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SEPTEMBER 1, 2022

ADJUDICATOR:

Q. Good morning, everyone. We're now on our fourth day of this portion of the hearing. This morning we're scheduled to hear from one witness, Tammy Vaters. And is this Ms. Vaters?

MS. VATERS VIA ASL TRANSLATOR:

A. Hello.

ADJUDICATOR:

Q. Ms. Vaters, before you give your evidence this morning, you have the option of swearing an oath to tell the truth or a solemn affirmation. It's your choice.

MS. VATERS VIA ASL TRANSLATOR:

A. I'm happy to swear.

ADJUDICATOR:

Q. Okay, you can look at Madam Clerk and place your hand on the Bible.

MS. TAMMY VATERS (SWORN) CROSS-EXAMINATION BY MR. KYLE REES VIA ASL TRANSLATOR

REPORTER:

Q. And could you please state your name?

A. Tammy, T-A-M-M-Y Vaters, V-A-T-E-R-S.

Q. Thank you. Ms. Vaters has been sworn.

ADJUDICATOR:

Q. Thank you. Ms. Vaters, I understand that this morning Mr. Reese has a series of questions that he would like to ask you. So, I will turn it over to Mr. Reese.

MR. REES:

Q. Ms. Vaters, good morning. I'm Kyle Rees. I'm the lawyer for Todd and Kim Churchill who you see sat to either side of me and I understand you've known them for a few years through their son, Carter. For the benefit of the folks who aren't in the room to be able to see the arrangement that we have set up here, I'll just make a couple of preliminary comments. It's, you know, always a learning opportunity to be involved in a hearing like this that involves multiple methods of communication. So, you know, of course, I'm speaking to Ms. Vaters who is deaf and communicates through ASL, and the words that I'm saying are being provided in ASL translation to Ms. Vaters by a person sat in front of me, not the person who you would see on your screen at home, but there is a second ASL translator who you're seeing on your screen at home who is

translating all of the both spoken and translated words into spoken English, and in addition, there is a second ASL translator who is going to be what Tammy is communicating in ASL and, you know, for my benefit and for the listening public's benefit, translating it into spoken English. So, because of the multiple levels of translation that's involved, I'll, you know, attempt to speak slowly to ensure that the translation can be as accurate as possible. That being said, even without translation, sometimes, Ms. Vaters, I can be a little unclear or sometimes my questions aren't understood by witnesses, hearing or not. So, if that's the case, by all means, ask me for clarification and I would be happy to provide it. Likewise, if at any point you, you know, you need a break of some sort, just let me know and we can take a break and go off the record. That's a totally normal thing to happen during the course of a hearing. I think we've got a whopping three hours scheduled for you in the—in our schedule. I don't anticipate using all of

that time, but given, you know, the length of your relationship with Carter, we wanted to make sure that we had time to talk about everything that needs to be talked about. When I'm done asking you questions, the lawyer for the school district may have some questions for you and the adjudicator who you heard from earlier, Brodie Gallant, may have some questions for you as well.

A. Okay.

Q. Excellent. Ms. Vaters, can you confirm for me—I took a note to make sure I understood. The time that you spent with Carter Churchill was as follows, and I'll tell you all of it, and then you tell me whether I've got it right or wrong. You were not working with Carter in Kindergarten. You were working with him part-time during Grade 1 and Grade 2; fulltime for the last three weeks of Grade 2; fulltime in Grade 3; and then you were in the satellite classroom with Carter in Grades 4 and 5. Is that right?

A. Correct.

Q. Right. And when you were working part-time

with Carter in Grades 1 and 2, that mostly meant that you were with him during the –

A. If I can just take you back, in terms of Grade 1, I worked full days with him, but in Grade 2, part-time.

Q. Right, and when you were assigned part-time, you were frequently not with him during, you know, what I would think of as core curriculum instruction? When you were part-time, you were with him during, you know, lunch and mornings and on the bus, like at music and gym? Is that about right?

A. Right, yes.

Q. Okay. In your affidavit, among other things, you've got a varied background. You were doing accounting I know for a little while before you started to work in education. You also mentioned that you worked part-time as a deaf system advocate. What does that mean? What did you do in that role?

A. Yes, I was an outreach specialist. I worked with victims providing support to deaf women/children who had experienced domestic violence or abuse. And so, I would attend

court with them. I provided support through the legal process and as an outreach specialist as well to educating police, hospitals and so on about how to use interpreters and so, interpreters being a human right, it was an educational process.

Q. And I mean, I think it's obvious, but you are a deaf person?

A. Um-hm.

Q. I would have been shocked had you said no. You indicate in your affidavit that you were working part-time as a student assistant in August—or I guess in September of 2017. And it was after your first day, you were initialled offered part-time work and then you were offered fulltime work shortly after starting, but when you say you were offered fulltime work, you mean it was fulltime work at Beachy Cove Elementary and not fulltime work with Carter Churchill specifically, right?

A. Yes. My first day I was hired as a casual, on-call. So, I came to work with him, attended that morning. That was the first time I had met Carter. The school day

ended. I got him to the bus, went home, and then I received a call from the school district, the school board, asking if I was interested in working fulltime throughout the school year and I accepted that offer.

Q. For those who are unfamiliar with the education system, can you tell me a little bit about what you were do as a student assistant for Carter? I mean, you know, teachers don't ride the bus with students. So, can you describe for me what some of the things that you would do with a student, you know, including Carter, during the course of your role as a student assistant?

A. Certainly. As a student assistant, the position is that I assist with toileting, feeding, providing support for those needs, if there are behaviour needs. Those would be the major duties. And so, with Carter, I realized that there was going to be much more than that just because of the gaps in communication. I felt that even though it wasn't in my position, I felt like I absolutely had to address those gaps because there was no accessibility at that time.

And so, it was him and I and we worked closely together as I exposed him to language. And so, what's what I did as an assistant. So, even though that was outside of my role, it was beyond what I had expected, but that's what I did.

Q. That's a theme we're going to see fairly often I think throughout your testimony, is you know, you seeing a need and going beyond what is expected in order to meet that need for Carter. And I know the Churchills are extremely, you know, grateful for your efforts in that regard. What are some examples of ways in which you had to go, you know, beyond what was expected to meet a need?

A. All right. So, when I realized that Carter would get on the bus, the importance of exposing him to communication, he had no real knowledge about what the real word entailed. Didn't have an understanding of that, so I would expose him to all of those kinds of things that others would learn on the bus. Had very very limited American Sign Language and so, I would bring my

resources, my books, my activities, my games. And so, that would be an opportunity for us on the bus for me to expose him to language before he entered the classroom, and expose him to pictures and introduce the signs so that communication piece that relates to language acquisition. So, giving him visuals of what things looked like, and then talking to him about that and reading stories. And so, acting those out and I was good at that. And so, giving him a visual which could encourage his laughter and so on. And so, as time went on, other hearing children get on the bus, of course, and I got on with books, and the hearing kids were a little bit taken aback by it and there was no communication with the teacher, right? And so, we'd go into the classroom and the teacher would speak and I had no access to that and neither did Carter. So, in the classroom—and so, remember that in a typical classroom, there are probably 30 kids in that classroom. The teacher would teach, hand out the papers. The kids have already heard all of the content, all of the

instructions and they're ready to write. I haven't got any of that and so, then when I get the paper, I have to take time to explain to Carter what that was all about. So, completely unfair to him and he needs more time. You, as a hearing lawyer, you're hearing things, you're writing notes as I'm speaking and so on. And so, you're completely ready to the task of filling out the piece of paper in the classroom so to speak.

Q. Right.

A. That's not going to happen for Carter in terms of that simultaneous demand. And so, also at lunch breaks, every other break, you know, so whether it was connected to math, I would bring games and thinking about the peers in his classroom, try to facilitate peer communication, get other kids interested.

Q. Yes.

A. Carter had a couple of good friends. So, exposing them to some sign language as well. So, I think basically I assumed some of the teaching roles, whatever the teacher was

trying to say, because there was no communication, I ended up by default. I mean, the teacher could barely communicate, barely. And if Carter was struggling, you know--there would even be an announcement made in the school. We had no access to that. And I did express my concerns and make a complaint to the principal about having visual information, announcements that are visual or whiteboards that says, "No, it's not going to be an outside recess. It's going to be an indoor recess." So, the way the information was passed to Carter, none of that came directly. It always had to be mediated through adults.

Q. Interesting. A lot of things that you said there are very interesting and I want to go into them. Let's talk first then about the bus then. So, typically, as a student assistant, you would be, you know, on—let's say you have a hearing child. You would be on the bus as a student assistant with the hearing child who requires a student assistant that you are assigned to and you're primarily responsible for, I think

it's often referred to as, you know, portering or, you know, making sure they get on the bus and off the bus and that their safety and personal needs, not educational needs, are being met on the bus, right? That's the role of a student assistant.

A. Right.

Q. And it was unusual and—or not typical let's say for a student assistant to bring reading material on the bus and, you know, conduct some degree of instruction with a student on the bus in that manner?

A. Correct.

Q. All right. At any point, were you told and by whom to stop these teaching activities?

A. Not that I recall.

Q. Did Aubrey Dawe indicate to you that it wasn't part of your role to do this?

A. I don't actually recall.

Q. Did you at any point decrease these services that you offered?

A. I did reduce them. So, I didn't necessarily bring the books, but I could use my iPhone and there were visual apps that I could use. And so, Carter didn't understand finger

spelling at that point. And so, I could show him on the app and so with Google, I could expose him to all kinds of information, and so, it was my small resource that I could bring to the bus.

Q. Why that change? What caused that change in delivery of these activities?

A. I think because there were so many other children on the bus and I don't exactly remember why I reduced that, but I think that later with the new school there was some other deaf children on the bus as well, too. And so, then they could have peer conversation and do all the fun things that happen on a bus where kids tease each other and laugh. And you know, buses and usually a source of lots of fun for kids, lots of laughter, and so, the development of social skills and communication skills. And so, when there were other deaf kids on the bus— and so, that was at East Point, East Point Elementary.

Q. And when you're on the bus with Carter on your way to Beachy Cove, he was the only deaf child on the bus, right?

A. Yes.
Q. Did you notice Carter having any of those typical fun interactions with his hearing peers on the bus?
A. No. Most of the kids on the bus also had special needs whether those were behavioural needs or if they were non-verbal. There was another student assistant on the bus as well, too, and she was attending to the other hearing students and my focus was on Carter. And so, it was one-to-one really for Carter and I. And so, we would chat and, no, I have no idea. There was no communication with anyone else on the bus.
Q. So, when you weren't with Carter during Grade 1, during the classroom instruction where you and Carter were not together, you were still working fulltime. So, you were assigned to other students during those times, were you?
A. Yes, let me recall. I mean, we're talking five years ago. So, some of the dates are a little bit unfamiliar to me. So, yes, the full day. The itinerant teacher would come and then I would leave and I don't know if

that was 2017 or 2018. And I would be out of the classroom, working with others, and I did work with some other kids. You know, we'd spend an hour here. And my break time, I would be out of the classroom.

Q. Take me back then to that first day when you met Carter Churchill. I mean, what do you recall about Carter Churchill's language ability and social interactions at that time?

A. The first day I met Carter, he had no language. I mean, I just—the barest minimum. The sweetest, kindest, most innocent sweet boy. I was very touched and thought about "What does this mean? He's had no access to language. No communication in kindergarten." So, that was my motivation, to bring this little boy along. And so, I feel very very bad about how he didn't have language before and what he needed at that point.

Q. You are a certified ASL instructor at the school, at Newfoundland and Labrador Association for the Deaf, right?

A. Yes, that's correct.

Q. When you participated in professional development sessions in September and October of 2018, were you provided with ASL interpretation during those sessions?
A. Yes.
Q. How many ASL interpreters would be provided?
A. Two.
Q. So, when you, as an employee, are you know, being instructed by your employer, the school district, the school district is providing two ALS interpreters and presumably that's because of the sort of relief, tag-in-tag-out model? Is that why?
A. For a professional learning day because it's all day, then that requires the services of two interpreters, and so, they do spell each other off and support each other during the day.
Q. During the time that you're working with Carter, especially during that first year in Grade 1, were they providing ASL interpretation during school events like, you know, concerts and assemblies and sports days, things like that?
A. No. It was not until I placed a formal

complaint and requested interpreters. And so, later, and again, not on a regular basis. Sometimes for Christmas events like if Carter was in the Christmas event, Christmas play, but it took a great deal of advocacy to get interpreters in.

Q. It took a great deal of advocacy to get interpreters in the school for school events?

A. Ah-ha, and it wasn't for all school events; it was just for those special occasions.

Q. Do you have any idea why you had to advocate for this, why this wasn't something the administration had done anyway? In other workplaces that you had attended, you know, did you have to advocate for access to ASL?

A. I felt like I had to advocate in terms of our own accessibility and access to information. Carter and I had no information in that way, right? And so, is that equal? Is that equitable? And so, I advocated. And so, then they said, "Okay, we'll provide interpreting services for your professional learning day and maybe the occasional event." I constantly advocated.

Q. During some of these professional learning days where you were being provided with ASL interpretation, did you attempt to raise, you know, being the advocate that you are, issues with respect to the education and support provided to deaf children and to Carter specifically?

A. Yes, I did.

Q. And what was the reaction to your comments and concerns that were raised in this public forum specifically the reaction of a Mr. Jamie Coady who was the director of schools?

A. All right. Just make sure I'm clear. And so, I had two interpreters with me because I was involved with a discussion. There were eight teachers and assistants and we were strategizing, thinking about what needs to happen over the next five years. So, it was a brainstorming opportunity for us to come together, share ideas as teachers, myself as a student assistant, and the interpreters were there to facilitate that conversation. And so, I had communication access. It was great. It was great. We were having this brilliant conversation and then Mr. Coady

came along and we were starting to share with him some of the ideas about how to improve deaf education and hard-of-hearing because the teachers, I mean, they were completely taken aback by the information that I was raising with them about deaf culture, about equitable access and so on. And so, it was a really rich conversation. We started to make a list of things that could be improved and Mr. Coady came along. I don't think he realized that I was deaf probably. And so, we raised the issues of how to improve the deaf and hard-of-hearing resources, how to improve accessibility. And Mr. Coady looked and said, "That is not our priority." I was so taken aback and I could see that the teachers all looked me.

Q. Yes.

A. We were all shocked with that comment. I couldn't have been more taken aback. And that's what happened.

Q. So, you're at a professional development session, working, you know, in this brainstorming group with eight of your peers, you know, hearing teachers or seven

other hearing teachers I suppose, and you're having an excellent session discussing these ideas, advocating for the needs of deaf students like Carter who you knew at that time. And Mr. Coady who is facilitating the session comes to check in on the progress you've made and he's informed that your group has generated several ideas to assist deaf children like Carter and he said it's not a priority?

A. Yeah, correct. Yes.

Q. You've told me what the reaction of all the individuals working with you in that group were. What was your reaction?

A. I was shocked. I was completely taken back. I mean, I couldn't believe that that was the actual comment that was said out loud. It was such a strong statement. I was like "Wow. How" –

Q. And I understand resulting from that comment that was made, you made a complaint of some sort?

A. That was the first PD or the Professional Learning Day and so I thought, "Okay, let's just see what happens on the second day,"

because it was a continuation of the discussions on this particular topic. And so, I attended the second PD Day. Mr. Coady was there. And it was in the library; all the teachers were there. People were making their ideas known, and so I raised my hand, and I spoke about the deaf and hard-of-hearing and he could not answer my question. Basically, my question was ignored. And that made me angry, and so, I made a formal complaint.

Q. So, Jamie Coady, the director of schools who had the day before, and this is your first professional development session. the day before says your ideas about improving deaf education are not a priority, is asked a follow-up question in a public forum by you again relating to the same thing and you're left with the impression from his answer that this still is not a priority?

A. Right.

Q. You make a formal complaint. Aubrey Dawe, the principal of Beachy Cove Elementary, testified already and he indicated that he generally was aware that some kind of

complaint had been made. Was Aubrey Dawe—did you inform Aubrey Dawe about your concerns that you encountered at those professional development sessions?

A. Yes, I think I did and the teachers as well.

Q. You mean the teachers in your school?

A. Yes, those who witnessed what went on.

Q. And how did Aubrey Dawe and those teachers react to that information? Did they—specifically, did Aubrey Dawe do anything?

