

TABLE OF CONTENTS

SEPTEMBER 7, 2022

Grade 4 DHH Teacher - East Point Elementary (2020/2021) / Director of DHH (2021/2022)

(AFFIRMED)

Cross-Examination by Mr. Stephen F. Penney ..... Pgs. 1 – 5

Cross-Examination by Mr. Kyle R. Rees ..... Pgs. 5 – 78

Cross-Examination by Adjudicator\ ..... Pgs. 78 – 107

Cross-Examination by Mr. Kyle R. Rees ..... Pgs. 107 - 120

MS. DARLENE FEWER JACKSON (SWORN)

Cross-Examination by Mr. Kyle R. Rees ..... Pgs. 120 - 186

Cross-Examination by Adjudicator ..... Pgs. 186 – 189

Cross-Examination by Mr. Kyle R. Rees ..... Pgs. 189 – 243

Cross-Examination by Mr. Stephen F. Penney ..... Pgs. 243 – 247

Cross-Examination by Adjudicator ..... Pgs. 247 – 253

Cross-Examination by Mr. Kyle R. Rees ..... Pgs. 253 – 257

Certificate

September 7, 2022

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 [REDACTED] (AFFIRMED), CROSS-EXAMINATION BY MR.  
15 **Grade 4 DHH Teacher - East Point Elementary (2020/2021) / Director of DHH (2021/2022)**  
STEPHEN PENNEY

16 REPORTER:

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

18 A. It's [REDACTED]

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.

September 7, 2022

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?

September 7, 2022

- 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

September 7, 2022

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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September 7, 2022

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

September 7, 2022

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

September 7, 2022

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.

September 7, 2022

- 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

September 7, 2022

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 1<sup>st</sup> to August 31<sup>st</sup>, and at some -

September 7, 2022

- 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.

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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.

September 7, 2022

- 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.

September 7, 2022

- 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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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,

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

- 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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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,

September 7, 2022

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,

September 7, 2022

- 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.

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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.

September 7, 2022

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,

September 7, 2022

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

September 7, 2022

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

September 7, 2022

- 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

September 7, 2022

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

September 7, 2022

- 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

September 7, 2022

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.

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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.

September 7, 2022

- 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.

September 7, 2022

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

September 7, 2022

- 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,

September 7, 2022

- 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

September 7, 2022

- 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

September 7, 2022

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--

September 7, 2022

- 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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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.

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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.

September 7, 2022

- 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.

September 7, 2022

- 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

September 7, 2022

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.

September 7, 2022

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.

September 7, 2022

- 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.

September 7, 2022

- 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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

- 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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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.

September 7, 2022

- 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

September 7, 2022

- 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.

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

- 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

September 7, 2022

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?

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

- 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?

September 7, 2022

- 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

September 7, 2022

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?

September 7, 2022

- 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

September 7, 2022

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

September 7, 2022

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,

September 7, 2022

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-

September 7, 2022

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

September 7, 2022

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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September 7, 2022

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?

September 7, 2022

- 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.

September 7, 2022

- 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?

September 7, 2022

- 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?

September 7, 2022

- 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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

- 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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

- 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

September 7, 2022

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

September 7, 2022

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:

September 7, 2022

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 -

September 7, 2022

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

September 7, 2022

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?

September 7, 2022

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

September 7, 2022

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.

September 7, 2022

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.

---

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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?

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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.

September 7, 2022

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

September 7, 2022

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.

September 7, 2022

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

September 7, 2022

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,

September 7, 2022

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.

September 7, 2022

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

September 7, 2022

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

September 7, 2022

- 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

September 7, 2022

- 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?

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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,

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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,

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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?

September 7, 2022

- 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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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,

September 7, 2022

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.

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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.

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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.

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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,

September 7, 2022

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

September 7, 2022

- 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

September 7, 2022

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?

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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.

September 7, 2022

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

September 7, 2022

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.

September 7, 2022

- 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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

- 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

September 7, 2022

- 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?

September 7, 2022

- 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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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.

September 7, 2022

- 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

September 7, 2022

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.

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

- 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

September 7, 2022

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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September 7, 2022

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

September 7, 2022

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-

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

- 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
-

September 7, 2022

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

September 7, 2022

1 a good idea, this has got legs?

2 A. When I walked into that role September 5<sup>th</sup>,  
3 6<sup>th</sup>, 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

September 7, 2022

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

September 7, 2022

- 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

September 7, 2022

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

September 7, 2022

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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September 7, 2022

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

September 7, 2022

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

September 7, 2022

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.

September 7, 2022

- 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.

September 7, 2022

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

September 7, 2022

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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September 7, 2022

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

September 7, 2022

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.

September 7, 2022

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?

September 7, 2022

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?

September 7, 2022

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,

September 7, 2022

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,

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

- 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

September 7, 2022

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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September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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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September 7, 2022

- 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 66<sup>th</sup> 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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

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

September 7, 2022

1 to accomplish in terms of the laying out of  
2 the program on June 10<sup>th</sup>, 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.

September 7, 2022

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

September 7, 2022

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.

September 7, 2022

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.

September 7, 2022

1 Upon concluding at 4:48 p.m.

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September 7, 2022

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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 7<sup>th</sup> 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 15<sup>th</sup> day of September, 2022  
  
Jodi Stanley  
Discoveries Unlimited Inc.