purposes of the continuation of the trial only, are as follows:

Charter Plaintiffs maintain that they are entitled to declaratory and injunctive relief based on the prior trial and that the standard for reopening the evidence has not been met, as previously described in their filings on this matter. Moreover, or in the alternative, as the case may be, the recent legislative changes did not provide a general diffusion of knowledge between students attending charter schools and those students attending high property-wealth school districts. The system of funding of charter schools, as amended by the 83rd Legislature, continues to violate the efficiency provision of article VII § 1 of the Texas Constitution as described in Plaintiffs' Petition, as amended.

The State also did not alter the expectation that all students graduate college and career ready during the 2013 Legislative Session and cannot define an adequate education so low so as to avoid its constitutional obligations of providing an adequate and suitable education. In addition, much of the legislation identified by defendants in their First Request to Court to Take Judicial Notice does not become effective during the 2013-14 session, such as changes to the accountability system and the different diploma tracks. The inadequacy of the funding can still be seen in the most recent achievement results of the ELL and low income student groups, including but not limited to, the following outputs: standardized test scores, college readiness indicators; and graduation and dropout rates.

The charter schools were, prior to the legislation, inequitably funded by the State of Texas, and the method of funding of charter schools was



unconstitutional as described in the previous Charter School Plaintiffs' pleadings, including, but not limited to, the Amended Original Petition, the Answers to Interrogatories, and other discovery, and the Charter Plaintiffs will demonstrate that the legislative changes passed in the 83rd Legislative Session dealing with schools has not changed the unsuitability, inadequacy and inefficiency of the public free schools, in general, and the charter schools, in particular; (b) why the funding of the charter schools does not make suitable provision for the support and maintenance of an efficient system of public free schools; (c) the failure of the legislature to provide for a general diffusion of knowledge; (d) how the overall school funding is in violation of the state Constitution; and (e) the inequality between children who attend charter schools and students who attend independent school districts' schools in property rich districts and are therefore not afforded a substantially equal opportunity to have access to educational funds.

Charter Plaintiffs also maintain that even if the current legislation has rendered the above-styled and numbered lawsuit moot as to one or more plaintiffs' groups, the legislative changes did not substantially change the previous funding of charter schools, including the formula for allocation of state funds, and the mandates required of charter schools established by law, as to render its case moot.

**(e) the name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case.**

Each and every person called at the original trial of this action is a person who has knowledge of relevant facts. Moreover, most members of the staff of defendant TEA are persons with knowledge of relevant facts. The persons listed in Charter Plaintiffs' designation of fact witnesses are likewise such persons. The names, addresses and telephone numbers of parties who have knowledge of relevant facts are equally accessible to the defendants as they have in their possession the names, addresses, and telephone numbers of each Texas charter school; and/or the charter schools' administrators, teachers and other employees.

## **B. Response to Interrogatories**

1. Please identify all "outputs" from only the 2013-2014 and 2014-2015 school years that you intend to rely on in this suit to prove that the Texas public

school system is not accomplishing a “general diffusion of knowledge.” In your answer, please include the dates that the “output” data will be available, who holds that data, and where it can be found if publically available.

**ANSWER:**

OBJECTION: This request calls for a legal conclusion, and is vague as to the definition of “outputs.” Additionally, this request is overly broad and does not describe with reasonable particularity, either by item or by category, the documents to be produced or inspected. TEX. R. CIV. P. 196.1(b).

RESPONSE: Subject to and without waiving the foregoing objections, Charter Plaintiffs respond as follows: It will use all outputs in the possession of the defendants, in general, and the Texas Education Agency (TEA), in particular. At this time, the available outputs are not known. However, upon further discover, Charter School Plaintiffs will amend this response to include all outputs identified by TEA.

Because data such as TAKS commended performance rates; college readiness indicators noted in AEIS reports and other state reports; STAAR test results and standards; college remediation rates; dropout rates; and graduation rates for the 2013-2014 and 2014-2015 school years will not be available in January of 2014, Plaintiffs do not intend to rely on “outputs” from those years. Charter Plaintiffs maintain that they will rely on the most recent available output data compiled by their constituent school and the state.

2. To the extent you intend to offer any evidence and/or testimony intended to forecast or predict any “outputs” from the 2013-2014 and 2014-2015 school years to prove that the Texas public school system is not accomplishing a “general diffusion of knowledge,” please provide those predictions, and provide and describe the methodology used to create such forecasts and predictions. In your answer, please list all peer reviewed literature that has analyzed the methodology employed.

**ANSWER:**

OBJECTION: This request calls for a legal conclusion, and is vague as to the definition of “outputs.” Additionally, this request is overly broad and does not

describe with reasonable particularity, either by item or by category, the documents to be produced or inspected. TEX. R. CIV. P. 196.1(b).

RESPONSE: Subject to and without waiving the foregoing objections, Charter Plaintiffs respond as follows: It will use all outputs in the possession of the defendants, in general, and the Texas Education Agency (TEA), in particular. At this time, the available outputs are not known. However, upon further discover, Charter School plaintiffs will amend this response to include all outputs identified by TEA.

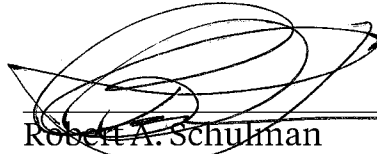
Because data such as TAKS commended performance rates; college readiness indicators noted in AEIS reports and other state reports; STAAR test results and standards; college remediation rates; dropout rates; and graduation rates for the 2013-2014 and 2014-2015 school years will not be available in January of 2014, Charter Plaintiffs do not intend to rely on "outputs" from those years. Charter Plaintiffs maintain that they will rely on the most recent available output data compiled by their constituent school and the state.

To the extent this interrogatory request non-expert conclusions, Charter School Plaintiffs' witnesses will rely on their personal and professional experience, and their personal observations and knowledge of current and past performance levels in their respective schools compared to the resources they have available to meet evolving student educational needs. Plaintiffs further refer Defendants to the State's determination of "required improved" used in past years, which may be considered by Plaintiffs.

To the extent that this interrogatory requests expert conclusions and methodologies, Charter Plaintiffs will produce such expert opinions on the dates set forth in the Scheduling Order, as it may be amended from time to time.

Respectfully submitted,

**SCHULMAN, LOPEZ & HOFFER, LLP**



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Texas Bar No. 17834500  
Leonard J. Schwartz  
Texas Bar No. 17867000  
Joseph E. Hoffer  
Texas Bar No. 24049462  
517 Soledad Street  
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Attorneys for Plaintiffs

**CERTIFICATE OF SERVICE**

The undersigned certifies that on October 1, 2013, a true and correct copy of the foregoing was served upon the following counsel of record *via* e-mail pursuant to the agreement of the parties, and in compliance with the Texas Rules of Civil Procedure and the Texas Local Rule:

Shelley N. Dahlberg, Nichole Bunker-Henderson, Linda Halpern and Beau Eccles, Texas Attorney General's Office, P. O. Box 12548, Capitol Station, Austin, Texas 78711; Attorneys for State Defendants;

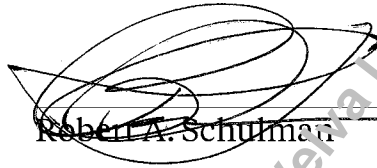
Mark R. Trachtenberg, Haynes & Boone, LLP, 1 Houston Center, 1221 McKinney Street, Suite 2100, Houston, Texas 77010; and John W. Turner, Micah E. Skidmore and Michelle C. Jacobs, Haynes & Boone, LLP, 2323 Victory Avenue, Suite 700, Dallas, Texas 75219; Attorneys for Calhoun County, *et al.* Plaintiffs;

David G. Hincosa and Marisa Bono, Mexican American Legal Defense and Educational Fund, Inc., 110 Broadway, Suite 300, San Antonio, Texas 78205; and Roger Rice, META, Inc., 240 "A" Elm Street, Suite 22, Somerville, Massachusetts 02144; Attorneys for Edgewood ISD, *et al.* Plaintiffs;

J. Christopher Diamond, The Diamond Law Firm, PC, 17484 Northwest Freeway, Suite 150, Houston, Texas 77040; and Craig T. Enoch, Melissa A. Lorber and Amy Saberian, Enoch Kever, PLLC, 600 Congress, Suite 2800, Austin, Texas 78701; Attorneys for Efficiency Intervenors;

J. David Thompson III and Philip Fraissinet, Thompson & Horton, LLP, Phoenix Tower, Suite 2000, 3200 Southwest Freeway, Houston, Texas 77027; and Holly G. McIntush, Thompson & Horton, LLP, 400 West 15th Street, Suite 1430, Austin, Texas 78701; Attorneys for Fort Bend ISD, *et al.* Plaintiffs; and

Richard E. Gray III, Toni Hunter and Richard Gray IV, Gray & Becker, PC, 900 West Avenue, Austin, Texas 78701; Attorneys for Texas Taxpayer & Student Fairness Coalition, *et al.* Plaintiffs.



Robert A. Schulman

Unofficial copy Travis Co. District Clerk Verna L. Price

**VERIFICATION**

**STATE OF TEXAS       §**  
**COUNTY TRAVIS       §**

On this day, Denise Nance Pierce, General Counsel and Vice President, Member Services, Texas Charter Schools Association, the Affiant, appeared before me, a notary public, who knows the Affiant to be the person whose signature appears below. According to the Affiant's statements under oath, the Affiant is the General Counsel and Vice President, Member Services, of the Texas Charter Schools Association, a party in this case; the Affiant has read the foregoing Answers to Interrogatories; the Answers to Interrogatory Nos. 1 and 2 are based on information obtained from other persons; and the Answers to these Interrogatories are true and correct, according to the Affiant's personal knowledge.

-----  
Denise Nance Pierce

SUBSCRIBED and SWORN TO before me on this 1st day of October 2013.

-----  
Notary Public, State of Texas

-----  
Commission  
Expiration Date

## **Toni Templeton**

2028 Encino Circle

Austin, Texas 78723

Email: ttempleton@txcharterschools.org

Phone: 512-584-8272

### **Education and Certifications**

**Master of Science**, Applied Statistics, University of Texas San Antonio, In Progress

**Master of Education**, Curriculum and Instruction, University of Phoenix, 2009

**Bachelor of Science Neurobiology**, The University of Texas, 2004

**Instructional Leadership Development Certificate**, 2007

**Texas Teaching Certificate**, Life Sciences 8-12, 2005

**Phi Beta Kappa Honor Society Member**, 2000

### **Skills and Areas of Specialization**

Policy Analysis, Statistical Analysis, Database Development and Management, Teaching and Training, Research Analysis, Technology Usage, Efficiency Improvement, Process Analysis

### **Professional Experience**

**Data Analyst**, Texas Charter Schools Association September 2010 to present  
Develop and implement metrics for charter school quality; Provide descriptive and comparative statistics for charter school advocacy and media; Assist in drafting legislation to improve charter school movement; Analyze school finance funding formulas; Provide assistance to charter schools in applying for charters, expansion amendments and renewals from the Texas Education Agency; Train charter school staff in state and federal accountability, school finance, school finance accountability, school improvement and data analysis; Educate legislative staffers on school finance and accountability.

**School Improvement Specialist**, Austin Can Academy August 2008 to September 2010  
Created improvement plan based upon needs assessment and data analysis; Developed goals and action steps to reach goals; Implemented improvement plan, monitored change, and intervened where needed; Implemented federal programs for school improvement; Ensured compliance with all federal and state regulations in accountability and budget; Created and improved tutorial program; Incorporated SES providers into successful tutorial program; Recruited and trained tutorial staff; Created and managed student learning plans and goals.

**Science Instructional Specialist**, Texans Can Academy August 2007 to July 2008  
Wrote science curriculum for dropout recovery program in Texas, Louisiana and Missouri; Trained teachers on curriculum, instruction and classroom management; Monitored district and campus performance on standardized tests; Evaluated curriculum and instruction.

***Online Classroom Facilitator, Weblessons***

March 2008 to June 2009

Instructed classes on technology use in the classroom; developed online class platform; wrote curriculum for class.

***Data Analyst Contractor, Fiveash and Associates***

August 2007 to August 2011

Provided data analysis services to schools in the areas of school improvement, cohort monitoring, needs assessments, grant reporting, transcript evaluation, program evaluation and budget analysis.

***Assistant Principal, Austin Can Academy***

August 2006 to July 2007

Served as an Assistant Principal at a dropout recovery charter high school.

***Anatomy and Physiology Teacher, Austin Community College***

May 2006 to June 2007

Taught basic anatomy and physiology concepts to massage therapy students; Prepared massage therapy students for anatomy and physiology exam for licensing.

***Science Teacher, Austin Can Academy***

August 2004 to July 2006

Taught biology, chemistry, and physics at a dropout recovery charter high school.

***Montessori Preschool Teacher, Northwest Montessori***

January 2000 to July 2004

Taught 18 month and 3 year old classrooms.

## **Presentations**

### ***Live Presentations***

#### **TCSA Trainings**

Accountability and Compliance, August 1, 2013

Update on 83<sup>rd</sup> Legislative Changes, August 1, 2013

Board Training for Accountability and Compliance,

October 5, 2012 & August 12, 2012

#### **TCSA 2012 Member Council Meetings**

Recap of 83<sup>rd</sup> Legislative Session- Charter Funding Changes- July 24, 2013

2013 Legislative Session- School Funding Proposed Changes- February 5, 2013

TEA Expansion Amendment Decisions- September 11, 2012

Student Growth Metric Measure- June 12, 2012

#### **TCSA 2012 Annual Conference Sessions**

Accountability Overview

2012 Accountability Update

Similar Students Measure and Student Growth Percentiles

#### **TCSA 2011 Annual Conference Sessions**

Reviewing Results and Data Pack in Quality Framework

#### **TCSA Webinars**

Calculating 2013 Accountability June 6, 2013

83<sup>rd</sup> Legislature Public Education Budget Overview- June 5, 2013

Understanding the State Accountability System- July 26, 2011



Accountability Proposal Update March 6, 2013  
2012 Federal Accountability Update August 2, 2012

**The Network- A Collaboration between TEA, Region II and TCSA**  
**Webinars**

New Staff Orientation and the Quality Framework-August 7, 2013  
Teambuilding Toward Excellence July 17, 2013  
Quality Framework Reports and Data Overview- Get Started- June 19, 2013  
SSM and SGP Overview- April 10, 2013

**Service and Volunteering**

*Youth Mentor, Southwest Key Programs*  
*Mobile Food Pantry Volunteer, Capital Area Food Bank*  
*Foster Parent, Austin Boxer Rescue*

Unofficial copy Travis Co. District Clerk Velda L. Price

Notice sent: Final Interlocutory None

Disp Parties: \_\_\_\_\_

Disp code: CVD / CLS \_\_\_\_\_

Redact pgs: \_\_\_\_\_

Judge JKD Clerk ECF CAUSE NO. D-1-GN-11-003130

TEXAS TAXPAYER & STUDENT  
FAIRNESS COALITION, *et al.*,

Plaintiffs,

VS.

MICHAEL WILLIAMS, TEXAS  
COMMISSIONER OF EDUCATION, *et.al.*,

Defendants

§  
§  
§  
§  
§  
§  
§  
§

IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

200<sup>TH</sup> JUDICIAL DISTRICT

Filed in The District Court  
of Travis County, Texas  
District Clerk  
Travis County  
D-1-GN-11-003130  
ES OCT 04 2013  
At 422 M.  
Amalia Rodriguez-Mendoza, Clerk

### PROPOSED SCHEDULING ORDER

#### 1. INITIAL AMENDMENT TO PLEADINGS/PARTIES

8/7/13 Parties asserting claims for affirmative relief shall amend or supplement pleadings by this date.

9/8/13 Parties resisting claims for affirmative relief shall amend or supplement pleadings by this date.

#### 2. DESIGNATION OF FACT WITNESSES FOR TRIAL

8/26/13 Plaintiffs agree to designate any fact witnesses that they may call at trial by this date.

9/16/13 Defendants agree to designate any fact witnesses that they may call at trial by this date.

#### 3. AMENDMENT TO PLEADINGS/PARTIES

10/11/13 Parties asserting claims for affirmative relief may amend or supplement pleadings after this date only by agreement of all parties or with leave of Court.

10/25/13 Parties resisting claims for affirmative relief may amend or supplement pleadings after this date only by agreement of all parties or with leave of Court.

#### 4. DESIGNATION OF EXPERTS

10/14/13 Any party seeking affirmative relief on any claim shall, by this date:

(1) designate experts pursuant to and in compliance with Tex. R. Civ. P. 194.2(f) and 195;

(2) serve all other parties with expert reports, which shall include: (A) a complete

statement of the opinions the expert(s) will offer and the bases for same, (B) a description of the compensation for the expert(s)' work in the rehearing portion of this case, (C) a list of the expert(s)' publications for the previous seven (7) years, and (D) a list of matters in which the expert(s) provided deposition or trial testimony for the previous seven (7) years; and

- (3) provide three dates prior to November 22, 2013, upon which each such expert will be made available for oral deposition (deposition dates beyond November 22, 2013 may be provided by agreement of the parties or with leave of Court).

**11/11/13** Any party resisting claims for affirmative relief on any claim shall, by this date:

- (1) designate experts pursuant to and in compliance with Tex. R. Civ. P. 194.2(f) and 195;
- (2) serve all other parties with expert reports, which shall include: (A) a complete statement of the opinions the expert(s) will offer and the bases for same, (B) a description of the compensation for the expert(s)' work in the rehearing portion of this case, (C) a list of the expert(s)' publications for the previous seven (7) years, and (D) a list of matters in which the expert(s) provided deposition or trial testimony for the previous seven (7) years; and
- (3) provide three dates prior to December 20, 2013, upon which each such expert will be made available for oral deposition (deposition dates beyond December 20, 2013 may be provided by agreement of the parties or with leave of Court).

The parties agree to participate in good faith negotiations regarding amended or supplemental expert reports if the need arises. If no agreement can be reached, the party seeking to amend or supplement may seek leave of court.

## **5. DISCOVERY LIMITATIONS & COMPLETION DEADLINE**

**12/9/13** All discovery shall be completed by this date except as provided herein for depositions of experts for parties resisting relief or as otherwise agreed by the parties.

The parties have not reached agreement with regard to limitations on written and oral discovery; however, the parties are committed to negotiate in good faith to reach mutually agreeable limitations and to notify the Court of such limitations by filing a formal agreement pursuant to Texas Rule of Civil Procedure 11. In the event that an agreement cannot be reached by the parties, the parties will submit the issue to the Court for a final determination of appropriate limitations.

The parties will continue to abide by the Rule 11 agreement regarding Depositions and Discovery that was entered into and filed with the Court on April 20, 2012.

**6. DISPOSITIVE MOTIONS DEADLINE**

**12/9/13** Any dispositive motions shall be filed by this date, except that a plea to the jurisdiction may be filed at any time.

**7. DESIGNATION OF TRIAL EXPERTS, WITNESSES, AND EXHIBITS**

**1/6/14** All parties shall file and serve upon each other and the Court a list of all expert witnesses and fact witnesses who may testify at trial and all deposition designations and exhibits that may be used at trial, as well as copies of all exhibits that may be used at trial. Any objections and counter deposition designations thereto shall be filed at least four days before the first day of trial.

**1/13/14** All parties seeking affirmative relief shall serve upon the other parties and the Court the anticipated sequence of witness testimony.

**1/27/14** All parties resisting claims for affirmative relief shall serve upon the other parties and the Court the anticipated sequence of witness testimony at least seven days prior to witness presentation, but no later than this date.

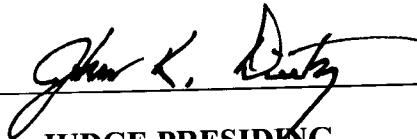
**8. PRE-TRIAL HEARING**

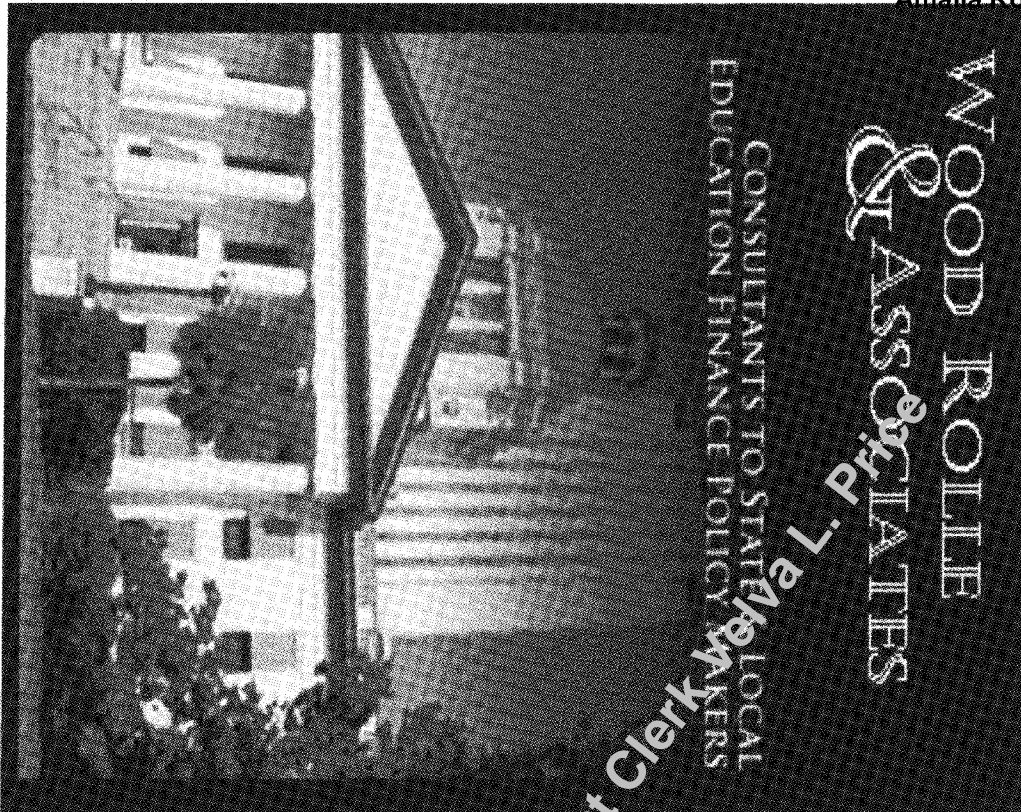
**9/12/13** (Suggested date subject to the Court's preference)

**9. TRIAL**

**1/21/14** Presentation of additional evidence begins

SIGNED this 7 day of ~~September~~ <sup>October</sup>, 2013.

  
JUDGE PRESIDING



Statistical Analyses of  
Texas Charter School Facilities Funding

October 14, 2013

8 ft SW 46th Lane  
Gainesville, Florida 32608-4137  
Dr. Wood: 352-335-9600  
Dr. Rolfe: 979-595-0775  
Fax: 352-335-8158  
Email: woodrolfe@cox.net

EXHIBIT	20267
WIT:	
DATE:	
S. Klinger, RMR-CRR	

## Introduction

The purpose of this amendment is to offer a continuation of performance and financial data originally submitted by WRA for the first trial. This continuation is imperative, given the legislative changes that have occurred since the last trial. The 83<sup>rd</sup> legislative session brought about three types of major changes that impacted charter schools: school finance dollars, academic requirements, and charter school accountability.

This addendum, beginning with this introduction, discusses legislative changes and findings, presents the data tables, and provides an analytical summary for each table. We conclude from this analysis that changes made by the 83<sup>rd</sup> legislature did not improve the school finance system as applied to public school students being served by open-enrollment charter schools.

## Discussion of Legislative Changes and Findings

### *School Finance Dollars*

**Legislative Changes:** Changes to public school funding made mainly in Senate Bill 1 and House Bill 1025 did not change the school funding mechanism used to distribute education dollars to schools, but rather added money into the existing system. Further, the unique adaptations of the school funding mechanism for charter schools remain unchanged and no facilities funding was added to the system for charter schools. To add more money to the Foundation School Program, the Legislature (a) raised the basic allotment (the basis for school funding), (b) restored to one the reduction factor applied to regular program funds (essentially removing their effect), and (c) made changes to equalized wealth levels and target revenue. This addendum examines the effect of these legislative changes on the funding received by each individual school district and charter school district.

**Findings:** Tables 1-4 examine the effect of legislative changes on 2014 funding and show that the trends identified in WRA's original expert report continue. Specifically, the gap between charter school and school district funding remains significantly large. This was not surprising, as the funding mechanisms did not change to address the funding gaps that have existed since charter school inception in the late 1990s. These funding gaps become alarmingly apparent when charter schools and school districts are compared in a percentile distribution analysis, as included in Tables 1 and 2. The gaps between charter schools in the 95<sup>th</sup> percentile and school districts in the 95<sup>th</sup> percentile exceed \$4,000 per student and \$3,000 per weighted student. We conclude the funding gaps made apparent to the initial trial are indeed continued following the 83<sup>rd</sup> legislature.

### *Academic Changes*

**Legislative Changes:** House Bill 5 reduced the number of standardized tests (End of Course exams, or EOCs) a student is required to pass in order to graduate from high school to five tests. The five tests are now Algebra 1, English 1, English 2, Biology and United States History. HB 5 also changed the course requirements and diploma plans for graduation. Legislation did not change the passing standard for each of these tests. The passing standard for each of these tests continues to rise because the State's phase-in of the new STAAR exam passing standards is not yet complete.

**Findings:** Tables 11 and 12 evaluate performance of charter school and school district students on the five EOCs required to graduate for the most recent test administration (2012-2013 school year). The performance is evaluated at the final recommended passing standard. Student passing rates are not high. Most distressing is the observation that average passing rates on EOCs is less than 50%, far less than 50% in most subjects, for all public schools. In addition, school districts have outperformed charter schools on every test.

# OPERATIONAL DEFINITIONS

## ANALYTICAL METHODOLOGY

Data analyzed were obtained, defined, calculated, and reported from one primary source: The Texas Education Agency. Multiple univariate statistical analyses were conducted to examine operationalized variables, efficiency, and adequacy conceptions for all Texas independent school districts and charter schools during the 20011-2012 to 2013-2014 academic years. The analyses in this report are subject to change based upon information to be provided in response to pending discovery requests.

## REVENUES BY SOURCE

*FSP Revenue for M&O Funds:* Revenue allocations generated from Tier I and Tier II;

*FSP Revenue for I&S Funds:* Revenue allocations generated from IFA, EDA, and local revenue sources; and,



# OPERATIONAL DEFINITIONS

## COLLEGE READINESS INDICATORS

These indicators are grouped together to provide a picture of college preparedness at a given high school or for a specific district. They can be used by educators as they work to ensure that students are able to perform college-level course work at institutions of higher education.

To be considered "college-ready" as defined by these indicators, a graduate must have met or exceeded the college-ready criteria on the Texas Assessment of Knowledge and Skills (TAKS) exit-level test, the Scholastic Aptitude Test (SAT), or the ACT test.

The criteria for each are:

<u>TAKS SUBJECT SCORES</u>	<u>SAT</u>	<u>ACT</u>
Language Arts	<p><math>\geq 500</math> on Critical Reading and <math>\geq 1070</math> Total</p>	<p><math>\geq 19</math> on English and <math>\geq 23</math> Composite</p>
Math	<p><math>\geq 500</math> on Math and <math>\geq 1070</math> Total</p>	<p><math>\geq 19</math> on Math and <math>\geq 23</math> Composite</p>

**Table 1A Addendum.**  
**Charter School Facilities Funding Evaluation**  
**Analyzing the Concept of Efficiency within the**  
**Texas Education Foundation School Program**  
**Academic Year 2011-12**

**Revenue Per Student**

	<b>ISD</b>	<b>Charter</b>	<b>Difference</b>
<b>Total Revenue per ADA</b>	10,034	8,191	1,843
<b>Total FSP Revenue for Maintenance &amp; Operation</b>	9,076	8,191	885
State FSP Revenue for Maintenance & Operation	4,720	8,191	(3,471)
Local FSP Revenue for Maintenance & Operation	4,356	0	4,356
<b>Total FSP Revenue for Interest &amp; Sinking Funds</b>	958	0	958
State FSP Revenue for Interest & Sinking Funds	131	0	131
Local FSP Revenue for Interest & Sinking Funds	827	0	827

Source: Texas Education Agency Summary of Finance 198 Charters and 1032 ISDs

**Table 1Aa Addendum**  
**Charter School Facilities Funding Evaluation**  
**Analyzing the Concept of Efficiency within the**  
**Texas Education Foundation School Program**  
**Academic Year 2011-12**

**Revenue Per Student**

	<b>Charter</b>	<b>ISD</b>	<b>Difference</b>
n	198	1032	

**Descriptive Statistics**

Mean	8,149	10,034	1,885
Median	7,855	9,186	1,331
Standard Deviation	1,779	3,646	
Coefficient of Variation	0.22	0.36	

**Percentile**

95	11,153	15,419	4,266
90	9,293	12,660	3,367
75	8,365	10,572	2,207
25	7,334	8,330	996
10	6,922	7,779	857
5	6,530	7,391	861

**Percentile Ratios**

95/5	1.71	2.09	
90/10	1.34	1.63	
75/25	1.14	1.27	

**Table 1B Addendum.**  
**Charter School Facilities Funding Evaluation**  
**Analyzing the Concept of Efficiency within the**  
**Texas Education Foundation School Program**  
**Academic Year 2012-13**

**Revenue Per Student**

	ISD	Charter	Difference
<b>Total Revenue per ADA</b>	10,205	8,559	1,646
<b>Total FSP Revenue for Maintenance &amp; Operation</b>	9,238	8,559	679
State FSP Revenue for Maintenance & Operation	4,525	8,559	(4,034)
Local FSP Revenue for Maintenance & Operation	4,713	0	4,713
<b>Total FSP Revenue for Interest &amp; Sinking Funds</b>	966	0	966
State FSP Revenue for Interest & Sinking Funds	126	0	126
Local FSP Revenue for Interest & Sinking Funds	840	0	840

Source: Texas Education Agency Summary of Finance from 1029 ISDs and 202 charter schools

**Table 1Ba Addendum**  
**Charter School Facilities Funding Evaluation**  
**Analyzing the Concept of Efficiency within the**  
**Texas Education Foundation School Program**  
**Academic Year 2012-13**

**Revenue Per Student**

	<b>Charter</b>	<b>ISD</b>	<b>Difference</b>
n	202	1029	

**Descriptive Statistics**

Mean	8,559	10,205	1,646
Median	8,370	9,263	893
Standard Deviation	1,547	3,889	
Coefficient of Variation	0.18	0.38	

Percentile			
95	10,657	16,701	6,044
90	9,551	13,194	3,643
75	8,792	10,520	1,728
25	7,800	8,419	619
10	7,320	7,866	546
5	6,851	7,539	688

**Percentile Ratios**

95/5	1.56	2.22
90/10	1.30	1.68
75/25	1.13	1.25

**Table 1C Addendum.**  
**Charter School Facilities Funding Evaluation**  
**Analyzing the Concept of Efficiency within the**  
**Texas Education Foundation School Program**  
**Academic Year 2013-14**

Revenue Per Student	ISD      Charter      Difference		
<b>Total Revenue per ADA</b>	10,513	8,860	1,653
<b>Total FSP Revenue for Maintenance &amp; Operation</b>	9,521	8,860	661
State FSP Revenue for Maintenance & Operation	4,739	8,860	(4,121)
Local FSP Revenue for Maintenance & Operation	4,782	0	4,782
<b>Total FSP Revenue for Interest &amp; Sinking Funds</b>	992	0	992
State FSP Revenue for Interest & Sinking Funds	867	0	867
Local FSP Revenue for Interest & Sinking Funds	125	0	125

Source: Texas Education Agency Summary of Finance data from 1026 ISDs and 203 charter schools

**Table 1Ca Addendum**  
**Charter School Facilities Funding Evaluation**  
**Analyzing the Concept of Efficiency within the**  
**Texas Education Foundation School Program**  
**Academic Year 2013-14**

**Revenue Per Student**

	<b>Charter</b>	<b>ISD</b>	<b>Difference</b>
n	203	1029	

**Descriptive Statistics**

Mean	8,860	10,499	1,639
Median	8,648	9,578	930
Standard Deviation	1,564	3,561	
Coefficient of Variation	0.18	0.34	

Percentile			
95	10,778	16,301	5,523
90	9,931	13,029	3,098
75	9,134	10,757	1,623
25	8,113	8,774	661
10	7,577	8,265	688
5	7,130	7,957	827

Percentile Ratios			
95/5	1.51	2.05	
90/10	1.31	1.58	
75/25	1.13	1.23	

**Table 1 Addendum Summary.**  
**Analysis of Efficiency Differences in All Fund Revenues per Student**  
**All Public School Districts and All Texas Charter School Districts**  
**2011-2014**

Year	Revenue Per Student				Average Difference
	2011-2012	2012-2013	2013-2014		
District N	1,032	1,029	1,026		
Charter N	198	202	203		
<b>Total Revenue per ADA</b>	<b>1,843</b>	<b>1,646</b>	<b>1,653</b>	<b>1,714</b>	
<hr/>					
<b>Total FSP Revenue for Maintenance &amp; Operation</b>	<b>835</b>	<b>679</b>	<b>661</b>	<b>742</b>	
<hr/>					
State FSP Revenue for Maintenance & Operation	(3,471)	(4,034)	(4,121)	(3,875)	
Local FSP Revenue for Maintenance & Operation	4,356	4,715	4,782	4,617	
<b>Total FSP Revenue for Interest &amp; Sinking Funds</b>	<b>958</b>	<b>966</b>	<b>992</b>	<b>972</b>	
<hr/>					
State FSP Revenue for Interest & Sinking Funds	131	126	867	375	
Local FSP Revenue for Interest & Sinking Funds	827	840	125	597	
<hr/>					



**Table 2A Addendum.**  
**Charter School Facilities Funding Evaluation**  
**Analyzing the Concept of Efficiency within the**  
**Texas Education Foundation School Program**  
**Academic Year 2011-12**

Revenue Per Weighted Student				
		ISD	Charter	Difference
<b>Total FSP Revenue per WADA</b>		6,617	5,290	1,327
<b>Total FSP Revenue for Maintenance &amp; Operation</b>		5,950	5,290	660
State FSP Revenue for Maintenance & Operation		3,092	5,290	(2,198)
Local FSP Revenue for Maintenance & Operation		2,858	0	2,858
<b>Total FSP Revenue for Interest &amp; Sinking Funds</b>		667	0	667
State FSP Revenue for Interest & Sinking Funds		92	0	92
Local FSP Revenue for Interest & Sinking Funds		575	0	575

Source: Texas Education Agency Summary of Finance 198 Charters and 1032 ISDs

**Table 2Aa Addendum**  
**Charter School Facilities Funding Evaluation**  
**Analyzing the Concept of Efficiency within the**  
**Texas Education Foundation School Program**  
**Academic Year 2011-12**

**Revenue Per Weighted Student**

	<b>Charter</b>	<b>ISD</b>	<b>Difference</b>
n	198	1032	

**Descriptive Statistics**

Mean	5,290	6,678	1388
Median	5,261	6,268	1007
Standard Deviation	88	1,618	
Coefficient of Variation	0.02	0.24	

**Percentile**

95	5,446	9,263	3,817
90	5,403	8,085	2,682
75	5,346	6,886	1,540
25	5,211	5,858	647
10	5,211	5,550	339
5	5,211	5,376	165

**Percentile Ratios**

95/5	1.05	1.72	
90/10	1.04	1.46	
75/25	1.03	1.18	

**Table 2B Addendum.**  
**Charter School Facilities Funding Evaluation**  
**Analyzing the Concept of Efficiency within the**  
**Texas Education Foundation School Program**  
**Academic Year 2012-13**

**Revenue Per Weighted Student**

	ISD	Charter	Difference
<b>Total FSP Revenue per WADA</b>	6,451	5,377	1,074
<b>Total FSP Revenue for Maintenance &amp; Operation</b>	5,808	5,377	431
State FSP Revenue for Maintenance & Operation	2,862	5,377	(2,515)
Local FSP Revenue for Maintenance & Operation	2,946	0	2,946
<b>Total FSP Revenue for Interest &amp; Sinking Funds</b>	643	0	643
State FSP Revenue for Interest & Sinking Funds	84	0	84
Local FSP Revenue for Interest & Sinking Funds	559	0	559

Source: Texas Education Agency Summary of Finance data from 1029 ISDs and 202 charter schools

**Table 2Ba Addendum**  
**Charter School Facilities Funding Evaluation**  
**Analyzing the Concept of Efficiency within the**  
**Texas Education Foundation School Program**  
**Academic Year 2012-2013**

**Revenue Per Weighted Student**

	<b>Charter</b>	<b>ISD</b>	<b>Difference</b>
<b>n</b>	<b>202</b>	<b>1029</b>	

**Descriptive Statistics**

Mean	5,377	6,452	1,075
Median	5,366	6,090	724
Standard Deviation	118	1,704	
Coefficient of Variation	0		

**Percentile**

95	5,582	9,268	3,686
90	5,514	7,786	2,272
75	5,434	6,659	1,225
25	5,299	5,713	414
10	5,231	5,378	147
5	5,231	5,235	4

**Percentile Ratios**

95/5	1.07	1.77	
90/10	1.05	1.45	
75/25	1.03	1.17	

**Table 2C Addendum.**  
**Charter School Facilities Funding Evaluation**  
**Analyzing the Concept of Efficiency within the**  
**Texas Education Foundation School Program**  
**Academic Year 2013-14**

Revenue Per Weighted Student			
	ISD	Charter	Difference
<b>Total FSP Revenue per WADA</b>			
	6,572	5,492	1,080
<b>Total FSP Revenue for Maintenance &amp; Operation</b>			
	5,920	5,492	428
State FSP Revenue for Maintenance & Operation	2,955	5,492	(2,537)
Local FSP Revenue for Maintenance & Operation	2,965	0	2,965
<b>Total FSP Revenue for Interest &amp; Sinking Funds</b>			
	652	0	652
State FSP Revenue for Interest & Sinking Funds	82	0	82
Local FSP Revenue for Interest & Sinking Funds	570	0	570

Source: Texas Education Agency Summary of Finance data from 1026 ISDs and 203 charter schools

**Table 2Ca Addendum**  
**Charter School Facilities Funding Evaluation**  
**Analyzing the Concept of Efficiency within the**  
**Texas Education Foundation School Program**  
**Academic Year 2013-2014**

**Revenue Per Weighted Student**

	<b>Charter</b>	<b>ISD</b>	<b>Difference</b>
<b>n</b>	203	1029	

**Descriptive Statistics**

<b>Mean</b>	5,492	6,564	1,072
<b>Median</b>	5,462	6,226	764
<b>Standard Deviation</b>	98	1,458	
<b>Coefficient of Variation</b>	0		

**Percentile**

95	5,648	9,014	3,366
90	5,595	7,699	2,104
75	5,547	6,755	1,208
25	5,420	5,846	426
10	5,406	5,520	114
5	5,406	5,372	(34)

**Percentile Ratios**

95/5	1.04	1.68	
90/10	1.03	1.39	
75/25	1.02	1.16	

**Table 2 Addendum Summary,  
Analysis of Efficiency Differences in All Fund Revenues per Student  
All Public School Districts and All Texas Charter School Districts  
2011-2014**

Year	Revenue Per Weighted Student				Average Difference
	2011-12	2012-13	2013-14		
District N	1,032	1,029	1,026		
Charter N	198	202	203		
<b>Total Revenue per WADA</b>	<b>1,327</b>	<b>1,074</b>	<b>1,080</b>	<b>1,160</b>	
<hr/>					
Total FSP Revenue for Maintenance & Operation	660	431	428	506	
<hr/>					
State FSP Revenue for Maintenance & Operation	(2,198)	(2,515)	(2,537)	(2,417)	
Local FSP Revenue for Maintenance & Operation	2,858	2,945	2,965	2,923	
<b>Total FSP Revenue for Interest &amp; Sinking Funds</b>	<b>667</b>	<b>643</b>	<b>652</b>	<b>654</b>	
<hr/>					
State FSP Revenue for Interest & Sinking Funds	92	84	82	86	
Local FSP Revenue for Interest & Sinking Funds	575	559	570	568	

**Table 3A Addendum.**  
**Charter School Facilities Funding Evaluation**  
**Analyzing the Concept of Efficiency within the**  
**Texas Education Foundation School Program**  
**Comparing ISDs and Charter Schools of Similar Size**  
**Academic Year 2011-12**

Revenue Per Student			
	ISD	Charter	Difference
<b>Total Revenue per ADA</b>	10,351	8,204	2,147
<b>Total FSP Revenue for Maintenance &amp; Operation</b>	9,447	8,204	1,243
State FSP Revenue for Maintenance & Operation	4,932	8,204	(3,272)
Local FSP Revenue for Maintenance & Operation	4,515	0	4,515
<b>Total FSP Revenue for Interest &amp; Sinking Funds</b>	904	0	904
State FSP Revenue for Interest & Sinking Funds	124	0	124
Local FSP Revenue for Interest & Sinking Funds	780	0	780

Source: Texas Education Agency Summary of Finance data from 872 ISDs and 195 charter schools under 5253 ADA



**Table 3B Addendum.**  
**Charter School Facilities Funding Evaluation**  
**Analyzing the Concept of Efficiency within the**  
**Texas Education Foundation School Program**  
**Comparing ISDs and Charter Schools of Similar Size**  
**Academic Year 2012-13**

Revenue Per Student			
	ISD	Charter	Difference
<b>Total Revenue per ADA</b>	10,511	8,569	1,942
<b>Total FSP Revenue for Maintenance &amp; Operation</b>	9,593	8,569	1,024
State FSP Revenue for Maintenance & Operation	4,685	8,569	(3,884)
Local FSP Revenue for Maintenance & Operation	4,908	0	4,908
<b>Total FSP Revenue for Interest &amp; Sinking Funds</b>	918	0	918
State FSP Revenue for Interest & Sinking Funds	121	0	121
Local FSP Revenue for Interest & Sinking Funds	797	0	797

Source: Texas Education Agency Summary of Finance data from 882 ISDs and 200 charter schools under 5919 ADA

Table 3C Addendum.  
Charter School Facilities Funding Evaluation  
Analyzing the Concept of Efficiency within the  
Texas Education Foundation School Program  
Comparing ISDs and Charter Schools of Similar Size  
Academic Year 2013-14

Revenue Per Student			
	ISD	Charter	Difference
<b>Total Revenue per ADA</b>	10,812	8,870	1,942
<b>Total FSP Revenue for Maintenance &amp; Operation</b>	9,870	8,870	1,000
State FSP Revenue for Maintenance & Operation	4,901	8,870	(3,969)
Local FSP Revenue for Maintenance & Operation	4,969	0	4,969
<b>Total FSP Revenue for Interest &amp; Sinking Funds</b>	942	0	942
State FSP Revenue for Interest & Sinking Funds	120	0	120
Local FSP Revenue for Interest & Sinking Funds	822	0	822

Source: Texas Education Agency Summary of Finance data from 879 ISDs and 201 charter schools under 5019 Refined ADA

**Table 3 Addendum Summary,  
Analysis of Efficiency Differences in All Fund Revenues per Student  
Similar Sized Public School Districts and All Texas Charter School Districts  
2011-2014**

Year	Revenue Per Student				Average Difference
District N Charter N	2011-12	2012-13	2013-14		
	872	882	879		
	195	200	201		
<b>Total Revenue per ADA</b>	<b>2,147</b>	<b>1,942</b>	<b>1,942</b>	<b>2,010</b>	
<hr/>					
<b>Total FSP Revenue for Maintenance &amp; Operation</b>	<b>1,272</b>	<b>1,024</b>	<b>1,000</b>	<b>1,089</b>	
<hr/>					
State FSP Revenue for Maintenance & Operation	(3,272)	(3,884)	(3,969)	(3,708)	
Local FSP Revenue for Maintenance & Operation	4,515	4,905	4,969	4,797	
<b>Total FSP Revenue for Interest &amp; Sinking Funds</b>	<b>904</b>	<b>918</b>	<b>942</b>	<b>921</b>	
<hr/>					
State FSP Revenue for Interest & Sinking Funds	124	121	120	122	
Local FSP Revenue for Interest & Sinking Funds	780	797	822	800	

Table 4A Addendum.  
Charter School Facilities Funding Evaluation  
Analyzing the Concept of Efficiency within the  
Texas Education Foundation School Program  
Comparing ISDs and Charter Schools of Similar Size  
Academic Year 2011-12

Revenue Per Weighted Student			
	ISD	Charter	Difference
Total Revenue per WADA	6,585	5,290	1,295
Total FSP Revenue for Maintenance & Operation	5,986	5,290	696
State FSP Revenue for Maintenance & Operation	3,135	5,290	(2,155)
Local FSP Revenue for Maintenance & Operation	2,851	0	2,851
Total FSP Revenue for Interest & Sinking Funds	559	0	599
State FSP Revenue for Interest & Sinking Funds	84	0	84
Local FSP Revenue for Interest & Sinking Funds	515	0	515

Source: Texas Education Agency Summary of Finance data from 872 ISDs and 195 charter schools under 3253 ADA

Table 4B Addendum.  
 Charter School Facilities Funding Evaluation  
 Analyzing the Concept of Efficiency within the  
 Texas Education Foundation School Program  
 Comparing ISDs and Charter Schools of Similar Size  
 Academic Year 2012-13

Revenue Per Weighted Student			
	ISD	Charter	Difference
Total Revenue per WADA			
Total FSP Revenue for Maintenance & Operation	6,435	5,378	1,057
State FSP Revenue for Maintenance & Operation	5,851	5,378	473
Local FSP Revenue for Maintenance & Operation	2,883	5,378	(2,495)
Total FSP Revenue for Interest & Sinking Funds	2,968	0	2,968
State FSP Revenue for Interest & Sinking Funds	584	0	584
Local FSP Revenue for Interest & Sinking Funds	79	0	79
Total FSP Revenue for Interest & Sinking Funds	505	0	505

Source: Texas Education Agency Summary of Finance data from 882 ISDs and 200 charter schools less than or equal to 5919 ADA.

Table 4C Addendum.  
Charter School Facilities Funding Evaluation  
Analyzing the Concept of Efficiency within the  
Texas Education Foundation School Program  
Comparing ISDs and Charter Schools of Similar Size  
Academic Year 2013-14

Revenue Per Weighted Student				
	ISD	Charter	Difference	
Total Revenue per WADA	6,543	5,492	1,051	
Total FSP Revenue for Maintenance & Operation	5,951	5,492	459	
State FSP Revenue for Maintenance & Operation	2,970	5,492	(2,522)	
Local FSP Revenue for Maintenance & Operation	2,981	0	2,981	
Total FSP Revenue for Interest & Sinking Funds	592	0	592	
State FSP Revenue for Interest & Sinking Funds	77	0	77	
Local FSP Revenue for Interest & Sinking Funds	515	0	515	

Source: Texas Education Agency Summary of Finance data from 879 ISDs and 201 charter schools under 5919 Refined ALDA

**Table 4 Addendum Summary:**  
**Analysis of Efficiency Differences in All Fund Revenues per Student**  
**Similar Sized Public School Districts and All Texas Charter School Districts**  
**2011-2014**

Year	Revenue Per Weighted Student				Average Difference
	2011-12	2012-13	2013-14		
District N	872	882	879		
Charter N	195	200	201		
<b>Total Revenue per WADA</b>	<b>1,295</b>	<b>1,057</b>	<b>1,051</b>	<b>1,134</b>	
<hr/>					
Total FSP Revenue for Maintenance & Operation	696	473	459	543	
State FSP Revenue for Maintenance & Operation	(2,155)	(2,495)	(2,522)	(2,391)	
Local FSP Revenue for Maintenance & Operation	2,501	2,968	2,981	2,933	
<b>Total FSP Revenue for Interest &amp; Sinking Funds</b>	<b>599</b>	<b>584</b>	<b>592</b>	<b>592</b>	
<hr/>					
State FSP Revenue for Interest & Sinking Funds	84	79	77	80	
Local FSP Revenue for Interest & Sinking Funds	515	505	515	512	

Table 11A Addendum.  
College Readiness Standards Evaluation  
Analyzing the Concept of Adequacy within the  
Texas Education School System  
Academic Reporting Year 2011-12

	ISD	Charter	Difference
<b>Percentage of College Ready Graduates - TAKS Math &amp; Language Arts</b>	46.9	32.2	14.7
<i>Percentage of College Ready Graduates - TAKS Math</i>	63.4	48.2	15.2
<i>Percentage of College Ready Graduates - TAKS Language Arts</i>	59.4	44.7	14.7
<b>Percentage of College Ready Graduates Above ACT/SAT Criteria</b>	20.0	15.1	4.9
<i>Percentage of Students Taking ACT/SAT</i>	58.1	16.9	41.2
<i>Average ACT Scores - All Students</i>	19.9	19.0	0.9
<i>Average SAT Scores - All Students</i>	951.3	900.1	51.2

Source: Texas Education Agency and AELS data varying from 1068 to 1443 ISD Schools; and, from 55 to 136 charter schools.



**Table 11B Addendum.**  
**College Readiness Standards Evaluation**  
**Analyzing the Concept of Adequacy within the**  
**Texas Education School System**  
**Academic Reporting Year 2012-13**

	ISD	Charter	Difference
<b>Percentage of College Ready Graduates - TAKS Math &amp; Language Arts</b>	*	*	*
<i>Percentage of College Ready Graduates - TAKS Math</i>	*	*	*
<i>Percentage of College Ready Graduates - TAKS Language Arts</i>	*	*	*
<b>Percentage of College Ready Graduates Above ACT/SAT Criteria</b>	20.9	15.3	5.6
<i>Percentage of Students Taking ACT/SAT</i>	65.7	48.8	16.9
<i>Average ACT Score</i>	29.0	19.0	1.0
<i>Average SAT Scores</i>	1397.0	1366.3	30.7

Source: Texas Education Agency State Accountability Data Tables, 136 Charter Schools and 1352 ISD Schools.  
 \* 2012-2013 College Readiness TAKS performance not available for 2012-2013 Reporting

**Table 11Ba Addendum**  
**College Readiness Standards Evaluation**  
**Analyzing the Concept of Adequacy within the**  
**Texas Education School System**  
**Academic Reporting Year 2012-13**

	ISD	Charter	Difference
<b>Percentage of Students Meeting Final Recommended STAAR Graduation Standards</b>			
<i>Percentage of Students Meeting Algebra 1 Standard</i>	32.0	25.3	6.7
<i>Percentage of Students Meeting English 1 Standard</i>	41.6	28.5	13.1
<i>Percentage of Students Meeting English 2 Standard</i>	15.7	10.4	5.3
<i>Percentage of Students Meeting Biology Standard</i>	41.9	31.7	10.2
<i>Percentage of Students Meeting US History Standard</i>	26.8	24.6	2.2

Source: TEA data via discovery for 2012-2013 school year

Table 11 Addendum Summary.  
 Analysis of Mean Differences in College Readiness  
 for Public School Districts and All Texas Charter School Districts  
 Academic Reporting Year 2011-13

	2011-12	2012-13	Average Difference
<b>Percentage of College Ready Graduates - TAKS Math &amp; Language Arts</b>	14.7	*	14.7
<i>Percentage of College Ready Graduates - TAKS Math</i>	15.2	*	15.2
<i>Percentage of College Ready Graduates - TAKS Language Arts</i>	14.7	*	14.7
<b>Percentage of College Ready Graduates Above ACT/SAT Criteria</b>	4.9	5.6	5.3

<i>Percentage of Students Taking ACT/SAT</i>	41.2	36.9	29.1
<i>Average ACT Scores - All Students</i>	0.9	1.0	1.0
<i>Average SAT Scores - All Students</i>	51.2	30.7	41.0

\* 2012-2013 College Readiness TAKS performance not available for 2012-2013 Reporting

Table 12A Addendum.  
College Readiness Standards Evaluation  
Analyzing the Concept of Adequacy within the  
Texas Education School System  
Academic Reporting Year 2011-12

	Standard Accountability		
	ISD	Charter	Difference
Percentage of College Ready Graduates - TAKS Math & Language Arts	49.5	47.7	1.8
Percentage of College Ready Graduates - TAKS Math	66.3	65.5	0.8
Percentage of College Ready Graduates - TAKS Language Arts	61.4	57.9	3.5
Percentage of College Ready Graduates Above ACT/SAT Criteria	20.4	22.7	(2.3)
Percentage of Students Taking ACT/SAT	66.4	33.1	32.3
Average ACT Scores - All Students	21.0	19.9	1.1
Average SAT Scores - All Students	954.0	932.8	21.2

Source: Texas Education Agency and AELIS data varying from 1044 to 1300 ISD schools; and, from 28 to 61 charter schools.

