

TABLE OF CONTENTS

September 2, 2022

MS. BONNIE WOODLAND – SWORN

Cross-Examination by Mr. Kyle Rees.....	Pgs. 001 – 022
Cross-Examination by the Adjudicator	Pgs. 022 – 028
Cross-Examination by Mr. Kyle Rees (Cont'd).....	Pgs. 028 – 048
Cross-Examination by the Adjudicator	Pgs. 048 – 059
Cross-Examination by Mr. Kyle Rees (Cont'd).....	Pgs. 059 – 181
Cross-Examination by the Adjudicator	Pgs. 181 – 184
Cross-Examination by Mr. Kyle Rees (Cont'd).....	Pgs. 184 – 200
Cross-Examination by the Adjudicator	Pgs. 200 – 220

MS. ELIZABETH CHURCHILL – SWORN

Cross-Examination by Mr. Kyle Rees.....	Pgs. 220 – 259
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Certificate

September 2, 2022

1 ADJUDICATOR:

2 Q. Good morning, everyone. We're now on day
3 five of our—well, this portion of our
4 inquiry, and I believe for today we have our
5 first scheduled witness, Bonnie Woodland.
6 Ms. Woodland, before we get started with
7 your evidence, would you prefer to swear an
8 oath on the Bible to tell the truth or—an
9 oath? Okay.

10 MS. BONNIE WOODLAND, (SWORN) CROSS-EXAMINATION BY MR.

11 KYLE REES

12 REPORTER:

13 Q. And for the record, can you state your
14 complete name, please?

15 A. Bonnie Woodland.

16 Q. Thank you. Ms. Woodland has been sworn.

17 ADJUDICATOR:

18 Q. Thank you very much, so, Ms. Woodland, I
19 understand that Mr. Rees is going to have a
20 series of questions for you. Mr. Penney may
21 have some follow-up questions as well, and I
22 may have some questions. Sometimes it seems
23 I jump in for clarification, and I may save
24 some for the end, or I may have no
25 questions, but we'll start with Mr. Rees.

September 2, 2022

1 A. Thank you.

2 MR. REES:

3 Q. Good morning, Ms. Woodland. I'm Kyle Rees.
4 I'm the lawyer for the Churchills who are
5 sat to either side of me. I think you
6 would've met them before.

7 A. Yes.

8 Q. I'll have a series of questions for you.
9 We've got three hours scheduled for you.

10 A. Uh-hm.

11 Q. I anticipate being closer to two hours, but
12 I suppose we'll see as we move along.

13 A. Sure.

14 Q. I have your affidavit, so thank you for
15 providing that, and I understand that that's
16 right there in front of you, your affidavit.

17 A. Yes, it is.

18 Q. So, we'll be referring to that from time to
19 time.

20 A. Sure.

21 Q. We're also going to be referring to several
22 documents; and as you can see, you're sort
23 of surrounded by documents.

24 A. Uh-hm.

25 Q. So, I'll point you to the right one at the

September 2, 2022

1 time, and, you know, we'll all take some
2 time to get to the right document before I
3 ask you questions about those things. When
4 I'm done asking you questions, Steve Penney,
5 counsel for the school district, who I'm
6 sure you've met, will have questions for you
7 as maybe adjudicator. Given that we've got
8 a longer block of time scheduled for you
9 this morning, in the event that, you know,
10 you need a break to grab a drink or just to
11 sort of sit and zone out for a little while,
12 need to do that, let me know, and if any of
13 the questions I'm asking are unclear or if
14 you don't quite hear it, let me know that as
15 well, and I certainly don't mind repeating
16 questions and clarifying for you, okay?

17 A. Yes. If I need to just jot down a note to
18 myself, I will use this pad and—if that's
19 okay?

20 Q. Okay, no problem, and you're -

21 A. When you're asking me a question.

22 Q. Okay, you're taking those notes to keep
23 track of my questions, is that -

24 A. Yes.

25 Q. Okay, yes, no problem. Ms. Woodland, I was

September 2, 2022

- 1 informed this morning that you've been
2 retired for about 48 hours?
- 3 A. A little less.
- 4 Q. A little less than that. Congratulations on
5 your retirement.
- 6 A. Thank you.
- 7 Q. Prior to your retirement I understand you
8 were the Director of Student Services for
9 the Avalon Region, is that your title?
- 10 A. No. I was the Director of Student Services
11 up until 2019-'20. At which point I became
12 the Director of Programs for Multicultural
13 Education.
- 14 Q. And was that a newer program?
- 15 A. That came out of the Premier's Task Force,
16 yes. It was a recommendation from the
17 Premier's Task Force in response to
18 programming needs.
- 19 Q. Okay, so most of the questions that I'm
20 going to be asking you about are questions
21 that take place, you know, from the time
22 period, say, 2016 until 2020.
- 23 A. Of course.
- 24 Q. So, during that time period you—what's your
25 title there?

September 2, 2022

- 1 A. Originally, it was Senior Education Officer,
2 and then—changed the name only to Director
3 of Student Services, Eastern Region.
- 4 Q. Okay. What was the role of a—I’ve been
5 saying Avalon, but Eastern Region is the
6 correct terminology.
- 7 A. It changed, I think, as the five districts
8 merged in 2013-’14 perhaps, and it’s
9 referred to as Eastern Region, I believe
10 now, or Avalon, and your question, what was
11 my role?
- 12 Q. Yes, what were your job duties in that role?
- 13 A. Okay, well, again, my jurisdiction was in
14 the Avalon Eastern Region. Initially, that
15 included, say, from Bonavista, Marystown and
16 the—everything, all the schools on the
17 Avalon Peninsula. It included being the
18 manager, I guess, of Student Services for—at
19 that point initially there was a hundred-
20 and-something schools, the Avalon Region is
21 the largest population, of course, in the
22 province. That was subsequently, I think,
23 reduced to 92, and I had about 60
24 specialists representing the 10 or 11
25 exceptionalities that are identified by the

September 2, 2022

1 Department of Education. In addition to
2 that, our division was also involved in
3 reviewing and making recommendations for
4 staffing for instructional resource
5 teachers, instructional resource teachers
6 who were involved with pervasive needs and
7 other itinerants, educational psychologists,
8 autism itinerants. There was a group of 10
9 or 11 identified, you know, attached to each
10 of the exceptionalities that we worked with.

11 Q. And one of the exceptionalities would've
12 been deafness.

13 A. Deaf and hard of hearing. And we also had
14 itinerants in Student Services as well as
15 program specialists who worked directly with
16 me in helping to work with the schools, the
17 children and be a liaison to the district.

18 Q. And one of the schools in the region for
19 which you were responsible was Beachy Cove
20 Elementary?

21 A. Yes, it was.

22 Q. And also Eastpoint Elementary.

23 A. During my tenure it was Virginia Park.

24 Q. So, they changed the name, is that what
25 you're -

September 2, 2022

- 1 A. When the brand-new school was built, yeah.
- 2 Q. Okay.
- 3 A. Uh-hm.
- 4 Q. Right, I understand. You don't have any
5 formal qualifications or education regarding
6 teaching the deaf or qualifications in
7 American Sign Language, do you?
- 8 A. No, but I have a Master's of Education in
9 Guidance and Counselling from the University
10 of New Brunswick. I also have a Bachelor of
11 Education and a Bachelor of Science. My
12 methods was in secondary, and I have
13 experience in—over a decade at district
14 office in the Student Services office in
15 addition to working as a Special Education
16 teacher and an itinerant in the school
17 system where I worked with students with all
18 exceptionalities, and over a decade at the
19 district office as both an itinerant working
20 with almost all the schools directly and
21 then as a manager for the last—for the final
22 six years that I was working there.
- 23 Q. Did any of the coursework that you've taken,
24 you know, over the course of any of
25 education have a focus on the needs of deaf

September 2, 2022

1 children including American Sign Language?

2 A. No, but I have been very involved both as a
3 teacher and as an itinerant, director,
4 senior education officer in continuing
5 professional learning, readings, reading up-
6 to-date reports as they were presented to me
7 to be as familiar as I could be personally,
8 recognizing that that is why we have program
9 specialists that work with the district.

10 So, for example, we ensure that our team was
11 very diverse in that we would have program
12 specialists with a background in educational
13 psychology, for example, in communications,
14 speech language pathologists, guidance
15 counsellors and so on, but we did advertise
16 for a deaf and hard of hearing—when we
17 advertised for a program specialist with the
18 district in 2015, but we didn't get any
19 candidates applying, but at that point in
20 time -

21 Q. That position didn't get filled.

22 A. Oh yes, it got filled with Ms. Kim Lawlor,
23 who's a speech language pathologist, and our
24 speech language pathologists, as I'm sure
25 you know, are intimately working with

September 2, 2022

1 speech, language development. They work
2 within that professional community and are
3 considered specialists in communication.

4 Q. A couple of things there that I want to
5 follow up on. It sounds to me like you
6 took—you know, you took a special interest
7 in deaf issues. You indicated that, you
8 know, you would read reports and information
9 that became available to you to assist you
10 in doing your job, is that right?

11 A. Yes.

12 Q. We're going to talk about some of those
13 reports that you would've read and what you
14 did as a result of those reports later on.
15 I think for now I just want to clarify
16 because I think you indicated that you
17 hadn't done any courses in American Sign
18 Language, so what would be your
19 understanding and level of knowledge about
20 American Sign Language, including things
21 like, you know, syntax, grammar, signs, the
22 difference between sign as exact English and
23 ASL? Like, were those things that you had
24 an understanding of?

25 A. I would say I have a basic understanding of

September 2, 2022

1 the difference between sign language as
2 someone who is a natural signer and then
3 someone—a hearing person who is signing at a
4 high proficiency level, but that, as well,
5 was a journey for me. I didn't come to the
6 position necessarily with that
7 understanding, but in providing supports and
8 discussions with our program specialists and
9 others, that was an expected and important
10 part of the role in—you know, in the role
11 that I had.

12 Q. Right, because there was no one in the role,
13 you know, with you, or there was nobody who
14 was your superior within the school district
15 who would've had that knowledge, right?

16 A. I can't say.

17 Q. Yes, I mean, I guess what I'm asking you is
18 there was no one at the school district or
19 no one who was your superior at the school
20 district, you know, who was approaching deaf
21 education with prior knowledge, to your
22 understanding?

23 A. Well, our program specialists certainly have
24 knowledge of that, but, Mr. Rees -

25 Q. And they would report to you, right, the

September 2, 2022

1 program specialists?

2 A. Yes, it was a very collaborative approach.
3 Also, Mr. Rees, we also collaborated and
4 communicated with the Department of
5 Education and the program consultants and
6 specialists there, and they provided
7 direction and guidance around programming
8 and approaches to programming—and that we
9 have the department which sets those
10 guidelines, as you know, and direction, and
11 then the district, which we—I—you know, we
12 implement at our discretion the guidance
13 that we are provided, so we do not set—at
14 least at that point in time, and even now,
15 set that overall guidance that comes from
16 the Department of Education, and they had
17 qualified people there who were directing,
18 communicating with us on a regular basis.

19 Q. Yes, and I'm going to ask you some questions

20 -

21 ADJUDICATOR:

22 Q. Mr. Rees, sorry to interrupt you so early on
23 in the questioning, but you asked a question
24 earlier, and I wonder if I can get a
25 clarification because I think you asked Ms.

September 2, 2022

1 Woodland if she had an understanding—asked
2 about her understanding of ASL, and I think
3 you asked whether she was aware of the
4 distinction between ASL and assigned English
5 word order. Do you know what that means?

6 A. Yes, I do. So, assigned word order would
7 be—wouldn't be considered speaking fluently
8 in the ASL language, which includes phrasing
9 like in any language, and particularly
10 gestures, communication using that approach,
11 whereas assigned English would be more of a
12 word-by-word or even letter spelling of
13 certain words, so it wouldn't be speaking in
14 a fluent language per se. That's my
15 interpretation.

16 Q. Thank you.

17 MR. REES:

18 Q. And this is your level of knowledge now.
19 Was that also your level of knowledge, you
20 know, while you were filling this role in
21 2016, 2017, or was it something you learned
22 later?

23 A. No, it didn't come later, but I would say
24 very early on in that role, and it's often
25 like teachers who are working in the school

September 2, 2022

1 system. The first time they work with a
2 student—and I'm speaking of Special
3 Education teachers. The first time, while
4 they may have training and background, say,
5 in working with a student with autism, for
6 example, then they will learn a lot more
7 about that individual needs and that
8 exceptionality and so on and will, you know,
9 build their capacity in that regard, so when
10 I started, again we had 11 different
11 exceptionalities. I would say what I
12 brought to the role was the practical
13 experience, my professional education, and I
14 would be more of a generalist, being able to
15 access information as I needed to.

16 Q. Understood. Okay, we're going to look at
17 our first document, so over on your left-
18 hand side there are a pile of volumes with
19 coloured tabs. There you go. Look at
20 Volume 1, and if you turn to Tab L as in
21 Lima—I'm always happy to have a chance to
22 use my phonetic alphabet skills. I
23 understand this letter is from eight years
24 ago, so your memory of this letter may be
25 somewhat limited; but on a quick review of

September 2, 2022

1 it, I understand it's a letter that's
2 addressed to you. Once you've had a chance
3 to look at it and recall your memory, tell
4 me about what the purpose of this letter
5 was.

6 A. Okay, I'd just like to have a minute just to
7 read through it.

8 Q. No problem.

9 A. Okay.

10 Q. I'd like to direct your attention to the
11 last paragraph. I mean, just generally,
12 this letter is being written to you by Susan
13 Lawlor who's an audiologist at Eastern
14 Health as part of the team that assisted
15 with Carter's cochlear implant, and she
16 concludes this letter, which, you know,
17 should be noted is written two years before
18 Carter starts school—and the concluding
19 paragraph of the letter says as follows.
20 "In writing this letter, it is my hope that
21 the Department of Education will provide
22 support to Carter to facilitate his
23 expressive language development, which has
24 shown the most growth thus far through early
25 sign language. This is a service for

September 2, 2022

1 children that is currently lacking. It is
2 important that all children with hearing
3 loss have supports made available to them to
4 facilitate language development, and we
5 cannot disregard the fact that a need for
6 sign language support will arise. For
7 Carter, we propose that this support may be
8 provided by an itinerant teacher who has the
9 background and knowledge to provide such a
10 support. As early intervention is key for
11 language development, I hope that you will
12 consider this request favourably for this
13 child and his family." So, these letters,
14 as I indicated, are written to you more than
15 two years before Carter Churchill enters the
16 school system.

17 A. "These letters?" This letter.

18 Q. This letter, yes. There's a second letter
19 I'll talk about in a moment. What did you
20 do as a result of receiving this letter to
21 ensure that the concerns identified in this
22 letter were addressed?

23 A. This letter was brought to my attention
24 again recently by our counsel at the school
25 district. It was not in my Carter Churchill

September 2, 2022

1 file, so in my file on—that I subsequently
2 developed on Carter Churchill at that point
3 in time back in 2013-'14, I believe—okay,
4 '13-'14, March of 2014. Certainly, it isn't
5 or wasn't in my current files. I -

6 Q. And what are you implying, that this letter
7 never reached you?

8 A. Oh no, it reached me, and I—and as soon as I
9 saw it I remembered it because of the fact
10 that it arrived in what we would refer to as
11 snail mail, which was very unusual at that
12 point in time to receive a letter per se, so
13 I did receive this letter. Subsequently—and
14 I would have interpreted this letter as it
15 says, that we have a child who will be
16 coming to Kindergarten with cochlear
17 implants but will also, you know, be
18 accessing American Sign Language and will be
19 provided by an itinerant for the deaf and
20 hard of hearing.

21 Q. If I can interrupt you, not that he will
22 also be using American Sign Language, but
23 that his area for communication will be
24 American Sign Language. I mean, it's not
25 ambiguous. You didn't think that he was

September 2, 2022

1 going to be hearing and American Sign
2 Language was secondary, did you?

3 A. Sorry, could you repeat the question?

4 Q. Yes. You just said, you know, he'll "also
5 be using American Sign Language." It's
6 clear from this letter, right, that Carter
7 Churchill is going to be communicating in
8 ASL, right?

9 ADJUDICATOR:

10 Q. I think she should be able to answer as to
11 what her understanding was first, and then
12 you can ask her whether—you know, you can
13 confront her with other facts, but she was
14 in the middle of giving an answer, so what
15 was your understanding when you received the
16 letter?

17 A. Well, this letter came from the cochlear
18 implant team, so my understanding would have
19 been that Carter certainly had cochlear
20 implants and that in addition to cochlear
21 implants to assist with his receptive
22 language that American Sign Language—there
23 would be a need for sign language support,
24 and so—and that support would be provided by
25 an itinerant for the deaf and hard of

September 2, 2022

1 hearing. That was my understanding at the
2 time. That was the service that we provided
3 along with—there was service for the
4 cochlear implant and training around that by
5 the auditory verbal therapists, and our deaf
6 and hard of hearing itinerants were
7 providing service—and at that time, and
8 maybe even still today, certainly we would
9 provide or—and I guess I'd like to speak
10 specifically about Carter because it was
11 always an individual decision around
12 programming. That's why we have an
13 individual Student Services support plan, an
14 Individual Education Plan. So, I would have
15 taken from this that there would be more
16 than one approach for Carter in learning—in
17 language development including sign
18 language. I think I would've interpreted it
19 that way and that it would "be provided by
20 an itinerant teacher who has the background
21 and knowledge to provide such a support."

22 MR. REES:

23 Q. I still didn't get the relevance of your
24 comments about how this letter wasn't in
25 your file and the relevance of the fact that

September 2, 2022

1 it arrived by letter mail, which you
2 indicated was unusual. Are you indicating
3 in some way that, like, this letter didn't
4 get brought to your attention in a timely
5 manner? Like, what was the purpose of
6 making those comments?

7 A. No, it-I-it came in, I would assume, shortly
8 after it was sent. What-the point I was
9 making was that when I-it's not currently in
10 my files. It didn't stay in my files.
11 Either it was in an overall deaf and hard of
12 hearing file that I may have had-and when I
13 say "files," I'm talking about paper files-
14 or I may have passed it on to a team member
15 at that point in time to-in order to be
16 ready for, you know, whatever programming,
17 but at that time I wouldn't have interpreted
18 this as anything above and beyond what we
19 were providing at that time.

20 Q. Okay, so when you receive this letter,
21 you're telling me your view-and you don't
22 exactly recall your view, but you sort of
23 reverse engineer and you'd say, "Look, my
24 view would've been-I would've received this
25 letter, and I would've felt that we were

September 2, 2022

1 already providing the things identified in
2 this letter as being required, so no
3 additional service required as a result of
4 this letter." Is that your view?

5 A. I would've—I would have thought—and passed
6 this on so that during the IEP meetings as
7 Carter got closer to school or maybe for the
8 deaf and hard of hearing itinerant teacher
9 who was providing support—that it was
10 important that we include American Sign
11 Language in his overall communication and
12 language development. That—I'm thinking
13 back, Mr. Rees, on—I'm trying to separate my
14 knowledge now and as everything has unfolded
15 over the years to what my understanding may
16 have been at that time, and I believe I
17 would've interpreted it that way.

18 Q. The letter indicates that the support, as in
19 the ASL support, would "be provided by an
20 itinerant teacher who has the background and
21 knowledge to provide such a support." What
22 would that have meant to you, "the
23 background and knowledge to provide such a
24 support?"

25 A. At that point in time, I would have—I

September 2, 2022

1 believed that our itinerants would've had
2 the background and knowledge to provide that
3 support as an itinerant.

4 Q. So, your belief would've been that there was
5 no additional training required for any of
6 your itinerants. They already had the
7 requisite skills to provide the support.

8 A. I think it's likely, but that if that had
9 come to my attention or someone asked or
10 said, "We need further training in ASL in
11 order to provide the support for this
12 particular child," then we would've acted on
13 that but -

14 Q. I'm going to ask about that later. The last
15 sentence I want to ask you about in this
16 letter is the last one. "As early
17 intervention is key for language
18 development, I hope that you will consider
19 this request favourably for this child and
20 his family." Did you ever at any point
21 around when you received this letter or,
22 indeed, since learn anything about letter
23 deprivation and the impact of being without
24 language during early childhood years?

25 A. I was aware of that through my training as a

September 2, 2022

1 teacher and a guidance counsellor, that
2 language development is important in the
3 very early years. I've read zero to two,
4 zero to three, but certainly the formative
5 years is an important piece of language
6 development, yes.

7 Q. The letter—I said it was the last sentence,
8 but it isn't because the letter ends,
9 "Should you have any questions regarding
10 this case, please feel free to contact me,"
11 and there's a phone number there for Susan
12 Lawlor.

13 A. Uh-hm.

14 Q. Did you contact Susan Lawlor?

15 A. I don't recall if we spoke or not, Mr. Rees.

16 MS. BONNIE WOODLAND, CROSS-EXAMINATION BY THE
17 ADJUDICATOR

18 ADJUDICATOR:

19 Q. Are you about to move on to another
20 document? Before you move on, I have some
21 questions about this document.

22 MR. REES:

23 Q. Okay, yes.

24 ADJUDICATOR:

25 Q. Your evidence a moment ago, I want to make

September 2, 2022

1 sure that I understand. You're saying that
2 you recall this letter because of the manner
3 in which it was received. It came by snail
4 mail.

5 A. I just want to clarify, Mr. Adjudicator. I
6 recall the letter when it was shared with me
7 by our counsel a short—a couple of months
8 ago, and that it didn't appear in my files
9 at any point that I—you know, the files that
10 I've produced, reviewed, kept on specific
11 children around what our plans were, so when
12 I say that, I meant that I recalled it when
13 I saw it when it was shared with me several
14 months ago, that I remembered then, so what
15 I'm talking about, what I would've—what I
16 did is what—I feel, because of my practices,
17 that's what I would have done. I would
18 have, you know, thought that this would've
19 included our deaf and hearing itinerants.

20 Q. So, this type of letter, is it one that you
21 would've seen routinely?

22 A. No. Well, I received this letter, and I
23 believe there was another one, again, shared
24 with me by our counsel a short time ago, and
25 they came, you know, in paper hard copies,

September 2, 2022

1 shall we say, and I don't believe I received
2 any mail since that time of this nature by
3 that, and that stuck with me at the time.

4 In fact, when she showed me that letter, I
5 remembered the letter, but I did not recall
6 that it was in relation to Carter Churchill.

7 Q. Okay, and you haven't received similar
8 letters, I think you said, since from, you
9 know, the Audiology Department in relation
10 to other children?

11 A. I may have received them. I can't say for
12 sure.

13 Q. I guess what I'm trying to understand is is
14 it ordinary practice that you would receive
15 letters in the mail from the Audiology
16 Department of Eastern Health in relation to
17 a particular child two years before they
18 would start school? Is that ordinary
19 process?

20 A. No, and in looking at the date, March 2014,
21 I don't believe we had our program
22 specialist hired at that point in time for
23 that year. I'm—that would be Ms. Kim
24 Lawlor, who took over the—she will be the
25 go-to person with audiology and anything

September 2, 2022

1 related to communication, so it wouldn't be
2 unusual that I wouldn't necessarily receive
3 any further communication, that they would
4 then go to her. I believe she was hired the
5 following year and so -

6 Q. And the letter—I want to understand. When
7 you're saying—I guess are you saying that it
8 was your understanding that this was giving
9 you an update as to the services that he was
10 receiving because it wasn't clear to me. Is
11 this asking you to do something, or is this
12 giving you an update on services he's
13 already receiving?

14 A. I felt it was mostly an update. I—you know,
15 I feel that it would've been mostly an
16 update on the services that he was receiving
17 and that—with a reference to sign language
18 because we had many children who were
19 working and learning their language through
20 cochlear implants, but that that was with
21 sign language. I wouldn't have, I don't
22 think, have been as clear to me that sign
23 language would be his first language. I
24 feel that, and I don't recall it. It's not—
25 I don't recall it specifically. I'm just

September 2, 2022

1 trying to put myself back into that
2 timeframe; and then reading the letter
3 subsequently, there's nothing that would've
4 stood out to me as I read it that this is
5 something that we can't provide. I was
6 under the understanding that certainly our
7 services and our itinerants would—and
8 through our IEP, Individual Education
9 Planning, that this come forward through the
10 processes that we would have in place if
11 there was any unusual or above what we were
12 providing support. That's how I feel I
13 would've interpreted this letter.

14 Q. So, this letter, what services did you
15 understand he was receiving at this point
16 when you received this letter?

17 A. Well, clearly, I believe he was—I would've
18 believed he was receiving the support of an
19 AVT, Audio Visual Therapist, for learning to
20 communicate with his cochlear implants, and
21 I would've understood that that is a part of
22 his receptive language learning and that for
23 expressive language learning I would have
24 understood that he would require—or that
25 there was a need for sign language support

September 2, 2022

1 as it would arise, and I would've
2 interpreted, I believe, that support is
3 something at that time that would meet his
4 needs.

5 Q. And who would be providing that support?

6 A. At that time I believe that itinerants or
7 our itinerants along with the AVT would be
8 providing those—not-AVT wouldn't be
9 providing anything around the expressive
10 language or sign language, but I would've
11 seen that as part of a support that we
12 would've provided perhaps with a wider reach
13 as well providing assistive technology,
14 speech language pathology report, but I
15 don't think I would've interpreted it as
16 this is the primary mode of communication
17 and first language of Carter. It's—you
18 know, in rereading it—and I'm—Mr.
19 Adjudicator, I'm thinking back as to what I
20 feel how I would have interpreted that at
21 the time. It seemed to be a—you know, yes,
22 it was talking about Carter, and it was
23 speaking about Carter, but it seemed to be—
24 "This is a service for children that is
25 currently lacking," it says. "It is

September 2, 2022

1 important that all children with hearing
2 loss have supports made available to them to
3 facilitate language development, and we
4 cannot disregard the fact that a need for
5 sign language support will arise." No, we
6 would not "disregard the fact that a need
7 for sign language support would arise."

8 Q. So, you wouldn't disregard it, but what did
9 you then do?

10 A. I think I would have provided this to our
11 itinerant perhaps at that time who was
12 supporting Beachy Cove and who may be part
13 of the IEP planning program. I don't recall
14 that I did anything above and beyond that.

15 Q. Okay, thank you. I'm sorry, Mr. Rees.

16 MS. BONNIE WOODLAND, EXAMINATION-IN-CHIEF BY MR. KYLE
17 REES (CONT'D)

18 MR. REES:

19 Q. No, no problem. I have several questions
20 arising out of the statements that you made.
21 Ms. Woodland, you've characterized this
22 letter—and correct me if I've
23 mischaracterized the way you've
24 characterized it—as, you know, a letter that
25 was being provided to you more for

September 2, 2022

- 1 informational purposes. My friend asked you
2 whether, you know, this was a letter asking
3 you to do something or was a letter
4 informing you, you know, of the status by
5 way of an update, and I understand your
6 evidence to be that it was more of the
7 second. It was more by way of an update or
8 informational. Am I correct in saying
9 that's what your view was?
- 10 A. I think that is correct, Mr. Rees.
- 11 Q. Are you familiar with the phrase, you know,
12 a call to action? You've heard this phrase
13 before?
- 14 A. Of course.
- 15 Q. And you know what that means, right?
- 16 A. Yes.
- 17 Q. It's saying, "We need you to do something,"
18 you know.
- 19 A. Right.
- 20 Q. "Friends, Romans, countrymen," right, call
21 to action.
- 22 A. Absolutely.
- 23 Q. Okay, you got some degree of an English
24 background, don't you?
- 25 A. Pardon me?

September 2, 2022

- 1 Q. You've got some degree of an English
2 background? What was your undergraduate?
3 A. Science.
4 Q. Science, okay. Well, you would've taken
5 English. Let's look at this last paragraph
6 and deconstruct this last paragraph here
7 because the first sentence there starts with
8 "In writing this letter"—so, they're about
9 to tell you why they're writing the letter;
10 they're about to let you in and tell you
11 what their purpose is in writing the letter—
12 "it is my hope that the Department of
13 Education"—and, of course, you're a school
14 district, but I would suggest they were
15 probably confused between the two entities;
16 that happens all the time—
17 A. Probably.
18 Q. —"will provide support to Carter to
19 facilitate his expressive language
20 development," and you've told me that was—in
21 answer to the adjudicator's questions, his
22 expressive language was sign language,
23 right, which is shown —
24 A. They don't state that specifically. It
25 doesn't say that Carter was nonverbal in

September 2, 2022

- 1 this letter. I mean, there were no
2 specifics around that, but that's -
- 3 Q. No, but you said -
- 4 A. Well -
- 5 Q. You said in answer to the adjudicator's
6 question that sign language was his
7 expressive language.
- 8 A. You know, I'm layering in knowledge that
9 I've gained over the last--well, for the
10 years that I was working on this file, but,
11 you know, maybe I misspoke on that because
12 it doesn't say that explicitly in this
13 letter.
- 14 Q. Okay, what did you think Carter's expressive
15 language was, spoken English?
- 16 A. (No audible response).
- 17 Q. I mean, it wasn't French. It wasn't
18 Spanish. It was either spoken English or
19 ASL. Which one did you think it was when
20 you read this letter?
- 21 A. Well, I didn't think it was French. I
22 didn't think it was Spanish. "A need for
23 sign language support will arise." I
24 would've felt that his expressive language
25 would include sign language but that maybe

September 2, 2022

1 there was some assistive technology that
2 would assist him in that, that this
3 approach, especially for Kindergarten
4 children to use all modalities to explore
5 their strengths, and I don't believe this
6 letter specifically states that—and maybe
7 I've missed it in my reread of it—
8 specifically states that Carter was
9 nonverbal. Does it?

10 Q. Let's keep talking about the call to action.

11 A. Sure.

12 Q. The second sentence says -

13 A. In the last paragraph?

14 Q. Yes, that's right. We just finished reading
15 the first one, and the second one says,
16 "This is a service for children that is
17 currently lacking," and it's important that
18 all children have this available, so there's
19 an identification by Susan Lawlor, an
20 audiologist who's writing you what you've
21 testified was a very unusual letter, and
22 she's telling you a service is currently
23 lacking. Did you believe that was purely
24 for information, you know, just so you know
25 the service is currently lacking, or did you

September 2, 2022

1 feel that was a call to action? If a
2 service like this was currently lacking, was
3 it part of your responsibility to address
4 it?

