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1 ADJUDICATOR:

2 Q. Good morning, everyone. I've been asked to  
3 remind everyone that, as best you can, speak  
4 into the microphones and on C8, we're still  
5 experiencing difficulties with the closed  
6 captioning system. It has not been fully  
7 sorted yet. So, to the best of your  
8 abilities speak into the microphone, and  
9 take your time and enunciate if you're able.  
10 I think the next witness that we're  
11 scheduled to hear from this morning is [REDACTED]

12 **DHH Itinerant Teacher - Pre-School**, would you prefer to  
13 swear an oath or solemn affirmation before  
14 giving your evidence today?

15 A. Both is fine.

16 **DHH Itinerant Teacher - Pre-School**  
[REDACTED] (SWORN), CROSS-EXAMINATION BY MR.

17 KYLE R. REES

18 REPORTER:

19 Q. The witness has been sworn.

20 ADJUSTICATOR:

21 Q. So, Mr. Rees, will you be starting the  
22 questioning today?

23 MR. REES:

24 Q. I will.

25 ADJUDICATOR:

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1 Q. Go ahead.

2 MR. REES:

3 Q. Great. Hi, [REDACTED], I'm Kyle Rees. I'm  
4 the lawyer for the Churchill's, who are  
5 seated by me. I think you've met them  
6 before.

7 A. Yes.

8 Q. And I'm sure your legal counsel, or legal  
9 counsel for the District, has told you how  
10 this process works, which is very quickly,  
11 I'll have--I have some questions for you.  
12 I'll probably be somewhere around an hour or  
13 so asking you questions about the affidavit  
14 that you swore. A copy of your affidavit  
15 should be up there for you, and you have it  
16 in front of you, do you?

17 A. Yes, I have it front of me.

18 Q. The binder that you have in front of you,  
19 you're just turning to a tab that's your  
20 affidavit, is that right?

21 A. Yes.

22 Q. Just making sure we have--and there's some  
23 other documents in front of you. We may end  
24 up referring you to them, but, I guess, I'll  
25 direct you to them as we go, and then when

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1 I'm done, counsel for the School District  
2 might have some questions for you, as may  
3 Mr. Gallant, the Adjudicator, okay.

4 A. Okay.

5 Q. If you need a break at any point, and I see  
6 you're pouring up your water, that's just  
7 perfect--if you need a break at any point,  
8 you let me know and we can take that break.

9 A. Perfect.

10 Q. We're doing pretty good on our schedule so  
11 far. I'm also aware of, I guess, the limits  
12 of our closed captioning system, so they've  
13 asked us to speak clearly, which can be  
14 difficult because I don't think the closed  
15 caption system is programmed for the  
16 Newfoundland dialect, and as a test I'd like  
17 to say, "Yes, by." It did it. It was  
18 interesting actually; 50 percent of the  
19 reason I did that is because I wanted to see  
20 what the ASL sign was. Okay, Ms. Lawlor,  
21 can you tell me what--I understand you're  
22 retired now -

23 A. Yes.

24 Q. - but at the time that you worked for the  
25 School District, can you tell me what your

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1           job titles and job descriptions were, let's  
2           say from 2012 up until now?

3           A.    I was an itinerant for the deaf and hard of  
4           hearing. My role was to work with children  
5           who had a hearing loss in the regular  
6           system. I could provide equipment for them  
7           to work on their language skills if they  
8           were delayed, or in any other capacity. If  
9           it was curriculum issues, or whatever, I was  
10          there to help them with that.

11          Q.    Okay. And was that your title the entire  
12          time, say from 2012 until you retired?

13          A.    Itinerant teacher for the deaf and hard of  
14          hearing.

15          Q.    Itinerant teacher for the deaf and hard of  
16          hearing?

17          A.    It's a mouthful.

18          Q.    Sorry, what's that?

19          A.    It's a mouthful.

20          Q.    It is, yes, and I've often mixed up the  
21          order that those words go in, and I  
22          understand they have different meanings if  
23          you--you know, if you order the words  
24          incorrectly it implies in fact that you're  
25          deaf. So, I'll try to get it right, but if

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- 1 I refer to you for now as an itinerant  
2 teacher you'll understand what I mean.
- 3 A. Yes.
- 4 Q. When did you retire?
- 5 A. 2016, June 2016.
- 6 Q. June of 2016? Tell me about your formal  
7 qualifications that you hold regarding  
8 education of the deaf, as well as your  
9 qualifications in American Sign Language.
- 10 A. I have a Masters in Deaf Education, which I  
11 received from the University of Moncton. I  
12 have--from that program I had a course in  
13 sign language. Then I did four of the  
14 courses in ASL, and then most of my training  
15 in ASL, in signing, came from working at the  
16 School for the Deaf, which I worked there  
17 for about 12 years.
- 18 Q. Twelve years at the school? So, that was  
19 until the School for the Deaf closed?
- 20 A. No. I was transferred out into an itinerant  
21 position before that around--I think it was  
22 around 2007.
- 23 Q. Right. So, that is -
- 24 A. Actually, probably 2003 that I was  
25 transferred out. I was still under the

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1 School for the Deaf, as a teacher for the  
2 School for the Deaf, but I was working in  
3 the regular system as an itinerant, and then  
4 around 2007 I became a teacher under the  
5 school board.

6 Q. Right. We're going to have a look at our  
7 first document. So, over to your left-hand  
8 side there's a big pile of documents there  
9 on the furthest left, and one of them on the  
10 front will say Volume 1, and that's the  
11 volume I'll ask you to refer to. We're  
12 going to do a lot of moving around volumes  
13 of paper here.

14 A. Okay.

15 Q. So, do you have Volume 1 there in front of  
16 you?

17 A. Yes, I do.

18 Q. Okay. I'm going to get you to look at  
19 document number--what am I saying, document  
20 number 7. Sorry, Tab G.

21 A. Okay.

22 Q. And do you see that there? It says on the  
23 front, "A Review of Services for Deaf and  
24 Hard of Hearing Students?"

25 A. Yes.



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- 1 Q. And this is a report that was prepared by  
2 Darlene Fewer Jackson and Nora Cahill in  
3 June of 2011, right?
- 4 A. Right.
- 5 Q. Do you have any familiarity with that  
6 report? Did you know about it, and come to  
7 read it at any point?
- 8 A. I don't have any recollection of this report  
9 in terms of reading it or any familiarity  
10 with it. I don't recall.
- 11 Q. So, prior to now it wouldn't have been  
12 something that you would have read?
- 13 A. No, not to any great extent, no.
- 14 Q. Okay. I'm going to get you to turn to page  
15 11 of that report.
- 16 A. Okay.
- 17 Q. So, this report, just by way of background,  
18 if you're not aware of it already, was one  
19 that was, you know, authored by Darlene  
20 Fewer Jackson and Norah Cahill, who are  
21 Department of Education employees, and it  
22 highlights a number of gaps in 2011 -
- 23 A. Right.
- 24 Q. - of how deaf education is being delivered  
25 after the closure of the School for the

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- 1 Deaf.
- 2 A. Right.
- 3 Q. Of course, the School for the Deaf has  
4 closed by this point, and on the page that I  
5 referred you to, page 11, there's a document  
6 that says--there's a phrase that says, "Gap  
7 5." Do you see that on the page?
- 8 A. Yes.
- 9 Q. And Gap 5 says, "There is no systemic  
10 process in place to offer early language  
11 acquisition skills at the preschool level to  
12 both the child and the family."
- 13 A. Right.
- 14 Q. And then if you flip over a page, over to  
15 page 12, there's a statement there that  
16 says, "Recommendation 5 Update."
- 17 A. Yes.
- 18 Q. And that indicates that they have no  
19 Provincial guidelines for preschool  
20 services," the last sentence of  
21 recommendation 5. "We have no Provincial  
22 guidelines for preschool services.  
23 Guidelines for frequency and intensity of  
24 service needs to be developed." Is that a  
25 problem that reflected your experience?

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1           A.    Yes, because up until that point preschool  
2                    children were handled at the School for the  
3                    Deaf.  They had a preschool program for  
4                    those children.  So, once the School for the  
5                    Deaf closed, those children came over on our  
6                    caseload, and we had no real provisions for  
7                    them because we had not been dealing with  
8                    them up to that point.

9           Q.    So, there's no guidelines in place as per  
10                   this report, dealing with the problem that  
11                   this report identifies.  No guidelines in  
12                   place.  So, I mean, how did deaf children  
13                   get added to your caseload?

14          A.    Because there was no where else--the School  
15                   for the Deaf was closed, so these children  
16                   were out there with no type of service at  
17                   all, so they ended up on the itinerant  
18                   caseloads.  Now, across the Province I do  
19                   believe that the itinerants like in Central,  
20                   whether the School for the Deaf wasn't  
21                   there, or that parents couldn't access the  
22                   School for the Deaf, those itinerants, I  
23                   believe, were dealing with preschool  
24                   children, but here in the metro region, we  
25                   were not dealing with them because they were

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1           dealt with at the School for the Deaf  
2           through their preschool program.

3       Q.    Right, but then when they closed the School  
4           for the Deaf they just -

5       A.    There was nothing.

6       Q.    They just sort of ad hoc -

7       A.    They were added on to our caseload, yes.

8       Q.    Right.  So, with the closure of the School  
9           for the Deaf, then how did they figure out--  
10          by they, I guess, I mean the District.  How  
11          did they determine the level of support that  
12          would get provided to an individual, you  
13          know, preschool deaf child like Carter?  Do  
14          you know--like how did they determine what  
15          kind of support, and what degree of support,  
16          you would get to provide?

17      A.    I don't know if there's any--there was no  
18          official way of doing that.  They became our  
19          caseload, and we were more or less  
20          responsible for our caseloads, to determine  
21          how much time we could offer a student.  So,  
22          it was--you know, it was really, well, up to  
23          us as to how much we could provide for them.  
24          We tried to follow the guidelines that we  
25          had for the School for the Deaf at that

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1           time, but you have to understand, itinerant  
2           services were never meant to be dealing with  
3           this type of a child. We were meant to be  
4           dealing with children who had good auditory  
5           and verbal; what's the word I'm looking for,  
6           skills, and were out in the school system,  
7           who could deal with the school system with  
8           support from us.

9           Q.    Okay. I want to talk to you about for a  
10           little while because that's very  
11           interesting. So, you've said that, you  
12           know, the kind of support that you, as an  
13           itinerant teacher, were providing, and were  
14           required to provide upon the closure of the  
15           School for the Deaf, for preschool children  
16           like Carter--you know, normally, or prior to  
17           the closure of the School for the Deaf, a  
18           child like Carter would not be the kind of  
19           child that would be your caseload, but now  
20           all of a sudden they were.

21           A.    Yes. Well, yes, because they would have  
22           been seen by the preschool program at the  
23           School for the Deaf, and from then on in, if  
24           the School for the Deaf had still been open,  
25           he would have probably been--he would have

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1           been a good candidate for the School for the  
2           Deaf.

3           Q.   And so why--I think your evidence was that  
4           it sort of wasn't appropriate, or it wasn't  
5           supposed to be the case, that a child like  
6           Carter would be on an itinerant caseload.  
7           Why in your view was it not appropriate?

8           A.   It's just very difficult if a child is using  
9           sign, to provide access to sign on a daily  
10          basis for the full day.  I couldn't do that.  
11          I had too many people, too many students, on  
12          my caseload for me to be spending all that  
13          time with Carter.  I had other kids with  
14          other needs, and so, it was--you know, in a  
15          School for the Deaf environment he would  
16          have been in a classroom with other signers,  
17          signing peers, with other kids with, you  
18          know, signing skills, or were learning  
19          signing skills, for the full day, and he  
20          would have been, you know, incorporated with  
21          kids in high school, in junior high, all  
22          together, so he'd be learning signing skills  
23          from them as well.  That was not possible to  
24          give that in a regular system.

25   ADJUDICATOR:

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1 Q. Mr. Rees, can you--I'm just a little loss  
2 here. Are we talking about pre-Kindergarten  
3 time period, or are we talking about when  
4 children would be at the Newfoundland School  
5 for the Deaf? I mean, I'm struggling to  
6 follow the evidence as to--are we talking  
7 about a difference between, you know, for  
8 pre-Kindergarten children while the School  
9 for the Deaf existed comparing it to after  
10 it was closed, or are we talking about pre-  
11 Kindergarten and during Kindergarten at the  
12 School for the Deaf, because we seem to be  
13 jumping around a bit.

14 MR. REES:

15 Q. I think we've been talking about pre-  
16 Kindergarten services the whole time, right?

17 A. Well, yes. Up until the School for the Deaf  
18 closed, pre-Kindergarten services were  
19 provided by the program at the School for  
20 the Deaf. They had a program for kids pre-  
21 Kindergarten.

22 ADJUDICATOR:

23 Q. Can you walk me through how that program  
24 worked while the Newfoundland School for the  
25 Deaf was in operation?

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- 1           A.    Well, it was called the Homecare Parent  
2                    Program, and it was--once a child was  
3                    diagnosed they'd be referred to this  
4                    program.  The teacher who was responsible  
5                    for that program would contact the parents.  
6                    They would have sessions set-up if the  
7                    children were in the vicinity that they  
8                    could come in.  If they were not,  
9                    information was sent out to parents across  
10                   the Province with, you know, tasks, and  
11                   things you could do with your child.
- 12          Q.    And would the child be assigned to a teacher  
13                   working out of the Newfoundland School for  
14                   the Deaf?
- 15          A.    This teacher was a teacher of the School for  
16                   the Deaf.  She was the one--there was one  
17                   teacher responsible for the Homecare Parent  
18                   Program.
- 19          Q.    Okay.
- 20          A.    So, she dealt with all of the preschool  
21                   children.
- 22          Q.    So, at that time there was one teacher who  
23                   was assigned for all of the preschool  
24                   children?
- 25          A.    She dealt with the preschool children.
-



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- 1 Q. And did she provide direct service to the  
2 preschool children?
- 3 A. If they were in the vicinity that the  
4 children could get into her office, she  
5 would provide direct service. If not, she  
6 had contact with all the parents across the  
7 Province, and would send out packages, like  
8 on a monthly basis, with themes a month, and  
9 things to do for that month.
- 10 Q. How broad was the service area?
- 11 A. She was responsible for all of the--across  
12 the Province.
- 13 Q. But I thought there was--there's an area  
14 where she would provide, or he or she would  
15 provide, direct service to students, and  
16 outside of that service area would provide  
17 pamphlet, written information.
- 18 A. Written information, phone calls, whatever,  
19 yes.
- 20 Q. And do you know where the dividing line  
21 would be in terms of the physical range?
- 22 A. I really could not tell you that, no. I  
23 don't know.
- 24 Q. And if you were outside of that range, did  
25 you have access to a teacher?

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- 1           A.    Now, I believe, and I'm not quite sure about  
2                    this, but I believe if like you were outside  
3                    of that area, then, yes, you had contact  
4                    with an itinerant teacher for the deaf in  
5                    that area, but I'm not positive about that.
- 6           Q.    You said there was one teacher assigned for  
7                    all of the Province.  Let's just focus on  
8                    the metro area for now.  Walk me through how  
9                    that would work for each--say in a typical  
10                   year, the number of students that that  
11                   person might be servicing in the metro area.
- 12          A.    I couldn't tell you numbers because I wasn't  
13                   that directly involved in that program.
- 14          Q.    And were there guidelines, or policies, that  
15                   were written that the teacher was following  
16                   at that time?
- 17          A.    As far as I know there would have been, but  
18                   I'm not sure of that either.  You would have  
19                   to -
- 20          Q.    And are they the same--after the caseload  
21                   was transferred to itinerant teachers, were  
22                   you following a different system, or do you  
23                   know what--how did things change exactly?
- 24          A.    Well, itinerants were following the systems,  
25                   the guidelines that were put in place when
-

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1 the School for the Deaf was open. We had  
2 specific guidelines at that point, that if a  
3 child needed more than five sessions per  
4 week from an itinerant teacher, then they  
5 would be referred--they would be a candidate  
6 for the School for the Deaf. So, we were  
7 still following those guidelines, but with  
8 no School for the Deaf we had nothing to  
9 fall back on after that. Like, if you had a  
10 child who had, you know, who had severe  
11 language delay, and needed a lot of one-on-  
12 one work with you, there was nowhere to  
13 refer them to. So, I think that's why this  
14 policy change came in place, to try and to  
15 address that, but the children at the time  
16 came on our caseload, and, you know, based  
17 on what their degree of hearing loss, their  
18 language delay, and all those things, we  
19 determined, to the best of our ability, how  
20 much time to give these children, but that  
21 was all based on different things as well.  
22 There were so many factors involved in  
23 there. Our caseloads were heavy. So, it  
24 depended on how many core students we have,  
25 because we have both core students and

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1 students that were not core. So, it  
2 depended on how many of those students that  
3 we had, the degree of need those core  
4 students had. We were dealing with--we were  
5 dealing with kids from Kindergarten to high  
6 school, grade 12. So, we had all of the  
7 schedules of the different schools to deal  
8 with to try to fit kids into that, and the  
9 schedules of the kids in those schools,  
10 geographical issues, like how far I had to  
11 travel. All those things played a role in  
12 how much actually time you could give each  
13 child.

14 Q. Was that a problem that existed while the  
15 Newfoundland School for the Deaf was in  
16 operation? I appreciate what you're saying,  
17 is part of that pre-k process was assessing  
18 whether or not they'd be a suitable  
19 candidate for the School for the Deaf.

20 A. Right. Yes.

21 Q. That open is no longer available once the  
22 School for the Deaf closes. What I'm trying  
23 to understand is those capacity issues,  
24 those human resources issues, caseload  
25 issues.

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1 A. Right.

2 Q. Did they change pre and post School for the  
3 Deaf?

4 A. Yes, because then--before the School for the  
5 Deaf closed we did not have those preschool  
6 children on our caseloads. So, once the  
7 School for the Deaf closed, they came over  
8 onto our caseload, so therefore that  
9 increased our caseloads, and our caseloads  
10 were already very heavy.

11 Q. Mr. Rees, I'm sorry I took over your  
12 questions for a moment there, but I just  
13 wanted to get that clarified for myself.  
14 Thank you for that.

15 MR. REES:

16 Q. No, problem. I couldn't have asked them  
17 better myself. I think the salient point to  
18 take out of the testimony you offered is  
19 that, you know, the most, let's say, needs  
20 intensive students, students like Carter  
21 Churchill who, you know, had real ASL needs,  
22 or language needs, formerly would not have  
23 been on your caseload. I guess the most  
24 needs intense students prior would have gone  
25 to the School for the Deaf?

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1           A.    Yes, particularly if they were signing kids.  
2                    If they were kids that were using American  
3                    Sign Language, then yes, they definitely  
4                    went for the School for the Deaf.  They  
5                    weren't on an itinerant caseload.

6           Q.    And now all of a sudden these kids are on  
7                    the itinerant caseload?

8           A.    Yes.

9           Q.    And the way the itinerant caseload works is  
10                   you get assigned, you know, a number--let's  
11                   make up some numbers and say, you get  
12                   assigned eight students, and you're directed  
13                   how many hours ought to be spent with each  
14                   of those students?  You have an idea of what  
15                   their needs are -

16          A.    Yes.

17          Q.    - and then you are given, you know,  
18                   discretion, in the best of your ability, to  
19                   try to divide up your limited time among  
20                   this number of kids?

21          A.    Yes.

22          Q.    In your affidavit you indicated, and you  
23                   described, Carter Churchill as a core  
24                   student.

25          A.    Yes.

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1 Q. What did that mean?

2 A. A core student is a student with usually  
3 like a severe to a profound hearing loss.  
4 They usually have some form of a language  
5 delay, and, you know, would need extensive,  
6 or additional, help with the curriculum in  
7 school.

8 Q. How often were you able to provide service  
9 to Carter in the pre-Kindergarten here?

10 A. When he first came on my caseload I was  
11 providing him once a week, and from there -

12 Q. If I can just interrupt you. Once a week,  
13 does that mean an hour a week, or -

14 A. It was between 45 minutes and an hour,  
15 approximately that time. It was--it took  
16 place in his home. So, I see him once a  
17 week. From there we went to twice in a  
18 seven day cycle because when I first--when  
19 Carter first came on my caseload, my  
20 caseload was kind of divided. I had like my  
21 school aged children I saw in the morning on  
22 a seven day cycle, and in the afternoon I  
23 saw most of my preschool kids on a Monday to  
24 Friday cycle, however, with more kids added  
25 to my caseload and whatever, I ended up

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1           changing everyone to a seven day cycle. So,  
2           Carter then went on a seven day cycle, where  
3           he was seen twice in a seven day cycle.

4           Q. I see. So, you go from seeing him, you  
5           know, once every five working days, to twice  
6           every seven working days?

7           A. Yes, but that would work out to at least  
8           once a week or twice a week.

9           Q. That's right, yes. Some weeks will be once  
10          a week, some weeks will be twice.

11          A. Some weeks it will be twice a week, yes.

12          Q. Understood. Why would a core student like  
13          Carter require an increase in time, you  
14          know, an increase in service time?

15          A. Because his language level was very, very,  
16          low. He was learning a new language. His  
17          parents wanted him to learn sign language,  
18          so he would need additional information, or  
19          additional time, for all that, you know. We  
20          were trying to--and also we were working on  
21          his addition skills. He had just got--he  
22          had gotten two cochlear implants. So, I was  
23          also working on addition skills with him as  
24          well to try to improve those. Where he was  
25          going into a hearing school environment, the



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1 more addition skills he had the better off  
2 he would be.

3 Q. When your time with Carter increased to  
4 twice during the seven day cycle, did you  
5 feel that was sufficient to provide Carter  
6 with the support he needed?

7 A. No, it wasn't. I don't feel it was  
8 sufficient, but I don't feel the time--like,  
9 you know, I could think all of my kids could  
10 have benefited from more time with me if I  
11 had that time to give.

12 Q. I mean, what kind of--if you weren't limited  
13 by your caseload, what would have been your  
14 preferred amount of time to provide service  
15 to Carter?

16 A. I would have loved--it would have been nice  
17 if I could have seen him, you know, everyday  
18 if possible, but that was not possible, and  
19 I had other kids on my caseload that would  
20 have benefited from that as well.

21 Q. Right, not just Carter.

22 A. Not just Carter.

23 Q. Because seeing him once a week, or twice  
24 every seven day cycle, that wasn't enough to  
25 make a substantive difference in his ASL

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1 acquisition, was it?

2 A. You know, he certainly could have used more.

3 Now, he was progressing, and he was

4 developing some good skills, and part of

5 that would be because he was getting sign

6 language at home, I would think, as well,

7 but, no, that's certainly not sufficient.

8 Q. How many other deaf children do you recall

9 were on your caseload at the time?

10 A. The full caseload?

11 Q. Yes.

12 A. Well, you know, it would have probably been

13 in the 30's, but a lot of those kids were

14 not kids I saw on a regular basis. They

15 were kids I would set-up with their

16 equipment when school started. I might

17 check in with them, you know, every couple

18 of months to see if they were okay. They

19 were not core students.

20 Q. Because they were verbal children, or

21 speaking?

22 A. Yes, most of them would have been students

23 who were doing very well in the regular

24 system and really did not need any of my

25 services. I did have verbal children on my-

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1            -well, like I said, before School for the  
2            Deaf all we had were verbal children on our  
3            caseloads, but I had some very--students  
4            with some very severe language delays on my  
5            caseload as well that needed quite a bit of  
6            time, even though they were verbal, and I  
7            had some non-verbal as well who were just  
8            learning. Even though they were verbal,  
9            they were still struggling in the school  
10           system. They were still very delayed in  
11           both their language and their reading  
12           ability.

13           Q. And you didn't have any ability to decide  
14           the size of your caseload, did you? You  
15           couldn't go to the School District and say,  
16           you know, 30 kids is too many, I need to  
17           spend more time with Carter Churchill,  
18           please hire another itinerant teacher to  
19           take on 15 of my kids?

20           A. Well, you know, we did express that our  
21           caseloads were very, very, heavy, and, you  
22           know, we would benefit from another  
23           itinerant, you know, to be hired or  
24           whatever. We did some caseload analysis for  
25           the District to determine that as well, but

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1           really, like if a--we more or less had it  
2           divided up into regions. So, I had a region  
3           that I dealt with. One of the other  
4           itinerants had their own regions, and  
5           whatever children came into those regions,  
6           basically went on my caseload. Now, we did  
7           have the capacity of if one itinerant had  
8           less of a caseload than I did, then we could  
9           juggle it so that some of my kids could go  
10          over on her caseload in order to get more  
11          services.

12          Q. I see. So, you were able to sort of share  
13          caseload demand?

14          A. We could if need be, yes.

15          Q. Was there ever any interest or movement by  
16          the District when you would indicate, as you  
17          indicated you did, that your caseload was,  
18          you know, too heavy to provide the services  
19          you would prefer? Any move by the District  
20          to put additional resources into ensuring  
21          that there was enough capacity?

22          A. Well, eventually we did get another  
23          itinerant hired to help with the caseloads.

24          Q. You did get one other itinerant? What year  
25          was that?

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- 1           A.    I can't recall right off-hand, I'm sorry.
- 2           Q.    No problem.  We're going to talk to another
- 3                    witness about that later.  Are you aware
- 4                    that on September 13 they pulled itinerant
- 5                    support from Carter in favour of AVT
- 6                    support?
- 7           A.    Yes.
- 8           Q.    What did you think about that?
- 9           A.    That was all around again about our
- 10                   caseloads being so heavy, and at the time
- 11                   AVT service were seeing only kids with
- 12                   cochlear implants.  Itinerant services were
- 13                   seeing all of the kids.  We were seeing kids
- 14                   with cochlear implants, with hearing aids,
- 15                   kids with just hearing loss.  We were
- 16                   responsible for every--all the children with
- 17                   some type of hearing loss.
- 18          Q.    Maybe we should just take a moment there to
- 19                   explain what AVT is.
- 20          A.    Auditory Verbal Therapy.
- 21          Q.    And what would that be like?
- 22          A.    Well, an auditory verbal therapist works
- 23                   with kids--I'm sure with other kids, but in
- 24                   our case it was kids with cochlear implants,
- 25                   who had just been implanted, to work on

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- 1           their audition and their verbal skills so  
2           that they could get them talking and  
3           listening, and whatever, because once you  
4           have a cochlear implant, you know, it's a  
5           totally different process from having a  
6           hearing aid or from regular hearing, right.  
7           So, they would have to be taught. You have  
8           to be taught how to use those cochlear  
9           implants.
- 10          Q.    They wouldn't be working on ASL in AVT?
- 11          A.    No, they would not be working on ASL.
- 12          Q.    In fact, they would sort of, by the methods  
13               that they were teaching, you know, be  
14               discouraging ASL use?
- 15          A.    Many of them did, yes.
- 16          Q.    So, I think you indicated--your evidence was  
17               that the primary factor that motivated the  
18               change for Carter from itinerant support,  
19               which included some ASL instruction, to AVT,  
20               which would have included no ASL  
21               instruction, was based on caseload, is that  
22               right?
- 23          A.    Part of it was for sure. I'm not sure what  
24               other things were taken in, but I know that  
25               was part of it, right, but I can't comment

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1           on the other--what else was involved, I  
2           don't really recall.

3           Q.    And that's when Carter goes to Andrea Holly,  
4           the AVT, right?

5           A.    Yes.

6           Q.    What did you think about the referral out to  
7           AVT?  I know you'd been working with Carter  
8           on ASL.  You were aware of some of his  
9           issues with cochlear implants, and the  
10          degree to which it was giving him access to  
11          spoken language.  What was your view about  
12          that referral to AVT?

13          A.    I was concerned about it.  I didn't know how  
14          that would--you know, what would happen in  
15          that case, you know, how well he would do  
16          with just the AVT services.

17          Q.    So, eventually Carter Churchill gets  
18          returned to your caseload?

19          A.    Yes, he did.

20          Q.    And that's because of Mrs. Churchill's  
21          advocacy and indicating that she's not happy  
22          with AVT?

23          A.    Part of that, yes, I'm sure was, and I think  
24          also there might have been some concern with  
25          the SLP's that were dealing with Carter as

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- 1 well.
- 2 Q. And what does that mean?
- 3 A. Speech language pathologist.
- 4 Q. And Carter wasn't really progressing with
- 5 AVT, was he?
- 6 A. He wasn't progressing, no, certainly not his
- 7 oral skills, no.
- 8 Q. Did you have any knowledge that there were
- 9 several individuals who wrote letters to the
- 10 District and the Department in March of 2014
- 11 advocating that Carter be returned back to
- 12 itinerant instead of AVT?
- 13 A. I don't recall specific letters. I do
- 14 recall that there might have been, yeah, I
- 15 think. Like I said, there was some from
- 16 SLP's, or I had been talking to an SLP who
- 17 had concern, or something like that.
- 18 Q. Right. So, these concerns were being raised
- 19 by others?
- 20 A. I think so, yes.
- 21 Q. Were you aware that there were other
- 22 itinerant teachers that were expressing
- 23 concern to administrators, like Darlene
- 24 Fewer Jackson, that preschool children were
- 25 entering the school system unprepared? Did



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- 1           you know that--you know, were you aware that  
2           that was a problem that was being  
3           articulated?
- 4        A.    Yes, I was.
- 5        Q.    Did you know that Kelly Cribb--do you know  
6           who Kelly Cribb is, itinerant teacher?
- 7        A.    Yes, I do, yes.
- 8        Q.    Did you know that she wrote a letter to the  
9           Director of Deaf and Hard of Hearing  
10          Education, Darlene Fewer Jackson, expressing  
11          those concerns?
- 12       A.    No, I did not know that. I didn't work  
13          with--Kelly was not--at that time, Kelly was  
14          not working in this area. She was out in  
15          Central, I believe, so I -
- 16       Q.    Okay. Right, so she would have been working  
17          sort of independent from you?
- 18       A.    Yeah, exactly, yes.
- 19       Q.    I'm going to get you to look at Volume 6, so  
20          those documents over in that pile there.  
21          We've killed a lot of trees on this case.  
22          Volume 6.
- 23       A.    Okay.
- 24       Q.    Tab S, S as in Sierra.
- 25       A.    Okay.

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1 Q. And you can see down there at the very  
2 bottom of that tab there's an email. It's  
3 by Kelly Cribb, the teacher in the central  
4 school, out in Central, that you mentioned.

5 A. Right.

6 Q. And she says--you can see it's highlighted  
7 here. The reason some of this is blacked  
8 out is because we got it through an ATIPP  
9 request, so some things end up being  
10 redacted. It says, "The story of children  
11 showing up to school with no language will  
12 continue if something is not done when  
13 they're infants and toddlers. These  
14 children had been very disadvantaged since  
15 the School for the Deaf closed and the  
16 preschool program ended." So, is that in-  
17 line with your comments earlier?

18 A. Yes.

19 Q. Do you feel that the decision to remove IRT  
20 support from Carter in 2013 and push him  
21 towards AVT exacerbated the kinds of  
22 problems described in that email?

23 A. It certainly didn't help.

24 Q. It certainly didn't help? I'm just taking a  
25 little while because I have some written

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1           questions. Through things you've already  
2           said you've answered them, so I don't want  
3           to make you repeat yourself. Once Carter  
4           went back to your caseload, I understood  
5           that you were interested in doing some  
6           signing sessions at Carter's daycare with  
7           some of the other children.

8           A. Yes.

9           Q. So, Carter is at a daycare with hearing  
10          children?

11          A. Yes.

12          Q. And you are interested in doing some signing  
13          sessions as opposed to at Carter's home as  
14          had been done previously, actually at his  
15          daycare with the other children around?

16          A. Yes.

17          Q. Why was that? Why was that important?

18          A. Well, it was just another venue that I could  
19          work with him at, and, you know, Mom seemed  
20          really keen about that as well, and it was  
21          just a way for the children to learn a  
22          little bit about sign.

23          Q. The hearing children?

24          A. The hearing children to learn a little about  
25          sign and to interact with Carter a little

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1 bit more.

2 Q. Interesting. So, while you're there  
3 providing itinerant services to Carter, and  
4 he's in the daycare with other three year  
5 olds, four year olds, at the time, the other  
6 kids, the hearing kids, are watching you  
7 sign with Carter?

8 A. Yes.

9 Q. And do they show any kind of, you know,  
10 interest or curiosity?

11 A. Sure they did, and also I used to kind of  
12 make up little games and that to play with  
13 them using sign. So, I used to get them all  
14 together in a group, sit down, and we'd do a  
15 little signing session together.

16 Q. Interesting.

17 A. So, I wasn't just working with Carter in  
18 this. I would take them all as a group,  
19 work on some signs with them. Then they  
20 would go off on their merry way and do  
21 whatever they were going to do, and I would  
22 work with Carter on other things that I was  
23 working with him on.

24 Q. Right. And are you aware that when Carter  
25 goes to Beachy Cove and he's not on your

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1 caseload--when Carter goes to Beachy Cove  
2 Elementary in Kindergarten and grade 1, that  
3 kind of, you know, social experience comes  
4 to an end?

5 A. Well, once he went into Kindergarten I'm not  
6 sure what happened. I do know that like my  
7 recommendation for him going to Kindergarten  
8 was for him to have a signing student  
9 assistant who would be with him in the  
10 classroom, who could kind of bridge that  
11 communication with him and his other peers,  
12 right.

13 Q. Right, but it would have been, I guess,  
14 highlighting what you were doing with Carter  
15 while he was in preschool. You viewed it as  
16 important, and Kim did obviously as well.

17 A. Yeah, yeah.

18 Q. There was a meeting on May 11, 2015.  
19 Janeway Audiology met with the school  
20 district and the itinerant teachers, which I  
21 believe included you, to inform them of  
22 seven children, and one of those seven  
23 children was Carter Churchill, who were  
24 starting Kindergarten in 2015, and that they  
25 were using cochlear implants, or sorry, not

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- 1 Kindergarten but KinderStart, in 2015 and  
2 they had cochlear implants, but weren't  
3 orally speaking. Do you recall -
- 4 A. Can you tell me the date of that again?
- 5 Q. Yes, it would have been in May of 2015.
- 6 A. May of 2015 I was off on bereavement leave.  
7 Now, apparently I could have been there, but  
8 I really don't recall a whole lot about it.
- 9 Q. Okay. Well, do you recall at any point  
10 before, you know, Carter begins the  
11 KinderStart Program, starts the KinderStart  
12 Program, that there were concerns being  
13 raised at meetings that there were, you  
14 know, several children, one of whom was  
15 Carter, would be going into the KinderStart  
16 Program without any real oral communication  
17 skills?
- 18 A. I believe I knew that there were other  
19 children that might have the same issues,  
20 yes.
- 21 Q. Was there anything that you were able to do,  
22 you know, when Carter goes to KinderStart in  
23 the winter of 2016, that you were able to do  
24 to make sure that Carter could--well, I  
25 guess I'd put to you that there was really

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- 1 nothing you could do to make sure Carter had  
2 ASL access when he started school, when he  
3 started Kindergarten.
- 4 A. I can make my recommendations, and that's  
5 about as far as it would go, right, in terms  
6 of what I could do, yes.
- 7 Q. So, what you're saying is, I can make some  
8 recommendations, but that's about as far as  
9 I could go. You don't sound overly  
10 optimistic about being able to make the  
11 recommendations. Why is that?
- 12 A. No, I don't mean to give that. I mean, I  
13 made recommendations, you know, so I would  
14 assume that those recommendations would have  
15 been carried out, but -
- 16 Q. So, folks at the School District would have  
17 been, you know, aware of Carter's needs with  
18 the ASL?
- 19 A. Yes, they would have been aware that he  
20 needed--yes, they were aware that he was  
21 signing and that he was--yes.
- 22 Q. Because you were very adamant, or you're  
23 sure to communicate that need to the School  
24 District folks?
- 25 A. I'm sorry, could you repeat that again?

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1 Q. Yes. You were sure, or sorry, you made  
2 sure, that's the word I'm looking for--you  
3 made sure to communicate Carter's need to  
4 learn ASL to the people who are taking over  
5 when Carter started school?

6 A. Yes. I informed them that he was using sign  
7 as a form of communication, yes, I did, and  
8 use some kind of -

9 ADJUDICATOR:

10 Q. Excuse me, when you say you informed them,  
11 who did you inform?

12 A. Well, I would have informed the itinerant  
13 taking over for me, and I informed the, you  
14 know, the people I would report to, that he  
15 was signing and that he would need some  
16 assistance with that in school.

17 Q. And who would the people you reported to  
18 have been?

19 A. Directly at that time it would have been Kim  
20 Lawlor and Bonnie Woodland.

21 MR. REES:

22 Q. So, Carter is entering the school system,  
23 and Kim Lawlor and Bonnie Woodland would  
24 have been aware that Carter needed ASL  
25 instruction?



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1           A.    They were aware that he was using signing as  
2                    a form of communication, yes.

3           Q.    And you didn't have any reason--I mean, I  
4                    know this sort of is--you sort of passed the  
5                    ball when Carter starts school, but you  
6                    didn't have any reason to believe that it  
7                    would be, you know, inappropriate for Carter  
8                    to learn ASL, that ASL wasn't the right  
9                    route for Carter to go?

10          A.    No, he seemed to be having some success with  
11                    it, so, you know, it was something we could  
12                    continue with with the right supports,  
13                    though it was difficult at times.  If I can  
14                    just say, it was difficult at times.  Like,  
15                    he was learning sign.  He's receptive  
16                    ability was really--you know, he was doing  
17                    very well receptively.  Expressively it was  
18                    more difficult for Carter, and part of that  
19                    was because of the cerebral palsy.  It was  
20                    sometimes difficult for him to make signs.  
21                    So, you know, that was a bit of a problem at  
22                    times, but he was signing, and, you know, a  
23                    lot of times his signs might be  
24                    approximation of a sign because he could  
25                    make the full sign, but if he did that

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1           approximation on a regular basis, then I  
2           accepted that as he was signing that, he was  
3           using that sign for that particular--it  
4           could be an object or whatever, right, and  
5           he was--you know, he was using sign as a way  
6           of expressing his needs and wants.

7           Q.    You know, despite those challenges, which  
8           come along with the cerebral palsy, signing  
9           was still Carter's--it was going to be  
10          Carter's language?

11          A.    Well, that was what we were using, yes.  I  
12          wasn't using any other thing with him  
13          besides the signing at that time.

14          Q.    And when you met with Tina Halleran, who was  
15          going to be Carter's Kindergarten itinerant,  
16          you communicated that to her as well?

17          A.    Yes.

18          Q.    So, she would have been aware?

19          A.    Yes.

20          Q.    So, she knew--Tina Halleran would have known  
21          at that point in time that Carter was going  
22          to be using sign language as a first  
23          language?

24          A.    Yes.

25          Q.    And I think you already that your superiors,

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1 Bonnie Woodland, would have been aware of  
2 that?

3 A. Yes.

4 Q. You kind of go away from the story for a  
5 little while then, but you come back into  
6 the story again in June of 2018, right -

7 A. Yes.

8 Q. - because Ms. Churchill reaches out to you  
9 to ask for help for Carter for home teaching  
10 in July and August.

11 A. Yes.

12 Q. They had gotten funding from the School  
13 District to provide some at home teaching.  
14 Now, you saw Carter at that time. What do  
15 you remember about Carter in 2018, the  
16 summer of 2018, linguistically and  
17 academically? How was he doing?

18 A. His signing skills had improved.  
19 Receptively he was doing very well. He was  
20 doing better expressively. He was signing  
21 more independently, so he could ask for--he  
22 could ask for things, or what, you know, if  
23 he--he could convey his needs and wants  
24 through his sign. Like I said, it still was  
25 difficult at times to understand him, but he

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1           was using his signs, you know, to tell you  
2           what he wanted, or what he wanted to do, or  
3           whatever. Academically he was still very  
4           delayed. You know, he was behind his peers,  
5           and his reading--his reading ability was  
6           very, very, delayed as well.

7           Q.    Almost non-existent?

8           A.    Yeah, he was very low, very low. He  
9           struggled to read very simple stories,  
10          Kindergarten stories.

11          Q.    So, you know, I think you last see him as an  
12          IRT, itinerant teacher, when he's four, and  
13          coming up to five, and in the three years  
14          that pass between then, so by the next time  
15          you see him in June of 2018, he's seven--no  
16          one knows their kids benchmarks better than  
17          their own mother. He's five, as I was  
18          indicating, and then when you see him next,  
19          at this point in time, he's been with Tina  
20          for a whole year, or Sheila rather, Sheila  
21          MacDonald, for an entire year by that point.  
22          So, he's made some progress on his signing,  
23          but in terms of his academic learning your  
24          evidence is he's quite far behind children  
25          of his age?

