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August 12, 2020

VIA CM/ECF SYSTEM

The Honorable Timothy J. Sullivan
United States Magistrate Judge
United States District Court for the District of Maryland
6500 Cherrywood Lane
Greenbelt, Maryland 20770

Re: *Eller v. Prince George's County Public Schools*, No. 8:18-cv-03649

Dear Magistrate Judge Sullivan:

Please accept this letter as Plaintiff's notice of intent to file a motion for discovery sanctions. Plaintiff does not make this request lightly, but Defendants' repeated failures to fulfill their discovery obligations over the 16-month discovery period has compelled us to this point.

The most egregious of Defendants' conduct only became clear near the end of the discovery period, through the Rule 30(b)(6) depositions of Defendants and Defendants' belated June through July supplementary production of documents. Plaintiff discovered that—consistent with what is apparently their standard operating procedure—Defendants never instituted a litigation hold in this case. Plaintiff also discovered that Defendants failed to search for responsive electronic documents predating fall 2014, despite previously representing that such files no longer existed. Late in the discovery period, one of their 30(b)(6) designees testified that Defendants' standard policy in litigation was simply not to search user email accounts, which could retain such documents. Finally, Defendants failed to prepare their Rule 30(b)(6) designees to testify as to Defendants' knowledge of the noticed topics. Overall, Defendants' pattern of disregard for their discovery obligations has caused extended delay to Plaintiff's day in court, has unjustifiably increased the costs of discovery for Plaintiff, and has potentially caused her prejudice.

Plaintiff's motion will request discovery sanctions related to each of the three categories of sanctionable conduct discussed in more detail below. Because the revelation of these discovery failures comes at the tail end of a process in which Defendants repeatedly failed to meet their discovery obligations, and Plaintiff provided Defendants numerous opportunities to remedy their failures, Plaintiff does not believe that extending the discovery deadline yet again is appropriate. Rather, Plaintiff will request that the Court: (i) adopt certain adverse inferences as jury instructions; (ii) enter an order binding Defendants to their designees' professed lack of knowledge and precluding Defendants from offering evidence or testimony not already produced; and (iii) order that Defendants pay monetary sanctions representing the attorneys' fees and costs expended in discovery efforts precipitated by Defendants' discovery failures.

First, sanctions are warranted for spoliation of evidence, as Defendants failed their obligation to preserve material evidence that arose when Plaintiff's supervisors learned about the alleged harassment. *See, e.g., Broccoli v. Echostar Commc'ns Corp.*, 229 F.R.D. 506, 510 (D. Md. 2005). In fact, Plaintiff recently learned that Defendants *never* implemented a litigation hold in connection with Plaintiff's complaints of harassment, whether internal (starting in 2011), filed

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with the EEOC in 2015, or filed in this Court in 2018. This apparently is consistent with their standard policy. As a result, material evidence has been deleted or otherwise lost, potentially prejudicing Plaintiff, including: (i) security camera footage that would have recorded many incidents of harassment; (ii) completed discipline forms from 2011 through 2016, showing the extent and severity of student-driven harassment against Plaintiff and Defendants' disciplinary actions, if any; and (iii) a large number of pre-fall 2014 emails and other electronic files.

As to the last, Defendants' belated document search yielded a highly variable production that heavily implies that many pre-fall 2014 electronic files were deleted. For example, the account of Elizabeth Davis (a compliance officer) included emails about Plaintiff with James Whattam (a human resources officer) and Maha Fadli (principal of Kenmoor Middle), yet Defendants produced nothing from Mr. Whattam or Ms. Fadli's accounts. Similarly, Plaintiff's account had over 500 pre-fall 2014 emails to or from Raynah Adams, the principal at Friendly High School, but Defendants produced only two from Mr. Adams's account during that period.

Second, Defendants' failure to produce emails and electronic documents calls for sanctions. Defendants failed to complete a search of an obvious potential source for responsive documents predating fall 2014 for more than a year after Plaintiff served her May 2019 Requests for Production, instead misrepresenting that such files no longer existed.

Once Defendants finally produced electronic files predating fall 2014, they again failed to meet their obligations. Despite repeated requests from Plaintiff for a discussion of their production protocol, the production demonstrates no consistent methodology of search and collection of documents across custodians. For many custodians, files were scanned and/or forwarded as PDFs to Defendants' counsel, either way without metadata as Plaintiff requested and as Rule 34 requires. Worse, it appears from counsel's correspondence and the production's format that Defendants largely relied on the individual custodians themselves (some implicated in the misconduct Plaintiff alleges) to search their own files and determine what they believe to be responsive. If so, this collection violated the understanding that led to Plaintiff's consent to, and the Court's June 19 granting of, Defendants' request for a lengthy extension of time to allow for a uniform search across all identified custodians' files for particular search terms. Invariably, these custodians who appear to have searched their own files such as Mr. Adams, produced only a handful of electronic documents. On the other hand, Defendants produced en masse *all* files from others' email accounts, including spam and trash files, without regard for responsiveness. Moreover, for a third of the custodians Plaintiff identified, Defendants did not produce a single responsive document, even from custodians who worked closely with Plaintiff. While the lack of files may be a result of spoliation, as discussed above, lacking any explanation from Defendants, Plaintiff cannot rule out that Defendants yet again mismanaged their search and collection.

The prejudice to Plaintiff is clear. The delayed production means that Plaintiff cannot question either individual or Rule 30(b)(6) witnesses about newly produced evidence unless Plaintiff notices repeat depositions. It is also too late for Plaintiff to depose any witnesses whose knowledge of material events has only become evident from late-disclosed documents. Both the delay and the inconsistency of production have deprived Plaintiff of missing or lost documents, and have increased Plaintiff's costs related to multiple rounds of document review, analysis

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unaided by metadata, and burdensome, repeated efforts to follow up to determine how and why Defendants' production is so incomplete.

Third and finally, Defendants repeatedly failed to prepare their Rule 30(b)(6) designees to be able to testify concerning *Defendants'* knowledge. An organization's designees "must" be able to "testify about information known or reasonably available to the organization." Fed. R. Civ. P. 30(b)(6); *see also Int'l Ass'n of Machinists & Aerospace Workers v. Werner-Masuda*, 390 F. Supp. 2d 479, 487 (D. Md. 2005) (same). Indeed, "producing an unprepared witness is tantamount to a failure to appear." *Paice, LLC v. Hyundai Motor Co.*, No. CIV. WDQ-12-0499, 2014 WL 3819204, at *20 (D. Md. June 27, 2014) (internal citation omitted).

Plaintiff noticed a Rule 30(b)(6) deposition covering 14 specific topics of relevance to the litigation. Defendants chose six different individuals to address these topics. Yet, each of Defendants' designees were not sufficiently prepared to offer organizational testimony, offered no more than their personal knowledge and/or professed their lack of personal knowledge over some topics for which they had been designated, and did little, if anything, to educate themselves to be able to provide testimony reflecting Defendants' knowledge. For example, Defendants designated Amana Simmons to speak on topics concerning policies, training, and internal complaint procedures, *see Exhibit A (Deposition Notice), Topics 1-5, 7-9, 14*. The timeframe provided, to which Defendants did not object, was January 2008 to November 2018. *Id.* at 4. However, Ms. Simmons was unable to testify as to events prior to the start of her tenure in 2014. *See, e.g., Exhibit B (Simmons Depo.) at 48:3-49:10, 149:10-17, 150:2-8, 152:10-16*. Defendants did not designate any other witness to testify on those topics to cover the period prior to 2014. Ms. Simmons also had limited knowledge of other matters for which she had been designated, even during her tenure, including the substance of in-school training for faculty and students or disciplinary actions taken against an employee subject to Plaintiff's internal complaint. *See id.* at 49:12-18, 51:7-13, 57:9-14, 58:4-59:15, 92:18-93:9, 94:1-12, 94:18-95:9, 182:12-17. The lack of knowledge is unsurprising given that Defendants' counsel did not help prepare Ms. Simmons, and she did not speak to anyone else who might help her prepare. *See id.* at 14:11-22, 15:9-14.

This pattern repeated itself with the other Rule 30(b)(6) deponents, as Plaintiff will elaborate in her Motion. As a result, Plaintiff has been prejudiced.

At a meet and confer on August 4, 2020, Plaintiff apprised Defendants that these three issues, raised previously with Defendants, would be the basis of a sanctions motion. The parties were unable to resolve these issues. Accordingly, Plaintiff has satisfied her responsibility to attempt to resolve this matter without court intervention, and requests leave to file a motion for sanctions. We remain available to discuss the matter with the Court.

Sincerely,

/s/ Elliott C. Mogul

Elliott C. Mogul

Counsel for Plaintiff Jennifer Eller

cc: All Counsel of Record (via CM/ECF)

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

JENNIFER ELLER

Plaintiff,

v.

PRINCE GEORGE'S COUNTY PUBLIC
SCHOOLS, et al.

Defendants.

Case Number: 18-cv-03649-TDC/TJS

**NOTICE OF SUBPOENA FOR RULE 30(B)(6) DEPOSITION TO
PRINCE GEORGE'S COUNTY PUBLIC SCHOOLS**

PLEASE TAKE NOTICE that, pursuant to Federal Rule of Civil Procedure 30(b)(6) and Guideline 5 of Appendix A of the U.S. District Court of Maryland Local Rules, Plaintiff hereby notices the deposition upon oral examination of Prince George's County Public Schools ("Defendant"), through the officers, directors, agents, or other persons best suited to testify about the topics listed in Schedule A annexed to Plaintiff's Notice of Deposition of Prince George's County Public Schools, which is incorporated by reference as if set forth fully herein. The deposition will commence at 9:30 a.m. on February 13, 2020, at the offices of Arnold & Porter Kaye Scholer LLP, at 601 Massachusetts Avenue NW Washington, D.C., 20001, and continuing from day-to-day thereafter until completed. The deposition will take place before an officer qualified to administer oaths pursuant to Federal Rule of Civil Procedure 28, will be recorded by videotape, audiotape, and/or stenographic means.

Defendant is advised that Federal Rule of Civil Procedure 30(b)(6) requires it to designate one or more witnesses to testify as to matters known or reasonably available to Defendant relating to the topics listed in Schedule A, and not just information personally known by the witness or witnesses. If the designated witness or witnesses do not have such knowledge, Defendant is

obligated to educate them with respect to any and all facts known to Defendant. Finally, pursuant to Guideline 5 of Appendix A of the U.S. District Court of Maryland Local Rules, Plaintiff requests that Defendant provide the name(s) of the designated witness or witnesses and the areas that each witness will testify to by a reasonable date before the deposition is scheduled to begin.

Dated: January 13, 2020

Respectfully submitted,

Omar Gonzalez-Pagan
(admitted *pro hac vice*)
Carl Charles (admitted *pro hac vice*)
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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the United States of America and the laws of the State of Maryland that on January 13, 2020, I caused a true and correct copy of the foregoing document to be served by email on the following counsel of record for Prince George's County Public Schools:

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Amit K. Sharma
McCollum & Associates, LLC
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Tel: (301) 864-6070
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jmccollum@jmlaw.net
asharma@jmlaw.net

/s/ Elliott C. Mogul _____

Elliott Mogul

DEFINITIONS AND INSTRUCTIONS

All definitions set forth in Plaintiff's Requests for Admission upon Defendant Prince George's County Public Schools are incorporated by reference herein.

For the purposes of the topics listed in Schedule A, "Defendant," means Prince George County Public Schools, all its primary and secondary schools, discrete campuses, facilities, administration offices, any of its education programs and activities, and its respective officers, agents, employees, faculty, administrators.

Unless otherwise specified, the time period covered by the topics listed in Schedule A is January 1, 2008 to November 28, 2018.

SCHEDULE A

1. All policies, practices, customs, and usages relating to transgender and gender-nonconforming students, teachers, and staff at Prince George's County Public Schools, including more specifically Friendly High School. This includes the research, development, adoption, and implementation of all such policies.
2. All policies, practices, customs, and usages relating to nondiscrimination towards students, teachers, and staff at Prince George's County Public Schools, including more specifically Friendly High School. This includes the research, development, adoption, and implementation of all such policies.
3. Any training protocols and procedures regarding transgender and gender-nonconforming people at Prince George's County Public Schools, including more specifically Friendly High School. This includes the research, development, adoption, and implementation of all such protocols and procedures.

4. Any training protocols and procedures regarding nondiscrimination towards students, teachers, and staff at Prince George's County Public Schools, including more specifically Friendly High School. This includes the research, development, adoption, and implementation of all such protocols and procedures.
5. All policies, practices, customs, and usages relating to the processing and documentation of complaints made by faculty and staff concerning incidents of harassment or discrimination, any related internal or administrative investigations, and their resolutions, including maintenance of documents relating to complaints, related investigations, responses, and resolutions.
6. All policies, practices, customs, and usages for conducting annual performance reviews and determining class assignments, including for Advanced Placement Classes, for high school educators, implemented by Defendant at Friendly High School.
7. The roles and responsibilities of pupil personnel workers, vice or assistant principals, principals, associate superintendents other and senior administrative officials in responding to complaints or reports of harassment and/or discrimination made by teachers or other school staff.
8. The role of the Prince George's County Educator's Association in facilitating the resolution of complaints or reports of harassment and/or discrimination made by teachers or other school staff.
9. Communications with the Prince George's County Educator's Association regarding Plaintiff's complaints or reports of harassment and/or discrimination.
10. The facts and circumstances concerning Defendant's collection and production of documents in this litigation, including but not limited to:

- a. Defendant's policy for maintaining documents, including security camera footage, PS-74s and other student discipline materials, and emails.
 - b. Whether the policies listed above were implemented at Friendly High School during the relevant time period, and if not, what was deficient about its document preservation practice.
 - c. Any litigation holds or similar communications or memos related to Plaintiff's complaints of harassment and/or discrimination.
 - d. The location, history, and status of security camera footage and PS-74s relating to Plaintiff's complaints of harassment and/or discrimination.
11. The disciplinary consequences or remedial actions, if any, imposed on each student and employee at Defendant's schools that Plaintiff reported to any administrator as having discriminated or harassed her on the basis of her sex, including gender expression, gender identity, or transgender status. This topic includes the disciplinary consequences or remedial actions, if any, imposed on individuals identified by Defendant's employees through an investigation of a report of discrimination or harassment, even if Plaintiff did not have sufficient information at the time of her report to identify the student or employee herself.
12. The content, duration, format, and frequency of each non-discrimination, diversity, and/or sensitivity training offered by Defendant to faculty and/or students; whether such training included any component or discussion on gender identity, gender expression, or transgender status; and if so, the content and duration of that component or discussion.
13. Any internal or independent evaluations of the efficacy of the Defendant's non-discrimination, diversity, and sensitivity training.

14. Formal and informal complaints made, reported, or filed by Plaintiff against Ms. Paula Robinson and Defendant's responses to such complaints.

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MARYLAND

Southern Division

- - - - - x :
 JENNIFER ELLER, :
 :
 Plaintiff, : Civil Action No.
 : 18-cv-03649-TDC/TJS
 vs. :
 :
 PRINCE GEORGE'S COUNTY PUBLIC :
 SCHOOLS, et al., :
 :
 Defendants. :
 - - - - - x :
 :
 :

Monday, March 9, 2020
Washington, D.C.

The deposition of AMANA SIMMONS, called for examination by counsel for the Plaintiff at the offices of Arnold & Porter, 601 Massachusetts Avenue, N.W., Washington, DC, on Monday, March 9, 2020, scheduled to commence at 9:37 a.m., the proceedings being stenographically recorded by Marjorie Peters, Fellow of the Academy of Reporters, (FAPR), Registered Merit Reporter (RMR), and transcribed under her direction.

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1 APPEARANCES:

2 For the Plaintiff:

3 Elliott C. Mogul, Esquire
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17
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19
20
21
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3 Exhibit 94 e-mail, Simmons to Zane, 154
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5 Exhibit 95 e-mail, Thompson to Adams, 157
6 2.20.2015

7 Exhibit 96 certified mail receipt, PGCPs 174
8 policy, PGCPs 145-149

9 Exhibit 97 e-mail, Eller to Gaffney, 185
10 10.7.2015

11 Exhibit 98 e-mail, Eller to Eller, 190
12 11.13.2015

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15 PREVIOUS EXHIBITS PAGE

16 Plaintiff's Student Rights and 55
17 Exhibit 8 Responsibilities Handbook

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19 Exhibit 33 Transgender and Gender
20 Non-Conforming Youth.
21 Guidelines For Gender
22 Identity, Non-Discrimination"

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17 Exhibit 92 Welcoming Schools 103
18 professional development

19 Exhibit 93 PGCPs documents, Bates 150
20 Numbers: PGCPs 97-417

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1 PROCEEDINGS

2 AMANA SIMMONS,

3 a witness, having been first duly sworn, was examined and
4 testified as follows:

5 EXAMINATION

6 BY MR. MOGUL:

7 Q. Ms. Simmons, my name is Elliott Mogul, and I
8 represent Miss Eller in the litigation against defendants
9 which is Prince George's County Public Schools, Prince
10 George's County Board of Education, and Monica Goldson in
11 her official capacity as superintendent.

12 In this case, Miss Eller claims that the
13 defendants have discriminated against her because of her
14 sex and transgender status.

15 Would you mind stating your name and
16 address for the record, please.

17 A. Amana Simmons, A-M-A-N-A, S-I-M-M-O-N-S.

18 Q. Have you ever --

19 A. Go ahead.

20 Q. No. I interrupted you. I asked you for
21 your address.

22 A. My business address is 14201 School Lane,

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09:38:30 1 **Upper Marlboro, Maryland, 22071. Question mark.**

2 Q. Ms. Simmons, have you ever been deposed

3 before?

4 **A. I have.**

5 Q. Have you ever testified at a trial?

6 **A. Yes, I have.**

7 Q. We'll come back to that in a minute.

8 I'll go over the -- some of the rules of

9 the road for the depo process, but it sounds like you're

10 already familiar, but please stop me if you have any

11 questions about that.

12 First of all, you know you're sworn so

13 your testimony today is the same as if you are in court.

14 You have an obligation to tell the truth.

15 **A. Understood.**

16 Q. Please answer each of my questions fully and

17 to the best of your recollection. Please answer all

18 questions verbally. As you can see, we have a court

19 reporter taking everything down, so it's hard if you

20 answer every question with a nod or mm-hmm. It's hard to

21 write that down, so if you could just please answer

22 without physical -- well, you could make a physical

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09:39:28 1 movement, but also accompany the physical movement with

2 the verbal answer, please.

3 Because the Court Reporter can only

4 record one of us at a time, please both of us should try

5 not to interrupt the other. I will try to not interrupt

6 while you are answering, and if you can wait until I

7 finish my question before answering, that would make it

8 easier for the Court Reporter.

9 Please let me know if you do not

10 understand the question or need me to rephrase the

11 question. If you need to have a question repeated, let

12 me know and the Court Reporter can read it back to you.

13 If you need a break at any time, please

14 let me know. Please note that we cannot take a break if

15 a question is pending. So if I have asked a question,

16 please just answer it, and then we can take a break.

17 Mr. Sharma may object from time to time.

18 After that objection, you are still required to answer,

19 unless Mr. Sharma has instructed you not to answer the

20 question.

21 Do you have any questions about how the

22 deposition will work?

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09:40:20 1 **A. No, I do not.**

2 Q. Is there any reason you can think of why you

3 may not be able to answer my questions fully and

4 accurately today?

5 **A. Not that I know of.**

6 Q. You're not currently on any medication or

7 taking any alcohol that would interfere with your ability

8 to answer questions?

9 **A. No, I'm not.**

10 Q. And you do not have any physical limitations

11 or ailments today that might impact your ability to

12 answer my questions?

13 **A. Not to my knowledge.**

14 Q. And you're very well hydrated, so we have

15 got that covered.

16 So you mentioned earlier that you have

17 testified before both in deposition and at trial.

18 Could you tell me how many times you've

19 testified at a deposition?

20 **A. I'm not exactly sure, but I would imagine**

21 **six times or so.**

22 Q. Were all of those in your capacity in your

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09:41:06 1 current role that you have with Prince George's County

2 Public Schools?

3 **A. Yes.**

4 Q. And about when were those depositions, like,

5 all within the last X-number of years?

6 **A. From July of 2014 through the present.**

7 Q. What type of cases were those depositions

8 in?

9 **A. They were typically cases that were**

10 **involving our EEOC process, our internal complaints that**

11 **were later filed in court.**

12 Q. In those depositions, did you appear as a

13 30(b)(6) witness, which is to mean a representative of

14 the school system, or in your personal capacity?

15 **A. 30(b)(6) witness.**

16 Q. For all six of those?

17 **A. Correct.**

18 Q. You also mentioned that you testified at

19 trial?

20 **A. Yes.**

21 Q. How many times is that?

22 **A. I believe trial has just been one instance.**

09:42:02 1 Q. About when was that trial?
 2 A. It was probably two-and-a-half years ago,
 3 maybe three years ago.
 4 Q. What kind of case was that?
 5 A. Similarly, it was a case involving
 6 EEOC-related issues.
 7 Q. And at that trial, did you appear in your
 8 personal capacity, or were you appearing as a
 9 representative of the school system?
 10 A. As a representative of the school system.
 11 Q. And your testimony for each of those
 12 depositions and that trial was oral or was it written?
 13 A. It was oral testimony.
 14 Q. Ms. Simmons, you understand that you're not
 15 a named defendant in this case; right?
 16 A. I do.
 17 Q. And you understand that you're not being
 18 deposed in your personal capacity in this case?
 19 A. I do.
 20 Q. And you have been designated as a 30(b)(6)
 21 witness to testify on behalf of the defendants?
 22 A. I understand.

09:42:54 1 Q. I'd like to show you an exhibit, probably
 2 already has been marked before in this case, but I don't
 3 have it, so we'll mark it anew.
 4 We're going to mark it as Exhibit 89.
 5 A. Okay.
 6 (Plaintiff's Exhibit 89, Notice, was marked for
 7 identification.)
 8 Q. Ms. Simmons, do you recognize this document?
 9 A. Yes. It appears to be a Notice of Subpoena.
 10 Q. Okay.
 11 And if you wouldn't mind, you can
 12 read -- actually, I'll ask you to please turn to the
 13 fifth page where it says Schedule A. If you would not
 14 mind -- I'm sorry, this will be a little tedious --
 15 reading aloud topics 1, 2 -- for now, let's start with 1,
 16 2, and 3.
 17 A. So you said the fifth page. This appears to
 18 be one, two, three, four for me. Is that what you meant?
 19 Q. The fourth page, yeah.
 20 A. Okay, gotcha. And you're asking me to read
 21 aloud?
 22 Q. Let's start with topics 1, 2, 3.

09:44:49 1 A. "1. All policies, practices, customs and
 2 usages relating to transgender and gender non-conforming
 3 students, teachers, and staff at Prince George's County
 4 Public Schools, including more specifically Friendly High
 5 School. This includes the research, development,
 6 adoption and implementation of all such policies.
 7 "2. All policies, practices, customs
 8 and usages relating to non-discrimination towards
 9 students, teachers, and staff at Prince George's County
 10 Public Schools, including more specifically Friendly High
 11 School. This includes the research, development,
 12 adoption, and implementation of all such policies.
 13 "3. Any training, protocols and
 14 procedures regarding transgender and gender
 15 non-conforming people at Prince George's County Public
 16 Schools, including more specifically Friendly High
 17 School. This includes the research, development,
 18 adoption, and implementation of all such protocols and
 19 procedures."
 20 Q. Thank you.
 21 Now, if you would not mind -- sorry
 22 about this -- reading aloud topics 4, 5, 7, and 9 on the

09:45:59 1 next page.
 2 A. "4. Any training, protocols and procedures
 3 regarding non-discrimination towards students, teachers
 4 and staff at Prince George's County Public Schools,
 5 including more specifically Friendly High School. This
 6 includes the research, development, adoption, and
 7 implementation of all such protocols and procedures.
 8 "7. The roles/responsibilities of pupil
 9 personnel workers, vice or assistant principals,
 10 principals, associate superintendents, other and senior
 11 administrative officials in responding to complaints or
 12 reports of harassment and/or discrimination made by
 13 teachers or other school staff."
 14 Q. And I'm sorry --
 15 A. "9. Communications with the Prince George's
 16 County Educators' Association regarding plaintiff's
 17 complaints or reports of harassment and/or
 18 discrimination."
 19 Q. I'm sorry. Could you also read number 8.
 20 A. "8. The role of the Prince George's County
 21 Educators' Association in facilitating the resolution of
 22 complaints or reports of harassment and/or discrimination

09:47:22 1 **made by teachers or other school staff."**

2 Q. One more. If you could also read Topic 14?

3 **A. "14. Formal and informal complaints made,**

4 **reported, or filed by plaintiff against Miss Paula**

5 **Robinson and defendant's responses to such complaints."**

6 Q. Thank you very much.

7 Do you understand that you are here to

8 answer questions about these nine topics on behalf of the

9 defendants?

10 **A. I do.**

11 Q. Thank you. Who contacted you to let you

12 know that you would be designated as a witness for these

13 topics?

14 **A. Someone from the McCullum law firm.**

15 Q. Was that person Mr. Sharma?

16 **A. I don't recall.**

17 Q. Did someone from that law firm do more than

18 just contact you, but also help prepare you for this

19 deposition today?

