

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(DIVISIONAL COURT)

AK/sr

B E T W E E N:

BECKY MCFARLANE, in her personal capacity and as litigation  
guardian for L.M., and THE CORPORATION OF THE CANADIAN  
CIVIL LIBERTIES ASSOCIATION

Applicants

- and -

MINISTER OF EDUCATION (ONTARIO)

Respondent

Court file No. 544/18

A N D B E T W E E N:

THE ELEMENTARY TEACHERS' FEDERATION OF ONTARIO and  
CINDY GANGARAM

Applicants

- and -

HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO AS  
REPRESENTED BY THE MINISTER OF EDUCATION

Respondent

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This is the Cross-Examination of MARTYN BECKETT, on his Affidavit affirmed the 5th day of November, 2018, taken at the offices of VICTORY VERBATIM REPORTING SERVICES, Suite 900, Ernst & Young Tower, 222 Bay Street, Toronto-Dominion Centre, Toronto, Ontario, on the 6th day of December, 2018.  
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A P P E A R A N C E S:

STUART SVONKIN	}	--	for the Applicants in
TEDDY WEINSTEIN	}		526/18
(student-at-law)	}		
HOWARD GOLDBLATT	}	--	for the Applicants in
ELLA BEDARD	}		544/18
(student-at-law)	}		
ZACHARY GREEN	}	--	for the Respondents in
ANDREA BOLIEIRO	}		both actions
HAYLEY PITCHER	}		
ESTEE GARFIN	}		

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1 --- upon convening at 10:00 a.m.

2 --- upon commencing at 10:00 a.m.

3

4 MARTYN BECKETT, affirmed

5 CROSS-EXAMINATION BY MR. GOLDBLATT:

6 1. Q. Mr. Beckett, good morning and thank  
7 you for joining us today. I am going to try and ask  
8 you these questions slowly enough that the reporter  
9 will be able to follow us and slowly enough that you  
10 will be able to follow me. And I ask you to watch  
11 and proceed in such a manner that the reporter can  
12 get all of your answers. And I understand, I can  
13 see you have in front of you a multi-coloured tabbed  
14 version of your affidavit. And I understand that  
15 you also have an index to the exhibits and behind  
16 you, you have a paper copy of all of the exhibits if  
17 they are necessary.

18 A. That is correct.

19 2. Q. And I assume as well that counsel  
20 has access to the exhibits by electronic or other  
21 form if necessary. Okay. So, let me ask you to  
22 turn in your affidavit to paragraph 97. It seems to  
23 be a convenient starting point. Take a moment to  
24 refresh your memory on paragraph 97.

25 A. Thank you.

1 3. Q. Okay?

2 A. Yes.

3 4. Q. And if you need it, the reference is  
4 Exhibit 40 and you can certainly turn to it if you  
5 wish. But all you do in this particular paragraph  
6 is quote from the release of the Elementary Teachers  
7 Federation of Ontario. There you go. And make no  
8 comment on it. So, I am going to ask you  
9 specifically, if you look at the top of page 39 of  
10 your affidavit, the quote is that:

11 "...ETFO will advise its members to  
12 continue to exercise their professional  
13 judgment when it comes to teaching all  
14 sections of the current curriculum..."

15 And at the time, the current curriculum would refer  
16 to the 2015 curriculum; is that correct?

17 A. That is correct.

18 5. Q. And to be specific, now we have a  
19 reissued, revised curriculum which we will come to,  
20 which is Exhibit 4 to your affidavit, which is the  
21 2018 curriculum. But would you agree that it would  
22 be appropriate for ETFO members to continue to teach  
23 all sections of the 2015 sexual health curriculum?

24 A. Thanks for that, Howard. Mr.  
25 Goldblatt. I don't agree with that...

1 6. Q. It is okay, Martyn, whatever you...

2 A. I don't know how formal you wish me  
3 to be.

4 7. Q. We can be informal. We will get to  
5 know each other.

6 A. Okay. I don't agree with that  
7 statement. The expectation since the 2018  
8 curriculum was released on the 22nd of August is  
9 that teachers are expected to teach the curriculum  
10 expectations as outlined in the 2018 curriculum  
11 rather than the 2015 curriculum.

12 8. Q. Okay. And whether I agree with you  
13 or not, there would be a distinction between how  
14 they teach, which is exercising their professional  
15 judgment, and what they teach, which is a specific  
16 curriculum. Is that correct?

17 A. That is correct.

18 9. Q. And from your perspective, as you  
19 just stated, teachers are obliged to teach the  
20 current curriculum, in this case as we sit here now  
21 the 2018 curriculum. How they do it is not  
22 necessarily an issue provided that they assess and  
23 evaluate based on the current curriculum; correct?

24 A. That is correct.

25 10. Q. So just in order to be clear as to

1           what we are talking about, I am going to ask you to  
2           turn to the...what is being referred to as the  
3           current curriculum, which is the reissued 2018, and  
4           I am going to ask you as well to look at the...what  
5           was then the current curriculum, being the 2015,  
6           only to identify for the record a couple of points.  
7           And this is just by way of example but I am going to  
8           ask you to turn, by way of example, to page 92 of  
9           the 2015 curriculum which is Exhibit 18...

10                   A.       I am still listening, Howard. I am  
11           just still gathering the document.

12    11.           Q.       All right. And I want to just  
13           say...I know you are listening.

14                   A.       Yes.

15    12.           Q.       Exhibit 18 of your affidavit, which  
16           is the 2015 curriculum. You now have it?

17                   A.       Page 97 you asked for?

18    13.           Q.       Page 92, please.

19                   A.       Pardon me.

20    14.           Q.       And if you can also turn at the same  
21           time to page 80 of the reissued 2018 curriculum.  
22           Okay? Now, both of these are with respect to grade  
23           1 and, to be clear, because you have said it in your  
24           affidavit but I want to be clear for the record, and  
25           pictures are always better than words, if I look at

1 the page 92, the very top "C. Healthy Living", that  
2 is referred to as the strand?

3 A. That is correct.

4 15. Q. And then down the left hand side is  
5 a series of topics.

6 A. That is correct. Four of them.

7 16. Q. Four topics. And the bottom one on  
8 the left-hand side is "human development and sexual  
9 health".

10 A. That is correct.

11 17. Q. And reading from left to right, we  
12 see a number of...under...we have C1s, C2s and C3s.  
13 C1, C2, C3 is an overall expectation which is  
14 defined right underneath the chart; correct?

15 A. Correct.

16 18. Q. And then they are broken up into  
17 smaller pieces referred to as specific expectations?

18 A. That is correct.

19 19. Q. And in accordance with your  
20 affidavit, the curriculum, as one would define it,  
21 that which must be taught by the teachers as a basis  
22 of assessment and evaluation, are the overall  
23 expectations and the specific expectations. Is that  
24 correct?

25 A. Teachers are required? I don't



1 agree entirely with that, Howard, just to clarify.

2 20. Q. Okay.

3 A. Teachers are required to assess on  
4 the overall expectations but they are required to  
5 cover the overall and specific expectations as part  
6 of their teaching practice.

7 21. Q. But together is it fair to call that  
8 the curriculum?

9 A. Yes. And to use the term, if I  
10 could, you described that prior as the what.

11 22. Q. That is the what?

12 A. Those form the what of the  
13 curriculum, correct.

14 23. Q. Fair enough. Now, by contrast, I am  
15 going to ask you to look now at the same strand,  
16 same grade of Exhibit 4, which is the current  
17 reissued curriculum. And it has the same topics,  
18 although one has been renamed to say "growth and  
19 development (1998)" as opposed to "human development  
20 and sexual health"; is that correct?

21 A. That is correct.

22 24. Q. And as I look, again, from left to  
23 right, there are no Cs, either C1 or C2, as we saw  
24 previously in the 2015 curriculum, but rather a note  
25 "see page 83"?

1 A. That is correct.

2 25. Q. And if we turn to page 83, what we  
3 see rather than quote-unquote Cs is a small chart  
4 called "growth and development (1998)" which in text  
5 form contains overall expectations and specific  
6 expectations; correct?

7 A. That is correct.

8 26. Q. And, again, that would be...you can  
9 say it any way you wish. That would be the what  
10 currently?

11 A. That is correct. That is the what.

12 27. Q. And just to be clear, because you  
13 have spent a lot of your affidavit comparing text  
14 from the '15 and the '18...some of which we will  
15 spend a bit of time on, but is it your position that  
16 the what from 2018 is the same as the what from  
17 2015?

18 A. The what is not identical. The what  
19 of the curriculum is covering similar topics but let  
20 me try and stress, Howard, if I may...

21 28. Q. Go ahead.

22 A. ...that the curriculum expectations  
23 are written at a high enough level that it provides  
24 lots of scope and flexibility for teachers to be  
25 able to seek resources and include whatever they

1 need to do in the classroom environment to bring  
2 that curriculum alive for their kids. If I may,  
3 just by way of an example for you, and I will use,  
4 if I could, let me go to on...

5 29. Q. I couldn't stop you if I wanted to.  
6 And I may want to and I can, but go ahead.

7 A. Thank you. Page 80, if I could,  
8 since we are open to those pages in any event, of  
9 the 2018 curriculum, just to make sure I have the  
10 right document. If I go to C1.1 at the bottom, the  
11 specific expectation tied to overall C1.1...pardon  
12 me, C1. The what is explaining why people need food  
13 and healthy bodies. And then the material beyond  
14 that example, and there is an example given, and  
15 then there are teacher prompts and student responses  
16 samples. They cover, as I talked earlier in my  
17 affidavit, they cover the what we say is the how.  
18 Possibilities of things that teachers might wish to  
19 consider in terms of how they meet the expectations.  
20 So, I just want to be clear that the expectation  
21 here is that first part which is written in plain  
22 text; all the material in italics and the prompts  
23 and so forth, that is the option.

24 When we come to on page 83 of the 2018  
25 curriculum we have the overall expectation, the

1 specific expectations. They don't include in the  
2 2018 curriculum teacher prompts, student responses,  
3 or in this case examples that are in brackets beyond  
4 the overall for the first one.

5 30. Q. Well, we will come back to the  
6 extent to which they are different.

7 A. Okay.

8 31. Q. But...sorry, I want to let you  
9 finish, Martyn.

10 A. No, that's okay.

11 32. Q. Okay. I will let...go ahead.

12 A. So, they are covering similar areas  
13 but they are not identical.

14 33. Q. They are not identical and therefore  
15 coming back to where I started, that is with respect  
16 to the ETFO in paragraph 97, teaching from the  
17 similar, as you put it, not identical but we can  
18 argue about that, 2015 is not permitted?

19 A. The assessing of the expectations  
20 from 2015 and teaching those expectations directly,  
21 that is not the direction of the 2018 curriculum.

22 34. Q. And just briefly, the constraint now  
23 is, as you have just described it, between teaching  
24 to the expectations for the assessment of 2015 as it  
25 then was as opposed to what they are now permitted

1 to do, and that is teaching to the expectations and  
2 assessment of the 2018?

3 A. So, a teacher can use the 2015  
4 document, Howard, as a resource in order to meet the  
5 expectations in the 2018 document. Again, as I  
6 mentioned, there is a lot of latitude, because of  
7 the way that expectations are written, for a teacher  
8 to be able to bring the curriculum alive in their  
9 professional practice for their particular  
10 classroom.

11 35. Q. But how a teacher delivers any  
12 program is actually part of the evaluation of the  
13 teacher in terms of their performance appraisal,  
14 which is something separate from how they themselves  
15 assess and evaluate the curriculum as they deliver  
16 it to their students. There is a distinction  
17 between a teacher performance appraisal and the  
18 assessment that the teachers do?

19 A. Of the students.

20 36. Q. Of the students.

21 A. Yes. That is correct. I would  
22 agree.

23 37. Q. Fair. All right, let's go back a  
24 little bit to your affidavit and I am going to ask  
25 you, if you can, to start at the beginning because I

1 want to spend a bit of time on your background and  
2 ask you also to have available your CV which is  
3 Exhibit 1.

4 A. Right. Thanks, Howard.

5 38. Q. Thank you. Now, for the record,  
6 this is your membership information from the Ontario  
7 College of Teachers register. I don't know if you  
8 have ever looked at it. I would ask you to look at  
9 it now and tell me whether it appears to be  
10 accurate. It doesn't show you having any  
11 outstanding discipline.

12 A. No, sir...

13 39. Q. I was surprised by that, but...

14 A. It does not. At a glance, because I  
15 have not looked at it in a considerable period of  
16 time, but it appears to be accurate.

17 40. MR. GOLDBLATT: Okay. So, can we have  
18 that marked, please, as Exhibit 1? Which  
19 may be the only exhibit we deal with today.

20 --- EXHIBIT NO. 1: Ontario College of Teachers profile  
21 for Martyn Beckett  
22

23 BY MR. GOLDBLATT:

24 41. Q. And in terms of your qualifications,  
25 I note that while you have...you have junior

1           division qualifications September of 1997. And we  
2           know that...well, for the record, what grades are  
3           junior division?

4                     A.       Grades 4, 5 and 6 are junior  
5           division.

6     42.           Q.       And have you ever taught in the  
7           junior division?

8                     A.       Yes, I have. As a practice teaching  
9           assignment, I taught a grade 6 class at the Toronto  
10          Island School.

11     43.           Q.       As a practice teaching assignment?

12                     A.       That is correct.

13     44.           Q.       That would be when? When are we  
14          talking about? When you got the...not when you got  
15          the qualifications, but when you qualified to get...

16                     A.       When I was doing my initial teacher  
17          education, just to be clear, yes. Practice teaching  
18          assignment.

19     45.           Q.       So, that would have been some time  
20          in 1990, 1991?

21                     A.       That is correct.

22     46.           Q.       Or 1989, 1990...

23                     A.       I was going to say, 1989...

24     47.           Q.       1989.

25                     A.       1989, 1990.

1 48. Q. Okay. And it appears as if your  
2 entire career prior to going into the Ministry of  
3 Education was with the Durham District School Board?

4 A. That is correct.

5 49. Q. And at the Durham District School  
6 Board, all of your teaching experience was in  
7 secondary?

8 A. That is correct.

9 50. Q. And in secondary, having a quick  
10 look at your experience, did you ever teach what  
11 would be now the equivalent of health and physical  
12 education or were you teaching mostly in the  
13 sciences?

14 A. I taught mostly in the sciences. I  
15 did not teach health and physical education, just to  
16 be...with a clear answer. I taught sciences. I  
17 taught cooperative education. And I taught  
18 cooperative education in fields that were not  
19 science. I also taught mathematics as well.

20 51. Q. And at paragraph 10, you say:  
21 "...Science and mathematics, environmental  
22 science, and cooperative education..."

23 You're confirming that?

24 A. That is correct.

25 52. Q. And further to confirm that, or at



1 least to get some clarity, leaving aside your role  
2 as a principal and a vice-principal and also holding  
3 a position of responsibility, all of which was in  
4 one or more secondary schools and may have been all  
5 in the same secondary for all I know, but then you  
6 became the supervisory officer. And in that role,  
7 were you supervising elementary schools or secondary  
8 schools?

9 A. I was supervising both in my role as  
10 a supervisory officer because the structure at that  
11 time in the Durham District School Board for what  
12 was called an area superintendent and I was a  
13 superintendent of area, so I had in my portfolio all  
14 of the elementary and secondary schools in that  
15 area.

16 53. Q. Okay. Whatever experience that  
17 might have been, that was over by 2008?

18 A. That is correct. If I could,  
19 though, if I can just add a bit to that, Howard.  
20 From the period 2005 to 2008, just to be clear, I  
21 was not an area superintendent. I was a  
22 superintendent for special education and that was a  
23 system-wide portfolio, so that was different and  
24 that related to students with special education  
25 needs, programs and services for those kids across

1 all of elementary and secondary.

2 54. Q. In any event, prior to going to the  
3 Ministry I assume you had no specific opportunity to  
4 review and apply what is now marked as Exhibit 4,  
5 which is the reissued 2018...really, the 1998  
6 curriculum as it applies in this particular case?

7 A. I did not directly review teachers  
8 or conduct performance reviews for teachers in the  
9 elementary panel as a supervisory officer. My  
10 performance reviews were of principals and vice-  
11 principals in the system, as per the portfolio.  
12 They were doing the performance reviews of the staff  
13 in their jurisdiction.

14 55. Q. Thank you, sir. And if I look at  
15 your CV, under "Leadership Experience and  
16 Education", you identify your role as an assistant  
17 deputy minister and you provide specific reference  
18 to a number of areas...curriculum areas as well but  
19 none of them relate to health or physical education?

20 A. Can you just direct me, Howard,  
21 to...

22 56. Q. Yes, it is your CV under the heading  
23 of...sorry. Give me one second.

24 A. That's okay.

25 57. Q. Where it says "Leadership

1 Experience", just under core competencies. It says  
2 "Leadership Experience in Education". Assistant  
3 deputy ministry, you have chosen to identify  
4 particular areas at first...if you read the first  
5 intro it says:

6 "...I have provided leadership with the  
7 Ministry on key portfolios related to  
8 curriculum policy design and  
9 development..."

10 Then you identify those leadership roles. But did  
11 you...I will be more specific. Have you played any  
12 leadership role in curriculum policy, design and  
13 development in respect of the health and physical  
14 education curriculum?

15 A. No, I have not. The explanation for  
16 that, if I could, is that the 2015 curriculum which  
17 was released in the spring of 2015...at that time, I  
18 was a school board director. So, I would not have  
19 been involved. Aside from being asked by the  
20 Ministry in the fall of 2014 to select a parent to  
21 provide input into the curriculum at that time, I  
22 was not involved in the creation of that curriculum.  
23 The release of the 2018 curriculum, which occurred  
24 in August of this year, 2018, was a direct  
25 replacement of the 2015 with the 2018 curriculum.

1           So, we have not developed a new curriculum yet.

2           That will be informed by what happens in the

3           consultation.

4       58.           Q.       Fair enough. And so the answer to  
5           my question was that you personally have had no  
6           role, either in your pre-ministry experience or your  
7           current ministry experience, in developing,  
8           designing health and physical education curriculum?

9           A.       That is correct.

10      59.           Q.       Thank you. Just to clarify, that  
11           currently your portfolio would involve, as you  
12           say...you say in your current position is as the ADM  
13           for the Ministry's student support and field  
14           services division which...does that...sorry, that is  
15           not your current portfolio. These names, they go on  
16           forever.

17           A.       It's okay.

18      60.           Q.       But as I understand it, you  
19           currently do have responsibility for curriculum.  
20           You previously had responsibility for curriculum.  
21           And in between, there was a period of time where you  
22           didn't because you were from...I think it was from  
23           May of 2017 to March of 2018, you were in student  
24           support and field service?

25           A.       That is correct, yes.

1       61.           Q.       So, from March, 2016 to May of 2017  
2                    you were in the learning and curriculum division?

3                    A.       That is correct.

4       62.           Q.       And from March, 2018 to now, you are  
5                    in the student achievement division?

6                    A.       That is correct.

7       63.           Q.       And both those two prior stints,  
8                    with that little piece in between, give your overall  
9                    responsibility for development and implementation of  
10                   curriculum and assessment policies?

11                   A.       That is correct. Through the staff  
12                   that I have the opportunity to work with and lead.

13       64.           Q.       You don't actually do it yourself?