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- 1           A.    From what I observe.  Like, I have nothing  
2                    to--I didn't do any testing on him, or  
3                    anything like that, to determine that, but  
4                    from my observations he seemed to be--he  
5                    would be lagging behind his peers, yes.
- 6           Q.    Right.  And then I know you re-engage with  
7                    him again in the summer of 2019, right?
- 8           A.    Yes.
- 9           Q.    And what difference do you notice at that  
10                   point in time?
- 11          A.    He was still, you know, delayed in his  
12                   language, and his reading had not improved a  
13                   whole lot at all.
- 14          Q.    Had not improved?
- 15          A.    No.  He was still very low.  His reading  
16                   ability was still quite low.
- 17          Q.    Could he speak ASL at that point in time?  
18                   You know, could he communicate in ASL in -
- 19          A.    He was communicating in ASL, yes.  Again,  
20                   his receptive was probably better than his  
21                   expressive.
- 22          Q.    Did you feel that he was getting what he  
23                   needed at school?
- 24          A.    It's very hard for me to say that because I  
25                   wasn't involved in what was going on, right,

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- 1           but all I can tell you is that his language  
2           was still very delayed, and his reading was  
3           delayed.
- 4           Q.   Carter knew--I understand Carter knew a lot  
5           of vocabulary at the time that you would  
6           have seen him in 2018 and 2019.
- 7           A.   Yes.
- 8           Q.   I mean, ASL is a full language.
- 9           A.   Yes, it is.
- 10          Q.   Syntax, grammar, facial expressions, how is  
11          he doing with that aspect of things?
- 12          A.   I would say he was limited in that aspect,  
13          yeah. You know, he could ask very basic  
14          questions, you know, and could convey what  
15          he wanted, but he was limited.
- 16          Q.   So, his vocabulary was improved?
- 17          A.   His vocabulary was pretty good, yes.
- 18          Q.   But syntax, grammar, you know, expressions,  
19          those sorts of things -
- 20          A.   Those things would be, yes.
- 21          Q.   The language aspects?
- 22          A.   Yes, were limited.
- 23          Q.   I mean, we're still in grade 1 French  
24          immersion looking at Halloween pictures and  
25          coming up with what their names are in

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1 French as opposed to saying full sentences?

2 A. He could communicate in very basic  
3 sentences, you know, but he wasn't fluent at  
4 all in terms of his ability to do that. He  
5 was limited.

6 Q. All right. Those are all my questions.  
7 Thank you. My friend, Mr. Penney, might  
8 have some questions for you as well.

9 MR. PENNEY:

10 Q. I don't have any questions.

11 ADJUDICATOR:

12 Q. I do have a few questions if you can just  
13 stay there.

14 A. Okay.

15 MS. CATHY LAWLOR, CROSS-EXAMINATION BY ADJUDICATOR

16 ADJUDICATOR:

17 Q. I'm just going to circle back to what Mr.  
18 Rees was just talking about. So, there are  
19 two times periods that you worked with  
20 Carter?

21 A. Yes.

22 Q. There's the work that you did before he  
23 entered Kindergarten?

24 A. Yes.

25 Q. And then was it after Kindergarten, or after

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- 1 grade 1, that you started working with him  
2 again?
- 3 A. I think it was after grade 1. Yes, grade 1  
4 and grade 2, I guess.
- 5 Q. Okay. I'm not sure I fully followed, but  
6 let's say, when you finished your work just  
7 pre-Kindergarten, can you describe for me  
8 what Carter's abilities were in terms of his  
9 access to sound and his--so, in terms of his  
10 receptive communication via sound, and also  
11 his expressive communication via sound?
- 12 A. With sound?
- 13 Q. Yes. So, let's start receptively first.
- 14 A. Carter was getting a lot through his--in my  
15 opinion, he was receiving a lot through his  
16 cochlear implant. He was not producing  
17 anything orally at all. He was non-verbal.
- 18 Q. When you say in your opinion, you know, he  
19 was receiving a lot through his implant,  
20 why?
- 21 A. He seemed to--well, he just seemed to  
22 respond to different things. You know, he  
23 would respond to his name. He would--  
24 sometimes I would do little things and see  
25 if he could like pick out something just



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1 through audition, and sometimes he could do  
2 that, but his primary way of communicating  
3 was through signing. His verbal skills were  
4 non-existent. He could vocalize, and he  
5 could vocalize if he wanted--if he was  
6 excited about something, or if he wanted to  
7 get your attention, but in terms of actual  
8 speech, oral communication, there was none.

9 Q. And in terms of his signing pre-  
10 Kindergarten, was he using what you would  
11 describe as ASL, or would you say he was  
12 using English word order, or -

13 A. At that time I would say it was probably  
14 more--it was just more vocabulary, some more  
15 English word order. He was probably  
16 communicating with one or two signs.

17 Q. Other than his expressive communication via  
18 sign, were there any other forms of  
19 expressive communication that you were  
20 working with pre-Kindergarten?

21 A. In terms of expressive? Well, I was still  
22 working on his oral. Like we were still  
23 doing a bit of oral work and that with him,  
24 but he was just not--it was not working.  
25 So, prior to going into KinderStart I was

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1 working fully in sign with him.

2 Q. Okay. So, after he's had his Kindergarten  
3 year and his grade one year, you started  
4 working with Carter again in what capacity?

5 A. Carter's mother contacted me just before the  
6 end of school, I believe, after grade one  
7 and asked if I had--if I knew of anyone who  
8 would be able to help tutor Carter through  
9 the summer holidays. I told her I would  
10 look around, but if she was interested I was  
11 willing to do it.

12 Q. And when you started working with Carter  
13 after he had gone to Kindergarten and grade  
14 one, did you notice any difference in his  
15 receptive communication via sound?

16 A. I didn't focus much on his receptive  
17 communication at that point. I was  
18 basically using a lot of sign with him. So,  
19 we were basically communicating in sign  
20 language, both receptive and expressively,  
21 but, you know, he was responding to sound.

22 Q. I think you said you worked on reading as  
23 well.

24 A. Yes. Actually, before I stated working with  
25 Carter I got in contact with his itinerant

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1 teacher who was working with him at the  
2 school, Sheila MacDonald, and I asked her  
3 what type of things I should be working with  
4 Carter, on with Carter, during the summer  
5 holidays that would help boost him for the  
6 next school year. So, there were a lot of  
7 language activities. We were working on  
8 stories, telling stories, I'd read stories,  
9 reading comprehension, trying to get him to  
10 read a book and then tell me about it.

11 Those types of things we were working on. A  
12 little bit of math, but he was--he seemed to  
13 be more proficient in math certainly than in  
14 his language.

15 Q. In your affidavit you have attached a  
16 document to your affidavit. I'm not sure if  
17 you're able to read yours. Mine is fairly  
18 blurry. I don't know if this document is  
19 available somewhere else in the materials.  
20 Counsel, do you know?

21 MR. PENNEY:

22 Q. I think we did darken it.

23 ADJUDICATOR:

24 Q. I feel like I've seen it, I just haven't -

25 MR. PENNEY:

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1 Q. Yes, I think we did darken the copying, so  
2 we can try to get a--which are you talking  
3 about, the -

4 ADJUDICATOR:

5 Q. The criteria for--"DHH Services-NL" is the  
6 title at the top.

7 MR. PENNEY:

8 Q. Unfortunately, I think that's as good a copy  
9 as we have.

10 MR. REES:

11 Q. I think my client seems to think that  
12 document might be available in one of our  
13 volumes. We'll have a look for it.

14 ADJUDICATOR:

15 Q. Is this document something you would have  
16 worked with to determine your levels of  
17 service for individual children?

18 A. Myself, personally worked on this? Not that  
19 I recall.

20 Q. Sorry, not that you would have worked on  
21 preparing the document -

22 A. But it's something I would have followed?

23 Q. Yes.

24 A. To the best of my ability.

25 Q. And as I read it, and again, it is a

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1           difficult document to read, it seems to be  
2           suggesting that the level of service--the  
3           amount of time is in brackets. There's some  
4           that are direct four to five times weekly,  
5           direct three times weekly, and direct twice  
6           weekly, different categories. It seems to  
7           suggest that's determined by whether there's  
8           been an assessment, and the child has been  
9           determined to be two years behind in their  
10          language versus three years behind their  
11          language.

12          A. Yes, exactly.

13          Q. Was that done for Carter?

14          A. It was done. Again, it was done for the  
15          best of my ability with the caseload I had.

16          Q. Do you recall whether you concluded he was  
17          one year behind in his language, two, three?

18          A. There was no full testing done on Carter to  
19          determine how far behind he--when I had him  
20          he was still very young. He was still  
21          learning a lot. He was just still learning  
22          his language, so it was very difficult to  
23          test him at that time. I don't know if any  
24          testing has been done since then. So, it  
25          was very hard to determine how far he was

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1 behind, but it was easy to see that he was  
2 at least, you know, one to two years behind,  
3 maybe even more than that, than his peers,  
4 preschool children.

5 Q. At the time that he was entering  
6 Kindergarten, had he progressed to less than  
7 one to two years behind, or -

8 A. I don't know if he regressed, but he  
9 certainly wasn't progressing really, you  
10 know, at any great pace. He was  
11 progressing. He was--you know, he was  
12 getting better. He was learning sign. He  
13 was doing that, but it was very--it wasn't--  
14 you know, it was limited at that time when  
15 he was going into Kindergarten. His skills  
16 were limited.

17 Q. And you were able to see him two times in a  
18 seven day cycle?

19 A. Two times in a seven day cycle, yes, at that  
20 point in time, and I think, I'm not sure,  
21 you would have to ask the other itinerant,  
22 but I think she increased that to three  
23 times in a seven day cycle once he started  
24 Kindergarten.

25 Q. This document, in the third bubble from the

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- 1 top in this, you know, triangle  
2 demonstrating amount of direct service,  
3 which category does he fall in, because you  
4 said that he was, you know, between one and  
5 two years delayed in his language?
- 6 A. Well, I mean, he could have fit in probably  
7 to the upper part of that pyramid. You  
8 know, he was certainly two years behind in  
9 his language, maybe more, I'm not sure, but  
10 he would have been up in that upper pyramid,  
11 right, and when we started--and once he was  
12 using ASL he would have been even higher up  
13 there because he was using ASL as a mode of  
14 communication. However, I could not give  
15 him the amount of time that was requested in  
16 that guideline. We tried to follow those  
17 guidelines.
- 18 Q. Who issued this guideline?
- 19 A. I think that was developed by NLESD after  
20 the School for the Deaf closed. We needed  
21 something to be--some kind of guidelines to  
22 follow.
- 23 Q. The document suggests that, you know, for  
24 direct services for someone who's language--  
25 you know, it says there, you know, the DHH

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1                   and AVT therapist are viewing the language  
2                   as being two years behind or less, and  
3                   suggests that direct service would be three  
4                   times weekly.

5             A.    Yes, that is a suggestion.

6             Q.    Was Carter receiving three times weekly?

7             A.    No.

8             Q.    Anything arising from that?

9     MR. PENNEY:

10            Q.    No, not for me, thank you.

11     ADJUDICATOR:

12            Q.    Just one moment before you step down.  Thank  
13                   you, Ms. Lawlor.  I appreciate your  
14                   testimony today.  Okay.  I believe we're  
15                   expecting to hear from Mr. Porter next, Mr.  
16                   Shane Porter.

17     MR. REES:

18            Q.    That's right.  I wonder if it might just be  
19                   a good time for maybe a five minute break  
20                   before we start in on Shane.  I'm in your  
21                   hands.

22     ADJUDICATOR:

23            Q.    Let's adjourn until 10 after.

24                                       (OFF RECORD)

25     MR. GALLANT:



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1 Q. So, the next witness who will be testifying  
2 is Mr. Porter, Shane Porter, correct? Mr.  
3 Porter, would you prefer to give your  
4 evidence today under oath or solemn  
5 affirmation?

6 A. It doesn't matter.

7 Q. You can choose. You can swear an oath on  
8 the Bible, or you can give your solemn  
9 affirmation.

10 A. Solemn affirmation.

Kindergarten Teacher - 2016/2017 Beachy Cove Elementary (AFFIRMED)

(AFFIRMED), CROSS-EXAMINATION

12 BY MR. KYLE R. REES

13 REPORTER:

14 Q. For the record, can you state your complete  
15 name, please?

16 A. Sure. [REDACTED].

17 Q. Thank you. [REDACTED] has been affirmed.

18 ADJUDICATOR:

19 Q. Mr. Rees.

20 MR. REES:

21 Q. [REDACTED], hi, my name is Kyle Rees. I'm  
22 the lawyer for the Churchill's who, of  
23 course, you've met, who are sitting on  
24 either side of me. So, if it hasn't been  
25 explained to you already, the way the

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1 process will go here today is I'm going to  
2 ask you questions. It probably somewhere  
3 around an hour or so with questions for you.  
4 Most of my questions are based on your  
5 affidavit, which you've sworn, and I think  
6 you've got a copy of it up there in front of  
7 you, don't you -

8 A. Yes, I do.

9 Q. - and your affidavit with the three  
10 attachments to it, which I think are the  
11 back of the written part of the affidavit.  
12 So, thank you for the affidavit, and for  
13 providing your evidence that way. So, I'll  
14 ask you those questions. When I'm done,  
15 Steve Penney might have some questions for  
16 you. He's the lawyer for the School  
17 District, as may Mr. Gallant, who's the  
18 adjudicator, the person who's going to make  
19 the decision in this case. We're using both  
20 live ASL interpretation, and we're using  
21 closed captioning. So, I've been told that  
22 it's important to speak, you know, slowly  
23 and clearly, and I'll attempt to do the  
24 same. If at any point you need a break,  
25 that's totally fine. Just let us know;

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- 1           we'll go off the record. If you don't  
2           understand the question that I'm asking,  
3           likewise, you know, ask me to clarify. I  
4           won't be offended. Sometimes I can be a  
5           little scattered brained.
- 6           A. Sure.
- 7           Q. In your affidavit I did see any reference to  
8           you having any kind of formal qualifications  
9           in deaf education or American Sign Language.  
10          You don't have any qualifications in those  
11          areas, do you?
- 12          A. No, sir.
- 13          Q. You were Carter's, we'll call, classroom  
14          Kindergarten teacher, right?
- 15          A. Yes, sir.
- 16          Q. And that was at Beachy Cove Elementary?
- 17          A. Yes.
- 18          Q. How long did you teach at Beachy Cove  
19          Elementary?
- 20          A. Off and on approximately two and a half  
21          years. I served three contracts there.
- 22          Q. Okay. Where do you teach now?
- 23          A. This year I'll be at Octagon Pond  
24          Elementary.
- 25          Q. That's the new one, isn't it?

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1 A. It's a new school, yes.

2 Q. A nice spot down there. In your affidavit  
3 you noted that you were informed before  
4 Carter came into your Kindergarten classroom  
5 that you had a student who had cerebral  
6 palsy, and that was Carter, right?

7 A. Yes.

8 Q. And you also said in your affidavit that you  
9 were informed that Carter was hearing  
10 impaired. I think that was what was written  
11 in your affidavit.

12 A. Yes.

13 Q. Are you aware, and I'd suggest that you  
14 aren't, that you weren't trying to offend  
15 anybody, that hearing impaired is considered  
16 a derogatory term for deaf people? You  
17 know, we're all sort of learning here today.  
18 You shook your head, so you're saying no,  
19 you weren't aware of that?

20 A. No, I'm not sure.

21 Q. And if you had known that you wouldn't have  
22 used that term?

23 A. No, obviously not.

24 Q. Right. You would have said that he was  
25 deaf?

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- 1           A.    Yes.
- 2           Q.    Okay.  I think that's a sign, and I'd ask  
3                you to agree with me, that you hadn't,  
4                through no fault of your own, you hadn't had  
5                any training in, you know, deaf culture,  
6                deaf education, any of those areas, before  
7                you taught Carter?
- 8           A.    No.
- 9           Q.    No deaf people in your family or your group  
10               of friends that you would have had -
- 11          A.    No.
- 12          Q.    You didn't have--I guess what I'm asking  
13                you, you didn't have any real experience  
14                with deaf people prior to Carter?
- 15          A.    Some as a child, but no.
- 16          Q.    Did you feel like the District adequately  
17                prepared you to teach a deaf student?
- 18          A.    As best they could; they prepared me to  
19                teach any student.
- 20          Q.    Any student?  And there was no specific  
21                training provided to you, or advice provided  
22                to you, or courses, or education provided to  
23                you that related specifically to deaf  
24                children, was there?
- 25          A.    Not to my knowledge.

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1 Q. Well, you would know.

2 A. I suppose. There could be things offered  
3 that I might not have--because this was a  
4 contract. I accepted the position just  
5 before the school year started. So, if I--  
6 you know, there might be things offered that  
7 I just not be aware of, or that I didn't  
8 avail of at the time.

9 Q. Okay. So, nothing--what you're saying is  
10 it's possible you were offered something,  
11 but you just don't remember, and you didn't  
12 avail of it?

13 A. Yeah.

14 Q. I put to you. I mean, I've been through the  
15 documents, I don't think that's the case. I  
16 don't think you were offered any -

17 A. I have no idea.

18 Q. Okay. How about teaching children with late  
19 first language acquisition? Have you ever  
20 taught any children who, you know, would  
21 have been described as having late first  
22 language acquisition, besides Carter?

23 A. Like are we talking about just language in  
24 general, or first language, second language?

25 Q. There would have been a--late first language

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- 1 acquisition is sort of a term of ours. Have  
2 you ever had a student who was -
- 3 A. I've never come across the term, so -
- 4 Q. Okay. And how about any teaching positions-  
5 -have you had any teaching positions in a  
6 school or classroom that included a deaf  
7 student whose first language is ASL, besides  
8 Carter?
- 9 A. No, working with Carter was my only  
10 experience.
- 11 Q. He's the only one? You haven't had any  
12 since?
- 13 A. No.
- 14 Q. Okay. You've already indicated that the  
15 District hasn't given you any kind of--  
16 didn't give you any kind of formal training  
17 to prepare you to teach a child whose method  
18 of communication is ASL.
- 19 A. Yes.
- 20 Q. And you don't sign yourself?
- 21 A. No, only what I learned that year, and some  
22 things that I can communicate.
- 23 Q. Right. Some things that you would have  
24 learned because Carter--what we would call  
25 incidental learning where you would have

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- 1 sort of seen Carter being signed to and you  
2 would have learned a few things.
- 3 A. Things that I pursued on my own, like just  
4 independently to attempt to better my  
5 communication, or to better my understanding  
6 of it, yes.
- 7 Q. Okay. Things you pursued on your own, were  
8 these formal courses or -
- 9 A. No, they weren't formal courses, no.
- 10 Q. Okay. What were they?
- 11 A. Just discussions with other ASL--for  
12 example, his itinerant, just trying to learn  
13 whatever I could to communicate as best I  
14 could, or to understand.
- 15 Q. So, you would have learned like a few key  
16 vocabulary words, maybe like hello, good-  
17 bye, those types of things?
- 18 A. Yeah, things that were involved in the  
19 curriculum, numbers, letters, name, how to  
20 say hello, good-bye, things like washroom,  
21 things in the classroom. I mean, just the  
22 things that would have been in the area or  
23 necessary to communicate as best I could.
- 24 Q. And you never would have used any of those  
25 signs though to like teach Carter the



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- 1 curriculum would you?
- 2 A. Not necessarily. We may--we watched videos  
3 with sign language in them, or that had ASL  
4 in parts of it, and my student assistant  
5 would sign parts of it, but personally, no,  
6 because I have no formalized training.
- 7 Q. Right, exactly. It wouldn't be appropriate  
8 I would suggest for you to even do that.
- 9 A. Yes.
- 10 Q. Right. If training had been offered by the  
11 District--if the District had come to you  
12 and they had said, you're going to have a  
13 deaf child in your class, Carter Churchill.  
14 She speaks ASL. We got ASL courses that you  
15 can take. Would you do them? Would you be  
16 opposed to learning more about ASL?
- 17 A. I'm not going to be opposed to doing  
18 anything to help my students. So, no, I  
19 wouldn't have been opposed to it. I'm not  
20 opposed to it now.
- 21 Q. Not opposed to it now? You were never  
22 offered that kind of training though were  
23 you?
- 24 A. No.
- 25 Q. What did you know about the limitations of

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- 1 cochlear implants? When I say Carter had  
2 cochlear implants, you know what I'm talking  
3 about?
- 4 A. Yes.
- 5 Q. Okay. Did you know about the limitations of  
6 cochlear implants? That, you know, it's not  
7 like you switch on a cochlear implant and  
8 someone immediately understands language.  
9 Did you understand that?
- 10 A. I don't, no.
- 11 Q. You don't?
- 12 A. No.
- 13 Q. And the District--did the District provide  
14 you any information about how cochlear  
15 implants work, or what the limitations of  
16 cochlear implants are?
- 17 A. Not really, no.
- 18 Q. Okay. Did they ever tell you that--the  
19 phrase that I've always heard is that  
20 cochlear implants give you access to sound  
21 and, you know, not the ability to hear.  
22 Have you ever heard that distinction made?
- 23 A. I've never heard of that.
- 24 Q. Do you still feel like you were adequately  
25 prepared by the District to teach Carter

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1 Churchill?

2 A. I feel like I was adequately prepared to  
3 teach the curriculum that I was given, to  
4 the best of my abilities.

5 Q. Look, I got no questions, no concerns, no  
6 doubt whatsoever, that you were adequately  
7 prepared to teach your curriculum to hearing  
8 kids. By all accounts you're a fantastic  
9 teacher to hearing children. My question  
10 for you is whether you were adequately  
11 prepared by the District, in your opinion,  
12 which matters, to cater to the needs--cater  
13 is wrong word--to meet the needs of a deaf  
14 child without understanding how cochlear  
15 implants work, and without speaking ASL.

16 A. As a teacher, sometimes we're faced with  
17 students with many needs, from many walks of  
18 life. You know, our classrooms are made up  
19 of--it's a melting pot. So, specifically to  
20 deaf, versus specifically to somebody with  
21 autism, versus specifically to somebody  
22 else, I think I was adequately prepared to  
23 teach the curriculum that I was given to the  
24 best of my abilities. I don't know if that  
25 answers your question or not.

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1 Q. It does, but I do have some follow-up.  
2 Carter spoke ASL. You spoke English. How  
3 did you communicate the curriculum to  
4 Carter?

5 A. I would speak the curriculum. I would ask  
6 my student assistant at the time to sign  
7 anything that she could, and try and support  
8 that way. We'd use a lot of pictures, a lot  
9 of videos, a lot of visuals. Kindergarten  
10 is play based. So, a lot of what we were  
11 asking our students to demonstrate is  
12 observed in their play, how they play  
13 together, interact with certain materials  
14 and manipulatives, and provocations.

15 Q. Were you aware that Carter couldn't  
16 understand--while he had some access to  
17 sound, as I've indicated before, he couldn't  
18 understand, you know, complex oral  
19 instructions, questions, story telling.  
20 That just wouldn't be something that he  
21 would have experienced. Did you know that  
22 Carter didn't have an ability to comprehend  
23 those things? Was that communicated to you?

24 A. No, never told me. No one never told me,  
25 no.

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- 1 Q. No one told you that?
- 2 A. No.
- 3 Q. Did you think that Carter had a mental  
4 disability?
- 5 A. No, I'm not a doctor.
- 6 Q. I mean, I know you're not a doctor. You  
7 definitely wouldn't have the ability to  
8 diagnose anybody with it, but I mean as both  
9 as a teacher and just a person out in the  
10 world sometimes you interact with people and  
11 form opinions about whether or not they have  
12 a mental -
- 13 A. Opinion is not fact.
- 14 Q. So, did you--well, I'm interested in your  
15 opinion. I'll tell you that Carter didn't,  
16 but did you at any point believe that to be  
17 the case?
- 18 A. I don't think so.
- 19 Q. No?
- 20 A. No.
- 21 Q. You didn't? Did you--was there anything  
22 about the way you taught curriculum that you  
23 changed, or you taught differently, because  
24 Carter Churchill had, you know, cochlear  
25 implants, or required ASL? Was there

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1 anything different--if we observed you in a  
2 classroom that had Carter Churchill in it,  
3 down at Octagon Pond Elementary next week,  
4 would we notice anything different about the  
5 way you taught your program?

6 A. Absolutely. Carter was a major  
7 consideration for everything we did that  
8 year, and I use the term we because it was  
9 grade level. Like, we talked about this in  
10 our grade level planning meetings. We  
11 talked about this with administration,  
12 guidance, itinerants. Everything was a  
13 consideration for how we could approach the  
14 curriculum and teach it as best we could to  
15 everyone in our classroom.

16 Q. Okay. Give me some specific examples.

17 A. It's difficult to recall a lot as it was  
18 five years ago. For example, we'd use a lot  
19 of pictures with Carter that possibly we  
20 wouldn't be using with other students,  
21 picture to associate letters, to represent  
22 letters, and things like that. We tried to  
23 use as many visuals as we could, a variety  
24 of manipulatives.

25 Q. But, I mean, if Carter can't understand the

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1 sounds associated with those letters, what's  
2 a picture going to do?  
3 A. We worked on the basis of just--my student  
4 assistant would sign the words and the  
5 letters. We'd ask which letter, for  
6 example, which letter is this, and she would  
7 sign that, and we would ask for a response,  
8 how many. We would ask Carter, you know,  
9 asking him verbally. She would sign it, and  
10 we'd put a number of pictures in front is  
11 what I mean. So, for example, how many  
12 bears? How many bears? Which one has four  
13 bears? Show three pictures, one of the  
14 pictures had four bears. Those type of  
15 pictures, not only obviously with the sounds  
16 and things like that. I may have misspoke  
17 there a little bit. As I said, it's five  
18 years ago, it's difficult to recall  
19 specifics, but I just know--for example, I  
20 have talked about--even in my affidavit as  
21 well, I had mentioned regarding numeration  
22 and representing numbers, and indicating  
23 numbers. So, that would have been one way  
24 that would be different than maybe how I  
25 would teach a normal, or a different

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1 classroom. I shouldn't say normal  
2 classroom, but a different classroom, with a  
3 different set of students, with a different  
4 set of challenges, with a different set of  
5 needs. So, that might be one way.

6 Q. The main thing we'd notice though is that  
7 there was a student assistant there  
8 communicating in ASL with Carter, right?  
9 That would have been the biggest difference?

10 A. I wouldn't say the biggest difference,  
11 because there were a lot of considerations  
12 that went into it. Again, I can't speak to  
13 exactly because it was long ago, and there's  
14 been so much between--but, yes, the student  
15 assistant is a difference absolutely.

16 Q. You were pretty reliant on that student  
17 assistant to communicate with Carter?

18 A. When it came to ASL, but I could still  
19 communicate with--I felt like I could  
20 communicate with Carter at the time. I  
21 could tell when he was happy. I could tell  
22 when he was sad.

23 Q. Yes. No, I mean, you could tell the  
24 emotions of somebody whether or not you can  
25 understand their language.



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- 1           A.    I could understand some signs, washroom, and  
2                    things like that.
- 3           Q.    Right.  I mean, I can tell the emotions of  
4                    somebody who speaks Mandarin even though I  
5                    don't speak the language, right.
- 6           A.    But I'm just saying that I could understand  
7                    some of Carter without her, but, yes,  
8                    obviously she was a major component.
- 9           Q.    Yes.  You couldn't teach material to Carter,  
10                   educational material, curriculum material to  
11                   Carter, without the student assistant?
- 12          A.    Point to one bear, and to use the sign for  
13                   one, I'm teaching him number one.  One bear,  
14                   we have one.
- 15          Q.    Are you--I mean, are you though?  Is that  
16                   how teaching numbers work, that you point at  
17                   stuff and you show the numbers?
- 18          A.    It's part of it.
- 19          Q.    Like, I understand there's a lot more.  
20                   There's a lot more to it than that, right.
- 21          A.    Yeah, a lot more goes into it than that.
- 22          Q.    I mean, teachers are pretty educated, a  
23                   pretty specialized field, right.  I mean,  
24                   there's more to it than just pointing and  
25                   making the sign, right?

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- 1           A.    Absolutely, but it is part of it, to show  
2                    the connection between the number one, the  
3                    word one, and one.  I mean, that's part of  
4                    it, as I'm just trying to explain.
- 5           Q.    Okay.  So, you could do -
- 6           A.    There were some things, yes.
- 7           Q.    Okay.  During routine classroom  
8                    interactions, how much interaction, in terms  
9                    of communication interaction, did the  
10                   hearing students in the class have with  
11                   Carter?  I mean, I understand none of the  
12                   students in the class could speak ASL.
- 13          A.    I don't know if they could.
- 14          Q.    Well -
- 15          A.    To the best of my knowledge none of them  
16                    could, but -
- 17          Q.    You'd probably notice if I all of a sudden a  
18                    kid started signing with Carter, right?
- 19          A.    Absolutely.
- 20          Q.    I mean, that would be pretty remarkable.
- 21          A.    I don't think any of them had a deep  
22                    understanding of ASL.  Do I think that some  
23                    of them--I believe some of the children  
24                    might have even gone to preschool with him  
25                    and might have known some signs.  I'm not

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- 1 exactly sure of that. I can't--but I know  
2 that some of them had a prior existing  
3 relationship with Carter.
- 4 Q. I see. So, you think maybe some of the  
5 students had learned some sign vocabulary?
- 6 A. Yeah.
- 7 Q. It would have been from preschool. Did they  
8 learn sign vocabulary in your classroom?
- 9 A. I don't know ASL, so I -
- 10 Q. You don't it?
- 11 A. So, I can't teach ASL.
- 12 Q. So, the only real signing that Carter's  
13 classmates would have been able to do with  
14 him would have been stuff they picked up  
15 from preschool and not stuff they would have  
16 picked up from Kindergarten?
- 17 A. Things that we could have picked up in  
18 class, that they would have picked up from  
19 me, numbers, but, no, they couldn't sign an  
20 entire sentence, I don't think, not that I  
21 saw.
- 22 Q. No, and I mean, I put to you that there  
23 probably weren't even very many words they  
24 could sign.
- 25 A. Probably.

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1 Q. And there was no--at no point were you able  
2 to present curriculum to students, to the  
3 hearing students, in your class to be able  
4 to teach ASL in any way because--simply  
5 because you weren't qualified?

6 A. Yeah.

7 Q. And at no point were you able to bring in  
8 someone who was qualified to teach sign  
9 language to the hearing students in the  
10 class? That wasn't something that, you  
11 know, was within the curriculum that you  
12 were allowed to teach?

13 A. No, that was--no.

14 Q. If it had been in the curriculum, it would  
15 have been something you would have been  
16 excited to do though?

17 A. Sure.

18 Q. You would have done it?

19 A. Yeah.

20 Q. Not opposed to teaching -

21 A. I guess that's the term. I wouldn't be  
22 opposed to anything like that, and certainly  
23 consider it.

24 Q. So, Carter couldn't speak with his  
25 classmates, could he?

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- 1           A.    And again it comes back to could he like  
2                    interact and speak.  Could he communicate  
3                    hi, how are you today; and they understand  
4                    his signs?  They couldn't understand his  
5                    signs.
- 6           Q.    They couldn't?
- 7           A.    No.  Again, it comes--like you just said, I  
8                    don't think anyone there had ASL, formalized  
9                    ASL training.
- 10          Q.    And, of course, the hearing students would  
11                    speak to each other and play as children do?
- 12          A.    But they would play with Carter too.
- 13          Q.    But they couldn't communicate with him,  
14                    could they?
- 15          A.    I think they communicate, and they would say  
16                    yes, no, shake your head, nod your head.
- 17          Q.    Well, what would they say yes or no to?
- 18          A.    You know, like if they were playing blocks,  
19                    or things like that, or if they were  
20                    playing, interacting, in different centres  
21                    with different manipulatives, or they would,  
22                    you know, come over and help Carter.  They  
23                    would put--for example, we had a--one centre  
24                    was a light bin.  So, light would be kind of  
25                    projected up, and the clear cups would have

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1 numbers on them, and they would say, no,  
2 Carter, that's only one, you need two, and  
3 they would help him put another in, or they  
4 would add another one.

5 Q. Right, they could say things to Carter and  
6 express things, no doubt, but Carter  
7 couldn't ask them a question and they could  
8 answer his question?

9 A. Usually he was accompanied by his student  
10 assistant. So, if he was signing a  
11 question, she would be there to interpret  
12 that, and she would say, he's asking this,  
13 or he's saying this.

14 Q. Okay. So, Carter would be reliant on the  
15 student assistant to tell the other students  
16 in his class what he wanted to do? So,  
17 Carter needed to funnel any of his  
18 questions, interrogatories, comments, to his  
19 classmates, you know, the children in his  
20 class, through--assisted through an adult?

21 A. Right.

22 Q. And that was the only way Carter  
23 communicated back to his fellow classmates.  
24 He never spoke to them, and him signing  
25 directly to his fellow classmates, or to

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1           you, was useless. It would always have to  
2           go through that assistant.

3           A. He also had an iPad that had Proloquo2Go, I  
4           believe was the app, and that could  
5           communicate as well.

6           Q. Tell me about how that app communicates.

7           A. It just represents certain things in the  
8           classroom, or certain things that we're  
9           discussing, curriculum outcomes. So, you  
10          touch a picture and it would say the word.

11          Q. So, could Carter use this app on an iPad, or  
12          tablet, sorry, I don't want to brand it, to  
13          communicate with his fellow classmates?

14          A. It was very new at that point. In  
15          Kindergarten I'm not sure if it was his  
16          only, or his beginning interactions. I  
17          didn't--he was going out at that time, I  
18          believe, to work on using it, to take  
19          pictures. He was working with the IRT at  
20          the time to assemble a group of pictures and  
21          words that were important, or things that he  
22          used daily, and I guess the plan was that as  
23          it would go and, you know, as his--as he  
24          became familiar with the technology, the  
25          vocabulary would expand and grow, but I

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1           guess we were just at that point in  
2           Kindergarten just starting, as it was new,  
3           just starting kind of at the beginning.

4           Q.   Right.  I mean, he couldn't use this app to  
5           ask another child to pass him the crayon, or  
6           to, you know, stop talking so loudly, or  
7           stop kicking his chair?

8           A.   Something simple like pass a crayon, you  
9           know, if he looks and uses the iPad and  
10          pushes crayon--obviously there is some  
11          interpretation at that point because it's so  
12          basic, or so early on, that, you know, he's  
13          saying, no, he wants a crayon.  So, there  
14          was some interpretation.

15          Q.   I mean, how does -

16   ADJUDICATOR:

17          Q.   Rather than how he might have used the app,  
18          could you tell us how you--did you observe  
19          him using the app to communicate with other  
20          students?

21          A.   For example, a lot of things with the app  
22          for us--it was a teaching moment, and it was  
23          teaching all the time.  Like, you know, I  
24          think Carter wants a crayon, and show him  
25          like that.  It was very early on.  I can't



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1 recall when that started, when the app and  
2 the iPad--I don't know if it was a September  
3 thing, or when it came onboard, and again,  
4 it was a growing vocabulary. So, again,  
5 this was something we were trying to--it was  
6 just another way of communicating. So, we  
7 were trying to teach that to him.

8 Q. This was being introduced to Carter, but I'm  
9 wondering whether you recall Carter making  
10 use of the device to communicate with the  
11 other students.

12 A. I don't recall any specific times or--no.

13 Q. Do you recall Carter using the device, the  
14 iPad and the apps, to communicate with you?

15 A. Only when again we were trying to--you know,  
16 if he would sign washroom, you know, we  
17 would say, oh, try your iPad too, this is  
18 the button for washroom, and through that  
19 way.

20 Q. So, in your observations when Carter wanted  
21 to communicate something to you, what method  
22 would he use to try to communicate that  
23 first?

24 A. I think first was the ASL, and a lot of  
25 times communication was brought on by the

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1 adults. It was engaged by the adults. You  
2 know, how are you? It was coming from us  
3 kind of bringing it on. He was--for  
4 washroom, and things like that, and  
5 engaging, certain assessment and things  
6 would come from the adult's perspective, and  
7 it would be engaged and just initiated by  
8 the adults. So, I'm not sure if I'm  
9 answering you question.

10 Q. No, I appreciate that. Sorry again to  
11 interrupt your stream.

12 MR. REES:

13 Q. In fact you said something very interesting  
14 about how communication would be engaged,  
15 and you said usually communication was  
16 engaged, you know, was first brought by  
17 adults. So, Carter wasn't frequently, you  
18 know, coming up to you, or going up to other  
19 students in the class, you know, to tell  
20 them a story, or to communicate an idea to  
21 them; it was often the adults going to  
22 Carter, wasn't it?

23 A. Yeah.

24 Q. I mean, he was really only going to you to  
25 let you know he needed to go to the bathroom

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- 1 or something?
- 2 A. That would be one way he would come up, but
- 3 -
- 4 Q. I asked really the example you've repeated
- 5 over and over. What other kinds of things
- 6 would Carter come to you to talk about?
- 7 A. Carter didn't bring a lot of expressive
- 8 language to me.
- 9 Q. Because he's have to go through the student
- 10 assistant, wouldn't he, to sign back to you?
- 11 A. Yes.
- 12 Q. And, of course, he would also have to have,
- 13 you know, fluency in ASL in order to
- 14 properly communicate what he needed to the
- 15 student assistant, wouldn't he?
- 16 A. He would?
- 17 Q. Yes.
- 18 A. Carter would?
- 19 Q. Yes.
- 20 A. Yes, he would have to be fluent in ASL to
- 21 communicate in ASL.
- 22 Q. And it would be very difficult--you know,
- 23 you talked about the example if he was going
- 24 to ask another kid to pass him the red
- 25 crayon, that, you know, he'd press the

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- 1           crayon button on his screen, and that would  
2           be how he communicated. I mean, that  
3           doesn't really communicate, pass me the  
4           crayon, does it? That just communicates  
5           crayon, and everyone is left to sort of  
6           guess from context maybe what Carter wants?
- 7           A. Yes.
- 8           Q. Do you mean you want the crayon? DO you  
9           mean you've lost your crayon? Do you mean  
10          give me back the crayon? Do you mean please  
11          take the crayon from me?
- 12          A. And like I said, in the beginning it was  
13          kind of just trying to get him familiar with  
14          it, the piece of technology.
- 15          Q. I mean, I've seen videos on You Tube where  
16          researchers are training chimpanzees to use  
17          a very similar type of app. Have you seen  
18          that kind of thing?
- 19          A. Yes.
- 20          Q. So, if Carter signed something to you in  
21          ASL, you would have no capacity to  
22          understand what he was saying, unless it  
23          came through the student assistant, right?
- 24          A. No.
- 25          Q. And the District didn't offer you any

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- 1 training in ASL?
- 2 A. To the best of my knowledge, no.
- 3 Q. Right. I mean, you would remember if the  
4 District came to you and said, you got a  
5 deaf child in your class who speaks ASL,  
6 would you like to learn how to speak with  
7 the guy?
- 8 A. I feel like I would remember that, but  
9 again, it was five years ago. I'm pretty  
10 sure I would remember it though.
- 11 Q. Okay. In your affidavit you indicated that  
12 it was intended that Carter would be, and  
13 your words are, fully integrated, into your  
14 Kindergarten class. What do you mean, fully  
15 integrated? I mean, that's a complex term,  
16 I think that requires a lot of unpacking and  
17 you've used it. So, why don't you tell me  
18 what fully integrated means.
- 19 A. I think if I use that term, it would have  
20 been to make him as much of a part of the  
21 classroom as possible, as part of peers,  
22 everything involved, make him part of our  
23 classroom.
- 24 Q. Okay. So, by saying the intention was that  
25 Carter be fully integrated in the classroom,

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1           what you really mean is, Carter would be  
2           fully integrated as much as possible?

3           A.   As much as I could, as much as he could, as  
4           much as we could.

5           Q.   And did you feel that Carter was--I mean, I  
6           understand that you were--look, my view here  
7           is that you were doing the best you could  
8           with the tools you had. Did you feel that  
9           while you were providing as much integration  
10          as was possible in the circumstances, do you  
11          feel that you really achieved the level of  
12          full integration of Carter Churchill?

13          A.   Specifically to Carter, when it comes to  
14          Carter? Like, when you ask that question I  
15          just think of--I'm not sure. I'm not sure  
16          if I -

17          Q.   I mean, you said fully integrated, but, I  
18          guess, what I'm saying is you don't really  
19          mean full integrated, you mean integrated as  
20          much as you could?

