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August 3, 1984

Mr. Bill Lamson
704 Windward Rd.
Jackson, MS 39206

Dear Bill,

Enclosed are copies of the depositions, with summaries we've prepared, given by Francisco Ybarra, Rex Weimer, and Owen Henson.

Yesterday we forwarded to you copies of the depositions given by James Gray and Gerald Miller. Unfortunately, I did not know that those summaries were not yet complete. We will send the summaries to you as soon as they're ready.

Sincerely,

A handwritten signature in blue ink, which appears to read "Elvia", is written above the typed name.

Elvia Rosales Arriola

APPEARANCES

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The Plaintiffs and Intervening Plaintiffs appear by Mr. Christopher Hansen, Attorney at Law, American Civil Liberties Union, 132 West 43rd Street, New York, New York, 10036; and by Mr. Richard E. Jones of Jones & Jones, Attorneys at Law, 605 S.E. Quincy Street, Topeka, Kansas, 66603.

The Defendants appear by Mr. K. Gary Sebelius and Mr. Charles N. Henson of Eidson, Lewis, Porter & Haynes, Attorneys at Law, 1300 Merchants National Bank Building, Topeka, Kansas, 66612.

The State of Kansas appears by Mr. Dan Biles, Assistant Attorney General, Litigation Division, Second Floor, Judicial Center, Topeka, Kansas, 66612.

Also present: Mr. William Lamson and Dr. James M. Gray.

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I N D E X

WITNESS:

On behalf of the Plaintiffs
and Intervening Plaintiffs:

Direct Cross Redirect Recross

OWEN M. HENSON

4
(Hansen)

EXHIBITS:

Henson Deposition Exhibit Numbers:

Marked

#1

15

CERTIFICATE - - - - - Page 68

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OWEN M. HENSON,

called as a witness on behalf of the Plaintiffs and Intervening Plaintiffs, after having been first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. HANSEN:

Q Would you state your full name and occupation?

A I am Owen Martin Henson, Associate Superintendent of Education Services.

Q How long have you held this position?

A About eight years.

Q What was your prior position?

A I was Assistant Superintendent for Administrative Services just prior to that.

Q What are the responsibilities at the Administrative Services Department?

A Personnel. I had Demographic Services, Public Relations, Planning Evaluation.

Q How long did you hold that position?

A Two years.

Q Prior to that?

A Prior to that I was Principal of Topeka West High School.

Q How long were you Principal?

A Thirteen years.

Q You said Topeka West, right?

- 1 A Right.
- 2 Q Were you the first Principal at Topeka West?
- 3 A Yes.
- 4 Q Prior to that?
- 5 A Prior to that I was Director of Instruction.
- 6 Q Is that a District-wide post?
- 7 A Yes, it is a District-wide post.
- 8 Q What are its responsibilities?
- 9 A My main responsibilities were the secondary schools at
10 that time.
- 11 Q Curriculum, things like that in the secondary schools?
- 12 A Yes.
- 13 Q How long did you hold that position?
- 14 A About a year and ten months.
- 15 Q Prior to that?
- 16 A Acting Assistant Superintendent. Well, it was just called
17 Acting Assistant Superintendent, but I handled Personnel.
- 18 Q Not Planning or Demographics?
- 19 A No, none of that.
- 20 Q How long were you Acting Assistant Superintendent?
- 21 A Two months.
- 22 Q Prior to that?
- 23 A Assistant Principal at Topeka High School.
- 24 Q How long were you Assistant Principal?
- 25 A Four years.

- 1 Q Did you have responsibility for one particular area at
2 Topeka High?
- 3 A Instruction.
- 4 Q Prior to that?
- 5 A Classroom teacher at Topeka High School, Social Studies.
- 6 Q How long did you teach?
- 7 A One year.
- 8 Q Prior to that?
- 9 A Prior to that I was on a leave of absence from the School
10 District.
- 11 Q Prior to that leave of absence?
- 12 A You don't need to know that.
- 13 Q I suppose I should.
- 14 A I was gone one year to New York. That was the United
15 Nations Ford Foundation Fellowship Program.
- 16 Q Prior to that?
- 17 A Prior to that I was a classroom teacher at Boswell Junior
18 High School.
- 19 Q Social Studies again?
- 20 A Yes.
- 21 Q How long were you at Boswell?
- 22 A Three years.
- 23 Q Prior to that?
- 24 A Prior to that I was a student.
- 25 Q What degrees do you hold?

1 A Bachelor, AB Degree; Master of Science in Education--no,
2 it is an MA. Excuse me, and a Doctorate of Education.

3 Q When did you receive your Doctorate?

4 A 1961.

5 Q Did you do a dissertation for your Doctorate?

6 A Yes.

7 Q What was the subject of your dissertation?

8 A The subject dealt with the status of students in an area
9 affected by urban development in Topeka.

10 Q Could you elaborate on that a little more?

11 A It dealt with how well they did in school, what kind of
12 activities they were in.

13 Q After the urban development took place?

14 A Yes.

15 Q What urban development project was it that you were con-
16 cerned with?

17 A It was the East Topeka area, as I recall. I can't tell
18 you exactly what it was.

19 Q Was your dissertation published in any way?

20 A No.

21 Q Do you still have a copy of it anywhere?

22 A Yes.

23 Q Are you the author of any books or scholarly articles in
24 the field?

25 A Yes, I am a co-author of Schools Within A School.

1 Q In a couple of sentences, what is the book about?

2 A That is an organizational structure for high schools, kind
3 of a house plan.

4 Q When was that published?

5 A 1967, I think.

6 Q Who was your co-author?

7 A Dr. Robert Ramsey and Mr. Harold Hula.

8 Q Any other publications?

9 A No. I listed a journal article I wrote one time. I can't
10 think of the title of it and I have written some I can't
11 recall what they are.

12 Q Have you ever testified in litigation before?

13 A I don't believe I have. I have never had a deposition
14 taken, I don't recall.

15 Q I hope this is not a sign of your new added responsibilities
16 the first day, your having to do a deposition. Your current
17 responsibilities, what do they entail?

18 A They involve instruction in the District.

19 Q Anything else? I don't mean to suggest that isn't a huge
20 area.

21 A That is the supervision of the building Principal, Special
22 Ed., Vocational Ed. Any instructional area in all the
23 elementary and secondary schools.

24 Q Your responsibilities are scheduled to change in the near
25 future, are they not?

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1 A Yes.

2 Q How is that? What position are you going to?

3 A Acting Superintendent.

4 Q When does that take effect?

5 A August 1.

6 Q Are the schools themselves in Topeka certified or have to
7 pass any sort of grading system in order to be accredited
8 or something along those lines? How does the accreditation
9 process work?

10 A They are accredited by the State Department of Education.
11 At the State Department of Education level it is accom-
12 plished through an annual report to the State Department,
13 listing various things about each school enrollment,
14 number of days in session, staff, certification of staff.

15 Q Does that report have a name, if you know?

16 A Organizational Report, I believe it is called.

17 Q Do the State people make a site visit?

18 A No, they do not.

19 Q Does the report include things about characteristics
20 about the building, the age of the building or the number
21 of classrooms or the size of the playground space, things
22 like that?

23 A I believe it has acreage and things like that. I don't
24 recall the number of classrooms. It has the number of
25 teachers and librarian and the number of books and things

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1 like that.

2 Q I am just beginning to understand the Kansas system, so
3 you will have to excuse me if I don't ask this quite right.
4 This is the State Department of Education as opposed to
5 the Board of Education?

6 A That is correct.

7 Q Do you know what criteria they utilized to decide whether
8 a school should be accredited or not?

9 A All your teachers have to be certified, and the building
10 Principal has to be certified appropriately. You have to
11 be in session a certain number of days and hours per day.
12 You have to offer certain instructional programs. That is
13 about it.

14 Q Did you have to pass fire, safety, and building codes and
15 things like that?

16 A I don't recall that in that report. We have fire inspection,
17 but not through that report.

18 Q What I am looking for, if the roof is falling in, can you
19 get accredited even though the roof is falling in?

20 A That is not a criteria.

21 Q During the time you have been responsible for that area,
22 has there been a time when any of the schools have not been
23 accredited?

24 A No.

25 Q Is there a provisional accreditation or temporary accredi-

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1 tation subject to getting standards up? I mean is there
2 like a one-year accreditation as opposed to a two-year
3 accreditation, something along those lines?

4 A No.

5 Q You either pass or fail?

6 A Yes.

7 Q Other than that and the building and safety and fire codes,
8 are there any other ways in which the schools are accredited
9 and licensed?

10 MR. BILES: I object to the form of the question in
11 that it misstates the testimony in that the witness has
12 already testified that building conditions and fire and
13 safety is not a factor in the accreditation and you
14 included that in your question.

15 Q (By Mr. Hansen) Other than the State accreditation process
16 and the building or fire or safety code review that I take
17 it are done by Topeka officials, are there any other ways
18 in which the schools are accredited or licensed or reviewed?

19 A The North Central Association of Colleges and Schools for
20 High Schools.

21 Q How does that work?

22 A That is done through an annual report and a site visit on
23 a 7-year cycle.

24 Q They visit every seven years?

25 A Approximately. Once in a while it is off a year.

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1 Q Do they then give a 7-year accreditation or do they give
2 annual accreditations?

3 A The purpose of the site visit is not for accreditation.

4 Q What is the purpose for?

5 A The purpose is for government, self-improvement of the
6 school. Accreditation is done through the annual report
7 only.

8 Q What is that annual report called?

9 A The Annual Report of the North Central Association.

10 Q I take it, that is filled out by officials in the Topeka
11 school system?

12 A It is completed by the Principal or his designee.

13 Q Is that true of the oral report that is completed by the
14 Principal?

15 A Yes.

16 Q The North Central Report, does it ask for different things
17 than the oral report does?

18 A There are some different things. I am trying to remember
19 what those are. I really can't recall. It is essentially
20 many of the things. It does have curriculum areas, what
21 you teach.

22 Q Are there written criteria to indicate how the North Central
23 people decide whether they should accredit or not?

24 A Yes.

25 Q Do you have a copy of that?

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1 A Yes.

2 Q Has there ever been a time when any of the schools in the
3 Topeka system were not accredited by those people?

4 A No.

5 Q Is that also a pass-fail system as opposed to any other
6 system?

7 A There is a provision for warning or something like that,
8 if there is a discrepancy against one of the standards.

9 Q Has there ever been a time when a warning was issued?

10 A It could have been. I don't recall.

11 Q How would you hear about the warning, is what I want to
12 know? Would they write you a report?

13 A It is a State committee composed of seven to ten educators
14 who review those reports and then they are reviewed again
15 at the annual meeting of the North Central Association in
16 Chicago.

17 Q Do they then write you a report saying we have looked at
18 the Annual Report of Topeka High and it has a problem in
19 this area or that area?

20 A That is correct.

21 Q Do you have copies of those reports somewhere in your file?

22 A I think so.

23 Q Your report to them comes annually, their report to you
24 also comes back annually?

25 A That is correct.

- 1 Q Is there a separate report for each school or do they send
2 you back one?
- 3 A A separate report for each school.
- 4 Q The 7-year site visit process, do they come see all the
5 schools in Topeka the same seventh year?
- 6 A No. They are on different cycles.
- 7 Q Do they write a report after their site visit?
- 8 A Yes, they do.
- 9 Q Are those somewhere in your files?
- 10 A Some of them might be. If you went back very far, I don't
11 think they would be. They might be in a Principal's office.
- 12 Q How long has Topeka been going through this North Central
13 accreditation process?
- 14 A It varies by school.
- 15 Q It is not a legal requirement? It is something you do?
- 16 A Our schools are of different ages.
- 17 Q How long have you been part of the North Central accredi-
18 tation system, that is, any one of your schools?
- 19 A More than fifty years.
- 20 Q For how long have the schools in Topeka been accredited
21 by the State Department?
- 22 A Probably even longer, but I don't know that.
- 23 Q Are there any other procedures for accreditation or
24 licensing or review of the schools in Topeka?
- 25 A No.

1 Q Any instances in which the Federal Government, Department
2 of Education or previously HEW, came and accredited or
3 licensed and accredited the schools?

4 A No.

5 Q Does the School District utilize consultants to review
6 individual schools and see how the school is doing?

7 A I don't recall that happening.

8 Q I am not sure it was a very clear question in the first
9 place. In 1974-75 there was a study done of all the schools
10 in Topeka. I want to show it to you so we know what we
11 are talking about. Let me show you what I am referring to,
12 it is a document we got in response to asking you questions
13 in the discovery process and I don't have a note right now
14 which question it came in response to, so maybe I ought to
15 mark it. The other stuff I haven't marked because it was
16 obvious what we were referring to.

17 MR. HANSEN: Why don't we mark that as Exhibit 1.

18 (Henson Deposition Exhibit Number 1 was
19 marked by the court reporter.)

20 Q (By Mr. Hansen) I have marked as Henson Exhibit 1, a
21 document that is 57 pages long with a 3-page Table of
22 Contents, it says in handwriting at the top, File Topeka
23 Facilities and Curriculum and the first page begins,
24 Exhibit 1, Summary of Sixteen Essential Characteristics of
25 Elementary Schools. Let me show you this and let you skim

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1 through it.

2 A Do you want me to look at all the pages?

3 Q No, not unless you need to. Are you familiar with that
4 document? Have you ever seen it before?

5 A It has been a long time. I think it was done in some
6 planning for the District, but I have forgotten.

7 Q You have forgotten how it came to be?

8 A Yes, I have. That is a guess.

9 Q I don't think we need to have you guess. Does the District
10 do reports like that on a regular basis?

11 A Not on a regular basis, no.

12 Q Have there been any, to your knowledge, done since this
13 one was done in the mid '70's?

14 A We had some data on buildings in the long-range facilities
15 plan, that was accomplished I believe in '76. I am not
16 sure of that year.

17 Q Other than that, do you recall any written reports done by
18 the District in terms of comparing schools on the criteria
19 that is referred to here?

20 A No.

21 Q Is there any process within the District of something like
22 accreditation, looking at the quality of education being
23 provided in the schools?

24 A Not by accreditation, no.

25 Q What efforts does the District do to assure itself of the--

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1 what does the Central Office of the District do to find
2 out about the quality of education in each school?

3 A Principals are supervised by an immediate supervisor and
4 Principals supervise teachers and all other staff members
5 in any given school or response to a specific person in
6 evaluating annually.

7 Q Anything else?

8 A In the process of the evaluation the goals of the District
9 are looked at and how well those are being addressed and
10 each Principal and teacher is responsible for identifying
11 job targets or performance standards and then the evaluation
12 is against those standards.

13 Q Let me ask the question a little more specific. Take an
14 example of a specific area and that is scores and
15 standardized tests. Does the District utilize standardized
16 tests at all?

17 A Yes.

18 Q What standardized tests does it utilize?

19 A Iowa Test of Basic Skills is one. That is the main one.
20 There are other standardized tests. Some of them are
21 external. That one is internal.

22 Q The Iowa Basic Skills Test that you administer, are those
23 administered on an annual basis?

24 A Yes.

25 Q What grades are they administered to?

1 A It's varied over the years, but at the present time it is
2 Kindergarten through Grade 7, I believe, 7th and 8th and
3 through 10.

4 Q What happens to the results of those tests?

5 A They are fed back to the Principal and to the teachers for
6 utilization in improvement of the curriculum and for
7 working with individual children.

8 Q Would you ever see the results of those tests?

9 A Yes.

10 Q For what purpose?

11 A To take some assessment of the efforts in the total
12 District.

13 Q Would you ever see school-by-school results?

14 A Yes.

15 Q Why would you see that?

16 A For the same purpose, to see what a school can do to
17 improve and work better with individual children.

18 Q Have you seen those within the last year or two?

19 A Yes.

20 Q When you see the scores by school, how does that get
21 recorded? Is there an average, a mean, a medium?

22 A I get a composite score usually and then sub scores for
23 various kinds of skills in Mathematics or Reading. Those
24 are the two main areas.

25 Q Does the District itself do the grading and scoring and

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1 processing of those tests?

2 A No.

3 Q Who does that?

4 A The University of Iowa.

5 Q Do they then send you back the composite score then that
6 you just talked about?

7 A Right.

8 Q Have there been instances in which the composite scores
9 were different for different schools?

10 A They always are.

11 Q Do you look at the disparities between test scores and
12 composite test scores in two schools for any--let me ask
13 it a different way. I understand one of the purposes of
14 looking at those scores is to talk about areas that might
15 be potentially improved?

16 A Yes.

17 Q Do you also do it in comparative terms? I see School X
18 has got a score that is lower than School Y?

19 A You do that, but the main purpose is to see how School X
20 did for the year, too, yes.

21 Q If School X scores lower than School Y, is that a concern
22 to you?

23 A It is always a concern. You want every school to do better
24 and you work toward that.

25 Q If School X scores lower than School Y, does it suggest to

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1 you anything about the school, the education going on in
2 School X or Y?

3 A Not necessarily.

4 Q Not necessarily, but perhaps?

5 A No, not really. It doesn't suggest that. I don't think
6 you could arrive at that conclusion through that data.

7 Q Why not?

8 A Because of the individual differences in children, the
9 socio-economic background, home life and enrichment
10 differences among children.