5 A. (No audible response).

6 Q. Or was she wrong? The service wasn't
7 currently lacking?

8 A. "Early sign language," I'm--again, I'm just
9 taking a moment to think how I may have
10 interpreted that at the time--"for children
11 that is currently lacking"--I would've agreed
12 "It is important that all children with
13 hearing loss have supports made available to
14 them to facilitate language development, and
15 that we cannot disregard the fact that a
16 need for sign language support will arise."
17 I think I would have felt that the holistic
18 approach that our DHH itinerants provided
19 was providing that--it says "sign language
20 support will arise." Like, I would've felt
21 that that was what we were providing. I
22 also may have thought that, as you
23 indicated, that this was a letter better
24 directed maybe--if there was a call to
25 action--and I didn't see it as a call to

September 2, 2022

- 1 action for me specifically—
- 2 Q. Is the letter addressed to anybody else?
- 3 A. —and that I felt our current processes and
- 4 IEP processes, ISSP, where these people
- 5 would be directly communicating with each
- 6 other would identify any service above and
- 7 beyond what we were able to provide through
- 8 our existing variety of services that we
- 9 could provide and which we did provide. I
- 10 believe that's how I would've interpreted
- 11 that.
- 12 Q. So, I'll suggest to you, then, that you did
- 13 nothing with this letter because you felt
- 14 that it was going to be addressed through
- 15 the ISSP process.
- 16 A. I can't say I did nothing with this letter,
- 17 Mr. Rees. I can say that it does not appear
- 18 in my files that I had at this time.
- 19 Q. I still don't get the relevance of that. I
- 20 think—so why is it —
- 21 A. Well, I think it would've been relevant for
- 22 me personally when in passing over a
- 23 portfolio to an itinerant or a program
- 24 specialist—or certainly when Carter started
- 25 Kindergarten, and Mr. and Mrs. Churchill

September 2, 2022

1 expressed their concern, which I'm sure
2 we'll get into, around the level of service
3 that he was receiving, so I did not
4 interpret that at that time as something
5 that we couldn't provide.

6 Q. I can't leave this alone because you keep
7 mentioning it. You indicated just now,
8 because this letter wasn't in your paper
9 file, it's possible that, what, when you
10 passed the file along to another service
11 provider it wouldn't have become part of the
12 record? Did you lose this letter?

13 A. I find that to be unlikely, that I lost that
14 letter. I recall when I saw it several
15 months ago that—I just recalled it then. I
16 had not recalled it up until that point in
17 time, and I had reviewed a lot of files,
18 letters, documents in relation to Carter
19 Churchill as we began our communication with
20 Mr. and Mrs. Churchill and looking at the
21 services that we did provide, so I just
22 found it—I do find it unusual that it wasn't
23 part of my filing—you know, my files, and I
24 don't recall—and, you know, I've sworn on an
25 oath here—I don't recall what happened to

September 2, 2022

1 this letter, if I passed it on or if it was
2 put in a general file under Deaf and Hard of
3 Hearing Services to be discussed with the
4 Department of Education. I just don't
5 recall. I know for me personally in my role
6 I didn't see it as specifically something
7 that we needed to action in a—as you in your
8 words called action. I didn't see it that
9 way.

10 Q. I mean, I think that's really what I need to
11 know from you, that you did not see this
12 letter as a call for action. The
13 adjudicator asked you, you know, what, if
14 anything, did you do as a result of this
15 letter, and I think the only salient
16 concrete item that I pulled out of your
17 response there was that it may have caused
18 you to increase or direct services from the
19 itinerant in Beachy Cove. Was that your
20 answer?

21 A. No.

22 Q. Okay.

23 A. I didn't say that.

24 Q. What was your answer?

25 A. I think I said that I would've felt that our

September 2, 2022

1 processes through the IEP and ISSP and our
2 itinerants for deaf and hard of hearing
3 would've been able to provide what was being
4 referenced in this letter. That's how I
5 would've interpreted that letter. I believe
6 that's what I said.

7 Q. Okay, turn over one tab over to Tab M as in
8 Mike.

9 A. Uh-hm.

10 Q. And I actually don't see a date on this
11 letter, but perhaps you can assist us. This
12 is a letter, and I'll let you review the
13 content in a moment, but I see that this is
14 a letter sent to your attention. It's from
15 AVT Services, Paula O'Reilly, sent to you,
16 and I'll give a second to review it, but
17 I'll ask you to tell me if you recall the
18 letter and whether this too would've been
19 one of those unusual letters.

20 A. Okay. Okay.

21 Q. And I know you have some degree of
22 familiarity with this letter because you
23 reference it in your affidavit, don't you?

24 A. I know there were two letters, so this would
25 be the second one, I believe.

September 2, 2022

- 1 Q. And in your affidavit you say this letter,
2 even though it's not dated, is March 2014.
3 I'll give just a second to check your
4 affidavit if you want to verify.
- 5 A. Okay. In my affidavit, what page?
- 6 Q. Paragraph 26.
- 7 A. Paragraph 26.
- 8 Q. So, to read your affidavit out to you, you
9 say, "In March of 2014" -
- 10 A. I have it.
- 11 Q. Right? You see the spot, and you indicate
12 that "This is a letter stressing the need
13 for Carter to have access to sign language
14 not withstanding the policy then in place."
15 After reading the letter, do you stand by
16 that that was the purpose of that letter?
- 17 A. I'm sorry, I just have to read it myself.
18 Okay.
- 19 Q. So, that was what you said in your
20 affidavit.
- 21 A. All right. Now, just let me go back to the
22 -
- 23 Q. Is this the letter you're referring to?
- 24 A. And your current question is?
- 25 Q. My question is this letter that we're

September 2, 2022

- 1 looking at at Tab M as in Mike—
- 2 A. Right.
- 3 Q. —is the letter that you're referencing from
- 4 March 2014, right?
- 5 A. I—because it says, "wrote to myself and
- 6 Janice McKay." I don't see Janice McKay.
- 7 Oh, wait now. No, I don't see Janice McKay
- 8 referenced on this letter to me so —
- 9 Q. Okay, tell me if this is one of those
- 10 unusual letters that would've been rare for
- 11 you to receive.
- 12 A. It was unusual in that I received it—well,
- 13 yes, but I received it as a hard copy. That
- 14 stands out to me again, and, yes, it was an
- 15 unusual letter.
- 16 Q. Now, you just indicated to me after
- 17 receiving the previous letter we were
- 18 looking at, the letter that I've described
- 19 as a call to action—
- 20 A. Right.
- 21 Q. —and you said isn't, you indicated at the
- 22 time you received that letter you would not
- 23 have known that Carter was nonverbal.
- 24 A. That letter, yes.
- 25 Q. Right. This letter clearly indicates that

September 2, 2022

1 Carter is nonverbal, doesn't it?

2 A. This letter is much more specific, provides
3 more information. "In Carter's situation,
4 he's been unable to develop spoken language
5 but has successfully demonstrated that he is
6 able to understand and use early signs to
7 communicate." There's no date on this
8 letter.

9 Q. I put it to you this letter is also dated
10 March 31st, 2014.

11 A. I would think so, yeah.

12 Q. Yes, so when you received the letter we last
13 looked at, in fact, you would have known
14 that Carter was nonverbal if you read this
15 letter, wouldn't you?

16 A. Yes. From this letter I would've known,
17 yes.

18 Q. Yes, which was sent on the same date.

19 A. Well, we—we're—I think I received them the
20 same time. I believe I did. I—yeah, we go.

21 Q. You believed you received them at the same
22 time.

23 A. Around the same time, anyway. It may not—
24 they may have arrived -

25 ADJUDICATOR:

September 2, 2022

1 Q. I just want to make—I think we're looking at
2 the same letter, but I'm looking at the—I
3 want to look at the letter that's at Tab L.
4 We're saying that that letter doesn't refer
5 to Carter's ability to use spoken language,
6 right?

7 MR. REES:

8 Q. That's what the witness has stated, yes.
9 That's at Tab L, the first—what I've been
10 calling the first letter.

11 A. Right. Well, it does reference spoken
12 language, but I guess I interpreted that in
13 a more general sense, for children like
14 Carter who are unable to use spoken language
15 to communicate.

16 Q. Yes.

17 A. So, in any event I feel both of the letters,
18 this one in particular—and they both arrived
19 around the same time if not exactly the same
20 time. "We are asking that this little boy
21 be given direct support to further develop
22 his manual communication skills, early sign
23 language. We are asking that Carter receive
24 support from an itinerant teacher of the
25 deaf and hard of hearing who has teaching

September 2, 2022

1 expertise in early sign language with the
2 preschool population." Yes.

3 Q. Okay, so tell me, on reviewing that letter
4 at Tab M as in Mike that we've been looking
5 at, do you feel that that letter is a call
6 to action?

7 A. I think it's more explicit in stating what
8 Carter's needs are around learning sign
9 language, and I believe, Mr. Rees, that I
10 would have interpreted--there was more
11 information there. It is clearer that that
12 is going to be one of his needs. Again, I
13 would have believed that our itinerants--or
14 some of them, but generally itinerants
15 would--for deaf and hard of hearing would
16 have been able to provide that support.
17 Later I learned that that was not
18 necessarily the case, but at that time I
19 believed that.

20 Q. Okay, we'll get there. The question I've
21 asked you is do you think this letter was a
22 call to action, and I understand your answer
23 to be yes.

24 A. I didn't say that.

25 Q. Okay, tell me.

September 2, 2022

- 1 A. It's asking for us to provide sign language
2 support for Carter.
- 3 Q. Yes, no, I've read that in the letter.
- 4 A. Yes.
- 5 Q. Do you think it's a call to action addressed
6 to you?
- 7 A. I think it's a call to ensure that as part
8 of our IEP process and the individual plan
9 for Carter that we include sign language
10 support for Carter.
- 11 Q. Okay. The person who has written this
12 letter is Paula O'Reilly, and it says under
13 her signature at the bottom that she's a
14 certified AVT listening and spoken language
15 specialist.
- 16 A. Uh-hm.
- 17 Q. So, you know, this is a person who normally
18 is part of the non-ASL path, right, the
19 spoken language path for children, right?
- 20 A. Uh-hm.
- 21 Q. She's writing a letter to you, and she puts
22 it in bold right in the middle of the middle
23 paragraph, and you understand, I'm sure,
24 from having read documents, people tend to
25 bold things that are more important than the

September 2, 2022

1 surrounding content, and in bold she says,
2 "However, in Carter's situation, he has been
3 unable to develop spoken language but has
4 successfully demonstrated that he is able to
5 understand and use early signs to
6 communicate. Carter has not received formal
7 support for sign language since last June of
8 2013." There you go, so it dates us to the
9 time period we're talking about. "We are
10 asking that this little boy be given direct
11 support to further develop his manual
12 communication skills," in brackets, "(early
13 sign language). We are asking that Carter
14 receive support from an itinerant teacher of
15 the deaf and hard of hearing who has
16 teaching expertise in early sign language
17 with the preschool population."

18 A. Uh-hm.

19 Q. That's a call to action, isn't it?

20 A. It was my understand, Mr. Rees, that we had
21 a deaf and hard of hearing itinerant who was
22 providing support to preschoolers and that
23 that would've been included. I'm not sure
24 of the dates, but I believe Ms. Cathy Lawlor
25 at that time was providing support to some

September 2, 2022

1 of our children and had—was including sign
2 language as part of her support. That was
3 my understanding.

4 Q. What do you know about Cathy Lawlor's
5 qualifications to teach ASL?

6 A. At that time our deaf and hard of hearing
7 itinerants would have been providing a
8 holistic, I guess, approach, and that we
9 didn't have—to my knowledge, we didn't have
10 sign specialists within our organization,
11 but I don't think I would've even—I mean,
12 again, I'm speaking—I'm trying to unlayer
13 what my thinking might've been at the time
14 and not where we are today. I would've—I
15 didn't really think, I don't think, that
16 this was a call to action for me personally.
17 I felt that the level of service that we had
18 was going to be able to continue the support
19 that Carter and other children that may in
20 that situation—but I just want to talk about
21 Carter—on his entry into school; and if that
22 wasn't the case, that it would be identified
23 subsequently through, again, ISSP meetings
24 or IEP meetings.

25 Q. I put it to you that you didn't like

September 2, 2022

1 receiving letters from—you know, snail mail
2 letters, which were unusual, from Eastern
3 Health, and you instead wanted this all to
4 unfold through the ISSP process, and you
5 ignored the letter.

6 A. No. No, no, I—it's not that I didn't like
7 receiving letters. I'm happy to receive
8 communication in any form. I just
9 referenced that because it stood out to me
10 as a hard copy letter, that's all. That was
11 perfectly fine. I may have felt that the
12 letter was somewhat misdirected to me and
13 that I didn't have any kind of control over
14 provincial services.

15 Q. Did you contact Paula O'Reilly to tell her
16 to redirect her concerns elsewhere, or did
17 you redirect her concerns to someone else?

18 A. I may have done that. I'd be surprised if I
19 didn't, but I do not recall. I don't have
20 any specific memory of either doing it or
21 not doing it.

22 Q. No one has indicated in their affidavits or
23 through their testimony that you did so.

24 A. Okay.

25 Q. You're saying you might've. You don't know.

September 2, 2022

1 I mean, the answer is you don't know.

2 A. No, I don't. I don't recall.

3 Q. You thought that Paula O'Reilly was
4 mistaken, didn't you?

5 A. No.

6 Q. Paula O'Reilly is saying, "Carter has not
7 received formal support for sign language
8 since last June of 2013, and we're asking
9 you to do this, and we're asking you to do
10 that," and you're telling me that at the
11 time you would've felt that the services
12 that already been provided were sufficient.
13 Paula O'Reilly was wrong in saying the
14 services weren't -

15 A. I never would think that a colleague, a
16 professional colleague like Ms. O'Reilly is
17 wrong in what she's saying. I never
18 would've thought that. I likely—and, again,
19 I likely would have been surprised that he
20 hasn't been receiving any sign language
21 support from the deaf and hard of hearing
22 itinerant who was supporting him at the
23 time. I may have -

24 MS. BONNIE WOODLAND, CROSS-EXAMINATION BY THE
25 ADJUDICATOR

September 2, 2022

1 ADJUDICATOR:

2 Q. I'm sorry, can you repeat that?

3 A. I'm—I think I said I may have thought that
4 Carter was receiving support from a DHH
5 itinerant at the time, including sign
6 language support at the time. I -

7 Q. So, at the time was the assignment of DHH
8 itinerant support -

9 A. Yes.

10 Q. Did that fall within your area of
11 responsibility?

12 A. Yes.

13 Q. And at the time that this letter would've
14 been written in 2014, was it your
15 understanding that in the metro region
16 itinerant teachers of the deaf and hard of
17 hearing were providing—that the policy was
18 that they would provide direct support for
19 sign language acquisition to preschool
20 children in the metro region?

21 A. Not exactly. It was my understanding that
22 our deaf and hard of hearing itinerants
23 supported preschool children and that as
24 part of their language, literacy work with
25 the children and their families sign

September 2, 2022

1 language would be included if it was part of
2 what that child was expected, or, you know,
3 needing to develop. That would've been, I
4 think, my understanding at the time.

5 Q. The letter mentions that Carter had been
6 receiving formal supports prior to June of
7 2013.

8 A. Uh-hm.

9 Q. Do you know what happened in June of 2013
10 that would've resulted in him not receiving
11 supports from the itinerant teachers of deaf
12 and hard of hearing?

13 A. It sounds like—I might infer from that that
14 -

15 Q. As you sit here today, do you know of any
16 policy changes that would've occurred at
17 that time?

18 A. No, but I'm thinking of staffing changes,
19 and I know we did have an itinerant who was
20 providing preschool service to some
21 children, as probably all our itinerants
22 were at that time or many of them, and that
23 she suddenly had to go on bereavement leave,
24 and so we would—there would've been a period
25 of time that we would've taken to replace

September 2, 2022

1 her and or reallocate her—when I
2 “reallocate”—distribute her—for a short
3 period of time to other itinerants until we
4 got a replacement in place, so I’m
5 wondering. I don’t know the exact dates of
6 that, but I’m—you know, “since June of
7 2013,” well, teachers—we don’t know the—do
8 we know the month this is -

9 MR. REES:

10 Q. March of 2014, nine months later.

11 A. Okay. Okay, so what it’s saying is that
12 there was basically a full year back in
13 services.

14 Q. Yes.

15 ADJUDICATOR:

16 Q. Do you have any idea why there would be that
17 gap?

18 A. No, because I would’ve felt that the work
19 assignments would’ve either been
20 redistributed, or we had a replacement for
21 Ms. Lawlor. Certainly for the school year
22 if she wasn’t working that we would’ve had a
23 replacement for Ms. Lawlor and that that
24 person would’ve continued on with the work
25 that she was doing. I—I’m -

September 2, 2022

- 1 Q. Are you aware of any point in time where
2 students with—well, not—children; they're
3 not students in the schools yet, preschool
4 children within the metro region who have
5 cochlear implants—are you aware of any point
6 in time when they were taken off of the DHH
7 caseload and transferred to AVT therapy via
8 the Janeway?
- 9 A. I'm not familiar with that specific example
10 that you're talking about.
- 11 Q. The letter that we just looked at at Tab L—
12 I'll get you to go back there—
- 13 A. Okay.
- 14 Q. —and we'll look at the third paragraph, the
15 largest paragraph.
- 16 A. Yeah. Yes.
- 17 Q. So, this starts off, it says, "Given that he
18 has cerebral palsy, Carter has been unable"
19 —
- 20 A. Oh, wait.
- 21 Q. We're at Tab L.
- 22 A. I'm sorry. We're on "L"?
- 23 Q. Yes, the one before there. Yes, that one,
24 the letter you had been referred to earlier.
- 25 A. So, this one over here. Okay, "L," yes.

September 2, 2022

- 1 Q. So, Volume 1, Tab L, the third paragraph,
2 the largest paragraph on the page.
- 3 A. Right, yeah.
- 4 Q. It starts, "Given he has cerebral palsy,
5 Carter has been unable to develop spoken
6 language or use his voice. In" -
- 7 A. Are you—I'm sorry, Mr. Adjudicator, that's
8 Tab M. Did you say "M"?
- 9 Q. Oh, I apologize. Yes, I am -
- 10 A. That's okay.
- 11 Q. I am at "M," yes.
- 12 A. Yes, "Given he has cerebral palsy," yes,
13 "Carter has been unable"—sorry, continue.
- 14 Q. "Unable to develop spoken language or use
15 his voice."
- 16 A. Right.
- 17 Q. "In 2012-2013 Carter received support from a
18 local itinerant teacher of the deaf and hard
19 of hearing, who initiated sign language,"
20 and then it says in brackets, "(nonverbal
21 mode of communication)," and then it closes
22 the brackets, and it says, "as a means of
23 developing his communication," and it says,
24 "In September of 2013 the Department of
25 Education changed services for metro

September 2, 2022

1 preschoolers with cochlear implants. They
2 now avail of education-based AVT services
3 rather than itinerant teachers of deaf and
4 hard of hearing services." And you were not
5 aware that that had occurred?

6 A. (No audible response).

7 MR. PENNEY:

8 Q. I was just wondering. I don't want to
9 interrupt, but, you know, I think Ms.
10 Woodland is confused. It might help her to
11 refresh her memory to look back at her
12 affidavit at, you know, paragraphs 11 to 13.
13 That might just help her situate this a bit
14 better.

15 A. Okay.

16 MR. REES:

17 Q. We'll note that any of the answers that are
18 being given to this question then are being
19 informed by those paragraphs in the
20 affidavit.

21 A. I was just—thank you. I was just thinking
22 about the timeframe around all of this and
23 my direct involvement with it, Mr.
24 Adjudicator, and I was thinking about when
25 we hired—when Ms. Warren, our assistant

September 2, 2022

1 director, when we looked to increase our
2 programming specialist support that would be
3 able to respond to our children with speech
4 and language development concerns. That was
5 Ms. Lawlor, so if—that timeframe may have
6 been that Ms. Lawlor was familiar with that.
7 That may be why my memory is not so—you
8 know, I don't remember my specific answer to
9 your question. Let me just read the
10 question that you were asking again, please.
11 Uh-hm. So, upon receiving this letter with
12 the change in services from the Department
13 of Education—from Health to education or to
14 AVTs, our deaf and hard of hearing
15 itinerants were not supporting for that
16 year, it sounds like, so I don't recall that
17 I—in answer to your question, that I was
18 aware of that or acted on that, no. I don't
19 believe I did.

20 ADJUDICATOR:

21 Q. So, just I want -

22 A. And in any -

23 Q. I want to really understand this point
24 because I find this important.

25 A. Uh-hm.

September 2, 2022

1 Q. At the time that you received these two
2 letters close in time—

3 A. In 2014, right?

4 Q. —yes—you were responsible for the itinerant
5 teachers of the deaf and hard of hearing in
6 the metro region—

7 A. Yes.

8 Q. —and at that time you were unaware that
9 preschoolers had been taken off of their
10 caseload and transferred to AVT through the
11 Janeway.

12 A. I'm just pausing because I'm really trying
13 to think when I became first aware of that.
14 I wasn't part of attending any meetings. I
15 would have received that information
16 subsequently through Ms. Lawlor, who
17 would've been our person who would've been
18 the liaison between the district—so, I'm
19 just trying to think—that it's possible that
20 Ms. Lawlor was not employed with us during
21 the 2013-'14 year. That's possible, that
22 she wasn't hired until the 2014—I'm sort of
23 thinking out loud here—and that that may not
24 have been communicated. I may not have
25 known that at the time.

September 2, 2022

- 1 Q. So, at the time you received this letter you
2 may not have been aware of that transfer.
- 3 A. And if I did, I may not have realized that
4 for that period of time between '13 and '14
5 that, you know, we were required or
6 should've been providing support to children
7 through American Sign Language. I don't
8 think I realized that, and if I—I don't
9 recall.
- 10 Q. If you look at the letter at Tab L, I mean—
11 we're just going back to the previous tab.
- 12 A. Tab L, yes, I have it.
- 13 Q. And third paragraph on that, it's similar.
14 It says, "Carter previously received
15 services from an itinerant teacher for the
16 deaf and hard of hearing in 2012 to 2013
17 through which he benefitted from early sign
18 language support and made considerable
19 growth in expressive communication using
20 sign language."
- 21 A. Uh-hm.
- 22 Q. "However," it continues, "this service to
23 preschool CI," cochlear implant, "users in
24 the St. John's metro region was changed in
25 September when it was announced that

September 2, 2022

1 supports would now be provided by the
2 auditory verbal therapy, AVT program, within
3 the Department of Education.”

4 A. I wasn't working in that role during 2012-
5 2013.

6 Q. So, when would you have started in your role
7 as the Director of Student Services-

8 A. Hang on now, please, sorry.

9 Q. -or I guess it had a different name then,
10 didn't it?

11 A. 2012-'13, I may need some clarification or
12 help perhaps from somebody as-the year when
13 our districts merged, was that 2012-2013 or
14 2013-'14? Does anybody know? Because
15 that's the year I started.

16 MR. PENNEY:

17 Q. Kyle, I'm told it was 2013-2014, the
18 legislation.

19 A. 2013-'14?

20 MS. BYRNE:

21 Q. And that can be confirmed in the legislation
22 and stuff.

23 MR. REES:

24 Q. Sure, I mean, we're guessing here anyway.

25 ADJUDICATOR:

September 2, 2022

- 1 Q. I think there's an Order in Council.
- 2 A. I'm just trying to think. When we—I believe
- 3 it was 2013-'14. I mean, that is an
- 4 important point. I'm wondering—I mean, if
- 5 it was, then obviously I wasn't part of that
- 6 decision then or wouldn't have been
- 7 receiving communication around that. That
- 8 doesn't mean that—you know, when I took over
- 9 the position in 2013-'14 that, you know,
- 10 that was then my responsibility, but I may
- 11 not have been part of those—that
- 12 communication in 2012-'13 and—September
- 13 2013, so in September 2013 “when it was
- 14 announced that supports would now be
- 15 provided”—I would have been starting my
- 16 position. That would've been my first days,
- 17 weeks in that position in 2013. That was a
- 18 time when the district was in transition,
- 19 was moving from five districts to a one
- 20 district. Yes, I'm sorry, I don't know if
- 21 I've even answered your question there.
- 22 Q. Before the districts merged, I think you
- 23 said your title was Senior Education
- 24 Officer.
- 25 A. No, I was an itinerant for Student Services

September 2, 2022

1 for six years at the district.

2 Q. Go ahead, Mr. Rees.

3 MS. BONNIE WOODLAND, CROSS-EXAMINATION BY MR. KYLE

4 REES (CONT'D)

5 MR. REES:

6 Q. Both of these letters that we've spent an
7 hour and a half on now are letters that you
8 received more or less together in March of
9 2014, two and half years before Carter goes
10 into the school system-

11 A. Yeah.

12 Q. -and both of these letters have different
13 professionals, one, a speech and language-
14 or, sorry, an audiologist who's part of
15 Carter's cochlear implant team, and the
16 other one is an AVT, you know, who would
17 normally be the kind of professional who
18 would be dealing with spoken language, not
19 ASL, and both of these people are writing
20 you unusual letters, letters that you don't
21 typically receive that you haven't been able
22 to find in your files-

23 A. Uh-hm, that's correct.

24 Q. -that are asking you to-are pointing out
25 that in their view the supports that Carter

September 2, 2022

1 has been receiving at the very least for the
2 last nine months had been insufficient and
3 that he needs better support, and, in
4 particular, both letters ask for an
5 itinerant teacher of the deaf and hard of
6 hearing who can teach sign language to
7 preschoolers, and you feel both of these
8 letters were (a) sent to the wrong person,
9 (b) -

10 A. I wondered—I'm just wondering if I thought
11 that, but they came to me so—I'm sorry to
12 interrupt you, Mr. Rees, but, you know, I
13 wouldn't have just disregarded them as
14 inappropriate.

15 Q. Okay, what did you do with them?

16 A. I don't recall exactly what I did with them.
17 I just -

18 Q. Do you recall generally what you would've
19 done with them if you don't recall exactly?
20 Tell me anything about what you did, what
21 you thought, who you spoke to that these
22 letters had an impact on because we have
23 heard no evidence that you've done anything
24 with these letters.

25 A. Uh-hm. I think what I would have done would

September 2, 2022

1 have been to share the information with an
2 itinerant of Student Support Services. I
3 may not have shared the letters, but I may
4 have shared the information with an
5 itinerant for Student Support Services, who
6 would've been attached to Beachy Cove, for
7 example, because each school had an
8 itinerant in Student Support Services for
9 this very reason, to be part of providing
10 support. Now, Carter wasn't yet in school.

11 Q. No, he wouldn't be for two and half years
12 until after these letters are written.

13 A. Right. The only other thing that I may have
14 done is have this conversation with a
15 colleague at the Department of Education.
16 However, I believe you said a few minutes
17 ago that there's no evidence that anyone in
18 the Department of Education is familiar with
19 these letters. Is that correct?

20 Q. Correct, but if you have some evidence, you
21 know, I'm happy to hear it.

22 A. No, I don't have any evidence of that. I'm
23 just trying to recall and thinking what I
24 would have done.

25 Q. And I think the best way to categorize your

September 2, 2022

1 evidence is that you're saying, you know,
2 you hope you would've done something, but
3 you have no recollection of doing anything.

4 A. I think I would've done something, yes.

5 Q. Okay, what?

6 A. Well, I -

7 ADJUDICATOR:

8 Q. I do think it's clear she doesn't recall
9 what she did, and we can go around and
10 around on that, but she -

11 MR. REES:

12 Q. Well, I mean, I don't want it standing on
13 the record, Mr. Adjudicator, that she
14 believes she would've done something and the
15 Adjudicator to be able to rely upon, "Well,
16 the district probably did something." It
17 has to be clear from this evidence that to
18 the best of her recollection she has no idea
19 what she did, and I just want to make sure
20 that's clear. I'm right on that, aren't I?
21 To the best of recollection, you have no
22 idea what you did.

23 A. I don't have any memory of what I did with
24 it, yes.

25 Q. We're going to jump forward a few years when

September 2, 2022

- 1 Carter starts school two and half years
2 later at Beachy Cove Elementary.
- 3 A. Okay.
- 4 Q. I think I'm going to use the full three
5 hours based on the—my rate.
- 6 A. I think so.
- 7 Q. Carter has an assigned itinerant teacher at
8 that point, Tina Halleran. Do you know who
9 that is?
- 10 A. Yes, I do.
- 11 Q. Okay, so this is the 2016-2017 school year.
12 Tina Halleran provides some ASL discussion
13 with Carter during that time, but she also
14 provides AVT support, right?
- 15 A. She wasn't a trained AVT specialist, but she
16 was completing—had completed most of the
17 training that was being provided by the
18 Department of Education for interested DHH
19 itinerants to become certified as an
20 auditory verbal therapist, yes, and she was
21 a DHH itinerant.
- 22 Q. And Ms. Halleran testified already at this
23 proceeding, and there was some dispute in
24 her records as to how many hours of support
25 she gave. I mean, based on the records that

September 2, 2022

1 I believe would've been in your file, I did
2 some math. It appears to add up to about 34
3 hours with Carter during that 2016-2017
4 school year.

5 MR. PENNEY:

6 Q. Kyle, I think that was Darlene Fewer
7 Jackson's.

8 MR. REES:

9 Q. Oh, you're right, it's Darlene Fewer
10 Jackson's. Her records, I think we
11 established at the hearing—I think it was 56
12 hours, but, I mean, in any case it's some
13 number between 34 and 56 hours with Carter
14 during the 2016-2017 school year; like, you
15 know, a portion of which would've been ASL
16 instruction. I also did some math to
17 determine there was 950 hours in that school
18 year. Do you have any idea whether, you
19 know, 34 to 56 hours with Carter during a
20 school year by someone teaching ASL—in your
21 view, did that meet the concerns that were
22 being raised in these letters with you? Now
23 that you hear that, you know, it's 34 to 56
24 hours during an entire year with Carter,
25 does that cause you any concern?