21          A.   Well, we set a goal, and to try and meet  
22          that goal.

23          Q.   And what was the goal?

24          A.   You just said fully integrated. Like, that  
25          was, I guess, we were trying to fully

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- 1           integrate him as much as possible.
- 2           Q.   Did you achieve the goal of full
- 3           integration?
- 4           A.   I don't know. I don't think so, no.
- 5           Q.   I don't think so, no. Where does that term
- 6           full integration come from? Is it just in
- 7           the educational literature, or is it in
- 8           District policy?
- 9           A.   No, it's just how I was attempting to
- 10          communicate, just trying to integrate him
- 11          into the classroom.
- 12          Q.   So, what would be some of the signs that
- 13          Carter was fully integrated? Can you
- 14          describe for me what would be signs of full
- 15          integration versus signs of not being
- 16          integrated?
- 17          A.   I guess not being integrated would be he
- 18          would not interact with his peers. He would
- 19          not interact with curriculum. He would not
- 20          interact with people in the classroom,
- 21          adults, teachers. He would not take part in
- 22          activities. He would be excluded, I guess,
- 23          would be the opposite of integration, and
- 24          the beginnings of integration. I don't know
- 25          how integrated all students are, all

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1 Kindergarten students can become, but  
2 certainly our goal is to integrate all our  
3 students as much as possible. Maybe I  
4 misspoke when I used the term fully  
5 integrated. I don't know if anyone at the  
6 age of five or six can become fully  
7 integrated, but integrated as much as  
8 possible. I mean, the opposite of that  
9 would be that they were kept out, or they  
10 didn't include themselves, or they were  
11 removed, or they didn't take part. I  
12 suppose that would be the opposite of  
13 integration.

14 Q. I understand you to have said that you set a  
15 goal of full integration, and you attempted  
16 to achieve the goal, and you never got to  
17 full integration, I think is what you said,  
18 but, you know, you tried to do what you  
19 could, or get as far as you could, given the  
20 circumstances. Was there any program, or  
21 method, that you wanted to use, or that you  
22 were interested in trying, that, you know,  
23 you were told you couldn't do it, that there  
24 just wasn't resources there for you?

25 A. I was never told I couldn't do anything. We



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1           reached out--we reached out to anybody. I  
2           talked to anybody who would listen about  
3           different approaches, techniques, anything I  
4           could do.

5           Q. You talked to anybody who would listen about  
6           different approaches or techniques that you  
7           could have used. That's what you just said?

8           A. Yes, within my professional circle, I  
9           suppose.

10          Q. Does that include speaking to anybody at the  
11          School District, or was it just sort of the  
12          people within your school?

13          A. Certainly anybody who would have attended  
14          the larger meetings, that would have been  
15          privy, privy to Carter, who knew who Carter  
16          was, knew what Carter's background was, his  
17          experiences were so far to that point.  
18          Anybody professionally that was involved  
19          were people that I talked to, and if anybody  
20          suggested anything to me, I did my best to  
21          use those ideas as best I could.

22          Q. How many children were in your classroom  
23          that year?

24          A. I want to say 20, but the cap for  
25          Kindergarten is 20. I'm not exactly sure,

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1           it could have been 18. It could have been  
2           17. I'm not exactly sure.

3           Q. Okay. You mentioned that you were reliant  
4           upon the student assistants to both  
5           communicate instructional material to Carter  
6           in ASL so that he could understand it, and  
7           to communicate any of Carter's concerns to  
8           you from his ASL to spoke English, right,  
9           that's how it worked, and that was the only  
10          way. I mean, aside from pointing at numbers  
11          and things, that was the only way that  
12          Carter had access to the curriculum, right?

13          A. Yes, through his student assistant and his  
14          itinerant as well.

15          Q. And his itinerant as well?

16          A. Was also -

17          Q. Okay, we're going to talk about the  
18          itinerant later. The student assistants  
19          that were assigned to Carter; there were two  
20          during the course of the year. There was  
21          Tracey Barron, and then most of the year  
22          it's Terrilynn Clarke. She takes over in  
23          November.

24          A. Yeah.

25          Q. Does that sound right?

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- 1           A.    Yes.
- 2           Q.    Okay.  You didn't know anything about the  
3                   ASL proficiency of either of those student  
4                   assistants?  You couldn't tell whether they  
5                   were speaking good ASL, bad ASL, or making  
6                   it up as they went along?
- 7           A.    No.
- 8           Q.    You assumed that they must have been doing  
9                   it because they were, you know, why else  
10                  would they be there, right?
- 11          A.    Right.
- 12          Q.    But you would have no ability to evaluate  
13                  their skill?
- 14          A.    No.
- 15          Q.    Did you know that Terrilynn Clarke was later  
16                  ASL proficiency tested?
- 17          A.    No, I have no -
- 18          Q.    It turns out the summer after she was placed  
19                  in your classroom with Carter, she was ASL  
20                  proficiency tested, and her proficiency was  
21                  so poor that she was found to be unable to  
22                  accurately finger spell her own name.  You  
23                  weren't aware of that?
- 24          A.    No.
- 25          Q.    And you had no reason--you had no ability to

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1 know whether when Terrilynn was  
2 communicating with Carter whether she was  
3 doing so effectively?

4 A. No.

5 Q. Does it concern you to hear that her  
6 proficiency was so low that she couldn't  
7 even finger spell her own name?

8 A. Yes.

9 Q. Does it give you some concerns that maybe  
10 the material you were teaching to Carter was  
11 not being accurately communicated to Carter  
12 now that you've heard this?

13 A. I don't know. I can't speak if it was  
14 accurately communicated because I don't know  
15 what--like you said, her proficiency was not  
16 high enough. I'm just trying to not--what  
17 level of proficiency she was using, and I  
18 was requiring her to use, did she meet that  
19 proficiency at the time? I don't--I  
20 understand to finger spell her own name -

21 Q. I mean you've told me how reliant you were  
22 on the student assistants to communicate  
23 curriculum material -

24 A. Um-hm.

25 Q. - and that you didn't know at the time that

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1 the proficiency was poor, and you're  
2 learning that now, and that does cause you  
3 concern?

4 A. Yeah, obviously we would want somebody there  
5 who is proficient, I suppose.

6 Q. This was a student assistant that was  
7 assigned to Carter for eight months,  
8 correct, November onward?

9 A. Give or take.

10 Q. That's most of the school year.

11 A. Yes.

12 Q. I'm going to ask you about the October 16<sup>th</sup>,  
13 2016 field trip to Taylor's Farm. You  
14 talked a little bit about that in your  
15 affidavit.

16 A. Sure.

17 Q. As indicated in your affidavit, and I know  
18 there are sort of reasons indicated why that  
19 occurred, but Carter showed up to that field  
20 trip. So, it's all the hearing students in  
21 your class go on that field trip, as does  
22 Carter. Carter shows up in a different  
23 vehicle because of his transportation needs,  
24 and what occurs factually--you know, the  
25 reasons for it I don't think particularly

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1 matter. By the time Carter's vehicle shows  
2 up, only a couple of minutes behind the bus  
3 that the hearing children are on, all the  
4 hearing children are packed onto a tractor  
5 and are off on a hayride while Carter in his  
6 wheelchair, and Carter's mother, are stood  
7 in the dust at the side of the road watching  
8 the other children go for a ride. Is that  
9 right? That happened?

10 A. Yeah, he was--I believe he was a little bit  
11 late for that, or there was some issue. I  
12 know when we got there we were kind of  
13 hustled forward onto a hayride, and the  
14 hayride was just a lap of their pumpkin  
15 field.

16 Q. And Carter didn't go?

17 A. He didn't--so, he didn't get on the first  
18 time. When we got there I wasn't sure if  
19 Carter--if there was an issue at the parking  
20 lot, or whatever the issue was getting to  
21 the field--so, we went around, and then when  
22 we got back Carter was there then, so some  
23 of the students disembarked, some students  
24 stayed on, and we went again.

25 Q. Okay. A pity ride, a second go-round. You

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1 indicated--this is my question, I guess, is  
2 that you indicated -

3 ADJUDICATOR:

4 Q. Mr. Rees, let's keep the questions relevant  
5 and to refer to that as a pity ride I think  
6 is inappropriate. There's no factual  
7 foundation for that. That's not  
8 appropriate.

9 MR. REES:

10 Q. The reason I'm asking about that is because  
11 in your affidavit you say that Carter's  
12 mother, Kim, sitting here to my right, felt  
13 that Carter was left out, but from your  
14 point of view he wasn't left out. Can you  
15 explain why you think that's the case, and  
16 why wasn't he left out when literally he was  
17 left behind when the tractor drives around?

18 A. When you state it, it makes like it was a  
19 purposeful--there was some purposeful  
20 intent.

21 Q. I don't think it was purposeful. I think it  
22 was an accident, but someone can still be  
23 accidentally left out, can't they?

24 A. Sure, but when he was there, and when he got  
25 in, we made sure to--that he had the same

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- 1 opportunity that everybody else did to go on  
2 the ride.
- 3 Q. I want to ask you about another field trip,  
4 the field trip to the Fluvarium in February  
5 2017.
- 6 A. Sure.
- 7 Q. Do you remember that one?
- 8 A. Yeah, parts of it.
- 9 Q. Was there an ASL interpreter at the  
10 Fluvarium?
- 11 A. No, not that I know of. Like an external  
12 party brought in, is that what you're -
- 13 Q. Well, I mean, a qualified ASL interpreter.
- 14 A. No.
- 15 Q. No, there wasn't? Instead I understand that  
16 it was only Carter's student assistant who  
17 was asked to kind of act as sort of an ad  
18 hoc interpreter during the course of the  
19 field trip, right?
- 20 A. I believe she interpreted some during the  
21 field trip, yes.
- 22 Q. Did you make any kind of request when you  
23 found out that you were going to the field  
24 trip where, you know, you were going to be  
25 presented, or the students were going to be



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1 presented with learning material, make any  
2 arrangements for, you know, a qualified  
3 interpreter to attend?

4 A. No.

5 Q. Did the District ever let you know that that  
6 was something that they could provide? Is  
7 that something the District does? You're  
8 going on a field trip, you got a kid in your  
9 class that speaks ASL, you know, you can  
10 have an interpreter.

11 A. Again, at that point my student assistant  
12 came with us, and as you just told me, I  
13 wasn't aware of her level of proficiency.

14 Q. Okay. So, it wasn't a concern for you  
15 because you felt the student assistant was  
16 going to be adequate for that role?

17 A. Yeah.

18 Q. And the District--to clarify, the District  
19 never provided you with any resources to get  
20 an external qualified interpreter for those  
21 outings?

22 A. Not to the best of my knowledge.

23 Q. The itinerant teacher, Tina Halleran, do you  
24 recall how frequently you saw her come into  
25 your classroom in Beachy Cove to educate

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- 1 Carter Churchill?
- 2 A. No, I don't.
- 3 Q. You got no idea?
- 4 A. It wasn't every day.
- 5 Q. It could have been once a week, could have  
6 been once a month, could have been three  
7 times a week?
- 8 A. I don't it was once a month. A couple of  
9 times a week is what I want to say. It  
10 wasn't like a once a month type deal, it  
11 was--she was more--she was around more than  
12 that for sure. I can't say if it was three  
13 days a week, four days a week, and I didn't  
14 know if it was--I don't know if it was based  
15 on a seven day cycle.
- 16 Q. More than once a month I think is the only  
17 thing you can be certain of, right?
- 18 A. Yes, it was definitely more than once a  
19 month.
- 20 Q. But it wasn't--it certainly wasn't five days  
21 a week?
- 22 A. It wasn't every day, no.
- 23 Q. And that's essentially the range of your  
24 recollection, more than once a month, but  
25 not every day?

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- 1           A.    I'd say my recollection would be more than  
2                    once a week for sure. Multiple times a week  
3                    would be my recollection.
- 4           Q.    Would you have taken any notes, or any  
5                    documentation, about the frequency that that  
6                    person would have attended? You wouldn't  
7                    have any records of that?
- 8           A.    I wouldn't have that. I'm assuming she  
9                    would be able to provide that for you.
- 10          Q.    Okay. Did you know anything about the ASL  
11                    proficiency of the itinerant teacher? I'm  
12                    going to suggest you didn't.
- 13          A.    No.
- 14          Q.    Of course you wouldn't. Have you ever  
15                    looked at the, or had cause to come across,  
16                    the Department's, the Department of  
17                    Education, the Department's guidelines for  
18                    English Language Arts in Kindergarten? Have  
19                    you ever seen the guidelines? So, they're  
20                    like the -
- 21          A.    Like the curriculum?
- 22          Q.    The Department of Education produces  
23                    guidelines, right, for various programs, and  
24                    I know that they have a guideline for, you  
25                    know, teaching English in Kindergarten, for

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- 1 instance. Would you--would that have been a  
2 document that you would come across  
3 preparing for teaching -
- 4 A. Certainly, you know, we would prepare with  
5 the curriculum documents.
- 6 Q. It informs -
- 7 A. We refer to the curriculum guide, yeah.
- 8 Q. Right, an important document. And this  
9 would have been the curriculum that you were  
10 teaching to both your hearing students and  
11 to Carter, right?
- 12 A. Yeah.
- 13 Q. In your affidavit you say as follows, "At  
14 that time"--we're talking about while Carter  
15 was in Kindergarten, "We assessed a lot of  
16 initial sounds." Maybe I should take you to  
17 the paragraph. The question I'm asking you  
18 about is the part in your affidavit, and  
19 I'll find it for you in a second there so as  
20 not to delay.
- 21 A. Sure.
- 22 Q. But you had assessed a lot of initial sounds  
23 by matching pictures and letters, and you  
24 spoke to me about that already here today,  
25 and you said, "I believe that Carter had

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1 completed one of these assessments, and has  
2 shown some success." "CI", which I  
3 understand means cochlear implant,  
4 "Technology was new to me, and I was likely  
5 conveying to his mother that he had shown  
6 some success on the assessment itself as it  
7 was encouraging to see progress." So, you  
8 were really evaluating his progress in terms  
9 of taking auditory instructions, right? You  
10 were speaking to him telling him to, you  
11 know, whatever you were assessing him for,  
12 whatever assessment, was a spoken  
13 assessment? You were telling Carter to do  
14 something and he did it, right?

15 A. Yes, I guess. I'm not sure what part of the  
16 affidavit -

17 Q. Did you ever do an assessment of his ability  
18 to understand instruction communicated  
19 through sign?

20 A. No. Through sign? I mean, if I would ask  
21 him to do something specifically, a student  
22 assistant would sign, and then if he could  
23 comply to what she was signing, or complying  
24 to what we're asking, or verbally.

25 Q. It was just interesting I thought, and I

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1 wonder about your view on it, that given  
2 that it had been determined that Carter was  
3 going to be, you know, learning through ASL,  
4 that was going to be his first language,  
5 that's how he was going to learn, that  
6 you're evaluating him at that point based on  
7 a spoken instruction that's not signed.  
8 That's because your only real ability  
9 evaluate Carter was based on his response to  
10 spoken instructions, wasn't it?

11 A. To me, yes. So, for assessment I would ask  
12 a question, or pose a question, to Carter.  
13 His student assistant would sign, support,  
14 that question, as best we could, and we  
15 would wait a response and judge the rest of  
16 our assessment based on his response.

17 Q. Sorry, the reason I'm taking a little while  
18 is because I don't want to repeat questions  
19 that I've already asked you.

20 A. Take your time.

21 Q. I'm going to start asking you some questions  
22 about report cards and evaluations for  
23 Carter.

24 A. Sure.

25 Q. Your comments on Carter's term one comments

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1 included statements like this, and I don't  
2 need to point them to you, I'm just kind of  
3 giving you examples of phrases that you  
4 would use because I have some questions  
5 about those types of phrases.

6 A. Sure.

7 Q. You would say things like, "Due to his  
8 limited communicative abilities," or you  
9 would say, "He has vocabulary limitations  
10 and understanding." You'd say, "He can't  
11 explain, even with accommodations he has  
12 difficulty," and you talk about when you  
13 were speaking with Carter he had a limited  
14 response. Again, I'm not so concerned with  
15 the content as I am with the  
16 characterization.

17 ADJUDICATOR:

18 Q. Where are you looking, Mr. Rees?

19 MR. REES:

20 Q. I just sort of got a summary of comments  
21 that he had on his term one report card,  
22 sorry, his term one Kindergarten report  
23 card.

24 ADJUDICATOR:

25 Q. In Tab 2?

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1 MR. REES:

2 Q. So, if you see at Tab 3--we're going to talk  
3 a little bit about that. Tab 3 is a bunch  
4 of comments that you emailed to Aubrey Dawe,  
5 and we're going to talk about the  
6 circumstances of the creation of that  
7 document in a little while, but throughout  
8 there there's a lot of--there's kinds of  
9 challenges that I've described to you  
10 already. The point I'm trying to make here,  
11 and I'm going to go into the specifics  
12 later, is that, you know, I think it's fair  
13 to say you've identified that Carter faces a  
14 number of challenges and difficulties in the  
15 classroom, right. That's a fair  
16 characterization?

17 A. Sure.

18 Q. Did you recommend any more help for Carter?

19 A. Did I recommend any more?

20 Q. Yes. Did you say--as a result of all of  
21 these, you know, these areas in which Carter  
22 is not succeeding--I hesitate to say  
23 failing, but not succeeding. You know,  
24 Carter needs more support in different  
25 areas. Carter needs these kinds of--did you



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- 1           ever make recommendations like that?
- 2           A.    That wouldn't be something that would on
- 3           like a report card.
- 4           Q.    Okay.  Independent of a report card, did you
- 5           make those kinds of recommendations?
- 6           A.    In the meetings that occurred I don't know
- 7           if I necessarily said he needs more support
- 8           in this area, or whatever, but as a group we
- 9           would come together and discuss how things
- 10          were progressing, and how we could problem
- 11          solve, or how we could help as best we
- 12          could.  You know, what else we needed--so,
- 13          it was all during those meetings, I suppose,
- 14          but it wouldn't be on a report card about
- 15          necessarily what--is that what you're asking
- 16          me, what personnel -
- 17          Q.    Yes.
- 18          A.    I wouldn't indicate on a report card what
- 19          personnel was need.
- 20          Q.    Or that like additional support?  Even
- 21          without coming up with the specifics, you
- 22          would never say he needs better support, he
- 23          needs more resources?  That wouldn't be the
- 24          kind of thing you would say?
- 25          A.    I've never done that on a report card.  I've

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- 1 never seen that on a report card.
- 2 Q. Did you do that anywhere else besides in a  
3 report card?
- 4 A. Again, it would have come up at meetings  
5 that we would have as a group, but not -
- 6 Q. It would come up at meetings raised by you  
7 or by other people?
- 8 A. I wasn't in charge of any of those--the  
9 meetings. I'm not sure what you're -
- 10 Q. You said like the fact that you he would  
11 need additional supports, or additional  
12 resources, would come up at meetings, and my  
13 question is did you raise them?
- 14 A. Regarding his support and things like that,  
15 it would come up at the meetings held that  
16 would contain, you know, myself, the IRT,  
17 the administration, the guidance, District.  
18 Tina Halleran would be there, or they would  
19 be at the meetings as well.
- 20 Q. These are the ISSP meetings?
- 21 A. Yes.
- 22 Q. Right. At any of those meetings did you  
23 raise that Carter needed additional supports  
24 or resources in order to succeed?
- 25 A. I can't recall.

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- 1 Q. Okay. Did others?
- 2 A. I can't recall exactly what happened in the  
3 meetings. Like I said, I'm sorry, I can't.
- 4 Q. I want to talk to you about two of the  
5 documents you've attached to your affidavit.  
6 So, there's a document at Tab 2, and there's  
7 a document at Tab 3. There's a clearer--  
8 just for the purposes of the Commission--I  
9 mean, I think we can read Tab 3 fairly well,  
10 but in the event that we can't, it's in our  
11 List of Documents in Volume 4, Tab B, but I  
12 think the one on your affidavit is legible  
13 enough for our purposes here today. So, Tab  
14 2 is Carter's report card, right -
- 15 A. Yes.
- 16 Q. - and it includes the comments of term one,  
17 term two, term three, on the last couple of  
18 pages, right?
- 19 A. Yes.
- 20 Q. I'm familiar with these kinds of report  
21 cards.
- 22 A. Pardon?
- 23 Q. I said I'm familiar with these report cards.  
24 I got a child going to grade two. So, I  
25 know that there's, you know, the number

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- 1 grades that are given in different places,  
2 but they're more--I would suggest, even more  
3 important than the number grades is the  
4 comments that get made in these boxes at the  
5 end of the report card, right?
- 6 A. Sure.
- 7 Q. So, do you write these--like, unlike the  
8 numerical grades, which, you know, you got  
9 an option of numbers one through five, I  
10 think.
- 11 A. Four. I'm not sure if it was five or four  
12 at this time. There were changes.
- 13 Q. Okay. So, you put the numerical grade on  
14 these ones. Do you like sort of custom  
15 write a blurb for each kid in your class?
- 16 A. There's no bank of anything that we pull  
17 from. I know when they get in junior high  
18 you can--it's a selected thing, but, yeah,  
19 we basically have to kind of generate our  
20 own.
- 21 Q. Yes. I notice--I remember junior high and  
22 finding a lot of the same comments from all  
23 different teachers, phrased the same way.  
24 Kyle needs to learn how to wait his turn to  
25 talk. Carter though--I notice at Tab 3 you

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1           have an email to Aubrey Dawe, who's the  
2           principal, right, at the time, your  
3           administrator, your boss, right -

4           A.   He was, yes.

5           Q.   And you email him, and you say, "Hey,  
6           Aubrey, here are my comments. Let me know  
7           if there's anything I have to change.  
8           Carter's comments are long. I just wanted  
9           to get as much out as I could. Any advice  
10          would be appreciated." Then there's this,  
11          you know, longer document attached there,  
12          and I'll ask you some specifics about it,  
13          which obviously is a lot lengthier, a lot  
14          more detailed, and, you know, we would  
15          suggest a lot more accurate, than the  
16          documents that show up in the box of term  
17          three on the actual report card. Explain to  
18          me first why you sent the comments to Aubrey  
19          Dawe for review. Is that something you do  
20          for every student?

21          A.   Every school I've been in the comments are  
22          usually sent to the administrator before  
23          report cards are issued for them to review,  
24          and that's the case, not only with Beachy  
25          Cove, but every school.

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- 1 Q. So, this document that was attached to the  
2 report card, this email that we see here,  
3 would have included your comments for every  
4 child in the class, is that right, all in  
5 one document, or is this just Carter?
- 6 A. Probably. I'm not exactly sure. Every  
7 school is different, so I'm not exactly sure  
8 how--I can't remember how it was done at -
- 9 Q. Well, just look at the first page of Tab 3,  
10 which is your email to Aubrey Dawe. See if  
11 that helps your memory at all.
- 12 A. So, are you asking me about this document,  
13 where does it come from, or -
- 14 Q. So, this email, you see attachments down  
15 there, termone2016/2017shaneporter.docx,  
16 27.3 kilobytes.
- 17 A. Yeah, I may have mislabelled it. I'm not  
18 sure if this is--so, this document  
19 specifically--I think what this was, and  
20 again, it was awhile back, but I think what  
21 this was is I was attempting to just get out  
22 all my thoughts in any way, shape, or form.  
23 To my knowledge, I had a report card--  
24 certain amount of characters to represent on  
25 a report card, and I just wanted to get

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1 everything out that I could.

2 Q. Hold on. Just before you go there, because  
3 I think all of what you're saying is very  
4 important. We're going to talk about it.  
5 The email that you sent to Aubrey Dawe, the  
6 attachment that's referenced here, would  
7 that have just been the document that  
8 follows, which is the draft comments for  
9 Carter, or would this have actually been a  
10 larger document that had every comment for  
11 every student?

12 A. I think what happened might have been I  
13 might have just mislabelled it as I sent it  
14 to Aubrey, but, yeah, there was a large  
15 document for everyone. Was there a  
16 document--are you asking if there's a  
17 document this large for every student?

18 Q. No. I will ask that.

19 A. But are you--I'm just not sure.

20 Q. Is this--the attachment that's indicated on  
21 this email that's sent to Aubrey Dawe, is it  
22 the document that we see following through  
23 here, or would it have been a larger  
24 document?

25 A. I think it's this document, but I think it

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1           may have been mislabelled. So, I may have  
2           sent Aubrey all of my comments for all of my  
3           students to reference, and to refer to, to  
4           look through, to edit, to review, but I  
5           think this is something separate because  
6           again, like I said, I wanted to get out all  
7           of my ideas and try and indicate--on the  
8           report cards we only have, I believe it's  
9           1,500 characters in those boxes. So, get  
10          all of my ideas out to kind of pull together  
11          what I wanted to say. So, something like  
12          this might have been something I -

13          Q. So, the comments for Carter were an  
14          exception to the rest? They were a lot  
15          longer?

16          A. Sure. There were -

17          Q. A lot more -

18          A. Yes.

19          Q. Why was that?

20          A. Because there were a lot of things that--not  
21          to say that his was different. Like for  
22          example, I know in the past I've had  
23          students who have done something similar  
24          with--who have other challenges and other--  
25          we wanted to make sure we were thorough. I



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1 wanted to make sure I was thorough and said  
2 everything that I could say. So, this was  
3 for Carter because I wanted to make sure  
4 that I said everything I could say, and got  
5 everything out, and I just wanted to express  
6 everything and then kind of figure out what  
7 I could say in 1,500 characters.

8 Q. Tell me about the 1,500 character limit.  
9 Are you--I mean, is that limit absolute? I  
10 know the software and the document itself  
11 limits you to that, but if you wanted to  
12 have an addendum, could you have an addendum  
13 with more comments?

14 A. I have no idea. I have never seen or heard  
15 of anyone ever having anything -

16 Q. Did you ask him? And you did a lot of work  
17 putting these comments together here.

18 A. No one ever told me about that. I was told  
19 I had 1,500 characters that were on the  
20 report card. I didn't know there was any  
21 other way to do it besides that.

22 Q. So, when you went in to sit down to write up  
23 this three and half page document, you know,  
24 which by my estimation, 10,000 characters or  
25 so, for Carter Churchill, you knew at the

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1           time you were going to be limited and, you  
2           know, 90 percent of it was going to have to  
3           be cut?

4           A.    Right.

5           Q.    Why did you write all of it?  That's a waste  
6           of time.

7           A.    I just wanted to get out everything I could  
8           think of, to say everything I could think  
9           of, to put it down, I suppose.

10          Q.    And even though you knew the Churchill's  
11          weren't going to presumably see the  
12          document, you wanted to make sure Aubrey  
13          Dawe saw it?  Is that -

14          A.    No, it's got nothing to do with Aubrey Dawe  
15          seeing it.  I just wanted to get everything  
16          out.  I could have--and I'm not saying that  
17          I did this or didn't do this, because it's  
18          five years ago again, but this would have  
19          been a great reference for me for  
20          parent/teacher interviews just for things  
21          that we could talk about here.

22          Q.    Did you ever provide this document to the  
23          Churchill's?

24          A.    No.

25          Q.    We had to get it through the disclosure

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1 process. So, you didn't give it to the  
2 Churchill's? Why not?

3 A. It was my own kind of just expression of  
4 ideas, and again, I believe we had a  
5 parent/teacher conference where a lot of  
6 this stuff would have been--I would have  
7 attempted to have a conference and discuss  
8 as much of this as possible.

9 Q. Why not give it to them?

10 A. That just wasn't the practice. Yeah, I  
11 never done anything like that before. Not  
12 to say that--and I may have produced this  
13 for several children over my career, but I  
14 never--I had never said, hey, take a look at  
15 my notes.

16 Q. Have you ever for another child written a to  
17 be edited report that was this long?

18 A. I don't know if it was this long in length,  
19 but I know I prepared other things for other  
20 students that I've had IRT's or  
21 administration, guidance, just to make sure  
22 that I was expressing myself appropriate, or  
23 trying to express my ideas, or whatever I  
24 was trying to say, appropriately.

25 Q. Well, tell me about the process then on what

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- 1 happens from when you send this two and a  
2 half, sorry, three and a half page email to  
3 Aubrey Dawe, and then it gets turned into  
4 what we see on the last page of Tab 2.
- 5 A. I guess -
- 6 Q. How does that happen? How does Tab 3 become  
7 Tab 2?
- 8 A. I think I would have taken what I thought I  
9 could express in the 1,500 characters and  
10 expressed it in the 1,500 characters, and  
11 then I would have tried to express  
12 everything else during the parent/teacher  
13 conference.
- 14 Q. So, you did it?
- 15 A. I did it.
- 16 Q. Sorry, I was under the impression Aubrey  
17 Dawe had done that.
- 18 A. Aubrey Dawe had done what?
- 19 Q. Had taken your three and a half page  
20 document and turned it into Tab 2.
- 21 A. No.
- 22 Q. You made the edits and changes to distil it  
23 down to the -
- 24 A. Yeah. Once I knew that what I was saying--  
25 and then again, I would have resent it in

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- 1 the comments with everybody else's. This  
2 is--I'm not sure of the date of this, but  
3 this was before the report cards were  
4 issued. So, I was kind of sending this to  
5 say, hey, these are the things that I think  
6 I could talk about, or I might talk about.  
7 If there's anything else that you think I  
8 need to include, and then it came back, and  
9 then I would have -
- 10 Q. Came back?
- 11 A. Assembled--assembled this 1,500 character  
12 report card, and then like I would have  
13 tried to talk to the Churchill's about  
14 whatever wasn't on the report card.
- 15 Q. What did Aubrey Dawe say back to you?
- 16 A. I have no recollection.
- 17 Q. No idea? But that helped informed the way  
18 in which you wrote the comments in the  
19 report card?
- 20 A. Pardon?
- 21 Q. What Aubrey Dawe had to say in reaction to  
22 your three and a half page journaling,  
23 because it never gets produced--Aubrey  
24 Dawe's comments on your longer document  
25 helped you determine what you should put

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1                   into the shorter document?

2   ADJUDICATOR:

3           Q.   Mr. Rees, do we know that Aubrey Dawe  
4                   provided comments?

5   MR. REES:

6           Q.   He just indicated.

7   ADJUDICATOR:

8           Q.   We do know?

9   MR. REES:

10          Q.   Aubrey Dawe did--Aubrey emailed you back,  
11                   right, after you -

12          A.   I have no idea. Is there an email?

13          Q.   I thought you said he did, I'm sorry.

14          A.   No, I have no idea if there's an email, if  
15                   there's a correspondence, if this was a  
16                   communication. All I know is I just--these  
17                   were the ideas and things I thought I might  
18                   put on the report card, things I could talk  
19                   about, and I sent them to Aubrey so that he  
20                   can kind of look them over and tell me if  
21                   anything was, I guess, off-colour, or not -

22          Q.   That's my question.

23   ADJUDICATOR:

24          Q.   I want to make sure I understand your  
25                   evidence on these documents. So, the

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1 document at Tab 4 which you have emailed to  
2 Aubrey Dawe -

3 MR. REES:

4 Q. Tab 3.

5 ADJUDICATOR:

6 Q. Sorry, Tab 3. Your email says, "Here are my  
7 comments. Let me know if there's anything I  
8 have to change. Carter's comments are long.  
9 I just wanted to get out as much as I could.  
10 Any advice would be appreciated," and  
11 there's a document attached. Is the  
12 document that's attached, do you think this  
13 is the whole document, or do you think that  
14 there would have been more for other  
15 children?

16 A. No. So, what I think this is is there's  
17 more for other children. So, this might  
18 have been just Carter's that I sent to  
19 Aubrey. It might have just been mislabelled  
20 term one, whatnot. I send these comments to  
21 Aubrey because I was trying to do Carter's,  
22 and it was difficult to express everything  
23 in 1,500 characters. So, these were things  
24 I just said to him to say, I guess--and  
25 again, this is five years ago. My

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1           recollection is not exact, but these are  
2           things I would have sent to him and said, is  
3           this okay if this appears on the report  
4           card. Then I would have sent the entire,  
5           Carter included, class document to Aubrey.  
6           I don't know that's there as well, I'm not  
7           sure, to say here's Johnny, here's Billy,  
8           here's Susie, here's Carter, here's--and so  
9           on and so forth, and then that would have  
10          been like--I have a difficult time in  
11          writing past tense, future tense, all the  
12          time, so I know that's something that has  
13          been changed in the past on my report cards.

14          Q. So, as you're sitting here today, do your  
15          recall receiving feedback on this document  
16          from -

17          A. No, I don't recall receiving specifics, but  
18          I don't remember Aubrey coming to me and  
19          saying, hey, you need to say this, you need  
20          to say that. I don't remember. I'll be  
21          honest with you, when I received this  
22          document in the beginning I didn't remember  
23          this document. I had to think about this  
24          for awhile before I came up where this came  
25          from, and it was basically myself just



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1           saying these are all my ideas. This is what  
2           I'd like to say, or these are things I can  
3           say. If anything looks not right, or  
4           inappropriate, or wrong, or it doesn't jive,  
5           let me know. If you have any additional  
6           comments, or anything, any suggestions--I  
7           would have probably also gone over his  
8           report card. You know, I wanted to make  
9           sure I said it appropriately. Because of  
10          the 1,500 characters, I wanted to try and  
11          say whatever I could.

12          Q. Do you recall receiving feedback on your  
13          report card comments generally? Not  
14          specifically to Carter, but do recall  
15          receiving feedback from Aubrey Dawe on any  
16          of your report cards?

17          A. I can't recall like something specific, like  
18          a specific, you need to change this, or this  
19          doesn't make sense. I don't recall that, I  
20          don't. Like it was--and again, Carter's  
21          class jumbles together with other classes at  
22          that time. I've worked with Aubrey before.  
23          Two years there means six sets of report  
24          cards, plus, I think, maybe one more. So,  
25          I'm not--I don't necessarily recall a

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1           specific feedback from Aubrey saying do  
2           this, do that, or don't do this, or don't do  
3           that. I don't recall that.

4           Q. Do you recall ever receiving feedback from  
5           Aubrey Dawe on your report card comments?

6           A. When it pertains to -

7           Q. Ever. Do you recall ever receiving feedback  
8           back?

9           A. I don't think he ever said to me you can't  
10          say this, or you shouldn't say this.  
11          Possibly it might have been in an edit.  
12          Like I said earlier, I struggle with writing  
13          in the future and the past tense, or it  
14          could have been I had two periods instead of  
15          one period, or a comma where it didn't  
16          belong, those types of edits. I recall  
17          receiving those edits, but I don't recall a  
18          specific you need to change this, or you  
19          need to add this in. I don't think so.

20          Q. Okay. Sorry. Go ahead, Mr. Rees.

21   MR. REES:

22          Q. And what was the point in sending Tab 3 to  
23          Aubrey Dawe?

24          A. To make sure that everything was--instead of  
25          the word--I didn't say the wrong word, like

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- 1 I didn't say explain instead of express, or-
- 2 -when I was writing this, I mean, it's
- 3 nighttime work. You're at home. It's after
- 4 school. You're done your day at work and
- 5 you're doing this. I just wanted to make
- 6 sure I didn't have any mistakes over -
- 7 Q. Yes, but you weren't giving Tab 3 to
- 8 anybody. You indicated you wouldn't, you
- 9 know, ever give this to somebody at -
- 10 A. Tab 3 was where--that's where I generated my
- 11 comment on the report card, wasn't it?
- 12 Q. Yes. So, why not--so, why send Tab 3 to
- 13 Aubrey Dawe? Why not write Tab 3 for
- 14 yourself, and then send Aubrey Dawe your
- 15 draft of Tab 2 when you've reduced it down
- 16 to your 1,500 characters?
- 17 A. I just wanted to make sure that I spoke
- 18 about everything that we thought that we
- 19 needed to talk about, or there was an area
- 20 that maybe I wasn't thinking about
- 21 discussing, or I didn't think about
- 22 discussing, that maybe he had thought maybe
- 23 I needed to change or edit, I guess.
- 24 Q. I put it to you that there are two possible
- 25 reasons why you would have sent Tab 3 to

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1           Aubrey Dawe, and let me know if it's either  
2           of these or if it's something else, because  
3           I'm having a really hard time understanding  
4           why you would do that. Either you wanted  
5           Aubrey Dawe to do the edits for you and tell  
6           you what to say and not say, which I think  
7           you said is not the case, right?

8           A. No.

9           Q. Or it's because you wanted Aubrey Dawe to be  
10          aware of the challenges that Carter  
11          Churchill was facing.

12          A. I wanted--I sent these all to Aubrey because  
13          I wanted him to know where my comments were  
14          coming from. If he thought, for example,  
15          maybe something was more important, or  
16          something needed to be on the report card,  
17          definitely should be there, then I wanted to  
18          give him the opportunity to sift through  
19          that and look through that with me  
20          professionally to say, you know, I think we  
21          really need to say, or this really needs to  
22          be said versus this comment; maybe not  
23          comment about that, so we need to comment  
24          about why, but that would have been why I  
25          would have sent that. I just tried to again

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1           get everything out so that I could take the  
2           best things to indicate on his report card.  
3           I wanted him to go through for spelling, and  
4           check all errors, and my mistakes, so that I  
5           could jus take it and put it in, that's all.

6           Q.   And in your recollection he never provided  
7           you with any of those comments?  You don't  
8           know?

9           A.   Pardon?

10          Q.   To your recollection Aubrey Dawe never did  
11          provide you with any of those comments?

12          A.   He never gave me don't say this.  He never  
13          sent me you need to include X, Y, Z; this  
14          sentence I'm giving you, make sure that it's  
15          in there, not to the best of my  
16          recollection, no.  It would have been again,  
17          you know, we need to talk about this, or I  
18          think this is something that needs to be  
19          there versus I think this is--we don't  
20          really need to necessarily include that one,  
21          because my concern was I had so much to say,  
22          1,500 characters, I just wanted to make sure  
23          that I said as best I could.  I was limited,  
24          or at least I felt like I was limited of  
25          1,500 characters.  Again, I know I could

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1 talk during the parent/teacher conferences,  
2 but the report card would go to the next  
3 teacher, and next teacher, so I just wanted  
4 them to be able to look back and say, okay,  
5 this was highlighted and whatnot.

6 Q. Hold on. Did Tab 3 ever get provided to  
7 future teachers or just Tab 2?

8 A. I have no idea if it was provided.

9 Q. Well, you wrote it. I mean--so, okay, you  
10 didn't provide it is what you're saying?

11 A. I didn't provide it. I don't think I  
12 provided it. I don't know if I provided it.

13 Q. Does it get--and I don't really understand  
14 how like the School District technology  
15 system works. You know, I understand report  
16 cards get stored electronically in some way  
17 so that a future teacher could look at the  
18 report card.

19 A. Not electronically.

20 Q. Oh, it would have to be in paper?

21 A. To the best of my knowledge, things like  
22 that would go into--his report card would be  
23 photocopied, and it would go into his file,  
24 cume file, and then that would stay at the  
25 school until he was done at the school, and

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- 1           then it would go to the next school.
- 2           Q.    So, Tab 2 would have been in Carter's file
- 3           for a future teacher to review?
- 4           A.    Tab 2 is the--sorry.
- 5           Q.    Is the report card.
- 6           A.    The report card would have been for future
- 7           teachers, yes.
- 8           Q.    Okay, but Tab 3, to your knowledge, would
- 9           not have formed part of that?
- 10          A.    I don't know if that was told to me to be
- 11          included.  If somebody told me that I needed
- 12          to include it, I would have included it.
- 13          Like you referred to it as journaling, then
- 14          maybe it wouldn't have been included because
- 15          it wasn't--but again, if someone told I
- 16          needed to include it, I included it; if not,
- 17          I didn't.
- 18          Q.    Okay.  I have one question for you about the
- 19          content of Tab 3.  So, it's the second page.
- 20          It's identified as page 46 on the document
- 21          itself.
- 22          A.    Pardon?  I can't see the numbers.
- 23          Q.    Tab 3.
- 24          A.    They all look like page 46.
- 25          Q.    So, Tab 3.

