

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA (ALLENTOWN)

- - -  
KHADIDJA ISSA et al, : 5:16-cv-03881-EGS  
Plaintiffs, : PHILADELPHIA, PA  
vs. :  
:   
THE SCHOOL DISTRICT OF :  
LANCASTER, : August 19, 2016  
Defendant. : 1:29 p.m.

TRANSCRIPT OF PRELIMINARY INJUNCTION HEARING  
BEFORE THE HONORABLE EDWARD G. SMITH  
UNITED STATES DISTRICT JUDGE

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1 DEPUTY CLERK: All rise. The United States  
 2 District Court for the Eastern District of Pennsylvania is  
 3 again in session. The Honorable Edward G. Smith presiding.  
 4 THE COURT: You may be seated. Thank you.  
 5 The --  
 6 MR. ROTHSCHILD: Good afternoon.  
 7 THE COURT: Good afternoon, sir. The Court is  
 8 called to order, all parties called to previously present are  
 9 once again present the witness is on the witness stand. Sir,  
 10 you may continue with your cross-examination.  
 11 MR. ROTHSCHILD: Thank you, Your Honor.  
 12 ---  
 13 CROSS-EXAMINATION  
 14 ---  
 15 BY MR. ROTHSCHILD:  
 16 Q. Ms. Hilt, I just want to make sure I've got a precise  
 17 answer not because you weren't precise, but I want to make  
 18 sure --  
 19 A. Okay.  
 20 Q. -- I've got the right answer. For the content classes  
 21 for the entering students who go through the International  
 22 School, all students at the same level travel together as a  
 23 cohort and take their science class together, their  
 24 communications art together, their social studies, their math  
 25 together?

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1 A. Yes.  
 2 Q. And all of these classes are taught by an ESL teacher?  
 3 A. No.  
 4 Q. Okay. So some of those classes are taught by an ESL  
 5 teacher?  
 6 A. The ESL classes are taught by an ESL teacher.  
 7 Q. Okay. And the -- you know, what, I was not precise.  
 8 Are all the content classes taught by a teacher certified in  
 9 ESL?  
 10 A. No.  
 11 Q. Okay. Some are? Some aren't?  
 12 A. The ESL courses are taught by an ESL teacher, the  
 13 content courses are not taught by an ESL Certified Teacher.  
 14 Q. In McCaskey?  
 15 A. Correct.  
 16 Q. In the International School. And in the content  
 17 classes in Phoenix the students are different levels; right?  
 18 That there -- there are entering level students, there are  
 19 ELLs greater language proficiency and there are English  
 20 speakers; right?  
 21 A. My understanding is that emerging and entering travel  
 22 in a cohort and they are in class with native English  
 23 speakers.  
 24 Q. Okay. So they're all together?  
 25 A. Correct.

1 Q. But they are also in class with native speakers?  
 2 A. Correct.  
 3 Q. And more proficient ELLs?  
 4 A. I couldn't comment on that, but --  
 5 Q. Probably yes if they're with native speakers; right?  
 6 A. If they're with native speakers I would assume that  
 7 those students have exited if they were ESL students and now  
 8 they're considered native or proficient.  
 9 Q. Okay. So we -- we looked at a document that had that  
 10 legal site Castanada; right?  
 11 A. Yes.  
 12 Q. And the reason that it was in that document was -- it  
 13 was laying out in sort of lay terms that there's a  
 14 responsibility to assess the programs that the school was  
 15 using to teach ELLs; right?  
 16 A. Correct.  
 17 Q. To make sure that it is doing what the School District  
 18 is legally obligated to do which is help them overcome  
 19 language barriers and access the content they need to?  
 20 A. Correct.  
 21 Q. One resource that's available to assess both individual  
 22 progress and program progress is the Access Test; right?  
 23 A. Yes.  
 24 Q. And the Access Test different than the lab test that  
 25 you take at the start when you first enter the school system

1 this is after you enter the school system and it's a measure  
 2 of progress?  
 3 A. Yes.  
 4 Q. And is it given in the state to students at the same  
 5 time every year?  
 6 A. Yes.  
 7 Q. And what is that?  
 8 A. End of January to beginning of March.  
 9 Q. Who -- at whose discretion is that date chosen?  
 10 A. PDE.  
 11 Q. And so is it -- do students take that Access Test -- is  
 12 everybody in the state taking it the same day?  
 13 A. Correct.  
 14 Q. Okay. And we have the student records here, we've look  
 15 at them. The results for the test taken in 2016, if they were  
 16 taken by the students they're not in there; right?  
 17 A. Correct.  
 18 Q. Okay. And they came -- they came back to the School  
 19 District around June?  
 20 A. No. July 15th I believe.  
 21 Q. Okay. And right now you still have them?  
 22 A. Correct. I've not disseminated them too.  
 23 Q. And they would be put in the student record --  
 24 A. Yes.  
 25 Q. -- but that hasn't happened yet?

1 A. I believe it's by September 30th they need to be up  
 2 loaded into their Kim files.  
 3 Q. And when you gathered documents for this litigation you  
 4 didn't take those Access Tests that had not yet made it into  
 5 the student records and produced them into [indiscernible]?  
 6 A. I don't believe I had received them at this time.  
 7 Q. You said they had come in July 15th?  
 8 A. Mm-hmm.  
 9 Q. And we're now a month out from that? Do you have --  
 10 you have not given them to counsel to send to us?  
 11 A. I have given them, but at that time when we were doing  
 12 right to know findings I did not have them.  
 13 Q. And did -- once the litigation started and I'll  
 14 represent to you that was July 19th, did you do anything, I  
 15 appreciate you gave us a lot of documents at the time of the  
 16 right to know request. When the lawsuit was filed after --  
 17 which was after the right to know request, July 19th did you  
 18 gather anymore documents to produce in the litigation?  
 19 A. What was in the cumulative folder at the time, yes.  
 20 Well, I didn't personally gather that, but yes.  
 21 Q. In any event those Access Scores their obviously an  
 22 important measure of individual student progress; right?  
 23 A. Yes.  
 24 Q. They can also be used as a tool to measure how a  
 25 school's programs are doing; right?

1 A. Yes.  
 2 Q. And could you turn to exhibit 59 in your binder? What  
 3 are we looking at?  
 4 A. This is the data analysis of Access that we provided  
 5 the beginning of school to teachers.  
 6 Q. And who did all the work for this?  
 7 A. Primarily the person here, Shannon Smith.  
 8 Q. Okay.  
 9 A. She's a teacher who's very solid in data.  
 10 Q. Okay.  
 11 A. And then we worked with Caitlin and myself too.  
 12 Q. And this PowerPoint is the PowerPoint used -- is it  
 13 using a presentation or is it just a way of capturing the  
 14 data?  
 15 A. It's used in a presentation with the teachers at the  
 16 beginning of the school year.  
 17 Q. Am I correct in understanding that this data shows the  
 18 progress for different levels of ELLs district wide?  
 19 A. Correct.  
 20 Q. And the -- it -- for the high schools it would show us  
 21 how the high schools are doing collectively?  
 22 A. Yes.  
 23 Q. Meaning McCaskey and the Phoenix Programs?  
 24 A. Yes.  
 25 Q. And with the Phoenix Programs would that just be

1 [indiscernible] programs, would that just be Phoenix or Burly  
 2 [ph] also?  
 3 A. That would be Burly as well.  
 4 Q. Okay. And their all -- all the data is aggregated  
 5 together?  
 6 A. Correct.  
 7 Q. You have the Access data for each student; right?  
 8 A. Yes.  
 9 Q. And so if it could be disaggregated so you could find  
 10 out how the McCaskey's doing, how the Phoenix program is  
 11 doing, how the Burly Program's doing?  
 12 A. Yes.  
 13 Q. That has not been done?  
 14 A. Correct.  
 15 Q. And there -- so there is no data at this level that  
 16 would allow us to determine whether the educational program,  
 17 the ESL Program delivered to these students in with the  
 18 Phoenix accelerated model is working or not?  
 19 A. Based on Access no, we haven't disaggregated that.  
 20 Q. Thank you. I have no further questions.  
 21 THE COURT: Thank you very much, counselor.  
 22 Attorney O'Donnell, you may redirect the witness.  
 23 MS. O'DONNELL: [Indiscernible].  
 24 ---  
 25 REDIRECT EXAMINATION

1 ---  
 2 BY MS. O'DONNELL:  
 3 Q. I just want to refer you back to a couple of students  
 4 specifically. The first one is -- is Qasin Hassan. Ms. Hilt,  
 5 do you recall what Qasin's goal was when he first met with  
 6 representatives -- representatives of the District?  
 7 A. My understanding was to work.  
 8 Q. Okay. And that was something that was expressed by  
 9 Qasin or someone else?  
 10 A. Yes.  
 11 Q. Okay. And then with respect to another student by the  
 12 name of Anyem Dunia.  
 13 A. Yes.  
 14 Q. Do you know off the top of your head what his Access  
 15 Scores were?  
 16 A. For 2015 he was about a 2.4 I think in reading, a 3.6  
 17 in writing and a 1.7 range in listening and speaking. So that  
 18 would equate to an overall proficiency of beginning.  
 19 Q. Okay. So that -- would he then be placed in the  
 20 International School? Would he be able to be placed at that  
 21 time in the --  
 22 A. No.  
 23 Q. -- International School?  
 24 A. No. He would be placed as a student entering an SLC  
 25 which is a Smaller Learning Community and he would receive two

1 hours of ESL a day.  
 2 Q. Okay. And then what type of supports again to -- are  
 3 available at Phoenix for -- for our ESL or ELL students?  
 4 A. So the supports we have, we use the same materials. We  
 5 have parent involvement similar to McCaskey or all of our  
 6 schools. We have professional development four times a year  
 7 at least that is from the ESL Department given by the ESL  
 8 Teacher to the staff and all of those things and just spoke  
 9 about come from the District ESL Office.  
 10 Q. In fact, how -- well, pardon me. Have -- have you ever  
 11 presented to the Phoenix Academy in terms of professional  
 12 development?  
 13 A. Yes, I have.  
 14 Q. So when Jandy Rivera said in her testimony that she  
 15 never attended professional development for ESL do you -- can  
 16 -- can you tell me whether or not that's because no ESL  
 17 professional development training was provided?  
 18 A. No. It's been provided for at least the last four  
 19 years in marking period increments, so it would've been  
 20 provided four times within her school year there.  
 21 Q. And what about family support for the kids at Phoenix?  
 22 A. So we have similar outreach so they might have  
 23 different terms like at McCaskey we have something called the  
 24 PAC, the Parent Advisory Committee.  
 25 THE COURT: Another acronym?

1 THE WITNESS: Another acronym. And they always  
 2 change them on us too. We also have PAC which is a Parent  
 3 Academy which happens in the fall and the spring and there's  
 4 an actual strand for ESL parents and both parents from  
 5 McCaskey and Phoenix attend as well as throughout the  
 6 district.  
 7 BY MS. O'DONNELL:  
 8 Q. There it is. And then I guess the last thing is, is  
 9 there such a thing as an internal review? Does the District  
 10 or do you as the ESL Coordinator perform some type of review  
 11 of Phoenix to see how it's doing?  
 12 A. Yes. So the documents that were showed earlier --  
 13 Q. Yes.  
 14 A. -- and yesterday those internal reviews, the procedure  
 15 is that they're turned in around October and then the ESL  
 16 Coordinator would meet with the principal and the ESL Team and  
 17 whomever else they may have on their leadership team such as a  
 18 literacy specialist et cetera and review those internal  
 19 reviews.  
 20 Q. So last -- at the last look what did -- what did that  
 21 internal review reveal?  
 22 A. So, it reviewed some of the things I just talked about  
 23 that they're using the language materials and everyday English  
 24 Plus which is our district adopted materials for ESL. And  
 25 that they have services for parents that they have sorry, go

1 ahead.

2 **Q.** So when you do the internal review are you looking

3 for -- what are you looking for specifically to see whether or

4 not Phoenix is compliant with the standards promulgated by

5 PDE?

6 A. Yes, that's one piece.

7 **Q.** Okay. Are there other pieces?

8 A. Yes. Culturally responsive and welcoming school

9 environment is something we look for which is why we have

10 demographics on there which for example it would be alarming

11 if the ESL Team did not know the demographics of their

12 student.

13 **Q.** Okay.

14 A. And would send that back with for example only Spanish

15 as a native language when we know that's not the case, that's

16 just an example.

17 **Q.** Got you. All right. Thank you very much.

18 MS. O'DONNELL: Those are all the questions I

19 have.

20 THE COURT: Thank you counselor. Mr.

21 Rothschild, anything further?

22 ---

23 RE-CROSS-EXAMINATION

24 ---

25 BY MR. ROTHSCHILD:

1 **Q.** The review you just described that in Phoenix's case

2 has been prepared by Ms. Ortiz?

3 A. Yes.

4 **Q.** And similar to how and that's done for McCaskey in a

5 similar way; right?

6 A. Yes.

7 **Q.** And what they're reporting there really in words is

8 here's what we're doing?

9 A. Yes and --

10 **Q.** Here's what we, sorry to interrupt. Here's what --

11 A. I was going to say on both occasions those documents,

12 yes.

13 **Q.** Here's what we, the District, our faculty, here's the

14 -- the -- the ways we are doing things?

15 A. Yes. They're reporting what's occurring during the

16 school year.

17 **Q.** Okay. But is not reporting in those reviews in any

18 comprehensive fashion, here's how the students are doing?

19 A. The review does have a portion where they look at grows

20 and grows as we say before around student data.

21 **Q.** But nothing -- there's no quantification of here's how

22 they've progress ed on literacy; right?

23 A. In that meeting that I discussed, we would look at

24 these documents and thoroughly look through with the team.

25 **Q.** Okay.

1 A. Oh, I'm sorry, I didn't say the Access PowerPoint data

2 documents.

3 **Q.** Right, which was not disaggregated?

4 A. Correct, but it is not disaggregated by the state

5 because it's in bands so the state requires us to look at 9

6 through 12 not by building.

7 **Q.** Okay. And so would just have no way of knowing whether

8 this school run by a private company using an accelerated

9 model is actually delivering it's ESL services in a way that

10 can be quantified that shows that student's language barriers

11 are being overcome?

12 A. We don't disaggregated the data with Access, but that's

13 why we have the internal reviews.

14 **Q.** You said you understood Qasin's goal was to work?

15 A. Correct.

16 **Q.** That -- you said that was not his mother's goal; right?

17 A. Correct.

18 **Q.** And on Anyem you said that when he returned, if he

19 returned to McCaskey that he would be at the emerging level?

20 A. He'd be at -- yes. Emerging or beginning, yes.

21 **Q.** All right. And he was never given the option of

22 returning to McCaskey; right?

23 A. I'm not aware of that.

24 **Q.** You're not aware that this bridge back from Phoenix to

25 McCaskey when there had been a lot of credit accumulation --

1 you're not aware of whether that happened; right?

2 A. I'm aware of the bridge. I just -- I never met that

3 young man.

4 **Q.** Okay.

5 A. I've only seen his files.

6 **Q.** When he testified on Wednesday you saw that it looked

7 like his grade 12 was accomplished in a week?

8 A. No. That was not my understanding. My understanding

9 of that document, I believe it had the date 6-2, is that we

10 have something called roll over in E-School. Now E-School is

11 just is just a fancy term for our warehouse of information.

12 That role over when that happens with the computer system

13 automatically if you will and then it's our IT department's

14 job as well as other accountability pieces Through PMS which

15 is the Pennsylvania Manage for Data for students that that's

16 cleaned up by October 1 so when I looked at that and knowing

17 he went to the summer program that date told me he completed

18 the end of the year there and then went onto the summer

19 program to attain those credits. That's how I understood

20 that.

21 **Q.** And regardless of whether that was done that way or

22 within the week and I appreciate you sharing that

23 understanding, he had plenty of time left until he got to age

24 21 to continue his education with the school system; right?

