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Certificate

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1 ADJUDICATOR:

2 Q. Good morning, everyone. We are now onto day
3 seven of this part of our inquiry, and I see
4 that our next scheduled witness, Alma
5 McNiven, is present. Ms. McNiven, before
6 you give your evidence to the Board of
7 Inquiry this morning, we will ask you to
8 swear an oath or give your solemn
9 affirmation to tell the truth. You have the
10 choice between swearing an oath or giving
11 your solemn affirmation. Which would you
12 choose?

13 A. Swearing an oath.

14 MS. ALMA MCNIVEN (AFFIRMED), CROSS-EXAMINATION BY MR.
15 STEPHEN PENNEY

16 REPORTER:

17 Q. For the record, state your name please.

18 A. It's Alma McNiven.

19 ADJUDICATOR:

20 Q. So, I understand this morning Mr. Rees will
21 have a series of questions for you. Mr.
22 Penney may have--pardon?

23 MR. PENNEY:

24 Q. I have a couple of questions first on a
25 document.

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1 ADJUDICATOR:

2 Q. You have questions before Mr. Rees gets
3 started?

4 MR. PENNEY:

5 Q. Yes.

6 ADJUDICATOR:

7 Q. Okay. So, it seems Mr. Penney is going to
8 start the questioning. Mr. Rees will then
9 have a series of questions. I may have
10 questions for clarification as we go along,
11 but, Mr. Penney, go ahead.

12 MR. PENNEY:

13 Q. Good morning, Ms. McNiven. There's a slim
14 sort of--it looks like this, at the front
15 there, right in front of the water.

16 A. Yes.

17 Q. And if you'd just open it up to Tab 1.

18 A. Yes.

19 Q. Are you familiar with this document?

20 A. Yes.

21 Q. Can you explain what this document is?

22 A. This document is--it was an ad for a
23 teaching and learning assistant, DHH, that
24 would support our deaf students in classes.

25 Q. And is this a new position?

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- 1 A. It is a new position.
- 2 Q. Can you tell us a little bit about its
3 creation?
- 4 A. Originally here in Newfoundland we had
5 student assistants who are working with our
6 children. In APSEA they had language
7 acquisition workers. So, we were going back
8 and forth with APSEA trying to figure out
9 how we could improve our classification for
10 our students and for our workers. So, they
11 switched to deaf interpreters instead of
12 language acquisition workers because they
13 didn't find language acquisition workers
14 were what they needed. So, then in
15 consultation with HR here we changed it
16 again. We changed it to improve it. So,
17 instead of being deaf interpreters, the TLA
18 will interpret for say a teacher who's
19 speaking. The deaf individual will use Live
20 Stream App, and then that person will--the
21 deaf person will sign, interpret, for the--
22 interpret for the teacher say, and with this
23 position, they're actually now in the NLTA
24 union, so it's a much better position.
- 25 Q. Thank you. And how many of these have you

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1 sought to hire in the Province?

2 A. Six.

3 Q. And how many have you hired?

4 A. Three confirmed. One should be hired in the
5 next day or two. We have an interview on
6 Friday, and then I have--when I leave here I
7 have to go and look at a short list for
8 another one.

9 Q. So, when did all the hiring occur?

10 A. The hiring occurred within the last--we had
11 to interview, and I had a lot of trouble
12 getting interpreters so it was delayed. I
13 was hoping to interview on Monday. We
14 didn't get to interview until Wednesday of
15 last week, and then once it was confirmed
16 who they were, we couldn't put it in the
17 system because they're trying to get their
18 certification for teaching learning
19 assistant, but because they actually don't
20 have their certificate to date, it could not
21 be confirmed in the system, and if it's
22 confirmed in the system, the system will
23 just email. An email will go out. So, an
24 email should have gone out a couple of days
25 prior to people actually getting their

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1 notification. So, I went over to HR twice,
2 and I said, I cannot confirm these jobs
3 because the women, the ladies, staff, don't
4 have their certificates. So, they said,
5 well, you're going to have to do it
6 manually. So, manually I had to--because I
7 knew they were--I knew they were anxious
8 about these roles. They said I could type
9 up a letter and say you have been--you will
10 be offered--you will soon get an offer of a
11 position. So, that's what I did. I typed
12 up a letter and said there's an offer
13 coming. It will come in the next day or
14 two, and you will have 24 hours to confirm.

15 Q. Okay. Thank you. That's all the questions
16 I have.

17 A. Okay.

18 ADJUDICATOR:

19 Q. Mr. Rees.

20 MS. ALMA MCNIVEN, CROSS-EXAMINATION BY MR. KYLE R.

21 REES

22 MR. REES:

23 Q. Hi, Ms. McNiven. I said hello to you
24 earlier in person, but I'm Kyle Rees. I'm a
25 lawyer for Todd and Kim Churchill who are

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1 sat here with me. So, we've got a couple of
2 hours, or three hours in fact, budgeted. I
3 think I indicated to you earlier I
4 anticipate actually being closer to two
5 hours, but I guess we'll see. I've been
6 wrong before. I'll ask you a series of
7 questions, some of which will be based on
8 your affidavit. I understand you have that
9 in front of you. There are a lot of other
10 documents, as you can see, surrounding you
11 on the table there.

12 A. Yes.

13 Q. As we proceed forward I will refer you to
14 some of those documents, and we'll take some
15 time to open them and get through them, and
16 make sure you're familiar with them when the
17 time comes. Given that we do have a longer
18 period of time set aside for discussions
19 with you today, you know, in the event that
20 you need a break, or anything like that, let
21 me know.

22 A. Thank you.

23 Q. In the event that my question is not clear,
24 feel free to tell me that. I've heard it
25 before, I'm sure I'll hear it again. I want

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1 to start by asking you a question about the
2 teaching learning assistant job offers that
3 you've just described.

4 A. Yes.

5 Q. You know, we had a bit of a dramatic moment
6 in this room last week where it was, I
7 suppose, implied, and I think now we accept,
8 that Tammy Vaters, while she was on the
9 stand, was sort of asked if she had checked
10 her email to see that there was a job offer
11 in there. What--I mean, the timing was more
12 than coincidental, right? It was very
13 important that in time for this hearing that
14 Tammy Vaters receive a job offer, right?

15 A. No.

16 Q. You're telling me it was a coincidence?

17 A. I'm telling you that this hearing--I wanted
18 Tammy to have her notification--for Tammy,
19 because she's an excellent employee.

20 Q. Undoubtedly. I mean, she's one of the best
21 you got.

22 A. It had nothing to do with this. I had no
23 idea that was going to happen. It had
24 nothing to do with it.

25 Q. Okay.

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- 1 A. Absolutely not.
- 2 Q. How many other TLA's received a job offer
3 that morning?
- 4 A. Three of them.
- 5 Q. Three?
- 6 A. Tammy, and two others, yeah.
- 7 Q. Okay.
- 8 A. And I would have--what I would have done was
9 I would have toggled (phonetic) up one,
10 copied it, pasted it, and pasted it, changed
11 the name and flicked it.
- 12 Q. So, they would have been sent out within
13 minutes of each other?
- 14 A. Absolutely. I have no idea which one I sent
15 first.
- 16 Q. Okay. No problem. We're just doing our due
17 diligence to make sure things flowed in the
18 order they did.
- 19 A. I understand.
- 20 Q. Your role in this, and I gleaned this from
21 your affidavit--you know, for the most part
22 you're a classroom teacher, for most of your
23 career -
- 24 A. Yes.
- 25 Q. - but you, I guess, you enter into this

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1 narrative in September 2020, because for the
2 school year 2020 to 2021 you're a DHH
3 itinerant in the East Point Elementary
4 satellite classroom, ASL immersion
5 classroom, whatever we're going to call it,
6 right?

7 A. Absolutely.

8 Q. And so you interact with Carter, and several
9 of the other education professionals that
10 we've examined already, in that capacity,
11 right?

12 A. Yes.

13 Q. And you also--you indicate in your affidavit
14 that in September of 2022, which is this
15 year, you're hired as Director of Programs
16 for Deaf and Hard of Hearing. So, is that
17 your current role?

18 A. It is.

19 Q. We had some understanding that your role was
20 coming to an end or something. Can you just
21 update us? Like was your role set to expire
22 and you got renewed? What's the status
23 there?

24 A. Well, my role--I had a contract from
25 September 1st to August 31st, and at some -

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- 1 Q. From '21 to '22?
- 2 A. Yes.
- 3 Q. Okay.
- 4 A. So, some point in June--I'd have to look at
5 my email. I think it was like mid June,
6 there was an executive meeting, and it was
7 talking about the jobs that were being cut
8 or changed. So, my Director--my job was
9 Director of Programs for Deaf and Hard of
10 Hearing, and that role was to change. I
11 don't know if it's that role, instead there
12 was a new role. There was a role for a lead
13 over deaf and hard of hearing, blind,
14 education psychologists, and speech language
15 pathologists.
- 16 Q. Okay. So, that's the role that you're
17 continuing in to date?
- 18 A. No.
- 19 Q. Okay.
- 20 A. No, that's what was said, and then it was--I
21 was trying to figure out when it was. So, I
22 went back to work, I believe, the first of
23 August. So, two or three days before that I
24 would have got notification that the job
25 would remain the same as I had last year.

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1 Q. Okay. So, are you the--I'll put it simply,
2 I mean, you're the new Darlene Fewer
3 Jackson?

4 A. Yes.

5 Q. And we're going to talk to Darlene later on
6 this afternoon. So, the role that you're
7 filling now was the role that she was--she's
8 your predecessor?

9 A. Yes.

10 Q. Right. I understand. And beyond that, as
11 we said, back in the school year 2020 to
12 2021, you were a deaf itinerant in the DHH
13 classroom?

14 A. I was.

15 Q. Great. And you come to know Carter in that
16 capacity?

17 A. I did.

18 Q. You worked with Carter?

19 A. Yes, absolutely.

20 Q. Just tell me about your experience in the
21 DHH classroom. I got some more specific
22 questions for you later, but, you know, tell
23 me--it must have been a unique experience,
24 you know, as having been a classroom teacher
25 before, and having fulfilled the DHH role

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1 before. To be placed into this satellite
2 classroom must have been a pretty unique
3 experience.

4 A. Not really.

5 Q. No?

6 A. To me it was kind of like going home.

7 Q. Okay.

8 A. Because I started my career--my mother was a
9 teacher, and I said I will never be a
10 teacher. I always tell kids--that was the
11 biggest joke of all. I always said I'm
12 never going to be a teacher, and then one
13 day I got a call to sub. I went into the
14 School for the Deaf and I just--you know, I
15 had gone there many times as a child because
16 my mother was a teacher of the deaf, but I
17 just fell in love with the kids one day, and
18 then I said I would, and then Linda Clarke
19 phoned me when I finally had my teaching
20 degree and said, well, come in and sub, and
21 then when I subbed I said I have to do a
22 Masters degree now because I--so, I had
23 taught at the School for the Deaf. I had
24 taught in every department at the School for
25 the Deaf. So, for me it was like going

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1 home.

2 Q. And I understand you're fairly fluent in
3 ASL. You learned it at a young age because
4 of a family member.

5 A. I did, but--I did, but I really--as a child
6 we had a lot of homemade signs.

7 Q. Homemade signs?

8 A. Yeah.

9 Q. So, like a sign that's custom designed
10 within your own family?

11 A. Right.

12 Q. Interesting.

13 A. And my sister also spoke. She actually--her
14 hearing was--she had a very high loss, but
15 my mother took her to oral school in Boston,
16 and she learned to speak. So, she spoke and
17 signed. So, when I arrived at the School
18 for the Deaf teaching, my skills were
19 nowhere near they are now.

20 Q. Right.

21 A. And when I taught at Metro Toronto School
22 for the Deaf, they were nowhere--the best
23 place to learn to sign is to be immersed in a
24 community like that. For the same reason in
25 the summertime I sent my children to Quebec.

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1 Q. To learn French?

2 A. To learn French. So, if you want someone to
3 learn--and there's such a small community
4 here. There's only so many people who can
5 actually teach us their native language. I
6 forget your question.

7 Q. Well, no, I was just asking about your
8 experience, and you've described it very
9 well. It's interesting to hear that, you
10 know, that the immersion in a room full of
11 other people who are signing, you know, have
12 led to that increase in your sign language
13 skills.

14 A. Absolutely.

15 Q. And it's also interesting to hear that, I
16 mean, because you were using your own custom
17 made signs as opposed to, you know, for lack
18 of a better term, you know, bad sign
19 language at home, or -

20 A. Well, it's homemade.

21 Q. Homemade sign language.

22 A. Homemade signs that would function within
23 our family.

24 Q. It took you a little while, I guess, to
25 unlearn some of those signs.

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- 1 A. Not really.
- 2 Q. No?
- 3 A. No.
- 4 Q. Pretty quick?
- 5 A. It's like you're mispronouncing a word and
6 someone tells you the right word, so you
7 just start using the right word.
- 8 Q. I see. Interesting. Tell me about this
9 satellite classroom then before I sort of
10 walk you back through some previous
11 meetings. What's the future of this
12 satellite classroom? It has been described
13 to us previously as, you know, a pilot
14 project or, you know, an experimental
15 classroom. You know, the kids have been
16 given IE's on their report cards because
17 they're sort of catching up and, you know, I
18 guess this is the first year where kids are
19 really going to be graded this year. What's
20 the future of the satellite classroom? Does
21 it go away when Carter goes to junior high
22 school? Are there new kids that are going
23 to be brought in? What can you tell me
24 about that?
- 25 A. I see the kids in that class staying

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1 together, if that's what they choose to do,
2 until they graduate.

3 Q. So, by which you mean, you know, this cohort
4 of kids, who are all in close age to each
5 other -

6 A. Well, they're not--they're groups. So, this
7 may--some of them may divide next year,
8 because we have some who are primary age,
9 and we have some who are going to
10 intermediate, so there will be a split.

11 Q. Are you in a position to be able to, you
12 know, guarantee that Carter Churchill, and
13 any of the children in his cohort, will
14 continue to get this support, you know, next
15 year when they go to junior high?

16 A. My job for this year ends in next August.

17 Q. Okay.

18 A. I have a contract for another year.

19 Q. So, the furthest ahead that you're able to
20 see, I guess, in your role is August of
21 2023?

22 A. Yes.

23 Q. And there are no guarantees, at least that
24 you can offer, beyond that point?

25 A. No, but I--even if I wasn't in this role I

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1 would advocate for that.

2 Q. You would?

3 A. Yes.

4 Q. And why would you? Tell me why would you
5 advocate for that? Why is that so
6 important?

7 A. Because those--that group of children are at
8 the same level, and why would you separate
9 them? They're at the same level. They use
10 the same language. They have the same
11 culture. Why would you not keep them
12 together?

13 Q. Right. How about that program being
14 available to other deaf children in the
15 Province, or other deaf children entering
16 the school system now? I mean, what do--is
17 this program going to be available to, you
18 know, the future Carter Churchill's? Do you
19 have any knowledge of that? Is it accepting
20 new applicants?

21 A. Well, I have tried to--I did try to enrol a
22 student in there, and there were discussions
23 with the mother, but he would have to have
24 come over the highway for an hour and a half
25 every morning, and his mother was very

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- 1 concerned about the winter driving, and for
2 that reason he didn't, and I do see--if
3 there are children who are in the
4 geographical area, I do see that my
5 recommendation will be to put them together.
- 6 Q. Okay. What is the threshold for admission
7 to this classroom? I mean, do you have to
8 be deaf, or can you be hard of hearing, or
9 can you be non-verbal? Like what are the
10 selection criteria?
- 11 A. For this year, for me?
- 12 Q. Yes.
- 13 A. You would have to fall under the deaf and
14 hard of hearing.
- 15 Q. Deaf and hard of hearing?
- 16 A. Yes, DHH.
- 17 Q. So, is it sufficient for, you know, a child
18 who has some verbal abilities, some ASL, to
19 be granted admission to that classroom? Are
20 you, I guess--and maybe I'm asking the wrong
21 person. I mean, do you have say, or
22 recommendation, persuasive authority, over,
23 you know, who would be admitted to that
24 classroom and who wouldn't be?
- 25 A. I would work with the team, right, but it's

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1 not about your verbal, it's about your
2 hearing level, and it's about severe
3 language delay.

4 Q. It's about severe language delay?

5 A. It is severe language delay, yeah. We are--
6 I'm a teacher of the deaf. My speciality is
7 working with children who have severe
8 language delays.

9 Q. That's your speciality?

10 A. Well -

11 Q. And I don't doubt you. I think it's a very
12 important speciality. Why would that be a
13 severe language delay, a special area of
14 study? What are some of--and we've heard
15 from one expert already. We're going to
16 hear from another in a couple of days.
17 We're going to talk about language
18 deprivation and severe language delay, but,
19 I mean, why is that a special problem to
20 solve? Why is that a unique problem?

21 A. So, if a child is born deaf, and they can't
22 hear, and it's not been identified, they
23 could come to school with a--so, if a child
24 comes to school in Kindergarten they
25 probably know 5,000 words. So, if you have

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1 a severe language delay because of your
2 ears, not because of your brain, because of
3 your ears, you could be delayed by thousands
4 of words.

5 Q. And it takes a substantial amount of work
6 to, you know, catch those children up to
7 close the gap, doesn't it?

8 A. Absolutely, and learning continues after
9 school. I'm a much better writer, reader,
10 than I was when I graduated school. You
11 just continue to learn.

12 Q. Right. And Carter, and the students like
13 him in the satellite classroom, when you
14 first came to meet them in 2020, was it
15 obvious to you that these students, and
16 Carter in particular, were suffering from
17 the effects of language delay?

18 A. I would expect any student--all of those
19 children would have come to Kindergarten
20 with a severe language delay, absolutely.

21 Q. And you understand, and I think you would
22 have said as much to Line Daly--Line Daly
23 testified a few days back, and she indicated
24 in her affidavit that she had a conversation
25 with you, and you indicated that, you know,

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1 these students who had come into this
2 classroom, you know, were coming from a
3 world where they had been severe isolated
4 from their peers. You would agree with me
5 on that?

6 A. Well, what I can agree with was when I--I
7 didn't know the other children in that
8 class, but I did know one, because one is
9 related to me -

10 Q. Okay.

11 A. - and he has spent weekends at my house, and
12 I love him. He is my great-great nephew,
13 but I'm very close to him. When I spoke to
14 Line, that's what I was talking about.

15 Q. Right. So, you're speaking about that child
16 in particular, and that's child experience,
17 the frustration of the social isolation?

18 A. Well, yeah, because I couldn't really speak
19 about others. I could assume, but I
20 couldn't speak about others. I did know -

21 Q. I mean, Carter spent four years,
22 Kindergarten to grade three, as the only
23 student in school at Beachy Cove Elementary,
24 750 children, all hearing children; he's the
25 only deaf one. Every now and then Tammy

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1 Vaters was in the school with him, but
2 besides her, there were no other deaf
3 children. He very rarely met other deaf
4 children. So, I think you'd agree with me
5 that Carter's experience was probably quite
6 similar.

7 A. Yes.

8 Q. Did you--prior to your placement in the
9 satellite classroom, and later in the role
10 that you current occupy, did you have any
11 ability or cause to review the supports that
12 these children had been provided with from,
13 you know, Kindergarten to grade three, and
14 previous years? Did you ever, you know, do
15 an examination of what had happened before
16 the satellite classroom?

17 A. I would have received documents from their
18 itinerants, yes, but if you ask me to
19 remember all those documents -

20 Q. Right, but you would have been familiar, I
21 guess, with the challenges these students
22 were facing?

23 A. Absolutely. Absolutely, yeah.

24 Q. Several witnesses have referred to the, you
25 know, those last couple of years, and some

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- 1 of these children are starting their third
2 year in the satellite classroom this year,
3 today--those last couple of years is years
4 that was spent closing the gap, and, I
5 guess, I'm asking you to acknowledge that, I
6 mean, there was a gap, right? These
7 students were substantially behind all the
8 learning outcomes and curriculum by the time
9 they entered the satellite classroom, right?
- 10 A. Yes, and socially, yes.
- 11 Q. And socially. Tell me about what you mean
12 behind socially?
- 13 A. Socially I mean--when we first started class
14 they didn't know how to communicate with
15 each other. They didn't--they just sat
16 there. They didn't--we had to teach them
17 how to communicate with their peers.
- 18 Q. "We had to teach them how to communicate
19 with their peers," because they never would
20 have had an opportunity to communicate with
21 them? I mean, they would have--we heard
22 evidence from some classroom teachers from
23 those early years that, you know, the
24 children would play blocks with other
25 children and things, and would play with

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1 other children, but they certainly would
2 have had no ability to communicate with
3 those other children, except, you know,
4 occasionally through an interpreter or
5 something.

6 A. Well, it depends. I don't know if in other
7 schools if other children had--like I know
8 at East Point, there was a class across the
9 hall from us, and I was flabbergasted by how
10 well the other students learned to sign. It
11 was heartwarming. So, I don't know what had
12 happened, how they could communicate with
13 other--I just know once they arrived we had
14 to teach them to communicate with each
15 other.

16 Q. Right. I mean, the hearing children were
17 able to pick up--across the hall, were able
18 to pick up sign fairly quickly, and were
19 pretty interested and engaged once they had
20 the opportunity, weren't they?

21 A. Absolutely.

22 Q. And, you know, that kind of--I know it's not
23 the same as being surrounded by other deaf
24 peers, but certainly it's an enhancement,
25 it's a benefit, to have hearing children who

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1 can sign as well.

2 A. Absolutely.

3 Q. Right. To your knowledge, was there any--
4 aside from, you know, whatever informal
5 opportunities you and your coworkers might
6 have had to teach sign to some of those
7 hearing children across the hallway, was
8 there every any formal instruction in ASL to
9 any of the hearing children?

10 A. I didn't teach the children.

11 Q. So, you don't know?

12 A. Well, if a child came to us and ask us to
13 sign, usually we'd say, well, you should
14 ask--you should ask one of the deaf staff.
15 And what was your other question?

16 Q. I forget. I was asking about whether they
17 acquired it quickly and whether they seem
18 enthusiastic about it.

19 A. Absolutely. I can't believe some of them.
20 I was just--I just--it made my day, many
21 days.

22 Q. Right. The District has said--District
23 witnesses have said the District has always
24 maintained that during those first four
25 years of Carter's education, from

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1 Kindergarten to grade three, when he was at
2 Beachy Cove before the satellite classroom,
3 that, you know, it was part of what they
4 call the inclusion model. I'm sure you've
5 heard that phrase and that word be used in
6 that way, and the Churchill's have always
7 challenged that to say that, you know, what
8 the inclusion model, putting a child in a
9 community school without ASL, what that
10 really means is physical inclusion, you
11 know, physical placement in the classroom,
12 and not, you know, true social, academic,
13 inclusion. Would you agree with that
14 position?

15 A. I would agree with right now children are
16 included.

17 Q. Right now in East Point Elementary?

18 A. They are included. You don't have to be in
19 your neighbourhood to be included.

20 Q. That's right. You don't have to be in your
21 neighbourhood to be included, absolutely.

22 And I would suggest to you that one of the
23 reasons why--you indicated, you know, in the
24 event that they were to suspend the services
25 of the satellite classroom proposal, you

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1 indicated, I think, that you would advocate
2 for the extension of those services, or the
3 continuation of those services.

4 A. Absolutely.

5 Q. And I would suggest to you the reason you
6 would do that is because if they were placed
7 back into their neighbourhood schools
8 without being surrounded by their ASL peers,
9 that would not be an inclusive environment.
10 Do you agree?

11 A. For those groups of children, absolutely.

12 Q. Yes, absolutely. I might pause from time to
13 time because just to the flow of
14 conversation.

15 A. That's okay.

16 Q. You've answered a lot of my questions
17 already, so I won't ask you a second time.
18 We've had some discussion with some other
19 witnesses about the use of IE on report
20 cards. I think I mentioned it briefly to
21 you, and we've had, you know, an explanation
22 now as to why IE was used. My understanding
23 is IE is only going to be used, you know, is
24 permitted to be used, over the course of two
25 years, and you're not supposed to use it for

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1 longer than two years. Do you know if the
2 expectation this year in the satellite
3 classrooms that the students will be
4 assigned numerical grades and be taught the
5 grade level curriculum?

6 A. I will just--I'd like to back up if I can.
7 So, when some of those children arrived at
8 school their language would have been
9 delayed. So, when they did Kindergarten
10 their language would have been delayed. It
11 will take a couple of years for them to
12 catch up to the language of a Kindergarten.
13 So, whatever grade they're in, as they
14 progress, it would be hard to give a grade
15 for that letter.

16 Q. And that's--I mean, that's been a concern of
17 the Churchill's, I mean, that he was,
18 Carter, was being assigned letter grades
19 throughout Kindergarten, and grade one, and
20 grade two, and grade three, when it was just
21 so apparent--they felt at the time, that, I
22 mean, he wasn't being--he wasn't able to
23 access grade level material, and in many
24 ways, you know, the IE is a more accurate
25 grade than one's, and two's, and three's,

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1 and four's, for a child who can't access the
2 course curriculum. Now, I mean, I don't
3 think I can ask you to comment upon whether
4 or not Carter was accessing grade level
5 material in Kindergarten, one, two, and
6 three, because you weren't there, but, I
7 guess, it's suffice to say that when you
8 encounter Carter in grade four at the
9 satellite classroom, you know, he's nowhere
10 near grade level in, I think we've heard,
11 all areas except math, right?

12 A. I would say that deafness, not so much hard
13 of hearing, because hard of hearing and
14 deafness is different -

15 Q. Yes.

16 A. Deafness is the most misunderstood--our deaf
17 students are the most misunderstood students
18 in our District.

19 Q. I'd agree with you.

20 A. So, as a teacher of the deaf, I understand
21 language delay. I understand the
22 implications of that, but maybe the other
23 teachers didn't, so maybe that's why--you
24 know, you can look at a deaf person, you can
25 look at a deaf child, and you cannot see,

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- 1 you cannot see if they have a language
2 delay. So, it's very, very, misunderstood.
- 3 Q. That's right. One of those teachers, you
4 know, during those early grade years, his
5 grade three teacher, was Joanne Van Geest,
6 and I understand you would have worked with
7 her at the satellite classroom. She was one
8 of the teachers that in grade three, you
9 know, who was assigning Carter numerical
10 grades. She also said when she was here
11 testifying last week that she believed, and
12 she referred to an email she wrote four or
13 five days after meeting Carter for the first
14 time in support of this, that she believed
15 Carter had other kinds of intellectual
16 disabilities in addition to deafness,
17 despite there being no evidence anywhere in
18 the record that that was the case. Do you--
19 I mean, do you agree with that? I suspect
20 you don't based on your earlier comment, but
21 do you find that there is a tendency for
22 other educators, or other members of the
23 public, to attribute intellectual delay to
24 deaf children where there is none?
- 25 A. That was a long question.

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1 Q. I know, and it was actually a compounded
2 question. The first question is, do you
3 agree with Joanne Van Geest? Do you see any
4 sign, or had you seen any evidence--you're
5 probably not the one to assess. Had you
6 been presented with any evidence that Carter
7 has, you know, in addition to the language
8 delay, which is the result of the deafness,
9 you know, any sign of an intellectual
10 disability or delay?

11 A. I will start by saying Joanne Van Geest is a
12 very good teacher.

13 Q. Yes, a colleague of yours for a few years.

14 A. No, I've never worked with her.

15 Q. Sorry, I thought--right, you wouldn't have
16 overlapped during that first year.

17 A. No. I will just say that she is a very good
18 teacher. She's a very dedicated teacher,
19 and I am glad that she is--I'm kind of going
20 off on a tangent here, but we have a very
21 small deaf population, and there are only--
22 the deaf population holds the language that
23 we need to learn. We need to be with deaf
24 people for them to teach us the language.
25 So, Joanne, working with other deaf people

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1 in the room, I'm just very grateful that
2 she's there, and what was your other
3 question? Do I agree with her comment?

4 Q. Yes.

5 A. No, I cannot say that.

6 Q. You see no evidence of that? Nothing has
7 been represented to you to indicate that?

8 A. No, nothing has been presented to me.

9 Q. The second question -

10 A. But I will say that in a discussion with
11 teachers, teachers don't always agree, and I
12 wouldn't want teachers to always agree in a
13 meeting, because you have an idea, and I
14 have an idea, and then we discuss it, right.
15 You know, one of my favourite teachers to
16 talk to is Gillian, because Gillian often
17 doesn't agree with me. She has one side, I
18 have another side, we discuss it, we ham it
19 out, and then--right. You're not supposed
20 to agree with each other. What was your
21 question?

22 Q. As a lawyer I can appreciate. Disagreement
23 is a way of arriving at truth, absolutely.
24 The second part of my question was about,
25 you know, your experience working with deaf

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1 children as an educator -

2 A. Yes.

3 Q. - and you've indicated that, you know,
4 especially a child with language delay
5 requires, you know, special understanding of
6 the effects of that. Have you found, or in
7 the course of your training and education in
8 this area, has it been the case that
9 children with language delay are often, you
10 know, mislabelled as suffering other kinds
11 of intellectual disabilities?