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- 1 A. Okay. Hold on.
- 2 Q. And flip to the third page of Tab 3.
- 3 A. So, after the email, after the first page?
- 4 Q. Yes.
- 5 A. I think I'm on page 46 you said?
- 6 Q. Yes. The very top of the page says, "Trying  
7 to Say. This is difficult." Turn over one  
8 more page. "Trying to say. This is  
9 difficult as my responses are meant to be  
10 reflective in nature and we cannot predict  
11 what he would like to say."
- 12 A. I'm having difficulty following where you  
13 are.
- 14 Q. Your copy is just--you can't see the numbers  
15 on top of your page?
- 16 A. So, Tab 3, then there's the email.
- 17 Q. Yes.
- 18 A. Then it says, "Carter Churchill" at the top  
19 of the next one.
- 20 Q. Flip over; then you're on the right page.
- 21 A. Okay. Here we go.
- 22 Q. So, the first full paragraph on that page  
23 says, "Carter appears to listen respectfully  
24 in classroom discussions. It's difficult to  
25 assess how much he retains as his output and



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1 expressive language is so limited. He does  
2 remain quiet and generally attentive when  
3 listening as part of a group. When  
4 listening one-on-one he often needs visual  
5 reminders to look at a specific target.  
6 When assessing Carter, the IRT will often  
7 speak directly into his ear while the  
8 classroom teacher speaks to his face." Is  
9 that an accurate description as far as you  
10 recall, the section about the -

11 A. Are you asking me to explain that?

12 Q. Yes, the speaking into the ear, and speak to  
13 the face.

14 A. So, what I meant by ear was there's someone  
15 to his side, and then I was in front.

16 Q. And by in front how close would you be to  
17 Carter?

18 A. This would be too far.

19 Q. Okay.

20 A. Usually it would be a lot of close than  
21 that.

22 Q. Would you be closer than -

23 A. It depends. If it was something that we  
24 were doing one-on-one, small group, we had  
25 small tables, maybe we would be gathered--if

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- 1           it's a group, you know, our morning routine,  
2           we all gathered on the mat, and I gathered  
3           to the side of the images on the board, so  
4           within proximity of each other. Not overly  
5           far, but amongst 17, 18, kids we would all  
6           kind of come up. Sometimes we would come  
7           together with the other classes as well and  
8           do those morning routines together.
- 9           Q. I mean, you wouldn't be what I think of as  
10          like classroom distance, you know, at the  
11          chalkboard versus a student sat at the desk?  
12          You'd be closer than that?
- 13          A. Relatively close.
- 14          Q. The IRT is Raven Williams, right?
- 15          A. Yes. Yes, I believe that was his -
- 16          Q. So, you would talk directly into Carter's  
17          face?
- 18          A. Well, not -
- 19          Q. How close would you be? Help me out.
- 20          A. Not like this. I would speak to Carter  
21          across a table, or -
- 22          Q. Two or three feet away?
- 23          A. Sure.
- 24          Q. Four or five feet?
- 25          A. Like sitting down like you would have a

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1 conversation with somebody at a table or in  
2 group.

3 Q. So, simultaneously while you're speaking to  
4 communicate some idea, Raven Williams is at  
5 the same time up to Carter's left ear or  
6 right ear, up to one of his sides, and she's  
7 speaking directly into his ear, right?

8 A. She would sit beside him. So, for example,  
9 my memory of this is the morning routine.  
10 So, Sunday, Monday, Tuesday, Wednesday, just  
11 singing a song, so as a group, and all the  
12 kids are singing along to this; so, my  
13 recollection is she would sit next to him  
14 and she would be singing Sunday, Monday, or  
15 mimicking and saying Monday, Tuesday, one,  
16 two, and--and she would just sit next to him  
17 and repeat those things.

18 Q. Your report card says that while you were  
19 assessing Carter, not, you know -

20 A. During assessment. So, for example, during  
21 assessment -

22 Q. What's an assessment versus Monday, Tuesday,  
23 Wednesday, Thursday, the song?

24 A. Well, like that would be like a morning  
25 routine, so that would be more of an

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1 instruction versus when we're assessing  
2 individual outcomes or -

3 Q. Okay. So, you would still use this  
4 technique during assessments as well as  
5 during morning song?

6 A. This was something that was suggested to us.  
7 To the best of my recollection, this was  
8 something that was suggested. I can't say  
9 by whom, I don't recall who it was suggested  
10 by, for us to try. I don't know who  
11 suggested it.

12 Q. Are you sure you can't recall? That's  
13 pretty important who suggested that.

14 A. I can't recall. I don't know if it was at a  
15 large meeting. I don't know if it was in  
16 the hallway. I don't know if it was--I  
17 cannot remember.

18 Q. It's not something you invented yourself, I  
19 guess, is your point?

20 A. No. What I'm trying to say is that someone  
21 suggested, try this, and at that point in  
22 the year, or at this point, we're trying to  
23 do everything we can to help. So, we're  
24 doing any options, or any suggestions. I  
25 know we did this. This is not something

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1           that lasted very long. This was a day--this  
2           wasn't how we assessed all day, every day,  
3           September to June.

4                    I know this was something that  
5           happened, and it didn't last very long  
6           because we felt it didn't yield any result,  
7           or any different result from what we were  
8           already getting. So, we were trying  
9           different things, a different situation  
10          obviously. We were doing everything we  
11          could to try and help. Again, I don't know  
12          who suggested it.

13                   We tried it because we were trying to  
14          figure out--we didn't know. We were trying  
15          to figure out if that would be something  
16          that would work. If it didn't work, then we  
17          moved on. Let's try something different.  
18          Let's move onto the pictures. Okay, that  
19          didn't work. All right, let's try--like we  
20          were trying anything we could think of,  
21          anything that was being suggested to us,  
22          because we were just trying to figure out  
23          what would work for him, and somebody  
24          suggested this. We tried it. I indicated  
25          it in this document because I wanted to

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1           indicate everything that we were doing,  
2           everything that we had tried, everything  
3           that we had gone through, and I didn't know  
4           if that was something I was going to put on  
5           the report card, if it wasn't something I  
6           was going to, if it was just a footnote. It  
7           was everything I could think of about  
8           Carter.

9                     This document was everything during the  
10           first term, I believe, everything I could  
11           think about, everything I could get out,  
12           everything I could think, and it was  
13           something that we tried. So, I indicated it  
14           in the document because we tried it, but  
15           when it came to the report card, I didn't  
16           include it on the report card, because it  
17           wasn't something that yielded results. I  
18           don't know if that answers the question.

19           Q.    So, you say to Carter it's time to pick up  
20           the red ball, and Raven Williams is in  
21           Carter's ear saying, it's time to pick up  
22           the red ball.

23           A.    I don't think she did that.

24           Q.    Okay, but she's close to his ear?

25           A.    She was just on his side of the table closer

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1           to him and say can you pick up the red ball,  
2           if that was what the assessment was.

3           Q.   Why not have that signed to Carter?  Why do  
4           it that way?

5           A.   Again, we did an assessment with signing.  
6           We were trying everything we could.  I can't  
7           recall, you know, how long it lasted, how  
8           long we did that.  We were just trying  
9           everything that we could.  If that would  
10          have yielded positive results, then okay,  
11          this works, then that's--we would have went  
12          down that way until if there was another  
13          snag, and we would have tried to problem  
14          solve that.  This was something that someone  
15          suggested in some meeting that we tried.  It  
16          didn't work.

17                 I indicated it in this big document  
18                 because I was trying to be thorough and say  
19                 everything that I could think of to get all  
20                 my thoughts out.  It didn't last, therefore  
21                 it didn't really appear on the report card  
22                 as something that we had--that it was a  
23                 working--that it yielded results that we  
24                 wanted.  So, again, that's--did Carter  
25                 receive an assessment with someone signing?

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- 1 Yes.
- 2 Q. You say that someone told you to do this.
- 3 This was an object of your own creation.
- 4 You don't remember who told you. That would
- 5 be important.
- 6 A. I can't remember like if it was in--I don't
- 7 know if it was in--I don't know if it was in
- 8 a meeting. I don't know if it was in--I
- 9 can't recall who would have suggested that.
- 10 I don't know if--I cannot recall. I don't
- 11 know if it was -
- 12 Q. Presumably, because you wouldn't have done
- 13 it otherwise, you had no knowledge of in the
- 14 deaf community it's considered very
- 15 inappropriate -
- 16 A. No.
- 17 Q. - speaking in a deaf person's ear like that,
- 18 because if you did, you wouldn't have done
- 19 it, right?
- 20 A. Right. I'm not--like I was trying to be as
- 21 respectful as I could, but I was trying to
- 22 just--helping, do things as many ways as we
- 23 can. I would have done anything I could
- 24 have. If somebody had suggested something
- 25 to me to try, I would have tried it, because



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1           we wanted the best. We were just trying  
2           anything we could.

3           Q. And you had no--again, to reiterate, the  
4           District had offered you no training in deaf  
5           culture, deaf sensitivity, or anything like  
6           that, that would help you understand that  
7           that wasn't appropriate?

8           A. No.

9           Q. And if they had offered it you would have  
10          done it?

11          A. I believe so.

12          Q. Did Aubrey Dawe ever tell you that practice  
13          was inappropriate?

14          A. No, not to the best of my knowledge, no.

15          Q. Were misunderstandings with Carter Churchill  
16          common, where he would sign something to his  
17          interpreter, who would interpret something,  
18          and you'd sort of misunderstand something?  
19          Was that the kind of thing that happened?

20          A. Possibly.

21          Q. Possibly?

22          A. Again, I'm not ASL trained.

23          Q. No, but, I mean, subsequently did you  
24          discover that, oh, we misunderstood. We  
25          thought it was this, but it was -

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- 1           A.    Yeah, I'm sure there were moments when his  
2                    parents may have indicated I think this is  
3                    what he meant.
- 4           Q.    Do you recall--I believe this shows up in  
5                    Kim Churchill's affidavit. Do you recall a  
6                    misunderstanding, it as a fairly serious  
7                    one, where you and the ASL interpreter, you  
8                    know, had believed that Carter was signing  
9                    that his father had hurt him in the groin.  
10                  Do you recall that incident?
- 11          A.    No, I don't.
- 12          Q.    You don't recall that?
- 13          A.    I do not recall that at all.
- 14          Q.    And then it turns out that what he was  
15                    signing was that his dad had fixed a hurt on  
16                    his thigh, which was a band-aid. You don't  
17                    recall that?
- 18          A.    I think what I recall was the student  
19                    assistant took him to the washroom. She  
20                    referred to me that he keeps signing his  
21                    groin hurt, and then I relayed that home.  
22                    There was never a thought of dad hurting  
23                    anybody, never.
- 24          Q.    Okay.
- 25          A.    Never. I was attempting to relay the

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1 information that was passed to me that I  
2 wanted to relay home, that he had a hurt  
3 part of his body.

4 Q. So, that's not your recollection, the one  
5 that I had put to you?

6 A. No. I might be paraphrasing. That his  
7 father had hurt him, is that what you're  
8 saying?

9 Q. Yes.

10 A. No, no, I don't think so. If there was a  
11 misunderstanding there, possibly it was at  
12 my level with the parents, that they might  
13 have misunderstood me, but I did not for one  
14 second think that he was hurt by dad, or  
15 anything like that. It was someone--the  
16 student assistant had indicated to me that  
17 he was signing groin, or that area hurt.  
18 So, I was just attempting to let them know  
19 he had a hurt area, just like you would  
20 anybody else. I was just trying to relay  
21 that information home.

22 Q. The last couple of questions for you. I'm  
23 aware that I'm closer to an hour and a half  
24 than an hour.

25 A. Sure.

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1 Q. I do have two hours booked however, so--the  
2 2016/2017 school year comes to an end.  
3 Carter has received his report cards with  
4 the comments on them, like we've seen at Tab  
5 2. The Churchill's had, you know, a meeting  
6 with you. You indicated part of the reason  
7 you take these notes is for student/parent,  
8 or teacher/parent interviews. So, you would  
9 have had those resources with them. Did the  
10 Churchill's request that you sort of speak  
11 out about the deficiencies that they  
12 believed Carter was experiencing in the  
13 classroom?

14 A. From my recollection, it was during  
15 parent/teacher interviews. The interviews  
16 weren't necessarily comfortable for myself.  
17 I felt very uncomfortable during the  
18 interviews. We were talking, and they  
19 wouldn't really respond a lot, and it wasn't  
20 a conversation as much. It was a very  
21 uncomfortable situation, and correct me if  
22 I'm wrong, are you--my recollection to this  
23 event was they asked, the Churchill's, asked  
24 myself and the IRT who were in the meeting  
25 to sign something for Carter, and both our

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1 responses were no. I believe in my--mine  
2 was no, sorry. I shouldn't put words in -  
3 Q. The Churchill's would say that they sort of  
4 asked you in some way to go on the record  
5 and tell the people who, you know, are in  
6 charge of these things, tell these school  
7 administrators, tell somebody, raise the  
8 concerns that they had about Carter in the  
9 classroom, and that you couldn't or wouldn't  
10 do that.  
11 A. Possibly I didn't choose my words as best I  
12 could in that situation. As I said, it was  
13 a very awkward meeting, and when that came  
14 up, the awkward may have intensified. I  
15 just wanted--no, I was just trying to come  
16 up with an idea of why I could say no and  
17 kind of end the meeting, and kind of stop.  
18 It was--it just was very awkward. So, I  
19 gave a reasoning or a rationale why I  
20 wouldn't sign it, but, no, to me they  
21 brought forward--they said will you sign a  
22 document against the school board, or  
23 against--no, I'm not going to sign anything  
24 outside. In my head I'm thinking I don't  
25 know what you're going to do with it. I

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1 don't know how this is going to change. No,  
2 I'm not going to sign any document that  
3 you're bringing forward right now, and it  
4 was a very awkward conversation, and at that  
5 point it got even more awkward, and I gave  
6 the best reason I could at the time to just  
7 make the conversation kind of stop, or the  
8 line of questioning, I guess, going down  
9 that way because it was just--it was  
10 extremely awkward.

11 Q. What was the excuse you gave, or the  
12 reasoning you gave?

13 A. I told them that I just--I said I was  
14 tenured, I couldn't do it, and that  
15 necessarily wasn't the reason. It was the  
16 best reason I came up with, and that reason  
17 was -

18 Q. What does that mean?

19 A. Sorry. I said no, I didn't want to sign the  
20 document.

21 Q. Right.

22 A. And then they kind of lingered. I said, you  
23 know, no, I can't. I wouldn't sign anything  
24 like that, and I can't sign anything. I'm  
25 not even tenured, I couldn't do that. I'm

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1 not even tenured. Again, that's me choosing  
2 my words poorly. I just wanted to  
3 accentuate--I just wanted to end the  
4 conversation because it was a very awkward  
5 request. Not an awkward request, but it's  
6 asking such an awkward and intimidating--if  
7 felt intimidating. I felt intimidated. I  
8 felt like I was wrong. Everything that I  
9 had done at that point just felt wrong, and  
10 I felt--like when they asked me this, I just  
11 said, I just need this to stop.

12 So, in my mind I chose the most  
13 stopping rationale I could just to stop it.  
14 If I had of known where we were today,  
15 because of that answer, I would have said  
16 no, and just said no, and stood my ground,  
17 and been firm and said no, but it just felt--  
18 -from their side it just felt--I just felt a  
19 lot of pressure and a lot of--I felt very  
20 awkward, and I felt like I just wanted the  
21 situation to stop. So, that was the best at  
22 the time. Probably not the best rationale,  
23 and not necessarily the rationale that I  
24 believe, but the rationale I gave to stop  
25 the conversation.

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1 Q. What was the real rationale?

2 A. I didn't want to sign something that--and  
3 then they could take--I didn't know what  
4 they were going to do with it, and I'm  
5 putting my name on a document that could be  
6 construed--I didn't trust what they would do  
7 with it. I wasn't going to sign something,  
8 and put my name to something, that I wasn't  
9 sure how it was going to be used, or how it  
10 was going to be presented, or how they were  
11 going to present it, or how--I wasn't going  
12 to do that. It just didn't make sense to me  
13 at the time to do that.

14 ADJUDICATOR:

15 Q. Had you seen the document before they  
16 arrived at the parent/teacher interview?

17 A. No. It was at the end of the parent/teacher  
18 conference, which had been a little bit  
19 lengthier, and then I remember, you know, a  
20 stiff in posture, would you sign a document  
21 to support, and feeling very, you know,  
22 intimidated and very--no, no, just no. I  
23 hadn't seen anything. I didn't--I'm not  
24 going to sign something and give them my  
25 name and my support. I didn't know how it



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1           could be used.

2           Q.    Had you read the document?

3           A.    No.  No, I just didn't want them to--I  
4                didn't know what they were--I didn't trust  
5                them is what it came down to.  I didn't know  
6                if this was--I felt like I was fighting for  
7                Carter to the best of my abilities when we  
8                would have meetings, or when we would--you  
9                know, people I would talk to, or things we  
10              would try.  I really thought that I was  
11              doing my best to speak for him, or to try  
12              and do better for him, and to try and get  
13              better for him and try something, and  
14              signing a document--I thought we were doing  
15              all we could as a school, and we were doing  
16              all we could, and maybe it wasn't.  I'm not  
17              sure, but at the time I felt like we were  
18              doing everything we could, and I felt like  
19              them--me signing something that they had  
20              created--I just didn't trust it.  I didn't  
21              trust it at all.  It's not that I didn't,  
22              you know--I just didn't trust it, and it was  
23              a very, very, awkward--very, very awkward  
24              situation that I just wanted to kind of stop  
25              the conversation.  If it was something like

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1 at the beginning of the year, or maybe had  
2 been brought to me tactfully in an  
3 appropriate setting, or appropriate time, or  
4 something like that, but it was just very--I  
5 just found it just odd at that point because  
6 I was--I felt very intimidated. It had been  
7 a long--you know, I just wanted to stop at  
8 that point.

9 MR. REES:

10 Q. A few questions about that. The Churchill's  
11 will say that they didn't ask you to sign a  
12 document, that they asked you if you'd go on  
13 the record, which, I mean, maybe six of one,  
14 half dozen of the other, I suppose, but that  
15 the only reason they had suggested this was  
16 because you had in fact expressed your  
17 opinion to them, which they were happy to  
18 hear, that you felt that Carter deserved a  
19 fulltime deaf teacher. Did you make that  
20 comment?

21 A. I don't remember making that comment. I  
22 mean -

23 Q. Do you believe that?

24 A. Pardon?

25 Q. Do you believe that, that Carter deserved a

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- 1           fulltime deaf teacher?
- 2           A.   That's what they were pushing.  That's what
- 3           they wanted.
- 4           Q.   Did you agree?
- 5           A.   That's what they wanted.
- 6           Q.   Did you agree?
- 7           A.   I thought that Carter needed someone who
- 8           could communicate with him.  I thought that
- 9           I wasn't communicating with him as well as -
- 10          Q.   Absolutely.  Absolutely.  So, you know, the
- 11          beginning of this Kindergarten year, 2016,
- 12          you're assigned a classroom that has a deaf
- 13          child in it, right.
- 14          A.   Um-hm.
- 15          Q.   A deaf child that communicates through ASL,
- 16          not through spoken word, right?  And you
- 17          weren't offered any kind of ASL, to your
- 18          knowledge anyway, any kind of ASL training -
- 19          A.   To my recollection.
- 20          Q.   - or education in deaf culture, or deaf
- 21          manner, even the right terminology to use?
- 22          The School District didn't offer you any of
- 23          those supports?
- 24          A.   To the best of my knowledge.
- 25          Q.   No.  And would you have done it if the

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1 District had offered it for you?

2 A. I feel like I would have.

3 Q. That's, you know, within your philosophy. I  
4 think you've sort of expressed, like, you  
5 know, your degree of caring for students and  
6 things, and that's the kind of thing you  
7 would have done?

8 A. Yes.

9 Q. And you were assigned a student assistant  
10 who was his only conduit to communicate  
11 through the world, who later is ASL tested,  
12 and we've--as I told you today, she couldn't  
13 finger spell her own name. You didn't know  
14 that though.

15 A. I had no idea about her level.

16 Q. And you were expected to rely on her to  
17 communicate curriculum to Carter. That was  
18 the only way Carter could learn, and it  
19 turned out it was through this assistant who  
20 we later find out can't spell her name,  
21 right? And you weren't given any ability or  
22 training by the District to, not only not  
23 communicate with the deaf -

24 MR. PENNEY:

25 Q. You've asked that question about 12 times.

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1 MR. REES:

2 Q. I think it's fairly standard at the end of a  
3 cross-examination to sum up what somebody  
4 said.

5 ADJUDICATOR:

6 Q. Go ahead. Go ahead.

7 MR. REES:

8 Q. It's not my first rodeo. And you had in  
9 addition no ability, or specialized  
10 training, to help you evaluate a deaf child?  
11 You again had to rely on the student  
12 assistant for that?

13 A. And anything else we could come up with.

14 Q. Right. And the child sat in your classroom  
15 for the course of that school year unable to  
16 effectively communicate with his classroom  
17 teacher or his friends, except through that  
18 interpreter, right, that assistant, right?

19 A. I didn't know at the time with the level of-  
20 -I thought he was able to communicate. I  
21 thought with her level of sign I thought she  
22 could communicate with him effectively. I  
23 thought she could communicate.

24 Q. Those are my questions. Thank you.

25 MR. SHANE TYLER PORTER, CROSS-EXAMINATION BY

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1 ADJUDICATOR

2 ADJUDICATOR:

3 Q. I do have a couple of questions that I  
4 wanted to ask you, and some of this may be  
5 going over some ground that's already been  
6 covered. I'm going to try not to take us  
7 into the lunch hour. When Mr. Rees was  
8 asking you whether you were prepared, I  
9 suppose, prepared enough, or whether you  
10 were adequately prepared to teach Carter,  
11 can you give us a sense of--you know, day  
12 one of school is coming up. What was  
13 communicated to you with respect to Carter's  
14 abilities, and what was done to prepare you  
15 to teach Carter in a way that accommodated  
16 his abilities and his circumstances?

17 A. When you say what was done, do you mean by  
18 me or by -

19 Q. Were you given any direction in preparation  
20 for the school year, specifically with  
21 respect to Carter?

22 A. There would have been a meeting that  
23 happened previous. I can't recall if it was  
24 try this, try that, to the level of his sign  
25 language. There would have been a meeting

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1           where they just tried to indicate to me on  
2           what skills he had, what areas were  
3           concerning, or whatnot, but there was -

4           Q.   And that meeting, how long before the start  
5           of school would have that been, and who  
6           would have attended that sort of meeting?

7           A.   I can't tell when before school. We're not  
8           talking months. It was probably a week,  
9           weeks, and again, I would have--I'm assuming  
10          it would have been the guidance counsellor.  
11          I don't recall the exact meeting. I assume  
12          it would have been the IRT. I'm assuming it  
13          would have been administration, as well as  
14          myself, but -

15          Q.   Is this when you would have learned about  
16          the types of supports that were being  
17          provided for Carter, the types of -

18          A.   Yes.

19          Q.   - other professionals who would be in the  
20          classroom?

21          A.   Involved, yeah. So, basically it would have  
22          been said, you know, Carter this, this,  
23          this, this. We're going to have this  
24          individual. He's going to have this  
25          support, and we're going to do this going

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1 forward. So, yeah -

2 Q. So, at that time would it have been  
3 explained to you how often he would have  
4 seen an itinerant teacher for the deaf and  
5 hard of hearing?

6 A. I don't know. I can't say. I can't recall.  
7 I can't recall her schedule. I can't recall  
8 when she started day one. I'm not sure of  
9 that. If there was an itinerant already  
10 established, and it was already--I suppose  
11 that would have been brought up at that  
12 meeting. Like anyone who was involved with  
13 him would have been told to me at that  
14 point.

15 Q. Whether it was at that particular meeting,  
16 and we're not exactly sure when that was,  
17 but in advance of the school year, whether  
18 at that meeting or otherwise, it would have  
19 been communicated to you how often the  
20 itinerant teacher would have been spending  
21 time with Carter?

22 A. Possibly. It might have been what she  
23 established, her schedule, because her  
24 schedule would have--she would have dealt  
25 with more than one student. So, I guess,



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1 her schedule would have been subject to  
2 change based on a number of factors. So,  
3 they couldn't--I don't think before school  
4 someone could say--it's not like a Phys. Ed.  
5 period that's locked in. Like sometimes it  
6 ebbs and flows.

7 Q. Before school started in Kindergarten, would  
8 anybody have had a discussion with you as to  
9 what your role would be versus the role of  
10 the itinerant teacher?

11 A. No. I don't think I would have had too much  
12 to do with that, I don't think so. I think  
13 it would have been more so this is what  
14 we're going to do, this is what we're doing  
15 here, this is what we're working on, and the  
16 itinerant was kind of outside of me. Like,  
17 I didn't -

18 Q. Like the itinerant during the Kindergarten  
19 year, that's Tina Halleran, right?

20 A. Yeah, Tina.

21 Q. So, your work and her work were sort of  
22 separate?

23 A. I shouldn't say that because it connected a  
24 lot because, you know, what are we working  
25 on, what are you--have you found this work?

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1           Have you done this? Let's try this. I was  
2           doing this this morning. Do you want to try  
3           it as well to see if you get a different  
4           result? Maybe I'm not doing it very--can  
5           you come in the classroom and observe.  
6           Like, her role was multi--like it was  
7           separate as in hi, I'm here to get him, see  
8           you later, and I didn't know anything, and  
9           she didn't know anything about me. It  
10          wasn't like that. Like there was more  
11          connectivity than that.

12          Q.    When Ms. Halleran was there as the itinerant  
13          teacher for the deaf and hard of hearing,  
14          was she working with Carter in your  
15          classroom, or would they have left the  
16          classroom to do work?

17          A.    It could have been any, either/or.

18          Q.    Before the school year started, whether it  
19          was at a meeting, or in another form, would  
20          it have been communicated to you who  
21          Carter's student assistant would be?

22          A.    Before the school year? Yeah, I would have  
23          known his student assistant is X, Y, Z.

24          Q.    And who was it when school started?

25          A.    I'm not sure of the name. I want to say

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- 1 Tracey. I'm not sure if it was Tracey.
- 2 Q. And it became Terrilynn?
- 3 A. Yes. Tracey left.
- 4 Q. Would it have been communicated to you what  
5 services they would be providing to Carter?
- 6 A. Just that they are--they can communicate in  
7 ASL, or they have ASL. They can communicate  
8 in ASL.
- 9 Q. So, you would have been told that a student  
10 assistant is able to communicate with Carter  
11 via ASL?
- 12 A. Yeah, like that was my understanding; that  
13 she could communicate in ASL.
- 14 Q. And before school started was it discussed,  
15 or were you encouraged, did you have any  
16 guidance, we to how the student assistant  
17 might be involved in your teaching of  
18 Carter?
- 19 A. I guess that was kind of left up to myself,  
20 the IRT, and trying to figure out the best--  
21 what would work best, or what we thought  
22 would work best, you know, what we could do,  
23 but no, there wasn't anything explicit.
- 24 Q. So, in the Kindergarten year you weren't--it  
25 sounds to me, and maybe I'm--correct me if

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- 1 I'm wrong, you weren't given any guidance as  
2 to how to teach Carter differently from -
- 3 A. I didn't receive like any formal training in  
4 how to teach somebody who was deaf and hard  
5 of--or who's deaf.
- 6 Q. So, the strategies that you were using  
7 throughout Kindergarten, and I think you've  
8 described you tried, you were willing to try  
9 anything, these would have been--these are  
10 strategies that you came up with in  
11 consultation with -
- 12 A. Yeah, like with any professional that was  
13 kind of involved at that point in time. I  
14 mean, if somebody had told me to try this, I  
15 would have tried it. We were trying.
- 16 Q. So, as the school year is going along you're  
17 trying different approaches -
- 18 A. Um-hm.
- 19 Q. - different strategies, that you're coming  
20 up with along the way?
- 21 A. Yeah.
- 22 Q. And throughout the year did you find the  
23 strategy that was working?
- 24 A. It seems we had more success early in the  
25 year, but then as the year progressed on not

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1 as much success. I don't know why that was.  
2 It could have been related to material, but  
3 no, there was no try strategy 721, that  
4 works. There was no--it was still at the  
5 end of the year trying to find what would  
6 be--worked best, what would work best for  
7 him, what would work best for us, what would  
8 work best for the other students in the  
9 room, what would work best for everyone, to  
10 the best of my knowledge.

11 Q. Thank you. Anything arising from that?  
12 Okay. Mr. Porter, I appreciate you coming  
13 here today and providing your evidence, and  
14 you are free to step down, and you can  
15 observe the proceedings, or you can leave if  
16 you like.

17 A. Thank you.

18 Q. So, this afternoon we have witnesses  
19 schedule for 1:00 o'clock. Are we ready to  
20 go for 1:00? Did you want to adjourn until  
21 then and come back and get started right at  
22 1:00 o'clock? Okay, we are adjourned until  
23 1:00 p.m.

24 (OFF RECORD)

25 ADJUDICATOR:

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1 Q. Good afternoon, everyone. The next witness  
2 that we're scheduled to hear from is [REDACTED]  
3 [REDACTED], and Mr. Rees, I understand that  
4 you have some questions for [REDACTED].

5 MR. REES:

6 Q. That's right. Thank you, [REDACTED], for  
7 attending. I'm Kyle Rees, I'm the lawyer  
8 for the Churchill's who are sat to either  
9 side of me, and you would have met them, I  
10 know, before while Carter was a student at  
11 Beachy Cove. So, we've got a couple of  
12 hours set aside for you.

13 ADJUDICATOR:

14 Q. Mr. Rees, I'm going to interrupt you there.  
15 We've glossed over the swearing in of the  
16 witness.

17 MR. REES:

18 Q. It's important.

19 ADJUDICATOR:

20 Q. So, [REDACTED], would you prefer to swear an  
21 oath or solemn affirmation prior to giving  
22 your evidence this afternoon?

23 A. It doesn't matter to me, whichever is  
24 easiest.

25 Q. It's your decision to make.

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1           A.    Okay.  I can use the Bible.  
2           Principal - Beachy Cove Elementary  
3           [REDACTED] (SWORN), CROSS-  
4           EXAMINATION BY MR. KYLE R. REES  
5           ADJUDICATOR:  
6           Q.    Thank you.  Now, Mr. Rees.  
7           MR. REES:  
8           Q.    Thanks.  As I was saying, we have your  
9           affidavit.  We have a couple of hours set  
10          aside for you here in the schedule.  So,  
11          I'll have some questions for you.  I  
12          anticipate I'll use a little over an hour,  
13          and then when I'm done Mr. Penney may have  
14          some questions for you, as well as the  
15          Commissioner, Mr. Gallant.  You are being  
16          recorded for the purposes of producing a  
17          transcript later on, but also the  
18          proceedings are being, as you can see, live  
19          translated into ASL, and are also being  
20          broadcast by closed captioning.  So, I'm  
21          told it's very important for us to speak  
22          slowly, and I will endeavour to do that, and  
23          not to speak over each other, something I'll  
24          really try to do because I have trouble  
25          doing that sometimes.  If you need a break  
          at any point, just let me know and we'll go

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1           off the record, we'll take whatever break is  
2           needed. In front of you--I know we've  
3           received your affidavit, and thank you for  
4           that, and I read through it, and I have some  
5           questions for you arising out of the  
6           affidavit. It should be in the binder there  
7           in front of you.

8           A. It is.

9           Q. And there are a couple of, not a couple,  
10          many other documents in front of you as  
11          well. I may refer to some of those, and  
12          when I do I'll direct you which volume to  
13          pick up and look through. Sound good?

14          A. Sure.

15          Q. Mr. Dawe, tell me about your educational  
16          background, and specifically any educational  
17          background you may have relating to the  
18          education of the deaf or American Sign  
19          Language.

20          A. Okay. I told a Bachelor of Education, at  
21          the time it was in primary education. It's  
22          now primary/elementary, but when I did it it  
23          was primary. I told a Bachelor of Special  
24          Education. Both of those are from Memorial  
25          University, and I told a Master of Education



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1 degree in literacy from Mount Saint Vincent  
2 University in Nova Scotia. As part of my  
3 Special Education degree I can recall  
4 specifically two courses, one being, I  
5 believe, having some aspects of deaf culture  
6 and ASL, rudimentary ASL, and another  
7 course, which primarily dealt with deaf  
8 culture, but those would have been in my  
9 Special Education degree.

10 Q. And what year did you complete that degree?

11 A. I think I completed that degree in the  
12 academic year 1989/1990.

13 Q. 1989/1990?

14 A. Yeah.

15 Q. And you don't have any ability to speak or  
16 communicate in ASL do you? You learned some  
17 basic terminology?

18 A. Just very basics at that time, yes.

19 Q. So, you would never speak or communicate to  
20 anyone in ASL? You might be able to sign a  
21 phrase or two, but that's about it, right?

22 A. That's about it, yes.

23 Q. Okay. And have you ever used ASL to speak  
24 with people? Is that the kind of thing  
25 you've done?

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1           A.    Not in a solid communicative way, other than  
2                    two wish good morning, happy birthday,  
3                    things like that.

4           Q.    Okay.  And the course that you took wasn't a  
5                    course in deaf culture was it, but it  
6                    touched on--the course, among other things,  
7                    touched on some aspects of deaf culture, is  
8                    that right?

9           A.    The second course I reference I think dealt  
10                   primarily with deaf culture.  It was  
11                   instructed by Mr. Harkins.  He used to be  
12                   the Principal at the School for the Deaf.  I  
13                   don't recall the specific name of the course  
14                   though.

15          Q.    Okay.  Now, in the course that you took that  
16                   helped instruct you in deaf culture which  
17                   you took in 1989, was it ever explained to  
18                   you that referring to someone who is deaf as  
19                   someone who has hearing difficulties was  
20                   inappropriate?

21          A.    I don't recall that back then, no.

22          Q.    I note that you did say that in your  
23                   affidavit.

24          A.    I did, and that was an error on my part.  
25                   Yes, I understand that I should have used

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- 1           the word deaf there.
- 2           Q.    That was not the correct term?
- 3           A.    Yes.
- 4           Q.    Okay.  In your affidavit you say the
- 5           following sentence.  You say, "I was never
- 6           in a position in my career, nor am I now, to
- 7           pronounce that ASL would become a thing of
- 8           the past.  That was never said by me."
- 9           That's a statement in your affidavit, right?
- 10          A.    Yes.
- 11          Q.    Do you stand by that statement?
- 12          A.    I do.
- 13          Q.    Okay.  You're here under oath.  The evidence
- 14          that you give obviously has to be true.
- 15          That's an important thing.  I put it to you
- 16          that in conversations with the Churchill's
- 17          and other deaf parents, that you had given
- 18          the indication, in fact you even said to
- 19          parents of deaf children, that sign language
- 20          is a thing of the past, and sign language is
- 21          becoming obsolete.  Do you recall saying
- 22          those things?
- 23          A.    No, sir, I do not.
- 24          Q.    Do you deny that you said those things?
- 25          A.    I deny that, yeah.  I don't think that I

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1           would have ever said those words. I would  
2           not be in a position to make that  
3           declaration.

4           Q. I 100 percent agree with you, you wouldn't  
5           be in a position to make that declaration.  
6           I believe you did, and in fact I would put  
7           to you that Fawn Williams will say, or  
8           sorry, not Fawn Williams, Fawn Hedderson,  
9           will say, if we ask her, that you in a  
10          conversation with her told her that sign  
11          language would become obsolete. Do you  
12          recall that?

13          A. No, sir, I do not.

14          Q. So, you deny that you said that?

15          A. I deny that I said that.

16          Q. And if Fawn Williams says that, you would  
17          say she's incorrect?

18          A. Pardon?

19          Q. Sorry, if Fawn Hedderson says that, you  
20          would say that she's incorrect? If Fawn  
21          Hedderson came in here today and said that,  
22          you would say, no, that's not true?

23          A. That's correct. I don't recall ever saying  
24          that. I would never have thought that. I  
25          don't think it now.

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1 Q. I put to you that on several point you tried  
2 to dissuade the Churchill's, and perhaps  
3 other parents as well, from having their  
4 child rely upon ASL. You tried to steer  
5 them towards the speaking, the verbal lane,  
6 and away from ASL. Do you agree with that?

7 A. To dissuade them?

8 Q. Yes.

9 A. No, I don't believe that my suggestion that  
10 the use of technology was an effort to  
11 dissuade them, no.

12 Q. Okay. Why suggest the use of technology?  
13 Where does that basis come from? Is that  
14 something you learned about in your 1989  
15 program?

16 A. No. I would have suggested that, I believe,  
17 as a part of brainstorming session with the  
18 Churchill's to try and solve some of the  
19 issues for which they were advocating.

20 Q. Okay. You indicated in your affidavit  
21 though that the reason why you thought  
22 technology should be used was it was part of  
23 a way to bridge communication gaps, I think  
24 was the way you characterized it. So, in  
25 this case there were communication gaps,

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1 right?

2 A. The Churchill's really believed that there  
3 was a communication gap.

4 Q. The Churchill's definitely believed there  
5 were communication gaps. Do you believe  
6 there were communication gaps?

7 A. I was never sure of Carter's level of  
8 proficiency with ASL, so I don't know. I  
9 really don't know if there were gaps or not.  
10 Carter had difficulty communicating for  
11 sure.

12 Q. Did you ever at any point--along with your  
13 suggestion that things like technology could  
14 be used to bridge these communication gaps,  
15 did you ever at any point suggest that, you  
16 know, increased resources in ASL could  
17 assist in bridging those gaps?

18 A. Did I suggest it to the Churchill's?

19 Q. To the Churchill's, to any other person, or  
20 was it even your opinion?

21 A. I don't recall making that statement, no.

22 Q. That statement, no? So, during these  
23 brainstorming sessions you were coming up  
24 with ideas about technology, iPads, and  
25 things.

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1 A. That was one suggestion.

2 Q. Right, among, I would suggest, probably  
3 many, but ASL was never one of those  
4 suggestions that you brought to the table?  
5 Increased ASL training, tutoring,  
6 instruction in ASL, that was never part of  
7 your suggestions, was it?

8 A. I probably wouldn't have suggested it  
9 because I wouldn't have had the resources to  
10 do that. I wouldn't have had anything to  
11 rely on to provide for that suggestion. I  
12 was merely, I think, operating in a problem  
13 solving kind of way, and that's where that  
14 suggestion came from.

15 Q. And I appreciate your comment that you would  
16 not have had the resources to be able to  
17 suggest that kind of thing. You know, in my  
18 view, a lot of this case comes down to  
19 inadequate resources to be able to suggest  
20 the kinds of programming that we think ought  
21 to have been employed. So, I guess the  
22 question that I have for you arising out of  
23 that then is--tell me about the allocation  
24 of resources to your school, Beachy Cove  
25 Elementary? I mean, you didn't get to make

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1 a decision about how many resources, what  
2 kind of budgeting you got, did you? That  
3 wasn't your decision?

4 A. No, it was not.

5 Q. Whose decision was it?

6 A. That would be Human Resources Division at  
7 the School District.

8 Q. Okay. And that would be communicated to  
9 you?

10 A. The process of staffing begins typically in  
11 January when enrolments are verified and  
12 things like that. That's gotten a little  
13 bit more streamlined with PowerSchool  
14 because enrolment date is much easier to  
15 access with that, but the planning typically  
16 begins in January of each year. For the  
17 most part of my time in administration,  
18 teacher allocations came down immediately  
19 after the Provincial budget. In recent  
20 years, I believe I can recall a couple of  
21 instances where they came down just before  
22 the Provincial budget.

23 Q. And are you given an opportunity, you know,  
24 during that January allocation prior to,  
25 thereafter, to go to the HR folks at the



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1 District and say we need more of X, and be  
2 listened to? You know, we need more--well,  
3 to make a point salient to this case -

4 A. I mean, the opportunity to communicate with  
5 Human Resources Division is always there.

6 Q. Did you? In this case did you go to the  
7 Human Resources Division at any point and  
8 say -

9 A. We would have went--at the time communicated  
10 all of the various needs that would have  
11 been coming into Kindergarten, if you're  
12 talking about the year prior to Carter's  
13 enrolment. SO, we would have, you know,  
14 took steps to describe the various  
15 challenges that we would have been having to  
16 resource in the upcoming year, but that  
17 would have also been done through the  
18 PowerSchool database system where  
19 exceptionalities, and things like that, were  
20 noted.

21 Q. Had you ever had a student enter your  
22 school, Beachy Cove Elementary, or  
23 otherwise, without a first language, unable  
24 to communicate in any language?

25 A. No, not in my memory. I'm going into year

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1           33, but I don't seem to recall. I don't  
2           recall a learner without English as a first  
3           language, no.

4           Q.   Okay. During the course of this case we  
5           talk a lot about the inclusion model, and  
6           when I say the inclusion model you know what  
7           I'm referring to?

8           A.   I do.

9           Q.   It's sort of the philosophy and the model  
10          followed by both the School District and the  
11          Department of Education. The inclusion  
12          model, you know, is relatively new. You  
13          were already a teacher by the time the  
14          inclusion model was implemented. What was  
15          your view of the inclusion model at the time  
16          that it was implemented? Did it have  
17          problems?

18          A.   Did the inclusion model have problems?

19          Q.   Yes.

20          A.   Resourcing is always--has always been an  
21          issue, and I believe that would be an issue  
22          across all public services that are  
23          provided, so schools would be no different.  
24          There never seems to be enough resources.  
25          So, the inclusion model, as I recall it

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1           being introduced, it may have been--I'm not  
2           sure if it was a three year implementation,  
3           or a five year, but I don't recall us being  
4           phase one. We were probably phase three,  
5           and there was an inclusion itinerant that  
6           worked with us that year to help shape our  
7           philosophy and practice about inclusion.

8           Q. The way in which the resources are  
9           allocated, or one of the ways in which  
10          resources are allocated to a school, are  
11          based on the students' need, right?

12          A. Yes.

13          Q. That's a factor? Carter was classified as  
14          having pervasive needs, wasn't he?

15          A. I don't recall that specifically being  
16          assigned to Carter, because there was the  
17          label pervasive needs, was a label that was  
18          in use at some point in our history. I'm  
19          not sure if that label is still being used  
20          today, because it used to be assigned for  
21          the purpose of resourcing.