11 Q Would that be still true if we were talking 10th Grade
12 scores as opposed to Kindergarten scores?

13 A Yes.

14 Q You would still anticipate that there would be socio-economic
15 differences that would have persisted that long?

16 A That is not the only variable, but, yes. As a matter of
17 fact, as children grow older, there are many more variables
18 that enter in.

19 Q Such as?

20 A Motivation.

21 Q What else?

22 A That is probably the main one.

23 Q That is a good one for us to talk about because it seems
24 to me that is an area in which you might be thinking to
25 yourself, maybe School X is better than School Y because

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1 motivation seems, I understand it is not a perfect reflection
2 on the quality of the teaching going on, but it is a vague
3 reflection of the quality of the teaching going on, you
4 wouldn't expect motivation to be better in one part of
5 town rather than in another part of town as compared to
6 socio-economic conditions that might be different in one
7 part of town than another? It seems to me that in that
8 sense, 10th Grade scores might be some vague measure of
9 the quality of teaching going on in the schools and I
10 gather you disagree with that?

11 A I do.

12 MR. BILES: I object to the form.

13 Q (By Mr. Hansen) He is just unhappy because my question
14 went too long. You can go ahead and answer it if you can.

15 A It was a bit.

16 MR. SEBELIUS: Do you understand the question?

17 A Not really.

18 Q (By Mr. Hansen) Does a better teacher make students better
19 motivated?

20 A Yes.

21 Q If motivation is one of the factors that is suspected in
22 the disparity of the 10th Grade scores, are they in some
23 way in part reflecting the quality of education going on
24 in school?

25 A No, I don't think you can arrive at that conclusion by

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1 that data.

2 Q Why not?

3 A There are too many other variables, the socio-economic
4 level is still the same, the makeup of the family, whether
5 a single parent or both parents, educational level of the
6 father and mother, enrichment kind of opportunities that
7 still exist in homes or do not exist, books, magazines,
8 travel.

9 Q Does the District utilize other standardized tests?

10 A We give the usual SAT-PSAT-ACT. We give some reading tests
11 for identification and working with children in Federal
12 reading programs that we have.

13 Q The SAT-PSAT-ACT scores, are those recorded on a school
14 basis?

15 A Yes.

16 Q Talking about both those tests and the Iowa Basic Skills
17 Test, are the scores of those tests on a computer in any
18 form?

19 A No.

20 Q School District computer?

21 A No.

22 Q Do you look at the comparative SAT composite for Topeka
23 West versus Topeka, for example?

24 A Topeka High?

25 Q Yes.

1 A Yes.

2 Q Why were you interested to look at those?

3 A I just look at all schools, see how well they are doing,
4 see how we as a District stack up in the nation and State
5 of Kansas.

6 Q In your opinion, was the SAT-PSAT-ACT comparisons, give any
7 indication of the comparative quality of the two schools
8 or three schools or what is it?

9 A They are very similar kind of data interpreted in the same
10 way as other standardized tests insofar as looking at
11 schools.

12 Q Taking those, I guess we have now got SAT-PSAT-ACT and
13 Iowa Basic Skills?

14 A National Merit Test.

15 Q National Merit Test. Taking all five, in your opinion, as
16 to whether or not those tests are racially discriminatory--
17 I will stop. Racially discriminatory?

18 A I don't think they are. I think that modern test makers
19 are aware of that problem or that issue.

20 Q Do you look at grades? Is there any way in which average
21 grade or mean grade or composite grades for the schools
22 are looked at?

23 A No. I don't gather that data.

24 Q I understand that Kansas has a minimum competency require-
25 ment, is that right?

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1 A Yes.

2 Q How long has that been true?

3 A It existed about three years and it was left idle by the
4 State Legislature for a year and has been reinstated for
5 next year.

6 Q Is the test developed by the State as opposed to Topeka?

7 A It is developed by the State with a contract from the
8 University of Kansas.

9 Q Is that the State Board of Education or the State Department
10 of Education?

11 A That is the same. That is all the same. The State Board
12 governs the State Department.

13 Q Have you seen scores on the minimum competency test?

14 A Yes.

15 Q Are those reported by school?

16 A Yes.

17 Q Have you looked at those comparatively?

18 A Yes.

19 Q In your view, would that give you any indication of the
20 quality of teaching or education going on in the school?

21 A It would be some, because it is not a standardized test.
22 Do you understand the difference between a standardized
23 test and a criterion reference test?

24 Q No. You will have to explain it to me, I'm afraid.

25 A It is a minimum competency test as a criterion and reference

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1 test and measures specific skills, like how to add three-
2 digit numbers or something, and you are only compared
3 against that and not with other children.

4 Q It is still standardized in the sense that the same test
5 is given to all the schools?

6 A Yes.

7 Q It is not a curve?

8 A The word standardized means there is a big normal group out
9 there, and minimum competency testing is not for that
10 purpose.

11 Q Is there a sheet somewhere that would give the minimum
12 competency scores per school for the years that the test
13 was in existence?

14 A Yes, we have that.

15 Q Do you know what that sheet would be called if I wanted to
16 ask for it, what name I would give it?

17 A It would probably be in Dr. Tribbey's office. It would
18 just be probably a short report giving the results of the
19 test. The State does issue a summary of our data, so he
20 would have that.

21 Q Okay.

22 A And the scores by the University of Kansas.

23 Q Do you try to look at, on a periodic basis, things like
24 school overcrowding, not things like that? Do you look at
25 school overcrowding?

1 A We know what the capacity is of each building and we are
2 alerted to that each year.

3 Q Who would look at that?

4 A The Principal and then the Principal's immediate supervisor
5 would be the first to look at it and if it were a severe
6 problem or appeared to be becoming a severe problem, because
7 there are fluctuations in enrollment and people move in
8 this mobile society, and it would be called to the attention
9 of other administrators at a higher level.

10 Q Is there a standard for each school, how many kids the
11 school can hold?

12 A We staff our elementary classrooms, for example, at about
13 twenty-four to one.

14 Q No, I meant--take the physical plant, that is Topeka West,
15 how many kids could you put in Topeka West? Is there a
16 number, Topeka West would be overcrowded if it has more
17 than 2,000 kids in it or over 1,500, something along those
18 lines?

19 A Going back to the elementary school, if you put twenty-
20 four to a room, give or take, you know, that is an average.
21 Then you multiply--or divide that into the total number of
22 kids, then you need that many rooms. At the high school
23 level, we had sort of around twenty-seven or twenty-eight
24 to one. Each teacher teaches five classes, then you have
25 some room for the sixth period of the day and the room is

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1 idle one hour, you can't have a person flow through those
2 rooms and you can arrive at the capacity of the building
3 in that manner.

4 Q Has there ever been an instance in which the schools in
5 the Topeka system were over the capacity defined that way?

6 A Yes, Topeka West and perhaps as much any.

7 Q Any others? .

8 A We have had to put portable rooms at selected schools all
9 over town.

10 Q A portable classroom would be assigned that we have reached
11 the edge of the limits of the school?

12 A And a way to extend the school on a temporary basis or
13 ultimately permanently.

14 Q Who would make the decision to put a portable classroom
15 into a school?

16 A Probably the Superintendent's cabinet.

17 Q Who does that consist of?

18 A That would be the Superintendent or Associate Assistant
19 Superintendents.

20 Q How many people does that total?

21 A About nine or ten.

22 Q Does that group of people meet on a regular basis?

23 A Every Tuesday morning.

24 Q Are Minutes kept of those meetings?

25 A No.

1 Q Are memoranda generated as a result of those meetings?

2 A Sometimes each of us have a responsibility when we leave
3 that meeting that would result in a memorandum or letter
4 to someone. We have a printed agenda, but that is all.

5 Q Are there instances that those meetings where you are
6 required to produce something in advance of the meeting so
7 everybody can read a report or a document?

8 A Sometimes.

9 Q Taking your particular files, those reports that you have
10 gotten, how would you file those? Would they be filed
11 under something like Superintendent's cabinet? Is that
12 what you called it?

13 A Yes. We called it the Administrative Council, but I used
14 that other term because it is more understandable for most
15 people.

16 Q Do you have a set of files called Administrative Council
17 files that would contain those reports that you would have
18 to read to prepare for the meeting?

19 A No. Any report that came out of that would be filed under
20 some other heading.

21 Q Under the topic?

22 A Like graduation requirements.

23 Q Do you look at the suspension of grades by comparison
24 between schools at all?

25 A We have some data on that.

1 Q Is that also in your area, general area of responsibility?

2 A Yes.

3 Q What form does that data take?

4 A Each Principal supervises or receives a report on any
5 student who is suspended and it is just a one-sheet thing
6 and the reason and the documentation of that.

7 Q Is it collected in any form? Could I find out that ten
8 kids were suspended from X School and eight kids from
9 Y School this year?

10 A There could be some limited documentation on that.

11 Q How about dropouts?

12 A Similarly.

13 Q Similarly that there would be only limited data in comparing
14 schools in that respect?

15 A I think we have some documentation on that.

16 Q Has there ever been a time when you have looked at
17 comparative data on the experience of teachers that is
18 school-by-school? I am looking for what kind of data
19 exists whereby you can compare schools and I am sort of
20 going through the criteria that occurred to me. Has there
21 ever been an instance when you want to look at what is the
22 level of experience of our teachers at Topeka versus Topeka
23 West, just as an example?

24 A I haven't collected that kind of data.

25 Q Do you know whether anyone else in the school system has?

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1 A Perhaps, but I am not aware of it. We know how long each
2 teacher has taught, but we haven't collected it.

3 Q I understand that, but you haven't looked to see if all of
4 your experienced teachers teach at Topeka West and all of
5 your rookies teach at Topeka High, just for example?

6 A No.

7 Q I am not suggesting you necessarily should have.

8 A No, I understand.

9 Q There is a Vocational School attached to the School
10 District, is that right?

11 A It is a co-op and funded by ten districts, but we govern
12 it and it is attached to the School District.

13 Q Is that a post-high school or a substitute high school?
14 How old are the kids that go to that school?

15 A It is both, so the students may go there at the beginning
16 of their junior year.

17 Q How is it determined that a student is going to go there,
18 rather than finishing at the high school?

19 A By electing to for one. Students are given vocational
20 testing and aptitude kind of things and then guided through
21 counseling into various curriculum areas at the Vocational
22 School.

23 Q Other than counseling and self-selection, are there any
24 other ways in which a kid might end up at being in the
25 Vocational School at the end of his junior year?

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1 A It is possible that you can have two years of secondary
2 and there is also some post-secondary and evening school
3 kind of opportunities.

4 Q Any other ways that lead to you getting into that Vocational
5 School?

6 A No. That is the way it is done.

7 Q Have you ever looked at which of the high schools feed
8 most kids into the Vocational School, the comparative
9 feeder rates from high schools into that Vocational School?

10 A I have looked at it, but I don't recall the data.

11 Q Do you recall what the reason was that you looked at it?

12 A I don't. I want to get students to have opportunities if
13 they wanted them and to utilize that wonderful facility
14 if they needed technical training.

15 Q The school system also has Special Ed. programs I assume?

16 A Yes.

17 Q How does a kid get into a Special Ed. program?

18 A All students in Special Ed. are evaluated by a team composed
19 of a school psychologist and social worker, classroom
20 teacher, but the school psychologist mainly and then staff
21 and then placed.

22 Q How would I come to the attention of the school psychologist
23 in order to determine whether I was appropriate for Special
24 Ed.?

25 A You would be referred by a teacher or Principal.

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1 Q Is there a Special Ed. program in every school?

2 A Not every school.

3 Q How is it decided which schools will have Special Ed.
4 classes and which won't?

5 A We try, when space is available, to locate Special Ed.
6 classes in the attendance area in which the student
7 resides. In some instances we are not always able to do
8 that, because we are talking about a low incidence of
9 exceptionality and in that instance maybe we only have one
10 room for the whole town and maybe we can't locate it. But
11 in general we try to locate it as near to the home of the
12 parents as we can.

13 Q Is there a transportation system for Special Ed. students?

14 A Yes.

15 Q Other than Special Ed. and other than the Vocational
16 School that we talked about, are there other gradations
17 within the school? I know that is not real clear the way
18 I have asked it. Let me sort of explain what I am looking
19 for. When I went to high school we had a thing in my high
20 school which were called honor classes or accelerated
21 classes, which is sort of advanced, more intense college
22 prep courses and likewise we had remedial classes which is
23 sort of less intensive. Do you have something like that?

24 A Yes.

25 Q Do you have that in the middle schools as well as the high

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1 schools?

2 A Yes.

3 Q Do you have it in the elementary schools at all?

4 A We have programs for the gifted in elementary schools.

5 Q Is that a separate classroom I would stay in all day?

6 A That is a pull-out kind of a program. They are exceptional

7 children in Special Ed.

8 Q Exceptional in this context means terribly bright or not

9 terribly bright?

10 A It doesn't mean either.

11 Q It means both?

12 A Yes.

13 Q Sticking with the elementary schools, how does it get
14 decided that I go into one of the terribly bright exceptional
15 programs?

16 A Gifted programs.

17 Q Yes.

18 A By referral and evaluation in the same manner that you
19 would go into an MEH room.

20 Q I could find out a list of all the kids in the gifted
21 programs in the middle schools?

22 A Yes.

23 Q Could I find that out by school?

24 A Yes, I think we have that.

25 Q Is there a gifted program in every elementary school? Could

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1 I find out the race of the kids in the gifted program if I
2 wanted to?

3 A I think you could. I am not sure that that data is
4 there, but I think you could.

5 Q That is nothing you have looked at ever?

6 A No.

7 Q Taking the middle schools, you have both, what I call
8 honor classes and what I call remedial classes?

9 A Yes. We have honor programs and accelerated programs.

10 Q How does it get decided that I go into one of those?

11 A By previous achievement. Sometimes success on standardized
12 tests. Teacher judgment.

13 Q Do those programs exist in all the middle schools?

14 A Yes.

15 Q In the middle schools do you go from class to class?

16 A Yes.

17 Q In an accelerated program for English and not for Math?

18 A Yes.

19 Q How would I know, looking at a list of all the classes at
20 one of the middle schools that this particular classroom
21 was an accelerated class as opposed to being a remedial
22 class?

23 A You would have to know something about the curriculum.

24 Q Is there a list that says Mrs. Jones teaches accelerated
25 English and Mrs. Johnson teaches remedial English?

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- 1 A It is a class schedule that shows what the teachers teach.
- 2 Q In describing what the teacher teaches, would it give me
- 3 that level of detail that it is accelerated English and
- 4 post it as accelerated English?
- 5 A It gives a course title. For example, if it said pre-
- 6 Algebra, I know that is an honor course. You might not.
- 7 Q I thought you were going to say exactly the opposite,
- 8 actually. Is there a list where I could find what the
- 9 titles of the honor courses are?
- 10 A There is a list of what each middle school offers.
- 11 Q Take someone like me who doesn't know anything about your
- 12 middle schools, is there any list somewhere, even if there
- 13 are two or three lists, that I would have to put together
- 14 whereby I could figure this out?
- 15 A No.
- 16 Q Let's talk then about the high schools. You have both
- 17 honor classes and remedial classes in the high school?
- 18 A Yes.
- 19 Q Again, you could be in Honor English, but not Honor Math?
- 20 A Yes.
- 21 Q Is there any way I could tell in the high schools which
- 22 are the honor classes and which are the remedial classes?
- 23 A If you know enough about the curriculum, as I do, you
- 24 would know it.
- 25 Q That is the only way I could find out really? I could ask

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- 1 the Principal I presume, he or she would know?
- 2 A There is a listing of the course offerings and they are
- 3 identified whether they are honor. Sometimes some classes
- 4 say AP before them. That means Advanced Placement.
- 5 Q Does the courses have a number like it is English 101 or
- 6 102?
- 7 A Yes.
- 8 Q Is English 101 always honors across the three schools?
- 9 A We have tried to standardize that, yes.
- 10 Q If I looked at the list, is there any way to describe that
- 11 English 101 is an honors class?
- 12 A Each school has a curriculum document that describes each
- 13 course.
- 14 Q Would it describe it in enough detail that someone that
- 15 doesn't know enough about the school system that I could
- 16 tell?
- 17 A I think so.
- 18 Q Does it work that the honors classes are 101 or the
- 19 regular classes 201? Is there something about the number
- 20 itself that would give me a hint?
- 21 A Yes, it was distinguishable.
- 22 Q What is there about the number that I would look for?
- 23 A It would be a different number.
- 24 Q Do the accelerated English classes start with a 1?
- 25 A No.

1 Q Or end with a 1?

2 A No. It would just be a different number.

3 Q Are there vocational courses in the high school, auto,
4 shop, things like that?

5 A Yes, but your definition of vocational courses is not the
6 same as mine.

7 Q Why don't you call that a vocation?

8 A Some courses, which are practical arts kind of courses in
9 a high school, we call that Industrial Arts and Home
10 Economics and Typing and those are vocational in one sense,
11 but general education in another. If you really want to
12 become an auto mechanic, you can go to the Vocational
13 School and take a more in-depth course of greater time and
14 length--not length, but greater time space in a given day.

15 Q Okay.

16 A But there is a difference between Industrial Arts, like
17 woodworking and a vocation, strictly vocational courses,
18 if I am making myself clear.