A. I have no idea. There was no communication.

Q. Yes. I understand your complaint was addressed sort of from a human resources sort of perspective. Was there ever any attempt made to address the underlying problem with the complaint, you know, that despite not only that someone said something that was—you felt was inappropriate, but the underlying concern that you felt deaf education wasn't a priority?

A. I was called into a meeting at the school. And so, they called me in. Mr. Coady was there and tried to of course say, "I apologize for my remarks," but at the same time, I said my piece in terms of what deaf

children need and why they need it.

Q. Yes.

A. I spent a good deal of time educating in that meeting. He apologized, but I have to say that after what he said that deaf ed was not a priority, I felt a bit scarred by that and, yes, I forgive them, but it felt like the school was like "You have to apologize to her in order to shut her up."

Q. Yes.

A. And so, that was my perspective, is that they really were trying to sweep it under the rug, if I can use that expression and there were no changes made. I mean, the only thing that happened is that we started the program at East Point Elementary.

Q. And that happens three years later?

A. Yes, correct.

Q. Can you describe for me some of the ideas that came up in your brainstorming session that you had communicated to Mr. Coady both the ideas that you had come with—up with and the problems that you had suggested needed to be addressed if you recall them?

A. I can't remember exactly what we had said,

but we talked about what access means for deaf people, how to have resources that are suitable for teaching deaf children, how to communicate in a school. You've got a teacher who can't sign. You need teachers who sign. And how to instill a sense of culture for these deaf children and help other children understand maybe their misunderstandings about the deaf kid and what expression they might use. So, some understanding of the specialized nature of deaf education and how to communicate with deaf people. So, those would be some of the ideas put forward.

Q. Yes. I want to pick up on one of the concerns that you indicated which was that deaf children like Carter, you know, weren't spending any time with other deaf children, they weren't in a classroom together, they weren't meeting each other. I understand that in June of 2019, for the first time, deaf students who lived in the metro area who eventually go on to become the first graduating or to-graduate class from the satellite classroom all get together to go

on a field trip to the Geo Centre. Do you remember that?

A. Yes, I do.

Q. Tell me about that moment when Carter and these other deaf students in 2019 get together for the first time on a school outing.

A. Oh, it's emotional for me. I remember the Geo trip so well. It was exciting. I had advocated that deaf children have opportunities to talk with each other, be together. There's that sense of shared identity when you see each other reflected in the other's eyes and I don't know. The kids were just so incredibly happy to be with each other and Carter was taking it all in visually, signing with some children, recognizing some signs and others—there was another deaf student assistant there as well. And for Carter, his—he was just glowing. His eyes were so bright and he loved the teasing and the conversation, the communication. It was one of the most inspiring moments. And so, the kids got to see, of course, everything on the field

trip, all of that stuff. And Carter is a shyer child maybe than some of the other kids, but then there was also in that field trip, there was a bit of a playroom, and Carter's wheelchair couldn't be brought in and I asked Carter, "Do you want me to pick you up and bring you into the play area where you can sit?" He like "Yes, absolutely, where the other kids are." So, luckily, there was another deaf student assistant, and so, between the two of us, we were able to lift him and hold him in order to enter this room. And he got to play and laugh, and play like every other child. And so, it was just that—and you know, the kids would gesture with Carter and Carter was picking up signs and gesturing back. And so, I would say that Carter just—he doesn't typically like to be out of his wheelchair, but that particular day, he loved being in that play environment. And it was all deaf kids. He would not have chosen that same option if it were hearing kids, but it was deaf kids. So, that's my memory of the day.

Q. And then, when that field trip is over, you

and Carter get back on the bus and go back to Beachy Cove Elementary which is full of, I think we heard yesterday, somewhere about 750 students and additional staff, and you and Carter are the only deaf individuals in that building, correct?

A. Yes. There's a couple of hard-of-hearing kids, but you know, not involved. They have no awareness of American Sign Language. So, I think there might have been one or two of those kids, but you know, they weren't involved with us.

Q. Okay. I'm going to ask some questions. I'm going to skip ahead to Grade 3. So, you're still at Beachy Cove Elementary with Carter in Grade 3 and you're assigned to Carter fulltime?

A. Yes, Grade 3. Yes.

Q. So, that means that you're with Carter while he's being instructed in course material?

A. Correct.

Q. In your affidavit, you said that Carter in Grade 3 was in a classroom with a hearing teacher who was unable to communicate with or teach Carter in ASL. Who was that

teacher? What was her name?

A. Mrs.—I actually forget her name. I'm terrible with names. I apologize. Christina is the teacher in Grade 1. Grade 2 we –

Q. Was that Ms. Hatcher?

A. Yes, Hatcher. Hatcher, right. I was going to remember that, Hatcher.

Q. In addition to Ms. Hatcher, did you spend time with Carter in Grade 3 as his student assistant while he was being taught by Joanne Van Geest?

A. Yes.

Q. And did you have to communicate the course material to Carter from Joanne Geest to Carter in ASL?

A. Joanne tried, but she couldn't communicate. She couldn't sign. And so, I would end up stepping in and helping because she simply couldn't sign.

Q. She simply couldn't sign.

A. At the barest minimum. She said she had level 3 which was really not possible. She couldn't understand. I would ask things. I would ask for information. She would nod

her head in agreement and then she'd go off, but she completely misunderstood what I had asked for. So, there was a complete communication breakdown. It was very disappointing.

Q. And that was the case while Joanne Van Geest was teaching Carter. I mean, we've had several teachers, classroom teachers, who were involved in Carter's education as well, you know, principals and things who have indicated, you know, because they have no ASL ability, they were unable to evaluate or know whether another teacher's ASL was competent or passable, but as a deaf person communication in ASL is your only means of communication, right?

A. Correct, correct.

Q. And you had serious concerns about Joanne Van Geest?

A. Yes, yes.

Q. Were you ever aware that eventually, thanks to the advocacy efforts of the Churchills, Ms. Van Geest was eventually proficiency tested in ASL?

A. Yes.

Q. And I'm just going to read for you from that test and you tell me if that lines up with your observations of that teacher. "Joanne exhibits weakness in receptive and expressive signing. She does not use grammatical features of ASL in relation to time, topic, comments, body shift and classifiers. She struggles with comprehension, needing repetition and reduced rate of signing. When signs are not mispronounced, they are signed with clarity, but not consistently." Does that line up with your experience?

A. Yes, absolutely.

Q. Joanne Van Geest testified yesterday and when the results of her ASL proficiency interview were put to her, she said she did not believe the results were accurate and her sign language competency was much better and that the test was wrong. What's your reaction to that?

A. She doesn't have ASL proficiency, and so, the test verified that and, as an ASL instructor, I can tell you that she had absolutely no facial grammar. She had

absolutely no structure. The way that— American Sign Language structurally is different than English, just as French is different than English, and so, she couldn't manage American Sign Language. She couldn't comprehend it. The kids did understand what she was trying to say. So, her ASL proficiency would be very very low. There's a great deal of room for improvement.

Q. I notice you said that the kids don't understand what she's saying. I mean, in Grade 3, there was only Carter. Were you referring to--when you said "the kids," were you also referring to her instruction at East Point Elementary?

A. In terms of Carter, Carter would not understand her at all. And so, I acted then as a deaf interpreter for Joanne because she would say something and then I ended up taking on a role as a deaf interpreter which was re-interpreting it. She of course did not appreciate that.

Q. Explain to me what you mean when she said that she did not appreciate that.

A. Because of course, she saw herself as the

teacher and she wanted to sign in English order. Well, that doesn't work.

Q. And did these problems persist to East Point Elementary?

A. She took an ASL course again. I saw a tiny bit of improvement, but she's got such a long ways to go in order to be a signer. She has no receptive skills. She still needs to work on understanding the grammar of American Sign Language both facially. She has no role shift. She has many of the features, and I think many people think, "Oh, you can just learn ASL in a year." That's not true. Like any other language, it takes years to be able to be fluent in a language.

Q. Not the kind of thing you could learn in a weekend?

A. No, that's impossible.

Q. You've described another example then of sort of, you know, going beyond your expected role. You're a student assistant and throughout the course of Grade 3 and onwards, but in Grade 3 in particular, you're doing a lot of translation work?

A. Yes.
Q. And you know, typically, a student assistant working with a hearing child wouldn't be expected to do translation work, would they?
A. Correct. No, they wouldn't.
Q. Did the district provide –
A. I mean, the teacher is responsible to deliver the classroom content.
Q. That's right. At any point, did the district offer to provide you with additional compensation or other resources in recognition of this expanded role that you were filling?
A. No.
Q. Did you know that the Churchills –
A. I need to bring—I needed to bring my own resources from the daycare. I used to be a teacher with very young deaf children. So, I brought my own teaching resources that I had accumulated over those years and brought those in and used those as tools with Carter.
Q. Were you aware that the Churchills had advocated for an increase in your level of compensation reflecting that responsibility?

A. I think many people had awareness of that. And so, yes, I mean, it was that I was doing all kinds of things that was not just a student assistant. I was acting as a deaf interpreter. I was advocating. I was bringing resources. And so, in all of those things, I would say I ended up by default teaching.

Q. Yes. Did you ever indicate to administration during your time at Beachy Cove, so I guess I would have been Aubrey Dawe, that it was inappropriate for you to have to provide that service within your role as a student assistant?

A. The principal and I had very ineffective communication and I don't think he had any understanding. There was just a real lack of communication and so, it was very difficult to communicate with him. I mean, I would put my complaints forward, but in terms of follow-up, I would have no idea what he would do with that.

Q. Let's talk about Carter again for a little while. You said in your affidavit that "Carter has faced many challenges with

access since at least Grade 1." And of course, that was when you first met Carter. Can you tell me about what some of these challenges would have been?

A. Carter knows. I mean, he can see what's going on. And so, he knows that he was treated differently. Hearing kids would be talking. He realized that kids weren't playing with him which would be very very sad for him. He knows. He can see what's going on in the environment; that he couldn't get in there. And so, we would try and bridge that communication with other kids, but he was pretty darn frustrated. Announcements that tell every child what's going on in the school, he had no access to. I had no access to them as a deaf adult working in the system as well. And so, he knows all of those things were missing in his education. And he could express what he wanted to do and many of those things were "You can't do that." They were not able to accommodate his needs.

Q. You said in your affidavit, and I'll read it on the –

ADJUDICATOR:

Q. Sorry, Ms. Rees, what sort of things would Carter express that he wanted to do, but wasn't able or was told he wasn't able?

A. Carter would express himself and you could see the range of emotion. I could sense how difficult it was for him and, you know, at the earliest stages, he could just have a few words, but he wanted to engage in activities. Let's take gym for example. And the teacher would try and think about, you know, could he play with a ball? But do I as a student assistant run around with the wheelchair or how do we get him on the mat with the wheelchair or can we take him out of the wheelchair? So, all of those activities that every child engaged in in gym would not be possible for him. The playground; he wanted to go on the playground, but it wasn't even safe in terms of the hilly nature of it. Sports day, he couldn't attend. All of those things were frustrating. He wanted to participate. The Christmas concerts; he wanted to be involved, but there was no interpreting.

How could he even have a role, let alone understand what the other kids were doing?

Q. Sorry to interrupt your questioning, Mr. Rees. You can continue.

MR. REES:

Q. In your affidavit, you indicated that hearing children in Carter's neighbourhood classroom were not a good match for him and it was difficult for him to communicate with his peers and his friends. So, why are hearing children in his neighbourhood classroom not a good match for Carter?

A. Because they can't communicate. There's no communication between those children. So, in a large group discussion, the kids would be all talking with each other. I'd have no access to it and therefore Carter had no access to it. There was one or two kids who demonstrated a little interest in Carter. One, two, maybe three at the most who would come and they tried to learn, you know, a little bit of sign and, again, 30 children in the classroom. He was largely ignored. Of course, those group conversations are going on all at the same time. He wasn't a

participant. He wasn't included.

Q. You would have attended a meeting. It was—I can tell you it was March 3rd, 2020. It was a meeting at Beachy Cove Elementary with Sheila MacDonald, Aubrey Dawe, Miranda Gosse, Sheila MacDonald, and importantly, Dr. Barbara O'Dea.

A. You said Sheila –

Q. MacDonald.

A. Two Sheilas you said?

Q. Oh, I said Sheila MacDonald twice. That's my fault.

A. Yes. It took me by surprise. I had an issue with that.

Q. There was only one Sheila.

UNKNOWN SPEAKER:

Q. No, there was actually two.

MR. REES:

Q. Oh.

UNKNOWN SPEAKER:

Q. Sheila Keats was an interpreter.

MR. REES:

Q. Barbara O'Dea was there.

A. Yes, Barbara O'Dea.

ADJUDICATOR:

Q. Sorry to interrupt again, Ms. Rees. What was the date that you're referring to?

MR. REES:

Q. March 3rd, 2020. And do you recall—I'm going to ask you some questions about that meeting. Do you recall being at a meeting with those individuals sometime in that time period?

A. Yes.

Q. I understand at that meeting –

A. I also think the parents may have been at that meeting.

Q. I think the parents were at many many meetings. They couldn't get rid of them. At that meeting, Mr. Dawe asked a question to Ms. MacDonald about whether Carter was being taught the same way at Beachy Cove to how students were being taught at the School for the Deaf and you answered that question. Do you remember what your answer was?

A. I don't remember my answer. Actually, I mean, I remember just being involved in so many meetings around advocacy because what is necessary is that deaf children are taught directly in American Sign Language;

that there's visual materials; that there are resources that are suitable; that there's communication in the classroom and that you're working on developing communication; that there's transparency between the teacher and the child; they communicate directly; that there's other children to communicate with. That's how you teach. That there's a curriculum that also then supports identity development and that identifies progress. Those kinds of things are so important, but I don't actually remember. I mean, I certainly remember the day, but honestly, I went to so many meetings. So, I wish I could remember specifically.

Q. It would not have been strange for you to, at any given meeting, at any given time with any number of administrators from the school district, for you to be raising these concerns?

A. Yes, I did.

Q. In fact, as early as your first few weeks at school at these professional development sessions, you were raising these concerns

right from the beginning?

A. Yes.

Q. And you've continued to raise them all throughout your time teaching at the school district, haven't you?

A. Yes.

Q. I say "teaching." I understand that that's not the word I'm supposed to use for you, but the more I hear, the more I'm inclined to use it.

A. That's pretty much what I did. The teacher couldn't communicate. Fortunately, I have some knowledge of the curriculum obviously as—my previous experience and I can bring that to bear in American Sign Language to Carter.

Q. Yes.

A. And so, I know how to tell ASL stories. I know how to do that bilingual approach with Carter. Who else in the classroom knows how to do that? And so, I would say to the teacher, "Can you give me the resources and the books that you're reading because you're not signing them?" So, we would be parallel teaching in that way. And I'd give them an

American Sign Language in the same story.
Q. Things changed for the better in 2020 and 2021 when the ASL immersion classroom is created at East Point Elementary?
A. Yes.
Q. Tell me about the position you were hired into there. It was a regular student assistant position in the hiring description, wasn't it?
A. Yes.
Q. It was a language acquisition support worker or a sign language assistant? It was simply a student assistant as you had been doing for the last four years?
A. Correct.
Q. Is a student assistant an accurate description of the work you were doing at East Point?
A. No.
Q. Tell me why.
A. It doesn't apply to deaf children. It may apply to some of the other student assistants who work with other students who have behavioural issues or may have autism, but when you're talking about deaf and hard-

of-hearing children, it's different because we're talking about communication access. And so, you have to work very very hard and so you've got a deaf child and a hearing child. They have the same brains. The only thing that's different is that for the hearing child from the moment of birth, they've heard language. The deaf child, from the moment of birth, does not hear that language. So, there's that gap. And so, when we start to expose deaf children very very early and we expose them to American Sign Language, a visual language, the brain development and all of the communication milestones are met equally between the hearing child and a deaf child, but what's important is is that they have access to language, complete access to communication.

Q. I understand at some point there was the hiring of individuals described as educational interpreters of the ASL immersion classroom. Educational interpreters wouldn't be required if the classroom teacher was ASL proficient, would they?

