

VIRGINIA DEPARTMENT OF EDUCATION

DUE PROCESS HEARING

REDACTED, by and through her

Next Friends and Parents, REDACTED

and REDACTED,

Petitioner,

vs.

VDOE Case No. 22-84

CHESTERFIELD COUNTY SCHOOL BOARD,

Respondent.

Day 5

TRANSCRIPT OF PROCEEDINGS

BEFORE REDACTED, ESQ., HEARING OFFICER

Thursday, March 25, 2022

9:04 a.m. to 4:38 p.m.

Midlothian, Virginia

Job No. 47229

Reported by Gwendolyn O. Sugrue

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20 REDACTED, Parents

21 April Lennox, CCPS Dyslexia Specialist

23 * * * * *

I N D E X

JULIE OLIVER

Direct Examination by Mr. Ratner 1322

Cross Examination by Mr. Andriano 1389

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E X H I B I T S

ADMITTED

Parents' Exhibit 77, Volume 3 1351

Parents' Exhibit 78, Volume 3 1373

Parents' Exhibit 79, Volume 3 1385

* * * * *

1 (March 25, 2022, 9:04 a.m.):

2 P R O C E E D I N G S

3 HEARING OFFICER: Good morning. I think we're
4 ready to begin. Is everyone here, to your knowledge?

5 MR. ANDRIANO: Yes, Ms. Freeman.

6 HEARING OFFICER: Mr. Ratner?

7 MR. RATNER: Yes, ma'am.

8 HEARING OFFICER: One of the observers
9 indicated to me that she's going to keep her phone here
10 with her for a medical condition. She just showed it
11 to me. It's not recording. And I gave her permission
12 to do that. I wanted everyone to know that at the
13 outset.

14 So let's move ahead. This is Day 5.

15 MR. ANDRIANO: Ms. Freeman, I'm not going to
16 make a big deal about it other than to say she's been
17 here every day this week. So I don't know why --

18 A VOICE: Because I had an issue yesterday and
19 I had to go out to take care of it. So I can fall out
20 on the floor and cause you an issue and you'd have to
21 be prolonged or --

22 HEARING OFFICER: No commentary, please.

23 MR. RATNER: What is the concern with her
24 being here all week?

25 MR. ANDRIANO: You know well that the hearing

1 officer put an order in place about the members of the
2 community and recordings.

3 HEARING OFFICER: Non-recording, right.

4 MR. RATNER: She hasn't had her phone in here
5 except for today. She asked the hearing officer's
6 permission and it was given.

7 HEARING OFFICER: She also assured me that she
8 is not recording, not video-streaming, any of the items
9 that were addressed in the order that was entered prior
10 to the beginning of the hearing. Correct?

11 A VOICE: Correct. And I even signed on the
12 form that I had it for diabetic purposes and that I
13 would not record.

14 HEARING OFFICER: You also recall that you're
15 not to be posting on social media?

16 A VOICE: Correct.

17 HEARING OFFICER: After this the end of this
18 hearing and I've made a decision -- let me deviate for
19 a minute.

20 Is REDACTED going to be here through the
21 proceeding?

22 MR. RATNER: No. She will be here for a
23 limited purpose today, which is the first thing we need
24 to take up.

25 HEARING OFFICER: Was she on the witness list?

1 MR. RATNER: Yes, she was.

2 MR. ANDRIANO: Yes.

3 HEARING OFFICER: Okay. I didn't realize
4 that --

5 MR. RATNER: And in the regs, which, she has
6 an absolute right to be here. It's her hearing.

7 HEARING OFFICER: I know that.

8 Let me address another issue. At the outset
9 today, we're going to begin with this rule: Counsel
10 for the parents is not to comment on my rulings. If
11 there's any deviation from that, I will ask Ms. Ratner
12 to take over. Is that understood?

13 MR. RATNER: Yes, ma'am.

14 HEARING OFFICER: Thank you. Let's move
15 forward.

16 MR. RATNER: I have two preliminary matters
17 and we can get started. The first one is, I haven't
18 seen these before. My suspicion is they're for Zoom
19 testimony or remote testimony.

20 HEARING OFFICER: What are you referring to?
21 Is that a provide --

22 MR. RATNER: I don't know. That's why I'm --
23 (Discussion off record.)

24 HEARING OFFICER: All right. Go ahead.

25 MR. RATNER: Thank you for clarifying that.

1 The next issue has to do, we do have REDACTED here
2 today. We are prepared to call her for a very, very
3 discreet and limited purpose. We did not intend to do
4 this, but there's been so much discussion about who
5 prepared what and whether this document was
6 appropriately identified, that there are three
7 documents or three exhibits in our books. They're
8 fully disclosed. It's Number 1 -- Volume 1, Tabs 1 and
9 13.

10 HEARING OFFICER: Let me get it out. It's
11 somewhat difficult. Just give me a second.

12 MR. RATNER: Sure.

13 HEARING OFFICER: Go ahead.

14 MR. RATNER: So Tab 1, Tab 13. And then
15 there's a third one in Volume 3, which is Tab 85.
16 11 and 13 are Volume 1. 85 is Volume 3.

17 HEARING OFFICER: I see.

18 MR. RATNER: We would call REDACTED just for the
19 limited purposes of identifying all the pages in those
20 tabs as her written work. I believe there's one
21 exception to that. And it's Parents' 19, but it has
22 the real miniature type. It's in Tab 1. That was a
23 grading rubric. Obviously REDACTED did not prepare that.

24 HEARING OFFICER: What volume did you say that
25 was?

1 MR. RATNER: That was Volume 1, Tab 1,
2 Page 19. We just want those documents in the record
3 with a clear statement that that's REDACTED's work. If we
4 can get an agreement about that, then we don't need to
5 call her.

6 HEARING OFFICER: Did you speak to school
7 counsel about that?

8 MR. RATNER: I haven't had a chance to.

9 HEARING OFFICER: Do you want to do that with
10 them?

11 MR. ANDRIANO: We can --

12 MR. RATNER: Yeah. Take your time.

13 HEARING OFFICER: Who is your first witness
14 going to be?

15 MR. RATNER: It would be REDACTED for that
16 purpose. And if not, it will be Julie Oliver.

17 MS. OWENS: Mr. Ratner, which pages under
18 Tab 1 are you referring to?

19 MR. RATNER: I'm sorry. What's your question?

20 MS. RATNER: What pages under Tab 1?

21 MR. RATNER: I'm referring to them what, as
22 REDACTED's work?

23 MR. ANDRIANO: Which specific pages?

24 MR. RATNER: All of them, except for I
25 indicated that Page 19 is not her work because that's a

1 grading rubric.

2 MR. ANDRIANO: I'm happy to sit here and go
3 through this, but there's a bunch of documents that are
4 rubrics and such mixed in there.

5 MR. RATNER: If there's more rubrics that I
6 missed, just tell me what they are.

7 MR. ANDRIANO: Ms. Freeman, why don't we take
8 a fifteen-minute break and I'll go through all these.

9 HEARING OFFICER: We'll take a break and you
10 all can settle that, and I don't have to enter into it
11 or listen to the back-and-forth.

12 MR. RATNER: It is Page 19, Ms. Owens. It is
13 small writing on it. If you count it, it's Page 19.

14 HEARING OFFICER: We're going to get back here
15 at 9:25.

16 (A recess was taken between 9:12 and
17 9:33 a.m.)

18 HEARING OFFICER: We'll go back on the record
19 now. This is Day 5 of the hearing for REDACTED REDACTED.
20 It's March 25, 2022. We took a break a few minutes ago
21 for fifteen minutes and we're now concluding.

22 The break was to hopefully streamline the
23 documents that we're going to have admitted to record.
24 And I believe counsel for the parents has indicated
25 that there is not a stipulation, but an agreement about

1 the documents that will be authenticated, or there's a
2 reduced need to authenticate the documents.

3 MR. RATNER: That's fair to say. What I would
4 like to do, with your permission, is, I have a proffer
5 as to what REDACTED would say. I think Mr. Andriano or
6 Ms. Owens might have a few comments. Then we would
7 say, we would like these in the record for you to take
8 for what they are worth. I don't know there would
9 quite be a stipulation. You would have to decide.

10 HEARING OFFICER: So you have not reached an
11 agreement about these documents --

12 MR. RATNER: We've gotten close. There's a
13 few disagreements.

14 HEARING OFFICER: And we have REDACTED here to
15 possibly authenticate if --

16 MR. RATNER: Correct. And I don't think it's
17 an issue about authentication, but I won't speak for
18 that.

19 So let me start with Tab 1. With the
20 exception of Page 10, which is the tiny print that also
21 says REDACTED_ED 00113, which is a rubric. Our proffer is
22 that all of these pages reflect work done in the school
23 environment of Old Hundred Elementary School by
24 REDACTED.

25 To clarify, for example, Parents' 21, which

1 Ms. Houston already testified to, it says Parents' 21,
2 but it's in Tab 1. Ms. Houston said it didn't,
3 quote/unquote, constitute work, because I guess it
4 wasn't graded. That's not what we're offering it for.
5 We would just like for you to see examples of things
6 REDACTED prepared. That's why we would like it in the
7 record.

8 HEARING OFFICER: More along the lines of
9 helping me to familiarize myself with REDACTED and her
10 work?

11 MR. RATNER: Yes, ma'am. I don't want to
12 characterize it as work. We're not trying to say it
13 represents a specific grade or anything, but it is
14 REDACTED's work product. She prepared that document.

15 I think there's a further one potential issue,
16 and there might be a couple more. With respect to
17 Tab 1, there is a Wilma Rudolph drawing which -- I'm
18 looking for it. It's Parents' 15. But it's tiny
19 print, but it also says REDACTED_ED 109. We're still on
20 Tab 1. It's Page 15. It's really tiny print under
21 REDACTED_ED 109. Do you see it?

22 MS. OWENS: No.

23 MR. ANDRIANO: Okay. I do see "109."

24 MR. RATNER: Right below, it's teeny-tiny
25 print. It's Adobe issue. I couldn't see it either.

1 MS. RATNER: We have the worst Adobe issue?
2 It made that miniature --

3 MR. ANDRIANO: That is two-point font.

4 MR. RATNER: I think it's less. Ms. Houston
5 testified about this. I'm not going to characterize
6 her testimony because I think we have a disagreement
7 about what Ms. Houston said.

8 HEARING OFFICER: It's on the record.

9 MR. RATNER: Exactly. So I don't want to
10 mischaracterize it. REDACTED would state that she doesn't
11 remember -- she drew this, but doesn't remember when
12 exactly.

13 HEARING OFFICER: All right.

14 MR. ANDRIANO: So we're clear, that goes
15 through 109 to 112; correct?

16 MR. RATNER: I'm not sure. I believe it goes
17 to the rubric.

18 HEARING OFFICER: The Wilma Rudolph drawing,
19 is that within the two years?

20 MR. RATNER: That's a little bit unclear.

21 MR. ANDRIANO: We don't believe it is.

22 MR. RATNER: REDACTED says she's not sure and I
23 don't want to mischaracterize what Ms. Houston said.

24 MR. ANDRIANO: I would refer the hearing
25 officer back to the transcript where Ms. Houston

1 testified that it looked like third grade.

2 MR. RATNER: I'm sorry. We don't recall that.

3 What we recall -- I didn't want to get into
4 it, but that's not what we recall her saying. So we
5 would ask that you check her testimony on that. We
6 recall her saying it wasn't fifth grade, which is when
7 she taught her.

8 HEARING OFFICER: Why don't we ask REDACTED when
9 it was?

10 MR. RATNER: She says she doesn't remember.

11 HEARING OFFICER: Can she say if it was within
12 the last two --

13 MR. RATNER: She just doesn't remember if it
14 was fourth or third. We think it's fourth. They seem
15 to think it was third.

16 MS. RATNER: Whatever's Ms. Houston's
17 testimony was that we remember differently --

18 MR. RATNER: You can just decide.

19 HEARING OFFICER: So is that the final
20 document, then, that --

21 MR. RATNER: Only in Exhibit 1, I think.

22 HEARING OFFICER: So there's a question about
23 109?

24 MR. RATNER: 109 through 112. Then we go to
25 Tab --

1 MR. ANDRIANO: Do we want to finish this one?

2 MR. RATNER: I thought you did. That's my
3 fault.

4 MR. ANDRIANO: So 109 through 113 is in
5 question about --

6 MR. RATNER: Well, 109 to 112 is in question.
7 113 is the rubric.

8 MR. ANDRIANO: Oh, correct. Yeah.

9 The other points I would make on this exhibit,
10 there are some documents -- still under Tab 1. Do you
11 want the particular page numbers?

12 HEARING OFFICER: We all thought we did 109
13 through 112. We're not done with that?

14 MR. RATNER: He's talking about different
15 pages within there.

16 HEARING OFFICER: Give me the pages.

17 MR. ANDRIANO: There are undated documents --

18 HEARING OFFICER: No comments on either
19 counsel's objection or proffers or anything else that I
20 can think of. Just state what you want to say.

21 Go ahead.

22 MR. ANDRIANO: Ms. Freeman, some of these
23 documents under Tab 1 --

24 HEARING OFFICER: By some of "these"
25 documents, you mean, I think I go from -- under Tab 1,

1 I have 2 --

2 MR. RATNER: It goes from Page 1 to Page 27.

3 HEARING OFFICER: Tab 1, 1 to 27. There are a
4 lot of documents here and I don't want to be confused,
5 when I go back, about what volume it was. I don't want
6 to mischaracterize --

7 MR. RATNER: Real briefly, I'm sorry I
8 interjected there. I was just trying to give you page
9 numbers.

10 HEARING OFFICER: Okay. Just watch it.

11 MR. RATNER: Yes, ma'am.

12 HEARING OFFICER: Go ahead.

13 MR. ANDRIANO: While we don't object to
14 Mr. Ratner's proffer, that this is REDACTED's work, there
15 are undated documents in here. So we're not willing to
16 stipulate that all these are within the two-year
17 statute of limitations. Nor are we willing to
18 stipulate that it was graded work.

19 MR. RATNER: I hope I was clear that we're not
20 stating it was all graded work. It's just for you to
21 be familiar with the type of handwriting and other
22 written expression, if that's a useful way to say it,
23 that REDACTED has made. I think there was another point,
24 but there are some handwritten notes on there.

25 MR. ANDRIANO: Thank you. Yes.

1 MR. RATNER: And I think it's clear, you can
2 tell that's not REDACTED 's. You've been very clear that
3 you'll read them, and we don't make any representations
4 about what those are. We just can't remove the
5 handwritten notes.

6 HEARING OFFICER: Has anyone clarified what
7 those -- I apologize if I've forgotten the earlier
8 testimony, but we've had a lot.

9 Did we ever clarify where the handwritten
10 notes -- I know Ms. REDACTED testified that some of those
11 handwritten notes on the IEP or there were handwritten
12 notes somewhere. She's shaking her head no.

13 MR. RATNER: It was on a prior written notice
14 or a draft IEP.

15 MR. ANDRIANO: But those were Ms. REDACTED 's, not
16 REDACTED 's.

17 MR. RATNER: Exactly. So just for example, if
18 I may?

19 HEARING OFFICER: Yes. Go ahead.

20 MR. RATNER: On Page 6, we did a lot of these
21 in color to try to make it easier to distinguish. I
22 think it's clear, if you look at it, that -- and I
23 think I specifically asked Ms. McCluskey about this.
24 This is Ms. McCluskey writing in the green.

25 I think it will be clear to you. We're not

1 suggesting that REDACTED wrote the grade on this. We would
2 just like -- and again, I don't want to get into a big
3 fight about who made what notes. I think it's clear
4 what REDACTED did on this. If it doesn't say it was
5 graded, we're not suggesting it was graded.