14                   A.       I have an extraordinary team of  
15                   people who do great work in the development of  
16                   curriculum I have an opportunity to lead.

17       65.           Q.       All right. So, you have already  
18                   identified that you, aside from selecting a parent  
19                   with respect to the development of the 2015  
20                   curriculum, had no personal role in the development  
21                   of that curriculum either from 2010, 2015, or even  
22                   before that?

23                   A.       That is correct.

24       66.           Q.       Okay. And I am going to ask, if you  
25                   would...let me put it to you this way. Do you have

1 any personal knowledge of the extent of the  
2 consultation, be they parents, be they  
3 organizations, be they stakeholders, the extent of  
4 the consultation that was undertaken in respect of a  
5 development of what was initially the 2010 health  
6 and phys-ed and then ultimately the 2015 phys-ed?

7 A. Any personal knowledge that I have,  
8 Howard, was based, as I noted prior, to the request  
9 by the Ministry at the time, and by this I mean  
10 November, 2014, to select a parent for schools. My  
11 process at the time was to request principals to  
12 select a parent within their school who would  
13 provide the input to the Ministry. With respect to  
14 the 2010 curriculum, I was not involved in the  
15 consultation nor do I have any recollection of being  
16 invited to be involved in a consultation at the time  
17 for either the 2010 directly or the 2015. I was  
18 invited...this is probably a little outside...just  
19 for clarity, if I may, I was invited in the spring  
20 of 2015 to attend the rollout of the curriculum at  
21 the Ministry as a director of education, as were all  
22 directors.

23 67. Q. Okay. Could you turn, please, to  
24 Exhibit 14 in your affidavit.

25 A. Yes. Just bear with me.

1       68.           Q.       Sure, no problem. Before I ask you  
2                    questions about Exhibit 14, can you advise me as to  
3                    what if any of the affidavits that we have filed you  
4                    have had the opportunity to review?

5                    A.       I have had an opportunity to look at  
6                    all of them and I certainly have been involved in  
7                    much more detail in a number of them than in others.

8       69.           Q.       So, specifically, have you had the  
9                    opportunity to look at Ruth Dawson's affidavit?

10                   A.       I'm sorry?

11       70.           Q.       Ruth Dawson from elementary  
12                    teachers.

13                   A.       Yes. Yes. I did have a look at it.

14       71.           Q.       Do you know Ruth?

15                   A.       Yes, I do know Ruth.

16       72.           Q.       Okay. So, I have here a...

17                   A.       And I don't believe I have the  
18                    documents with me, Howard.

19       73.           Q.       No, no, I have...it is my  
20                    obligation, sir.

21                   A.       Okay.

22       74.           Q.       There is a copy of Ruth Dawson's  
23                    affidavit sworn October 3rd, 2018. Take a moment to  
24                    refresh your memory on that. So, I have already  
25                    asked you whether you know Ruth Dawson, and I

1 presume...you have already said you do.

2 A. Yes.

3 75. Q. To get this out of the way, she  
4 asked to say hello.

5 A. Thank you.

6 76. Q. But at paragraph 7...

7 A. Back to her.

8 77. Q. I will take care of that. But at  
9 paragraph 7, there is a reference to her current  
10 role as a coordinator and her role, therefore, in  
11 curriculum review. And would you agree that she is  
12 certainly able...I am not saying necessarily as an  
13 expert but based upon her practical experience...to  
14 speak to what she does beginning at paragraph 8,  
15 which is the curriculum development process in  
16 Ontario?

17 A. I think I would agree that...I have  
18 great respect for Ruth, as an education. Certainly  
19 I know her in her context as an ETFO representative  
20 on committees that she and I both serve on. And she  
21 is someone who I believe to have thoughtful comments  
22 and input into things. With respect to the  
23 curriculum development process, she was involved in  
24 the Ministry from what is in her affidavit here and  
25 this is the perspective from her observation. I can



1 speak to my engagement with Ruth and the committees  
2 that I serve on with her in the current but the  
3 historical piece I would leave with her.

4 78. Q. All right. And I am not asking you  
5 specifically about the Ruth Dawson but more  
6 generally about the process of curriculum  
7 development in Ontario, which by the way is  
8 reflected in the Exhibit 14 that I have asked you to  
9 pull up. And I am asking you in terms of what she  
10 says if there is anything you would say, "I don't  
11 agree with; this isn't the way we do things". And  
12 you can take your time.

13 A. Ruth's assessment of the curriculum  
14 design is quite correct from an historical  
15 perspective, Howard.

16 79. Q. Okay.

17 A. I would like to draw, perhaps, a  
18 moment to the work that we have done most recently  
19 in the Ministry...and I can't recall whether Ruth  
20 has been involved directly in that particular work,  
21 but it was the redesign...and I think it is in my  
22 CV. The redesign of the grade 10 careers course.  
23 What we did that was very different from the  
24 historical process that takes anywhere from three to  
25 six years to develop curriculum in the historical

1 process was to say, let's start to work with  
2 teachers directly and allow them to do some work or  
3 we describe it as rapid prototyping. Let's...

4 80. Q. What? Sorry?

5 A. Rapid prototyping.

6 81. Q. Rapid prototyping?

7 A. Rapid prototyping. So, let's have  
8 in...this is the current context...

9 82. Q. Jargon?

10 A. Indeed. In the current context, can  
11 we do something different to develop curriculum in a  
12 more rapid way by using teachers in the system to  
13 work with us to develop the curriculum, test drive  
14 it, pilot it, if you will, with students in the  
15 classroom. Then we have a draft curriculum that has  
16 been piloted that we can then go out to a broader  
17 consultation. That is different than an historical  
18 three to six years time frame. So, that is the  
19 clarification.

20 83. Q. So, beginning, then, at paragraph  
21 20, she says that she was not involved personally in  
22 the development of what we have at Exhibit 18, the  
23 2015 curriculum. But she was involved in her role  
24 and she describes the process beginning in 2007,  
25 continuing until 2010, and then additional

1 consultations up to the final release in 2015. And  
2 to your knowledge...and we have already identified  
3 that you don't have personal experience with  
4 this...is she wrong in those dates? The process  
5 that extended, really, from 2007 initially to be  
6 introduced in 2010 but actually...we are always  
7 talking about the growth and human development  
8 aspect of it, as it's called or whatever it may be.  
9 I want to be clear so we get it right. But is she  
10 right in that in terms of the time frame?

11 A. I don't know the answer to the first  
12 part of that, Howard, in relation to the process  
13 began in 2007. I don't have information of when the  
14 process began. What I am aware of is that in 2008  
15 there were some consultations on the curriculum  
16 which was ultimately released in 2010. From Ruth's  
17 comments in her affidavit, one might suppose that  
18 she was involved in those consultations. I can't  
19 speak to that but the piece that I don't know is  
20 when the process began for the 2010...

21 84. Q. Right. But you are not in a  
22 position to disagree with her that what is...what  
23 was in 2015 referred to as the human development and  
24 sexual health aspect of that curriculum that we have  
25 identified earlier, that that was a process that may

1 well have begun in 2007 and may well have concluded  
2 with its implementation in 2015?

3 A. If I could, I am not sure that I see  
4 this quite the same way.

5 85. Q. Okay.

6 A. I want to separate in her comment in  
7 paragraph 22, "Process began in 2010 and  
8 continued"...pardon me, I am going to correct that.  
9 "Process began in 2007 and continued until 2010".

10 86. Q. Right.

11 A. That was with the release of the  
12 2010 version of the curriculum.

13 87. Q. Fair enough. Right.

14 A. I don't think I read into here that  
15 there was a continuing process of consultation, nor  
16 am I personally aware that there as a continuing  
17 process of consultation from 2010 up to the final  
18 release in 2015.

19 88. Q. Well, in fact, her affidavit says  
20 "additional consultations occurred in the lead-up to  
21 its final release in 2015" and she has been cross-  
22 examined and was not challenged in respect of that  
23 statement. Do you stand corrected on that?

24 A. I think I am going to stay with what  
25 I had said, Howard, and that...

1 89. Q. Do you know? Do you know? Do you  
2 know whether there are any additional consultations  
3 between 2010 and 2015?

4 A. I don't know if there are any  
5 additional consultations. The ones that I can speak  
6 to and I think I commented on were the ones that  
7 took place in 2008 and then the consultations that  
8 took place prior to the release of the 2015.

9 90. Q. So is it fair to say, then, Martyn,  
10 that you will not be able to assist us as to what  
11 the consultation exercise actually was that led up  
12 to the introduction in 2015 of the human development  
13 and sexual health portion of the curriculum?

14 A. Howard, I would like by way of  
15 response perhaps to refer to...I think I do have  
16 some comments in relation to that.

17 91. Q. If you have comments...and you can  
18 refer to whatever you wish, if you have comments in  
19 relation to the role of parents. Do you have  
20 anything you can add other than the role of parents  
21 to that process? Your affidavit does speak about  
22 parents and you have already spoken personally about  
23 your role in designating parents.

24 A. I will comment...at paragraph 73,  
25 Howard, of my affidavit.

1 92. Q. Sure.

2 A. I agree with you, the Ontario  
3 Association of Parents in Catholic Education in  
4 2008, a consultation with a representative from  
5 them, the Ontario Federation of Home and School  
6 Associations and another group...another parent  
7 group, People for Education. They are groups  
8 representing parents. They may be parents with  
9 children in the system directly or not. But they  
10 are representing as you see from the affidavit  
11 there.

12 93. Q. But if I may, your heading at...  
13 just above paragraph 72 is "Parent Consultation In  
14 Response to the 2015 HPE Curriculum". And you have  
15 not in your affidavit identified what other  
16 consultations there were or over what period of time  
17 there were with respect to the introduction of the  
18 2015 HPE curriculum. Correct?

19 A. That is correct.

20 94. Q. But I take it you would be able, in  
21 your role as an assistant deputy minister, to  
22 provide us with a list of those organizations,  
23 stakeholders, and so on that were part of the  
24 consultation process leading up to the introduction  
25 of the 2015 HPE curriculum?

1                   A.       That would be information that would  
2                   be available at the Ministry.

3           95.           Q.       May I have an undertaking to provide  
4                   that list?

5                   MR. GREEN:        Can I just have it clear  
6                   from the record what the undertaking is?

7           96.           MR. GOLDBLATT:    Well, we know that there  
8                   were a number of stakeholder groups, there  
9                   are a number of organizations that were  
10                  involved in the consultation process and  
11                  Ms. Dawson has identified that led to the  
12                  introduction of the 2015 HPE curriculum.  
13                  And I would like a list of those and I  
14                  would like a timeline for the consultation  
15                  process.

16                  MR. GREEN:        I'm sorry, just to be clear,  
17                  you are asking...I just want to make sure I  
18                  understand.

19           97.           MR. GOLDBLATT:    Sure.

20                  MR. GREEN:        You are asking for a list of  
21                  the names of the stakeholder groups and  
22                  organizations...

23           98.           MR. GOLDBLATT:    Yes.

24                  MR. GREEN:        ...who were involved in  
25                  consultation with the Ministry...

1 99. MR. GOLDBLATT: Yes.

2 MR. GREEN: ...in the lead-up? I am  
3 just getting it down. In the lead-up to  
4 the 2015 release; is that correct?

5 100. MR. GOLDBLATT: First of all, to the  
6 2010, which was the first series of  
7 consultations as identified in Ms. Dawson's  
8 affidavit. And then from 2010 to 2015.

9 MR. GREEN: So, we will take it under  
10 advisement. Let me look and see how big a  
11 task this is.

12 101. MR. GOLDBLATT: I will tell you, Mr.  
13 Green, that all of these organizations were  
14 required to sign non-disclosure agreements  
15 and therefore we can't get that information  
16 from them, but now that Mr. Beckett has  
17 assisted us, we will be able to I am sure  
18 get that information from the Ministry.

19 MR. GREEN: We will take it under  
20 advisement. Thank you.

U/A

21 102. MR. GOLDBLATT: Thank you.

22

23 BY MR. GOLDBLATT:

24 103. Q. And let me also ask you, again, now  
25 let's take a look specifically at Exhibit 14. This



1 is headed up "The Ontario Curriculum: Elementary".

2 This is the one you...thank you, sir.

3 A. Thank you.

4 104. Q. And at the top left-hand corner, it  
5 says:

6 "...9/5/18..."

7 So, I don't know whether that is September 5th, 2018  
8 or May 9th, 2018. Do you know?

9 A. I believe it is September 5th.

10 105. Q. September 5th? So, this is right up  
11 to date; correct?

12 A. It is certainly from the website in  
13 September of this year.

14 106. Q. And this is within the scope of your  
15 authority. Because this is your area now and has  
16 been your area at least since March of 2018?

17 A. That is correct.

18 107. Q. And I take it, sir, that you would  
19 agree with this document as it goes on to say...  
20 describes the way in which curriculum is developed?

21 A. That is correct. It represents the  
22 historical way the curriculum has been developed.

23 108. Q. Now, when you say "historical", are  
24 you saying that when you put out a document that is  
25 dated September 5th, 2018 that you don't mean it to

1 apply as of that date?

2 A. What I mean it to...it is in  
3 reference to my comment, Howard, on the rapid  
4 prototyping that I referred to earlier, the piloting  
5 of a new format. So, has it been officially  
6 designated yet? No, it has not. Have we used it?  
7 Yes, we have.

8 109. Q. Fair enough. And if we look under  
9 "Frequently Asked Questions", there is reference to  
10 the components as you identified in your affidavit.  
11 The front piece and then the overall and specific  
12 expectations, those are the three components as you  
13 identified of curriculum documents; fair enough?

14 A. That is correct.

15 110. Q. And then as we go down a little  
16 further, we get into a discussion of how they are...  
17 "What is the curriculum review process"...and as you  
18 have identified, it is an ongoing process, the  
19 review of curriculum. It doesn't just...it never  
20 stops but it is...you know, you don't do it on an  
21 annual basis either?

22 A. That is correct. that.

23 111. Q. The reason for that is what?

24 A. The reason for that, that the  
25 curriculum is not reviewed on an annual basis, is

1 that it takes a period of time to review a  
2 curriculum, as I indicated. Historically, it can be  
3 a process anywhere from three to six years. And to  
4 review all curriculum, every single year, would be  
5 an undertaking that would be too large for the staff  
6 who are available. If we are requested to review a  
7 particular curriculum at a more frequent level than  
8 another, then we would engage in that kind of a  
9 review.

10 112. Q. Fair enough. And in what would  
11 otherwise be described as a normal cycle, one would  
12 not expect the 2015 health and physical education  
13 curriculum to be reviewed now 2018?

14 A. In a normal cycle, whatever "normal"  
15 refers to, Howard, it is one that may have been in  
16 place for a longer period of time.

17 113. Q. But for the...and I am going to put  
18 it to you directly.

19 A. Fair enough.

20 114. Q. But for the politics of the  
21 situation, one would not have expected it to be  
22 reviewed?

23 A. I can't speak to the politics of the  
24 situation, Howard. I am not a politician. What I  
25 would say is concerns have been expressed around the

1 fulsomeness of the consultation, which is why we are  
2 in now a process of consultation.

3 115. Q. Right. And I have asked you about  
4 the fulsomeness of the consultation, which may well  
5 have extended over a period of eight years. We will  
6 find out about that, I'm sure, when my friend  
7 produces the material that we have asked for. But  
8 coming back to this most recent document, I am going  
9 to ask you to look at...under where it says  
10 "Curriculum Review Process", and you can either do  
11 it by reading it or you can do it the way I have  
12 done it by doing a word search, but the word  
13 "parent" appears nowhere in this document. And you  
14 take your time and look for it and tell me whether  
15 this official document about curriculum review  
16 process anywhere has the word "parent". It is  
17 actually not a trick question.

18 A. Thank you. Understood. If I could,  
19 Howard, under the two sections, the first one  
20 entitled "Analysis and Synthesis", the second one  
21 "Revision and Feedback Consultation", we have  
22 wording "focus groups". I agree with you, the word  
23 "parent" is not in the sections that I have just  
24 reviewed. We have focus groups. Focus groups can  
25 certainly encompass parents. The word

1 "consultations" can certainly encompass parents.  
2 When I go on to the next one, "Revision and Feedback  
3 Consultation", the word "sessions are held to gather  
4 input via a variety of opportunities including face-  
5 to-face and web enabled sessions".

6 116. Q. Right.

7 A. That also can include parents and,  
8 indeed, because you had referenced that from my  
9 affidavit earlier in the paragraphs that we talked  
10 about for the 2008 curriculum, indeed, parents were  
11 consulted as part of the work in 2008 and in 2014.

12 117. Q. And aside from the parental  
13 expressions that you have referenced in your  
14 affidavit, do you have any basis to conclude that  
15 the extent of parental involvement in the  
16 consultation process for this particular 2015 HPE  
17 was different from the extent of parental  
18 consultation in any other curriculum revision  
19 process?

20 A. I don't know the answer to comparing  
21 this curriculum to a prior curriculum, Howard. What  
22 I do know is the level of concern that was raised,  
23 that is in my affidavit, from parents and parent  
24 organizations as it relates to the 2015 curriculum.

25 118. Q. Fair enough. But my question to you

1           wasn't about that. My specific question, sir, is do  
2           you know whether the extent of parental  
3           consultation...leaving aside the quote-unquote  
4           concerns that were raised...was different in any way  
5           than what had previously been done with respect to  
6           HPE any other curriculum?

7                        A.        I don't have that level of  
8           information.

9    119.                Q.        Fair enough. Thanks very much. So,  
10           dealing specifically with that, the parental  
11           issue...because I want to turn to that for a moment.

12                       A.        Paragraph 67?

13    120.                Q.        Yes, it begins at paragraph 67. And  
14           this is your affidavit and you have actually in your  
15           affidavit confirmed what I put to you earlier. And  
16           that is that in paragraph 68, you identified that  
17           the human development and sexual health was  
18           scheduled to be implemented as of September, 2010.  
19           And in paragraph 69, you identify that after its  
20           release, the Ministry became aware of parent  
21           concerns about it. And then ultimately there...you  
22           don't tell me what happens in the meantime, and I  
23           will come back to that, and then ultimately we have  
24           the 2015 human development and sexual health  
25           component; correct?

1                   A.       That is correct.  Those are  
2 paragraphs 67 through 70, I think you just referred  
3 to.

4 121.               Q.       Right.  So I have got a bit of a gap  
5 here.  I have got the 2010.  I have got parent  
6 concerns.  And the next I hear, I have got  
7 implementation effective September 1, 2015.  What  
8 happened with respect to the parent concerns between  
9 2010 and 2015?  Do you know?

10                   A.       Parent concerns that were expressed  
11 in 2010: as a result, the curriculum that had been  
12 released at that time was replaced at that time with  
13 the prior curriculum for the growth and development  
14 portion of the curriculum.

15 122.               Q.       Okay.  But you identify beginning at  
16 paragraph 72 that you were aware of concerns raised  
17 regarding the sufficiency of parent consultation.  
18 And may I ask you, sir, how you are aware of that or  
19 just you have been advised of that?  You don't have  
20 any specific personal knowledge?

21                   A.       If I may...

22 123.               Q.       Sure.

23                   A.       I do have knowledge from my time as  
24 a director of education that there were concerns  
25 that were quite publicly expressed in news media

1 reports that I was very aware of. I believe those  
2 are documented within my affidavit. I would be  
3 happy to refer to it if you wish.

4 124. Q. Well, I will come to it. Don't  
5 worry about it.

