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Certificate

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1 NOTICE TO READER: The witnesses appearing on this
2 date are appearing remotely resulting in audio
3 glitches rendering portions of this transcript
4 unintelligible.

5

6 ADJUDICATOR:

7 Q. Good morning, everyone. This is day 6 of
8 this portion of our Inquiry. I understand
9 that the first witness that we were
10 scheduled to hear from this morning is Lucy
11 Warren. And I believe we can see Ms. Warren
12 on the screen right now. Is that you, Ms.
13 Warren? Can you hear us?

14 MS. WARREN:

15 Q. Yes, I can.

16 ADJUDICATOR:

17 Q. I don't know if we can adjust the volume
18 upwards. I'm having a bit of difficulty
19 hearing Ms. Warren.

20 REPORTER:

21 Q. I'll just check the volume here on my
22 computer now. Is that any better?

23 ADJUDICATOR:

24 Q. That seems to be working. We may need to
25 pause as we go along if there's issues with

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1 the volume, if anyone's having difficulty
2 there. Ms. Warren, before we get started
3 with your evidence today, I'll ask that you-
4 -obviously you're not physically present
5 here so we can't have you swear an oath on
6 the Bible. However, we have the option,
7 where you're remote, to have you give your
8 solemn affirmation to tell the truth, which
9 has the same legal effect and same legal
10 obligation to tell the truth. So, if you
11 listen to the words that madam clerk is
12 going to speak to you and then you can give
13 your affirmation to tell the truth.

14 MS. LUCY WARREN (AFFIRMED) EXAMINATION-IN-CHIEF BY MR.

15 KYLE REES

16 ADJUDICATOR:

17 Q. Okay, Ms. Warren, I understand that Mr. Rees
18 is going to have a series of questions to
19 ask you. Mr. Penney may have some follow-up
20 questions and I may have some questions as
21 we go along. So, for the moment, Mr. Rees
22 will begin his questions.

23 MR. REES:

24 Q. Ms. Warren, good morning. It's Kyle Rees
25 speaking. Are you able to see and hear me?

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1 A. Yes, I hear you.

2 Q. Perfect. The tech wizards have done it
3 again, fantastic. So, the way this will go,
4 Ms. Warren, is I have several questions for
5 you. We have a couple of hours budgeted for
6 questions. I don't anticipate using all two
7 of those hours; somewhere just over an hour
8 of time, I think. When I'm done asking you
9 questions, Mr. Penney may have questions for
10 you and the adjudicator might, as well. And
11 the adjudicator tends to interrupt to ask
12 his questions, which is totally acceptable,
13 so you might be hearing from him from time
14 to time. I understand that you have your
15 affidavit in front of you, right, the
16 affidavit that you swore?

17 A. I do.

18 Q. And I know you have some other documents.
19 If you were here in the room, you'd have
20 piles and piles of paper in front of you.
21 But I identified several documents to other
22 counsel last week and I understand that
23 they've provided them to you in email format
24 of some sort, right?

25 A. Yes, I have the documents.

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- 1 Q. Okay. Are you looking at those in physical
2 format or are you looking at them digitally?
- 3 A. I've had them printed here beside me.
- 4 Q. Okay, thank you. I also understand that
5 you're down--oh, sorry.
- 6 A. I just have to say, let you know that I'm
7 getting a lot of feedback. I think there's
8 a bit of delay because I can hear myself
9 speaking through the speakers after that.
- 10 Q. Oh, I see, so you're hearing some feedback
11 when you speak, so not from me, but when you
12 speak, you hear your own voice echoed back
13 at you?
- 14 A. Yes, I do. And I don't know how
15 (inaudible).
- 16 Q. I don't know much of what I can do. The
17 only thing I could suggest is if you are
18 able to turn your own computer audio down as
19 much as, you know, you really can and still
20 hear what I'm saying, that might help a
21 little bit, or if you're able to move your
22 own computer audio away from your
23 microphone. Like, if your microphone and
24 your speakers are close together, that might
25 make a difference.

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1 A. And I'm on the laptop, so.

2 Q. Okay. So that's all built in.

3 A. Yes. And I just made you aware of that
4 because I may need clarity from, you know,
5 what's being asked if I'm getting feedback.
6 So I think it's on my end that it's not
7 clear, versus yours. So it may be, there
8 may be delays in my speaking.

9 Q. Okay. No problem. And I also understand
10 that you're down Norris Arm way and the
11 internet connection may come and go. So if
12 my audio drops out or anything and you need
13 me to repeat a question, of course, you
14 know, please do that. I also might--there's
15 a little bit of a delay, so we'll figure our
16 way through that. I also might interrupt
17 you from time to time in the event that it
18 seems like you missed a question or if
19 something that you said was unclear, I might
20 ask you to repeat it because I just know
21 every now and then I can tell the audio
22 drops out.

23 A. Sure.

24 Q. And, Ms. Warren, just given that you're
25 appearing digitally, there's no one else

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1 present with you in the room there today, is
2 there?

3 A. No. I am alone.

4 Q. And you don't have your--if you have your
5 phone with you, that's fine, but you're not
6 checking messages or emails on your laptop,
7 there's no one, no messaging apps that are
8 open where people could send you information
9 while you're giving your evidence?

10 A. No. I do have my phone nearby if you need
11 (inaudible).

12 Q. Okay. And that's no problem. And if
13 something like that should happen
14 inadvertently, you know, your phone starts
15 ringing, just let us know, that's all, those
16 things happen. Okay. Tell me, Ms. Warren,
17 what is your qualifications, specifically if
18 you have any qualifications in the area of
19 deaf education or American sign language?
20 Do you have any qualifications in that area?

21 A. No, I do not.

22 Q. And have you ever held a teaching position
23 in a school or a classroom where deaf
24 students were being taught?

25 A. Have to think back to all the classrooms

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1 where I've been.

2 Q. Did you ever have any role teaching deaf
3 children? I put it to you that you don't,
4 you never have.

5 A. No, no, I haven't.

6 Q. Your knowledge of American sign language,
7 are you able to speak any ASL?

8 A. I have used it. I do have a brother-in-law
9 who is deaf, so--and I haven't spent time
10 with him (unintelligible) spent time with
11 him, family had some knowledge of sign
12 language and we've had perhaps it is not
13 formal American sign language, but we did
14 have some communication mechanisms, you
15 know, engaged in.

16 Q. To be able to sign individual words, that
17 sort of thing?

18 A. Yes.

19 Q. And you know enough about ASL then to know
20 that it is its own language with its own
21 syntax and grammar and other kinds of, you
22 know, specialty language things? It's not
23 just a mere translation word for word of an
24 English sentence, right, you understand
25 that?

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1 A. Yes, I am aware of that.

2 Q. Okay. Do you have any idea or any knowledge
3 of how long it would take for a person to
4 learn to speak or understand sign language
5 fluently?

6 A. No, I can't, no, I can't (unintelligible).

7 Q. Okay. I'm going to take you to the first
8 document, we're going to have a discussion
9 about it. This is the document that is an
10 email dated September 1st, 2017. And for
11 those of us in the room, it's in Volume 2.
12 It's Volume 2 I--sorry, F as in foxtrot.
13 So, Ms. Warren, this is the document that's
14 in front of you. It's on school district
15 letterhead dated September 1st, 2017.

16 A. I don't have that document.

17 Q. That's strange. This is the first one that
18 I'm talking about. Perhaps I forgot to--I
19 can't imagine I forgot to include it in the
20 list of things that was available.

21 A. I mean, it's possible that I missed it, but
22 if you make reference--I don't have
23 (unintelligible).

24 Q. Okay. Well, let me--I mean, perhaps you
25 have some knowledge of it any way if it's

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1 not in front of you. And if it turns out
2 that we need the document, we'll make some
3 arrangements during the day to get the
4 document to you so we can have a discussion
5 about it. The document that I'm describing
6 is one - and the folks in the room have it
7 in front of them - dated September 1st, 2017.
8 And it was sent to the Human Rights
9 Commission. So this is while the Human
10 Rights Commission--sorry, human rights
11 complaint was proceeding forward. And it
12 was a response to a proposal for resolution.
13 You guys were looking to settle the human
14 rights complaint at some point and there
15 were discussions about that, right? And the
16 reason I'm asking you about is because the
17 document is signed by you on the last page.
18 I see your signature, Lucy Warren, as
19 Associate District of Education Programs and
20 Operations, Acting. That was a role that
21 you occupied at that time?

22 A. Yes.

23 Q. The part that I want to ask you about is a
24 few of the assumptions that were made in
25 that letter because your involvement with

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1 the case of Carter Churchill, you know, you
2 wouldn't have been involved, at least
3 initially, in any of Carter Churchill's
4 educational programming, would you?

5 A. No.

6 Q. You state in the letter that's there--and
7 again, in the event that we need to refer to
8 it, we can make those arrangements, but I
9 think you'll recall stating it. You stated,
10 "In Kindergarten Carter received four 45 to
11 one hour--45 minute to one-hour-long
12 sessions every seven-day cycle with a DHH
13 itinerant." Do you recall being informed
14 that that was the case?

15 A. If it was--no, I don't recall being
16 informed. But it was written in that
17 correspondence, then what would have been
18 provided to by some staff member. I would
19 have asked them what is (unintelligible).

20 Q. Okay. You broke up a little bit. I think
21 what you're telling me is that, you know,
22 you would have been informed by a district
23 staff member that that was the frequency of
24 DHH itinerant support Carter was receiving
25 and so you would have included it in the

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1 letter that way?

2 A. Yes.

3 Q. There's been evidence at this hearing that
4 the support, you know, was far less than
5 four sessions for every seven-day cycle,
6 depending on--I mean, there have been a
7 couple of schedules put forward, but they
8 seem to suggest that, in fact, it's
9 somewhere between one or two sessions every
10 seven-day cycle, somewhere between 34 to 60
11 hours depending, again, on whose evidence
12 you believe, for the entire school year.
13 Does that come as a surprise to you, hearing
14 that now?

15 A. You know, I would have communicated the
16 information that I was provided, so I really
17 can't speak to what other people would say
18 (unintelligible).

19 Q. Okay. And the reason why this is relevant
20 for me to put to you is because, you know,
21 this is one of the several things that
22 you've cited in this letter to support your
23 argument that the educational supports
24 provided to Carter Churchill, you know, was
25 adequate. And I'm telling you now that at

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1 least one piece of that information, and
2 we're going to talk about some others, one
3 piece of that information, you know, was--
4 hasn't borne out at this hearing, appears to
5 be incorrect. So would that adjust your
6 view? You know, you're being told this
7 information that Carter is receiving a
8 certain level of support. In reality, he's
9 getting half or even less of that support.
10 And that would be news to you, is my point?

11 A. Yes, that would be news to me.

12 Q. Okay. One of the supports that you've cited
13 in your letter was that the DHH itinerant
14 who was assigned to Carter at that time,
15 Tina Halleran, had--was able to communicate
16 with Carter in ASL. Do you recall that
17 there was a student assistant assigned, Tina
18 Halleran--sorry. DHH itinerant, Tina
19 Halleran, assigned who you understood had
20 some ASL?

21 A. I would not have--I can't recall those
22 details, and I would not know--I would have
23 communicated to you the information that was
24 provided to me. I would not have
25 (unintelligible).

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1 Q. You would have communicated to me
2 information that was provided by others.
3 Let me ask you this: You signed this letter.
4 Did you write this letter or did Ian Wallace
5 write this letter?

6 A. Ian drafted some of that correspondence and
7 (unintelligible).

8 Q. So the assertions in this letter about the
9 amount of support that Carter Churchill was
10 receiving, was that information that you
11 added to this letter or was that information
12 that instead were added by legal counsel?

13 A. We would have provided all that information
14 to (unintelligible).

15 Q. Okay. So who provided the information, do
16 you recall, about the number of hours of DHH
17 itinerant support that was provided?

18 A. Bonnie Woodland would have (unintelligible)
19 information.

20 Q. Okay, Bonnie Woodland provided that
21 information.

22 A. At that (unintelligible).

23 Q. Okay. And did Bonnie Woodland also provide
24 you the information that Carter Churchill
25 was being supported in ASL by Tina Halleran?

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- 1 A. Yes.
- 2 Q. Did you know anything--
- 3 A. (Unintelligible).
- 4 Q. Okay.
- 5 A. That would have come to me (unintelligible)
- 6 Bonnie Woodland.
- 7 Q. Okay. Did you know anything about Tina
- 8 Halleran's ASL proficiency?
- 9 A. No, I did not.
- 10 Q. Did you know whether or not Tina Halleran
- 11 had been ASL proficiency tested at the time
- 12 you wrote this letter?
- 13 A. No, I didn't.
- 14 Q. And I'm sure you'd agree with me that the
- 15 ASL proficiency of a teacher being provided
- 16 to support Carter Churchill in his
- 17 acquisition of ASL, that the ASL proficiency
- 18 of that individual would be important?
- 19 A. Yes, I would agree.
- 20 Q. Did you know that Tina Halleran was later
- 21 ASL proficiency tested? Or, sorry, was
- 22 never ASL proficiency tested?
- 23 A. I did not know that.
- 24 Q. You have no idea, okay. You also indicated,
- 25 in that correspondence that you reviewed and

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1 signed after it being drafted by legal
2 counsel, that Carter Churchill was being
3 provided with an instructional resource
4 teacher for 30 minutes a day. And the
5 letter also asserted that the instructional
6 resource teacher had qualifications in ASL.
7 That was Raven Williams. Do you recall
8 being informed that that support was being
9 provided?

10 A. No, I don't recall being informed.

11 Q. Okay.

12 A. And (audio glitch) teacher's name has--I
13 don't recall, I've never heard
14 (unintelligible). It would have been, I
15 would have been provided the amount of
16 hierarchy instruction that was assigned to
17 Carter's (unintelligible).

18 Q. Okay. So someone was telling you--and
19 again, the audio quality comes and goes.
20 Someone was telling you that there was an
21 IRT assigned. You accepted that as being
22 true. You had never heard the name Raven
23 Williams, I think you'd indicated, and so
24 you would have, you know, repeated in the
25 letter that this had been provided but you

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1 would have had no personal knowledge of that
2 support?

3 A. No. That would have—to have knowledge of
4 how IRT (unintelligible) would not be
5 something I would be aware of
6 (unintelligible), that would happen at the
7 school.

8 Q. Okay. So if you asserted in your letter,
9 and I'm saying that you did, that that IRT
10 had qualifications in ASL, someone else
11 would have told you that?

12 A. Yes.

13 Q. Who?

14 A. That information would have come from
15 Bonnie.

16 Q. From Bonnie Woodland, okay. There's been
17 evidence before, in fact, the only evidence
18 concerning Raven Williams in front of his
19 Commission so far, and this has been the
20 evidence in the affidavits of Shane Porter,
21 the Kindergarten teacher, Aubrey Dawe I
22 believe has said as much, who was the
23 principle at the time, have both indicated
24 that Raven Williams had no experience in
25 ASL. So that's, you're hearing this for the

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1 first time, this is news to you?

2 A. Yes.

3 Q. And to your knowledge Ms. Williams, you
4 don't have any knowledge that she had been
5 tested or otherwise evaluated in her ASL
6 skills, you wouldn't know anything about
7 that?

8 A. I wouldn't.

9 Q. So what's the point in you signing this
10 letter? Like, it doesn't seem like you--it
11 seems like a bunch of people are telling you
12 things, you're accepting them as being true,
13 but you have no knowledge of them yourself.
14 And, you know, I'm telling you now that many
15 of the things you've stated in that letter
16 are incorrect. So, I mean, you know, are
17 you taking the position here now that, you
18 know, you signed this letter, other people
19 told you it was true but you have no basis
20 for knowing whether those things are true or
21 not?

22 A. So, in my position I was responsible for
23 (unintelligible) programming and it would
24 have been me who would have (unintelligible)
25 and I didn't have that information on behalf

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1 of the district. There would be no way that
2 I would know (unintelligible) a particular
3 student in a school and so I would
4 (unintelligible) communication of information
5 (unintelligible).

6 ADJUDICATOR:

7 Q. I didn't hear the witness's answer.

8 MR. REES:

9 Q. Yeah. I wonder--again, it has more to do
10 with the audio quality than your
11 intelligibility, Ms. Warren. Are you able
12 to sort of repeat your answer to that
13 question in a more succinct way and possibly
14 a little slower to see if we can get the
15 audio to come through?

16 A. I would have on behalf of the district would
17 have gathered information for me to draft
18 this response.

19 Q. Okay. I'm going to try, just
20 experimentally, turning my own microphone
21 off after I've asked you a question to see
22 maybe if that resolves some of your echo
23 issues and we'll see if that works. Okay.
24 So your answer to that question was that you
25 would have been informed by the district

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1 that this was the case and, you know, we
2 understood that, in fact, this letter was
3 more endorsed by you rather than drafted by
4 you and that you believed the things you
5 were being told were true at the time?

6 A. That is correct.

7 ADJUDICATOR:

8 Q. I just want to note, that seemed to improve
9 things, Mr. Rees.

10 MR. REES:

11 Q. Did you have any awareness of a report that
12 was prepared in June, 2011, that was later
13 updated in, I believe it was 2018, prepared
14 by Darlene Fewer Jackson, it was called A
15 Review of Services for Deaf and Hard of
16 Hearing Students in Newfoundland and
17 Labrador? It was a Department document, but
18 I understand that it had been distributed to
19 the District at various points. Do you know
20 what document I'm talking about?

21 A. No, I cannot recall that specific document.
22 In 2011 I would have been in a different
23 position. I can't recall seeing it. In
24 2018, and I don't know what time in 2018,
25 but in 2018 I left the district.

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1 Q. Okay. I mean, this document was available
2 and I think the issues identified in that
3 document, you know, would have been known, I
4 would say, within the Department and the
5 district at the time. The only question I
6 had for you and I appreciate you wouldn't be
7 familiar with the document, you didn't
8 recognize it when I named it, did you know
9 that there was an outstanding issue raised
10 in that document and raised by others that
11 there was no ASL curriculum that had been
12 developed or implemented at that time, did
13 you know that was an issue?

14 A. No, I did not.

15 Q. And you're aware that, you know, English
16 speaking students have a curriculum and
17 French speaking students have a curriculum
18 but ASL students did not and still do not,
19 right?

20 A. I was not aware of that.

21 Q. Also in this letter, and we've talked about
22 two of the supports that you had indicated
23 in this letter you signed from September of
24 2017, you also indicated that Carter
25 Churchill was assigned a student assistant.

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1 So we've been talking about an itinerant
2 teacher, and then we were talking about the
3 instructional resource teacher, which is
4 Raven Williams. And now the letter raises
5 the student assistant that was assigned, and
6 at that time that was a woman named
7 Terrilynn Clarke. Again, you probably don't
8 have knowledge of, like, the actual
9 individual themselves, but you were told
10 that this support was provided, right?

11 A. The individual names mean--I'm not aware.
12 I've never heard these names, some of them,
13 before. But I would have been told that a
14 student assistant would have been assigned,
15 yes.

16 Q. And it's stated in the letter, so therefore
17 you must have also been told that the
18 student assistant had a level of proficiency
19 in ASL and a capacity to therefore
20 communicate with Carter. So that also would
21 have been something someone, probably Bonnie
22 Woodland would have told you?

23 A. Yes, I would have been told, but I would
24 have no way of knowing firsthand.

25 Q. Were you informed, at the time that you

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1 wrote this letter, that that student
2 assistant, Terrilynn Clarke, had already
3 been ASL tested and had performed abysmally
4 on that ASL test? Did anyone tell you that
5 the student assistant, when she was ASL
6 tested and the results were known prior to
7 your writing this letter, that she was
8 unable to even finger spell her own name in
9 ASL?

10 A. I would have not--I would not have known
11 that.

12 Q. And I put it to you that if you had known
13 that, you would not have indicated that
14 Carter was being supported by a student
15 assistant with some proficiency in ASL and a
16 capability to communicate with Carter,
17 because if you can't finger spell your own
18 name, I mean, how can you communicate? Do
19 you agree with me that you were misinformed?

20 A. I agree. I would not have communicated that
21 in the letter if I had known differently.

22 Q. Were you ever tasked with evaluating the
23 amount of resource and teaching support
24 being provided to Carter Churchill and were
25 you ever in a position to decide whether

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1 more resources or teaching resources ought
2 to be provided to Carter? Were you ever
3 asked to make a decision or to assist in
4 making a decision about whether supports,
5 further supports should or should not be
6 provided to Carter?

7 A. I was involved in discussions regarding the
8 resources that were provided to Carter. And
9 do you want to rephrase--do you want to
10 repeat the question because I kind of--

11 Q. Yeah. So I'm wondering both about, you
12 know, the discussions that you would have
13 been involved in, whether discussions about
14 should we, you know--is the deployment of
15 additional resources, teaching or otherwise,
16 necessary for Carter Churchill, will we do
17 it, will we not. So were you either
18 involved in those discussions? I think
19 you've indicated that, yes, you were. Or
20 were you, you know, present when those
21 discussions happened and in those cases tell
22 me the reasoning on why additional resources
23 would not have been deployed?

24 A. So, the resources deployed to Carter would
25 have been--you know, there would have been a

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1 number of resources deployed. So we would
2 have discussed he would have had student
3 assistant time, he would have had his
4 instructional resource teacher time, he
5 would have had the DHH itinerant, and there
6 would have been, I think at one point, there
7 was a speech language pathologist involved,
8 if I recall correctly. So the exact amount
9 that was being deployed to Carter, I would
10 not have, you know, discussed. There were--
11 the resources being deployed in--I don't
12 know, you know--I guess looking at his
13 overall program, the decision was made he
14 would have, you know, so many hours where
15 this person would support him, other hours
16 where someone else would support him, and
17 the exact configuration of hours, how many
18 hours of this or that would not have been,
19 you know, something I would have advised on.
20 It would have been, as was done with, you
21 know, all other children, they would have--
22 that were receiving supports, they would
23 have so many hours of each. And it
24 wouldn't--I wouldn't have been involved in
25 saying he should have two hours of one or

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1 three hours of the other. That would not
2 have been something I would have engaged in
3 because that was done by, you know, the team
4 in student support services. And, of
5 course, depending on the amount of resources
6 we had to allocate to students.

7 Q. Okay. That's the next area I want to ask
8 you about, the amount of resources you had
9 to allocate to student. Because I
10 understand, you know, resources are limited.
11 There are only so many student assistants to
12 go around. The itinerant teachers need to
13 divide their hours between various schools
14 and things. But in those discussions that
15 you would have had and, you know, I put it
16 to you that those discussions would have
17 involved folks like Bonnie Woodland and Ed
18 Walsh and probably counsel Ian Wallace, were
19 the limitations or I guess the reason, you
20 know, why the resources that the Churchills
21 were requesting at any given time not
22 provided, did it have to do with they didn't
23 think Carter needed those things or was it
24 instead, you know, that there just simply
25 weren't the resources to provide him with

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1 what he needed, that you guys needed, you
2 know, more money or there was limited
3 budget? Like, what was the motivation
4 behind not implementing--

5 MR. PENNEY:

6 Q. I just think we should be a bit more
7 specific with her. Are you talking about a
8 particular year or perhaps you could talk
9 about particular resources that were sought
10 and not provided and detail when.

11 MR. REES:

12 Q. Okay. Before you write this letter in
13 September of 2017, you know, Carter is
14 finishing his Kindergarten year where he sat
15 in a classroom and he's just about to start
16 Grade 1. He had spent Kindergarten sat in a
17 classroom unable to communicate with his
18 classroom teacher, Shane Porter, who didn't
19 have any ASL. Raven Williams was of no
20 assistance in the ASL front. And, you know,
21 we've already had proficiency testing
22 results from the student assistant,
23 Terrilynn. Carter is unable to access
24 course material in ASL. He is unable to
25 communicate with his classmates or his

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1 teacher. Nonetheless, you write a letter on
2 September 1st, 2017, indicating that the
3 resources that had been provided were
4 sufficient. So, were there meetings that
5 occurred in advance of the drafting of this
6 letter to discuss what the response should
7 be or what additional supports ought to be
8 provided?

9 A. No, there would not have been meetings to
10 discuss that. We would have distributed the
11 resources that were available to all
12 students and these were the resources that
13 were allocated to Carter.

14 Q. And is there, to your knowledge, increase in
15 the resources provided at that time?

16 A. I can't speak to those details. I don't
17 know what the resources were previously and
18 I don't have that information.

19 Q. So why not give the Churchills, you know, at
20 this point, in September, 2017, why not
21 provide the Churchills, you know, exactly
22 the supports that they're requesting at the
23 time? You know, why write a letter saying,
24 look, we think that the supports we provided
25 have been sufficient, we don't think we need

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1 to provide anything in addition? Is it
2 budgetary--

3 MR. PENNEY:

4 Q. I mean, is there actually evidence that in
5 September of 2017 resources were sought and
6 not provided? I don't think there is.

7 MR. REES:

8 Q. Well, I mean, there's a human rights
9 complaint filed. There's a reason for that.

10 MR. PENNEY:

11 Q. No, no, I mean, I think the evidence is
12 pretty clear that additional DHH itinerant
13 services were sought in September, 2017, and
14 provided. Additional support from a deaf
15 student assistant was sought and provided in
16 September of 2017.

17 MR. REES:

18 Q. I think we're missing--and this is probably
19 my fault. I think we're missing, you know,
20 what I'm really asking you about, which is,
21 you know, what are the parameters that limit
22 you at various stages of this, 2017 or
23 otherwise, you know, providing the
24 Churchills and Carter what's being
25 requested, is it a budgetary concern, is it

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1 that, you know, the view of the District is
2 that these additional supports are not
3 needed? Like, what are, what are the
4 reasons why you're sending, you know,
5 letters like the one we've been talking
6 about, indicating that, you know, the things
7 the Churchills are seeking are not needed?

