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BALTIMORE CITY PUBLIC SCHOOL BOARD

ADMINISTRATIVE OFFICE BUILDING

27 AUGUST 1999

IN RE:

DIANA WILLIAMS DISMISSAL HEARING

Proceedings of the Dismissal Hearing in

the Case of Diana Williams, continued on Friday,

August 28, 1999, at 1:15 p.m., at the Baltimore

City Public School Board Administrative Building,

200 East North Avenue, Baltimore, Maryland,

before Wesley J. Armstrong, Notary Public.

Reported by:

Wesley J. Armstrong

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1 a mathematics teacher at James Mosier School

2 Number 144?

3 A. No, ma'am.

4 Q. I'm referring to Baltimore City Public School system Exhibit Number 1, page 2.

5 A. Yes, ma'am.

6 MR. WIGGINS: Page 2.

7 A. Oh, sorry.

8 Q. Ms. Williams, did you write this memo?

9 A. Let me look at it again.

10 MR. WIGGINS: You have to give us more instructions than that.

11 A. Maybe we're not looking at the same memo.

12 Q. It's the third page of --

13 A. Yes, I did.

14 Q. Did you distribute this document?

15 A. I along with others who assisted me helped mail them.

16 Q. Who did you mail them to?

17 A. I mailed them to parents at Southeast Middle School, parents of students at Southeast Middle School.

18 Q. Do you recall how many parents you mailed them to?

19 A. Approximately about 500.

20 Q. How did you get the addresses for 500 parents at Southeast Middle School?

21 A. Well, the addresses are part of ordinary documents for staff in case they need to inform parents of various issues, so they're readily available in the school.

22 MR. WIGGINS: That's not her question. Her question was how did you get them.

23 A. From a staff person.

24 Q. Who was that?

25 A. Let's see. I'm here to tell the truth. She works in the, she's one of the assistants. I can't think of her name. I apologize, I really can't think of her name right now.

26 Q. When you obtained the addresses of the

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APPEARANCES:

James L. Wiggins, Esquire

Law Offices of James Wiggins

One East Lexington Street

Baltimore, Maryland 21202

Hearing Officer

Cheryl T. Haskins, Esquire

City of Baltimore

City Solicitor's Office

200 East North Avenue

Baltimore, Maryland 21202

On Behalf of the Baltimore City Public Schools

Diana Williams, Respondent

Gordon Myers

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PROCEEDINGS

MR. WIGGINS: We're back on the record,

and we're at cross examination of Diana Williams. Ms. Haskins?

EXAMINATION BY MS. HASKINS:

Q. Ms. Williams, what was your position at Fairmount-Harford School Number 456?

A. I was a mathematics teacher.

Q. How long were you there?

A. I've been there since 1987.

Q. Until?

A. Up until 1997.

Q. And where were you assigned next?

A. I was assigned to Southeast Middle School.

Q. What was your position there?

A. I was assigned as a mathematics teacher.

Q. How long were you there?

A. I've been there since November the 14th, 1997.

Q. Have you ever been employed as

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1 parents to whom you mailed this memo, was the principal of Southeast Middle School aware of that?

2 A. Aware of my obtaining the addresses or mailing them?

3 Q. Aware of you obtaining the addresses.

4 A. I wouldn't have any knowledge of that.

5 I'm not sure.

6 Q. Did you tell her that?

7 A. No, I did not tell her that I had.

8 Q. Who was the principal at this time?

9 A. Ms. Jane Fields was the principal at this time.

10 Q. When you obtained the addresses did you make a written request?

11 A. No, I didn't make a written request.

12 Q. Are you aware of any procedures in place at Southeast Middle School for obtaining such information?

13 A. No, I'm not.

14 Q. Why did you mail this information to 500

1 or the principal him or herself, when you're talking about issues that are endangering the lives of each and every individual, particularly our children in school in regard to lead poisoning, I think it's imperative and I felt morally obligated to do so.

2 Q. Ms. Williams, if you had not been a teacher at school number 255 when you sent this memo out, would you have been able to obtain the 500 addresses as you've just stated?

3 A. If I had not been a teacher? I wouldn't have any reason to have obtained addresses.

4 MR. WIGGINS: No, her question to you is could you have obtained them if you were not a teacher.

5 A. At Southeast Middle -- I apologize.

6 No, I wouldn't have been able to.

7 Q. Could you obtained them if you were a teacher at Lee Baltimore City Public School System for that particular location?

8 A. Could I have obtained documents from

1 parents of children at Southeast Middle School?

2 A. I mailed the document here because after I tried repeatedly to inform -- well, I informed MOSH, who in fact told me that they would inform the health department. Once I got the results I informed Ms. Fields as well as the SIT Team chairperson at Southeast Middle about the lead in the water about my results in regard to the lead in the water. However, I noticed that no one from, I think I informed, I forgot the exact date but I informed Ms. Fields immediately that same day that I went home to get the, and found the results -- well, the results were in the mail. No one after about several weeks did anything in regard to at least turning the water off or informing the parents, so I felt as a teacher who works or acts in loco parents, I'll get it, as the parent, if there's a serious situation going on, as a parent I think I would want to know whether it be informed, whether that would be in terms of being informed by another staff person

1 Southeast Middle School?

2 Q. Yes. Could you have obtained the 500 addresses from Southeast Middle School had you been teaching at another Baltimore City public school at that time?

3 A. Not at Southeast Middle. So no, because I didn't know anyone at the school.

4 Q. Ms. Williams, what is a SIT Team?

5 A. That's SIT means School Improvement Team.

6 Q. Did you send anything to them in writing regarding the issues you addressed in this memo?

7 A. Not in writing, no. I went to the young lady personally. No, I did not put it in writing in regard to -- in fact at the SIT Team, at the meeting when I met with her she informed me that she would inform the SIT Team members that I would appear to give a presentation. However, she mentioned that I wouldn't be able to come to the next meeting because the agenda was filled. However, she told me that I would, she would

1 allow me to come and give the information to the

2 SIT Team at the next meeting and she would

3 mention the issue at the meeting that was coming

4 up.

5 Q. And who was this young lady?

6 A. I have to look in my purse. I may have

7 some --

8 MR. WIGGINS: Well, get your information

9 then.

10 (Brief pause.)

11 A. Good. I've written some notes down

12 here. This is her handwriting. I'm trying to

13 find out her name. My mind is blank. Ms. Lange,

14 Ms. Lange, yes. Kim, I think it's Ms. Kimberly

15 Lange, Ling or Lange, was the SIT chairperson at

16 that time.

17 Q. Chairperson?

18 A. Yes, ma'am, of the SIT Team.

19 Q. Where is their office?

20 A. They're teachers in the school, and they

21 have a classroom. They don't have an office.

1 Q. Teachers in Southeast Middle School?

2 A. Yes. The SIT Team is composed of

3 parents, teachers, and I believe -- I mean

4 outside community organization, you know, wanting

5 to help improve the school overall.

6 MR. WIGGINS: You need to speak up,

7 Ms. Williams.

8 A. I'm sorry, sir.

9 Q. Does the principal of the school have

10 anything to do with what the SIT Team does?

11 A. I think she's part of, a member, but I

12 don't know exactly what her function is but I

13 know that she's usually in attendance with the,

14 at the meeting.

15 Q. How often are those meetings held?

16 A. I truly don't know, because I wasn't a

17 SIT Team member.

18 Q. Were you ever scheduled to appear on the

19 agenda at the next meeting as you were told?

20 A. She never did get back to me in regard

21 to the next meeting or my appearance, so I don't

1 offices or personnel or administrators to whom

2 you could have addressed these concerns?

3 A. Oh, yes, ma'am. In fact, I have

4 addressed concerns going back to the initial in

5 1996 with the leaded --

6 MR. WIGGINS: No, stop.

7 MS. HASKINS: The concerns in this memo

8 that we're looking at.

9 MR. WIGGINS: Then you have to be more

10 specific in your questioning, because you just

11 said concerns, and there was no boundaries to

12 your question. With regards to what's in that

13 memorandum, did you consult with anyone else in

14 the school system regarding your concerns?

15 A. In this memo yes, I did. As I

16 mentioned, I spoke with Ms. Fields, the principal

17 immediately after receiving the results. After I

18 got home before, normally I take a shower when I

19 get home but I called her immediately.

20 MR. WIGGINS: Just --

21 A. I'm sorry.

1 know.

2 Q. Did you get back to her?

3 A. I saw her almost every day, but I didn't

4 talk to her about it, so no. I mentioned to her

5 that I was still interested in meeting with the

6 SIT Team members.

7 Q. Other than the SIT Team, are you aware

8 if any other Baltimore City public school offices

9 or personnel who might have a mechanism in place

10 for you expressing your concerns?