19 Q Yes. The high schools do not have strictly vocational
20 courses?

21 A It depends. If you take Typing and ultimately you become
22 a secretary, then you have taken it for vocational reasons.
23 If you take vocal music and ultimately become a singer,
24 you have taken music for vocational reasons. If you take
25 foreign language and ultimately become an interpreter in

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- 1 the United Nations, you have taken it for vocational reasons.
- 2 It depends.
- 3 Q Are there constellations of courses in high schools that
- 4 are considered the college preparation constellation of
- 5 courses?
- 6 A Yes, college prep curriculum.
- 7 Q How would I know which courses those are?
- 8 A Each high school has a listing of those.
- 9 Q Does it distinguish between college prep courses and the
- 10 non-college prep courses?
- 11 A Yes, it suggests what would be good for background to
- 12 enter college.
- 13 Q Have you ever looked at the percentage of kids in each of
- 14 the high schools that goes through the college prep program
- 15 as opposed to the non-college prep program?
- 16 A Not specifically. I know in rough terms the number of
- 17 students who go to college from each high school.
- 18 Q How much of a variance is there in that?
- 19 A It varies from about forty to seventy.
- 20 Q Which schools is forty?
- 21 A Highland Park.
- 22 Q And Topeka West is seventy?
- 23 A Yes.
- 24 Q Is there a constellation of courses that are non-college
- 25 prep curriculum?

1 A Yes.

2 Q Do they have a title to themselves, like general education
3 you mentioned earlier?

4 A They are just courses, some of which are required and some
5 are elected.

6 Q Prior to the last time I was in town I was reading the
7 local paper and I noticed that Topeka West was up for some
8 national award. Do you know what I am referring to?

9 A Yes.

10 Q What was that all about?

11 A The President has authorized a program of identifying
12 representative excellent schools in the nation, secondary
13 schools, either middle schools or junior high, and Topeka
14 West has been selected from Kansas as one of the nominees.

15 Q How did that happen? Did the School District propose
16 Topeka West as one of the nominees?

17 A All three schools applied.

18 Q What was the form of the application? How did you go
19 about applying?

20 A Each Principal filled it out, objectives of the program
21 and with some help from staff, sure.

22 Q Who made the selection of Topeka West as one of the
23 nominees or one of the finalists?

24 A I believe that was done in Washington, D.C.

25 Q Was it done on the basis of the applications that were

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1 sent in by the Principals?

2 A Yes.

3 Q Presumably each of the three Principals would have copies
4 of those applications, you could see what sort of things
5 they said about their schools?

6 A Yes.

7 Q In Washington, is it the White House or is it the Department
8 of Education?

9 A It is run through Secretary Bell.

10 Q Did any of the Topeka middle schools apply?

11 A No.

12 Q Do you know why not?

13 A They chose not to.

14 Q Topeka High and Highland Park were not selected as finalists,
15 is that right?

16 A Topeka High at one time was selected for a national award
17 at earlier times.

18 Q When was that, if you recall?

19 A That was about 1960.

20 Q Other than this national award that we have just been
21 talking about, Topeka West won, is that an annual thing or
22 has it just started?

23 A It just started.

24 Q Are there other national--you say Topeka High won something
25 in the '60's, what was that?

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1 A They were selected as a Bellamy School. I have forgotten
2 all of the details of that. I think it was a person by
3 the name of Bellamy attempted to identify a significant
4 outstanding secondary school in each of the fifty states,
5 proceeded to take off fifty states one at a time and when
6 Kansas' turn came, Topeka High was selected as the repre-
7 sentative outstanding school from Kansas in 1960, which
8 was just before Topeka West opened. I remember that.

9 Q Are there any other national or statewide awards of that
10 kind for which Topeka schools have applied, any type of
11 schools?

12 A There are awards received from the Kansas Association of
13 Middle Level Educational Organizations called CAMEL.

14 Q How does that process work?

15 A Each school applies and is selected by a panel of middle
16 level educators in the State.

17 Q Middle level means middle school plus high school?

18 A No. Middle level means, in our instance, Grades 7 and 8.
19 In other towns it could mean 6, 7 and 8 or it can mean 5,
20 6, 7 and 8. It is that school between the elementary
21 school and high school, but the grade configuration is
22 often different.

23 Q There are Topeka schools that have applied, do you apply
24 for that award?

25 A Yes.

1 Q Is it an annual award?

2 A Yes.

3 Q There are Topeka schools that have applied for it?

4 A Yes.

5 Q Are you familiar with the last time an application process
6 went through?

7 A Yes.

8 Q Which middle schools applied?

9 A I know which one was selected. I am not sure I know which
10 ones applied.

11 Q Which one was selected?

12 A Robinson.

13 Q Is that the only school selected out of the State?

14 A No. I think there are more than one. I can't tell you
15 how many. I did not attend that meeting, but I think
16 there are more than one.

17 Q Is CAMEL a part of the State government?

18 A It is a professional organization for middle level
19 educators like to the Kansas Association of Secondary
20 School Principals.

21 Q Is its headquarters here in Topeka?

22 A I don't think CAMEL has an office. They elect officers.
23 There is a national office for the national school
24 association, but I don't think there is a State office.

25 Q Is there a national version of the award we have been

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1 talking about?

2 A No.

3 Q How about the year before, do you know what middle schools
4 applied or won that award, if any?

5 A I think Landon won. That year Landon was selected, but I
6 don't think all of our schools applied. It requires con-
7 siderable effort on the part of staff putting together all
8 of the details and reports.

9 Q Is that the staff at the building level or the central
10 level?

11 A The building level.

12 Q The central location plays no role in whether a school
13 should apply?

14 A No.

15 Q Does the Central Office have any record of which schools
16 apply for it?

17 A No, they do not.

18 Q If I wanted to find out I would have to ask each of the
19 six Principals?

20 A Yes.

21 Q There are six middle schools?

22 A Yes, that is correct.

23 Q Are there any other kinds of awards for which the schools
24 might apply, either State or national or local for that
25 matter?

1 A I really can't think of anything. There are awards for
2 achievement in music and athletics, but that is by teams
3 and forming groups.

4 Q Like winning the conference title in football?

5 A Yes.

6 Q The School District doesn't have like School of the Year,
7 this is the elementary school, that gets special recognition
8 this year?

9 A No.

10 Q How about Teacher of the Year programs? Does the School
11 District itself have a Teacher of the Year program?

12 A The School District does not. Kansas does.

13 Q Does Topeka sometimes submit a teacher as a candidate for
14 that?

15 A Yes.

16 Q How is that selection made?

17 A That program I believe is run out of Kansas State College
18 of Emporia and I assume a panel of professors and various
19 people from Emporia make the final selection, and schools
20 are free across the State to nominate anyone from their
21 own staff.

22 Q Is that in Topeka? Is that also been done by the Principal
23 as opposed to the Central Office?

24 A Yes.

25 Q Are you all called the Central Office?

1 A Yes. We are sometimes called other things.

2 Q There are times when it carries a negative connotation?

3 A Yes.

4 Q I don't mean it to have that kind of connotation.

5 A I know.

6 Q Do you know whether any teacher applied this last year?

7 Take high schools?

8 A We had a teacher, Martha Herrick, from Topeka High School

9 was selected this year, and I think it was in the Emporia

10 program, as outstanding teacher for Kansas. In previous

11 years we had a teacher by the name of Betty Baskin, who I

12 believe received a similar honor. She was from Highland

13 Park.

14 Q Does the Central Office keep records of that at all?

15 A No, it is memory.

16 Q Is that program applied to the middle schools and the
17 elementary schools?

18 A The middle schools have an award. I think it is called
19 Camelot Award and it is handled in a similar manner probably
20 for middle level educators.

21 Q That is also run out of Emporia?

22 A No. That is the Kansas Association of Middle Level
23 Educators.

24 Q What about the Kansas elementary schools, do they have
25 anything?

1 A There have been instances where Principals have been
2 identified as outstanding Principals. Secretaries who
3 have been identified as outstanding. There are those kinds
4 of things happening in the State at the State level.

5 Q The Principal thing, would be the State people would ask for
6 application about outstanding school Principals?

7 A Yes.

8 Q I keep asking this question only because I am trying to
9 clarify it in my own mind. Is that the State Board of
10 Education or Department?

11 A No. It is neither. It would probably be run through the
12 Kansas Association of Elementary Principals.

13 Q During the two years you were head of the Administrative
14 Services, did you also sit on the Administrative Council
15 during that time period?

16 A Yes.

17 Q You have been on the Administrative Council roughly ten
18 years?

19 A Yes, since the fall of 1974.

20 Q Does the Administrative Council deal with all of the
21 school opening and closing questions?

22 A We sometimes review that data before it is presented to
23 the Board.

24 Q How about any changes in the boundary lines between schools?
25 Does that go to the Administrative Council on a routine

1 sort of basis?

2 A Pretty much so, yes.

3 Q We talked about portable classrooms going there. What
4 about optional attendance zones, if there would be a re-
5 institution of those?

6 A Those have been eliminated. I don't recall us dealing
7 with those. They did come up from time to time as we
8 considered the number of students a school could accommodate,
9 capacity.

10 Q What about transfer policies? Does that go to the
11 Administrative Council?

12 A Transfer policies?

13 Q Yes.

14 A Probably that kind of a matter would be staffed through
15 the Administrative Council, yes.

16 Q You said this is one of your responsibilities in both
17 Administrative Services and in your current job was the
18 Planning Evaluation Department, is that right?

19 A When I was in Administrative Services, yes.

20 Q Is the Planning and Evaluation Department one department
21 or is that two?

22 A That is one, one department.

23 Q Who is in charge of that department?

24 A Dr. Tribbey.

25 Q How many professional staff report to him?

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- 1 A He does handle some other matters under his supervision.
- 2 Q Strictly dealing with the Planning and Evaluation portion
- 3 of his responsibilities?
- 4 A He has one other part-time graduate student working for
- 5 him and a secretary in just that segment of what he
- 6 supervises.
- 7 Q What is the evaluation part of his responsibility?
- 8 A From time to time usually on an annual basis we identify
- 9 program areas that we might want to evaluate by one means
- 10 or another and take a look at that and he collects that
- 11 data and puts it together.
- 12 Q Let's see how the high school English program is doing this
- 13 year?
- 14 A It could be, or a reading program.
- 15 Q That would be in all the Topeka schools, elementary and
- 16 secondary?
- 17 A It would usually cut across, it would involve one school.
- 18 Q He could do it for programs in the elementary schools as
- 19 well as the secondary schools?
- 20 A Yes.
- 21 Q You said he writes those reports roughly once a year?
- 22 A Yes, it would be two or three a year. He doesn't have a
- 23 staff to do much more than that when you try to cycle them
- 24 and base them on need.
- 25 Q Do those reports usually, sometimes, or always contain

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1 pertinent information, comparatively from each school?

2 A Usually not.

3 Q Ever?

4 A I don't want to say never, but they might have some data
5 on there, but usually not. It usually evaluates the
6 program in its totality.

7 Q Does the School District do any by-school evaluations
8 other than the things we have talked about already?

9 A No.

10 Q You also said while you were head of Administrative Services
11 you were responsible for demographics?

12 A Yes.

13 Q How many professional staff work in the Demographics
14 Department?

15 A One professional, Mr. Miller, who you will be talking to
16 tomorrow, and several secretaries. By several, two or
17 three clerks.

18 Q Do you personally or your people you supervise submit
19 reports on a regular basis to the State, other than the
20 one we talked about, the Annual Report?

21 A We have our District organization reports.

22 Q What does that consist of?

23 A That consists mostly of total number of teaching staff and
24 calendar for the school year. I think it has some budget
25 information, who the chief school administrator is, Board

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1 of Education Members. It probably has some data in it on
2 a cost per building kind of things.

3 Q To whom in the State does that get sent?

4 A The State Department of Education.

5 Q Any other reports that go on a regular basis to the State
6 Department of Education, or State Board of Education?

7 A There is a report on, I believe it is 874, Federally Active
8 Students, if you have a large number of students whose
9 parents are Federally employed, then you get some reimburse-
10 ment for them and we have that kind of report that goes on
11 an annual basis.

12 Q Anything else?

13 A We have a report from Special Ed. that goes to the State.
14 I have already mentioned the individual school reports.
15 There is a report from Vocational Schools of the State.

16 Q In the course of your responsibilities over the last eight
17 years, how often would you be talking to a representative
18 of the State on a daily basis, on a weekly basis, annual
19 basis?

20 A Couple times a month. Although I am on the State Committee
21 of the North Central Association of Colleges and Schools,
22 so I am also Treasurer of the State Committee, so I talk
23 to that person who coordinates that effort of the State
24 Department more often than anyone else. Sometimes that
25 is two or three times a month. We meet three to four times

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1 a year.

2 Q I'm sorry, what was that organization?

3 A The State Committee of the North Central Association of
4 Colleges and Schools is coordinated through the State
5 Department of Education by a staff member there.

6 Q Is there anyone else in the State that you would routinely
7 talk to?

8 A Not routinely.

9 Q Does it happen that you get inquiries from the State govern-
10 ment to give us a report on this subject or that subject,
11 other than sort of routine stuff?

12 A Sometimes they are looking. They may want to survey
13 something and those often come across my desk and I either
14 complete them myself or delegate them to someone else.

15 Q Any other State contacts that occur to you?

16 A No.

17 Q You personally or the people you supervise?

18 A No.

19 Q By reputation I am talking strictly now about the three
20 high schools. By reputation, is one of those high schools
21 considered the best of the three high schools?

22 A One of them has more tradition than the other two, because
23 of its architecture and it having been the first and only
24 high school in the City. Highland Park was not a part of
25 the City. I think if you would ask the people who live in

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1 those respective areas, they feel strongly about their high
2 school.

3 Q Do you have kids?

4 A Yes.

5 Q Have your kids either gone to high school or are not in
6 high school in Topeka?

7 A They are adult.

8 Q Did they go to high school in Topeka?

9 A Yes.

10 Q Which high school did they go to?

11 A Topeka West.

12 Q Did you have to move in order for them to go to Topeka
13 West?

14 A I did, but that is not why I moved.

15 Q Why did you move?

16 A Because I found a house I could afford in a modest portion
17 of town. My children went to elementary school at Lowman
18 Hill part of the time and then later to other elementary
19 schools.

20 Q Did the reputation of Lowman Hill play any role in where
21 you decided to live?

22 A It is the best school I ever went to for my kids.

23 Q Is that one of the reasons you moved into the Lowman Hill
24 district?

25 A No. I moved there because there was a rental place avail-

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1 able and the children were little and that is where we
2 lived.

3 Q Is there a middle school in the District that is generally
4 considered the best middle school, that has a reputation
5 for being the best middle school?

6 A Not in my mind.

7 Q Which middle school did your kids go to?

8 A Jardine.

9 Q How did it come to be that you were in that District?

10 A The Jardine District is the area where I moved to when they
11 became junior high school, what they were called then,
12 middle school. That junior high school feeds two-thirds
13 of the students to Topeka High and one-third to Topeka West
14 approximately.

15 Q Did you want to live in the Jardine attendance area?

16 A It wasn't important to me. I would have been happy in any
17 of the middle schools or junior highs.

18 Q How about the elementary schools? Is there an elementary
19 school that has a reputation for being the jewel of the
20 system?

21 A No.

22 Q How about an elementary school that has a reputation for
23 being the least jeweled of the system?

24 A No.

25 Q A bit ago I asked you about school openings and closings

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1 and portable classrooms and boundary changes, transfers,
2 the discussion of those that went on in the last ten years
3 while you were in your current job and there was a discus-
4 sion that went on while you were on Administrative Council.
5 When you were discussing those subjects with the
6 Administrative Council, did the racial impact of those
7 discussions ever get discussed?

8 A Yes.

9 Q Let's take school openings, have there been school openings
10 while you have been part of the Administrative Council?

11 A I can't recall any new schools that have been built in ten
12 years.

13 Q How about closings? I know there have been closings in
14 the last ten years?

15 A Yes.

16 Q Do you recall any specific school that has been closed in
17 the last ten years while you have been a part of the
18 Administrative Council?

19 A I recall several.

20 Q Take one as an example?

21 A Crane.

22 Q When Crane was closed, was there a discussion of racial
23 impact of closing Crane in the Administrative Council
24 Meetings?

25 A That was one of the first ones, and I can't recall on that.

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1 Q If I wanted to find out whether there had been a discussion
2 of that in the Administrative Council, would there be any
3 way I could know other than asking people who were there?

4 A No, other than deposition you wouldn't. Each time we
5 close a school and there is a consolidation that takes
6 place, one of the criteria for that was to improve the
7 racial balance.

8 Q Was that criteria or the other criteria that was taken
9 into consideration written down anywhere?

10 A No.

11 Q Prior to closing a school, would someone from the
12 Demographics Department be asked to submit a report to the
13 Administrative Council about what the racial impact would
14 be?

15 A Yes, we would know if we combine two schools into one,
16 close one and combine them, we would know what the racial
17 balance was prior and after that action.

18 Q Would that be in written form usually?

19 A Was, but I don't know whether it has been preserved.

20 Q What form would it take? Would it be a memo to the
21 Members of the Administrative Council?

22 A It would be just a sheet of paper or a series of several
23 schools with attending maps showing arrows, showing where
24 those students would be going, that kind of thing.

25 Q The copy of that, that you personally receive, would you

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1 have the copies of those for school closing when you were
2 in Administrative Services?