A. Correct.
Q. How many educational interpreters were in the classroom?
A. Last fall there were two.
Q. Two. And sorry, were you hired as one of those educational interpreters or did you remain in a student assistant role?
A. No, student assistant.
Q. Gillian Lahoda testified yesterday and she indicated that, you know, she did occasionally rely upon you or educational interpreters, you know, to assist her with some signs, some ASL, some concepts that, you know, she otherwise would not have been familiar with as a person with a high degree of sign language proficiency, but not a native signer. What was the comparison between the degree to which Gillian Lahoda relied upon you or the educational interpreters to deliver programming versus, you know, Ms. Wilkinson or Joanne Van Geest?
A. Gillian has American Sign Language proficiency, but she's still motivated to continue to develop her language skills. She's very passionate about learning ASL and

becoming more of a native-like user or ASL. And so, I was always happy to help her because we have a great relationship and communication access is there all the time, awesome. With Mrs. Van Geest, she can't sign.

Q. There was another individual who interned in that classroom for a period of time, Marta. I'm always hesitant to pronounce Marta's last name. Evstigneev, I believe, E-V-S-T-I-G-N-E-E-V.

A. Um-hm, yes.

Q. I understand that Marta's sign language proficiency is quite good. Was that your experience with her as well?

A. No.

Q. Tell me about Marta's sign language proficiency.

A. She's not proficient in American Sign Language. She has maybe what I would say a level 1 or a level 2. She's an emerging signer, but she's a little bit better than Joanne who needs a lot of work.

Q. Yes.

A. But Marta was certainly open to learning,

but she wouldn't be skilled, no, in using American Sign Language.

Q. Okay. The last question I have for you before I look to take a break just to look through my notes and make sure I haven't missed anything, is in your affidavit you refer to the class at East Point as a DHH classroom, deaf and hard-of-hearing classroom, and I know it was originally called an ASL immersion classroom. Do you know anything about that name change, when it happened or do you recall questioning the change in terminology?

A. I'm not sure. I think because it focused— the ASL Immersion, the focus was on American Sign Language, but then the school—really, to be honest, I'm not sure why that name changed.

Q. The Churchills have theorized that the reason for the name change is because it turned out that at least some of the individuals delivering curriculum in that classroom tested low on ASL proficiency testing. Therefore, a change in name was needed to reflect what the classroom

actually was. Did you have any view on that?

A. I don't know if that I ever thought about it in that way. You know, it was designed as an ASL immersion class, but it became more of a hard-of-hearing. I don't know. I never really looked at it in that way, but an ASL classroom, of course, there can be pros and cons. If you've got a teacher who is working on American Sign Language, that's one thing, but you've got somebody else who is not. I do remember that the program was just so new.

Q. Yes.

A. So new.

Q. I understand in preparing your affidavit, you would have been posed, you know, a written list of questions by the school district or the lawyers for the school district that you, you know, would have then answered that made its way into your affidavit. So, is the reason why you referred to the classroom as a DHH classroom in your affidavit because that was the way it was framed in the questions put to you or

in conversations with individuals, you know, do you regularly call it the DHH classroom now?

A. It's typically known as the deaf and hard-of-hearing classroom. It's not an immersive class, I guess. I would say it's a deaf class.

Q. Okay.

A. And again, you know, if you're thinking about maybe the interpreters are present, so maybe there's some different wording that way because it's interpreted environment. It's not an ASL classroom.

Q. Has the school district ever offered you training taking advantage of your native proficiency in ASL to upgrade or increase your ability to deliver curriculum to become more of a teacher? Has the district ever offered you any additional training to help you –

A. No.

Q. They haven't? They haven't offered any training to help you expand your role?

A. In terms of professional learning, those are typically days when it's all about general

topics. It's not specific to working with deaf or hard-of-hearing learners, and as a student assistant, most of those topics don't even apply to our work.

Q. Yes.

A. So, then we end up thinking about that day as a day to create resources for the classroom, thinking about what deaf kids need and resources that are needed. And so, gathering those resources from other organizations like Silent Voice, some of the other organizations. But no, I've never been taught some additional things, and again, all of us just work on our learning. And so, started a new role, family/parent communication, working with infants. When I worked in that role previously, I gathered resources that I thought were very very useful, useful in assessment of language and development of language. So, I have resources from that role.

Q. And you know, learning on your own has been a common theme that we've seen from the, you know, dedicated teachers in the ASL classroom. If the Department of Education

or the school district ever offered you training to be able to increase your ability to deliver educational curriculum, would you be interested in that opportunity?

A. Yes. I think that would be fabulous. That's what's needed.

Q. All right. Those are all the questions that I have for you. I know my friend, Mr. Penney, might have some questions as might the adjudicator. I wonder if it might be a nice time for a coffee break.

ADJUDICATOR:

Q. We'll adjourn for ten minutes.

REPORTER:

Q. Thank you. We are off the record.

(OFF RECORD)

REPORTER:

Q. Thank you. We are back on the record.

ADJUDICATOR:

Q. Thank you very much.

MR. REES:

Q. I just have –

ADJUDICATOR:

Q. Mr. Rees?

MR. REES:

Q. Yes, I just have one more yes/no question before I pass the microphone. Ms. Vaters, are you aware that Joanne Van Geest, among others, is returning to East Point Elementary as one of Carter's classroom teachers next week?

A. Yes.

Q. Okay. No further questions.

ADJUDICATOR:

Q. Mr. Penney, do you have questions you'd like to ask?

MS. TAMMY VATERS, CROSS-EXAMINATION BY MR. STEPHEN PENNEY VIA ASL TRANSLATOR

MR. PENNEY:

Q. Ms. Vaters, I have a couple of questions for you. You'll see a set of documents in front of you and I'll get you to turn to Tab 1. I'll give you a moment to review that document.

A. All right. Okay.

Q. You're familiar with that document?

A. Yes.

Q. And it's the –

A. The Workplace TLA?

Q. Yes, and it's the job posting for the new

teaching and learning assistant, deaf and hard-of-hearing?

A. Correct.

Q. Did you apply on that position?

A. Yes, I did.

Q. Are you aware that you were offered that position?

A. I haven't been offered as yet.

Q. Oh, did you –

A. No, yet. I'm still waiting.

Q. Did you check your email this morning?

MR. REES:

Q. Oh, for God's sake, come on.

MR. CHURCHILL:

Q. Like seriously?

A. No, I did not check my email this morning.

UNKNOWN SPEAKER:

Q. Jesus Christ.

MR. PENNEY:

Q. I'm going to—okay.

UNKNOWN SPEAKER:

Q. Oh Jesus.

UNKNOWN SPEAKER:

Q. She has been offered.

MR. PENNEY:

Q. I'm going to suggest to you that you have been offered that position.
A. To the best of my knowledge I have not been offered the position and I have not checked my email.
Q. Okay.
A. I had prepared to arrive here this morning.
Q. Is there an objection to the question?

MR. REES:

Q. I think using somebody's job, their employment security as a surprise tactic at a Human Rights Hearing is beyond the bale (phonetic). I mean, that—the way in which that came about, it just strikes me as being inappropriate. There's not an evidentiary-based objection as much as just, I think, a personal disgust that I'm finding hard to keep down.

MR. PENNEY:

Q. We testified this morning about, you know, the fact that Ms. Vaters was doing jobs beyond her job description. There's a new position advertised which she applied for and I learned this morning that you've been offered the position. We'll have—and we'll

have Alma McNiven talk about that when she testifies.

A. For the interpreter, can you please repeat that?

Q. Oh, sorry. It wasn't a question. We were talking about the objection, but the—there's a lot of questioning about the job duties of Ms. Vaters as a student assistant. There's been—we've put this job description to at least one of the other witnesses, this new position. I want her to confirm that she is aware of it, that she applied on it, and we learned this morning that she was indeed offered that position. Alma McNiven was testify—will testify to that. She hasn't seen that job offer yet. That's fine. That's all I wanted to ask.

ADJUDICATOR:

Q. Okay. I don't see the issue with the question. It seems as though there were questions as to what was going to happen in the satellite classroom next year and there's a job posting that other witnesses have been asked to answer questions about. And I understand now from the evidence that

Mr. Vaters has applied for the position and she's given her evidence that she is not aware of any offer. And it appears as though I'm hearing that she may be offered the position, but I didn't, from the question, pick up any insinuation that her job security was being brought into this. And while questions are being asked, I'd prefer if everyone can remain respectful throughout the process. We may not like the questions that are being asked, but it's not time to curse during the hearing, and yes, there were curse words and that's not appropriate. So, Mr. Penney, please continue with your questions.

MR. PENNEY:

Q. Those are my questions.

ADJUDICATOR:

Q. Thank you. Ms. Vaters, I appreciate you taking the time to provide your evidence to this Board of Inquiry today. There are no further questions for you and you can stay and watch the proceedings or you are free to go. I understand that we'll be taking an adjournment shortly and we'll be resuming at

approximately one o'clock. So, thank you very much.

A. Thank you.

Q. We are adjourned until 1:00 p.m.

REPORTER:

Q. Thank you. We are off the record.

(OFF RECORD)

REPORTER:

Q. Thank you. We are back on the record.

ADJUDICATOR:

Q. Thank you. Good afternoon, everyone. I understand that the next witness that we are scheduled to receive evidence from is Dr. Kristin Snoddon and I believe this is Dr. Snoddon.

MR. REES:

Q. I just want to make sure that her expert report is here. I see the two articles. Do we not have the expert reports with them? Sorry, I thought we had copied it this morning. I'm sorry. And the—you have your own? Yes, all right.

DR. SNODDON VIA INTERPRETER:

A. And I love to also take notes when I'm asked something, just to get my thoughts together.

Is that possible?

ADJUDICATOR:

Q. Any issue? No issue with that.

DR. SNODDON VIA INTERPRETER:

A. Thank you.

REPORTER:

Q. Can the interpreter--please give me your name?

MS. JOHNSTON:

Q. Sheila Johnston.

REPORTER:

Q. Thank you very much, Ms. Johnston.

MS. JOHNSTON:

Q. And you have Deb Russell’s, right?

REPORTER:

Q. Yes, thank you.

ADJUDICATOR:

Q. Now, Mr. Rees?

MR. REES:

Q. I thought Dr. Snoddon had a copy of her report with her and I’m just realizing she doesn’t. Can we adjourn for five minutes so I can grab a copy? My copy is marked up.

ADJUDICATOR:

Q. Yes. We’ll adjourn for five minutes so that

you can prepare the documents for the witness and then we will have the witness sworn or affirmed after we come back from our adjournment.

REPORTER:

Q. Thank you. We're off the record.

(OFF RECORD)

REPORTER:

Q. Thank you. We're back on the record.

ADJUDICATOR:

Q. Good afternoon, again. We have Dr. Snoddon with us now and I believe all the documents that will be—she'll be referred to are in front of her. Dr. Snoddon, before you give your evidence today, would you prefer to swear an oath to tell the truth or a solemn affirmation?

DR. SNODDEN VIA INTERPRETER:

A. I'll swear on the Bible. I'll swear, thanks.

ADJUDICATOR:

Q. Okay.

REPORTER:

Q. Thank you.

DR. KRISTIN SNODDON (SWORN) EXAMINATION-IN-CHIEF BY

MR. KYLE REES VIA ASL TRANSLATOR

REPORTER:

Q. Thank you. The witness has been sworn.

ADJUDICATOR:

Q. Thank you. Now counsel, I understand that there's an agreement with respect to the qualification of the experts being put forward in this case and I understand that it's accepted between all the parties that Dr. Snoddon is an expert in the area of deaf education.

MR. REES:

Q. That's right.

MR. PENNEY:

Q. Agreed.

ADJUDICATOR:

Q. And who will be starting the questioning for Dr. Snoddon?

MR. REES:

Q. I will. This is Kyle Rees.

ADJUDICATOR:

Q. Okay. So, Dr. Snoddon, Mr. Rees is going to have a series of questions for you. Mr. Penney, who represents the Respondent may also have a series of questions and I may

have some questions for you as well. Mr. Rees?

MR. REES:

Q. Hi, Dr. Snoddon. Thank you for being here. I know you travelled from some distance to be here in person and I know that, of course, you've been engaged in this case since at least late 2021 and that you've been, you know, following the proceedings thus far with interest. So, we appreciate your time, your interest and your presence here today. As you already know, I'm the lawyer for the Churchills who are seated to either side of me and Mr. Penney, far—to my far far left, is the lawyer for the school district, and Mr. Gallant is the adjudicator. I'll ask you a series of questions. Then, I anticipate the other two participants will do so as well. We have your report and I'm going to ask you a lot of questions arising out of your report. Typically, in sort of a court proceeding, there would be a process for sort of qualifying someone as an expert. The parties here in the room today have agreed

that, you know, you are an expert in the area of deaf education. So, I won't need to go through sort of the formal expert qualification process. However, I still think it's a good idea before a trier of fact, which is what our adjudicator is, to have an understanding of your area of expertise, the scope of your knowledge and your experience before relying or considering relying upon your opinion. So, can you tell me a little bit about your background, what you do now and what you've done, you know, for the past several years that sees you involved in this case?

A. I'm currently working as an associate professor with tenure and I'm at the Toronto Metropolitan University formerly known as Ryerson University. So, we underwent a name change this year to TMU. I began there in 2019. I was hired with tenure as an associate professor. Prior to that, I was five years working at Carleton University in Ottawa, also on tenure track, associate professor. And prior to that, I was one year at the University of Alberta holding

the Peikoff chair in Deaf Studies for a year, and then I moved on and I'm currently, as I said, at TMU. I'm also--I believe, if I've got this correct, I believe it would have been 2016 that I first became the coordinator of the World Federation of the Deaf as the expert chair on, sorry, on deaf education. And so, this is representation— representatives from a variety of countries and as well as board members who are nominated to these positions on that committee. And I was also acting as support to the board. There are a number of issues, obviously, for WFD, but education is one of the primary issues that they take interest in. I wrote and developed a position paper for World Federation of the Deaf. It's the position paper on language rights for deaf children, on education for deaf children, and also on sign language as a health issue. I've been involved on the board in a number of ways. I also have represented WFD on a number of meetings at the international level. The International Disability Alliance, I represented them a few times. I

mean, that's just a brief summary. I can expand or does that give you enough to begin with?

Q. Well, I'd like to pick a couple of those areas and ask you to explain, you know, what you study in those areas and what your focus is in those areas. So, you gave us a little bit of background in your role as the coordinator of the World Federation of the Deaf's expert group in deaf education. I mean, what role would an entity like the World Federation of the Deaf play in relation to governments in Canada, school boards in Canada? I mean, do they provide guidance or insight or support? What happens in that role between those groups?

A. Well, I try to explain that as best as I can. WDF, the World Federation of the Deaf, has status with the United Nations. So, they are representing deaf people globally at the—with a seat at the United Nations which is called the—which is sort of an umbrella organization. There are a number of associations such as the National Association of the Deaf and so on who

affiliate with the World Federation of the Deaf. So, here in Canada, the Canadian Association of the Deaf, for example, is also a chapter affiliate of the World Federation of the Deaf, CAD, CSD in French, and they represent on a global level. They were involved in the same level as the World Blind Federation and IDA. So, there are different constituency disabled groups which affiliate on an international level. WFD has written a position paper, as I said, and NAD has agreed to—the National Association of the Deaf of course has signed off on that as well. So, in terms of the Newfoundland school district that we're speaking of right now, they would have a relationship to it because Canada has signed off on, has ratified and the provinces have as well in terms of the CRPP.

Q. I understand.

A. NLAD would—is affiliated with CAD, the Canadian Association of the Deaf. So, there is a provincial affiliation as well with the World Federation of the Deaf.

Q. I see. So, just so we're keeping track of

the acronyms--because I know there are a lot of them, right? So, the Newfoundland and Labrador Association of the Deaf has signed off or is an affiliate of the Canadian Association for the Deaf which participated in and assisted in the sign-off and I suppose the relationship with the entity that you work with which is the World Federation of the Deaf and its expert panel within that organization?

A. That's correct.

Q. Okay. Tell me about your areas of academic study. I mean, until I took this case on, I had no cause to think that there was, you know, an area of academia devoted to deaf education. So, tell me about kind of what, you know, being an academic in that area means? You know, what are the areas of study? What do people discuss? What are the hot topics? Just out of a general, you know, interest and attempt to understand what that area of study is.

A. Thank you for your question. I have worked since, well most of my academic research, certainly from 2010 onwards where I have

received a number of tri-council federal grants for my research such as the SSHRC grants, the Social Science and Humanitarian Research Grant. I have done—I won—was awarded that for my post-doctoral research and I have for other research that I've undertaken. So, let me just back up a little bit though.