11 A. If you could just paraphrase, I'm trying

12 to understand what you're saying, or you could

13 read it again.

14 MR. WIGGINS: Ms. Haskins, could you

15 re-ask your question?

16 Q. Other than the SIT Team and

17 Ms. Kimberly Lange, or Ling, who you contacted

18 regarding the concerns you wrote in this memo,

19 and perhaps the principal of the school where you

20 were working at the time, are you aware if there

21 are any other Baltimore City public school

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1 MR. WIGGINS: Ms. Fields and who else
 2 did you speak to?
 3 A. I spoke with also another teacher at the
 4 school. I'm trying to think of her name. She's a
 5 social security worker, not a teacher. She is a
 6 social worker I talked to.
 7 MR. WIGGINS: Did you speak to anyone
 8 here at North Avenue?
 9 A. No, sir.
 10 MR. WIGGINS: Did you speak to the area
 11 executive supervisor?
 12 A. No, sir.
 13 MR. WIGGINS: So then other than
 14 Ms. Fields the principal and the chair of the SIT
 15 Team, you did not address your concern to anyone
 16 else who may have been able to take some action
 17 on behalf of the school system?
 18 A. No, I didn't address the concern other
 19 than -- right.
 20 MR. WIGGINS: The concerns. Okay,
 21 Ms. Haskins.

1 BY MS. HASKINS:
 2 Q. Ms. Williams, to your knowledge are you
 3 authorized to obtain the addresses of the 500
 4 parents at Southeast Middle School?
 5 A. I thought that the, as being a teacher
 6 we were, the addresses of students were
 7 accessible to the teacher at any time, so I
 8 didn't see it as a violation, no, I didn't.
 9 Q. You thought. Did you ask Mrs. Fields
 10 before you asked the staff person assistant who
 11 gave you the information if you were allowed to
 12 obtain the information for 500 addresses?
 13 A. No, I did not.
 14 Q. Did you ask the head of the math
 15 department?
 16 A. No, I did not.
 17 Q. Would the head of the math department
 18 have been your supervisor?
 19 A. I guess you would say that, yes.
 20 Q. Did you receive any responses from
 21 any parents after you made this mailing, mass

1 in this memo, and the issues in this memo seem to
 2 be would be a concern of the Baltimore City
 3 public school system administration. Therefore
 4 I'm trying to find out if at any point after she
 5 wrote and distributed this memo if she expressed
 6 the concerns that were responded to her with
 7 regarding this memo from I guess the parents that
 8 she wrote to or anyone that responded to this
 9 memo who received it, did she express those
 10 concerns with Baltimore City the public school
 11 administration.
 12 MR. WIGGINS: You're saying after.
 13 MS. HASKINS: After she wrote it.
 14 MR. WIGGINS: She was terminated on the
 15 26th. Ms. Fields already testified that cameras
 16 and newspaper reporters and everybody came to the
 17 school and parents were calling her, so obviously
 18 the school system got the message that there were
 19 some issues regarding what she had in that
 20 letter. Move on to your next question, Ms.
 21 Haskins.

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1 Q. Yes.

2 A. I was aware of some rumors with regard

3 the lead possibly being in the water.

4 Q. Rumors, issues, you were aware of

5 something dealing with the water and possibly

6 lead in it, is that correct?

7 A. Yes, sir.

8 Q. And at that point in time you started

9 doing your own investigation?

10 A. No, sir.

11 Q. What did you do?

12 A. As I mentioned, I started November 1997.

13 I didn't do anything that school year in that

14 regard. I just listened and said maybe they'll

15 do something about it. So the following school

16 year, 1998/1999, is when I eventually, that's

17 right -- right, I'm sorry, 1998/1999 school year

18 is when I felt terrible, I truly felt terrible

19 that I hadn't done anything the first year though

20 I was certified and trained to do

21 so. I didn't do anything until it just got to

1 the point where I couldn't take it anymore.

2 Q. So 1998/1999 you meant to Ms. Fields and

3 you said, "I believe there's a problem with the

4 water," is that correct?

5 A. I did, yes, sir.

6 Q. But she didn't respond in a manner in

7 which you believe she should have?

8 A. Yes, right.

9 Q. And then you contacted MOSH?

10 A. Yes, I contacted MOSH. My first

11 reaction was that I contacted MOSH, and then I

12 waited for MOSH's response and they sent me a

13 letter and I submitted that saying that it was

14 out of their jurisdiction. However, they would

15 inform the health department of my complaint, and I

16 that was prior to my taking water samples, and as

17 waited a few weeks and took the sample, and as

18 soon as I got the results as I mentioned I called

19 Mrs. Fields that afternoon and told her that I

20 had results to prove that there was lead at the

21 EPA action level.

1 BY MS. HASKINS:

2 Q. Ms. Williams, was this letter sent by

3 U.S. mail?

4 A. Yes.

5 Q. Was this letter sent only to parents

6 of students at Southeast Middle School?

7 A. Yes.

8 Q. At the bottom of this letter is a

9 business card. Is that your business card?

10 A. Yes, ma'am. It's not my business

11 card. It's a copy of what my business card looks

12 like.

13 MR. WIGGINS: It's a copy of your

14 business card?

15 A. Yes, sir.

16 MR. WIGGINS: Okay.

17 Q. Did you put this business card in every

18 letter you sent?

19 A. Yes, ma'am.

20 Q. Do you receive a fee for the services

21 you have on this card?

1 A. I'm sorry, you said have I? Did I?

2 Q. I said do you.

3 A. Do I receive? No, I have never received

4 a fee for anything that I've done with anything,

5 you know, I should.

6 Q. Ms. Williams, when you received

7 responses from the parents, do you recall how

8 many responses you received?

9 A. No, ma'am.

10 MS. HASKINS: I don't have any more

11 questions.

12 MR. WIGGINS: Okay. Any redirect,

13 Ms. Williams?

14 MS. WILLIAMS: No sir.

15 MR. WIGGINS: Let me ask you a few

16 questions before you step down.

17 EXAMINATION BY MR. WIGGINS:

18 Q. When you were at Southeast Middle, you

19 were aware that there was some issues with lead

20 in the water, correct, in the beginning?

21 A. When I first came to Southeast?

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1 Q. Now, explain to me why when you had the
 2 concerns that before calling MOSH that you just
 3 didn't go to Ms. Fields and say, "I have this
 4 concern about the water. I am a lead abatement
 5 expert." Why didn't you do that?
 6 A. Sir, when I had -- I mentioned to my
 7 math department head, and I believe I mentioned
 8 to Ms. Fields, and I don't want to be lying, I
 9 asked them in regard to were there any water
 10 samples taken of lead in the water at the school
 11 since they've been there. Ms. Kazmersky, the
 12 department head, told me that she had heard about
 13 it and she would call but she didn't have the
 14 memo, and she still, she told me no, that she
 15 hadn't received anything about the lead in the
 16 water. So I was kind of suspicious because I'm
 17 hearing one thing and she's telling me something
 18 else, so I truly didn't know whether or not to
 19 believe her at this point.
 20 Q. But tell me -- I'm not asking you if you say
 21 believed her. I'm asking you why didn't you say

1 to her, "I have these concerns about the water?"
 2 A. I did say it to her, sir, after --
 3 Q. After you contacted MOSH.
 4 A. Yes. Oh, you mean before I --
 5 Q. Before, yeah.
 6 A. Okay.
 7 Q. I'm trying to figure out how come you're
 8 saying they weren't responding to your concerns,
 9 but you haven't told me when you expressed to her
 10 that you had these real concerns and whether you
 11 allowed her an opportunity to take any action.
 12 A. Okay. Well, maybe I was reacting -- not
 13 maybe. I truly believe I was reacting from my
 14 past experience in terms of contacting as I call
 15 the powers to be in regard to lead issues at
 16 other schools. I've written numerous letters,
 17 which I hadn't submitted yet, but I had written
 18 numerous letters to Mayor Schموke, the city
 19 council, and I've even gone to the city counsel
 20 hearing. I've talked to Dr. Billingson. I've
 21 met with parents in regard to lead issues at

1 Fairmount-Harford High School, sir. Even after I
 2 became trained in it they still totally
 3 disregarded my expertise in lead abatement, and I
 4 felt as though -- so once I truly found out at
 5 Fairmount-Harford High School that it was not a
 6 suspicion but a fact, I felt as though they were
 7 covering up the fact, sir. Therefore they
 8 weren't going to listen to me regarding what
 9 other school I observed and saw hazards or tested
 10 for lead and saw hazards, so I just felt they
 11 were covering up and --
 12 Q. Okay.
 13 A. May I continue?
 14 Q. Yes.
 15 A. And in regard to Ms. Fields, sir, she
 16 and I from day one didn't start off having a
 17 cordial relationship. I didn't feel as though I
 18 could come to her with such even, though I came
 19 to her after I got the results prior to because
 20 there was some friction between us from day one,
 21 sir, and I just didn't feel comfortable going to

1 her.
 2 Q. You didn't go to Ms. Fields and ask her
 3 for the addresses to the students because you
 4 know you wouldn't have gotten them, isn't that
 5 correct?
 6 A. Absolutely, sir.
 7 Q. And even though you were a teacher, you
 8 weren't a teacher of all 500 students of that
 9 school.
 10 A. No, sir.
 11 Q. How many classes did you have?
 12 A. I had three classes, sir.
 13 Q. So you taught about what, ninety
 14 students or a hundred students?
 15 A. Roughly, yes sir.
 16 Q. Now, I understand how the chairperson of
 17 the SIT Team never got back to you, but tell me
 18 again when you have these concerns about these
 19 kids where you feel morally obligated to go to
 20 MOSH and file a complaint, why you didn't get
 21 back to the SIT Team and press this issue more?