Table 12B.  
College Readiness Standards Evaluation  
Analyzing the Concept of Adequacy within the  
Texas Education School System  
Academic Reporting Year 2012-13

	Standard Accountability		
	ISD	Charter	Difference
<b>Percentage of College Ready Graduates - TAKS Math &amp; Language Arts</b>	*	*	*
<i>Percentage of College Ready Graduates - TAKS Math</i>	*	*	*
<i>Percentage of College Ready Graduates - TAKS Language Arts</i>	*	*	*
<b>Percentage of College Ready Graduates Above ACT/SAT Criteria</b>	*	*	*
<i>Percentage of Students Taking ACT/SAT</i>	55.7	81.7	(26.0)
<i>Average ACT** Scores - All Students</i>	20.0	20.8	(0.8)
<i>Average SAT* Scores - All Students</i>	1400.1	1406.0	(5.9)

Source: Texas Education Agency State Accountability Data Tables varying from 947 to 1111 ISD schools, and, from 23 to 49 charter schools.  
\* 2012-2013 College Readiness TAKS performance not available for 2012-2013 Reporting

**Table 12 Addendum Summary:**  
**Analysis of Mean Differences in College Readiness**  
**All Public School Districts and Texas Standard Accountability Charter School Districts**  
**Academic Reporting Year 2011-13**

	2011-12	2012-13	<i>Average Difference</i>
<b>Percentage of College Ready Graduates - TAKS Math &amp; Language Arts</b>	1.8	*	1.8
<i>Percentage of College Ready Graduates - TAKS Math</i>	0.8	*	0.8
<i>Percentage of College Ready Graduates - TAKS Language Arts</i>	3.5	*	3.5
<b>Percentage of College Ready Graduates Above ACT/SAT Criteria</b>	(2.3)	*	(2.3)

<i>Percentage of Students Taking ACT/SAT</i>	32.3	(36.0)	3.2
<i>Average ACT Scores - All Students</i>	1.1	(0.8)	0.2
<i>Average SAT Scores - All Students</i>	21.1	(5.9)	7.6

\* 2012-2013 College Readiness TAKS performance not available for 2012-2013 Reporting

## **Tables 1 Addendum Analytical Summary**

Wood Rolle & Associates applied the following definition of “efficiency”:

Efficiency requires that “[c]hildren who live in poor districts and children who live in rich districts must be afforded a substantially equal opportunity to have access to educational funds.” (*Neeley v. West-Orange-Cove*, 176 SW 3d at 753)

Analytical evidence in Tables 1 demonstrates that Texas Independent School Districts generate, on average, a difference of \$1,714 per ADA more than Texas charter schools in overall revenue for the additional three academic years examined.

Analytical evidence in Tables 1 demonstrates that Texas Independent School Districts generate, on average, a difference of \$742 per ADA more than Texas charter schools in FSP Maintenance & Operation revenue for the additional three academic years examined.

Analytical evidence in Tables 1 demonstrates that Texas Independent School Districts generate, on average, a difference of \$972 per ADA more than Texas charter schools – noting that charter schools receive zero dollars – in FSP Interest & Sinking Fund revenue for the additional three academic years examined.

Thus, given the definition of *West Orange Cove*, it is demonstrated for the Court’s consideration (1) that children in Open Enrollment Charter Schools for the additional three years “...have not had substantially equal opportunity to have access to educational funds” for school facilities; and (2) the recent changes to the laws as passed by the 83rd Legislature have not remedied the previous lack of equal opportunity to have access to educational funds.

## **Tables 2 Addendum**

### **Analytical Summary**

Wood Rolle & Associates applied the following definition of “efficiency”:

Efficiency requires that “[c]hildren who live in poor districts and children who live in rich districts must be afforded a substantially equal opportunity to have access to educational funds.” (*Neeley v. West-Orange-Cove*, 176 SW 3d at 753)

Analytical evidence in Tables 2 demonstrates that Texas Independent School Districts generate, on average, a difference of \$1,160 per WADA more than Texas charter schools in overall revenue for the additional three academic years examined.

Analytical evidence in Tables 2 demonstrates that Texas Independent School Districts generate, on average, a difference of \$506 per WADA more than Texas charter schools in FSP Maintenance & Operation revenue for the additional three academic years examined.

Analytical evidence in Tables 2 demonstrates that Texas Independent School Districts generate, on average, a difference of \$654 per WADA more than Texas charter schools – noting that charter schools receive zero dollars – in FSP Interest & Sinking Fund revenue for the additional three academic years examined.

Thus, given the definition of *West Orange Cove*, it is demonstrated for the Court’s consideration that (1) children in Open Enrollment Charter Schools for the additional three years “...have not had substantially equal opportunity to have access to educational funds” for school facilities; and (2) the recent changes to the laws as passed by the 83rd Legislature have not remedied the lack of equal opportunity to have access to educational funds for school facilities as enjoyed by students who attend independent public schools.



### **Tables 3 Addendum Analytical Summary**

Wood Rolle & Associates applied the following definition of “efficiency”:

Efficiency requires that “[c]hildren who live in poor districts and children who live in rich districts must be afforded a substantially equal opportunity to have access to educational funds.” (*Neeley v. West-Orange-Cove*, 176 SW 3d at 753).

Analytical evidence in Tables 3 demonstrates that Texas Independent School Districts generate, on average, a difference of \$2,010 per ADA more than Texas charter schools in overall revenue for the additional three academic years examined.

Analytical evidence in Tables 3 demonstrates that Texas Independent School Districts generate, on average, a difference of \$1,089 per ADA more than Texas charter schools in FSP Maintenance & Operation revenue for the additional three academic years examined.

Analytical evidence in Tables 3 demonstrates that Texas Independent School Districts generate, on average, a difference of \$921 per ADA more than Texas charter schools – noting that charter schools receive zero dollars – in FSP Interest & Sinking Fund revenue for the additional three academic years examined.

Thus, given the definition of *West Orange Cove*, it is demonstrated for the Court’s consideration that (1) children in Open Enrollment Charter Schools for the additional three years “... have not had substantially equal opportunity to have access to educational funds” for school facilities; and (2) the recent changes to the laws as passed by the 83rd Legislature have not remedied the lack of equal opportunity to have access to educational funds for school facilities as enjoyed by students who attend independent public schools.

## Tables 4 Addendum

### Analytical Summary

Wood Rolle & Associates applied the following definition of “efficiency”:

Efficiency requires that “[c]hildren who live in poor districts and children who live in rich districts must be afforded a substantially equal opportunity to have access to educational funds.” (*Neeley v. West-Orange-Cove*, 176 SW 3d at 753)

Analytical evidence in Tables 4 demonstrates that Texas Independent School Districts generate, on average, a difference of \$1,134 per WADA more than Texas charter schools in overall revenue for the additional three academic years examined.

Analytical evidence in Tables 4 demonstrates that Texas Independent School Districts generate, on average, a difference of \$543 per WADA more than Texas charter schools in FSP Maintenance & Operation revenue for the additional three academic years examined.

Analytical evidence in Tables 4 demonstrates that Texas Independent School Districts generate, on average, a difference of \$592 per WADA more than Texas charter schools – noting that charter schools receive zero dollars – in FSP Interest & Sinking Fund revenue for the additional three academic years examined.

Thus, given the definition of *West Orange Cove*, it is demonstrated for the Court’s consideration that (1) children in Open Enrollment Charter Schools for the additional three years “...have not had substantially equal opportunity to have access to educational funds” for school facilities; and (2) the recent changes to the laws as passed by the 83rd Legislature have not remedied the lack of equal opportunity to have access to educational funds for school facilities as enjoyed by students who attend independent public schools.

## **Tables 11 Addendum**

### **Analytical Summary**

Wood Rolle & Associates applied the following definition of “adequacy”:

Adequacy requires that “public education accomplish a general diffusion of knowledge... essential to the preservation of the liberties and rights of the people.” (*Neeley v. West-Orange-Cove*, 176 SW 3d at 753)

Analytical evidence in Tables 11 demonstrates that students accessing and utilizing Texas Independent School Districts educational services exhibit a difference of 14.7 percentage points more on combined TAKS Math & Language Arts “college ready” measures when compared to charter school students for the additional two years examined.

Analytical evidence in Tables 11 demonstrates that students accessing and utilizing Texas Independent School Districts educational services exhibit a difference of 15.2 percentage points more on TAKS Math – and 14.7 percentage points more on TAKS Language Arts – “college ready” measures when compared to charter school students for the additional two years examined.

Analytical evidence in Tables 11 demonstrates that students accessing and utilizing Texas Independent School Districts educational services exhibit a difference of 29.1 percentage points more for students taking ACT/SAT examinations – and 41.0 points advantage on average SAT scores – “college ready” measures when compared to charter school students for the additional two years examined.

Ostensibly, these differences in academic performance are due – in part – to unfunded charter school facilities costs affecting payroll expenditures that require charter schools to employ higher percentages of teachers with 1 to 5 years of teaching experience compared to ISDs.

Thus, given the definition of *West Orange Cove*, it is demonstrated for the Court’s consideration that (1) children in Open Enrollment Charter Schools have not received adequate revenue for school facilities for the additional two years that affect their abilities to provide “accomplish a general diffusion of knowledge;” and (2) the recent changes to the laws as passed by the 83rd Legislature have not remedied the lack of adequate revenue for school facilities for the additional two years that affect their abilities to provide “accomplish a general diffusion of knowledge

## Tables 12 Addendum

### Analytical Summary

Wood Rolle & Associates applied the following definition of “adequacy”:

Adequacy requires that “public education accomplish a general diffusion of knowledge... essential to the preservation of the liberties and rights of the people.” (*Neeley v. West-Orange-Cove*, 176 SW 3d at 753)

Analytical evidence in Tables 12 demonstrates that students accessing and utilizing Texas Independent School Districts educational services exhibit a difference of 1.8 percentage points more on combined TAKS Math & Language Arts “college ready” measures when compared to charter school students for the additional two years examined.

Analytical evidence in Tables 12 demonstrates that students accessing and utilizing Texas Independent School Districts educational services exhibit a difference of 0.8 percentage points more on TAKS Math – and 3.5 percentage points more on TAKS Language Arts – “college ready” measures when compared to charter school students for the additional two years examined.

Analytical evidence in Tables 12 demonstrates that students accessing and utilizing Texas Independent School Districts educational services exhibit a difference of 2.3 percentage points less for students taking ACT/SAT examinations – and 42.9 points advantage on average SAT scores – “college ready” measures when compared to charter school students for the past five years.

Ostensibly, these differences in academic performance are due – in part – to unfunded charter school facilities costs affecting payroll expenditures that require charter schools to employ higher percentages of teachers with 1 to 5 years of teaching experience compared to ISDs.

Thus, given the definition of *West Orange Cove*, it is demonstrated for the Court’s consideration that (1) children in Open Enrollment Charter Schools have not received adequate revenue for school facilities for the past five years that affect their abilities to provide “accomplish a general diffusion of knowledge;” and (2) the recent changes to the laws as passed by the 83rd Legislature have not remedied the lack of adequate revenue for school facilities for the additional five years that affect their abilities to provide “accomplish a general diffusion of knowledge

CAUSE NO. D-1-GN-11-003130

TEXAS TAXPAYER & STUDENT ) IN THE DISTRICT COURT OF  
FAIRNESS COALITION, ET )  
AL., CALHOUN COUNTY ISD, )  
ET AL.; EDGEWOOD ISD, ET )  
AL. FORT BEND ISD, ET )  
AL.; TEXAS CHARGER SCHOOL )  
ASSOCIATION, ET AL., )

Plaintiffs,

JOYCE COLEMAN, ET AL., ) TRAVIS COUNTY, TEXAS

Intervenors,

VS.

MICHAEL WILLIAMS )  
COMMISSIONER OF )  
EDUCATION, IN HIS )  
OFFICIAL CAPACITY; SUSAN )  
COMBS, TEXAS COMPTROLLER )  
OF PUBLIC ACCOUNTS, IN )  
HER OFFICIAL CAPACITY, )  
TEXAS STATE BOARD OF )  
EDUCATION, )

Defendants. ) 200TH JUDICIAL DISTRICT

ORAL DEPOSITION OF TONI BETH TEMPLETON  
11/8/2013

Reported By: Tamara Chapman

Job No: 67340

ORAL DEPOSITION OF TONI BETH TEMPLETON, produced  
as a witness at the instance of the Defendant and duly  
sworn, was taken in the above styled and numbered cause on  
Wednesday, 11/8/2013, from 9:02 a.m. to 12:18 p.m.,  
before Tamara Chapman, CSR in and for the State of Texas,  
reported by computerized stenotype machine, at the offices  
of the Attorney General, 300 West 15th Street, Suite 1100,  
Austin, Texas, pursuant to the Texas Rules of Civil  
Procedure and the provisions stated on the record herein.

## A P P E A R A N C E S

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HIS OFFICIAL CAPACITY; SUSAN COMBS, TEXAS COMPTROLLER OF  
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SCHULMAN, LOPEZ & HOFFER  
701 Brazos Street  
Austin, Texas 78701

ALSO PRESENT:

Ms. Lindsey Jones - Charter School Association

\* \* \*  
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1 TONI BETH TEMPLETON,  
2 having been first duly sworn, testified as follows:

3 EXAMINATION

4 BY MR. VINSON:

5 Q. Good morning, Ms. Templeton. My name is Eric  
6 Vinson. Do you understand I'm with the Attorney General's  
7 Office and I represent the TEA in this matter?

8 A. I do.

9 Q. And could you please state your full name for the  
10 record.

11 A. Toni Beth Templeton.

12 Q. Ms. Templeton, have you ever had your deposition  
13 taken before?

14 A. I have not.

15 Q. I'm sure you've had some time to visit with  
16 counsel for the Charter School Association, but I would  
17 just like to cover some ground rules that will just help  
18 this process go more smoothly, hopefully.

19 First of all -- and you're doing a great job of  
20 this so far -- if you'll wait until I finish a question  
21 before you give me an answer, I'll do you the same  
22 courtesy of letting you finish an answer before I ask you  
23 another question. Does that sound fair?

24 A. It does.

25 Q. And, again, you're doing a good job of this,

1 you're answering out loud with a specific "yes," "no" or  
2 otherwise. If you could continue to do that, please.  
3 Head nods, "uh-huh," "huh-uh" don't come across as clearly  
4 on the record as a "yes" or a "no." And I may prompt you  
5 because it's natural to sort of fall into normal habits.  
6 I'm not trying to be rude. I'm just trying to keep the  
7 record clear. Okay?

8 A. Sure. Understood.

9 Q. If you need to take a break at any point in time  
10 for business reasons or nonbusiness reasons, please feel  
11 free to let me know that. We can accommodate that. This  
12 is not meant to be some sort of race or anything like  
13 that. Just let me know.

14 All I ask is that you answer any question that's  
15 pending on the table before we take a break. Does that  
16 sound fair?

17 A. Sounds fair to me.

18 Q. Because you live in this world and I don't and  
19 I'm doing my best to ask questions that make sense,  
20 occasionally I will swing and miss. I'll ask a question  
21 that doesn't make sense or, you know, who knows what may  
22 happen.

23 If I ask you a question that doesn't make sense  
24 or you don't understand some component of it, will you  
25 please ask me to rephrase it or explain it in some way in

1 a way that does make sense?

2 A. I will.

3 Q. Okay. And if you do answer a question, is it  
4 fair to assume that you understood the question?

5 A. That is a fair assumption.

6 Q. Have you ever been a party to a litigation at any  
7 time?

8 A. No, I have not other than this trial.

9 Q. Have you ever given sworn testimony in any  
10 matter, criminal, civil or otherwise?

11 A. No, I haven't.

12 Q. Have you ever served on a jury?

13 A. No.

14 Q. Let's talk a little bit about your background.  
15 That should be a comfortable place to start hopefully.

16 What part of the world did you grow up in?

17 A. I grew up primarily in a little kind of suburb of  
18 College Station area called Franklin, Texas.

19 Q. Did you go to high school there?

20 A. Yes, I did.

21 Q. And where did you go to college?

22 A. Undergraduate college I got -- received my degree  
23 from the University of Texas.

24 Q. What year did you obtain that?

25 A. 2004.

1 Q. Did you go straight into the workplace from there  
2 or did you continue your studies?

3 A. I did both. I worked and continued studies after  
4 that.

5 Q. And what was your degree in in 2004?

6 A. The degree from the University of Texas is a  
7 neurobiology; natural sciences with a focus on  
8 neurobiology.

9 Q. You said afterwards, after you obtained your -- I  
10 assume that's a BS?

11 A. Uh-huh.

12 Q. After you obtained your BS from UT in 2004, you  
13 continued your studies and you went in to work.

14 Why don't you tell me what work you were doing  
15 immediately after you obtained your BS from UT.

16 A. Sure. I wasn't fortunate enough to not have to  
17 work through college, so I did -- I was a Montessori  
18 preschool teacher, and I continued that for a few months  
19 after receiving my degree. And then I was hired as a  
20 science teacher at Austin Can Academy.

21 Q. So was that in 2004 that you were hired as a  
22 science teacher at Austin Can Academy?

23 A. Yes, I believe that's true, August of 2004.

24 Q. This doesn't need to be a quiz. I've got your CV  
25 here. I'll give this to you. You can feel free to refer

1 to this. I'm marking this as Exhibit 20020.

2 (Exhibit 20020 was marked.)

3 Q. (BY MR. VINSON) 20020. It looks like from your  
4 CV that you taught science from 2004 to the school year  
5 that ended in June or July of 2006. Is that correct?

6 A. Yes, it is.

7 Q. And that school, it looks like, was a dropout  
8 recovery charter high school. Is that correct?

9 A. Yes, it is.

10 Q. And that's a different type of charter school  
11 than is, say, an open-enrollment charter school. Correct?

12 A. No, that's incorrect. A dropout recovery charter  
13 school is an open-enrollment charter school.

14 Q. Okay. This is why we ask these questions.

15 Let's take a quick detour from your CV and  
16 describe the types of charter schools in Texas. Could you  
17 describe those for me?

18 A. I'll start with the open-enrollment charter  
19 schools. A description of them is that they are a public  
20 school with open enrollment policies.

21 Q. And by "open enrollment," what does that  
22 specifically mean?

23 A. The charter must accept, if there's space in the  
24 lottery or as a result of the lottery or if there's space  
25 in the classroom, any student that comes from within the

1 geographic bounds approved by the commissioner upon  
2 approval of the charter.

3 Q. So that's type one, open-enrollment charters.  
4 What's another type of charters?

5 A. There are in-district charters. Those charters  
6 are a part of an ISD, and those that I am less familiar  
7 with because we, as TCSA, represent open-enrollment  
8 charter schools.

9 Q. Very well. What's the third type of charter  
10 schools in Texas?

11 A. So under rule or statute, there is a third type  
12 that is a collegiate or university charter. Those  
13 charters are operated by an institute of higher ed. Those  
14 are also open-enrollment schools.

15 Q. They function as an open-enrollment school, but  
16 they are slightly different in the statutory framework  
17 because they're operated by a college or a university,  
18 some higher education. Is that correct?

19 A. That is correct.

20 Q. All right. And are those charter schools, do  
21 they participate in the Texas Charter School Association?

22 A. Those operated by the college or university, yes,  
23 they do.

24 Q. Are there other types of broad categories of  
25 charter schools in Texas that you're familiar with?

1 A. In existence that I am familiar with? I don't  
2 believe so.

3 Q. And amongst the open-enrollment charters, are  
4 there sub types or classifications of different types of  
5 open-enrollment charters that are governed -- sorry -- by  
6 different rules or statute?

7 A. I don't believe so.

8 Q. Okay. I am vaguely familiar with the idea that  
9 some open-enrollment charters are meant to be essentially  
10 a direct competitor to a local ISD school, you know, an  
11 elementary school, high school, junior high. And there  
12 are other charter schools that are dropout recovery or may  
13 be affiliated with a juvenile corrections situation.

14 Are those -- did those latter types of charter  
15 schools, are they treated differently by statute or rule  
16 or do they all operate under the same framework, as far as  
17 you understand?

18 A. The open-enrollment charter schools, whether they  
19 be dropout recovery or RTC would operate and they're held  
20 to the same regulations and statutes as would an ISD  
21 school of a similar type.

22 Q. Okay. So I guess the open-enrollment charters  
23 that subclassify themselves do so not pursuant to some  
24 rule or statute, but as a part of some mission that the  
25 charter has decided it wants to serve. Is that fair?

1 A. Yes. Charters define a mission type in their  
2 charter, the purpose of their existence.

3 Q. Sure.

4 A. Some of those purposes are to serve students in a  
5 residential treatment facility or a juvenile detention  
6 center and some of them are to serve dropouts.

7 Q. And then there are others that are just meant to  
8 be sort of what I call standard or vanilla schools that  
9 would compete with the ISD alternative. Is that correct?

10 A. I think they might look very similar to an ISD in  
11 some ways.

12 Q. Okay. Having detoured there, thank you for that.

13 Let's go back to your own professional and  
14 educational history. You mentioned as -- when you  
15 graduated from UT in 2004 that you not only were working  
16 but you also were pursuing your studies. What studies  
17 were you pursuing after you obtained your BS from UT in  
18 2004?

19 A. After I obtained my Bachelor of Sciences degree,  
20 I enrolled into a alternative certification program at  
21 Huston-Tillotson University to get my alternative  
22 certification there. So that was the first study I was  
23 pursuing. Then soon after, and I'd have to look back at  
24 the date, I enrolled in a Master of Education program.  
25 That's 2009.



1 Q. Let's slow down. Alternative teacher  
 2 certification, when did you obtain that? What year?  
 3 A. 2005. I enrolled into the program in -- it's a  
 4 year-long program.  
 5 Q. And you obtained that alternative certification  
 6 in 2005?  
 7 A. Yes, that's right.  
 8 Q. And then in 2009 you started pursuing a master's  
 9 degree. Is that correct?  
 10 A. That is. No, no. I'm sorry. I received the  
 11 master's degree in 2009. So I believe I started pursuing  
 12 that degree in 2007.  
 13 Q. Okay. Because this Exhibit 20020 says at the top  
 14 "Master of Science, Applied Stats, University of Texas San  
 15 Antonio, In Progress." I guess that's outdated.  
 16 A. No. Look at the line below.  
 17 Q. Oh, I see. Okay. I'm sorry. Too many master's  
 18 here. Here we go. Back up.  
 19 You pursued a Master's in Education starting in  
 20 2007 and you obtained it in 2009 from the University of  
 21 Phoenix. Is that correct?  
 22 A. That is correct.  
 23 Q. All right. And then when did you start pursuing  
 24 your Master's of Science in applied stats from UTSA?  
 25 A. That program -- I was just accepted into that

1 Is that correct?  
 2 A. That is correct.  
 3 Q. And you remained the assistant principal at  
 4 Austin Can from August of 2006 to July of 2007. Is that  
 5 correct?  
 6 A. Yes.  
 7 Q. And during that same time period, you also taught  
 8 for roughly one year basic anatomy and physiology concepts  
 9 to massage therapy students at Austin Community College.  
 10 Is that correct?  
 11 A. Yes, that's correct.  
 12 Q. Then you left Austin Can in July of 2007 and  
 13 joined -- is that Fiveash & Associates? Am I pronouncing  
 14 that correctly?  
 15 A. You are pronouncing that correctly.  
 16 Q. You joined them in August of 2007?  
 17 A. I did. But could I offer some clarification  
 18 there?  
 19 Q. Yes, please.  
 20 A. The two job descriptions that you're looking at  
 21 at the top there, the online classroom facilitator and the  
 22 data analyst contractor, those were happening at the same  
 23 time as I was a science instructional specialist on the  
 24 front page.  
 25 Q. Oh, okay. I see. So you remained at Austin Can

1 program in August.  
 2 Q. Okay.  
 3 A. This August.  
 4 Q. So you've literally just started that?  
 5 A. Yes, that's right.  
 6 Q. So now let's go back to your professional  
 7 history. You went from Austin Can to Austin Community  
 8 College. Is that correct?  
 9 A. Those were happening at the same time, if you  
 10 look at the timeline. I also taught at Austin Community  
 11 College.  
 12 Q. So there was a slight overlap between May of 2006  
 13 and July of 2006 in your time at Austin Can and Austin  
 14 Community College. Is that correct?  
 15 A. That is correct.  
 16 Q. And why did you leave Austin Can and go and start  
 17 teaching at Austin Community College in May of -- I guess  
 18 you didn't leave. Never mind. This is hard to follow.  
 19 Here we go. Let me back up.  
 20 You've stayed at least from August of 2004 to  
 21 July 2007 as an assistant principal at Austin Can; is that  
 22 correct? I'm sorry. I got distracted here.  
 23 One more time. Starting in August of 2004, you  
 24 joined Austin Can as a science teacher, and in August  
 25 of 2006, you became the assistant principal at Austin Can.

1 until September of 2010. Is that when you --  
 2 A. I continued to be promoted through there, yes.  
 3 Q. Yeah, sure. And you played different roles. You  
 4 were the -- you started as a science teacher, you became  
 5 an assistant principal, you then were a science  
 6 instruction specialist and then you were a school  
 7 improvement specialist. Is that correct?  
 8 A. That is correct.  
 9 Q. And throughout that time you also had other work  
 10 relationships with other entities, including Fiveash &  
 11 Associates and Weblessons. Is that correct?  
 12 A. That is correct.  
 13 Q. What led you to start working with Fiveash &  
 14 Associates in August of 2007? Why did they hire you as a  
 15 data analyst contractor?  
 16 A. Well, you'd have to ask her for exact reasons  
 17 why, but she did hire me to fulfill the position of the  
 18 data analyst to analyze, particularly at that time, school  
 19 performance data.  
 20 Q. Let me ask it this way. Why did you join Fiveash  
 21 & Associates in August of 2007?  
 22 A. To pay for my student loans.  
 23 Q. So that was an opportunity to earn some more  
 24 money. Is that correct?  
 25 A. Yes, it was.

1 Q. And had you ever done data analysis in the areas  
2 of school improvement, cohort monitoring, needs  
3 assessment, grant reporting, transcript evaluation,  
4 program evaluation and budget analysis before August  
5 of 2007?

6 A. Yes, I did.

7 Q. Where did you do that?

8 A. I did a large chunk of that as an assistant  
9 principal at Austin Can Academy.

10 Q. And at Weblessons it says here you, "Instructed  
11 classes on technology used in the classroom; you developed  
12 online class platform; wrote curriculum for class."

13 Was there any particular type of class that you  
14 were doing these things for, or was it across the entire  
15 spectrum of classes that were offered by Weblessons that  
16 you provided the services?

17 A. Those that I facilitated were specifically on  
18 technology used in the classroom.

19 Q. Okay. So in September of 2010, you joined the  
20 Texas Charter School Association as a data analyst. Is  
21 that correct?

22 A. Yes.

23 Q. And who was it at the Charter School Association  
24 that ultimately hired you?

25 A. My direct boss is Chris Busse, Vice President of

1 Quality Initiatives.

2 Q. And do you still report to Chris Busse?

3 A. I do.

4 Q. And what was your understanding of why it was  
5 that the Charter School Association hired you as a data  
6 analyst?

7 A. My understanding was to provide -- to kind of  
8 fill the gap of data needs that they had, both being to  
9 support their advocacy efforts to -- and then also to  
10 support charter schools.

11 Q. And by advocacy efforts, we're talking about  
12 legislative initiatives. Is that correct?

13 A. That's one type, yes.

14 Q. What other type of advocacy efforts are there  
15 besides legislative lobbying or other efforts to obtain  
16 legislation that's favorable to charter schools?

17 A. An example might be public perception of charter  
18 schools, public understanding of charter schools. Those  
19 both fall under advocacy.

20 Q. Sure. So there could be public education and  
21 other wise almost a marketing aspect to this idea of  
22 advocacy. Is that fair?

23 A. I'm not sure if "marketing" is a term I would  
24 use, but definitely to make sure that the public  
25 understands charter schools.

1 Q. And what is it that you were understanding the  
2 public needed to know about charter schools?

3 A. At the time I was hired?

4 Q. No. When you were actually performing the  
5 advocacy and informing the public about charter schools,  
6 what kind of things were you charged with sharing with the  
7 public about charter schools?

8 A. I wasn't charged specifically with sharing the  
9 data. What I was charged specifically with was to  
10 answering some key questions.

11 Q. What types of key questions were you supposed to  
12 answer?

13 A. How do charter schools perform, what is the  
14 enrollment of charter schools, how many charter schools  
15 have there been, analyzing the growth of those charter  
16 schools over time. Things of that nature.

17 Q. And who ultimately shared all this information  
18 with the public if it wasn't you?

19 A. That would be our advocacy team in general. I  
20 wouldn't be able to go into specifics there because I'm  
21 not a member of the advocacy team.

22 Q. Sure. Who is on the advocacy team?

23 A. Right now the vice president of -- I believe her  
24 title is governmental relations. But definitely vice  
25 president of the advocacy department is Tracy Young.

1 Q. And you mentioned a team, so I'm assuming there  
2 are other people. Who else is on the advocacy team for  
3 the Texas Charter School Association?

4 A. At this moment, Amanda Thomas.

5 Q. And what is Amanda Thomas' role other than as --  
6 does she have some other title other than a member of this  
7 team?

8 A. I believe her title is Director of Advocacy, if  
9 I'm not mistaken.

10 Q. What is Amanda's last name, again?

11 A. Thomas. Oh, she was recently married.  
12 Thomas-List. I'm glad I remembered.

13 Q. All right. Anyone else on the advocacy team at  
14 to the Texas Charter School Association as far as you're  
15 aware?

16 A. Right now, no.

17 Q. Okay. Have you interfaced with both Amanda and  
18 Tracy in supporting their efforts with the data that  
19 they -- that they're looking for that you obtained and  
20 generated?

21 A. Yes.

22 Q. Have you ever been hired as an expert or retained  
23 as an expert in any litigation other than in this case?

24 A. I have not.

25 Q. You are obviously employed by the Texas Charter

1 School Association. You've been there since 2010, so you  
2 were there for the prior round of litigation and the prior  
3 trial and all that. Is that correct?

4 A. Yes, I was there.

5 Q. But you were not included or designated as an  
6 expert in that phase of the process. Is that correct?

7 A. That's correct.

8 Q. Do you know why it is that you're being retained  
9 in this instance and not the last phase of the litigation?

10 A. You'd have to ask the people that made that  
11 decision.

12 Q. And who were the people that made decision?

13 A. I would guess that the people that ultimately  
14 made that decision would be our executive director, David  
15 Dunn.

16 Q. How did you -- let me ask you this way. How did  
17 you know -- come to know that you were at least being  
18 considered to be designated as an expert in this case?

19 A. How did I -- I'm sorry. Could you restate that  
20 question? I didn't hear part of it.

21 Q. That's fair. I'm just curious how it was that  
22 you were doing your job at Texas Charter Schools  
23 Association and then some series of events led to you  
24 sitting here answering questions and whatnot. And I'm  
25 wondering how you first came to learn that you might be

1 retained and designated as an expert in this case.

2 MR. SCHWARTZ: To the extent that calls for  
3 attorney-client privilege, I object. But she can answer.

4 MR. VINSON: Sure. That's certainly  
5 reasonable.

6 Q. (BY MR. VINSON) I should have probably said this  
7 earlier. Mr. Schwartz and other lawyers with his firm  
8 represent you-all, and so obviously to the extent you had  
9 conversation with these folks, the default presumption  
10 should be that you should not share any specific  
11 communications that you've had with any of those folks. I  
12 would like to know just how you came to -- what you knew,  
13 if anything, before you were designated, about your role  
14 in this case?

15 A. Well, there were definitely discussions with  
16 Mr. Schwartz and David about the possibility of me serving  
17 as an expert.

18 Q. What is your understanding of why you've been  
19 designated in this phase of litigation as an expert?

20 A. I like to think it's because I -- David respects  
21 my expert opinion in this area, but you'd have to ask him.

22 Q. Okay. I'm curious about your understanding of  
23 why you were designated. Sounds like maybe you don't  
24 know.

25 A. No. My understanding is that he sees me as an

1 expert in the field.

2 Q. As far as you're aware, did he see you as an  
3 expert in the field a year ago?

4 A. I believe so.

5 Q. How familiar are you with the claims that were  
6 advanced by the Charter School Association in the first  
7 phase of this litigation? Have you looked at what the  
8 petition looked like before November of 2012 that the  
9 charter schools filed?

10 A. I am familiar with the trial as it relates to my  
11 job. I'm not an attorney, I won't even claim to be for a  
12 moment, so...

13 Q. Understood.

14 So you're generally familiar with the first phase  
15 of the trial and the claims that were advanced by the  
16 charter schools in the first phase of the trial?

17 A. Yes.

18 Q. All right. And are you also familiar with the  
19 claims being advanced by the charter schools in this  
20 current phase of the trial?

21 A. Yes.

22 Q. Are you able to articulate for me your  
23 understanding of the difference between -- if any, between  
24 the claims advanced by the charter schools in the first  
25 phase and the claims being advanced in this second phase?

1 A. From a data perspective, I can.

2 Q. Okay.

3 A. And what I've been tasked with I can explain.

4 Q. Why don't you tell me -- let's start with --  
5 again, from your -- sounds like what you're telling me is  
6 that your job is mainly about data analysis, and so you're  
7 able to talk about the data component of the current phase  
8 of the charter school claims. Is that correct?

9 A. That's a fair assumption.

10 Q. Okay. So why don't you tell me what you  
11 understand to be the data component the charter schools  
12 claim in this phase that may differ from the charter  
13 schools' claim from the first phase of the trial?

14 A. I would like to start by saying the trends found  
15 in the first trial as far as the first data goes, the gap  
16 in funding, the student performance, all the trends that  
17 were found there still continue on into this -- after  
18 this -- into this trial, I guess is the appropriate  
19 terminology.

20 So I was tasked specifically with looking at the  
21 data after the last trial and after the changes of the  
22 83rd session, where it's available, to see the impact of  
23 those to charter schools and in some cases to ISDs.

24 Q. Did you generate a report of some sort that  
25 summarized your findings of these data comparisons that

1 you made?

2 A. Dr. Rolle and I collaborated on the data tables  
3 in his report.

4 Q. I see. So your function was to support  
5 Dr. Rolle's process in analyzing the data and ultimately  
6 generating the report that has Dr. Rolle's name on it. Is  
7 that correct?

8 A. That is correct.

9 Q. But you didn't serve that role in the first phase  
10 of the trial when Dr. Rolle generated his report? Am I  
11 understanding that correctly?

12 A. I certainly reviewed it when he submitted it, but  
13 I didn't provide the data to him in the first trial.

14 Q. It sounds like in the first phase of the trial if  
15 someone had asked Dr. Rolle, "Did Toni Templeton help you  
16 assemble these numbers, analyze these numbers; are you  
17 relying on her work at all," the answer at that point was  
18 no; whereas, in his October 2013 report, that answer would  
19 be yes. Am I understanding that correctly?

20 A. I think that's just -- a fair assumption.

21 Q. You seem to be hesitating a little bit, and I'm  
22 not trying to put words in your mouth. Is there something  
23 about my characterization that was inaccurate?

24 A. I think the only hesitation that I might have  
25 there is that there was some discussion about his first

1 report just colleague to colleague, not as a designated  
2 expert in the trial.

3 Q. I see.

4 Do you have any interaction with Dr. Rolle  
5 outside of his role as an expert in this case? Are  
6 you-all colleagues outside of this litigation?

7 A. I would consider us so, yes. He serves on a  
8 board that I do for the "Journal of Ed Finance." And as  
9 far as that goes, yes, that's how I would describe it.

10 Q. Have you-all collaborated in any way outside of  
11 this litigation in terms of a particular project or  
12 analyzing any data outside of the data that's being  
13 analyzed in this litigation?

14 A. Outside of the data that's being analyzed in this  
15 litigation -- my expertise is in Texas school finance, so  
16 no.

17 Q. Are you being paid specifically for your role as  
18 an expert or is your salary from the Texas Charter School  
19 Association intended to include your serving as an expert  
20 in this case?

21 A. I'm not being compensated outside of my normal  
22 salary.

23 Q. What is your normal salary at the charter  
24 school --

25 A. I'm not going to get this exact, but it's in the

1 area of \$70,000 a year.

2 Q. That's all I'm looking for is a general sense.

3 So if I was going to ask you to sort of broadly  
4 describe the areas of your expertise and, I guess more  
5 importantly, more specifically, the opinions you intend to  
6 render, it sounds like your role in this case was  
7 supporting Dr. Rolle's methodology and data analysis and  
8 what you found as a general matter is that the trends  
9 identified by Dr. Rolle's original report continued into  
10 this current phase of the trial. Is that accurate?

11 A. Yes.

12 Q. Are there other areas of expertise or any other  
13 expert opinions your intent to offer in this case outside  
14 of that -- the scope of what I just described?

15 A. I think one thing that would -- two things,  
16 primarily, and both of them revolve around changes of the  
17 83rd legislative session: First being school funding  
18 formulas specific to Texas, and the second being  
19 accountability and compliance.

20 Q. So you're familiar with those legislative changes  
21 and you're prepared to offer expert testimony on the  
22 effects of these changes on the charter schools. Am I  
23 understanding that correctly?

24 A. Yes.

25 Q. But you didn't write any particular report or

1 anything that explains those opinions in this case. Is  
2 that correct?

3 A. Other than the data tables in Dr. Rolle's report,  
4 no.

5 Q. And we'll look at that in a minute. But you're  
6 aware that your name doesn't appear on any of Dr. Rolle's  
7 materials. In fact, if you just looked at it, it appears  
8 to be the work product of Wood, Rolle. Is that fair?

9 A. That is fair.

10 Q. Was there some reason your name wasn't included  
11 as a cosponsor or coauthor of that report if you were an  
12 integral part of doing the data analysis?

13 A. Not that I can think of.

14 Q. Is there any part of the data analysis that you  
15 did that Dr. Rolle wouldn't be able to testify to or talk  
16 about or explain if I asked him the same question?

17 A. The data tables in his report, certainly not.

18 Q. That is, you would -- somebody from the outside  
19 would expect to get the same answer from you or from  
20 Dr. Rolle about the data tables in his October 2013  
21 report. Is that correct?

22 A. If you're asking specifically about the data  
23 tables, yes.

24 Q. Is there any other part of Dr. Rolle's report  
25 that only you are qualified to talk about and he does not

1 have the ability to talk about, as far as you're aware?

2 A. No. The -- I would like to point out that the  
3 conclusions in his report are an area of his expertise and  
4 not mine.

5 Q. Yeah. Right.

6 So if we're looking at the totality of  
7 Dr. Rolle's work product, there's overlap between you and  
8 him on the data tables, and the actual narrative  
9 conclusions are his and his alone. Is that correct?

10 A. That's correct.

11 Q. Do you intend to offer any expert opinions on the  
12 subject of the statutory cap on the number of charters  
13 issued by the State of Texas?

14 A. Only as it relates to legislative changes.

15 Q. Right. So you're familiar with the fact that  
16 there was a -- an increase in the number of caps from --  
17 excuse me -- the number of charters from 215 -- what is  
18 the current number of charters?

19 A. The -- well, the current number today -- we're  
20 pending a decision by the SBOE; they have a veto. So at  
21 the moment, if you're not considering whether -- the last  
22 round, I believe there's 204 charters in existence.

23 Q. And I didn't ask that question properly. The  
24 statute, before the legislative changes, contemplated a  
25 total number of charters of 215. Is that correct?

1 A. Before the 83rd --

2 Q. Yes.

3 A. -- yes, that's right.

4 Q. What is the total number of charters that are  
5 systemwide after the legislative changes?

6 A. It depends on the year. That formula is quite  
7 complex because it increases depending on the year that  
8 we're in.

9 Q. Do you know what the current year is?

10 A. The current year is 215. Those changes went  
11 into -- I'd have to look at the bill to see the next year.  
12 I believe it's ten, but I'd like to look at the bill for  
13 clarification.

14 Q. It's some increase?

15 A. It is an increase, yes.

16 Q. And it's formulaic as opposed to just a straight  
17 number. Is that correct?

18 A. Formulaic in the sense that it adds a specific  
19 number each year, yes.

20 Q. And you testified just a moment ago that it looks  
21 like there are roughly 204 charters that we might call  
22 claimed or in existence that have been issued by the State  
23 leaving approximately 11 available charters for other  
24 entities to compete for. Is that correct?

25 A. That is correct.

1 Q. And other than that factual description of what  
2 the framework is for the number of charters, you're not  
3 going to offer any expert testimony about the role of the  
4 cap on charters on, for example, the performance of  
5 students or the funding per student. Those things don't  
6 intersect. Right?

7 A. No. Other than the factual information that's  
8 contained in the bill changes.

9 Q. Are you familiar with the Court's ruling, I  
10 believe it was in February of 2013, about the charters'  
11 claims?

12 A. I'm vaguely familiar yes. It's a little  
13 legality, if you will.

14 Q. Sure. What is your understanding of what the  
15 Court rules about -- let's focus first on the lack of  
16 facilities funding.

17 Are you -- do you have any understanding of what  
18 the Court ruled in February of 2013 about the charter  
19 schools' claims for lack of facilities funding?

20 A. I've not -- I wouldn't like to say that I  
21 understand that enough to testify to that, no.

22 Q. So you're not comfortable with anything because  
23 you're just not sure?

24 A. I'm not comfortable discussing the ruling of the  
25 first trial.

1 Q. And what is it about it that you're not  
2 comfortable with? Is it a technical issue or is it just a  
3 lack of familiarity? What is it?

4 A. More of a technical -- I prefer to be precise in  
5 my answers.

6 Q. And I guess you would have the same answer to my  
7 question about the charter schools' claims about the  
8 statutory cap and the Court's ruling in February of 2013  
9 on that issue. Is that correct?

10 A. Uh-huh. It is. I would.

11 Q. Let's talk about the mechanism for funding  
12 charter schools in Texas, and then I also want to get -- I  
13 want to talk about it in sort of a stand-alone fashion,  
14 and then I want to talk about it relative to the way ISDs  
15 are funded as well.

16 So with that preview, let me ask you to explain  
17 in -- start in broad terms -- the mechanism by which the  
18 Texas legislature funds charter schools in Texas as of the  
19 current -- under the current legislation.

20 A. In very broad, general terms, the similar funding  
21 formulas used to generate funding for ISDs are applied to  
22 charter schools. However, they're treated -- they are --  
23 don't have a taxing authority. So some parts of the  
24 formula are changed to -- in order to accommodate for  
25 that. Others are changed, I'm not sure why they're

1 changed, but they're changed. There are some fundamental  
2 differences. Would you like me to discuss those?

3 Q. Before we get into differences, again, I'm  
4 definitely going to give you a chance to describe the  
5 differences. I want to start with just a straight how --  
6 if you are a charter school, how is your funding  
7 determined if we were -- let's just pick a hypothetical  
8 charter school in Travis County.

9 A. Your funding -- so, first of all, let's start  
10 with Tier 1 funding. Your Tier 1 funding is determined by  
11 a series of block grants. Those series of block grants  
12 are determined by, very basically, your average daily  
13 attendance, multiply the state average adjusted allotment,  
14 and the weight to where that applies. All those block  
15 grant are added together to provide your Tier 1  
16 entitlement.

17 Q. Add it up and that equals your Tier 1 funding.

18 All right. What about Tier 2?

19 A. Tier 2, there's a formula that takes a guaranteed  
20 yield of 59 -- roughly \$59 for Level 1; 39 for Level 2;  
21 multiply it by WADA and then that rough calculation comes  
22 up -- you add those together and that gives you your  
23 Tier 2 entitlement.

24 Q. Is that the entirety of the allotment that a  
25 charter school receives from the State?

1 A. No, it's not the entirety. Now, remember we're  
2 speaking in generalities here. It's a very complex  
3 formula that I'm --

4 Q. Understood.

5 A. The ASATR is the third level of that. ASATR is  
6 an acronym that stands for Additional State Aid for Tax  
7 Relief. Basically it's a target revenue. And if your  
8 Tier 1 and Tier 2 don't -- or your Tier 1 doesn't add up  
9 to a certain level, then you receive an additional amount  
10 of funding. Very few charters actually receive ASATR any  
11 longer.

12 Q. But hypothetically they could be eligible for it  
13 if their Tier 1 funding didn't meet the floor for whatever  
14 is set for that --

15 A. The target revenue, yes.

16 Q. Target revenue, right.

17 Are there any other sources of funds through the  
18 State that are essentially automatic, that is, outside of  
19 any particular awards or grants or that type of thing?

20 A. Those are the three areas that are generated by  
21 the Foundation School Program.

22 Q. Okay. So that we might call the core funding  
23 mechanism for any charter school. Is that correct?

24 A. Uh-huh. That provides the state aid to charter  
25 schools.

1 Q. And then ISDs have a -- essentially a similar  
2 framework. Right? Tier 1, Tier 2 and ASATR. Is that  
3 correct?

4 A. That is correct.

5 Q. But the actual mechanics of the formulas operate  
6 differently for ISDs than for charters. Is that correct?

7 A. That is correct.

8 Q. All right. So the same student at a charter  
9 school may not receive the same -- the school may not  
10 receive the same funding if that student were at the local  
11 ISD equivalent. Is that correct? Under the Foundation  
12 School Program?

13 A. There is the opportunity for that to be  
14 different, yes.

15 Q. Is there the opportunity for that to be the same?  
16 Is that hypothetically possible?

17 A. Hypothetically that could be possible.

18 Q. But it would be a coincidence essentially, right,  
19 because it's not the same -- the multipliers, the  
20 variables in the various equations aren't the same for  
21 charters as for ISDs. Is that correct?

22 A. That's right. Charter schools receive a -- the  
23 one major difference is that charter schools receive a  
24 state average adjusted allotment; whereas, each basic  
25 allotment is adjusted specifically for each independent

1 school district.

2 Q. Are you able to get -- how deeply are you able to  
3 discuss these specific formulaic differences in these  
4 various tiers between ISDs and charters? I mean, would  
5 you be able to tell me -- let's just see how far we can go  
6 with it. If I get too detailed, just tell me that you  
7 don't know off the top of your head.

8 If there's anything in these materials that you  
9 provided or that Dr. Rolle provided, we can look at those  
10 as a reference. I kind of had them in an order I was  
11 going to go through at some point. But if you need to  
12 look at it earlier, then that's fine, too.

13 Let's start with Tier 1. Let's start with the  
14 differences in Tier 1 between charters and ISDs in the way  
15 the formula actually works for a student at, let's call  
16 it, Jones Elementary versus Jones Charter?

17 MR. SCHWARTZ: Eric, do you have five  
18 minutes?

19 MR. VINSON: Absolutely.

20 (Break.)

21 Q. (BY MR. VINSON) Ms. Templeton, when we left our  
22 heroes, we were contemplating the difference in the  
23 various aspects of funding between charters and ISDs in  
24 the Tier 1 component of the Foundation School Program.  
25 Can you tell me as specifically as you are able to what

these -- what the differences are in the charters' version of Tier 1 funding versus the ISD version of Tier 1 funding?

A. I can. The first difference would revolve around the adjusted allotment used throughout the formula. So we discussed the charter school formula being a combination of the block grants that are basically calculated by the ADA, multiplied by the state average adjusted allotment times the weight if there is one.

Same basic formula applies to traditional school districts; however -- to calculate the entitlement. However, instead of a State average adjusted allotment, for each individual ISD, the basic allotment is adjusted for four components: First, the compressed tax rate; second, for a size adjustment; third, sparsity; and, fourth, the cost of education index.

So each ISD receives a specific adjustment, accommodating those things, and then that is a specific adjusted allotment that's applied to each district. Charter schools don't receive that. Every charter school, doesn't matter if you have a hundred students or 10,000 students, you receive that State average adjusted allotment.

So that's one difference. Did you want --

Q. I want all the differences. So difference one

per student for charters?

A. Off the top of my head?

Q. Yes.

A. No.

Q. But you'd be able to figure out what that is?

A. Yes.

Q. All right. And then you would also, I assume, be able to determine on a statewide per student average basis what the Tier 1 component was or is for students attending traditional schools under Tier 1?

A. Yes.

Q. And have you at this point made any comparison between the Tier 1 component differences, if any, in dollars per student system wide between charters and ISDs?

A. I have reviewed that, yes.

Q. And what have you determined?

A. That there is a difference between funding levels.

Q. And that's isolated to Tier 1?

A. Not necessarily -- well, let me step back.

I have evaluated Tier 1, Tier 2 and ASATR as it -- and then computed the differences related to M&O. At some point in time, I did review the differences between Tier 1 and Tier 1 specifically.

Q. Right.

relates to the adjusted allotment. What's difference two?

A. Difference two would be that, like we discussed before, charter schools are not a taxing authority. So there's no local fund assignment or equalized wealth levels that are determined for charter schools. Anything that is a result of that entitlement calculation and that entitlement calculation only is the state aid charters receive; whereas, school districts have calculations above and beyond the entitlement in the form of tax collections that they would get to receive, that are kept on the -- at the district. And charter school formulas don't go that far.

Q. Okay. Are there other differences in the Tier 1 funding mechanisms between charters and ISDs other than those two that we just talked about?

A. Forgive me a moment while I think.

Q. Sure.

A. I don't believe so. I think we've captured them there.

Q. Have you done any analysis as to what the effective difference on a per student basis is isolated to the Tier 1 funding differences between charters and ISDs?

A. Could you ask that question again? I'm sorry.

Q. Let me maybe ask it this way. Do you know under the current funding scheme what the Tier 1 component is

A. But I don't have that off the top of my head at this moment.

Q. And do you know whether that was included in Dr. Rolle's either -- any component of the work product that he provided in this case?

A. Tier 1 isolated by itself?

Q. Yes.

A. I don't believe so because he reports M&O funding in its entirety which would include Tier 1, Tier 2 and ASATR.

Q. The entirety of the Foundation School Program?

A. With the exception of INS funds.

Q. Right. That makes sense. Because that's the facilities component that we'll talk about in a moment as well.

Now, let's move forward to Tier 2.

Well, actually, sorry, let me ask you while we're still on the subject of Tier 1: Do you remember on a relative basis whether the average per student funding for charters under Tier 1 was greater than, less than or roughly equal to the Tier 1 funding for -- per student on a statewide average basis for ISDs?

A. Per student?

Q. Yes.

A. There are examples of all of those.

1 Q. So depending -- well -- okay. I want to be clear  
2 about my question.

3 I'm trying to get a very broad picture of -- and  
4 understanding that this is a relatively gross approach to  
5 the question. What I'm trying to figure out, under  
6 Tier 1, if we assume just for the moment that per student  
7 under Tier 1 under the current funding formula, charter  
8 schools will receive, let's call it \$4,000 per student.  
9 That may be -- I have no idea whether that's close. Let's  
10 just assume it's \$4,000.

11 And the question I'm trying to get to is, are you  
12 able to tell me with any certainty whether -- again, on  
13 a -- across the entire state if we took every student in  
14 every ISD and averaged their Tier 1 funding, whether that  
15 number would be greater than, less than or equal to  
16 \$4,000.

17 A. On average the Tier 1 funding per student, the  
18 State funding per student, would be greater than -- ISD  
19 funding per student would be greater than charter schools.

20 Q. And do you know to what degree that difference  
21 is?

22 A. I'd have to calculate that number for you.

23 Q. I see.

24 How hard would it be -- if I gave you 20 minutes,  
25 would you have the resources to figure that out or not?

1 A. I hesitate to do anything in 20 minutes.

2 Q. All right. Let's move forward to Tier 2. Could  
3 you describe, with as much specificity as you're able to  
4 provide, the differences in the mechanical aspects of the  
5 funding formula for charters on one hand and ISDs under  
6 Tier 2?

7 A. So there's two levels to Tier 2 that we'll  
8 discuss for charter schools. The first one -- the  
9 calculation, as I said before, is basically a guaranteed  
10 yield, which for Level 1 is \$59 and Level 2 about \$39,  
11 generally speaking. That number is multiplied by the  
12 WADA, and when I say "WADA," weighted average daily  
13 attendance. We can talk about that more if you want.

14 Q. Yes.

15 A. And then that's multiplied by a district taxing  
16 rate for each one of those levels.

17 Now, like we discussed, charter schools are not a  
18 taxing authority, so they don't have those specific  
19 district taxing rates, and that's where an average is  
20 applied -- a statewide average is applied to charter  
21 schools there; whereas, it's a specific taxing rate for  
22 each individual ISD.

23 And then the other difference there outside of  
24 the formula -- of that particular calculation is that  
25 there is a local fund component to Tier 2 for ISDs that's

1 not there for charters, again, because they're not a  
2 taxing authority.

3 Q. Okay. So have you done any analysis isolated to  
4 Tier 2 only as to the per student average Tier 2 funding  
5 at charters versus Tier 2 funding on a statewide basis per  
6 student for ISDs?

7 A. The same answer I would give for Tier 1, is I  
8 have reviewed it in its -- in its isolated form, and over  
9 time on average, the ISDs receive more Tier 2 than charter  
10 schools.

11 Q. Is that because of the local funding component --  
12 I'm sorry. Let me ask it differently.

13 You mentioned two levels under Tier 2. The first  
14 is this three-part formula, guaranteed yield times WADA  
15 times the tax rate, and the difference, as applied to any  
16 particular entity, is -- for charters there is a statewide  
17 average; whereas, for ISDs there is the actual tax rate  
18 that that ISD employs. Is that correct?

19 A. That's correct.

20 Q. So have you done any analysis -- again, even  
21 subcategorizing it even further -- to those two components  
22 and whether per student statewide, it seems to me that  
23 those should yield on a per student basis on average  
24 roughly the same amount of funds, is that correct, per  
25 student?

1 A. Two things. First of all, there are two levels  
2 that are calculated that way. There's the \$59 level,  
3 Level 1, and there's the 39 level, Level 2, and they're  
4 both calculated the same way. And I've reviewed Tier 2 in  
5 its entirety, and I can make the statement that on average  
6 traditional ISDs receive more Tier 2 funding than the  
7 average charter school.