6 A. Okay. So, yes, I was aware of  
7 concerns in the community. Newspaper articles that  
8 referred to a number of them.

9 125. Q. Fair enough. But if you look at  
10 paragraph 73, you are talking about between January  
11 and March there were 13 general consultations;  
12 right? And then you have already told us that there  
13 was the introduction of that particular section did  
14 not proceed in 2010. Then in paragraph 74, you jump  
15 to the fall of 2014. Do you know the extent to  
16 which there were consultations with parents or any  
17 other organizations, groups between 2010 and 2015  
18 when it was introduced? Aside from what you say in  
19 your affidavit at paragraph 74.

20 A. No, because...clear answer, no.

21 126. Q. Right.

22 A. At the time, I was director of  
23 education. And I believe, as I commented already,  
24 Howard, that the request of me as a school board  
25 director was to engage one parent per school to



1 provide input into the draft curriculum at that time  
2 that was finally released for 2015.

3 127. Q. And the date...sorry, for the  
4 record, I am sure that my friend's production of the  
5 information I have already asked for will clarify  
6 some of that so I am looking forward to that. But  
7 presumably the implementation for September of 2015  
8 was clearly announced prior to September, 2015. I  
9 don't think you say specifically what date it was  
10 announced that it would be introduced as of September  
11 1, 2015. It is difficult to find.

12 A. The curriculum itself was released  
13 in the spring of 2015, Howard. I would say off the  
14 top of my head because I was at a meeting in the  
15 spring of 2015 where it was released.

16 128. Q. And at paragraph 75, you make  
17 reference to parents given an opportunity to  
18 complete the survey but I guess less than one-third  
19 actually did it. About one-third actually completed  
20 it.

21 A. 1,638.

22 129. Q. Out of 4,000. Fair enough. All  
23 right. Then we have a number of statements being  
24 made beginning at paragraph 80, June 1, 2015.  
25 Paragraph 82, July of 2015; August of 2015; August

1 of 2015. All of those, it would appear, and also  
2 paragraph 84, June of 2015, we have one March of  
3 2015, August of 2016, all of these except  
4 potentially for the one in March of 2015 would have  
5 been after the announcement that there would be an  
6 implementation of the new HPE?

7 A. If you would just give me a moment  
8 to check the dates, if I could.

9 130. Q. Absolutely. For sure.

10 A. I do not know, Howard, at paragraph  
11 81 if the curriculum had been released on January  
12 27th, 2015. I do not have that information at my  
13 fingertips. Certainly I would agree that letters  
14 and correspondence July, August, June of 2015 in  
15 paragraph 80 and then dates subsequent to that into  
16 the fall of 2015 would be after the release of the  
17 curriculum.

18 131. Q. But if you look at...and as well, in  
19 fairness to you, at paragraph 86 we seem to have  
20 reference to a couple of media reports, one in  
21 February of 2015, which may have been before, there  
22 is reference to public protests, and also in April  
23 of 2015, reference to a Globe & Mail article which  
24 may have been prior to the release and also refers  
25 to public protests. But let me ask you, sir, you

1 made reference at the top of page 31, paragraph  
2 81...you reference to the Peel District School Board  
3 writing the then Minister of Education to raise  
4 concerns. You have already identified that you  
5 yourself, you were the director of the Durham  
6 District School Board at the time. Did Durham  
7 District School Board write to the Minister to  
8 express concerns?

9 A. I don't believe that I was requested  
10 by my board of trustees to write a letter to the  
11 Minister at that time.

12 132. Q. Thank you, sir. And are you aware  
13 of any of the other 31...there are 32 district  
14 school boards generally in the province, are you  
15 aware if any of the other 31 wrote to the Minister  
16 to express concerns?

17 A. I am not aware if any other school  
18 boards. This was provided as an example within  
19 here.

20 133. Q. Right. Thank you, sir. So, at  
21 paragraph 87, you make reference to the media  
22 reports informing the Ministry of significant  
23 community concerns. The use of the word  
24 "significant community concerns", I guess we can  
25 disagree as to whether what you have listed above is

1 significant or otherwise but, to be fair, there were  
2 some concerns expressed. No question about that.  
3 To your knowledge, sir...I know you weren't at the  
4 Ministry at that time, but to your knowledge did  
5 anything happen as a result of the community  
6 concerns expressed?

7 A. The 2015 curriculum was released for  
8 the fall of 2015. As a result, that curriculum  
9 began to be introduced in schools and a number of  
10 other media reports indicated there were parent  
11 protests with the release and use of the curriculum.

12 134. Q. Yes, sir.

13 A. There were...Exhibit 32 is a media  
14 report indicating reduced student attendance at  
15 Thorncliffe Park School in Toronto.

16 135. Q. M'hmm. Well, let's turn to that,  
17 Exhibit 32.

18 A. Let me...

19 136. Q. Sure. I was actually going to ask  
20 you about Exhibit 32. So, Exhibit 32 is a report in  
21 the Toronto Star dated September 8th, 2015, which  
22 identifies Toronto's Thorncliffe Park School as the  
23 epicentre of the anti-sex ed protest. Was half  
24 empty on the first day of classes. So, may I ask  
25 you, sir, was September 8th, 2015 the first day of

1 class?

2 A. I would have to check a calendar as  
3 to whether it was...that was the first day of class.

4 137. Q. Tuesday. Given the fact that Labour  
5 Day is...classes begin the day after Labour Day...

6 A. That is correct.

7 138. Q. If you go back in the calendar  
8 September...I think Monday would have been September  
9 1...sorry, September the 7th...

10 A. Was Labour Day the 7th of September?

11 139. Q. Yes.

12 A. Then September 8th would have been  
13 the first day of school.

14 140. Q. In any event, that is fair enough.  
15 But we can confirm that. We don't have to debate  
16 about that.

17 MR. GREEN: We have just looked on the  
18 Internet and September 7th, 2015 was Labour  
19 Day.

20

21 BY MR. GOLDBLATT:

22 141. Q. So this is a terrific on the spot  
23 report from the Toronto Star about what is happening  
24 at Thorncliffe as the epicentre. But why don't we  
25 take a look at Exhibit 34. Also from the Toronto

1 Star. A little later. This is December 2nd, 2015.

2 Okay?

3 A. Yes.

4 142. Q. And if you look down...and we will  
5 see more about Thorncliffe. And there is a  
6 paragraph that begins:

7 "...Although Thorncliffe School has  
8 been..."

9 Do you see that?

10 A. Yes.

11 143. Q. So, if I can read it for the record,  
12 it says:

13 "...Although Thorncliffe School has seen  
14 the largest drop in enrolment directly  
15 attributed to the sex ed curriculum, it  
16 began with 800 students not showing up for  
17 school but gradually declined to 100..."

18 So, there seems to be a significant return  
19 notwithstanding the initial protest.

20 "...Other smaller pockets [than 100] were  
21 affected last spring when the parents kept  
22 their kids out of school to express their  
23 objection..."

24 So, I take it, sir, that you are not in possession  
25 of, as we sit here, any additional information as to



1 referring through the months in the fall of 2015.  
2 There is one at item 250 in Exhibit 29 that is from  
3 May of 2016.

4 148. Q. Right. All in the 2015/2016 school  
5 year?

6 A. That is correct, everything that is  
7 identified here and the reason that is in there, it  
8 is an example of the concern that is expressed with  
9 the rollout of the 2015 curriculum.

10 149. Q. Fair enough. And I would have  
11 thought that if there had been an ongoing concern  
12 that would be expressed in the 2016/2017 or  
13 2017/2018 school year, we might have seen that as  
14 part of this exhibit but for whatever reason it is  
15 not here. Fair enough?

16 A. I don't have information on that,  
17 Howard.

18 150. Q. Right. And may I ask you, then, to  
19 turn to paragraph 91. And this is a table of  
20 elementary and secondary school enrolment for the  
21 years 2005/2006 and then for the years 2011 to  
22 2015/2016. Correct?

23 A. That is correct.

24 151. Q. And if one turns, this is...these  
25 are the number of students and if one turns over the



1 page, we see the enrolment in private elementary  
2 schools for essentially the same period.

3 A. That is at paragraph 92.

4 152. Q. Right.

5 A. Yes.

6 153. Q. And you are making the statement,  
7 sir, but I take it you have no factual evidence to  
8 link any change in the enrolment of students in  
9 elementary schools or the enrolment of students in  
10 private elementary schools to the introduction of  
11 the sex ed curriculum?

12 A. The information that is provided at  
13 paragraphs 91 and 92 are an observation of the  
14 enrolment as it occurred during the years leading up  
15 to the rollout of the 2015 curriculum and following.  
16 Can it be directly, individually student by student  
17 attributed to the rollout across every student in  
18 the Province of Ontario? No, it can't.

19 154. Q. That is not actually what I even  
20 asked, but thank you very much. Do you have any  
21 evidence at all that any one of these students...any  
22 one of these students moved from the public  
23 elementary into the private elementary system as a  
24 direct result of the introduction of the sex ed  
25 education program?

1 A. If I may just check.

2 155. Q. You may with respect to one or two.

3 A. The information that I would have,  
4 Howard, would be through media reports and by  
5 example the Globe & Mail article that talked about  
6 reduced enrolment in things like Toronto public  
7 elementary schools.

8 156. Q. Terrific. I agree. Let me put it  
9 more generally, sir. We see between 2014/2015 and  
10 2015/2016 and I would just like to ask this  
11 question, if I may, because you and I both  
12 understand this probably better than others, that  
13 there is a specific date for calculating the student  
14 enrolment. Correct?

15 A. That is correct.

16 157. Q. And that date is what?

17 A. October 31st and March 31st are the  
18 two count dates.

19 158. Q. And do you know...because this is  
20 2015/2016. Do you know whether the 2015/2016, the  
21 number 930,343 is as of October 31st or as of March  
22 31st?

23 A. That would be enrolment, which would  
24 be determined from the average of the two count  
25 dates during the course of the school year.

1 159. Q. So we really don't know whether it  
2 is up and down, which it normally would be in the  
3 course of any school year?

4 A. It is...that is correct. It is an  
5 average of those two count dates.

6 160. Q. And is there any reason, sir, why  
7 you didn't provide us in your affidavit with the  
8 corresponding figures for the 2016/2017 and  
9 2017/2018 school years?

10 A. The context of it being provided  
11 here was in...by way of reference to show enrolment  
12 as it related to the rollout of the 2015 curriculum.

13 161. Q. Yes.

14 A. Just to look at the observation  
15 enrolment at that time.

16 162. Q. But in fairness, sir, since we are  
17 looking at the quote-unquote response to parental  
18 concerns of this new government, which only took  
19 power June 29th, 2018, one would have expected to  
20 see whether this concern is continued beyond the  
21 initial 2015/2016 school year but we don't have it;  
22 right?

23 A. We do not have that information,  
24 correct.

25 163. Q. Thank you. And with respect to the

1 table at the top of the next page at paragraph 92,  
2 just noting that the private school enrolment in  
3 2012/2013 dropped from 51,000...in 2012/2013 was  
4 51,165, dropped to 49,900 and then increased again  
5 in 2014/2015, we don't really know why it went up  
6 and down?

7 A. I don't have information on the  
8 2013/2014 to 2014/2015 or the 2012/2013 to  
9 2013/2014.

10 164. Q. Or the 2015/2016? We know, for  
11 example...let me put it to you specifically. We  
12 know, for example, that from 2013/2014 to 2014/2015  
13 it went up by 3,000. Correct?

14 A. That is correct.

15 165. Q. And then we see it going up by  
16 another 3,000 in 2015/2016?

17 A. Yes, approximately so.

18 166. Q. And we see it going down from  
19 2012/2013 to 2013/2014 by 2000?

20 A. That is correct.

21 167. Q. It goes up and down, because we see  
22 from 2005/2006 to 2011/2012 it goes down again by  
23 1,000. It varies, correct?

24 A. That is correct.

25 168. Q. So...

1                   A.       And we have context around the  
2       2015/2016 year.

3       169.           Q.       Absolutely. But, again, we don't  
4       have the figures for 2016/2017 and following for  
5       whatever reason. But if I could put to you...if you  
6       do the calculation, the difference in the 2015/2016  
7       school year between the number of students enrolled  
8       in private and the number of students enrolled in  
9       public is less than a half of a percent. That is  
10      the change. Less than half a percent across the  
11      province, .375 percent. You can do the math if you  
12      wish. Or you can trust me.

13                  A.       I am just looking at the overall  
14      numbers here and I could pull out a calculator and  
15      do the arithmetic but I am making the observation...

16      170.           Q.       Well, maybe on the break you want to  
17      do that because what I have done is compared...it  
18      doesn't matter but if I am misleading you, certainly  
19      Mr. Green or one of his colleagues will tell me.  
20      But I have done the calculation of the difference  
21      and it works out to, according to my math, .375  
22      percent. Okay. Are you okay or do you want to take  
23      a bit of a break? Your call.

24                  A.       We will...

25      171.           Q.       Continue on?

1                   A.       ...move on, if that's okay.

2       172.           Q.       Yes. Good. All right. So, I am  
3       going to ask you now to take a look at what we  
4       referred to as the...what I am referring to as the  
5       reaction of the government to the sex ed curriculum  
6       or the current government. And we already started  
7       this by looking at the ETFO comment, which is found  
8       at paragraph 97. But I would like to back it up a  
9       bit and ask you to look at the beginning of your  
10      affidavit. And in particular, paragraph 11.

11                   A.       Thank you, I am there.

12      173.           Q.       Thank you. So, just for the record,  
13      this government was sworn in on June 29th, 2018.  
14      And you make reference in Exhibit 2, which you can  
15      call up, to a letter or a memo from the  
16      Minister...the new Minister of Education, which is  
17      about two weeks later.

18                   A.       Thank you. Thank you, I am there.

19      174.           Q.       And you are familiar with this memo,  
20      I presume?

21                   A.       Yes, I am.

22      175.           Q.       And were you a participant...you  
23      identified in paragraph 12...the government has  
24      identified a number of key priorities. Did you have  
25      a specific role in the identification of those key

1 priorities?

2 A. As staff, I do not have a direct  
3 role in the government's selection of its  
4 priorities. My job is to develop the policy to  
5 support the government direction and work with  
6 school boards to implement.

7 176. Q. So this is not your memo. This is a  
8 political memo and not a staff memo?

9 A. This is a memo from the Minister.

10 177. Q. And with respect, if you look at  
11 page 5 of your affidavit I don't think you quite  
12 accurately...so, the Minister says that:

13 "...Some of our key priorities will  
14 include..."

15 And under the third bullet point, which says  
16 "Health", it says:

17 "...Restore the previous sex ed  
18 component..."

19 And you identify the use...your word was "restoring"  
20 as one of their priorities. But they are saying  
21 right here, "We are going to restore it", correct?

22 A. That is correct.

23 178. Q. And do you see a distinction between  
24 "restoring", which seems to at least connote a  
25 process, and the word "restore", which seems to

1 connote a result?

2 A. I see no difference in the two,  
3 Howard. The reason I say that...if I go back to the  
4 beginning of paragraph 12, you have got my wording  
5 there which at the top of page 5 begins with:

6 "...Organizations and childcare stakeholder  
7 groups..."

8 Perhaps I will begin at the beginning of that so you  
9 have got it for the record.

10 "...The government has identified a number  
11 of key priorities. Attached hereto as  
12 Exhibit 2 is a memo dated July 11th, 2018  
13 from the Minister to trustees, chairs, and  
14 members of education, teacher federations,  
15 principal and vice-principal groups, parent  
16 organizations and childcare stakeholder  
17 groups identifying the key priorities as  
18 including..."

19 And then...

20 179. Q. Fair enough.

21 A. Really, from the standpoint of  
22 just...

23 180. Q. Grammatical.

24 A. ...grammatical construction of  
25 English, Howard, and if I could you have quite



1 correctly identified the difference on health. Let  
2 me go back to even childcare at the beginning, you  
3 will see it is not a direct quote. In the memo,  
4 "Giving Parents a Break", you will see in my  
5 comments here, providing parents with a 75 percent  
6 refundable tax credit, that is not a direct quote  
7 from the Minister's letter.

8 181. Q. Thank you.

9 A. So I am paraphrasing to a certain  
10 extent.

11 182. Q. Thank you. Good. So, I appreciate  
12 that clarification. But with respect to these  
13 particular items, and more specifically with respect  
14 to health, where it says "restore the previous ex ed  
15 component of the curriculum until we can implement a  
16 new one that is age appropriate and based on  
17 extensive consultation with parents", that sentence,  
18 that portion, I am not interested in the rest of it,  
19 did you have any input into that or is that purely a  
20 political statement?

21 A. It is a Minister's memo. It was not  
22 a comment that I would have had a direct...direct  
23 into the creation of that.

24 183. Q. Okay. And so do you recognize, sir,  
25 that that is not consistent with the curriculum

1 development process that we have reviewed  
2 previously?

3 A. As a statement from the Minister, if  
4 I go to the Minister's memo, if I may, Howard.

5 184. Q. Sure.

6 A. So the Minister is saying "restore  
7 the previous sex ed component of the curriculum  
8 until we", meaning the government, "can implement a  
9 new one that is age appropriate and based on  
10 extensive consultation with parents".

11 185. Q. Yes.

12 A. So, the government will be able to  
13 determine the consultation process. If they wish to  
14 have changes in how we develop curriculum, I have  
15 already indicated to you that we were piloting a  
16 different way of thinking about curriculum  
17 development probably just under two years ago...

18 186. Q. Fair enough.

19 A. ...with a different curriculum, and  
20 I commented it was careers.

21 187. Q. Yes, but maybe I could ask you this.

22 It says:

23 "...Extensive consultation with parents..."

24 Where is the reference to any of the other

25 stakeholders that were identified in the memorandum

1 that is issued by your ministry after this? Where  
2 is the reference to any of the other stakeholders?

3 A. So, if I could, in response to that,  
4 if I go to the...and we will probably get there,  
5 into the launch of the "For The Parents" website.

6 188. Q. We will get there.

7 A. Everybody is invited, including all  
8 of the other groups who have been involved in past  
9 discussions on past curriculum items are all invited  
10 to provide input. This discussion about the  
11 replacement of the 2015 curriculum with the 2018  
12 curriculum is about responding to concerns from  
13 parents that they had not had adequate voice in the  
14 preparation of the 2015 curriculum.

15 189. Q. Okay.

16 A. This comment is in the context of  
17 parents need to have an adequate opportunity for a  
18 full expression of their voice.

19 190. Q. Let's deal with it directly, sir.  
20 Did you provide any input and advice to the minister  
21 as to whether the 2015 curriculum was not age  
22 appropriate?

23 A. There is no comment that I know of  
24 that says that the 2015 curriculum is or is not age  
25 appropriate.

1       191.           Q.       Or to your knowledge, sir, and your  
2                    area for which you have responsibility, which is  
3                    curriculum development broadly, was the opinion of  
4                    your staff sought with respect to whether the 2015  
5                    curriculum was or was not age appropriate?

6                    A.       I am not aware if the opinion of my  
7                    staff was sought. The request was that the  
8                    curriculum be replaced pending the outcome of  
9                    consultation.

10       192.           Q.       Was there any opinion sought from  
11                    your staff as to whether the 1998 curriculum was age  
12                    appropriate?