22          Q. Resourcing?

23          A. Yes. Like at one--I'm going back in special  
24          education policy history, and at one point  
25          there were criteria C, criteria D, criteria

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1 E, those sorts of labels, I guess, for want  
2 of a better word.

3 Q. Okay. I mean, I'll tell you that Carter was  
4 classified as having pervasive needs, and  
5 it's the District, is it, that classifies  
6 accordingly, or was it the Department, that  
7 classification that -

8 A. I'm sure the classification criteria  
9 probably came from the Department of  
10 Education, yes, the criteria themselves.

11 Q. And, you know, Carter's pervasive needs were  
12 because he was a deaf child that  
13 communicated in ASL, right?

14 A. Along with--there were some others, some  
15 other -

16 Q. Cerebral palsy?

17 A. Yes.

18 Q. Right. Pervasive needs--the reason, you  
19 know, whatever rubric is used to allocate  
20 resources, pervasive needs imply a student  
21 who has a greater degree of assistance  
22 required, more educational help required  
23 from the Department, right?

24 A. That's correct.

25 Q. So, Carter as being classified as someone

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1 with pervasive needs would have warranted  
2 increased assistance from the Department to  
3 Beachy Cove?

4 A. Yes.

5 Q. Right. Were you--before Carter started  
6 Kindergarten at Beachy Cove, were you  
7 advised by the School District in any way  
8 that you had a deaf child attending your  
9 school who will be required to communicate  
10 in ASL? When did you find out that Carter  
11 was deaf and would be at your school?

12 A. Probably through his KinderStart sessions,  
13 which probably occurred--we've done them  
14 different times in the year. In the last  
15 few years we would have started them in  
16 January, February, March, April, like that.  
17 I just don't recall when Carter's schedule  
18 happened because in prior years we may have  
19 started in the fall. It would probably have  
20 been confirmed to us at the ISSP meeting  
21 that was held in the spring prior to  
22 Carter's entry in September, but I didn't  
23 attend that meeting for some reason or  
24 other. I had another obligation, and I  
25 believe our Assistant Principal attended in

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1 my absence.

2 Q. Okay. So, then would you have been--given  
3 that you weren't at the ISSP meeting  
4 yourself, would you have been updated about  
5 the ISSP meeting shortly after it occurred  
6 by the Vice Principal presumably?

7 A. Or the guidance counsellor, or both.

8 Q. Okay. So, that's when you would have become  
9 aware that Carter Churchill was attending  
10 your school, he was deaf, and that he  
11 communicated through ASL?

12 A. That's a good summation, yes. That's the  
13 probable way things turned out.

14 Q. Did the School District at that time, or at  
15 any time prior, offer you, or any of your  
16 staff for whom you are responsible at your  
17 school, with additional training or any kind  
18 of education in ASL, deaf culture, the needs  
19 of deaf people? Any kind of training  
20 offered?

21 A. No.

22 Q. None? Was any training requested?

23 A. None that I recall.

24 Q. As a result--I mean, did you have concerns  
25 that you had a child who was going to be

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1 attending at your school who spoke a  
2 different language and did not speak  
3 English?

4 A. I'm sorry, could you repeat the question?

5 Q. Yes. Were you concerned then that without  
6 that training being offered, that you had a  
7 deaf child attending your school who did not  
8 speak English, who spoke ASL, and that he  
9 may have needs to be met in the classroom  
10 environment that wouldn't otherwise be  
11 serviced?

12 A. We deployed the resources we had available  
13 at the time in the best way that we thought  
14 possible, and one of them--I remember we  
15 made an adjustment in the IRT because there  
16 was a teacher with some rudimentary sign  
17 language that we redeployed to Carter early  
18 in the school year, if my memory serves me  
19 correct. We were very much learning as we  
20 were going.

21 Q. Learning as you were going?

22 A. Yes.

23 Q. That's right, but you did have--I know you  
24 were learning as you were going, but it  
25 wasn't a surprise to you, or to the School

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1 District, that Carter would be attending  
2 your school and was deaf and needed ASL,  
3 because you knew this ever since he started,  
4 at least as late as Kindergarten, or  
5 KinderStart, right?

6 A. I'm sorry?

7 Q. Yes, I should rephrase the question. I  
8 changed the order as I was saying it. You  
9 were learning as you were going, I  
10 appreciate that. It wasn't a surprise  
11 however that Carter Churchill was deaf,  
12 spoke ASL, and would be attending at your  
13 school, because you told us already that you  
14 knew that since at least KinderStart?

15 A. Yes.

16 Q. Right. I also appreciate your comments, and  
17 they were very similar to what we heard from  
18 a witness earlier today, that, you know, you  
19 were doing the best you could with the  
20 resources that were available to you, and I  
21 appreciate and endorse that view. Isn't it  
22 accurate then that, you know, Beachy Cove  
23 Elementary wasn't being provided with the  
24 full resources that it needed in order to  
25 instruct Carter in ASL?



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1 A. Was it apparent to me?

2 Q. Well, I guess what I'd say is at the time--  
3 we'll talk about now later on, but at the  
4 time -

5 A. We were getting to know Carter much more  
6 intimately than we were able to do during  
7 the four one-hour sessions of KinderStart,  
8 or 75 minute sessions, whatever they were.  
9 So, we really didn't get the chance to get  
10 to know Carter on a more in-depth basis  
11 until school started and as we moved through  
12 the Kindergarten year.

13 Q. Yes, I understood that you got to know  
14 Carter, and you got to know his needs  
15 better. While getting to know Carter  
16 better, and getting to know his needs better  
17 over the course of that school year, did  
18 that cause you at any point to advocate for  
19 additional resources to be provided to  
20 Carter, to advocate to the School District  
21 that additional resources be provided?

22 A. I certainly would have brought Mr. and Mrs.  
23 Churchill's concerns to the District staff,  
24 as they would have also done themselves, but  
25 I would have certainly reiterated that and

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1           had conversations about the issues we were  
2           facing at the time.

3           Q.   Which District staff would you have brought  
4           those concerns to?

5           A.   Our Education Psychologist, the itinerant  
6           for the deaf and hard of hearing, the  
7           Program Specialist for Special Services at  
8           the time, and--I'm not sure if there was the  
9           role of Director of Specialist Services at  
10          the time, or if there was just a Program  
11          Specialist for it, but it would be those  
12          types of personnel that I would have talked  
13          to, along with our own--they're called  
14          Directors of Schools now, but at one point  
15          they were called Senior Education Officers  
16          at that time maybe.

17          Q.   Which concerns did you pass along?

18          A.   I would have echoed the concerns that the  
19          Churchill's were bringing forward. They  
20          were clearly--as time went on, I think the  
21          record will show that they were clearly  
22          dissatisfied with the instruction and  
23          resources that he was receiving. So, I  
24          would have reiterated those.

25          Q.   Would you have reiterated all concerns or

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1           some concerns? Like, do you--I would like,  
2           if you don't mind, a list, to the best of  
3           your recollection, of the kinds of concerns  
4           that you would have brought forward to the  
5           District.

6           A. I would have, in all likelihood, echoed the  
7           concerns that the Churchill family brought  
8           to me, which would have been--I can't recall  
9           specifically, but in general terms I would  
10          have thought it would have been proficiency  
11          in ASL.

12          Q. Okay. I'll talk to you specifically -

13   ADJUDICATOR:

14          Q. Whose proficiency in ASL?

15          A. I'm sorry?

16          Q. Whose proficiency in ASL?

17          A. For the staff that would have worked with  
18          Carter.

19   MR. REES:

20          Q. I'm going to ask you about some of the  
21          specific things that the Churchill's would  
22          have been bringing to your attention, and  
23          ask you about whether you would have  
24          advocated for any of those things at the  
25          District. One of the Churchill's principal

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1 concerns has been that none of the other  
2 students in Carter's class, you know, spoke  
3 ASL, or were learning ASL. Did you bring  
4 those concerns to the District?

5 A. I'm sure they would have been part of the  
6 overall conversations I would have had. I  
7 can't recall specifics.

8 Q. You don't remember specifics?

9 A. No, I don't remember the specifics, no.

10 Q. Because I know in particular in 2019 there  
11 was a principal at a school in Gander that n  
12 fact advocated publicly for ASL courses to  
13 be taught to other students, hearing  
14 students, as well as the deaf students, in  
15 their schools. Did you ever do anything  
16 like that?

17 A. Did I ever advocate publicly?

18 Q. Or to the District, either would be fine?

19 A. I certainly wouldn't have advocated in a  
20 public manner, no, but I would have  
21 advocated in my conversations and meetings,  
22 yes.

23 Q. Okay. Who would you have advocated to?

24 A. It would have been the same personnel I just  
25 referenced.

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1 Q. Okay. Always people at the District, was  
2 it, not the Department of Education?

3 A. It would have always been with the District,  
4 yes.

5 Q. Always the District?

6 A. Yes.

7 Q. Did you get the sense that the District was  
8 receptive to those concerns? Did they make  
9 any promises to you that they would be  
10 implementing changes?

11 A. I don' think--I always found the District  
12 receptive, yes. As for--what was the second  
13 part of your question?

14 Q. Whether you had got any assurance at any  
15 point, or any indication, that they would be  
16 implementing changes following your  
17 requests.

18 A. I think they made the necessary adjustments  
19 like with respect to student assistants who  
20 had some degree of proficiency in ASL. At  
21 another point in the history there was--I'm  
22 not sure of the title, but there was a  
23 senior kind of person appointed for deaf  
24 education, so we worked with her closely as  
25 well.

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1           Q.    I mean, I hear you saying that you  
2                   communicated a lot of concerns and that you  
3                   worked with, but as we're going--you know,  
4                   worked with people to have concerns  
5                   addressed and things, and I appreciate those  
6                   comments, but as we go through this, and  
7                   we're going to see that not a lot of these  
8                   changes get made.  So, were any of the  
9                   changes that you were advocating for, the  
10                  progress that you were advocating for, that,  
11                  you know, you were conscious or aware, that  
12                  the District was not listening to, was not  
13                  implementing.  I guess, were there always  
14                  things on your agenda that you were asking  
15                  the District to address and they were not  
16                  addressing them?

17          A.    Not that--I don't recall specific things  
18                  that we asked for that we didn't get  
19                  cooperation or support on.

20          Q.    Because I'd put it to you that you were  
21                  merely passing along concerns that the  
22                  Churchill's had communicated to you, and you  
23                  weren't really advocating for them.  You  
24                  weren't really making an effort to advocate  
25                  for these changes, you were just passing

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1           along some concerns. Do you agree with that  
2           statement?

3           A. No.

4           Q. You don't? You think you were advocating?

5           A. I think I was advocating, as I would have  
6           advocated for all of our learners.

7           Q. Okay. I think I've asked you before, but I  
8           think I've only gotten a vague answer, so  
9           I'd like to try again. Can you give me some  
10          examples of your advocacy, because now  
11          you're saying that you're an advocate? So,  
12          can you give me some examples of your  
13          advocacy to the School District?

14          A. I can't give you a specific example. I can  
15          tell you that I had multiple conversations  
16          with key District personnel about Carter,  
17          and certainly echoing the concerns that his  
18          parents brought forward.

19          Q. Okay. So, you're passing along concerns, and  
20          echoing concerns, but I'm asking you to try  
21          to substantiate--make the case for me that  
22          you advocated for Carter.

23          A. I don't know how I can make that case to  
24          you.

25          Q. And I would suggest that you didn't.

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1 A. Pardon.

2 Q. I'd suggest that you didn't advocate for  
3 Carter. That you, as I said, communicated,  
4 passed along concerns, but that you didn't  
5 push the issue.

6 A. My perception would be that I did.

7 Q. Okay. But you can't recall any specific  
8 example?

9 A. No, I can't recall specific requests.

10 ADJUDICATOR:

11 Q. Can I just ask a couple of questions for  
12 clarification here? So, it's your  
13 recollection that while Carter Churchill was  
14 a student at Beachy Cove Elementary, you  
15 would have received a number of requests for  
16 additional supports and services from the  
17 Churchill's during that time period?

18 A. They would have made their feelings known  
19 about what they perceived to be a lack of  
20 resources, or the lack of the appropriate  
21 resources for him.

22 Q. And is it your evidence that you relayed  
23 those concerns onto the District?

24 A. I would have had many conversations with  
25 District people about the concerns that the



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1 Churchill's brought forward. I had many  
2 meetings with the Churchill's through  
3 ISSP's, telephone calls, and emails, and  
4 things like that.

5 Q. I'm just trying to understand your evidence  
6 from what you--you know, you were just asked  
7 a series of questions by Mr. Rees. So, you  
8 received requests for additional supports  
9 and services, and increases in resources  
10 from the Churchill's, and you did, or you  
11 relayed them to the best of your abilities  
12 to the District, or you had--I'm not sure if  
13 I'm understanding. Did you relay their  
14 concerns to the District, or did you just  
15 have ongoing discussions and not necessarily  
16 would have relayed -

17 A. I would have relayed their concerns to the  
18 District, but they also relayed their  
19 concerns to the District too. When I would  
20 have brought those concerns to the District,  
21 it wouldn't have been anything they didn't  
22 hear of, or didn't know about, because when  
23 they were communicated with us through their  
24 advocacy efforts on their part, they would  
25 have also included Department of Education

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- 1           personnel and School District personnel.
- 2           Q.    Okay.  So, the Churchill's are relaying
- 3                    their concerns to you, and to the District,
- 4                    and you are also communicating these
- 5                    concerns to the District, and you said the
- 6                    District was always receptive?
- 7           A.    They were always receptive through the
- 8                    conversation, absolutely.
- 9           Q.    And your recollection, I think you said, was
- 10                   that the District made the necessary
- 11                   adjustments.  Are you -
- 12          A.    In grade one the resourcing for student
- 13                   assistant and teacher's time for Carter was
- 14                   adjusted in grade one different from what it
- 15                   was in grade two, or Kindergarten, I'm
- 16                   sorry.
- 17          Q.    Do you recall any requests that the
- 18                   Churchill's were making that were denied, or
- 19                   not implemented, by the District?
- 20          A.    I don't recall.
- 21          Q.    Do you recall specific examples of requests
- 22                   that were being made by the Churchill's and
- 23                   those requests being implemented?
- 24          A.    Well, they certainly would have advocated
- 25                   for the fulltime student assistant who was

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1           there, for Ms. Vaters. She was assigned in  
2           grade one, I believe, and they also would  
3           have advocated for the fulltime teacher, and  
4           I believe she was Ms.--I can't even remember  
5           her name off the top of my head. She was--  
6           Ms. MacDonald, I believe. She was assigned  
7           in grade one, if I'm recalling correctly.

8           Q. Thank you. Mr. Rees.

9   MR. REES:

10          Q. I noticed in your response to the  
11          Commissioner's questions about the concerns  
12          that the Churchill's had, you indicated that  
13          they, you know, perceived that there were  
14          gaps and problems with the amount of  
15          services that Carter Churchill received, and  
16          I'm concerned when you say the word  
17          perceived because that implies to me that  
18          you don't share that perception. Did you  
19          share concerns with--share the Churchill's  
20          concerns that Carter wasn't being offered  
21          the adequate resources in order to be  
22          accommodated?

23          A. As time went on I'm not sure if my view  
24          would have changed, but when he was in  
25          Kindergarten we were, as the front line

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1           people working with Carter, it took us some  
2           time for us to get to know him and his  
3           needs, and we were really trying to our best  
4           to service him with the resources that we  
5           had available. I'm sorry, I lost my train  
6           of thought.

7           Q. My question was about whether or not you  
8           shared the Churchill's concerns, because you  
9           categorized the concerns that they raised as  
10          problems they perceived to be the case, and  
11          I was just wondering if that meant that you  
12          didn't agree with them, that the problems  
13          were not problems.

14          A. Well, any time a family--one of our learners  
15          comes to me with concerns then it becomes my  
16          concern too. I want--my goal would be to  
17          have the best experience possible for them.  
18          So, yes, we would have--again, I can't  
19          recall specifics, specific things that we  
20          would have requested, but it was--Carter's  
21          situation was definitely a topic of  
22          conversation in many meetings, and many  
23          conversations.

24          Q. When you say that you advocated for Carter  
25          Churchill to receive additional services, I

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1 take it from that that, you know, it was  
2 your belief at the time that additional  
3 services were warranted for Carter  
4 Churchill, or else why else would you  
5 advocate for him.

6 A. The Churchill's were adamant throughout--  
7 very early on it became evident, in  
8 Kindergarten, they weren't satisfied with  
9 the level of services being provided, and, I  
10 guess, ultimately Carter's progress. So,  
11 resource decisions were made, as different  
12 decisions were made as time went on, and  
13 resources were added, added, year after  
14 year.

15 Q. And, I suppose, the reason why these  
16 resources were added in piecemeal, and I  
17 don't mean piecemeal to imply that, you  
18 know, they don't add up to something, but,  
19 you know, are added in bits and pieces as  
20 things go on, the kind of process that my  
21 friend has previously described as  
22 iterative, you know, a gradual improvement--  
23 the reason the improvement was gradual, it's  
24 your evidence, that because had you known  
25 that that's what Carter's needs were you

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1           would have provided, you know, all of these  
2           supports earlier? It was only because you  
3           were only just learning that Carter needed  
4           these supports?

5           A. I wasn't the decision maker to assign a  
6           fulltime student assistant, and the fulltime  
7           deaf and hard of hearing teacher, itinerant.  
8           I wasn't part of that decision making.  
9           Those are decisions that are made at the  
10          District office in Human Resources.

11          Q. Understood, but you also did indicate that,  
12          and I believe it to be the case, that you  
13          have an important role in communicating  
14          those concerns to the School District,  
15          right, and each of these small improvements,  
16          you know, over the course of years are in  
17          part, I think you've indicated, due to your  
18          advocacy to the District, right?

19          A. I don't know if it was as much my advocacy  
20          by myself, but as a collective, with the  
21          advocacy of the family along with it, I  
22          would think it was instrumental.

23          Q. Kimberly Churchill has given some evidence  
24          about the first day of school when she  
25          brought Carter to Kindergarten on the first

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1           day, and she indicates that she was relaying  
2           critical safety information to you, or to  
3           the teacher rather, and the assistant, about  
4           Carter's wheelchair and his cochlear  
5           implants, and that she was sort of ushered  
6           out of the school by you at that time. Do  
7           you recall that? She sort of overstayed her  
8           welcome.

9           A. I don't recall the specifics of that day.  
10          Asking families to leave the school wouldn't  
11          have been part of my practice at that time,  
12          or now. I would have done that. I can't  
13          see me doing that in the midst of critical  
14          safety discussions. In my view, if they  
15          were critical safety discussions about  
16          wheelchair usage, and cochlear implants,  
17          things we need to be aware of with that, I  
18          think that would have been a more structured  
19          meeting. However, if any family member was  
20          impeding operations of school, then I  
21          certainly would have asked. I've done that  
22          before.

23          Q. Ms. Churchill says at the time that, you  
24          know, you asked her leave, which you're  
25          saying you can't recall whether you did or

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- 1           you didn't, that you said to her you must  
2           trust us. Is that the kind of thing that  
3           you would say to a parent? I appreciate you  
4           don't have specific knowledge, but do you  
5           have any reason to disagree with that?
- 6           A. That I would have said trust us?
- 7           Q. Yes.
- 8           A. I wouldn't disagree that that would have  
9           been something I said, but that would have  
10          been in relation to safety issues,  
11          operational issues, things like that.
- 12          Q. Carter is in your school, Beachy Cove  
13          Elementary, from Kindergarten to grade  
14          three, right?
- 15          A. Um-hm.
- 16          Q. So, he got four years. Over the course of  
17          those four years there are, you know, many  
18          meetings with the Churchill's over Carter's  
19          needs and requests by the Churchill's for  
20          increase service for Carter, right?
- 21          A. Yes.
- 22          Q. Yes. Lots of concerns raised by the  
23          Churchill's about the adequacy of Carter's  
24          education?
- 25          A. Um-hm.



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- 1 Q. It was a common refrain for them to raise  
2 these issues? It's not like it came up one  
3 time and then, you know, years went by  
4 before you heard from them again? They were  
5 pretty adamant, weren't they?
- 6 A. Yes.
- 7 Q. And they raised concerns with you over the  
8 lack of ASL education that Carter was  
9 receiving?
- 10 A. Yes.
- 11 Q. And they raised concerns with you about the  
12 proficiency of the individuals who are  
13 communicating with Carter in ASL?
- 14 A. Um-hm.
- 15 Q. They raised concerns with you about the lack  
16 of testing for ASL proficiency, didn't they?
- 17 A. I don't know specifically about testing, but  
18 certainly proficiency levels -
- 19 Q. Proficiency was definitely raised?
- 20 A. - which you would get through testing.
- 21 Q. The number of hours that Carter was getting  
22 with student assistants and itinerant  
23 teachers?
- 24 A. Those discussions would probably have been  
25 in Kindergarten, but the resourcing changed

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1 in grade one, so I'm sure their concerns  
2 around the number of hours he was getting  
3 probably lessened when those resources were  
4 assigned.

5 Q. They would have raised concerns with you  
6 about the lack of instruction in ASL to  
7 Carter -

8 A. Yes.

9 Q. - that he wasn't being taught ASL, as well  
10 as being taught in ASL? You understand how  
11 those are two different things, right?

12 A. Yes. I recall a meeting where that was laid  
13 out clearly. They wanted--they were--under  
14 discussion was accessing the curriculum  
15 through ASL, but also learning how to  
16 communicate through ASL.

17 Q. Do you recall them raising the issue of  
18 social isolation with you, that other  
19 students in the class weren't being taught,  
20 nor did any of them speak ASL, and Carter  
21 was as a result isolated from his peers?

22 A. I don't recall the specific conversation in  
23 which that occurred, but, yes.

24 Q. I mean, it was obvious that that was the  
25 case, right?

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- 1           A.    Yes.
- 2           Q.    I mean, he was a deaf child in a hearing  
3                classroom.
- 4           A.    They raised concerns about his social  
5                isolation for sure.
- 6           Q.    And all those concerns that I just listed--I  
7                can go back over them if we need to. You  
8                would have raised each of those with the  
9                District at various points?
- 10          A.    I can't swear to you that I raised every one  
11                in succession like that. No, I wouldn't be  
12                able to give evidence to say that I raised  
13                every one of those concerns.
- 14          Q.    I mean, you told me earlier that pretty much  
15                every concern the Churchill's brought to  
16                you, you brought to the District.
- 17          A.    I echoed the family's concerns to the  
18                District, yes.
- 19          Q.    I mean, each of those concerns that I listed  
20                would have been brought up by the  
21                Churchill's several different times, over  
22                several different meetings.
- 23          A.    As I would have also brought those concerns  
24                to the School District and Department  
25                personnel.

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- 1 Q. Well, hold on now. Do you think because  
2 they were bringing those concerns to the  
3 District that it resolved you of your need  
4 to bring it to the District because the  
5 Churchill's were already doing -
- 6 A. No, it did not. I'm just--I say that to  
7 show that the District was aware of the  
8 concerns because the Churchill's also  
9 brought them.
- 10 Q. So, you had knowledge that the District was  
11 aware of these concerns? You believed the  
12 District -
- 13 A. I believe so, yes, because I would be copied  
14 on emails and things like that, and if I  
15 recall correctly, District personnel would  
16 have been in attendance at some meetings.
- 17 Q. Did you ever--I mean, I don't know if you  
18 reviewed any documentation in preparation  
19 for coming to this hearing, or in  
20 preparation of your affidavit. I suspect  
21 you did. That's usually par for the course  
22 for these things. Did you find any written  
23 communication, or any specific recollection,  
24 of times that you reached out to the  
25 District for help and additional assistance

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1           for Carter Churchill? Can you recall like a  
2           specific time where -

3           A. I didn't look for it.

4           Q. Can you think of a time when you would have  
5           said to the District, look, I need help  
6           here, Carter Churchill is struggling, I  
7           really need some help? Can you recall a  
8           time when you would have done that?

9           A. I can't recall a specific time, but that  
10          probably happened, yeah.

11          Q. Probably happened? And you're saying this  
12          just based on your hope that that would  
13          happen, or it's your practice that it would  
14          happen? You're telling me you haven't  
15          reviewed any documentation that -

16          A. It would have been my practice that that  
17          would have happened, yes.

18          Q. You may be aware, maybe you're not, the  
19          Churchill's, you know, have made a series of  
20          access to information requests surrounding  
21          communication between many different people  
22          in the District, but including yourself and  
23          the District, involving Carter Churchill,  
24          and I can tell you that from all the  
25          documents that they've gone through, there's

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- 1           one that I'm going to show you where we can  
2           see you're reaching out for help from the  
3           District. So, I'd like you to get that  
4           purple binder that's there in front of you.  
5           So, that purple binder, and it's not purple  
6           for you, but that's one for you. That's the  
7           follow-up List of Documents.
- 8           A. What am I looking for?
- 9           Q. I'll tell you in a second. I've been  
10          referring to this as the rebuttal documents.
- 11          A. Okay.
- 12          Q. So, I need you to go to Tab 8. This is an  
13          email from March of 2020. I see Kim  
14          Churchill emailing Leanne, but obviously at  
15          some point copying you, and then, you know,  
16          reading from the bottom up, then you  
17          emailing Darlene, and that's Darlene Fewer  
18          Jackson.
- 19          A. Um-hm.
- 20          Q. You recognize that email? That's an email  
21          that you would have sent?
- 22          A. Yeah.
- 23          Q. And the email at the top of that page says,  
24          "Hi, Darlene, can we have a meeting again.  
25          I'm not feeling great about the way this is

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1           transpiring. We will accommodate any time  
2           you're able to come here. We are now  
3           questioning our every interaction with C and  
4           his family." I assume that means Carter.

5           A. Yeah.

6           Q. "And his family for fear of being the  
7           subject of media or political scrutiny. We  
8           are growing increasingly tired of the  
9           bashing and it's affecting us. We need  
10          help." So, I put to you that the only time,  
11          and they've done a lot of ATIPP requests--  
12          the only time there's any documentation of  
13          you reaching out to the District for help is  
14          looking for help because the Churchill's are  
15          bashing you and it's affecting you, and that  
16          you are more concerned with the negative PR  
17          consequences of the Churchill's advocacy  
18          than you were for Carter Churchill's needs.  
19          What do you say to that?

20          A. I was more--are you suggesting I was more  
21          concerned with PR? I lost your question,  
22          I'm sorry.

23          Q. I'm putting it to you that the only evidence  
24          I found of you reaching out to the--reaching  
25          out for help, is for help managing the

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1 Churchill's, not help for Carter Churchill.

2 Would you agree with that statement?

3 A. No.

4 ADJUDICATOR:

5 Q. I think the question, you know, is probably  
6 not fair. The only evidence--he's given  
7 evidence as to what he recalls doing. If  
8 you're saying the only document that you can  
9 find where there's communication to the  
10 District from Mr. Dawe related to Carter,  
11 then this might be fair, but I don't know if  
12 it's fair to say the only evidence.

13 MR. REES:

14 Q. I'm saying the second thing, the fair one,  
15 which is this, is the only document that  
16 exists, and if you have knowledge of another  
17 one I'd like to know.

18 A. I don't have knowledge of another document  
19 off the top of my head, no.

20 Q. The Churchill's say that in various meetings  
21 that you've had with them you would make  
22 statements that aren't that different from  
23 things that other people have said, which  
24 is, "I'm playing the cards that have been  
25 dealt to me," or if they requested something



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1           else you'd say, you know, look, that's above  
2           my pay grade. Would that sound like  
3           something--I don't know if you recall the  
4           specifics, or if that's generally the kind  
5           of thing you would say when dealing with  
6           resourcing issues.

7           A. The playing the cards I've been dealt,  
8           that's one of my phrases. The pay grade one  
9           is not one of mine, but clearly my intention  
10          was to let her know, let the Churchill's  
11          know, that we were doing the best we can at  
12          the school level with the resources we had  
13          been allocated, and decisions to increase or  
14          decrease them would have been made at the  
15          District level.

16          Q. I mean, so to unpack the analogy, I'm  
17          playing the cards dealt to me. In this  
18          circumstance the cards dealt to you mean the  
19          resources given to you by the District,  
20          correct?

21          A. That's correct.

22          Q. And playing them means you and your  
23          District, or you and your staff, allocating  
24          those resources as best as you possibly can?

25          A. Yeah, how they are deployed, yes.

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- 1 Q. Right. And you're telling me, you know, as  
2 an advocate for Carter Churchill, this whole  
3 time you were, to stretch the analogy,  
4 you're asking the dealer to hit you? You're  
5 asking for better cards from the District  
6 the whole time?
- 7 A. I was having conversations, multiple  
8 conversations, throughout the time that  
9 Carter was with us, yes.
- 10 Q. Okay. Did you get better cards?
- 11 A. We got better cards in grade one.
- 12 Q. In grade one? And how about grade two and  
13 three?
- 14 A. Those supports continued into grade two and  
15 grade three.
- 16 Q. So, the same cards that you -
- 17 A. Yes.
- 18 Q. The same better card that you got in grade  
19 one, you get to keep it for grade two?
- 20 A. Well, he would have been resourced with a  
21 fulltime student assistant and a fulltime  
22 DHH teacher, along with his classroom  
23 teacher.
- 24 Q. I put it to you that she wasn't fulltime.  
25 Am I wrong?

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- 1           A.    The DHH teacher?
- 2           Q.    The student assistant in grade one.
- 3           A.    I don't recall the specific hours, but I
- 4                seem to recall that she was assigned
- 5                fulltime with him, but I'm not sure what
- 6                you're understanding of fulltime was.
- 7           Q.    I think you just got your dates mixed up,
- 8                and that fulltime happens in grade two.
- 9           A.    Oh, I'm sorry.
- 10          Q.    Which my client has reminded me.  Always
- 11                trust a mother's memory.  The last three
- 12                weeks of grade two is when that goes
- 13                fulltime.
- 14          A.    When the student assistant was made
- 15                fulltime?
- 16          Q.    Correct.  In your affidavit you speak about
- 17                the Kindergarten teacher, Mr. Porter, and
- 18                Mr. Porter testified just before the lunch
- 19                break today, and you say that, you know, to
- 20                your knowledge, and I think your knowledge
- 21                if accurate here, he has little to no
- 22                experience in ASL, and as a result he
- 23                couldn't communicate with Carter in ASL.  I
- 24                think that's accepted.  Is that your
- 25                understanding?

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- 1 A. That he couldn't communicate in ASL?
- 2 Q. Right.
- 3 A. That's correct.
- 4 Q. That's right.
- 5 A. But I recall early in that school year Ms.
- 6 Duffenais was assigned to Carter because she
- 7 had had some, I'm sure it was rudimentary,
- 8 level of ASL.
- 9 Q. Ms. Duffenais--I need to clarify that with
- 10 my client. She gets reassigned, doesn't
- 11 she, to hearing children who have higher
- 12 needs? She spends a little bit of time with
- 13 Carter, but thereafter she gets assigned to
- 14 other hearing children who have increased
- 15 needs, don't they, doesn't she?
- 16 A. In that year?
- 17 Q. Yes.
- 18 A. I don't recall.
- 19 Q. You're not sure.
- 20 A. I honestly don't.
- 21 Q. And, I mean, Mr. Porter, going back to his,
- 22 you know, lack of ASL knowledge--it's not a
- 23 slight on Mr. Porter, and we told him as
- 24 much, but he wasn't offered--he said that he
- 25 wasn't offered any training by the District

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- 1           in ASL, and he also indicated that, you  
2           know, if that training had been provided, he  
3           likely would have done it. That's the kind  
4           of thing he would do. Is that also your  
5           understanding of Mr. Porter, and indeed a  
6           lot of the teachers in your school?
- 7           A.    Indeed.
- 8           Q.    They're eager for training, and eager for  
9           learning, aren't they?
- 10          A.    I believe so, yeah.
- 11          Q.    I mean, teachers are learners, that's who  
12          they are, right?
- 13          A.    That's right.
- 14          Q.    None of that training got provided though?
- 15          A.    Not that I recall, not specific to ASL, or  
16          what we were working with -
- 17          Q.    Do you recall if that was one of the things  
18          you might have asked for, ASL training for  
19          the classroom teachers? Do you recall if  
20          that was one of the things you advocated  
21          for?
- 22          A.    I don't recall that, no.
- 23          Q.    I'd suggest that you didn't advocate for it.  
24          I mean, and if you didn't -
- 25          A.    I don't know.

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- 1 Q. - it certainly never got provided.
- 2 A. It didn't get provided, no.
- 3 Q. Tina Halleran. Tina Halleran gets assigned  
4 as an itinerant teacher to Carter. Do you  
5 know much about the support that Tina  
6 Halleran was providing?
- 7 A. In Kindergarten Tina was one of the  
8 personnel from the District that was  
9 assigned to work with Carter.
- 10 Q. Do you know anything about the frequency of  
11 her visit? Would she sign in or anything  
12 when she came to visit the school?
- 13 A. Any visitors to our school are expected to  
14 check in at the office to let us know, but,  
15 I mean, I may not have been in my office  
16 every time that she visited the school, but  
17 I certainly had contact with Tina throughout  
18 the year.
- 19 Q. And would you have any idea how much time  
20 someone like Tina Halleran would spend with  
21 one student versus another student, like how  
22 they spent their time when they were in the  
23 school?
- 24 A. I couldn't give you specifics on the time  
25 and locations, no.

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- 1 Q. And to your knowledge, do you know if Tina  
2 Halleran was proficiency tested? I guess  
3 I'll put it to you, I won't have you guess.  
4 Tina Halleran wasn't proficiency tested. We  
5 didn't know her level of ASL, did we, while  
6 she was working with Carter?
- 7 A. I don't know her level, and I don't recall  
8 that being a question I would have asked at  
9 the time. If she was in the role I would  
10 assume that she would have had the level.
- 11 Q. Similarly with Terrilynn Clarke; do you know  
12 who Terrilynn Clarke is?
- 13 A. The student assistant?
- 14 Q. Yes. And to your knowledge she was not--for  
15 most of the time she was working with  
16 Carter, she was not proficiency tested. Do  
17 you understand that to be the case?
- 18 A. I don't recall that.
- 19 Q. You don't know?
- 20 A. I don't know if she was the first one  
21 assigned. There were two assigned, and one  
22 left, and then another one took over.  
23 Tracey, I believe her name was. I'm not  
24 sure which one was first and which one was  
25 second. I seem to recall that they would

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1           have been placed in that role because they  
2           would have had some level, but as for what  
3           that level was, as to how you--how you  
4           measure proficiency in ASL, I don't know.

5           Q.   You don't know, do you?  You don't know how  
6           to measure proficiency in ASL, do you?

7           A.   No, I do not know that.

8           Q.   Do you know that there's a standard test to  
9           measure proficiency in ASL?

10          A.   I don't know how it's measured.  I know that  
11          proficiency for teaching French as a second  
12          language is done through something called  
13          DELF.

14          Q.   The DELF, yes.

15          A.   So, I imagine there's a similar structure in  
16          place for ASL, but I'm not familiar with it.

17          Q.   Did you know that a standardized testing for  
18          proficiency in ASL existed?

19          A.   I don't--I wouldn't have been able to tell  
20          you at the time, and I can't tell you now,  
21          what the name of that process or procedure  
22          is to determine fluency, or proficiency, but  
23          I can only imagine that there's proficiency  
24          tests for English and other language, so I  
25          can only assume that there's one for ASL as



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1 well, but I don't know what it's called.

2 Q. Great point. I can tell you that it does  
3 exist, that the student assistant who had  
4 been assisting Carter, and communicating  
5 with Carter, and relying educational  
6 information in ASL, Terrilynn Clarke, was  
7 proficiency tested in ASL. Did you know  
8 that, that she eventually did get tested?

9 A. No, I don't know.

10 Q. You probably didn't? Let me read to you--  
11 this is a document that's in evidence, and  
12 we're going to talk about later. Let me  
13 read to you from the ASL proficiency test  
14 that was done on Terrilynn Clarke.  
15 "Terrilynn had considerable difficulty in  
16 producing appropriate signs. Inaccurately  
17 produced the sign for school, signing nice  
18 repeatedly. She began the conversation by  
19 incorrectly finger spelling her name. What  
20 should have been T-E-R-R-I-L-Y-N-N was  
21 produced as T-E-R-S-L-Y-N-N." It continues.  
22 "Terrilynn did not respond appropriately in  
23 target language to many queries, restricted  
24 conversation to predictable topics, which is  
25 seen in survival mode. Conversation was

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1 held to short sentences, at which times were  
2 inaccurate and incomplete. Limited sign  
3 vocabulary is quite apparent. Comprehension  
4 required my repeated production with  
5 misunderstandings occurring often. Based on  
6 the ASL assessment, we have concluded that  
7 Terrilynn's fluency in ASL communication is  
8 best described as novice plus. This level  
9 is certainly not conducive to the learning  
10 environment for a child who is deaf."

11 That's news to you, isn't it?

12 A. It is.

13 Q. I mean, you're the principal of the school.  
14 You're the principal of Beachy Cove  
15 Elementary. You know, you're responsible  
16 ultimately--you know, the buck stops with  
17 you. You're responsible for all the  
18 students in the school. Is it surprising  
19 for you now to hear that the student  
20 assistant who was responsible for  
21 communicating with Carter Churchill, the  
22 only way he's capable of communicating,  
23 tested so poorly? Is that a concern?

24 A. Yes, absolutely it would be a concern, but I  
25 don't know if it would be much of a surprise

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1           though given that--I'm sure the Human  
2           Resources Division would have had to draw  
3           from a pool of applicants, and if she put  
4           forth that she had proficiency in it, and  
5           they did subsequent testing--like the level-  
6           -that would surprise me, that part there,  
7           but I'm not sure that she wouldn't have been  
8           the best that's available. I don't know  
9           that either, but it just depends on the  
10          applicant pool.

11          Q.    You don't know that -

12          A.    No, I don't.

13          Q.    - and you're sort of just sort blindly  
14                hoping that the District would have picked  
15                the best possible candidate because you'd  
16                hope that they do the right thing?

17          A.    Yes.

18          Q.    But, of course, how can you know whether the  
19                applicant is the most qualified applicant if  
20                you don't test any of them, right? I mean,  
21                that's the--the concern that I'm putting to  
22                you is, are you concerned that none of these  
23                people were tested, and then when they  
24                finally do get tested, it turns out one of  
25                them can't even spell their own name?

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- 1           A.    That's a surprise for sure.
- 2           Q.    I mean, that wouldn't be acceptable for a
- 3                French teacher taking the DELF, would it -
- 4           A.    No.
- 5           Q.    - which is the French language test? It
- 6                wouldn't be acceptable for an English
- 7                teacher who learned English as a second
- 8                language had completed an English
- 9                proficiency test, would it?
- 10          A.    No.
- 11          Q.    Are you concerned--I mean, the delivery of
- 12                curriculum is one thing, but as the
- 13                principal of a school you're also
- 14                responsible for, you know, the safety of the
- 15                school. For you does it represent a safety
- 16                concern, that we could have a teacher with
- 17                such low ASL level proficiency who's
- 18                communicating a student's needs and appears
- 19                to be communicating them so poorly? Is that
- 20                a safety issue?
- 21          A.    I never thought of it in the light of safety
- 22                before.
- 23          Q.    Well, now that you do, is it something
- 24                you're concerned about?
- 25          A.    I'm sure there are conceivable situations

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1           where he would need to communicate something  
2           like that, yes.

3           Q.    In light of that information, do you still  
4           feel the support that Carter received in  
5           Kindergarten was adequate?

6           A.    We did the best we could with what we had  
7           available.

8           Q.    Right, but what I'm suggesting to you is  
9           what you had available wasn't very good. Do  
10          you agree?

11          A.    I believe the Churchill's believe that the  
12          services provided were not adequate.

13          Q.    I don't care about what you believe the  
14          Churchill's believed. I can tell you the  
15          Churchill's believed that the services were  
16          grossly inadequate. What do you believe?

17          A.    I think we made improvements in subsequent  
18          years.

19          Q.    Yes. What about that year? Do you believe-  
20          -now, knowing what you know now, which you  
21          didn't know until you came here today, do  
22          you still believe the services that Carter  
23          Churchill received in Kindergarten were  
24          adequate?

25          A.    I'm sure they could have been improved in

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1           retrospect, and I believe were subsequently  
2           improved.

3           Q.   I'm going to take your answer to be no, you  
4           did not believe they were adequate. Any  
5           objection to that?

6           A.   Again, I can only say at the time when we  
7           were immersed in it, and getting to know  
8           Carter, and getting to know the resources  
9           that he would have needed, I can tell you in  
10          retrospect that they probably weren't  
11          accurate, or adequate.