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1 A. You mean -- okay. I went to the SIT
 2 Team, and I didn't want to seem like a nuisance,
 3 sir. I talked with her extensively. She gave me
 4 the names of some individuals that were very
 5 outspoken in terms of parental involvement, so I
 6 called them and talked with them and again I saw
 7 her more or less on a daily basis, and I figured
 8 if she was ready for me to come forth, sir, she
 9 would have mentioned it to me that I could come
 10 forth. Q. But you didn't press the issue.
 11 A. I saw her maybe one other time, and
 12 then I talked to her, on another occasion I
 13 mentioned it was important to me to come forth.
 14 MR. WIGGINS: I'm finished with my
 15 questions, Ms. Haskins.

1 EXAMINATION BY MS. HASKINS:
 2 Q. Ms. Williams, you said that you didn't
 3 feel you had a good enough relationship with
 4 Ms. Fields to go to her regarding the issues in
 5 the memo. Did you know Ms. Fields before you
 6 started there on November the 14th of 1997?
 7 A. Ms. Fields was assistant principal, when
 8 I was at Greenspring she came on board. I don't
 9 know what year, but I know I was at Greenspring
 10 she was an assistant principal.
 11 Q. Okay. I understand that you didn't feel
 12 comfortable with her relationship-wise. However,
 13 she was the principal of the school where you
 14 worked.
 15 MR. WIGGINS: Is that a question or just
 16 a statement, Ms. Haskins? What's your question?
 17 Q. My question is if you didn't feel
 18 comfortable going to Ms. Fields, did you go to
 19 her supervisor?
 20 MR. WIGGINS: Well, that answer is no,
 21 because I asked her if she went to the area

1 director.
 2 A. I'm thinking.
 3 MR. WIGGINS: Is there another
 4 supervisor?
 5 A. No, I heard her, but I thought she meant
 6 assistant principal. I'm sorry. No, I didn't go
 7 to her supervisor, no.
 8 MS. HASKINS: No more questions.
 9 MR. WIGGINS: We'll take a break. Let's
 10 see if anybody has showed up, and if so we will
 11 allow Ms. Williams to call them.
 12 (Recess taken at 1:43 p.m. Hearing
 13 continued at 1:46 p.m.)
 14
 15
 16 Whereupon --
 17 JACK ELAM,
 18 a witness, called for examination, having been
 19 first duly sworn, was examined and testified as
 20 follows:
 21 EXAMINATION BY MS. WILLIAMS:

1 Q. Good afternoon, sir. In your testimony
 2 on yesterday you made mention of the fact that
 3 you're the safety officer with Baltimore City
 4 schools, is that correct?
 5 A. Yes.
 6 Q. Therefore, sir, would you place yourself
 7 in loco parentis, mainly meaning basically that
 8 you act on behalf of the parent when it comes to
 9 the safety and well being of our students?
 10 A. Would you clarify that?
 11 Q. My interpretation of loco parentis
 12 meaning that you're acting on behalf of a parent
 13 in place of a parent when it comes to the
 14 students' well-being and safety as long as
 15 they're under your supervision.
 16 A. I don't quite understand that I would be
 17 acting as a representative of the parents. I
 18 represent the board of school commissioners in
 19 regards to safe and health issues for the city of
 20 Baltimore, for Baltimore City public schools.
 21 The occupants of the building are my

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1 responsibility for making them, but I wouldn't

2 say that I'm as you say for the parents.

3 MR. WIGGINS: She isn't saying that

4 you're in place of the parents. What she's

5 saying is that does your job duties as the safety

6 officer for the public schools require you to be

7 responsible for the safety, health, and welfare

8 of the occupants of those buildings.

9 A. Yes.

10 MR. WIGGINS: Okay.

11 Q. Sir, why did you fail to warn the

12 parents of the students, particularly parents of

13 the Morgan State Head Start children and the

14 parents of pregnant females about the lead based

15 painted surfaces that have been severely impacted

16 by uncertified and unaccredited workers according

17 to Maryland Department of Environment standards

18 who performed their job not in accordance with

19 the protocols for a lead sensitive environment?

20 MR. WIGGINS: You're going to have to

21 make your questions shorter, but if I understand

1 representatives of the City of Baltimore Office

2 of Safety, and at that time we held a, we gave

3 them all of the necessary information and

4 arranged for their children to be evaluated, so

5 that statement is what we did when we found out

6 there was a concern and the issue of the

7 facility.

8 Q. Sir, did you warn them or did you notify

9 the parents that the system, school system of

10 Baltimore City spent almost a quarter of a

11 million dollars between October and December of

12 1996 just to basically clean up lead dust and to

13 wet scrape lead based painted surfaces? Did you

14 put something --

15 MR. WIGGINS: Where, ma'am? Where?

16 Q. I'm sorry, at Fairmount-Hartford High

17 School.

18 A. A dollar amount wasn't warranted in

19 terms of telling a person what we did. The

20 dollar amount that we spent was for precautionary

21 measures to address the conditions that we

1 what she's trying to ask is if your duties do

2 require that you be responsible for the health,

3 welfare, and safety of the occupants of the

4 building, how is it that you did not advise the

5 parents of the issue of the lead hazards at

6 Fairmount-Hartford High School.

7 A. That's not true. Upon our recognition

8 of the hazard and the surfaces that were going to

9 or had been impacted and the conditions at the

10 school, we held meetings with the faculty, we

11 held meetings with the parents of the high school

12 students at the school, and we also held meetings

13 with the parents of the Morgan Head Start

14 students, at which time we informed them of the

15 conditions that we had identified in the

16 building. We had given them copies of our

17 documents that were assessed by Scott, Stevens &

18 McCoy, and we offered to them at that time the

19 assessments of their children by Kennedy Krueger,

20 and Dr. Cecilia Daverty as well as Dr. Clifford

21 Mitchell were there along with members and

1 identified, and if I remember correctly two or

2 three of those areas were in the occupied space,

3 and because we found two locations we elected to

4 clean the entire building as a precautionary

5 measure to prevent any additional or lead

6 exposures to the students. The largest dollar

7 amount that was spent for cleaning in this

8 particular facility was in the basement area,

9 which was not occupied by the students and the

10 faculty of this particular facility. It was in

11 the lower basement where the contractors were

12 working, and at that time the cause of the

13 condition we experienced was a fire in the

14 basement and that condition caused an excessive

15 or high lead level to exist in the basement and

16 it had to be cleaned before we reopened the

17 entire facility to the students.

18 MS. WILLIAMS: I'd like to enter --

19 what's the terminology, enter into evidence?

