

1 THE HEARING OFFICER: Let's not spend all  
2 our time on that. All right; go ahead.

3 THE WITNESS: Dr. Sharon Pope.

4 THE HEARING OFFICER: You're going to have  
5 to spell her name for me.

6 THE WITNESS: S-h-a-r-o-n.

7 THE HEARING OFFICER: Oh, Sharon.

8 THE WITNESS: Yes; Pope.

9 THE HEARING OFFICER: But what's her last  
10 name?

11 THE WITNESS: P-o -- Pope.

12 THE HEARING OFFICER: Oh, Pope; okay.

13 THE WITNESS: P-o-p-e.

14 THE HEARING OFFICER: -- e; okay.

15 BY MR. RATNER:

16 Q Were you in the position of director of  
17 special education for Chesterfield County Public  
18 Schools from the period of February 1st, 2020, through  
19 today?

20 A Yes.

21 Q Okay. And would that include the school  
22 closure that occurred in the spring of 2002 due to  
23 COVID? Were you in the position at that time?

24 A Yes.

25 Q What was your responsibility with respect to

1 responding to the health crisis?

2 A Support district collaboration in planning  
3 for school support and services.

4 Q Okay. Were there any questions in your mind  
5 as the director of special education as to how students  
6 with disabilities were to be served under these --

7 MR. ANDRIANO: Objection.

8 THE HEARING OFFICER: The basis of your  
9 objection?

10 MR. ANDRIANO: This is a case about REDACTED  
11 REDACTED, not about students with disabilities.  
12 Let's get to REDACTED's case.

13 THE HEARING OFFICER: Okay. Were you  
14 directing that to REDACTED or to other -- did you  
15 include other students in your question?

16 MR. RATNER: I'm not asking about any  
17 specific student. I'm trying to figure out what  
18 her responsibilities were with respect to the  
19 pandemic, and whether or not she'd be aware of a  
20 specific document that I'm trying to get to.

21 THE HEARING OFFICER: Was that what you  
22 objected to?

23 MR. ANDRIANO: He asked what her  
24 responsibilities were to students with  
25 disabilities during the pandemic.

1 THE HEARING OFFICER: Oh.

2 MR. RATNER: That was not what I asked.

3 I'll be happy to rephrase.

4 THE HEARING OFFICER: That's not what you  
5 asked?

6 MR. RATNER: No.

7 THE HEARING OFFICER: Okay.

8 MR. RATNER: I'll be happy to rephrase.

9 THE HEARING OFFICER: Just focus the  
10 question on REDACTED, and I think we'll be fine.

11 MR. RATNER: Okay.

12 THE HEARING OFFICER: Okay.

13 MR. RATNER: But she said she's never met  
14 REDACTED, and she doesn't serve REDACTED.

15 THE HEARING OFFICER: No.

16 MR. RATNER: So I'm just trying to --

17 THE HEARING OFFICER: She doesn't what?  
18 She doesn't serve REDACTED?

19 MR. RATNER: Serve; she never worked with  
20 her. I'm talking about the school closure and  
21 obligations to --

22 THE HEARING OFFICER: Right; okay, all  
23 right.

24 MR. RATNER: -- to all students with --

25 THE HEARING OFFICER: To REDACTED.

1 MR. RATNER: -- all students with  
2 disabilities, which includes REDACTED .

3 MR. ANDRIANO: But --

4 THE HEARING OFFICER: Okay. But can you  
5 just take the "all students" out of the mix.

6 BY MR. RATNER:

7 Q Okay. Let me ask you then, if I could --

8 THE HEARING OFFICER: That includes all the  
9 students here, which is a lot of students.

10 MR. RATNER: Maybe this would clear it up.

11 THE HEARING OFFICER: Sure.

12 MR. RATNER: If I could.

13 THE HEARING OFFICER: Go ahead.

14 MR. RATNER: I'd like to ask about Parents'  
15 Exhibit 92. It's in book number three. It's  
16 probably the thickest one of the four.

17 THE HEARING OFFICER: Okay.

18 BY MR. RATNER:

19 Q Do you have that in front of you, Ms.  
20 Glover? I'd be happy to assist.

21 A What is it, 92?

22 Q 92; that's correct. Let me know when you  
23 have it in front of you, Ms. Glover.

24 A (Inaudible.)

25 Q I'm sorry. I couldn't hear you.

1 A I have it.

2 Q Okay. Thank you. It'll help for the court  
3 reporter, and there might be people watching in the  
4 other room, if you could just keep your voice up,  
5 please.

6 THE HEARING OFFICER: I thought you invited  
7 all of them in.

8 MR. RATNER: I'm just not sure. I did.

9 THE HEARING OFFICER: Oh, oh, okay.

10 BY MR. RATNER:

11 Q So this appears to be, on this face,  
12 something issued by the United States Department of  
13 Education, Office of Civil Rights, Office of Special  
14 Education and Rehabilitative Services, issued on March  
15 21st, 2020, Supplemental Fact Sheet Addressing the Risk  
16 of COVID-19 in Pre-School, Elementary, and Secondary  
17 Schools While Serving Children With Disabilities.

18 Have you ever seen this document before?

19 A I'm quite certain I have it in my  
20 possession.

21 Q Okay. And would this be something that  
22 you're responsible for keeping up with as the director  
23 of special education for Chesterfield County Public  
24 Schools, guidance issued by the United States  
25 Department of Education for serving REDACTED, who was

1 a student with a disability identified for special  
2 education services under the IDEA?

3 A Can you explain what you mean by "keeping up  
4 with"?

5 Q Well, were you responsible for reading this,  
6 for example, to know what the guidance from the United  
7 States Department of Education was with respect to  
8 COVID?

9 A I would be responsible for reading it.

10 Q Okay. So do you remember reading this?

11 A I don't recall reading it.

12 MR. RATNER: Okay. So Ms. Freeman, this is  
13 a federal guidance document. I think we can all -  
14 -

15 THE HEARING OFFICER: I see that.

16 MR. RATNER: We can all agree to that.

17 THE HEARING OFFICER: Did anybody stipulate  
18 that this is a federal --

19 MR. ANDRIANO: No.

20 MR. RATNER: Okay. I would request that we  
21 stipulate that this is a federal -- a document  
22 that, on its face, is what it purports to be, a  
23 United States Department of Education supplemental  
24 fact sheet.

25 Ms. Glover has said she's sure she's had it,

1 she's sure she's read it, but she doesn't  
2 specifically remember reading it.

3 THE HEARING OFFICER: Any objection?

4 MR. ANDRIANO: If she doesn't specifically  
5 remember reading it, I don't know how she can  
6 comment on it.

7 MR. RATNER: I'm not ask -- that was my  
8 point. I'd like you to take judicial notice of  
9 it, and offer it into evidence. You are certainly  
10 free to read it yourself.

11 THE HEARING OFFICER: Yeah; and I --

12 MR. RATNER: That this document couldn't be  
13 relevant to this case, I would strongly object to.

14 THE HEARING OFFICER: She said she's sure  
15 she's read it at some point, but she doesn't  
16 recall it specifically today. But it is -- again,  
17 it is what it is.

18 MR. RATNER: Right; and we'd like to offer  
19 it into evidence, please.

20 THE HEARING OFFICER: Is there any  
21 objection to offering this into evidence as the  
22 federal document that she has reviewed at some  
23 point?

24 MR. ANDRIANO: My objection is there's  
25 several other documents that ought to go with that

1 one.

2 THE HEARING OFFICER: Oh.

3 MR. ANDRIANO: And you can't read it in  
4 isolation.

5 MR. RATNER: And they're free to introduce  
6 those. I'd like you to read that one.

7 THE HEARING OFFICER: Where are those  
8 documents?

9 MR. RATNER: I don't know. They're not my  
10 documents. Or they might be in my book, but I  
11 don't have any -- I mean, this is the one I'm  
12 interested in. They can ask about any others.

13 THE HEARING OFFICER: I don't have any  
14 problem admitting this document, but --

15 MR. RATNER: Well, great; that's all I  
16 want.

17 THE HEARING OFFICER: But -- however -- let  
18 me finish -- if there's other information that --  
19 it looks like this was maybe the beginning of a  
20 packet or something, which should have been -- and  
21 that this was perhaps separated out from that.

22 MR. RATNER: No, ma'am.

23 THE HEARING OFFICER: No?

24 MR. RATNER: I just downloaded it from --

25 THE HEARING OFFICER: Let the record



1 reflect the witness shook her head "yes," that it  
2 was part of a packet. Because these sorts of  
3 things do come in --

4 MR. ANDRIANO: Yes.

5 MR. RATNER: What I'm stating in my place -  
6 -

7 THE HEARING OFFICER: -- with a lot of  
8 information.

9 MR. RATNER: -- as a lawyer and a member of  
10 the Virginia Bar, I went to the United States  
11 Department of Education website, and this was  
12 available as a standalone document, and I  
13 downloaded it.

14 THE HEARING OFFICER: Oh, okay. Is this  
15 what you recall, that it was -- this was a whole  
16 document? But you don't remember specifically --

17 THE WITNESS: It's one of many documents.

18 THE HEARING OFFICER: I'm sorry?

19 THE WITNESS: This is one of many documents  
20 that was received during this. And some of them  
21 are noted at the bottom.

22 THE HEARING OFFICER: Oh, okay.

23 MR. RATNER: Right.

24 THE HEARING OFFICER: Oh, yeah, yeah.

25 MR. ANDRIANO: But those aren't included,

1           so --

2                   THE HEARING OFFICER:     But those are not  
3           included.   So I'm going to wait on this document,  
4           to see if school counsel can find the other  
5           documents that are included with it.

6                   Because it does seem somewhat disjointed to  
7           consider it without the supporting documentation.

8                   MR. RATNER:     Okay.   And I think that's  
9           fine, but I don't know that -- well, no.   I mean,  
10          I would note my --

11                   THE HEARING OFFICER:    I mean, I'll reserve.

12                   MR. RATNER:     I would note my objection to  
13          it.

14                   THE HEARING OFFICER:    I'll reserve, and let  
15          them find --

16                   MR. RATNER:     But I don't know that they  
17          have an obligation to present those other  
18          documents.   And then --

19                   THE HEARING OFFICER:    Well, I'm asking them  
20          to --

21                   MR. RATNER:     Okay.

22                   THE HEARING OFFICER:    -- please look for  
23          the other documents, if they have them.

24                   MR. RATNER:     And, again, I think they're  
25          noted in there.   I just went online and downloaded

1           them.

2           THE HEARING OFFICER:    Yeah; I see where you  
3           have noted all them.

4           MR. RATNER:    No; I didn't note them.  
5           That's -- I didn't add anything to this.

6           THE HEARING OFFICER:    They're all on the  
7           bottom of the document.

8           MR. RATNER:    Right; and they're clickable  
9           links, so you could absolutely access them  
10          yourself.

11          THE HEARING OFFICER:    Well, I could.

12          MR. RATNER:    Or I'll provide them.

13          MR. ANDRIANO:   Ms. Freeman, I think these  
14          documents, as well as the VDOE guidance documents,  
15          are all appropriate for the closing and briefs  
16          that we will submit.

17          But to ask witnesses to read guidance  
18          documents --

19          MR. RATNER:    I --

20          MR. ANDRIANO:   -- without the full context  
21          is not --

22          THE HEARING OFFICER:    Okay. I'll make a  
23          reservation on ruling on this --

24          MR. RATNER:    Okay.

25          THE HEARING OFFICER:    -- until we can find

1 out if there's supporting -- you have four books  
2 here. It could very well be in those documents.

3 MR. RATNER: It could be. Just let me be  
4 very clear. This is one of the problems we've run  
5 into.

6 THE HEARING OFFICER: Is what?

7 MR. RATNER: I'm not intending to ask Ms.  
8 Glover to read from it. I want it to be part of  
9 the evidentiary record that you are free to  
10 review, if you would like to. That's all I'm  
11 asking.

12 THE HEARING OFFICER: Yeah; and the only  
13 reservation I have about admitting it right now is  
14 that school counsel's representing that it's not  
15 the whole document.

16 Ms. Glover was shaking her head that --  
17 affirmatively, that it's not the whole document.

18 MR. RATNER: Well, I --

19 THE HEARING OFFICER: I don't know if she  
20 shook it affirmatively or negatively.

21 MR. RATNER: Could I ask one follow-up  
22 question about that?

23 THE HEARING OFFICER: Yes, yes; go ahead.

24 MR. RATNER: Okay. Thank you.

25 THE HEARING OFFICER: But -- yeah.

1 BY MR. RATNER:

2 Q When you say it's not the whole document,  
3 there are documents on different dates issued by the  
4 United States Department of Education that also relate  
5 to this same subject; correct?

6 Or are you saying this is somehow  
7 incomplete?

8 A What I'm saying is that this is a  
9 supplemental fact sheet.

10 Q Uh-huh.

11 A So by virtue of the word "supplemental," it  
12 means instead of standalone.

13 Q Right. It supplemented a document that was  
14 issued first; right?

15 MR. ANDRIANO: I'm not sure how the witness  
16 would know whether it was -- what was issued  
17 first.

18 MR. RATNER: Well, I don't know how it  
19 could supplement something if there wasn't  
20 something to supplement.

21 MR. ANDRIANO: Ms. Freeman, there were tons  
22 of supplements from the Department of Education  
23 during this period of time.

24 THE HEARING OFFICER: Honestly, I don't  
25 know where to begin with all the different orders

1           that there were. And to this day, I don't know if  
2           there's --

3           MR. RATNER:     Right; but that's a critical  
4           issue in this case.

5           THE HEARING OFFICER:    I don't think so, but  
6           --

7           MR. RATNER:     You don't think it's a  
8           critical issue in this case?

9           THE HEARING OFFICER:    No, no, no. I was  
10          going to say I don't know if there's -- I don't  
11          think there's one in effect now. But I wouldn't  
12          be able to tell you that.

13          MR. RATNER:     Well, again, we looked at the  
14          memo from James \*\*\*, if you recall. And there was  
15          a question about, well, that was later. And if  
16          you recall in that document it said that there's  
17          been no waiver of the IDEA requirements.

18          THE HEARING OFFICER:    No; I remember that.

19          MR. RATNER:     Right.

20          THE HEARING OFFICER:    And I know that.

21          MR. RATNER:     And this substantiates that.  
22          That's it.

23          THE HEARING OFFICER:    Okay. But just give  
24          me the whole document.

25          MR. RATNER:     I did. I don't know how to

1 say it any more clearly.

2 THE HEARING OFFICER: Well, I'm going to  
3 reserve this document to later, and let's move on.  
4 And let's not spend our whole time arguing. But  
5 that's fine. I understand where you are, so --

6 MR. RATNER: Thank you.

7 THE HEARING OFFICER: Let's see. That's  
8 1197 -- okay. Go ahead.

9 MR. RATNER: And to be clear, it's this  
10 entire document, so it's through 1201. That was  
11 all a single document.

12 THE HEARING OFFICER: Oh, okay; to 1201?

13 MR. RATNER: Correct.

14 THE HEARING OFFICER: Okay.

15 BY MR. RATNER:

16 Q Ms. Glover, as you sit here today, isn't it  
17 true that Chesterfield County Public Schools is paying  
18 tuition to The New Community School for students to  
19 attend?

20 MR. ANDRIANO: Objection. Again, talking  
21 about other students.

22 MR. RATNER: We keep getting this question  
23 of -- I mean, it's a simple yes or no. If the  
24 school board's position is they can -- if they're  
25 going to argue that they're not legally allowed to

1 place students there, I don't see how we could not  
2 be -- I'm not asking about who it is, what it is.

3 Just yes or no, are you paying tuition  
4 there. And I have the documentation to back it  
5 up, which I'd be happy to show the witness.

6 THE HEARING OFFICER: In relation to REDACTED.  
7 But other students are not a part of this hearing.

8 MR. RATNER: Right; But REDACTED's parents were  
9 told, and that's in the prior written notice, that  
10 one of the reasons that a request for placement at  
11 The New Community School was denied was because  
12 it's not on the approved list.

13 And I'll be happy to refer back to that  
14 document.

15 MR. ANDRIANO: Ms. Freeman, may I be heard  
16 on that?

17 THE HEARING OFFICER: Yes; go ahead.

18 MR. ANDRIANO: Mr. Ratner continues to  
19 mischaracterize the evidence. Just read paragraph  
20 5 of the prior written notice. It doesn't say  
21 that.

22 It says the IEP --

23 THE HEARING OFFICER: Where is the prior  
24 written notice?

25 MR. ANDRIANO: Oh, School Board --



1 THE HEARING OFFICER: I think the  
2 appropriate question would be --

3 MS. OWENS: 38.

4 THE HEARING OFFICER: -- to the effect of  
5 whether or not REDACTED -- REDACTED's tuition --

6 MR. RATNER: Well, we know REDACTED's tuition  
7 hasn't been paid.

8 THE HEARING OFFICER: -- was not paid.

9 MR. RATNER: Right. But their position is  
10 --

11 THE HEARING OFFICER: And that seems like a  
12 permissible area of inquiry.

13 MR. RATNER: Right.

14 THE HEARING OFFICER: But as to other  
15 students, I think we agreed, way back when, that  
16 we all understood that other students are not a  
17 part of the hearing.

18 MR. RATNER: And I understand that.

19 THE HEARING OFFICER: So we can't go on and  
20 on about --

21 MR. RATNER: I'm not trying to go --

22 THE HEARING OFFICER: -- are other students  
23 included in the decision --

24 MR. RATNER: Okay.

25 THE HEARING OFFICER: -- to or not to pay

1 for tuition --

2 MR. RATNER: Okay, okay.

3 THE HEARING OFFICER: -- in other cases.

4 MR. RATNER: Well, let me just see -- I'm  
5 going to ask one more question to you.

6 THE HEARING OFFICER: Sure; go ahead.

7 MR. RATNER: And then I'll move on.

8 THE HEARING OFFICER: Okay. Go ahead.

9 MR. RATNER: And maybe the answer is you're  
10 not interested in whether or not the school board  
11 --

12 THE HEARING OFFICER: It's not whether I  
13 personally am interested. It's a question of  
14 whether or not it's a permissible question in this  
15 hearing with regard to REDACTED.

16 MR. RATNER: Right; and with regard to REDACTED  
17 REDACTED, you might recall that the Chesterfield  
18 County Board of Education, or Chesterfield County  
19 Public Schools system made a motion to dismiss our  
20 complaint, saying that they are not permitted to  
21 pay tuition on behalf of REDACTED to The New  
22 Community School.

23 THE HEARING OFFICER: Okay.

24 MR. RATNER: We believe that statement is  
25 false. And the way we would challenge that

1 statement is by showing that they are, in fact,  
2 paying tuition to The New Community School.

3 THE HEARING OFFICER: Uh-huh; so you expect  
4 this witness --

5 MR. RATNER: And you don't think that's  
6 relevant?

7 THE HEARING OFFICER: -- could prove --  
8 No; I didn't say that.

9 MR. RATNER: Okay.

10 THE HEARING OFFICER: I said it's not an  
11 appropriate question.

12 MR. RATNER: Okay. Well, I mean, yes,  
13 she's the director --

14 THE HEARING OFFICER: And we're not going  
15 to go on and on.

16 MR. RATNER: No.

17 THE HEARING OFFICER: I'm going to note  
18 your objection. And then ask her with regard to  
19 REDACTED. I think you could probably rephrase that  
20 question and ask her with regard to REDACTED --

21 MR. RATNER: Okay.

22 THE HEARING OFFICER: -- if the school  
23 system refused to pay for REDACTED's tuition and --

24 BY MR. RATNER:

25 Q Okay. Is it a fact that The New Community

1 School was not approved as a placement for REDACTED  
2 by Chesterfield County Public Schools?

3 A If you'll repeat that question --

4 MR. ANDRIANO: I'm sorry, Mr. Ratner.

5 MR. RATNER: Yes, please.

6 MR. ANDRIANO: It's School Board 38.

7 THE HEARING OFFICER: Oh, thank you.

8 MR. ANDRIANO: Page 2.

9 THE HEARING OFFICER: And that's the PWN;  
10 okay.

11 MR. ANDRIANO: Prior written notice, page  
12 2, paragraph 5.

13 THE HEARING OFFICER: Go ahead.

14 BY MR. RATNER:

15 Q Okay. So I'm not asking you a question  
16 about the PWN, but you're welcome to look at it, Ms.  
17 Glover. But I'm ready to ask you questions when you're  
18 ready. So let me know.

19 Okay. Is it not the case that REDACTED's  
20 parents requested on multiple occasions for her to be  
21 placed by the Chesterfield County Public Schools system  
22 at The New Community School?

23 A So I asked you to repeat your question, but  
24 that wasn't the question. Can you --

25 Q I withdrew that question.

1 A Okay, okay.

2 Q Do I need to repeat that one now?

3 A Yes.

4 THE HEARING OFFICER: Don't argue with the  
5 witness.

6 MR. RATNER: No; I'm just trying to  
7 understand where we're going here.

8 THE HEARING OFFICER: Okay. You asked a  
9 question. And I think she was in the process of  
10 answering it.

11 MR. RATNER: I think she asked me to repeat  
12 it.

13 THE HEARING OFFICER: Oh, she did? Okay.

14 MR. RATNER: Yes.

15 THE HEARING OFFICER: I'm sorry. Go ahead.

16 BY MR. RATNER:

17 Q Is that right?

18 A Correct.

19 Q Okay.

20 THE HEARING OFFICER: Go ahead.

21 BY MR. RATNER:

22 Q Let me try something a little bit different,  
23 if I could.

24 MR. ANDRIANO: No, no; please just ask the  
25 question.

1 MR. RATNER: I don't know what question I'm  
2 supposed to ask. I really don't.

3 MR. ANDRIANO: Don't try something  
4 different. Just please ask the question.

5 MR. RATNER: Pardon?

6 MR. ANDRIANO: Please just ask the  
7 question.

8 MR. RATNER: I am.

9 Book 39 -- book one, tab 39; excuse me.

10 THE HEARING OFFICER: Hold on. Which --  
11 book one. This is school board's. Oh, here is  
12 book one of the parents'.

13 Okay. And you want me to go to 31? You  
14 want me to go to 31?

15 MR. RATNER: 39.

16 THE HEARING OFFICER: 39.

17 MR. RATNER: Very last one in the book.

18 THE HEARING OFFICER: Okay. This is --

19 MR. RATNER: And I'm really sorry. I'm not  
20 -- I don't understand what question I'm supposed  
21 to ask to get at this issue.

22 THE HEARING OFFICER: Well, just go ahead.

23 MR. RATNER: It seems like a very basic  
24 question, to me.

25 THE HEARING OFFICER: Okay.

1 MR. RATNER: So I'm doing the best I can.

2 THE HEARING OFFICER: That's okay. You're  
3 doing fine.

4 MR. RATNER: I want to know if the  
5 Chesterfield County Public Schools pays tuition to  
6 The New Community School. You're telling me  
7 that's not relevant. And I don't understand.

8 THE HEARING OFFICER: With regard to other  
9 students.

10 MR. RATNER: Well, but they're not paying  
11 it for REDACTED So they're -- it would only be for  
12 other students.

13 THE HEARING OFFICER: This witness is here  
14 for REDACTED.

15 BY MR. RATNER:

16 Q Okay. So could you look at tab 39, please.  
17 This -- and if you look towards the end -- this has  
18 already been admitted into evidence. If you look at  
19 PARENTS 500. You see the numbers at the bottom?

20 (Pause.)

21 Are you there?

22 A Yes.

23 Q Thank you. This was cc'd to you. Do you  
24 remember receiving this on or about May 14th, 2021?

25 A I received it.

1 Q Okay. This is a request for Chesterfield  
2 County Public Schools to fund REDACTED 's placement at  
3 The New Community School; correct?