20 **A. I wouldn't say help prepare, but they**

21 **contacted me and advised me of the areas that would be**

22 **inquired.**

09:48:27 1 Q. Okay. How many conversations did you have

2 with someone at the McCullum law firm, about this

3 deposition?

4 **A. I don't recall specifically, but maybe two.**

5 Q. Were those conversations in person or over

6 the phone?

7 **A. I've had in-person and over-the-phone**

8 **conversations.**

9 Q. Did you have discussions with anyone else to

10 help prepare you to be designated -- to be the designated

11 witness for these topics?

12 **A. Conversations with anyone else. No, I don't**

13 **believe so.**

14 Q. Aside from your conversations with someone

15 from the McCullum law firm, how did you prepare to

16 testify on these topics?

17 **A. I reviewed information related to the areas**

18 **of inquiry.**

19 Q. What kind of information?

20 **A. Well, it depends. So as it relates to the**

21 **policies, I reviewed our policies that fall under those**

22 **categories. I reviewed information related to the**

09:49:39 1 **specific complaint, Complaint, the Interrogatory**

2 **responses, certain documents that have been produced as a**

3 **part of discovery.**

4 Q. That last category, do you mean documents

5 that were produced by defendants as part of discovery?

6 **A. Yes.**

7 Q. Did you also review documents that were

8 produced by plaintiff as part of discovery?

9 **A. There may have been some overlap. I'm not**

10 **certain.**

11 Q. Did you review any e-mails in the course of

12 preparing for this deposition?

13 **A. Not in-depth, no.**

14 Q. But you reviewed a few e-mails?

15 **A. Well, there were probably e-mails that were**

16 **amongst documents.**

17 Q. Okay. How did you go about looking for

18 which documents that you felt would be helpful to review

19 before this deposition?

20 **A. The documents had been previously produced.**

21 Q. So you reviewed all of the -- you generally

22 reviewed all of the documents that defendants had

09:50:46 1 produced?

2 MR. SHARMA: Objection. You can answer.

3 **A. I don't know if I reviewed all of the**

4 **documents that were produced in discovery, but I reviewed**

5 **documents that were relevant to the areas of inquiry that**

6 **have been previously produced, yes.**

7 Q. I'm just curious, how did you determine

8 which documents would be relevant for this deposition?

9 **A. Well, I know what things fall within certain**

10 **categories based on my role and my functions.**

11 Q. So I believe you testified before that you

12 didn't speak to anyone else to prepare for this

13 deposition, but I just wanted to be clear. That means

14 you didn't speak to anyone else about gathering

15 information for you for this deposition; is that correct?

16 **A. No. My office gathered information for me**

17 **to make it available for my review, so I had**

18 **conversations with internal office staff to make those**

19 **documents available for me.**

20 Q. Who are those office staff?

21 **A. My paralegal.**

22 Q. What's his or her name?

09:51:59 1 **A. Her name is Madeline.**
 2 Q. Anyone else?
 3 **A. No. She would be primarily the person**
 4 **responsible for that.**
 5 Q. What's Madeline's last name?
 6 **A. McKnight.**
 7 Q. McKnight. Thank you. Could you spell that
 8 for the Court Reporter?
 9 **A. M-C-K-N-I-G-H-T.**
 10 Q. Thank you very much.
 11 Did you bring any documents with you to
 12 this deposition?
 13 **A. No, I did not.**
 14 Q. Aside from what we've talked about so far,
 15 did you do anything else to prepare for this deposition?
 16 **A. I don't believe so, no.**
 17 Q. I'd like to now turn to your background for
 18 a minute.
 19 **A. Sure.**
 20 Q. If you wouldn't mind explaining your
 21 educational background for me. Start with high school.
 22 **A. I graduated from high school in 1989,**

09:52:49 1 **attended college. I graduated from college in 1993.**
 2 **Thereafter, I attended law school. I graduated from law**
 3 **school in 1996.**
 4 Q. Could you give us the names of your high
 5 school, college and law school, please?
 6 **A. I attended Westchester High School in**
 7 **California for high school. Hampton University in**
 8 **Hampton, Virginia, for college. American University,**
 9 **Washington College of Law, for law school.**
 10 Q. And have you received any other degrees
 11 other than your college and law school degrees?
 12 **A. No, I have not.**
 13 Q. Did you attend any other schooling that we
 14 haven't yet discussed since college or since law school?
 15 **A. No.**
 16 Q. Did you go straight through from college to
 17 law school?
 18 **A. I did.**
 19 Q. Can you explain your work experience, if you
 20 had any, before starting your employment with Prince
 21 George's County Public Schools?
 22 **A. I worked with the Prince George's County**

09:54:01 1 **Human Relations Commission. I worked there as -- I can't**
 2 **remember what the title actually was, but lead**
 3 **investigator or supervisor, with the local EEOC agency.**
 4 **Then I worked as a private attorney in a**
 5 **law firm, and I clerked for a judge in Virginia after law**
 6 **school.**
 7 Q. Was the clerkship the first position you had
 8 after law school?
 9 **A. Correct.**
 10 Q. And that was just one year?
 11 **A. Yes. I think it was a little more than a**
 12 **year, but yes.**
 13 Q. And who was the judge you clerked for?
 14 **A. Gerald Bruce Lee.**
 15 Q. Subsequent to that, was that when you worked
 16 at a law firm?
 17 **A. Correct.**
 18 Q. How many years was that?
 19 **A. A lot of years. I don't recall, but it**
 20 **would have been in 1997. Is that right? Or 1998. And I**
 21 **worked with that firm up through the time that I was**
 22 **servicing with the Prince George's County Human Relations**

09:55:20 1 **Commission as well.**
 2 Q. Do you know what year you started with the
 3 Prince George's County Human Relations Commission?
 4 **A. So let me work my way backwards. I started**
 5 **with the school system in July of 2014. So I would have**
 6 **been with the Commission, I believe, in 2012. Or**
 7 **thereabouts.**
 8 Q. What was the name of the law firm you worked
 9 at?
 10 **A. Richard Carnell Baker, PC.**
 11 Q. What kind of work did you do there?
 12 **A. Litigation primarily, employment,**
 13 **construction was a general practice. I handled a lot of**
 14 **different trial matters.**
 15 Q. Where was your office located?
 16 **A. In McLean, Virginia.**
 17 Q. So then please correct me if I'm wrong, but
 18 you spent two years at the Prince George's County Human
 19 Relations Commission?
 20 **A. Thereabouts, yes.**
 21 Q. Could you explain to us what your role was
 22 there?

Page 22

09:56:33 1 **A. So as I shared, I don't remember the formal**
 2 **title, but I served as a supervisor for investigators**
 3 **that conducted investigations of complaints involving**
 4 **discrimination in employment, housing, public**
 5 **accommodation areas with the local EEOC agency.**
 6 Q. And those complaints could be complaints
 7 filed against a variety of employers or landlords?
 8 **A. Yes.**
 9 Q. But all in Prince George's County, I assume?
 10 **A. Correct.**
 11 Q. So then in 2014, you started your employment
 12 with the Prince George's County Public Schools?
 13 **A. Correct.**
 14 Q. What was your position when you started with
 15 the school system?
 16 **A. Equal opportunity employment adviser.**
 17 Q. Does that continue to be your title today?
 18 **A. It does.**
 19 Q. Have your roles and responsibilities changed
 20 at all over the course of July 2014 to today?
 21 **A. No, not significantly, no.**
 22 Q. Okay. So what are your responsibilities

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09:57:40 1 associated with your current position?
 2 **A. So broadly speaking, I am responsible for**
 3 **ensuring compliance with our non-discriminatory practices**
 4 **and procedures as it relates to employees that are**
 5 **employed by the school system.**
 6 **In so doing, I investigate internal**
 7 **complaints that are filed pursuant to our administrative**
 8 **procedure 4170. I also interact and provide position**
 9 **statements and information related to complaints that are**
 10 **filed with the EEOC and other administrative bodies.**
 11 **I'm responsible for reviewing and**
 12 **authorizing requests for accommodation. I serve as a**
 13 **mediator for dispute resolution. And the Title IX**
 14 **coordinator for purposes of Title IX issues.**
 15 Q. Who do you report to?
 16 **A. The general counsel.**
 17 Q. Who is the general counsel at this time?
 18 **A. Demetria Tobias.**
 19 Q. And that has not been the general counsel
 20 the entire time that you've been at the school system; is
 21 that correct?
 22 **A. No. I believe Demetria assumed her role --**

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09:59:14 1 **it's been less than a year, but I'm not exactly certain**
 2 **the date she began functioning in that capacity.**
 3 Q. Who was the general counsel before her?
 4 **A. Shauna Battle.**
 5 Q. Do you know about when Miss Battle became
 6 the general counsel?
 7 **A. Many years before my arrival. So I'm not**
 8 **certain.**
 9 Q. Does anyone report to you?
 10 **A. No.**
 11 Q. Are there other employees at the school
 12 system with the same job description as you?
 13 **A. No, there are not.**
 14 Q. Do you know a Miss Elizabeth Davis?
 15 **A. I do.**
 16 Q. But she doesn't have the same title as you?
 17 **A. She does not.**
 18 Q. Did she at some previous time?
 19 **A. No, I don't believe her title was ever the**
 20 **same as mine.**
 21 Q. Okay.
 22 **A. I believe she performed some of the**

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10:00:03 1 **functions that my position holds, but she never**
 2 **maintained the title of EEO adviser.**
 3 Q. Is she currently employed with the school
 4 system, to your knowledge?
 5 **A. It's my understanding that she has retired.**
 6 Q. Do you remember when she retired?
 7 **A. I do not know.**
 8 Q. But your understanding is before she
 9 retired, she had some of the same responsibilities as
 10 you. Do you know which responsibilities those are that
 11 overlapped?
 12 **A. I'm not certain. I don't know that I have**
 13 **ever seen the position description that governed her**
 14 **position, but I know that she did have interaction**
 15 **involving the 4170 process at some point.**
 16 Q. Would she also have had a role responding to
 17 EEOC complaints or charges filed with the EEOC?
 18 **A. Perhaps, yes.**
 19 Q. So from the 2014 period -- I'm sorry. From
 20 when you started in July 2014 to now, there have been no
 21 other people with the same job title as you; is that
 22 correct?

10:01:08 1 **A. That's correct.**

2 Q. Have there been any other people who,

3 similar to Miss Davis, have had overlapping

4 responsibilities as you?

5 **A. No. I don't believe so.**

6 Q. Prior to 2014, did someone have your

7 position?

8 **A. No. I don't believe so.**

9 Q. So your position was newly created in 2014?

10 **A. There was a reorganization and -- and the**

11 **position was created at that time.**

12 Q. So prior to 2014, who was it that was

13 responsible for the different responsibilities that you

14 have now?

15 **A. So as I shared previously, Elizabeth Davis**

16 **had certain of those functions. There was another**

17 **individual, I believe, that handled ADA-related issues.**

18 **I don't know if there was someone who served as a**

19 **mediator of employee disputes, other than mediations that**

20 **were done at the school level. I don't know that there**

21 **was a central office position that addressed that.**

22 Q. Prior to 2014, was Miss Davis the only

10:02:17 1 person who would have been responsible for responding to

2 EEOC charges?

3 **A. I wouldn't say that, no. There were**

4 **external attorneys that provided that function on behalf**

5 **of the school system as well.**

6 Q. Prior to 2014, do you know if there were

7 other people, other than Miss Davis, who were responsible

8 for addressing the 4170 internal complaint process?

9 **A. I do know there was another individual that**

10 **did serve in that capacity. I don't know the dates and**

11 **upon which time that individual served.**

12 Q. Do you know that person's name?

13 **A. Pamela is the first name, and the last name**

14 **is escaping me. I want to say Adams, but I don't think**

15 **that's correct.**

16 Q. Pamela something.

17 When you started in July 2014, did you

18 receive any training related to your position?

19 **A. Yes.**

20 Q. What did that training encompass?

21 **A. So I received training with the Maryland**

22 **State Department of Education. There's a Title IX**

10:03:30 1 **coordinator's training that I took. I also had training**

2 **with the EEOC, federal training that's done annually for**

3 **individuals that investigate complaints of**

4 **discrimination.**

5 **Those are the two main ones that I**

6 **recall, but there were smaller trainings that I have**

7 **attended involving other school systems within Maryland,**

8 **and individuals that have similar roles. They're kind of**

9 **informal trainings that take place every so often.**

10 Q. So you mentioned a Title IX coordinator

11 training, and you testified that you took that training

12 when you first started; is that also something that is a

13 periodic training?

14 **A. Yes. It's an annual training.**

15 Q. And you attend it annually?

16 **A. Yes. I don't believe I attended last year**

17 **because it was cancelled, but I think other than that, I**

18 **have attended all of them.**

19 Q. Do you recall, does that training include at

20 any point a discussion of -- I understand it might have

21 changed over the years, but does it include any training

22 about transgender individuals?

10:04:50 1 **A. It does.**

2 Q. It does. Do you remember the content of

3 that training?

4 **A. Specifically all of the content?**

5 Q. The content of the transgender portion of

6 the training. When they mention transgender individuals,

7 what is discussed?

8 **A. So I don't know if I can adequately recall**

9 **all of the training that falls under the rubric of**

10 **transgenderers as it relates to the Title IX coordinator**

11 **sessions, but I can state generally that it addressed**

12 **primarily from the perspective of providing safe spaces**

13 **for students, but also may have had some smaller amount**

14 **of time that was speaking to it generally as it relates**

15 **to employees.**

16 Q. Do you recall if that training covered the

17 proper use of pronouns for transgender individuals?

18 **A. I'm certain that that was mentioned.**

19 Q. Do you recall about how much time would have

20 been dedicated during those trainings to talking about

21 issues of diversity, inclusion, and non-discrimination

22 for transgender people?

10:06:05 1 **A. Well, I've attended one where that was the**
 2 **entire subject, but I think it changes on an annual**
 3 **basis, so that the focus of the training is different**
 4 **based on different issues that are involving school**
 5 **systems.**
 6 **I don't -- I can't guess as to how much**
 7 **time was spent on transgender issues at any one given**
 8 **time.**
 9 Q. For that one training where you had one
 10 session that was entirely dedicated to transgender
 11 issues, was that an hour long? Do you remember that?
 12 **A. No. It was a day.**
 13 Q. It was a day. Okay.
 14 Now, you also mentioned that there's
 15 annual EEOC training. Do you attend that every year?
 16 **A. I do.**
 17 Q. Do you recall if any of that training has
 18 touched on transgender issues?
 19 **A. Yes. It has.**
 20 Q. And do you recall about how much time is
 21 dedicated to that?
 22 **A. I really can't. But those trainings were**

10:07:03 1 **typically two days, and I think -- I couldn't guess as to**
 2 **how much time was spent on transgender issues**
 3 **specifically.**
 4 Q. During the course of any of those EEOC-led
 5 trainings, have there been an entire session dedicated to
 6 transgender issues?
 7 **A. Not that I recall, no.**
 8 Q. So if transgender issues came up, it was in
 9 the context of talking about a variety of different,
 10 diverse populations?
 11 **A. Correct.**
 12 Q. Then you also mentioned some more informal
 13 trainings that are done in conjunction with officials
 14 from other school systems that maybe have similar roles
 15 as you; is that correct?
 16 **A. Mm-hmm.**
 17 Q. How are those coordinated?
 18 **A. I think it really depends. I mean,**
 19 **sometimes they are trainings that are tacked on to kind**
 20 **of broader things, but there have been several instances**
 21 **where we've had training sessions as a part of broader**
 22 **conventions or -- convention is not the right word -- but**

10:08:08 1 **symposiums, and they've dealt with diversity and equity**
 2 **and inclusion-type issues.**
 3 Q. And do you know about how often those
 4 informal trainings happen?
 5 **A. I would probably say maybe once or twice a**
 6 **year.**
 7 Q. And are these just among Maryland school
 8 systems, or is it a little bit broader, this group?
 9 **A. So I've attended those that have been just**
 10 **with Maryland school systems. I have attended them where**
 11 **they have been a little broader. I think we've had**
 12 **school systems from Pennsylvania and some of the**
 13 **surrounding areas to participate as well.**
 14 Q. Is one of the goals of these trainings to
 15 share best practices?
 16 **A. I think generally speaking, but I -- I think**
 17 **each of the trainings may have more specific goals**
 18 **related, but I -- I think as an overarching kind of**
 19 **position, learning best practices and how other school**
 20 **systems may handle some of the same issues is something**
 21 **that is a goal of the interaction.**
 22 Q. Have any of these trainings covered any

10:09:18 1 issues related to transgender, diversity and inclusion?
 2 **A. Probably so, yes. I don't recall**
 3 **specifically.**
 4 Q. Do you recall if there was a dedicated
 5 training to transgender issues?
 6 **A. I don't.**
 7 Q. Do you recall speaking to your colleagues
 8 from other school systems about how they handle
 9 transgender, diversity, inclusion issues?
 10 **A. I've had certain communications with other**
 11 **individuals in other school systems, yes.**
 12 Q. Do you remember which individuals or which
 13 school systems?
 14 **A. I'm sorry. I don't.**
 15 Q. Do you recall, among these three different
 16 types of trainings that we have discussed so far, are
 17 there materials that you take home or take back to your
 18 office after these trainings, written materials?
 19 **A. Yes. In some of them, there are.**
 20 Q. Do you remember if any of those written
 21 materials related to transgender/diversity issues?
 22 **A. Yes. Some of them do.**

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10:10:28 1 Q. Have you ever been asked to present at any
 2 of these training sessions?
 3 **A. No, not the ones that we have spoken of, no.**
 4 Q. Have we covered all of the trainings so far
 5 that you have done in relation to this position, or are
 6 there others?
 7 **A. I've taken some CLEs that address employment**
 8 **and discrimination issues that are within the workplace**
 9 **as well, but those have been not on an annual basis, but**
 10 **I have taken certain training and have received CLE**
 11 **credit for that.**
 12 Q. Do you recall if any of those CLEs covered
 13 issues of diversity and inclusion for transgender
 14 individuals?
 15 **A. Probably generally speaking, yes.**
 16 Q. But no specific training for that purpose?
 17 **A. No.**
 18 Q. Do you take the -- we'll get back to this
 19 later, but do you engage in the general training that
 20 other Prince George's County Public School employees go
 21 through every year? Is there such a thing?
 22 **A. Yes.**

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10:11:51 1 Q. And do you take that training as well?
 2 **A. I do.**
 3 Q. We'll get back to it later.
 4 I'd like to turn now to one of the
 5 Topics that you've been asked to testify about, diversity
 6 and non-discrimination policies.
 7 Does Prince George's County Public
 8 Schools have a written policy for staff prohibiting
 9 discrimination against people who are transgender and
 10 because of their race -- sorry, because of their sex,
 11 gender identify or transgender status?
 12 **A. Yes. That's been encompassed by**
 13 **administrative procedure 4170.**
 14 **(Previously Marked Exhibit 32, Administrative Procedure,**
 15 **Discrimination and Harassment, was marked for**
 16 **identification.)**
 17 Q. So I'm going to hand you an Exhibit that has
 18 been previously marked 32.
 19 Is this the policy you had just
 20 mentioned?
 21 **A. Yes, it does appear to be. Yes.**
 22 Q. You'll note in the top right there's a date,

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10:13:39 1 September 1, 2000. Do you know if this policy has been
 2 updated since that date?
 3 **A. Yes, it has been updated.**
 4 Q. Do you know when it was updated?
 5 **A. In 2018.**
 6 Q. 2018.
 7 So between 2000 and 2018, it had not
 8 been updated?
 9 **A. That's correct.**
 10 Q. Can you identify what part of this policy
 11 you understand is prohibiting discrimination against
 12 people who are transgender and because of their sex,
 13 gender identity or transgender status?
 14 **A. So it's the general policy that indicates --**
 15 **it's the policy of the Board of Education of Prince**
 16 **George's County to oppose and prohibit without**
 17 **qualification unlawful discrimination and harassment**
 18 **based on, and then it lists, race, color, sex, age,**
 19 **national origin, religion, marital status, sexual**
 20 **orientation or disability.**
 21 Q. And sorry, I just want to make sure I
 22 understand. Which part of that phrase that you just read

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10:14:47 1 out do you believe covers transgender individuals?
 2 **A. I believe it's covered both by the**
 3 **categories of sex and sexual orientation.**
 4 Q. Does this policy apply to all staff?
 5 **A. Yes, it does.**
 6 Q. How is this policy -- how are staff members
 7 made aware of this policy?
 8 **A. So there's annual training that staff**
 9 **members receive. During the course of that training,**
 10 **they are made aware of this administrative procedure and**
 11 **the school system's prohibition of discrimination.**
 12 **There also are other trainings that**
 13 **occur periodically throughout the school year that also**
 14 **may mention this administrative procedure as well.**
 15 **Employees are also made aware of it**
 16 **during the onboarding process when they become new**
 17 **employees to the school system. That's it.**
 18 Q. Is it distributed, the policy distributed to
 19 employees during either of those trainings or the
 20 onboarding process?
 21 **A. I believe during some of the trainings,**
 22 **they -- a physical copy is distributed, but as a school**

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10:16:11 1 system, we try not to use a lot of paper, and so there

2 has been a reduction in the number of copies that we're

3 making of things.

4 So employees do receive information and

5 direction as to where these policies can be found, and

6 the accompanying forms online.

7 Q. Does this policy -- and specifically the

8 part that you mentioned -- does it ever use the words

9 gender identity or transgender?

10 MR. SHARMA: Objection. The document

11 speaks for itself, but you can answer.

12 A. No. There is no specific mention.

13 Q. Why is it that you understand that

14 transgender status is covered by sexual orientation?

15 A. So there has been -- or at least there was

16 more direct guidance at one point that indicated that the

17 broad umbrella of sex included protection for transgender

18 individuals as well, and that guidance was found in EEOC

19 directions, from the attorney general, there are various

20 "dear colleagues" letters, et cetera.

21 So based upon that, it is our view as a

22 school system that it encompasses protection for

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10:17:49 1 transgender employees as well.

2 Q. So just to be clear, my question was about

3 whether transgender individuals are covered by sexual

4 orientation and I believe your answer was talking about

5 the word sex, not sexual orientation; is that right?

6 A. Yes. That's what I -- yes. I thought

7 that's what I said.

8 Q. I won't characterize what you said. I just

9 meant --

10 A. Okay.

11 Q. So my question was, how do you understand

12 that transgender individuals are covered by the words

13 sexual orientation?

14 A. Well, again, I think it's covered by sex,

15 but it's the broader umbrella of sex that would include,

16 in my view, sexual orientation as well; but it certainly

17 would include gender identity and any other issues

18 related to an employee's transgender status.

19 Q. And so you said that, you know, at some

20 point, this was clarified, that the term sex was --

21 encompassed transgender individuals; is that right?

22 A. I don't know if I used the word clarified,

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10:18:47 1 but there was directive.

2 Q. There was directive.

3 A. Guidance.

4 Q. When was that?

5 A. I -- oh, goodness. I can't give the

6 specific dates, but I believe there's an EEOC directive

7 that may have been 2013. Maybe it's 2011. I'm not

8 certain of the dates, but there's -- there are various

9 guidances that were issued along these lines, and the

10 courts, of course, have been split as far as there's

11 certainly, you know, cases outstanding that may make some

12 further determinations in that regard, but...

13 Q. How were you aware of the EEOC's directives?

14 A. Well, we receive it as a part of our

15 training.

16 Q. By "we," I'm sorry?

17 A. Well, I'm using it loosely, but I just mean

18 individuals that perform investigations of discriminatory

19 issues in EEOC matters.

20 So as during trainings you receive

21 certain information, including directives and policy

22 guidance that the EEOC utilizes in -- in reviewing cases

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10:20:08 1 to determine if there's cause to believe that

2 discrimination has occurred.

3 Q. Okay.

4 Have those EEOC directives been

5 incorporated into the words of this policy?

6 MR. SHARMA: Objection. You can answer.

7 A. No, they have not.

8 Q. Do you know what change occurred in 2018,

9 what amendments were made to the policy?

10 A. Generally speaking, they were changes that

11 realigned my current title, because I believe that

12 prior -- this 2000 version makes reference to old titles

13 that were used based on the then-structure of the school

14 system. So that was changed.

15 There was also an increase in the time

16 frame for resolution of -- of complaints.

17 Q. Oh, okay.

18 What is the current time frame under the

19 current policy?