6 HEARING OFFICER: I don't know if this is a
7 proper remark, but I have seen REDACTED's handwriting so
8 much now that I can fairly distinguish between what's
9 hers or what isn't, or I would have a question about
10 that. But I have seen quite a bit of REDACTED's writing.

11 MR. RATNER: That's right. We want to make
12 sure this is in the record for you to review if you
13 want.

14 HEARING OFFICER: So look out for the
15 handwritten notes and make certain they're not -- what
16 the teacher wrote, what Ms. REDACTED wrote, and what REDACTED
17 wrote. If I have any question about that, I will
18 probably contact you, if it's important.

19 MR. RATNER: I'm not sure that it would be,
20 but that would be acceptable to us.

21 MR. ANDRIANO: And the undated documents?

22 HEARING OFFICER: So we're looking out for
23 the -- a question mark about the undated documents and
24 the documents that don't have grades on them. Is that
25 correct?

1 MR. ANDRIANO: Well, we don't stipulate that
2 every document in here was graded work or classroom
3 work.

4 HEARING OFFICER: Then whether or not these
5 things were in the two-year period. If I have any
6 question when I go through, if I don't think it's
7 worthy of contacting either one of you, I will just
8 exclude it, myself.

9 MR. ANDRIANO: Fair enough.

10 MR. RATNER: And we don't have a problem --

11 HEARING OFFICER: If I feel it's important,
12 and it's not graded or it's not evident in what period,
13 what time frame it's in, then I will contact you and
14 have school counsel on the phone when I ask you to --

15 MR. RATNER: Sure. But I think my response
16 would be, I don't know. So if you're not sure, I think
17 just disregard it.

18 HEARING OFFICER: Yeah, probably. Okay.

19 MS. RATNER: One other small clarification --

20 MR. ANDRIANO: I have one more comment. Are
21 you moving on to another --

22 MS. RATNER: No. I have one more
23 clarification on these. And I know there's a lot of
24 Bates number, so I'm sorry for that.

25 HEARING OFFICER: You did an excellent job of

1 pagination.

2 MS. RATNER: No. It was very frustrating with
3 the Adobe. I would just say, and I think that LaRana
4 and Patrick would agree, any documents that have a
5 Bates that says --

6 HEARING OFFICER: Are you talking about the
7 lower Bates? That's the one you want me to go by;
8 isn't it.

9 MR. RATNER: That's the consecutive
10 pagination, but the upper Bates reflects who produced
11 it. So if it says "REDACTED," we received it in
12 response to the subpoena.

13 HEARING OFFICER: That was in response to the
14 subpoena. Thank you for clarifying that.

15 MS. RATNER: So that would be -- it was within
16 the two years because that's what we agreed that
17 only --

18 HEARING OFFICER: So anything, really, that
19 has that, I can exclude -- I'm sorry to interrupt you.

20 MS. RATNER: I was going to say for clarity,
21 there's some documents in here that only have a parents
22 Bates number. That is something that was in our
23 possession that we produced. And you may have a
24 question about the date of that, for sure.

25 The documents that also have a Bates that

1 starts with REDACTED are documents that were produced
2 to us under the subpoena that you issued. And those
3 documents -- the subpoena was limited to the past two
4 years. So I think those, you can conclude were within
5 the past two years.

6 HEARING OFFICER: Okay.

7 MS. RATNER: That's what I wanted to add.

8 HEARING OFFICER: Thank you for elucidating.

9 MR. RATNER: So there's one last point on
10 that, which would be probably confusing slightly more.
11 There's a third Bates designation, which says
12 REDACTED-underscore-ED. That's, for example, the Wilma
13 Rudolph drawing. So that did come -- that's also,
14 again, at Page 15, if you count fifteen, but it has the
15 tiny, tiny page. It's after 14, which you can see
16 pretty easily.

17 HEARING OFFICER: I see what you mean. The
18 teeny-tiny numbers that require a --

19 MR. RATNER: Yes. So if it says REDACTED_ED ,
20 those were when Ms. REDACTED previously requested the
21 cumulative education file.

22 HEARING OFFICER: That represents the
23 cumulative education file that you obtained prior to
24 this hearing?

25 MR. RATNER: Correct. But it's if undated, we

1 can't say when it was. So that could be or could not
2 be outside the two years. We just don't know. There's
3 some testimony on it, but we would ask that you review
4 the record.

5 HEARING OFFICER: I'll review the record. As
6 you know, there's quite a bit of written material in
7 this record. So I may have to contact you about that,
8 to clarify, but I assure School Counsel, I will have
9 you on the phone when I do that, if I do that.

10 So are there any other issues that we need to
11 discuss?

12 MR. RATNER: Yes. I think we're done with
13 Tab 1 --

14 MR. ANDRIANO: Except for that picture --

15 HEARING OFFICER: The bus picture?

16 MR. ANDRIANO: No. It's a photo. We just
17 can't see it. I know she's holding something up, it
18 appears to be.

19 MS. RATNER: That was how she turned in
20 virtual instruction. She would hold it up so
21 Ms. McCluskey could see it and take a picture. I think
22 there were times that was the only way she could
23 communicate what was done, if that makes sense.

24 MR. ANDRIANO: I can't see it, though.

25 MR. RATNER: If you give me just one second,

1 I'll get the page and I think it will be very clear.
2 It's Page 9. And again, I think this would be a
3 perfect example. I think this would be a perfect
4 example in Tab 1, Page 9. So I think this would be a
5 perfect example of you using your common sense, having
6 been in the hearing.

7 You can see it was attempted to be graded.
8 There's a 41 denominator, but no numerator. Then it
9 says "couldn't see clearly." We presume that was the
10 teach's notes. And this is REDACTED holding up her work.
11 That's it.

12 And I think Mr. Andriano's concern was --

13 HEARING OFFICER: My concern is, why is it in
14 here?

15 MR. RATNER: If you have a concern about that,
16 then I would take it out.

17 HEARING OFFICER: It's not that I'm
18 questioning the motive behind it, but what's the
19 purpose? What is this supposed to show me?

20 MR. RATNER: That it was difficult for REDACTED in
21 the virtual environment to get her message across.

22 HEARING OFFICER: That's why she had to hold
23 the paper up?

24 MR. RATNER: That was how she would get
25 grades, and they couldn't see it clearly. That's all.

1 That's the purpose of it.

2 MS. RATNER: I would also give you an
3 indication that it would show, for sure, it was within
4 the two-year time frame because that was the only time.
5 There was only -- she would only be doing it on the
6 computer --

7 MS. RATNER: Well, and again, this one --

8 MS. RATNER: -- during that time, if that
9 makes sense.

10 MR. RATNER: I apologize. I'm doing a
11 terrible job. You don't need to mediate our marital
12 squabbles. Sorry about that. There were a couple -- I
13 think it's harder for her.

14 In any event, you'll notice on this one -- and
15 this happens sometimes in a big production, so I'm not
16 fussing at anybody. You'll notice the Bates number on
17 this one is upside-down at the top-left corner.

18 HEARING OFFICER: I did notice that.

19 MR. RATNER: It was produced to us the other
20 way. We turned it right-side-up to show it in the
21 correct order. I'm sure we produced some upside-down,
22 too.

23 HEARING OFFICER: So you're just saying that
24 was an accident?

25 MR. RATNER: Yes. Or we had miniature

1 numbers. So I'm not fussing at anybody about that.

2 So we might be done with Number 1. I think
3 this is taking a long time, but I also think it's been
4 productive. So I appreciate your indulgence.

5 MR. ANDRIANO: So you heard our objections?
6 It's undated, we couldn't see what work it was.

7 HEARING OFFICER: Yes.

8 MR. RATNER: So the next one would be Tab 13,
9 Book 1. Our proffer as to what this represents would
10 be REDACTED performing the work packets and things of that
11 nature, that we've had testimony on, just during the
12 spring of 2020. So that end of the fourth-grade school
13 year after the covid shutdown. If I didn't state that
14 correctly, Mr. Andriano, let me know.

15 HEARING OFFICER: Did you say Tab 13?

16 MR. RATNER: Yes, ma'am. And the entirety of
17 it.

18 HEARING OFFICER: This is what you referred me
19 to at the beginning. All right. So there's a lot of
20 written work there, and that's at the end of the fourth
21 grade.

22 MR. RATNER: Correct. So post -- I think
23 everyone said it was March 16th. I may have the date
24 wrong as to when the last day of in-person school --
25 2020. Whatever that last day was, I don't think we can

1 say exactly what day this started, but it was after.

2 HEARING OFFICER: Do you mean the last day
3 before we went into the covid period?

4 MR. RATNER: Yes, ma'am. I think they said it
5 was --

6 HEARING OFFICER: I know it was mid march.

7 MR. RATNER: I thought the testimony has been
8 March 16, 2020.

9 HEARING OFFICER: Yeah. That's what I just
10 wrote down.

11 MR. RATNER: It would be subsequent to that,
12 but prior to the end of that 2019/2020 school year,
13 which was sometime in June.

14 HEARING OFFICER: All right. I've looked at
15 it. Anything to say about it?

16 MR. RATNER: Just a couple of notes on it. If
17 you look, for example, at Page 148, you'll notice a
18 little asterisk. Mom wrote in the upper, right-hand
19 corner. So if it looks different from you, you can
20 take notice of that note again. I think you've been
21 paying good attention. You've made it clear you think
22 you recognize her handwriting.

23 HEARING OFFICER: You want me to know that
24 that's not REDACTED's writing, that that's Ms. REDACTED's --

25 MS. RATNER: I think it will be obvious, yeah.

1 MR. RATNER: So that's all we would proffer on
2 that.

3 I think Mr. Andriano may have some things to
4 offer in response to that.

5 MR. ANDRIANO: Undated documents. Again I
6 hear what Mr. Ratner is saying, but without having
7 dates, I can't proffer that these are within that time
8 frame.

9 HEARING OFFICER: You do not think they're in
10 the time frame or you don't know?

11 MR. ANDRIANO: I don't know.

12 HEARING OFFICER: So I don't know who
13 Taylor Matheny is. It says to Taylor Matheny and I
14 don't see any dates. If School Counsel's correct --

15 MR. ANDRIANO: We're not objecting that this
16 is REDACTED's work that Mr. Ratner proffers, but we
17 question the dates. He's already admitted that some of
18 these documents have "Mom wrote" on them.

19 HEARING OFFICER: But the "mom wrote," mom
20 wrote.

21 MR. ANDRIANO: And we're not agreeing that
22 this is all the work that she completed during whatever
23 time frame.

24 HEARING OFFICER: But it's undated, so there's
25 no way I could use it, anyway.

1 MR. RATNER: Again, we might come back to this
2 one. We might recall Ms. REDACTED and she might be able to
3 answer questions about it. But that's what REDACTED would
4 have testified. We would like to have it come in the
5 record. It sounds like he's not objecting to it coming
6 in the record. And you can take it for what it's
7 worth, subject to additional testimony.

8 HEARING OFFICER: Just for the record, I would
9 only ask that REDACTED testify if the parents want her to
10 testify, number one. And number two, if it's just for
11 the purpose of authenticating documents, I don't see
12 why she needs to be --

13 MR. RATNER: Okay. I guess we have just one
14 more, then.

15 HEARING OFFICER: Let me see. That was
16 Tab 13, the whole thing?

17 MR. RATNER: Yes, ma'am.

18 The last one would be -- this is the one I
19 misspoke on earlier. I had previously said Tab 85; it
20 is actually Tab 80 in Volume 3.

21 MS. RATNER: So you have to go to another
22 book. Book 2.

23 It's actually Book 3. 3 is the biggest one,
24 but there's only a few pages, so that's good.

25 HEARING OFFICER: You're directing me to 8?

1 MR. RATNER: Tab 8-0. For the record, this
2 runs from Parents' 1113 to Parents' 1118.

3 Some of these actually do have dates on them,
4 but our proffer would be that this was REDACTED's written
5 work. And again, I'm not saying it was graded work or
6 anything. This was writing that she did while
7 attending The New Community School.

8 HEARING OFFICER: This is her New Community
9 School?

10 MR. RATNER: Correct.

11 HEARING OFFICER: Which is ungraded, but it
12 does say January 21, 2022. It looks like it's a copy
13 of pencil.

14 MR. RATNER: I think that's right. I would
15 note just for clarity, 117 does appear to be graded.
16 So you'll see the handwriting on that. But again, this
17 is for you to look at. We just want it in the record.

18 HEARING OFFICER: All right.

19 MR. RATNER: So that would be our proffer.

20 HEARING OFFICER: I have a question. What is
21 1116? It looks like it's partially erased, for one
22 thing. Then it looks like -- I have ink on top of it.

23 MR. RATNER: Yes. So again, actually the date
24 looks like it may be just lighter, at the top.

25 HEARING OFFICER: I can make out a 2 in front

1 of a zero.

2 MR. RATNER: Our proffer would be, if REDACTED
3 testified, she would say this was her writing.

4 HEARING OFFICER: At New Community?

5 MR. RATNER: Correct.

6 HEARING OFFICER: Objection or not?

7 MR. ANDRIANO: Just again, we don't know if
8 that's the complete work that she's completed at
9 New Community --

10 MR. RATNER: We will be very clear, this is
11 far from all of the work she's done at The
12 New Community.

13 MR. ANDRIANO: Some of it is hard to see.

14 HEARING OFFICER: You're objecting to it being
15 introduced?

16 MR. ANDRIANO: We're not objecting, as long as
17 it's clear it's select work and --

18 HEARING OFFICER: What was the first thing you
19 said, that it's not -- it's not graded.

20 MR. ANDRIANO: Some of it's not graded. But
21 our point is, this is just selective work that
22 Mr. Ratner put in to show --

23 MR. RATNER: It was simply meant as some
24 examples of her handwriting. We don't need to make it
25 any more or any less than that.

1 MR. ANDRIANO: Fine. We don't object to that.

2 HEARING OFFICER: No objection if it's just
3 about handwriting?

4 MR. ANDRIANO: And select work.

5 MR. RATNER: Examples of her handwriting.
6 We're not particularly interested in substance, if that
7 helps. But I think we may have worked through those
8 issues, so I want to --

9 HEARING OFFICER: Wonderful. The handwriting
10 on here, is that all REDACTED's handwriting?

11 MR. RATNER: I think it would be similar to
12 what you said before. I think there are some things
13 that look pretty clear to me, like "teacher." We would
14 leave that to your discretion, if that's acceptable.

15 HEARING OFFICER: Yes.

16 MR. RATNER: Okay. Let me just say this, if I
17 might. I want to thank Mr. Andriano and Ms. Owens for
18 working through that with me. I would have liked to
19 have gotten to this sooner. It occurred to me late
20 last night that this might be a more efficient way to
21 do it. And I didn't have time to work it out in
22 advance. I appreciate everybody taking the time to do
23 it now. I think it was a productive discussion.

24 HEARING OFFICER: Thank you for that,
25 Mr. Ratner. Any comments further on these?

1 MR. ANDRIANO: No additional comments,
2 Ms. Freeman.

3 HEARING OFFICER: Are we ready to move forward
4 with our witness?

5 MR. RATNER: I think we'd like to dismiss
6 REDACTED. I think she has a test today.

7 HEARING OFFICER: Thank you for coming, REDACTED.
8 It's very nice to meet you. It's wonderful to meet the
9 actual person in the photo. Go ahead if you want to
10 take her to the front.

11 MR. RATNER: And if I could a convenience
12 break? Ms. Oliver is here, so we can bring her.

13 HEARING OFFICER: Okay. Bring her in. What's
14 her first name?

15 MR. ANDRIANO: Julie is how it's listed.

16 HEARING OFFICER: She's the --

17 MS. RATNER: I apologize. I don't know her
18 exact title. She's at The New Community School and I
19 think she's the head of middle school.