25 A. If he would not have attained his credits, yes.

1 Q. And if he went back and was deemed emerging he would  
 2 still along with other education beginning two hours or, I'm  
 3 sorry, three hours of ESL one of which is the skills class?  
 4 A. Yes, unless he had another elective.  
 5 Q. Thank you.  
 6 THE COURT: Thank you counselor. Attorney  
 7 O'Donnell, anything further?  
 8 MS. O'DONNELL: No further, thank you.  
 9 THE COURT: And I just have a few questions.  
 10 THE WITNESS: No problem.  
 11 THE COURT: Now you are the is it the title of  
 12 the Coordinator of ESL --  
 13 THE WITNESS: Yes.  
 14 THE COURT: -- for K -- kindergarten all the way  
 15 through 12th grade?  
 16 THE WITNESS: Yes.  
 17 THE COURT: So you're involved in the entire  
 18 School District?  
 19 THE WITNESS: Correct.  
 20 THE COURT: And the ideal situation I assume is  
 21 if you get a child as young as possible --  
 22 THE WITNESS: Yes.  
 23 THE COURT: -- to get them through the process?  
 24 THE WITNESS: Yes.  
 25 THE COURT: And what we're talking about here is

1 a very small subset of your students of your ESL students. It  
 2 appears to total 18 at the Phoenix School.  
 3 THE WITNESS: Yes.  
 4 THE COURT: So out of 615 ESL students you have  
 5 it's about 18; is that correct?  
 6 THE WITNESS: I'm not sure where 615 came from.  
 7 From 9 through 12?  
 8 THE COURT: Oh no, this is just high school, I'm  
 9 sorry, you're right, they're even more than that.  
 10 THE WITNESS: Yeah, we have about 18 to 1900 ESL  
 11 students in our district.  
 12 THE COURT: Okay. I was -- I'm sorry.  
 13 THE WITNESS: It's okay.  
 14 THE COURT: I was just counting the move 525 at  
 15 McCaskey and the 90 --  
 16 THE WITNESS: I like when I can sound smart,  
 17 that's okay.  
 18 THE COURT: Yeah. How many is that total, ESL?  
 19 THE WITNESS: 18 to 1900 in the district.  
 20 THE COURT: Wow. Now, most of them are not  
 21 falling under the subset of people we've again asylum here in  
 22 this country who are older and speak no English?  
 23 THE WITNESS: Correct.  
 24 THE COURT: Okay. Now, I took five years of  
 25 French and I was in schools where I could understand

1 everything that was going on and it was my culture et cetera  
 2 and I cannot hold a conversation with someone in French. So  
 3 and I'm trying to take my own experiences and try to figure  
 4 out how you do your job, because these ESL Instructors they  
 5 are, that's a certificate they get. So they can be social  
 6 studies teachers, [indiscernible] they're -- they're awarded  
 7 or however you get your board is in one subject, but you can  
 8 go get a certificate regardless of what you teach so that  
 9 you're trained in ESL, but it doesn't mean you speak the  
 10 language of the child you're trying to help.  
 11 THE WITNESS: Correct. Correct.  
 12 THE COURT: Okay.  
 13 THE WITNESS: I was just going to say and you  
 14 also have to be certified in English to be an ESL Teacher.  
 15 THE COURT: Oh, okay.  
 16 THE WITNESS: It's a dual certification in order  
 17 to be highly qualified in Pennsylvania.  
 18 THE COURT: So when you're trying to and we'll  
 19 go back to this subset, when you've got somebody that's come  
 20 from Burma and they don't speak any English at all and they're  
 21 already 17 or 18 you have to treat them differently than  
 22 somebody when you're getting early on in school that you can  
 23 take care of all along the way.  
 24 THE WITNESS: Yes.  
 25 THE COURT: Now, the child that had been tased,

1 the resource officer [indiscernible] had a Taser on, do you  
 2 know what happened to him?  
 3 THE WITNESS: I don't recall at this moment, but  
 4 I just know there was an escalated situation that they needed  
 5 to use that.  
 6 THE COURT: Would it surprise you if he was  
 7 transferred to Phoenix?  
 8 THE WITNESS: It would surprise me, because  
 9 that's not a location for what we call AEDY which is --  
 10 THE COURT: Burly.  
 11 THE WITNESS: Burly, would be the location;  
 12 correct.  
 13 THE COURT: Okay. And both Burly and Phoenix  
 14 are run by Camelot?  
 15 THE WITNESS: Correct.  
 16 THE COURT: And in fact the teachers that work  
 17 there are not even Lancaster School District teachers;  
 18 correct?  
 19 THE WITNESS: Correct.  
 20 THE COURT: So it's -- truly is an alternative  
 21 school. This is not a Lancaster school in all respects except  
 22 that they utilize certain special programs like ESL so you're  
 23 involved in it because of the ESL?  
 24 THE WITNESS: So my understanding is we contract  
 25 with them, but as far as curriculum, so for example my fellow

1 coordinators like the coordinator of communication arts or the  
2 coordinator of science has the exact same interaction with  
3 those teachers at that school as far as being part of our  
4 professional development, receiving training and so on and so  
5 forth.

6 THE COURT: Now, is Camelot's specialty running  
7 alternative schools for children that have more challenges  
8 whether it be IAPs whether it be disciplinary problems,  
9 behavioral problems, they know how to run these schools,  
10 that's their specialty?

11 THE WITNESS: I don't know that I know enough  
12 about Camelot as a whole to say that's their specialty, but I  
13 know that in our district we have Phoenix which is the under  
14 credited and that we have Burly which is -- I could definitely  
15 speak to is that's a specialty of theirs is that AEDY group.

16 THE COURT: In judging your program, well you  
17 personally judge it and I know there's all this testing et  
18 cetera, each individual child is unique and each child's  
19 circumstances are different, so you, I assume have to both  
20 judge the program as a whole, but also judge individual  
21 students what successes they might have achieved.

22 THE WITNESS: Correct.

23 THE COURT: And those are all over the board,  
24 boss you have somebody mentioned slow learners, but the  
25 reality is some children just pick it up very quickly, some

1 are more motivated than others. Children are different.

2 THE WITNESS: Correct.

3 THE COURT: Some children don't like to go to  
4 school and more don't like to go to school. They go because  
5 they have to go to school.

6 THE WITNESS: Correct.

7 THE COURT: Because we recognize how important  
8 schooling is. So getting to the very issue at hand here, if  
9 and you had suggested I think at the beginning kind of like  
10 this whole thing didn't need to happen, but they just didn't  
11 give you enough time to get back to them.

12 THE WITNESS: Yes, in those meetings that we had  
13 with Lutheran and Church World Service that's why we opened  
14 the discussion and the discussion was and I can state that  
15 Sheila Valentina had said this that we understand Dr. Rau's  
16 new, you're, you know, new to the situation, we think the end  
17 of the school year's an appropriate time to meet again and we  
18 did meet again at the end of the school year.

19 THE COURT: Right. The one thing you see in a  
20 courtroom is surprisingly people that are all focus ed on  
21 achieving the same goal will suddenly become adversarial and  
22 in this particular case you can certainly understand why those  
23 organizations that are protecting refugees as they're getting  
24 the asylum here in the United States are very aggressive in  
25 trying to protect to interests of those refugees.

1 THE WITNESS: I can see why they would advocate,  
2 yes.

3 THE COURT: And that's what they were doing.

4 THE WITNESS: Yes.

5 THE COURT: And you can understand why the  
6 lawyers in this case would be see aggressive in trying to do  
7 what they believe is necessary to protect the legal rights of  
8 these refugees. But you at the same time are also trying to  
9 protect the legal rights of these refugees on a more  
10 personal way you're trying to educate them and get them to  
11 learn English.

12 THE WITNESS: Yes.

13 THE COURT: So everybody's really on the same  
14 page. So if -- if this had not moved so quickly and if you  
15 were in power and they said to you, okay. You're the ESL  
16 Coordinator.

17 THE WITNESS: Yes.

18 THE COURT: What the we ensured that these  
19 children that we're giving asylum here, because they're being  
20 persecuted in their native country, we've got to do everything  
21 we can while they're young and have the ability to go to  
22 school, what if we agree we're going to promptly enroll them,  
23 you would agree with that; correct?

24 THE WITNESS: Yes.

25 THE COURT: And what if we agreed that there not

1 be this arbitrary cut off that all entry level what with do  
2 you call them entry level? The ones that don't speak English.

3 THE WITNESS: Enter, yes.

4 THE COURT: That all of them would get the  
5 benefit of the International School whether they're 21 or  
6 whether they're 16. Why would that be counterproductive or  
7 why would that be -- what would the unintended consequence  
8 that I can't see --

9 THE WITNESS: Sure.

10 THE COURT: -- to that?

11 THE WITNESS: So the -- be able to obtain a  
12 diploma.

13 THE COURT: Bingo.

14 THE WITNESS: Yes.

15 THE COURT: So there's three real issues here.  
16 One is getting them to learn English as well as they can. Two  
17 is getting to learn the other core subjects so they increase  
18 their education.

19 THE WITNESS: Right.

20 THE COURT: And three is getting the diploma.

21 THE WITNESS: Correct.

22 THE COURT: But and how do you value these? So  
23 would it be better if they came out able to speak English, but  
24 didn't have the diploma and this is almost rhetorical, because  
25 I don't know because I don't know what answer is? Would you

1 rather your student come out and not have that core  
2 fundamental ability to speak English or at least get as far as  
3 they can get in the limited time they have or would you rather  
4 give them a piece of paper that then does open doors like the  
5 community college like the other schools, the diploma has  
6 great value, but isn't the diploma almost like a false diploma  
7 if you haven't truly educated them?

8 THE WITNESS: Well, I think there's a couple  
9 things. I think one, yes, it's a rhetorical question. It's a  
10 question I ask myself often. I think, so breaking down, I  
11 think, 1) there's a lot of support outside of our system like  
12 we talked about the Literacy Counsel, the IU13, we have our  
13 refugee center that also offers these classes.

14 THE COURT: Right.

15 THE WITNESS: And then we have other programs  
16 that I'm not as greatly familiar with, but there's career link  
17 and other things that can link you to career or a GED path.

18 THE COURT: Right.

19 THE WITNESS: So those are some options. I  
20 think that students attaining a diploma based on credits their  
21 curriculum and materials and what they have studies either in  
22 the English language in learning ESL or the content has been  
23 accommodated for them. And that's why they're able to obtain  
24 the grades and the credits.

25 THE COURT: Okay.

1 THE WITNESS: That said, for example, a student  
2 who would come in at 15; right, and receive a diploma because  
3 they've went through the system, 15 is an arbitrary age,  
4 but --

5 THE COURT: Right.

6 THE WITNESS: -- I'm not great with math on the  
7 spot, but I'll get there. It takes five to seven is the older  
8 research, but now, 7 to 10 is the newest research that shows 7  
9 to 10 is the amount of years that it could take to actually  
10 master the English language as an English Language Learner.  
11 So that same student at 15 would potentially graduate not  
12 having fully exited from ESL Services.

13 THE COURT: And my understanding is English is a  
14 very difficult language to learn.

15 THE WITNESS: It is, it doesn't follow a lot of  
16 the same patterns as other languages.

17 THE COURT: Right. So let's assume you have  
18 until the child is 21 and assuming that these core subject  
19 teachers don't speak the native language of the refugee, the  
20 more English they learn early on the better they're going to  
21 do in those core subjects when they're trying to teach them  
22 history, social studies things like that, because if they're  
23 sitting in class and can't understand a word that's being said  
24 even if the teacher's also certified in ESL if they're  
25 teaching others that don't have language problems at the same

1 time they're not going to be utilizing that ESL in a great  
2 degree.

3 THE WITNESS: Well, differentiation is good for  
4 all students and the methods you use for ESL is also  
5 appropriate for all students. However, of course, varying on  
6 their level you might do it differently. So a visual for an  
7 entering level might be different than a visual for a regular  
8 English speaker.

9 THE COURT: Okay.

10 THE WITNESS: But some of those same strategies  
11 you would apply within the classroom ESL certified or not. I  
12 may have forgot the beginning of your question, but.

13 THE COURT: [Indiscernible] fine. And in this  
14 case in particular there have been some very interesting  
15 dynamics, because we've had two brothers a year apart, two  
16 years apart, the one was allow to go in the school, but he was  
17 put in the Phoenix Academy, the other one wasn't even allowed  
18 in the school. Both of them I think doing the math could have  
19 done the International School or the International School?

20 THE WITNESS: Correct.

21 THE COURT: Could have done that year and  
22 whatever benefit it has, but I have a feeling just from what  
23 I'm hearing from you it has benefit. You've put together or  
24 continuing a very strong program to help not just refugee  
25 students, but also English learners. They would've had the

1 benefit of that year and still had some time left, the one boy  
2 would've had time to actually graduate in 16 months after  
3 that. The other boy never got to go to school at all even  
4 though he was still, it appears he was still under 21. And I  
5 also you're getting into an interesting situation too once  
6 they turn 18 that being that they are now an adult and have  
7 the right not to go to school if they don't want to go to  
8 school.

9 We also had the interesting dynamic of the two  
10 children, one went to McCaskey, the other went to Phoenix  
11 School and then already the younger child could speak English  
12 much better than the older child just because arbitrarily, I  
13 shouldn't use the word arbitrarily, because the school  
14 determined it was more important to get this accelerated class  
15 and get this diploma in a shorter period of time than to do  
16 the International School. We now have a younger child  
17 speaking English better than her older sister going to  
18 separates schools. Wouldn't it have made more sense for these  
19 two siblings to have gone to the International School?

20 THE WITNESS: Well, I think one of the things  
21 and I'm not very familiar with the case, I've only seen some  
22 brief records, but it depends on the ability in the native  
23 language. It depends on that transfer theory, so I can't  
24 speak to the two sisters in that depth of understanding as to  
25 like you're suggesting the one at the International School



1 really gained English and acquired very quickly I'd have to  
2 look back at the [Indiscernible] to understand what happened  
3 in their country with their schooling and really understand,  
4 you know, if that transfer theory is coming into play for one  
5 over the other.

6 THE COURT: Right.

7 THE WITNESS: But --

8 THE COURT: And what about these -- suppose you  
9 have very highly motivated children that we've given asylum  
10 here, because of what they've been through and they can't do  
11 homework at night? Like what if they want to learn English?  
12 They want to and yes, they are other organizations that are  
13 helping them out --

14 THE WITNESS: Correct.

15 THE COURT: -- bringing tutors in et cetera, but  
16 have you seen those students that they just keep on studying,  
17 how can they not take their homework home and work on it  
18 especially with their siblings even trying to teach their  
19 parents, like how can children not take homework home?

20 THE WITNESS: My understanding is that it's not  
21 they that can't, that that's available to them and resources  
22 and photocopies are available to them and I would hope that  
23 homework was differentiated enough they could learn on their  
24 own at home if --

25 THE COURT: As I assume at McCaskey they can

1 We also had some students within the last year  
2 and a half that started working service industry jobs and so  
3 they're working 40 hours a week another example and by  
4 students, I mean refugee students. You know, they're working  
5 Saturday, Sunday, Monday overnight and then they're not coming  
6 to school Tuesday and so as you meet with them as you do to --  
7 because you notice their attendance is down or for whatever  
8 reasons they bring forth like they don't what to do and they  
9 meant to get the diploma, but they feel unable --

10 THE COURT: So on a case by case basis --

11 THE WITNESS: It is --

12 THE COURT: There are situations where Phoenix  
13 really works better for --

14 THE WITNESS: Yes.

15 THE COURT: [Indiscernible].

16 THE WITNESS: Yes.

17 THE COURT: Okay. Is there anything else you  
18 would like to tell me?

19 THE WITNESS: No.

20 THE COURT: Okay. Because you're tired of being  
21 on the stand?

22 THE WITNESS: I'm fine, thank you.

23 THE COURT: Attorney O'Donnell, do you have any  
24 questions in light of the Court's questions?

25 MS. O'DONNELL: You know, I just want to follow

1 take their books home.