20 A. 90 days.

21 Q. 90 days.

22 So you mentioned that you were made

10:21:21 1 aware of the EEOC's directives and developments in the
 2 law through trainings that you've undergone through your
 3 position.
 4 Are those communications -- I'm sorry.
 5 Are those directives and those legal developments
 6 communicated in training that goes to anyone else outside
 7 of people in your position at the school system?
 8 **A. Can you restate the question.**
 9 Q. I can. It was a long question.
 10 You mentioned before that you became
 11 aware of --
 12 **A. Yes.**
 13 Q. -- the EEOC's directives and legal
 14 developments related to transgender individuals through
 15 trainings that you've undergone.
 16 Have those directives and legal
 17 developments been incorporated into any trainings that
 18 other people, other than yourself, at the school system
 19 have gone through?
 20 **A. Not directly, but I believe indirectly, yes.**
 21 **Because -- so the answer to the question is not directly.**
 22 Q. Well, if you could explain how indirectly

10:22:34 1 they might be incorporated, I'd appreciate it.
 2 **A. Well, certainly, I utilize that information**
 3 **to inform best practices for the school system.**
 4 **So when I'm analyzing situations that**
 5 **may be brought to my attention, I'm utilizing the**
 6 **information that I receive in making a determination as**
 7 **to appropriate next steps or whether I believe there's**
 8 **been a violation of our policy.**
 9 **So indirectly, yes, that training does**
 10 **inform information that's conveyed to other people, but**
 11 **not necessarily in the form of a training in and of**
 12 **itself.**
 13 Q. Let's say I was -- scratch that -- an
 14 assistant principal at a middle school.
 15 How would they know that this policy
 16 covered transgender individuals? In the 2011-2016 time
 17 frame.
 18 MR. SHARMA: Objection. You can answer.
 19 **A. So again, this policy and its procedures are**
 20 **provided as a part of our annual training to employees;**
 21 **and in providing that training, information is provided**
 22 **regarding general diversity and inclusion as it relates**

10:24:11 1 **to members that fall within the protected classes that**
 2 **are identified.**
 3 **So based on that training, you as an**
 4 **assistant principal should understand that a transgender**
 5 **employee is in fact covered by this policy.**
 6 Q. We'll get more into that a little bit later.
 7 Are students given this policy as well?
 8 **A. Students do receive the student code of**
 9 **conduct, which also cross-references the 4170**
 10 **administrative procedure as well.**
 11 Q. If a student wanted to access this policy,
 12 is it possible for them to do so?
 13 **A. Yes.**
 14 Q. How would they do that?
 15 **A. They would file a complaint just as anyone**
 16 **else would.**
 17 Q. I'm sorry. If they want to access this
 18 policy, how would it be given?
 19 **A. Oh, meaning like physically, just -- oh, via**
 20 **the online portal.**
 21 Q. Okay.
 22 **A. Mm-hmm.**

10:25:20 1 Q. Are students told where they can go to find
 2 the school system's policies like this one?
 3 **A. Yes. It's a part of the student code of**
 4 **conduct.**
 5 Q. Focusing now on the 2011-2016 period, were
 6 school administrators given instruction on how to
 7 implement this non-discrimination policy?
 8 **A. Were they given instructions as to how to**
 9 **implement it? So yes. They received information**
 10 **regarding the policy. They were told where it could be**
 11 **found, and they were told how to advise an employee to**
 12 **submit complaint pursuant to the policy.**
 13 Q. What instruction were school administrators
 14 given as it relates to protecting transgender individuals
 15 from discrimination? Again, the 2011 to 2016 time
 16 period.
 17 **A. Specifically as it relates to protecting**
 18 **transgender --**
 19 Q. Yes.
 20 **A. -- I don't know that there was any specific**
 21 **training that dealt specifically with transgender.**
 22 **As a school system, we have included all**

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10:26:45 1 of the protected classes in discussing this policy. So
 2 there's not been any one training that deals only with
 3 providing protection, for example, to employees based on
 4 racial discrimination, and that's all that's being
 5 discussed. Or providing protection based on age, and
 6 that's all that's being discussed.

7 In each of these instances, in each of
 8 these trainings, we are intention including --
 9 intentional about including all of the protected classes.

10 So their trainings would include both
 11 race and sex and age and all of the protected classes
 12 that are stated in the policy.

13 Q. And in the course of being intentional about
 14 including all of these classes, does that mean that, you
 15 know, in the course of discussing these policies, each of
 16 these classes are named in the trainings that each of
 17 these classes are protected?

18 A. So, generally, it's the policy that's coming
 19 directly from the -- from the administrative procedure
 20 that that language is generally used, but we often
 21 utilize hypotheticals of situations that we've either
 22 come across in certain workplace situations to provide

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10:28:06 1 examples of conduct that may be violative or conduct that
 2 is not violative.

3 So in that hypothetical situation, and
 4 in question and answers, there certainly have been
 5 discussions with regards to transgender employees, but
 6 there have not been trainings that have been exclusive to
 7 transgender employees as it relates to this
 8 administrative procedure.

9 Q. There was a hypothetical used in a training
 10 in the 2011 to 2016 period regarding transgender
 11 individuals?

12 A. Yes.

13 Q. When was that?

14 A. Oh, I don't know. I can't state
 15 specifically. But I know that hypotheticals were
 16 incorporated in those trainings specifically after we
 17 received some information from MSDE that had provided us
 18 with, you know, additional information regarding that.

19 Q. You just used an acronym. I'm sorry.

20 A. MSD, Maryland State Department of Education.

21 Q. Okay. Thank you. And do you remember when
 22 that directive was?

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10:29:13 1 A. No, I don't, but it would have been sometime
 2 between the 2014 and 2016 time frame.

3 Q. So between 2011 and -- some point in 2014,
 4 there had not been a hypothetical regarding transgender
 5 individuals in those trainings?

6 A. I can't say definitively that there had not
 7 been, but I can state affirmatively that there have been
 8 subsequent to 2014.

9 Q. Okay.

10 Do you recall if any of those
 11 trainings -- again, we're focused on trainings for school
 12 administrators in this policy -- discussed -- and in the
 13 2011 to 2016 period -- discussed how to respect a
 14 person's gender identity?

15 A. Yes. I would imagine that that was covered
 16 as well. Yes.

17 Q. You said imagine, but I would like to know
 18 if you know.

19 A. Well, I've already stated that I could state
 20 specifically that between 2014 and 2016 that there in
 21 fact were hypotheticals that involved transgender issues.
 22 So that would certainly state

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10:30:30 1 affirmatively to your question about gender identity from
 2 the 2014 to the 2016 time period.

3 I stated that I couldn't speak
 4 definitively with regards to hypotheticals that involved
 5 transgender employees before 2014.

6 So between 2011 and 2014, I couldn't
 7 state specifically whether they had included or had not.

8 So essentially, my answer to your first
 9 question would parallel my answer to this question
 10 regarding gender identity.

11 Q. Thank you. Very clear.

12 Do you know if any of those
 13 hypotheticals -- and now we'll just focus between 2014
 14 and 2016 -- would have covered how to support a person's
 15 social gender transition?

16 A. In the hypothetical, I am not certain. I'm
 17 trying to recall them as I sit here, and I am -- I'm not
 18 certain whether that would have been addressed or not.

19 Q. Would any of those hypotheticals in the 2014
 20 to 2016 period have included the importance of respecting
 21 a person's pronouns?
 22 A. Yes.

10:31:55 1 Q. Where would we look to find these
 2 hypotheticals?
 3 **A. So I don't know that the training materials**
 4 **for that time frame would actually have written versions**
 5 **of that. Again, a lot of it occurs during the course of**
 6 **interactive discussions with employees and when issues**
 7 **are raised, and asking questions, and kind of fluid**
 8 **conversation thereafter.**
 9 **So I don't know that there's any**
 10 **training material that would outline the hypotheticals**
 11 **that I'm referring to.**
 12 Q. Sure.
 13 So if they're not written down -- so I
 14 understand Prince George's County is a very big school
 15 system, many schools, many teachers, many administrators.
 16 If those hypotheticals are not written
 17 down, can you say if those hypotheticals were used across
 18 all schools?
 19 **A. Well, we're talking about training that was**
 20 **being provided to school administrators.**
 21 Q. Correct.
 22 **A. So school administrators receive their**

10:33:12 1 **training in cohorts.**
 2 **So you generally may have all of the**
 3 **high school principals that are being trained on an issue**
 4 **in one place. Sometimes they're broken up based on**
 5 **elementary and middle school and high school. In some**
 6 **instances they're all done together.**
 7 **I have conducted training for these**
 8 **large groups so I can speak to the information that was**
 9 **provided to them within -- within the context of the**
 10 **broader training.**
 11 **I'm not attempting to speak to the**
 12 **discussions that were had in school-level based training**
 13 **because obviously I don't attend all of those.**
 14 Q. Got it.
 15 So during the 2014 to 2016 period, do
 16 you know if hypotheticals regarding transgender
 17 individuals were included in each of those trainings?
 18 So you mentioned people who got
 19 trainings in cohorts. At each of those cohort trainings,
 20 was that kind of hypothetical discussed?
 21 **A. Yes. They're done the same. I mean, it's**
 22 **the same -- the same information is conveyed in each**

10:34:27 1 **of -- in each of those trainings. That's correct.**
 2 Q. And you conduct -- you're one of the people
 3 who conducts each of those trainings?
 4 **A. Yeah. I mean, it's -- there are a lot of**
 5 **people who participate; but as it relates to that aspect**
 6 **of thing, it would be me.**
 7 Q. So just to make sure I'm hearing this
 8 clearly.
 9 So from 2014 to 2016, every single
 10 cohort training that you participated in had a
 11 hypothetical about transgender issues?
 12 MR. SHARMA: Objection. You can answer.
 13 **A. That's not -- that's not what I said.**
 14 Q. Okay.
 15 **A. I didn't say every single training had a**
 16 **transgender, but I said within that time frame there was**
 17 **training that was provided that included transgender**
 18 **issues as a part of the training.**
 19 Q. So it's possible that there were some cohort
 20 trainings that did not include a hypothetical about
 21 transgender issues?
 22 MR. SHARMA: Objection. You can answer.

10:35:28 1 **A. So if there were trainings that were done,**
 2 **for example, I'm just going to say in 2016, and there**
 3 **were transgender hypotheticals that were provided for**
 4 **elementary school principals, those same hypotheticals**
 5 **would have been provided to the middle school principals**
 6 **and the high school principals.**
 7 **So that would be relating to, for**
 8 **purposes of our discussion, 2016.**
 9 **So they all would receive the same**
 10 **thing; but what I'm trying to be clear is that I'm not --**
 11 **my testimony is not that these hypotheticals were**
 12 **provided in 2014, in 2015, and in 2016. I'm saying that**
 13 **in trainings during that time period, there were some**
 14 **transgender hypotheticals that were provided.**
 15 Q. Okay.
 16 **A. Was that clear?**
 17 Q. I think so.
 18 So the hypotheticals would have been
 19 consistent across cohorts, not necessarily consistent
 20 across years?
 21 **A. Correct.**
 22 Q. Okay. I understand. Thank you. It's hard

10:36:32 1 when we have many variables to control for.

2 **A. That's okay.**

3 Q. Yeah. If those hypotheticals are not

4 written down, how do you ensure there is that uniformity

5 across the different cohort trainings?

6 **A. Well, in the instance that I'm speaking of,**

7 **it's the trainings that I would have been involved in.**

8 Q. You just make a point of it to keep them

9 consistent?

10 **A. Correct.**

11 Q. Do you know over the course of that 2014 to

12 2016 period when you had trainings with administrators

13 that involved discussions of transgender issues, if any

14 administrators from Friendly High School were

15 participants?

16 **A. Yes.**

17 Q. Do you know which administrators were

18 participants?

19 **A. No, I don't.**

20 Q. Is there a policy prohibiting discrimination

21 against people who are transgender that applies to

22 student behavior?

10:37:44 1 **A. Is there a policy that prohibits**

2 **discrimination against individuals that are transgender**

3 **that applies to student behavior?**

4 Q. Correct.

5 **A. So student behavior is governed by the**

6 **student code of conduct, and so that is the guideline for**

7 **addressing behavior of students.**

8 Q. I will hand you something that has been

9 previously marked as Exhibit 8.

10 (Previously marked Plaintiff's Exhibit 8, Student Rights

11 and Responsibilities Handbook, was presented.)

12 Q. Is this the student code of conduct you just

13 mentioned?

14 **A. I believe so. Let me see. I can't -- 1415.**

15 **Mm-hmm. It appears to be so.**

16 Q. If you need a minute to page through it,

17 that's fine. Just let me know when you're ready.

18 **A. Okay.**

19 **Okay.**

20 Q. Can you identify what part of this policy

21 you understand as prohibiting discrimination against

22 people who are transgender because of their sex, gender

10:40:04 1 identity or transgender status?

2 **A. I think it's page 7. Section 2, rights and**

3 **responsibilities. PGCPs respects the rights of all**

4 **individuals to be treated equally and fairly, to ensure**

5 **that no individual is discriminated against based on**

6 **race, color, sex, age, national origin, religion, sexual**

7 **orientation or disability in the areas of freedom of**

8 **expression, procedural and due process, personal rights**

9 **and access to school programs.**

10 **So that's the general statement; and**

11 **again, I believe the rights of transgenders are**

12 **encompassed under the broader umbrella of sex.**

13 Q. How would a student reading that paragraph

14 know that this covers gender identity as well?

15 **A. Well, they receive training on -- on the**

16 **student code of conduct as well.**

17 Q. Mm-hmm.

18 **A. And there's an entire section that deals**

19 **with these kind of issues and is kind of addressed in a**

20 **more student-friendly way.**

21 Q. Mm-hmm.

22 **A. If you will.**

10:41:27 1 **And so students receive this training in**

2 **quarterly assemblies, so they are reminded of the**

3 **expectation behavior, at least four times per year.**

4 Q. And -- sorry.

5 **A. That's it.**

6 Q. Those quarterly trainings, have they

7 happened consistently on a quarterly basis since 2011?

8 **A. Yes.**

9 Q. And have consistently those quarterly

10 trainings made students aware of transgender individuals

11 being covered by this policy?

12 **A. I'm not certain what the specific language**

13 **has been used in all of those trainings as it relates**

14 **specifically to transgender individuals.**

15 Q. Do you know, is there a -- is there an

16 effort made to ensure that there is some consistency in

17 how those trainings are conducted across the schools?

18 **A. Yes. I believe that there is.**

19 **I know that some of the training is done**

20 **via video. So obviously the students would see the same**

21 **video.**

22 Q. Sure.

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10:42:43 1 **A. But there are trainings that are done that**
 2 **are not video, but are still consistent with what's being**
 3 **received across the school system.**
 4 Q. Has there been a video component for the
 5 student trainings since 2011?
 6 **A. I believe so. I don't know that -- I know**
 7 **I've seen a video. I'm not certain as to when it was**
 8 **created.**
 9 Q. Is it the same video? You said you've seen
 10 a video. Is it just one video that's always used or have
 11 they done multiple?
 12 **A. I have seen more than one video, but I just**
 13 **don't know the dates of their creations.**
 14 Q. Have any of those videos included a mention
 15 of transgender individuals being covered by this policy?
 16 **A. Again, I don't believe it uses the phrase**
 17 **transgender, but it does deal with bullying and**
 18 **harassment, and -- and it talks about people being**
 19 **different, and students respecting others in their, you**
 20 **know, differences, and equality.**
 21 **I mean, it -- it deals with issues**
 22 **related to it, but I don't know if it uses the phrase**

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10:43:57 1 **transgender.**
 2 Q. Mm-hmm.
 3 So if a particular student quarterly
 4 training did say, did include a mention of transgender
 5 individuals being covered, it would have been in the
 6 non-video portion of the training; is that right?
 7 **A. No. I'm saying that I'm not certain whether**
 8 **the video portion makes reference to it, using the phrase**
 9 **transgender. That's...**
 10 Q. Right.
 11 So is the phrase transgender used in the
 12 oral portion of those trainings that's not video?
 13 **A. I don't know.**
 14 Q. You don't know. Okay.
 15 **A. I'm not certain is the better answer.**
 16 Q. So you don't know if it happened -- never
 17 mind. Scratch that.
 18 So you noted before that this is a 2014
 19 to 2015 policy -- sorry, student code of conduct. Is
 20 this code of conduct updated; has it been updated
 21 regularly?
 22 **A. So a new code of conduct is issued every**

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10:45:03 1 **year. Sometimes there are not substantive changes other**
 2 **than the change of the year.**
 3 **Sometimes there are other changes; but**
 4 **generally speaking, the general language that I read from**
 5 **initially as well as the bullying and harassment portion**
 6 **of it that addresses -- that deals with bullying and**
 7 **harassment and intimidation that's motivated by an**
 8 **actual, perceived personal characteristic, including**
 9 **race, national origin, marital status, sex, sexual**
 10 **orientation, gender identity, religion, ancestry,**
 11 **physical attributes, socioeconomic status, familial**
 12 **status or physical or mental ability or disability or**
 13 **threatening or seriously intimidating, is how it's**
 14 **outlined in the bullying and harassment and intimidation**
 15 **portion on page 13, that language has remained consistent**
 16 **during the time frame.**
 17 Q. By the time frame, do you mean from 2011 to
 18 today?
 19 **A. Right. That's what we're talking about,**
 20 **right?**
 21 Q. Well, yeah. No, I'm curious. There's
 22 various time frames we could talk about.

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10:46:23 1 **A. Well, I thought you just prefaced your**
 2 **question with a time frame.**
 3 Q. I might have. So if I did, it would have
 4 been 2011 to 2016.
 5 **A. Okay.**
 6 Q. So has that been consistent?
 7 **A. So, yes.**
 8 Q. Thank you.
 9 It had been a while since I'd asked my
 10 question. I forgot.
 11 The trainings that we discussed before
 12 with school administrators about how to implement the
 13 administrative policy, 4170, is that the same training
 14 that would cover how to implement the student code of
 15 conduct, or are there separate trainings for school
 16 administrators on that?
 17 **A. There are separate trainings. I mean, they**
 18 **sometimes occur within the same block of time, but the**
 19 **training itself is separate.**
 20 Q. Do you know within the 2011 to 2016 time
 21 frame if any of those trainings had instruction on how to
 22 prevent discrimination against a person who is

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10:47:14 1 transgender using the code of conduct as a guide?
 2 **A. So the time frame we're using is 2011**
 3 **through --**
 4 Q. '16.
 5 **A. -- and 2016.**
 6 **So in 2015 the Maryland State Department**
 7 **of Education issued guidance regarding creating safe**
 8 **spaces for transgender and gender non-conforming**
 9 **students, and so we have adopted those guidelines, and**
 10 **provide training to school administrators using that as a**
 11 **basis in conjunction with the student code of conduct,**
 12 **for administrators.**
 13 Q. Prior to that directive being published in
 14 2015, had there been any student code of conduct related
 15 trainings for administrators that covered protecting
 16 transgender individuals from discrimination or bullying
 17 and harassment?
 18 **A. So, I mean, what's incorporated in the**
 19 **student code of conduct was certainly provided in the**
 20 **training. And gender identity is a part of the student**
 21 **code of conduct, so the trainings would have included**
 22 **that prior to 2015. But certainly in 2015 when MSDE**

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10:48:52 1 **issued its guidance, then we incorporated that a part of**
 2 **the training as well.**
 3 Q. Would those pre-2015 trainings have included
 4 a discussion of how to respect a person's gender
 5 identity?
 6 **A. I think it would have -- the discussion**
 7 **would have been generally speaking of how to respect**
 8 **students who fall within all of the different categories**
 9 **of protected classes. Not necessarily just specific to**
 10 **gender identity. But it would have made reference to**
 11 **gender identity as it's referenced in the student code of**
 12 **conduct, but it would have included race as well as**
 13 **there's lots of issues involving, you know, people of**
 14 **different races, and students of different cultural**
 15 **backgrounds, and many of our schools have large immigrant**
 16 **communities, and so all of those issues would have been a**
 17 **part of that training because for administrators, the**
 18 **training that we're trying to provide is helping them to**
 19 **ensure that they've got a cohesive student environment**
 20 **where all of the students are treated fairly and everyone**
 21 **has a safe place to come and receive an education.**
 22 **So that training would have included all**

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10:50:09 1 **of the different areas of protected classes.**
 2 Q. And I definitely understand how, you know,
 3 all of these protected classes are being mentioned during
 4 these trainings, these pre-2015 trainings.
 5 But I guess I'm just trying to figure
 6 out, you know, is even a single sentence dedicated to
 7 just saying what is required to respect a person's gender
 8 identity? A separate sentence on its own, is that
 9 provided in any of these trainings, or is it just like a
 10 gender identity comma, sexual orientation, comma, these
 11 are all things that are protected?
 12 MR. SHARMA: Objection. You can answer.
 13 **A. I can't speak specifically as to the number**
 14 **of sentences or the amount of time, but I can say that**
 15 **all of the different protective classes have the same**
 16 **amount of importance and weight.**
 17 **So it's not as if any one protected**
 18 **class is -- is deemed to be more important than another.**
 19 **So I think that's the general premise**
 20 **that's attempted to be given in a training session.**
 21 Q. Do these training sessions make any attempts
 22 to discuss in more detail some of the struggles, for

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10:51:26 1 example, of someone who is an immigrant and how to
 2 address those struggles?
 3 **A. I don't -- maybe give me context for your**
 4 **question.**
 5 Q. No real context, but I'll explain a little
 6 bit more. You know, I'm just trying to figure out if
 7 there is any -- other than saying, you know, we need to
 8 protect people who are immigrants from discrimination
 9 that they might face, is there any further discussion of,
 10 these are some of the things that are unique to an
 11 immigrant that they may face, these are how we can
 12 address those issues?
 13 **A. I -- I think there have been -- I mean,**
 14 **perhaps there have been conversations on that, but --**
 15 **well, I know there have been conversations about it, but**
 16 **there's not a separate part of these general diversity**
 17 **inclusion trainings that are given specific for**
 18 **immigrants, or specific for students who come that are**
 19 **older or, you know, that's not the intended purpose. The**
 20 **intended purpose is to ensure that administrators are**
 21 **creating environments where people that fall in any one**
 22 **of these categories are feeling that they're treated with**

10:52:47 1 **equity.**
 2 Q. So if I'm understanding it correctly, these
 3 trainings cover, you know, general inclusion, general
 4 diversity efforts that administrators can make, but not
 5 necessarily how to address specific struggles that
 6 certain protected classes might have?
 7 MR. SHARMA: Objection. You can answer.
 8 **A. Yeah, and I don't know that I want to say**
 9 **that that's entirely accurate. And particularly because**
 10 **the immigrant question is just -- there's such a broad or**
 11 **other kind of whole dynamic that governs that; but no,**
 12 **these trainings are not meant to specifically single out**
 13 **any one particular protected class in providing in-depth**
 14 **training for any one issue.**
 15 Q. I don't mean to say we're singling one out,
 16 I kind of just mean taking them all and kind of getting
 17 more in-depth into each of these protected classes. It
 18 sounds like that doesn't happen in these trainings.
 19 MR. SHARMA: Objection. You can answer.
 20 **A. Depending on how you would identify**
 21 **in-depth.**
 22 Q. Okay.

10:53:52 1 **A. I mean, we could have, you know, week-long**
 2 **seminars dealing with how to address the immigrant issue**
 3 **and making sure --**
 4 Q. Sure.
 5 **A. -- making sure that students that are coming**
 6 **from, you know, other countries are -- so and still not**
 7 **have scratched the surface, so...**
 8 Q. Absolutely correct. Absolutely correct.
 9 I guess, you know, let's try to narrow
 10 it. So in one of these trainings, would there be
 11 different bullet points, let's talk about issues related
 12 to immigrants, let's talk about issues related to
 13 transgender individuals, let's talk about issues related
 14 to religion, race, et cetera?
 15 **A. They're probably -- I mean, the bullets**
 16 **exist to identify the categories, but I don't know that**
 17 **there's -- or I can't speak to how in-depth the**
 18 **conversation is thereafter.**
 19 **Again, much of it depends on kind of**
 20 **what the real world experiences that principals are**
 21 **undertaking at the time. And, you know, in certain times**
 22 **there's one particular issue that may be something that**

10:54:53 1 **they're seeing a lot of, so there may be more questions**
 2 **about it, so some aspect of the training gets a greater**
 3 **amount of time just based on sheer inquiry by the**
 4 **audience.**
 5 **But I can't speak specifically to how**
 6 **much time is being given.**
 7 Q. I'd like to give you Exhibit -- what's been
 8 previously designated as Exhibit 33.
 9 (Previously marked Plaintiff's Exhibit 33, "Providing
 10 Safe Spaces For Transgender and Gender Non-Conforming
 11 Youth. Guidelines For Gender Identity,
 12 Non-Discrimination", was presented.)
 13 Q. Have you seen this document before?
 14 **A. Yes, I have.**
 15 Q. Could you tell me what it is.
 16 **A. Its title is: "Providing Safe Spaces For**
 17 **Transgender and Gender Non-Conforming Youth. Guidelines**
 18 **For Gender Identity, Non-Discrimination."**
 19 Q. I believe you previously testified about a
 20 Maryland State Department of Education 2015 publication.
 21 Is that this same document?
 22 **A. Yes, it is.**

10:56:10 1 Q. Great. How is it -- you alluded to this
 2 before, but upon receiving this document, how have you
 3 incorporated this into your role?
 4 **A. Well, I utilize this as guidance in making**
 5 **decisions that -- involving students and making**
 6 **recommendations involving students that fall within this**
 7 **category.**
 8 Q. And have you discussed this policy with
 9 others in the school system?
 10 **A. Yes.**
 11 Q. Who else?
 12 **A. So as I believe I shared, this guidance has**
 13 **been conveyed to all of our superintendents. It has been**
 14 **conveyed to all of our principals and their leadership**
 15 **team as well as our school psychologists and our guidance**
 16 **counselors.**
 17 **I'm trying to think if I'm missing**
 18 **another group of people, but -- but this guidance has**
 19 **been circulated to all of those individuals that I**
 20 **mentioned.**
 21 Q. And this is dated October 2015; is that
 22 correct?