8 MR. PENNEY:

9 Q. Look, I mean, we're referring to a letter
10 which was written in the context of the
11 human rights complaint to Karen Hurley-
12 Power, who engages in mediation. It's
13 probably settlement privilege, but we've,
14 you know, it's in the materials that have
15 gone into it. I don't know how fruitful
16 this is. I mean, I think we should focus on
17 the supports that were specifically
18 requested and then provided. And the
19 evidence is pretty clear that there was a
20 significant additional support provided in
21 September of 2017.

22 ADJUDICATOR:

23 Q. Mr. Rees, I can see the relevance of
24 exploring what the witness knew at a
25 particular time and, you know, how decisions

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1 were made. But in your questioning don't--
2 be careful not to misrepresent what the
3 evidence was previous. And I appreciate you
4 want to probe into why the witness signed
5 the letter, but I'm not sure it's
6 particularly relevant as to why she was the
7 person who signed the letter other than she
8 was in a particular role at the time. You
9 know, keep going with your questioning, but
10 keep in mind, keep it relevant.

11 MR. REES:

12 Q. I think I've got an elegant solution to my
13 inelegant questioning. If you go to your
14 affidavit, which I understand you have in
15 front of you, and go to paragraph 10.
16 Paragraph 10 of your affidavit is the one
17 that talks about the decision regarding the
18 ASL satellite classroom. Do you have that
19 there in front of you?

20 A. Yes, I do.

21 Q. Okay. I'm going to ask you some more
22 specific questions about the satellite
23 classroom rejection, in particular. But I'd
24 like to take you down to subsection C of
25 paragraph 10. And you say, "The proposal

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1 called for a teacher of the deaf which was
2 outside the authority of the District. That
3 is, every year the District is provided with
4 its teacher allocation which specifies the
5 number of teaching units to be used for each
6 category of service. As I recall, the
7 District's teacher allocation at the time
8 included two teachers of the deaf fulltime
9 units and a number of DHH itinerant fulltime
10 units. The two teacher of the deaf units
11 were assigned to specific schools to support
12 students who were placed in neighbourhood
13 schools following the closure of the School
14 for the Deaf. The DHH itinerants were
15 assigned to all other DHH students in the
16 district. Consequently, this would have
17 required additional teacher allocations as I
18 do not believe the District had the
19 necessary teaching allocations to action the
20 proposed satellite classroom. Such
21 allocations would fall under the Department
22 of Education." So, one of your responses to
23 the satellite classroom proposal which
24 involved the deployment of additional
25 teacher resources was that unfortunately we

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1 don't have any more teachers of the deaf
2 within our assigned, what you refer to it
3 as, teaching units, within our assigned
4 teaching units, we don't have any more
5 teacher of the deaf teaching units in our,
6 you know, human resources budget. So I've
7 captured what you said here, right? This is
8 the reason why a teacher of the deaf
9 couldn't be hired, because you already had
10 used up your two teacher of the deaf
11 allocations?

12 A. Yes. There was two of those provided, and
13 they were attached to specific schools and
14 it was something that, in my understanding,
15 was being grandfathered following the
16 closure of the School for the Deaf. And
17 those were assigned to specific areas.
18 There was no discretion within--that I had
19 to assign them differently or to create more
20 positions of that nature.

21 Q. Right. That was the Department's job, to
22 create another position or to give you a
23 third or a fourth allotment of a teacher of
24 the deaf?

25 A. Yes.

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1 Q. Did you ask the Department to give you
2 another allotment of a teacher of the deaf
3 or to--

4 A. No, I did not.

5 Q. Would that have been your responsibility to
6 request that from the Department if it was--
7 if it, you know, was felt to be required or
8 that be, you know, Ed Walsh's responsibility
9 or Bonnie Woodland or someone else?

10 A. It was my responsibility to request that.

11 Q. So I understand your point that this was a
12 Department of Education, it was Department
13 of Education's discretion to grant those
14 resources. But you've answered my question
15 in saying you never requested any of those
16 additional resources from the Department of
17 Education. So it wasn't really a matter of
18 inadequate resourcing, was it, because you
19 never requested resources which could have
20 been available to you from the Department of
21 Education?

22 A. I did not request an additional teacher of
23 the deaf from the Department of Education.
24 Deaf and hard of hearing teacher units were
25 provided to us to service students who are

September 6, 2022

1 deaf and hard of hearing and that, according
2 to our service delivery model, then that was
3 the resource that was used to support those
4 students and that's what we utilized at the
5 District to provide supports.

6 Q. Were you ever told by anybody at the
7 Department of Education, you know, these are
8 your two teachers of the deaf and don't come
9 looking for any more because you won't get
10 them? Like, were you ever told anything by
11 the Department that indicated, you know, it
12 was forbidden (sic.), it was forbidden for
13 you to come and approach them to look for
14 units like this?

15 A. No.

16 Q. You also indicated in your affidavit, and
17 this is at subparagraph B, that the proposal
18 was set to serve six or seven students in
19 the St. John's Metro Region and you go on
20 about the geographic distribution and things
21 and about how the proposal could not be
22 scaled to service the entire province. Fair
23 comment. Why not help the six or seven
24 students, though? I mean, I understand that
25 the satellite classroom maybe couldn't be

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1 scaled to serve the entire province. But,
2 you know, you had the DHH itinerants coming
3 forward with a satellite classroom proposal,
4 raising some very serious concerns for these
5 six or seven students who were language
6 deprived in the metro area. You know, why
7 was it a barrier that this couldn't be
8 scaled up to serve the entire province, you
9 know, why not serve these six or seven
10 children in 2017 when the proposal gets
11 made?

12 A. Excuse me. As a provincial school district,
13 whenever we discussed--you know, if there's
14 anything that we were going to implement,
15 any changes that were being made or anything
16 new, it was--it had to have a provincial
17 focus. So we would be looking to serve all
18 of our students throughout the province in
19 the same manner if we were to do anything
20 that was new or different.

21 Q. You weren't involved in the decision in 2020
22 to ultimately approve the satellite
23 classroom in the form that it's taken at
24 East Point Elementary, were you?

25 A. No. I left the school district in 2018.

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1 Q. So you have no knowledge about how by the
2 time the satellite classroom does get
3 implemented in 2020 the District was able to
4 come this--overcome this supposed geographic
5 barrier, were you?

6 A. I have no idea.

7 Q. I put it to you the fact that it was only
8 going to serve six or seven students in the
9 metro area was relevant, because it shows
10 the small demographic of deaf students who
11 had needs and in the face of all the needs
12 in the department, six or seven students was
13 a pretty small constituency and didn't
14 warrant the District's attention to the same
15 degree as other concerns might. What do you
16 have to say to that?

17 A. Every student is important and we would do
18 the best we could with what we had access to
19 for all students.

20 Q. So I want to clarify then. The number of
21 students to be served by an initiative, you
22 know, in this case the six or seven deaf
23 children, that was not a barrier to
24 providing service to them, was it?

25 A. The number would have been a barrier. As I

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1 stated here, there were other reasons that I
2 didn't carry that proposal forward. It
3 wasn't just the number of students. That
4 was part of my reason, part of my rationale,
5 the feeling that I couldn't make a
6 compelling case to the Department.

7 Q. Okay. So those three reasons are, it's
8 listed in A, B and C of your affidavit,
9 right, and there are really three of them?

10 A. Yes.

11 Q. And that's, it doesn't keep with the
12 philosophy of community schools. That's in
13 subparagraph A. And I don't know need to
14 ask you about that. Other witnesses have
15 talked about that, including some experts.
16 The second one is that it only serves six or
17 seven students. But your point there isn't
18 six or seven students don't matter, it's
19 that six or seven--or that, you know,
20 somehow it's a low enough of a threshold
21 that it doesn't justify intervention. What
22 you mean is that it's six or seven students
23 in the metro region and therefore it
24 wouldn't be scaled provincially, so
25 therefore if it can't be scaled

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1 provincially, we don't do it?

2 A. Yes. There was no way I could present to
3 the Department how we could actually scale
4 this provincially. And if we could, there
5 was considerable resources that had to be
6 attached to it, which I indicated in part C
7 is that we didn't have the resources to be
8 able to, you know, launch all these
9 satellite classrooms that would, I guess,
10 follow the proposed one. We were talking
11 about a, you know, a different model of
12 service than the Department was currently
13 providing guidance for and resourcing.

14 Q. And so you never bring the satellite--it
15 would have been your responsibility to bring
16 this issue, I think you've testified, to the
17 Department of Education. And you never
18 brought it to the Department of Education
19 because you assumed they would not--it would
20 not meet with their approval for the reasons
21 you've listed in your affidavit?

22 A. Yes.

23 Q. Why not just run it up the flagpole and see,
24 as they say, why not just give it a try, put
25 it--say, look, we've received this very

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1 creative interested proposal from DHH
2 teachers who have identified some very
3 serious concerns with half a dozen deaf
4 students in the metro area, you know, here
5 it is, Department, could you do anything for
6 us? Like, why not bring it any way, even
7 though you had some skepticism? I mean, you
8 know, clearly some effort had been put into
9 this. There was a lot of discussion around
10 problems with deaf education in the
11 province. A human rights complaint has been
12 filed. I mean, why not bring it to the
13 Department anyway?

14 A. So, the Department, you know, was aware of
15 the needs of children in the province, the
16 school district and this group of children.
17 They had resources in place. They had a
18 service delivery model that we were
19 following in schools throughout the province
20 for several years and students were being
21 serviced as indicated in that guide. And so
22 this was a new proposal that didn't meet--
23 that didn't follow that, didn't follow the
24 service delivery model that the Department
25 had provided. It required things that, you

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1 know, were--that--I couldn't provide a
2 rationale to the Department for all of the
3 things--this didn't meet anything that was
4 currently in place. And I didn't have--I
5 had a proposal from a group of teachers, but
6 I didn't have the answers to how this was--
7 what else--like, you know, I--it was a
8 barebones proposal. So, you know, how would
9 I action this? Did we have the resources?
10 No. So that was the reason I didn't carry
11 it forward.

12 Q. While you didn't carry this proposal
13 forward, and I think you've acknowledged
14 that without you carrying it forward, the
15 Department had no way of knowing about the
16 proposal, right? I mean, you would have had
17 to bring it to the Department or else they--
18 there was no other person within the
19 District who had the job of bringing this
20 information to the Department, right? It
21 was you or nobody, right?

22 A. I cannot say if the Department had this
23 proposal or not. It may have been sent to
24 them. I would not know that. But I would
25 have been the person at the District to

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1 carry it forward.

2 Q. Okay. And this proposal, and you've
3 indicated, you know, several reasons why you
4 didn't think it would, you know, be up to
5 snuff for Department approval. But, you
6 know, the proposal also outlined several
7 serious problems with deaf education in the
8 province and issues that these deaf students
9 like Carter Churchill, specifically Carter
10 Churchill, were facing. Did the problem--
11 even if the proposal itself wasn't
12 actionable, did the problems that were being
13 identified in that proposal cause you to do
14 anything to address those problems?

15 A. Well, we provided the resources that we had
16 available for children with hearing loss.
17 And that, you know, that was the model of
18 services provision that was provided by the
19 Department of Education and we followed it.

20 Q. Okay. So I want to make sure I understand.
21 You said you provided the resources you had
22 available. And I understand that to mean
23 you didn't do anything different. Is that
24 correct?

25 A. I think we--that resources would have been

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1 increased for Carter over time.

2 Q. How about the other students, the other six
3 or seven that are being identified in the
4 satellite classroom proposal?

5 A. I cannot speak to that. That would have--I
6 would not have been involved in resource
7 deployment. I would have just known that we
8 were--that we were working with the
9 Churchills and we were providing additional
10 resources to Carter.

11 Q. Let me ask you about what some of those
12 resources were because the kinds of problems
13 that are being identified are as follows.
14 This comes from the satellite classroom
15 proposal. It says, "Deaf students are not
16 able to access the curriculum." Did you
17 make any changes to the resourcing to allow
18 Carter Churchill and other students to
19 access the curriculum?

20 A. No, I didn't make any changes.

21 Q. "Support is fragmented and delivered by many
22 people not trained to work with students who
23 are deaf." Did you do anything to
24 defragment those services or to ensure that
25 the people who are providing the services

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1 were trained to work with deaf students?

2 A. In terms of support being fragmented, it was
3 the service delivery model that several
4 personnel, trained in various capacities,
5 would be assigned to students with
6 identified exceptionalities such as hearing
7 loss. So, you know, if the delivery of
8 services were a team approach, there would
9 have to be several people involved to do
10 that. And we're talking about, you know,
11 instructional resource teacher, a DHH
12 teacher, a student assistant, classroom
13 teacher, perhaps a speech language
14 pathologist. So, you know, it was not--the
15 model was, I guess, focused very much on
16 teacher collaboration and teaming to provide
17 services.

18 Q. How about the fact that it was criticized,
19 many of the people delivering these services
20 were not trained to work with students who
21 are deaf, did you offer any additional
22 training or any kind of testing to ensure
23 that people, you know, had the training they
24 professed?

25 A. I would have no way of knowing that the

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1 training that various people had. That
2 would have been handled by human resources.
3 They would have hired staff, they would have
4 known their credentials. I did not know
5 what their credentials were.

6 Q. You did not know what the credentials were.
7 And you didn't check?

8 A. Well, we had--it was various staff involved.
9 No, it would not be my place to check to see
10 the credentials of all the staff that worked
11 at the school or worked with any specific
12 student.

13 Q. The last point that was made in the
14 satellite classroom proposal problem that
15 needed addressing was that "Deaf students
16 are not making significant gains and the
17 language/communication/academic/social gaps
18 are getting larger and will continue to do
19 so." What did you--what changes did you
20 make following the satellite classroom
21 proposal to address the social and academic
22 gaps?

23 A. I can't identify specifically what would
24 have occurred there. But, I do believe that
25 the DHH teacher, that Carter had more DHH

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1 teacher time assigned and it was the DHH
2 teacher was--the intent was, I guess, more
3 time with a DHH teacher would address those
4 gaps.

5 Q. Okay. And look, you indicated that there
6 were more supports provided to Carter
7 Churchill and you had enough familiarity
8 with his case that you were able to say, you
9 know, I think we provided additional
10 supports to Carter. And when I asked you
11 about the other six or seven deaf children
12 that were being, you know, identified as
13 having needs in the satellite classroom
14 proposal, you said you have--you know,
15 you're not really sure, there wouldn't have
16 been any--you wouldn't have an interest or a
17 role to play in their files, only in Carter
18 Churchill's file, right?

19 A. I didn't have--I didn't play a role in their
20 file. They were handled at the, at the
21 regional level by the staff in place in the
22 Avalon Region.

23 Q. And so the only reason that you had any
24 involvement in Carter Churchill's file and
25 the only reason that Carter Churchill got

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1 provided those resources, despite, according
2 to the satellite classroom proposal, there
3 were six or seven other deaf children with
4 similar needs, was because Carter
5 Churchill's parents filed a human rights
6 complaint, that's the only reason, right?

7 A. It was not my role to follow individual
8 children and this would have been handled by
9 assistant directors in each of the regions.
10 And it was their staff from any of the
11 regions could discuss a case with me when
12 there were challenging circumstances and
13 Carter Churchill's case was discussed with
14 me.

15 Q. My point is the only file that got elevated
16 to your level, the only one that makes it to
17 your desk is Carter Churchill, and the only
18 reason that happens is because he had a
19 human rights complaint filed?

20 A. Carter, Carter Churchill's file was
21 discussed with me, I think it was at the end
22 of Kindergarten because, I can't recall all
23 the details, but because his parents were--
24 some district personnel attended, I think, a
25 meeting at the school and his parents were

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1 upset by the lack of progress that he made.
2 So that was prior to the human rights
3 mediation being filed.
4 Q. The end of the Kindergarten year is exactly
5 when the human rights complaint gets filed.
6 So I think what you're telling me is the
7 file gets brought to your attention at the
8 same time that a human rights complaint gets
9 filed and none of these other six or seven
10 children's file ever gets brought to your
11 attention, it gets handled sort of at the
12 school administration level. So what I'm
13 saying is you have a satellite classroom
14 proposal that identifies, you know, serious
15 needs of six or seven deaf children in the
16 metro area, one of whom is Carter Churchill,
17 that the needs are so pressing that these
18 itinerant teachers are saying we need a
19 specialized program. But you're telling me
20 that none of these other children ever get
21 brought to your attention, despite them
22 having the same needs, according to the
23 itinerant teachers, as Carter. And I'm
24 suggesting to you and asking you to agree
25 with me that the only reason Carter

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1 Churchill's name comes across your desk, the
2 only thing different between Carter
3 Churchill and the other six or seven
4 children is that his parents have filed a
5 human rights complaint. Do you agree with
6 that?

7 A. I can't say for certain, but according to
8 the timing of the filing of the complaint
9 and it was the end of the Kindergarten year.

10 Q. A different area of questioning before I
11 return to that area later. Do you recall
12 Kim Churchill asking the District to promote
13 International Week of the Deaf?

14 A. I can recall a request. I could not recall
15 what it was about until I read the file that
16 was provided.

17 Q. Okay. So you have an email there available
18 to you, do you?

19 A. Yes, I do.

20 Q. Okay. We're going to look at Volume 5, for
21 those of us in the room. Volume 5, Tab H,
22 as in hotel. I recognize the phonetic
23 alphabet probably makes no sense at all to
24 the folks at home--sorry, the folks taking
25 this through ASL interpretation. Okay. So

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1 this is a chain of emails, but they're
2 mostly emails between you and Elizabeth
3 Churchill, right?

4 A. I have--what I have is one email to
5 Elizabeth Churchill.

6 Q. Yeah. And you would be emailing Elizabeth
7 Churchill, as the deputy minister, or the
8 assistant deputy minister, right?

9 A. She was the assistant deputy minister, yes.

10 Q. So, Kim Churchill, you know, has made a
11 request for the District to promote
12 International Week of the Deaf, which is, I
13 think it's indicated in the email but you
14 probably are aware anyway, you know, the
15 United Nations recognizes that that event,
16 that time period is International Week of
17 the Deaf, and Kim Churchill has asked you to
18 recognize it. And you say to Elizabeth
19 Churchill, "While we can find International
20 Week of the Deaf, which gets abbreviated to
21 "IWD on the web, it is not being promoted by
22 the provincial or national organizations for
23 deaf and hard of hearing. Further, we are
24 not certain that this international United
25 Nations event even aligns with the

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1 district's approach to deaf education."
2 Now, it's the last part of that that I'm
3 really interested in. What do you mean,
4 International Week of the Deaf doesn't align
5 with the Department's approach to deaf
6 education, what is the United Nations doing
7 that flies in the face of the school
8 District?

9 ADJUDICATOR:

10 Q. Again, Mr. Rees, I just, I want your
11 question to not misrepresent what's in the
12 letter. The email says, "We are not certain
13 this international United Nations event even
14 aligns with EECD's approach to deaf
15 education." So I think we'll ask the
16 witness what did you mean by that.

17 MR. REES:

18 Q. Yes. Why were you so uncertain?

19 A. So this would have been correspondence
20 received by our communications staff. And
21 as I read down through it, Ms. Churchill
22 asked that it be provided to principles.
23 And that was something that we really worked
24 at the District to try not to flood
25 principle's inboxes, so they--we had

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1 discussed that with them and we found other
2 ways we could support things. So this
3 particular request, our communications staff
4 would have reviewed it and for the most
5 part, things that, you know, we may or may--
6 someone else may or may not be involved in.
7 I think the intent, if I recall, is that
8 sometimes they would put things on social
9 media, would be on a webpage we would be
10 promoting or supporting or increasing
11 awareness about different things as opposed
12 to sending them to principles. And, of
13 course, schools could follow our social
14 media and if they wanted to do something,
15 then they would do it. So this would have
16 been researched by our communications staff
17 and they would have been the ones who would
18 have, you know, found International Week of
19 the Deaf, they would have checked national
20 organizations or the provincials, they were
21 checking that. And the question that they
22 were bringing forward was, you know, does
23 this align with what's occurring at the
24 EECD, is it the same, does it have the same
25 philosophy, is that things that they would

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1 promote or support. So it looks like from--
2 and I can't recall this, the details
3 specifically, but it's on a Sunday Cheryl
4 sent the message to me and copied--Heather
5 would have been the director of
6 communications at the District and other
7 things. And she says for discussion,
8 potentially, during tomorrow morning's
9 meeting. So on Monday morning the executive
10 across the province met, school district
11 executive, and we would discuss whatever
12 people brought forward for discussion. So,
13 I can't recall, but I'm thinking this would
14 have been everybody would have been asked if
15 they were aware of this and we would have
16 decided, well, we don't know if EECD is
17 promoting, supporting, does it align. So
18 this would have been operating procedure to
19 send that off to the Department to see if
20 what we were doing would align with what
21 they were doing.

22 Q. I still don't think I've gotten an answer to
23 my question, though. Why are you saying--
24 you wrote this email, and you wrote it and
25 you sent it over to Lucy--sorry. You sent

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1 it over to Elizabeth Churchill, you know,
2 your department counterpart, and you say,
3 "Further, we are not certain this
4 international United Nations event even
5 aligns with EECD's approach to deaf
6 education." So despite all the things, you
7 know, you would have to research it,
8 communications, emails, falls on a Sunday,
9 all these other reasons, why do you think it
10 was possible or why were you not certain, to
11 make sure I track the language, why were you
12 not certain that it might not align with
13 your approach to deaf education? That's the
14 part that's very interesting to me. What's
15 different between your approach to deaf
16 education and what was being promoted by the
17 United Nations?

18 A. And my question followed that we weren't--we
19 could--that our communications staff
20 couldn't find it on provincial or national
21 organizations. So, you know, that was what
22 raised the question.

23 Q. No, you're still not answering my question.
24 I get all the things around, oh, you
25 couldn't find it on line or, you know, you

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1 kind of, I guess, had to do your due
2 diligence to make sure that it was actually
3 a real thing and your com staff did that,
4 that's fine. Were your com staff the one
5 that told you we're not certain that this
6 event aligns with our approach to deaf
7 education or is that an opinion that you
8 formed?

9 A. No, it would not have been my opinion. To
10 be honest, you know, I don't even know if I
11 saw what the full request was. And I don't
12 even remember if I saw these attached
13 documents.

14 Q. Well, then, who told you that this--that we
15 can't be certain this aligns with our
16 approach to deaf education? I can't believe
17 I'm having such a hard time getting an
18 answer. This is your email, these are your
19 words, this is an opinion you're expressing.
20 I take it that it might be someone else's
21 opinion that you're passing on because you
22 say "we," you know, as in you and your
23 organization, so that's fine. Whose opinion
24 was it that we couldn't be certain this
25 aligns with our approach to deaf education

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1 and what, if anything, do you know about the
2 differences between the United Nations event
3 and your approach to deaf education?

4 A. I wouldn't have known anything about the
5 International Week of the Deaf. I would not
6 have known anything about it. So, the
7 choice of wording here would have been,
8 would have been, I guess, my conveyance of
9 whatever the discussion was with
10 communications staff. And I have--I cannot
11 explain any more details than that. You're
12 asking me something that happened four years
13 ago. I don't even know, I don't know why I
14 would have framed it that way. I can't
15 explain it other than whatever the concern
16 was raised by the communications staff.
17 They didn't just place it on the website or
18 put it on social media.

19 Q. So somebody told you, communications staff
20 or somebody, somebody told you this might
21 not align with our approach to deaf
22 education and you either repeated it without
23 finding out further information or if you
24 did you just, you don't remember what the
25 justification was?

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1 A. I would not have investigated it to--I would
2 not have explored this any further other
3 than the conversation that came from
4 communications staff and I would have just
5 sent off this email to try to determine
6 where the EECD was in terms of promoting
7 this. So, the choice of words would have
8 been perhaps one email I wrote in 50 that
9 day. I can't, I cannot explain, I cannot
10 recall and I cannot explain.

11 Q. I mean, I appreciate that you probably send
12 a lot of emails in the run of a day. I mean,
13 I would say that this email pretty
14 definitively put an end to whether the
15 District was going to be promoting
16 International Week of the Deaf. I put it to
17 you the reason why your com staff or you
18 didn't want to mark International Week of
19 the Deaf was because it would have given the
20 Churchills a further platform to publicly
21 denounce what the District was doing to
22 their child. Would you agree with that?

23 A. Completely disagree.

24 Q. It was because it may not have lined up with
25 the District's approach to deaf education?

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1 A. It was because we didn't have enough
2 information, we didn't--we wanted to confirm
3 with the Department of Education that this
4 was something that we should share or
5 promote. And that would have been operating
6 procedure.

7 Q. Do you know if anyone followed up with Kim
8 Churchill to get further information?

9 A. I could not--I couldn't say. The request
10 came to the communications staff. I don't
11 know the outcome.

12 Q. Did you know that at the time that request
13 was made Carter Churchill was the only deaf
14 student in a school of 750 hearing students,
15 unable to speak to his classmates or, with
16 the exception of Tammy Vaters, would never
17 encounter another deaf person during the
18 course of a school day?

19 A. I would have been aware of that.

20 Q. I want to ask you some questions about when
21 Carter Churchill was sent to APSEA for an
22 assessment in Halifax. Do you recall that
23 that happened?

24 A. Yes, I do.

25 Q. And this happened in--just following the

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1 complaint being filed in June of 2017,
2 right?

3 A. I don't have the timeframe and date.

4 Q. Okay. Well, I tell you that it's around
5 then. And that the District, with the
6 approval of the Department, sends Carter to,
7 and I'll just spell out the acronym, it's
8 the Atlantic Provinces Special Education
9 Authority in Halifax. Do you know--Carter
10 Churchill was sent there. Do you know prior
11 to Carter the last time the Department or
12 the District sent a child for assessment at
13 APSEA?