20 MR. WIGGINS: Hand it to me, please.

21 You might want to slide down a chair. We will

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1 for identification as Respondent's Exhibit 33 a
 2 memorandum or letter from Eddy Waskiewicz,
 3 W-A-S-K-I-E-W-I-C-Z, operations manager for
 4 Marcor, M-A-R-C-O-R, Environmental, Inc. To
 5 Mr. Jack M. Elam, October 31st, 1996.
 6 (Whereupon, Respondent's Deposition
 7 Exhibit No. 34 marked.)
 8 MS. WILLIAMS: I don't know if you
 9 flipped through, but even though there are
 10 different billings for, different invoices for
 11 work that was done.
 12 MR. WIGGINS: Are you going to question
 13 him about those billings?
 14 MS. WILLIAMS: Yes.
 15 MR. WIGGINS: Well, let her see it again
 16 and then pass it to him so he can see it. Now,
 17 what are your questions?
 18 BY MS. WILLIAMS:
 19 Q. Mr. Elam, as you noted in terms of clean
 20 up, what kind of clean up was done in terms of
 21 lead abatement that cost --

1 paint discovered in there, that they had a
 2 problem, and they then took measures to clean it
 3 up. So we know that. So why is it important for
 4 me to know how much they paid for it?
 5 MS. WILLIAMS: Well, I thought it would
 6 be important for I want you to know that such a
 7 huge amount of money that was spent to clean up
 8 lead dust, why weren't the parents or the staff
 9 notified specifically, but maybe not --
 10 MR. WIGGINS: But the parents and
 11 everybody were notified that there was a problem
 12 and there was a clean up and they ran a test.
 13 The bill for the work was done afterwards. Why
 14 is it important as to how much money they spent?
 15 MS. WILLIAMS: Because it relates to how
 16 widespread the lead dust --
 17 MR. WIGGINS: Take me in there and show
 18 me where this proposal indicates that the lead
 19 dust was more widespread than what was testified
 20 to earlier.
 21 MS. WILLIAMS: Okay, I don't have it

1 A. This particular proposal was to -- this
 2 is a proposal. The top document is a proposal.
 3 The second document for \$31,362 is an invoice for
 4 cleaning of the first, second, and third floor
 5 and first floor wood shop area as a result of the
 6 samples that were taken by Scott, Stevens & McCoy
 7 identifying the two areas, the one on top of the
 8 lab and the one at the window on I think the
 9 second floor which we felt needed, the entire
 10 building needed to be cleaned to assure a safe
 11 environment, and this second is an invoice, this
 12 top document is a proposal, and this other is a
 13 proposal, the fourth page of this document is a
 14 proposal for wet scraping the first, second, and
 15 third floors of the facility and estimated, their
 16 estimated time frame for doing those rooms that
 17 were indicated here.
 18 MR. WIGGINS: Stop. Why is it relevant,
 19 Ms. Williams, what the school system paid to have
 20 the building cleaned up? They have acknowledged
 21 earlier in testimony that in fact there was lead

1 marked. I have the Marcor dated November 8th,
 2 1996.
 3 MR. WILLIAMS: Okay.
 4 MS. WILLIAMS: As I recall yesterday in
 5 the statement Mr. Elam said there were just
 6 several areas that were contaminated that needed
 7 to be cleaned or rid of the lead problem, but if
 8 you look at the following areas that they were
 9 including in the sample you can see that it was
 10 certainly more than two or three areas where they
 11 were cleaning, and look at the man hours that
 12 were being used to do the cleaning on the next
 13 page. So it proves to me, sir, that these
 14 documents proved to me, sir, that it was not just
 15 a bunch of lead dust right here, a little bit
 16 right there, and a little bit on top of the
 17 lockers. From the tremendous amount of
 18 mechanical and construction that was going on in
 19 a building that's loaded with lead based paint
 20 throughout the facility, it would just be obvious
 21 that --

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1 MR. WIGGINS: But having lead paint throughout the facility doesn't mean that there's a lead paint problem throughout the facility.

2 MS. WILLIAMS: Absolutely.

3 MR. WIGGINS: There's only a problem with flaking and/or maturation or there's dust disturbance. Now, there's no evidence in here that the building, all I'm seeing here is that they decided to since they were coming in to do a clean up as a precautionary measure but more so to avoid future liabilities just to clean the whole building up.

12 MS. WILLIAMS: But if we can recall 14 that -- I'm sorry.

15 MR. WIGGINS: So what I'm looking at 16 here is just a proposal to clean the building, 17 but it doesn't tell me that they found a 18 disturbance throughout the building.

19 MS. WILLIAMS: The lead, the fact that 20 when you're installing new plumbing and heating 21 systems, sir, in a building, you're not just

1 going to drill in this particular section.

2 You're running a pipe throughout the whole 3 system, so you're disturbing lead based paint 4 throughout the building, so consequently when the 5 contractors worked in July and August -- 6 MR. WIGGINS: But you can't prove it 7 with this.

8 MS. WILLIAMS: Well no, not just with 9 that, but we included yesterday the documents 10 where it said that Dr. Amprey noted that the 11 contractors disturbed or impacted as he used lead 12 based painted surfaces. When they did the major 13 mechanical and electrical work he noted that in 14 his document and we moved it into evidence.

15 MR. WIGGINS: Mr. Elam, you want to say 16 something, sir?

17 MR. ELAM: I think there's kind of a 18 misconception. We found through our assessment 19 two locations in the occupied space where there 20 was lead dust above the HUD guidelines. One on 21 top of a locker and one at a window sill in

1 another classroom. I think it's on the second 2 floor, I don't know exactly. So what happens 3 there is if you found one sample that's above the 4 limit, to avoid cleaning the entire building you 5 would have to go through and sample everything 6 or you would have to go through and clean 7 everything.

8 To resample an entire building after 9 finding one hot spot was erroneous. We would be 10 wasting money. We elected to go through and 11 clean the entire building as a result of those 12 two items. So this was as a result of 13 demolitions that were done in July, started in 14 July and completed in August. At that time the 15 school was not occupied by any of the faculty at 16 that time. There was no summer school in this 17 school at that time in July and August. They 18 pulled down the ceilings, which there was some 19 dust, but no one was in the building.

20 There may have been some staff was in 21 the building, custodial staff, and maybe some of

1 the administrative staff, but the faculty was not 2 in the building. When we found this problem out 3 in September the building had already been 4 cleaned. We went back and did the sampling as a 5 result of the concerns of Ms. Williams and the 6 faculty and sampled.

7 MR. WIGGINS: Okay, so the building was 8 cleaned first and then it was sampled?

9 THE WITNESS: Yes. It was cleaned 10 because it's routine for to us clean a building 11 to get it prepared for the start of school in 12 September. The building was cleaned after they 13 pulled ceilings down, which was a problem because 14 they pulled it down and instead of maybe 15 dismantling it they just pulled it down. So that 16 meant that there was dust that was found on top 17 of this locker, there was dust on the window 18 sill, but the building after that demo it was 19 cleaned. When we went back as a result of their 20 concerns and found these two hot spots in the 21 occupied space, the cleaning that was done was

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1 not sufficient in my mind and in the mind of the
 2 consultants or the people that we brought in. So
 3 we felt that to better protect the occupants of
 4 the building we would go back and clean the
 5 building relative to the lockers, the floors, the
 6 window sills in accordance to HUD standards,
 7 which are accepted above, it's warranted when
 8 we're dealing with the students in our
 9 facilities, so we went back -- and our
 10 employees. So we went back after the original
 11 cleaning of the facility and recleaned the
 12 building, and that's what that is.
 13 MR. WIGGINS: Question?
 14 BY MS. WILLIAMS:
 15 Q. I can continue? Sir, I appreciate the
 16 fact that you said you did the cleaning before
 17 the staff came back in 1996 at Fairmount-Hartford
 18 High School.
 19 A. Routine cleaning.
 20 Q. Routine cleaning, that's the term. There
 21 are important federal, state, and local laws.

1 MR. WIGGINS: His answer is no, it
 2 wasn't in compliance because protocol.
 3 Q. Therefore would you still say it was
 4 lead dust since they didn't follow the protocol
 5 according to HUD to eliminate lead dust on
 6 horizontal surfaces, would you say that there was
 7 still lead dust in the building, sir?
 8 A. Only from the standards, the testing
 9 that was done, there were two locations out of 45
 10 in the occupied space that were above HUD
 11 guidelines. Those are the two places that I know
 12 of. The rest I cannot verify.
 13 Q. Which two places are you talking about,
 14 sir, that you're saying that were --
 15 A. If you have the SSM report that was
 16 conducted --
 17 MS. HASKINS: That's respondent's
 18 Exhibit 23.
 19 MR. WIGGINS: 23?
 20 MS. HASKINS: Page 3.
 21 MR. WIGGINS: Yes.

1 When you're dealing with lead based painted
 2 surfaces that are impacted or that where there is
 3 a lead hazard, chipping, peeling, flaking paint,
 4 debris, lead dust falling from breaking ceilings
 5 or removing drop ceilings, routine cleaning is
 6 not the protocol, sir. So the reason being that
 7 --
 8 MR. WIGGINS: Don't tell him, you're not
 9 here to lecture him. Ask him a question.
 10 A. Okay, I apologize.
 11 (Gordon Ayers arrived at the hearing
 12 at 2:20 p.m.)
 13 Q. Therefore, as you mentioned a routine
 14 cleaning, is that HUD standard for cleaning lead
 15 based painted surfaces?
 16 A. The people who clean the building
 17 routinely are custodial staff. They would not
 18 follow our standards beyond what they are
 19 directed by the building manager, and I would say
 20 no, that that would not be routine cleaning for
 21 them.