4 A There is a statement that says, "We intend  
5 to seek reimbursement of costs."

6 Q Right. And it -- and that's what this  
7 hearing is about; correct? Whether or not Chesterfield  
8 County Public Schools will have to reimburse the  
9 parents' costs for REDACTED 's tuition at The New  
10 Community School?

11 Do you understand that as you're sitting  
12 here today to testify?

13 A Yes.

14 Q Okay. And if you are ordered by the Hearing  
15 Officer to pay that, Chesterfield County Public Schools  
16 is able to make payment to The New Community School on  
17 behalf of REDACTED ; correct?

18 A No.

19 Q No? Explain that, please.

20 A New Community School waived their  
21 obligations to the federal -- to the Virginia Board of  
22 Education's standards. So they don't meet the  
23 standards that have been identified by the Virginia  
24 Board of Education.

25 Therefore, we're not allowed to -- it is not



1 appropriate for us to even consider that as an  
2 assignment for students.

3 Q Okay.

4 THE HEARING OFFICER: As -- what was the  
5 last -- as the primary --

6 THE WITNESS: So they've waived their  
7 obligations to the --

8 THE HEARING OFFICER: To VD --

9 THE WITNESS: -- standards for Virginia  
10 Board of Education. So they are not one of the  
11 licensed schools for Virginia Board of Education.

12 THE HEARING OFFICER: Okay. So they're not  
13 -- you're saying they're not licensed; right.

14 MR. RATNER: And so -- may I ask a follow-  
15 up?

16 THE HEARING OFFICER: Sure.

17 BY MR. RATNER:

18 Q If Chesterfield County is currently paying  
19 tuition to The New Community School, are they in  
20 violation of the law?

21 MR. ANDRIANO: Objection. I mean --

22 THE HEARING OFFICER: That involves other  
23 students.

24 MR. RATNER: I don't know how to answer  
25 this any more clearly. She's not being truthful.

1 MR. ANDRIANO: Objection.

2 MR. RATNER: I need to be able to impeach  
3 her.

4 MR. ANDRIANO: Ms. Freeman, he's asking for  
5 a --

6 THE HEARING OFFICER: Okay. The fact that  
7 --

8 MR. ANDRIANO: He's asking for --

9 MR. RATNER: Okay.

10 MR. ANDRIANO: -- a legal conclusion.

11 THE HEARING OFFICER: I don't know exactly  
12 how you get to prove what you're trying to prove.  
13 But I'm saying, as far as this case goes, that I  
14 need to hear about REDACTED and why -- whether or not  
15 the school system would pay for her tuition in  
16 private placement.

17 MR. RATNER: Okay. Let me ask something  
18 different, if I could, please.

19 THE HEARING OFFICER: And she just told me  
20 the reason why --

21 MR. RATNER: Right.

22 THE HEARING OFFICER: -- The New Community  
23 School is not an approved placement, because it's  
24 not licensed by the state.

25 MR. RATNER: Right. And --

1 THE HEARING OFFICER: Is that what you  
2 said?

3 THE WITNESS: Yes, ma'am.

4 MR. RATNER: That is what she said.

5 THE HEARING OFFICER: Okay.

6 BY MR. RATNER:

7 Q And isn't it, in fact, what you just said,  
8 directly contradicted by School Board Exhibit 00007,  
9 which is already in evidence and is part of tab 1.

10 THE HEARING OFFICER: You said the school  
11 book?

12 MR. RATNER: No; no, it isn't.

13 THE HEARING OFFICER: Oh, what is it?

14 MR. RATNER: It's the letter --

15 THE HEARING OFFICER: Just give me that  
16 exhibit again. I'm sorry.

17 MR. RATNER: It's number 1 -- tab 1 in the  
18 school board book.

19 THE HEARING OFFICER: Oh, in the school  
20 board book.

21 MR. RATNER: Page 7.

22 THE HEARING OFFICER: Number 7?

23 MR. RATNER: No; page 7. It is a May 7 --

24 THE HEARING OFFICER: That's what I meant.

25 MR. RATNER: I'm sorry.

1 THE HEARING OFFICER: I said that's what I  
2 meant.

3 MR. RATNER: Oh.

4 THE HEARING OFFICER: I said tab, but I  
5 meant --

6 MR. RATNER: So it's a May 7th, 2019,  
7 letter from Hank Millward to Nancy Foy. We  
8 discussed this this morning. And you said you're  
9 able to read it, so I don't want to --

10 THE HEARING OFFICER: I'm still able.

11 MR. RATNER: Right. So if you read it, you  
12 will see the contradiction I'm trying to point  
13 out.

14 THE HEARING OFFICER: Okay.

15 MR. RATNER: And I'd maybe ask that we take  
16 a brief pause for you to do that.

17 THE HEARING OFFICER: All right. If you  
18 want me to read it now, I will.

19 MR. RATNER: I would like to. And maybe I  
20 could just go to the men's room while you do that.

21 THE HEARING OFFICER: Okay; good.

22 MR. RATNER: Thank you.

23 (Brief recess.)

24 THE HEARING OFFICER: Okay.

25 MR. RATNER: Have you read it?

1 THE HEARING OFFICER: Yep.

2 MR. RATNER: Okay. Do you understand the  
3 point I'm trying to make?

4 THE HEARING OFFICER: I understand what  
5 this letter --

6 MR. RATNER: Okay; great. May I ask one  
7 more question?

8 THE HEARING OFFICER: Yes.

9 BY MR. RATNER:

10 Q Is it your testimony sitting here today that  
11 CCPS is legally prohibited from paying tuition to The  
12 New Community School on behalf of REDACTED?

13 MR. ANDRIANO: Objection, calls for a legal  
14 conclusion.

15 THE HEARING OFFICER: It does call --

16 MR. RATNER: It calls for a legal  
17 conclusion?

18 THE HEARING OFFICER: Well, to say whether  
19 or not -- the answer to the legal proposition,  
20 whether or not --

21 MR. RATNER: Well, she's the director --

22 THE HEARING OFFICER: -- they're legally  
23 permitted to pay for tuition.

24 MR. RATNER: Okay. But she's the director  
25 of special education.

1 THE HEARING OFFICER: But she's not a  
2 lawyer.

3 MR. RATNER: She knows if they're paying  
4 tuition.

5 MR. ANDRIANO: But how is that relevant to  
6 this case?

7 MR. RATNER: Because they moved to dismiss  
8 the claims on the ground that they are not allowed  
9 to pay tuition.

10 MR. ANDRIANO: That's not accurate. It was  
11 prospective relief. If you read our motion to  
12 dismiss, it dealt with prospective relief, the  
13 relief that they requested.

14 THE HEARING OFFICER: And it says in here  
15 that they can pay it for good cause. And it also  
16 says that The New Community School asked for this.

17 MR. RATNER: That's right. And it says  
18 that -- "will no longer accept students whose  
19 enrollment is provided through public funding  
20 unless" --

21 THE HEARING OFFICER: Well, they're saying  
22 that, "We're not accepting children under -- who  
23 are provided under public funding."

24 MR. RATNER: No; that's not what it says,  
25 if I could finish speaking.

1 THE HEARING OFFICER: Oh, go ahead.

2 MR. RATNER: -- "unless a student's IEP has  
3 specifically" --

4 THE HEARING OFFICER: I read that.

5 MR. RATNER: -- "identified The New  
6 Community School as being the only school which  
7 can provide the student with a free appropriate  
8 public education as was determined by the child's  
9 IEP team."

10 MS. OWENS: So Ms. Freeman, the point that  
11 Mr. Ratner, I think, is really skipping or missing  
12 is that the IEP team, during the February 2021 IEP  
13 meeting, determined that a free appropriate public  
14 education could be delivered to REDACTED in the public  
15 schools.

16 Therefore, a private day school placement  
17 was not necessary. Now, because a FAPE can be  
18 delivered in a location other than a private day  
19 school, this is not even applicable to this case.

20 If a FAPE could not be delivered in a  
21 private day -- in a public school setting, then  
22 perhaps he could open the door, to the extent that  
23 the school division or the IEP team were to  
24 determine that a private day school placement was  
25 necessary for the student.

1 But that hasn't been determined. The IEP  
2 team specifically indicated that a FAPE could be  
3 delivered in the public school setting. And  
4 because a FAPE can be provided in a location not a  
5 private day school, this is not applicable to this  
6 case.

7 THE HEARING OFFICER: Then I'm going to  
8 allow him to fully explore what he thinks I need  
9 to know to go into --

10 MR. RATNER: Okay; great.

11 THE HEARING OFFICER: -- figuring all of  
12 this out in --

13 MR. RATNER: This is the last document.

14 THE HEARING OFFICER: Okay. Go ahead.

15 MR. RATNER: I downloaded this spreadsheet  
16 from the Chesterfield County Public Schools --

17 MR. ANDRIANO: Right; but Mr. Ratner, this  
18 goes to the objection that we made earlier --

19 MR. RATNER: Right; that's right.

20 MR. ANDRIANO: -- about other students.

21 MR. RATNER: And she said she's going to  
22 allow me latitude. So I'm going to show it to  
23 her, and I'm going to ask to offer it.

24 MR. ANDRIANO: But she's already sustained  
25 our objection.



1 MR. RATNER: I'm sorry. May I present this  
2 to you, please?

3 THE HEARING OFFICER: Yes.

4 MR. RATNER: Thank you.

5 THE HEARING OFFICER: Okay.

6 MR. RATNER: This is what I would like to  
7 ask.

8 THE HEARING OFFICER: Okay. Now, let me  
9 get my glasses on and look at it.

10 MR. RATNER: And I would represent to you  
11 --

12 THE HEARING OFFICER: I only have used my  
13 glasses when it's really tiny.

14 MR. RATNER: And this is.

15 THE HEARING OFFICER: I read at home  
16 without them, but --

17 MR. RATNER: So if I could just --

18 THE HEARING OFFICER: Yeah.

19 MR. RATNER: -- say as a member of the  
20 Virginia Bar, I went to mychesterfieldschools.gov.  
21 This is available there for anybody to see. And I  
22 downloaded this file, and searched for The New  
23 Community School.

24 And it shows tuition being paid on October  
25 13th, 2021; December 22nd, 2021; February 4th,

1 2022.

2 THE HEARING OFFICER: Is this for other  
3 students?

4 MR. RATNER: I don't know who it's for.  
5 But it certainly shows that they can make the  
6 payment.

7 MS. OWENS: Again, that is not -- this  
8 document is not relevant to this case in any  
9 manner.

10 MR. RATNER: Okay. We'd like to offer it  
11 into evidence, please.

12 MS. OWENS: On what basis? There's no basis  
13 for the admission of that document into evidence.

14 MR. RATNER: I think I've just explained  
15 the basis.

16 MS. OWENS: Again --

17 MR. RATNER: And I'd like to offer it into  
18 evidence.

19 MS. OWENS: -- the issue pending before the  
20 Hearing Officer is the issue with regard to the  
21 provision of a free appropriate public education  
22 to REDACTED.

23 Mr. Ratner is creating a diversion of the  
24 issues --

25 THE HEARING OFFICER: I'm sorry. I didn't

1 mean to not look at you --

2 MS. OWENS: -- by pointing to this  
3 spreadsheet that has nothing to do, admittedly --

4 MR. RATNER: If it had nothing to do with  
5 REDACTED, what are we afraid of, letting it in the  
6 record? It shows --

7 MS. OWENS: Why would we have it --

8 MR. ANDRIANO: Because this case is not  
9 about other students.

10 MR. RATNER: Okay. I'm offering it into  
11 the record, please.

12 THE HEARING OFFICER: Yeah; I'll take it as  
13 an attachment. But you've already had your  
14 opportunity -- and I don't -- you're offering me  
15 this to impeach her or something?

16 MR. RATNER: Yes; exactly.

17 THE HEARING OFFICER: Oh, okay. Okay.  
18 I'll take it for the -- as an attachment.

19 MR. RATNER: Okay. May I use it to impeach  
20 her?

21 THE HEARING OFFICER: However, I'm keeping  
22 in mind the overall principle here, which is  
23 whether or not the IEP team considered appropriate  
24 placement.

25 MR. RATNER: Yes, ma'am. So -- I'm so

1           sorry. I've sort of misplaced my extra copies at  
2           the moment. Could I use that to impeach her,  
3           briefly? Just show it to her, and ask her if she  
4           recognizes those tables?

5                       BY MR. RATNER:

6           Q        You're the director of special education for  
7           Chesterfield County Public Schools; correct?

8           A        I am the director --

9           Q        Okay. And in that role, are you aware of  
10          payments made on behalf of students for private  
11          placement?

12                   MR. ANDRIANO:    Objection. Here we --

13                   THE HEARING OFFICER:   We've already gone  
14          into the --

15                   MR. RATNER:       Okay.

16                   THE HEARING OFFICER:   -- other students  
17          objection.

18                   BY MR. RATNER:

19          Q        Have you ever seen this document before?

20          A        No.

21          Q        Okay. Have you ever seen evidence that  
22          Chesterfield County Public Schools makes tuition  
23          payments from the school operating fund special  
24          education M and D to The New Community School? Are you  
25          aware of that?

1           A       Am I aware -- have I seen evidence that -- I  
2 just -- I didn't follow that question.

3           Q       Are you aware that Chesterfield County  
4 Schools makes payments to The New Community School from  
5 the school operating fund for special education M and D  
6 for tuition paid division for the state?

7           A       Yes.

8           Q       Thank you.

9                   Let's go to Parents' 55, please. I believe  
10 that is going to be in book two.

11                   THE HEARING OFFICER:   Exhibit 5 in --

12                   MR. RATNER:       55.

13                   THE HEARING OFFICER:   Oh.

14                   MR. RATNER:   As my friend likes to say,  
15 double nickels.

16                   THE HEARING OFFICER:   All right. In --

17                   MR. RATNER:   Book two.

18                   THE HEARING OFFICER:   -- book two; all  
19 right.

20                   BY MR. RATNER:

21           Q       Do you have that in front of you?

22           A       Yes.

23           Q       Okay. So I'd like to just start on the  
24 first page, page 739. This is an email sent from I  
25 guess what I would call a general account by

1 Chesterfield County.

2 Are you familiar with the email address  
3 ccpsinfo@ccpsnet.net?

4 MR. ANDRIANO: Objection.

5 MS. OWENS: Mr. Ratner, which exhibit are  
6 you looking at?

7 MR. RATNER: 55.

8 MS. OWENS: In the parents' exhibit binder?

9 MR. RATNER: Correct.

10 THE HEARING OFFICER: 55, book two?

11 MR. RATNER: Yeah; they were just in the  
12 school board book; that's all.

13 THE HEARING OFFICER: Oh, okay.

14 BY MR. RATNER:

15 Q Are you on the right page, ma'am? Are you

16 --

17 A Yes.

18 Q Okay. And am I characterizing that  
19 correctly, that's a general --

20 A Yes.

21 Q Okay. Because your lawyers weren't there  
22 yet, so I'm just waiting.

23 And did you have input into this going out  
24 to families in August of 2020 about the CCPS special  
25 education update?

1 A It was sent out from that email address.

2 Q Okay. But you're the director of special  
3 education; correct?

4 A Yes.

5 Q And did you have input into the message that  
6 was sent from that email address?

7 A Yes.

8 MR. RATNER: Okay. I'd like to move this  
9 page into evidence, please.

10 Is it admitted?

11 THE HEARING OFFICER: Well, I need to find  
12 out if there's any objection from the other side.

13 MR. ANDRIANO: No objection, minus the  
14 handwritten comments at the top.

15 MR. RATNER: We have no objection to you  
16 crossing those out, ignoring them, whatever works  
17 for you.

18 THE HEARING OFFICER: Okay. I'm going to  
19 cross it out, and admit Exhibit Number 55.

20 MR. RATNER: Well, I suspect Mr. Andriano  
21 will say there's more things in it. So why don't  
22 we just say this page for right now.

23 THE HEARING OFFICER: Well, he just said it  
24 was okay to admit it.

25 MR. RATNER: Well, no --

1 MR. ANDRIANO: I'm sorry. Mr. Ratner is  
2 right. There's numerous documents behind that.

3 MR. RATNER: There's more pages in here.

4 THE HEARING OFFICER: Oh, there's more  
5 pages behind it?

6 MR. RATNER: Yes.

7 THE HEARING OFFICER: Oh.

8 MR. RATNER: So I'm just offering that one  
9 page right now.

10 THE HEARING OFFICER: Okay. The one page  
11 -- do you --

12 MR. ANDRIANO: No objection --

13 THE HEARING OFFICER: Okay. No objection.

14 MR. ANDRIANO: -- minus the handwritten  
15 comments at the top.

16 THE HEARING OFFICER: Yeah; okay.

17 MR. RATNER: And I didn't mean to talk over  
18 you.

19 THE HEARING OFFICER: Minus the handwritten  
20 -- okay; go ahead.

21 (PARENTS 739  
22 received in evidence.)

23 BY MR. RATNER:

24 Q Okay. Could we turn the page now to PARENTS  
25 740 through 742 -- 743, actually. Excuse me. Let me



1 know when you've had a chance to take a look.

2 Are you ready to answer some questions, Ms.  
3 Glover?

4 A Yes.

5 Q Okay. So we looked at PARENTS 39 just a  
6 minute ago. And you're more than welcome to refer  
7 back. If I call something the ten-day letter in the  
8 special education context, do you know what I'm  
9 referring to?

10 A Yes.

11 Q Okay. And you agree with me tab 39  
12 constitutes the REDACTED ' ten-day letter?

13 THE HEARING OFFICER: Tab 39 for school  
14 board?

15 MR. RATNER: No; for the parents. We've  
16 already looked at it. I just wanted to establish  
17 the time line.

18 THE HEARING OFFICER: Okay.

19 THE WITNESS: Yes.

20 THE HEARING OFFICER: 39. Which volume are  
21 you in now?

22 MR. RATNER: That's volume one. But we're  
23 ready to move on.

24 THE HEARING OFFICER: Oh, okay.

25 MR. RATNER: You don't need to look at it.

1           You've seen it.

2                   THE HEARING OFFICER:   All right.  Never  
3           mind.

4                   MR. RATNER:    I'm just putting things in  
5           context.

6                   THE HEARING OFFICER:   Okay.

7                   BY MR. RATNER:

8           Q       What was the date on 39, please?  On the  
9           ten-day letter?

10          A       May 14, 2021.

11          Q       Okay.  What is PARENTS 740 through 743?  
12          What is that document?  Tab 55, the second page.

13                   THE HEARING OFFICER:   And you want 740 --  
14          what's that last page you said?

15                   MR. RATNER:    43.

16                   THE HEARING OFFICER:   743.

17                   THE WITNESS:  It's a letter to Mr. and Mrs.  
18          REDACTED .

19                   BY MR. RATNER:

20          Q       From whom?

21          A       It says, "Diane Glover, Director of Special  
22          Education."

23          Q       That's you; correct?

24          A       That is correct.

25          Q       Okay.  Did you draft this?

1           A       The letter is from Diane Glover, that's me,  
2       Director of Special Education.

3           Q       Yes. Okay; yes. But I asked a separate  
4       question.

5           A       Yes, sir.

6           Q       So, yes, you drafted it?

7           A       Yes, sir.

8           Q       I'm not arguing with you.

9           A       Yes. I said "yes." Yes, yes.

10          Q       But I thought you said you've never met  
11       REDACTED .

12          A       No.

13          Q       Okay. Never provided her any instruction;  
14       is that correct?

15          A       Is that a question? Are you asking --

16          Q       Is that correct?

17          A       I never provided instruction for REDACTED ;  
18       correct.

19          Q       Correct.

20                   Did you monitor her progress?

21          A       I never monitored REDACTED 's progress.

22          Q       Okay.

23          A       Correct.

24          Q       What's the basis for the factual statements  
25       you make in this letter?

1           A       So this letter is in response to Exhibit 39,  
2       which was an email sent to the superintendent for  
3       Chesterfield County Public Schools on May 14th, 2021.  
4       Exhibit 55 is the school district's response to Exhibit  
5       39.

6           Q       Right; we've established that.

7           A       Okay.

8           Q       But my question was, what is your basis --  
9       you said you drafted this; correct?

10          A       Yes, sir.

11          Q       And you've never met REDACTED, except  
12       informally, I think you said, unofficially.

13          A       What do you mean, what is the basis? The  
14       basis of this response --

15          Q       How did you draft --

16                   MR. ANDRIANO:   Hold on. Let her --

17                   MR. RATNER:     Sure.

18                   THE WITNESS:   The basis of this response is  
19       we received Exhibit 39. It was sent to the  
20       superintendent. And as a result, as the director  
21       of special education, it is my duty, as expressed  
22       at the beginning, to serve as the director of  
23       special education for Chesterfield.

24                   And so in responding to this, in  
25       collaboration with district staff that support,

1           serve, and monitor REDACTED, we provided a  
2           response that speaks to the concerns in Exhibit  
3           39.

4                   BY MR. RATNER:

5           Q       And I appreciate that. If I may ask a  
6           follow-up question.

7                   Where you state Chesterfield County Public  
8           Schools is providing REDACTED a free appropriate public  
9           education, in the second sentence, what is the basis  
10          for you personally making that statement?

11                   Because this letter is under your signature.

12          A       And I'll repeat, in collaboration with staff  
13          that were serving and monitoring REDACTED, the basis  
14          for the complete response here as well as that  
15          statement you just read -- that is the basis for the  
16          statement.

17                   So those that were serving, and supporting,  
18          and monitoring REDACTED, that's the basis of that  
19          statement and the letter, the response.

20          Q       So who provided input into drafting this  
21          letter?

22          A       Those that were provide -- I think I may be  
23          -- that were providing support to, monitoring, and  
24          serving REDACTED. So that would be staff that were  
25          at Old Hundred Elementary School, which is the school

1 that she was attending at the time of these -- this --  
2 of the IEP meetings that are addressed in your -- or in  
3 Exhibit 39. I'm sorry.

4 Q Yes, ma'am.

5 A I think it references in here Old Hundred  
6 Elementary School. So that would be the staff that I'm  
7 referencing when I say the staff that monitored, and  
8 supported, and served REDACTED.

9 Q Okay. Do you know who REDACTED's case manager  
10 was in fourth grade at Old Hundred Elementary?

11 A Right offhand, I don't know.

12 Q How about in fifth grade?

13 A Right offhand, I don't know.

14 MR. RATNER: Okay. I'd like to move for  
15 the admission of this document, please.

16 THE HEARING OFFICER: You're talking about  
17 --

18 MR. RATNER: 740 through 743.

19 THE HEARING OFFICER: Any objection?

20 MR. ANDRIANO: The objection is it doesn't  
21 include any of the attachments that were --

22 THE HEARING OFFICER: That were provided to  
23 the parents?

24 MR. RATNER: We will stipulate that the  
25 parents --

1 THE HEARING OFFICER: Oh, those attachments  
2 that are there.

3 MR. ANDRIANO: There were numerous  
4 attachments, which he's left out.

5 MR. RATNER: I'm sorry. If I could be  
6 heard on that. What I see --

7 THE HEARING OFFICER: Sure.

8 MR. RATNER: And I'll be happy to ask about  
9 this.

10 -- is the enclosures are identified as the  
11 procedural safeguards and mediation request form.  
12 We will stipulate that the parents received those  
13 with this letter.

14 THE HEARING OFFICER: Okay. Those are the  
15 attachments.

16 MR. ANDRIANO: If there's a stipulation,  
17 it's on the record, I will not object to --

18 THE HEARING OFFICER: Okay, all right. So  
19 Exhibit 7 -- or part of 55 -- now there's an email  
20 that follows that.

21 MR. RATNER: Yeah; I'm going to keep going.

22 THE HEARING OFFICER: Okay, all right.  
23 Wait. Let me just write this down.

24 740 to -- where do you need to go with that?