3 A Most of them I would not.

4 Q What about boundary line changes? Have there been boundary
5 line changes since you have been part of the Administrative
6 Council?

7 A When you close the school, you change boundary lines.

8 Q That is true. But other than as a result of school
9 closings?

10 A Not very much. There may have been some back in the first
11 of that ten-year period, but not very many. I know we did
12 eliminate obsolescence attendance areas, so those changes
13 were made.

14 Q Was there a discussion of the racial impact of that change?

15 A Yes.

16 Q Was that discussion memorialized in any kind of a writing?
17 Is it on paper anywhere I could find?

18 A It could be, but I am not certain of that.

19 Q Would again someone from Demographic Services be asked to
20 submit a written report?

21 A Mr. Miller would be more likely to have the files if any
22 exist on that data.

23 Q Have there been changes in the transfer policies in the
24 ten years?

25 A Yes.

1 Q Was the racial impact of those changes discussed in the
2 Administrative Council when you talked about the changes?

3 A Yes.

4 Q Again, would that have been written down anywhere?

5 A It might have been. That data probably would be with Mr.
6 Miller if it exists.

7 Q Have there been any annexations or de-annexations in the
8 School District in the ten years since you have been part
9 of the Administrative Council?

10 A There has been one, the Auburn-Washburn District has been
11 traded--well, a line has been drawn. We got some of their
12 territory and they got some of ours. I think most of the
13 other annexations or de-annexations occurred prior to the
14 ten years.

15 Q When did this one take place, that you just mentioned?

16 A In the last year.

17 Q Was there a discussion of the racial impact that took place?

18 A It had no racial impact. It was mainly open field territory
19 that was being developed into housing and no one lives
20 there.

21 Q Who within your School Board was responsible for that,
22 principally responsible?

23 A Dr. Tribbey was the coordinator of that.

24 Q Was it discussed in the Administrative Council?

25 A Yes.

1 Q Why was that trading--why did it take place?

2 A It took place because the line between the two School
3 Districts was cut through property and if you lived in one
4 bedroom of the house, you would be in one School District,
5 and if you were in another bedroom of the house, you would
6 be in another. So the land was being developed for
7 housing. The lines were drawn to follow the streets and
8 be more meaningful.

9 Q Does Dr. Tribbey report to you?

10 A No, he does not.

11 Q Who does he report to?

12 A Dr. O'Neil.

13 Q Do you know what the formal process was by which that
14 change in boundaries took place?

15 A The two Districts and their attorneys I believe had to
16 look at those descriptions, arrive at an agreement between
17 the two School Districts. School Districts in Kansas, by
18 agreement with each other, can change territory. If they
19 have a dispute over the matter, it goes to the State
20 Department for a decision. That is my memory of how it
21 works.

22 Q I am not sure it is fair to be asking you these questions.
23 I am not sure whether you know. Do you know whether the
24 City has to approve that kind of a change at all?

25 A I don't think so.

1 Q Does the State have to approve it?

2 A I think the two School Districts, if they are amenable to
3 the change or the trade or whatever it is, then the State
4 Department might have to give approval, but I think that
5 is just routine. It is filed with the State Department.
6 I think that is how it works. I am not entirely informed
7 on that subject.

8 Q I understand. That is why I prefaced it the way I did.
9 The school closing that you have been involved in, in the
10 ten years you have been on the Administrative Council, I
11 take it the school closings are ultimately made by the
12 School Board rather than the staff, is that right?

13 A That is right.

14 Q Does the administrative staff write some sort of report to
15 the Board telling them what it is, what school is being
16 proposed to be closed?

17 A We have a proposed long-range plan that went to the Board
18 and ultimately to the public, which was discussed at great
19 length by the Board, the staff, and patrons, and then the
20 Board made the final decision after receiving all of that
21 public input.

22 Q That is the '76 Plan?

23 A Yes.

24 Q Have there been any long-range plans in the '76 Plan? I
25 seen--parenthetically there is a '77 update or '78 update?

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1 A Yes.

2 Q Follow-up plans?

3 A Yes.

4 Q Have there been any comprehensive long-range plans or
5 anything of that sort?

6 A None that have reached culmination.

7 Q I understand in the last six or seven months there have
8 been some plans represented to the Board that were con-
9 troversial here in town?

10 A Yes.

11 Q Can you tell me how they were generated and what led to
12 them being generated?

13 A They were generated upon request of the Board to the staff
14 and then presented to the Board.

15 Q Who within the staff has the responsibility for developing
16 this?

17 A Mainly Mr. Tribbey and with assistance from Mr. Miller,
18 because of demographics.

19 Q Did the Board suggest criteria it wanted the staff to use?

20 A It made assumptions, yes.

21 Q Are those assumptions written down anywhere?

22 A Yes.

23 Q What would the document look like upon which those assumptions
24 are written?

25 A I have forgotten the title of it, but it is the proposed

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1 long-range plan and it has N and X in the comparative data
2 and time period. I am certain that is in there.

3 Q Those are guidelines from the Board to the staff?

4 A The assumptions are in the document by school size and
5 that sort of thing.

6 Q The reason I keep asking from the Board to the staff as
7 opposed to the staff to the Board, the only reason I keep
8 asking, that sounds like information that the staff would
9 be giving to the Board to make its decision and you said
10 the Board was the one that really started this process
11 going?

12 A The Board, I can't recall exactly how it started, but it
13 is apparent that both the Board and the staff, that we
14 needed several small schools. We need to ultimately do
15 some consolidation, for economics and educational reasons.
16 So the Board requested us to put together that kind of
17 information, being presented with that problem.

18 Q Did the racial impact of the closings, was that discussed
19 from the process of discussing those plans?

20 A Yes.

21 Q Was that discussed in the Administrative Council?

22 A Yes.

23 Q Was it discussed in writing at all, within the--

24 A No. A draft of the report, that ultimately was looked at
25 by the Board, were developed by Dr. Tribbey.

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1 Q Did those drafts discuss the racial impact?

2 A Yes.

3 Q Were there any other written documents that might discuss
4 the racial impact, such as Dr. Tribbey sending you the
5 draft and you write him back a memo that I think "X" as a
6 result of what you said in this draft?

7 A No.

8 Q The Administrative Council, is it a democratic body? That
9 is, if something like this comes before the Administrative
10 Council, like the annex plan?

11 A It is quite democratic.

12 Q Do you vote on whether it is a good idea?

13 A We sometimes do. But more often than not, we just reach
14 a consensus. It is quicker maybe.

15 Q Does the Superintendent have the authority to overrule the
16 whole Administrative Council if he wants to?

17 A Any Superintendent has that right. It is like Lincoln and
18 his cabinet.

19 Q Has it ever happened since you have been on the Administrative
20 Council?

21 A Not to my knowledge.

22 Q The N and X plans, do you have an opinion as to whether
23 they were good plans or not?

24 A I had some opinions about them, yes.

25 Q What was that opinion?

1 A I thought they would have accomplished some purposes and
2 were important to the District. But I knew at the same
3 time - it has been my experience that every time you close
4 any school, people get mad and I knew that would happen.

5 Q Did you have an opinion as to the racial impact of the
6 plans?

7 A I was aware of what it would accomplish.

8 Q What would they have accomplished in that respect?

9 A They would have improved the racial balance.

10 Q Did you think that that was an important goal for the
11 School Board?

12 A It is always an important goal for the School District.

13 Q Do you think the District needs improvement for its racial
14 balance?

15 A I think we should strive always to move in that direction
16 in all of our actions.

17 Q Are you troubled at all by the fact that some of those
18 schools are 50% minority? Does that suggest to you that
19 there is a problem in that school in terms of balance?

20 A That doesn't suggest there is a problem. It suggests to
21 me that if we can, we should consolidate some day or find
22 other ways to reduce them.

23 Q How did plans N and X differ, in which schools get closed,
24 X versus Y schools?

25 A Variation of one school, one of them had three middle

1 schools and one had four. That was really the main
2 difference, with some other variation in elementary schools.

3 Q Did you think one was better than the other?

4 A Oh, not really. I was kind of for four middle schools,
5 that was not a strong feeling, as opposed to one that had
6 three.

7 Q Did one of them have more of an impact on racial balance
8 than the other?

9 A I can't recall. Elementary schools it is about the same.
10 It might have been some slight difference at the middle
11 school level, but I am not sure what that was.

12 Q When you have had discussions with Administrative Council
13 or boundary lines or closings, did you talk about it in
14 terms of Black-White, minority-White, or Black-White-
15 Hispanic or how does that discussion take place?

16 A Usually the majority.

17 Q The majority for that means White?

18 A Caucasian.

19 Q Other than the Administrative Council, do you sit on any
20 other committees of the School District?

21 A For the past several years in my role as Associate
22 Superintendent of Education, I met with a staff of people
23 on a weekly basis and I am a member of the Data Processing
24 Committee, that meets on a regular basis, and I believe
25 that is all. Those three. There is an Ad Hoc, all sorts

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1 of things, whatever comes up.

2 Q We have talked about the fact that there are Minutes of the
3 Administrative Council. Are there Minutes of the other
4 committees?

5 A No. Agendas.

6 Q Do you play any role in the Minutes of the Board?

7 A No, I do not.

8 Q Are you required, as part of your current responsibilities
9 as opposed to the ones you are about to take over, to
10 attend the Board Meetings?

11 A Yes, I have always been since I have been back in the
12 Central Office, I have been there twice. This is the
13 second time around. That is part of my job to be in
14 attendance at the Board Meetings.

15 Q Has there been discussion at all on the Administrative
16 Council about the Minutes of any discussion of the
17 Administrative Council, about the Minutes of the Board
18 itself?

19 A Seldom. I don't even recall discussing the Minutes of the
20 Board in the Administrative Council.

21 Q Do you submit anything on a routine basis to the Board
22 itself?

23 A If I am responsible for an item on the agenda, I develop
24 a short title for that item, a short paragraph describing
25 what it is, a recommendation, and any backup document that

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1 that might require.

2 Q Does that go to the Board prior to the meeting?

3 A Yes.

4 Q So the Board gets a little packet, like this is what we
5 are going to talk about next week?

6 A Yes.

7 Q Does that packet have any kind of a name to it?

8 A It would be the Board agenda and related items.

9 Q Do you know whether that packet is kept with the Board
10 Minutes at all?

11 A The previous Board Minutes are included in that. In other
12 words, the previous meeting are part of that packet.

13 Q Right. I am just asking whether you know? You may not
14 know this. If I looked at a list of the Board Minutes,
15 could I see everything that was part of the packet you sent
16 to them that leads to that meeting?

17 A I think you could.

18 Q Any other things that you send on a routine basis to the
19 Board?

20 A Nothing on a routine basis, no.

21 MR. HANSEN: Thank you very much. That is all I
22 have.

23 MR. SEBELIUS: No questions.

24 MR. BILES: No questions.
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Signature of Witness

STATE OF KANSAS)
) SS:
COUNTY OF SHAWNEE)

SUBSCRIBED AND SWORN TO before me this ____ day of
_____, 19____.

Notary Public

My Commission Expires:

1 STATE OF KANSAS)
2) SS:
3 COUNTY OF SHAWNEE)

4 C E R T I F I C A T E

5 I, Richard T. Waters, a Certified Shorthand Reporter
6 of Kansas, certify that the witness, OWEN M. HENSON, was by me
7 first duly sworn to testify the truth, the whole truth, and
8 nothing but the truth; that his deposition was reported by me
9 in shorthand and thereafter reduced to typewriting under my
10 supervision, and is a true and correct record of the testimony
11 given by said witness. I further certify that said deposition
12 was taken pursuant to FRCP Rule 30.

13 I further certify that I am not attorney for, nor
14 related to any of the parties or attorneys to this action, nor
15 financially interested in the action.

16 IN WITNESS WHEREOF, I have set my hand and official
17 seal at Topeka, Kansas, this ____ day of _____,
18 19____.

19
20 RICHARD T. WATERS
21 Certified Shorthand Reporter
22 of Kansas.

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

OLIVER BROWN, et al.,

Plaintiffs,

and

CHARLES and KIMBERLY SMITH, minor
children, by their mother and next
friend, LINDA BROWN SMITH, et al.,

Intervening
Plaintiffs,

Case No. T-316

vs.

BOARD OF EDUCATION OF TOPEKA,
SHAWNEE COUNTY, KANSAS, et al.,

Defendants.

DEPOSITION

OF

REX G. WEIMER,

taken on behalf of the Plaintiffs and Intervening Plaintiffs,
pursuant to FRCP Rule 30, beginning at 10:00 o'clock A.M., on
the 7th day of June, 1984, in the Office of Mr. K. Gary
Sebelius of Eidson, Lewis, Porter & Haynes, Attorneys at Law,
1300 Merchants National Bank Building, Topeka, Kansas.

APPEARANCES

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The Plaintiffs and Intervening Plaintiffs appear by Mr. Christopher Hansen, Attorney at Law, American Civil Liberties Union, 132 West 43rd Street, New York, New York 10036; and by Mr. Richard E. Jones of Jones & Jones, Attorneys at Law, 605 S.E. Quincy Street, Topeka, Kansas 66603.

The Defendants appear by Mr. K. Gary Sebelius and Mr. Charles N. Henson of Eidson, Lewis, Porter & Haynes, Attorneys at Law, 1300 Merchants National Bank Building, Topeka, Kansas 66612.

The State of Kansas appears by Mr. Dan Biles, Assistant Attorney General, Litigation Division, Second Floor, Judicial Center, Topeka, Kansas 66612.

Also present: Mr. William Lampson and Dr. James Gray.

* * * * *

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WITNESS:

On Behalf of the Plaintiffs
and Intervening Plaintiffs:

Direct Cross Redirect Recross

REX G. WEIMER

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CERTIFICATE - - - - - Page 30

REX G. WEIMER,

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called as a witness on behalf of the Plaintiffs and Intervening Plaintiffs, after having been first duly sworn, testified as follows

DIRECT EXAMINATION

BY MR. HANSEN:

Q Good morning, Mr. Weimer. My name is Chris Hansen. I am one of the lawyers who represents the Plaintiff in this case and I am the one that is going to be asking you questions this morning. If I ask any questions that aren't clear to you or I jumble or you are not clear what I am looking for, feel free to say that and I will try to rephrase it and make the question clear.

Would you state your full name and occupation, please?

A Rex Gene Weimer. I am the Manager of Data Processing for the Topeka Public Schools.

Q How long have you held that position?

A For approximately two years.

Q Where were you employed prior to that?

A With the Topeka Public Schools.

Q What was your position there?

A Previously as a Manager of Computer Operations.

Q How are those two positions different in responsibility?

A The Computer Operations Manager is the manager of all operations that are run on the computer. He supervises the computer operators and the data entry staff. The

1 Manager of Data Processing is the overall manager of the
2 data processing department.

3 Q So it was a promotion, in essence?

4 A Yes.

5 Q How long did you work in the previous job?

6 A As the Operations Manager, I believe it was approximately
7 two years.

8 Q Where were you employed prior to that?

9 A Topeka Public Schools as a Programmer.

10 Q How long did you do that?

11 A Since February 1970.

12 Q And prior to that?

13 A Prior to that I was in college.

14 Q That is what I thought you were going to say. What degrees
15 do you hold?

16 A I hold a Bachelor of Arts.

17 Q What computer training in an educational setting have you
18 taken? I mean courses in computers.

19 A Yes, I have taken extensive courses in college, both as an
20 undergraduate and with graduate work.

21 Q Do you have any graduate degrees?

22 A No. I lack, I think, six hours.

23 Q The reason I asked you to come here this morning is that I
24 would like to try and ask some questions to get a sense as
25 to what computers the School Board has and what is on them

1 and that is really all I am looking for this morning. I
2 have gotten some answers, as I gather you know about that,
3 those questions, but I would like a little additional
4 information. Let's start with student data. Do you have
5 a computerized student data base?

6 A. Yes.

7 Q. What does that consist of?

8 A. The content or --

9 Q. Let me start a little earlier. Do you have one computer,
10 two computers? How does the system set up?

11 A. We have one major computer.

12 Q. Do you have separate, I am not sure I know the official
13 computer word, like files, separate tapes, separate data
14 bases that are stored in that computer?

15 A. Yes.

16 Q. How many of those are there?

17 A. I can't give you the exact number. There are several
18 different types. They are all interrelated, tied together
19 in the student area.

20 Q. What kind of computer is it?

21 A. It is an IBM 4341.

22 Q. Is data base the proper term to be using?

23 A. Yes.

24 Q. The student data base, does it include the student's name
25 on it?

- 1 A. Yes.
- 2 Q. How about the student's address?
- 3 A. Yes.
- 4 Q. Race?
- 5 A. Yes.
- 6 Q. You are answering these questions as of today, right?
- 7 A. Yes.
- 8 Q. How about courses the school that the child is attending
9 and the courses that they are taking?
- 10 A. Yes.
- 11 Q. Test scores, are there any standardized testing that the
12 kid has taken?
- 13 A. Not at present, no.
- 14 Q. Did I ask address?
- 15 A. Yes.
- 16 Q. I think I did. It does have address?
- 17 A. Yes.
- 18 Q. Do you submit to the Board or to the Board's staff any
19 regular routine reports concerning the areas I have just
20 talked about, student name, address, race, courses and so
21 on? I am looking for something that you have to give them
22 on a routine basis that they don't ask you for specifically.
- 23 A. Specifically to the Board of Education or specifically to
24 who?
- 25 Q. To anybody.

