

CALIFORNIA ADVISORY COMMITTEE
TO THE
U.S. COMMISSION ON CIVIL RIGHTS

OPEN MEETING ON EDUCATION

VOLUME IV

June 26-27, 1975

Sacramento, California

BOULEY, SCHLESINGER, PROFITT & DICURTI

Official Court Reporters

187 North Church Avenue

Tucson, Arizona

CCR
3
Meet.
308
v.4

CCR.
3
meet.
308
v.4

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

VOLUME IV

| <u>SPEAKER</u> | <u>PAGE</u> |
|------------------------------|-------------|
| MR. JOE JIMENEZ, CHAIRPERSON | 441 |
| Mr. Gilbert M. Oster | 441 |
| Ms. Teresa Perez | 459 |
| Mr. Ling Chi Wang | 491 |
| Mr. John Ernesto Palomino | 516 |
| Mr. Jack Ross | 580 |
| Dr. Peter Wang | 600 |
| Ms. Delia Cardenas | 611 |
| Mr. J. Oswaldo Asturias | 618 |

1 AFTERNOON SESSION

2 June 27, 1975

3
4 (Mr. Joe Jimenez was Chairperson for the following
5 session)

6
7 THE CHAIR: The open meeting on education by the
8 California Advisory Committee to the United States Commis-
9 sion on Civil Rights will reconvene.

10 Our first witness this afternoon, appearing for
11 Mr. Deddeh, who I understand is on the floor of the
12 assembly, is Gil Oster, so Gil, if -- I understand you
13 have a statement, if you'd go ahead and make that.

14
15
16 MR. GILBERT M. OSTER

17 A (By Mr. Oster) Thank you, Mr. Chairman, Members of
18 the Committee. Assemblyman Deddeh is unfortunately detained
19 in session because of the last minute legislative business,
20 and has asked me to present his statement for him.

21 I have worked with Mr. Deddeh since 1969 in various
22 committee assignments, and was consultant to the education
23 committee prior to that time.

24 What follows is a statement of Assemblyman Wadie P.
25 Deddeh, 80th District, California Legislature.

1 Mr. Chairman and Members, it's a pleasure for me to
2 have an opportunity to present this statement as part of
3 your record. As a former teacher at the Army Language
4 School, a public high school and a community college, I
5 have a great personal interest in all educational matters.

6 I am also, as many of you can guess from my name, a
7 naturalized American Citizen, having emigrated from Iraq
8 shortly after World War II. And, if it may enlighten the
9 committee, I might add that I and my forebearers are known
10 as Chaldeans in Bagdad, which is a fairly small group
11 who turned to Christianity many centuries ago. Thus, we
12 also have existed as a religious minority in a majority
13 world, and reasonably at peace with the dominant culture.

14 I was graduated from the University of Bagdad and
15 took an advanced degree at the University of Detroit. I
16 am married to a native American who is also a teacher, and
17 we have a fine son who was just graduated from high school.

18 Mr. Chairman, I have long been interested in education
19 from a bilingual standpoint, not only because of my own back-
20 ground, but because I happen to represent that part of
21 California which lies next to the Mexican border, north of
22 Tijuana. As such, we are a transmission point for many
23 immigrants.

24 I would point out, however, that my own assembly
25 district is not particularly populated by citizens of

1 Mexican heritage. In fact, it is underpopulated according
2 to state averages. The population, as you know, is concen-
3 trated to the north, in San Diego, in Los Angeles and
4 in the San Joaquin Valley.

5 Nevertheless, as the symbolic representative, per-
6 haps, of the border district, I have sponsored legislation
7 that I believe is necessary, not only for the Spanish-
8 speaking children of California, but for the whole domestic
9 economy and the social system.

10 At the moment, I am carrying legislation, Assembly
11 Bill 404, which seeks to resolve a particular problem that
12 is not really of statewide significance, but it is very im-
13 portant to the parents of the educably retarded children
14 who are forced to ride overcrowded city buses to get to
15 school.

16 Ordinarily, a school district operates its own school
17 bus system, and the state law requires that each and every
18 student have a seat on the bus. There is, therefore, no
19 problem with the educable retarded children, because they
20 are generally able to take care of themselves in such a
21 controlled situation.

22 However, the San Diego and Oakland School Systems,
23 to name a couple, do not offer regular school bus service,
24 and in San Diego, at least, the city buses around school
25 starting and ending time, are socrowded that these somewhat

1 retarded children are packed into what amounts to a
2 temporary sardine can.

3 Unfortunately, some of the other, so-called normal,
4 children have occasionally taken advantage of the relative
5 incapacity of these EMR's, and that is the reason we are
6 asking for the passage of AB404.

7 The bill would subsidize the few districts like San
8 Diego and Oakland to operate a special bus service for the
9 EMR's, the same as they currently do under state subvention
10 for the severely, or trainable mentally retarded.

11 My interest in the school programs for the retarded
12 is actually more or less of an offshoot from my interest
13 in the problems of non-English-speaking children.

14 Not having been a teacher in the special education
15 field, I was personally unaware that a seemingly dispro-
16 portionate number of Spanish surnamed children were being
17 placed in the EMR classes around the state. This was
18 brought to my attention by leaders in the Mexican-American
19 educational community, who expressed severe reservations
20 about the official testing procedures that are required to
21 admit a child to this special state-subvened program.

22 What was even more curious was that there did not
23 seem to be any disproportionate number of Spanish surnamed
24 children in the TMR enrollment, the severely retarded. By
25 and large, the cutting point between the two is around the

1 traditional IQ figure of 50.

2 It was logical, therefore, to suspect that either the
3 Spanish surnamed were grossly underrepresented in the TMR
4 program, or they were grossly overrepresented in the EMR
5 classes.

6 In 1969, rather late in the session, I introduced
7 House Resolution 444, which called on the department of
8 education to make a survey of percentages of various identi-
9 fiable groups in both EMR and TMR programs.

10 The result of that statewide research was that the
11 allegations of the Mexican-American parents and leaders
12 were borne out. There was, indeed, a severe overrepresen-
13 tation in the EMR sector.

14 The result of this legislative and departmental
15 effort was that state laws were changed to require testing
16 of non-English-speaking children in their own home language,
17 before they could be assigned to an EMR class.

18 As a result of this, the majority of the non-English-
19 speaking children in the EMR situations were found to be
20 perfectly normal in ordinary intelligence, as the IQ test
21 measures it, and there has been a significant drop in such
22 enrollment.

23 The next step, obviously, is to recognize that non-
24 English-speaking children need some kind of special tutoring
25 at an early age, in order not to fall irretrievably behind

1 their peers.

2 It took a couple of years, but in 1971, I was
3 successful in passing Assembly Bill 116, which established
4 the first special state program aimed directly and speci-
5 fically at the educational problems of normally intelligent,
6 but non-English-speaking children. A more general
7 bill was vetoed, but AB116 established pilot programs in
8 the San Diego and San Francisco districts. In San Diego,
9 the emphasis was on the Spanish-speaking. In San Fran-
10 cisco, it was on Chinese-speaking immigrant children,
11 newly arrived after the change in the U.S. Immigration
12 laws in the mid-'60's that became fully effective last
13 July 1st. It is popularly known as the 3.3 program, which
14 comes simply from it being article 3.3 of some chapter
15 of some division of the education code.

16 Basically, the 3.3 legislation required any school
17 district which had a school enrollment which was more than
18 25% non-English-speaking, to provide a program of in-
19 service cross cultural education for the school's staff.
20 The four-year leeway was given so that adequate programs
21 could be established, either by the district internally
22 or in cooperation with a nearby college or university.

23 The essential fact here is that national cultures
24 are different. Not necessarily better or worse, just
25 different. There is a book on the history of the Chinese

1 in the mother lode gold mining area in California, the
2 name of which I, unfortunately, can't remember. However,
3 I do remember that the author makes a salient point in
4 analyzing the causes of social friction, what you might
5 call discrimination, between Caucasian and Oriental groups
6 in those mining camps.

7 What he said was that the vices, as he put it, of
8 the Chinese weren't any worse than the Americans' really.
9 But they were different. Or as an example, they favored
10 gambling over alcohol.

11 It is this kind of cross cultural knowledge that the
12 3.3 program is directed at. A feeling, if you will, that
13 mariachi music isn't any better or worse than country western,
14 just different, and that both can be appreciated, given a
15 little exposure.

16 Three point three, of course, was directed at the
17 major immigrant minorities as a first order of business, and
18 during the course of the legislation I learned that there
19 were even a couple of small elementary districts in the
20 San Joaquin Valley where a substantial number of Portuguese-
21 speaking people live.

22 More recently, the 3.3 concept has attracted atten-
23 tion by other more assimilated groups, such as the American
24 Jewish Committee, who see this as a valid concept for main-
25 taining a certain tolerance and respect for English-speaking

1 but slightly different religious or social styles. The
2 standard American world history textbook, after all, makes
3 very little mention, if any, of the contributions of
4 Jewish people toward the development of western Europe.

5 As a former history teacher myself, it would appear
6 that the empire of the Spanish Hapsburgs might have lasted
7 a good deal longer had not Ferdinand and Isabella thrown all
8 the well educated and highly productive Spanish Jews out
9 of the country after the unified Aragon and Castille.
10 Such a conclusion could be most gratifying to their 20th
11 century descendants.

12 Which, perhaps, brings me to a general point of
13 conclusion or perhaps a starting concept that this committee
14 may wish to deliberate on in the coming months.

15 The key word, I suppose, is assimilation. Our
16 history books are full of the theory of the melting pot,
17 and this is a factual presentation of what actually hap-
18 pened over a period of, say three generations. To the Irish,
19 to the Italians, to the Poles and Germans, and it is happen-
20 ing to my own fellow immigrants from Iraq, too.

21 My son does not speak Arabic or the other dialects
22 I know. He has never had much opportunity to use the language
23 in daily life, and his son will probably never learn any
24 of it.

25 This seems to be what happens to an immigrant culture,
the new culture is never really

1 far removed from daily or even occasional contact with the
2 mother country. And one will go a long way before finding
3 an Irish-American who speaks Gaelic.

4 But on the other hand, the key factor in the
5 linguistic assimilation appears to have been one of pure
6 distance. For the fact of the matter is that many Spanish-
7 speaking immigrants from Mexico continue to use Spanish
8 as a daily language, and continue to pay frequent visits
9 to their original hometowns.

10 This is not unique, one of my assistants tells me
11 that a very similar thing happens in the State of Maine,
12 which lies due south of the impoverished province of Quebec.
13 The French-speaking families of Quebec immigrate to the
14 shoe and textile towns of Maine in search of work and they
15 are still close enough to Quebec to maintain their French
16 identity. Indeed, I'm told that mass in the main cathedral
17 in Lewiston, Maine, is said in French, and that the
18 cathedral itself, is a direct copy of a French cathedral.

19 All of which seems to point to the fact that there
20 are certain instances where bilingual education will have
21 to be a more permanent kind of program for some groups than
22 for others.

23 Our Japanese immigrants, for example, are in the third
24 generation, the Sansei, usually around 25 or 30 years old.
25 And I think it is fair to say that they no longer speak

1 Japanese very much. In another generation they will probably
2 be totally Anglicized. And that is explainable by distance.

3 But Mexican-Americans in California, like the French
4 people in Maine, are likely to continue to bring up many
5 children in a foreign language.

6 The question, therefore, is what posture the American
7 state and the national governments take. And I would in-
8 clude the national government in this because it is not
9 a general case, and some states need special federal aid
10 to really meet the problem.

11 Through Title VII of the Elementary and Secondary
12 Education Act, Congress has made a start but I believe the
13 per-pupil funds are still very inadequate. What we are going
14 to have to do, I suspect, is to face the facts and con-
15 clude that we will probably never full Anglicize the
16 Mexican immigrant, even if that is supposed to be the
17 ideal, which is also debatable.

18 And it follows from this that if we want these
19 children to be active and productive members of the Cali-
20 fornia State community, and their local communities, we
21 will have to make the special efforts, one way or another,
22 to make these children fluent and educated in both
23 languages.

24 One could hardly ask less. Latin America and
25 especially Mexico, are world famous for their artists.

1 Latin America is world renowned in the high diplomatic
2 field of international law. And there is severy indication
3 that several Latin American nations are finally starting
4 to organize a reasonable economy and turn a two-class
5 society into a middle class one.

6 It seems to me that strong bilingual instruction in
7 the elementary grades is foremost, and that cross cultural
8 programs in the later grades and high schools is a logical
9 followup.

10 All the people of this world have their own peculiar
11 virtues and vices. It is the failure to recognize this
12 that leads to holy wars, national imperialism and the
13 rationale of the White man's burden, which, in its extreme
14 form, leads on to the policies of Adolf Hitler and genocide.

15 I commend the advisory committee for its interest
16 in this basic field of human relations and I wish you well
17 in your studies.

18 That's the end of the statement, Mr. Chairman.

19 THE CHAIR: Thank you very much, Mr. Oster. A
20 couple of questions, if I may, since you've been with
21 Mr. Deddeh since 1969, when he initially introduced his
22 bilingual bills, do you recall, and recognizing this is
23 your -- this would be your impressions and not his, do
24 you recall what the attitude of the legislature was?

25 A. Some of us had started before that. Let me talk

1 about a case that happened in 1964. This happened in
2 Merced County, I believe. Gordon Went was representing
3 the county in the assembly, but a peculiar problem, the
4 California Packing Corporation wanted migrant, I think
5 they were peach pickers, the superintendent of schools
6 in the county demanded that the migrant children go to
7 school in Merced. The parents, not too trusting of the
8 school system, which wasn't particularly happy to have
9 the migrant children in the first place, some of them
10 threatened to just simply leave the peach orchards. And
11 leave the California Packing Corporation with its peaches
12 unpicked. Which might have happened.

13 The packing corporation did a marvelous thing,
14 they went out and bought themselves a trailer, a long
15 house trailer and put chairs in it, tables, a classroom.
16 The county superintendent of schools supplied a couple of
17 bilingual teachers, the trailer or maybe, possibly two
18 trailers were put right on the grounds of the packing
19 company's property, the ~~parents~~ went off to pick peaches,
20 the kids went to school and everybody turned out to be
21 happy.

22 It was a six-week program. So there were at least
23 some members of the legislature that were aware.

24 Previous to that, in 1961, the California Legislature
25 passed what was called the Casey Act. Which required every

1 sixth, seventh and eighth grader to take a foreign language.
2 So that the question of foreign language had been around
3 for a few years. Also, by 1969, the other special
4 education programs, that is the TMR, the EMR and the
5 educationally handicapped, had been completely and fully
6 funded by the state and there was absolutely no reason
7 for any more need, and this was borne out in a concurrent
8 resolution by Assemblyman Green, Leroy Green, that re-
9 sulted in a showing that half the districts in the state
10 receiving special education money were actually making
11 a profit on the program.

12 Therefore, it got to the point where it was bla-
13 tantly obvious that the bilingual program was the only
14 one that needed doing and had nothing been done.

15 Q (By Ms. Jacobs) You mentioned that the migrant
16 parents were reluctant to send their children to school,
17 but when the school was brought to the site --

18 A When the school was brought to them they were
19 extremely happy.

20 Q So their reluctance was based on what?

21 A The treatment of the children in the downtown school
22 where they -- you know, they were only in there for six
23 weeks, and they obviously were simply not treated very
24 well because everybody knew they'd be gone in six weeks,
25 so why worry about them?

1 Q Were they treated any differently in the --

2 A Well, from the report that was turned in, and that
3 I read, and one could contact Assemblyman Winton, former
4 Assemblyman Winton, on this for corroboration, I suppose,
5 the county superintendent was extremely pleased with the
6 whole thing. Of course, the California Packing Corporation
7 was pleased too. Everybody seemed to be pleased.

8 Q Was this bilingual education?

9 A The teachers assigned there were fluent in Spanish.
10 In fact, it had just been -- a bill I forgot, in 1967
11 former Senator Short was finally successful in putting
12 through a bill that allowed the use of a foreign language
13 in a regular classroom, and until 1967, that was illegal in
14 the State of California, except in a high school foreign
15 language class.

16 Q But when the school facilities were right there at
17 the farm site, the parents were able to see what was hap-
18 pening in the schools?

19 A Yes. One of the results of this is the state pro-
20 gram which provides mobile housing now, there was no such
21 thing in 1964, '65, '66. This Cal. Packing experiment,
22 so to speak, was the justification for passing the mobile
23 housing law that the department of education supervises.

24 THE CHAIR: Any other questions?

25 Q (By Ms. Bernstein) We have information in front of

1 us about that 3.3 concept that the local school districts
2 are supposed to use available resources to teach these
3 in-service classes? What if there are no available re-
4 sources?

5 A Well, I believe the bill provides for sort of
6 contracting with the universities.

7 Q So the local universities visit --

8 A Well, most of these school districts are, as far
9 as my geography seems to go, I don't think very -- most
10 of them have to be located reasonably close to something
11 like San Diego State, Los Angeles State, Fresno State,
12 the major state university as -- state university and
13 college campuses and you've got Stanislaus State and all
14 of those places must have, if nothing else, they must have
15 a department of Spanish.

16 Q So, the universities provide the courses and the
17 teachers are supposed to attend the courses at the
18 universities?

19 A The -- it's supposed to be an in-service kind of
20 thing which means that the university -- if you work ...
21 with a university instructor as part of the thing, that
22 theoretically he would probably come to the school for
23 sort of a night course or something like that. Or possibly
24 they could set up -- I don't know exactly how it's being
25 operated.

1 Q I think what I was getting at was who was in control
2 of the curriculum?

3 A Well, all of this is under the supervision now of
4 the department of education, and it's the -- what's his
5 name, Fred Gunski is the bureau chief in charge of this
6 particular project. And in fact, Mr. Gunski came into
7 the office not too long ago and Mr. Deddeh, has put in
8 the hopper ACR74, which is calling for suggested im-
9 provements in the 3.3 program, along the lines of possibly
10 expanding the different kinds of cultural interchanges
11 that go on. But basically, the implementation of the thing
12 is in the hands of the bureau of intergroup relations,
13 of the department of education.

14 Q So, the department of education is responsible for
15 the curriculum for these courses?

16 A They're responsible for approving the curriculum,
17 which more or less says veto power.

18 Q Is it possible that local districts could be setting
19 up these courses and no one has any idea what's going on?

20 A Not if the department of education is doing its
21 job.

22 Q (By Ms. Jacobs) Do you think the department's
23 doing its job?

24 A Well, the law only went into effect July 1st last
25 year, it was, in terms of the politics of the whole thing,

1 it was sort of necessary to have a four-year grace
2 period. And we are just -- we're not quite one full
3 year down the road on the full legal operation of the
4 program.

5 Q But in the time frame of steps to be taken, year
6 one, year two and year four, is the department where it
7 should be?

8 A It is my understanding that not too much was done
9 in the first year or two. Which may have some -- well,
10 which may reflect on the former superintendent of public
11 instruction.

12 THE CHAIR: You had another question?

13 Q (By Ms. Bernstein) Yes, does the law that was set
14 up set up some kind of monitoring system by the department
15 to check on these courses that you know of?

16 A Well, I'm not quite sure, I've forgotten exactly
17 what the statute says, but I'm fairly certain that there's
18 a concurrent resolution, 74 is going to pass, when the
19 legislature reconvenes in August, and that is a specific
20 request from the department to tell the legislature what's
21 been happening and what are the recommendations for
22 changes, if any.

23 Q So, up until now the legislature has no idea
24 whether it has been going --

25 A Well, we've received reports as to what the official

1 regulations and guidelines are that have been sent out
2 to the districts, outlining what kinds of courses they
3 should set up and things like that. But there's not yet
4 been a report on what's happened, because we are still
5 not yet one year down the pike.

6 THE CHAIR: If there are no other questions, Mr.
7 Oster, thank you very much for coming.

8 A. Thank you, Mr. Chairman.

9 THE CHAIR: And thank Mr. Deddeh for having you
10 handle his --

11 A. I will transmit your thanks.

12 Q. (By Ms. Jacobs) Could I just ask him one quick
13 question?

14 THE CHAIR: Yes.

15 Q. Well, it has to do with this migrant education
16 program which I'm quite interested in, and do you know to
17 what extent currently there are schools on migrant farm
18 facilities?

19 A. I have no specific information, no. I've been out
20 of the field for several years.

21 THE CHAIR: Thank you very much.

22 A. Thank you, Mr. Chairman.

23 THE CHAIR: Moving right along, having picked up
24 a few minutes because we are so efficient, the next person
25 is Teresa Perez.

1 Ms. Perez, if you will, for the record, identify
2 yourself, who you are with or group or whatever, and
3 where you're from?
4
5

6 MS. TERESA PEREZ

7 A (By Ms. Perez) Okay, my name is Teresa Perez,
8 from Fresno. I am -- I guess I supposedly represent
9 the Chicano Advisory Board in Fresno, which is an educa-
10 tional advisory committee that is made up of members of
11 five organizations, we represent the Concilio of Fresno,
12 the Mexican-American Political Association, the Asocio de
13 Padres de Cativos (Phonetic), which I guess is the counter-
14 part of PTA, only Chicanos.

15 Let's see. Oh, the Macha group, both at Fresno
16 State and City College, and did I say the Mexican-American
17 Political Association? Okay, there are five groups, anyway,
18 that I represent.

19 THE CHAIR: Okay, thank you.

20 We'll start with questions from the committee.

21 A Okay, that's fine.

22 MS. GOMEZ: Mr. Chairman, I understand Ms. Perez
23 wishes to make a brief statement?

24 A Yes, I would like to make a brief statement, I hope
25 it's brief, anyway. I've prepared something that I thought

1 might give a little bit of background to the questions that
2 you were going to ask. It's kind of an historical back-
3 ground to the situation in Fresno. There have been a number
4 of community people working in the Fresno area on educa-
5 tional problems, and I suppose they go back as far as
6 1967 or '68, and I didn't think any of the questions would
7 address themselves to kind of an historical background so
8 I wanted to give you that. If I may --

9 THE CHAIR: Recognizing that this is -- this is
10 probably necessary, but to do an historical background on
11 the problems in Fresno would take a long time, so if you
12 would try very hard to be brief --

13 A Okay, I will really try to be brief. I think
14 really what I'd like to establish is only that there have
15 been organizations and community people involved in the
16 Fresno area in problems related to education, and that
17 nothing that the Department of Health, Education and
18 Welfare came out with in 1963, March, was new to the com-
19 munity, and also that probably had, rather 1973, also had
20 the Department of Health, Education and Welfare moved a
21 little more quickly rather than it having taken, oh,
22 four years, I suppose, before that first report came out,
23 that many of the problems existing may not have existed.

24 And that's what I really wanted to establish, in
25 1968 there was a major uprising in one of the junior high

1 schools, and many of the problems that were later -- that
2 later came out in the HEW letter of noncompliance were
3 problems at that time recognized by community people. A
4 number of community people went to work on these problems,
5 some of the people that I represent on the Chicano Advisory
6 Board.

7 In 1968 and '69, Fresno City Unified School District
8 had a large grant, 300 to \$400,000.00 grant for a master
9 plan of education for the Fresno Unified School District,
10 it was called Project Design. And it was to identify
11 problems and solutions. Also, many of the things that
12 HEW talked about in its letter of noncompliance were in
13 Project Design already. Many of the concerns, by the way,
14 of the 1969 uprising, you might say were incorporated into
15 that Project Design. So it points -- it pointed out
16 segregation very well in the report.

17 The report called for four junior high schools made
18 up of ninth graders and also high schools that specialized
19 in particular topics, okay? And that's kind of important.
20 The district never adopted the Project Design, it filled
21 several volumes and it stuck away in somebody's vault.

22 In 1968, also, the district went in and adopted
23 a bond issue, a bond issue was passed for building. To
24 date, Fresno has spent from 32 to 35 million dollars on
25 its building project since 1968. All of the schools that

1 are listed as segregated schools in the report from Health
2 Education and Welfare are also listed -- were also built
3 during that time. So that the building project has not
4 desegregated the schools.

5 And of course, Edison, which is now under de jure
6 segregation, was one of the schools.

7 I'm not going to read, because I know that you're
8 anxious that I move along. In 1969, the first HEW inves-
9 tigation about, it wasn't until 1972 that anybody heard
10 from HEW again, and that was for another investigation,
11 probably because the material that they had investigated
12 the first time had gone out of -- perhaps was outdated.