September 2, 2022

1 A. I believe, Mr. Rees, that in a school year
2 with Carter in Kindergarten—I believe that
3 the itinerant support, especially with Ms.
4 Halleran because we felt she brought an
5 enriched background to her work with Carter
6 -

7 Q. What was “an enriched background?”

8 A. Well, I’m talking about her training as an
9 AVT, so that she—or that was in progress.
10 She was fairly far along, and that was an
11 extra piece of education that she had, and
12 that that—along with her DHH itinerant
13 support, that she would in Kindergarten be
14 providing some ASL support for Carter. In
15 hindsight, are you saying, you know, looking
16 at that letter, was that enough? I guess at
17 the beginning of the year we thought it
18 would’ve been enough, given the fact that,
19 you know, there’s other supports for Carter
20 during that Kindergarten year, being speech
21 language pathologists, an instructional
22 resource teacher.

23 Q. To interrupt, speech language pathologists,
24 they have nothing to do with ASL, do they?

25 A. No, but they’re communication specialists,

September 2, 2022

1 and they're an important part of our team
2 and recommended by the Department of
3 Education to be involved, so I guess, you
4 know, that we had. We wanted to ensure that
5 whatever supports we had—as with all our—
6 especially our Kindergarten children, that
7 we cast a wide net and that we bring
8 whatever we have to support that child, so I
9 would've thought that, yes, the—yes, that
10 Ms. Halleran's support would've been part of
11 a full support team. There would not have
12 been a specific focus on ASL—I mean, an
13 increased support on ASL development, and I
14 don't think we—I personally became involved
15 with that until I heard from Mr. and Mrs.
16 Churchill and their concern about the number
17 of hours that Carter was receiving. At
18 which point I would've personally then been
19 involved to ask, "What—you know, what—why
20 are we not? What have we—have we missed
21 anything? Do we need to increase this?"
22 And so that's the point where I would have
23 engaged.

24 Q. Look, and I appreciate that that's kind of
25 when you get brought into the story because

September 2, 2022

1 usually, you know, these things kind of have
2 to be, I guess, elevated before they end up
3 on your desk—

4 A. Correct.

5 Q. —except for the fact that two and half years
6 earlier you had been sent the letters we've
7 talked about already, so clearly you were
8 aware of Carter Churchill's issues. You
9 can't—you haven't told me, you know, you
10 wouldn't have read those letters; you
11 would've popped them into the shredder
12 without reading them or anything.

13 A. No.

14 Q. So, you were clearly aware. I know
15 sometimes implementing programing changes
16 can be a complex—what my friend would
17 describe as an iterative process, right,
18 that it can take a while. It can take a lot
19 of work to implement changes, but you have
20 two and a half years from those letters
21 until, you know, Tina Halleran providing 34
22 to 56 hours with Carter during an entire
23 school year, only a small fraction of which
24 is spent on ASL. You're also fully aware by
25 that point that Carter's expressive language

September 2, 2022

1 at the very least is ASL; that's not
2 ambiguous, and the solution here—the only
3 support that's being provided to Carter,
4 even after all these ISSP meetings and
5 everything else that you said needed to
6 happen, is Tina Halleran 34 to 56 hours,
7 some of which is ASL. No other ASL support,
8 right?

9 A. There was no further ASL support, no.

10 Q. And you were aware that during that entire—
11 you were aware then, and certainly you're
12 aware now, that during that entire
13 Kindergarten year Carter, who was
14 communicating in ASL, his teacher, his
15 classroom teacher, Shane Porter, was not
16 able to communicate in ASL with Carter,
17 right?

18 A. Yes, I was aware of that. We—but we, I
19 guess, rely on our itinerants or our other
20 specialists to collaborate in the school
21 with the whole team and that—yeah, we
22 certainly—I mean, I certainly know now, and
23 I have no reason to think I would've thought
24 differently then, that the Kindergarten
25 teacher or the speech language pathologists

September 2, 2022

1 or the IRT would've been signing consultants
2 or specialists. No, they would not have,
3 and I was operating under the—I would've
4 been operating under the model that was
5 provided, I guess, that—where DHH itinerants
6 would provide that service along with
7 whatever other specialists or supports that
8 could be appropriate and that that level of
9 support wouldn't—you know, wasn't—I would
10 not have been aware that that wasn't enough
11 at that point in time until I had
12 conversations with Mr.—I think it was Mr.
13 Churchill; I'm not sure who contacted me
14 first—and that's when I would've got my team
15 together and reviewed and -

16 Q. When did that happen?

17 A. I think that happened—did that happen during
18 the Kindergarten year after the first
19 reporting period? Is that correct?

20 Q. That sounds—that's a couple of months into
21 the term, is it?

22 A. Yeah, it would've been, I think, a couple of
23 months into the term because I don't think
24 Mr. and Mrs. Carter -

25 MR. PENNEY:

September 2, 2022

1 Q. Churchill.

2 A. I believe that's how that became then on my-
3 as you said, on my desk.

4 ADJUDICATOR:

5 Q. I'm wondering if now is a good time to take
6 the morning break?

7 MR. REES:

8 Q. Fine.

9 ADJUDICATOR:

10 Q. How long would you like to take? Let's make
11 it 10 minutes? We'll adjourn for 10
12 minutes, please.

13 (OFF RECORD)

14 ADJUDICATOR:

15 Q. So, Mr. Rees, I believe we're in the midst
16 of your questions. Go ahead.

17 MR. REES:

18 Q. Thank you. Just before the break—I'm sorry,
19 I lost my page. Right, we had established,
20 you know, the minimal—what I would
21 categorize as the minimal degree of student
22 assistance support that was being provided
23 to Carter Churchill. That 34 to 56 hours of
24 support during the entire Kindergarten
25 school year, is that about typical of what

September 2, 2022

- 1 you would—like, when you hear that range of
2 hours for the school year, you know, does
3 that surprise you to say, “My goodness,
4 that’s much lower than we’d expect,” or is
5 that about, you know, what would be—well, at
6 the time what would’ve been deemed
7 appropriate for Carter Churchill?
- 8 A. Is this—yes. That’s not a reference point
9 that we typically use. Like, we sort of
10 looked at it in terms of the number of
11 periods of support per either a 5-day cycle
12 or 7-day cycle, so I don’t have a point of
13 reference for that, Mr. Rees, but I would
14 say that—do you have that reference there,
15 the number of hours, because I know we did
16 increase it.
- 17 Q. Yes, 34 to 56 during Kindergarten.
- 18 A. Oh yeah, no, but you don’t know how many
19 periods per week or per 7-day cycle.
- 20 Q. Okay, averages, the range is one to two 45-
21 minute sessions per week.
- 22 A. Right, and that was the—you’re talking about
23 Ms. Halleran.
- 24 Q. That’s correct.
- 25 A. Right, yeah. Yes, I think that was not an—

September 2, 2022

- 1 that was a typical amount for -
- 2 Q. A typical amount.
- 3 A. I think so, yeah.
- 4 Q. Now, you, during your time in this role, you
- 5 would've been working with various itinerant
- 6 teachers, including Colleen Moyst? Do you
- 7 recognize that name?
- 8 A. Yes.
- 9 Q. Yes, and Val Crummell?
- 10 A. Yes.
- 11 Q. And Kelly Walsh.
- 12 A. Yes.
- 13 Q. And they've all provided affidavits.
- 14 A. Yes.
- 15 Q. And in their affidavits they've all said
- 16 various versions of that you had advised
- 17 these various itinerants to do the best they
- 18 could with the resources they had. Do you
- 19 recall saying that, or is that a kind of
- 20 thing that you would have said?
- 21 A. Well, itinerant support is meant to be fluid
- 22 and not just for our DHH itinerants but also
- 23 for all other itinerant supports within the
- 24 district, and by that I mean we constantly-
- 25 no, not constantly, but frequently have to

September 2, 2022

1 adjust our levels of support during the
2 year, and that occurs for any variety of
3 reasons, students moving out, students
4 moving in, assessment that will inform
5 programming, short-term teachers on leave,
6 and all itinerants within the school
7 district operate under those practices,
8 shall we say, so in having any kind of
9 conversation or saying, "Do the best with
10 what you have," it would've been in the
11 context of setting priorities within your
12 caseloads. And at the same time as much as
13 possible, we would review at the district
14 level caseloads. Is there anyone on this
15 caseload who may be considered a lower
16 priority? Is travel taking too much time?
17 And beyond that, when we say—our
18 jurisdiction at the time, we had the Western
19 Region of the Avalon, so let's just think of
20 it in terms of—say, Bay Roberts, Carbonear,
21 that area would be considered west, and east
22 was the St. John's metro area, so typically
23 services in more rural areas were not as
24 compacted as services in the metro area.
25 There were fewer children, so while there

September 2, 2022

1 weren't as many staff, their caseloads were
2 much lower, so sometimes we would look to
3 that scenario to see is there another more
4 efficient way or way we can increase
5 supports within our own metro area, and at
6 the same time we would make requests—once we
7 had done our due diligence around—and by
8 that I mean review, getting feedback from
9 our teachers, looking at their caseloads,
10 analyzing them, we would bring any concerns
11 around staffing to—I personally did not have
12 control over, you know, making a decision to
13 put an extra itinerant of any sort in a
14 position. That would be communicated to our
15 human resources and/or our assistant
16 director or other folks at the school
17 district who I would've collaborated with
18 that, so, you know, when I said, "Do the
19 best with what you have," that would—if I
20 said that—and if that's what they've
21 reported we said, well, then we would've
22 said it, but it was in that context of
23 setting priorities, changing caseloads, and
24 "You may have to look at a lower priority
25 piece of service to provide a higher

September 2, 2022

1 priority piece of service," and they had a
2 lot of discretion as to what that looked
3 like.

4 Q. And Carter Churchill—we've had evidence in
5 front of this commission that Carter
6 Churchill was considered a high priority—

7 A. Yes.

8 Q. —and that would be your understanding, then,
9 as well.

10 A. Yes.

11 Q. Carter Churchill, the high-priority student,
12 are you aware that he received one session
13 of direct service in September of his
14 Kindergarten year, which was on September
15 29th? Did you know that?

16 A. No.

17 Q. No, and would you consider it to be a high-
18 priority student if they received one
19 session of direct service in the entire
20 month of September?

21 A. I know service in September with itinerants
22 is reduced because they are involved with
23 doing assessments, I mean throughout, all
24 itinerants—and updating assessments and so
25 on, so service sometimes—and with our DHH

September 2, 2022

1 itinerants as well there is a rush and
2 rightfully so. There was a lot of
3 responsibility to get out to schools to
4 check equipment and so on, and so there was
5 some work that had to be done prior to
6 actually providing service, so while there
7 would be reduced time in September, that
8 does seem like a-not enough but -

9 Q. I appreciate your point that September could
10 be a busy month. There's a lot of setup and
11 things, and, you know, in fairness to Tina
12 Halleran, I mean, she was at the school
13 twice, but they were all-they weren't direct
14 service. They were setting up sound systems
15 and things.

16 A. I see. Yeah, I would expect that.

17 Q. But then in October that same year there are
18 two 45 minutes of direct-well, I mean, one
19 of direct service; the other one I've called
20 in-class support, so there are two sessions
21 where that service is provided. Does that
22 still strike you as being a low amount of
23 student service for a high-priority student
24 like Carter?

25 MR. PENNEY:

September 2, 2022

1 Q. Sorry, Kyle, which document are you going
2 off of?

3 MR. REES:

4 Q. Yes, I can point you to it.

5 MR. PENNEY:

6 Q. Documents that Tina prepared has—I count
7 one, two, three, four, five, plus an in-
8 class observation.

9 MR. REES:

10 Q. Yes, so we can use—and I understand Tina
11 Halleran submitted a new document. There
12 should be a small thin folio there, which is
13 the district's rebuttal documents. It's
14 probably to your left if I had to guess.
15 Sorry, to your right I mean to say.

16 A. To my right.

17 Q. Oh, sorry, they've got it in a--what binder?

18 MR. PENNEY: 1:19)

19 Q. It's under the purple.

20 MR. REES:

21 Q. Under the purple.

22 MS. BYRNE:

23 Q. Under the purple.

24 MR. REES:

25 Q. There we go.

September 2, 2022

1 MS. BYRNE:

2 Q. This one?

3 MR. REES:

4 Q. Document archeology, that's the one.

5 A. Okay, all right.

6 Q. So, this was a document that Tina Halleran
7 put together and brought to the Commission
8 here, but I can tell you that your own
9 notes, or the information that would've been
10 provided to you, because I understand that
11 these—they submit timesheets or something to
12 you, you know, that—or they—not timesheets
13 but -

14 MR. PENNEY:

15 Q. No, I think it was Darlene Fewer Jackson,
16 remember, Kyle?

17 MR. REES:

18 Q. Oh, right, that's why I'm messing it up.
19 All right, let's do it this way. Assuming
20 that I'm correct—and that can be a matter
21 for dispute between the parties when we get
22 to making submissions and things like that—
23 but assuming I'm correct in saying that
24 there's only been two services to Carter
25 throughout the course of October, that would

September 2, 2022

1 also strike you as low for a high-priority
2 student, wouldn't it?

3 A. Well, again, Mr. Rees, I have to go back to—
4 when you say two periods, 45-minute periods—
5 so, you know, I've referenced what I'm
6 looking at when I was looking at those
7 services. The number of hours—it was done
8 in terms of hours per week or hours per 7-
9 day cycle, depending, so do you have it
10 framed in those terms?

11 Q. Yes, I mean, this is what I'm wondering. I
12 don't know if you have a sense—and maybe you
13 don't. I mean, I'd suggest that's probably
14 the case, that maybe you don't have a sense
15 of—and track the way that these various
16 itinerant teachers sort of have allocated
17 those hours. I mean, do you ever have any
18 way of knowing whether the service that's
19 being provided is sufficient, or do you have
20 to wait for sort of a—you know, a complaint
21 from the parents to make its way to you?

22 A. Well, certainly we do have a way of knowing,
23 and certainly our DHH itinerants would
24 express that these caseloads are too high
25 or—and that would trigger us or—you know,

September 2, 2022

1 "We don't have enough time." Sometimes—and
2 not—you know, I would say systemically that
3 this is not unique to DHH itinerants. It is
4 true for all teachers in the school
5 district. I worked at the district office,
6 I will tell you, for over a decade and was
7 involved in making recommendations for
8 allocations and helping schools deploy them,
9 and not once in that time did a principal
10 indicate they had too much service.

11 Q. Right.

12 A. Not once.

13 Q. And frequently they would indicate they
14 didn't have enough service.

15 A. Constantly, and so with the resources that
16 we had—and, you know, I will say that we
17 worked to help provide the best service we
18 could with the resources that we had. As I
19 mentioned before, we would as a district,
20 itinerants, program specialists, review
21 service periodically. I was infrequently
22 involved with that; but, you know, if I was
23 asked to help, I certainly would and make
24 recommendations to individuals or schools on
25 how they can better use the resources that

September 2, 2022

- 1 they have. Itinerant teachers had a lot of
2 independent discretion on how they would
3 determine who they are providing services
4 to. We did not have a big pool of people to
5 be monitoring that, and all itinerants are
6 pretty independent when we asked for them to
7 determine what their priorities are. If
8 they need help, we'll help them so -
- 9 Q. Okay, so that's the next subject I want to
10 focus on: "If they need help, we'll help
11 them."
- 12 A. In determining their caseloads.
- 13 Q. "In determining their caseloads" because
14 you've indicated that, really, the only way
15 you know, you know, whether there's a
16 problem with resourcing in a particular
17 caseload is if the itinerant teacher comes
18 to you, and I'll indicate the -
- 19 A. It would be to our program specialist once
20 that person was in place usually.
- 21 Q. Does the program specialist go to you?
- 22 A. We consult frequently.
- 23 Q. "Frequently." I put to you, then, that the
24 itinerants who serve, you know, many
25 children, but including Carter Churchill,

September 2, 2022

1 you know, were regularly coming to their
2 superior and then to you later indicating
3 that they required additional resources in
4 order to meet Carter Churchill's needs and
5 that they were not able to meet the
6 requirements that this child had. Would you
7 disagree with that?

8 A. Over time, yes. I don't disagree with that.
9 However, you know, I think it's important to
10 know that we would initially, you know, look
11 at what the situation was ourselves,
12 obviously; we have due diligence, and then
13 make a request for further allocation,
14 whether that's a DHH allocation or in the
15 cases of other areas there. That would be a
16 request or conversation and a request for
17 further staffing.

18 Q. Tell me about that request. What does it
19 look like? Who does it get made to?

20 A. It usually went in the form of a
21 conversation and/or-well, always an e-mail.

22 Q. Always an e-mail.

23 A. Yeah, as well as a conversation, and that
24 would spark -

25 Q. And who would be doing -

September 2, 2022

- 1 A. And as I recall—I'm sorry, and as I recall
2 through those formative years, certainly
3 with Ms. Halleran that year, we did increase
4 her support to Carter. We are not a nimble
5 organization.
- 6 Q. Yes.
- 7 A. I will tell you that, and neither is any
8 department as far as being able to respond
9 quickly typically. I think we're getting
10 better at that but—and that we would
11 increase support, and we did increase the
12 amount of time with the resources that we
13 had.
- 14 Q. Sorry, when did you increase the amount of
15 time for Carter Churchill? Do you recall?
- 16 A. I'm—I think Ms. Halleran's time was
17 increased at some point during that year.
- 18 Q. You would have no way of knowing whether
19 that time was increased for Carter children
20 or for other students on the caseload,
21 though, would you?
- 22 A. For Carter Churchill.
- 23 Q. It was for Carter Churchill that it was
24 increased.
- 25 A. Yeah.

September 2, 2022

- 1 Q. So, when we talk about those 34 to 56 hours
2 for that entire school year, that's taking
3 into account that increase. I'm telling you
4 it's for the Kindergarten school year, so
5 you're telling me there was an increase in
6 the Kindergarten school year.
- 7 A. I'm—you know, I know we increased the—as
8 soon as we became aware, primarily through
9 Mr. and Mrs. Churchill, that that was not—
10 what Carter was receiving was not meeting
11 his needs—we worked to increase his support
12 to him. It wasn't full-time support, but it
13 was an increase in support.
- 14 Q. I'll come to that later. I never did get an
15 answer to (sic.) you about—when you needed
16 additional services for an itinerant for a
17 priority student like Carter, you said, you
18 know, there would always an e-mail and there
19 would be conversations. Who would you make
20 the request to?
- 21 A. That would go to my supervisor. At that
22 time it would've been Ms. Warren.
- 23 Q. That's Lucy Warren.
- 24 A. Yes, and our HR Assistant Director, Ed
25 Walsh.

September 2, 2022

- 1 Q. Ed Walsh. So, Lucy Warren and Ed Walsh
2 would receive requests from you for
3 additional service.
- 4 A. Yes.
- 5 Q. And if it didn't come from you, it wouldn't
6 come from anyone else. Like, it's not,
7 like, the itinerant teachers themselves were
8 expected to make the request to Lucy Warren
9 and Ed Walsh?
- 10 A. No.
- 11 Q. It would always go through you.
- 12 A. Yes.
- 13 Q. So, if there's any requests made for
14 increased services to Carter Churchill from
15 an itinerant teacher—
- 16 A. Yes.
- 17 Q. —you would always be aware of it.
- 18 A. Yes.
- 19 Q. And it was your —
- 20 A. Oh, I'm, sorry, you said "from an itinerant
21 teacher."
- 22 Q. Yes.
- 23 A. You mean to us, like to me and/or our
24 program specialist, Kim Lawlor.
- 25 Q. Yes. I mean, look, if Carter, you know,

September 2, 2022

1 needed new schoolbooks or something,
2 presumably that doesn't go through you
3 because it's not the itinerant teachers;
4 but, like, any resource increase for an
5 itinerant teacher to be used for Carter
6 Churchill, any need identified would be
7 identified to you.

8 A. Yes.

9 Q. And then it was your responsibility to relay
10 those concerns to Lucy Warren and/or Ed
11 Walsh.

12 A. Yes, and, you know, this wasn't just around
13 DHH itinerants, I will say that, and I would
14 not go—put that request forward until we
15 had—"we" being our program specialist and/or
16 itinerant—in looking at caseloads, looking
17 at comments, the whole picture, had done
18 what we would've considered a due diligence,
19 so that we'd—if there was any way that we
20 could recommend making a change that may
21 increase service, we would. Over the
22 course—that—this was a big part of the work
23 that we did with all our itinerants and
24 workers, and, you know, at one point I—
25 probably it wasn't the Kindergarten year,

September 2, 2022

1 but, you know, we did move resources, for
2 example—and when I say “resources,” I mean
3 person resources, DHH itinerant support—from
4 our Western Region, the big Bay Roberts
5 area. When I say “Western,” I don’t mean
6 Western Newfoundland. So, we, you know, put
7 in a proposal to our—to Ms. Warren that, you
8 know, “We could do this. We could move—
9 change our allocations from one region to
10 another,” so we were always working to work
11 with the resources that we had, and that to
12 get extra allocation came—and to request
13 that came after we had felt that was
14 something that was needed, and then there
15 would be a timeframe. It wasn’t like we
16 could ask on Wednesday and have
17 acknowledgment of that—I assume there’s a
18 process that that level would work through,
19 either request or find resources from
20 somewhere else in the budget because it is
21 basically a budget item. And then, you
22 know, it could be any varying length of time
23 before we could actually implement that, so
24 a comment like you said, “Do the best you
25 can with what you have,” wasn’t meant to be

September 2, 2022

1 a long-term directive, like that's it.
2 Like, we were working behind the scenes
3 always to ensure that we had the resources
4 that we needed. It just wasn't in our—you
5 know, I didn't have a budget that I could
6 pull from. That was a request to our
7 executive.

8 Q. Okay, you didn't have a budget that you
9 could pull from, so what you meant was, you
10 know, you weren't told, you know, you can
11 only spend 300,000 dollars on itinerant
12 teachers per year. It was just based on
13 need, and you would communicate that need to
14 Lucy Warren.

15 A. It wasn't communicated to me in terms of
16 dollar values. It was—if it was—we
17 discussed it in terms of units, teacher
18 units, so we would put forward—or, you know,
19 there would be "X" amount of units that
20 would've been part of the staffing plan, and
21 in some cases as prior to the budget release
22 we would say, "Well"—and, you know, the
23 ideal world—"we would like 'Y,' 'X' plus
24 'Y,'" but the budget then would limit us to
25 "X," and so we would work to hire, if

September 2, 2022

1 necessary, or, you know, continue working
2 with any group of itinerants. It wasn't—and
3 I guess I'm describing this process because
4 it wasn't unique to DHH itinerants. This
5 was a systemic practice.

6 Q. No, of course. I want to back up, though.
7 You say, you know, the services you would
8 like are "Y," but the budget is "X," and you
9 would have to try to figure out how to make
10 "Y" fit within "X." I mean, who would tell
11 you about the budget available, the "X." I
12 mean, is that Ed Walsh?

13 A. Well, the number of units -

14 Q. Is it Lucy Warren?

15 A. Yes, Mr. Walsh.

16 Q. Mr. Walsh made that determination.

17 A. Well, he received it from the Department of
18 Education, and so -

19 Q. Would you ever go to Mr. Walsh and say,
20 "Look, I know, Mr. Walsh, you told me the
21 budget is 'X.' We have a severe need here.
22 We need to increase that value of 'X.'"

23 A. Well, it wouldn't be Mr. Walsh per se. It
24 would probably be more Ms. Warren, and we
25 would, yes, put forward a request for

September 2, 2022

- 1 further resources when that—and I think most
2 times Mr. Walsh was probably copied on any
3 e-mail that we would've sent, but my direct
4 communication would've been with Ms. Warren.
- 5 Q. Ms. Warren. How often in relation to Carter
6 Churchill did you make a request for, you
7 know, an increase in "X," additional, you
8 know, monetary, financial or human resources
9 in order to meet needs for Carter Churchill?
- 10 A. It would've been directly following—and I'm
11 sure you would have the dates there—my
12 communication with Mr. Churchill, I believe.
13 I mean, it might've been Mrs. Churchill, but
14 I seem to recall that Mr. Churchill was the
15 contact who contacted me more frequently,
16 and I believe that was in the Kindergarten
17 year, later in the Kindergarten year, like
18 in the fall.
- 19 Q. And what did you do?
- 20 A. We asked for further resources, yes, and
21 looked at how we—or we would've asked to
22 increase Tina Halleran's time with Carter,
23 and that wasn't—I know did not meet with the
24 satisfaction of Mr. Carter—sorry, Mr.
25 Churchill at that point either.

September 2, 2022

- 1 Q. But the increase in time that Tina was
2 spending with Carter, you know, was that, as
3 we've been saying, you know, an increase in
4 "X?" Was that a "We need more budget; we
5 need more human resources?"
- 6 A. That probably would've been—I don't recall
7 exactly if that was because we received
8 extra allocation at that point in time. I
9 know we did receive over the course of that
10 year and—or so we did receive—we did
11 increase our DHH itinerant allocations.
- 12 Q. You received an increase in DHH itinerant
13 allocations?
- 14 A. Yes.
- 15 Q. And you're indicating that Carter -
- 16 A. I'm not sure exactly when that was, but I
17 know we did increase our time to Carter
18 Churchill.
- 19 Q. Did you at any point during this increase in
20 allocation seek additional resources from
21 the school district that would've related to
22 having someone qualified to teach Carter
23 Churchill ASL?
- 24 A. I'm sorry, can you—I'm sorry.
- 25 Q. Yes. During that increase in allocation,

September 2, 2022

1 that need that you would've identified that
2 you're indicating resulted in an increase in
3 the allocation, did any of those requested
4 increases relate to being able to teach
5 Carter Churchill ASL?

6 A. That came later. Like, initially, we were
7 looking to increase his support from a DHH
8 itinerant, which was what we provided, and
9 then as Grade 1 came into view—and so that
10 continued on, I think, for Kindergarten, and
11 then as Grade 1 occurred—or, you know, was
12 coming up, we were looking at a full-time
13 teacher for Carter Churchill, and I just—at
14 this point in time I don't remember exactly
15 when that full-time teacher went into place.
16 That would've been Ms. Sheila MacDonald, and
17 Ms. MacDonald—at that time we felt that—
18 well, she was a former teacher at the School
19 for the Deaf, and we certainly wanted to
20 increase Carter's access to signing, and so
21 we were increasing incrementally, I guess,
22 and then a full-time teacher to support
23 Carter at that time.

24 Q. You're referencing Tina Halleran, and the
25 assignment of Tina Halleran in late 2017.

September 2, 2022

1 MS. KIMBERLY CHURCHILL:

2 A. No, Sheila MacDonald.

3 MR. REES:

4 Q. Oh, sorry, Sheila MacDonald, not Tina
5 Halleran, Sheila. We acknowledge that that
6 occurred.

7 A. Okay.

8 Q. My understanding with Sheila is that she
9 spent her time translating and communicating
10 course curriculum to Carter and not being
11 able to actually teach Carter ASL. Did you
12 know anything about that?

13 A. There were a lot of discussions. There were
14 a lot of requests. We felt we had a
15 qualified highly-proficient teacher, the
16 best that we could provide at that point in
17 time for Carter. Her pedagogy, which I
18 think is what you're asking, is exactly what
19 that looked like when she started. Was she,
20 you said, translating?

21 Q. She was effectively translating what the
22 classroom teacher -

23 A. Sheila MacDonald—oh, when—well, he would've
24 had some in-class support, yes. I mean, he
25 would've been with his—he was accessing the

September 2, 2022

1 prescribed curriculum. We were hoping that—
2 that's—we always start at the highest level
3 that we can with students because we have
4 other options, but we want our children to
5 access the prescribed curriculum, so she, I
6 guess, in class with Carter would have been
7 not so much—well, she would've been
8 communicating from what the classroom
9 teacher was saying. I assume also by being
10 there learning what pre-teaching she may
11 have to do or further teaching she would
12 have to do with Carter when he wasn't in the
13 main classroom, that she would have periods
14 with him herself to further support that
15 teaching and learning in the classroom.

16 Q. Okay, another subject.

17 A. Thank you.

18 Q. You would've assisted in the posting of—or
19 advised on the posting of itinerant teacher
20 positions, itinerant teacher jobs? You'd be
21 consulted and aware.

22 A. Yes, myself and—yes, I would likely have
23 been involved with that, yes.

24 Q. And there was never a requirement for an ASL
25 proficiency test for an itinerant teacher,

September 2, 2022

1 was there?

2 A. Not at that point in time, not in the-not
3 when, you know, we-I first became involved
4 with managing the DHH itinerants. It hadn't
5 occurred. It had never been brought up to
6 occur, and we did start putting that in some
7 ads around proficiency, and it-and we did
8 ask for DHH itinerants to-you know, would
9 anyone agree to proficiency-I mean, we don't
10 operate, also, outside of collective
11 agreement either, obviously; I know that,
12 and that teachers didn't have-you know, we
13 couldn't mandate that they undertake
14 proficiency testing. At least that was my
15 understanding at the time, but some teachers
16 refused. Some teachers agreed to have
17 proficiency testing. I'm not sure if that
18 answers your question, but I'm just trying
19 to think forward.

20 Q. Well, for example, Ms. Halleran, before she
21 was hired and assigned to Carter Churchill,
22 she wasn't proficiency tested.

23 A. No.

24 Q. And Tracey Barron, she wasn't ASL
25 proficiency tested-

September 2, 2022

- 1 A. No.
- 2 Q. —and she gets assigned to Carter in
- 3 Kindergarten.
- 4 A. Yes.
- 5 Q. And Terrilynn Clarke replaces Ms. Barron,
- 6 and at the time she's assigned to carter she
- 7 isn't proficiency tested, is she?
- 8 A. That was ongoing. That process of
- 9 proficiency testing was ongoing.
- 10 Q. Yes.
- 11 A. Because my understanding from our human
- 12 resources managing student assistants—that,
- 13 you know, we couldn't just test one person
- 14 who was on our list as having some
- 15 proficiency or just a student—I'm sorry,
- 16 ASL—they had ASL, some ASL.
- 17 Q. Yes.
- 18 A. So, we couldn't just cherry pick; "We're
- 19 going to test you." We would have to
- 20 provide proficiency testing for all of those
- 21 student assistants on our list, so would've
- 22 taken time.
- 23 Q. How did you know any of these people had any
- 24 proficiency in ASL?
- 25 A. We worked with HR. Again, they, I think,

September 2, 2022

- 1 had a list of who was on our list of student
2 assistants with ASL.
- 3 Q. Do you know how any of those people knew
4 whether these people -
- 5 A. No, I do not.
- 6 Q. You don't, and you never proficiency tested
7 any of them until, you know, the incident
8 occurs that we're going to talk about.
- 9 A. Correct, yes.
- 10 Q. One of the resources that you've indicated
11 you provided to Carter Churchill was
12 Terrilynn Clarke, a student assistant who
13 professed to have ASL competency, right?
- 14 A. That was the first student assistant?
- 15 Q. Well, she replaces, I think, Ms. Barron.
- 16 A. Okay. Yes, I recognize that name.
- 17 Q. Right, and before Terrilynn Clarke is hired
18 and assigned to Carter, she doesn't get
19 proficiency tested at that point?
- 20 A. No.
- 21 Q. But eventually after the Churchills
22 continually advocate for ASL proficiency
23 testing, Ms. Clarke does get tested, doesn't
24 she?
- 25 A. Yes.