1 A To anybody?

2 Q Yes.

3 A In the student area, there is -- Well, I am not really sure
4 when you say on a regular basis. There are things that I
5 might consider regular basis but you may not. For example,
6 like on a regular basis at grade reporting time we auto-
7 matically generate certain things to go out to the schools
8 to collect grades. You know, that is on a regular basis at
9 the grading time. Most everything that we have on the data
10 base, most reports are requested. It is on a request type
11 basis.

12 Q Who can request reports from you besides the School Board
13 itself?

14 A Administration.

15 Q Anybody else?

16 A By administration, I mean administration from the central
17 office. By the central office or by the individual schools.

18 Q What about the state or federal government? Do you submit
19 reports to the state or federal government at all?

20 A Those requests have not come to me direct. They would have
21 to go through the central office.

22 Q Do you get requests from the central office that says the
23 state wants us to submit to them or the federal government
24 wants us to submit this to them? Would you generate a
25 printout on that?

1 A. Specifically there is no one from central office that has
2 really specifically said we are doing this for the state.
3 I know we generate state reports and, for example, the
4 September 15th, which is the audit report. I know that
5 goes to the state. That, as far as I am concerned, I am
6 generating that for the central office and then how they
7 distribute that is up to them.

8 Q. That is a good example, September 15th of every year you
9 submit an audit report?

10 A. Yes.

11 Q. That is a good example of the sort of routine thing I am
12 looking for, the kind of thing every year you are going to
13 have to submit. Nobody has to come to say to you, please
14 give me the audit report on September 15th. Are there
15 reports like that on the student's assignment or student's
16 grades, student's race, student's testing?

17 A. In the student area, the audit report that we give is, to
18 the best of my knowledge, I can think of right now is
19 probably the only one we do like that.

20 Q. What about teacher data? Let me ask a more specific
21 question. I can tell already that is too broad. Do you
22 have every teacher entered on the computer, every teacher's
23 name?

24 A. At each school we do have a teacher file.

25 Q. Does that include part-time teachers as well as full-time

1 teachers?

2 A In the student area, it may be full time or part time. It
3 is the individual schools send in a teacher file to us
4 because the teacher file is tied to the course number. In
5 other words, whenever we print grade reports, we print the
6 teacher's name along with the course that the student is
7 taking. When they send it in to us, I don't know if it is
8 a full-time teacher, part-time teacher or what. All it says
9 is a teacher that is teaching that course.

10 Q How about student discipline and suspension information in
11 this student data base?

12 A We have a fairly new student system that we just brought
13 up. It has many things in there and there is a suspension
14 program in there. I believe it is called suspension and,
15 basically, that is all I can tell you about that.

16 Q How long has the student data base existed in its present
17 form?

18 A The reason I am stopping and thinking, I might need a little
19 bit more clarification on it. We implemented this new
20 student system two years ago and the first year of imple-
21 mentation was not full-blown. We carried through the old
22 student system up for the first semester with the majority
23 of the schools, one school was on the new system, at the
24 time to make sure everything was working. Then at the
25 second semester we were strictly on to the new system. So

1 as far as full-blown, I would guess you would say a year
2 and a half maybe.

3 Q What is the difference between the old system and the new
4 system? Is there a simple difference? Like it is more
5 comprehensive or is it more complicated than that?

6 A There are similarities and type of information stored.
7 There are similarities in type of reports. The main
8 difference is actually the file structure and programming.
9 The old student system is an antiquated type system. It
10 was developed many, many years ago and was just not serving
11 the purpose. I am not sure how familiar you are with
12 computers or anything else, but it was developed into the
13 IBM 1401 base with the autocoder programming language. The
14 older generation of data processors, some of them may
15 remember the autocoder programs, but it would be very few
16 and it is no longer being used.

17 Q How long was that system in use by the school district?

18 A That system was used until we implemented the new student
19 system.

20 Q Starting as of when?

21 A Two years ago was when we brought in the new system. So as
22 of the second semester of --

23 Q I didn't ask a clear question, obviously. When did the old
24 system start?

25 A It was in existence prior to when I came in '70.

1 Q Are the two systems compatible? That is, if you wanted to
2 produce a report that tracked through the entire thing?

3 A No, they are not.

4 Q I take it, then, the data is not on the same tape?

5 A No, it is not.

6 Q Is the data from the old system still around? Do you still
7 have it?

8 A Very little.

9 Q Are there tapes that have been erased or destroyed?

10 A Tapes that have been reused. The old system is not com-
11 patible at all with the new system and because of money
12 costs, we reuse tapes constantly. There is no way that we
13 can go back to the old system and run on our new system.
14 So we have reused the tapes. The tapes that we have were
15 essentially like backup tapes. They were not tapes that
16 you could go and run, you know. You use those tapes by
17 themselves.

18 Q Could we, for example, go back and look if the old system
19 was in existence and in '75, as I gather it was, do you
20 still have tapes such that we could get the -- take the
21 old tape and run and find out how many students were
22 assigned each school and what their teacher was and what
23 their grades were and so on?

24 A On our system at present, no.

25 Q If I had the old version computer, the kind of computer

1 that could run the old tapes and someone who understood
2 the old system of programming, do you still have the tape
3 as such that I could still get information off of it or
4 you could still get information off of it?

5 A. You would have to run it on the old system and you would
6 have to have programs that would run it.

7 Q. The data base, there is at least one set of the data base
8 that hasn't been erased?

9 A. Of the old tapes?

10 Q. Right.

11 A. The tapes that we have were created from an IBM disk to
12 tape type units which backs up our disk files onto a tape
13 and, if you had a system that you could create, the 1401
14 type files, you could copy the tape on there and run if
15 you had programs.

16 Q. Starting now, still sticking with the old student data
17 base, do the files specifications still exist for that?
18 Would I need them and do they still exist?

19 A. I would think to run them you would need them. That type
20 information, since it was noncompatible, there is no way
21 we would ever run it on your system. I don't believe any
22 of that information probably was kept.

23 Q. How about the code book? The codes, were they kept for the
24 old student data base?

25 A. To the best of my knowledge, right at this time I don't

1 think so. I don't think we kept anything, because, again,
2 it was noncompatible and nothing that we could ever go back
3 and run.

4 Q For the new system that you are now using, do you have the
5 files specifications and all the code books?

6 A Yes.

7 Q You say it was an IBM system, right?

8 A The computer system, right.

9 Q Is the student data base set up in such a way that if I
10 wanted to know the average grade point, for example, of all
11 the students in Highland Park High School versus the average
12 grade point of all the students in Topeka West High School,
13 could I get that information?

14 A For one particular grading period?

15 Q Yes.

16 A For one particular grading period we can compute the GPA
17 for the individual schools, yes.

18 Q Have you ever been asked to do that?

19 A We do it for the individual schools now.

20 Q You do?

21 A I think. Let me stop and think. We do GPA listing that
22 they use for their honor rolls, so they would be considered
23 a GPA system for the schools.

24 Q I was about to turn our attention to the teacher stuff, but
25 I thought of some more questions on student stuff. We

1 asked a series of interrogatory questions at one point a
2 few years back about the computer system and got some
3 answers. One of the answers we got listed a series of
4 reports that were generated by the computer system in the
5 School Board when requested and I don't have the answer to
6 that. I don't have the answer you all gave me, but I have
7 got a list of those things. It was things like summary of
8 enrollment, total enrollment by schools by grade, summary
9 of U.S.D. 501 high school students attending KAVTS. Let me
10 just show you the list we were given so we both know what
11 we are talking about. This is in response to Interrogatory
12 Question 37, Set 1.

13 A Okay.

14 Q My question about them is the reports that you generated
15 of those types, do those reports still exist?

16 A These same reports right here are nonexistent because they
17 were for the old student system. We have new reports that
18 deal with strictly the new system that we have.

19 Q If you were called upon, say, in '75 to submit one of the
20 first kind of reports on that list, the copy that you
21 actually submitted to whoever it was, does that still
22 exist? Did you keep a copy in your files?

23 A We do not keep copies in our files, no.

24 Q Do you know whether it still exists in someone else's files?

25 A I have no idea.

1 Q Is there someone within the School Board system who you
2 report to?

3 A Yes.

4 Q Who is that?

5 A Dr. Michael Tribbey.

6 Q What is his title?

7 A Assistant Superintendent of Program Audit and Planning.

8 Q Are there people other than Dr. Tribbey and the principals
9 who can directly ask you to generate reports?

10 A Yes.

11 Q Who would that be?

12 A Mr. Gerald Miller, the Director of Demographics, the primary
13 person that would ask for information coming from the
14 central office. We have information from, of course,
15 requests coming in from the principals of each schools.

16 Q Right.

17 A That information is strictly only on their schools. There
18 are probably others in the central office that would request
19 information also.

20 Q Let's shift our attention to information about teachers.
21 Is there a straight data base that would have names of
22 teachers and their salaries and the date they were hired
23 and their assignment and things like that?

24 A That would be in the personnel data base.

25 Q How long has that data base existed in its present form?

1 A. In its present form, I believe we implemented that in
2 approximately 1979.

3 Q. Was there a previous personnel data base?

4 A. Yes.

5 Q. How long did it exist?

6 A. It was also in existence before I came to work in 1970. It
7 was similar to the student system in that it was also
8 developed on the 1401, the autocoder language.

9 Q. Is it also not compatible with the current personnel data
10 base?

11 A. It is not compatible either.

12 Q. In terms of the tapes that are still existing, like we
13 talked about the student data base, do the personnel data
14 base still exist?

15 A. Before '79?

16 Q. Before '79.

17 A. I don't believe we have anything at all in the old personnel
18 system.

19 Q. The current personnel system, it includes teachers' names?

20 A. Yes.

21 Q. Addresses, home addresses?

22 A. Yes.

23 Q. School to which they have been assigned?

24 A. Building assignment, yes.

25 Q. Current as well as all past assignments?

1 A Current assignments.

2 Q If a teacher transfers from one school to another, is the
3 prior assignment erased from the tape? Do you change the
4 code or add to the code?

5 A Prior to approximately one to two months ago, any building
6 assignments changed were changed on the base, it would be
7 just like a replacement. Or if you would want to call it
8 that way, delete and replace. There was no history records
9 kept. We have just implemented a history module into that
10 system. As to that now, any changes that are reflected,
11 all those changes will be going into the history module so
12 that they will be tracing from now on. But that has just
13 been implemented.

14 Q If a teacher had worked in a different school three years
15 ago -- No, I want to go back before '75, six years ago,
16 that is not on any of your computer tapes?

17 A Not on the computer.

18 Q If the teacher had worked in a school in '81 but is currently
19 working a different school, it is also true that off the
20 computer, I can't find out where that teacher was in '80-'81?

21 A The only information that is stored on the computer is
22 current information.

23 Q It is a snapshot data base?

24 A Right.

25 Q Not a history data base?

1 A Right.

2 Q I should have asked the same question about the student
3 data base. Is it also snapshot?

4 A Right.

5 Q Does the current personnel data base also include the
6 teacher's race?

7 A I believe it does, yes.

8 Q Does it include full-time and part-time teachers?

9 A Yes.

10 Q Substitute teachers?

11 A Yes.

12 Q Student teachers?

13 A The personnel base would include all employees that are
14 paid from 501. If they do not receive any pay from 501,
15 they would not be on the personnel base.

16 Q It does include the teacher's salary as well?

17 A Yes.

18 Q Does it include anything in the teacher's years of
19 experience in the system?

20 A Yes.

21 Q Did I ask you, you do have the file specification and the
22 code books for the current personnel data base?

23 A Yes.

24 Q That data base, does it include the administrators as well
25 as teachers?

1 A Yes.

2 Q Is it all employees?

3 A All employees that are paid by 501.

4 Q If an employee is assigned to the central office rather
5 than a specific school building, that is also reflected on
6 the data base?

7 A It is in the building assignment.

8 Q The building assignment might be the central office or
9 maintenance office or something like that?

10 A The building assignment might be the central office or it
11 could be one of the schools. It could be the central
12 service building, the warehouse.

13 Q The current data base, are you reasonably comfortable as
14 to the accuracy of the data contained on that base?

15 A The current system is what we consider an on-line system.
16 Information is entered into the computer by the personnel
17 office or the payroll office. The accuracy depends upon
18 them.

19 Q Do you do any checks to see if the data is accurate?

20 A In what way?

21 Q Go out and double check with the teacher is actually there
22 or whether the information about what school the teacher
23 is assigned to is accurate?

24 A Data processing does not do that, no.

25 Q If personnel enters the personnel data into the computer,

1 who enters the student data into the computer?

2 A. At the secondary schools, the schools themselves. It is
3 an on-line system, too. The elementary schools at this
4 time has been sent out to the data processing department
5 and we have entered the information in for the elementary
6 schools.

7 Q. And the middle schools?

8 A. Middle schools, I refer to middle schools and high schools
9 as secondary.

10 Q. Has the data processing department done any checks on the
11 accuracy of the data in the student data base?

12 A. Our job is to enter just the information that is sent to us
13 by the schools. We have no way of going back and double
14 checking.

15 Q. I am skipping around a little and I am sorry about that,
16 but the teacher data, I am going back again to the personnel
17 data base. If I am a substitute teacher and so I might not
18 be assigned to the same building, depending upon what day
19 it is I am teaching, how does that get reflected in the
20 field, that is building assignment?

21 A. I believe that is it. I believe that question you would
22 need to ask the personnel. Personnel would handle all of
23 the substitute teachers and I really cannot answer that.

24 Q. Would the answer to that be in either the code book or the
25 file specification book?

1 A To my knowledge, the substitute teachers would not be
2 assigned to individual schools, individual buildings, unless
3 that substitute teacher was going to be there for a long
4 period of time. I believe that they would be assigned
5 probably from the central -- would be given the building
6 assignment of the central office and paid that way.

7 Q What I am looking for is how is it that personnel knows
8 how to code a substitute teacher, whether to code a sub-
9 stitute teacher into a given school or in the central office?
10 Is that in the file specification list or is it in the code
11 books or are there a set of instructions that tell the data
12 processing people at personnel how to code things? Where
13 would I find that if I wanted to find that?

14 A That would be a function of personnel and you would have
15 to ask them.

16 Q Who is in charge of the data processing part of the
17 personnel office?

18 A Basically, our personnel contact with data processing is
19 most generally handled through Mr. Tony Vargas.

20 Q Is he also in charge of the personnel department, and if
21 not, who is?

22 A No. Frank Ybarra.

23 Q Let me ask about what I suspect is yet a separate data
24 base, and that is budgetary information. Do you have a
25 budgetary data base on the system?

1 A. We have a budgetary system that was implemented, but it was
2 not very comprehensive and, therefore, has not been used
3 for the last couple of years.

4 Q. How long has that system been in existence?

5 A. It was a system that we implemented at the same time we
6 implemented the payroll personnel system in '79, approxi-
7 mately 1979 and 1980.

8 Q. Was there a budgetary system, computerized system prior to
9 that?

10 A. Perhaps you had better define "budgetary system" to me.

11 Q. I am not sure I can, but I will take a shot at it. I am
12 looking for how much you spent on pencils that were given
13 to the kids, how much you spent on teachers that were given
14 to the kids, whether it was spent in X school rather than
15 Y school, how much textbooks cost. I am looking for sort
16 of line item budget information, both centrally and by
17 school.

18 A. We have stored in the computer the budget items. When
19 expenditures are drawn against that, of course, it is
20 reduced and at the end of the year you have your remaining
21 balances.

22 Q. Does the nature of the expenditure that has been drawn
23 stay into the system so that I could go back and see that
24 you had drawn four times for pencils and three times for
25 textbooks and six times because windows were broken that

1 you had to replace them at Topeka High School, spending
2 \$20 on broken windows at Topeka High and ten on pencils?

3 A. First of all, what you are calling a budgetary system would
4 be actually what we call our general ledger system.

5 Q. Okay. Good.

6 A. The budgetary system that you were talking about before to
7 me, it was a preliminary type budget system and referring
8 to the general ledger system, we did keep expenditures on
9 there. I don't recall and I can't really tell you how
10 detailed they do get.

11 Q. Is there a code book for that part of the system as well
12 as file specifications for that type part?

13 A. Yes.

14 Q. Do you print out on a routine basis, other than the
15 September 15th audit report we have already talked about,
16 any general ledger printouts?

17 A. General ledger printouts we print out the end of each
18 month.

19 Q. To whom are those submitted?

20 A. To the accounting department.

21 Q. Who is in charge of the accounting department?

22 A. Mr. Wayne Warner.

23 Q. Are there any other general ledger printouts that you do
24 on an automatic routine basis?

25 A. At the end of each month, we do the month-end reporting for

1 the general ledger, which consists of more than one report.
2 I don't recall just what all they are, but we do, you know,
3 present them at the end of each month.

4 Q How long have you been doing that?

5 A Since the existence of the general ledger system.

6 Q The general ledger system is compatible with the personnel
7 system?

8 A It is a completely separate data base.

9 Q Are they compatible? I understand they are separate data
10 bases. Are they mergeable? If you wanted to merge them,
11 could you and get information off both and put it together
12 in some way or another?

13 A I am trying to think of what you are asking. First of all,
14 the way I guess the way I look at it, we have the general
15 ledger system, which is like a standing alone system. We
16 have a personnel payroll system, which is also a standing
17 alone system. The two do not talk with each other.