12          Q.   That's as close as I'm going to get. Okay.  
13          You indicated in your affidavit that your  
14          intention for Carter Churchill in  
15          Kindergarten was that he be fully  
16          integrated. The term fully integrated was  
17          something that shows up in a lot of the  
18          affidavits, and shows up in a lot of the  
19          language. Is that some kind of--like full  
20          integration, fully integrated, is that some  
21          term of art that I'm not familiar with?  
22          What is full integration mean?

23          A.   My understanding of fully integrated is that  
24          he would have been, or anybody would have--  
25          anybody who is going to be fully integrated

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1 is a full member of the classroom as opposed  
2 to receiving the program in a pullout  
3 fashion, in a one-on-one situation, like in  
4 an IRT room, or in the library, or something  
5 like that, one-on-one, or in small groups,  
6 but fully integrated, I envision that to  
7 mean the person is in the classroom.

8 Q. They're physically in the classroom?

9 A. Physically in the classroom and getting  
10 some, obviously some educational benefit  
11 from being there.

12 Q. Okay. Look, no objection to that, they're  
13 physically in the classroom. Absolutely  
14 Carter is physically in the classroom. He's  
15 not being pulled out, or at least not all  
16 the time. Whether he's fully benefiting  
17 from the instruction in the classroom, I  
18 suppose, is in dispute. Is social  
19 integration a part of full inclusion,  
20 integration?

21 A. Absolutely, no.

22 Q. Carter wasn't getting much social  
23 interaction, was he, because he couldn't  
24 speak with the other kids in his class?

25 A. He couldn't use ASL with the other children

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- 1 in the class. I can tell you though that  
2 Carter was a much loved member of  
3 Kindergarten, grade one, two, and three,  
4 when he was at our school by his classmates  
5 -
- 6 Q. No doubt.
- 7 A. - and they enjoyed being with him, and  
8 playing different games and things like that  
9 at recess with him and at lunchtime.
- 10 Q. Look absolutely. I have no doubt that  
11 Carter's classmates, you know, love him and  
12 like being with him, and Carter loves his  
13 classmates, and he loves being with them  
14 too, loves being with other children. The  
15 fact stands that he couldn't communicate  
16 with those other children, correct?
- 17 A. He couldn't communicate with them through  
18 ASL, no, he couldn't.
- 19 Q. He would have to go through his student  
20 assistant in order -
- 21 A. Yes.
- 22 Q. You know, he would have to sign in ASL to an  
23 adult who may or may not understand what's  
24 being signed, and who may or may not be  
25 capable of accurately translating if they



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1           are accurately signed, what Carter wants to  
2           say to other children. So, he has to go  
3           through an adult, right?

4           A. Right.

5           Q. I mean, you'd agree with me that children  
6           love all kinds of living things that they  
7           don't bother to communicate with. Children  
8           love the classroom hamster, but it--and they  
9           love having a classroom hamster there, but  
10          certainly they're not communicating with  
11          that, right? What I'm saying is, you know,  
12          I do not doubt for a second that every--you  
13          know, there's no--no one dislikes having  
14          Carter in their classroom. My question is  
15          about the level of engagement that Carter  
16          gets on a daily basis with his fellow  
17          classmates, and I'm going to suggest to you  
18          that that interaction, that engagement  
19          socially, is practically nothing.

20          A. Through communicating with ASL it would have  
21          been little or none, aside from some  
22          rudimentary signs that some of the children  
23          would have known, but being together, and  
24          laughing and playing together, that was  
25          certainly--I consider that to be a part of

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1 social interactions, and I think he did very  
2 well with that, but as for communicating  
3 with ASL, the level of proficiency, I guess,  
4 that the children, his classmates, would  
5 have had would have been rudimentary at  
6 best.

7 Q. Right. So, you'd agree with Tammy Vaters,  
8 who says in her affidavit--you know who  
9 Tammy Vaters is, right?

10 A. I do.

11 Q. Tammy Vaters says in her affidavit, "Hearing  
12 children in his neighbour classroom were not  
13 a good match for him," referring to Carter.  
14 "And it was difficult for him to communicate  
15 with his peers and friends." So, you would  
16 agree with that?

17 A. Yes, communicating in ASL, absolutely.

18 Q. Sorry, was he communicating in another way,  
19 like through English?

20 A. No, I'm just talking non-verbal  
21 communication, laughing, and playing games,  
22 and things like that, but as for signing,  
23 pure ASL, then no, that wouldn't have  
24 occurred.

25 Q. Right.

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1           A.    But through non-verbal communication, social  
2                   interactions, and things like that, yes.

3           Q.    He was socially isolated while he was at  
4                   Beachy Cove, wasn't he?

5           A.    I don't believe he was socially isolated.  
6                   He could not communicate to a great degree  
7                   using ASL, that's true.  There were--I mean,  
8                   as you've pointed out, the proficiency level  
9                   of the student assistants was wanting, for  
10                  want of a better word, but when you're in a  
11                  classroom with 20 or more other children who  
12                  are great kids and inclusive in wanting to  
13                  be friends with everybody and have fun at  
14                  recess time, those times I don't believe he  
15                  would have been socially isolated.  Yes, I  
16                  acknowledge that, he couldn't communicate  
17                  with them through ASL, but through other  
18                  non-verbal communication means, and being  
19                  included with friends, and sitting around at  
20                  recess time eating snack and stuff like  
21                  that, yes, he was a full participating  
22                  member like that.

23          Q.    As, you know, principal of a school, an  
24                  elementary school, you would have seen  
25                  groups of children regularly playing in

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- 1                   gymnasiums, playgrounds, those sorts of  
2                   things. I've got a daughter who's on her  
3                   way to grade two, and I've also attended at  
4                   those facilities, and I can tell you they're  
5                   very loud. Has that been your experience as  
6                   well, playgrounds and gyms are full of  
7                   shouting, yelling, children? It's important  
8                   for them to be able to shout and get that  
9                   energy out during the day?
- 10            A.    Yeah, schools are loud places for sure.
- 11            Q.    They are. And that shouting and speaking to  
12                   each other is important part of their  
13                   playing, isn't it?
- 14            A.    Of course.
- 15            Q.    But Carter wasn't doing that?
- 16            A.    I'm sorry.
- 17            Q.    Carter wasn't doing that, was he?
- 18            A.    Carter wasn't shouting? No.
- 19            Q.    No, and he wasn't communicating?
- 20            A.    He wasn't communicating with ASL, no.
- 21            Q.    The Churchill's say that regularly when they  
22                   would meet with you, and they would express  
23                   their concerns, as, you know, we know  
24                   happened frequently, you would use a phrase  
25                   that you've used a couple of times during

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- 1           this hearing already in response to them.  
2           You would say to them, "Well, that's your  
3           perception." They would say, you know, we  
4           have serious concerns that Carter is not  
5           getting a quality education, and your  
6           response they say would be, "Well, that's  
7           your perception." Does that sound like  
8           something you'd say? I mean, we've already  
9           heard you say it, so I think so.
- 10          A.   Quite possibly. I don't recall  
11           specifically.
- 12          Q.   Was your implication by saying that, you  
13           didn't share their view? Do you share their  
14           view that Carter wasn't getting a quality  
15           education?
- 16          A.   We provided Carter with the best education  
17           we could have possibly provided with the  
18           resources we were given.
- 19          Q.   Absolutely, and, I mean--look, I would  
20           provide--I would build the best possible  
21           deck I could from rocks that I find in my  
22           backyard, and that statement can be true,  
23           but I could still build a really crappy  
24           deck. I guess what I'm saying is if the  
25           materials that you've been provided with,

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1           the resources you've been provided with, are  
2           inadequate, you can still do the best job,  
3           and I don't deny that you did, the best job  
4           you possibly could, but if your resources  
5           are inadequate, the person still wouldn't be  
6           getting a quality education, would they?  
7           So, do you still think Carter got a quality  
8           education?

9           A.   Carter, I believe received the best  
10           education that we could provide at Beachy  
11           Cove.

12          Q.   At Beachy Cove?

13          A.   Yeah.

14          Q.   That's the best you could do?

15          A.   I'm sorry?

16          Q.   That's the best you could do?

17          A.   We provided the best we could do, yes.

18          Q.   You still believe that now?

19          A.   Yes. We provided the best education that we  
20              could, given the resources that we were  
21              provided with.

22          Q.   And if you had been given better resources  
23              you could have provided a better education  
24              for Carter, right?

25          A.   We could always do things better in lots of

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- 1 different programs.
- 2 Q. Are you aware of two reports that were
- 3 produced in 2017 and 2018? One was called
- 4 "Now is the Time" and the other one which
- 5 was called "The Way Forward." Do you recall
- 6 those two reports?
- 7 A. Not off the top of my head, no.
- 8 Q. They were produced by the Department.
- 9 A. Oh, "The Way Forward," yes, I recall that.
- 10 Q. And there was one the year before that
- 11 called "Now is the Time." Do you recall
- 12 that one?
- 13 A. Is that the one, the Premier's Educational
- 14 Task Force?
- 15 Q. That's right.
- 16 A. The "Now is the Time" one?
- 17 Q. Yes.
- 18 A. Okay, and, "The Way Forward," was a
- 19 government -
- 20 Q. Department document, yes.
- 21 A. Pardon?
- 22 Q. A Department document, yes.
- 23 A. "The Way Forward?"
- 24 Q. Yes.
- 25 A. I seem to recall--I thought "The Way

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1 Forward" -

2 Q. I might have them reversed, sorry.

3 A. I thought "The Way Forward" was like a  
4 social/economic action plan that the  
5 government had at the time, but I may be  
6 wrong on that. What was the one you  
7 referenced before that?

8 Q. There's "Now is the Time," which ironically  
9 required a follow-up report that then in  
10 2018 is called "The Way Forward."

11 A. I remember--I don't remember the names. I  
12 remember there was a Premier's Task Force,  
13 and I never, ever, thought about the title,  
14 but I'm familiar with the Task Force report.

15 Q. Well, I guess for the purposes of the  
16 question that I need to ask you, you know,  
17 are you generally familiar that reports  
18 produced over the course of 2017 and 2018,  
19 which I can tell you are those reports, but  
20 whichever, acknowledged that the inclusion  
21 model wasn't working? You're nodding yes.  
22 So, yes, you are aware that that was -

23 A. I'm aware of the reports, but as to the  
24 specific things it contained, like the  
25 statement you just made, like I wouldn't be



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1           able to go to you and pull out the report  
2           and say, yes, this is where it says that,  
3           but I remember it raising issues with  
4           inclusive education for sure.

5           Q.   With inclusive education being an issue?

6           A.   Yes.

7           Q.   That's right.  Sorry, the only reason I'm  
8           pausing--I said this to every witness so  
9           far.  The reason I'm pausing is because I've  
10          asked a lot of these questions already and I  
11          wanted to double back.  Okay.  I'm going to  
12          get you to have a look at a document.  So,  
13          in those binders over to your left, one of  
14          them says Volume 1 on the front.  Yes, those  
15          six stacked there.  One of them says Volume  
16          1.

17          A.   Yes.

18          Q.   So, you go to Volume 1, Tab T, as in Tango.  
19          Now, this is a document you probably never  
20          would have seen, so I'm not asking you to  
21          verify the document, unless you have seen  
22          it.  Have you ever seen a document like this  
23          in the midst of a deaf and hard of hearing -

24          A.   Is this the one?

25          Q.   Yes.

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1 A. No, I haven't seen it.

2 Q. I can't imagine you would. Okay. So, for  
3 your information purposes then, this is a  
4 meeting of, you know, the deaf itinerant  
5 teachers, and there's a list of who would be  
6 there. You might in fact be familiar with  
7 some of these names. They might have been  
8 names you seen before. So, these are the  
9 folks who, you know, are going out to the  
10 schools and interfacing with deaf children,  
11 and finding out their needs and concerns,  
12 and you can see the date of this report is  
13 December 2<sup>nd</sup>, 2016, right.

14 A. Um-hm.

15 Q. Sorry, I'm just going to find the right  
16 page. So, I want to read to you from page--  
17 the cover page. So, flip three pages in, so  
18 the fourth page, and the very top of that  
19 page reads, "Action Items, DHH teachers need  
20 to review the record." Are you on the same  
21 page?

22 A. Um-hm.

23 Q. Great. There's a section here that says,  
24 "Students who have cochlear implants and low  
25 language. Discussion. Some very young

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1 children with cochlear implants receive lots  
2 of support at school but have very low  
3 language comprehension skills. There are  
4 significant concerns that their programming  
5 is not what they need." This is in 2016.  
6 "It would be helpful if local students with  
7 cochlear implants, hearing impairments, get  
8 together to communicate and learn. Can we  
9 bring these students together once a week?  
10 It would be helpful for the children to see  
11 others with cochlear implants. Strategies  
12 to be used by school teachers. Concerns  
13 that the students are not able to access the  
14 curriculum. There is a gap left between the  
15 closure of the School for the Deaf and the  
16 current service delivery model. Teachers  
17 are concerned that this is a human rights  
18 concern. Reverse integration is used in  
19 some other provinces. Is it possible for  
20 some of our students to access APSEA for  
21 short-term programs, assessments, and  
22 consult for developing programs?" Skip a  
23 sentence, it's not relevant. "Some of our  
24 young students need intensive language  
25 intervention." Do the concerns that are

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- 1           being raised by the itinerant teachers of  
2           the deaf in this document in 2016 seems very  
3           similar to the concerns the Churchill's were  
4           bringing to you throughout Carter's four  
5           years at Beachy Cove Elementary?
- 6           A.    Yes.
- 7           Q.    They're saying the same thing, aren't they?
- 8           A.    Um-hm.
- 9           Q.    Different area of questioning here now.  How  
10          many students would normally--Beachy Cove  
11          Elementary isn't a K to 6 school anymore I  
12          don't think.  I think it's changed.
- 13          A.    Not anymore.  We're a K to 4 school right  
14          now.
- 15          Q.    When it was K to 6, how many students would  
16          usually be enrolled there?
- 17          A.    At our peak we had 775.
- 18          Q.    That's a big school.
- 19          A.    Yeah, I have the scars.
- 20          Q.    Wow.
- 21          A.    It was a big school.
- 22          Q.    A fire drill must be something to see.
- 23          A.    Yeah, but when Brookside Intermediate opened  
24          our grade five's and six's went down there,  
25          and we're at 550 today, give or take.

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- 1 Q. Okay. A report card gets produced for each  
2 of those students?
- 3 A. Three times a year.
- 4 Q. Three times a year? So, three times a year,  
5 776 students at max, a report card for each  
6 of them. Do you review each and every one  
7 of those 776 report cards?
- 8 A. Yes, sir.
- 9 Q. Every single one? You sit down and read  
10 them all?
- 11 A. Every one.
- 12 Q. Like reading Lord of the Rings, three times  
13 a year?
- 14 A. Yeah.
- 15 Q. That's a lot of reading.
- 16 A. It is. I take two weeks to do it.
- 17 Q. Yes, it's a substantial process.
- 18 A. It is.
- 19 Q. And do you have a recollection of reading  
20 the Kindergarten report cards and drafts  
21 prepared by Carter's Kindergarten teacher,  
22 Shane Porter?
- 23 A. I don't have--like I can't recall  
24 specifically the report at that time, but I  
25 can assure you that I would have done that.

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- 1 Q. You would have done it?
- 2 A. Yes.
- 3 Q. Okay. I'm going to take you to a document.
- 4 It's probably easier to go to Volume 3, so
- 5 the big stacks.
- 6 A. Am I done with this one?
- 7 Q. Yes. Can you go to Volume 3, and go to Tab
- 8 Q, as in Quebec. I'm always happy for a
- 9 chance to show off the phonetic alphabetic.
- 10 A. So, this is the grade four report?
- 11 Q. Yes. This grade four report card--sorry, I
- 12 should be looking at the grade three report
- 13 card, shouldn't I, because he's not with you
- 14 guys. I got the wrong tab. Sorry, that's
- 15 Tab F, as in Foxtrot. You're there?
- 16 A. Yeah.
- 17 Q. Good. These are report cards generated for
- 18 Carter, and he gets numerical grades I see
- 19 here, one's, and two's, and three's. I
- 20 think it goes up to four, but it doesn't
- 21 look like Carter has any four's. Yes,
- 22 four's are excellent. He doesn't have any
- 23 of those. So, you're looking at that report
- 24 card there, and you see the one's, and
- 25 two's, and three's?

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- 1           A.    I'm looking at term one, grade three.
- 2           Q.    Yes, that's right, term one of grade three.
- 3                    My understanding of what these numbers mean
- 4                    in a report card is that Carter--you know,
- 5                    the key is here for, you know, one's, and
- 6                    two's, and three's, and four's, excellent,
- 7                    good, approaching, not yet demonstrating.
- 8                    There's also insufficient evidence and not
- 9                    applicable. So, what it means is that--you
- 10                   know, let's take for example health. He did
- 11                   a little better in health. On the subject
- 12                   of health on page 2, "Demonstrates an
- 13                   understanding of concepts that promote
- 14                   health for self and others," and he scores a
- 15                   three, which means good. So, it means that
- 16                   for the health curriculum in grade three,
- 17                   being taught--is this grade three? Being
- 18                   taught at the grade three curriculum level,
- 19                   Carter Churchill demonstrates a good
- 20                   understanding of the grade three health
- 21                   curriculum, right? That's what that means?
- 22           A.    That's what that indicates.
- 23           Q.    And when we look at, you know, down in
- 24                   Religious Education--they're raising an
- 25                   atheist by the looks of it because he scores

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- 1 a one. It indicates that Carter  
2 demonstrates an awareness of concepts and  
3 living belief systems, and he scores a one,  
4 which means not yet demonstrating, you know,  
5 the grade three religion curriculum, right?
- 6 A. Correct.
- 7 Q. And my understanding is also in the event  
8 that, let's say, Carter is not being taught  
9 the grade three curriculum, because he's  
10 just not at a level where it is of any  
11 utility to teach him the grade three  
12 curriculum, he would get an IE, which means  
13 insufficient evidence. Is that how that  
14 grading system works?
- 15 A. Insufficient evidence is used when there's  
16 insufficient assessment evidence on which  
17 the teacher would rely to make the  
18 determination as to which of the rating  
19 scale numbers to assign. It doesn't happen  
20 very often. An example might be--if you go  
21 over to mathematics, sometimes you'll see--  
22 there was one there, shape and space,  
23 demonstrates an understanding of shape and  
24 space, that one may have not been covered in  
25 term one. I'm just giving you an example.



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- 1 Q. So, that's why he gets an NA, which means  
2 not applicable?
- 3 A. Not applicable there means that -
- 4 Q. That's what he gets.
- 5 A. Not applicable and IE are different.
- 6 Q. They are.
- 7 A. IE is insufficient evidence.
- 8 Q. Yes. I was asking you about IE, and my  
9 understanding of IE means -
- 10 A. For example, geometry, if there was a  
11 geometry strand in the math and it wasn't  
12 covered in term one, then IE would be placed  
13 there because it's just been covered yet at  
14 that point in the year. That's when you  
15 would use IE.
- 16 Q. Then what does not applicable mean, because  
17 that's what he gets. In math, on  
18 demonstrating and understanding of shape and  
19 space, he gets not applicable? I understand  
20 that's what not applicable means. I guess  
21 what I'm asking you -
- 22 A. Not applicable wouldn't be used--I don't  
23 know why not applicable is used in this  
24 particular one right here because the  
25 curriculum program is prescribed with

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- 1 accommodations, as indicated by the PA. IE  
2 would be used if there was not enough  
3 assessment evidence for the teacher to  
4 assign a rating scale number.
- 5 Q. Okay. And you said that's very rare, IE.
- 6 A. Yeah, you don't see it very often.  
7 Sometimes you'll see it on some strands in  
8 some terms.
- 9 Q. I mean, because you seen 776 report cards  
10 three times a year over the course of how  
11 every many years teaching. It's a lot of  
12 report cards, and you don't see -
- 13 A. We don't see IE very often.
- 14 Q. Is it surprising for you to find out that -
- 15 A. The NA probably should have been an IE in  
16 this case. The teacher, Mrs. Hatcher, would  
17 be--I'd have to rely on her for that. I  
18 would expect though that that NA should have  
19 been an IE.
- 20 Q. Right. Sorry, the reason for IE is because  
21 they never got a chance to assess, is that  
22 what you mean?
- 23 A. Or the curriculum strand wasn't covered  
24 during that term, because I note this is a  
25 term one report, so that would be

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1 demonstrates an understanding of shape and  
2 space. The shape and space strands in the  
3 grade three curriculum might not have been  
4 covered until term two or term three.

5 Q. Now, we've heard, and we're going to hear  
6 some evidence later from other witnesses who  
7 are going to tell us that what IE means, and  
8 again, I ask this to you as somebody who  
9 spends a lot of time on his report cards,  
10 that IE would be used in the event that a  
11 child is unable to, let's say, benefit from  
12 the grade three criteria, and instead is  
13 being taught, let's just say, the grade one  
14 criteria by way of an accommodation, in  
15 which case you would say IE because, you  
16 know, well, they weren't learning grade  
17 three math, they were learning grade one  
18 math, so they'd say IE. Is that a correct  
19 use of IE?

20 A. I'd have to go back to the assessment  
21 evaluation policy, or documents, related to  
22 the report card guidelines. My  
23 understanding of IE was it's just that the  
24 teacher, through the course of his or her  
25 work in the assessment cycle, would not have

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- 1           enough evidence to consider to assign a  
2           rating scale number. That's my  
3           understanding.
- 4           Q. Was Carter behind in the grade three  
5           curriculum?
- 6           A. I believe so, yes.
- 7           Q. He was?
- 8           A. Yeah. He wasn't--I mean, behind--if you  
9           look at the rating scales, if you consider  
10          behind like not getting full achievement of  
11          each of the curriculum outcomes, then, yes.
- 12          Q. He wasn't getting the maximum benefit from  
13          the school system, was he?
- 14          A. He was getting the best we could offer at  
15          the time.
- 16          Q. I hear that. I'm going to get you to look  
17          at another document. I'll get you to pick  
18          up--I was looking at Volume 3, that's why.  
19          I'll get you to look at Volume 4, Volume 4  
20          of the documents, Tab B, as in Bravo. Do  
21          you recognize this email, and the attachment  
22          to that email?
- 23          A. I don't recall it, but, I mean, it's clearly  
24          there that it's addressed to me from Mr.  
25          Porter.

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1 Q. Yes. Did you review this document in  
2 advance of preparing your affidavit?

3 A. No.

4 Q. Okay. I wonder, Adjudicator, because I  
5 still probably do have a few more questions  
6 for Mr. Dawe, it might be a good point to  
7 take a break and allow Mr. Dawe to review  
8 that document during the break, if that's  
9 okay.

10 ADJUDICATOR:

11 Q. Yes. How long do you want to take a break  
12 for?

13 MR. REES:

14 Q. Five minutes is fine for me.

15 A. Do you mean pages 45 to 48?

16 Q. Yes, that's right.

17 ADJUDICATOR:

18 Q. Okay. We'll adjourn for five minutes.

19 MR. REES:

20 Q. Thank you.

21 (OFF RECORD)

22 MR. REES:

23 Q. After our five minute break, have you had a  
24 chance to review the document that we were  
25 discussing before the break?

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- 1           A.    I have.
- 2           Q.    And does it jog your memory in any way of  
3                   having seen it, or having read it?  I mean,  
4                   I know you read a lot of reports, but do you  
5                   recall reading that one?
- 6           A.    I can't say that I didn't read it, but I  
7                   can't--I don't recall seeing this particular  
8                   document, but I won't say that I didn't  
9                   because it was part of my practice to read  
10                  everything that went out like that.  So, I  
11                  would say that I saw it.
- 12          Q.    Right.  Shane Porter testified earlier that  
13                  you're only able to put 1,500 characters in  
14                  a box on a report card.  This is a lot  
15                  longer than 1,500 characters.
- 16          A.    It is.
- 17          Q.    Are you aware of any circumstances in which,  
18                  you know, a teacher is allowed to exceed the  
19                  character limit on a report card, you know,  
20                  include an addendum or something like that?
- 21          A.    It's not technologically possible within the  
22                  on-line portal for report cards, but this is  
23                  certainly a way that we've used to elaborate  
24                  for some students who might need the  
25                  commentary expanded.

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1 Q. This document doesn't make its way into  
2 Carter Churchill's report card. A much,  
3 much, abbreviated version of it, that's  
4 1,500 characters long, does. My question  
5 for Shane Porter earlier was whether--why  
6 this document was sent to you, and then  
7 later on he distilled it down to 1,500  
8 words, and I had asked, or characters, and I  
9 had asked him whether Aubrey Dawe edited  
10 this document to distil it down to 1,500  
11 words, and he said no. So, do you edit  
12 report cars, or make suggestions? Like,  
13 what's your role in reviewing a report card  
14 like this document?

15 A. All of what you just said. I would  
16 certainly do some editing if there were  
17 typos and things, spelling errors, maybe,  
18 yeah.

19 Q. When you're sent a document like this, and  
20 then later on by the time report cards are  
21 ready to go and you sort of get your final  
22 look at them, you then see, you know, the  
23 comments that are about 10 percent the size  
24 of this. You know, what do you do--how do  
25 you ensure that the information that's

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1 contained in the longer document that we  
2 were looking at, you know, is preserved or  
3 otherwise able to be used by future  
4 educators?

5 A. Well, it's often that this kind of document  
6 would have been sent--now, you know, there's  
7 not been a lot that have been this  
8 comprehensive, but there are some learners  
9 for whom an extra sheet is required, and  
10 that's sent home with the report card.

11 Q. So, it's like what, stapled to the back of  
12 the report card or something?

13 A. Yeah. Now, I don't know if this one was or  
14 not.

15 Q. No, it wasn't. Shane Porter indicated that  
16 he would not provide this document to  
17 anybody, including parents, and that he  
18 would keep it sort of for his own use, that  
19 he would, you know, use to prepare for  
20 parent/teacher interviews, and things like  
21 that, but it wouldn't be given to--it  
22 absolutely would not, I think was his  
23 evidence, be given to parents. He didn't  
24 know if maybe in some way it made its way  
25 forward to future educators, and I suspect



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1 based on your comments probably not. So, to  
2 that point, I guess, what's the reason in  
3 sending you a document that's, you know,  
4 10,000 characters long, when you know that  
5 only 1,500 characters of it are going to be  
6 submitted into the report card? Did you  
7 take any action on the basis of this? I  
8 mean, what did you do with it?

9 A. So, this file that's references the  
10 attachments there,  
11 termone2016/2017shaneporter1.doc, is this  
12 the document that was attached to that?

13 Q. So Mr. Porter tells us, yes.

14 A. Okay.

15 ADJUDICATOR:

16 Q. Mr. Porter said this was a portion of the  
17 document that was sent. Mr. Porter's  
18 evidence was that the document that was sent  
19 would have been for all of the children's  
20 report cards, and this would be an excerpt  
21 from that.

22 MR. REES:

23 Q. And it was--I mean, I don't think a lot  
24 turns on it to be honest. I thought it was  
25 what you just stated, Commissioner, or

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1 Adjudicator, but I actually think Mr.  
2 Porter's evidence was different than that.  
3 I don't think much turns on it. I'm not  
4 going to get hung up on it, but in any  
5 event, I guess what I'm asking is, like,  
6 this document that we see here that's titled  
7 Carter Churchill, that continues for three  
8 and a half pages, you know, what did you do  
9 with this? What did this mean to you? Were  
10 you just editing it for grammar, or were you  
11 expected to do something with it?

12 A. I would have edited it for grammar and  
13 spelling, things like that, as well. In  
14 looking at it four years later from when it  
15 was created, I would have thought that it  
16 would have gone home. On the surface it  
17 looks like--it doesn't look too dissimilar,  
18 aside from the length of it than--it doesn't  
19 dissimilar to something else that we might  
20 attach for other learners who might need  
21 expanded commentary. This might have been--  
22 you'll have to ask Mr. Porter, maybe he  
23 already said, but this may have been a  
24 guidance document for his discussions with  
25 the family at parent/teacher interviews in

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1 late November, early December, of that year.

2 I assume this is for term one.

3 Q. And we also understand that this never  
4 became a part of Carter Churchill's file,  
5 and the Churchill's have said--I mean, the  
6 only way they got this was through the  
7 disclosure process in this litigation and  
8 Access to Information Requests. So, I guess  
9 what I'm wondering, you know, was it your  
10 responsibility, or was it Mr. Porter's  
11 responsibility, or no one's, to ensure that  
12 this made its way to Carter Churchill's  
13 parents?

14 A. If it was the intention that it was to go to  
15 Mr. and Mrs. Churchill, then it would have  
16 been Mr. Porter's responsibility to include  
17 it in the report card envelope with it.

18 Q. Okay. I want to ask you one question about  
19 the content of this report, and it's on the  
20 page that says page 46 at the top. Are you  
21 there?

22 A. Um-hm.

23 Q. The first full paragraph says, "Carter  
24 appears to listen respectfully in classroom  
25 discussions. It is difficult to assess how

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1           much he retains as his output and expressive  
2           language is so limited. He does remain  
3           quiet and generally attentive when listening  
4           as part of a group. When listening one-on-  
5           one he often needs visual reminders to look  
6           at a specific target. When assessing  
7           Carter, the IRT will often speak directly  
8           into his ear while the classroom teacher  
9           speaks to his face." It's that last  
10          sentence that I want to ask you about, and  
11          Mr. Porter talked about it at length, and he  
12          said what would happen is--and it was done  
13          during assessments. It wasn't done all the  
14          time. It was kind of done, he seemed to  
15          imply, on an experimental basis, that during  
16          an assessment of Carter he would speak into  
17          Carter's face, somewhere table length away,  
18          two or three feet away, while the IRT, Raven  
19          Williams, would speak directly into his ear  
20          repeating the words that Shane Porter was  
21          saying. Were you aware that that had been  
22          tried as a communication method with Carter?  
23          Were you aware of that practice?

24          A. Not specifically, no.

25          Q. So, this is--I mean, this isn't jogging your

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- 1           memory or anything reading this?
- 2           A.    That sentence?
- 3           Q.    Yes.
- 4           A.    No.
- 5           Q.    We asked Shane Porter where he got the idea
- 6                   to conduct that procedure, and he said he
- 7                   doesn't know. He didn't come up with it.
- 8                   Somebody told him to do it, but he doesn't
- 9                   remember who. Do you have any idea of who
- 10                  would have recommended that?
- 11          A.    This particular assessment method?
- 12          Q.    Yes.
- 13          A.    No, I don't know who recommended it.
- 14          Q.    Now that you read about that assessment
- 15                  method, and you're saying, you know, you're
- 16                  not quite sure if you were aware of it at
- 17                  the time or not, does that cause you any
- 18                  concern to read that that was a method that
- 19                  was tried to communicate with Carter
- 20                  Churchill?
- 21          A.    Yes.
- 22          Q.    It does cause you concern?
- 23          A.    Yes.
- 24          Q.    Describe for me why you're concerned?
- 25          A.    Carter was deaf, and to rely on sounds and

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1 speech wouldn't have worked for him. In  
2 light of the--I can only assume that in  
3 light of the cochlear implant that they were  
4 hoping.

5 Q. So, based on your reaction there, I'm sure  
6 it doesn't surprise you then to hear that,  
7 you know, within the deaf community that  
8 kind of a practice is frowned up, it's  
9 considered very disrespectful, right.

10 A. Um-hm.

11 Q. I mean, I know you read all these report  
12 cards. Shane Porter went through a lot of  
13 effort to write this lengthy document, which  
14 does get emailed to you, and presumably read  
15 by you, but you're telling me now that, you  
16 know, this causes you substantial concern,  
17 and presumably had you read this document at  
18 the time, it would have caused the same  
19 concern for you then as it does now, right?

20 A. When you know better, you do better. I  
21 don't know if at the time in terms one that  
22 we knew differently at that time because we  
23 were still getting to know Carter.

24 Q. So, this, you know, sense that you now have,  
25 that it was inappropriate to do that, that

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1           may not have been your view at that point in  
2           time several years ago?

3           A.    Early on in that year it probably didn't  
4           give me--obviously it didn't give me the  
5           concern because I probably would have--like  
6           now I would not allow comment to be there.

7           Q.    And you have had--you know, the District  
8           didn't offer you any degree of training in  
9           deaf culture that would have told you that  
10          that was an inappropriate way to teach a  
11          deaf child?  There was no training offered  
12          by the District to help you navigate those  
13          kinds of concerns?

14          A.    No, none that I can recall.

15          Q.    And if there had been training like that  
16          offered, you would have done it, right?

17          A.    Of course.

18          Q.    I just want to go back to the idea of  
19          getting an IE on the report card, just very  
20          briefly.  You said that was a pretty rare  
21          thing, to see IE on a report card.

22          A.    There's commentary in the, if I recall  
23          correctly, in the District's Assessment  
24          Evaluation Policy which describes when IE  
25          should be used.

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1           Q.    So, the report card that we reviewed--we  
2                    don't need to go back to it. The report  
3                    card that we had reviewed for Carter, you  
4                    know, from grade three, which I assume, you  
5                    know, in fact I know is very similar to his  
6                    grade two, his grade one report card, you  
7                    know, has him getting for the most part  
8                    one's, and two's, and three's, in various  
9                    subject areas, and that means--I think your  
10                  evidence earlier was that Carter was, you  
11                  know, being taught grade level criteria,  
12                  grade level curriculum, and depending on a  
13                  one, or a two, or a three, had various  
14                  levels of understanding of that material.

15          A.    It was with accommodations.

16          Q.    With accommodations?

17          A.    Yeah.

18          Q.    Does it surprise you to learn that when  
19                  Carter went to East Point Elementary, and  
20                  where he remains now, the ASL immersive  
21                  classroom, in grades four and five's, every  
22                  single one of his report cards was replete,  
23                  as in 100 percent filled with IE for every  
24                  single subject? That since graduating, or  
25                  transferring, from Beachy Cove Elementary to



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1 East Point Elementary, Carter has never  
2 received a one, a two, a three, or a four.  
3 He has only ever received IE's in every  
4 single subject area. Does that sound  
5 unusual to you?

6 A. It does.

7 Q. I know you didn't write the report card.

8 A. It does sound unusual, but there may be--I'm  
9 not sure what programming decisions were  
10 made with the ASL immersive classroom. I'm  
11 not familiar with it. It wasn't at our  
12 school, and Carter left in grade three to  
13 attend that, and participate in that in  
14 grade four. I'm not sure. I'm not aware of  
15 any programming decisions that were made  
16 with the ISSP team subsequent to his leaving  
17 us and joining the immersive classroom that  
18 would have dictated that IE's would have  
19 been used. To give you an example, if a  
20 child is moved off prescribed curriculum,  
21 and there on an alternate functional  
22 curriculum, the report card doesn't fit  
23 that. So, we often rely on an anecdotal  
24 written report. I believe we call it  
25 progress notes, where the objectives of the

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1 program that's developed is based on the  
2 learner's strengths and challenges. So,  
3 there's certain objectives around eight  
4 domains. So, I'm not sure if anything like  
5 that was in place for Carter which would  
6 warrant the IE's. I don't know that, but,  
7 yes, to go back to your question, to see a  
8 report card with IE's from A to Z, that  
9 would be unusual in my view.

10 Q. Do you have any reason to believe, you know,  
11 that Carter, who was receiving one's, and  
12 two's, and three's, all while at Beachy  
13 Cove, you know, was in fact being assigned  
14 inaccurate numbers, and he in fact was not  
15 learning at his grade level? That to some  
16 extent the one's, the two's, the three's,  
17 that were being given to Carter were  
18 inaccurate?

19 A. I think if you ask the teachers who looked  
20 at the assessment evidence, and considered  
21 it, and then assigned a rating scale, I  
22 don't believe they would say it's  
23 inaccurate. I believe it was based on the  
24 best assessment information that they had  
25 available to them.

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- 1 Q. If a child gets all one's on a report card--  
2 one's are bad. If a child gets all one's on  
3 a report card, which indicates that they  
4 don't have an understanding of all the  
5 various subject areas, do they still advance  
6 to the next grade?
- 7 A. In my career, which is 32 years long, I have  
8 known one learner who repeated from one  
9 grade to the--stayed in one grade instead of  
10 advancing to the next grade. The School  
11 District has a very clear policy in it's  
12 Assessment Evaluation Policy, and there's a  
13 section there, maybe called Promotion and  
14 Advancement, or something like that, but I  
15 can only recall one child in 32 years that  
16 they stayed in a particular grade level for  
17 the following year.
- 18 Q. Right. Did you make any edits to Shane  
19 Porter's term one report card?
- 20 A. Which tab was that?
- 21 Q. The report card itself--sorry. So, the  
22 notes are this Tab B, and I'll find it in a  
23 second.
- 24 A. There's phrases in this four pages that I  
25 would have edited.

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- 1 Q. Tell me about that.
- 2 A. It's just -
- 3 Q. Tab B of Volume 4.
- 4 A. But it would have been just a typo,
- 5 grammatical, kind of thing.
- 6 Q. Oh, that's what you mean?
- 7 A. That's all I mean, not anything substantial,
- 8 no.
- 9 Q. How do you -
- 10 A. Pardon?
- 11 Q. How do you know that, because you've looked
- 12 at it now and you said that's -
- 13 A. I looked at it now, and there's a phrase
- 14 there that I routinely edit, but, I mean, I
- 15 may have missed it too. I'm not--I can't
- 16 say that I didn't edit it.
- 17 Q. But I think you've already given your
- 18 evidence that, you know, to your
- 19 recollection you don't remember making
- 20 substantive changes, or providing
- 21 commentary, on the contents of the report
- 22 card.
- 23 A. No. I may have suggested--if something--the
- 24 teachers have clinicians in their
- 25 classrooms, clinics, and they're front

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- 1 lines, and they would know the learners far  
2 better than I would, but if a comment was  
3 written in a certain way that I didn't  
4 understand, then I would routinely highlight  
5 those kinds of comments and just wonder if  
6 something in particular could be phrased  
7 differently. Do you have--is Carter's  
8 Kindergarten report in these documents?
- 9 Q. Yes. If you look at Volume 2, and--I mean,  
10 you'll see it all if you go to Tab D for  
11 Delta, and, I mean, that's the term three  
12 report card, but it includes all the  
13 information from the previous terms as  
14 you're aware.
- 15 A. Yeah, that's term three. I just wanted to  
16 look at the comments for term one.
- 17 Q. Yes, term one. Having reviewed it, Mr.  
18 Dawe, is there anything you wanted to add?
- 19 A. No, I was just curious as to what the final  
20 commentary ended up being.
- 21 Q. Okay. I'm going to ask you to switch  
22 volumes and pick up Volume 6, Tab B as in  
23 Bravo. I don't know if you're aware of this  
24 kind of form, and I guess that's really my  
25 question. I mean, I see on the next page--

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- 1           so, there's page one, and then on page two,  
2           that's your signature, right, as the  
3           administrator?
- 4        A.    Yes.
- 5        Q.    So, you would have had an awareness of this  
6           form, right?
- 7        A.    Um-hm.
- 8        Q.    On the first page of this form, the very  
9           first item on the descriptor, indicates that  
10          the student is minimally--you see where I'm  
11          reading from, right? "Student is minimally  
12          verbal, i.e. functional vocabulary of 30  
13          words or less. Will likely have a severe  
14          intellectual disability or autism." Now,  
15          you know that Carter Churchill doesn't have  
16          a severe intellectual disability or autism,  
17          right?
- 18       A.    Um-hm.
- 19       Q.    That's not an appropriate descriptor for a  
20          deaf child, is it, this form that you  
21          signed?
- 22       A.    This is an application, and if I'm recalling  
23          this correctly, it lists out the--it lists  
24          out the criteria for accessing the service.
- 25       Q.    And I appreciate that you filled the form

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1 out in order to, you know, get the services  
2 that were needed. I guess my question for  
3 you is, I mean, in order to get the services  
4 Carter needs, you're sort of locked in,  
5 boxed in, to a form that requires you to  
6 check the boxes as, you know, intellectual  
7 disability or autism, and that's not  
8 appropriate, is it?

9 A. No. Carter doesn't have--he doesn't have  
10 either of those exceptionalities.

11 Q. Carter has a different language, ASL.  
12 That's his communication limitation, and  
13 that's only a limitation if the world around  
14 you is limiting, right?

15 A. Right.

16 Q. Did you ever get the sense that the staff at  
17 Beachy Cove Elementary, and maybe including  
18 you, maybe not, but that the staff at Beachy  
19 Cove Elementary were more concerned with how  
20 the Churchill's would publicly react to  
21 Carter's education, and Carter's  
22 programming, than they were about the  
23 programming itself, that they were sort of  
24 motivated, and the only things that  
25 motivated Carter Churchill's education

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1 curriculum was sort of fear of the  
2 Churchill's than actual concern for Carter?  
3 Did you ever get that sense?