2 THE WITNESS: No. Not always. No.

3 THE COURT: Oh, really?

4 THE WITNESS: Yeah. Like the everyday English  
5 Plus Program that we use for the entering level and  
6 International School, those books remain in the classroom.

7 THE COURT: Right. Now, the last question, I  
8 want to make sure that there's no unintended consequence here  
9 because I'm trying to learn all of this from the very  
10 outstanding presentations that are being put before me. If  
11 these children, these refugee children, at least the six that  
12 we've heard about today and you were thankfully sitting in the  
13 courtroom through all this and that helps me a lot, if those  
14 six children had been placed at the International School  
15 rather than Phoenix other than the fact that they wouldn't get  
16 a diploma perhaps, what negative unintended consequence would  
17 that result from that?

18 THE WITNESS: I cannot speak to those six, but a  
19 pattern that we do see is that one specially in my three and a  
20 half years overseeing the International School we would have  
21 refugee students in particular that came to us and said my mom  
22 is sick, she can't work whatever the situation is I'm thinking  
23 of one in my mind, in particular and they asked to then  
24 transfer to Phoenix because they wanted to provide for the  
25 family.

1 up on one of your questions.

2 THE COURT: Certainly counselor.

3 MS. O'DONNELL: And I -- my and ask from here.  
4 Is in.

5 THE COURT: Absolutely.

6 MS. O'DONNELL: Okay.

7 - - -

8 RE-REDIRECT EXAMINATION

9 - - -

10 BY MS. O'DONNELL:

11 Q. So, one -- one more thing and in -- in terms of what  
12 you might hear from refugee students, are there any issues  
13 with the dropout rate in terms of that particular age group  
14 whether it's and -- and let's focus on these students, not  
15 these six, but generally your refugees, do you -- are you  
16 concerned that if you don't start them out in a -- in a  
17 smaller setting like Phoenix that there could be a potential  
18 or a risk depending on what the their background factors are  
19 of dropping out of school?

20 A. Yes.

21 Q. Is that -- in your -- in your experience have you seen  
22 that?

23 A. Yes.

24 THE COURT: And I just have to follow up with  
25 this. So you believe that they -- and the challenges that

1 they face are -- are tremendous. They are in a country they  
 2 know nothing about, they speak none of the language, are you  
 3 suggesting their likely to dropping out would be higher if  
 4 they went to the International School which is focused on that  
 5 exact type of person to get them that beginning introduction  
 6 to English, the dropout rate would be greater if they went  
 7 there than if they went to Phoenix?  
 8 THE WITNESS: Yes, because some of the life  
 9 situations I was discussing with you. There's been definitely  
 10 more students of this classification at McCaskey, because it's  
 11 the four year commitment and they've been able -- unable to  
 12 make that four year commitment just for needing to provide for  
 13 the family as most -- most often the reason. A few, it's  
 14 because they just don't want to.  
 15 THE COURT: Right. Okay. Thank you very much.  
 16 MR. ROTHSCHILD: Your Honor, just a couple  
 17 question s.  
 18 THE COURT: Attorney O'Donnell, anything  
 19 further?  
 20 MR. ROTHSCHILD: Oh, I'm sorry.  
 21 MS. O'DONNELL: I have nothing further, thank  
 22 you.  
 23 THE COURT: Mr. Rothschild, any questions --  
 24 MR. ROTHSCHILD: Yeah, thank you.  
 25 THE COURT: -- in light of the Court's

1 questions?  
 2 ---  
 3 RE-RE-CROSS-EXAMINATION  
 4 ---  
 5 BY MR. ROTHSCHILD:  
 6 Q. So the examples you gave of taking care of the family,  
 7 having a work schedule, those are examples where the students  
 8 have actually to go to Phoenix; right?  
 9 A. Yes.  
 10 Q. And that's actually something non-refugee and non-ELL  
 11 McCaskey students can do, they can actually request to go to  
 12 Phoenix and then Mr. Blackman had -- well, they can make a  
 13 determination whether they can go?  
 14 A. I believe so.  
 15 Q. Maybe we'll ask Mr. Blackman. The six plaintiffs that  
 16 we're talking about got no choice; right about going to  
 17 McCaskey? They weren't -- they didn't go to Phoenix because  
 18 they asked to?  
 19 A. Correct.  
 20 Q. Thank you.  
 21 THE COURT: Thank you very much counselor.  
 22 THE WITNESS: Thank you.  
 23 THE COURT: Ma'am, thank you very much.  
 24 THE WITNESS: Thank you.  
 25 THE COURT: And thank you for everything you do

1 in your position.  
 2 THE WITNESS: Thanks.  
 3 THE COURT: Attorney O'Donnell you may call your  
 4 next witness, ma'am.  
 5 MS. O'DONNELL: Thank you very much, Your Honor.  
 6 At this time we will call Dr. Dumaris Rau.  
 7 THE COURT: Good afternoon, ma'am. I have heard  
 8 it's cold in here. It's warm up here.  
 9 MS. O'DONNELL: It's -- it's my legs are blue.  
 10 DEPUTY CLERK: Please remain standing  
 11 [indiscernible].  
 12 ---  
 13 (WITNESS - SWORN)  
 14 ---  
 15 THE COURT: Thank you very much, ma'am. You may  
 16 be seated. And, ma'am, would you please state your full name  
 17 spelling your last name for the record?  
 18 THE WITNESS: Damaris Rau, R-A-U.  
 19 THE COURT: Thank you very much. Counselor you  
 20 may proceed.  
 21 MS. O'DONNELL: Thank you Your Honor  
 22 [indiscernible].  
 23 ---  
 24 EXAMINATION  
 25 ---

1 BY MS. O'DONNELL:  
 2 Q. Good afternoon Dr. Rau. Would you state how you are  
 3 currently employed?  
 4 A. I am the Superintendent of Schools for the school  
 5 district of Lancaster.  
 6 Q. And how long have you been so employed?  
 7 A. Just about a year.  
 8 Q. Okay. Would you also give me a brief description of  
 9 your education?  
 10 A. Sure. In 1983 I received a Bachelor's Degree from St.  
 11 John's University in New York in Elementary Education. After  
 12 that I received a Master's or I -- rather I earned a Master's  
 13 Degree in Elementary Education from the Hunter College  
 14 graduate School of Education in the City of New York. After  
 15 that I continued my education and received a professional  
 16 certification as an administrator from the College of New  
 17 Rochelle in New Rochelle, New York. Following that I worked  
 18 and received a Doctorate in Organizational Leadership from  
 19 Teachers College, Columbia University and most recent was a --  
 20 I completed a program to receive my Superintendent  
 21 certification at the University of Connecticut.  
 22 Q. And how -- how long ago was that?  
 23 A. I would say about nine years ago.  
 24 Q. Okay. Why were you hired by the school board?  
 25 A. I think I was hired by the school board because they

1 believed in the vision that I wanted to bring to the School  
 2 District.  
 3 **Q.** And what was that vision?  
 4 **A.** And I believed in their vision.  
 5 **Q.** And what was that vision?  
 6 **A.** My vision, our vision is that all students should  
 7 graduate from high school, college and career ready.  
 8 **Q.** And how is that different from the vision of -- of  
 9 perhaps one of your predecessors where at one point that  
 10 vision was to prevent dropout -- the dropout rate at -- in  
 11 Lancaster?  
 12 **A.** I think that the research has demonstrated that without  
 13 a high school degree the chances of positive outcomes for  
 14 students is negligible. We know that if you do not have a  
 15 high school diploma you are more likely to get a low wage  
 16 paying job. Which then also results in not having adequate  
 17 health insurance which results in not having adequate health  
 18 care.  
 19 We know that students who do not have a high school  
 20 diploma are less likely to even be hired in the first place  
 21 and so our mission, the School District and I believe is that  
 22 we need to graduate our students so that they can have options  
 23 in their life and opportunities.  
 24 **Q.** Now, is -- is the concept or the vision of graduation  
 25 co-extensive with the Department of Education's expectations?

1 **A.** Absolutely. The Department of Education rates all  
 2 School Districts. There are 500 School Districts in the State  
 3 of Pennsylvania and every school is rated. It's given a  
 4 school performance profile and the state looks at a variety of  
 5 factors including how many students -- what your attendance  
 6 rate is, how many students take dual enrollment classes. How  
 7 many students take an advanced placement class, but they also  
 8 look at your graduation and your dropout rates and they rate  
 9 you based on those -- that variety of factors. And if you are  
 10 not rated at a high enough standard then you are labeled  
 11 either a focused or priority school meaning you have lots of  
 12 issues that the State will be monitoring and the State visits  
 13 and monitors frequently schools that do not pass the SSP.  
 14 **Q.** And since you've come into this School District have  
 15 you found any of your schools within the School District of  
 16 Lancaster to be a priority or a focus?  
 17 **A.** Yes, we have five schools, five or six.  
 18 **Q.** And what -- what are those five or six schools?  
 19 **A.** Well, McCaskey is a focused school. We Have Wheatland  
 20 is one of our focused schools and then we have three  
 21 elementary schools [indiscernible] Price, I can't remember  
 22 them all off the top of my head, but.  
 23 **Q.** So, has the Department of Ed come in actually to  
 24 perform a review of how McCaskey is doing overall?  
 25 **A.** What they do is they -- they send someone from the

1 State, a monitor of some type who -- who comes to the various  
 2 schools and participates in meetings, gets reports from the  
 3 school personnel and just ensures that we are following the  
 4 plan, because those schools who have been labeled as either  
 5 focused or priority schools have to create a special plan that  
 6 indicates how will they improve their student's performance.  
 7 **Q.** Okay. And would the -- would the Phoenix Academy  
 8 Program, the accelerated program fill within the McCaskey  
 9 review or is McCaskey separate from Phoenix as -- as far as  
 10 that's concerned?  
 11 **A.** As far as this is concerned it's separate.  
 12 **Q.** Okay. Since you've -- you've come aboard with the  
 13 School District and with particular respect to this -- this  
 14 situation with -- with ELLs, have you found there to be many  
 15 challenges to -- to educate the influx of newcomers?  
 16 **A.** First I'd like that say that I find that the City of  
 17 Lancaster, the School District is very welcoming to our -- to  
 18 all citizens including our refugees, I mean citizens of the  
 19 city, but certainly there are significant challenges. So many  
 20 of the refugees come to school with very limited if any  
 21 education. One major challenge is that they come with often  
 22 times come with very rare languages. They're not common  
 23 languages so it's very difficult to find professionals who can  
 24 provide services to them. I think that because many of them  
 25 feel an obligation to work for their families they want to

1 come to America to better themselves and for many of them that  
 2 means they want to get work right away. So it's -- it's a  
 3 real challenge to try to keep them in school. And so it does  
 4 require a lot of support, mental health support in terms of  
 5 counseling and academic support.  
 6 **Q.** And I understand that School District of Lancaster has  
 7 something called a refugee center?  
 8 **A.** Yes.  
 9 **Q.** Is that something that we typically find in School  
 10 Districts with high refugee populations?  
 11 **A.** I don't know of any School District that has a refugee  
 12 center. Our refugee center which is located at Reynolds  
 13 Middle School which is pretty much in the center of the city,  
 14 it gives access to all of our families was developed in  
 15 conjunction with the Rotary Club who does a lot of  
 16 international charity and so the -- the thought was that we  
 17 wanted to engage the parents of the refugees, help them get an  
 18 education, provide medical services for them and really serve  
 19 as an institution that will help navigate services so we  
 20 actually hired what we call navigators. Those navigators job  
 21 is to help families figure out how to work in the system  
 22 whether you need a dentist or you need health care or all  
 23 sorts of services. These navigators are natives from  
 24 different countries, so we have one from Nepal, I think one is  
 25 from Bhutan and the other one I'm not sure where he's from,

1 but he speaks Arabic.  
 2 **Q.** Okay.  
 3 A. So these families are also very comfortable dealing  
 4 with someone from their own country. So we -- we think that  
 5 we are one of the few districts that provide that type of  
 6 service and what's really great about it it's not just for the  
 7 students. What we're trying to do is educate their parents,  
 8 so there are job training skills, there are computer skills  
 9 offered. And there are people who are hired specifically to  
 10 work with -- with our refugees, so we have a deep commitment  
 11 to our refugees.  
 12 **Q.** As far as your community partners how would you  
 13 characterize your relationship with -- with those folks that  
 14 have similar interests in terms of providing services to  
 15 refugees?  
 16 A. Which community partners are you referring to?  
 17 **Q.** How about the resettlement agencies?  
 18 A. You know, I think we both want the same thing for the  
 19 students which is the best outcomes for these students. As  
 20 the Judge said earlier where we all want the same thing, but  
 21 it's the how to get there that's different, you know, there  
 22 are often times they're saying that everybody who went to  
 23 school, thinks they can be a teacher or an educator and so you  
 24 know, trying to lead a large organization where there are  
 25 11,500 students you need to take into the account the entire

1 system and so I think that sometimes the refugee agencies are  
 2 very narrow-minded and don't think about all student, just  
 3 about their small -- their small select group and we think  
 4 about them too.  
 5 **Q.** Right.  
 6 A. But we think about them in relation to all of the other  
 7 students as well.  
 8 **Q.** Is that because there's -- when -- when you make a  
 9 change with respect to one -- one subset or -- or one small  
 10 group of students there's a ripple effect out into the rest of  
 11 the community of students?  
 12 A. Absolutely. Absolutely.  
 13 **Q.** Okay. And do budgetary concerns -- are they  
 14 significant or is that something that is just handled by  
 15 somebody somewhere down the road?  
 16 A. So this past year actually was one of the worst budget  
 17 years because the State legislators couldn't pass a budget.  
 18 **Q.** Right.  
 19 A. So we actually had to go into savings mode, no hiring  
 20 of permanent staff, no -- no professional development, just --  
 21 we just had to slash a lot of things. No supplies were  
 22 ordered after January, because we didn't have a budget, so  
 23 certainly budgets are very important when guiding the work of  
 24 a district. There is no district that has limitless funds and  
 25 so certainly we do look at that and we ensure that we provide

1 our students with what we are required to provide them under  
 2 the law. And I think we do even more than that to be honest  
 3 with you.  
 4 **Q.** With respect to the student that have become plaintiffs  
 5 in this lawsuit can you testify and -- and tell us about any  
 6 conversations you may have had concerning them with your  
 7 community partners?  
 8 A. Yeah, so I just started in SDOL last July and part of  
 9 that entry, you know, really meeting lots of people, getting  
 10 to know the information and the assets in our district. So  
 11 people from Lutheran Services and World Services wanted to  
 12 meet with me which I -- I meet with a lot of organizations and  
 13 so we did and there was a woman named Aleese, I don't know her  
 14 last name who was particularly agitated. And so my -- my  
 15 approach is, you know, I understand that you have a concern so  
 16 I invited both of these organizations in, let's talk about it,  
 17 let's see how we can work together to improve outcomes for  
 18 kids, but Aleese was very, very angry and just very accusatory  
 19 and really did not want to talk. She was just very rude and  
 20 disrespectful and, you know, I said you get more with honey  
 21 than you get with vinegar --  
 22 **Q.** Right.  
 23 A. -- because her approach was just so negative towards me  
 24 and she just continued to be very belligerent to the point  
 25 that I said we needed to end this meeting, because if we're

1 not going to collaborate, if we're not going to work together  
 2 there's no point in this meeting.  
 3 She calmed down a little bit and again, I listened to  
 4 all of the concerns that both agencies indicated and we agreed  
 5 that I would start an investigation or start looking into the  
 6 matter and then that we would meet again at the end of the  
 7 school year. And this happened in, I believe that happened in  
 8 February of 2016.  
 9 **Q.** Okay. And were they satisfied with that -- that --  
 10 that temporary resolution?  
 11 A. I thought they were, yes.  
 12 **Q.** Okay. And did it surprise you when the District got  
 13 sued on July 19th?  
 14 A. Yeah. It was very disappointing because I think we had  
 15 just had my secretary set the date for the follow-up meeting  
 16 which happened maybe it was either in June or July, I can't  
 17 remember off the top of my head, but it was very surprising  
 18 that, well, wait a minute, we didn't meet to discuss all of  
 19 the things we talked about.  
 20 **Q.** Right.  
 21 A. And -- and I had met several times with my staff  
 22 including the Phoenix staff to talk about some of the concerns  
 23 and how could we make it better, because we are a growth  
 24 organization. We can do better in all areas. We are not  
 25 saying that we are perfect, but we are I think very willing to

1 work with our organizations. I think that that's one of the  
2 wonderful things about the School District of Lancaster, is  
3 that we have so many partners and they want to work with us  
4 and we want to work with them because we understand the  
5 contributions that our community makes, but yeah, that was  
6 really disappointing because it didn't give us the chance.