10:57:21 1 **A. Yes.**
 2 Q. Do you know if that's when you received this
 3 guidance?
 4 **A. I actually received it a bit before October,**
 5 **but yes.**
 6 Q. Oh. And in what context would you have
 7 received it before that date?
 8 **A. Well, MSDE actually forwarded it to us**
 9 **before it actually was published in its final format.**
 10 Q. And by "us," who is it that received that
 11 guidance?
 12 **A. The Title IX coordinators for school**
 13 **systems.**
 14 Q. How soon, or do you recall when you first
 15 distributed this to school administrators?
 16 **A. It would have been in October when we**
 17 **received official word that it had been adopted --**
 18 Q. Okay.
 19 **A. -- and was safe for circulation.**
 20 Q. And how was it distributed?
 21 **A. Via e-mail communication.**
 22 Q. And any other methods?

10:58:25 1 **A. Well, I know the mass distribution was done**
 2 **via e-mail, and I believe there was a memo that attached**
 3 **it or some communication that identified the document**
 4 **that was being shared.**
 5 Q. And would that have been a memo that you
 6 drafted or someone else?
 7 **A. No. It would not have been drafted by me.**
 8 **It would have come either from the communications office**
 9 **or perhaps from one of the superintendents' office. It**
 10 **would not have come from me.**
 11 Q. But you've seen that memo before?
 12 **A. I've seen the communication, yes.**
 13 Q. Okay.
 14 **A. I don't recall if it was actually a separate**
 15 **memo, or if it was just an e-mail, yes.**
 16 Q. Do you recall if it had any content other
 17 than, please see this new policy -- I'm sorry, this new
 18 guidance that has been adopted or was there kind of more
 19 interpretation or discussion about it in that
 20 communication?
 21 **A. There was no interpretation, but it**
 22 **certainly identified the document, and what its intended**

10:59:35 1 **purpose was.**
 2 Q. Okay.
 3 **A. Which is to guide administrators in making**
 4 **decisions that involved these issues.**
 5 Q. Do you know if there was a predecessor
 6 guidance to this that would have been similar from the
 7 Maryland State Department of Education?
 8 **A. Not to my knowledge.**
 9 Q. Do you know if this was distributed to
 10 teachers as well?
 11 **A. I don't know if it was distributed to**
 12 **teachers.**
 13 Q. Is this -- I imagine that this guidance is
 14 provided someplace on the Maryland State Department of
 15 Education website. Do you know if that's true?
 16 **A. I can't speak definitively.**
 17 Q. Do you know if it's also provided someplace
 18 on Prince George's County website, Prince George's County
 19 Public Schools' website?
 20 **A. I don't know if it's on the website or not.**
 21 Q. Do you know if a teacher wanted to access
 22 this, if there's a way for them to do so?

11:00:41 1 **A. Electronically or just to otherwise have**
 2 **access?**
 3 Q. In any way.
 4 **A. Sure. If a teacher wanted access, they**
 5 **could have access to this document.**
 6 Q. How would they do that?
 7 **A. They'd have to inquire. I don't know if**
 8 **it's actually posted.**
 9 Q. So they'd have to ask their school
 10 administrator or someone in the central office?
 11 **A. A guidance counselor or school psychologist.**
 12 Q. Okay.
 13 How would a teacher know that it exists
 14 in order to ask for it?
 15 MR. SHARMA: Objection.
 16 **A. Well, I don't know that the teacher would**
 17 **necessarily have to ask for this specifically, but if**
 18 **they were asking for assistance in addressing an issue**
 19 **that's governed by this guideline, then they would**
 20 **receive this as -- in response. That in support.**
 21 Q. Is there someone whose responsibility it is
 22 to consider whether there are gaps in existing policies

11:01:45 1 or protocols concerning diversity or non-discrimination
 2 that might require a change?
 3 **A. Whose responsibility is in determining if**
 4 **there are gaps.**
 5 Q. Mm-hmm.
 6 **A. I, I don't know if there is someone who**
 7 **singularly maintains that as their exclusive function,**
 8 **but certainly, there are probably any number of**
 9 **individuals who are interested, if there are any gaps as**
 10 **it relates to those issues and others.**
 11 Q. Who are some of the people who might, if
 12 it's not the responsibility, at least be in a position to
 13 suggest changes or updates to policies?
 14 **A. Well, certainly, I could make a**
 15 **recommendation for change. Certainly, any of the**
 16 **superintendents or school administrators. I mean, I**
 17 **don't think -- anyone can make a recommendation for**
 18 **change. I mean, a student can.**
 19 Q. Sure.
 20 **A. A teacher. Anyone within our school**
 21 **community has an opportunity to raise a concern and make**
 22 **a modification -- you know, make a request for**

11:02:59 1 **modification.**
 2 Q. But it sounds like there's no one who has,
 3 as part of their job responsibility, you know, evaluating
 4 whether policies should be updated or changed?
 5 MR. SHARMA: Objection. You can answer.
 6 **A. I don't know that evaluating whether they**
 7 **are -- whether a policy should be modified or changed**
 8 **falls within my job description, but certainly, I would**
 9 **be an appropriate person to make a recommendation on**
 10 **those particular issues.**
 11 Q. Have you made a recommendation on changes to
 12 policies or protocols concerning diversity or
 13 non-discrimination?
 14 **A. I have made certain recommendations.**
 15 Q. What are those recommendations you've made?
 16 **A. Well, one of them was the modifications so**
 17 **that the positions were aligned based on the current**
 18 **titles of individuals who fall within the chain for**
 19 **reporting.**
 20 Q. I'm sorry. The chain for reporting...
 21 **A. So I mentioned earlier the administrative**
 22 **procedure 4170 that was issued in 2000 made references to**

11:04:24 1 **certain titles of individuals, regional, associate -- I**
 2 **can't even remember what they are; but based on how the**
 3 **school system has been restructured over time, those**
 4 **particular titles no longer exist.**
 5 **So the modification was made so that the**
 6 **titles aligned to the current structure within the school**
 7 **system.**
 8 Q. Have there been any other recommendations
 9 that you've made to address policies concerning diversity
 10 or non-discrimination?
 11 **A. I have.**
 12 **So there's also an administrative**
 13 **procedure that has been implemented that addresses**
 14 **general workplace dispute resolution, and that policy**
 15 **doesn't make specific reference to an employee's need to**
 16 **fall within a protected class in order to raise the**
 17 **issue.**
 18 **And that recommendation was made because**
 19 **we have found that many of the complaints that are filed**
 20 **under the 4170 procedure don't allege or articulate that**
 21 **employees are actually being discriminated against**
 22 **because of their membership in a protected class, but**

11:05:55 1 **otherwise just articulate workplace disputes that have**
 2 **not been resolved.**
 3 **So I recommended that we create a**
 4 **procedure that provides another avenue for employees to**
 5 **have resolution for their disputes outside of having to**
 6 **file what they deemed to be their only course -- only**
 7 **recourse via the 4170 process.**
 8 **So the thought is that that would help**
 9 **to create resolution for those disputes at the earliest**
 10 **opportunity, and not be inappropriately funneled through**
 11 **the 4170 process.**
 12 Q. Have you made any other recommendations or
 13 changes to existing policies about diversity or
 14 non-discrimination?
 15 **A. You said policies.**
 16 Q. Mm-hmm.
 17 **A. I feel that the Board has actually adopted a**
 18 **policy, but I'm not certain if that was -- when that**
 19 **actually was.**
 20 **So that's all that I can think of at**
 21 **this time.**
 22 Q. And do you know if anyone else, aside from

11:07:09 1 yourself of course, has made any recommendations
 2 concerning changes to policies concerning diversity or
 3 non-discrimination since 2011?
 4 **A. I don't know what other recommendations may**
 5 **have been made by anyone else within the school system,**
 6 **broadly speaking, from 2011 forward.**
 7 Q. A little bit more narrow, then.
 8 Do you know of any changes that have
 9 been made other than the 2018 changes that you mentioned,
 10 and the other, the new procedure -- any other changes in
 11 policies since 2011 that relate to diversity or
 12 non-discrimination policies?
 13 **A. Other than utilizing this, the "Providing**
 14 **safe space" as a guidance. I'm not aware.**
 15 Q. Is there someone at the school system who
 16 looks to data concerning complaints about
 17 non-discrimination, evaluating that data about complaints
 18 about discrimination?
 19 **A. Related to employees or students?**
 20 Q. Let's start with employees.
 21 **A. And the question is, if there is someone**
 22 **that is assigned to review that data.**

11:08:33 1 Q. Correct.
 2 **A. So, I mean, annually, we provide information**
 3 **with regards to complaints that have been received and**
 4 **processed by my office. And that information is conveyed**
 5 **to the chief of staff.**
 6 Q. Is that the chief of staff for the
 7 superintendent?
 8 **A. Correct.**
 9 Q. And that data is provided on an annual
 10 basis, you said?
 11 **A. So, yes. And obviously, we have new**
 12 **leadership now, and so there's certain things that have**
 13 **changed as a result of that; but generally speaking, it**
 14 **is an annual.**
 15 Q. Does that data include information about
 16 what protected class a person might identify as, as part
 17 of their complaint of discrimination?
 18 **A. I'm not certain how specific the information**
 19 **has been. I know we have provided information regarding**
 20 **protected class information, but I'm not certain if that**
 21 **was in response to the annual reporting, and I'm using**
 22 **that in air quotes, that I'm speaking of.**

11:09:57 1 Q. Is there someone whose role it is to
 2 evaluate the efficacy of defendant's policies for
 3 preventing discrimination?
 4 **A. I think that would fall within the same**
 5 **classification as the review of data and someone that**
 6 **would be aware of gaps in the policy. I feel like**
 7 **that -- like that's an umbrella term that would include**
 8 **that information as well.**
 9 **So certainly there are various offices**
 10 **that would be interested in that information, and could**
 11 **make certain observations or determinations; but outside**
 12 **of me and my role, there's not anyone else to my**
 13 **knowledge that is assigned by the school system to review**
 14 **data or efficacy or gaps in policies or procedures**
 15 **related to discrimination.**
 16 Q. Mm-hmm.
 17 When you provide that data which
 18 sometimes is on an annual basis to the chief of staff, do
 19 you know if that data gets distributed to other offices?
 20 **A. I don't know that.**
 21 Q. Do you know if that data is reviewed by the
 22 superintendent?

11:11:25 1 **A. I presume that.**
 2 Q. Is the data reviewed by the chief of staff?
 3 **A. I presume that as well.**
 4 Q. After providing the data, have you ever
 5 received questions from anyone about the data?
 6 **A. Yes. I have had follow-ups.**
 7 Q. Is that something that's regular; every year
 8 when you provide the data, you get follow-up, or just a
 9 few times?
 10 **A. So again, it -- it very much depends on kind**
 11 **of leadership, and their particular style.**
 12 **So I have had follow-up questions, but**
 13 **it's not something that I would say happens every single**
 14 **time. I don't know that there -- I can identify a**
 15 **pattern of conduct regarding that.**
 16 Q. Okay.
 17 Do you recall if you've ever received
 18 any follow-up concerning the efficacy of the school
 19 system's policies and the data regarding discrimination
 20 against people who are transgender?
 21 **A. I have not received follow-up as it relates**
 22 **to the efficacy of the policies and data as it relates to**

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11:12:39 1 **employees who are transgender.**

2 Q. Please correct me if I'm wrong, but it

3 sounds like there's never been a formal process of

4 evaluating the efficacy of defendant's policies

5 concerning non-discrimination against transgender people

6 since 2011 to today.

7 MR. SHARMA: Objection. You can answer.

8 **A. Your conclusion that there has not been any**

9 **evaluation regarding the efficacy of the policies as it**

10 **relates to transgender employees I don't believe is**

11 **correct.**

12 Q. I asked if there was a formal process for

13 doing it?

14 **A. Well, there's not a formal process, but...**

15 Q. So you would say there's an informal

16 process; is that right?

17 **A. I'm cautious just because I don't**

18 **necessarily believe that there's a process. There's --**

19 Q. Okay.

20 **A. Sometimes if someone requests information, I**

21 **do my best to provide it.**

22 Q. Okay.

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11:13:49 1 **A. But I don't identify a formal or informal**

2 **process.**

3 Q. Have you ever specifically been asked, can

4 you please provide data that will help us evaluate the

5 efficacy of our non-discrimination policies as they

6 relate to transgender individuals?

7 **A. That specific question has not been asked of**

8 **me.**

9 Q. Has a related question been asked of you?

10 **A. Well, I've been asked the question as to**

11 **whether there are other transgender employees who have**

12 **complaints, and the answer to that question has been no.**

13 **So there's no objective data to suggest that there's any**

14 **gap or that the policies and procedures that we have have**

15 **been inefficient in addressing transgender employees.**

16 **I mean, obviously, we have a case, a**

17 **filed case, but outside of that, there have not been**

18 **others.**

19 Q. Who has the authority to make any change to

20 defendant's policies regarding non-discrimination and

21 diversity?

22 **A. So policies have to be adopted by the Board.**

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11:15:33 1 **So that's -- I think that's the answer to your question.**

2 **You said policy, right?**

3 Q. Yes. That's right, yes. Thank you.

4 How does that process work, that Board

5 approval process?

6 **A. So the Board has a committee. I'm not --**

7 **it's not legislative, but there is a sub-committee of the**

8 **Board that either makes a request or in instances where**

9 **we deem that there's a need for a change, that**

10 **information is presented to, and then they -- that what's**

11 **being either requested by them to us or that we are**

12 **requesting for them to review, and then ultimately a**

13 **process to which -- after initial presentation we're**

14 **generally not part of, there's a determination as to**

15 **whether a policy is going to be approved or whether there**

16 **will be changes, et cetera.**

17 Q. Does that -- or has that committee ever

18 requested from your office, data that might inform a

19 policy change?

20 **A. I don't know because they well could have**

21 **made that request, but it's not coming directly from that**

22 **committee to me.**

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11:17:03 1 **So some of the information that I have**

2 **provided in the past could well be responsive to a**

3 **request from that committee, but I wouldn't necessarily**

4 **know that.**

5 Q. So the committee might have asked, like the

6 chief of staff for example, who received the data, but

7 you don't know?

8 **A. CEO's office, and then a request comes from**

9 **there, so I don't know.**

10 Q. We discussed a few policies and I just want

11 to make sure that we cover the bases. In the 2011 to

12 2016 time period, were there any other policies of Prince

13 George's County Public Schools that would have related to

14 non-discrimination as it relates to transgender

15 individuals that we've not yet discussed?

16 **A. No, I don't believe so. I mean, there is a**

17 **general Board policy that states the Board's**

18 **non-discrimination position, but I think specifically the**

19 **two policies that we've discussed as it relates to**

20 **students and employees are the two that would govern for**

21 **transgenderers.**

22 Q. Are you familiar with the proposed workplace

11:18:26 1 bullying policy that was proposed at the Board's policy
 2 and governance committee's February 12, 2020, meeting?
 3 **A. February 12, 2020?**
 4 Q. Yes. Breaking news.
 5 MR. SHARMA: I'll object. I think this
 6 is outside the scope of the notice. But you can answer.
 7 **A. I'm familiar with the policy.**
 8 MR. SHARMA: Is this a good time for a
 9 break?
 10 MR. MOGUL: Sure. Let's take a break.
 11 MS. CHEEMA: There's a pending question.
 12 MR. MOGUL: No, no. She answered. She
 13 wasn't aware -- or she was aware.
 14 MS. CHEEMA: I'm sorry.
 15 MR. MOGUL: You did answer.
 16 THE WITNESS: Yes, I did.
 17 MR. MOGUL: We can take a break.
 18 MS. CHEEMA: I'm sorry.
 19 (RECESS, 11:19 a.m. - 11:37 a.m.)
 20 BY MR. MOGUL:
 21 Q. I'd like to show you an exhibit we're going
 22 to mark as 90.

11:38:12 1 Ms. Simmons, are you familiar with this
 2 document?
 3 **A. So, yes. Yes, I have seen this before.**
 4 Q. Is this the proposed workplace bullying
 5 policy that we just mentioned just before the break?
 6 **A. No.**
 7 Q. I'm sorry. No?
 8 **A. I don't believe so.**
 9 Q. Oh, okay. Oh, then what is this?
 10 **A. This looks like the policy that accompanies**
 11 **the administrative procedure 5143, which is the bullying,**
 12 **harassment, and intimidation administrative procedure**
 13 **that applies to students.**
 14 Q. Oh. Did we get -- maybe we gave her the
 15 wrong document. Yes, we did give her the wrong one.
 16 Sorry, we gave you the wrong one.
 17 (They unmarked the first Exhibit 90 and are remarking
 18 Exhibit 90.)
 19 (Plaintiff's Exhibit 90, PGCPs Board of Education Policy,
 20 was marked for identification.)
 21 BY MR. MOGUL:
 22 Q. Do you recognize this document?

11:39:40 1 **A. Yes.**
 2 Q. Is this the proposed workplace bullying
 3 policy that we discussed just before the break?
 4 **A. Yes. It appears to be.**
 5 MR. SHARMA: You will give me a
 6 continuing objection?
 7 MR. MOGUL: Yes.
 8 MR. SHARMA: Thank you.
 9 Q. Does this proposed policy replace a
 10 currently -- is this intended to replace a currently
 11 existing policy, or is it a new policy?
 12 **A. It's a new policy.**
 13 Q. Did you have any involvement in the -- in
 14 putting together this policy?
 15 **A. I did.**
 16 Q. What was your involvement?
 17 **A. I met with the Board's committee, as I**
 18 **described the process just a few questions ago, as it**
 19 **relates to this particular policy, and provided responses**
 20 **to the inquiries with regards to this issue.**
 21 Q. Do you know who was behind proposing this
 22 policy?

11:41:06 1 **A. I think it was a confluence of factors, but**
 2 **I'm certain that some of it stemmed from my office.**
 3 Q. Okay. Okay.
 4 So I'd like to now return to the topic
 5 of training. I know we've already talked about it some.
 6 I'm just going to try to cover any training that we
 7 haven't yet discussed.
 8 So if an answer to one of my questions
 9 is something that we've already discussed, please just
 10 let me know and we don't have to go through it again.
 11 **A. Okay.**
 12 Q. So from the 2011 to 2016 period, other than
 13 the training you've already discussed, did school
 14 administrators receive any other training about
 15 non-discrimination?
 16 **A. Other than the training that we've**
 17 **discussed. So the -- this is just the school**
 18 **administrators.**
 19 Q. School administrators.
 20 **A. Through 2016 --**
 21 Q. Mm-hmm.
 22 **A. -- is when this is.**

11:42:17 1 **So I believe there has been training**
 2 **that they received during that time period, yes.**
 3 Q. From 2011 through 2016, what training did
 4 teachers receive regarding non-discrimination?
 5 **A. So teachers receive annual training during**
 6 **the pre-service week prior to students returning to**
 7 **school, and they receive training related to the student**
 8 **code of conduct as well as administrative 4170, similar**
 9 **to the training that is provided for school**
 10 **administrators. Obviously, the school administrators are**
 11 **conducting the training as it relates to their specific**
 12 **staff.**
 13 Q. And what is the format of those trainings
 14 for teachers?
 15 **A. During that time period, it would have been**
 16 **live training that was conducted, typically in the school**
 17 **setting by school administrators.**
 18 Q. So it was -- was it typical, then, for the
 19 people conducting the training to just be the in-school
 20 administrators?
 21 **A. Primarily so. I think there are instances**
 22 **where there may be training that is conducted by someone**

11:43:51 1 **from the superintendent's office or something, but it is**
 2 **primarily the school administrators providing training**
 3 **for their specific staff.**
 4 Q. And about what length of time was spent on
 5 non-discrimination in particular for those pre-service
 6 week trainings?
 7 **A. I'm not certain the amount of time that was**
 8 **spent on non-discrimination during the pre-service week**
 9 **trainings.**
 10 Q. Would it have been a dedicated session for
 11 non-discrimination during those pre-service week
 12 trainings?
 13 **A. Probably so. Again, they would receive the**
 14 **training as it relates to the student issues, and then**
 15 **separately as it relates to employees.**
 16 Q. So this might have been separate sessions?
 17 **A. Correct.**
 18 Q. Were those sessions mandatory?
 19 **A. Yes.**
 20 Q. Those -- focusing just on the pre-service
 21 trainings, annual trainings, did that training provide
 22 any skills or techniques to understand bias?

11:45:09 1 **A. I do know that bias is an issue that is**
 2 **raised in the -- within the context of diversity**
 3 **inclusion. I can't state specifically to what extent**
 4 **bias was, you know, discussed, but that is a frequent**
 5 **topic that's discussed during these kinds of trainings.**
 6 **An individual's inherent bias and how we**
 7 **all come to the table with them, and that it's, you know,**
 8 **incumbent that everyone step outside of their own kind of**
 9 **beliefs or preconceived ideas in dealing with students**
 10 **and other people within the community.**
 11 Q. And that discussion of bias took place
 12 starting in -- or throughout the 2011 to 2016 period?
 13 **A. Yes. At least. Mm-hmm.**
 14 Q. Did the training cover non-discrimination
 15 concerning transgender individuals?
 16 **A. So I -- yes, it would have covered**
 17 **transgender individuals as well.**
 18 Q. How was that discussed? Was it similar in
 19 content and length as the trainings we discussed about --
 20 with the school administrators?
 21 **A. Probably, yes.**
 22 Q. Would it have been any more extensive for

11:46:46 1 those trainings, the discussion of transgender
 2 individuals?
 3 **A. I can't say definitively because, again,**
 4 **many of the discussions are premised upon the questions**
 5 **and comments that are raised in any particular building.**
 6 **So you know, there may have been more**
 7 **extended conversations about transgender issues in one**
 8 **particular school than in others, but I can't state**
 9 **specifically.**
 10 Q. In the 2011 to 2016 period, were there any
 11 written materials that accompanied this training for
 12 teachers?
 13 **A. Yes. I'm sure there were some written**
 14 **materials.**
 15 Q. Where can we find those?
 16 **A. I don't know. I -- they aren't housed by my**
 17 **office, but each administrator is responsible for**
 18 **providing a certification that certain issues were**
 19 **covered during their pre-service training, and that would**
 20 **have gone to, you know, their area superintendent, but I**
 21 **don't know that the actual training materials themselves**
 22 **are forwarded as a part of that process.**

11:48:13 1 Q. Were the training materials uniform across
 2 all -- for example, across all high schools, those
 3 written materials?
 4 A. I can't speak to that. I don't -- I don't
 5 know. At one point -- and I don't know in the continuum,
 6 there was a -- they called them bulletins that went out
 7 that had the same materials that went to all of the high
 8 schools or all of the elementary schools, that covered
 9 the areas that needed to be covered during the trainings.
 10 But I don't know if that constitutes the totality of the
 11 written materials that the staff members would have
 12 received.
 13 Q. Do you remember if there were written
 14 materials specifically about non-discrimination?
 15 A. Yes, there were.
 16 Q. And aside from --
 17 A. That's what I have been advised.
 18 Q. And aside from the student code of conduct
 19 and policy 4170 itself, were there other written
 20 materials about non-discrimination?
 21 A. I believe so. I don't know what all they
 22 may have included with them.

11:49:27 1 Q. Do you know if there were any written
 2 materials -- again, other than those two -- that would
 3 have discussed non-discrimination with regard to
 4 transgender individuals?
 5 A. I don't know that. I mean, my response is
 6 the same. Essentially, that I know that the general
 7 topic area that was covered, but I don't know -- and that
 8 that topic included the administrative procedures, but I
 9 don't know what all in addition may have been included.
 10 Q. Other deponents have told us that there's
 11 online training modules.
 12 A. Mm-hmm.
 13 Q. When did those start?
 14 A. I believe that that began in school year
 15 2016-'17.
 16 Well, I believe it began in 2017. I
 17 don't know if it encompassed the school year '16-'17 or
 18 whether it encompassed school year '17-'18.
 19 Q. So prior to that, it was these live
 20 discussions that have been replaced or supplemented by
 21 the online training? I'm just curious how that
 22 transition worked.

11:50:42 1 A. I believe that it has been -- they do a
 2 combination as well. The online training is mandatory as
 3 well, but the teachers still have mandatory pre-season --
 4 pre-season, that's not right.
 5 Pre-service training as well. So they
 6 both still exist, so yes.
 7 Q. Are you aware of any changes to the content
 8 of the training that the teachers received between 2011
 9 and 2016, specifically regarding to non-discrimination of
 10 transgender people?
 11 A. Any changes. I'm not aware.
 12 Q. Are you aware of any changes to the type of
 13 training teachers receive regarding non-discrimination of
 14 transgender people since 2016?
 15 A. So when you say changes, what do you mean?
 16 I mean, I know, of course, in its essence, but you mean
 17 like...
 18 Q. Additional contents, less contents, new
 19 contents?
 20 A. I don't believe there have been any
 21 substantive changes to the overall training regarding
 22 non-discrimination as it relates to transgender.

11:52:18 1 Now, whether there have been changes as
 2 far as the manner in which the material is given, or a
 3 hypothetical that may exist this year that didn't exist
 4 last year, perhaps, but the substantive directives have
 5 remained the same.
 6 Q. Mm-hmm.
 7 During the 2011 through 2016 period,
 8 because those trainings were conducted live, within
 9 school for teachers, would those -- would hypotheticals
 10 that are being used be different in every school, or
 11 would there have been a consistent set of hypotheticals?
 12 A. For purposes of my trainings, they would
 13 have been the same for every audience in which I was
 14 providing training.
 15 Certainly within schools, sure. The
 16 hypothetical could -- may be different that's based on
 17 the issues in that particular school than it may be in
 18 another high school down the road. So that's possible.
 19 Q. I guess I should have asked this before.
 20 Have you provided training -- or sorry, within the 2014
 21 to 2016 period, did you provide training for teachers
 22 within schools as well?