September 2, 2022

- 1 Q. And were you advised of the results of that
2 proficiency test?
- 3 A. Yes.
- 4 Q. And they were pretty poor, weren't they?
- 5 A. I was surprised.
- 6 Q. You were surprised.
- 7 A. Shocked actually and disappointed. I was—
8 yeah.
- 9 Q. Right, and I'm going to read for you a
10 section of the report. I mean, I don't
11 think I need to take you there because
12 you've indicated you read it, and you had
13 that reaction. This is the one that says
14 "Terrilynn had considerable difficulty in
15 producing appropriate signs"—
- 16 A. Yes, I remember that.
- 17 Q. —"inaccurately produced the sign for school,
18 signing "nice" repeatedly. She began the
19 conversation by incorrectly fingerspelling
20 her name. What should've been "T-E-R-R-I-L-
21 Y-N-N was produced as T-E-R-S-L-Y-N-N.
- 22 A. Right, so that's unacceptable—
- 23 Q. Right.
- 24 A. —and I'm sure—and, you know, we recognize
25 that immediately and would've worked to—

September 2, 2022

1 within whatever way we could with HR to
2 provide a more—a student assistant with a
3 higher level of proficiency, and I believe
4 that's when Ms. Vaters was moved into that
5 position.

6 Q. Right, so in hindsight you recognize that
7 that was completely unacceptable and
8 inappropriate?

9 A. It wasn't part of our practice to, you know,
10 to do proficiency testing, at least not in
11 my department, you know, and whether—you'd
12 have to ask HR if they did it; but, to my
13 knowledge, if it had been done, it was
14 probably a long time ago. That's sort of
15 what I gathered.

16 Q. Well, I mean, they test in other
17 departments, right? They test in the French
18 Department.

19 A. Yeah.

20 Q. You want to teach French? You got to
21 complete the DELF—

22 A. Yeah.

23 Q. —or be grandfathered through some other
24 program, right?

25 A. Uh-hm, for teachers.

September 2, 2022

1 Q. There's even English proficiency tests for -

2 A. For teachers, not student assistants, yeah.

3 Q. Correct, yes, but, of course, the student
4 assistants aren't required in, you know,
5 French and English classes even to translate
6 for students, are they?

7 A. I can't say. I don't know

8 Q. Yes, okay. It's the student assistants,
9 though, in Carter's case who are being
10 relied upon to translate course curriculum,
11 aren't they?

12 A. That's an interesting question—or comment.
13 I guess it wasn't really a question. The—I
14 guess to put this in context, at least for
15 me, that student assistants in—99 percent of
16 times in our school system are providing
17 physical support and that there is one area
18 of eligibility for a student—two areas of
19 eligibility that have—specifically around
20 communication, that is a student assistant
21 for the blind and visually impaired and a
22 student assistant for the deaf or hard of
23 hearing. So, as I say, 99—people think of
24 student assistants, and they think of them
25 as portering and doing physical support

September 2, 2022

1 pieces but—where was I going with this.
2 Hang on. Okay, and so what I've come to
3 realize—and when I came—I'm not sure when
4 this happened, but that the description on
5 the application form—because you have to
6 apply for student assistant support; it's a
7 service—that the description of what's
8 required for a student assistant changed
9 significantly from, say, 2014 to what it is
10 today. It may have changed and been
11 upgrades around 2017, but there was just,
12 like, one line in the beginning. "Provide
13 support" or "Facilitates communication"
14 might be part of the piece. There was no
15 reference to proficiency, testing, no
16 direction for that. Now, it exists—that
17 there is more detail on that application
18 form and some reference to proficiency.
19 Now, I haven't been working in that area for
20 three years, so, again, you know, I'm going
21 on memory, but I know that for a fact so -
22 Q. I mean, Shane Porter—
23 A. Shane Porter, yeah.
24 Q. —Carter's Kindergarten teacher testified—
25 A. Yeah.

September 2, 2022

- 1 Q. -I believe he was the first witness after
2 the Churchills—that, I mean, he was very
3 reliant on the student assistant to
4 communicate course curriculum to Carter in
5 ASL because, you know, beyond a few basic
6 signs that he had an interest in learning,
7 you know, Mr. Porter couldn't speak ASL.
- 8 A. Correct, yes. That's true.
- 9 Q. So, it's as a result of the fact that the
10 classroom teacher, the curriculum teacher,
11 can't communicate with Carter Churchill that
12 the student assistant ends up taking on this
13 expanded role, isn't it, this translation
14 role?
- 15 A. Yes. I'm not going to underplay the
16 Kindergarten curriculum because it's
17 important; it's the formative years, but it
18 is a play-based curriculum, and I don't know
19 if you know what that means but -
- 20 Q. I do, yes.
- 21 A. Okay, so I would think that even if a
22 teacher did not have ASL—and, look, to my
23 knowledge, we didn't look to have a teacher
24 there with ASL.
- 25 Q. Correct.

September 2, 2022

1 A. That was—you know, that was—we did not do
2 that so—but there would've been the
3 expectation of that teacher, and most
4 teachers will do this, provide visuals,
5 ensure whatever way they can that the
6 student is included, work with what other
7 supports would be in the classroom and in
8 the beginning, as we know, the student
9 assistant—I'm sure she was doing the best
10 she could, but she just didn't have the
11 proficiency that was required.

12 Q. But with your reference to the play-based
13 Kindergarten curriculum, do I understand you
14 to be saying that the, you know, translation
15 and passing along in communication, you
16 know, verbal to ASL translation, of course,
17 curriculum, wasn't as important in
18 Kindergarten as it would've been in
19 subsequent years?

20 A. No, I think it's very important in
21 Kindergarten.

22 Q. Okay, then, why did you mention that the
23 curriculum is all play-based. What was the
24 relevance?

25 A. Well, I think for Carter to be—our thinking

September 2, 2022

1 at the time, to have him—he was attending
2 Beachy Cove. That was his classroom. No,
3 there were no deaf students in his
4 classroom, but we—you know, he—a big piece
5 of our learning is social and emotional
6 wellbeing, and by having him attend there,
7 it wasn't to increase his anxiety. It
8 would've been to decrease it, to be part of
9 a classroom. Now—and we recognize, you
10 know, certainly that he was not able to
11 participate as the hearing children could
12 there, but the reports that we did receive
13 from, let's say—well, for sure from Ms.
14 Halleran, and that would've been—I mean, I'm
15 sorry—Ms. MacDonald—that would've been
16 probably the next year—that Carter enjoyed—
17 or appeared to enjoy being with those
18 children. He was happy there, and he was
19 making connections with them. I mean, this
20 would've come in a report written probably
21 and verbal, so we did not see any signs from
22 a social and emotional piece that Carter was
23 having difficulty. Now, we didn't see it.
24 Maybe the parents saw it, but we didn't see
25 it at the school level. At least that's

September 2, 2022

1 what was communicated to me.

2 Q. I mean, Terrilynn Clarke—sorry, Terrilynn
3 Clarke? Terrilynn Clarke testified that -

4 MR. CHURCHILL:

5 A. Tammy Vaters.

6 MR. REES:

7 Q. Sorry, yes, I'm thinking about Tammy Vaters.
8 That's my problem. Tammy Vaters testified
9 that from Grade 1 to 3, because she wasn't
10 with Carter in Kindergarten -

11 A. Right.

12 Q. From Grades 1 to 3 in Beachy Cove, a school
13 of 750 students, and even more staff, she
14 and Carter were the only deaf people in that
15 entire building.

16 A. Yes.

17 Q. The only person that Carter Churchill could
18 communicate with was Tammy Vaters.

19 A. The only person that he communicated with
20 using ASL was his teacher, I guess, and
21 Tammy Vaters, and his teacher wasn't a
22 natural signer, right, Ms. MacDonald—

23 Q. No, that's right.

24 A. —but she did work with the Newfoundland
25 School for the Deaf and, you know, felt she

September 2, 2022

1 was the best we had at the time to provide
2 support to Carter; we always thought the
3 best we had at the time to support him.

4 Q. We're going to talk about the alternatives
5 for better options that were presented to
6 you over the course of several years, but I
7 guess the question that I'm asking here now
8 is that you've indicated, you know, that
9 Carter Churchill appeared to be happy as
10 related to you by others. His parents
11 didn't think that way, but you thought that
12 he was happy.

13 A. His parents didn't think that way? Is that
14 what you said?

15 Q. His parents did not think that Carter
16 Churchill was happy at school, are you
17 kidding? No, I mean, they've been fairly
18 vocal to that point. In any event, I mean,
19 they filed a human rights complaint. I
20 mean, how -

21 A. Yes, but I-I understand a human rights
22 complaint to improve supports for their
23 child. I think it's around-it's sort of
24 more systemic right now as well, but we're
25 focussed on Carter, and the reports that

September 2, 2022

1 came to me through Ms. MacDonald—I didn't—I
2 mean, it was through reports through
3 MacDonald and, you know, not—I never spoke
4 to the student assistants. I mean, I didn't
5 have that luxury of being down working
6 individually with individual classes and
7 students. I just didn't have that luxury in
8 this role of doing that. That wasn't my job
9 to do that, but, you know, that—the
10 information that I received that—that he was
11 happy when he was in his classroom, that
12 children when they broke for recess,
13 whatever, there were some children who—they
14 were happy to see him. They would go to his
15 desk. Some children would rudimentary sign,
16 I'm sure. I'm not suggesting that this was
17 an ASL language but that we really didn't
18 get any indication that—at that time he was
19 under mental duress or not happy, and, you
20 know, his parents, you know, obviously—you
21 know, parents know their children best, and
22 I—you know, I have to say my role was
23 working a lot with parents who were not
24 happy with our system overall or with the
25 services that are being provided for their

September 2, 2022

1 children. And one thing that I came to
2 learn through my over-a-decade experience at
3 the district was that parents obviously know
4 their children best. I respect the input
5 that they have. I always tried to take that
6 and bring it forward; and that as one parent
7 said to me—not these parents, but another
8 parent in another situation—“Look, you’re
9 going to be—my child—I’m going to be his
10 parent forever. The teachers and you and
11 everybody else, they’re going to come and go
12 out of my child’s life.” And that really
13 stuck with me, and as a parent myself and a
14 grandmother, I know we know our children
15 best and that I—you know, to the best of my
16 ability always did the best we could do for
17 Carter Churchill with the resources that we
18 had in a system that was, I’m going to just
19 say, not nimble, lots of processes and
20 barriers, but, you know, I just want to be
21 clear that that was my philosophy and
22 approach.

23 Q. You had no reason to believe during
24 Kindergarten through to Grade 3 that Carter
25 Churchill was experiencing any degree of

September 2, 2022

1 mental distress or psychological harm as a
2 result of being the only hearing child in a
3 school of 750 people—or, sorry, the only
4 deaf child in a school of 750 hearing
5 people?

6 A. That's the model that we, you know, like -

7 Q. Yes, I know it's the model, but what I'm
8 asking, did you have any reason to believe?

9 A. I—that specific concern I don't recall
10 coming to me, Mr. Rees. I don't recall—you
11 know, the signs of that are usually
12 absenteeism. Sometimes it's withdrawal.
13 Sometimes it's crying. Sometimes it's
14 acting out. There are other indicators. We
15 did have an educational psychologist
16 available to all our schools in addition to
17 all his teachers. Teachers usually pick up
18 on that, actually, very quickly, so if that
19 was the case—unless it was communicated to
20 me by Mr. Churchill or Mrs. Churchill that
21 there was, you know, mental distress there—I
22 don't recall that specifically with Carter.

23 Q. I'm going to ask you to pick up that purple
24 binder that's there and go to Tab 9.

25 A. Tab 9.

September 2, 2022

- 1 Q. You'll see a CBC news story, I believe, so
2 flip to the last page of the CBC news story.
- 3 A. Okay.
- 4 Q. And CBC—after Mr. Churchill complained about
5 the lack of an ASL trained teacher, the
6 district—and it doesn't say who.
- 7 A. I'm sorry, Mr. Rees, what paragraph are you
8 referring to?
- 9 Q. So, you're on the CBC news story at Tab 9?
- 10 A. Okay, last page did you say?
- 11 Q. And the last page—or, actually, you know
12 what, it isn't the last page of the news
13 story. Sorry, I didn't realize there was a
14 little add-on by Peter Whittle.
- 15 A. So, where it says "School district trustee
16 speaks out?"
- 17 Q. That's right.
- 18 A. Okay, I'm with you.
- 19 Q. So, right above that line there's a sentence
20 that's attributed to the district, and I'm
21 wondering if you can tell me about that
22 sentence or if you're aware of who would've
23 communicated this, and it says, "If any
24 teacher in a hard-to-fill discipline," like
25 an ASL teacher, "does not meet all the

September 2, 2022

- 1 qualifications required for their position,
2 the district said it provides professional
3 development to enhance their skills.”
- 4 A. I don't know who said that, but I would say
5 that “If any teacher in a hard-to-fill
6 discipline”—I'm sorry, I'm just reading it
7 out loud because I need to do that. “If any
8 teacher in a hard-to-fill discipline does
9 not meet all the qualifications required for
10 their position,” so in other words a full
11 recruitment process has taken place that a
12 qualified teacher—there was no one who met
13 the minimum qualifications in that
14 competition, so we need to have a teacher,
15 so in the case of—in that case it “it
16 provides professional development to enhance
17 their skills.”
- 18 Q. So, my question is, is that true? When you
19 have a teacher -
- 20 A. I'm only familiar with one case where that
21 is true.
- 22 Q. Give me the example.
- 23 A. That was support for Carter's teacher, Ms.
24 Van Geest, where we had—we provided further
25 professional learning around ASL for her as

September 2, 2022

1 part of her taking on the term position that
2 she took at Beachy Cove, and I'm not
3 suggesting that she didn't meet our minimum
4 qualifications because she had a Master's
5 Degree. It was the proficiency of her ASL
6 that we needed to determine, so there was an
7 agreement in place that we would support her
8 in the development of her ASL. That's the
9 only example that comes to mind relating to
10 Carter.

11 Q. And that was training you gave Ms. Van
12 Geest, I recall, before she took the sign
13 language proficiency test, correct?

14 A. Before—and -

15 Q. I can tell you it is.

16 A. Well, I -

17 Q. She testified she had had no training
18 because she took the test, and she had had
19 no training after the test.

20 A. Yeah. I seem to recall that there was
21 further support, but I don't have that in
22 front of me, and HR would be able to answer
23 those questions.

24 Q. And Ms. Van Geest scored poorly on the
25 proficiency test, didn't she?

September 2, 2022

- 1 A. Yes, she didn't score as highly as what I
2 think we would've hoped, yeah.
- 3 Q. And she testified when she was here a few
4 days that she actually thought the test was
5 wrong and her proficiency was a lot higher.
- 6 A. I don't know.
- 7 Q. You don't know.
- 8 A. Well, I didn't watch the proceedings.
- 9 Q. To change topics, were you familiar that a
10 report had been produced by the Department
11 of Education in 2011 that then later
12 received an update in 2018 that was called A
13 Review of Services for Deaf and Hard of
14 Hearing Students? Do you recall that that
15 happened?
- 16 A. 2011, no, not specifically in 2011.
- 17 Q. Because you wouldn't have been in the role
18 in 2011—
- 19 A. No.
- 20 Q. —but by 2018 you would've been.
- 21 A. But I don't recall being notified that there
22 was an update in a report, no.
- 23 Q. Okay, let's look at it, Volume 1.
- 24 A. Where am I looking?
- 25 Q. The furthest right-hand—the furthest left—

September 2, 2022

- 1 hand side for you, sorry, and one of the
2 documents says "Volume 1."
- 3 A. Volume 1? Hang on.
- 4 Q. It might be the one that you've already
5 referred to—
- 6 A. I'm thinking this is the one.
- 7 Q. —and not the hardcover one but underneath
8 that.
- 9 A. Oh, wait now. Oh yes, underneath this.
- 10 Q. Yes.
- 11 A. Right.
- 12 Q. Is that Volume 1? Can you just flip to the
13 cover page?
- 14 A. Yes, sorry.
- 15 Q. Okay.
- 16 A. Yes, it is.
- 17 Q. And it's Tab G as in Golf.
- 18 A. "G" as in Golf.
- 19 Q. Right.
- 20 A. "A Review of Services for Deaf and Hard of
21 Hearing Students in Newfoundland and
22 Labrador, June 2011."
- 23 Q. Right, and it's dated June 2011, but as we
24 look through the report—and we will—there's
25 an update on each of these items in 2018.

September 2, 2022

1 Does this look familiar to you at all? Does
2 this jog your memory? Any recollection that
3 this report existed?

4 A. No.

5 Q. If a report was being commissioned by the
6 Department of Education into deaf education—
7 I mean, your role would've been a large part
8 of ensuring that services for deaf students
9 were met. Like, do you think you would've
10 been advised about this? Do you have any
11 reason to believe that this report would've
12 escaped your attention?

13 A. I have no reason to believe it would've
14 escaped my attention. It just—I was not
15 aware of it, and we had quarterly meetings
16 with Student Services within the Department
17 of Education. I don't recall this, Mr.
18 Rees.

19 Q. Okay, and we'll see if this jogs your memory
20 at all, and I suspect it won't. It's a
21 report in 2011 that identifies, you know,
22 several gaps. There's lack of sign language
23 proficiency testing. There's no teacher of
24 the deaf. There's all kinds of things, and
25 I don't need to ask you about the individual

September 2, 2022

- 1 ones, at least not yet. There's then an
2 update in 2018 to show what progress has
3 been made on any of those things, and with
4 the vast majority of them there is no
5 progress on any of those items. You know,
6 would that have been concerning to you in
7 the role that you were in in 2018, if there
8 was a report out there that said, you know,
9 "Here are 15 areas of" -
- 10 A. Mr. Rees, I don't know what those 15 areas
11 are.
- 12 Q. Yes.
- 13 A. I'm not familiar with the report. If they
14 were designated responsibility for the
15 district versus the department, I'm pretty
16 confident that myself or our executive
17 would've been aware of district follow-up.
18 I was not—do you know what time in 2018 this
19 was released?
- 20 Q. No, and at some point over the lunchbreak—
21 I'm going to ask you some other questions,
22 but over the lunchbreak I'll ask you to
23 review it in greater detail to see if it
24 jogs your memory in any way. It seems
25 significant to me in relation to the work

September 2, 2022

- 1 you would've done. Tell me about your -
- 2 A. I don't remember.
- 3 Q. Okay.
- 4 A. Now, there may be other members of the
- 5 Students Services division that worked for
- 6 me that are familiar with this. I'm not
- 7 familiar with it that I recall, but I will
- 8 review it as requested.
- 9 Q. Okay. Did you ever approach the Department
- 10 of Education and seek that they develop an
- 11 ASL curriculum?
- 12 A. No.
- 13 Q. Did you ever feel that that was needed? Was
- 14 there any reason why you wouldn't have
- 15 approached them? I know curriculum is the
- 16 responsibility of the department.
- 17 A. It is. I—maybe in conversations—I don't
- 18 recall having that specific conversation
- 19 with the Department of Education, no.
- 20 Typically, in our meetings with the
- 21 Department of Education, the departments set
- 22 the agenda. We were able as a district to
- 23 get some agenda items on the—there for
- 24 discussion, but, I mean, it didn't have to
- 25 happen specifically in a meeting. I mean,

September 2, 2022

1 if-I was free to call, you know, Bernie
2 Ottenheimer if I felt that I had to have a
3 conversation with her about something. It
4 didn't happen a lot, I will tell you that,
5 at that point in time. There wasn't the-
6 there was a bit of a divide.

7 Q. Any recollection whatsoever of ever having
8 made phone calls, e-mail, conversations
9 suggesting that the department ought to
10 develop an ASL curriculum or that the lack
11 of an ASL curriculum from the department in
12 any way made the services you were
13 delivering more difficult to deliver?

14 A. I'm thinking, and I'm just sort of trying to
15 think that when the-when-once we got
16 involved with the human rights complaint,
17 our lawyers, you know, basically -

18 Q. Ian Wallace.

19 A. Pardon?

20 Q. Ian Wallace.

21 A. Yes, and-Ian Wallace, and the whole process
22 became more-communication was more-less
23 spontaneous on my part with anybody. Now, I
24 don't think that restricted conversations
25 with the Department of Education, but in the

September 2, 2022

- 1 beginning the Department of Education was
2 also part of the complaint. I understand
3 they are not—they are no longer part of the
4 complaint—that through that process, even if
5 I didn't mention it—and I can't remember a
6 specific time that I did, so I'm, you know—
7 that I feel they would've been aware of
8 that. Do you know what I'm trying to say?
- 9 Q. When the human rights complaint was filed,
10 and the progress—
- 11 A. Yes.
- 12 Q. —you know, and it progressed, and legal
13 counsel were involved—
- 14 A. Yes.
- 15 Q. —discussions between you and your role at
16 the school district and others, your
17 counterparts at the Department of Education,
18 became less spontaneous. What does that
19 mean?
- 20 A. Well, the Department of Education was
21 represented at various meetings. Certainly
22 when we got to the mediation, we had
23 Department of Education people there, and I
24 feel like they—while my—I'll say
25 counterpart, but the director of Student

September 2, 2022

1 Services at the time—that she would have
2 known that this was an important element.
3 They also had a program specialist there for
4 some period of time whose responsibility it
5 was for DHH support. That was held by Ms.
6 Fewer Jackson for a period of time.

7 Q. I don't think this is the answer to my
8 question.

9 A. Okay.

10 Q. You said the conversation became less
11 spontaneous. What do you mean by that?

12 A. I may have misspoken on that, Mr. Rees. I
13 think I'm better to say that I don't recall
14 having a specific conversation around that
15 with Bernie Ottenheimer, shall we say, who
16 would've been who I would've communicated
17 with.

18 Q. Yes, okay, I'm not going to let you off the
19 hook that easy.

20 A. That's fine. I'm not trying to get off the
21 hook. I'm trying to relay to you what I
22 remember in a truthful manner.

23 Q. Please do that. You told me that the
24 conversation became less spontaneous.

25 A. Yes, and then I said I may have misspoken on

September 2, 2022

1 that, and I may have been thinking of
2 conversations generally.

3 Q. Well, tell me what that means.

4 A. Well, with the parents.

5 Q. Conversations with the parents became less
6 spontaneous.

7 A. Yeah, I think so, yeah. I mean, basically
8 communication went through our lawyers at
9 that point in time. Proposals were going
10 back and forth. I wasn't free to—I didn't
11 feel I was—and I'm pretty sure I wasn't free
12 to initiate a conversation with Mrs.
13 Churchill or Mr. Churchill, that those
14 conversations were, you know, lawyers to
15 lawyers.

16 Q. Okay, because when -

17 A. I was as a matter of fact.

18 Q. It would've been. When you mentioned, you
19 know, the freezing of conversations, the
20 slowing of conversations, the conversation
21 becoming less spontaneous, I mean, that was
22 in answer to a question that I asked you
23 about discussions between you and your
24 counterparts in the department, and your
25 answer to the question—and you told me you

September 2, 2022

1 misspoke, but I think what you mean is,
2 "Oops, I wish I didn't say that."

3 A. No, I said I misspoke. I'm trying to think
4 of how those communications unfolded, so I
5 misspoke.

6 Q. You were afraid to send communications to
7 the Department of Education after the human
8 rights complaint was filed because you were
9 worried that the two folks sitting beside me
10 would ATIPP those conversations, weren't
11 you?

12 A. No. No, I was not. I definitely was not
13 afraid. It wasn't a common practice for us
14 to be communicating back and forth except
15 during meetings with—quarterly and then
16 semi-annually and so on.

17 Q. One last area of questioning before we break
18 for lunch. I know we usually plan to do
19 that around 12:00, right? Would you attend
20 or otherwise receive minutes from meetings
21 held between the DHH itinerants. I know
22 they get together every so often, have
23 meetings and produce minutes. Would you be
24 there or receive those minutes?

25 A. Some meetings I attended with Ms. Lawlor,

September 2, 2022

- 1 and many I didn't.
- 2 Q. And the ones you didn't attend, would you be
- 3 sent the minutes?
- 4 A. Yes, I think I would.
- 5 Q. Okay, in that same volume, Volume 1, I'm
- 6 going to ask you to turn to Tab T as in
- 7 Tango.
- 8 A. No, I'm in the wrong book again. "T,"
- 9 "Meeting Minutes, DHH BVI.
- 10 Q. And I don't believe you're listed as being
- 11 at that meeting-
- 12 A. No.
- 13 Q. -but you've indicated that usually, you
- 14 know, these would've been minutes that
- 15 would've been forwarded to you at some
- 16 point. Right?
- 17 A. I think usually they were.
- 18 Q. I'm going to ask you to turn three pages in,
- 19 so to page four of that document-
- 20 A. Okay.
- 21 Q. -and there's a paragraph there that has the
- 22 heading "Students Who have Cochlear Implants
- 23 and Low Language."
- 24 A. Wait now. Oh yes.
- 25 Q. Can you read that paragraph to yourself, and

September 2, 2022

1 then I'll ask you some questions about it.

2 A. Okay. Okay.

3 Q. So, I can see the discussion here, you know,
4 raises—and we've, you know, all read it—
5 raises concerns around children with
6 cochlear implants, and I think it's pretty
7 obvious one of these kids was Carter—

8 A. Sure.

9 Q. —and that they had low language and
10 comprehension skills and that the
11 programming is not what they need, right?
12 And that's what your DHH teachers are
13 saying?

14 A. Uh-hm.

15 Q. These are the folks on the ground. I mean,
16 you know, you're not spending your days with
17 Carter Churchill, right, but these people
18 are—

19 A. Uh-hm.

20 Q. —and they're coming to you with these
21 concerns, and they suggest a few things.
22 They suggest bringing the students together
23 once a week; it would be helpful for these
24 children to see others with cochlear
25 implants, and that there are concerns that

September 2, 2022

- 1 the students can't access the curriculum.
2 They talk about the gap with the closure of
3 the School for the Deaf, and that they're
4 concerned—this is prophetic: "Teachers are
5 concerned that this is a human rights
6 concern."
7 A. Uh-hm.
8 Q. They talk about reverse integration used in
9 some other provinces, you know, and your
10 satellite classroom sort of scenario.
11 A. Oh, well, reverse integration is actually,
12 in my understanding, how I've used it and
13 seen it used is that—in this case would be
14 hearing children, you know, coming to
15 children who were deaf or hard of hearing or
16 had cochlear implants. That's typically
17 what we call reverse integration or—I don't
18 really use that word, integration, but—yes.
19 Q. But the idea here being that deaf kids would
20 be in a class with some other deaf kids some
21 of the time.
22 A. No, that's not my understanding of what that
23 -
24 Q. Oh, that's not what reverse integration
25 means.

September 2, 2022

- 1 A. That's—that—I think that's the intent of
2 what's being said there, but reverse
3 integration is not—that's not my
4 understanding of reverse integration.
- 5 Q. Okay, so you understand the intent. You
6 think they used the wrong wording.
- 7 A. I do.
- 8 Q. Fair enough. "There's also an indication,"
9 the very last sentence of that paragraph,
10 "some of our young students need intensive
11 language intervention." You know, we were
12 talking about a call to action, right?
- 13 A. Uh-hm.
- 14 Q. And it indicates that Bonnie and Kim met
15 with the NL Association for the Deaf and had
16 a conversation there, talked about other
17 organizations, and "The itinerants feel that
18 some students with hearing impairments need
19 additional service from a trained teacher
20 for the deaf to access curriculum," and then
21 under the heading, "Action Items," towards
22 the bottom of that page says, "Kim will
23 discuss these concerns with Bonnie and
24 provide an update at the next meeting."
- 25 A. Uh-hm.

September 2, 2022

- 1 Q. What did you do as a result of these
2 concerns being raised with you?
- 3 A. "It's impossible for some of our students to
4 access"—so, there's a number of asks here;
5 and when you say, "What did you do," I'm
6 assuming you mean around getting—if local
7 students can get together, is that your
8 request?
- 9 Q. Well, I'm—and I'm not even suggesting an
10 answer to you. In fact, my suggestion to
11 you is that following this meeting you did
12 very little. I'm wondering if you can tell
13 me otherwise.
- 14 A. I'm sorry, you'll have to repeat the
15 question.
- 16 Q. Well, I'm not suggesting any direct answer
17 to you other than to say that I think
18 following this meeting to address the
19 concerns and the issues that are raised in
20 this meeting, I think you do very little.
21 Can you tell me otherwise? Is there
22 something you did?
- 23 A. Oh, that's what you said.
- 24 Q. Because these are the same concerns the
25 Churchills are raising with you, right?

September 2, 2022

1 A. Uh-hm.

2 ADJUDICATOR:

3 Q. I'm just noting I'm getting a lot of "uh-
4 hms."

5 A. Oh, I'm sorry.

6 Q. I'm going to ask if you can say "yes" or
7 "no."

8 A. Yeah, okay, sorry. That's really just a
9 thinking piece in my head. I think we would
10 have considered it. I mean, we would've
11 talked about it. Kim would've come to me
12 with this. As far as any other follow-up
13 action on that that—and I'm looking now at
14 "DHH itinerants feel that some students with
15 hearing impairments need additional service
16 from a trained teacher for the deaf to
17 access the curriculum." I think, Mr. Rees,
18 that we would have thought at that point in
19 time, or as we discussed it, that the
20 current model of deliver included, you know,
21 DHH itinerants providing service and that a
22 change in that model, which we may have
23 interpreted at that time—again, I don't
24 recall specifics of 2016, but it—I don't
25 think any of these specific requests were

September 2, 2022

1 actioned. Ms. Lawlor may know, but I don't
2 think there was any big action around any of
3 these points at that time.