4 A. No, sir.

5 Q. I'd like to refer you to a document. It's  
6 in the School District's Tab 12B. Now, the  
7 School District's tab--there's a--I think on  
8 you it's--yes, it's in a big binder for you  
9 guys.

10 A. Is it this one?

11 Q. Steve is going to assist. It's the First  
12 Supplementary List of Documents, and it says  
13 Volume 3 of 5 on it, and you might just have  
14 a big binder there, Mr. Dawe, and the one  
15 I'm looking for is one that's called Tab B.

16 A. B?

17 Q. B as in Bravo. Sorry, it's 12, 12B. A bit  
18 of a delay because we have so much paper.  
19 We're trying not to inundate our witnesses.

20 A. I don't know what I'm looking for. I'm  
21 sorry, I can't find it.

22 Q. No, you're going to get it in a moment.

23 A. Okay.

24 ADJUDICATOR:

25 Q. We're going to adjourn for a couple of



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1 minutes here, five minutes.

2 (OFF RECORD)

3 MR. REES:

4 Q. I have just asked you whether it was  
5 apparent to you that your staff at Beachy  
6 Cove Elementary were more concerned about  
7 being criticized by the Churchill's than  
8 about ensuring Carter had access to the  
9 service he needed, and you indicated you  
10 didn't think that was the case. The email  
11 that I just referred you to is an email from  
12 Raven Williams to Miranda Gosse. Raven  
13 Williams is one of the employees at your  
14 school at that time? Page 95, 12B, Volume 3  
15 of 5. Why doesn't it look--why don't I just  
16 give it to you.

17 A. This is what's on page 95 in this one. So,  
18 this one here you're talking about?

19 ADJUDICATOR:

20 Q. Gentlemen, have I got the right document?

21 MR. REES:

22 Q. Yes. So, yours is right. That's an email  
23 from Raven Williams, who's one of the folks  
24 in your school for whom you were  
25 responsible?

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1 A. Um-hm.

2 Q. And they send this email that raises the  
3 concern that says Ms. Churchill might be  
4 coming into the ISP meeting, might be coming  
5 into the IEP guns a blazing, followed by  
6 four exclamation points, right. Does that  
7 change your view on whether the staff at  
8 Beachy Cove Elementary were more concerned  
9 about how angry Kim Churchill was as opposed  
10 to whether the proper services were being  
11 provided? That's what I draw from that.

12 A. I wouldn't apply that generalization to the  
13 whole staff, no, and this particular one  
14 comment, I would paint Ms. Williams with  
15 this whole--with that description that you  
16 were suggesting. This is a comment that she  
17 made in the email, but I don't think it  
18 paints her, or anyone else, with the  
19 perception that they're in fear of the  
20 Churchill's more than advocating for the  
21 program.

22 Q. Did Ms. Churchill come into those meetings  
23 guns a blazing? I presume not literally.

24 A. No. I wouldn't describe any of the meetings  
25 that anybody would have went into with guns

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- 1 a blazing.
- 2 Q. You would say they're advocates?
- 3 A. Of course.
- 4 Q. Okay. That's the only question on that
- 5 document. Do you know who Jamie Coady is?
- 6 A. Jamie Coady?
- 7 Q. Yes.
- 8 A. Yes, I do.
- 9 Q. Yes, he's the Director of Schools, right?
- 10 A. He is.
- 11 Q. Were you aware in September 2018, and then
- 12 again in October of 2018, a deaf student
- 13 assistant, you know, in a public forum
- 14 raised concerns with Jamie Coady about the
- 15 quality of deaf education, and his statement
- 16 was that deaf education is not a priority?
- 17 Were you present at either of those -
- 18 A. I'm aware that there was a conversation
- 19 between Mr. Coady and Ms. Vaters that I
- 20 believe ultimately ended up making its way
- 21 to HR for resolution.
- 22 Q. You're right.
- 23 A. But I don't know the details, I wasn't in
- 24 the room.
- 25 Q. So, you weren't in the room when the comment

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- 1           was made -
- 2           A.    No.
- 3           Q.    - but you became aware that the comment had
- 4           been made?
- 5           A.    I became aware of it well after it happened.
- 6           Like, it wasn't on the day that it happened.
- 7           I think it may have become aware of it when
- 8           it made its way to HR for -
- 9           Q.    Right.  And you're aware that ultimately
- 10          Jamie Coady had to apologize?
- 11          A.    I don't recall.
- 12          Q.    You don't know?
- 13          A.    Yeah.
- 14          Q.    Okay.  In your experience, the comments if
- 15          they were made--and I appreciate your point,
- 16          I suppose, that you can't verify whether or
- 17          not they were made because you weren't in
- 18          the room when it was made, but you became
- 19          aware it was the subject of a complaint.
- 20          A.    Yeah.
- 21          Q.    Did that reflect the District's attitude
- 22          towards deaf education?
- 23          A.    Not in my view, no.
- 24          Q.    You felt it was a priority?
- 25          A.    Deaf education was important.  I can say it

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1           was, I believe, to have been important based  
2           on my conversations, you know, my  
3           interactions with the School District. I  
4           don't believe that it wasn't a priority, no.

5           Q. Carter Churchill was very fortunate in that  
6           there was, you know, actually a deaf ASL  
7           fluent employee at Beachy Cove Elementary.  
8           That was Tammy Vaters, right?

9           A. Um-hm.

10          Q. We love Tammy. Tammy Vaters, however, was  
11          assigned by you, I believe, as part of your  
12          responsibility to assign folks like Tammy  
13          Vaters, student assistants like Tammy  
14          Vaters. She was actually assigned  
15          throughout grade one and grade two, or  
16          almost all of grade two, to hearing  
17          students, wasn't she? There were students  
18          who were -

19          A. I don't recall.

20          Q. Okay. I'll put it to you that that  
21          happened, and that they were considered  
22          students with higher needs. They weren't  
23          deaf students, but they had, you know, other  
24          kinds of needs, frequently physical needs,  
25          and as a result Tammy Vaters, the only deaf

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1           employee, was assigned to those students and  
2           not Carter Churchill. Was there ever--I  
3           mean, I know the Churchill's brought the  
4           concern to you, that Tammy Vaters should  
5           really be assigned to Carter, and by the end  
6           of grade two, by which I mean the last three  
7           weeks of grade two, she was assigned to  
8           Carter, where she remained. Didn't it  
9           strike you, and if it didn't I'm sure the  
10          Churchill's did, brought it to your  
11          attention, that it would appropriate to have  
12          a deaf student assistant assigned to Carter,  
13          and if so, why wasn't she?

14          A. I honestly don't recall -

15          Q. You don't recall?

16          A. - the conversations around Tammy's  
17          deployment.

18          Q. I mean, your refrain throughout this has  
19          been that you've been doing the best job you  
20          could with the tools you have, and I  
21          appreciate that the tools that are given to  
22          you by the District are limited, or at least  
23          that's my view, but in this case you had a  
24          fantastic resource in the form of Tammy  
25          Vaters, and she was deployed elsewhere.

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- 1 Does that cause you to re-evaluate your  
2 statement that you did the best you could  
3 with the tools you had?
- 4 A. Now in retrospect I look back and I would  
5 wonder why, but I don't know what the  
6 rationale was at the time for deployment.
- 7 Q. I mean, it's not like you weren't aware that  
8 Tammy Vaters was a fairly good match for  
9 Carter Churchill, because it's true that in  
10 grade one, when Carter was in grade one, you  
11 learned that Tammy Vaters, who rode the bus  
12 with Carter, was reading and helping Carter  
13 develop his language, and you told her to  
14 stop because it wasn't her job. Are you  
15 aware of that? Do you remember that?
- 16 A. I don't recall that conversation.
- 17 Q. You deny that happened? So, Tammy is  
18 helping Carter learn to read, and helping  
19 him develop his language, and you tell her  
20 to stop because it's not her job.
- 21 A. I don't recall that conversation, no.
- 22 Q. Okay. Do you deny that that occurred? The  
23 Churchill's would say it did.
- 24 A. I deny using those specific words, yes.
- 25 Q. Okay. What words did you use, given this

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1 conversation you don't recall?

2 A. That wouldn't have been my style to just  
3 speak with a student assistant and ask her  
4 to stop that. If that conversation occurred  
5 it was probably around the scope and  
6 responsibilities of a student assistant, and  
7 they are for portering, as they're currently  
8 outlined, they're for portering students to  
9 the bathroom and safety things, washrooms,  
10 and things like that, like looking after  
11 their physical needs.

12 Q. So, I mean, again -

13 A. They wouldn't have a defined role in  
14 pedagogy to your education with student  
15 assistant, with students.

16 Q. I understand, but, I mean, on the theme of  
17 doing the best job you could with the tools  
18 you had, you had Tammy Vaters who's a star,  
19 who is trying to help Carter work on his  
20 language, and she's going to say, because  
21 she's going to testify, she's going to say  
22 you told her to stop, and you don't disagree  
23 with that?

24 A. I don't recall me telling Tammy to stop, no.

25 Q. Do you remember a meeting September 6<sup>th</sup>, 2019



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1           in your office with Vice-Principal Carolyn  
2           Lethbridge. She was there, and the  
3           Churchill's were there, and the Churchill's  
4           said, listen, we have a concern with the ASL  
5           proficiency of Joanne Van Geest, the grade  
6           three teacher, and you defended Joan Van  
7           Geest's qualifications to the Churchill's?  
8           Do you recall that?

9           A. I mean, we had so many meetings I don't  
10          recall like that one. Joanne was the  
11          itinerant that was assigned to Carter. I  
12          don't recall defending her qualifications.  
13          I don't recall that aspect of the  
14          conversation.

15          Q. Okay. Now, the Churchill's will say you  
16          did, and, I mean, if we have to call Carolyn  
17          Lethbridge, I suppose we could ask her, but  
18          they take the position that you defended  
19          her, and in fact they said during that  
20          meeting that Joanne Van Geest ought to be  
21          proficiency tested, and you took no action  
22          on the basis of that. Do you recall those  
23          concerns being raised?

24          A. I don't recall them specifically being  
25          raised on September 6<sup>th</sup>. I don't recall the

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1 date, but, yeah, I can certainly recall the  
2 concerns being expressed.

3 Q. You do recall the concerns of Ms. Van  
4 Geest's ASL proficiency being raised by the  
5 Churchill's?

6 A. Yes.

7 Q. And I notice--Tammy Vaters sworn an  
8 affidavit and she's going to testify later  
9 on, and in her affidavit she says that  
10 Carter had a hearing teacher who was unable  
11 to communicate with Carter or teach ASL, and  
12 that's the same concern the Churchill's had,  
13 right. So, Carter, without a teacher that  
14 could express ASL, Carter couldn't access  
15 the curriculum or improve his own ASL, could  
16 he?

17 A. I'm sorry?

18 Q. Without a teacher that speaks ASL, it  
19 wouldn't have been possible for Carter to  
20 access the curriculum from that teacher, or  
21 to improve his own ASL, correct?

22 A. I think that's a logical conclusion.

23 Q. And you, of course, have no--you know,  
24 despite defending Ms. Van Geest as the  
25 Churchill's have said, you have no ability,

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- 1 I think you said earlier, to evaluate the  
2 quality of someone's sign language?
- 3 A. No, I do not.
- 4 Q. You still didn't test her though?
- 5 A. I'm sorry?
- 6 Q. You still didn't test Ms. Van Geest? It  
7 wasn't your decision to have her tested?
- 8 A. That wouldn't have been a decision under my  
9 scope of authority.
- 10 Q. Did you ask anyone who did have that scope  
11 of authority to do it?
- 12 A. No, I don't recall doing that. I probably  
13 worked on the assumption that she was hired  
14 for the position and was qualified to take  
15 it.
- 16 Q. Did you make any report at all to the  
17 District raising concerns about Ms. Van  
18 Geest's ASL proficiency?
- 19 A. I can't recall specifically, no.
- 20 Q. I'd suggest you did not. Do you have any  
21 reason to disagree with me?
- 22 A. I don't recall. I don't recall.
- 23 Q. Were you aware, and perhaps you wouldn't be,  
24 that an ASL immersive classroom was proposed  
25 several times throughout the years

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1           2017/2018/2019? This would have all  
2           occurred within the District, not within  
3           your school, of course.

4           A. I wasn't aware of that. I wasn't aware of  
5           it until the project got off the ground, and  
6           I don't--if I'm remembering correctly, it  
7           probably started in September of Carter's  
8           grade four year. We may have learned about  
9           it in June of that year. I'm not sure when-  
10          -or it may have been over the summer. I  
11          don't recall.

12          Q. And as a result of that you would have been,  
13          you know, unaware that the folks who are  
14          proposing this ASL immersive classroom, the  
15          satellite classroom, were raising all the  
16          same concerns about deaf students, including  
17          Carter, that Carter's parents were raising  
18          with you during your multiple meetings? You  
19          would have had no knowledge of those  
20          concerns being raised by the deaf itinerant  
21          teachers?

22          A. No.

23          Q. And now that I've informed you that these  
24          concerns have been raised, and we're going  
25          to hear from several witnesses over the

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1 course of this hearing that talk about those  
2 proposals and what was done with them--  
3 having been informed of that, that the  
4 itinerant teachers, and other professionals  
5 in the area of deaf education in the  
6 Province of Newfoundland and Labrador, were  
7 raising all the same concerns that the  
8 Churchill's were raising, do you take the  
9 view that the Churchill's concerns were  
10 reasonable?

11 A. I'm sorry, I don't -

12 Q. Do you believe the concerns that the  
13 Churchill's were raising with you over the  
14 course of four years at Beachy Cove  
15 Elementary were reasonable? Were they  
16 reasonable concerns?

17 A. I don't think that's for me to judge really.  
18 They clearly had a vision for what Carter's  
19 education would look like, and I'm  
20 extrapolating by saying I think the  
21 immersive classroom at this point probably  
22 reflected their desires.

23 Q. I asked you earlier about whether you sort  
24 of would ever advocate publicly or privately  
25 for, you know, additional resources for

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1 Carter Churchill, and one of the things that  
2 you said was, no, I certainly wouldn't have  
3 publicly. That's because as an employee of  
4 the School District, as an administrator,  
5 you're not permitted to speak publicly on  
6 those sorts of issues, are you?

7 A. That's not my style, to advocate for that in  
8 a public forum. I prefer the proper routes  
9 of communication.

10 Q. Right. And you felt you were using those  
11 proper routes of communication in this case?

12 A. I do.

13 Q. So, there was no concern that Carter  
14 Churchill's parents, Kim and Todd Churchill,  
15 brought to you, that folks like Tammy would  
16 have brought to you, that you were not  
17 passing along to the School District? The  
18 School District, from your view, would have  
19 had full awareness of all of these concerns,  
20 either from the Churchill's directly or from  
21 you?

22 A. That's correct.

23 Q. And you'd agree that having you relay these  
24 concerns--I mean, it is one thing for the  
25 Churchill's to, you know, come in guns a

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1 blazing at the District and make these  
2 concerns, but there's sort of an extra level  
3 of authority or authenticity when you raise  
4 these concerns with the District, right?

5 A. I'm sorry? I got lost in your lengthy  
6 question.

7 Q. Yes, I know, a little bit of meandering.  
8 It's not merely a repetition to have you  
9 bring the concerns to the District in  
10 addition to the Churchill's. You know, the  
11 fact that you're bringing concerns like this  
12 to the District, you know, means something.  
13 You're a person of authority, and a person  
14 with experience. So, when you bring these  
15 concerns to the District, you know, it's of  
16 an added benefit, and in addition to the  
17 concerns that Todd and Kim and bringing  
18 forward, right?

19 A. Yes.

20 Q. No further questions. Thank you.

21 ADJUDICATOR:

22 Q. Mr. Penney, I should give you the  
23 opportunity before I ask questions.

24 MR. PENNEY:

25 Q. I don't have anything. Thank you.

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1 **Principal - Beachy Cove Elementary**, CROSS-EXAMINATION

2 BY ADJUDICATOR

3 ADJUDICATOR:

4 Q. Mr. Dawe, you spoke about the role of  
5 student assistants, and you mentioned that  
6 there was a policy or something that's  
7 governing their role. I think you mentioned  
8 portering. Can you describe your view of  
9 what the role of the student assistant was,  
10 or your understanding?

11 A. It wouldn't have been in an educational  
12 capacity like a teacher. It would have  
13 been--it's for--I remember the word is  
14 portering, to looks after their safety. For  
15 example, they would bring children with say  
16 Down Syndrome exceptionality, they would be  
17 supervising them very closely on the  
18 playground. They would bring them to the  
19 bathroom. They would make sure that they  
20 ate their lunch, and in some cases they  
21 would have fed their lunch to them. Some of  
22 our learners are tube fed, so they would  
23 have that responsibility of setting up the  
24 tube feeds, along those lines. You can  
25 find--there is a job description for the



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1 student assistants in which that's clearly  
2 outlined.

3 Q. I just wonder if any counsel for the parties  
4 know if we have a job description for a  
5 student assistant in any of the volumes of  
6 documents.

7 MR. REES:

8 Q. I don't think it's in there. We certainly  
9 don't oppose it being admitted.

10 ADJUDICATOR:

11 Q. Okay. But it's your understanding that the  
12 role of student assistant would not be an  
13 educational role, it would not take that -

14 A. That's correct.

15 Q. That's not part of their job?

16 A. That's correct.

17 Q. And is it your recollection that you had a  
18 conversation with Tammy Vaters about whether  
19 she was or was not reading with Carter? Do  
20 you recall that?

21 A. I don't recall that.

22 Q. So, when Mr. Rees asked you the question  
23 about whether or not you had discouraged Ms.  
24 Vaters from reading with Carter on the bus,  
25 or could have had a conversation with her

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1 about her role not being to read with Carter  
2 on the bus -

3 A. I'm sorry?

4 Q. You know, he asked you questions about  
5 whether that conversation occurred. Would  
6 it be in line with your understanding of the  
7 student assistant role that they should not  
8 be reading with children on a bus?

9 A. I see reading with a child on the bus--I see  
10 that differently from reading with them in  
11 the classroom as part of their program.  
12 That would be like singing a song with them  
13 on the way home, or playing a word game with  
14 them. That would just be part of  
15 relationship building.

16 Q. What about reading it the classroom with a  
17 student?

18 A. And again, I could apply the same kind of  
19 answer, but as part of programming, the  
20 student assistant wouldn't have had  
21 responsibilities for an educational aspect  
22 of the program.

23 Q. What about delivering information from the  
24 classroom teacher to the student? As part  
25 of the curriculum that's being taught,

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1           should -

2           A.    As an interpreter you mean?

3           Q.    As an interpreter.  Words being spoken from  
4           a teacher with the intent that they be--that  
5           the teacher is teaching the student, is it  
6           the student assistant's role to take that  
7           and communicate it to the student?

8           A.    I don't have really sufficient experience  
9           enough to give you a definitive answer on  
10          that.  The role of student assistant who is  
11          deaf, with ASL proficiency, working as a  
12          student assistant with another deaf child,  
13          that's a new--that would have been a new  
14          experience for me.  So, I'm not sure if  
15          there were any guidelines around the role of  
16          the student assistant as an interpreter.  I  
17          really can't recall, and I can't think of a  
18          document that would permit it or exclude it.

19          Q.    I think we heard a fair amount of evidence  
20          from Mr. Porter this morning that one of the  
21          mechanisms by which he attempted to teach  
22          Carter was to use the student assistant that  
23          was working with him in Kindergarten almost  
24          as a go-between.  So, he would say words in  
25          English, and the student assistant would

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1           then, to his understanding, translate them,  
2           those words, into ASL so that Carter could  
3           understand. Is that consistent with your  
4           understanding of the role of a student  
5           assistant?

6           A. I don't think I have enough experience in  
7           working with deaf learners and deaf student  
8           assistants to really have a full  
9           understanding of what the nature and scope  
10          is. I can certainly see it being different  
11          from a hearing student assistant and a  
12          hearing child.

13          Q. You were the principal of Beachy Cove  
14          Elementary. Was it your understanding that  
15          in the Kindergarten year, the manner in  
16          which Carter was being taught involved his  
17          teacher, Mr. Porter, communicating the  
18          curriculum to him via the student assistant?  
19          Was that your understanding of how he was  
20          being taught?

21          A. That was one aspect, or one of the methods  
22          that was used I understand. I believe, you  
23          know, in reflecting back on Carter's first  
24          year with Mr. Porter in Kindergarten, I  
25          think Mr. Porter did--expended all possible

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1           efforts to try and provide the best  
2           education he could for Carter.

3           Q.   I'm trying to reconcile, and maybe I've  
4           misunderstood your evidence, so please do  
5           clarify if I've misunderstood this, but I'm  
6           trying to reconcile the conceptual  
7           differences between what seems to have been  
8           frowned upon, Ms. Vaters assisting Carter  
9           with his reading, and she's a student  
10          assistant, and I'm trying to reconcile that  
11          with, I think it was Terrilynn Clarke, who  
12          is delivering essentially the curriculum at  
13          times on behalf of the classroom teacher.  
14          Is that fair, that you view one is okay and  
15          the other is not okay?

16          A.   Well, maybe I need to clarify.  I don't  
17          really have a tremendous amount of  
18          experience with a deaf student assistant and  
19          a deaf learner as opposed to a hearing  
20          student assistant with a hearing learner.  
21          Without giving names, I can think of a  
22          student assistant and a learner who requires  
23          the use of a lift to move her into a bed in  
24          the classroom.  Those are clear duties of  
25          the student assistant in that case.  As for-

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1 -I imagine it would have to be a little bit  
2 different for a deaf student assistant and a  
3 deaf learner, but I don't know--I was never  
4 given direction on what, if anything, was  
5 different for a deaf student assistant  
6 performing the role of an interpreter.

7 Q. We'll take a five minute adjournment here  
8 before I finish. I might have a couple of  
9 more questions, but we'll take five minutes.

10 (OFF RECORD)

11 ADJUDICATOR:

12 Q. Mr. Dawe, actually I don't have any further  
13 questions. Thank you for allowing me that  
14 time to review my notes, and we can move on  
15 to the next witness unless there's some  
16 questions arising.

17 **Principal - Beachy Cove Elementary** CROSS-EXAMINATION

18 BY MR. KYLE R. REES

19 MR. REES:

20 Q. Just one thing arising, and it's just more  
21 an issue that I want to flag or something.  
22 At different points during the questioning  
23 and answer back and forth between the  
24 Adjudicator and the witness, the phrase deaf  
25 student assistant was used, and I just want

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1 to make sure that what we're referring to  
2 most of the time there was a student  
3 assistant who is assisting a deaf student  
4 who could hear. Every now and then there  
5 was--one of the student assistants was a  
6 deaf person.

7 ADJUDICATOR:

8 Q. I was referring to Ms. Vaters as a deaf  
9 student assistant.

10 MR. REES:

11 Q. Tammy Vaters, right.

12 ADJUDICATOR:

13 Q. But I wasn't referring to a student  
14 assistant who was hearing assisting a deaf  
15 child.

16 MR. REES:

17 Q. Okay. Which was--I mean, our point is that  
18 Carter Churchill had both, didn't he, at  
19 various points in time? Sometimes he had a  
20 hearing student assistant, and sometimes he  
21 had a--in fact, the only deaf student  
22 assistant he had was Tammy?

23 A. Yes.

24 Q. Right. Okay. Thanks.

25 A. Am I good?

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1 ADJUDICATOR:

2 Q. You are. You can step down. Thank you.

3 The next witness that we're scheduled to  
4 hear from is [REDACTED].

5 (OFF RECORD)

6 ADJUDICATOR:

7 Q. So, this is [REDACTED]. [REDACTED]  
8 would you prefer to swear an oath on a Bible  
9 before you give your evidence, or a solemn  
10 affirmation? It is your choice.

11 [REDACTED] CROSS-EXAMINATION BY MR.

12 STEPHEN F. PENNEY

13 REPORTER:

14 Q. Could you state your complete name, please?

15 A. [REDACTED].

16 Q. Thank you. [REDACTED] has been affirmed.

17 ADJUDICATOR:

18 Q. Thank you, [REDACTED]. I understand Mr.  
19 Penney has a series of questions to ask you.

20 MR. PENNEY:

21 Q. And, [REDACTED], you're using an FM so you can  
22 hear. So, when people are asking the  
23 questions we'll each share the FM  
24 transmitter, okay.

25 A. Yes.



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1 Q. If you look at that yellow book in front of  
2 you at Tab 5 there's a document there. Do  
3 you see that?

4 A. I see that there, yeah.

5 Q. Okay.

6 A. Tab 5?

7 Q. No, the small volume.

8 ADJUDICATOR:

9 Q. There's a small -

10 A. This one here right in front of me?

11 Q. There should be a small thin volume just in  
12 front of you to the left of that larger  
13 document.

14 A. This one here?

15 Q. That's the one, yes.

16 MR. REES:

17 Q. I just want to state for the record, and  
18 I've indicated to Mr. Penney this, we don't  
19 object to the admission of this document.  
20 This is part of documents that we've agreed  
21 be admitted. We do object to there being  
22 anything more than a very cursory direct  
23 examination for the purposes of establishing  
24 where this document came from, but there  
25 shouldn't be anything further than that.

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1 MR. PENNEY:

2 Q. Absolutely agreed. [REDACTED], can you  
3 identify this document?

4 A. This is a document that I--a summary of  
5 direct services that I did with Carter in  
6 2016/2017.

7 Q. Okay. And when did you prepare that?

8 A. What number?

9 Q. When did you prepare that?

10 A. I prepared that last week.

11 Q. Okay. Do we need to like mark it as an  
12 exhibit or anything?

13 MR. REES:

14 Q. No.

15 MR. PENNEY:

16 Q. Okay. So, thank you. Those are my  
17 questions. I'm going to give the  
18 transmitter to Mr. Rees.

19 A. Okay.

20 [REDACTED] DHH Itinerant Teacher - Kindergarten  
[REDACTED], CROSS-EXAMINATION BY MR. KYLE R.

21 REES

22 MR. REES:

23 Q. Hi, [REDACTED]. Is my FM system set-up  
24 okay?

25 A. It's perfect. Thank you, very much.

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- 1 Q. Okay. Interrupt me at any point if I've  
2 slipped it, or I'm brushing it, or anything  
3 like that. My mic etiquette is not as good  
4 as it ought to be.
- 5 A. Okay. Thank you.
- 6 Q. I'm Kyle Rees. I'm the lawyer for the  
7 Churchill's who you recognize, who are sat  
8 by me. I got questions for you, and, look,  
9 I appreciate that you've been waiting around  
10 the lobby for a little while this morning -
- 11 A. That's okay.
- 12 Q. - or this afternoon. We're doing what we  
13 can to keep on schedule, so I'll sort of  
14 skip through the introduction a little  
15 quicker. I also understand that it's your  
16 preference, if necessary, to push a little  
17 later this afternoon rather than have to  
18 come in tomorrow morning.
- 19 A. Yeah, I'm here right now, so I want to keep  
20 going with it.
- 21 Q. I am certainly content to do that. You've  
22 been sworn. The first set of questions that  
23 I have for you--I guess I might as well jump  
24 right into it. I'm going to ask you about  
25 that document at Tab 5.

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- 1           A.    Tab 5?
- 2           Q.    It's the document that we spoke about  
3                   earlier with Steve Penney.  You said you  
4                   generated this last week.
- 5           A.    Yes, I did.
- 6           Q.    How did you generate--I mean, it's part of  
7                   laying the foundation for a document, but  
8                   I'll do it, I guess.  How did you generate  
9                   this document?  I mean, did you just pull it  
10                  out of your head?  Was it information you  
11                  had on a calendar?
- 12          A.    No, sorry, for interrupting.  I went into  
13                  the office and there was a couple of staff  
14                  working there.  So, I went in and took out  
15                  the caseload notes and went back from  
16                  scratch, went from September and June and  
17                  documented all the dates that I saw Carter,  
18                  or scheduled to see Carter.
- 19          Q.    Your case notes?
- 20          A.    No, not case notes.  That's just a summary,  
21                  the dates, that I worked with Carter.
- 22          Q.    Okay.  Have those notes been provided?
- 23          A.    No, it wasn't provided.  I just put in date,  
24                  brief summary of service, and comments.
- 25          Q.    Yes, I understand that, but the document, or

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- 1 documents, that you based this chart on -
- 2 A. Case notes, study, yes.
- 3 Q. - have you provided those to anybody?
- 4 A. No. I provided it to Darlene Fewer Jackson.
- 5 Q. Okay. We have Darlene Fewer Jackson's
- 6 notes, and look, I'll just put it to you,
- 7 you have a lot of dates on here that Darlene
- 8 Fewer Jackson does not have on her notes.
- 9 A. I know. This is why I re-did this, because
- 10 there were some dates that were a mix-up,
- 11 not on days of the week and it appeared to
- 12 be on a weekend.
- 13 Q. Yes, I noticed that too.
- 14 A. Yes. This is why I re-did this document.
- 15 Q. Okay.
- 16 A. And I also noticed that some of my dates, my
- 17 handwriting, wasn't clear. So, I can
- 18 understand why there were errors in her part
- 19 when she was doing the summary of my
- 20 caseload notes.
- 21 Q. Now, you said that you spent 70 sessions in
- 22 total with Carter Churchill according to
- 23 this document.
- 24 A. Not exactly 70, no. It was 70 sessions in
- 25 total that was scheduled, or it was

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- 1           scheduled to see Carter.
- 2           Q.    Scheduled?
- 3           A.    Scheduled.
- 4           Q.    But they're not days you saw Carter, are  
5           they?
- 6           A.    No, no.
- 7           Q.    Because there are many of these days that  
8           you were scheduled to see Carter, but for  
9           one reason or another, most of them through  
10          no fault of your own, you didn't see Carter,  
11          right?
- 12          A.    No. Well, I specifically put in--there were  
13          a couple of PD days.
- 14          Q.    Right. So, there are several days that  
15          class is cancelled due to a snow day.
- 16          A.    And the beginning of September we are  
17          responsible for setting up the equipment for  
18          students.
- 19          Q.    Right.
- 20          A.    So, that was scheduled to see Carter, but,  
21          no, I wasn't specifically seeing Carter.
- 22          Q.    Yes, you're not providing -
- 23          A.    I was setting up the equipment.
- 24          Q.    You're not providing service to Carter that  
25          day?

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- 1 A. No.
- 2 Q. You're setting up equipment?
- 3 A. Right.
- 4 Q. So, that would be the sound field system  
5 day, the hush-ups day, in-class observation.  
6 In-class observation isn't service to  
7 Carter, it's gaining information for you,  
8 right?
- 9 A. Right, and there was one there. We had one  
10 snow day there.
- 11 Q. Yes.
- 12 A. That's there.
- 13 Q. Right. So, the snow day, I mean, you didn't  
14 provide service to Carter that day, even  
15 though you were supposed to see him, and you  
16 don't do a make-up for a snow day or  
17 anything, do you?
- 18 A. No.
- 19 Q. Some of these are PD days I notice, so your  
20 service is cancelled.
- 21 A. And a couple of KinderStart sessions too as  
22 well.
- 23 Q. Yes. I'm getting to those. We have--I see  
24 November 10<sup>th</sup>, another in-class observation,  
25 right? So, again, that's not service.

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- 1 November 10<sup>th</sup>.
- 2 A. November, yeah.
- 3 Q. That's another in-class observation.
- 4 November 24<sup>th</sup>, in-service to the student
- 5 assistants. So, you don't see Carter that
- 6 day, do you?
- 7 A. Yes.
- 8 Q. Oh, you saw Carter on that in-service?
- 9 Okay. On the 29<sup>th</sup> Carter went home sick.
- 10 A. Carter went home early that day, but I did
- 11 see him during that session, but it was a
- 12 shorter session.
- 13 Q. January 20<sup>th</sup> is a KinderStart session.
- 14 A. January.
- 15 Q. February 13<sup>th</sup> is cancelled because the class
- 16 is skating.
- 17 A. 13<sup>th</sup>, yeah, the class was out that day.
- 18 Q. February 15<sup>th</sup> is cancelled for a snow day.
- 19 A. Yeah.
- 20 Q. March 1<sup>st</sup> is cancelled because you have an
- 21 appointment.
- 22 A. Yes, I had an appointment.
- 23 Q. March 6<sup>th</sup> is cancelled because you go on
- 24 family leave that day.
- 25 A. I was on family leave, yeah. I was on



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- 1 family leave that week.
- 2 Q. Right. March 17<sup>th</sup> is a PD day.
- 3 A. Yes.
- 4 Q. April 3<sup>rd</sup> is a snow day.
- 5 A. Actually had two snow days that year, yes.
- 6 Q. April 4<sup>th</sup> is cancelled. May 18<sup>th</sup> is cancelled
- 7 for a PD day.
- 8 A. Yes.
- 9 Q. And May 19<sup>th</sup> is cancelled for a KinderStart
- 10 session.
- 11 A. Because KinderStart fell on a Friday.
- 12 Q. So, you were scheduled for 70 days to see
- 13 Carter -
- 14 A. Roughly, yes.
- 15 Q. - but in total you saw him for about 50.
- 16 A. I would think more than that.
- 17 Q. You missed 16, so there you go. It's 54.
- 18 And I put to you, and we can look at them if
- 19 necessary, that in the notes from Darlene
- 20 Fewer Jackson, and the session notes that we
- 21 have had previously provided to us, there
- 22 are 10 sessions that are on your notes, in
- 23 your new document, that aren't on either of
- 24 those other two. So, did you ever get an
- 25 answer, and I can ask her, why Darlene Fewer

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1 Jackson missed 10 days that you say you were  
2 servicing Carter?

3 A. No, I didn't ask her, no.

4 Q. All right. I need you to look at document,  
5 because again, we get presented with this  
6 new schedule when you're concerned that--it  
7 looks like you were there for less days than  
8 Darlene Fewer Jackson and others had said.  
9 So, you produce this new document. So, I  
10 mean, I think I have to address it to make  
11 sure that the documents that I'm getting are  
12 accurate. I need you to go to Volume 3 of  
13 the District documents, Tab A. Sorry, it's  
14 Tab 3A. So, which one is that? I'm going  
15 to help you find it, hold on.

16 A. You said 3A?

17 Q. Yes, in your Supplementary List. So, that  
18 would be this one, if you don't mind me  
19 assisting.

20 A. Okay.

21 Q. So, that one, and then you're going to turn  
22 to Tab 3.

23 A. Tab B?

24 ADJUDICATOR:

25 Q. Which document is it in in the index?

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1 MR. REES:

2 Q. 3A.

3 ADJUDICATOR:

4 Q. Document 3A, so it's not Volume 3.

5 MR. REES:

6 Q. Do you recognize that document at 3A? You  
7 can flip through it if you like. It's your  
8 document. Do you recognize that document?

9 A. I see that there now.

10 Q. Those are your session notes, right?

11 A. Yes, they are, yeah.

12 Q. Are these the same notes that you prepared  
13 last week in making that new document?

14 A. Yes.

15 Q. When you reviewed the document notes that  
16 you had put together, did you notice that  
17 there was anything that had been missed that  
18 required you to put together the list you  
19 put together? I guess what I'm saying is, I  
20 put to you, if you go through this document  
21 3A here, there's going to be 10 dates that  
22 are different than the dates that are put  
23 into your other one.

24 A. So, what are the 10 dates that you're  
25 referring to?

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- 1 Q. Do you mind if I just read out a list of  
2 dates and you can write them down, and then  
3 we can look through them, just so I don't  
4 have to go one after another? Okay. These  
5 are the dates, November 2<sup>nd</sup>, November 22<sup>nd</sup>,  
6 November 23<sup>rd</sup>, November 24<sup>th</sup>, January 16<sup>th</sup>,  
7 February 13<sup>th</sup>, February 15<sup>th</sup>, I think February  
8 17<sup>th</sup>.
- 9 A. February the 15<sup>th</sup>.
- 10 Q. March 17<sup>th</sup>, and April 11<sup>th</sup>, and May 25<sup>th</sup>.
- 11 A. May the 17<sup>th</sup> is there.
- 12 Q. So, it's--those dates, many of them, are in  
13 the list that you just provided, the new  
14 list from last week, but they're not in  
15 these documents that got provided to us, and  
16 I mean -
- 17 A. I mean, the in-class observation I did. It  
18 may not be written in there, but I had it in  
19 my lesson plan book.
- 20 Q. Okay.
- 21 A. So, we do have 2016/17 lesson plan book.  
22 So, I go into the classroom. Instead of  
23 writing it on this, I wrote it in my lesson  
24 plan book.
- 25 Q. Okay. And you used the lesson plan book to

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1 put together your new--that new document?

2 A. I used that information to put in my new  
3 document.

4 Q. Do you still have access to your lesson plan  
5 book?

6 A. Yes, I do.

7 Q. And if we asked you to produce, and we don't  
8 need to do it today, but if you were to  
9 email it to Steve Penney, could you email  
10 him, or give him a copy, or even give him  
11 the original, of your lesson plan book?

12 A. Yes.

13 Q. Okay. Are we agreeable to do that?

14 MR. PENNEY:

15 Q. Sure.

16 MR. REES:

17 Q. Okay.

18 A. Is there a timeframe that you need that for?

19 Q. Tomorrow morning, please. Okay. You worked  
20 with Carter Churchill in Kindergarten at  
21 Beachy Cove Elementary, right?

22 A. Yes.

23 Q. And you did it as an AVT and an itinerant  
24 teacher?

25 A. No, as an itinerant teacher.

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- 1 Q. As itinerant, not as AVT?
- 2 A. No, he was just--he wasn't an auditory  
3 verbal therapy child. He was working on his  
4 audition skills.
- 5 Q. And they didn't ASL proficiency test you  
6 before you took that job?
- 7 A. No, I didn't do an ASL proficiency test.
- 8 Q. Okay. And have you ever undergone any kind  
9 of standardized testing for ASL?
- 10 A. No.
- 11 Q. Okay. During your time as an itinerant  
12 teacher for Carter Churchill in Kindergarten  
13 at Beachy Cove Elementary, were there  
14 frequent miscommunications and  
15 misunderstandings between you and Carter  
16 Churchill?
- 17 A. No, not that I recall. No, no  
18 misunderstanding.
- 19 Q. Do you recall a time where you believed that  
20 Carter was signing that his father had hurt  
21 his groin? Does that sound familiar to you  
22 at all?
- 23 A. No, it don't sound familiar to me at all.
- 24 Q. Do you recall Kim Churchill telling you  
25 about a time when Carter's signs were

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- 1 misread?
- 2 A. Misread?
- 3 Q. Yes, misunderstood, along those lines.
- 4 A. Misread? No.
- 5 Q. You don't recall Kim Churchill complaining  
6 about an incident where that occurred?
- 7 A. No, I don't recall that, no. This was back  
8 in 2016, so it's hard to recall a  
9 conversation from that timeframe.
- 10 Q. The year before, you went--before you were  
11 assigned to Carter Churchill, so the  
12 2015/2016 school year, tell me what -
- 13 A. I wasn't working with Carter in 2015.
- 14 Q. I understand. It was the year before you  
15 worked with Carter, right?
- 16 A. Yes.
- 17 Q. What was your caseload like that year,  
18 2015/2016?
- 19 A. I was working Avalon West in Avondale at  
20 that time, and from what I can recall, I  
21 was--I don't remember the exact numbers  
22 right now without having it in front of me  
23 but I'm thinking probably eight core and  
24 consults. The geography is fairly wide.
- 25 Q. And there was a big change to your caseload

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- 1           then in the 2016/2017 school year when they  
2           assigned Carter to you?
- 3           A.    Yes, there was.
- 4           Q.    Tell me about the change.
- 5           A.    Well, there were more students.  There were  
6           more students on my caseload.  There were  
7           more students with more needs, and it was  
8           more consults, but the travel wasn't as  
9           wide.
- 10          Q.    The travel wasn't as wide?
- 11          A.    I still travelled from Beachy Cove, which is  
12          Portugal Cove-St. Philip's to CBS.  I did  
13          have schools in CBS.
- 14          Q.    Would you consider that to be a busier  
15          caseload, or a less busy caseload, than the  
16          previous -
- 17          A.    A really busy caseload.
- 18          Q.    A busy caseload?
- 19          A.    Yes.
- 20          Q.    You swore an affidavit, and we have that,  
21          thank you, very much.  In your affidavit you  
22          referred to Carter Churchill as being a top  
23          priority, right?
- 24          A.    Yes, I did.
- 25          Q.    What does top priority mean?