20 (Discussion off record.)

21 HEARING OFFICER: Julie Oliver. Let's go
22 ahead.

23 I'm Hearing Officer Sarah Freeman. I think
24 you've met Mr. Ratner and Ms. Ratner, and the REDACTED.
25 School Counsel is on the other side, Mr. Andriano and

1 Ms. Owens.

2 Answer any questions Mr. Ratner has or
3 Ms. Ratner, to be followed up by questioning from
4 School Counsel. Okay. Thank you.

5 You want to raise your right hand, please?

6 (The witness was here sworn by the hearing
7 officer.)

8 JULIE OLIVER,
9 called as a witness by and on behalf of Parents, after
10 having been duly sworn, was examined and testified as
11 follows:

12 DIRECT EXAMINATION

13 BY MR. RATNER:

14 Q. Good morning, Ms. Oliver. My name is
15 Todd Ratner and I represent the REDACTED family in this
16 matter.

17 Do you know Mr. and Ms. REDACTED?

18 A. I do.

19 Q. Do you know their daughter, REDACTED?

20 A. I do.

21 Q. Do you know them in your current professional
22 role?

23 A. Yes.

24 Q. So let's start there. What is your current
25 professional role?

1 A. I am the director of middle school at The
2 New Community School.

3 Q. What is The New Community School?

4 A. The New Community School is an independent
5 school that exists to serve students with dyslexia and
6 other language-based learning differences. We start at
7 grade five and go all the way through twelfth grade.

8 Q. When you say independent school, would another
9 word for that be a private school?

10 A. Yes.

11 Q. How long have you worked at The New Community
12 school?

13 A. I joined the faculty at The New Community
14 School in 2015.

15 Q. I made an error in judgment yesterday by
16 back-door-asking people their age. I'm not going to do
17 that again today.

18 If you could, I'd like you to briefly explain
19 to the hearing officer your educational experience
20 after high school, and then your professional
21 experience coming through to today?

22 I really don't know how many years that is.
23 So if it's a very lengthy, you can be as concise as
24 possible.

25 A. After high school, I went to High Point

1 University in North Carolina where I majored in special
2 education. While in North Carolina, I was also
3 licensed, "K" through 12, special education; "K"
4 through 6, elementary education. Only the special
5 education licensure transferred to Virginia.

6 Q. Let me stop there. Did you finish at High
7 Point and graduate?

8 A. I did. I have a bachelor's in special
9 education.

10 Q. Then you became a classroom teacher in
11 North Carolina?

12 A. I moved home to Richmond.

13 Q. So you got licensure as part of the
14 undergraduate work?

15 A. As part of my program. Yes.

16 Q. After you finished college, you moved back to
17 Richmond?

18 A. Yes. And I started teaching in 2009. I was a
19 public-school, special-education teacher for six years
20 in Powhatan, then Hanover, then Goochland. Primarily
21 self-contained reading, but also collaborative in all
22 content areas, spanning from grades three through
23 eleven in various locations.

24 Q. You've listed, I think four different
25 jurisdictions in the --

1 A. Three.

2 Q. Three in the greater Richmond area, but you
3 never worked for Chesterfield County Public Schools; is
4 that correct?

5 A. I have not.

6 HEARING OFFICER: What was the last thing to
7 which she responded "I did not"?

8 MR. RATNER: I said she has never worked for
9 Chesterfield County Public Schools.

10 HEARING OFFICER: Okay.

11 MR. RATNER: I didn't mean to -- if you had
12 addressed that to the witness, I apologize.

13 HEARING OFFICER: No, no. Go ahead.

14 BY MR. RATNER:

15 Q. You said you joined the faculty
16 at The New Community School in 2015; did I hear that
17 correctly?

18 A. Yes.

19 Q. What was your role in 2015?

20 A. A fifth- and sixth-grade teacher. At that
21 point, they were combined social studies.

22 Q. How long did you stay in that role at the
23 New Community School?

24 A. Until September of 2020. Time is weird.

25 Q. I agree. Just to put it into the correct

1 context, you remained in that middle-school
2 social-studies-teacher role into the covid period?

3 A. Yes. And additionally picked up a section of
4 fifth- and sixth-grade science.

5 Q. Do you have any other licensures or anything
6 related to your teaching -- just tell Ms. Freeman about
7 those?

8 A. Sure. I'm licensed in Virginia for "K"
9 through 12, general curriculum, special education. I'm
10 also endorsed in middle grades six through eight,
11 social studies and history, and middle grades six
12 through eight in English.

13 HEARING OFFICER: What grades English?

14 THE WITNESS: Six through eight.

15 BY MR. RATNER:

16 Q. Who administers the licensure in Virginia? Is
17 that the Virginia Department of Education?

18 A. Yes.

19 Q. So the Virginia Department of Education has
20 determined that you have the necessary training,
21 experience to teach those classes?

22 A. Yes.

23 Q. Have you ever had to administer any
24 educational testing?

25 A. Had to or have?

1 Q. I guess that's a better question. Have you
2 administered educational testing?

3 A. Yes.

4 Q. Is there any kind of qualifications or
5 certification you need to go through to be able to do
6 that?

7 A. It depends on the test.

8 Q. Which tests have you administered?

9 A. Sure. I've administered some of the tests in
10 ours skills-testing battery. The Wide Range
11 Achievement Tests -- there's so many --

12 Q. There's a lot of acronyms. So maybe for the
13 court reporter's benefit, either say what it stands
14 for -- which I can never remember, but at least tell
15 her what the letters were.

16 THE WITNESS: Sure. Sometimes I don't
17 remember because I use the letters so often.
18 Essentially what I administer are diagnostic
19 educational-skills testing. I do not administer things
20 like the Woodcock Johnson or the WISC.

21 Q. WISC, W-I-S-C; is that correct?

22 A. Yes.

23 Q. Is that the Wechsler Intelligence Scale?

24 A. Scale for children, yes.

25 Q. For "children." Thank you.

1 You've done that in your role at The
2 New Community school?

3 A. Just the educational skills, not the
4 intelligence and ability. Yes.

5 Q. You were clear that you did not do that. I'm
6 sorry.

7 So in September 2020, did I understand you to
8 say you moved to into a new role?

9 A. Yes. My current.

10 Q. Tell Ms. Freeman what that current role is as
11 the director of middle school?

12 A. Sure. So it's in many ways like a principal,
13 but a bit more intimate. There are ninety-one kids in
14 our middle-school division. So part of my job is
15 supervision of our faculty. And the other part of that
16 is ensuring the success and the, you know, monitoring
17 of progress of our students.

18 Q. So let me take one step back. What does The
19 New Community School consider to be middle school?
20 Five through eight?

21 A. Our middle school is grades five through
22 eight.

23 Q. Do you recall when you first became aware of a
24 student named REDACTED having interest in The New
25 Community School?

1 A. I believe I became aware of REDACTED in
2 October of 2020, when they would have initiated or been
3 in motion in our admissions process.

4 Q. Does everybody who initiates the admissions
5 process for middle school come to your attention?

6 A. At some point of the process, yes.

7 Q. That's how you learned that there was a
8 student named REDACTED who was at least considering
9 applying for admission?

10 A. Yes.

11 Q. If you could, please tell Ms. Freeman what
12 your involvement with REDACTED's admission to The
13 New Community School is or was?

14 A. Sure. So in my role, I'm also part of our
15 admissions committee, and therefore, the decisions
16 around what students are granted admission or not.
17 That committee gets together and reviews the file,
18 teacher recommendations, the abilities information that
19 we have, and then also the skills testing that's done
20 when they apply to our school, and we meet them and
21 assess where their skills are to compare to their
22 ability.

23 Then that team kind of has a very full
24 discussion about what aspects of that child fit our
25 mission. Then based on the responses to that

1 conversation, we either accept a student or we don't.

2 Q. If you recall, approximately when -- let me
3 ask it this way. REDACTED is currently attending The
4 New Community School; correct?

5 A. Correct.

6 Q. That was seem to presuppose that she was
7 accepted to The New Community School; is that correct?

8 A. Yes.

9 Q. Do you recall approximately when that
10 acceptance was made?

11 A. Approximately early last spring is the best
12 I -- yeah.

13 Q. So spring of 2021?

14 A. Yes.

15 Q. Just a little over a year ago?

16 A. Uh-huh.

17 Q. Were you part of the committee who determined
18 that REDACTED would be accepted.

19 A. Yes.

20 Q. How did the committee make that decision
21 specifically?

22 I want to be very clear that I'm going to do
23 my best to limit my questions to how they relate to
24 REDACTED. I'm not interested in general decision-making by
25 the committee.

1 To the best of your recollection, what was the
2 committee's decision-making process with respect to
3 REDACTED ?

4 A. Specifically to REDACTED , she is a child with
5 relatively across-the-board superior intelligence. And
6 at the time that we tested her, her skills in reading
7 and spelling and math were all -- math, I believe was
8 low average, but the rest was below average and in no
9 way commensurate with her natural ability.

10 Q. Prior to doing your own testing, did you ask
11 the REDACTED family to obtain a release of records from
12 Chesterfield County Public Schools, to review those?

13 A. I wouldn't have, but our director of
14 admissions did. That's part of our process, yes.

15 Q. Would those records that would be received be
16 part of the admission committee's decision-making
17 process about REDACTED ?

18 A. The testing, yes. And then we pursue those
19 teacher recommendations.

20 Q. Tell me a little bit about that. What do you
21 mean by the teacher recommendations? You might have
22 said it, but I was focused on another question. I
23 apologize.

24 A. So our applicants are asked to submit teacher
25 recommendations from either their current or previous

1 school settings.

2 Q. It's not a memory test, but do you remember
3 who submitted recommendations on behalf of REDACTED?

4 A. I can't recall a name. I believe it was a
5 third-grade teacher.

6 Q. If I said a name, would it help?

7 A. I'm not sure.

8 Q. Very good. So if you can, give Ms. Freeman
9 sort of a time line from application to acceptance for
10 REDACTED?

11 A. I believe, from application, if she's tested
12 in October, we may have gotten it as early as
13 September. I don't recall that --

14 Q. Let me back up. I think you said -- you may
15 have gotten an application as early --

16 A. Yes.

17 Q. So application perhaps in September, testing
18 in October?

19 A. Then I believe we would have reached a
20 decision about admission. And then invited the REDACTED
21 for what we call a feedback meeting, which is where we
22 share very much the why of the admissions and go
23 through kind of a summary of how we reached that
24 decision. And my best guess is that it could have been
25 March, April of last year, typically.

1 Q. So there's a lot of books and documents in
2 front of you. With Ms. Freeman's permission, I will
3 approach you to get you to where I would like you to
4 be. But that would be Volume 3, parents' book, Tab 77.

5 MR. RATNER: May I approach?

6 HEARING OFFICER: Yes, of course.

7 BY MR. RATNER:

8 Q. My first question for you will be: Do you
9 recognize this document?

10 A. I do.

11 Q. It's a one-page document, with a couple
12 different Bates numbers on it. One is REDACTED
13 000040, which again, we established earlier means we
14 received it in response to the subpoena from the school
15 board. Then we put a consecutive number on it,
16 Parents 001098.

17 Is that the page you're looking at?

18 A. Yes.

19 Q. So is this something -- you mentioned a
20 feedback meeting. I just want to make sure I'm doing
21 this in the proper chronology.

22 Would this be better for you to discuss before
23 or after or during the feedback meeting?

24 A. This page is a summary of the testing. We do
25 that informed admissions decision.

1 Q. All of these scores and things that are
2 reflected on this document are presented to the
3 admissions committee by a qualified educational
4 diagnostician or someone with the proper credentials to
5 administer the tests that are reflected?

6 A. Yes.

7 Q. You are a part of the admissions committee?

8 A. Yes.

9 Q. You were a part of the admissions committee
10 for REDACTED ; correct?

11 A. Yes.

12 Q. Did you review the information that is
13 reflected on the admissions committee summary report?

14 A. I did.

15 Q. Do you, based on your training and experience
16 and role at The New Community School, have sufficient
17 understanding of what this report is showing to explain
18 to Ms. Freeman what these scores reflect?

19 MR. ANDRIANO: Objection; she's not an expert
20 witness. She's a fact witness.

21 HEARING OFFICER: Response?

22 MR. RATNER: Yes, and these are facts. These
23 are the scores.

24 HEARING OFFICER: Counsel is objecting to the
25 fact that you have not qualified this witness as an

1 expert witness to review, to interpret, to give --

2 I think you did say you could give educational
3 testing, but I didn't hear any proffer of this witness
4 as an expert witness.

5 MR. RATNER: I understand that very much. Our
6 intention has been to offer her as a fact witness.
7 That would include, as a lay witness, providing
8 testimony -- providing opinion testimony as a lay
9 witness under Supreme Court Rule 2701.

10 I would like her to testify as to the facts of
11 the score. And if we get to a point where you believe
12 she is offering an opinion, that she needs to be
13 identified as an expert, I would like to take that up
14 at that point.

15 HEARING OFFICER: I'm going to note your
16 exception to my ruling. However, I'm going to maintain
17 Counsel's -- sustain Counsel's objection to the fact
18 that this witness has not been properly qualified as an
19 expert witness in the category of score
20 interpretation -- let me rephrase that --
21 educational-testing qualifications.

22 Just going back on our original premise, which
23 was, you were kind enough to offer me the statutory
24 language that you recovered from the code. And I
25 believe we were talking about fact versus expert

1 testimony.

2 In my mind -- perhaps I'm incorrect, but you
3 can take this up on appeal. But in my mind, my
4 procedure has always been to treat experts who are
5 going to offer opinion testimony as individuals who
6 need to be properly examined about their credentials
7 and then the witness is proffered.

8 If there's any objection to the
9 qualifications, the school will tell me what those
10 objections are. Then I rule on it. So that's where I
11 am with that.

12 MR. RATNER: May I ask --

13 HEARING OFFICER: Let me just say, I don't
14 believe -- and this may be the discrepancy. I think
15 you're identifying factual lay knowledge -- it's my
16 impression that you're misinterpreting factual
17 knowledge, that she is qualified to present, versus
18 expert-testimony opinion. That, I think, is where we
19 differ.

20 MR. RATNER: I think you're exactly right. I
21 appreciate that. One of us is incorrect in our
22 interpretation, but I do understand what you're saying.
23 If I may ask her a couple of questions about --

24 HEARING OFFICER: You're welcome to clarify
25 further if you want to. But at this point, I don't

1 believe she's --

2 This is no assertion against your testimony.
3 I hope you understand that. But there are rules, as
4 far as I know, about offering expert testimony. So go
5 ahead.

6 MS. RATNER: I was just going to ask if we --
7 because we do believe that she's an expert, but we did
8 not designate her as an expert. We would ask for leave
9 to qualify her as an expert now, if you would allow,
10 and provide them with her credentials, an opportunity.
11 But we do acknowledge we did not identify her as an
12 expert in the notice.

13 HEARING OFFICER: The reason why we identify
14 them in advance -- I'm sure you know this, and I'm
15 preaching to the choir here. I believe that the reason
16 behind that is so that the other side can examine and
17 distinguish between what they want to present as
18 possibly not qualification of an expert -- not in that
19 area. That gives them the right to look up
20 information, licenses, schools, did you finish, what's
21 your experience, all those kinds of things that go to
22 the expert-testimony qualification.

23 In this particular case, if you didn't
24 identify her at first, they never had an opportunity to
25 do that. So in the past, what I've done is, give you

1 an opportunity --

2 First of all, I'm going to ask, you did know
3 they were proffering her as an expert?

4 MR. ANDRIANO: No, we didn't, Ms. Freeman.

5 MS. RATNER: And we weren't. We didn't.

6 HEARING OFFICER: If she's not in your witness
7 identification list as an expert, then there was no
8 opportunity to examine her credentials or to question
9 her credentials.