1 MS. WILLIAMS: Thank you.
 2 Q. Sir, I'm looking at --
 3 MR. WIGGINS: Hand it to him so he can
 4 see what you're talking about.
 5 Q. Can you point to me, sir, out on there
 6 what you talked about in terms of the occupied or
 7 the two areas of concern?
 8 (Brief pause.)
 9 A. This is not the report that I'm talking
 10 about. This is --
 11 MR. WIGGINS: Help me out there.
 12 MS. HASKINS: In this first paragraph it
 13 identifies lead dust levels that --
 14 MR. WIGGINS: Well, what he's saying is
 15 that --
 16 MS. HASKINS: Maybe that's not what he's
 17 talking about, but her question was --
 18 MR. WIGGINS: Well, you can't answer her
 19 question.
 20 A. Here is the locations. This is a lot of
 21 report. It's a clarify chart, this is a chart

1 which actually takes the locations that they
 2 sampled with their statistical data here and puts
 3 it in a chart form that makes it easier for you
 4 to read.
 5 MR. WIGGINS: And what two points in
 6 there --
 7 A. The two locations that were found to
 8 have and maybe -- okay, the top of the locker
 9 321, second floor near room 205, had a level of
 10 1836, which is above the -- well, which was
 11 1836. The window sill in room 310 was 664.75,
 12 and the top of a locker in, the top of locker
 13 2199, first floor, 1,093.75. Now, these three
 14 years areas, and as I said I couldn't remember
 15 whether it was two or three, but with this
 16 document I could see that there were three
 17 areas. The window sill according to the footnote
 18 at the bottom of this is above HUD guidelines of
 19 500 micrograms per square foot. There is no
 20 level for HUD for lockers, so we're assuming that
 21 it exceeds window wells, so because that we don't

1 believe is 45, do you know the protocol for
 2 sampling for lead dust wipes? And you mentioned
 3 commercial properties or public facilities. Do
 4 you know the protocol, HUD's protocol?
 5 A. We did not limit the contractor, who is
 6 an industrial hygienist.
 7 Q. Sir, I didn't ask you that. I asked you
 8 did you know the protocol for HUD?
 9 A. Not off of the top of my head. I don't
 10 hardly retain all those standards in my head.
 11 Q. Are you the safety officer, sir?
 12 A. There are hundreds of --
 13 Q. Sir, I just asked you, are you the
 14 safety officer, sir?
 15 A. And I said that several times I am.
 16 Q. Yes, sir.
 17 A. But the standards are written, and
 18 when I need to refer to them I refer to them.
 19 Q. Okay.
 20 A. But I do not retain them in my head
 21 because there are too many areas that I have to

1 feel that it's a comfortable level for us, we
 2 cleaned the entire buildings. Those are the
 3 three occupied spaces, so three spaces in the
 4 occupied part of the building where the faculty,
 5 students, and staff would be. These other
 6 numbers are in the basement and the loading dock,
 7 basement east wing, basement west wing. These
 8 three samples which were above guidelines, and
 9 remember there are no guidelines for lead based
 10 cleaning in buildings, commercial buildings or
 11 school facilities, there are for the guidelines
 12 that we're using under HUD are for dwellings and
 13 residences. So we assume that because we have
 14 students in our building we're going to utilize
 15 or parlay that same guideline to cover our
 16 buildings. These three items were not in the
 17 occupied space. They were higher numbers. Well,
 18 not higher but well above the HUD guidelines, but
 19 not in the space occupied by the students.
 20 Q. Sir, in reference to this document here
 21 would you agree that this is a sample, which I

1 cover for the school system.
 2 Q. I can appreciate that, sir. My concern
 3 though however is the fact that HUD calls
 4 specifically for commercial properties, public
 5 facilities to either use their guidelines or use
 6 guidelines that are more stringent. Did you know
 7 that, sir?
 8 A. Yes.
 9 Q. So for you to say that you were going
 10 out of your way to do something that was beyond
 11 HUD is kind of like a fallacy, sir, is it not?
 12 A. That's not what I said, and you're --
 13 A. I apologize, but --
 14 MR. WIGGINS: Don't become
 15 argumentative. Just let him explain what
 16 he said.
 17 A. The guidelines that we apply were for
 18 dwellings and private residences and rental users
 19 under HUD guideline. Those were the only
 20 guidelines that we had that would apply to a
 21 facility, so we utilized those guidelines for

1 this particular purpose, and that's what we used.

2 Q. Again my point being in this sample,

3 referring again to this sample, for buildings of

4 the capacity --

5 MR. WIGGINS: Stop. Are we rehashing

6 what we covered yesterday? I mean, we covered

7 the fact that there was a lead based problem at

8 Fairmount-Hartford Institute.

9 MS. WILLIAMS: Yes, sir.

10 MR. WIGGINS: They've acknowledged that.

11 I haven't heard anybody here say there wasn't a

12 problem. So what are we trying to get at now?

13 MS. WILLIAMS: My point, sir, in trying

14 to get at this is that Mr. Elam consistently said

15 there were only two or three occupied areas.

16 MR. WIGGINS: He said his sampling only

17 showed two or three.

18 MS. WILLIAMS: Yes, sir.

19 MR. WIGGINS: That's his sampling.

20 You're trying to say well, there's probably a lot

21 more that existed, but you don't have any

1 documentation. You're trying to do it through

2 inference because they paid a lot of money to

3 clean it up and that there are some higher levels

4 on that chart. Well, that's not going to get you

5 there. Not with me.

6 MS. WILLIAMS: Right, I understand.

7 MR. WIGGINS: Okay, so let's not rehash

8 where we are. The issue was in the complaint did

9 you provide erroneous information to the public

10 which caused unnecessary disturbance which

11 affected the schools. Now, with regards to

12 Fairmount-Hartford Institute, the acknowledgment

13 is that they had lead based problems.

14 MS. WILLIAMS: Okay.

15 MR. WIGGINS: Is that correct,

16 Ms. Haskins? Or are you saying there wasn't

17 a lead based problem? Am I not stating your

18 position correctly?

19 MS. HASKINS: We announced that there

20 was a problem and that it was addressed.

21 MR. WIGGINS: Okay.

1 MR. WIGGINS: He said it came up after

2 your concerns were raised.

3 MR. WIGGINS: Right. He said that the

4 problem was -- not unless I misunderstood him,

5 sir. I thought he said that after, my question

6 was --

7 MR. WIGGINS: You raised your concerns.

8 MS. WILLIAMS: Right.

9 MR. WIGGINS: That's when they finished

10 cleaning it up properly.

11 MR. AYERS: He didn't say he cleaned it

12 up properly. He said it was cleaned up.

13 MS. WILLIAMS: That there are no lead

14 based paint hazard. That's what my question --

15 MR. AYERS: He said it was cleaned up.

16 In other words, he said it wasn't cleaned up

17 properly because no hepevac was used, no medesol

18 was used, no TSP were used, so he --

19 MR. WIGGINS: No, no. Stop, stop,

20 stop. We're not going there.

21 MS. WILLIAMS: Okay.

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1 MR. WIGGINS: Your case dwells on
 2 whether what they have in their complaint is
 3 correct and can they substantiate it. I don't
 4 want to hear about what the problem in the school
 5 is now. I'm looking at what was the issue back
 6 when you were at Fairmount and then what happened
 7 after that. Now, if you have something else to
 8 bring to me that's not a rehash, I'm not going
 9 to -- whether it's three spots, twenty spots, or
 10 a hundred spots, it doesn't matter to me. Now,
 11 tell me do you have something that's new that's
 12 not a rehash of yesterday?
 13 MS. WILLIAMS: Yes, sir. I have an
 14 exhibit that you have not seen, you did not see
 15 yesterday.
 16 MR. WIGGINS: I don't want to know if I
 17 saw it. I'm saying is it a rehash of the same
 18 stuff we covered yesterday about the problems at
 19 Fairmount Heights Institute.
 20 MS. WILLIAMS: I'm trying to be clear on
 21 the question. When you say rehash, you mean

1 there is nothing --
 2 MR. WIGGINS: If we're just covering the
 3 fact that there was a lead based hazard at that
 4 school, that's been raised a hundred times and
 5 answered a hundred times in two days.
 6 MS. WILLIAMS: Can I just ask him when
 7 was the lead based paint hazard problem fixed?
 8 MR. WIGGINS: Mr. Elam?
 9 MR. ELAM: After we identified that
 10 there was a concern and we sampled and we found
 11 that there was a problem, the general contractor
 12 subcontracted to a certified lead paint abatement
 13 contractor to mitigate lead paint in the area
 14 where they were going to be making penetrations.
 15 As a result of the structural diagrams,
 16 blueprints of the building, they knew exactly
 17 where they were going to be making penetrations
 18 and they mitigated in the areas prior to their
 19 making those penetrations.
 20 MS. WILLIAMS: Sir, I still didn't get a
 21 date, sir. I was asking for a date.