25 MR. RATNER: To 743.

1 THE HEARING OFFICER: Admitted. And that  
2 would be 55, that was Parents' Exhibit 55.

3 (PARENTS 740-743  
4 received in evidence.)

5 BY MR. RATNER:

6 Q So I'd like you to skip over page 744, and  
7 go to page 745, 746, 747.

8 Do you recognize this document?

9 THE HEARING OFFICER: Yes?

10 MR. ANDRIANO: Ms. Freeman, just to save  
11 time, this has already been moved into evidence,  
12 School Board 55.

13 MR. RATNER: Wonderful. Thank you so much.

14 THE HEARING OFFICER: Okay.

15 MR. RATNER: School Board 55 then. You can  
16 go to the school board's book. And don't hesitate  
17 to tell me that any time. I'm all for saving  
18 time.

19 BY MR. RATNER:

20 Q You do recognize this document --

21 A I said "yes."

22 Q -- that's been admitted as 55; okay.

23 This is, again, a letter send under your  
24 signature; correct?

25 A Yes.



1           Q       But is it fair to say that you don't have  
2 any personal knowledge of the statements made in here  
3 about REDACTED 's education at Chesterfield County  
4 Public Schools?

5           MR. ANDRIANO:   Objection, mischaracterizes  
6 what she testified to earlier.

7           MR. RATNER:     I asked her a question.

8           THE HEARING OFFICER:   But I believe she's  
9 stated it a couple of times, that she got the  
10 information from Old Hundred Elementary School  
11 staff.

12          MR. RATNER:     Right.

13          THE HEARING OFFICER:   So --

14          MR. RATNER:     Is that personal knowledge?  
15 That's what I asked her, did she have personal  
16 knowledge.

17          THE HEARING OFFICER:   Well, she has  
18 personal knowledge of getting those statements.

19          MR. RATNER:     Okay. But we've had a lot of  
20 objections about hearsay and stuff like that.

21          THE HEARING OFFICER:   Well, this is a --

22          MR. ANDRIANO:   The documents speaks for  
23 itself.

24          MR. RATNER:     Okay.

25          THE HEARING OFFICER:   Do you normally keep

1 a record of students who -- whose parents file  
2 ten-day notices, and you're required to respond to  
3 that information?

4 And is that your general procedure for  
5 making the response?

6 THE WITNESS: We receive document -- yes,  
7 ma'am --

8 THE HEARING OFFICER: Okay.

9 BY MR. RATNER:

10 Q Okay. Let me ask you -- I'm going to read  
11 the second sentence, "REDACTED was withdrawn from  
12 Chesterfield County Public Schools at your request and  
13 unilaterally placed at The New Community School before  
14 the 2021-2022 school year commenced."

15 Did I read that correctly, the second  
16 sentence?

17 A Yes; that's the second sentence.

18 Q Okay. And was that your understanding at  
19 the time you sent this letter on October 5th? Did you  
20 believe that statement to be true?

21 A Yes.

22 Q Okay. And that had occurred -- they gave  
23 you notice they intended to do that on May 14, 2021;  
24 correct?

25 A I wouldn't say that that sentence was

1 because of the -- if you're saying Exhibit 39, I don't  
2 know if it was -- there are several ways that I will  
3 find out that a student has been withdrawn and  
4 unilaterally placed.

5 Q Okay.

6 A I can't say, right now, that the reason that  
7 that sentence is there is because of any of those  
8 reasons or ways that I may find out.

9 Q What I'm more interested in is where the  
10 letter talks about an IEP meeting on June 25th, 2021.  
11 Do you see that in the beginning of the second  
12 paragraph?

13 A I do see reference to an IEP meeting on June  
14 25th, 2021; yes.

15 Q Okay. And at the time you sent this letter  
16 under your signature, you understood that that meeting  
17 occurred as stated in the letter; correct?

18 A The letter states that an IEP meeting  
19 convened; yes.

20 Q Okay. And you understood that that was some  
21 six weeks after the parents provided the ten-day  
22 notice; correct?

23 A Yes; I understand that June 25th is beyond  
24 -- before October 5th.

25 Q And after May 14th; correct?

1           A       The reference is to when the IEP meeting  
2 took place.

3           Q       Right.

4           A       The reference is not to this letter. I'm  
5 not following your question.

6           Q       Yes. I'm trying to make clear that the --  
7 you said you received that email on May 14th; correct?  
8 you were cc'd on it.

9           A       The superintendent. Yes, sir; I said that.

10          Q       But you were cc'd, and you reviewed that.

11          A       What I said was that the superintendent  
12 received it. I didn't say I wasn't cc'd. You repeated  
13 what I said. And what I said was the superintendent  
14 received this on May 14th.

15                   Not the -- not saying that I didn't receive  
16 it.

17           MR. ANDRIANO: Ms. Freeman, we're going to  
18 object to the relevancy of all this.

19           THE WITNESS: What I said was that he  
20 received it.

21           THE HEARING OFFICER: Wait.

22           THE WITNESS: You're repeating what I said.

23           BY MR. RATNER:

24          Q       Okay. Anyway --

25           MR. ANDRIANO: Ms. Freeman, objection.

1 THE HEARING OFFICER: Okay. Are we moving  
2 on to another topic?

3 MR. RATNER: Yes. I just --

4 THE HEARING OFFICER: Okay.

5 BY MR. RATNER:

6 Q Do you know what the purpose of the June  
7 25th, '21 -- 2021 IEP meeting was?

8 A To discuss educational services for the  
9 2021-2022 school year, and to consider your -- meaning  
10 Mr. and Mrs. Klein's IEP-related concerns.

11 Q Could I ask you to go to School Board 45,  
12 please. Tell me when you have that.

13 A I have it.

14 Q Okay. Do you recognize that document as a  
15 meeting notification?

16 A Yes.

17 Q Okay. And as the special education director  
18 of Chesterfield County Public Schools, are you  
19 generally familiar with the purpose of this form, a  
20 meeting notification under the IDEA?

21 A Meeting -- yes.

22 Q It's to give parents notice that an IEP team  
23 will be convening; correct?

24 A To give parents notice that a meeting will  
25 take place; yes.

1 Q Right. And this particular meeting notice  
2 is for student **REDACTED**, for a meeting on June 25th,  
3 2021; correct?

4 MR. ANDRIANO: The document speaks for  
5 itself, Ms. Freeman.

6 THE WITNESS: Where's the date? Whatever  
7 the date is.

8 BY MR. RATNER:

9 Q It is -- I'd be happy to point --

10 A What's your -- just repeat your question.

11 Q This is calling for a meeting on June 25th.  
12 It's towards the bottom under Phone/Video Conference.

13 A Meeting date, 6/25/21.

14 Q And that's the same date that was referenced  
15 in your October 5th letter for an IEP meeting; correct?  
16 That is School Board 55. I'm sorry; what school board  
17 document was that?

18 THE HEARING OFFICER: 45.

19 MR. RATNER: 45; thank you. No; the  
20 meeting notice is 45.

21 THE HEARING OFFICER: Oh.

22 MS. RATNER: I think it was 55.

23 MR. RATNER: Oh, 55.

24 THE HEARING OFFICER: Oh, 55; okay.  
25

1 BY MR. RATNER:

2 Q Is that correct? That's the meeting that  
3 you're referencing in your letter?

4 A It has the same IEP meeting date.

5 Q Okay.

6 A June 25th.

7 Q That says -- I asked you this. What did you  
8 say the purposes of this meeting were?

9 A Did you want the court reporter to repeat  
10 it?

11 Q No; you can repeat it again.

12 A It's the second paragraph, to discuss  
13 educational services for the 2021-2022 school year, and  
14 to consider IEP-related concerns.

15 Q Okay. And one of the points of meeting  
16 notification is to give parents notice of what's going  
17 to be discussed at the meeting; correct?

18 A One of the points?

19 Q The meeting notification, do you see where  
20 it says "The purposes of the meeting" --

21 A Correct; yes.

22 Q -- on 45? And what does it say the purposes  
23 of the meeting was?

24 A It says "OT Summary."

25 Q Okay. Anything about "Consider your IEP-

1 related concerns"?

2 A It says "OT Summary."

3 Q Okay. And --

4 MR. ANDRIANO: Objection, Ms. Freeman. I  
5 mean, he's taking it out -- you need to look at  
6 the prior written notice to see what was discussed  
7 at the meeting.

8 MR. RATNER: I mean, they're free to cross-  
9 examine her on that.

10 MR. ANDRIANO: Well --

11 MS. OWENS: But you're deliberating  
12 misrepresenting what transpired.

13 MR. ANDRIANO: He needs to read the --

14 MR. RATNER: Oh, I'm so sorry. We just  
15 spent an hour talking about whether or not there's  
16 tuition paid to a school. And they're going to  
17 accuse me of deliberately misrepresenting  
18 something?

19 MR. ANDRIANO: The prior written notice  
20 reflects what was discussed at the IEP meeting,  
21 not the meeting notice.

22 BY MR. RATNER:

23 Q Okay. There's no requirement with your --  
24 your charge of compliance with the IDEA as the director  
25 of special education for Chesterfield County Public



1 Schools?

2 MR. ANDRIANO: Objection, argumentative.

3 THE HEARING OFFICER: Rephrase the question  
4 so that she can follow it --

5 BY MR. RATNER:

6 Q In your role as direct --

7 THE HEARING OFFICER: -- please, and not be  
8 argumentative.

9 MR. RATNER: I'm so sorry.

10 THE HEARING OFFICER: Go ahead.

11 BY MR. RATNER:

12 Q Okay. Thank you.

13 In your role as director of special  
14 education, is there -- are you responsible for  
15 Chesterfield County Public Schools' compliance with the  
16 Individual with Disabilities Education Act?

17 A Yes.

18 Q Okay. And isn't it true that the meeting  
19 notification is meant to inform parents of the purpose  
20 of the meeting?

21 A The meeting notification is to notify the  
22 parents of the IEP -- or whatever meeting there is  
23 that's coming; yes, sir.

24 Q Okay. Thank you.

25 So let's just go back to 55, which is your

1 letter, where you talk about pursuing mediation again.

2 Do you see that?

3 Do you see that?

4 MR. ANDRIANO: Well, hold on a second.

5 MR. RATNER: Okay.

6 MR. ANDRIANO: School Board 55 or Parents'  
7 55?

8 MR. RATNER: Coincidentally, it's both.  
9 But -- but --

10 THE HEARING OFFICER: I have School Board  
11 out?

12 MR. RATNER: Yes.

13 THE HEARING OFFICER: So that's okay?

14 MR. RATNER: Yes, ma'am.

15 THE HEARING OFFICER: All right, okay.

16 MR. RATNER: So second-to-last paragraph on  
17 the first page.

18 THE HEARING OFFICER: Second-to-last  
19 paragraph.

20 BY MR. RATNER:

21 Q "In addition, if you would like to pursue  
22 mediation again, please let me know, as CCPS is willing  
23 to engage in mediation with you."

24 Did I read that correctly?

25 A Yes; you read it --

1 Q Okay. And you included a mediation request  
2 form; right?

3 A Yes.

4 Q Okay. So were you aware at the time you  
5 sent your October 5th letter that the REDACTED had  
6 already engaged in mediation?

7 A Yes.

8 Q Okay. And were you aware that that  
9 mediation remained open at the request of Chesterfield  
10 County Public Schools at the time you sent your October  
11 5th letter?

12 MR. ANDRIANO: Objection. How -- mediation  
13 was open?

14 THE HEARING OFFICER: Yeah; what do you  
15 mean by "open"?

16 MR. RATNER: I mean that --

17 THE HEARING OFFICER: Is it still ongoing?

18 MR. RATNER: Correct.

19 THE HEARING OFFICER: Oh.

20 MR. RATNER: And there's a document to  
21 connect it up. So if she doesn't know, I'll move  
22 on to the next document.

23 THE HEARING OFFICER: With all due respect,  
24 exactly what difference does it make if she knew  
25 whether or not open --

1 MR. RATNER: Because --

2 THE HEARING OFFICER: -- the mediation was  
3 ongoing?

4 Mediation is ongoing from the time that a  
5 crisis -- I'll call this a crisis -- developed  
6 until the day we come to a hearing.

7 MS. RATNER: We respectfully disagree with  
8 that.

9 THE HEARING OFFICER: You can always make a  
10 mediation request.

11 MS. RATNER: Yes.

12 THE HEARING OFFICER: You can continue on  
13 in mediation as long as you're making progress.

14 MR. RATNER: That's right. But you  
15 wouldn't have to have a new mediation; right?  
16 Which they sent us a new form.

17 MR. ANDRIANO: Why would you have to --

18 THE HEARING OFFICER: Yeah; but what  
19 difference --

20 MS. RATNER: It relates to our -- one of  
21 our IDEA procedural violations.

22 THE HEARING OFFICER: Which is --

23 MS. RATNER: Which is --

24 THE HEARING OFFICER: If you remember.

25 MS. RATNER: Yes, I do. Which is that

1           there was intentional misrepresentation about the  
2           mediation, and about it remaining, quote/unquote,  
3           open, which was not our term.

4           THE HEARING OFFICER:     Oh, I see.

5           MS. RATNER:     And whether -- and it delayed  
6           the REDACTED family -- because we, in good faith,  
7           relied upon the representation that we were still  
8           mediating and discussing the case, and advised our  
9           clients accordingly.

10          And Todd's going to connect it up with the  
11          documents. But, after the fact, find out it's not  
12          true, that they did not -- they were not  
13          continuing the mediation, in their own minds.

14          And that has now deprived our clients of  
15          several months' worth of potential claims.  
16          Because, as has been repeatedly drilled in, we  
17          have been barred from even discussing evidence  
18          that's relevant that was prior to that time  
19          period.

20          So the impact on the substance is, to me,  
21          very clear, based on the objections and that we  
22          can't even reference things before the statute of  
23          limitations is relevant.

24          So --

25          MR. RATNER:     It's all described --

1 MS. RATNER: -- it's had a impact on our  
2 clients of several months' worth --

3 THE HEARING OFFICER: Are you talking about  
4 the confidentiality aspect --

5 MS. RATNER: No; we're talking about being  
6 in a mediation, participating in good faith,  
7 asking to keep a mediation open to continue  
8 negotiations.

9 We are foolishly thinking that mediation is  
10 continuing. And we are advising our clients,  
11 "Yes; every -- we're going to work it out. You  
12 know, everybody's working in good faith."

13 And this letter from Mrs. Glover came as --  
14 which I'll let him move on to the next -- Mrs.  
15 REDACTED received a letter from Mrs. Glover saying,  
16 "Would you like to participate in another  
17 mediation?"

18 She was like, "I thought we were all -- we  
19 were still in mediation. I thought we were still"  
20 -- so when did CCPS decide to conclude it?

21 MR. RATNER: And just to make the final  
22 point --

23 MR. ANDRIANO: Hold --

24 THE HEARING OFFICER: Hold on.

25 MR. RATNER: -- the relevance, which maybe

1           wasn't entirely clear, was if mediation had  
2           concluded without a settlement, the REDACTED would  
3           have moved for due process sooner.

4           THE HEARING OFFICER:    Oh, I see what you're  
5           saying.

6           MR. RATNER:     And because of that, there was  
7           a lapse of time.

8           THE HEARING OFFICER:    Okay.

9           MR. RATNER:     Does that --

10          THE HEARING OFFICER:    Yeah, yeah.

11          MR. RATNER:     And it's all described in  
12          great detail in the due process complaint.  So I  
13          have one more question about it, and I'm finished.

14          THE HEARING OFFICER:    Well, let Mr. --

15          MR. RATNER:     Yes; absolutely.

16          THE HEARING OFFICER:    He has a --

17          MR. ANDRIANO:    So Ms. Freeman --

18          THE HEARING OFFICER:    Yes.

19          MR. ANDRIANO:    I'm just trying to figure  
20          out where I begin with this.  Mediation is not in  
21          the purview of the Hearing Officer, first of all.

22                 Mediation is the Virginia Department of  
23          Education's mediation system.  If the Ratners have  
24          a problem with the VDOE's mediation system, they  
25          need to take it up --

1 THE HEARING OFFICER: Make a complaint to  
2 the VDOE?

3 MR. ANDRIANO: -- or with the mediator;  
4 right? Chesterfield doesn't control the mediation  
5 process. That's the mediator's job.

6 Second of all, the letter that they're  
7 referencing is dated October 5th, 2021.

8 MR. RATNER: Correct.

9 MR. ANDRIANO: Right.

10 MR. RATNER: And?

11 MR. ANDRIANO: So if they had -- they  
12 didn't file it until February 1st. So even -- it  
13 doesn't line up.

14 But irrespective, the mediation process is  
15 not within the purview of a Hearing Officer.  
16 That's a state system.

17 THE HEARING OFFICER: I don't -- yeah; I  
18 really don't get involved in mediation.

19 MR. RATNER: Understood.

20 THE HEARING OFFICER: Unless there's a  
21 difficulty. And we have had -- Hearing Officers  
22 have had some directives about getting involved if  
23 there is some difficulty, once we have a hearing  
24 assigned, but --

25 MS. RATNER: We don't object to the -- we



1 don't object to anything that the mediator said,  
2 or the mediation process. We object to the  
3 misrepresentation, and we believe it's a  
4 misrepresentation because of these documents that  
5 Todd would like to ask Ms. Glover about.

6 THE HEARING OFFICER: All right. The only  
7 thing --

8 MS. RATNER: As to the intent, and whether  
9 or not our clients were truthfully told by the  
10 school division responsible for their daughter  
11 free appropriate education, and responsible for  
12 complying with all the IDEA requirements, if they  
13 were or were not continuing to engage in a  
14 mediation which was ongoing between the lawyers  
15 for each side and efforts to continue the  
16 mediation.

17 When in fact, in Mrs. Glover's mind at least  
18 on this -- in this letter, on the date we believed  
19 we were still negotiating, she understood the  
20 mediation was over, such that she was requesting a  
21 new mediation.

22 And, you know, I --

23 THE HEARING OFFICER: All right. I'm not  
24 really supposed to speculate on mediation --

25 MS. RATNER: Okay.

1 THE HEARING OFFICER: -- the mediation  
2 process.

3 MR. RATNER: I have one document left, and  
4 then I will move off this topic.

5 THE HEARING OFFICER: Okay. But I think  
6 there was -- was there anything else you wanted to  
7 say?

8 MR. ANDRIANO: Again, he's asking her about  
9 an October 5th, 2021, letter.

10 THE HEARING OFFICER: That's long before  
11 the --

12 MR. ANDRIANO: Well, they didn't file this  
13 complaint until when, February 1st, 2022?

14 THE HEARING OFFICER: February 1st of 2022

15 MR. ANDRIANO: So --

16 MS. RATNER: It doesn't --

17 MR. ANDRIANO: So --

18 MS. RATNER: You can't, like in a day -- I  
19 mean, first of all, we're a very small firm. We  
20 have -- so there is a delay. It may not be -- but  
21 we had a -- how long was the mediation? Months.

22 MR. RATNER: Right.

23 MR. ANDRIANO: I've never heard of such  
24 thing as this.

25 MS. RATNER: And we're not going to be

1 preparing documents and charging our client money  
2 when we're trying to settle a case. And then when  
3 -- and let's -- because even as of October, we  
4 thought, "Oh, there must be a mistake. There must  
5 be a mistake"; right?

6 MR. ANDRIANO: Ms. Freeman, this is  
7 irrelevant to this --

8 THE HEARING OFFICER: I think we're talking  
9 apples and oranges.

10 MR. RATNER: That's fine.

11 THE HEARING OFFICER: When you say, "We  
12 thought there was going to be a settlement" --

13 MS. RATNER: We thought we were engaging in  
14 good faith negotiations, because that is what CCPS  
15 lawyers represented to us.

16 THE HEARING OFFICER: But they're  
17 representing that there was no reason to --

18 MS. RATNER: They --

19 THE HEARING OFFICER: -- to go beyond --

20 MS. RATNER: No, ma'am. No, ma'am.

21 THE HEARING OFFICER: -- their decision --

22 MS. RATNER: They were not -- they did not  
23 represent that.

24 MR. ANDRIANO: Ms. Freeman, mediators  
25 control the mediation process.

1 THE HEARING OFFICER: Well, again, I'm not  
2 supposed to be -- yeah; I'm not involved in that,  
3 other than these --

4 MS. RATNER: No; I know. I'm just trying  
5 to --

6 THE HEARING OFFICER: -- fairly recent  
7 directives about --

8 MR. RATNER: Right.

9 THE HEARING OFFICER: -- well, if there's  
10 any problem with mediation, then I need to find  
11 out when the dates are.

12 MR. RATNER: Right.

13 THE HEARING OFFICER: That's about it.

14 MR. RATNER: Right; I understand. I have  
15 one email --

16 THE HEARING OFFICER: And find out if it  
17 was successful or not. And that's it.

18 MR. RATNER: Let me ask --

19 THE HEARING OFFICER: Otherwise, you make a  
20 complaint to the VDOE about the mediator process.

21 MR. RATNER: Okay.

22 THE HEARING OFFICER: But anyway, that's  
23 just -- so let's move forward.

24 MR. RATNER: Yes. If you could flip back,  
25 please, one page, to 744.

1 THE HEARING OFFICER: Where are you now,  
2 744?

3 MR. RATNER: Right; so it's the page prior  
4 in that same tab.

5 THE HEARING OFFICER: Okay. 743?

6 MR. RATNER: No; the letter was 745.

7 THE HEARING OFFICER: Okay.

8 MR. RATNER: And so I'd like you to go back  
9 to 744. Other direction. In tab 55 --

10 THE HEARING OFFICER: Wait a minute. Are  
11 you talking --

12 MR. RATNER: In tab 55.

13 THE HEARING OFFICER: In what book?

14 MR. RATNER: Parents'.

15 THE HEARING OFFICER: We're still in 55?

16 MR. RATNER: Parents' 55.

17 THE HEARING OFFICER: Oh, and this is one?

18 MR. RATNER: It's actually two.

19 THE HEARING OFFICER: Okay. Oh, here we  
20 go. You want me to go to 743; right?

21 MR. RATNER: 4, 744.

22 THE HEARING OFFICER: 744.

23 MR. RATNER: 743 is already in.

24 THE HEARING OFFICER: Okay.  
25

1 BY MR. RATNER:

2 Q Are you there, Ms. Glover?

3 A Yes.

4 Q Great. Is your email address -- or on  
5 October 21st, 2021, was your email address  
6 diane\_glover@ccpsnet.net?

7 A Yes.

8 Q Okay. Did you receive this email on  
9 Monday, October 18, 2021, from REDACTED ,  
10 REDACTED ?

11 A This email was sent to the email address  
12 that you just read off, diane\_glover@ccpsnet.net.

13 Q Okay. And is that your email address?

14 A That is my email address.

15 Q Are you responsible for monitoring that in  
16 your role as director of special education for  
17 Chesterfield County Public Schools?

18 A That is my email address to which I am  
19 responsive.

20 Q Okay. And did you review this email?

21 A Given that it came to my email address, I  
22 would imagine that when it came that day I did read it,  
23 or at some point --

24 Q Okay.

25 A -- on or about October 18th.

1 MR. RATNER: I would like to move PARENTS  
2 744 into evidence, please.

3 THE HEARING OFFICER: Any objection?

4 MR. ANDRIANO: No objection.

5 THE HEARING OFFICER: No objection. 744 is  
6 admitted.

7 (PARENTS 744  
8 received in evidence.)