13 So that that took quite some time.

14 In 1969, the Board of Fresno Unified School District
15 adopted a project that they call Project Balance, which is
16 a voluntary desegregation project, which has failed, and
17 in that booklet that you have there is numerous articles
18 from the Fresno Bee..... and letters and other kinds of
19 information that sort of alludes to the project de--
20 Project Balance, not really coming across in terms of
21 desegregation.

22 In 1969 there was a committee called the Committee
23 of Educational Concerns of Mexican-American Students. It
24 was made up of the -- of members of the Chicano community in
25 which they also delineated the problems that were later to

1 come out in that letter of noncompliance, so that was a
2 committee that talked about bilingual education, teacher
3 training, and matters of this type. And that was submitted
4 to the Fresno City Unified School District and also to
5 the state department of education.

6 Also in 1969, the school district commissioned a
7 committee of 15, it was kind of a blue ribbon committee
8 with a cross section from the entire community. They
9 studied racial imbalance, their final report was submitted
10 to the school district in 1970. This committee had re-
11 viewed the past four years of -- of projects that had,
12 you might say, studies of previous four years, they held
13 public hearings and recommended ways to desegregate schools.
14 This study lasted a year. From 1969 to 1973, or '70,
15 pardon me. They also supported the concept of those ninth
16 grade -- those grade nine schools, the concept of specialized
17 high schools, and they suggested ways in which schools could
18 be balanced so that there would not be more than 30%
19 minority at any of the schools.

20 Now, the Fresno Unified School District accepted the
21 proposal or the study but they never discussed it and
22 they never implemented it, so again, going back to the
23 concept of the master plan for higher education, still
24 nothing was done in this area.

25 In 1970, the school board accepted the proposal and

1 nothing was done. No implementation.

2 In 1971 and '72, the ~~grand jury~~ report recommended
3 that the establishment of grand jury of education to
4 scrutinize schools on an annual basis. They stated that
5 educational bureaucracies are above citizen review.

6 Needless to say, this recommendation was received
7 very ~~coolly~~ both by the superintendent of the county schools
8 and also by the superintendent of the city schools.

9 This was never adopted.

10 In February of 1973, due to the accumulation of
11 unresolved educational problems, such as the dropout
12 problem, tracking, EMR classes, lack of affirmative action,
13 hiring and so on, a group of Chicano citizens in a meeting
14 before the board of education, called for the creation of
15 a Chicano Educational Advisory Board, of which I am the
16 chairman, to assist with this kind of problem.

17 Needless to say, the school board rejected this,
18 also, and I think that's all I'm going to say about this,
19 but I think what I'm trying to establish here is that in
20 the letter of noncompliance in 19 -- in March of '73, no
21 new groundswas broken. Community people, teachers, people
22 in high places from the university, already knew these
23 things existed, even the school board knew.

24 Also that there was great community pressure in all
25 of those years to do something about the problems.

1 All of these different committees came out with
2 reports over and over again. And I think also it needs to
3 be pointed out that within 1968, and 1973, there were
4 building projects going on, or at least the adoption of
5 these segregated high schools, and that the Department of
6 Health, Education and Welfare probably would have had
7 ample time to advise the Fresno City Unified School District
8 that it was not in compliance with Title VI, that they
9 did -- that they were going to open up some segregated
10 high schools and elementary schools and that they probably
11 would have had time to change their building project.

12 Now, I know from material that you've got in that
13 book, from the Fresno Bee, they cite over and over again,
14 there were -- there was one school board member that was
15 never in agreement with building that segregated high
16 school. And he fought, okay?

17 Two more school board members said that if they had
18 known that they were not going -- that they were going to
19 be under de jure segregation with that high school, that
20 they would have voted to build it somewhere else.

21 So, there are five members of the board, so if three
22 of them had voted not to build that school, Fresno would
23 not have that segregated high school. And I guess I also
24 should add here that there is a lot of feeling in the
25 community, the Black community did want that high school to

1 go where it is now, okay? That's important for you to know.

2 So there was great community pressure from the
3 Black community to build that high school, they felt they
4 needed it. Since, from that time to this time, in terms
5 of desegregation, they have not desegregated that high
6 school to any great extent, Also the kinds of things that
7 they have put into the high school to attract students from
8 north Fresno are courses that Black children really aren't
9 able to take, such as boating, sailing, airplane -- pilot
10 kind of things, these programs do attract children from
11 the north, but the Black community feels that that school
12 is not addressing the basic kinds of educational require-
13 ments that Black children have.

14 Thank you.

15 THE CHAIR: Okay, now we'll start.

16 Q (By Ms. Gomez) Ms. Perez, would you briefly
17 specify, specifically give us a brief report on what led
18 you originally to -- the original communication with the
19 Office of Civil Rights?

20 A Well, we --

21 Q What specifically?

22 A Okay. We have been interested in working with the
23 school district before the letter of noncompliance came
24 through. We -- there was -- we knew that there had been
25 two investigations by then, and we didn't know where this

1 was. So we did some checking and we found out that there
2 was a letter of noncompliance in Washington. We got a
3 hold of the letter and were going to hold a press con-
4 ference, exposing the unified school district, and
5 interestingly enough, the day before we held the press
6 conference, there were great headlines in the newspaper,
7 front page headlines, saying that the Office of Civil
8 Rights, the Department of Health, Education and Welfare,
9 said that Fresno was not in compliance with the 1964 Civil
10 Rights Act.

11 We felt that they had stolen our thunder, but also
12 that we may have been the catalyst for bringing this out
13 in the open. We may be taking too much credit for that,
14 but that's the way it happened anyway.

15 Q What was their position regarding the community
16 groups at that time, do you know?

17 A The Office of Civil Rights, the Department of Health,
18 Education and Welfare, did not want us to get involved in
19 any kind of negotiations between them and the district.

20 You have before you a number of letters, and com-
21 munications that went to -- between ourselves, the Fresno
22 City Unified School District and the Office of Civil Rights,
23 asking that we -- we were asking that we be given the oppor-
24 tunity to be involved, as a third party, to those nego-
25 tiations.

1 Q Has that changed, has that position changed?

2 A No, the position has not changed as far as the
3 Office of Civil Rights is concerned, nor has it changed
4 by the Fresno City Unified School District, although we
5 were put on some task forces. We don't feel that that
6 position has changed.

7 Q How did you say the school district handled the
8 1973 letter of noncompliance?

9 A Oh, well, they called it -- they didn't -- they said
10 it was not a final report, they were very concerned that it
11 not be presumed that these things actually existed, they
12 felt that it would be to the detriment of the school dis-
13 trict if they -- how should I put it -- if they acted as
14 if these things really existed, because they were very con-
15 cerned with the court case.

16 So, even Mr. Pierce had to write a very, a very --
17 a letter that was just very explicit, telling Fresno
18 exactly, you know, where they were at in terms of non-
19 compliance, because Fresno and the school board has always
20 treated it as if, well, this really doesn't exist, it's
21 just that these people are bringing these allegations
22 against us.

23 Q How did the Chicano board react or what was their
24 response?

25 A We wrote -- also, if I can backtrack a little bit,

1 the Fresno Unified School District wrote a 34-page report
2 saying, trying to bring HEW up to date and saying that
3 they had done a lot of really wonderful things in the dis-
4 trict and how things had improved. And that was their
5 response to it.

6 Our response was to write a 17-page report, sort
7 of taking the Fresno City Unified School District to task
8 sending that to each one of the school board members and
9 sending it to the Office of Civil Rights, also.

10 Q Well, specifically, how did your board respond on
11 the district's position on the, for example, the educable
12 mentally retarded?

13 A Mentally retarded? Well, I think you can refer to
14 the -- to the --

15 Q Tell us, you know, briefly?

16 A Okay. It's pretty lengthy, that's why I thought you
17 might prefer to read the material as we responded to it.

18 We felt that too many children, of course, were
19 placed in educable mentally retarded classes, we felt that
20 the reason that they were placed there, and this morning
21 I heard a lot of testimony related to, do the school
22 districts follow the law? Yes, I think they do follow
23 the law, but I think it's really bent.

24 For example, the way in which many Chicano children
25 were placed in EMR classes, was to go out to their homes,

1 talk to them in Spanish and tell -- or have the parents
2 come to the school and tell them that they had a very
3 good program, a very special program for their children
4 and they would like for their children to enroll in that
5 program. And if you were a parent, and were approached
6 that way, you would certainly want your child in a very
7 special program.

8 Without mentioning the fact that the program was
9 for mentally retarded classes. So Chicano parents were
10 finding that their children were in mentally retarded
11 classes, and that they had filled out the right forms,
12 but it was kind of a pretext.

13 There are many, many problems. For example, the
14 Wisk (Phonetic) test --

15 Q How did the board react, how did they respond to the
16 district's position, for example, on the bilingual edu-
17 cation?

18 A Well, the Chicano Advisory Board, ourselves, how
19 did we respond? Well --

20 Q To the district's position on that?

21 A Yes. The district's position on bilingual education,
22 at that time there was no bilingual education. And the
23 letter from the -- from HEW doesn't really explicitly
24 talk about bilingual education, it talks about curriculum.
25 So that the curriculum should be, you know, for each indi-

1 vidualized, kind of an individualized thing, and for each
2 child. So it doesn't really address bilingual education.

3 The position on bilingual education is that when
4 the -- when Fresno adopted or got the funds, what are those
5 funds called? AB2284? Okay, when they received those
6 funds, there were 12 schools that were going to go into
7 the bilingual program and all of the moneys went into,
8 they were all federal funds that went into bilingual,
9 the bilingual program, okay?

10 The second year they paid, Fresno, out of the
11 local funds, the regular operating budget, Fresno paid the
12 coordinator's position, that was the second year. Still
13 the same 12 schools.

14 The third year the money is coming out of Title I
15 and ECE, Fresno has now even pulled out the money that they
16 used for the coordinator's position, so that all the
17 bilingual programs in Fresno have been under ~~soft~~^{soft} money.
18 And of the -- and the programs have changed some-
19 what. There are now 11 schools in the bilingual program,
20 I believe two grades each, I'm not sure, they serve about
21 a 1,000 children, the bilingual program in Fresno, and
22 only seven of the schools are operating true bilingual
23 programs, the other four are Spanish as a second language
24 and English as a second language, and maybe a cultural
25 component of some kind, so we feel that the commitment to

1 bilingual education on the part of Fresno is all soft
2 money commitment, or rather, federal funds, nothing --
3 nothing that they've used where they have actually put
4 out money for bilingual education. There's no commitment--

5 Q Have you been able to identify changes in the
6 school district as a result of the Office of Civil Rights
7 compliance?

8 A Yes, I think probably where they have really been
9 upset has been the situation at Edison. They went ahead
10 with the -- with the desegregation plan at Edison, putting
11 in a very fancy curriculum, even though that their ESAA
12 funds were turned down, they applied for three million
13 dollars in ESAA funds that were turned down, but they went
14 ahead with that big concept that they had anyway, because
15 they were concerned about desegregating the school.

16 It hasn't worked and you've got all kinds of material
17 there that will, you know, give you a lot of background
18 into how people in the community and how the Fresno Bee
19 looks at that kind of thing, or local newspaper, so that
20 they were very concerned with that.

21 And they were also very concerned with the EMR
22 placement, they had a fantastic overrepresentation of
23 Chicano and Black children in EMR classes so they have re-
24 tested. Now our -- our position has been that they have
25 had no transitional classes, on the one hand they're dumping

1 kids in EMR classes, on the other hand they're dumping them
2 back into the classroom with nothing in between and I
3 think this has been our position, there are many other
4 problems related to that.

5 But there, I believe that there have been some
6 changes but they're not really significant and if they've
7 changed where they have felt that maybe the Department of
8 Health, Education and Welfare to take them to court.

9 There are many other things I feel -- for example,
10 there was a major uprising in this past month in one of
11 the junior high schools. Those kids boycotted the school
12 for about, from three to four weeks, at one time there
13 were 400 children that were boycotting the schools. We've
14 got some real problems in Fresno.

15 Q Going back to the Office of Civil Rights, can you
16 tell us when was the last communication you had with
17 the office?

18 A I was looking at kind of a memo that I had written
19 to them, and I believe, yes, I talked to Mr. John Palomino
20 sometime in November. We had a meeting with Mr. Pierce
21 in November, of '74, but the meeting was cancelled because
22 Mr. Pierce was going to be out of town until this -- the
23 following month.

24 Mr. John Palomino promised that he would call me
25 and set up another meeting; he didn't do that. I called

1 him again sometime late December, early part of December,
2 perhaps, and spoke to him about that. We still hadn't
3 -- didn't have a meeting set up. I think the -- the
4 feeling was not very cordial. I think that probably -- I
5 felt that they were kind of trying to weasel out of this
6 whole thing.

7 The reason that we had always wanted third party
8 participation in the talks was that we did not trust the
9 Fresno City Unified School District to change its policies,
10 and we have no basis for which to trust them, we felt that
11 the Fresno City Unified School District was going to try
12 to work something out behind closed doors, so that the
13 community would not be involved.

14 HEW's feeling was that they didn't want us to
15 participate either, they felt we would just be getting in
16 their way. So the feeling, although ~~at~~ -- for a time we
17 did work well with HEW, I think the community feeling now
18 is that HEW isn't going to do anything, it's like they
19 kind of -- it's like all the bureaucracies can outweigh
20 and outwait citizen participation.

21 And I think that's the way the Fresno community
22 feels right now.

23 Q At this time, what is your assessment of the edu-
24 cational opportunities --

25 A For minority children --

1 Q -- for minority children?

2 A I don't -- I don't think anything has really
3 changed. I think it's exactly the way that HEW said in
4 its first report, I think it's exactly the way that all
5 of the other committees and studies have said, I -- the
6 school board has never adopted a policy that would make
7 education any different, the task force reports that
8 were submitted to the Department of HEW had time lines,
9 the time lines have not been adhered to, they were all
10 in the skeletal framework, they have never been trans-
11 mitted into a workable model for the district.

12 I think that the opportunities for minority children
13 in Fresno are very, very slender. I don't believe any-
14 thing has changed.

15 Q These groups that were formed originally, the
16 Concilio, MAPA, Association of Padres, are you still actively
17 involved? Are you still --

18 A The Chicano Advisory Board?

19 Q Yes.

20 A Our last meeting was in January, at that time we
21 decided that because of a communication that we'd had via
22 the telephone with John Palomino, he said the thing was in
23 Washington, it was a kind of a wait and see thing. He
24 felt very hopeful that they would go ahead and -- and make
25 Fresno comply. He was still very hopeful, but I think our

1 last meeting of the Chicano Advisory Board we felt that,
2 as a community, we really didn't have anybody to turn to.
3 We felt that they had pretty much --

4 Q What will you do?—

5 A Well, see, I think our next step is a very serious
6 one, I think that we've got to evaluate what it is we're
7 going to do and I think that the only thing that we -- is
8 left for us to do is to raise enough money to take Fresno
9 and perhaps HEW into court. And I think that's where the
10 Chicano Advisory Board is right now.

11 And I think the committee, the community has got
12 to make a real effort in light of the past kinds of things
13 that have happened in Fresno, to do this. In other words,
14 see, we kept thinking that HEW would do something, other
15 groups have thought that the state department of education
16 would do something, and they're not going to do anything,
17 and I think now the community has got to reevaluate it
18 and decide that there's no help for you anywhere, that
19 the only thing that you can do now is turn to yourselves,
20 and see how our -- how far our commitment goes, and will
21 our commitment go to fund raiser after fund raiser after
22 fund raiser to raise the kind of money that it would take
23 to hire a real hot attorney for these kinds of things.

24 We think that there's a -- an abundance of evidence,
25 you've only got a very small part of the kind of thing we've

1 been doing for the past few years in that book.

2 MS. GOMEZ: Mr. Chairman, I have no further ques-
3 tions.

4 THE CHAIR: Does anyone else have any questions?

5 Q (By Ms. Hata) For the record, could you tell us
6 what the composition of the Fresno School Board is in
7 terms of ethnicity, minority members?

8 A There is one Asian, there's an Armenian fellow on
9 the board, for the first time in the history of Fresno,
10 there is a Chicano, and there is a woman.

11 Q I was going to ask you --

12 A There's a woman, and the other member is, oh, yes
13 -- yes, he's -- he's the other member.

14 Q There are a total of how many members?

15 A Five.

16 Q You also allege that parents were told that their
17 child was going to be placed into special programs?

18 A Yes.

19 Q They were not informed that these were EMR programs?

20 A Oh, no.

21 Q Can you fully document this for us?

22 A Yes.

23 Q And provide us with evidence to our staff?

24 A Yes.

25 Q Fine. Now, you also said that the forms that they

1 finally filled out, were filled out properly --

2 A Oh, sure. In other words, the right names and the
3 right X's are on them.

4 Q Were these forms in Spanish? Printed in Spanish?

5 A They may have been. They may have been. The one
6 lady that I'm thinking of right now, I know of several in-
7 stances, but I can visualize one that I sat down and
8 really talked with, she speaks Spanish and she's illiterate.
9 So it wouldn't have made any difference if they were in
10 Spanish or English.

11 Q That's what I was going to ask you.

12 A Yes.

13 Q Because were they helped in terms of filling out
14 the forms?

15 A Oh, yes.

16 Q Was someone from the district there filling out
17 the forms and asking them the questions?

18 A Yes.

19 Q So they have really not been able to read the
20 form through --

21 A No.

22 Q -- and see for themselves?

23 A No.

24 Q Can you document this for us, so that we will not
25 just have hearsay or just discussion, but document?

1 A Yes, I can document them and there are others.

2 One of the things that we found is it's very dif-
3 ficult to get parents to talk to an attorney, they'll talk
4 to people in the community, they'll talk to all kinds of
5 people but as soon as you start getting them into, well,
6 you know, do you want to take this to court, you find them
7 really backing off.

8 Q I think staff can take some of this down in execu-
9 tive session, if I am correct, and they'll contact you
10 and see if we can get proper documentation so that we
11 can place this into the report.

12 A Sure, fine.

13 THE CHAIR: Yes?

14 Q (By Ms. James) You mentioned that you didn't get
15 any relief at the state department level either. Could
16 you give any specific instances of who, who was approached
17 within the state department for assistance?

18 A Okay. I -- from the Chicano Advisory Board, we had
19 very, very little dealing with the state department of
20 education. Mostly we dealt with Palomino and Sandoval,
21 of the Office of Health, Education and Welfare. We did
22 have one correspondence with Ceja, and I think that I --
23 it's part of, I believe it's part of that, it's in that,
24 in that list of materials. And I did see a returned copy
25 of Mr. Ceja's letter where a parent advisory group had not

1 wanted to sign off due to some problems within the Fresno
2 City Unified School District.

3 I think that probably as far as the state department
4 of education is concerned, every time that someone
5 suggested contacting the state department of education,
6 people felt that they couldn't really help us.

7 There had been some verbal contact and advice asked
8 for and given, but as far as, I think Mr. Baca (Phonetic)
9 was contacted, I believe I even talked to Mr. Baca, and
10 other members of the -- of the Chicano Advisory Board, but
11 it was a telephone kind of thing.

12 We were kind of desperate, we were just kind of
13 reaching out and we felt that they would be willing to
14 kind of give us a little bit of advice, but that there
15 wasn't going to be anything else following that.

16 Q (By Ms. Hata) What about the state board of educa-
17 tion?

18 A No. We didn't contact the state board of education,
19 they did come to Fresno once and we testified on affirmative
20 action, members of the Chicano Advisory Board, but it was
21 just in that one area of affirmative action. And they
22 did finally adopt the affirmative action document.

23 THE CHAIR: Yes, just let me ask you a question, if
24 I may. You may have said it and I may have not caught it
25 but how long has the Chicano Advisory Board been in effect?

1 A. We came together in 1972.

2 Q. ~~(By the Chair)~~ Nineteen-seventy-two?

3 A. Yes, 1972.

4 Q. When you talked to the Office of Civil Rights, HEW,
5 about the problems and the lack of action on making
6 Fresno comply, did they give you any -- what was their
7 response, why they hadn't done anything other than it was
8 back in Washington?

9 A. Well, that didn't come till later, it was back in
10 Washington. But the first -- the first times around it --
11 we felt, and they said this explicitly, that they didn't
12 want -- in other words, they felt that they had to work
13 with the school district, they didn't want to be in
14 kind of an adversary role, and I think that they wanted to
15 get them to comply in a way that was a kind of a friendly
16 kind of way. They didn't want to be put in an antagonistic
17 perspective with the Fresno City Unified School District.

18 So that it was a kind of working together kind of
19 thing and they didn't want to pull out the stick of
20 we're going to withhold the funds or anything like that.

21 In fact, in one newspaper account, John Palomino
22 makes it very explicit that they have not given, that they
23 did not give Fresno until September of '74 to comply, and
24 he didn't want it to seem as if they did. They -- they
25 hadn't set a time on it, Fresno could, you know, take its

1 time about complying and work things out that way, he
2 didn't want it to seem as if HEW was saying, okay, we're
3 going to crack the whip, so that was probably, basically
4 what they were trying to --

5 Q Basically they wanted to do it in an amicable --

6 A Oh, absolutely, sure, they felt this was the best
7 way and I guess if you can do it that way it's fine.

8 Q (By Mr. Lau) Would you have done it in another way?

9 A Of course the Chicano Advisory Board has been
10 placed in a role of more or less pointing out the problems
11 that exist in Fresno and so it's not a very popular kind
12 of thing to do, as you know, and we've -- I think we,
13 we wanted the HEW to say lookit, if you don't comply this
14 is what we're going to do.

15 Q (By the Chair) Did you tell them that?

16 A Oh, yes. Oh, sure, we had a long conversation.

17 Q (By Mr. Lau) What do you think a reasonable time
18 limit would have been?

19 A Oh, I would think, you know, I would think a year
20 is probably a reasonable time on it to see if the school
21 is going to move in that direction. See, my question is
22 not -- an investigation in 1969, an investigation in 1972,
23 and then another year before a report comes out, and then
24 here it is 19 -- two years and some months later, and still
25 nothing. So, you know, somewhere there has to be less than

1 a -- than a five, six, ten-year kind of thing.

2 If I could see Fresno moving along in specific time
3 frames, I think the community would be somewhat satisfied.

4 Q Did you submit this proposal to HEW?

5 A Oh, yes.

6 Q What was their response?

7 A You mean --

8 Q To your suggestion?

9 THE CHAIR: The question is did you submit -- did
10 you submit this type of proposal to HEW?

11 A A time frame proposal?

12 Q Yes.

13 A We went to work on the task forces, the members of
14 the Chicano Advisory Board went to work on the six task
15 forces that addressed the six areas of noncompliance.
16 And we were -- ~~we~~ were sort of taken up with that kind of
17 work and everybody worked very hard to get these proposals
18 out, and felt, then, that perhaps Fresno would adhere
19 to those time frames and those proposals were submitted to
20 HEW, but Fresno has not moved ahead on them.

21 Q (By the Chair) And what was HEW's reaction?

22 A Oh, they've written back in January of '74 saying
23 that Fresno was still out of compliance in at least five
24 of the six areas.

25 Q At least they're consistent on --

1 A Oh, yes, yes. Well, we're very happy with that,
2 you know, but nothing seems --

3 Q (By Ms. Jacobs) In your opinion, are these five
4 areas major areas?

5 A I, frankly, feel that Fresno is out of compliance
6 in still the six areas. Because in the one area which is
7 curriculum, I have not seen a difference. But according,
8 to the Department of Health, Education and Welfare, they
9 feel that Fresno is doing something in that area.

10 I was one of the members of the Task Force One,
11 which worked on the revision of curriculum, and to my mind
12 that has never been done. We put together a skeletal
13 outline, we put a time frame on it, and we never got to
14 -- we were supposed to get together to make a more bulky
15 document that could go in as something workable that the
16 district could work with and we've never done that.

17 Q Why do you think the district has not complied?

18 A The district has no commitment to minority children.
19 It's very simple. I think we have a better school board
20 now, but I think the -- the cabinet level people have no
21 commitment to minority children.