10 So are you comfortable talking with Counsel
11 about her qualifications, and I come to a ruling based
12 on that? Or do you want to continue your objection and
13 just let me rule on it?

14 MR. RATNER: I don't think there's anything to
15 discuss further. We can find the CV, but I think it
16 would be too late for that.

17 HEARING OFFICER: I was just giving you the
18 opportunity --

19 MR. RATNER: Yeah. No. I appreciate that.

20 HEARING OFFICER: No?

21 MR. ANDRIANO: No.

22 HEARING OFFICER: So we're going forward.
23 We're going to be doing only factual testimony that's
24 within her knowledge, and not opinion.

25 MR. RATNER: Yes, ma'am. Where I may get --

1 the next question I'm going to be asking her, What is
2 the WRAT4? That's what's a fact on the --

3 HEARING OFFICER: She did testify that she
4 administers test.

5 MR. RATNER: That so that would be my next
6 question.

7 HEARING OFFICER: I think that's all right,
8 but I'm going to --

9 MR. RATNER: You think it is?

10 HEARING OFFICER: Just off the top of my head,
11 it sounds like it is. I'm going to listen to whatever
12 School Counsel says. As long as she's not interpreting
13 results.

14 You did administer -- what was that test?

15 MR. RATNER: I don't know that she did. I was
16 going to ask her. I just wanted to be clear, I'm not
17 trying to disregard what you said by my next question,
18 saying, What's this?

19 MR. ANDRIANO: Ms. Freeman, it looks like
20 someone named C. Tisdell was the evaluator. I assume
21 that's not Ms. Oliver.

22 HEARING OFFICER: No, I don't think that's
23 Ms. Oliver. All right. Go ahead.
24
25

1 BY MR. RATNER:

2 Q. So if I may, the first information on this
3 admissions committee summary report that you were a
4 part of reviewing with the admission committee at The
5 New Community School is the WRAT4.

6 Do you know what that test is?

7 A. Yes.

8 Q. What is that test?

9 A. It's the Wide Range Achievement Test.

10 Q. Was that one of the tests that you mentioned
11 that you administer?

12 A. Yes. I administer that test. I did not
13 administer it to REDACTED.

14 Q. Approximately how many times have you
15 administered the Wide Range Achievement Test to
16 applicants at The New Community School?

17 A. Fifty, 5-0.

18 Q. That would be within what time period?

19 A. Before being part of the admissions committee
20 in my role, I was a tester for the admissions
21 Committee. So, my duration at New Community.

22 Q. For those fifty students --

23 MR. RATNER: Ms. Freeman, I'm not trying to
24 get into things other about REDACTED, but I feel I need to
25 lay a foundation here. So I hope I have some latitude.

1 HEARING OFFICER: That's a typical question.

2 BY MR. RATNER:

3 Q. For those other fifty students, would you then
4 present the results of the Wide Range Achievement Test
5 the admissions committee?

6 A. Yes.

7 Q. And you would have to interpret those scores?

8 A. Yes.

9 Q. For REDACTED, when that information was
10 presented to you, were you able to understand that
11 information as it was related to you?

12 A. Yes.

13 Q. Is that information accurately reflected on
14 the admission committee summary report?

15 A. Yes.

16 MR. RATNER: With that foundation, again,
17 these are facts, I believe, as to what her scores are,
18 and we would like to ask her questions about that.

19 To the extent that raises a question about
20 opinions, we believe she is absolutely qualified to
21 offer those opinions about the diagnostic tests.

22 HEARING OFFICER: These diagnostic tests are
23 the ones that are on Page 109 in Parents 3, at 77? Is
24 that what you're talking about?

25 MR. RATNER: Right. It's Page 1098.

1 HEARING OFFICER: Oh, okay, 1098. As far as
2 that goes, I can read all of the scores. She's not
3 going to be able to interpret the scores. So I think
4 that's where we're going to have to end this line of
5 questioning.

6 MR. RATNER: I want to be clear, she's not
7 going to be able to interpret them because we didn't
8 designate her as an expert in advance?

9 HEARING OFFICER: That, plus -- because you
10 didn't do that. That's not -- yeah.

11 MR. RATNER: I just wanted to understand. If
12 there were other questioned that I could ask --

13 HEARING OFFICER: No. If it --

14 MR. RATNER: Then I'll move on.

15 HEARING OFFICER: -- elicits an opinion
16 requires that she be proffered as an expert witness.
17 They get the chance to look over her credentials. And
18 there hasn't been that. I don't want to bore you with
19 my dialogue here, but --

20 MR. RATNER: I understand that. If I could
21 ask you a question and it's not in any way challenging
22 a ruling?

23 HEARING OFFICER: Go ahead.

24 MR. RATNER: I, personally, don't have a great
25 understanding of what "grade equivalent" means and

1 not -- the numbers say what the numbers say. I think I
2 know what it means. I don't think it's expert
3 testimony for her to say what these numbers mean.

4 HEARING OFFICER: Anything that's prefaced by
5 "what does this mean" or "how do you interpret that" or
6 "what is your opinion about any of these results" is
7 going to be objectionable, probably.

8 MR. RATNER: Fair enough. I guess the last
9 point would be, I don't have a great understanding of
10 what the word "percentile" means. I don't think you
11 need to be an expert to say what a percentile is.

12 HEARING OFFICER: I'm certainly not going to
13 explain percentiles. I think that takes a -- I don't
14 even know if I can say it -- statistician. So I don't
15 think we can go there.

16 MR. RATNER: Well then, we'll reserve this
17 for --

18 HEARING OFFICER: I'll note your exception --

19 MR. RATNER: -- Ms. Capone. But I would like
20 to move it into evidence as something that she has
21 identified, this document.

22 So I would offer Parents' 77 into evidence so
23 you can read it.

24 HEARING OFFICER: Ms. Capone has not testified
25 yet.

1 MR. RATNER: That's right, but this has been
2 identified. You said you can read it.

3 HEARING OFFICER: I think this was the
4 questionable material from yesterday.

5 MR. RATNER: No. We've never seen this
6 before. She has now identified it for you as the
7 admission committee summary report. You said you're
8 capable of reading it.

9 HEARING OFFICER: I didn't mean that in a
10 satirical way. All I mean is I can read this and she's
11 not going to be able to interpret.

12 MR. RATNER: What I meant was, we think it is
13 relevant evidence even without interpretation. Because
14 of that, we would like it to be part of the record for
15 you to read if you want to.

16 HEARING OFFICER: Is there any objection to
17 that?

18 MR. ANDRIANO: Ms. Freeman, there is an
19 objection to Parents' 77 because, while it says
20 admission committee summary report, it's only one page
21 of a four-page report.

22 HEARING OFFICER: What happened the other
23 three pages?

24 MR. RATNER: I'm sorry. I don't see that.

25 HEARING OFFICER: He's on Volume 3, your

1 Volume 3, at 77. And it's 1098.

2 MR. RATNER: I didn't see where it says it's a
3 four-page report.

4 MR. ANDRIANO: No. In reality is a four-page
5 report. What they've included here is just a --

6 MR. RATNER: What I'm saying is, I didn't mean
7 to. If you have the other three pages, I'd be happy to
8 include those for the rule of completeness.

9 HEARING OFFICER: I could have sworn I saw
10 this admissions committee summary report somewhere
11 else. So we can't admit 1098 for the purpose for which
12 you proffered it because it's only a partial summary of
13 the whole document, with the scores.

14 MR. RATNER: What I would like to do is, on a
15 break, to look for the other three pages. I guess it
16 would be 1099 to 1101. So that was probably my
17 mistake. You can tell I made the books.

18 MR. ANDRIANO: Mr. Ratner, I don't think it
19 was your mistake. It doesn't have the page number on
20 it.

21 MS. RATNER: What about at the next tab?

22 MR. RATNER: We got this from the school
23 board. You can see that by the CCPS-REDACTED. If they
24 have the other three pages and they were produced to
25 me, I should have them.

1 MR. ANDRIANO: No. We got the complete report
2 from a subpoena response from New Community School.

3 MR. RATNER: So again, this is one of these
4 challenges that we've had in this case. I don't want
5 to belabor this because we've had a lot of discussion
6 back and forth.

7 So we received, apparently from them, an
8 incomplete document in response to our subpoena to the
9 school board.

10 HEARING OFFICER: Wouldn't you have access to
11 this document from the parents?

12 MR. RATNER: No. It's New Community School
13 property. Could the parents have gotten it? Yes.
14 That was the issue when we said we didn't have a chance
15 to subpoena The New Community School because we
16 understood that the school board would share their
17 documents. Then when I called The New Community
18 School, they were on break.

19 So it appears to me that what Mr. Andriano is
20 saying, in response to the subpoena, they sent us an
21 incomplete document, and now he's complaining that we
22 don't have the complete document.

23 MR. ANDRIANO: I'm not complaining. You're
24 trying to move in one page of a four-page report.

25 MS. RATNER: Can we add the three pages?

1 MR. ANDRIANO: I wouldn't object to that.

2 HEARING OFFICER: Convenience break. It's
3 about twenty of 11. Let's call it quarter-of because
4 it's between. So come back in five minutes, if that's
5 okay. 10:50.

6 (A recess was taken between 10:43 and
7 10:51 a.m.)

8 HEARING OFFICER: Let's go ahead.

9 MR. RATNER: If I could hand up a document to
10 you? Then we'll go from there. This is apparently the
11 full admissions committee summary report.

12 HEARING OFFICER: This is what you were
13 talking about?

14 MR. RATNER: Yes, ma'am. We would like to
15 substitute this four-page document. It was 77.

16 HEARING OFFICER: Was that in 3?

17 MR. RATNER: Correct. May I hand one to
18 Ms. Oliver?

19 HEARING OFFICER: Sure. Let the record
20 reflect that Counsel's giving document as 73, the whole
21 document to -- you did say 73?

22 MR. RATNER: 77.

23 MR. ANDRIANO: We are substituting 77 for that
24 four-page document?

25 MR. RATNER: Yes, sir. I'll try to identify

1 it clearly for the record.

2 HEARING OFFICER: School Counsel, at the
3 break, gave Parents' Counsel a complete copy of the
4 admissions committee summary report, in Parents'
5 Volume 3 at 77, for the record.

6 So for the record, unless there's an
7 objection, I'm going to accept the document as the
8 admission committee summary report for The
9 New Community School.

10 MR. ANDRIANO: As long as it's clear for the
11 record -- yes -- that the school board received from
12 The New Community School as part of your subpoena that
13 you issued in this case.

14 HEARING OFFICER: As School Counsel pointed
15 out, let the record reflect that the admissions
16 committee summary report from The New Community School
17 was elicited because of a subpoena that I signed and
18 gave to School Counsel.

19 I don't recall what the objection was earlier,
20 but I ruled upon the objection. And this was the
21 document that was produced for School Counsel.

22 MR. RATNER: If I could clarify that? We had
23 no objection whatsoever to the subpoena going to The
24 New Community School. We had thought we would be
25 provided a copy of what they received in response to

1 the subpoena, and we never received that.

2 Then when we were going to issue -- we
3 shouldn't have had to issue a subpoena because the
4 REDACTED consented to getting the records, but they were
5 on spring break. That's why I had not received this
6 document previously.

7 As I was sitting here excoriating myself, I
8 just noticed a slight discrepancy from what I just
9 received from Mr. Andriano. You'll notice -- what we
10 have in the book doesn't have any page numbers on it.
11 It has the Bates number we put on there. But what
12 Mr. Andriano just provided me clearly says "Page 1" in
13 the middle of the bottom, if you see that.

14 HEARING OFFICER: Yes.

15 MR. RATNER: If I had seen that, I might have
16 realized this is incomplete. So I apologize for my
17 mistake.

18 HEARING OFFICER: First of all, I'm going to
19 put whatever you said, as far as accepting to this
20 document and the rationale for why there were one page
21 versus four pages, I hope it's sufficient to you that I
22 read -- let you read into the record exactly what your
23 clarification was about Exhibit 77 having Page 1,
24 rather than all the four pages.

25 I understand that the school -- and I remember

1 that specifically from -- I don't recall exactly what
2 prehearing conference it was, but I do remember you
3 commenting, one of you commenting -- it might have been
4 Ms. Ratner, commenting on the fact that you weren't
5 able to get the documentation you wanted because, at
6 that time, the school was on spring break, I believe.

7 But we all agree -- by "all," I mean both
8 counsel agree that admissions committee summary report
9 of The New Community School is the full, complete
10 document. And thank you for working that out so that
11 we don't have to exclude this, which I believe is
12 helpful.

13 So go ahead.

14 MR. ANDRIANO: Yes. We do think it's the
15 complete admissions committee summary, but that's what
16 we received. Maybe the committee had additional
17 documents --

18 MR. RATNER: I thought I might just ask
19 Ms. Oliver.

20 HEARING OFFICER: Go ahead.

21 BY MR. RATNER:

22 Q. Do you recognize this new, substituted,
23 four-page document as the full admissions committee
24 summary report?

25 A. Yes.

1 HEARING OFFICER: Hold on a minute. Let the
2 record reflect that the witness, who is a New Community
3 School employee -- and she's compared her role to that
4 of a principal -- has identified the full report for
5 the school.

6 Thank you. Go ahead.

7 MR. RATNER: With all that, I would like to
8 move into evidence the full report for you to review?

9 MR. ANDRIANO: No objection.

10 HEARING OFFICER: Okay. So Parents' Exhibit
11 Volume 3 at 77, the full document is here. And it's
12 admitted, there being no objection.

13 (Parents' Exhibit 77 was marked for
14 identification and admitted into evidence.)

15 BY MR. RATNER:

16 Q. Ms. Oliver, I think I got into the admissions
17 committee summary report before you were going to
18 discuss the feedback meeting with the REDACTED.

19 Do you remember that question and answer that
20 seems like a very long time ago?

21 A. The time line, yes.

22 Q. So you mentioned the feedback meeting. Would
23 you have reviewed the admissions committee summary
24 report with the REDACTED at the feedback meeting, or do
25 you review that to prepare for the meeting?

1 How do you use this document?

2 A. This is in the decision-making of admissions,
3 within the committee meeting. This form is not shared,
4 in this state, at the feedback meeting.

5 Q. Is this admissions committee summary report
6 part of the consideration process as to whether the
7 student will be offered a place at The New Community
8 School?

9 A. Yes.

10 Q. Do you recall reviewing this specific report
11 as it relates to whether or not REDACTED was going to
12 be offered a spot at The New Community School?

13 A. Can you clarify?

14 Q. Yes.

15 Was there a meeting during which this
16 information was discussed and the admissions committee
17 reached a conclusion as to whether or not to offer REDACTED
18 a spot?

19 A. Yes.

20 Q. Please tell Ms. Freeman, to the best of your
21 recollection, what went on in that discussion and that
22 was the committee's determination?

23 A. For REDACTED?

24 Q. For REDACTED, yes, ma'am.

25 A. Yes. Based on the admissions committee

1 summary report, and then all of the information we
2 gained from the county, and the psycho-educational
3 testing they had done, REDACTED very much fits the school.

4 She is a student with superior, but
5 above-average intelligence with skills that are not
6 commensurate with that ability. Additionally, REDACTED has
7 significant weaknesses in both phonological processing
8 as well as --

9 MR. ANDRIANO: I'm going to object. I think
10 we're getting into opinion testimony.

11 HEARING OFFICER: That's opinion; isn't it?

12 MR. RATNER: Okay. I will note my exception
13 to that.

14 HEARING OFFICER: Note Counsel's continuing
15 exception to the ruling. I'm going to maintain that
16 exception for him so that he doesn't have to respond
17 every, single time.