11:53:35 1 **A. No. The training I would have done would**
 2 **have been related to administrators --**
 3 Q. Okay.
 4 **A. -- in schools, so...**
 5 Q. Have you made any recommendations to change
 6 the type of training that teachers receive on
 7 non-discrimination as it relates to transgender people?
 8 **A. You know what? I have to back up. I did**
 9 **provide some training that went to teachers as well.**
 10 Q. Okay.
 11 **A. It was -- but generally speaking, it's**
 12 **typically being done for administrators; but I just**
 13 **thought of an instance where I know I had gone to a**
 14 **school and done some training specific for an entire**
 15 **school staff, so.**
 16 Q. Okay.
 17 **A. But what was the question?**
 18 Q. Actually I'd like to ask you a follow-up on
 19 what you just said.
 20 **A. Sure.**
 21 Q. So that training that you did within the
 22 school, was that part of the pre-service week training?

11:54:27 1 **A. No, this training was provided during the**
 2 **course of a staff meeting.**
 3 Q. Okay.
 4 **A. And it was just additional information that**
 5 **the administrator asked.**
 6 Q. Okay. What was the subject matter of that?
 7 **A. Just the general 4170 process.**
 8 Q. So it sounds like it's possible for
 9 administrators to request supplemental training for their
 10 staff from your office?
 11 **A. Within the confines of the contractual**
 12 **limitations required of the class of employees that are**
 13 **receiving the training, yes.**
 14 Q. And these were teachers who were receiving
 15 this training from you?
 16 **A. In this particular case, yes.**
 17 Q. Okay. About how long was that training?
 18 **A. It was within the confines of their normal**
 19 **staff meeting, so it would have probably been maybe 15**
 20 **minutes.**
 21 Q. Did that training include any discussion of
 22 non-discrimination against transgender people?

11:55:27 1 **A. No, this was just general 4170.**
 2 Q. Okay.
 3 **A. And to the extent that that includes**
 4 **transgender, then of course, yes, it's included, but**
 5 **not -- transgender individuals were not specific to that**
 6 **training.**
 7 Q. Do you recall what school that was at?
 8 **A. I believe it was Northwestern High School.**
 9 Q. Going back to my prior question, have you
 10 made any recommendations to change the type of training
 11 that teachers receive on non-discrimination as it relates
 12 to transgender people?
 13 **A. I have not made any recommendations specific**
 14 **to changes related to transgender individuals, no.**
 15 Q. Have you made any recommendations about
 16 changes to the type of training teachers receive on
 17 non-discrimination as it relates to LGBT people?
 18 **A. No, I have not.**
 19 Q. Have you been involved in any such
 20 discussions?
 21 **A. Discussions regarding changes to training**
 22 **regarding LGBT...**

11:56:44 1 Q. Correct.
 2 **A. Well, there are constant discussions as to**
 3 **how we can improve our training for staff members in**
 4 **general. So we're a huge school system, and we train**
 5 **about 20,000-plus employees every year.**
 6 **So there's always discussion about how**
 7 **it can be done better.**
 8 **But those discussions are holistically**
 9 **better as it relates to the training that's provided**
 10 **across the board.**
 11 Q. Mm-hmm.
 12 **A. Not necessarily training as it relates to**
 13 **one protected class of people.**
 14 Q. So again, other than what we've already
 15 discussed, from the 2011 through 2016 period, what
 16 training did students receive regarding
 17 non-discrimination?
 18 **A. I believe the training that we have**
 19 **discussed is consistent with the training that students**
 20 **have received during the relevant time period.**
 21 Q. Have you been involved in any -- I'm sorry.
 22 Have you recommended any changes to the training that

11:58:08 1 students receive on non-discrimination as it relates to
 2 transgender people?
 3 **A. I have not recommended any changes to**
 4 **training as it relates to students.**
 5 Q. Period?
 6 **A. Period.**
 7 Q. Are you familiar with Welcoming Schools, a
 8 program of the Human Rights Campaign?
 9 **A. I have heard of it, yes.**
 10 Q. How are you aware of it?
 11 **A. I'm not certain how I may first became aware**
 12 **of it. Perhaps in a training. We often receive -- we,**
 13 **meaning Title IX coordinators or EEO advisers, receive**
 14 **information regarding -- information that's relevant to**
 15 **the issue.**
 16 **So I may have received -- I feel like**
 17 **I've -- that may have been my first introduction. I**
 18 **don't know.**
 19 Q. Are you familiar with the fact that at a
 20 February 10, 2020, meeting of the Board of Education's
 21 budget and fiscal affairs committee, Board member Ahmed
 22 proposed an amendment to the 2021 budget that would

11:59:36 1 introduce LGBTQ training in the school system from the
 2 Welcoming Schools program?
 3 MR. SHARMA: I will object because it's
 4 outside the scope of your corporate notice deposition,
 5 but to the extent you know, you can answer.
 6 **A. I'm not aware.**
 7 **(Plaintiff's Exhibit 91, Welcoming Schools professional**
 8 **development, was marked for identification.)**
 9 **(Plaintiff's Exhibit 92, Welcoming Schools professional**
 10 **development, was marked for identification.)**
 11 Q. I'm passing to you what's marked as Exhibits
 12 91 and 92. Have you had a chance to look at those
 13 documents yet?
 14 **A. I'm looking currently.**
 15 Q. Okay.
 16 **A. Okay.**
 17 Q. Are these documents familiar to you?
 18 **A. I don't -- I can't state definitively that**
 19 **I've seen these two particular documents before, but I**
 20 **may have.**
 21 Q. Do you recall if in the course of your
 22 trainings -- the trainings that you mentioned in which

12:01:29 1 you interact with colleagues from other school systems,
 2 if they had ever discussed a program, this Welcoming
 3 Schools program?
 4 **A. I have heard this program discussed. Again,**
 5 **I'm not certain of the context in which the discussion**
 6 **was had, but I have -- I have heard -- I have heard of**
 7 **the program. I have read materials that have been**
 8 **issued, but I'm not certain the context of the sessions.**
 9 Q. Have you heard of other similar programs,
 10 like the Welcoming Schools program, that are provided by
 11 other vendors?
 12 **A. Well, there's a lot of -- I mean, there's**
 13 **certainly other training that's out there.**
 14 **So I would imagine that I have seen**
 15 **other platforms as well.**
 16 Q. Has there ever been a discussion among
 17 people in your office about possibly implementing a
 18 program like this?
 19 **A. Within my office?**
 20 Q. Yes.
 21 **A. No. My office typically isn't -- isn't the**
 22 **initiator of training as it relates to students. So**

12:02:53 1 **student training is typically handled by student**
 2 **services. There are times when we have discussions or**
 3 **collaborations, but I -- my office isn't responsible for**
 4 **initiating training for students.**
 5 Q. Is your office responsible for initiating
 6 training about non-discrimination for staff?
 7 **A. So we are more of the point locale for staff**
 8 **training. So yes, but training can be initiated**
 9 **regarding non-discrimination by any supervisor within the**
 10 **school system.**
 11 **So, you know, principals, building**
 12 **services, transportation department, you know, all of**
 13 **those departments are responsible for ensuring that their**
 14 **staff members are trained on non-discrimination practices**
 15 **and policies.**
 16 **But certainly, you know, people do reach**
 17 **out to my office at times for support in that regard.**
 18 Q. Okay. Are you aware of -- and in your role
 19 as a representative of the school system, are you aware
 20 of any office within the school system that's discussed
 21 implementing a school -- a -- sorry, implementing a
 22 program such as Welcoming Schools?

12:04:22 1 **A. Well, I think I could go back to my original**
 2 **answer. I mean, I have heard of the program. There have**
 3 **been discussions about it. So yes, that has occurred,**
 4 **but I don't -- I'm -- what -- what are you asking me? If**
 5 **I'm aware that there have been discussions about**
 6 **Welcoming Schools?**
 7 **So my answer to that question would be**
 8 **yes, I have heard that have been discussions about**
 9 **Welcoming Schools.**
 10 Q. What offices have had those discussions or
 11 individuals, if you know?
 12 **A. So again, I'm not entirely clear as far as**
 13 **the context is concerned, but these discussions would be**
 14 **had with individuals that fall in the student services**
 15 **side of -- of the hierarchy, if you will.**
 16 Q. And do you know when those conversations
 17 have taken place?
 18 **A. I couldn't identify anything based on a**
 19 **date, no.**
 20 Q. So have there been any discussions about
 21 implementing a program like Welcoming Schools for staff
 22 training?

12:05:33 1 **A. Welcoming Schools for staff training. Have**
 2 **there been discussions. Perhaps there have been. I**
 3 **don't know. I have not initiated those discussions as it**
 4 **relates to staff training.**
 5 Q. And have you participated in those
 6 discussions?
 7 **A. Well, as I shared previously, I'm aware**
 8 **that -- I'm aware of Welcoming Schools, and I have heard**
 9 **them being discussed, but it has not been anything I have**
 10 **initiated or recommended based on -- for staff training.**
 11 Q. No. No. I understand you haven't
 12 recommended it. I'm just wondering if someone else has
 13 maybe recommended it, and you have been part of the
 14 conversation.
 15 **A. I'm unaware of a recommendation for staff**
 16 **training regarding Welcoming Schools.**
 17 Q. What about regarding another vendor's
 18 program that is similar to Welcoming Schools?
 19 **A. So we currently use Safe Schools which is**
 20 **the training platform that is utilized now, and so I know**
 21 **there have been discussions about training being provided**
 22 **on our existing platform, that may be modified to include**

12:06:47 1 **other things that may not have been included previously,**
 2 **but I'm not aware of a competing vendor's product that's**
 3 **being considered for purposes of staff training.**
 4 Q. And the Safe Schools program, is that who
 5 provides the online modules that are currently used?
 6 **A. Correct.**
 7 Q. So what have been those discussions about
 8 adding training to the Safe Schools program?
 9 **A. I don't know specifically. I -- I'm**
 10 **involved with Safe Schools just from a review standpoint,**
 11 **but I'm not involved as far as the initiation.**
 12 **Initiation isn't the phrase I'm looking for. For**
 13 **creating content, I guess is maybe the better phrase.**
 14 Q. Who in the school system is responsible or
 15 has been involved in discussions of the content of the
 16 Safe Schools program training?
 17 **A. So -- I mean, it covers a whole host of**
 18 **things. Blood-borne pathogens, you know, our obligation**
 19 **to report suspected child abuse. I mean, the training**
 20 **is -- covers a lot of different areas.**
 21 **So the respective offices that oversee**
 22 **those areas would be those that would be involved in**

12:08:22 1 **discussions about any changes relative to training in**
 2 **their specific areas.**
 3 Q. Specifically about non-discrimination, what
 4 offices or individuals have been involved in discussing
 5 changes to the content of Safe Schools training programs?
 6 **A. So I can't speak for what other offices, but**
 7 **I mean, my office reviews information that we receive,**
 8 **and any recommendations that we have. I haven't made**
 9 **recommendations -- well, I may have made recommendations**
 10 **in the past.**
 11 **But in any event, that those discussions**
 12 **would have been had with the individual who is our**
 13 **conduit with Safe Schools.**
 14 Q. And who is that?
 15 **A. Robin Welsh is her last name.**
 16 Q. Is she in your office?
 17 **A. She is now.**
 18 Q. What is her role?
 19 **A. I'm not certain of her title. But she --**
 20 **compliance is part of her role, but I'm sorry. I don't**
 21 **know her title.**
 22 Q. You did mention that you have made some

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12:09:41 1 recommendations regarding changes to the content of the
 2 Safe Schools training. What were those recommendations?
 3 **A. So I can't recall everything, but we have --**
 4 **currently, there's some very general non-discriminatory**
 5 **practices that are consistent with our administrative**
 6 **procedure.**
 7 **But my recommendations have just been to**
 8 **include more that is relevant to our specific procedures.**
 9 **So there are some references to 4170,**
 10 **but creating a tighter nexus between the administrative**
 11 **procedure and the -- the content that is being provided**
 12 **in the slides.**
 13 Q. Have you or anyone else made a
 14 recommendation to change or add to the Safe Schools
 15 training program content about non-discrimination as it
 16 relates to transgender people?
 17 **A. My recommendations have not been specific to**
 18 **transgender people. My recommendations have been more to**
 19 **align the language that's being used with the language**
 20 **that we have in our existing administrative procedures.**
 21 Q. And putting your recommendations aside, has
 22 anyone else made recommendations along the lines of

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12:11:14 1 changing or adding to the Safe Schools program training
 2 about non-discrimination as relates to transgender
 3 people?
 4 **A. I don't -- I'm unaware.**
 5 MR. MOGUL: Should we take a break for
 6 lunch? I think we have gone a half hour.
 7 THE WITNESS: That's fine.
 8 MR. SHARMA: Okay.
 9 MR. MOGUL: Okay. Great.
 10 (RECESS, 12:11 p.m. - 12:42 p.m.)
 11 Q. Ms. Simmons, I'd like to return just for a
 12 moment to the trainings that we discussed earlier that --
 13 the in-school trainings provided to teachers during the
 14 2011 to 2016 period regarding non-discrimination.
 15 I'm wondering what was required of the
 16 people conducting those trainings in terms of what to
 17 mention about transgender individuals?
 18 **A. What was required of the individuals**
 19 **conducting the trainings?**
 20 Q. Yes.
 21 **A. Regarding specific mention of transgender**
 22 **individuals?**

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12:42:49 1 Q. Correct.
 2 **A. I don't know specific requirement for**
 3 **mention of transgender individuals.**
 4 Q. Okay.
 5 **A. It would have just been training pursuant to**
 6 **the administrative procedure.**
 7 Q. So I'd like now to turn to complaints of
 8 discrimination or harassment.
 9 What is the process for a teacher or a
 10 staff member to make a complaint about harassment or
 11 discrimination by students against that staff member or
 12 teacher?
 13 **A. If the staff member is alleging that they're**
 14 **being discriminated against by a student, then they would**
 15 **have to follow the student code of conduct.**
 16 Q. Does the student code of conduct provide a
 17 process for them to lodge a complaint about that
 18 behavior?
 19 **A. So, yeah. I mean, they -- you can -- as a**
 20 **teacher, you can file a PS-74, which is the form that**
 21 **teachers use just generally for students' conduct.**
 22 **Then, of course, there are informal ways**

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12:44:07 1 **of addressing student behavior that isn't on any form,**
 2 **but just is within the rubric or confines of a teacher, a**
 3 **classroom teacher interfacing with students.**
 4 Q. So is there any formal complaint process
 5 regarding student behavior that would result in a
 6 communication to your office, for example?
 7 **A. From a teacher?**
 8 Q. Yes.
 9 **A. I guess there's circumstances -- well,**
 10 **generally, no. I mean generally, student behavior is**
 11 **addressed at the school by teachers and school**
 12 **administration.**
 13 Q. What is the role of a pupil personnel
 14 worker, if any, in addressing complaints of harassment or
 15 discrimination by students against teachers or staff?
 16 **A. Well, a pupil personnel worker is there to**
 17 **serve as a liaison between the school and families. So**
 18 **they're designed to address concerns with attendance or**
 19 **truancy, or that kind of issue related to students.**
 20 **But they don't play a formal role in**
 21 **addressing concerns of discrimination or harassment.**
 22 Q. Same question but for assistant principals.

12:45:47 1 What is the role of an assistant principal in evaluating
 2 any complaints of harassment or discrimination by
 3 students against a teacher?
 4 **A. So again, an assistant principal is going to
 5 be applying the student code of conduct to any alleged
 6 behavior that is made by a student.**
 7 Q. And behavior, what is the role of a
 8 principal in evaluating any complaints of harassment or
 9 discrimination by students against teachers, and by which
 10 I mean the students committing an act of harassment or
 11 discrimination against a teacher?
 12 **A. The answer remains the same, that a
 13 principal is governed by the student code of conduct in
 14 addressing student behavior.**
 15 Q. Do any of the individuals that we just
 16 mentioned have the authority to search for more holistic
 17 solutions to allegations of harassment or discrimination
 18 other than those disciplinary options in the student code
 19 of conduct?
 20 **A. So when you say holistic, what are you
 21 referring to?**
 22 Q. Maybe I'll use the word proactive as opposed

12:47:00 1 to just addressing a complaint once it's already been
 2 lodged?
 3 **A. So as it relates to student conduct, there
 4 really isn't a mechanism to address conduct that hasn't
 5 happened.**
 6 **So the code of conduct is designed to be
 7 responsive to alleged behavior, and that would be with
 8 those individuals who are responsible for doing, if
 9 student behavior is being complained about.**
 10 Q. Is it the goal of the school system in
 11 providing training on the student code of conduct to
 12 students, to influence their behavior?
 13 **A. Well, I think the goal is to advise them of
 14 both their rights as students as well as their
 15 responsibilities, which includes their behavior.
 16 Behaving in a manner that is in conformance with the
 17 rules and the regulations that are identified for the
 18 school.**
 19 **So if you're saying influence their
 20 behavior, then certainly, it is our goal that our
 21 students do follow the rules and regulations that are
 22 set.**

12:48:30 1 Q. So does it ever happen that a complaint
 2 regarding harassment or discrimination done by a student
 3 against a teacher would be referred outside of the school
 4 administration environment?
 5 **A. So typically a 5143, which is the bullying,
 6 harassment, and incident forms that are completed at the
 7 school level, are submitted and are addressed at the
 8 school level.**
 9 **If for whatever reason a student
 10 believes that that hasn't been addressed appropriately, a
 11 parent believes it hasn't been addressed appropriately,
 12 there are instances where those issues are raised or are
 13 brought to my attention, after they have gone through the
 14 process at the school level.**
 15 Q. Is that form, 5143, would that cover or
 16 would that be used by a teacher complaining of
 17 discrimination or harassment or bullying by students,
 18 against themselves?
 19 **A. So typically, the teachers would use the
 20 PS-74 forms.**
 21 Q. Mm-hmm. Okay.
 22 Would those ever be -- would the

12:49:58 1 submission of a PS-74 eventually lead to it being
 2 referred out to your office or some other office outside
 3 of the school?
 4 **A. So generally, they are not. But I believe
 5 that the area office could review PS-74 forms. I know
 6 they could review it, but the typical process is for it
 7 to be addressed within the school.**
 8 Q. And by the area office, is that the area --
 9 is that the office headed by the associate
 10 superintendent?
 11 **A. Yes.**
 12 Q. So it sounds like there are -- there have
 13 been times, but it's not typical for an associate
 14 superintendent to review a complaint by a teacher of
 15 discrimination or harassment by a student?
 16 **A. So I guess I want to clarify. PS-74 forms
 17 are used to address student behavior. And it's any
 18 behavior.**
 19 **So if a student is being disrespectful
 20 in the classroom, if they're yelling, if they're, you
 21 know -- I'm just trying to think of scenarios -- that's
 22 what this form is used to address.**

12:51:24 1 **The conclusion that the behavior is**
 2 **discriminatory or harassing is not a determination that's**
 3 **being made in the PS-74 process. What's being done is,**
 4 **the administrators are reviewing the behavior, and**
 5 **implementing discipline consistent with what's been**
 6 **outlined in the rights and responsibilities handbook.**
 7 **So when you say referring a complaint of**
 8 **discrimination or harassment, that's the conclusion. The**
 9 **PS-74 Form is addressing behavior.**
 10 Q. So if a school administrator receives a
 11 PS-74 complaining about a certain type of conduct, and
 12 that administrator is concerned that it might be -- it
 13 might constitute discrimination or harassment, would they
 14 refer that to someone outside of the school, or could
 15 they refer that to someone outside of the school?
 16 A. **No, they wouldn't be referring the form**
 17 **outside of the school for adjudication, no. I mean, it's**
 18 **the school that has the ability to issue the discipline.**
 19 **I don't have any -- any purview to discipline students.**
 20 **But if an administrator believes there's**
 21 **another concern that needs to be addressed, then**
 22 **certainly, they can take appropriate steps to do that;**

12:52:53 1 **but the PS-74 form adjudication process takes place**
 2 **within the school.**
 3 Q. So setting aside the form itself and the
 4 adjudication process for the discipline that might result
 5 from submission of that form, if an administrator is made
 6 aware of complaints, and indeed, whether the complaint is
 7 made in a form or just, you know, made in an e-mail or
 8 verbal communication about harassment or discrimination
 9 by a student against a teacher, who would they or could
 10 they refer that concern -- not the form, concern -- to
 11 someone outside the school system?
 12 A. **I mean, they could speak to anyone in the**
 13 **leadership capacity about that, if they had additional**
 14 **concerns that a school administrator could reach.**
 15 Q. Have they --
 16 A. **They could reach out to my office. They**
 17 **could reach out to their instructional director. They**
 18 **could reach out to the area office. I mean, there are a**
 19 **number of things that they could do.**
 20 Q. And about how often does that happen?
 21 A. **Does what happen?**
 22 Q. That a school administrator will bring to

12:54:08 1 the attention of someone outside of the school that there
 2 have been complaints of discrimination by students
 3 against a teacher?
 4 A. **I can't speak to that, the number of**
 5 **instances where an administrator is alleging**
 6 **discrimination or harassment by students because I think**
 7 **what's clear -- what's perhaps a little unclear, but it's**
 8 **that it's the student behavior that's being addressed.**
 9 **So administrators are not conclusively,**
 10 **as a matter of course, making determinations that they**
 11 **believe behavior is discriminatory or harassing, but they**
 12 **are saying, this is inappropriate conduct. You're**
 13 **yelling in a teacher's class, and they're addressing the**
 14 **conduct.**
 15 **But as a matter of course, I don't**
 16 **believe that administrators are even tasked with making**
 17 **the conclusion that certain behavior is discriminatory or**
 18 **harassing as it relates to student conduct.**
 19 Q. And I understand that they're not doing that
 20 as a matter of course, but you know, have you seen an
 21 administrator raise, outside of the school environment,
 22 the issue of students harassing or discriminating against

12:55:36 1 a teacher?
 2 A. **It's -- it's not coined in that phrase, no.**
 3 **I mean, there are administrators that have behavioral**
 4 **problems in schools, some a lot more than others. But I**
 5 **don't have principals coming to me saying, I feel like my**
 6 **teachers are being discriminated against or harassed by**
 7 **students.**
 8 **That doesn't happen.**
 9 Q. That does not happen.
 10 But a principal could do that?
 11 A. **Sure. They -- I mean, they could do a host**
 12 **of things, but that isn't something that I have --**
 13 Q. Right.
 14 A. **-- experienced or been exposed to.**
 15 Q. So it sounds like there's no requirement
 16 that a principal, or some other school administrator, to
 17 report what they may believe, not conclude, but what
 18 they're worried about is discrimination or harassment by
 19 students against teachers?
 20 A. **There's no requirement. I can't say that**
 21 **there's any requirement one way or the other. I mean, I**
 22 **think what's -- what the question presupposes is that**

12:56:58 1 administrators are concluding that students are
 2 discriminating against teachers, and that is what I think
 3 is an incorrect premise, based on the facts as I know
 4 them.
 5 Q. Okay.
 6 A. And so when you then say there's no
 7 requirement that they report such conclusion, and we
 8 don't have principals reaching that conclusion at all,
 9 then it's difficult for me to respond to that question.
 10 Q. I'm sorry. I -- if we're miscommunicating.
 11 I don't mean to presuppose that they're coming to that
 12 conclusion. My questions are, if they have a concern
 13 that it might be happening, maybe they don't know whether
 14 it is or not, and they would like some outside advice of
 15 whether that's happening.
 16 A. Then of course, they could come to me,
 17 absolutely. They could reach out to my office.
 18 But is there a formal process that we
 19 have outlined for principals who believe that students
 20 are discriminating against teachers to do X, Y, and Z;
 21 no, that has not been outlined.
 22 Q. So in your view -- scratch that.

12:58:33 1 So all student-initiated discrimination
 2 or harassment against teachers has been addressed through
 3 the student code of conduct?
 4 MR. SHARMA: Objection. You can answer.
 5 A. The question you have stated was, "all
 6 student-initiated discrimination or harassment is
 7 addressed via the student code of conduct."
 8 Q. As has it been, yes.
 9 A. Any student behavioral concern, irrespective
 10 of how it's described, is addressed via the student code
 11 of conduct, yes.
 12 Q. Does your office -- I expect the answer is
 13 no, but does your office maintain any or receive any data
 14 on how -- on what discipline has been imposed in response
 15 to student-initiated discrimination or harassment against
 16 a teacher?
 17 A. So again, I just qualify that student
 18 discrimination or harassment is not something that is
 19 being concluded at the school level; but no, my office
 20 wouldn't receive data related to discipline based on
 21 student conduct.
 22 Q. So the student code of conduct does include

01:00:48 1 a section on bullying, harassment or intimidation; is
 2 that correct? And we can go back to it if that's helpful
 3 to you.
 4 A. What page are you referencing?
 5 Q. 13.
 6 A. Okay. Yes. I'm with you.
 7 Q. So in implementing the student code of
 8 conduct, do administrators not have to determine whether
 9 conduct would fall under these categories?
 10 A. So we're talking about two different things.
 11 I think you initially asked me questions about PS-74
 12 forms; and now you're inquiring about bullying,
 13 harassment and intimidation, which is the 5143 form,
 14 which is the form that's attached to this.
 15 Q. Well --
 16 A. Which is a different form.
 17 Q. I did not mean for my questions before to be
 18 specific to a form. I was asking about if someone is
 19 complaining about harassment, whatever the form.
 20 A. Okay. So initially the questions that you
 21 asked me were about a teacher complaining about student
 22 behavior.