8 Q. And I understand that. And what I'm trying to do  
9 is remove for analytical -- just for discussions purposes  
10 now -- the role of local funding and whether the first  
11 component of the funding mechanism yields roughly the same  
12 per student -- I'm trying to figure out what drives the  
13 funding differences in Level 2. And my assumption is that  
14 it is the local funding component. Let's ask it that way.  
15 Is that accurate?

16 A. That's one of the drivers. The other driver in  
17 this formula is WADA. And WADA, though it's titled  
18 weighted average daily attendance, is a -- results of your  
19 Tier 1 funding.

20 Q. Okay. So explain that to me. How is WADA -- the  
21 WADA value that's used in Tier 2, how is that a function  
22 of your Tier 1 funding?

23 A. So actual WADA calculation -- the numerator in  
24 the WADA calculation is an adjusted Tier 1 result.

25 Q. I see.



1 A. So I understand your assumption is that the only  
2 thing that's different in that formula seems to be the  
3 local fund assignment. But that is not true in that every  
4 WADA difference -- every WADA value is different as well.

5 Q. So I guess what you're telling me is that the  
6 average WADA per student at ISDs is just simply higher  
7 than the average WADA per student at charters. Is that  
8 correct?

9 A. No.

10 Q. I'm trying to figure out how else, if we have  
11 WADA component in the ISD formula and we have a WADA  
12 component in the charter component and if you're telling  
13 me that even -- and that there is a difference between  
14 these two numbers and the explanation is WADA, then one  
15 average WADA must be higher than some other group's  
16 average WADA. I can't figure out what else would drive  
17 the difference there.

18 A. Okay. So the only two things that remain  
19 constant in Tier 2 funding are the guaranteed yields:  
20 \$59, roughly and the \$39, roughly. The second component  
21 of that calculation is WADA.

22 Q. Right.

23 A. WADA is a result of two things primarily: Your  
24 student composition and the funding levels that you  
25 receive, which would also be a result of your adjusted

1 allotment.

2 So your adjusted allotment, back what we talked  
3 to the difference in Tier 1, absolutely impacts the WADA  
4 figure.

5 Q. I see.

6 A. So if it were a simple student number and kind of  
7 an idea of how many students were there, that might not be  
8 as impactful as the WADA calculation, which is a result of  
9 Tier 1, which is a result of some of the differences  
10 between charter school funding formulas.

11 Q. So let me see if I have this straight. It sounds  
12 like if we took a hundred students with particular  
13 characteristics all of whom triggered some degree of WADA  
14 effect -- right? That doesn't make sense. Let me back  
15 up. Scratch that.

16 A. I'm sorry. My poker face wasn't very good there.

17 Q. Poker starts at 2:30.

18 So it sounds like what you're telling me is that  
19 the same -- if we took a hypothetical hundred students and  
20 we contemplated what their per student Tier 2 funding  
21 would be at an ISD or at a charter school, the answer very  
22 well may be different even -- very well may be different.  
23 Is that correct?

24 A. If you took 100 students and you took those  
25 hundred students and said, "These hundred students are

1 going on be funded as if they were attending this ISD,"  
2 and you took the same hundred students and you funded them  
3 as if they were average charter schools, you would see  
4 that those hundred students would generate more money in  
5 the ISD formula than they would in the charter school  
6 formula.

7 Q. And that applies even to the first component of  
8 the Tier 2 funding. Is that correct? Because that's what  
9 I'm trying to get to.

10 A. The first component of Tier 2, it would -- yes,  
11 it would.

12 Q. And then, I guess, on top of that another driver  
13 is the existence of local funds in the Tier 2 component  
14 that would also drive a higher per student funding amount  
15 for those students. Is that correct?

16 A. That is correct.

17 Q. The last component, ASATR, is, as we talked  
18 about, mainly intended to be a makeup if a particular  
19 district is not receiving through the Foundation School  
20 Program some predetermined amount floor of funding for  
21 that student. Is that correct?

22 A. I would like to add that the predetermined level  
23 of funding is different for every ISD.

24 Q. So it's not a statewide floor, it is a variable  
25 amount per district.

1 How is that determined?

2 A. The ASATR?

3 Q. Yes.

4 A. So the -- I won't go into the specifics of that  
5 calculation because I would like to have the formulas in  
6 front of me, but in generalities I can speak.

7 Q. Okay. Sure.

8 A. So the purpose of ASATR, like you talked about,  
9 was to provide tax relief to -- when the State went  
10 through its tax rate compression.

11 Q. Right.

12 A. So before they were taxing at higher levels and  
13 now they're taxing at roughly a dollar; some of them for  
14 M&O are different -- speaking of M&O only because that's  
15 where our focus is.

16 Q. Sure.

17 A. So the idea was -- the deal was if -- basically,  
18 "If you would compress your tax rate, then we'll provide  
19 some tax relief dollars that will kind of fund you at the  
20 same level as if you were taxing at that same rate." So  
21 that's the idea of ASATR.

22 Now, it's interesting the changes that have been  
23 made to ASATR throughout the years if you study it  
24 historically, because in its primary form, it provided  
25 just that. Really close to the events of tax rate

1 compression, it did that. It said, "We'll look at the  
2 year before, we'll see what you've got, we'll bump you to  
3 that level with ASATR and we'll move on."

4 The interesting things that occur is that funding  
5 formulas today are based upon funding formulas well in the  
6 past. That year of reference hasn't changed throughout  
7 the formulas. So it basically still says, "At one point  
8 in time throughout history, we're going to take a snapshot  
9 of what you received and we're going to fund it at a  
10 certain level. We're going to make sure you're funded at  
11 that level."

12 Now, one of the changes of the 83rd session was  
13 to increase -- was actually to decrease a funding  
14 component. So the 82nd session came in and they put in a  
15 additional state aid tax relief reduction factor. So it  
16 basically said, "We're going to calculate that you get a  
17 thousand extra dollars" -- I'm just going to use that  
18 number. "We're going to use a thousand extra dollars here  
19 in this component. So instead of giving you the full  
20 thousand, we're going to reduce education funding" -- one  
21 of the ways that they did that is to put in that ASATR  
22 reduction factor, which was about 92 percent. So you  
23 would only receive \$9,200, whereas you were entitled to a  
24 thousand -- or \$920.

25 Q. All right.

1 A. So that now plays a role in ASATR, which is  
2 interesting because instead of -- one of the ways that  
3 they gave money back to -- or put money back into the  
4 system was to decrease the effects of that ASATR reduction  
5 factor. So now it's about 97 percent as opposed to 92.

6 Q. I see. They gave a little bit back of what they  
7 had taken away. Is that correct?

8 A. Uh-huh.

9 Q. So let's now focus on the difference in  
10 mechanical terms of the effects of ASATR or the  
11 application of ASATR concept funding in charter schools as  
12 compared to ISDs. Is there a difference?

13 A. There are values deep within the ASATR  
14 calculation -- because unfortunately it's not a one-line  
15 calculation. There are -- and we can open this up and  
16 look at it specifically if you'd like to. But there are  
17 values within that ASATR calculation that are based upon  
18 tax rates where averages would be applied. And all of  
19 that is a result of Tier 1 funding which is impacted in  
20 the ways that we discussed before.

21 Q. I see. So you mentioned briefly when you were  
22 first describing ASATR that most charter schools are --  
23 actually don't receive any ASATR funding because under  
24 whatever formula is applied, they're already meeting their  
25 expected minimum or goal minimum under the ASATR equation.

1 Is that correct?

2 A. I will say that's correct, but I don't want to  
3 give the insinuation that that target revenue level is  
4 correct to begin with.

5 Q. Right. We're not trying to put any qualitative  
6 assessments on the significance of a statutory  
7 constructed formula. We're just simply asking light on,  
8 light off, are you eligible for ASATR funding. No,  
9 because you meet some predetermined minimum. Whether  
10 that's enough is a different issue. But that's the  
11 concept. Right?

12 A. Yes. In analyzing the changes from the 2013 to  
13 2014 fiscal years in the school funding formulas, we did  
14 see that a significant number of our schools either  
15 received zero ASATR or their ASATR was reduced  
16 significantly.

17 Q. And these are schools that had previously  
18 received ASATR funding?

19 A. Yes.

20 Q. But it sounded like the changes to ASATR funding  
21 actually, if anything, would be beneficial to an entity  
22 that was receiving ASATR? It went from a reduction of --  
23 a discount of 92 percent to a discount of 97 percent,  
24 which is actually more beneficial to the receiving entity,  
25 right, in terms of dollars?

1 A. If that was the only variable that changed, yes.  
2 But we talked about several other variables that changed  
3 within the system. So, remember, this is an intricate  
4 system of pulleys.

5 Q. Right.

6 A. It's not a "Did you meet the bar" or "Did you not  
7 meet the bar."

8 Q. I see.

9 A. So there's several pots of money that aren't  
10 subject to evaluation under the ASATR formula that could  
11 have changed those results of the session -- as the  
12 changes -- the funding formula could have supplied  
13 different level -- like, for instance, one of the changes  
14 that was made to put money back into the Foundation  
15 Schools Program that didn't impact charter schools at all  
16 but did actually benefit ISDs was the equalized wealth  
17 levels.

18 So the equalized wealth levels are used to  
19 determine how much of the different levels of taxing  
20 authority can be kept on -- at the district or how much is  
21 subject to recapture. So because those don't apply to us,  
22 because you increase that amount and allow school  
23 districts to keep more of those dollars, that didn't  
24 impact charters at all. And it also didn't impact certain  
25 parts of the charter funding formula.

1 So if it were as simple as to say you actually  
2 increased that value and that gave you more money, that  
3 would be wonderful, but that's not the case.

4 Q. Okay. There are other -- it's your view that at  
5 the end of the day the most recent legislative changes  
6 ultimately reduced the total ASATR funding available to  
7 charter schools relative to the previous biennium. Did I  
8 understand that correctly?

9 A. I think I can make that statement if we say the  
10 output of the ASATR formulas, because I'm not sure that  
11 the amount of money that was available changed. I'm not  
12 sure I understand that statement.

13 Q. Sure.

14 A. But what I can say is the result of the ASATR  
15 formula was that many of our schools received ASATR  
16 dollars.

17 Q. Right. And I guess -- I think I'm understanding  
18 what you're saying, but I want to analyze it systemwide  
19 and not talk about what's happening to many of your  
20 charters.

21 A. Okay.

22 Q. I want to look at the whole picture and ask you  
23 whether the output under ASATR for charter schools in  
24 terms of total dollars was reduced under the current  
25 biennium, under the current legislation, relative to the

1 previous biennium.

2 A. Oh, relative to the -- yes.

3 Q. Do you have an idea how much per student?

4 A. Not off the top of my head. I'd rather not  
5 answer that way.

6 Q. Let's take a little bit of a shift and just back  
7 up and look at what's been referred to as the designation  
8 of experts that the charter schools provided us.  
9 (Exhibit 20021 was marked.)

10 Q. (BY MR. VINSON) This is 20021. Is this a  
11 document you've seen before?

12 A. Very briefly.

13 Q. Your name is on the second page there. This is  
14 just an instrument that we use, as attorneys, to inform  
15 the parties what it is -- who's going to be testifying and  
16 what they're going to be testifying about. And so I want  
17 to go over this with you.

18 Your designation indicates that you "will testify  
19 on the effect that House Bill 5 and Senate Bill 2" -- and  
20 then there's a footnote about other legislation passed by  
21 the 83rd legislature -- "has on the charter school  
22 plaintiffs." You will also testify on (a), how the  
23 charter schools are inequitably funded by the State of  
24 Texas and demonstrate that the legislation passed in the  
25 83rd legislative session dealing with schools has not

1 changed the unsuitability, inadequacy and inefficiency of  
2 the public free schools."

3 Is that what you understood one component of your  
4 testimony to be, that Sub A?

5 A. Yes.

6 Q. So you're able to talk about suitability,  
7 adequacy and efficiency of the public free schools? Those  
8 are areas of your expertise you're prepared to talk about?

9 A. As it relates to the data that I reviewed, yes.

10 Q. Let's go to through these first, and then we'll  
11 get back and unpack those a little bit.

12 Sub B says, "Why the funding of the charter  
13 schools does not make suitable provision for the support  
14 and maintenance of an efficient system of public free  
15 schools."

16 Do you understand that to be a component of your  
17 expert testimony that you're to provide in this case?

18 A. Specifically discussing the funding formula  
19 mechanism, yes.

20 Q. Well, there's -- I understand you're able to talk  
21 about the mechanics of how it works. I guess I'm  
22 wondering whether you feel you're qualified to testify as  
23 an expert as to why that formula does not make suitable  
24 provision for the support and maintenance of an efficient  
25 system of public free schools?

1 A. As it relates to the data component, I can  
2 discuss that.

3 Q. And when you say "As it relates to the data  
4 component," do you mean that you can describe how the data  
5 were generated and analyzed or does it also mean that  
6 based on that data you're able to render an expert opinion  
7 that the data support the conclusion that is advanced by  
8 the charter schools that the funding of the system is not  
9 suitable for the support and maintenance of an efficient  
10 system of public free schools?

11 A. What I can discuss is the mechanism, changes to  
12 the 83rd and the data reviewed in -- for this trial that  
13 supported the conclusions of Dr. Rolle in that area.

14 Q. Your role -- there's no reason to kind of dance  
15 around this. It appears that your role is really less  
16 about the substantive opinions that are being rendered  
17 ultimately by Dr. Rolle in his opinion and more on -- your  
18 role was to help gather, assemble and analyze the data  
19 themselves to talk about what they show under various  
20 forms of analyses of those data. Is that correct?

21 A. My role was to provide an analysis of the data,  
22 an understanding of funding formulas in context. So it  
23 means very little to make an assumption on a piece of data  
24 without knowing the inputs to that formula.

25 So my role in this was to understand those inputs

1 and then also to generate the data here and discuss the  
2 results of that data.

3 Now, there -- in my job I review lots of  
4 different studies and lots of different -- just in my  
5 daily course of events. But am I expert that can make a  
6 correlation between results and school funding formulas?  
7 Not for this trial, no.

8 Q. So you're really not -- you're really not here to  
9 talk about whether the system as a whole is suitable,  
10 adequate or efficient at the end of the day. That's not  
11 your area of expertise?

12 A. I'm here to provide data points for that  
13 discussion.

14 Q. Data points that Dr. Rolle -- who is ultimately  
15 the mouthpiece for that component of the opinion. Is that  
16 fair?

17 A. Yes. Dr. Rolle's opinions are his own.

18 Q. Right. I think that's going to streamline today  
19 pretty significantly. If I'm understanding that you're  
20 not planning on going into court and saying, "Judge Dietz,  
21 the public school system with respect to charters is  
22 unsuitable, as that term is understood by the Texas  
23 schools," that's not something you're going to come in and  
24 say?

25 A. I might show data that would provide a basis for

1 reach the ultimate conclusion, it is not your intent to  
2 come into court and render the ultimate opinion that the  
3 funding -- the manner in which the State funds the charter  
4 schools is not suitable for the support and maintenance of  
5 an efficient system of public free schools. Is that  
6 correct?

7 A. Right. Again, I'll provide data that might point  
8 out that fact. But I myself am not an expert and won't  
9 make that opinion.

10 Q. And I'm trying to build that into the question.

11 A. Right. I understand.

12 Q. So you don't have to clarify something that I've  
13 already said.

14 A. All right.

15 Q. So with respect to Sub C, "the failure of the  
16 legislature to provide for a general diffusion of  
17 knowledge," I guess I'm understanding you to tell me that  
18 although you may be providing and analyzing data that may  
19 relate to that subject matter, it's not your intent to  
20 come into court and testify to the ultimate conclusion --  
21 ultimate opinion that the Texas legislature has not  
22 provided a general diffusion of knowledge. Is that  
23 correct?

24 A. That is correct. I have yet to find a definition  
25 for general diffusion of knowledge.

1 that opinion.

2 Q. Right. But my question is -- and I understand.  
3 I'm not trying to cut you off from playing the role of  
4 data person in this case. That's your role. I get that.

5 But you're not going to come in and render an  
6 expert opinion in the form that I described. You're not  
7 going to come into court and say to the Court that "The  
8 Texas public funding system is unsuitable." You're not  
9 going to use those words?

10 A. I am not.

11 Q. You're not going to come in and say -- you're not  
12 going to render an opinion about whether the system is  
13 adequate or inadequate. Right?

14 A. The same answer still applies. I'm going to  
15 provide data points that might support that opinion, but I  
16 myself am not going to state that opinion.

17 Q. Sure.

18 Even though you may be providing data that  
19 relates to the subject of these issues, you do not intend  
20 to render the ultimate opinion that the public free school  
21 system is inefficient. Is that correct?

22 A. That is correct.

23 Q. And I guess we can probably have the same  
24 discussion on Sub B which is: Although you may be  
25 providing data upon which others -- that others may use to

1 Q. All right. And if I ask you for Subsection D --  
2 again, although you may be providing data that may lead  
3 another expert to render an ultimate opinion on the  
4 subject and you may be involved in analyzing that data,  
5 you do not yourself intend to render the ultimate opinion  
6 in the case that the overall school funding by this Texas  
7 legislature is in violation of the State Constitution?

8 A. That is correct.

9 Q. And, I guess, for Sub E, although you may be  
10 providing data and analyzing data that others may use to  
11 render ultimate opinions in the case, it's not your intent  
12 to render an opinion, Sub E, that "The inequality between  
13 children who attend charter schools and students who  
14 attend independent school districts in property rich  
15 districts are not afforded a substantially equal  
16 opportunity to have access to educational funds." Is that  
17 correct?

18 A. Yes. Again, I will point out the difference  
19 there in the first part of that statement, which there  
20 might be a difference between children -- there is a  
21 difference between children who attend rich and poor  
22 districts, but the "substantially equal opportunity" is a  
23 definition I'm not an expert to define.

24 Q. That's fair.

25 So you may help provide information that

describes an "inequality of per student funding between children who attend charter schools and children who attend independent school districts in property rich districts," comma, but you do not intend to render an opinion that -- the degree to which that inequality means that there's not substantially equal opportunity to have access to educational funds. Is that correct?

A. That is correct.

MR. VINSON: Let's take a quick break.

(Break.)

(Exhibit 20022 was marked.)

Q. (BY MR. VINSON) Ms. Templeton, I'm going to hand you what's been marked as 20022.

So I'll represent to you, Ms. Templeton, that this was received in a bundle of materials along with the designation that we just looked at, 20021. Is this a document you've seen before?

A. Yes.

Q. Did you play a role in actually the drafting of this report? Or this document?

A. So I did review this. I believe that it is the introduction to serve as a portion of the report, so typically going behind the front cover.

Q. This is the form we got it in. We can put it in whatever form we need to put it. This was --

MR. VINSON: Let's go off the record.

(Discussion off the record.)

(Exhibit 20023 was marked.)

Q. (BY MR. VINSON) So we're back on the record. We marked 20022, but we're actually not going to talk about that. We're going to move forward to 20023 that I have marked, which is described as Statistical Analysis of Texas Charter School Facilities Funding, October 14, 2013, under the Wood, Rolle & Associates heading.

Is this a document you've seen before?

A. Yes.

Q. Let's focus on the introduction, the first two pages of text. You mentioned that you've seen this before. Is that correct?

A. Yes.

Q. Did you play any role in the drafting of this particular text?

A. I reviewed it.

Q. Okay. So you reviewed it before it became final?

A. I did. Yeah, I read it before.

Q. Did you provide input to Dr. Rolle on changes that could be made or should be made to these terms?

A. So I was checking for consistency with the tables primarily.

Q. So mainly looking for the purpose of accuracy.

Is that correct?

A. Uh-huh.

Q. Yes?

A. Yes. I'm sorry. Yes.

Q. It happens every time.

And do you remember whether or not you had to make any corrections to the draft that you saw?

A. I don't recall at the moment.

Q. Let's run through some of the slides here. This is essentially a PowerPoint presentation that's been reduced to a paper document. Is that correct?

A. The actual version, I believe, is in Excel. But that's an accurate summary.

Q. On the first page -- these aren't numbered unfortunately. But I'm going to number these.

(Discussion off the record.)

Q. (BY MR. VINSON) The page that says "Introduction" we're going to call Page 1. The page that says "Academic changes," we're going to call that Page 2. Page 3 has the title "Operational Definitions, Analytical Methodology and Revenues by Source" are the subheadings.

Did you have any role in the drafting of this page?

A. No, I believe this was the similar -- this was primarily the same, maybe just change of years and things

from his original report.

Q. I noticed at the bottom of the page under the Revenues By Source heading, there are two lines, FSP revenue for M&O funds and then FSP revenue for INS funds.

A. Uh-huh.

Q. And then it says, "Revenue allocations generated from IFA, EDA and local revenue sources; and." And then there's no text.

Do you know whether the "and" is the mistake or whether there was supposed to be additional material there?

A. I'm not sure at the moment.

Q. The next page we're going to call Page 4, "Operational Definitions," is this a page you looked at before?

A. This -- this was a page of his original report, yes.

Q. So this is the same as his previous reports.

A. Uh-huh.

Q. Correct?

A. Uh-huh.

Q. Yes?

A. Yes. Sorry.

Q. And help me understand here. Under the "TAKS Subject Scores," it looks like language arts and math are

1 meant to be headings without additional information.  
 2 Right?  
 3 A. That's right.  
 4 Q. So the top category of information under "SAT"  
 5 and "ACT" relates to language arts and the bottom row is  
 6 related to math for SAT and ACT. Is that correct?  
 7 A. Yes.  
 8 Q. Page 5 is described as "Table 1A Addendum." It  
 9 is a "Charter Schools Facilities Funding Evaluation  
 10 Analyzing the Concept of Efficiency within the Texas  
 11 Education Foundation School Program, Academic Year 2011  
 12 and 2012, Revenue Per Student."  
 13 Did you create this document?  
 14 A. I did the initial data analysis for the values in  
 15 the table.  
 16 Q. Did you generate or was there some working  
 17 document that you used to tabulate these data and  
 18 calculate these information or these data points?  
 19 A. Publicly available TEA data.  
 20 Q. Right. That's where you got the information.  
 21 But what I'm wondering is did you have some kind of  
 22 document that was your working document that tabulated all  
 23 this material?  
 24 A. Yes.  
 25 Q. And it's something other than this Page 5 of

1 A. I believe that if you look through, there is one  
 2 instance where the data was not available yet, but it's  
 3 denoted because it was -- I used the data via discovery.  
 4 Q. Okay.  
 5 A. But that's noted on the actual sheet.  
 6 Q. Okay. So you --  
 7 A. The rest of the -- all of the financial data --  
 8 Q. Uh-huh.  
 9 A. -- is publicly available data.  
 10 Q. So other than the one data point that you believe  
 11 you obtained -- and I assume we're talking -- sorry.  
 12 Strike that and start over.  
 13 If we look at Table 11B. Maybe it's 11Ba, the  
 14 next page, "Source: TEA data via discovery for 2012-2013  
 15 school year." Is that the data point you're referring to?  
 16 A. It is.  
 17 Q. Other than that exception, all of the other data  
 18 points for all of these data in Tables 1A through Table 12  
 19 are from data that's publically available on the TEA  
 20 website. Is that correct?  
 21 A. That's true.  
 22 Q. So -- just so I can understand how to -- make  
 23 sure I'm reading these tables correct. I'm probably not  
 24 going to get into the tax rate on each particular page,  
 25 but I want to make sure I understand what the point of

1 Exhibit 20023?  
 2 A. Yes. The actual calculation is not here. These  
 3 are a summary of the calculation.  
 4 Q. Do you still -- is that in an Excel file?  
 5 A. What's that?  
 6 Q. The working document that tabulated these  
 7 information.  
 8 A. That was sent to Dr. Rolle, yes.  
 9 Q. So it was in an Excel file that you sent to  
 10 Dr. Rolle. Is that correct?  
 11 A. Yes.  
 12 Q. Do you still have that document?  
 13 A. I'm sure I do. At work.  
 14 Q. So if I asked your counsel to produce a copy of  
 15 that data tabulation to us, he'd be able to get that to  
 16 us?  
 17 A. At the moment, no, because I don't have my  
 18 computer, but yes, I can provide those.  
 19 Q. Right. I don't mean instantaneously.  
 20 A. Yeah, uh-huh.  
 21 Q. And as inputs for these data compilations that  
 22 you provided to Dr. Rolle, you said you -- did you use  
 23 TEA -- data provided by TEA publicly on their website?  
 24 A. I did.  
 25 Q. Exclusively?

1 these data compensations is for each page.  
 2 On Table 1A, which is Page 5, "Table 1A  
 3 Addendum," excuse me, the top line really summarizes the  
 4 point of the chart, right, that you calculated, the total  
 5 revenue for ADA, for ISDs, statewide, for that year,  
 6 academic year, as roughly \$10,000 charters just under  
 7 8,200 for a difference of \$1,843. Is that correct?  
 8 A. Yes, the average total revenue per ADA for ISDs  
 9 is 1,034. Charters, 8,191. And the difference is 1843.  
 10 Q. And the data points below that delineate some of  
 11 the subcategories of funding mechanisms that describe and  
 12 drive these differences. Is that correct?  
 13 A. That is correct.  
 14 Q. Let's go to Page 6, which is "Table 1Aa  
 15 Addendum." It's titled "Charter School Facilities Funding  
 16 Evaluation Analyzing the Content of Efficiency within the  
 17 Foundation School Program, Academic Year 2011 and 2012,  
 18 Revenue Per Student."  
 19 I need to understand what's happening in this  
 20 chart a little for me. You describe -- there is N and  
 21 then there is charters and ISDs, and I guess what we're  
 22 talking about here is N means number of entities. Right?  
 23 There are 198 charters and there are 1,032 districts,  
 24 ISDs, that are analyzed. Is that correct?  
 25 A. That is correct.

Q. And then under "Descriptive Statistics," you then calculated, I guess, the mean, median, standard deviation, and coefficient of variation for the charters and the ISDs on a per student basis statewide. Is that correct?

A. That is correct.

Q. And is this also using ADA or is this using WADA?

A. When we say "revenue per student," we are discussing ADA. When we say "revenue per weighted student," we're discussing WADA.

Q. Thank you.

A. You're welcome.

Q. If I understand "mean," that means average. Right?

A. Yes, it does.

Q. And "median" simply means the data point that is in the middle of the entire spectrum of values from least to greatest. Is that correct?

A. It is the 50th percentile, yes.

Q. 50th percentile. That's the smarter way to say it.

And standard deviation represents the -- in laymen's terms, essentially the variance across the data points from top to bottom and the degree of variance. Is that correct?

A. Yes. The standard deviation gives you an idea of

the spread of the observations in the study.

Q. Now, coefficient of variation, I need you to explain that. What is that?

A. Okay. Well, the coefficient of variation is oftentimes used to clarify a standard deviation.

Q. How do you that?

A. So the coefficient of variation is really looking at -- it's a percent, right? So .22 would be 22 percent and .36 would be 36 percent.

The coefficient of variation and the calculation is such that you take the mean of all of the differences from each observation to the mean, square it, and then take the square root of that divided by -- the standard deviation divided by the mean.

Q. Standard deviation divided by the mean?

A. Yes, that's right. It gives you the percent of variation in laymen's terms.

Q. So -- I got you. So it essentially is a way to describe the extent of the deviation relative to the data set that exists that you're analyzing. Is that correct?

A. I think that's correct, yes.

Q. Right. So if you have a -- if you have a standard deviation of 1 across the data set where the average mean was 10, the coefficient of variation would be .1. Is that correct?

A. Standard deviation of 1 where the mean is 10?

Q. Yes.

A. Yes.

Q. And the reason that might be significant is if the data set's mean were a hundred and its standard deviation was 1, then we would -- we would be referring to a deviation relative to the mean that would be less severe, right, because it would be .01. Is that correct?

A. That was a correct assumption, yes.

Q. I just want to make sure I understand this statistical concept.

You then calculated the percentiles of the per student funding average across the districts from -- I guess on this table from highest to lowest comparing the charters to the ISDs and then you calculated the difference. Is that correct?

A. So can I clarify that just a bit?

Q. Sure.

A. The per student -- or the AD -- the revenue per ADA or per student was calculated for each individual ISD and each individual charter.

Q. Right.

A. Those were then stack ranked, and then the rank and percentile were calculated for each one of those.

So what you're seeing here in the 95 row is

that's the 95th percentile, and the charter school funded at the 95th percentile receives \$11,000 per student, and the ISD at the 95th percentile receives 15,400 per student.

Q. And this is all Foundation School Program revenue. Is that correct?

A. That is correct.

Q. All right. So there are -- this is not a hypothetical thing, there are, in fact, charter schools that are receiving under the Foundation School Program \$11,153 at the 95th percentile, and the 5th percentile, there are charter schools that are receiving roughly \$6,530 per student under the FSP in the state of Texas. Is that correct?

A. That is correct.

Q. All right. And you did not make any adjustment for weights -- not in terms of WADA, but in terms of the number of students at any particular charter or ISD at these percentiles. Right? You assumed that all districts essentially had the same number of students for the purposes of these calculations? Or not?

A. No, I did not.

Q. Okay.

A. What happened for that calculation, so this 15,419 number --

1 Q. Right.

2 A. -- is totalling for one particular district, that  
3 one that happens to be at the 95th percentile, totalling  
4 up all of their FSP funding and dividing it by their ADA.

5 Q. So it does reflect -- it does -- it is -- let me  
6 try to figure out how to say this.

7 The way that you did these calculations reflects  
8 the total number of students in a particular district,  
9 whether it's a charter or an ISD. Is that correct?

10 A. It does not reflect the number of students. It  
11 reflects the amount per student.

12 Q. I see. So --

13 A. And it might somewhat reflect the number of  
14 students, because in ISD, size is an adjustment factor.  
15 But that wasn't the intent of this figure.

16 Q. And those calculations that you did to generate  
17 this percentile determination and calculation on Page 6 is  
18 part of the materials that you provided to Dr. Rolle. Is  
19 that correct?

20 A. That is correct.

21 Q. And then you did, in the third row, percentile  
22 ratios. You then essentially divided to figure out the  
23 ratio of what, for example, the 95th percentile versus the  
24 5th percentile looks like both for charters and for ISDs.  
25 Is that correct?

1 A. That is correct, yes.

2 Q. So to figure out the relative disparity  
3 between -- or the degree of disparity between, say, the  
4 95th and 5th percentiles, that's reflected in that first  
5 line there of 1.71 for charters and 2.09 for ISDs. Is  
6 that correct?

7 A. That is correct, each independent of their own  
8 subset. So the 1.71 is the charter at the 95th percentile  
9 as the numerator and the charter at the 5th percentile as  
10 the denominator. And then the same is done for only the  
11 ISDs in the second column.

12 Q. Right. So for -- just to unpack it completely is  
13 to say that to calculate the percentile ratio for the  
14 charters between the 95th and 5th percentile, you divided  
15 11,153 by 6,530 and you got 1.71. Is that correct?

16 A. That's correct.

17 Q. And that same exercise was done for the ISDs  
18 with, of course, 15,419 on the numerator and 7,391 as the  
19 denominator. Is that correct?

20 A. That is correct.

21 Q. And what is the point of the exercise in  
22 analyzing the 95th versus fifth -- or calculating the  
23 percentile ratio between the 95th and 5th percentile for  
24 charters or ISDs? What is the point of this exercise as  
25 you understand it?

1 A. The point of that exercise is to look at the  
2 variance within the system. So how much variance are the  
3 school funding formulas generating within the charter  
4 school system and how much variance are they creating  
5 within the ISDs.

6 Q. And it appears that there is, in fact, a greater  
7 degree of variance at all levels of analysis between -- on  
8 the ISDs than there is for the charters. Is that correct?

9 A. That is correct.

10 Q. The next page is Page 7, "Table 1B." This is  
11 just another straight calculation, but now we're moving  
12 forward in school year, right 2012 and 2013? Is that  
13 correct?

14 A. That is correct.

15 Q. And you calculated these numbers?

16 A. I did.

17 Q. And you calculated a difference per student  
18 statewide at 1,646. Is that correct?

19 A. Could I clarify your statewide statement?

20 Q. Sure.

21 A. The -- I just, for clarity, would like to say  
22 this 10,205 number on the top row for ISDs is calculated  
23 by averaging each individual ISD's per student funding,  
24 and then that's done for charter schools and then that  
25 difference is computed.

1 Q. So that actually gets to what I probably meant to  
2 ask in the previous round, which is -- the way  
3 mechanically that you calculated this number, 10,205, for  
4 ISDs on Table 1B, and it's the same way you calculated it  
5 on Table 1A, just a different time period, was you said,  
6 "Okay, what is the average student funding per district,"  
7 and then you figured that out for each of 1,024 districts,  
8 or however many districts there are, and you came up with  
9 an average of that number. Is that correct?

10 A. So I calculated the total funding generated by  
11 the FSP program --

12 Q. Right.

13 A. -- and guided that by the ADA, and that value for  
14 each individual ISD was calculated, those individual  
15 values were then averaged to come up with this number.

16 Q. Okay. Let me ask you this: If we then reverse  
17 engineered this number, 10,205, and multiplied it times  
18 the number of students in ISDs, would we get the total FSP  
19 spent on ISDs by -- in this school year for 2012-2013?

20 A. You would not because funding is not distributed  
21 that way.

22 Q. Okay. Can you explain that, please?

23 A. Sure. So if it were the case that the FSP  
24 program, any student, regardless of where you went, you  
25 generated one dollar amount, and it didn't matter if you



1 went to ISD here, ISD here or charter there, what you just  
2 said would apply. But that's not the case, because as we  
3 said before, a student in one ISD generates another amount  
4 of money in one ISD than they would in the other.

5 So because of that difference, the money is  
6 distributed at the district level. All these adjustments  
7 are made at the district level, and that's why I averaged  
8 this on the district level.

9 Q. Do you know what the effect would be to average  
10 it on a student level as opposed to a district level and  
11 how it might affect these numbers? If you ignored the  
12 role of districts and just figured out the per student  
13 funding for all students in ISDs, whether the total  
14 revenue per ADA would be higher or lower than 10,205?

15 A. I have reviewed that data for this -- I'd like to  
16 compare them side by side to be able to tell you how they  
17 compare.

18 Q. Sure.

19 A. But I'm not sure the purpose of doing that.

20 Q. Well, just call it my own curiosity. I'm joust  
21 wondering whether you have done that analysis, and it  
22 sounds like the answer is no?

23 A. The answer is yes, I have done that analysis.  
24 The answer that I gave no to was the comparison of this  
25 value, because there is so values, I'd like to see them

1 side by side to make the decision.

2 Q. Well, ultimately, if you averaged all the  
3 students' FSP across the entire state system without  
4 reference to the districts, that would yield a single  
5 number. Right? If you average the per student  
6 district -- excuse, per student FSP funding per all ISD  
7 students in the state of Texas for 2012 and 2013, you'd  
8 come up with an average per student. Right?

9 A. I'm sorry. I'm not trying to be difficult here  
10 I'm trying to understand your question. Run it by me  
11 again.

12 Q. Sure. The way you did it was you used school  
13 districts and averaged ADA per student in a particular  
14 district, and then you calculated that number for each of  
15 the districts, and then you averaged that number to come  
16 up with this number here in Table 7, right, 10,205?

17 A. Table 1B, yes.

18 Q. Table 1B. Thank you.

19 And my question is: If you had used a different  
20 approach, if you had simply ignored the role of districts  
21 and looked at literally what each student's ADA ends up  
22 being in fact and you average that number, you would come  
23 to some number that you could compare to 10,205 and decide  
24 whether doing it that way, that is, simply on a student  
25 basis as opposed to a district basis, whether that would

1 yield an apparent per student funding amount that would be  
2 higher than, lower than, or roughly equal to the number  
3 that you calculated. Right?

4 A. Could you do those calculations? Yes, you could.

5 Q. And have you done those calculations?

6 A. I have done those calculations.

7 Q. And do you know whether for this 2012-2013 school  
8 year, whether using a student approach results in a higher  
9 than or -- a number that is higher than 10,205 or lower  
10 than 10,205?

11 A. I don't recall for this specific year. I'd like  
12 to look at it in front of me.

13 Q. Is that included in the materials that you  
14 provided to Dr. Rolle? Is that in the same working  
15 papers, or is it somewhere else?

16 A. No, that's not in the working paper I sent to  
17 Dr. Rolle.

18 Q. Is that some -- is there some -- something that  
19 you've generated that actually has those numbers that you  
20 can refer to?

21 A. It was in Dawn-Fisher's data sets for the first  
22 file --

23 Q. Okay.

24 A. -- part of that number.

25 Q. I see. So I don't need to ask you; I need to ask

1 her. Fair enough.

2 So Table 1B is with different data points, the  
3 same exercise that we looked at -- this is Page 8, by the  
4 way -- that we looked at, I believe, on Page 6. Is that  
5 correct?

6 A. Yes, it is.

7 Q. I'm not going to ask you about the data points.

8 Table 1C, which is Page 9, I think I understand  
9 this is for the 2013-14 school year, revenue per student.  
10 Is that correct?

11 A. That is correct.

12 Q. And then Page 10 is, again, the efficiency  
13 analysis, to put a general term on it, for the 2013-14  
14 school year. Is that correct?

15 A. That is correct.

16 Q. All right. Now, page 11 -- is the data for the  
17 table on Page 10 -- before we go to page 11, sorry, Page  
18 10 is 1C?

19 A. I believe so.

20 Q. These data are from the TEA's website as well.  
21 Is that correct?

22 A. Uh-huh. Summary of finance, specifically.

23 Q. Because -- did you grab the data on an aggregated  
24 basis or did you do it on a per district basis?

25 A. Same as was done before, everything was done on a

1 per district level.

2 Q. Now, let me ask you this: When I look at the per  
3 ADA funding number on Page 9, it's 10,513?

4 A. I'm sorry. Which table?

5 Q. Sorry. Page 9.

6 A. 1C Addendum?

7 Q. 1C Addendum.

8 The ISD per ADA is listed as 10,513?

9 A. Yes.

10 Q. And then when I go to Page 10, the per student  
11 ISD is not 10,513, but 10,499. Shouldn't those numbers be  
12 the same?

13 A. Let me see.

14 Perhaps they should, but I'd have to review the  
15 data set.

16 Q. Well, I mean, they -- not perhaps they should,  
17 they definitely should be the same. Right? In every  
18 other -- the previous school year comparisons, they are,  
19 in fact, the same?

20 A. Yeah, it looks like a difference of \$14.

21 Q. And I guess your point about needing to analyze  
22 the data was so that you could figure out where the error  
23 was and how to correct it?

24 A. If there is, in fact, an error, how to --  
25 which -- where the error lies, yes.

1 districts are contemplating their facilities' needs,  
2 weighted students really -- the degree to which their  
3 students may be weighted is not of any particular  
4 importance in that calculation. Is that correct?

5 A. I disagree with you there.

6 Q. What can you refer me to that suggests that --  
7 let's start with ISDs. That an ISD's facilities' needs  
8 are driven by their weighted student average as opposed to  
9 their average daily attendance?

10 A. So if you'll recall, WADA is the calculation of  
11 Tier 1, which is a calculation of all the different  
12 program grants. One of them, for example, to shed some  
13 light on this would be the special education dollars.

14 Q. Right.

15 A. So the special education student, they oftentimes  
16 require different classroom scenarios, lower  
17 teacher-to-student ratios, and different space to be  
18 educated in. There are some that require resource rooms,  
19 some can be all-inclusion. So it's absolutely the case  
20 that WADA plays a role in determining the space for a  
21 school.

22 Q. Well, now, some of those things you mentioned are  
23 facilities issues and some of them are not. Right?  
24 Inclusion/noninclusion is simply a programmatic choice that  
25 a school may make for a particular student as to whether

1 Q. All right. Let's go to page 11, which is  
2 "Table 1 Addendum Summary." Is this simply a compilation  
3 of the previous tables that we have reviewed?

4 A. Yes, it just takes the differences and puts them  
5 all on one page.

6 Q. Page 12, which is "Table 2A," I think is  
7 essentially the same exercise for the school years that we  
8 just walked through on Table 1A and all the other tables,  
9 except this one we're using WADA instead of ADA. Is that  
10 correct?

11 A. That is correct. So the calculations were done  
12 exactly the same, but the denominator for each individual  
13 district or charter calculation was WADA.

14 Q. And why did you do these analyses both on an ADA  
15 basis and on a per WADA basis? Why did you do it for a  
16 unweighted and weighted basis?

17 A. A couple of reasons: One, standard practice,  
18 when you look at school finance data, they're evaluated  
19 two ways; and, two, because there is details to be pointed  
20 out in each one that are different; and, three, that's how  
21 Dr. Rolle's first report was done, and this is a  
22 continuation of that report.

23 Q. And insofar as the driver of, as I understood  
24 Dr. Rolle's initial report to be, a lack of dedicated  
25 facilities funding for charter schools. And when

1 to have a separate program for A special needs student or  
2 an inclusion program. Right?

3 A. No.

4 Q. No? That's a facilities issue?

5 A. It is a facilities issue, because if I have 4,000  
6 special education students that require inclusion, I have  
7 to figure out how to put 4,000 students back into the  
8 classroom that has to have a 23 to 1 student-to-teacher  
9 ratio. That absolutely impacts the facilities' needs.

10 Q. Are you aware in actual history of any particular  
11 time in which that particular issue drove a facilities  
12 determination for any ISD in the state of Texas?

13 A. I have not been a facilities manager in ISD, so I  
14 cannot speak for an individual ISD specifically, but I can  
15 say that the factors that go into WADA are factors that  
16 districts must consider when they're determining  
17 facilities' needs.

18 Q. But the answer to my question is no, you can't  
19 cite any particular example, empirical example,  
20 demonstrating the dynamic that you just described where  
21 hypothetically a school may anticipate having 3,000  
22 special needs students and that driving a different  
23 facility's needs relative to 3,000 nonspecial needs  
24 students?

25 A. My number was an example.

1 Q. Okay. I understand that. But I guess let me ask  
2 you more generally. Can you cite to me any example in the  
3 history of ISD -- let's start with ISDs -- of any  
4 particular school district that made a decision about  
5 construction of a building and the layout of a building  
6 where their particular WADA characteristics drove the  
7 facilities' needs?

8 A. I would have to be present at a school board  
9 meeting to say that. But I can say generally, as you said  
10 we were speaking now, that a school must consider the  
11 special education requirement of a student in their  
12 facilities construction.

13 Q. Okay. So that's no, you can't cite any  
14 particular example to me? I'm not actually talking about  
15 generalities, I'm talking about specifics now. You can't  
16 give me a specific example where any ISD made a decision  
17 about facilities funding based around any particular  
18 characteristics of its students that would impact WADA?

19 A. Can I cite that for you today? I could find  
20 that, I'm sure.

21 Q. And let's talk about -- let me ask you the same  
22 question on charter schools. Are you aware of any charter  
23 school that has made a facilities determination --  
24 understanding, of course, that all facilities that are  
25 built and have been built since the ADA have been adopted

1 have to be ADA compliant and have to comply with any --

2 MR. SCHWARTZ: You're talking about ADA --

3 MR. VINSON: Sorry. Yes.

4 MR. SCHWARTZ: -- average daily attendance  
5 or Americans with Disabilities Act?

6 Q. (BY MR. VINSON) Let me clarify here. I'll  
7 continue to refer to ADA as average daily attendance, and  
8 I'll refer to the Americans with Disabilities Act  
9 separately.

10 Understanding that any facility that is built by  
11 an ISD or a charter has to be in compliance with the  
12 Americans with Disabilities Act, are you aware of the  
13 facilities' needs of any charter being driven by the  
14 characteristics of the students that would impact WADA as  
15 opposed to just the total number of students?

16 A. So as a component of my job, I oftentimes discuss  
17 issues that charter schools have around funding, around  
18 accountability and compliance, and oftentimes it's the  
19 issue that they don't have a facility where -- that would  
20 appropriately house the students and they have to go raise  
21 the money to do that, to find a facility that would house  
22 the students, because they are required to implement all  
23 the decisions of an ARD for each student.

24 So if you have a certain number of students on  
25 your campus with certain requirements that are outside or

1 in addition to ADA, then you would have to consider those

2 Now, if you're asking me for a specific charter  
3 board meeting that I sat in when we discussed these line  
4 items specifically, no. But it would be absurd to say  
5 that a school must not require -- must not accommodate the  
6 ARD needs -- the needs defined in an ARD of a student.  
7 And special education students are just one example.

8 Q. Uh-huh.

9 A. Another example might be they -- going into the  
10 ADA calculations is also a calculation for bilingual and  
11 in ESL students, and their needs are quite different than  
12 those that are in special ed.

13 So I cannot say that a school does not consider  
14 the different weights of the different students and the  
15 program enrollment that they have when they're considering  
16 the facilities.

17 Q. Let's focus on bilingual construction. Is it  
18 your testimony that a bilingual student needs a classroom  
19 or a desk or a gym or a cafeteria that looks different  
20 than a student who is a native English speaker?

21 A. That's not my testimony, no.

22 Q. And what other possible unique facility needs  
23 could a bilingual student present to a school that a  
24 native English speaker would not create?

25 A. I would go to the example of an elementary true

1 bilingual ed classroom where those students have to be  
2 taught one part of the day in English and one part of the  
3 day in Spanish. You couldn't use the same classroom. Or  
4 it wouldn't be good practice to use the same classroom.  
5 The school must consider the needs of the student when  
6 determining the facility.

7 All going back to the question of: Does WADA  
8 have impact on facilities? Well, WADA is the result of  
9 the program enrolment of your student population. Your  
10 student population must be a driving factor of your  
11 facilities. If that weren't the case, we could say that  
12 every school in the state would just need one room because  
13 they have a student.

14 Q. So other than an emersion program where it's your  
15 belief that full bilingual educational students should not  
16 be -- would not stay in the same classroom, they need more  
17 than one classroom, I guess the way to meet that is to  
18 have at least two classrooms. Right?

19 A. I'm providing a hypothetical example there.

20 Q. Right. So other than that particular instance,  
21 is there another circumstance in which a student with  
22 bilingual needs or a student population with high  
23 bilingual needs would need a different facility situation  
24 relative to a school with a high percentage of native  
25 English speakers?

1 A. There is several hypotheticals I could come up  
2 with, I'm sure. The point being that a school would need  
3 to consider the students served in order to provide the  
4 facilities for those students.

5 Q. Can you provide any example of a school, whether  
6 it's charter or an ISD, whose facility needs were, in  
7 fact, impacted by a higher than usual percentage of  
8 bilingual students?

9 A. I'm sure that example exists.

10 Q. But you couldn't -- you couldn't give me an  
11 example right now?

12 A. Not off the top of my head, no.

13 Q. I'm going to skip ahead in your exhibit here  
14 to -- what you've basically done with these tables, again,  
15 is to mirror for the purposes of the exercise the efforts  
16 that were engaged in the first part of your data set  
17 except this time using WADA instead of ADA?

18 A. That's exactly right.

19 Q. Now, again, if we look on Page 16, which is  
20 "Table 2C," and 17, "Total FSP Revenue Per WADA for ISDs"  
21 is listed as \$6,572. Do you see that?

22 A. Uh-huh.

23 Q. And then on the next page, "Table 2CA Addendum,"  
24 the mean for ISDs is described as 6,564. Not a huge  
25 error, but there is obviously a difference there.

1 like, what is the average ADA for charter schools in  
2 Texas?

3 A. It would depend on the year that you're  
4 reviewing.

5 Q. Well, do you know what it was for 2011 and 2012?

6 A. Not off the top of my head.

7 Q. Can you give me a range, just a rough, you know,  
8 500, 400 --

9 A. I would rather --

10 Q. -- a thousand --

11 A. -- not without the data in front of me, no.

12 Q. Do you have any of that data available in any of  
13 these charts?

14 A. No, I don't believe --

15 Q. Do you know --

16 A. -- we recorded that. When the data is provided  
17 to you, that number will be -- is in the original data  
18 set.

19 Q. Okay. I mean, because 195 charter for 2011-2012,  
20 that's basically all the charters, right, the 2011-2012?

21 A. Uh-huh.

22 Q. And we're comparing that to 872 ISDs under 5,253  
23 ADA. There is only a handful of charters that even have  
24 -- or let me ask it this way. Sorry. Let me start over.

25 Are there -- or were there in 2011-2012 any

1 A. There is a difference. And I believe that's the  
2 same year. So there must be a reason that it's done on  
3 both data sets. But I could go -- I'm happy to go back  
4 and clarify that.

5 Q. That'd be great.

6 Page 18 is, again, the summary of the addenda  
7 prior to that page for the WADA exercises for those three  
8 years, and the differences are calculated there. Is that  
9 correct?

10 A. That is.

11 Q. Okay. So now we got to "Table 3A," which is  
12 Page 19. This is an attempt to compare ISDs and charter  
13 schools of similar size. And it looks like the criteria  
14 were schools under 5,253 ADA. Is that the criteria that  
15 y'all used for that?

16 A. That's correct.

17 Q. And who decided that schools under 5,253 average  
18 daily attendance were of similar size?

19 A. That was Dr. Rolle's decision.

20 Q. Do you know how -- what it was he used to  
21 determine that criteria? Is that something that's  
22 generally studied in the academic community that looked at  
23 and considers school finance issues?

24 A. I would rather he answer for hisself (sic).

25 Q. All right. So -- I mean, because there is --

1 charters that had 5,000 ADA in that time period?

2 A. Yes.

3 Q. Do you know roughly how many?

4 A. That had specifically this ADA or roughly that  
5 amount?

6 Q. Roughly 5,000 students or 5,000 ADA.

7 A. I can say that there were a small portion that  
8 were above this ADA.

9 Q. Right. It's only a handful of charters that are  
10 anywhere near 5,000 ADA, whether it's 2011, 2012, 2013.  
11 Right? That's a small --

12 A. Well, given -- I'm sorry.

13 Q. That's a small percentage of the charters in  
14 Texas?

15 A. Well, given that the total subset is 200, a small  
16 percentage is actually a quite good number of our  
17 charters.

18 So, for instance, if we were to say, "I could  
19 reasonably say that 10 percent of charters are around the  
20 5,000 mark."

21 Q. And that's been true for the last three years or  
22 so?

23 A. They continue to grow significantly, so you'll  
24 see an increase as we go through the tables.

25 Q. Right.

1 So 10 percent would be roughly 20 charters. Is  
 2 that correct?  
 3 A. Uh-huh.  
 4 Q. Yes?  
 5 A. Yes. Sorry.  
 6 Q. Do you know what percentage of charters are, say,  
 7 500 or fewer?  
 8 A. I couldn't speculate on that. The original data  
 9 set will show you.  
 10 Q. And then once that cut is made, essentially the  
 11 top -- basically what this analysis does is it takes the  
 12 comparison and removes from the ISD component all schools  
 13 that are above 5,253 ADA, and otherwise all the data are  
 14 left and compared in this chart, Table 3A, Page 19. Is  
 15 that correct?  
 16 A. That is correct. Any one over 5,253 ADA was  
 17 taken out the analysis.  
 18 Q. And this is done revenue per student, so that's  
 19 an ADA comparison. Is that right?  
 20 A. Yes.  
 21 Q. And then once that data set is plugged in  
 22 mechanically you're doing the same thing as we've done in  
 23 the previous two rounds of data analysis. Right?  
 24 A. Exactly the same.  
 25 Q. So we can move forward to -- I'm just going to

1 A. It tells you at the bottom how many were used in  
 2 each one. But, yes, it looks like in 2012-2013 --  
 3 2012-2013, there were 202 schools in total for charters,  
 4 and for the similar size analysis, it looks like 200 were  
 5 used.  
 6 Q. So two were eliminated?  
 7 A. In 2012-2013.  
 8 Q. What about 2013-14?  
 9 A. 2013 and '14, there were a total of 203 in the  
 10 entire subset, and 201 were used in the similar size  
 11 analysis.  
 12 Q. So, again, two were eliminated from the charters.  
 13 Correct?  
 14 A. Yes.  
 15 Q. Now, did you, for your own interest, run the  
 16 efficiency analysis on this subset comparison? I know we  
 17 haven't included any data, but did you do any analysis of  
 18 those comparisons?  
 19 A. I don't recall at the moment. But if they were,  
 20 they would be certainly be on this data set.  
 21 Q. What is the reason to do the similarly-sized  
 22 comparison between ISDs and charters? Why do that  
 23 exercise?  
 24 A. Well, you'll remember that this was an original  
 25 component of Dr. Rolle's report. And I'd like for him to

1 keep numbering these -- Page 20, 21, 22.  
 2 Now, you didn't do for these the -- the equity --  
 3 or the efficiency analysis. Wait. Yeah, you did. Here  
 4 it is. Sorry. No, you didn't do the efficiency analysis  
 5 for these. Why not?  
 6 A. That's a set of descriptive statistics.  
 7 Q. Uh-huh.  
 8 A. When you use descriptive statistics, it's common  
 9 practice to use that on the entire subset. We were here  
 10 narrowing down on certain subsets, but it's not common  
 11 practice.  
 12 Q. Well, you were only narrowing on the ISD side.  
 13 You weren't really narrowing on the charter side. Right?  
 14 A. We did narrow some there.  
 15 Q. Really?  
 16 A. Uh-huh. The end values are different.  
 17 Q. Well, they changed --  
 18 A. So in 2011-12, there is a total of 198 in  
 19 Tables 1 and 2. And in 2011-2012, there is a total of  
 20 195. So one number did change by three.  
 21 Q. So roughly somewhere near 300 ISDs were  
 22 eliminated and three charters were eliminated?  
 23 A. Yes, that's right.  
 24 Q. What about for 2012-2013, were any charters  
 25 eliminated from that analysis?