18 Q Right. What I am looking for, could I make them talk to
19 each other if I wanted to, if I wanted to put together a
20 report on the general ledger system and the personnel
21 system, some of the data from the general ledger and some
22 from the personnel? If neither system had everything I
23 wanted, could I put together that kind of report?

24 A They are both of the same file type structure and because
25 of that, someone that is knowledgeable of the two systems

1 could write a program to do that, yes.

2 Q We have talked about, I think, three big data bases, the
3 student one and the personnel one and the budget one. Are
4 there any other sort of self-contained data bases on the
5 system?

6 A Yes.

7 Q What are they?

8 A We have the student system. We have the general ledger
9 system, the personnel payroll system. We have the fixed
10 asset system. We have accounts payable system. We have a
11 stockroom inventory system. We do have, along with the
12 stockroom inventory system, we do have an encumbrance
13 system.

14 Q The fixed asset system, what does that consist of? I know
15 what a fixed asset is, but give me some idea what is on
16 the system. A list of buildings that the School Board owns
17 land?

18 A Basically, it is a listing of the equipment. I am not sure
19 if it is buildings and land is in the fixed asset system
20 or not.

21 Q I assume that has file specifications and code books as
22 well?

23 A Yes.

24 Q The encumbrance system, what does it consist of?

25 A Basically, the encumbrance system does talk to the general

1 ledger system the same way as the stockroom inventory talks
 2 to the general ledger system in that when a purchase order
 3 is created, an encumbrance is made against the general
 4 ledger system. The same way as when a stockroom item is
 5 requisitioned, that is taken from the general ledger system
 6 for that budget on line item.

7 Q I have one more question, I think, about the student data
 8 base and I may have asked it and, if I did, I am sorry.
 9 Does it include which actual classes the kids have as well
 10 as what school the child is assigned to, that it has Mrs.
 11 Jones for third period English, Mrs. Smith for --

12 A The specific course?

13 Q Yes.

14 A Yes.

15 MR. HANSEN: That is all I have. Thank you very much
 16 for coming in. I appreciate it.

17 CROSS-EXAMINATION

18 BY MR. BILES:

19 Q Mr. Weimer, I am Dan Biles and I am Assistant Attorney
 20 General. I represent the individual members of the Board
 21 of Education and Governor Carlin who are Defendants in this
 22 case. I only have a couple of quick questions. If any of
 23 them don't make sense, let me know.

24 The State reports that you generated, the audit reports
 25 that you talked about for the State, after you generate

1 that data do you send it directly to the State officials
2 or does it go to someone else in the 501 system?

3 A All the student reports that we generate that would go to
4 the State would be sent to someone in central office. We
5 do not send anything directly to the State department from
6 the student system.

7 Q Do you send anything directly to the State from your system?
8 You being data processing.

9 A I don't know if he asked me the question a little while
10 ago or not concerning anything other than the student system.
11 We do have the KPERS Quarterly Report that we do send to
12 the State. Even that report is sent to someone in central
13 office to send on over, to forward to the State department.
14 We do not send anything directly to the State department
15 from our area that I am aware of.

16 Q Are you ever given a final copy of what 501 submits to the
17 State based on your data?

18 A No.

19 MR. BILES: I have no other questions.

20 MR. SEBELIUS: No questions.

21 * * * * *

22
23 _____
Signature of Witness
24
25

1 STATE OF KANSAS)
2 COUNTY OF SHAWNEE) ss:

3 SUBSCRIBED AND SWORN TO before me this _____ day of

4 _____, 1984.

6 _____
Notary Public

8 My Commission Expires:

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1 STATE OF KANSAS)
) ss:
2 COUNTY OF SHAWNEE)

3 C E R T I F I C A T E

4
5 I, Richard T. Waters, a Certified Shorthand Reporter
6 of Kansas, certify that the witness, Rex G. Weimer, was by me
7 first duly sworn to testify the truth, the whole truth, and
8 nothing but the truth; that his deposition was reported by me
9 in shorthand and thereafter reduced to typewriting under my
10 supervision, and is a true and correct record of the testimony
11 given by said witness. I further certify that said deposition
12 was taken pursuant to FRCP Rule 30.

13 I further certify that I am not attorney for, nor
14 employed by, nor related to, any of the parties or attorneys
15 to this action, nor financially interested in the action.

16 IN WITNESS WHEREOF, I have set my hand and official
17 seal at Topeka, Kansas, this _____ day of _____,
18 1984.

19
20 RICHARD T. WATERS
21 Certified Shorthand Reporter
22 of Kansas

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

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OLIVER BROWN, et al.,)
Plaintiffs,)
and)
CHARLES and KIMBERLY SMITH, minor)
children, by their mother and next)
friend, LINDA BROWN SMITH, et al.,)
Intervening)
Plaintiffs,)
vs.)
BOARD OF EDUCATION OF TOPEKA,)
SHAWNEE COUNTY, KANSAS, et al.,)
Defendants.)

No. T-316

DEPOSITION
OF
FRANCISCO YBARRA,

taken on behalf of the Plaintiffs and Intervening Plaintiffs,
pursuant to FRCP Rule 30, beginning at 11:30 o'clock A.M., on
the 7th day of June, 1984, in the Office of Mr. K. Gary
Sebelius of Eidson, Lewis, Porter & Haynes, Attorneys at Law,
1300 Merchants National Bank Building, Topeka, Kansas.

APPEARANCES

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The Plaintiffs and Intervening Plaintiffs appear by Mr. Christopher Hansen, Attorney at Law, American Civil Liberties Union, 132 West 43rd Street, New York, New York, 10036; and by Mr. Richard E. Jones of Jones & Jones, Attorneys at Law, 605 S.E. Quincy Street, Topeka, Kansas, 66603.

The Defendants appear by Mr. K. Gary Sebelius and Mr. Charles N. Henson of Eidson, Lewis, Porter & Haynes, Attorneys at Law, 1300 Merchants National Bank Building, Topeka, Kansas, 66612.

The State of Kansas appears by Mr. Dan Biles, Assistant Attorney General, Litigation Division, Second Floor, Judicial Center, Topeka, Kansas, 66612.

Also present: Mr. William Lamson and Dr. James M. Gray.

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WITNESS:

On behalf of the Plaintiffs
and Intervening Plaintiffs:

Direct Cross Redirect Recross

FRANCISCO YBARRA

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FRANCISCO YBARRA,

1
2 called as a witness on behalf of the Plaintiffs and Intervening
3 Plaintiffs, after having been first duly sworn, testified as
4 follows:

DIRECT EXAMINATION

5
6 BY MR. HANSEN:

7 Q Mr. Ybarra, my name is Chris Hansen. I am one of the
8 lawyers that represents the Plaintiff in this case. I
9 work for the ACLU in New York and I am the one that is
10 going to be asking you the questions. If I ask a question
11 that isn't clear, feel free to say so and I will try to
12 make it clear for you. Would you state your full name and
13 occupation, please?

14 A I need to clarify. I am Dr. Frank Ybarra.

15 Q I'm sorry.

16 A I worked hard for that. Francisco Ybarra. I live at 3035
17 Arnold, Topeka, Kansas, 66614. I am General Director of
18 Personnel for the Topeka Public Schools.

19 Q How long have you held that position?

20 A About five years now.

21 Q What was your employment immediately prior to that?

22 A Prior to that I was Director of Certified Personnel for the
23 District.

24 Q For the Topeka District?

25 A Yes.

1 Q How long did you hold that position?

2 A About two years, I believe.

3 Q Prior to that?

4 A Prior to that for about three years I was Director of
5 Secondary Personnel for the District.

6 Q You said that was for three years?

7 A Yes, that should be about three years.

8 Q Prior to that?

9 A Prior to that I was Director of Guidance for the Topeka
10 Public Schools for one year.

11 Q I am going to take you all the way back to school.

12 A All right. Prior to that for one year I was Principal at
13 Highland Park Junior High. That was for one year. Prior
14 to that I was a high school counselor at Topeka High two
15 years, and then before that for four years I was a rehabili-
16 tation counselor for the State of Kansas for blind adults.
17 Prior to that for two years I was a junior high teacher
18 for two years.

19 Q In Topeka?

20 A In Topeka.

21 Q Okay.

22 A Then before that I was in college.

23 Q What year was it that you started in the Topeka school
24 system?

25 A 1964.

1 Q What degrees do you have, starting with college?

2 A I graduated in '64 with a Bachelors Degree in Spanish.
3 Then I received a Masters Degree in Counseling, Rehabilitation
4 Counseling, and Educational Counseling. I got that degree
5 from Emporia State University in 1970. Then a year ago at
6 this time I was conferred a degree at Kansas State
7 University. .

8 Q Did you do a dissertation for your Doctorate?

9 A Yes.

10 Q What was the subject?

11 A The subject had to do with in-service training of classified
12 employees.

13 Q What is a classified employee as opposed to a non-classified
14 employee?

15 A A classified employee, he would be anyone who would be an
16 employee of the District who is not in a teaching position
17 and would not be working in the classroom, custodians,
18 food service people, teacher aides.

19 Q Administrators?

20 A There would be some administrators in the classified group,
21 yes.

22 Q Are you the author of any books or scholarly publications?

23 A Not since my dissertation.

24 Q Your current title is, I'm sorry?

25 A General Director of Personnel.

1 Q What are your responsibilities in that position?

2 A My overall responsibilities are varied. I am responsible
3 for the contract management within the District of our
4 negotiated agreement with the certified staff, the teaching
5 staff. I meet and confer with the classified staff, the
6 other group of employees, about 800 employees, for conditions
7 of employment, benefits, working conditions in general.

8 Q They are not unionized?

9 A They are not unionized. I am responsible for the overall
10 management of the personnel records, notifications of
11 benefits, changes in benefits, data processing related to
12 all of the employment of our staff. Although I don't do
13 it directly, I am also responsible for the recruiting,
14 orientation, and employment of staff. I have two people
15 who I supervise in that capacity. I have other various
16 responsibilities. I am also liaison person with our
17 Employees' System Program. I am employed with the Wellness
18 Program in the District and I have a staff who is assigned
19 to me for that purpose, policy regulations, carrying out
20 of those kinds of things under the direction of the
21 Superintendent of Schools.

22 Q To whom do you report?

23 A At the present time my assignment is to report to the
24 Associate Superintendent, Management Services.

25 Q Who is that currently?

1 A Dr. Don O'Neil.

2 Q Does Dr. O'Neil report to the Superintendent?

3 A Yes.

4 Q How many professional people report directly to you?

5 A I have two Directors who report directly to me.

6 Q What are their differing responsibilities?

7 A I have a Director of Certified Personnel, and I have a
8 Director of Classified Personnel.

9 Q You mentioned earlier that there were people who handle
10 recruitment and reported to you?

11 A Yes.

12 Q Were they under one of those two people that you listed?

13 A Those are the two people.

14 Q The Director of Certified Personnel do the recruitment and
15 hiring of certified personnel, and the Director of Classified
16 Personnel do the recruitment and hiring of classified
17 personnel?

18 A Correct.

19 Q Are they also responsible for assignment of personnel?

20 A Yes. Responsible in making recommendations.

21 Q When you were listing your responsibilities, you listed
22 two things that I wasn't sure I understood. One was the
23 Employees' Program?

24 A Yes.

25 Q What is that?

1 A We have, for the past two years, contracted services with
2 an outside agency for the purpose of providing a way for
3 employees who may have difficulty in their jobs, whether
4 it is absenteeism, family problems, whatever it might be,
5 and it in some way may be affecting their performance and
6 they will be referred to an agency to give them counseling
7 and for further needed assistance. So that is basically
8 the program. It is my responsibility to run that program
9 within the District.

10 Q And the Wellness Program?

11 A The Wellness Program is also about two years old. That
12 has to do with the District efforts to provide recreational
13 and physical programs for our entire staff for the purpose
14 of maintaining better health.

15 Q Like softball teams?

16 A Softball teams, volleyball teams, exercise equipment. We
17 started with nothing and we have got a pretty good program.
18 Examinations. Anything that would help an employee.
19 Square dancing. You know, all kinds of activities. It is
20 kind of organized to keep a healthy situation.

21 Q Do your responsibilities include part-time as well as full-
22 time employees?

23 A Yes.

24 Q How about people like substitute teachers?

25 A Yes.

1 Q Occasional employees?

2 A Yes, that is one of the areas I forgot to mention. I am
3 responsible for them directly.

4 Q What about volunteers?

5 A No.

6 Q Does the school utilize volunteers?

7 A We have a Volunteer Program in the School District.

8 Q Who is in charge of that?

9 A Barbara Grant.

10 Q What about student teachers?

11 A We do have student teachers in the District. We have two
12 programs. One is called the Mitech Program. It is a
13 consortium, Emporia State, Kansas State. Let's see,
14 probably Wichita State and the University of Kansas. It
15 is set up through them. We provide some responsibility for
16 the housing of the individual in making sure that the
17 services are provided to that person. They have a Director.
18 She is not an employee of the District. She is a Mitech
19 Director or she coordinates the Mitech Program and gets
20 them assigned to buildings for student teaching. That
21 is one program. We have another program and at this point
22 there is no one assigned to it. We just had a retirement.
23 But there was a gentleman, his responsibility was to
24 coordinate and organize the Student Teacher Program within
25 the District. My only responsibility with him would be,

1 he would forward me the list of names for payment for
2 student teaching, whoever participates in the Student
3 Teaching Program with the Mitech Program. I don't do that
4 with her. I house the operations and like I say, provide
5 the services, secretarial help, to her, but that is about
6 it.

7 Q Is Mitech an acronym?

8 A Yes, it is.

9 Q What is the name of the person there who does these assign-
10 ments and runs the program?

11 A Jo Beth Allen.

12 Q If you don't remember things like that, we can leave
13 spaces and we will fill it in later. This is not entirely
14 a memory test. This happens in depositions. It is not
15 always easy to remember everyone's name.

16 A That is right. I work with a lot of people.

17 Q If I am a teacher and I want to work for the school system,
18 what is the process, how do I go about getting hired?

19 A You are an applicant and you want to apply for a position?

20 Q Right.

21 A You can either call, write, or come in to the Personnel
22 Office in the 501 School District and ask for a teacher
23 application form. In that form there is some information
24 which will guide you in terms of what do you need to do
25 from there and what it says basically is that you must fill

1 out the form, ask for or request interviews with a Personnel
2 Office representative. You must provide us with certain
3 information, credentials, references, those kinds of things.
4 That is kind of a cooperative thing, because we do request
5 a lot of those ourselves from the office. When you have
6 done those kinds of things, and we have certified your
7 credentials from the universities and references, you move
8 into what we consider to be a candidate status. Not
9 totally, almost pre-candidate is what it amounts to. At a
10 pre-candidate stage, arrangements are made to have an
11 interview with a curriculum director or their representative
12 from the Education Department. They are interviewed in
13 depth in terms of curriculum content, review the transcripts.
14 That information, the initial interview from our office,
15 the interview and the materials from the colleges and
16 universities and the interview from the Education Department
17 are put into the file and you become a candidate for the
18 position.

19 When a vacancy occurs, two things can happen. If we
20 have sufficient numbers of staff available and we are going
21 to be transferring, nothing is done. We move and transfer
22 people around. We don't post it, but if a vacancy occurs
23 and there is no need to take care of the present staff, we
24 post the vacancy. We look at those who are interested in
25 the position, have indicated a particular interest. If no

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1 one has particularly, we also, either way, we work with the
2 files of those who have applied, work with the new people
3 as well. Generally Tyra, who is Director of Certified
4 Personnel, will have some discussion with the building
5 Principal in regard to what kind of needs are required in
6 the position. That doesn't mean what the person can teach.
7 It also means are there any other kinds of extracurricular
8 activities, club sponsorships, those kinds of things that
9 might be involved and if there are extracurricular activities,
10 it might be sports. You get into volleyball, tennis,
11 based on recommendations and a request from the four to
12 five candidates from our candidate file will be selected
13 for interviews. If the Principal so desires, he can make
14 the request for five candidates himself. Say I want to
15 kind of go through the files. But ordinarily Tyra would
16 give the Principal five names. She would contact the five
17 candidates and say, get in touch with Principal X. There
18 is a vacancy for you to interview those candidates who
19 would do that and interview. At some point the Principal
20 says, I like X person or I don't like any of them or
21 something like that. If he says he wants to check with
22 one particular person, we will contact them to talk about
23 salary and benefits and prepare a recommendation. If the
24 Principal doesn't like the candidates, we will go back and
25 look for five more.

1 Q If the Principal doesn't like the candidates, does the
2 candidate go back into the pool from which other Principals
3 might ultimately choose that candidate?

4 A Yes.

5 Q That is so comprehensive I am not sure I know what to ask
6 next. That was a wonderful answer. What about recruitment?
7 Does the School District do active recruitment?