22 Q Are these appointed or elected people?

23 A These are appointed. And it's like a club. It's
24 like who knows who. And you're -- so all the promotions
25 are from within and it's like, it's a club, it's a club of

1 men who sort of, you know, ~~bosom~~ buddies, that kind of
2 thing. So --

3 Q (By Ms. Hata) Who appoints them?

4 A They get appointed -- the superintendent of schools
5 with board approval and it's a kind of thing where you go
6 before the board and you say I think Mr. Hansen should be
7 my assistant number one, Mr. Hansen, in my opinion,
8 shouldn't be assistant number one to the superintendent, be-
9 cause he has no record in the area of minority children.
10 But they just put a stamp on it. We

11 We felt that that job should have been put out for
12 affirmative action hiring, it was not. It's kind of --
13 see, we did get an affirmative action document, we did
14 get a man hired to recruit for affirmative action, but
15 we still don't have affirmative action in the district,
16 it's very simple.

17 If there's a law the Fresno City Unified School
18 District finds a way to circumvent it and it's like you're
19 always -- you're always sort of hitting a blank wall,
20 you know, you -- you just constantly hit that wall, con-
21 stantly, you can have demonstrations, you can go to the
22 school board meetings, you know you can do it the good way
23 and you can do it the bad way and you still don't get
24 any results.

25 Q (By the Chair) What do you think their attitude

1 would be if the department or if HEW-OCR had moved quickly
2 and would have had them -- and cut off funds?

3 A Fresno City Unified School District knows that HEW
4 is not serious, there are newspaper accounts after news-
5 paper accounts that verify that fact.

6 Q That HEW is not serious about making --

7 A Oh, no.

8 Q -- about making them comply?

9 A That's right, about cutting off funds, Fresno is
10 the seventh largest school district in California, they
11 have lots and lots of federal dollars, it would hurt them
12 to cut off those federal dollars. No, all afternoon I've
13 heard people say well, if you cut off those federal dollars
14 the poor children won't get served. Well, I don't feel
15 that way about it.

16 I think if those federal dollars aren't going where
17 they should be going, then I don't think the district
18 ought to have them. It's very simple. And if poor children
19 suffer, what's the difference, they've already suffered.

20 You know, it will just be one more thing, what's
21 the difference? If the money isn't being used for what
22 it's supposed to be used for, then how is it benefiting
23 minority children? That kind of approach really throws me.

24 Q But also, though, they -- Fresno gets more federal
25 money than just for minority children, don't they?

1 A Oh, yes, sure.

2 Q So that middle class child would be affected also?

3 A Which might not be a bad idea, because if the
4 middle class idea --

5 Q Well, that wouldn't be a bad idea the middle class
6 parent might not like it.

7 A That's what I mean, if the middle class parents
8 could push hard to hang onto those federal dollars and
9 if it's going to hurt them, then I think we might get
10 greater results. Again, I don't think that Fresno, in
11 one newspaper account, Mr. Rosander, who's cabinet level,
12 I think he's third man in line to the superintendent of
13 schools, says, you know, HEW, be damned. You know, and
14 it's big headlines, we don't care about what they say,
15 we run our school district, they don't run it. You know,
16 so much for that.

17 Q Wasn't Fresno an all-American city?

18 A Oh, very proudly so, yes, model city.

19 Q (By Ms. Gomez) Jack, I have a couple of questions.
20 Do you -- who are your constitutional officers in
21 that area?

22 A What's a constitutional officer?

23 Q Well, your assemblyman or your state --

24 A Oh, okay. Assemblyman, well, our senator is
25 Inovich (Phonetic) and our assemblyman is Amari (Phonetic),

1 I suppose. Yes, Amari, although he supposedly resides
2 in Fireball, but yes, he would be the district has-been.

3 Q Has your group approached him at any time for any
4 assistance in any way? --

5 A Yes. Oh, yes. We've approached Tunney, see, we've
6 gone to everybody.

7 Q For them specifically, I mean the state?

8 A Yes, we've approached everybody.

9 Q What response have you gotten from them?

10 A A nice letter. We got a nice letter from everybody.

11 Q (By Ms. Jacobs) Have you entered into any coali-
12 tions with other groups?

13 A Yes, we visited Mr. Pierce and we had, for a time
14 we had a coalition of the NAACP, we had a coalition with
15 the League of Women Voters and the Fresno Teacher Associa-
16 tion, it was quite a coalition and we went to Sacramento
17 with that group of people, we went before the school board
18 with that group of people and the coalition didn't work.
19 We're still back where we were in 1968. In terms of the
20 six allegations --

21 Q So what do you see as the answer?

22 A As the answer?

23 Q Yes.

24 A Well, frankly, I don't think really -- if HEW is
25 not going to take its role seriously, then obviously we --

1 communities just have to discount them, they're the only
2 ones that I know of that have some enforcing powers.

3 I think probably communities themselves will have
4 to take the Fresno City, in my case the Fresno City
5 Unified School District to court, I can't see any other
6 way out. I can only see it, it's coming back into the
7 local community and just trying to put it together the
8 best way we can.

9 We can get them to do some things through pressure,
10 we got them to adopt an affirmative action plan through
11 pressure, we got them to hire an affirmative action
12 officer through pressure, we got them to put together an
13 affirmative action committee to oversee the affirmative
14 action and we still don't have affirmative action in
15 Fresno.

16 So, you know, we've gotten them to do a lot of
17 things but we still don't see any kind of results from it.

18 Q (By the Chair) Do you feel that the office of
19 Civil Rights, HEW, is working to justify their pay?

20 A Well, I can only talk about the Fresno area and
21 I've talked to John Palomino in the past and he says
22 they're working very hard in Los Angeles and they don't
23 have time for, for example I called him on the Madera issue,
24 and I don't know if you're familiar with that, but there
25 was quite an issue in Madera, they were too busy when I

1 talked to him at that time, to see about the Madera issue.
2 I suppose they are doing some work somewhere, and I --
3 I imagine their studies do constitute something, but there's
4 a bottleneck somewhere. I can't say they're not working
5 to justify their pay, if I was a hardline taxpayer I
6 probably would say they're not working to justify their
7 pay.

8 If they're -- if they're commissioned to do some-
9 thing and they don't do it; then, no, they're not.

10 ~~THE CHAIR:~~ Does anyone have any more questions?

11 We have another question.

12 Q (By Ms. Bernstein) A little off the track, but
13 do you know if any -- at any time anyone from the state
14 board of education has come down to monitor your programs
15 in the Fresno area there?

16 A Yes, the parent advisory committee has need to
17 call upon the state, the state department of education
18 occasionally, and they do come down and they do some
19 monitoring of whatever, Title I schools, I guess.

20 Q Do you know the results of any of those studies?

21 A No. I don't.

22 THE CHAIR: Any other questions?

23 Thank you very much, Ms. Perez. Keep the faith.

24 Because we're so efficient, we've lost 20 minutes,
25 but the next person to appear is Ling Chi Wang.

1 Mr. Wang, if you will -- unless it doesn't meet
2 with the way you're prepared to go, we'd start with
3 questions or did you have a brief statement or --

4 MS. GODOY: I think the statement was going to be
5 read after the questions.

6 THE CHAIR: Going to be read after the questions?

7 MS. GODOY: Yes, if he had a prepared statement.

8 THE CHAIR: As efficient as we are, we may not
9 need a prepared statement, the way we ask questions, so
10 let us, if that's what's been set up, then let us start
11 with the committee who's going to ask -- Ms. Bernstein,
12 would you start then?

13 Q (By Ms. Bernstein) What were your recommendations
14 to the Office of Civil Rights with regard to the minimum
15 requirements on the district's compliance with Lau?
16
17

18 MR. LING CHI WANG

19 A (By Mr. Wang) Well, you know, we have done very
20 extensive study on the Supreme Court's decision relative
21 to Lau, Lau versus Nichols, and we have also reviewed the
22 subsequent federal court decisions which has applied and
23 interpreted the Lau decision of which there are, all to-
24 gether, three so far, and all of which we note this,
25 and also based on our understanding of the Lau decision, all

1 of which have required bilingual-bicultural education as
2 the minimal requirement for compliance with Lau.

3 And so, in my capacity as one of the consultants
4 to HEW, we have made very, very strong recommendations to
5 HEW, that in their enforcement efforts throughout the
6 nation, that no school be allowed to get away with any-
7 thing less than a bilingual-bicultural education full time.
8 None of these, you know, ~~one-hour, pull-out-of-class with~~
9 ~~a little bit of~~ Chicano culture and Spanish thrown in,
10 if you would call that a bilingual-bicultural education.

11 I think we have very, very good legal basis for
12 asking for full bilingual-bicultural education, for in-
13 stance in the Serna versus Portales, the Tenth Circuit
14 Court decision in New Mexico, which spells out exactly
15 what ought to be in the course contents.

16 For instance, if you teach American history, if
17 you have a class for a school made up of Chicano students,
18 that history of the Chicano people and their contribution
19 to American history ought to be included in the curriculum.
20 And I would even go so far as to say that the, in your
21 extracurricular activities, all of which ought to have --
22 ought to reflect the tradition and history of the people,
23 whether it be PE, home economics, or sports, your German
24 club, everything, and that's, you know, that, I think, is
25 -- you know, because the Supreme Court decision spells out

1 very explicitly that children ought to have a chance to
2 participate effectively, you know.

3 What does that mean? What is effective participa-
4 tion in a public education or program? It means that
5 every minute the child is in school he ought to be able
6 to participate, and in any activity of the school district
7 in which a child is denied that kind of participation,
8 you know, his rights are being violated.

9 Q. (By Ms. Jacobs) That's your interpretation, is that
10 the court's interpretation or the school district?

11 A. The court's interpretation, as I cited the Serna
12 versus Portales case, you know, deals with the -- you know
13 the curriculum content. I think that much is clear.

14 Q. I mean in terms of what is effective participation,
15 every minute?

16 A. Well, that's my interpretation.

17 Q. But the school district does not or does interpret
18 it the same way?

19 A. Well, as I said, you know, so far there are only
20 three cases based on Lau, and you know, many of you are
21 familiar with the Brown, we're still litigating Brown,
22 you know, it's been litigated for the last 20 years, and
23 I suppose that in the years to come there will be more
24 cases based on Lau, just like there were many cases based
25 on Brown. And so, as we go along, I think more and more of

1 these points are going to be clarified.

2 Q (By Ms. Bernstein) Has HEW adopted any of the
3 specific recommendations that you made?

4 A I don't know. You know, that's something that --
5 that the secretary of HEW will have to make a decision,
6 but I have with me a memorandum written by the former
7 assistant secretary -- former undersecretary of HEW,
8 Frank Calushi (Phonetic), dated December the 2nd, 1974,
9 the memo was addressed to assistant secretary for educa-
10 tion in HEW in which he specifically prohibits the staff
11 within HEW to take any position relative to the remedies
12 under Lau which to me is a complete reversal of what HEW
13 has always stood for. Especially through Office of Civil
14 Rights, and of course, it's completely opposite to the
15 three court cases that have been decided since Lau.

16 And I think it's in violation of the intent of the
17 Congress of the education amendment in 1974, which renewed
18 the Title VII and vastly expanded the Title VII legis-
19 lation. I think Congress spelled out very clearly that
20 bilingual-bicultural education is really an effective way
21 of promoting equal educational opportunity for limited
22 English-speaking but if HEW is going to take that kind of
23 position, then we're, I think HEW is being very hypocritical
24 and very damaging and perhaps even doing something illegal.

25 Q Have you confronted HEW with that information?

1 A. Not yet, but we will be very soon.

2 Mr. Frank Calushi, of course, subsequently was
3 appointed by President Ford to be ambassador of Portugal
4 now, so he's out there, but as far as I know, the memo that
5 he issued to the assistant secretary for education is
6 still in effect.

7 And the recommendation that I personally made and
8 a number of people made to HEW, as far as I know, have
9 not been adopted.

10 Q. And you're saying that really HEW's position is not
11 one of commitment to bilingual-bicultural education?

12 A. I could only comment on the basis what the under-
13 secretary has said publicly, and on two separate occasions.
14 On March the 28th, he testified before the Congress on the
15 impact of Lau nationwide, and then, subsequently, that memo,
16 and on that basis I would say that HEW still holds an
17 unnoted and racist view of minority languages and cultures
18 and on that basis, therefore, HEW is very much against
19 bilingual education.

20 Q. (By the Chair) You were here when the last witness
21 testified. Do you believe, since -- do you believe, since
22 -- do you believe that's part of the reason that the
23 Office of Civil Rights, HEW, in the region does not move?

24 A. Very much so. I think that the -- I just do not
25 think that the office for Civil Rights could move at all,

1 you know, that story that the lady described about Fresno,
2 it sounds like what we -- we're going through, we have
3 been going through in San Francisco, almost identical.

4 And I think, you know, as you probably know, that,
5 you know, Office of Civil Rights, of course, was charged
6 with the responsibility of enforcing Title VI and pursuant
7 to Title VI, the May 25, 1970 memorandum was issued.

8 And to this date, even though the memo was issued
9 to 1,660 school districts, with 5% national origin group
10 students in their school district, to this date, I think
11 they only were able to review something like 60 school
12 districts, and were only able to negotiate perhaps com-
13 pliance kind of a plan for around 32 school districts,
14 and of which I think all of them, of course they have
15 required those school districts, those 32, to implement
16 a bilingual-bicultural education plan.

17 But three of them have refused to even negotiate
18 with the Office of Civil Rights and I suspect Fresno is
19 probably one of them, and HEW has taken no punitive action
20 against them. And I don't suppose they will.

21 MS. HATA: Mr. Chairman, will we ask Mr. Wang to
22 submit to staff a copy of the Calushi memo?

23 A Yes, I'll be glad to do it.

24 THE CHAIR: We can ask him.

25 Q (By Ms. Jacobs) Is that a long memo? Do you have

1 it with you?

2 A Yes, I do.

3 Q Is it a long one?

4 A I think around four pages.

5 Q But the essence of it is that the staff is speci-
6 fically prohibited from enforcing the --

7 A No, from -- no, from taking any position relative
8 to what is the meaning of the appropriate remedy under Lau,
9 now keeping in mind that in January this year, Office of
10 Civil Rights announced that they were going to conduct
11 compliance activity on a number of school districts and in
12 fact, 333 school districts were cited in a letter sent out
13 by the director, Office of Civil Rights, Peter Holmes,
14 dated January 17th this year.

15 Now, if you were going to conduct a compliance
16 review, you have to have some criteria for reviewing the
17 educational services of those school districts. Now, if
18 you -- you have, on the other hand, you have a secretary
19 who is telling his staff that you are not going to
20 develop any kind of minimum standard. Now, how are you
21 going to conduct a review?

22 Q (By Mr. Lau) Mr. Wang, you mentioned 300-some-odd
23 school districts. How many are in California?

24 A One hundred fifty-seven. Almost 50% of the non-
25 compliance school districts are located in California.

1 And I suspect that that number is a lot more than
2 157, because you know, under the AB2284 of our state bi-
3 lingual education act of 1972, all school districts are
4 required to conduct an annual census in April and report
5 to the superintendent of public instruction the number of
6 limited English-speaking students in their school district.

7 Now, I was very interested in hearing that Fresno
8 now has something like a 1,000 students enrolled in some
9 kind of bilingual-bicultural education. You know,
10 probably not very good bilingual-bicultural education.
11 1,000 students. But I couldn't help but recall the figure
12 that I came across that in 1973, because of this mandate,
13 state mandate that annual census, I remembered, I think,
14 Fresno reported that they only have 17 limited English-
15 speaking students in their whole district. Which says
16 something about the way that we are monitoring, you know,
17 the standards that are being used to identify these
18 students.

19 So the state department so -- now, you know, confess
20 that there are 225,000 students. But if Fresno is any
21 indication or Delano, which that same year reported zero
22 limited English-speaking students, then I think it would
23 be -- you know, I don't think that 225,000 is a correct
24 figure, in fact, it's grossly underestimated figure.

25 I remember last year that Willie Brown, Assemblyman

1 Willie Brown, in his speech before the teachers of English
2 as second language in Hyatt House Hotel in San Francisco,
3 said that he thought that there was probably a million
4 limited English-speaking students in the State of Cali-
5 fornia. So I would take Willie Brown's figure more seriously
6 than the state department's figure.

7 Q (By Ms. Bernstein) In the program that you were a
8 participant in in San Francisco, can you give us some
9 idea of the kind of cost that's involved in setting up a
10 bilingual program?

11 A I think you know cost has always been thrown in,
12 I think, as a red herring. In any discussion regarding
13 bilingual-bicultural education. Because I -- you know,
14 let's take San Francisco as an example. The budget for
15 1974 was something like 148 million dollars. And it boils
16 down to something like slightly over \$2,000.00 per student
17 per year. Now, the school district claimed that they're
18 spending about 2.4 million on bilingual education.

19 What they -- San Francisco School District called
20 bilingual education is really one hour every other day,
21 that's what they call bilingual education. And you know,
22 they always said that bilingual education is too costly
23 and you look at what we're spending, we're spending 2.4
24 million dollars on top, you know, of our regular allocations
25 to all the kids, but when you stop and think about it, you

1 know, we have 10,000, which is a minimal -- which is a
2 low estimate, 10,000 limited English-speaking students in
3 San Francisco. Times 2,000, we'd have something like
4 20 million dollars being spent annually on those kids that
5 are sitting in classrooms, and an issue the Supreme Court
6 has deliberately refused to even consider because Supreme
7 Court is quite well aware that San Francisco is spending
8 those 20 million dollars on those 10,000 kids every day,
9 and yet Supreme Court says, San Francisco is making a
10 mockery out of public education by not providing any
11 kind of education for those kids and by not allowing them
12 to participate effectively in the educational program
13 and therefore, money is really not an issue.

14 It's a matter of how you spend the money. So, you
15 know, I think that the legislative analyst, for instance,
16 report, is also very deceptive because it's based on the
17 assumptions that bilingual education cost is an add-on
18 cost beyond the regular percapita allocation and that's
19 wrong way to start.

20 Because, you know, if you start on that premise, then,
21 of course, bilingual education is going to be very costly.
22 But put a bilingual teacher in a classroom of 30, you may
23 not even need a teacher's aide.

24 I submit that bilingual-bicultural education will
25 actually save school districts money, will cost less.

1 Q (By the Chair) The analyst said yesterday that
2 California is spending 37 million dollars on bilingual
3 budgets --

4 A California is spending \$17.00 per limited English-
5 speaking child identified, and that's based on 225,000
6 figure that the -- that I have. You know, 2284 is really
7 the only bilingual money, you know, if you talk about SB90,
8 the educationally disadvantaged youth or the ECE, the
9 Early Childhood Education, 80 million and 40 million, you
10 know, state department of education can not identify
11 how much of that money is going into these limited English-
12 speaking child and how many are actually in fact getting
13 educated through that type of program.

14 But from checking with a number of school districts,
15 including San Francisco, for instance ECE money is not, not
16 one penny, not one single person is getting bilingual
17 education under ECE in San Francisco, for example.

18 That figure that he gave includes federal money,
19 Title VII, and that's 13 million, that's a big chunk of
20 money there. It also includes some of Title I money,
21 and you know, and those moneys are not going into bilingual
22 education.

23 And so the only money that is really going in is the
24 AB116 money for, you know, which is \$70,000.00 for San
25 Francisco each year, for, you know, three little classes

1 of Chinese kids in the Marina Junior High and then another
2 70,000 down in San Diego plus that four million dollars
3 under 2284, now Governor Brown is very generous to
4 bilingual education, he -- in his budget request for this
5 coming fiscal year, he -- he included the inflation,
6 you know, the cost of inflation, and so he is allowing
7 additional \$308,000.00 so we're getting, next year, for the
8 225,000 kids identified, all together, 4.3 million dollars
9 for bilingual education.

10 And that adds up to \$17.00 per child.

11 Q Yesterday the legislative analyst told us that
12 there's approximately \$400.00 per child for bilingual
13 education.

14 A Again, you know, see, the basis where he made that
15 kind of statement is an add-on cost. And I just don't buy
16 that.

17 San Francisco is spending 20 million dollars now on
18 these kids, and then you want to add another 400 times
19 10,000 kids, of course, you know, you're going to have a --
20 an outrageously high amount of money being spent on bilingual
21 education and I think this is what's getting everybody.

22 You know, I think the people who are in control of
23 the money are extremely devisive, because this is the
24 kind of way that they can destroy any bilingual program.

25 Boy, you know, making it sound, you know, like, you

1 know, one of the board members in San Francisco said that
2 if we were to implement bilingual education in San
3 Francisco it will cost ~~at least~~ at least 40 million dollars.

4 Q You said that San Francisco itself spends approxi-
5 mately two million dollars for bilingual education, is that
6 the --

7 A Two point four million dollars for mostly ESAA.
8 They call it bilingual down there but it's really ESL.
9 San Francisco only had 705 limited English-speaking out of
10 those 10,000 that ever enrolled in real bilingual-
11 bicultural education, and all that money that went into
12 those educationally -- bilingual program for those 705 kids
13 came from federal and state sources.

14 Q What percentage do you think of the total student
15 body in San Francisco District is limited or non-English-
16 speaking?

17 A Again, you know, this is a very political issue.

18 Q From your point of view?

19 A Okay. 10,000, from school districts' own data,
20 nearly 10,000, but based on a survey that the school
21 district had to make in 1972 to get its application for
22 ESAA funds, they had to ask the home language of these
23 children and the figure was 20,000.

24 Q Out of how many students?

25 A Of around 78,000 at that time, our student body now

1 has been reduced to something like, perhaps 70 or 71,000,
2 we lost over 20,000 students in the last five years in San
3 Francisco. And for good reasons, I suppose, because San
4 Francisco School District has been, you know, has spent
5 more money per capita than many, many school districts
6 in California, but in terms of achievement and reading
7 tests and all those tests, we are always at the bottom of
8 the list of all the districts.

9 Q If, say a little less than a third of the students
10 -- well, 20,000 out of 70,000 is limited speaking, and two
11 million is spent on that for all those students, do you
12 have any idea, for instance what percentage of the budget
13 or the number for athletics in the budget?

14 THE CHAIR: I don't think it's fair to take on
15 athletics.

16 Q (By Ms. Bernstein) I'm not taking on, I'm trying
17 to show that probably two million dollars for that many
18 students is a very, very small sum of money.

19 A Yes, and besides, it's the wrong basis to start a
20 com -- you know, calculation.

21 Q It's hard to -- it sounds like a lot of money but
22 compared to an entire school budget and what's spent on
23 other things --

24 A Yes, 148 million dollars, this is a lot of money to
25 educate, you know, 70,000 kids.

1 Q (By Mr. Lau) Didn't you tell us that all of these
2 funds are from the state and federal funding sources?

3 A Yes, all from Title VII, 2284 and AB116.

4 Q So this is not a funding concern of the local school
5 district?

6 A Not at all. The school district has put in no
7 money for bilingual-bicultural education, just like
8 Fresno.

9 Q (By Ms. Bernstein) That money is not from San
10 Francisco School District?

11 A Oh, no. No.

12 Q (By Mr. Lau) And is some of this money being used
13 for ESL programs as well as bilingual programs?

14 A Most of the 2.4 million that they claim that they
15 are putting into bilingual education actually is for ESL.

16 Q So, what is your estimate of the true moneys being
17 used for bilingual education in San Francisco, the true
18 amount of money being used in bilingual education?

19 A The only true money that they are spending on -- in
20 bilingual education, you know, is both state and federal
21 government requires the school district to at least, if
22 you have 30 kids in a classroom that teacher has to be,
23 we're not going to pay for the salary of that teacher and
24 so all your Title VII projects in San Francisco, your
25 2284, and AB116, classes, have teachers in those classrooms

1 and those teachers' salaries come from San Francisco
2 School District and that's the only contribution that
3 the school district is making for bilingual-bicultural
4 education.

5 Q We were told that other school districts have
6 teachers who are not bilingual in the bilingual programs,
7 is this true in San Francisco?

8 A Oh, very much so. Let me just give you an example,
9 for instance, a Title VII program in Chinatown, I think,
10 has 12 teachers in there and they're all paid out of
11 the school districts, the only contribution that the school
12 district had made to that program, I think only seven of
13 them are bilingual.