12 A. I have seen it, yes. Sometimes--and I don't
13 want--I wouldn't want parents watching this
14 and be upset, but there's over 325 children,
15 it's just a very select few who sometimes
16 when they come with a severe--when you come
17 to school with a severe language delay,
18 sometimes you may function. You may look
19 like you have a cognitive delay, yes, or
20 function.

21 Q. So, sometimes a student suffering from a
22 severe language delay can present as though
23 they have, you know, another cognitive
24 delay?

25 A. Absolutely.

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1 Q. Right.

2 A. When you don't have language--language is
3 like breath, right. You need language to
4 think and to know how to act socially. It
5 affects your entire life, every interaction.

6 Q. Let's talk about ASL proficiency.

7 ADJUDICATOR:

8 Q. Just before you move on from that topic, if
9 I can just jump in, I have a couple of
10 questions I wanted to ask for clarification.
11 As a teacher, do you receive any training in
12 trying to identify markers or indicators of
13 things like a cognitive delay or a learning
14 disability?

15 A. Absolutely.

16 Q. What markers, or what indicators, are we
17 talking about when you say this can present
18 in similar fashions? What are you talking
19 about? What are you observing, or what are
20 you looking for?

21 A. What am I looking for? It depends. It
22 depends on--so, if a student is having
23 problems in just math, and you teach the
24 math, and you use different strategies--so,
25 if the child is having problems with math,

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1 well, then math teachers will come together,
2 and they'll discuss the issue, and they will
3 discuss ways to try new strategies, try
4 something new. So, you have to do a lot of
5 work before you could ever say someone has a
6 learning disability, or, you know--there's a
7 lot of work to be done before you could say
8 something like that. I'm not sure if I
9 answered your question.

10 Q. I guess what I'm trying to get a sense of is
11 what you mean by somebody with a language
12 delay might present as having another issue.

13 A. Okay. So, sometimes a child who is severely
14 delayed in language doesn't have the
15 language to explain themselves, or doesn't
16 have the language to understand what way
17 they should behave in a social situation.
18 So, if they come in, and they're running
19 around the room, or they're not able to sit
20 and focus for a long time because they don't
21 have the attention span, not because they
22 don't have the ability, they have the
23 ability, they just need the language. They
24 need this language in order to learn words
25 in order to understand, and sometimes they

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1 do. They could function, someone with a
2 cognitive delay, absolutely.

3 Q. Mr. Rees, go ahead.

4 MR. REES:

5 Q. I was going to ask you some questions about
6 ASL proficiency, and ASL proficiency
7 testing. Were you at any point, in the
8 roles that you played, responsible for
9 requiring the ASL testing of any teachers?
10 Did your order or implement the testing of
11 ASL?

12 A. No, I didn't.

13 Q. No? That was done, I believe, it was prior
14 to your involvement, right? That would have
15 been Darlene Fewer Jackson and some other
16 folks who would have done that.

17 A. That's right.

18 Q. Were you aware at least that the tests had
19 been done, and what the results of those
20 tests were?

21 A. Not really. I don't really know results of
22 tests unless somebody told me themselves.

23 Q. Okay. I understand--is there currently a
24 policy that anyone who was hired to work in
25 the DHH classroom, particularly those hired

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- 1 to work as a classroom teacher, are ASL
2 proficiency tested?
- 3 A. It depends on the applicants.
- 4 Q. Okay. Tell me what you mean by that.
- 5 A. So, if you have one person apply for a job,
6 and the person is not known to sign, well,
7 then you don't--why would you test?
- 8 Q. Sorry, can you give me--if one person
9 applied for the job, and the person is not
10 known to sign -
- 11 A. Right. Actually, I think the person was--I
12 believe some people had already been tested.
- 13 Q. Sorry, are you indicating though that like
14 if you advertise for a job to teach in the
15 DHH classroom, you know, to be a classroom
16 teacher, you know, to be Joanne Van Geest,
17 or Ms. Lahoda, Gillian Lahoda, and only one
18 persons applies, it doesn't matter whether
19 that person has ASL ability or -
- 20 A. It does matter because there's a lot of work
21 to be done.
- 22 Q. Right.
- 23 A. Absolutely it matters, but when I tell
24 people that I'm a teacher of the deaf,
25 people say to me, oh, you sign, and think

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1 that I'm teaching sign. I'm not teaching
2 sign. I would never--I should never teach
3 sign. I have taken one class in my entire
4 life in sign. Everything I've learned, I've
5 learned from interacting with deaf people.
6 So, what was my point?

7 Q. I was asking about, you know, why would you
8 just hire that person without testing them
9 if you have just the one applicant?
10 Wouldn't the testing be important?

11 A. Would the testing be important? I guess if
12 someone wants to know--if I know that
13 someone is not proficient, and you're
14 testing them, I guess you can test them just
15 to prove that they're not proficient, but I
16 don't know why you would test somebody just
17 to test them if you know that they're not
18 proficient.

19 Q. Well, sometimes you would post a job, and
20 let's say you would have no applicants.
21 Now, I understand that that hasn't really
22 happened in the satellite classroom at this
23 point, but, you know, surely it's the kind
24 of thing that happens in the education
25 system. We need a teacher who can teach X

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- 1 at such and such a school, and you may get
2 no applicants, but when that happens, you
3 know, you don't just pull the custodian into
4 the classroom and ask them to teach, right?
- 5 A. No, you have to be--you have to--I am very
6 big on people having trained teachers,
7 absolutely.
- 8 Q. Absolutely.
- 9 A. Our kids deserve the best.
- 10 Q. So, what I'm asking you, and what I'm asking
11 you to explain, is that, you know, if you
12 post for a job that the ability to
13 communicate in ASL is integral for, and I'd
14 suggest to you, and let me know if you
15 disagree, that in all of the jobs in this
16 satellite classroom, you know, being able to
17 communicate in ASL is imperative.
- 18 A. It depends.
- 19 Q. Okay.
- 20 A. It depends.
- 21 Q. Let's unpack that.
- 22 A. Okay. What was your question again? Just
23 ask me again.
- 24 Q. I had said, you know, surely it's imperative
25 to teach in the satellite classroom that you

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1 have, you know, a certain level of ASL
2 skill, and you said it depends.

3 A. Okay. So, if we have someone who is not,
4 could not teach--we have a trained teacher
5 who understands deafness and we don't--but
6 she cannot sign, well then we bring in
7 somebody else. So, last year we brought in
8 an educational interpreter. This year we're
9 bringing in deaf people who will interpret
10 for that person. It doesn't get any better
11 than that. If you have--it's better than -

12 Q. If I can stop you. I mean, we've had
13 experts tell us that it does get better than
14 that. It gets one level better than that,
15 which is that the classroom teacher
16 themselves has ASL. This is the next best
17 thing.

18 A. I agree.

19 Q. That's your point?

20 A. Absolutely. I agree, but there are no
21 teachers--there are no teachers with those
22 qualifications who have applied for that
23 job.

24 Q. I understand the resources are--pickings are
25 slim.

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- 1 A. Well, it's not pickings are slim. I think
2 the candidate that we have is a very good
3 candidate. I would have her teach my own
4 children.
- 5 Q. But I guess what I mean is you don't have a-
6 -which candidate are you speaking about?
- 7 A. I'm talking about Ms. Van Geest.
- 8 Q. Ms. Van Geest?
- 9 A. Yeah.
- 10 Q. Here's what I'm asking you though, and, you
11 know, I don't particularly care about your
12 view of any given candidate. I'm asking
13 about two things. I'm asking about testing,
14 and why testing would be important, and you
15 seem to have indicated that as supply of
16 qualified teachers who have ASL ability
17 diminishes, the need or utility of testing
18 also diminishes. Have I framed your
19 evidence right?
- 20 A. Sure.
- 21 Q. Right. Wouldn't instead a better route to
22 be one where you ASL test all -
- 23 A. It could, okay.
- 24 Q. Right, and if it turns out that the ASL
25 proficiency of these individuals that are

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1 being hired, and, you know, I appreciate
2 sometimes you got to make due with less
3 than--in some cases, and no specific case,
4 have to make due as less than qualified
5 candidates, or less than desired
6 qualification candidates, wouldn't that just
7 be a sign that you need to step up your
8 recruitment efforts nationally,
9 internationally, you know, internal
10 training, those kinds of things? By not
11 testing these teachers, or others, haven't
12 you missed an opportunity to diagnose a
13 problem?

14 A. I think the problem has been a long time
15 coming. 2010 there were so many teachers in
16 the City who could sign.

17 Q. This upon the closure of the School for the
18 Deaf you're referring to?

19 A. Yes. There were so many teachers. Now
20 we're starting again. Now we have to build.
21 We have to build. There's a shortage of
22 teachers for the deaf across the country. I
23 did my training in Alberta. I don't even
24 believe the program is available anymore.

25 Q. I'd like to talk to you about that because

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1 that's something I always found interesting,
2 and you're probably aware of this, and some
3 of the experts have spoken to this. We're
4 going to speak to Dr. MacDougall on Friday
5 who's going to talk about this, I understand
6 from his report. You know, when the School
7 for the Deaf closes in 2010 there's a press
8 release from Government that talks about
9 how, you know, we're closing the School for
10 the Deaf, but that doesn't mean services for
11 deaf students are going to decrease. I
12 think we've seen that that's absolutely what
13 happened. There was a great bank of
14 talented teachers of the deaf in the
15 Province at that time, and through, you
16 know, principally retirement, attrition, but
17 also them taking jobs elsewhere, a failure
18 to retain them, you know, our bank, our
19 availability, of teachers for the deaf has
20 decreased. To your knowledge, did the
21 School District in Newfoundland and
22 Labrador, you know, do anything to attempt
23 to maintain that capacity?

24 A. I have no idea because I left. I left. I
25 went into a--I left the School for the Deaf

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1 and I went teaching, so I really don't know.

2 Q. Right. So, you were one of those who, you
3 know, but for the fact that you came back
4 later, you know, you would have been one of
5 those that we would have lost upon the
6 closure of the School for the Deaf.

7 A. Well, I was a substitute. I was never a
8 fulltime teacher there.

9 Q. Right, but, I mean, you had that ability,
10 right -

11 A. Yes.

12 Q. - and then instead you went west. You went
13 to Alberta, is that what you said?

14 A. No, I went to a high school in Torbay.

15 Q. Okay. Teaching hearing children?

16 A. Yes.

17 Q. Right. So, the supply and demand problem
18 that you've discussed regarding qualified
19 teachers of the deaf, in many ways only
20 became a problem when the District and
21 Department of Education failed to retain
22 those qualified teachers. It's a problem of
23 the District's own making in many ways.

24 A. Well, I think if you look right across
25 Canada it's not just teachers of the deaf.

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- 1 There's teachers--there's a shortage of
2 teachers in every area all across Canada,
3 right.
- 4 Q. Okay. Well, I'm just trying to square that
5 with your earlier comment about, you know,
6 with the School for the Deaf in 2010 closing
7 we had a lot of teachers, now we have a few.
- 8 A. I think they all just--I mean, I'm the
9 youngest of them I think, but, I mean, they
10 taught with my mother.
- 11 Q. Right.
- 12 A. So, I was a kid when they were all teaching
13 there, and then when I came teaching they
14 were all ready to retire.
- 15 Q. Right.
- 16 A. So, they aged out, but I would like to make
17 the point that we have teachers. We have a
18 few teachers who want to become proficient
19 in sign. We have teachers who want to do
20 that, and we should do everything to
21 encourage them to become proficient.
- 22 Q. I agree.
- 23 A. We need to build capacity now.
- 24 Q. You're speaking my language. I one hundred
25 percent agree with you.

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1 A. Okay.

2 Q. Do you have--in the role that you play, the
3 role that you have, do you play any role in
4 developing, encouraging, advocating, for
5 that training?

6 A. Absolutely.

7 Q. Tell me about that.

8 A. I just got a budget for--a budget to train
9 schools. Like I think last year we trained
10 six groups of schools, and we had a budget
11 for individual teachers, or student
12 assistants, who work directly with kids, for
13 them to be trained by NLAD. NLAD has made
14 videos at primary grades. We're hoping to
15 upload all that, and hopefully--I'm working
16 with EDU to get it, like used in one of the
17 curriculum. Maybe it could be used as an
18 extension of English. Working with EDU
19 trying to get one of the--I mean, I want ASL
20 everywhere, I do. I want it all over the
21 Province, anyway I can get it.

22 Q. A lot of these initiatives that you've
23 discussed in the examples you've given are
24 examples where sign language is being
25 extended to the general hearing population

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- 1 and other students in the school.
- 2 A. Absolutely.
- 3 Q. A fantastic initiative.
- 4 A. Yes.
- 5 Q. What about teachers who, you know, have any
- 6 kind of interest in teaching students like
- 7 Carter, you know, of increasing ASL
- 8 proficiency to a level where they can
- 9 deliver classroom instruction to deaf
- 10 children, is there any kind of initiative in
- 11 place that way?
- 12 A. Absolutely.
- 13 Q. Tell me about it.
- 14 A. They are encouraged to do courses with NLAD,
- 15 and books and materials, everything, is paid
- 16 for, absolutely.
- 17 Q. Okay. Explain to me, encouraged to do
- 18 courses with--so, is this something they do
- 19 in their free time?
- 20 A. Yes.
- 21 Q. Okay. So, they're not paid to do it?
- 22 A. No.
- 23 Q. I know that there is, you know, paid teacher
- 24 training in various areas. Is there any
- 25 interest or appetite in procuring, you know,

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- 1 paid teacher time to upgrade ASL skills?
- 2 A. We have never had to do that because there's
- 3 a select few who just--they just want more,
- 4 and more, and more.
- 5 Q. Okay. So, you're relying upon the interest
- 6 of these teachers to be able to do it in
- 7 their spare time and, you know, it's
- 8 fantastic that they're interested in it,
- 9 but, I mean, don't you agree that the uptake
- 10 would be better?
- 11 A. Absolutely. It may be something we can
- 12 discuss, absolutely.
- 13 Q. Okay. So, it's something you'd be willing
- 14 to look into -
- 15 A. Absolutely.
- 16 Q. - paid learning time for teachers?
- 17 A. I mean, I wouldn't be able to make that
- 18 discussion. I mean, I wouldn't be able to
- 19 make that decision, but I could definitely
- 20 have a discussion, absolutely.
- 21 Q. Right. Do you have any grasp on the
- 22 resources that are available within the
- 23 School District to know, you know, whether
- 24 if that was something that this Commission
- 25 ordered, whether that's the kind of thing

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- 1 that would be possible? I'm just not clear
2 on your role. Like do you have to go to
3 someone to seek budgetary support?
- 4 A. I do.
- 5 Q. Who would have to green light that?
- 6 A. Georgina.
- 7 Q. Georgina Lake?
- 8 A. Georgina Lake. Now, she might have to go to
9 somebody else as well.
- 10 Q. Okay.
- 11 A. Although I did work with--I did work with Ed
12 Walsh in order to get funding for, like a
13 budget for ASL training.
- 14 Q. And when did you get a budget for ASL
15 training? Is that new to this year, or is
16 that from last year?
- 17 A. I should have it for this year.
- 18 Q. Because this will be the first year with a
19 budget for ASL training, for that NLAD?
- 20 A. Right. So, what would normally have
21 happened--so, if there was someone in
22 Labrador--if there was a school in Labrador
23 that had training, well then that would have
24 come out of their budget, or if there was a
25 school in Western, it would have come out of

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1 a budget out there. So, now hopefully there
2 will be a budget for -

3 Q. I see. So, previously any kind of training
4 like that, various schools--I guess not
5 school districts anymore. Various areas of
6 the Province -

7 A. Covered it.

8 Q. - would be required to take it out of their
9 existing budget, but a new initiative now
10 that has been proposed, that this year is
11 being implemented for the first time, you
12 know, here on the eve of a Human Rights
13 hearing, creates a new pot of money that
14 would not require a District to use their,
15 or a school area, to use their existing
16 resources? This is new money?

17 A. Yes.

18 Q. Okay. There was an interesting point made
19 by Dr. Kristin Snodden, one of the experts
20 who was here last week, when she was asked,
21 you know, for her opinion, her views, on
22 ways in which additional qualified
23 individuals could be retained, or recruited,
24 or trained, to teach in ASL, and one of the
25 items that she mentioned was while you can--

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- 1 one route is to train teachers to increase
2 their ASL proficiency, but she said another
3 route is to take people with existing ASL
4 proficiency, specifically deaf people, and
5 train them to be teachers.
- 6 A. Absolutely.
- 7 Q. That's a good idea, isn't it?
- 8 A. Absolutely.
- 9 Q. Any plans in the hopper on that one?
- 10 A. It has been--it has been discussed with
11 myself and a couple of people, but those
12 individuals would have to be wanting to do
13 it, absolutely, absolutely. I think that
14 would be marvellous.
- 15 Q. And because these people, of course, would
16 already have a grasp of deaf culture -
- 17 A. Absolutely.
- 18 Q. - and are part of the deaf community
19 already, right -
- 20 A. Absolutely.
- 21 Q. - the ASL barrier is gone. They have that,
22 that's how they communicate.
- 23 A. Absolutely.
- 24 Q. I appreciate everything you're saying here,
25 and in some case it's a bit of a breath of

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1 fresh air for the Churchill's after heard
2 six years of no, no, no, no, to everything
3 they proposed to hear somebody say yes,
4 that's a fantastic idea. When I tell you
5 that your degree of receptiveness to these
6 ideas here today, you know, clashes with the
7 receptiveness of officials at the school
8 district over the past six years and longer,
9 upon the filing of a Human Rights complaint,
10 I'm sure that doesn't surprise you. You
11 understand your approach is somewhat new,
12 somewhat novel this way, right?

13 A. I can't speak to what has happened before,
14 but I will say, in my dealings with other
15 NLEDS staff this year, they have been very
16 receptive to what I had said.

17 Q. You know--we're going to take a break in a
18 moment if the Adjudicator is okay with that.
19 But, I mean, you're probably aware, just
20 from the history of things in the
21 Department, that, you know, since 2011
22 people like Darlene Fewer Jackson have been
23 ringing the alarm of all of these problems
24 and there had been no change made, and in
25 2016, 2017, 2018, 2019, the deaf itinerants

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1 were listing problems with deaf education in
2 the Province, and proposing solutions like
3 the satellite classroom, and the whole way
4 along, you know, people at various levels of
5 administration, you know, Bonnie Woodland,
6 and others, all within the District, not at
7 the Department of Education, have said no.
8 They've said no, and no, and no. This
9 doesn't fit with our model. This can't be
10 accomplished. We don't have enough, you
11 know, leadership, I think was what Bonnie
12 Woodland said at one point. You know, we
13 don't have the leadership to take on a
14 project like this and go forward, but it's
15 really the creation of a position like the
16 one that you occupy, and that Darlene Fewer
17 Jackson occupied before that, that has
18 become the impetus to that, right?

19 A. (No audible response)

20 Q. You're nodding yes I think.

21 A. I think the role that we have is very
22 important, there's no doubt about it. I
23 hope it continues.

24 Q. You've indicated that folks at the District
25 have been receptive to many of your new

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- 1 ideas, and you hope they're going to be
2 receptive to some of the ideas that, you
3 know, we've discussed here.
- 4 A. Absolutely.
- 5 Q. I feel like we're making a difference just
6 having this conversation. It's excellent.
7 There's no commitment at this point to doing
8 any of these things. You can't tell us here
9 at this Human Rights Commission that these
10 are options that the District will do? You
11 know, we will explore these things, or we
12 will implement these things, can you?
- 13 A. I can tell you I can explore them. I can
14 have discussions.
- 15 Q. But you don't have the power to approve any
16 of these things? That has to come from
17 someone like Ed Walsh?
- 18 A. Yes.
- 19 Q. Yes.
- 20 A. But I will say that I have had--when I've
21 gone to Ed Walsh and asked for things, he
22 has gone over and above to help me.
- 23 Q. It sounds like--and, as I promised, we'll
24 take a break, but it sounds like you're
25 getting a lot further than Bonnie Woodland

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- 1 was able to get, than the Churchill's were
2 able to get while filing a Human Rights
3 complaint. I think you have to acknowledge
4 that to some extent the credence that your
5 ideas are getting, the traction that your
6 ideas are getting now with the School
7 District, this Human Rights complaint, and
8 this hearing, and the efforts of the
9 Churchill's, is part of that, isn't it?
- 10 A. I would say, yes. I would also say that
11 because of my experience, that I bring a
12 different lens, and then I can--so, I guess
13 it's a combination, I think. Whoever--you
14 know, I've only got a couple of years left.
15 Whoever takes this role should always, I
16 believe, have a great degree of knowledge in
17 deafness.
- 18 Q. Right, because you bring a different
19 perspective. Someone with knowledge in
20 deafness brings a perspective to solving
21 this problem that a hearing person, you
22 know, without a background in deafness--it's
23 not hearing versus deaf, but experience in
24 deafness would not bring?
- 25 A. Well, may not, not wouldn't.

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1 Q. I'd suggest to you that they hadn't been
2 bringing it for years, and years, and years.

3 A. I can't say that because when I left and
4 went to the hearing school I really--I tried
5 to stay. I don't really--there's things I
6 know, but is it true, who knows.

7 Q. All you know is that when you attended East
8 Point Elementary for the first time, you're
9 encountering a half a dozen students with
10 some serious language delays who had been
11 socially isolated for years?

12 A. Yes.

13 Q. Okay. Can we take a break, Adjudicator?

14 ADJUDICATOR:

15 Q. How long would you like?

16 MR. REES:

17 Q. Five minutes should be okay.

18 ADJUDICATOR:

19 Q. Okay. We'll adjourn until--well, five
20 minutes from now.

21 (OFF RECORD)

22 ADJUDICATOR:

23 Q. Okay, Mr. Rees, you were in your questions.

24 MR. REES:

25 Q. Yes, thank you. I needed the break quite

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1 frankly because I've departed a lot from the
2 prepared questions I had. It was, you know,
3 a welcomed surprise, but a surprise for
4 myself and my clients, you know, after years
5 of hearing no, no, no, to all of the things
6 that they've proposed and suggest, and, you
7 know, in some cases demanded, and to have to
8 file a Human Rights case to get there, and
9 to have you here today, you know, saying
10 yes, acknowledging that the things that they
11 and the deaf itinerants have been advocating
12 for for years, saying, yes, you know,
13 they're a good idea, you know, I feel like
14 the District is being receptive to these
15 ideas, I'd love to bring that forward, you
16 know, it's a change of pace. Your contract
17 is for a year, is that right?

18 A. Yes.

19 Q. So, does that mean like August 2023 your
20 contract wraps up?

21 A. Um-hm.

22 Q. And is there any promise made that your
23 contract will extend or continue to exist,
24 and if the contract ends, that doesn't just
25 mean, you know, you, Alma McNiven, your

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1 contract ends and they'll bring someone else
2 in the role? That implies that that unless
3 extended the role itself comes to an end?

4 A. It could be either. I mean, I'm assuming
5 they would keep me. If the role came to an
6 end I would go back to my permanent job as
7 an itinerant teacher.

8 Q. Right. So, your permanent job is as an
9 itinerant teacher, the role that you were
10 occupying in 2020?

11 A. Yes.

12 Q. I understand. Several of the items that we
13 were discussing there earlier that you
14 indicated were good ideas, you know,
15 training the deaf to be able to teach, being
16 able to provide paid training for teachers
17 to be able to increase their ASL
18 proficiency, extending ASL learning
19 materials to hearing children and hearing
20 teachers who aren't teaching deaf children,
21 were you familiar that all of these ideas
22 were ideas that had been--you know, it
23 wasn't the first time that they had been
24 proposed. The Churchill's, and some of the
25 deaf itinerant teachers, had been raising

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1 ideas like that for several years. Was that
2 known to you?

3 A. Not really, no.

4 Q. No?

5 A. I knew there was a proposal for a classroom,
6 but that's about all I knew because I was
7 busy. I was busy raising children.

8 Q. Right. When you indicated that the
9 District, you know, your superiors at the
10 District, folks like Ed Walsh, were fairly
11 receptive to the ideas you were bringing
12 forward, what do you mean by receptive?
13 What about their behaviour, or their
14 actions, or their statements, led you to
15 believe that they were receptive to your
16 ideas?

17 A. Well, so I worked with itinerants and we
18 identified which children in the Province
19 starting will need TLA's. So, then I
20 brought it to Ed, and I said I need this
21 number for these areas. I need these. So,
22 then he would take that information and he
23 would go to EDU and advocate for it.

24 Q. EDU, you mean Department of Education?

25 A. Absolutely.

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- 1 Q. So, you present an idea like this one that
2 ultimately gets implemented, and we've heard
3 about Tammy and others being hired in that
4 role. So, you come up with the idea,
5 presumably in consultation with some other
6 people, but you come up with the idea. You
7 bring it to Ed Walsh.
- 8 A. Well, it wouldn't have been just my idea.
9 We're a team idea, right.
- 10 Q. Right. Consultation with--let's give some
11 credit. Who would be some of the people who
12 would have assisted you in coming up with
13 that idea?
- 14 A. Coming up with the TLA?
- 15 Q. Yes.
- 16 A. Well, I would have had help with APSEA;
17 would have spoken to the deaf staff; would
18 have spoken to some of the itinerants.
- 19 Q. APSEA, the deaf staff, some of the
20 itinerants, people who would really
21 understand the issue and the problem and
22 help you craft the position?
- 23 A. Absolutely. Everything has to become--
24 everything is conversation. Everything is,
25 right.

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- 1 Q. That's fantastic. Okay. And you then bring
2 that idea to Ed Walsh, you know, in some
3 sort of a, you know, prepared format. Is
4 that something you would often do in person
5 or is that an email?
- 6 A. It's usually--it's usually through the
7 computer, and then usually I send an email.
- 8 Q. Okay. By Zoom is what you mean by computer?
- 9 A. Google Meet, yeah.
- 10 Q. Okay.
- 11 A. So, Google Meet, and then I send an email
12 about what we had discussed.
- 13 Q. An email? And then you get--and the reason
14 why you said there were receptive is because
15 then you get--I guess two things happen.
16 You get feedback from Ed Walsh that
17 indicates he is receptive -
- 18 A. Yeah.
- 19 Q. - and then secondly, and this was the part
20 that I thought was really interesting, is it
21 then Ed Walsh to get presumably the
22 resources, or the approval for this, goes to
23 the Department of Education and advocates
24 for that change. I'll ask Ed Walsh this
25 later, but, I mean, why go to the Department

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1 of Education? Was that ever explained to
2 you, why he needs to go to the Department of
3 Education?

4 A. It's for funding.

5 Q. For funding, for additional money? Okay.
6 And you felt in that instance, and
7 presumably some others, that when Ed Walsh
8 would go to the Department of Education, he
9 wasn't merely passing the information along,
10 he was truly advocating for this change?

11 A. Absolutely.

12 Q. When would those discussions have taken
13 place, what month?

14 A. We had discussions where there numerous
15 things that Ed was working on for me. So,
16 it would have happened at the end of the
17 winter, beginning of the spring. So, it
18 could have started -

19 Q. Of 2022?

20 A. Yes. So, it would have started probably in
21 March, conversations, and March, April, May,
22 June, July.

23 Q. As recent as July some of these
24 conversations were occurring?

25 A. Absolutely.

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1 Q. Of course, during that time period the dates
2 were set for a hearing in front of this
3 Board of Inquiry. You know, two weeks had
4 been set. A list of witnesses, including Ed
5 Walsh himself was proposed. So, these
6 people would have all been aware that they
7 were appearing at that Board of Inquiry. To
8 what extent did references or knowledge of
9 the Human Rights Board of Inquiry
10 proceeding, and the things being sought
11 therein, come up in those discussions?

12 A. They would have come up.

13 Q. They came up, didn't they?

14 A. I will say that they would have. Yeah,
15 probably would have said, you know, I would
16 have advocated this. This is what I need,
17 but I will say that Ed Walsh is a child
18 first. He advocates for--that didn't sound
19 right.

20 Q. It sounded wrong, yes.

21 A. He is about the children. He is child
22 first, I believe.

23 Q. I've heard the phrase child first educator.

24 A. Yes.

25 Q. I think that's what you're looking for.

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- 1 A. That's exactly what I'm trying to say.
- 2 Q. As opposed to saying he's a child first.
- 3 A. Yes.
- 4 Q. We're all children first. So, I think the
5 role that the Human Rights complaint played
6 in this, and you tell me whether I've got
7 that characterization right, is, you know,
8 this need--this need exists, of course,
9 independent of the fact that it's a Human
10 Rights complaint. The kids still need this.
- 11 A. Yeah.
- 12 Q. And this part solution of the re-description
13 that you told us about at the beginning of
14 your testimony, you know, is a good solution
15 of that need, again, independent of the
16 Human Rights complaint. Human Rights
17 complaint or no, this is a great idea, but I
18 think what you're indicating to me is that
19 that idea kind of held greater sway, and
20 greater traction, because the complaint
21 existed and was imminent. Is that fair?
- 22 A. Yes.
- 23 Q. That's right.
- 24 A. Imminent? Absolutely, because it was human
25 rights.