14 A. I would not be aware. I would not have
15 known, no.

16 Q. Why did you know that Carter Churchill did
17 but you don't know about anybody else?
18 Like, before someone would get sent to APSEA
19 for an assessment, it would reach your desk,
20 right?

21 A. Yes, there was--and there was nobody during
22 my time in that position. I'd been in that
23 position in the spring of 2017.

24 Q. Okay. And what about subsequent to Carter,
25 where there--I mean, during--let's put it

September 6, 2022

1 this way. During your entire tenure in that
2 position does anybody besides Carter
3 Churchill get sent to APSEA in Halifax for
4 an assessment?

5 A. Not to my knowledge.

6 Q. And Carter Churchill gets sent there shortly
7 following the filing of the human rights
8 complaint, right?

9 A. Yes.

10 Q. And so I put it to you the only reason
11 Carter Churchill gets sent for this
12 assessment to APSEA is because a human
13 rights complaint is filed. Do you agree
14 with that?

15 A. The District was trying to provide the
16 resources to Carter and the programming that
17 would be appropriate for him. And there was
18 a discussion about what we could potentially
19 do and, you know, the Churchills, I don't
20 recall all the process, but they were open
21 to this.

22 Q. But without the human rights complaint that
23 wouldn't have happened, would it?

24 A. I can't say that for certain.

25 Q. So the other kids in the satellite

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1 classroom, six or seven of them, deaf,
2 similar needs as Carter don't file a human
3 rights complaint, none of them get sent to
4 APSEA for an assessment, do they?

5 A. That's correct.

6 Q. Okay. I want to ask you about the second
7 time the satellite classroom proposal comes
8 up because, I mean, as you're aware, it gets
9 raised, I think, three times before it
10 finally gets implemented in 2020. Do you
11 recall the satellite classroom being raised
12 with you a second time by the deaf
13 itinerants?

14 A. I do not recall it being raised a second
15 time, no.

16 Q. So are you indicating to me then that, you
17 know, the satellite classroom again gets
18 rejected in 2018 and are you indicating that
19 you played no role in the rejection of the
20 satellite classroom in 2018?

21 ADJUDICATOR:

22 Q. Are you able to show when it was proposed in
23 2018?

24 MR. REES:

25 Q. A little bird just told me it was April 31st,

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1 2018. And I don't know, do I have a
2 document? It's in--

3 MR. PENNEY:

4 Q. I don't think there actually is a document,
5 but.

6 ADJUDICATOR:

7 Q. Because I just want to be sure, is there a
8 document on that?

9 MR. REES:

10 Q. There is, there's an email, but it's not an
11 email, actually, that's sent to the witness.
12 And so if she tells me that she never heard
13 about it, then she tells me that she never
14 heard about it. There's an email that
15 Bonnie Woodland and Kim Lawlor and, you
16 know, I think they indicated as much,
17 certainly Bonnie Woodland did. But anyway,
18 the current witness indicates that she had
19 no knowledge that it was raised again in
20 2018. And if you would have had--like, if
21 the satellite classroom would have been
22 proposed, it would have been Bonnie
23 Woodland's responsibility to bring that
24 proposal to your attention, right?

25 A. Yes. It wasn't directed to me. And not

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1 that I can recall (unintelligible).

2 Q. Well, you know, I was going to ask you why
3 in 2018 you didn't bring it to the
4 Department again. You know, similar to
5 2017, I was going to ask you if your reasons
6 were similar. But I understand that you're
7 indicating to me that you have no memory of
8 the satellite classroom proposal being
9 brought to you afresh in 2018?

10 A. No.

11 Q. You're aware--I know you weren't involved in
12 the eventual approval of the satellite
13 classroom at East Point or the ASL immersion
14 classroom at East Point. Are you aware that
15 when Darlene Fewer Jackson takes the file
16 and eventually gets around to implementing
17 the satellite classroom, one of the issues
18 she identifies is that the amount of support
19 and education that a deaf child receives is
20 partially dependent upon the advocacy skills
21 of the deaf child's parents. Had you heard
22 that?

23 A. No, I'm not aware of the classroom being
24 (unintelligible) I don't know the process of
25 her following my departure from the

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1 District.

2 Q. But that statement is in line with your
3 experience with the Churchills, isn't it,
4 that they spend, you know, years or months
5 advocating for a particular thing, they're
6 told they can't have it, they continue to
7 advocate, they get it, you know, in all
8 small little steps? Like is it--the idea
9 that Darlene Fewer Jackson puts forward that
10 I'm going to ask her about tomorrow, that
11 the amount of services a deaf child gets is
12 dependent upon the advocacy of their
13 parents, you know, does that reflect your
14 experience with the Churchills?

15 A. I don't know that the exact amount of
16 resources that were provided to Carter were
17 a direct result of the advocacy. I think,
18 you know, we would have tried to provide
19 resources to Carter as we could have them--
20 we could have access to them. And if we
21 felt that he needed more resources, then as
22 we could find more, we would provide them.
23 That would have been--that would have been
24 the case for all students. There were times
25 when we provided resources to students and

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1 following that we would provide more
2 resources if we had them available. There
3 were students that we knew who could utilize
4 more resources and--

5 Q. Okay. You're telling me now that, you know,
6 as you found resources you would deploy
7 them. So finding resources was an issue for
8 deaf education, was it?

9 A. You know, we would have--when I would speak
10 of resources, I would talk about all the
11 resource people. That would have applied to
12 all children with diagnosed exceptionalities
13 whose schools would have had resources
14 attached for that purpose. And we would
15 have--you know, there was--we would have
16 increased resources over time, and resources
17 got moved around sometimes when children
18 changed schools. Every year there was a
19 different deployment of resources to a
20 school.

21 Q. But to clarify, your evidence from earlier
22 remains unchanged, that you never, at any
23 point during your entire tenure in this
24 role, approached the Department of Education
25 for additional resources for deaf education,

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1 do you?

2 A. That is correct.

3 Q. The last set of questions that I have for
4 you are around the needs that are identified
5 as justifying the ASL immersion classroom
6 that eventually gets created. And I think
7 we've already, you know, had evidence from
8 you. It's established that, you know,
9 you're not in this role any more by the time
10 the ASL immersion classroom is created in
11 2020 through Darlene Fewer Jackson and
12 others. But I want to put--I want to put
13 some aspects of that proposal to you, in
14 particular, the needs or the reasons, the
15 problems that are cited as being the impetus
16 for the creation of the ASL immersion
17 classroom. At the time of its creation they
18 state that the current model doesn't provide
19 several services to deaf students, and there
20 are five that are identified: the
21 opportunity for these students to learn in
22 their own language; the opportunity to be
23 educated in their own language, which are
24 different things; fulltime access to a DHH
25 teacher; access to the curriculum and the

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1 classroom social environment; and the
2 opportunity to communicate and interact with
3 deaf peers. So these are five needs that
4 are being identified and they're saying we
5 need--you know, we are now implementing the
6 satellite classroom, the immersion classroom
7 in order to address these needs. Do you
8 agree that these were needs that existed
9 during the time of your tenure?

10 A. Yes.

11 Q. Despite these needs being identified, you
12 know, as still existing in 2020, and
13 certainly the itinerant teachers are saying
14 these needs exist before then, do you stand
15 by the comments that you had made in your
16 previous letters and statements to the
17 Churchills that Carter Churchill had
18 received, I think the words you've used are,
19 "an adequate education", "do you still
20 believe that to be the case?

21 A. What I would have put in the letter and the
22 resources provided to Carter would have been
23 what was available to us in the model of
24 education that was in place to support deaf
25 and hard of hearing students. And we would

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1 have followed that model to provide him with
2 programming.

3 Q. It sounds like you're resorting back to the
4 concept that several witnesses have
5 indicated already, which is they were doing
6 the best job they could with the tools
7 available. Is that your take on this, would
8 you adopt that reasoning?

9 A. I would say that we were adhering to the
10 model. We were providing the resources that
11 were available to us to support Carter and
12 other children throughout the district. And
13 I feel that, yes, we were doing what we
14 could with what we were--what we had
15 accessible to us.

16 Q. But how do you square those two things in
17 your head? How do you say on the one hand,
18 you know, we're doing the best job we can
19 with the tools that are available and stand
20 by those comments and say that Carter was
21 getting an adequate education, and how do
22 you square that with the comments of the DHH
23 teachers proposing the satellite classroom,
24 the District zone, Darlene Fewer Jackson
25 when she's creating the immersion program

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1 identifying all of those needs? I mean, so
2 how can you be doing--and I'll suggest to
3 you the answer. How can you be doing the
4 best job you can with the tools available
5 and providing an adequate education and
6 having everybody who interacts with this
7 child and the other deaf children in the
8 metro area coming forward and saying, here
9 are some very glaring problems that need to
10 be fixed? And I suggest to you the answer
11 is is because the tools you have available
12 are not sufficient to meet the need. Do you
13 agree with that?

14 A. That is possible.

15 Q. And you never do anything to request better
16 tools, more resources or changes to that
17 model, do you?

18 A. My role is to implement the model we were
19 provided by the Department and to utilize
20 the resources that were provided.

21 Q. So to conclude, your evidence is now that it
22 was possible that while people were doing
23 the best job they could with the tools that
24 were available, it is possible those tools
25 would not have been sufficient to provide an

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1 adequate education to Carter Churchill?

2 A. It is possible.

3 Q. Okay. No further questions. Thank you.

4 ADJUDICATOR:

5 Q. Mr. Penney?

6 MR. PENNEY:

7 Q. No.

8 MS. LUCY WARREN, CROSS-EXAMINATION BY ADJUDICATOR

9 ADJUDICATOR:

10 Q. I have a follow-up question I want to ask.
11 You're saying that what you were doing was
12 consistent with a model. What model are you
13 referring to?

14 A. I'm referring to the service delivery model
15 for students with identified
16 exceptionalities. It was a Department
17 document, a guide for schools and District
18 staff in terms of providing services for
19 children.

20 Q. Can you give me specifics on how the model,
21 in your understanding, was inconsistent with
22 what was being proposed in the satellite
23 support classrooms proposals?

24 A. So, a model--I'm getting feedback, by the
25 way, again. If you're able to turn off your

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1 mic? Mr. Rees was able to turn off his mic
2 and--okay. So, the model required that, you
3 know, students would be provided services,
4 the default would be the regular classroom,
5 and students would be provided the
6 appropriate programming in the most
7 appropriate environment. And so it required
8 that students could be provided those
9 services--would be provided service in a
10 regular classroom and--but pull out could
11 occur for specific outcomes if those
12 students were doing alternate courses or
13 programs. The model also would have--in
14 terms of the proposal, they were asking that
15 students not attend their community school,
16 so that was not my understanding of how
17 inclusive education worked. All students
18 were required to attend their community
19 school and they would be serviced in the
20 regular classroom to the extent possible.
21 The other component of the, of the model was
22 that, you know, a team of people would be
23 involved in providing services and a DHH
24 itinerant would have been part of that team
25 at the school level.

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1 Q. Anything arising from my question? Okay,
2 thank you. That's the only additional
3 question that I had for you. I appreciate
4 you providing your evidence to the Board of
5 Inquiry this morning. And you are free to
6 go. And I believe we have another witness
7 scheduled. I'm anticipating we're looking
8 to take a break while that witness connects.

9 MR. REES:

10 Q. Yeah. She is set to join us, I think, at
11 11:00. So I guess if we break until then,
12 that makes the most sense.

13 ADJUDICATOR:

14 Q. Okay. We will adjourn until 11 a.m. Thank
15 you.

16 OFF RECORD)

17 ADJUDICATOR:

18 Q. All right. Good morning, everyone. I
19 believe we have our next witness appearing
20 on the screen now, and that's Michelle
21 Taylor. Is that correct?

22 MS. TAYLOR:

23 Q. Yes.

24 ADJUDICATOR:

25 Q. Good morning, Ms. Taylor. Ms. Taylor, where

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1 you're not physically present with us, I
2 can't give you the option of swearing an
3 oath on a Bible and so your only option this
4 morning prior to giving your evidence is
5 going to be to give your solemn affirmation
6 to tell the truth. So I'm going to have
7 madam clerk give you the opportunity to give
8 the solemn affirmation, please?

9 MS. MICHELLE TAYLOR (AFFIRMED) EXAMINATION-IN-CHIEF BY
10 MR. KYLE REES

11 ADJUDICATOR:

12 Q. Okay, Ms. Taylor, I understand that Mr. Rees
13 is going to ask you a series of questions.
14 Mr. Penney may have follow-up questions, and
15 I may have questions as we go along or
16 afterwards, but I will have Mr. Rees begin
17 his questions.

18 MR. REES:

19 Q. Hi, Ms. Taylor, I'm Kyle Rees. I'm the
20 lawyer for the Churchills who are sat to
21 either side of me. So you can see and hear
22 me, can you?

23 A. Yes, I can. Thank you.

24 Q. Do you have any echo? We were trying to
25 solve some audio problems with the last

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- 1 witness. Do you hear any kind of echo or
2 reverberation either when I'm speaking or
3 when you're speaking?
- 4 A. You're fine. When I stop speaking, I can
5 hear myself on your end, but try to ignore
6 that.
- 7 Q. Okay. Well, just try it again. I'm going to
8 turn off my mic and see if that makes a
9 difference.
- 10 A. So I'll try and speak. And now my echo is
11 gone.
- 12 Q. Okay. That's how I'll do things. Thank you
13 for joining us. Where are you joining me
14 from, what city are you in?
- 15 A. I'm in Fredericton.
- 16 Q. Fredericton, okay. You're appearing on
17 line. You don't have anyone else there in
18 the room with you today?
- 19 A. No, I do not.
- 20 Q. And you don't have any kind of, you know,
21 chat applications or texting applications
22 open on your computer in front of you where
23 somebody could sort of communicate with you
24 while you're speaking with us today?
- 25 A. I do not.

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1 Q. Okay. And you've also been provided, I
2 think, with not only your affidavit but a
3 few other documents that I might refer to
4 during the course of our discussion here
5 this morning?

6 A. Correct.

7 Q. Excellent. Okay. I'm aware of sort of the
8 technological limitations, delay, things
9 like that, so in the event that anything I'm
10 saying is not clear, you know, by all means
11 interrupt me and let me know and I'll do
12 likewise for you. You know, you're--almost
13 all the witnesses so far have either been
14 sort of, you know, involved in Carter's case
15 over the course or several years or
16 employees of the Department of Education or
17 the School District in Newfoundland. You're
18 the, with the exception of our experts, the
19 only one who doesn't fit one of those roles.
20 So can you tell me--I know it's in your
21 affidavit, but I wouldn't mind getting a
22 better explanation. Can you give me an idea
23 of what your role is, what your organization
24 does and how your organization would have
25 interacted with Carter Churchill?

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1 A. So, I was the Atlantic Provinces special
2 education authority. The acronym for that
3 is the APSEA. APSEA is an organization
4 within the four departments of Atlantic
5 Department of Education between the four
6 Atlantic Provinces where APSEA supports and
7 provides programs and services for children
8 and youth in those four provinces who are
9 deaf and/or hard of hearing and/or blind or
10 visually impaired. So with APSEA I am the
11 director of programs for students who are
12 deaf or hard of hearing. The
13 (unintelligible) and services between the
14 four Atlantic Provinces differ for students
15 who are deaf or hard of hearing. So, for
16 Newfoundland and specifically regarding this
17 case in the past APSEA has offered
18 psychoeducational assessments on a referral
19 basis from the school team for students from
20 Newfoundland as well as prior to COVID we
21 offered short-term programs, again, based on
22 referrals from the school team for students
23 to come to the APSEA Centre for a period of
24 several days to focus on certain outcomes as
25 identified by the team. We currently offer

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1 a virtual learning series, which is still in
2 early days on line for students that are,
3 again, based on school referrals. Students
4 can meet on line in small groups to
5 participate in some outcome-based learning.

6 Q. In your relationship with the School
7 District in Newfoundland and Labrador, which
8 we refer to as the English School District,
9 that would be in an advisory capacity; is
10 that how you'd describe it?

11 A. That would be correct, yeah.

12 Q. Have you ever heard the term "language
13 deprivation" before, do you know what that
14 is?

15 A. I have, yes.

16 Q. How does it come up in the context of the
17 work that APSEA does? I understand APSEA
18 has--does APSEA have any kind of programming
19 or any kind of supports that it offers for
20 children who have been, you know, affected
21 by or experienced language deprivation?

22 A. So language deprivation as it relates to
23 deaf education reflects that even in utero
24 babies develop the mechanisms that allow
25 them to hear. And then once they're born it

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1 may take several months or longer to
2 identify any kind of hearing loss or hearing
3 levels that would affect the baby's ability
4 to hear and with that it affects their
5 ability to access their listening
6 environment and also language. So when we
7 refer to language deprivation, it's an
8 indication that they have already missed
9 some time in accessing language, whether
10 that means through audition or whether that
11 be through visual communication. And so
12 with that there is a focus on supporting
13 language development for students who are
14 deaf or hard of hearing.

15 Q. And what does APSEA do in that regard,
16 supporting those children who have suffered
17 that?

18 A. Sure. So, we have itinerant teachers who
19 are given a caseload where they have
20 students who are deaf or hard of hearing on
21 their caseload. And they would design
22 programs with the school teams to support
23 language, as needed, based on assessment and
24 observation reports, as well as a variety of
25 other supports and services as needed by the

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1 student.

2 Q. Cater Churchill attended at your offices or
3 at APSEA in October of 2017, right?

4 A. That is correct.

5 Q. How many--besides Carter Churchill--I mean,
6 the School for the Deaf in Newfoundland
7 closes in 2010. Besides Carter Churchill,
8 how many other deaf students from
9 Newfoundland and Labrador attended at APSEA
10 between, let's say, the closure of the
11 School for the Deaf and Carter's attendance
12 in 2017, were there many?

13 A. I wouldn't have those numbers on me. So
14 again, the students in Newfoundland, through
15 APSEA, would have had access to
16 psychoeducational assessments and short-term
17 programs. So I myself do not have those
18 numbers, but it would be reflected in our
19 annual reports. That would be on our
20 website.

21 Q. Well, let me be a little more direct then.
22 To my knowledge, you know, Carter Churchill
23 flying to - is it Nova Scotia, it was
24 Halifax, I believe - flying to Halifax to be
25 assessed by APSEA in 2017, to my

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1 understanding that was the first time that
2 that had happened, that kind of
3 transportation and that kind of assessment
4 since the School for the Deaf closed in
5 2010. Do you have another to say otherwise,
6 do you know otherwise?

7 A. No, no. I was not director at that time, so
8 I would not have that knowledge.

9 Q. And when were you director?

10 A. I started as director in 2018, I believe.

11 Q. I see. Has APSEA seen students from
12 Newfoundland and Labrador since, between
13 2018 and now, for a similar assessment as
14 the one that Carter Churchill underwent?

15 A. So those assessment services are offered to
16 students in Newfoundland who are both deaf
17 or hard of hearing as well as blind and
18 visually impaired, so I wouldn't have the
19 information that you're looking for
20 specifically for that. And then from 2020,
21 March, onwards, of course, due to the COVID
22 pandemic, no students were going to the
23 APSEA Centre from then until now.

24 Q. Okay. But what you're telling me, I think,
25 is that it would be, those services would be

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1 available for any students identified by the
2 School District of Newfoundland to attend?
3 Like, it wasn't, you know, APSEA didn't need
4 to say yes or there was no kind of other
5 level of exclusion? If the School District
6 came to you and said, you know, we need an
7 assessment performed, APSEA would permit
8 that?

9 A. Correct. So we had a referral process and a
10 referral form that the school team would
11 submit. There may be some conversations
12 with the APSEA team and the school team in
13 order to determine what the needs are, if it
14 was appropriate for the student to attend or
15 if there were services more locally that
16 would be more appropriate, but certainly if
17 the decision was that that--those services
18 were available and scheduled accordingly.

19 Q. All the witnesses that we've had testified
20 so far, and I think there have only been two
21 of them who would have had any knowledge of
22 the APSEA referral process, have indicated
23 that they believe Carter Churchill was the
24 only student, to their knowledge, deaf
25 student, to their knowledge, to be sent to

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1 APSEA for that kind of assessment. I think
2 you've indicated that you don't really know
3 one way or the other. I just want to make
4 sure that you don't have any information
5 that would say otherwise?

6 A. No. Like I said, I don't have that specific
7 information, so I can't say either way if
8 that's correct.

9 Q. Do you know anything about APSEA job
10 postings for itinerant teachers? Would you
11 be familiar with what those job postings
12 look like or what the criteria for, you
13 know, an itinerant teacher hired through
14 APSEA would be?

15 A. Um-hm, yeah.

16 Q. And I just, I probably should be clear. You
17 know, the Department of--sorry. The School
18 District in Newfoundland and Labrador has
19 itinerant teachers, deaf and hard of hearing
20 itinerant teachers. Those would be
21 different than APSEA's DHH itinerant
22 teachers, right?

23 A. Correct. So, APSEA hires and provides
24 itinerant teachers for are deaf or hard of
25 hearing student in New Brunswick and Nova

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- 1 Scotia. We would not be overseeing any
2 hiring process or postings in Newfoundland.
- 3 Q. Okay. Are there ASL proficiency
4 requirements to be an APSEA itinerant
5 teacher in Nova Scotia or New Brunswick?
- 6 A. We certainly say that it's an asset, that we
7 would benefit from the use of ASL. At this
8 point we don't specifically state a
9 standard.
- 10 Q. So you neither state a standard, and I
11 suppose if you don't have a standard, you
12 don't test for one, do you?
- 13 A. That would be correct.
- 14 Q. I understand APSEA also trains educational
15 interpreters, is that right?
- 16 A. We don't train educational interpreters, but
17 we have hire--we do hire educational
18 interpreters, again, for our students in New
19 Brunswick and Nova Scotia.
- 20 Q. Oh, okay, I see. So you hire them but you
21 don't provide their training. I understand
22 that they have their own specific
23 educational interpreter performance
24 assessment test. Do you know what that is?
- 25 A. Yeah.

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1 Q. Is that a test that's administered by APSEA
2 or by an organization outside of APSEA?

3 A. That's administered by an organization from
4 the States. So we would facilitate and
5 organize those assessments but we don't
6 provide them per se.

7 Q. But in order to be an educational
8 interpreter hired by APSEA you need to be
9 tested and produce proof of a certain level
10 of proficiency and to meet the
11 qualifications of this educational
12 interpreter performance assessment, right?

13 A. So on our job postings for educational
14 interpreters, APSEA does indicate that
15 require that they are able to meet the
16 standard of a 3.5 on the EIPA assessment
17 tool.

18 Q. Okay. And so I'm familiar with some other
19 testing ones that use kind of language to
20 describe proficiency, you know, native, near
21 native. You know, what is a three point--
22 like, if you had to describe in words what a
23 3.5 is, what would it be?

24 A. So, a 3.5 shows a--a 3.5 would be the
25 standard for educational interpreters across

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1 North America to be able to support a
2 student in an educational setting. Within
3 that level the educational interpreter is
4 able to appropriately represent in both
5 English and ASL, the majority of the
6 language that is represented in a learning
7 environment such as a classroom.

8 Q. Okay. And a 3.5, what does your scale go
9 to, is it a scale out of five, out of four?

10 A. Yeah, it's, I think it's a five. I don't
11 know how high it goes, but, yeah.

12 Q. And all--I want to clarify. All educational
13 interpreters hired by APSEA then meet this
14 minimum standard and are expected to have
15 been tested based on that standard and
16 produce proof that they've met that standard
17 before being hired, right?

18 A. No, that is not correct. So because APSEA
19 is the primary employer for educational
20 interpreters in New Brunswick and Nova
21 Scotia, most of the interpreters who are
22 applying for jobs don't come with the EIPA
23 score, so that's why on our job postings we
24 say that they have the training as an
25 interpreter, but that they are able to meet

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1 that 3.5. So it takes quite a bit of time,
2 several months, to make an appointment and
3 have the assessment done and then it takes
4 several months to get that rating done, so
5 they often don't come with a EIPA rating.
6 Certainly the interpreters that we have on
7 staff would, over the course of that first
8 year, get that EIPA would be the goal.

9 Q. Oh, I understand. So, you know, frequently
10 people don't have this testing completed
11 already. You know, on a hope or an
12 expectation that they will eventually be
13 able to meet that testing, APSEA will hire
14 them as an educational interpreter, will
15 make arrangements for them to complete that
16 test. And you said for most of them it's
17 completed within the first year of their
18 hire?

19 A. Correct.

20 Q. Why, I mean, why is it important to test
21 them? For an educational interpreter, I
22 mean, why not just sort of pick somebody who
23 professes that they have skill in ASL and
24 assign them as an educational interpreter,
25 why is testing and having a standard

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- 1 important for an educational interpreter?
- 2 A. So, the interpreter training programs is
- 3 certainly a requirement for our positions as
- 4 an educational interpreter. Those
- 5 interpreter training programs are to train
- 6 interpreters. So there isn't a training
- 7 program specifically for educational
- 8 interpreters. So this EIPA assessment tool
- 9 is specifically focused on both elementary
- 10 and secondary interpreting and has two
- 11 different tests for each of those areas. So
- 12 that would support the ability for the
- 13 interpreter to be able to represent what's
- 14 in the classroom, which may be different
- 15 from an adult perspective or a community
- 16 based interpreter. And it also sets a
- 17 standard so that the students and children
- 18 who are accessing their environment and have
- 19 essentially one interpreter with them all
- 20 day, that they would--that we know that
- 21 there is a standard that is met and a
- 22 consistency amongst the services.
- 23 Q. Right. So there's something specialized or
- 24 unique about interpreting in the educational
- 25 context, you know, specifically for small

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1 children that would be different than, I
2 think you referred to them as, you know, a
3 community interpreter, somebody who is more
4 of a generalist, I suppose, in terms of ASL
5 interpretation. What are some unique
6 features, if you know them, of being an
7 educational interpreter that would require a
8 different skill set than, you know, being an
9 interpreter for adults in a community
10 setting?