01:02:11 1 Q. Correct.
 2 A. So a teacher complaining about student
 3 behavior utilizes the PS-74 form.
 4 This bullying, harassment and
 5 intimidation that's referenced here and the form that
 6 corresponds with individuals that would be making a
 7 complaint pursuant to here, this could be another
 8 student, this could be a student making a complaint about
 9 a teacher. I thought I saw the form, but I guess --
 10 MR. SHARMA: Page 20.
 11 A. So correct, so then this is the form that's
 12 utilized specifically for those that are making
 13 allegations of bullying and harassment.
 14 So...
 15 Q. Please correct me if I'm wrong, but I
 16 thought you had testified that this form would not be
 17 used by a teacher complaining of student harassment
 18 against a teacher; is that right?
 19 A. Correct.
 20 Q. Okay.
 21 A. A teacher would be using the PS-74 form.
 22 Q. Right. And so --

01:03:15 1 **A. And the PS-74 form process. There's not a**
 2 **conclusion being reached as to whether the alleged**
 3 **behavior constitutes discrimination or harassment. We're**
 4 **just talking about whatever the student's conduct is.**
 5 **If a student's throwing a trash can in a**
 6 **room or is cursing or is being disrespectful, that's**
 7 **what's being addressed by the PS-74 process.**
 8 Q. Maybe you can help clarify something,
 9 because I believe you relied on this section on bullying,
 10 harassment and intimidation where it discusses gender
 11 identity, in talking about how gender identity is covered
 12 for discrimination against teachers and staff. Am I
 13 wrong?
 14 **A. So this is -- the gender identity is in the**
 15 **student code of conduct, so that's as it relates to**
 16 **students.**
 17 Q. As it relates to student behavior, or
 18 relates...
 19 **A. Student rights and responsibilities.**
 20 **So in this entire document, we're**
 21 **identifying what the students' rights are and their**
 22 **responsibilities.**

01:04:20 1 **So when I read the section on student --**
 2 **on gender identity, this is as it relates to the student**
 3 **code of conduct, and this is a right that, you know, we**
 4 **prohibit discrimination based upon that.**
 5 **This student code of conduct does not**
 6 **apply to employees. Employees are governed by the 4170**
 7 **administrative procedure, which I would, of course, posit**
 8 **still includes protections for individuals with**
 9 **transgender status under the broad umbrella of sex, but**
 10 **that's what governs employees.**
 11 Q. Just to be more specific about what the
 12 student code of conduct governs. The student code of
 13 conduct, does it govern student behavior as it relates to
 14 their interactions with staff and teachers?
 15 **A. So I think it's general. I mean, it**
 16 **would -- so I mean, this deals with academics, it deals**
 17 **with -- with tardiness, it deals with -- like, it**
 18 **encompasses very generally just a student's rights and**
 19 **responsibilities within the school community.**
 20 Q. Right.
 21 So I think that's consistent I think
 22 with what you said before, which was that students are

01:05:49 1 prohibited from harassing a staff or a teacher under this
 2 section, based on their gender identity.
 3 Is that consistent with your
 4 understanding?
 5 **A. So this doesn't make reference specifically**
 6 **to a staff or a teacher.**
 7 Q. Mm-hmm.
 8 **A. But it does make -- and it's intended to**
 9 **encompass students. So I don't know that I would**
 10 **construe the language in this rights and responsibilities**
 11 **handbook to govern specific rights to teachers vis-a-vis**
 12 **students, which is what I think I hear you saying.**
 13 Q. I was more talking about students'
 14 responsibilities to teachers, maybe, rather than flipping
 15 it the other way, but --
 16 **A. Right. But I really think this is more**
 17 **geared toward students' responsibilities as it relates to**
 18 **their interactions with one another, not necessarily --**
 19 Q. Okay.
 20 **A. -- students in their interactions with**
 21 **teachers.**
 22 Q. Is that understanding that you just

01:07:05 1 articulated, does that help the student code of conduct
 2 explain to students in their trainings?
 3 **A. I'm sure they don't use any language that I**
 4 **have used. They probably do a lot better and much more**
 5 **succinctly; but I think, like, just generally speaking,**
 6 **that's what they're trying to encourage students, to**
 7 **treat their peers, one another, fairly, to not**
 8 **discriminate or treat others poorly because they may have**
 9 **different gender identity than others.**
 10 **That's what this is generally**
 11 **addressing.**
 12 Q. So let's put aside forms.
 13 If a school administrator is made aware
 14 of a teacher complaining of harassment or discrimination
 15 by students, whether that's through a PS-74 or some other
 16 mechanism, an e-mail, a conversation in the hall, how
 17 does that get investigated?
 18 **A. So typically, the administrators are going**
 19 **to determine what is being alleged from a teacher's**
 20 **standpoint and then determine whether there are next**
 21 **steps that are required, and they may implement certain**
 22 **things as a result of what they determine.**

01:08:49 1 Q. Mm-hmm.

2 **A. But again, generally, administrators are**

3 **focusing on whatever the conduct is of the student that's**

4 **being complained about as opposed to characterizing the**

5 **conduct in a particular, legal format.**

6 Q. Sure.

7 Has it ever come to your attention that

8 a teacher has complained about multiple instances of

9 discrimination or harassment by students based on his or

10 her protected class?

11 **A. Outside of the instant case?**

12 Q. Yes.

13 **A. No, I don't -- I have not received any**

14 **complaints that students are harassing teachers as a**

15 **result of their -- of any protected class.**

16 Q. And we'll get to this -- the instant case a

17 little bit later.

18 What is the process for a teacher or a

19 staff member to make a complaint about harassment or

20 discrimination by another staff member or teacher?

21 **A. So they could use the complaint form that's**

22 **a part of the 4170 process.**

01:10:18 1 Q. And how does that process work?

2 **A. The teacher that believes that they have**

3 **been discriminated or subjected to harassment would**

4 **complete the 4170 complaint form, and then that form**

5 **could be submitted to my office.**

6 **Thereafter, we reach out and meet with**

7 **the charging party, and then there's a inquiry that takes**

8 **place thereafter; and then ultimately, if matters are**

9 **unable to be resolved in an informal mediation or**

10 **resolution process, there's a determination made as to**

11 **whether there's been a violation of the administrative**

12 **procedure.**

13 Q. And who's conducting that investigation or

14 inquiry, I think is what you said?

15 **A. It would be me.**

16 Q. And so is it always you for all such

17 complaints that go into your office?

18 **A. That come through the 4170 complaint**

19 **process, that's correct.**

20 Q. And -- sorry, this is a repeat, but prior to

21 you, was that Elizabeth Davis who conducted those

22 inquiries?

01:11:35 1 **A. Yes, she did do some of those as well, yes.**

2 Q. And there might have been someone else who

3 also worked on that?

4 **A. Correct.**

5 Q. Can you walk us a little bit more through

6 what's -- what the parts of the inquiry, what information

7 you collect, how you collect it?

8 **A. So it really depends on what the underlying**

9 **allegations are, but at a minimum, I meet with the**

10 **charging party, and I meet with the Respondent. Both**

11 **are -- well, the charging party files the complaint, so**

12 **obviously that's the initial document that initiates the**

13 **process.**

14 **The Respondent has the right to file a**

15 **written response, if they so desire, but they are not**

16 **required to do that.**

17 **So in some instances, there is a written**

18 **response submitted by Respondent. Many times there**

19 **aren't.**

20 **I interview witnesses. On some**

21 **occasions, there are written witness statements that**

22 **witnesses voluntarily provide. Sometimes there are not.**

01:12:57 1 **Sometimes it requires the review of**

2 **documents, of e-mails, correspondence. Some instances**

3 **there may be relevant video footage. Sometimes there's**

4 **not. Request for records from other departments,**

5 **divisions.**

6 **It really just depends on what the**

7 **allegations are as to what information is germane to**

8 **determining whether any of the alleged behavior has been**

9 **premised upon one's, you know, membership in a protected**

10 **class, whether there's been any adverse action, et**

11 **cetera.**

12 Q. If a complainant or charging party and a

13 Respondent have differing views of an incident, how do

14 you resolve that?

15 **A. In in most cases, there are differing views.**

16 Q. Yeah.

17 **A. If not, it really wouldn't be necessary.**

18 **But so I -- you know, I have to weigh**

19 **the information that comes before me. I'm a neutral**

20 **fact-finder. So I review the information that's**

21 **available. I have to weigh the credibility of the**

22 **parties, and ultimately make a determination.**

01:14:23 1 Q. Do you ever, as part of your inquiry, ask
 2 about or investigate behavior outside of a particular
 3 incident to determine whether it's part of a pattern?
 4 **A. In some instances, yes.**
 5 Q. If you find out that -- if you conclude at
 6 the end of the inquiry that there is a pattern of
 7 behavior, does that factor into your recommendations in
 8 the concluding -- in the conclusion of the inquiry?
 9 **A. Yes. That -- that, amongst other things,**
 10 **certainly would factor into any conclusion or**
 11 **recommendation that I may make.**
 12 Q. What are -- no, let's get to that later.
 13 How long does one of these
 14 investigations typically take?
 15 **A. Depends as well.**
 16 **So they can take some time. I mean,**
 17 **it's -- it's a confidential process, so we attempt to be**
 18 **careful to ensure that the process remains that way.**
 19 **So I meet with individually by**
 20 **themselves, you know, in my office. I generally don't do**
 21 **phone interviews. There are some instances where I've**
 22 **had to do that, but -- so they can take a good number of**

01:17:05 1 **A. I think we've discussed this.**
 2 Q. If a teacher or staff member is subject to
 3 repeated or frequent discrimination or harassment, do
 4 they have a different process for filing that complaint,
 5 other than the one we just described?
 6 **A. There's not an alternate process, no.**
 7 Q. Are some complaints of harassment or
 8 discrimination handled within the school without getting
 9 to your office?
 10 **A. So there are some employee disputes that are**
 11 **handled without coming to my office. So there are**
 12 **instances where an employee will file a complaint, and**
 13 **complain about an interaction with another coworker, and**
 14 **request that it be mediated by the principal or the**
 15 **supervisor.**
 16 **And at the conclusion of those**
 17 **mediations, if either -- the parties are satisfied with**
 18 **the conclusion, then they can elect to essentially just**
 19 **mark that as a satisfied resolution. For instances where**
 20 **they attempt that resolution, or mediation, and either**
 21 **one or both of the parties may not be satisfied in the**
 22 **outcome, and in that instance, then, the supervisor would**

01:15:47 1 **days in order to be completed in a thorough fashion.**
 2 Q. How do you document the steps that you take
 3 in an inquiry?
 4 **A. When you say document, you mean just how do**
 5 **I document the fact that I have met with the charging**
 6 **party?**
 7 Q. Sure.
 8 **A. There's typically a calendar invite that**
 9 **goes out. The individual comes in. Again, as I shared**
 10 **in some instances, individuals are willing to provide**
 11 **written statements. So those written statements would**
 12 **serve. Some instances they don't.**
 13 Q. Do you create like a file of written
 14 statements, notes, documents you've received; anything of
 15 that nature for a particular inquiry?
 16 **A. So there is a general file that is opened**
 17 **for each matter that comes into the office. Yes.**
 18 Q. I think the answer is we've already
 19 discussed this, but just I'll want to make sure.
 20 Have you been provided any training
 21 other than what we've already discussed that relates to
 22 how to conduct one of these inquiries?

01:18:50 1 **then forward the matter on for investigation.**
 2 **But it's really the -- it's the**
 3 **preference of the charging party. So there's no**
 4 **obligation that any of the parties -- that there's a**
 5 **mediation that take place.**
 6 **But in some instances, charging parties**
 7 **elect to do that, and matters can be successfully**
 8 **resolved at that level. In other instances they're not**
 9 **able to do that.**
 10 Q. Typically, if those matters are being
 11 resolved within the school, is it the principal's role to
 12 resolve those through mediation, or is there sometimes
 13 other in-school staff that gets involved?
 14 **A. It would typically be the principal or**
 15 **someone that's on the leadership team. It wouldn't be a**
 16 **similarly situated colleague.**
 17 **So it would be someone that's in a**
 18 **leadership role.**
 19 Q. And -- sorry, I know this is a basic
 20 question, but the leadership team would be assistant
 21 principals, principal, any other individuals?
 22 **A. They do have others that have leadership**

01:20:00 1 **roles. I don't always get their titles correct, but**
 2 **they're -- yes, an assistant principal and a principal**
 3 **would both certainly fall within that category.**
 4 Q. If a charging party is interested in the
 5 mediation process, do they still file that 4170 --
 6 sorry -- yes, the 4170 form?
 7 **A. So they could, but they also sometimes may**
 8 **do it informally, and just bring the concern to the main**
 9 **administrator's attention prior to making a determination**
 10 **to file the complaint at all.**
 11 Q. In the course of your inquiry process, does
 12 the Prince George's County Educators' Association have
 13 any role?
 14 **A. They do not have a role in the investigative**
 15 **process with the 4170 complaint, no.**
 16 Q. Would you ever ask someone from the
 17 Educators' Association for information if you thought it
 18 was relevant; has that ever happened?
 19 **A. So the Educators' Association is a separate**
 20 **and distinct entity that represents the educators. We**
 21 **certainly interact with them for purposes of coming up**
 22 **with the negotiated agreements that govern their**

01:21:32 1 **employment within our school system.**
 2 **But that is essentially their role. I**
 3 **mean, there are times where they may reach out on a**
 4 **member's behalf, but they don't play any role as far as**
 5 **investigating complaints or filing complaints, et cetera.**
 6 **They may advise their member of the**
 7 **process. You know, a member may bring a concern to their**
 8 **union rep and the union rep advise them, this is what I**
 9 **believe you should do based on what you've shared, and**
 10 **then they would initiate the process at the union rep's**
 11 **advisement.**
 12 **But other than that, I don't communicate**
 13 **with them the confidential terms of what's been**
 14 **complained, nor do I seek information from them in making**
 15 **a determination.**
 16 Q. Has the Educators' Association ever
 17 communicated with the Board or your office or other
 18 administrators about systemic issues of harassment or
 19 discrimination?
 20 **A. The PGCEA has routine meetings, if you will,**
 21 **with leadership within the school system regarding kind**
 22 **of all issues related to their members. And 4170**

01:23:18 1 **complaints are certainly things that would fall within**
 2 **the context of things that they may discuss, generally**
 3 **speaking, but not on a specific case-by-case basis. If**
 4 **that makes sense.**
 5 Q. Sure.
 6 So -- right, I understand they may not
 7 bring up specific individual's cases to the Board or to
 8 other administrators, but -- so it is -- well, let me ask
 9 a more specific question.
 10 Has the Prince George's County
 11 Educators' Association ever communicated with the Board
 12 or administrators or your office about harassment or
 13 discrimination challenges faced by transgender employees?
 14 **A. No, I have not had that specific inquiry.**
 15 Q. Where -- so you mentioned that a file was
 16 opened for every inquiry?
 17 **A. Correct.**
 18 Q. Where are those maintained?
 19 **A. The 4170 files are maintained by my office.**
 20 Q. And for how long are those maintained?
 21 **A. So, I don't know exactly -- I know that we**
 22 **utilize at least a -- in-house they stay for three years,**

01:24:38 1 **and then we have another seven years, I believe, that**
 2 **they are housed off-site, but it really depends on what**
 3 **our space situation is.**
 4 **I mean, in -- until recent years, we**
 5 **maintained paper files for all of these things. We're**
 6 **now transitioning to electronic files, so things will**
 7 **obviously be kept differently at that point, but...**
 8 Q. So at the end of the 10-year period, do you
 9 know what would happen with those files?
 10 **A. I don't know, but I'm assuming that they**
 11 **just remain in our storage facility.**
 12 Q. So when we're talking about that file being
 13 maintained, does that include all materials that you or a
 14 predecessor of yours would have collected, notes that
 15 they would have had, any written statements that would
 16 have been submitted in connection with that inquiry?
 17 **A. So my files consist of the complaint that's**
 18 **being filed, that has been filed, any statements that**
 19 **were made by the Respondent or written statements**
 20 **submitted by witnesses, and any documents that were**
 21 **tendered by the charging party, or gathered during the**
 22 **course of the investigation.**

01:26:10 1 **My investigator notes are not a part of**
 2 **that file. Once I prepare my letter of determination, my**
 3 **report of investigation is what -- what controls as far**
 4 **as the -- the totality of the case is concerned.**
 5 Q. When you've concluded -- sorry. Let me back
 6 up. I forgot this question.
 7 When a 4170 is submitted to your office,
 8 does that get shared with anyone outside the office --
 9 for example, the particular school administrators or
 10 anyone who is a supervisor to you?
 11 **A. The complaint itself is not shared. There**
 12 **may come a time where the administrator becomes aware of**
 13 **a complaint. It depends.**
 14 **So in some instances, a complaint is**
 15 **being filed against an employee's supervisor, and so in**
 16 **that case, the administrator would become aware as a**
 17 **Respondent.**
 18 **So they would receive notice that a**
 19 **charge of discrimination or harassment has been filed,**
 20 **and they receive an invitation to come and meet with me**
 21 **as it relates to those allegations.**
 22 **In other instances, the direct**

01:27:39 1 **supervisor may not be involved in the underlying**
 2 **allegations, but do become aware when I issue a letter of**
 3 **determination because the direct supervisor does become**
 4 **aware of that.**
 5 Q. So that leads me to my next question, which
 6 was, who receives the letter of determination at the end
 7 of the inquiry?
 8 **A. So the charging party does. The chief of**
 9 **human resources receives a copy. The Respondent receives**
 10 **a copy as well. The charging party's supervisor receives**
 11 **a copy. Then it has changed over time because my**
 12 **position has realigned.**
 13 **Initially, there are times the director**
 14 **of employee and labor relations receives a copy,**
 15 **particularly if I'm recommending that there be additional**
 16 **steps that are taken thereafter.**
 17 **And general counsel receives a copy.**
 18 Q. Is there any -- is there any annual
 19 reporting of kind of a summary of the letters of
 20 determination that you've issued over the course of a
 21 year, or on some other time period?
 22 **A. A summary?**

01:29:31 1 Q. A summary.
 2 **A. That deals with each of the letters that are**
 3 **issued? No.**
 4 Q. Or a summary kind of with statistics about
 5 the letters of determination?
 6 **A. Well, we made mention earlier with regards**
 7 **to certain data that's provided, so that information is**
 8 **produced. I don't know if that constitutes a summary for**
 9 **purposes of this question, but...**
 10 Q. Well, so does that data include data about
 11 the letters of determination or about the inquiries that
 12 you've conducted?
 13 **A. It would include data with regards to the**
 14 **number of complaints that have been filed over the course**
 15 **of a time frame.**
 16 **Resolutions via alternative means,**
 17 **resolutions via letter of determination.**
 18 **So generally speaking.**
 19 Q. Right.
 20 **A. But nothing that summarizes the facts of the**
 21 **cases that have been determined over that time period.**
 22 Q. You mentioned before that sometimes during

01:30:40 1 an inquiry you may investigate or ask about whether
 2 there's been a pattern of behavior. When you determine
 3 that there's a pattern of behavior, you also testified, I
 4 think, that that factors into your conclusions in the
 5 letter of determination.
 6 Can you explain how that would affect
 7 your conclusions?
 8 **A. So it very much depends. So there's certain**
 9 **instances where, for example, an employee may be engaging**
 10 **in behavior that another employee finds offensive, and we**
 11 **determine that this employee has been doing it -- for**
 12 **example, employee that hugs another employee, and**
 13 **employee A doesn't like it and complains about it, and**
 14 **says, employee B has been doing it for the past two**
 15 **years.**
 16 **And I investigate it, and I determine,**
 17 **yes, employee has been hugging this employee over the**
 18 **past two years. But there's been no statement by the**
 19 **employee that finds offense to the hugs that this is**
 20 **offensive behavior.**
 21 **So that plays a role in my determination**
 22 **as to whether employee -- the offending employee has**

01:32:03 1 knowledge that this has been offensive, and just
 2 continues to do it anyhow, or whether they believed it to
 3 be innocuous and it's just the way they greet everyone.
 4 So it could play -- you know, it could
 5 help me to determine whether I believe this has been
 6 behavior that is intentional and willfully offensive to
 7 someone or whether this employee may not have knowledge.
 8 On the other hand, we may have instances
 9 where the employee says, I told him two years ago that I
 10 don't like to be hugged; and certainly, if I find that he
 11 continues to do that, then sure, it does, you know, play
 12 a factor in me determining whether the offending employee
 13 has willfully created this uncomfortable environment for
 14 the complaining party, even having knowledge that the
 15 behavior is offensive.
 16 Q. Has it ever happened in the course of one of
 17 your inquiries that you've determined that the charging
 18 party has been subject to offensive behavior, not just by
 19 the Respondent but also by others in their work
 20 environment?
 21 A. I suppose so, but I would probably need more
 22 context to really answer your question accurately.

01:33:36 1 Q. Well, you gave an example just now --
 2 A. Sure.
 3 Q. -- of someone who was being hugged, and they
 4 did not appreciate the hug.
 5 A. Yep.
 6 Q. So has it happened, as -- continuing on that
 7 example --
 8 A. Sure.
 9 Q. -- that you would have found that that
 10 complaining party has been subject to hugs or other kind
 11 of sexual-harassment-related conduct by others within the
 12 work environment?
 13 A. Within that context, I can't say that I have
 14 had that experience.
 15 Q. Okay.
 16 A. I mean, sure, there are complaints where
 17 people believe that there are numerous people in the
 18 workplace that don't like them for whatever reason, and
 19 have made their time there difficult.
 20 But using that kind of mirror behavior
 21 of the hugs, I haven't -- you know, like, we have got two
 22 or three people that are like, hugging this person who

01:34:36 1 doesn't want to be hugged -- I don't have an example that
 2 meets those terms.
 3 Q. Okay.
 4 MR. MOGUL: Good to still keep going.
 5 Q. When was the first time that Miss Eller's
 6 complaints of harassment or discrimination due to her
 7 transgender status came to the attention of school
 8 officials outside of her school?
 9 MR. SHARMA: Objection to the form of
 10 the question, but you can answer.
 11 A. So her complaints came to my office's
 12 attention when she filed the 4170 complaint.
 13 The specific date I'm not certain, but I
 14 believe it was February of 2015. I'm not positive.
 15 Q. Are you aware if Miss Eller made complaints
 16 of harassment or discrimination prior to that?
 17 A. In the form of a 4170 complaint or just
 18 generally --
 19 Q. Generally.
 20 A. -- at the school level?
 21 Yes, I am aware that she raised concerns
 22 with individuals at her particular school.

01:35:57 1 Q. And are you aware if those particular
 2 concerns were ever communicated outside of the school?
 3 A. Well, they were communicated to me when I
 4 inquired about them, but what do you mean? Communicated
 5 outside of the school at the time that they were being
 6 reviewed by the school level administrators?
 7 Q. I think I don't understand your question.
 8 So let me just rephrase my question.
 9 A. Okay.
 10 Q. Are you aware of when or if Miss Eller's
 11 complaints of harassment or discrimination prior to the
 12 4170 form were ever brought to the attention of central
 13 officials, central outside of the school?
 14 MR. SHARMA: Objection. You can answer.
 15 A. Yeah. I don't know that I can answer that
 16 question other than the 4170 complaint that I have
 17 testified to.
 18 MR. MOGUL: Actually, could we take a
 19 five-minute break.
 20 A. Sure.
 21 (RECESS, 1:37 p.m. - 1:42 p.m.)
 22 MR. MOGUL: Everyone ready? Great.