1 A. That they brought in a contractor to
 2 mitigate areas where they were going to be making
 3 penetrations for their mechanical systems. To
 4 the best of my memory that's about the time they
 5 brought in a contractor.
 6 (Video tape started at 2:18 p.m.)
 7 MS. WILLIAMS: Can I introduce this
 8 exhibit? Sir, if you note, March 18th, 1997, it
 9 says Fairmount-Hartford High School. This is
 10 right next to my classroom, room 306. Sir I just
 11 want to --
 12 MR. WIGGINS: Wait a minute.
 13 MS. WILLIAMS: -- fast forward. Here's
 14 another classroom at Fairmount-Hartford High
 15 School, the social studies teacher's classroom.
 16 I know time is of the essence, sir. I believe
 17 this is bathroom, one of the males' or females'
 18 bathrooms.
 19 MR. WIGGINS: And your objection,
 20 Ms. Haskins is what?
 21 MS. HASKINS: I just had a question.

1 MR. WIGGINS: Approximately when was it

2 done, sir?

3 MR. ELAM: Let me look at this document

4 in terms of the date. October, I would say they

5 probably came on board in November.

6 MR. WIGGINS: He needs that one right

7 there.

8 MS. WILLIAMS: Sure, I'm sorry. I

9 apologize.

10 MR. ELAM: That won't help me either

11 because this is an October date. I would say

12 that they probably contracted in November, JTD,

13 who was the general contractor brought on a

14 certified lead abatement contractor in about

15 November.

16 BY MS. WILLIAMS:

17 Q. Therefore you're saying in January at

18 the latest of 1997, sir, or December? I still

19 didn't hear a date, sir.

20 A. I said November.

21 Q. So November. Of 1996, sir?

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1 MR. WIGGINS: A question?

2 MS. HASKINS: Ms. Williams just put this

3 video in a TV. She didn't say anything, lay a

4 foundation or anything. So why are we looking at

5 it.

6 MR. WIGGINS: She's using it to impeach

7 Mr. Elam's testimony as to when the work was

8 completed at the school.

9 MS. HASKINS: Are any of those --

10 MR. WIGGINS: She had a day up there and

11 a time which I believe she's trying to use verify

12 that that's when the video was taken, but what's

13 your further objection?

14 MS. HASKINS: Are they any of the

15 identified areas in the reports that we've been

16 using as exhibits?

17 MR. WIGGINS: No, because she's

18 impeaching that because he said it was limited

19 to certain areas and she's trying to show it was

20 in other areas not in the report.

21 MS. HASKINS: And can we tell by looking

1 at this that that's lead?

2 MR. WIGGINS: Well, she's not trying to

3 show it as lead. She's trying to show that

4 there's flaking of paint in the building.

5 MS. HASKINS: If it's not lead paint

6 then it doesn't matter, but how can we tell?

7 That's my objection.

8 MR. WIGGINS: No, because the building

9 was built prior to 1950 and it's assumed that

10 they used lead paint throughout the building.

11 MS. HASKINS: However, they've been

12 doing renovations, so how do we know what kind of

13 paint it is?

14 MR. WIGGINS: Well, if they put fresh

15 paint on there and it peeled like that, then we

16 to show --

17 MS. HASKINS: How do we know

18 it's fresh? I mean, I'm just wanting to

19 know because --

20 MR. WIGGINS: You're losing this

21 argument, Ms. Haskins.

21 that.

20 supposed to be completed. We felt we could do

19 some information regarding when that work was

18 because the contractor was required to give us

17 A. I probably can find those records,

16 tell you when the work was completed?

15 completed? Do you have records available which

14 Q. So we don't know when the work was

13 now to say that.

12 A. I have no records at my disposal right

11 the work completed?

10 Q. Okay. Her question though was when was

9 making penetrations.

8 paint in the areas where they were going to be

7 abatement in the areas that they mitigated lead

6 contractor brought on a contractor to do lead

5 that in November 1996 the contractor, general

4 A. They may have been. What I said was

3 March 18th, 1997?

2 Q. Now, were those conditions existing on

1 A. Yes.

21 Q. And that's Fairmount-Harford Institute?

20 A. Yes.

19 Q. Yes.

18 A. 456?

17 that school appear to be --

16 Q. Now Mr. Elam, to your knowledge does

15 EXAMINATION BY MR. WIGGINS:

14 area.

13 here so the dust doesn't escape from the work

12 calls for six mill plaster to cover this area

11 that's a containment area, and proper protocol

10 MS. WILLIAMS: I wanted you to note here

9 school on that date.

8 that film fairly shows the condition of that

7 that's in fact Fairmount Institute, now, and that

6 me is somehow or other be able to show that

5 foundation. What she has to do for you and for

4 MR. WIGGINS: She doesn't have to lay a

3 foundation. That's all.

2 foundation so I'm trying to find out the

1 MS. HASKINS: Well, she didn't lay a

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(Video tape segment ended at 2:23 p.m.)

1 MR. WIGGINS: And if I understand the video, were there supposed to be students --

2 MS. WILLIAMS: Yes, sir. I was trying not to get them but they were students at

3 Fairmount-Harford High School.

4 MR. WIGGINS: Okay, next question.

5 BY MS. WILLIAMS:

6 Q. Sir, as the safety officer for Baltimore City schools, how many visits would you say that

7 you made to Fairmount-Harford High School during the entire renovation process?

8 A. I was in the building at least two to three times a week after the problem was brought

9 to my attention and we followed the construction or the renovations and demolition from that point

10 through the end of the project.

11 Q. Sir, had you noticed those areas, namely the bathrooms, that those were the boys' and

12 girls' bathrooms where the paint was deteriorating from the ceiling, had you noticed

1 that in any of your two to three per week visits

2 in any of your documentation, sir?

3 A. No.

4 Q. In terms of the workers, sir, did you insure that the workers were properly attired?

5 MR. WIGGINS: That's not relevant?

6 MS. WILLIAMS: No relevant? Okay.

7 MR. WIGGINS: Not relevant to cross examination.

8 MS. WILLIAMS: At this time there will be no more questions.

9 MR. WIGGINS: You have recross,

10 Ms. Haskins.

11 EXAMINATION BY MS. HASKINS:

12 Q. Mr. Elam, do you recall when the entire renovation project of school number 456 was

13 completed?

14 A. I don't know the exact date. It was probably in 1997 prior to the end of the school

15 year, but I really can't give you an exact date.

16 I don't recall.

1 Q. When the cleanup started in November of 1996 at school number 456, how were the occupied

2 areas contained?

3 A. The occupied areas had construction barricades, and when the contractors were

4 required to do the mitigation for lead paint they had to follow protocols and they established for

5 using 6 mill plastic topped ceiling to the floor surface secured with duct tape and with negative

6 air pressure and a barrier between the exterior and interior of the work area with air

7 monitoring.

8 Q. What if any government agency regulates the protocols for setting up those containment?

9 A. Maryland Department of the Environment, and periodically they will come out and do

10 inspections of the areas. In addition to this because it was a school, periodically Baltimore City Health Department came into the facility, as

11 well as the fire department, but they don't deal

1 with lead based paint.

2 Q. Respondent's Exhibit Number 21, also

3 Baltimore City Public School Exhibit Number 14.

4 MR. WIGGINS: Your question?

5 Q. Mr. Elam, did you tell us that you wrote

6 this memo on behalf of Dr. Amprey?

7 A. Yes.

8 Q. In paragraph 3, the last sentence, would

9 you please tell us what that says?

10 A. I have to read the whole paragraph.

11 It says "This area is currently under abatement,

12 will be completed by November 21st, 1996." It is

13 referencing the area in the basement, the

14 contractors are, it is referring to that area.

15 Q. Okay.

16 A. If you put the two sentences together

17 the construction contractors area, which is

18 located in the basement, is not open to the

19 building occupants. This area is currently under

20 abatement and will be completed by November 21st,

21 1996. If you refer back to the document with the

1 chart, it shows that that particular area had an extremely high lead based level and it had to be cleaned before we could open the building completely to the occupants. So that's what that's referring to.

6 Q. Do you recall whether or not that work was completed by November 21st, 1996?

8 A. In the basement they did not complete by November 21st. That work was quite extensive and it lasted a little beyond that date, November the 11 21st. I think they completed sometime in the early part of December.

13 MS. HASKINS: I don't have anymore questions.

14 MR. WIGGINS: Redirect, Ms. Williams?

16 EXAMINATION BY MS. WILLIAMS:

17 Q. Yes. Again referring to that same document, that same paragraph, the term abatement, sir, do you know the definition as defined by HUD?

20 MR. WIGGINS: I don't need no

1 did not complete abatement.

2 Q. Was there any abatement done?

3 A. Not if you're allowing, if you're not concerned that -- no, they did not.

5 MS. WILLIAMS: Thank you, sir. No further questions.

7 MR. WIGGINS: If I understand this correctly, the cleaning of the building lowered the lead levels, but the lead was never abated in the building?