8 A Yes.

9 Q Why do you recruit?

10 A We do recruitment two ways, really. One is physical, going
11 to places. We have a list of about twenty colleges and
12 universities that we routinely go to. Most of them are in-
13 State. We try to, over the past few years, we try to make
14 certain locations on our schedule for the purpose of really
15 seeking minorities more than anything else. Of course, we
16 are never going to turn down any applicant because they
17 are a minority or not a minority. Pine Bluff, Arkansas is
18 the particular one I happen to go to. The Southern
19 University in Baton Rouge, I believe is the other one.
20 This year we have gone to two or three colleges in Kentucky
21 and Tennessee. There is a concentration, like at Nashville
22 there is about five universities together. We have
23 established this year an Outreach Program in New Mexico.
24 We happen to have a former staff member who teaches at the
25 university there. It is a new experiment, just an effort

1 to see what can be done. She has been given full authority
2 to do all of the interviewing and processing of getting
3 applications and getting it back to us from the State of
4 New Mexico. She made an effort to make about three
5 universities this year. We are still evaluating on what
6 our luck is, because we only have so many dollars. So I
7 call it an Outreach Program. Possibly from that I don't
8 know, maybe one-third or close to one-third or one-half of
9 our applicants are generated from that because most of it
10 will come in from "write-ins" and "walk-ins."

11 Q You don't mean to suggest one-third to one-half are a
12 product of the minority recruitment?

13 A No. Just our recruitment efforts. We don't go out to
14 colleges and universities a whole lot in Kansas. We do,
15 but when we go out of state it is primarily I feel to look
16 at diversity and staff in minorities. I was recruited on
17 the basis you could stay right here in Topeka and hire who
18 you wanted to, because there are four universities around
19 here. The thing is, you in-breed. You have got people
20 graduating and coming back to Topeka. That is not all bad
21 and the diversity comes from going out and doing other
22 things. Our primary recruiting efforts come from advertising
23 through colleges and universities and we have about fifty
24 of those that receive our notice of vacancies that are
25 actual legitimate vacancies. Last year we sent out as

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1 another experiment on our part, there was a directory that
2 came out listing all of the universities that have a
3 significant number in terms of Black teachers. They
4 received our brochures and packets and we wrote letters
5 across the country as just another effort. I forgot one
6 thing, we do advertise. We have a codo-phone service that
7 we established and it seems to have been good. It is a
8 24-hour call-in. You call in and it tells you what is
9 currently available in 501. So if you pick up the phone
10 and call the number and you see something you are interested
11 in, you are asked to come into the Personnel Office. Not
12 call, but come in to see us.

13 Q Is there a candidate pool at any given moment?

14 A There is always a candidate pool.

15 Q How big does that average? How many people are in that
16 pool on an average day?

17 A Roughly I would say probably looking at all the departments
18 that we have, somewhere in the neighborhood of at least 500
19 people that are candidates. That is not applicants. That
20 is just candidates.

21 Q The effort you made to recruit minorities, let me stick
22 with teachers, let me stay on the certified side of employ-
23 ment.

24 A Okay.

25 Q How long have those efforts been going on?

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1 A I have only been in the Personnel Office for ten years.
2 So ten years it has been going on.

3 Q Has the efforts changed in any way over the ten years? I
4 realize you may go to somewhat different schools over the
5 ten years?

6 A Changed, yes. This program that we have right now, this
7 Outreach Program, that wasn't there ten years ago. That
8 was something we started experimenting with. As far as
9 the overall going out, I think that there were colleges
10 and universities that were being contacted before I--I am
11 an example of that. I was hired because somebody came to
12 my college and employed me. So the efforts were going on
13 before I was ever even acquainted with the 501 School
14 District.

15 Q Is there a list somewhere of the colleges that you have
16 gone out to every year for the last ten years, for example?

17 A Our personnel report shows where we have been and the
18 number of people we have contacted.

19 Q Does it also show race or ethnicity of the people you
20 contact?

21 A No.

22 Q Is that collected in any other data form?

23 A We do not have a flow chart.

24 Q How about a candidate flow chart, if you will?

25 A On the candidate files, we do not identify people by race

1 and religion or sex.

2 Q You wouldn't know, for example, what percentage of Blacks
3 manage to go from an applicant status to a candidate status
4 versus what percent go from an applicant status to a
5 candidate status?

6 A Not anymore. About five years ago when I became Director
7 of Certified, I initiated an influence into our computers.
8 The problem was, we reduced the staff and I could not do
9 what I had to do and continued to do that as well for the
10 last five or six years. In fact, I am not sure that
11 information is even available anymore. Now the District
12 is assigned an Affirmative Action Officer recently, and he
13 and I, through his offices, are going to reinstitute the
14 applicant flow chart. He's got the staff to do it. I
15 don't.

16 Q What is his name?

17 A Onan Burnett.

18 Q Is there a way you could find out the relative percentages
19 of Blacks and Whites or Blacks, Whites and Hispanics who
20 made it from candidate to actually employed in the system?

21 A I don't think so.

22 Q Do you look at all in terms of specific Principals? That
23 is, is there any way you could find out if a specific
24 Principal, for example, was rejecting all the Black
25 applicants?

1 A No.

2 Q Let me ask you a little about teacher assignment--before I
3 ask about that, does the process we have just talked about,
4 the same for part-time faculty as well as full-time?

5 A Yes.

6 Q Is it the same for substitute? I suppose part-time and
7 substitute is the same thing?

8 A No.

9 Q Is it the same process for substitute teachers?

10 A No.

11 Q What is the process for substitute teachers?

12 A Substitute teachers have it a lot easier. Substitute
13 teachers have basically the same thing. What is eliminated
14 are the interviews. The substitute teacher makes an appli-
15 cation and must provide us with some information, teaching
16 certificate. Then they generally go right into substituting.
17 There is some orientation. I do that. They are different
18 from the other teachers only in that way. Because if a
19 substitute wants to be considered for a regular teaching
20 position, they have to do the other process as well. We
21 have some people who don't want to do anything but be sub-
22 stitutes. That is it. That is their career. They are
23 evaluated. They do other things, but they don't go through
24 the process. There is no need to.

25 Q Would it be equally true of substitute teachers, that you

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1 don't have race of applicant to candidate or candidate to
2 acceptance?

3 A There is a big difference in terms of--every applicant is
4 automatically a substitute teacher. Once they provide us
5 with their certificate that they do have a teaching degree,
6 they are already employed. There is no candidate. No pre-
7 candidate. They are applicants to employee is what it
8 amounts to.

9 Q I see. Do you have a computerized personnel data base?

10 A Yes.

11 Q And are full-time and part-time employees on the data base?

12 A Yes.

13 Q Are substitute teachers on the data base?

14 A Yes.

15 Q Does the data base include what school the employee is
16 assigned to?

17 A On the regular and part-time it does. The substitutes go
18 from one day to the next in terms of where they are assigned.
19 So there is no record kept in terms of all their assign-
20 ments. One hundred and fifty people in forty-five schools
21 and there is no way you can keep track of everybody, where
22 they went to.

23 Q How do you keep track of when to pay them?

24 A There is a payroll roster. You are talking about computers
25 now?

1 Q Yes.

2 A There is a difference. Not only computer, the computer
3 receives a time sheet. Our Business Office receives a
4 time sheet. That is sent out to Data Processing and a
5 person's check is generated to show that this person has
6 worked. That does not record on the computer where they
7 worked, worked, worked. I know where they worked, because
8 I have a clerical person who is my substitute secretary
9 and on a daily basis she receives the request from the
10 Principals. She calls the substitutes and assigns them.
11 She then develops her own roster for me, typed up, and
12 sends it to me on a daily basis. I keep that record and
13 that is where I know where substitutes are and that they
14 fulfill their duty. The other half of that is that when
15 the substitute goes out of the building, when they are
16 there, they fill out a half-sheet form that I have developed
17 indicating who they have substituted for, signed by the
18 substitute, and a lot of things on there, travel and that
19 kind of stuff, who they worked for, and it is approved by
20 the Principal. The Principal turns that in to the Payroll.
21 So the two things do have checks and balances to them.
22 That is the way it works. But there is no record in terms
23 of where did each person go every day except the written
24 record that I have.

25 Q What about the hiring of guidance counselors and people

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1 like that, who are not Topeka administration in the school,
2 but are known teacher professionals in the school? Do
3 they go through the teacher process?

4 A Yes.

5 Q I think that covers my hiring questions.

6 Let me then turn to assignment. How does a teacher
7 get assigned to a specific school?

8 A When they are being hired?

9 Q Let's start with initial hiring, yes. I know the answer
10 to that, don't I, because we have already done it through
11 a vacancy?

12 A Yes.

13 Q Let's say I got hired to work at Topeka West and I worked
14 there for the year and now the new school year is about to
15 start. What happens then?

16 A About the beginning of February, the building administrator,
17 somewhere in that time, develops a program that they would
18 like to see in their building for the next year. They do
19 some figures in terms of the numbers of kids they think
20 will take these programs. It is kind of a preliminary.
21 It is not official, but it is a preliminary enrollment
22 exercise that they go through because it is never definitive
23 until we get the staff demographic studies on enrollment,
24 until we see the number of students that is going to be in
25 the building. That record of demographics comes to the

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Personnel Office. We attach that to a formula, or classroom ratio. There should be twenty-seven students to one teacher, that is in your general classes. Because we have Special Ed. classes mandated that will not allow more than eight students. We are talking about general classroom assignments. The biggest part of the middle schools are based on a twenty-four to one ratio and elementary schools are about the same thing. We kind of vary it twenty-three to twenty-four. Tyra Manning is the Director of Certified Personnel and I have done this in the past when I was there, meet with the building Principal, with an Area Director and go over first of all the enrollment figures projected by demographic studies to see if there is agreement on terms of numbers. Because Principals don't always agree that that is exactly the numbers that is going to be there. We get that resolved first of all. Most of the time it is not too big an issue. Then Dr. Manning would say to the Principal, based on the projected enrollment, it appears that there is going to be X number of teachers assigned at your school. The Principal would say to us, well, if there is something special, get it all cleared up for the Special Ed. people. There is some understanding now where we are. The Principal will go back, probably leave a program with Dr. Manning at this point and this is somewhere around the first of April, right in there, work

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1 on the figures that Dr. Manning has given them in terms of
 2 how to assign people. Dr. Manning in turn will get an
 3 idea what they came in with, a program that needed eighty
 4 people. She is saying they need seventy-five. So there
 5 is going to be five less than what they planned on or
 6 there is some new special things that they want to have a
 7 special program of some kind. She knows none of the
 8 people that are currently there can do this. There is a
 9 subsequent meeting around the first of May in which those
 10 things are determined. If it is going to be seventy-five
 11 or seventy-six, then you have to know and you are going to
 12 need some Social Studies and so on like that. By that
 13 time the Principal pretty well has determined what staff
 14 will be needed and what staff may not be needed. So the
 15 Principal will leave in Dr. Manning's hands a recommended
 16 staff. We need seventy-five people. Seventy-three of
 17 them will take care of what we need. We have got two that
 18 we are going to have to do some shifting around. But by
 19 the staffing that you give us, we are three over and so
 20 those we are going to drop off, this, this and this and so
 21 on. So that starts the process of then moving people
 22 around to meet the needs. That process is pretty well
 23 completed by now. It is done through the month of May.
 24 We will always have to remain somewhat flexible, because
 25 teachers do not have to resign from a district until May

1 15th if they want to change to somewhere else. So we don't
2 know exactly. All four vehicles are needed. Even after
3 that we don't always know it, but that gives us somewhat
4 of an idea where we are going to be with transfers and so
5 forth that is out of the District. Then it is a matter of
6 seeing where we are. Do we need to hire some people, some
7 more Science, Math. We have got too many Home Ec. Trying
8 to reassign those to positions that another school may
9 have, we may have dropped a Home Ec teacher at Highland
10 Park High School, but Topeka High needed one. So we moved
11 around that way. We have got to move them around to match
12 up. It is just a puzzle we have to put all the pieces
13 together for. There are people who, because of declining
14 enrollment, have no assignment at this point, but we are
15 obligated under contract to provide employment for them
16 next year. So those folks will be working throughout the
17 summer and at some point, we will have to make a decision.
18 People who are being hired are based on the need of whatever
19 the vacancy created. If we need a Science teacher, we are
20 going to have to find one Science; Reading teacher, we are
21 going to have to fill that need. We might need a Science
22 teacher, but it might be someone who can assist in football
23 or if we do it that way, we have got to look for somebody
24 in the District who is willing to do that, so we can do
25 the other thing.

1 Q If I am the Principal at Topeka High and I have had seventy-
2 five teachers assigned to me this school year and they are
3 all planning on coming back -

4 A Yes.

5 Q And next year I am only going to need seventy teachers, so
6 that I am going to have to shed essentially five teachers.
7 Who decides which of my five teachers get shed?

8 A The recommendation has to come from the building Principal
9 because they are responsible for the program. Say the
10 recommendation--I say recommendation, because we have to
11 look in terms of the District needs and perhaps even though
12 the Principal may determine that they are willing to give
13 up X teacher, I think we reserve the right to review that
14 recommendation. Sometimes the Principal may make a recom-
15 mendation based on, I just took a guess and said this one
16 or that one. We have to have more than that. Why? We
17 have to protect teachers, too. Some of them have been in
18 the District a long time and there is maybe a tendency for
19 a Principal to say, I want to go with a youth movement.
20 That is not fair to the senior teacher. We reserve that
21 right. I guess the only one who really has the final
22 bottom line for all the changes is the Superintendent of
23 Schools. But really he relies on us to make the appropriate
24 assignments on personnel matters.

25 Q If I am again the Principal of Topeka High and I have had

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1 seventy teachers this year and they are all coming back
2 and I am going to need seventy-five next year, I am going
3 to need to add new teachers in, is it me who is going to
4 decide who is going to be added?

5 A Yes, based upon the candidates that the Personnel has made
6 available. The Principal cannot go out and recruit on his
7 own. He can't say, I have got a buddy over in Olathe and
8 I want him to come over and be the teacher. He can certainly
9 encourage that person to apply and stuff like that, but
10 Personnel would be responsible basically for the applicant,
11 for the candidate.

12 Q Do I have to take off the list of teachers who are being
13 shed from another school before I can go into the list of
14 teachers being hired from outside?

15 A Our first obligation is to take care of the people who are
16 on contract, first of all. The second obligation is just
17 for your knowledge, there is a group of people, who during
18 the year's time, may have taken a leave of absence, and
19 under contractual agreement, we have the responsibility to
20 consider them before new hires. So you have got two
21 different groups of people coming in before new hires.

22 Q If I am the Principal and I am going to get five more
23 teachers this year?

24 A Yes.

25 Q And you, as Personnel, send me five people who are being

1 transferred out of Summer School, can I reject them all
2 and go on to the new hire list?

3 A Up to a point you can. The District needs come first. We
4 may work with a Principal and say, okay, we will tentatively
5 assign such and such a person there in the event that
6 vacancy may occur. You see, we are working with a lot of
7 unknowns and a lot of rumors. If we were to believe all
8 the rumors, half our staff is leaving. But until some-
9 body turns in a resignation form--that is not it, but you
10 have to kind of work with that. So you have somebody who
11 you say we are going to tentatively assign you, as long as
12 that person is understanding if another vacancy comes up,
13 we can make a change there. We will do that, but if
14 nothing occurs, then that is your person, and that is it.

15 Q Suppose again that I am the Principal of Topeka High and I
16 am going to have the same number of needs next year as I
17 have this year, seventy-five. I have got seventy-five
18 teachers this year. I am going to need seventy-five next
19 year. Everybody is coming back. I don't have any people
20 who have been away on leave, but I would like to get rid
21 of some of the seventy-five I have got and get some more
22 ones. Could I do that? I would like to shift them into
23 the transfer pool if I can send them off to another
24 Principal, that I don't like, so I can dig back into the
25 pool?

1 A I suppose if you want to do something illegal--not illegal,
2 you would have to re-manage your schedule in such a way
3 that person was no longer--you didn't need that department
4 or whatever it was, you would have to say I am cutting back
5 Drivers Ed so I can put more Science in or something like
6 that. I guess you could do it that way. Otherwise, they
7 are yours. .

8 Q Does the teacher have a say in transfers?

9 A Yes.

10 Q Can the teacher object to being transferred out or being
11 transferred in?

12 A Sure. I don't have very much problem with teachers
13 objecting to being moved out. Because about the only time
14 we move somebody out is because the enrollment has dropped
15 and the program is changed. So we have to do it that way.
16 By and large - I guess I am trying to think of a number,
17 it is their teacher who is requesting the transfer. That
18 by far is the thing we deal with. I just want to shift
19 around and I couldn't give you a number. Tyra probably
20 could give you a number. But we receive a large number of
21 requests for transfers, a lot of requests for transfers.
22 Some people are just speculating. I want to be closer to
23 home. If I go to that, I only have to drive five minutes.
24 Where I am at, I have to drive ten, that kind of thing.

25 Q Based on those requests for transfers, let's stick with the

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1 three high schools since that is the simplest, is there
2 one high school that is obviously the most desirable that
3 all teachers want to get into?

4 A I really don't know. The high school change is not the
5 biggest thing. It is more the elementary level, more than
6 anything else.

7 Q From the records that are in your office, could we look
8 and see whether there was one?

9 A Sure.

10 Q What about the middle schools? Is there a middle school
11 that is sort of the most desirable school that teachers
12 are trying to transfer into?

13 A My best guess is that there is not. The records may show
14 different. I don't know.

15 Q What about the elementary schools? Is there an elementary
16 school that everybody would like to get into?

17 A There are twenty-six of them. I would say that my general
18 impression is that we have people who like Bishop. That
19 is a pretty popular school.