14 Q Is there a lack of bilingual, say Cantonese-speaking
15 teachers in San Francisco?

16 A I don't think so. Based on the records of the
17 Lau case, you know, there was a statement by the state
18 department of -- employment then, in 1970, that there
19 are probably somewhere around 50 to 60 Chinese teachers
20 that could be brought in, Chinese-speaking teachers
21 could be brought into the bilingual programs. Of course,
22 they are not being brought in.

23 Q Is there a reason given by the school district why
24 these non-bilingual teachers are being used in the program?

25 A They always say that they can't find enough bilingual

1 teachers, and of course, you know, every time when com-
2 munities start pushing for hiring bilingual teachers or
3 affirmative action, there's always a freeze on.

4 And then -- and yet, every time you see new people
5 getting hired all the time, getting slipped in, you know,
6 and it's really a -- very, very hard to understand why
7 they do some of the things.

8 Q Do you know if any effort is being made by the
9 school district to recruit from the ethnic minority
10 communities? In regard to bilingual teachers?

11 A Say that again?

12 Q Are they making any effort to recruit bilingual
13 teachers from the local communities?

14 A Not to my knowledge, because there's been a hiring
15 freeze.

16 Q But you mentioned that there are several bilingual
17 teachers available who are not being used?

18 A Uh-huh.

19 Q (By Ms. Jacobs) Now, is the board of education
20 aware of this availability or is there a list of such or --

21 A They're simply not interested in hiring anybody,
22 so it just, they couldn't care less. In fact, the school
23 district could not tell you how many bilingual teachers
24 that they have on their existing staff. That's how bad it
25 is.

1 Q I'm sure of that, but I'm just wondering if they --
2 if a list has ever been presented to the school district
3 so that this would refute one argument that the people -
4 are not available. Or if there is such a list, that
5 could be presented?

6 A I'm sure that such a list could be developed, I'm
7 sure the state department of employment development could
8 easily produce that list of people who are qualified
9 teachers, who are fluent in both languages.

10 You know, I just do not believe that the -- that
11 the -- that's a legitimate excuse. I think if you made
12 up your mind to have bilingual programs, especially to make
13 bilingual education program part of the regular program,
14 you know, I think the teachers would be there. You know,
15 in fact --

16 Q A lot of the previous witnesses, excuse me, please,
17 Mr. Wang, commented on the fact that many of the teachers
18 were not qualified to teach in a bilingual program or bi-
19 cultural program, and they're saying if there are some
20 qualified ones we ought to help make them aware of this.

21 A Yes. Well, as I said, you know, this whole issue
22 of availability of bilingual teachers was contested by
23 the school district in court, and this is why the expert
24 witnesses were brought in from the state department of
25 employment, to show that actually there was a pool of people

1 available, you know, so that again, you know, is not a
2 legitimate excuse.

3 A (By Mr. Lau) Mr. Wang, isn't it true that the
4 school district hasn't even polled the, for instance the
5 Chinese and the Spanish surnamed teachers in their own,
6 within their own ranks as to whether or not they would
7 like to or are qualified to teach in this bilingual program?

8 A They have, I think they are in the process of doing
9 one now, because San Francisco, you know, is under the
10 Supreme Court mandate to do something, and so under a tre-
11 mendous amount of pressure from the community groups, from
12 HEW and justice department and from courts, of course,
13 they are now in the process of trying to identify those
14 teachers.

15 Q (By Ms. Bernstein) I just have one more question.
16 Has anyone in HEW given you any kind of criteria that
17 they're going to set up to try to carry out the Lau
18 decision, even if they don't seem to be committed to it,
19 have they written anything down that you can see, any kind
20 of program or plan?

21 A No. Not at this moment. As I said, the letter went
22 out over Peter Holmes' signature, on January the 17th,
23 and I assumed that the -- and with, you know, a new form
24 called a Lau form. In which the school districts are to
25 supply the data requested by OCR and included in the form

1 will be information on the type of, you know, educational
2 services these kids are getting.

3 But at this moment, we do not know precisely what
4 criteria will be used for interpreting those data that
5 will -- that are going to be generated out of those Lau
6 forms, so I really don't know.

7 Q (By Ms. Bernstein) Well, has there been a proposal
8 to set up so-called Lau centers in California?

9 A Yes. The federal government, under Title IV of
10 the Civil Rights Act of 1974, allocated 3.7 million dollars
11 to establish nine so-called Lau centers, they're technical
12 assistance centers, designed to assist school districts to
13 comply with the requirements of the Lau throughout the
14 nation.

15 But I think that the 3.7 million called nine centers
16 throughout the country to meet the needs of the school
17 district is just grossly inadequate, because, for instance
18 take California, and California happens to be lucky be-
19 cause of those nine centers, two of them are going to be
20 in California.

21 For instance, the one out in New York, start with
22 Massachusetts going all the way down through Puerto Rico and
23 the Virgin Islands, that center has to take care of all the
24 school districts in between those states, whereas California
25 is the only state to have two centers, one in northern

1 California and one in southern California, the northern
2 California one has a minimum budget allocation of
3 \$675,000.00.

4 Let's assume the -- that of those 157 school dis-
5 tricts that are not in compliance so far in California,
6 let's say that 70 or 80 of them happen to be located in
7 northern California, you know, I just do not think that
8 \$675,000.00 to set up a center could provide technical
9 assistance and do an adequate job to help all those 70, 80
10 school districts.

11 You know, we in San Francisco struggled over a year
12 with, you know, with a full time consultant's firm, with
13 many, many citizens volunteering and some of the staff
14 work, pitching in, doing, over a period of 18 months,
15 working on a plan and I just don't see how a center could
16 provide technical assistance to 70, 80 school districts
17 in northern California.

18 THE CHAIR: Any other questions?

19 Q (By Mr. Lau) What level of participation has HEW
20 had in the San Francisco area in regard to implementation
21 of this plan?

22 A You know, HEW, as you know, could not intervene in
23 any court litigation, and last year, sometime in April last
24 year, HEW requested Justice Department to intervene and
25 subsequently in May, Justice Department did intervene,

1 and as you know that the San Francisco is under a tre-
2 mendous amount of pressure, finally agreed to set up a
3 task force to set up a master plan to come out with a pro-
4 gram that will bring the school district into compliance
5 with the Lau decision.

6 Since then, the master plan was submitted in January
7 the 9th this year, and the community groups have been doing
8 a lot of lobbying and pressuring and finally, on March
9 25th, a modified version of that plan was approved. But
10 the -- there is no assurance that the school district is
11 going to implement it.

12 And Justice Department is now involved in the, you
13 know, reviewing of that plan, we don't know when, you know,
14 the case will reach the federal district court, probably
15 sometime this summer, and we don't know how long the trial
16 will take, we hope that it will be a short trial and we
17 hope that the Justice Department will play a positive role.
18 I think so far Justice Department has played a fairly
19 positive role in working with the citizens and the district
20 staff in San Francisco.

21 And a little bit different from the Fresno experience,
22 where the -- you know, the OCR people don't want Fresno
23 citizens groups to get involved. In this case, in fact,
24 there's a lot of, I think cooperation between Justice Depart-
25 ment and the citizens' task force, so I think in that respect,

1 I think Justice Department role so far has been fairly
2 positive and constructive and I hope it will stay that way
3 through this summer until the latter compliance is finally
4 ordered.

5 Q Well, is it your opinion that without further
6 pressure from the Justice Department that the plan will
7 not be implemented?

8 A Well, you know, I could remember all together, could
9 count all together four separate agreements between
10 Justice Department and the school district that got broken
11 just within the last few months, and so even with the
12 weight of the whole United States Government -- leaning on
13 the school district, you know, they don't seem to care.

14 And it's really -- you know, so it's very hard to
15 say exactly what San Francisco School District is going to
16 do in spite of, you know, court order and, you know, govern-
17 ment intervention, community pressure, you know, I think
18 that, you know, just two or three people in that school
19 administration is able to block anything from going through
20 the school district.

21 Q Can we assume that in the 300-some-odd other school
22 districts that perhaps the Justice Department would have
23 to take action in order to get them to move?

24 A I have no doubt. I have yet to see one single
25 school district in the nation that voluntarily, you know,

1 bring itself into compliance, and this is one of the things
2 that I'm somewhat personally disappointed, is that this
3 January 17th letter that went out from the OCR's director's
4 office notifying those 333 school districts, it specifically
5 states that the OCR wants to cooperate with state educational
6 agencies to come out with voluntary compliance.

7 Now, I know for a fact that the -- that the state
8 educational agencies, state department of education, has
9 no such capacity, experience, competency or willingness
10 to go on any kind of voluntary compliance activity, so I
11 think that the -- I think unless -- you know, maybe OCR
12 is not serious about reviewing these 333 school districts
13 because how can you? Since when can one depend on school
14 districts' voluntary compliance or willingness to, you
15 know, to work on good faith? You know, it hasn't happened
16 yet.

17 I think the experience of those -- of those some 60
18 school districts, you know, that came under review of OCR
19 are based on the May 25th memorandum, I think is enough
20 to show that there has been very little good faith, voluntary
21 compliance made by any school district in the nation.

22 THE CHAIR: We have time for one more question.

23 Q (By Ms. Hata) I was wondering if Mr. Wang was going
24 to read a prepared statement in which he was going to
25 finish off giving us the recommendations that he started a

1 while back. You were talking about recommendations that
2 you've given to HEW and you only gave us one, I think, I
3 suspect there are more. .

4 THE CHAIR: For the sake of time, since we're now
5 running an hour behind schedule, in deference to all the
6 time we've spent, I think we'd probably be just, it would
7 serve the same purpose if we had the entire statement made
8 part of the record and we will take the recommendations
9 of staff, because we are running late and I think it would
10 serve the same purpose.

11 A Okay. And I also have a prepared statement, in
12 fact very, very long, this is a four-page statement that
13 I was going to give.

14 But you know, I have a separate statement related
15 to the San Francisco experience which is almost of a
16 verbatim reiteration of what Teresa Perez, you know,
17 described to you here before me.

18 So, I don't want to, but I'll be glad to, will
19 supply this committee that statement.

20 THE CHAIR: If you would supply the committee with
21 both statements, we'll make it part of the record and we'll
22 take the recommendations and use them as part of our
23 findings.

24 So, what we're going to do right now is we're going
25 to take a seven-minute break.

1 (Short recess)

2

3 THE CHAIR: All right, we'll get started.

4 I'd like to note that we've been joined by Mr. Vernon
5 Yoshioka.

6 Okay, we'll start, 55 minutes late.

7 I like to keep making note of that so that the
8 members will keep in mind -- keep it in mind when we start
9 to ask questions.

10 Mr. John Palomino.

11 Mr. Palomino, if you will state your name and the
12 office with whom you are with and the location for the record,
13 we'll start, then, with questions from the committee.

14

15

16 MR. JOHN ERNESTO PALOMINO

17 A (By Mr. Palomino) My name is John Ernesto Palomino,
18 I'm with the Office for Civil Rights, Department of Health,
19 Education and Welfare, Region IX, which is located in San
20 Francisco.

21 Q (By Ms. Jacobs) Mr. Palomino, could you tell us
22 exactly what the office of education, the office -- wait
23 a minute, what your office does?

24 A The Office for Civil Rights?

25 Q Yes.

1 A The Office for Civil Rights is responsible for en-
2 forcing various acts of Congress statutory requirements
3 which discriminate -- which prohibit discrimination on the
4 basis of race, color, national origin, sex and physical or
5 mental handicap.

6 Q So that then you have the responsibility for en-
7 forcing the regulations regarding education?

8 A Yes.

9 Me personally, or the office? With respect to --

10 Q Well, the office, but tell us about your job and
11 about the --

12 A With respect to my specific job is branch chief for
13 the elementary and secondary education branch and our
14 activities, of course, would fall in the area of elementary
15 and secondary education.

16 We would implement those laws in that area.

17 Q Do you have sufficient staff to implement them?

18 A No, I would say not.

19 Q What sort of staff do you have?

20 A We have a staff of 22 professional equal opportunity
21 specialists and eight nonprofessional or clerical support
22 staff.

23 Q Twenty-two, and how is their job function broken
24 down, those 22? 22 for the region or the State of Cali-
25 fornia or what?

1 A They're all for the regional area which is Cali-
2 fornia, Arizona, Nevada, Hawaii and the Trust Territories.

3 Q And how many of them specifically deal with Cali-
4 fornia?

5 A All of them, at one time or another, do get in-
6 volved with California districts.

7 Q Could you explain the setup of how they would get
8 involved?

9 A Yes. They would get involved in terms of any
10 assignments that might be made to investigate any given
11 complaint or school district.

12 Q Are they specialists in certain areas or just when
13 an assignment comes up it's given to whoever's available
14 or how is this done?

15 A There's several people on the staff that are
16 specialists and there are various areas of expertise.
17 However, the assignments are played across the board, and
18 in that respect, the staff is composed of generalists.

19 The specialty is civil rights, the -- there might
20 be further specialties in given educational programs such
21 as special education or curriculum, but -- and when neces-
22 sary, those people are used as resource people.

23 But the assignments and the investigations are
24 assigned across the board.

25 Q Well now, like in the Fresno situation that was dis-

1 cussed earlier, how many people would you have investigating
2 that or working on that situation or place?

3 A I think historically, I can only address myself to
4 events from 1970, on. But historically, there have been
5 a number of people involved in the Fresno School District,
6 probably close to ten to 12. They have had several edu-
7 cational background areas of expertise. I don't think
8 you could categorize any one person or group of specialists.

9 Q (By the Chair) Let me, for a moment, why don't you
10 walk us through what happens when, let's say school dis-
11 trict or a group of people bring to your attention that
12 they feel that their rights are being violated in the area
13 which you're given the responsibility to oversee. What
14 happens, can you give me any -- I'm a group and I say, hey,
15 I feel I'm being had, what do you do then?

16 A Well, first of all the jurisdictional determination
17 would be made. That is to see whether the office has
18 jurisdiction over the complaint or not. If it -- if we
19 don't have jurisdiction we advise the group or the person
20 where the -- which agency, if any, has jurisdiction and we
21 refer the complaint to that agency.

22 If we do have jurisdiction, the complainant or
23 group is informed that we have received the letter, and
24 what action we will take. If -- normally, about the same
25 time, we would send a letter to the school district informing

1 them that we have received a complaint, and if we can, at
2 that time, initiate an investigation, we would, in the letter
3 we would request preliminary information.

4 Q Okay. Once you initiate the investigation, then
5 what happens?

6 A Once the investigation is -- well, okay, let me
7 clarify that, because if you're referring to a very narrow
8 complaint, for example an employment complaint --

9 Q Let's say an educational complaint.

10 A Educational complaint?

11 Q Yes.

12 A If we do go ahead and initiate the investigation,
13 we would assign either a team or one individual to that
14 area. He would solicit whatever information is required
15 to make a determination of compliance. If it is necessary
16 that person would go on-site and to the school district,
17 interview the complainants, interview any additional
18 people in the school district that might be able to pro-
19 vide information.

20 After that information is collected, that person
21 would return to the office, write a report, which would set
22 out the facts pertinent to the complaint, and possibly
23 make a recommendation to the branch chief.

24 The branch chief would --

25 Q You say possibly make a recommendation?

1 A Yes, possibly make a recommendation. There is no
2 requirement that a recommendation be made, since at that
3 time we're talking about a factual report. The report --

4 Q You would just submit a factual report, then, with
5 nothing on it, just say these are the circumstances, these
6 are the facts, and then --

7 A That's -- exactly.

8 Q Okay.

9 A The review would then be reviewed by the branch
10 chief, if a determination is, at that point, made, that
11 there is a violation of the law, then the office of general
12 counsel would, of HEW, or the regional counsel, would have
13 to review the case to see if there is enough evidence to
14 support a finding of noncompliance.

15 If a finding of noncompliance or if the evidence
16 supports a finding of noncompliance the -- a letter would
17 be prepared for the regional director to inform the dis-
18 trict of the findings.

19 Q And then have you got a certain timetable that you
20 -- how long do you give for compliance with the order?

21 A The regulations, up to very, I would say up to
22 during the last year, prior to that there was no set period.
23 I think that the criteria that was used was as long as
24 the district, in good faith apparently tried to comply with
25 the law, then the -- the office would continue to work

1 with that school district.

2 Q Do you go back and review at all?

3 A We, in some cases when we feel that there's no
4 compliance, we do go back and as a matter of fact, in most
5 cases, whenever staff makes it possible, we do go back.

6 Q In the Fresno case, it was initiated, I guess in
7 1969 or something like that? And there was no letter
8 issued till 1973 or --

9 A Seventy-two.

10 Q Seventy-two. Is this a normal time span, three
11 years?

12 A Normal or average? Is your question normal, what
13 -- by normal --

14 Q I mean under the --

15 A I would say it's average.

16 Q It's average?

17 A Uh-huh.

18 Q (By Ms. Jacobs) Well, how long does it take to do
19 a review? You know, the process that you -- before the
20 recommendation or the fact-finding?

21 A The review itself doesn't take very long, it might
22 take from three months to six months. I think that the
23 lengthy part of the process falls in the area of reaching
24 agreement between the office of general counsel and the in-
25 vestigating staff that there is sufficient evidence to

1 support a finding of noncompliance.

2 Q (By Ms. Hata) How many cases do you handle in this
3 three-year period that it takes you to complete one
4 review?

5 A How many cases would we handle at one time? Is
6 that your question?

7 Q Yes, you're saying it takes you three years, now
8 during this three-year period, while this one case is being
9 resolved --

10 A Well, I think if we're going to answer that question
11 properly, you would have to define, would you like me to
12 define what I mean by a case or what you mean by a case?

13 Q You define it.

14 A Okay. Because it could be -- if a case is any action
15 where a request is made or a complaint is made that there
16 is a violation of the law or that there is discrimination,
17 we could conceivably say that we're handling anywhere
18 upwards of, during that three-year period, maybe 300
19 school districts.

20 However, in terms of comprehensive reviews, which
21 include all of the practices of a school district, we
22 probably would not be handling more than, during that three-
23 year period, maybe six to nine, between six and nine
24 school districts.

25 Q And it takes three years to handle the negotiations?

1 A Perhaps longer.

2 Q (By Ms. Jacobs) How many lawyers do you have,
3 since you said that this is where the bottleneck is?

4 A At the regional level, I didn't say that there was
5 a bottleneck, I said that this is the phase that -- where
6 -- that was your word. There are two regional attorneys,
7 there are several attorneys in Washington, perhaps in
8 the education branch, oh, close to ten.

9 Q But you just brought up a point, go on with your
10 process that you started with, Mr. Jimenez, please, but you
11 mentioned that regional attorneys and Washington attorneys,
12 so Washington has to get into the picture?

13 A Not necessarily. I think that the -- during the
14 last year and a half to two years, there has been an
15 attempt to regionalize the process so that we do more and
16 more work with the regional attorneys.

17 Q (By the Chair) Okay, in the process we're at,
18 where the school is, or you move along or you -- as long
19 as the school is in what your office deems good faith,
20 making changes, there is no action taken against it. How
21 do you --

22 A Action, by action you mean administrative action in
23 terms of enforcement?

24 Q Yes, to make sure that they're complying --

25 A That's correct.

1 Q What is -- do you have any set guidelines for what
2 is good faith progress?

3 A As long as the district continues to profess that
4 they're going to comply with the law and submitting plans
5 or alterations to a plan, of course I think that, reasonably
6 speaking, I think in some issues you can very readily see
7 that there's not going to be any progress,

8 For example, in a student segregation case, for
9 example, you could say that if a school district does not
10 submit a plan in such and such a time frame, and does not
11 implement it by such and such a date, obviously it is not
12 going to do it or it's not in good faith going to do it.

13 However, in terms of implementing an educational
14 plan, I think that there is probably more room for fudging
15 or more room for value judgments to be made.

16 Q In the time that you've been with the Office of
17 Civil Rights, HEW, how many districts have you found to
18 be out, in noncompliance?

19 A Let's see, I better refer to my notes, if this is
20 going to be going on record. What time frame are we
21 referring to, since --

22 Q Since you've been involved, 1970?

23 A Nineteen-seventy.

24 So we don't delay the proceedings, I think probably
25 I would approximate that approximately 12 to 15 school

1 districts, I can give you more accurate figures on that.

2 Q If you would do that.

3 A Right.

4 Q (By Mr. Lau) How many are currently --

5 Q (By the Chair) Twelve to 15 school districts since
6 1970?

7 A Uh-huh.

8 Q The earliest school districts to your recollection?
9 Since 1970?

10 A Well, the earliest is Bakersfield.

11 Q Okay.

12 A Which I believe was reviewed before I came to the
13 office.

14 Q Okay, is it in compliance now?

15 A The Bakersfield Unified School District, elementary
16 school, it's referred to as the Bakersfield City School
17 District, has been informed that administrative action is
18 going to be taken against it, and funds have been deferred
19 from the school system at this point.

20 Q At this point?

21 A Yes.

22 Q (By Ms. James) When were they so informed?

23 A When were funds deferred?

24 Q Yes, when were they so informed?

25 A They were so informed, I believe in either in the

1 last week of May or the first week of June.

2 Q (By Ms. Hata) Nineteen-seventy-five?

3 A Nineteen-seventy-five.

4 Q (By the Chair) That's been in excess of a five-
5 year process?

6 A I believe it's six years.

7 Q Six years.

8 Q (By Ms. Jacobs) Back to your staffing pattern,
9 you mentioned you have 22 professional staff --

10 A Yes.

11 Q Could you tell us more about them, how many --what
12 grades they are, what's their professional training is and
13 what their job is?

14 A I can't tell you exactly what their background is,
15 off-hand, I know of a few, but I can give you a breakdown
16 grade-wise, is that what you are --

17 Q Grade, sex, race?

18 A Okay. At the grade 14 level, there is one Anglo
19 male and one Anglo Spanish-speaking -- Spanish surnamed.
20 At the grade 13 level, there's one Asian woman, three
21 Blacks, one Spanish-surnamed, two Anglos. At the --

22 Q (By Ms. James) I'm sorry, three Black males?

23 A Three Black males, yes.

24 At the GS12 level there are two -- there is one
25 Black woman and one Spanish surnamed woman, no males. At

1 the GS11 level, there is one Anglo woman and one Spanish
2 surnamed male. At the GS9 level there is one Black female,
3 one Spanish surnamed female, one Anglo female, one
4 Spanish surnamed male, and one Anglo male.

5 At the GS7 level there are three Spanish surnamed
6 females. At the GS6 level there is one Black female and
7 one American Indian female.

8 At the GS5 level there is one Asian female, at the
9 GS4 level there is one male Anglo and at the GS3 level
10 there is one Spanish surnamed female, one Asian female,
11 and two Anglo females.

12 Q (By Ms. Jacobs) So now you have 13 females, what's
13 their ethnic group? I didn't get that?

14 A There's one GS13 Asian woman --

15 Q Asian woman, and what's her job?

16 A She's an equal -- all of these people are equal
17 opportunity specialists.

18 Q The 14 down to three are equal opportunities
19 specialists?

20 A No, from 14 down to GS7 and to GS6, there's one
21 GS6 person who is an equal opportunity specialist --
22 equal opportunity aide. That's a career ladder job.

23 Q And then now, the 14 would be the chief --

24 A Yes, there is, in addition there is one other 14.

25 Q So you have two 14's?

1 A. That's correct.

2 Q. Male or female?

3 A. They're both males.

4 Q. Both males, both Whites?

5 A. One of them Spanish surnamed, one is Anglo.

6 Q. And they're all equal opportunity specialists from
7 seven on up?

8 A. That's correct.

9 Q. But is there a difference in the level of their
10 assignment or the job or not?

11 A. Yes, there is.

12 Q. And how is that delineated?

13 A. Yes. Usually GS12 and above act in the capacity
14 of either team leaders or project coordinators..

15 Q. And how many people on a team?

16 A. On the average, four.

17 Q. And they would all four would be EEO specialists?

18 A. That's correct.

19 Q. So that when Mr. Jimenez complains, it goes to one
20 person who decides that it's within your jurisdiction, and
21 I want to ask you how you decide it's within your juris-
22 diction, but then the team of four go out to Sacramento, or
23 wherever --

24 A. Yes.

25 Q. -- and investigate --

1 A Yes.

2 Q -- so how do you decide whether it's within your
3 jurisdiction?

4 A Well, if the -- if the issue revolves about an
5 activity which is conducted by a school district which is
6 a recipient of federal funds, it is within our jurisdiction,
7 and the one exception would be if we would refer -- if
8 it were to refer to a noncertificated position in the
9 area of employment, we do not retain jurisdiction over
10 classified staff.