11 A. So again, there's no training program for
12 this, so there would be no way for them to
13 access any additional training but other
14 than in general professional learning. But
15 what we often say when it comes to
16 educational interpreters is they are there
17 to support the students in that in a more
18 community based setting or when you're
19 interpreting with adults there is certainly
20 between the interpreter and the user of
21 those services some basic communication
22 around if they're following the
23 conversation, if there's some understanding.
24 An educational interpreter has a little bit
25 more leeway where if there's instruction

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1 from the teacher or the classroom, that they
2 can expand on that message a little bit to
3 ensure that the student is understanding it.
4 So if they're communicating from English to
5 ASL a concept in the classroom, the
6 educational interpreter can expand on that
7 and, you know, kind of, say, bring in other
8 examples to help the student understand the
9 concept or what's been going on. As well,
10 certainly an educational interpreter, as we
11 say, is certainly a responsible adult in a
12 classroom so they're there to, you know,
13 respond to things and they don't only
14 interpret. So that if a student is about to
15 trip on their shoelace, they'll certainly
16 intercede and say, hey, careful of your
17 shoelace, you should tie that, which isn't
18 an interpreting conversation, but just one
19 as an adult in a classroom with children
20 that they would be doing.

21 Q. That's interesting. So there can be certain
22 things, such as safety requirements, safety
23 needs that would, you know, require somebody
24 who has the ability to communicate with a
25 child in ASL. I mean, I'm just thinking in,

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1 you know, many of the context that we've
2 been dealing with here, you know, Carter
3 Churchill has been surrounded by people who
4 either don't have ASL or have poor ASL
5 skills. And you're indicating to me that,
6 you know, the kinds of behaviours and habits
7 of an individual who would attain the
8 certification of an educational interpreter,
9 you know, would deal with things beyond just
10 pure interpretation, things such as, you
11 know, untied shoelaces, safety concerns,
12 children's needs?

13 A. I would say it would be the same for any
14 adult in that classroom, whether it be an EA
15 or a teacher or, you know, a person who's
16 just passing by, that any adult who would be
17 around a child would need to intercede and
18 ensure that people are safe. Certainly an
19 educational interpreter is not there to
20 monitor or have input into things like
21 behaviour programming and other issues. That
22 would be a requirement of other team
23 members.

24 Q. I'd like to put a statement from the World
25 Federation of the Deaf to you and you let me

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1 know whether you agree with the World
2 Federation's position on this. "The World
3 Federation of the Deaf recognizes that the
4 provision of sign language interpreters is
5 an important part of a range of educational
6 options and supports that should be
7 available to deaf learners, but, stresses
8 that an interpreter does not replace direct
9 instruction in sign language or a fully
10 accessible sign language environment." Do
11 you agree with the World Federation of the
12 Deaf that, you know, educational
13 interpreters, while valuable, you know, are
14 not a replacement for an instructor, a
15 teacher who is able to teach in ASL?
16 A. So some of the position that APSEA has
17 developed over the last number of years
18 support both of those statements in terms of
19 educational interpreters where they are
20 provided access to the classroom environment
21 and the learning environment, the curricular
22 outcomes. But when it comes to, for
23 example, sign language development, deaf
24 culture, we would have other roles a such as
25 ASL specialists and deaf mentors who are

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1 able, through that ALS program that I was
2 describing earlier where small groups of
3 students can meet by Zoom on a regular basis
4 and learn some of those specific deaf
5 culture and ASL development components from
6 a deaf adult who has training in those
7 areas.

8 Q. To your knowledge, you know, did or would
9 APSEA ever advise the English School
10 District that it was, you know, sufficient
11 to provide deaf children with an
12 interpreter, not even an educational
13 interpreter, but with an interpreter as
14 opposed to classroom instruction or would
15 APSEA's position always have been in line
16 with the World Federation of the Deaf, i.e.
17 that, you know, an interpreter is one tool
18 that can used but the ideal is to have
19 classroom instruction in ASL?

20 A. I can't speak to conversations that happens
21 outside of me, for sure. Certainly in my
22 conversations with the District, it's more
23 about answering questions about what roles
24 APSEA currently has such as our interpreters
25 and how those are used in a classroom

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1 setting. So I can't speak to conversations
2 outside of what those were.

3 Q. Okay. So do you ever get asked questions
4 about--I mean, you're indicating that you
5 have a sort of more advisory role based on
6 questions you get asked. Were you ever
7 asked, during your tenure at the district or
8 to your knowledge were your predecessors,
9 and I appreciate your knowledge in that
10 respect might be limited, were you ever
11 asked whether simply providing ASL
12 interpretation of spoken classroom material
13 would be sufficient or whether there were
14 other options, did that come up with the
15 English School District?

16 A. I was asked about our educational
17 interpreter role and the role of those
18 interpreters in classroom settings as well
19 as the roles of the ASL specialist in deaf
20 mentoring, which are services that we offer
21 to the Newfoundland students, again, based
22 on referral. So those would be the three
23 topics that we would have discussed.

24 Q. Okay. Last area of questioning I have for
25 you--I'm going to be much shorter with you,

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1 I think, than I indicated I was going to be.
2 Good news. You know, APSEA, in providing
3 services to the deaf learner population in
4 Nova Scotia and Halifax or providing these
5 services to the school boards in those
6 places, you know, would face human resources
7 challenges, I'm sure, being able to find and
8 recruit and retain and train individuals who
9 are, you know, proficient in levels of ASL
10 or have various qualifications, I'm sure not
11 only in deaf education, but I'm sure in all
12 area. What does APSEA do in order to, you
13 know, meet a short supply to meet a demand?
14 You know, can you recruit outside the
15 province? I mean, I'm just suggesting some
16 ideas here. Can you train people who
17 already exist? I mean, what are some
18 solutions to these human resources problems?

19 A. It's certainly an ongoing issue for us. Our
20 field is definitely one that's a specialty.
21 And certainly all of the roles in deaf
22 programming would certainly require some
23 kind of training, some kind of specialty,
24 some kind of specific knowledge. Depending
25 on the role and if we have an open posting,

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1 we do share that internationally through
2 several contacts as well as through
3 Gallaudet University, we share our postings,
4 and the Sign Language Institute of Canada to
5 share our postings, and depending on the
6 role, certainly for our roles for our deaf
7 professionals oftentimes word of mouth is a
8 key factor. We have certainly hired ASL
9 specialists in other positions across the
10 country where people have come to take
11 positions with APSEA. So it is a difficult
12 need to meet and we continue to try and
13 think of ways to promote the programs. We
14 go around and speak with university programs
15 to promote the field in general, to
16 hopefully support future itinerant teachers
17 and other people who would be willing to go
18 into the field.

19 Q. Some of these ideas are really interesting.
20 And I'd like you to, if you could, you know,
21 expound upon some of them a little bit. So
22 I'll take you through a few of the ones you
23 mentioned. You indicate that you advertise
24 internationally. I mean, how is that done?
25 Is that just, you know, simply posting an ad

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1 on a job board that is visible to anyone in
2 the world or do you have sort of contacts or
3 processes in place to tap into that
4 international market?

5 A. We certainly post our job posting on a
6 website, so not only APSEA website, but also
7 a career website. So those would done and
8 obviously accessed across the world. As I
9 said, we have contacts with the Sign
10 Language Institute of Canada, so that would
11 just be us emailing our contact there and if
12 they're able to share that with their
13 contacts or the people that they may know.
14 Same with Gallaudet, our human resources
15 office would send open job postings and then
16 what they do with that isn't in our control,
17 but we at the very least have started the
18 conversation and shared the jobs
19 appropriately.

20 Q. Can you tell the adjudicator what makes
21 Gallaudet University special, like, why
22 would you go to Gallaudet University and not
23 Caltech or something?

24 A. Right. So Gallaudet University is a
25 university in the States that is a deaf

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1 university. So they would be a great
2 resource for us for any of our deaf
3 professional positions specifically, as well
4 as for sign languages through Canada and
5 they would have contacts across the country
6 for ASL instructors and other people with
7 that ASL training.

8 Q. So APSEA targets various educational
9 institutions that are training people who
10 would have the qualifications and, you know,
11 up--you don't, of course, have the ability
12 to, you know, actively go in there and try
13 to scoop up some of their students, but you
14 pass the information along to the
15 administration in hopes that that
16 information makes it ways to the students.
17 Have those efforts been successful in the
18 past?

19 A. Not overly, to be honest. We don't tend to
20 get a lot. Again, a lot of it is word of
21 mouth; if you happen to know someone and
22 they've made a personal connection. At this
23 point I'm not aware of any of those efforts
24 being fruitful in terms of our hiring
25 process, but we continue to do so when it's

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1 needed to hopefully open some opportunities.
2 But the main, the main way that our jobs are
3 seen by others is by word of mouth.

4 Q. And just tell me then about the last area
5 you mentioned. I think you said something
6 about you attending at various institutions
7 to let them know that there is a need for
8 these kinds of professionals, I think it was
9 one of the things you mentioned. Tell me
10 about that, I mean, how do you let training
11 institutions know that there is an
12 identified need that while they may not be
13 able to meet your need now, you know, may be
14 able to start training people to meet that
15 need in two or three years' time?

16 A. So we certainly have a variety, whether it's
17 supervisors or other people that work for
18 APSEA, who often present at a variety of
19 universities throughout the provinces,
20 whether it's a bachelor of education program
21 or an undergraduate program, essentially
22 just to say that APSEA exists, that this
23 field of study exists, that it's a possible
24 employment area for people. We also reach
25 out to the colleges across the country that

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1 offer the interpreter training program just
2 to let them know that APSEA exists out on
3 the east coast and that we do often have
4 openings for educational interpreters
5 (unintelligible).

6 Q. Does APSEA ever interact with or interface
7 with the deaf community and its various
8 provinces, you know, these are people who,
9 you know, frequently have native levels of
10 ASL, and to attempt to pull and recruit from
11 or at least, you know, find connections for
12 potential hires through the deaf community?
13 Does deaf community play a role at all?

14 A. Absolutely. So we have many deaf
15 professionals who work for APSEA and so
16 through that connection as well as our
17 connections with the associations in some of
18 the provinces we're able to reach out and
19 share some of the information about what the
20 jobs are, what positions may be available if
21 they know people. So we certainly do--as I
22 said, word of mouth, that would be one way
23 that word of mouth helps us to fill some
24 positions.

25 Q. All right. Those are all my questions. Mr.

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1 Penney or the adjudicator may have some
2 questions as well. Thank you.

3 ADJUDICATOR:

4 Q. Mr. Penney.

5 MS. MICHELLE TAYLOR, CROSS-EXAMINATION BY MR. STEPHEN
6 PENNEY

7 MR. PENNEY:

8 Q. Ms. Taylor, I have a couple of questions.
9 You were talking about the DHH itinerant
10 teachers that you employ. Can you talk
11 about the level of support that's offered to
12 deaf students in the Atlantic Provinces
13 other than Newfoundland.

14 A. Sure. So in New Brunswick and Nova Scotia,
15 where were hire and provide itinerant
16 servicing, those itinerant teachers would
17 have a caseload of students in the general
18 location area. They would provide a direct
19 service to students that can range anywhere
20 from one hour a week up to five to seven to
21 ten hours a week, depending on the need of
22 the student. We would also have
23 consultative services for students who many
24 not need direct support, but would benefit
25 from consultative services through their

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1 school team. That would be anywhere from
2 once a month to just a couple of times a
3 year check in and letting your team know
4 that you're around for questions and
5 availability. As well as we provide some
6 access to equipment such as DM systems which
7 allow the microphone to be hooked up to the
8 student's amplification system.

9 Q. And is ten hours a week the most that's
10 provided to any student?

11 A. Yes. We would not have any student who
12 would get more than that from the itinerant
13 alone. We certainly have other services
14 that any and all students could be referred
15 to, but they would not have any one more
16 than ten hours a week.

17 Q. And does APSEA have, you know, a DHH or ASL
18 sort of classroom where, you know, the
19 students go in a congregate setting?

20 A. We do not have a physical location that
21 would be offered. Again, we offer virtual
22 learning series where students can be
23 referred for ASL programming and that would
24 be met on Zoom once a week with a group of
25 peers. But we would not have a physical

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1 location where a group of students are
2 together.

3 Q. Thank you. Those are my questions.

4 MS. MICHELLE TAYLOR, CROSS-EXAMINATION BY ADJUDICATOR
5 ADJUDICATOR:

6 Q. The students that would be receiving one to
7 seven or up to ten hours per week of DHH
8 direct instruction, would those be students
9 that are in a classroom with hearing
10 students?

11 A. Yes. Sorry. Yes. So all students in New
12 Brunswick and Nova Scotia where APSEA
13 supports, the itinerant service is there to
14 support the students in their classroom. So
15 all of these students would be in a
16 classroom with hearing peers, they would be
17 taught by a classroom teacher and the
18 itinerant teacher would go support the
19 program that is developed by the school as
20 well as identified outcomes by the APSEA
21 itinerant teacher.

22 Q. Those students, are they able--do they have--
23 --do you have students who, like Carter
24 Churchill, are identified as having a
25 language deprivation or language delay?

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1 A. There would be a variety of students across
2 those provinces there would have a variety
3 of needs. They would have low language
4 levels as well as proficient language
5 levels. So we would see and have a variety
6 of students on our casebooks.

7 Q. Would APSEA be--in Nova Scotia and New
8 Brunswick where APSEA is providing the DHH
9 service, the itinerant teachers, is APSEA
10 involved in the pre-Kindergarten, preschool
11 years for those children as well?

12 A. Yes. So, children can be referred for APSEA
13 services from birth once a hearing loss is
14 identified. So once that is identified, the
15 referral can be completed. So we can have
16 infants, as soon as they're identified and
17 referred, they would be assigned an
18 itinerant teacher.

19 Q. Do you know whether in Nova Scotia or New
20 Brunswick students who have cochlear
21 implants, are they--would they fall within
22 the group of students that would be referred
23 to APSEA for DHH services?

24 A. Yeah, they would qualify for service.

25 Q. Do those students also receive auditory,

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1 visual therapy, AVT?

2 A. So, APSEA doesn't have an auditory visual
3 therapist as a position. But itinerant
4 teachers would certainly provide a service
5 that if the family chose to pursue an
6 auditory route, we provide services that
7 would encourage the students--the child's
8 language development as well as an auditory
9 and speech development. And that would
10 coincide alongside their speech language
11 pathologist at their local service provider
12 and possibly others.

13 Q. How are children in Nova Scotia and New
14 Brunswick assessed or how do you identify
15 whether a student has a severe language
16 delay or has language deprivation syndrome
17 or how is that identified?

18 A. There are a number of language assessment
19 tools that can be used, whether that be
20 through the APSEA itinerant teacher, the
21 school based team, whether that's a school
22 psychologist or the speech language
23 pathologist. So there are a number of
24 language assessment tools that can assess a
25 child's language development abilities,

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1 where they are and we relay them back. Many
2 of the language assessment tools are normed
3 on hearing children, so there are special
4 considerations when it's a child with a
5 significant hearing level would be assessed
6 and those would be considered, as well.

7 Q. And if a child is identified as having a
8 severe language delay or language
9 deprivation, what is done in response to
10 that in New Brunswick and Nova Scotia?

11 A. So that would support the overall student
12 program plan. So part of that would be the
13 school-based plan, whether it's an IPP or a
14 PLP, an IEP, each province has their own
15 name for it, to identify the needs for the
16 student. That would also be supported by an
17 APSEA service plan developed by the
18 itinerant teacher and shared with the team
19 that identifies the immediate and long term
20 goals for that year, for that student with
21 regards to language. And that would allow
22 the team to know what areas to focus on to
23 support and promote language development.

24 Q. Anything arising from my questions?

25 MR. REES:

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1 Q. I have two things.

2 ADJUDICATOR:

3 Q. Go ahead, Mr. Rees.

4 MS. MICHELLE TAYLOR, RE-EXAMINATION-IN-CHIEF BY MR.

5 KYLE REES

6 MR. REES:

7 Q. Deaf elementary school students in Nova
8 Scotia and New Brunswick have a qualified
9 deaf educational interpreter working with
10 them, don't they?

11 A. A deaf educational interpreter? So APSEA
12 had two positions, an educational
13 interpreter and an educational deaf
14 interpreter. So if you can clarify what
15 you're meaning, then I can explain those
16 roles.

17 Q. Well, tell me about which one they would
18 have.

19 A. It would depend on the student's need. So,
20 an educational deaf interpreter is one where
21 it is a deaf adult who works with the
22 student in a classroom setting, sometimes a
23 preschool setting. And that's assigned and
24 determined appropriate for students who have
25 little or early developing ASL levels. So

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1 that deaf adult is in the classroom with
2 them, providing them access to the
3 curriculum, but also providing that ASL deaf
4 model to promote their ASL development.
5 Once a student is showing some ability,
6 improved ASL levels, then oftentimes that
7 educational deaf interpreter position is
8 transitioned over to an educational
9 interpreter position. That would be the
10 hearing interpreter where they would then
11 have access to the hearing interpreter for
12 classroom and language.

13 Q. Okay. So students who are, you know, deaf
14 and require ASL in order to communicate are
15 initially assigned, you know, a deaf
16 educational interpreter who is, you know,
17 we'll say culturally deaf, right, who is
18 able to impart them with the deaf culture
19 aspect, interpret school work for them and
20 also teach them ASL, right? And this is in
21 addition to their DHH itinerant?

22 A. So, it's not necessarily the first step as
23 deemed as appropriate for students. So some
24 students start out with an educational
25 interpreter and are not requiring the

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1 educational deaf interpreter. It really
2 just depends on the student's needs. And
3 so, yes, they would have an educational deaf
4 interpreter or an educational interpreter
5 for the school day and as well as support
6 with--from the APSEA itinerant teacher.

7 Q. And then later--sorry for the echo there.
8 Later, once a student has developed a
9 sufficient level of ASL or doesn't require
10 that support, then it may transition over to
11 a hearing ASL interpreter because, you know,
12 that sort of cultural exposure learning of
13 ASL is not as key, you know, once those
14 skills have been developed. Is that right?

15 A. Once they get to a certain point where they
16 can access the language through an
17 educational interpreter, that transition is
18 made. But then, as I said, through services
19 and people such as our ASL specialists and
20 deaf mentors where they can attend ALS
21 sessions and other opportunities to continue
22 to learn and improve their ASL skills.

23 Q. And that can be in addition to the up to ten
24 hours a week of deaf itinerant services
25 provided to those students, right?

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1 A. Correct. So, the ten hours is very rare.
2 The majority and most of the times students
3 max out at five hours a week. It may be for
4 those first couple of years if the student
5 is new, has just arrived in school and
6 they're new to all of these services, they
7 may get seven or ten hours. But the
8 majority of our students don't receive more
9 than five hours and between one and five
10 would be the more common number of hours for
11 itinerant services.

12 Q. And the kids that are typically receiving
13 the five hours a week, are they children
14 that require ASL to communicate or are they
15 children that are able to, you know, access
16 spoken instructions and spoken--and
17 communicate through speaking?

18 A. It can be either one, again, depending on
19 their needs and the age of the student.
20 Certainly we have students who access
21 their listening environment and use spoken
22 English who receive five hours in one hour.
23 And then we would have deaf signing students
24 who can receive one hour or consultative
25 services if they don't need any ongoing

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1 instruction. So it just depends on the
2 needs of the student.

3 Q. Last question arising on re-exam then. Does
4 APSEA currently have a human rights
5 complaint filed against it alleging that the
6 services that it is providing to deaf
7 students are insufficient? I know it's not
8 resolved.

9 A. So, to my knowledge it hasn't been labelled
10 a formal moving forward, it has just been
11 pending.

12 Q. Help me--sorry, it is a pending human rights
13 complaint, as in--

14 A. Correct.

15 Q. --it hasn't been referred to a board of
16 inquiry yet, but a complaint has been filed,
17 right?

18 A. To my knowledge, yes. Yes.

19 Q. Okay. Thank you.

20 ADJUDICATOR:

21 Q. Mr. Penney, anything arising from that?

22 MR. PENNEY:

23 Q. (No audible response).

24 ADJUDICATOR:

25 Q. Well, Ms. Taylor, I want to thank you for

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1 giving your evidence this morning. I
2 appreciate you taking the time to do so.
3 There's no further questions for you and so
4 you are free to go about your business
5 today. And I believe we are not scheduled
6 to hear from another witness until this
7 afternoon. Is that correct?

8 MR. REES:

9 Q. That's right.

10 ADJUDICATOR:

11 Q. So, now we will adjourn until 1 pm. Thank
12 you.

13 (OFF RECORD)

14 Q. Good afternoon everyone. I see that we have
15 our next witness here. This is, is it
16 Goronwy Price?

17 MR. PRICE:

18 Q. That's correct, Goronwy Price, yes.

19 ADJUDICATOR:

20 Q. Okay. And where you're testifying remotely,
21 we don't have the option for you to swear an
22 oath on a Bible. So the only option is for
23 you to give your solemn affirmation. So we
24 are going to have you affirmed prior to
25 giving your evidence this afternoon.

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1 MR. PRICE:

2 Q. Okay. Perfect.

3 MR. GORONWY THOMAS PRICE (AFFIRMED) EXAMINATION-IN-

4 CHIEF BY MR. KYLE REES

5 REPORTER:

6 Q. And for the record, state your complete
7 name, please?

8 A. My complete name is Goronwy Thomas Price.

9 Q. Could you spell your first name?

10 A. G-o-r-o-n-w-y.

11 Q. Thank you very much. Mr. Price has been
12 affirmed.

13 ADJUDICATOR:

14 Q. Thank you. So, Mr. Price, I understand that
15 Mr. Rees has a series of questions that--Mr.
16 Price, are you still there?

17 A. Yeah, I am, indeed.

18 Q. Okay. You just cut out, the video quality
19 cut out for a moment there. Mr. Rees is
20 going to ask you a series of questions.
21 Afterwards Mr. Penney may have some
22 questions in follow up and I may have some
23 questions from time to time or I may have
24 questions afterwards as well, but for the
25 moment Mr. Rees will begin his cross-

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1 examination.

2 A. Thank you.

3 MR. REES:

4 Q. Good afternoon, Mr. Price. I'm Kyle Rees.

5 You can see and hear me, can you?

6 A. Yes, indeed I can.

7 Q. Good. I'm the lawyer for the Churchills who
8 are sat to either of side of me. As the
9 adjudicator mentioned, I'll have some
10 questions for you. We've got a couple of
11 hours budgeted here for questions. I don't
12 anticipate taking any more than that. I'll
13 certainly be more than an hour, though.

14 During the course of these questions I'll be
15 referring to your affidavit. You have the
16 affidavit there with you, do you?

17 A. I do indeed.

18 Q. And you also have probably some documents
19 that would have been emailed to you by
20 School District counsel over the last couple
21 of days that I may be referring you to as
22 well, right.

23 A. I have four documents.

24 Q. Great. Okay, well, I'll take you through
25 those. If you could first, I guess, more of

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1 a general question and something that I've
2 always sort of struggled with as, you know,
3 somebody who's not inside the system and
4 understands how it works, explain for me the
5 relationship between, you know, the Board of
6 Trustees that you served as chair of during,
7 you know, this relevant time period and the
8 School District? I understand the
9 relationship is different now in the last
10 year or so than it had formerly been. But I
11 guess from the 2016 to 2022 time period
12 during which you're chair, describe for me
13 the relationship between the District and
14 the Board?

15 A. Okay. So, the type of Board of Trustees,
16 it's a governance board; it's not an
17 operational board. And it has obviously
18 fiduciary responsibilities for oversight on
19 those basis. So what that translates to
20 mean, from my perspective, is that we stay
21 out of the day-to-day operations, which is
22 the responsibility of the District wholly.
23 And if there are any circumstances that
24 arise that deal with questions and we have a
25 process in place that deals with those. It

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1 would be appeals associated and we'd go
2 through a full appeals process and at such
3 time as it come to the Board, the Board
4 would review that on the basis of the
5 circumstances and make a deliberation on
6 that result. But from day-to-day our
7 responsibility is to allow and to make sure
8 the--our District operates the District and
9 does that. So from day-to-day trustees
10 don't have a day-to-day role in the
11 operation of the District. We certainly do
12 not, as trustees, have a role in dealing
13 with individual students. Never, never do
14 we--unless it goes to an appeal level, which
15 then it's the parents that would drive that
16 appeal process to that level that would
17 allow that to take place. But on a day-to-
18 day basis, we do not, you know, participate
19 in the individual level of a student in a
20 classroom or the programming that they're
21 receiving or those kind of experiences.

22 Q. Okay. So a governance board that deals
23 with, you know, I guess you would say very
24 high-level issues at the Board, not granular
25 things regarding one specific student or one

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1 specific teacher or even one specific
2 school, but very, you know, overarching
3 generic. And I guess there are certain
4 statutory items that can be elevated to the
5 Board of Trustees' level. Tell me, the
6 Board at that period of time was constituted
7 principally by members of the public who are
8 elected to the Board, right?

9 A. Okay. So there's various transitions that
10 the Board went through. First off, we used
11 to have boards around the different regions
12 of the province, i.e. Labrador, and I would
13 have been involved in that process here.
14 When the Board became one as the English
15 School District, at which time the
16 government of the day decided that they
17 would actually pull representatives that
18 were elected to their main Board and have
19 them sit on the central Board. So when I
20 was chair, we did have some that were direct
21 appointments by the province, but we also
22 had some that were still of the old vintage
23 where they would have been gone through
24 electoral process in order to sit where they
25 were sitting.