10 MR. ELAM: Not completely.

12 MR. WIGGINS: But as in the term as far as abatement that I'm beginning to understand means complete removal, was that correct?

15 THE WITNESS: That would be the terminology, yes. As applied to HUD guidelines, 16 yes.

18 MR. WIGGINS: Questions on my questions, 19 Ms. Haskins?

20 EXAMINATION BY MS. HASKINS:

21 Q. Mr. Elam, in view of the fact that there

1 definition. Ask him the definition you 2 wanted to ask him.

3 Q. Sir, wet scraping and cleaning is not 4 defined by HUD as abatement. Do you agree with 5 that, sir?

6 A. Agree.

7 Q. So what abatement job was completed by 8 November 21st?

9 A. The cleaning, they did the cleaning of 10 the basement. The lead levels, lead dust levels 11 were excessive and they cleaned the basement to 12 within HUD guidelines.

13 Q. Sir, you just agreed with me that 14 abatement is not cleaning, so I'm asking you, 15 sir, what abatement job was completed by November 16 21st, 1996?

17 A. It was not abatement. It was cleaning.

18 Q. Thank you, sir. Was there any abatement 19 done at Fairmount-Harford High School, sir?

20 A. No complete abatement. They did wet 21 scraping to prevent, to allow penetration. They

1 was no complete abatement done at school number 2 456, is the building safe for occupancy by 3 students, teachers, faculty, staff, and any other 4 people that come in there after the project of 5 renovation was complete?

6 A. Yes.

7 MS. HASKINS: No questions.

8 MR. WIGGINS: Questions on my questions.

9 EXAMINATION BY MS. WILLIAMS:

10 Q. Yes, sir. In terms of abatement, sir, 11 was window replacement considered abatement?

12 A. That's a partial abatement if the 13 windows have contained lead paint. The windows 14 in this particular facility were completely -- 15 MR. WIGGINS: Excuse me, Mr. Elam.

16 You're going into an area that wasn't raised 17 earlier. I asked you do you have questions on my 18 questions, and my question dealt with the issue 19 with regard to whether an abatement had been 20 done. Now, her question on my questions dealt 21 with is that building now safe.

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1 MS. WILLIAMS: Yes, sir.

2 MR. WIGGINS: You can ask questions on

3 my questions, but don't delve out into other

4 areas. Now, your question to him I guess has

5 raised issues dealing with whether or not that

6 building is safe for occupancy. Now, is that

7 your question you want to ask?

8 MS. WILLIAMS: Yes, I'll ask that.

9 MR. ELAM: Yes.

10 MR. WIGGINS: The building is now safe

11 for occupancy?

12 BY MS. WILLIAMS:

13 Q. Do you have any documentation, sir, to

14 prove that the building is now safe for

15 occupancy?

16 A. The contractor completed the work as

17 prescribed under contract which allowed, which

18 contained as a containment an encapsulation and

19 containment is an abatement process of those

20 areas, and they covered or painted to make those

21 areas safe, lead safe, so the building is safe

1 for occupancy.

2 Q. Are there any clearing tests documents

3 you have to prove such, sir?

4 A. Clearance? No.

5 Q. So how are you going to say that they're

6 safe when you didn't take the clearance test,

7 sir, to prove that the building was safe for the

8 occupancy?

9 A. The areas were cleaned prior to and

10 tests were taken prior to the completion of the

11 work, and then the encapsulation of those areas

12 further protected the areas. So we have

13 preclearance samples which cleared the areas,

14 and then the encapsulation of the painting was a

15 second measure, so there was no reason to in my

16 estimation to take additional samples.

17 Q. Sir, do you know, I don't know if I'm

18 phrasing this right but I'll try, do you know

19 that HUD calls for clearances testing after any

20 abatement job had been completed?

21 MS. HASKINS: I will object.

21

20 Public School System Exhibit Number 14.

19 not -- strike that. Back to Baltimore City

18 Q. Mr. Elam, are you aware of whether or

17 A. No.

16 standards for lead paint?

15 saying that they do not comply with the safety

14 number 456, received any citations from HUD

13 Q. Has that particular building school,

12 result of the lead based paint is clear.

11 indicating that that particular facility as a

10 be a final document from the contractor

9 scraping, which clears that, but there may not

8 of work that we did during the process of wet

7 A. Air samples may exist as a result

6 asked about exist?

5 Q. Does any documentation that was just

4 EXAMINATION BY MS. HASKINS:

3 MR. WIGGINS: Ms. Haskins.

2 this time.

1 MS. WILLIAMS: No further questions at

21

20 Q. Do you have that documentation, sir?

19 MR. WIGGINS: Next question.

18 A. Yes.

17 certification?

16 hazard. Does HUD require that kind of

15 has been done correctly and is now no longer a

14 everything that was supposed to have been done

13 certification that the building is now safe, that

12 does HUD require that there be some sort of

11 MR. WIGGINS: No, my question is

10 contained.

9 renovation is completed, all of the areas are

8 A. After the job is done, after the

7 Q. Yes, thank you.

6 the job is done so to speak.

5 is does HUD require samplings to be taken after

4 question is not whether you know. The question

3 he doesn't, but that's not the question. The

2 he knows and he can say yes, he does know or no,

1 MR. WIGGINS: Well, she's asking him if

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1 Q. Do you still have it? Okay. I'm referring to fourth paragraph of this memo that you wrote.

2 A. Yes.

3 Q. What is the significance of an annual inspection by the Maryland State Department of Human Resources?

4 A. To make sure that the area that the students or children that are housed in is safe for their occupancy.

5 Q. After this memo was written did the Head Start children return to this facility?

6 A. The schools currently has a Head Start program, not a Head Start program but a day care program, and as a part of that that would require them to be inspected.

7 Q. Since October 1996 has this facility been inspected annually?

8 A. The day care was put in place in 1998. It was inspected at that time I would assume by Maryland Department of Human Resources and has

1 been since.

2 Q. Did that or those inspections reveal that there is a lead safety hazard for those children subsequent to 1996 up until now?

3 A. No.

4 MS. HASKINS: I don't have anymore questions.

5 MR. WIGGINS: Ms. Williams?

6 EXAMINATION BY MS. WILLIAMS:

7 Q. Yes. Referring again to the same document, sir, has HUD been called in, sir, to give you the final clearance on the school being safe in terms of any abatement jobs that were done or the total renovation?

8 MS. HASKINS: I object. We established earlier that there was no abatement.

9 MR. WIGGINS: There's an issue of safety here now, and it's already been established that there was no abatement, so her questions to him dealt with whether the building has been inspected. by whom, and has it been ruled to be

1 mention inspections. I'm relating the 2 inspections to lead. Has any agency that's certified by MDE been in to inspect the building and give you the documentation to say that it's passed clearance testing for lead levels?

3 A. No.

4 MS. WILLIAMS: Thank you, sir.

5 MR. WIGGINS: You may step down,

6 Mr. Elam.

7 (Examination of Mr. Elam concluded at 2:42 p.m.)

8 MS. WILLIAMS: Prior to my questioning of Ms. Abernathy I would like to have Ms. Fields excused from this part of the hearing.

9 MR. WIGGINS: She's assisting in preparation of the case. She has a right to be in here. The CEO has a right to have a representative in that manner.

10 MS. WILLIAMS: Okay.

11 MR. WIGGINS: Okay. Questions of

12 Dr. Abernathy, Ms. Williams? I'm sorry, he

1 hasn't sworn her in yet.

2

3 Whereupon --

4 PATRICIA ABERNATHY.

5 a witness, called for examination, having been
6 first duly sworn, was examined and testified as
7 follows:

8 EXAMINATION BY MS. WILLIAMS:

9 Q. Good afternoon, Dr. Abernathy.

10 A. Hi, Ms. Williams.

11 Q. Dr. Abernathy, you stated yesterday that
12 you received a copy of your letter sent to the
13 parents on 2-24-199 by Ms. Williams. Is that
14 correct?

15 A. I don't have it in front of me to know
16 when it was sent, but I did receive it faxed,
17 yes, and the date is on it when it was faxed.

18 Q. I'm sorry?

19 A. That's okay. Sure, the 25th.

20 Q. So you stand corrected?

21 A. On the 25th? You said the 24th.

1 Q. I said the letter that was dated 2-24.

2 A. I'm sorry, I didn't hear that point.

3 Yes. You're correct.

4 Q. All right. Did you consider the content
5 of the letters or the allegations in the letter a
6 nuisance, or did it spur you to launch an
7 investigation of such allegations?

8 A. Did I consider it a nuisance or did I
9 launch an investigation? Am I clear on the
10 question?

11 Q. Yes, ma'am.

12 A. Neither. I mean, I didn't approach it
13 as an either/or if that's what you're asking me
14 to be into. I didn't approach it as either/or.