7 Q. Those are all the questions I have, thank you.

8 THE COURT: Thank you very much, counselor. Mr.  
9 Rothschild, will you be cross-examining the Superintendent?

10 MR. ROTHSCHILD: I am, Your Honor.

11 THE COURT: You may proceed, sir.

12 - - -

13 CROSS-EXAMINATION

14 - - -

15 BY MR. ROTHSCHILD:

16 Q. Good afternoon, Dr. Rau.

17 A. Hello.

18 Q. As Superintendent you're obviously -- you're obviously  
19 responsible for the entire district; right?

20 A. Yes.

21 Q. And in fact at your deposition you volunteered the buck  
22 stops here?

23 A. Yes?

24 Q. Now, you said and I want to make sure that we got this  
25 clear on the record that your mission was every child to

1 graduate college -- graduate high school, college and career  
2 ready?

3 A. College or career ready.

4 Q. College or career ready, thank you. And that's every  
5 child so it's your -- is that right?

6 A. That is my aspiration, yes.

7 Q. Okay. And that -- you are nodding your head and that  
8 doesn't get on the record.

9 A. I'm sorry.

10 Q. That's all right. I'll try and catch that if pit  
11 happens. That's how we usually converse.

12 A. Okay. Sorry about that.

13 Q. And so your goal is not just that students graduate  
14 it's that they graduate college or career ready?

15 A. Right. That is our aspiration.

16 Q. Now you said you were disappointed when the lawsuit was  
17 filed.

18 A. Yes.

19 Q. And you understand that this wasn't filed on behalf of  
20 the refugee agencies that you've been communicating with, this  
21 was on behalf of the children?

22 A. Yes, I understand that, but I also understand that they  
23 instigated the lawsuits.

24 Q. And what's the basis for that understanding?

25 A. Just the gossip in town.

1 Q. And when the lawsuit was filed did you read the  
2 complaint that initiated the lawsuit?

3 A. The complaint that initiated the lawsuit.

4 Q. And if you --

5 A. From -- let me see if I --

6 Q. Just to make this easier if you look at tab two in the  
7 day one binder I think you'll see what I'm talking about.

8 A. Yes. Yes, I read this.

9 Q. You did read it? When the refugee agencies had that  
10 first meeting with you and our records are that it was March  
11 17th, does that sound right or --

12 A. I thought it was more like February, but February,  
13 March, could be.

14 Q. Fair enough. And among the people there were Sheila  
15 Mastropietro [ph] she's here today; right?

16 A. I don't know if she's here. Oh, yes, there you are.

17 Q. And then Aleese Chessin was there?

18 A. Yes.

19 Q. And on behalf of the School District was just you and  
20 Dr. Abram [ph]?

21 A. I believe so.

22 Q. Okay. And they told you about their concerns regarding  
23 the enrollment of refugees in the School District; right?

24 A. I thought that their concerns as far as I remember were  
25 more about Phoenix, not so much enrollment.

1 Q. Okay. So it's just what's happening in Phoenix as  
2 opposed to the enrollment placement process?

3 A. As far as I could remember.

4 Q. And so in that meeting you don't remember that there  
5 was any about the efforts that had to be taken to get these  
6 students enrolled?

7 A. I don't recall that, no.

8 Q. Okay. And you characterized Ms. Chessin as getting  
9 pretty agitated; right?

10 A. Yes.

11 Q. And you -- do you recall that she started to bring up  
12 some individual students in that meeting that she wanted to  
13 talk about?

14 A. I recall that she brought up certain cases, yes.

15 Q. And you told her you didn't want to talk about those  
16 individual student cases at that meeting; right?

17 A. I don't remember saying that.

18 Q. Okay. What you did tell Ms. Chessin and Ms.  
19 Mastropietro was that you were going to investigate?

20 A. Yes, I was going to investigate all of the allegations  
21 that she made.

22 Q. Okay. And you did that?

23 A. Yes.

24 Q. Did -- who did you talk to -- to investigate?

25 A. I actually met with -- I actual ly met with the Phoenix

1 staff, some of the Phoenix staff.  
 2 **Q.** You met with Phoenix staff?  
 3 A. Yeah. May I have a glass of water, please?  
 4 **Q.** Yes. Are you all right to continue?  
 5 A. Yeah.  
 6 MS. O'DONNELL: May I approach?  
 7 THE COURT: Certainly counselor and thank you  
 8 very much.  
 9 THE WITNESS: Thank you. Sorry about that.  
 10 Thanks. Yes, sir.  
 11 BY MR. ROTHSCILD:  
 12 **Q.** Actually before I go on with how you investigated, let  
 13 me make sure I understand what the concerns were that you  
 14 remember Ms. Chessin and Ms. Mastropietro raising with you.  
 15 What were the concerns they raised with you?  
 16 A. Oh, so they were concerned that they felt that the  
 17 Phoenix Academy had a more -- a tighter disciplinary approach  
 18 than the typical high school. They were concerned that  
 19 students were being physically restrained. They expressed  
 20 concerns that students were not receiving sufficient ELL  
 21 services. They indicated they were concerned that student  
 22 weren't allowed to bring home books. Students were not  
 23 allowed to have bags within the school building including cell  
 24 phones anything that could -- that was valuable that could get  
 25 stolen is not allowed to be in the building.

1 **Q.** Okay. And the books and the bags part of that there's  
 2 no dispute that that was true; right?  
 3 A. Yeah.  
 4 **Q.** That -- that --  
 5 A. I'm sorry.  
 6 **Q.** They were correct in what they were saying no books  
 7 going home, no bags coming in?  
 8 A. Well, unless there were exceptions. I don't recall  
 9 what they were, but when I spoke to Phoenix Academy, you know,  
 10 we talked about that and again, the books often times schools  
 11 do not let books go home because of the expense of having to  
 12 replace them, however, Phoenix Academy would make copies of  
 13 the pages that the students needed to work on. I think that  
 14 what people don't realize is that Phoenix Academy is open  
 15 everyday until 6:00 p.m. and so often times students didn't  
 16 need to take homework home, that was the purpose of the after  
 17 school program, they were allowed to -- they were able to do  
 18 their homework and have access to adults right there in the  
 19 building to support them in their work.  
 20 **Q.** If they do that they can't to choose to participate in  
 21 the extracurricular activities that they have to travel to  
 22 McCaskey to participate in; right?  
 23 A. Well, that's a choice every high schooler makes. Do I  
 24 go to a tutor or do I go play athletics.  
 25 **Q.** But in the case of the Phoenix students they've got to

1 make the choice because they don't bring homework home with  
 2 them and they don't bring books home with them?  
 3 A. I see that as the same choice any student would have to  
 4 make at McCaskey, do I go see a tutor or do I go play  
 5 football. I hope they go to a tutor.  
 6 **Q.** The -- you said you talked to people at Phoenix, who  
 7 did you speak with?  
 8 A. Angel Colon I believe his last name Aura, who's sitting  
 9 there, she's the principal of the school.  
 10 **Q.** That it?  
 11 A. Those are the two people that I asked about these  
 12 allegations, yes.  
 13 **Q.** Talked -- did you talk with anybody else?  
 14 A. From Phoenix?  
 15 **Q.** Phoenix or the District?  
 16 A. Oh, sure, of course I speak to my own team is Arthur  
 17 Abram, Jack Blackman, I'm trying to find out, you know, what  
 18 exactly is happening. Why do we have these concerns being  
 19 expressed?  
 20 **Q.** Okay. And --  
 21 A. Amber Hilt.  
 22 **Q.** And so for Amber Hilt the reason to talk with her is  
 23 because she would've been your District's expert on ESL;  
 24 right?  
 25 A. I'm sorry.

1 **Q.** The reason to talk to Amber Hilt is that she would've  
 2 been the District's expert on ESL?  
 3 A. Mm-hmm.  
 4 **Q.** Is that a yes?  
 5 A. Yes.  
 6 **Q.** I don't mean to be read, but I am going to try and draw  
 7 that out of you?  
 8 A. That's -- that's okay.  
 9 **Q.** And the reason to talk to Mr. Blackman is because he's  
 10 the person who's making the decisions about placement; right?  
 11 A. Yes.  
 12 **Q.** And Dr. Abram has some responsibility over that as  
 13 well?  
 14 A. That is correct.  
 15 **Q.** Did you look at any student files as part of your  
 16 investigation?  
 17 A. No. I did not.  
 18 **Q.** Okay. I'd like to do that now, could we -- could you  
 19 turn in your binder, I think it's the day two binder, exhibit  
 20 48, or tab 48?  
 21 A. Okay. It's like upside-down, yes.  
 22 **Q.** And are you looking at a document that starts with the  
 23 bates stamp LSD54?  
 24 A. I'm sorry, no. I -- I --  
 25 **Q.** If you look at the right-hand corner can -- do you see

1 that?

2 MR. ROTHSCHILD: May I approach, Your Honor?

3 THE COURT: The bottom right-hand corner.

4 MR. ROTHSCHILD: I'm sorry.

5 THE COURT: The bottom right-hand corner.

6 MR. ROTHSCHILD: Yes.

7 THE COURT: Certainly you may approach.

8 THE WITNESS: So, I'm sorry, read those numbers

9 again.

10 BY MR. ROTHSCHILD:

11 Q. LSD, I'm sorry for the acronym, it's probably not the

12 right one, but 54.

13 A. Yes, I -- I believe I have the right page.

14 Q. And you see that's a file for a young man named Qasin

15 Hassan?

16 A. Yes.

17 Q. Okay. And could you turn to page 57? That's the

18 student enrollment form; right?

19 A. Yes.

20 Q. Okay. And if you go down to the middle it talks about

21 his grade 9 entry date; right?

22 A. Yes, I see that.

23 Q. And it has district enrollment date state enrollment

24 date, U.S. enrollment date; right?

25 A. Yes.

1 Q. That's the date that Qasin Hassan was enrolled in the

2 Lancaster School District; right?

3 A. That's what it says here.

4 Q. Right. And when that enrollment occurs that actually

5 triggers the flow of funds to the District because that

6 student is enrolled; right?

7 A. Yes.

8 Q. Okay. And the date of birth on this document says

9 September 1, 1998; right?

10 A. I'm looking for that.

11 Q. It's up at the top there's birth date?

12 A. 9-1-98, yes.

13 Q. Right. So at the time he enrolled he was 17 years old?

14 A. Yes.

15 Q. Could you turn to exhibit 49? You see that's a page

16 that says the entry withdraw list?

17 A. Yes, I do.

18 Q. And that's actually usually part of the student file;

19 right?

20 A. I don't know. I don't get into the weeds.

21 Q. Fair enough. And the reason there are different

22 exhibits here is just the way it was produced to us, just

23 probably nothing to concern yourself about. It has a date of

24 entry into the school; right?

25 A. Yes.

1 Q. And that -- and what's the date that it says there?

2 A. Are you referring to the one that says 8-29-2016?

3 Q. That looks like a promotion date, but there's a --

4 right below it -- it says new school year entry; do you see

5 that?

6 A. 1-20-2016.

7 Q. Right. So that's I guess we're two and a half months

8 after he enrolled?

9 A. Yes.

10 Q. Okay. Did your investigation reveal why that happened?

11 A. When I conducted my investigation I was not looking at

12 particular students we were looking at the procedures that the

13 two organizations were concerned about. They had not brought

14 to me the attention of any particular students.

15 Q. Do you know whether they had brought to the attention

16 of your staff particular students including this one?

17 A. At that time, no, I didn't know. Certainly now they

18 know.

19 Q. And so none of your staff told you that this young man

20 did not get to start school at Phoenix until two and a half

21 months after he had enrolled?

22 A. I believe that after we received the lawsuit and we

23 started understanding more of what the concerns were, yes,

24 then we discussed these particular students.

25 Q. But you're not aware of whether families or case

1 workers were bringing -- were raising these enrollment issues

2 at the time to the School District?

3 A. I do not recall families bringing any of these issues,

4 they never reached my office I should say.

5 Q. Okay. And you're aware that Pennsylvania law actually

6 requires that students begin school within five days of

7 enrollment?

8 A. Yes.

9 Q. Okay. And would it surprise you to learn that it was

10 the enrollment staff's policy that after enrollment occurred

11 as reported to the state and federal government that those

12 students, these refugee students had to wait to have a meeting

13 with Mr. Blackman before they could start school at either of

14 the high schools?

15 MS. O'DONNELL: I'm going to object to the form

16 of the question. He said it was a school policy. That -- I

17 don't think that's -- I don't think that's been the testimony

18 all week.

19 MR. ROTHSCHILD: I -- I --

20 THE COURT: Response.

21 MR. ROTHSCHILD: Sorry, Your Honor. I think we

22 will be able to -- I think Ms. Hilt basically testified to

23 that effect and we will have the witness who actually

24 implements that policy on the stand next.

25 THE COURT: And of course I guess the witness

1 can also say whether she knows it is a policy or is not a  
 2 policy. I'll overrule the objection and allow the witness to  
 3 answer the question.  
 4 THE WITNESS: What was the question?  
 5 BY MR. ROTHSCILD:  
 6 Q. Were you aware that that was policy of the enrollment  
 7 staff that after the student was reported to the state and  
 8 federal government as enrolled in Lancaster School District  
 9 they then had to wait for a meeting with Mr. Blackman before  
 10 they could actually start school?  
 11 A. Yes.  
 12 Q. You were aware of that? And were you aware that at the  
 13 time that you were -- as soon as you became a Superintendent?  
 14 A. No.  
 15 Q. Okay. When did you become aware that that was the  
 16 practice?  
 17 A. That would have been after the lawsuit.  
 18 Q. Okay. And not before that?  
 19 A. Or -- or -- or the OCR complaint, right.  
 20 Q. The OCR?  
 21 A. Complaint.  
 22 Q. Okay. And what do you mean by that?  
 23 A. There was an Office of Civil Rights Complaint made to  
 24 the Office of Civil Rights, I should say and then alleging the  
 25 same things that are being alleged in this suit and although

1 we don't know who filed that complaint we assume it was the  
 2 same organizations who led to this lawsuit and so prior to  
 3 this lawsuit being made they withdrew the complaint.  
 4 Q. Okay.  
 5 A. That's the lawsuit, that's what I'm referring to.  
 6 Q. So -- but once that happened or certainly by the filing  
 7 of this lawsuit you became aware that students had to wait  
 8 after their official enrollment date to have a meeting with  
 9 Mr. Blackman --  
 10 A. Right. I -- I was aware that it had to occur within  
 11 five days.  
 12 Q. Okay. But you weren't aware that it wasn't happening?  
 13 Did you have an understanding of whether it was happening  
 14 within five days until the lawsuit was filed?  
 15 A. I trusted that it was happening within five days.  
 16 Q. Okay. And you sat here today through Ms. Hilt's  
 17 testimony; right?  
 18 A. Yes.  
 19 Q. And she talked about a meeting on December 10th with  
 20 Mr. Blackman; do you remember that?  
 21 A. Yes.  
 22 Q. Is that a yes?  
 23 A. Yes. I --  
 24 Q. And that was December 10th of the same year of his  
 25 enrollment?