13                    A.       I am just searching my memory now.  
14                    Pardon me for a moment.

15       193.           Q.       Yes, sure, I am talking about...

16                    A.       Yes.

17       194.           Q.       ...around this time.

18                    A.       We did advise that the mandatory  
19                    learning in the 1998 curriculum did not contain the  
20                    same mandatory learning that was in the 2015  
21                    curriculum.

22       195.           Q.       Well, that is obvious on its face.  
23                    But the question I have for you, sir, was there any  
24                    assessment as to whether it was age appropriate or  
25                    not age appropriate?

1 A. No, there was no...

2 196. Q. And may I ask you...sorry, I  
3 apologize.

4 A. Sorry.

5 197. Q. I spoke over you. That is my fault.  
6 Go ahead.

7 A. No, there was no discussion about  
8 age appropriate or not age appropriate on prior  
9 curriculum.

10 198. Q. Fair enough. And was there any  
11 advice sought from staff about whether you could  
12 continue the 2015 curriculum while this consultation  
13 took place?

14 A. There was not discussion with staff  
15 about continuing the 2015 curriculum. The request  
16 was that we replace the curriculum pending  
17 consultation due to the concerns that parents had  
18 expressed that they had not had an opportunity to  
19 comment on the release of the 2015 curriculum prior  
20 to its release.

21 199. Q. Thank you. And was there any input  
22 from staff in your division, which is responsible  
23 for curriculum policy and development, as to the  
24 relative merits of the 1998 versus the 2015 sex ed  
25 component of the curriculum?

1                   A.       There was no direct conversation on  
2                   the merits of the 2015 versus the 1998 sex ed  
3                   component of the curriculum, which is the 2018.

4       200.           Q.       So, do I take it, sir, that the  
5                   directive, as you put it, was just "change it"? And  
6                   I am being very blunt. Change it. Go back to 1998  
7                   without any assessment of the merits one way or the  
8                   other. Just change it?

9                   A.       We see from the Minister's memo she  
10                  has clearly indicated "restore the previous sex ed  
11                  component of the curriculum". And the curriculum  
12                  expectations from the 1998 curriculum...and I am  
13                  sure we will explore this further...provide lots of  
14                  altitude for teachers to be able to teach the  
15                  expectations in the context of their class.

16       201.           Q.       Well, we can debate the latitude.  
17                  We can debate whether they are the same or not. But  
18                  what I am asking you specifically is the directive  
19                  you got was to change it without being asked for any  
20                  input, advice about whether it was the right thing  
21                  to do, the wrong thing to do, whether you could keep  
22                  the new one in place while you do the consultation.  
23                  You were just told, "Change it"?

24                  A.       I believe I responded and I am not  
25                  failing to answer but I believe I responded in a

1 prior answer that we provided advice and comment  
2 that the mandatory expectations were different in  
3 the 2018...what is now the 2018 curriculum as  
4 opposed to the 2015. So there was comment from  
5 staff, Howard.

6 202. Q. And do you have any knowledge as  
7 to...sorry, when you say it was different, did you  
8 from staff assess the relative merits of those  
9 differences and provide a recommendation with  
10 respect to those differences?

11 A. We did not provide a recommendation  
12 as to which curriculum would be the curriculum to be  
13 rolled out for 2018.

14 203. Q. Well, do I take it, sir, that you  
15 could provide us with the assessment that you have  
16 just made reference to about the differences between  
17 the two?

18 A. Between the two...

19 204. Q. Yes, the advice to the Minister.

20 A. There was comment, Howard, that we  
21 had provided that there is different mandatory  
22 expectations and I think we have already explored  
23 those today.

24 205. Q. Is that all it is, is just factually  
25 different without any...just as we have just done?

1           That is what it would be? This is what it would be?

2                   A.       That is what it would be, this is  
3           what it would be.

4   206.           Q.       That is the extent of the input from  
5           staff?

6                   A.       That is the extent of the input from  
7           staff.

8   207.           MR. GOLDBLATT:     All right. Maybe we can  
9           take a bit of a break now. Thank you.

10

11   ---   upon recessing at 11:25 a.m.

12   ---   A BRIEF RECESS

13   ---   upon resuming at 11:48 a.m.

14

15   MARTYN BECKETT, resumed

16   CONTINUED CROSS-EXAMINATION BY MR. GOLDBLATT:

17   208.           Q.       Now, I am going to ask you to look  
18           now at paragraph 13, which is the speech from the  
19           throne. And that is found at Exhibit 3 of your  
20           affidavit. And clearly this is a political  
21           document. You had no role in writing it, I'm sure.

22                   A.       I had no role in writing the speech  
23           from the throne.

24   209.           Q.       Fair enough. But I am going to take  
25           you specifically to the sub-heading:



1                    "...A government that will respect you..."

2                    And there is a specific reference in that to

3                    education. Do you see where it says:

4                    "...It will also include respecting parents

5                    by replacing the current sex education

6                    curriculum with a new age-appropriate one

7                    that is based on real consultation with

8                    parents..."

9                    Do you see that?

10                    A.            Yes, I do.

11                    210.            Q.            Now, two things. Number one, your  
12                    affidavit makes reference to reviewing the health  
13                    and physical education curriculum whereas the speech  
14                    from the throne specifically says replacing. And  
15                    there would be a difference between that. Do you  
16                    agree?

17                    A.            I think the wording...I am not sure  
18                    I do agree fully with you, Howard.

19                    211.            Q.            Okay.

20                    A.            If I could just clarify that. The  
21                    degree that the material in a new sex ed curriculum  
22                    that will come out of the consultation may be  
23                    similar to 2015, it may be very different from the  
24                    2015, it may be adjusted, it may be entirely a  
25                    rethink. I don't have an answer to the degree of

1           what that will look like because that is a  
2           conversation we need to have once the consultation  
3           is done.

4   212.           Q.       Right, but in point of fact the  
5           curriculum has, in fact, been replaced already with  
6           the 1998 curriculum.

7                   A.       We have replaced the curriculum with  
8           the 1998 growth and development portion of the  
9           curriculum.

10   213.           Q.       Right. But it goes on to say with a  
11           new age-appropriate one...and so I will ask you at  
12           this point, and we are now at December 6th, I guess,  
13           what work has been done on defining what the term  
14           "age-appropriate" means?

15                   A.       At this point, we do not have a  
16           definition of what "age appropriate" means for the  
17           new curriculum going forward. Because the work that  
18           we do on developing the curriculum and what is meant  
19           by "age appropriate" will come out of the  
20           consultation that is currently ongoing in the  
21           province now.

22   214.           Q.       Okay. And I take it, as we  
23           discussed earlier, that there has been no assessment  
24           as to whether either the 2015 or the 1998 was, in  
25           fact, age appropriate?

1                   A.       I am not aware of any assessment  
2                   whether it was or was not.

3   215.            Q.       It goes on to say in the speech from  
4                   the throne that;

5                   "...It is a curriculum that is based on  
6                   'real consultation' with parents..."

7                   And not that it matters, but your affidavit doesn't  
8                   use the word "real".  Yours uses the word  
9                   "meaningful", which I take it is a more polite way  
10                  of putting it?

11                  A.       My comments in my affidavit are not  
12                  a direct quote.  I am not sure that I would  
13                  necessarily use the word "polite".  I will use words  
14                  that are comfortable for me.

15   216.            Q.       Fair enough.  And, again, I point  
16                   out to you, and you would agree, that this does not  
17                   address the consultation process in curriculum  
18                   development that we have previously looked at?

19                  A.       From the prior...

20   217.            Q.       Yes, prior exhibit.

21                  A.       Does not speak to that, no.  It  
22                  talks about only here developing...pardon me,  
23                  replacing the current sex ed curriculum with a new  
24                  age appropriate one that is based on real  
25                  consultation with parents.

1       218.           Q.       Right.  And I take it, sir, you  
2                    wouldn't want to give any meaning to the word "real"  
3                    consultation.  That is not your words and therefore  
4                    you would be unable to opine as to what that means?

5                    A.       I can't define the word "real".  I  
6                    can say that based on the wording that was in the  
7                    government's launch of the consultation process,  
8                    that I would use the word "extensive" and an  
9                    opportunity for every parent in Ontario to weigh in.

10       219.           Q.       We will come to that in a moment.  
11                    Paragraph 14 of your affidavit, you make reference  
12                    to August 22nd, 2018 the Minister issued the interim  
13                    curriculum.  There has been in prior questioning of  
14                    some of our affiants a concern as to whether this is  
15                    a directive.  I take it, sir, that you do not  
16                    disagree that the curriculum that is expressed in  
17                    paragraph 14 is the curriculum that teachers are  
18                    directed to use?

19                    A.       Teachers are directed to teach the  
20                    curriculum that is released by the Minister.  The  
21                    Minister has the authority under the Act to release  
22                    curriculum and teachers to develop their lessons  
23                    from that curriculum.

24       220.           Q.       And to be clear, that is the 2018  
25                    revised 1998 curriculum?

1                   A.       That is correct.

2       221.           Q.       That is what they are directed to  
3       teach to?

4                   A.       That is what teachers are directed  
5       to teach to.

6       222.           Q.       All right.  And if I can ask you,  
7       then, to look at Exhibit 4, which is the next  
8       exhibit.  That is the curriculum just for the  
9       purposes of identification.  Are we clear on that?

10                  A.       Yes.

11       223.           Q.       All right.  So, let me then ask you,  
12       turning to paragraph 15...we have already discussed  
13       that the direction to your staff was just to replace  
14       the 2015 with a revised 2018 in the specific area of  
15       growth and development.  Was there any attempt to  
16       edit the 1998 growth and development portion to  
17       reflect anything in the 2015?  Or was it just holus-  
18       bolus taken as it was?

19                  A.       I would not use the word "holus-  
20       bolus".  I think I said before it was...the  
21       curriculum was replaced.  So, the 2015 curriculum  
22       was replaced.

23       224.           Q.       I want to be very clear because you  
24       have made a lot of reference to this is what it says  
25       and this is...and comparing back between the 2015

1 and the 1998. But there was no editing, additions,  
2 subtractions from the 1998 document. It is what it  
3 is?

4 A. In the growth and development  
5 portion of it, Howard, it is the same curriculum  
6 that was in 2010, which was the reinstated 1998 for  
7 the growth and development portion.

8 225. Q. And was the front piece reviewed and  
9 amended?

10 A. The front matter from the 2010  
11 document, I believe, is different from the 1998  
12 because in 1998, curriculum documents were very thin  
13 and contained little context for teachers with  
14 respect to considerations in teaching their  
15 curriculum.

16 226. Q. Okay.

17 A. So, that is why I am trying to  
18 clarify that it is the growth and development  
19 portion of the curriculum. The other curriculum in  
20 2010 was the...contained the front matter from 2010,  
21 which is broadly similar to the 2015.

22 227. Q. So, to be clear, the 2018 curriculum  
23 in the growth and development portion is the 1998.  
24 The front matter is the 2010?

25 A. That is correct.

1 228. Q. And that is why it is identified on  
2 the...that is why it is identified as saying 2010 at  
3 Exhibit 4, 2010 Ontario curriculum reissued 2018?

4 A. Yes.

5 229. Q. Okay. So, in terms of the 2010  
6 curriculum, was there any attempt to review the  
7 front matter from the 2015 and to amend it to put it  
8 into the reissued 2010, to your knowledge? Or was  
9 it just the 2010 taken as it was?

10 A. It was a replacement of the 2010  
11 taken as it was, Howard.

12 230. Q. So, to be clear, this 2015 document  
13 which is Exhibit 18 is set aside. The 2010  
14 document, which is Exhibit 4, is adopted with the  
15 1998 portion put into the growth and development?

16 A. I don't agree that your comment is  
17 that the 2015 was set aside. Okay?

18 231. Q. Fair enough. Go ahead.

19 A. Just to clarify.

20 232. Q. Yes.

21 A. The 2015 document is a resource and  
22 is a valuable resource to support the teaching of  
23 the interim 2018 curriculum.

24 233. Q. That is the how but that is not the  
25 curriculum. Curriculum is Exhibit 4. Right?

1                   A.       And you are correct with respect to  
2       the what.  Going back to our earlier conversation.

3       234.            Q.       Fair enough.  And Exhibit 4 is 2010  
4       with 1998.  And my question to you is, in reissuing  
5       it, was there any comparison of the front matter  
6       from 2010 to 2015 to see if the 2010 front matter  
7       might be revised to reflect what is in the 2015  
8       front matter?

9                   A.       I am not aware of any discussion  
10       right now in my team to change the front matter in  
11       that curriculum.

12       235.            Q.       Change the front matter from 2010?

13                   A.       That is correct.

14       236.            Q.       Okay.  And so there may well be  
15       areas in the 2010 front matter that are different  
16       from the 2015 front matter?

17                   A.       Yes, there may well be areas in the  
18       2010 that are different from the 2015 matter.

19       237.            Q.       Fair enough.  We will come back to  
20       that in a moment.  So, going on to paragraph 15, I  
21       am going to ask you whether you are familiar with  
22       the term "snitch line".

23                   A.       I am familiar with what the term  
24       "snitch line" I believe to mean.

25       238.            Q.       And what do you understand the term



1 "snitch line" to mean?

2 A. Where something happens where  
3 somebody provides information or reports on another  
4 individual.

5 239. Q. Fair enough. More specifically, the  
6 term "snitch line" as it applies in your ministry to  
7 the teaching of this curriculum, do you understand  
8 what it means?

9 A. I don't have any information on my  
10 ministry with what I am referring to or what you are  
11 referring to as a snitch line.

12 240. Q. Are you aware, sir, or would you  
13 agree with me that the teachers...well, let me just  
14 take that back and ask you to look instead at  
15 Exhibit 5. Which I have just lost. So, this is the  
16 "Consultation into education reform". It is dated  
17 August 22nd, 2018. And this comes from the  
18 Premier's office. Did your staff or you have any  
19 role in preparing this document?

20 A. We did not prepare the document.  
21 And we did not have a role in preparing the  
22 document.

23 241. Q. Do you know where it came from? Was  
24 it prepared solely in the Premier's office?

25 A. I know it was prepared by the

1 government. I do not know what particular office it  
2 was prepared in.

3 242. Q. Okay. So, if I look, then, on the  
4 consultation, there is a bullet point...a fourth  
5 bullet point:

6 "...We will consult on building a new age-  
7 appropriate health and physical education  
8 curriculum that includes subjects like  
9 mental health, sex ed, and legalization of  
10 cannabis..."

11 Which is the first time we have seen that. I take  
12 it from what you have told us, your ministry had no  
13 input in terms of the mental health, sex ed, and  
14 legalization of cannabis identification?

15 A. I'm sorry, what was the question?

16 243. Q. The use of the subjects like mental  
17 health, sex ed, and legalization of cannabis does  
18 not come from your ministry or your staff...  
19 certainly your staff, let's put it that way?

20 A. Not that I am aware from my staff,  
21 no.

22 244. Q. Thank you. Okay. And then if I go  
23 down, there is three ways to consult. We will  
24 review that separately. Under "Revised Curriculum",  
25 this is the announcement of the revised curriculum

1 that we have just identified and spoken about  
2 earlier. And I will ask you then to look at the  
3 public interest committee and the second paragraph:

4 "...The public interest committee will  
5 ensure curriculum-based misconduct issues  
6 are fairly dealt with at the College..."

7 Do you have any knowledge of what that means or is  
8 that something that came from not in your ministry  
9 or your responsibility? Is that anything you had  
10 anything to do with?

11 A. To my knowledge, there is no public  
12 interest committee at this point in time, Howard, so  
13 I can't speak further to that.

14 245. Q. All right. But someone put that on  
15 paper and someone went out with a statement that  
16 they will deal with misconduct issues that are  
17 fairly dealt with at the College. That is  
18 communicated publicly. That is a release from the  
19 Premier. What do you understand to be meant by  
20 "misconduct issues"?

21 A. Teachers in the province who are  
22 members of the Ontario College of Teachers have  
23 professional standards of practice and ethical  
24 standards that they are to comply with in the course  
25 of their duties as a teacher. That sentence

1           comments "The public interest committee will ensure  
2           curriculum-based misconduct issues are fairly dealt  
3           with at the College". So, my reference there to the  
4           College of Teachers is the reference to College.  
5           So, that is the disciplining body for teachers who  
6           are not compliant with the standards of practice and  
7           with the ethical standards of the College.

8           246.           Q.           That is not what it says, though,  
9           sir. It makes reference to curriculum-based  
10          misconduct. Would you not agree with me that that  
11          is misconduct that is somehow based on the way in  
12          which the curriculum is addressed? It doesn't talk  
13          about the standards of practice. It doesn't talk  
14          about the ethical standards of practice. It talks  
15          about curriculum-based misconduct.

16          A.           Well, teachers are...I understand  
17          what you are saying. Thank you for that. Teachers  
18          are responsible for teaching the curriculum and  
19          developing lessons from the curriculum as released  
20          by the Ministry of Education and by the Minister of  
21          Education. So, if an individual were not teaching  
22          the curriculum expectations, the what of the  
23          curriculum, that would be cause for concern. Could  
24          an individual lodge a complaint with the College?  
25          Yes. And the College would then deal with it

1 through their processes and would choose to  
2 investigate or not as the College is the body.

3 247. Q. And in your experience either with  
4 the ministry or as the director of education of a  
5 very large district school board, have you ever seen  
6 a communication from the government previously that  
7 addresses curriculum-based misconduct?

8 A. I don't have any information. I  
9 don't recall any previous communication in that  
10 regard, Howard.

11 248. Q. And the next sub-heading, "Resources  
12 For Parents":

13 "...For any parent who believes that their  
14 child's teacher is jeopardizing their  
15 child's education by deliberately ignoring  
16 Ontario's curriculum should call the  
17 Ontario College of Teachers..."

18 Have you ever previously seen that statement being  
19 made with respect to delivery of curriculum?

20 A. I have not seen that statement prior  
21 and yet, as I read that, that is directing people  
22 through a proper process which would be to contact  
23 the College of Teachers if they had a concern.

24 249. Q. It is not just a matter of concern I  
25 say with respect, sir. It is with respect to

1           jeopardizing their child's education by deliberately  
2           ignoring Ontario's curriculum. May I suggest to  
3           you, sir, that that is a response to the ETFO  
4           statement that we looked at earlier? It wouldn't be  
5           a big jump to conclude that, if you were a teacher,  
6           would it?

7                    A.        If I was a teacher and I read  
8           something like that, I am not sure that I would  
9           necessarily draw the line between one and the other  
10          on this. I would say that as a teacher, I need to  
11          be teaching the curriculum I am directed to teach.

12       250.           Q.        Okay. All right. But let's be fair  
13          in this, sir. This is the August...you don't have  
14          to turn it up, but in paragraph 97 ETFO issues a  
15          statement on August 13th saying teach the current  
16          curriculum. On August 22nd we have this. And you  
17          don't draw any direct line between the two of them?

18                   A.        Well, in paragraph 99...thank you  
19          for that, Howard. Paragraph 99:

20                           "...We expect our teachers, principals and  
21                           school board officials to fulfil their  
22                           obligations to parents and children when it  
23                           comes to what our students learn in the  
24                           classroom..."

25          I think that comment, I would suggest, is in

1 response to an indication from ETFO in their prior  
2 release that teachers were going to continue to  
3 teach the 2015 curriculum and not teach the 2018  
4 curriculum so the government direction there is  
5 people are expected to teach the curriculum that is  
6 released.