4 MR. REES:

5 Q. You're right, there isn't.

6 A. Right.

7 Q. So, you have all of the deaf itinerants, you
8 know, who you rely upon to provide services
9 to children like Carter Churchill—and in
10 this case Carter Churchill was one of them—
11 coming to you with substantial concerns in
12 writing with the action item that
13 specifically identifies that these are
14 concerns that they need to raise with you so
15 you can follow up, and you're telling me
16 nothing comes out of it.

17 A. Well, at that time there certainly—you know,
18 there was no movement to get children
19 together. Again, the lens that we were
20 looking at that was through delivering
21 services as they currently existed, which we
22 felt at that time, and, you know, the
23 teachers were saying that. I mean, that's
24 important. I'm not undermining the fact
25 that—what they were saying wasn't important.

September 2, 2022

1 I would've hoped that we would've brought
2 this forward and had conversations with our
3 Department of Education because it is—you
4 know, it may have been part of their mandate
5 as well, but I honestly don't recall any
6 specific action that we took.

7 Q. You can't think of any specific action that
8 you took.

9 A. No.

10 Q. Okay. We'll break for lunch, I think. I'm
11 okay to do that. I want to get on the
12 record before we break, though, that while
13 I've asked you to review a document over the
14 lunchbreak, and, you know, Mr. Penney can
15 give you some more details on this, but it's
16 very important that you don't speak to
17 anybody, not only legal counsel but others,
18 other individuals, family members, people
19 you meet in the hallway about your evidence
20 or have any discussions about what your
21 evidence could be or what you said that's
22 correct or incorrect.

23 A. Sure.

24 Q. And that's very—I think you're the first
25 witness we've had, you know, go over a

September 2, 2022

1 break, so I just want to make sure that's
2 clear.

3 A. I understand.

4 Q. Thank you.

5 A. Can you remind me again which piece here I'm
6 reviewing over lunch?

7 Q. It's volume -

8 A. Do you provide lunch, by the way?

9 Q. Sorry?

10 A. Do you provide lunch or -

11 Q. No. Volume 1. Sorry, I have to look back
12 through my notes.

13 A. One, yeah.

14 ADJUDICATOR:

15 Q. It's "G," right?

16 MR. REES:

17 Q. I think it's Golf. I think so, yes.

18 A. No, that's a different document. Oh no.

19 Q. It's the 2011 report.

20 A. It is "G."

21 Q. Okay, yes, Volume 1, Tab G.

22 A. Okay, and it's 53 pages, okay, yeah.

23 ADJUDICATOR:

24 Q. We have witnesses scheduled for the
25 afternoon. Do you want to come back right

September 2, 2022

1 at 1:00, or what are taking for time?

2 REPORTER:

3 Q. Your microphone, Mr. Rees, please.

4 MR. REES:

5 Q. Yes, we could return at 1:00, and we'll have
6 some conversation about other witnesses.

7 ADJUDICATOR:

8 Q. Thank you. We'll adjourn until 1:00 P.M.

9 Thank you.

10 (OFF RECORD)

11 ADJUDICATOR:

12 Q. So, Mr. Rees, you were in the midst of your
13 questions, I think.

14 MR. REES:

15 Q. I was, so Ms. Woodland, I trust you took the
16 opportunity, as short as it was, during the
17 lunchbreak to review that document we
18 discussed, which was the 2011 proposal with
19 the 2018 updates?

20 A. I did.

21 Q. Having reviewed that document, does that
22 give you any better recollection of having
23 come across that document or review that
24 document during your tenure?

25 A. No.

September 2, 2022

1 Q. Okay, so that document—your belief is and
2 your view is that that document likely
3 wasn't brought to your attention, do you
4 think, or is it just it was, but you sort of
5 -

6 A. I don't recall it being brought to my
7 attention.

8 Q. Okay. In terms of the content of that
9 document, did you understand, and would you
10 agree with me that many of the themes and
11 concerns in that document are similar to
12 concerns that the itinerant teachers were
13 bringing to you and the Churchills were
14 bringing to you?

15 A. Yes, some of them are.

16 Q. Okay. Those are all the questions I have
17 about that document, and so thank you for
18 taking the time to review it. I would've
19 had other questions for you had you recalled
20 the document being brought to your
21 attention.

22 A. I would like to make a comment.

23 Q. Yes.

24 A. In reviewing it, I didn't do a deep dive
25 into the teacher caseloads at the end of the

September 2, 2022

1 document. I took a look at that, but I was
2 reading the gaps and the updates, and my
3 impression is that most of this would lie
4 within the purview of the Department of
5 Education for updating, the—to addressing
6 gaps and that, maybe not all, but most of
7 them in my opinion would be and that I just
8 want to summarize that we were delivering
9 the services that we were tasked to deliver
10 under the model we had.

11 Q. Okay, that's interesting because Bob
12 Gardiner testified yesterday—or the day
13 before yesterday, and I took him through
14 that document recommendation by
15 recommendation, gap by gap, and with all of
16 them with the exception of the delivery—or
17 creation of an ASL curriculum, he indicated
18 -

19 MR. PENNEY:

20 Q. I mean, I think you actually took him to
21 certain specific ones?

22 MR. REES:

23 Q. Yes, okay, well, that's fair enough. I took
24 him through, I would say, the gaps that are
25 most salient to this case; and with the

September 2, 2022

1 exception of the development of a
2 curriculum, Bob Gardiner indicated that
3 every single one of those items was the
4 responsibility of the district and not the
5 department, and he indicated that that
6 would've been left to the district to
7 resolve, so your opinion is different from
8 that of Bob -

9 MR. PENNEY:

10 Q. I mean, I think we need to just make sure we
11 know what gaps we're talking about.

12 MR. REES:

13 Q. All right, let's go to the document.

14 MR. PENNEY:

15 Q. I don't know if my recollection is exactly
16 the same as yours.

17 MR. REES:

18 Q. Okay, that's volume -

19 ADJUDICATOR:

20 Q. Yes, I agree with Mr. Penney.

21 MR. REES:

22 Q. Yes.

23 ADJUDICATOR:

24 Q. If we want to put the specific items to her,
25 you can do that.

September 2, 2022

1 MR. REES:

2 Q. Sounds good. That's Volume 1, "G," right,
3 is it?

4 A. Volume 1, "G."

5 Q. Yes. You've probably seen, having looked at
6 the document that it's sort of organized in
7 the area by gap, Gap 1, Gap 2, Gap 3, okay?

8 A. Yes.

9 Q. So, let's talk about Gap 2. Gap 2 is about
10 creating -

11 A. Well, Gap 1 would be a Department of
12 Education responsibility.

13 Q. Yes, okay, that's fine. Let's talk about
14 Gap 2. There indicates that there was "no
15 formalized system in place to document
16 caseloads and language assessments and
17 information" like—and it recommends an
18 "APSEA database for the creation of a
19 database with the information about deaf and
20 hard of hearing students," and your view is
21 the development of such a database would be
22 the responsibility with the department,
23 right?

24 A. It should come under the purview of a DHH
25 consultant, yes. I mean, that's a

September 2, 2022

- 1 provincial position.
- 2 Q. Okay, are you aware that the school district
- 3 as recently as a year ago approached the
- 4 Churchills and asked them to sign a consent
- 5 form to be able to have their information in
- 6 the district, and this consent form was
- 7 prepared and sent to the Churchills by the
- 8 district, not the department.
- 9 A. Not specifically, no.
- 10 Q. Okay.
- 11 A. Was that a year ago?
- 12 Q. About a year ago, yes.
- 13 A. Now, I haven't been in this position for
- 14 three years.
- 15 Q. Right. This is 2021 that occurred, okay.
- 16 A. And a year ago we had a specialist in deaf
- 17 and hard-of-a director of deaf and hard of
- 18 hearing itinerant, so that is a huge
- 19 increase in management of our deaf and hard
- 20 of hearing education students and
- 21 programming. Prior to that we had no one,
- 22 and we had to rely on the department.
- 23 Q. Take a look at page 11, which is Gap 5.
- 24 A. "Policy Standards Department."
- 25 Q. No, Gap 5 is about "Systemic process to

September 2, 2022

- 1 offer early language acquisition skills.”
- 2 A. “Provincial Responsibilities, Department of
3 Education”—department—five, “Standards of
4 Practice,” yes.
- 5 Q. No.
- 6 A. No?
- 7 Q. No, I think we’re still -
- 8 A. Oh, sorry. Sorry.
- 9 Q. Gap 5, page 11.
- 10 A. That’s Recommendation No. 5. Gap 5, okay.
- 11 Q. It says, “There’s no systemic process in
12 place to offer early language acquisition
13 skills at the preschool level to both the
14 child and the family.” Now, that’s
15 something your DHH teachers did, right?
- 16 A. They have been working in that area, yes.
- 17 Q. And all of the recommendations on this
18 revolve around what DHH teachers should be
19 doing, so, I mean, that’s—not only is that a
20 district responsibility, but that’s your
21 responsibility, right?
- 22 A. I was not a provincial—I did not have
23 provincial responsibility. I worked in the
24 Eastern Region.
- 25 Q. I understand.

September 2, 2022

- 1 A. I want to be clear about that, right?
- 2 Q. Right.
- 3 A. "There is no systemic process in place to
4 offer early language acquisition skills at
5 the preschool level to both the child and
6 the family. Standards of practice"—with all
7 due respect, I feel that is a provincial
8 responsibility.
- 9 Q. So, you think that's a department
10 responsibility.
- 11 A. I mean, I haven't seen these before, so, you
12 know, if I had time to discuss them, I may
13 feel otherwise but -
- 14 Q. Well, I mean, the only reason I'm asking
15 about this is because that was the comment
16 that you made, that you felt that these were
17 all department responsibilities.
- 18 A. Yeah.
- 19 Q. That's why I'm going through them. Yes.
- 20 A. I did say that, and I still feel that is but
21 -
- 22 Q. Tell me about Gap 6, then. Gap 6 on page 12
23 complains that "District-level personnel had
24 limited knowledge of deaf and hard of
25 hearing issues." Surely, the hiring of

September 2, 2022

1 training of personnel at the district is a
2 district issue and not a department issue.

3 A. Right. "District-level personnel," it's
4 referring to district-level personnel such
5 as myself.

6 Q. Right.

7 A. "Have limited knowledge of deaf and hard of
8 hearing issues resulting in hiring practices
9 that may not meet the needs of students.
10 Once hired, these new teachers have no one
11 in administration who is knowledgeable to
12 oversee their 2-year probationary period and
13 ensuring that their skills meet the
14 standards of practice for educating deaf and
15 hard of hearing students." Probationary is
16 usually-new teachers-okay, we have not-at
17 the district level through HR, no, we have
18 not provided overseeing a 2-year
19 probationary period and ensuring that DHH
20 teachers-their skills meet the standards of
21 practice for educating deaf and hard of
22 hearing teachers-students so -

23 Q. Okay, so that one is a district
24 responsibility, right?

25 A. It would seem so.

September 2, 2022

1 Q. Okay, right, and does it seem to you so? I
2 mean, you said initially they were all
3 department, but now you've changed your mind
4 on this one, right?

5 A. Yes.

6 Q. Okay. Gap 7 says that "There's an ambiguity
7 in the educational system of who is
8 responsible for providing those supports,"
9 perhaps shedding some light upon our current
10 discussion, "that some deaf and hard of
11 hearing students require to access the
12 curriculum, and districts tend to wait for
13 the department to approve additional units
14 for the students as the intensity for those
15 students increases." So, you know, the
16 concern that there's an ambiguity within the
17 educational system about the
18 responsibilities between district and
19 department—surely, that's a joint
20 responsibility between those two entities.

21 A. I can't speak to that. I don't have any
22 access or know how units—or when we—when we
23 get the approval of a new teacher, where
24 that comes from, I have no idea.

25 Q. Okay.

September 2, 2022

- 1 A. It just arrives.
- 2 Q. Look at Gap 8, page 13. I'm trying to be a
3 little efficient on this.
- 4 A. Yes, you're doing good.
- 5 Q. Gap 8 indicates that "District-level
6 personnel need to understand the importance
7 of American Sign Language interpreting,
8 which at times left deaf students and
9 employees without access to assemblies and
10 special events and things." I mean, the
11 training of district personnel is not the
12 department's responsibility, is it? That's
13 the department's job—sorry, the district's
14 job.
- 15 A. Well, it's not asking about training, is it,
16 Mr. Rees? It's asking about "need to
17 understand the importance of American Sign
18 Language interpreting services."
- 19 Q. Well, how do you think you'd get them to
20 understand the importance of American Sign
21 Language?
- 22 A. Well -
- 23 Q. You'd have to provide training and education
24 to them, wouldn't you?
- 25 A. Well, certainly awareness, and I would add

September 2, 2022

- 1 that there is a very—when I was there three
2 years ago when I finished, I seem to recall
3 that there wasn't a deep pool of
4 interpreters, and that sometimes we were
5 just unable—to my understanding, again this
6 would be a school-based issue, and maybe
7 some principals were not aware of this.
- 8 Q. So, a school-based issue and not a
9 department issue, right?
- 10 A. (No audible response).
- 11 Q. This is a district responsibility, not a
12 department responsibility.
- 13 A. Yes.
- 14 Q. So, you've changed your mind on Gap 8.
- 15 A. It says "Districts are unsure as to who
16 should provide this service. Some—that's
17 true. I agree with that. "Districts are
18 unsure as to who should provide this
19 service." I think clarity between the
20 districts and the department would be
21 helpful there but—anyway.
- 22 Q. Student Support Services, that's the
23 district, right?
- 24 A. Both have Student Support Services.
- 25 Q. "Districts are responsible for providing

September 2, 2022

- 1 interpreting services -
- 2 A. Where are you now, sir?
- 3 Q. Last sentence of "Update on Recommendation
- 4 8: Districts are responsible for providing
- 5 interpreting services for their deaf
- 6 employees." That's true, right?
- 7 A. "Update: Districts are responsible for
- 8 providing interpreting services for their
- 9 deaf employees." Yes.
- 10 Q. Okay, so now you're agreeing with me, right,
- 11 Gap 8?
- 12 A. On that one, yes.
- 13 Q. Okay, and as well as a few others, but I
- 14 don't need to go back through them because
- 15 we're starting to change your mind gap by
- 16 gap now. Gap 9 -
- 17 A. Well, it was a lot of reading.
- 18 Q. What's that?
- 19 A. it was a lot of reading over lunch.
- 20 Q. Do you need another break to read it again?
- 21 A. No.
- 22 Q. Okay. Gap 9 says that "There are currently
- 23 limited numbers of American Sign Language
- 24 interpreters available in the school system
- 25 to facilitate communication needs of deaf

September 2, 2022

1 students and staff." In your view, is that
2 department or district?

3 A. I think if there's a gap in interpreters,
4 ASL interpreters, the school district would
5 know that, and they would act on that.

6 Q. So, you changed your mind on Gap 9. That's
7 district, correct?

8 A. Well, I did say in the beginning most. I
9 don't think all of them—did I say all of
10 them? I thought I said most of them are, I
11 thought, at the time, in reading them, were
12 department responsibilities.

13 Q. Okay, so now your view isn't they're all
14 department responsibilities; most of them
15 are district responsibilities, so I guess
16 now I need to—you know, the reason I still
17 need to go through this exercise is because
18 I guess we need to determine which ones,
19 right?

20 A. Sure.

21 Q. Gap 10. "There's no formal"—it says on page
22 14.

23 A. Uh-hm.

24 Q. "There's no formal assessment process in
25 place to determine proficiency levels of ASL

September 2, 2022

1 skills for teachers of the deaf and hard of
2 hearing in Newfoundland and Labrador.”

3 That’s district, isn’t it?

4 A. Yes.

5 Q. Gap 11 is the one that deals with
6 curriculum, and I think we’ve acknowledged
7 that that is a Department of Education
8 responsibility?

9 A. Yes.

10 Q. Gap 12 talks about how there’s “no formal
11 ASL course being taught to hearing peers or
12 staff.” That’s a district responsibility,
13 isn’t it?

14 A. If it was a local course, unless it was part
15 of the curriculum imbedded in the
16 curriculum.

17 Q. Right, and we’ve talked about the curriculum
18 aspect already.

19 A. Uh-hm.

20 Q. So, that one, that’s district, do you
21 acknowledge?

22 MR. PENNEY:

23 Q. I think she made a different distinction
24 between curriculum and a local course, which
25 is what—

September 2, 2022

1 MR. REES:

2 Q. Yes.

3 MR. PENNEY:

4 Q. —the same as what Bob Gardiner said
5 yesterday?

6 MR. REES:

7 Q. Yes.

8 A. Uh-hm.

9 Q. Yes, and you would agree with Bob Gardiner
10 on that that —

11 A. I didn't hear Bob Gardiner.

12 Q. Right. Bob Gardiner says provincial
13 curriculum would be a department
14 responsibility—

15 A. Correct.

16 Q. —but a local course such as indicated in Gap
17 11 would be a district responsibility,
18 right?

19 A. There—at 2011, I mean, there was a local
20 course at Gonzaga. I was teaching there, so
21 I know that, or it came to be, I think, but
22 at 2018 when this was updated there were no
23 local courses.

24 Q. Gap 13 talks about the problem with
25 appropriate classroom acoustics, and this

September 2, 2022

1 would—I mean, this would be a itinerant
2 teacher responsibility, wouldn't it?

3 A. Some of that would be itinerant teacher. I
4 mean, walls that meet acoustical standards,
5 they could be supplemented with some items,
6 yeah.

7 Q. And none of it would be department
8 responsibility?

9 A. No.

10 Q. It's all district, right, okay, so Gap 13,
11 provincial, and there are other ones here.
12 They're not as vital to the issues that the
13 Churchills have raised, but I'd suggest if
14 you went through it—at least some more of
15 the ones that are left are district. So,
16 all right, to clarify, your evidence on that
17 is not—I think you're saying the majority—
18 you know, I think we've identified several
19 key items there that are, you now
20 acknowledge, department responsibility,
21 right?

22 A. Some are department, and some are district.

23 Q. And some are district. Okay, thank you.

24 I'm ready to move on to something else.

25 Before the break we were talking about the

September 2, 2022

- 1 concerns that were raised at deaf itinerant
2 meetings that were brought to your
3 attention, and some of them with specific
4 action items listed; you know, "Bring to
5 Bonnie Woodland's attention."
- 6 A. Uh-hm.
- 7 Q. And your evidence was that you did not
8 recall anything that you had done to address
9 those concerns.
- 10 A. Well, there was no resolution of them, no.
- 11 Q. Right, or—"no resolution"—was there even
12 sort of partial resolution?
- 13 A. No, but they were—certainly I was aware of
14 them and would've had discussions with other
15 district personnel around them.
- 16 Q. Okay, so the problem was well known.
- 17 A. I was aware of them, yes.
- 18 Q. And the other people that you had these
19 discussions with would've been aware of them
20 then.
- 21 A. Yes.
- 22 Q. Right. In light of those concerns that have
23 been raised, do you feel that it was
24 accurate that you continued to assert to the
25 Churchills that Carter was receiving a

September 2, 2022

1 quality education? This whole time you're
2 asserting to the Churchills, "Carter is
3 receiving a quality education." Those are
4 the terms that they say you've used. Did
5 you say that; and if you did, do you now
6 feel differently?

7 A. I've read somewhere where someone said—Mr.
8 Whittle, I believe—something about a quality
9 education. I believe we deliver an
10 education to the best of our abilities with
11 the resources that we have. In that regard,
12 quality is there. I do not have notes
13 specifically if I used that term with Mr.
14 and Mrs. Churchill. I can certainly agree
15 if they say I did, I did, but I don't
16 remember specifically using that word, but I
17 would hope, yes, we would be delivering a
18 quality education under the guidelines that
19 we had.

20 Q. Under the guidelines that you had or under
21 the resources that you had or both? Like,
22 what were the limiting factors?

23 A. Both.

24 Q. Both. Were there times that you requested
25 additional financial or resource supports

September 2, 2022

1 from the Department of Education, and you
2 were told—you were denied those.

3 A. I can't speak to that. I would not make
4 direct requests to the Department of
5 Education. That would come through our
6 executive.

7 Q. Okay. Who would you make the requests to?

8 A. Again, Ms. Warren and in some cases maybe
9 Mr. Walsh as well, but primarily it was Ms.
10 Warren.

11 Q. And how frequently did either Mr. Walsh or
12 Ms. Warren turn to you and say, "We can't
13 afford that?"

14 A. I don't think I ever heard them say that.

15 Q. Never. There is a reference in some -

16 A. To me.

17 Q. That's fine.

18 A. They would not have said that to me. They
19 would've listened to what I was putting
20 forward, and I felt listened to in that
21 regard.

22 Q. In several places the deaf itinerants have
23 indicated in their minutes—and they did in
24 the minutes that we have previously
25 reviewed—that the issues they were raising

September 2, 2022

1 was potentially a human rights issue. Did
2 you have any view on that matter; or the
3 idea that it was a human rights issue, did
4 that cause you any great concern?

5 A. I'm always concerned if we're not delivering
6 services that we should be delivering. When
7 the system can't respond, I'm concerned, and
8 certainly denying someone their human rights
9 is an important piece, a very important
10 descriptor, and I've lost your specific
11 question, Mr. Rees. Could it repeat it for
12 me?

13 Q. My question was did -

14 A. I just want to answer them as directly as I
15 can.

16 Q. Yes. Did you share their concerns that it
17 was a human rights issue?

18 A. Well, at the time I didn't feel we were
19 violating human rights.

20 Q. Right, and, I mean, it would be sort of the
21 ultimate question, and it would be
22 inappropriate for me to ask, you know, was
23 it a human rights violation.

24 A. Yeah. I didn't feel it was-

25 Q. Right, and what I'm asking is-

September 2, 2022

- 1 A. -but clearly the parents did feel -
- 2 Q. -did you share their concerns?
- 3 A. No, I did not.
- 4 Q. Do you recall that the deaf itinerants for
- 5 whom you were responsible made a submission
- 6 to the Premier's Task Force on Improving
- 7 Education Outcomes?
- 8 A. I think I knew that.
- 9 Q. You think you knew that.
- 10 A. I think I did.
- 11 Q. You would've known it because you and Bonnie
- 12 Woodland were both carbon copied on that
- 13 request-
- 14 A. Oh, Kim.
- 15 Q. -or, sorry, you and Kim. I'm sorry, right.
- 16 A. Uh-hm.
- 17 Q. Yes, you're Bonnie. You were both copied.
- 18 A. Okay, that's how I knew, I guess.
- 19 Q. Yes, right, right, and are you also aware
- 20 that those concerns that were raised? I
- 21 mean, I can take you to them if necessary,
- 22 but those concerns were, you know, very
- 23 similar to the concerns that we saw in those
- 24 DHH minutes, are very similar to the
- 25 concerns that were addressed in the 2011

September 2, 2022

- 1 report, are very similar to the concerns
2 that we've raised in this human rights -
- 3 A. Was I concerned that they did that? No.
- 4 Q. Were you aware there was a similarity
5 between those things?
- 6 A. Yes.
- 7 Q. Okay. Because it was being raised in a
8 submission to the Premier's Task Force on
9 Improving Education Outcomes, did you then
10 take any steps, like, that it was--was it
11 sort of a step above now that it was the
12 Premier's Task Force versus just the DHH
13 meeting minutes? You know, did you take any
14 concrete action arising out of that
15 submission? Did you say "Gee, this is being
16 brought to the Premier; we should do
17 something now?"
- 18 A. I guess my work is not responsive at that
19 level per se. My work would've been more
20 responsive to delivering the services and
21 supports that we had available to us.
22 That's how I saw my work under the
23 guidelines that we had, so, I mean, I think
24 it was important that they did that.
- 25 Q. Okay, we're going to talk about another

September 2, 2022

- 1 topic, which is the satellite classroom
2 proposals. You know what I mean when I say
3 "satellite classroom proposals?"
- 4 A. Yes.
- 5 Q. Okay, let's look at Volume 1, document—oh,
6 I've got Volume 1, do I? Volume 1, "Z" as
7 in Zulu.
- 8 A. "Proposal?"
- 9 Q. Yes, "Proposal for Satellite Support
10 Classrooms for Students Who are Deaf/Hard of
11 Hearing."
- 12 A. Uh-hm.
- 13 Q. This is the first time, I believe, this
14 proposal for a satellite classroom is
15 formally put to you in writing.
- 16 A. Uh-hm.
- 17 Q. What did you make of that proposal?
- 18 A. I think it demonstrated the strong advocacy
19 that teachers had for their students, and I
20 appreciated that. I think it raised
21 concerns—not concerns, that—let me just make
22 sure I get my words right so I'm not—it's
23 not brought back on me again. What did I
24 think of this. And I remember thinking that
25 to put a program in was well beyond the

September 2, 2022

1 scope of what we could do in my division.
2 We were in service delivery to develop an
3 appropriate program in a satellite classroom
4 that I—I didn't feel it was something that
5 we could undertake to do it properly. There
6 was no one to do that.

7 Q. And, sorry, am I understanding, like, it
8 wasn't within your—as in, like, it was sort
9 of above your pay grade? Like, it needed to
10 happen a few levels up or that -

11 A. Well, I just think it needs more personnel,
12 somebody to actually take it and develop it
13 and work with the teachers and the
14 department and so on to do a satellite
15 classroom. I mean, I know in 2018 we did
16 offer the Churchills—for Carter to attend
17 another school where American Sign Language
18 was being taught, and they weren't
19 interested in that at the time. Roncalli,
20 does that ring a bell?

21 Q. I don't think that's -

22 MR. CHURCHILL:

23 A. I don't think so.

24 MS. KIMBERLY CHURCHILL:

25 A. Not at all.

September 2, 2022

1 MR. REES:

2 Q. Don't think so.

3 A. Oh, well -

4 ADJUDICATOR:

5 Q. Okay, we don't need discussion between the
6 parties and the witness.

7 MR. REES:

8 Q. We don't want to go back and forth.

9 A. Sorry.

10 ADJUDICATOR:

11 Q. That's not appropriate, so you can answer
12 questions, but we don't engage a discussion
13 with other people who are in the room.

14 MR. REES:

15 Q. There's nothing in the evidence as of yet—I
16 mean, yours is the first to substantiate
17 that, so I guess I'm going to move on from
18 that, and perhaps Mr. Penney will want to
19 ask you some questions about it. The
20 proposal that you have in front of you was
21 one that said "There are approximately seven
22 students from the greater St. John's area
23 who require satellite classrooms," and one
24 of those students would've been Carter
25 Churchill, right?

September 2, 2022

- 1 A. Yes.
- 2 Q. And would you have been aware that Carter
- 3 Churchill would've been one of these sort of
- 4 seven that are being highlighted?
- 5 A. Yes.
- 6 Q. Right. Would it be fair to say that you
- 7 rejected the satellite classroom, or did you
- 8 just not take it further? Like, what's your
- 9 role? This satellite classroom in 2017
- 10 doesn't see the light of day. What's your
- 11 role in that? Do you pass it up the chain
- 12 of command? Do you shut it down? Do you
- 13 provide reasons for rejections? What do you
- 14 do with this?
- 15 A. I certainly share with my superiors, people
- 16 who I report to.
- 17 Q. Which are who, again?
- 18 A. In-that would've been, I think, Ms. Warren
- 19 at that time, I believe, and it would've
- 20 been a collaborative discussion around-well,
- 21 you know, from my perspective she had a
- 22 provincial overview of things, so her lens
- 23 would be different from mine, and I feel at
- 24 that time with the district people that we
- 25 had it would be difficult to implement that,

September 2, 2022

1 and I can't say, no, that the buck stopped
2 with me. I always shared information with
3 my superiors around anything of this nature,
4 and I would've been involved in the
5 conversations around it, and I was
6 forthright to what I would've thought were
7 the pros and cons of that particular option.

8 Q. Okay, what did you think about the pros and
9 cons of that particular option?

10 A. I think that I would've—

11 Q. At the time. I'm not asking about now.

12 A. —at the time, I know, so I have to think
13 about that. Certainly, you know, we were
14 focussed on delivering programs under the
15 model that we had. I just keep saying that,
16 and that is what—where we would've been, and
17 I think it would've come down to, you know,
18 a discussion around resources for that both
19 in the planning, development, delivery. I
20 think it would've come down to that.

21 Q. Okay, would've required substantial
22 resources, or some resources anyway, for the
23 development and implementation of a
24 satellite classroom.

25 A. I think I would've thought that, yes, and

September 2, 2022

1 that we were not in a place to do that at
2 that point in time.

3 Q. Who would've been in a place to grant the
4 district those resources? Was that
5 something within the district, or did the
6 department have to do that?

7 A. I think—I'm not sure because I've only been
8 involved in asking—you know, in doing things
9 outside our guidelines since that, but I
10 think it would've been an ask from the
11 district to the department with a well-
12 thought-out proposal. I believe that
13 would've been a piece.

14 Q. And did you assist in any way in having the
15 district make that ask in 2017?

16 A. No. I don't know if there was an ask. I
17 have no idea.

18 Q. And, in fact, you would've recommended
19 against an ask, wouldn't you?

20 A. No, I didn't make a recommendation against
21 an ask. I would've just said, "This is a
22 proposal." That decision would not have
23 been mine. "These are the pros. These are
24 the difficulties we would have." We just
25 weren't in a place to develop further

September 2, 2022

- 1 programs, Mr. Rees. We were -
- 2 Q. How did you know that you weren't in a place
3 to develop further programs?
- 4 A. Because we didn't have—all our staff were—we
5 would have—we'd need somebody to develop a
6 program to do this. We did not have those
7 people. We were all focussed on delivering
8 the services that we were tasked to
9 delivering. As I mentioned earlier, we
10 have, you know, eight different groups—or
11 seven others in addition to our deaf and
12 hard of hearing itinerants, and all have a
13 lot of demands in meeting the services of
14 children, so we just were not in that
15 position to do that at that time. I
16 understand now there is a satellite
17 classroom or—exactly, and that came about
18 because I think the appropriate resources in
19 the form of Ms. Darlene Fewer Jackson were
20 put in place at that time who could take it
21 and move with it. That's my opinion.
- 22 Q. So, okay, that's interesting.
- 23 A. it's not a fact, but it's my opinion.
- 24 Q. Yes, and I'm interested in your opinion in
25 that regard. The difference in your view

September 2, 2022

- 1 between 2017 and 2020 when the satellite
2 classroom at Eastpoint first gets approved
3 is the existence of Darlene Fewer Jackson.
- 4 A. I think that made a huge difference.
- 5 Q. And Darlene Fewer Jackson is a—what was her—
6 she's a district administrator?
- 7 A. She was put in place as following the
8 Premier Task Force as a new position,
9 Director of Deaf and Hard of Hearing
10 Services for the district.
- 11 Q. Because without her there to shepherd this
12 project forward, it probably wouldn't have
13 happened.
- 14 A. No, it would not have, I believe. It just—
15 we weren't able to do that.
- 16 Q. Because I would put to you Darlene Fewer
17 Jackson was able to do with this proposal
18 what you were incapable of, which was taking
19 it to the people who are needed to implement
20 it and recognize the problem.
- 21 A. Well, "incapable?" I was—my efforts were
22 directed elsewhere. I think I was capable
23 of putting together a proposal. I just—it
24 was—I—it wasn't part of my mandate to do
25 that. I just couldn't do it.