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- 1           A.    Because he was in the ASL for his  
2                    communication, and he was wearing cochlear  
3                    implants, and his expressive language was  
4                    weak at that time.
- 5           Q.    Okay.  So, that made him a top priority?
- 6           A.    Yes.
- 7           Q.    How many students did you have that year?
- 8           A.    Roughly 12 core, and I think it would have  
9                    been 22 consults, from what I can remember.
- 10          Q.    And the 12 core are sort of the ones you're  
11                    seeing most frequently?
- 12          A.    Yes.
- 13          Q.    And of those--I mean, if you sort of had to  
14                    rank them in terms of priority, and that's a  
15                    strange thing to do, but in the event that  
16                    you did, would Carter Churchill be number  
17                    one?
- 18          A.    Yes.
- 19          Q.    And does that mean Carter Churchill was seen  
20                    more than the other students who were not  
21                    top priority?
- 22          A.    No, he was the most serviced, yes.
- 23          Q.    He was the most serviced?  So, whatever  
24                    amount of service Carter Churchill received  
25                    -

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- 1           A.    There was another student there with the  
2                    same amount of service, but he wasn't  
3                    getting other--he didn't have a student  
4                    assistant all day, and he did not have  
5                    additional IRT support.  So, I took that  
6                    into account too.
- 7           Q.    Okay.  So, even though, you know, the amount  
8                    of time that you were able to spend with  
9                    Carter was, you know, was limited, probably  
10                  not as much time as you would have liked to  
11                  have been able to spend with Carter, he was  
12                  getting the most service out of anybody on  
13                  your caseload?
- 14          A.    Well, he was getting other support.  He was  
15                  getting ISSP support.  He was getting IRT  
16                  support, and he had a fulltime student  
17                  assistant.  So, I took that into  
18                  consideration when determining the amount of  
19                  direct hours that he was getting.
- 20          Q.    How many--did you work 9:00 to 5:00, Monday  
21                  to Friday?
- 22          A.    Roughly from 8:30 to 4:30.
- 23          Q.    Right.  Monday to Friday?
- 24          A.    Monday to Friday.
- 25          Q.    Okay.  So, eight hour days, five days a

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- 1 week, you know, with holidays and things  
2 like that. And how would you divide your  
3 time to Carter? Like, the rate that you've  
4 described, you're seeing him -
- 5 A. It's five hours in a school day times five,  
6 would be 30. Five hours each day would be  
7 30 hours, 25 sorry, 25.
- 8 Q. And on average you'd see Carter once a week,  
9 sometimes twice a week, is that right?
- 10 A. It was sometimes once, twice, a week,  
11 sometimes three times a week, and sometimes  
12 once a week, yes.
- 13 Q. I mean, the average would be just under two  
14 times a week. I think I did the math right.
- 15 A. Possibly, yes.
- 16 Q. And how long would you spend with him?
- 17 A. Well, each session is probably up to 40, 50,  
18 minutes.
- 19 Q. Forty to 50 minutes?
- 20 A. Forty to 50 minutes.
- 21 Q. Right. You indicated in your affidavit, and  
22 I'll just read the one sentence to you, "The  
23 level of support that I would have provided  
24 Carter at that time would have been greater  
25 than that which he would have received based

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1 solely on the application of the policy.”

2 What policy are you talking about there?

3 A. Just show me where that’s to.

4 Q. Yes. So, if you take your affidavit, and  
5 you--my question for you is about what  
6 policy you’re referring to. You say, “The  
7 level of support you gave Carter was greater  
8 than he would have gotten under the policy,”  
9 and I’m asking -

10 A. Are you talking about criteria for servicing  
11 deaf and hard of hearing?

12 Q. That’s the policy?

13 ADJUDICATOR:

14 Q. Were we able to find a clearer copy of this  
15 document? I think this is the same -

16 MR. REES:

17 Q. No, I think the one ended up being  
18 different.

19 A. Which tab would that be in?

20 MR. PENNEY:

21 Q. It’s in the binders.

22 MR. REES:

23 Q. We’re going to get that because we’re going  
24 to talk about that actually.

25 ADJUDICATOR:

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1 Q. I'm looking for a clearer copy of this  
2 document. This is the same document with  
3 the pyramid structure as we were looking at  
4 earlier, but I can--the copy I have is 85  
5 percent illegible.

6 MR. PENNEY:

7 Q. I think all I can say is we'll do what we  
8 can to find a clear copy.

9 MR. REES:

10 Q. Well, in any case, that's the document I'm  
11 going to have you look at. To your left-  
12 hand side there's a -

13 A. Sorry, I wasn't reading that.

14 Q. Sorry.

15 A. Two of you were talking and I was trying to  
16 read what he was saying.

17 Q. And you use lip reading a lot, don't you?

18 A. Yes, I do.

19 Q. I'll make sure I look at you. Over on your  
20 left-hand side there there's a stack of  
21 binders close to your drink, and one of them  
22 says Volume 1 on the front. So, that's the  
23 one we're going to look for, and then turn  
24 to Tab J, as in Juliet.

25 A. Tab J?

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1 Q. Yes. And I'm not sure, Adjudicator, in  
2 answer to your previous question whether  
3 this triangle is different than the other  
4 triangle, but in any case, this document -

5 ADJUDICATOR:

6 Q. This is a different document from the  
7 document that is attached to Ms. Halleran's  
8 affidavit. So, why don't--counsel, can you  
9 just come up and I'll show you how these  
10 documents are different in my--and I'll show  
11 you the document that I don't have a clear  
12 copy of, and we can try to track that down.

13 (OFF RECORD)

14 MR. REES:

15 Q. I'll get you to take out your affidavit  
16 instead. I'm sorry for the misdirection.

17 ADJUDICATOR:

18 Q. And, Mr. Rees, just to be clear, I don't see  
19 any issue with you asking questions about  
20 the other document as well if there's -

21 MR. REES:

22 Q. The only--and if you look at Tab 6 of your--  
23 tab 6 of your affidavit, and you'll see the  
24 reason for -

25 A. Tab 6, okay.

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- 1 Q. Yes. The reason for our sort of shuffling  
2 of papers is because the photocopy quality  
3 of this is not great, it's a little fussy.
- 4 A. Yeah, there's -
- 5 Q. You're not looking at what I'm looking at,  
6 are you, your affidavit, affidavit of Tina  
7 Halleran.
- 8 A. This here? For DHH Services of  
9 Newfoundland?
- 10 Q. That's it. Good. That document indicates  
11 the amount of service that students with  
12 different degrees of need should be expected  
13 to get, right.
- 14 A. Should be expected to get.
- 15 Q. That's an important distinction, and we're  
16 going to talk about that. On this triangle  
17 where would Carter Churchill fall? I  
18 appreciate it's difficult to read. We  
19 struggled with that earlier.
- 20 A. It's very hard to see, yeah.
- 21 Q. I'm going to suggest to you he'd fall at the  
22 top, and I'll read out the line. It says,  
23 "In class" -
- 24 A. I would say he would fall in the second or  
25 third level.

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- 1 Q. Second or third? Okay. So, the third--so,  
2 if we go with the third, the third  
3 recommends service three times weekly by a  
4 DHH itinerant, and that would be a student  
5 who's two years behind or less than their  
6 hearing peers, and the second level, which  
7 you said he's either the second or the third  
8 level, indicates, I think it's four to five  
9 times weekly, when support is supposed to be  
10 provided. Now, you--I mean, I think you  
11 have to acknowledge, and we'll talk about  
12 why this is the case in a moment, but you  
13 were never able to provide that level of  
14 service to Carter Churchill, were you?
- 15 A. Not for four times, four or five times a  
16 week, no.
- 17 Q. Not even--you know, not even on average  
18 three times a week?
- 19 A. Average three times a week, yeah.
- 20 Q. I understand -
- 21 A. Three out of -
- 22 Q. - on average you were two times a week,  
23 right?
- 24 A. Average two or three times a week, yeah.
- 25 Q. What was the focus of your sessions with



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- 1 Carter? What would you have done?
- 2 A. We done audition, because he was using his  
3 cochlear implants, and he was making good  
4 use of them. I focused on language,  
5 receptive and expressive, and expanded core  
6 curriculum.
- 7 Q. Sorry, what was the last thing?
- 8 A. Expanded core curriculum.
- 9 Q. Expanded core curriculum? So, you were  
10 working with Carter on audition, which is  
11 speaking, or hearing, or both?
- 12 A. It's listening, listening, developing  
13 listening skills.
- 14 Q. Okay. So, you're working with him on  
15 audition and expanded curriculum.
- 16 A. Expanded core curriculum. This was  
17 developed by APSEA, and it focused on  
18 assistive technology for a deaf and hard of  
19 hearing student, self advocacy and post-  
20 secondary, preparing for post-secondary.
- 21 Q. You were not teaching Carter Churchill ASL,  
22 were you?
- 23 A. It was part of the language receptive and  
24 expressive skills, yes, instruction, ASL  
25 instruction.

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1 Q. Okay. ASL instruction?

2 A. And I was teaching vocabulary.

3 MS. HAWKINS:

4 Q. Sorry, we didn't understand your comments,  
5 (unintelligible) ASL.

6 A. ASL.

7 Q. That's what we missed, I'm sorry.

8 A. ASL instruction. Yes, ASL instruction.

9 Q. Yes. Could you please repeat the answer?

10 A. Can you repeat your question so I may repeat  
11 the answer?

12 MR. REES:

13 Q. Right. My question was were you teaching  
14 Carter Churchill ASL?

15 A. Yes, I was teaching him receptive and  
16 expressive ASL, yes, skills.

17 Q. Well, I want to clarify with you then what  
18 you mean by teaching ASL, because what you  
19 were doing was teaching him some terminology  
20 in ASL?

21 A. No, ASL vocabulary.

22 Q. Sorry, vocabulary is the word I mean to use.  
23 So, you weren't teaching him grammar,  
24 syntax, you know, sentences?

25 A. It's all part of ASL. Receptive and

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- 1 expressive language, asking questions in  
2 ASL, labelling objects in ASL, vocabulary,  
3 categorization, all that was in ASL.  
4 Communication, conversation, was in ASL. So  
5 -
- 6 Q. Well, I mean, your notes only say, "Auditory  
7 memory, audition only."
- 8 A. Because I wanted Carter to see if he was  
9 able to develop auditory skills for two  
10 objects by saying the two objects, the two  
11 names. He would identify, follow  
12 directions, for two objects. So, it's part  
13 auditory hierarchy skills that we follow.
- 14 Q. When I asked you earlier if you were both a  
15 deaf itinerant and an AVT, you indicated  
16 that you were an itinerant.
- 17 A. I was a DHH itinerant. I was doing my AVT  
18 program at the time. So, I was not  
19 servicing, using, AVT therapy with Carter.  
20 I was just focusing on audition.
- 21 Q. Okay. Percentage wise, with the time you  
22 spent with Carter, what percentage of that  
23 time was spent working on ASL versus other  
24 things?
- 25 A. It was just evenly distributed, everything.

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- 1           When I use conversation or use any of my  
2           sessions with Carter, I'd use signing with  
3           him, voice and sign, so I can't give a  
4           percentage of what's been used, my session,  
5           how it's been divided. I can't give you  
6           that exact number.
- 7           Q. I notice you keep saying sign as opposed to  
8           saying ASL.
- 9           A. ASL.
- 10          Q. Were you continuing to sign or ASL, or both?
- 11          A. Sign and voice is what Carter did respond  
12          better to. ASL is when you turn the voice  
13          off and just doing ASL conversation.
- 14          Q. So, you were teaching him sign?
- 15          A. I was teaching him both.
- 16          Q. Both? Can you explain again the different  
17          between those two things?
- 18          A. I was signing Carter with voice. So, he was  
19          able to recognize. He knew vocabulary,  
20          whatever we were teaching in the classroom,  
21          or whatever we were teaching in  
22          (unintelligible) session. When we're using  
23          ASL, your voice is turned off. So, if we  
24          were doing three word phrases in ASL with  
25          Carter, I would put in three words, syntax

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1 grammar. I have the resources in my binder,  
2 so that I was using three word ASL phrases  
3 with Carter.

4 Q. Okay. In your affidavit you indicated that  
5 Carter was being supported by Raven  
6 Williams. She was an IRT. Do you remember  
7 saying that in your affidavit, Raven  
8 Williams?

9 A. Raven Williams, I remember, she was an IRT  
10 working with Carter.

11 Q. Right. Did you know that she had no  
12 knowledge of ASL?

13 A. Yes.

14 Q. And she was unable to communicate in ASL.

15 A. She was using iPad, Proloquo2Go program with  
16 Carter, and was focusing on vocabulary  
17 concepts. So, she was not focusing on ASL  
18 with Carter, she was just focusing on the  
19 iPad and the program that was being used for  
20 Carter, in conjunction with the SLP.

21 Q. And I notice you also said in your affidavit  
22 that Carter had a student assistant. Do you  
23 remember who that was?

24 A. He had--from what I can remember he had  
25 Terri at the beginning of the year, and he

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- 1 had Tracey Barron, if I can remember, and he  
2 had Tammy Vaters, I believe, and Riley. He  
3 had Riley--I can't remember her last name.
- 4 Q. Terrilynn, that was the first one you  
5 mentioned? Terrilynn was his student  
6 assistant, right?
- 7 A. From what I can remember she was probably  
8 the first one that was there with Carter in  
9 Kindergarten.
- 10 Q. I would say she was there for eight months.  
11 Do you agree with that?
- 12 A. I don't think she was there for that long.  
13 Eight months?
- 14 Q. You don't--it was Tracey Barron first, and I  
15 understand it's awhile ago, so remembering -
- 16 A. It's been a long time. It's pretty  
17 difficult to recall, memory, of everything  
18 that occurred five or six years ago, so I'm  
19 doing my best to remember as much as I can.
- 20 Q. Did you have an opinion about the abilities  
21 of any of those student assistants to  
22 communicate in ASL? Did you observe any of  
23 their ASL -
- 24 A. It's not my job to observe their ASL. I  
25 just want to make sure they were

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- 1 communicating with Carter with ASL, signing  
2 with Carter.
- 3 Q. Okay. So you didn't have any concerns about  
4 their ASL abilities at the time?
- 5 A. I'm not there enough time to be able to  
6 determine that.
- 7 Q. That's fair. So, you're not there in enough  
8 time to determine whether or not the student  
9 assistants ASL was -
- 10 A. Whenever I went in to pick up Carter for my  
11 sessions, I walked in the classroom and they  
12 were signing in the environment, in the  
13 classroom environment.
- 14 Q. Did the School District ever offer to you  
15 while you were working with Carter -
- 16 A. Pardon, repeat that.
- 17 Q. Yes. Did the School District, during the  
18 time you were working with Carter Churchill,  
19 ever offer additional training programs, or  
20 courses, in ASL for you to take to increase  
21 your abilities and proficiency?
- 22 A. I recall something that was being offered.  
23 I can't remember exactly what's been  
24 offered.
- 25 Q. Something was offered, but you don't know

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- 1                   what?
- 2           A.    I can't remember.  Again, this was back five  
3                   or six years ago, so I'm trying to remember  
4                   as much as I can, to the best of my ability,  
5                   but I know the District has offered ASL  
6                   courses for teachers and classroom teachers,  
7                   but I can't remember exactly when that  
8                   occurred.
- 9           Q.    Okay.  If you do remember, can you write  
10                  Steve Penney a note to let him know tomorrow  
11                  morning?
- 12          A.    I'll try my best.
- 13          Q.    If you remember -
- 14          A.    I'll try my best.
- 15          Q.    Were you one of the deaf itinerant teachers  
16                  who were involved in the satellite classroom  
17                  proposal?
- 18          A.    I was involved in that, yes.
- 19          Q.    You were involved in that?
- 20          A.    Yes.
- 21          Q.    And it was you and several others, right?
- 22          A.    Pardon?
- 23          Q.    It was you and several others who raised  
24                  these satellite classroom proposals?
- 25          A.    Yes, the metro teachers.



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- 1 Q. Yes. There was a meeting, and in fact I'm  
2 going to take you to the document that shows  
3 the minutes of those meetings. So, if you  
4 look at Volume 1 of the documents.
- 5 A. Volume 1?
- 6 Q. Tab T, as in Tango.
- 7 A. Can you repeat that again so I could find  
8 it?
- 9 Q. Yes, Volume 1.
- 10 A. Volume 1, which is this one, yes.
- 11 Q. Tab T, as in Tango.
- 12 A. October 14<sup>th</sup>.
- 13 Q. No, December -
- 14 A. Wait now. Meeting -
- 15 Q. Do you recognize these meeting minutes?
- 16 A. I recognize the names, but I don't recall  
17 the meeting, no.
- 18 Q. You are listed as having attended that  
19 meeting.
- 20 A. I was attending that meeting, yes. I can  
21 see my name is there.
- 22 Q. And in that meeting there are a number of  
23 concerns that are raised by you and the  
24 other DHH teachers, right, DHH itinerants?
- 25 A. I would have to look through and see.

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1 Q. Well, let's go to page 4, and there's a box  
2 there that says, "Students who have cochlear  
3 implants and low language." Do you see  
4 that? Discussion--you're on the wrong page,  
5 are you?

6 A. I'm on the fourth page.

7 Q. That's right.

8 A. Sorry.

9 Q. Good. And it says, "Some very young  
10 children with cochlear implants receive lots  
11 of support at school, but have very low  
12 language/comprehension skills. There are  
13 significant concerns that their programming  
14 is not what they need. It would be helpful  
15 if local students with cochlear  
16 implants/hearing impairments to get together  
17 to communicate/learn. Can we bring these  
18 students together once a week? It would be  
19 helpful for the children to see others with  
20 cochlear implants." Before I move on to the  
21 next paragraph, why was it important for  
22 these children to meet and see each other?

23 A. Because they were all communicating using  
24 ASL, and these kids would like to see other  
25 kids who are using ASL that they can

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1           communicate with in a social environment,  
2           and they were roughly around the same age.  
3           I believe most of them had cochlear implants  
4           at the time. So, they were very similar.  
5           The group were very similar in terms of  
6           cochlear implants, using ASL for  
7           communication, and they're a very similar  
8           age group.

9           Q. So, there were many students of a similar  
10          age who lived in the metro area who had  
11          cochlear implants and were using ASL. So,  
12          it would have been a very good opportunity  
13          to get all those individuals together,  
14          right?

15          A. It's a possibility you can make it work.

16          Q. Tell me about the concerns that were being  
17          raised at this meeting around these  
18          children, not only not being able to gather  
19          with others, but how they were doing  
20          academically and in terms of their language  
21          development. Outcomes were poor, weren't  
22          they?

23          A. How poor were they? I didn't get the last  
24          bit.

25          Q. Outcomes were poor?

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- 1           A.    Outcomes were poor?  In regards to our  
2                    language you mean?  This was December 2016,  
3                    so at that time some students probably were  
4                    lower than others.  I'm not really sure.  
5                    I'm not there to assess the other kids in  
6                    that group.
- 7           Q.    Okay.  Well, let me ask you about this then.  
8                    Later on in this same paragraph you  
9                    indicate, "There is a gap left between the  
10                   closure of the School for the Deaf and the  
11                   current service delivery model.  Teachers  
12                   are concerned that this is a Human Rights  
13                   concern."  Do you recall that being  
14                   discussed at the meeting, that this could be  
15                   a Human Rights concern?
- 16          A.    No, I don't remember that.
- 17          Q.    You don't remember it?
- 18          A.    No.
- 19          Q.    Do you recall if you disagreed with that  
20                   assessment at the time?
- 21          A.    No.
- 22          Q.    You did not disagree.  Do you still share  
23                   that concern?
- 24          A.    Pardon?
- 25          Q.    Do you still have that concern now?

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- 1           A.    Carter--concern about what?
- 2           Q.    About these students' needs being neglected
- 3                    and that it's a Human Rights concern.
- 4           A.    When the School for the Deaf closed,
- 5                    students were in inclusion NLESD and Privacy
- 6                    Inclusion Policy.  So, when these students
- 7                    were in the administering setting, the
- 8                    students were set up in support and
- 9                    services.  Some provinces across Canada
- 10                  don't have a school for the deaf, so they
- 11                  have to think of other options.  So, when
- 12                  the School for the Deaf closed, services and
- 13                  support for these kids, yes, have changed.
- 14          Q.    Changed in a way that caused you concern?
- 15          A.    Pardon?
- 16          Q.    Those services changed in a way that caused
- 17                  you concern?
- 18          A.    No, not exactly, no.  My point is, when the
- 19                  school for the Deaf closed, students went
- 20                  out to the school, from what I can remember,
- 21                  had support and service in place.  Yes, they
- 22                  had ASL student assistants with them at the
- 23                  time.  I can't say that these students--I
- 24                  can't say the School for the Deaf should or
- 25                  shouldn't have closed.  It was a fabulous

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- 1 school. I went there myself from K to four.  
2 Fabulous. Teachers were wonderful. It was  
3 comfortable. You learned ASL with the other  
4 classmates, teachers, but when the school  
5 closed you had to take a different approach  
6 for these kids. Now they have ASL  
7 classroom. That was set-up for these kids  
8 now. So, I can't say there was Human Rights  
9 concern.
- 10 Q. Well, why don't I ask you then about some of  
11 your experience with Carter? You produce as  
12 an itinerant a year-end report for your  
13 students, don't you?
- 14 A. Say that again.
- 15 Q. You produce a year-end report for each of  
16 your students?
- 17 A. Yes, a year-end report, yes.
- 18 Q. And for Carter, in your 2017 report, at the  
19 end of your time with Carter in 2017, you  
20 said, "Carter can produce three words in  
21 ASL."
- 22 A. Phrase--three word phrases, yeah.
- 23 Q. Three words in ASL with modeling and  
24 prompts.
- 25 A. Because he was not always consistent.

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- 1 Q. To your knowledge, is that the level of ASL  
2 that would be expected for a child of  
3 Carter's age, or was he behind?
- 4 A. You would expect more, yes.
- 5 Q. You would expect more?
- 6 A. Yes, but because of Carter's CP, it impacted  
7 his fine motor skills, so it was difficult  
8 at times to understand his ASL signs due to  
9 his CP and fine motor skills.
- 10 Q. But being able to produce three words with  
11 modeling and prompts, that's about typical  
12 for a two year old child?
- 13 A. Typically below five, yes.
- 14 Q. Below five?
- 15 A. Yeah.
- 16 Q. And despite this, Carter still advanced to  
17 grade one, didn't he?
- 18 A. He did advance to grade one, yes.
- 19 Q. Did you ever recommend additional service,  
20 or additional supports, be provided to  
21 Carter?
- 22 A. In what terms of support?
- 23 Q. Well, did you ever go to the District and  
24 say, Carter Churchill is falling behind -
- 25 A. No, I did not.

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- 1 Q. - and needs more support?
- 2 A. No.
- 3 Q. And that's because you wouldn't get it,  
4 would you? The District wouldn't provide  
5 that support, would they?
- 6 A. I can't tell you that for sure, I don't  
7 know.
- 8 Q. Well, why didn't you ask?
- 9 A. No, I didn't. I have no idea why I never  
10 asked.
- 11 Q. You didn't think he needed it?
- 12 A. Pardon?
- 13 Q. You didn't think he needed additional  
14 support?
- 15 A. Everybody would benefit from additional  
16 support.
- 17 Q. But I suppose not everybody -
- 18 A. Not everybody is -
- 19 Q. - is speaking in three word sentences when  
20 they're in Kindergarten, are they?
- 21 A. They do better than that, yes, in  
22 Kindergarten, yes.
- 23 Q. I'm only silent because I'm skipping  
24 questions. Do you recall being part of a  
25 group of itinerant teachers who made a



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1 submission to the report called "A Review of  
2 Services for Deaf and Hard of Hearing  
3 Students in Newfoundland and Labrador?" Do  
4 you recall making submissions to that  
5 report?

6 A. Are you referring to the October 14<sup>th</sup>, 2016  
7 report?

8 Q. There was a report in 2011, and then they  
9 gave an update to that 2011 report. Do you  
10 recall--I'll show you the report, how about  
11 that? Volume 1, Tab G, as in Golf. Do you  
12 recall that report?

13 A. No, I don't.

14 Q. And there were updates on that report. I  
15 understand the report on the front indicates  
16 that it's 2011, but there are updates to  
17 this report that are provided in 2016. Do  
18 you have any recollection of that report?

19 A. No.

20 Q. No?

21 ADJUDICATOR:

22 Q. Sorry, where's the 2016 update?

23 MR. REES:

24 Q. It's throughout. I mean, I know the report  
25 is dated 2011 on the cover, but as you go

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- 1 through it--if it was in colour you'd see  
2 updates in green, but you'll see, you know,  
3 Recommendation 4, Update. These updates  
4 are--sorry, the 2018 updates, not 2016.
- 5 A. It says 2018 update here?
- 6 Q. Yes, these are the--I think you were the one  
7 actually who emailed it to the Premier.  
8 These were updates to the Premier's Task  
9 Force on Deaf Education.
- 10 A. Yes.
- 11 Q. Now you what I'm--sorry, I think I used the  
12 wrong terms. So, now do you recall the  
13 report that I'm speaking about?
- 14 A. I'm recalling this as noted to the Task  
15 Force, yes. Now that I'm becoming more  
16 familiar with it, yes.
- 17 Q. Right. And you identified, you know, you  
18 and your fellow itinerant teachers,  
19 identified several very serious gaps in the  
20 education system for deaf students, didn't  
21 you?
- 22 A. Where's that to? I need to see that first.  
23 What page is that on?
- 24 Q. Well, what I'm looking at is the report, but  
25 I know that you and your fellow itinerants

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- 1           made a submission that resulted in that  
2           report being produced, and, I guess, what  
3           I'm asking you is -
- 4        A.    I'm just going back and think where I was in  
5           2011. I have my list of education there.
- 6        Q.    This might help.
- 7        A.    I started working -
- 8        Q.    The same Book of Documents, Tab Y, as in  
9           Yankee.
- 10       A.    Y?
- 11       Q.    Yes. Do you recognize that document?
- 12       A.    I'm just trying to read it here now. So,  
13           "There have been significant changes to deaf  
14           education in our Province", is that the one?
- 15       Q.    Yes.
- 16       A.    Seeing Darlene Snow's name now, it's coming  
17           back to me now. I can remember, yes.
- 18       Q.    So, this was a submission that you and your  
19           fellow itinerants made in preparation of the  
20           report, right? This was the submission?  
21           These were the concerns that you and the  
22           other deaf itinerants were -
- 23       A.    Well, my name is on it. It's us as a group.
- 24       Q.    Yes. I know it wasn't you personally, but  
25           you, the royal you -

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1           A.    I had to read all of it to refresh my  
2                    memory.

3           Q.    Right.  But the point that I'm looking to  
4                    make here, and the question that I'm looking  
5                    to get you to answer is that these are  
6                    concerns that you, as deaf itinerants, were  
7                    raising with the Government of Newfoundland  
8                    and Labrador, the Department of Education,  
9                    the English School District, right?

10          A.    We had some concerns, yes.

11          Q.    And that many of the concerns that you  
12                    raised in this submission were later  
13                    incorporated into the various proposals that  
14                    you and the other deaf itinerants made for  
15                    satellite classrooms, right?

16          A.    Yes.

17          Q.    And you made those proposals in 2017, and  
18                    2018, and 2019?

19          A.    I can recall two, yes.

20          Q.    You definitely remember two?

21          A.    2019 and 2017.

22          Q.    Right.  So, it was very clear to you and  
23                    your colleagues, you know, by this point, at  
24                    least by 2017, that there were serious  
25                    problems with educating deaf children in

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1 Newfoundland, right?

2 A. I wouldn't say problems, no, but it was just  
3 expressing concerns because we wanted to  
4 advocate for those kids.

5 Q. You wanted to advocate for those kids?

6 A. Right. So, the services, I mean, proposing  
7 a satellite classroom for the kids using ASL  
8 to communicate with ASL, they're in the same  
9 age group, and they're cochlear implant  
10 users, so we put in a proposal because we  
11 thought it would be beneficial for that  
12 small pocket of kids.

13 Q. And you and the other itinerants who made  
14 this submission felt that deaf children in  
15 Newfoundland and Labrador were having  
16 difficulty accessing their school  
17 curriculum, right?

18 A. I wouldn't say they were having difficulty  
19 accessing their curriculum; it's that they  
20 needed services and support in place to  
21 access the curriculum, provide support to  
22 access the curriculum.

23 Q. And they needed those services to access  
24 curriculum because the current services that  
25 were being provided were not allowing them

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- 1 to access the curriculum?
- 2 A. The service that we provided, we wanted more  
3 for those kids, yes.
- 4 Q. Do you recall meeting with Mrs. Churchill? I  
5 mean, you probably met with her several  
6 times.
- 7 A. I've been in the school, she'll come in and  
8 pick up Carter, I'm there, and I make a—I'll  
9 come in and say hi, have a chat with her.
- 10 Q. Ms. Churchill says that she met with you on  
11 April 25<sup>th</sup>, 2017 just to discuss Carter's  
12 progress, and she says that she asked you to  
13 recommend a fulltime teacher, a fulltime DHH  
14 teacher, for Carter, and she says that you  
15 responded by saying that it's out of your  
16 hands.
- 17 A. I don't recall that, no. I mean, it's a  
18 conversation, all right.
- 19 Q. So, you won't remember.
- 20 A. I can't recall that, so I can't really point  
21 to that. I don't remember that. I don't  
22 recall, I should say. Again, it's going  
23 back too far, five or six years ago.
- 24 Q. Right. I mean, because this was a meeting  
25 in advance--Ms. Churchill was advising me,

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1           this was a meeting that happened right  
2           before a larger meeting that occurred at  
3           Strawberry Marsh Road. Do you remember that  
4           meeting?

5           A. No.

6           Q. And that was a meeting--if you don't  
7           remember it, there's not much I can ask you  
8           about it.

9           A. Again, it's a while back, so no, I can't  
10          remember.

11          Q. The problems that you identified in 2017,  
12          you and your deaf itinerant colleagues  
13          identified in 2017, the School District  
14          didn't address those concerns in 2017, did  
15          they?

16          A. Not in 2017, but in 2017 they did get more  
17          support in the file.

18          Q. Well, they didn't address them in 2018  
19          either, did they?

20          A. I can't remember because I know we had  
21          another additional unit where the students  
22          were getting more time. I can't remember  
23          exactly when they were getting two hours a  
24          day.

25          Q. Right, but the concerns that you guys had

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1 raised around, you know, socialization, ASL  
2 qualifications, ASL instruction, none of  
3 those things were being met in 2017, 2018,  
4 2019, were they?

5 A. What do you mean ASL instruction?

6 Q. Kids weren't being instructed in ASL, were  
7 they?

8 A. Well, they had--when I was working with  
9 Carter in Kindergarten he had another  
10 itinerant teacher, or a teacher of the deaf,  
11 in 2017, and it went on for a couple of  
12 years. So, he was getting support.

13 Q. How about the socialization aspect, they  
14 weren't being provided with that, were they?

15 A. He was in an inclusive environment,  
16 inclusion. So, no, he wasn't--he didn't  
17 have other students in his group using ASL.

18 Q. Don't you think it's ironic that you can say  
19 he was in the inclusive environment, by  
20 which I mean he wasn't able to speak to  
21 anybody? It's tragic and ironic that, you  
22 know, the inclusion environment is shorthand  
23 for not being able to speak to other  
24 children.

25 A. This day and age inclusion in policy is--



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1 schools and provinces promote inclusion.  
2 Yes, I understand where you're coming from.  
3 I went to deaf school myself. I understand  
4 like there was like isolation, and the lack  
5 of socialization with other deaf students.  
6 I understand that, but when you're  
7 practising inclusion, the other kids  
8 communicate, find ways to communicate with  
9 Carter. I've seen some students in a  
10 classroom using whatever they can, they use  
11 facial expressions, body language, with  
12 Carter. I understand that at the School for  
13 the Deaf is ideal for all those students who  
14 are using ASL, learn about their culture,  
15 but at that time Carter was in an inclusive  
16 environment. There was no School for the  
17 Deaf for him at that point in time.

18 Q. Are you saying--like did you ever witness  
19 Carter having conversations with his other  
20 classmates?

21 A. He used body language.

22 Q. Well, what was he communicating with body  
23 language besides, you know, I'm mad, or -

24 A. They were playing blocks with him. When I  
25 went in the classroom once they were playing

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1 blocks. So, they were taking turns.

2 Q. I mean, I follow your point that they can  
3 play together.

4 A. It would be ideal for Carter to be in an  
5 environment where the rest of the students  
6 were ASL, but at that time he was in an  
7 inclusive environment.

8 Q. All right. I don't have any further  
9 questions. Thank you.

10 MR. GALANT:

11 Q. Mr. Penney.

12 MR. PENNEY:

13 Q. I don't. You may need to wear the FM  
14 transmitter.

DHH Itinerant Teacher - Kindergarten

15 CROSS-EXAMINATION BY ADJUDICATOR

16 ADJUDICATOR:

17 Q. So, [REDACTED], your direct involvement  
18 with Carter was in the Kindergarten year  
19 only, is that correct?

20 A. Yes.

21 Q. So, you didn't have any time periods  
22 afterwards where you were substituting for  
23 other teachers, or tutoring him in summers,  
24 or anything like that? Your involvement was  
25 during the Kindergarten year?

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1 A. Yes.

2 Q. I want to make sure that I understand the  
3 quantity of time that you are spending with  
4 Carter. So, the itemized list that you've  
5 identified today at Tab 5 of the small  
6 bundle of documents, that we've sometimes  
7 referred to as rebuttal documents from the  
8 Respondent, cross-examination documents, but  
9 the small volume of documents, that itemized  
10 list, that records the dates on which you  
11 say you would have provided service to  
12 Carter?

13 A. Yes.

14 Q. And your notes in here indicate when they  
15 would have been cancelled for one reason or  
16 another, cut short, or where you would have  
17 been working on something else other than  
18 instruction with Carter, or working on  
19 various things, and I want to talk about the  
20 types of things you were working on as well,  
21 but for my own benefit, these are the dates  
22 that you would have worked with Carter, and  
23 approximately, or on average, you're saying  
24 you worked with Carter about twice a week?

25 A. When you go into all this it wasn't 70.

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- 1           Yeah, about two or three times a week, yes.
- 2           Q.   And you had mentioned the types of things
- 3           that you were working on with Carter.  If I
- 4           understand it correctly, you were working on
- 5           his audition?
- 6           A.   Yes.
- 7           Q.   You were also working on his expressive and
- 8           receptive communication in ASL, and I think-
- 9           -I'm going to ask you to clarify.  When you
- 10          were working in ASL with Carter, were you
- 11          using the grammatical features of the
- 12          language, or were you signing to him in an
- 13          English word order?
- 14          A.   It wasn't English word order.
- 15          Q.   It was not -
- 16          A.   With voice and language communication with
- 17          Carter, and it was voice and sign.  That's
- 18          not ASL, right.
- 19          Q.   So, when you were signing with Carter it was
- 20          voice and signing?
- 21          A.   Yes.
- 22          Q.   So, would that have been in English word
- 23          order?
- 24          A.   Not necessarily English word order, no.  So,
- 25          if you--ASL format is different from English

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- 1 word order. So, if I was signing Carter,  
2 Mommy paints, or Mommy is painting, that's  
3 English word order. So, I wasn't using  
4 English word order saying Mommy paint, or--  
5 but I used my voice. With ASL you don't use  
6 voice. So, Mom painting could have got a  
7 better response, and I use voice and sign.
- 8 Q. So, the signs that you're using with Carter  
9 -
- 10 A. Voice. English voice.
- 11 Q. English voice.
- 12 A. Voice, right. I'm speaking in English and  
13 I'm signing.
- 14 Q. But they're not a one-to-one relationship?  
15 You're not signing the English words to  
16 Carter. You're signing with Carter and  
17 using voice?
- 18 A. So, whenever I'm talking--so, that don't  
19 always say I, or me, so it wasn't exact  
20 English word order. So, in order for Carter  
21 to understand what I'm signing to him, I  
22 used voice. So, I'm speaking in English,  
23 and I'm using sign for his receptive skills,  
24 yes.
- 25 Q. Okay. And you referred to the expanded core

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1 curriculum, which I think you described as  
2 involving the technology that Carter was  
3 using. Is that correct?

4 A. Well, the expanded core curriculum covers  
5 assistant technology for parents and  
6 students who are transitioning. So, it's  
7 part of his technology because he was using  
8 cochlear implants. He was using a personal  
9 sound system in the classroom.

10 Q. Were you instructing Carter in the regular  
11 Kindergarten curriculum, as well as his  
12 classroom teacher, Shane Porter, was  
13 instructing him? Were you both providing  
14 him instruction on what Mr. Porter would  
15 call his regular curriculum?

16 A. Right.

17 Q. Yes?

18 A. He was teaching him Kindergarten curriculum,  
19 yes.

20 Q. Mr. Porter was, but were you involved in  
21 delivering any of the, you know, the math  
22 components of that curriculum, or the  
23 language arts portion?

24 A. Occasionally. There were times that he  
25 asked me to review level A reading books for

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1 Carter. He wanted to make sure that Carter  
2 understood the book that he was reading in  
3 the classroom.

4 Q. But were you involved by Mr. Porter in any  
5 other ways in delivering that aspect of  
6 curriculum to Carter, you know, health? You  
7 know, we've seen in the report cards there's  
8 sections for health, social studies.

9 A. Math, reading, social studies, language,  
10 reading, literacy, yes.

11 Q. So, you were involved in those topics as  
12 well?

13 A. I was not involved with the regular  
14 curriculum, Kindergarten regular curriculum.  
15 I supported him because he was asking me to  
16 review some of the things that they were  
17 doing in the classroom.

18 Q. Okay. I'll ask it in a more--if you can put  
19 it in your own words as to what Mr. Porter  
20 would have been teaching Carter, and what  
21 you would have been teaching Carter, as well  
22 as the overlap between those, if there was  
23 any. I'm really trying to get a picture of  
24 who was educating Carter in relation to what  
25 during that Kindergarten year.

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1           A.    I think I have a good relationship with Mr.  
2                   Porter, the classroom teacher, and he  
3                   welcomed me in his classroom anytime.  When  
4                   I used to come in to get Carter for my  
5                   session, any questions that he had, any  
6                   concerns, or any input, I've often left a  
7                   message (phonetic).  So, whenever he needed  
8                   support, and if he wanted me to review Level  
9                   A books for Carter, I did that for--I  
10                  provided that support.

11          Q.    Did Mr. Porter ever consult with you in  
12                  relation to the types of techniques he might  
13                  use to try and teach Carter?

14          A.    I would think he would have tried to use  
15                  face to face communication with Carter.  The  
16                  student assistant was there, was signing.  
17                  So, I can't think of any other techniques  
18                  that, you know, he would be using, and the  
19                  student assistant was there where Carter was  
20                  signing, so I would think that she was  
21                  helping Mr. Porter to communicate with  
22                  Carter in sign.

23          Q.    But do you recall whether Mr. Porter would  
24                  have come to you to ask for advice?  I mean,  
25                  you're the itinerant teacher of deaf and



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1           hard of hearing children. You have more  
2           experience and expertise in this area. Do  
3           you recall Mr. Porter coming to you and  
4           asking for your guidance, or tips, or  
5           resources, that he might employ as well?

6           A. He might have come to me for advice on  
7           Carter. He was probably, you know, maybe  
8           having difficulty listening to certain  
9           sounds. He might have asked me how do I  
10          approach this. I might say get Mrs. So and  
11          So sign with Carter, or get him to repeat,  
12          or you can use audition as well.

13          Q. I guess rather than what he might have done,  
14          I'm more curious about whether you--as you  
15          sit here today, do you recall him coming to  
16          you, or having discussions about how best to  
17          go about teaching Carter?

18          A. I can't recall, no. Not exactly, no, but  
19          over communication--so, if he had any  
20          questions about the sound system, or how  
21          Carter is interacting with other students,  
22          or anything like that, it was always open  
23          communication.

24          Q. Did he ever express to you any difficulties  
25          that he was having in instructing Carter?

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1           A.    He was probably having difficulties  
2                    instructing Carter because he didn't have  
3                    ASL signing skills for communication, and he  
4                    would have to rely on his student assistant  
5                    for that.

6           Q.    Anything arising from my questions? Thank  
7                    you very much for coming and giving your  
8                    evidence today. You are free to step down.  
9                    You can watch the proceedings afterwards, or  
10                  you can just go about your business, it's up  
11                  to yourself. I don't think we have any  
12                  other witnesses schedule for today. The  
13                  next witness is scheduled for 9:00 a.m.  
14                  tomorrow morning. So, we will adjourn until  
15                  9:00 a.m.

16    Upon concluding at 5:10 p.m.

17

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1

## CERTIFICATE

2

3 I, Jodi Stanley, do hereby certify that the  
4 foregoing is a true and correct transcript of a Human  
5 Rights hearing heard on the 30<sup>th</sup> day of August, 2022 at  
6 Holiday Inn, 180 Portugal Cove Road, St. John's,  
7 Newfoundland and Labrador, and was transcribed by me  
8 to the best of my ability by means of a sound  
9 apparatus.

10

11 Dated at St. John's, NL, this

12 7<sup>th</sup> day of September, 2022

13

14 Jodi Stanley

15 Discoveries Unlimited Inc.