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- 1 Q. Yes, it was a human rights issue.
- 2 A. Yeah.
- 3 Q. Fascinating.
- 4 A. That is my personal opinion though.
- 5 Q. That's all I was asking for. I also thought
- 6 it was a really interesting concept that you
- 7 spoke about the need and, you know, the
- 8 sensitivity to ensure that members of the
- 9 deaf community, and in particular deaf
- 10 educators, were part of the group that you
- 11 were consulting with in proposing changes
- 12 and ameliorations of deaf education. Tell
- 13 me about like the role that, I guess, the
- 14 deaf community, and then deaf educators,
- 15 particularly some of the ones in the
- 16 satellite classroom, you know, play in
- 17 assisting you to formulate what would be
- 18 appropriate or what would be best.
- 19 A. I'm not quite sure what you -
- 20 Q. I mean, why ask them, right?
- 21 A. Why ask them?
- 22 Q. Yes.
- 23 A. Because we're very open. Deaf culture is
- 24 very open. If you were a hearing person and
- 25 you were looking at someone in a deaf

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1 culture, you would probably think they're
2 rude, but they're not. They're just very
3 open about everything, and everything that I
4 worked there for that year was open for
5 discussion, and of course it would be a good
6 idea to have deaf role models as your
7 teacher.

8 Q. I've heard this phrase, and it's in relation
9 to all kinds of areas of, you know,
10 inclusivity and reconciliation things, this
11 concept of--it gets distilled to nothing
12 about us without us. Have you heard that
13 phrase before?

14 A. Absolutely, yes.

15 Q. And that would apply to deaf education,
16 right? And what that means is, you know,
17 you don't make decisions about deaf culture.
18 You don't, you know, tell deaf people what
19 they need without having consultation and
20 taking opinions from deaf people themselves,
21 right?

22 A. Absolutely.

23 Q. And that--I would suggest to you that that's
24 what governs, you know, the consultation
25 work that you would have done, particularly

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1 with some of the deaf student assistants in
2 your classroom in formulating these needs,
3 right?

4 A. Yes.

5 Q. Yes. Were you aware that for several years,
6 and she said as much on the stand, as she
7 says as much in her affidavit, Tammy had
8 taken serious issue with Joanne Van Geest's
9 ability to communicate in ASL, and her, what
10 she framed as disrespect towards Tammy as a
11 deaf person. She said as much on the stand.
12 Was that ever brought to your -

13 MR. PENNEY:

14 Q. I don't think she ever used the word
15 disrespect.

16 MR. REES:

17 Q. Well, let me make it more specific. She
18 didn't like being corrected by Tammy, when
19 Tammy would correct her ASL. Did you hear
20 anything about that?

21 A. No. I wouldn't as--when you're a teacher in
22 a class, like it is not conducive to your
23 work environment to be--like when I taught
24 at East Point I tried my best to get along
25 with everybody, to have a good working

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1 relationship. So, it's not always--you
2 know, why would there have been a need for
3 that conversation.

4 Q. Fair. The last--I think the last area I
5 want to ask you about is about the ASL
6 requirements for teachers, and we talked
7 about testing, and all these things already,
8 but it's clear that in order to be a teacher
9 in the DHH classroom, you know, you don't
10 need to have native levels of ASL, right. I
11 mean, that's not the standard for that
12 classroom.

13 A. It would be wonderful.

14 Q. It would be great, I agree.

15 A. It would be great.

16 Q. But it's not a barrier. If someone is not a
17 native signer, you don't say, sorry, you
18 can't work here as a teacher?

19 A. No.

20 Q. I understand that was the standard that you
21 applied to the volunteers with the Gain a
22 Super Power Program. When they sought to
23 implement the free, you know, basic sign
24 language introductory program, the program
25 was refused on the basis that the people

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- 1 delivering the program, like Kim Churchill,
2 you know, were not deaf people themselves.
3 They were the parent of a deaf child. They
4 weren't native signers. Am I correct in
5 saying that's why the program was refused?
- 6 A. No, the program wasn't refused at all. The
7 program was--they were told they could
8 continue, but they would have to have a
9 native signer in order to teach the program.
- 10 Q. In order to deliver the voluntary program?
- 11 A. Yes.
- 12 Q. Why would you apply such a standard to a
13 voluntary program offered, you know, at
14 lunch time, and not apply those same
15 standards to your classroom teachers for
16 teaching deaf children, of course?
- 17 A. Right, because I see it as two different
18 things. When I teach in the classroom, I am
19 using ASL as a mode of communication, the
20 same way that we are using English right now
21 as a mode of communication. At no point do
22 I teach ASL. At no point should I teach
23 ASL, because I don't know the grammatical
24 structures of ASL, I just use it. The same
25 as a child who's in grade one speaks without

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1 knowing that they're speaking correctly or
2 incorrectly.

3 Q. They absorb it like a sponge.

4 A. Right. So, I'm not teaching--we're not
5 sending teachers into classrooms to teach
6 ASL. We're sending classrooms to use the
7 mode of communication to teach curriculum.
8 With class you're actual purpose is sending
9 people in to teach ASL.

10 Q. Well, I think--if I remember the program, I
11 think they're teaching basic sign
12 vocabulary. I mean, I don't think they're
13 teaching people how, you know, phrases and
14 grammar, and whatever the version of
15 conjugation is--you know, I understand it's
16 basic sign vocabulary. So, you don't think
17 it's hypocritical that they're different?

18 A. Well, I think because I grew up with my
19 sister who's deaf, I have the facial--I have
20 the facial--when I sign I have whatever
21 indicators there are on my face, but not
22 everybody has that. So, when you're
23 teaching vocab, that's part of it. It's not
24 as simple as teaching a word. You are
25 teaching--you're teaching--all of this is

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1 the language, and it goes back to--I
2 researched with the World Federation of the
3 Deaf, and I went in and they said nothing
4 about us without--which included their view
5 on teaching language, and I contacted a
6 branch of that in Ontario, and they said--
7 and their definition was that in order to
8 teach you have to be a native signer. You
9 have to be -

10 Q. So, in your view it is inappropriate to
11 teach ASL unless--you know, teach how to
12 speak it, not teach in ASL, but how to teach
13 somebody how to speak ASL, unless you're a
14 native signer? That's the policy that -

15 A. Well, if I'm talking to you, and I'm using a
16 new sign, well then you're picking up
17 something, but if I'm directly teaching you
18 things, that shouldn't be--yeah, it should
19 be a native signer.

20 Q. Now, the DHH itinerants that Carter had been
21 provided, you know, on a limited basis, both
22 before he even started Kindergarten and
23 thereafter for several years, very few of
24 them were deaf individuals, and there's
25 evidence on record that, you know, one of

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1 the supports that Carter was provided with
2 was that he had DHH teachers teaching him
3 ASL. So, I mean, it's your view under the
4 approach that the District now takes, that
5 would be considered inappropriate?

6 A. Were they teaching him ASL, or talking to
7 him in ASL?

8 Q. I mean, Carter had no ASL at the time, so
9 they must have been teaching him.

10 A. Right.

11 Q. I mean, I tend to agree with you, they
12 weren't teaching him ASL. At least the
13 District professed that that's what they
14 were doing.

15 A. I would say that they were talking to him.
16 I wouldn't say that they were saying, you
17 know--I would, and you know what, I wasn't
18 there.

19 Q. And that's true too. It's an important
20 distinction, and it probably would be
21 important for the Adjudicator to understand,
22 there is a difference between teaching ASL
23 and communicating in ASL, right?

24 A. Absolutely.

25 Q. And it is imperative that somebody who is

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1 teaching ASL has a high level of ASL
2 proficiency, in fact, should be native
3 according to your language?

4 A. Absolutely.

5 Q. Right. I thought I had a last question, but
6 this is my last question. In order to
7 teach, you know, to be a Joanne Van Geest,
8 or a Gillian Lahoda, classroom teacher in
9 the ASL immersive classroom, you have to
10 have, you know, a teaching certificate, and
11 you have to have a Masters--I always call it
12 a Masters in Deaf Education. Is that the
13 right -

14 A. Masters in the area of Educational
15 Psychology in the area of Deafness Studies.

16 Q. Okay. So, if I can trunk it for now, but
17 that's what we're talking about, okay. Is
18 that same requirement applied to deaf
19 individuals who would seek to become a
20 classroom teacher for deaf students? Do
21 they have to have--I mean, do they have to
22 have a Masters in--does a deaf person have
23 to have a Masters in Deaf Education, you
24 know, including deaf culture, in order to
25 teach deaf students, or shouldn't a teaching

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1 certificate be enough?

2 A. But I think it's more than deaf culture.

3 It's--and, you know, that could be open for
4 discussion, but I think it's also--it would
5 be learning about language, and how to teach
6 language. It's much more than learning
7 about culture.

8 Q. Well -

9 A. Like when I did my Masters we had to take
10 language samples, and we would have to
11 analyze the language sample to see what
12 parts of speech were being used, what parts
13 of speech were not being used. So, it's a
14 very valuable program.

15 Q. Right. These classroom teachers, however,
16 the Joanne Van Geest's and the Gillian
17 Lahoda's, are they teaching--I know they're
18 teaching in ASL to their ability. Are they
19 also teaching ASL, teaching these students
20 how to speak ASL?

21 A. No. I would say that the student assistants
22 have been doing that.

23 Q. Right. I would agree with you, the student
24 assistants are doing that. So, then do you
25 still feel that the Masters in, what I call

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1 the Masters in Deaf Education, would be
2 necessary for a deaf person to be able to be
3 that classroom teacher, or would a teaching
4 certificate suffice?

5 A. I don't know. Like I said, we'd have to--
6 you would want them to have a five year--a
7 level five for sure. I don't know. There
8 are courses that I can tell you, I did it.
9 There are courses that are very valuable to
10 teaching of deaf children. It's learning
11 about, specifically about deaf children, and
12 if you took that away and I going to say
13 you're a better teacher without it? I don't
14 know. There's things that I learned in that
15 that I didn't know growing up with a deaf
16 sister and a mother who taught at a deaf
17 school.

18 Q. Right. So, I understand the School District
19 has some deaf teachers who have teaching
20 certificates, but they do not have a
21 Masters?

22 A. Yes, they do.

23 Q. Some have Masters, but there are some deaf
24 teachers who have only the teaching--the
25 education degree and the teaching

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1 certificate and no Masters.

2 A. No, the three I know have Masters.

3 Q. Right. I know there was an intern who
4 applied and was turned away, the intern in
5 the classroom, and she was turned away, and
6 she was a deaf woman, and she did not have
7 the Masters, and as a result was not
8 eligible for internship.

9 MR. PENNEY:

10 Q. Sorry, are you talking about Marta -

11 MR. REES:

12 Q. No. I'm having a hard-Kristin--we don't
13 remember Kristin's last name, but it was
14 Kristin. You're looking a bit confused.
15 So, this doesn't ring a bell?

16 A. I have no idea what you're talking about.

17 Q. Well, I guess my question for you is, would
18 the District be willing to look at assisting
19 deaf individuals in, you know, overcoming
20 that barrier and obtaining that Masters
21 degree in Deaf Education so that they could
22 provide these -

23 A. I would hope so.

24 Q. You would hope so? You can understand my
25 clients' pessimism, or skepticism, that, you

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1 know, after years of fighting and asking for
2 these things, you know, we're only now being
3 told that they are a possibility, and they
4 are the kinds of things we can discuss and
5 we can talk about, and the reason why that's
6 concerning to us, and this is, you know, a
7 point that I want you to address, is that,
8 you know, we've--the Human Rights complaint
9 asks the Adjudicator to do many things, but
10 some of them are to, you know, require the
11 District to implement various programs to
12 ensure that discrimination doesn't occur on
13 a go-forward basis. And what I want to make
14 sure I understand from you is that, you
15 know, while all these sort of new ideas that
16 we've been talking about here today, you
17 agree they're good ideas, you agree that
18 you'd like to bring them forward, you agree
19 that you've been getting good traction,
20 although some of that you've acknowledged
21 has to do with the Human Rights complaint,
22 and you hope they'd be implemented, you
23 know, asking some like an award, an order,
24 from this Adjudication Panel that those
25 things, you know, be implemented, be

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1 discussed and evaluated in a serious way,
2 you have no way to compel that to incur, do
3 you?

4 A. No, because I don't know--my job ends in
5 August.

6 Q. All right. Those are all of my questions.
7 Thank you.

8 A. Thank you.

9 ADJUDICATOR:

10 Q. Mr. Penney.

11 MR. PENNEY:

12 Q. No.

13 MS. ALMA MCNIVEN, CROSS-EXAMINATION BY ADJUDICATOR

14 ADJUDICATOR:

15 Q. Mr. Rees had a series of particular
16 questions for you, and I did my best not to
17 interrupt Mr. Rees while he was in his flow,
18 but I have a number that I want to ask you.

19 A. Sure.

20 Q. Some things that you started talking about
21 and then there were other questions he moved
22 onto. Mr. Rees asked you a question about
23 the level of ASL proficiency that would be
24 required in the satellite classroom, and you
25 began to speak about how the students are

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1 being taught. I wonder if you can just walk
2 me through your experience in the satellite
3 classroom, the teachers who are in there,
4 and the modes of teaching, the methodologies
5 that were being used, including the other
6 supports that were in the classroom, and
7 what their role is, but if you can just walk
8 me through, to the best of your abilities, a
9 good description of how the students were
10 being taught.

11 A. Okay. So, the year I was there, myself and
12 Gillian would often--sometimes we would work
13 together, and sometimes we would split the
14 children into groups, and sometimes the
15 children would be split with us with groups,
16 or often we would have an ASL group where
17 one of the deaf staff would work at that
18 group. So, I would do my own signing.
19 Gillian would do her own signing. As with
20 any language, we would often do words we
21 weren't sure of. We would go to a deaf
22 staff and say what is the sign for that?
23 Sometimes they all had a different sign.
24 Sometimes, depending on what area they had
25 worked in before--so, we had all came to a

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1 consensus on a sign. We spoke in the class.
2 There are children in that class who have
3 some oral skills, and we followed the APSEA
4 curriculum. In the ASPEA curriculum part of
5 it is to learn to speak, to listen, sign. I
6 believe in all modes of communication with a
7 child. So, whatever a particular child
8 needed, on a particular day, at a particular
9 time, that's what I would do.

10 Q. You mentioned that the children are all--I
11 think you said that the children in the
12 class, the students, are all presenting with
13 severe language delays.

14 A. Yes.

15 Q. I mean, I'm sure it's a spectrum and some
16 are more delayed than others. Where does
17 Carter fit in in terms of his delay with
18 language?

19 A. Receptively--Carter has really good skills
20 receptively. I believe his expressive are
21 more challenging because of his CP, but we
22 told a story one day. Tammy told an ASL
23 story, and at the end of the story Carter
24 laughed, and I looked around and Carter was
25 the kid who got the story.

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- 1 Q. So, his ASL skills -
- 2 A. Receptively are very good. He can watch,
- 3 and he can understand very well. Now, he's
- 4 building. He's learning vocab, but, yes.
- 5 Q. Do you have a sense of where his current
- 6 level is?
- 7 A. No, because I haven't--it's been a year
- 8 since I was teaching in that class.
- 9 Q. I should rephrase that question. At the end
- 10 of your time in the classroom--so, you were
- 11 there during his grade four year, correct?
- 12 A. Yes.
- 13 Q. So, when he came into the classroom, did you
- 14 come to any assessment as to where he would
- 15 have been in terms of his grade level
- 16 equivalency in, you know, his language
- 17 skills, math skills, you know, social
- 18 studies, sciences? Would you have -
- 19 A. He would have been at a very primary level.
- 20 Math he would have been a little bit higher,
- 21 but when I was taking goals for--when I was
- 22 using the Provincial curriculum for reading
- 23 and writing, I would have been choosing from
- 24 Kindergarten.
- 25 Q. Did that change over time during the grade

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- 1 four year while you were in the satellite
2 classroom?
- 3 A. His language absolutely increased, not doubt
4 about it. His reading and writing?
5 Reading, very insignificant change.
6 Writing, a little bit more, but it wasn't a
7 big change in his reading or writing, no,
8 but there was a big change in his
9 vocabulary.
- 10 Q. When you say in his vocabulary, do you mean
11 in his vocabulary with the English language
12 or with American Sign Language?
- 13 A. American Sign Language. He had more signs.
14 All of the children--it was amazing the
15 change in the children in their language.
- 16 Q. Can you describe that for me by comparing
17 the beginning of the year to what you're
18 observing at the end of the grade four year?
- 19 A. So, often with severe language delay because
20 students don't have vocab, they're not
21 making connections, that we make connections
22 all day long. We know words are connected,
23 right. It's almost like this. Everything
24 is all connected, and we understand that,
25 right, but they don't have that background.

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1 So, every lesson would have to be dissected
2 to get back to the root, to build up no
3 knowledge in order to teach a lesson. As
4 the year progressed we got less and less of
5 that, and all of a sudden the kids who
6 couldn't have a conversation with each
7 other--at one point they were over at a
8 table, and they were playing a game without
9 any support. I took a video of it. I
10 Twittered it out. I was like, oh, my God,
11 these kids. It was--of all the years I
12 taught it was the most rewarding year of my
13 career. I will never forget it. I could
14 not believe the change in these children. I
15 had--I can tell you it's changed the
16 trajectory of their lives. It completely
17 changed them.

18 Q. That observation--I think you described
19 earlier in your evidence, that when they
20 started off the children didn't know how to
21 even communicate with one another, and now
22 you're describing a vignette where they're
23 playing a game together and they're
24 interacting.

25 A. They're setting it up. They're taking

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1 turns. They're telling each other what to
2 do.

3 Q. Do you have any reason, or any way that you
4 could explain to me whether that's something
5 that can be attributed to them acquiring new
6 language skills, or them acquiring new
7 social skills, or simply learning the game?

8 A. It's a combination. It's a combination of
9 both. We could not get through not one
10 lesson without teaching social skills.
11 Social/emotional learning became a new thing
12 with the board, and I love it. Every single
13 lesson of every day we had to stop and we
14 had to go through the social and emotional
15 part of it. So, it was big on
16 social/emotional, but it was also the
17 language that they had, and the connections
18 that they were making with language. Like
19 it is one thing to know that your mother or
20 your father has a bank card and they go get
21 money. It's another thing to learn that you
22 have to work. The money has to go into the
23 bank, and that you're using that card.
24 There are actually things that are happening
25 in the background, and that's what we had to

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1 teach the children every single day, all of
2 those things that are not seen but are
3 important in our lives in order for us to
4 make connections with language.

5 Q. Are you able to compare--I mean, I know you
6 said that, you know, for a lot of subjects
7 you'll be drawing from the Kindergarten
8 curriculum for Carter. Math might have been
9 a little further advanced.

10 A. Yeah.

11 Q. And that's at the beginning of the year. By
12 the end of year have there been any changes
13 in the curriculum level that you're drawing
14 from for Carter?

15 A. Not really, because if I was teaching--if I
16 was teaching at a grade one curriculum, I
17 would spend a whole year in grade one
18 curriculum for a hearing class, right. So,
19 for science I would have picked activities
20 at grade three, but now I couldn't hit on
21 all the goals because they didn't have the
22 language to meet those goals. So, yeah, for
23 a grade three for science, but, like I said
24 -

25 Q. Is that for all of the children, or is that

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- 1 for Carter?
- 2 A. All the children. We would do activities.
- 3 We'd take the activity from grade three. I
- 4 would look to see what the outcomes were,
- 5 and which outcomes I could actually do, and
- 6 that's what we would do.
- 7 Q. For this group of children, and there's a
- 8 half dozen -
- 9 A. I would also say though, throughout every
- 10 activity all day long, the focus is--even
- 11 though you're doing curriculum, the focus is
- 12 always building language. It's always a
- 13 goal to build language, wherever you are, or
- 14 whatever you're doing. What were you doing?
- 15 Q. My question is, the number of children that
- 16 are in the classroom, is it -
- 17 A. Eight.
- 18 Q. Eight?
- 19 A. Yes.
- 20 Q. There's eight, and are the eight children
- 21 all participating in the same lessons? I
- 22 know that you're breaking them into groups,
- 23 but -
- 24 A. Mostly, yes. The core group are in the same
- 25 lessons, absolutely, but it's

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1 individualized. So, I could do a writing
2 activity with a group of children, and they
3 may have--say I gave them the same picture.
4 They're all at different stages of writing.
5 So, one activity--everything a teacher does
6 is--you have the activity, but you have to
7 teach at the level the child is at, right.
8 I don't expect the children to all be at the
9 same level. So, my interactions with them
10 will be different depending on where they
11 are.

12 Q. I'm trying to get to the right question to
13 try and understand -

14 A. Tell me what it is you don't understand.

15 Q. I'm not understanding--you have eight
16 children. Are some of them being taught
17 items that are being drawn from a grade one
18 curriculum? Another student might be doing
19 a similar activity, but it's being drawn
20 from the Kindergarten curriculum? Are all
21 of the children--is there a lesson plan
22 being prepared, and we're going to pull this
23 out of the Kindergarten curriculum, but
24 we're also maybe having to adapt it for each
25 of the particular students?

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1 A. Yeah, there is. There is that point too,
2 yeah. So, we might have--the core lesson
3 might be here, but I might have to go back
4 and pull from--science is a little different
5 because it's not as much reading and
6 writing, but, yeah. So, every child's plan
7 is individual. So, you do start with your
8 core, and you might go back, you might go
9 forward. So, when I had English I had one
10 for each grade level, and I would, depending
11 on the child--and you get to know the
12 children very well, right.

13 Q. The start of the year we're drawing a lot
14 from Kindergarten. I mean, these are grade
15 four, some are grade five, in terms of their
16 age level that corresponds with grade five,
17 I think, and some were grade four, is that
18 right?

19 A. Yeah.

20 Q. And you're drawing from curriculum from, you
21 know, what would be past years, primary
22 years, Kindergarten, grade one, grade two
23 maybe.

24 A. But you have to understand, when they came,
25 when they arrived at school, they were

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1 already severely language delayed. So, that
2 would take years to build up. So, they
3 would have been behind as well, right. I'm
4 not saying how far they would have been
5 behind, but there would have been--if you
6 come to school with severe language delay,
7 in grade five you're going to be as a grade
8 five curriculum.

9 Q. So, how far did we get in that first year?
10 I know there's a lot of opinion being tossed
11 around that you need at least two year's to
12 catch up that delay, but how far did we make
13 it in catching up on the language delay
14 within the first year?

15 A. I don't know; I wasn't there. Oh, the first
16 year there? How far? If you're looking at
17 reading and writing, if you're looking at
18 that part of the language, no, but if you're
19 looking at receptively what he understood in
20 the classroom, there was a big change. I
21 thought there was a big change, and not only
22 that, he opened up. It took him a couple of
23 months to really open up, and his
24 personality changed. That's probably the
25 personality he had at home, but kids are

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1 different when they come to school. I guess
2 by--I found it was by November he was so
3 much more comfortable in the class, and he
4 was, you know -

5 Q. And you were asked a question about whether
6 ASL was--proficiency, I think was the--I
7 can't remember the word that Mr. Rees used,
8 but essentially whether it was essential to
9 being able to teach in that classroom. He
10 disagreed that it was. Can you explain why
11 you feel that that's not essential?

12 A. So, if we don't have a person who is
13 proficient and is trained, then the next
14 step is we have a person who's trained,
15 right. So, then if we bring in--if we have
16 an interpreter who can interpret for that
17 person--so, you've got the person who knows
18 the pedagogical practices of a teacher--if
19 you look at the seven determinants of
20 whether a child succeeds in school, most of
21 those are talking about teacher, teacher
22 practices, teacher's goals, teacher's
23 reflections. So, it's really important to
24 have a teacher, right. If you don't have
25 the language, then you have to get the

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1 language there somehow. I took biology in
2 university. I didn't always understand what
3 the teacher was saying, but my teacher knew
4 the curriculum. So, we have somebody who is
5 a trained teacher who understands. Then we
6 need some support with the language, and
7 this year we had an educational interpreter.
8 Last year we had an educational interpreter.
9 This year we switched it. Now we have
10 actual--so, the teacher will speak. The
11 deaf person will take the language and bring
12 it down to the child's level and sign it.
13 It's beautiful. It would be beautiful if
14 the teacher was deaf herself and could do
15 it, or if the teacher could sign herself and
16 do it, but the next best option is you're a
17 trained professional, you are the teacher,
18 and then having someone come in and sign.
19 In that classroom there are highly skilled
20 deaf people. We cannot do this without the
21 support of the deaf community.

22 Q. You said there's a shortage of--there's a
23 Human Resources shortage. I wonder if you
24 can give me some more information on--is it
25 a shortage of DHH teachers generally? Is it

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- 1 a shortage of DHH teachers who have ASL
2 proficiency? What is the shortage, and why
3 do you believe there's a shortage?
- 4 A. Well, two years ago there was a shortage of
5 DHH itinerants. They couldn't fill the
6 jobs, and then last year seven trained here
7 in the Province. So, now we have enough in
8 the Province who mainly want to stay on the
9 Island.
- 10 Q. The seven that -
- 11 A. There is a shortage, yeah, up in Labrador.
- 12 Q. When you said there was a shortage two years
13 ago, did positions go unfilled?
- 14 A. I think--I'm not really sure because it was
15 before--well, I came back. That's when I
16 came back at one point. I left my teaching
17 and came back in November when somebody
18 retired. I think there are times when they
19 had to have retired teachers come in and
20 fill positions.
- 21 Q. You say seven new DHH itinerants were
22 trained last year?
- 23 A. Yes, a two year training program, yes.
- 24 Q. A two year training program from what
25 institution?

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- 1 A. Mount Saint Vincent.
- 2 Q. Were they previously teachers -
- 3 A. Yes.
- 4 Q. - in the English School District?
- 5 A. Yes. One is permanent. They've been doing
- 6 replacements. They all have experience with
- 7 NLESD, yes. Actually, I believe Darlene
- 8 Fewer Jackson went over to the university
- 9 and spoke to a number of classes and tried
- 10 to recruit people, and she was very
- 11 successful obviously.
- 12 Q. Those seven DHH teachers who were trained
- 13 last year, were they hired by the District?
- 14 A. No, not yet. I'm just--there is one more.
- 15 There are two more jobs to be filled this
- 16 week, so it's a possibility. To date? No.
- 17 Q. I guess, of those seven teachers that were
- 18 trained last year, how many positions are
- 19 available for them with the District?
- 20 A. As a DHH, or as just a regular teacher? So,
- 21 most of them are either--most of them are
- 22 actually working fulltime in other jobs,
- 23 either in permanent or contract but with
- 24 DHH.
- 25 Q. So, would they have taken time off from

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1 their permanent positions to go and complete
2 the program at Mount Saint Vincent?

3 A. The program is online. You only have to--
4 it's only five weeks on campus every summer,
5 but other than that, it's all virtual. So,
6 the only time they would have taken time off
7 was to do with their internships, taking
8 time away from their work. There's one
9 there now actually finishing off her
10 internship. She has three weeks to finish
11 her internship.

12 Q. Paragraph 34 of your affidavit, if you want
13 to just flip to it so you can see what I'm
14 referring to. So, at paragraph 34 you talk
15 about what is in place for pre-school
16 children, and you describe that once a child
17 is identified with a hearing impairment by
18 the Janeway Audiology team. An email is
19 sent to you with the child's information -

20 A. Yes.

21 Q. - and then they are assigned to an
22 itinerant's caseload. Is that the same for
23 children who have cochlear implants?

24 A. It is now.

25 Q. Do you know when this was put in place?

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- 1 A. It was before myself. It was--Darlene had
2 worked with Health to make sure this
3 happened. So, it would have been the end of
4 Darlene's year.
- 5 Q. And for those children who have cochlear
6 implants, it's my understanding, and there's
7 some evidence that previously they would
8 have received AVT therapy, and at some
9 points they would have received DHH
10 services, and at some points they could
11 access both. Is AVT therapy still being
12 provided to those students with cochlear
13 implants?
- 14 A. It is, through the Janeway.
- 15 Q. So, they're receiving support now -
- 16 A. Yes.
- 17 Q. - of both AVT therapy and DHH?
- 18 A. Yes.
- 19 Q. And the DHH teachers who are assigned to
20 these pre-school students, are they teaching
21 ASL?
- 22 A. They're not teaching ASL. They're probably
23 teaching ASL to communicate. They're using
24 ASL to communicate. The same as I'm
25 speaking to you now, I'm using English to

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1 speak to you, but am at no point teaching
2 you.

3 Q. At paragraph 35 you talk about hiring
4 practices for itinerant teachers now. I
5 want to understand, is there a change in--
6 are we testing ASL proficiency now? Is
7 there a change in the way that hiring is
8 done now, or is there still no proficiency
9 testing for new hires?

10 A. Well, it depends. It depends on whether
11 it's required. Some teachers may teach for
12 years and they don't have any students who
13 can sign. So, it depends on the area. It
14 depends on the caseload, but if there is a
15 child of a caseload who requires ASL, then
16 in the ad it would say proficiency required.

17 Q. What criteria would you use to determine
18 whether a child requires a teacher who's
19 proficient in ASL?

20 A. Well, if they sign--if a child needs ASL to
21 communicate or to learn, because there are
22 children who can speak, have a conversation
23 with you, who are deaf, but you put them in
24 a room, they can't hear what a teacher is
25 saying, that child will need ASL. They will

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1 need that support, along with the oral.

2 Q. So, if you have a child who communicates
3 using ASL, it's their only means of
4 communication, would it be a requirement of
5 the position that the applicant have a
6 particular level of proficiency?