11 THE CHAIR: Do you have any other questions?

12 Q (By Ms. Jacobs) Yes, these 22 employees in the
13 elementary-secondary branch?

14 A Yes.

15 Q And how many employees in the Office for Civil
16 Rights all together?

17 A I believe there's 70.

18 Q Seventy?

19 A In the regional office.

20 Q Yes, 70. Now, what would the other branches be?

21 A The other branches would be the higher education
22 branch, contract compliance branch and health and social
23 services branch.

24 Q And how would contract compliance differ from yours?

25 A Their jurisdiction comes from the Executive Order,

1 11376, and they would primarily screen contracts which
2 are granted for -- contracts which are let by HEW. For
3 example, the construction of a public school, the con-
4 struction of a hospital or construction of a welfare
5 department to which HEW funds are going.

6 Q So, yours and the higher education would be the
7 ones that would be dealing specifically with the educa-
8 tional system?

9 A That's correct.

10 Q (By the Chair) I want to get back to a question,
11 you mentioned that as long as the district was submitting
12 plans and revision to plans, that this was considered to
13 be an act of good faith on their part and therefore they
14 were not put in the category of noncompliance.

15 A That's correct.

16 Q Okay. Let's say that a district does that and
17 specifically the Fresno district, which evidently openly
18 and blatantly, I guess, from stuff that's in the paper and
19 stuff or has been alluded to by witnesses, which I assume
20 to be true, is -- let's say submitting -- is Fresno dis-
21 trict submitting plans and all this kind of stuff?

22 A Yes, they have.

23 Q And even though they're doing this, which normally
24 would be an act of good faith, if in fact people in the
25 district are saying, hey, we're not going to comply anyway,

1 I mean we don't think HEW, OCR, has any -- you know, is
2 going to make us want to do this, is this considered also
3 to be --

4 A Well, I don't think that that type of a statement
5 would be admissible in court as a statement that the dis-
6 trict is not in compliance. I think that --

7 Q But would it not be grounds for your office to
8 say, listen, you know, it's obvious that we're, you know,
9 there's some -- some grey area here, so therefore, we're
10 going to give you till X date to comply or we're going to
11 take away funds and move away from this as long as you're
12 doing something, we can go on this thing for another three
13 years?

14 Let's say the same level that you reached at
15 Bakersfield?

16 A I think if that were feasible, yes, I think we could
17 do that. However the regulations are explicit. First of
18 all I don't think that you -- you -- I think that you
19 sandwich the process in. We can not say that we're going
20 to take away your funds by such and such a date, the
21 regulations and the law do not permit that.

22 I think that we would have to enforce, would have
23 to enforce the law in a very deliberate manner, that's what
24 the regulations require.

25 Q Recognizing that there are regulations --

1 A Right.

2 Q -- do not the regulations and the law say that if
3 you do not comply we can take away funds?

4 A Exactly.

5 Q So therefore, if they are not complying, based on
6 what you're telling me, the only criteria to -- that is
7 used to determine whether or not they are, is whether or
8 not they're submitting plans --

9 A That's correct.

10 Q -- which people could do from now to -- from here
11 to eternity --

12 A Sure.

13 Q --but they can do that and they would never have
14 to comply, is that correct? Is that a correct assumption,
15 that as long as they keep submitting plans?

16 A No. I don't -- I don't think that that would be,
17 in practice, I don't think that that would happen. I
18 think that if it were determined that the district was
19 dissembling or in effect, not conducting -- not submitting
20 the type of a plan which would lead to an acceptable
21 remedy under the law, then the regional office would take
22 -- would recommend enforcement action to Washington.

23 Q Right. But if you submit a plan that does what the
24 law says and the plan is never implemented, then are they
25 not in violation?

1 A That's correct, right.

2 Q And therefore the plan has nothing to do with what
3 they're doing.

4 A That's right.

5 Q So therefore, if the plan has nothing to do with
6 what is actually happened, then how long does it take you
7 to find them in noncompliance?

8 A If they don't implement the plan this is what your
9 premise is?

10 Q Yes.

11 A If they don't implement the plan, then they are
12 referred to Washington.

13 Q How long does this take under regulations and
14 guidelines set forth by the order?

15 A I believe that -- well, you're asking me once that
16 the plan -- once that the school district has been referred
17 or the case has been referred to Washington how long does
18 it take before the ad --

19 Q I'm asking you how long it takes, from the time that
20 you find out, the problem as I see it, you know, and I think
21 we should get down to Fresno, since we've talked about it
22 this afternoon, and I believe you were here --

23 A Sure.

24 Q I believe you were here. As I understand, and I
25 may be, you know, you correct me, the problem with Fresno

1 started on a correspondence nature in 1968?

2 A. Uh-huh.

3 Q Okay. And a team was sent out, and there was no
4 letter issued till 1972, that -- and it's since 1972,
5 Fresno Unified or whoever it is, has had four years or
6 three years to get into compliance. Now, I understand
7 there's six areas in which they are not complying with, is
8 this correct? Or five?

9 A. There were six areas of findings, yes.

10 Q Okay, six areas of findings. Okay, one of them
11 being the area of segregation, is this correct?

12 A. That's correct.

13 Q Which has or has not been complied with up till now?

14 A. That's correct, it has not been complied with.

15 Q Okay. Now, that's one of the easy ones to figure
16 out, as I understand --

17 A. That's right.

18 Q -- and in three years it hasn't -- there's still
19 not enough evidence to indicate that they are not going
20 to comply with it?

21 A. As far as I'm concerned there is enough evidence, yes.

22 Q Then why hasn't something been done about it?

23 A. Well, what, if you define -- I think that something
24 has been done about it, perhaps not what you conceptualize
25 is sufficient, but the region has been -- the region has

1 referred the case to Washington for enforcement.

2 Q It has --

3 Q (By Ms. Jacobs) No enforcement's done at the
4 regional level?

5 A That's correct.

6 Q (By the Chair) When was this done?

7 A I will say about a month ago.

8 Q About a month ago, and how long does the process
9 take?

10 A I would -- I would hope that it would take,
11 generally speaking, I think it would probably take 90 days
12 for the attorney to prepare the case, inform the district
13 that there's going to be a hearing, and for an administrative
14 law judge to be assigned. However, I want to emphasize that
15 that is not my responsibility so I am not -- I can not
16 speak to that point.

17 Q Okay. If it is found that Fresno is in noncompliance,
18 after being asked to comply with such and such, you know,
19 then when, the fact that you find them in noncompliance
20 on the segregation class --

21 A Yes.

22 Q -- is that enough to stop all federal funds?

23 A Yes.

24 Q For the other, even -- all federal funds?

25 A All federal funds, period.

1 Q In the school district?

2 A Yes.

3 Q (By Ms Jacobs) But if it takes five years for you
4 to get the findings from Fresno to San Francisco to
5 Washington, even though it may take 90 days for the
6 attorney to say something should be done, then how long
7 do you estimate it will take before Fresno either complies
8 or the Office of Civil Rights says we'll cut off the funds?

9 A Conceivably, within the law, it could take five more
10 years. They could exhaust the process and go to, by the
11 time that the case gets to the appropriate committees in
12 the senate and the house, and after that the district could
13 conceivably still not comply as in the case in Ferndale,
14 and noncompliance could go on as Mr. Jimenez implied,
15 from here to eternity.

16 Q (By Ms. Hata) How many cases has your office
17 forwarded to Washington as of 1973?

18 A There are several categories in which cases are
19 referred to Washington. Under the Emergency School Aid
20 Act, there have been quite a number of cases which have
21 been referred to Washington. As not being -- as the dis-
22 trict not being in compliance.

23 Q Quite a number means ten, five, or what?

24 A Within what period of time?

25 Q Say as of 1970?

1 A Oh, probably around ten to 15?

2 Q How many of these cases have been resolved as of
3 1975?

4 Q (By Ms. James) I'm sorry, that ten to 15, is from
5 1970 to present?

6 A Yes. We have received plans from -- of those 15,
7 probably around 13 have been resolved.

8 Q What about the other categories that you've been
9 talking about, you said that there are other categories?

10 A Yes. What I think, in fairness to the subject, I
11 think we should define what the different categories are.

12 Under the Emergency School Aid Act, the school dis-
13 tricts apply for specific funds which were incident to
14 desegregation or reduction of minority isolation. Many of
15 the school districts are found to not meet the requirements
16 of the act in terms of civil rights compliance or civil
17 rights assurances.

18 When the office regionally determines that the dis-
19 tricts are not in compliance, the cases are referred to
20 Washington. In order that the secretary -- not the secre-
21 tary, but the commission of education notify the school
22 district that they're not eligible to receive funds.

23 This is called the Emergency School Aid Act. There
24 are a number of school districts which have been refused
25 funds on that basis.

1 Under Title VI, which is the main thrust of the
2 program, under Title VI, we have only referred -- we have
3 referred two cases to Washington for administrative action.

4 Q When did you refer them?

5 A The Bakersfield case, I believe was referred, oh,
6 over two years ago, I can't -- I don't know exactly how
7 long --

8 Q And? What has Washington done?

9 A I don't know, I think that that question best be
10 answered by people in Washington. We -- the regional re-
11 sponsibility stops as long as -- when the case is referred
12 to Washington.

13 Q Once you pop it in the mail that's it? As far as
14 your responsibility is concerned?

15 A Officially, yes.

16 Q What about the other kids?

17 Q (By Ms. Jacobs) Does HEW encourage you to refer
18 cases to Washington?

19 A Encourages? I think that the regulation requires
20 that we do when we find that there's a determination of
21 noncompliance.

22 THE CHAIR: Let me just, I know we're all interested
23 in this, but so that we don't interrupt each other, so we
24 don't lose trains of thought, if you'd, you know, if you
25 want to -- normally I don't mind, but I think for this

1 instance, if you want to be recognized and want to ask a
2 question, let me know and let the person continue their
3 line of questioning.

4 Just before we get started, as long as I've broken
5 it, there is a chart here which our staff has spent a lot
6 of time putting together, which will give you a little bit
7 better idea of what they've been able to find, I guess,
8 from talking to your department and the Bakersfield Elementary,
9 City Elementary, was, letter of probable noncompliance
10 was sent in 1969, and that line means that nothing's been
11 done since then. So would you --

12 Q (By Ms. Hata) Well, the Bakersfield case was one
13 case, you mentioned another case?

14 A Yes, that was Secoya (Phonetic).

15 Q And?

16 A It's -- the case is in Washington.

17 Q It is in Washington?

18 A That's correct.

19 Q And to your knowledge you have no idea what's hap-
20 pened to that case?

21 A That's correct.

22 Q Well, these are two categories, you said there were
23 more categories of cases that you have sent to Washington.

24 A Well, the emergency school aid was one category and
25 Title VI would be another category.

1 Q These are the only two categories?

2 A That's correct.

3 MS. GOMEZ: Mr. Chairman --

4 THE CHAIR: Yes.

5 Q (By Ms. Gomez) When you, your case goes to Washing-
6 ton, you say that your responsibility ends, don't you
7 have a followup of any kind?

8 A Only if there's further investigation required by
9 the office of general counsel.

10 Q But you don't follow to see what's happened or
11 why they haven't --

12 A You mean officially?

13 Q Officially?

14 A We have no responsibility past that point. In other
15 words, the enforcement capability's in Washington. Which
16 you know, the sanction for withholding funds can only be
17 made out of Washington, not out of the regional office.

18 Q But you can't find out where any case is at any
19 determined time or what's being done just for the sake of
20 information for you?

21 A Well, yes, I personally know that they're either in
22 the office of general counsel or in the office of the
23 director, but from a practical standpoint, you know,
24 curiosity stops there.

25 Q (By the Chair) Can you tell me what happens when a

1 plan is rescinded?

2 A When a plan is rescinded, you mean if it's found to
3 be not acceptable under --

4 Q Like Secoya Union High School, I guess --

5 A Yes.

6 Q -- the plan was rescinded in 1971, and it's blank
7 after there. Evidently you --

8 A I believe that in 1971, I believe that that was when
9 the plan was referred to Washington.

10 Q Staff might want to give me some help on this, be-
11 cause I see that the Secoya School District started in
12 '68 and went through steps one through four all in the
13 same year.

14 MS. JAMES: No, the four refers to the footnote,
15 it doesn't refer to step one, two, three, four, see?

16 Q (By the Chair) Okay, that's not a proper statement.
17 But we went from the, where the review is initiated or
18 first on-site visit to the letter of probable noncompliance,
19 all in a period of about -- a period of one year, and San
20 Bernadino we didn't, you know, I -- is there any reason
21 for that? I mean is there any reason that you moved really
22 super fast on that one?

23 A Super fast?

24 Q Yes. I think compared to the others --

25 A Really? Well, you mean in -- which are you referring

1 to now?

2 Q The Secoya School District, which is right there,
3 the plan was initiated, the review was initiated and the
4 letter of probable noncompliance was all sent within a
5 period of one year.

6 A That's correct. I believe it was student assignment
7 issue and that was fairly easy to resolve and to inves-
8 tigate.

9 Q And after that was done, then it says that then
10 two years later they rescinded the plan. I don't understand
11 that, can you explain that to me?

12 A Can I explain it?

13 Q Yes.

14 A What I believe that that means is that the school
15 board rescinded the plan that they referred to HEW.

16 Q That doesn't mean that they complied then?

17 A That's correct. In other words, they -- they sub-
18 mitted a plan to HEW and probably rescinded on it. I
19 think that the question is not that, however, I think that
20 that might give you a --

21 Q Is Secoya in compliance now?

22 A The region has determined that the district is not
23 in compliance, and has referred the case to Washington for
24 administrative enforcement.

25 Q That took five years. When did you do that?

1 A I believe, if your staff has done a good job, it's
2 probably in 1971. Or in 19 -- let me see. In 19 -- 1969,
3 right. Right? That's when you --

4 MS. GODOY: Nineteen-seventy-two.

5 A That's when the letter of probable noncompliance --
6 in all fairness, I don't have any records in front of me
7 so I do rely on the information that they do have because
8 they did get it from me at that time.

9 MS. GODOY: This information was from his office.

10 A Most of the information I'm giving you is from
11 memory and I hope that you'll bear with me.

12 Q (By the Chair) I understand that, that's why we're
13 not being really super critical on the thing.

14 A Thank you.

15 Q But Secoya started in '68, the letter was issued
16 in '69 -- or in the same year, of '69, and they're still
17 receiving federal funds, I imagine.

18 A I would think so, yes.

19 Q And this is just normal procedure, I mean the time
20 -- I'm really, I am really, really baffled or -- shocked,
21 surprised, that the rules and regulations, which I imagine
22 are fairly explicit, would allow this type of time frame.
23 But I don't want to get into that.

24 Does anybody else have any questions?

25 MS. HATA: Yes.

1 THE CHAIR: Okay.

2 Q (By Ms. Hata) I understand that the money that you
3 hand out to the school districts are funneled through the
4 state department of education, you don't hand out moneys
5 directly --

6 A Yes, the office of education grants the -- that
7 HEW grants through the office of education and then adminis-
8 tratively through the state department, that's correct.

9 Q Now, what's your department, your office policy for
10 informing the state department of education of your
11 activities in local school districts?

12 A They're always informed.

13 Q You always keep them informed?

14 A That's right, a copy of every letter which transmits
15 findings goes to the state superintendent.

16 Q Has your office ever requested state department of
17 education data on the local school districts and in the
18 process of a --

19 A Quite often we do, yes, we do that routinely.

20 Q And what has been the response?

21 A In general, the response has been positive.

22 Q Are your data collections coordinated, then, with
23 civil regulations that the state department of education
24 supposedly does?

25 A I'm sorry I --

1 Q Is there some kind of coordination between the data
2 that you're collecting and the state department of educa-
3 tion is collecting?

4 A Yes, most of it -- the two primary surveys that
5 we're conducting right now, the 101, 102 survey, which is
6 the ethnic and racial survey we conduct every year, is run
7 in conjunction with the State of California Department of,
8 Education, and also the information we collect pursuant
9 to the Lau court order is also primarily collected by the
10 state department and then the information is channeled
11 through us -- to us.

12 Q Now, has your office conducted any kind of compliance
13 review of the state department of education?

14 A No, we have not.

15 Q Why not?

16 A Probably -- I really don't know. I can't give you
17 any concrete reason other than we have traditionally
18 maintained -- done reviews of school districts only, we
19 have never dealt with that issue.

20 Q That's traditionally, what does the law say in
21 terms of your responsibility?

22 A The law says that the state agency files with us,
23 must file with us an assurance that they're complying with
24 the law.

25 Q Do you check on that assurance?

1 A From time to time.

2 Q And what does that check mean?

3 A Well, if we find that there's a specific situation
4 where they're not complying we would inform them, inform
5 them -- I think we have had in the past, during the past
6 six weeks, we have been in touch with the state over such
7 an issue.

8 Q You do not monitor how the state department of
9 education handles the funds that are funneled through to
10 the school district?

11 A No.

12 Q Is that part of your function?

13 A No, it isn't.

14 Q Who monitors this, then?

15 A You mean how the funds specifically? I would think
16 that that would be a function of the contracts officer or
17 whoever does handle -- handles grants in the office of
18 education. Our only concern is with program, program
19 issues.

20 MS. GOMEZ: Mr. Chairman?--

21 THE CHAIR: Yes.

22 Q (By Ms. Gomez) Mr. Palomino, you have been with the
23 Office of Civil Rights since 1969?

24 A Yes.

25 Q Was your original position a political appointed one?

1 A No, Ma'am.

2 Q (By Ms. Jacobs) Well, all of the Office of Civil
3 Rights people are Federal Civil Service employees, correct?

4 A Regionally?

5 Q Yes.

6 A Yes.

7 Q Yes, that's what I meant, regionally.

8 THE CHAIR: Okay.

9 Q (By Ms. Jacobs) But back, still on that staff again,
10 and in terms of you mentioned that you have one aide,
11 career mobility person --

12 A Yes.

13 Q -- so I assume that a specific training program has
14 been developed for that person?

15 A Yes. Actually, there are two, there was one person
16 who's now a GS9 who began as a GS5.

17 Q What sort of training do you have for the rest of
18 your staff?

19 A Well, I think that all of the staff receives the
20 same training, regardless of their grade -- well, in the
21 professional slots and also upper mobility positions, they
22 receive investigative training and also they receive
23 program training. Falling into the different categories
24 of the programs we look into normally.

25 Q What's included in that and who does the training?

1 A. The training is done in two forms, it is done either
2 in the form of a structured program developed by the office
3 in Washington, or it is done regionally. Once we -- we
4 either make changes or we implement a new program, the
5 regional staff becomes familiar with the requirements and
6 the senior specialists under the guidance of the branch
7 chief develop a training program.

8 And then, pursuant to that, to that initial
9 structured training, there is quite a bit of on-the-job
10 training.

11 Q Included in that training is there anything about
12 the minority culture and the need for language?

13 A No, there isn't. We would hope that anyone that is
14 hired by the office would have had -- would have been ex-
15 posed to those sensitivities.

16 Q That's one of the requirements for hiring?

17 A It is one of mine, yes. It is not a --

18 Q Do you do the hiring?

19 A It is not a Civil Service requirement or office
20 policy, it's my personal requirement.

21 Q But do you do the hiring?

22 A Yes, I do.

23 MS. JAMES: Mr. Jimenez?

24 THE CHAIR: Mr. Lau wanted --

25 MR. LAU: Thank you.

1 Q (By Mr. Lau) What has HEW done since the Lau
2 decision to insure that school districts are in compliance?

3 A Since the Lau decision we have targeted 180 school
4 districts in the region, I believe there are probably
5 around 154 in California, for compliance reviews under Lau
6 or under Title VI in educational services.

7 Q And what was the basis for selecting the school
8 districts?

9 A The basis was school districts which had over, let
10 me see, over 4,000 national origin minority children, and
11 who provided little, or none, of the services which would
12 be required, normally required by these children, usually
13 bilingual education or ESL programs.

14 Q So, these school districts would be considered to
15 be in noncompliance? As of today?

16 A No, they would be found to be not in compliance if
17 there was found or if evidence could show that they had
18 assessed needs properly -- no, that they had not assessed
19 needs properly. Of course, if they had not assessed needs
20 properly, then we would go no further and find that the
21 district is not in compliance.

22 But if they have assessed needs properly and find
23 that there are more children not receiving special instruc-
24 tion who do need it, then that would be a situation of
25 noncompliance.

1 Q And how are these investigations being conducted?

2 A At this point they're paper surveys.

3 Q Could you explain how that's --

4 A Yes, a form is sent out to the school district or
5 was sent out to the school district, through the office
6 of education at the state level, and the -- the form re-
7 quires information in terms of number of students who are
8 receiving services, how the students were assessed for
9 language dominance, the types of instruments used to make
10 the assessments, the people who made the assessments, the
11 number of children in special education programs and in-
12 formation of this sort.

13 Q And have all of the districts submitted documents
14 back to your office in good fashion?

15 A Eventually they have all complied, yes. With that
16 request. In other words, the information has finally been
17 received for all of the districts.

18 Q Well, is the information being given to you piecemeal
19 or are you getting all of the information that's required?

20 A Well, usually what happens is that after the --
21 the initial form is sent back filled out, we have a number
22 of questions that we have to frame and submit to the
23 districts for further clarification.

24 Q And all of the responses have been sent back?

25 A All of the initial responses have been received, yes.

1 Q And other documents are going to be sent?

2 A That's correct.

3 Q And what is the time frame for the completion of
4 this paper survey?

5 A There's -- there is a hitch in that, I think the
6 original timetable was for, we had a June 30th deadline
7 for establishing compliance or noncompliance. However,
8 we expected that the national task force that had been
9 assigned to develop a remedy under this program would
10 have or that the department would have cleared the remedy
11 and we have not received the remedy as of this point. So
12 most likely, the letters of findings will not be submitted
13 until the remedy is cleared at the departmental level.

14 Q How long do you think that will take?

15 A I have no idea and I would not want to hazard a guess.

16 Q Well, when your office receives this data, how is
17 your office going to review and evaluate this data?

18 A Well, we have --

19 Q Do you have special staff assigned to the project?

20 A Exactly. Specially-trained staff, yes. The findings
21 will be made in two major areas that I made earlier, that
22 I referred to earlier. If the district either is not, either
23 is improperly assessing needs or not providing services
24 once it has made a proper assessment, then a finding of
25 noncompliance would be made. So those will be two categories

1 in which findings of noncompliance would be made.

2 Q How long would it take you to get to this finding
3 of noncompliance?

4 A It would vary, in some districts -- well, in real
5 time, in terms of, you know, if you could say consecutively
6 working, one staff person consecutively working on one
7 district would probably take five to six days, but the
8 process is lengthened by the fact that we have to ask for
9 further clarification of the information, and then we do
10 have to depend on the time that it takes the district to
11 respond back to us.

12 Q Well, let's say San Francisco sends you back data
13 which is insufficient or that your staff feels is not in
14 compliance, how long would it take for your staff and
15 your office to act on this matter?

16 A Well, you're using San Francisco as an example, be-
17 cause we're not, San Francisco is not our responsibility
18 under Lau. But as an example, if a school district were
19 not no -- we were to request additional information, it
20 might take, oh, a month to five weeks to make a determination.

21 Q And how many staff people have you assigned to this
22 project?

23 A We had probably nine-tenths of the staff working
24 on Lau, between 80% or 90% of the staff was working on
25 Lau at one point. We are -- we're now cutting down on that

1 and we had to cut down on it during the ESAA, during the
2 Emergency School Aid Act application period, probably
3 right now we'd have about eight to nine people working
4 on Lau.

5 Q And will your office have any relationship to the
6 proposed Lau centers?

7 A Well, the Lau centers will assist, hopefully will
8 assist the school districts in obtaining compliance by
9 giving them technical and program assistance. But of
10 course, we do hope to get involved with them in terms of
11 making sure that they understand what the findings are,
12 where the areas of noncompliance are and to share the
13 information that we have received from the school districts.