01:43:03 1 BY MR. MOGUL:
 2 Q. Ms. Simmons, when was the first time that
 3 Miss Eller's complaints of student behavior, student
 4 misbehavior related to her transgender status, came to
 5 the attention of officials outside of her school?
 6 **A. So I'm not -- I'd have to just assume that**
 7 **it would be a part of the 4170 complaint process, that**
 8 **that information was raised outside of the school level.**
 9 Q. Let's go to Exhibit -- so we're going to
 10 give you an Exhibit marked 93, which I am afraid has been
 11 used in a prior deposition, but we're giving you a new
 12 one. It's also a giant, giant exhibit.
 13 We'll be looking at a few different
 14 parts of this, but for right now, what I'd like to turn
 15 to is starting at PGCP365, Bates stamps at the bottom.
 16 (Plaintiff's Exhibit 93, PGCP365 documents, Bates Numbers:
 17 PGCP365 97-417, was marked for identification.)
 18 Q. This e-mail chain spans between 365 and 368.
 19 I'll give you a moment to review. And if I'm not
 20 mistaken, they go in reverse -- nope. Never mind. Not
 21 reverse. They're in chronological order.
 22 **A. How far are you asking me to go?**

01:47:42 1 Q. I think the e-mail chain concludes on 368,
 2 if you just read to the end of that.
 3 **A. Okay. Okay.**
 4 **Okay.**
 5 Q. Now, in this chain of -- sorry, are you
 6 familiar with this e-mail chain? Have you seen it
 7 before?
 8 **A. I'm sure that I have, but I did have to read**
 9 **it to reacquaint myself with it.**
 10 Q. Is this Elizabeth Davis who's referred to
 11 and has authored some of these e-mails; is this the same
 12 Elizabeth Davis that we have been discussing before?
 13 **A. Yes, it is.**
 14 Q. Who is Dr. Powell, Diane Powell?
 15 **A. Dr. Powell used to maintain a leadership**
 16 **position within student services.**
 17 Q. Is Dr. Powell still an employee of the
 18 school system?
 19 **A. I believe she has retired.**
 20 Q. There are two e-mails from December 18th
 21 authored by Miss Davis; is that right?
 22 **A. 18th. Okay. Yes, I do see that.**

01:49:00 1 Q. And in one of these -- the one that appears
 2 first dated 12:16 p.m., Miss Davis refers to "unfortunate
 3 and insensitive occurrences that have occurred to Miss
 4 Eller"; is that correct?
 5 **A. That is the language that she uses, yes.**
 6 Q. Then in her subsequent e-mail of 1:44 p.m.,
 7 she characterizes "inappropriate interactions by students
 8 directed against -- directed to you"; is that correct?
 9 **A. That is the language that she uses.**
 10 Q. Do you know if following this December 18,
 11 2013, chain of e-mails, whether there was any follow-up
 12 by Miss Davis or anyone else to determine if Miss Eller
 13 was still subject to "inappropriate or insensitive
 14 occurrences," using her language?
 15 **A. I don't know what Miss Davis's follow-up was**
 16 **after this e-mail chain.**
 17 Q. Do you know if anyone else followed up after
 18 this e-mail chain?
 19 **A. Well, it indicates in Principal Adams's**
 20 **e-mail that there was -- that he was assigning an**
 21 **additional staff member to her area in order to identify**
 22 **anyone who may treat her with disrespect.**

01:50:44 1 **So I'm assuming that that measure did**
 2 **take place subsequent to this e-mail, but I'm unaware of**
 3 **anything else.**
 4 Q. So sticking with this same, very large
 5 exhibit, I'd like to turn to page 325 in the document,
 6 that I would like to refer to is two pages.
 7 Are you familiar with this form?
 8 **A. So this -- is this the 4170 complaint form?**
 9 **Yes. I can't see 325 on mine, but I'm assuming it's**
 10 **there, yes.**
 11 Q. What is this?
 12 **A. This is 4170 complaint form, discrimination**
 13 **or harassment incident report.**
 14 Q. Is this the form that Miss Eller submitted
 15 to your office?
 16 **A. Yes, it appears to be, yes.**
 17 Q. And after Miss Eller submitted this
 18 complaint, who was responsible for addressing it?
 19 **A. So this would have come to my attention.**
 20 Q. I'd like to now show you -- we're going to
 21 come back to this exhibit, but I'd like to give you
 22 another one.

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01:52:09 1 This is going to be marked as Exhibit
 2 94.
 3 (Plaintiff's Exhibit 94, e-mail, Simmons to Zane,
 4 4.14.2015, was marked for identification.)
 5 Q. Ms. Simmons, do you recognize this e-mail?
 6 **A. Yes, I believe so.**
 7 Q. In this e-mail, you state that Miss Eller's
 8 complaint was received on February 23, 2015; is that
 9 correct?
 10 **A. Yes, it does indicate that.**
 11 Q. Do you have any reason to doubt that that's
 12 true?
 13 **A. I don't.**
 14 Q. When you receive -- and we can set that
 15 aside, if you'd like.
 16 When you received Miss Eller's
 17 complaints, did you share it with anyone else?
 18 **A. No.**
 19 Q. Did you share it with anyone else in your
 20 office?
 21 **A. Well, it comes to my office. So my office**
 22 **staff -- let's see, on -- who was even in place then. I**

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01:53:32 1 **don't know.**
 2 **So it would have come in to the office**
 3 **and then eventually, it makes its way to me.**
 4 Q. What did you do upon receipt of this
 5 complaint in order to act on it?
 6 **A. So I generally review the complaints, and**
 7 **then the first step is typically to schedule a meeting**
 8 **with the charging party.**
 9 Q. Did you do that here?
 10 **A. Yes.**
 11 Q. Did you reach out to anyone else to
 12 investigate this complaint?
 13 **A. So eventually, I did reach out to certain**
 14 **other individuals who I believed had information relevant**
 15 **to the allegations that were raised, and I met with those**
 16 **individuals as well.**
 17 Q. Did you meet with Mr. Adams?
 18 **A. I did.**
 19 Q. Did you meet with any of the assistant
 20 principals at the time?
 21 **A. I did.**
 22 Q. Would that have been Mr. Thompson?

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01:54:38 1 **A. I did.**
 2 Q. Ms. Pope-Brown?
 3 **A. Correct.**
 4 Q. And Miss Robinson I believe was the
 5 assistant principal at the time and she's the responding
 6 party; correct?
 7 **A. Mm-hmm.**
 8 Q. And you met with her?
 9 **A. I did.**
 10 Q. Did anyone submit to you a written
 11 statement?
 12 **A. I don't believe so.**
 13 Q. Did anyone proactively reach out to you to
 14 give you information about this complaint, without you
 15 having to ask them first?
 16 **A. I don't recall.**
 17 Q. Did you collect any documents as part of
 18 this investigation?
 19 **A. I reviewed documents that were produced by**
 20 **the charging party, and I believe that there were other**
 21 **documents that were collected as well.**
 22 Q. Did you ask anyone if they had notes that

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01:55:36 1 would be relevant to this investigation?
 2 **A. Did I ask anyone for notes?**
 3 Q. Mm-hmm.
 4 **A. Notes related to what?**
 5 Q. Notes that would be relevant to the
 6 investigation.
 7 **A. Oh, I don't recall a specific request for**
 8 **notes. Not a specific request for notes. I don't recall**
 9 **that.**
 10 Q. I'd like you to look at another exhibit,
 11 which we'll mark as 95.
 12 (Plaintiff's Exhibit 95, e-mail, Thompson to Adams,
 13 2.20.2015, was marked for identification.)
 14 Q. I'll let you take a minute to review that.
 15 **A. Okay.**
 16 Q. Are you familiar with this e-mail?
 17 **A. I don't know. Some of what is said in here**
 18 **I've seen before, but I don't know if I've seen it in**
 19 **this context.**
 20 Q. Did you ask -- this appears to an e-mail
 21 from Mr. Thompson to Mr. Adams; is that right?
 22 **A. That's what it indicates.**

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01:57:48 1 Q. Did you ask either Mr. Thompson or Mr. Adams
 2 for e-mails that might be related to your investigation?
 3 **A. As I shared, I don't recall asking for**
 4 **specific notes as a part of my investigation, but I did**
 5 **meet with both of the parties indicated here.**
 6 Q. I'm sorry. My question was, did you ask for
 7 e-mails, not notes necessarily, although I understand
 8 this is entitled making notes?
 9 **A. I did receive certain e-mails, I believe**
 10 **from Mr. Adams. I'm not certain if I received e-mails**
 11 **from Mr. Thompson or not.**
 12 Q. When you conducted your investigation of
 13 this complaint, was your inquiry limited to the February
 14 13th event that is complained about in this complaint, or
 15 did you collect information about anything else?
 16 **A. Well, certainly where she indicates the**
 17 **nature -- the date of the incident she indicates as of**
 18 **February 13th, and so that is the salient incident that's**
 19 **being complained of; but Miss Eller mentions other**
 20 **incidents as well, and there was inquiry about that.**
 21 Q. What did you find in investigating other
 22 incidents other than the February 13th, 2015, event?

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01:59:25 1 **A. So I think the letter of determination**
 2 **speaks to the findings of my investigation.**
 3 Q. We'll look at that in a minute.
 4 **A. Okay.**
 5 Q. Did you collect information about Miss
 6 Robinson's interactions specifically with Miss Eller
 7 outside of the February 13, 2015, event?
 8 **A. We would have discussed that, yes.**
 9 Q. And do you know what you found?
 10 **A. Again, my findings would be in the letter of**
 11 **determination.**
 12 Q. In the course of this inquiry, did you
 13 collect information about how others at Friendly High
 14 School treated Miss Eller?
 15 **A. To the extent that they were relevant to the**
 16 **issues that were raised here, yes, but did I do a global**
 17 **inquiry as to other staff members' interactions with Miss**
 18 **Eller, no.**
 19 **But to the extent that there were other**
 20 **issues that were raised as a result of the complaint,**
 21 **then, I did inquire.**
 22 Q. Did you ask about whether -- as part of your

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02:00:39 1 inquiry, did you ask about whether Miss Eller had been
 2 misgendered by other faculty?
 3 **A. I'm pretty sure that I asked that question.**
 4 Q. In the course of your inquiry, did you ask
 5 whether Miss Eller had been misgendered by students?
 6 **A. I believe Miss Eller shared that**
 7 **information.**
 8 Q. Did you ask if Miss Eller had experienced
 9 bigoted comments by other faculty or staff?
 10 **A. I probably didn't use the phrase that you're**
 11 **-- that you've stated there, but I did ask about her**
 12 **overall interactions with others.**
 13 Q. I'd like to now return to -- well, we're
 14 already there, this long exhibit. Turn to page 324. It
 15 indicates -- sorry, it's the page that says Exhibit L.
 16 This indicates this is Exhibit L within this overall
 17 document; is that correct?
 18 **A. I'm assuming so. I -- yeah.**
 19 Q. Why don't we just go to the beginning of the
 20 whole exhibit so you can see what it is. We haven't
 21 really focused on what this is.
 22 **A. Okay.**

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02:02:06 1 Q. Does this cover letter look familiar to you?
 2 **A. Yes, it does.**
 3 Q. What is it?
 4 **A. This looks to be the position statement that**
 5 **was submitted to the EEOC dated September 14, 2016.**
 6 Q. You will see on, it's PGCP599, but page 3 of
 7 your letter, there's a reference to what Exhibit L is,
 8 about halfway down where it says response number 3; do
 9 you see that?
 10 **A. Yes. Mm-hmm.**
 11 Q. What is Exhibit L?
 12 **A. It was -- it's produced in response to**
 13 **investigative files for internal investigations related**
 14 **to number 2. So which is the complaint of discrimination**
 15 **or harassment, formal and informal, submitted by the**
 16 **charging parties since January 1, 2013.**
 17 Q. So what we find here in Exhibit L within
 18 this exhibit, is that your investigative file for your
 19 inquiry into Miss Eller's February 2015 complaint?
 20 Just to help you out, the Exhibit L ends
 21 on PGCP5403. It's a pretty long exhibit.
 22 MR. SHARMA: What was the page?

02:03:33 1 MR. MOGUL: 403 I think is the last
 2 page.
 3 **A. 403. So I would say with looking at this**
 4 **that it appears to have been documents that were part of**
 5 **the investigative file, yes.**
 6 Q. I'd like to turn to page 340 within this
 7 exhibit. If you just look at these e-mails that extend
 8 from 340 to 341.
 9 **A. Okay.**
 10 **Okay. I've read them.**
 11 Q. Do you know how this e-mail chain became
 12 part of your investigative file?
 13 **A. I believe that Miss Eller provided this as a**
 14 **copy -- provided a copy of these e-mails to me.**
 15 Q. From the contents of these e-mails, does it
 16 appear that Miss Eller and Mr. Adams were having a
 17 discussion about training at Friendly High School in
 18 August 2012?
 19 MR. SHARMA: Objection. You can answer.
 20 **A. My interpretation is that Miss Eller is**
 21 **inquiring about an 11th grade assembly that she attended,**
 22 **and Mr. Adams responds thereto.**

02:06:29 1 Q. Did you inquire of Mr. Adams about the
 2 training that was being provided to either students or
 3 staff about non-discrimination as part of your inquiry?
 4 **A. Did I inquire of Mr. Adams regarding the...**
 5 Q. Training.
 6 **A. That was being provided to students and**
 7 **staff?**
 8 Q. (Nods head up and down.)
 9 **A. We did have discussions about that during**
 10 **the course of my investigation, yes. That is accurate.**
 11 Q. What did your investigation determine about
 12 those trainings?
 13 **A. So I think what was referenced here is that**
 14 **the quarterly training that was being provided for**
 15 **students, and the allegation that this assembly wasn't**
 16 **consistent with what had been on the planned agenda. Mr.**
 17 **Adams confirmed that they were providing the quarterly**
 18 **assembly for students.**
 19 **During the course of the investigation,**
 20 **there was other discussion about additional training that**
 21 **had been provided for staff members that occurred during**
 22 **the course of a staff meeting for staff members as**

02:08:07 1 **allowed.**
 2 Q. In the course of your investigation, did you
 3 discuss with Mr. Adams what could be done in the future
 4 in terms of training regarding non-discrimination in
 5 transgender individuals?
 6 **A. I don't know that we had future training**
 7 **discussions during the course of my investigation.**
 8 Q. Could we turn to page 394 within this
 9 exhibit, please. I'm sorry, 393.
 10 What is this document?
 11 **A. The handwriting, this looks like my**
 12 **handwriting. Okay. So this looks like notes based on my**
 13 **conversation with Dion Oliver.**
 14 Q. And who is Dion Oliver?
 15 **A. It says English 12 AVP coordinator.**
 16 Q. What does AVP stand for?
 17 **A. I actually don't know the acronym, but it**
 18 **is a -- an independent project coordinator for students**
 19 **who are attempting to make up credits in certain classes.**
 20 **That's my layman's description so there**
 21 **is likely a more accurate academic description that an**
 22 **instructor could provide.**

02:10:46 1 Q. So I have to tell you, your handwriting is a
 2 lot better than mine, but I still had a little bit of
 3 trouble reading some of the words in here. Would you
 4 mind just reading aloud your notes on these two pages?
 5 **A. So it just says, "Dion Oliver, English 12**
 6 **AVP coordinator. She -- Eller told her that she was**
 7 **filing complaint. Staff being designed to address**
 8 **discrimination appropriate terminology. Spoke of**
 9 **transgenders, lesbians, et cetera, 45 minutes, April**
 10 **2015.**
 11 **"People-slash-staff believed meeting**
 12 **unnecessary. Eller not present. Does not know why Eller**
 13 **not present. Meeting seemed strange. Felt meeting**
 14 **inappropriate. Meeting seemed underhanded. Do you**
 15 **believe administration has acted discriminatorily toward**
 16 **Eller. Instances when administrator called Eller 'He.'**
 17 **"Introduction, Sylvia Rawls, AP, no**
 18 **longer in building. Eller assigned easier classes. Has**
 19 **had to correct students. Students would go by classroom**
 20 **to gawk. Does not believe Eller has been properly**
 21 **supported by administration.**
 22 **"Professional development incident.**

02:12:03 1 **Robinson. Many people have come to her complaining about**
 2 **Robinson. Quote, red-necks, re, government teachers,**
 3 **multiple references to 'He.' Eller kept correcting."**
 4 Q. Thank you. I'd like to now turn to page
 5 396. It's just another page along. This is a chain of
 6 e-mails that goes on to the following page, 397. I'll
 7 let you take a moment to look at it.
 8 **A. Okay.**
 9 Q. Is this e-mail chain familiar to you?
 10 **A. Yes, I have seen this before.**
 11 Q. And in this e-mail chain, Miss Eller
 12 forwards you an e-mail that she received from Major
 13 Burks; is that correct?
 14 **A. That is correct.**
 15 Q. And I'd like to -- I will do the reading
 16 this time to relieve you of some reading. I'd like to
 17 read just a bit from Miss Burks' e-mail -- I'm sorry,
 18 Major Burks' e-mail and please let me know if I have read
 19 it correctly. Just starting a couple of lines down from
 20 her -- the beginning of her e-mail.
 21 "I was supposed to receive a follow-up
 22 e-mail from Friendly High School to discuss the

02:15:55 1 "My opinion of this was that there was
 2 lackluster support of this session. I didn't feel that
 3 there was genuine encouragement to be professional above
 4 all."
 5 Did I read that correctly?
 6 **A. Yes, I believe so.**
 7 Q. Do you -- did you have any knowledge of this
 8 training before conducting the investigation into Miss
 9 Eller's complaint?
 10 **A. No, I did not.**
 11 Q. Did you inquire of anyone at the school
 12 about this training in the course of the inquiry?
 13 **A. I did.**
 14 Q. Who did you talk to about this training?
 15 **A. Well, obviously, I spoke to Miss Eller about**
 16 **it. I spoke with Dion, the teacher whose name I just**
 17 **forgot that quickly.**
 18 Q. I believe it was Dion Oliver.
 19 **A. Oliver.**
 20 **I spoke with the other administrators**
 21 **that I interviewed as a part of the investigation about**
 22 **this as well. And I believe there were several other**

02:14:55 1 expectations slash audience slash questions slash
 2 concerns, but I never heard from anyone. I went to
 3 Friendly High School that Tuesday without any
 4 confirmation and sat through some other required training
 5 that was also scheduled during my allotted time. When I
 6 did present, I didn't have a PowerPoint slide or any
 7 handouts so I used that time to have an interactive
 8 discussion. Many of the staff seemed interested in the
 9 discussion but it was also clear some were not.
 10 "During my presentation, a staff member,
 11 open parenthesis, I don't know her name, close
 12 parenthesis, shouted out, quotation, 'I don't know why we
 13 have to go through changes for someone else. They are
 14 just too sensitive.' Close quotation, or something to
 15 that effect.
 16 "Immediately, the principal interjected
 17 and another administrator asked me to meet with that
 18 staffer in the hallway. Before I walked out to the
 19 hallway, the principal thanked me for being there and
 20 abruptly ended my session. When I went out to the
 21 hallway, the staffer did not come out to meet with me to
 22 discuss her concerns and I left shortly thereafter.

02:16:57 1 **staff members that -- that I spoke to about this**
 2 **particular training.**
 3 Q. In the course of your inquiry and those
 4 questions about the training, did you find out who
 5 organized the training?
 6 **A. Well, I know it was done at the request of**
 7 **the principal. I don't know specifically who from the**
 8 **school may have made the administrative calls to arrange**
 9 **it, but it was at Principal Adams' request that it was**
 10 **done.**
 11 Q. And in the course of your inquiry, did you
 12 find out if Major Burks had been communicated over the
 13 format or length of her training ahead of time?
 14 **A. Had she been communicated with about the**
 15 **length of her training in advance? I don't believe that**
 16 **that had taken place.**
 17 Q. In the course of your inquiry, did you
 18 determine how long that training took place?
 19 **A. So I know that the -- yes. So the allotted**
 20 **staff meeting is an hour. That's contractually what's**
 21 **allotted. So I know that that time period was the**
 22 **overall time for the entire meeting to occur.**

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02:18:11 1 I understand that the training or Major
 2 Burks' portion of that was only a fraction of that time
 3 period.
 4 Q. Did you have any, I guess, follow-up
 5 discussions with Friendly High School faculty or staff
 6 regarding the efficacy of this training?
 7 A. Well, not regarding efficacy, but with
 8 regards to just logistics, really, because it appears --
 9 it appeared that there were certain individuals that
 10 weren't entirely clear as far as what all was taking
 11 place; but as is sometimes the case, administrators
 12 attempt to provide spot training on issues during the
 13 course of staff meetings, and I've conducted training in
 14 the same format as well.
 15 And you don't know when you're going.
 16 You're just given an hour window, and you're there, and
 17 when they have an opportunity to allow you to take the
 18 floor, you do it.
 19 So I'm familiar with that, and they have
 20 all -- a host of other things that they have to go
 21 through during the course of these trainings.
 22 So I'm familiar with that process.

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02:19:34 1 But logistically, there appear to have
 2 just been kind of miscommunication or not good
 3 communication overall with the fact that this was being
 4 added on to the staff meeting.
 5 Q. In the course of your inquiry, did you
 6 discuss with anyone the faculty and administrator's
 7 reaction to the training?
 8 A. Well, yes, I did, and as is shared with kind
 9 of what I just kind of read, there were some people who
 10 appeared disinterested in it, and there were others that
 11 appeared that they were interested and didn't have any
 12 issues.
 13 So I think there was -- it was received
 14 on both a positive and negative front.
 15 Q. By -- you used the term disinterested. I'm
 16 not sure if that...
 17 A. I thought that's what I read.
 18 Q. Did use the word interested...
 19 Would you -- beyond -- forget it.
 20 Did you discuss with anyone Miss
 21 Robinson's reaction to this training?
 22 A. I spoke more specifically about Miss

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02:21:06 1 Robinson's direct interactions with Miss Eller, but I
 2 don't recall having received specific information related
 3 to Miss Robinson's reaction to the training.
 4 Q. Do you recall how long your investigation of
 5 Miss Eller's 4170 complaint took?
 6 A. Well, I believe we indicated that it was
 7 filed February 23rd of 2015, and I believe my letter of
 8 determination was issued in June of 2015. So whatever
 9 that time frame is.
 10 Q. I believe that is four months. Does that
 11 sound right to you?
 12 A. Give or take, yes.
 13 Q. Is that a typical amount of time for an
 14 investigation?
 15 A. There's some that take longer. There's some
 16 that I'm able to conclude much faster. But I just --
 17 this case required the time that it took in this
 18 particular instance.
 19 Q. Are there different phases of the
 20 investigation in that, like, there's perhaps a collection
 21 of information phase and then later you sitting down to
 22 write the letter of determination phase, or does that all

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02:22:32 1 kind of happen around the same time?
 2 A. Well, no, I don't write until I've collected
 3 all of the information. So, yes, but it's not a formal
 4 phase in the sense that we've checked a box and we're now
 5 on to phase B; but I do follow a general practice of
 6 meeting with first the charging party, and then I meet
 7 with the Respondent. Then typically I meet with
 8 witnesses thereafter.
 9 Interspersed throughout, I may have
 10 requested documents that I'm reviewing as they become
 11 available.
 12 Then after I believe that I have
 13 adequately uncovered all of the information regarding the
 14 salient points that are raised, then I sit down, review,
 15 and write a letter of determination thereafter.
 16 Q. If you could turn back to a prior exhibit
 17 that we marked as Exhibit 94. It's an e-mail.
 18 At the top of your e-mail -- this is an
 19 e-mail from you to Miss Zane, Daria Zane.
 20 You state here that, "Any information
 21 you wish to submit respecting such complaints should be
 22 forwarded to my attention on or before April 20, 2015, at

02:24:00 1 close of business."
 2 Is that correct?
 3 **A. That is what that states.**
 4 Q. Does that indicate that your kind of
 5 informal phase of collecting information about Miss
 6 Eller's complaint was going to end on April 20th?
 7 **A. That's indicating that I want the**
 8 **information by then. And giving everyone deadlines and**
 9 **expectations so that it's not something that just hangs**
 10 **out and no one is clear when it has to be done. So**
 11 **that's what that's intended to convey.**
 12 Q. Do you recall, is that a deadline that you
 13 were giving everyone in terms of when they should submit
 14 information to you about this complaint?
 15 **A. I don't recall that. I don't -- I don't**
 16 **recall if I had given this deadline to others involved in**
 17 **this complaint process or not.**
 18 Q. I'd like to now look at a new exhibit.
 19 (Plaintiff's Exhibit 96, certified mail receipt, PGCP
 20 policy, PGCP 145-149, was marked for identification.)
 21 MR. MOGUL: Ms. Simmons, would you like
 22 more water? I see your water is done.

02:25:35 1 THE WITNESS: I would, actually. Thank
 2 you.
 3 MR. MOGUL: You're welcome.
 4 Q. Ms. Simmons, are you familiar with this
 5 document?
 6 **A. Yes. This appears to be the letter of**
 7 **determination.**
 8 Q. Is this dated June 25, 2015?
 9 **A. Yes, it is.**
 10 Q. Can you explain what steps you took
 11 regarding this -- regarding your investigation to Miss
 12 Eller's complaint between April 20 and June 25, 2015?
 13 **A. During this time frame, I likely reviewed**
 14 **the information that had been presented from both the**
 15 **charging party and any witnesses. I concluded what I**
 16 **believed to be necessary oral interviews with witnesses,**
 17 **and then I ultimately wrote the letter that we're**
 18 **referencing.**
 19 Q. Would you have spoken to other central
 20 office officials about the investigation in the course of
 21 creating your letter of determination?
 22 **A. No.**

02:27:20 1 Q. I'd like to turn to your factual findings.
 2 The factual findings conclude that Miss Robinson
 3 misgendered Miss Eller at the February 13, 2015,
 4 professional development session; is that correct?
 5 **A. Yes. It indicates that Miss Robinson**
 6 **referred to charging party in at least two instances as**
 7 **"he" or "him."**
 8 Q. The factual findings do not conclude one way
 9 or the other how Miss Robinson acted toward Miss Eller
 10 outside of that meeting, does it?
 11 **A. Well, it makes reference to the apology that**
 12 **she gave at the conclusion of the meeting. And then it**
 13 **does indicate that a review of the prior incident between**
 14 **Miss Robinson and charging party during the 2012-2013**
 15 **academic year does not reveal a nexus between such**
 16 **interaction and charging party's membership in a**
 17 **protected class.**
 18 Q. So outside of the February 13, 2015, event
 19 and the prior incident between Miss Robinson and charging
 20 party referred to in your conclusion in the 2012-2013
 21 academic year, there's no conclusions in here about the
 22 interactions between Miss Robinson and Miss Eller; is

02:29:22 1 that right?
 2 MR. SHARMA: Objection. You can answer.
 3 **A. So other than the February 13 and the**
 4 **reference to the prior incident that occurred between the**
 5 **two parties, it does not make reference to interactions**
 6 **with Miss Robinson and Miss Eller. I believe that's**
 7 **accurate.**
 8 Q. In the last paragraph of your factual
 9 findings before the conclusion, the letter of
 10 determination mentions that Miss Eller has complained
 11 of -- has complained about student behavior and incidents
 12 involving security officers; is that correct?
 13 **A. Yes. Charging party also complained about**
 14 **student behavior as well as certain incidents involving**
 15 **security officers, yes.**
 16 Q. The letter of determination does not
 17 conclude whether any of these other instances constitute
 18 harassment or discrimination, do they? Does it?
 19 **A. No, it does not make a determination about**
 20 **any other incident other than the incident complained of**
 21 **on February 13th.**
 22 Q. The letter of determination mentions in the

02:30:47 1 prior paragraph the March 17, 2015, training conducted by
 2 Major Burks; correct?
 3 **A. Yes, it does.**
 4 Q. And it mentions that Miss Eller has
 5 contended that it was ill-prepared and not well received;
 6 correct?
 7 **A. Yes.**
 8 Q. But the letter of determination does not
 9 reach a conclusion about whether Miss Eller's contention
 10 about that training is correct or incorrect, does it?
 11 **A. It doesn't. It just indicates that -- that**
 12 **charging party relied on other information to conclude**
 13 **that the training was ill-prepared and not well received.**
 14 Q. And the letter of determination does not
 15 mention how Miss Robinson react to Major Burks' training,
 16 does it?
 17 **A. No, it does not.**
 18 Q. So in your conclusion in the letter of
 19 determination, it's found that Miss Robinson -- Miss
 20 Robinson's misgendering at the February 13th meeting does
 21 not constitute harassment that violates administrative
 22 procedure 4170; is that correct?