7 A. Yes, it would be asked, absolutely.

8 Q. And is there a particular level of
9 proficiency that has been adopted as the
10 standard?

11 A. Superior.

12 Q. Is the proficiency testing something that
13 the District would perform, or would the
14 applicant be required to produce
15 documentation of a past proficiency test?
16 How is that working on the ground?

17 A. The testing would be done through NLAD,
18 Newfoundland Association for the Deaf, and
19 it would be paid for by NLESD.

20 Q. Your affidavit refers to it as a preference.
21 Would ASL proficiency at this superior level
22 be a preference of a requirement of the job?

23 A. It depends. I've never--I don't think I had
24 any ads that I actually posted--I'm not
25 sure, but it would be--what was the question,

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1 preference or -

2 Q. Would the job--would it be a requirement of
3 the position--I think this is in our
4 hypothetical. You have a student who
5 communicates using ASL. It's their only
6 means of expressive communication.

7 A. Right. So, it would be requirement, but as-
8 -like there are not that many people who
9 actually have the skill, and I will tell you
10 that I have been in talks with the
11 Newfoundland Association for the Deaf, and
12 they have been hiring. They work with
13 Health, Community Health, and they have been
14 trying to hire deaf individuals to work with
15 deaf people. So, recently they said to us,
16 like we don't have enough deaf people, and
17 our deaf people are working with you too, so
18 they're like doing double jobs, two and
19 three jobs. We don't have enough. So, now
20 we have to go to hearing people who sign and
21 we have to build up their skills. So, I
22 just contacted somebody who could sign and
23 asked, you know, would they contact NLAD.
24 There is someone, one of my students, who
25 need support. Go to NLAD and--but they are-

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1 -that's what they need. They need to go,
2 and they're looking now at hearing people
3 who have different degrees of signing to
4 support their programs because there's not
5 enough deaf people. There's not enough
6 people with skills. We have--we need to
7 work together with people who want to learn
8 in order to build skills. We need to build
9 capacity in ASL.

10 Q. If you have somebody who has applied for the
11 position, and they're otherwise qualified,
12 but they don't meet the threshold of
13 superior proficiency in ASL, but they're
14 otherwise the most qualified candidate, I
15 understand, and correct me, they would be
16 hired?

17 A. Absolutely, if they're the only candidate.
18 The children need to learn.

19 Q. So, you've hired somebody who does not meet
20 the requirements that you've set for the
21 position, but they're the best candidate
22 available?

23 A. Yes.

24 Q. Is that person--is there anything that
25 happens ongoing to get them from where they

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1 are in their proficiency to where they need
2 to be?

3 A. Absolutely. They are connected with NLAD.
4 They do courses.

5 Q. Are they paid?

6 A. They are paid for them, absolutely.
7 Material is paid, everything is paid for
8 them, but I'd like to make the point that
9 learning ASL takes years. Like if we have a
10 child who is an ASL teacher, a second
11 language learner comes to Newfoundland,
12 we're giving them four or five years to
13 learn the language. So, if I take a course
14 in French, and another course in French, you
15 can see how it would take--that's the same
16 as ASL. I'm learning very slow. So, you
17 can learn very slow taking courses, or you
18 can be immersed in a room where people are
19 signing, and if we--if I want the best for
20 these children, which I do, I would have
21 people who are willing to be advocates, and
22 people who are willing to work with deaf,
23 and want to know, want to learn, I would
24 immerse them in a class, like the DHH class,
25 and I would give them all the resources to

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1 learn as fast as they can, because I can
2 tell you that I went in there with a pretty
3 good signing, I came out with even better
4 after a year. Whoever is in there now, they
5 will learn much quicker. It would take them
6 four or five years of courses to learn what
7 they're going to learn in one year there.

8 Q. So, would they be re-proficiency tested
9 after one year?

10 A. Absolutely, they could be.

11 Q. Is there a policy in place, or is there a
12 practice that's being followed currently,
13 for that type of regularly follow-up
14 proficiency testing? Again, this is an
15 example where someone has been hired for a
16 position identified as requiring somebody
17 who is superior in their ASL proficiency.
18 They've been hired. They're not superior.
19 Maybe they are one notch shy. Maybe they're
20 two or three level shy of superior, and
21 you're saying that they would be--would they
22 be offered, or would they be required, to
23 have continuing learning, or professional
24 development, in ASL, until they achieved
25 that standard?

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- 1 A. They would be offered, and I would assume
2 because they're there because they want to
3 be, that they would accept, absolutely, but
4 it's never come to the point--I've never
5 come to that point where someone would have
6 to be forced.
- 7 Q. And I don't want you to assume.
- 8 A. No, you don't want to assume.
- 9 Q. I'd like you to tell me whether there is a
10 policy?
- 11 A. To date, no.
- 12 Q. Is there a standard? There's no standard?
- 13 A. To make somebody continue? No.
- 14 Q. Is there currently a requirement that
15 teachers who would be hired for such a
16 position would be required to have
17 professional development specifically in ASL
18 where they've been found deficient?
- 19 A. Not that I know, but maybe when Darlene
20 hired a candidate maybe that was put in
21 place. I don't know if that was put in
22 place at that time.
- 23 Q. Okay. Were you involved in the hiring of
24 Ms. Van Geest?
- 25 A. No.

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1 Q. You were involved, I think, in deciding what
2 supports she might need within the classroom
3 in order to teach.

4 A. Yes.

5 Q. And one of those supports was interpretation
6 in ASL?

7 A. Yes.

8 Q. One thing that is not listed in the supports
9 is ongoing education in ASL for Ms. Van
10 Geest.

11 A. She is actually enrolled in--last spring she
12 did a course.

13 Q. So, was that something that--like you say
14 when you began your present role, and I'm
15 looking at -

16 A. I think I remember now actually. I think we
17 had so many people contact NLAD--we had so
18 many schools who wanted--they were totally
19 overwhelmed, and I believe she missed the
20 mark. They wouldn't let her in to the first
21 program, they had already started. So, I
22 believe they let her in to the second time
23 it came around.

24 Q. And has there been any follow-up proficiency
25 testing for Ms. Van Geest?

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- 1 A. No, but we need to give her a chance to
2 build up her skills.
- 3 Q. In your current position, or in the past
4 positions that you've--well, I guess your
5 current position is probably--have you been
6 in a position where you've been responsible
7 for coordinating the caseloads for DHH
8 itinerants?
- 9 A. Last year, yes.
- 10 Q. And in that capacity, if you're responsible
11 for determining DHH caseloads, are you
12 assigning them to particular students?
- 13 A. Yes.
- 14 Q. And are you trying to determine who is going
15 to be the best fit for particular students?
- 16 A. Yes.
- 17 Q. And of any of the students that you'll be
18 trying to find best fit for, do any of those
19 students require ASL?
- 20 A. Yes.
- 21 Q. The roster of DHH teachers that you're
22 working with, they're not all proficiency
23 tested for ASL?
- 24 A. No.
- 25 Q. No?

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- 1 A. But I do know who can sign without--I know--
2 I know the top signers.
- 3 Q. How do you know who the top signers are
4 without having had them proficiency tested?
- 5 A. Because I have known them for a number of
6 years, and I know who is able to sign. You
7 know, not so much--not in Western, not in
8 Central, but in metro I know. My student
9 who is deaf who needed sign, who needed
10 someone, I picked the person. I connected
11 with the person who could sign the best.
- 12 Q. Do you know what your own level of
13 proficiency is in ASL?
- 14 A. I believe I scored below superior, but it
15 would probably be higher now.
- 16 Q. Do you--did you say earlier that you don't
17 use some of the grammatical features of ASL?
- 18 A. No, I said I don't know them to teach them,
19 the same as a child uses language, but
20 doesn't know the structure, because I've
21 only ever taken--I took one course during my
22 Masters degree.
- 23 Q. If you leave your current position, or when
24 you left the position where you would have
25 been responsible for allocating DHH

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1 itinerants, you knew the DHH itinerants, so
2 you had personal experience with them, and
3 so from that you developed your own opinion
4 on who was the best signer.

5 A. Absolutely.

6 Q. If your replacement does not know them
7 personally, how should that person determine
8 who's the best signer?

9 A. Fair question.

10 Q. If that person does not know who the best
11 signer is, how do they determine how to
12 allocate those resources to children who may
13 need a proficient signer? How do we know
14 we're doing the best with the tools we have
15 if we don't know who has particular skill
16 sets? I'm struggling with that. Can you
17 help me with that?

18 A. Well, that's what I said; you should always
19 have a person who understands deafness to be
20 in this role, always. It has to be
21 somebody--you have to have somebody in this
22 role who is trained. It is more important
23 than I think any other role. I have--I'll
24 soon be 56. I have 56 years of
25 understanding what comes with this. I don't

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1 profess to be--to know anything else.

2 Q. I'm not--I don't mean for my questions to -

3 A. I know.

4 Q. - imply that you're not qualified -

5 A. I know.

6 Q. - but you won't be here forever.

7 A. No. That's why you need--the next person
8 who takes this over, needs to be an
9 itinerant teacher of the deaf. It has to
10 be--and they all know each other. They know
11 who--they're an awesome staff, highly
12 skilled, highly, highly, skilled. My first
13 meeting with them I said, you, the people in
14 this room, know deafness more than anybody
15 else in this Province. You're a very select
16 group, except for deaf people of course.

17 Q. I know I'm pushing us into the lunch hour,
18 but is there questions arising from the
19 questions that I've asked?

20 MR. REES:

21 Q. I do have a few.

22 ADJUDICATOR:

23 Q. Go ahead.

24 MS. ALMA MCNIVEN, CROSS-EXAMINATION BY MR. KYLE R.

25 REES

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1 MR. REES:

2 Q. Okay. I think we eventually got there, but
3 I don't know if I have a clear statement for
4 the record. You do not ASL proficiency test
5 any of the teachers for the deaf, or any of
6 the deaf itinerant teachers, correct?

7 A. No. The ones who have been hired have not
8 been tested unless they wanted to be tested.
9 New hires, if they're coming in and it was
10 requirement, and they have--if they have--
11 their skill is satisfactory enough to test,
12 well then we would test.

13 Q. Wait, if their skill is satisfactory enough
14 not to test? Evaluated by whom?

15 A. NLAD.

16 Q. Okay. So, NLAD doesn't test them, but you
17 run them--I mean, in some cases--like in
18 this context you're saying if their skill is
19 found satisfactory, do you mean upon
20 administering a proficiency test, or do you
21 mean you sort of just run them past the
22 NLAD?

23 A. Well, I guess I've only really come into it-
24 -it's only happened to me once, but if I
25 knew someone wasn't a good signer, is there

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- 1 a point in testing that person to find out
2 that they're not a good signer, or do I use
3 my energy to find something else.
- 4 Q. I mean, to the Adjudicator's point, you
5 won't be around forever, or let's say
6 someone comes in that you don't know,
7 they're from another province. I've seen
8 the tourism ads, and from Saskatchewan
9 Newfoundland looks like a great place to
10 live, to come to work.
- 11 A. Actually, that happened, and that person was
12 tested.
- 13 Q. And you tested that person?
- 14 A. I didn't, but Darlene did, absolutely.
15 Someone came from another province, they
16 were tested.
- 17 Q. Sorry. Darlene asked them if they would
18 like to complete a proficiency test -
- 19 A. No.
- 20 Q. - or required -
- 21 A. It required.
- 22 Q. Okay. Why do you require a proficiency test
23 but the job ads--and we can look at them if
24 we need to. The job ad only indicates that
25 ASL proficiency is a preferred requirement

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1 and not in fact a requirement?

2 A. That's really something that HR would have
3 to explain more than me, because there are
4 certain ways--I don't know. I don't want to
5 -

6 Q. You'd like to see it as a requirement?

7 A. That ASL would be a requirement?

8 Q. Yes.

9 A. Yes, but what happens when there's no person
10 with ASL? I still want a person. I still
11 need people who--we need teachers.

12 Q. But, of course, if you don't test them, you
13 won't know for sure, absent, you know, your
14 personal knowledge which I think you got to
15 admit might be imperfect.

16 A. Absolutely.

17 Q. Your personal knowledge, you might have no
18 way of knowing whether or not someone, you
19 know, was the proficiency they purported to
20 be.

21 A. Right.

22 Q. And in fact that turned out to be the case
23 for, you know, by example, Joanne Van Geest,
24 and I appreciate you say she's learning and
25 all these other things, but, you know, she

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1 proficiency tested lower than she said she
2 would, and, you know, she indicated when she
3 was on the stand she actually thinks the
4 proficiency test is wrong and she was better
5 at ASL. So, I guess, without testing them
6 you don't know for sure, do you?

7 A. No, of course not.

8 Q. A couple of other things arising. You
9 indicated that one of the resources that are
10 provided to anyone who requires additional
11 training in ASL is provided by NLAD, and the
12 Adjudicator asked you if they were paid for
13 that, and I think you answered that they
14 were, but I think what you mean to say is
15 you pay for the course and the materials.

16 A. Yes, pay for the course, absolutely.

17 Q. Right. You don't pay them for their time?

18 A. No.

19 Q. Okay. So, that's required on them to do it
20 on a voluntary interest basis?

21 A. Yes, absolutely.

22 Q. You indicated that in the event that you
23 can't find a classroom teacher who is fluent
24 in sign language or, you know, otherwise
25 proficient in sign language, you know, the

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- 1 next best thing is the educational
2 interpreter, right, that's Plan B.
- 3 A. No. Actually, the best Plan B is a deaf
4 interpreter.
- 5 Q. Yes, okay.
- 6 A. Right. We didn't have that last year
7 because there were student assistants, but
8 now they are TLA's, and they can do that, as
9 well as work with children.
- 10 Q. I mean, the question--you mentioned
11 something earlier, and actually it was the
12 first time I had heard it, and it was
13 interesting to me, and it will probably be
14 interesting to Adjudicator. Did you
15 indicate there was some kind of computer
16 display? I'm wondering if you have a deaf
17 interpreter, and you have a hearing teacher,
18 you know, a hearing teacher with some
19 limited ASL who's teaching the classroom
20 material, how does a deaf educational
21 interpreter hear of what the lesson is and
22 pass it on to the student?
- 23 A. Well, it's kind of like yesterday. I went
24 with a new TLA to Holy Heart, and we had a
25 conversation. Myself and the principal, and

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1 the deaf person had a conversation. So, the
2 deaf person put on Live Stream on her phone,
3 and she laid it down.

4 Q. What's Live Stream?

5 A. It's an app. So, when you're speaking your
6 text is coming up.

7 Q. Just similar to this but -

8 A. Exactly.

9 Q. Now, I understand this to some degree is--by
10 this, I'm pointing at our screen which has a
11 closed captioning system. Now, I understand
12 there's some kind of human role on this, and
13 it's not being generated by, you know, an
14 AI, or something, a computer. Live Stream
15 is AI generated?

16 A. Yes.

17 Q. So, it sometimes says funny things that
18 aren't actually what somebody is saying I
19 guess.

20 A. Well, yesterday the principal spoke, and the
21 stream came across, and the deaf individual
22 read it, and she understood exactly what the
23 teacher had said, and she said, there are a
24 couple of things that aren't right, but
25 overall she read it, and then--so, it was

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1 like a three-way conversation. It was
2 almost--it went very well, myself signing,
3 her signing. I would have at times tell the
4 principal what the deaf person said, but,
5 no, the principal spoke, she read it, and
6 she knew exactly what the principal had
7 said, and then if she was with a child, she
8 would read it, and then she would tell the
9 child what was said.

10 Q. I mean, I noticed, and only every now and
11 then do I happen to catch the screen with
12 the closed captioning on it, but during one
13 of the first days of the hearing I noticed I
14 said something along the lines of--and
15 again, this is with human assistance so it's
16 probably better than your AI. I indicated--
17 I asked someone where did they work, and the
18 closed captioning asked them where do they
19 Bejork, as in the Icelandic singer.

20 A. But, listen, that happens in conversations.
21 My hearing is not what it used to be.
22 There's times someone will say something to
23 me, and I go, what did you say? So, on an
24 app you would say, what, that's not right.

25 ADJUDICATOR:

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1 Q. I just want to point out, Mr. Rees, we may
2 not want to use the closed captioning that
3 we've had throughout these proceedings for
4 the benefit of the general public as an
5 example because we've used more than one
6 form of closed captioning during this
7 proceeding, and for you to narrow down when
8 we've switched back and forth, because we've
9 noticed some problems with our closed
10 captioning.

11 MR. REES:

12 Q. Yes. To be fair, you know, I've noticed a
13 substantial improvement in that.

14 ADJUDICATOR:

15 Q. You just may not want to use it as an
16 example because you may not be using the
17 time period you want to be using in your
18 example.

19 MR. REES:

20 Q. I got you. Okay, it's interesting to hear
21 that. I guess, the only real question I had
22 is like those interpreters that you're
23 relying upon, they're not tested, are they?
24 I know there's an educational interpreter
25 assessment, but they don't get -

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1 A. Are you talking about the deaf individuals?

2 Q. No, last year, the educational interpreters,
3 none of them were subject to the educational
4 interpreter proficiency assessment?

5 A. We actually--we wanted an interpreter for 25
6 hours. We had two who were willing to do
7 it, to split it. They had been educational
8 interpreters at Gonzaga years ago. They
9 are--you know, we didn't--we could have.
10 Yeah, we didn't, but they were very--they
11 are excellent interpreters.

12 Q. We've seen--and this is the last question on
13 re-exam I have for you, because you talked
14 about the degree to which you rely, and the
15 classroom's functioning relies upon highly
16 skilled deaf people and, I agree with you,
17 it does, and you do have some highly skilled
18 deaf people here, and we talked to several
19 of them. They're fantastic. It was a
20 theme, particularly of Tammy Vaters'
21 evidence, that, you know, while she was
22 playing the student assistant role with
23 Carter in his early grades at Beachy Cove
24 Elementary, you know, she was really going
25 beyond what was expected of her as a student

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1 assistant who was, you know, primarily
2 involved in portering and care of the child,
3 and was, you know, fulfilling this
4 educational interpreter role, and I'm
5 conscious of the fact that, you know, often
6 individuals from marginalized groups, such
7 as deaf individuals, are often required to
8 sort of, you know, do extra work for free.
9 You know, there's a heavy burden placed on
10 marginalized individuals, such as deaf
11 people, you know, to assist in that
12 accommodation process of other deaf people.
13 Is that a theme you've noticed, and is that
14 something that, you know, we still see in
15 place today, where the deaf people who are
16 being utilized in this satellite classroom,
17 you know, are being asked to go above and
18 beyond the role that they're being
19 compensated for?

20 A. I will agree they were above and beyond. I
21 do not think it was a plan of NLESD to do
22 that on purpose.

23 Q. What was it?

24 A. I do not -

25 Q. Something that happened by accident?

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1 A. I believe that--I believe they were hired,
2 and I don't think that people who hired them
3 truly understood what role they would have
4 to play in order for it to work. I do not
5 believe that they were marginalized on
6 purpose. I do believe that many people go
7 over and above their job, and they did,
8 there's no doubt in my mind, and I am
9 eternally grateful for them, and the reason
10 they did it is because they loved the
11 children, and they want those children to
12 succeed.

13 Q. Those are my questions. Thank you.

14 ADJUDICATOR:

15 Q. Mr. Penney.

16 MR. PENNEY:

17 Q. No.

18 ADJUDICATOR:

19 Q. Well, first, Ms. McNiven, thank you for
20 giving your evidence to the Board of Inquiry
21 today. I really appreciate that. You are
22 free to go.

23 A. Thank you.

24 Q. And, counsel, in terms of when we're coming
25 back--some of it is my fault, but we're a

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1 bit behind where we were thinking we'd be.
2 It's almost 12:30 now, and we've got a
3 witness scheduled for the whole, well, the
4 bulk of the afternoon, and then a second
5 witness. What time do we want to come back
6 from the lunch break?

7 MR. REES:

8 Q. I think we're okay to take the hour and come
9 back at 1:30. You know, even in the event
10 that I'm not able to keep Ms. Fewer
11 Jackson's examination to under three hours,
12 in order to accommodate the schedule--I
13 think between like Darlene Fewer Jackson,
14 and we've got Tony Stack at the end of the
15 day and for some of the morning tomorrow,
16 like I think between those two witnesses we
17 can make up a half an hour.

18 ADJUDICATOR:

19 Q. Okay. Come back at 1:30 then. We will
20 adjourn until 1:30, please.

21 (OFF RECORD)

22 ADJUDICATOR:

23 Q. I see we have our next scheduled witness
24 here. This is Ms. Fewer Jackson, is it?

25 A. Yes.

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1 Q. So, Ms. Fewer Jackson, before you give your
2 evidence to the Board of Inquiry this
3 afternoon, you have the option of swearing
4 an oath on a Bible to tell the truth, or you
5 can give a solemn affirmation. It's your
6 choice to make.

7 A. The Bible is fine. Can I interrupt for a
8 moment? I, myself, have a hearing loss, and
9 your voice is really low for me. So, I
10 don't know if you're going to be addressing
11 me this afternoon, but if you are then I
12 would need you to elevate your voice for me.
13 Thank you.

14 ADJUDICATOR:

15 Q. Thank you for letting me know.

16 A. So, do you want me to go ahead and swear
17 now?

18 REPORTER:

19 Q. You want to swear on the Bible?

20 A. Yes, that's fine.

21 Q. Thank you.

22 MS. DARLENE FEWER JACKSON (SWORN), CROSS-EXAMINATION

23 BY MR. KYLE R. REES

24 REPORTER:

25 Q. State your name for the record, please.

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1 A. My name is Darlene Fewer Jackson.

2 Q. Thank you. Ms. Fewer Jackson has been
3 sworn.

4 ADJUDICATOR:

5 Q. Okay. Ms. Fewer Jackson, I understand that
6 Mr. Rees is going to have a series of
7 questions for you. Mr. Penney may have some
8 follow-up questions, and I may have some
9 questions for clarification as we go along,
10 or I may have questions afterwards as well.

11 A. Okay.

12 Q. So, Mr. Rees, go ahead.

13 MR. REES:

14 Q. Hi, Ms. Fewer Jackson. You let me know if
15 my volume needs adjusting in any way. Up
16 more you're saying. That's another thumbs
17 up, you're doing good. Talk louder?

18 A. Thank you.

19 Q. I know there are some folks doing the audio
20 here too so they may be able to increase the
21 volume of my voice electronically. So,
22 maybe they'll do that so I'm not shouting at
23 you. I haven't shouted anybody yet, so I
24 don't think you're going to break the trend.
25 I'm Kyle Rees. I'm the lawyer for the

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1 Churchill's who are sat to either side of
2 me. We've got three hours budgeted for
3 questions for you. Based on my assessment,
4 I don't think we'll take quite that long,
5 but I do think we'll be longer than two
6 hours with questions. Over the course of
7 the questioning if I'm unclear, or if you
8 have a hard time hearing what I've said, if
9 I'm not being loud enough, just let me know,
10 I'll repeat the question, or rephrase the
11 question, if necessary. I'll also be
12 referring you to some of the documents that
13 are in front of you over the course of these
14 few hours. It will take a little while to
15 get the documents open, and to look at them,
16 but we've done that with several witnesses
17 before. I'm happy to finally meet you
18 because we've--maybe it surprises you, maybe
19 it doesn't, your name has come up a lot over
20 the course of the last few days, primarily,
21 you know, in a positive light you'll be
22 relieved to know. You know, you have had
23 involvement in deaf education in
24 Newfoundland I think longer than any other
25 witness that we've had, or at least from an

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1 administrative perspective anyway. Some
2 folks taught at the School for the Deaf. I
3 understand that your role, just by way of a
4 general career, because, of course, we have
5 your affidavit that details dates and
6 things, but you--in 2011 and there around
7 you're in the Department of Education, and
8 you're in that role for a few years. You
9 leave that role. You return to the School
10 District later and are the impetus behind
11 the implementation of the satellite
12 classroom, is that right?

13 A. Correct.

14 Q. And all of your knowledge of Carter
15 Churchill, and the issues that were being
16 raised in this Human Rights complaint by
17 Carter Churchill specifically, all of your
18 knowledge in that regard would have started,
19 I guess, in 2019 when you get hired in the
20 role with the District?

21 A. Could you rephrase the question?

22 Q. Yes. What I'm asking is, I guess, when
23 would you have first become aware of Carter
24 Churchill and had any involvement with, you
25 know, his needs specifically?

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1 A. Yes, it would have been in 2019, however, I
2 did hear some rumblings in the community of
3 course, news broadcasts, and so on and so
4 forth, that the programming, or the needs of
5 the child, being met had been televised.

6 You know, obviously there were media
7 outlets, and so on and so forth, so I had
8 heard some of that during those avenues.

9 Q. Tell me about your, I guess, your
10 background, or your experience that leads
11 you to take an interest in issues
12 surrounding deaf education.

13 A. Well, my paternal grandmother was deaf. It
14 was a progressive loss. She was isolated.
15 She didn't have American Sign Language. My
16 paternal uncle--I, myself, had hearing loss
17 as a child, and I went in to be a teacher,
18 and I had interest in the area of special
19 education. I had a brother with a
20 significant learning disability, some
21 cousins who were quite cognitively delayed.
22 So, it was an area of interest for me
23 personally. I went in and did my Bachelor
24 of Education in the elementary program, and
25 then I went on to become a special education

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1 teacher. The very last course that I did
2 was an elective, Introduction into Deaf
3 Education that was being taught by Barbara
4 O'Dea, and she taught me a lot, and she
5 taught me a lot about my own hearing loss,
6 and she suggested that I go on and do
7 something like this because people who have,
8 you know, a vested interest, or life
9 experience, those are the kinds of people
10 that should go into that kind of program.
11 So, I came out and I went to the Burin
12 Peninsula and I was an instruction resource
13 teacher, and that kind of sat with me for
14 awhile. So, then I decided that I would
15 apply, and there's not a lot of universities
16 in Canada that offered the Masters program,
17 but I did apply to the UBC and the Mount
18 Saint Vincent program, and the University of
19 Alberta, and that's where I was accepted. I
20 got a little bit of a scholarship. I had
21 loads of student loans, so that was kind of
22 nice.

23 Q. I hear that.

24 A. And I went on to the University of Alberta
25 to do some training there. Prior to that

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1 though, in my special education year I took
2 some sign language courses that were offered
3 through CONA in the nighttime. So, I can
4 honestly say it was a bit of information
5 overload, but I wanted to know about
6 American Sign Language so that if I had to
7 be lucky enough to be accepted, that I would
8 have some basic background in that. I went
9 off to the U of A. I did my Masters
10 program. I don't know if any of you recall,
11 but at the time Ralph Klein was the Premier.
12 He was cutting some teaching positions.
13 Well, he was cutting across the board
14 really, some austerity measures, and I had
15 applied for a couple of positions out there,
16 but I was not successful, and then I moved
17 home. By then we had a child, and moved
18 home, and I worked fulltime as a special
19 education teacher. In terms of, I guess, my
20 passion and my interest, it would absolutely
21 be rooted in my own personal experience.

22 Q. Tell me how that personal experience
23 informed and gave you a valuable perspective
24 on the work that you were doing in deaf
25 education specifically.

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1 A. Well, a lot of my special education years
2 were working with children on the autism
3 spectrum. I guess I sort of really honed my
4 skills in that area, and, of course,
5 children on the spectrum are non-verbal,
6 they have issues with language,
7 communication disorders, and a lot of the
8 stuff that we had learned in our university
9 program in Alberta kind of lent itself as
10 well to that area of teaching and learning,
11 you know, best practices around
12 communication, language acquisition, you
13 know, the different strategies that you
14 would use. We stayed in Newfoundland for
15 three years when we moved back from Alberta.
16 We were now brand new parents, and in 1996
17 we left again and we moved back to Alberta,
18 and I was employed by the Edmonton Public
19 School System. I ended up in a district
20 site for students with autism, and that
21 strictly meant that if you were from any
22 area in southeast or southwest Edmonton, if
23 your child had been diagnosed with autism,
24 you had a choice of sending them to their
25 neighbourhood school, or you could go to

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1 this district site where the services were a
2 little more beefed up, if you will. We had
3 access to paediatricians, to speech language
4 pathologists, to physiotherapy, so on and so
5 forth.

6 Q. In some ways it followed the School for the
7 Deaf model?

8 A. Well, it was a program that was in a regular
9 K to 9 school where they were all hearing
10 children, but it was not say isolated. We
11 did, you know, reverse integration. We had
12 children out in mainstream classes for
13 certain things, but in the self-contained
14 program we absolutely focused on language,
15 numeracy, literacy, you know, self-
16 determination, social/emotional language
17 skills, you know, mental health issues, all
18 of those things. So, when the programming
19 dictated that we needed to be more
20 intensive, it would happen in that
21 classroom, but when we were working on
22 things like going to music, or going to art
23 class, or physical education, we would join
24 the agements (phonetic) of the children that
25 I served.

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1 Q. And that's the model you refer to as reverse
2 integration, right?

3 A. Yes, and in that class, of course, I had
4 quite a range of children on the spectrum,
5 and actually a couple of the children there
6 as well were deaf. So, I got to use some of
7 my strategies there that I would have been
8 trained to use with those deaf children.