1 answer that question himself. But I will say that when  
 2 you're comparing ISDs and -- as large as they may be to  
 3 very small charter schools, the -- your vision gets a  
 4 little skewed because a school with 200,000 students  
 5 obviously has a economy of scale that a school with 200  
 6 doesn't. So it's just for -- to kind of -- it's common  
 7 practice in analysis to scale down your analysis to  
 8 similar categories.  
 9 Q. Do you know what the effect would be, if any, or  
 10 change would be, if any, on the efficiency analysis if we  
 11 only analyzed these subsets of more comparable districts  
 12 relative to the comparison that was done in this report?  
 13 A. I don't. I could find out for you and look at  
 14 the original data set, but not off the top of my head.  
 15 Q. Let's move forward to Page 23, which is Table 4A.  
 16 Now we're doing the -- again, the similar size analysis,  
 17 and instead of using unweighted students, we're using the  
 18 weighted student average. Is that correct?  
 19 A. Yes.  
 20 Q. And then you already described for me the  
 21 mechanics of this process, so we'll move forward.  
 22 Do you know who did all these data summaries  
 23 for -- or tabulations and analyses for Dr. Rolle in the  
 24 previous report that he generated?  
 25 A. I don't know. You'd have to ask him.

Q. Page 26 is just the tabulation -- sorry -- Table 4, addendum summary, is the tabulations of the weighted analyses that you've done on the previous pages. It just tabulates all that data. Correct?

A. Yes.

Q. Now, Page 27 is "Table 11A Addendum." And these are "College Readiness Standards Evaluations Analyzing Adequacy within the Texas School System, Academic Reporting Year." We have, presumably, '11-'12, '12-'13. You gathered these data points. Is that correct?

A. Yes.

Q. And you got these -- did you get these data from TEA and AEIS?

A. So -- yes.

Q. All right. And what they show across all ISDs and charts is that there is a difference on the TAKS between roughly -- roughly 14.7 and for the ACT/SAT criteria just in terms of the percentage of students -- I guess there is no way to -- that's not -- okay. I got it now. Let me back up a little bit here.

The top portion of Page 27, Table 11A describes the percentage of college-ready graduates for math and language arts and compares them between ISDs and charters for math and language arts. And for math, the difference on the TAKS is 15.2, and for language arts, the difference

is 14.7. Is that correct?

A. That is correct.

Q. And then the lower portion shows the percentage of college-ready graduates above ACT and SAT criteria, that a higher percentage of students are taking the ACT and the SAT in ISDs, much higher than in charters, 41.2 percent higher; the ACT scores of the students who take the tests are within nine-tenths of a point between the two systems; and the SAT difference is that ISDs outscore charters on average by an average of 51.2 points. Is that correct?

A. That is correct.

Q. Do you have any information as to why it is that only 16.9 percent of students at charters are taking the SAT or the ACT?

A. I do have some information on that that relates to my job. We reviewed this number specifically from the SAT/ACT information presented on the AEIS report by TEA. What we found is that some of our highest performing charters were actually flagged as statistical anomalies in the data set by TEA and were not reported. These specific charters we knew had a hundred percent testing rate, and they weren't included. So we went to TEA and asked why.

TEA -- I said, "Well, no one tests a hundred percent. We flag them, and we'll pull them out."

We've told them that, in fact, there was a possibility where a hundred percent of students could be tested. So if you'll notice as we moved from Table A to Table B, that this percentage changes because we were able to take out some of that flagging or to improve TEA's data set somewhat.

Now, there is still a difference there. But I'd like to point out that all types of charters are averaged in here, not just those that kind of look like your traditional ISD but are RTCs, JDCs, things of that nature.

Q. So that's -- all of that is extremely helpful.

So on Page 27, Table 11A, a huge percentage of the disparity -- the apparent disparity between students taking ACTs and SATs is essentially in a tabulation issue where TEA has excluded the high percentage of -- has excluded a number of charters that, if included, would reduce this apparent disparity by quite a bit. Is that correct?

A. I'm not sure that it's huge. I'm not sure by quite a bit because we couldn't get them to go back and rerun the numbers. So there are some instances -- I do think that this number would absolutely increase. The magnitude of that increase, I cannot be sure of because they wouldn't rerun the numbers for us.

Q. But I -- maybe I misunderstood your previous

statement, but when we look at -- the difference between 11A and 11B -- okay. I see. Is it -- it's also for different school years and the difference --

A. That's correct.

Q. -- has changed quite a bit. Okay.

A. Some of the schools that were flagged as statistical anomalies in the '11-'12 school year were not flagged in the '12-'13 school year.

Q. So that drives -- that presumably drives some component of the reduction of the apparent gap from 41.2 to 16.9. Part of that is effective of the TEA's accounting methods, tabulation methods. Is that correct?

A. That is correct.

Q. And then -- and then the other part of your answer that you told me was that part of the reason that charters have a lower percentage of students taking the SAT and ACT relative of the ISDs is because the nature of certain charters, which are not meant to be an alternative to traditional high school environment, they are RTC programs, they may be juvenile, associated with juvenile delinquency programs, a population which just statistically does not take the SAT or the ACT as much as other students. Is that fair?

A. So in these numbers, this number is an average of values reported to TEA.

1 Q. Right.

2 A. So TEA actually gives me the percentage of  
3 students --

4 Q. Right?

5 A. -- tested for each district.

6 Now, the percentage of students tested, let's  
7 say, for an ISD that happens to have a residential  
8 treatment facility, those students not taking the SAT,  
9 because they're in a residential treatment facility, for  
10 good reason probably, weren't -- wouldn't influence the  
11 percentage of a large ISD much.

12 However, if you have the example of a charter  
13 school that's composed only of RTCs, it would heavily  
14 influence the percentage, which is one of the -- because  
15 this is an average, it would be one of the numbers in the  
16 denominator.

17 Q. Okay. Are there any other drivers that you're  
18 aware of that describe or explain the difference in number  
19 of students taking the ACT and the SAT in charters versus  
20 ISDs other than which you've already described?

21 A. No. But I would like to point out one more  
22 difference between the '11-'12 and '12-'13 school year.  
23 The '12-'13 school year, TEA -- you'll notice that the  
24 average SAT scores for both ISDs and charters are  
25 significantly different. So one of the components --

1 another third component was added. Before, in '11-'12,  
2 TEA only reported reading and math, and the writing  
3 component is added in here. So that's -- if you just see  
4 why they did jump from 900 and something to 1,300 and  
5 something. But it did for both categories.

6 Q. I see. The gap reduced as well from 51.2 to  
7 30.7. Is that correct?

8 A. Uh-huh. It did.

9 Q. And there are some students in the charter RTC  
10 programs, dropout recovery, juvenile delinquency programs,  
11 who actually do take the ACT and SAT?

12 A. I'm sure they are.

13 Q. And when they do, because you're talking about a  
14 much smaller sample size, it has a -- if they have a low  
15 score, it's going to affect the overall score for the  
16 charters more than it would for the ISDs in total. Is  
17 that correct?

18 A. That is correct.

19 Q. Have you made any attempt to isolate these data  
20 points in terms of average SAT or ACT scores or TAKS  
21 score, for charters that essentially resemble traditional  
22 school districts?

23 A. Yes. And some of that is reported here. If  
24 you'll jump to Table 12A.

25 Q. Okay.

1 A. Table 12A, the Standard Accountability Charter  
2 if I could define what that means, is those are the  
3 charters at the charter level that were not -- they were  
4 not rated under the alternative education and  
5 accountability system.

6 Q. That's helpful. I want to get to that but I got  
7 to keep going.

8 A. I was just pointing you to it.

9 Q. We'll get there. But that's helpful.

10 So you have done -- that is some attempt to  
11 isolate the sort of nonsecond-chance charters so that you  
12 can compare the somewhat traditional alternative charters  
13 to the ISDs for relationship purposes.

14 So the next page -- the next addendum is Page 28,  
15 Table 11B. 2012-2013, we don't have data for the ISDs or  
16 the charters, obviously. But we do have ACT and SAT  
17 scores, and those are all reported there.

18 A. Yes.

19 Q. So 29 is Table 11Ba. What does this table tell  
20 us?

21 A. This is the exception to the publically available  
22 data that I was telling you about. It's sourced at the  
23 bottom.

24 Q. Uh-huh.

25 A. This was data from TEA. These are the average

1 percentage of students meeting the standard, the final  
2 recommended STAAR standard for these tests for ISDs,  
3 charters, and then the reported difference.

4 Q. And this charter number, again, includes all  
5 charters?

6 A. That, it does.

7 Q. So the next page, which is Page 30, Table 11.  
8 Described as the "Analysis of Mean Differences in College  
9 Readiness All Public School Districts and All Texas  
10 Charter School Districts 2011 through '13." That's just a  
11 tabulation of the previous data points?

12 A. You're right.

13 Q. 31 is what you had, I think, referred me to  
14 earlier. Table 12A, which is the "College Readiness  
15 Evaluation Analyzing Adequacy within the Texas Education  
16 School System for '11-'12" where you're comparing ISDs to  
17 the standard accountability charter, and we're seeing that  
18 the gaps are narrowing when we isolate standard  
19 accountability charters as opposed to the entire data set  
20 for charters. Is that correct?

21 A. That is correct.

22 Q. You already described to me what you did for  
23 these percentages. Right?

24 A. Yes, I did.

25 Q. And you did these data tabulations, again, on a

1 district level. Is that correct?

2 A. Right. So TEA reports the number of a percentage  
3 per district. So they've already done the calculation.  
4 I'm averaging the calculation.

5 Q. 32 is, again, a tabulation of previous tables  
6 that we looked at?

7 A. Yes, it is.

8 I'm sorry. 12B was the 2012-13 year. Table 12,  
9 Addendum Summary, is the summary of the tabulation of the  
10 tabulation that you recall.

11 Q. That's what --

12 A. I just want to make sure we're on the same page.

13 Q. 33 is the Table 12 Addendum Summary?

14 A. Yes.

15 Q. 34 is the addendum to the analytical summary.  
16 And this -- these are the substantive conclusions that  
17 Dr. Rolle has made based on these data tables and these  
18 data sets. Right?

19 A. Yes, these are Dr. Rolle's conclusions.

20 Q. And these are the ones that are -- I'll ask him  
21 about. You don't -- it doesn't make sense for me to ask  
22 you about this. Right?

23 A. Unless you have a question about the numbers in  
24 them.

25 Q. The charter schools recently -- and hopefully you

1 understand this better than I do. But they recently  
2 obtained, I believe, an IRS ruling that allowed them to  
3 take advance of certain participation from the State in  
4 the bonding process in terms of either certifying or  
5 guaranteeing debt. Is that something you're familiar  
6 with?

7 A. Slightly, yes.

8 Q. Can you give me your understanding of what that  
9 means for charter schools?

10 A. Yes. My understanding, as I am not a bond  
11 finance expert, but as my daily course of work, I  
12 understand that the charter schools have recently received  
13 an IRS determination giving -- granting them access to a  
14 portion of the permanent school fund that is similar to  
15 the portion of the Texas student school -- student  
16 populations that they educate.

17 So if the charter schools educate about 3 percent  
18 of the Texas public school population, then they would  
19 have access to 3 percent of that. Now, does it guarantee  
20 that access? No. And would every charter qualify for it?  
21 No. And do we have any rules about it? No. And is it  
22 impacting us now? No. But there was a determination,  
23 yes.

24 Q. So, understandably, the door had to open first  
25 before the structure around it has been built, and it's a

1 relatively recent phenomenon that the door was open, and  
2 I'm only assuming that the process is being developed as  
3 we speak, and if charters aren't yet able to take  
4 advantage of that, then that is what it is. Right?

5 A. Right, they're not able to yet, but hopefully  
6 soon in the future some might have the opportunity.

7 Q. You mentioned a couple of times in this  
8 deposition that the growth of charter schools is something  
9 that you've tracked and analyzed. Is that correct?

10 A. That is correct.

11 Q. And even though, of course, there are however  
12 many charters that have been issued by the State, any  
13 charter holder may -- upon approval, may open campuses, as  
14 many campuses as that charter can support and obtain  
15 approval from the TEA to open. Right?

16 A. That is correct.

17 Q. Right. So there are more than -- there are more  
18 than -- what are there, 204 charters active right now?

19 A. Yes.

20 Q. There are more than 204 charter campuses in the  
21 state of Texas. Right?

22 A. Yes, that's true.

23 Q. And the reason is that a holder of a charter may  
24 open more than one campus under that charter?

25 A. That's true.

1 Q. And, in fact, that has happened in the state.  
2 Right?

3 A. That has happened.

4 Q. Do you know, roughly, how many campuses there are  
5 in the charter school system in Texas? Let's limit it to  
6 open enrollment.

7 A. Okay. Thank you.

8 Q. Yeah.

9 A. That's where my expertise lies, yes.

10 There is roughly 563 charter school campuses  
11 operating in the state today?

12 Q. And, roughly, how many students are attending  
13 those open enrollment charters?

14 A. There is roughly 175,000.

15 Q. And so does that represent more students or fewer  
16 students than, let's say, five years ago?

17 A. There are more students in charter schools now  
18 than there were five years ago.

19 Q. And is it expected that the demand for charter  
20 schools will continue to grow in the future?

21 A. I expect that demand, because there are a hundred  
22 thousand students on waiting lists for charter schools  
23 right now.

24 Q. And that's despite what you've described and  
25 tabulated in these data analyses that we've walked



1 through, Exhibit 20023, showing that per student when a  
2 parent chooses to send their child to an open-enrollment  
3 charter, the funding from the State will actually be --  
4 likely be less for their student at the charter than it  
5 would be for their ISD alternative. Is that accurate?

6 A. The State funding at a charter school is likely  
7 to be less, yes, that's true. That's true.

8 Q. It doesn't necessarily mean that the total  
9 funding is less. Right?

10 A. I didn't examine total funding.

11 Q. Okay. So when a parent sends their child to a  
12 charter school knowing that the State of Texas will very  
13 likely be attributing less money to their child at the  
14 charter than it would if the student went to the  
15 equivalent ISD, money must not be the driver or the most  
16 important driver in that decision that the parent's  
17 making. Right?

18 A. You're going to have to ask the parent.

19 Q. Well, but it's the only reasonable conclusion to  
20 draw. Right?

21 A. I can't say that. I haven't asked the parents.

22 Q. Well, what reasonable parent would send their  
23 child to a place with less funding for their student if  
24 funding -- the amount of funding was the most important  
25 priority?

1 Q. (BY MR. VINSON) Let me give you a hypothetical.  
2 If a parent sends their child to the elementary school,  
3 let's assume hypothetically the State will provide the  
4 elementary school with \$11,000 attributable to that  
5 student, and, instead, the parent chooses to send the  
6 child to a charter school where the student may only  
7 receive \$8,000 for that student, the only reason -- you'll  
8 agree with me that the only reasonable conclusion that can  
9 be drawn from a parent who chooses knowing that  
10 information, to send the child to the charter school, is  
11 that the dollars received from the State were not the  
12 primary driver in the decision to send the child to the  
13 charter school?

14 A. I'm going to answer that question the same way I  
15 did the first. I can't speculate on the drivers that the  
16 parent considered because I haven't asked the parents.

17 Q. And I'm asking you to tell me whether it would be  
18 reasonable to conclude that the primary driver of the  
19 decision for that parent in that hypothetical was the  
20 dollars provided by the State.

21 A. I don't know that that is true.

22 Q. I'm asking you to -- I'm asking you whether  
23 that's a reasonable conclusion to draw.

24 A. I'm telling you I don't have the information to  
25 make a reasonable conclusion.

1 A. You're asking me to speculate about parenting,  
2 and I'm not a parent.

3 Q. I'm not asking you to speculate. I'm asking you  
4 to draw the only -- whether there is any other reasonable  
5 conclusion that can be drawn from that.

6 A. I'm sure there is lots of reasonable conclusions.  
7 I haven't examined that data, and I wouldn't be able to  
8 draw a conclusion.

9 Q. Would it be reasonable in your mind to conclude  
10 that the parents' number one priority for the education of  
11 their student with the number of dollars delivered by the  
12 State in the student's name when the parent makes a  
13 decision to send a student to a charter where the  
14 student's likely going to get fewer dollars? Would that  
15 be a reasonable conclusion?

16 A. I don't know. I haven't examined that data.

17 Q. I'm not asking you to examine the data. It's  
18 pretty simple data. There is really just -- there's two  
19 comparisons. Right?

20 MR. SCHWARTZ: You're getting very close to  
21 badgering. She's answered it several times.

22 But --

23 MR. VINSON: I'm not --

24 MR. SCHWARTZ: -- go ahead.

25 MR. VINSON: -- badgering the witness.

1 Q. What information would you need?

2 A. The opinions of the parents that you're talking  
3 about in the study. I'm a data analyst. I'm not trying  
4 to be controversial. I'm just saying the way that I would  
5 go about analyzing this is to take a subset of parents  
6 that have made that decision and then survey them and find  
7 out and then analyze the results of that survey and then I  
8 could make a reasonable conclusion about that statement.  
9 But who knows? There is a million reasons they chose that  
10 school, and I'm not going to say that the primary driver  
11 must not have been funding or must have been funding.

12 Q. Okay. Are you aware of any open enrollment  
13 charters at -- that currently are in existence in the  
14 state of Texas that are not delivering a general diffusion  
15 of knowledge to their superintendent?

16 A. Could you give me a definition of "general  
17 diffusion of knowledge"?

18 Q. Do you have an understanding of what that means?

19 A. I don't have the legal definition of "general  
20 diffusion of knowledge."

21 Q. Do you -- are you aware of any charter -- open  
22 enrollment charters that are unable to teach their  
23 students the intended curriculum for the year and deliver  
24 the quality education to their students?

25 A. I, again, don't have the data to make that

1 conclusion.

2 Q. Has any charter come to you, that you're aware  
3 of, and said, "Without more money, we cannot meet the  
4 needs of our -- the educational needs of our students"?

5 A. Several charters have come to me saying that "We  
6 need more money to educate all of the students that we  
7 have to their full potential."

8 Q. Well, okay, that's a different question. Because  
9 there are sort of different models of education, right,  
10 and goals. One would be to maximize the educational  
11 opportunity for all of the students. The other one would  
12 be -- another one, a lower goal, might be to simply meet  
13 the educational minimum needs of all their students. And  
14 my question is directed at the latter.

15 Are you aware of any charter schools that have  
16 said to you or communicated to you that without additional  
17 funding, they will not be able to meet the minimum  
18 educational needs of their students?

19 A. There has not been one charter school that's come  
20 to me specifically and said, "I cannot meet the absolute  
21 educational needs of my students without more funding."  
22 I'm one person in the Charter School Association.

23 Q. Understood. And I can only ask one person at a  
24 time.

25 Presumably any charter -- any entity that starts

1 a charter does so with an understanding of what funding is  
2 going to be available to it. Right?

3 A. More or less, presumably.

4 Q. They have to do that as part of that application.  
5 Right? You guys help potential charter holders with the  
6 application process. Right?

7 A. There is a specific dollar amount that the  
8 charter must use to write their application.

9 Q. Right. And they do so with an expected student  
10 population that they intend to serve. Right?

11 A. Yes.

12 Q. And they also do so presumably with an  
13 expectation of being able to meet the educational needs  
14 for that student population with the budgeted dollars.  
15 Right?

16 A. Well, we're moving outside of the scope of this  
17 trial if we're talking about dollars outside of the  
18 education -- the Foundation School Program, which the  
19 charter application requires that they show all sources of  
20 revenue.

21 Q. Okay. And we can agree to disagree about what  
22 the -- what sources of funding are relevant, and we don't  
23 have to resolve that today, fortunately.

24 But I'll ask you just to assume with me for the  
25 purposes of this question that they are aware of all their

1 sources of funding, that they are aware of their  
2 student -- anticipated student population, and it is  
3 presumably the case that any charter applicant that seeks  
4 an application -- seeks a charter from the State of Texas  
5 does so with an expectation that they will be able to meet  
6 the educational needs of the students they intend to serve  
7 with the dollars that they intend -- they expect to have.  
8 Right?

9 A. Do charters apply for failure is basically what  
10 you're asking?

11 Q. Yes.

12 A. No.

13 Q. I have one more thing I'm going to ask you  
14 questions about.

15 MR. VINSON: Let's take a break real quick.

16 (Break)

17 (Exhibit 20024 was marked.)

18 Q. (BY MR. VINSON) I've handed you what I've marked  
19 as Exhibit 20024, the -- this is a copy of the Plaintiffs'  
20 Fourth Amended Original Petition and Request for  
21 Declaratory Judgment. And by "plaintiffs," we're  
22 referring to, in very broad terms, the charter plaintiffs.  
23 Is that correct?

24 A. Inasmuch as I understand this legal document.

25 MR. SCHWARTZ: It is.

1 Q. (BY MR. VINSON) I should have represented that  
2 to you instead of asked you.

3 Have you seen this document before?

4 A. I believe briefly, yes.

5 Q. Okay. I have just some kind of practical  
6 questions about some of the allegations in here and  
7 whether you can shed some light on these for me. Skip to  
8 Page 10 and 11.

9 Page 10, at the very bottom, Paragraph 29,  
10 alleges that "Severe structural failures in the State  
11 funding mechanisms for charter schools resulted in  
12 continual disparity between the amount of funding  
13 available per student in the school district versus the  
14 amount of funding available per student in a public  
15 charter school."

16 And then I think there is a little bit of typo,  
17 but I certainly understand the point.

18 "A comparison a charter school funding to school  
19 district funding for the past three years, using  
20 historically and universally accepted methods,  
21 demonstrates a disparity averaging approximately \$1,700  
22 per student."

23 And that's essentially a tabulation of all the  
24 data that we just went through. Right?

25 A. Essentially, yes.

Q. Okay. And -- in very gross terms.

And Paragraph 40 is actually one I really had a hard time figuring out. It's probably me, but in any event...

Paragraph 40 says, "An even greater disparity is revealed comparing funding for a child attending a charter school where the child resides to that which the child would draw if the child had attended the resident public school district. As an example, funding for a student residing in the High Island Independent School District is \$3,791 less per school than funding for that same student were he or she to attend nearby Ambassadors Preparatory Academy Charter School in Galveston."

When I read that, it makes it sound like there is more money at the charter school than there is at the ISD, but I'm assuming the opposite is intended. Did you do this analysis?

A. I have looked at these two specifically before. I didn't write this paragraph.

Q. Yeah.

A. But what I can tell you is that the funding at High Island ISD is more per student than it is at Ambassadors Preparatory Academy.

Q. And presumably it's at or near the 3,791 number that's listed there?

statement.

Q. And that's what I wanted to clarify was that for a -- for a poor school district that receives State money, the amount of State aid they get would be reduced by the amount of their local tax dollars?

A. That's exactly true.

Q. And for a wealthy district, they would keep it all, or some of them might -- if it's a mid-wealth district, they might keep it all. If it's a wealthy district above the recapture level, they would keep that portion and not get any State aid, and return --

A. Right. If we're talking about M&O tax collection --

Q. Yes.

A. -- yes, that's right.

Q. And then not long after that, you were discussing -- I think -- and I believe this was in the context of Tier 1 and Tier 2 and ASATR all taken together --

A. Uh-huh.

Q. -- that if you take a hundred students with the exact same characteristics at a charter school compared to an ISD, the charter school would get less?

A. The average charter school would get less.

Q. Right. And I guess what I want -- I'm

A. In that data set we provide, you could verify that. Sure.

Q. I'm going to thank you for your time.

MR. VINSON: Pass the witness.

# EXAMINATION

BY MS. MCINTUSH:

Q. Wet met earlier. My name is Holly McIntush. I work for the Thompson Horton law firm. We represent the Fort Bend ISD plaintiffs. It's a group of about 83 school districts in Dallas, Houston, Austin, and it includes wealthy and poor districts, rural, urban, suburban.

A. I'm sorry. You said 83 school districts?

Q. Yes.

Okay. I want to start -- I want to go back to something you talked with Eric about at the very beginning. You said -- you were talking about the Tier 1 funding, and you were talking about the fact that you -- charter schools don't have local taxing authority?

A. That is right.

Q. And you made the statement that for school districts, that's money that they get to keep at the schools that charter schools don't have?

A. I'm not sure if I stated it that way, because all the taxing authority generated doesn't get to stay at the school district, and I -- I wasn't implying that in the

wondering -- and you're saying the average charter school would get less than the average ISD. Right?

A. That's the statement I made, yes.

Q. Because the average -- because by definition, when we're looking at the average ISD, some ISDs get less than the average -- less than the average. Right?

A. That's correct.

Q. And some get more?

A. That's correct.

Q. And so in some cases, there could be a hundred charter schools that would get -- the average charter school could get more than a specific lower funded school district?

A. I see where you're going. I'm just reviewing the data in my head. Just give me a second.

Q. Let me rephrase it. I think the fact that I was using average and specific made it harder.

If you take any one specific charter school and any one specific school district, sometimes they get the same, sometimes the charter gets more, sometimes the charter gets less than a specific school district?

A. I think the point that you're getting at is there are school districts in the state of Texas that a hundred students at that charter school and a hundred students at -- at a charter school and at that particular ISD, the

1 ISD would receive less money than the charter school.

2 Q. Yes. That was my point.

3 A. Okay.

4 Q. We're on the same page.

5 A. Right.

6 Q. It's just the function of averages and individual  
7 districts or averages in individual charter schools are  
8 not the same?

9 A. That's right. There are -- but I would like to  
10 caveat that with saying that's why we did percentile  
11 analysis, and there are very few districts in that case,  
12 there would be very few of them in that case, especially  
13 those that are taxing at their maximum authority.

14 Q. Okay. And now I want to move to facilities  
15 funding really briefly. When you looked at -- maybe it  
16 will help if we turn to a specific page in the report just  
17 to give us something to reference.

18 Let's look at Page 7, Table 1B, the addendum.  
19 So, first of all, the local FSP revenue for interest and  
20 sinking funds. I want to -- I kind of take a step back  
21 and talk about how facilities are funded for school  
22 districts.

23 School districts start by passing a bond. Is  
24 that your understanding? If they want to fund a facility,  
25 they have to pass a bond election?

1 A. Election, a TRE.

2 Q. Well, TRE is for M&O. So it's a bond election  
3 for --

4 A. If the bond.

5 Q. -- INS and sinking funds?

6 A. Specifically for INS and sinking funds, I'm with  
7 you.

8 Q. Okay. And when they -- and after they pass that  
9 election and they get voter buy-in, then they can sell a  
10 bond; is that right?

11 A. I believe that to be true. I'm not an expert  
12 there.

13 Q. And so, then, the amount of money they sold the  
14 bond for, that money is what they use to build the school?

15 A. That's my understanding.

16 Q. And so, then, the INS revenue that they come in  
17 pays back the bond holders. Is that your understanding?

18 A. That's my understanding, yes.

19 Q. And so when they're paying that back, that  
20 includes both principal and interest. Right?

21 A. It would depend on the time frame that they paid  
22 it back in, but, yes.

23 Q. So with the average school district bond for,  
24 say, 30 years, that would mean it's going to include some  
25 interest?

1 A. Uh-huh. Yes.

2 Q. So the INS revenue here that you have listed is  
3 the amount that school districts pay bond holders back.  
4 It's not the amount that they have to actually build the  
5 building, because it includes interest. Right?

6 A. I agree with your conclusion. What I'd like to  
7 say is this is the amount of INS tax collection for a year  
8 which may not be what you said, which is the amount of  
9 money they have to build the building.

10 Q. Right. And I guess that's my point. That's just  
11 the amount that the INS revenue, by law, you raise enough  
12 INS taxes to pay back your -- to make your bond amounts  
13 for that year. So the amount of revenue -- INS revenue  
14 for a year is the amount of bond payments, principal and  
15 interest, you made that year, not the amount that you had  
16 available to build that school. Right?

17 A. The amount of INS revenue I reviewed here was the  
18 actual collection.

19 Q. Okay.

20 A. And if you're saying that that collection is used  
21 to pay bond payments only, then, yes, we could agree. But  
22 this line item, as I referred to it, is the collection.

23 Q. Right. Okay. And that -- yeah, okay. I think  
24 we're on the same page.

25 As far as state FSP for interest and sinking

1 funds, that's what we call the EDA and the IFA, right?

2 A. That is correct.

3 Q. And school districts don't get EDA and IFA unless  
4 they have -- they are -- they have already sold the bond  
5 and are raising INS taxes. Right? They don't get that --  
6 the district that was not making bond payments does not  
7 have an INS tax rate would not qualify for EDA or IFA  
8 funds?

9 A. The latter statement was true, if they don't have  
10 an INS tax rate and they are not making payments, they  
11 wouldn't qualify for IFA or EDA.

12 Q. And now if we can go to Page 27, which is  
13 Table 11A addendum. You -- the standards -- this table is  
14 titled "College Readiness Standards Evaluation." Right?

15 A. Yes.

16 Q. And the standards you have here are the  
17 percentage of college ready graduates on TAKS math and  
18 language arts and the SAT and ACT criteria?

19 A. Yes.

20 Q. Do you know why these criteria were picked?

21 A. You'd have to ask Dr. Rolle why he picked these,  
22 as I was doing a continuation for his report.

23 Q. Okay. So you personally are not testifying that  
24 if a student meets these standards, that means they are,  
25 in fact, prepared to go into college and succeed without

1 remediation?

2 A. I am not testifying to that fact.

3 Q. Okay. And then the same question -- and I don't  
4 think I tabbed it. But I have the same -- here it is.  
5 Page 29, Table 11B, the STAAR graduation standards.

6 Are you testifying that by meeting this level on  
7 STAAR, a student is prepared to go into college and  
8 succeed without remediation?

9 A. No, I am not testifying to that today.

10 Q. And several of these tables throughout you  
11 compare charter schools to ISDs.

12 Are you planning to testify -- do you have an  
13 opinion or are you going to testify to an opinion on  
14 whether the funding for ISD -- for ISDs is adequate?

15 A. No, I'm not going to testify to that.

16 MS. MCINTUSH: No further questions.

17 MR. SCHWARTZ: Just to clarify, we haven't  
18 really gone over her testimony. I don't want it to look  
19 like she's avoiding if we decide to have her look at data.  
20 I'm not saying we are --

21 MS. MCINTUSH: But I need to know whether  
22 you plan to have her express an opinion on whether ISD  
23 funding is adequate. Because if you do, there is a whole  
24 line of questioning --

25 MR. SCHWARTZ: No, no, I just want to leave

1 open that we have a -- she's given her answer as of today  
2 correctly. But I don't want to --

3 MS. MCINTUSH: I guess my point is, by the  
4 expert deadline, you were supposed to know what opinions  
5 she was going express, and that was a while ago. So if  
6 she's going to express an opinion that's not in the  
7 report, I need to know it now.

8 MR. SCHWARTZ: And all I'm trying to say is,  
9 we don't know what will come out in trial, and that we  
10 would use her to rebut, if necessary, and I just didn't  
11 want her to mislead you in any way. She might -- I don't  
12 know that she is, because I haven't really discussed it  
13 with her. I don't think she's capable of giving a opinion  
14 beyond the data itself and what it expresses. So if  
15 you're asking her --

16 Q. (BY MS. MCINTUSH) I want to know if you're  
17 expressing an opinion on whether the data says ISD funding  
18 is adequate as opposed to what the data says --

19 MR. SCHWARTZ: She can answer that.

20 A. I'm not going to.

21 MR. SCHWARTZ: I just don't want to mislead  
22 you either.

23 MS. MCINTUSH: No, that's fine. I  
24 understand. I didn't want --

25 MR. SCHWARTZ: Right.

1 MS. MCINTUSH: -- the not wanting to mislead  
2 me to lead to prepping for two hours' worth of questions  
3 that I was not planning to ask you because I assumed the  
4 answer would be no.

5 EXAMINATION

6 BY MS. MORENO:

7 Q. We met earlier, but I'm Celina Moreno.

8 A. Hi, nice to meet you.

9 Q. I just have a few questions.

10 A. Uh-huh.

11 Q. Just for a quick background. I'm an attorney  
12 with MALDEF, the Mexican-American Legal Defense and  
13 Educational Fund, and in this case, we're representing  
14 five school districts --

15 A. Okay.

16 Q. -- property poor school districts as well as  
17 individual plaintiffs and two additional property poor  
18 school districts.

19 And I just wanted to start by kind of following  
20 on one of Ms. McIntush's line of questioning. You would  
21 agree that charter schools do not have the capability of  
22 taxing any specific school district to generate M&O funds.  
23 Correct?

24 A. Charter schools have no taxing authority.

25 Q. And you would also agree that charter schools,

1 unlike traditional public school districts, don't have the  
2 burden of holding TREs, the taxpayer ratification  
3 elections, to generate above the dollar for M&O rate. Is  
4 that correct?

5 A. Yes, that is correct.

6 Q. And in the tables attached to your report,  
7 Exhibit 20023, titled "Statistical Analysis of the Texas  
8 Charter School Facilities Funding," dated October 14th,  
9 2013, you did not analyze tax rates. Correct?

10 A. Give me one second. I want to make sure that I  
11 answer this properly.

12 I analyzed the -- while I didn't look at the  
13 taxing rate for each individual school specifically, I did  
14 analyze the outcome of that tax rate. Specifically the  
15 tax collections at each level. So that was analyzed and  
16 goes into the local component here. But the variance  
17 within those taxing rates, I didn't put in this report.

18 Q. Let me ask it a little differently.

19 You didn't analyze the variations of revenue  
20 generated among traditional public school districts and  
21 their corresponding property wealth. Correct?

22 A. I did evaluate or analyze the different tax  
23 collections. That is a -- that's a local component that  
24 wasn't part of the evaluation or analysis.

25 But if you could ask that more specifically --

1 because, yes, M&O tax collections and INS tax collections  
2 are in here. They're the local fund component, and we did  
3 examine the variation within that system, but as far as  
4 the rates, I didn't examine the variance in the rate  
5 itself.

6 Q. And your analysis in this case also doesn't  
7 report on whether property poor school districts can  
8 assess substantially similar revenue at similar tax  
9 efforts as property wealthy districts. Correct?

10 A. I didn't analyze that piece, no.

11 Q. And that goes for both M&O and INS --

12 A. It does.

13 Q. -- tax rates?

14 A. Yes. I'm sorry to cut you off. It does, yes.

15 Q. Are you aware that property poor districts can  
16 assess fewer dollars per ADA than property wealthy  
17 districts even with the instructional facilities allotment  
18 and the existing debt allotment?

19 A. Did I analyze that specifically for this report?  
20 No. Have I seen general trends in that because I have  
21 evaluated taxing rates? Perhaps.

22 Q. But your analysis does not distinguish between  
23 property rich and property poor districts. Correct?

24 A. No, it distinguishes between the collect -- the  
25 total collections, but not per property wealth.

1 them that have adequate facilities.

2 Q. Okay. So there are some charter schools that do  
3 have adequate existing facilities. Correct?

4 A. As determined by some studies I have reviewed,  
5 yes.

6 Q. And that there are -- and that charter schools do  
7 vary in their ability to locally fund raise?

8 A. By "locally fund raise" --

9 Q. To generate additional funds.

10 A. Outside of the Foundation School Program?

11 Q. That's right.

12 A. I haven't evaluated that. I don't know.

13 Q. That's all the questions I have for you.

14 MR. VINSON: I don't have any further  
15 questions.

16 MS. MCINTOSH: No.

17 (THE DEPOSITION CONCLUDED AT 12:18 P.M.)

1 Q. And in your analysis, are you saying that  
2 property rich and property poor districts have sufficient  
3 access for facilities funding under the Texas school  
4 finance system?

5 A. I have not said that.

6 Q. Or that facilities funding is equitable among  
7 property poor and property rich school districts?

8 A. I have shown that there are differences, and I've  
9 evaluated the difference between some the poorer districts  
10 and some of the richer, and definitely that that doesn't  
11 exist at all for charter schools, but not beyond that.

12 Q. Would you agree that there is no much thing as a  
13 property poor charter school or a property rich charter  
14 school?

15 A. We're all poor. Sorry. Charter schools do  
16 not -- are not associated in property wealth.

17 Q. Would you agree that there are some charter  
18 schools that presently have an adequate existing  
19 facilities, to you last point?

20 A. How would you define "adequacy"?

21 Q. What is your understanding of "adequacy" in terms  
22 of existing facilities?

23 A. I haven't done the determination. I have  
24 reviewed the study, though, that has determined adequacy  
25 as part of that, and there is only about 39 percent of

# CORRECTION PAGE

2 WITNESS NAME: TONI BETH TEMPLETON DATE: 11/08/13

3 PAGE LINE CHANGE REASON

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## SIGNATURE PAGE

I, TONI BETH TEMPLETON, have read the foregoing deposition and hereby affix my signature that same is true and correct, except as noted on the correction page.

TONI BETH TEMPLETON

THE STATE OF TEXAS )  
COUNTY OF \_\_\_\_\_ )

Before me \_\_\_\_\_ on this day personally appeared \_\_\_\_\_ known to me [or proved to me on the oath of \_\_\_\_\_ or through \_\_\_\_\_ (description of identity card or other document)] to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

NOTARY PUBLIC IN AND FOR  
THE STATE OF TEXAS

My Commission Expires: \_\_\_\_\_

CAUSE NO. D-1-GN-11-003130

TEXAS TAXPAYER & STUDENT ) IN THE DISTRICT COURT OF  
FAIRNESS COALITION, ET )  
AL., CALHOUN COUNTY ISD, )  
ET AL., EDGEWOOD ISD, ET )  
AL. FORT BEND ISD, ET )  
AL.; TEXAS CHARGER SCHOOL )  
ASSOCIATION, ET AL., )

Plaintiffs, )

JOYCE COLEMAN, ET AL., ) TRAVIS COUNTY, TEXAS

Intervenor, )

VS. )

MICHAEL WILLIAMS )  
COMMISSIONER OF )  
EDUCATION, IN HIS )  
OFFICIAL CAPACITY; SUSAN )  
COMBS, TEXAS COMPTROLLER )  
OF PUBLIC ACCOUNTS, IN )  
HER OFFICIAL CAPACITY; )  
TEXAS STATE BOARD OF )  
EDUCATION, )

Defendants. ) 200TH JUDICIAL DISTRICT

REPORTER'S CERTIFICATION

DEPOSITION OF TONI BETH TEMPLETON  
TAKEN NOVEMBER 8, 2013

I, Tamara Chapman, Certified Shorthand Reporter and  
Notary Public in and for the State of Texas, hereby  
certify to the following:

That the witness, TONI BETH TEMPLETON, was duly sworn

by the officer and that the transcript of the oral deposition is a true record of the testimony given by the witness;

That the deposition transcript was submitted on November 8, 2013 to the witness or to the attorney for the witness for examination, signature and return to TSG REPORTING, by November 28, 2013;

That the amount of time used by each party at the deposition is as follows:

Ms. Celina Moreno - 00:06

Mr. Eric Vinson - 2:43

Ms. Holly McIntush - 00:10

Mr. Leonard J. Schwartz - 00:00

Mr. J. Christopher Diamond - 00:00

That pursuant to information given to the deposition officer at the time said testimony was taken, the following includes counsel for all parties of record:

Mr. Eric Vinson - ATTORNEY FOR MICHAEL WILLIAMS  
COMMISSIONER OF EDUCATION, IN HIS OFFICIAL CAPACITY; SUSAN  
COMBS, TEXAS COMPTROLLER OF PUBLIC ACCOUNTS, IN HER  
OFFICIAL CAPACITY; TEXAS STATE BOARD OF EDUCATION

Ms. Holly McIntush - ATTORNEY FOR FORT BEND  
INDEPENDENT SCHOOL DISTRICT PLAINTIFFS

Mr. J. Christopher Diamond - ATTORNEY FOR COUNSEL FOR  
INTERVENORS, JOYCE COLEMAN, ET AL.

Ms. Celina Moreno - COUNSEL FOR EDGEWOOD INDEPENDENT  
SCHOOL DISTRICT PLAINTIFFS

Mr. Leonard J. Schwartz - FOR THE CHARTER SCHOOL  
PLAINTIFFS

I further certify that I am neither counsel for, related to, nor employed by any of the parties in the action in which this proceeding was taken, and further that I am not financially or otherwise interested in the outcome of the action.

Further certification requirements pursuant to Rule 203 of TRCP will be certified to after they have occurred.  
Certified to by me this 15th day of November, 2013.

Tamara Chapman, CSR, RPR  
CSR No. 7248  
Expiration Date: 12/31/14  
TSG Reporting, Inc.  
Firm Registration No. 615  
Nationwide - Worldwide  
Phone: (877) 702-9580  
Info@tsgreporting.com  
www.tsgreporting.com

FURTHER CERTIFICATION UNDER RULE 203 TRCP

The original deposition was/was not returned to the deposition officer on \_\_\_\_\_;

If returned, the attached Changes and Signature page contains any changes and the reasons therefor;

If returned, the original deposition was delivered to Ms. Linda Halpern, Custodial Attorney;

That \$ \_\_\_\_\_ is the deposition officer's charges to Defendants for preparing the original deposition transcript and any copies of exhibits;

That the deposition was delivered in accordance with Rule 203.3 and that a copy of this certificate was served on all parties shown herein and filed with the Clerk.

Certified to by me this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Tamara Chapman, CSR, RPR

CSR No. 7248

Expiration Date: 12/31/14

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Amalia Rodriguez-Mendoza

District Clerk

Travis County

D-1-GN-11-003130

**From:** Vinson, Eric  
**To:** Leonard J. Schwartz (lschwartz@slh-law.com); "Robert A. (Bob) Schulman"  
**Cc:** Dahlberg, Shelley; Gier, Rita; Taylor, Caroline; Wills, Margaret  
**Subject:** Toni Templeton's spreadsheet  
**Date:** Wednesday, November 13, 2013 2:30:00 PM

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Leonard –

During Toni Templeton's deposition last week, she testified that she prepared an Excel spreadsheet that was used in the creation of Dr. Rolle's report. As you know, that data was not delivered to us, although per the court's 10/4 order, it should have been produced on or before October 14.

I asked for it during the deposition. Please deliver it as soon as possible. Thank you for your assistance with this matter.

**Eric L. Vinson**

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Unofficial copy Travis County District Clerk Velda L. Price

EXHIBIT F

**From:** Vinson, Eric  
**To:** Leonard J. Schwartz (lschwartz@slh-law.com); "Robert A. (Bob) Schulman"  
**Cc:** Dahlberg, Shelley; Gier, Rita; Taylor, Caroline; Wills, Margaret  
**Subject:** RE: Toni Templeton's spreadsheet  
**Date:** Friday, November 22, 2013 3:18:00 PM  
**Attachments:** 2013 09 30 email from Dahlberg re Back Up Data to Your Experts" Reports.pdf  
2013 10 04 Scheduling Order signed.pdf

Leonard & Bob --

This email will be my final effort to obtain from you all the excel spreadsheet Toni Templeton provided to Dr. Rolle comprising the backup for his report that is now approaching six weeks late. This is not an offer to compromise or agree to anything under Rule 11; instead, it is solely an effort to have you and your client comply with the Court's scheduling order and, by extension, the Texas Rules of Civil Procedure.

As you will recall, Shelley Dahlberg sent a request for all backup information relating to expert opinions on 9/30 (attached). It was due to us on or before 10/14 per the Court's 10/4 scheduling order (also attached). It was requested again during Ms. Templeton's deposition on 11/8, and again last week by email (below).

I've heard literally nothing from you all on the subject despite numerous requests that you comply with the Court's scheduling order.

I am having a particularly hard time understanding this extraordinary delay in light of Ms. Templeton's testimony on the subject. She testified as follows on page 67 of her deposition:

- 4 Q. Do you still -- is that in an Excel file?  
 5 A. What's that?  
 6 Q. The working document that tabulated these  
 7 information.  
 8 A. That was sent to Dr. Rolle, yes.  
 9 Q. So it was in an Excel file that you sent to  
 10 Dr. Rolle. Is that correct?  
 11 A. Yes.  
 12 Q. Do you still have that document?  
 13 A. I'm sure I do. At work.  
 14 Q. So if I asked your counsel to produce a copy of  
 15 that data tabulation to us, he'd be able to get that to  
 16 us?  
 17 A. At the moment, no, because I don't have my  
 18 computer, but, yes, I can provide those.

If I do not receive the backup materials generated by Ms. Templeton for Dr. Rolle by the close of business Monday, I'll have no choice but to file a motion with the Court to strike both Dr. Rolle and Ms. Templeton as expert witnesses in the case simply for failing to comply with this aspect of the Court's Scheduling order.

I look forward to receiving the backup materials.

**Eric L. Vinson**

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**From:** Vinson, Eric

**Sent:** Wednesday, November 13, 2013 2:30 PM

**To:** Leonard J. Schwartz (lschwartz@slh-law.com); 'Robert A. (Bob) Schuman'

**Cc:** Dahlberg, Shelley; Gier, Rita; Taylor, Caroline; Wills, Margaret

**Subject:** Toni Templeton's spreadsheet

Leonard –

During Toni Templeton's deposition last week, she testified that she prepared an Excel spreadsheet that was used in the creation of Dr. Rolle's report. As you know, that data was not delivered to us, although per the court's 10/4 order, it should have been produced on or before October 14.

I asked for it during the deposition. Please deliver it as soon as possible. Thank you for your assistance with this matter.

**Eric L. Vinson**

Assistant Attorney General

General Litigation Division

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1/13/2014 5:39:30 PM

Amalia Rodriguez-Mendoza  
District Clerk  
Travis County  
D-1-GN-11-003130

**From:** [Cynthia Pacheco](#)  
**To:** [Vinson, Eric](#)  
**Cc:** [Robert \(Bob\) Schulman](#)  
**Subject:** Toni Templeton Data  
**Date:** Monday, November 25, 2013 4:43:20 PM  
**Attachments:** [PastedGraphic-2.tiff](#)  
[2012 SOF with Stats.xlsx](#)  
[2013 SOF with Stats.xlsx](#)  
[2014 SOF with Stats.xlsx](#)  
[EOC Data File.xlsx](#)  
[SAT ACT Perf.xlsx](#)

I have tried multiple times this afternoon to upload the documents received earlier today from Toni Templeton in supplement to her deposition exhibits. The FTP server site will not allow me to do so, therefore I am sending the Excel files to you, as requested, for review. I will call you in the morning to determine if you receive this e-mail and the attached files.

Thank you for your attention to the above and attached.



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EXHIBIT H

NO. D-1-GN-11-003130

TEXAS TAXPAYER & STUDENT ) IN THE DISTRICT COURT  
 FAIRNESS COALITION, et al; )  
 CALHOUN COUNTY IDS, et al; )  
 EDGEWOOD ISD, et al; FORT )  
 BEND ISD, et al; TEXAS CHARTER )  
 SCHOOL ASSOCIATION, et al., )

Plaintiffs, )

v. )

JOYCE COLEMAN, et al., ) TRAVIS COUNTY, TEXAS

Intervenors, )

v. )

MICHAEL WILLIAMS, COMMISSIONER )  
 OF EDUCATION, IN HIS OFFICIAL )  
 CAPACITY, SUSAN COMBS, TEXAS )  
 COMPTROLLER OF PUBLIC ACCOUNTS )  
 IN HER OFFICIAL CAPACITY, )  
 TEXAS STATE BOARD OF )  
 EDUCATION, )

Defendants. ) 200TH JUDICIAL DISTRICT

\*\*\*\*\*

ORAL DEPOSITION OF  
 DR. R. ANTHONY ROLLE  
 Austin, Texas

Wednesday, December 18, 2013

\*\*\*\*\*

Reported by:  
 SUSAN S. KLINGER, RMR-CRR, CSR  
 JOB NO. 67343

December 18, 2013

9:11 a.m.

ORAL DEPOSITION OF DR. R. ANTHONY ROLLE, was taken in the above-styled and numbered cause on the 18th of December, 2013, from 9:11 to 4:45 p.m., before Susan S. Klinger, RMR-CRR, CSR in and for the state of Texas and California, reported by stenographic method, at the Attorney General of Texas, 300 W. 15th Street, Austin, Texas, pursuant to the Texas Rules of Civil Procedure and the provisions stated on the record or attached hereto.

## INDEX

### WITNESS

### PAGE

DR. R. ANTHONY ROLLE

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## EXHIBITS

No.	Page	Description
Exhibit 20266	34	Excel spreadsheet CD
Exhibit 20267	6	Supplemental report
Exhibit 20268	25	Curriculum vitae
Exhibit 20269	189	Dr. K. West dissertation
Exhibit 20270	190	Article, "Si, Se Hace - No, No Se Hace

## APPEARANCES

### FOR THE STATE OF TEXAS DEFENDANTS:

Mr. Eric Vinson  
ATTORNEY GENERAL OF TEXAS  
300 W. 15th Street  
Austin, Texas 78701

### FOR THE FLORES DEFENDANTS:

Mr. Leonard Schwartz  
SCHULMAN LOPEZ & HOFFER  
701 Brazos Street  
Austin, Texas 78701

### FOR THE EDGEWOOD INDEPENDENT SCHOOL DISTRICT, ET AL.

(Appearing telephonically)

Ms. Marisa Benoit  
MALDEF  
110 Broadway  
San Antonio, Texas 78205

DR. R. ANTHONY ROLLE,  
having been first duly sworn, testified as follows:

### EXAMINATION

### BY MR. VINSON:

Q. Good morning, Dr. Rolle. You have already given testimony both in deposition and in trial in this matter, but just because I can't help myself, will you please state your full name for the record?

A. My name is Anthony Rolle.

Q. And where are currently employed, Dr. Rolle?

A. I work at the University of South Florida in Tampa, Florida.

Q. Do you have any other employers besides the University of Florida?

A. I am also a principal in Wood Rolle & Associates.

Q. So your role in this case has been and continues to be to serve as an expert for what we will refer to as the charter school plaintiffs in this case; is that correct?

A. Yes.

Q. And you understand when I am referring to the charter school plaintiffs I am, of course, referring to the group that's represented by the association in this case, the Texas Charter School Association; is that correct? Does that sound fair?

1 A. Yes.

2 Q. All right. You have issued what I -- what I  
3 think is accurately described as a supplement to your  
4 original report that you issued in this case; is that  
5 correct?

6 A. Yes.

7 (Exhibit 20267 marked.)

8 Q. And I'm going to hand you what I've marked 20267.  
9 I will tell you that I added page numbers to this  
10 document so we -- we can know what page we are referring  
11 to, but other than the page numbers that I added, does  
12 that document 20267 appear to be a true and correct copy  
13 of the report that, supplemental report that you have  
14 generated in this case?

15 A. Yes, it appears to be so.

16 Q. And have you read the deposition of Toni  
17 Templeton in this case?

18 A. Yes.

19 Q. Did you also speak with Ms. Templeton after her  
20 deposition, let's put it that way?

21 A. Yes.

22 Q. Based on either your review of her deposition  
23 transcript or your discussions with her, is there  
24 anything about the document 20267 that you would like to  
25 amend, supplement, alter, change in any way?

1 Q. -- I don't know that there was any confusion  
2 about that --

3 A. Okay.

4 Q. -- but I do appreciate that. So page 8 and  
5 maybe, maybe under the title there instead of revenue  
6 per student we should have FSP revenue per student and  
7 then on the first bold line total FSP revenue per ADA;  
8 is that correct?

9 A. That's correct.

10 Q. And then that appears to be the same pattern,  
11 page 9, 10, 11. And then you could also make the same  
12 correction on or clarification on page 12. And in fact,  
13 if you see on page 13 you all have made that reference  
14 on page 13 and page 15. And just so the record is  
15 completely clear, on all of these calculations in this  
16 supplemental report, you were only looking at FSP  
17 funding when you were comparing funding for the charter  
18 schools versus funding for a traditional ISD; is that  
19 correct?

20 A. That's correct.

21 Q. Your original report had other sources of funding  
22 that were included in the comparisons that you made in  
23 your original report; is that correct?

24 A. Yes.

25 Q. Why did you choose to focus solely on FSP funding

1 A. She and I did have a conversation around pages 6  
2 through 12 that that line should read total FSP revenue  
3 per ADA. That was the only issue.

4 Q. Okay. So the line --

5 MR. SCHWARTZ: Eric, can I have a second  
6 with my client?

7 (Off the record.)

8 Q. So I understand what you have just told me, the  
9 line item -- let's just start on page 6, for example,  
10 which is the -- okay. If we go down the page the first  
11 line in bold says total revenue per ADA that is fine;  
12 right?

13 A. That should read total FSP revenue per ADA.

14 Q. Okay. Because there are other sources of revenue  
15 both for traditional ISDs and for charter schools  
16 that -- that these pages 6 through 12 don't include; is  
17 that correct?

18 A. That's correct.

19 Q. And I guess on page 7 the correction should read  
20 under the title of the page instead of revenue per  
21 student; it should say FSP revenue per student; is that  
22 accurate?

23 A. Yes.

24 Q. And that is just a clarification --

25 A. Yes.

1 when comparing charter schools and ISDs in this  
2 supplemental report?