9 MR. RATNER: Great.

10 THE HEARING OFFICER: Okay.

11 MR. RATNER: So I've got one more document  
12 to go through --

13 THE HEARING OFFICER: Okay.

14 MR. RATNER: And I'll be finished with this  
15 witness.

16 THE HEARING OFFICER: All righty.

17 BY MR. RATNER:

18 Q It's the last two pages of Parents' 55, so  
19 it's 748 and 749.

20 Do you have that in front of you, Ms.  
21 Glover?

22 A Yes.

23 Q Is this a letter under your signature, dated  
24 November 29th, 2021?

25 A Yes.

1 Q And it's to Mr. and Mrs. REDACTED?

2 A Yes.

3 Q Regarding their daughter, REDACTED?

4 A Yes.

5 Q And you were aware at that time REDACTED had  
6 been withdrawn from Chesterfield County Public Schools,  
7 and was enrolled at The New Community School; correct?

8 A Yes; it references asking for information  
9 from The New Community School, at the last paragraph on  
10 748.

11 Q So why were you --

12 MR. ANDRIANO: Mr. Ratner, this is already  
13 in evidence.

14 MR. RATNER: Okay.

15 MR. ANDRIANO: It's School Board 56.

16 BY MR. RATNER:

17 Q Great. School Board 58; thank you.

18 This was requesting an IEP?

19 THE HEARING OFFICER: What's the school  
20 board's same exhibit?

21 MR. ANDRIANO: School Board 56.

22 THE HEARING OFFICER: Okay. Thank you.

23 THE WITNESS: It says, "CCPS would like to  
24 convene an annual IEP meeting with you to discuss

25 REDACTED . "



1 BY MR. RATNER:

2 Q Okay. Were you on [REDACTED]'s IEP team at that  
3 time?

4 A I am not a member of the IEP team.

5 Q Why were you trying to schedule an IEP  
6 meeting with a student who was unenrolled at that time,  
7 if you recall?

8 A I think earlier, when we discussed it, I  
9 said that once we receive paperwork and I'm dealing  
10 with a student, I will send an email out, like the  
11 other emails that you received, that we referenced.

12 So this was the next one that came, on  
13 November 29th, to requesting meetings. It seems -- if  
14 I sent it out, I would image the school may have tried  
15 to contact the parent to schedule IEP meetings.

16 Q Okay.

17 A And so if they were unsuccessful in those  
18 attempts, then as the director of special education for  
19 Chesterfield County Public Schools, then I would do my  
20 job and send a letter to support the schools in  
21 scheduling an annual IEP meeting for a student.

22 Q Okay. But she wasn't a student of  
23 Chesterfield County Public Schools at that point;  
24 correct? She had withdrawn.

25 A So when students withdraw who live in our

1 locality, they remain students -- they remain -- we  
2 maintain a FAPE obligation to propose annual IEP  
3 meetings.

4 So that was the intent and purpose of this  
5 letter; yes, sir.

6 MR. RATNER: Okay. So I believe that's a  
7 legal conclusion. So could I explore that a  
8 little bit, as just to what's the basis of that  
9 statement, that they have a legal -- fape  
10 obligation? Can I ask her that?

11 MR. ANDRIANO: I think it calls for a legal  
12 conclusion.

13 MR. RATNER: But she just offered a legal  
14 conclusion, that she has a FAPE obligation.

15 THE HEARING OFFICER: I'll let him ask  
16 that.

17 BY MR. RATNER:

18 Q What is your basis for stating that  
19 Chesterfield County still owes a FAPE obligation to  
20 propose an IEP to a student who has withdrawn?

21 A That wasn't my language, but --

22 Q Okay.

23 A -- what I said is it is the expectation that  
24 when a student's annual IEP is due, then we would  
25 propose -- reach out and propose so that we -- reach

1 out and propose IEP dates, or dates of availability to  
2 propose -- to develop an annual IEP for a student that  
3 we are maintaining a FAPE responsibility.

4 Q Okay. But why do you have FAPE  
5 responsibility for a student who is unenrolled from  
6 Chesterfield County Public Schools? That's what I  
7 don't understand.

8 A It's a student that resides in the locality.

9 Q Okay. But if I, as a parent, want to home-  
10 school my child or send them to St. Catherine's or St.  
11 Christopher's, you don't have to propose an IEP  
12 meeting.

13 MR. ANDRIANO: Objection, Ms. Freeman. I  
14 mean, that's -- that's not what --

15 THE HEARING OFFICER: If they go to -- what  
16 was the other schools? -- they don't have to  
17 propose an IEP?

18 MR. ANDRIANO: Mr. Ratner is talking about  
19 a totally different situation than the REDACTED  
20 situation.

21 THE HEARING OFFICER: Isn't there a -- back  
22 to your question about -- what was it? I've  
23 forgotten -- whether or not you can home-school,  
24 isn't -- yeah; isn't that a -- isn't there a  
25 document that you file for that?

1 THE WITNESS: Home-school, there's a  
2 application --

3 THE HEARING OFFICER: Isn't there a  
4 document you file for home-schooling? But other  
5 than that --

6 THE WITNESS: Yes; a application --

7 THE HEARING OFFICER: There's an official  
8 state document you file?

9 THE WITNESS: Yes, ma'am.

10 THE HEARING OFFICER: But other than that,  
11 isn't it true that the school system -- every  
12 school system in the state of Virginia has to  
13 comply by making certain that every child of  
14 school age has to be -- has to have an ongoing  
15 IEP?

16 MR. RATNER: I don't think that's accurate,  
17 actually.

18 THE WITNESS: Yes; that's a FAPE --

19 MR. RATNER: I don't think that's accurate,  
20 actually. I think there's a Child Find  
21 obligation. But I believe, once parents withdraw  
22 their student from the school, there's no longer a  
23 continuing obligation.

24 MR. ANDRIANO: Ms. Freeman, what Mr.  
25 Ratner's getting confused about, there's two types

1 of situations; correct? There's the one type of  
2 situation that he referenced were a parent says,  
3 "Hey, Chesterfield, thank you very much. I  
4 appreciate it."

5 THE HEARING OFFICER: "I'm done"; yeah.

6 MR. ANDRIANO: "But we've chosen, as a  
7 family, to privately place our child or home-  
8 school our child. Thanks. We'll let you know if  
9 we're ever coming back."

10 THE HEARING OFFICER: "But no thanks";  
11 right.

12 MR. ANDRIANO: Versus the Kleins'  
13 situation, "We don't think you can provide FAPE.  
14 We're out of here. And we're going to sue you for  
15 tuition reimbursement."

16 THE HEARING OFFICER: A child who's already  
17 been identified.

18 MR. RATNER: That's right.

19 MR. ANDRIANO: Correct.

20 BY MR. RATNER:

21 Q And I understand that very much. That's the  
22 exact point I'm trying to make, which is it's not  
23 actually an obligation to provide FAPE.

24 You were concerned that you were going to  
25 have to reimburse them, so you wanted to develop a new

1 IEP; correct?

2 MR. ANDRIANO: No; that's not accurate.

3 That's not accurate. It's an obligation.

4 BY MR. RATNER:

5 Q Okay. Then just answer the question.

6 A No.

7 MR. RATNER: Okay. I'm finished. Thank  
8 you very much.

9 THE HEARING OFFICER: Thank you. You don't  
10 have any more questions?

11 MR. RATNER: Correct.

12 THE HEARING OFFICER: And we can go ahead  
13 with cross?

14 MR. RATNER: Correct.

15 THE HEARING OFFICER: Thank you.

16 MR. ANDRIANO: I just need a very few  
17 minutes.

18 THE HEARING OFFICER: Okay. And we're  
19 about five after 3:00. Did you need another break  
20 or anything?

21 MR. RATNER: I think he said he needed a  
22 break.

23 THE HEARING OFFICER: Oh, you need one.

24 MR. ANDRIANO: I do. I do; I'm sorry.

25 THE HEARING OFFICER: Oh, you need one.

1 MR. ANDRIANO: That's right.

2 THE HEARING OFFICER: Okay, all right.

3 3:05; come back at say 3:15.

4 (Brief recess.)

5 THE HEARING OFFICER: Let's see. You were  
6 almost finished with your direct?

7 MR. RATNER: I am finished.

8 THE HEARING OFFICER: Oh, you were; okay.

9 All right. Go ahead.

10 /

11 C R O S S E X A M I N A T I O N

12 BY MR. ANDRIANO:

13 Q Good afternoon, Ms. Glover.

14 A Good afternoon.

15 Q All right. Ms. Glover, Mr. Ratner asked you  
16 about a series of letters that you had drafted on  
17 behalf of the school division.

18 A Yes.

19 Q Isn't it your practice as the director of  
20 special education to rely on your staff members to give  
21 you information to respond to such parental letters?

22 A That is correct.

23 Q By the way, how many students are in  
24 Chesterfield County Public Schools?

25 A Total students? About -



1 Q Approximately, approximately.

2 A The last number that I got when I requested  
3 it was 63,227.

4 Q And how many special education students,  
5 approximately, does Chesterfield County Public Schools  
6 have?

7 A December 1 child count had 8,100-and-about-  
8 47 students.

9 THE HEARING OFFICER: Wait a minute.

10 THE WITNESS: 8,147, approximately.

11 BY MR. ANDRIANO:

12 Q And tell Ms. Freeman how many schools  
13 Chesterfield County Public Schools has, if you know.

14 A 63.

15 Q 63 different schools?

16 A Yes.

17 MS. RATNER: We would just like to object,  
18 to note that this is referencing students other  
19 than REDACTED.

20 MR. ANDRIANO: I'm just getting background  
21 information because Mr. Ratner had a problem with  
22 Ms. Glover not knowing case managers at schools.

23 THE HEARING OFFICER: Oh, sustained. Let's  
24 move on. Move on.

25



1 BY MR. ANDRIANO:

2 Q Ms. Glover, do you know who the school  
3 principal is at Old Hundred Elementary School?

4 A Yes.

5 Q Who is that?

6 A Lindsay Mottley.

7 Q Is that someone you would have relied on in  
8 helping you draft responses regarding Ms. REDACTED's  
9 letters?

10 A Yes.

11 Q Do you know who the special education  
12 coordinator is for Old Hundred Elementary School?

13 A Currently, yes.

14 Q Okay. Who is it at present?

15 A I mean, it generally will take a while for  
16 me to -- I know most of the CS -- or teacher  
17 coordinators, but --

18 Q Do you know who the coordinator was at the  
19 time that you were responding to Ms. REDACTED's letters?

20 A At the time, I'm sure I did; yes.

21 Q Okay. And who was that?

22 A I don't recall. At the time, I would have  
23 known.

24 Q Was it Dr. Dragone?

25 A No; the coordinator --

1 Q Oh, am I getting the titles incorrect?

2 A Right.

3 Q Okay.

4 A So at Old Hundred or in --

5 Q Well, help me understand.

6 A Sure.

7 Q Is there a coordinator for each school, or  
8 is there a coordinator for multiple schools that you  
9 rely on?

10 A Correct. So there -- we have coordinators  
11 at central office level. And then we also have teacher  
12 coordinators in the building that oversee or support  
13 the delivery of services for students in a school  
14 building.

15 And so in reference to communicating about a  
16 -- in this case, REDACTED, communication would be  
17 between the coordinator that works in my office and the  
18 coordinator at the school level, the principal, and  
19 case manager.

20 So by name, I don't always know the names of  
21 those individuals.

22 Q Okay. So Dr. Dragone is a special education  
23 coordinator. Is that someone you would have relied on  
24 to --

25 A Yes.

1 Q -- help you gather the information --

2 A Yes.

3 Q -- to respond to the letters?

4 A That's correct; yes.

5 Q How about -- what's her name? How about Ms.  
6 Pettaway? Is she another person you would have relied  
7 on to help you respond to these letters?

8 A (Nodding head.)

9 Q And when you write these letters, Ms.  
10 Glover, are you writing them on behalf of the school  
11 division?

12 A I'm writing them on behalf of the school  
13 division.

14 Q Thank you.

15 Now, you were asked about the private  
16 placement process; correct?

17 A Yes.

18 Q And based on your review of the records and  
19 what you know, did the IEP team determine that REDACTED did  
20 not require a private placement?

21 MR. RATNER: Objection. She's clearly  
22 admitted she is not a member of the IEP team. We  
23 talked about whether or not we would allow  
24 individuals on the IEP team to talk about it.  
25 But she's not a member of the IEP team. She

1 admitted that very clearly.

2 BY MR. ANDRIANO:

3 Q I'll refer you to the letter. Let's take a  
4 look at --

5 THE HEARING OFFICER: Yeah; I think we made  
6 reference to the letter. But you had a --

7 MR. ANDRIANO: Well, I didn't. Mr. Ratner  
8 did --

9 THE HEARING OFFICER: -- big discussion  
10 over what was permitted, and what wasn't,  
11 regarding the IEP team. And I don't recall the  
12 specifics.

13 But if you want to refer her to that letter,  
14 I think that would be more specific. The letter -  
15 - where is the letter, again? Oh, is that Exhibit  
16 55?

17 MR. ANDRIANO: It's Parent -- this was a  
18 parents' exhibit.

19 THE HEARING OFFICER: 55?

20 MR. ANDRIANO: Yes, ma'am. 55.

21 THE HEARING OFFICER: Okay.

22 MR. ANDRIANO: And it's, specifically,  
23 PARENTS 000740.

24 THE WITNESS: I have it.

25

1 BY MR. ANDRIANO:

2 Q Could you take a look at that first  
3 paragraph of the letter, please.

4 THE HEARING OFFICER: 740.

5 THE WITNESS: Okay.

6 BY MR. ANDRIANO:

7 Q Does it indicate that the IEP team rejected  
8 the request for a private placement?

9 A Yes; it says, "During the February 19, 2021,  
10 IEP meeting, CCPS rejected the request for placement at  
11 The New Community School, as a private day school is  
12 not REDACTED's least restrictive learning environment.

13 Q Okay. And Ms. Glover, let's talk about the  
14 private placement process in Chesterfield County Public  
15 Schools.

16 Doesn't it require -- before the school  
17 division privately places a student, isn't it required  
18 that the IEP team determine that a student requires a  
19 private placement?

20 A Yes.

21 Q And in those cases where an IEP team would  
22 determine that a student required a private placement,  
23 what is Chesterfield County Public Schools'  
24 responsibility at that point in time?

25 A So if an IEP team meets and makes a proposal

1 for a private placement, then that determines the  
2 placement. The next step would then be to determine,  
3 based on the IEP -- whatever the IEP needs are,  
4 consider where the student may be assigned.

5 So then you would determine what -- which  
6 private placements have -- are able to provide FAPE, I  
7 would say, who are able to meet the needs of that IEP.  
8 And so the IEP only makes the decision that private  
9 placement is appropriate.

10 And once they've made that decision, they're  
11 not naming a school. But then they do have to  
12 determine or have to assign the student to a location.  
13 So in order to do that, we have to identify which  
14 schools are appropriate for the student.

15 And in doing so, again, they have to meet  
16 state standards.

17 Q So just so I'm clear, the IEP team  
18 determines placement.

19 A Correct.

20 Q Chesterfield County Public Schools then  
21 determines which private schools it can -- can  
22 implement that IEP?

23 A Correct.

24 Q And there can be multiple schools; correct?

25 A Right.

1 Q But it's an administrative decision as to  
2 what school the school division will assign a student  
3 to.

4 A Correct.

5 Q Okay. Staying with that letter for a  
6 second. Actually, no, let me ask -- Mr. Ratner showed  
7 you --

8 Ms. Freeman, may I approach?

9 THE HEARING OFFICER: Yes.

10 (Discussion off the record.)

11 BY MR. ANDRIANO:

12 Q Mr. Ratner showed you --

13 A Yes.

14 Q Do those pertain to REDACTED ?

15 A No.

16 Q All right. Sticking with the June 4th,  
17 2021, letter that you were looking at.

18 If you could look at School Board 45,  
19 please. That's the meeting notice that Mr. Ratner was  
20 asking about; correct?

21 A Yes.

22 Q Where it says the team was going to meet to  
23 discuss the OT summary?

24 A Yes.

25 Q Okay. And what date was the IEP meeting

1 supposed to occur?

2 A 6/25/2021.

3 Q All right. Now if you'd look at the  
4 parents' letter that we were referencing, 000740.

5 Do you have that letter?

6 A Yes.

7 Q And what's the date of that letter?

8 A June 4th, 2021.

9 Q So this letter came before the IEP meeting;  
10 correct?

11 A Yes.

12 Q And if you look down at the second  
13 paragraph, last sentence.

14 You see that?

15 A Yes.

16 Q Doesn't it indicate that, "Chesterfield  
17 County Public Schools would like to convene another IEP  
18 meeting with you to discuss the new concerns raised in  
19 your communication, your current request for a private  
20 day school placement, as well as the results of the  
21 occupational therapy assessment"?

22 A Yes.

23 Q Did I read -- is that what it says?

24 MR. RATNER: I think it says "summary."

25 Not to pick --



1 BY MR. ANDRIANO:

2 Q Oh, you're right. I apologize. It does  
3 say, "as well as the occupational therapy summary."

4 A Uh-huh.

5 Q And you agree, that came before the June  
6 25th IEP meeting?

7 A Yes.

8 Q June 25, '21, IEP meeting.

9 And then, if you could please take a look at  
10 School Board 48, page 2.

11 Ms. Glover, that's the prior written notice  
12 from the June 25th, 2021, IEP meeting; correct?

13 A Yes.

14 Q And would you agree that it indicates that  
15 the team discussed the parents' concerns?

16 MS. RATNER: Object to this. Ms. Glover  
17 has stated she's not part of the IEP team.

18 MR. ANDRIANO: I asked her what the  
19 document says. I didn't ask her --

20 MS. RATNER: Well, you objected --

21 THE HEARING OFFICER: Okay. I'm confused  
22 where the document --

23 MS. RATNER: They've objected repeatedly to  
24 us asking questions of people who actually were in  
25 the IEP meeting about topics that were not within

1           that particular individual's personal area of  
2           expertise or knowledge.

3           And so we think that to fairly apply this  
4           person -- Ms. Glover, who is not a member of the  
5           IEP team, is not an appropriate witness to be  
6           speaking to the prior written notice.

7           MR. ANDRIANO:    If I could be heard.

8           THE HEARING OFFICER:   All right.  Let me  
9           hear your response.

10          MR. ANDRIANO:    Mr. Ratner opened the door  
11          by asking her particular questions about this  
12          prior written notice.  So I'm entitled to ask Ms.  
13          Glover about it.

14          THE HEARING OFFICER:   Overruled.  Move  
15          ahead.

16          BY MR. ANDRIANO:

17          Q       Ms. Glover, would you agree that this prior  
18          written notice indicates that the IEP team --

19          THE HEARING OFFICER:   Would you please tell  
20          me what exhibit you're on.

21          MR. ANDRIANO:    Oh, I'm sorry.  it's School  
22          Board 48, page 2.

23          THE HEARING OFFICER:   Okay.

24          BY MR. ANDRIANO:

25          Q       Would you agree that it indicates that the

1 IEP team considered the parents' concerns at the June  
2 25th, 2021, IEP meeting?

3 A Yes.

4 Q Ms. Glover, if you could take a look at  
5 School Board 55, please.

6 Remember this letter that Mr. Ratner was  
7 asking you about?

8 A Yes.

9 Q What's the date of that letter?

10 A October 5th, 2021.

11 Q And did you review this letter?

12 A Yes.

13 Q In your letter, didn't you request that Ms.

14 REDACTED provide you with a release so that Chesterfield  
15 County Public Schools could obtain records --

16 A Yes.

17 Q -- on REDACTED -- I'm sorry. Obtain records --

18 MR. RATNER: Objection, beyond the scope.

19 MR. ANDRIANO: Again, Mr. Ratner opened the  
20 door when he asked questions about these letters,  
21 so --

22 MR. RATNER: And again, yesterday Ms. Owens  
23 specifically said it doesn't matter about the  
24 document. She didn't ask about this specific  
25 thing in the document. And you sustained those

1 objections.

2 THE HEARING OFFICER: Oh, you're talking  
3 about the --

4 MS. OWENS: Mr. Ratner is not correctly  
5 representing what transpired yesterday.

6 THE HEARING OFFICER: Representing what  
7 happened?

8 MR. ANDRIANO: He took her through this  
9 entire document, including the attachments. so  
10 I'm entitled to ask her questions --

11 THE HEARING OFFICER: Okay. We're still on  
12 55?

13 MS. RATNER: Yes, ma'am.

14 MR. ANDRIANO: I'm sorry. May I proceed?

15 THE HEARING OFFICER: Yeah; go ahead.

16 BY MR. ANDRIANO:

17 Q Ms. Glover, did you ask Ms. REDACTED to provide  
18 a release so that Chesterfield County Public Schools  
19 could obtain REDACTED's education records from The New  
20 Community School?

21 A Yes; it was so that we could communicate  
22 regarding REDACTED's performance. Yes.

23 Q And why would that -- why is that something  
24 that would be important for Chesterfield to obtain?

25 A This letter was sent in October. So the

1 student was enrolled at New Community School, and not  
2 enrolled in CCPS. So in order to inform the IEP  
3 process, we would need to get information from where  
4 she was currently being --

5 THE HEARING OFFICER: You'd need to get  
6 information from where?

7 THE WITNESS: From where -- her current  
8 place of attendance, so --

9 THE HEARING OFFICER: From T --

10 THE WITNESS: For the performance.

11 THE HEARING OFFICER: -- wait -- TCNS.

12 THE WITNESS: From New Community School;  
13 yes.

14 MR. RATNER: It's actually TNCS. I always  
15 mess it up, too, and say TCNS.

16 THE HEARING OFFICER: Sorry.

17 MR. RATNER: But it's TNCS.

18 THE HEARING OFFICER: TNCS.

19 MR. RATNER: The New Community School.

20 THE HEARING OFFICER: I probably mis-  
21 spelled the acronym a million times. But anyway,  
22 so you tried to get the information from -- about  
23 REDACTED. And this would -- this letter represents  
24 your attempt to do that on October 5th, 2021?

25 THE WITNESS: Right; the request was for a

1 release of information to get information about  
2 REDACTED's performance in her -- she was enrolled in  
3 New Community School.

4 THE HEARING OFFICER: Okay; whatever  
5 acronym that is.

6 THE WITNESS: Uh-huh.

7 BY MR. ANDRIANO:

8 Q And did Ms. REDACTED or Mr. REDACTED provide you  
9 with such a release?

10 A No.

11 Q If you could take a look, please, at School  
12 Board 56.

13 You remember Mr. Ratner was asking you  
14 questions about this letter?

15 A Yes.

16 Q Now, in this letter did you request Mr. and  
17 Mrs. REDACTED's consent to conduct an education -- an  
18 updated educational evaluation and observation of REDACTED?

19 A Yes.

20 Q And what was the purpose of that request?

21 A Also to inform the IEP process and support  
22 present level of performance. This email came on --  
23 this letter was November 29th. So as I referenced  
24 before, this was leading up to annual -- REDACTED's annual  
25 IEP meeting.

1 Q And did the REDACTED provide you with the  
2 consent to conduct the updated evaluation and  
3 observation?

4 A No.

5 Q Did you also request a release of records to  
6 get REDACTED's education records from The New Community  
7 School?

8 A Yes.

9 Q Did they provide you with that release that  
10 you would need to get the records?

11 A No.

12 Q And if you'd take a look at School Board 57,  
13 please, particularly 000266 and 000267.

14 Are you familiar with this letter, Ms.  
15 Glover?

16 A Yes.

17 Q This is in response to Mrs. REDACTED letter  
18 to you?

19 A Yes.

20 Q Did you inform her and explain the reasons  
21 why Chesterfield County Public Schools wanted to  
22 conduct the annual review?

23 A Yes.

24 Q Did you state the reasons why Chesterfield  
25 County Public Schools wanted to conduct an updated

1 evaluation?