1 A. I'm sorry, who are you referring to?  
 2 Q. Qasin's enrollment.  
 3 A. Okay. So can you rephrase your question?  
 4 Q. Yes.  
 5 A. I'm not understanding what you're asking.  
 6 Q. So, we looked at his enrollment form and it showed  
 7 November 2nd that the District reported to the state and  
 8 federal government he was enrolled; right?  
 9 A. Yes.  
 10 Q. And you heard Ms. Hilt testify today that the meeting  
 11 with Mr. Blackman didn't occur until December 10th.  
 12 A. Yes.  
 13 Q. And that's not five days, that's more like five weeks  
 14 after that.  
 15 A. Correct.  
 16 Q. Okay. After you found out that -- and were you aware  
 17 that that was occurring for some students that they were  
 18 waiting that long to have that meeting which was effectively  
 19 the next -- the necessary step to actually starting school?  
 20 A. What I understand about this child is that he didn't  
 21 want to go to school. So he wasn't coming in for the meetings  
 22 with Mr. Blackman that's why Phoenix Academy sent someone to  
 23 the home because the child was refusing to go to school. So  
 24 the child wasn't coming in for the meetings, that was my  
 25 understanding. And I could be mixed up with dates.

1 Q. Right. And you understand there was a period where he  
 2 was actually going through the enrollment process? Do you  
 3 understand that?  
 4 A. Yes. I understand that, however, I am not involved in  
 5 that level of the weeds, so it's very difficult for me to be  
 6 able to confirm what you're saying.  
 7 Q. You would agree with me that if a student is waiting  
 8 five weeks from the date he's enrolled to have this meeting  
 9 which is a condition precedent to starting school that's a  
 10 problem; right?  
 11 A. A student should not have to wait five weeks unless the  
 12 student is the one who's not coming to the meetings.  
 13 Q. It's a -- and that -- and if the meeting occurred on  
 14 December 10th as Ms. Hilt testified he and his mother were  
 15 there; right?  
 16 A. I don't remember what she said about his mother.  
 17 Q. Okay. After finding about these weeds, what happened  
 18 with Qasin what steps did you take to make sure this wasn't  
 19 still happening?  
 20 A. So I did speak to our enrollment person, Marsha Riddick  
 21 [ph] and told her that I expect all students to be enrolled  
 22 within the five days as is required by law and that if any  
 23 entering students required, were eligible for ELL services  
 24 that I expected them to be moved into the appropriate schools  
 25 immediately.



1 Q. So if for example with the example we're looking at  
 2 here if you are instructions were being implemented from Qasin  
 3 on November 2, 2015 when indicated he was enrolled what should  
 4 happen under the instructions you have now given?  
 5 A. So for a student who does not speak any English who is  
 6 overage and under credited when they come in and they have all  
 7 of their paperwork, immunizations, all of that thing, all of  
 8 those things, they should be enrolled in our district and they  
 9 should immediately be assessed for their English language  
 10 competency and sent to the appropriate school via Jack.  
 11 Q. Okay. And going back to the caseworkers, well, let me  
 12 ask you, so, you heard Ms. Hilt testify today and I think Mr.  
 13 Blackman will testify that at that -- after that December 10th  
 14 meeting that Qasin attended they did -- they told him he could  
 15 not attend any of the schools in the School District; are you  
 16 aware of that?  
 17 A. I don't think I heard Amber say that.  
 18 Q. Okay. And you -- did you -- were you ever made aware  
 19 by staff that caseworkers for Qasin had to advocate on his  
 20 behalf to get him into school?  
 21 A. I do not remember that, because what I remember was  
 22 that he didn't want to come to school.  
 23 Q. And the source of your information for that is what?  
 24 A. I believe that was Jack.  
 25 Q. Okay.

1 A. Qasin wanted to go to work.  
 2 Q. Would you agree with me Dr. Rau that if a student's  
 3 mother has enrolled that student in school and has expressed  
 4 to Mr. Blackman at a meeting I want my son to attend school  
 5 that he should enroll him in school?  
 6 A. Yes. In most -- mostly, yes. Unless that child is  
 7 demonstrating that he doesn't want to go to school then I  
 8 think our job is to work together with mom and child to say  
 9 okay, so what's the best thing that we can do for both of you,  
 10 because what we don't want is to enroll the child who's not  
 11 going to come to school. So we got to get mom to understand  
 12 what are the different options in order to satisfy both mom's  
 13 request and respect the student's request.  
 14 Q. Okay. Do you know how long the meeting was between  
 15 Qasin and his mother and Mr. Blackman and Ms. Hilt in which  
 16 that determination was made?  
 17 A. No. I wasn't there.  
 18 Q. And do you have any understanding of what Qasin's  
 19 English language speaking ability was at that time?  
 20 A. Only from what I've heard here.  
 21 Q. Okay.  
 22 A. I think it was minimal.  
 23 Q. Are you familiar with the name from this lawsuit  
 24 Khadidja Issa?  
 25 A. Just from the lawsuit, yes.

1 Q. Okay. Could you turn to and this is in the day one  
 2 exhibit binder tab 15?  
 3 A. Yes.  
 4 Q. Okay. And this looks like a file for a young woman  
 5 named Khadidja Issa?  
 6 A. Yes.  
 7 Q. Okay. And if you could turn to page LSD5. When does  
 8 that indicate she started school?  
 9 A. It says here if I'm reading this correctly, new student  
 10 2-17-2016.  
 11 Q. Okay. And if you could turn to page 21 and tell me  
 12 when the student enrollment form indicates she was enrolled  
 13 and reported to the state and federal government?  
 14 A. I'm not sure where you want me to look.  
 15 Q. Page 21, LSD21 in the middle where the enrollment dates  
 16 are.  
 17 A. District enrollment, student enrollment didn't, U.S.  
 18 enrollment date.  
 19 Q. Yes.  
 20 A. Which -- which date are you referring to?  
 21 Q. Well, let's start -- the State enrollment date and U.S.  
 22 enrollment date indicates when the District reported to the  
 23 federal government and the state government; right?  
 24 A. But it also says here that the student was previously  
 25 enrolled in another out of state school.

1 Q. Where are you looking at, ma'am?  
 2 A. I'm looking at your LSD5.  
 3 Q. Do you know where Khadidja Issa came from before she  
 4 came to Lancaster?  
 5 A. According to what I'm seeing on page 21 it says the  
 6 Sudan.  
 7 Q. And you're not aware --  
 8 A. But that's not what it says here.  
 9 Q. Okay. And you're not aware that she lived elsewhere in  
 10 America before she came to enroll in Lancaster School District  
 11 are you?  
 12 A. No. I'm looking at what it says here. It says student  
 13 was previously enrolled in out of state school.  
 14 Q. Okay. You're not aware are you that the same refugee  
 15 agency that had to advocate on Qasin Hassan's behalf so that  
 16 he could start school, I guess about two months, more than two  
 17 months after he enrolled also had to advocate on behalf of  
 18 Khadidja Issa?  
 19 A. That's what I'm -- I'm learning as a result of this  
 20 lawsuit, yes --  
 21 Q. Okay.  
 22 A. -- that that's what the allegations are.  
 23 Q. And have you done an investigation since you found out  
 24 about these allegations about whether this is happening  
 25 regularly to refugee students that they were waiting months to

1 enroll?  
 2 A. My information told me that this was not happening  
 3 regularly.  
 4 Q. Did you do some review of all the refugee student files  
 5 to make sure that was so?  
 6 A. No, I spoke to Jack Blackman.  
 7 Q. Okay. Would it be surprise -- would it surprise you to  
 8 know that Sui Hnem Sung another one of the plaintiffs waited  
 9 over two months before she -- from the date she's recorded as  
 10 enrolled until she was actually allowed to go to school at  
 11 Phoenix?  
 12 A. Yeah, that would surprise me.  
 13 Q. Okay.  
 14 A. But at the same time, as I said before no  
 15 organization's perfect and things do slip through the cracks.  
 16 We have over 700 refugees which we serve in our community each  
 17 year and it's unfortunate if anyone falls through the cracks  
 18 whether you're a refugee or not a refugee.  
 19 Q. Had you heard of any non-refugee who were waiting two,  
 20 two and a half months from the date they enrolled to --  
 21 A. I hadn't heard of these until we had the lawsuit, so  
 22 no. That usually would not come to my attention.  
 23 Q. Okay. And in fact wouldn't have come to your attention  
 24 now if though -- unless these refugee agencies had spoken up  
 25 on behalf of these clients.

1 A. Well, yes, but that was why we were meeting again in  
 2 July to have the discussion which they did not allow to  
 3 happen.  
 4 Q. Okay.  
 5 A. They didn't allow us to make the changes that they were  
 6 concerned about.  
 7 Q. These older refugee students, they have a limited time  
 8 period in which they can obtain a free public education;  
 9 right?  
 10 A. Yes.  
 11 Q. Okay. And it's obviously going to vary, but if we're  
 12 talking students 17 at the youngest and some as old as 20  
 13 they -- everyday that they can go to school is important to  
 14 them; right?  
 15 A. I -- I would have to ask them, yes.  
 16 Q. Huh?  
 17 A. Yes. If you ask them they would say, yes.  
 18 Q. Those students --  
 19 A. That everyday is important.  
 20 Q. And -- and everyday that they can get an education is  
 21 important?  
 22 A. Everyday that we all can get an education is important,  
 23 absolutely.  
 24 Q. Good. And it's true for all students; right?  
 25 A. Yes.

1 Q. These students have some particular challenges which  
 2 they are -- have a long way to go to overcome their language  
 3 barriers; right?  
 4 A. They have a long way to go, but not just the refugees,  
 5 we have other students who also have a long way to go to learn  
 6 English.  
 7 Q. Right. There's other ELLs, that's a good point.  
 8 A. Yes.  
 9 Q. And these students also have a long way to go to  
 10 acquire credits?  
 11 A. Yes.  
 12 Q. Many of them.  
 13 A. Yes, many of them come to us with little or no  
 14 education.  
 15 Q. Right. If the School District was regularly making  
 16 refugee -- immigrant and refugee students wait weeks or even  
 17 months from the date they enrolled until they could start  
 18 school you would agree that's basically deliberate  
 19 indifference to the rights of those students?  
 20 MS. O'DONNELL: I'm going to object to the form  
 21 of the question.  
 22 THE COURT: That's sustained.  
 23 BY MR. ROTHSCHILD:  
 24 Q. You're aware I think it's pretty clear here that  
 25 Pennsylvania law entitles a child to a free public education

1 until he or she turns 21 or graduates from high school; right?  
 2 A. Yes.  
 3 Q. Okay. And that's true even for a student when might be  
 4 20 years old and even under the most accelerated credit  
 5 acquisition program the District offers couldn't acquire  
 6 enough credits to graduate, that student still is legally  
 7 entitled to go to school if he or she wants to?  
 8 MS. O'DONNELL: I'm going to object to the form  
 9 of question again, I think -- I think it calls for the same  
 10 technical [indiscernible] as the last question.  
 11 THE COURT: But it's not the same as the last  
 12 question by any means. I guess to an extent as the  
 13 Superintendent of school she can comment on the laws as she  
 14 understands them as applying to these children or children in  
 15 general so I'll overrule the objection and allow her to answer  
 16 the question.  
 17 MR. ROTHSCHILD: Okay.  
 18 THE COURT: You may have to repeat the question  
 19 though.  
 20 THE WITNESS: Yes, please.  
 21 BY MR. ROTHSCHILD:  
 22 Q. Do you agree that the -- that Pennsylvania law requires  
 23 Lancaster School District to educate every student until he or  
 24 she turns 21 or has graduated from high school regardless of  
 25 whether they -- that student can in the time left before age

1 21 acquire enough credits to graduate?  
 2 A. Yes, I understand that we should -- must educate  
 3 students up to the age of 21 or until they graduate from high  
 4 school --  
 5 Q. Okay.  
 6 A. -- according to [indiscernible] the school code.  
 7 Q. And are you, I'm sorry, I'm interrupting. And are you  
 8 aware that the District doesn't follow that policy for refugee  
 9 students?  
 10 A. I am not aware that the District does not follow that  
 11 policy.  
 12 Q. Okay. Are you --  
 13 A. I don't -- I believe we do follow that policy.  
 14 Q. Are you aware that Alembe Dunia is one of the -- one of  
 15 the plaintiffs in this case?  
 16 A. I recall the name, yes.  
 17 Q. Okay. And Mr. Blackman refused him enrollment.  
 18 A. I don't know if that's true. It makes me wonder  
 19 whether there was some misunderstandings.  
 20 Q. Dr. Rau, if you could turn to exhibit two in your  
 21 binder which is the document that initiated the lawsuit.  
 22 A. Yes. Yes, I have it.  
 23 Q. Okay. And if you could turn in that document to page  
 24 28. And it makes an allegation. And this is -- this is  
 25 written by the lawyers. It says, SDOL, the School District of

1 Lancaster refused to enroll Alembe in any school. Mr.  
 2 Blackman told him he was too old and did not have enough  
 3 credit to graduate on time. Mr. Blackman told Alembe to apply  
 4 to Job Corps; do you see that?  
 5 A. Yes.  
 6 Q. Okay. Now, I'd like you to look in tab 43 in that same  
 7 binder. And turn to page 17.  
 8 A. Hold on please.  
 9 Q. Sure.  
 10 A. Yes.  
 11 Q. Okay. And on page 17 you see there's a same numbered  
 12 paragraph, 137?  
 13 A. Yes.  
 14 Q. And it says admitted in part denied in part?  
 15 A. Yes, I see that.  
 16 Q. Okay. And the part that's denied is that Mr. Blackman  
 17 referred him to Job Corps; do you see that?  
 18 A. Yes, I see that.  
 19 Q. Okay. But the District has admitted that Alembe  
 20 presented for enrollment at the age of 20 and it's further  
 21 admitted that based upon his age he would be unable to attain  
 22 24 credit to graduate before he reached the age of 21; do you  
 23 see that?  
 24 A. Yes.  
 25 Q. And he was not enrolled in Lancaster School District on

1 that basis; right?  
 2 A. I don't know if he was enrolled or not.  
 3 Q. Okay. If he had gone to school in the District for a  
 4 year and, you know, this -- this -- he, sorry, tried to enroll  
 5 in the fall of last year according to the allegations that  
 6 have been admitted so he was 20 then. If he had gone to  
 7 school, but didn't graduate, which he couldn't have acquired  
 8 the statement by the District is he couldn't have acquired  
 9 enough credits, he would be recorded as a dropout according to  
 10 this statistics that the School District has to report to the  
 11 state?  
 12 A. Yes.  
 13 Q. Okay. And that effects the District's graduation  
 14 rates; right?  
 15 A. Yes.  
 16 Q. That's not actually a legal reason to bar a student who  
 17 wants to enroll in a school from enrolling; right?  
 18 MS. O'DONNELL: Objection to the form.  
 19 THE COURT: I'm going to sustain the objection.  
 20 MR. ROTHSCHILD: May I respond? Give it a try.  
 21 This dictates policy. They either do or do not have a  
 22 policy --  
 23 THE COURT: My concern, the reason I sustained  
 24 the objection has to do with the -- I believe you are correct.  
 25 I don't know if it's appropriate to -- to put the

1 Superintendent in the position of opining on the law as to  
 2 whether a School District cannot allow a child at the age 20  
 3 to enroll in a school because looking forward they know  
 4 there's no way they can get enough credits and will therefore  
 5 effect their dropout rate because they'll get enrolled then  
 6 dropout and, but it's almost rhetorical, because I'm almost  
 7 certain that the School District cannot do this.  
 8 MR. ROTHSCHILD: Right. Okay. I'll move on.  
 9 THE COURT: Well, you cannot say I don't want --  
 10 I don't want my dropout rate to get worse, so I'm going to  
 11 deliberately not enroll somebody that I know the only way they  
 12 can end their career at my school is as a dropout.  
 13 MR. ROTHSCHILD: I'll move on.  
 14 BY MR. ROTHSCHILD:  
 15 Q. If Alembe had been enrolled in the fall of 2015 when he  
 16 tried to he could've received a year of education before he  
 17 turned 21; right?  
 18 A. Yes.  
 19 Q. Okay. That would've valuable to him; right?  
 20 A. I don't know, because I don't know him.  
 21 Q. Okay. But the School District --  
 22 A. He may have wanted to go to work. He may have wanted  
 23 to just learn enough English to get a job, so I would need to  
 24 know much more about this young person.  
 25 Q. And if he came to the school to learn enough English to

1 get a job that'd pretty good for him; right?