Q. Yes.

A. When I talk about my professional experience prior to becoming—getting my PhD, prior to that, I worked for the deaf community organization called the Ontario Cultural Society of the Deaf found—which is housed in Ontario and I was involved in training ASL consultants. These were people who were working with young deaf and hard-of-hearing children. They were going into homes to do ASL consulting, helping with the development of these children's literacy. So, I trained the people who became the ASL family consultants. This was under the Infant Hearing Program which is the universal neonatal testing in Ontario, and so, that was my position for four years. I then went

back to school, to university, studied and received my PhD. I worked with young deaf children and I looked at bilingual education. So, I graduated with my PhD, got—became my post-doctorial work. And I mean, I have done research in a number of different areas, but a lot of my focus has been with parents of deaf children and I've had an intensive focus on that, looking at resources and supports that parents need. I looked at the development of an ASL curriculum specific for parents of deaf children and my original work has also looked at the CEFR which is the Common European Reference—oh, sorry. This is the interpreter's problem. Common European Framework of References for Languages because I saw that as an excellent model for us to develop a curriculum following their guidelines and looking—they have done a good deal of work on looking at language development. So, I have—I drew heavily from the CEFR as I began to develop--work on a curriculum for parents learning sign language. I also look at—I've also done a

lot of work on theoretical areas in terms of how we can successfully support deaf and hard-of-hearing children in their education. I've done research related to sign language principles and policies. I've done a lot of policy research at looking globally at what's happening with legislation as it relates to sign language rights, deaf education, et cetera. And I've looked at how governments plan and prepare to provide education, sign languages that are offered to deaf people globally. So, I've looked at that on a global level. And so, I would say that that's sort of an overview of my main research topics.

Q. Yes. If I attended, you know, a conference that was being given by you and some of your colleagues, you know, you and Dr. Barbara O'Dea and Dr. MacDougall, you know, what kinds of topics would I see discussed at those conferences? What are some of the emerging areas that people are interested in?

A. Well, I am trying to—I'm just trying to understand your question, Mr. Rees.

Q. Yes.
A. Are you asking me what type of topics I would present on or what I would assume I could predict might be spoken of?
Q. Yes.
A. I'm just not exactly sure where you want me to go with that response.
Q. Closer to the second one. I'm just wondering what are the, you know, topics that are frequently discussed or of interest among deaf education academics like yourself?
A. Well, if I, for example—I'm thinking about some of the names of the people you mentioned, but certainly for myself, probably we would see discussion of situations that are very similar to what we're talking about today, deaf education in the Canadian—on the Canadian landscape, how we are trying to approach the situation to better deaf education for children in the future. I certainly would say that that would probably be a point of discussion and that you would see topics that address those issues, especially the three people you have

specifically mentioned.

Q. I notice that you teach at what was once called Ryerson University a course called, a fourth-year course called Inclusion and Consultation, and that's an undergraduate program in Early Childhood Studies. Tell me about that course that you teach and, you know, what the—what we would sort of find on the syllabus in that course.

A. Thank you for the question. You're right, my department which is the School of Early Childhood Education Studies offers a BA program for early childhood educators and it's really the only program of its type that I believe--in Ontario. A big part of my responsibility is to look at this course, that inclusion, and looking at a number of different groups that might be represented in that. So, the course is a fourth-year course. It's a mandatory course prior to graduation for all students. It relates to the role of resource consultants within school boards. Previously, in Ontario, early childhood education was seen as the role of a resource teacher. This is an old

model of special education.

Q. Yes.

A. We've seen changes in that to resource consultant and that is the role of somebody who goes into the daycares or into early childhood education. It's basically 0 to 8; programs that deal with children in that age range. How can those programs be adapted to better fit the needs of children that are attending those programs? So, this is obviously a course that's taken by--the majority of the students are people who can hear. We have one or two deaf students at times, but we talk about what does inclusion mean? And that it doesn't mean simply physical placement within a mainstream program, that it actually talks about participation in a program. And what is the child's experience within the context of that setting? And how do we ensure that it's a positive experience and that the child is set up for success? We know that the educational curriculum is in place and how do we make that child actually access that in a successful way? We want to look

at what are the goals of the child and how do we make sure that the child acquires satisfaction in terms of their experience there? Do they have peers? Do they have the ability to form meaningful relationships? Are they part of the social context and fabric of the program or classroom? So, there's a lot of issues that relate to that, the role of the RC which is the resource consultant. And how does one work within the team that they find themselves in with other early childhood educators? What is really critical? And the important message that I try to convey to the students in my class is that if you have a deaf or hard-of-hearing child who is a sign language user and you are called in to be a resource consultant for the team, you have to understand that you don't have the knowledge of every single disability. That's not the expectation, but you may be called in and you need to understand what resources are available in the community including, for example, associations that deal with that specific disability or in the

case of deaf or hard-of-hearing children, deaf associations, et cetera, so that the— so, I talk about the role of the consultant in that way and I emphasize that inclusion is not simply the physical placement of a child in the classroom, but it's an experiential reality for the child as they move through a program.

Q. I see. And the last question that I have about your educational background concerns publications. We have your CV. So, there's no need to give us an exhaustive list of, you know, everything you've done, but can you highlight for me, you know, two or three of your publications that would be, you know, salient to the matter that we're dealing with today?

A. I suppose I would then talk about my recent publication of a book that came out last year -

Q. Yes.

A. - which I coedited, "Plurilingualism and Deaf Education. I have a chapter in there. I also was one of the editors. So, and it dealt with deaf education in the Province of

Ontario, but we have authors from a number of different countries. England, France, the Netherlands, the United States are represented in this, this book. And it talks a lot about the various programs and school settings that occur globally with deaf children and how one can support deaf children's growth. What are some of the problems that are inherent in some of the programs that we see? And we talk about plurilingualism and—which is a recognition that the child may have a repertoire of different linguistic skills, and we're seeing, of course, more and more children who have cochlear implants and yet, we want to still see the encouragement of the use of sign language as that is an appropriate language to still be—for a child to be exposed for—to, sorry. And so, there's a number of different articles and chapters in that book that I think are very relevant, but you're right, I have quite a number of publications to my name. I look at inclusive deaf education and what does that actually mean? There's some work that has

looked at actual research within the classroom that I've done. So, it's quite extensive. In 2019, I went to Nepal and I collected information and data on baseline information for deaf education, inclusive education for the International Disability Alliance, IDA. So, I actually attended a number of schools in Nepal, a number of different programs, collected that baseline data, and that's some--also very recent work that looks at education in other countries.

Q. Fascinating. I mean, you're here. You're signing with me today. You're giving your evidence by sign. Tell me, you know, to what degree the fact that you are a deaf person provides you any degree of insight or does it, from an academic perspective into the educational experience of a deaf child?

A. Well, that's a good question. Certainly, as you mentioned, I am deaf, and obviously, that's part of my identity. It's part of my work; it's part of my passion and it's the inspiration that leads me to do the research that I do. It's not my day job. I don't punch any clocks. I don't go home, and I

can hear and put the deaf world behind me. I am 24/7; I'm deaf. I will be deaf tomorrow. And so, it's part of who I am. It's a lived experience and I understand that deaf children also have lived experiences that I have had and I can relate to. And I feel I have a good sense of the needs of deaf children and their realities. I want to obviously support deaf and hard-of-hearing children on a global level to see education change, but I also never forget the importance of the parents of these children and want to also offer support to them because deaf children want to connect with their families. They are part of their families, whether their parents or siblings are deaf or hearing. And they will live within a number of communities. They may come from indigenous communities. They may be people of colour. They will have other cultural heritages that their families want them to be part of and the deaf child themselves wants to be—want to be part of those communities. I feel strongly about that and I feel the need to support them and

so that they are in fact included in these variety of communities of which they are a part.

Q. You made a reference earlier when you were drawing connections between the Newfoundland and Labrador Association for the Deaf on up to the work that you're doing with the World Federation of the Deaf, you made reference to the United Nations Convention on the Rights of Persons with Disabilities and Article 24 of that convention which specifically deals with education. Can you describe for me the link between the work that you do on your committee and that declaration and why you describe it as a right to education for a person with a disability?

A. I'll try to answer that, and if I don't, please let me know if you need more information. Right from the beginning, the World Federation was involved in the development of the CRPD, in the drafting of the CRPD right from the get-go. So, that that was a role that I played as well and we had other constituency disabled groups which

were at the table involved in that discussion and there was a lot of—you know, there were a lot of views represented and we pushed very hard because the World Federation of the Deaf feels that there has been a misunderstanding in terms of the concept of inclusion and also about disability rights in general. The CRPD does actually mention deaf people more than other disabled groups. They actually—oh, and deaf/blind I should say. You also see mention of deaf and deaf/blind people within the CRPD and the recognition of sign language and it comes in more than one part of Article 24. So, the CPRD is—was heavily dependent on the involvement of the World Federation of the Deaf in terms of how it was finally crafted and I think I maybe lost a bit of your question.

Q. No.

A. So, can you repeat it for me?

Q. No problem, and I guess a sub-question to continue on from there, I mean why is education its own standalone article? I mean, what is it about education that

warrants its own standalone Article 24 under that convention or declaration?

A. Well, it's obviously a huge issue for people with disabilities and for deaf people as well. There are a number of articles within the CRPD. Some talk about access, some deal with health, et cetera, but Article 24 is a critical article because the CRPD in its entirety prior to that was based on--if you're familiar with Salamanca Statement and the Framework for Action on Special Needs Education which is a long title, I know, but that existed prior to the CRPD, but it certainly led to the establishment of it. I believe it was the first international agreement where we looked at special education for disabled children, but because the UN was developing standard rules on equalization, equity and equalization for disabled children, that—and it then led to looking more intensively at education. The Salamanca Statement was issued and that included a portion on education and there was recognition of deaf and deaf/blind in the exceptionality of those—the situation of

those deaf children and that they may well be better served in schools and programs that were congregate settings so that children could be educated and congregate settings with other children, other peers who are deaf or deaf/blind. The CRPD did not at first—sorry, it did not go into, however, specifics on inclusion. Instead, it talked about the importance of promoting sign language and the—and promoting the deaf communities, linguistic identity within the education system. It didn't say specifically that sign language was, for example, a last resort for deaf children, when deaf children failed in all other areas of education, they should be given sign language. In fact, it said the exact opposite. It encouraged the development of a strong deaf identity and access to a sign language environment that would be the most appropriate context for a deaf child in terms of social and academic development. So, and the fact that teachers of the deaf need to be qualified, fluent sign language users and they, in fact, also encouraged

that disabled teachers should be hired within these settings as well. And so, really, what's behind that is looking at bilingual education for deaf children which includes sign language and they saw that as a human rights issue. And so, it's a very unique framework that looks at deaf education in that way.

Q. And I notice—I'm not sure if I have Dr. MacDougall's report in front of you. If not, I have an extra one here. I think I did put it up there, but in—for easy reference in appendix A, I know there's Article 24--what do you say? Subsection 3 on these? Clause 3? Is the one that deals with education rights. I have –

A. Can I just –

Q. I have one extra.

A. I can just locate that because I don't believe I have it in front of me.

Q. It's Dr. MacDougall's report.

A. Okay.

ADJUDICATOR:

Q. So, just for the purposes of our recording, you're looking at the expert report that Dr.

James MacDougall authored and looks like it's dated January 2022?

MR. REES:

Q. That's right, and appendix A of that report. And I note, Dr. Snoddon, that Article 24, Clause 3 says, "States Parties shall enable persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education and as members of the community. To this end, States Parties," of which Canada is one, "shall take appropriate measures including," and if we go to Subsection or Clause C, "Ensuring that the education of persons, and in particular children who are blind, deaf or deaf/blind, is delivered in the most appropriate languages and modes and means of communication for the individual and in environments which maximize academic and social development." And the next section says, "In order to help ensure the realization of this right, States Parties shall take appropriate measures to employ teachers, including teachers with

disabilities, who are qualified in sign language and/or Braille, and to train professionals and staff who work at all levels of education. Such training shall incorporate disability awareness and the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities." So, I mean, tell me about, as part of the group that helps—uses this document sort of as its guiding document, tell me about why ensuring access to sign language and to employ teachers including teachers with disability who are qualified to work in sign language is important.

A. Well, from the WFD perspective, inclusive education for deaf and hard-of-hearing children means a bilingual education through a sign language medium. And you need to have deaf teachers in order for that to really be effective. It's difficult to implement a bilingual program in a school, without hiring native users of the language, and therefore deaf teachers are critical in

that model of education. The World Federation has—had grave concerns that State Parties were interpreting inclusion and inclusive education as meaning physical placement in mainstream programs and the—with the increased closure of deaf schools and increasing of mainstream for these children, they were—they did not have access to sign language programs. Their ability to find their identity within a deaf community was hampered and they had grave concerns about what the outcomes would be for deaf children, given that reality globally. So, they do use this article in this document to put forth the argument that there are better models for education for deaf children and this outlines it very clearly and assists with that.

Q. At some point, I'm going to ask you about what some of those alternative models look like because I think that's the most interesting part of your report. So, speaking of that report, I noticed that you have produced a report which the Commission has in evidence. We have an original report

that you produced and sent to me dated January 4th, 2022, and a second report dated February 23rd, 2022, which again is sent to my attention. And these are the reports that you've produced for the Commission and the adjudicator to review in this case, correct?

A. That's correct.

Q. And in this report, you know, you were asked a series of questions and you provided answers to those reports—to those questions. And I'd like you to turn to the second page of your original report, your January 2022 report, and have a look at the first question that I—have a look at the first question. So, I think this first question leads into the discussion we were just having about, I think what you referred to as, you know, States Parties having a trend of placing deaf children in their neighbourhood schools, their regular school, without supports. So, tell me about the difference between inclusion through physical presence in the classroom versus participation in the classroom.

A. You recall I mentioned that inclusion is actually about participation and relationships and belonging. So, where that placement occurs depends on the child and we have to look at their—the experience that they have within a school sitting—setting or program. I think that it is certainly easier to focus on physical inclusion, placement within a classroom physically because historically disabled rights and education, if we look back over the last, what, I would say 50 years or more, people have advocated. The disabled community has advocated for a good 50 years for inclusive education for children because a lot of disabled children had historically been institutionalized.

Q. Yes.

A. And so, of course, children with learning disabilities, for example, children with Down Syndrome, autism, et cetera. A number of children with different diagnoses were left to really—they were warehoused in institutions, there was no quality education, they were not included in their

home communities and they were—you know, yes, they were in congregate settings, but that was not optimal. However, deaf education has a very different history. It's a longer history, certainly longer than special education. So, we have to—if we look historically at where deaf education has come from, it is—it's founded on different principles. The first school for the deaf in North America was established, ASD, the American School for the Deaf, in 18—now, I should know. My audience should know the year and I don't, but I think it's 1805 perhaps.

Q. Yes.

A. And they used sign language. It was a sign language medium education and then, students graduated from that program, became teachers of the deaf themselves and that spread across the States, the United States and into Canada. I mean, so there has been a long history of this and this has been how the culture and the language has been passed on from generation to generation. With the closures of schools for the deaf, our

intergenerational transfer of knowledge and language has stopped. And so, many deaf people, our culture and our language, has hit that roadblock because there's no longer the intergenerational transmission of deaf knowledge, deaf culture, deaf language. So, giving some of that background and I don't know that you—you've asked me about my degrees, but I should also say that my PhD is actually in Applied Linguistics and Second Language Education which is another form of applied linguistics. And we use the term of language shift. So, it's minority communities, for example, who have—are speakers of a minority language. When they have to give up that language, that language is taken from them, the educational system takes over, et cetera, and we see this in indigenous—sorry, indigenous communities. There is a shift away from the indigenous language or the minority language into a majority language. And we see that what happens—that that's happening with deaf children, but they are not shifting into being English users as their primary

language. What they've shifted into is the reality of the language deprivation because they don't access that spoken language, and so, unfortunately, that has been what has been—become an interpretation of inclusion which is concerning.

Q. You mentioned language deprivation. And that's a term that's come up from some other witnesses and I know comes up in your report several times. What's language deprivation and why is it a topic of discussion?