2 MR. RATNER: Ms. Freeman, I think we're  
3 getting way beyond the scope now of my direct  
4 examination.

5 MS. RATNER: This document was not at all  
6 part of our --

7 THE HEARING OFFICER: I was wondering --

8 MS. RATNER: Yes.

9 THE HEARING OFFICER: -- if it was or not.

10 MS. RATNER: And, also, we have to  
11 witnesses left today. And we have been advised by  
12 opposing counsel that if we don't get through  
13 those two witnesses today --

14 MR. ANDRIANO: Okay. Just one more  
15 question.

16 MS. RATNER: -- he is not going to allow  
17 them to come a different day. So we would object  
18 to further discussion of this document that we did  
19 not ask about at all.

20 MR. ANDRIANO: I think this goes along with  
21 the other letters that they were asking questions  
22 about.

23 THE HEARING OFFICER: I thought the school  
24 board exhibits were all admitted.

25 MR. RATNER: They are. But that doesn't --



1 MS. RATNER: But we did not ask --

2 THE HEARING OFFICER: But you didn't --

3 MR. RATNER: We didn't ask --

4 MS. RATNER: -- her about this --

5 THE HEARING OFFICER: -- ask specifically

6 -- you didn't go into that?

7 MS. RATNER: Correct.

8 MR. RATNER: That's right. And they  
9 certainly can recall her in their case-in-chief,  
10 on their time.

11 THE HEARING OFFICER: Okay. I think then -  
12 - because I honestly do not remember this letter  
13 being brought up the Ratners. So --

14 MR. ANDRIANO: It was -- the issue of the  
15 reevaluation was clearly brought up by them. The  
16 issue of --

17 THE HEARING OFFICER: The reevaluation?

18 MR. ANDRIANO: -- reconvening of the IEP  
19 team was clearly brought up by Mr. Ratner.

20 THE HEARING OFFICER: Yeah; I remember a  
21 question about -- about that --

22 MR. ANDRIANO: And this letter is simply --

23 THE HEARING OFFICER: -- triennial, I  
24 believe it was?

25 MS. RATNER: This? Yeah; I believe --

1 MR. RATNER: That was not on this witness.

2 THE HEARING OFFICER: And whether or not

3 she --

4 Oh, it wasn't?

5 MS. RATNER: This -- right.

6 THE HEARING OFFICER: Okay.

7 MR. ANDRIANO: Ms. Freeman, I just have --

8 THE HEARING OFFICER: No; that's right.

9 That was Ms. Dragone.

10 MS. RATNER: We object to any questions  
11 about this document.

12 MR. ANDRIANO: I know you do. I would,  
13 too. But --

14 MS. RATNER: So is there a ruling?

15 THE HEARING OFFICER: On this? I think  
16 this is beyond the scope of what was asked  
17 earlier. But I can go through my notes and look  
18 again.

19 MS. RATNER: I think we both agree -- all  
20 sides agree this document was not discussed on  
21 direct of this witness.

22 MR. ANDRIANO: That's not untrue.

23 THE HEARING OFFICER: I see 56. Let's see  
24 if I see 57. I don't think I see 57.

25 MR. ANDRIANO: Okay.

1 THE HEARING OFFICER: I think he stopped at  
2 56.

3 MR. ANDRIANO: But look at your notes --

4 THE HEARING OFFICER: SB 56.

5 MR. ANDRIANO: Look at your notes, Ms.

6 Freeman, and see if he talked about the  
7 reconvening of the IEP team, and the reevaluation.

8 THE HEARING OFFICER: Oh.

9 MS. RATNER: We --

10 MR. RATNER: Go ahead. Go ahead.

11 THE HEARING OFFICER: Obviously, I don't  
12 have everything on here. But I do remember  
13 reevaluation, that we had quite a discussion about  
14 that.

15 MR. RATNER: That's fine.

16 MR. ANDRIANO: Two questions, I'm done.

17 MR. RATNER: I'd like him to finish.

18 MR. ANDRIANO: Two questions.

19 THE HEARING OFFICER: Yeah; so you -- okay.  
20 Go ahead.

21 BY MR. ANDRIANO:

22 Q Did you indicate the reasons for the request  
23 for the updated evaluation?

24 A Yes.

25 Q And did you again request the REDACTED

1 consent to get REDACTED's records from The New Community  
2 School?

3 A Yes.

4 Q And did you get their consent to do either  
5 one of those things?

6 A No.

7 MR. ANDRIANO: Nothing further, Ms.  
8 Freeman.

9 THE HEARING OFFICER: Okay. Do you have  
10 any follow-up for Ms. Glover?

11 MR. RATNER: I do not.

12 THE HEARING OFFICER: Okay, all right. So  
13 you may be -- unless I'm mistaken, I think  
14 everyone is agreeing that she can be excused.

15 Is there any requirement that she be saved  
16 for reservation, or are you just generally  
17 reserving everyone?

18 MR. ANDRIANO: We didn't -- I don't believe  
19 we listed Ms. Glover as a witness in this case.  
20 So we would -- we don't intend to recall her.

21 THE HEARING OFFICER: You're not doing  
22 that.

23 Okay. Thank you very much for your  
24 testimony, Ms. Glover.

25 THE WITNESS: Thank you.

1 (The witness was excused.)

2 MR. RATNER: So our next witness would be  
3 Lindsay Mottley.

4 MR. ANDRIANO: No; Jennifer Williams.

5 MR. RATNER: No.

6 MR. ANDRIANO: Of course; yes. Jennifer  
7 Williams.

8 THE HEARING OFFICER: I thought you all  
9 agreed to who the next --

10 MR. ANDRIANO: Let me pull it up, just so  
11 I'll --

12 MR. RATNER: I'd be happy to --

13 MR. ANDRIANO: If I'm misstating -- but let  
14 me pull up our message.

15 MR. RATNER: And you may.

16 MR. ANDRIANO: Ready?

17 MR. RATNER: I'm ready.

18 MR. ANDRIANO: Dr. Dragone; Ms. Glover; Ms.  
19 Williams; and Ms. Mottley, in that order.

20 MR. RATNER: Yes, sir. That is what the  
21 text says.

22 MR. ANDRIANO: Okay.

23 MR. RATNER: And if I may be heard briefly.

24 THE HEARING OFFICER: What was the last  
25 thing you said?

1 MR. RATNER: If I may be heard briefly.

2 THE HEARING OFFICER: Oh, go ahead.

3 MR. RATNER: So, again, this is -- it's  
4 become difficult, when you've got too many cooks  
5 in the kitchen, I guess. I was dealing with Ms.  
6 Mickey on this.

7 THE HEARING OFFICER: Oh.

8 MR. RATNER: There had never been a  
9 suggestion that if we didn't get through a witness  
10 on the day we tried to schedule them, that they  
11 couldn't come back.

12 You will see on the schedule I agreed to  
13 with Ms. Mickey, just like happened with Ms. --  
14 Dr. Dragone and Dr. Glover. Yesterday, we didn't  
15 get through them, and they came back.

16 My understanding is both Ms. Mottley and Ms.  
17 Williams are here now. I may be wrong about that.  
18 But if they are both here, it's my case, and my  
19 preference would be to call Ms. Mottley. I could  
20 finish her today.

21 I'm not sure I could finish Ms. Williams.  
22 And the last --

23 THE HEARING OFFICER: Who's Ms. Williams,  
24 first off?

25 MR. RATNER: Jennifer, I believe --

1 MS. OWENS: Jennifer Williams.

2 MR. RATNER: And it's Lindsay Mottley.

3 But, so the last point would be, just for  
4 your information -- and, again, I appreciate the  
5 latitude you've given me. But by spending more  
6 time than I anticipated with Dr. Dragone this  
7 morning, I believe I've eliminated an entire  
8 witness. I don't think I need to call her  
9 anymore.

10 THE HEARING OFFICER: Oh, really? Okay.

11 MR. RATNER: For tomorrow. So I would like  
12 to be granted a little more latitude to present,  
13 if she's here, in the order I'd like to present  
14 them.

15 THE HEARING OFFICER: Is that --

16 MR. ANDRIANO: But here is the response. I  
17 wrote, "Dr. Dragone; Ms. Glover; Ms. Williams; and  
18 Ms. Mottley, in that order."

19 MR. RATNER: That's correct.

20 MR. ANDRIANO: Mr. Ratner wrote back,  
21 "Thank you."

22 MR. RATNER: Yeah, "Thank you." But I --  
23 there's nothing in that. And you can ask Mr.  
24 Andriano. Maybe it's not his position that if I  
25 don't complete both of them, they're not coming

1 back.

2 But I understand that to be his position.

3 And there is nothing in that communication --

4 THE HEARING OFFICER: Can we stay here  
5 tonight and finish them?

6 MR. RATNER: I'd be happy to.

7 MR. ANDRIANO: I'll have to check. But  
8 that's the order that we agreed upon, and that's  
9 how I told them to be here today.

10 MR. RATNER: But if they're both here, I  
11 don't understand what the problem would be. It's  
12 my case. I was trying to accommodate the order.

13 THE HEARING OFFICER: How do you know, if  
14 we don't -- start now we're not going to finish up  
15 with Ms. Williams and Ms. Mottley?

16 MR. RATNER: Right; and I know I'll finish  
17 Ms. Mottley.

18 THE HEARING OFFICER: Okay. So let's see  
19 where we can go with this, and figure it out at  
20 the end. And I think there was a question about  
21 Ms. McCluskey. But we can reserve that --

22 MR. RATNER: Right.

23 THE HEARING OFFICER: -- until we try to  
24 get through these witnesses.

25 MR. RATNER: So who's next.



1 THE HEARING OFFICER: And if you want me to  
2 impose those time frames again, we could do that.

3 MR. RATNER: I don't. I'd like to be able  
4 to --

5 THE HEARING OFFICER: Okay. So the choice  
6 is between imposing time frames today to get  
7 through it, or to stay this evening so that these  
8 witnesses -- we don't have to face the question of  
9 whether or not the witnesses can or cannot come  
10 back.

11 So let's get through what we can right now.

12 MR. RATNER: Well, then I would like to  
13 call Ms. Mottley. She'll be faster.

14 THE HEARING OFFICER: Okay. You want  
15 Mottley first. Is that --

16 MR. ANDRIANO: I'll check. Again, we've  
17 been in here. I don't know. But I will check.

18 THE HEARING OFFICER: Is that who you had  
19 on your list, though?

20 MR. RATNER: Yes; they were both --

21 MR. ANDRIANO: Yeah; we agreed to make them  
22 available.

23 THE HEARING OFFICER: Okay, all right.

24 MR. ANDRIANO: But --

25 MR. RATNER: If she's not here, I'll do Ms.

1 Williams.

2 MR. ANDRIANO: But as I indicated, in that  
3 order. And that was --

4 THE HEARING OFFICER: That's what I'm  
5 asking you. What was the order, again, that you  
6 --

7 MR. ANDRIANO: Dr. Dragone; Ms. Glover; Ms.  
8 Williams; Ms. Mottley.

9 MR. RATNER: Right; and --

10 THE HEARING OFFICER: Oh, okay.

11 MR. RATNER: -- Ms. Freeman, you very  
12 clearly said that free turnaround rule, which  
13 means they both should be here now. And if  
14 they're both here now, I don't understand why I  
15 wouldn't be permitted to call who I'd like to  
16 call.

17 MS. RATNER: And Ms. Mottley, there's just  
18 a lot less to cover with her. And so we are sure  
19 we would be done with her.

20 THE HEARING OFFICER: You're sure --  
21 there's a lot to cover, but you're sure you'd be  
22 done.

23 MS. RATNER: Less to cover.

24 MR. RATNER: Less with Mottley.

25 THE HEARING OFFICER: Oh, I missed a word.

1           You said "less," not "a lot."

2           MS. RATNER:    Less.

3           THE HEARING OFFICER:    Okay.

4           MS. RATNER:    And so that would be another  
5           reason.  So if both people are standing around --

6           THE HEARING OFFICER:    Okay.  Let's take Ms.  
7           Williams out of turn --

8           MR. ANDRIANO:   Can we just --

9           MS. RATNER:    -- we have --

10          THE HEARING OFFICER:    -- Ms. Williams -

11          MR. ANDRIANO:   Can we just take a short  
12          break, and I'll go check?

13          THE HEARING OFFICER:    Sure; go.  Yes.

14          MR. RATNER:    Thank you.

15          (Brief recess.)

16          THE HEARING OFFICER:    Okay.  I think we're  
17          ready to begin with this witness, Ms. Mottley,  
18          Lindsay Mottley.

19          (The witness was sworn.)

20          THE HEARING OFFICER:    Mr. Ratner or Ms.  
21          Ratner will ask you questions, to be followed up  
22          by school counsel, Mr. Andriano or Ms. Owens.

23          THE WITNESS:    Okay.  Thank you.

24          THE HEARING OFFICER:    Go ahead.

25

1 LINDSAY MOTTLEY,  
2 having been sworn, testified as follows:

3 D I R E C T E X A M I N A T I O N

4 BY MR. RATNER:

5 Q Thank you. Good afternoon, Ms. Mottley.

6 A Good afternoon.

7 Q Again, my name is Todd Ratner. I will ask  
8 you just to keep your voice up so everybody can hear  
9 you. I will do my best to not cut you off.

10 I know people are used to sort of  
11 anticipating what the question might be. But the court  
12 reporter has to take us both down, so try to give a  
13 little extra pause in there. Is that okay with you?

14 A Yes, sir.

15 Q Thank you. You know REDACTED ; correct?

16 A That is correct.

17 Q Okay. Who is REDACTED ?

18 A REDACTED is currently a student at The New  
19 Community School. When she was with us she was a  
20 fourth and fifth grade student.

21 Q Okay. And that was at Old Hundred  
22 Elementary School?

23 A That is correct.

24 Q And are you currently the principal at Old  
25 Hundred Elementary School?

1 A Yes, I am.

2 Q Okay. And were you the principal at Old  
3 Hundred Elementary School for REDACTED's fourth and fifth  
4 grade years?

5 A Yes, I was.

6 Q Okay. And I botch this all the time, so I'm  
7 just trying to set it right. But those were the  
8 2019/2020?

9 A Yes.

10 Q And 2020/2021 school years?

11 A Correct.

12 Q So the last two academic years immediately  
13 prior to where we are now.

14 A Correct.

15 Q Okay. And I understand Old Hundred was a  
16 brand new school at the start of the 2019/2020 school  
17 year; is that correct?

18 A That is accurate.

19 Q What was your position prior to that?

20 A So prior to becoming the principal at Old  
21 Hundred Elementary School, I was the principal at Betty  
22 Weaver Elementary School.

23 Q Okay. And I'm sorry, is that also within  
24 Chesterfield County Public Schools?

25 A Yes, sir.

1 Q Okay. And how long did you hold that  
2 position?

3 A So I was there for just about six years. I  
4 transitioned from principal at Betty Weaver, had a few  
5 months to help with the planning of Old Hundred, and  
6 then started at Old Hundred.

7 Q Okay. I just have a couple of subjects for  
8 you, so I'm going to try to be sort of surgical, to use  
9 the word. But if you're not following me, just please  
10 ask me to clarify.

11 A Sure.

12 Q Do you remember approximately, I'm not  
13 asking for the exact date. But when's the last time  
14 REDACTED was a student at Old Hundred Elementary?

15 A So she finished the 2020/2021 school year.  
16 So we would have wrapped up in June of 2021.

17 Q Okay. Have you had communications with  
18 anyone else employed by Chesterfield County Public  
19 Schools about REDACTED and/or her education  
20 subsequent to her last day at Old Hundred Elementary?

21 A We had a -- Yes. We had meetings in the  
22 summer some regarding REDACTED.

23 Q Okay. And do you recall having any  
24 communications related to REDACTED as recently as  
25 December 2021 or January 2022?

1           A       Yes. I think that we received notification  
2       that this would be going to a due process situation. I  
3       don't recall the date. I would have to look back to  
4       communications for that.

5           Q       No, that's fine. I just have one specific  
6       communication I'd like to ask you about. So there's a  
7       bunch of big books in front of you.

8           A       Yes.

9           Q       But I'm interested in the one that says  
10      parents' exhibits, volume two.

11          A       Okay.

12          Q       And specifically tab 57. And then the third  
13      page within that tab, which has a number at the bottom,  
14      PARENTS 780. So tell me when you're there.

15          A       Okay.

16          Q       And I know it's a little cumbersome.

17          A       Okay. All right. So I'm in tab 57. And  
18      then what was the next piece?

19          Q       It's the third and fourth pages, 780 ad 781.

20          A       Okay.

21          Q       Do you have that in front of you?

22          A       Yes.

23          Q       This appears to be an email chain. And I  
24      will represent to you we received this in discovery  
25      from Chesterfield County Public Schools, between

1 Suzanne Braswell for one, Jessica Ayers and Jennifer  
2 Williams. Am I reading that correctly?

3 A Yes. I see Jessica Ayers. I see Suzanne.  
4 Yes.

5 Q Okay. And who's Suzanne?

6 A She's our registrar.

7 Q Okay. She works with you at Old Hundred?

8 A Yes.

9 Q Okay. So if at the top of page 780 there's  
10 a -- right after the Jessica Ayers heading there's a  
11 forwarded message, and then from Suzanne Braswell; do  
12 you see that?

13 A Right. Yes.

14 Q And you understand in reading these that the  
15 earliest one in the chain is on the bottom, and then  
16 they get later in time as they come? Are you following  
17 me? I know it's a little cumbersome.

18 A Yes.

19 Q Okay. So --

20 MS. OWENS: I object to this exhibit to the  
21 extent that this is an email chain that does not  
22 include the witness.

23 MR. RATNER: That's right. I'm not -- I'm  
24 trying to refresh her recollection. Because  
25 there's a specific reference to "my principal,"



1 from Suzanne Braswell.

2 MS. OWENS: I would ask that the witness be  
3 asked a question to determine whether her --  
4 whether she needs to be refreshed. There hasn't  
5 been a question to determine whether she needs her  
6 memory refreshed.

7 MR. RATNER: Okay. I'm so sorry. But  
8 actually I asked her if she had any communications  
9 related to REDACTED 's education as late as  
10 December 2021 or January 2022. And she said she  
11 thought she did, but she couldn't remember.

12 And then I said, "I'd like to show you a  
13 specific communication." So that's what I'm  
14 doing.

15 MS. OWENS: That request is so vague. I'm  
16 not even sure -- You have to tell the witness at  
17 least where you're headed with the question.

18 But showing her a random email from  
19 individuals or between individuals that did not  
20 include her --

21 MR. RATNER: Okay. If I could just  
22 continue with some latitude and you'll see where  
23 I'm going, and you can rule on it at that point?

24 THE HEARING OFFICER: I'm going to give him  
25 some latitude. What is this?

1 MR. RATNER: Parents' 57.

2 THE HEARING OFFICER: Okay. Parents' 57,  
3 volume two.

4 MR. RATNER: And it's only part of 57, so  
5 just to be clear.

6 THE HEARING OFFICER: It's part of --

7 MR. RATNER: 780, 781, and actually 782 is  
8 part of it. But those are the three pages I'm  
9 asking about.

10 THE HEARING OFFICER: Okay.

11 MR. RATNER: Okay?

12 THE HEARING OFFICER: And you asked her --

13 MR. RATNER: So the question is --

14 THE HEARING OFFICER: And she said no, she  
15 didn't remember.

16 MR. RATNER: -- that Suzanne Braswell is  
17 her employee. The testimony was that Suzanne  
18 Braswell is Ms. Mottley's employee at Old Hundred.

19 THE HEARING OFFICER: Yeah. I remember  
20 that. Okay.

21 BY MR. RATNER:

22 Q Okay. And so Suzanne Braswell writes on  
23 January 6, 2022, "Hey, I was told by my principal  
24 before break to hold off on sending it."

25 Do you remember any discussion with Suzanne

1 Braswell on or around Christmas break of this academic  
2 year to hold off on sending something?

3 A So I remember a conversation in that because  
4 of that notification that due process that we had  
5 received that I needed to determine if we were the last  
6 school, or if her next school would be the last school.

7 The cumulative file is housed at the last  
8 school of record. And so there can be -- trying to  
9 figure out who was the last school of record right now  
10 would be Old Hundred. And so I needed to make sure  
11 that we weren't the ones that were supposed to hold it.

12 THE HEARING OFFICER: Okay.

13 MR. RATNER: Okay. May I continue?

14 THE HEARING OFFICER: Yes, go ahead.

15 BY MR. RATNER:

16 Q Okay. Great. So are you aware that the due  
17 process complaint in this case wasn't filed until  
18 February 1st, 2022?

19 A That is not a date that rings a bell to me.

20 Q Okay. But I thought you just said that this  
21 was -- had to do with responding to the due process  
22 complaint.

23 A So I received notification in November that  
24 there was the possibility of going for due process.

25 Q Okay.

1           A       And so I didn't know if we should be the  
2 ones to hold the record or if the new school --

3           Q       Okay. And --

4           A       Or not new school, but --

5           Q       Oh, I'm so sorry.

6           A       Yeah. Or her middle school would be the one  
7 to hold it.

8           Q       Okay. And is that Jessica Ayers, a  
9 representative of Tomahawk Creek Middle School?

10          A       I don't know Jessica Ayers.

11          Q       Okay. How about Jennifer Williams, who's  
12 also reflected on this email?

13          A       Yes. Jennifer Williams is a Tomahawk  
14 employee.

15          Q       Okay. And you said you were notified in  
16 November. Do you remember by whom?

17          A       I don't. I would need to look at the  
18 notification that we receive.

19          Q       You received it by email?

20          A       I don't remember if it was email or -- I  
21 would assume it was email, but I can't remember.

22          Q       Okay. That's fine.

23                   We'd move for the admission of PARENTS 780,  
24 781 and 782.

25                   THE HEARING OFFICER:    780 --

1 MS. OWENS: I'm going to renew the school  
2 board's --

3 THE HEARING OFFICER: 781, to what?

4 MR. RATNER: 780 to 782.

5 THE HEARING OFFICER: Yes, Ms. Owens?

6 MS. OWENS: I'm going to renew the school  
7 board's objection to the extent that he's asking a  
8 witness questions about a document that the  
9 witness was not even copied on.

10 To the extent that he has questions of  
11 perhaps an individual --

12 THE HEARING OFFICER: She doesn't have  
13 anything to do with this email?

14 MS. OWENS: No, ma'am. She's not included  
15 in this email chain at all. And so to the extent  
16 that Mr. Ratner's trying to --

17 THE HEARING OFFICER: Well, I guess you're  
18 right. I don't see her name anywhere. But I'm  
19 looking at the wrong pages right now. 780 --

20 MR. RATNER: Yeah, no, she's not on this.  
21 But she's referenced as the principal of Suzanne  
22 Braswell.

23 MS. OWENS: So she's referenced in a  
24 document that doesn't pertain to her.

25 THE HEARING OFFICER: Okay.

1 MS. OWENS: It's not an appropriate witness  
2 to --

3 THE HEARING OFFICER: I think we need a  
4 little bit more clarity to admit this to the  
5 record.

6 MR. RATNER: So it's not in, then I'll move  
7 on. Then that's fine.

8 THE HEARING OFFICER: No, not yet.

9 BY MR. RATNER:

10 Q Sure, that's fine. Thank you.

11 So sometimes the best laid plans don't quite  
12 work out. I intended to have two documents side by  
13 side for you compare, one in volume one and one in  
14 volume two, but volume one became too big.

15 A Okay.

16 THE HEARING OFFICER: And they're big.

17 BY MR. RATNER:

18 Q So it will become a little bit challenging.

19 A Okay.

20 Q But where I'd like to start is tab 66,  
21 please. So it's the second to last tab in parent's  
22 volume two. Do you have that in front of you?

23 A Yes.

24 Q Is this a document you're familiar with?

25 A It looks like it is a -- It looks like it's

1 like a service log.