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1 Q. Understood. What's the information link
2 between the District and the Board. So, I
3 mean, besides, you know, reading the news or
4 talking to people in your various
5 constituencies and things, how does the
6 Board find out about issues that it needs to
7 know about for governance of the District?

8 A. Okay. So, I did miss one point. Obviously
9 as a governance Board we do approve and set
10 policy that the operational side has to
11 follow and those go through a logical
12 process and are finally approved by the
13 Board. And that's our fiduciary
14 responsibility to make sure that they do
15 follow those guidelines on those basis. So
16 the communications basis you can well
17 imagine with a large Board the size that we
18 are, although it's like a, it's like a nose
19 in, fingers out type of communication piece.
20 Like, you've got to know what's going on,
21 but you don't actually step into the fray of
22 trying to operationalize your experience
23 with them. So, the communications tends to
24 be--and it's different for different
25 trustees. But we have Board meetings a

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1 certain number of times a year which offers
2 the opportunity for updates and periodic
3 updates. But when things are as busy and
4 it's such a broad province, we also did
5 weekly updates from the CEO, which was for
6 information only. And in my context as
7 chair, one of the responsibility a CEO has,
8 and I have the same responsibility here at
9 the airport in Goose Bay, is that you make
10 sure your chair knows what's going on in the
11 media so that if someone comes and asks a
12 question, they know the context of the
13 question and know either to say nothing or
14 to say something because it's in the
15 bailiwick of the chair to make commentary on
16 it. So we used to have weekly updates that
17 would come. And you can imagine with a
18 district that has over 60,000 students and
19 263 schools that there's a lot of stuff
20 that's going on. And it would focus on good
21 stuff and it would focus on issues that may
22 be percolating that may create some public,
23 public questioning over the next little
24 while. So those are the communication
25 pieces of it. The predominant communication

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1 for me would be with the CEO in order to
2 give me--and he would give me a heads up if
3 something was coming up. And also, too, if
4 trustees, as you can imagine, being elected
5 or non-elected, they would have questions
6 coming out of their constituency. And if
7 that was to take place, then my role was to
8 make sure that they followed the policy that
9 we already established in terms of dealing
10 with those issues as they'd come up.

11 Basically, it would be to pass it back to
12 the District and go through the process,
13 unless it--unless it came to appeal.

14 Obviously in this specific case, this
15 specific example didn't ever come to the
16 Board for appeal.

17 Q. Understood. So you described the
18 relationship between the Board and the
19 District. And a great phrase, I'm going to
20 steal it, I'm going to use it again in the
21 future, nose in, fingers out, which means
22 that various items were brought to your
23 attention, you know, as we would say, sort
24 of for your information only, not because
25 the Board was expected to action it or to

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1 make--you know, in some cases they would be
2 expected to make decisions, but most of the
3 time they wouldn't and it was by way of
4 background, the Board ought to know what's
5 going on in the event at some point in the
6 future the Board is asked for comment or
7 performs one of its sort of very narrow
8 tasks in which it would intervene, right?

9 A. Yeah, more specifically, if there was an
10 individual circumstance that came to a
11 formal appeal to the Board, then you'd have
12 a background in it other than just the
13 documentation.

14 Q. Is the Board expected to do anything,
15 though, for items that are not specifically,
16 you know, appeals that follow through the
17 process that eventually leads to the Board
18 having the final say? I.E., you know, if
19 there was some kind of disaster unfolding
20 within the School District, and I'm just
21 using this as an example, you know, it
22 turned out that there was a couple of
23 particular schools that were just not
24 meeting educational criteria or, you know,
25 there was a safety issue in the schools, the

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1 schools were full of mold and ought to be
2 closed down, like, are there--is there an
3 expectation that as a governance board the
4 Board would intervene, asked or unasked by
5 the District, in any of those kinds of
6 situations or does the District have to
7 bring the information and the request for
8 action to the Board?

9 A. While I've been around the Board and stuff
10 like that, there is a clear differentiation
11 between operation and governance. We hire
12 people that are the experts in their field
13 at the point in time and we hire the best we
14 possibly can. And they are charged with
15 making sure that we know what needs to
16 happen. And in that context if there was a
17 disaster, obviously we've been through the
18 pandemic and the world was very different
19 during that period and we relied on our
20 professionals to directly tell us how we're
21 going to put our best forward to meet the
22 needs of the children in that particular
23 case, and that's what we did. And that is
24 the relationship between the governance
25 Board and operational. It's not to get in

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1 the way; it's to allow them to do what they
2 need to do.

3 Q. Okay. So you indicated, you know, that
4 there are, did you say 60,000 students over
5 the course of several hundred schools?

6 A. That's correct.

7 Q. That fall underneath your area of
8 responsibility or your Board's area of
9 responsibility. So I can presume then that,
10 you know, there are very few individual
11 cases, individual families that have
12 individual problems that make their way to
13 the Board table, right?

14 A. In normal circumstance the only ones that do
15 make it to the Board table and not to the
16 appeals committee would be the ones that go
17 through the appeals process.

18 Q. Okay. And while I'll acknowledge that Todd
19 and Kim Churchill, on behalf of their son,
20 Carter Churchill, have never gone through
21 that process to have their matter formally
22 brought before the Board, but nonetheless,
23 your Board would have had great familiarity
24 with the case of Carter Churchill and his
25 parents' issues, wouldn't they?

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1 A. Obviously the familiarity would be, as I
2 said, again, would be at the governance
3 level. The granular of detail would not be.
4 We wouldn't be questioning and we wouldn't
5 be doing that. We'd just be dealing with it
6 as issues arise within the School District.
7 Again, it is the responsibility of the
8 School District to manage these issues and
9 do what is required, either under
10 legislation, resource allocation, and let us
11 make sure that, you know, if anything falls
12 outside of it, then it comes to the appeal
13 process and then the Board would deal with
14 it.

15 Q. So help me understand then. I mean, Todd
16 and Kim did not go through this process,
17 have not yet, will not go through this
18 process of having their matter placed before
19 the Board as any kind of appeal mechanism.
20 Nonetheless, you and your Board, you know,
21 are quite--you know, even before you were
22 called as a witness in this case, were quite
23 familiar with the case of Carter Churchill.
24 Beyond just, you know, seeing it show up on
25 NTV, why would it be important for you and

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1 your Board to know what was going on with
2 the Churchill case, as I'm sure you were?
3 A. So, in my knowledge of the Churchill case,
4 my knowledge came from the experience I
5 either had at the boardroom--Board table,
6 which obviously the Churchills were
7 frequent, you know, not participant but
8 frequent visitors to the Board meetings.
9 I'd also know through the updates that go,
10 like I'm aware of other pieces. But it's
11 not in my, it's not in my job detail to go
12 into the details of the operational piece.
13 So when you say I would have a detailed
14 knowledge, to be honest with you, I probably
15 wouldn't have a detailed knowledge of
16 exactly what was transpiring on a day-to-day
17 or a granular basis with the case of the
18 Churchills within our School District. If
19 it had come to the--if it had come through
20 an appeals process, then I would have had to
21 get into that particular piece. And then
22 we'd have looked at it from the point of
23 view of we had policies and procedures in
24 place, where the policies and procedures of
25 our Board or District followed and then we'd

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1 have had to review the appeal on that basis.

2 Q. I see. You would have had a lot of
3 information provided to you about the case
4 of Carter Churchill when Todd Churchill made
5 a video presentation to your Board in 2019.
6 Do you recall that presentation?

7 A. In detail, no. I'll be honest, I don't
8 remember it in detail, but--because we have
9 lots that we've had transpired, lots of
10 stuff that's taken place at the Board table.
11 But, obviously I was there and I was present
12 and I did participate and listen to the
13 circumstances that he presented.

14 Q. Okay. So a video was played and you
15 attended and listened to the video. I mean,
16 can anyone--how to phrase this. Can anyone
17 make the Board of Trustees watch a video or,
18 you know, does it have to be determined to
19 have some kind of, you know, merit or
20 relevance to what the Board is doing in
21 order for the Board to view it?

22 A. So there's a process, like--sounds like a
23 bureaucracy, which in some cases it is, but
24 in order to represent to the Board you have
25 to go through the proper presentation

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1 procedure. And in this particular case, as
2 a public meeting, the Churchills certainly
3 did follow that procedure and requested to
4 make a presentation to the Board. And in
5 that context, because of the nature, that
6 this was going to Human Rights Tribunal or
7 case, obviously that affects the way that we
8 are able to respond and deal with it. So we
9 did make a determination that a video
10 presentation would be the presentation that
11 was presented.

12 Q. And I know you probably don't recall a lot
13 of the, let's say the individual details
14 from the video. But I put it to you, and I
15 can pull up a document if we absolutely need
16 to, you know, that most of the content in
17 Mr. Churchill's video was concerned with the
18 lack of resources being provided to deaf
19 children and Carter Churchill in particular,
20 and most of them were around the lack of
21 instruction in and instruction on American
22 Sign Language. Does that sound right to
23 you?

24 A. Yeah, (audio glitch) recollection, yes.

25 Q. You know, what reaction, if any, or what

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1 action did the Board take following that
2 presentation to address any of the issues
3 there? And I'll ask you why then once you
4 tell me what action, if any, was taken.

5 A. Okay. In the context like all the pieces
6 when parents make presentation, the action
7 was, in this context, would have been have
8 we followed all our policies and principles
9 and if the District had said, yes, then we
10 move on.

11 Q. And did you ask that question as to whether
12 all of our policies and principles, as you
13 put them, were being followed in this case?

14 A. I would--so at Board tables when we get
15 presentations and after you would ask
16 questions. To be honest with you, do I
17 remember if I asked that specific--I tend to
18 ask those questions all the time, are we
19 following our policies, are we doing our
20 particular piece. And after the answers
21 come back, you know, then you move on. The
22 only, the only question which would change
23 that is--or the only circumstance that would
24 change that is if it went to formal appeal
25 and then we'd be in a position where we'd

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1 have go to A, plus B, did this, did this,
2 did this, and that's when you would dig down
3 into the granular. At the Board meeting,
4 general Board meeting, it's at much higher
5 level and that's what transpires and takes
6 place.

7 Q. Did you, following the presentation, you
8 know, receive any kind of representations
9 from, you know, Ed Walsh or Tony Stack or
10 anybody saying that, you know, the concerns
11 that were raised in that video have all been
12 addressed, they've all been taken care of?
13 Like, was there any material presented to
14 you or commentary or follow up from District
15 representatives?

16 A. Good question. Obviously without going
17 through the detail of actually going through
18 all the correspondence they got that I would
19 have had back in the day, I couldn't say yes
20 or no. But my comfort level was that we
21 were addressing them to the circumstances
22 (unintelligible).

23 Q. I understand, and correct me if I'm wrong,
24 but there was a new position created on your
25 Board in the fall of 2019, wasn't there--or

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1 sorry, a staff position, a DHH staff
2 position. Do you know anything about that?

3 A. We'd have been given an update. Obviously
4 resources do come from the Department and
5 are approved through the Departmental
6 process. But for us, we'd have been given
7 an update that this was an ongoing step in
8 how they were managing and dealing with the
9 circumstances, yes.

10 Q. And again, there were no decision points for
11 the Board at any point along the course of
12 this case, this is all information that's
13 being provided to you, you know, for your
14 information and not for you to decide yes or
15 no or to come up with a solution?

16 A. That's correct. The only people we hire is
17 the CEO and our senior executive.

18 Q. Were you given any degree of background,
19 either before or after Todd Churchill's
20 video presentation to the Board, that
21 indicated that in 2017 and 2018 and 2019
22 deaf itinerant teachers had been proposing
23 satellite classrooms in order to resolve
24 many of the issues that they felt deaf
25 students were facing in the province? Was

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1 that--you know, lots of things get raised to
2 you for informational purposes. And what
3 I'm asking is, to your recollection, you
4 know, the idea of a deaf satellite
5 classroom, was that ever floated past your
6 Board for informational purposes?

7 A. I have seen it in the documentation. And
8 I'll be straight up. Whether it was
9 actually formally forwarded by the Board, at
10 this stage, I wouldn't--I can't remember the
11 detail on that. And it's not about not
12 remembering the detail; there's so much
13 stuff that goes through the Board at a
14 particular point in time that you're trying
15 to recollect the piece. The main sort of
16 test, the litmus test for me would have been
17 at that particular point in time, when this
18 issue was going through, there was--there
19 seemed to be a significant amount of
20 activity at the District level trying to
21 address the challenges that were raised by
22 the issues that were of the day. And as
23 they tried to address and dealt with them,
24 there would be updates that came to our
25 table saying that, you know, this is what

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1 we're doing and this is how we're doing it.
2 But again, it's a for information process
3 only. We, the Board of Trustees, are not
4 the experts in the field and therefore we
5 stay at information, absolutely, but let the
6 professionals do what they need to do.

7 Q. Understood and fair comments. I appreciate
8 that distinction. Was it ever presented to
9 you or did you ever get the impression, you
10 know, beyond what Todd Churchill might have
11 said, that there was any kind of a, you
12 know, crisis in the education of deaf
13 children or that the needs of deaf children
14 were not being met, that they were being
15 socially isolated, language deprived? I
16 mean, beyond the advocacy efforts of the
17 Churchills, you know, did any indication
18 that there was problems with deaf education
19 in the province, did that ever reach your
20 table, does that--do you recall anything
21 about that?

22 A. So, I'm just trying--because I'm thinking
23 about the question. You know, we get issues
24 in classrooms today that are multiple issues
25 and everyone one of them is absolutely

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1 critical and important to try and address.
2 What I would say about this is and with what
3 I've stated already about the expertise
4 levels of different people and me as a chair
5 or me as a trustee is whatever in terms the-
6 -I reflect that the Churchills have far more
7 expertise in this area than I do. And
8 within that context, the test that I would
9 do is, it was clear that the District was
10 talking about what was going on at that
11 period of time and were actually working to
12 try and make changes to try and meet the
13 needs, not only of the deaf children in our
14 system, but some of the other critical needs
15 that were out there at the same time. So I
16 guess I'm answering the question, have they
17 raised--obviously every child's
18 circumstances is critical and we need to
19 address them, but we have the resources that
20 we have. The addressing of it comes back to
21 the District and the staff that we have that
22 need to address those points. And by the
23 fact of nature that solutions were coming up
24 the chain and we had, for information,
25 things coming out, suggests that they were

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1 working because they didn't just do them,
2 there was working going on in order to come
3 up with solutions to this particular piece.
4 And the Board of Trustees itself, in
5 reflection of the franchised gap that we'd
6 had in communications, actually started the
7 hand, the hand speaking at our Board
8 meetings in order to make sure we were able
9 to--

10 Q. By hand speaking you mean ASL, right?

11 A. Yeah, ASL, sorry.

12 Q. Okay, yeah. A couple of things I want to
13 follow up on. Just one of them, though, is
14 the provision of American Sign Language at
15 your Board meetings, that occurred as a
16 result of a request and, in fact, I would
17 characterize it as a demand made by the
18 Churchills, right?

19 A. To be honest with you, the actual
20 cause/effect may have been that, but I'm not
21 privy to that. But it was a case that we
22 reflected that it was something that needed
23 to be done. Whether the District suggested
24 that in order to be--needed to be done.

25 Q. Okay. And the answer that you gave to my

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1 last question before I asked you about ASL
2 at meetings was--I want to clarify the time
3 period that you're talking about. So I
4 think what you indicated was that you were
5 aware, it was being brought to your
6 attention, for your information, by the
7 District that there were problems in certain
8 areas with the delivery of deaf education,
9 but you were satisfied at the time that that
10 information was being brought to you that
11 there was appropriate follow up occurring
12 around each of those issues. Have I
13 captured your evidence correctly?

14 A. Repeat that last part again, please? Sorry.

15 Q. Yeah. That you were aware that there were
16 certain problems or, I guess, let's rephrase
17 them as challenges in the area of deaf
18 education and the school district was
19 bringing that to your Board's attention, but
20 at the same time they were indicating and
21 you believe you were satisfied that the
22 proposed solutions to those problems that
23 the Board was informing you of were
24 adequate. Is that what you said?

25 A. So, what I would, what I would suggest is

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1 that you're right, there were issues that
2 were being raised within, within the deaf
3 education of children thing--curriculum, and
4 that the issues and the responses to those
5 issues by our District demonstrated that
6 they were dealing with it within the
7 resource capabilities that they had
8 available to them. So, would it be
9 satisfactory to me? The satisfactory part
10 to me as Board chair would have been that I
11 knew that there was an issue and I knew it
12 was being best--dealt with to the best
13 capacity of our District to do so. Whether
14 that would be, you know, for me whether it's
15 ideal or not is outside of the role of me to
16 be able to say that.

17 Q. And in what way--I guess what I should ask
18 for clarification this way: What time period
19 are you talking about here? Are you talking
20 about 2019 or are you talking kind of
21 further back, 2017?

22 A. I would talk, for me, and, you know, my
23 brain doesn't work with time periods. I
24 have three girls in my family and if someone
25 asked me the age of them today, I'd be in

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1 trouble again. But the point being is that
2 while we were dealing with the issues or the
3 circumstance and whether it be short or
4 long-term, my sense was the information was
5 coming up through, there were changes in
6 response at different points in the time, so
7 that meant that someone was engaging and
8 that issues were being dealt with to the
9 best of the capacity of the District.

10 Q. At any point when these issues, you know,
11 were being brought to--these issues are
12 being brought to your attention by, like,
13 Tony Stack, right? I mean, that's primarily
14 the conduit through which this information
15 flows?

16 A. Correct.

17 Q. It sounds like they were sort of always
18 being presented to you as a here's a problem
19 that's being raised or here's, you know, an
20 issue that's going public now and here's
21 what the School District is doing with that,
22 and you were satisfied about the response.
23 Is that right?

24 A. Yeah, that's a fair comment.

25 Q. Do you recall what any of those examples are

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1 of things that were being done that, you
2 know, satisfied you that to the extent of
3 the Board's authority proper procedures and
4 processes were being followed? Can you
5 recall any examples of that?

6 A. I could if I went back and reread them, but
7 I don't have that at the tip of my
8 fingertips, other than the fact that some of
9 the--the ASL presentations at the Board,
10 there was some documentation about responses
11 from our group. And I'm just trying to
12 remember some of the details associated with
13 it. They did, they did look at--well, the
14 position that you outlined was getting extra
15 resources to go towards taking care of these
16 issues. So, those are the pieces. I
17 certainly could go back and review documents
18 and say, yes, I remember that. But
19 obviously in my context my role is a
20 governance role and I don't dig down
21 because, again, that's not the role of the
22 Board, unless asked to under appeal.

23 Q. I'm not going to ask you to opine on whether
24 or not this is the case or not, so we
25 obviously have our own view. But, just from

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1 a Board responsibility perspective, if you
2 ever believe that students are being, you
3 know, discriminated against, and that's what
4 we've alleged and is denied, that's not
5 something that the Board would intervene on,
6 that's an operational type of concern,
7 right?

8 A. That's an operational concern until it
9 doesn't become one. That obviously would be
10 either under appeal or--you know, the
11 discrimination ones, if there's a clear case
12 as an individual of discrimination, the
13 appeal process would be there clearly for
14 that and then there'd have to be a decision
15 at the end of the day whether it was
16 discrimination or not made by the Board.

17 Q. I think you were aware of the case of Carter
18 Churchill, you know, I would say for several
19 years while you were on the Board, not just
20 when Todd Churchill makes his presentation,
21 but from the numerous, you know, media
22 appearances the Churchills were doing, the
23 filing of the human rights complaint, they
24 would have been on your radar. Sorry, I
25 forget where I was going with that question.

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1 Oh, right. There was never an obligation on
2 the Board to intervene or to make statements
3 in the media counteracting what the
4 Churchills said, that's like the public
5 relations piece, that's not part of the
6 Board's responsibility, is it?

7 A. Not to, not to step out and do that,
8 especially under these circumstances, if a
9 human rights case has been said where it's
10 going, we reserve comment. And if it's an
11 operational issue, you've probably seen me
12 at--or if not, at public press scrums defer
13 to our CEO for District-based activity. If
14 it's a governance issue or a generalized
15 thing, well, obviously with the relationship
16 with government or whatever, then you'll
17 hear me speak or used to hear me speak.

18 Q. So, neither Ed Walsh nor--would Ed Walsh
19 present at your Board meetings or provide
20 information sometimes?

21 A. Yeah. So, at our Board meetings we have our
22 CEO is our main conduit and then we have our
23 other--we have directors as well sitting at
24 the table. So we'd have finance operations,
25 education and programming.

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- 1 Q. And what if there's like a system problem at
2 the School District level? And again, it's
3 argued whether or not that is the case here.
4 But what if there is, like, a systemic
5 cultural problem at the District level
6 that's being raised as a concern year after
7 year after year and, you know, and it isn't
8 being addressed, is there any--and not
9 brought through any formal appeal mechanism
10 or anything. Is there any ability for your
11 Board to, you know, pull the district in and
12 put them to task, call them up to task and
13 say, listen, this problem has been
14 identified, you're not doing anything about
15 it, fix it now? Like, is that something the
16 Board can do?
- 17 A. So, in terms of if it's an operational piece
18 or that, again, it goes back to the staff
19 that we hire to--at the senior level to
20 manage those particular pieces. If there's
21 a--if there's a significant piece that
22 affects, you know, the--right across the
23 province in terms of the--you know, a large
24 percentage of students or a smaller
25 percentage of students, then they would, the

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1 staff would, not directed by us, would most
2 likely come up with three or four different
3 options for dealing with a circumstance.
4 And they would come to us and we have a
5 discussion about that on--most of this comes
6 out at the budgetary level or pieces when
7 you realize the resources that you have to
8 do a particular job is this, right, and then
9 you have to come up with best options for
10 dealing with that. That's the only type.
11 But it's still a responsibility of the
12 operations people, as long as they're
13 meeting the policies and procedures that
14 we've set down for them to function under.

15 Q. Is it the Board's obligation or the
16 District's obligation, if additional
17 financial resources are required to
18 implement a program, to approach the
19 Department of Education to get that funding?
20 Do you do that or does, you know, Tony Stack
21 do that to the Department?

22 A. So, when the Board in the previous light--
23 the Board has been shifting so much, so
24 sometimes that is--like, under the current
25 status and the previous status, if there was

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1 a financial request that went to government,
2 it would go under my signature as chair.

3 Q. Were you ever asked by anybody at the
4 District, particularly Tony Stack or Ed
5 Walsh, to make an approach to government to
6 request additional funding or other kinds of
7 additional resources in order to meet the
8 needs of deaf children in Newfoundland?

9 A. On the seat that I sit right now I'm having
10 a hard time recollecting whether that was
11 the case or not. But that's a fact that can
12 be clearly checked by going and pulling it
13 together.

14 Q. Okay. Well, we--

15 A. I don't recall directly going and saying,
16 but as part of requests that we do every
17 year because, you know, it's not just--most
18 of the time when you're going to government
19 for a request for resources, there's a
20 number of different factors that might be
21 affecting a District at a particular time,
22 and as a component of that it might have--we
23 might have gone to the Department and
24 requested. And the fact that we had a
25 position that was re-orientated to deal with

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1 this would suggest that it did. So that's
2 the level--

3 Q. That would be something that you would have--
4 -that would exist in writing then and it
5 would have been sent to the Department, it
6 would be in the Department's files as well
7 as the District's files if such a request--

8 A. If it exists, yes.

9 Q. So, and I put it to you that that did not
10 happen for deaf and hard of hearing
11 information. I mean, Bob what's his name
12 said the same--said as much. Some of the
13 folks at the Department of Education said
14 they were not approached. Have you ever
15 made that request in relation to other
16 things, you know, we'd like to buy a new
17 school or we'd like to increase the budget
18 for bussing or, like, have you made these
19 requests before this letter that you've
20 talked about?

21 A. So, there are requests that go in on
22 different times of the year. Obviously with
23 bussing, we have to buy bussing and we have
24 to take a loan to buy a bus. And in order
25 to do that that has to go to the minister

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1 for Departmental approval. If there is
2 clearly inadequate--you know, based on a
3 formula for allocation of teachers and stuff
4 like that, if there's definitely a hole in
5 the system, and when I say it's not normally
6 just one or two schools, it's a system-wide
7 problem that we'd made those requests. And
8 over the years that I've been, I've been
9 around a long time, so there's a lot of
10 different correspondence that has gone to
11 ministers regarding resources.

12 Q. Right. So you say that you've done that
13 several times?

14 A. Yeah.

15 Q. Was it--

16 A. Not for a specific individual case. It
17 would be for the system.

18 Q. Right. And I should clarify, when I asked
19 you earlier whether you recalled whether you
20 made any request, I think your answer was,
21 you know, you don't remember, but if there
22 was, it would have been in writing. I'm not
23 asking whether you made a specific request,
24 Carter Churchill needs more resources, you
25 know, please give us a million dollars for

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1 Carter Churchill to the District. What I'm
2 asking is, you know, for deaf education and
3 specifically the education of deaf children,
4 the establishment of certain programs or the
5 provision of better services to deaf
6 children, you know, do you recall, and I
7 think your answer is no, but let me know if
8 it's different, ever having made that
9 request to the Department?

10 A. I don't remember specifically. But if I did
11 make that request, and I should be clear,
12 the request is not just (unintelligible)
13 making a request. The request is coming
14 from our District saying there's a need,
15 that we need to go to the Department to make
16 that request. And in those circumstances
17 those requests would be made.

18 Q. You were being kept abreast of various
19 issues in the School District, including
20 those around the Churchills and their
21 advocacy for deaf education, particularly
22 given, you know, when they would garner a
23 public profile. Was it ever brought to your
24 attention, you know, prior, even, to the
25 filing of the human rights complaint or

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1 during that, you know, there had been
2 serious problems identified with deaf
3 education in Newfoundland since 2011? Did
4 the problems with deaf education, lack of
5 ASL interpretation, lack of ASL support,
6 lack of a deaf community, did these issues
7 ever get brought to the Board before the
8 Churchills publicly advocated for their
9 child?