3 A. The change was made as part of a data request to  
4 TEA. And as part of the data request, Ms. Templeton  
5 asked for FSP revenue, FSP revenue by M&O and FSP  
6 revenue by I&S. There was not an additional request for  
7 total revenue or any non-FSP revenue.

8 Q. Okay. So that is the mechanical answer, that is  
9 what happens so that you only had FSP data to analyze.  
10 And what I'm trying to get at is why did you only want  
11 to analyze FSP funding and not either all sources or any  
12 other possible permutation of funding sources when  
13 comparing these things in the supplemental report? Why  
14 didn't you want to have additional information beyond  
15 the FSP funding?

16 A. I think that is -- that is really the -- the  
17 answer. We were talking about data. She made a request  
18 for the specific data that we were discussing. And at  
19 best, it is an oversight. There is no malintention  
20 involved, just that we were focusing particularly on the  
21 FSP and we talked about FSP revenue.

22 Q. And I'm not trying to ascribe any malintention.  
23 I'm just trying to understand -- let me go at it this  
24 way. Did Ms. Templeton's request for data from TEA, did  
25 she do that at your direction?

1 A. She and I discussed that she would request data  
2 from TEA.

3 Q. So you-all talked about the scope of the request  
4 that she would make to TEA; is that correct?

5 A. We did talk about the scope.

6 Q. And you all decided that the only information you  
7 were going to seek that Ms. Templeton was going to seek  
8 by her request was FSP; is that correct?

9 A. I don't believe that's correct.

10 Q. Okay.

11 A. The more specific structure of the request, I  
12 think, you would have to ask her, but as far as the over  
13 arching discussion of data, I can talk more, more to  
14 that.

15 Q. Well, ultimately the reason she is making these  
16 data requests are so that you can analyze them and put  
17 them into a supplemental report; right?

18 A. Yes.

19 Q. And so you're telling me you don't know why she  
20 only requested FSP data even though it is ultimately  
21 your opinions that are going to depend on the data that  
22 she provided to you?

23 MR. SCHWARTZ: I will partially object, to  
24 the extent that that is calling --

25 MR. VINSON: You can object to the form.

1 MR. SCHWARTZ: Wait a second. To the extent  
2 that is calling for attorney-client privilege as to what  
3 was requested at an attorney's direction, he is directed  
4 not to answer.

5 Q. Let me ask it this way. Was the scope of your  
6 request, this is a yes or no question, I don't want to  
7 know the details of it, was or was it not impacted by  
8 the advice of the lawyers for the charter school  
9 association in this case?

10 A. No.

11 Q. Okay. So back to my previous question, why is it  
12 or how is it that you don't know why Toni Templeton  
13 restricted her request from TEA to only cover FSP  
14 funding when ultimately it is your report with your name  
15 on it that depends on the data request that she is  
16 making?

17 A. Can you repeat that?

18 Q. Sure. You said you don't know why Ms. Templeton  
19 restricted her request from TEA to FSP funding alone; is  
20 that correct?

21 A. I don't think I agree with how you are now  
22 phrasing the question.

23 Q. Okay. You told me that some other questions  
24 would be better directed to Ms. Templeton; right?

25 A. Some of the question.

1 Q. What questions do you think would be better  
2 corrected to Ms. Templeton that I previously asked you?

3 A. I really don't remember what the original  
4 question was, I'm sorry.

5 Q. Can you explain to me why Ms. Templeton  
6 restricted her request to TEA to only involve FSP  
7 funding and not other sources of funding?

8 A. Again, I'm not sure if she restricted her  
9 request. That's where -- where I'm hanging up. In our  
10 discussions we talked about FSP revenue, we talked about  
11 the components of FSP revenue.

12 Q. Do you know what the scope of Ms. Templeton's  
13 request of TEA was?

14 A. I have not seen the official request.

15 Q. Did you see an unofficial request or a draft  
16 request?

17 A. I did not see a draft request.

18 Q. Did you discuss with her what the scope of her  
19 request of TEA would be?

20 A. Again, we talked about requesting FSP data that  
21 detailed both M&O and I&S revenue.

22 Q. So your focus was on obtaining data relating to  
23 FSP funding only; is that correct?

24 A. That's correct, yes.

25 Q. So why did you only want to have data on FSP

1 funding and not other sources of funding?

2 A. The scope of -- of the analysis here originally  
3 was focusing on facilities funding. But as the trial  
4 continued and merged and morphed, we began to realize  
5 that we had to examine not only school facilities  
6 specifically, but the underlying structure of the Texas  
7 FSP generally. My role, of course, was to evaluate that  
8 structure in terms of its levels of efficiency, discuss  
9 issues of sustainability as well as we need to discuss  
10 issues of adequacy as we began more detailed discussions  
11 about facilities funding.

12 MR. VINSON: I'm going to object to that  
13 answer as non-responsive.

14 Q. Dr. Rolle, your original report analyzed not only  
15 facilities funding as it impacted charter schools versus  
16 traditional ISDs, but it also looked at funding, M&O  
17 funding -- let strike that and start over.

18 Your original report contemplated not only the  
19 impact of facilities funding on charter schools and  
20 ISDs, but also all other operational funds that were  
21 available both to districts and ISDs and it did not  
22 restrict itself to FSP funding only; is that correct?

23 A. That is correct.

24 Q. So why didn't you just carry that same analysis  
25 forward in your supplemental report? Why did you

1 exclude or look only at FSP when there are obviously  
2 other sources of funding available both to charters and  
3 to districts?

4 A. Again, as part of our conversations, the data  
5 requests was made. And once the data was received, I  
6 worked with the data that was received per the request.

7 Q. And the data request that was made was based on  
8 your choice to focus solely on FSP; isn't that correct?

9 A. Our discussion was to focus on FSP.

10 Q. And it is ultimately up to you to decide what  
11 scope of data you want to see in order to generate a  
12 supplemental report; isn't that correct?

13 A. That is correct.

14 Q. Why didn't you want to see data other than FSP  
15 funding for the districts and for charters?

16 A. I'm not sure that is -- that is correct. That is  
17 the data that we received through the public information  
18 request and I would have to go back and review the  
19 original request.

20 Q. Did you want -- okay, let me ask it this way.  
21 Are you telling me that you did want to see data other  
22 than purely FSP funding for both charters and districts,  
23 but for some reason you weren't able to obtain that  
24 data?

25 A. My answer to that is as part of our discussion we

1 talked about FSP revenues as far as what the structure  
2 was in terms of the M&O, and what the structure was in  
3 terms of I&S. And then I asked that Ms. Templeton go  
4 ahead and make that request.

5 Q. So when you have been talking about "our  
6 discussions," you have been referring solely to  
7 discussions between yourself and Ms. Templeton; is that  
8 correct?

9 A. That's correct.

10 Q. And you haven't yet explained to me why your  
11 discussions with Ms. Templeton focused solely on FSP  
12 when your original report looked at additional sources  
13 of funding beyond FSP? Why did you in your discussions  
14 with Ms. Templeton not discuss other sources of funding  
15 other than FSP?

16 A. Our focus was on FSP.

17 Q. Why did you only focus on that? You have told  
18 me, yes, that's what you focused on.

19 A. Yes.

20 Q. You have not yet told me why?

21 A. When the data arrived from Ms. Templeton, we sat  
22 and analyzed the data. We were focusing specifically on  
23 FSP and FSP M&O revenue, FSP I&S revenue. And as we  
24 talked about the various levels of analysis and we're  
25 constructing tables, that focus maintained itself. And

1 as the analyses continued and reports were due, we did  
2 not have the opportunity to continue that analysis. And  
3 in retrospect maybe we should have put more time into  
4 that portion of our -- of our report, but this time we  
5 did not.

6 MR. VINSON: I'm going to again object as  
7 non-responsive.

8 Q. Before you made any data requests, you were  
9 talking with Ms. Templeton about what data you were  
10 looking for; correct?

11 A. Right, correct.

12 Q. And in those discussions, the only subject and  
13 type of funding that you discussed with Ms. Templeton  
14 was FSP; is that correct?

15 A. That's correct. Wait, no, that is not correct.

16 Q. What other -- so in your discussions with Ms.  
17 Templeton you contemplated looking at data beyond FSP  
18 funding; is that correct?

19 A. I don't know what you mean by "beyond FSP  
20 funding."

21 Q. In what way was my previous statement not  
22 correct?

23 A. When you said "beyond FSP."

24 Q. Let me ask it again.

25 A. Oh.

1 Q. Every time I've asked you why you only focused on  
2 FSP you've told me that you only had discussions with  
3 Ms. Templeton that focused solely on FSP funding?

4 A. Correct.

5 Q. Why did you focus solely on FSP funding in your  
6 discussions with Ms. Templeton prior to making any data  
7 requests?

8 MR. SCHWARTZ: Eric, you have asked it five  
9 times. And I've sat here quietly, but if you keep on  
10 I'm just going to direct him to stop.

11 MR. VINSON: I wish you would direct him to  
12 answer the question.

13 MR. SCHWARTZ: He has.

14 MR. VINSON: He only told me he did it.

15 MR. SCHWARTZ: He's answered and he's  
16 answered.

17 MR. VINSON: You tell me what the answer is.

18 MR. SCHWARTZ: You are badgering and --

19 MR. VINSON: You tell me what the answer is,  
20 Leonard.

21 MR. SCHWARTZ: He gave you what answer he  
22 can give you.

23 Q. What is the answer to this question, I just want  
24 the answer?

25 A. Which question?

1 Q. Why you focused your discussions with Ms.  
2 Templeton solely on FSP funding and not other potential  
3 sources of funding?

4 A. I mean I'm not sure what you are looking for.  
5 The answer is as an analyst we discuss lots of issues  
6 and we have a variety of different approaches. The  
7 primary source of funding from the state is the FSP and  
8 it makes sense analytically to focus on FSP.

9 Q. Let me ask you this. Why in your original report  
10 did you look at other sources of funding beyond FSP?

11 A. I don't think that is a proper characterization.  
12 We looked, I believe, we examined total revenues, the  
13 FSP revenues and then non-FSP revenues, I believe.

14 Q. Why did you look at non-FSP revenues in your  
15 original report?

16 A. Well, we were examining a variety of issues. And  
17 in our first report we were examining a totality of the  
18 revenues that were re-sourced to both ISDs and charters.  
19 As the case continued, the focus became more and more  
20 apparent that FSP was the key issue.

21 Q. Why was FSP the key issue?

22 A. Because it is the state funding mechanism that's  
23 in question.

24 Q. Okay. And other potential sources of funding, in  
25 your opinion, are not relevant to any of the issues that

1 are before the Court; am I understanding correctly?

2 A. Well, I'm not sure what the all of the issues are  
3 before the Court, but if we are focusing primarily on  
4 the underlying structure of the state funding mechanism,  
5 how it proves to be efficient, how it proves to be  
6 adequate, how it proves to be efficacious, then focusing  
7 on the FSP is supremely important.

8 Q. Is that why you focused in your supplemental  
9 report solely on FSP?

10 A. I don't know if there was only one reason why,  
11 but --

12 Q. Is that the primary reason?

13 A. -- that was part of our conversation.

14 Q. What was the other part of your conversation?

15 A. We talked about a whole host of issues from  
16 methodological approaches to analytical strategies,  
17 various ways of political, analytical interpretation.  
18 It's not simply a one-issue answer that goes into any  
19 particular type of analysis.

20 Q. I understand that those are all things that  
21 impact the way that you do and generate a report or you  
22 look at a report, but not all of those things play into  
23 why you would focus solely on FSP and not other  
24 potential sources of funding.

25 A. Well, again, as the case has moved itself along,

1 it's -- it's apparent that FSP is the primary concern.  
2 It's also the primary concern of the folks who hired me  
3 to give expertise. And that is what we -- that is where  
4 we put our efforts.

5 Q. Okay. Have you tracked the time that you have  
6 spent working on this case so far?

7 A. I have.

8 Q. Have you sent invoices to either Mr. Schwartz or  
9 Mr. Schulman reflecting the time you spent in this case?

10 A. I sent emails and had conversations with the  
11 person responsible, yes.

12 Q. And who is the person responsible that you have  
13 been interfacing with?

14 A. It's my understanding that there is an agreement  
15 with Schulman, Lopez & Hoffer as well as TCSA to cover  
16 these expenses.

17 Q. Sure. And what is -- did you bring any copies of  
18 any of those emails or any of those invoices?

19 A. No.

20 Q. What is your understanding of the -- just your  
21 hourly rate, what are you charging for your services in  
22 this case?

23 A. This is complex. At the end of the Phase I of  
24 this trial, Wood Rolle & Associates donated 100 hours of  
25 research time to TCSA. In addition to those 100 hours

1 of donated time, my time here is \$1,000 for a travel day  
2 and \$2,500 per day for deposition prep and deposition.

3 Q. What about in the generation of your report and  
4 that -- let's focus on the supplemental report. It  
5 sounds like, if I'm understanding what you are telling  
6 me, that Wood Rolle, at the conclusion of Phase I of the  
7 trial, donated 100 hours of research time, and then when  
8 the evidence was reopened, you-all were essentially  
9 reengaged to come up with the supplemental report; is  
10 that correct?

11 A. That's correct.

12 Q. Or the engagement continued, however you want to  
13 look at it. What was -- what was your rate for the work  
14 in generating this supplemental report?

15 A. There was no rate. The generation of the report  
16 was a portion of the donated time.

17 Q. I see. And so -- and do you know roughly how  
18 many hours you spent working on the supplemental report?

19 A. As of Friday, prior to my arrival, I had worked  
20 60 hours.

21 Q. That's solely on the supplemental report?

22 A. Solely on the -- solely on all aspects of  
23 creating the supplemental report.

24 Q. I see. So you traveled -- did you travel  
25 yesterday, or when did you travel to Austin?

1 A. I arrived Sunday evening.

2 Q. And did you -- did you spend both Monday and  
3 Tuesday preparing for the deposition?

4 A. I did.

5 Q. What did you do to prepare for the deposition?

6 A. I met with clients and attorneys.

7 Q. Okay. Did you review any documents?

8 A. Yes.

9 Q. What documents did you review?

10 A. We reviewed various aspects of HB 5, various  
11 aspects of SB 2, and we had discussions of SB 1. We  
12 reviewed the original submission for our report. We  
13 reviewed our supplemental report. We reviewed  
14 additional research around the FSP. We discussed at  
15 counsel's direction various legal issues. That's all I  
16 can come up with at this moment.

17 Q. The legal issues that were discussed, did  
18 those -- did those relate to the opinions you are  
19 conveying in the case or are they -- well, let me just  
20 ask you that way: Are they related to the opinions in  
21 this case?

22 A. They're related to the case.

23 Q. Are they related to your opinions in this case?

24 A. The attorneys do not shape the opinions of the  
25 analysis.

1 Q. And obviously the analysis was performed before  
2 you had a meeting with any attorneys this week, so --

3 A. Correct.

4 Q. -- just as a chronological matter, there is no  
5 way they can do something yesterday to affect what was  
6 issued in October; is that correct?

7 A. Correct.

8 Q. Let me just do a few things I should have done at  
9 the beginning. You have had depositions before, but  
10 obviously if you need to take a break, let me know and  
11 we can accommodate that.

12 A. I would like to say since I am in a walking cast,  
13 I do need to get up and walk about every hour.

14 Q. An hour is kind of a standard break, so that is  
15 fine. If you feel something, you know, throbbing in  
16 your foot or your ankle, please speak up and we will  
17 take a break.

18 You have done a good job of this so far, but not  
19 only will you let me finish a question before you  
20 answer, but I will do my best to let you finish an  
21 answer before I ask another question. Does that sound  
22 fair?

23 A. Sure.

24 Q. And you've done a good job of this, but if you  
25 will let me know if you don't understand a question that

1 I'm asking you, I'll do my best to rephrase it, okay?

2 A. Oh. Yes, I'm sorry.

3 Q. What do you -- what is your job outside of  
4 litigation when you are working -- you're at the  
5 University of Florida; right?

6 A. University of South Florida.

7 Q. South Florida. Are you a teaching professor  
8 there?

9 A. I am the department chair for the educational  
10 leadership and policy studies unit, which prepares  
11 aspiring principals at the master's level as well as  
12 prepares future faculty and future central  
13 administration, legislative focus and agency workers at  
14 the doctorate level. That's my administrative role.

15 As a researcher, I am also a professor of K-12  
16 finance and economics, and beyond that, I do have copies  
17 of my updated resume.

18 Q. Good. I brought unupdated versions. Let me give  
19 that a sticker.

20 MR. SCHWARTZ: I only have the copy for  
21 admission, but I do have --

22 MR. VINSON: We can make copies of it.

23 MR. SCHWARTZ: Yeah, I was going to say,  
24 I've got one copy for you, this one, and -- but there's  
25 other -- someone on the phone. I forgot who. Melissa?

1 Marisa?

2 MS. BONO: Yes, I'm here.

3 MR. SCHWARTZ: I will -- we're giving an  
4 updated vitae. I will send it to you digitally after  
5 the deposition ends, if that is okay.

6 MS. BONO: Great, sounds good.

7 MR. VINSON: Is that Marisa Bono?

8 MS. BONO: Yes, hi.

9 MR. VINSON: Okay. Hi. I forgot to say hi  
10 earlier, sorry.

11 MS. BONO: No problem.

12 MR. VINSON: This is going to be 20268.  
13 (Exhibit 20268 marked.)

14 Q. And this isn't a quiz, so please feel free to  
15 refer to your CV as needed.

16 So do you teach -- do you teach classes at  
17 University of South Florida?

18 A. I do.

19 Q. Are they graduate, undergraduate, both?

20 A. They're all doctoral level courses.

21 Q. Doctoral level. How many courses a semester do  
22 you typically teach?

23 A. I teach one course in the summer because my  
24 administrative responsibilities are prevalent during an  
25 academic year, the regular academic year. During the



1 summertime, I usually teach the advanced education  
2 finance and economics course.

3 Q. And then during the school year, the traditional  
4 school year, you are not teaching; am I understanding  
5 that correctly?

6 A. I am not teaching any full-time classes. I do  
7 teach independent study courses that are related to  
8 education finance, economics or education policy as well  
9 as conduct research on school finance and economic  
10 issues.

11 Q. Okay. But that's not teaching, right, the last  
12 part, when you do research?

13 A. Depends on what you consider teaching. I also  
14 take the research that's generated and make  
15 presentations at national conferences, so in that vein,  
16 yes, I would consider that teaching as well.

17 Q. Right. But as a professor for University of  
18 South Florida for the students there, that's not part of  
19 what we might consider a traditional teaching role;  
20 right?

21 A. Which part of that?

22 Q. The research part.

23 A. No, it is, because in order to have strong Ph.D.  
24 students, they need strong mentors who are active in  
25 both research service and teaching.

1 Q. Okay then. Feel free to refer to your CV.

2 Amongst the publications that you authored or  
3 coauthored, which ones deal with school finance?

4 A. Virtually all of them.

5 Q. Virtually all. The third peer-reviewed article  
6 on Exhibit 20268, which is page 8 of your CV, you are  
7 the sole author of that article, the third peer-reviewed  
8 article, "What my mama told me: A Discussion on Why  
9 Education Policy Reform Cannot Exceed in Isolation of  
10 Increases in Student Effort"?

11 A. Yes.

12 Q. What is -- what is the focus of that article? If  
13 you were going to explain that to somebody at a cocktail  
14 party, how would you explain what that article was  
15 about?

16 A. That given certain constraints that regardless of  
17 the amount of student reform, that students also need to  
18 work hard to do well in school, and in the case of this  
19 preliminary piece that utilizes its simulated data, it  
20 was found that although students living in a  
21 predominantly wealthy district tend to have higher  
22 academic outcomes, students who were not in  
23 predominantly wealthy districts who were deemed to be  
24 engaged in schooling also had higher academic outcomes.

25 Now, that did not go on to say that even if

1 you're a poor kid in a poor district, that you will  
2 outscore a wealthy kid. What it said was if you are a  
3 wealthy school and you work hard, you will do even  
4 better, but if you're not in a wealthy district, if you  
5 work hard, you will do better academically than if you  
6 didn't try at all.

7 Q. How did you -- how did you isolate the role of  
8 student effort in this -- in this article that you  
9 wrote?

10 A. I constructed a simulation.

11 Q. How did you construct a simulation?

12 A. I would have to go back to the paper, but ideally  
13 I read articles on student engagement motivation,  
14 constructed a variable that measured various levels of  
15 those across districts, ended up with approximately -- I  
16 can't remember, 70 or 80 different weights for the  
17 variable, ran the multiple simulations and conducted the  
18 analysis.

19 Q. So you used empirical data and ran it through  
20 some type of simulation to determine what you had  
21 isolated as -- as motivated students versus less  
22 motivated students; is that a fair way to capture it?

23 A. No, no.

24 Q. No?

25 A. I actually had real data, empirical data from a

1 state, and I added the simulated data into the structure  
2 of the model.

3 Q. Let's turn back to your report, Exhibit 20267.  
4 It should be 20 pages.

5 MR. SCHWARTZ: Got it. It is. I just want  
6 to make sure when I took it out of my notebook, I got  
7 them all.

8 Q. All right. So let's talk in very big picture  
9 terms about your report and the means by which you  
10 generated it. First of all, besides yourself, who all  
11 had input on the concepts, the words, the data in  
12 Exhibit 20267 besides yourself?

13 A. As this was an extension of our Phase I work,  
14 Dr. Wood and I had discussions, of course.  
15 Ms. Templeton and I.

16 Q. You didn't have any grad students or anyone else  
17 working on this at all?

18 A. No. That would be a conflict of interest.

19 Q. And you had Ms. Templeton assemble data from the  
20 TEA's website so that you could prepare essentially  
21 this -- the slides that are in this, Exhibit 20267; is  
22 that correct?

23 A. No, that is not correct.

24 Q. Describe to me in your words Ms. Templeton's role  
25 in the generation of Document 20267 with regard to the

1 data-gathering process.

2 A. Ms. Templeton actually requested the data from  
3 TEA itself through a public information request. The  
4 data was then received by TEA. She and I had multiple  
5 conversations on methodological structure as well as  
6 analytical structures to extend the analysis based on  
7 the previous report as well as add some additional  
8 measures of dispersion in the -- in certain tables.

9 She then made the calculations based on the  
10 methodologies that I approved. She sent the materials  
11 back to me, I reviewed them, you know, made several  
12 versions to improve them, of course, and then based on  
13 those analyses, I constructed the narratives.

14 Q. Did you actually -- okay. So in -- by the word  
15 "narrative" you're referring in 20267 to literally the  
16 text, the words in the first -- words in a couple of  
17 slides, first couple of slides through page 6, and then  
18 towards the back there are some narrative pages as well  
19 starting on page 35 and continuing through page 40. Are  
20 those the -- the pages of narrative that your previous  
21 answer was referring to?

22 A. That -- that is correct. She and I passed these  
23 back and forth to be sure that the correct summation  
24 was -- was noted and I had the final approval on the  
25 narrative.

1 Q. As you're sitting here now, are you aware of any  
2 errors in calculation on any of these data points in  
3 Exhibit 20267?

4 A. I am not aware of any in my -- in my review.

5 Q. Not only from your review or any other source,  
6 are you aware of any errors in Document 20267?

7 A. No, I'm not aware.

8 Q. And so as a precursor to the actual generation of  
9 the data slides in 20267, Ms. Templeton first obtained  
10 from TEA data of all different types that were assembled  
11 in an Excel spreadsheet; is that correct?

12 A. Yes.

13 Q. And did you review the Excel spreadsheet as well  
14 at some point?

15 A. I did not review the Excel spreadsheet.

16 Q. Did she send you a copy of the Excel spreadsheet  
17 at some point?

18 A. I now have a copy of the Excel spreadsheet.

19 Q. When did she first send you a copy -- when did  
20 you first obtain a copy of the Excel spreadsheet?

21 A. I don't -- I don't recall.

22 Q. How could you -- well, was it before or after you  
23 generated this report 20267?

24 A. I believe it most likely was after receiving the  
25 first draft, I think I received the data somewhere in

1 Q. So who actually generated the slides -- let's,  
2 just as an example, start with page 6 on Table 1A. Did  
3 you actually generate this table or did Ms. Templeton  
4 generate this table?

5 A. The methodology, meaning the underlying  
6 structure, what you are supposed to do, how it's  
7 supposed to be laid out, I defined. She actually put  
8 the numbers in and I reviewed the numbers.

9 Q. Okay. So she basically wrote almost the  
10 entirety -- she did the bulk of the actual mechanical,  
11 you know, filling in the blanks, running the calculation  
12 for all the data components of Document 20267; is that  
13 correct?

14 A. I would say the initial calculations, yes.

15 Q. Did you -- did you do some subsequent calculation  
16 that she didn't do?

17 A. I had to review them, so I had to check her work.

18 Q. Did you check every data point in Exhibit 20267  
19 to ensure that they were accurate?

20 A. In the table or in the spreadsheets?

21 Q. In -- in 20267.

22 A. Yes. Yes, I reviewed all of these numbers.

23 Q. To ensure that they're accurate?

24 A. I did it to the best of my ability to ensure that  
25 they were accurate.

1 there. I would have to go back and check to make sure.

2 Q. And did you receive it via email from  
3 Ms. Templeton?

4 A. Yes.

5 Q. Do you still have that email?

6 A. Probably.

7 Q. So if I asked for a copy of that email so we  
8 could know for sure when you got the actual Excel  
9 spreadsheets that you were used to generate the data  
10 tables in 20267, you would be able to produce that?

11 A. If I have the email, yes.

12 MR. VINSON: Mr. Schwartz, I'm asking you  
13 now for a copy of that email, please.

14 MR. SCHWARTZ: Exactly the email -- what is  
15 it -- what would you call it, an email sending you the  
16 spreadsheet or --

17 THE WITNESS: Sending me the spreadsheet and  
18 report.

19 MR. SCHWARTZ: The first one?

20 THE WITNESS: Yes.

21 MR. SCHWARTZ: First.

22 MR. VINSON: The earliest.

23 MR. SCHWARTZ: Earliest.

24 Q. So it was Ms. Templeton's job, understanding it  
25 was at your direction, to assemble the data in the way

1 that you had defined so that those data could be  
2 encapsulated in these various slides in 20267, and then  
3 you would be the primary author on the narrative  
4 components of 20267. Is that -- is that a fair  
5 encapsulation of Ms. Templeton's role and your role in  
6 the generation of this expert report 20267?

7 A. Yes.

8 MR. VINSON: We're just under an hour, and  
9 we're probably at a decent natural break in where I want  
10 to go, so if you want to walk around a little bit,  
11 that's fine.

12 (Recess taken 9:57 to 10:08 a.m.)

13 (Exhibit 20266 marked.)

14 Q. Dr. Rolle, I'm going to show you a directory that  
15 has five Excel spreadsheets. It's -- I will go through  
16 them individually 2012 SOF with stats, 2013 SOF with  
17 stats, 2014 SOF with stats, EOC data file, and SAT ACT  
18 PERF. I will represent to you, sir, that these five  
19 Excel files have been burned on to the disk, which is in  
20 front of that you has been marked as Exhibit 20266. Are  
21 these the data files that Ms. Templeton generated and  
22 used in support of the supplemental report 20267?

23 A. These look like those files, yes.

24 Q. And I'll show you the individual files --

25 A. Okay.

1 Q. -- certainly, but those -- those -- I'll  
2 represent to you that these are files that were received  
3 from Mr. Schwartz's office. When we asked for the  
4 backup data, this is what was sent, so again,  
5 understanding you haven't yet seen the files themselves,  
6 do those appear to be the five files that Ms. Templeton  
7 used?

8 A. Yes.

9 Q. All right. Let's go through the individual  
10 files. We will start with the 2012 SOF with stats, and  
11 you tell me what you want to look at and I'll guide  
12 around. If you want to look at a different tab, if you  
13 want to go up or down on a screen, just let me know and  
14 I will -- I will guide the -- the spreadsheet  
15 appropriately.

16 But let's start with the title of this document,  
17 2012 SOF with stats. What is your understanding of what  
18 this spreadsheet with these tabs, one, two, three, four,  
19 five tabs, what do you understand that to be?

20 A. Can you slide to the top, please?

21 Q. I can. We're on the stats per WADA tab, or the  
22 stats per ADA. What are these data reflecting? What  
23 are they -- what do they signify?

24 A. These are the summary of finances that were  
25 requested by Ms. Templeton that reflect data for both

1 ISDs and charter schools.

2 Q. All right. And these -- the data files, if we go  
3 back just briefly to the titles, there are three files  
4 with roughly similar name structures, 2012, 2013, 2014  
5 SOF with stats. These data files, I believe, and you  
6 can correct me if I'm wrong -- if we need to look at it,  
7 we can -- solely have financial data for the districts  
8 and the charters. They don't have any performance data  
9 in terms of end-of-course exams or SATs or ACTs; is that  
10 correct?

11 A. Yes, that's my understanding.

12 Q. All right. So let's go back to the 2012 SOF, and  
13 let's start with the first tab. I want you to just to  
14 explain to me what these columns mean. I think some of  
15 them are relatively self-evident, and many of them sadly  
16 for me are not self-evident, so I will need your  
17 assistance in explaining what these are. We're on the  
18 tab FY 2012 DPE regular. Do you know what DPE regular  
19 refers to?

20 A. Can you go over to the Column A or B?

21 Q. I can.

22 A. I believe these would be the district estimates.

23 Q. What does that mean, the district estimates?

24 A. These are the data that TEA received directly  
25 from the district.

1 Q. Okay. So the data on -- on this tab, FY 2012 DPE  
2 regular, are data that are provided by the district to  
3 TEA; is that correct?

4 A. I believe so, but again, Ms. Templeton structured  
5 all of these data sets. I don't know them as intimately  
6 as she does.

7 Q. Sure. I didn't have these data when I deposed  
8 Ms. Templeton or otherwise I would have asked her.

9 A. Okay.

10 Q. I'm not doing this just to torture you, I can  
11 assure you. All right. Let's go through these column  
12 titles, and as best you can, if you don't know the  
13 answer, let me know that, but as best you can, let's go  
14 through what these column titles mean in column A,  
15 county district number. I assume that's a number that's  
16 an issue just to identify a district by TEA; is that  
17 correct?

18 A. That's my understanding.

19 Q. The district name, of course, is obvious. The  
20 column C is refined average daily attendance. What is  
21 the difference between refined average daily attendance  
22 and simply average daily attendance, if any?

23 A. I don't know.

24 Q. Okay. Column -- oh, we're missing columns. I  
25 didn't even notice that. Let's see what this does. Oh,

1 yeah. Okay. What I just caught, Dr. Rolle, is that the  
2 columns shown on the initial pull-up of this file, some  
3 of them are actually hidden; is that correct?

4 A. Yes.

5 Q. And you can tell that because you go from column  
6 C to column I or T -- that's I -- meaning that D through  
7 H are hidden; is that correct?

8 A. Yes.

9 Q. They're still revealed -- they're still in there.  
10 You just unhide them, but in this version, they have  
11 been hidden.

12 So in any event, let's move forward. Weighted  
13 ADA, I think we all understand what weighted ADA means.  
14 That's WADA. That's column I. The next -- the next  
15 visible column is column U. It's labeled 2011-2012  
16 school year M&O tax collections. What do you understand  
17 that column to represent?

18 A. Tax -- taxes generated from the maintenance and  
19 operations tax structure.

20 Q. And that would be the total amount across the  
21 entire district; is that correct?

22 A. When you say "that," what are you referring to?

23 Q. This column shows the --

24 A. Oh, I'm sorry, go ahead and finish.

25 Q. Yes. This -- this column -- the number in these

1 columns represents the entire amount of M&O tax  
2 collections for the respective district; is that  
3 correct?

4 A. I believe so.

5 Q. Column V, the next column shows I&S tax  
6 collections for the various districts. Can you describe  
7 that for me, please?

8 A. This is the interest and sinking fund, tax  
9 collections usually associated with facilities, at least  
10 in the rents and things like that.

11 Q. All right. And column W shows the total tax  
12 collections, which appears to be a summation of column U  
13 and column V for each of the various districts; is that  
14 correct?

15 A. Yes, that appears to be correct.

16 Q. All right. The next column that is listed is  
17 column AN. It's described as total cost of tier 1.  
18 Could you describe what that means? What does the total  
19 cost of tier 1 represent?

20 A. Without drawing on my knowledge of FSP, I don't  
21 know all of the specific aspects of the cost of tier 1  
22 without going back and referring to some specific  
23 materials.

24 Q. As a concept though, could you describe for me  
25 what we're driving at when we refer to the total cost of

1 tier 1?

2 A. Again, generally the Texas FSP is structured in  
3 several layers. Tier 1 typically begins with a base  
4 allotment and various weights are added for  
5 policy-driven student and community characteristics.  
6 Once those weights are applied as an adjustment, you get  
7 a total cost value in tier 1.

8 Q. The next column is AO, less local fund  
9 assignment. Do you know what that refers to?

10 A. Again, generally the local fund assignment is the  
11 amount generated through local taxation after it passes  
12 through FSP and multiple adjustments are made, and that  
13 is the portion that districts can contribute through  
14 FSP.

15 Q. What was the last part about districts, can what?

16 A. That's the portion they contribute.

17 Q. Okay. The next column is AP. It's described as  
18 per capita distribution from available. Do you know  
19 what that is a reference to?

20 A. I do not.

21 Q. We would have to ask Ms. Templeton to know the  
22 answer to that?

23 A. Yes, sir.

24 Q. The next column AQ is -- appears to be an empty  
25 column. The next column AR is described as tier 2. Can

1 you describe for me in concept what tier 2 refers to?

2 A. Again, generally tier 2 is the portion of FSP  
3 that allows for revenue and revenue equalization  
4 efforts, generally speaking.

5 Q. Sure. The next column AS is listed as other  
6 programs. Do you know what that's a reference to?

7 A. No, sir.

8 Q. The next column AT, state's share of tier 1, and  
9 then two small Xs, do you know what that is a reference  
10 to?

11 A. I do not.

12 Q. The next column AU is titled, total FSP  
13 operations funding. What do you understand that to be a  
14 reference to?

15 A. Again, this is -- this is me giving my -- my best  
16 estimate. Total FSP operations are the dollars that are  
17 generated through FSP for operations.

18 Q. Next line, AV is described as 199/5812,  
19 foundation school fund. Do you know what that's a  
20 reference to?

21 A. No, sir.

22 Q. Next line is 199/5811, available school fund. Do  
23 you know what that is?

24 A. No, sir.

25 Q. Next line is 599/5829-EDA. Do you know what

1 that's a reference to?

2 A. No.

3 Q. The next line -- the next two lines, AY and AZ  
4 have slightly similar, but slightly different  
5 designations. Do you know what either AY or AZ is a  
6 reference to?

7 A. The instructional facility allotment is a program  
8 by the state to assist schools in building instructional  
9 facilities.

10 Q. Okay. So is it fair to say you don't know what  
11 the AY 599/5829 instructional facilities allotment bond  
12 is a reference to?

13 A. I just answered that.

14 Q. I'm sorry, I thought you were explaining -- okay,  
15 these are both -- all right, never mind. Okay. So do  
16 you know the difference between AY and AZ? They both  
17 refer to instructional facilities allotment?

18 A. One is to help support the bond payment, and the  
19 other is help to support lease purchases.

20 Q. Okay. Do you know whether these are available --  
21 these are presumably only available to ISDs; is that  
22 correct?

23 A. That is my understanding and -- sorry, that's it.

24 Q. Did you say that's it?

25 A. Uh-huh.

1 Q. Line BA -- excuse me, column BA is titled total  
2 FSP/ASF state aid. Do you know what that's a reference  
3 to?

4 A. No.

5 Q. Line BB, state aid reduction for WADA sold, do  
6 you know what that's a reference to?

7 A. No.

8 Q. Total recapture, column BC, do you know what  
9 that's a reference to?

10 A. FSP has a function called recapture that allows  
11 districts that are wealthy to share their revenues to  
12 districts that are not considered as wealthy in order to  
13 help bolster the equalization efforts through FSP.

14 Q. And that -- that's presumably reflected for each  
15 district that was subject to recapture in Column BC  
16 here; is that correct?

17 A. Yes.

18 Q. Column PT is entitled M&O state aid. Do you know  
19 that's a reference to?

20 A. State aid received from FSP.

21 Q. Column BG is M&O local account info or recapture.  
22 Do you know what that's a reference to?

23 A. No.

24 Q. Line BJ is described as I&S tax collections. Do  
25 you know what that's a reference to?

1 A. No.

2 Q. Line BM -- excuse me, Column BM is I&S state aid.  
3 Do you know what that's a reference to?

4 A. No.

5 Q. Line BP, LDF total revenue, do you know what  
6 that's a reference to?

7 A. That is a reference to Dr. Lisa Dawn-Fisher's  
8 calculation of total revenue.

9 Q. Okay. Line -- column BS is total M&O revenue.  
10 Do you know what that's a reference to?

11 A. All revenue generated through the M&O mechanism.

12 Q. Column BV is total I&S revenue. Do you know what  
13 that's a reference to?

14 A. All revenues generated through the I&S structure.

15 Q. Column BY, total state aid. Do you know what  
16 that's a reference to?

17 A. No.

18 Q. Column CB, column CB, total local revenue, do you  
19 know what that's a reference to?

20 A. Revenue generated locally through FSP mechanism.

21 Q. All right. And I actually think I know what this  
22 is. CE is described as charter, the heading is charter,  
23 and I believe, confirm with me, if you will, what this  
24 is a reference to is asking whether the district  
25 analyzing a particular row is or is not a charter. I'm

1 going to scroll down here. I think we will find some  
2 yeses as we go. Is that what that appears to be?

3 A. Yes.

4 Q. Let me go back and we see that these are -- these  
5 are charters. Okay. I think that is mercifully all the  
6 columns.

7 Now, at the bottom, let me just make sure we have  
8 gone through all the titled columns. Yes, okay. So at  
9 the bottom of this table starting at Line 1233, we have  
10 some calculations here, and I think we can actually put  
11 it on -- the whole thing on one screen. Do you know  
12 what these line headings refer to, and I'll go through  
13 them individually, 1233 intermittently to line 1249. Do  
14 you know what, for example, line 1233, LDF charter  
15 average per ADA is a reference to?

16 A. I would need to see the cell, thank you. These  
17 are references to how Dr. Lisa Dawn-Fisher calculated  
18 averages for charters and ISD -- and ISDs for both ADA  
19 and WADA.

20 Q. Okay. And by "these," you are referring to the  
21 collective group here, these first four lines from 1233  
22 to 1236; is that correct?

23 A. Yes.

24 Q. All right. And, for example, on M&O state aid,  
25 she's calculated a charter average of M&O state aid.

1 This is in the 2000, I guess '11-'12 school year of  
 2 \$77,034.42; is that correct?  
 3 A. That's correct, yes.  
 4 Q. And then the ISD average per ADA is shown as  
 5 3,655 -- that is \$3,655.84; is that correct?  
 6 A. Yes.  
 7 Q. And then the same calculations in comparisons can  
 8 be made on a per WADA basis; is that correct?  
 9 A. Yes.  
 10 Q. Okay. The next two lines are described as on an  
 11 ADA and WADA basis, LDF per ADA gap (ISD minus charter),  
 12 and then what we see here is this is just a calculation,  
 13 at least let's start with line 1238 on an ADA basis  
 14 comparing charter average per ADA versus ISD average per  
 15 ADA per M&O funding; is that correct?  
 16 A. Yes.  
 17 Q. And the same calculation is made for the WADA  
 18 differences in line 1239; is that correct?  
 19 A. Yes.  
 20 Q. And I know it's relatively obvious, but when you  
 21 highlight the cell, for example, 1239 -- line 1239,  
 22 column BE, it shows in this indicator bar, formula bar  
 23 what the calculation is that's being performed in that  
 24 particular cell, and here we just see one cell  
 25 subtracted from the other; right?

1 A. Yes.  
 2 Q. All right. The next four lines represent a  
 3 different calculation of comparisons of charters versus  
 4 ISD averages first on a per ADA basis and then on a per  
 5 WADA basis without reference to Lisa Dawn-Fisher. Do  
 6 you know what the difference is in the calculations  
 7 starting on Line 1241 to 1244 are relative to the  
 8 calculations that were made on 1233 to 1236?  
 9 A. Yes.  
 10 Q. What -- what are the differences?  
 11 A. The methodology employed by Lisa Dawn-Fisher  
 12 conducts an average using one particular methodology,  
 13 and the charter average conducts calculations on  
 14 averages based on the differentiated methodology.  
 15 Q. Was it your choice to conduct a different -- or  
 16 to use a different methodology to calculate these  
 17 averages differently than -- than Lisa Dawn-Fisher had  
 18 calculated them?  
 19 A. Yes, I chose to use a method that was different  
 20 from Dr. Dawn-Fisher's.  
 21 Q. Okay. And I want to get into that, but I want to  
 22 kind of identify -- we'll get done making this sausage  
 23 and then I want to talk about those methodology  
 24 differences.  
 25 Okay. So the last line, I guess -- no, I'm

1 sorry, false. There is more information here. Line  
 2 1246 and 1247 compare the difference in gaps depending  
 3 on the methodology that is used; is that correct?  
 4 A. I'm sorry, can you say that again, please.  
 5 Q. Well, no, that's not right, sorry. Let me strike  
 6 that and start over. I completely got it wrong, so let  
 7 me try it again.  
 8 Line 1246 represents the calculated ADA gap  
 9 between ISDs and charters using the charter method as  
 10 opposed to the Lisa Dawn-Fisher method; is that correct?  
 11 A. I will say as long as we don't designate this as  
 12 the charter method, then yes. I would say the method is  
 13 utilized by the charter schools, just to be clear.  
 14 Q. Okay. I'm not going to quarrel with you about  
 15 that. That's fine. You are not comfortable referring  
 16 to it as the charter method?  
 17 MS. BONO: I'm sorry to interrupt.  
 18 Something is happening with the volume. It got a little  
 19 lower.  
 20 MR. VINSON: Can you hear me or --  
 21 MS. BONO: Yes, I can hear you now. It  
 22 sounds great. Thanks.  
 23 Q. All right. So, Dr. Rolle, you are not  
 24 comfortable referring to your method for calculating  
 25 these averages as a charter method?

1 A. No, sir.  
 2 Q. Okay. How would you like it to be referred to so  
 3 we can just talk about it and not have to quarrel about  
 4 it?  
 5 A. It's the method utilized by the charter schools.  
 6 Q. The method utilized by the charter schools. I'll  
 7 do my best. So back to line 1246, line 1246 shows the  
 8 per ADA gap using the method used by the charter  
 9 schools; is that correct?  
 10 A. Yes.  
 11 Q. And -- on an ADA basis, and then line 1247  
 12 employs that same method for the WADA comparison that  
 13 was -- that was made immediately above; is that correct?  
 14 A. I'm sorry, what line that was again?  
 15 Q. Line 1247.  
 16 A. Oh, yes, sir.  
 17 Q. Okay. The next two comparisons are lines 1250  
 18 and 1251 where similar sized charter per ADA  
 19 calculations are being made. Can you explain what  
 20 comparison is being done here?  
 21 A. Referencing the comparison of charters to ISDs?  
 22 Q. Well, there's this moniker then, the words  
 23 "similar sized charter" are being used per ADA, similar  
 24 sized ISD per ADA, and I'm wondering what that's a  
 25 reference to, what are we trying to capture here?

1 A. We wanted to make sure that we were making  
2 apples-to-apples comparisons in terms of school size,  
3 because some ISDs are magnificently large compared to  
4 the charter schools. So we did not want to encounter  
5 any anomalies based on an economy of scale, so we wanted  
6 to assure that as far as school size was concerned, we  
7 were also comparing not just the entirety of ISDs, but  
8 the entirety of charters, but also ISDs of similar size  
9 with charters of similar size.

10 Q. And which -- which averaging methodology did you  
11 employ, the one employed by the charter schools or the  
12 one employed by Lisa Dawn-Fisher?

13 A. This method was utilized -- the methodology  
14 employed by the charter schools.

15 Q. All right. And those calculations show here that  
16 M&O state aid on a per ADA basis utilizing the method --  
17 the averaging method used by the charter shows that  
18 there is what, a 3,000 -- \$3,300, a little less than  
19 \$3,300 difference between the two; is that correct?

20 A. That would be correct, but I don't see that  
21 calculation.

22 MR. SCHWARTZ: Yeah, I was just saying,  
23 where are you looking, Eric?

24 MR. VINSON: I'm using my brain. We can do  
25 it here.

1 ADA basis of about -- a little less than \$3,300 and on a  
2 per WADA basis, a little more than 2,150; is that -- is  
3 that correct?

4 A. Yes.

5 Q. And again, that is utilizing the averaging method  
6 utilized by the charters; is that correct?

7 A. Yes.

8 Q. I think that covers this tab. The next tab on  
9 the 2012 SOF with stats sheet is described as removed  
10 columns. Do you know what that's a reference to?

11 A. No.

12 Q. There appear to be roughly -- let's see if we  
13 start on -- it starts on line 2, and it continues down  
14 to line 1065. That means there are roughly 1,064 lines  
15 of data that were removed presumably from something; is  
16 that -- is that a fair assessment?

17 A. I don't know.

18 Q. We would have to ask Ms. Templeton that?

19 A. Yes, sir.

20 Q. Next line is removed schools, and I want you to  
21 look at these schools -- sorry, not the next line. It's  
22 the next tab described as remove schools. It goes from  
23 column A through -- looks like it's the same host of  
24 columns that were -- we looked at previously, just with  
25 none of them hidden. Is there anything about these

1 MR. SCHWARTZ: I thought you were pointing  
2 to some calculation.

3 MR. VINSON: No, I'm just looking at --

4 MR. SCHWARTZ: Yeah, okay. That's fine.

5 THE WITNESS: Do I say yes?

6 MR. SCHWARTZ: I can't tell you how to  
7 answer.

8 A. Should I respond or should you ask the question  
9 again? That's what I'm asking my attorney.

10 Q. Just so we're clear, it was about a \$2,700 gap;  
11 is that correct or --

12 A. About 3,300.

13 Q. 3,300, like I said.

14 A. Yes, sir. The first answer is always the best  
15 answer.

16 Q. Yes, indeed. In fact, you did do the  
17 calculation.

18 MR. SCHWARTZ: Yes.

19 Q. Perfect.

20 MR. SCHWARTZ: Lines 1256 and 1257.

21 Q. 1256 and 1257 display what I was trying to do in  
22 my head, not very well, showing the gap, and because  
23 it's negative in column BD, what that means is it  
24 actually on -- for this isolated variable, which is M&O  
25 state aid, charters exceeded similar-sized ISDs on an

1 schools that would suggest to you that they -- that they  
2 be removed from the analysis?

3 A. Again, Ms. Templeton has structured her data  
4 sheet, which suits her -- her needs analytically. I was  
5 not necessarily concerned with the removed columns or  
6 removed schools as long as the analysis was consistent,  
7 so I'm not sure. I would have to take a guess, which  
8 I'm not comfortable doing.

9 Q. You didn't -- you didn't have any conversations  
10 with Ms. Templeton about data being removed from  
11 the -- the set provided by TEA to her in response to the  
12 request that she made?

13 A. We had conversations about the inclusion and  
14 exclusion of data, but this data would not necessarily  
15 be excluded from the entirety of analysis.

16 Q. Do you know to what extent it was excluded or  
17 wasn't excluded?

18 A. We have one set of analysis in tables marked 12  
19 that have an analysis of -- excuse me, tables 11 and 12,  
20 one which analyzes all charter schools in table 11, and  
21 in table 12 we have removed alternative educational  
22 settings to analyze standard accountability charter  
23 schools with regular ISDs as well in order to show a  
24 complete picture.

25 Q. And so it sounds like this tab-removed school

1 represents the alternative education schools that were  
2 removed both from the ISD and charter side of the  
3 equation so you could analyze standard accountability  
4 school environments on the ISD and charter side; is that  
5 accurate?

6 A. That would be a reasonable assumption, given that  
7 there is no assertion that this is removed from the --  
8 necessarily the entirety of all of the analyses.

9 Q. It looks like there are 35 schools on this list?

10 A. Correct. And if you remove those 35 from the  
11 1,065, you will have roughly 1,030, which is what we use  
12 in our analysis.

13 Q. All right. The next tab is described as stats  
14 per ADA, and it has columns B through X. Again, some of  
15 these are things we have already covered. Column A is  
16 just the county district number. We described that.  
17 Column B is the district name. Column C and D are --  
18 again, we've already seen. Column E is -- it has a  
19 purple highlighting. It is described as LDF total  
20 revenue, and is that the Lisa Dawn-Fisher calculated  
21 number of total revenue for the respective districts  
22 that are being analyzed?

23 A. I would need to see the cell underneath to answer  
24 that question.

25 Q. I don't think there is any -- it's just the

1 number here.

2 A. That would be just the number. That's a  
3 reasonable assumption.

4 Q. And then the next column F, LDF total per ADA is  
5 the calculated number per ADA that Lisa Dawn-Fisher is  
6 calculating; is that correct?

7 A. I would have to see a cell in column F.

8 Q. Sure. I'll show you that. Again, there is no --

9 A. At this point, I will say I'm not sure.

10 Q. Well, let's do this. Let's cross-reference a  
11 couple of these to see if they match up with the  
12 previous data. We have county 133905. Let's see if  
13 that is the one first on the other page here. Devine  
14 ISD, 133905, okay. So we don't really have a  
15 calculation here, do we, of Lisa Dawn-Fisher's district  
16 level calculation, do we? Right?

17 A. I'm sorry, is that a question to me?

18 Q. Yes.

19 A. In this particular sheet, I am unsure, but I know  
20 we have the calculation in other sheets.

21 Q. Where would I go to see that?

22 A. We were at first looking at the stats per ADA  
23 sheet, but as we were talking about the various  
24 groupings, we just reviewed some of those statistics on  
25 a previous sheet.

1 Q. Yeah, but those were on a system-wide basis,  
2 right, the -- I'll bring back to where we were.

3 A. I'm sorry, you are correct.

4 Q. These were system-wide totals, you know, across  
5 ISDs and charters that Lisa Dawn-Fisher had calculated,  
6 but we don't actually have any way to figure out how  
7 Ms. Templeton arrived at that number, do we? That is  
8 the number that is shown on line 2, column E in the  
9 stats per ADA cell there, in fact, for the entirety of  
10 column E?

11 A. I'm not sure -- I'm not sure your question  
12 applies to column E.

13 Q. I'm intending my question to apply to column E.

14 A. Oh, I'm sorry. Then can you repeat it?

15 Q. We don't know how Ms. Templeton -- where she got  
16 this number or any of the numbers in column E because  
17 that's not a number that you would get straight from  
18 ADA -- excuse me, straight from TEA; right?

19 A. This is a number of the LDF total revenue that  
20 was expressed on the first tab in the previous sheet.

21 Q. First tab --

22 A. Right there, BP.

23 Q. B what?

24 A. BP, P like Paul.

25 Q. Okay. Oh, okay. Yes. So we do have that, we

1 do. My apologies. So 133905, counting 133905 is  
2 424862, and if we then transfer over to stats per ADA,  
3 we get the same number. Okay. Now we figured it out.  
4 Excellent, thank you.

5 A. You are welcome.

6 Q. So if we continue, LDF total per ADA, that  
7 presumably is, again, from the DPE regular tab, or WF  
8 total per WADA -- ah, okay. So we can see -- let's go  
9 back. The LDF total per WADA, column C on the stats per  
10 WADA tab on the same 2012 spreadsheet we've been looking  
11 at is actually from -- derived from column BR on the tab  
12 entitled DPE regular; is that correct?

13 A. Yes.

14 Q. Column G just, again, is an indicator for  
15 purposes of data tabulation whether or not the district  
16 looked at is or is not a charter; is that correct?

17 A. Yes.

18 Q. Now, what is this column H, all?

19 A. I don't know.

20 Q. Do you know what that's a reference to?

21 A. No, sir.

22 Q. Column I is described as LDF total per ADA. Do  
23 you know what that's a reference to?

24 A. No.

25 Q. Do you know why it would differ from the



1 calculation in line F that's also described as LDF total  
2 per ADA?

3 A. No.

4 Q. The next column -- they differ a lot; right? I'm  
5 sorry, column I, which is described as LDF total per ADA  
6 is showing as \$42,537 and change, whereas in column F,  
7 it's showing as \$29,294.77; right?

8 A. Yes, what you are describing is accurate.

9 Q. Yeah. That's a \$13,000 plus gap; right?

10 A. Sure.

11 Q. You are not able to explain why two columns with  
12 the same heading have -- have such a disparity in the  
13 actual reported number?

14 A. Can I ask my attorney a question?

15 Q. Well, you can tell me you don't know, and then we  
16 can take a break.

17 A. Right. Yeah, I don't know.

18 MR. VINSON: Okay. Let's take a break.

19 (Off the record.)

20 Q. I just asked you whether you were able to explain  
21 why in a spreadsheet prepared by Toni Templeton for the  
22 purpose of generating your report, two columns with the  
23 same title, LDF per ADA have such a difference, are you  
24 able to explain that to me, now that you have had a  
25 chance to speak with Mr. Schwartz?

1 is the percent, and what we're doing here or what  
2 Ms. Templeton appears to have calculated is a per centile  
3 for the district that is being analyzed, rounded roughly  
4 to the tenth of a percent, so that is the highest per --  
5 total per ADA column value as reflected in column I is  
6 assigned the 100th percentile and then, of course,  
7 necessarily we descend down across the schools by their  
8 per ADA funding in column I down to the very last  
9 percentile on line 1231 at 0 percent; is that correct?