2 Q Okay. And --

3 THE HEARING OFFICER: What was that you  
4 called it?

5 THE WITNESS: A service log.

6 THE HEARING OFFICER: Oh, a service log.  
7 Okay.

8 BY MR. RATNER:

9 Q Okay. And there's a --

10 A Or schedule. Actually it's a schedule.

11 Q There's a reference to REDACTED on the fourth  
12 nine weeks.

13 And, Ms. Freeman, again, for your  
14 recollection, Ms. McCluskey testified about this.

15 THE HEARING OFFICER: Yeah, I remember the  
16 --

17 MR. RATNER: It was her service log. I'm  
18 not sure I actually offered it into evidence. I  
19 would like to offer it into evidence.

20 THE HEARING OFFICER: Okay.

21 MS. OWENS: Again, this witness --

22 THE HEARING OFFICER: Is this witness the  
23 proper person to --

24 MR. RATNER: No. I mean, Ms. McCluskey  
25 was. I just -- I was saving it for now. But if I

1 have to -- I mean, I don't know -- She testified  
2 about it. You can go back and look at what it is.  
3 I'd like it in the record. We discussed it at  
4 length.

5 MS. OWENS: There's been no foundation laid  
6 to why this witness would be the appropriate  
7 witness to enter this document into evidence.

8 THE HEARING OFFICER: Why didn't you --

9 MS. OWENS: This is a service log by a  
10 service provider, Ms. McCluskey. Ms. Mottley is  
11 the school principal. And so --

12 THE HEARING OFFICER: Don't you want to  
13 have Ms. McCluskey --

14 MR. RATNER: Yes. And that was my error.  
15 My usual practice is that --

16 THE HEARING OFFICER: So you're saying you  
17 are acknowledging that you made an error, and you  
18 just want to admit this document?

19 MR. RATNER: Well, normally my practice is  
20 that when I rest I make sure everything that I've  
21 discuss, I move to admit it.

22 THE HEARING OFFICER: Sure.

23 MR. RATNER: And then we can go over it. I  
24 probably should have discussed it with Ms.  
25 McCluskey. Again, we do intend to recall her



1 tomorrow and we can talk about it.

2 THE HEARING OFFICER: Okay. Don't you  
3 think it would be preferable to wait until she's  
4 recalled to introduce this, because this is her  
5 document; right?

6 MR. RATNER: The issue, as you may recall  
7 from Ms. McCluskey's testimony, is there's another  
8 version of this document that she said, "I didn't  
9 make this. It went to the administration."

10 And that's what I'd like Ms. Mottley to  
11 compare.

12 THE HEARING OFFICER: Oh, okay.

13 MR. RATNER: So I can wait to admit this  
14 until tomorrow. But I'd still like her to compare  
15 them.

16 THE HEARING OFFICER: Compare the two?

17 MR. RATNER: Correct.

18 THE HEARING OFFICER: Oh, okay.

19 MR. RATNER: And, again, she might not be  
20 the correct person either. But --

21 THE HEARING OFFICER: I don't know.

22 BY MR. RATNER:

23 Q Right. So anyway, you do have a general  
24 familiarity with this document?

25 A Uh-huh.

1 Q Okay. So the other one I'd like -- And I'd  
2 represent to you, do you see -- And, again, there's  
3 multiple numbers on here, so I apologize. It's a  
4 little bit confusing.

5 But do you see where it says, "REDACTED"?

6 A Uh-huh.

7 Q That represents that it came from the school  
8 board to us. And I will represent to you that it was  
9 produced to us in the context of this proceeding. So  
10 that was sometime between February 1st, 2022, and  
11 today.

12 I believe it was sort of the beginning of  
13 March, to put it into context.

14 A Okay.

15 Q So then we've got -- I believe it's in the  
16 same book 47 -- And what I would suggest is you open up  
17 the binder, or we can give you two copies of book two,  
18 and take one of them out and hold them side by side.

19 MS. OWENS: I'm going to object to this  
20 witness, who did not prepare this log, to be  
21 putting two logs side by side for purposes of  
22 comparison.

23 THE HEARING OFFICER: And analyzing them?

24 MS. OWENS: And then providing --

25 MS. RATNER: Ms. McCluskey --

1 MS. OWENS: I'm sorry. And then providing  
2 testimony on these logs. She is not the  
3 appropriate witness --

4 MR. RATNER: So --

5 MS. OWENS: -- in which this issue should  
6 be addressed.

7 THE HEARING OFFICER: I honestly think you  
8 should wait until you have Ms. McCluskey --

9 MR. RATNER: Okay. But then I'm going to  
10 have to call Ms. Mottley back. Because if you  
11 recall what Ms. McCluskey said was, "I sent it to  
12 administration."

13 THE HEARING OFFICER: When you say "it," is  
14 that the entire document?

15 MR. RATNER: It was the entire log. If you  
16 recall, we had a colloquy. And specifically we  
17 were talking about the entry on 4/13, which is on  
18 the first page.

19 MS. OWENS: Again, the appropriate witness  
20 to ask questions about the log is not Ms. Mottley.

21 THE HEARING OFFICER: Yeah. It just  
22 doesn't seem this witness --

23 MS. RATNER: Ms. McCluskey stated that she  
24 wrote the version that is at 66, and that someone  
25 in administration wrote the version that is

1 Exhibit 47. And there are material changes to the  
2 service logs that Ms. McCluskey testified she did  
3 not make.

4 MR. RATNER: And didn't know who did. And  
5 I'd like to ask Ms. Mottley about those.

6 THE HEARING OFFICER: Okay. It sounds like  
7 a mystery question. Where is the other document?

8 MR. RATNER: 47, same book.

9 THE HEARING OFFICER: And it still sounds,  
10 however, like you need to have Ms. McCluskey --

11 MR. RATNER: Well, how about if I ask Ms.  
12 Mottley about just 47, since we don't know who --

13 THE HEARING OFFICER: Okay. Let's see what  
14 47 is.

15 MR. RATNER: Okay.

16 THE HEARING OFFICER: Oh, I see. There's  
17 more blue.

18 MR. RATNER: Right. And, again, I did  
19 discuss this with Ms. McCluskey. And on 4/13, for  
20 example, the two entries are similar, but were  
21 edited.

22 THE HEARING OFFICER: And you want to know  
23 who edited it.

24 MR. RATNER: Who made the edits to the  
25 service log that was supposed to track REDACTED

1 REDACTED's special education services at Chesterfield  
2 County Public Schools.

3 MR. ANDRIANO: There's still an objection.

4 THE HEARING OFFICER: There's an objection.

5 MS. OWENS: So the school board's objection  
6 remains that these logs -- There's been no  
7 testimony that either of these logs were prepared  
8 by Ms. Mottley.

9 MR. RATNER: I haven't had a chance to ask  
10 Ms. Mottley about the second log yet. That's the  
11 problem. We get these objections before I've even  
12 asked a question.

13 And I can just ask her about 47.

14 THE HEARING OFFICER: Why don't you just  
15 ask her did she prepare these. And if she says  
16 no, then I don't see how you can --

17 BY MR. RATNER:

18 Q Right. Are you familiar with what has been  
19 marked for identification as Parents' Exhibit 47?

20 A So it should say 847 at the end? Is that  
21 the one you mean?

22 Q No. It's tab 47.

23 A Oh, tab 47. Sorry. Okay.

24 Q And it starts on page 556.

25 A Got you. Okay. All right. So 47, 556.

1 Okay.

2 Q Okay. I will represent to you -- Let me ask  
3 a foundational question, if I may.

4 Is that okay, Ms. Freeman?

5 THE HEARING OFFICER: Yes, go ahead.

6 MS. OWENS: I did not hear what Mr. Ratner  
7 is asking is okay. Could you repeat that?

8 MR. RATNER: I said I'd like to ask a  
9 foundational question.

10 MS. OWENS: Thank you.

11 BY MR. RATNER:

12 Q Do you recall Ms. REDACTED requesting  
13 information about REDACTED's work and service logs in or  
14 around the time school ended?

15 A Yes. I have a memory of her asking for  
16 service logs.

17 Q Okay. And do you recall sending back a  
18 letter saying some of those things are governed by  
19 FERPA, which is F-E-R-P-A. I don't know exactly what  
20 it stands for. But I think it's the Federal -- or  
21 Families in Education -- I'm sorry.

22 Right. But I don't know what the R is, do  
23 you?

24 A Yes. Not off the --

25 Q Okay. So --

1 MS. OWENS: It's the Family Educational  
2 Rights and Privacy Act.

3 BY MR. RATNER:

4 Q Thank you, Ms. Owens.

5 And you also referenced FOIA; correct, the  
6 Freedom of Information Act?

7 A Uh-huh.

8 Q And that if she wanted these documents, you  
9 could provide them pursuant to FOIA, and she'd have to  
10 pay for them?

11 A I would need to look at anything that I  
12 responded that long ago. So --

13 Q Oh, I'm happy -- I've got it right here.

14 A Okay.

15 Q Again, this was not in our exhibit book. It  
16 is something we produced on March 4th. I didn't put it  
17 in the exhibit book, because I didn't anticipate her  
18 not remembering this.

19 THE HEARING OFFICER: Any objection? Let  
20 them see it.

21 MS. OWENS: What is the document?

22 (Discussion off the record.)

23 MR. RATNER: Do you mind if I hand it to  
24 Ms. Freeman while you're looking at it?

25 THE HEARING OFFICER: Is there an objection

1 to it?

2 MR. RATNER: I think they're still  
3 considering it.

4 THE HEARING OFFICER: Okay.

5 (Pause.)

6 MS. OWENS: Thank you, Ms. Ratner, because  
7 I do believe that we had a copy of the letter.  
8 However, the attached email that Mr. Ratner just  
9 showed is not part of the school board's exhibit.

10 MR. RATNER: Great. I'll work off School  
11 Board 54.

12 MS. OWENS: Okay.

13 MR. RATNER: And that solves the issue.  
14 You can hang on to that or give it back to me,  
15 whatever you want to do. So now you're going to  
16 have to get to yet another book. I'm so sorry.

17 THE HEARING OFFICER: What --

18 MR. RATNER: School Board 54.

19 THE HEARING OFFICER: Thank you.

20 BY MR. RATNER:

21 Q And it's the second page that I'm interested  
22 in. But starting with the first page, did you email a  
23 letter to Ms. Klein on or about January 30th, 2021?

24 A You mean July?

25 Q I'm so sorry. July 30th, 2021; is that



1 correct?

2 A Yes. Uh-huh.

3 Q And is the second page of School Board 54  
4 the letter?

5 A Yes.

6 Q Okay. And did you draft that letter?

7 A Yes.

8 Q Okay. Does this accurately reflect that Ms.  
9 REDACTED requested documents and you sent this letter back  
10 in response?

11 A Correct.

12 Q Okay. And I'll represent to you that what's  
13 been marked as Exhibit 47 --

14 A Yes. Was what I --

15 Q -- was what she received from -- Do you know  
16 who Mr. Gonzales is?

17 A Yes.

18 Q Who is he?

19 A He is our associate principal.

20 Q Okay. And did you delegate to him giving  
21 Ms. REDACTED access to the documents she requested?

22 A I remember she did a cumulative record  
23 review, yes. And I was not available, do Mr. Gonzales  
24 did that.

25 Q Okay. So Ms. REDACTED received this from Mr.

1 Gonzales sometime in the summer of 2021. Do you know  
2 who prepared this?

3 A And "this," you're talking about Exhibit 47?

4  
5 Q 47.

6 A So logs are typically kept by our  
7 coordinator of special education. And since it was in  
8 the summer, and our teachers don't work, it would have  
9 been Ms. Pettiway.

10 Q Okay. Then unfortunately I'm going to have  
11 to recall Ms. Pettiway, because what the testimony was  
12 was -- yesterday was, excuse me -- And we can have  
13 Kurt, or I guess it was Lori yesterday, look back in  
14 the transcript.

15 But Ms. McCluskey very clearly said that, "I  
16 gave it to, quote/unquote, administration." And if you  
17 remember yesterday I asked Ms. Pettiway very clearly,  
18 "Is it appropriate to call you an administrator," and  
19 she said, "No, that's not."

20 So I didn't ask her about these documents.  
21 I thought it must have been Ms. Mottley, because she's  
22 in administration.

23 MS. OWENS: Ms. Freeman, if I may?

24 THE HEARING OFFICER: Yes.

25 MS. OWENS: We would like to have a

1 discussion after the witness finishes testifying  
2 with regard to the order, whether additional  
3 witnesses should be allowed to testify again in  
4 this case.

5 It's my recollection that Mr. Ratner did not  
6 ask about these logs of Ms. Pettaway at all.

7 MR. RATNER: I just explained why. And so  
8 I just want to make sure you --

9 THE HEARING OFFICER: I was reading.

10 MR. RATNER: Okay. May I explain, please?  
11 Because I want to be heard --

12 THE HEARING OFFICER: Yes.

13 MS. OWENS: Again, I'd just request that  
14 any discussion with regard to additional witnesses  
15 be heard after the witness --

16 THE HEARING OFFICER: After we finish with  
17 the witness. Well, let's get through this witness  
18 --

19 MS. OWENS: This is not the appropriate  
20 forum --

21 THE HEARING OFFICER: -- now and decide on  
22 Pettaway.

23 MS. OWENS: -- at this time with the  
24 witness --

25 THE HEARING OFFICER: -- and whether or not

1 she needs to --

2 MS. OWENS: -- on the stand to have this  
3 discussion.

4 THE HEARING OFFICER: -- recalled afer we  
5 finish with Ms. --

6 MR. RATNER: Mottley.

7 THE HEARING OFFICER: I want to say  
8 Moffitt. Mottley.

9 MR. RATNER: This was the only subject I  
10 wanted to cover with Ms. Mottley.

11 THE HEARING OFFICER: Okay.

12 BY MR. RATNER:

13 Q So if she hasn't -- didn't prepare these, I  
14 just want to be clear.

15 Is it your testimony sitting here today you  
16 didn't prepare these?

17 A I didn't prepare these.

18 Q Okay. Then I don't have any more questions  
19 for her.

20 THE HEARING OFFICER: Okay. All right.

21 Thank you.

22 Any cross-exam?

23 MS. OWENS: No, ma'am. The school board  
24 has no questions for this witness at this time.

25 THE HEARING OFFICER: All right. Next

1 witness.

2 Than you very much.

3 MS. OWENS: However --

4 THE HEARING OFFICER: Did you all want to  
5 reserve her?

6 MR. ANDRIANO: She is.

7 MS. OWENS: Yes, ma'am, she is on the  
8 school board's witness list.

9 THE HEARING OFFICER: Okay. So you  
10 reserved.

11 That means that you're dismissed essentially  
12 for now.

13 THE WITNESS: Okay.

14 THE HEARING OFFICER: Unless you're called  
15 back. If you could generally stay in touch with  
16 school counsel daily until next Wednesday.

17 THE WITNESS: Yes, ma'am.

18 THE HEARING OFFICER: Thank you.

19 MR. RATNER: So our next witness will be  
20 Ms. Williams, Jennifer Williams.

21 THE HEARING OFFICER: Okay. Do you want to  
22 call then, Ms. Williams.

23 MR. RATNER: Well, I just --

24 MR. ANDRIANO: We'll get her. She's got a  
25 hard 5 o'clock stop time.

1 MR. RATNER: Right. So we're not going to  
2 finish by 5:00 though.

3 THE HEARING OFFICER: Well, then --

4 MR. ANDRIANO: Do you want to get started  
5 today?

6 MR. RATNER: That's up to you.

7 THE HEARING OFFICER: Yeah, yeah.

8 MR. RATNER: Whatever you would like. It's  
9 whatever your preference, her preference; I'm fine  
10 either way. I don't want to waste time. She's  
11 here. So --

12 THE HEARING OFFICER: It sounds like we're  
13 maintaining the schedule, so that's great.

14 MR. RATNER: Yeah, I'm ready to go.

15 THE HEARING OFFICER: And you're dismissed.  
16 Thank you.

17 (The witness stood aside.)

18 (Pause.)

19 THE HEARING OFFICER: Thank you for coming.

20 (The witness was sworn.)

21 Thank you. Answer any questions from  
22 parents' counsel, to be followed up by school  
23 counsel. Go ahead.  
24  
25

1 JENNIFER WILLIAMS,  
2 having been sworn,  
3 was examined and testified as follows:

4 D I R E C T E X A M I N A T I O N

5 BY MR. RATNER:

6 Q Thank you, if I may. Ms. Williams, my name  
7 is Todd Ratner. I am a lawyer representing REDACTED and  
8 REDACTED. Have you ever met either of the REDACTED  
9 before?

10 A Yes, sir, I have.

11 Q Okay. Have you ever met their daughter  
12 REDACTED?

13 A I have not.

14 Q Okay. Could you tell Ms. Freeman what your  
15 current position with Chesterfield County Public  
16 Schools is?

17 A Uh-huh. I am the coordinator of special  
18 education at Tomahawk Creek Middle School.

19 THE HEARING OFFICER: Okay. Thank you.

20 BY MR. RATNER:

21 Q And so just to set the stage a little bit.  
22 Do you know a woman by the name of Kim Pettitway?

23 A I do.

24 Q Okay. Is your role at Tomahawk Creek  
25 similar to her role at Old Hundred Elementary?

1 A Yes, it is.

2 Q Okay. You're both special education  
3 coordinators?

4 A Yes.

5 Q And did I understand that that's a bit of a  
6 change in the way the schools are administered at  
7 Chesterfield County Public Schools that your position,  
8 a school-level coordinator is relatively new? And I  
9 might be wrong.

10 A Not at the secondary level.

11 Q Okay. Just at Ms. Pettaway's level.

12 A Uh-huh.

13 Q Okay. Well then I can ask her about that if  
14 I need to. How long have you been in your current  
15 role?

16 A I began as a special education coordinator  
17 in Chesterfield County in the 2008/2009 school year. I  
18 worked at a different school in the county.

19 Q Okay.

20 A I transitioned to Tomahawk -- This is my  
21 fourth year at Tomahawk Creek.

22 Q Okay. And how many Chesterfield schools  
23 prior to Tomahawk, just the one?

24 A Just the one.

25 Q Okay. And which one was that?



1 A I was a teacher there.

2 Q Oh.

3 A At Carver Middle School --

4 Q Sure.

5 A -- in the southern end of the county, I was  
6 a teacher there.

7 Q What did you --

8 A And then I became the coordinator.

9 Q I'm so sorry. One of the things I usually  
10 say is because of the court reporter I need to not talk  
11 over you. But I just did.

12 A Oh, okay.

13 Q So I apologize. You were previously a  
14 classroom teacher?

15 A I was. I was a special education teacher.

16 Q Okay. For what type of program?

17 A Well, I worked various grade levels,  
18 primarily with students in general education, SOL-  
19 driven, general curriculum.

20 Q Okay. So that's one of the things that's  
21 been a little bit hard for me to get my mind around in  
22 this particular case, is what that looks like at the  
23 middle school level.

24 And we can keep this focused on REDACTED ,  
25 because I don't want to get into other issues. But

1 when did you first become aware of a student named REDACTED  
2 REDACTED?

3 A I became aware of REDACTED in the spring  
4 semester of the 2020/2021 school year. The process  
5 that we have implemented when students are set to  
6 transition from elementary to middle school, and they  
7 are receiving special education services, is that the  
8 middle school special education coordinator is often  
9 invited to attend the IEP meeting so we can give input  
10 on what services and supports and the environment of  
11 middle school may look like for the upcoming school  
12 year that that IEP applies.

13 Q Okay.

14 A And so that is when I first became aware of  
15 REDACTED and was invited to attend the meeting.

16 Q And we can go through the documents later.  
17 So roughly a year ago; is that what you're saying?

18 A Roughly a year ago. Uh-huh.

19 Q And, again, I'm not trying to hold you to  
20 that. I'm just trying to put it in the time frame. At  
21 the time you became aware of REDACTED, were you aware  
22 that there was a question about a private day placement  
23 for her?

24 A I don't recall being aware of that.

25 Q Okay.

1 A It was a year ago.

2 Q No. I just have to ask. If you don't  
3 remember, you don't remember. I totally get it. So  
4 what is the reason, if you know as the special  
5 education coordinator --

6 You kind of talked about this transition  
7 from elementary to middle school.

8 A Uh-huh.

9 Q Can you just elaborate on that for Ms.  
10 Freeman why it's important for the middle school people  
11 to begin participating in the child's IEP planning  
12 process?

13 A Sometimes there are considerations, you  
14 know, in --

15 Q Let me just pause one minute, because I want  
16 to be careful, I'm not asking about other students. So  
17 I want to put this specifically as it relates to REDACTED  
18 REDACTED. I'm sorry.

19 A Okay. Well, when I was invited to the  
20 meeting, again, my role was to provide input related to  
21 what the middle school environment would look like, how  
22 services and support staff were recommended may  
23 translate to middle school, what would be necessary for  
24 a student to receive to ensure we're providing  
25 appropriate services and supports to demonstrate

1 progress at that level and, you know, be productive and  
2 academically successful.

3 And sometimes there are different  
4 considerations because of the nature of elementary  
5 school and middle school for minor things like locker  
6 operation and hallway transitions and things that  
7 aren't quite as structured sometimes at the middle  
8 school level as they are at the elementary school  
9 level.

10 That depends on a student's particular area  
11 of need. I don't recall us having to consider those  
12 sorts of things for REDACTED, you know, independent and  
13 being able to transition and things of that nature.

14 THE HEARING OFFICER: So independence and  
15 transitioning are the main --

16 THE WITNESS: Getting from class to class.

17 THE HEARING OFFICER: Yes.

18 THE WITNESS: And, you know, sometimes some  
19 students that might be a consideration for.

20 THE HEARING OFFICER: Oh, sure.

21 THE WITNESS: Right?

22 THE HEARING OFFICER: Yeah.

23 THE WITNESS: Can a student manipulate a  
24 locker? Things that aren't part of the elementary  
25 school experience, and that we might need to

1 consider for additional accommodation that maybe  
2 didn't have to be considered at the elementary  
3 level. They're unique to the secondary level.

4 MR. RATNER: So that was going to be my  
5 next question. I don't mean to cut you off, Ms.  
6 Freeman.

7 THE HEARING OFFICER: That's okay.

8 BY MR. RATNER:

9 Q But there are some pretty significant  
10 differences between elementary school and middle school  
11 in Chesterfield County Public Schools; is that correct?

12 A Uh-huh. The schedule is different.

13 Q Okay. Just explain that to Ms. Freeman.

14 MS. OWENS: Again, I'm going to object. To  
15 the extent that we can stay focused on REDACTED .  
16 But otherwise, some general --

17 THE HEARING OFFICER: Let's go towards --  
18 We don't have a whole lot of time left today. If  
19 you don't mind, if we could move forward to what -  
20 - I believe you had a meeting with the REDACTED in  
21 reference to --

22 MR. RATNER: I'd be happy to do that.

23 THE HEARING OFFICER: -- at the IEP  
24 meeting. Is that how you met Mr. and Ms. REDACTED ?

25 THE WITNESS: I believe that's the first

1 time I met Mr. REDACTED.