18 But again, if there's opinion evidence offered
19 by this witness, that will not be admitted. Go ahead.

20 MS. RATNER: I want to add one thing. I
21 didn't think that that was disputed.

22 HEARING OFFICER: What was disputed?

23 MS. RATNER: What was the significant
24 weakness, phonological processing? I think that all
25 the school board's experts testified to the same thing.

1 I would just note that as an additional grounds.

2 MR. ANDRIANO: I believe they testified to the
3 variability of the scores.

4 MS. RATNER: Yes. On that one, the
5 phonological awareness, I didn't think -- and
6 Ms. Freeman, you'll have the transcript, but my
7 recollection is that everybody testified that that was
8 a weakness for REDACTED.

9 HEARING OFFICER: Was there a stipulation
10 about the variability of the -- what is it? Phonetic
11 weakness?

12 MS. RATNER: Phonological awareness.

13 MR. RATNER: No. And I think to Ms. Ratner's
14 point -- I may be treading on marital ground again.
15 But in the prior written notice and documents that are
16 in evidence, the phonological awareness weakness, we
17 believe is noted. So that, I think, was the point
18 Ms. Ratner was making.

19 HEARING OFFICER: Is it fair to say that when
20 I look at all of this documentation, that's an area I'm
21 going to examine, how it was treated through the last
22 two years at the school, and that that -- as far as I
23 can tell, it's an area of variability and dispute? To
24 me, that's an area that is open for my examination.

25 MR. RATNER: Yes, we agree.

1 HEARING OFFICER: All right. But I understand
2 that the school witnesses have a different opinion
3 about the phonological awareness --

4 MR. RATNER: But actually --

5 MS. RATNER: I would just say, we would just
6 note our exception to that. We think there's been no
7 dispute about that particular aspect. There is dispute
8 about REDACTED's other skills, but about phonological
9 awareness --

10 HEARING OFFICER: There's no dispute, in your
11 opinion?

12 MS. RATNER: Yes, ma'am.

13 HEARING OFFICER: That may be true. I just
14 recall variability.

15 MS. RATNER: Yes. She has a lot of
16 variability.

17 HEARING OFFICER: That's what I remember from
18 having read from the documentation --

19 MS. RATNER: Right. It's just this one piece,
20 the phonological awareness, I do not think that there
21 is a dispute in any of the documents or the school
22 board's testimony on that one piece.

23 MR. ANDRIANO: There's no dispute on what?

24 MS. RATNER: That phonological awareness is a
25 significant deficit or REDACTED.

1 MR. ANDRIANO: She scored average on the CTOPP
2 in phonological awareness.

3 HEARING OFFICER: Explain to her what the
4 CTOPP -- I don't recall that acronym. I know it has to
5 do with phonetics, but that's about the extent.

6 MR. ANDRIANO: I don't know that The
7 New Community School -- they did not give CTOPP.

8 HEARING OFFICER: The school gave the CTOPP.

9 MR. ANDRIANO: Chesterfield County Public
10 Schools gave the CTOPP as part of the re-evaluation in
11 2021. I'm just not sure if Mr. and Ms. REDACTED shared
12 the -- maybe I'm getting the time line out of whack.

13 I don't know that The New Community School had
14 the most recent testing -- well, they couldn't have if
15 they were making an admissions decision in October of
16 2020 because this re-evaluation was done in 2021.

17 MR. RATNER: I think that is an accurate
18 chronology. I think the question as to whether or not
19 The New Community School later received those reports
20 is something I can ask the witness about.

21 Again, if Mr. Andriano's position is that
22 there is a dispute about whether or not phonological
23 awareness was a weakness, then we'll address that
24 through testimony. And I'll move on.

25 HEARING OFFICER: Thank you. Go ahead.

1 BY MR. RATNER:

2 Q. So you're a member the admissions committee --
3 thank you for your patience.

4 Did the admissions committee decide to offer
5 REDACTED a spot at The New Community School?

6 A. Yes.

7 Q. Did you eventually get to the feedback meeting
8 with the REDACTED?

9 A. Yes.

10 Q. Did REDACTED participate in the feedback meeting
11 or is it just with the parents?

12 A. She did.

13 Q. Can you please tell -- did you participate in
14 the feedback meeting?

15 A. Yes.

16 Q. Anybody else?

17 A. Our head of school, Nancy Foy, F-o-y.

18 HEARING OFFICER: What is Nancy Foy?

19 THE WITNESS: Our head of school.

20 HEARING OFFICER: Go ahead.

21 BY MR. RATNER:

22 Q. What's the head of school at The New Community
23 School?

24 A. If you think of it in a scaled sense, she
25 might correlate in some ways to a superintendent.

1 She's kind of -- I'm trying to think of a business
2 term. We have a board --

3 Q. CEO?

4 A. Yes. Yes.

5 HEARING OFFICER: What did you call her?

6 MR. RATNER: CEO, chief executive officer.

7 THE WITNESS: Some independent schools call it
8 a president.

9 HEARING OFFICER: Would it be like a director
10 as opposed to a principal, maybe -- it doesn't matter.
11 CEO is fine. I understand that.

12 BY MR. RATNER:

13 Q. Is she your direct supervisor?

14 A. She is.

15 Q. So it was the two of you, Mr. REDACTED,

16 Ms. REDACTED, and REDACTED.

17 Anybody else at that meeting?

18 A. No.

19 Q. What do you recall from that meeting? Please
20 you shared that with Ms. Freeman?

21 A. May I get clarification for how I answer?

22 Q. I think what you need to do is just start what
23 you recall being communicated. And if there's an
24 objection, Mr. Andriano will raise it. And we'll stop
25 talking and have to get a ruling.

1 MR. RATNER: Is that acceptable?

2 HEARING OFFICER: That sounds good to me.

3 THE WITNESS: So in this meeting, we discussed
4 with REDACTED and her parents why she fits the mission of
5 the school and why we're an appropriate school for her.

6 And in that meeting, we take a look at her
7 educational testing, the psycho-education evaluation
8 and we compare it to what you see here on the
9 admissions committee summary report. That is the
10 anchor of our conversation, is kind of identifying
11 here's where you are in terms of your ability and
12 here's where you are today in terms of your skills.

13 BY MR. RATNER:

14 Q. What specifically was communicated to the
15 REDACTED about REDACTED within that framework you just
16 described?

17 A. Communicated in that feedback meeting was that
18 REDACTED is a student with many areas in her ability that
19 rank in the superior range, and many of her skills fall
20 in the below-average range for a student with her
21 abilities.

22 Q. Was it communicated to the REDACTED that you
23 thought REDACTED would be a good candidate for the program?

24 A. Yes.

25 Q. Was there a discussion of -- did the REDACTED

1 have questions?

2 A. I believe they would have, as most do, but I
3 don't recall specifically.

4 Q. I understand. Do you recall, with respect to
5 the REDACTED, about how long that feedback meeting
6 lasted?

7 A. That specific feedback meeting, no. They
8 average forty-five minutes.

9 Q. Did the REDACTED come to a decision at that
10 feedback meeting, meaning yes, we would like REDACTED to
11 attend, or no thank you?

12 A. Not that I recall. And it's not required at
13 the meeting.

14 Q. Did they subsequently come to a decision about
15 whether they would like REDACTED to attend?

16 A. Yes.

17 Q. Did they, in fact, enroll REDACTED to begin this
18 current school year, in the 2021/2022 school year?

19 A. Yes.

20 MR. ANDRIANO: Excuse me one second.
21 Ms. Capone is in the waiting room. That's what that
22 noise was that had he heard.

23 HEARING OFFICER: Okay. Thank you.

24 MR. RATNER: I probably have twenty more
25 minute and then you're going to have some. So I would

1 say she's probably not going to be until after lunch.
2 Maybe we can tell her she can leave the waiting room?

3 HEARING OFFICER: That's fine with me.

4 MR. ANDRIANO: Can we take a --

5 HEARING OFFICER: You have twenty more minutes
6 approximately, then cross.

7 MR. ANDRIANO: I'll probably need a half hour.

8 HEARING OFFICER: I'm thinking we'll be done
9 by about 12 and take lunch. Then Ms. Capone --

10 MR. RATNER: That would be great. I think
11 Mr. Andriano was just going to tell someone that she
12 doesn't need to sit in the waiting room.

13 MR. ANDRIANO: Can we give her a time?

14 MR. RATNER: Tell her I'll touch base when we
15 break for lunch.

16 HEARING OFFICER: It seems to me she ought to
17 be back about 1.

18 MR. RATNER: Thank you.

19 (Discussion off the record.)

20 HEARING OFFICER: Okay. Let's move ahead.

21 BY MR. RATNER:

22 Q. We were talking about REDACTED's enrollment at The
23 New Community School for the 2021/2022 academic year.

24 What is your role as the director of middle
25 school in REDACTED's education at The New Community School?

1 A. Sure. I supervise her teachers and also play
2 a role in ensuring, you know, progress monitoring and
3 how she is doing overall at our school.

4 Q. Would you please describe for Ms. Freeman the
5 program at The New Community School as it specifically
6 relates to REDACTED for this academic year?

7 A. So this academic year, she is in sixth grade.
8 So that means she takes our sixth-grade-content
9 classes. She takes humanities. She takes math,
10 science. She is in language fundamentals. She has two
11 periods of electives, and then a PE class.

12 Q. Again, this isn't a memory test, so "I don't
13 know" is perfectly appropriate.

14 But do you know what her electives are?

15 A. Our sixth-graders rotate through all of our
16 middle-school electives. At the end of the year, she
17 will have tried eight.

18 Q. Not to put you on-the-spot, can you name them?

19 A. I can. Part of that rotation is our health
20 class, drama, steam -- s-t-e-a-m -- creative writing,
21 music, art, intro to programming, and then exploratory
22 life skills, which is co-taught by our social-emotional
23 counselor and our college and career counselor.

24 Q. You mentioned language fundamentals. Is that
25 a class that's unique to The New Community School?

1 A. Yes.

2 Q. That's something that REDACTED's enrolled in?

3 A. Yes.

4 Q. Could you explain to Ms. Freeman what language
5 fundamentals is, as it applies REDACTED?

6 A. Language fundamentals is our class that our
7 students take, all of our middle-schoolers. It varies
8 once they get to upper school, based on need. But that
9 is her class where all of the reading, writing,
10 spelling skills are directly targeted. It is with a
11 teacher who is in the process of obtaining her
12 associate's level training in Orton-Gillingham.

13 REDACTED specifically is in a pair, which means
14 she has just one other student in a language
15 fundamentals class with her.

16 Q. You mentioned Orton-Gillingham. What is that,
17 in general terms?

18 A. It is a researched-based, multi-sensory way of
19 teaching students. It has been proven to be incredibly
20 effective for students with dyslexia, direct
21 instruction based on individual needs.

22 Q. So there's been some discussion in this case
23 so far about what "multi-sensory instruction" means.

24 What does it mean to The New Community School
25 as it relates to REDACTED?

1 A. As it relates to REDACTED, in language
2 fundamentals and in her other classes, it's that
3 information and content is shared, and they are also
4 assessed in as many different ways as possible, kind of
5 addressing all of the variability and learning profiles
6 at our school. You know, we see it, we say it, and we
7 do it. And therefore, more access for students to kind
8 of -- retention of content.

9 Q. Did I understand it correctly that the
10 Orton-Gillingham multi-sensory methodology is not
11 limited to the language fundamentals class for REDACTED?

12 MR. ANDRIANO: Objection.

13 HEARING OFFICER: Let me hear the objection,
14 please? What's the objection, Mr. Andriano?

15 MR. ANDRIANO: There's been no evidence that
16 Orton-Gillingham is a methodology. It's my
17 understanding it's an approach, not a particular
18 methodology.

19 MR. RATNER: I may have used the wrong word.
20 I think Ms. Oliver just explained what it was. If she
21 thinks it's a methodology or an approach or something
22 different than that --

23 BY MR. RATNER:

24 Q. Could you explain more clearly what
25 Orton-Gillingham is, I guess?

1 A. I don't believe I called it a methodology. It
2 is an approach.

3 MR. RATNER: That's my fault, then. I
4 apologize.

5 HEARING OFFICER: All right.

6 BY MR. RATNER:

7 Q. Is the Orton-Gillingham approach limited to
8 the language fundamentals class for REDACTED?

9 A. Its focus in nature is in our language
10 fundamentals class. Multi-sensory instruction is in
11 all classes.

12 Q. That was my confusion and I apologize.

13 Orton-Gillingham is one multi-sensory
14 approach; is that right?

15 A. Yes.

16 Q. There are others?

17 A. There are others.

18 Q. In REDACTED's educational day, am I correct in
19 understanding that she receives multi-sensory
20 instruction throughout the day?

21 A. Yes.

22 Q. Explain to Ms. Freeman what that means for
23 REDACTED?

24 A. I think I did. But it's making sure that
25 information is presented in more than one modality.

1 It's visual. It's auditory. Students have, you know,
2 opportunities to be hands-on. There's the tactile
3 piece to all of it.

4 That also applies to how we assess knowledge.
5 Our students with significant weaknesses, we're not
6 relying on them being able to write a paragraph about
7 content when they can demonstrate that knowledge
8 through a variety of other ways.

9 Q. You mentioned several classes. What are the
10 academic classes that REDACTED is taking again? You said
11 it. I just want to be sure I'm clear.

12 There's language fundamentals.

13 A. Humanities, science, math.

14 Q. So it's four?

15 A. It's four.

16 Q. Does she have a different teacher for each one
17 of those?

18 A. She does.

19 Q. You are the direct supervisor for each of
20 those teachers?

21 A. I am.

22 Q. It's your responsibility to monitor REDACTED's
23 progress in those classes?

24 A. Yes.

25 Q. How often do you touch base with the teachers

1 about REDACTED's progress in those classes?

2 A. Informally, I would say bimonthly. Our school
3 has a practice of a quarterly progress review, where we
4 sit and walk through each student's current performance
5 and progress.

6 Q. Can you say when is the most recent time you
7 have informally touched base with REDACTED's teachers?

8 A. Today.

9 Q. How is REDACTED doing at The New Community School
10 academically?

11 A. REDACTED is doing very well.

12 Q. Would that be reflected on her progress
13 reports?

14 A. It would.

15 Q. I would like you to turn to Tab 79, please?
16 It's Volume 3.

17 HEARING OFFICER: You're on what exhibit?

18 MR. RATNER: 79.

19 BY MR. RATNER:

20 Q. I'd like to you take a look at these
21 documents. It looks to me -- I'm not super familiar
22 with these documents, but it looks to me like the first
23 three pages, 1105 through 1107, is a complete document.
24 Is that correct?

25 A. Yes.

1 Q. Let's focus on that one.

2 MR. ANDRIANO: One second, please.

3 MR. RATNER: While Mr. Andriano's reviewing
4 that, maybe I could ask a different question.

5 MR. ANDRIANO: I'm ready.

6 BY MR. RATNER:

7 Q. Let me back up a little bit. Have you talked
8 to REDACTED's teachers directly about the deficits that she
9 has?

10 A. In her progress reviews, that is usually part
11 of the conversation, is how that is or isn't impacting
12 a student.

13 Q. So is it reflected in this progress report?

14 I just want to make sure Ms. Freeman has a
15 good understanding of what The New Community School has
16 seen as REDACTED's deficits?

17 A. So what this progress report speaks to,
18 number one, grades, but also, the narratives are
19 intended to serve kind of what's happening to -- you
20 know, outside of the grade, what are we seeing? It's
21 kind of the background to the grade.

22 At times, those different deficits can be a
23 part of the narratives. Sometimes if accommodations
24 and modifications are proving successful, you may not
25 see that in there.