September 2, 2022

1 Q. Then, why were they bringing the proposal to
2 you, your itinerants? Did they find the
3 wrong person?

4 A. I think in some ways, yes, but there was a
5 change. I mean, at one point the department
6 did have a consultant on for—who did look at
7 deaf and hard of hearing services. It's
8 sort of a perfect storm kind of scenario in
9 that there was someone there who had a
10 provincial scope, and it—in fact, for much
11 of that time, it was Ms. Fewer Jackson, and
12 then for a period of time there wasn't a
13 full-time person at the department for that,
14 and then the district, the five districts in
15 the province merged into one, so there was
16 that—I guess my word, not anybody else's—
17 transition from operating under a provincial
18 authority, which was the department, to our
19 own provincial authority that took—it was a
20 change. So, when I say the perfect storm,
21 yes, you know, in early days the department
22 would've been able to take that and go with
23 it. I assumed that they were aware of this
24 proposal and that it was discussed with them
25 so -

September 2, 2022

1 Q. And the reason you assume they were aware of
2 the proposal was because you passed it on to
3 your superiors.

4 A. Not necessarily. At that time when the
5 department had a consultant, the deaf and
6 hard of hearing itinerants met directly with
7 the—with Ms. Jackson.

8 Q. Oh, you're talking about 2019 and 2020.

9 A. No, I'm talking about before we merged,
10 which actually was later than this—was
11 earlier than this. We merged, I think—I
12 gave some thought to that afterwards—in '13-
13 '14, so prior to that time the department
14 really operationalized—or not
15 operationalized but really managed the DHH
16 itinerants; and then once the merge
17 occurred, there was no one person. That
18 responsibility fell under the Directors of
19 Student Services, who also were managing all
20 the other areas in the—under Student
21 Services, so it was one of many versus one.

22 Q. So, I want to make sure I understand before
23 I move on. Your evidence here today as to,
24 you know, your belief on why the 2017
25 satellite classroom proposal doesn't move

September 2, 2022

- 1 forward is even though, you know, you
2 communicate it to your superiors—
- 3 A. Yes.
- 4 Q. —that this proposal has been made and that
5 there are needs identified—
- 6 A. Right.
- 7 Q. —that it was just simply, you know, too big
8 a step. It would've needed, you know,
9 another administrator to really come up and
10 action the plan and would've required a lot
11 of extra resources, and that's why -
- 12 A. I think that's fair, yes.
- 13 Q. Okay. That's not what you said at the time,
14 and that's what you said in your affidavit
15 sworn a month ago, and I'll take you to both
16 of them to make sure we understand, but in
17 both of those the only reason you give for
18 the denial of satellite classroom is that it
19 doesn't fit with the inclusive model.
- 20 A. And that -
- 21 Q. Did you misspeak?
- 22 A. No. It doesn't fit with the model of
23 school-based zoned school, neighbourhood
24 schools that we were delivering, so that's
25 true, and in order to step outside of that—

September 2, 2022

1 and that would've been probably the reason
2 that I spoke to the DHH—because I did go to
3 a meeting or two when that proposal was
4 being put forward, so I could speak directly
5 to the teachers so—and that was probably the
6 reason that I—because it didn't—it not fit
7 with my understanding of the guidelines
8 around neighbourhood schools, delivering
9 services, transportation and so on to that—
10 within that model. That's what we were
11 tasked to deliver. The conversation around
12 having the resources to do that—you know, I
13 didn't feel that that would be an
14 appropriate conversation to necessarily have
15 with our teachers. That would've been a
16 conversation that I would've had with Ms.
17 Warren.

18 Q. Interesting because you didn't mention the
19 difficulty with the resources in your
20 affidavit.

21 A. No.

22 Q. You mentioned the philosophy problem. I
23 guess, like, why -

24 A. And that is -

25 Q. You sort of glossed over the fact that, you

September 2, 2022

1 know, you've—you know, you gave evidence
2 here today, "Yes, the reason we didn't do it
3 is because it would've taken kind of a lot
4 of administrative effort. It would've taken
5 a lot of resources. We couldn't do it that
6 way." You made no mention of the fact that
7 it didn't fit within the inclusive education
8 model, didn't even crop up as something to
9 mention. However, the only thing in your
10 affidavit and the only thing in your e-
11 mails—and we can look at them if you need
12 to. The only thing your e-mails talked
13 about is that it doesn't fit within the
14 inclusive model, so why are you telling us
15 one thing now and different things a month
16 ago in your affidavit and something else
17 four or five years ago?

18 A. Well, they're not mutually exclusive.

19 They're not mutually—one does not—

20 Q. No, but it's important to get your evidence.

21 A. —you know, negate the other one. I think,
22 you know, that—I stand by what I said in my
23 affidavit is correct, that it was not the
24 model of service delivery that we were
25 tasked to deliver. Here today, I mean, you

September 2, 2022

1 know, I've been reading this. Obviously,
2 like, I'm sure many witnesses giving-
3 searching your memory, thinking of-you know,
4 thinking of how things unfolded, I'm
5 probably expanding on what I said in my
6 affidavit.

7 Q. You're expanding what you said in your
8 affidavit.

9 A. Providing more detail to you in response to
10 your specific questions. I am not an expert
11 in giving affidavits, I can tell you that.
12 This is the first affidavit that I've
13 prepared, and that probably doesn't matter,
14 but I believe it's -

15 Q. When you prepared your affidavit, I assume,
16 like most of the other witnesses, you were
17 sort of in writing asked a series of
18 questions that you sort of answered that
19 helped form your affidavit.

20 A. Some of them, yeah.

21 Q. And one of those questions would've been
22 what was the reason for the denial of the
23 satellite classroom in 2017?

24 A. I'm just going to look at my affidavit-

25 Q. Yes, let's, okay.

September 2, 2022

1 A. -if you don't mind.

2 Q. Yes.

3 A. Where is that, again?

4 Q. I'll find it for you.

5 A. Is it in this?

6 Q. Oh, your affidavit should be a big—actually
7 is in a big binder among others, and you -

8 A. This one?

9 Q. Yes, and I have no idea which number you are
10 in that -

11 MR. PENNEY:

12 Q. Tab 11.

13 A. Eleven, okay.

14 MR. REES:

15 Q. And Paragraph 18 of your affidavit.

16 Paragraph 18 of your affidavit says—I'm
17 going to read it aloud. "I was involved in
18 discussions pertaining to the 2107 ASL
19 satellite classroom proposal and its
20 subsequent denial," so you were involved in
21 the denial meetings too. "At the time the
22 approach for all students who were deaf and
23 hard of hearing was following a more
24 inclusive model where students attended
25 their neighbourhood schools, and supports

September 2, 2022

1 were provided in that context as opposed to
2 the segregation of students. Myself and Ms.
3 Kim Lawlor did consult with the Department
4 of Education on this, including Ms. Paula
5 Jackman." You just said you reported to
6 your superiors within the district.

7 A. And I did discuss it with—we—Ms. Paula
8 Jackman did come to a meeting, yes.

9 Q. "I also do not recall specifically, but it
10 is likely that we would've had discussions
11 with the Associate Director of Programs as
12 well. This," quote, "'inclusive,'" end
13 quote, "model was not intended to deliver
14 all individual outcomes within the classroom
15 setting but to ensure that including
16 children with their peers, or some part of
17 their day, was important for many reasons.
18 Students with exceptionalities were
19 accommodated so they could access their
20 learning." So, as you see there, no mention
21 of resourcing trouble?

22 A. I don't know what the prompt was for writing
23 that around the satellite classroom. The
24 resourcing problem would not have been
25 raised by me necessarily. I was more,

September 2, 2022

1 again, tasked with delivering the services
2 under the current guidelines. Upon
3 reflection or, you know, I guess, further—I
4 guess Ms. Warren can speak to that and
5 provide more clarity on that, but the
6 resourcing piece, it clearly would require
7 resourcing, further resourcing.

8 Q. And so I think what you're telling me is,
9 you know, if you had thought through your
10 answer that you provide on Paragraph 18 you
11 would've included more detail, and you said
12 you would've elaborated last month to
13 include some of the things you said here
14 today.

15 A. Well, at the time I felt that was answering
16 the question. Today, I feel like I'm
17 providing more information.

18 Q. Can you take Volume 4, one of those big
19 documents over there on your left-hand side,
20 Volume 4 and Tab G as in Golf?

21 A. Now, one second. Tab G?

22 Q. That's correct.

23 A. Okay.

24 Q. Do you see that's a series of e-mails
25 between—

September 2, 2022

- 1 A. I do.
- 2 Q. —you and Colleen Moyst and several other
3 deaf itinerants?
- 4 A. I'm just—this is an e-mail to, yes, Colleen
5 and the other eastern itinerants, yes.
- 6 Q. And based on the date of that e-mail, it's
7 reasonable to assume that what you're
8 talking about here is that first satellite
9 classroom proposal right?
- 10 A. Yeah. Yes.
- 11 Q. The e-mail says—if we talk about the message
12 on May 5th, 2017, this is you e-mailing back
13 the itinerants. It says, "Thank you for
14 your opinions and your submissions. This in
15 no way aligns with any program or guidelines
16 outlined by the Department of Education.
17 However, I will certainly review the
18 programs' instruction and report cards of
19 each of these students that you are
20 referring to. Please forward their names
21 and schools."
- 22 A. Uh-hm.
- 23 Q. "Providing exclusionary service is a huge
24 step, but I do see that you are suggesting a
25 model to provide intensive instruction. I

September 2, 2022

1 would also like to hear about your ideas on
2 building capacity to provide further service
3 and instruction with our existing resources
4 and within an inclusionary setting, and I'll
5 review the progress and ask if you've
6 discussed it with planning teams." So, you
7 acknowledge there that there's no reference—
8 I mean, the reason given is the exclusionary
9 service and it doesn't line up with the
10 Department of Education programs or
11 guidelines. There's no reference to, "Look,
12 we simply don't have the administrative or
13 human resources capacity to figure this
14 out."

15 A. No, because this was within my—I did not
16 have access to resources and that I felt
17 that this fact that it was outside our
18 current model of delivery was beyond my
19 responsibility to action. I did discuss it
20 with Ms. Warren, and, I mean, this is one of
21 those situations, Mr. Rees, where having
22 seen what extra resources in the way of Ms.
23 Darlene Fewer Jackson—the difference that
24 made, I think, you know, that I'm probably
25 thinking of that in my head as well, but at

September 2, 2022

- 1 the time absolutely that would've been the
2 information that I communicated to Ms. Moyst
3 and the other teachers.
- 4 Q. I put it to you that the concerns that were
5 raised by the deaf itinerants in this
6 classroom proposal and several other pieces
7 of correspondence that we've already been
8 through in 2017 is nearly identical to the
9 information that got put to Darlene Fewer
10 Jackson that caused her to action the
11 satellite classroom.
- 12 A. Correct.
- 13 Q. Yes, so the information doesn't change. The
14 concerns don't change, do they?
- 15 A. No. What changed was that we had a
16 dedicated person who could act on that and
17 make it happen.
- 18 Q. And the inclusion model doesn't change
19 either, does it?
- 20 A. No.
- 21 Q. The inclusion philosophy remains the same.
- 22 A. Absolutely, so she could navigate around all
23 of that.
- 24 Q. Did you ever have concerns about the
25 inclusive model?

September 2, 2022

1 A. In what way?

2 Q. Well, in all the ways that your colleagues
3 seem to have been raising. I mean, I take
4 your point that the inclusion model as was
5 designed by the school district at the time
6 these 2017 proposals were made are—you know,
7 is not—doesn't provide an endorsement of
8 something like a satellite classroom. Did
9 you ever stop to question, you know, whether
10 the inclusive model was part of the problem
11 here?

12 A. No.

13 Q. Were you aware in your role as somebody who
14 had responsibilities for, you know, a
15 variety of exceptionalities including
16 exceptionalities related to deaf students,
17 of positions and publications and issues
18 that were being addressed by the World
19 Federation of the Deaf, or was the work that
20 they were doing ever on your radar?

21 A. No.

22 Q. Did you feel that it would be important for
23 your role, which included the resourcing of
24 itinerant teachers of the deaf, to solicit
25 or review what kinds of feedback and

September 2, 2022

1 positions, organizations like the World
2 Federation of the Deaf took on things like
3 inclusive education?

4 A. I did not see that as my job. That
5 direction would come from the Department of
6 Education, who could do environmental scans,
7 write reports, update us on different
8 models. I was delivering services under the
9 model that was prescribed for us with the
10 resources that we had.

11 Q. Did you think you had a missed opportunity
12 here? I mean, you had several very, you
13 know, creative motivated—I think you
14 described them as advocates in your DHH
15 teachers, who were in my view—and perhaps
16 you share it—you know, going above and
17 beyond to attempt to have the needs of their
18 students met, and they had come up with this
19 creative satellite classroom proposal that,
20 you know, is eventually endorsed years
21 later—

22 A. Uh-hm.

23 Q. —and they were bringing this to you, and it
24 was enough for you to look at it and say,
25 “Doesn’t fit within the inclusive model, and

September 2, 2022

1 this really isn't going to go anywhere."

2 You know, do you feel like that was a real
3 missed opportunity?

4 A. It wasn't under my—you know, it wasn't under
5 my—I didn't feel—and it wasn't under my
6 responsibilities to be able to take that
7 opportunity or even to further develop it,
8 explore it to put it in place. It was—
9 again, my records indicate that there was an
10 offer for Carter to—I mean, we were really
11 focussed on the students too. I mean, you
12 know, looking at World Federation pieces,
13 philosophies, guidelines was out of the
14 purview of the work that we did, so we were
15 very focussed on individual students
16 delivering supports that were identified by
17 the Department of Education to those
18 students in the best manner that we could
19 and -

20 Q. Did you ever have any expectation when you
21 passed the satellite classroom along to your
22 superiors that you would hear back from them
23 at some point about whether a program like
24 that could be approved or explored further,
25 or was it expected when you passed the

September 2, 2022

1 proposal along, as you indicated you did,
2 that it was, you know, for lack of a better
3 term, dead on arrival, that it -

4 A. No, I don't think it was dead on arrival. I
5 think that everything was given
6 consideration. I wasn't part of that final
7 rationale or whatever, but I do not feel it
8 was dead on arrival, no.

9 Q. Who, and whether it's one person or
10 multiple, to your knowledge was responsible
11 for the rejection of the satellite classroom
12 in 2017?

13 A. Well, it wasn't my call to say, "Yes, we're
14 going to do that." At least at that point
15 in time, it wouldn't have been seen by me as
16 that, and I don't think the district
17 would've seen it as my call, so all I can
18 say is that in discussing it with Ms.
19 Warren, you know, it was it her? She had a
20 provincial scope. Maybe others, I don't
21 know.

22 Q. It wasn't you, and it wasn't Ms. Warren, so
23 beyond -

24 A. Oh no, it might've been Ms. Warren.

25 Q. Oh, it may be.

September 2, 2022

- 1 A. Yeah, I didn't say it wasn't. I said it
2 wasn't me. I discussed it with her. I
3 don't know what she did beyond that.
- 4 Q. Would you have been in a position to endorse
5 the proposal upon passing it on to your
6 superior, Ms. Warren?
- 7 A. Would I have been in a position to endorse
8 it.
- 9 Q. You know, "Here it is with the Bonnie
10 Woodland seal of approval," you know.
- 11 A. Right.
- 12 Q. "I think it's a good idea."
- 13 A. I don't recall the specific way that was
14 presented to Ms. Warren. I was super
15 focussed on delivering the services with the
16 resources that we had, so if we didn't have
17 resources to develop and deliver that, I was
18 not part of ideological discussions or
19 anything above that. I was very much
20 focussed on delivering the services that we
21 had, so would I endorse it? I guess I
22 couldn't endorse it fully if it—at that time
23 if I felt it was outside the guidelines and
24 the model that we had for delivering
25 services. Does that answer your question?

September 2, 2022

1 Q. I think what you're telling me is that you
2 didn't endorse it; but, really, it was
3 because you couldn't because the guidelines
4 were limiting. The inclusion education
5 guidelines were limiting and meant that you
6 couldn't approve it.

7 A. I'm not sure. Maybe Ms. Warren has a
8 clearer memory of that than what I do.

9 Q. Do you think you could've gotten it done?
10 Like, do you think that -

11 A. No.

12 Q. You don't think that you could've been the
13 next Fewer Jackson.

14 A. I couldn't have, no way.

15 Q. No.

16 A. Absolutely not.

17 MS. BONNIE WOODLAND, CROSS-EXAMINATION BY THE
18 ADJUDICATOR

19 ADJUDICATOR:

20 Q. Why?

21 A. Mr. Adjudicator, because I personally in my
22 role did not have the staff nor the time to
23 take on developing, you know, an alternate
24 program. It would be very limited. The
25 most that we could do, which is what I've

September 2, 2022

1 indicated—was that there was an opportunity
2 to join in with a student at Roncalli.
3 That's not development of a satellite
4 program with students coming from all over
5 the province. I just—that was not part of—I
6 did not have time to. Nor was it, I didn't
7 think, part of my scope of responsibility
8 unless someone said, "Okay, Bonnie, you take
9 that now and develop that as a program." I
10 just didn't have time to do it and didn't
11 have the resources to do it. I didn't have
12 staff to do it. Even if we decided we were
13 going to go outside the—you know, make a
14 proposal to the department, we just—I
15 personally just could not do it.

16 Q. If this particular proposal couldn't have
17 been put in place, you know, exactly as it's
18 being proposed, was there—and did you
19 explore alternatives to this proposal?

20 A. We were focussed on Carter specifically.
21 That was the specific family and student
22 that we were focussed on, and one option was
23 to have Carter join another student who also
24 was receiving ASL support at another
25 primary/elementary school close by, but that

September 2, 2022

1 was as far as we went, so that was as far as
2 I explored with other people, and that was
3 2018, I think. That was after this, I
4 believe.

5 Q. So, you have this satellite proposal that
6 comes in from all of your DHH teachers.

7 A. Yes.

8 Q. And you're saying that you were looking at
9 it, you know, and taking an individual
10 approach with Carter.

11 A. Yes.

12 Q. Would he be one of the students that they're
13 referring to in this proposal where they
14 say, "These students have significant
15 language delays based on observation,
16 informal and formal assessment. These
17 students' needs cannot be met on the
18 itinerant teachers' caseloads," and that's
19 in bold; and then in bold it says, "They
20 require intensive language and communication
21 support in a specialized classroom with
22 qualified teachers of the deaf." When you
23 read those words, and you have a proposal in
24 front of you—and I appreciate you're saying
25 that you didn't feel like you could

September 2, 2022

1 implement this proposal. You explored
2 potentially having Carter attend another
3 school where there was another student who
4 was receiving instruction in ASL-

5 A. Yes.

6 Q. -but you did not implement that.

7 A. My notes indicate that the Churchills
8 weren't interested in that option, that they
9 wanted services in their neighbourhood
10 school.

11 Q. So, did you explore whether what they're
12 saying is the case?

13 A. What I would've done, Mr. Adjudicator, is
14 focussed on "These students' needs cannot be
15 met on the itinerant teachers' caseloads.
16 They require intensive language and
17 communication"-I would have advocated for
18 further itinerant positions to provide more
19 time through delivery using the itinerants
20 for deaf and hard of hearing and -

21 Q. You did advocate for additional -

22 A. Yes. I mean, over years we did receive, I
23 think, two units overall, an increase in DHH
24 itinerant units, so there was a response to
25 that, yeah.

September 2, 2022

1 Q. Thank you.

2 MS. BONNIE WOODLAND, CROSS-EXAMINATION BY MR. KYLE

3 REES (CONT'D)

4 MR. REES:

5 Q. When you received this satellite classroom
6 proposal in 2017 from your itinerants, you
7 know, the product of some, you know,
8 creative work and good work I'd suggest, you
9 know, is it the kind of idea you had to
10 think about for a while? Is it the kind of
11 thing you had to talk with some colleagues
12 about before forming your response? I mean,
13 I guess my question is how long was this
14 satellite classroom idea on your mind before
15 you, you know, made the response back to
16 them that you did?

17 A. How long before I responded. I can't say.
18 I don't recall.

19 Q. Days, weeks?

20 A. I'm thinking it wasn't very long, so I can't
21 say specifically how long that would've
22 been, but it wouldn't have been very long
23 because it would've come up in a DHH
24 meeting. I'm assuming. I don't know if I
25 was specifically at that meeting, so there

September 2, 2022

1 would've had to have been time for me to get
2 that information, or maybe it was sent to me
3 directly. I'm not sure. I would have had a
4 discussion with my superior, and I would've
5 wanted to respond to them as soon as
6 possible.

7 Q. So, I mean, the matter of a few days, you
8 need to talk to a few other people. What
9 are we talking about here?

10 A. I don't think it was a long time. I don't
11 think it was. My modus operandi was to try
12 and deal with things as quickly as possible,
13 I mean to respond to people as quickly as
14 possible.

15 Q. How about an hour and a half, how does that
16 sound?

17 A. That sounds pretty quick.

18 Q. Because if you look at the e-mail, the
19 satellite classroom proposal on the second
20 page of the tab we've been looking at comes
21 in to you at 3:11 P.M. from Pauline White-

22 A. Uh-hm.

23 Q. -and your response to Colleen White is at
24 4:52 P.M. on a Friday?

25 A. So, it came in one night, and I responded

September 2, 2022

- 1 the next day?
- 2 Q. No, an hour and a half later. 3:11 P.M. you
3 received the e-mail.
- 4 A. Oh.
- 5 Q. 4:52 P.M., you send back that response that
6 we read through where you say, "This is a
7 huge step. You know, have you got some
8 other ideas? You know, got any other
9 ideas?" And that's where the satellite
10 classroom goes to die, right? Yes, an hour
11 and a half.
- 12 A. Well, in that period of time I would've had
13 a conversation with other people as well.
- 14 Q. Like who?
- 15 A. Like, well -
- 16 Q. Like who?
- 17 A. I'm thinking Ms. Warren. I don't know who
18 else it would be. Maybe Ms. Lawlor but
19 certainly -
- 20 Q. I think Bernie Ottenheimer was your super at
21 that time, wasn't she?
- 22 A. No.
- 23 Q. No?
- 24 A. No, I did not report to Bernie ever.
- 25 Q. Oh, she's at the department, right, right,

September 2, 2022

1 right. I'm going to give you—I'm actually
2 going to give it to you because I don't
3 think we have it up here. This is the
4 affidavit of Kim Churchill, folks. I'm
5 referring to the very last tab on the
6 affidavit of Kim Churchill, Tab 38, so I'll
7 pass it up to you.

8 A. Okay.

9 Q. So, I believe you had indicated that, you
10 know, you had spoke to some of your
11 colleagues, and it appears from this e-mail
12 that shortly after you had rejected the
13 satellite classroom proposal back to your
14 itinerant teachers, only a few minutes later
15 you then send an e-mail to Bernie
16 Ottenheimer, and you say, "I think we should
17 discuss. You can put this on the agenda if
18 you wish, or we will discuss."

19 A. Uh-hm.

20 Q. "It is a metro response in some cases, still
21 under discussion."

22 A. Uh-hm.

23 Q. "Also, we have received a proposal"—so
24 you're talking about something else. "We
25 received a proposal from our DHH teachers

September 2, 2022

1 for a satellite classroom—for Satellite
2 Classrooms"—capitalized in this point—"with
3 full-time teachers of the deaf and student
4 assistants who are proficient in ASL. We
5 are not embracing this," dash, "but I wonder
6 if we should also discuss at our upcoming
7 meeting or just with you and Paulette".

8 A. Right, okay.

9 Q. So, you know, you're still in the process of
10 communicating this idea, but we can hardly
11 say that you're communicating with a ringing
12 endorsement, can we?

13 A. No, but I will say that my comment that "We
14 are not embracing this"—and I assume Ms.
15 Ottenheimer would've known—was because it
16 did not fit under the current model of
17 delivery that we were operating on. That's
18 why I—and, you know, we had some—you know,
19 we had meetings, as I mentioned before, with
20 the Department of Education, and I felt that
21 Bernie and her team should know about that
22 that—should know that this was being
23 proposed; but, no, it wasn't their decision
24 to say yes or no about that. You know, they
25 were the ones that set the guidelines and

September 2, 2022

1 directions, and if the comeback had been,
2 "Oh, we can definitely move outside of those
3 guidelines," or, you know, "do, you know, X,
4 Y or Z," then that would've been a different
5 matter, but it wasn't, and I didn't think it
6 would be. And even if I did send that e-
7 mail to the deaf and hard of hearing
8 itinerants a short time later, if it did
9 turn out to be something that arose out of
10 further discussions, I would have no problem
11 in going back and saying, "We've
12 reconsidered" or-or "X, Y or Z."

13 Q. It not falling within the model, of course,
14 wasn't sufficient to stop Darlene Fewer
15 Jackson, was it?

16 A. No. I will add, though, that, you know,
17 Darlene's position came following the
18 Education Action Plan and following a human
19 rights case that was in progress and that
20 there was a lot more focus on the deaf and
21 hard of hearing community and their
22 education that what we had at the district
23 level and that she was able to move that
24 through the system. She worked on it for
25 quite a while.

September 2, 2022

- 1 Q. Takes a lot of work to move something
2 through the system?
- 3 A. Well, it does, yes.
- 4 Q. One last question about Tab G before I leave
5 it forever.
- 6 A. Tab G.
- 7 Q. That's Volume 4, Tab G. That's the e-mail
8 rejecting the satellite classroom.
- 9 A. Okay, I have it.
- 10 Q. Okay. The last sentence there, or second-
11 last sentence, before you wish them a good
12 weekend says, "Have you discussed this
13 proposal with program planning teams? I am
14 sure that you have not discussed this with
15 the parents as it would be premature to do
16 so." So, there was a concerted effort to
17 ensure that, you know, parents didn't get
18 wind of this satellite classroom proposal,
19 wasn't there, because it would be premature.
- 20 A. I'm not sure what I meant by that, but I
21 think to-what I probably meant-that the
22 parents of all seven children-to put that
23 out there as a possibility that's approved
24 or not approved-well, say, you know, it's
25 there; it's gone forward-would've-that-I'm

September 2, 2022

1 not sure exactly, but I just felt at the
2 time it was premature to do so without our
3 endorsement and others.

4 Q. You knew if the Churchills had gotten wind
5 of a program like that, they would've been
6 in front of the cameras that evening, right?

7 A. Well, I don't know.

8 Q. I know you felt that the proposal of the
9 satellite classroom in 2017 was, you know—an
10 exclusionary service I think was how you
11 described it. It's not your view that the
12 satellite classroom at Eastpoint Elementary
13 currently is an exclusionary service, is it?

14 A. Well, it's not following our model, but it
15 seems to be integrated nicely in the school
16 and meeting the needs of the children that
17 are there. They're in their neighbourhood
18 classrooms so -

19 ADJUDICATOR:

20 Q. When you say it's not following your model,
21 what model are you referring to?

22 A. I'm referring to, Mr. Adjudicator, that
23 students attend their school—in their
24 neighbourhood school and receive services
25 there in their neighbourhood school.

September 2, 2022

1 Q. Thank you.

2 MR. REES:

3 Q. Was your reaction to the satellite classroom
4 proposal in 2018 and again in 2019, you
5 know, similar, you know, "Yes, lovely idea.
6 It doesn't fit within the model. We don't
7 have the designated resources to explore
8 this. I'll pass it along, but that's all I
9 can do." Was it the same approach, 2018,
10 2019?

11 A. I think it was.

12 Q. And the proposals were almost identical,
13 weren't they?

14 A. Yes, they were.

15 Q. And it's been said here by one of the
16 previous witness that when the 2018 proposal
17 was brought to you—sorry, the 2019 proposal
18 was brought to you you used the phrase,
19 "There's no appetite for this," to describe
20 it. Do you recall making that comment?

21 A. I do. It's in my affidavit.

22 Q. And what do you mean by "no appetite?"

23 A. Well, I'd like to get my affidavit open here
24 and just look at that since I know I did
25 respond to that in my affidavit. Now,

September 2, 2022

1 sorry, I've closed that up. Where is it?

2 MR. PENNEY:

3 Q. It's Tab 11.

4 A. And volume -

5 Q. I think it's in the binder beside you.

6 A. This binder, and number 11, was it? Yeah,
7 okay. Oops, page—do you know the number of
8 that, Mr. Rees?

9 MR. REES:

10 Q. I don't. I'm looking there now.

11 MR. PENNEY:

12 Q. Paragraph 20.

13 A. Okay, I'm looking. I'm looking.

14 MR. REES:

15 Q. Paragraph 20.

16 A. Paragraph 20, okay. May I read from my
17 affidavit here, please?

18 Q. Yes, you may.

19 A. "I recall in a meeting with the DHH
20 itinerants about the decision not to support
21 the satellite classroom proposal saying that
22 there was no appetite to formalize an
23 educational program at an alternative site
24 where students would be bussed at that time.
25 I recall it because it was the one and only

September 2, 2022

1 time that I ever used that phrase." I
2 meant—so, the context of that—and I will
3 just add here that it was the one and only
4 time that I used that phrase. I felt after—
5 actually, as soon as it came out of my mouth
6 that it was not a professional way to
7 portray that. I regretted that. I had
8 heard it used in some context—not this
9 context but some other context—and it was
10 just on the tip of my tongue and out it
11 came, but it was not professional. I've
12 never used it since, and I regret using it
13 there without the context being explained to
14 the teachers. What I meant was that the
15 current philosophy and guidance from the
16 department, which the district followed,
17 this identified a move away from segregated
18 services to inclusive services. I mean, the
19 use of—the words we use are so important.
20 "Getting students together as suggested by
21 teachers was seen as a good idea and trips
22 were subsequently arranged by the teachers
23 with district support. I certainly did not
24 use this phrase to infer that the Department
25 of Education or the district did not support

September 2, 2022

1 equitable education for students who are
2 deaf and hard of hearing." So, that—you
3 know, that was an incorrect and
4 unprofessional phrase to talk to the teacher
5 in that term, and I regret that.