9 Q. What's your ASL like? Do you have any
10 ability in ASL, any proficiency in ASL?

11 A. At the time and, Mr. Rees, I felt like I
12 was, you know, pretty decent.

13 Q. So, do you mean at the time as in the '90's,
14 early 2000's?

15 A. Absolutely. Absolutely. And like any
16 language, if you don't use it--what I would
17 always say is, I still actually think
18 sometimes in sign, and my expressive I'm
19 sure would be much better, but my receptive
20 at this point would be what I would say
21 would absolutely need brushing up on.

22 Q. I see.

23 A. I want to speak to my internship program at
24 the U of A. I felt really blessed that I
25 was able to travel with an itinerant

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1 teacher, which is really a travelling
2 teacher, supporting children who were deaf
3 or hard of hearing, and I also had time at
4 the Glenrose Rehabilitation Hospital, where
5 that program worked with children who had
6 severe communication disorders, and I also
7 had a stint at the Alberta School for the
8 Deaf so that I would see firsthand how
9 programming was done there for deaf
10 children.

11 Q. Understood. You know, while your sign
12 language proficiency might need substantial
13 brushing up like you described, I mean, you
14 have enough of a background in it to
15 understand, for instance, the difference
16 between things like American Sign Language
17 and sign in exact English.

18 A. Of course.

19 Q. You understand the grammar and the syntax
20 unique to ASL -

21 A. Of course.

22 Q. - the role of facial expressions, those
23 sorts of things?

24 A. Absolutely.

25 Q. How about topics like language deprivation,

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1 would you have come across those terms and
2 have an awareness of what language
3 deprivation is, and what the impacts on a
4 child can be?

5 A. Absolutely I would.

6 Q. You would? Great. That's kind of just the
7 background that I wanted to know about you.
8 So, let's kind of start where I see your
9 role in this narrative commencing, which is
10 in 2011, and you've attached--I believe
11 you've actually attached it to the back of
12 your affidavit, so we can refer to it there.
13 At Tab 1 of your affidavit is the review
14 that you conducted in June of 2011. I see
15 you have it there. So, it's Tab 1 of your
16 affidavit. You know, I've discussed this
17 document with many other witnesses actually,
18 and I haven't gotten any real valuable
19 information from any of them about what the
20 genesis of this document was, what was done
21 with it. So, I'll spend a little bit of
22 time, you know, asking you about that before
23 we talk about the actual contents of it.
24 So, what was--I mean, you and Nora Cahill
25 prepared this report.

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1 A. Correct.

2 Q. What was your job title at the time you
3 prepared this?

4 A. Well, when I was hired in 2008, December
5 2008, I came back from Alberta, and I was
6 hired as a consultant for Student Support
7 Services, and Student Support Services is
8 basically a term for all things special
9 education. My role at the time was working
10 again on supporting the District, well, the
11 number of districts that we had at the time,
12 in helping programming for children who are
13 on the autism spectrum, disorder, spectrum,
14 and then it was found out--I guess someone
15 looked back at my curriculum vitae and saw
16 that I had this area of speciality as well.
17 While I didn't say work directly at a School
18 for the Deaf, it was a background none the
19 less, and some area of expertise, and so I
20 was asked to sort of take on a bit of a role
21 to look at some of the deaf and hard of
22 hearing.

23 Q. Do you recall who would have asked you to
24 take that role on?

25 A. Yes, that would have been my Director at the

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1 time, Dan Goodyear.

2 Q. Okay. And Dan was what, a Deputy Minister?

3 A. No, no, he was our Director at the time of
4 Student Support Services. So, when I ended
5 up at the Department of Education--I don't
6 know if anyone else has explained, but there
7 are different divisions within the
8 Department of Education.

9 Q. Yes.

10 A. We have Curriculum Development. We have
11 Research and Evaluation. You know, there's
12 Student Support Services, assessment pieces,
13 you know, that would have come under
14 Research and Evaluation I'm pretty sure.
15 So, we were our own entity. Dan Goodyear
16 was the head over Student Support Services
17 at that time.

18 Q. Student Support Services.

19 A. So, my role was autism, and then, of course,
20 I was--and that's the way all the consultant
21 roles are, even to this day. You're not
22 just specifically assigned to one role. You
23 would have a number of files that you're
24 going to be overseeing. So, I had the role
25 of the Autism Consultant, or Consultant for

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1 Students with Autism, and I was overseeing
2 some of the deaf and hard of hearing stuff.
3 Q. Around what year? Is that like 2010?
4 A. That was around 2010.
5 Q. So, upon the closure of the School for the
6 Deaf?
7 A. Absolutely, yes.
8 Q. That would have featured prominently in the
9 work you were doing in that area?
10 A. Well, I didn't really do any specific work
11 in the area. I was just getting to know the
12 file. I was as surprised as anyone, if I'm
13 to be completely honest, that the School for
14 the Deaf was closing. So, after the School
15 for the Deaf closed, then I took a bit more
16 of a pivotal role. Mr. Goodyear approached
17 myself and Nora Cahill and said, you know,
18 girls, the School for the Deaf is closed and
19 we want to ensure that whatever was offered
20 at the School for the Deaf is looked at, and
21 we want you girls to address anything in
22 that area that you feel needs to be brought
23 forward in terms of any gaps, any glaring
24 gaps, and any recommendations that you feel
25 would need to go in place to ensure that any

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- 1 programs that were at the School for the
2 Deaf would continue on.
- 3 Q. Right. Because it was promised at the
4 closure of the School for the Deaf, that
5 while the school was closing, you know, the
6 services would just be provided within the
7 neighbourhood schools. So, that's the
8 reason why you're being asked to look? If I
9 can summarize, you're being asked to look at
10 the services that now exist, and identify
11 what gaps from the closure of the School for
12 the Deaf exists that would need to be
13 repaired?
- 14 A. Right.
- 15 Q. And was it Darin King, was he the--I think
16 he was the Minister who had closed the
17 school.
- 18 A. He could have been the Minister of the day,
19 yes.
- 20 Q. But your direction came from Dan -
- 21 A. Goodyear.
- 22 Q. - Goodyear?
- 23 A. Yeah.
- 24 Q. Okay. So, you and Nora Cahill--who is Nora
25 Cahill, by the way?

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1 A. Nora Cahill was our Provincial Auditory
2 Verbal Therapist. She would have actually
3 worked at the School for the Deaf, because,
4 of course, in the late '80's, '90's,
5 children were being implanted with cochlear
6 implants, and she would have had a roster of
7 maybe five children on her caseload at the
8 time, which would have been very doable for
9 a caseload. Now, having said that, they
10 were all over God's green acres. I mean,
11 they were all over the Province, but she had
12 a travel budget, and she was able to go and
13 service the children. And then after that,
14 out of this report here, and the number of
15 children who were being implanted increased,
16 then they saw the need for more services
17 from an auditory verbal therapist. The
18 Janeway, of course, also had their own
19 auditory verbal therapist.

20 Q. Right, and I'm going to ask you some
21 questions about that later. For now though
22 I would like to ask you about the 2011
23 report.

24 A. Yes.

25 Q. So, you're assigned the role of identifying

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1 these gaps, you know, your first, or maybe
2 second, step down this road that Dr. Barbara
3 O'Dea indicated would be a good path for
4 you, and here you are, doing her proud. You
5 identify in this document several gaps.
6 Again, before we get to the contents of the
7 gaps, how did you find this out? Like how
8 did you research this information? Did you
9 interview people? Did you review documents?
10 How did you do your background research?

11 A. Well, there was a report written by another
12 Darlene. I don't know if you have to have
13 the name Darlene to be in deaf education,
14 but there was another Darlene, Darlene
15 Styles, that I believe was in a similar role
16 to myself at the Department. She was asked,
17 as far as I know, to look at the School for
18 the Deaf's structure, the programming, the
19 resources, any outside agencies that would
20 have been involved. So, there were--the
21 report was quite detailed. So, myself and
22 Ms. Cahill basically looked at that report,
23 and you have to understand that I had been
24 in Newfoundland, left Newfoundland, went to
25 Alberta, had come back, and Nora Cahill had

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1 quite a lot of history of the School for the
2 Deaf and the programming, especially for
3 children with cochlear implants. So, myself
4 and her sat and we went through Darlene
5 Styles' report, and also knowing with the
6 School for the Deaf had now closed, had
7 conversations with itinerant teachers for
8 the deaf, we were able to pull from that and
9 devised this new document. It's not brand
10 new. We didn't have to reinvent the wheel
11 because the other report had highlighted
12 some of the areas that absolutely could use
13 some improvement.

14 Q. Right. So, I mean, when you were preparing
15 this report, and preparing background for
16 this report in 2011, it's not a new idea
17 that there are gaps in deaf education in
18 Newfoundland and Labrador?

19 A. I guess not a new idea for gaps in deaf
20 education right across the world. I mean,
21 this is not new to Newfoundland and
22 Labrador. This pervades all of Canada, and
23 all of North America. It's a complex field
24 of study. It's a complex field of providing
25 service, and making sure that children get

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1 what they need. I just want to put that out
2 there.

3 Q. Fair enough, and, I mean we've been sort of
4 trying to untangle the challenges going
5 through this hearing. Again, before getting
6 to the substance of the report, why don't
7 you just jump right to what happened with
8 this report. You completed it in 2011.

9 A. Yeah.

10 Q. You give it to your superior, Dan Goodyear.

11 A. Correct.

12 Q. What happens to it after that, because as
13 far as everyone at the Department of
14 Education and the School District seem to
15 know, it appears to vanish into the ether?
16 So, help me understand what would have
17 happened with the report.

18 A. No, it certainly didn't vanish into the
19 ether. This report was actually the impetus
20 for, I guess, either the Treasury Board, or
21 someone at the Department of Education, to
22 open up monies and funds for us to address
23 some of these gaps. So, I wanted to say as
24 well, Mr. Rees, that while the report was
25 finished in June 2011, we had worked on it

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1 throughout the year. Now, I have to say
2 that Ms. Cahill had a job of directly
3 servicing children across the Province. So,
4 whenever she was back in the Department I
5 would grab her, we would work on it, and she
6 had a very busy schedule, and so did I. So,
7 we did our best. I would have liked to have
8 had this report out much sooner, but we had
9 responsibilities to other files as well.
10 So, now I'm losing my train of thought.

11 Q. I was asking you so what happens with the
12 report.

13 A. So, we were given money. I remember, for
14 example, I was given over \$70,000.00. So,
15 one of the gaps was teachers needed
16 professional learning. They needed ongoing
17 training. I don't know what happened at the
18 School for the Deaf in terms of professional
19 learning throughout the years, but I do know
20 that any of the teachers that were not
21 associated with the School for the Deaf, or
22 affiliated with them, they would have
23 absolutely needed ongoing training. This is
24 an area that really fits under the medical
25 model. You know, things change. Hearing

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1 loss, reasons for hearing loss, assistive
2 technology, amplification, apps for speech,
3 any type of thing like that, it's always
4 evolving as more and more research is done.

5 Q. So, what happens with your report? Who does
6 it go to?

7 A. So, this was passed to Dan Goodyear, and I
8 can only speculate, but I assume it went up
9 the chain because money then came for
10 professional learning, for me to offer
11 American Sign Language to teachers. We were
12 able--I was able to access programming at
13 APSEA. I was able to go to APSEA and learn
14 about some of the programming that was
15 happening in the Atlantic Provinces region.
16 This just didn't sit. If you look at the
17 recommendations and some of the gaps that
18 were there, we were able to address some of
19 that. The itinerant--and again I just want
20 to reiterate, itinerant means a travelling
21 teacher. So, when we did our programming at
22 our university levels, we did programming in
23 audiology, assistive technology, speech
24 language, speech rating, language
25 acquisition. We were never taught American

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1 Sign Language in those Masters programs.
2 That's not what they're designed for. I
3 took interest and went to CONA and learned
4 it in the nighttime while trying to cram all
5 of my special education courses, but if a
6 teacher in our Province, or anywhere in
7 Canada, has American Sign Language, it's
8 probably because of a personal connection to
9 someone who is deaf. So, we wanted to
10 ensure that any of the teachers that had
11 been assigned to the School for the Deaf to
12 work, when they came out, they would not
13 have had a whole lot of experience, if you
14 will, in working with the zero to five
15 population because the Home Parent Program
16 that was at the School for the Deaf would
17 have taken care of the children across the
18 Province who would have had hearing loss.
19 So, there were some really well skilled
20 ladies there that would have provided
21 programming to parents. They had a travel
22 budget. They would have gone across the
23 Province to work with them.

24 Q. This is the Home Parent Program?

25 A. Correct. And they would have had a guidance

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1 counsellor that would have travelled across
2 the Province to work with parents.
3 Obviously, 90 percent of our children with
4 hearing loss are born to hearing parents.
5 It's a big deal. It's a huge deal. So,
6 those roles were there to support the
7 parents. Now, having said that, the Janeway
8 had a role as well in supporting parents,
9 and especially if they chose the route of
10 going with cochlear implants. They would
11 have been there to counsel, one would
12 assume, of the pathways to language
13 learning, and listening, and spoken
14 language, and so on and so forth. But in
15 1996 Ed Mackey, who was the Minister of
16 Education for the day, sort of did like a
17 Memorandum of Understanding. That it was
18 starting to be noticed that the Home Parent
19 Program couldn't possible serve all of the
20 Province as well as it had intended or
21 wanted to. So, services obviously may or
22 may not have been spread thin, and it was an
23 understanding that teachers outside of St.
24 John's, and I'm referring to itinerant
25 teachers for the deaf and hard of hearing,

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1 would now look at servicing our zero to five
2 population. So, those beyond St. John's
3 would have had those services by the
4 itinerant teachers for the deaf. Those
5 within the St. John's region would have
6 availed of the Home Parent Program at the
7 School for the Deaf, but when the School for
8 the Deaf closed these itinerants who would
9 have relied on the expertise of, I believe
10 it was all ladies, at the School for the
11 Deaf. Now this was an area that they would
12 have to develop that skill set.

13 Q. Right. I mean, we'll come back to the
14 report in a second. Let's talk about that
15 for a little while. The decision to place
16 deaf children, within the metro area
17 particularly, on the caseloads of deaf
18 itinerant teachers, when is that decision
19 made, and who makes that decision?

20 A. So, we work closely with the Janeway, and
21 the Janeway audiologist would do a referral
22 to Education to say, hey, we have little
23 John, we have little Mary, that an audiogram
24 is now showing that they have a significant
25 hearing loss, and the majority of the

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1 children would be amplified with hearing
2 aids or a BAHA, another type of assistive
3 listening device. Those children would have
4 been assigned to a teacher of the deaf and
5 hard of hearing because they have some
6 residual hearing. They have listening, and
7 so on. So, they would refine those skill
8 sets to get them ready for Kindergarten.

9 Q. And they would really be following, you
10 know, the oral, the AVT, route, wouldn't
11 they, those children who are -

12 A. Well, the AVT route would have been more
13 specified to the area of children with
14 cochlear implants. So, children with
15 cochlear implants would have been serviced
16 by the AVT and the Audiology Department at
17 the Janeway.

18 Q. Okay. I guess the part that we're really
19 interested in is what happens to the kids
20 who, you know, once this changeover happens,
21 and I still haven't gotten the answer from
22 you on who makes the change and when they do
23 it, we'll come back to that. What happens
24 to the kids who need ASL? What happens to
25 the kids who it becomes pretty clear--and in

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1 this case, you know, I think the latest
2 anybody says it's apparent that Carter
3 Churchill needs to communicate with ASL is
4 when he's three. So some time between the
5 ages of one and three it becomes apparent
6 that Carter Churchill is going to need ASL
7 to communicate. Whose responsibility is it
8 to teach Carter Churchill, and kids like
9 him, ASL?

10 A. Well, we have a model in Newfoundland, which
11 I don't know if anyone else has brought up,
12 would be the ISSP. So, that's education;
13 that could be social services; that could be
14 health. There is a model that we would have
15 followed, whether it's followed or not in
16 this particular incident, I can't speak to,
17 but an ISSP model would have been devised,
18 and meetings would have occurred, and a
19 representative from Education, and a
20 representative from Health, parents
21 absolutely would be involved, that would
22 have gone through a formal process to say,
23 hey, this little guy is implanted, but we're
24 not seeing a lot of success, and this is
25 what we need to do. The other point I want

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1 to make is as well, Mr. Rees, is that even
2 if a child does need American Sign Language,
3 our hours of service is dictated by need,
4 and the itinerants that would have been
5 responsible, they also have a caseload of
6 children who are accessing curriculum. So,
7 we're talking the K to 12. The children
8 zero to five would have been supported by a
9 teacher for the deaf and hard of hearing,
10 but we all know that two hours, four hours,
11 five hours, even if it was 10 hours--we have
12 168 hours in a week where language has to be
13 learned. So, you know, there would be a
14 shared responsibility for a teacher of a
15 deaf, Janeway staff, possibly, absolutely
16 the parents, grandparents, any siblings,
17 cousins, anyone who can communicate with a
18 child, and often times children that are not
19 in the City, when they used to come to the
20 School for the Deaf, sometimes they had a
21 bunch of family signs, signs that were
22 unique to a family, until they arrived at
23 the School for the Deaf. It's not as cut
24 and dry as one might think. It is
25 absolutely an intensive, intensive, process

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1 to learn a language, especially a language
2 where parents are hearing. I would assume
3 grandparents are hearing, and so on and so
4 forth. It's like the adage of it takes a
5 village to raise a child. Well, when you
6 have a deaf child, you need everybody to be
7 on board, and even accessing the deaf
8 community--the deaf community are the
9 keepers and those who use the language.
10 They're native signers. So, I'm not sure
11 what happened in those early years in terms
12 of Carter.

13 Q. Can we just focus on--when is the decision
14 made to change that delivery model, and who
15 makes that decision?

16 A. That change would have been made during an
17 ISSP meeting.

18 Q. Sorry. What I'm referring to is when is the
19 change in which those services are delivered
20 to students who need ASL made, to be
21 delivered through the deaf itinerants in the
22 metro area?

23 A. So, again, back to if the Janeway highlights
24 that they're struggling with listening to a
25 spoken language, they would make a referral

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1 to Education. Typically, if they're on the
2 cochlear implant route, and listening to a
3 spoken language is going well, the team at
4 the Janeway does not handover children to us
5 until the KinderStart year. We're made
6 aware. So, age three and a half, four, in
7 Education we would be made aware that this
8 little person is coming, and this is the
9 programming we've done to date. In terms of
10 a child who would need American Sign
11 Language, one would hope that the ISSP model
12 would have highlighted that, and that's
13 where a teacher of the deaf and hard of
14 hearing would step in to support that skill
15 set, learning that language.

16 Q. I know that you've indicated that the number
17 of hours that a DHH teacher is going to
18 spend with a pre-school child, you know, is
19 allocated based on need, but for children
20 whose needs are very high, and Carter
21 Churchill was one of those I would suggest,
22 there are limits on the amount of support
23 that those DHH teachers can provide, right?

24 A. Yes, correct.

25 Q. And these are DHH teachers who have

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1 suddenly, given a change in policy, have
2 these children added to their caseloads,
3 where these children previous would have had
4 access to, you know, the School for the Deaf
5 programs, or otherwise. So, these DHH
6 teachers, itinerants, have their caseload,
7 you know, dramatically increased. Did you
8 take the view at the time you wrote your
9 report in 2011, that the number of hours
10 that these deaf itinerants could allocate to
11 high needs children for ASL, like Carter,
12 that that was sufficient, or were you
13 limited by resources?

14 A. No, it was really on an individual case by
15 case basis. That's typically how we do
16 things in Education. The needs of the child
17 are looked at. The resources are looked at.
18 I can tell you that when children are
19 presented to our caseloads where they may
20 absolutely need more ASL instruction,
21 there's a bit of juggling of caseloads.
22 Some teachers for the deaf and hard of
23 hearing may have to scoop up a whole, you
24 know, roster, you know, a few more, to be
25 added to theirs so that the other teacher

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1 with hopefully that skill set could spend
2 more time with a child who's deaf or hard of
3 hearing, or who would need ASL.

4 Q. I know the hours are fairly limited though,
5 I mean, enough that it is, I would say,
6 impossible, but at the very least difficult,
7 for a DHH teacher to teach a child who
8 doesn't have ASL, to teach them how to
9 communicate in ASL, and that's where, I
10 think, you indicated, you know, the roles of
11 the community members, the village, the
12 parents, the grandparents, comes into play.
13 How are the parents supposed to learn ASL if
14 they're hearing themselves?

15 A. Well, I know many parents who have a deaf
16 child that would have accessed American Sign
17 Language in their community. So, our
18 Newfoundland and Labrador Association of the
19 Deaf would have native deaf signers who have
20 training to teach American Sign Language.
21 They could certainly access it there.
22 Furthermore, in our Atlantic region
23 provinces, when hearing parents are
24 presented with a deaf baby, deaf toddler,
25 they have to take it upon themselves to

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1 access the services of the deaf community
2 for American Sign Language.

3 Q. In 2011, 2012, 2013, 2014, those services
4 were not offered to parents though, were
5 they?

6 A. Well, the Newfoundland and Labrador
7 Association of the Deaf has always been
8 there. We offered American Sign Language to
9 our teaching staff while I was in the role
10 at the government. When I came out into
11 NLESD, I also offered American Sign
12 Language. We had some teachers who were,
13 say, above say the basic or the intermediate
14 level that would have wanted higher levels
15 of American Sign Language, but our deaf
16 community is small. The resources that the
17 Deaf Association would have is also the same
18 resources that we use under NLESD, and what
19 I mean by that, is we always had a juggling
20 issue with when we were going to offer
21 teachers of the deaf and hard of hearing, or
22 regular classroom teachers, American Sign
23 Language because they're employed by NLESD,
24 and so they have a full day job, and then
25 they're trying to run to whatever school

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1 where we were offering it, to now offer ASL.
2 We've gone the route of deaf members of the
3 community, taking ASL in the Corner Brook
4 region for example. We have teachers of the
5 deaf in the Central region that are offering
6 ASL. Is it perfect? No. Would I have like
7 to have seen more? Yes, but we have maybe a
8 handful, maybe spilling over into another
9 handful, of resources, folks who can teach
10 ASL.

11 Q. I mean, I'd say that in, you know, 2011,
12 2012, 2013, 2014, these keys years for
13 Carter, 2013 and '14, for him to be able to
14 learn ASL, the only program that he has
15 access to is his deaf itinerant teacher who
16 can teach--in fact actually our last witness
17 had said that they would never teach ASL
18 because they're not deaf people themselves,
19 but they would communicate in ASL with
20 Carter.

21 A. Introduce vocabulary, so on and so forth.

22 Q. So, that would be all that he would have
23 access to. I mean, Carter's parents, as you
24 probably have been able to tell over the
25 years, you know, have done everything,

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1 everything a hearing person with their own
2 resources can do to try to learn ASL, but, I
3 guess, my concern is, and I'm wondering if
4 it was a concern of yours, that, you know,
5 during those years, '12, '13, '14, there was
6 very limited exposure available for pre-
7 school children in ASL.

8 A. I guess, yes, however, there were services
9 in the community, I guess, that wouldn't
10 have been say ideal, like a Home Parent
11 Program for example, but there would have
12 been services in the community that they
13 could have availed of.

14 Q. What were those services?

15 A. Well, they would have had access to teachers
16 of the deaf and hard of hearing. They would
17 have had access to NLAD that probably could
18 have bolstered their ASL skills as well. I
19 know Mrs. Churchill--I don't know about Mr.
20 Churchill, but I know the parents have
21 tried. Is it ideal? I can't speculate on
22 that, but, you know, whose responsibility is
23 it to learn the language? I think it's the
24 whole community.

25 Q. And I don't need you to go into this too

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1 much more, but there's plenty of evidence on
2 the record about, you know, courses that the
3 Churchill's themselves have taken, that they
4 paid for out of their own pocket, in order
5 to, you know, learn ASL. I want to -

6 A. Mr. Rees, I just want to say one more thing.
7 Out of NLAD now there is a Family
8 Communication Program that is trying to
9 bolster--so, for example, parents who are
10 coming on stream now, where a cochlear
11 implant may not have been successful, there
12 is a family Communication Program out of
13 NLAD that is working on meeting the needs of
14 our little children.

15 Q. And that's something new?

16 A. It's probably two years old. At least two
17 years old.

18 Q. We've noticed actually a lot--and we're
19 going to start to talk about a few of those,
20 but over the last two, three, years, that's
21 sort of when we've noticed most of the
22 changes coming from the District in terms of
23 improved access to services, and we think a
24 lot of that has to do with the Churchill's
25 advocacy, but I suppose we'll discuss some

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1 of that, and I don't need your pronouncement
2 on that point. Let's go back to the report
3 that we were talking about, because you had
4 authored this report in 2011. You indicated
5 that when--co-authored. When it was
6 completed, that it was--it appeared to have
7 done something because there was an increase
8 in some services at the time, and as you
9 well know, not all of the gaps that you
10 identified are addressed -

11 A. Right.

12 Q. - because you then produce a follow-up
13 report, or an update to it, when you return
14 to the role in 2019, I believe.

15 A. 2018, September.

16 Q. 2018 you provided an update.

17 A. But it was not specifically in the role of
18 deaf and hard of hearing.

19 Q. How do you come to be asked to update this?
20 Who asks you?

21 A. Nobody did.

22 Q. You did this on your own?

23 A. I did.

24 Q. Why was that important for you to take this
25 up and go with it?

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- 1 A. I would hope that you would have already
2 figured that out by now. That it's an area
3 of passion for me, and I wanted to basically
4 see if some things had been addressed or
5 not, and I was curious, I guess, as to what
6 had been achieved or not.
- 7 Q. And I think you found, and we'll talk about
8 each one now, but I think you found that the
9 bulk of them had not been sufficiently
10 addressed, is that right?
- 11 A. We could go through them.
- 12 Q. I mean, many of them remain unaddressed by
13 the time you look at this again in 2018?
- 14 A. Correct.
- 15 Q. Okay. So, let's look at the document then
16 at Tab 1. I think the first gap is
17 identified on page 8. I'm actually not too
18 concerned with the first gap as much as I am
19 with the second one. I think the first--you
20 know, there's some completion date for a
21 Provincial handbook.
- 22 A. Yes, that was completed prior to my leaving.
- 23 Q. Let's talk about gap 2, which is the APSEA
24 database. So, in 2011 you indicate that,
25 look, there's no--there should be a

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1 Provincial database. You know, APSEA has
2 the tools ready to implement this database,
3 already existing in two other provinces, and
4 your recommendation was that they do that,
5 and then when you come back, if you flip
6 over to the next page to page 9, it says,
7 "Recommendation to update." Suffice to say,
8 you know, you believed that that gap being
9 filled was imminent in 2011, but it wasn't
10 because by the time you take it over in
11 2019, or look at this again in 2019, it's
12 still not done.

13 A. So, APSEA, of course, is the Atlantic
14 Provinces Special Education Authority. Our
15 government has always funded some of the
16 services for the blind and visually
17 impaired, and for the deaf and hard of
18 hearing, but more so the blind and visually
19 impaired. As I said, when monies were given
20 to me I went to see what APSEA was all
21 about, and I had great respect and a great
22 working relationship with APSEA. We had
23 lots of folks down who helped us with our
24 professional learning. One of the things
25 that I noticed at the APSEA site was that

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1 they did have a database, a tracking
2 database, of children in, the hearing loss,
3 the audiograms, the assistive technology
4 that they were assigned to, the
5 amplification devices, the programming goals
6 for the year, any evidence of short-term
7 programming, any intensive programming.

8 Q. And this was something that was being done
9 for Nova Scotia and New Brunswick students?

10 A. Correct.

11 Q. Right.

12 A. It was not something that was being done for
13 Newfoundland and Labrador. So, I came back
14 and I brought this up, that this is
15 something that we could use, and we didn't
16 have a--I mean, we have our annual general
17 return whereby principals sit down, you
18 know, and they count up, head count the
19 number of children in your school, the
20 number of children with specific learning
21 disorders, with hearing loss, with visual
22 impairments, what have you. So, we had
23 that, but I felt that we needed a one-stop
24 shop where everything was located. So, for
25 example, when an itinerant teacher said we

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1 need hushh-ups for the classroom, and hushh-
2 ups are the little tennis balls to reduce
3 sound, or reduce noise--again, we were
4 working within a budget, and so, you know,
5 we wanted to track did this child receive
6 hushh-ups last year, have they moved
7 schools, do we want to now fit out the
8 classroom that they're in, and the two
9 classrooms adjacent, or the classroom above.
10 So, one of the things that I wanted to do
11 was clean that area up so that we make sure
12 that monies were needed, they went where
13 they were needed, and monies that, you know,
14 could sit and park and maybe be spent on
15 another area. So, audiograms, the
16 programming--I, as a director at the time,
17 or as a consultant, I wanted to be able to
18 look and see what goals are they working on.
19 I wanted to see did it connect to the
20 audiogram. Were they wearing their hearing
21 devices, and so on and so forth? So, APSEA
22 had that structure. I really liked it. We
23 also did up a--Nora and I worked on a
24 template, and actually some of the
25 itinerants did as well in our working group,

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1 coming up with a template of the whole
2 Province using the same template to report,
3 you know, strengths and needs of the child,
4 and how they were communicating, their
5 literacy, their numeracy, and what the goals
6 were going to be for that year.