1 Q. Based on your monitoring of the teachers who
2 directly instruct REDACTED, do you have an understanding of
3 the deficits they are seeing?

4 A. Can you say that again?

5 Q. Let me just ask you about the progress report
6 and I'll come back to that if I need to.

7 If you could, summarize this progress report
8 for Ms. Freeman, just to make sure?

9 A. Sure. So this first one is her first-quarter
10 progress report. We do a standards-based rating
11 system, which is why you see those numbers.

12 Our whole driving force behind that
13 standards-based grading system is a focus on student
14 mastery. There is no punitive grading. We don't give
15 zeros if there's missing assignments. At any time
16 during the year, we revisit and re-assess as needed.

17 REDACTED's scores and grades, in that first
18 quarter, all fall between 3.2 and 3.9, which are very
19 good grades and indicative of her response to our
20 programming.

21 Q. Does that mean, based on your knowledge of
22 REDACTED, her programming, and The New Community School,
23 that REDACTED, because she's getting good grades in sixth
24 grade, that she is, quote/unquote, on grade level in
25 all these subjects?

1 A. These grades and these narratives and how we
2 assess where she is in her academics, outside of
3 language fundamentals, are all classes that receive
4 accommodations and modifications. And all of those
5 skills are not assessed through the core-content
6 classes. They are targeted in that language
7 fundamentals.

8 Q. Why don't you amplify on that a little bit,
9 just to make sure I'm clearly understanding?

10 What is REDACTED specifically working on language
11 fundamentals, if you know?

12 A. Decoding and coding, handwriting,
13 comprehension.

14 Q. Let me ask you to -- let's move on to the --
15 do you see a second-quarter progress report?

16 A. Yes.

17 Q. Where is that in this tab?

18 A. Right after the first quarter.

19 Q. It's labeled 1108 through 1110; is that right?

20 A. It goes beyond that. It is 1108 to 1112.

21 Q. Let's focus on the middle-school language.
22 Middle-school language fundamentals report of progress,
23 which is -- are you saying that's part of the second
24 quarter?

25 A. It is. That is generated that semester.

1 Q. So there wasn't one of these for the first
2 quarter?

3 A. Correct.

4 Q. And by "these," I mean a language fundamentals
5 report of progress.

6 Could you please walk Ms. Freeman through the
7 middle-school-language-fundamentals report of progress
8 for REDACTED, dated January 2022, and labeled in
9 Parents' Tab 77 as Pages 1111 through 1112?

10 A. Yes. REDACTED, like all of our other students,
11 has an individualized instruction plan, developed by
12 their language-fundamentals teacher, where, based on
13 that student, they identify the goals they'll be
14 working on in language fundamentals.

15 Q. Would it be helpful to look at the
16 individualized instruction plan?

17 That's the tab immediately prior.

18 A. It might. That also includes her suggested
19 accommodations.

20 Q. Flip back, then, to Tab 78, please?

21 Do you recognize this as the individual
22 instruction plan for REDACTED for the current
23 academic year?

24 A. I do.

25 Q. There's been some confusion about a specific

1 page of this document, so this might be the perfect
2 time to clear it up.

3 If you flip to the very last page, what is
4 that page?

5 A. This page is just a chart of standard score
6 equalities.

7 Q. I'm not asking for any expert testimony. Is
8 that a part of the -- is that a part of this document,
9 the individual instruction plan?

10 A. It appears to be. Our middle-school
11 language-fundamentals' chair's name is on it.

12 Q. Okay. That's all about that.

13 Please explain what is reflected in the
14 individual instruction plan for REDACTED?

15 A. Sure. It just encapsulates her language goals
16 and directly informs her teacher on the various areas
17 that they need to target for instruction. It's
18 informative for the rest of her teachers to know
19 additionally what she's working on in those language
20 fundamentals classes. Then also, it's a generator for
21 what accommodations she needs in all of her classes in
22 order to be successful.

23 MR. RATNER: Let's now tie that back. I would
24 like to offer into evidence Tab 78, please,
25 Parents' 78?

1 HEARING OFFICER: Any objection?

2 MR. ANDRIANO: No objection.

3 HEARING OFFICER: Okay. Tab 78 is entered
4 into evidence. That's Parents' Volume 3, Number 78.

5 (Parents' Exhibit 78 was marked for
6 identification and admitted into evidence.)

7 MR. ANDRIANO: Just one except to add to that?

8 HEARING OFFICER: Go ahead.

9 MR. ANDRIANO: That last page,
10 Parents' 001104, I don't believe Ms. Oliver said that
11 that was actually part of that plan. I didn't think
12 she said it was a New Community record because it had
13 P. Bowling on it.

14 HEARING OFFICER: Let me make sure I'm on the
15 right page.

16 MR. RATNER: It's the last page of Tab 78.
17 It's also the one there's been a lot of discussion
18 about over the past couple days.

19 BY MR. RATNER:

20 Q. Ms. Oliver, do you know, is this page that is
21 routinely attached to the individualized education plan
22 at The New Community School?

23 A. Internally, no.

24 Q. Well, what if somebody requests -- what if a
25 parent requests a copy of the individualized education

1 program? You don't know?

2 A. I don't.

3 Q. Is this information, on the last page,
4 important to understand the information that's
5 contained in the individualized instruction program or
6 plan?

7 A. It is for that first page of language
8 performance levels, that references stay lines and
9 percentiles.

10 Q. What I understand you to be saying is -- I
11 don't want to mischaracterize -- if you asked to see
12 REDACTED's individualized education program, this last
13 page, 1104, would not be provided to you?

14 A. Correct.

15 Q. Is it also fair to say that if a parent
16 requested, if the REDACTED requested REDACTED's
17 individualized education plan, you're just not sure if
18 they would receive 1104?

19 A. Correct.

20 MR. RATNER: Does that clarify it enough?

21 MR. ANDRIANO: Yes, it does.

22 HEARING OFFICER: So for my clarification, we
23 are excluding 1104; correct?

24 MR. RATNER: Well, I would like it. I think
25 he objects and I think you're going to have to rule.

1 HEARING OFFICER: Okay. I believe the witness
2 equivocated on whether she recognized -- you recognize
3 it, but you said that it wasn't provided to the
4 parents, and that it would require interpretation.

5 MR. RATNER: Yeah. I think she said she's not
6 sure.

7 HEARING OFFICER: I remember "I'm not sure."

8 MR. RATNER: She's not sure if it goes to the
9 parents.

10 HEARING OFFICER: Didn't she say it goes to
11 the parents if they ask for it, but she doesn't know if
12 the parents asked for it?

13 THE WITNESS: I just said I wasn't sure.

14 HEARING OFFICER: So we're going to exclude
15 1104.

16 MR. RATNER: For now, can we say? Because I'm
17 going to recall Ms. REDACTED, could she potentially
18 address that?

19 HEARING OFFICER: Sure. If they don't object.

20 MR. ANDRIANO: May I make a -- I don't have a
21 problem with that document coming in, just as long as
22 it's clear, per Ms. Oliver's testimony, it's not part
23 of that plan. It's a separate document that teachers
24 or administrators at The New Community School might
25 reference. But if it's not --

1 MR. RATNER: Okay. If it would be helpful for
2 the record or your purposes, Ms. Freeman, we will
3 stipulate to Mr. Andriano's last statement, and that it
4 can come in, then.

5 HEARING OFFICER: You're saying, Mr. Andriano,
6 that the scores, that that's not typically given to the
7 parents. And I think she agreed with that. "She"
8 meaning Ms. Oliver agreed that it was not typically
9 given to the parents, although --

10 THE WITNESS: I said I wasn't sure.

11 HEARING OFFICER: Wasn't sure if it is or not.

12 Do we need to have Ms. REDACTED testify to have
13 it admitted?

14 MR. ANDRIANO: No.

15 HEARING OFFICER: So just put that caveat on
16 with -- I'll just mark a question mark by 1104, that
17 it's not necessarily something that's given to the
18 parents, from your testimony, is what I understood you
19 to mean.

20 THE WITNESS: Yes. May I clarify?

21 HEARING OFFICER: Sure.

22 THE WITNESS: This document is typically
23 reviewed with parents either over Zoom or in person --

24 HEARING OFFICER: So it is shared with
25 parents?

1 THE WITNESS: This information is explained to
2 parents. If this document is sent on its own, I
3 imagine this serves as a way to understand what someone
4 might be looking at. But since this is reviewed in
5 person, this isn't something that happens.

6 HEARING OFFICER: It's not part of the
7 educational plan?

8 THE WITNESS: Correct.

9 HEARING OFFICER: I forget what the term of
10 art is that The New Community School refers to as your
11 plan. For my purpose, I'm going to call it your
12 education plan.

13 THE WITNESS: This is our individualized
14 instruction plan.

15 HEARING OFFICER: Okay.

16 MR. RATNER: I asked some very inartful --

17 HEARING OFFICER: IIP. Go ahead.

18 MR. RATNER: I could have clarified that
19 better. I appreciate everyone's patience as we worked
20 through that.

21 BY MR. RATNER:

22 Q. Let's move to the
23 middle-school-language-fundamentals report on progress.
24 Please explain to Ms. Freeman what's reflected here?

25 A. Starting on 1101?

1 Q. Let's start on 1108 and just briefly go from
2 1108 to 1112.

3 A. So I'm moving away from the IIP, okay.

4 Q. Is there something that you need --

5 A. No. I'm just making sure.

6 Q. So we're on Tab 79.

7 A. So this is the semester-progress report. And
8 at that time, the language-fundamentals teachers give
9 an update on where the students are, where REDACTED is in
10 terms of those language goals outlined in her IIP.
11 There's also a narrative comment section where that
12 teacher can expand on REDACTED's progress.

13 Q. How was REDACTED's progress at the end of the
14 first semester?

15 A. Good.

16 Q. You're seeing she's responding to the approach
17 at The New Community School?

18 A. She is.

19 Q. I notice there were twelve absences in the
20 second quarter. Was that something you were aware of?

21 A. Yes.

22 Q. Was that something you were concerned about,
23 as the director of middle school?

24 A. Yes.

25 Q. Have you had discussions with Ms. REDACTED about

1 that?

2 A. Yes.

3 Q. Just briefly explain that situation to
4 Ms. Freeman?

5 A. REDACTED, not unlike other students, initially had
6 anxiety about coming to school. And in the mornings at
7 times struggled to leave the car to attend for the day.
8 Sometimes that resulted in arriving late and sometimes
9 that resulted in an absence.

10 Q. It looked like it went better in the first
11 quarter than the second quarter, if I'm reading
12 Page 1108 correctly.

13 A. Correct.

14 Q. How many absences in the first quarter?

15 A. Two.

16 Q. How about the second quarter?

17 A. Twelve.

18 Q. Was there anything different between the first
19 and second quarter, to your knowledge, as it related to
20 that?

21 A. Yes. This was some peer conflict.
22 Additionally, returning from long breaks, such as
23 Thanksgiving or winter break, are also problematic or
24 can be.

25 Q. Sure. I don't want to get into specifics

1 about other students, but when you say peer conflict,
2 can you elaborate a tiny bit on that?

3 A. Just some peer conflict, which had some
4 impacts in terms of anxiety and just ability to get to
5 school.

6 Q. Are we currently in the third marking period?

7 A. We are.

8 Q. Do you know how her attendance or absences are
9 going?

10 MR. ANDRIANO: Objection. Best evidence. I
11 think we would have the right to see the actual report.

12 HEARING OFFICER: Is there a written report on
13 her second-semester absences -- wait a minute.

14 This includes the whole thing, includes it
15 all?

16 THE WITNESS: This shows first and second
17 quarter. Our third quarter ends on Thursday.

18 HEARING OFFICER: Could you go through what
19 your quarters are, for my clarification?

20 When I go back over this, I want to be able to
21 correlate these reports to a time frame.

22 Does it tell me that?

23 THE WITNESS: It would show you -- yes, it
24 should. The first quarter has dates at the top,
25 August 24th through October 29th. Our second quarter,

1 the report date is January -- I can't remember the
2 exact date in January of when the second quarter ends.

3 HEARING OFFICER: When you come back from
4 Christmas vacation?

5 THE WITNESS: About three weeks after.

6 And our third quarter will end on March 31st.

7 BY MR. RATNER:

8 Q. Then when does school end?

9 A. June 4th.

10 Q. So did I understand you to say that, because
11 the third quarter hasn't yet completed, there's not an
12 official report that would show the absences and
13 tardies in this summary form as of right now?

14 A. We have internal documents that would show it,
15 but in terms of reporting, no.

16 Q. Again, do you have personal knowledge of her
17 absences and tardies as in the third quarter?

18 A. Without a specific number, yes, I could
19 generalize.

20 MR. ANDRIANO: Objection. Again best
21 evidence. I don't have the opportunity to see the
22 internal documents.

23 HEARING OFFICER: Yeah. Sustained.

24 We can read, and thank you for explaining the
25 quarters, but I believe the document speaks for itself.

1 MR. RATNER: If I could be heard briefly?

2 HEARING OFFICER: Go ahead.

3 MR. RATNER: We're talking about the third
4 quarter, which, this progress report was issued at the
5 end of the second quarter.

6 I was asking her if the problems related to
7 attendance had resolved in any sense in the third
8 quarter.

9 She says she has general knowledge about how
10 REDACTED's attendance has been, general personal knowledge.
11 Mr. Andriano's objection, as I understand it, is it's
12 not quote/unquote the best evidence, but it is
13 certainly within this witness' personal knowledge.

14 I don't think it would be proper grounds to
15 exclude that testimony.

16 HEARING OFFICER: If I understand your report
17 that you submitted, and the report after the second
18 semester, which -- the third quarter ends -- you don't
19 have the ending to the third quarter yet because it's
20 not 3/31. So your information in this report relates
21 to up to through that second quarter.

22 You do have personal knowledge of her
23 attendance in the third quarter?

24 THE WITNESS: Am I being asked if her
25 attendance has improved in the third quarter?

1 MR. ANDRIANO: No.

2 MR. RATNER: That's what I would like to ask.

3 HEARING OFFICER: Is that an objection?

4 MR. ANDRIANO: It is because Ms. Oliver
5 indicated there's internal documents that would show
6 specifically her attendance.

7 HEARING OFFICER: I didn't see anything for
8 the third quarter.

9 MR. ANDRIANO: For the third quarter, correct.
10 While Ms. Oliver --

11 HEARING OFFICER: And we need to have records
12 of that.

13 MR. RATNER: She doesn't have records. I
14 think what he's saying is, there are internal
15 attendance records that he thinks should be -- that
16 because there are internal attendance records,
17 Ms. Oliver should be precluded from offering her
18 personal knowledge. And we disagree with that.

19 HEARING OFFICER: I think I'm going to
20 overrule on that, but I'm going to limit this to if she
21 has factual information about that, which would
22 possibly require that she know REDACTED's whereabouts every
23 day for the third quarter.

24 Is that what you're saying? You've kept track
25 of her attendance?

1 THE WITNESS: We keep track of attendance.
2 And -- it.

3 HEARING OFFICER: Do you know it today, how
4 many absences she's had in the third quarter?

5 THE WITNESS: Off the top of my head, no.

6 HEARING OFFICER: Thank you. So --

7 MR. RATNER: But I thought, with the
8 question she said --

9 HEARING OFFICER: She doesn't have any
10 knowledge of the third quarter.

11 MR. RATNER: We can have the court reporter
12 read it back, but she said she has personal knowledge
13 as to whether it has improved from the twelve absences.
14 She just doesn't know exactly how many.

15 HEARING OFFICER: I'm going to sustain the
16 objection because it sounds like she has a general
17 idea, like we all have a general idea. But as far as
18 testifying from memory about what the actual absences
19 are, she says she doesn't know.