7 251. Q. And where in any communication from  
8 your ministry or the Premier's office has it been  
9 clarified that if you want to look at the 2015, if  
10 you want to exercise your professional judgment on  
11 that, go ahead and do so?

12 A. There is lots of latitude for  
13 people. I am not aware of a directive from the  
14 government coming out saying, "Use the 2015  
15 curriculum". Teachers as professionals can use any  
16 particular document they wish as a resource to  
17 support their teaching in their classroom. That is  
18 part of their opportunity to exercise their  
19 professional judgment. 2015 curriculum would be a  
20 resource that would be available to any teacher in  
21 meeting the curriculum expectations from 2018.

22 252. Q. And where prior to your affidavit,  
23 sir, has it ever been communicated to any of the  
24 teachers in Ontario, either by your ministry or by  
25 the Premier's office, that teachers are free to use

1 the 2015 document as a resource?

2 A. There is no indication that I have  
3 that a directive went out to use the 2015 curriculum  
4 in teaching the 2018 expectations from the ministry.  
5 School boards, as you will see towards the end of my  
6 affidavit, have clarified for teachers that they are  
7 welcome to teach the concepts such as consent, such  
8 as gender identity in the course of their classroom.  
9 That is also supported by a variety of other  
10 documents that I am sure we will explore.

11 253. Q. Well, that wasn't the...I understand  
12 your answer, sir, and whether school boards...and  
13 not all school boards have taken the same position.  
14 You would agree with me? There are different school  
15 boards that have taken different positions with  
16 respect to 2015/2018?

17 A. I don't have information on every  
18 school board in the province.

19 254. Q. Fair enough, but you are the  
20 Ministry of Education. I know you're not, but you  
21 are here for the Ministry of Education. Has the  
22 Ministry of Education, or your Minister more  
23 specifically, ever made the comment publicly, spread  
24 it across, that teachers are free to use the 2015  
25 how as part of the delivery of the 2018?



1                   A.       I am not aware of directly...of the  
2 Minister directly saying to use the 2015 as a how.  
3 What I am aware that the Minister has said is that  
4 students need to know about consent, students need  
5 to know about gender identity. She made that  
6 statement publicly.

7   255.               Q.       You have made reference to that.  
8 But I take it, sir, you would have no disagreement  
9 if we were to now advise all the teachers in Ontario  
10 that they are free to use the 2015 curriculum?

11                   A.       I am not sure I would agree with  
12 that statement entirely.

13   256.               Q.       Why?

14                   A.       I would suggest the 2015 curriculum,  
15 Howard, is a resource as any other document could be  
16 a resource. I want to be clear that the curriculum  
17 expectations, the what of the curriculum from the  
18 2018 curriculum, that is the what that teachers are  
19 requested to teach and assess on. How they teach  
20 that, this is the how, they can draw on a variety of  
21 resources including the 2015 curriculum.

22   257.               Q.       And if a parent believes that their  
23 child's education is deliberately being ignored  
24 because of the resource of the 2015 curriculum the  
25 government is inviting them to call the College of

1 Teachers?

2 A. Teachers will always exercise their  
3 professional judgment. Teachers must teach the  
4 curriculum in a way that is age and developmentally  
5 appropriate. A parent has always had the  
6 opportunity, if they have a concern with the  
7 teacher, to speak to the teacher, speak to the  
8 school administration, speak to the board  
9 administration, and register a complaint with the  
10 College. In fact, if they go to the College with a  
11 complaint, the College's website directs them to go  
12 back to the school and have the conversation through  
13 the proper order. That has always been there.

14 258. Q. But that is not...maybe it has  
15 always been there, but it is certainly not the  
16 content of this message from the Premier's office,  
17 is it?

18 A. The Premier is drawing attention to  
19 people that the College of Teachers is there, as a  
20 place that they can register their concern and  
21 register their complaint.

22 259. Q. Well, which you and I may well...I  
23 think we may well agree this is unprecedented in  
24 your experience both as a member of the Ministry and  
25 in your role as a director of education. You

1 haven't seen it before?

2 A. I have not seen this before.

3 260. Q. Fair enough. And you told me  
4 earlier that you have gone through...and I am not  
5 suggesting that you have gone through in depth...all  
6 of the exhibits to the affidavits that have been  
7 filed, but I take it you recognize that many of  
8 those affidavits reference a chilling effect in  
9 terms of what is being done as a result of various  
10 pronouncements coming from the Ministry? You have  
11 seen that repeatedly?

12 A. I have seen that wording. I don't  
13 agree with that wording but I have seen that  
14 wording.

15 261. Q. You don't agree with that wording  
16 but I take it, sir, you are not in a position to  
17 disagree that that is a perception of those who have  
18 expressed that perception?

19 A. I can't speak...I don't know about  
20 the perception of people. I respect that people put  
21 that into their affidavits. As professionals in the  
22 province, teachers have, as I noted before, plenty  
23 of latitude to bring the curriculum alive in their  
24 classroom, to make the magic happen for the kids in  
25 their classroom, using a variety of resources. I am

1 not aware of a chilling effect.

2 262. Q. So what is so difficult about the  
3 government or Ministry issuing a statement to that  
4 effect? Why hasn't that been done?

5 A. I can't speak to the government  
6 issuing a statement. What I can speak to, Howard,  
7 is in issuing the 2018 curriculum it is a great  
8 place for teachers to be able to work with their  
9 curriculum this year while we undergo the  
10 consultation.

11 263. Q. You and I can continue to debate  
12 this. Can I ask you to look at Exhibit 41, please.

13 A. Certainly.

14 264. Q. This is referenced in paragraph 98  
15 of your affidavit.

16 A. Thank you.

17 265. Q. So, this is, again, appears to be  
18 from the Office of the Premier, August 22nd. And I  
19 would assume, again, you and your staff had no role  
20 in the content of this?

21 A. This is from...on the front page,  
22 the office of the Premier. Not from my staff. That  
23 is correct.

24 266. Q. Thank you. And if I ask you to look  
25 at the second page.

1 A. Yes.

2 267. Q. There is a quote from Premier Ford:  
3 "...We expect our teachers, principals and  
4 school board officials to fulfil their  
5 obligations to parents and children when it  
6 comes to what our students learn in the  
7 classroom. We will not tolerate anybody  
8 using our children as pawns for  
9 grandstanding and political gains. And,  
10 make no mistake, if we find somebody  
11 failing to do their job, we will act..."

12 Now, "grandstanding" may be referring to himself but  
13 I am not going to worry about that. You had no role  
14 in that quote clearly but would you agree with me  
15 that that quote represents a very hard position  
16 taken by the Premier of this province?

17 A. I think that quote...I don't think I  
18 agree with that, when you say a hard position.

19 268. Q. Okay.

20 A. I think the Premier is responding  
21 here to the context of the ETFO and I think we had  
22 that conversation a moment ago, that teachers are  
23 expected to teach the curriculum that is released  
24 from the Ministry and the minister.

25 269. Q. And, again...sorry, go on.

1                   A.       And finding..."anybody using our  
2 children as pawns for grandstanding and political  
3 games". So, clearly there the expectation is use  
4 the curriculum that has been released.

5   270.            Q.       And if you don't, "we will act".  
6 Correct? That is what it says.

7                   A.       That is what it says. That is  
8 correct.

9   271.            Q.       And you don't consider that to have  
10 a chilling effect?

11                   A.       I am not sure what "we will act"  
12 means in the context of here we are in December  
13 because I am not aware of anything directly where  
14 the government has investigated an individual  
15 teacher, has disciplined an individual teacher,  
16 because that is the job of the College. I am not  
17 aware that the College has either.

18   272.            Q.       And it may well be that is because  
19 no one is prepared to do anything for fear of being  
20 investigated by the College. We don't know, do we?

21                   A.       I don't have any information on  
22 that.

23   273.            Q.       Aside from what has been expressed  
24 on the record by various affiants. You and I don't  
25 need to debate that. So, just if I can continue on,

1 again, there is reference to the public interest  
2 committee. Again, there is reference to the "For  
3 The Parents" website where it begins...the paragraph  
4 begins:

5 "...In addition, the Minister of Education  
6 announced she would use her authority..."

7 And then I am not quoting now, to strike a public  
8 interest committee, but then it goes on to say:

9 "...As a first step of empowering parents,  
10 the government is launching a dedicated  
11 submission platform, 'For The Parents',  
12 that parents can use to report any  
13 concerns..."

14 And that follows up on another reference to  
15 curriculum-based misconduct issues. So, would you  
16 not agree that when you read curriculum based  
17 misconduct issues, empowering the parents, the  
18 dedicated submission platform, reporting any  
19 concerns, that all of that is a warning to the  
20 teachers that the parents are watching?

21 A. I disagree. Howard, with respect, I  
22 disagree. Because most of what you have said there,  
23 and you gave a number of...

24 274. Q. I am reading from the document.

25 A. Yes. A dedicated submission

1 platform the parents can use to report any concerns.  
2 If one goes to the August 22nd version of the  
3 website...and I am sure we will get there...parents  
4 can report concerns with curriculum which is part of  
5 the consultation process. I think that is very  
6 directed at consultation. The button to report  
7 another concern...I don't have the wording in front  
8 of me...directs them to the College of Teachers  
9 through that process. So, it is not teacher driven,  
10 it is curriculum driven. And it is around reporting  
11 concerns as part of the consultation.

12 275. Q. I see. Okay. And the website has  
13 been changed from time to time?

14 A. That is correct.

15 276. Q. And has the change in the website  
16 been publicized in the same way as the introduction  
17 of the website was publicized, to your knowledge?

18 A. No, I don't believe it has been  
19 publicized. The most recent one...the most recent  
20 version where four additional languages are now  
21 available for parents to consult, I don't think has  
22 been followed with media releases at the same time.

23 277. Q. So, if I also take you, then, to  
24 Exhibit 43. This is a letter to the registrar of  
25 the College of Teachers...I'm sorry, I will wait.



1 This is a letter to the registrar and CEO of the  
2 Ontario College of Teachers, Mr. Salvatori. It is  
3 dated October 5, 2018 and it makes specific  
4 reference to submissions that reflect conduct by  
5 teachers. Which I will address in a moment. But  
6 this is, as I say, dated October 5th, which is  
7 after, for example, the affidavit of Cindy Gangaram,  
8 which was September 29th. And this communication to  
9 the registrar of the College of Teachers with  
10 respect to the discipline process, was that  
11 publicized? Was that released until it became part  
12 of your affidavit, to your knowledge?

13 A. You are referring to the deputy's  
14 letter to the registrar?

15 278. Q. Yes.

16 A. The deputy's letter to the registrar  
17 is not a publicly released document. It was between  
18 the deputy and Mr. Salvatori.

19 279. Q. And then the next document, which is  
20 Exhibit 44, which is a communication to...the  
21 template. Essentially a template that goes to  
22 individuals who are...want to report to the College.  
23 Now, this is dated November 2nd, 2018. And advising  
24 individuals about how to make complaints to the  
25 College well after the filing of our material in

1           this matter. Has that been made public, that there  
2           is this letter being used as a template?

3                   A.       That letter was used in going back  
4           to the 13 individuals, it was not a public letter or  
5           posted publicly, no.

6   280.           Q.       And has there been, again, any  
7           public release of any subsequent information with  
8           respect to either the "For The Parents" website or  
9           the relationship between that website and the  
10          College complaint process since August 22nd and  
11          prior to your affidavit, which has still not been  
12          filed publicly?

13                   A.       In terms of public information, I am  
14          not aware of any updates following August 22nd,  
15          Howard.

16   281.           Q.       Thank you.

17                   A.       With public updates of the website  
18          where we have indicated what the changes were, the  
19          introduction of additional languages, and so forth.

20   282.           Q.       Fair enough. And at Exhibit 45.  
21          No, let's not spend time on that. I am not going to  
22          worry about that. Let me ask you now, your  
23          consultation process began on or about September  
24          29th, as I recall. 28th, 29th.

25                   A.       The consultation process began on

1 August 22nd. There was the launch of the open  
2 submission form at the end of September.

3 283. Q. The date would be September 28th and  
4 it closes next week, December 15th.

5 A. That is correct, it closes on the  
6 15th.

7 284. Q. And then what?

8 A. Then staff will be in the process of  
9 working to analyze all of the input which will  
10 inform where we go across the seven broad areas of  
11 consultation with respect to curriculum. And I  
12 offer in there that mathematics is identified as an  
13 area...and you can see, since we are open to Exhibit  
14 45, Howard, that we have got "About the  
15 Consultation" on the top of that webpage, those  
16 seven broad areas that are explored through the  
17 survey, opportunity through the open submission and  
18 through the tele-town halls.

19 285. Q. Fair enough. Survey, the open  
20 submission and the tele-town halls and that is the  
21 totality of the communications...of the consultation  
22 process?

23 A. That is the totality of the  
24 consultation process as I understand it to the 15th  
25 of December. And we have...I think I commented in

1 my affidavit up to...toward the end of September,  
2 25,000 submissions. We are something above 30,000  
3 or 32,000 submissions at this point. I don't have  
4 the latest numbers at my fingertips but I am aware  
5 it is above 30,000.

6 286. Q. And do you know how many are from  
7 individuals as opposed to stakeholders?

8 A. I don't have that because what I am  
9 ensuring is that I not have any advance opinions on  
10 anything. So all of this will be analyzed, Howard,  
11 at the point that we get a chance to review  
12 everything once consultation has ended.

13 287. Q. So, can you tell me, sir, just  
14 reflecting back on the document we have previously  
15 seen, which is Exhibit 14, this is the process of  
16 curriculum review.

17 A. Okay. Thank you. Yes, thank you.

18 288. Q. Your aim is to issue the new  
19 curriculum as of what date? It will be effective,  
20 presumably, subject to whatever else happens  
21 September 1, 2019?

22 A. That is correct.

23 289. Q. And in order to do that, you want it  
24 issued as of what date?

25 A. We would probably be looking to give

1 teachers enough time to work with the curriculum  
2 late in the current school year.

3 290. Q. Meaning?

4 A. June. I don't have a date. I have  
5 not received a date but some time before the  
6 beginning of summer, 2019.

7 291. Q. So, you earlier told me about a new  
8 experimental process, a rapid prototype for  
9 developing curriculum. Was that a six month  
10 process?

11 A. Rapid protoyping was actually a one  
12 term process. So, in the context that it was used,  
13 it was within a semester in use by teachers. So, I  
14 would offer it was probably a five month process.

15 292. Q. And based upon what? How did you do  
16 that? Was there consultation on that or not? Or  
17 just develop it with the teacher groups?

18 A. In terms of the process for the  
19 piloting?

20 293. Q. Yes.

21 A. Was working with teachers to  
22 implement a modular based approach for that  
23 particular curriculum to try to cover certain topics  
24 in a modular format and pilot the approach that we  
25 could then say how well did it work, can we

1 introduce it into the curriculum.

2 294. Q. Right. It is not a change of the  
3 curriculum? It is not a wholesale change of the  
4 curriculum?

5 A. We are not that far along yet in  
6 that particular process for the careers curriculum,  
7 Howard.

8 295. Q. Right. So, it is not a change in  
9 the curriculum is what I am saying.

10 A. Not at this point, because we  
11 haven't got that far.

12 296. Q. Fair enough. So, if I look back to  
13 Exhibit 14, where we talk about the curriculum  
14 review process, I am going to ask you where it says  
15 the curriculum...do you see that, "curriculum review  
16 process"?

17 A. Yes, page 2 of 2.

18 297. Q. Okay, so, it then says "Research":  
19 "...A research based and evidence informed  
20 process that begins with a third party  
21 research and benchmarking of the Ontario  
22 curriculum against curricula from across  
23 Canada and around the world..."

24 Has that been done?

25 A. I don't have any information on that

1 at this point for that curriculum.

2 298. Q. Will that be done? For the one we  
3 are talking about now, the health and phys-ed  
4 curriculum.

5 A. For the one that we would look to  
6 release in September of 2019...

7 299. Q. Yes, for September...

8 A. Pardon me, for September, 2019?

9 300. Q. Yes.

10 A. I don't have any information on that  
11 at this point in time.

12 301. Q. So, you can't tell us whether it  
13 will be done?

14 A. What we need to do with the  
15 curriculum going forward, Howard, is to look at the  
16 parent and everyone's consultation that is currently  
17 ongoing right now. That will inform what the  
18 curriculum needs to look like going for September of  
19 2019. I think I commented earlier it may be similar  
20 to 2015, it may not be similar to 2015. I don't  
21 know at this point.

22 302. Q. So my question to you is you don't  
23 know if you will follow the process with the third  
24 party research and benchmarking that you have  
25 identified in your document?

1                   A.       At this point, we have not defined  
2                   the actual process that we will use for the  
3                   development of the curriculum for September of 2019.  
4                   It will be informed by what is happening now.

5   303.            Q.       Fine. And you have not got together  
6                   a team of experts in the subject discipline from  
7                   across the province as of yet and you don't know if  
8                   you will to quote, again, from Exhibit 14?

9                   A.       The consultation is open to anybody  
10                  in the province. Experts are most welcome to  
11                  comment on it. Have we pulled a staff group of  
12                  experts together? We have not at this point because  
13                  we are honouring the consultation process.

14   304.           Q.       Martyn, this does not talk about  
15                  soliciting. This talks about getting teams of  
16                  experts to analyze the current curriculum. This is  
17                  a process that Ms. Dawson has identified and you  
18                  have confirmed, is based upon the Ministry gathering  
19                  these teams of experts. What you are telling us is  
20                  if they write in, they write in, but we are not  
21                  following this analysis and synthesis process set  
22                  out in your document.

23                  A.       There is nothing that says that  
24                  experts who write in now and offer their comments,  
25                  insights and advice will not become part of



1 the...all of the information that we have to develop  
2 the new curriculum.

3 305. Q. May I put it to you squarely, sir,  
4 you don't have any real knowledge as to where you  
5 are going to go after the consultations finish.

6 A. I think we need to look at...

7 306. Q. You know what your objective is but  
8 you don't know how you are going to get there.

9 A. We will need to use the consultation  
10 to inform us on developing what we need to do to  
11 develop the curriculum.

12 307. Q. And right now, as we sit here, there  
13 is no commitment to follow the Ministry's own  
14 process as set out in Exhibit 14?

15 A. We will be working to develop the  
16 new curriculum. If I look at...if I look at this  
17 process piece...so, in the research...

18 "...Research-based evidence-informed  
19 process that begins with third party  
20 research and benchmarking of the Ontario  
21 curriculum against curricula..."

22 We certainly have lots of opportunity for people  
23 right now to provide that information. Our staff  
24 may well be pursuing the benchmarking process very  
25 quickly when we finish the consultation. Again,

1 Howard, the focus has been on the consultation.  
2 Information is begin gathered from experts, focus  
3 groups, all those who can wade in on the open  
4 submission form may well include groups of people so  
5 that people can have their own focus groups at their  
6 own community level. Experts are most welcome to  
7 wade in. Teachers are most welcome to provide their  
8 thoughts and insights. And parents are most welcome  
9 to provide their thoughts and insights. That is the  
10 nature of the conversation. It is very broad based.  
11 This is about a process of gathering feedback from  
12 any person in Ontario who wants to provide it. And  
13 that includes experts.