10 A. I'm not sure of the methodologies she's employing  
11 at this point, so I would say I don't know.

12 Q. You don't know, okay. You didn't talk to her  
13 about that column?

14 A. I talked to her about what statistics to  
15 calculate. I did not discuss how she was to go about  
16 it.

17 Q. So if she did it right or wrong, you have no idea  
18 because you didn't go back and test the accuracy of any  
19 of the calculations she made in this little table in  
20 column L, M, and N; right?

21 A. That's a mischaracterization. I would not test  
22 the accuracy of her numbers within her spreadsheet. I  
23 would test the results that she presents to me.

24 Q. How could you do that if you didn't look at the  
25 methodology that she employed to come up with these

1 A. I don't know.

2 Q. Okay. The next column, I think -- I think we can  
3 figure out pretty easily. It's described as -- this is  
4 column J. It's described as rank; is that correct?

5 A. Yes.

6 Q. And what it appears to be is a literal ranking of  
7 the calculated number in column I, total per -- LDF  
8 total per ADA from one all the way down to 1230; is that  
9 correct?

10 A. Yes.

11 Q. Some of these numbers at the bottom of the page  
12 appear to be negative -- sorry, the bottom of column I,  
13 the last three numbers are negative numbers. Are you  
14 able to explain how it's possible that any district,  
15 charter or an ISD, is capable of having a per ADA value  
16 of less than zero?

17 A. No.

18 Q. That's not possible, is it?

19 A. No.

20 Q. And when we look at column F, which again,  
21 describes some other version of LDF total per ADA that's  
22 not the same as the LDF total per ADA in column I, all  
23 of those numbers appear to be positive numbers; right?

24 A. Yes.

25 Q. Continuing on to the next column after column J

1 numbers? I mean, by the time it makes it into your  
2 report, it's a reported number.

3 A. That's correct, but I've been doing school  
4 finance research since 1993, and I have a variety of  
5 experiences and abilities that allow me to examine other  
6 folks' work. The type of data that was analyzed here is  
7 a continuation of the methodology we employed in Phase I  
8 of the project. So now that we know that the trends  
9 discovered in Phase I are fairly consistent, any grave  
10 errors would have been noted in her presentation of the  
11 tables.

12 Q. Okay.

13 A. So the underlying methodology employed in this  
14 case where your cursor is now at L4, calculating the  
15 mean, I have every confidence that Ms. Templeton can  
16 calculate a mean or any of the other statistics that I  
17 asked her to calculate.

18 Q. Sure. But if the data that she uses to calculate  
19 that means are not accurate data, they're the wrong data  
20 set, and even though the calculated mean may reflect the  
21 data analyzed, it may not mean -- it may not generate  
22 the accurate result if the underlying data are not  
23 reflective of what is intended to be analyzed; isn't  
24 that correct?

25 MR. SCHWARTZ: Object to form.

1 A. I'm not sure I understood your question.  
 2 Q. Okay. Your point is that you trust Ms. Templeton  
 3 to be able to calculate a mean of any data set; right?  
 4 A. That's correct.  
 5 Q. And I had a similar confidence in her ability.  
 6 A. Yes.  
 7 Q. My question is, if she is calculating a mean of a  
 8 data set that is an inaccurate data set in terms of what  
 9 the actual funding per district per ADA is, then it  
 10 won't matter that her numerical calculation is correct  
 11 if the inputs aren't accurate -- aren't reflective of  
 12 what you are trying to ultimately analyze; isn't that  
 13 correct?  
 14 A. I'm sorry, there are a lot of ifs in -- in there.  
 15 Can you try once more, please?  
 16 Q. Sure. Let's assume for a moment that the -- I  
 17 mean, let's break it down this way.  
 18 A. Okay.  
 19 Q. The mean that's described in D -- excuse me, M4  
 20 for variable 1, we actually don't even know where that  
 21 came from, do we?  
 22 A. No.  
 23 Q. Because the number is just described as a number,  
 24 not as a calculation; right?  
 25 A. Correct.

1 Q. So if Ms. Templeton used Excel to generate  
 2 that -- that number for whatever reason, it's no longer  
 3 associated with that cell; right?  
 4 A. I would assume so.  
 5 Q. Yes. And I mean, there is no other conclusion  
 6 that can be drawn; right? It's not there. The  
 7 calculation itself is not there?  
 8 A. Yes, sir, the calculation is not shown.  
 9 Q. And same for the variance as well; isn't that  
 10 correct?  
 11 A. Yes.  
 12 Q. Okay. So the actual method of determining that  
 13 number is not described; right?  
 14 A. It is not described in the cell, yes.  
 15 Q. And the number of observations of variable 1 and  
 16 variable 2 and how those numbers were derived are  
 17 similarly not described in this spreadsheet, are they?  
 18 A. I am not sure of that.  
 19 Q. They're not -- they're certainly not in cells M6  
 20 and N6, are they?  
 21 A. The number of observations?  
 22 Q. The means by which the number of observations was  
 23 determined is not reflected in column M, line 6 or  
 24 column N, line 6 for the two variables analyzed; isn't  
 25 that correct?

1 A. You mean, how -- I'm sorry, I don't understand  
 2 the question. And it may be because I'm looking at this  
 3 very analytically.  
 4 Q. I'm not saying this is an inaccurate number. I'm  
 5 simply saying that however -- let's start with M6.  
 6 However, M6 the number 1,032 was derived; it's not --  
 7 you wouldn't know how it was derived by looking at cell  
 8 M6; right?  
 9 A. Yes, I can agree with that.  
 10 Q. Now, hypothesized mean difference, that is, line  
 11 7, that's -- that's actually a number that you introduce  
 12 into the equation as zero, right, because you're  
 13 hypothesizing that the difference -- that there is no  
 14 difference, and you're testing that with the subsequent  
 15 calculations; isn't that correct?  
 16 A. I don't see that --  
 17 Q. Okay.  
 18 A. -- there.  
 19 Q. Describe to me what hypothesized mean difference  
 20 is.  
 21 A. A hypothesized mean difference generally?  
 22 Q. Yeah. What -- what is that referred to as a  
 23 concept?  
 24 A. As a concept, there are two subgroups that exist,  
 25 and you are -- you, being the analyst, is attempting to

1 determine if means within each sample are similar or  
 2 different.  
 3 Q. And --  
 4 A. And the hypothesis you begin with as an analyst  
 5 is that the two means are equal, which translates into a  
 6 hypothesized mean difference is zero.  
 7 Q. So that's not a calculated number. That is the  
 8 hypothesis against which these numbers are being  
 9 analyzed; is that correct?  
 10 A. It appears to be so.  
 11 Q. Do you know the answer to that question or not?  
 12 A. I would have to talk to Ms. Templeton  
 13 specifically, but it appears to be so.  
 14 Q. What does DF refer to? What -- statistically,  
 15 what does that mean?  
 16 A. Those are degrees of freedom.  
 17 Q. So this number M8 is a calculated number, 572; is  
 18 that correct?  
 19 A. Yes, it's a number that is calculated, typically  
 20 when you are conducting a mean difference test.  
 21 Q. And however it was calculated, it's not reflected  
 22 in column M8, is it?  
 23 A. That's correct.  
 24 Q. The next line, M9, is T stat. What does T stat  
 25 refer to?

1 A. Generally a T statistic refers to a number that's  
2 calculated and measured against a student's T  
3 distribution to determine if two means are the same or  
4 different probabilistically.

5 Q. So is that the calculated number?

6 A. It's a number that is calculated, yes.

7 Q. And however it was calculated, it's not reflected  
8 on M9 in this spreadsheet, is it?

9 A. No, sir.

10 Q. The next line, line 10 is P, parens, large T,  
11 less than or equal to, small T, closed parens, one tail,  
12 and that comes out to an infinitesimally small number,  
13 2.359 times 10 to the negative 25th; is that correct?

14 A. Yes, sir.

15 Q. And however that number was calculated is not  
16 reflected in the cell M10; is it?

17 A. No, that probability is not shown to be  
18 calculated.

19 Q. What does that -- what does that probability  
20 refer to?

21 A. That probability refers to the percentage of data  
22 on either the left side or the right side, depending on  
23 the direction of the test, that is available for  
24 description of distribution, was used to determine  
25 statistical significance between values.

1 describing.

2 A. The T critical in a one-tailed test or a  
3 one-tailed means difference test is the point by which  
4 95 percent of your distribution is below what is called  
5 its critical value. The industry standard allows for a  
6 5 percent alpha to allow for folks to say whether that  
7 means are the same or means are different. Once your  
8 calculated T is greater than your -- your critical T,  
9 you begin to say that the difference you see between  
10 the two sample means are statistically different.

11 Q. So we're testing statistical difference between  
12 two data sets?

13 A. Between the means of two data sets.

14 Q. Means of two data sets. And if the number is  
15 positive, then -- then this indicator would suggest that  
16 they are statistically different. Do I have that  
17 correctly?

18 A. No.

19 Q. Okay. What -- what calculated number do I have  
20 to see in order to know that -- that the two numbers are  
21 statistically different at a 95 percent confidence?

22 A. For the one-tailed test or the two-tailed test?

23 Q. For the one-tailed test.

24 A. You will be looking at the T stat in L9 and M9  
25 and comparing it to T critical one tail or T critical

1 Q. All right. The next line, line 11, column L,  
2 little T, critical one tail, what does that concept  
3 refer to?

4 A. The critical T in statics for a one-tail test at  
5 1.65 refers to a 95 percent level of confidence, where  
6 if your probabilistic T is beyond -- excuse me, where  
7 your calculated T is beyond that value, then you are  
8 assumed that the two means are not the same.

9 Q. So that is a calculated number?

10 A. That is a calculated number.

11 Q. If I click on the column here, you can see that  
12 however it was calculated is not reflected in -- in the  
13 cell M11; right?

14 A. Correct.

15 Q. Now, help me understand a little bit about your  
16 previous answer on what the significance or meaning of  
17 this number, if any, is. How do you know based on that  
18 number, based on that calculation whether the two  
19 variables being compared or analyzed are or are not  
20 different? I'm not sure what the punch line is here.

21 MR. SCHWARTZ: Punch line? I'm sorry, I  
22 couldn't hear you.

23 Q. Difference?

24 A. I'm sorry, can you ask again.

25 Q. Tell me again what T critical one tail is

1 two tail in respectively L10 -- I'm sorry, L11 and M11  
2 or L13 and M13.

3 Q. But what number means -- how do I know in the  
4 number of column M11 -- and maybe -- maybe I'm  
5 misunderstanding a little bit here. That's possible.  
6 Let me ask you this way: Does the number by itself  
7 that's calculated in M11 tell me whether the two data  
8 sets are statistically -- with means of those two data  
9 sets are statistically different or statistically the  
10 same?

11 A. No.

12 Q. Okay. I have to compare M11 to what number?

13 A. M9.

14 Q. To M9. And how do I -- do I just do a straight  
15 line comparison?

16 A. If M9 is bigger, there is a statistical  
17 difference.

18 Q. I see. So if M9 minus M11 is greater than zero,  
19 then this test would indicate there is a statistical  
20 difference?

21 A. That is incorrect. If M9 is greater than M11,  
22 there's a statistical difference.

23 Q. Okay. And the two-tailed tests described  
24 in lines 12 and 13, column L are conceptually similar to  
25 the tests in 10-11, can you explain the difference

1 between using a two-tail versus a one-tail approach?

2 A. A one-tailed approach typical assumes you know  
3 the direction of the difference, and a two-tailed test  
4 assumes you do not know the direction of the difference.

5 Q. And as with the other calculated numbers in  
6 column M in this table, line -- the cell 12 and 13,  
7 although they are calculated numbers, the means by which  
8 those numbers are calculated are not reflected in those  
9 cells; right?

10 A. Yes, the manner in which they're calculated is  
11 not reflected.

12 Q. And we can say the same thing about variable 2 in  
13 column N, lines 4 and 5, they're simply reported  
14 numbers, even though they were necessarily calculated  
15 through some -- some method; right?

16 A. Yes.

17 Q. And, in fact, just as a demonstration, line 17,  
18 18 and 19 directly under this table that's described as  
19 the T test 2 sample, assuming unequal variances, lines  
20 17, 18 and 19, standard deviation median and coefficient  
21 of variance; is that correct?

22 A. Typically it's the coefficient of variation.

23 Q. Variation, okay. Those have the formulas in  
24 columns M and N so that we can figure out exactly how  
25 these numbers were calculated; right?

1 Q. We can look at it here. It starts on rank 1 at  
2 42,000 and change, and as we go down the page, we see  
3 ranking numbers increase, the number in column Q  
4 decreasing until we get to the end. And at the end, we  
5 have what must be 1,032 districts, and again, we have  
6 negative numbers on the per ADA calculated number here,  
7 and you can't explain why we would have negative numbers  
8 in that calculation, can you?

9 A. No.

10 Q. And then in addition to ranking, there is also a  
11 corresponding number associated with each of these  
12 districts in column S, descending from 100 percent down  
13 to zero; is that correct?

14 A. Yes, that appears to be correct.

15 Q. And then the same calculations appear to be done  
16 for charters in the next four columns; is that correct?

17 A. Yes, that appears to be correct.

18 Q. Except that in column V, it's described as -- the  
19 only title is column I. Let's see if we can tie this  
20 back to data. I'm not sure how we're going to do this.  
21 18,427.68 appears to be the highest amount per ADA that  
22 any charter school is receiving from the state for this  
23 time period; is that your understanding?

24 A. If the structures of the two columns you  
25 described are parallel, it appears to be so.

1 A. Yes.

2 Q. If I double click, for example, on standard  
3 deviation, you see -- let's keep walking through the  
4 columns here. Column O has no data or title. Column P  
5 is described as ISDs, and there are numbers associated  
6 with each of these each of these individual districts.  
7 Do you know what this -- these numbers refer to in  
8 column P?

9 A. No.

10 Q. The next column, column Q is, LDF total per  
11 ADA -- let's look at first one here. It's \$35,291.76.  
12 That's the same as the column U number, right, for line  
13 5?

14 A. Yes.

15 Q. But not the same as the LDF total per ADA shown  
16 in column F; right?

17 A. Right.

18 Q. And again, I assume you can't explain why this  
19 column Q conflicts or is not the same as the reported  
20 data in, I believe that was column F?

21 A. No.

22 Q. Column R describes the rank. This is, again,  
23 just a numerical ranking based on the calculations in  
24 column Q of the districts identified; is that correct?

25 A. I don't know. I would assume so.

1 Q. I think -- I think I might know how to do this.  
2 Let me go here. I'm not sure how to do this because --  
3 so let me ask it this way: Do you have any idea where  
4 the data went into column V, where these data came from?

5 A. No.

6 Q. Wherever they came from, they are then ranked in  
7 percentile just like the other data sets we've looked at  
8 on -- on this Excel spreadsheet; right?

9 A. Yes, that appears to be so.

10 Q. I think that's the entirety of this. It doesn't  
11 appear to be any totals at the end of this spreadsheet  
12 nor are there any additional calculations to the right  
13 of column X.

14 And then we have already described -- I'm going  
15 to the next tab, stats per WADA, and again, we're doing  
16 what I assume is the same exercise that was done on  
17 stats per ADA, except now we're using per WADA numbers  
18 instead of per ADA numbers; right?

19 A. Correct.

20 Q. And again, I assume you are not able to tell me  
21 what the significance, if any, is of the numbers in  
22 column E, which is described as all. Do you know what  
23 those refer to -- what those numbers refer to?

24 A. No.

25 Q. And do you know why column F, total revenue per

1 WADA, the numbers in column F do not match the numbers  
2 in Column C of LDF total per WADA?

3 A. No.

4 Q. In fact, in line 2, we see a very significant  
5 difference. Line F is described as -- is reported as  
6 \$20,700, whereas line C, it's \$5,388. Do you see that?

7 A. I see that.

8 Q. You are not able to explain the discrepancy of  
9 these two numbers?

10 A. No.

11 Q. Do you know which set of data ultimately  
12 Ms. Templeton used for her calculations, whether it was  
13 column F or column C?

14 A. No.

15 Q. Does it matter to you which one she used?

16 A. In her calculations?

17 Q. Yes.

18 A. Yes, data matters.

19 Q. And I won't go through the entire exercise, but  
20 you can see here on the tab, stats per WADA, and again,  
21 whatever calculations were made are not reflected in  
22 this table; isn't that correct?

23 A. Yes.

24 Q. And the only exception to that is the  
25 hypothesized mean difference, which is not a calculated

1 number, but a hypothesized number; right?

2 A. I'm sorry, say that again.

3 Q. That's not a calculated number. V7 is not a  
4 calculated number; right?

5 A. Yes.

6 Q. I'm just trying to be accurate here.

7 MR. VINSON: Let's take a break. We've been  
8 going probably an hour.

9 (Recess taken 11:16 to 11:25 a.m.)

10 Q. Dr. Rolle, we just looked at a number of  
11 calculations and tabulations of data compiled by Toni  
12 Templeton that was used by, I guess, her to do the  
13 statistical summary calculations and tabulations that  
14 were done for your report 20267. And I would like to  
15 move on to the corresponding version of the last  
16 spreadsheet we looked at that was for the 2011-'12  
17 school year. This one is the 2013 -- excuse me, '12-'13  
18 spreadsheet; is that correct?

19 A. Yes.

20 Q. And we have the same tabs at the bottom here that  
21 we did before, the PL data, DPE, we have the tab called  
22 removed, we have stats per ADA, stats per WADA, and  
23 that's all the tabs for that spreadsheet; is that  
24 correct?

25 A. Yes.

1 Q. And like the previous spreadsheet, there are  
2 columns on tab DP -- the DPE tab ranging from column is --  
3 well, there is column A and B, county district number or  
4 district name, and then the actual data are listed in  
5 column C through CE; is that correct?

6 A. Yes.

7 Q. And then down at the bottom of this -- this tab  
8 starting at Line 1235, there are calculations  
9 utilizing -- I guess I'm going to need you to explain  
10 these to me. This looks a little different starting at  
11 Line 1235 to 1249, whereas on the 2012 spreadsheet there  
12 was a clear distinction between LDF averages and charter  
13 averages. We now have LDF charter average per ADA and  
14 LDF ISD average per ADA -- sorry. Strike all of that.  
15 I think I got it figured out.

16 What we have here at line 1235, column B through  
17 1249, column B, and then the data are described --  
18 sorry, it goes down to line 1259 and it extends from  
19 column BD through CE are a comparison of the systemwide  
20 total numbers utilizing a different means of calculating  
21 averages and then comparing the gaps. One -- one method  
22 is the Lisa Dawn-Fisher method using ADA and WADA that's  
23 described in 1235 to 1238; is that correct?

24 A. May I see cell in Column BD, please?

25 Q. BD, yes.

1 A. Yes, that seems to be correct.

2 Q. And then the Lisa Dawn -- the method utilized by  
3 Lisa Dawn-Fisher is also tabulated there for the  
4 apparent gap in per ADA and per WADA funding in lines  
5 1240 and 1241; is that correct?

6 A. May I see 1240 and 1241?

7 Q. I'm so sorry, yes.

8 A. Yes. Yes.

9 Q. And then the next six calculations is the same  
10 concept just utilizing the charter methodology for  
11 calculating average per ADA and per WADA funding; is  
12 that correct?

13 A. Oh, I'm sorry. Again, may I see the BD, C  
14 columns?

15 Q. Yes, sorry.

16 A. Yes. This appears to be the method utilized by  
17 the charter school associations.

18 Q. Then line 1252 and 1253, a comparison is made of  
19 similar size charter per ADA and ISD per ADA, and those  
20 same calculations are made using WADA for 1255 and 1256;  
21 is that correct?

22 A. Yes.

23 Q. And for those calculations, the method utilized  
24 by the charters was used to determine the per ADA and  
25 per WADA averages; is that correct?

1 A. Yes.

2 Q. And the gaps calculated in Column BD, lines 1258  
3 and 1259 again are utilizing the method utilized by the  
4 charters in calculating those ADAs and WADA per student  
5 funding numbers; is that correct?

6 A. Yes.

7 Q. And the tab on the 2013 spreadsheet with removed  
8 schools, again, you're not -- you can't swear as to why  
9 these were removed -- why these 29, 30 schools were  
10 removed from the calculation, but it sounds like from  
11 your previous testimony that these were the schools that  
12 are not standard accountability charters and ISDs; is  
13 that correct?

14 A. May I see Column B?

15 Q. Yes, of course.

16 MR. SCHWARTZ: Spread it out, please. Thank  
17 you.

18 A. Yes, that appears to be so.

19 Q. The next tab on this same chart is now the stats  
20 per ADA, and we have a very similar looking structure to  
21 the previous spreadsheet that we looked at, columns A  
22 through W; is that correct?

23 A. Yes, that appears to be correct.

24 Q. And again, column F, I assume you don't know what  
25 those numbers that are described as all, what that

1 refers to, what those numbers refer to --

2 A. No.

3 Q. -- in column F? Now, the column G is described  
4 as total revenue per ADA. Do you know how that number  
5 was derived or those numbers were derived in column G?

6 A. No.

7 Q. Do you know whether it was the Lisa Dawn-Fisher  
8 method or the method utilized by the charters in coming  
9 up with that number?

10 A. I don't know what the values in the column  
11 represent beyond the label. You would have to ask  
12 Ms. Templeton.

13 Q. All right. There are basically three groupings  
14 of data in columns F through S on this same tab, stats  
15 per ADA, and again, we have -- we appear to have the  
16 same ranking and percentile method that was used in the  
17 2012 data that we looked at earlier; correct?

18 A. Yes.

19 Q. We then have in columns U through W lines -- call  
20 it 3 through 16, 17 we have, again, reported data of  
21 calculations representing means, variance and other  
22 statistical analyses that were performed on these data  
23 sets, that is presumably variable 1 being the ISDs and  
24 variable 2 being the charters; is that correct?

25 A. Yes.

1 Q. And however these numbers were calculated, you  
2 will agree with me that they're not reflected in the  
3 individual cells of this spreadsheet, at least lines 4  
4 through 13; isn't that correct?

5 A. Yes.

6 Q. Whereas the data in lines 15, 16 and 17, we can  
7 see how these data were calculated, right, because the  
8 actual formula is available to us?

9 A. Yes.

10 Q. The next tab is stats per WADA; is that correct?

11 A. Yes.

12 Q. And we have columns A through W again, and again,  
13 this appears to be a very similar structure to the tab  
14 we just looked at in terms of the descriptions of the  
15 various columns and the data that are reported and  
16 analyzed except that now presumably we are using per  
17 WADA numbers; is that correct?

18 A. Yes.

19 Q. And, in fact, on column C it's described as Lisa  
20 Dawn-Fisher total per WADA; is that correct?

21 A. Yes.

22 Q. Do you know why Lisa Dawn-Fisher's method of  
23 calculating per WADA was used on this tab and Lisa  
24 Dawn-Fisher's method -- well, I guess it was used in  
25 both of these data sets. So let me ask it this way:

1 Actually, let me check something out here. Give me just  
2 a second.

3 MS. BONO: Hello?

4 MR. VINSON: Yeah, we're here. I'm just  
5 looking at something on the screen.

6 MS. BONO: Oh, no, sorry. I just thought  
7 maybe I got disconnected.

8 MR. VINSON: No, you didn't miss anything.

9 Q. Okay. Now I know what I want to ask on this.  
10 We're back on the 2013 data set; right?

11 A. Okay.

12 Q. And my question is, even though in Column C it's  
13 described as Lisa Dawn-Fisher total per WADA and the  
14 number let's say in column 2 -- or sorry, line 2 is  
15 described as \$4,022, the actual number that was used by  
16 Ms. Templeton is \$27,202; is that correct?

17 A. I'm not sure what you mean by "use."

18 Q. Well, the number that's in G2 that is column 1 is  
19 \$27,202; right?

20 A. Yes.

21 Q. Do you know what that number is meant to reflect?

22 A. No.

23 Q. Do you have any idea why Ms. Templeton generated  
24 any of these -- these four column data bundles  
25 represented in F through I, K through N, and P through S

on this stats per WADA tab?

A. It appears that she was calculating percentile distributions.

Q. Right. And she was using the data in each respective bundle of columns as something that's only listed as column I, and these numbers in column I are descending from highest to lowest as you move down the spreadsheet; isn't that correct?

A. Yes.

Q. That's true for -- whether it's the all column or the ISD bundle of columns or the charter bundle of columns; right?

A. Yes.

Q. And so what I'm trying to understand is, what is that number -- what are those numbers in column G2? Do you know what those are?

A. Apparently they're associated somehow with the LDF WADA total if she is calculating percentile rankings, but if you're asking me do I -- I'm sorry, if you are asking me if I know what 27,202.54 refers to specifically, no.

Q. Why do you assume that the numbers in column G2 appear to have something to do with LDF total WADA because they appear to have nothing to do with each other; isn't that correct?

A. Cell G2 and cell C2, they are not equal.

Q. They are not even close to equal, are they?

A. No, they are not.

Q. In the context of per WADA funding, a district that might be receiving \$27,202 per WADA is in a drastically different situation than a district that might be receiving \$4,022 per WADA; isn't that correct?

A. I don't know.

Q. You don't know whether that is meaningful or not?

A. It would be depending on the context.

Q. I mean, it's a six-fold increase from the number in column G on line 2 -- excuse me, from the number in column C in line 2 to the number in column G in line 2; isn't that correct?

A. Yes.

Q. And you don't know whether that's meaningful or not?

A. It depends on the context within which the numbers are being calculated.

Q. Do you -- well, do you know whether it would have been more accurate? Can you -- let me ask it this way: Can you swear that it was more reflective of the actual funding of ISDs and charters in Texas to use the numbers listed in column G as opposed to the numbers listed in column C?

MR. SCHWARTZ: Object as to form. He has already said that he didn't know what those figures are.

MR. VINSON: Leonard, you can object to form and that's all you can do. You do not get speaking objections, so --

MR. SCHWARTZ: Then I'll instruct him not to answer and go to court. He said he didn't know what they were. You cannot continue to bother him over something he doesn't know.

MR. VINSON: This isn't --

MR. SCHWARTZ: This is the fifth time you have asked, and I've tried very hard not to get involved, but after a while it becomes --

MR. VINSON: You are going to have to --

MR. SCHWARTZ: After a while it becomes abusive.

MR. VINSON: It's not abusive, Leonard. You're completely wrong.

Q. Dr. Rolle, can you swear to me now that using the numbers in column C -- excuse me, the numbers in column G are more reflective of the actual funding of ISDs and charters in Texas relative to the numbers in column C?

MR. SCHWARTZ: Don't answer. I object, and you can go to court and get --

MR. VINSON: I've never asked that question,

Leonard. I have not asked that question. If you want to go to court, we'll do it, and I will definitely go to court.

MR. SCHWARTZ: That's fine, but he said he doesn't know what those numbers are.

MR. VINSON: So he can ask --

MR. SCHWARTZ: You have asked over and over and over.

MR. VINSON: I'm asking if he can even swear that the numbers in column G are more reflective of what is going on in terms of funding in the -- in the districts and the charters relative to the -- the column C, and if he wants to say no, he can't, then he can say that, but he hasn't answered that question yet.

MR. SCHWARTZ: Can you answer his question?

A. What is the question?

Q. Are you able to swear, as we're sitting here today, that the numbers in column G are more reflective of the actual funding of the school finance system in Texas for ISDs and charters than the numbers in column C?

MR. SCHWARTZ: Object as to form.

Q. Are you able to swear to that?

A. I don't know what numbers in column G are representing specifically, given that the column title

1 just says column 1.

2 Q. So the answer is no, you can't?

3 A. I stand by my previous answer.

4 Q. Which I understand to be no; am I understanding  
5 that correctly?

6 A. I said that because the G column heading just  
7 states column 1, I can't be sure that I know what each  
8 cell and each number is referring to.

9 Q. All right. Let's do the same exercise with the  
10 2013 data. We're going to start in the first tab. Go  
11 to the top of the page and the left side here. All  
12 right. Again, we have for 2013 a very similar structure  
13 of data compiled here by Ms. Templeton. The four tabs  
14 are PL data DPE, that's the first tab. The second tab  
15 is entitled removed. The third title is stats per ADA,  
16 and the fourth tab is entitled stats per WADA; is that  
17 correct?

18 A. Yes.

19 Q. And the tab -- I'll just refer to as DPE has  
20 columns A through CE, and lines as data from lines 2  
21 through -- well, the reported data and at line 1232, and  
22 then there are some calculations similar to the other  
23 ones we've seen that go from 1235 down to 1259; is that  
24 correct?

25 A. Yes.

1 Q. These columns appear to resemble again in title  
2 the columns we've seen on the previous charts. None of  
3 the columns are hidden, so we have lot of essentially  
4 extra data that were not included in the calculation.

5 The upshot of these data, as I understand it, are  
6 reflected in the comparisons made by Ms. Templeton in --  
7 sorry to be jumping around like this -- lines 1235  
8 through 1259 in columns BD through CE; is that correct?

9 A. Yes.

10 Q. The only thing that jumps out at me on an initial  
11 blush is that column BP, lines 1248 and 1249, are  
12 highlighted in purple, and actually the same exist for  
13 lines 1240 and 1241, again, in column BP. Do you know  
14 why those are highlighted in purple?

15 A. No.

16 Q. It looks like in column B -- I'll highlight it  
17 just so we can talk about it -- Ms. Templeton did some  
18 calculations of the apparent gaps between ISDs and  
19 charters on a per ADA and per WADA basis in lines 1240  
20 and 1241 using the Lisa Dawn-Fisher -- using the  
21 methodology utilized by Lisa Dawn-Fisher; is that  
22 correct?

23 A. Yes.

24 Q. And you can look at those columns history to see  
25 that?

1 A. Yes.

2 Q. And then similarly she did a calculation of -- or  
3 a comparison of the apparent gap between ADA, ISDs and  
4 charters utilizing ADA, and ISDs and charters using WADA  
5 in lines 1248 and 1249, again, in Column BS; is that  
6 correct?

7 A. Yes.

8 Q. The next tab removed -- I assume you don't know  
9 why Ms. Templeton removed these data from the  
10 calculations -- or sorry, that's not true. Strike that  
11 and start over.

12 These appear to be the districts that were  
13 removed both from ISD and charter because they are  
14 presumably not on the standard accountability system; is  
15 that correct?

16 A. Yes.

17 Q. Then we have the data -- the tabulations on a per  
18 ADA and per WADA basis that Ms. Templeton used with the  
19 same disparities -- let me just start over.

20 The next tab is stats per ADA. It appears to be  
21 a similar structure to the stats per ADA tab that we  
22 have seen in the previous two years of analysis and the  
23 other two spreadsheets; is that correct?

24 A. Yes.

25 Q. And again, we have a column in column C, LDF

1 total per ADA that is not the same as the total revenue  
2 per ADA in column G; is that correct?

3 A. Yes.

4 Q. I assume you don't know why these numbers are  
5 different on this tab of this file?

6 A. No.

7 Q. Again, we have a -- between columns U and W,  
8 lines 3 through 12 there is a table of data  
9 calculations, and I'm just clicking on the individual  
10 cells here. You will agree with me that whatever  
11 calculations may have been used to obtain any of these  
12 data points are not reflected in the actual sales  
13 themselves; is that correct?

14 A. That's correct.

15 Q. Whereas, the data reported on lines 15 through  
16 17, columns V and W, we do have the actual formula by  
17 which those numbers are obtained; right?

18 A. That's correct.

19 Q. The fourth tab is stats per WADA for 2013, and  
20 this, again, in all -- in all respects resembles in  
21 character the previous per WADA calculations for 2012  
22 and 2011; is that correct?

23 A. Yes.

24 Q. Let's open up the EOC data files. Is this a  
25 document you have seen before?



1 A. Yes.

2 Q. This is described as the EOC data file, and it's  
3 again part of Exhibit 20266. It has tabs -- it has five  
4 tabs, U.S. RECOM, bio RECOM, algebra I, final RECOM, R1  
5 RECOM, and ELA 2 recommended. Did I describe that  
6 correctly?

7 A. Yes.

8 Q. Did you have any discussions with Ms. Templeton  
9 about any of the specific data around this spreadsheet,  
10 this EOC data file in connection with the opinions that  
11 you developed in this case?

12 A. Not beyond the utilization of them, of the five  
13 different tests that you just described.

14 Q. Sure. And I think -- I think this is true for  
15 most of the pages, that essentially there are data that  
16 are reported that Ms. Templeton had between columns A  
17 and column H. She then added a column for whether or  
18 not a school -- particular district was or was not a  
19 charter, and then she made some calculations about level  
20 1, level 2 and level 3 in columns -- at least on this  
21 first tab, column K, L, and M. Does that appear to be  
22 accurate?

23 A. Yes.

24 Q. And what is the significant -- let's start with  
25 the tab identified as U.S. RECOM, do you know what these

1 data are reflecting?

2 A. These data are reflecting the new end-of-course  
3 sequence that was proposed by the State of Texas.

4 Q. And in particular, any particular test, I'm  
5 sorry, did you make --

6 A. U.S. I assume is U.S. history.

7 Q. U.S. history, okay. And do you know what year  
8 these data are for, what school year?

9 A. I would have to refer specifically to -- to our  
10 output, but it should be post 20 --

11 Q. To your what, I'm sorry?

12 A. To 2267.

13 Q. Feel free to look at that if it helps. I want to  
14 get the right answer. I'm not trying to quiz you.

15 A. This would be for the year 2012-2013.

16 Q. Okay. So what is the significance, just in a  
17 general sense, of what level 1, level 2 and level 3  
18 refer to in any particular end-of-course exam?

19 A. I believe that is the percentage of students  
20 scoring at that particular level.

21 Q. Right, but what -- what -- let's take a step away  
22 from the data. I just want to get from you an  
23 explanation of what does that mean, level 1, level 2,  
24 level 3, what do those -- what do those concepts mean  
25 with respect to the end-of-course exams?

1 A. I'm not familiar with the final measuring of the  
2 new testing.

3 Q. Is that to say you don't -- you don't know what  
4 the meaning -- in any sense can you describe what level  
5 1, level 2, level 3, what the significance of those  
6 concepts are in the end-of-course exams?

7 A. Well, I mean, generally it's the percentage of  
8 students who are meeting a certain level of -- of  
9 productivity that is recommended by the state. But in  
10 terms of -- of the specific aspects of what each test is  
11 managing, I'm not familiar with that.

12 Q. And I'm also not concerned about that.

13 A. Okay.

14 Q. What we are talking about is the sort of degrees  
15 of achievement or performance really on a standardized  
16 test; is that accurate?

17 A. Yes, that's correct.

18 Q. And level 1 would be the lowest threshold that a  
19 student might meet, level 2 is a higher standard, and  
20 level 3 is the highest standard; is that correct?

21 A. Yes, that's correct.

22 Q. And do you know whether the state of Texas has  
23 determined for the 2012-'13 school year, what level was  
24 needed to pass in order to graduate or whether --  
25 whether -- let me ask it that way.

1 A. I'm not sure those rules have been written yet.

2 Q. All right. And '12-'13 was first year that this  
3 particular test was administered; is that correct?

4 A. Yes, that's my understanding.

5 Q. And here in column K for the level 1, we see the  
6 comparison of the charter average versus the ISD average  
7 for level 1; is that correct?

8 A. That's correct.

9 Q. And then if I wanted to just -- these are  
10 actually percentages when they're reported, right, these  
11 numbers K through M; is that correct?

12 A. Yes.

13 Q. So do you mind if I just, for discussion  
14 purposes, put a percent on that?

15 A. Okay.

16 Q. We can add a few data points just to satisfy our  
17 inner nerds. And I'll also do a calculation that  
18 reflects the difference between charters and ISDs, and I  
19 will -- I will go ISD minus charter, okay?

20 A. Okay.

21 Q. This minus this to show the gap, if any, between  
22 charters and ISDs, okay. I'll do the same for each of  
23 the levels. Based on these calculations I just ran, it  
24 looks like the difference in passing rates for ISDs  
25 versus charter school students is roughly 3.58 percent

1 at level 1; is that correct?

2 A. Yes, that's what your calculation shows.

3 Q. Yes, and at level 2, the gap is slightly smaller,  
4 2.37 percent; is that correct?

5 A. Yes.

6 Q. And at level 3, it's 3.06 percent; is that  
7 correct?

8 A. Yes.

9 Q. And do you know whether there was an exclusion  
10 of -- of the charter schools or ISDs -- let me ask it  
11 this way: Do you know whether these data that are  
12 tabulated on the U.S. history tab, whether the schools  
13 that are not on this standard accountability system were  
14 excluded from these data?

15 A. I don't.

16 Q. Okay. Do you think that as a matter of opinion,  
17 the best way to compare these two systems is to exclude  
18 districts that are not part of this standard  
19 accountability system?

20 A. As a matter of opinion, I think it's best to  
21 examine both -- all of the overwhelming charter schools  
22 as well as examine them without the alternative  
23 education programs as well.

24 Q. But here we only did one of those two things;  
25 right?

1 A. That's correct.

2 Q. And we don't know which one we did?

3 A. That's correct.

4 Q. Let's go to the biology tab, the second tab. We  
5 have, again, a similar structure of the chart itself,  
6 and then we have these data points, which again, just  
7 for discussion purposes, I'm going to change into  
8 percentages. Here we see, again, just a different set  
9 of gaps between charters and ISDs across the various  
10 levels for the biology end-of-course exam; is that  
11 correct?

12 A. I'm not sure I understand when you say "gaps."

13 Q. Well, I mean, just -- it's not the same data set  
14 as in the U.S. recommended -- I'm sorry, the U.S.  
15 history test. The data are just different here under  
16 biology; right?

17 A. Yes.

18 Q. But it's the same concepts, you're just -- you  
19 are just applying it to biology and not to U.S. history;  
20 right?

21 A. Yes.

22 Q. Okay. And again, the same thing for algebra I,  
23 we have, again, a tabulation that Ms. Templeton has  
24 done, comparing the performance of charters and ISDs; is  
25 that correct?

1 A. Yes.

2 Q. R1, is that reading?

3 A. Yes, reading.

4 Q. Again, the differences are -- the results are  
5 displayed there in columns K through M, lines 2 and 3;  
6 is that correct?

7 A. Yes.

8 Q. And then ELA, is that English language arts?

9 A. Yes, English language arts.

10 Q. It's showing that nobody passed level 1, and  
11 level 2 and level 3 data are reported there; is that  
12 correct?

13 A. Yes, level -- I'm sorry, yes.

14 Q. Do you know why the report -- why it is that  
15 there are zeros associated both with charters and ISDs  
16 at the level 1 for English and language arts II?

17 A. No.

18 Q. Okay. The last file in the -- the five files  
19 that were delivered is an Excel spreadsheet called  
20 SAT/ACT PERF, which I assume is performance; does that  
21 sound right?

22 A. Yes.

23 Q. Now, I want to make this bigger so we can see it.  
24 Have you seen this set before?

25 A. Yes.

1 Q. There are only two tabs affiliated with this  
2 spreadsheet. The first one is CAMPDDES for 2013. Do  
3 you know what that CAMPDDES refers to?

4 A. No.

5 Q. Well, I will just refer to this tab as the 2013  
6 tab, okay?

7 A. Okay.

8 Q. And the 2012 tab has a similar CCAD 2012 moniker.  
9 I assume you don't know what CCAD refers to?

10 A. No.

11 Q. Again, I'll just refer to that as the 2012 tab  
12 for purposes of our discussions today. I'm trying to  
13 remember where the tabulation is on this one. It must  
14 be down. I'll start with 2012 just chronologically  
15 because that's first. And again, feel free to refer to  
16 your report so we can understand what these are.

17 A. Okay.

18 Q. Fortunately, there's less of it. There is not  
19 that many columns, A through J. First column is campus,  
20 and I assume that these numbers reflect a code  
21 affiliated with I guess individual campuses in the Texas  
22 public school system would be either charter or ISD; is  
23 that correct?

24 A. I don't know specifically.

25 Q. I mean, there are -- let's see. There a lot of

1 data points here. We have 8500 data points, so  
2 obviously there aren't 8500 districts, but we might have  
3 8500 campuses in the Texas public school system. Does  
4 that sound about right?

5 A. Yeah, that sounds about right.

6 Q. And then we have these codes in the columns and  
7 in the headings of these columns that -- the top one is  
8 a little -- must mean something to somebody. I assume  
9 it's how maybe TEA tracks their data sets and when they  
10 give them to somebody who has requested them, they --  
11 they use these -- these codes. Are you familiar with  
12 that or not?

13 A. Yes, these -- and not with the specifics of each  
14 code, but usually when you get a large data set from TEA  
15 or from AEIS, they have a list of variable names across  
16 the horizontal and first row that is denoted to  
17 represent any particular characteristic you are  
18 examining.

19 Q. Okay. And then, again, mercifully there is an  
20 English or semi-English description in the next cell,  
21 which hopefully we can decipher what it means. The  
22 first in column B -- I'm not going to go through those  
23 codes because I don't -- it doesn't seem to matter, or I  
24 can't see how it matters, but in any event, the first  
25 column is ACT average score. The second -- it's column

1 C is described as percentage above criterion. Column D  
2 is SAT average score. Column E is percent tested.  
3 Column F is college-ready both. Column G is  
4 college-ready math. Column H is college-ready reading,  
5 and then -- is that correct?

6 A. Yes.

7 Q. And then column I is actually only charter. That  
8 doesn't carry over. Column I is simply described as  
9 charter yes or no; is that correct?

10 A. Yes.

11 Q. And then do you know what AEA is a reference  
12 to --

13 A. No.

14 Q. -- in column J? Would it help if we found some  
15 yeses to see if there is anything that could be  
16 discerned about what an AEA is?

17 A. I would -- I would actually check with  
18 Ms. Templeton.

19 Q. Okay. So let's go down to the bottom of the  
20 page. The bottom of the chart has tabulated numbers --  
21 calculated numbers in columns B through H, presumably  
22 reflecting the averages of the numbers that precede it  
23 respectively for charters and ISDs; is that correct?

24 A. Yes.

25 Q. So, for example, in column B, line 8532 shows the

1 average charters ACT score; is that correct?

2 A. Yes.

3 Q. And it appears that -- here is the thing. Here  
4 we go. These numbers are effectively averaged on a  
5 district level, isn't that correct, or a campus level, I  
6 should say?

7 A. When you say "these numbers," to which are you  
8 referring?

9 Q. Sure, sorry. That's fair. The numbers that are  
10 calculated in 8532 and 8533, column B, are the average  
11 for all the reported numbers for the respective charters  
12 and ISDs in this column B; is that correct?

13 A. Yes, it appears to be so.

14 Q. And because the data are reported on a campus  
15 level, then necessarily these averages are -- reflect  
16 effectively a per campus level of averaging as opposed  
17 to a per student or a per district method of averaging;  
18 is that correct?

19 A. Yes.

20 Q. All right. Now, there is also been an  
21 adjustment. We've touched on this earlier about the  
22 idea of the standard charter versus a standard ISD, and  
23 those numbers are reflected in line 8538, 8539, column B  
24 through H; is that correct?

25 A. Yes.

1 Q. Let me ask you about column E. Do you know  
2 whether that column of percent tested refers to SAT, ACT  
3 or both?

4 A. I believe it's both.

5 Q. In column F, when we say college-ready both, what  
6 is that referring to?

7 A. College-ready both refers to the percentage of  
8 college-ready students based on the combined TAKS math  
9 and language arts scores.

10 Q. So that's based on the TAKS test?

11 A. This year, yes.

12 Q. Okay. So that's good to know. All right. So  
13 column B is ACT average score obviously focusing solely  
14 on the ACT. Column B, percent above criterion is  
15 presumably referring to the ACT scores in column B; is  
16 that correct?

17 A. I would have to double-check that.

18 Q. Let's see. Let's do this. Charters -- so okay.  
19 Looks like the way to check that would be to find a data  
20 point and see whether it refers to column B or not.  
21 Here we go. That's just a number.

22 How would you check to know what test column C is  
23 referring to -- let me ask it that way. How would you  
24 check to see if column C is referring to the ACT or some  
25 other test in terms of percent?

1 A. I would return to the AVIS database glossary and  
2 pull the definition used by TEA.

3 Q. Okay. Would you use this code, I guess?

4 A. I would use either the code or the label.

5 Q. Ms. Templeton might know the answer to that  
6 question?

7 A. Yes, she might.

8 Q. She chose to put this column into the data set,  
9 so she might know?

10 A. Yes.

11 Q. All right. SAT average score, that is obviously  
12 referring to an SAT. You testified I believe that  
13 column E, percent tested, refers to the percentage of  
14 students who took either the SAT or the ACT or  
15 presumably both?

16 A. That's correct.

17 Q. If I'm understanding what you are telling me,  
18 these F, G and H are references to the TAKS test  
19 performance at the various campuses that are reflected  
20 here; is that correct?

21 A. Yes.

22 Q. Let's turn our attention to the -- actually the  
23 first tab visually, but the 2013 data set. We have a  
24 similar bundle of columns here, although we actually  
25 have quite a few more. It goes from tab -- well, we

1 have some hidden columns here. Anyway it goes from tab  
2 A to tab CX. A number of the tabs are hidden from view,  
3 and then again we have campuses starting on line 3 and  
4 continuing through line 1,490. Okay. Do you know why  
5 the total number of campuses went from -- what did we  
6 have, nearly more than 8,500 in 2012 to only 1,490 in  
7 2013?

8 A. No.

9 Q. Is there any chance that these data column A are  
10 not campus level, but instead district level data?

11 A. I don't know.

12 Q. And again, just like 2012 calculations have been  
13 made about the performance of charter schools versus  
14 ISDs in line 1492 to 1495 across the various columns  
15 here both on a system-wide basis, and then under what  
16 you -- what has been described as a standard charter and  
17 standardized D comparison; is that correct?

18 A. Yes.

19 MR. VINSON: Let's take a lunch break.

20 (Recess taken 12:20 to 1:33 p.m.)

21 A. Before we get going, there was -- you were asking  
22 what else we would change about our report, and for some  
23 reason, we got all off on something else, but we also  
24 would change the title, because the title is much  
25 more -- the work inside is much more encompassing now,

1 so the title should have been a little bit more  
2 overbroad, not just Texas charter school facilities, but  
3 more to the akin of Texas FSP comparisons of ISDs and  
4 charter schools, and frankly, when we were so busy  
5 working on the interior, we didn't even look at the  
6 title.

7 Q. Any other changes that you thought of over the  
8 lunch break?

9 A. No, sir.

10 Q. All right. You have described in your testimony  
11 today and certainly made reference to it in your  
12 previous testimony and your previous report about the  
13 fact that charter schools don't receive a dedicated  
14 funding from the state of Texas for facilities; is that  
15 correct?

16 A. Yes.

17 Q. All right. And that's -- that fact is simply a  
18 fact. We don't need an expert to tell us that charter  
19 schools don't receive a yearly amount of funds from the  
20 state that are intended or earmarked for facilities;  
21 right? I mean, that's just a fact; right?

22 A. I don't know how to answer that without sounding  
23 like I've been insulted, but it is a fact.

24 Q. It is a fact. And you're not here to say simply  
25 that, in fact, charter schools don't get facilities

1 funding. The reason you have been hired is to, as I  
2 understand it, to make some calculations about the  
3 apparent, or what we might call the alleged funding  
4 differences from the state of Texas as between  
5 traditional ISDs and charter schools; is that correct?

6 A. That would be correct.

7 Q. And so how would you encapsulate the subject of  
8 your expert testimony if you were going to just from  
9 50,000 feet give kind a bullet point, you know, these  
10 are my opinions I'm rendering in the case in terms of  
11 concepts?

12 A. Well, if you go through our report, you will see  
13 that we have analyses that are pertaining to the concept  
14 of efficiency, we have analyses that are pertaining to  
15 the concept of suitability, and we have concepts that  
16 are pertaining to the concept of adequacy. The work  
17 that Dr. Wood did in Phase I and that I continued into I  
18 will call it phase -- Phase II is based on our wide  
19 range of experiences as school finance experts, our  
20 interpretations of these concepts as well as our work  
21 here in the state of Texas.

22 Q. And with respect to efficiency, how would you  
23 describe in a sentence or two the summary of your  
24 opinions with respect to your opinions about the  
25 efficiency of the school finance system as it relates to

1 the funding of charter schools in Texas?

2 A. Well, I can refer us to the Table 1 analytical  
3 summary that is in our report which has all of our  
4 analytical conclusions in a narrative form that's on  
5 page 35.

6 Q. Okay. So your efficiency -- you would refer me  
7 to your opinions about efficiency on table -- the  
8 narratives on page 35, 36, 37 and 38; is that correct?

9 A. That is correct.

10 Q. And I assume you refer me to page 39 and 40 for  
11 an overview of your opinions with respect to the  
12 adequacy --

13 A. Yes, sir.

14 Q. -- of the system as well as those charter  
15 schools; is that correct?

16 A. Yes, sir.

17 Q. Where would you refer me, or how would you  
18 explain or summarize your opinions in this case with  
19 respect to the suitability of funding of charter schools  
20 in the state of Texas?

21 A. The suitability claim is contained in our Phase I  
22 report referring to tables 5 through 8, as well as some  
23 of the additional work that I have done in the state of  
24 Texas myself regarding the level of efficacy in state  
25 funding in Texas, a variety of state and national

1 presentations as well as published works and guidance of  
2 doctoral students while I was at Texas A&M.

3 Q. But none of that is in front of the court; right?  
4 None of that is in evidence. You are not -- the things  
5 you tell your students at the university aren't part of  
6 what you're going to ask the Court to consider with  
7 respect to your opinions on suitability in this case;  
8 right?

9 A. Well, I mean, I can't divorce myself from  
10 my -- my previous work, so I think my past does -- does  
11 influence.

12 Q. Right, but I'm trying to find out what your  
13 opinions are. When you tell me it's contained in  
14 something you told to a graduate student at the  
15 University of South Florida, that doesn't really answer  
16 my question right. I am trying to get at --

17 A. I'm sorry, what? I didn't say South Florida. I  
18 said while I was at Texas A&M.

19 Q. While you were at Texas A&M, okay. Fair enough.  
20 I still don't have that information either; right?

21 A. It's -- some of it is contained in my vitae.

22 Q. What -- the conversation you had with the student  
23 at A&M --

24 A. No, sir.

25 Q. -- is contained in your vitae?

1 A. No, sir, not the conversations, but my previous  
2 work on funding mechanisms in the state of Texas.

3 Q. Okay. So if I understand it correctly, the  
4 subject of your report 20267, the supplemental report,  
5 that's what we've been referring to --

6 A. Yes.

7 Q. -- doesn't contain information about any  
8 suitability claims on behalf of the charter; is that  
9 correct?

10 A. It doesn't contain any additional information.

11 Q. Why didn't you decide to update any of the  
12 information regarding the claim on suitability for the  
13 charter schools?

14 A. The underlying structure of the school finance  
15 mechanism has not changed, so there is no need to  
16 conduct any additional analysis on the suitability --

17 Q. I see.

18 A. -- criteria.

19 Q. Okay. Is it your opinion that charter schools  
20 are unable to deliver a general diffusion of knowledge  
21 to the students that attend their schools because of a  
22 lack of facilities funding?

23 A. If we are referring to page 39, table 11  
24 addendum, we can walk through all the analysis and  
25 table, but we can get down to the second to the last

1 paragraph in the concluding paragraph where it states,  
2 these differences in academic performance are due in  
3 part to unfunded charter school facilities costs  
4 affecting payroll expenditures that require charter  
5 schools to pay employees higher percentage -- excuse me,  
6 that require charter schools to employ higher  
7 percentages of teachers with one to five years of  
8 teaching experience as compared to ISDs, and then the  
9 remainder is in the final paragraph.

10 MR. VINSON: I'm going to object as  
11 nonresponsive.

12 Q. My question -- and if there is a part of your  
13 report that directly answers this question, I'm happy  
14 for you to refer to it, but my question is simply  
15 whether charter schools are or not able to deliver a  
16 general diffusion of knowledge to the students that they  
17 serve in -- let's look at the 2013, 2014 funding levels  
18 that they receive from the state.

19 A. From 2013 and 2014.

20 Q. And you may not have an opinion on the subject  
21 either. I'm just trying to figure out whether you have  
22 an opinion on the subject, and if so, what it is.

23 A. The table addendum summary actually analyzes the  
24 college readiness aspects of academic accountability.

25 Q. What page?

A. I'm on page 34, and if you look at differences between years 2011 through '12, and 2012 through '13, you can see that ISDs have average performances that are greater than charter schools, and so if achieving college readiness standards is part of the criteria for delivering the general diffusion of knowledge, I would say that the charter schools at this point are not able to deliver that.

Q. So if I understand your answer, it's no -- in the '13-'14 school year, charter schools do not have sufficient funding to deliver a general diffusion of knowledge; is that correct?

A. I have not analyzed the year '13-'14, because the year in academic data is not yet available.

Q. Right. In my previous question you understood to be tied specifically to the '13 and '14 school year?

A. Oh, no, I'm sorry, I was not, so if you're referring to '13-'14, I have yet to conduct that analysis to a lack of data.

Q. All right. So you're not able to opine -- offer an opinion as to whether or not the current funding levels that charter schools receive from the state of Texas are sufficient to allow the charter schools to deliver a general diffusion of knowledge to their students; is that correct?