A. Thank you for the question. I—I hope nobody will take offence at this, but I think sometimes people have had very different life experiences. So, sometimes it's very difficult for non-deaf people to understand how can language deprivation occur. A child is born from—to hearing parents and they hear themselves. The child naturally acquires language. So, it's difficult to say how could a child be language deprived. I mean, I'm sure we all know the old story in the 1800s in France, a young boy who was raised by wolves. I mean, that was, you know, obviously a unique situation and that

was where a lot of discussion that came first about language deprivation, but if we look at it in a modern context, if a child does not have full and uninhibited access or adequate access to a language and to communication, unhindered access to communication, especially during that critical time where a language acquisition occurs and there is—and I know there is discussion on exactly what is the cut-off of that window of acquisition? If—I think that it used—researchers put it from—first put it from birth to quite a bit older, but now, we're seeing that window seems to be almost zero to three because we look at now the studies of the development of the brain and language acquisition, are much more sophisticated. So, we're actually seeing that window seems to be smaller than was historically believed, but if they do not have unhindered access to communication, there are going to be dramatic impacts. The impacts can be things such as they never acquire proficiency in any language, be it sign language or spoken language. They will

never acquire age-appropriate proficiency and that has a tremendous impact on an individual trying to navigate the world and their ability to comprehend the world. Education will be—there's a possibility of maxing out in terms of just how much education can be acquired, but also, it has impacts on health, because if they can't access –

Q. Right.

A. - for example, treatment to proper health, mental health services, et cetera, it becomes a liability issue in terms of the care of this child and what will become of them in terms of their future development. So, it impacts cognitive development and cognition, how one thinks about the world, how—social development, emotional development, behavioural issues, and we see that there are some—that within deaf children we've seen mental health issues, anxiety, depression, et cetera. So, also has a tremendous impact on literacy in terms of written and writing and reading literacy. So, that is also impaired and impeded. I

don't know if you want more, but we can certainly talk about executive functioning.

Q. Well –

A. For example, attention control and as opposed to attention deficit; the ability to concentrate versus difficulties in that area. Executive functioning is what I'm referring to in that. And we see the prevalence of ADD in children who are language deprived. It impacts theory of the mind which is when the child understands that others outside of themselves exist with different perspectives, different feelings than their own, and their ability to understand and empathize that there are other entities with other thoughts and perspectives. So, all of these overall issues are impacted by language deprivation.

Q. Is there also –

A. Is that it? Does that answer your question?

Q. It does. There is a couple of specific aspects there then that I wanted to pick up on. So, you indicated that language deprivation, this is in your report as well, has an impact on an individual's executive

function and sustained attention, and you indicate among other things all of which are critical for educational attainment. I mean, is there often a view that an individual who is language deprived, you know, is cognitively impaired?

A. That's a good question. It's not—it doesn't mean—I'm not talking learning disabilities. So, I want to make sure that I'm very clear. I'm talking about access to language and that impact and the impact of access or a lack of access. Sorry, I had something I wanted to add to that and I think I've just lost it. Can you actually ask me that question again, I think?

Q. Yes, I was asking about language deprivation and the impact on the executive function and attention span and other things. And I was asking if there's often a perception by others that individuals who are in fact suffering from language deprivation, you know, are instead mentally disabled or facing some other kind of mental difficulty.

A. Yes. Thank you. Now, I know what I was going to say because that was what triggered

me thinking in a certain line. Yes. If I can hold on answering that directly, I just wanted to say that I had forgotten to touch on the issue of world knowledge and whether a deaf child without access to a language has an impact on their understanding of world knowledge and it does, absolutely. Even simple things like the idea that an hour has 60 minutes, that a day (sic.) has seven days. Understanding of how the world functions as—even in today's—for example, in today's reality, why are people wearing masks? They—without a language to understand what's happening in the world, obviously there's going to be impairments to world knowledge. However, this is not a cognitive disability. And there—certainly there are other ways of ascertaining what's happening and learning about what goes on in the world and many deaf people do so through the use of sign language when it is acquired later on. So, I'm not saying that there will be absolutely no—they will not function, but your point again, I know I—I think I've got off a little bit, but

specific to your question was about –

Q. I was asking about the perception of others regarding an individual who is language deprived. Do they perceive that they're mentally less capable?

A. Oh, all right, yes. Yes, absolutely, the child might be—may be blamed or assumed that it is a cognitive issue and that also I want to point out that it has nothing to do with the fact that they're deaf. The brain is ready to acquire language whether one can hear or not. It can acquire language in a spoken way or in a visual method, but it's because there is that gap in language acquisition that is the issue. It is not a cognitive issue and it's not due to the fact that the child can't hear. Children whether they can hear or not, can pick up the language, can pick up and acquire a natural language if the environment provides access to it. So, for deaf children whose parents are deaf, for example, they acquire language on a par with hearing children of hearing parents. And actually, they don't have to be deaf children. Hearing children of deaf

parents also acquire language naturally and they enter school, deaf children of deaf parents, enter school at age appropriate—with age-appropriate language and develop at age-appropriate milestones. Hearing parents can, with support, and I want to be very clear about that, access language and also signed language, and also assist their children in learning. That's why I believe it's so important that we continue to support parents' learning of ASL.

Q. Yes.

A. And early intervention services are critical for these families. The deaf school—the schools for the deaf historically had home-visiting teachers and sometimes there were service agencies that also provided these types of home visiting such as ASL Consultant Services. And so, I just want to point early intervention is also important. In the USA, we see a lot of resources available for early intervention. Deaf mentors are offered to families; there are home visitors—visiting programs; deaf teachers who go into the home. So, there's

a wide variety of early intervention programs and some provinces also offer some pretty good models. BC is good; Alberta has some quite nice resources. The Connect Society in Alberta; I believe Manitoba and Ontario still over services. But it's—it varies from province to province, but they do exist.

Q. I want to ask about a line in your report. It's under question number 1, the very last paragraph of page 2. And you say, "Exclusion from indirect communication and incidental learning leads to gaps in world knowledge," which you covered, "and social and academic skills," which we're going to talk about, "and to" –

A. Can you hold for one moment while I –

Q. Yes.

A. I'm just finding the place here. Okay, I've got it. Thank you.

Q. Okay.

ADJUDICATOR:

Q. I don't have the place.

MR. REES:

Q. Sorry.

ADJUDICATOR:

Q. What page are you on?

MR. REES:

Q. Page 2.

ADJUDICATOR:

Q. Yes?

MR. REES:

Q. The second-last sentence on the page.

"Exclusion from indirect communication."

ADJUDICATOR:

Q. Okay, I'm there.

MR. REES:

Q. Okay.

ADJUDICATOR:

Q. Thank you.

MR. REES:

Q. And the aspect that I wanted you to touch on is if exclusion from indirect communication leads to psychological distress. You've said that it does and I note you have a footnote there that cites a study titled "Adverse Childhood Communication Experiences Associated with an Increased Risk of Chronic Diseases in Adults Who are Deaf." So –

A. Yes.

Q. What have you encountered in academic literature or your own studies to support the idea that being language deprived leads to long-term psychological distress?

A. Thank you. Okay, this was not my study. However, I have spoken with Poorna Kushalnagar and fascinating discussion, fascinating research that she's undertaken. In her study, she looked at the adverse experience of deaf children in terms of the impact, long-term impact, on children who have had these adverse experiences within educational settings. She speaks specifically about the communication experience of the deaf child and her focus has been more upon the health outcomes of these children, but her study looked at groups of deaf adults and looked at and identified some of the childhood experiences. If a child doesn't have access to communication and if this is prolonged, we—and we see this. We see deaf people who have been surrounded by a spoken language which is inaccessible to them. Obviously, surrounded by a language they can't

understand, but seeing other people communicate impacts negatively on their own identify and self-esteem. And she looked at the physical health outcomes of having had this neglect in communication and the risks inherent in that. She—and as far as things such as diabetes in adult deaf people, hypertension, anxiety, depression and so, there were a number of actual health factors. It was a longitudinal study that looked at what was the accumulative impact of communication neglect. And so, if deaf children don't have access to—an uninhibited access to language, then many people think that if they fail in one method, later adding sign language will do the—will remedy everything and what she was saying is that, no, we have a responsibility to prevent this kind of communication neglect and the long-term impacts which are health factor impacts. And also, within the CRD—the CRPD, if we look at Article 25, that deals specifically with health and provision of services that are needed for people with disabilities to ensure that we protect them

against more detrimental impacts of their disability further down the line. And one of those is ensuring that we don't have language deprivation for children because that has health outcomes in the long—in long-term.

Q. And still on the topic of language deprivation, you, in preparing your report, reviewed, you know, a summary of Carter's school experiences, particularly from Kindergarten until Grade 3, and beyond, but we're—have been focusing a lot on kindergarten to Grade 3. Is it your view that Carter Churchill was language deprived from kindergarten to Grade 3?

A. I did review the Statements of Fact recently again and including the information that you sent to me last night. I had an opportunity to review that. And I think that we can—I've got a basic understanding of what was provided in kindergarten, Grade 1, 2 and 3. So, if I missed something, please do feel free to alert me to that. But in kindergarten, it certainly does appear that Carter did not have access to sign language,

and I'm not going to talk about the early years because I don't believe we are discussing that in this specific case, correct? We're not talking about what happened to Carter from zero to five. We're beginning then at the age of—or the entrance into kindergarten and from what I've reviewed, I don't see any access to American Sign Language being provided to him within the school setting.

Q. And how about thereafter, from Grades 1 to 3?

A. Language deprivation, I think what we're looking at now is at the context obviously, because I wasn't there. I wasn't present at the time. And unless I've forgotten, but I believe in Grade 1, they began to have additional support offered to him. I believe there were—there was some additional hours of itinerant teachers, but I don't want to assume that that means that the itinerant teacher was a fluent ASL user. So, those are the things that need clarification. There wasn't an adequate description about what were the

qualifications and the quality of ASL that was available to Carter in those early years.

Q. Well, and I think what I'm really asking about is, you know, in terms of when somebody has experienced language deprivation, you know, for a lengthy period of time and we'd argue in this case it happened for years in Carter's case. I mean, can it be--the effects be undone and if so, you know, what are some of the things that would need to occur to reverse or mitigate a year's long experience of language deprivation?

A. I would say that if a deaf person has not had adequate exposure to sign language, then we know that they may begin to acquire that language. Can one reverse language deprivation? It appears not to be the case of—there's a lot of research by Rachel Mayberry, Dr. Rachel Mayberry, who worked at McGill University for many years and she studied the impact of language deprivation on deaf adults who had deprived language in their younger years. And it was—it's a

famous study. She's very well-published. She's now down at the University of Santiago, but she did research on adults who are deaf, but who had—and who had been signing about 20 years. So, I'm not saying that people cannot acquire some sign language when they were not exposed to it at a young age, but they looked at groups of deaf people who were first—one group was native signers, deaf children born to deaf parents, now adults. Those who acquired sign language in their early years, maybe went to the schools for the deaf at four or five and historically that would have been in Canada what was the experience of most deaf children. They would enter schools for the deaf at the age of four, possibly five. And then, they looked also at children who entered the schools for the deaf at the age of 12, 13, puberty for example. And Dr. Mayberry compared their adult language use from group to group, their ability to process information. It's pretty complicated and I don't want to get into too many of the specifics.

Q. Yes.

A. But for example, if they were asked to repeat a sentence of a piece of text, so for example, if I was the participant, a sentence was signed to me, I watched it signed, I was supposed to then repeat back what I understood, what had just been signed to me. In the group of participants who were both native signers and signers who had been exposed to a language at the age of four and up, there were sometimes mistakes that occurred, but they were connected to semantic errors. So, for example, they may replace an incorrect lexical item, but it made sense within the sentence. So, the sentence still made sense, but maybe instead of someone was talking about a bird and I said it was a duck, right? I knew that it was about a fowl of some sort that—and maybe the individual got the sentence right, but maybe said duck instead of bird because they had that semantic word mixed up. For those late learners of sign language who began in puberty, for example, they were given the same sentence, asked to repeat it. The

errors they made were phonological errors. And in sign language, there are pho names in sign language just as there are in—people tend to think it of it as spoken language, but we have pho names that deal with hand shapes. I'm not going to go into them all, but there are different hand shapes that make up signs; movement; where it's, the sign, is placed on the body. And these are basic pho names in ASL. So, if the sentence, for example, was sleep, something to do with sleep and the sign--I'm showing you the sign that goes from the head and comes down. They would use the same hand shape, but in a different place and movement, so the sign actually meant "and." "And" didn't fit within the sentence. The meaning completely changed, and so, obviously, they didn't have the in-depth processing of language that was demonstrated in those individuals who are native or early users of the language. So, we can see that there were cognitive impacts of language deprivation. Not to say there was never language learned, but not at the same depth

of understanding. And we—there were also—we've seen deaf people who have been language deprived. I certainly have seen first-hand, seen the impact on literacy, on deaf people's mental health and this is well documented. I expect and hope the best for Carter. I do, but I don't want anyone to think that one can overnight mitigate for what had been lost in early childhood education. I'm not saying that there isn't hope. I'm just saying that if you're asking me what can the long-term effects be, that's what research has shown. Does that explain and respond to what you've asked me about? Am I clear on that?

Q. It does. I wanted to ask you one more question about your answer to question 1. So, if you go to the top of page 3 of your report, you indicate that "One study of seven children with cochlear implants in an inclusive classroom," by which you mean physical placement in a hearing classroom, "found that children largely failed to engage in spontaneous or sustained peer conversation and instead of asking for

information or reciprocal communication, employed passing behaviours where children attempted to behave like hearing people." Why would a deaf child who cannot hear, you know, act like somebody who can hear? What— tell me about that passing phenomenon.

A. That study was done by Patrick Shubert in Norway. I'm not sure if the interpreter is pronouncing it correctly. There were seven deaf children all of whom were seen as, quote "successes" within the system. They were implanted. They seemed to benefit from their residual hearing and did demonstrate spoken language. However, on a social level, the impact of being in a mainstream setting seemed to have taken its toll. They, as I mentioned, they displayed passing behaviours. And what happens is, so for example, children who are hard of hearing tend to take control of the conversation. This is a strategy that is used because they know that if they control the conversation, they have a point of reference on what's discussed. And so, you'll often see them take control and have a difficult time with

interactive turn-taking because they know the problem is going to be when the language comes back at them. In addition to that, deaf children who have been put in mainstream programs can really fake it quite well and act like hearing children because there's no motivation for them to be deaf. They are surrounded by people who can hear. There's no bilingual education. Why does— would someone put their hand up and say consistently that they don't understand, that they're different than their peers? And so, they nod and try to fit in as best they can, but it has a long-term impact on their self-esteem because they begin to believe they don't have the right to express themselves, to interrupt, to seek clarification. It's much easier and therefore internalized as better to keep your head down. And so, identity development is impacted and peer conversation is so critical. And the reason for that is it's part of language development and cognitive development. It impacts both of them. So, how children use

language is through communication. That's how humans use language. And when--you know, children who have ideas and thoughts, need to learn how to express them and to express them in an appropriate way, and to receive responses in a way that helps them modify how they've expressed themselves. And it's through this interactive language that cognitive development and language development occurs. And so, we see, as children age, you see how they converse with each other changes. Peer interaction is a critical part of that and it needs to be language appropriate. Plus, even developing empathy, for example, occurs through interaction and language.

Q. Can you tell me, and this is in reference to your answer to question number 2 in your report, can you tell me about some of the successful models for deaf education and how they compare to what the Newfoundland and Labrador School District referred to as, you know, the inclusive education model? What are some of their benefits and drawbacks and where are they employed?

A. I believe I outlined some of those in my report and gave some examples of successful models. Schools for the deaf where we have a bilingual-bicultural method of education is obviously a successful model. And the Newfoundland School for the Deaf may well have been a very good model in its time, but however, it was not—I don't know whether it was completely bilingual-bicultural. I believe total communication was employed within the school for the deaf in Newfoundland at that time. Ontario began with a bilingual-bicultural program in the 1990s, and at that time, they began to develop ASL curriculum for deaf children. And so, it was not the same as curriculum used to teach hearing adults who want to learn sign language. This dealt with age-appropriate milestones. It looked at literature, the creation of age-appropriate language and there are milestones related to that that are indicated in the curriculum. So, there is bilingual education which is a successful model. There's also co-enrolment and that's a model that is quite new, but I

recall you sent me information on service delivery models in 2011 for Newfoundland. I believe that's what you sent me that talked about the different types of programs that were available. And having looked at that, there was some things there that could be modified to be co-enrolment. So, what that means is having deaf children and hearing children in the same classroom and there are two distinct teachers who work as a team. One is a deaf teacher who uses American Sign Language or the native sign language of the country, and the other who uses spoken language. So, they're co-teachers; equivalent teachers in the setting. However, you have to be really careful with that design because it's critical that both languages are represented equally within the setting. So, both sign language and spoken English have to be on par. One cannot supersede the other, and in that case, I mean English should not be seen as superior to ASL. And both teachers have to be paid on par and be respected as colleagues.