14 308. Q. So it is just an open forum. Anyone  
15 who wants to write in can write in. And there is  
16 absolutely no evaluation of the expertise of those  
17 who are making any submissions on their capacity to  
18 do that?

19 A. If you look at the survey, I believe  
20 there is opportunity for a person to identify  
21 themselves; are they a parent, are they a teacher,  
22 and those sorts of things. So we can use that  
23 information. We need to review all of the  
24 information as it comes in. I don't have that  
25 process piece, Howard, as to exactly how it is going

1 to be done. If you are asking me about experts or  
2 anybody just being allowed to make comments, that is  
3 the whole point of the consultation.

4 309. Q. Sure.

5 A. Everybody is allowed to provide  
6 their insight. That is what makes this so  
7 important.

8 310. Q. Or makes it so unique.

9 A. Yes, indeed, it is unique that there  
10 is this level of input that is invited from any  
11 person in the province.

12 311. Q. So, in your experience, throughout  
13 your years as an educator, have you ever seen a  
14 curriculum developed through a survey process?

15 A. I have not seen a curriculum  
16 developed through a survey process. I think what we  
17 have seen is large scale parent input around the  
18 development...if we think back a number of years to  
19 Ontario's "Achieving Excellence" document from 2013  
20 or 2014 of the day, that input was used to develop  
21 the vision document for the ministry of the day. So  
22 has the process been used? Yes.

23 312. Q. That is not the question I asked. I  
24 asked you about developing curriculum. Have you  
25 ever seen the process to develop curriculum based

1           upon open submissions, tele-town halls or surveys?

2                   A.       This will inform the development of  
3           the curriculum. This will not develop the  
4           curriculum.

5   313.           Q.       Have you listened in to any of those  
6           tele-town halls?

7                   A.       I have.

8   314.           Q.       And?

9                   A.       There is a wide spectrum of opinion  
10          that is given by people across all of the topics.

11   315.           Q.       Yes, and some of it is pretty  
12          homophobic as well, isn't it?

13                   A.       I think people have their views and  
14          it is important that every person have an  
15          opportunity to express their views on the town hall.

16   316.           Q.       And that is going to help you in  
17          terms of evaluating what is an appropriate  
18          curriculum for delivering the what to the children  
19          of Ontario?

20                   A.       When staff review all of the  
21          information, Howard, we will certainly be paying  
22          very close attention to all of the viewpoints from  
23          all of the people who have taken the time to provide  
24          their views.

25   317.           Q.       I don't know if you have the answer

1 to this, sir. Paragraph 110. When you wrote  
2 this...when it was written as of October 29th, there  
3 were 11 town halls. I assume there have been more  
4 since then.

5 A. That is correct.

6 318. Q. And you say that the average number  
7 of participants ranged from 25 to 135. Does that  
8 remain the average or is it greater or smaller or do  
9 you know?

10 A. I don't know the exact number at  
11 this point. I know the numbers were small, Howard,  
12 at the beginning because the launch had a very short  
13 timeline for the announcement. I know that we have  
14 had tele-town halls that have had much larger  
15 numbers than 135. I don't have an overall average  
16 for you though. And I believe a tele-town hall is  
17 scheduled for today.

18 319. Q. And the survey is included within  
19 this document in various places and I am not going  
20 to ask you to turn it up, but that survey has not  
21 been refined as a result of individuals making  
22 submissions, it just remains as it initially was?

23 A. The survey itself?

24 320. Q. Yes.

25 A. Not entirely. As you commented

1 earlier on, adjustments have been made to the survey  
2 as time has gone on. I think I have commented at  
3 least a couple of times that we now offer it in four  
4 other languages.

5 321. Q. Now, if you could just for one  
6 moment...and I am not going to dwell on this...if  
7 you would look at Exhibit 46, which is the open  
8 submission. And so then it says:

9 "...If you are a member..."

10 If you scroll down with me, it asks:

11 "...If you are a member of a stakeholder  
12 group, please describe who you are as a  
13 group and share your feedback..."

14 And then if we look at "share your feedback":

15 "...How can we build an age appropriate  
16 [scroll down] health and physical education  
17 curriculum maximum of 500 words..."

18 You are talking about mental health, sexual health  
19 education, legalization of cannabis, maximum of 500  
20 words. That is the way in which we build a  
21 curriculum these days? Five hundred word  
22 submissions?

23 A. What we see in here is an  
24 opportunity for people to express their views in the  
25 500 words. They can also provide e-mails. Through

1 here, they can add additional comment and if you  
2 have any other feedback or ideas and, in fact, there  
3 has been a number of individuals who have been e-  
4 mailing in their submissions that I am aware of. I  
5 have not reviewed the submissions, Howard, but I am  
6 aware that there are those who have e-mailed  
7 submissions because they wanted to do something  
8 longer than the space that was provided on the form.  
9

10 322. Q. And do you really think, Martyn,  
11 that you will be able to implement a curriculum that  
12 is reflective of the 2015 curriculum politically?  
13 That is probably a question you don't want to  
14 answer.

15 MR. GREEN: I don't understand the  
16 question, so...

17 THE DEPONENT: Yes, I am...  
18

19 BY MR. GOLDBLATT:

20 323. Q. You don't understand the question?

21 MR. GREEN: No, I don't know what  
22 "reflect" means in that sentence. That's  
23 all.

24 324. MR. GOLDBLATT: I am going to withdraw  
25 the question because I think the point can

1                   be made otherwise.

2

3       BY MR. GOLDBLATT:

4       325.           Q.       All right, let me turn to a couple  
5                   of other things. Just give me a moment to check my  
6                   notes, if I may. So, all of these surveys are sent  
7                   in anonymously?

8                   A.       They are anonymous to the sense that  
9                   we are not asking people to disclose names. There  
10                  is, if you check at tab...pardon me, at Exhibit 46  
11                  we do ask people to share with us...they don't have  
12                  to but the three letters of their postal code.  
13                  Which will identify the region of the province. The  
14                  reason for that, Howard, is that we are seeking to  
15                  have a broad representation across the province of  
16                  Ontario. That will help us in establishing that we  
17                  have received input from across the province.

18       326.           Q.       But they don't have to put that in?

19                  A.       They don't have to put that in.  
20                  Their submission will still be accepted if they  
21                  choose not to add that.

22       327.           Q.       And how do you know that the same  
23                  people aren't making submissions over and over  
24                  again? How can you determine who, in fact, is  
25                  making a submission and that it is broadly



1 representative as opposed to ten people sending in  
2 these surveys?

3 A. I don't have any information on that  
4 piece of information. What I do know is with  
5 respect to the tele-town halls, people when they  
6 register before the tele-town hall, they get a  
7 unique access code that gives them access to the  
8 tele-town hall.

9 328. Q. And that allows them to speak their  
10 mind. But in terms of these open submissions or the  
11 surveys, there is no way of ensuring that it is  
12 broadly representative as opposed to representative  
13 of a particular constituency that wants to make  
14 submissions.

15 A. This is open to...indeed, open to  
16 anybody.

17 329. Q. So there is no validation of the  
18 independence...let me put it to you this way. There  
19 is no statistical validation of this survey at all?  
20 It is just whoever wants to speak speaks?

21 A. Any statistical analysis would come  
22 after the consultation closes, Howard, not during  
23 the consultation.

24 330. Q. Well, how can it if you can't ensure  
25 that the individuals provide their postal codes?

1           You have no idea even with the postal code whether  
2           there is the same people in the same postal code.  
3           There is no way of ensuring that it is  
4           representative of a broad constituency of the  
5           province.

6                   A.       Through the first three characters  
7           of the postal code, absolutely we are...

8   331.           Q.       Okay.

9                   A.       ...assured of that.

10 332.           Q.       Sure. The first three characters of  
11 the postal code is going to tell you that one person  
12 isn't putting in 500 submissions. My first three  
13 characters of my postal code, if I put them down,  
14 M4R, I can still put them down and make 500  
15 submissions to you and you wouldn't know that I am  
16 one person doing it 500 times. Would you?

17                   A.       I would not.

18 333.           Q.       Thank you. Okay. You actually  
19 identified a number of things that I would like to  
20 just follow up with. And to some extent, given what  
21 you have told me, there really is not a lot of value  
22 in comparing the actual content of 2015 versus...the  
23 front matter of 2015 versus the reissued curriculum  
24 because no attempt was made to integrate what was in  
25 2015 with the 2010 front matter; right?

1                   A.       In terms of moving to the 2018,  
2                   Howard?

3       334.           Q.       Right.

4                   A.       It was a replacement so we did  
5                   not...we did not go through the 2015 curriculum.

6       335.           Q.       All right.

7                   A.       To that extent.

8       336.           Q.       So, just by way of example, I am  
9                   going to ask you to take a look...because you  
10                  identified this...transgender. And if you can look  
11                  at the 2015 curriculum and turn to page 54.

12                  A.       Sorry?

13       337.           Q.       Fifty-four.

14                  A.       The 2015?

15                  MR. GREEN:       Are you in the 2018 or the  
16                  2015 document?

17                  THE DEPONENT:       I am in the 2015  
18                  document. Is that the correct document you  
19                  wish me to be in?

20

21       BY MR. GOLDBLATT:

22       338.           Q.       Yes, page 54. And then when you do  
23                   that, I am going to ask you to take the 2018  
24                   document and turn to page 45. This is just an  
25                   example. The heading is the same in the two, "Co-

1 Education and Same Sex Classes". Correct?

2 A. Yes.

3 339. Q. And if I ask you to look in the 2015  
4 document, there is a paragraph which is the third  
5 paragraph that begins:

6 "...When planning instruction and  
7 considering class groupings, teachers  
8 should be aware of and consider the needs  
9 of students who may not identify as 'male'  
10 or 'female' who are transgender or who are  
11 gender non-conforming. For more  
12 information about gender identity, gender  
13 expression and human rights, see the  
14 website at the Ontario Human Rights  
15 Commission..."

16 And then there is a website address. Do you see  
17 that paragraph?

18 A. I do.

19 340. Q. And if you look at the current  
20 curriculum, that paragraph is not there?

21 A. That is correct. That paragraph is  
22 not there and yet there is reference to gender  
23 identity elsewhere in the 2018 document.

24 341. Q. Is there? How many references do  
25 you think there are to gender identity in the 2018

1 documents?

2 A. I don't have a number of references  
3 to gender identity in the 2018 document.

4 342. Q. How many references do you think  
5 there is to transgender in the 2018 document?  
6 Because I will tell you and I can help you and Mr.  
7 Green can verify this. But you don't know, right?

8 A. I don't have that number.

9 343. Q. So, let me tell you, sir, that the  
10 reference to gender identity...gender identity in  
11 the 2015 curriculum, there are more than 25  
12 references. Sometimes more than once on a page.  
13 And when I am saying references, I am talking about  
14 on a page. More than 25 in the 2015. And in the  
15 2010, there are three. You can check it. One is on  
16 page 30. One is on page 57, which you reference a  
17 couple of times in your exhibit. And one is in the  
18 definition on page 12. Sorry, 212.

19 MR. GREEN: When you say "references",  
20 you don't mean number of instances on a  
21 page, do you? I am looking at page 212 and  
22 I see four...it says "gender identity"...

23 344. MR. GOLDBLATT: That is why I say  
24 sometimes...it is in "Definitions".

25 MR. GREEN: You mean...you are

1 identifying specific pages, not number of  
2 references?

3 345. MR. GOLDBLATT: Pages. Pages. That is  
4 what I have said. I said 25 different  
5 pages. Sometimes more than one reference  
6 per page. In 2015, three references. In  
7 2010, sometimes more than one reference per  
8 page.

9

10 BY MR. GOLDBLATT:

11 346. Q. And just to complete this, there are  
12 references in the actual specific expectations to  
13 gender identity in the 2015 curriculum such as grade  
14 7, C2.4, and you can look at these, and grade 8  
15 C1.5. And there is none with respect to overall  
16 expectations or specific expectations to gender  
17 identity in the 2010 curriculum. You can take your  
18 time and you can look at that. I am hoping I am not  
19 misleading you on that. Do you think gender  
20 identity is an appropriate subject to be taught to  
21 children or do you prefer not to give an opinion on  
22 that?

23 A. Gender identity is absolutely an  
24 appropriate subject to be taught to children. If I  
25 can clarify your previous comment, Howard.

1 347. Q. Sure.

2 A. I will draw your attention in the  
3 2018 curriculum. Just let me verify. To page 11.

4 348. Q. Yes, sir.

5 A. I didn't want to go down the road to  
6 recounting instances, but since you had, I will draw  
7 your attention to the third paragraph down on page  
8 11 of the 2018 curriculum where it comments, and I  
9 will read it:

10 "...It is also critical to students success  
11 to create an atmosphere in which students  
12 of all body shapes and sizes, abilities,  
13 gender identities and sexual orientations  
14 and ethnocultural, racial and religious  
15 backgrounds can feel accepted, comfortable,  
16 and free from harassment..."

17 I apologize if I am going too fast.

18 349. Q. That is an environment. That is not  
19 a subject. That is not an expectation either  
20 overall or specific.

21 A. Certainly, but if I can clarify for  
22 you, I think it provides through that lots of  
23 latitude for teachers to have gender identity in the  
24 classroom environment taught to the students because  
25 in this, as I look at this, an atmosphere in which

1 students of all body shapes, and so on, gender  
2 identities and sexual orientations, curriculum needs  
3 to come alive for every student in the classroom.  
4 For a student with a gender identity which is not  
5 along the binary gender identities, that child needs  
6 to see themselves reflected in what goes on in that  
7 classroom.

8 350. Q. But it is not reflected in what the  
9 teacher can teach and it is not reflected in the  
10 specific or overall expectations anywhere in the  
11 curriculum in 2015. So the child should feel  
12 welcome but the teacher can't teach, assess, or  
13 evaluate gender identity.

14 A. The teacher can certainly be  
15 teaching the gender identity...gender expression  
16 concepts in the classroom.

17 351. Q. Where? Where does it show that?  
18 Where does it say that, sir? Where does it say that  
19 teachers can teach?

20 A. As I have commented, Howard, I agree  
21 with you...

22 352. Q. It is a resource.

23 A. ...it is not in the curriculum  
24 expectations in the 2015...in the 2018 curriculum,  
25 pardon me for that. But there is every opportunity



1 for teachers to teach gender identity in their work  
2 from the...from the latitude that is given through  
3 the curriculum in the 2018 curriculum. Certainly we  
4 can...as you correctly identified, page 212, gender  
5 identity is defined in the glossary of the 2018  
6 curriculum. It is defined and if we look at within  
7 the context of the actual expectations, you will  
8 see...and I will have to hunt for it for a moment,  
9 if I could.

10 353. Q. You can take your time.

11 A. Thanks. So if I can refer to  
12 paragraph 148...

13 354. Q. Of your affidavit?

14 A. I'm sorry, of my affidavit.

15 355. Q. Thank you.

16 A. I think one of the references that  
17 you have to gender identity from the 2015 curriculum  
18 is identified in the chart, which is under the  
19 previous HPE curriculum column. And at the grade 3  
20 level, you will see over on page 74, invisible  
21 differences (example learning abilities, skills and  
22 talents, personal or cultural values, gender  
23 identity). So, it is in there. In the grade 2  
24 curriculum on...

25 356. Q. Sorry, let's be very clear. You are

1 making reference to the previous HPE curriculum?

2 A. That is correct, the 2015, which is  
3 the previous, correct.

4 357. Q. Fair enough. And it says grade 3.  
5 And the references to gender identity is in the  
6 bracketed portion?

7 A. That is correct. That is the  
8 example I am using at this point.

9 358. Q. Yes, sir. Fine. That is the  
10 previous one. Now, show me where it is in the  
11 current one.

12 A. So, yes, the point that I am  
13 making...thank you...is on the right-hand column,  
14 the interim HPE curriculum, which is the 2018  
15 curriculum, talks about grade 2. Distinguish the  
16 similarities and differences between themselves and  
17 others. For example, in terms of body size or  
18 gender.

19 359. Q. Yes, sir. You agree gender is not  
20 gender identity?

21 A. Gender is not gender identity but I  
22 think there is lots of opportunity in there, as an  
23 example, for teachers to work...to teach the gender  
24 identity concept in the class in the current interim  
25 HPE curriculum.

1 360. Q. Well, sir, in both of these cases  
2 you have referenced the bracketed portions. The  
3 italicized portions. So, I take it you would agree,  
4 since you referenced them, that they are not just,  
5 you know, add-ons but they are important to  
6 understand what it is being discussed in the bolded  
7 portions. Do you agree?

8 A. Because they are the how, they  
9 are...they are certainly opportunities. So I am  
10 saying because it is there in the one as an  
11 opportunity, I think the opportunity is still more  
12 than there considering it is in the front matter,  
13 gender identity...gender identity is in the  
14 glossary. That there is plenty of opportunity for  
15 teachers to teach the concept in their classroom.

16 361. Q. So let me be very clear. I am a  
17 teacher. I am in a classroom. I have the 2018  
18 curriculum. I don't carry two curricula with me. I  
19 have got the 2018 curriculum because no one has told  
20 me that I should be cross-referencing the 2015  
21 curriculum. Have you communicated that I should be  
22 cross-referencing the 2015 curriculum in my  
23 teaching?

24 A. We don't direct any teacher as to  
25 what resource they are required to use to develop

1           their lessons, Howard.

2       362.           Q.       It is not a matter of directing.

3       Have you advised that they are free to cross-  
4       reference the 2015 curriculum in their teaching of  
5       the what?

6           A.       No, we have not. Nor do we for any  
7       other subject matter direct teachers as to what  
8       particular resource they should use or advise them  
9       as to what resource they should use. Teachers are  
10      free to choose that.

11      363.           Q.       Thank you. So, given that I have  
12      the 2018 curriculum, which is the right side of the  
13      table, there is nothing in the right side of the  
14      table that references gender identity.

15           A.       In the grade 1 to 8 expectations,  
16      no, because you are referencing the chart in grade  
17      9.

18      364.           Q.       Yes.

19           A.       Gender identity is in the grade 9,  
20      it is in that chart.

21      365.           Q.       But we are not talking about grade  
22      9. We are talking about grades 1 to 8. And  
23      notwithstanding the fact that you have got two  
24      charts side by side, the fact of the matter is that  
25      teachers have been given a curriculum, teachers have

1           been told that this is the curriculum to which they  
2           are expected to assess and teach, leaving aside what  
3           they might also...whatever methods they may use, and  
4           on the right side there is nothing in the curriculum  
5           that references gender identity even though you  
6           acknowledge that that is an appropriate subject to  
7           be taught? What do I do as a teacher? Can I teach  
8           gender identity? Can I teach gender identity on the  
9           right side in the same way as I taught gender  
10          identity on the left side and for the same purpose?

11                   A.        So, my answer to you on that is a  
12           yes, they can learn about gender identity. The  
13           Minister's comments at Exhibit 37...

14   366.           Q.        Sorry, may I interrupt you, sir, and  
15           you can go on with the Minister's comments. I have  
16           no problem. I know what the Minister said. But  
17           that is not the question I asked you. I said can  
18           you teach in the same way and for the same purpose  
19           in 2015 on gender identity...2018 on gender identity  
20           as we did in 2015. In the same way and for the same  
21           purpose.

22                   A.        I don't have an answer to that  
23           because I am not a teacher in the classroom right  
24           now, Howard.