20 Q The personnel data base of that we talked about a little
21 bit earlier, does it include the teacher's race on it?

22 A Yes.

23 Q How about the teacher's salary?

24 A Yes.

25 Q Sticking with the computerized personnel teacher data base,

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1 does it contain the history of all the schools the teacher
2 has been in while he or she has been with the District?

3 A No.

4 Q Is there information retained on any computer data base
5 that you know of?

6 A Not on a computer data base. We have not started a history
7 module. That is where we are headed to next.

8 Q Is it contained on the personnel data base somewhere?

9 A Yes.

10 Q Is there like a folder for each teacher and that is where
11 it would be?

12 A Yes.

13 Q Is there equally, like a folder for each school where you
14 could see that the following forty-three teachers taught
15 at Topeka High in the '80-'81 school year?

16 A There is no file kept on that. If a question were to come
17 up on that in terms of who was at Topeka High three years
18 ago, I would probably go to the school directory, that
19 would be my best source, to find out who was assigned to
20 Topeka High or any school.

21 Q One kind of teachers, sort of employee, that I forgot to
22 ask you about was teacher aides. Does the District utilize
23 teacher aides?

24 A Yes.

25 Q What process is gone through in terms of recruiting and

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1 hiring teacher aides?

2 A You are getting into the classified. They are not certified.
3 They are classified personnel. Ordinarily in the classified
4 personnel, we only advertise locally. We don't go to
5 New Mexico or Colorado or places for classified persons.
6 So we have about five to ten agencies here in town that we
7 send our notices to on a regular basis any time we have a
8 posting that comes up and also on the codo-phone. By and
9 large our candidates will come from walk-ins. They just
10 come in and apply for a job. We do some extraordinary
11 things I think by contacting the handicapped agency and
12 going out to El Centro and at one time we were going to
13 CCBC. They have kind of disbanded, somehow anyway, to
14 kind of do an outreach thing with that. But by and large,
15 they come in and apply. We give them an application form.
16 We give them three letters and ask them to send us three
17 letters of references. We are not tied down. If you don't
18 get the three letters of references in, we won't consider
19 you. It is a matter we get an awful lot of people that
20 are just speculating. They have got to do this in order
21 to get their unemployment compensation and we can spend a
22 lot of time dealing with people who really don't intend to
23 get a job as a teacher aide. They come in, they apply,
24 they get a letter of reference in to Tony Vargas, who is
25 our Director of Classified, generally interviews every

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1 single one of them. He retains the file. When there is a
2 vacancy occurs, Tony will visit with the building Principal
3 and recommend five, six people, whatever he wants to
4 decide, along with the Principal and send those out. The
5 Principal will recommend back a candidate for position.

6 Q In terms of subsequent assignment of teacher aides, how
7 does that work?

8 A On a much smaller scale. It works the same way as teachers
9 generally. Teacher aides will return to the same building
10 they did the previous year regardless of who the teacher
11 is. They will generally go back to the same assignment.
12 There is some transfers that does go on. Our composition
13 is this, we have thirty-some teachers or general funded
14 aides. We have about 100 or so that are Special Ed. aides
15 and Special Ed. classrooms can move around the District.
16 So the aide will generally go where the classroom is.
17 Then we have some 50 to 100 people who are Federally funded
18 and those will be dependent on what schools are granted
19 the right to have a program there. So those could happen.
20 They don't move very much. The general fund aides are
21 generally Kindergarten aides and they will float around
22 because the Kindergarten may be large at this school this
23 year, but next year it is average size and it is thirty-
24 four over there and we may have to move the aides around.
25 That way their assignments are much different. They can

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1 ask for a transfer, but by and large it is a direct assign-
2 ment from the Personnel Office with recommendations, not
3 from the Principal, but more from the programs themselves.
4 Special Ed. Department would say, we need the aides over
5 here, over there or whatever the Federal program says. We
6 are now in this building here and we make the assignments
7 based on the recommendations, not so much the Principal.
8 But remember when the person is first hired, it is the
9 Principal who says, I want that aide, okay.

10 Q Right. The assignment practices that we have talked about,
11 how long has that been the method by which teachers are
12 assigned to the school? The teacher assignment policy,
13 has it been the same? Has it always been the same?

14 A You are saying policy. I guess I am talking about practices.

15 Q Let me ask practice?

16 A Yes.

17 Q Has the teacher assignment practice always been essentially
18 the same?

19 A Essentially the same. I mean as far as I have been in the
20 Personnel Office.

21 Q Let me then show you something which was given to us in
22 response to Interrogatory Set 1, Questions 32 and 33. It
23 is an 8-page document that starts out at the top, Rules
24 and Guidelines Governing The Teacher Placement Session,
25 February 19, 1980?

1 A Yes. Okay.

2 Q Are you familiar with that?

3 A Yes.

4 Q Does that describe the process you and I have just talked
5 about?

6 A No.

7 Q How come it is different?

8 A In 1975 the Board of Education determined in 1979-80 we
9 were going to change from a junior high school setup of
10 7th, 8th and 9th graders to a middle school configuration
11 of 7th and 8th graders and 4-year high schools. We had
12 about four to five years to plan ahead in terms of where
13 we were going to be at. I set up a long-range plan for
14 Personnel in terms of what kind of attrition we needed and
15 so on, hoping to achieve that point. We came close to
16 that. The problem with that, the 1979-80 school year is
17 here. There was going to be a closing of six junior high
18 schools and middle schools.

19 Q How do you reassign these people and try to get them there
20 where the kids are and where you need them? A while ago
21 you said by and large that is how we operate. This is the
22 only exception to what we have talked about.

23 A This is a concept that I developed in terms of how do we
24 move three to four hundred people in the simplest possible
25 method, and do it in the shortest possible time with the

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1 least amount of confusion and irritation to everybody. So
2 quite frankly, it was based on a football--the NFL football
3 draft system, with some of our own little needs. That is
4 what it is.

5 Q Let me ask you one specific question about--it is on the
6 previous page, which says Objects For The Allocation of
7 Certified Personnel for the School Year 1980-81?

8 A Correct.

9 Q Objective Number 9 says, "Efforts should be maintained to
10 achieve a distribution of minority staff members which
11 will comply with the requirements of the law." Who drew
12 up the list of objects?

13 A This list of objects is a revision of one that had already
14 been in the Personnel Office for some time. In drawing up
15 this whole packet of information I felt it was important
16 to outline what we were going to do and our goals and
17 objects for getting there. This page here, in all honesty
18 and humility, I took from somebody else in the Personnel
19 Office, I updated it for our needs. Because as I read it
20 and reviewed it, I saw nothing in there that was different
21 from what we really wanted to achieve all along. I am not
22 sure who is responsible for the original document. It is
23 a good document, so I included it as part of the package
24 of the Personnel material.

25 Q The specific item that I called your attention to, that is

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the minority assignment item. Was that in the previous document?

A I believe so, and I don't have the documents anymore. The new package from whatever I put together, they are some place in the files, or maybe something that still exists. By and large, I know this was a document that I plagiarized and updated from whatever we had.

Q You don't remember what that document was?

A The document said somewhat the same thing, objectives for personnel or something like that.

Q Was it in the packet of rules and regulations for personnel or--I mean what sort of place did you find it?

A I believe it was in packets of information of previous kind of things that were done in Personnel. We had some very fine staff in Personnel in the past and somewhere, some place, somebody wrote up some objectives for the Personnel Office and this was one of the things that I found in going through the materials, in developing what I wanted here.

Q Do you think the original document still exists anywhere? Do you think it is findable again?

A I don't know. If it doesn't exist, it would be my fault. We also lost a lot of things when we moved from one building to another, and I was very pleased when I found this among the stuff and I am not sure where the original document is

1 anymore.

2 Q When this draft went on, were there any teachers approved
3 or disapproved as a result of Criteria Number 9? Did it
4 ever have to come into play?

5 A Approved or disapproved.

6 Q I don't understand the NFL draft very well. As I under-
7 stand it, there was a Pete Rozelle who got to approve or
8 give final approval or non-approval on assignments and
9 that person was the only one that had sort of the overall
10 picture of what was happening and that person was supposed
11 to be the one that kept an eye on that?

12 A I don't know that I can give you an accurate response to
13 that, because I think that was not a problem. Because you
14 see, every building that was to be established and every
15 building that was already established, were allowed to
16 draw 80% of staff before we ever had the draft. My honest
17 belief on that is that each of the buildings and their
18 staff within this 80% and I am saying that it was a goal
19 that was set aside and said you will have so many minorities.
20 I think it was a matter of each building Principal, in
21 looking at their own needs, drew staff that included
22 minorities already there. What you are talking about
23 there, it generally had to do, believe it or not, with the
24 coaching. It also got down to this Principal wanting you
25 and so did this Principal want you. The reason both of

1 them wanted you is because you can be the Assistant or
2 Head Football Coach. So the referee would say, based on
3 the tie here, where does the teacher want to go? That
4 generally was the deciding factor.

3-A 5 Q Did you look at the race numbers when everybody took their
6 30% and you were starting then from that date to distribute
7 out the remaining teachers, did you look at the race
8 numbers as to what they looked like in each school?

9 A I don't recall that I did.

10 Q Do you on a routine basis look at the ethnic or racial
11 basis of teachers per school?

12 A Our routine.

13 Q Do you submit a report on that to anybody?

14 A Yes.

15 Q To whom?

16 A The public. Every year I publish the personnel report and
17 it has a breakdown of all our minority assignments.

18 Q That would tell me the percentage of Black teachers in
19 Topeka High and the percentage of Black teachers in
20 Topeka West?

21 A Yes.

22 Q Is there any other form in which you are required to give
23 those types of information?

24 A Yes.

25 Q What are they?

1 A Every other year we must admit--we are requested anyway
 2 an EEOC-5 Report to the Federal Government which shows an
 3 assignment of all staff by minority. That is all staff
 4 certified. I hesitate on that because I don't recall in
 5 the past year having gotten that. I am sorry about that
 6 every year--every other year we are required to do that
 7 and that has been a function of the Personnel Office up to
 8 about a year and a half ago. That report has now been
 9 reassigned to another department. So that is why I forgot
 10 that.

11 Q Which department?

12 A Dr. Roy Browning who is the Equal Opportunity Officer who
 13 is also the Assistant Superintendent of Student Support
 14 and Staff Services.

15 Q The Personnel report, is it an annual thing that gets
 16 published?

17 A That is the one I do.

18 Q Does either that one or the EEOC-5 include part-time
 19 teachers as well full-time?

20 A The EEO-5 does. Mine does too.

21 Q How about substitute teachers?

22 A No.

23 Q Neither report covers substitute teachers?

24 A I don't think the--I know our Personnel does not. I don't
 25 think that the other one does either.

1 Q Does your Personnel include counselors and other non-top
2 administrative staff?

3 A Yes.

4 Q How about teacher aides?

5 A Yes.

6 Q Including the school to which they have been assigned a
7 school or program?

8 A Yes.

9 Q Has there ever been a time when the School District, when
10 there have been discussions among top administrative staff
11 in the School District, about the need to increase the
12 number of minority teachers in the school system?

13 A Yes.

14 Q When has that taken place?

15 A Every time I sit down and start talking, I don't know if
16 you call this Topeka administration.

17 Q I do.

18 A Certainly any time we talk about recruitment, recruitment
19 programs, it is a concern that right off the top has to
20 be dealt with.

21 Q Has that concern ever been expressed to you from someone
22 to whom you report?

23 A Certainly.

24 Q By whom has it been expressed to you?

25 A Dr. O'Neil and Dr. Gray. They have both been concerned

1 that we maintain our staff balances as best we can, better
2 than we can.

3 Q Have they expressed that concern to you in writing as well
4 as orally?

5 A I don't recall in writing.

6 Q Has there ever been a committee set up within the School
7 District to either look at the question of recruitment and
8 hiring of minority teachers or assignment of minority
9 teachers?

10 A Yes.

11 Q During what period was that committee in existence?

12 A About 1976 that I know of. I established the committee.

13 Q It has existed from that time until the present?

14 A No.

15 Q How long did it last?

16 A Until about last year.

17 Q Why did it cease to exist?

18 A Onan Burnett was assigned the Affirmative Action Program
19 and I don't know--it might still exist. I have never been
20 called for a meeting, so I don't know.

21 Q The committee met, I take it, from time to time?

22 A Yes.

23 Q Did it write reports of any kind or memoranda of any kind?

24 A No, not a report, but it did write and revise the

25 Affirmative Action Program brochure itself and that is

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1 about a 20-page or 30-page thing and I distributed copies
2 of that. Our process was to annually review our standards
3 in terms of our achievements in those areas and to try to
4 look at where we were on the EEOC-5 Report because it was
5 a lot of categories to see where our needs were and to
6 analyze those.

7 Q As of the last time you had responsibility for this area,
8 do you recall what the metropolitan statistical percentage
9 of Blacks who were eligible, if you will, versus the
10 percentage of Blacks in the school system? Do you recall
11 what those two numbers were?

12 A I think our numbers for Blacks, as far as I can remember
13 from the last time I looked at it, was about 7.8. Now the
14 standard metropolitan statistical area is much different
15 from the population. You are probably familiar with that,
16 but it is a much different figure than if you were to just
17 take the population of minorities in the City of Topeka
18 that draws from the labor force in the area.

19 Q Do you recall what the potential labor force was that you
20 could be drawing from was?

21 A Altogether it seems to me it came to a figure like 9.9 when
22 you talk about Hispanic, Native Americans and Blacks about
23 9.9. Somewhere in that area.

24 Q Let me ask you about the Interrogatory Answers that I
25 showed you a minute ago, the Answer itself to Question 32,

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1 Set 1, the first sentence states, "There is no record of
2 an official Board of Education approval policy, assignment
3 of teachers or other employees on the basis of race, color
4 or national origin." Is that still true as of today?

5 A This says prior to 1954, '53-'54.

6 Q Let me ask it differently then, is there currently a
7 policy concerning race or ethnicity in the assignment of
8 teachers as opposed to recruitment and hiring?

9 A There is a policy that says there will be no discrimination
10 in terms of assignment and I think it goes on further.

11 There is also an adopted Affirmative Action Policy by the
12 District that says there will be no discrimination on the
13 basis of recruiting employment.

14 Q I don't want to be coy about this -

15 A Maybe I am not understanding your question.

16 Q In the same set of Answers, there is a report that dates
17 back, according to the Answer to 63 pertaining to employ-
18 ment and the assignment of teachers which talks about the
19 question of employment and assignment of minority personnel?

20 A Yes.

21 Q There is then attached an official policy of the public
22 school system adopted in '63, Policy Number 5200, which as
23 I read it prohibits discrimination in recruitment and
24 selection of employees but not assignment and that is what
25 led me to ask whether there is a separate policy covering

1 assignment discrimination as opposed to recruitment and
2 hiring?

3 A I will have to tell you based on what I believe, I guess I
4 had better go back and look at my policy book. I think
5 there is a policy that exists right now that says there
6 can be no discrimination in assignment. Maybe I am wrong.
7 You are right about recruitment and selection, but I thought
8 assignment was also a policy.

9 Q There is a thing called a policy book which would give us
10 the answer to this question?

11 A Yes, I would have to review that. I thought there was
12 something about assignment.

13 Q Is that assignment book adopted by the School Board?

14 A School Board.

15 Q Prepared by the staff and adopted by the School Board?

16 A Yes.

17 Q We talked about the committee you have that was interested
18 in the question of ensuring that there were adequate
19 minority teachers that were being recruited and hired?

20 A Yes.

21 Q Were there Minutes taken of those committee meetings?

22 A I am sure there were. I was not the Chairman of the
23 committee. It seemed to me at some point I received some
24 things back on the meeting. Whether they still exist or
25 not, I don't know.

1 Q Do you sit on other School Board committees?

2 A I sit on a lot of committees.

3 Q I knew that was the answer. Are there routinely Minutes
4 kept of the administrative meetings?

5 A Routinely some, yes, and some, no. The ones I deal with,
6 yes, and if I am responsible as Chairman, there are
7 Minutes.

8 Q Are those kept? Are they in your files somewhere as
9 opposed to being destroyed?

10 A Yes.

11 MR. HANSEN: I have no other questions. Thank you
12 very much.

13 MR. BILES: No questions.

14 MR. SEBELIUS: No questions.

16 _____
Signature of Witness

17 STATE OF KANSAS)
18) SS:
19 COUNTY OF SHAWNEE)

20 SUBSCRIBED AND SWORN TO, before me this ____ day of
21 _____, 19____.

23 _____
Notary Public

24 My Commission Expires:
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STATE OF KANSAS)
) SS:
COUNTY OF SHAWNEE)

C E R T I F I C A T E

I, Richard T. Waters, a Certified Shorthand Reporter of Kansas, certify that the witness, SHARIE S. JONES, was by me first duly sworn to testify the truth, the whole truth, and nothing but the truth; that his deposition was reported by me in shorthand and thereafter reduced to typewriting under my supervision, and is a true and correct record of the testimony given by said witness. I further certify that said deposition was taken pursuant to FRCP Rule 30.

I further certify that I am not attorney for, nor related to any of the parties or attorneys to this action, nor financially interested in the action.

IN WITNESS WHEREOF, I have set my hand and official seal at Topeka, Kansas, this ____ day of _____, 19____.

RICHARD T. WATERS
Certified Shorthand Reporter
of Kansas.