10 A. I'm not sure what came first, whether it was
11 public advocacy or whatever in terms of
12 the timing. Obviously the Churchills have
13 certainly significantly raised the, raised
14 the public awareness as well as everybody's
15 awareness of this issue. That's not a
16 question at all. Whether it was designated
17 or characterized as a serious issue within
18 ours, the recollection for me is when the
19 current circumstance started to become
20 apparent.

21 Q. In fact, I put it to you and I'd ask you to
22 tell me whether I'm right, that with the
23 exception of issues related to the
24 Churchills, the subject of deaf education
25 and issues with deaf education has never

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1 otherwise ended up at the Board of Trustees,
2 has it?

3 A. Again, my recollection would be--and in the
4 context of what makes it to the Board table
5 and how it makes it to Board table, because
6 just because it doesn't make to the Board
7 table doesn't mean our District is not
8 dealing with issues associated with it. And
9 it's not fair for me to make a commentary as
10 it relates to that because that's, you know,
11 it's for information, I might not have
12 known. But there's a--yeah, up until that
13 point, to my recollection, there wasn't any
14 issues raised on that front that made it to
15 the Board table in the same way as the
16 Churchills' issues, for sure.

17 Q. And, in fact, what I've asked you is do you
18 remember any other issues around deaf
19 education beyond the case of Carter
20 Churchill that ended up at the Board table?

21 A. I guess the answer would be right now, no.

22 Q. When the issues concerning deaf education,
23 as raised by the Churchills, were brought to
24 your attention, principally by Tony Stack,
25 you indicated that there was never any

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1 indication that there had been problems
2 pointed out with deaf education in
3 Newfoundland since 2011. Was it ever
4 indicated to you, to your recollection,
5 that, you know, for information purposes,
6 solutions to these problems had been
7 proposed in 2017, '18 and '19 but the
8 District chose not to implement those
9 changes? Was that--you know, which is the
10 satellite classroom proposals. Was it ever
11 brought to your attention that a solution
12 was proposed in 2017, 2018, and '19 and the
13 District did not proceed on those
14 recommendations?

15 A. It would not have been presented in that
16 fashion, no.

17 Q. In fact, I'd put it to you that all the
18 information you were receiving from folks
19 like Tony Stack was that everything was fine
20 with deaf education and the Churchills'
21 complaints were unfounded. That's the way
22 it was presented to the Board, wasn't it?

23 A. No, I wouldn't agree with that. I would
24 suggest to you that the fact that it was
25 presented to the Board is that they

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1 recognized that they were dealing with
2 issues. And they deal with issues in all
3 aspects of the education process and they
4 raise it to us and, you know, they propose
5 solutions that are within the best
6 capabilities of their ability to do so. And
7 I didn't see any difference with the
8 response that was coming on deaf education
9 or whether it was on other circumstances
10 within, you know, maths and science and, you
11 know, different parts of the curriculum.

12 Q. Okay. We're going to talk about one of
13 those documents. This is the April 29th,
14 2019, briefing note that Tony Stack provides
15 to you. Volume 2 for those of us in the
16 room.

17 A. Okay. Where?

18 Q. And it's Tab M as in Mike.

19 A. Okay.

20 Q. Mr. Price, you've got that document?

21 A. Yeah, I do indeed.

22 Q. I'll wait for everyone in the room there.

23 Okay, great. You would receive, I guess,
24 briefing notes? That's what this is headed,
25 briefing note.

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1 A. Yeah.

2 Q. For you and all the trustees. And this is
3 provided from Tony Stack to you, right, in
4 April of 2019?

5 A. Yeah.

6 Q. Can you explain to me--like, I assume
7 briefing notes are fairly common. It would
8 be pretty common for you and the rest of
9 your Board to receive a document like this
10 in advance of a meeting or even between
11 meetings, right?

12 A. That's correct. But the--yeah. Sort of--
13 oh, between meetings and in meetings,
14 sometimes I would receive a briefing note if
15 there was a particular issue. In this
16 circumstance with the, with the, you know,
17 the public, you know, public sort of
18 interest in this, in this issue. So, yes,
19 we did receive briefing notes, yeah.

20 Q. The letter references, in the first
21 paragraph, about issues in the media.
22 "Attempts to provide information regarding
23 DHH supports, ASL and the issue of the class
24 proposal." We'll talk about that later.

25 "In accordance with normal privacy protocols

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1 we cannot rely detailed information
2 regarding the student who was highlighted in
3 the media recently except to say that
4 services are being provided in accordance
5 with provincial policy commensurate with
6 assessed needs." So, I mean, that's, that's
7 the Board's role in this, right, is are the
8 services being provided in accordance with
9 provincial policy commensurate with assessed
10 needs, and if they are, you know, tick, the
11 Board's job is done in this, right?

12 A. Well, it suggests that the District is
13 following their policies and procedures that
14 they're supposed to, yes.

15 Q. And the rest of the information that's in
16 this document would have been them outlining
17 exactly what they're providing in order to
18 demonstrate that they are, in fact, you
19 know, meeting those assessed needs, right?
20 Like, that's the purpose of the rest of the
21 document?

22 A. Yeah.

23 Q. Is to convince you--

24 A. This is what they're doing, yeah.

25 Q. Convince you, persuade you or inform you

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1 that, you know, look, Board, you have an
2 oversight role on us. We're doing what
3 we're required to do and here's the list of
4 all the things that are provided. Right?

5 A. So, it's giving us a briefing note on the
6 circumstances of the issue of the day and
7 it's going through what they've done, what
8 their requirement is to do and that they met
9 the provincial guidelines, and that's what
10 it is, yeah.

11 Q. Did you, you know, over the course of
12 yesterday or whenever you received this
13 document, I mean, did you have a chance to
14 read it? I'm sure you don't have it
15 committed to memory, but generally you've
16 got some familiarity with the document?

17 A. Generally. But again, you've got to
18 understand that my role is not in, you know,
19 the minutia of the detail. Mine is the
20 governance side of this. And, yeah, but
21 keep going. I do run an airport on the side
22 of my table.

23 Q. Sorry, you do what?

24 A. I do run an airport on the side of my desk,
25 right, so some of this I might mix around

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1 and piece but certainly give me the latitude
2 and I'll certainly do.

3 Q. Okay. Well, if you hear me start talking
4 about Carter's landing gear, you'll know we
5 got our wires crossed, right.

6 A. Perfect.

7 Q. In this document that you've been looking at
8 here, there are a lot of things I would say
9 that are not mentioned. There's sort of a,
10 I would say, a glowing review of services
11 that Tony Stack indicates they're providing
12 to children, and in this case, even though
13 they don't say it, they were talking about
14 Carter Churchill. But there are several
15 things I'd put to you that they don't
16 describe in there. For instance, wouldn't
17 you agree with me that Tony Stack does not
18 say in this document that the District, you
19 know, hasn't been ASL proficiency testing,
20 any of the teachers who are delivering ASL
21 curriculum, they don't know whether these
22 people are proficient in ASL?

23 A. Okay. So, again, I go back to our role in
24 this. When I read down through a document
25 like this, I'm not the technical

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1 professional that's going to ask assessment
2 or what isn't or is in the document about
3 meeting, meeting criteria that other people
4 apply to it. So when I go down through--

5 Q. What do you think it's there, what do you
6 think it's doing, why is it there? I mean,
7 you've got three or four pages of, you know,
8 what you're saying is technical assessment
9 that you're not really qualified to assess.
10 I mean, presumably the information in that
11 document briefing note is being put there in
12 an attempt to either inform you or persuade
13 you that the services that are being
14 provided are sufficient. I mean, that's why
15 it's there, right?

16 A. Yeah. So, yes. So the document is there
17 to, you know, inform me that the services
18 that we are doing is acceptable, yeah, and
19 that's what we drew from this document.

20 Q. And what I'm telling you now and what I want
21 to know your reaction to is that there are
22 several key pieces of information that are
23 left out of that document, and I can
24 describe them to you. But I guess my point
25 is, when Tony Stack tells you something, you

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1 sort of just take it at face value that
2 you're hearing the full story, right?

3 A. So, within--and I've alluded to it already.
4 Until otherwise or if there's an appeal
5 process that suggests that there is
6 something inappropriate in a particular--the
7 document that our professionals put
8 together, I do take and I do reflect on
9 their professionalism and I accept them, and
10 that's what I would have done with this
11 particular document. I would not have
12 looked at it for the gaps. I would have
13 taken it. I'd assume that someone--if, you
14 know, within our system, if there was a
15 problem, it would have been raised.

16 Q. This document, though, I don't think, was
17 accepted at face value by all of your
18 trustees, was it? In fact, I know some of
19 your trustees questioned the--and had some
20 concerns about deaf education that were
21 raised. Do you recall any of your trustees
22 taking issue with this, Peter Whittle?

23 A. I don't remember specifically Peter Whittle
24 taking exception to this. Again, there was
25 nothing at the table within our process that

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1 we address this in a formal fashion. So it
2 would be just conjecture for me to say, you
3 know, say what was in Peter's mind or
4 likewise if he was to try and determine what
5 was in mine.

6 Q. I mean, I guess my concern is, and I'm
7 trying to gage whether it is your concern as
8 well, is that there are, in our view, and
9 we'll be asking Tony Stack about this later,
10 you know, there are several serious
11 omissions from this document that, you know,
12 are well known to the District, that have
13 been identified to the District as gaps or
14 problems with deaf education in this
15 province and none of them are mentioned in
16 this document. You're only getting the good
17 stuff and you're not getting any of the bad
18 stuff. Does that--you know, hearing that,
19 assuming it's true, and it might be subject
20 to argument, I mean, would that concern you
21 or is it just enough for you, look, I was
22 told that there was an issue and I don't
23 need to look into it any further?

24 A. So, when I looked at this--and I think I
25 answered the question already. This

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1 document came in to us and it was the
2 document of the day. I didn't see any gaps
3 in it from my position of where I was
4 standing and I wasn't informed of any gaps
5 from, you know, from an appeal process or
6 any other process that would have been out
7 there. We looked at it and for the
8 information purposes, we're there for the
9 information purposes. And, you know, any
10 time you had a document or a piece of, you
11 know, report on something there's always
12 something omitted or there is something
13 could have been done differently. But from
14 my context, I was satisfied with the update.

15 Q. Did you know anything about the
16 Gain of Superpower volunteer program? Does
17 that sound familiar to you?

18 A. Only through the documentation. I think
19 there's one here that's related to that.
20 But I don't remember anything from the Board
21 process point of view.

22 Q. And you weren't, in your role as the Board,
23 you didn't approve or disprove any of those
24 kind of volunteer programs, you didn't take
25 a role in that?

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1 A. No. Our role would have been after it would
2 have been established or something like
3 that. We'd have probably been informed
4 about it because of (unintelligible) those
5 pieces. But the operational level of the
6 District is the District's responsibility.

7 Q. Did you know that one of your trustees,
8 Peter Whittle, had made appearances on CBC
9 discussing concerns with deaf education and
10 specifically discussing the District's
11 refusal to approve the Gain of Superpower
12 program? Were you aware of that action by
13 one of your trustees?

14 A. So, Peter, as a trustee, would get on the
15 media on numerous occasions. And it wasn't
16 my practice to follow what Peter was saying
17 on those particular experiences. We have a
18 Board, as the chair of a Board we have a
19 constitution that really states that the
20 chair speaks for the Board in terms of the
21 actions of the Board and that is the piece
22 that--and I'm not aware--obviously I am in
23 Goose Bay and I don't pay attention to all
24 the details of what takes place in St.
25 John's on the media on a day-to-day basis.

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1 But, I was probably told that Peter was on
2 again, yes.

3 Q. Last question I got for you. How do you
4 know or do you ever have any reason to doubt
5 that the information you're getting from
6 your CEO or from whoever is fulfilling the
7 role of informing the Board, is accurate but
8 for if someone brings something to the Board
9 table through a formal appeal process? So,
10 I mean, you're separate, your Board is
11 separate from the operational aspect of the
12 District, but you have an oversight role.
13 How can you effectively perform your
14 oversight role if the information that
15 you're receiving from the School District
16 around one issue or another is, you know,
17 partial? Are you ever concerned with the
18 sort of informational bottleneck when the
19 very entity that you're meant to be
20 overseeing as a trustee is also your only
21 source for information about how to govern
22 that entity?

23 A. Okay. So, obviously governing the entities
24 and stuff like that, when you've been around
25 as a trustee for a significant period of

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1 time we do in services and we get training
2 that helps us, you know, do our--fulfill our
3 responsibilities and roles at the table.
4 Most of--when you're looking at it from a
5 governance and you're asking us how do I
6 know if I'm doing the job that I should be
7 doing or not doing the job that I should be
8 doing, we have certain litmus tests that we
9 use in the run of a year. One of those is
10 our strategic plan that we go through our
11 planning process where we actually identify
12 the goals and objectives of the various
13 stages of that strategic plan. Our CEO and
14 our professional District staff are graded
15 and looked at and evaluated based on that
16 process on an annual basis. So, if they're
17 meeting and they're moving towards the piece
18 and the Board is, you know, through our
19 meetings is updated on how we're doing on
20 those. So those, those circumstances, those
21 big picture pieces are evaluated as we move,
22 as we move through the year. And that gives
23 us a sense of whether we're being told
24 accurately or inaccurately because there are
25 tests, subjective tests that demonstrate at

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1 the end of the year. Same as the way in our
2 financial, we have to meet our financial
3 targets as a Board to do those, so we meet
4 those. The individual circumstances that,
5 as I said, within the large number of
6 students that we have in this province and
7 the school boards, if there are individual
8 circumstances that do go up, it is a
9 process. And they go through that process
10 and if they're not satisfied with that
11 process, we have the appeal process that's
12 available to them. Within that appeal
13 process the Board of Trustees has a
14 timeframe that we have to respond to in
15 order to meet those appeals. And that is,
16 that is a security, checks and balances from
17 my point of view for, you know, for the
18 District if there's things going astray.

19 Q. Okay. Last question. You're chair of this
20 Board for six years. You know, all kinds of
21 issues, right--I'm right in six years,
22 right?

23 A. Yeah.

24 Q. 2016--

25 A. No, probably not. It might be less than

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1 that. I was vice-chair for a period of
2 time. It's probably four. Again,
3 immaterial.

4 Q. I mean, you're chair of this Board
5 essentially during the entire operational
6 time or this complaint. And your evidence
7 here today has been that to the best of your
8 recollection--and I appreciate that, you
9 know, there's hundreds of issues and a few
10 balls in the air and planes in the air in
11 your case, to be managed. But to the best
12 of your recollection, the only time any
13 issues or concerns or changes to deaf
14 education is ever brought to the District
15 table is because of the advocacy efforts of
16 Todd and Kim Churchill?

17 A. I wouldn't--in the context of this specific
18 circumstance, I'd say, yes, the advocacy did
19 bring it to the table. But in every other
20 aspect of our educational process there's an
21 evaluation and if it comes to a level of,
22 you know, within our school system, if it
23 makes it to the Board table, then that's how
24 it works. And again, if it's, if it's a
25 situation where there's a harm done or

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1 something like that, the appeal process
2 normally is the one on an individual basis
3 that takes precedent and that's the one that
4 would be followed. And if someone came to
5 me as a trustee in my location in Labrador
6 and said, listen, we have this circumstance
7 here and it's unjust and, you know, which
8 you can imagine takes place at different
9 times, then they are told to go through the
10 process. And they go through the process
11 with their school, because we want to deal
12 with it there, and then they go up through.
13 And when it gets to the director, then the
14 next stage of appeal is to the Board where
15 the Board then takes on that sort of micro
16 view and will either uphold the appeal or
17 discharge a decision.

18 Q. Before--I know I said it was my last
19 question, but now it's not. This appeal
20 process that you're describing, this is
21 through legislation, right, this is the
22 statutory--

23 A. And policy.

24 Q. And policy. As a result of this appeal,
25 could the Board order the ASL proficiency

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1 testing of teachers in the School District?

2 A. The nature of the appeal would depend on
3 what you actually--you know, what you're
4 appealing. And if in the context of what
5 we're doing, the Department or the District
6 haven't followed any of the guidelines or
7 the policies as set out by the Department or
8 ourselves in doing this, then we'd make a
9 decision based on that.

10 Q. Okay. But if it's not provided in the
11 policy that this information--sorry, that
12 that--for instance, that kind of testing is
13 supposed to occur, then the Board wouldn't
14 order that, would it?

15 A. No, probably not.

16 Q. And the Board has no authority to change the
17 policy, does it?

18 A. We approve the policies of our own district,
19 but we can't--we don't change the guidelines
20 that the Department gives us.

21 Q. So I just have to be very clear about this
22 to make sure we understand. You would never
23 be able to say, you know, that inclusive
24 education policy, that's a load of garbage,
25 that's not working, the Board hereby

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1 declares the inclusive education policy be
2 null and void and we're writing a new policy
3 and we'll have it out next week; that's not
4 something the Board can do?

5 A. That's not within our governance role.

6 Q. Okay. Those are all my questions. Thank
7 you.

8 ADJUDICATOR:

9 Q. Mr. Penney?

10 MR. PENNEY:

11 Q. No.

12 ADJUDICATOR:

13 Q. Mr. Price, I want to thank you for giving
14 your evidence today and taking the time. I
15 appreciate it and I think we all do. You're
16 free to go. And I believe we are not
17 scheduled to hear from another witness until
18 is it 3, is that correct?

19 MS. BYRNE:

20 Q. (Inaudible).

21 ADJUDICATOR:

22 Q. Okay. Well, let's adjourn until 2:30 and
23 make best efforts in the meanwhile to see if
24 we can accelerate that timeline and if not,
25 we'll have to adjourn until the witness is

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1 available.

2 MR. PENNEY:

3 Q. And that person will be appearing in person,
4 so Eastern Audio will have to adjust the
5 equipment.

6 ADJUDICATOR:

7 Q. Are the last two witnesses, are they both in
8 person? Okay. All right, we will adjourn
9 until 2:30. Thank you.

10 (OFF RECORD)

11 Q. Thank you. And good afternoon, everyone. I
12 see that we have our next witness here.
13 This is Paulette Jackman, is it? Okay. So,
14 Ms. Jackman, before we have you give any
15 evidence this afternoon, you're going to
16 have to make a choice for us whether you'd
17 like to swear an oath on the Bible or give
18 your solemn affirmation to tell the truth
19 before we hear your evidence.

20 MS. JACKMAN:

21 Q. I'm fine with the Bible, that's fine.

22 MS. PAULETTER JACKMAN (SWORN) EXAMINATION-IN-CHIEF BY

23 MR. KYLE REES

24 REPORTER:

25 Q. And for the record, state your name, please?

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1 A. Paulette Jackman.

2 Q. Thank you. Ms. Jackman has been sworn.

3 ADJUDICATOR:

4 Q. So, Ms. Jackman, I understand that Mr. Rees
5 is going to have a series of questions for
6 you. But I'm also under the impression that
7 we're going to address the irregularity with
8 the affidavit first.

9 MR. PENNEY:

10 Q. Yeah. So you hadn't signed your affidavit
11 before today, we somehow missed that. So
12 you had an opportunity to review it and sign
13 it outside, I understand, and you made one
14 change which was in paragraph 6 you
15 clarified that you were on the working group
16 of the steering committee?

17 A. Yes.

18 Q. Okay. That's it. Thank you.

19 ADJUDICATOR:

20 Q. So in your corrected affidavit or the
21 affidavit that you've now signed, paragraph
22 6, it's the first sentence, it now reads, "I
23 was on the working group of the steering
24 committee"?

25 A. Yes.

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1 Q. That's correct? Okay. Otherwise no changes
2 to the unsigned affidavit that was provided
3 to. Okay. So, Mr. Rees will ask you a
4 series of questions now. Mr. Penney may
5 have some follow-up questions and I may have
6 questions as we go along as well, but for
7 the moment Mr. Rees will begin his
8 questioning.

9 A. Okay. Thanks.

10 MR. REES:

11 Q. Thank you. Ms. Jackman, my name is Kyle
12 Rees. I'm the lawyer for Todd and Kim
13 Churchill, who are sat here with me. You
14 will be relieved to know that while we have
15 an hour budgeted for you, I think you are
16 going to win the award for shortest
17 examination because I have 15 or 20 minutes
18 worth of questions here for you. And Mr.
19 Penney and the adjudicator may have some
20 questions, but we should be well, well under
21 time. Because, as I understand, and thank
22 you for your affidavit, you know, your role
23 in this saga was a little more limited than
24 some of the other folks. So I'm just going
25 to be asking you about a couple of couple of

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- 1 those points.
- 2 A. Um-hm.
- 3 Q. You're a speech language pathologist?
- 4 A. Yeah, that's my background.
- 5 Q. So, I mean, your background in that regard
- 6 is primarily in, you know, oral language
- 7 acquisition and not things like ASL, sign
- 8 language, right?
- 9 A. No, no, I don't have a background in that.
- 10 Q. And you have--you have no--do you have any
- 11 training at all in ASL?
- 12 A. No.
- 13 Q. No, right. Okay. And likewise, any
- 14 experience that you might have with, you
- 15 know, deaf children is more along--do you
- 16 have any experience with deaf children?
- 17 A. Mostly with hard of hearing. I did spend
- 18 two years at School for the Deaf as a speech
- 19 pathologist in an itinerant role.
- 20 Q. And that would have been like the AVT route,
- 21 I suppose?
- 22 A. Yes. Well, back then they weren't calling
- 23 it AVT, so dating myself now.
- 24 Q. What did they call them then?
- 25 A. Well, it was just, it was just as a speech

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- 1 pathologist.
- 2 Q. Okay.
- 3 A. Yeah. It wasn't specific to AVT.
- 4 Q. I see. In your affidavit, I'm really only
5 asking you about, you know, one particular
6 meeting and that's the meeting that you
7 would have attended, I think it was with
8 Bonnie Woodland and Kim Lawlor, is that--so
9 when I talk about this meeting, you know
10 what I'm talking about.
- 11 A. I remember that meeting, yes. And there
12 were some of the itinerants for DHH.
- 13 Q. Right. And this is the first--it's in 2017.
- 14 A. Yeah.
- 15 Q. And it's the first satellite classroom
16 proposal meeting, I guess, we would say. A
17 satellite classroom proposal comes up at
18 that meeting, right?
- 19 A. Right.
- 20 Q. And I don't know if you know this or not,
21 but the satellite classroom comes up in 2018
22 and again in 2019. But you're only involved
23 in the 2017 discussion?
- 24 A. 2017, yes.
- 25 Q. Okay. We've been really trying to get to

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- 1 the bottom of how the satellite classroom
2 proposal as made in 2017, you know, dies a
3 quiet death. It sort of, you know, it
4 disappears off the radar shortly thereafter.
5 And we've spoken to a few people about it
6 and I'm trying to get your perspective. So
7 you're into the satellite classroom meeting.
8 I understand this is May, 2017. Am I right?
- 9 A. Yes, yeah, I think it was May 5th.
- 10 Q. Like, why are you at that meeting, what is
11 your role at that meeting?
- 12 A. Well, I think, you know, my main role as a
13 program development specialist was in the
14 area of autism and various other roles. But
15 when we had a specialist who left in late
16 2016, later in that year I was asked by my
17 manager if I could become involved with the
18 DHH and the BVI file as sort of an as
19 required stance because, you know--
- 20 Q. Who was that who asked you?
- 21 A. --I didn't have the background. Pardon me?
- 22 Q. who asked you to do that?
- 23 A. Pardon me? My manager, Bernie Ottenheimer.
- 24 Q. Bernie Ottenheimer.
- 25 A. Yeah, at the time. And I did. I mean, I

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1 had a full workload but, like, I could do
2 that as required. So my main role with that
3 group of itinerants was to move forward with
4 the listening and spoken language training
5 that had been started by a previous program
6 development specialist.

7 Q. Because that's your area of expertise as
8 opposed to, say, ASL or--

9 A. Yeah, oh, yes. And it was more of an
10 administrative piece. I mean, they had
11 already lined up and had the, I think it was
12 like five, five two-day sessions with Anita
13 Bernstein and Elizabeth Fitzpatrick. So we
14 were bringing them from out of the province
15 to do the specialized training with just the
16 itinerant DHH. So we wanted to move that
17 forward because it had already been planned.
18 So I was assisting with that and as well at
19 that time those individuals were involved in
20 providing some clinical supervision for some
21 of the itinerants of DHH who were getting
22 their AVT certification. So that sort of
23 was my main role in terms of the DHH
24 itinerants. And in addition to that we were
25 attempting to make better use of the APSEA

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1 student database, so we were looking to our
2 DHH itinerants to assist with that, as well.

3 Q. Okay.

4 A. So I think, you know, there was a sort of
5 sense that I was--you know, like that DHH
6 sort of file, when things would come up,
7 sometimes I would be contacted. So, you
8 know, I was invited by Bonnie Woodland and
9 Kim Lawlor just to come and listen. To me
10 it was more of a discussion than a proposal,
11 per se. But when we got--you know, when I
12 got to the meeting there was, you know, that
13 one-page paragraph about a potential
14 classroom, you know, centralized classroom.

15 Q. Right. And, you know, we've had some
16 discussions with Bonnie Woodland already
17 about I think at some point that proposal
18 gets kind of formalized and emailed to her
19 at some point.