25   367.           Q.        Fair enough. Well, then, have you

1 ever communicated, "Don't worry about it. Take all  
2 the information from the 2015 and use it in the  
3 2018"? And you have already told me the answer is  
4 no.

5 A. That is correct.

6 368. MR. GOLDBLATT: Okay. Fair. Do you  
7 want to take a half hour break? You must  
8 be ready for it.

9 MR. GREEN: I am ready for it.

10 369. MR. GOLDBLATT: Is a half an hour  
11 enough?

12 MR. GREEN: It is enough for me.

13

14 --- upon recessing at 1:01 p.m.

15 --- A LUNCHEON RECESS

16 --- upon resuming at 1:56 p.m.

17

18 MARTYN BECKETT, resumed

19 CONTINUED CROSS-EXAMINATION BY MR. GOLDBLATT:

20 370. Q. Just before we broke for lunch,  
21 Martyn, we were looking at the issue of gender  
22 identity. And you took me to your side-by-side  
23 comparison chart and you recall we looked at the  
24 bracketed information as assisting us in clarifying  
25 and understanding more fully the bolded portions of

1           that chart. Do you recall that discussion we had?

2                   A.       Yes.

3   371.           Q.       And at page 21 of Exhibit 18, the  
4           2015 curriculum, and it doesn't matter because it is  
5           the same in the 2018 curriculum which is the one I  
6           happen to have open, but at the bottom of the page  
7           there is an arrow that points to those italicized  
8           portions and says:

9                   "...The examples help to clarify the  
10           requirements specified in the expectation  
11           and to suggest its intended depth and level  
12           of complexity. The examples are  
13           illustrations only, not requirements. They  
14           appear in parentheses and are set in  
15           italics..."

16           So, while they are examples, as it says here, not  
17           requirements, you would agree with what is stated in  
18           the curriculum document that it does provide  
19           assistance and clarity as to the bolded portion?

20                   A.       Yes, to an extent, it provides  
21           assistance in helping to design the lessons.

22   372.           Q.       Okay.

23                   A.       Yes.

24   373.           Q.       So, for example, one of the ones  
25           that people have spoken about a lot, if you look at

1 page 66, this is the issue of body parts. And the  
2 distinction between the previous curriculum, the  
3 left-hand side, is that it says "identify body parts  
4 including genitalia".

5 A. I'm sorry, Howard, I am looking at  
6 66 in the...

7 374. Q. No, I'm sorry, of your affidavit. I  
8 apologize. I'm sorry. Page 66 of your affidavit.

9 A. One moment. Yes, thanks.

10 375. Q. So, at the top of the page, this is  
11 the discussion about body parts and it says:

12 "...Identify body parts [in bold] including  
13 genitalia [in bold] using correct  
14 terminology [also in bold]..."

15 But then there is a bracketed part that says:

16 "... (e.g. penis, testicles, vagina,  
17 vulva) ..."

18 And that provides some meaning to what is meant by  
19 genitalia and the depth, perhaps, into which...how  
20 you discuss the word genitalia. It is not without  
21 some assistance to the teacher; agreed?

22 A. They are the how.

23 376. Q. They are the how.

24 A. They are the suggestions. They are  
25 not the mandatory learning.



1 377. Q. They are not the mandatory learning  
2 but they are the suggestions that will enable you to  
3 better understand what is meant by the word  
4 "genitalia"?

5 A. They are examples, that is correct.

6 378. Q. Fair enough. They are not without  
7 meaning and use?

8 A. That is correct.

9 379. Q. As we learned before lunch with  
10 respect to gender identity. But if we go across the  
11 page, and it says "identify the major parts of the  
12 body [and the difference is major parts of the body]  
13 by their proper names", as opposed to "using correct  
14 terminology", how does one know from the curriculum  
15 that the teacher has, the 2018 curriculum, that  
16 penis, testicles, vagina and vulva are major parts  
17 of the body? How does a teacher know that when they  
18 are teaching this curriculum? Or that it is  
19 something that is an example of what they are  
20 supposed to teach?

21 A. Well, for starters, Howard, the  
22 curriculum is not a script for teachers. It is not  
23 a list of words that teachers have to teach. I  
24 think the...looking at the right-hand column, under  
25 "Interim HPE Curriculum", "Identify the major parts

1 of the body by their proper names". That was the  
2 expectation...

3 380. Q. Yes.

4 A. ...that was...the learning  
5 curriculum expectation that was in place up to 2015.  
6 So, I would suggest that teachers certainly had  
7 within their professional judgment the ability prior  
8 to 2015 to teach the major parts of the body, which  
9 would have included genitalia, before 2015. In  
10 2015, that was specified. In moving to the 2018  
11 curriculum, then the teachers still have the ability  
12 to identify the parts of the body. It doesn't  
13 specify which parts of the body they are to identify  
14 by their proper names. It is a higher level.

15 381. Q. But it does specify "major parts".  
16 They use the word "major parts".

17 A. That is correct.

18 382. Q. And I guess the question is whether  
19 the teacher understands from reading that that the  
20 major part of the body is the genitalia or specific  
21 genitalia as opposed to the heart, lungs, brain,  
22 those parts of the body.

23 A. And that is going to be an  
24 interpretation of the teacher.

25 383. Q. Right, but if you are a teacher and

1           you have been teaching the 2015 curriculum and you  
2           now see that the 2015 curriculum has been replaced  
3           by the 1998 curriculum, and the 1998 curriculum  
4           doesn't reference genitalia and does reference major  
5           body parts, how is a teacher to know that it is  
6           permitted and not failing to teach the curriculum to  
7           go into penis, testicles, vagina, and vulva?

8                   A.       Yes. We have been having this  
9           debate a little bit during the course of the day,  
10          Howard...

11       384.           Q.       We have.

12                   A.       ...and, with respect, teachers will  
13          have the ability to determine the parts of the body  
14          by their proper names that they are going to teach.  
15          If we come down to the little segment below,  
16          "demonstrate the ability to recognize caring  
17          behaviours and exploitative behaviours", I think in  
18          my interpretation of this that in looking at  
19          exploitative behaviours...and then it says as an  
20          example in italics, "Inappropriate touching, verbal  
21          or physical abuse, bullying", in the inappropriate  
22          touching, the inappropriate touching there as an  
23          example certainly could be interpreted by the  
24          teacher in the classroom to indicate major parts of  
25          the body which could include genitalia.

1 385. Q. Well, let me put it back to where I  
2 was at the beginning of our discussion. In 2015,  
3 the what was genitalia. That was a specific  
4 requirement, specific expectation. Correct?

5 A. I am going to have to...I will go  
6 back or I will just accept. Let me just go back.  
7 Let me find the curriculum. Just let me...

8 386. Q. Sure. I can help you. It is on  
9 page 93.

10 A. Thank you. Just found it. Yes.

11 387. Q. C1.3.

12 A. Yes.

13 388. Q. It is including genitalia. Right?

14 A. That is correct.

15 389. Q. That is something that is, as it  
16 says here, a specific expectation. It is no longer  
17 a specific expectation. Are you saying, therefore,  
18 that the fact that it is no longer a specific  
19 expectation and that the language that has changed  
20 from body parts, including genitalia, to major parts  
21 of the body is irrelevant?

22 A. I am not saying it is irrelevant. I  
23 am saying that the 2018 curriculum expectation is at  
24 a higher level. You used the term "specific" in  
25 terms of, you know, that it is more specific for the

1 previous HPE curriculum. My interpretation is that  
2 for the 2018, the major parts of the body by the  
3 proper names, that expectation is at a higher level  
4 and offers the latitude for the teacher certainly to  
5 use genitalia with correct terminology.

6 390. Q. And how is the teacher to know that?

7 A. Teachers in their professional  
8 judgment are going to design their lessons, Howard,  
9 from the expectations.

10 391. Q. It goes back to the how.

11 A. It goes back to the how.

12 392. Q. These are not hows. These are  
13 whats.

14 A. That's right. And how the what and  
15 the how come together are the magic of teaching.

16 393. Q. The magic of teaching, as long as  
17 there is nothing over their head with respect to the  
18 magic of the Ontario College of Teachers. Let me  
19 ask you...let me ask you to do one thing. This  
20 curriculum, the 2015 curriculum, is it available on  
21 the Ministry's website?

22 A. I believe it was removed and  
23 replaced with the 2018 curriculum.

24 394. Q. So, where does a teacher get it if  
25 the teacher doesn't have it? Because it is not part

1 of the Ministry website.

2 A. At the point that the curriculum was  
3 produced up to the 2018 curriculum, paper copies of  
4 the curriculum were distributed around the province.  
5 This curriculum in 2018 is different from what has  
6 been done in the past because it exists only as an  
7 electronic version that has been posted. The paper  
8 copy that I have in front of me was printed from the  
9 electronic version but it was not a published and  
10 distributed copy from the Ministry, as was the 2015.

11 395. Q. I understand that with respect to  
12 2015 but there is a direction that you now use the  
13 2018 curriculum. And it wouldn't be untoward for a  
14 teacher to throw out the 2015 curriculum. Why keep  
15 it? It is not what you are supposed to be teaching.

16 A. I can't speak to what...sorry.

17 396. Q. I am just asking, it wouldn't be  
18 untoward for a teacher to do that. So to the extent  
19 that a teacher wants to have regard to the 2015  
20 curriculum, you can't get it on the website.

21 A. It is true that the teacher cannot  
22 pull the 2015 curriculum off the website, but it is  
23 also within reason that...you have suggested  
24 teachers would throw it away. I am going to suggest  
25 that it is absolutely within reason that many

1 teachers will have held on to the 2015 because it is  
2 an effective resource.

3 397. Q. It is an effective resource  
4 potentially if they haven't been told by the Premier  
5 and the Minister otherwise. I am not asking you to  
6 answer that but that is a matter of argument. But  
7 let me put it to you this way: Has there been any  
8 communication from your office, which has  
9 responsibility for curriculum implementation, that,  
10 "Use the 2015 curriculum; it is an effective  
11 resource"?

12 A. There has not been. That is a  
13 question that we discussed earlier today, I think.

14 398. Q. Yes.

15 A. Yes.

16 399. Q. Okay. Fair enough. All right. Let  
17 me show you the definition of abstinence. So, I am  
18 going to suggest to you that there is a direct  
19 conflict between the 2015 and the 2018 curriculum  
20 with respect to that issue. So, please look at page  
21 70 of your affidavit. And I will come back to it.  
22 I am going to ask, first of all, if you could look  
23 at the definition of abstinence in the 2018  
24 curriculum. This is found in the glossary at...it  
25 is page 212. At the top.

1 A. Yes, page 209, Howard?

2 400. Q. Yes, well...

3 A. Yes, it is 209...

4 401. Q. No, no, it is just the way that the  
5 word search comes up. It comes up with 212, but you  
6 are right, page 209. All right. And so for the  
7 record, it reads:

8 "...A conscious decision to refrain from a  
9 behaviour or activity. This document uses  
10 the term in reference to abstinence from  
11 all forms of sexual intercourse and other  
12 sexual activities..."

13 All forms. So, that is complete, correct? Do you  
14 agree with me on that?

15 A. I am reading that, yes.

16 402. Q. All right. Then I am going to ask  
17 you to find the same definition in the 2015  
18 curriculum. All right?

19 A. Yes, I have it at page 227.

20 403. Q. And at page 227, and it is  
21 identical. Or appears to be identical. Correct?

22 A. That is correct.

23 404. Q. Okay. Now, going back, then, we  
24 have a definition of abstinence which would appear  
25 on its face to address all forms of sexual



1 intercourse and other sexual activities. Now, if we  
2 look at page 70, there is in bold at the top of the  
3 page:

4 "...Explain the importance of having a  
5 shared understanding with a partner about  
6 the following delaying sexual activity  
7 until they are older (e.g. choosing to  
8 abstain from any genital contact; choosing  
9 to abstain from having vaginal or anal  
10 intercourse; choosing to abstain from  
11 having oral - genital contact)..."

12 And then it goes on to say:

13 "...The reason for not engaging in sexual  
14 activity; the concept of consent and how  
15 consent is communicated; and in general the  
16 need to communicate clearly with each other  
17 when making decisions about sexual activity  
18 in the relationship..."

19 Now, I have identified all of that which is in bold  
20 in the 2015 curriculum with respect to abstention or  
21 abstinence, to put it more properly. And all of  
22 that, because it is in bold, is at least part of the  
23 specific expectations; correct?

24 A. Yes.

25 405. Q. Now, if I look across to the current

1 curriculum, it says:

2 "...Describe age appropriate matters  
3 related to sexuality (e.g. the need to  
4 develop good interpersonal skills such as  
5 the ability to communicate effectively with  
6 the opposite sex), (page 184)..."

7 Then under that in bold:

8 "...Use effective communication skills  
9 (e.g. refusal skills, active listening) to  
10 deal with various relationships and  
11 situations (page 184)..."

12 And, lastly, bold:

13 "...Explain the terms abstinence as it  
14 applies to healthy sexuality (page 184)..."

15 Those two curriculum expectations appear to be in  
16 direct conflict with one another. Would you agree  
17 with me?

18 A. No.

19 406. Q. Or certainly largely in conflict  
20 with one another.

21 A. I don't see the conflict in there.

22 Both have...abstinence is a term that is in bold in  
23 the 2018 curriculum.

24 407. Q. Yes.

25 A. Abstinence...the term abstain, so we

1 are referring to abstinence, is a sample that refers  
2 to...if we read, once again, the direct expectation:

3 "...Explain the importance of having a  
4 shared understanding with a partner about  
5 the following: delaying sexual activity  
6 until they are older..."

7 408. Q. Yes.

8 A. That speaks directly to the idea of  
9 abstinence. Dealing until they are older in the  
10 2015 curriculum is abstinence.

11 409. Q. But what informs it, as we have  
12 already discussed, is what is in the bracket. Which  
13 means that there are various levels of abstinence.  
14 You can choose to abstain from different types of  
15 sexual contact. And then it goes on to say, and  
16 this is not in the brackets:

17 "...It is the reasons for not engaging in  
18 sexual activity and the concept of  
19 consent..."

20 Which I am sure you would agree with me, consent  
21 does not have to be absolute for everything.  
22 Consent can be graduated. None of that is found in  
23 the current curriculum.

24 A. Well, if we are talking...if I may,  
25 if we are talking about consent now, Howard, if we

1 go to the middle on the right-hand side where we  
2 say, "Use effective communication skills", active  
3 listening, for example, active listening speaks  
4 directly to the notion of consent. Making good eye  
5 contact, asking searching questions, paraphrasing  
6 for understanding. All of those things are about  
7 developing good communication skills which speak to  
8 the concept of consent.

9 410. Q. It is not active listening only. It  
10 is active speaking as well. It is communicating  
11 consent and also listening consent. It goes both  
12 ways. Which is what is reflected in the 2015  
13 curriculum and not reflected in the 2018 curriculum.

14 A. And I would offer, with respect, I  
15 disagree because you use effective communication  
16 skills to your point exactly. Active listening is  
17 there inside the brackets. Effective communication  
18 skills speaks to listening and speaking.

19 411. Q. So you and I are going to...

20 A. It is communication.

21 412. Q. You and I are going to continue to  
22 disagree about this because I know you have a  
23 particular perspective, but the fact of the matter  
24 is a teacher cannot teach in 2018 the bolded parts,  
25 the specific expectations, the whats. They are

1 bound only to teach the specific expectations in the  
2 2018 curriculum, which are different on their face.

3 A. How the teacher teaches the  
4 curriculum, Howard, if we are using abstinence as  
5 the example, I disagree.

6 413. Q. You are telling me that a teacher  
7 can teach, evaluate, and assess on the right-  
8 hand...the left-hand side of the page, the 2015, as  
9 part of the delivery of the curriculum on the right-  
10 hand side?

11 A. The teacher is going to deliver and  
12 assess on the right-hand side, that is correct.

13 414. Q. On the right-hand side.

14 A. That is correct. That is the 2018  
15 curriculum.

16 415. Q. That is correct. The left-hand side  
17 is a resource.

18 A. That is correct. To bring the  
19 expectation alive and provide context to the  
20 expectation. In the 2018 curriculum.

21 416. Q. You and I may disagree on this but  
22 it ultimately may be for the court to determine that  
23 you don't see that there is a distinction between  
24 what the teacher is allowed to teach the what  
25 between the 2015 and 2018?



1 418. Q. And in an age...in an environment,  
2 let me put it that way, in an environment where  
3 parents are invited to quote-unquote communicate if  
4 they believe that the teacher is failing to teach  
5 the curriculum as mandated. The teacher, you  
6 believe, is without any risk in talking about having  
7 genital contact but not having vaginal or anal  
8 intercourse? No risk at all? Not a problem?

9 A. It is always up to the teacher,  
10 Howard, to be able to select the lesson and bring  
11 the lesson alive for the children.

12 419. Q. I understand what the teacher can  
13 do. That is not what I am concerned about. I have  
14 asked you about the environment in which they are  
15 now teaching where the Premier has invited them, the  
16 parents, to communicate if the parent believes they  
17 are not living up to the curriculum requirements.

18 A. Parents have always had the  
19 opportunity to express their concern. They have  
20 always had the opportunity to speak with a teacher,  
21 the school administrator regarding an item that they  
22 disagree with in the context of the classroom, if  
23 they disagree with the curriculum in the classroom.  
24 There has always been that opportunity.

25 420. Q. True, but there has never before, as

1           you identified, been the opportunity or the  
2           invitation to do so from the Premier of the  
3           province?

4                     A.       The Premier, in launching the  
5           consultation, strictly made aware to parents that  
6           they have an option which has already been...which  
7           has always been there to register a complaint, if  
8           they have one, with the College of Teachers. That  
9           has always been an option for any parent in the  
10          province.

11       421.           Q.       But it has never been an option  
12          communicated to the members of the parent community  
13          as part of the launch of a curriculum review in the  
14          past? To your knowledge.

15                     A.       I'm sorry?

16       422.           Q.       To your knowledge.

17                     A.       To my knowledge, that is correct.

18       423.           Q.       While we are here, we talked about  
19          the word "consent". You have read affidavits and  
20          you know, I am sure, that the word "consent" is  
21          nowhere found in the 2018 curriculum. Do you know  
22          that to be a fact?

23                     A.       While the word "consent" may not be  
24          in the curriculum, the concepts that are expressed  
25          there speak to the same...speak to consent and we



1 just had that conversation.

2 424. Q. I understand that. But you know  
3 that the word "consent" isn't there?

4 A. I would have to go back through and  
5 determine...make sure that it doesn't exist  
6 anywhere. But what I can...

7 425. Q. I can show you...you can do it on my  
8 computer...

9 A. Thank you, Howard. What I am  
10 referring to from my knowledge is the places where,  
11 as we just talked about, effective communication  
12 skills speak to the concept of consent.

13 426. Q. Yes, okay, is there something age  
14 inappropriate about using the word "consent"?

15 A. I think...

16 427. Q. For a grade 7 student, a grade 8  
17 student, a grade 6 student? Is there something age  
18 inappropriate about using the word "consent"?

19 A. I think the context to that answer,  
20 there is nothing wrong with using the word "consent"  
21 but the context to that answer is in going back to  
22 the replacement of the 2015 curriculum with the 2018  
23 curriculum, which dates from 2010.

24 428. Q. Right. Which dates from 1998,  
25 actually, when we look at the particular area in

1 question.