2 THE HEARING OFFICER: Ms. REDACTED. Ms.

3 REDACTED

4 THE WITNESS: Ms. REDACTED and I have had  
5 interactions previously.

6 THE HEARING OFFICER: Okay.

7 THE WITNESS: Not regarding REDACTED.

8 THE HEARING OFFICER: Oh, okay. But  
9 regarding REDACTED, you went to a --

10 THE WITNESS: That was the first meeting  
11 that I had with Mr. and Ms. REDACTED regarding REDACTED.

12 THE HEARING OFFICER: That was the first  
13 meeting. Okay.

14 MR. RATNER: Okay. So let me make sure --  
15 I think that's a great question, and I appreciate  
16 it.

17 THE HEARING OFFICER: Thank you.

18 BY MR. RATNER:

19 Q So I'm going to try to -- Look in, again,  
20 there's a bunch of books in front of you.

21 A Uh-huh.

22 Q And I apologize. One thing to make sure, I  
23 understand you've got to be out of here at 5:00;  
24 correct?

25 A I mean, I would say 5:00, 5:30'ish.

1 Q Okay. Yeah. I mean, I'm fine stopping at  
2 5:00 or 5:30.

3 THE HEARING OFFICER: Yeah. Because I  
4 think everyone else has obligations.

5 BY MR. RATNER:

6 Q Yeah. Great. Absolutely. Very good.  
7 So there's one, only one of those four huge  
8 books as school board exhibits. Do you see that one?

9 MR. ANDRIANO: It's not the huge one.

10 MR. RATNER: It's the smallest.

11 MS. OWENS: The one to the left.

12 THE WITNESS: Oh, got you.

13 BY MR. RATNER:

14 Q Right. Exactly. So tab 20, please. And  
15 this has already been admitted.

16 A I'm sorry. Tab 20 you said?

17 Q Number 20 in that book.

18 A Okay. It's not this book then.

19 Q I'd be happy to help you if you don't mind.  
20 (Discussion off the record.)

21 BY MR. RATNER:

22 Q Okay. And just to be clear, I'm not trying  
23 to trip you up. This was an IEP in November of 2020.  
24 It doesn't look like you were at that meeting; is that  
25 right?

1 A I was not in attendance.

2 Q Okay. And then if you move ahead, I think  
3 it's tab 37. Do you have that one in front of you?

4 A Uh-huh.

5 Q This another IEP; is that right? What's the  
6 date of this IEP?

7 A February 19th, 2021.

8 Q Okay. And you are shown as having  
9 participated.

10 A Yep.

11 Q Okay. And so, again, this isn't a memory  
12 test. I can go back and find the document. But there  
13 was a eligibility meeting to discuss evaluations before  
14 this IEP meeting.

15 A Uh-huh.

16 Q Do you remember if you were a part of that?

17 A I was not a part of that.

18 Q Okay. So we're going to start here then on  
19 February 19th.

20 A Okay.

21 Q Did you do anything to prepare for the  
22 February 19th IEP meeting?

23 A I don't recall.

24 MR. RATNER: Okay. And if I could have  
25 just a little of latitude on her general practice



1 of preparing for IEP meetings, that might help how  
2 she prepared for this meeting.

3 THE HEARING OFFICER: Okay. Why don't you  
4 ask her how she prepared for this meeting.

5 MR. RATNER: Well, I did, and she just said  
6 she doesn't recall.

7 THE HEARING OFFICER: Oh, okay.

8 MR. RATNER: So normally what I would say  
9 is in preparing for the IEP meeting do you review  
10 the student's cumulative file?

11 THE HEARING OFFICER: All right. Let's  
12 hear.

13 THE WITNESS: Did I review her cumulative  
14 file?

15 BY MR. RATNER:

16 Q Is that your normal practice? I'm not  
17 saying you would or wouldn't. Is that what you would  
18 typically do preparing for a middle school transition  
19 meeting?

20 A No, not typically. No.

21 Q Okay.

22 A Because I don't have easy access to the  
23 student's cumulative file, because it's at the  
24 elementary school.

25 Q Sure. No, that makes good sense. And we'll

1 get to that in a minute. But how about if there had  
2 just been recent evaluations, would you typically look  
3 at those?

4 A Not necessarily. I would depend on -- I  
5 would assume that that would be part of our discussion  
6 at the IEP meeting and part of the information that  
7 would be included in the IEP itself.

8 Because it requires that we provide  
9 information regarding the most recent evaluations. So  
10 I would assume that would be something that would be  
11 thoroughly reviewed at the meeting.

12 Q Okay. So go ahead and take a look at -- Or  
13 if you remember. Do you remember whether the  
14 evaluations were reviewed at the February 19th meeting?

15 A I don't remember all the specifics. I'm  
16 sure that certain information is included, because I  
17 remember that the school psychologist and some folks  
18 attended that meeting.

19 Q Okay. Could you just point out on the first  
20 page of the attendance list who those people were?

21 A Ms. McCarthy was in attendance at that  
22 meeting.

23 Q Okay.

24 A Cynthia McCarthy. She's the school  
25 psychologist.

1 Q I'm struggling a little bit. It's the end  
2 of the day. Where is she on that list?

3 A She is under Sharon Porter.

4 Q Oh, got it. Thank you. So she's the school  
5 psychologist.

6 A And Ms. Rubino was also at that meeting.  
7 And she is the educational diagnostician. And she  
8 would be the individual who completed the educational  
9 evaluation.

10 Q Okay. And would there be something in this  
11 document that sort of memorializes that discussion?

12 A Well, there would be information related to  
13 those evaluations.

14 Q Okay. And could you just point me to where  
15 that is so that I have a better understanding?

16 A Well, the summary of test history includes  
17 information about the evaluations.

18 Q Okay. And where is that in this document?

19 A That is in the first section of the present  
20 level.

21 Q Okay. So you see how we've got page 160?

22 A I'm sorry, page 2.

23 Q Page 2 of the IEP.

24 A Uh-huh.

25 Q Okay. So I've been referring to these

1 numbers that say School Board Exhibit 161.

2 A Oh, I'm sorry.

3 Q No, that was my fault. But is that -- Am I  
4 on the right page?

5 A Yes.

6 Q Okay.

7 A School Board Exhibit 000161.

8 Q Thank you.

9 A Uh-huh.

10 Q And so, oh, summary of test history.

11 A Uh-huh.

12 Q Okay. And this information were you aware  
13 of when you provided input at the IEP team meeting?

14 A Yes. Because we would have reviewed this  
15 first before I provided input.

16 Q And so that was part of the meeting was  
17 discussing this.

18 A Yes. We review the present level before we  
19 talk about, you know, considering what would be  
20 appropriate for the upcoming school year.

21 Q Okay. And do you remember, what was  
22 discussed as being appropriate?

23 A In regards to the testing information?

24 Q No, for REDACTED in middle school. What do you  
25 remember about the meeting?

1 A In reference to services or placement or --

2 Q Okay. I'll go -- Those are great questions.

3 I can try to do it more succinctly. First of all, do  
4 you recall that the family had a lawyer with them at  
5 the meeting?

6 A I do recall that.

7 Q Okay. And did the school board also have a  
8 lawyer with them?

9 A Yes, the school board did.

10 Q And then did the REDACTED have anybody else  
11 with them besides a lawyer?

12 A Yes, Ms. Burke, an educational advocate,  
13 attended.

14 Q Okay. Do you know Ms. Burke?

15 A Not personally.

16 Q Okay. You met her at the meeting.

17 A I engaged with her in a different meeting.  
18 Yes.

19 Q Oh, okay. And just so I've got my head in  
20 the right space. Was this a virtual meeting?

21 A It was.

22 Q Okay. Do you know if schools were actually  
23 meeting in-person as of February 2021?

24 A I don't recall the exact dates of when  
25 students transitioned back. And I think the process

1 for that was different even for elementary versus  
2 secondary, or the timeline was. But I don't know.

3 Q If you don't mind, there was a question  
4 about this earlier and the witness couldn't recall. So  
5 I'd like to ask you if you recall as an employee of  
6 Chesterfield County Public Schools in the academic year  
7 2020/2021.

8 School started out virtually that year; is  
9 that your recollection?

10 A Yes.

11 Q And, again, schools closed in March of that  
12 year.

13 A Right. Schools closed in March of 20 --

14 Q 20.

15 A -- 20. And then we began virtually. We  
16 went back to hybrid in November, from my recollection.  
17 And then we returned to virtual. And there were  
18 different applications --

19 Q So let me --

20 A -- depending on different students.

21 Q I apologize. But did you just say after  
22 hybrid you went back to virtual?

23 A I'm not positive about that. But that's my  
24 recollection.

25 Q Okay. That's what I wanted to get at. And

1 is it fair to say that was a pretty hectic and  
2 challenging time for teachers?

3 A Sure. Yes, it was. It presented unique  
4 challenges.

5 Q And was that part of the discussion on the -  
6 - of the February 2021 meeting, how REDACTED had responded  
7 to the virtual environment?

8 A I don't recall.

9 Q Okay. Do you remember any discussion in  
10 that meeting -- and I may have it wrong, so I apologize  
11 -- of her going instead of going two days a week  
12 hybrid, going four days? Do you remember that being  
13 discussed?

14 A I don't recall if that was discussed or not.

15 Q Okay.

16 A I just don't.

17 Q Okay. That's more than fair.

18 A Okay.

19 Q And I'm not drawing any negative inferences  
20 from that. I was just trying to clear that up.

21 So you mentioned something before. And I'm  
22 sorry, I tend to skip around a little. Because if a  
23 thought comes into my head and I don't address it, I'll  
24 forget it.

25 But you talked about where the cumulative

1 file was stored.

2 A Uh-huh.

3 Q So I'd like to direct your attention to  
4 parents' book. So all the rest are parents' book. And  
5 there's a volume two that I want you to look at.

6 A Okay.

7 Q And specifically tab 57. And there's a  
8 number of emails in here that you were included in. So  
9 I'd like to just review some of those with you, if I  
10 may.

11 A Okay.

12 Q So let's start on the very first page, 778  
13 and 779. Do you see those pages there?

14 A Uh-huh.

15 Q And, again, there's a lot of lawyer mumbo-  
16 jumbo here. But there's two sets of numbers on these.  
17 Do you see the one above it that says, REDACTED, right  
18 above where it says PARENTS 78?

19 A Uh-huh.

20 Q So I will represent to you that if it says  
21 REDACTED, this document was provided to us in the  
22 course of this proceeding by the school board.

23 A Okay.

24 Q Okay? I mean, your email address as of  
25 December 17th, 2021, was jennifer\_williams@ccpsnet.net;



1 correct?

2 A Correct.

3 Q Okay. So the first document I would like to  
4 ask you about is just the first two pages, PARENTS 778  
5 and 779. So just take a look at it. I think the last  
6 page -- the second page is mostly blank.

7 It looks like maybe there's some sort of  
8 signature blocks or something like that. Do you have  
9 any idea that that is?

10 A No.

11 Q Fair enough. So one of the things that's  
12 been a little bit confusing to me about this, and you  
13 may not know the answer. But do you see at the very  
14 top you can see that this is from Jessica Ayers to you.  
15 And it appears that she's forwarding a message to you?  
16 Do you see at the very top?

17 A Yes. Uh-huh.

18 Q Okay. But the rest of it you can't really  
19 tell who it's to and from. Are you able to tell on  
20 this?

21 A From what I can tell it was correspondence  
22 between our school registrar, who is Jessica Ayers, and  
23 Old Hundred Elementary School's registrar who is  
24 Suzanne Braswell.

25 Q Okay. That's what I thought too. So that's

1 helpful. I appreciate that. And you understand when  
2 you review an email like this the last one at the  
3 bottom of the page is the earliest one in the  
4 discussion.

5 A Right.

6 Q And then you have to read up; correct?

7 A Uh-huh.

8 Q Okay. So on December 16, 2021, it looks  
9 like Suzanne Braswell starts the discussion. And we  
10 don't know exactly what was said. I will -- I just  
11 don't know.

12 Then it looks like Jessica Ayers writes  
13 back. What date is that?

14 A That is on Friday, December 17th.

15 Q Okay. Who's Jessica Ayers?

16 A She is the registrar at Tomahawk Creek  
17 Middle School.

18 Q And do you know why on December 17th, 2021,  
19 she, Jessica Ayers, is asking Ms. Braswell for REDACTED  
20 REDACTED's file?

21 MS. OWENS: Objection, calls for  
22 speculation.

23 MR. RATNER: I asked if she knows. And if  
24 she doesn't know, I'll move on.

25 THE HEARING OFFICER: The basis of your

1 objection?

2 MS. OWENS: Was speculation.

3 THE HEARING OFFICER: Did she say that she  
4 doesn't know?

5 MR. RATNER: She didn't. I'm asking if she  
6 has personal knowledge. And if she doesn't, I'll  
7 move on.

8 THE HEARING OFFICER: Well, she just said  
9 she didn't know.

10 MR. RATNER: She didn't say that.

11 MS. RATNER: She didn't say that.

12 MR. RATNER: She didn't answer.

13 THE HEARING OFFICER: Oh, you're saying she  
14 did not say that.

15 MR. RATNER: She did not say it. Ms. Owens  
16 objected before she could answer. So I'm asking  
17 if she has personal knowledge. And if she  
18 doesn't, I'll move on.

19 THE HEARING OFFICER: Okay. Ask --  
20 Sustained. You're asking the question.

21 MR. RATNER: Okay. So the objection is  
22 overruled, just so the record is clear?

23 THE HEARING OFFICER: Yes. Yes.

24 MR. RATNER: Thank you.

25 THE WITNESS: I'm confused. Am I --

1 THE HEARING OFFICER: I'm confusing myself.

2 MS. OWENS: I also have an objection to the  
3 question to the extent that this witness cannot  
4 ascertain based on communications between other  
5 individuals that didn't include her --

6 THE HEARING OFFICER: Well, she is part --  
7 Yeah. She is part --

8 MS. OWENS: She's only included --

9 THE HEARING OFFICER: -- of the chain  
10 though.

11 MS. OWENS: -- as a forward at the very  
12 top. So she's the very last person to be involved  
13 in this email exchange.

14 MR. RATNER: That's right.

15 MS. OWENS: It's unclear whether this is  
16 the entirety of the chain.

17 MR. RATNER: Again, we've been through this  
18 before. We can talk about the lines and all of  
19 this. This came from the school board.

20 And, again, I can ask a few more  
21 foundational questions.

22 THE HEARING OFFICER: Yeah, why don't you  
23 do that. Because I'm not --

24 MR. RATNER: Sure.

25 THE HEARING OFFICER: -- quite certain.

1 BY MR. RATNER:

2 Q Absolutely. Do you work with Jessica Ayers  
3 in your role as the special education coordinator at  
4 Tomahawk Creek Middle School?

5 A I do.

6 Q Okay. How do you work with Ms. Ayers?

7 A Well, Ms. Ayers, the role of the registrar  
8 is to register new students. So if a student, a family  
9 comes to Tomahawk and is registering and indicates  
10 their child has an IEP. She would communicate that  
11 information to me.

12 We work together. She is responsible for  
13 maintaining student records. And obviously if a  
14 student has an IEP, then our special education staff is  
15 accessing those records to, you know, file completed  
16 documentation and access the information to complete  
17 documentation.

18 Q Okay. And is there only one special  
19 education coordinator at Tomahawk Creek Middle School?

20 A Yes.

21 Q You're it.

22 A I'm it.

23 Q Okay. So if a student with an IEP is coming  
24 to Tomahawk Creek, would you know?

25 A Yes. Well, I mean, I guess it depends on

1 the situation. But, yes, if they're transferring in  
2 she would likely get that information first, and then  
3 she would let me know.

4 Q Okay. But in December 2021, do you have any  
5 knowledge that REDACTED was transferring in to  
6 Tomahawk Creek Middle School?

7 A No.

8 Q Okay. So do you know there's a note from  
9 Ms. Braswell, "Is she returning to CCPS?" Did you have  
10 knowledge that at that point REDACTED was not  
11 enrolled in Chesterfield County Public Schools?

12 A Yes.

13 Q Okay. Because if she had been she'd be at  
14 your school; right?

15 A Yes.

16 Q Okay. And she wasn't.

17 A She was not.

18 Q Okay. So do you know, and you might not,  
19 why Jessica Ayers was requesting the file at this time?

20 A Jessica Ayers requested the file because I  
21 asked her to request the file.

22 Q Okay. Do you remember why you requested her  
23 --

24 A I asked her to request the file because  
25 REDACTED's annual IEP was due for review in February. And

1 in order for me to prepare, work on preparation of that  
2 IEP, I want -- I needed to have access to the file so I  
3 had the information available to me.

4 Q Okay. And then it looks like Ms. Braswell  
5 sent something back in all caps. And then Ms. Ayers -

6 MS. OWENS: I'm going to object --

7 THE HEARING OFFICER: Yes. Let me hear her  
8 objection.

9 MS. OWENS: Okay.

10 MR. RATNER: I haven't even asked a  
11 question yet.

12 MS. OWENS: I'll allow him to finish the  
13 question first, and then I'll --

14 THE HEARING OFFICER: Okay. All right.  
15 All right. Go ahead.

16 BY MR. RATNER:

17 Q -- and then the message gets forward to you.  
18 Am I reading that correctly?

19 A It appears that way.

20 Q Okay. Did you read what Suzanne Braswell  
21 wrote?

22 A Yes.

23 Q Okay. What does that mean to you, "Ha, ha.  
24 There is a lot to leaf through"?

25 MS. OWENS: I'm going to object to the

1 extent that it appears that Mr. Ratner's merely  
2 asking the witness to read an email into testimony  
3 that she hasn't written.

4 MR. RATNER: She just said she received it.

5 THE HEARING OFFICER: This is from Suzanne  
6 Braswell, isn't it.

7 MR. RATNER: She received it.

8 THE HEARING OFFICER: Isn't it from Suzanne  
9 Braswell?

10 MR. RATNER: No.

11 MS. OWENS: It is. It is an email from  
12 Suzanne Braswell -

13 THE HEARING OFFICER: To?

14 MS. OWENS: -- to Jessica Ayers.

15 THE HEARING OFFICER: And neither one of  
16 them has anything to do with this.

17 MR. RATNER: No, that's incorrect.

18 MS. OWENS: And then that email is  
19 forwarded.

20 THE HEARING OFFICER: I'm sorry if it's  
21 incorrect.

22 MS. OWENS: And so there's no relevancy of  
23 having a witness read into testimony an email that  
24 she wasn't even the original recipient of, an  
25 email that was forwarded by individuals who have



1 nothing to do with this due process proceeding.

2 MR. RATNER: If I could respond briefly.

3 THE HEARING OFFICER: Go ahead.

4 MR. RATNER: And I know it's getting late  
5 in the day, and maybe it's a good time to break,  
6 because I want to make sure --

7 THE HEARING OFFICER: Do you need a break?

8 MR. RATNER: I don't need a break. But I  
9 want to make sure everybody's still paying  
10 attention.

11 THE HEARING OFFICER: Okay.

12 MR. RATNER: Because I thought we covered  
13 this very clearly.

14 THE HEARING OFFICER: All right.

15 BY MR. RATNER:

16 Q And I'll ask it again, if you would like.

17 But why was Jennifer Ayers requesting REDACTED's  
18 file at that time?

19 A I don't know a Jennifer Ayers.

20 Q I'm so sorry.

21 A But I know Jessica Ayers.

22 Q Well, thank you for cleaning that up. Maybe  
23 I do need --

24 A She was requesting REDACTED's file, because I  
25 asked for her to request the file to be transferred to

1 Tomahawk.

2 MR. RATNER: So I don't see how this has  
3 nothing to do with the case.

4 THE HEARING OFFICER: Well, she asked for  
5 the file. I don't see how that --

6 MR. RATNER: To prepare for the IEP  
7 meeting?

8 THE HEARING OFFICER: I mean, the clerical  
9 person, I guess, the registrar, for lack of any  
10 other term, the registrar was the person who  
11 received the -- who was responsible for acquiring  
12 the file. And you told her to get it; right?

13 MR. RATNER: Right.

14 THE HEARING OFFICER: That's what I  
15 thought.

16 MR. RATNER: Right.

17 THE HEARING OFFICER: Unless I missed  
18 something.

19 MR. RATNER: And the response back was,  
20 "Ha, ha, ha" -- or excuse me -- "Ha, ha" --

21 MS. OWENS: Again, Mr. Ratner --

22 MR. RATNER: -- "there is a lot to leaf  
23 through."

24 MS. OWENS: We see the intent here, is so  
25 that Mr. Ratner can simply read an email that says

1           --

2                   THE HEARING OFFICER:    Which I can read.

3           But I can also see who it's from.

4           MR. RATNER:    Right.

5                   THE HEARING OFFICER:    Jessica Ayers, who's

6           --

7           MR. RATNER:    No.  It's actually from

8           Suzanne Braswell.

9                   THE HEARING OFFICER:    Yeah, you're right.

10          Again, I'm not the most technologically savvy

11          person on earth, obviously.

12          But from Jessica Ayers to Jennifer Williams.

13          So how does this witness say that?

14          MR. RATNER:    Because she's Jennifer

15          Williams.

16          THE HEARING OFFICER:    No.  To Jennifer

17          Williams from Ayers -

18          MR. RATNER:    Right.  And I asked her --

19          THE HEARING OFFICER:    It's from Ayers.

20          MR. RATNER:    I asked her if she read it

21          when she received it.  She received the email.

22          THE HEARING OFFICER:    She's not the author

23          of the email; right?

24          MR. RATNER:    It was sent to her.  And I

25          want to know --

1 THE HEARING OFFICER: Do I -- If I get  
2 something horrendous on my email that's sent to  
3 me, which I do receive, am I under a duty to agree  
4 with it or absorb it or react to it if --

5 MR. RATNER: I don't know what's  
6 horrendous. I just was trying to ask that this  
7 meant.

8 THE HEARING OFFICER: I'm using that  
9 hypothetically. If I receive an email, am I under  
10 a duty to open it up and agree -- and --

11 MR. RATNER: No. But I asked her and she  
12 said she did read it.

13 THE HEARING OFFICER: Okay. She read it.

14 MR. RATNER: She testified to that.

15 THE HEARING OFFICER: Okay. She said, "I  
16 read it."

17 MR. RATNER: Right. And now I'd like to  
18 ask her her understanding of it. And if she  
19 doesn't have one, I'll move on.

20 THE HEARING OFFICER: Okay. Go ahead.

21 MR. RATNER: But Ms. Owens just keeps  
22 objecting.

23 MS. OWENS: My objection was based on the  
24 fact that it was very clear that Mr. Ratner just  
25 wanted to read into evidence an email that Ms.

1 Williams --

2 MR. RATNER: I don't know how many --

3 THE HEARING OFFICER: And by the way, I can  
4 read it. I can read it.

5 MS. OWENS: -- that Ms. Williams was not  
6 the author of --

7 MR. RATNER: I don't know how Ms. Owens  
8 thinks she could read my mind.

9 MS. OWENS: -- nor the original recipient  
10 of. I'm just saying, you went through the reading  
11 of that email more than once during this  
12 discussion.

13 THE HEARING OFFICER: Yeah. I saw it about  
14 an hour ago.

15 MR. RATNER: I wasn't talking about that an  
16 hour ago, I don't think.

17 THE HEARING OFFICER: You had some -- One  
18 of the prior witnesses, I can't recall which one,  
19 you kind of briefly went through it. And that's  
20 when I first saw it.

21 MR. RATNER: Okay. Well, I'd like to offer  
22 it into evidence, please, as a document that this  
23 witness received in response to her request for  
24 the file.

25 THE HEARING OFFICER: Do you have any

1 objection to that?

2 MS. OWENS: Well, my objection is, one, is  
3 to relevancy. The witness testified that she  
4 requested a copy of the file. So I'm not sure how  
5 relevant this email is to this proceeding.

6 In addition, there is a concern with regard  
7 to the completeness of this particular email.

8 MR. RATNER: Ms. Freeman?

9 MS. OWENS: Because Ms. Williams --

10 THE HEARING OFFICER: And we don't know  
11 what preceded it, what was after it.

12 MS. OWENS: Right. Ms. Williams was -- She  
13 received a forward of an email. It's unclear how  
14 many exchanges may have been between the original  
15 email and it being forwarded to Ms. Williams.