6 Q. The rest of that paragraph—and I think you
7 had read it all. You know, I had asked you
8 about—despite the rejection of the satellite
9 classrooms 2017, 2018, 2019, you know, did
10 any positive benefit come out of it because,
11 of course, all these very severe needs had
12 been identified to you, and, you know, among
13 the academic needs and other things was the
14 sort of social isolation, right, that was
15 being brought to you. You've got the
16 school—I think we talked about it already—
17 750 kids. Carter Churchill is the only kid
18 who can't hear who needs ASL, right, in that
19 entire school, so the social isolation is
20 severe. We've heard expert evidence that
21 talks about the damage that does to your
22 brain and all kinds of other things, so one
23 of the, I would suggest, you know, cost
24 limited or small cost/big gain proposals in
25 the satellite classroom proposal was the

September 2, 2022

1 potential for socialization, deaf children
2 getting together with other deaf children in
3 a public place and interacting, and, you
4 know, there was a known benefit to that,
5 right? But it's true that even after this
6 proposal gets made to you in 2017, the first
7 time any of these deaf children are brought
8 together with the school district is in June
9 of 2019, right?

10 A. Yes. I think field trips—I think that was a
11 brilliant idea, and the teachers were very
12 adamant about it and put in a lot of extra
13 work to make it happen, and the children
14 enjoyed it. I don't know if that was
15 approached before 2019 to do that.

16 Q. 2017.

17 A. The field trip? Okay, and -

18 Q. In fact, I think it's in the minutes of a
19 2016 document (unintelligible).

20 A. A field trip versus a thing -

21 Q. Correct. I think the proposal—and we can go
22 back to it if we need to—indicates they
23 should be brought together once a week in a
24 2016 -

25 A. Oh, once a week, right, so that's -

September 2, 2022

- 1 Q. Any reason why it takes until June of 2019
2 before that ever happens?
- 3 A. Well, I guess in my view, Mr. Rees, a field
4 trip versus a program that puts—you know,
5 takes children once a week together, there
6 is a nuance difference there.
- 7 Q. I mean, why not start once a year, you know,
8 like -
- 9 A. I know, it's -
- 10 Q. Why did it take two and half years?
- 11 A. Uh-hm.
- 12 Q. Any idea?
- 13 A. I really—I don't have any specific reason
14 other than what I've said already, that, you
15 know, I don't know if it was a resourcing
16 issue. I don't recall that we put together
17 a proposal for it or that—you know, a
18 costing proposal. Once a week obviously was
19 a bigger commitment. In hindsight it sounds
20 it would've been a nice thing to do.
- 21 Q. We heard from Tammy Vaters yesterday, I
22 believe it was, who spoke at length about
23 that 2019 field trip and, you know, what an
24 incredible experience that was for Carter
25 and for all the other children.

September 2, 2022

1 A. Yes.

2 Q. It was hard not to cry, but to hear that
3 this was being proposed since 2016 and
4 proposed continuously 2017, 2018, 2019
5 before it occurs, I find it very hard to
6 sustain the idea that you say in your
7 affidavit that you can one hundred percent
8 guarantee that Carter's welfare was your
9 main concern.

10 A. Well -

11 Q. How do you account for those lapses?

12 A. At that time, I guess, I was a person who in
13 delivery of my job tasks was not—I was very
14 focussed on the specific issues in front of
15 me and really—you know, all of the
16 department was. We were really focussed on
17 critical incidents, staffing and really
18 around various other program developments.
19 It was really hard to think about being able
20 to do that. I'm thinking, Mr. Rees, that,
21 you know, if there were other—that other
22 once-a-week proposal, I mean, that sounds
23 like something that, you know, we—
24 transportation, really, and time away from
25 teaching our students is—would've been two

September 2, 2022

1 major concerns, but then, you know, the
2 seven students would've benefitted. I just
3 think that I was just really focussed on
4 delivering the services that were there in a
5 way that we did it. I've—I do things a
6 little differently now—or I did in my recent
7 years, but at that time it was—there was
8 such a volume of work and so many needs that
9 there was hardly time to even sit and
10 concentrate and think about how that could
11 happen.

12 Q. And given all of these other issues that you
13 and your colleagues had to address, you
14 know, beyond the needs of nine deaf students
15 in the metro area, those nine students, you
16 know, simply were not a priority, were they?

17 A. I can't say they were not a priority. I
18 mean, they had significant needs, and we
19 felt that with the resources that we had
20 under the guidelines we had we were meeting
21 them.

22 Q. Okay, those are all my questions. Thank
23 you.

24 ADJUDICATOR:

25 Q. Mr. Penney, whenever you're ready. No

September 2, 2022

1 questions?

2 MS. BONNIE WOODLAND, CROSS-EXAMINATION BY THE

3 ADJUDICATOR

4 ADJUDICATOR:

5 Q. I want to take you back if that's—I know
6 you've looked at this document a number of
7 times—

8 A. That's okay.

9 Q. —but it's in that Volume 1, again, bound
10 volume. It's the satellite classroom
11 proposal we've been looking at at Tab Z.

12 A. Tab -

13 Q. "Z."

14 A. Tab Z?

15 Q. Yes, the last one.

16 A. Okay.

17 Q. Mr. Rees was good with his phonetic
18 alphabet, but I'm afraid I can't do that.
19 When you received this, I appreciate it's
20 proposing to do something outside of the
21 norm and inconsistent with what your
22 understanding of the inclusive model at that
23 time was, but the proposal that's put
24 forward doesn't—you know, it's not just
25 proposing a solution. It's identifying some

September 2, 2022

1 problems. What problems did you understand
2 from this document were in existence, or did
3 it draw your attention to problems that
4 existed at that time?

5 A. The problem—one of the problems that existed
6 would've been that our programming—or
7 teaching and learning cannot be met on the
8 itinerant teachers' caseloads. I
9 interpreted that to be a lack of time to
10 provide versus a lack of skill level.

11 Q. Okay, and the next paragraph starts with a
12 sentence. "These students are presently
13 receiving other supports such IRT support,
14 student assistants, special transportation,
15 SLP, AVT and itinerant services. Even with
16 all of this support in place, these students
17 are not"—and the word, "not," is bolded, and
18 it's in all caps—"these students are not
19 able to access the regular curriculum
20 outcomes." What does that mean?

21 A. What it would've meant to me at the time was
22 that—you know, we're not—again, I got to
23 come back to our decision is based on an
24 individual student's needs, and we're kind
25 of putting a group together without my

September 2, 2022

1 knowledge or a program specialist's
2 knowledge to evaluate each student
3 individually, so that was—we were more
4 familiar—I was more familiar with Carter
5 than the other children because he was
6 currently the file that had been put forward
7 but—and I believe in some response that I
8 read here a few minutes ago in that quick
9 response that Mr. Rees referred to I asked
10 for—that we would review the—with—you know,
11 get from the program planning team—we would
12 review the programs and outcomes of these
13 children individually and that that was a
14 red flag to me, that that's what we needed
15 to do, not necessarily immediately jump to a
16 satellite support classroom. Again, you
17 know, I've used the word, due diligence,
18 focussing on children where they are on an
19 individual basis while, yes, I'm sure there
20 were many common needs. The teachers
21 wouldn't have put it forward if there
22 weren't, but my litmus test was to know
23 specifically what those needs might be.
24 That combined—so, that would've been the
25 first step that we would've undertaken and -

September 2, 2022

- 1 Q. So, your first reaction would've been to
2 assess the individual students' needs?
- 3 A. Well, to review their programming. You
4 know, there's a statement here that they're
5 not meeting their outcomes. None of them
6 are meeting any outcomes. I'm not saying
7 that wasn't true. I mean, these are their
8 teachers. This is not signed specifically
9 by any teachers. I don't know if it came in
10 an--did it come in an e-mail signed by
11 specific teachers? It doesn't matter, but
12 the teachers were saying that our job at the
13 district would be to have a close look at
14 their programming and determine, you know,
15 where was it? Was it with their ASL? Were
16 they all, you know, needing ASL? Like, we
17 just--I just felt uncomfortable without
18 knowing that.
- 19 Q. And I'm not sure I understood when--did you
20 say that you were not familiar with the
21 other students, but you would've been
22 familiar with Carter's situation at the
23 time?
- 24 A. Well, I wasn't--I was more familiar with
25 Carter at the time because we had been

September 2, 2022

1 focussed on, I think, 2017, 2018. Yes, so
2 we had been focussed on our discussions with
3 Mr. and Mrs. Churchill. I was more
4 involved. I was not personally involved
5 with the other children as far as really
6 being hands-on and knowing specifically
7 where they were with things, so that
8 would've—you said, you know, what was my—I
9 think you said what did I take away from
10 this, or what would've been the messages to
11 me. Those would've been the two messages
12 that—through my lens it wasn't just a
13 programming issue that we—that the itinerant
14 teacher caseloads need to be reviewed and
15 that I'd like to know more about the—all the
16 children that were being referred to and
17 their outcomes and meeting their outcomes.
18 That's likely what I would've thought.
19 That's where my head would've gone.

20 Q. Afterwards, did you then conduct that type
21 of review in relation to Carter?

22 A. Looking at his programs and program
23 outcomes, it—yes, Kim Lawlor and myself
24 would have, probably Kim and then bringing
25 me in. I don't know exactly when, but we

September 2, 2022

1 certainly were looking at, you know, is he
2 meeting his outcomes; and in reading the
3 report, say, in Grade 1—yes, it might be
4 Grade 1—while there—while I know there
5 continued to be concern about his ASL and
6 some other things, that the teachers were—in
7 their anecdotal reports—his teacher, Ms.
8 MacDonald, was indicating, for example, when
9 we read that, that he was making progress,
10 for example. I mean, Kim, as our program
11 specialist, may have done a further review,
12 but that's what I mean when—I'm more
13 familiar with Carter's reports. I was not,
14 up until that point in time, involved with—
15 at my—you know, it wasn't part of my work to
16 be doing that kind of a thorough analysis—or
17 not even a thorough analysis but at least
18 getting some feedback on how the children
19 are doing, and I, you know—anyway.

20 Q. So, was it your understanding that Carter
21 was able to access the regular curriculum
22 outcomes?

23 A. I don't think he was having great success
24 with the curriculum outcomes. We didn't
25 want to—with any student want to move away

September 2, 2022

1 from the prescribed curriculum and going to,
2 you know, what we would call an alternate—a
3 lot of alternate programs, so in other words
4 stepping back from a prescribed curriculum.
5 We really didn't, and the primary/elementary
6 curriculum is a developmental—the curriculum
7 from Kindergarten to Grade 3 is a
8 developmental curriculum in that it allows
9 for big discrepancies between abilities and
10 achievement for children. Now, as a
11 systemic issue, yes, it does—it's a
12 curriculum that's written for hearing
13 children and others without exceptionalities
14 and that it did not—it was not infused or
15 part of—you know, it didn't infuse a
16 learning for hearing—non-hearing children
17 within that. That's true for our blind and
18 visually-impaired children. It's true for
19 our—the other exceptionalities. I'm not
20 going to list them all here. So, that's
21 why, you know, we offer alternate courses,
22 and I believe Carter did—or programs,
23 rather—I believe Carter did have some—an
24 alternate—a couple of alternate programs.
25 One was advocacy, and the other one was

September 2, 2022

1 communication, I believe, so these would've
2 been two—outside of the curriculum, so, you
3 know, when they're outside of the curriculum
4 the child is not in the classroom having
5 these delivered. One was—and I know that
6 Mr. and Mrs. Churchill were not happy with
7 the fact—and the system itself is not—wasn't
8 really ready to have IRTs with ASL, so that
9 these alternate programs could be delivered
10 by a teacher with ASL, for example. Really,
11 only our student assistant who was there
12 facilitated that communication once we got
13 the right person in place, and then the—a
14 teacher as well to support—that, I think, we
15 were able to come closer to meeting Carter's
16 learning needs. And I mentioned the
17 developmental piece from K-3, because
18 generally—and with our hearing children—and
19 I know this is different. I understand
20 that, that a deprivation of language is
21 different or having no language is different
22 than children coming to school with low
23 language. Having no language is quite
24 different, but that we used those formative
25 primary years as well to provide whatever

September 2, 2022

1 supports we can to identify, to be
2 responsive to them and to provide the
3 supports that they need or that they are
4 responding to in a positive way, so, you
5 know, our learning while, you know, it may
6 be very different for hearing children, was
7 that this is a process, that we'll get this
8 in place as quickly as possible, and we'll—
9 in other words, Mr. Adjudicator, it was not
10 unusual for us to have children who were
11 performing well under and not achieving
12 their outcomes in Kindergarten, but through
13 time, by the time they got to elementary
14 school, they were more—you know, they were
15 accessing to some degree more—they were
16 having more success with the prescribed
17 curriculum; and if they weren't at any point
18 in time, I mean, there would be more
19 comprehensive assessments. Now, I don't
20 mean formative assessments, ongoing
21 assessments that teachers do to inform their
22 teaching and learning, but I mean any red
23 flags about any other learning issues that
24 may be there, it's really a process. Now,
25 that's the context that all of—that we're

September 2, 2022

1 working with Carter under, and all our
2 students with exceptionalities, and so we—
3 you know, your question of was he having
4 success, it was limited, but we wanted to
5 continue to try and put whatever we could in
6 place that would help him. Now, you know,
7 there's a lot of limitations there, and I've
8 spoken to them.

9 Q. And, you know, your evidence is one part of
10 a bigger puzzle, and, you know, I've heard
11 evidence on a lot of different areas. One
12 of the items that I want to be clear on and
13 have a clear understanding of is this
14 resources question that you've raised, the
15 resourcing issue with implementing the
16 proposal for a satellite classroom when it
17 was proposed in 2017 for the 2017-2018
18 school year. When you say that there was a
19 resourcing issue—we know that a similar
20 model, maybe not exactly as described here,
21 has been put in place. Were there human
22 resources that the district did not have
23 that it could not implement this in terms of
24 —

25 A. Yes.

September 2, 2022

1 Q. What human resources did you not have?

2 A. Well, for one thing, we didn't have a
3 director of programming for deaf and hard of
4 hearing children. That particular
5 exceptionality was included as one of 11
6 that are managed by Student Services, so
7 there definitely was that.

8 Q. What role would that person have in
9 delivering education in the satellite
10 classroom?

11 A. Well, you'd probably have to ask Ms. Fewer
12 Jackson that question. She'd have a lot of
13 details around that; but, first of all, she
14 has a high level of expertise with that
15 particular exceptionality. Second of all,
16 she's focussed entirely every day on the
17 programming for deaf and hard of hearing
18 children. The regular director, who
19 currently exists in Student Services, is
20 focussing on, I guess, 10 others as well as
21 deaf and hard of hearing, and maybe they all
22 would—I'm sure they all would benefit from a
23 director for each exceptionality, but I
24 think that is what made the difference
25 between the current ability to put that in

September 2, 2022

1 place along with, I guess, increased
2 awareness systemically of the needs of deaf
3 and hard of hearing children and that, you
4 know, over time the model that we had, the
5 guidelines we were using to deliver
6 services, which I've said many times, was
7 not maybe the best model. I mean, this is—
8 I'm assuming they've been in the satellite
9 classroom—and I wasn't involved with that at
10 all, but I'm assuming they've been there now
11 for two years, so it's in a—it's in, I
12 guess, sort of a pilot mode. It seems to be
13 very successful. I can't speak to it beyond
14 that, but the difference was, I believe, a
15 dedicated—you know, leadership dedicated at
16 a high level in the district to that
17 specific area, deaf and hard of hearing
18 students.

19 Q. So, it's not that you didn't have the
20 teachers available.

21 A. Well, it's all of that. It's all of that.
22 You know, I mean, the teachers can be, you
23 know, moved around. I mean, there's not a
24 big pool of deaf and hard of hearing
25 teachers to begin with. A lot of that

September 2, 2022

1 discussion, I believe, came out in some of
2 the mediation pieces around what the
3 district can do to improve the pool for deaf
4 and hard of hearing teachers, so, you know,
5 there was that. So, Ms. Fewer Jackson's
6 appointment along with increased awareness
7 district-wise—and I would say department-
8 wise as well—of a real focus on the
9 continued gaps that Mr. Rees there pointed
10 out.

11 Q. Here's my problem. Ms. Fewer Jackson, she's
12 not in that position. That position is not
13 created until afterwards, right?

14 A. 2019.

15 Q. So, that position is created after this
16 proposal is put in place, so are you saying
17 that without that position being created,
18 it's impossible to implement a proposal such
19 as this, or is it possible that this
20 could've been done, or does that somehow
21 make it impossible until we create the new
22 position?

23 A. Okay.

24 Q. I'm struggling to see why Ms. Fewer Jackson
25 is so important to implementing this in 2017

September 2, 2022

1 when that position didn't exist.

2 A. I think that if in a conversation someone
3 said to me or in discussion with—let's just
4 say Ms. Warren as an example—"This is
5 something, you know, we want to pursue; we
6 want to do this."

7 Q. Let's say you said that, so you said,
8 "There's a proposal. I'd like to pursue
9 this. What do we do next?"

10 A. I'm not sure—I think, you know, Ms. Warren
11 will have to speak to that, how I phrased
12 that with her. I was so focussed, Mr.
13 Adjudicator, on delivering the services we
14 had.

15 Q. Yes.

16 A. Within the guidelines that we had, it was—
17 you know, I wasn't as thinking outside the
18 box as I have come to be in more recent
19 years with the different leadership at the—
20 perhaps. I don't know. Maybe it was a
21 growth in my mindset that changed, but I
22 wasn't comfortable, I guess, and probably
23 just didn't have time to really, really
24 delve into it to advocate strongly for
25 further review of that. You know, as

September 2, 2022

1 discussions—as we had discussions, I
2 probably just didn't have—I just wasn't able
3 to go outside our current model of delivery.
4 I—and even though, you know, what they said
5 was important, and it—I just felt there was
6 a huge step from being able to say, “Yes,
7 we're going to support this” to saying
8 “we're ready to support this,” and we were
9 again, you know, doing the best we could
10 with the model of delivery that we had.

11 Q. Do you know what resources have been
12 allocated to the current satellite
13 classroom?

14 A. I mean, not specifically, but, I mean, I
15 worked in the same building as Ms. Fewer
16 Jackson for two years, her first two years,
17 so I do know that there's—you know,
18 transportation is provided. That's a big
19 piece of any kind of programming, and so
20 that was addressed. I'm sure it wasn't
21 easy, and I know that there's a really high
22 ratio—or a good ratio of teachers to
23 students, that there's student assistants
24 and interpreters, I think. There may be—I
25 may have missed something there. Again, I

September 2, 2022

1 haven't been involved with it since then
2 but—and I think that's what it would take to
3 put in a viable program.

4 Q. And if you were to look at 2017, would we
5 have been able to make transportation
6 arrangements?

7 A. I can't say what the response would've been
8 in 2017.

9 Q. Is there a practical barrier to implementing
10 transportation?

11 A. Well, budget.

12 Q. Okay, so you'd need financial resources.

13 A. Yes, and they—it would have to be agreed by
14 the Department of Education. Obviously,
15 they -

16 Q. And to get the good ratio of teachers—I
17 think there's two teachers of the deaf and
18 hard of hearing in the classroom now.

19 A. And how many children, do you know? Anyway,
20 it doesn't matter but -

21 Q. There's, you know, half a dozen or maybe a
22 few more.

23 A. Okay, so two teachers, yeah.

24 Q. And you had two deaf and hard of hearing
25 teachers employed on your roster in 2017.

September 2, 2022

- 1 A. Yes, but they have caseloads as well.
- 2 Q. So, you'd have to adjust caseloads and
- 3 explore whether you could do that and
- 4 service the other students?
- 5 A. Well, I think what would've happened, if we
- 6 had proceeded, if we did a—if we were able
- 7 to find, I mean, the two teachers—and you'd
- 8 obviously want as qualified as you could
- 9 find or move. Assuming they wouldn't be the
- 10 DHH itinerant teachers, then these students
- 11 who were on their—currently on their
- 12 caseload would free them up to spend more
- 13 time with their other students.
- 14 Q. Okay, so it would be to shift—it would
- 15 reallocate some of their caseload
- 16 automatically—
- 17 A. Yes, automatically.
- 18 Q. —because you'd be taking their high-needs
- 19 cases and deciding instead of having—
- 20 A. Yes, that -
- 21 Q. —you know, six high-need students spread
- 22 out, you'd have six together and two
- 23 teachers assigned to them. You'd have
- 24 student assistants?
- 25 A. Yeah, they have student assistants, I think,

September 2, 2022

1 do they? Right.

2 Q. I believe so, and the interpreters, that
3 would be new.

4 A. Yes.

5 Q. That would have to probably be a hiring
6 process.

7 A. Yes, and, you know, again, the designated
8 support of the director too is a piece, so
9 that—in this case, it was a she, still is a
10 she—has the time to, I assume, be onsite,
11 have close collaboration, help work out the
12 programming issues, support them in their
13 day-to-day work, ensure other curriculum
14 specialists are there to support them in
15 their everyday work. You know, to do it
16 right, to do it with the accountability that
17 would be required requires those resources,
18 and I think that it happened in 2019. Could
19 it have happened before? I can't say it
20 wouldn't, you know, if we had someone who
21 could actually push that forward, if that
22 was the will. I just don't think that—I
23 think we were trying to work with the
24 resources that we had. That's what I think.
25 At least at my level, we were working with

September 2, 2022

1 the resources that we had, and getting any
2 further—and when I say resources, I mean
3 human resources primarily. I mean, there's
4 other costs, transportation and so on, but
5 human resources.

6 Q. The physical space that—the actual physical
7 space for a classroom, that was available?

8 A. Usually there's a school where we can find a
9 space, yeah. I mean, back then I don't
10 think Eastpoint was built, back in the very
11 beginning. I'm not sure when they opened,
12 but there certainly wouldn't have been space
13 at the old Virginia Park. The older
14 schools, probably not, but I don't think it
15 really mattered at that point where it was
16 if, you know, the transportation—if there's
17 a commitment to provide it. You know, it
18 all really came down to, I think, awareness,
19 commitment, continued lobbying. It
20 shouldn't maybe take that long, but it did.

21 Q. Okay, thank you. Are there questions
22 arising from my questions?

23 MR. REES:

24 Q. None.

25 ADJUDICATOR:

September 2, 2022

1 Q. Okay. Well, Ms. Woodland, I'd like to thank
2 you for giving us the better part of your
3 day to give your evidence. I appreciate
4 that, and you are free to stay and observe
5 the proceedings, or you can go.

6 A. Are there any proceedings following today?

7 Q. There are more days scheduled—

8 A. No, I mean today.

9 Q. —and more today, yes. We've got more
10 witnesses for today as well.

11 A. Today?

12 Q. Yes.

13 A. Thank you the opportunity.

14 Q. Thank you very much. Did you want to take a
15 break before the next witness to get
16 organized? Okay, five minutes?

17 MR. REES:

18 Q. Yes, please.

19 ADJUDICATOR:

20 Q. Okay, well, let's adjourn until 3:00.

21 (OFF RECORD)

22 ADJUDICATOR:

23 Q. Okay, so I believe the next witness that we
24 are scheduled to hear from is Ms. Elizabeth
25 Churchill. This is Ms. Churchill, correct?

September 2, 2022

1 So, before you give your evidence here this
2 afternoon, would you prefer to swear an oath
3 to tell the truth or a solemn affirmation?

4 It is your decision.

5 MS. ELIZABETH CHURCHILL:

6 A. An oath is fine.

7 ADJUDICATOR:

8 Q. Okay.

9 MS. ELIZABETH CHURCHILL, (SWORN) EXAMINATION-IN-CHIEF
10 BY MR. KYLE REES

11 REPORTER:

12 Q. And for the record, state your complete
13 name, please?

14 A. Elizabeth Churchill.

15 Q. Thank you very much. Ms. Churchill has been
16 sworn.

17 ADJUDICATOR:

18 Q. Okay, Ms. Churchill, I understand that Mr.
19 Rees is going to have a series of questions
20 for you. Mr. Penney may have questions for
21 you afterwards. I may have questions as
22 well. I may jump in partway through to ask
23 for clarification on something, but Mr. Rees
24 is going begin his questioning first.

25 A. Perfect.

September 2, 2022

1 MR. REES:

2 Q. Thank you. Hi, Ms. Churchill.

3 A. Hi there.

4 Q. As indicated, I'm Kyle Rees. I've got Todd
5 and Kim Churchill sat to either side of me,
6 and I know we've all met before, and Steve
7 Penney may have questions for you as well,
8 as may the adjudicator. You got a pile of
9 documents in front of you. There may only
10 be a couple that I refer you to, but we'll
11 take the time to get there when we do. I
12 know you also have your affidavit in front
13 of you, and I've got a copy of that here, so
14 thank you for that. We've got, you know, an
15 hour budgeted for you. You know, we've got
16 just under two hours left to our day, so I
17 have every intention of, of course, getting
18 this concluded prior to 5:00, so we can all
19 get out of here for our long weekend.
20 You're here giving testimony. We heard a
21 couple of days ago from your colleague, Bob
22 Gardiner. You haven't seen any of the
23 proceedings, though. You didn't see Bob's
24 evidence, did you?

25 A. No. I did see—yes, I did see part of Bob's,

September 2, 2022

- 1 just a very short part of it.
- 2 Q. How did you end up seeing some of Bob's
- 3 evidence? So, was it online?
- 4 A. I just happened to be home on—working on my
- 5 computer, and I happened to see part of it,
- 6 only a part.
- 7 Q. Oh, was this on television or through
- 8 Twitter or something?
- 9 A. No, on my computer through the link—
- 10 Q. Oh, you clicked the link.
- 11 A. The link to this -
- 12 Q. To this proceeding.
- 13 A. Right.
- 14 Q. How many minutes of Bob Gardiner's testimony
- 15 did you watch?
- 16 A. Fifteen, 10?
- 17 Q. About 15.
- 18 A. I was working from home, and so it was kind
- 19 of -
- 20 Q. Okay.
- 21 A. Yeah, so I just tuned in on that, and that's
- 22 the only person, though, the only other
- 23 witness I had seen.
- 24 Q. I see. Were you advised by anybody,
- 25 including counsel, about the rules about

September 2, 2022

- 1 witnesses being excluded and not watching
2 the proceedings?
- 3 A. No.
- 4 Q. No one told you about those.
- 5 A. No.
- 6 Q. Okay. Okay, we're going to continue with
7 that noted, I think, for the purposes of the
8 record.
- 9 A. Right.
- 10 Q. Oh, and I guess a follow-up question, that
11 in addition to watching, you know, 15—did
12 you say 15 or 20 minutes—somewhere between
13 there—
- 14 A. Yeah, 15.
- 15 Q. —of testimony by Bob Gardiner, did you
16 discuss the case with any of the witnesses,
17 have a discussion with Bob Gardiner after?
- 18 A. No.
- 19 Q. Did you let him know how good he did or
20 anything like that?
- 21 A. No.
- 22 Q. Okay.
- 23 A. I haven't spoken to Bob in, well, several
24 years now.
- 25 Q. He's retired, luckily.

September 2, 2022

- 1 A. Yeah.
- 2 Q. Okay, I understand currently you're a
3 principal of a school. During the years
4 that I'm going to be asking you about, which
5 is 2017 to 2019, you are what we call an
6 ADM, which means Assistant Deputy Minister,
7 right?
- 8 A. Yeah, that's correct.
- 9 Q. And that was in the Department of Education?
- 10 A. Correct.
- 11 Q. Can you tell me specifically the months,
12 2017 to 2019?
- 13 A. August.
- 14 Q. August of each?
- 15 A. August 27 (sic.) to August 2019, yeah.
- 16 Q. Okay, and during that period of time you
17 would've been reporting to Bob Gardiner,
18 right?
- 19 A. Correct.
- 20 Q. And if I understand government structure—and
21 I don't perhaps as well as I should—you
22 know, several Assistant Deputy Ministers
23 reporting to a Deputy Minister who reports
24 to a Minister, is that right?
- 25 A. Yes, that's correct.

September 2, 2022

- 1 Q. Right. I actually don't know—did we swear
2 in the witness? I don't recall. Oh, we
3 did, didn't we? Yes.
- 4 A. Yeah.
- 5 Q. That's right. Who were the Ministers that
6 you would've served under during those
7 years?
- 8 A. Minister Kirby first, Minister Warr,
9 Minister Hawkins—or Hawco. Minister
10 Hawkins, I believe.
- 11 Q. Hawkins.
- 12 A. Yeah.
- 13 Q. Al Hawkins, right?
- 14 A. Yeah, that's it, and that would be it.
- 15 Q. That's it, okay. You're back being a
16 principal of school, and so that implies to
17 me that you, you know, would be a certified
18 teacher, and that would be, you know, your
19 education background. Do you have any
20 education background training or otherwise
21 that specifically related to deaf education,
22 ASL, students with special needs, any of
23 those areas?
- 24 A. No.
- 25 Q. Okay, and you have no knowledge or ability

September 2, 2022

1 in American Sign Language, do you?

2 A. No.

3 Q. Okay. Many of the questions that I'm going

4 to ask you, given that you're familiar with

5 it, are very similar to the questions that I

6 had for Bob Gardiner because I'm really

7 trying to get to the understanding of, you

8 know, what—and as you're aware, the

9 Department of Education is no longer party

10 to this proceeding, and it's solely a

11 proceeding against the school district, but

12 I'm trying to get an understanding of what

13 role the Department of Education would've

14 had in bringing issues to the attention of

15 the school district because several times

16 there are studies and reports that are, you

17 know, being done by the Department of

18 Education that tell the school district that

19 they have to do things, and sometimes I'm

20 hearing from the people at the school

21 district that they don't know anything about

22 these reports or they never heard of them,

23 so I'm going to ask you about one of them in

24 particular, and if you grab—over to your

25 left-hand side there are volumes and volumes

September 2, 2022

1 of documents, and one of them says "Volume
2 1" on the front.