Q. And so, they –

A. And so, we're not looking at somebody who is a teacher's assistant.
Q. I was actually about to interpret you to ask—to ask you exactly that. They would have to be two classroom teachers teaching material. One in English and one in ASL, and not simply a teacher speaking in English with an interpreter interpreting in ASL like a student assistant?
A. No, no, absolutely that's not the model I'm talking about. I'm talking about two qualified teachers and that the hearing children in the classroom have access to learn American Sign Language as a language that is seen on par with English, and in fact, actually be a requirement that children in the classroom take ASL as well.
Q. So, the –
A. That's the co-enrolment model.
Q. The ASL immersive classroom then at East Point Elementary, what kind of model would that fall under to your knowledge of what that program contains?
A. Again, this is from my understanding. I have not been inside the classroom to

observe it. And I realize it's also a very new program and it's still in its developmental stage, but I believe there is a fulltime teacher—I'm not sure if the fulltime teacher of the deaf and hard of hearing and an itinerant teacher. But there are—basically within that program, there are several paraprofessionals who, and correct if I'm wrong, who are offering ASL support. The children themselves though are deaf. So, it's not the same as co-enrolment which is a mix of both deaf and hearing children with two qualified teachers. Here, we're seeing a teacher who may be using sign language and some—and assistance. It's—certainly, it's a different type of model. It doesn't emulate that. It's something.

Q. Yes.

A. It's certainly—it's something I would say.

Q. In a model like we see at East Point where there is at least, you know, some ASL ability by the classroom teacher and some ASL interpretation provided by student assistants and the like, how important are the sign language skills, the quality,

qualification of the sign language skills of the classroom teacher to being able to communicate that material? Why not just rely on a student assistant to translate?

A. The goal is direct communication through American Sign Language, non-mediated education. So, it would be sign language mediated education which is direct communication. So, it's coming from the teacher to the child, is the model of education we're looking at. And they need to be qualified, highly qualified in American Sign Language. They have to be at least near-native, if not native users, to be able to do sign language mediated education. The goal would be native, but at least near-native, because it's important— it's also important that deaf adults be part of that program, that they be seen in the program, work in the program, be language models for those children. So, that would be my response in terms of what is needed.

ADJUDICATOR:

Q. May I ask a question? You just said, if I understood correctly, that what you would be

recommending is that teachers of deaf students should have native or near-native signing ability. Is that the minimum standard that you feel is supported in the research for teaching students or is there a lower threshold that is established in the research for teaching students? And if I can make my question even more complicated, does their qualification or proficiency change as the students age and gain proficiency themselves?

A. Sorry, just for clarification for the interpreters, do you mean higher proficiency when the child is younger and less as they get older or the other way around?

Q. As the child's proficiency increases, does that shift the level of proficiency that we would require of the teacher as well?

A. As in more or less for the teacher?

Q. I presume more, but -

A. Okay. All right. Just we want to make sure we're signing that correctly. So, can give us a minute to ask that again?

Q. Yes.

A. I'm not really sure I could understand the

logic of that in terms of linguistically how that would help because if you think of natural—the natural situation, a hearing child or a deaf child who is born to an environment where they have full access to a natural language, the people who are speaking to them or signing to them are fluent, and so, so what we would want is a model where children are exposed to a rich language. Otherwise, we're talking about language deprivation.

Q. Here's my concern. I don't know what the level of proficiency is for a lot of the teachers in Newfoundland and there may be arguments that I should recommend a particular standard be adopted and I'm wondering whether the literature, the academic research supports a minimum threshold to be able to teach Kindergarten, Grade 1, Grade 2 or just generally to teach students as opposed to teaching adults.

A. Well, the World Federation of the Deaf does recommend near-native fluencies for teachers of the deaf for deaf children. And one of the reasons we're seeing children not

succeed academically in educational settings is because they haven't been taught through—with teachers who had fluency in the language. Many of the hearing teachers are not fluent users of the language. So, absolutely, there needs to be resources and invested for the development of their language acquisition. The European Union of the Deaf also has spoken to the issue of qualifications of teachers for the deaf. When we look at proficiency testing, certainly, if you're bringing in teachers, then there are proficiency levels that can be used to look at language skill. So, if—I think we have to be creative and we have to be flexible. We have to, say, for example, if we can get some deaf professionals and we continue long-term investment to support them in their professional development, they can become teachers of the deaf. If there are hearing teachers, then they need to have extensive support so that they can learn American Sign Language, whether it's in summer immersion courses, bringing in experts to talk about bilingual education.

How does one teach STEM, for example, using American Sign Language? There are experts out there that can be brought in. So, there are so many possibilities. I think we just have to understand that it's possible. It's an investment, but it's possible, and that we have to be creative in doing so. We have to partner with the communities, with the university programs. The deaf community needs to be involved in that partnership. We—I know we aren't there, but we can build from that and it can be additive as opposed to subtractive. It can be additive so that we're always moving forward.

Q. Thank you.

MR. REES:

Q. Well, you said several interesting things in answer to my friend's question, but one of the ones that I'd like to ask you about and I want to make sure I've got it right. When you said we need to be creative, you talked about training two different groups of people. You talked about training existing teachers in ASL fluency, but did I also hear you talk about taking individuals who

already have high ASL proficiency, you know, people who are already deaf, and training them to be educators as well?

A. Absolutely.

Q. Right.

A. Yes, I said that.

Q. Interesting. One thing I want to circle back to and I realize that it may not have been clear, when you were talking about the co-enrolment model previously where you would have, you know, a teacher teaching in ASL alongside a hearing teacher teaching in spoken English and as a result, you know, deaf and hearing students are mixed in a class together, is it a proper use of the co-enrolment model to have one deaf child in that classroom with several hearing children or does it only work if there are several deaf children in that classroom?

A. Well, that would be—it would depend. It certainly is much better to have several deaf children within the classroom. To have a single child, I don't think is the best model. There are certainly models that we can look to. You can—however, you can have

a congregate class within a mainstream setting. That's another option. So, that we are still using the resources and the of other teachers and—sorry, if the congregated class has the appropriate supports and resources and teachers with proficiency. So, if you take a look at my report on page, I think it's page 3, but a bit further down the page. It does talk about other models.

Q. Yes.

A. Page 3, right at the bottom of the page, it talks about bilingual classes within a mainstream school. So, those are also inclusive models of education.

Q. Okay. I've just been asked by the interpreters if it might be possible to take a five-minute break. Is that okay?

A. Certainly.

ADJUDICATOR:

Q. If you have no issue. If you're fine with taking a break, we can.

REPORTER:

Q. Thank you. We're off the record.

(OFF RECORD)

REPORTER:

Q. Thank you. We're back on the record.

MR. REES:

Q. Thank you. I'm cognizant of and appreciative of the difficulty that comes with translation, not only in the use of, you know, academic vocabulary, but in the mechanics that are involved in sort of reading off of a paper and having information communicated to you through sign at the same time. So, I acknowledge the herculean, I'd like to see that one signed, herculean efforts of the team here today. Talk to me about the socialization of deaf children and incidental learning, two things that we've been told and your report says, you know, occur in a classroom when you have multiple deaf children together. What are the benefits of those things and why does your organization—the organizations you work with encourage that?

A. I believe I recently just spoke about the importance of peer interaction and conversation. And it is critical because it's an opportunity to practice language use. Children practice their ability to

express their thoughts, to understand others, and so, it allows for—it's imperative that peers have the ability to interact. It builds social relationships. It also builds empathy and an understanding of others. Deaf children rarely have the opportunity to see that type of conversation between other children, between other peers. Now, in a class with other deaf children they will see that and I'm talking about not only peer to peer, but indirect learning from deaf adult to deaf adult as well. How do two people at different age levels—what are the pragmatic skills required and the social skills required to learn more about the world? We learn much watching others discuss. You know, parents talking about, you know, banking situations. I'm just coming up, you know, an everyday occurrence, but all around children, language exits. However, for a deaf child that is hugely inaccessible for the most part. And so, all of that indirect learning and indirect incidental learning doesn't exist. And of course, that has an impact on education; it

has an impact on their knowledge. It impacts their emotional development because it's a huge gap. Does that respond to what you were asking me?

Q. It does. And I want to jump back to some more questions about testing. I know the adjudicator asked you some questions about the degree of testing that's required and how it might correlate to the ASL levels of the students who are being taught. I mean, when you take a student like Carter who, I mean, it's been the evidence throughout this hearing that certainly throughout the elementary grades his ASL language skills were very low. Why does a student who is learning ASL, you know, who is starting off themselves at a very low level, why do they require someone with high ASL competency? Wouldn't, you know, a student who is being taught low-level curriculum, you know, can they just be taught by someone who is only a level or two above them or, you know, is high proficiency ASL required sort of for all levels of teaching ASL?

A. Absolutely, of course, one needs at—in the

early years one needs to have programs for example, as I said, for parents also to acquire ASL and that's where we see the role of deaf consultants, family support workers, et cetera so that there are language models for the parents. So—but you know, in years such as the kindergarten age, you need somebody who has proficiency in the language because they're the language model for the child. They're the person who exposes the child to a fully-formed language. So, if you have older kids, it's the opposite. Very fluent older students in Asl, if you have a, you know, a deaf student at an older grade who is a fluent ASL user, and they have either an interpreter or a teacher whose--maybe their fluency is not as high calibre, they now have the language skills to interpret to translate for themselves, to do meaning-making with that person. So, they can fill in the gaps that may not—that may exist in that person's fluency. It's the exact opposite.

Q. Interesting.

A. But the child doesn't have the language to

do that meaning-making and to fill gaps. So, the model is there to show them, the child, how to communicate, to expose them to a complete language, to teach them the curriculum because I think that's the goal, is that education is to, in fact, give the child access to the curriculum. And so, therefore, you need that language proficiency in order to provide access to the school curriculum which is the goal of education.

Q. Interesting.

A. Does that make sense to you?

Q. It does. So, unlike, you know, mathematics, you know, I could probably with the exception of not being qualified as a teacher and not knowing on the pedological stuff, pedological, anyway, stuff, you know, I would be capable of understanding Grade 6 curriculum, but if I had to teach high school mathematics, you know, I think I would struggle. But you're telling me ASL competency is sort of the reverse in many ways that, you know, teaching beginners in ASL or children who are first acquiring ASL

as a language, the ASL competency must be higher. And then, students who already have developed competency in ASL are not as disadvantaged by a lower level ASL instructor?

A. Well, not to say that it's ideal. It's not a recommendation that we have at higher grades, lesser signing, but what I'm saying is to the point they may be better equipped. The child without complete language doesn't have those resources at hand.

Q. Yes.

A. But I mean, I don't think it is the opposite actually. I don't think that anybody would say that whoever is teaching young children shouldn't have language competency. And I wasn't talking about academic competencies at older grades, subject competencies at older grades for the teachers. So, it's only up to a point, that argument.

Q. I see. In the answer to question number 6, which is on page 5 of your report, you say at the end of your answer of that question, "The deaf children should be given opportunities to study ASL as a school

subject and the school environment should support both family and deaf community engagement." So, it isn't about merely teaching subject material in ASL, but about teaching ASL itself and engaging beyond the doors of the school. Tell me about that.

A. I think both are required for a bilingual program to be successful. You need to study American Sign Language because it's the child's first language, and so, they should understand the structure and the rules, the grammatical rules of the language just as any other language is studied and understood. It is their language and it's best for them to be able to understand those rules and use that language knowledge to apply to an acquisition of another language such as written English. Very similar to what we would expect in French. Metalinguistic knowledge and structure in one language is used to apply to the learning of a second language. So, if you are a French speaker, you use it when you're using English for example. It's—it parallels that. So, children really need to

use—to learn American Sign Language, the structure, because it has literacy that is attached to it. There's a number of genres. There's poetry, there's literature, et cetera. There's obviously also creative art which use American Sign Language. So, there's literature within English and there's literature genres that are American Sign Language based, ASL stories, stories that are based on the shape of numbers.

Q. Yes.

A. Folklore stories that are passed from deaf generation to generation. So, those are all parts of deaf literature. And so, that should be taught in the way that English and English literature is taught to children. And there are different registers in American Sign Language as there are in other spoken languages. So, how one presents in a higher academic register is very different than one-to-one conversation. So, they should understand that language is used depending on the setting and that we vary our language depending on our setting. And so, it's not only to use it to teach core

curriculum, but also to understand language, language use, and to develop those skills and competencies.

Q. I was going to ask you about that because I—it was a really interesting part in your report, mostly in your answer to question 8 and you don't need to go there, but you just—you talked about deaf history and deaf art and, you know, deaf culture. And can you give us some degree of insight, like on how, you know, deaf history and deaf art would be different? Why would that material need to be delivered and why would that material, you know, be different than what might be delivered in a spoken English curriculum?

A. Before I say that, I also wanted to go back to the issue of the involvement of the deaf community and bilingual education, too. So, that also is a role for deaf adults to come in and it brings in some of the story-telling aspects as well of the language, but it is—my research which was SSHRC funded was on multi-literacy programs. And so, that's where you see programs where you invited in

members of specific cultural communities, but in this case, we were looking at bringing in deaf adults, deaf—members of the deaf community, into schools for the deaf. You know, often deaf children have never seen a deaf adult and it's really important that somebody says, "I'm going to grow up one day and I might be that. I might be a teacher. I might have a job in this field. I'm going to have my own family." It allows people to see themselves in the future. And so, having deaf adults come in and share life experiences with these children is critical. There is a rich deaf history that many people are not aware of, but there is much to learn from the history of deaf people. There are conferences that are held every four years, for example. There are the Deaf History International Conference which brings the history of deaf people from other countries around the world. There's the, sorry, the Deaf Culture Centre which is housed in Toronto, Ontario which has— showcases art from a variety of deaf artists across Canada and around the world. There's

deaf art festivals. Just--in Clin d'Oeil which is in France which is a festival of—a theatrical festival of deaf troops that come around the world to perform. Black Drum is another example. It was a performance that took place here in Canada in Toronto again, but it was developed, written and was showcased in Toronto. However, they also performed in Paris. I believe it was 2019, pre-pandemic. So that troop came—went from Canada to that festival I just mentioned in France, Clin d'Oeil, and as I said, there are deaf artists. And that should be part of the deaf children's curriculum as they grow and learn about themselves in the world around them. But getting back to bilingual and bicultural education, if we're going to look at that, then we have to look at the positives and position of strength of the deaf community and the child. Look at the child as an individual with an identity that comes with a rich history that they can learn about and develop to become a competent deaf citizen in this world. And so, there's much that needs to be given to

deaf children in order to succeed in this way. And you will not find any of that in curriculum that is, quote, a "hearing" curriculum that's focused for non-deaf children.

Q. And you, when you say "quote, a `hearing' curriculum," you're referring to the curriculum that the English School District has presented?

A. Well, the school district, yes, I don't think there's any representation of deaf studies. That's something that certainly though could be added to the curriculum, a course on deaf studies. And again, that is best done partnering with the deaf community and the Newfoundland deaf community has a rich history and I'm sure you would be—it would be quite easy to partner with them and bring in deaf adults. I don't know how many people know that in the Maritimes there was a different sign language at one point. Just –

Q. Yes.

A. I understand there is an accent associated with Newfoundland. There is such a thing in

terms of the sign language that originated in the East. So, those are important things to know.

Q. A couple of more things in your report before I ask you to comment on the report of Dr. MacDougall. On page 7 of your report, and perhaps I can get you to turn there, the last paragraph, the last full sentence says, "Furthermore, a study of sign language interpreters employed in Canadian classrooms found that most interpreters were not able to relay teaching discourse or promote deaf learners' engagement." And there's a footnote to the article that's titled "Critical Perspectives on Education Mediated by Sign Language Interpreters Inclusion or the Illusion of Inclusion." Can you give me any insight? I mean, you spoke a little bit about the problems associated with the interpretation of course curriculum versus relaying of the original material in ASL. Tell me about this sort of illusion-of-inclusion idea. How is that illusion constructed?