14 Q Do you think that these proposed Lau centers are
15 adequate for the job that has to be done in this --

16 A I really don't have enough information from which
17 to make a value judgment on that. I'm not familiar with
18 what the -- specifically what the Lau centers are going
19 to do. I know in general what they are proposed to do, but
20 I don't know specifically and don't know who the staff will
21 be and don't know how well they will do their job.

22 Q Is your office going to provide guidelines to the
23 school districts so that they can self-evaluate their com-
24 pliance with the Lau Supreme Court decision?

25 A I think we have been doing that in the course of --

in the course of

1 in the course of having correspondence with the districts
2 pertinent to Lau we have been doing that. How effective
3 that will be, I have no way of telling.

4 Q We heard some testimony that, at least in Fresno,
5 that your office was not receptive to working with the
6 community group there. When your office investigates a
7 noncompliance matter, who do you deal with?

8 A When we investigate a noncompliance matter, the --
9 within the context that you're referring to, working with
10 community groups, I have to say that under the law we can
11 not force a school district to negotiate with a group
12 other than the -- than the Office of Civil Rights.

13 Q So, is it your policy that the community groups are
14 to be excluded in negotiations?

15 A No, it is not a matter of policy, no.

16 Q Are they excluded?

17 A Generally, yes. Very few school districts, if any,
18 that -- none that I know of, want to have community groups
19 included.

20 Q So that if they're excluded it's at the formal
21 request of the school district?

22 A Generally, yes.

23 Q Was this so in Fresno?

24 A That's correct.

25 Q Were the community groups so informed that it was the

1 desire of the school districts that they be excluded?

2 A I don't recall that they were informed formally,
3 probably they were told at one time or another.

4 Q Did your office request that they be allowed to
5 sit in on the negotiations and discussions?

6 A We discussed it with the school districts at one time.

7 Q One other witness, Mr. Wang, who testified before
8 you, mentioned a letter from Mr. Calushi dated December
9 2, 1974, in regard to the Lau decision. Have you seen
10 that letter?

11 A I have no personal knowledge of it.

12 Q Have you heard about it?

13 A No, I haven't.

14 Q You don't know of the existence of such a letter?

15 A I have no knowledge of it.

16 Q You haven't had any discussions regarding a letter
17 or any directives from Washington regarding the slowing
18 down of any action regarding the Lau decision on the part
19 of your office?

20 A No, I haven't.

21 MR. LAU: Thank you.

22 Q (By Ms. Hata) Have you received directives that
23 contradict what the so-called Calushi letter then says?

24 A I don't know what the Calushi letter says.

25 Q Well, perhaps we could provide you with a copy --

1 A Yes.

2 Q -- but the indication seems to be that there should
3 be no policy statements made to enforce the Lau decision.
4 Have you received any direct --

5 A Excuse me, could you, that there should be no
6 policy statements --

7 Q Regarding the Lau decision, either enforcing it or
8 directing agencies like yours to fully implement the Lau
9 decision, perhaps the question should be phrased this way,
10 have you been -- have you received any directives ordering
11 you to fully implement the Lau decision?

12 A Yes, we have.

13 Q Will you provide our office with copies of those
14 records?

15 A That's correct, yes.

16 Q I'd like to get back to ESAA, which you so kindly
17 defined for us earlier. Would you briefly describe for us
18 the review process, review procedures for ESAA?

19 A For -- yes. Normally the office of education has
20 a deadline by which the application from school districts
21 must be received. And at that point, the Office of Civil
22 Rights receives a copy of each application, and the plan,
23 the application must be reviewed to see that an acceptable
24 and eligible plan exists. That is a plan which is designed
25 to reduce or do away with minority students isolation.

1 If the plan is found to be eligible, then the dis-
2 trict is clear for eligibility, all that that says is that
3 they can participate in the program; it does not guarantee
4 funds.

5 If it is not found to meet the eligibility require-
6 ments, then they're so informed. And I believe that they
7 have a -- an opportunity for an informal hearing before
8 the commissioner of education.

9 Once eligibility is established, then there is
10 another period of time during which the civil rights
11 assurances which are pretty much coincide with Title VI
12 requirements, that those assurances are met by the school
13 district.

14 It is possible at that time that the school dis-
15 trict will be found out of compliance, and many, many
16 school districts have been. When that occurs, then the
17 school district is given the opportunity to request a waiver
18 of the regulations, all that that says is that they will,
19 in requesting a waiver of regulations, they say that the
20 situation which leads to noncompliance will be eliminated
21 before they can receive funding.

22 So, if they do come into compliance at that point,
23 then they're clear for funding. If they don't, then they
24 are sent a letter from the, I think that has changed at
25 one point it was the education branch chief and I believe,

1 well, now it is the commissioner of the office of education,
2 and inform the districts that they do not, that they will
3 not be funded.

4 Q Is this an open ended type of procedure? Are there
5 time limits imposed?

6 A Yes. There is a -- they're fairly tight deadlines.
7 You know, usually they run from year to year, it may vary,
8 but usually then they run from six to seven weeks.

9 Q We've been using terms like noncompliance and in-
10 eligible; what is the difference between a district found
11 ineligible for ESAA and a district found in noncompliance
12 under Title VI?

13 A Well, there's only one eligibility factor and that
14 is a desegregation or a reduction of isolation plan. And
15 the eligibility is judged just on that basis. There is
16 either one or there isn't. In order to even be in the
17 ballpark, to be given a ticket to compete for the money,
18 you have to have a plan of eligibility or a reduction of
19 isolation plan or a desegregation plan.

20 Q Okay.

21 A Now, anything else would be a compliance issue and
22 that would correspond to Title VI issues.

23 Q Have ESAA reviews ever become Title VI reviews?

24 A Yes. In some areas, for example student discipline
25 areas. See, the appellations only technical because, you

1 know, no one says from this point on it will be a Title VI
2 review, they correspond, the issues correspond, so that
3 all that -- all that -- the only difference is that within
4 the tight time frames of funding, there might only be
5 time for a quick determination of compliance.

6 Past the funding period, then there's more time to
7 review the school district and then we would call it, of
8 course, a Title VI, but if the district was found to be
9 in noncompliance, the federal funds, all federal funds will
10 be in jeopardy as well as the ESAA funds.

11 Q In jeopardy, but not stopped completely? Under
12 what circumstances -- was that a ~~yes or no~~ -- for the
13 benefit of the Court Reporter?

14 A Yes.

15 Q Yes.

16 Under what circumstances are districts granted
17 waivers of their ESAA grants?

18 A Well, they -- they have no choice. Well, they
19 always have, the district has to apply once that it is found
20 that they're not meeting all of their civil rights
21 assurances. The waiver is only granted when it is de-
22 termined that they will eliminate the source of discrimina-
23 tion or noncompliance.

24 Q And how many districts obtained waivers for '73-'74
25 and for '74-'75?

1 A. Okay. Well, for '72-'73 and '73-'74, for '74-'75 I
2 can tell you but not exactly. Let me see, there were --
3 in 1974, there were ten, perhaps, which were accepted after
4 the district was notified that it was ineligible. Ten
5 districts that submitted plans that later became acceptable
6 plans.

7 Q Okay.

8 A In 1973, we don't have that data. In 1973 there
9 were seven districts that had compliance issues and were
10 found, after submitting plans, were found to be in com-
11 pliance.

12 In 1974 there were eight districts that had com-
13 pliance problems and submitted plans and were later found
14 to be in compliance.

15 Q And you don't have the data for seven --

16 A For '73.

17 Q Why not?

18 A At the time that we prepared that data, I don't
19 think that -- in 1973 we weren't keeping that sort of data.
20 I think possibly we could do it but I think when this
21 report was filled we just didn't have the -- that data
22 available. It probably would be about a comparable number.

23 Q So, you are keeping formal data as of 19 --

24 A Seventy-four.

25 Q And you've kept no data comparable to this --

1 A. Only in the area of plans of eligibility we didn't
2 keep that data.

3 Q Does your office visit these districts to insure
4 that the conditions have been met?

5 A. Yes.

6 Q How often?

7 A. We do what are called post grant reviews and
8 usually we -- we try to identify school districts which
9 may show on the -- on the paper review, may show problems,
10 may give evidence that there might be problems which we
11 can not establish through a paper review, and usually we
12 try to schedule a post grant review.

13 Let's see if I can give you some figures for that.
14 In 19 --

15 Q Is this post grant review done when school starts,
16 in the middle of the school year or --

17 A. During the school year.

18 Q In the first six weeks of school?

19 A. At any time, it could be any time from September
20 until usually no later than February, although it, you
21 know, it could possibly be that we might receive a com-
22 plaint which may fall in that area and at any time during
23 the year and then we would look into it.

24 In '73 we conducted 16 post grants, in 1974, 17.

25 Q Have any ESAA projects been discontinued as a result

1 of your office's review?

2 A There have been several school districts that have
3 not been funded as a result of not being in compliance.

4 Q How many?

5 A Los Angeles, San Diego, Richmond, there are a few
6 others, I don't have that -- I don't have that data right
7 here, but there have been, probably there were about two
8 or three more.

9 Q How long did it take you to stop it? Stop the
10 funding?

11 A I think it varied, in the case of Los Angeles it
12 took several months.

13 No, wait a minute, I'm sorry, I should amend that,
14 because the -- if the district does not submit an acceptable
15 plan within the deadline for funding they're not funded,
16 so probably the period for, in which they were denied did
17 not extend beyond six weeks.

18 MS. HATA: Thank you.

19 MS. BERNSTEIN: Joe?

20 THE CHAIR: Ms. Bernstein?

21 Q (By Ms. Bernstein) Is it true that your office will
22 no longer handle individual complaints?

23 A There is a proposed -- well, the answer is no. But
24 let me expand on that, okay? There's a proposed change to
25 the regulation.

1 Q How will your operation differ if the proposed
2 change goes through?

3 A I don't think it would differ substantially.

4 Q You won't have more time to deal with other things?

5 A No. I think -- let me explain that. It's impossible
6 to investigate all of the complaints that we receive, we
7 just don't have -- and to carry out all our other re-
8 sponsibilities, so that basically the only thing that we
9 can do is to respond on a crisis basis, when possible.

10 The change in the regulations will only legitimize
11 that process, but we have been doing that all along, we
12 just haven't been able to respond and do investigations
13 for all of the complaints that we receive.

14 THE CHAIR: Any other questions?

15 MS. JAMES: I have one.

16 MS. GODOY: A couple of questions.

17 Q (By Ms. Godoy) Mr. Palomino, can ESAA funds be
18 used by districts for bilingual programs?

19 A Yes, they can.

20 Q Does OCR also conduct reviews of these bilingual
21 programs?

22 A Not necessarily, unless there is a complaint or a
23 feeling that there might be a discrimination in the adminis-
24 tration of a program. But the issue would be a programmatic
25 one and would fall within the jurisdiction of the office

1 of education.

2 Q Office of education, and these aren't a regular --
3 aren't included within the regular course of ESAA reviews?

4 A Not generally, no.

5 Q You had mentioned that 154 schools were selected
6 in California and Lau letters were issued to them --

7 A Uh-huh.

8 Q -- would you again repeat the two criteria for
9 selecting these 154 schools?

10 A Yes, let me give it to you exactly. I believe you
11 have a letter of record, but I will read it into the
12 record.

13 The -- these would be districts meeting one of
14 these two criteria, either a district reporting more than
15 4,000 national origin minority children, which has no
16 special language instruction, or districts reporting more
17 than 1,000 national origin minority children with less
18 than 10% of those children receiving special language in-
19 struction.

20 Q Are the 154 schools the only schools falling within
21 this category?

22 A Yes, to the best of my knowledge they are.

23 Q What was the basis -- where did you get the data for
24 selecting these schools?

25 A From the racial and ethnic survey which is conducted

1 annually.

2 Q Conducted by the Office of Civil Rights?

3 A That's correct.

4 Q Who made the determination or who determined that
5 these were the criteria to be used in selecting out these
6 schools?

7 A I believe that it was the office of the director.

8 Q In Washington, D.C?

9 A Yes.

10 Q Can your region include more than those schools
11 selected? Would you have the option to include more within
12 these --

13 A Yes, we do have an option.

14 Q Will you be taking that option or will you be in-
15 cluding more schools in this review in the near future?
16 And what are any proposals on this?

17 A Yes, there's a -- a second phase plan for the
18 program, hopefully we will include next year all of the
19 districts which were not included this year.

20 Q And how many districts are those? You say that
21 these, were all of those included, what did you mean now,
22 by saying that you're going to include all those districts
23 that are not included this year?

24 A Well, we would include districts with less than 1,000.

25 Q Do you have an estimate of how many that would mean?

1 A I don't know, I would think, say probably there
2 would be an equal number.

3 MS. GODOY: Thank you.

4 Q (By Ms. James) Mr. Palomino, are you familiar
5 with the commission's report on federal enforcement effort
6 that looked at OCR, 1974?

7 A I think I read portions --

8 Q Which I've quoted several times?

9 A I've read portions of it.

10 Q At that time, when we were, when the commission
11 itself was doing the 1973 look, your regional office took
12 a position on not looking at large city districts --

13 A That's correct.

14 Q Could you state what that position was and whether
15 it still exists?

16 A The -- I think that probably the statement that
17 was alluded to me was somewhat modified. I expressed the
18 belief that the office did not have the capability to
19 efficiently conduct a large city review.

20 Q Yet you're looking at Los Angeles. So it must
21 have changed?

22 A Yes, there have been some changes since then.

23 Q Why did it change?

24 A Why did -- well, first of all, that was national
25 policy that we would begin looking at large concentrations

1 of minority children where they occurred and they would be
2 in large cities that you refer to. In conjunction with
3 that, there has been a concerted effort to develop the
4 technical expertise and capability to look into these
5 school districts.

6 Q So that decision was made nationally to look at
7 Los Angeles?

8 A That's correct.

9 Q Who would make the decision about looking at state
10 departments of education? Would you make that as branch
11 chief? Could you make that as branch chief?

12 A I guess -- yes, I probably could make it, I would
13 make it in concert with the director of the division of
14 education in Washington. And possibly Mr. Pierce, the
15 regional director.

16 Q Are you aware that about 80% of the state depart-
17 ment staff is funded by the federal government?

18 A I am not aware, I knew -- I didn't know that that
19 was the figure, I knew that there were some people that
20 were funded by the federal government.

21 Q You mentioned earlier that you make an effort to
22 coordinate your survey material with that requested by
23 the state department. Now, I recognize that 101's and
24 102's come out of yours. Were you aware that the state
25 department of education requested information May 21st,

1 similar to your Lau information from March? Have you
2 seen that?

3 A I think it was almost exactly the same information,
4 was it not? They do receive -- actually the information
5 was administratively requested from the state, not -- not
6 by the Office of Civil Rights, the state took care of the
7 administration of it.

8 Q But the forms were printed by you people, right?

9 A Yes. Yes.

10 Q Was there any effort for you to be invited in when
11 they decided to send out this second data, the May
12 data, are you aware of that at all?

13 A I am not familiar with a second request for in-
14 formation.

15 Q You weren't?

16 A No. We were not informed of that.

17 Q Do you, on any regular basis, meet with the bureau
18 of intergroup relations?

19 A Yes, we do.

20 Q And what kinds of things do you discuss or how do
21 you work, cooperate with them?

22 A We talk about mutual problems that we may have with
23 given districts, with any specific districts.

24 Q Have they ever accompanied you on a compliance
25 review?

1 A No, they haven't.

2 Q Have you ever invited them to or do you think that
3 would be -- would that help supplement your staff, is what
4 I'm getting at.

5 A I -- I think that the problem with that is one of
6 training and if we were to involve personnel from another
7 agency just as well as if we were to involve personnel from
8 other branches within the Office of Civil Rights, there
9 would be quite a bit of training required, and I don't know
10 that that would be productive in terms of the total effort.

11 Q If I can back up a little bit, it's my understanding
12 that on the compliance review, such as was done in Fresno,
13 that is not generated from a community complaint, a Title
14 VI compliance review is a responsibility of yours, right?

15 A That's correct. And may -- does not necessarily
16 have to originate with a complaint.

17 Q So how do you select, out of the 1,000 school dis-
18 tricts in the state, which will receive the Title VI com-
19 pliance review?

20 A I think the criteria is multiple. We -- it could be
21 that we may want to look into a school district that has
22 a large concentration of minority school district -- of
23 minority schools, a school district which shows a dis-
24 proportionate assignment of minorities to special education
25 classes, a school district which shows a disproportionate

302200

1 concentration of minority faculty in minority schools,
2 many of these clues would trigger a --

3 Q Where do you get those clues?

4 A From the racial-ethnic survey.

5 Q So do you have the same criteria every year, you
6 get the 101's and 102's every year --

7 A Yes.

8 Q Even/odd year --

9 A Yes.

10 Q -- every year do you use the same criteria for selec-
11 ting which schools you're going to conduct a compliance
12 review in?

13 A Yes.

14 Q The same criteria? You said little clues, is it
15 in writing that we could have what your criteria is?

16 A Well, if you would like me to put it down in writing,
17 I could do that, yes. There is no -- it's not -- it is
18 not part of the regulations or of any manual.

19 Q Every regional office makes their own determination,
20 it's not a national position?

21 A That's correct, but -- the determinations, the
22 criteria upon which the determination is based, is pretty
23 much the same, I think it coincides.

24 Q We talked a little bit about the new proposed regu-
25 lations in terms of complaints, you don't feel that that

1 would change your operation that much. What about the
2 new proposed Title IX regs. --

3 A What about it?

4 Q -- do you foresee that that will modify your
5 operation in any way? If they're adopted?

6 A Yes, there will be more, an additional responsi-
7 bility in that respect, sure. I think, of course it will
8 be one more area of compliance that we'll be looking at.

9 Q You haven't, before the regs., when you were going
10 in to look at equal education services, that particular
11 aspect was not touched upon?

12 A That's correct, right.

13 MS. JAMES: That's all.

14 THE CHAIR: I have one or two more questions.

15 Q (By the Chair) Based on our conversations, are
16 you satisfied with the speed and the time it takes when
17 you arrive at either complying or noncomplying?

18 A No.

19 Q You're not. What recommendations do you have or
20 what -- how do you think you could speed up the process?

21 A I think that probably the law would have to be
22 changed, if you want to speed up the process.

23 Q Are there time specifications in the law that say
24 you must wait 90 days or you must wait a year or you
25 must wait three years?

1 A. No, I don't think that there are any -- any specific
2 time frames, however I think that the law is vague enough
3 to permit an interpretation which lends itself to delay.

4 Q. If it's vague enough to permit that, isn't it vague
5 enough to permit an interpretation that a law should move
6 rather swiftly if that's what you chose to interpret?

7 A. I think you could assume that, yes.

8 Q. Then can you tell me why we've chosen the former
9 rather than the latter?

10 A. No. Well, I could tell you, but I'd rather not
11 tell you.

12 Q. (By Ms. Hata) Why not?

13 A. That would be my own personal judgment and I would
14 rather reserve that.

15 Q. (By the Chair) Okay.

16 Do you foresee anything or have you learned any-
17 thing from your office, not you, necessarily, specifically,
18 but do you feel that there has been anything gained out of
19 the cases which you are now and have referred to for non-
20 compliance that would allow you to speed up any other
21 cases or is this -- or are we to look to a five, six,
22 seven-year program in order to arrive where we have in
23 the two districts that we're talking about?

24 A. Well, I think in any case there's a clearer under-
25 standing of the evidentiary process as to what it is necessary

1 that we establish in order to find a district to be in
2 noncompliance, in that respect there are solitary gains,
3 of course. There are other areas, of course, there are --
4 many issues need to be clarified with respect to what --
5 what is noncompliance, and I think traditionally we have
6 followed the courts in that respect.

7 Q Well, the courts are pretty -- when the courts move,
8 they're fairly clearcut, though, they tell you, hey, this
9 is not -- this is wrong and you must do this or that.

10 A Yes.

11 Q Is that correct? I mean it's a pretty simple type
12 of thing --

13 A Yes.

14 Q -- when you get it from a court.

15 A But that does not necessarily bring about compliance.

16 Q I realize that, but it gives you a pretty concise
17 point of view as to what is or what isn't --

18 A Right.

19 Q Then it doesn't seem that that leaves any grey
20 area as to whether people are complying or not complying,
21 they either are or not.

22 A Well, I think we could argue that.

23 Q We probably could, but the courts make it fairly
24 specific what is and what isn't, I believe.

25 A Yes.

1 Q Is there any possibility that, since other than your
2 Title VI review which you view, is there any possibility
3 that anything could be done with the law or the regulations
4 that would permit interested individuals or those individuals
5 brought to your attention the noncompliance in school
6 districts the ability to participate in negotiation of the
7 plans or whatever, whatever you should negotiate?

8 A You mean for community participation?

9 Q Yes.

10 A I think that it could be written either into policy
11 or it could be written into the law that school districts
12 must require that.

13 Q Okay.

14 A I mean that HEW must require that of school districts.

15 Q Who would require -- if it was a policy decision,
16 where would it have to start with?

17 A I would think that it would have to start from the
18 office of the director.

19 Q That's where it would have to start in order to be
20 complied with?

21 A Yes.

22 Q Where could it start with in order to be listened
23 or brought to the attention of the office of the director?
24 Do you think it's a good idea to include the community into
25 the negotiations?

1 A I think in some cases, you know. You mean the
2 minority community, of course?

3 Q Right.

4 A Because there are various, as you know.

5 Q Well, a community that's affected --

6 A Right, right.

7 Q -- do you think it's a good idea?

8 A I think -- well, no, I think, let's speak to that
9 point, because, for example, you could conceivably, and
10 in my experience this has happened, you could have anti-
11 community groups or you could have majority groups whose
12 interest is not similar to these of the minority groups
13 who also want participation in the negotiation process,
14 and what would ensue would be a free for all.

15 Q Not if you have to move toward the direction of
16 compliance. What you have is people of diverse opinions.

17 A Yes.

18 Q And those people whose opinions were not within the
19 court decision of what compliance is or compliance isn't,
20 their opinions would necessarily become invalid.

21 A Well, I'd like to talk to you about that at length.

22 Q What I'm saying is if you believe in community
23 participation in most cases, not in all cases of course,
24 is a good thing, then what's to preclude you, as a chief,
25 branch chief or whatever, from initiating this type of thing?

1 A. The recommendation can be made very easily, no
2 problem.

3 Q. Has it been?

4 A. In some cases it has been, yes.

5 Q. Nothing's ever come of it?

6 A. No.

7 Q. (By Ms. Hata) I've got to ask this question because
8 it's been staring me at the face for the last hour.

9 Number four there, on the chart, says letter of
10 probable noncompliance. Is that your office that sends
11 this letter?

12 A. Yes.

13 Q. Probable noncompliance, are these your terms? You
14 are probably in noncompliance?

15 A. No, it's a euphemism which was developed somewhere
16 else, it's not mine.

17 Q. What does it mean?

18 A. It probably doesn't mean anything. I think it means
19 that -- it means that since -- since compliance has not been
20 established by an impartial hearing, or administrative law
21 judge, then it's only, technically speaking, is only probable.

22 Q. You do not make that determination, then?

23 A. We don't -- we don't use that term any longer.

24 THE CHAIR: I think it's an innocent until proven
25 guilty-type of thing, where they say you're definitely not in

1 compliance until they -- they reserve the right to say you're
2 not in compliance until it's been reviewed by Washington
3 or an administrative judge who then says you are not in
4 compliance. Until that time it's a probable thing.

5 Assuming that the guilt -- that the guilt of the
6 district is not there until that final second-type of thing.
7 I'm not an attorney, but -- but anyway, we've got some
8 other witnesses. And I know that Herman Sillas won't let
9 me say all the things I want to say so I'm not going to
10 say them.

11 Q. (By Ms. Gomez) I have a --

12 THE CHAIR: You have a final question?

13 Q. (By Ms. Gomez) I have a final question that I
14 would -- I think it's of interest, and I am interested in
15 knowing, I detected, when you introduced yourself, a
16 definite Sicilian pronunciation of your name. Let me
17 ask you, are you considered a Spanish surnamed Anglo or
18 are you bicultural-bilingual?