2 A. For the particular growth and  
3 development portion. But as a whole, the curriculum  
4 is there...the curriculum represents a point in  
5 time, at which it is written. Terminology will  
6 always develop and will move along. Teacher have  
7 the latitude, as they always have, to update  
8 terminology until the next iteration of curriculum  
9 comes forward.

10 429. Q. Fair enough. So that the curriculum  
11 that was written in 1998 in respect of growth and  
12 development represents that point in time, given  
13 what you have just said?

14 A. It represents...

15 430. Q. It represents that point in time in  
16 1998. That is when it was written.

17 A. That is correct. When curriculum is  
18 written, whenever it is, 1998, it represents that  
19 point in time.

20 431. Q. That point in time. So now we are  
21 in 2018 and we have gone back to a curriculum that  
22 represents a 20-year previous point in time?

23 A. And let's be clear that while the  
24 answer to that is yes, it was the curriculum also  
25 that was in use until 2015. So, it was used in the

1 period of time from 2010 when the curriculum was  
2 replaced there up to 2015 when the new curriculum  
3 was launched. So that would have been up to June of  
4 2015.

5 432. Q. So, what societal changes have taken  
6 place between 2015 and 2018 that requires we go back  
7 20 years in 2018? What societal changes?

8 A. This isn't about a societal change  
9 related to curriculum. This is about a consultation  
10 process that needs to be had with the people of  
11 Ontario.

12 433. MR. GOLDBLATT: Okay. Whether it is  
13 appropriate or not, and you don't have to  
14 answer that question. Can we go off the  
15 record for a second?

16

17 --- DISCUSSION OFF THE RECORD

18

19 BY MR. GOLDBLATT:

20 434. Q. So, I am showing you the affidavit  
21 of Cindy Gangaram dated September 29, 2018. And in  
22 particular, I am showing you, which is Exhibit I to  
23 that affidavit. And at the top of the third page of  
24 Exhibit I, it says:

25 "...Last week, Health Minister Christine

1 Elliott also said the 2014 curriculum would  
2 be taught but said teachers can discuss  
3 issues not included in the province's sex  
4 ed curriculum with students in private.  
5 She added those chats should occur in  
6 private 'rather than a classroom  
7 discussion', which sparked outcry from  
8 teachers and the opposition NDP..."

9 So, Christine Elliott is not only the Health  
10 Minister, Minister of Health and Long-Term Care, but  
11 she is also the Deputy Premier and she has expressed  
12 the view that the kinds of things that you say might  
13 be resources, those chats should occur in private  
14 rather than in a classroom discussion. Do you think  
15 that is appropriate?

16 A. To start with that item, Howard, I  
17 don't agree with you...

18 435. Q. Martyn, do you want it back beside  
19 you?

20 A. No, that's fine, I am happy to peek  
21 across if that is okay. The minister's comments, I  
22 believe, are the subject of a conversation had in a  
23 scrum. I don't have access to the question, so  
24 that...

25 436. Q. They appear to be. It is in quotes

1 and there hasn't been any request that they be  
2 retracted as being inaccurate, that we are aware of.

3 MR. GREEN: To be clear, only five words  
4 are in quotes, actually. Right?

5 437. MR. GOLDBLATT: Yes.

6 MR. GREEN: "Rather than a classroom  
7 discussion", it says.

8 438. MR. GOLDBLATT: Yes. Good enough.  
9 Let's keep those five words.

10 MR. GREEN: Yes.

11 439. MR. GOLDBLATT: Let me just check to  
12 make sure. I am sure you wouldn't mislead  
13 me.

14 MR. GREEN: The rest is an attribution  
15 not in quotes.

16 440. MR. GOLDBLATT: Yes. "Occur in private"  
17 is not in quotes, "rather than a classroom  
18 discussion". Certainly, the words "rather  
19 than a classroom discussion" is a  
20 distinction. Go ahead. I'm sorry.

21 THE DEPONENT: That is quite all right.

22 441. MR. GOLDBLATT: Counsel interrupted.  
23 Very inappropriate.

24 THE DEPONENT: So, the context of that  
25 comment as I have it, because I wasn't

1                   there in the...in whatever the reporter  
2                   interaction was that generated that  
3                   particular comment, is that there are going  
4                   to be topics that any compassionate teacher  
5                   will engage in with a student that will  
6                   involve a private conversation. That is  
7                   not to say that the only sensitive topics  
8                   that can be discussed have to be in  
9                   private. I do not read that into that  
10                  comment at all.

11                   I would say, putting on my own  
12                   teacher hat, that having worked with  
13                   students, there are some things that are  
14                   going to be a teachable moment in the  
15                   classroom. They are those magical moments  
16                   when something comes up and you can cover a  
17                   topic that wouldn't otherwise come up.  
18                   There are going to be other things that are  
19                   best left for the private conversation with  
20                   a student regarding a personal situation  
21                   that is really not the subject of a  
22                   classroom conversation or a teachable  
23                   moment.

24

25                   BY MR. GOLDBLATT:

1 442. Q. As it is reported, as it is  
2 reported, it is not about teachable moments. It is  
3 about issues not included in the sex education  
4 curriculum. Some of the issues that you say are  
5 resources. And as it is reported, the Deputy  
6 Premier is saying those discussions about those  
7 issues that are not in the curriculum should occur  
8 in private "rather than a classroom discussion".  
9 That is not a teachable moment. That is a  
10 restriction on what is being taught, wouldn't you  
11 agree?

12 A. I disagree. I disagree with that.  
13 I disagree that it is restrictive to the point that  
14 teachers cannot have the teachable moment in the  
15 classroom.

16 443. Q. Right. We understand that teachable  
17 moments...there is nothing in that quote that refers  
18 to a teachable moment. I will show you the quote  
19 again. It distinguishes between that which is in  
20 the curriculum and that which is not. And that  
21 which is not in the curriculum, the Deputy Premier  
22 says should be taught or communicated, not even  
23 "taught", I retract that word, in private. That is  
24 what she says on the face of it.

25 A. The strict context that you are

1 giving me, Howard, I understand what you are saying.  
2 That is not the way that I see her comment. I see  
3 her comment as indicating a compassionate teacher is  
4 going to look at a child who brings forward a piece  
5 of information that would be...could be something,  
6 yes, completely outside the curriculum. But the  
7 teacher is going to work with that child in a way  
8 that is going to best serve that child. If it is a  
9 teachable moment, teachable moment. If it is a  
10 private conversation, then it is a private  
11 conversation.

12 444. Q. Fair enough. Now, is that...

13 A. But there is no restriction. Sorry.

14 445. Q. Fair enough. That is how you see  
15 it. We don't know whether that is how the Minister,  
16 Deputy Premier sees it. But has anyone ever  
17 clarified what is meant by that communication which  
18 has been reported? Have you clarified it with your  
19 ministry?

20 A. I am not aware of any additional  
21 information on that.

22 446. MR. GOLDBLATT: Can I have 10 minutes  
23 just to make sure and I may be done? Thank  
24 you.

25 MR. GREEN: Sure.



1 --- upon recessing at 2:31 p.m.

2 --- A BRIEF RECESS

3 --- upon resuming at 2:40 p.m.

4

5 MARTYN BECKETT, resumed

6 CROSS-EXAMINATION BY MR. SVONKIN:

7 447. Q. Mr. Beckett, the way that an  
8 official curriculum document is promulgated is that  
9 it is released by the minister; correct?

10 A. That is correct.

11 448. Q. And your understanding is that when  
12 the minister releases an official curricular  
13 document, she is doing so under her statutory  
14 authority under the Education Act?

15 A. That is correct.

16 449. Q. For the HPE curriculum that we are  
17 dealing with in this case, we can agree there is  
18 only one official curricular document in effect at  
19 any given time?

20 A. That is correct.

21 450. Q. For the current school year, 2018 to  
22 2019 the official and sanctioned HPE curricular  
23 document in effect is the one that is Exhibit 4 to  
24 your affidavit; right?

25 A. Exhibit 40 of...

1 451. Q. Four.

2 A. I'm sorry, 4, yes, quite correct.

3 452. Q. It is the one that has the date 2010  
4 reissued 2018 on its cover?

5 A. That is correct.

6 453. Q. It is the one that was released by  
7 the Minister on August 22 of this year?

8 A. That is correct.

9 454. Q. And it is the one, as I think you  
10 have already testified, that has the growth and  
11 development material from...that was originally  
12 promulgated in 1998?

13 A. That is correct.

14 455. Q. Since August 22 of this year, the  
15 2015 HPE curricular document, the one that is  
16 Exhibit 18 to your affidavit, has not been the  
17 official curricular document in this province;  
18 right?

19 A. That is correct.

20 456. Q. And that was the effect of the  
21 decision announced by the minister on August 22?

22 A. That is correct. That was the day  
23 at which the 2015 curriculum was replaced with the  
24 2018 curriculum.

25 457. Q. As the official curriculum in this

1 province?

2 A. That is correct, for the school  
3 year. That is correct.

4 458. Q. And for health and physical  
5 education?

6 A. That is correct.

7 459. MR. SVONKIN: Thank you. Those are my  
8 questions.

9 MR. GREEN: I do have some re-  
10 examination.  
11

12 RE-EXAMINATION BY MR. GREEN:

13 460. Q. Mr. Beckett, could you please turn  
14 to paragraph 8 of your affidavit? Do you have  
15 paragraph 8?

16 A. Just give me a second. Sorry,  
17 paragraph 8?

18 461. Q. Yes, please. This morning, you were  
19 asked by Mr. Goldblatt questions about your  
20 responsibilities prior to you joining the Ministry  
21 of Education and you were asked some questions about  
22 your role as a supervisory officer in the Durham  
23 District School Board. Do you remember being asked  
24 those questions?

25 A. Yes.

1 462. Q. And one of the questions you were  
2 asked was about whether or not you supervised  
3 teachers and you said as a supervisory officer, you  
4 didn't supervise teachers. Do you remember those  
5 questions and that answer?

6 A. My context...yes, I remember the  
7 question. My context was that I supervised the  
8 principals as a supervisory officer and they are the  
9 ones who conduct performance appraisals of their  
10 staff.

11 463. Q. And so it just wasn't clear to me in  
12 your answer, because when you gave your...the  
13 question was about before you joined the ministry.  
14 And when you gave your answer, you referred to your  
15 responsibilities as a supervisory officer. And I  
16 don't know what your answer is with respect to your  
17 role as the director, which I understand you were  
18 after the...after you ceased being a supervisory  
19 officer, you became a director for eight years. So,  
20 my question for you is what were your  
21 responsibilities as the director of education when  
22 you were at the Durham District School Board?

23 A. Okay, thank you. My apologies if I  
24 wasn't clear. The context, to start, was that being  
25 a supervisory officer, in my portfolio I had

1 responsibility for both elementary and secondary  
2 schools and I believe that was my answer to Mr.  
3 Goldblatt. For proper context in Ontario, a  
4 supervisory officer includes both a superintendent  
5 and a director. Directors must be supervisory  
6 officers in the province. So, I am still a  
7 supervisory officer in the Province of Ontario to  
8 this day. As director, any director is the chief  
9 executive officer and the chief education officer  
10 for the board, so I served my trustees in both  
11 those...

12 464. Q. A little bit slower, please, just  
13 for the reporter. Thank you.

14 A. I served my trustees in both of  
15 those capacities. As such, and being the sole  
16 employee of the board of trustees as director...  
17 just to clarify, the board has one employee. It was  
18 the director. All other staff are employed through  
19 the positions that report to the director not  
20 directly by the board of trustees. So, my  
21 responsibility was for all actions that took place  
22 in the school board and for responsibility for the  
23 5,000 staff in...or 5,000 teaching staff, about  
24 7,000 staff overall, through the 11 superintendents  
25 who work with me day to day.

1 465. Q. Thank you. My next question is  
2 about the survey that is part of the current  
3 consultation. And a copy of that survey is at  
4 Exhibit 47 to your affidavit. You let me know when  
5 you have got that.

6 A. I have 47.

7 466. Q. Okay. And maybe we should, in fact,  
8 start with Exhibit 45, which is the website. So, on  
9 the first page of the printout of the website, there  
10 is a link to the survey. It says:

11 "...Send your feedback through our online  
12 survey..."

13 And there is a link there. The word "survey" is  
14 underlined. Do you see that?

15 A. On the website?

16 467. Q. Yes, on the website. First page it  
17 says...

18 A. I have it, thank you. Yes.

19 468. Q. And then the survey is Exhibit 47.  
20 And my question to you about that is, can you  
21 describe what is...do you know...first of all, do  
22 you know what the process is when you click on that  
23 link to the survey on the website that brings  
24 you...when you click the link called "survey" on the  
25 website, do you know one way or the other what the

1 process is that brings you to the survey that is  
2 attached to your affidavit as Exhibit 47?

3 A. It takes you to a CAPTCHA, which...

4 469. Q. Can you spell CAPTCHA for the  
5 record?

6 A. C-A-P-T-C-H-A, I think. It takes  
7 the user to a CAPTCHA where they have to undertake a  
8 certain task, identify a series of pictures, or pick  
9 a series of numbers and letters out of a difficult  
10 to read segment which identifies them as a person  
11 rather than a machine completing the survey.

12 470. Q. And do you know what happens after  
13 that?

14 A. When the person responds  
15 appropriately and gives the correct answer to the  
16 CAPTCHA, then they are let into the survey.

17 471. Q. And if you can turn to Exhibit 47,  
18 the printout of the survey.

19 A. Okay.

20 472. Q. And if you see at the bottom of  
21 page...at the...it appears in a couple of places.  
22 One is at the bottom of page 1, there is a heading  
23 there, "Respondent Metadata". Do you see that?

24 A. Yes.

25 473. Q. And it is kind of hard to read the

1 sentence written underneath it because of the way  
2 the printing has been done, but I think you can also  
3 see it on the top of page 17 of the printout where  
4 it also says "respondent metadata". Do you want to  
5 have a look at that?

6 A. Yes, I can see it.

7 474. Q. Okay. So, do you know what...do you  
8 know, first of all, one way or the other, do you  
9 know what this means about collecting metadata  
10 information such as the IP address? What does that  
11 mean? Or do you know what it means?

12 A. I think that is the location or  
13 the...location of the computer. I am not a computer  
14 expert.

15 475. Q. Okay. I am going to ask you another  
16 question now about a different issue. You were  
17 asked before lunch whether teachers were directed by  
18 the government that they could use the 2015  
19 curriculum as a resource. Do you remember being  
20 asked that question?

21 A. Yes.

22 476. Q. And you said, "Government doesn't  
23 direct teachers as to what resources to use". Do  
24 you remember giving that answer?

25 A. Yes, and I think I said for any



1 curriculum.

2 477. Q. Right. Okay. And so my question of  
3 you is, how do teachers know what resources to use  
4 if the government doesn't tell them?

5 A. Teachers...I think I indicated to  
6 Mr. Goldblatt teachers, as professionals, are  
7 responsible for looking at the curriculum, reviewing  
8 the curriculum expectations, and then seeking any  
9 resources that they choose to support it. So, if I  
10 were to try to give a couple of examples, there  
11 might be another curriculum document that would  
12 support the teacher developing lessons from the  
13 curriculum. They could use colleagues in school.  
14 They could use their school's administration. They  
15 could use their own union support documents. The  
16 federations in Ontario produce some excellent PD  
17 documents to support teacher lessons.

18 478. Q. Sorry, when you say PD, what does  
19 that mean?

20 A. Professional development. Sorry,  
21 acronym. Professional development to support a  
22 teacher in lesson design. There will also be a  
23 staff resource in many if not all boards who are  
24 available at a system level for the school board who  
25 can support a teacher in developing lessons or

1 developing long-range plans to support their  
2 lessons.

3 479. Q. Thank you. And you were also  
4 asked...you were asked questions about the language  
5 used in curriculum and you said curriculum  
6 represents a point in time. Teachers have always  
7 been able to update the terminology. Do you  
8 remember being asked the question about that and  
9 giving that answer?

10 A. Yes, Mr. Goldblatt asked me that.

11 480. Q. Yes. And so my question for you is,  
12 what do you mean by curriculum represents a point in  
13 time?

14 A. Earlier on today, Mr. Goldblatt was  
15 discussing with me the process of curriculum review.  
16 Any curriculum is written and released at a certain  
17 point in time. That curriculum then exists as the  
18 official curriculum until such time it is...as it is  
19 replaced for the next version of whatever that  
20 curriculum is. Whether it is mathematics or social  
21 studies or HPE.

22 So, during the intervening period of time  
23 between when a curriculum is first issued and when  
24 the next iteration is issued, teachers always have  
25 the ability to update terminology, to correct

1 terminology to reflect societal changes in the  
2 terminology as it relates to the curriculum when it  
3 was written. Mathematics is possibly less subject  
4 to updates in terminology than something like social  
5 studies or perhaps HPE curriculum where there would  
6 be potentially some language changes.

7 481. Q. Thank you. Do you recall you were  
8 also, in the course of being asked by Mr. Goldblatt  
9 questions in the table of comparison in your  
10 affidavit...I think it was around either page 66 or  
11 71 of the comparisons where you were asked questions  
12 about the left-hand side and the right-hand side.  
13 Do you recall those general questions?

14 A. Yes.

15 482. Q. And at one point, you answered Mr.  
16 Goldblatt by saying that the expectations are at a  
17 higher level in the 2018 document. Do you remember  
18 giving that answer?

19 A. Yes.

20 483. Q. And I just want to know what you  
21 meant by the words "higher level". What do you mean  
22 by that?

23 A. By "higher level", my wording means  
24 at a more general level, in a more general sense.  
25 And by saying that, a higher level, it offers a

1 broad scope for teachers to use the lesson...use the  
2 expectation to develop their lessons.

3 484. Q. Okay. Why are they at a higher  
4 level?

5 A. At the point that the curriculum was  
6 originally written in 1998, for that curriculum, the  
7 curriculum only contained the mandatory  
8 expectations. Additional information has been added  
9 over the years in terms of teacher prompts, student  
10 responses, and examples in order to provide support,  
11 possibilities, thinking material for teachers as  
12 they develop their lessons. That was not part of  
13 where curriculum was written in 1998. It is part of  
14 how curriculum is written now. So, the increased  
15 specificity...and Mr. Goldblatt used that term this  
16 afternoon...that we see in the 2015 curriculum is in  
17 an effort to provide increased specificity, as he  
18 says, to the teachers in the expectations.

19 485. Q. Do you recall being taken by Mr.  
20 Goldblatt to that media article that is attached to  
21 Ms. Gangaram's affidavit?

22 A. Yes.

23 486. Q. And you mentioned in your answers to  
24 Mr. Goldblatt that that was a report on a scrum?

25 A. That is my understanding. It was a

1 report from a scrum.

2 487. Q. And my first question for you, then,  
3 is what does that mean, "a scrum"? What are you  
4 referring to?

5 A. A scrum is the period of time when  
6 an MPP, member of provincial parliament, is  
7 approached by a member of the press or a group of  
8 members of the press outside the house and a  
9 conversation takes place where questions are asked.  
10 The Minister or the MPP responds.

11 488. Q. Have you ever reviewed a transcript  
12 of the scrum from that date from that minister?

13 A. No, I haven't. I believe I said  
14 that in my response to Mr. Goldblatt.

15 489. MR. GREEN: Okay. Just one more  
16 minute. Thank you very much, those are all  
17 of my questions for re-examination.

18

19 -- upon adjourning at 2:57 p.m.

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