7 Q. And this was something that you recommended,
8 you know--as we say as lawyers, take control
9 of the witness a little more, I'm just going
10 to try to direct you a little more if you
11 don't mind.

12 A. That's fine.

13 Q. I'm not trying to be rude, but I'm trying to
14 get to the point.

15 A. That's fine.

16 Q. It was something you recommended in 2011.
17 It was something you believed was going to
18 be done at that time in 2011, but when you
19 come back in 2019, it's still not done, but
20 you're -

21 A. No, we had uploaded information to the APSEA
22 database. The teachers were--the teachers
23 were accessing the templates, and so on and
24 so forth, but when I left in 2014 it sort of
25 fell to the wayside.

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1 Q. I see, because I was going to say that we
2 knew that for--Carter never ends up in that
3 database.

4 A. Well, he would have been too young.

5 Q. Right, but, I mean, come, you know, when he
6 starts going to school in 2017, 2018, 2019,
7 he's not in the database, and his needs
8 aren't being tracked. So, what you find is
9 when you come back and look at this issue
10 again in 2019, that while it had been
11 started, it dropped off the radar in 2014 or
12 so?

13 ADJUDICATOR:

14 Q. You keep saying 2019. Isn't it 2018?

15 A. 2018 that I returned.

16 MR. REES:

17 Q. You're right.

18 A. Correct.

19 Q. My mistake. So, when you return in 2018
20 that's the case. You find out that that had
21 fallen off the radar, and I suppose it
22 wouldn't surprise you to find out that, you
23 know, it's only in June of 2021, about a
24 year ago, that the School District sent a
25 permission slip home to ask that Carter be

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1 added to the database, and as far as we
2 understand, I mean, that was the first time
3 the School District had made any attempt to
4 add Carter, and presumably other children of
5 his cohort, to that database. Is that your
6 understanding as well?

7 A. We were working on--so, the other thing too,
8 Mr. Rees, is we had intentions of looking at
9 some of our children with more challenging
10 needs, more intensive needs, to send them to
11 APSEA for short-term programming, and the
12 APSEA team was working with myself, and the
13 individual school teams, to decide on what
14 was the most targeted area of instruction
15 that needed to happen if the children went
16 to APSEA. Of course, as the other children
17 in the other provinces, all the APSEA team
18 had to do was go in, okay, so these are
19 their goals, this is what they're working on
20 this year, this is their audiogram, these
21 are their devices, so on and so forth. So,
22 we wanted to reinstate the uptake of
23 revisiting the APSEA database so that the
24 children--so, that we could kind of take out
25 that step, that we wouldn't have to sit in a

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1 meeting and go through all of these
2 different needs, or amplifications, or
3 language, or whatever. They would have been
4 able to have a look at some of those
5 programming needs so that they could help us
6 fine tune the areas for intensive
7 instruction.

8 Q. Yes, but the question I had for you is that,
9 you know, that doesn't--there appears to
10 have been no progress made on that until,
11 you know, June of 2021.

12 A. When I returned--and I think I know why.
13 When I returned to the Department in 2018,
14 they were working on the SECMS, which I
15 believe is now called something else, but
16 that was the Special Education Case
17 Management System, and so the Department of
18 Education was working on having a database
19 of its own where children who required other
20 services outside of say a regular classroom
21 teacher, that it would be housed there. So,
22 we did have some meetings. I did have some
23 meetings with my education counterparts,
24 because they were working a company to make
25 sure that that system was piloted and coming

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1 on stream and so on. So, that would have
2 been an area--the deaf and hard of hearing,
3 the blind and visually impaired, that was
4 one of the areas we were exploring, that
5 they would be housed under our own system.
6 So, maybe--but again, I don't know if all of
7 that's finished, if it's come to light or
8 not, because I did leave the summer of 2019
9 to go over to NLESD, and that was an
10 initiative at the Department level.

11 Q. Okay. I mean, suffice to say, the fact--
12 like were you concerned by the fact that
13 this had sort of fallen off the radar back
14 in 2014?

15 A. Yes.

16 Q. Important information that would have helped
17 a lot of people?

18 A. Yes.

19 Q. Right. Can I get you to turn over to page
20 11 to talk about gap 5? Gap 5, which you
21 identify in 2011, says, "There's no systemic
22 process in place to offer early language
23 acquisition skills at the pre-school level
24 to both the child and family," and this is
25 particular interesting to us, you know, as

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1 it relates to ASL and language acquisition,
2 and then when you turn over to
3 recommendation 5 update on page 12, it talks
4 about how itinerant teachers have access to,
5 you know, various assessment tools, but the
6 last sentence says, "Guidelines for
7 frequency and intensity of service needs to
8 be developed." So, there had been no
9 guidelines developed when you took over in--
10 or you came back to this in 2018. To your
11 knowledge, have guidelines for frequency and
12 intensity of pre-school service been
13 developed?

14 A. Can I have a moment?

15 Q. Yes.

16 A. So, in terms of gap 5, our wish was that
17 there would be a dedicated person to this
18 area where, like the Home Parent Program,
19 where they would have a skill set working
20 with pre-school children. So, that was one
21 of the things that we had recommended that
22 would absolutely, hopefully, fill the gap of
23 the Home Parent Program. The other piece
24 was, the Home Parent Program had like a
25 model classroom. That was something that we

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1 were hoping that would be re-established.

2 Q. So, something like the School for the Deaf
3 that you were hoping would be re-established
4 in the community?

5 A. Correct. So that if an itinerant in Gander,
6 for example, is faced with a little three
7 year old that is requiring ASL, they can
8 come in and see how it's done, or the person
9 in that role could go out there and see--and
10 offer valuable information. It's no
11 different than--I kind of see it like, you
12 know, social work training. You know,
13 people go in, and they all take the exact
14 same courses, but you could come out, you
15 could be in child welfare. You could be in
16 geriatrics. You could be in a hospital
17 setting. You could be in trauma. People
18 hone their skill set based on their
19 placement of where they are. Our itinerants
20 had been watching, and observing, and
21 working with, the Home Parent Program, and
22 with the closure that was gone, and so this
23 is why we had put this in, because we felt
24 that this was an important piece that needed
25 to be established or re-established.

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1 Q. I agree with you. That important piece
2 though isn't addressed to your knowledge, is
3 it?

4 A. Well, again, we have a process in place,
5 named an ISSP, that the Janeway and
6 Education must work together to figure out
7 the needs of the child and move forward from
8 there. We did develop guidelines for
9 service from our deaf and hard of hearing
10 working group, that we were using--we were
11 going to be using, moving forward, into
12 helping us determine exactly--so that we
13 would have equity of service across the
14 Province. If said child has this hearing
15 loss, this language deficit, these types of
16 hearing aids, so that right across the
17 Province there would be an equity in
18 service.

19 Q. I think we've seen that. It's shaped like a
20 pyramid and indicates the number of hours of
21 service required.

22 A. Yes.

23 Q. To your knowledge, were there problems with
24 students actually receiving the number of
25 hours of service per week that were

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1 indicated on that pyramid? We've heard
2 evidence that there have been problems with
3 that.

4 A. Well, I mean, again, if there were issues,
5 one would hope that an itinerant would have
6 approached their senior education officer at
7 the time, or their director, to say that,
8 you know, we're a little worried about this
9 and we need more support.

10 Q. And not a problem that I need you to solve,
11 but they did, and then they didn't get it.
12 I want to ask you--sorry, did you have one
13 other comment before I ask you about
14 recommendation 6? You were going to say
15 something.

16 A. No. No, that was it for that.

17 Q. Recommendation 6 is on page 12, and that one
18 talks about the fact that District
19 personnel, as in, you know, those at the
20 District that are responsible for hiring
21 individuals and for retaining individuals,
22 past probationary periods, and so on, have
23 no knowledge of, you know, the needs of deaf
24 and hard of hearing students, and I'd
25 suggest in particular ASL proficiency, and

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1 you recommend that there should be standards
2 of practice developed to ensure that the
3 people who are hired and retained are
4 proficient in their various areas, and I
5 find that you see an update here, and there
6 are some updates, but I don't see at any
7 point, nor am I aware now, that there's any
8 kind of, for instance, minimum
9 qualifications for ASL standards for
10 teachers of the deaf.

11 A. So, back in 2012/2013, one of the things
12 that we took on at Student Services, the
13 Special Education Division, was looking at
14 standards of practices for education
15 psychologists, for teachers who were working
16 with the blind and visually impaired, speech
17 language pathologists, the deaf and hard of
18 hearing. We did the same. We didn't re-
19 invent the wheel because we had a Canadian
20 Association of Educators for the Deaf and
21 Hard of Hearing. They had an association,
22 and if you go on their website, Mr. Rees,
23 you'll see that we--I didn't re-invent the
24 wheel because there was no need because
25 there was already one in place, and we

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1 adopted--I don't know if it was a formal
2 adoption, but this is what I had
3 recommended, that we would follow from this
4 point out that the standards that are
5 outlined indicate a certification. Now,
6 getting back to standards of practice, one
7 of the things that I did in my role at the
8 Department was that we would have what was
9 called Program Specialists meetings. So,
10 folks like us that were at the Department
11 would come out to the Districts and we would
12 basically share policies, best practices,
13 research, things that we were working on,
14 and I presented a standards to people at the
15 School District that this is what we needed
16 to adopt, and to ensure that the children
17 that need service are getting service from a
18 trained certified teacher of the deaf and
19 hard of hearing. Back to I think you asked
20 me in terms of minimum, can you repeat that
21 part of the question?

22 Q. I was asking you about a question that
23 somewhat related to it, and we'll end up
24 talking about it later on in recommendation
25 8, but perhaps we'll talk about it now, is

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1 levels of ASL proficiency.

2 A. Right.

3 Q. I understand, and your recommendation 8
4 talks about that as well, that, you know,
5 there's no--at that time in 2011, remains a
6 problem in 2018, I suggest remains a problem
7 now, there is no testing, mandatory testing,
8 of ASL proficiency for teachers of the deaf,
9 and as a result, many individuals who have
10 been hired, their proficiency is either
11 unknown, of if they submit to a test, is
12 later, subsequently, discovered to be below
13 what was represented. Was that a problem
14 for you in 2011, and had you made any
15 recommendations to resolve that?

16 A. Well, I might have alluded to it. The
17 Masters Training Program absolutely does not
18 teach ASL. Those of us who would have had
19 ASL, as I said, would have had a personal
20 vested interest, or a relative, you know,
21 that is using ASL. Of course we have two
22 teachers in the Province who are both in
23 Central who are children of deaf adults, so
24 that would have been their absolutely first
25 language because their parents were deaf.

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1 We have teachers who have deaf siblings. We
2 had a teacher who had married a deaf man.
3 So, those skill sets would have developed.
4 The other thing too is when we did our
5 Masters program, we were taught about the
6 history of the deaf, about American Sign
7 Language, the need to ensure that when we
8 meet with certain children with certain
9 needs that we have to explore the avenues of
10 all language pathways. I did have one
11 professor at the U of A who was deaf who
12 taught us about the history of deaf and deaf
13 culture, that appreciation for that, which I
14 absolutely loved, but that program is only
15 two years, Mr. Rees, and there was no way we
16 can learn a language, especially a manual
17 language where we're all mostly hearing.
18 It's a different part of the brain, and
19 we're learning so much, that would be very
20 taxing on anybody, however, there's kind of
21 two routes you would go when you would come
22 out of your Masters program. Some of us
23 would have gone into what I would call the
24 travelling teacher. You know, you're an
25 itinerant; you're going from school to

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1 school. Some of us would have come out and
2 went to schools for the deaf, and the
3 schools for the deaf would have been like a
4 community. You would have had most likely
5 deaf adults who were working there, or folks
6 like I just mentioned before that had a
7 vested interest that had learned it. My
8 understanding is that you would learn ASL as
9 you went to help support the children. A
10 lot of our children would have come in and
11 probably not had a whole lot of ASL. So,
12 from zero to five, coming into the School
13 for the Deaf, they would have had the family
14 deaf signs, they would have had some
15 gesturing. Some of these children would
16 have had some hearing. So, even at the
17 School for the Deaf, there was focus on
18 speech reading, on audition, using your
19 hearing aids. There would have been focus
20 on if you had a cochlear implant, absolutely
21 trying to help you with your speech and
22 listening to spoken language, but in terms
23 of was it full on ASL all the time, my guess
24 would be it would have been more of a total
25 communication program where you did American

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1 Sign Language, signed exact English,
2 pictures, gestures, role playing, drama,
3 pointing, facial expressions. It's complex.
4 Teaching ASL, or helping a child learn ASL,
5 is a complex set of skills to do, and
6 unfortunately we don't have a lot of people
7 going in to do the training. My program
8 that I did at the U of A is closed. UBC
9 last year was put on hold for a year. York
10 University offers a program, but mostly to
11 Ontario residents. When you're expecting a
12 teacher of the deaf and hard of hearing to c
13 come out with a certain skill set--I know
14 from a parent perspective you would think
15 there has to be a minimum, but I'm going to
16 tell you, there's teachers that would have
17 worked a 30 year career that would have
18 never met a deaf child. No different than
19 teachers for the blind and visually
20 impaired. They might never meet a blind
21 child. So, the programs that are offered
22 are a general program about diving into the
23 impact of hearing loss on language
24 development and how do we access the
25 curriculum. That's it in a nutshell, and if

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1 you don't have people who are vested in
2 learning, or--like a scenario would be a
3 teacher of the deaf and hard of hearing
4 who's a mother of three, who's out the door
5 and supporting children, and trying to learn
6 American Sign Language. Like these are our
7 realities. Learning a language is complex.
8 It's not easy. Now, do the children who are
9 deaf deserve someone who is proficient?
10 Absolutely. I'm not up here to argue that,
11 but I'm saying it's a challenge right across
12 Canada. I have talked to many folks.

13 Q. No doubt, and look I'm going to ask you some
14 questions about -

15 ADJUDICATOR:

16 Q. Just let her finish, Mr. Rees.

17 A. It's a challenge. The resources that
18 parents are asking for often times are not
19 there. School Districts do their very best,
20 very best, to advertise, to interview, roles
21 have been offered, and people have said no.
22 We can't force tenure teachers to take
23 positions. We cannot. Our hands are tied
24 with that. That's a union thing, but have
25 we as a District, in my role when I was

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1 here, try our very bet to get the people
2 that we wanted? One hundred percent.

3 MR. REES:

4 Q. Right. My questions for you here aren't
5 really about the challenges with
6 recruitment. I understand it's relevant,
7 and probably going to talk about that a
8 little while later. Can you flip over to
9 page 14 for me so I can ask you again about
10 testing? Page 14 is gap 10, and you'll see
11 what you've described, gap 10, and this is
12 you writing in 2011. It says, "There is no
13 formal assessment process in place to
14 determine proficiency levels of American
15 Sign Language skills for teachers of the
16 deaf and hard of hearing, interpreters, or
17 student assistants, in Newfoundland and
18 Labrador," and you made several
19 recommendations in 2011, from which I
20 understand none of them were followed. That
21 says, "A formal American Sign Language
22 assessment team needs to be established.
23 The qualification, certification, and
24 maintenance of ASL skills of all personnel
25 should adhere to standards of practice as

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1 outlined by that team, and the Districts and
2 assessment team need to work collaboratively
3 to monitor those services to make sure the
4 standards are continuously addressed." Then
5 on your update, which you make in 2018, you
6 say, "It's still not addressed," and you
7 kind of try to help everyone out a little
8 bit more by pointing them to a couple of
9 other places that do these assessments. We
10 still don't ASL proficiency test teachers as
11 a condition of hire, do we?

12 A. Correct.

13 Q. Gap 11, which is on page 15, says that
14 there's no ASL curriculum, and then you
15 update it later in 2018 to say there's still
16 no ASL curriculum. To date there's still no
17 ASL curriculum, is that right?

18 A. Correct.

19 Q. What was the--we were trying to sort of
20 understand--I mean, you've spent some time
21 in the Department, maybe you have some
22 insight into it. Why not? Do you have any
23 idea of--and maybe you don't know.

24 A. Not from my lack of trying. We had looked
25 at the program out of UBC. They have a

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1 really well laid out program, and my last
2 suggestion to our Department was that we
3 broker it, audit it, pay for it. We need an
4 ASL program from K to 12.

5 Q. By your last suggestion, your Department,
6 you mean before you retired, like last year?

7 A. Well, before I retired I was at
8 Newfoundland--so, when I was retired I was
9 in a director role at NLESD. Prior to that,
10 my last conversations with the Department,
11 yes, I reiterated time and time again the
12 importance of us adopting. We don't need to
13 re-invent the wheel. We don't have the
14 capacity here in our small Province with our
15 small deaf community to sit down and write a
16 curriculum. It's already done for us. We
17 just need to adopt it.

18 Q. Were you ever given a reason why that hadn't
19 been done?

20 A. No.

21 Q. Do you have a suspicion, or any reason to
22 believe -

23 A. I don't really want to speculate, Mr. Rees,
24 but I will say this, that, you know, ever
25 Province has its own little colloquialisms

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1 in terms of ASL. So, I think it was a very
2 easy thing to do, to take the B.C. program
3 and pepper in, salt in, our own ASL from our
4 own community into that. Now, having said
5 that, curriculum writers at the Department
6 of Education, they're working on math,
7 science, social studies, health, all of
8 these things. At the Department of
9 Education, myself included, this would not
10 be something that I would want to take on.
11 So, my suggestion was let's adopt it from
12 another province. American Sign Language is
13 American Sign Language. We can add in any
14 of the Newfoundland--signs specific to
15 Newfoundland to make that happen like that.

16 Q. It would have been a fairly easy thing to
17 achieve?

18 A. Yeah, I agree. I think so.

19 Q. Still not done?

20 A. No.

21 Q. Gap 12 talks about how there is no formal
22 ASL course that's being taught to hearing
23 peers. We've had evidence, and I think
24 you've come across it because I think you
25 speak about it some of your updated reports

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1 of, you know, children, and Carter in
2 particular, you know, being in a classroom
3 surrounding by hearing peers, in a school of
4 750 hearing children, unable to communicate
5 with any of them because none of them
6 signed, and there was no ASL course being
7 taught to any of those peers. You
8 identified that as a gap in 2011. I
9 understand that you revisited it again in
10 2018, and you indicate to date this area has
11 not been addressed.

12 A. We did have--just to let you know, we did
13 have a young deaf woman in Central, a young
14 high school student that came to Canada, and
15 we did offer American Sign Language to
16 hearing peers at Gander Collegiate.

17 Q. Right. I actually asked Aubrey Dawe about
18 that when he was in here on the second day,
19 and I put it to Aubrey Dawe that it was, you
20 know, thanks in a large part to the advocacy
21 efforts by the principal of that school at
22 Gander Collegiate that that program was put
23 in place. There was never to your knowledge
24 any request made at, you know, Beachy Cove
25 Elementary, or any of the other schools in

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1 the metro area?

2 A. Not to my knowledge, but I would hope, Mr.
3 Rees, that deaf signer, and the teacher of
4 the deaf, since grade one would have, I
5 would hope, you know, encouraged signing at
6 the classroom level, however, I can't
7 speculate on what was offered.

8 Q. Understood. To your knowledge, still no
9 curriculum for hearing kids to permit them
10 to interact -

11 A. My memory is back now to when the School for
12 the Deaf closed. We did have ASL offerings
13 at Gonzaga High School, and I'm pretty sure
14 at MacDonald Drive Junior High, for hearing
15 children so that we could help with, you
16 know, the inclusivity of the students that
17 had come from the School for the Deaf.

18 Q. These were high school and junior high kids?

19 A. Correct.

20 Q. So, I mean, it can be done. It's not a
21 difficult thing. You don't have to, to
22 borrow your phrase, re-invent the wheel, to
23 be able to teach this.

24 A. We could even do like, you know, social
25 clubs, you know, after school. You know,

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1 kids are interested. It's a beautiful
2 language. Kids are interested.
3 Q. But it hasn't been done?
4 A. Other than what I cited to you -
5 Q. For Gonzaga?
6 A. - to my knowledge, no, it hasn't been done.
7 Q. Gap 15 is on page 17. I'll ask for a break
8 in 10 minutes or so once we're done with the
9 gaps. Gap 15 refers to student assistants
10 in Newfoundland and Labrador. They're not
11 required to have any, you know, formal
12 training, particular in communicating with
13 deaf children. You know, over the course of
14 some of Carter's years in school he's been
15 fortunate enough to have Tammy Vaters, a
16 deaf woman, assigned to him as a student
17 assistant, and that's, you know, that's been
18 excellent and we're happy to have had it,
19 although Carter didn't have that every year.
20 There were approximately two years where he
21 didn't have that support, and as a result
22 had a student assistant who could not
23 communicate with him. Has there been any
24 progress on that recommendation, to ensure
25 that student assistants assigned to deaf

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- 1 children have a proficiency level in ASL?
- 2 A. To my knowledge, those who were assigned to
3 children who were communicating in ASL would
4 have had some level of American Sign
5 Language. Again, is it perfect? I would
6 say probably not. Could they have increased
7 their skills? Could we support them
8 learning the skills? Absolutely, we could
9 and should.
- 10 Q. Did you know that at least one of Carter
11 Churchill's student assistants who professed
12 to have ASL proficiency, or the District
13 processed they had ASL proficiency, was
14 later ASL proficiency tested and did quite
15 poorly?
- 16 A. I have no knowledge of that.
- 17 Q. Okay. That was a student assistant who was
18 tested and, among other things, was unable
19 to finger spell her own name.
- 20 A. Oh.
- 21 Q. A similar reaction from the Churchill's, a
22 little more muted. When you hear something
23 like that, does that cause you concern, and
24 does it cause you enough concern to revisit
25 your recommendation that ASL proficiency

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1 testing be implemented?

2 A. So, back to the student assistant for a
3 moment. The role of a student assistant, of
4 course, was portering, toileting, self-help
5 skills, feeding skills, whatever it is that
6 the child needs, and, of course, I would
7 assume that the District would have done
8 their best to secure a student assistant
9 that would have had that skill set. Would I
10 be concerned that if they didn't? Yes, of
11 course, especially if they're taking the
12 child, you know, for special transportation,
13 to the washroom, so on and so forth, yes.
14 In the perfect world we would want those
15 staff that are working with children such as
16 Carter to have at least a certain level of
17 skill set.

18 Q. I understand that's your desire, that in a
19 perfect world you'd like to have that, but,
20 of course, if you're in, you know, even an
21 imperfect world where the classroom teacher
22 doesn't have ASL, and where the student
23 assistant doesn't have ASL, it's impossible
24 for a deaf child to learn, isn't it?

25 A. To learn what? You mean in general?

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1 Q. Anything, anything besides gym.

2 A. Well, I mean, learning is again a complex
3 thing. I mean, babies learn by watching.
4 Carter's vision I'm sure is lovely. He
5 would have had some residual hearing I'm
6 assuming because of his cochlear implants.
7 I know when I observed Carter like he heard
8 the bell ring. He heard a door close. He
9 heard children approaching him from behind.

10 Q. Yes. We've referred to it as access to
11 sound.

12 A. But in terms of curriculum access,
13 absolutely we would want those staff that
14 are working with him to be skilled in that
15 area.

16 Q. Okay. That's what I wanted to ask you
17 about, that specific report. I'm going to
18 go into one of your other reports, but I
19 wonder if maybe we could take a five minute
20 break first.

21 MS. DARLENE FEWER JACKSON, CROSS-EXAMINATION BY

22 ADJUDICATOR

23 ADJUDICATOR:

24 Q. Sure. Before we do I have a couple of
25 follow-up questions I wanted to ask about

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1 the recommendation 11 in that report, the
2 ASL curriculum. You mentioned a curriculum
3 that had been developed in British Columbia
4 I think. What was the institution or school
5 that had developed that?

6 A. I'm not sure. All I know is that the
7 Department of Education in British Columbia
8 does have graduated levels of learning
9 American Sign Language. Myself, Ms. Cahill,
10 others, pointed me in that direction, and it
11 looked really well laid out.

12 Q. When you say graduated levels, do you mean
13 like there's a curriculum for Kindergarten?

14 A. Yeah, from K to 12, building on, you know,
15 what you would have learned moving forward,
16 moving forward, so that folks who were
17 supporting children who are deaf have a
18 timeline, if you will, defined sets of
19 skills, if you will, to learn that language.

20 Q. Did you explore whether any other provinces,
21 other than British Columbia, had a
22 curriculum developed?

23 A. Yes, I did. My memory--I'm pretty sure that
24 Alberta as well, and I would assume Ontario
25 being one of the larger provinces with a

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1 number of--they had a number of schools for
2 the deaf. I would assume that they would
3 have followed something very similar.

4 Q. When you were looking at this--when you had
5 identified this curriculum that was
6 available in B.C., did you identify, I
7 guess, who it was for? Was there a target
8 student population that this was developed
9 for? Was it--I guess, was it developed
10 specifically for students who are deaf or
11 hard of hearing?

12 A. That would have been my first goal, is that
13 those children would have actually had
14 sequential learning through the language.
15 My ideal goal would be that if schools
16 wanted to learn that language, no different
17 than French, Spanish, German, whatever, that
18 they could avail of that as well.

19 Q. If such--in B.C. do you know who taught this
20 curriculum?

21 A. I would assume that it would have been
22 something that the program for the deaf and
23 hard of hearing at the school level, School
24 for the Deaf, would have absolutely used
25 that. Whether they offered it outside the

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1 mainstream, I can't answer that, but if it's
2 already written, I would see it as something
3 that could be picked up by someone who has
4 that skill set and worked through.

5 Q. So, you don't know whether it was taught in
6 the mainstream or whether -

7 A. I do not.

8 Q. - itinerant teachers were using the
9 curriculum?

10 A. I do not.

11 Q. Okay. I just want to know what we knew
12 about that curriculum. Thank you. Did you
13 say 10 minutes? Five minutes?

14 A. We're on a roll, Mr. Rees.

15 (OFF RECORD)

16 MS. DARLENE FEWER JACKSON, CROSS-EXAMINATION BY MR.

17 KYLE R. REES

18 MR. REES:

19 Q. Thanks for the break. I got a couple of
20 questions for you arising out of that report
21 that we had just reviewed, you know, being
22 concluded in 2011, and then the update in
23 2018, and you coming back to it. Bonnie
24 Woodland, you know who Bonnie Woodland is?

25 A. Yes.

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1 Q. I asked Bonnie Woodland when she was on the
2 stand whether she had any knowledge of
3 either your report from 2011 or the update
4 in 2018, and in fact she even took a lunch
5 break to review it, and had an opinion, and
6 she said, you know, it wasn't a report that
7 was particularly relevant to the work she
8 was doing. Did you know if your report had
9 sort of gained any traction within the
10 District or the Department, specifically in
11 2018?

12 A. To my knowledge, Mr. Rees, that report was
13 not shared with the District. That was an
14 in-house report within the Department
15 itself. Now, when it went up the chain, if
16 anybody shared it with anyone over in the
17 District, I have no knowledge of that.

18 Q. Okay. I think that leads then to my next
19 question about it which was, you know, when
20 you come back to this in 2018, and you see
21 that--I would agree with you that, you know,
22 some things have gotten better, some things
23 have been updated, there's some increase,
24 but many of, at least the core issues to our
25 case, go unaddressed. I mean, what was your

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1 reaction? It was enough that you felt you
2 had to, you know, sort of on your own accord
3 issue an update, right?

4 A. Yes.

5 Q. And at the time you did that then, what did
6 you do with this update? I mean, you didn't
7 just keep it for yourself, you passed it
8 along?

9 A. No, no, I passed it along. I passed it
10 along to Eldred Barnes and Elizabeth
11 Churchill. They then asked me to kind of
12 categorize, if you will, like the things
13 that I had in this document, and we had met
14 a couple of times, myself, Mr. Clarke, Brad
15 Clarke, Bernie Ottenheimer, Eldred Barnes,
16 Elizabeth Churchill, regarding some of this.

17 Q. These individuals that you've all listed,
18 these are Department of Education officers,
19 right?

20 A. Correct.

21 Q. It made sense to me, I think back in 2011
22 why perhaps the report wouldn't have been
23 shared, because I understand the Department
24 was in charge of deaf education at that
25 time.

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- 1 A. The School for the Deaf fell under the
2 purview of Education, the Department of
3 Education, yes.
- 4 Q. Yes, but then by--so, by the time, you know,
5 we get to 2018, and these issues haven't
6 been addressed, to you knowledge is there
7 any effort made to share these concerns with
8 the District? How does the District get
9 linked into these gaps, if at all?
- 10 A. I can't answer that. I'm not sure if people
11 up the chain shared it with the District.
12 It was just something that was again
13 discussed in-house. Whether they shared
14 that, I can't answer that.
- 15 Q. Okay. I mean, whether your ideas in the
16 report actually make it to somebody at the
17 District, or whether, you know, they're just
18 pulling from the general zeitgeist a lot of
19 the concerns that you've articulated appear
20 to make it into the justifications for the
21 satellite classroom proposal in 2017, 2018,
22 2019, and I'm going to talk to you about the
23 last one, but, I suppose, I'd ask you, you
24 know, to your knowledge, based on documents
25 you would have reviewed when you took over

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1 your role in 2019, these issues were known
2 to the District to be problems, even if your
3 report wasn't shared with them explicitly,
4 right?