20 I understand the best evidence of that would
21 be the actual attendance record, which, I will say are
22 very confusing sometimes, for persons who don't know
23 what they're reading, to read. So it may be better to
24 have her testify personally with the record in front of
25 you.

1 But for our purpose today, I'm going to
2 sustain the objection and move on.

3 MR. RATNER: Very good. I understand your
4 ruling.

5 BY MR. RATNER:

6 Q. Was there anything else in Pages 1108 through
7 1112 that is specifically relevant to REDACTED's progress,
8 that you would like to highlight for us?

9 You can feel free to say no.

10 A. Just highlighting the narrative comments that
11 speak to the successes that she's experiencing, both
12 content classes as well as language fundamentals,
13 particularly the commentary by her
14 language-fundamentals teacher that goes a little bit
15 further into that progress.

16 MR. RATNER: Thank you. We would like to move
17 1108 through 1112 into evidence?

18 HEARING OFFICER: Any objection, Mr. Andriano
19 or Ms. Owens?

20 MR. ANDRIANO: No objection.

21 HEARING OFFICER: Parents' Volume 3,
22 Exhibit 79 is admitted.

23 (Parents' Exhibit 79 was marked for
24 identification and admitted into evidence.)

25 MR. ANDRIANO: Well, it's specific pages --

1 MR. RATNER: No, because we did the first
2 three pages first. So it's now in total.

3 MR. ANDRIANO: I stand corrected.

4 HEARING OFFICER: So for my purpose, let's go
5 through the entire document. It starts at 1105 to
6 1112.

7 MR. RATNER: We took the first three pages
8 first, and then we did the rest.

9 HEARING OFFICER: All right. Move ahead
10 please.

11 BY MR. RATNER:

12 Q. Last two subject matters. Is REDACTED working on
13 cursive handwriting?

14 A. She is.

15 Q. Based on your experience as a public school
16 teacher, and again understanding that you've never
17 worked in Chesterfield County, are public schools
18 generally working on cursive handwriting these days?

19 A. Not in my experience.

20 Q. Why did The New Community School think REDACTED
21 might respond to instruction in cursive handwriting?

22 A. Rate.

23 Q. What does that mean?

24 A. Being able to write more in cursive than in
25 print, in terms of pacing.

1 HEARING OFFICER: Is rate an acronym?

2 THE WITNESS: No. Her rate, speed, rate, the
3 rate of being able to produce.

4 HEARING OFFICER: In cursive writing?

5 THE WITNESS: Yes.

6 BY MR. RATNER:

7 Q. I'm not an educator, but is that because
8 that's the letters flow together, that's what enables
9 people to increase the rate?

10 A. Yes. Additionally in cursive, the words are
11 all connected, which eases spelling-rule retention.
12 And also for students with dyslexia, you know, all
13 letters start on the baseline. And therefore,
14 reversals are less common.

15 Q. Thank you, Ms. Oliver. I think I have just
16 one last question and I may botch this. Does The
17 New Community School have a saying or motto that is
18 something to the effect of go as fast as you can, but
19 as slow as you need?

20 A. Yes. We go as fast as we can and as slow as
21 we must.

22 Q. Thank you. Could you explain to Ms. Freeman
23 how that relates to REDACTED at The New Community School?

24 And if you're able to, distinguish it from
25 what a sixth grader in the public school experiences,

1 within your personal experience?

2 A. Great. Just with our class sizes, I think her
3 biggest content class has seven kids, including her in
4 it. Her math class has seven kids, but two math
5 teachers. And language fundamentals, of course, has
6 just one other student.

7 We're able to really individualize her
8 instruction and provide a very significant level of
9 differentiation. A way to explain this for REDACTED
10 specifically would be in math. We have our own math
11 program, individualized and self-paced. So REDACTED is not
12 waiting for other students to arrive at mastery and
13 other students are not waiting for REDACTED to arrive at
14 mastery before they continue.

15 This has been a tremendously impactful set-up
16 for REDACTED. She will be on target to be in Algebra 1 as
17 a seventh grader, and therefore, Algebra 2 as an
18 eighth grader. So I think I answered it.

19 Q. I think so, too.

20 MR. RATNER: Those are all my questions.
21 Mr. Andriano will have some questions for you.

22 Would you like to take a break first or are
23 you okay?

24 MR. ANDRIANO: Let's take a short break.

25 HEARING OFFICER: We're going to take a

1 five -- until 12.

2 (A recess was taken between 11:53 a.m. and
3 12:03 p.m.)

4 HEARING OFFICER: Let's move forward. We are
5 on Day 5 with Ms. Oliver. We're at the point where the
6 parents' counsel has examined Ms. Oliver and we're
7 going to move forward with the cross-examination of
8 Julie Oliver, who is -- I don't remember your exact
9 title, but she is an employee of The New Community
10 School.

11 CROSS EXAMINATION

12 BY MR. ANDRIANO:

13 Q. Good afternoon. My name is Patrick Andriano.
14 I'm one of school board's attorneys. I'm just going to
15 ask you some questions in line with what Mr. Ratner
16 asked you.

17 You work for The New Community School;
18 correct?

19 A. Correct.

20 Q. The New Community School accepts tuition
21 payments from parents, which your school relies on;
22 correct?

23 A. On tuition payments, yes.

24 Q. Particularly with REDACTED, is she on a
25 scholarship at The New Community School?

1 A. I am not part of our financial-aid committee,
2 so I can't speak to if she is or is not.

3 Q. Fair enough. You had mentioned your
4 familiarity with REDACTED, being part of her
5 admissions committee and head of the middle school?

6 A. Yes.

7 Q. Have you, personally taught REDACTED?

8 A. No.

9 Q. Have you, personally evaluated REDACTED?

10 A. No.

11 Q. Have you attended any of her IEP meetings
12 through Chesterfield County Public Schools?

13 A. No.

14 Q. As part of that admissions process, did you
15 speak with any of REDACTED's teachers?

16 A. Prior teachers?

17 Q. Any teachers. Did you speak with any of her
18 teachers as part of that admissions process?

19 A. No. That's not my role.

20 Q. If I could, let's spend a few minute and talk
21 about The New Community School.

22 The New Community School -- correct me if I'm
23 wrong -- is located in Richmond, Virginia?

24 A. Yes.

25 Q. Are you aware that REDACTED lives in

1 Chesterfield County, Virginia?

2 A. Yes.

3 Q. You indicated, and I hope I got it down
4 correctly, The New Community School serves students
5 that either have dyslexia or related learning
6 differences?

7 A. Yes.

8 Q. That's a prerequisite for admission into
9 The New Community School?

10 A. Yes.

11 Q. There are no students there at The New
12 Community School that don't have either dyslexia or
13 related learning differences?

14 A. Yes.

15 Q. That's accurate?

16 A. I believe so.

17 Q. The New Community School's known for its
18 college-preparatory curriculum; correct?

19 A. Yes.

20 Q. You had mentioned that you're individually
21 licensed by the Virginia Department of Education?

22 A. Yes.

23 Q. New community school is not licensed by the
24 Virginia Department of Education to serve students with
25 disabilities; correct?

1 A. We are through the VCPE, which is under the
2 Virginia Department of Education.

3 Q. Your testimony today is that you are licensed
4 through the Virginia Department of Education?

5 A. We're not directly underneath Virginia Board
6 of Education, but they are -- I don't know what the
7 term is. But because we are through VCPE.

8 Q. Let me ask it this way. Is The New Community
9 School accredited to serve students with disabilities
10 by the Virginia Board of Education?

11 A. I can't speak to that.

12 Q. I thought you were in charge of the middle
13 school.

14 A. Can you ask me a more specific question?

15 Q. Sure. Let me do this. Can you find the
16 school board exhibit binder?

17 MR. RATNER: Do you mind if I just assist her?

18 HEARING OFFICER: School board what number?

19 MR. ANDRIANO: I'll do --

20 MR. RATNER: No, no. You stay there.

21 Is that okay with you, Ms. Freeman?

22 HEARING OFFICER: Yes.

23 MR. ANDRIANO: School Board 76.

24

25

1 BY MR. ANDRIANO:

2 Q. Is the title of that document Directory of
3 Virginia-Licensed Private Schools for Students with
4 Disabilities?

5 A. Yes.

6 MR. ANDRIANO: For the record, Ms. Freeman,
7 School Board 76.

8 HEARING OFFICER: I'm on it.

9 MR. RATNER: Ms. Freeman, I'm a little bit
10 confused to where we are. Are we talking about
11 accreditation or licensure?

12 HEARING OFFICER: We'll get him to clarify.
13 If you would, when we get this exhibit out -- and this
14 is School Board Exhibit 76 counsel directed us to,
15 which is the Directory of Virginia-Licensed Private
16 Schools For Students With Disabilities. It appears to
17 be like a handbook.

18 But is this information that's distributed by
19 the Virginia Department of Education?

20 MR. ANDRIANO: Yes, it is.

21 MR. RATNER: Yes. I don't know that this is
22 complete. I don't want where this came from. I don't
23 think there's been a foundation for this or it's been
24 authenticated.

25 MR. ANDRIANO: It's already been admitted into

1 evidence.

2 MR. RATNER: That's right, but that doesn't
3 mean it's proper for him to ask questions about it to
4 this witness.

5 HEARING OFFICER: Let's give the witness a
6 little bit more time to understand what she's being
7 asked about.

8 So if you would, lay a foundation. And if she
9 has knowledge, that's permissible.

10 BY MR. ANDRIANO:

11 Q. Ms. Oliver, can you please take a look at
12 Page 1 of the cover page of this document?

13 A. Yes.

14 Q. Is that entitled Directory of Virginia-License
15 Private Schools for Students with Disabilities?

16 A. It is.

17 Q. If I can turn your attention to Pages 2
18 through 5?

19 Is The New Community School listed in this
20 document?

21 A. It is not.

22 MR. RATNER: So School Board Exhibit 356 to
23 359?

24 MR. ANDRIANO: It's Bates-labeled School Board
25 00356 to 000359.

1 BY MR. ANDRIANO:

2 Q. Do you see those pages?

3 A. I do.

4 Q. Is The New Community School listed in this
5 document?

6 A. It is not.

7 Q. Are you familiar with this document, by the
8 way?

9 A. I'm aware of its existence. Have I gone
10 through it? No.

11 Q. You testified earlier that you've been a
12 special-education teacher in Goochland, Hanover, and
13 one other location.

14 So you are familiar with this particular
15 document; correct?

16 A. Yes.

17 HEARING OFFICER: May I look it over to see
18 for myself where -- I hope I'm understanding this
19 correctly. It says, it goes Spiritose School at 124,
20 then Three Rivers Academy.

21 So if the school was licensed, then it would
22 be under this list; is that correct?

23 MR. ANDRIANO: Yes. If it's licensed to serve
24 students with disabilities in Virginia.

25 MR. RATNER: I would object to that. I don't

1 know that that's true. There's been no foundation laid
2 for that. That's Mr. Andriano's opinion.

3 HEARING OFFICER: Do you want to give me more
4 foundation on this document?

5 BY MR. ANDRIANO:

6 Q. Ms. Oliver, if I could direct your attention
7 to School Board Exhibit 1? It's the first tab in that
8 document.

9 HEARING OFFICER: What would be Bates 355?

10 MR. ANDRIANO: In particular, Page 3 of that
11 document, which is School Board 000005.

12 BY MR. ANDRIANO:

13 Q. Do you see that letter, Ms. Oliver?

14 A. I do.

15 Q. Do you recognize who this letter was written
16 by?

17 A. Yes.

18 Q. Who was it written by?

19 A. Our head of school.

20 Q. Which is who?

21 A. Nancy Foy.

22 Q. Does it indicate she's requesting to be
23 released from licensure by the Virginia Department of
24 Education?

25 MR. RATNER: Objection. He hasn't established

1 she has personal knowledge of this document.

2 HEARING OFFICER: I'm still trying to find the
3 letter. Tell me again the letter?

4 MS. OWENS: School Board Exhibit 1.

5 HEARING OFFICER: Hopefully I'm on the right
6 spot. Did you say Page 5 of this?

7 MR. ANDRIANO: It is Page 5, yes.

8 MR. RATNER: I thought we were on Page 3.
9 We're on 5?

10 MR. ANDRIANO: I'm sorry. It's Page 5.

11 MR. RATNER: So a letter from Mr. Millward?

12 MR. ANDRIANO: It's a letter to Mr. Millward
13 from Ms. Foy.

14 MR. RATNER: Is it dated December 21st?

15 MR. ANDRIANO: January 11, 2019.

16 MR. RATNER: I don't have that in this tab.

17 HEARING OFFICER: You want to give him a copy
18 of that?

19 I have January 11, 2019 letter from Nancy Foy
20 to Mr. Millward.

21 MR. RATNER: I've got it. Thanks. It's been
22 a long week.

23 BY MR. ANDRIANO:

24 Q. Do you recognize the signature on this page as
25 Ms. Foy's?

1 A. Yes.

2 Q. Is she writing to Mr. Millward requesting that
3 The New Community School be released --

4 MR. RATNER: Objection; assumes facts not in
5 evidence. Nobody's talked about this document. It's
6 not to or from her. And I don't know that she has any
7 personal knowledge of it.

8 HEARING OFFICER: Do you recognize Ms. Foy's
9 signature?

10 THE WITNESS: I do.

11 HEARING OFFICER: Is that Ms. Foy's signature.

12 THE WITNESS: To my knowledge, it is.

13 MR. RATNER: If I could be briefly heard? So
14 you can read the letter. That's great. It's in
15 evidence. I'm not sure she's a proper witness to speak
16 to what the letter says.

17 HEARING OFFICER: I can read the letter, for
18 everyone's clarification. I can still read.

19 So let's move forward.

20 MR. ANDRIANO: I'm trying to figure out -- can
21 she answer the question?

22 HEARING OFFICER: Yes. I was writing my
23 notes.

24 MR. RATNER: I have an objection. Maybe we
25 can have the court reporter read it back. I thought

1 you said you can read this, he doesn't need to question
2 her about this document.

3 HEARING OFFICER: He had an additional
4 question.

5 MR. ANDRIANO: No. I thought you said she
6 could read the document. Was your ruling that she
7 could read this letter?

8 HEARING OFFICER: Yes.

9 BY MR. ANDRIANO:

10 Q. Is Ms. Foy asking Mr. Millward to release The
11 New Community School from licensure?

12 A. That's what she appears to be doing. Yes.

13 HEARING OFFICER: I don't know if I expressed
14 that properly, but I got it.

15 BY MR. ANDRIANO:

16 Q. Since you're in charge of the middle school,
17 you all don't have the Virginia Department of Education
18 come in and conduct monitoring of your school; do you?

19 A. Correct.

20 Q. You don't have to have your policies reviewed,
21 submitted and reviewed to the Virginia Department of
22 Education; do you?

23 A. Not that I'm aware of.

24 Q. Let's spend a few minutes and talk about the
25 admissions meeting that you had with Mr. and Ms. REDACTED.

1 We already admitted that admissions packet into
2 evidence.

3 Did Mr. and Ms. REDACTED ever indicate to the
4 admissions committee that REDACTED had a diagnosis of
5 dyslexia?

6 MR. RATNER: Objection; relevance.

7 MR. ANDRIANO: You know why it's relevant.
8 We've heard testimony throughout this hearing from --

9 HEARING OFFICER: I'm confused about why you
10 think this is not relevant. Isn't that where a lot of
11 the dispute is, about whether or not the child has
12 dyslexia? I was not aware that she had been diagnosed
13 with dyslexia.