2 A. Well, but that is not the mission of our schools. Our

3 mission is to educate you so that you can graduate so you can

4 have opportunities in your life.

5 Q. So a student who can't --

6 A. So -- so to go to high school where you're going to

7 learn traditional subjects, math, social studies, that is a

8 different type of instruction and if all you want is to learn

9 English so you can get a job, it's two different types of --

10 Q. Fair enough, but at Lancaster School District any

11 student that enters whatever age who's an ELL, an ELL gets

12 English language instruction and they get core content

13 instruction.

14 A. Yes.

15 Q. Okay. And so you'd be speculating about whether Alembé

16 only wanted the English and wanted English and getting a job,

17 you don't know that?

18 A. That's correct.

19 Q. Since he didn't enroll or was refused enrollment he

20 doesn't so up as a dropout on the student's -- on the School

21 District's reporting to the state; right?

22 A. That would be correct.

23 MR. ROTHSCHILD: Your Honor, would you mind

24 taking a short comfort break?

25 THE COURT: Not at all.

1 MR. ROTHSCHILD: Okay.

2 THE COURT: We'll stand in recess for 15

3 minutes.

4 DEPUTY CLERK: All rise.

5 - - -

6 (Whereupon, there was a recess in the proceeding from

7 2:57 p.m. to 3:12 p.m.)

8 - - -

9 DEPUTY CLERK: All rise. The United States

10 District Court for the Eastern District of Pennsylvania is

11 again in session. The Honorable Edward G. Smith presiding.

12 THE COURT: You may be seated. Thank you. The

13 Court is called to order, all parties called to previously

14 present are once again present the witness is on the witness

15 stand. Mr. Rothschild, you may continue with your

16 cross-examination.

17 MR. ROTHSCHILD: Thank you for the reprieve.

18 THE COURT: Certainly, sir.

19 - - -

20 CROSS-EXAMINATION, CONTINUED

21 - - -

22 BY MR. ROTHSCHILD:

23 Q. Dr. Rau, could you turn to exhibit 26 in the first day

24 binder?

25 A. Yes, I have it.

1 Q. And do you recognize the document marked as Issa-26?

2 A. Yes.

3 Q. Okay. And that's a letter from some of the lawyers in

4 this case on behalf of their client Qasin Hassan; right?

5 A. Yes.

6 Q. And this letter was sent to you, Dr. Abram and Ms.

7 Hisey [ph]?

8 A. Yes.

9 Q. And among the things that this letter raises for your

10 attention is problems with Qasin's enrollment; right?

11 A. Yes.

12 Q. Okay. Including how much time it took to get him

13 enrolled?

14 A. I'd have to read the whole thing over again.

15 Q. Take your time.

16 A. You want me to do that? Okay. Yes, so what was the

17 question?

18 Q. So as of the date of this letter when you received it

19 you knew that Qasin and his lawyers were raising issues with

20 delays in his enrollment; right?

21 A. Yes.

22 Q. Okay. And so at that time you could have looked at his

23 file to find out whether there were delays in enrollment;

24 right?

25 A. I could have looked at the file, yes to see if there

1 were delays in enrollment.

2 Q. You didn't do that; right?

3 A. No. I did not.

4 Q. Okay. And if you had you would've seen what we've seen

5 here today which is that he tried to enroll in November, but

6 didn't actually get into school until mid-January; right?

7 A. According to these documents, yes.

8 Q. And if you then ask questions about why that was, you

9 would've found out how long he had to wait just to have that

10 meeting with Mr. Blackman; right?

11 A. As soon as I received this -- this document from your

12 office I sent it over to our legal department.

13 Q. Okay. But other than that --

14 A. So I --

15 Q. I'm sorry to interrupt.

16 A. I was getting feedback from the legal department as to

17 what needed to be done.

18 Q. Okay. And after that time and I'm not asking for your

19 communications with the lawyers, but am I correct in

20 understanding you didn't just go ask look at the record or ask

21 Mr. Blackman to explain was there a delay and why was that so?

22 A. So that was something I discussed with my lawyer.

23 Q. Okay. And nothing else? And -- and -- and there was

24 no other means by which you investigated that issue?

25 A. No.

1 Q. Okay. Your view is that the number one goal for the  
 2 School District is to graduate its students; right?  
 3 A. To be college and -- or career ready, yes.  
 4 Q. Could you, I apologize for the --  
 5 A. And I would add to that -- that -- that is the -- the  
 6 goal of the State Education Department, because we are held  
 7 accountable for graduating students.  
 8 Q. Okay. Dr. Rau, you remember you gave a deposition in  
 9 this case on August 9, 2016?  
 10 A. I remember giving a deposition, yes.  
 11 Q. Okay. And I think it was taken by my colleague Mr.  
 12 Walczak who's sitting right there?  
 13 A. Yes.  
 14 MR. ROTHSCHILD: May I approach, Your Honor?  
 15 THE COURT: Certainly counselor.  
 16 BY MR. ROTHSCHILD:  
 17 Q. I'm going to hand you a copy of your deposition  
 18 transcript.  
 19 MR. ROTHSCHILD: Your Honor, would you like a  
 20 copy?  
 21 THE COURT: Certainly. Is this extra or?  
 22 MR. ROTHSCHILD: It is.  
 23 THE COURT: Okay. Thank you.  
 24 BY MR. ROTHSCHILD:  
 25 Q. Dr. Rau, could you turn to and this is the format of

1 this document is that there are four pages on each page. I'm  
 2 going to refer you to the bottom page, the bottom where you'll  
 3 see at the very right-hand corner and it says 22 (pages  
 4 82-85). Tell me when you're there.  
 5 A. Yes.  
 6 Q. Okay. And what you said at the time -- at the  
 7 deposition Mr. Walczak asked you, so the overriding goal here  
 8 is to get them to graduation; right?  
 9 A. I'd have to read this again. I don't remember what I  
 10 said exactly.  
 11 Q. Just let me know when you're done and I will actually  
 12 rephrase my question.  
 13 A. Yes, I'm -- I'm finished reading.  
 14 Q. Okay. And the -- actually at the top of page 82 Mr.  
 15 Walczak is asking you a question about new refugees with  
 16 little formal schooling and the lowest language of English  
 17 language acquisition; do you see that?  
 18 A. Yes.  
 19 Q. And that, you agree that describes the six plaintiffs  
 20 that have filed this lawsuit; right?  
 21 A. I don't know their cases intimately.  
 22 Q. Okay.  
 23 A. But from what is being said here, yes.  
 24 Q. Okay. And other than what's been filed in the  
 25 complaint you haven't tried to find out more about that?

1 A. I have not spoken to the students, no.  
 2 Q. Okay. And done anything else to find out more about --  
 3 A. I have not spoken to the students or their parents.  
 4 Q. Okay.  
 5 A. I've just worked with my team.  
 6 Q. Okay.  
 7 A. To find out as much information as possible.  
 8 Q. Did you talk to their teachers?  
 9 A. No.  
 10 Q. And so then on line 15 of page 82, that's the left-hand  
 11 quadrant there, top quadrant, Mr. Walczak asks, so the  
 12 overriding goal here is to get them to graduation; right?  
 13 A. Yes, he did.  
 14 Q. And you answered, yes, that's our job?  
 15 A. Yes, I did.  
 16 Q. And you gave him two reasons; right?  
 17 A. Yes.  
 18 Q. And what are those two reasons?  
 19 A. Did you want me to read what I said or did you want me  
 20 to speak?  
 21 MS. O'DONNELL: Your Honor, I'm going to  
 22 object --  
 23 MR. ROTHSCHILD: You can read it.  
 24 MS. O'DONNELL: -- to this line of questioning.  
 25 We can -- we could -- we could stipulate to -- to give you the

1 transcript, I mean, he's just have her read her own testimony  
 2 and she's not even saying something different than she said  
 3 the last time. He's not even giving her an opportunity to  
 4 peach.  
 5 THE COURT: Response.  
 6 MR. ROTHSCHILD: I'll rephrase.  
 7 BY MR. ROTHSCHILD:  
 8 Q. Dr. Rau, what are the two reasons that graduate -- that  
 9 your overriding goal is to get these new refugee students to  
 10 graduation?  
 11 A. As I stated before I deeply believe that without a high  
 12 school diploma we are limiting the options of any student  
 13 because the high school diploma carries a lot of weight with  
 14 both -- of course, you need it to enter any university, but in  
 15 addition many employers now require a high school diploma. If  
 16 we want our students to be able to make a living wage they  
 17 need to have a high school diploma. So that's number one.  
 18 Number two is we want to ensure that we are meeting the  
 19 needs of these students to have a high school diploma so that  
 20 we do not have what is referred to as a dropout factory. We  
 21 want our students to graduate and we believe that even with  
 22 limited English you can achieve.  
 23 Q. Okay. Now, you agree with me that new English Language  
 24 Learners need to spend time learning English because we want  
 25 them to become fluent in the English language; right?

1 A. So nonnative speakers, yes, they need to have direct  
2 instruction in learning English, but you also need to be  
3 surrounded by native speakers as well, because those are the  
4 models for learning the English language. If you only  
5 surround yourself with students who don't know English you're  
6 not going to learn very much English.

7 Q. Okay. Could you turn to page 35 of your deposition?  
8 At the bottom it says page 10 then (34-37)?

9 A. Yes. Can I have a minute to read it, please?

10 Q. Sure. And so you know I'm going to ask you one  
11 question about testimony on page 35 in the left-hand bottom  
12 quadrant.

13 A. Yes, sir, I'm ready.

14 Q. Okay. So you were asked the question, what are the  
15 specialized needs of ELLs as a group; right?

16 A. Yes.

17 Q. And your answer was, it's not my area of expertise,  
18 however, they need to spend more time learning English,  
19 because we want them to become fluent in the English language;  
20 is that right?

21 A. Yes, I said that.

22 Q. Okay. And you would agree a diploma is not much good  
23 if you can't understand English; right?

24 A. So for students who are ESL learners the federal  
25 government and the state requires us to provide them

1 accommodations because we all know that you are not going to  
2 become academically fluent in the English language in three to  
3 four or five years. It's going to take a lot longer. So that  
4 is why the State enables us to provide accommodations so we're  
5 not expecting English Language Learners to have the same depth  
6 of learning that a native speaker would have.

7 Q. Okay. But consistent with your testimony there the  
8 more English that these students have the more English  
9 language acquisition they will have; right?

10 A. Right. And I -- I do believe that and that's why it's  
11 important that they are talking with native speakers and  
12 surrounding themselves necessarily with students who only  
13 speak their language, because then they fall back on that  
14 language and they don't speak English.

15 Q. You agree that graduating a student is not the same as  
16 educating the student; right?

17 A. I don't know if I would agree with your statement.

18 Q. Okay. Agree with me that you can't be college or  
19 career ready if you don't understand English?

20 A. Well, if you were in Europe and you didn't understand  
21 English you could be college and career ready.

22 Q. Okay.

23 A. So --

24 Q. Can we assume my question is for the United States?

25 A. So, but I still would disagree with you. So for

1 example, our area community college HACC, they have, so they  
2 accept many students who don't have fluent English, because  
3 they provide the same or similar supports that we do, so yes,  
4 the -- just because you don't understand all the depth of  
5 English doesn't mean that you don't cognitively understand  
6 concepts.

7 Q. Is HACC free?

8 A. I'm sorry.

9 Q. Is HACC free?

10 A. No, HACC is a Community College, however, from what I  
11 understand most students who attend HACC are qualified for  
12 aid.

13 Q. Okay. You don't -- you don't know whether that aid  
14 covers all the tuition costs; right?

15 A. I don't know.

16 Q. Okay. You are aware that there is something called the  
17 International School in McCaskey?

18 A. The International School what?

19 Q. The International School; right?

20 A. You mean our International School?

21 Q. Yes.

22 A. Oh, of course.

23 Q. Yeah. And are you proud of that school?

24 A. I've only been here a year so I haven't been able to  
25 evaluate it. Part of the job, part of my goals for the next

1 few years are to evaluate all programs including the  
2 International School. I do have a concern about segregating  
3 students because I think children learn more English by being  
4 in the general population.

5 Q. Okay. Now, you said -- you said in your testimony and  
6 I fully accept this, I'm not an expert in ESL, you're not  
7 either?

8 A. Correct.

9 Q. You listened to Ms. Hilt testify today and in the  
10 district she's your expert; right?

11 A. Yes.

12 Q. And you heard her testify that the practice of -- with  
13 entering ELLs so the very lowest level of English proficiency  
14 if actually is best practice to have them take ESL classes and  
15 then take their core subject classes as a cohort with students  
16 of the same language level? You heard that; right?

17 A. I heard her say that, yeah.

18 Q. Okay. And am I understanding that you are not  
19 accepting that as sound --

20 A. What I said is I've only been here a year --

21 Q. Okay.

22 A. -- and I will evaluate whether that program is doing  
23 what it should do just like I would evaluate any other  
24 program.

25 Q. What are the -- what are the means you're going to use

1 to evaluate it?  
 2 A. Well, I'm going to look at student data. I'm going to  
 3 look at how much growth students are making year after year.  
 4 I'm going to compare them to other students like them who are  
 5 not in the international program, because some children choose  
 6 not to be. I'm going to speak to teachers about how much  
 7 support students are receiving. I'm going to speak to  
 8 students and see if they feel comfortable. Do they feel  
 9 comfortable being in the general population as opposed to  
 10 traveling with a cohort, because traveling with the general  
 11 population might expose them to variety of different types of  
 12 people? So one of my goals this year is do develop an  
 13 evaluation template to evaluate again and it's not just the  
 14 International School, but it's many, many programs in our  
 15 district.  
 16 Q. Am I following correctly that you're going to though  
 17 specifically evaluate the International School?  
 18 A. It's one that I have decided, yes.  
 19 Q. Okay. And --  
 20 A. And actually when I spoke to the women from the two  
 21 agencies I showed them that one of the things that I'm going  
 22 to be focusing on this year was English Language Learning.  
 23 Q. Okay. And do you know what data you're going to look  
 24 at to assess whether the International School is working for  
 25 the students that are attend or enrolled?

1 A. I just listed that for you.  
 2 Q. What data are you going to look at?  
 3 A. I'm going to have to speak to Amber and other experts  
 4 around that.  
 5 Q. Okay. So Access data, that doesn't mean anything to  
 6 you sitting here today?  
 7 A. No. I -- I don't think that that would be the only  
 8 data. I would speak to Amber and other experts about what  
 9 would be appropriate measures to look at.  
 10 Q. Okay. And are you going to evaluate how ELLs are  
 11 educated at Phoenix as well?  
 12 A. We're looking at our entire ELL program including our  
 13 Dual Emersion Program at a Wharton School.  
 14 Q. Is there some effort under way, some committee, some  
 15 plan that is -- has -- is already operating to do this  
 16 evaluation?  
 17 A. No. It hasn't started yet, because I just submitted  
 18 that to my board that these are the goals that I'd like to  
 19 focus on this year. The board will be providing me feedback  
 20 and telling me what goals they have for the District, but one  
 21 of the things that I think is very important is before you --  
 22 you implement a program, before you decrease a program or  
 23 eliminate a program or make any changes to a program you need  
 24 to be able to evaluate its effectiveness, so that you have  
 25 objective data and make good decisions.