20 A. Okay.

21 Q. But it comes up in discussion at this
22 meeting that you're at?

23 A. Yes.

24 Q. Was that the focus of the meeting or was it
25 one item among several, do you recall?

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- 1 A. No, I think that was the focus.
- 2 Q. It was the focus of the meeting?
- 3 A. Yeah, yeah, yeah.
- 4 Q. And what is your role at that meeting?
- 5 Surely your role isn't to say, yes or no to
- 6 the satellite classroom?
- 7 A. Definitely not.
- 8 Q. Right.
- 9 A. Definitely not.
- 10 Q. You're there to observe what's going on. Do
- 11 you have any input to offer?
- 12 A. I was asking questions.
- 13 Q. Um-hm.
- 14 A. Right. And I typically deal with all the
- 15 alternate transportation in the applications
- 16 I did. And I guess my role would have been
- 17 obviously not a decision making one, but if
- 18 there was any information that would need to
- 19 be brought forward, you know, to support
- 20 that process, I would have shared the
- 21 information from that meeting with my
- 22 manager.
- 23 Q. Bernie Ottenheimer?
- 24 A. Yes. Typically I would. I can't recall now
- 25 but I probably would have shared the

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1 information and said, you know, potentially
2 there may or may not be something coming
3 forward.

4 Q. Okay.

5 A. Right.

6 Q. So this proposal gets made. Surely at the
7 meeting, and I understand because several of
8 the deaf itinerants have said as much, you
9 know, beyond proposing their solution to a
10 problem, they would have spent a fair bit of
11 time at the meeting describing what the
12 problem was, right?

13 A. Right.

14 Q. And I understand they described that, you
15 know, children's needs couldn't be met on
16 the current itinerant caseloads.

17 A. Um-hm.

18 Q. Students weren't able to access curriculum,
19 support was being delivered by people who
20 weren't trained to educate deaf children,
21 and these children were language deprived,
22 they weren't developing their language. I
23 see you nodding all the time. So you're--

24 A. Yes.

25 Q. That was the kind of concerns that were

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- 1 raised, right?
- 2 A. Yes.
- 3 Q. Were you--I mean, this would have been sort
4 of your first foray into this area of
5 education.
- 6 A. Right.
- 7 Q. You wouldn't have spent a lot of time on
8 this before. Were you surprised by what you
9 were hearing, was it concerning to you?
- 10 A. Some of it would have been concerning,
11 right.
- 12 Q. Um-hm.
- 13 A. Having said that, you know, specific
14 children weren't discussed. Yeah, speaking
15 back, I mean, you know, obviously when any
16 group brings concerns forward, you are
17 concerned, right.
- 18 Q. Yeah.
- 19 A. So whether it was DHH itinerants or SOP
20 saying, you know, our workloads are quite
21 heavy and workloads are quite heavy,
22 especially in the itinerant role.
- 23 Q. Yeah.
- 24 A. So, you know, that would not have been
25 surprising.

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1 Q. I understand the only real input you were
2 able to offer at the time was regards to
3 bussing. And you've indicated as much in
4 your affidavit. You said that you didn't
5 think--you know, your view at the time and
6 presumably your view currently is that while
7 there may have been other reasons why the
8 satellite classroom couldn't be adopted,
9 bussing wasn't going to be a problem,
10 bussing could be overcome?

11 A. No, bussing could have potentially been an
12 issue. But once again, the proposal was
13 quite vague, so we didn't even know where
14 the kids would be coming in from, we didn't
15 know if there'd be multiple sites, how we'd
16 address the rest of the province. Just from
17 a Department's perspective, we'd always look
18 at big picture, you know, versus just
19 isolated parts of the province. So, yeah, I
20 mean, you know, if the children were all
21 living in metro area, you know, alternate
22 transportation would not have been an issue.
23 But at that point we didn't even know what
24 children would be involved, so were there
25 children from St. Mary's, were there

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1 children from Bay Roberts, we wouldn't have
2 been sure because it was so early in the
3 game.

4 Q. Weren't you informed at the time that there
5 were seven or eight or six or seven, I
6 forget the number, children that were all
7 living in the metro area and that's why the
8 satellite classroom was being proposed, it
9 was seen as a great opportunity--

10 A. Right.

11 Q. --because they all lived--

12 A. Yeah. But these itinerants were in the
13 metro region.

14 Q. Yes.

15 A. So there wouldn't have been itinerants
16 there, I don't believe, correct me if I'm
17 wrong, there weren't itinerants from other
18 parts of the province.

19 Q. Okay. Maybe--sorry. Maybe we're just
20 misunderstanding each other. Are you
21 indicating, you know, because they were in
22 the metro area, that's why busing would not
23 have been an insurmountable problem, is that
24 why--

25 A. Yeah, it wouldn't have been insurmountable

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1 for metro region students.

2 Q. Right. That's right. And so that's your
3 input, I guess, your contribution here is
4 that, you know, I can't say yes or no or
5 whether it's a good idea or a bad idea on
6 all these other aspects?

7 A. Yeah.

8 Q. But as far as the bussing aspect goes, it
9 needs a little bit of work but it's not
10 insurmountable, is that right?

11 A. Yeah. But there were other--there were
12 other things that got brought up, as well,
13 so I was asked my opinion on some things.
14 Obviously these were things that I would not
15 be in a position to make a decision on. The
16 group brought forward that, you know, if
17 this didn't happen, it was going to be a
18 human rights case. They asked my opinion.
19 I sort of chuckled. I don't have a legal
20 background. And I'd only ever been involved
21 with one human rights, and I don't know if
22 we'd call it case, in my 15 years with the
23 Department that came forward. Once again,
24 my role in that was very minimal. I mean,
25 the lawyer was involved. I more or less

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1 compiled all the information. But, you
2 know, I kind of giggled because, you know, I
3 wouldn't be in a position to make a judgment
4 on whether or not, you know, a human rights
5 would be successful.

6 Q. Well, Colleen Moyst says you did make a
7 judgment. Colleen Moyst says she was there
8 at the meeting and when it was brought up
9 that it could be a human rights issue, she
10 says that you chuckled, just like you
11 indicated, you know, you chuckled maybe
12 because it's outside your expertise.

13 A. Yeah.

14 Q. And you said human rights cases never go
15 anywhere.

16 A. Yeah. I don't think I said never go
17 anywhere. But the one I was involved with--

18 Q. Or they don't go anywhere?

19 A. That one didn't go anywhere in the sense
20 that it never went past that stage.

21 Q. Okay. So Colleen Moyst would have been
22 wrong to say that you said they never go
23 anywhere. But you're saying the context of
24 your statement was, like, human rights cases
25 don't go anywhere or they seldom go

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- 1 anywhere, is that what you--
- 2 A. Right, yeah.
- 3 Q. That's what you would have said?
- 4 A. Yeah, they seldom go anywhere, yeah, only
- 5 from my limited experience with human rights
- 6 cases. Once again, there may have been many
- 7 more at the Department. I was just a
- 8 program development specialist, so I
- 9 wouldn't have had access to all that
- 10 information.
- 11 Q. Obviously your experience now is different.
- 12 You've now been involved in a human rights
- 13 case that has gone somewhere?
- 14 A. Yeah.
- 15 Q. Your view at the time, and it's curious to
- 16 me why you would express that the--
- 17 A. I was curious while I was asked, you know.
- 18 Q. Well, I don't think you were asked. It was--
- 19 --my understanding, and correct me if I'm
- 20 wrong, that it was expressed at the meeting,
- 21 like, these deaf itinerant teachers are
- 22 helping deaf children and they believe that
- 23 these--it's a possibility, anyway. They're
- 24 not legal expert. And, you know, this is
- 25 the kind of thing we'll find out in a few

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1 months' time.

2 A. Um-hm.

3 Q. But they believed there was a possibility at
4 the time that their human rights were being
5 violated. I'd suggest to you and Colleen's
6 Moyst's affidavit says as much, that they
7 thought it was pretty serious.

8 A. Um-hm.

9 Q. And you just indicated to me--and actually,
10 the part that you laughed is news to me,
11 rather you giggled--

12 A. Yeah.

13 Q. --is news to me. And you'd said that human
14 rights cases often don't or don't go
15 anywhere.

16 A. Um-hm.

17 Q. Does that indicate that you didn't think the
18 human rights--the possibility or the threat
19 of a human rights case was a real concern?

20 A. At that time, I don't know. I mean, you
21 know, I mean, it's always a concern. But,
22 you know, at that moment in time, I mean,
23 that would have been what, 2017, five years
24 ago.

25 Q. Yeah.

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1 A. You know, my perception may or may not have
2 changed since then, right.

3 Q. Yeah.

4 A. But, you know, it would be concerning,
5 obviously. Any humans rights case is
6 concerning, especially when we're dealing
7 with children.

8 Q. But, in that case it wasn't concerning, it
9 wasn't concerning to you and it wasn't
10 concerning to Bonnie Woodland?

11 A. Well, I really didn't think that, you know,
12 my role there in the meeting was going to
13 play a large role in a proposal at that
14 time.

15 Q. What was Bonnie Woodland's reaction at that
16 meeting?

17 A. To be honest, I can't remember.

18 Q. You don't remember?

19 A. Um-um, no.

20 Q. She doesn't, either.

21 A. No. Well, I mean, in her defence, I mean,
22 there's lots and lots of meetings and
23 there's--and lots of groups coming forward,
24 you know, requesting extra resources and
25 whatnot, so.

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1 Q. So your existence in this role is for a
2 short period of time. You weren't part of
3 the subsequent, the 2018 and the 2019
4 satellite classroom proposals?

5 A. No, no, because Darlene Fewer Jackson
6 returned to her role in 2018, September, at
7 the Department.

8 Q. And you passed this information then along
9 to Bernie Ottenheimer, who I'm going to
10 speak to tomorrow, I believe?

11 A. Um-hm.

12 Q. So you passed the information then along to
13 her, that the satellite classroom proposal
14 had been prepared?

15 A. I probably didn't call it a proposal at the
16 time. I probably called it a discussion.

17 Q. A discussion about satellite classroom?

18 A. Yeah. Just--and that would probably be my
19 own perceptions of what a proposal is,
20 because any proposal that we typically dealt
21 with in the past with the Department of
22 Education would have been much more in
23 depth. It would have looked at, you know,
24 specifics with regards to, for example, what
25 the criteria would be for the classroom, you

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1 know, how that classroom would look. I
2 think I do recall, I think, there was some
3 discussion about whether it would be full
4 day, half day. You know, so there were a
5 lot of things to work out before I thought
6 that it would be at that stage where it was
7 a formal proposal.

8 Q. Okay. Did anyone make a promise or
9 commitment to work on those things to turn
10 it into more of a full proposal, including
11 Bernie Ottenheimer?

12 A. Well, we wouldn't have at the Department.
13 It would have been we would have waited for
14 the proposal to come forward. So that would
15 have been my discussion with her is to give
16 her a heads up that potentially a proposal
17 could be coming forward.

18 Q. You told Bernie Ottenheimer that a proposal
19 could be coming forward?

20 A. Could, yeah. I would have just shared the
21 conversation and said potentially this might
22 happen.

23 Q. In addition to sharing the proposal/not
24 proposal, whatever less than a proposal is,
25 idea, of a satellite classroom with Bernie

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- 1 Ottenheimer, did you share with her any of
2 the concerns that these deaf itinerants had
3 that generated that proposal? I mean,
4 there's two parts to this, right.
- 5 A. Right.
- 6 Q. There's a proposal.
- 7 A. Yeah.
- 8 Q. But, I would suggest even more significant
9 than the proposal or idea of a satellite
10 classroom is the problems and the issues
11 that were giving rise to this proposal in
12 the first place.
- 13 A. Right.
- 14 Q. Did you share any of those things with
15 Bernie Ottenheimer?
- 16 A. I don't recall, but I may have shared
17 concerns about--no, I--repeat that question?
- 18 Q. Did you share--I mean, you shared the idea
19 of the satellite classroom?
- 20 A. Right.
- 21 Q. Did you share the concerns with her, all
22 these things about, you know, the kids
23 aren't learning language are not surrounded
24 by people--
- 25 A. Yeah. I probably would have shared with her

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1 the concern that the exposure to ASL, people
2 were concerned that kids didn't have that
3 exposure.

4 Q. Do you recall what her reaction was, what
5 she said, what she did, if anything?

6 A. No, I don't recall.

7 Q. Besides Bernie Ottenheimer, did you talk to
8 anybody else about the satellite classroom
9 or that meeting with the deaf itinerants?

10 A. No, no. And I typically wouldn't because,
11 of course, there's the line--

12 Q. Your reporting was directly to the--

13 A. My report was to the manager so, you know,
14 and you go up through manager, ADMs, DMs,
15 you know, there's a line of communication
16 there in government.

17 Q. Okay. And you weren't asked by Bernie
18 Ottenheimer to prepare any kind of
19 documentation or a presentation to present
20 to somebody, you know, higher up that food
21 chain than her?

22 A. I don't think so. I don't recall that.
23 And, of course, anything that would have
24 come in in terms of a proposal would be put
25 in TRIM, so there'd be an electronic

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1 version.

2 Q. And just by way of clarification before I
3 let you go, the reason for rejection or the
4 reason the satellite classroom, I guess,
5 didn't receive a ringing endorsement wasn't
6 because of bussing? That was, you felt,
7 surmountable?

8 A. Um-hm.

9 Q. But I didn't quite get the idea from you,
10 beyond that the sort of the idea was half
11 baked, it was only in the preliminary
12 stages, as to why the proposal didn't
13 advance any further. Like, was it just
14 because nobody picked it up and ran with it
15 or was there at that meeting, you know, an
16 underlying reason, no, we will not be
17 advancing this for the following reason?
18 Was there a reason given?

19 A. There was no reason given, but that would be
20 speculation on my part to come up with a
21 reason.

22 Q. Right. I mean, Bonnie Woodland said,
23 eventually, that, you know, the reason why
24 Darlene Fewer Jackson was able to ultimately
25 advance the satellite classroom when she was

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1 unable to, when it was being presented to
2 her, had more to do with focus and time and
3 leadership whereas Darlene Fewer Jackson
4 sort of had a focus on that issue.

5 A. Right.

6 Q. Would you agree with that?

7 A. I would agree that Darlene would have more
8 time to focus on it, yes.

9 Q. Um-hm. And so you can't think of any--
10 you've indicated it's definitely not busing.
11 You can't think of any reason discussed at
12 that meeting or subsequent as to why the
13 satellite classroom would be rejected, it
14 just wasn't ready for prime time yet?

15 A. Well, this meeting happened in May, 2017,
16 and I believe they were looking at
17 September. I'm not sure if dates were
18 thrown out, but the timing and the year--
19 yeah, 2017, so then--so, yeah, the following
20 September is when Darlene would have
21 returned, yeah. So, yeah.

22 Q. So was there any other reason is what I'm
23 asking?

24 A. Reflecting back on it, no, I can't recall.

25 Q. Okay. Those are all my questions. Thank

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1 you.

2 ADJUDICATOR:

3 Q. Mr. Penney?

4 MR. PENNEY:

5 Q. No.

6 MS. PAULETTE JACKMAN, CROSS-EXAMINATION BY ADJUDICATOR

7 ADJUDICATOR:

8 Q. Ms. Jackman, you seem to recall this
9 meeting, this May 5th, 2017 meeting.

10 A. Um-hm.

11 Q. And I appreciate Mr. Rees has asked you some
12 specific questions about the meeting. But,
13 just in your own words can you describe, you
14 know, how you became involved in that
15 meeting as a start, just how would you have
16 been pulled into that meeting or became
17 involved?

18 A. I guess when you look at the program
19 development specialist and student support
20 services, you know, people have varying
21 roles. And while this was not my main role,
22 you know, it was something that I was asked-
23 -requested to do. So I guess with this
24 meeting I can only assume that Bonnie or Kim
25 would have requested that myself or Bernie

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1 be at the meeting. I don't recall now if
2 the request was to Bernie and she sent me or
3 that--because that may happen as well. But
4 I don't recall if the request was directly
5 for me or for Bernie.

6 Q. Okay. So it may have been that they
7 requested you directly or it may have been
8 that--

9 A. Right.

10 Q. --Bernie Ottenheimer sent you to the meeting
11 on their behalf?

12 A. Yes. Yeah, correct.

13 Q. And then when you--you arrive at the
14 meeting. Have you been given anything in
15 advance to review to prepare, do you know
16 what the meeting's about? What's your
17 recollection?

18 A. I don't recall receiving something in
19 advance. I may have, but I don't recall.
20 And I don't have access to my emails any
21 more to check back on that, but I don't
22 recall at that time.

23 Q. Do you recall where the meeting occurred?

24 A. Yeah. I think it was at District School or
25 Strawberry Marsh Road. No, I think it was

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1 Strawberry Marsh Road. It would have been
2 one of those two spots.

3 Q. And who do you recall being there at the
4 meeting?

5 A. I recall Bonnie Woodland and Kim Lawlor. I
6 was there. I recall Colleen Moyst. I think
7 Valerie Crummell was there, but I'm not
8 certain.

9 Q. Was there an agenda for the meeting?

10 A. I don't recall. And I don't believe the
11 meeting was quite long, either. I think it
12 was just an hour or two.

13 Q. I know we've heard that the satellite
14 classroom proposal was discussed. Was there
15 anything else discussed at the meeting?

16 A. Not that I can recall. I would think that,
17 you know, speaking to--the itinerants
18 probably did speak to student need and their
19 caseloads because that would kind of go hand
20 in hand.

21 Q. And when the satellite classroom discussion
22 was happening, you said that they bounced
23 some things off of you for your opinion?

24 A. Um-hm.

25 Q. You gave one example. Where there other--

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- 1 A. Um-hm.
- 2 Q. --things? What sort of things were they
3 asking you your opinion on?
- 4 A. Me personally? Yeah, I would think--trying
5 to think now. It's a while back. I would
6 suspect around that time we were also
7 speaking to--that was around the time that
8 the new responsive teaching and learning
9 policy was coming out and the Now is the
10 Time report had been released by the
11 premier's task force. So I would suspect
12 there would have been a discussion around,
13 you know, children being with their same age
14 peers and common learning environments and
15 whatnot. There would have been probably
16 some general conversations around that.
- 17 Q. And were you asked to give your opinion on
18 those items or those are just things that
19 were discussed?
- 20 A. I think they were just things we discussed.
21 But, I mean, it didn't feel like a formal
22 meeting, so there probably was a lot of
23 informal conversation around, you know, how
24 to make this--you know, if there was an
25 appetite for this, right.

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1 Q. What do you mean by whether there was an
2 appetite for this?

3 A. Well, with new policies moving forward and
4 they're right in the heart of all that, you
5 know, whether taking a group of children and
6 putting them in a classroom away from their,
7 you know, neighbourhoods, communities,
8 whether or not that was inclusive. And I
9 dislike using the word inclusive, because I
10 know it's so subjective.

11 Q. So during the meeting was it discussed why
12 the DHH teachers wanted to do this?

13 A. Yes. They spoke to their caseloads and they
14 spoke to, you know, the time required to
15 meet with children and to, you know, provide
16 individual programming. And I think
17 typically they would have students who were
18 what they would call core students that we
19 see regularly and students that they would
20 see as consults. So they were speaking to,
21 you know, the large number of--larger
22 numbers of core students.

23 Q. At the end of the meeting was there a
24 decision made during the meeting?

25 A. At the meeting? I don't think so. I

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1 suspect there would have been, you know, the
2 District level would have requested some
3 additional information or potentially put it
4 in writing.

5 Q. Do you recall when a decision was made?

6 A. No.

7 Q. Follow up questions?

8 MR. REES:

9 Q. None.

10 ADJUDICATOR:

11 Q. Any for you, Mr. Penney?

12 MR. PENNEY:

13 Q. None.

14 ADJUDICATOR:

15 Q. Okay. Thank you, Ms. Jackman.

16 A. Okay. Thank you.

17 Q. You're free to go. And is our next witness
18 available now or? 3:30 I'm hearing? Okay.

19 So we will adjourn until 3:30, please.

20 (OFF RECORD)

21 Q. Okay. It seems as though we have our next
22 witness with us. This is Georgina Lake, is
23 it?

24 MS. LAKE:

25 Q. Yes.

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1 ADJUDICATOR:

2 Q. Okay. So, Ms. Lake, before you give your
3 evidence to the Board of Inquiry this
4 afternoon, you have the option of swearing
5 an oath on the Bible or you may give your
6 solemn affirmation. It's your choice today.

7 MS. LAKE:

8 Q. I can use the Bible, that's fine.

9 MS. GEORGINA LAKE (SWORN) EXAMINATION-IN-CHIEF BY MR.
10 KYLE REES

11 REPORTER:

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

14 A. Georgina Lake.

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

17 ADJUDICATOR:

18 Q. Okay, Ms. Lake, I understand that Mr. Rees
19 is going to have a series of questions for
20 you. Mr. Penney may have some follow up
21 questions. I may have questions as we go
22 along but Mr. Rees will begin.

23 MR. REES:

24 Q. Hi, Ms. Lake.

25 A. Hello.

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1 Q. I'm Kyle Rees. I'm the lawyer for the
2 Churchills who are sitting on either side of
3 me here. As indicated, I'll have some
4 questions for you. I will also be referring
5 you to some documents and your affidavit.
6 And I understand some of that has been put
7 there in front of you, which is great. I'll
8 direct you to what document at any given
9 time. If at any point the questions I'm
10 asking are unclear or I lose my microphone
11 or anything else, you just let me know and
12 I'll re-ask the question. And I think your
13 microphone is being adjusted there as we
14 speak. Perfect. I'm also told to speak
15 slowly, although I frequently forget when I
16 get excited, because the folks are doing ASL
17 interpretation for us as well as some closed
18 captioning. So see if we can get you to
19 abide by those rules as well. I have your
20 affidavit, so thank you for that. You're a
21 fairly, I guess we'd say, you know, a late
22 entrant into this, into this story for
23 Carter Churchill because while you're a
24 long-time employee of the School District, I
25 see from paragraph 3 of your affidavit it's

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1 not really until 2019 when you're the
2 assistant director of education student
3 services I guess that you have a role in
4 this narrative, right?

5 A. Yes.

6 Q. Like, in your previous role in 2017 to 2019,
7 when you're director of programs, are you
8 involved in this file at all during that
9 time?

10 A. No.

11 Q. Okay. So it really is 2019 to 2022 that
12 you're involved in the file, and you get to
13 come into the sort of the happier part of
14 this file, I suppose. While you had no
15 involvement in the rejection of the
16 satellite classrooms in 2017, 2018 and 2019,
17 you are involved in the process of approval
18 and the setup of the satellite classroom in
19 2020, right?

20 A. Yes.

21 Q. Okay. So now that I've got a sense of, you
22 know, what your role is on this--oh, one
23 other question about when you took over your
24 role. So in 2019, when you become the
25 assistant director of education, student

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1 services, what kind of update do you get
2 from your predecessor or your superior on
3 the satellite classroom proposals at that
4 point? Like, as soon as you walk into this
5 role, are you told, hey, we're working on a
6 satellite classroom proposal or there
7 previously had been satellite classroom
8 proposals that had been rejected? I guess
9 tell me right from sort of your first
10 knowledge of this satellite classroom
11 project, tell me what your understanding
12 was?

13 A. So my first knowledge would have been when
14 Darlene Fewer Jackson was hired, that fall,
15 and she, you know, opened up a conversation
16 about their being a possibility for a
17 classroom. I don't remember any
18 conversation about it before then.

19 Q. Okay. So this is the fall of 2019?

20 A. Yes.

21 Q. A few months after you were hired?

22 A. Yes.

23 Q. Okay.

24 A. So, I was hired in June. It was in
25 September when she started.

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1 Q. Okay. So the first time satellite classroom
2 is brought to your attention is through
3 Darlene Fewer Jackson. While the satellite
4 classroom itself may not have been brought
5 to your attention before then, what about
6 the needs of deaf students that were--they
7 were attempting to solve with the satellite
8 classroom, between, let's say, June and the
9 fall of 2019, were you made aware or has
10 anybody come to you indicating that there
11 are, you know, problems with deaf education
12 in the province?

13 A. Well, prior to my position there would have
14 been regional people who were responsible
15 for student services and all our DHH
16 itinerants would have left for the summer
17 just as I moved into that role. So I don't
18 remember any update until that fall when
19 there was a role and a position created.

20 Q. Oh, okay. So when Darlene Fewer Jackson
21 comes to you and indicated that they're
22 thinking about creating the satellite
23 classroom, does she give you any kind of
24 history or background or justification on
25 why something like a satellite classroom is

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1 needed or are you just simply instructed to
2 take the proposal and run with it?

3 A. Well, no. There was a conversation. I
4 mean, she brought forward a proposal, an
5 idea, a concept, that we discussed back and
6 forth many times and worked it through
7 until, you know, there was enough details
8 and I understood what she wanted to do and
9 why she wanted to do it, and then we moved
10 ahead.

11 Q. Okay. So in the fall of 2019, thanks to
12 conversations with Darlene Fewer Jackson,
13 you're aware of both what she wants to do,
14 but I think more importantly for our
15 purposes, you're aware of why it needs to be
16 done. So, when I say things like, you know,
17 they were aware that students were--deaf
18 students were language deprived, weren't
19 given an opportunity to develop ASL in their
20 community schools, you know what I'm talking
21 about there, you would have been familiar
22 with those issues? And you're nodding, yes?
23 Okay.

24 A. Yes.

25 Q. And then the same with that individuals

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1 delivering curriculum to deaf students or
2 assisting deaf students frequently had low
3 levels of competency in ASL; you were aware
4 of that issue?

5 A. Yes.

6 Q. And you were also aware of the sociological
7 interpersonal issues that happen when a deaf
8 child is placed in a hearing school and
9 unable to communicate with their colleagues;
10 you were aware that that was a problem, as
11 well?