02:32:03 1 **A. That's correct.**
 2 Q. The letter does not consider whether other
 3 experiences of harassment that Miss Eller may have
 4 complained about would form a violation of administrative
 5 procedure 4170, does it?
 6 **A. So the letter of determination responds**
 7 **specifically to the complaint.**
 8 **So the other instances that were raised**
 9 **were considered as a part of the investigation, but the**
 10 **investigation -- the query as to whether the incident**
 11 **complained of constitutes a violation, and so that's what**
 12 **the letter responds to.**
 13 Q. The letter of determination recommends
 14 appropriate professional counsel and/or discipline for
 15 Miss Robinson; correct?
 16 **A. Correct.**
 17 Q. Whose responsibility was it to carry out
 18 that recommendation?
 19 **A. Counsel or discipline would occur either by**
 20 **the direct supervisor and/or employee labor relations.**
 21 Q. Who was Miss Robinson's direct supervisor?
 22 **A. It would have been Principal Adams.**

02:33:07 1 Q. Do you know if Miss Robinson was subject to
 2 either professional counsel or discipline?
 3 **A. It is my understanding that she did receive**
 4 **professional counsel.**
 5 Q. And what does that mean, professional
 6 counsel?
 7 **A. So it's intended to advise an employee of a**
 8 **deficiency, and provide them with information in support**
 9 **to correct behavior.**
 10 **So professional counsel can sometimes be**
 11 **a meeting with a supervisor. Sometimes it's a -- it can**
 12 **be written correspondence. We now have even moved to a**
 13 **form that's used for purposes of professional counsel,**
 14 **which was not in effect during the relevant time period**
 15 **here. But it's intended to provide an employee with**
 16 **notice of a deficiency and an opportunity to improve.**
 17 Q. So your understanding is that Miss Robinson
 18 was not subject to discipline?
 19 MR. SHARMA: Objection. You can answer.
 20 **A. So I simply don't know that, but I am -- I**
 21 **do understand that she did receive professional counsel.**
 22 **So an employee can receive professional counsel, and**

02:34:29 1 **receive discipline. I just don't know whether she --**
 2 **what her disciplinary status may have been.**
 3 Q. Mm-hmm.
 4 Did you -- how did you discover that
 5 Miss Robinson was subject to professional counsel?
 6 **A. I believe that -- that Principal Adams**
 7 **shared that information with me.**
 8 Q. Did Mr. Adams share that information with
 9 you?
 10 MR. SHARMA: Objection. You can answer
 11 again.
 12 Q. You just said you believe that he did, but I
 13 just want to make sure if he did or not.
 14 MR. SHARMA: Objection. You can answer.
 15 **A. I believe that that's how I learned of the**
 16 **information.**
 17 Q. Are there any repercussions for an employee
 18 when they receive professional counsel?
 19 MR. SHARMA: Objection. You can answer
 20 if you wish to.
 21 **A. Repercussions, I don't know that I can state**
 22 **that, but it's a part of the progressive disciplinary**

02:35:39 1 **process, so...**
 2 **It's certainly taken into account if an**
 3 **employee's behavior is not rectified or improved.**
 4 Q. Sorry. Could you explain a little bit more
 5 what that means, the progressive disciplinary process?
 6 **A. So this is not my area of expertise, but**
 7 **progressive discipline is exactly that.**
 8 **So it's designed to give an employee an**
 9 **opportunity to improve their behavior. If they do not,**
 10 **then progressively more serious consequences are**
 11 **implemented to discipline an employee for poor behavior.**
 12 Q. So you did not -- did you ask anyone in
 13 preparation for your deposition today whether Miss
 14 Robinson had experienced any discipline as a result of
 15 your letter of determination?
 16 **A. Did I ask anyone whether she was disciplined**
 17 **in preparation for my deposition? No, I did not.**
 18 Q. You were designated a 30(b)(6) witness on
 19 this topic about whether Miss Robinson -- what responses
 20 defendants had to the letter of determination.
 21 MR. SHARMA: I'll refer you to our
 22 answer to interrogatory as well, which answers that

02:37:25 1 question, under oath.
 2 MR. MOGUL: Okay. Well, we'll take
 3 that, then. It's not very clear, but...
 4 MR. SHARMA: I think it is, but okay.
 5 Q. Okay. The letter of determination
 6 recommends that during the 2015 to '16 academic year,
 7 both Friendly High School students and staff received
 8 diversity and sensitivity training; is that correct?
 9 **A. Let me see where that is.**
 10 Q. It's at the bottom of that page.
 11 **A. Yes. It does say that.**
 12 Q. And the letter also says that you should be
 13 consulted in preparation for such trainings; is that
 14 correct?
 15 **A. Correct.**
 16 Q. What was the basis of that recommendation?
 17 **A. To provide additional -- to ensure that**
 18 **additional training was provided at the school. The**
 19 **information that I reviewed indicated that there was**
 20 **perhaps an inconsistency as far as the student quarterly**
 21 **training, or at least one student quarterly training for**
 22 **11th graders.**

02:38:47 1 **And then there was some lack of clarity**
 2 **as it related to the training that was provided by Major**
 3 **Burks. So I just wanted to ensure that the trainings**
 4 **going forward were handled in a consistent fashion.**
 5 Q. Whose responsibility was it to carry out
 6 that recommendation?
 7 **A. Well, ultimately, the principal of the**
 8 **school is responsible for its overall function.**
 9 **So it would have ultimately been his**
 10 **responsibility.**
 11 Q. During the 2015-'16 school year, did
 12 Friendly High School students receive diversity and
 13 sensitivity training?
 14 **A. They did.**
 15 Q. Was it the same training that we have been
 16 discussing before?
 17 **A. It was the standard training that was**
 18 **provided to all students. That's accurate, yes.**
 19 Q. So your recommendation here was not that
 20 they receive some different kind of training that had not
 21 in theory been attempted before?
 22 **A. No, it was just to ensure that the training**

02:39:51 1 **that was supposed to be given was given in a consistent**
 2 **format.**
 3 Q. During the 2015-'16 school year, did
 4 Friendly High School staff receive diversity and
 5 sensitivity training?
 6 **A. The staff received the same training that**
 7 **all other staff members received during that time period.**
 8 **I did attempt to come up with additional**
 9 **training for Friendly High School and had communications**
 10 **with Miss Eller about that, and we were unable to**
 11 **implement those additional trainings.**
 12 **So they received training consistent**
 13 **with the rest of the school system.**
 14 **(Plaintiff's Exhibit 97, e-mail, Eller to Gaffney,**
 15 **10.7.2015, was marked for identification.)**
 16 Q. I'd like you to take a look at Exhibit 97,
 17 please. It's just the one page.
 18 **A. Okay.**
 19 Q. Do you recognize this e-mail?
 20 **A. I don't know. This e-mail was not addressed**
 21 **to me. So I don't know that I have seen this e-mail**
 22 **before.**

02:43:16 1 Q. So you don't recall ever being forwarded
 2 this e-mail?
 3 **A. I'm not sure. I just don't know.**
 4 Q. This e-mail is from Miss Eller to a few
 5 people, but including Mark Fossett. Do you know who Mark
 6 Fossett is?
 7 **A. I do.**
 8 Q. Who is he?
 9 **A. I'm not certain of his title now. I believe**
 10 **he's an associate superintendent that deals with building**
 11 **services.**
 12 Q. Was that his role in October 2015?
 13 **A. I don't believe so. Yeah, I don't believe**
 14 **that was his role in October of 2015.**
 15 Q. In this e-mail, Miss Eller alleges a series
 16 of microaggressions related to her gender identity; is
 17 that correct?
 18 **A. What she has identified, yes.**
 19 Q. And some of these are misgendering; is that
 20 correct?
 21 **A. Yes. Some of them do indicate misgendering.**
 22 Q. And that's the same conduct that was the

02:46:01 1 **A. Well, I mean I've received lists of**
 2 **complaints from people constantly. I mean, that's the**
 3 **lion's share of what I receive, concerns that people have**
 4 **as it relates to their experience in the workplace.**
 5 **I don't know that I would characterize**
 6 **them as microaggressions. So -- that's why I hesitate**
 7 **in -- and I don't think that anyone else has**
 8 **characterized them in their list to me as**
 9 **microaggressions, either.**
 10 **Perhaps maybe one or two have, I don't**
 11 **know. I just don't frequently receive complaints that**
 12 **are lodged in that fashion.**
 13 Q. In the course of your training, have you
 14 been trained on what a microaggression is?
 15 **A. Certainly, I know what it is. I'm just**
 16 **saying that it's not often used as a descriptor for what**
 17 **people are...**
 18 Q. Sure. Sure. I'm asking you to put aside
 19 the descriptor. Have you received complaints that would
 20 constitute, based on your training, what you would deem
 21 microaggressions?
 22 **A. So I think the complaints generally run a**

02:44:21 1 subject of the complaint against Miss Robinson; right?
 2 MR. SHARMA: Objection. You can answer.
 3 **A. So the conduct that she alleges to Miss**
 4 **Robinson is different than what is being alleged here.**
 5 **She makes references to certain student interactions -- I**
 6 **mean, there are a lot of different things that are said**
 7 **here. I don't know that I can just say that they're**
 8 **analogous to what she's alleging that Miss Robinson did.**
 9 Q. So you acknowledge that some of these
 10 alleged microaggressions would constitute misgendering?
 11 **A. Right. But she says even here, "Friday,**
 12 **September 4th, Mr. Brooks called me a sir, while talking**
 13 **one-on-one with me at a department meeting. I believe**
 14 **this was an honest slip and not done on purpose."**
 15 **I don't know. She appears to be**
 16 **distinguishing between some of them she believes to be**
 17 **intentional and some not.**
 18 Q. Have you ever received a list of
 19 microaggressions from anyone, just bringing that to your
 20 attention?
 21 **A. Titled list of microaggressions or --**
 22 Q. Doesn't have to be titled that.

02:47:20 1 **full spectrum of things, and not all of which would fall**
 2 **under that category, but certainly some could be**
 3 **considered microaggressions.**
 4 Q. Have you ever written a letter of
 5 determination that concluded that microaggressions
 6 constituted a violation of policy?
 7 **A. Not utilizing that phrase, to my knowledge.**
 8 Q. Putting aside the phrase. Conduct that --
 9 **A. But I have written letters that indicate**
 10 **that the totality of the circumstances render an**
 11 **employee's behavior to be violative of the administrative**
 12 **procedure.**
 13 Q. Miss Eller also states -- this is towards
 14 the top of this e-mail -- that training recommended in
 15 the letter of determination had not occurred; is that
 16 consistent with your understanding of where things stood
 17 on October 7, 2015?
 18 **A. It is not.**
 19 Q. And why is it not consistent?
 20 **A. Well, actually, my letter of determination**
 21 **was issued on June 25th of 2015. So this would have**
 22 **taken place -- so all of the things that she complains of**

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02:48:39 1 **would have allegedly taken place after my letter of**
 2 **determination was issued.**
 3 **Although pre-service week would have**
 4 **taken place then. So it is certainly my understanding**
 5 **that the required pre-training week training had occurred**
 6 **at Friendly consistent with the training that was**
 7 **received at all of the other schools as well.**
 8 Q. And I believe you said before that you had
 9 started to work with Mr. Adams on implementing another
 10 training that's not the standard pre-service week
 11 training for staff?
 12 **A. Yeah, we had discussions about it, but it**
 13 **was never confirmed or approved.**
 14 Q. All right. So I'm now handing you Exhibit
 15 98.
 16 (Plaintiff's Exhibit 98, e-mail, Eller to Eller,
 17 11.13.2015, was marked for identification.)
 18 Q. Obviously, feel free to read the whole
 19 document if you wish. I'll represent to you that the
 20 last two e-mails are the same as the ones you just looked
 21 at.
 22 **A. Okay.**

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02:50:07 1 Q. In the next closest e-mail to the top -- oh,
 2 sorry.
 3 Are you familiar with this e-mail chain?
 4 **A. Again, I don't know that this e-mail was**
 5 **forwarded to me.**
 6 Q. In the next closest e-mail to the top,
 7 someone named Kimberly Cosby tells Jenny that she spoke
 8 with you, and that she said that you're currently working
 9 with the principal to set a date to bring in an outside
 10 group to complete the training.
 11 Is that consistent with your
 12 recollection of discussions you might have had with Miss
 13 Cosby?
 14 **A. So I may have had communications with Miss**
 15 **Cosby about my attempts to work on additional training,**
 16 **but that training was not -- that was in addition to what**
 17 **was already being provided, so...**
 18 Q. I'm handing you what's marked as Exhibit 99.
 19 (Plaintiff's Exhibit 99, US EEOC Notice of Charge, was
 20 marked for identification.)
 21 Q. Do you recognize this document?
 22 **A. It appears to be the charge of**

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02:52:09 1 **discrimination that was filed by Miss Eller.**
 2 Q. And it also includes a notice of charge of
 3 discrimination; is that right?
 4 **A. Yes, it does.**
 5 Q. And that notice is directed to Miss Davis;
 6 is that right?
 7 **A. Yes, it is.**
 8 Q. Was Miss Davis still employed by the school
 9 system in July 2015?
 10 **A. I did -- I believe she was, but I'm not**
 11 **positive.**
 12 Q. What typically happens in your office when
 13 one of these notices of a charge of discrimination with
 14 the EEOC is received?
 15 **A. Well, that process has changed, but during**
 16 **this time period, we would have typically received just**
 17 **the notice of charge of discrimination that was separate**
 18 **and apart from the charge itself.**
 19 **Then we would typically receive a charge**
 20 **of discrimination at a later time, with the time frame**
 21 **for us to provide a position statement.**
 22 Q. So for example here, there's a notice that

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02:53:29 1 provides a deadline of August 17, 2015; is that right?
 2 **A. Mm-hmm. I do see that.**
 3 Q. So let's just talk about the position
 4 statement first.
 5 What goes into responding to one of
 6 these charges of discrimination with the position
 7 statement?
 8 **A. Well, we just provide our position in**
 9 **response to what's being alleged in the charge.**
 10 Q. Mm-hmm.
 11 **A. In its kind of most basic form. That's what**
 12 **we're doing.**
 13 Q. Do you collect information from individuals
 14 at schools that might have been involved in the alleged
 15 events?
 16 **A. So yes. Sometimes I do. Sometimes there's**
 17 **a charge of discrimination that I receive, and I have no**
 18 **information on. So I obviously then would reach out to**
 19 **individuals who have relevant information in order to**
 20 **respond to what's being alleged.**
 21 **I request personnel files, et cetera.**
 22 **Yeah.**

02:54:32 1 Q. Who else is given a copy of this notice of
 2 charge of discrimination when one comes in?
 3 **A. So if it's handled appropriately, it comes**
 4 **just directly to my office. Sometimes it goes around the**
 5 **barnyard before it gets to me, as I'm sure this one did,**
 6 **because it wasn't even addressed to me.**
 7 **But typically, it comes to my office,**
 8 **and we don't duplicate the charge for anyone. We just**
 9 **determine the information that we need in order to**
 10 **respond, and reach out to individuals in order to get**
 11 **that information.**
 12 Q. Do you provide notice to anyone that this
 13 notice of charge of discrimination is coming?
 14 **A. So individuals do receive notice, but**
 15 **it's -- it's notice of our request for information. It's**
 16 **not just a notice of -- that there's a pending charge of**
 17 **discrimination.**
 18 **So for example, if we're collecting**
 19 **information from Principal Adams, we're providing him**
 20 **with notice that we have received a charge of**
 21 **discrimination and making a request for certain**
 22 **information.**

02:55:54 1 Q. Is the general counsel's office informed
 2 when one of these comes in?
 3 **A. So this went to the general counsel's**
 4 **office, it appears.**
 5 Q. Is that the general counsel's office, that
 6 address?
 7 **A. Well, no. I mean, it just indicates**
 8 **"Attention, General Counsel," so that's why I was -- on**
 9 **the actual charge of discrimination itself.**
 10 Q. So if that had not been there, would this
 11 be -- would a charge of discrimination be shared with the
 12 general counsel's office?
 13 **A. They would have notice of just the list of**
 14 **EEOC complaints that are pending, but not necessarily**
 15 **this one in particular.**
 16 Q. When the general counsel's office is given
 17 notice that there's a notice of charge of discrimination,
 18 do they typically institute a litigation hold?
 19 **A. Litigation holds are typically initiated**
 20 **when there's an external lawsuit that's filed.**
 21 Q. So is the answer that's not typical, then,
 22 for them to institute a litigation hold, when they

02:57:20 1 receive the notice of charge of discrimination?
 2 **A. I don't know that I can answer that**
 3 **question.**
 4 Q. Now turning to this particular notice of
 5 charge of discrimination --
 6 **A. Sure.**
 7 Q. -- were any copies of this notice or the
 8 charge forwarded to anyone?
 9 **A. Not to my knowledge.**
 10 Q. Who did -- if anyone, who did you reach out
 11 to, to request information to respond to the charge?
 12 **A. So in this particular case, because there**
 13 **was an internal complaint, much of the information I**
 14 **believe that I had already, but I did in fact have**
 15 **communications with Principal Adams and Miss Pope-Brown**
 16 **as it relates to the charge of discrimination.**
 17 Q. Do you recall when those communications took
 18 place?
 19 **A. Well, it would have been after having**
 20 **received the charge, and prior to me issuing a position**
 21 **statement.**
 22 Q. Would it have been within a certain

02:58:56 1 number -- can you say within a certain number of weeks or
 2 months of receiving this charge when you would have
 3 reached out to them?
 4 **A. I cannot.**
 5 Q. So this notice requested a statement, as we
 6 already established, by August 17, 2015. Was a response
 7 submitted to the EEOC on that date?
 8 **A. I don't know. I'd have to look at the -- so**
 9 **it looks as if the position statement was submitted on**
 10 **September 14, 2016.**
 11 **(Plaintiff's Exhibit 100, US EEOC Notice of Charge, was**
 12 **marked for identification.)**
 13 Q. Now handing you Exhibit 100. Do you
 14 recognize this document?
 15 **A. It indicates it's a notice of charge of**
 16 **discrimination, and Jennifer Eller is indicated as the**
 17 **person filing the charge.**
 18 Q. Have you seen this notice before?
 19 **A. I don't know, but I would presume I have.**
 20 Q. This notice is directed to you --
 21 **A. It is.**
 22 Q. -- is that correct?

03:00:39 1 **A. Correct.**
 2 Q. Does this notice have the same charge number
 3 as the notice we were just looking at?
 4 **A. Well, it indicates a C at the end of the**
 5 **charge, 531201510787C. The initial notice of charge**
 6 **doesn't indicate a C at the end.**
 7 Q. Do you know what that C indicates?
 8 **A. I'm assuming that it was a corrected.**
 9 Q. This notice provides a different response
 10 date than the one we looked at before. It says November
 11 2, 2015; is that correct?
 12 **A. That is what it says.**
 13 Q. Do you know if a response was submitted to
 14 the EEOC before that date?
 15 **A. I shared the response date was September the**
 16 **14th, 2016.**
 17 Q. Okay.
 18 MR. MOGUL: Actually, why don't we take
 19 a five-minute break.
 20 THE WITNESS: Sure.
 21 (RECESS, 3:01 p.m. - 3:15 p.m.)
 22 BY MR. MOGUL:

03:16:02 1 Q. Ms. Simmons, in the course of your
 2 investigation into Miss Eller's 4170 complaint, did you
 3 reach out to Major Burks about her training?
 4 **A. Yes, I believe I did.**
 5 Q. How did you reach out to her?
 6 **A. Via telephone.**
 7 Q. Did you successfully contact her?
 8 **A. I believe so.**
 9 Q. What did you ask her about?
 10 **A. Just the statements that she made as it**
 11 **relates to the training that she performed.**
 12 Q. Were her statements consistent with the
 13 e-mail that we read earlier?
 14 **A. I believe so.**
 15 Q. It was just that one phone conversation with
 16 her?
 17 **A. Correct.**
 18 Q. Following your -- the issuance of your
 19 letter of determination, you mentioned that you had
 20 discussions with Principal Adams about an additional
 21 staff training. When did those discussions start?
 22 **A. So I don't really know. So the letter was**

03:17:16 1 **in June. It probably was in the fall of 2015.**
 2 Q. And in the course of those discussions, did
 3 you or he or anyone else mention the idea of bringing in
 4 an outside group to conduct that training?
 5 **A. Yeah. That's what we were talking about,**
 6 **mm-hmm.**
 7 Q. Had anyone identified a particular outside
 8 group?
 9 **A. I had been in communication with several**
 10 **people, entities, that we were attempting to come up with**
 11 **potential training for.**
 12 Q. And can you name some of those entities or
 13 people?
 14 **A. I can't as we speak, but I took certain**
 15 **recommendations from Miss Eller and contacted --**
 16 **attempted to contact people that she had recommended for**
 17 **training, so...**
 18 **But yeah, that would have taken place**
 19 **probably the fall of 2015.**
 20 Q. And when did your discussions with Mr. Adams
 21 about that potential training end?
 22 **A. I don't -- I'm not able to answer that**

03:18:30 1 **question. I don't know that there was a specific end**
 2 **date to the conversations, but there was a lot of back**
 3 **and forth, and me inquiring with outside individuals**
 4 **determining whether they could be appropriate vendors,**
 5 **whether they were willing to go through the process to**
 6 **become an approved vendor for the school system, whether**
 7 **there was existing curriculum. There was just a lot**
 8 **of -- of back and forth, if you will, for lack of a**
 9 **better phrase.**
 10 **So I don't know that there was any**
 11 **specific end date to my conversations with Principal**
 12 **Adams, but none of it came to fruition.**
 13 Q. Do you recall if those discussions extended
 14 into 2016?
 15 **A. I would imagine that they did, just because**
 16 **every step appeared to take a long time. So I would**
 17 **imagine that it was well into 2016.**
 18 Q. Do you recall if those conversations
 19 extended into the summer of 2016?
 20 **A. I don't -- I really don't know.**
 21 MR. MOGUL: No further questions at this
 22 time.

03:19:48 1 MR. SHARMA: No questions.
 2 MR. MOGUL: No. Okay.
 3 (SIGNATURE not discussed.)
 4 (CONCLUDED, 3:19 p.m.)
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1 CERTIFICATE OF COURT REPORTER
 2 I, Marjorie Peters, Registered Merit Reporter,
 3 Certified Realtime Reporter, and Notary Public in the
 4 District of Columbia, before whom the foregoing
 5 deposition was taken, do hereby certify that the witness
 6 was placed under oath according to the law; that the
 7 foregoing transcript is a true and correct record of the
 8 testimony given; that said testimony was taken by me
 9 stenographically and thereafter reduced to typewriting
 10 under my direction, and that I am neither counsel for,
 11 related to, nor employed by any of the parties to this
 12 case and have no interest, financial or otherwise, in its
 13 outcome.
 14 I further certify that signature was not waived by
 15 the witness.
 16 IN WITNESS WHEREOF, I have hereunto set my hand
 17 this day of , 2020.
 18
 19
 20
 Marjorie Peters, RMR, CRR
 21 My commission expires October 31, 2024.
 22

1 ACKNOWLEDGMENT OF DEPONENT
 2
 3 I, AMANA SIMMONS, do hereby acknowledge that I
 4 have read and examined the foregoing testimony, and the
 5 same is a true, correct and complete transcription of the
 6 testimony given by me and any corrections appear on the
 7 attached Errata sheet signed by me
 8
 9
 10 _____
 11 (DATE) (SIGNATURE)
 12
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1 ERRATA SHEET
 2 IN RE:
 3 DEPONENT:
 4 RETURN BY:
 5 =====
 6 PAGE/LINE CORRECTION AND REASON
 7
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 18 (DATE) (DEPONENT SIGNATURE)
 19
 20
 NOTARY PUBLIC:
 21
 22

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