A. I'm not sure I'm supposed to opine, but what I can say, if the trend analysis that we have conducted beginning in year '06 in our original report extends through year '14 in the same trend line, then I would be able to opine and say yes, they are not able to deliver a general diffusion of knowledge.

Q. That's assuming the trends continue?

A. Yes, sir.

Q. The trend line continues? Let me refer you to page 33 of your own report, previous page. The only available data appear to be for '12-'13 on this page are those data under the heading percentage of college-ready graduates above ACT and SAT criteria; is that correct?

A. Yes.

Q. When we look at the ISD, the first line is percentage of students taking ACT or SAT, and the ISDs are showing 55.7 percent; is that correct?

A. Yes.

Q. And 81.7 percent of students at standard accountability charters are taking one of those two tests; is that correct?

A. Yes.

Q. The difference shown in a negative 26.0 reflects the fact that 26 percent more -- that the percentage of students at charters who are taking the ACT or the SAT

is 26 percent higher than the corresponding number for ISDs; is that correct?

A. I'm not trying to quibble over words, but I would say 26 percentage points higher, yes.

Q. 26 percentage points higher -- the charter schools' percentage is 26 percent higher -- 26 percentage points higher than the corresponding ISD number for the percentage of students taking the ACT/SAT; is that correct?

A. Yes.

Q. Okay. And in terms an indicator of college readiness, we can agree that at least this indicator points to the fact that charters are what -- despite the funding differences that may exist in their funding mechanisms, are at least at or above the level obtained by ISDs for this indicator; isn't that correct?

A. The average score at the average ISD, yes.

Q. Sure, okay. And do you know whether the ISDs in this table 12B are on the standard accountability system or whether it's all ISDs?

A. These are all ISDs.

Q. Okay. So do you know what the corresponding number would be if we isolated the standard accountability ISDs and what the difference would be?

A. No, I would have to go back and refine

that -- that analysis, but if you take a look at the footnote at the bottom, these are Texas agency state accountability data tables, and I believe that most of the -- excuse me, I believe that the ISDs that are being evaluated are subject to the standard accountability rubric, and given the small number of charters, they also are under the standard accountability rubric.

Q. So what impact does that have on my question as to what effect, if any, there would be on isolating the standard accountability ISDs in this chart on the line percentage of students taking ACT/SAT, would there be an effect or not if we isolated the standard accountability ISDs?

A. I don't know. I would have to recalculate --

Q. Okay.

A. -- and adjust for that.

Q. We may be able to do that. That may be in the spreadsheets. We can look at that in a minute.

Moving down to the average ACT and SAT scores, we see that the difference between the reported ISDs and the standard accountability charters is either essentially negligible or negligibly better for the standard accountability charters than the ISDs; isn't that correct?

A. Yes.

Q. And then so insofar as these are indicators of college-readiness for the '12-'13 school year, you will agree with me that these indicators suggest that standard accountability charters are able to -- the students in standard accountability charters are able to perform at or even slightly better than the level for the students at the ISDs, whatever those ISD students that may be represented in that first column are; isn't that correct?

A. I'm sorry, can you say that again?

Q. Sure. I don't know and you don't know whether these ISD numbers are isolated to standard accountability or all ISDs; right?

A. Right, but I -- yes.

Q. Okay. And whatever they are, this -- these numbers suggest at least for this indicator that standard accountability charters are -- the students at standard accountability charters are performing as well or better than the ISD counterparties that are reflected in this table; isn't that correct?

A. Yes.

Q. And so when we talk about the trend, when we go to page 34, that 2011 and '12 gap that was positive on ACT/SAT criteria or negligible in the ACT score for 2011 and '12 trends the other direction drastically for

'12-'13; isn't that correct? We have over a 50-point percent -- 50 percentage point swing in the percentage of students taking ACT and SAT that the gap has gone by more than -- changed by more than 50 percentage points in favor of the charter school students at standard accountability charters; isn't that correct?

A. Yes.

Q. And so insofar as a trend is concerned, that trend appears to be positive in terms of the charter schools delivering a general diffusion of knowledge to their students relative to ISDs; isn't that correct?

A. Typically a trend is three data points or more, but in your characterization, yes.

Q. Do you know what the '10-'11 data looks like?

A. I wouldn't have -- know that without my previous report.

Q. Is there any data point -- I mean, okay. Let's assume that the 2010-'11 data point for the percentage of students taking the ACT or SAT, let's assume it was the same, 32.3 for '10-'11. That is 32.3 percentage points more kids in ISDs -- students in ISDs who are taking these tests relative to their charter school counterparts. What would these three data points suggest to you as a trend?

A. It would suggest that there was some stability in

year 1 and year 2 in terms of the deficit experienced by charter schools, and in year 3, that deficit was overcome.

Q. And what would it tell you as a forecast for '13 and '14?

A. I'm not sure. I would have to run a calculation and make a prediction.

Q. Have you run a calculation and made a prediction with the actual 2010 and '11 data points for any of these indicators?

A. No.

Q. Okay. So when I asked you previously about what you expected about '13 and '14 and you referred to a trend, you actually haven't done the calculations necessary to be able to render an expert opinion on these -- these expectations; isn't that correct?

A. I haven't done a calculation.

Q. All right. Let's go to the -- let's go to these data sets briefly. We will examine some more than others starting on page 6, please, Table 1A. All right. We've already covered the fact that you would retitle this total FSP revenue per ADA if you were going to redo it or make any modifications to it. What this table is describing is an encapsulation of the calculated revenue per student for ISDs and charters, and then a

corresponding difference is calculated as well using I, assume, the method utilized by the charter schools for averaging; is that correct?

A. Yes, that's correct.

Q. As compared to or contrasted with the method utilized by Lisa Dawn-Fisher; is that correct?

A. That's correct.

Q. All right. And then you've got them broken down by -- by topic or topics and subtopics. The first topic is -- or category is total FSP revenue for maintenance and operations, and the state -- there's a state FSP for M&O and then a local FSP for M&O. Charters obviously don't generate any local FSPs for M&O. All of it comes from the state; is that correct?

A. Yes.

Q. And at least in '11-'12 you-all have calculated a difference for M&O of roughly \$885 per student, so that's per ADA for M&O from the state; is that correct?

A. Yes.

Q. And then for -- for interest in sinking, of course, there is both state and local components for traditional ISDs in that department and, of course, charters again don't levy taxes, aren't given any FSP for -- or that's considered interest in sinking or even anything that's sort of analogous to that, and so they

1 have zeros in both of these categories; is that correct?

2 A. Yes.

3 Q. So when you combine the M&O calculated difference  
4 and the FSP calculated difference, you end up with a  
5 \$1,843 difference in the funding between ISDs and  
6 charters between maintenance and operation and interest  
7 in sinking funds; is that correct?

8 A. Yes.

9 Q. Now, these data on this Table 1A, page 6 for '11  
10 and '12, they were available to you, Dr. Wood, for the  
11 first -- in the first phase of the trial; is that  
12 correct?

13 A. No.

14 Q. When were these data released?

15 A. I can't recall specifically. The first trial we  
16 were instructed only to use the TEA data that was being  
17 utilized by Lisa Dawn-Fisher's office, and then --

18 Q. Okay. Sorry, go ahead.

19 A. And then it's also my understanding that  
20 subsequent to that, Judge Dietz stated that only some of  
21 the finance data should be utilized.

22 Q. Okay. I think we may not be connecting on this  
23 question here.

24 A. Oh.

25 Q. When you say you were instructed to only use a

1 certain type of data, who was it that instructed you to  
2 do that in the first instance?

3 A. Judge Dietz.

4 Q. Okay. And later he changed his instructions to  
5 you; am I understanding that correctly?

6 A. That's my understanding.

7 Q. Okay. Without reference to what Judge Dietz told  
8 you to do or not do --

9 MR. SCHWARTZ: Let me -- Judge Dietz didn't  
10 talk directly to him, and I just want to make it  
11 clear -- I mean, I think you understood that, but it was  
12 through counsel.

13 MR. VINSON: Okay.

14 Q. So my question is slightly different than what  
15 Dietz wanted or what your counsel instructed you to do  
16 or not do. I'm simply talking about what data were  
17 physically available to you at the time that you did the  
18 report or generated the report that was the original  
19 report that you and Dr. Wood issued, and I'm wondering  
20 whether the data that are described and tabulated on  
21 page 6 were or were not available to you and to Dr. Wood  
22 at the time that you-all generated your first report in  
23 this case.

24 A. When we generated our first report in this case,  
25 the '11-'12 data was not publicly available.

1 Q. Do you know when it became publicly available?

2 A. No.

3 Q. I need you to look at page 7 and page 6 together  
4 as much as you can.

5 MR. VINSON: Here, I can give him mine so  
6 you can follow along.

7 MR. SCHWARTZ: No, that's all right.

8 MR. VINSON: You don't want to follow along?

9 MR. SCHWARTZ: No, I'm going to look over  
10 his shoulder.

11 Q. All right. Page 7 is an exercise by  
12 Ms. Templeton to analyze the -- or do some statistical  
13 calculations of mean, median, standard deviation and  
14 then the coefficient of variation for the relative  
15 funding for charters and ISDs; is that fair? Is that an  
16 accurate description?

17 A. Can you say that one more time? I'm sorry, I was  
18 busy reading.

19 Q. Sure. Page 7, which is table 1, large A, little  
20 (a) addendum --

21 A. Yes.

22 Q. -- that probably should be described as FSP  
23 revenue per student is simply some statistical analyses  
24 of the data that were reported on page 6 of this report  
25 comparing the mean, the median and standard deviation,

1 coefficient of friction, and then some other percentile  
2 comparisons as between the calculated averages for  
3 charters and for ISDs; is that correct?

4 A. That is correct.

5 Q. All right. And here is my question, or here is a  
6 question: If you look at the ISD number that's  
7 described for mean, it's \$10,034; is that correct?

8 A. Yes.

9 Q. And that tracks with the number on page 6 for  
10 ISDs total FSP revenue per ADA; is that correct?

11 A. Yes.

12 Q. And so, first of all, that includes I&S funds in  
13 that calculation; right?

14 A. Yes.

15 Q. Now, when I look at the mean number that's  
16 reported for charters, \$8,149, that actually doesn't  
17 correspond to the charter number that is listed in the  
18 top line of page 6 for total FSP revenue per ADA for  
19 charters; right?

20 A. That's correct.

21 Q. Do you know why there is a discrepancies in those  
22 two numbers?

23 A. No. It may be a data error that could be  
24 corrected.

25 Q. Do you know which number is the accurate number?



Page 122	Page 123
<p>1 A. The 8191 is the accurate number.</p> <p>2 Q. How do you know that to be true?</p> <p>3 A. Well, because I checked the general numbers via</p> <p>4 the database.</p> <p>5 Q. Okay. So when you were checking the accuracy of</p> <p>6 the data in -- in the -- I guess the draft slides that</p> <p>7 Ms. Templeton prepared, you didn't look at her</p> <p>8 statistical analyses. You looked at the -- sort of what</p> <p>9 we might call the big picture comparisons of revenue per</p> <p>10 student between ISDs and charters; is that correct?</p> <p>11 A. No. I mean, I did review all of the statistics,</p> <p>12 but sometimes numbers get transposed. This is something</p> <p>13 that can be fixed.</p> <p>14 Q. Okay. So obviously the gap that's -- that's</p> <p>15 described on page 6 is not the gap -- not the same gap</p> <p>16 that's described on page 7; right?</p> <p>17 A. Correct.</p> <p>18 Q. Because the error essentially tracks across.</p> <p>19 That is, the difference was presumably recalculated on</p> <p>20 page 7 for the -- on the assumption that the charter</p> <p>21 schools got \$8,149; right?</p> <p>22 A. Yes.</p> <p>23 Q. And do you know whether the error in the mean</p> <p>24 would also translate into an error for the median that</p> <p>25 is calculated on page 7?</p>	<p>1 A. I don't know.</p> <p>2 Q. Do you know whether the error in mean that's --</p> <p>3 that exists on page 7 translates into an error on the</p> <p>4 standard deviation number that's listed on page 7 for</p> <p>5 charters?</p> <p>6 A. I don't know.</p> <p>7 Q. Do you know whether the error in the mean has an</p> <p>8 effect on the coefficient of variation that's listed for</p> <p>9 charters on page 7?</p> <p>10 A. I do not know. I would have to recheck the</p> <p>11 calculations.</p> <p>12 Q. The percentile analysis in the middle of the page</p> <p>13 is simply a way to compare at various selected</p> <p>14 percentiles what the average ADA funding is between</p> <p>15 charters on the left and ISDs on the right; is that</p> <p>16 correct?</p> <p>17 A. Almost.</p> <p>18 Q. What part of it is not correct?</p> <p>19 A. It's not the average funding. It's the actual</p> <p>20 funding.</p> <p>21 Q. The actual funding, okay, so -- thank you. So --</p> <p>22 so this number, the 95th percentile of 11,153,</p> <p>23 that -- that represents the charter school that is the</p> <p>24 95th percentile?</p> <p>25 A. Correct.</p>
Page 124	Page 125
<p>1 Q. And similarly, the ISD, 15,149, that is the 95th</p> <p>2 percentile ISD funding level; is that correct?</p> <p>3 A. That's correct.</p> <p>4 Q. And so, again, correspondingly, all of these</p> <p>5 other data points are their respective and reported</p> <p>6 percentile for the listed percentiles; is that correct?</p> <p>7 A. Yes, sir, that's correct.</p> <p>8 Q. And the differences are calculated there. What</p> <p>9 is the significance, if any, as I look at the gaps that</p> <p>10 exist, for example, at the top line, at the 95th</p> <p>11 percentile based on these calculated -- these reported</p> <p>12 per ADA funding levels, what is the significance, if</p> <p>13 any, of the fact that the gap between ISD per student</p> <p>14 funding and charter student funding decreases as we move</p> <p>15 from the top end of the percentile group as the 95th</p> <p>16 percentile down to the fifth percentile?</p> <p>17 A. I'm sorry, I'm wrestling with your question.</p> <p>18 Q. Don't fight it.</p> <p>19 A. Can you -- can you say it one more time?</p> <p>20 Q. Yes. What is the significance in your mind, if</p> <p>21 any, of the fact that as we move down the percentile</p> <p>22 rankings the gap -- the corresponding funding gap</p> <p>23 between ISDs and charter schools also reduces?</p> <p>24 A. Okay, I see. When you are examining central</p> <p>25 tendencies, means sometimes -- excuse me, at times it</p>	<p>1 also is important to examine how the distribution of</p> <p>2 expenditures are spread across the entirety of the</p> <p>3 system. What percentile ranking allows you to do is</p> <p>4 examine what the distribution of expenditures are at</p> <p>5 various places along that distribution.</p> <p>6 The examination of what is being spent at the</p> <p>7 highest level of percentile versus the lowest level of</p> <p>8 percentile provides an indication of how much more</p> <p>9 spending power a particular district has in one</p> <p>10 particular space in the distribution than another.</p> <p>11 So if you look down below at the percentile</p> <p>12 ratios, you will see that if you look at the charter</p> <p>13 school who is at the 95th percentile and compare that to</p> <p>14 the charter school that is at the fifth percentile,</p> <p>15 they're spending 70 percent more per child than the</p> <p>16 district at the bottom. And the same structure holds</p> <p>17 for ISD. So the district at the 95th percentile of ISD</p> <p>18 and the district at the fifth percentile of ISD, that</p> <p>19 95th percentile district is spending over twice as much</p> <p>20 as the district at the bottom of the percentile.</p> <p>21 In terms of looking at the differences between</p> <p>22 those percentiles, it gives an indication of the</p> <p>23 magnitude of the differences between high spending ISDs,</p> <p>24 high spending charters in a relative manner as well as</p> <p>25 differences at the low spending ISDs and the low</p>

1 spending charter schools. And what this says kind of in  
2 the complete picture is that if you are a low revenue  
3 receiving ISD and a low revenue receiving charter  
4 school, the difference is about \$860 per student at the  
5 at the fifth percentile. And as you move up and become  
6 a higher spending charter and a higher spending ISD,  
7 that gap gets even bigger.

8 MR. VINSON: Okay. I want to object to the  
9 nonresponsive portions of the answer.

10 Q. And I want to focus solely on this percentile  
11 portion without reference to the percentile ratios.

12 A. Okay.

13 Q. And my question is very specific. I understand  
14 that whether you want to describe it as starting at the  
15 lower end and moving up, the gap gets wider or you want  
16 to start at the upper end and move down, the gap becomes  
17 more narrow in terms of the average funding at the  
18 various percentiles.

19 My question is in -- in this case, what  
20 significance, if any, does that trend, that tendency for  
21 the gap to either get larger as the -- as the compared  
22 districts are moving up in their total receipts or their  
23 FSP from the state or gaps are going down as their FSP  
24 is reduced, what is the significance, if any, in this  
25 case?

1 A. In this case, what it shows is that if you are  
2 examining ISDs and charters at any place along the  
3 spectrum of percentiles that ISDs are receiving more  
4 revenue than charters, not just at the means, but along  
5 the distribution.

6 Q. Is there some reason why the 50th percentile  
7 wasn't included in these percentile numbers that you've  
8 listed on page 7, we go from five, 10, 25, 75, 90, 95?

9 A. Yes, it would be redundant, because the median is  
10 also the 50th percentile.

11 Q. So that's already listed on our median line here  
12 up above on the mean, median, etcetera; right?

13 A. Yes, sir.

14 Q. Let's talk -- okay. Understanding that the FSP  
15 program doesn't include dedicated facilities funding for  
16 charter schools, can you describe for me how it is that  
17 charter schools are funded under the FSP, under the  
18 foundation school program and how that differs from  
19 ISDs?

20 A. No, I wasn't asked to examine the underlying  
21 structure of the FSP. I was asked to evaluate the  
22 results of the FSP and, in fact, if work persists, I may  
23 be asked to evaluate the underlying component as well.

24 Q. What do you mean, if work persists?

25 A. If there becomes a need, if a graduate student

1 needs to conduct additional research, if an organization  
2 would like to conduct such analysis, I would be  
3 available to do those types of things.

4 Q. I want to be really clear about something. I  
5 really don't -- I really am not interested in hearing  
6 about things that might happen to opinions you might  
7 develop outside of this litigation, and so am I  
8 understanding that you don't intend to do any of that  
9 work you just referenced for the purpose of this  
10 litigation as we sit here today?

11 A. Yes.

12 Q. Okay. All right. Let's go to page 8. This is a  
13 similar analysis as to the previous tables we just  
14 looked at, page 6 and 7 except now we're looking at  
15 academic school year '12 and '13 on an ADA basis, all  
16 students, ISDs and charters; right?

17 A. Yes.

18 Q. And then those data are then conveyed over on  
19 page 9 to again perform the same analysis that was  
20 performed on page 6 and 7, again, looking at the mean,  
21 median, standard deviation for the two data sets, doing  
22 the percentile comparison, and then doing the percentile  
23 ratio calculation; is that correct?

24 A. Yes.

25 Q. All right. Let's go to page 10. This is the

1 '13-'14 table that Ms. Templeton generated. And when we  
2 compare page 10 to page 11, we see again that there  
3 appears to be some inconsistencies between the total  
4 revenue per ADA for ISDs, and on page 10 relative to the  
5 number on page 11. Do you see that?

6 A. I do.

7 Q. Do you know which one is the right number?

8 A. The number on Table 1C I believe is correct.

9 Q. And that's because you checked this number  
10 against the underlying database that Ms. Templeton  
11 generated for you; is that correct?

12 A. Yes. She and I used different analytical  
13 programs, so that's why I need to go back and check.  
14 She uses Excel and I use SPSS. So the numbers should be  
15 close, but I will go back and double-check.

16 Q. What is SPSS?

17 A. Statistical Package for Social Science.

18 Q. Is that a program that interfaces with Excel  
19 spreadsheets?

20 A. Yes.

21 Q. So you can import an Excel spreadsheet into that  
22 program; is that correct?

23 A. Yes.

24 Q. And you could export your data from SPSS into an  
25 Excel spreadsheet; is that correct?

<p style="text-align: right;">Page 130</p> <p>1 A. It doesn't usually work like that. You usually</p> <p>2 import data to conduct analysis.</p> <p>3 Q. So no, you can't do that?</p> <p>4 A. You can, but most people usually don't.</p> <p>5 Q. Well, I'm not asking about most people. I'm</p> <p>6 asking about whether you can or not?</p> <p>7 A. Yes, you can.</p> <p>8 Q. And am I to understand that you had your own file</p> <p>9 in this program, Statistical Package for Social Science,</p> <p>10 that you were utilizing in the generation of this</p> <p>11 report, Exhibit 20267?</p> <p>12 A. I utilized the data provided and ran analyses to</p> <p>13 check information.</p> <p>14 Q. And are those analyses that you ran reflected in</p> <p>15 whatever this file is on the Statistical Package for</p> <p>16 Social Science?</p> <p>17 A. No, I utilized the construction of these to check</p> <p>18 data analysis.</p> <p>19 Q. Okay. I need to understand what you are</p> <p>20 referring to when you say "these." What "these" are you</p> <p>21 referring to?</p> <p>22 A. These information on table 1C.</p> <p>23 Q. Okay. And what did you -- what did you do in</p> <p>24 SPSS to -- to do any of the work that you -- that you</p> <p>25 did in this case?</p>	<p style="text-align: right;">Page 131</p> <p>1 A. You typically will create a structure that asks</p> <p>2 the system to run means and mean differences.</p> <p>3 Q. Did you do that in this case?</p> <p>4 A. I did that in this case for tables 1A -- excuse</p> <p>5 me, 1A, 1B and 1C.</p> <p>6 Q. And do you still have that file somewhere?</p> <p>7 A. I do not have that file. I cannibalized my</p> <p>8 original file.</p> <p>9 Q. What do you mean, you cannibalized it?</p> <p>10 A. I used various pieces of my original file instead</p> <p>11 of rewriting an entire new code.</p> <p>12 Q. I'm trying to understand what you did here. I'm</p> <p>13 simply talking about the supplemental report here. It</p> <p>14 sounds like 1A, 1B, 1C, you used your SPSS program to</p> <p>15 run some analyses; is that correct?</p> <p>16 A. Correct.</p> <p>17 Q. And then what happened to those analyses?</p> <p>18 A. Those analyses were used to check the data</p> <p>19 tables.</p> <p>20 Q. And what did you do with them once you completed</p> <p>21 the analyses?</p> <p>22 A. I did not keep them. I cannibalized them from</p> <p>23 the original data sets -- excuse me, the original code</p> <p>24 that I used in phase I of this trial.</p> <p>25 Q. Okay. So am I understanding that you only used</p>
<p style="text-align: right;">Page 132</p> <p>1 the SPSS program for the purpose of double-checking the</p> <p>2 calculations that Ms. Templeton generated for the</p> <p>3 various tables in this supplemental report?</p> <p>4 A. Yes.</p> <p>5 Q. But you didn't keep any of that work product that</p> <p>6 you generated?</p> <p>7 A. I didn't keep the output, because the output was</p> <p>8 consistent with tables marked A, B and C.</p> <p>9 Q. And you didn't do that same calculation for the</p> <p>10 1A(a), 1B(a) and 1C(a); is that right?</p> <p>11 A. I did not. I asked Ms. Templeton to generate</p> <p>12 those.</p> <p>13 Q. Okay. Now, I thought that you used the SPSS to</p> <p>14 generate mean, median and percentile analysis. That's</p> <p>15 the stuff that's in these sub (a) files; right?</p> <p>16 A. That's what's in those files, yes. I was</p> <p>17 referring to A, B and C.</p> <p>18 Q. But this is -- okay. So you didn't do any</p> <p>19 confirmation about means, median modes in SPSS?</p> <p>20 A. I did not.</p> <p>21 Q. You only did simple mathematical calculations of</p> <p>22 whether the mean listed, for example, in -- on page 10</p> <p>23 for ISDs of 10,513 was the accurate calculation for the</p> <p>24 mean?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 133</p> <p>1 Q. All right. And I assume that because you don't</p> <p>2 know -- sorry, on page 11 here, because the mean is not</p> <p>3 accurate, you don't know whether that affected the</p> <p>4 calculation for median, standard deviation or</p> <p>5 coefficient of variation that Ms. Templeton generated on</p> <p>6 page 11, is that correct, for ISDs?</p> <p>7 A. It should not, because they all are separate</p> <p>8 calculations.</p> <p>9 Q. Okay. But the difference is obviously not</p> <p>10 accurate either; right?</p> <p>11 A. That's correct.</p> <p>12 Q. Page 12 is a tabulation of the previous tables</p> <p>13 that we've seen; right?</p> <p>14 A. Tables A, B and C.</p> <p>15 Q. Right, okay. So Table 2A, 2B, 2C are similar</p> <p>16 from a methodology standpoint to 1A, B and C that we</p> <p>17 just looked at, except now we are using WADA instead of</p> <p>18 ADA; right?</p> <p>19 A. That's correct.</p> <p>20 Q. And let's just check. Again, on page 14, the ISD</p> <p>21 number does not correspond to the number reported on</p> <p>22 page 13; right?</p> <p>23 A. It does not.</p> <p>24 Q. And I assume you don't know why is?</p> <p>25 A. I do not.</p>

1 Q. Do you have any sense of which number is the  
2 actual mean for ISDs for the 2011-'12 school year? Is  
3 it the one on page 14 or the one on page 13?

4 A. Again, I believe that the As and Bs and Cs are  
5 correct.

6 Q. Okay. And then I assume for the same reason --  
7 answer you gave me on the last table that the -- it's  
8 your assumption that the error in the mean calculation  
9 on page 14 did not affect the calculated number for  
10 median, standard deviation or coefficient of variation;  
11 right?

12 A. That's correct.

13 Q. Now, if the reason that the mean is different and  
14 that is incorrect for ISDs is that Ms. Templeton was  
15 simply using the wrong data set, then isn't it  
16 necessarily true that the mediation, standard deviation  
17 and coefficient of variation are likely incorrect as  
18 well?

19 A. That is not completely correct.

20 Q. Why not?

21 A. The median would be a separate calculation, but  
22 there may be an effect on the other two.

23 Q. But if she's using the wrong data set, you don't  
24 know that the median of the incorrect data set would be  
25 the same as the median for the correct data set, do you?

1 A. Oh, I'm sorry, I did not hear you say the data  
2 set. Yes, sir.

3 Q. Your point is only that the median is not  
4 calculated, it is determined by the data set?

5 A. Yes, yes.

6 Q. Okay. Let's go to Table 2B. Here we have a very  
7 minor discrepancy of a dollar in the reported ISD number  
8 on page 15 than on page -- page 16; right?

9 A. That's correct.

10 Q. Next page 17. The next data set also incorrectly  
11 reports the ISD calculated FSP revenue per WADA between  
12 page 17 and -- between page 17 and page 18; right?

13 A. The numbers are different, yes.

14 Q. And one of those is necessarily incorrect?

15 A. It may not be incorrect. It may be due to  
16 rounding.

17 Q. You think a rounding error could describe the  
18 difference between 6572 and 6564?

19 A. It's possible, but they are not the same.

20 Q. Does it concern you that now in the majority of  
21 tables that have been presented in these statistical  
22 calculations that there is at least one error on every  
23 page?

24 A. Yes, it does.

25 Q. And then these data are then tabulated for WADA

1 on page 19 in the similar way that they were assembled  
2 for the ADA calculation; right?

3 A. That's correct.

4 Q. Now, page 20 and 21 utilizes the similar sized  
5 concept that we saw some data for in the Excel  
6 spreadsheets; right?

7 A. Yes.

8 Q. And here, again, we have an error in the -- oh,  
9 no, no, that's not right, sorry. There wasn't any  
10 statistical calculation made for these data that are  
11 shown on page 20 in terms of mean, median, etcetera,  
12 like there were for those other components; is that  
13 correct?

14 A. That's correct.

15 Q. Why didn't you have Ms. Templeton do that same  
16 analysis for these data?

17 A. We wanted to show that there were dispersion  
18 issues in the entirety of the samples as opposed to the  
19 sub sample.

20 Q. Okay. But why didn't you want to show that those  
21 differences were statistically meaningful in the same  
22 way that is ostensibly demonstrated by the calculations  
23 that you made on the dual system?

24 A. Well, frankly we thought that the case would have  
25 been made in tables 1 and 2.

1 Q. So what was the purpose of having a table 3 at  
2 all if the case was made by tables 1 and 2?

3 A. The case of dispersion.

4 Q. So what is the significance of table 3?

5 A. Table 3 is the examination of school districts of  
6 similar size.

7 Q. What is the significance of that? That's a  
8 description. What is the significance of it as relates  
9 to this case?

10 A. The significance of similar size as we discussed  
11 earlier was to attempt to make apples-to-apples  
12 comparisons to address for any economy of scale  
13 differential that may exist between districts that are  
14 not similar size.

15 Q. Okay. Is it your opinion that so long as  
16 charters are not funded at the same level of ISDs, that  
17 they will not show outputs that are similar to ISDs?

18 A. No.

19 Q. Why is that not your opinion?

20 A. I believe that the different schools are  
21 structured differently. There are different types of  
22 students in each school that will receive differentiated  
23 amounts of funding. The quality of -- excuse me, the  
24 pure equality of expenditure is not something that's  
25 typically supported by the work that I do in more -- in

1 the evaluations that I do for this case or in my  
2 professional life, what's most important is that how  
3 revenues are generated are consistent.

4 Q. So it doesn't matter what the funding ultimately  
5 is for -- for charters and ISDs. The key is how those  
6 revenues are generated; am I understanding that  
7 correctly?

8 A. Yes. The key is how revenues are generated are  
9 important, how revenues are distributed is important,  
10 and how revenues are utilized are important. If the  
11 state has a policy where the state designs a mechanism  
12 to distribute dollars, those dollars should be generated  
13 in the manner that is determined by -- by the state  
14 based on relevant policy, and all students should be  
15 treated equivalently.

16 Q. How do you treat students equivalently if you are  
17 not funding them at the same level?

18 A. There are multiple ways to treat students  
19 equivalently. The notion of efficiency in Texas that  
20 most folks talk about as equity typically has two  
21 components. One is where we do treat all the students  
22 the same. That's the notion of horizontal equity, but  
23 the other notion is that we acknowledge that some  
24 students are different, and some students need more  
25 support than others, so we provide additional support

1 for those students, such as the bilingual students who  
2 have extra needs for bilingual services, so within the  
3 structure of a mechanism there is a component that  
4 provides additional revenue for those students.

5 Q. And the state of Texas has such a mechanism;  
6 right?

7 A. The state of Texas does have that component  
8 within the mechanism.

9 Q. And have you made any calculation about the  
10 demographic of charter schools relative to ISDs on any  
11 of those differentiating characteristics of the  
12 students?

13 A. I have.

14 Q. Have you reported any of that in these data?

15 A. Not in these data.

16 Q. Where did you do that?

17 A. I have several research articles that detail that  
18 information.

19 Q. Are any of those anything that has been  
20 introduced in this litigation?

21 A. Yes in my vitae.

22 Q. Okay. The title of the document it is in your  
23 vitae, but the document itself isn't in your vitae;  
24 right?

25 A. I don't know if any were requested.

1 Q. Okay. You have testified as an expert outside of  
2 this case; right?

3 A. Yes, sir.

4 Q. And you understand that the universe of documents  
5 and materials that you have relied on in forming your  
6 opinion as an expert is something that you -- that the  
7 party against whom you're testifying has a right to see;  
8 right?

9 A. Yes, I understand that.

10 Q. And have you provided any of these articles to  
11 Mr. Schwartz?

12 A. I don't believe to Mr. Schwartz.

13 Q. You have provided them to the court; right?

14 A. I don't believe I have been requested to provide  
15 them.

16 Q. And so that's a no, you haven't provided them;  
17 right?

18 A. I don't believe so.

19 Q. Because I can't ask you about those documents  
20 because I don't have them in my hand; right?

21 A. Yes, sir, but earlier you did ask me about a line  
22 item in my vitae, and you asked me about that  
23 specifically --

24 Q. I did.

25 A. -- and I told you about that, so if you are

1 questioning the amount of knowledge that I am  
2 possessing, we can refer to my -- my CV and walk through  
3 the work that I've done that is pertinent to Texas.

4 Q. We started this -- this aspect of our  
5 conversation with me trying to understand whether you  
6 have done any work for the purpose of this case that you  
7 have shared with us about the characteristics of charter  
8 school students relative to traditional ISD students,  
9 and the answer, as I understand it, is that you haven't  
10 done any of this work in this case for that purpose?

11 A. If we are referring to both phases of the case,  
12 there are some information that was submitted  
13 previously, but we did not extend that analysis to the  
14 current phase.

15 Q. Why didn't you extend that to the current phase?

16 A. We were focusing on the analysis of FSP.

17 Q. That tells me that you didn't, but it doesn't  
18 tell me why, why didn't you. Why did you exclude them?  
19 Why didn't you include it if -- if that's a component of  
20 determining whether a system is functionally efficient?

21 A. If -- I'm sorry.

22 Q. If the system you described -- I guess you  
23 described an equivalence; right? There's straight,  
24 horizontal equivalence, that is, everybody gets the  
25 same, or you can have a system that recognizes the fact

1 that students are -- some students are different than  
2 others, and their educational needs may be different  
3 than others; right?

4 A. Yes. That was horizontal equity and notions of  
5 vertical equity, yes, sir.

6 Q. And it sounds like you're telling me you did some  
7 work along these lines in the first phase of the case  
8 comparing the actual profile of charter school students  
9 to ISD students; is that correct?

10 A. We just described them, yes, yes.

11 Q. And -- but you didn't carry that forward to the  
12 current school year, right, the '13-'14 school year;  
13 right?

14 A. No, sir.

15 Q. And my question is why not?

16 A. Because we were focusing on the FSP. That's what  
17 we -- we were doing.

18 Q. So you're not able to opine or offer any opinions  
19 about the characteristics of charter school students in  
20 terms of their educational needs relative to ISD  
21 students for the '13-'14 school year; is that correct?

22 A. That's correct.

23 Q. Let's go back to the table, I think we were on  
24 page 25, table 4B.

25 MS. BONO: Hey, guys, I'm sorry to

1 interrupt. I'm going to go and jump off now.

2 MR. VINSON: Bye.

3 MS. BONO: Have a good afternoon.

4 MR. VINSON: You too.

5 A. I'm sorry, which page?

6 Q. I've got page 25.

7 A. Okay.

8 Q. Page 25, again, performs a similar exercise,  
9 comparing similar size ISDs and charters on a per  
10 weighted student basis; is that correct?

11 A. Yes.

12 Q. And that page 25 is for the '12-'13 school year.  
13 Page 26 is the same calculation for the '13-'14 school  
14 year as the page 25 calculation; is that correct?

15 A. Yes.

16 Q. Then page 27 is a tabulation of the per WADA  
17 calculations that you have made on the previous pages;  
18 right?

19 A. Yes.

20 Q. And here we are comparing similar size districts,  
21 public school districts with charter school districts;  
22 is that correct?

23 A. Yes.

24 Q. Okay. On page -- page 28, I was unable to  
25 identify a couple of data points that you have here. I

1 need to go over here to pull this up. Just as a  
2 background, page 28 is intended to -- why don't you  
3 describe what page 28 encapsulates, please.

4 A. College readiness standards evaluation, analyzing  
5 the concept of adequacy.

6 Q. Okay. And specifically what you're analyzing  
7 here is the scores on the -- on TAKS math and language  
8 arts tests for ISDs and charters as well as an ACT and  
9 SAT analysis for ISDs and charters; is that correct?

10 A. Yes.

11 Q. All right. Did you check these data to make sure  
12 that they were accurate against the reported data that  
13 TEA provided?

14 A. I only reviewed the spreadsheet. I did not  
15 review the calculations.

16 Q. Okay. I'm going to -- I'm going to repost as  
17 soon as I figure this out. Okay. I'm going to pull  
18 back up for you the spreadsheet that is the SAT/ACT  
19 performance spreadsheet that we looked at earlier, okay?

20 A. Okay.

21 Q. And I'm most interested in the first line,  
22 percentage of students taking the ACT or the SAT. The  
23 reported numbers here are 58.1 for ISDs and 16.9 for  
24 charters; is that correct? I'm talking about on the --  
25 we're not there yet.

1 A. Oh.

2 Q. Here. On the page 28, the number for ISDs  
3 reported is 58.1, and the number for charters reported  
4 is 16.9 for percentage of students taking the ACT or SAT  
5 within an apparent gap of 41.2; is that correct?

6 A. That's correct.

7 Q. All right. Now, I was unable to verify these  
8 numbers or track them anywhere for when I look at  
9 standard ISDs, percentage of students tested, the  
10 reported number for 2012 is 20.8; right?

11 A. That seems to be the column, but I would have to  
12 ask Toni Templeton how that was calculated.

13 Q. Right, and she's not here, so for now, all we can  
14 say is you don't know -- that number that I just  
15 highlighted, E -- column E, line 8532 should be for  
16 charters 16.9 if table --

17 MR. SCHWARTZ: Can you move your cursor just  
18 a little?

19 MR. VINSON: Yes, sure.

20 MR. SCHWARTZ: Thank you.

21 Q. 20 -- excuse me, should be 16.9 if the table on  
22 page 28 of your report is accurate; right?

23 A. I'm not sure, because these are some of the  
24 background data tables, and I don't know what analysis  
25 occurred before they were built into the tables, so I

would have to confer with Toni Templeton.

Q. Okay. Well, let me -- let me also show you -- let me ask you this way: Are you able to explain why the number listed on column E, row 8532 is 20.85, and that looks like the number that should be input on page 28 of your report that's listed as 16.9, are you able to explain why those numbers are different?

A. No.

Q. Okay. And similarly, the ISD number that is listed on the report is 58.1; is that correct?

A. Yes.

Q. And the number that, again, appears to correspond with where -- where to look in this table says 65.36 percent; is that correct -- or 62.35 percent, excuse me?

A. Yes, the number in E 8533 says 62.357.

Q. And that is not the same number that is listed on page 28 for ISDs for percentage of students taking the ACT or the SAT; is that correct?

A. Yes, those two numbers are not the same.

Q. Okay. Now, I'll show you that, for example, when we look at the ACT average score for charters, that is showing as 19.0 and, in fact, when you look at the reported number on the -- on the chart, that does appear to be consistent; right? You have got a 19.0 as well; right?

A. Yes.

Q. And similarly, when we look at the ISD ACT average score, it shows for ISDs, 19.9 on the chart, and it's 19.889 or 19.9 on the Excel spreadsheet; right?

A. Yes.

Q. So those numbers do appear to correspond with each other; right?

A. Those numbers do appear to correspond.

Q. And the -- I think the same thing is true for the SAT. Let's double-check that. SAT average, yes. The SAT average for the charter on the chart is 900.1, and similarly, 900.1 on the Excel spreadsheet; right?

A. That is correct.

Q. And the average SAT score for ISDs is listed as 951.3 on your chart, and similarly it's 951.3 on the data table; right?

A. Yes.

Q. All right. So now let's move forward to page 20 on the chart. These are the '12-'13 data, and I have a few more questions about this. Actually you may be able to help me find this.

MR. SCHWARTZ: What page are you on now?

MR. VINSON: Page 29.

MR. SCHWARTZ: 29, thank you.

Q. Table 11B, initially I was not able to find any

reference at all to these reported numbers, 20.9, 15.3 and 5.6 for the percentage of college-ready graduates above the ACT and SAT criteria.

A. Uh-huh.

Q. Can we take a minute, and I will start at the beginning here. Maybe they were hidden. I'm going to unhide all of the columns. That is probably what happened.

Okay. So I want to just find where these numbers came from. We're looking for above the SAT or ACT criteria. I'm assuming and hoping that these coded columns without a description are not the column we're looking for.

MR. SCHWARTZ: Off the record for a second.  
(Off the record.)

Q. All right. Now, I've just given you -- and I understand these are not ideal circumstances for you to be examining what is in a spreadsheet with 1,500 lines in it in columns A through CX, but you'll agree with me that on the walk-through we just did, there doesn't appear to be any category at least that is indicated that would reflect these numbers 20.9, 15.3 for the ISD and charter numbers of percentage of college-ready graduates above the ACT or SAT criteria; right?

A. Well, again, I'm not trying to be obtuse or

defensive. I don't know how she utilized the data sheets --

Q. Right.

A. -- to a certainty to calculate all of the numbers.

Q. Sure. And you understand that I don't understand that either; right? If you -- I'm skipping forward a couple pages here. Page 31 is a tabulation of the previous data tables; right?

A. Yes.

Q. And page 32 is when we analyze some group of ISDs versus standard accountability charters; is that correct?

A. Yes, that begins.

Q. We talked about this a little before, right, because we weren't sure what -- what version of -- whether this ISD was the full suite of ISDs or whether it was a subset of standard accountability ISDs; right?

A. It is a subset of the standard accountability.

Q. Okay. You are able to confirm that at some point?

A. I thought we had confirmed it previously.

Q. Okay, maybe we did.

A. Chapter -- sorry, tables 11 are all open enrollments. Tables 12, standard accountability.

1 Q. All right. Good. So if we didn't clear it up  
2 before, thank you for clearing it up now.

3 And what we see here for '11 and '12 school year  
4 is that the performance on the TAKS math and language  
5 arts is across the -- across the board pretty close as  
6 between charters and ISD -- charters and ISDs when you  
7 isolate the standard accountability versions of each of  
8 those enterprises; is that correct?

9 A. Yes.

10 Q. And then with respect to the ACT and SAT  
11 criteria, at least in '11-'12, with the exception of the  
12 ACT -- let me ask it differently.

13 For '11 and '12, when we're focusing on the  
14 ACT/SAT concepts, the first line item asks or looks at  
15 the percentage of students taking those various tests,  
16 and at least in '11 and '12, the difference between  
17 standard accountability ISDs and standard accountability  
18 charters was approximately 32.3 percent; is that  
19 correct?

20 A. Yes.

21 Q. And for the actual score of -- on the ACT of ISDs  
22 exceeded standard accountability charter students by  
23 approximately 1.1 index points; is that correct?

24 A. Yes.

25 Q. And then on the SAT ISDs -- students at ISDs

1 standard accountability ISDs outperformed their  
2 counterparts at standard accountability charters by  
3 approximately 21.2 points on the SAT test; is that  
4 correct?

5 A. Yes.

6 Q. All right. Now, on the next page, '12-'13, page  
7 33, we talked about this. We saw that those numbers,  
8 those slight edge that ISDs enjoyed in '11 and '12 had  
9 either become negligible or actually reversed themselves  
10 for the ACT and SAT categories that are described on  
11 page 33; right?

12 A. Yes.

13 Q. All right. And page 34 simply shows -- I guess  
14 we can't call it a trend because there are only two data  
15 points, but it shows the comparison of '11-'12 to  
16 '12-'13 for these data points that have been described  
17 or analyzed comparing standard accountability public  
18 schools to standard accountability charters; is that  
19 correct?

20 A. Yes.

21 THE WITNESS: Can I get a walking break?

22 MR. VINSON: Yes, definitely.

23 (Recess taken 2:58 to 3:08 p.m.)

24 Q. Dr. Rolle, you are not holding yourself out as an  
25 legal expert in this matter, are you?

1 A. No.

2 Q. And you were doing you what you understand to be  
3 called for by the various authorities on the subject.  
4 For example, on page 35 you cite the Neeley v. West  
5 Orange-Cove case about acts substantially equal  
6 opportunity to have access to educational funds; right?

7 A. I'm not sure I understand that question.

8 Q. Okay. You are not a legal expert, but you're  
9 quoting the law here; right?

10 A. Yes, we are quoting the portion of Neeley versus  
11 West Orange-Cove.

12 Q. Right, and the reason you are doing that is  
13 because you are just outlining what you understand the  
14 law to require with respect to the definition of  
15 efficiency as the Texas Supreme Court has defined it;  
16 right?

17 A. Yes.

18 Q. And although it could be as complicated as you  
19 want it to be, this is a relatively succinct explanation  
20 of what you understand the standard to be?

21 A. Yes.

22 Q. And then you walk through and you point out that  
23 based on the calculations that you and Ms. Templeton  
24 have done for the three academic years, the ISDs have  
25 generated on average a difference of roughly \$1,700 per

1 ADA more than Texas charter schools; right?

2 A. Yes.

3 Q. And then that's broken down into its FSP and ADA  
4 components on the next two paragraphs; right?

5 A. Yes.

6 Q. And then, therefore, you conclude -- this is  
7 your -- this is your actual expert opinion, right, that  
8 children in open enrollment charter schools have not had  
9 substantially equal opportunity to have access to  
10 educational funds for facilities, and that number 2, the  
11 recent laws as passed by the 83rd legislature have not  
12 remedied the previous lack of equal opportunity to have  
13 access to educational funds. Did I read that correctly?

14 A. Yes.

15 Q. And is that with respect to the efficiency  
16 conclusions that you draw based on table 1, is that how  
17 you describe your opinion in this case?

18 A. Yes.

19 Q. And just so we're clear, and maybe so I'm clear,  
20 students who attend a charter school do so based on a  
21 voluntary election presumably of their parents; right?

22 A. Election?

23 Q. Yes.

24 A. Selection?

25 Q. Either way.



1 A. Oh. Yes.

2 Q. It's a voluntary choice that's made by the  
3 parents of the students who attend the charter schools  
4 to send their kids to charter schools; right?

5 A. Yes.

6 Q. And if those parents wanted to, they could at any  
7 point in time either -- any point in time they can send  
8 their children to the corresponding ISD public school;  
9 right?

10 A. Yes.

11 Q. And if it was the priority of any particular  
12 parent to have access to the available funding that  
13 would attend their student if they attended the ISD,  
14 that door is always open to them; right?

15 A. Yes.

16 Q. And so how is it that you are concluding that the  
17 students who attend charter schools don't have access to  
18 the funds that are available to them if they attended an  
19 ISD?

20 A. But they're not attending an ISD --

21 Q. They've chosen to do something different; right?

22 A. I wasn't finished.

23 Q. I'm sorry.

24 A. These children have decided to attend a school  
25 that is part of the Texas system of schools. They

1 are -- they have chosen this school based on their own  
2 parental choice as you have asserted earlier. But  
3 regardless of the choice that is available to a  
4 particular child, just because a choice is made does not  
5 mean that the alternative has to be an inefficient -- a  
6 place where schools are not receiving an efficient  
7 amount of resources if that school is made available by  
8 the state.

9 Q. I guess I'm trying to come up with a simple  
10 concept of access, and it's hard for me to understand  
11 how a student who at all times has the option to attend  
12 the ISD equivalent of whatever charter school they may  
13 attend doesn't have access to the funding available at  
14 the -- at the ISD equivalent.

15 MR. SCHWARTZ: Objection to form.

16 Q. Can you explain that to me?

17 A. The school where a child attends has to have a  
18 substantial equal opportunity to have access to  
19 educational funds, regardless of whether it's an ISD or  
20 an open enrollment charter. All schools that the state  
21 of Texas sponsors has to meet that standard.

22 Q. But that's not actually the language of the case,  
23 is it? Neeley refers to children who live in poor  
24 districts, and children who live in rich districts must  
25 be afforded a substantially equal opportunity to have

1 access to educational funds. It doesn't say that the  
2 schools themselves have some right to these funds;  
3 right?

4 A. Correct, but it's my understanding that charter  
5 schools are viewed as districts with no taxing  
6 authority.

7 Q. Right.

8 A. So, in essence, the charter school acts as a  
9 district, and regardless, if you are a child who lives  
10 in a poor district or a child who lives in a wealthy  
11 district, what this says -- it doesn't say "or," this  
12 says "and," which means all children and all districts  
13 need to be afforded a substantially equal opportunity to  
14 have access to education.

15 Q. Right. And based on that understanding, every  
16 child whose parents choose to send them to a charter  
17 school as opposed to the ISD equivalent is choosing not  
18 to have access to the funds available to them at their  
19 ISD equivalent; isn't that correct?

20 A. The parents who are choosing a charter school  
21 that is sponsored by -- either by the district or the  
22 state of Texas should have and pay a substantially equal  
23 opportunity to have access to education, regardless of  
24 the school they attend.

25 MR. VINSON: I will object as nonresponsive.

1 Q. That is not my question. My question is about  
2 the parents who choose to send their children not to the  
3 ISD school that is available to them, but to the charter  
4 school -- to any charter school they may choose --

5 A. Okay.

6 Q. -- chooses not to access the funds that would be  
7 available to their child if the child were to attend the  
8 ISD; isn't that correct?

9 A. They will choose to attend an ISD if they don't  
10 choose a charter school, yes.

11 Q. Yes.

12 A. But they do.

13 Q. Right. And they do so -- again, they have access  
14 to the funds. They simply are choosing not to access  
15 those funds; isn't that correct?

16 A. I think you are starting with an ill premise.

17 Q. What is that?

18 A. You are assuming that different types of schools  
19 should not have substantially equal access to revenue.

20 Q. That's a different question. That's a totally  
21 different question. Whether the system is fair or  
22 unfair, I'm asking you a different question, which is,  
23 let's assume you are right, that if an unfair second  
24 class system of schools, that charter schools are  
25 inferior in all instances to their ISD equivalents,

1 okay, a parent who chooses to send their child to a  
2 charter school and instead of the ISD is, in fact,  
3 choosing not to access the funding that is available to  
4 that student at the ISD; isn't that correct?

5 A. That is correct.

6 Q. And it's a truism, isn't it?

7 A. It is not a truism. Based on the structuring of  
8 your question, it is true. I still disagree with the  
9 premise.

10 Q. Then that's fine. You know that changes to the  
11 funding formula in the 83rd -- after the 83rd  
12 legislature did change the way that FSP is calculated  
13 both for ISDs and for charters; is that correct?

14 A. I'm aware that there were some significant  
15 changes, yes.

16 Q. And do you know to what degree those changes  
17 affected the average funding comparison or difference on  
18 the M&O side for charters and districts?

19 A. Oh, gosh. I believe charter schools were about  
20 \$75. I'm not so sure about the ISDs -- \$75 per student.

21 Q. Increased?

22 A. Increased.

23 Q. Per ADA?

24 A. I believe that may be per WADA. I would have to  
25 double check, but about \$75 generally.

1 earlier in the deposition in the second to the last  
2 paragraph: "Ostensibly these differences in academic  
3 performance are due in part to unfunded charter school  
4 facility costs affecting payroll expenditures that  
5 require charter schools to employ higher percentages of  
6 teachers with one to five years of teaching experience  
7 compared to ISDs."

8 Is there some data that you can point me to that  
9 suggests that the differences in funding correspond to  
10 the -- the differences in outcomes described in table  
11 11?

12 A. I'm sorry, try this again

13 Q. Sure. The second that the last paragraph starts  
14 with the word "ostensibly," which I mean -- I understand  
15 to mean that there is some chance that the differences  
16 in outcomes in table 11 are due in part to unfunded  
17 charter school facility costs affecting payroll  
18 expenditures that require charter schools to employ  
19 higher percentages of teachers with one to five years of  
20 teaching experience compared to ISDs. Do I understand  
21 that to be your view on the explanation of the results  
22 in table 11?

23 A. All except ostensibly, which I tend to use as the  
24 preponderance of the evidence shows.

25 Q. You believe the word "ostensibly" means the

1 Q. Now, on page 36 you have essentially repeated the  
2 exact same language that is on page 35, except you  
3 filled in different blanks for the -- the average, or  
4 the calculations that have been made from tables 2 --  
5 from table 2 on a per WADA basis; is that correct?

6 A. Yes.

7 Q. And the same goes for page 37, these statements  
8 are all essentially the same as the statements on page  
9 36 and 35, you have just changed the data for each of  
10 these; is that correct?

11 A. Yes.

12 Q. And 38 again is the same -- it's the same words  
13 on the page as 37, 36 and 35, you have just again  
14 inserted the appropriate variables or the calculations,  
15 I guess, from table 4; is that correct?

16 A. Yes.

17 Q. Page 39 is a reference to the table 11 and  
18 conclusions that could be drawn from 11, tables -- the  
19 various tables 11, I guess. Now, table 11 is a  
20 comparison of all students -- all charters, I should  
21 say, and all ISDs, and doesn't isolate simply the  
22 standard accountability versions of each of those;  
23 right?

24 A. Yes.

25 Q. Now, you say and you made reference to this

1 preponderance of the evidence shows?

2 A. That's how I used it, or the preponderance of the  
3 evidence appears to show.

4 Q. Pulling up for your reference the  
5 MiriamWebster.com definition of "ostensibly," definition  
6 number 1 is not very helpful because it circles back on  
7 the root "ostensible." Definition number 2 says, "To  
8 all outward appearances." Is that definition number 2  
9 one that you are comfortable with?

10 A. If you would like to say all outward appearances,  
11 I'm fine, but I think that outward appearances would be  
12 supported by a preponderance of the evidence.

13 MR. SCHWARTZ: Would you put that, as long  
14 as you brought it up, the definition that you just  
15 brought up of "ostensible" --

16 MR. VINSON: Yes, that's --

17 Q. The definition of "ostensible," according to  
18 Miriam Webster, is "seeming or said to be true or real,  
19 but very possibly not true or real." Is that your  
20 understanding of the word "ostensible"?

21 A. Ostensible is there's a possibility that  
22 something might not occur, even though I assert it  
23 might, so I don't want to get into a whole semantic  
24 argument, but I can agree that we can use "it appears to  
25 be" or "the evidence shows."