1 Q. Right. And actually for the teaching of ELLs the law  
 2 requires that that kind of evaluation occur; right?  
 3 A. Mm-hmm.  
 4 Q. Is that a yes?  
 5 A. Yes. Sorry.  
 6 Q. And you said you had submitted this proposal to the  
 7 board is that in writing or just talked to them?  
 8 A. It's in writing.  
 9 Q. Okay.  
 10 A. It's not a proposal. It's -- these are some of the  
 11 goals I would like to focus on this year.  
 12 Q. Okay. And so if all of us saw that proposal it would  
 13 include specifically I want to evaluate or reevaluate the  
 14 International School?  
 15 A. Yes, would.  
 16 Q. And it would also say, I want to evaluate or reevaluate  
 17 how Phoenix is delivering it's --  
 18 A. No. I just said the International School.  
 19 Q. Okay. Just the International School?  
 20 A. Mm-hmm.  
 21 Q. So it -- it wouldn't say and I also want to look at how  
 22 Phoenix is educating its ELLs?  
 23 A. No. It would not have said that specifically.  
 24 Q. Okay. Does it say anything about wanting to evaluate  
 25 Phoenix?

1 A. No, it does not.  
 2 Q. You spoke about, earlier that Lancaster is a welcoming  
 3 community to refugees?  
 4 A. Yes.  
 5 Q. And there School District is actually a part of that;  
 6 right?  
 7 A. Yes.  
 8 Q. The refugee center that you described, the Reynolds for  
 9 families that's a good example of that; right?  
 10 A. Yes.  
 11 Q. And the International School is a good example of that;  
 12 right?  
 13 A. I suppose, yes.  
 14 Q. Huh?  
 15 A. I guess I don't understand your question. The  
 16 International School is a good example of what?  
 17 Q. Welcoming refugee students into the Lancaster School  
 18 District?  
 19 A. I think that was the intention, yes.  
 20 Q. Okay. You seem unsure about whether it's fulfilling  
 21 that intention.  
 22 A. No. No. I think that it was developed because the  
 23 community cares so much about our refugee students. I just  
 24 want to make sure it's the best it can be.  
 25 Q. Fair enough. The time I'm taking is going to shorten

1 this, so --

2 A. I appreciate that.

3 Q. I understand. Could you turn to exhibit 9 in your

4 binder? In tab 9, sorry. Are you familiar with this

5 document?

6 A. Are you referring to the Master Operating Agreement?

7 Q. Yes.

8 A. Am I in the wrong binder?

9 Q. This is the contract between the School District and

10 Camelot to run Phoenix; right?

11 A. Yes. I've -- I've seen this.

12 Q. And this was entered into before you became

13 Superintendent; right?

14 A. Yes.

15 Q. This is -- and maybe you don't know this, but this is I

16 think the second three-year contract that Lancaster entered

17 into with Camelot to run Phoenix?

18 A. Yes.

19 Q. Okay. And if you know, did the board review and

20 approve this contract?

21 A. The board reviews and approves all contracts, so I

22 would say yes to that.

23 Q. Okay. Who in administration is responsible, let's see

24 if I ask this correctly, are you responsible for making a

25 recommendation to the School District about contracts with for

1 profit companies to run some of your schools?

2 A. So if I were to make that recommendation having, you

3 know, had done some research, gathering information, yes, the

4 Superintendent is ultimately the person who makes all

5 recommendations to the board.

6 Q. Okay. And you didn't -- you inherited this?

7 A. Right.

8 Q. Okay. And you'd agree it's important for Camelot to

9 follow all of its obligations under this contract; right?

10 A. That would be so for all contracts, yes.

11 Q. Fair enough. Camelot's a for profit company; right?

12 A. Yes.

13 Q. It's cheaper to have students educated by Camelot than

14 in a district school isn't, per pupil?

15 A. What makes it cheaper is that Camelot hires its own

16 staff, so therefore we do not have to pay for pensions and

17 health care I believe as well.

18 Q. And but the answer then is yes, per pupil, it's just

19 going to take less out of the district budget for a student

20 that's enrolled in Phoenix than a student enrolled at

21 McCaskey?

22 A. I would say yes.

23 Q. Okay. And you understand that Camelot was hired

24 because it offered specific strategies that's part of their

25 model that works for kids; right? That's your understanding?

1 A. That's my understanding, yes.

2 Q. Okay. And that model we're talking about that's the

3 accelerated model?

4 A. So I believe that that they were initially hired to

5 work with our at risk kids like the kids at Burly.

6 Q. Right.

7 A. Kids who are struggling, kids who are expelled. And

8 needed a different type of learning environment and then now,

9 again, this is just my belief, and then they were asked to

10 consider also developing a school to help under credited

11 students.

12 Q. And the model that works for kids that you understand

13 that's the accelerated model; right?

14 A. That's the model, yes, that they were asked to provide.

15 Q. And that model has nothing specifically to do with ESL;

16 right?

17 A. Well, it doesn't so far as that we receive a lot of

18 older students who need ESL.

19 Q. Right. Older, older English Language Learners are

20 served by Phoenix, but the accelerated model has nothing

21 specifically to do with ESL?

22 A. I think it's just one model and that's the model they

23 choose to use.

24 Q. Fair enough. And you're not aware of any information

25 that Phoenix, I'm sorry, Camelot provided to the district that

1 demonstrated that its accelerated model works for ELLs?

2 A. I -- I believe, I'm not seeing that, but I have to

3 believe that the Superintendent of schools at that time would

4 have seen evidence and that's why he would have contracted

5 with any private organization.

6 Q. And you're not aware of any evidence of whether Camelot

7 provided any evidence that supported that its accelerated

8 model worked for what's been called in this courtroom SLIFE,

9 these Students with Limited English Proficiency and

10 Interpreted Education, you're not aware of that?

11 A. I'm sorry, your question was so long that I kind of

12 lost you.

13 Q. Probably -- probably convoluted.

14 A. It's Friday, you know.

15 Q. Probably convoluted too if we're being honest. So,

16 you're not aware of any information that Camelot provided the

17 School District before they entered into their contract to run

18 Phoenix that demonstrated that its accelerated model worked

19 for these students like the plaintiffs who have limited

20 English and have had an interrupted education?

21 A. So I am not aware of whether that happened or not. I

22 was not present at that time.

23 Q. Okay. And the District now has an obligation to assess

24 whether it does do that; right?

25 A. Yes.



1 Q. Okay. And --  
 2 A. And we will.  
 3 Q. But it hasn't happened yet?  
 4 A. I've only been here a year. Can't do everything my  
 5 first year.  
 6 Q. Okay. I'm correct in understanding that the District  
 7 doesn't base its decision on whether an immigrant or refugee  
 8 student should attend Phoenix on that student's language  
 9 proficiency; right?  
 10 A. That's correct.  
 11 Q. Whether the schooling was -- whether that student's  
 12 schooling was interrupted?  
 13 A. That's correct.  
 14 Q. Okay. Whether they are academically equipped for  
 15 Phoenix's accelerated model?  
 16 A. No, that's -- that would be incorrect. So one of the  
 17 things we do look at is can a child graduate by the time he's  
 18 21? Can we equip that child with the necessary skills that  
 19 they need so that they can graduate, because a high school  
 20 diploma makes a huge difference for students.  
 21 Q. Fair enough, but there's no judgment about the  
 22 student's aptitudes to benefit from the accelerated program?  
 23 A. No.  
 24 Q. Okay.  
 25 A. We wouldn't -- if wouldn't be appropriate to make that

1 type of judgment upon meeting a new student if you're  
 2 referring to like special education.  
 3 Q. I'm not. I'm referring to, you know, for example, the  
 4 students who end up going to McCaskey a judgment, an  
 5 assessment is made of them right away based on data whether  
 6 they should go to the International School or go because  
 7 they're higher level English Language Learner they can be more  
 8 integrated in the way you described; right?  
 9 A. I think -- I think that it's more that the students are  
 10 placed at McCaskey's International School because they are  
 11 able to graduate before their 21. We do not want them to  
 12 fail. So if you come to us and you're 20 then going to  
 13 McCaskey and receiving just five credit in one year there is  
 14 no way -- there is no way you're going to do it any other  
 15 place either, but one of the things we do look at is there  
 16 potential for you to graduate, because we really believe that  
 17 that high school diploma will make all the difference in the  
 18 world for these kids.  
 19 Q. No matter how well educated they've been in that time?  
 20 MS. O'DONNELL: No matter -- pardon me.  
 21 MR. ROTHSCCHILD: No matter how well educated  
 22 they've been in that time.  
 23 THE WITNESS: We feel that they will be doing  
 24 the best they can. We cannot expect a student who has never  
 25 been to school or had very limited education who is 18 to come

1 to us and learn the depth of knowledge that a native speaker  
 2 would learn in four years in high school. So we are not  
 3 expecting them to have that same depth of knowledge, but we  
 4 certainly have a certain level of expectation that if we see  
 5 effort, we see drive, we see perseverance, we see students who  
 6 want to learn, we -- we give them all types of assessments,  
 7 but different assessments, because it would be unfair to an  
 8 ELL learning to make him test a -- take a science test for  
 9 instance that's just a written science test all in English.  
 10 That would be very unfair to them and it would truly not judge  
 11 their cognitive ability.  
 12 BY MR. ROTHSCCHILD:  
 13 Q. Okay. Could you look at section 2.65 of the contract?  
 14 A. Section --  
 15 Q. And that's on page 11.  
 16 A. Page 11, you said?  
 17 Q. It is, yes, of the contract.  
 18 A. Yes.  
 19 Q. Okay. It says there, as students are withdrawn from  
 20 Phoenix, since that's what the contract is about, return to  
 21 his or her sending school or placed on inactive enrollment the  
 22 School District shall refer additional students to ensure that  
 23 Camelot may maintain active enrollment of the number of  
 24 students totaling 100% of enrollment capacity; do you see  
 25 that?

1 A. Yes, I see that.  
 2 Q. Okay. And it's important to keep enrollment at Phoenix  
 3 at 100%; right?  
 4 A. That's what that says.  
 5 Q. Right. And that keeps the District's costs down for  
 6 the reasons we discussed.  
 7 A. Yes.  
 8 Q. Okay. If you could turn to section 2.4.  
 9 A. What page is that?  
 10 Q. Sorry, page 8. Okay. That talks about a referral  
 11 process and schedule; do you see that?  
 12 A. Yes.  
 13 Q. Now do you know what that's referring to?  
 14 A. The referral process to -- to Camelot school.  
 15 Q. Right. And --  
 16 A. May I have a minute to read this?  
 17 Q. Yeah, if you want to read the whole section I don't  
 18 want to take anything out of context.  
 19 A. So, yeah, go ahead and ask your questions and then I'll  
 20 see if I have to read it.  
 21 Q. Who does this referral process apply to?  
 22 A. To students going to Phoenix Academy.  
 23 Q. Does it apply to all students who go to Phoenix Academy  
 24 or just some?  
 25 A. Well, I haven't read the whole thing. You want me to

1 read to the whole thing?  
 2 **Q.** If you need it to answer the question. You know what,  
 3 I'm sorry, I'll withdraw this question. I'll withdraw it.  
 4 Have you ever visited Phoenix?  
 5 A. Yes.  
 6 **Q.** How often?  
 7 A. I was there three times this year.  
 8 **Q.** Can you place what months that was in and if -- if  
 9 doing it in relation to the first meeting you had with refugee  
 10 agency personnel that probably would be the most helpful way  
 11 to go about this.  
 12 A. It would've been probably once after this -- I learned  
 13 of this allegation, these allegations. I'm trying to think if  
 14 it's --  
 15 **Q.** And I'm sorry to interrupt, but I just want to make  
 16 sure I understand a lot of people have made allegations as I'm  
 17 sure you're -- are you talking about the first issues raised  
 18 by the caseworkers? Are you talking about the letter from  
 19 ACLU counsel or the lawsuit? Where does it --  
 20 A. So after I met with Church World Service and Lutheran  
 21 Services I made it a point a visit, but I also had at least  
 22 two meetings with Phoenix Academy at my office and I had  
 23 visited the school at least prior to that occasion on two  
 24 occasions.  
 25 **Q.** I just want to make sure I've got this right. The two

1 earlier visits are they before or after the first meeting with  
 2 Ms. Chessin and Ms. --  
 3 A. Before.  
 4 **Q.** Before. Okay. And vaguely place what time that --  
 5 those -- what months?  
 6 A. So, I'm certain that the first one happened in the  
 7 month of September, because I typically would visit every  
 8 school at least once. And I have no idea when the second time  
 9 was.  
 10 **Q.** This is a school that part of the Lancaster School  
 11 District; right?  
 12 A. Yes.  
 13 **Q.** But it's run by a private company using teachers they  
 14 hire; right?  
 15 A. Yes.  
 16 **Q.** And using other staff that they hire; right?  
 17 A. Yes.  
 18 **Q.** Is there somebody and I appreciate how busy your job  
 19 is, is there somebody who reports to you that is visiting  
 20 there more frequently?  
 21 A. That would be Jay Butterfield is the Director of  
 22 Secondary Schools and he also works with our other schools  
 23 like our cyber schools.  
 24 **Q.** Okay. When you visited Phoenix did you ever go in the  
 25 morning?

1 A. I do not remember going in when the children are going  
 2 in, but it was still morning.  
 3 **Q.** Do you know what happens when the children go in?  
 4 A. I know what I've been told happens.  
 5 **Q.** What have you been told?  
 6 A. So the -- the ladies from the refugee agencies were  
 7 concerned that students were being patted down and that that  
 8 students were being asked to hand over their cell phones and  
 9 their bags.  
 10 **Q.** That's all true; right?  
 11 A. Yes.  
 12 **Q.** Okay. And you -- we talked about the meeting you had  
 13 in July of this year with no Ms. Chessin, it was just with --  
 14 A. Right. Right.  
 15 **Q.** -- personnel from Church World Services; right?  
 16 A. So -- so when I had met with Phoenix they explain today  
 17 me that their pat down was not necessarily a physical pat  
 18 down, but students were being asked to take off your shoes,  
 19 make sure you don't have any drugs there. They had to empty  
 20 their pockets, again, it's to make sure that there are no  
 21 drugs or knives or guns? So when I met with -- with the staff  
 22 from Phoenix House I explained how the agencies felt that this  
 23 could be very intrusive to -- to refugees because of their  
 24 trauma in their previous lives in previous countries and that  
 25 I wanted them to revisit that approach which they agreed to.

1 Which is what I informed the persons from Church World Service  
 2 that if there was -- if there was cause to suspect that a  
 3 child had either drugs or weapons that they should go ahead  
 4 and, you know, make sure that students don't have that  
 5 otherwise they were not to do that to the -- to the refugee  
 6 students that they were to take a refugee student into a  
 7 private space if -- if they felt the student may have a weapon  
 8 or such thing.  
 9 The other thing we agreed to was that there would be an  
 10 extended orientation for students so students would not --  
 11 especially for students from different countries who are not  
 12 familiar with America would be so they would come in for part  
 13 of the day, the first day and then stay longer the second day  
 14 so that they -- it would be more of a softer transition for  
 15 them as they entered high school.  
 16 **Q.** Okay. A lot to unpack there and I appreciate all the  
 17 information, but I want to make sure I'm getting the sequence  
 18 right here. You had this meeting with Church World Services  
 19 and the date I'm familiar with is July 13th, does that sound  
 20 right?  
 21 A. Yes, it was after the school year.  
 22 **Q.** Okay. Is it correct that actually a meeting scheduled  
 23 a little bit earlier than that but the School District  
 24 rescheduled?  
 25 A. Yes. I had to reschedule. I think I was sick.