5 A. Yes, I would assume so.

6 Q. Can you give me any basis for that
7 assumption then? I mean -

8 A. Well, I guess in terms of the children who
9 are now at East Point, whether the
10 programming was effective or not, would have
11 been something that I would--I would know
12 that the District would be aware of.

13 Q. Okay. One of the supports that you
14 mentioned that became available, you know,
15 prior to the implementation of the satellite
16 classroom was the provision of ASL
17 introductory classes facilitated by--do we
18 say N-L-A-D or NLAD? I've heard it both
19 ways.

20 A. Pick I guess.

21 Q. Don't matter?

22 A. I knew it as N-L-A-D. Some people call it
23 NLAD, but it's one in the same.

24 Q. Okay. By N-L-A-D, and I understand you
25 informed various schools, I think it was in

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1 Christmas of 2019 according to my notes,
2 that these courses were free and were
3 available, right?

4 A. Correct.

5 Q. Did you know that of the people that signed
6 up for that course, and I think as per one
7 of your earlier comments, they were quite
8 popular -

9 A. Oh, yes.

10 Q. - but not a single person from Beachy Cove
11 Elementary signed up that first time around,
12 did they?

13 A. I would have to check a list, but I don't
14 remember that, but it's quite possible.

15 Q. Because there wasn't any priority, was
16 there, given to, you know, teachers who
17 interact with deaf students versus teachers
18 in the general population? You know, there
19 was no--as great as this program was, and as
20 great as it was that these kinds of things
21 were being offered, there wasn't any, I
22 guess, additional push, or any kind of
23 provision made, such that teachers and other
24 educators who are working with deaf children
25 like Carter Churchill, you know, are

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1 required to sign up, or are given the extra
2 push to be encouraged to sign up? Nothing
3 like that occurs?

4 A. No. We offered it on a voluntary basis, and
5 again, you're going to learn a language when
6 you're, I guess, motivated to learn a
7 language, or you have interest in it. In
8 terms of--I can't recall if there was no
9 staff member from Beachy Cove Elementary, so
10 I don't know.

11 Q. These were courses that I understand, while
12 they were paid for, the entry cost, the
13 administration cost of the program, were
14 paid for by the School District, teachers
15 and other staff weren't paid for their time
16 to attend those courses, were they?

17 A. No, which I think is admirable in a way
18 because after teaching a full day they were
19 interested in learning the language. We had
20 a contract with NLAD to offer it, and
21 certainly as I said before, we can't force
22 folks to avail of a course, but I was really
23 pleased to see so many people that wanted
24 to--and people were talking about it.
25 People were excited about it. So, I think

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1 that would have only grown had the pandemic
2 not hit. In fact, I think there was like--
3 I'm going to say, and don't quote me, but
4 there was at least 140 people. Like, I was
5 inundated with emails for interest. So,
6 that bode well with me that hey, we got
7 people out here that are really wanting to
8 know this language.

9 Q. Right. A hundred and forty people; none of
10 them went to school with Carter Churchill?

11 A. Again, I would have to see the list.

12 Q. I put it to you that it wasn't, because I
13 know Ms. Churchill looked into it.

14 A. Okay.

15 Q. It doesn't surprise me that, you know,
16 teachers would on a voluntary basis, you
17 know, give up their time to learn this. I
18 mean, just both on a personal and a
19 professional level, that has also been my
20 experience with teachers and educators.
21 They're very giving of themselves and their
22 time in order to learn, especially if it's
23 going to serve their students. Is it though
24 unfair for, you know, the employer, the
25 District, to, you know, in order to meet the

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1 accommodation needs of a student that the
2 District serves, or to assist in some way of
3 alleviating that social isolation, for the
4 District to expect its employees to give up
5 their free time to take courses like this?
6 I mean, isn't this the kind of thing that in
7 other circumstances for, you know, French,
8 or student safety, or any other area, the
9 School District frequently pays teachers for
10 their time in professional development
11 sessions to learn things?

12 A. So, in reference to say learning French, or
13 learning another language, often times
14 that's offered at Memorial University. So,
15 they would have taken it during their
16 training program. This was absolutely
17 strictly on a voluntary basis. Nobody was
18 wrestled into doing that. Is it unfair?
19 No, I don't see it as being unfair, Mr.
20 Rees, because teachers are life-long
21 learners. Those who are interested, if they
22 want to make it work, they will make it
23 work, to learn. You know, there's always
24 opportunities for learning. Now, would NLTA
25 have something to say about that? I don't

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1 know, but nobody was forced. It was simply
2 offered, and if you wanted to take it, it
3 was because you had the desire to take it.

4 Q. Another topic. I understand that at least
5 one of the teachers, Joanne Van Geest, was
6 eventually ASL proficiency tested, and you
7 would have had knowledge that that test was
8 being done at the time that it was done -

9 A. Yes.

10 Q. - because I think there's been
11 correspondence. There was correspondence
12 between you and the Churchill's regarding
13 that testing.

14 A. Yes.

15 Q. And I understand that initially the testing
16 is done, but you correspond with the
17 Churchill's to tell them, look, for privacy
18 reasons I can't tell you what the result--
19 what that result of the testing is for
20 privacy reasons?

21 A. That's correct.

22 Q. And we eventually find out the results of
23 the proficiency test, and I believe it is
24 through this litigation process that
25 happens, but otherwise we would not have

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- 1 known the results of that proficiency test,
2 right?
- 3 A. That's correct.
- 4 Q. For privacy. I think you say, and actually-
5 -I mean, if I need to take you to the email,
6 I can, but let me just read from it, and if
7 you -
- 8 A. I'm a visual learner. Can you take me to
9 it?
- 10 Q. Are you? Perfect. If we go to the
11 affidavit of Kim Churchill--you actually
12 might not have a copy of that. Let me get
13 one for you.
- 14 A. Okay.
- 15 Q. This is the affidavit of Kim Churchill, Tab
16 25.
- 17 A. Okay.
- 18 Q. And this is what you say. I guess it's Mr.
19 Churchill who had emailed you copying Kim,
20 seeking to know the results of that ASL
21 proficiency test. The last paragraph down
22 there says, "You'll understand the specific
23 results of the proficiency assessment may
24 not be disclosed for reasons of privacy. I
25 can assure you, however, she," referring to

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1 that teacher, "Is able to support Carter's
2 development of improved proficiency in ASL,
3 and is otherwise committed to ensuring the
4 best educational opportunities for him." At
5 the time that you wrote that email you would
6 have been aware of the results of that
7 proficiency test, right?

8 A. That's correct.

9 Q. And you would have been aware at that time
10 that that teacher had tested below the
11 standard she had expected?

12 A. That's correct.

13 Q. And if a teacher is ASL proficiency tested
14 tomorrow, the results of that proficiency
15 test will not be disclosed to the public, or
16 the parents of students in that class, will
17 they?

18 A. Not typically, no.

19 Q. And the only reason the results, as we said,
20 of that test are known is because of this
21 Human Rights complaint, right?

22 A. I would assume, yes.

23 Q. Okay. So, by May of 2020 you're in your
24 position as Director of Deaf and Hard of
25 Hearing Education, right?

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- 1 A. Correct.
- 2 Q. And you sent an email to Georgina Lake.
- 3 You've indicated you're a visual learner.
- 4 Let's have a look at Volume 4. So, those
- 5 documents to your left-hand side, there's
- 6 several volumes, and one of them says Volume
- 7 4 on the cover, and I'll get you to turn to
- 8 Tab S, as in Sierra. Do you recognize that
- 9 email? It's divided in a funny way on the
- 10 page, but I think the paragraph continues -
- 11 A. So, is it the tab before the S or after the
- 12 S?
- 13 Q. It's after the S.
- 14 A. Okay, sorry.
- 15 Q. So, that's an email that you send to
- 16 Georgina Lake, and you say, "Hi, Georgina,
- 17 here's an excerpt," and the link is above,
- 18 "Of a research article I came across. In
- 19 essence, speaking to the importance of
- 20 having high proficiency in American Sign
- 21 Language bodes well for all areas of
- 22 academic achievement. Thinking ahead and
- 23 prepping for conversations with parents." I
- 24 don't need to talk about the rest that's
- 25 there. And you indicated in the rest of the

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1 email that, you know, the ASL fluency is
2 highly correlated with academic achievement
3 for students, and this would include
4 students like Carter Churchill. Why--I
5 mean, was this something that everybody
6 already knew, or is this something that was
7 sort of in debate, the importance of a
8 student having a level of competency and
9 being taught ASL, who is going to use ASL to
10 communicate? I mean, surely that was self-
11 evident. Were you encountering any
12 resistance at the District to the importance
13 of ASL?

14 A. No, I didn't encounter any resistance. What
15 I did encounter was a lack of understanding
16 and knowledge around children with
17 significant hearing loss, the impact on
18 language acquisition, and the impact on
19 accessing the curriculum.

20 Q. Right. The lack of knowledge--let's talk a
21 little bit about the lack of knowledge, or
22 lack of understanding.

23 A. Sure.

24 Q. And, I mean, that was--I mean, with the
25 exception of you, who at this point is

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1 occupying a leadership role, there wasn't
2 anybody in that leadership role who had that
3 kind of experience and background, was
4 there? It was really you. I mean, you were
5 the one who was able to bring this
6 information to bear, right?

7 A. Correct.

8 Q. Do you think there was a correlation between
9 the lack of people with a background, or
10 understanding, or education, in issues in
11 deaf education, that lack of individuals
12 like that in a leadership role, had anything
13 to do with the protracted delay in resolving
14 some of the issues in deaf education in
15 Newfoundland?

16 A. It's quite possible.

17 Q. Yes. I mean, you found you were constantly
18 having to sort of explain -

19 A. Part of my role was absolutely to educate
20 those on my team, whether it was at the
21 Department of Education or NLESD, to come to
22 an understanding and appreciation for the
23 impact of hearing loss on learning language
24 and accessing the curriculum. People were
25 interested. People were interested in

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1 hearing it, but definitely someone needs to
2 be in that role to be able to bring those
3 concerns and issues to the table, and I'm
4 not piping my own self-importance here.
5 That's not what this is about.

6 Q. No.

7 A. This is about someone having a background,
8 whether it's in, you know, language
9 acquisition of a child who is deaf, or
10 language acquisition of a child who is mute,
11 or on the autism spectrum disorder. You
12 need to have some understanding of that in
13 order to appreciate the challenges of
14 accessing language and curriculum.

15 Q. And if you--I mean, if you can't access that
16 expertise at the leadership level, you know,
17 understanding that that expertise is few and
18 far between, the next best thing would be to
19 consult with and listen to people who have
20 that experience, right?

21 A. I would assume, yes.

22 Q. When is it you come into the role as--I keep
23 forgetting the name, Director of Deaf and
24 Hard of Hearing Education, I think.

25 A. September, 2019.

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- 1 Q. September of 2019? Okay.
- 2 A. Upon my return back to the Department I
3 stayed there a year.
- 4 Q. For one year?
- 5 A. For one year.
- 6 Q. Fulfilling that role?
- 7 A. Correct.
- 8 Q. I understand.
- 9 A. Yes.
- 10 Q. So, you're there, you know, throughout the
11 school year then, September, 2019.
12 September '19 rolls into the new year of
13 2020, which as we all know starts to bring a
14 fresh slate of challenges to the education
15 system, and, you know, I think the focus on
16 some of those health related issues is
17 understandable at that point in time, but
18 you certainly--you know, from September
19 2019, let's say, to January, February, 2020,
20 before COVID really breaks bad, is enough
21 time for you to get a good sense that there
22 are several serious deficits in the area of
23 deaf education, right?
- 24 A. Correct.
- 25 Q. Could you summarize for me--like if you ha

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1 to pick the three most serious deficits in
2 deaf education that you come to understand
3 during those first six or eight months, what
4 would those be?

5 A. Well, as you know, the report from 2011, and
6 the updated report from 2018, I kind of saw
7 that as my blueprint for my work. We all
8 have to have a work plan. So, that was sort
9 of entrenched in my brain. Going into the
10 role in 2019, Mr. Rees, it was not again no
11 re-inventing the wheel. In terms of the
12 three top priorities that would have caused
13 me great concern, would have been the
14 American Sign Language curriculum still not
15 being adopted or, you know, offered; our
16 children who were classified as deaf, who
17 were communicating, or trying to access
18 curriculum, in American Sign Language; and
19 probably overall overseeing of programming
20 for all of our students, and I have the
21 greatest respect for teachers who are
22 offering these programs. I really, really,
23 do, but they need--they need someone who's
24 going to lead them. They need oversight.
25 They need support, they really do.

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1 Q. They need direction?
2 A. Absolutely. Absolutely. Our children who
3 are accessing curriculum via sound, who have
4 their hearing aids on, and things working
5 for them, and they have their hushh-ups, and
6 they have their sound field systems, and
7 they have their itinerants going in, and,
8 you know, having those conversations with
9 the team at the school level that supports
10 them, I'm not really worried about them, I'm
11 really not. They're getting for the most
12 part what they need. It's our two handfuls
13 of children in the Province who are like
14 Carter, that need someone who's overseeing
15 the programming, and the resources, and the
16 continual training of the teachers that are
17 offering those programs to them. My other
18 big concern--I know you said three, but
19 here's another one. My other big concern is
20 the lack of resources in terms of
21 paraprofessionals who I would have hoped--
22 you know, sign language assistant, similar
23 to what APSEA was offering for a couple of
24 years in terms of the language acquisition
25 support workers, those paraprofessionals

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1 that could help support the programming
2 along side the teachers of the deaf and hard
3 of hearing; monies to be set aside to ensure
4 that--we get out there. Like I used to go
5 every year to MUN when I was in that role,
6 and met with pre-service teachers and say,
7 hey, this is an exciting field of study.
8 Don't know if you're thinking about special
9 ed., or going on to do further study. I
10 would bring my PowerPoint. Other teachers
11 of the deaf went as well when I wasn't there
12 to encourage people to go into this area of
13 study and to learn about it. We need
14 bursaries. We need to give people money.
15 Like, I didn't have any money. That was
16 all out of my own pocket. We need that. We
17 need money earmarked at the government level
18 to ensure that when the teachers of the deaf
19 are aging out and retiring, that we have
20 people ready with that skill set to move
21 forward into this role, because my fear is
22 that we're going to have our kids with
23 hearing loss who are not serviced in the way
24 that they need to. SLP's have a wonderful
25 role. Our guidance people--all of our

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1 people have roles to play. We're part of a
2 team. An itinerant doesn't go in and save
3 the day for children with hearing loss.
4 They're part of a team to make that happen,
5 but identified back, I don't know, 10 years
6 ago, that a lot of them were my age, right,
7 and we need people to move forward and take
8 up the torch of studying that, and making it
9 easy for people to learn American Sign
10 Language, and beefing up our deaf community
11 so that they can send their folks off to
12 learn the skills of teaching American Sign
13 Language. Just because you speak English,
14 and I speak English, don't make us great
15 English teachers, right. People who might
16 be able to use ASL might not necessarily
17 have the toolkit to deliver that language so
18 that children learn it. So, those would be
19 probably the four that I would say needs to
20 happen in a flash, and the other part is,
21 the pre-school population, who cochlear
22 implants are not working for, who may not
23 have a cochlea to put a cochlear implant in.
24 You know, we have a couple of handful of
25 kids, you know, in the system, or entering

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- 1 the system, that we need to do right by.
- 2 Q. There's a few of these things that I want to
- 3 unpack and talk about a little bit, and I
- 4 had a very similar conversation with Alma
- 5 McNiven when she testified earlier today.
- 6 She your--not your predecessor. What's the
- 7 opposite of predecessor?
- 8 A. She replaced me, yes.
- 9 Q. Successor.
- 10 A. Yes.
- 11 Q. And she had some very interesting creative
- 12 ideas about ways that some of these problems
- 13 could be addressed, and you mentioned a
- 14 couple of them. I want to talk to you about
- 15 the trips that you attended at various
- 16 educational faculties, training programs -
- 17 A. Right.
- 18 Q. - and your indication that, you know,
- 19 bursaries would be required, and your
- 20 evidence that, you know, the retirement age
- 21 of individuals who have the skills to be
- 22 able to teach deaf children, you know, is
- 23 high enough that it's of an area of concern
- 24 for replacement. So, it would have been
- 25 known within the District, you know, upon

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1 the closure of the School for the Deaf, and
2 certainly by the time you're writing your
3 reports in 2011 and 2018, that it was going
4 to become difficult to find skilled
5 replacements for these retiring teachers of
6 the deaf?

7 A. The Department of Education would have known
8 it more in terms of--because I was there,
9 and these things were highlighted. Of
10 course, our--you know, there's a steering
11 committee for deaf education that, you know,
12 was struck in 2019, and I was part of that
13 working group, and again, that
14 recommendation is in there, that as a
15 Province we need to absolutely keep our
16 thumb on ensuring that these resources are
17 there from here to eternity, because while
18 cochlear implants are a wonderful medical
19 invention, it doesn't work for all children.
20 So, we need not only trained teachers of the
21 deaf and hard of hearing, we need student
22 assistants, sign language assistants,
23 teaching/learning assistants, whatever
24 they're going to be called, they need skill
25 sets. Our interpreters--we have a handful

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1 of interpreters that are shared between
2 Health and Community Services in education.
3 We need more educational interpreters.
4 Again, that's another area that people are
5 aging out of, and kept being pulled back
6 because they have that sense of
7 responsibility to the community. There's
8 loads of ways that we can ensure from this
9 point forward that the recommendations in
10 2008, in 2011, in 2018, and now 2020--we
11 finished up those recommendations just
12 before I retired last August, and to my
13 knowledge, I have no idea what's happened
14 with that, but we need to get to it. We
15 need to get to it.

16 Q. Well, I mean, that's one of the issues that,
17 you know, we've brought here, you know, and
18 not to get too inside base, but, you know,
19 there's this concept of undue hardship,
20 right. How hard is it to be able to
21 implement the supports that a child like
22 Carter Churchill needs in the event that
23 it's, you know, it's found that he had been
24 discriminated against in the delivery of
25 this service, and, you know, one of the

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1 barriers to providing a service like this,
2 to providing, you know, qualified teachers
3 of the deaf with proficiency levels in ASL,
4 or whatever else, you know, can be the lack
5 of available personnel. What I hear you
6 telling me is that, you know, the lack of
7 available personnel, and certainly the
8 future lack of available personnel, is
9 something that had been known for a long
10 time, and there are options available that
11 aren't guaranteed to work, but are certainly
12 a step in the right direction, to ensuring
13 that that need can be met, and you mentioned
14 providing, you know, bursaries to
15 incentivize these kinds of teachers, to
16 offer training. One item I put to Alma
17 McNiven, and it had been suggested by one of
18 our experts, that I thought was intriguing
19 was that, you know, in addition to taking
20 teachers and training them in deaf education
21 and ASL, you can take deaf people and train
22 them to teach.

23 A. Absolutely. Absolutely. Use what we have.
24 You know, we need to approach the deaf
25 community. Anyone that's a little whipper-

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1 snipper that, you know, wants to learn and
2 help out and support, 100 percent, 100
3 percent, and again, like my conversations
4 with APSEA, they had had the language
5 acquisition support worker, and that was
6 around, you know, bringing the child to a
7 certain level of American Sign Language
8 skill set, to learn the language, so at some
9 point they can successfully access the skill
10 set of an interpreter, and that's the other
11 piece, the piece around--so, if you're an
12 interpreter, what do you do? Like even the
13 delineation of the skill sets--you know, in
14 my role, constantly explaining, why would we
15 need an interpreter? Well, we need an
16 interpreter for this. Okay, but is that the
17 same as--no, that's not the same as. So,
18 like, this role--I mean, I'm enjoying my
19 granddaughter, but this role needs to
20 continue so that that piece of capacity
21 building continues, continues. And, I mean,
22 I went there in 2008. I don't know, I think
23 we've had like nine or 10 Ministers of
24 Education since 2008, and when people come
25 in they bring in their skill sets, they

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1 bring in their experiences, lived
2 experiences, and then it's almost like, for
3 me anyway, only my personal experience,
4 you're starting all over again.

5 Q. When they change Ministers?

6 A. With Ministers, with Deputy Ministers, with
7 Assistants to Deputy Ministers, you were
8 starting all over again. Like the rapport
9 you had built, and the things you were
10 hoping to accomplish, out the door and
11 somebody else is in. Now, I'm not here to
12 dictate how the government assigns
13 Ministers. That's not what that's about.
14 I'm just trying to hope the public
15 understands that when new folks come in,
16 folks like us in our roles, you're sometimes
17 starting from ground zero, saying, okay,
18 we're hitting the ground running, and we're
19 sharing our best practices, our policies,
20 why we do this the way it is, and if folks
21 don't understand what went on before--I
22 mean, me hitting the ground running in 2010,
23 thank goodness there was a report that was
24 written by Darlene Styles of the School for
25 the Deaf and what was offered. That was a

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1 stepping stone for myself and Ms. Cahill to
2 spring from to help recommendations going
3 forward. I don't know if that makes sense,
4 but that's -

5 Q. Well, it does. The loss of institutional
6 knowledge and memory, you know, that happens
7 when, you know, you leave the Department of
8 Education and then come back years later and
9 find that not only have many of your
10 recommendations not been followed, but the
11 couple that were being followed, like the
12 creation of the APSEA database, dropped off
13 again, I think represents a concern. I
14 mean, before the repository of that
15 institutional knowledge, I suppose, would
16 have been the School for the Deaf, right?

17 A. Correct.

18 Q. And now--I mean, it was your role. It's
19 passed to Alma McNiven. Alma McNiven
20 testified today that, you know, while she
21 hopes that her role will be extended, you
22 know, right now the contract just goes
23 until, I think it is August of 2023, and
24 there, you know, no guarantee of that role
25 continuing to exist beyond that. Is that a

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1 concern for you?

2 A. One hundred percent.

3 Q. Okay. We spent a fair bit of time talking
4 about problems that were being identified
5 and not being addressed. I guess we can
6 move on to, you know, the part of the
7 conversation where you start to be able to
8 address the problem. How did you find out
9 that in 2017, 2018, 2019, deaf itinerant
10 teachers had proposed satellite classrooms
11 to address needs?

12 A. It was shared with me that they had. You
13 must remember that when I arrived, or got in
14 this role in 2010, I had built a really good
15 relationship with all of the itinerants. We
16 were--while I was at the Education
17 government level, I was what APSEA would
18 have referred to as a Provincial Supervisor,
19 you know. I mean, I was supposed to be
20 there for like developing documents, policy,
21 best practices, and so on and so forth, but
22 they connected with me, you know. They
23 shared some of their concerns, and I too--
24 you know, I understood their concerns, and
25 so when I started in 2019, as I said, this

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1 was like my work plan. It was just move
2 forward. I heard this phrase once; that
3 don't stare at the problem for too long.
4 I'm a doer. If I see a problem, I
5 tirelessly or work to address the problem,
6 but it's a team, you know.

7 Q. And it sounds like you and the DHH
8 itinerants, you know, in a lot of ways were
9 working as a team, or certainly were on the
10 same wavelength. I understand that they
11 actually took your report and got your
12 permission to be able to use it in the
13 submission they made to the Premier's Task
14 Force. You were aware of that?

15 A. No, I wasn't.

16 Q. Well, they did. They, you know, took what
17 you had to say and, you know, accepted it
18 wholesale. So, I didn't quite get the
19 connection then. So, when you take over
20 you--or when you get in this role--take over
21 sounds more hostile. You get updates from
22 the DHH teachers, and they let you know
23 that, by the way we had proposed satellite
24 classrooms over several years.

25 A. I had--I do believe, yes, that I was told

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- 1 that by the teachers, but I was also
2 informed of that by Ms. Woodland.
- 3 Q. Bonnie Woodland?
- 4 A. Correct.
- 5 Q. When did Bonnie Woodland bring to your
6 attention that these satellite classrooms
7 had been proposed?
- 8 A. It would be a stab in the dark for me to say
9 what date.
- 10 Q. But sometime when you start in the role?
- 11 A. Yes.
- 12 Q. Like the early days of it?
- 13 A. Yeah.
- 14 Q. Did Bonnie Woodland appear to endorse, or
15 otherwise speak positively, about the
16 satellite classroom proposals? Did she have
17 sort of a perspective, or an attitude, on
18 the satellite classrooms?
- 19 A. She acknowledged that this was something
20 that was brought forth in meetings based on
21 concerns of the itinerants. Bonnie is a
22 colleague of mine. I have great respect for
23 her. Bonnie had a huge task of overseeing
24 all things special education in this really
25 large Eastern School District. She would
-

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1 not have had, like myself, or any of the
2 itinerants, the expertise really to
3 understand, and that's no disrespect to her
4 skill set because she's good at lots of
5 other things, but she--my opinion would be,
6 she would not have the expertise to
7 understand the urgency of something like
8 that. Now, me, having come from Alberta
9 where there was a bit of a continuum of
10 services, you know, there was a School for
11 the Deaf, there was a Tevie Miller Program,
12 there was the program at the Glenrose Rehab
13 Hospital for pre-schoolers, there was a bit
14 more of a continuum of service. So, this
15 satellite program, that's what the girls
16 called it, to me it was something that,
17 yeah, we could do this.

18 Q. It was pretty clear that this was a good
19 idea?

20 A. Yeah, for those who were in the know, and
21 understand it, absolutely.

22 Q. How long did it take you, and maybe you
23 don't remember this? Was it a number of
24 hours, minutes, days? How long did it take
25 you to realize that, you know, yeah, this is

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1 a good idea, this has got legs?

2 A. When I walked into that role September 5th,
3 6th, like today, whatever, that was my
4 mission. That was my mission, to help folks
5 understand the urgency with which that had
6 to happen. I was like a bit of like a dog
7 to a bone. I mean, I don't know what other
8 way to say it, but, yeah, we knew that we
9 needed to do that, but then me being in the
10 role, I had the previous knowledge, the
11 expertise, the support, that we could
12 probably get this off the ground for sure.

13 Q. Did you have any concerns with the satellite
14 classroom proposal was presented to you that
15 it didn't fit with the District's model for
16 inclusive education in a neighbour school?

17 A. I don't recall ever seeing the actual
18 proposal. In terms of fitting in the model
19 of--say that again, sir.

20 Q. Yes. I mean, Bonnie Woodland--I'll tell you
21 why I'm asking you this. Bonnie Woodland
22 said, you know, not only was it sort of an
23 attention leadership thing that made it
24 harder for her to be able to take that ball
25 and run with it like you, she also

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1 indicated, in her affidavit at least, that
2 she did not bring it to, you know, higher up
3 the District because she believed that the
4 proposal did not fit with what they referred
5 to as the inclusive education model that
6 would see deaf students attending their
7 neighbourhood schools. Was that a barrier
8 for you?

9 A. I will say this. You can ask 20 teachers
10 what the philosophy of inclusive education
11 is, and you might get 20 different responses
12 because it really depends on what they
13 heard, their own biases, what their
14 experiences are, and so on and so forth.
15 The inclusive education model is really
16 looking at the strengths and the needs of
17 children, and meeting their needs where they
18 are at, whether it's in class, a little bit
19 of in class and out of class for intensive
20 programming, or--I was principal of District
21 School, now known as Horizon Academy, where
22 children had severe behavioural issues or
23 mental health needs, where they came out of
24 their school altogether and went to a
25 transition program there. So, we do have a

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1 variety of ways to meet children's needs.
2 If that was Bonnie's perception at the time,
3 that she felt like it wouldn't fly in the
4 face of what we were trying to accomplish as
5 a District or a Province, I can't speak to
6 that.

7 Q. Right, but in your view, was it a conflict
8 with the inclusive education model?

9 A. No, not at all.

10 Q. It wasn't a barrier at all?

11 A. No. No, I would not see that as a barrier,
12 absolutely not.

13 Q. Did anybody tell you it was a barrier?

14 A. No, absolutely not.

15 Q. Lucy Warren testified, and in her view one
16 of the problems with the satellite classroom
17 proposal was that it was not--her
18 description was something along the lines of
19 that it wasn't scalable to a Provincial
20 scale. They couldn't be applied all across
21 the Province. We couldn't give everybody a
22 satellite classroom. Was the fact that, you
23 know, it was appropriate for the metro area
24 of St. John's, but might not work as well,
25 you know, in Central, was that a barrier to

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1 implementing the satellite classroom model?
2 A. I mean, I could see where Ms. Warren would
3 come from in terms of that because that
4 would then be perceived as not an equitable
5 service, however, what I would say to that,
6 and what I did say to that was we need to
7 look at where the needs are, and we had a
8 pocketful of children in the metro region,
9 and the resources in the metro region, where
10 we could absolutely get that lifted off the
11 ground. You know, we have children, one in
12 Central, a couple in Labrador right now,
13 actually three in Labrador right now if my
14 memory serves me correct. Offering a
15 classroom for one child on side of Labrador,
16 and another child on another side of
17 Labrador, how do we do that, you know? So,
18 the children that their son's classroom is
19 generally around the same age, it was much
20 more doable, but I could see where people
21 would say, now, is that going to open up a
22 can of worms. You know, if we can't offer
23 it there, why would we offer it here, and
24 what I would have said to that had I been
25 asked, we have the numbers, we had the

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1 resources, let's get going.