12 A. Yes.

13 Q. Okay. All right. So it sounds like you
14 were given a full briefing by Ms. Fewer
15 Jackson and I'll have to thank her for that
16 tomorrow. You receive an email from
17 somebody in November of 2019, and we don't
18 know who it is. I'm going to refer you to a
19 document. You've got it open in front of
20 you there already. For everybody else,
21 we're looking at Volume 6 of our documents,
22 and that's Tab R as in Romeo. So there's a
23 redaction in this, so we don't know who you
24 sent the email to. And that's fine, we
25 don't need to know. But this is an email

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1 from you. I'll wait for the adjudicator.
2 Based on the context of this email, I'm
3 assuming that this person emailed you and
4 expressed some concern for students who are
5 deaf and hard of hearing because the opening
6 of your--opening sentence says, "Thank you
7 for your email advocating for students who
8 are deaf and hard of hearing." And you say,
9 "Please be assured that our School District
10 is fully committed to providing quality
11 education for all students with hearing
12 loss." Then you say, "Students with hearing
13 loss are supported by qualified teachers for
14 the deaf and hard of hearing, an educational
15 audiologist, an auditory verbal therapist
16 and student assistants if they meet the
17 requirements. Every effort is made to
18 ensure that students who communicate using
19 American Sign Language are supported by
20 proficient users of ASL." So when you say
21 this in November of 2019, were you aware
22 whether it was--whether it was true or not
23 that these students were being supported by
24 a qualified teacher of deaf and hard of
25 hearing? What did you mean by a qualified

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1 teacher of the deaf and hard of hearing?

2 A. So, I would have meant our deaf and hard of
3 hearing itinerant teachers.

4 Q. Okay. That's what you mean, the deaf and
5 hard of hearing itinerant teachers. What
6 did you mean by qualified? Do you mean,
7 like, that they had a teaching certificate
8 or--

9 A. Yes.

10 Q. Okay. So you--by qualified teacher of the
11 deaf and hard of hearing, you meant somebody
12 who had a teacher's certificate and was
13 working as a DHH?

14 A. Yes.

15 Q. Did you understand that there was no ASL
16 competency test performed on any of those
17 DHH itinerant teachers?

18 A. Yes.

19 Q. Okay. But you still felt that they were a
20 qualified teacher of the deaf and hard of
21 hearing?

22 A. Yes.

23 Q. Okay. What are some of the efforts--you
24 indicate that you made every effort. Tell
25 me what some of the efforts are to ensure

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1 that students, and Carter would have been
2 one of these students because he's a student
3 who communicates using ASL, was supported by
4 a proficient user or ASL? What efforts did
5 you make to ensure that he was supported by
6 proficient users of ASL?

7 A. So, specifically around recruitment?

8 Q. Well, I mean, I don't think what you said in
9 your email is true. So I'm asking you to
10 tell me whether or not it is true and what
11 evidence you have that it is true that
12 students like Carter were supported by
13 proficient users of ASL?

14 A. So, my involvement in case management of the
15 children and the deployment of the DHH
16 teachers, any time that there are, you know,
17 vacancies or positions to fill, the
18 recruitment efforts would be to match the
19 qualifications that are required and then
20 the case management that happens about who's
21 the best fit to work with which students.

22 Q. Okay. So what you meant was, you know, you
23 posted preferred qualifications and
24 hopefully someone would respond to that ad.
25 Because at this time in 2019 you aren't ASL

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1 testing anybody, were you?

2 A. No.

3 Q. Okay. I mean, would you agree that you were
4 maybe a little over zealous by saying that
5 you made every effort to ensure that
6 students who communicate using ASL are
7 supported by proficient users of ASL when in
8 fact you weren't ASL testing any of them?

9 A. Well, no. I would make--when I say every
10 effort, it was beyond the job ad. Then the
11 case management work, trying to determine
12 who was the best fit was the work that
13 Darlene did with the team, matching the
14 skillset of the teachers with the children
15 who had any variety of needs related to
16 those programs and services.

17 Q. Okay. I don't, I just don't understand,
18 though, how were you making any effort to
19 ensure that students like Carter were being
20 taught by people who were proficient in ASL
21 without ASL proficiency testing any of them?
22 I mean, you don't have any ASL ability?

23 A. No.

24 Q. You have no ability to assess anybody in
25 ASL?

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1 A. Um-hm.

2 Q. Neither does Darlene Fewer Jackson. None of
3 these people were being tested. How did you
4 know that you were making every effort to
5 ensure, not just to try, to ensure that you
6 were providing Carter with a teacher
7 proficient in ASL?

8 A. Because if Carter, Carter uses ASL and any
9 other students who use ASL, then you're
10 going to, through all the conversations that
11 you have with the staff, the DHH itinerants,
12 the teachers who are using ASL, you're going
13 to work to find the best fit for the
14 students who need ASL for communication.

15 Q. Did you find the best fit for Carter
16 Churchill in 2019?

17 A. Well, I can't--I mean, the case management
18 around that, I wasn't directly involved.

19 Q. Okay.

20 A. I worked with the team--

21 Q. You worked with the team.

22 A. --Darlene who did that.

23 Q. Who told--who in the team told you that
24 Carter was, you know, being provided with a
25 teacher who was proficient in ASL?

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- 1 A. Would have been Darlene.
- 2 Q. Darlene. And did Darlene proficiency test
3 anybody? I think you acknowledged earlier
4 that--
- 5 A. No.
- 6 Q. --nobody was proficiency tested. And later,
7 when some of these teachers were proficiency
8 tested, some of them scored fairly low. In
9 fact, some of them--many of them scored far
10 lower than they had represented their ASL
11 abilities. Were you aware of that?
- 12 A. And I guess it's important to note that
13 there are other people in the room who are
14 ASL proficient. So in the satellite
15 classroom set up, there are people who are
16 ASL--you know, have different levels of
17 proficiency, so it wouldn't just be the
18 classroom teachers.
- 19 Q. Understood. Look, things get substantially
20 better in the satellite classroom. This
21 email that you send, though, is in November,
22 2019, and the satellite classroom doesn't
23 exist.
- 24 A. Um-hm.
- 25 Q. That doesn't happen until September, 2020,

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1 six months later. I think I can do the
2 math. So that's obviously not the answer to
3 ensuring that Carter is being taught by
4 someone proficient in ASL, to say well,
5 satellite classroom had other people in it,
6 because that's six months down the road.

7 A. Right. So, before the satellite classroom
8 is created, though, the learning
9 environments for all the children would have
10 been case managed and provided the best fit
11 for the people that we had at the time.

12 Q. And part of that case management was not ASL
13 testing, was it?

14 A. No.

15 Q. Are you now aware that the teacher who was
16 providing supposed ASL instruction to Carter
17 Churchill while he was in Grade 3, when you
18 wrote this email, was later proficiency
19 tested and found to have low proficiency?

20 A. Yes.

21 Q. Are you aware that Tammy Vaters, who was the
22 student assistant who is a native signer, a
23 deaf woman, has provided an affidavit to
24 indicate that Carter was in a classroom in
25 that year, referring to that teacher, who

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1 was unable to communicate or teach Carter in
2 ASL, are you aware that that was her
3 opinion, as well?

4 A. No.

5 Q. Okay. Does it surprise you, based on the
6 ASL proficiency testing, though, that that's
7 her opinion?

8 A. I don't--

9 Q. You have no ability to evaluate that, do
10 you?

11 A. No.

12 Q. I mean, the point is I think that you, in
13 November, 2019, you assured somebody that
14 somebody was receiving, you know, proficient
15 instruction in ASL when in fact, you know,
16 you hadn't taken--you or not just you
17 particularly, but the royal you, the School
18 District, hadn't taken any steps to ensure
19 that the proficiency was as represented?

20 A. I think what I would say is that we made the
21 best effort we could, made every effort we
22 could to have the best people with the
23 children who needed those services.

24 Q. Would you say you made the best efforts you
25 could with the tools you had available?

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1 A. Absolutely.

2 Q. That's what everybody has said so far, yeah,
3 yeah. Do you acknowledge, though, that
4 you'd have a better sense of whether the
5 tools you had available were appropriate if
6 you had ASL tested them?

7 A. Well, even a DHH teacher who--you know, a
8 person with their master's in DHH, that's
9 no--you know, a person can graduate with
10 that master's degree and not have ASL. So I
11 think the combinations of professionals in
12 the classrooms can make the difference.

13 Q. You're talking about the satellite
14 classrooms?

15 A. Yes.

16 Q. In that sentence, right. How about the Gain
17 a Superpower program, do you recall that
18 program?

19 A. I do.

20 Q. You were involved in the rejection of that
21 program, weren't you?

22 A. Um-hm.

23 Q. In fact, you were the one--were you the one
24 who rejected the program or was that Ed
25 Walsh?

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- 1 A. No, that was me originally.
- 2 Q. That was you originally, because there's a
3 subsequent decision that's made, okay. So
4 by way of background I think you know this,
5 but to remind the adjudicator as much as
6 remind you, Gain a Superpower was a
7 voluntary program started by Kim Churchill
8 and others where during lunchtimes and other
9 periods volunteers would come into the
10 school and teach--teach is probably the
11 wrong word. Go through a volunteer--sorry.
12 Go through basic ASL vocabulary with hearing
13 students. The idea being, and I'm sure you
14 recognize this, you know, the social
15 isolation of a child like Carter Churchill,
16 only hearing (sic.) kid in a school of 750
17 kids, couldn't speak with his classmates.
18 So to try to assist some of those children
19 in learning some basic sign vocabulary,
20 right, that was what you understood the
21 program to be?
- 22 A. Um-hm.
- 23 Q. Right.
- 24 A. Yes.
- 25 Q. And, you know, this wasn't just some idea, a

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1 need that Kim Churchill identified as
2 existing, this was pointed out, you know, by
3 the deaf itinerants several years ago that,
4 you know, these children are isolated in a
5 classroom, unable to communicate with their
6 peers. It was identified by the Department
7 of Education. So it was sort of--I think
8 it's fair to say it was well known that a
9 student like Carter Churchill, you know,
10 would be isolated in a hearing classroom,
11 right?

12 A. Yes.

13 Q. And the School District and the Department
14 of Education didn't provide any programs or
15 curriculum to hearing students, particularly
16 hearing students in classrooms with deaf
17 child to assist them in learning ASL, did
18 it?

19 A. No. But the question on the original, you
20 know, submission was based on the idea that
21 inside the scope of practice of a DHH
22 teacher, that they might be the people who
23 would be working with other children in that
24 context.

25 Q. Yeah. I wasn't quite sure I understand.

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1 This was to have DHH teachers teach this to
2 hearing children?

3 A. Well, I guess when the original proposal
4 came forward, minus any consultation with
5 the Teachers Association, we wouldn't want
6 to have approved something without knowing
7 if that was inside the scope of practice for
8 those people, so there was consultation that
9 happened.

10 Q. But why would a DHH--DHH teachers are not
11 assigned to hearing children. Why would a
12 DHH teacher be teaching hearing children
13 ASL? I agree with you, that's not within
14 their scope of practice. That doesn't sound
15 like anything I or my clients have ever
16 heard. You're telling me the initial Gain a
17 Superpower proposal was that DHH teachers
18 would be teaching hearing kids?

19 A. No.

20 Q. Okay.

21 A. No. Sorry. The original request that came
22 in was denied based on not knowing--minus
23 any consultation with the NLTA, that you
24 would be asking the DHH teachers to do that
25 work.

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1 Q. Oh, okay. But, as I understand the proposal
2 that it gets clarified, because I think
3 there was some confusion around that in the
4 beginning.

5 A. Um-hm.

6 Q. And it gets clarified and you still continue
7 to reject it, that that's not what's
8 happening. This is a volunteer program
9 being taught by volunteers who are not
10 teachers who are, you know, Kim Churchill
11 and a few friends, and that's who's doing
12 it. So absent--so once that issue gets
13 resolved, the program still gets rejected,
14 though, right?

15 A. Um-hm.

16 Q. Right. What's the reason for that
17 rejection? Why reject a voluntary program
18 that's fulfilling a need that the School
19 District is not meeting?

20 A. On the original conversations, the rejection
21 was borne out of who can teach ASL.

22 Q. As in it shouldn't be the DHH teachers
23 because that's a teaching job and the idea
24 being that wouldn't be within the scope of
25 the collective agreement, right?

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1 A. And then does it need to be a native signer.

2 Q. Okay. We'll talk about the second one in a
3 second. The first one, I understand that a
4 reason given for one of the initial
5 rejections, and tell me if you're familiar
6 with this, the District said this is not
7 within the collective agreement, the NLTA
8 would have a problem with this, right?
9 That's initially what you communicated to
10 the Churchills, right? And you also know
11 that shortly thereafter the NLTA expressed
12 its position to the School District to say,
13 we absolutely have no problem with this. I
14 think they used the phrase, "we can't be any
15 clearer." We have no problem with this
16 program. We think it's a great program. We
17 don't think it's contrary to the collective
18 agreement. So that turned out not to be a
19 problem, right?

20 A. (No audible response).

21 Q. Right. So, you know, everyone has a job to
22 work together in sort of human rights kind
23 of scenarios, you know, unions and
24 individuals and kind of everyone has to chip
25 in. And the NLTA was saying in relation to

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- 1 Gain a Superpower, this isn't a barrier for
2 us, this isn't a problem for us, right?
- 3 A. Um.
- 4 Q. So then what was really the reason for the
5 rejection? You mentioned a second thing.
- 6 A. The question about whether or not that was
7 native signer who needed to teach ASL.
- 8 Q. Okay. So, what you're saying is the reason
9 this program is rejected after the first
10 reason falls through, it turns out that
11 there is no problem from the NLTA, is that
12 this program teaching with a volunteer
13 teaching basic sign vocabulary, you know,
14 hello, goodbye, red and blue, must be taught
15 by a native signer, a deaf person?
- 16 A. Well, after the original letter that went to
17 the Churchills, after that point the file
18 was over with Mr. Walsh. I was not
19 interacting with it at that point. I'm just
20 saying that was something that was raised.
- 21 Q. Oh, that's something -
- 22 A. If it had to be.
- 23 Q. Okay. So, let's make sure we have your
24 evidence straight.
- 25 A. Um-hm.

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- 1 Q. The reason for the rejection is because--
2 which is issued by you.
- 3 A. Um-hm.
- 4 Q. Is because it doesn't line up with the
5 collective agreement?
- 6 A. Yeah.
- 7 Q. And then the NLTA comes back and says, no,
8 no, no, that's not a problem for us at all
9 and then you don't do anything else? The
10 program remains in the rejected pile?
- 11 A. I don't know how it went from me to Mr.
12 Walsh, if there was a letter that went to
13 Mr. Walsh, what the next step was. But I do
14 know that the follow-up communication was
15 through Mr. Walsh.
- 16 Q. So the file leaves your hands after that
17 point?
- 18 A. Yes.
- 19 Q. Okay. I'll have to ask Mr. Walsh about it,
20 is what you're telling me?
- 21 A. Yeah.
- 22 Q. And Mr. Walsh is not going to say that I
23 should have asked you? It rested with him?
- 24 A. Yes.
- 25 Q. Okay. I just want to make sure I don't have

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1 to call you back.

2 ADJUDICATOR:

3 Q. Who is Mr. Walsh?

4 A. He's the associate director of education and
5 I report to him.

6 Q. What's his first name?

7 A. Ed.

8 Q. Ed, okay.

9 MR. REES:

10 Q. Did the District, you know, following the
11 rejection of this program, did the District
12 take any steps to organize or provide, you
13 know, its own program that met, met its own
14 criteria? I mean, this was clearly an
15 initiative that was, you know, endorsed,
16 embraced and met a required need. Did the
17 District do anything to meet that need
18 besides rejecting the free volunteer
19 program?

20 A. No. That was when the plans were happening
21 for the satellite classroom and a change to
22 how the learning environment and the
23 structure would happen.

24 Q. Yeah. This is--my client is telling me,
25 she's absolutely right, I mean, this

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- 1 rejection is in April, 2019.
- 2 A. Um-hm.
- 3 Q. And the first proposal happens in 2018. The
- 4 satellite classroom doesn't happen until
- 5 2020.
- 6 A. Um-hm.
- 7 Q. Are you telling me the plans for the
- 8 satellite classroom were so firmly in place
- 9 by April, 2019, that you guys were--felt
- 10 like you didn't need to meet the Gain a
- 11 Superpower need because satellite classroom
- 12 is coming along?
- 13 A. No.
- 14 Q. Okay. What are you telling me then?
- 15 A. No. After the program did get approved.
- 16 Q. Um-hm.
- 17 A. Yes. So then--but did we organize something?
- 18 No.
- 19 Q. Yeah. So it's a year goes by between the
- 20 rejection and the eventual approval and then
- 21 COVID and all kinds of thing happened,
- 22 unfortunately, to stymie the best laid
- 23 plans. I should speak slower. Your role in
- 24 setting up the satellite classrooms, you
- 25 know, was it sort of tasks as assigned by

September 6, 2022

1 Darlene Fewer Jackson and it was mostly sort
2 of logistical tasks, finding space, finding
3 transportation, finding staff or were you
4 involved in sort of the creation of the
5 programming, the requirements, coming up
6 with how to meet the needs that were
7 identified?

8 A. She would consult with me, but it was, you
9 know, the programming, the vision for it,
10 the proposal was Darlene.

11 Q. Did you, in the role of assisting and
12 consulting with Darlene to create the
13 satellite classroom, did you have to
14 approach the Department of Education at any
15 point to make a request for additional
16 financial or other resources?

17 A. No.

18 Q. Do you know if the satellite classroom
19 required additional resources or were you
20 able to provide for the needs of these deaf
21 students using the resources that were
22 already on hand?

23 A. So, prior to my position being created, that
24 was a brand new position for the School
25 District to have provincial leadership for

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1 students services, prior to that things from
2 2015 until that point still continued pretty
3 regionally based. So there was an
4 allocation of DHH itinerants that every year
5 continued to be regional. So when my
6 position was created, I worked with Darlene
7 then to case manage provincially, rather
8 than regionally. So as she found her way
9 that year and worked with all the DHH
10 itinerants, while that is happening she has
11 the proposal for the classroom and we're
12 able to find the resources internally
13 through case management.

14 Q. Find the resources internally through case
15 management. So those resources existed.
16 There was no need to go to the Department of
17 Education to get additional resources and it
18 was all manageable within the resources that
19 were already available?

20 A. Yes.

21 ADJUDICATOR:

22 Q. Mr. Rees, do you mind if I interrupt you
23 there? I just, I want to understand. You
24 said that before your position being created
25 for student services, there were regional.

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1 Did they have title, the persons who would
2 be responsible regionally?

3 A. Yes. Directors of student services.

4 Q. And so, when the original proposals for
5 satellite classroom came in, there were
6 regional directors for student services?

7 A. (No audible response).

8 Q. When you were consulted in setting up the
9 satellite classroom that was ultimately
10 implemented, did you have to secure
11 resources from what would have been other
12 regions?

13 A. Yes.

14 Q. What resources did you have to secure from
15 what would have been other regions?

16 A. Itinerant teachers.

17 Q. Which itinerant teachers came from other
18 regions?

19 A. Numbers of--do you mean numbers of
20 positions?

21 Q. You can just explain to me what resources
22 you were pulling from other regions?

23 A. Yeah. So once we had provincial caseload
24 review, we could determine that there were
25 resources, enough resources in other parts

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1 of the province that we could pull to metro
2 to create the classroom.

3 Q. And do you know what resources?

4 A. So, as it relates to the collective
5 agreement, on May the 7th of every year
6 there's a process where positions get
7 realigned, moved as required.

8 Q. Um-hm.

9 A. So once that staffing cycle process happens,
10 then you can, you know, consult with the
11 staff and move positions that would have
12 been in the Western Region or Central Region
13 or Labrador to support other regions.

14 Q. Which region did you have to pull from in
15 order to implement the satellite classroom
16 at East Point Elementary?

17 A. Western, I believe. I think both of them
18 came from Western.

19 Q. And what--

20 A. Maybe one in Western, one in Central; I'm
21 not sure.

22 Q. So, what specifically were the resources
23 that you pulled from the Western Region?

24 A. It was either two FTEs, fulltime units from
25 Western or one from Western and one from

September 6, 2022

- 1 Central.
- 2 Q. Sorry, the acronym, FTE?
- 3 A. Oh, fulltime unit, sorry.
- 4 Q. Full?
- 5 A. Yeah.
- 6 Q. So there was--I want to understand. I know
- 7 units are, you know, they represent a
- 8 person.
- 9 A. Um-hm.
- 10 Q. Who is fulfilling a particular role. So
- 11 there was a person who had to be relocated
- 12 from the Western Region--
- 13 A. A position that was deployed to the Western
- 14 Region. So, if there were five people
- 15 supporting children in that region, based on
- 16 the case management, we could have four
- 17 people there and move the position to metro.
- 18 Q. So did a person move to metro or the money
- 19 move to metro?
- 20 A. No money moved. It would have been
- 21 advertising for new people in the roles.
- 22 And whether that was somebody who retired or
- 23 when we advertised a person moved.
- 24 Q. Okay. Other than those two fulltime units,
- 25 were there other resources pulled from other

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1 regions?

2 A. No resources pulled from other regions, but
3 we certainly did, in the new satellite
4 classroom, secure positions for the student
5 assistants in that classroom who were native
6 signers.

7 Q. Thank you. Mr. Rees, I'm sorry to interrupt
8 the flow of your question, but I wanted to
9 get some clarification on that point before
10 you moved on.

11 MR. REES:

12 Q. You can't interrupt a flow that doesn't
13 exist. I think the last area of questioning
14 I have for you, we were speaking to Mr.
15 Price earlier, trying to sort of disentangle
16 the School District and the School Board and
17 where reporting happens and things like
18 that. And I understand that you would have
19 attended a meeting in November, 2019, to
20 the--tell me if this committee sounds
21 familiar. The Programs and Human Resources
22 Committee, do you remember that committee or
23 that meeting?

24 A. I remember the committee.

25 Q. Okay. Well, let me take you to the minutes

September 6, 2022

1 of that meeting. If you look at the--over
2 to your left there, there are these coloured
3 tabs. If you go to Volume 4 and it's Tab O
4 as in Oscar. You see it there?

5 A. Um-hm.

6 Q. So it has school district letterhead. And
7 then indicated as being in attendance is,
8 among other people, Georgina Lake, right?

9 A. Yes.

10 Q. So you're there at that meeting. And I
11 understand if you flip over one page under
12 "New Business" item 5.2, I assume that this
13 is the reason why you're at the meeting,
14 because it says Ms. Georgina Lake provided
15 an update on deaf and hard of hearing
16 services."" And when I look at this, tell
17 me if I'm wrong, I don't see--sorry. I
18 don't see any reference to the satellite
19 classroom at this point because that hasn't
20 been green lit, has it?

21 A. No.

22 Q. Right. So you're providing this update
23 where you're saying, you know, here are some
24 of the things that we're planning, support
25 the ASL needs of students to access the

September 6, 2022

1 curriculum, because you knew at this point
2 that ASL, students who needed ASL were not
3 able to access their school curriculum,
4 right?

5 A. Um-hm. Yes.

6 Q. Right. And so you list some of the things
7 that you're looking to do. Do you--and this
8 was kind of part of my questioning for Mr.
9 Price. You know, do you report to him--or,
10 sorry, do you report to that entire Board at
11 this point in time about the challenges that
12 have been identified, you know, by Darlene
13 Fewer Jackson and others, in providing deaf
14 education to students or are you merely
15 updating them on the new programming?

16 A. This is an update.

17 Q. Okay. So, I mean, Mr. Price indicated that
18 besides having heard, you know, things in
19 the media and things from the Churchills, he
20 was otherwise unaware that there were
21 problems with deaf education in Newfoundland
22 and Labrador, besides through the
23 Churchills, it never came to his attention.
24 So at this point, under item 5.2 when you
25 attend that meeting, you know, you would by

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1 this point have full knowledge of the
2 concerns Darlene Fewer Jackson had because
3 you met with her in the fall of 2019 and
4 this is in November, 2019, so it would have
5 been fairly fresh. Do you tell the Board
6 about any of those challenges or struggles?

7 A. No. I was giving an update on our plans
8 moving forward.

9 Q. Why not, why not tell the Board?

10 A. No reason not to give them an update except
11 that the update was about what we planned to
12 do to address programming challenges.

13 Q. Okay. Those are all the questions I have
14 for you. Thank you.

15 ADJUDICATOR:

16 Q. What was the volume reference you were just-
17 -

18 MR. REES:

19 Q. Volume 4, Tab O.

20 ADJUDICATOR:

21 Q. Mr. Penney, any questions?

22 MR. PENNEY:

23 Q. No.

24 ADJUDICATOR:

25 Q. Okay. If there are no other questions,

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1 then, Ms. Lake, you are free to go. And I
2 appreciate you coming and giving your
3 evidence to the Board of Inquiry this
4 afternoon. You can watch the remainder of
5 the proceedings once they resume, but you
6 are the last witness we have scheduled for
7 today. And so we will adjourn until 9 a.m.

8 MR. REES:

9 Q. Yeah, I think we're late start. And,
10 actually, Mr. Penney and I had a discussion.
11 First day of school and I understand there's
12 a late start time--

13 ADJUDICATOR:

14 Q. This Thursday. Okay.

15 MR. REES:

16 Q. So we're suggesting 9:45.

17 ADJUDICATOR:

18 Q. 9:45 tomorrow. Yes?

19 MR. REES:

20 Q. Yes.

21 ADJUDICATOR:

22 Q. Okay. All right, we are adjourned until
23 9:45 tomorrow.

24 Upon conclusion at 4:10 p.m.

25

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CERTIFICATE

I, Doreen R. Marshall, hereby certify that the foregoing is a true and correct transcript of a Human Rights Hearing heard on the 6th day of September, 2022, at the Holiday Inn, St. John's, and was transcribed by me to the best of my ability by means of a sound apparatus.

Dated at St. John's, Newfoundland Labrador,
this 14th day of September, 2022

Doreen R. Marshall
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