3 A. Volume 1, okay, yes.

4 Q. And I'm going to get you to look at Tab G as
5 in Golf of Volume 1.

6 A. Okay. Tab G, yeah, I have that.

7 Q. That's a report—and, look, this report is
8 authored prior to your time in the
9 Department of Education. Darlene Fewer
10 Jackson wrote a report in 2011, but she did
11 provide an update to it in September of
12 2018, so a lot of the content that's in
13 there was generated in 2011 and then later
14 on is updated in 2018. Do you recall during
15 your time in the Department of Education
16 coming across the updated version of this
17 report?

18 A. No.

19 Q. And this is similar to what Bob told me,
20 which was that, you know, the report didn't
21 come up—to his understanding, and I'm trying
22 to figure out why the Department of
23 Education would conduct a report as—this
24 says, "A Review of Services for Deaf and
25 Hard of Hearing Students in Newfoundland and

September 2, 2022

1 Labrador." You know, identifies several key
2 areas where the department, and to a greater
3 extent the district, was failing, but no one
4 seemed to have any knowledge of these
5 reports. I mean, what happens with—given
6 that you don't know this specific report,
7 you can't tell me this report—but with
8 reports like this, reviews like this, like
9 what happens to them? Do they just sort of
10 go into the ether, or would the district get
11 sent a report like this? What happens?

12 A. I wouldn't be able to answer that.

13 Q. Yes.

14 A. Don't really know.

15 Q. Okay, but looking at this report there now
16 and, you know, like, the cover page and
17 people signing and a review of deaf services
18 in education, it doesn't strike you as being
19 familiar or the kind of thing that you
20 would've come across during your time there.

21 A. I knew the report existed through
22 conversations, but, no, not specifically the
23 details of the report.

24 Q. And so you were never asked by anybody as
25 part of your duty as ADM to address the

September 2, 2022

1 report in any serious way.

2 A. No.

3 Q. Did you have any role during your time as
4 ADM at the department—well, actually, let me
5 back up for one second. The Department of
6 Education had some involvement in, you know,
7 what I'll refer to generally as "the
8 Churchill file"—includes the human rights
9 complaint; but even without the human rights
10 complaint, I imagine, you know, their file
11 in some capacity would've existed within the
12 Department of Education. Were you the only
13 ADM that was sort of assigned to work on the
14 Churchill file? I assume you did.

15 A. I don't think so. Again, when I went in
16 there at—in 2017, you know, it existed, so
17 there was—an ADM before me, I would assume,
18 would've known something about this
19 particular case.

20 Q. And to clarify, I mean, you had—involvement
21 and assignment to that case is how you and I
22 met before.

23 A. Right.

24 Q. There was no other—during the time period
25 when you were in the Department of Education

September 2, 2022

1 as ADM, there was no other ADM besides you
2 assigned to this file?

3 A. Not that I'm aware of.

4 Q. Okay. One of the concerns raised in this
5 report—and I don't need you to take to it
6 because I'm just asking generally about your
7 knowledge, if this was a project—so, you're
8 in the department 2017 to 2019, two years.
9 Is it ever raised at the department that the
10 department does not have any kind of
11 provincial guidelines for deaf education,
12 and that's a project that maybe needs to be
13 taken on and worked on.

14 A. That was never raised.

15 Q. Never raised and as a result never worked
16 on, right?

17 A. Right.

18 Q. And if it had been worked on, would you
19 likely have known?

20 A. Yes.

21 Q. You'll be happy to know that the reason
22 there was such a long silence is because I'm
23 moving past material that I've gotten
24 answers from from other witnesses, so we're
25 saving some time.

September 2, 2022

1 A. No problem.

2 Q. Are you familiar with the department's
3 inclusive education model?

4 A. Yes.

5 Q. And that would've been a document—I think
6 that would've existed prior to your time at
7 the department; but, you know, it was, I
8 guess, in force and effect at the time.

9 A. Exactly, and I would've been aware of that
10 in my role as a school principal prior to my
11 role as ADM.

12 Q. Right, and are you aware that one of the
13 tenets of the inclusive education model is
14 to provide—and I'll quote it; I don't think
15 we need to open the document—"a welcoming
16 school culture where all members of the
17 school community feel they belong, realize
18 their potential and contribute to the life
19 of the school." Does that sound like the
20 kind of language that you've heard from that
21 model?

22 A. Yes.

23 Q. It does. You know, we've had expert
24 evidence presented here at this Commission
25 that indicates, you know, deaf students who

September 2, 2022

1 are placed in a hearing school all by
2 themselves with no other deaf students with
3 which they can communicate and sign, you
4 know, do not feel that they belong, seldom
5 realize their potential and find difficulty
6 interacting with other classmates, so, I
7 mean, when I tell you information like that
8 even, you're aware that it presents a
9 challenge to the inclusive education model,
10 doesn't it?

11 A. Yes.

12 Q. And the education service delivery model for
13 students with exceptionalities, you've heard
14 of that model before?

15 A. I have.

16 Q. And there's a chapter in there—and, again, I
17 don't think I need to take it to you because
18 you believe me when I tell that it says,
19 "The environment must not negatively affect
20 the student's self-esteem or social needs,"
21 and we've had expert testimony in here that
22 indicates when a deaf student suffers from
23 language deprivation, that their self-esteem
24 and social needs are greatly impacted, so if
25 that evidence were true, you would have some

September 2, 2022

1 serious concerns about the impact on deaf
2 students, wouldn't you?

3 A. We want all students to feel welcome and
4 safe in a school community no matter, you
5 know, what—their exceptionalities or what they
6 bring.

7 Q. In some ways—I mean, I think you'd agree
8 with me in some ways; I would say many ways,
9 the inclusive education model that sees, you
10 know, all students with exceptionalities
11 attending their neighbourhood schools, you
12 know, would have an adverse effect on
13 students with certain exceptionalities such
14 as Carter who are deaf and unable to
15 communicate with the classmates, right?

16 A. I can't really comment on that. That would
17 be, I guess, individual students.

18 Q. Well, how important is it—under this
19 inclusive model, which you have indicated
20 you're both familiar with with your time at
21 the department and as a school principal,
22 how important are things like, you know, a
23 child's social needs? Like, I know it's
24 important to communicate curriculum and to
25 learn. I remember every time I acted out in

September 2, 2022

- 1 a class the teacher telling me that "We are
2 here to learn, not to play" and—but, I mean,
3 play and social needs are a very important
4 part of a primary education, aren't they?
- 5 A. Absolutely.
- 6 Q. Right, and so, you know, just having
7 educational material passed along to a child
8 through an interpreter, for instance, would
9 offer very limited opportunities to have
10 those social needs met, wouldn't it?
- 11 A. Again, I wouldn't be able to comment on that
12 particular interaction because it's not
13 something I have an expertise in.
- 14 Q. Well, in your involvement with the Churchill
15 file—and, you know, I won't ask you to—and I
16 acknowledge that you'll have to be careful.
17 You know, any information that you would've
18 picked up through settlement meetings and
19 things wouldn't be appropriate to discuss
20 here; but in complaints that the Churchills
21 were making, including those that the
22 Department of Education would've been aware
23 of because it would've been brought to you,
24 in addition to their child's academic
25 challenges, their child's social challenges

September 2, 2022

1 and social belongings were also a focus,
2 weren't they?

3 A. Absolutely, yeah.

4 Q. Yes.

5 A. Uh-hm.

6 Q. Did you have any knowledge of a program that
7 was being attempted to be delivered in
8 schools referred to as "Gain a super power?"

9 A. I was aware of it, yes.

10 Q. Yes. What did you know about that program?

11 A. Not a lot. I knew that it was something
12 that the district was looking at—in
13 implementing. Other than that, I didn't
14 know a lot about it.

15 Q. Okay, and why would the district come to
16 you, if that's who did, to let you know
17 about a program they were looking at
18 implementing. I mean, it's the district's
19 program. Why come to the department?

20 A. I don't think they actually—again, I don't
21 recall them actually coming to me. I just
22 kind of gained—yes, knowing the name of it—
23 and maybe I heard it in a meeting, and maybe
24 I heard it from Mr. and Mrs. Churchill
25 themselves. I don't know. I don't think

September 2, 2022

1 they actually came to me about it. I was
2 aware it existed and that the district was
3 looking at implementing it. Other than
4 that, I didn't know—I don't even know the
5 details of it.

6 Q. And did you have any awareness that the
7 district had refused to greenlight that
8 program for a lengthy period of time and
9 that the department was eventually
10 approached and asked to speak with the
11 district to get that program approved?

12 A. I knew there was some concerns about it,
13 but, no, not directly approached about it.

14 Q. Do you remember—and this would've been
15 during your time as an ADM and probably
16 would've been, you know, a fairly important
17 item at the time you were there—a July 2017
18 report from the Premier's Task Force on
19 Improving Educational Outcomes?

20 A. Yes.

21 Q. That was the one they called Now is the
22 Time, right?

23 A. Right.

24 Q. Yes, yes, yes, and here we are still talking
25 about it.

September 2, 2022

1 A. Now is the Time, and I believe the subtitle
2 was, The Next Chapter of Education in our
3 province, yeah.

4 Q. Right, there you go. That's pretty good.

5 A. Yeah.

6 Q. Did that—I mean, there are many things in
7 that report, but I think it's fair to say
8 that one of the takeaways from that report
9 was that the inclusive education model that
10 sees students with exceptionalities be
11 placed into their neighbourhood schools—that
12 the inclusive education model was not
13 working the way it was intended.

14 A. I'm not so sure that the Premier's Task
15 Force—that actual document outlines that. I
16 would certainly think that things—the
17 impetus for this, for the review and the
18 Premier's Task Force in the beginning, was
19 probably to do with some questions around
20 inclusive education, what it means, what it
21 looks like, so I would think that—I don't
22 know if that was directly addressed in the
23 document, but it would certainly be in my
24 view an impetus for probably the whole
25 Premier's Task Force in the beginning, or

September 2, 2022

1 certainly a piece of it.

2 Q. Right, as I understand the way that these
3 two documents work together is that the Now
4 is the Time report then sort of helped
5 generate the department's Education Action
6 Plan, which you guys called The Way Forward,
7 right?

8 A. Right.

9 Q. And that's 2018, so, you know, a year later.

10 A. And that was a key piece of my work when I
11 was at the department, yes.

12 Q. Tell me a little about that plan just, you
13 know, from a general nature. Like,
14 specifically in relation to the inclusive
15 education model, you know, what were some of
16 problems that The Way Forward plan was
17 looking to address?

18 A. The Education Action Plan consisted of—I
19 believe there's nine focus areas. I do
20 believe—I know the last two are on
21 professional learning, and I think it's
22 career education, so the bulk or the meat, I
23 guess, of the document would be in the
24 chapters—the first seven. I believe their
25 inclusion—I'm not sure of, of course, the

September 2, 2022

1 order. Inclusive education, mental health
2 and wellbeing I know were key. Literacy,
3 numeracy, reading, those were all sections,
4 and the Education Action Plan certainly
5 looked at short-term, medium and long-term
6 goals addressing things that were—came out
7 of an extensive, I guess, conversation and
8 reviews with the public. That's what the
9 Premier's Task Force was.

10 Q. I see, and if there were—now I'm really
11 going to test your memory, and otherwise we
12 can look at the document, but I believe
13 there were 82 recommendations in that
14 report.

15 A. Uh-hm.

16 Q. Sound about right?

17 A. Yeah, I think there's 82.

18 Q. And I also believe that not a single one of
19 those 82 recommendations addressed any
20 challenges with deaf children in mainstream
21 schools.

22 A. Not specifically, no. The inclusive section
23 addressed inclusivity, did not address
24 specific BVI, deaf and hard of hearing,
25 autism. There was no specific references

September 2, 2022

1 there to that.

2 Q. We heard some evidence from experts and some
3 others that, you know, the challenges that
4 any kind of inclusive education model poses
5 to deaf learners as a specific subset of
6 children with exceptionalities is often
7 quite different. You know, there are many
8 ways in which, you know, children with all
9 kinds of other, you know, behavioural,
10 visual exceptionalities can be fairly easily
11 integrated into a classroom; but because of
12 the specific communication issues that deaf
13 learners face, you know, an inclusive
14 education model can be particularly harsh or
15 inappropriate for deaf learners. You know,
16 hearing that information, do you feel that
17 it would've been important to address deaf
18 inclusion as its own standalone subject in
19 that report?

20 A. We—all—you know, all students, when they
21 present to our schools, you know, bring a
22 various amount of—I guess, of challenges and
23 needs, so I wouldn't be able to answer that
24 question in the sense that one of—one
25 particular group of children over another.

September 2, 2022

1 Q. Okay. I'm going to try to get you to help
2 fill in, as the adjudicator put it a little
3 while ago, a piece of the puzzle. We heard
4 from Bonnie Woodland this morning and into
5 this afternoon, and you may be aware of
6 this, and let me know if you are. You know,
7 several times over the course of 2017, 2018
8 and 2019, she was in receipt of proposals
9 for a satellite classroom, which, you know,
10 is a classroom very similar to what now
11 currently exists at Eastpoint Elementary,
12 the ASL Immersion Classroom. Can you tell
13 me if you had any awareness in your role as
14 ADM that in 2017, 2018 and/or 2019 that
15 these proposals were being made within the
16 district? Was it ever brought to your
17 attention or your Minister's attention, to
18 your knowledge?

19 A. Not to my knowledge.

20 Q. It wasn't.

21 A. No.

22 Q. Is there any other ADM within the Department
23 of Education, you know, who would've been
24 more appropriate to have knowledge of that?
25 Like, is there anyone else who was dealing

September 2, 2022

- 1 with deaf education to a greater degree than
2 you?
- 3 A. No.
- 4 Q. No, so -
- 5 A. Not another ADM, no.
- 6 Q. So, it seems, you know, very likely, then,
7 that if any of the concerns identified in a
8 satellite classroom or the satellite
9 classroom proposal itself, if it had ever
10 been brought to the Department of Education,
11 you know, it would've been known by you or
12 by Bob Gardiner, right?
- 13 A. Not necessarily. There's many—for instance,
14 within the K-12 division there's a Programs
15 and Services Division. Within that there's
16 Student Services, so there's managers;
17 there's directors, so it could've been
18 brought to the attention of those
19 individuals, not necessarily the ADM or the
20 Deputy.
- 21 Q. I mean, before getting approval, would it at
22 some point have needed—have been, let's say,
23 elevated to an ADM or a Deputy?
- 24 A. Yes, I would think so.
- 25 Q. Yes, and the fact that neither you nor Bob

September 2, 2022

1 Gardiner had any knowledge that Bonnie
2 Woodland was being approached or—you know, I
3 still think we may be missing a couple of
4 pieces of the puzzle because I understand
5 there are several lines of bureaucracy
6 between Bonnie Woodland and you and Bob
7 Gardiner. You know, she has several
8 superiors she reports to, but I guess the
9 point is no one ever comes to you guys with
10 those proposals.

11 A. No.

12 Q. Okay. Did anyone ever approach the
13 Department of Education, to your knowledge,
14 seeking additional resources either in the
15 form of personnel or financing or resources
16 such as bussing or physical space to be able
17 to implement better services for deaf
18 children including a satellite classroom?

19 A. Not to my knowledge.

20 Q. Okay, and, again, I mean, I think we can
21 apply this to all questions going forward,
22 so I don't have to ask it any further; but,
23 I mean, as far as Deputy Ministers go, you
24 would've been the most appropriate person in
25 the office in the event that a change in

September 2, 2022

- 1 programming for deaf students was being
2 requested.
- 3 A. Assistant Deputy Ministers, yes.
- 4 Q. Sorry. I just promoted you, look at that.
- 5 A. Just to get back to that question, the
6 bussing piece you mentioned, that would be—
7 there was another division, so bussing would
8 not be—under the K-12 and Early childhood
9 but—so, that would be an ADM, but bussing
10 would not come to that division.
- 11 Q. What about if—like—and this is my lack of
12 knowledge on how things work in the
13 department, and I'm sure it changes, but,
14 like, what about if money for bussing was
15 needed? Does that go to the bus place or
16 that go to you?
- 17 A. The bus place.
- 18 Q. The bus place, okay. Do you remember in
19 December of 2018, leading up to
20 Christmastime in 2018, you got e-mailed a
21 copy of a presentation from Darlene Fewer
22 Jackson, and she was the department—do you
23 know who Darlene Fewer Jackson is?
- 24 A. I do.
- 25 Q. Yes, so she was a consultant at that time.

September 2, 2022

- 1 A. Right.
- 2 Q. And she e-mailed a copy of a presentation to
- 3 you that outlined a number of concerns that
- 4 the deaf and hard of hearing students have.
- 5 Do you have general knowledge of that?
- 6 A. I don't recall that specific e-mail
- 7 obviously, but I do—yes, I would remember,
- 8 you know, speaking to Darlene and talking to
- 9 Darlene on that.
- 10 Q. Okay. See that purple binder up by your
- 11 water jug there? Just grab that one.
- 12 A. Okay.
- 13 Q. This is what we've been calling our rebuttal
- 14 document. Can you turn to Tab 3 of that?
- 15 So, I think this is the presentation. It's
- 16 from Darlene Fewer Jackson, and it's to you,
- 17 and it's December 17th, 2018, and she talks
- 18 about the meeting that you guys had this
- 19 morning and this recent presentation that
- 20 she did, and I'm just going to get you to
- 21 flip it—you know, it's a presentation on
- 22 deaf and hearing loss, and a lot of it is
- 23 general information, and only some of it is
- 24 relevant to what we're doing. I want you to
- 25 flip several pages in. For whatever reason—

September 2, 2022

- 1 okay, I don't understand this. Oh, I think
2 because it's ATIPP stuff okay. One, two,
3 three, four, five, the sixth page, it has a
4 small number, "638," at the top.
- 5 A. 638, yeah, I have it.
- 6 Q. Okay. There's a couple of slides on this
7 page that talks about an APSEA database. Do
8 you have any idea what the APSEA database
9 proposal was?
- 10 A. I'm aware of it, but I was not working on
11 that or, you know, intimately have knowledge
12 of that.
- 13 Q. Okay. Well, that's sufficient for me, then.
- 14 A. Yeah.
- 15 Q. Turn over to the next page.
- 16 A. Yeah.
- 17 Q. It says "640" at the top.
- 18 A. Right.
- 19 Q. And it talks about students who use ASL more
20 intensive programming needs, and a lot of
21 the stuff is redacted.
- 22 A. Right.
- 23 Q. You know the zeroes are not, but metro
24 indicates 11. There's 11 students who use
25 ASL intensive programming, right?

September 2, 2022

1 A. Right.

2 Q. And, I mean, we don't have the numbers for
3 the other places, but I'd suggest to you
4 that that's sort of—you know, it's a pretty
5 good bet that within the metro area would be
6 where the most intensive need would be.

7 A. Uh-hm.

8 Q. Yes. The next slide, which is on the same
9 page, underneath it it says "Review of
10 Services for DHH?"

11 A. Right.

12 Q. And it indicates halfway down, one of the
13 bullet points, that indicates "Offering of
14 ASL skills at an early age during prime
15 language acquisition stage," and in brackets
16 it says "(not in place)." Was this
17 something that was being brought to your
18 attention as a problem that, you know, and
19 your department ought to fix, or is this
20 something that was the district's
21 responsibility?

22 A. Delivery of program services are the
23 responsibility of the district.

24 Q. The same with the next bullet point—oh, I
25 just swallowed some coffee that was full of

September 2, 2022

1 coffee grinds; please, no one look at my
2 teeth—indicates “Students who are ASL users
3 are often isolated.” The isolation of
4 students within a school, that would be a
5 district responsibility, wouldn’t it?

6 A. Absolutely.

7 Q. “And the assessment proficiencies for ASL
8 skills of teachers,” and in brackets it
9 says, “not in place,” again that is a
10 district responsibility, to ensure teachers
11 are proficient, right?

12 A. It is, correct.

13 Q. And the last one, “Full and equitable access
14 to curriculum for profoundly deaf students”—
15 in brackets, “(ASL interpreter not being
16 used and DHH teachers).” The access to
17 curriculum and provision of supports in that
18 manner, that’s a district responsibility,
19 right?

20 A. It is at the individual student level, yes.

21 Q. Okay. Those are all the questions I have
22 about the content of that, so you can close
23 the binder up. Why would this be given to
24 you? Like, were you expected to do anything
25 with this? Like, is this the kind of thing—

September 2, 2022

1 and I was asking Bob Gardiner about this.
2 Like, is the department expected to, you
3 know, march to the district with this
4 presentation and say, "Why haven't you guys
5 fixed this stuff," or is it the district's
6 responsibility to come to the department and
7 say, "We need assistance to fix this?"
8 A. I would say in this particular case I—like,
9 to seek first to understand, so I may have
10 even asked Darlene to share that
11 presentation. If she had shared with me at
12 the time, I don't, you know, recollect that,
13 but we did have conversations. She might've
14 said about—then I might've asked her to
15 share that with me from an understanding
16 again from a provincial perspective of deaf
17 and hard of hearing—you know, for children
18 in the province, and not the individual
19 level but certainly the province. Again,
20 she forwarded it to me. I don't recall it
21 exactly, but I couldn't asked for it, or
22 maybe she just shared it with me because,
23 again, from my perspective it was a seek
24 first to understand, so I certainly
25 understood and were hearing and listening to

September 2, 2022

1 what was happening.

2 Q. Right, so, I mean, I guess what I'm asking

3 is—and we've seen throughout the course of

4 this hearing there are several opportunities

5 starting in 2011 but even, moving forward,

6 especially in 2017, 2018 and 2019—of various

7 interested groups or people who would have

8 their sort of feet on the ground. I mean,

9 it would include the Churchills, but it also

10 includes the DHH itinerants and others who

11 are, you know, ringing alarm bells and

12 saying, "There are some severe problems with

13 deaf education, and there are some severe

14 needs, particularly for a group of nine deaf

15 students in the metro area. They need

16 socialization. They need ASL. They need

17 half a dozen other things." And I think

18 we've come to understand that both the

19 department and the district had some degree

20 of knowledge that these concerns existed,

21 and my question is, you know, the way the

22 information and authority flow happens, is

23 the first move on the district where the

24 district is expected to come up with

25 something and come to the department if they

September 2, 2022

1 need assistance with it, or is it a top-down
2 thing where the department finds out about
3 problems within the district, and the
4 department sort of, you know, like a
5 principal calls the district into a meeting
6 and chastises them and tells them to fix
7 their problem?

8 A. I think it occurs both ways. The roles and
9 responsibilities of the district and the
10 department are in the Schools Act. That
11 being said, the district and the department
12 do not work in isolation of each other. We
13 all serve the students and children of the
14 province, so it would be impossible to work
15 in isolation of each other, and we
16 collaborate. We discuss. We brainstorm.
17 We bring expertise. We look for expertise
18 that we have at the district and the
19 department to come together. You know, when
20 problems are brought to the table, when
21 issues are brought to the table, it's a
22 collaborative approach, so it's a 2-way
23 street. There's no one person directing or—
24 it's a collaborative approach. We work side
25 by side, again serving the one population

September 2, 2022

1 but with very clear responsibilities and
2 roles at the department level and the
3 district level.

4 Q. It would be difficult for you to collaborate
5 with the district, though, wouldn't it if
6 they're being sent things like satellite
7 classroom proposals and reports from DHH
8 itinerant teachers, you know, raising severe
9 problems with deaf education, and the
10 department doesn't come to the district
11 seeking--sorry, the district doesn't come to
12 the department seeking help. I mean, you
13 can't help them if they don't bring it
14 forward, right?

15 A. True.

16 Q. And to your knowledge, at least during your
17 time as ADM, those concerns were not being
18 brought forward, were they?

19 A. They were not brought forward to me.

20 Q. One of the barriers that were indicated to
21 by Bonnie Woodland to the implementation of
22 something like a satellite classroom in 2017
23 was that the inclusive education model that
24 was in place at the time discouraged or even
25 prohibited students being taken out of their

September 2, 2022

1 neighbourhood schools, and Bonnie Woodland
2 told us only an hour ago that in addition to
3 concerns such as the leadership and
4 motivation and a few other things she
5 listed, the satellite classroom proposal
6 would've flew in the face of the—I don't
7 think that's the word she used; that's me—
8 would've flown in the face of the inclusive
9 education model, and she indicates that she
10 felt, in the things she could approve,+
11 constrained by the inclusive education
12 model. Was the inclusive education model,
13 you know, a doctrine that could not be sort
14 of departed from, or, you know, if a
15 compelling case could be made for moving
16 kids out of a neighbourhood school, would
17 the department go along with that?

18 A. Inclusion is different for every person.
19 For me to be included, for you to be
20 included, our needs may be different, so,
21 yes, I would think conversations based on
22 individuals would be had. What inclusion
23 means to you may not be what it means to
24 another person.

25 Q. So, you know, we could depart from the

September 2, 2022

1 doctrine that inclusive education means you
2 must go to your neighbourhood schools if a
3 better way for inclusion could be found.

4 A. Exactly. I wouldn't say doctrine. Again,
5 it's looking at individual situations or
6 looking at what inclusion means, looking at
7 everyone's—again, that's why I—and I use the
8 words, seek first to understand, because
9 even one's understanding or one's concept of
10 what inclusion means may be different, so,
11 yeah, I wouldn't use the word, doctrine. I
12 would certainly say that it is individual,
13 and it certainly—yeah, it certainly—it is
14 that every individual person or every
15 individual's inclusive situation would be
16 looked at.

17 Q. And, I mean, what if the district comes to
18 the department and identifies a problem but,
19 you know, also indicates, "Look, we're not
20 really looking to fix this," or "We have no
21 appetite to fix this?" I mean, does the
22 district—sorry, I keep mixing them up. Does
23 the department ever approach the district
24 from a top-down perspective and tell them,
25 you know, "Change your priorities?" I'm

September 2, 2022

1 thinking in particular of the fact that when
2 Bonnie Woodland testified—and she looked at
3 an e-mail today that showed her e-mailing
4 her counterpart, Bernie Ottenheimer, where
5 she passed along the satellite classroom
6 proposal to Bernie and indicated, “Look, I
7 don’t really think it lines up with the
8 inclusive education model, but here it is
9 anyway.” Is there a tendency for the
10 department at all to sort of intervene and
11 say, “You know, district, you got it all
12 wrong?”

13 A. There would be conversations. I would like
14 to think there is never a “You have it
15 wrong; we have it right,” either way.
16 Again, these are—you know, these are complex
17 individualized situations, so I would like
18 to think there’d be conversation.

19 Q. One of the trends that we see identified in
20 the documentation that we’ve seen on this
21 case, and this comes up in the 2019
22 document, which was actually the proposal
23 for the ASL immersion classroom, indicates
24 that among several factors one of the
25 factors that determines the amount of

September 2, 2022

1 services that a child gets, a deaf child in
2 particular, depends upon the advocacy skill
3 of the child's parents. During your time,
4 you know, as ADM, 2017-2019, you know some
5 files would get elevated to your attention,
6 and some would sort of stay within the
7 district and the principal and the school.
8 What role did you see the advocacy of the
9 parents playing in children's ability to
10 access services?

11 A. You mean with this particular or just in
12 general.

13 Q. With this file and generally; I'm interested
14 in both.

15 A. In general I would see the parents'
16 advocacy, and I—you know, I use the word,
17 advocacy, because—what does that mean? But
18 certainly parent involvement is key. You
19 know, I speak from the school level. I
20 mean, we speak—I speak with parents daily
21 whether they're informal conversations in
22 the hall or formalized meetings, and so I
23 would see the role of the parent, the role
24 of the family very important in whatever
25 program for whatever child with whatever

September 2, 2022

1 need.

2 Q. Just one second. All right, that's all my
3 questions. Thank you.

4 A. Okay.

5 ADJUDICATOR:

6 Q. Mr. Penney?

7 MR. PENNEY:

8 Q. No.

9 ADJUDICATOR:

10 Q. Ms. Churchill, I'd like to thank you for
11 coming here today and providing your
12 evidence. You are free to go.

13 A. Thank you so much.

14 Q. You are permitted to watch the proceedings
15 from this point forward if you so choose,
16 but you're the last witness we have
17 scheduled for today, so you're free to go.
18 For tomorrow we'll be starting 9:00 A.M. Is
19 there any—oh sorry, for Tuesday 9:00 A.M.
20 Any changes in the schedule, or are we -

21 MR. REES:

22 Q. Not for Tuesday.

23 REPORTER:

24 Q. Microphone, Mr. Rees, please.

25 MR. REES:

September 2, 2022

1 Q. For the record, no changes for Tuesday.

2 ADJUDICATOR:

3 Q. And we did have another witness who was
4 scheduled for this afternoon, but they're
5 being moved to when?

6 MR. PENNEY:

7 Q. Next Friday.

8 MS. BYRNE:

9 Q. Morning.

10 MR. PENNEY:

11 Q. Next Friday morning.

12 ADJUDICATOR:

13 Q. Next Friday morning, okay, so will we be
14 starting—there's a witness scheduled for
15 Friday morning. Are they being moved to the
16 afternoon, or are they just later in the
17 morning, are we anticipating, just for my
18 own benefit and -

19 MR. REES:

20 Q. Yes, probably just later in the morning, I
21 imagine, as a result—you know, we'll start
22 in on Dr. MacDougall, you know, next Friday
23 at some point before lunch.

24 ADJUDICATOR:

25 Q. Okay, so we will adjourn until Tuesday the

September 2, 2022

1 6th at 9:00 A.M.

2 (Upon concluding at 3:48 P.M.)

September 2, 2022

1

CERTIFICATE

2

3 I, Joan Willmott, do hereby certify that the foregoing
4 is a true and correct transcript of a NL Human Rights
5 Inquiry heard on the 2nd day of September 2022 before
6 Adjudicator Brodie Gallant sitting at the Holiday Inn,
7 St. John's, Newfoundland and Labrador and was
8 transcribed by me to the best of my ability by means
9 of a sound apparatus.

10

11 Dated at St. John's, Newfoundland and Labrador, this
12 10th day of September 2022.

13

14 Joan Willmott