19 A. (Witness responded in Spanish)

20 Q. What is your ethnic background?

21 A. (Witness responded in Spanish)

22 MS. GODOY: One last thing, we had requested of
23 Mr. Palomino, some information, I wonder if you have that
24 available for us now?

25 A. Some.

1 Q. (By Ms. Godoy) When I talked with you over the
2 phone, you were going to bring us some information to
3 submit into the record.

4 A. Yes. What was that?

5 Q. We had a whole list of it, do you want me to go
6 over it again or would you just --

7 THE CHAIR: Could you do it in private?

8 MS. GODOY: Sure.

9 THE CHAIR: Thank you very much for taking your
10 time.

11 A. You're welcome.

12 THE CHAIR: Members, we have five more witnesses.
13 I think what we'll do is we'll take about a five-minute
14 break and then we'll get into it.

15 Keep it in mind that we're running an hour and a
16 half behind.

17 So, we'll take a five-minute break and then we'll
18 proceed back.

19 Mr. Ross? If you'll bear with us another five
20 minutes, I think it might -- it might -- is Peter Wang
21 here?

22

23 (Short recess)

24

25

1 THE CHAIR: All right, if we can get started,
2 Mr. Ross.

3 Thank you very much, Mr. Ross, for your patience.
4 If you will, for the record, identify yourself, and who you
5 are with and where?
6

7
8 MR. JACK ROSS

9 A (By Mr. Ross) My name is Jack Ross, and I am an
10 associate superintendent in the state department of
11 education.

12 And I'm in the administrative services branch of
13 the department of education.

14 Q (By the Chair) I understand you're the immediate
15 past chief of the bureau of school apportionments and
16 reports, is that correct?

17 A That's correct.

18 Q Would you please explain the process by which
19 California allots funds for educable mentally retarded and
20 bilingual-bicultural program?

21 A All right, Mr. Chairman. I have a document here
22 that I have addressed to you, that runs right through
23 that whole thing and would it be all right if I read that
24 to you?

25 Q All right, you can do that for the sake of time, I guess

1 A First of all, all pupils earn foundation program,
2 which is geared to general educational costs. For 1975-76,
3 it is \$888.00 per ADA elementary, and \$1,073.00 per ADA high
4 school. The foundation program is a partial equalization
5 formula whereby the district's share is determined by how
6 much a given computational property tax rate will raise.

7 The rest of the foundation program is from state
8 aid.

9 In addition a district can exceed the foundation
10 program by using more local tax money, but it is held to
11 a revenue limit per ADA control.

12 Now, at this time, ADA means average daily attendance.
13 And a pupil who attends school for a full school year
14 and is only absent because of illness earns one ADA. It
15 is a method of counting daily membership on a positive
16 attendance basis. That's the general funding process for
17 all pupils in California.

18 Now, the EMR funding is on top of the foundation
19 program. And it is a flat grant amount per class. The
20 formula is designed so that if districts having many
21 classes do not load to the maximum, they run the risk
22 of not getting all of the flat grant allowance.

23 Currently, the formula is such that a combination
24 of EMR allowance and the foundation program gives approxi-
25 mately 18,000 to 23,000 per class.

1 Q How many in each class?

2 A The -- in the EMR there are two maximum limits, 15
3 in classes where the age span is, I believe greater than
4 four years, and, maybe I've got that backwards, let's see.
5 It's 18 where the age span is less than four years and 15
6 where the age span is greater than four years.

7 Now, another fiscal aspect to EMR funding is a
8 required income to expenditure comparison. This require-
9 ment is designed to assure that EMR special allowance
10 plus the foundation program is spent on maintaining and
11 operating the EMR program. And if it's not so, and there
12 is a deficiency, the deficiency between the expenditure
13 and the income is recovered by the state.

14 The third -- I understand that you want to hear
15 something also about the bilingual-bicultural special funding,
16 that the state provides. The bilingual-bicultural special
17 funding is not an annual amount per class or pupil such as
18 the EMR is, instead this program's funding is by a
19 project approval method whereby the state department of
20 education approves a program and the budget for the
21 program.

22 The approval process requires a proposed budget,
23 some degree of budget change approval and a financial report
24 at the close of the fiscal year. Subsequent year funding
25 depends on review of the prior year program and spending.

1 Now, I also want to tell you where the state funding
2 comes from. State funding of education is either through
3 the state school fund, which statutorily provides for
4 annual general education funding, and EMR funding, or
5 through the state budget act.

6 The funding for bilingual-bicultural is a budget item
7 each year. The state department of education asks for
8 the amount it estimates as needed, and includes that into
9 a total budgetary request. The actual amount is dependent
10 upon negotiation with the legislature, which, incidentally,
11 is going on right now, and is subject to blue pencil by the
12 governor.

13 Blue penciling means that the governor can reduce
14 the allocation or eliminate it but he can not increase it.
15 State money is raised primarily through state income taxes,
16 sales taxes and corporation taxes.

17 And that, Mr. Chairman, is the -- my statement on
18 the process by which California allocates the funds.

19 Q Okay.

20 Under what circumstances does the bureau of school
21 apportionments and reports or the state department of
22 finance, conduct audits on the school districts which
23 apply for educable mentally retarded or bilingual-bicultural
24 funding?

25 A Well, as I mentioned, the income to -- the income to

1 expenditure comparison of EMR and the program review of
2 bilingual-bicultural are principal control methods, and
3 you might say they're positive control methods. But in
4 addition, I guess I need to say that all EMR attendance
5 and cost reports are certified by the district and the
6 county superintendent. So when they send a report in to
7 the department of education, as far as EMR is concerned,
8 it has been certified by the district and the county
9 superintendent.

10 Q (By Ms. Hata) You do not conduct your own review
11 of this application, you depend on the county superin-
12 tendent's certification?

13 A The -- they're not applications, they are atten-
14 dance reports, and see, EMR is funded on a -- on a per
15 class and per ADA basis. And they count the days that
16 they're there and the number of classes and then they tell
17 us and we allocate the funds on that basis.

18 By telling us, though, they do it by certification
19 from the district and it also is certified by the county
20 superintendent. No, the county superintendent is an
21 intermediate educational agency which has supervisory and
22 coordinating responsibility over districts of the, ~~the~~ county
23 superintendent, by the way, also conducts EMR programs for
24 small districts.

25 Now, in addition to that kind of a -- of a control,

1 each district, each school district and county superin-
2 tendent is required to have an annual audit of its entire
3 financial transactions by a private accounting firm. And
4 a report of that audit is submitted to the state department
5 of education, and also filed in the county superintendent's
6 office.

7 Now, on top of that, the state department of finance
8 conducts audits on a random sampling basis and also con-
9 ducts special audits in ~~particulare~~ state funded programs
10 which they might have reason to believe need auditing.

11 The state department of education only conducts
12 field investigations if a question of authenticity is
13 raised.

14 Q Who raises that question?

15 A Well, it can be raised several ways, usually these
16 are a result of a department of finance audit reports, or
17 a state or county consultant raises the issue or a
18 complaint by a parent or teacher within the district.

19 Now, if we get these issues raised and if there is
20 enough evidence to believe a discrepancy exists, and the
21 district does not resolve the matter without an investi-
22 gation, then the department of education will investigate
23 the matter. Most corrections, however, are usually headed
24 off by these preliminary types of reporting that we have
25 and the fact that the bureau of school apportionment reports

1 has a large number of accounting techniques that go over
2 these things and check them. Most corrections are usually
3 because of an improper reporting of attendance or costs
4 and result in an adjustment of the -- when we find that
5 we just adjust the allocation by the correct numbers.

6 On other occasions, though, corrections are because
7 of illegal practices such as using an uncertificated
8 teacher, not conducting the program for the minimum hours
9 per day or not having properly identified pupils in the
10 program.

11 Q. (By the Chair) How do you determine that?

12 A. Well --

13 Q. That they're improperly identified?

14 A. Well, the administrative code has some prescriptions
15 for how EMR children are identified, and then our program
16 people would be the ones to determine whether or not they
17 were not properly identified. But if it develops that
18 that is the case, then we will recover the allocation.

19 Q. (By Ms. Hata) How many districts have done this?

20 A. Not very many of the illegal kind, there's quite a
21 -- we have quite a bit of instance of, what you might call
22 improper reporting of attendance or cost data but it's
23 usually not intentional, it's -- usually a clerical mistake.

24 Q. (By Ms. James) When you say not very many, about
25 how many is that, the illegal kind?

1 A. The illegal kind? Well, I'd say that -- I've been
2 -- I was chief of the bureau of school apportionments and
3 reports for about eight years and I'd say that we only
4 averaged two or three a year.

5 Q. (By Ms. Hata) And what steps are taken when you
6 find the illegal --

7 A. Well, when we hear of an illegality and we determine
8 there is an illegality, and incidentally, almost all of
9 those came from the department of finance's audit, random
10 sampling field audits, then the way it works is the
11 department of finance says, here is a discrepancy in this
12 program, we think that the teacher was not a certificated
13 teacher and the district didn't have the right to claim
14 this as an EMR class. Then we would say to the district,
15 well, this is the finding and what do you say?

16 And if they say, guilty, then we withdraw the fund.
17 if they say, not guilty, then we have a field investigation
18 and decide the issue on the spot.

19 Q. This department of finance, random sampling, is it
20 conducted once a year?

21 A. No, it's -- yes, it's conducted throughout the year.

22 Q. I see, and by their random sampling, does each
23 school district, is each school district examined periodically
24 once a year, once every two years, once every three years?

25 A. Well, the random sampling is in the total area of

1 attendance accounting and cost reporting, so I can't --
2 and it depends on the other thing that I mentioned and
3 that is that they will also conduct audits in state funded
4 programs where they suspect there might be reason to audit.

5 And so, if they are not heavily involved in that
6 kind, then they can do more random sampling, but I can't
7 really tell you how they select on a random sampling basis.

8 Q I was just concerned that perhaps one district may
9 not be investigated for a ten-year period?

10 A I suspect that there are districts in the state that
11 have never been investigated on the random sample basis.
12 I also would say that the large districts are always
13 subject to it.

14 Q (By the Chair) How about, is there any way that
15 you can find out or that you have of finding out whether
16 or not the people in the class are -- should really be
17 there?

18 A Well, as I said, there is a prescribed method.

19 Q I realize that, I realize that, but just like they
20 don't comply with the law or the regulations by having
21 certified teachers in an EMR class, what's to keep them
22 from putting children who are not necessarily, who don't
23 meet all the qualifications of being EMR in the class?

24 A What's to keep them from doing that? We wouldn't --
25 we wouldn't fund those programs if they are not --

1 Q But how do you know?

2 A Well, I would have to get a report from one of the
3 field audits or from an investigation, it would have to
4 be determined that this was so.

5 Q You mean other than checking records, right? They
6 would check records?

7 A Yes.

8 Q (By Ms. Jacobs) Do they make site visits?

9 A It's usually after the fact. It's usually almost
10 all audits have to be after fiscal year closes so it's
11 usually after the fact, and --

12 Q (By the Chair) But if I was a school district that
13 wanted to pick up an extra \$23,000.00, I could put a class
14 of 15 in.

15 A That's correct.

16 Q Run them through a psychologist or whatever, say
17 they're educably mentally retarded, and they may not be.

18 A But if they are not, then we would withdraw the
19 funds.

20 Q Yes, but how do you find out that they're not?

21 A Well, either our program people go into the -- you
22 know, someone says that they don't believe this is a
23 legal EMR class, and we would go through this process.

24 Q But how do they do that, I mean if they don't, do
25 they make on-site where they go in and they test the kids.

1 or whatever, or --

2 A No, they'd go in and look at how the children were
3 tested and determine, see what the documents say about
4 how they determined that they were based --

5 Q But if I followed all the rules and procedures, I
6 could do it anyway. It's just a matter of scoring low or
7 whatever, putting people --

8 A That's correct.

9 Q -- it's just a matter of judgment at that point,
10 where I can make --

11 A Yes, but if the scores say they are EMR, then it's
12 not, as far as I would be able to determine, it wouldn't
13 be an illegality if they -- if the scores showed that they
14 were EMR.

15 Q (By Ms. Hata) This audit does not check on the
16 effectiveness of the program?

17 A Absolutely not, we only check, you know, whether or
18 not there's a certificate for the teacher and whether or
19 not our program people would say that they have been
20 properly placed or that the proper length of the day, the
21 class was conducted for the proper length.

22 Q So there's no way for you to know if the money has
23 been used appropriately or properly as it has been so
24 designated?

25 A Well, we don't -- there isn't a program type audit

1 in the EMR that I know of.

2 Q No one does that, as far as you know?

3 A Well, the program people would take a look at that,
4 and -- but we don't, I've never withheld funds because of
5 a program question.

6 Q (By the Chair) Do you see any reform -- okay, go
7 ahead.

8 Q (By Ms. Godoy) Just have one question, are these
9 random samples, do they also include bilingual programs,
10 2284 bilingual programs?

11 A I -- not that I know of, that -- they could, I
12 suspect, and I can't really speak for the department
13 of finance and how they're going to select, but not --
14 I haven't heard of any.

15 Q Any reviews of bilingual programs?

16 A Audit by the department of finance of the bilingual-
17 bicultural program.

18 Q (By the Chair) Do you see any need for reform in
19 the way California allots funds for special education
20 programs? Specifically the ones we've talked about, EMR
21 and bilingual-bicultural?

22 A Well, I would have to say that the funding of EMR
23 is by special classes and there's a class allowance and
24 it's for identified EMR pupils. Now, the state department
25 of education has a master plan for special education which

1 would change the funding from paying for identified EMR
2 pupils in special classes to a comprehensive plan of
3 education for children with exceptional needs, so that,
4 or whereby the funding is in terms of the kinds of edu-
5 cation services and support services for the entire com-
6 prehensive plan. And that is the reform that I think is
7 needed in the -- in the EMR funding.

8 Because this eliminates the stigma of identification
9 by funding or any other reason. The master plan also calls
10 for annual adjustments of the allocations according to
11 inflationary trends, and this is badly needed to avoid
12 erosion of service to children.

13 Q This master plan you're talking about, when did it
14 take effect?

15 A Well, it takes effect when the legislature says we
16 can have and do what the law would provide in the master
17 plan. Now, right now we have a law that says that -- that
18 sets up the procedures and the allocation but it limits
19 the funding to a pilot program, so right now it is on a
20 pilot basis, there's about 24 million in it. And it's not
21 all EMR, mind you, it's a complete comprehensive plan for
22 all children with exceptional needs.

23 Q (By Ms. Jones-Booker) Mr. Chairman, I have a
24 couple of questions for Mr. Ross.

25 Mr. Ross, does BSAR have responsibility for the

1 allotment of funds for bilingual-bicultural programs in
2 California? If so, could you explain just briefly what
3 that process entails?

4 A Well, the allotment of bilingual-bicultural funds
5 is not a responsibility of the bureau of school apportion-
6 ments and reports, because the bilingual-bicultural program
7 is on a project approval basis, and the department of
8 education has a program section for bilingual-bicultural
9 education.

10 They review the proposal and the budgets and when
11 they approve, then they then say to us, there is this much
12 money that can go to this district for the bilingual-
13 bicultural program. We merely, then, allocate the funds
14 according to what the program people have said they can
15 have.

16 Q So, in other words, the bilingual-bicultural programs
17 have been approved elsewhere before they get to you and
18 you more or less direct the control to pay the funds as
19 asked for?

20 A That's correct. And the function is to see that the
21 allocation is made in a timely manner and that we don't
22 go over the total appropriation that the state has allowed.

23 Q And just for a point of clarification, you say that
24 you -- you agree with me when I suggest that the program
25 is approved elsewhere, where else is the program approved?

1 A It's approved in the department of education
2 section, program section, there is a -- well, it's a --
3 it's a special projects section, division of it, what we
4 call the program side of the department of education, and
5 there's a bilingual-bicultural director. I think he's
6 talked to you, I see his name on the list, Gil Martinez.

7 Q Yes, he has.

8 A Yes.

9 Q I'd like to ask you also, if the state has re-
10 sponsibility to insure accuracy in the applications that
11 are made by school districts for EMR financing, particularly
12 as well as bilingual-bicultural funds, is this responsi-
13 bility a legal one or is it an administrative one? You
14 seem to not be telling us that it's a legal requirement,
15 is it or is it not?

16 A Well, as far as the funding is concerned, it's a
17 legal requirement that we be sure that the state funds have
18 gone for the reason that the law provides, and in the
19 case of EMR it would be -- there are some identification
20 procedures and it's -- the program is usually a type of
21 EMR class.

22 Q So it is a legal requirement --

23 A Yes.

24 Q -- that the state has this responsibility?

25 A Uh-huh.

1 Q Following that same line in so far as the county
2 superintendents are concerned, those persons who verify
3 or certify the attendance information that comes to you
4 upon which you base the allotment of funds for EMR programs,
5 particularly, is their responsibility a legal one or some-
6 thing else?

7 A Well, the county superintendent has supervisorial
8 authority over the fiscal management of school districts,
9 so that means that he has a legal requirement to say that
10 the districts are reporting their average daily attendance
11 and the number of classes and their costs in a proper
12 manner.

13 Q So then, if records are submitted to you that sub-
14 sequently prove to be inaccurate, then in effect, if it's
15 proved that the county superintendent knew about this,
16 that would be an illegal action that's been taken?

17 A Well, there's a -- I don't know that I -- that the
18 -- I guess I'd have to say it's never happened.

19 Q Could you then, you say that you don't believe that
20 it's ever happened or you don't know if it's ever happened,
21 but in the eight years that you --

22 A Well, frequently we've had these, we've -- as I said
23 before, we've had situations where these classes were
24 proven to be illegally operated and the allocation was
25 recovered. I would say that the county superintendent in

1 that case was fooled just like we were in the initial
2 submission of the report.

3 Q Fooled by who, Mr. Ross?

4 A By the district or -- that -- it would have to be
5 by the district.

6 Q I see. Well, may I ask you then --

7 A In most cases I would like to say that, I don't
8 want to make it sound like I think the districts are out
9 there deliberately trying to pull the wool over anyone's
10 eyes, usually it's a misunderstanding of the way the law
11 is read.

12 Q I see.

13 In your experience for eight years as bureau chief,
14 could you approximate for us the percentage of school
15 districts that you would estimate make knowingly incorrect
16 statements on their attendance reports to the state de-
17 partment?

18 A Knowingly? Knowingly incorrect statements? Well,
19 I'd say -- I'd have to say knowingly, it would be less than
20 1%. I -- of the corrections that we get.

21 Q Knowingly?

22 A Yes.

23 MS. JONES-BOOKER: I think that's all that I have,
24 thank you, Mr. Chairman, thank you, Mr. Ross.

25 THE CHAIR: One more question?

1 Q (By Ms. Hata) Does the BSAR receive complaints
2 regarding application by school districts for state funding?

3 A Regarding applications?

4 Q By school districts for state funding?

5 A Well, we don't -- yes, we get complaints, but as
6 I said before, when we -- when we get a complaint from a
7 local area, the first step that I do is to say, is to
8 return the communication by saying all right, now if there's
9 something here that you suspect is wrong, the thing for
10 you to do is to go to your district superintendent. I
11 can't do anything unless you have some real, concrete
12 evidence that I can look at that would lead me to believe
13 something is wrong.

14 In other words, we -- if we get a complaint from
15 the -- from someone within a school district, we have to
16 have the evidence before we would make a move to --

17 Q And that's who you normally get complaints from,
18 people within the school district?

19 A Well, most of the notices about corrections are
20 suspected improper reporting, comes from audit reports or
21 from the state and county consultants who are involved in
22 special education.

23 Q And are those complaints regarding the data that's
24 submitted by the school district?

25 A I beg your pardon?

1 Q Are these complaints, do these complaints revolve
2 around the data submitted by the school district?

3 A Yes, it revolves around the -- whatever attendance
4 they've reported, but usually a complaint like that, we --
5 I have, I guess, gotten some program complaints but I've
6 always referred those to the program people.

7 Q Could you give us a brief idea of the kinds of
8 questions that have been raised to you? And how these,
9 these complaints have been resolved?

10 A I guess I don't understand your question. Would
11 you mind repeating it?

12 Q We were talking about complaints being raised --

13 A Yes.

14 Q -- about the data submitted by the school district.
15 Now I'd like to be more specific here, for the record.
16 What kinds of complaints, what kinds of questions have been
17 raised?

18 A Well, to my recollection, the kinds are usually,
19 well, the teacher isn't a qualified teacher, that would be
20 one kind of complaint. But on the other hand, it -- it
21 might be because it's -- well, the most recent experience
22 is a teacher saying, well, this district says they're
23 spending this kind of money on the program, it's from a
24 teacher within the district saying that the district says
25 they're spending this kind of money on the program, but

1 they're really not.

2 Q Okay.

3 A Then, as I said before, then we would say, all
4 right, give me some evidence and if it's strong enough,
5 gives us reason to suspect, well, we'll go into it.

6 THE CHAIR: One last question, last question.

7 Q (By Ms. Gomez) Mr. Ross, the voters of this state
8 voted sometime ago, passed a referendum that a certain
9 percentage of state tax moneys was to go to education. Do
10 you recall what percentage that is?

11 A Well, there -- no, I don't. What referendum are
12 you referring to?

13 Q Well, are you aware -- well, I'm sure you're aware,
14 or isn't it a fact that you do not get the entire per-
15 centage of the money voted on by the taxpayers, that is
16 supposed to be allocated to education?

17 A The state, the school funding is through the state
18 school fund or through the budget act, and that's all
19 determined, all of the state school fund is determined
20 by statute, the legislature can change the statute, and
21 other school funding is through the budget act and as I
22 explained before, that's a legislative process also.

23 Q Well, I am concerned with the amount that the
24 voters voted on.

25 A Oh, are you --

1 Q The percentage that is supposed to go to the
2 board -- to education, to the state board of education
3 that's supposed to go from state tax moneys. We voted on
4 it over a decade ago.

5 A I guess I'm not familiar with that referendum.

6 THE CHAIR: He's not familiar. If he's not familiar
7 he can't answer the question so we're going to go.

8 Thank you very much.

9 A All right. May I leave this?

10 THE CHAIR: Yes, please.

11 Peter Wang.

12 Peter is the last one on our scheduled agenda?

13 MS. GODOY: Right.

14 MS. JAMES: From yesterday.

15 THE CHAIR: From yesterday, okay.

16

17

18

DR. PETER WANG

19 A (By Dr. Wang) My name is Peter Wang, I'm a con-
20 sultant at the state department of education, bilingual-
21 bicultural task force.

22 Q (By the Chair) Okay. How long have you been with
23 the task force, Mr. Wang?

24 A For ten months.

25 Q Ten months? And what is your primary responsibility?

1 A. My primary responsibility is to serving mostly
2 Asian bilingual programs, and I also, some Spanish bilingual
3 programs too.

4 THE CHAIR: I think Mr. Lau has a question he'd
5 like to ask you.

6 Q (By Mr. Lau) Thank you.

7 Mr. Wang, as a bilingual consultant, how many
8 Asian languages programs do you work with?

9 A You mean different languages or --

10 Q Programs?

11 A -- programs. It differs from year to year. We
12 talk about the -- the Title VII programs right now, last
13 year is seven Title VII programs.

14 Q Do you work with these AB2284 programs too?

15 A Yes.

16 Q And how many of those?

17 A The program itself, there's only one in Oakland,
18 and there is considerable money given to various language
19 groups in San Francisco. That's about all.

20 Q Does your office conduct on-site reviews of these
21 bilingual programs?

22 A Yes.

23 Q Do you do this personally?

24 A Yes.

25 Q And what kinds of training did you receive before you

1 conducted these on-site reviews?

2 A I participated in quite a few workshops given by
3 the bilingual task force, and I also, on the site visit,
4 the directors or the coordinators were explaining to me
5 how the program goes and all the procedures and so forth.
6 And also I was asked to read the laws and their regulations.

7 Q And during the course of your work with the task
8 force, have you identified situations where a bilingual
9 program does not meet the needs of all the minority
10 children who are language-handicapped who are attending
11 school?

12 A The bilingual program takes care of most of the
13 children, but the bilingual program is not large enough
14 to take care of a lot of other children that's not in
15 the bilingual programs.

16 Q Do you know how many children are in need of these
17 bilingual-bicultural programs? For the State of Cali-
18 fornia?