14 MR. RATNER: We've never asserted she has
15 been.

16 MS. RATNER: I'll just try to explain. So I
17 believe this is consistent with Chesterfield County
18 Schools, that dyslexia is a medical diagnosis. So that
19 diagnosis doesn't necessarily drive any of the
20 services. There's not a dyslexia category of
21 disability.

22 So dyslexia may be among the category SLD,
23 which stands for specific learning disability. That's
24 why we would -- whether or not -- if REDACTED's parents
25 went to Chesterfield and said, She has this medical

1 diagnosis of dyslexia, they would say that doesn't
2 matter. It's her functional ability.

3 MR. ANDRIANO: That's not accurate.

4 MS. RATNER: Well, I'll bring in e-mails. Her
5 functional ability to read and write is what is being
6 remediated, regardless of the diagnosis. So that's --
7 whether she's had a medical diagnosis of dyslexia does
8 not mean -- or not mean that she doesn't have --

9 HEARING OFFICER: I understand.

10 MS. RATNER: Okay. The deficits that they
11 address.

12 MR. ANDRIANO: If Mr. and Ms. Ratner will
13 stipulate that she doesn't have dyslexia, I'll withdraw
14 the question.

15 MR. RATNER: We'd be willing to stipulate that
16 she has not received an official medical diagnosis of
17 dyslexia. We would be willing to stipulate to that.
18 Whether or not she has the condition --

19 (Discussion off record.)

20 HEARING OFFICER: Let me get the stipulation
21 down properly. The stipulation, you agree that there
22 has been no -- tell me exactly --

23 MS. RATNER: A physician has not diagnosed
24 REDACTED with dyslexia. All of REDACTED's categories have been
25 educational determinations. A lot of the documents in

1 the school board's exhibits will reference her as
2 having dyslexia, but we -- it's our position that it
3 does not matter.

4 Her deficits are her deficits, regardless of
5 the medical diagnosis. I believe Ms. Oliver testified
6 that -- I don't think The New Community School requires
7 a medical diagnosis of dyslexia, or I guess REDACTED
8 wouldn't be there. It's more, Are these the functional
9 impairments that they work on there?

10 So that's why we would say -- and we'll
11 stipulate -- you know, for example, say there's a
12 family that may not have taken their child to the
13 doctor, but the child still can't -- it has certain
14 deficits, that they fall within the category of SLD.

15 So that's why we would say that that medical
16 diagnosis is not material, but we would stipulate that
17 she does not have a medical diagnosis.

18 MR. RATNER: Yes. I think Ms. Ratner has,
19 once again much more clearly articulated it than I did.

20 HEARING OFFICER: My stipulation says -- and
21 correct me if I'm wrong -- no one has diagnosed REDACTED
22 with dyslexia.

23 MR. RATNER: No. There is no -- our
24 stipulation is that REDACTED has never received a medical
25 diagnosis for dyslexia.

1 MR. ANDRIANO: We don't stipulate to that.
2 She has no diagnosis of dyslexia.

3 And just so we're --

4 HEARING OFFICER: My first reading -- of what
5 I interpreted both of your sides to say -- was, no one
6 has diagnosed REDACTED with dyslexia, is correct.

7 MR. RATNER: And we would add that dyslexia is
8 a medical diagnosis.

9 MR. ANDRIANO: We are not adding that.

10 Ms. Oliver didn't testify to this. This has
11 been brought up in Mr. and Ms. REDACTED's case earlier,
12 with other witnesses. I wanted to make it clear while
13 we have Ms. Oliver here.

14 HEARING OFFICER: Dyslexia is a medical
15 diagnosis.

16 MR. ANDRIANO: We don't agree to that part of
17 the stipulation.

18 HEARING OFFICER: You don't agree to that?

19 I thought it was diagnosed by a
20 speech-language doctorate in speech pathology or
21 something of that nature.

22 Anyway, school system does not agree that
23 dyslexia is a medical diagnosis. Is that correct?

24 MR. ANDRIANO: The stipulation we will agree
25 to is, no one has diagnosed her with dyslexia.

1 MS. RATNER: We wouldn't agree to that. So
2 we'll just remain in dispute.

3 HEARING OFFICER: You do or do not agree?

4 MS. RATNER: We do not agree with the
5 statement that no one has diagnosed REDACTED with dyslexia.

6 HEARING OFFICER: So there's no stipulation.
7 Let's move on.

8 BY MR. ANDRIANO:

9 Q. I don't know if you answered that question,
10 but during that admission's committee, was that
11 discussed?

12 MR. RATNER: I believe we objected and you
13 sustained it. Then we tried to work out a stipulation.

14 HEARING OFFICER: I don't recall exactly where
15 we were, but if that's your recollection, I guess
16 that's accurate.

17 Do you dispute that that's accurate?

18 MR. ANDRIANO: That the objection was
19 stipulated?

20 HEARING OFFICER: No.

21 I think we all agreed that we don't have a
22 stipulation; correct?

23 MR. ANDRIANO: I thought we did.

24 HEARING OFFICER: Ms. Ratner says we don't,
25 really.

1 MS. RATNER: Right. On the broad end --

2 HEARING OFFICER: And you believe I sustained.

3 MR. RATNER: My objection to him asking her
4 this question. He's about to ask it again.

5 HEARING OFFICER: Let me hear that question
6 again?

7 MR. ANDRIANO: Ms. Freeman, the stipulation we
8 all agreed to is, there's no medical diagnosis of
9 dyslexia?

10 MS. RATNER: Yes.

11 HEARING OFFICER: Let me write that down.

12 MS. RATNER: But we don't agree there's no --
13 I mean, I don't know if "diagnosis" is the right word
14 when --

15 HEARING OFFICER: Medical opinion.

16 MS. RATNER: We agree there is no person with
17 a medical doctor's credentials, which I'm having
18 trouble coming up with common words.

19 HEARING OFFICER: I'm not exactly sure what
20 the name of the person is. It's some four-syllable
21 word that I can't recall now. But it's a person who
22 has a doctorate, who diagnoses various aspects of
23 dyslexia.

24 And there are probably a hundred different
25 aspects of dyslexia that a person with a doctorate

1 would test in order to come to that conclusion, that
2 the child either has it or doesn't have it. There are
3 many individuals who claim to diagnose a child with
4 dyslexia, but there are differentiating tests, at least
5 this is my understanding. There are so many different
6 levels of testing that go into dyslexia. But my
7 experience has been that the doctor, the person who has
8 the doctorate, with a master's, determines.

9 MR. ANDRIANO: I think we have a stipulation.

10 MR. RATNER: Yeah.

11 HEARING OFFICER: No medical diagnosis of
12 dyslexia.

13 MR. RATNER: So stipulated.

14 MR. ANDRIANO: Thank you.

15 HEARING OFFICER: Let me read it. The
16 stipulation is: There is no existing medical diagnosis
17 of dyslexia.

18 MR. RATNER: The parents stipulate to that.

19 MR. ANDRIANO: Thank you.

20 BY MR. ANDRIANO:

21 Q. Ms. Oliver, sticking with that admissions
22 testing and the conference you had, did you all discuss
23 with the REDACTED that REDACTED became frustrated during the
24 admissions testing?

25 A. During the admissions committee meeting?

1 Q. Yes, ma'am.

2 A. I don't know if it was directly discussed, but
3 that admission-summary report goes to all committee
4 members. So we would have all read that.

5 Q. That admissions-summary report indicates that
6 she was frustrated during the testing?

7 A. Without it in front of me, I can't say, but I
8 believe it did.

9 MR. RATNER: Ms. Freeman, I'm so sorry. Could
10 you -- if he could speak up a little louder?

11 HEARING OFFICER: Sure.

12 MR. RATNER: I know he has no trouble doing
13 that.

14 MR. ANDRIANO: That was Parents' Exhibit 79?

15 THE WITNESS: Can I go back to it?

16 BY MR. ANDRIANO:

17 Q. Yes. It's that additional document that we
18 supplemented into the exhibit binder. I just want to
19 make sure we're clear for the record. The supplemented
20 page?

21 MS. OWENS: 77.

22 MR. RATNER: The one you kindly copied for us?

23 MR. ANDRIANO: Yes.

24 MR. RATNER: It's Parents' 77.

25 HEARING OFFICER: Okay. What page am I on?

1 MR. ANDRIANO: Not that one, Ms. Freeman.

2 MS. OWENS: Is it the packet that looks like
3 this?

4 MR. ANDRIANO: I'll just hand it up. I'll
5 show Mr. Ratner first.

6 HEARING OFFICER: Go ahead.

7 MR. RATNER: Thank you.

8 MR. ANDRIANO: This was the supplemental
9 parents' exhibit, 77.

10 HEARING OFFICER: All right. I'm there.

11 BY MR. ANDRIANO:

12 Q. Ms. Oliver, I was just asking whether this
13 information was shared with the REDACTED during the
14 admission committee meeting that you had?

15 A. The issues to consider recommendations? Which
16 part?

17 Q. Yes, ma'am.

18 A. No --

19 Q. I'm sorry. Admissions committee summary
20 report, Page 4.

21 A. Those narrative comments are used in the
22 committee meeting. There may have been aspects of what
23 we observed, shared, but this is not shared.

24 Q. So when you were with that committee, the
25 committee discussed these items?

1 A. Yes.

2 Q. Did you discuss that REDACTED become frustrated
3 during that admissions committee testing?

4 A. I don't specifically recall, but it would have
5 been shared.

6 Q. If you take a look at that first paragraph on
7 Page 4, last sentence, does it indicate: Her
8 frustration with her self was very obvious?

9 A. It does.

10 MR. RATNER: I'm sorry. I'm having trouble
11 finding it. Page 4 in that box, first paragraph?

12 MR. ANDRIANO: First paragraph, Page 4, last
13 sentence.

14 MR. RATNER: Thank you.

15 BY MR. ANDRIANO:

16 Q. Then if I could direct your attention to that
17 second paragraph, third-to-last sentence. Does it
18 indicate that REDACTED, testing was really stressing her?

19 A. Which part? Can you say that again?

20 Q. Third paragraph, third-to-last sentence.

21 A. Yes.

22 Q. Did the committee discuss that REDACTED did not
23 complete the whole assessment?

24 A. Yes.

25 Q. Did the committee discuss the fact that the

1 testing had to be stopped, and REDACTED had to go to the
2 parking lot to meet with her mother?

3 A. I don't remember a specific discussion, but
4 everybody would have read that. Everyone reviews this
5 before we even meet.

6 Q. So the committee would have considered all
7 that information?

8 A. Yes.

9 Q. I direct your attention to parents' -- staying
10 with that same exhibit, if you go to the first page?

11 You had provided some testimony about the Wide
12 Range Achievement Test.

13 A. What I was allowed to, yes.

14 Q. I'm not -- let's be clear, I'm not asking for
15 your opinion. The New Community School conducted the
16 Wide Range Achievement Test 4; is that correct?

17 A. Yes.

18 Q. Are you aware that the Wide -- which is called
19 the "WRAT"; right? That's the acronym?

20 A. Yes.

21 Q. WRAT-4 has been outdated since 2017?

22 A. I can speak to that. We now use the WRAT-5.

23 Q. But for REDACTED's case, The New Community School
24 used the WRAT-4?

25 A. We did. My understanding, there's an updating

1 of norms, et cetera.

2 Q. That's what typically happens; right? The
3 standards sometimes change and the norms are updated?

4 A. Yes.

5 Q. I'll leave it there.

6 If we could look at her individual instruction
7 plan, I believe that was Parents' 78, individualized
8 instruction plan.

9 Just help me understand, Ms. Oliver, looking
10 at the second page of that document, where it
11 references language performance levels, and again it
12 indicates the WRAT-4 was used, as well as the grade.

13 Those assessments that are referenced on that
14 page were conducted in October of 2020; correct?

15 A. Yes.

16 Q. But REDACTED didn't start at The New Community
17 School until when?

18 A. August of 2021.

19 Q. That was the basis for this individual
20 instruction plan?

21 A. Yes. Because of rules around admission, you
22 can only give this so often.

23 Q. My point being, she was, in October 2020, in
24 the beginning of her fifth-grade year?

25 A. Yes.

1 Q. When she was starting with this individual
2 instruction plan, she was starting in her sixth-grade
3 year?

4 A. Yes. I understand that.

5 I'm just explaining why we use those.

6 Q. I understand.

7 If you could, look at Parents' 001103. It's
8 the accommodations section. I think you referenced
9 this earlier?

10 A. Yes.

11 Q. Does it indicate that she has speech-to-text
12 for all courses?

13 A. Yes.

14 Q. Does it indicate that tests are read aloud or
15 audio version?

16 A. Yes.

17 Q. For all courses?

18 A. Yes.

19 Q. That would include her reading class?

20 A. There are not tests, academic tests given in a
21 language test.

22 Q. What about the humanities class?

23 A. Yes.

24 Q. The humanities class, at least according to my
25 reading of your material, would be her English class?

1 A. Yes.

2 Q. This individual education plan doesn't include
3 any math goals for REDACTED; correct?

4 A. Correct.

5 Q. Doesn't include a social-skills goal for her?

6 A. Correct.

7 Q. And there's no coping-skills goals in there,
8 either?

9 A. Correct.

10 Q. The middle-school program that you had spoken
11 about, you had mentioned particularly the math class
12 that REDACTED is in. If you didn't say this, I apologize,
13 but she's in IMPACT math?

14 A. Yes.

15 Q. That's I-M-P-A-C-T. According to my reading
16 of your materials, there's IMPACT 1 and IMPACT 2.

17 Which level is she in?

18 She is, I believe, out of 2. There's a third
19 section that is primarily Algebra-1 prep.

20 Q. Is she in the Algebra-1 prep section?

21 A. I don't know specifically where she is today,
22 but I believe she is.

23 Q. You don't know, though?

24 A. No.

25 Q. So she would have started where in IMPACT 2?

1 A. I'm not sure. We start with a diagnostic. If
2 I can go back to her progress report, I could probably
3 tell you.

4 Q. Let's do that.

5 MR. RATNER: That's 79, Parents' 79.

6 HEARING OFFICER: In Volume 3?

7 MR. RATNER: Yes, ma'am.

8 BY MR. ANDRIANO:

9 Q. Are you there, ma'am?

10 A. And I can answer. Yes, she would have started
11 within 1, but not at the very beginning. She started
12 with fractions, decimals, and percents, which is
13 probably, in terms of our units, 1 going 1 through 6, 2
14 being 7 through 12. She probably started at 3.

15 Based on her semester-progress report, it
16 indicates that she would move into studying order of
17 operations by the end of the quarter. I anticipate she
18 is done with 2 and is in the third.

19 Q. But she's not yet in algebra class?

20 A. No. We wouldn't start that mid year.

21 Q. Sticking with that progress report for a
22 second and particularly, if you would look at Parents'
23 001108, you had mentioned that REDACTED had twelve absences
24 in Quarter 2.

25 A. Yes.

1 Q. So she's had fourteen absences this school
2 year so far, according to this report?

3 A. According to this report, yes.

4 Q. In preparation for today, you reviewed her
5 records; is that right?

6 A. Yes.

7 Q. In addition to these absences here, she's had
8 tardies, over seven tardies; correct?

9 MR. RATNER: Ms. Freeman, we had a lot of
10 colloquy on this document. Mr. Andriano, in fact, had
11 the objection to its lack of completeness. So I don't
12 know why now we're going back over it, or I should at
13 least be allowed to resume.

14 HEARING OFFICER: I don't know either.

15 MR. ANDRIANO: I don't believe we covered
16 tardies.

17 BY MR. ANDRIANO:

18 Q. She's had at least seven tardies here;
19 correct?

20 A. Yes, sir.

21 Q. Is that concerning to you as an administrator?

22 A. I don't know that it is.

23 Q. Isn't that almost three weeks of school
24 missed?

25 A. For seven tardies?