2 Q. You know, for those students elsewhere in
3 the Province that this project wouldn't have
4 been scalable for, I mean, other supports
5 could be provided to those students.

6 A. And they are.

7 Q. And they are?

8 A. Absolutely.

9 Q. And that's something else that you did when
10 you took over the role, right?

11 A. Yes. And the other thing too is--you know,
12 the pandemic taught us a lot of things,
13 right, and one of the other thing was
14 embracing virtual learning, embracing
15 virtual support, and so on, and in a
16 Provincial type of role, when you can look
17 around the Province and go, okay, skill set
18 here, skill set here, skill set here, needs
19 here. Like, we had a teacher in
20 Stephenville who was supporting a child in
21 Labrador. We had a teacher in Central who
22 was supporting a child in Labrador. You
23 know, some of these hard to fill places,
24 those positions, those speciality positions,
25 they are extremely challenging, extremely

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1 challenging to fill, you know. Lots of
2 people love the Big Land. Lots of people
3 who are Island people are going, I think I
4 want to stay home on the Island, and
5 unfortunately for Labrador sometimes this is
6 what happens. So, again, it's through no
7 fault of NLESD, it's you look at the
8 resources you have and what kind of
9 programming you can offer. So, luckily I
10 did find a teacher of the deaf who was
11 coming from, I want to say Manitoba, that
12 took on the position in Labrador West, and
13 we had to do a virtual position in Labrador
14 East. Again, not ideal, but, of course,
15 travel budgets, and all of that, was
16 attached to that so that they could go and
17 build capacity at the school level.

18 Q. I see. So, even in circumstances where, you
19 know, it wouldn't make sense to implement a
20 satellite classroom, a satellite classroom
21 for one, the needs that were being
22 identified for at least these deaf children
23 in metro who a satellite classroom was
24 appropriate for, were still needs that
25 needed to be resolved for other children in

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- 1 the Province that were located elsewhere?
- 2 A. Right.
- 3 Q. And you found ways to address those issues?
- 4 A. Very creatively. Begging, borrowing,
- 5 stealing, whatever I had to do, we did it.
- 6 Q. And during the course of begging, and
- 7 borrowing, and stealing, were there any
- 8 requests, to your knowledge, made to the
- 9 Department of Education for additional
- 10 funding and additional resources?
- 11 A. For additional funding? I would imagine,
- 12 yes, because I know the numbers in Eastern,
- 13 of course, being, you know--the population
- 14 that we have would have been higher than--in
- 15 terms of rosters and itinerants, would have
- 16 been higher than in other parts of the
- 17 Province.
- 18 Q. And when making any of those requests to the
- 19 Department of Education--and you wouldn't
- 20 have been the one making the requests, but
- 21 you would have been aware of it because you
- 22 needed the funding to solve your problem.
- 23 Are you aware of any time where the
- 24 Department of Education said, no, we're not
- 25 funding that; no, we're not giving you the

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1 resource for that?

2 A. I know that when the need came up for
3 another auditory verbal therapist, money was
4 found for that. I would have to go back and
5 look at the numbers of say itinerants when I
6 started say 2010 versus now. I don't think
7 virtually the numbers have changed. So, I
8 can't speak to if the Department ever said
9 no. No was not ever said to me. What was
10 always said was, look at the caseloads, look
11 at the needs, and see where we go from
12 there. And I want to say too, Mr. Rees,
13 that when you look at say scans across the
14 country in terms of numbers, in terms of
15 caseloads of itinerants, while there's
16 things we can absolutely improve here, the
17 number of children on our itinerant's
18 caseloads are quite favourable compared to
19 other provinces, quite favourable, and I was
20 really proud of that. So, no one ever said
21 let's claw back that, but in terms of was
22 there ever a direct no that you can't have
23 that--I had to be creative obviously, but we
24 made it work as best as we could with the
25 resources we had.

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- 1 Q. And that required some creative thinking to
2 do that.
- 3 A. You got to know what you're doing.
- 4 Q. So, you see a serious problem, and, you
5 know, sort of back to the satellite
6 classroom in the metro area now--you see a
7 serious problem. You take an idea, I think
8 that the itinerant teachers have proposed,
9 and you turn it into, you know, a more
10 detailed proposal. Who do you bring this
11 proposal to? Who green lights it?
- 12 A. So, I wrote the proposal, and I submitted it
13 to the Director of Student Services at the
14 time, which would have been Denise King, and
15 to Georgina Lake at the School District
16 level.
- 17 Q. Denise King and Georgina Lake?
- 18 A. Correct.
- 19 Q. Do you know what happens with the proposal
20 from there, or does it go out of your hands
21 at that point?
- 22 A. It was out of my hands.
- 23 Q. Okay. At some point, you know, you hear
24 back that divine permission has been given -
- 25 A. Yes.

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1 Q. - that the thing will proceed, and then are
2 you charged with operationalizing, or
3 overseeing the operationalizing of the
4 classroom?

5 A. I was involved heavily, yes.

6 Q. It must have been a proud moment, you know,
7 the first day of school in that classroom.
8 You're taking a drink, so I'm going to get
9 you to -

10 A. Don't make me emotional. Yes.

11 Q. Carter Churchill was there on the first day
12 with his parents. Again, I'm not going to
13 make you cry, so I'm going to take you out
14 of memory land for a moment. To what degree
15 was the needs being expressed by the
16 Churchill's, both publicly and in their
17 Human Rights complaint, to what degree was
18 that, you know, on the radar, or understood,
19 in your discussions with other District
20 personnel as, you know, one of the reasons
21 why this satellite classroom was needed? I
22 mean, the Churchill's were certainly
23 bringing public attention to this issue,
24 weren't they?

25 A. Yes. This might come as a shocker, but I

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1 actually wasn't as concerned about Carter as
2 I was the other children, because the other
3 children didn't have the services that
4 Carter had. He had a lot more services than
5 the rest of these children, and I knew that
6 if I could absolutely get the rest of the
7 children together we could take care of
8 their social/emotional learning needs, their
9 socialization, learning the language from
10 each other, having two qualified teachers of
11 the deaf with really good signing skills,
12 three deaf resources, I knew that we would
13 be okay. I knew that the children would
14 thrive, and I think they are thriving. I
15 think they are learning. I think they're
16 happy. I think they're happy.

17 Q. So, these other--there's another eight--I
18 know sometimes the number changes in
19 classroom, but approximately another eight
20 children, right? Don't have a Human Rights
21 complaint filed, but they have, you know,
22 serious needs, you know, needs either as
23 great, or perhaps even greater, than
24 Carter's needs according to your evidence.
25 All of these children have these, you know,

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1 severe needs met, or closer to being met,
2 with the opening of the doors of that
3 satellite classroom. Alma McNiven earlier
4 acknowledged the role that the Churchill's
5 played, the Churchill's advocacy, and public
6 pressure, and the Human Rights complaint,
7 played in not just getting the classroom set
8 up, but additional resources that have been
9 provided, you know, in the years since, and
10 up to some that have been provided this
11 year.

12 A. Right.

13 Q. Is that your view as well, that the
14 Churchill's advocacy -

15 A. I think absolutely advocacy is important
16 from the Churchill's, from any parents, from
17 the teachers, absolutely it is important, to
18 keep this discussion going. In my
19 discussion with one of the ladies at APSEA,
20 Saint John, New Brunswick, had offered a
21 very similar program back years ago, and as
22 the children aged out the program folded.
23 The same thing happened in Surrey, B.C. One
24 of my former classmates, when she left
25 Alberta, the program, and went off and

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1 supported children in Surrey, B.C., that
2 didn't want to necessarily go to Vancouver,
3 children aged out, or their signing skills
4 came to a point where they could confidently
5 and competently access the interpreter for
6 the deaf and hard hearing, and a teacher for
7 the deaf and hard of hearing, and go back
8 into mainstream school. So, they either
9 aged out and graduated or they had a desire
10 to go back to mainstream school. That would
11 have been my ultimate goal for this program.
12 Will it always exist? That depends on the
13 needs of the children that are presented to
14 us, right, but right now this program is
15 exactly what these children need.

16 Q. And the point that I was making, and I think
17 you agreed with, was that, you know, all
18 these children, including Carter, you know,
19 are the beneficiaries of your hard work, of
20 the Churchill's advocacy, of the work of
21 many people. You know, it would be wrong to
22 just tilt it down to just a few individuals,
23 but all of these individuals benefited from
24 those needs being brought front and centre.

25 A. One hundred percent.

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1 Q. Right. Did you have any chance to sort of,
2 you know, evaluate the children during those
3 first few weeks in the satellite classroom
4 yourself, or to have discussions with the
5 professionals who are reporting to you,
6 teachers in the classroom and things, to get
7 a sense of, you know, what the kids needs
8 are, and how they're doing in the classroom?

9 A. Well, yes, absolutely. We had several
10 meetings. Ms. Roth, Gillian--Gillian and
11 Alma, well, they pretty well had me on speed
12 dial. We met pretty well after programming
13 and stuff quite a number of times. We met
14 as a team. Again, it's not just them and
15 the children, it's the educational
16 psychologists, the AVT's, the SLP's. I
17 mean, there are children in that classroom
18 where parents had the desire for them to
19 learn as much speech as possible. So, we
20 met as teams to look at programming and how
21 we were going to move forward. Yes, we did.

22 Q. And did you see, especially during the early
23 weeks in that classroom, you know, the signs
24 of severe language deprivation for these
25 students?

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1 A. Yes. Yes.

2 Q. We had some evidence from some of the other
3 witnesses concerning the use of this term IE
4 on the report cards, which means
5 insufficient evidence. Carter has received
6 two years worth of report cards since he's
7 been in the satellite classroom that have IE
8 all over them, and that's the only entry on
9 the report cards, and that was explained.
10 The reason why that's there is because, you
11 know, Carter, and indeed the other children
12 in this classroom, are still playing catch-
13 up. They're closing that gap that existed
14 before they entered the satellite classroom.
15 So, they're not necessarily being taught
16 grade material in all areas because, you
17 know, they simply aren't ready for it, so it
18 would be unfair to give them one's, and
19 two's, and three's, based on grade material.
20 So, is your understanding, and I guess your
21 oversight is really during the first year of
22 the satellite classroom--is it your
23 understanding that the first year of this
24 satellite classroom is focused on closing
25 that gap, that language deprivation gap?

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1 A. Absolutely, and that's not going to be
2 accomplished in a year. You know, research
3 will tell you that if children come to
4 school at age five, and they have not become
5 proficient at a five year old in American
6 Sign Language, or whether it's English
7 language--we have children who come to
8 school deprived of spoken language as well.
9 There is always going to be a catch-up, you
10 know. There's always going to be a catch-
11 up. In terms of the School for the Deaf--
12 the children at the School for the Deaf,
13 they were coming in, as I said earlier, with
14 family signs, and maybe have some basic
15 vocabulary in American Sign Language. That
16 is the crux of the matter with deaf
17 education. This is the challenge of deaf
18 education, is always playing that catch-up.
19 Teachers who are worth their weight in salt
20 will use grammatic, you know, topics, you
21 know, for science. I used the same thing
22 for my students in Edmonton. You know, you
23 looked at the science curriculum, and you
24 pulled out, okay, we're going to do the
25 butterflies, and we're going to do magnets,

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1 and we're going to do this, but I can't
2 possibly cover the five units of science
3 because their language is hampered, right.
4 So, as a special education teacher, we would
5 look at where are the children at, who are
6 the children in front of us, what are their
7 strengths, what are their needs. We're
8 going to look at the needs column more
9 seriously and develop goals based on those
10 needs to kind of scaffold the strengths that
11 they have. The grade level stuff--like even
12 at the School for the Deaf, it was not so
13 much as on grade level as teachers work
14 through the curriculum, Newfoundland and
15 Labrador curriculum, and pulled units of
16 learning that they were going to be able to
17 move forward on, and help them get as much
18 learning as possible into their brain, and
19 that was not just done, as I said earlier,
20 by ASL. It was the song and the dance, and
21 everything in between, to strengthen those
22 pathways of learning to their brain.

23 Q. In this case you probably literally being
24 the song and the dance in some cases.

25 A. One hundred percent, drama, role playing,

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1 all of that, the visual. I mean, even for
2 me as a child growing up, as soon as much
3 teacher turned around to the board, I went
4 in a little bit of a panic. I was an
5 anxious child because people turning around.
6 If you're not cognizant of what these
7 children need, you would not maliciously do
8 that, but you want to have the background on
9 it, and that's one of the roles of our
10 teachers of the deaf, is going in a
11 building, that capacity, with regular
12 classroom teachers. Make sure the batteries
13 are on. Make sure the sound field system
14 works. Make sure they're going to teach a
15 new concept. The doors are closed. You
16 know, make sure if you have any materials
17 from the government that they're closed
18 captioned or find things--and that's another
19 thing--just triggered me. That's another
20 thing that we need. We need open and closed
21 captioning of resources that come from the
22 Department of Education to support these
23 children's learning. There's another area
24 that needs to be addressed that in reports.
25 Q. I mean, the gaps that you had seen, and I

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1 don't need you to canvas it in great detail,
2 we were told by many of the teachers, and
3 other professionals in these satellite
4 classrooms, you know, that there was
5 substantial improvement within that first
6 year, and over the course of the second
7 year, and we hope to continue to see
8 improvement in the future. You know, it's a
9 good news story. These kids still have a
10 long ways to go.

11 A. For sure.

12 Q. Some of them further than others.

13 A. Right.

14 Q. And it can't be denied, and I'd ask your
15 view, on the fact that, you know, students
16 like Carter Churchill, and Carter Churchill
17 in particular, you know, went through
18 Kindergarten, grade one, and to a lesser
19 extent grade two and three, you know,
20 without those supports in place, and missed
21 an opportunity to learn a language, and to
22 be instructed in a language. Was there ever
23 a point, you know, when you were seeing the
24 results, the fruits of your labour, of this
25 satellite classroom that you reflected on

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1 the fact that these were concerns that had
2 been raised for years and years, and
3 opportunities that had been missed and
4 missed, and what the impact will be on these
5 kids as a result?

6 A. Yes, absolutely I was concerned about that,
7 and when we wrote the report in 2011 we knew
8 enough to know that cochlear implants again
9 are a wonderful thing, but we also knew that
10 it wasn't going to work for everybody, and
11 if it wasn't, then what.

12 Q. And you're aware by now that the cochlear
13 implants, you know, didn't work as hoped for
14 Carter Churchill, and he's one of many that
15 have had that experience, and the supports
16 in the classroom, you know, were not there
17 during those early years, and he's still
18 seeing the effect of those first few years
19 of his education, isn't he?

20 A. My understanding, and correct me if I'm
21 wrong, but my understanding was that a
22 teacher of the deaf and hard of hearing was
23 assigned to Carter in grade one. That's my
24 understanding. So, he would have had
25 support at the grade one level. When the

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- 1 student assistant, Ms. Vaters, came on
2 stream--I can't recall right now. I've had
3 a lot of things in my head. My
4 understanding was that the District did
5 their best to support him. Again, was it
6 perfect? Probably not. Would I have been a
7 proponent of these children to be together
8 earlier on? Yes.
- 9 Q. And the children being together was a big
10 part of it, wasn't it?
- 11 A. One hundred percent.
- 12 Q. I mean, that's -
- 13 A. Children learn from each other.
- 14 Q. That's the thing that this satellite
15 classroom did that no amount of student
16 assistants, support, or deaf itinerant
17 teacher, or ASL lessons over the summer,
18 could solve, right -
- 19 A. That's correct.
- 20 Q. - that social/psychological -
- 21 A. I believe that the social piece--these will
22 be their lifelong friends. For lack of a
23 better word, this will be their tribe, you
24 know, and everybody needs a tribe. You need
25 to have go-to people. You need to have

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1 relationships. You need to have people who
2 are like you, right, and it's no different
3 than the teenager who has cochlear implants
4 or hearing aids. We had a program called
5 Youth Vibrations where our children with
6 hearing loss in grade 11 and grade 12 would
7 come to St. John's, and our itinerant
8 teachers would take them around to the post-
9 secondary schools to get them riled up for
10 life after school, and for some of these
11 children, especially those out in rural
12 Newfoundland, that's the first time they've
13 seen a peer with the hardware on, right.
14 So, you tend to gravitate towards people who
15 are like you, who have the same needs as
16 you. Not to say that you can't have others,
17 but for children like the children we're
18 discussing, it's so important, so important
19 that they have that relationship with people
20 like them.

21 Q. Okay. Those are all my questions. My
22 friend and the Adjudicator might have some
23 questions for you as well.

24 A. He's got to speak up because he's still low.

25 ADJUDICATOR:

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1 Q. Mr. Penney, do you have questions?

2 MS. DARLENE FEWER JACKSON, CROSS-EXAMINATION BY MR.

3 STEPHEN F. PENNEY

4 MR. PENNEY:

5 Q. I just have one question for you. Can you
6 talk a little bit about the efforts in 2020
7 to recruit DHH itinerant teachers? 2019?
8 2020?

9 A. Yes. So, when I arrived on scene in
10 September 2020--hold on, let me get myself--
11 --no, when I arrived on scene September 2019
12 I had heard from Ms. Woodland the challenges
13 that she had had that entire summer,
14 advertising, re-advertising, and trying to
15 find a qualified person to work with Carter.
16 No surprise to me because, you know,
17 everybody had their role, everybody was
18 assigned caseloads, and so on. My
19 understanding is that some folks were
20 approached to, you know, to work with
21 Carter, but Ms. Woodland was not successful
22 in that. And it remains--it remains a
23 challenge for HR, and for folks like myself,
24 or Alma, or who would be in that position,
25 whether it's an interpreter for the deaf and

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1 hard of hearing, you know, entrenched in
2 education, whether it's a student assistant
3 with sign language, whether it's a teacher
4 for the deaf and hard of hearing. There's
5 not a lot of resources out there, and like I
6 know she had advertised across Canada, but
7 guess what folks, everyone else in Canada is
8 in the same boat of vying for, and fighting
9 for, the same skill set. I went unto the
10 University of Alberta back a week or so ago,
11 because I'm still always looking up stuff,
12 and they had an intermediate level American
13 Sign Language course. U of A was proud to
14 offer sign language courses, you know, at
15 the university level, and they are looking
16 for someone to teach the intermediate level
17 ASL, and it's been advertised and re-
18 advertised. APSEA has had the same issue.
19 When people go off on maternity leave--I
20 mean, our teachers for the deaf and hard of
21 hearing are allowed to have babies and have
22 a family, but that is a challenge as well.
23 You know, it was advertised and re-
24 advertised. So, you have to get creative.
25 I know one of the ladies I talked to at

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1 APSEA had to--she was out of Saint John,
2 which is south New Brunswick, I'm sure, and
3 had to do like a virtual program of children
4 who were in northern New Brunswick who had
5 significant learning challenges and hearing
6 loss. So, no one is out to not offer the
7 resources, and not say we're putting the
8 best person in this position. That's not
9 what's going on here folks. It's that it is
10 so challenging you beg. I mean,
11 conversations with the gentleman from
12 Manitoba, you know, we really wanted someone
13 to fill the Labrador role. These are not
14 easy positions to fill, and therefore big
15 picture moving forward, we need to make sure
16 that we have teachers in our Province who
17 learn about this area of study, who learn
18 about being able to access--and we need to
19 remove the barriers for say learning ASL,
20 and making sure that NLESD is supported in
21 being able to offer ASL. Canadian Hard of
22 Hearing Association, they've offered
23 programs. You have to have your finger in
24 so many pies. I felt like I was constantly
25 engaging, and I know Alma is at the same

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1 thing now, working with the Canadian Hard of
2 Hearing Association, working with the
3 Newfoundland and Labrador Association for
4 the Deaf. We used to have a Newfoundland
5 Coordinating Council on Deafness. We're
6 working with those folks, working with the
7 Janeway. We're working the APSEA. It's a
8 bi-role, and when I arrived at NLESD in
9 September 2019, those relationships that I
10 had had in 2010 to 2014, I kind of just
11 picked up where I left off because I had had
12 that relationship with all of those folks,
13 and they knew what I was trying to do,
14 right. So, it's not just a one pronged
15 approach. This is not just about NLESD.
16 It's about the whole community coming
17 together and making sure that we have a
18 process in place that somebody is
19 overseeing, coordinating all of these
20 things, to make sure we meet the needs of
21 our children with hearing loss. It's
22 complicated.

23 Q. Thank you.

24 ADJUDICATOR:

25 Q. We had another witness scheduled for this

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1 what section. I need clarification on that.

2 Q. Your affidavit, I think, is--it should have
3 paragraph numbers at the very beginning.

4 A. Okay. It's a long day. I need a Tylenol.

5 Q. Yes. If you look at the 66th paragraph, so
6 just before where you would have signed it,
7 the two pages before, paragraph 66 all the
8 way through to 70. If you could have a
9 quick read through of those, and then I have
10 a couple of questions I want to ask.

11 A. Okay.

12 Q. So, these paragraphs talk about the first
13 couple of months that the--of the operation
14 of the satellite classroom. So, it's been
15 implemented, and one of the items that you
16 identify in your affidavit is something that
17 was believed needed to support the students
18 was to assess their expressive and receptive
19 language skills, and what's suggested here
20 is that you wanted to complete ASL
21 assessments on the students early on. I'm
22 assuming this is early on.

23 A. Correct.

24 Q. Why did you feel that that was important?

25 A. Well, I felt that was important because that

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1 would have informed programming. That would
2 have given the teachers, and the other three
3 staff that were working with the children,
4 some concrete evidence of say vocabulary
5 that they knew, conceptual ideas that they
6 knew, did they have one word phrases, two
7 word utterances in sign language. Even as a
8 special education teacher, we would have
9 looked at say literacy, and numeracy, and
10 language samples, to figure out where we
11 would go from there for programming. The
12 other--it was a two-pronged reason actually.
13 The other one was we absolutely want to show
14 growth. I wanted to show our District, and,
15 of course, the Province, okay, we've got
16 this group of children together. Here's
17 where they were at September, October, once
18 they settled in, and probably again in the
19 following June, let's look at how they've
20 grown, and again, that would help determine
21 programming for the following year. That's
22 just best practice.

23 Q. And a letter--your affidavit attaches a
24 letter at Tab 23, and the letter seems to be
25 addressed to the parents of the children in

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1 the satellite classroom informing them that
2 the testing would be conducted.

3 A. Correct.

4 Q. But I understand from your affidavit that
5 you received correspondence from the
6 Churchill's expressing their concerns with
7 the proposal, and then you say that
8 ultimately no students in the program were
9 assessed. Why didn't it go forward?

10 A. I think because the parents had questioned
11 our motives. Again, this is a bunch of
12 parents who have trusted us with their deaf
13 children, and that was something that I
14 really wanted us to do, however, you have to
15 understand too that all of this stuff was
16 going on in light of the pandemic, in light
17 of--you know, there were a lot of stresses
18 that were a part of all of this programming
19 getting off the ground, and we didn't move
20 forward because the motivation, I think, was
21 questioned, and who you were going to ask to
22 do that was questioned by the parents, and
23 my fear was that this might be something
24 that would have been brought up by other
25 parents if we had to move forward, and then

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1 we were, of course, moving forward with the
2 short-term program. We were hoping to go,
3 of course, to APSEA, and if any of the
4 children had needed an ASL assessment there,
5 APSEA contracts that out to people in the
6 community that would do that. So, because
7 there were some concerns raised by the
8 Churchill's about the credentials of Mr.
9 Murphy, I guess we kind of took the road of
10 we'll just wait and see if this is something
11 that we're concerned about come spring when
12 we go to APSEA short-term programming, and,
13 of course, it would have given us a bit of
14 time as well for the teachers who were
15 working with them, and the deaf folks who
16 were working with them, to start doing their
17 own anecdotal records and in-class
18 assessments of where the children were at.
19 So, that would have been information that we
20 could have passed onto the APSEA team as
21 well. Unfortunately, you know, with
22 flights, and safety, and protocols of COVID,
23 that didn't occur. Obviously we wouldn't
24 have gone ahead assessed ASL skills if
25 that's not something that parents chose, but

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1 I think it would have been in our best
2 interest for programming purposes to allow
3 that to go ahead, whether it was through
4 NLAD, and, of course, they were on the
5 ground. They were here, easily accessible.
6 We had plans of bringing Mr. Murphy, and any
7 team members of NLAD, to come in, get to
8 know the children, have a rapport, a bit of
9 a relationship with the children, before we
10 would even assess where they were at, just
11 so that's formalized. You know, here are
12 benchmarks. We're moving forward. Here are
13 benchmarks. This is what we do in this
14 area.

15 Q. So, is it that any of the parents refused to
16 allow -

17 A. None of the other parents refused. I didn't
18 get any correspondence from any other
19 parents regarding concerns around ASL
20 assessment, none.

21 Q. Was it your understanding that the
22 Churchill's were refusing to allow their son
23 to be tested?

24 A. To be honest with you, Mr. Gallant, I felt
25 that I was questioned on everything I tried

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1 to accomplish in terms of the laying out of
2 the program on June 10th, in terms of what it
3 could look like. I felt that I was
4 constantly being questioned about my intent,
5 my rationale, why would you do that, so on
6 and so forth. It made it cumbersome and
7 challenging.

8 Q. That's the only area I wanted to explore.
9 Follow-up questions, Mr. Rees?

10 MS. DARLENE FEWER JACKSON, CROSS-EXAMINATION BY MR.

11 KYLE R. REES

12 MR. REES:

13 Q. Yes, just on the testing that you were
14 questioning about. I mean, the Churchill's,
15 I think, were open with you why they were
16 concerned about the form of testing, which
17 is called an ASLPI, right, that was being
18 proposed for Carter, and it wasn't because
19 they were, you know, simply being difficult,
20 or just like saying no, but because they had
21 contacted several academic institutions and
22 had at least formed their own opinion,
23 whether or not you share it, that indicated
24 that the ASLPI was not appropriate for
25 children. That was the rationale they gave.

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1 A. Yes, I agree. I mean, that's a term that we
2 use to assess professionals, but in absence
3 of me knowing what to call it, that's what I
4 had called it, but basically my intent was
5 for us to have a baseline. What I would
6 have appreciated was that the Churchill's
7 come to me and say let's sit down, and let's
8 have that conversation, as opposed to
9 circumventing around and connecting with
10 Gallaudet and getting expert advice and so
11 on. I didn't feel, if I'm to be completely
12 honest, supported in my trying to move best
13 practices forward.

14 Q. I think I want to establish two things, and
15 I think, you know, you'll agree with me.
16 There's no need then for me to go through,
17 but I can just point the Adjudicator for the
18 purposes of his notes, Volume 3 of our book,
19 Tabs K, L, and M, are three different emails
20 from Gallaudet University, one of the deaf
21 training programs, and importantly from Gary
22 Malkowski, who this Commission would be
23 familiar with. You know, all of which say,
24 look, there are--that there are ASL
25 proficiency tests that are appropriate for

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1 children. The ASLPI is not one of them, and
2 it's inappropriate to be used.

3 A. That's right.

4 Q. I guess what I'm appreciating, or what I'm
5 understanding, is that, you know, you were
6 trying to do something to gauge interest,
7 and the Churchill's were expressing a
8 concern with that specific test. Not
9 testing itself, but that specific test.

10 A. Fair enough.

11 Q. And I think it's also a fair comment, and,
12 you know, I think the Churchill's will be
13 the first to admit that, you know, from
14 their perspective, having been burned by the
15 School District over the course of several
16 years with their child's education, again,
17 their view, they were weary of any and all
18 programs, with the pending Human Rights
19 complaint, of all of the supposed supports
20 that the District was implementing from time
21 to time, and while perhaps while it may not
22 have been deserving in all circumstances--
23 what I'm saying is, I think you can
24 understand why the Churchill's may have been
25 weary and protective of their child.

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1 A. Fair enough.

2 Q. Those are all my questions on re-direct.

3 ADJUDICATOR:

4 Q. Any follow-up, Mr. Penney?

5 MR. PENNEY:

6 Q. No.

7 ADJUDICATOR:

8 Q. No? Mr. Fewer Jackson, I want to thank you
9 for coming before the Board of Inquiry and
10 providing your evidence today, and you are
11 free to go. There are no further questions
12 for you. I know you were probably told not
13 to watch the proceedings up to this point -

14 A. I did not.

15 Q. - but you may at this point now that your
16 evidence is completed. So, I don't think
17 we're scheduled--well, we were scheduled to
18 have another witness. That witness is being
19 bumped until tomorrow. Will we be starting
20 at 9:00 a.m. tomorrow?

21 UNKNOWN SPEAKER:

22 Q. Yes.

23 ADJUDICATOR:

24 Q. We will adjourn until 9:00 a.m. tomorrow
25 morning.

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1 Upon concluding at 4:48 p.m.

2

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CERTIFICATE

I, Jodi Stanley, do hereby certify that the foregoing is a true and correct transcript of a Human Rights hearing heard on the 7th day of September, 2022 at Holiday Inn, 180 Portugal Cove Road, St. John's, Newfoundland and Labrador, and was transcribed by me to the best of my ability by means of a sound apparatus.

Dated at St. John's, NL, this 15th day of September, 2022

Jodi Stanley
Discoveries Unlimited Inc.