19 A I don't have that number. I think recently the
20 2284, AB2284, requires the school district to make reports
21 to the state department of education, my supervisor has
22 the exact number.

23 Q Do you have an educated guess as to the numbers of
24 children who are -- who should be served by these bilingual
25 programs?

1 A No, but there's a large number of them.

2 Q Are not?

3 A There's a large number that -- there's a large
4 number of these children that have not been served, either
5 by ESL or by bilingual programs.

6 Q Is it more than 50% of those who are in need of
7 these programs who are not served?

8 A I can not tell you without the figures.

9 Q In your opinion, does it help a bilingual to have
10 a bilingual teacher when you have a limited English-speaking
11 child?

12 A Yes. It's very important to have a bilingual
13 teacher in a bilingual class, because the -- the students
14 will not be afraid of asking questions, and either in
15 English or in his native language, for one thing, and the
16 students can communicate without any problem with the
17 teacher with a bilingual teacher.

18 Usually, the bilingual teacher also understands
19 the culture of the aspect of the students, and because of
20 the teacher's bilingual, and the students, the students
21 don't see it as any problem of being bilingual, it's not,
22 you know, you don't -- the students don't have the feeling
23 of being inferior or guilty to be bilingual.

24 And a very good bilingual class, the bilingual
25 teacher generally instills confidence in the students.

1 Not only teaching the subject matter, also the teacher
2 generates confidence so you can see the students are, in a
3 bilingual -- taught by a bilingual teacher, usually show
4 that kind of confidence than a teacher that's not bilingual.

5 Q Are you telling us that the bicultural aspects are
6 just as important as the bilingual component of this
7 program?

8 A Yes. Usually because there's some differences in
9 the cultural aspect, particularly related to the Asians.

10 The -- in American classroom, the teacher asks a
11 lot of -- asks the students a lot of question as a part
12 of learning. But in Asia, like say in China, the student
13 expects the teacher to explain everything clearly to them.
14 So you can see that when a Chinese student went to a class,
15 goes to a class and the teacher keeps on asking him
16 questions, and he gets a feeling that the teacher is not
17 prepared.

18 And that's the case in China, you see, when a
19 teacher didn't prepare his lessons the previous day, the
20 second day, when he comes to class, he will ask students
21 questions.

22 And also it reflects the teacher doesn't know the
23 content very well, he can not explain things. So he has
24 to ask students questions. So -- and also the culture
25 says that the students should sit quietly in classrooms and

1 behave and learn and listen to what the teacher says.

2 So -- and the teacher in -- an American teacher who expects
3 that students answer questions, but the students are not,
4 in the bicultural, they are not used to answer teacher's
5 questions, so the teacher will consider students as either
6 mentally retarded or something wrong with the students.

7 So, either send them to the mentally retarded classes
8 or just put them into the corner, so there are cases in
9 San Francisco that the students graduate from high school,
10 can't even answer -- I mean can't even ask a correct
11 grammatical question.

12 And I've taught at Fresno State, and some of my
13 students, they are -- they've been in this country for
14 a long, long time, some of them are started from the first
15 grade and the second grade and they speak pigeon English.
16 I mean considering that the length of time they spent in
17 the American public school, ~~you expect~~ they speak very
18 good English but they speak pigeon English.

19 Q We've been told that a number of the bilingual
20 programs in the different districts use monolingual teachers,
21 monolingual, American-speaking teachers. Has it been your
22 experience that the school districts are not recruiting
23 bilingual teachers as fervently as they should have been
24 recruiting them?

25 Well, they've told us that they can't find bilingual

1 teachers. In your work have you found this to be true or --

2 A Yes, there are a lot of bilingual teachers, but
3 many of these, say bilingual people with teaching ex-
4 perience, but a lot of people don't have teaching
5 credentials.

6 Q From California or from some other state or from
7 some other country?

8 A From California.

9 Q And are these teachers currently being used or
10 they're not being used?

11 A Some of them are used, some of -- some of them
12 are not used.

13 Q And does your task force recommend that the school
14 districts go out and recruit these people?

15 A Yes.

16 Q What has the response been?

17 A Because the response has always been, we don't have
18 any openings. For example, like there's a Filipino bilingual
19 program, Title VII program, there's no Filipino teacher,
20 bilingual teachers. There's only three teachers' aides.
21 So I asked them, I say, where is the teacher, Filipino,
22 bilingual teacher? They say we can not hire one because
23 our positions are all filled up.

24 Q These teachers' aides are bilingual?

25 A Yes.

1 Q Do they, in your opinion, do they perform a
2 service that's valuable to the students?

3 A They all have BA degrees. But they don't have
4 teaching credentials from California.

5 MR. LAU: Thank you, Dr. Wang.

6 THE CHAIR: Any other questions?

7 If not --

8 Q (By Ms. Bernstein) I have one.
9 How can a program be called bilingual if the
10 teacher that's teaching it is not bilingual? It's only
11 being taught in one language.

12 A That's a very interesting question. That question
13 -- I raised that same question, when I came to the state
14 department of education.

15 Q Would you say, then, that the program is receiving
16 its funds illegally?

17 A You see, sometimes the law didn't -- doesn't spell
18 out some of the things very, very clearly. So you get
19 into this kind of problems.

20 Like Title VII programs, they even hire monolingual
21 teachers.

22 Q (By Mr. Lau) What action has your office taken
23 in regard to the hiring of these monolingual teachers?

24 A The state department doesn't have any authority to --
25 to say which one or -- usually it's the school district's

1 responsibility.

2 Q I understand that, but have you suggested some
3 change or have you suggested sanctions be imposed by the
4 funding governmental body?

5 A No. Not yet. But I'm trying to help in the, par-
6 ticularly with the ESAA program right now.

7 Q Does your office feel that these monolingual
8 teachers are being hired in bad faith in regard to these
9 bilingual programs?

10 A Not necessarily, it all depends on various factors.
11 If, in some programs we feel that the mono-English teachers
12 are very, very important. If the mono-English teacher can
13 cooperate and coordinate with aides.

14 Q Well, Dr. Wang, you just told me that it's incon-
15 gruous to have a bilingual program with a monolingual
16 teacher. Doesn't it do a disservice to the student to have
17 this kind of teacher in a bilingual program?

18 A No, we -- what we want is bilingual teacher, but
19 you see, because school districts have so many tenured
20 teachers, and you can not lay off the tenured teachers,
21 so you have to use them. So, you put -- you just put
22 them on this -- in a, sort of in the same way that some of
23 the federal programs become some kind of a welfare program
24 to the school districts.

25 Q Well, in view of the Lau against Nichols case, when

1 I'm saying that the action that the school districts are
2 taking are in violation of the court order, in that they're
3 not complying with the supreme court order to establish
4 bilingual-bicultural programs?

5 A Would you say that question again?

6 Q Aren't they dealing in bad faith with the children
7 and in regard to complying with the court order that
8 states that you have to establish a bilingual-bicultural
9 program where the kids need it?

10 A See, there is another side of the argument to that
11 question, you see, they say --

12 Q No, but I asked you the question.

13 THE CHAIR: Are they or are they not, I guess is
14 the answer -- either a yes or a no, even though that may
15 not be the way --

16 A You mean in the school districts are in bad faith?
17 I don't think the school districts are in bad faith, I
18 think that they are trying to do right but they just don't
19 see the need of the children.

20 Q (By Mr. Lau) Well, I think the court has pointed
21 out the need to them so that whether they see it or not
22 they're going to have to deal with it.

23 Now, my question is this, when your task force observes
24 this kind of bad faith behavior, did you report it to HEW
25 or to some other government agency?

1 A Yes. I report it to my -- I report to my super-
2 visor.

3 Q What does your supervisor do with this information?

4 A The supervisor will report to the HEW, I guess.

5 Q And what has HEW's response been to your complaints
6 or your reports?

7 A I haven't, so far I haven't made any -- made that
8 kind of complaint yet.

9 MR. LAU: Okay, thank you.

10 Q (By Ms. Hata) We have heard that some districts
11 have difficulty of finding bilingual teachers. Do you have
12 a list of certificated, bilingual teachers who are un-
13 employed?

14 A Yes.

15 Q Has any school district come to you asking for
16 suggestions?

17 A Rarely.

18 THE CHAIR: Thank you.

19 A I have a file with a lot of names and addresses
20 and also many of these people are certificated teachers.
21 But they say they can't find bilingual teachers. I don't
22 -- I don't see why. Only occasionally one school dis-
23 trict will write to me and ask and I will give them this
24 list.

25 THE CHAIR: Okay, thank you very much.

1 A Thank you.

2 THE CHAIR: Delia (Phonetic) Cardenas.

3 Would you identify yourself for the record, who
4 you're with and --

5

6

7

MS. DELIA CARDENAS

8

9

10

11

12

13

A (By Ms. Cardenas) My name is Delia Cardenas and I represent the Los Angeles County Chicano Coalition, it's made up of 68 agencies and organizations throughout L.A. County and I will represent the Mexican-American Education Commission that is kind of subservient to the Los Angeles Board of Education.

14

15

Q (By Ms. Hata) Subservient?

16

17

18

19

A They allow us to exist.

And one of my proudest assessments of myself is that I have four children, three of which are in bilingual program in the East L.A. area and that's where I live, East Los Angeles.

20

21

22

23

24

25

In my own local schools, talking about bilingualism, there are 96% Spanish-speaking or Spanish surnamed and of our, I'm very proud that in our school there are 26 teachers and 22 of them are bilingual-bicultural teachers. We have a distinctive administrator and I don't usually care that much for principals, but this one is very out-

1 standing, and he has even gone out to recruit bilingual-
2 bicultural teachers for, to teach in our school. So that's,
3 you know, I'm not coming here to rap on my own school,
4 because I think it's very important --.

5 Q (By the Chair) What you're saying is that he went
6 out and looked and found bilingual-bicultural teachers?

7 A He sure did.

8 Q That is a phenomenon.

9 A And it's in print, too.

10 Q All right.

11 A I'm alluding to some of the things that have been
12 going on here that I've heard just this afternoon, I'm
13 sorry I couldn't be with you yesterday, I would have been
14 very interested to hear what was going on.

15 But for the most part, I'm here because most of the
16 time parents or community, as Mr. Palomino alluded to,
17 are really not invited to participate, whether it's be-
18 cause we're not qualified by degrees or knowledge or
19 expertise, they kind of forget that we were that child's
20 first teacher. And if anything at all, we should have
21 at least, you know, that much respect for doing that.

22 There have been some abuses that I have heard
23 outlined over this afternoon, some that I know of personally
24 in L.A. City schools, and one of the reasons that Mr.
25 Palomino alluded to having the L.A. City School District

1 investigated, from what he told us at the meeting that
2 we were with him and Mr. Pierce, it would take about a year
3 before they could finalize their interviewing and their
4 looking at what was happening with the -- with our schools.

5 And after hearing the Fresno problem, it just seems
6 to me like, you know, it's history repeating itself. And
7 I'm just afraid that there will be history repeating itself
8 again, because I see a lot of things that are happening
9 in my own community that are happening in small communities,
10 and that is, you know, our young people are frustrated
11 with their education, with the lack of responsiveness,
12 when the -- you know, local teachers and administrators
13 and this has carried on from the top all the way down
14 to the bottom, so when they're turned down for summer
15 jobs, like they are right now, there's a surplus of kids
16 just running the streets, going around killing each other.
17 And just getting into all kinds of things.

18 So, you know, if I sound pessimistic, it's because
19 I've seen two deaths from overdoses in the past week. Of
20 young people. And I don't think it's -- I don't think
21 it's you know, really conducive to what we're talking about
22 here because I see the realities of what's happening out
23 there.

24 And that's a very sad picture. Mostly because I have
25 children and I know some of you have them or will have them,

1 and when you look at it realistically, bilingual-bicultural
2 education is one of the only salvations that we really
3 have as far as our children are concerned, because they
4 need so much, our support and our approval, and our input,
5 but if we're told, as we're told so many times, no, we
6 don't need community participation, the area coordinators
7 of the programs are not mandated to deal with the parents
8 on a level where we can understand what's going on, so we
9 know what guidelines are about.

10 And I'm not just saying it happens in L.A. City
11 Schools, I think it goes on throughout the state and it's
12 much more abusive in smaller areas. I know, I lived in
13 Oxnard when I was first married and I know that, you know,
14 living on the other side of the tracks, that's how ignorant
15 I was, I didn't even know what was going on.

16 But the fact was that we were put on the other side
17 of the tracks.

18 The other thing is, of course, and I want to make
19 it as short as I can, is that, you know, the unresponsiveness
20 from the top, I know it's not all the people that are in
21 the state department of education, and I know it's not all
22 the people who are those decision makers, HEW, whomever,
23 are the ones that are unresponsive to our needs, I know
24 that there are many good people trying to really do some
25 good things for us. But without our support and without our

1 input, then they're really not going to be doing an effective
2 job. And as long as we have to sit back and hear
3 these problems over and over again, five, ten years later,
4 we're going to stay in the same position.

5 So, I'm really also concerned about the fact that
6 there is a Mexican-American Advisory Committee to Wilson
7 Riles. And from what I understand, they're not even,
8 they're not even being involved in input.

9 Mr. Sierra said this morning that, you know, even
10 at his level, he's not involved in anything, budget, so
11 what can we expect from anything else? You know, it's
12 really hard for -- when you know we give voluntary time
13 and we want to do something to effectively initiate something
14 that our children can be proud of. And yet we're
15 turned around and we're told well, no, because you don't
16 qualify, no, because you're not educated enough or you're
17 not qualified enough to judge what is bilingual and bi-
18 cultural, to judge what's Title I, what is this and what
19 is that.

20 I just hope that out of this advisory committee,
21 hopefully that something really good will come out and
22 something that will be meaningful to those people who make
23 those decisions, because we need them so badly out there.

24 And that's kind of all I had to say.

25 Q. (By Ms. Jacobs) Ms. Cardenas, thank you very much,

1 you've been very patient and I know you have a plane to
2 catch, so I'll just ask one or two short questions.

3 You seem very proud of the fact that your children
4 are in a bilingual-bicultural program, so I assume it's
5 a program with which you're satisfied. Could you explain
6 the curriculum a little bit to us?

7 A. Gee, I brought it with me. It's a three-pronged
8 type of program, it's a dual reading program where our
9 children learn to read in their dominant language, whether
10 it be English or Spanish; a second language program where
11 the children are instructed in their second language
12 whether it's English or Spanish, a concept acquisition
13 program where the children are instructed in the dominant
14 language and a cultural and selfconcept program where the
15 children's self concept is fostered and the learning and
16 appreciation of the culture and heritage is encouraged.
17 And this is kind of like the best thing that I could really
18 come out with, because, you know, I'm -- I'm a -- I'm a
19 pushout from Roosevelt High School, and I, not that I know
20 that much, but like I said, I have a very outstanding
21 administrator that helped me to put together some of these
22 things that I felt I want to bring out.

23 Q. And you feel that because of this kind of program
24 your children will not be pushouts?

25 A. I hope not.

1 Q. Very good, thank you, Ms. Cardenas.

2 Q. (By Ms. Godoy) Ms. Cardenas, you said you belong
3 to the Mexican-American Advisory Commission to the board?

4 A. Uh-huh.

5 Q. When were you appointed to that commission?

6 A. In 1972.

7 Q. How many times have you met?

8 A. My goodness. We meet every Monday, we have been
9 meeting every Monday for the past, well, since 1972, and
10 before. And they're weekly meetings.

11 Q. Have many -- have any of your work or resolutions
12 been brought to the board members?

13 A. Well, like I said, we're subservient, we're --
14 we have a little bit of inroad, if we don't make too much
15 noise. But once we, you know, go up and with -- go up
16 before the board and kind of really mean business, then
17 they really, you know, take a back step and we know what's
18 going to happen to us once our commission is going to be
19 funded again. I mean they're just waiting to just get
20 rid of us.

21 Well, this was before certain people were voted
22 out, thank goodness.

23 MS. GODOY: Thank you.

24 A. Thank you.

25 THE CHAIR: Thank you very much for your patience,

1 for your testimony.

2 A I appreciate the opportunity to come.

3 THE CHAIR: Okay.

4 Our next witness is Oswaldo Asturias.

5
6
7 MR. J. OSWALDO ASTURIAS

8 A (By Mr. Asturias) I'll try to be brief also, my
9 name is Oswaldo Asturias, in the Anglo world --

10 (Witness finished statement in Spanish)

11 You talk about being bilingual-bicultural, I have
12 to live in the societies. I've been at the University of
13 California for a good number of years in the teacher
14 training program and the few comments I have to make are
15 in reference to teacher training, staff training for bi-
16 lingual-bicultural programs.

17 One of the problems that the committee should face
18 probably is a definition of what is bilingual-bicultural
19 program, because until that is decided, no matter how
20 many credentials you have on the books, your teacher training
21 programs will not fulfill the needs.

22 And as an example, let me state that at the moment
23 there are something like nine specialist credentials
24 operational in the state, in bilingual-bi -- for bilingual--
25 bicultural programs but these specialist credentials do not

1 face the issue of the dirth or lack of bilingual-bicultural
2 teachers.

3 The specialist credential comes from, are for those
4 who already have the basic credential, which means that
5 presumably all of those who are in the specialist cre-
6 dential programs already are teaching, ~~that's not going~~
7 to increase the number of bilingual-bicultural teachers
8 in the field.

9 Secondly, another comment I wanted to make is that
10 until the definition of what bilingual-bicultural education
11 is, and somebody takes the time to implement it, you will
12 have something similar to what happened when foreign
13 language instruction was mandated, by the state, the law
14 said that all school districts had to offer foreign language
15 instruction, but they did not say what foreign language
16 instruction was so that there were school districts who
17 would play a record of La Cucaracha at lunch time one day
18 a week and that was their foreign language for the week.

19 And so the same thing is happening with bilingual-
20 bicultural education, we've had several people here testify
21 that you have monolingual teachers. Well, who is doing
22 the instruction in the non-Anglo language and it's the
23 teacher aide. If there is a permanent teacher aide. There
24 may be some instances where you have a roving teacher aide
25 or a roving somebody, who comes in once a week and gives the

1 instruction in the non-Anglo language, because in Title VII,
2 guidelines, they never said who was going to do the in-
3 struction, they simply said that instruction must be in
4 two languages so then you come up with 99% English and
5 1% non-English, and it doesn't say who does it.

6 If Title VII originally had said you must have a
7 credentialed teacher capable of teaching monolingually
8 in the target language, you wouldn't have the bilingual
9 programs on the books that you have today because they
10 couldn't find the people.

11 Q (By the Chair). Do you believe that we would have
12 the bilingual programs at all? Had that been done?

13 A Well, this started many years ago, and by now I
14 think we would have.

15 Q One of the biggest problems in the legislature is
16 that when you start mentioning bilingual programs or bi-
17 cultural, is that immediately the reaction is, that you're
18 trying to take away the jobs of teachers that are already
19 there, with people who you're creating jobs for and in the
20 past, the reception of that type of thing has been very
21 negative and it hasn't been until they convinced people
22 that you're not talking about creating jobs for special
23 people, but trying to get the people who were already
24 there to become more efficient and expand their views.

25 A Well, you are probably right in that --

1 Q That they have managed to get the few programs that
2 they have out.

3 A Of course, these years where there's a drop in
4 school population and as everybody has mentioned, there
5 isn't a school district doesn't have surplus teachers, that
6 is a basic problem. But when these programs started, there
7 was a scarcity of teachers, there was not a surplus of
8 teachers, that argument could not have been raised in 1967,
9 '68, '69 --

10 Q No, the argument was different because they weren't
11 having programs. The programs weren't getting passed
12 at all then.

13 A At that time I think they still had the specialist
14 credential at that time, which at least authorized the
15 person to teach only in one language.

16 Q No, I'm not ~~trying~~ to take issue with you, but I
17 know that, having worked with the legislature since '68,
18 that at that time they weren't passing anything that had
19 to do with bilingual or whatever, it wasn't until '72
20 that they started moving in that direction. Or '70, other
21 than very minor things, and the problems they encountered
22 were that people were -- you know, had -- did not want
23 to vote for something that they thought was creating
24 special things.

25 A Anything that changes the status quo is going to have

1 the opposition of the status quo and that usually is the
2 majority --

3 Q Go ahead, I didn't mean to curtail your comments.

4 Q (By Ms. James) I just -- you mentioned you're at
5 the university now?

6 A University of California, Berkeley.

7 Q Are you involved in teacher training programs?

8 A I am in the teacher training programs.

9 Q Have you, in your experience, found the universities
10 to be committed to train teachers in this area?

11 A In bilingual-bicultural?

12 Q Yes.

13 A It's a new game, never heard of it.

14 THE CHAIR: Question?

15 Q (By Ms. Bernstein) In the teacher training program,
16 well, one thing that we've been hearing a lot is that
17 especially on the secondary level, that teachers are ~~train~~
18 trained maybe in social studies, bilingual-bicultural,
19 but you go to look for art teachers plus English teachers,
20 science teachers, math teachers, you can't find them.
21 Is the university taking any direction to train people
22 in the areas other than social sciences?

23 A You're talking about the bilingual-bicultural programs?

24 Q Yes.

25 A No, the -- to my knowledge, the -- with one or two

1 exceptions, none of the university level campuses have
2 done any recruiting simply because --

3 Q I don't mean as professors, I mean encouraging people
4 to go into the areas of need, to become bilingual as a
5 math teacher or as an art teacher or --

6 A It's-- you see, you have a whole training program,
7 if a person, say is a math teacher in English and wants
8 to become proficient as a math teacher in Cantonese or
9 Spanish or Filipino, which is the languages at the moment
10 under pressure, who's going to train that person to become
11 a competent teacher in math in one of those three? The
12 university doesn't have it.

13 Q That's what I'm questioning.

14 Q (By the Chair) The problem that was encountered in
15 a hearing we had not too long ago, in the hiring of
16 teachers for the teacher corps in Salinas, was that when
17 they went to hire these teachers they would -- they could
18 not fill the requirements, in essence, they might have
19 been a bilingual-bicultural teacher who had majored in
20 math, let's say, and was qualified to teach math, but the
21 opening was in art, therefore they couldn't hire that
22 person.

23 Q Isn't it possible to create or to have a circum-
24 stance where you hire someone who is bilingual --

25 A But trained in a different field?

1 Q Well, trained in the field of bilingual-bicultural
2 with a degree so that if you're looking for someone that's
3 bilingual-bicultural that's the only thing you have to
4 look for and not necessarily whether you need a math
5 teacher that's bilingual-bicultural or science teacher,
6 but somebody who's bilingual-bicultural who'll be able
7 to do the whole --

8 A Not really. In some areas the person can educate
9 himself and become that, but in the same way that you look
10 at the teaching in any different culture, say Mexico or
11 any part of China, when you're talking about an art
12 teacher, in that culture, he is probably trained to be
13 an art teacher in that culture.

14 Q Yes, but lot of people teaching courses in Cali-
15 fornia who have no --

16 A I agree with you, but I don't say that that's good.
17 In other words, the credential here allows a person to
18 teach anything, at least the old general credential did,
19 so that the general credential that I had said I could
20 teach sewing and cooking and everything else, but that
21 was a lot of nonsense, I never could.

22 But my credential said I could.

23 Q (By Ms. Bernstein) General credentials are not
24 issued any longer.

25 A I know. So in that respect, you might say we're

1 going forward.

2 THE CHAIR: Seems to me that since we did it wrong
3 for so many years, we can do it wrong again, get bilingual-
4 bicultural teachers into the system.

5 Thank you very much.

6 Okay, if you'll just sit patiently for a moment.

7 The monitoring of the educable mentally retarded
8 programs in bilingual-bicultural programs by state and
9 federal agencies has been the focus of these proceedings.
10 The advisory committee has heard from those individuals
11 and agencies who have been active in these programs
12 throughout the state.

13 We have collected this information as part of our
14 responsibility to investigate civil rights concerns. We
15 will report our findings and recommendations to the U.S.
16 Commission on Civil Rights as well as to those in our state
17 concerned with these issues.

18 The advisory committee would like to thank all those
19 who have participated in this endeavor. The meeting is
20 adjourned.

21
22 (Meeting adjourned)
23
24
25