A. That's a good question. In general, the

educational system assumes that if a child is in a mainstream setting and one brings in an "interpreter," and I put that in quotes, regardless of what constitutes them being labelled as an interpreter, then they've checked the—they've checked off that box and everything is well. That's an assumption that is often made in education, but those assumptions are flawed. The deaf child is still acquiring language. They need more than a translation. They need to have direct communication, direct teaching. It shouldn't be indirect. It shouldn't be mediated teaching. That is not the optimum way to teach a child period. So, hearing children, it would be unlikely that hearing parents would accept 100 percent mediated education for their child where the child never had direct access to the teacher and there's a lot of research that has shown, evidence-based research that has looked at the accuracy of educational interpreting and this is Canadian research that was undertaken by Dr. Debra Russell. She is a Canadian and she looked at—this was a study,

it was a large study done across the country with a number of different interpreters and hearing teachers have been trained and have strategies to use language in a way--I'll call it teacher talk.

Q. Yes.

A. I think we all know what that is. They have strategies for how to teach the curriculum. So, there is—there are ways of phrasing questions that will elicit responses from the students that encourage thinking, that encourage questioning, et cetera. Those are teaching strategies and they have been trained as teachers in that. Interpreters are not—they're not versed at that type of discourse. Interpreters working in the school setting are not—they are not teachers. They are not—and they are often not like the interpreters you are seeing today and throughout these hearings. So, they often have difficulty understanding the terminology. They don't look at the overall discourse, the teaching strategies, the way the language is used. And therefore, the child is getting a much—a very watered-down

version of what is said. They have a degraded version of what is being taught. They disconnect from the rest of the class and from the curriculum itself because there is not that direct interaction with the teacher. And interpreting in this mediated type of setting is not effective and there's research that shows that. It may be all right for a child, as I've mentioned before, who has a strong language base in ASL, working with a highly qualified interpreter, but there's a lot of ifs around that situation.

Q. Yes.

A. And they are not the norm. So, if there are enough things in line, can it be useful? But it is not optimum.

Q. I see. I mean, one of my favourite things to do with my kids is to read them a Robert Munsch book, a Canadian author, you know, very silly books with lots of, you know, expressions and yelling. And I—you know, if -

A. Um-hm.

Q. Half the fun in reading that book is getting

to see, you know, Dad act silly, right? Or if a teacher is reading it, you know, see the teacher, your authority figure, you know, make silly voices and say silly things. And I imagine if that goes through an interpreter, you know, some of that, some of that is lost.

A. Absolutely.

Q. The last questions I want to ask you about your report before I ask you to comment on Dr. MacDougall's, is on the last page, page 8, in your answer to the last question. And in your answer to that question, you know, you indicate that schools for the deaf are one option, but then you say in the last sentence, "However, if resources were invested in constructing an ASL immersion classroom with deaf staff, language support workers, and teachers who receive ongoing support and training in ASL and bilingual pedagogy, this may be a long-term investment for the well-being and inclusion of deaf children in Newfoundland and Labrador." Tell me about why ongoing support and training in ASL and deaf staff are

important.

A. Ongoing support is critical. We know that you can't set up a program overnight. And so, we understand that this will take a commitment, a real commitment, and you can have all the policies in the world, but you need to have a real commitment to a bilingual program, you need to develop curriculum that is appropriate, age-appropriate, ASL appropriate, et cetera, and so, we need to know it won't be perfect at the outset possibly, but the commitment to continue to add and to grow and to strengthen the program because it's—and it's also important that there are deaf staff present in order to be successful. I do not think a program can be successful without deaf adults involved in an ongoing basis in the program.

Q. Yes. Dr. Snoddon, you provided a follow-up report to us on February 23rd, 2022, which the adjudicator also has. And while I'm going to ask you some specific questions about Dr. MacDougall's report, the one phrase that I wanted to draw you to in this

one is at page 2 in the very last paragraph. And you say, I found this intriguing, "With the closure of the Newfoundland School for the Deaf, the Department of Education dismantled its own educational infrastructure for deaf and hard-of-hearing children." What do you mean by "educational infrastructure," and is that the kind of thing that can be rebuilt outside of a dedicated school for the deaf?

A. When I'm using the term—I use a term "ecosystem." And by that, I'm talking about the various moving parts that need to be in place for inclusion to be successful. And one of those—if we're looking at a bilingual-bicultural program that would be offered with a congregate setting. You need to have qualified teachers. You need to have an appropriate curriculum. So, overall, these parts make up an ecosystem. And when I talked about the infrastructure, to rebuild that it, will take time. It's-- it absolutely is going to be a timely—will require time in order to build this strong infrastructure. It's sort of like the ASL

immersion class. So, you begin with that because we—you need to try something. Understanding that this is a new approach, a new way of working with these children. A congregate class within a mainstream school, can it be effective if well-resourced? Yes, I think we—you can try that.

Q. I want to ask you some questions about Dr. MacDougall's report. And we're going to hear, you know, later on from Dr. MacDougall. So, I wanted to get some of your comments so that I can put some of them to him later on. You've read his report?

A. Yes, I have.

Q. I think you and Dr. MacDougall agree on a lot of things. One of the things that I believe you agree on, and tell me if I'm correct, is that he says that the supports that Carter received in kindergarten were clearly lacking. Do you agree with that?

A. Yes, I do. I think that we do have—we actually both received different documents. So, I want to point that out, that I didn't receive all of the board documents that I believe he had access to, but yes, I—just

for the record, I want to make sure that that distinction is made.

Q. Yes, and I think at the very least counsel, if not the Commission, have a record of which documents which experts received, and you know, on which that they based their opinion. So, that'll be at the very least clear to counsel, and I think the Commission, if necessary. I think—I mean, sort of what I want to ask you about are sort of broad-stroke comments on Dr. MacDougall's report. Dr. MacDougall spends several paragraphs talking about how they're sort of a, he calls it a controversy, within deaf education about whether students should be, for lack of a better term, you know, mainstreamed, placed in a hearing classroom and taught principally by a hearing classroom teacher versus placed in some of the alternative models that you talked about where instruction is, you know, delivered originally in ASL and multiple deaf learners are together in a classroom. Is he accurate in saying that is—that it's a controversy within the deaf community?

A. There's no controversy within the deaf community, no. I don't think you would have any differing of opinion about deaf children's education within the deaf community. Is there a controversy between some parties? Well, evidence-based research, if you look to that, I would say you shouldn't see much of a controversy. I'm not sure why more parents with deaf children are not demanding a holistic approach so that all options are provided to their children. We don't ask hearing children to pick one language and don't allow their children by bilingual or speak the language of the home.

Q. Yes.

A. Hearing parents have a right to have their children be multilingual. And when I'm saying "parents," I'm not talking about Carter's parents specifically, but I don't know why there isn't more demand for all resources that are possible to be made available to deaf children so that they could learn sign language, they can learn spoken language, they can use adaptive

technologies should that be successful for them. If we know these things are out there, there should be no controversy because all things that are available should be offered to children. Now, whether that's the opinion of Dr. MacDougall, I can't—I would say you might want to pose that to him and ask his thinking.

Q. And I certainly will be. You indicated that this wouldn't be a controversy within the deaf community, that, you know, students should be mainstreamed. Dr. MacDougall to your knowledge, is not a member of the deaf community, is he?

A. I believe he is a child of deaf adults, but I have not seen him for a very long time. I—he's an older gentleman. I haven't really seen him for some time.

Q. Fair comment. Dr. MacDougall indicates that the programming that Carter receives, and I think Dr. MacDougall acknowledges in several places that throughout kindergarten to Grade 3, the programming falls short in different places in different degrees, but he says at all times the programming was within the

policy framework and—but he says that the policy framework lacked the details required for proper implementation. What can you tell me if you have any involvement in the development of things like policy frameworks? I mean what is important for a policy framework for, you know, deaf education in a school system or a Department of Education?

A. I have not, in terms of developing policy for the Ministry of Education, I have not been involved in that.

Q. Yes.

A. So, I want to make that very clear.

Q. Yes.

A. However, I have done a lot of research and analysis of policies. So, do you want—I'm not sure if you want me to make some comparisons. For example, in Ontario, because we still have schools for the deaf and they are recognized therefore, and educational policies. I'm not saying that they're stellar.

Q. Yes.

A. I'm simply saying there is a recognition

within ministry policies that there are deaf and hard-of-hearing programs and that there are schools for the deaf. So, those are explicit in policies in Ontario. In Newfoundland and Labrador, the department in 2011, I believe there was a service delivery document.

Q. Yes.

A. Is that the one you're referring to?

Q. That's right, yes.

A. It does not outline anything that deals with language specific. It doesn't talk about specifically deaf and hard-of-hearing children's language. So, is that adequate in terms of providing the boards with adequate support so that they can set up procedures? That's questionable. So, there's—also, the other example I would bring is that in Ontario the deaf schools are provincially run and they—there is a statement of policy that recognizes the education as bilingual-bicultural education. It's quite an old policy, but it's still on the books. And so, therefore, it is possible to develop such a document and I

think it's important for the future of deaf children in the province to have such a policy in place so that there are clear guidelines and paths and processes available for the school boards because we need to have a clear policy in order to refer back to it. So that if we're looking at hiring for programs, et cetera, development of programs, there should be a policy that we can refer to that guides us in that process. So, you're quite right that if Dr. MacDougall were to comment that Carter's education was within the guidelines, yet the guidelines themselves lacked clarity, they may have to agree they are technically within those guidelines. However, you have to look to that.

Q. But the guidelines themselves might be the problem?

A. Exactly, yes. And so, I also think that we have to really put this under a magnifying glass. Let's take a look at what is the actual framework, not necessarily explicitly in 2011, what kind of policy was there, but are there issues of the Human Rights Code?

Is the child being accommodated in line with the Human Rights Code? We have a Constitution, a Charter of Rights, that we need to look at that government programs have to provide service to children. So, there are human rights explicit in this country. So, we might want to look, not only on the local level, but broaden that framework view because children need to be well-served and in order to do so, they need to benefit from equity in their education and the education system is responsible for providing that.

Q. I'll ask you to turn to page 21 of Dr. MacDougall's report. There are two things I want to ask you about there. The first one is in the paragraph at the top of the page. And that paragraph says as follows, "The challenge in the present model is how to provide such an enriched communication environment within community-based schools that would satisfy the communication needs of the deaf child and their families. This does not appear to have been the case for Carter in the kindergarten and first-grade

years," by which I suppose he means Grade 1, 2 and 3 because it then says, "It was only when the special deaf and hard-of-hearing class was established in 2019," that should be 2020, "that the program allowed for Carter's general educational and special communication needs to be met in the way that is consistent with best practice based on evidence from research studies." Do you agree with that conclusion?

A. I'm just trying to think of how I respond to that question. Did the program in fact allow for Carter's education and communication needs to be accommodated? Was it a match? I'm not sure that it was adequate from what I know. I don't see evidence that in fact that was met. So, I would like to see that before agreeing. Also, "best practices based on evidence from research." I would like to know what studies he is referring to because there's a wealth of recent studies that look specifically at deaf programming and I'm not sure they are being referred to. So, it—I could not say that I can agree. I don't

really know what is—I can't. I think that there would have to be much more research done on what current benefits have been demonstrated in terms of Carter's education, language, et cetera, to say whether these things have adequately met his needs.

Q. In the first sentence of the very last paragraph of Dr. MacDougall's report, he says and I'll read, "Finally, according to the consensus from critical period studies, Carter is still in the critical period for language acquisition. So, it remains important for Carter to have both formal and informal incidental exposure to both speech and sign language in a variety of settings, including in his current class placement as well as in the home and in the wider community. Research studies also emphasize the need for optimal psychosocial development recognizing the past educational practices that have deemphasized this important aspect in favour of increased emphasis on language development." Carter is 11 years old.

A. Um-hm.

Q. How far through that critical period for language acquisition has Carter progressed?
A. As I said earlier, remember the research done by Dr. Mayberry that looked at three groups of people; native users of a language, those who acquired it earlier, and those who acquired language at the age of 12 or 13 when they entered the school for the deaf and they acquired sign language at that point. We saw what the impacts were on these children. Absolutely, we want to encourage parents as early as possible, for sure by the age of six months, that is already part of the critical period when children should be exposed to language, so the earlier that sign language is provided for children, the better. The earlier language acquisition is in inhibited access to languages provided is critical and the critical period is considered zero to three. So, and that obviously applies to sign language as well. Now, when is that critical period—what is the opening of that? I would say that Carter has passed that window that we consider the critical period

of natural language acquisition. Did I miss anything else? Because I thought there were two parts of that question, and I think I've missed one of them. I dealt with the critical period of language acquisition, but was –

Q. And I was asking, yes, when had that period—you know, had that period closed, and I think you said you believed he was likely past the period for critical language acquisition. And I think my next question flows out of that, and in fact, it's my last question. On—we've heard evidence during the course of this hearing about Carter receiving report cards for the last two years where he was unable to be evaluated because he was going through what several educators described as a "closing-the-gap period" where he was, you know, catching up on his curriculum. The kind of educational supports that need to be provided to an ASL student, a deaf student, to close the gap caused by language deprivation, are the kinds of services needed in those cases different than the services that you would

provide to a, you know, non-language deprived 11-year-old? Are they more or less?

A. Are you saying those of these children are deaf, one deaf child who has not been language deprived and one who has experience language deprivation syndrome?

Q. That's right.

A. A child who is 11 and has not been language deprived who is—has been taught in a curriculum that's been accessible to them should, obviously, should continue to be given ASL and English supports and, you know, throughout their educational years. And they should be taught in a manner that is in line with their developmental age, but a child who has been language deprived, is going to need many more supports to try to begin to fill some of those gaps and it can't be done by one person. There needs to be exposure from a number of models. Goes—it goes back to my example of it being an ecosystem. It's not a one-person job to fill all of those gaps who did get here that way. So, it's critical that we expand the

amount of ASL support that's given to a child such as that and continued to teach-- also continued to teach the curriculum, that he has a right to be exposed to English, to written literacy. These things also have to be part of his reality and his curriculum exposure. Children who have been language deprived sometimes they need additional support. A colleague of mine, Joanne Weber, who has done research at the University of Alberta worked with deaf teenagers who arrived at high school with very minimum language--minimal language, sorry. The interpreter there. And so, she used arts-based curriculum in order to support their language learning. And she holds the Canada Research chair. So, she worked with deaf educators and the deaf community to build a program that could support these young adults' learning. So, I think in a case such as Carter, we need to also look at what other supports need to be brought in for a child of his age. So, my—the clear answer is yes, you will need more supports for a child who has been language deprived, who

has not had the resources available and doesn't have a language foundation than you would for an 11-year-old deaf person who has a full foundation in language.

Q. Yes. Dr. Snoddon, those are all the questions I have for you. I'm thankful here for your participation, I mean, not only as I am thankful for the participation of, you know, every expert in any case, but I'm especially aware of the tendency for individuals who belong to, you know, minority communities or historically disadvantaged communities are expected to do, you know, some additional social work to educate individuals who aren't part of that community such as, you know, your—the hearing lawyers and the hearing adjudicator. So, I thank you for all the extra work that you've done to bring this information to us and you may have some questions from my friend and the adjudicator as well. Thank you.

ADJUDICATOR:

Q. First, I'll ask Mr. Penney if he has questions he'd like to ask.

DR. KRISTIN SNODDON, CROSS-EXAMINATION BY MR. STEPHEN PENNEY VIA ASL TRANSLATOR

MR. PENNEY:

Q. I have a few short questions, Dr. Snoddon. Do the interpreters need a break?

A. I think everyone is all right. I think we'll continue unless the other interpreters—any of the interpreters say otherwise. I believe we're all right.

Q. Thank you. And thank you for your presentation, Dr. Snoddon. It was really interesting and informative. I just have a few sort of clarification points that I want to explore with you. At Page 6, point 9, of your report. And you talk about the advantages and disadvantages of inclusive education. And I think I'm not going to in this questioning suggest to you that the ASL classroom is not better than the other, what happened in kindergarten to three, but I did have a couple of questions about the second sentence. You say, "However, if inclusive education is defined as placement in a regular school, there are advantages to attending schools in the communities where

learners live." So, by that, so you mean, you know, there are benefits to being able to walk to school, seeing the same kids in school that you see in their neighbourhood?