Q. And very possibly not true or real; right? I mean, that is what the definition of "ostensible" is.

A. I would not engage the intensifier.

Q. So tell me what you meant to say there. Did you mean to say that it could be true --

A. There could be other causes.

Q. -- or real, but very possibly not true or real, that the differences in academic performances are due, etcetera, etcetera?

A. No, I would --

Q. Why don't you tell me what you meant to say?

A. Okay. It's getting late, and I know we are both trying to answer. What we were asserting is that we have evidence that shows that it may not be the only case that -- so in other words, there may be other issues that could cause some difference.

Q. What are the other differences other than funding that you believe might explain the differences shown in table 11 in performance?

MR. VINSON: Let's go off the record for a second.

(Off the record.)

Q. Let's start here. You agree that there are a multitude of potential explanations that would explain the apparent differences in outcomes shown on tables 11;

is that correct?

A. Possibly, yes.

Q. And one of those -- why don't you rank for me in likelihood of explanation that is most likely to least likely all of the factors that you can think of that -- that explain the differences in these outcomes?

A. Based on the evidence we evaluated, we began with teacher experience, and we noted that there was a large difference in ISDs and charter schools in the percentage of teachers experienced at years 1 to 5 in the difference. And so we use that particular notion in our analysis, which is why we are using the word "ostensibly" to say that we believe that this may be occurring because charter schools must use their M&O dollars not only to fund their facilities, and by funding their facilities, they have less dollars for their instructional operation, which compels them to buy teachers that are at least -- that have lower amounts of experience because they are cheaper to employ.

Q. What are some other explanations, possible explanations for the differences that you-all found in tables 11 besides teacher experience?

A. We didn't analyze anything beyond teacher experience, excuse me.

Q. So --

A. Well, I would have to review our previous report but teacher experience is what leaps to mind at this point.

Q. All right. And again, table 11 looks at all students in both systems; right?

A. Yes, sir.

Q. Let's go to page 40. Page 40 is the table 12 addendum that is essentially the same words as the table 11 conclusion, the only difference being the data that are compared are different in paragraphs 2, 3 and 4 of that page; is that correct?

A. Yes.

Q. Any other differences?

A. I don't believe so.

Q. Let me ask you about the '12-'13 school year. The only indicators that we have in our hands for how charters -- standard accountability charter students did relative to standard accountability ISDs are reflected on table 12B on page 33; right?

A. Yes.

Q. And what we see there is at least for that time period, more charter school, as a percentage of the total student population within each defined group, a higher percentage of charter students took the ACT or the SAT relative to their standard accountability ISD

counterparts; isn't that correct?

A. Yes.

Q. And that's despite the apparent difference in teacher experience between ISDs and charter schools; isn't that correct?

A. Yes.

Q. And so insofar as you have drawn any conclusion that the relative disparity in the typical or average years of experience for teachers and charter schools as compared to their ISD counterparts doesn't explain these data on 12B in terms of the percentage of students taking the ACT or the SAT; is that correct?

A. I'm not sure I understand the last part.

Q. Your hypothesis, the ostensible hypothesis that you draw based on table 11 and on table 12 is that the data that you looked at appeared to suggest that charter schools were being outperformed by their ISD counterparts, and the ostensible explanation that you could come up with, the only one that you've been able to come up with is the difference in teaching experience for charter school teachers versus ISD teachers; is that correct?

A. I said that was the only one that came to mind at the time.

Q. Yes.

1 A. Yes.  
 2 Q. And is there anything else you would like to add  
 3 to that in terms of explanations?  
 4 A. No. As I --  
 5 Q. So go ahead and finish.  
 6 A. As I had an opportunity to think about it, we  
 7 also examined teacher turnover, we examined teachers'  
 8 level of education as well.  
 9 Q. What did you find with teacher turnover in ISDs  
 10 as compared to charters?  
 11 A. They tended to be higher in charter schools.  
 12 Q. That's sort of a necessary corollary to the  
 13 previous finding that teachers have less experience in  
 14 the charter schools; right? If they -- if they only  
 15 work for five years, you are going to have more turnover  
 16 than a -- than a system where the average teacher's  
 17 tenure is 15 years; right?  
 18 A. Okay, yes.  
 19 Q. As average tenures increase, you would expect the  
 20 turnover to decrease; is that correct? All other things  
 21 being equal?  
 22 A. Well, it depends in how you are counting, just --  
 23 I could work three years at a public school, then I  
 24 could work five years at a charter school and return to  
 25 the public school. I mean, there -- it's not as simple

1 versus charter schools?  
 2 A. Again, referring to our Phase I report, we found  
 3 that ISDs teachers had higher levels of education than  
 4 charter schools.  
 5 Q. Any other drivers of outcomes that you're aware  
 6 of that explain the difference between ISDs and charter  
 7 schools?  
 8 A. Not that we analyzed.  
 9 Q. All right. And whatever -- each of those  
 10 criteria that you evaluated, each of those variables  
 11 that you evaluated tended to suggest that ISDs had more  
 12 teacher experience, less turnover, and a higher level of  
 13 education relative to their charter school equivalents;  
 14 is that correct?  
 15 A. Yes.  
 16 Q. That is --  
 17 A. Yes.  
 18 Q. -- each indicator would suggest that the outcomes  
 19 should be better in ISDs relative to charters; is that  
 20 correct?  
 21 A. I don't think they should be better, but the  
 22 difference is shown, I think, yes.  
 23 Q. To the extent that teacher experience has an  
 24 effect on outcomes, it's your assumption that the more  
 25 experience teachers have, the more likely they are to

1 as you are explaining.  
 2 Q. Okay. So it sounds like you don't expect there  
 3 to be any correlation between teacher tenure and teacher  
 4 turnover; am I understanding that's your position?  
 5 A. No.  
 6 Q. Okay.  
 7 A. That is not my position.  
 8 Q. Okay. So your position is, there is a  
 9 relationship between teacher tenure and teacher  
 10 turnover?  
 11 A. There might be, yes.  
 12 Q. Is there or is there not, or do you have an  
 13 opinion?  
 14 A. My opinion is there might be.  
 15 Q. Okay. So you don't know for sure one way or the  
 16 other whether there is a correlation between those two  
 17 things?  
 18 A. I haven't conducted any correlation.  
 19 Q. All right. And the last -- you said you looked  
 20 at teacher experience, teacher turnover, and then the  
 21 last criteria was level of education of the teacher  
 22 themselves?  
 23 A. Yes.  
 24 Q. And what did you find to be the case when  
 25 comparing the level of education of teachers in ISDs

1 have students with better outcomes on these  
 2 college-ready indicators; is that right?  
 3 A. Yes.  
 4 Q. By the same token, the less turnover that the  
 5 system experiences, I assume it's your -- it's your  
 6 assumption that lower turnover is associated with higher  
 7 performance on college-readiness indicators; is that  
 8 correct?  
 9 A. Less turnover of whom, teachers?  
 10 Q. Teachers.  
 11 A. Oh, yes.  
 12 Q. And by the same token, is it correct that your  
 13 assumption is that the higher the average level of  
 14 education is for teachers, the more likely it is that  
 15 their students will perform better and show up better on  
 16 these accountability systems ratings; isn't that  
 17 correct?  
 18 A. Yes.  
 19 Q. All right. So that is to say that ISDs on all of  
 20 these indicators were ahead of charters on all three of  
 21 these indicators; right?  
 22 A. Yes.  
 23 Q. And that's why, based at least on the '11-'12  
 24 data, y'all concluded that it might have something to do  
 25 with these three things, the apparent -- that the

1 apparent disparity in performance of charter school  
2 students relative to their ISD counterparts will be  
3 explained by at least these factors that you have  
4 identified; right?

5 A. Yes.

6 Q. Now, what I want to do is ask you to evaluate  
7 those assumptions against the performance of students in  
8 standard accountability charters and standard  
9 accountability ISDs for '12-'13; all right? Whatever  
10 the effect is of these three factors, it appears to be  
11 negligible or it certainly doesn't explain the outcomes  
12 listed on page 33 for '12-'13, table 12B; isn't that  
13 correct?

14 A. Yes, that correlation you have described would  
15 not be consistent.

16 Q. And we don't have any additional data for '12-'13  
17 that we can look at to evaluate whether or not charters  
18 are able to have their students similarly ready for  
19 college the way their ISD counterparts are for the  
20 '12-'13 school year, other than these data that are  
21 reported on page 33; right?

22 A. Correct.

23 Q. Okay. I knew there was something else I wanted  
24 to cover. We spent a lot of time when we were going  
25 over the actual spreadsheets and the Excel files that

1 were delivered to us, you and Ms. Templeton analyzed  
2 data using different methodologies to calculate average  
3 per student funding.

4 Lisa Dawn-Fisher -- tell me if I've got this  
5 correctly. Lisa Dawn-Fisher calculated her average  
6 student funding based on essentially a weighted average  
7 that incorporated not only the districts in the state,  
8 but also the number of students in each district when  
9 she came up with those -- those per student averages,  
10 whether they're ADA or WADA; isn't that correct?

11 A. No.

12 Q. Okay. What part of it is not correct?

13 A. She didn't conduct the weighted average.

14 Q. And I want to be clear about this. It is  
15 difficult to talk about this because of the -- I'm not  
16 talking about WADA, weighted average daily attendance  
17 per person as WADA. I'm talking about how to calculate  
18 the actual -- let's just focus on ADA for a moment,  
19 okay?

20 A. Sure.

21 Q. So Lisa Dawn-Fisher did an analysis in which she  
22 calculated the average ADA funding on essentially a per  
23 student level for the whole system; is that correct?

24 A. That is correct.

25 Q. And the way that the -- the method that the

1 charters utilized was a different method than that; is  
2 that correct?

3 A. That's correct.

4 Q. And if I understand the way that the charters --  
5 that the method that the charters utilized, what --  
6 what -- what they did was, maybe what you did was you  
7 calculated the per student ADA for each district, and  
8 then you averaged each of those numbers to come up with  
9 an average across -- the per student average per  
10 district; is that correct?

11 A. Yes, we conducted a per student district average,  
12 and then we averaged the per -- excuse me, the revenues  
13 per student across the districts.

14 Q. Okay. And why did you do it that way as opposed  
15 to the way that Lisa Dawn-Fisher had calculated it?

16 A. Well, there are -- there are standards that are  
17 utilized in school finance and economics. Part of those  
18 standards is the selection of a particular unit of  
19 analysis of school finance experts across the country  
20 use the same types of methodology primarily because it  
21 is -- it is districts where each district in the state  
22 that is responsible for receiving -- distributing  
23 dollars to students.

24 The correct methodology is to calculate a dollars  
25 per student, per district ratio, and then take that

1 average across the districts. If you utilize the  
2 methodology that Dr. Dawn-Fisher utilized, you in  
3 essence are measuring these things as if the state has  
4 no districts, and that actual dollars are followed, each  
5 student, regardless of where they are and regardless of  
6 the -- of their district.

7 So if you track any school finance textbook, you  
8 can go as far back as 1906 with LP Cubberley. Probably  
9 the book that most finance experts will refer you to are  
10 Burns and Stiefel, 1984, called The Measurement of  
11 Equity in School Finance where they spend a lot of time  
12 discussing units of analysis that are appropriate, and  
13 they also would assert that district-level analyses are  
14 important when you are examining spending within the  
15 state.

16 Q. Do they correspondingly conclude that it's  
17 inappropriate to analyze these same issues on a  
18 per-student basis?

19 A. When you are talking about a per-student basis,  
20 it is per student within the district.

21 Q. Let me ask you this way: Do these same  
22 textbooks, the Measurement of Equity in School Finance  
23 from 1984, state that the methodology that Lisa  
24 Dawn-Fisher employed is inappropriate for purposes of  
25 analyzing questions of adequacy, efficiency, suitability

1 etcetera, equity?

2 A. They would assert that her methodology is  
3 incorrect when analyzing equity. What Lisa Dawn-Fisher,  
4 Dr. Fisher in essence is doing is taking all dollars  
5 that are available to kids for education and then  
6 dividing them by the number of kids.

7 You have to take into account the fact that  
8 dollars are given to specific districts. In fact, the  
9 funding formula is even designed that way where  
10 different districts are utilized based on the type of  
11 students in the districts, the property wealth, and the  
12 like. So to take those dollars, remove the  
13 intentionality of the importance of a school district in  
14 the state is an improper representation of a  
15 district-to-district analytical comparison.

16 Q. What was the last part you just said, a  
17 district-to-district what?

18 A. Analytical comparison.

19 Q. Now, let me ask you this: If we use the method  
20 you utilized, multiply it by the number of students in  
21 each district, we don't get the actual number of dollars  
22 spent by the state of Texas for -- in the foundation  
23 school program, do we?

24 A. That's not true.

25 Q. You will get -- you will get the accurate number

1 of dollars?

2 A. Absolutely.

3 Q. By using a district comparison? You are sure  
4 about that?

5 A. Yes.

6 Q. Have you run that calculation?

7 A. At the previous trial, I testified to it.

8 Q. That -- that using your method of averaging --

9 A. That is not my method. This is the industry  
10 standard. I'm sorry, I didn't mean to cut you off.

11 Q. Using the method you utilized, the charter  
12 school -- I think we've been calling it the method the  
13 charter school utilized in this deposition.

14 A. Yes, sir.

15 Q. It's your testimony that if you essentially  
16 reverse engineer the calculations that you've made, you  
17 will come to the actual total dollars spent by -- in the  
18 foundation school program; is that correct?

19 A. On an ADA basis, yes.

20 Q. Or an ADA basis. What about using this Lisa  
21 Dawn-Fisher's method, if I reverse engineer the method  
22 that she employed, will I also get to the actual dollars  
23 spent by the state of Texas in the foundation school  
24 program?

25 A. Yes.

1 Q. Okay. So explain to me how that's possible  
2 when -- let's just assume there is 5 million kids,  
3 students in the -- in the foundation school program. I  
4 know it's not that, but it's about that.

5 A. 5.5, sure.

6 Q. If your method of funding, if the -- if the  
7 method that the charter schools utilize results in an  
8 apparent per student funding of let's say \$5,500, and  
9 Ms. Dawn-Fisher's results in a per student funding of  
10 \$6,500, how can they both tie back to the actual number  
11 of dollars that were spent?

12 A. You are ignoring the number of students or amount  
13 of ADA in each district.

14 Q. Okay. Well, maybe you can explain to me --  
15 let's -- utilizing the method that the charter schools  
16 have -- in fact, let's use real numbers here.

17 A. It's not going to work because we don't know how  
18 many ADA is in each of their approximately thousand  
19 districts.

20 Q. We have it in the -- in the --

21 A. Yes, we do, right, yeah.

22 Q. So if I understand what you're telling me, let  
23 me -- I think we can do this.

24 A. The formula that I would use -- so I still need  
25 to use real numbers. Just hang with me here. I just

1 used a different method to get back to total dollars if  
2 you start with the methodology that the foundation  
3 school program -- that the charter school program has  
4 been utilizing versus the methodology that we've been  
5 attributing to Ms. Dawn-Fisher.

6 Q. Let me just do this: Start with the earlier  
7 tables, if you want to look at the -- let's just --  
8 let's start with the ISD number of 10,034 as -- that's  
9 the average that you have calculated utilizing the  
10 method utilized by the charter schools; is that correct?

11 A. Yes.

12 Q. In terms of calculating the average. Now, what I  
13 want to make sure is if I multiply this times the number  
14 of students in the system, that is, the number of ADA in  
15 the system, that won't be the total budget for the  
16 foundation school program; is that correct?

17 A. That is correct.

18 Q. At least for the ISD component of -- of the  
19 foundation school program?

20 A. Uh-huh.

21 Q. You have to do something different in order to --  
22 in order to figure out how to get from the calculated  
23 number that y'all have -- have calculated here back to  
24 the total budget, and I want to know how to do that.  
25 Like what do I --

1 A. You want to go backwards?

2 Q. -- yeah, I want to go backwards, back --

3 A. You're asking for the formula?

4 Q. Yeah, in block diagram form. I don't need the  
5 actual numbers, but I want the description for it. How  
6 do I go from an average of 10,034 back -- and tie that  
7 back to the actual budgeted foundation school program?

8 A. You'll need to know each district -- no, there is  
9 no times there. You will need to know each district  
10 average times the number of students in each district,  
11 then we will have to sum all thousand or so districts.

12 Q. Sum 1 through --

13 A. X.

14 Q. -- 1,200 or whatever?

15 MR. SCHWARTZ: 1,250.

16 Q. Okay. So you have to do that calculation for  
17 each district, and then you add them all up and that  
18 will be -- so -- so back to my original question: You  
19 cannot from the number that you've calculated determine  
20 what -- even if you know the ADA for the entire system,  
21 you'll not be able to tie this back to the actual  
22 dollars spent in foundation school program without  
23 calculating each district's average times the number of  
24 students in each district and summing each of those  
25 results for each of the districts; is that correct?

1 A. That's correct.

2 Q. Whereas, if hypothetically Lisa Dawn-Fisher's  
3 methodology -- again, we have been attributing it to  
4 Ms. Dawn-Fisher, I can only assume that that's accurate.  
5 For the record, I don't know whether that is or not.  
6 Y'all have used that moniker, and I'm not going to  
7 quarrel with you -- but if Lisa Dawn-Fisher's  
8 per-student ADA funding came in at \$10,034, in order to  
9 figure out what the total FSP was for that particular  
10 school for the ISD component of FSP, we would just  
11 multiply that number times the number -- or times ADA,  
12 and we would presumably then get to the foundation  
13 school program total budget; is that correct?

14 A. If this number was generated by taking the total  
15 budget and dividing it by the number of students in the  
16 state, to get back to the total amount of revenue in the  
17 state, you multiply it by the total number of students  
18 in the state.

19 Q. Sure.

20 A. That's correct.

21 Q. The other way that it could be calculated would  
22 be to simply take the per-student average on a district  
23 level, multiply it times the number of students, average  
24 each of those calculations, and that would also give you  
25 essentially a per-student ADA number; is that correct?

1 A. No, almost. A per-student, per-district average.

2 Q. Okay.

3 A. This is a per student across the state average  
4 using the other methodology.

5 MR. VINSON: Let's take a quick break. I  
6 think I might actually be done.

7 (Recess taken 3:54 to 3:57 p.m.)

8 Q. Did Dr. Wood have any input in the supplemental  
9 report?

10 A. Well, Dr. Wood and I are colleagues, have been  
11 colleagues for quite some time, so he and I have had  
12 conversations about it, but he didn't have any direct  
13 input into the product.

14 Q. Spitball kind of conversations, basically  
15 spitballing? Have you ever heard that term?

16 A. I'm sorry, I don't know what that means.

17 Q. Never mind. Okay. You're aware, are you not,  
18 that there are some ISDs -- many ISDs that are actually  
19 not levying I&S funding and taxes; isn't that correct?

20 A. Yes.

21 Q. And those districts don't receive any facilities  
22 funding from the state, do they?

23 A. No, they're not levying any taxes.

24 Q. Yes, okay. And what impact, if any, does that  
25 have on your conclusions that in the absence of

1 facilities funding, charter schools are necessarily  
2 behind their ISD counterparts?

3 A. Well, I would have to know how long they haven't  
4 had funding, whether they plan on having a funding  
5 facility -- I mean, it's not just kind of a point --  
6 point estimate. The analysis again that we have engaged  
7 in here is a state-wide analysis, not an individual  
8 district analysis, so I wouldn't be able to form a  
9 cogent opinion.

10 Q. And you didn't do any isolation of school  
11 districts that are not levying I&S funding as compared  
12 to charter schools; right? You didn't do that type of  
13 analysis?

14 A. No, we didn't make that type of comparison.

15 Q. And on a similar basis, similar note, you didn't  
16 make any specific evaluation of any of the facilities  
17 needs for any of the actual charter districts in the  
18 state of Texas as a part of your supplemental report?

19 A. No, we did not do any facilities assessment.

20 MR. VINSON: No further questions.

21 MR. SCHWARTZ: I have a couple for you.

22 EXAMINATION

23 BY MR. SCHWARTZ:

24 Q. Mr. Vinson left the impression that we kind of  
25 hid some information and didn't give him everything.

1 Everything in your vitae goes into making you an expert;  
2 correct?

3 A. Yes.

4 MR. VINSON: Objection, leading.

5 Q. And you used that body of work to draw your  
6 conclusions, but you don't intend to quote per se any  
7 one document?

8 A. No.

9 MR. SCHWARTZ: I have no further questions.

10 Q. Oh, let me ask: You do though intend to rely on  
11 some of that information in drawing your conclusions  
12 greater than others? That is, there is no -- there is  
13 some that have greater weight in your mind than others,  
14 and you mentioned one, I believe it was Burns or --

15 A. Oh, Burns and Stiefel, that was a reference of  
16 text.

17 MR. VINSON: I'm sorry, I didn't realize he  
18 was done. Objection to the form, but you can answer.

19 A. I'm sorry. Yes, Burns and Stiefel as a  
20 referential text, but I will draw on my experiences in  
21 Texas as a former faculty member at Texas A&M University  
22 as well as my research in teaching experience in the  
23 area of school finance and economics as well as the work  
24 product that I generated or the work product that I  
25 directed in order to make an opinion.

1 school finance textbook, and so general knowledge and  
2 general information will be there.

3 Q. Is that the first book?

4 A. That is -- well --

5 Q. To What Ends and By What Means?

6 A. Let's skip that one. Let's say the Gutierrez,  
7 Springer and Rolle textbook.

8 Q. Modern Education Finance and Policy?

9 A. Yes, sir.

10 Q. What else?

11 A. If we turn the page and go to peer-review  
12 articles, the first article, An Efficacy Analysis of  
13 Texas School Funding Formula with Particular Attention  
14 to English Language Learners. Rolle and Wood, What You  
15 Know Ain't So: A Comparative Analyses of Revenues  
16 Generated By the Texas Finance Program. Rolle, Torres  
17 and Eason, Las Elefantes Rosa en las Cupulas en las  
18 Legislatura, as well. I think those are the specific  
19 incidents of my work in Texas.

20 On page 10, there are some consulting reports,  
21 Rolle and Wood, 2012, Rolle, 2011. I have the whole  
22 series of presentations. I won't bore you with it all,  
23 as well as --

24 MR. SCHWARTZ: Do you want him to go through  
25 the --

1 Q. And if you intended to actually use one of those  
2 documents and submit it as evidence, you would have  
3 provided it for us to provide to Mr. Vinson; correct?

4 A. That is correct.

5 MR. SCHWARTZ: I have no further questions.

#### 6 FURTHER EXAMINATION

7 BY MR. VINSON:

8 Q. Mr. Schwartz just asked you about your general  
9 experience, your background, your history, the things  
10 you just know coming in the door as an expert, and you  
11 said you are going to rely on that and some more than  
12 others. Are there any of those experiences,  
13 periodicals, textbooks, conferences, conversations,  
14 research that you have done specifically that you can  
15 think of that you intend to rely on that we haven't  
16 talked about today?

17 A. I have several studies in Texas that I can point  
18 to in my CV that I would rely on those obviously.

19 Q. Uh-huh. Why don't you point out to me on Exhibit  
20 20268 those studies that you have done that you intend  
21 to rely on specifically in the sort of more category  
22 rather than less?

23 A. Okay.

24 Q. And that would start I guess on page 7 perhaps?

25 A. Sure. Generally on page 7, I am a coauthor of a

1 MR. VINSON: I don't need the presentations.

2 A. As well as some of the work with student  
3 dissertations.

4 Q. Okay. Let's walk through some of these. I am  
5 most interested in -- on page 8, I guess just a nitpicky  
6 deal. Your -- it must be a typo here because it says,  
7 "English Language Learners," and I think you meant to  
8 "English Language Learners"?

9 A. Yes, sir.

10 Q. And that has not actually been published; is that  
11 correct.

12 A. No, it comes out this month, or next month.

13 Q. Okay.

14 A. It comes out in the winter issue of the Journal  
15 of Ed Finance.

16 Q. All right. And so if I need a copy of that, I  
17 can't go and get that. I will need -- I will need to  
18 get a -- whatever the draft is of that from you --

19 A. Counsel.

20 Q. You through counsel?

21 A. Uh-huh.

22 MR. VINSON: So can I get a copy of that,  
23 please?

24 MR. SCHWARTZ: You can, if you just tell me  
25 that until it is published, you will only use it



1 directly in court, and obviously until it's published,  
2 it's confidential in the sense that it's not finalized.  
3 I don't mind giving it to you. I just don't want you  
4 plagiarizing anything.

5 MR. VINSON: I will not claim it as my own.  
6 I'm not sure I agree that it is confidential.

7 Q. I mean, do you have any concerns about it being  
8 released in this litigation in its current form?

9 A. It hasn't yet -- well, it's already been  
10 reviewed, but it has not come back from the publisher.  
11 Sometimes they make minor editing changes, but they  
12 typically don't change content.

13 Q. I am really not concerned about what happens to  
14 it going forward. My question is, do you have any  
15 concerns about whatever state it's in currently, sharing  
16 it with me and having it potentially be introduced as an  
17 exhibit in this case?

18 A. I'm fine.

19 Q. Okay. So that's a no, you are not concerned?

20 A. Well, I have concerns, but I'm not concerned in  
21 this case.

22 Q. All right. Fair enough. I would also like a  
23 copy, please, of the second article there, What When  
24 What You Know Ain't So from Education Considerations.  
25 Could you get a copy of that to Mr. Schwartz, please?

1 A. Okay.

2 MR. SCHWARTZ: Let me start making notes. I  
3 didn't realize you were going to ask for so many. Is  
4 this our copy?

5 MR. VINSON: No.

6 MR. SCHWARTZ: So I can't write on this.

7 MR. VINSON: You have got a copy.

8 MR. SCHWARTZ: All right. I have those two  
9 things that you primarily gave me and relied on.

10 MR. VINSON: Uh-huh. I thought you had one  
11 of his CVs.

12 MR. SCHWARTZ: I do have the CV.

13 MR. VINSON: CV.

14 MR. SCHWARTZ: I thought I did. Hold on.

15 Q. While he's looking for that, can you translate  
16 Las Elefantos Rosa en las Cupulas en las Legislatura?

17 A. The Pink Elephant in the Hallways of the  
18 Legislature.

19 MR. VINSON: It's the first two  
20 peer-reviewed articles.

21 MR. SCHWARTZ: You've got them, so mark them  
22 and then just email me and we'll get them to you.

23 MR. VINSON: All right.

24 Q. And then I am also interested in these consulting  
25 reports that you generated for the Texas Charter School

1 Association. Again, the first two -- is that first one,  
2 is that your -- the report that was the initial version  
3 of y'all's report in this case?

4 A. Yes.

5 Q. Okay. So we already have that?

6 A. You already have that.

7 Q. The second one, Comparative Analyses of Revenues  
8 Generated From the Texas Foundation School Program, 2005  
9 to 2009, as far as you're aware, has that been produced  
10 in this litigation thus far?

11 A. I don't believe it has been produced, but I would  
12 have to check -- they asked me for different things at  
13 different times.

14 Q. I understand. Well, in any event, do you have  
15 any objection to providing us with a copy of that?

16 A. No.

17 MR. VINSON: So, Mr. Schwartz, and I will  
18 follow it up with an email, but I would like that as  
19 well, please.

20 Q. Okay.

21 A. There is -- there was also a student dissertation  
22 that a student and I just completed, I worked as his  
23 co-chair as well.

24 MR. SCHWARTZ: Which one is that? This one  
25 or this one.

1 THE WITNESS: That's this one.

2 Q. I mean, I don't know that anything that's not a  
3 peer-reviewed publication is going to be of any  
4 consequence, so I'll --

5 MR. SCHWARTZ: But I'm going to have you  
6 mark this as the next one, because he is going to use  
7 it. In fairness, we'll mark it. I'll have to get you a  
8 copy.

9 MR. VINSON: Oh, this is the dissertation?

10 MR. SCHWARTZ: Uh-huh.

11 MR. VINSON: Let me pass the witness, and  
12 you can do whatever you want. All right. Actually  
13 that's all I think I have got for you, Dr. Rolle. Thank  
14 you very much.

15 MR. SCHWARTZ: I'm marking this as Exhibit  
16 20269.

17 (Exhibit 20269 marked.)

#### 18 FURTHER EXAMINATION

19 BY MR. SCHWARTZ:

20 Q. Dr. Rolle, would you identify it, please?

21 A. This is a doctoral dissertation by Dr. Keith West  
22 from Texas A&M University where I acted as his co-chair  
23 of the dissertation committee, and it's titled The  
24 Effectiveness of the Texas Foundation School Program: A  
25 Policy Analysis Focusing on Texas Campuses.

(Exhibit 20270 marked.)

Q. Okay. And then I'm going to give you what is marked as Exhibit 20270 and ask you to identify that.

A. 20270 is a jointly published paper by myself and Dr. Oscar Jimenez-Castellanos of Arizona State University. Its title is Si, Se Hace - No, No Se Hace, An Efficacy Analysis of the Texas School Funding Formula With Particular Attention to English Language Learners.

Q. Okay. And both of these went into your overall development of your opinion; correct?

A. Yes.

Q. But you did not, until this -- until we just put them in, intend to actually submit them to the court; correct?

A. Correct.

Q. Okay.

MR. VINSON: Can I take a quick look at these?

MR. SCHWARTZ: I will get you copies. I didn't plan on it until this came up.

#### FURTHER EXAMINATION

BY MR. VINSON:

Q. This Si, Se Hace - No, No Se Hace, is that --

A. Yes, it does, and no, no, it doesn't.

Q. Exhibit 20270, is this a document that is being

submitted for publication?

A. This is the document that we referred to earlier that should be published in the winter issue of the Journal of Education Finance.

Q. Okay. So this 20270 is the current draft of what -- there wasn't any Spanish. That's what was messing me up -- is the efficacy -- An Efficacy Analysis of the Texas School Funding Formula With Particular Attention to English Language Learners. This is the first peer-reviewed article listed on your CV; is that correct?

A. That is correct. I am fighting with the publisher over the title.

Q. Very well.

MR. SCHWARTZ: So you may not need to know how to speak Spanish.

THE WITNESS: Exactly.

Q. Either way. Not picking my nose into that one. All right. And then this 20269 that was just marked, this is the dissertation of William Keith West, who I guess at the time of his authorship was a Ph.D. candidate; is that correct?

A. Yes.

Q. And you were the co-chair of his dissertation committee; is that correct?

A. Yes.

Q. And do you intend to rely on anything in this 20269 in support of the opinions you are rendering in this case?

A. I may.

Q. Can you point me to what portions you are relying on?

A. I have not read this in some time, but particularly Chapters 1, which is kind of the introduction and outline, the analytical section, which is Chapter 4, and the conclusions, which are Chapter 5.

Q. Are you aware of the standards for -- the bases for expert testimony in Texas state courts, is that something you have ever paid any attention to?

A. No, sir.

Q. And if -- if I were to represent to you that the Texas Supreme Court has made it clear that -- that data upon which experts may rely is typically confined to the universe of peer-reviewed publications, you would agree with me that this dissertation is not a peer-reviewed publication; right?

A. Not in the traditional sense, no. It is reviewed by the committee numbers.

Q. Like every dissertation is?

A. Correct.

Q. So if we -- if we were to start calling dissertations the same as peer-reviewed published works, we would really be calling apples and oranges the same thing?

A. That's correct.

Q. All right. You said Chapter 1, and what else?

A. 1, 4 and 5.

Q. Oh, and there is no index, table of contents.

A. I apologize.

Q. Chapter 1 is described as the introduction. Is that the part you are relying on?

A. Well, yes. It's important to know what you are going to read.

Q. Does Chapter 1 tell us anything that isn't already understood by the participants in this process as far as you are aware, or do you know?

A. When you say "the participants in this process" --

Q. I mean the litigants, the lawyers, the judge.

A. Chapter 1 outlines the initial question, the approach and the types of analysis that are going to be conducted.

Q. I'm trying to find Chapter 4 here. Okay.

Chapter 4, data analysis. Research question number 1 in data analysis, section 1 -- these don't have page

1 numbers. Are you with me?

2 A. Yes.

3 Q. Okay. What statistical relationships exist  
4 between the Texas FSP funding components and  
5 campus-level resources. This does not appear to be any  
6 attempt to analyze the difference between charter  
7 schools funding levels or performance and ISD's funding  
8 levels or performance; is that correct?

9 A. This is a campus-level examination of FSP.

10 Q. And the campuses that were examined in this, are  
11 they ISD campuses or charter campuses or both?

12 A. ISD campuses.

13 Q. Is there any information in this dissertation  
14 about charter schools?

15 A. No.

16 Q. So why are you relying on something that has  
17 nothing to do with charter schools for an opinion that  
18 you are rendering in this case that appears to be  
19 exclusively in the area of comparing charter school  
20 funding to ISD funding?

21 A. Well, as I had mentioned earlier, we also have to  
22 understand the general revenue output and expenditure  
23 relationships that are generated by -- by FSP in order  
24 to provide a context for the analysis between ISDs and  
25 charters.

1 Q. But you told me that you really don't know how  
2 the funding formula works for ISDs or for charters;  
3 isn't that correct?

4 A. I said the output that is generated by them.

5 Q. Well, this doesn't describe the output. This is  
6 a statistical standardized regression coefficients for  
7 elementary campus levels for years 2003 to 2010. I  
8 mean, this doesn't have anything to do any of that, does  
9 it?

10 A. Well, it -- it certainly can have implications  
11 for a discussion of adequacy.

12 Q. You need one data point, right? You need to know  
13 what the output is in terms of funding from the formula;  
14 right? That's all you're concerned with when you are  
15 comparing ISDs to charters; right?

16 A. Well, I think that simplifies the work. I need  
17 lots of data points.

18 Q. I mean, your report doesn't have any reference or  
19 look anything like table 8 with these adjusted R squared  
20 FBIL, GFI, ECD, I mean, these -- these variables are not  
21 variables that were analyzed in your report at all;  
22 right?

23 A. No, sir.

24 Q. So why are you pointing me to this chapter as  
25 having some foundation for the opinions you are

1 rendering in this case when you have told me that all  
2 you care about is the output, that is, the actual  
3 funding amount that charters get compared to ISDs?

4 A. Well, I also talked about the relationship that  
5 the funding mechanism has to efficiency and suitability  
6 and adequacy and how the various types of outputs are  
7 related to FSP-generated output, and this helps put  
8 those ideas in perspective.

9 Q. Would you have been able to make these -- provide  
10 this perspective in the absence of this dissertation,  
11 Exhibit 20269?

12 A. Some, based on my previous work which we now  
13 walked through.

14 Q. I guess what I'm trying to figure out is what --  
15 what portion of your report, 20267, relies on this  
16 dissertation?

17 A. A portion of the discussion of adequacy.

18 Q. Which portion of the discussion of adequacy?  
19 Tell me, show me where -- where?

20 A. Well, in the narrative form on tables 11 and 12,  
21 that's where the preponderance of the adequacy  
22 discussion lies, and what this dissertation does, it  
23 provides us additional information about the context  
24 within which that discussion can take place.

25 Q. Okay. Well, let's break down page 39 of table

1 11, or the table 11 addendum. We're going to go  
2 paragraph by paragraph. The first paragraph is a quote  
3 from Neeley versus West Orange-Cove; correct?

4 A. Right.

5 Q. And you don't need this dissertation to  
6 understand what the -- what Neeley versus West  
7 Orange-Cove says; right?

8 A. No.

9 Q. And the next line -- the next paragraph refers to  
10 the evidence from table 11 that simply compares the  
11 reported data in table 11; right?

12 A. Yes.

13 Q. And the same for the third and fourth paragraphs;  
14 right?

15 A. Yes.

16 Q. And each of those paragraphs thus far do not in  
17 any way intersect with or have anything to do with this  
18 Exhibit 20269; right?

19 A. That's not true.

20 Q. How is --

21 A. If you examine section 2 and Chapter 4, research  
22 question 2 where we talk about relationships between FSP  
23 funding and student outcomes at the campus level.

24 Q. So now we're in chapter 2 that you are relying  
25 on?

1 A. Chapter 4.

2 Q. Chapter 4. Which part?

3 A. Research question number 2.

4 Q. Research question number 2, okay.

5 A. Right below table 10.

6 Q. So it sounds like what you are telling me is this  
7 dissertation is critical to the conclusions that you  
8 have reached in table 11; is that correct?

9 A. No, I wouldn't say it's critical. The question  
10 was, are you using any of your past experience or  
11 previous work in forming an opinion. I'm just trying to  
12 be complete.

13 Q. You said table 10?

14 A. It's below table 10.

15 Q. What statistical relationship exists --  
16 relationship exists between the funding components and  
17 student outcomes, and in what way does the information  
18 in this Exhibit 20269 actually show itself on page 39?

19 A. It doesn't show itself specifically on page 39.  
20 It helps provide -- it helps me provide a context for  
21 analysis.

22 Q. But you didn't actually provide any of that  
23 context for analysis in your report; right?

24 A. No, but it helps form my opinion.

25 Q. Okay. I mean, because you could have come to all

1 of the conclusions that you reached in your report  
2 without reference to this 20269; isn't that correct?

3 A. I probably could have, but if we're talking  
4 about which work helps to inform my opinion, all of the  
5 work that we've discussed does do that.

6 Q. Did Ms. Templeton read this?

7 A. Ms. Templeton has not read that.

8 Q. Okay. She did all of the actual mechanical  
9 assembly of all of the data that went into this report;  
10 right?

11 A. Yes.

12 Q. And how did she do that without this?

13 A. She did it at my direction.

14 Q. Which part of the your direction required Exhibit  
15 20269 that's actually in this report?

16 A. Again, as we are discussing context and ideas  
17 that help shape and form my opinion, I am just trying to  
18 be thorough.

19 Q. In what way did 20269 shape your opinions in this  
20 case?

21 A. It helps understand the relationship between FSP  
22 and TAKS scores and helps to understand the relationship  
23 between FSP and accountability.

24 Q. So you're actually relying on the finding in this  
25 dissertation to make your conclusions -- to draw your

1 conclusions about funding levels and outcomes, is that  
2 correct, in college readiness indicators?

3 A. Not about funding levels specifically, but  
4 explaining how FSP is related to both student outcomes  
5 as well as accountability standards.

6 Q. That sounds like funding levels. How is FSP  
7 anything other than funding levels?

8 A. Well, funding levels typically are associated  
9 with amounts of money specifically directed to do  
10 specific things, and when I -- and I tried to make sure  
11 that I talk about revenues and costs and expenditures  
12 just to be specific.

13 Q. Okay. So you're relying on this dissertation to  
14 support or inform your hypothesis that began with the  
15 word "ostensibly" connecting FSP funding levels to  
16 college readiness indicators; is that correct?

17 A. Yes, this helps form a portion of that opinion.

18 Q. What else helped form a portion of that opinion?

19 A. The sum of my -- my work that is detailed in my  
20 vitae.

21 Q. Where -- where does it say in 20269 that  
22 funding -- that FSP funding explains the apparent  
23 difference in outcomes? Table 10?

24 A. No, this does not examine differences in  
25 outcomes. It helps to provide additional information

1 about concepts of adequacy.

2 Q. What additional information does it provide about  
3 the concepts of adequacy?

4 A. Again, it talks about the relationship between  
5 FSP and the generation of TAKS scores and the  
6 relationship between FSP and TAKS scores to be less  
7 technical.

8 Q. Where does it do that?

9 A. It says here under the response for research  
10 question 2, as well as the responses for research  
11 question 3, I believe, if I can find it -- yes, as well  
12 as research question 3, which does an analysis of Texas  
13 FSP, Chapter 41 and 42 schools at the campus level.

14 Q. Okay. In the context that this appears to  
15 provide refers to table 11, shows that over 20 percent  
16 of the variation related to campus percentage of  
17 students passing all portions of their TAKS assessment  
18 may be explained by variations within the funding  
19 components, including the analysis for each year of data  
20 studied. Is that -- is that -- is that what you are  
21 talking about?

22 A. That's a portion of it.

23 Q. Okay. And so what it sounds like is of the  
24 apparent variance in performance comparing different I  
25 guess campus out -- campus-level outcomes, somewhere in

1 the neighborhood of 20 percent of it could be explained  
2 by funding; is that correct?

3 A. By structuring of the FSP, yes.

4 Q. I mean, the author of this refers to funding  
5 components and not FSP. He's not speaking in language  
6 that you didn't understand, is he, when he says funding  
7 components?

8 A. No. He is switching back and forth.

9 Q. Okay. And that means that there is 80 percent --  
10 something other than funding would explain the balance  
11 of the roughly 80 percent of the variation in these  
12 campuses; isn't that correct?

13 A. Yes, based on that particular opinion, yes.

14 Q. And yet, you were only able to identify with  
15 Dr. Rolle (sic) three different potential explanations,  
16 all of which had to do with the funding of teacher  
17 salaries at charters to explain the difference in the  
18 performance -- the apparent performance of charters  
19 versus ISD; is that correct?

20 A. No, that's not correct. To be clear, I said  
21 those were the variables and characteristics that we  
22 analyzed.

23 Q. And of those, those were all part of the funding  
24 that, according to this document that's just been --  
25 just been given to us today suggests that somewhere in

1 the neighborhood of 80 percent of the difference in  
2 variation between the campuses that are identified is  
3 something other than funding; right?

4 A. It's caused by something other than the funding  
5 components analyzed in the dissertation.

6 Q. Yes. Do you know what funding components were  
7 analyzed in this dissertation?

8 A. I would go back and look across the headers on  
9 the tables, and the description is below.

10 Q. You also mentioned table what -- paragraph -- or  
11 sorry, Chapter 4 as being important to your opinion in  
12 this case?

13 A. We're still in Chapter 4.

14 Q. Okay. Was there another component of Chapter 4  
15 that you also felt --

16 A. Well, there are. I believe four or five  
17 discussions of Chapter 4. I guess it's probably easier  
18 to work through the tabular motions, so I would suggest  
19 moving through -- around tables 8 through table 16, as  
20 well as table 16 to the end of the chapter.

21 Q. How specifically did table 8 impact the report  
22 that you issued in this case?

23 A. Can you clarify the "how"?

24 Q. I cannot.

25 A. As I worked with Dr. West in developing this

1 dissertation, different types of ideas relating to  
2 adequacy were generated through -- through his work that  
3 I considered as we moved forward in developing the  
4 outlines for our continued work.

5 Q. So which page of your report incorporated the  
6 data shown in table 8?

7 A. None.

8 Q. And/or were influenced by the data in table 8?

9 A. Conceptually the idea of adequacy was influenced  
10 by this particular piece.

11 Q. Which tables in the report have to do with  
12 adequacy?

13 A. That would be tables 11 and 12 in the  
14 supplemental report.

15 Q. So while this dissertation involves variables  
16 including the following: R squared, amount of variation  
17 per year, explained by variations in six funding  
18 components. F, ratio of explained variance to  
19 unexplained variance between campus total expenditures  
20 in one or more of the included funding components. BIL,  
21 bilingual funding component based on campus percentage  
22 students coded bilingual. GIF, gifted and talented  
23 funding component. ECD, compensatory education funding  
24 component. SPED, special education funding component,  
25 and ATT, attendance rate, even though just one of the

1 tables that you have referenced have all of those data  
2 points, you are telling me that that influenced and is  
3 necessary for the manner in which you had Toni Templeton  
4 gather the following data points on table 11A, the  
5 percentage of college-ready graduates for the TAKS test  
6 in math for ISDs and charters, the percentage of  
7 college-ready graduates from the TAKS language arts  
8 tests for ISDs and charters, the percentage of students  
9 taking the ACT or SAT, the average ACT scores and the  
10 average SAT scores, you're telling me that this table,  
11 table 8, influenced the gathering of these data by Toni  
12 Templeton, all of which were readily available from the  
13 TEA when requested?

14 A. No.

15 MR. SCHWARTZ: Objection as to form.

16 Q. Okay. So how, again, did table 8 influence this  
17 report that you have issued? You referred me to table  
18 11 and 12, and I'm trying to find where in table 11 and  
19 12 I would see any evidence of influence from table 8 on  
20 any of the analysis done in these -- on these tables.

21 A. I did not talk about the specific influence of  
22 table 8. I talked about the totality of the discussion  
23 of how FSP generates revenue, how it is related to  
24 student outcomes and to accountability.

25 Q. Explain to me how FSP generates revenue.

1 A. I'm sorry?

2 Q. Explain to me how FSP generates revenue.

3 A. Specifically there is -- in general terms again,  
4 there is a tier 1 structure that generates portions of  
5 the money. There is the equalizing portion for tier 2.

6 Q. Okay. And how does that impact any of the  
7 analysis that you have done in your report?

8 A. When one is discussing a concept as broad as  
9 adequacy, there is a need to read and discern as much  
10 material as possible, even in that discussion,  
11 particularly since the notion of adequacy in Texas is  
12 not structured as it is in theory or as it's structured  
13 in other states.

14 Typically the notion of adequacy is calculated by  
15 other using a successful schools model or professional  
16 judgment or evidence-based model, and in some cases,  
17 econometric analysis as we have seen here.

18 And in fact, I don't believe that such an  
19 analysis has taken place since Dr. Taylor and  
20 Dr. Rashkovsky and Minivecky wrote their work, I don't  
21 even know how many years ago now. So I would suggest  
22 that this piece is one that is most current in terms of  
23 his discussion of the concept of adequacy particularly  
24 in Texas.

25 MR. VINSON: I'm going to object to the

1 nonresponsive portion.

2 Q. This document that you just handed me isn't a  
3 document that is, you know, publicly available. It has  
4 not been published in any particular journal; is that  
5 correct?

6 A. It has not been published in a journal.

7 Q. Do you know whether it has been submitted for  
8 publication?

9 A. It has been publication -- it has been published  
10 by the Dissertation Press.

11 Q. What is that?

12 A. It's where all dissertations are published.

13 Q. And unless Mr. Schwartz had introduced it in this  
14 deposition, I wouldn't really be in a position to have  
15 the benefit of, you know, perusing through table 14 and  
16 all of its various data points, isn't that correct?

17 A. Yes.

18 Q. I'm really having a hard time understanding what  
19 role or significance this document played in the  
20 generation of your report, because try as I may, I am  
21 finding little evidence that anything in this  
22 dissertation shows itself to have played a role or  
23 influenced what is a pretty straightforward analysis of  
24 data that was compiled from the TEA and then provided in  
25 these -- these slides that are in your report. Can you

1 explain to me in simple terms the significance, if any,  
2 of this dissertation in the generation of the report in  
3 this case that you -- that you issued?

4 A. Again, the simplest terms I can say is it helps  
5 discuss the concept of adequacy in Texas, and it's the  
6 most recent piece of research regarding adequacy in  
7 Texas.

8 Q. If this article had not been written, how -- how,  
9 if at all, would your report differ?

10 A. The actual report --

11 Q. Yes.

12 A. -- would not differ, but the context of my  
13 discussion would have changed, meaning I would be less  
14 informed about adequacy in Texas and how the concept is  
15 derived.

16 Q. But at the end of the day, it really doesn't have  
17 any effect on the actual opinions that you have rendered  
18 in this report or you have relayed to me in our -- in  
19 this deposition today; is that fair?

20 A. I don't believe it would change the structure of  
21 the report, but it has helped shape my opinion.

22 Q. When did you first read this?

23 A. I've been reading this for a year and a half or  
24 so.

25 Q. Is there anything else you have been reading that

1 influenced your -- the context of your opinions in this  
2 case as heavily as this Exhibit 20269?

3 A. I mean, my regular professional readings in the  
4 Journal of Education Finance, Education Finance Policy,  
5 just my professionally associated readings.

6 Q. Okay. Any ones -- any articles in particular  
7 that you would point me to that were as significant to  
8 you as this -- this dissertation?

9 A. Not beyond the ones we've noted in my vitae  
10 earlier, of which this work is an extension.

11 Q. This work is an extension of work in your vitae?

12 A. Yes.

13 Q. Is this work referenced in your vitae?

14 A. Yes.

15 Q. Where?

16 A. Under student dissertations, it is on the last  
17 page or the second to the last page.

18 Q. Must be somewhere else.

19 A. No, it's under -- it should be a list of  
20 dissertations.

21 Q. Okay. So this is -- on page 19, you have --  
22 let's see, dissertation, chair or co-chair, you have  
23 listed four authors for whom you chaired or co-chaired.  
24 I won't even try to pronounce that first one.

25 A. Which one?

1 Q. V-E-R-K-H-O-H --

2 A. Verkhohlyad.

3 Q. Verkhohlyad, Stasny, Lozano, and then this 20269  
4 is the West dissertation of which you have co-chaired;  
5 is that correct?

6 A. Correct.

7 Q. And you'll agree with me that anyone looking at  
8 your CV would have no way to know looking at your CV  
9 that this document, in your mind, played an important  
10 role in the generation of your opinions in this case?

11 A. They would have a difficult time finding it.

12 Q. It would be essentially impossible to know that  
13 this had any meaningful role in the generation of your  
14 opinions in the case; right?

15 A. Right.

16 Q. There is no reference to -- there is no reference  
17 to the title or subject of the dissertation in this  
18 list. It lists only the author's name; right?

19 A. That's correct.

20 MR. VINSON: I will pass the witness.

21 MR. SCHWARTZ: No further questions.

22 (Deposition adjourned at 4:45 p.m.)  
23  
24  
25

1 CHANGES AND SIGNATURE

2 PAGE LINE CHANGE REASON FOR CHANGE

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1 I, DR. R. ANTHONY ROLLE, have read the foregoing  
2 deposition and hereby affix my signature that same is  
3 true and correct, except as noted above.  
4  
5  
6

7 DR. R. ANTHONY ROLLE

8 THE STATE OF \_\_\_\_\_ )

9 COUNTY OF \_\_\_\_\_ )

10 Subscribed and sworn to before me by the said  
11 witness, DR. R. ANTHONY ROLLE,  
12  
13

14 Given under my hand and seal of office this \_\_\_\_\_  
15 day of \_\_\_\_\_, 20 \_\_\_\_\_.  
16

17 \_\_\_\_\_  
18 Notary Public in and for the  
19 State of \_\_\_\_\_

20 My commission expires \_\_\_\_\_  
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1 NO. D-1-GN-11-003130

2 TEXAS TAXPAYER & STUDENT ) IN THE DISTRICT COURT  
3 FAIRNESS COALITION, et al; )  
4 CALHOUN COUNTY IDS, et al; )  
5 EDGEWOOD ISD, et al; FORT )  
6 BEND ISD, et al; TEXAS CHARTER )  
7 SCHOOL ASSOCIATION, et al., )

8 )  
9 Plaintiffs, )

10 v. )

11 JOYCE COLEMAN, et al., ) TRAVIS COUNTY, TEXAS

12 )  
13 Intervenor, )

14 v. )

15 )  
16 MICHAEL WILLIAMS, COMMISSIONER )  
17 OF EDUCATION, IN HIS OFFICIAL )  
18 CAPACITY, SUSAN COMBS, TEXAS )  
19 COMPTROLLER OF PUBLIC ACCOUNTS )  
20 IN HER OFFICIAL CAPACITY, )  
21 TEXAS STATE BOARD OF )  
22 EDUCATION, )

23 )  
24 Defendants. ) 200TH JUDICIAL DISTRICT

25 REPORTER'S CERTIFICATION

DEPOSITION OF DR. R. ANTHONY ROLLE

December 18, 2013

I, Susan S. Klinger, Certified Shorthand Reporter in  
and for the state of Texas, hereby certify to the  
following:

That the witness, DR. R. ANTHONY ROLLE, was duly  
sworn by the officer and that the transcript of the oral  
deposition is a true record of the testimony given by  
the witness;

That the deposition transcript was submitted on  
December 26, 2013 to the witness or to the

attorney for the witness for examination, signature and return to me by January 15, 2014;

That the amount of time used by each party at the deposition is as follows:

Mr. Vinson: 5:35

Mr. Schwartz: :15

That pursuant to information given to the deposition officer at the time said testimony was taken, the following includes counsel for all parties of record:

Mr. Vinson, Attorney for Attorney General of Texas

Mr. Schwartz, Attorney for the Flores Defendant

Ms. Bono, Attorney for the Edgewood ISD, et al

I further certify that I am neither counsel for, related to, nor employed by any of the parties or attorneys in the action in which this proceeding was taken, and further that I am not financially or otherwise interested in the outcome of the action.

Further certification requirements pursuant to Rule 203 of TRCP will be certified to after they have occurred.

Certified to by me this 26th day of December, 2013.

Susan S. Klinger, RMR-CRR, CSR  
Texas CSR No. 6531  
Expiration Date: 12/31/14

# FURTHER CERTIFICATION UNDER RULE 203 TRCP

The original deposition was/was not returned to the deposition officer on \_\_\_\_\_;

If returned, the attached Changes and Signature page contains any changes and the reasons therefor;

If returned, the original deposition was delivered to \_\_\_\_\_, Custodial Attorney;

That \$ \_\_\_\_\_ is the deposition officer's charges to the Attorney General of Texas for preparing the original deposition transcript and any copies of exhibits;

That the deposition was delivered in accordance with Rule 203.3, and that a copy of this certificate was served on all parties shown herein on and filed with the Clerk.

Certified to by me this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

Susan S. Klinger, RMR-CRR, CSR  
Texas CSR No. 6531  
Expiration Date: 12/31/14



A				
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