1 Q. Okay. And that originally scheduled meeting was in  
 2 June; right?  
 3 A. Right.  
 4 Q. Okay. Even July 13th that was before the lawsuit was  
 5 filed; right?  
 6 A. I -- I don't remember.  
 7 Q. I'll represent --  
 8 A. I'll believe you.  
 9 Q. Yeah, about a week before, a little less than a week.  
 10 A. Okay.  
 11 Q. You said you were somewhat upset that no -- that they  
 12 and I think you used the term they very broadly, but that they  
 13 didn't wait to meet as you had planned with them before this  
 14 action was taken; right?  
 15 A. Yes.  
 16 Q. Okay. What -- what were you -- what should the refugee  
 17 agencies advocating on behalf of their clients had been  
 18 waiting for -- what were they waiting for? What was going to  
 19 happen if they had waited longer that would've improved the  
 20 situation for their?  
 21 A. Well, I think we would've met -- we would've met more  
 22 frequently to be able to address all of their concerns. I  
 23 think that my position was that we wanted to work to ensure  
 24 that we were doing right by our refugee students, by all of  
 25 our students and so I guess I was disappointed and felt sort

1 of tricked that you know, so you came to me, but you really  
 2 weren't waiting for us to solve any problems, so it was  
 3 disheartening.  
 4 Q. Okay.  
 5 A. Because I've had not had other community organizations  
 6 work like that.  
 7 Q. Okay. And again, you understand that while these  
 8 refugee agencies have raised question -- raised issues to  
 9 lawyers they are not the plaintiffs in this lawsuit?  
 10 A. Right, but I believe personally that they instigated it  
 11 all.  
 12 Q. I want to make sure I understand about the pat down and  
 13 your understanding. When you went to that meeting on July  
 14 13th with Church World Services was it your understanding --  
 15 were you saying that Phoenix doesn't pat down students unless  
 16 there's a reason to suspect that they're carrying some  
 17 improper or that they wouldn't going forward?  
 18 A. So my understanding initially before I met with Phoenix  
 19 was that they weren't physically touching children. I came to  
 20 understand later after I met with Phoenix that yes, they were  
 21 physically touching children. I thought that that was not  
 22 appropriate, especially for children who have gone through  
 23 trauma. So what I told the Church World Services persons was  
 24 that they would not be patted down unless there was suspicion  
 25 that someone could be carrying illegal.

1 Q. Those conversations with the Phoenix personnel those  
 2 happened sometime close in time to the first meeting with  
 3 refugee agency personnel?  
 4 A. We met at least twice between the first time I met with  
 5 the agencies and the last time I met with the agencies s. We  
 6 met at least twice. That was me. There were other meetings  
 7 with others of my staff.  
 8 Q. Okay. You had put that first meeting with the agencies  
 9 in February, I believe it's March, but that could just be a  
 10 memory issue, but in relation to that whatever that meeting  
 11 was how long after that did you have these meetings with  
 12 Phoenix personnel where you updated your understanding that  
 13 all students were being patted down with hands on body  
 14 everyday?  
 15 A. I'm sorry what was your -- again, it was such a long  
 16 question, I lost the first half.  
 17 Q. Sure. So I want to just put this in a chronological  
 18 order. We had this first meeting, I'm going to represent to  
 19 you it's middle of March, you don't have to accept that, but  
 20 let's just use that as a working proposition. After that  
 21 first meeting you met with Phoenix personnel; right?  
 22 A. Yes.  
 23 Q. Twice?  
 24 A. Twice.  
 25 Q. And by that -- the first meeting you had with them did

1 you amend your understanding so that you now understood that  
 2 everything student everyday was having their body patted down  
 3 with faculty member's hands everyday regardless of any  
 4 suspicion?  
 5 A. I don't -- you know, it was interesting because I -- I  
 6 don't know if I will say it was every student everyday. I  
 7 kind of just -- students were being patted down. I didn't ask  
 8 is it every student everyday.  
 9 Q. Do you know the answer now?  
 10 A. I -- I don't think it's every student everyday.  
 11 Q. Okay. So you still think it's only some students?  
 12 A. Yeah. I think what happens for all students would be  
 13 more like take things out of -- take your pocket -- insides  
 14 out of your pockets out, take off your shoes, I do not believe  
 15 that they were patting down every child everyday.  
 16 Q. And you would agree with me that if they are doing that  
 17 that's a big problem; right?  
 18 A. I would not agree with that type of --  
 19 Q. Okay.  
 20 A. -- of behavior.  
 21 Q. I was trying to think about this morning in what  
 22 setting in life can you think of education, job, anything that  
 23 you do regularly where without any suspicion of this conduct  
 24 you get your body patted down everyday.  
 25 A. Well, unfortunately in my former district every one of

1 high schools and we had 10 had metal detectors and if that  
 2 thing went off you were patted down.  
 3 Q. Okay.  
 4 A. So it is more common than you think and it's done for  
 5 safety and -- and, you know --  
 6 Q. You agree that's a different situation; right? It --  
 7 only if the metal detector goes off just like we walked  
 8 through today; right?  
 9 A. Right, but your point was that it doesn't happen, but  
 10 it happens a lot more than you think it happens.  
 11 Q. Can you tell me --  
 12 A. So -- so those students don't bring guns knives,  
 13 because they know there's a metal detector. So I guess my  
 14 point is, you know, it's done for safety.  
 15 Q. Okay, but you tell me another situation in life maybe  
 16 outside of prisons where every person regardless of any  
 17 conduct actually gets physically patted down on their body  
 18 every single day that they enter that institution which they  
 19 have to do everyday?  
 20 A. I -- besides airports, no.  
 21 Q. Even in airports doesn't happen --  
 22 A. No, but we have to go in that little spinny [ph] thing  
 23 and they are able to look at our bodies, our private bodies.  
 24 Q. All right. Okay.  
 25 A. So that's -- to me I don't know which is worse.

1 Q. Okay. On Tuesday one of the plaintiffs, the one we've  
 2 talked about a lot, Qasin Hassan testified that being patted  
 3 down everyday makes him feel like a bad -- a bad person. Do  
 4 you understand why he might feel that way?  
 5 A. Sure.  
 6 Q. Okay. And I think it was yesterday a former Phoenix  
 7 teacher named Jandy Rivera testified that some of the female  
 8 refugee students that she had -- that she had to pat down  
 9 would stiffen when she patted them down. That doesn't  
 10 surprise you either; right?  
 11 A. Yeah, I could see that happening.  
 12 Q. Okay. And you know for these refugee kids who already  
 13 have gone through difficult circumstances now this is of their  
 14 main encounters with America you could see why that would be  
 15 really make school an unwelcoming place for them?  
 16 A. And that's why I've told Phoenix that they can't do  
 17 that.  
 18 Q. Okay. So I want to make sure, that stopped. There's  
 19 not going to be --  
 20 A. It was stopping for this school year, because we just  
 21 met in July there was no school in the summer, so.  
 22 Q. Fair enough. You -- you -- and you didn't know until  
 23 you met in July with the refugee agencies that this was going  
 24 on everyday that's not what you understood from your meetings  
 25 with Phoenix?

1 A. That's was not what I understood, yeah.  
 2 Q. Okay. So this is something that's changed not just for  
 3 the refugee students but for all the students, they are not  
 4 going to be patted down everyday only --  
 5 A. They will still -- so -- so this is what I suggested to  
 6 them. For our refugee students they were not to be patted  
 7 down. If there was a suspicion of a student may be a child  
 8 who's brought in either drugs or weapons then they were to be  
 9 taken to a private room to be searched. For other students,  
 10 non-refugee student who had not experienced the trauma of, you  
 11 know, a refugee camp then they would continue to have them,  
 12 you know, empty their pockets, take off their shows.  
 13 Q. But that the physical pat down?  
 14 A. Correct.  
 15 Q. Okay. And at that meeting with -- with Church World  
 16 Services am I correct that you also told them that students  
 17 can start bringing books home?  
 18 A. Yes.  
 19 Q. Okay. And this is I think it's good for all students  
 20 to read, but for these kids trying to learn English being able  
 21 to take books home that's really important?  
 22 A. I -- I understood the concern of Phoenix is that, you  
 23 know, books are very expensive, but I also understand that  
 24 children want to have access to books.  
 25 Q. Okay.

1 A. So I -- I recommended that they let the students take  
 2 home books.  
 3 Q. And the other thing I think I've heard about a possible  
 4 change is you're aware that Phoenix has an I'll call it a  
 5 disciplinary approach, I'm not sure they would use that exact  
 6 same phrase, but it's called handle with care. You're aware  
 7 of that?  
 8 A. Yes.  
 9 Q. And that's a system that has kind of escalating the  
 10 levels of interventions with students some probably do  
 11 everyday with every student or kids but it can go all the way  
 12 up to physical restraint; right?  
 13 A. Yes.  
 14 Q. And if I'm understanding correctly what happened at  
 15 your meeting with Church World Services or what you told them  
 16 was that you're not instructing to stop using that method;  
 17 right? I'm correct?  
 18 A. That's -- that's correct.  
 19 Q. Okay. What the change would be that they would not  
 20 demonstrate the physical restraint in the way that has  
 21 happened in the past at orientation?  
 22 A. So all of our schools, we have staff who are trained in  
 23 physical restraint which is, of course the last resource that  
 24 you would do to -- to prevent a child from hurting themselves  
 25 or others. So I was not surprised that there was a physical

1 restraint process and by the way, every one who uses a  
2 physical restraint must be trained and certified in that. I  
3 did think it was -- left an ugly taste in the mouths of -- of  
4 parents or students having to see that as part of an  
5 orientation. So what I suggested is and they've agreed,  
6 because they really want to do what's best for kids is that,  
7 yes, you will tell the families and the students we do  
8 physically restrain you after these seven other or six other  
9 items don't work and you don't de-escalate and you're going to  
10 hurt either yourself or your others -- or others. They're not  
11 going to show them how they restrain them, unless they want to  
12 -- to see it. So they will ask would you like to see how we  
13 restrain.

14 Q. Okay.

15 A. Which I think is a good thing. I would --

16 Q. I -- I didn't mean to -- thank you.

17 A. Okay. Because you were just laughing.

18 Q. Yeah, I know and that -- that wasn't appropriate, so I  
19 apologize for that. They -- does that exhaust all of the  
20 things that you Church World Services would change in terms of  
21 the refugee students being placed and going to Phoenix?

22 A. Well, I think the other thing that we talked about was  
23 they had a misunderstanding of the colored shirts. Okay. So  
24 in all of our schools in Lancaster they wear uniforms and in  
25 many schools and again I'll say that in my experience in a

1 previous district we did the same thing in certain high  
2 schools. So all students wear the, I believe it's the green  
3 shirt with the khaki pants at Phoenix. When you demonstrate  
4 level of good behavior like exceptionally good behavior  
5 compared to your peers, you're demonstrating leadership,  
6 you're demonstrating that you're, you know, focused on school  
7 you get rewarded by getting a different colored shirt, so it's  
8 a reward system. The agencies thought it was a punishment  
9 system, but in fact it was the opposite. It gives children  
10 something to attain.

11 Q. Okay. It also gives the students who get that black  
12 shirt, I won't call it a higher status, but different colored  
13 shirt it gives them some -- their encouraged -- on that one of  
14 the things their encouraged to do is confront their fellow  
15 students about behavior?

16 A. Right. So we prefer that students confront other s  
17 with words rather than fists.

18 Q. Okay.

19 A. So we are trying to teach them social skills by having  
20 an opportunity if you have a problem with a student let's talk  
21 about it instead of let's go have a fight.

22 Q. And the phrase that Phoenix actually uses is pure  
23 confrontation; right? Is that right?

24 A. I couldn't tell you if that's the exact phrase --

25 Q. Okay.

1 A. -- but I think it's a great thing that we're teaching  
2 children how to use their words instead of their fists to  
3 solve problems.

4 Q. Okay. At that meeting with Church World Services you  
5 didn't tell them, well, we're going to change the -- where  
6 older SLIFE students the limited English proficiency  
7 interrupted education, you didn't tell them we're going to  
8 change which school they go to if they're --

9 A. No. I did not say that.

10 Q. And that's not going to -- that -- other than what the  
11 Judge may decide, that's not something you're intending to  
12 happen?

13 A. You know, we believe that we want to continue to  
14 collaborate to determine best decisions for kids.

15 Q. Who's going to collaborate?

16 A. Our School District, the agencies, the attorneys, all  
17 of you here in this room.

18 Q. Okay.

19 A. We want to work together --

20 Q. Okay.

21 A. -- for the best interest of the kids.

22 Q. Sounds like --

23 A. We may not agree on everything, but certainly I think  
24 we have the same outcomes in mind.

25 Q. And you did not tell them at the -- at Church World

1 Services we're going to change the methods of delivery of ESL  
2 to students at Phoenix?

3 A. No, because I believe that we are providing students  
4 what we're supposed to by law.

5 Q. Okay. This is the last year for this contract with  
6 Phoenix for; right -- for Camelot to run Phoenix?

7 A. This school year that's coming, yes.

8 Q. Okay.

9 A. The 16/17 school year.

10 Q. Right. Who makes the decision whether it will be  
11 renewed?

12 A. The Board will make the decision based on my  
13 recommendation.

14 Q. When will you make that recommendation?

15 A. Oh, not for at least, what is it? September, October,  
16 November, December, January, February, March. I would say six  
17 to seven months.

18 Q. Okay.

19 A. So between now and then we will be meeting, looking at  
20 data, doing our own internal evaluation to determine do we  
21 want to rehire this partner.

22 Q. And what are the factors that you'll consider?

23 A. So that would be something that would be developed at  
24 the district level. We'll have a committee, we'll have board  
25 members serve on that, so we don't have that yet, that

1 information to provide to you.  
 2 **Q.** Who will be the members of that committee?  
 3 A. Again, that hasn't been determined, but certainly we  
 4 will have curriculum people. We will have our director of  
 5 research and evaluation who's very familiar with all the  
 6 assessments. We'll have Amber. We'll have whoever our New  
 7 Student Services Director is right now our -- it's just  
 8 serving temporarily in that role. We will have Dr.  
 9 Butterfield. We would like to have Phoenix people of course  
 10 and I'd like to have some parents and students from Phoenix  
 11 Academy.  
 12 **Q.** Okay. When you make that decision will you -- will the  
 13 fact that they for the duration of the last two contracts  
 14 they've been physically patting down every kid who walks in  
 15 the school will that be part of your consideration?  
 16 A. It will be something we will discuss, yes.  
 17 **MR. ROTHSCHILD:** I have no further questions.  
 18 Thank you.  
 19 **THE COURT:** Thank you counselor. Attorney  
 20 O'Donnell, do you have any redirect?  
 21 **MS. O'DONNELL:** No follow up.  
 22 **THE COURT:** Dr. Rau, I just have a few  
 23 questions.  
 24 **THE WITNESS:** Sure.  
 25 **THE COURT:** There's an underlying theme that's

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CERTIFICATE

1  
 2  
 3 I do hereby certify that the aforesaid  
 4 hearing was transcribed by me from an audio recording to the  
 5 best of my ability; and that I am neither of counsel nor kin  
 6 to any party in said action, nor interested in the outcome  
 7 thereof.  
 8  
 9  
 10  
 11

12 WITNESS my hand and official seal this  
 13 \_\_\_\_ day of \_\_\_\_, 2016.

14 \_\_\_\_\_  
 15 Janine Thomas  
 16 Notary Public  
 17  
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1 starting to be developed. First it was developed by Mr.  
 2 Walczak in the deposition and Mr. Rothschild very gently  
 3 maneuvered around it, but the theme is that and I can actually  
 4 read your deposition where it said this is you speaking, "So  
 5 the number one goal for us to graduate -- is to graduate them  
 6 from high school for two reasons, 1) it's what's best for kids  
 7 in order for them to be successful after, to get a job, or to  
 8 enter --

9 - - -  
 10 (Whereupon, the recording abruptly ended at  
 11 4:07:16 p.m.)  
 12 - - -  
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## A

<b>Abdalla</b> 2:10	<b>account</b> 42:25	<b>aforsaid</b> 116:3	<b>allegations</b> 49:20	17:22 90:2 99:18
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