16 So there's a question there about the  
17 completeness of that.

18 MR. RATNER: Right. So if I may be heard  
19 briefly.

20 THE HEARING OFFICER: Sure. Go ahead.

21 MR. RATNER: So, again, these were the  
22 documents to -- We would not have these; right?  
23 The REDACTED --

24 THE HEARING OFFICER: You're saying you  
25 FOIA'd these or something.

1 MR. RATNER: With the subpoena that you  
2 issued; right? So I don't know how I'm supposed  
3 to respond to their concerns about what's complete  
4 or not complete. They gave it to us.

5 And the second point I would like to make is  
6 you recall on Monday you allowed Mr. Andriano to  
7 question Ms. REDACTED for about an hour about emails  
8 we never even saw.

9 THE HEARING OFFICER: That was, if I recall  
10 correctly, for impeachment or for cross-  
11 examination to use to refresh the witness's  
12 recollection.

13 MS. OWENS: And they were never entered  
14 into evidence in this proceeding. What Mr. Ratner  
15 is failing to realize is that he could simply ask  
16 the witness a question about why would the -- why  
17 did she request a copy of the student's record,  
18 yes, and then move on to the next question.

19 MR. RATNER: I don't think I'm failing to  
20 realize anything.

21 MS. OWENS: Requiring that --

22 MR. RATNER: It's my case. And I can  
23 present it how I want.

24 THE HEARING OFFICER: Okay. Let's not  
25 speak over each other.

1 MS. OWENS: Requiring that --

2 THE HEARING OFFICER: I know it's late.

3 Everybody's been --

4 MS. OWENS: -- the witness --

5 THE HEARING OFFICER: -- very --

6 MS. OWENS: I'm sorry.

7 THE HEARING OFFICER: -- cordial this  
8 afternoon.

9 MS. OWENS: Requiring that a witness -- you  
10 know, tries to introduce it into evidence through  
11 a witness who was only forwarded an email exchange  
12 between individuals who are not -- weren't part of  
13 the IEP team, weren't relevant to this proceeding,  
14 is just -- it's irrelevant.

15 THE HEARING OFFICER: I'm going to reserve  
16 this document.

17 MS. OWENS: It's irrelevant and there's a  
18 question about completeness.

19 THE HEARING OFFICER: And if you have on  
20 your list of witnesses Ms. Jessica Ayers, I think  
21 she would be the proper person to explain the  
22 email. So let's move on.

23 MR. RATNER: Absolutely.

24 THE HEARING OFFICER: So it's rejected for  
25 now.



1 MR. RATNER: Okay.

2 THE HEARING OFFICER: Okay. But I did read  
3 it.

4 BY MR. RATNER:

5 Q Let's move on to the next three pages. And  
6 I believe this is already in evidence, if I'm not  
7 mistaken; is that correct?

8 THE HEARING OFFICER: The next three pages  
9 are?

10 MR. RATNER: On PARENTS 57.

11 THE HEARING OFFICER: Okay. I have a blank  
12 page.

13 MR. RATNER: The last page is basically  
14 blank. That's right. But I believe it goes with  
15 the other pages, so that's why I'm just including  
16 it for completeness.

17 THE HEARING OFFICER: Okay.

18 MS. OWENS: Could you restate the name of  
19 the documents you're referring to, the numbers.

20 BY MR. RATNER:

21 Q It's within the same tab, 57. It's the very  
22 next three pages, 780, 81, and 82.

23 Is this a document you're familiar with?

24 Again, this is an email that was forwarded to you.

25 A Uh-huh.

1 Q Okay. Do you know anything about the way  
2 over the break about getting the records that you  
3 requested?

4 A Yes.

5 Q Okay. Could you explain to Ms. Freeman what  
6 happened?

7 A Let me refresh my memory with this.

8 Q Please.

9 A After the break we had not received the  
10 record when I checked with our registrar. And the  
11 email reflects her contact to Ms. Braswell to follow up  
12 on their providing us with the record.

13 Q Okay. So you just asked her to follow up.

14 A Yes.

15 Q Okay. And did you investigate this question  
16 about, "My principal told me to hold off," or anything?  
17 Or you just cared if you got the file?

18 A I did. And the explanation was that it was  
19 a large file. And when a school requests that one --  
20 requests that another school send records, often  
21 sometimes we will do that through the school system, we  
22 call it "the pony." It's a intra-mail -- inter-mail  
23 system within the County where you can send documents  
24 to it.

25 Q Like the Pony Express?

1           A       Right. Where you can send documents to  
2 another individual at a different school. Sometimes we  
3 are able to send school records that way.

4                   But because of the, I guess, volume of  
5 information, the principal did not feel comfortable.  
6 And so the process then involved out school registrar  
7 went to Old Hundred, picked up the file and brought it  
8 back to Tomahawk.

9           Q       So thank you for that. And like I said, I  
10 believe that's already in evidence.

11                   THE HEARING OFFICER: What's already in  
12 evidence?

13                   MR. RATNER: The document we were just  
14 talking about.

15                   THE HEARING OFFICER: Oh, okay.

16                   MR. RATNER: 780 through 782.

17                   So it's about five to 5:00. I can keep  
18 going with this witness and finish tab 57. But  
19 most important to me is that we get a chance to  
20 discuss Ms. McCluskey, which we had deferred to  
21 the end.

22                   So if we need to take that up, if we have to  
23 have a hard stop at 5:00 --

24                   THE HEARING OFFICER: Okay. And, yeah, you  
25 have five minutes then. And what about Ms.

1 Williams, are you --

2 MR. RATNER: I have five minutes to address  
3 whether we can recall Ms. McCluskey tomorrow? I  
4 brought that up at the beginning of the day.

5 THE HEARING OFFICER: Yeah. We're going to  
6 talk about that. But what about Ms. Williams, you  
7 haven't finished with her, have you?

8 MR. RATNER: Correct. No, that's what I  
9 said. I wasn't going to be able to. And I can  
10 finish --

11 THE HEARING OFFICER: Can she come back  
12 tomorrow first thing or not? Unless everyone  
13 wants to stay here tonight.

14 MR. ANDRIANO: No. We have a hard stop.  
15 Ms. Williams will be back tomorrow morning.

16 THE WITNESS: Do I have a choice? I'm just  
17 kidding. Yes, I can come back tomorrow morning.

18 (Discussion off the record.)

19 THE HEARING OFFICER: All right. So let's  
20 go ahead with the two documents that you do have.

21 MR. RATNER: Yes, ma'am.

22 THE HEARING OFFICER: And finish what we  
23 can this evening. And then Ms. Williams is kind  
24 enough to come back and honor us with her presence  
25 tomorrow.

1 MR. RATNER: Thank you so much.

2 THE HEARING OFFICER: So we'll see her  
3 tomorrow.

4 BY MR. RATNER:

5 Q So staying within that same tab, turning to  
6 page 783. This is an email from you to Ms. REDACTED. And  
7 I will represent to you that the blacked out part above  
8 it were communications between Ms. REDACTED and her  
9 lawyers, so we blacked that out.

10 Do you recall sending an email to Ms. REDACTED  
11 just about a month ago about an IEP?

12 A Uh-huh.

13 Q Okay. And at that point REDACTED had not been  
14 enrolled in The New Community School for the entirety  
15 of the school year -- I mean, not enrolled at  
16 Chesterfield County Public Schools for the entirety of  
17 the school year; right?

18 A She had not.

19 Q Okay. Why were you sending an IEP for her  
20 review at that time?

21 A Because we had held two IEP meetings and we  
22 had proposed an annual, because REDACTED's annual IEP was  
23 due for review at a certain date. And I would have to  
24 look back. I don't recall the exact date. But was due  
25 for review at some point, I believe, in February.

1 But, again, I'd have to refresh my memory by  
2 looking back at the annual -

3 Q That's perfect for me. I'd like to move  
4 this page into evidence.

5 THE HEARING OFFICER: Okay. What page is  
6 that again?

7 MR. RATNER: 783.

8 THE HEARING OFFICER: You said that.  
9 Sorry. Is there any objection to this page?

10 MS. OWENS: No objection.

11 THE HEARING OFFICER: No objection.

12 MR. RATNER: So I've got one more document.

13 THE HEARING OFFICER: Okay. And this was  
14 the Parents' Exhibit, I think it's number 57 --

15 MR. RATNER: Correct.

16 THE HEARING OFFICER: -- page 783 is  
17 admitted.

18 (PARENTS 783  
19 received into evidence.)

20

21 THE HEARING OFFICER: And then your second  
22 document is?

23 MR. RATNER: The last pages in tab 57. So  
24 it goes from 784 to 793.

25 THE HEARING OFFICER: Any objection?

1 MR. RATNER: Well, I just thought I might  
2 need to ask her about it.

3 THE HEARING OFFICER: Oh, okay. Go ahead.

4 BY MR. RATNER:

5 Q Do you see an email on page 784?

6 A I do.

7 Q Okay. What is that document?

8 A That is email correspondence from me to  
9 April Lennox and Elizabeth Thomas where I forwarded the  
10 documents that Ms. REDACTED sent to me.

11 Q Okay. And what was the date on that?

12 A That date was Wednesday, February 2nd.

13 Q Okay. And, again, these were produced to us  
14 by the school board. You can see the numbers run  
15 consecutively. And, again, there's, again, the two  
16 different sets of numbers.

17 But do the pages that follow this email  
18 appear to be the documents you received from Ms. REDACTED?  
19 And this is her individual instruction plan from The  
20 New Community School?

21 A Yes.

22 Q Okay. And she provided that to you  
23 voluntarily; correct?

24 A She did.

25 Q So that's a perfect stopping point for

1 today. I'd like to move for the remaining pages of tab  
2 57 into evidence. Those are 784 to 793.

3 THE HEARING OFFICER: 784 to 793. Any  
4 objection? That's The New Community School -- Is  
5 that the contract or the introductory summary?

6 MR. RATNER: It's basically their version  
7 of the IEP. It's their plan.

8 THE HEARING OFFICER: Oh, okay.

9 MR. RATNER: It's the plan they're  
10 following for her. And we'll offer testimony  
11 about it.

12 THE HEARING OFFICER: Is that the proposed  
13 plan they have for her then?

14 MR. RATNER: I don't think it's proposed.  
15 I think it's actually the plan.

16 THE HEARING OFFICER: Oh, her actual plan.  
17 Okay.

18 MR. RATNER: But we'll offer testimony  
19 about it.

20 THE HEARING OFFICER: Okay. All right. Do  
21 you want to wait then until the testimony is  
22 offered?

23 MR. RATNER: I don't just because, again --

24 THE HEARING OFFICER: Let me find out.  
25 Does the school system have any objection to this



1 document which is The New Community School  
2 comparable -- or it's their proffer that it's  
3 comparable to an IEP?

4 MR. ANDRIANO: Yeah. That's not an  
5 accurate proffer at all.

6 THE HEARING OFFICER: No.

7 MR. RATNER: Well, then let me restate it.  
8 It's called an individual instruction plan.  
9 That's all I'll say.

10 THE HEARING OFFICER: It's similar. It's  
11 their version of an IEP.

12 MR. RATNER: But again -

13 MR. ANDRIANO: It's not an IEP.

14 MR. RATNER: I'm not representing it to be  
15 an IEP. The reason I'm offering it at this point,  
16 and I'll connect it up with another witness --

17 THE HEARING OFFICER: Don't they call it  
18 something ed -- What is the technical name of it?

19 MR. ANDRIANO: IIP, individual instruction  
20 plan, I believe.

21 MR. RATNER: But again, Ms. Freeman,  
22 there's been several questions from Mr. Andriano  
23 to Ms. Glover about Ms. REDACTED wouldn't sign a  
24 release to let Chesterfield County Public Schools  
25 get documents from The New Community School.

1 Ms. Williams just testified that she  
2 voluntarily provided this and that she received  
3 this. And I'd like it to be part of the record.

4 MR. ANDRIANO: Well, if we're going to add  
5 commentary. If you remember I took Ms. Glover all  
6 the way back to October. This wasn't offered  
7 until February of 2022.

8 MR. RATNER: I wasn't adding commentary. I  
9 was explaining why I was offering it.

10 THE HEARING OFFICER: What about for the  
11 purpose of admitting this to the record so I can  
12 look over and during the deliberation to figure  
13 out --

14 MS. OWENS: So the school board may not  
15 have an objection to the documents, with the  
16 exception of 790. We'd just like some --

17 THE HEARING OFFICER: Oh, so you don't  
18 object to --

19 MR. RATNER: Oh, maybe I -- Then I think I  
20 may have made a mistake. So I apologize. Let me  
21 offer, based on that testimony, just -- And thank  
22 you for pointing that out, Ms. Owens.

23 So that would then be 784 to 790? Are you  
24 saying you don't have an objection to that?

25 MS. OWENS: 789 I think is -- 790 is the

1 one we had a question about.

2 MR. RATNER: Pardon?

3 MS. OWENS: 790 is the one we have a  
4 question about.

5 MR. RATNER: Oh, okay.

6 MR. ANDRIANO: What I would need to know,  
7 is that what Ms. Williams was referencing?

8 MR. RATNER: Okay. I'm happy to ask her.

9 THE HEARING OFFICER: Is that what Ms.  
10 Williams what?

11 MR. ANDRIANO: Was referencing about "see  
12 attached." Because it seems to me there's  
13 extraneous documents there.

14 BY MR. RATNER:

15 Q Okay. Do you recall, and if you don't it's  
16 fine, that the documents 785 to 790 were the attachment  
17 to 784?

18 A I can't say with certainty that every single  
19 document was attached.

20 MR. RATNER: Okay. So let me do this then,  
21 and I think we would resolve the issue, is we  
22 would offer now 784 to 788. And then there's one  
23 more email that I need to address. But first  
24 let's see if Ms. Owens has any objection to 784 to  
25 788.

1 MR. ANDRIANO: I mean, whatever Ms.  
2 Williams remembers.

3 THE HEARING OFFICER: Okay. Attached is  
4 the document. And you're saying you want to know  
5 if the school has an objection to 784 to 788.

6 MR. RATNER: Correct.

7 THE HEARING OFFICER: That specific  
8 document.

9 MR. RATNER: Right. Because they were --

10 THE HEARING OFFICER: Without all of the  
11 scoring and everything.

12 MR. RATNER: They were concerned about 789  
13 and 790.

14 THE HEARING OFFICER: Yeah. Isn't that  
15 explanatory of this?

16 MR. RATNER: I thought so.

17 MR. ANDRIANO: I don't know what that  
18 means, explanatory of what?

19 THE HEARING OFFICER: In other words, you  
20 were objecting to 789, I believe, and 7 --  
21 whatever follows that -- 790, did you say?

22 MS. OWENS: We had a question as to whether  
23 790 was the -- one of the documents that was  
24 received by Ms. Williams.

25 MR. ANDRIANO: And I don't think it was.

1 MR. RATNER: Right. And so I said I would  
2 not offer that, and I'd only offer the --

3 THE HEARING OFFICER: All right. So you're  
4 not -- that's not a problem. So 789 is okay,  
5 because that's the last part of whatever that  
6 individual instruction plan is.

7 MS. OWENS: That's correct.

8 THE HEARING OFFICER: Is that okay?

9 MR. ANDRIANO: As long as Ms. Williams  
10 remembers.

11 MR. RATNER: She says she's not sure.

12 MS. OWENS: How can we indicate then that  
13 these four documents received by Ms. Williams?

14 MR. RATNER: Because they were sent to us  
15 by CCPS in this Bates order. And I don't know  
16 where else these documents would have come from.

17 MR. ANDRIANO: The objection remains the  
18 same. If she can't recall what she received, how  
19 can --

20 MR. RATNER: Because, again, these are the  
21 school board documents.

22 THE HEARING OFFICER: Well, she did say she  
23 can't remember.

24 MR. ANDRIANO: Just because something's  
25 subpoenaed doesn't mean it's admissible.

1 THE HEARING OFFICER: Okay. There was a  
2 question about it. So --

3 MR. RATNER: Okay. So leave --

4 THE HEARING OFFICER: I'm going to put a  
5 reservation on it.

6 MR. RATNER: Okay. So 790 I'll come back  
7 to.

8 THE HEARING OFFICER: All right.

9 MR. RATNER: So I do have --

10 THE HEARING OFFICER: So it's not admitted.

11 MR. RATNER: What's that?

12 THE HEARING OFFICER: Not admitted.

13 MR. RATNER: Correct. Yes, ma'am.

14 THE HEARING OFFICER: All right. So moving  
15 forward.

16 MR. RATNER: So I misspoke earlier.  
17 There's just one more email to ask Ms. Williams  
18 about.

19 THE HEARING OFFICER: Okay.

20 MR. RATNER: That's 791 through 793.

21 THE HEARING OFFICER: 791 to 793.

22 BY MR. RATNER:

23 Q Correct. And Ms. Williams, do you recall  
24 receiving an email message from REDACTED on or  
25 around January 24th, 2022, sending you admissions

1 testing from TNCS, which is The New Community School?

2 A Uh-huh.

3 Q And that's reflected in this email which is  
4 791; is that correct?

5 A Uh-huh.

6 Q And then you forwarded it onto Ms. Thomas?

7 A Uh-huh.

8 Q Do you know why you sent it to Ms. Thomas at  
9 that time?

10 A I think Ms. Thomas was going to be part of  
11 the IEP team.

12 Q Okay.

13 A And so I thought it would be important for  
14 her to review the information.

15 Q And do you see then in the forward at the  
16 very top of the page where it says, "Attachments  
17 2020/2021 REDACTED A Adm. Test Sum.docx"?

18 A I do.

19 Q Do you remember, there was in fact  
20 admissions testing from The New Community School  
21 attached to Ms. REDACTED email?

22 A Uh-huh.

23 Q And to the best of your recollection, do 792  
24 and 793, that again were produced to us by the school  
25 board, so they were in their possession, they're

1 entitled "Admission Committee Summary Report," was that  
2 what the attachment was?

3 A I believe so. Yes.

4 Q Yes. So we would like those three pages  
5 admitted, please.

6 THE HEARING OFFICER: Any objection?

7 MR. ANDRIANO: No. Ms. Williams --

8 THE HEARING OFFICER: Okay. So 792 --

9 MR. RATNER: 791, 92, 93. So everything in  
10 tab 57 is in right now, with the exception of page  
11 790.

12  
13 (PARENTS 791 through 793  
14 received into evidence.)

15 THE HEARING OFFICER: All right. Are we at  
16 the end of what we're going to do today, other  
17 than the discussion about Ms. McCluskey?

18 MR. RATNER: That's correct.

19 THE HEARING OFFICER: All right. This  
20 witness may be dismissed for today, and we'll see  
21 you tomorrow morning. And thank you very much for  
22 your testimony.

23 (The witness stood aside.)

24 (Discussion off the record.)

25 MR. RATNER: I'm happy to knock this out



1 right now.

2 THE HEARING OFFICER: Okay. Knock it out  
3 right now, because I want to get on the road.

4 MR. RATNER: Very good. So again this is  
5 our request to recall --

6 THE HEARING OFFICER: Okay. I'm just  
7 listening. And then if you need me I'll make a  
8 decision.

9 MR. RATNER: Great. This is our request to  
10 recall Christine McCluskey, the special education  
11 teacher -

12 THE HEARING OFFICER: Okay.

13 MR. RATNER: -- who testified on Monday in  
14 a time when we discussed this at pretty great  
15 length yesterday about feeling rushed and not  
16 having enough time with Ms. McCluskey.

17 THE HEARING OFFICER: I'm listening.

18 MR. RATNER: I understand. And I thought  
19 you gave pretty clear guidance that we had  
20 permission to recall her.

21 So I emailed Mr. Andriano and Ms. Owens last  
22 night to say I'd like to recall her on Thursday.  
23 And if she's not available, can you tell me if  
24 she's available on Friday.

25 I got no response. And I understand it was

1 late. I followed up --

2 THE HEARING OFFICER: What time was it?

3 MR. RATNER: It was probably after 9 p.m.

4 THE HEARING OFFICER: Huh.

5 MR. RATNER: Right. No, I understand. So  
6 that's why it was for Thursday. So I followed up  
7 with them today. I sent them another email. And  
8 again it was lunchtime, so I understand they  
9 didn't get to it.

10 So then I asked Mr. Andriano and he said,  
11 "No, we won't consent to that." So that's the  
12 issue.

13 THE HEARING OFFICER: I thought that  
14 yesterday we were pretty clear that Ms. McCluskey  
15 could be recalled.

16 MR. ANDRIANO: We reserved to call her in  
17 our case. That's correct.

18 MR. RATNER: No. You are --

19 MR. ANDRIANO: She's testified two days,  
20 two separate days for Mr. Ratner already. We're  
21 not agreeing to make her available again.

22 MS. OWENS: If you also recall, Ms.  
23 Freeman, Ms. McCluskey testified on Monday. She  
24 came back on Tuesday. You allowed Mr. Ratner to  
25 reopen his direct examination of Ms. McCluskey

1           because he believed that he did not have  
2           additional -- he didn't have sufficient time.

3           THE HEARING OFFICER:    He didn't have enough  
4           time.

5           MS. OWENS:    Then afterwards I was able to  
6           conduct a cross-examination of the witness.  And  
7           now he wants to call her back a third day.  And so  
8           -

9           MR. RATNER:    Because if you recall -- I'm  
10          sorry, go ahead.

11          MS. OWENS:    And so any questions that Mr.  
12          Ratner had for that witness, he's had plenty of  
13          time.  And it's not fair to Ms. McCluskey to call  
14          her back almost every day of this hearing.

15          THE HEARING OFFICER:   Keep calling her back  
16          for three days.

17          MR. RATNER:    Well, again, the agreed upon  
18          schedule was Ms. -- because again your order was  
19          have the three people on deck; right?

20          So Ms. McCluskey was here and said if she  
21          can't come back, she'll be held over to Tuesday.  
22          We adhered to that.

23          THE HEARING OFFICER:   Yeah.  But she's been  
24          --

25          MR. RATNER:    Yes, ma'am.  But again, if you

1 recall, we thought we were going to be able to ask  
2 Ms. Houston about the Fountas and Pinnell. We  
3 didn't get any of those documents.

4 She says, "No. That wasn't me doing the  
5 DRAs, that was Ms. McCluskey." And, again, if you  
6 recall yesterday's atmosphere with all of the  
7 objections and it was very difficult to get any  
8 questions in edgewise.

9 And what you saw with Mr. Andriano earlier  
10 today when we did the same thing, he got very  
11 frustrated. It is difficult to conduct an  
12 examination under those conditions.

13 We have critical questions to ask her about  
14 the DRAs that we have not had time to ask yet.  
15 She is the one who administered them. And that is  
16 what the school board is relying upon to say that  
17 REDACTED made sufficient progress.

18 And I will offer this as a compromise is if  
19 they call her back during their case --

20 THE HEARING OFFICER: Well, that's what it  
21 sounds like they're going to be doing.

22 MR. RATNER: Then great. Then that's  
23 perfect. But I -- Because then we're going to get  
24 beyond the scope objections. I would like to be  
25 able to --

1 THE HEARING OFFICER: How about if I give  
2 you some latitude without the --

3 MR. RATNER: Okay. Then that's great. And  
4 I'm sorry I didn't think of that earlier. My  
5 apologies.

6 THE HEARING OFFICER: Does that sound okay?

7 MR. ANDRIANO: Sounds fine.

8 MR. RATNER: That's great. Thank you so  
9 much.

10 THE HEARING OFFICER: You're welcome.

11 (Hearing adjourned, 5:17 p.m.)  
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## 1 CERTIFICATE OF COURT REPORTER

2 I, KURT D. HRUNENI, a Certified Verbatim  
3 Reporter, do hereby certify that I took the notes of  
4 the foregoing proceedings and thereafter reduced the  
5 same to typewriting; that the foregoing is a true  
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19 KURT D. HRUNENI, CCR-VA  
20  
21  
22  
23  
24  
25



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