A. Thank you for asking that. For—that question for me was a little unusual when you're asking me what are the pros and cons of inclusion. I wanted to ask, what was the definition of "inclusion" that was being used? So, if we looked at the World Federation of the Deaf's broad understanding of inclusion versus physical placement which might be what the Newfoundland de facto understanding of inclusion is, then my answer would vary depending on that. So, absolutely, it's very common to hear that inclusion should be in a school that is close to a child's home. And certainly, I'm not disputing that it's good—not good to be close to your family and that it's nice to have a school in your neighbourhood. I'm not disputing that. However, for the deaf child, it is worth the extra journey if it means that the school they attend becomes a home for them in terms of an educational

site where they have friends they can communicate with, where they have peers, where they have teachers they can have direct contact—communication with because they—the fact that they physically have children near them at home does not mean that they interact well with them. So, those peers who may be a bit further away from their local school may actually become meaningful peers that they develop relationships with. So, one has to couch that around "what's the definition?"

Q. Okay. Thank you. At page 7, point 11, the second last sentence you say, "At the same time, there are few supports available to these children aside from FM systems and cochlear implants." I think you would agree with me that DHH itinerant teachers, deaf student assistants and educational interpreters would also be supports?

A. Yes, but again, I'm going to go back to the documents that I have been given. The itinerant teacher model is inadequate and it was inadequate for children such as Carter when the—even when there were additional

hours added, but the—also, the student assistants at times were not appropriate for Carter. So, if we focus on—you know, yes, there's primarily, if we're looking at systems such as FM systems and cochlear implants as the first sort of—the first option to be offered to folks and if these other options and supports are either withheld or come much further down the road of the child's educational journey, it becomes problematic. And sorry, and certainly I want to be clear that Newfoundland is not alone in that as being a reality. My own observation is from when the School for the Deaf closed in 2010 and also from the documents that I've seen from the itinerant teachers themselves who were very clear in identifying the gaps in the system themselves that the schools, the district, the board, the Department of Education didn't seem to be ready for these children to enter school if they were ASL students or in need of ASL support.

Q. And I had a couple of questions on your point 13 which is at page 8 of your report.

And you talk about, you know, that the ASL immersion classroom with deaf staff and teachers who receive ongoing support could be a good long-term investment. I think that's your ultimate conclusion?

A. Sorry, would you mind repeating that? I'm –

Q. Sure.

A. I didn't catch that.

Q. I'll give you the full sentence.

A. Because I was looking down. So, I didn't catch all of what the interviewer said.

Q. Sure. Point 13, the third sentence, you say, "However, if resources were invested in constructing an ASL immersion classroom with deaf staff, language support workers and teachers who receive ongoing support and training in ASL and bilingual pedagogy, this may be a long-term investment for the wellbeing and inclusion of deaf children in Newfoundland and Labrador."

A. Correct.

Q. And I think you also said in your testimony that really you need teachers with—who are either native ASL signers or close to it?

A. Yes.

Q. So, my question is what if you can't find those people? What do you do?

A. I'm trying to frame my response to that. I—from my own experience, deaf people are very practical. They're able to see the problem, strategize and come up with solutions. So, maybe you need to advertise internationally. Maybe that is one step. Maybe you need to reach out versus simply posting a position. Maybe you can bring people in on a one-year contract to offer support. I do believe that there are people who are born and raised in Newfoundland who became teachers of the deaf. Jonathan, I can't remember his last name, but he moved to BC. He's a teacher of the deaf in British Columbia. He's from here. So, to say there's nobody, we—I think it means active recruitment, bringing in outsiders to train while you build up capacity. So, there are possibilities of building that kind of capacity. As I said, there are deaf people right in this city that you could train. While you're also investing resources into these types of programs, you're investing

resources in the deaf community to bring them up, educationally to be—to fill those positions. In the 1980s and 1990s in Sweden, they established a bilingual system of education for deaf children and there were not enough deaf teachers that were qualified and they didn't have enough qualified hearing teachers in terms of language competency. So, they brought deaf and hearing people together, they trained the deaf people to get them licenced, certified as teachers. At the same time, working with those already certified as teachers to upgrade their language capacity. So, this is, as I said, a long-term investment. One—it's not a simple "one" fix, but there are ways to work in collaboration to build these resources. Sometimes I think the system unnecessarily limits things, and so, they feel it's so important to follow what's already in policy and it—that overshadows and overrides what is for the general good and what could be a more holistic objective for education. And overshadows what is actually possible by

looking at what is restrictively current.

Q. Okay. Thank you. Those are my questions.

DR. KRISTIN SNODDEN, CROSS-EXAMINATION BY ADJUDICATOR BRODIE GALLANT VIA ASL TRANSLATOR

ADJUDICATOR:

Q. I have a number of questions that I'd like to ask that are—maybe fall into the category of background or extra information. Dr. MacDougall's report, you know, he talks controversies in different approaches and I've heard evidence through the course of this hearing that when Carter was just a baby, you know, decisions were made as to whether or not he would have a cochlear implant, whether that approach would be taken, whether he would learn sign language. A very—you know, a lot of seemingly—you know with the benefit of hindsight, very important decisions were made very early on, and I want to have more context for those types of things. So, for example, in Canada, in other provinces, is that a common approach where when the child is born and testing reveals that they have hearing loss in the profound range, that parents are

presented with almost watertight compartments? You can go the cochlear implant route and our goal will be to put in place supports and services so that the child will access sound and that they will become an oral communicator. And the other watertight compartment is we'll pursue the introduction of ASL as a first language. And these are two separate paths; trains going down different tracks. Is that how it's presented to parents?

A. Sometimes. I think that number one, the issue of cochlear implants are automatically suggested to parents everywhere in the Western World, in every country. There's— and many countries that are not a part of the Western World. It is an automatic suggestion as soon as the child is found to be deaf, and that if one accepts the cochlear implant, then it is automatically required to have auditory verbal training, AVT. The AVT philosophy is one that prohibits the use of any type of visual communication. They believe that sign language will impede the ability to use

residual hearing and spoken language which is not evidence-based whatsoever. It's a philosophical belief; it's not an evidence-based reality. And that becomes, unfortunately, paramount in the suggestion and is prevalent in many countries. Sometimes, however, hospitals have a cochlear implant team and the AVT team within a hospital which tend to work very closely together. If--when the parent agrees that they will commit to AVT and will not learn sign language, they go down that path. It depends on the jurisdiction, the province and the country of course. There are some differences, but that is the underlying reality. So, sign language, unfortunately, becomes a last resort after failure within this cochlear implant spoken-listening trajectory, and yet, evidence and research has shown that if both languages are given to the child at the very beginning, it's beneficial because cochlear implants are not successful for all children. It's not a given that it will work with every deaf child and they are not

a panacea for all things to do with deafness. There are many children that have almost no benefit from cochlear implants. There are some children who do develop an awareness of environmental sounds. They may not find them useful to speak. They'll never use spoken language, speak on a telephone, for example, and then there are those who are able to quite successfully use that technology. My own personal philosophy is that all of those children, all of those groups would still benefit from having learned ASL. In an inclusive—from an inclusive perspective and framework, it's a human right for deaf people to be provided with a visual language as well. There is—it shouldn't preclude the exposure to ASL simply because one chooses to also go with a cochlear implant and that is in keeping with the CRPD Article 24.

Q. You said that the cochlear implants are not successful for all children. If it is successful, can you give me a sense of what does that outcome look like for success from a cochlear implant?

A. I don't do a lot of research on successes of cochlear implants, but there are children who are implanted and do acquire spoken language and some children who can almost pass as hearing because that's the goal of AVT is that the child presents as a hearing child that is what they would appear as, but if I can back up a little bit because I don't think I fully covered my opening point. When you look at all of these different children and what does success mean with a cochlear implant? I would say first of all, right from the—from birth, if they are given all options, including sign language and cochlear implants, then you reduce dramatically the possibility of language deprivation and increases dramatically the fact that language acquisition is going to be a reality for the child. So, that if the implant does not—is not effective, you have already got a foundation. It doesn't become a "this or that" that you—it's not a fall-back-on. It already exists for the child. Yeah.

Q. So, by introducing ASL at an early stage,

you're assuring the child has access to a language? Whereas, the cochlear implant "may" give the child an access to a language?

A. That's correct. It—really, if the child is given both options, research has shown that they—actually, children benefit more if they've also been given access to sign language. And parents of deaf children who have had children implanted, they found that they actually excel in spoken language to a far greater degree than children who come from hearing parents who are implanted because those children from deaf parents already have a language from birth. And so, they are not trying to acquire language through possibly some—the use of a cochlear implant is not like—does not restore perfect hearing. So, they aren't acquiring language. So, they are trying to acquire spoken language, but they're getting incomplete language input. So those children from deaf families--sorry, the interpreter has to catch up. Those children from deaf families who already have language

can then use that foundation to assist with the input they're getting in spoken language.

Q. And then we have a child like Carter who, although you know--the complaint that's before me is not about that time period, you know, pre-kindergarten, but he arrives at kindergarten and it's a little unclear to me what level of—at that stage, it appears as though he didn't have a language and where, you know, he'd been deprived language for a number of years at this point and we're—but we've been following the AVT and total communication approach where we're, I guess, presenting him with all options, was the theory. Are there approaches in other provinces that are specifically put in place to address those with severe language delays or deprivation when they're starting kindergarten?

A. Yes. Well, let me just back up because the report that I submitted, didn't deal with zero to five because this case wasn't focusing on those early childhood years, but I do want to comment about—I cannot say if

Carter entered Grade—entered kindergarten with—that if all of those options had been on the table for him. I don't believe so. I don't believe there's ASL deaf mentorship programs, home visiting programs. There were, I believe when the Nova Scotia (sic.) School for the Deaf existed, but I don't believe he was provided with those sign language options as an early intervention. I believe if he had, we may be in a better position than we are right now.

Q. The early –

A. But when the Newfoundland School for the Deaf closed, I believe those services were withdrawn.

Q. My understanding of the evidence, and I'll ask counsel to jump in if I'm misrepresenting what the evidence has been so far, but it's my understanding that in the pre-kindergarten years, Carter and all in the St. John's area, those children who had profound hearing loss would have been assigned to a deaf and hard-of-hearing itinerant teacher caseload and he received an amount, whether it was sufficient or not

is debatable, but he received an amount of ASL instruction from a deaf and hard-of-hearing itinerant teacher, that at one point, that stopped and he was put on an AVT caseload. And then, through the advocacy of his parents, he was again able to access the DHH services, but nevertheless, he has still arrived in the school system with language deprivation?

A. And I think, I believe you're right. I do remember reading some of the documents that reflect what you were saying. So, it—I believe that I did see some of that in the reports that I was given, but that early contact with the DHH itinerant teacher may not have been what I'm considering ASL services because that would be services provided by a deaf adult fluent in the language who could teach the child and family ASL, offer supports to the parents in their acquisition of sign language. So, I would say that's different than what a DHH itinerant teacher that you may be speaking of would--would be their role. But I do have actually a second comment in terms of

your question about other provinces and what happens with children who arrive school-aged without language. I would say that a deaf child who gets--comes into any school system there is always a possibility that they will be language delayed or language deprived. Even when the schools for the deaf were in their heyday, they expected deaf children would arrive at school without complete language unless the child came from parents who were deaf. So, that was something expected and they were ready for those children coming in.

MR. REES:

Q. Adjudicator, you asked me to jump in if on any of those—and this is not for the witness as much as just to direct you to some of the evidence on these two subject areas. I think Kim Churchill in her affidavit would assert that, you know, as of by the time Carter is two years old, they had determined that ASL was going to be the route to go. At the very least, I know MacDougall acknowledges that in his report, you know, by three years old, ASL is chosen as the

route for Carter Churchill, and the affidavit of Cathy Lawlor who is the--who is seeing him before school starts, speaks to her ability to offer those services before and during school. And again, the determination of whether or not that's sufficient is up to you, but that evidence you'll get from Cathy Lawlor's affidavit. And Carter—oh, sorry. Kim is telling me it's one year old, they had determined that the cochlear implants weren't going to work. I mean, I think Dr. MacDougall indicates three years old, but in any case, before school started, you know, it's very clear that ASL is the chosen communication route.

ADJUDICATOR:

Q. Thank you. So, I guess just to go back to that, the question about different provinces. Are there specific things that they are doing in other provinces to address severe language deprivation in children?

A. Across Canada there will—you'll see variations from province to province. Most of my work and knowledge was—is within my home province of Ontario. However, at the

provincial schools for the deaf in Ontario, children still do come in from mainstream programs that are language delayed or deprived and they do work on filling those gaps. So, they do have programs. They're ready to deal with those children, and some of those children come into a school for the deaf at the same age as Carter is now and the schools for the deaf deal with those children as best they can. Some have curriculum that is more extensive; some begin with very simplified curriculum for these children while they focus on language acquisition in filling those gaps. So, I wouldn't say there's a specific program that's designed for that, but the reality is that from province to province the approach may vary.

Q. I've heard a number of witnesses talk about the benefits of incidental learning and a student like Carter having the time with other deaf peers. What about in a more rural or remote setting where deaf peers may be too far to travel in a day to attend school together? What's next best if he

can't be with his deaf peers?

A. Thank you for that question. When we're looking at rural areas, I think that there are a number of possibilities that one can look at. Yes, sometimes it does mean a journey to a school for the deaf which is further from home or sometimes you may want to employ things such as Zoom technology. Especially, for example in Northern Ontario or other provinces with children in remote northern regions or remote regions of any—of a given province, there might be the option that some learning is done within the mainstream school, but the option for the child to perhaps come to congregate classes for certain periods of time so that there's still some of that exposure, you would have to build in programs specific to those needs. But remember, Canada, I mean has been rural for a long time and we've always had schools for the deaf and people in Newfoundland went to—went all the way across the country to Montreal to the MacKay School for the Deaf or to Amherst School in Nova Scotia when there was nothing in

Newfoundland. The school was quite late in opening; the 1960s that Newfoundland opened their school for the deaf. So, those children travelled great distances prior to.

Q. And this is one of the reasons why we have experts testify, is to give context that we may not have on our own. Going back to my hypothetical question, if you did have that child who is in a more remote setting, what supports or what approach to giving that child access to language where they are would have to be put in place?

A. I would say that you would have a deaf teacher, itinerant teacher who is deaf, be sent to that remote area to provide support. I don't mean that they would be there day in and day out, but that they—that would be part of their responsibility to travel to those children. They may have to build resources, appropriate supports within the local community surrounding the child, and maybe the government would need to support having the family move closer to an urban area if that was what was needed so that the child could assess a meaningful education.

But there are technologies that are now in place that could be used so that they're—such as Zoom and so on, to provide added support.

Q. And I do realize that I'm pushing you to explore options that are not your recommended or preferred approach. I do see that I'm pushing beyond what you would recommend in your expert report, but I'm curious. If I'm the administrator of a school board that doesn't exist and I have only one deaf student, what are my priorities in putting in place—and this deaf student has a language deprivation, what are my priorities to be to enable that student to get to the point where they can access the curriculum? What do I need to do?

A. And just speaking in the Province of Newfoundland?

Q. Yes.

A. Okay. Perhaps a language acquisition support worker which is, I believe, a new title that's been used by APSEA, that might be a recommendation that the school hire such an individual to fill that role, so

that at least they would be able to provide additional support to information, to maybe work with other students. So, setting structure so other students begin to learn the language as well. So, I believe that would be your first step.

Q. I'm going to give counsel an opportunity to ask follow-up questions on what I've been digging into. I appreciate you indulging me and going well beyond what your recommendations are. I am interested in getting that background and I appreciate you helping me with it.

A. Thank you.

MR. REES:

Q. Yes. Now, let's ask her to solve Muskrat Falls, shall we? I don't have anything arising.

ADJUDICATOR:

Q. So, if there are no further questions, then Dr. Snoddon, you are free to step down from the witness table and you can watch the proceedings from this point forward or you can go home. It's up to yourself, and we don't have any further witnesses scheduled

for this afternoon. And so, we will adjourn until tomorrow morning, 9:00 a.m.

REPORTER:

Q. Thank you. We are off the record.

Upon conclusion at 4:17 p.m.

CERTIFICATE

I, Elizabeth Quigley, hereby certify that the foregoing is a true and correct transcript of Newfoundland and Labrador Human Rights hearing held on the 1st day of September, 2022, at the Holiday Inn, St. John's, Newfoundland and Labrador and was transcribed by me to the best of my ability by the means of a sound apparatus.

Dated at Conception Bay South, Newfoundland and Labrador this 13th day of September, 2022

Elizabeth Quigley
DISCOVERIES UNLIMITED INC.