15 MR. WIGGINS: Her question is --

16 A. A nuisance, I don't know how she means a
17 nuisance.

18 MR. WIGGINS: Her question is once you
19 read the letter, did it raise any concerns to you
20 with regards to the content of the letter.

21 A. Yes, it did.

1 You wrote the letter. We all know you did it, so
2 let's move on to something more substantive in
3 your questioning.

4 Q. Okay. Do you consider yourself in the
5 position of loco parents in that basically you
6 take on the position of --

7 MR. WIGGINS: She knows what it means.
8 Q. I apologize.

9 A. Those of us in the school system act in
10 the place of parents.

11 Q. I'm sorry?

12 A. Those of us in the school system act in
13 the place of parents.

14 MR. WIGGINS: And do you consider
15 yourself to be in that position?

16 A. Yes.

17 Q. Dr. Abernathy, then why didn't you
18 investigate the letter further, the allegations
19 in the letter dated 2-24 in terms of the
20 individual who wrote it? Why didn't you come to
21 her or call her to --

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1 Q. Did Ms. Fields inform you that I, Ms. Williams that is, had told her that there was lead in the water prior to the letter being written?

2 MS. WILLIAMS: I'm confused on that question.

3 Q. Let me try it again. Did Ms. Fields inform you prior to you receiving that letter that Ms. Williams had informed her that there was lead in the water at Southeast Middle?

4 A. I have to tell you I don't remember at all. This is what I remember was the start of this and then I began hearing the history, but I don't remember that anything else came before this, no. I'm not remembering that.

5 MR. WIGGINS: No, her question to you is after the letter and you started doing your investigation, did Ms. Fields state to you that there was lead in the water?

6 A. No, I don't remember at all any

1 MR. WIGGINS: Well, she said when she questioned you about the letter you denied writing it and you hung up on her.

2 MS. WILLIAMS: Once she presumed that I had written -- I didn't say that I, she went even a step further, sir, to assume that I had written it and therefore elected to suspension charges.

3 MR. WIGGINS: No, no, no. Here's a problem you have. You wrote the letter, you acknowledge it. The day she called you and asked you if you wrote the letter, your response to her was "Can you prove I wrote the letter?", and when she couldn't, you hung up on her because you testified earlier that you saw no reason to go any further in that discussion. There is no obligation on her then to track you down to ask further questions. Now, your questions to her should be in regard to what efforts did she take to investigate it through other people in the school system.

21 MS. WILLIAMS: I thank you, sir.

1 conversation that Ms. Fields represented of Ms. Williams at all. I don't remember that Ms. Fields ever said you said anything. Than you for that, I'm sorry. I don't remember any of that. No, I only remember this initial discussion.

2 Q. What actions did you take after speaking with Mr. Jack Elam in regard to this matter?

3 A. I again spoke to Ms. Fields and subsequent to that conversation she wrote up her report which accompanied that letter that I sent to Mr. Mayer relative to the decision to recommend to Dr. Booker's suspension without pay. She wrote a report. She and I discussed it, she wrote the report to insure that the facts were represented as her experience.

4 Q. And in regard to or in relation to the lead in the water at Southeast Middle, did you take any action once you found out that there had been a history of lead in the water at Southeast Middle? What action did you take?

1 I apologize.

2 MR. WIGGINS: Now ask your question then.

3 BY MS. WILLIAMS:

4 Q. So what steps did you take to investigate the validity of the letter?

5 A. Well, I did receive some reports from Ms. Fields, from the health department most recently, 2-11. I also then contacted Mr. Elam immediately to find out the history of what had happened in 1992 and 1993, let's see if I have my dates right, when the initial review of all the water in the schools was done. I then met as I told you with Ms. White and I read the report on Fairmount-Hartford to know about other history, so I did my homework right away, contacted Mr. Giles, who's also the officer in that department, to ensure that any action taken we had carefully understood our school's responsibility.

20 MR. WIGGINS: Next question?

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1 A. I knew that all action had already been taken, that the one faucet that when the test on 211 represented lead in greater parts per billion 4 had already been a turned off faucet. It was 5 subsequently also turned off again after it had 6 been tested, but I knew they were insufficient 7 water stations and that Ms. Fields prior to our 8 discussion of this had already asked for all of 9 the faucets to be turned off and more water 10 stations to be put in, so I knew everything had 11 been done to turn off all those fountains and 12 that water stations were coming, so I didn't have 13 a need to do anything further relative to the 14 water coming out of the fountain and it wasn't 15 going to be on anymore. No fountains were 16 working. I knew that had already been done. 17 Q. When did you say, I missed -- when 18 did you say the fountains were turned off? 19 A. The date, I don't remember on the date, 20 but I know that based on the report that 21 Ms. Fields told me that her recommendation had

1 my notes from my conversation with Mr. Elam, 2 too. I just don't remember whether it was 3 immediately before or it was immediately after. 4 I don't remember. 5 Q. Do you have any evidence or written 6 evidence to corroborate statements that 7 Ms. Williams was disruptive from parents, 8 students, or teachers? Do you have any written 9 documents? 10 A. No, I don't have anything written. I 11 only have the reports that came from the school 12 about how many parents called in, how busy the 13 phones were, that there had to be an emergency 14 faculty meeting the next day, which asked also 15 Ms. Fields to write a report on, an extra faculty 16 meeting to allay their concerns. We got some 17 phone calls into the area office, so I knew that 18 there had been some great concern by both parents 19 and by faculty, but nothing in writing. You 20 asked me in writing. No, not in writing. 21 Q. And what were these parents, teachers,

1 etc. That you mentioned -- I'm sorry, not etc., 2 but that you mentioned, what were they concerned 3 about? 4 A. About whether there was any truth to 5 this. 6 Q. Therefore wouldn't that prompt you to 7 investigate to the fullest to see whether or not 8 the validity of that letter was substantial? 9 MR. WIGGINS: Well, she's already 10 testified that she relied on the reports that 11 she received from Mr. Elam and from the health 12 department and from one of her subordinates who 13 had assured her that everything had been done. 14 That's her job. She doesn't do investigations. 15 Go ahead further, ma'am. 16 Q. Thank you, sir. Did Ms. Fields 17 inform you at any time -- strike that question, 18 I apologize. 19 MR. WIGGINS: No. 20 A. That's okay. 21 MR. WIGGINS: No, she was apologizing to

1 been to add water fountains -- water stations, 2 excuse me, and turn off the water fountains. So 3 I knew action had already been taken, so I needed 4 to do no subsequent action. 5 Q. Did you investigate to see whether or 6 not the fountains had been turned off prior to my 7 letter or after the letter? 8 A. There was a conversation with 9 Ms. Fields, the only fountain that had 10 any lead tested -- 11 MR. WIGGINS: No, No, ma'am. That's 12 not her question? 13 A. -- was the one turned off, and it was 14 turned off. 15 MR. WIGGINS: Her question was, was the 16 water turned to your knowledge before her letter 17 or after her letter? 18 A. I can't remember which one it was 19 exactly. I just don't remember. I'd have to 20 look through my chronology of notes. I just 21 don't have that with me to know the exact, I have

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1 me.

2 Q. Dr. Abernathy, what efforts or

3 investigation did you take to see to check

4 into validity of Ms. Williams' past --

5 MR. WIGGINS: She's already

6 testified that she got the information

7 from Fairmount-Hartford.

8 Q. She did?

9 MR. WIGGINS: She did earlier when she

10 sat down. Let's not go over the same questions

11 over and over again.

12 Q. Either after the letter was written or

13 any time after the letter dated 2-24 was written,

14 did you find out that Ms. Williams was actually

15 certified as a lead abatement expert?

16 A. No, I never went to verify that at

17 all. I never tried to verify that. The

18 employment that you had with us is as a teacher,

19 not as an expert in lead. So I was at this point

20 my concern was for you as a teacher and to do the

21 teacher stuff. There was a conflict here in me

1 EXAMINATION BY MR. WIGGINS:

2 Q. Let's bring this to a point now. My

3 question to you is twofold. She wrote a letter,

4 it went out. Parents and teachers raised

5 concerns. If in fact what she had in the letter

6 was true, would the concerns have been valid?

7 A. If it were true I would be concerned,

8 which is why I did my investigation, sir.

9 Q. So then you relied on the reports that

10 you received?

11 A. From the health department and the

12 previous study from Mr. Elam.

13 Q. And upon receiving that did you then

14 assume that what she had in her letter was

15 erroneous?

16 A. I did.

17 Q. But if for instance what she had in her

18 letter is not erroneous, then would you have

19 taken the same action that you did?

20 A. There was still a disruption, number one

21 there was still a disruption of -- I'm

1 sorry. Yes, only because there still would have

2 been a disruption of school, that she was acting

3 out of her profession if she were an abatement

4 expert and she's supposed to be a teacher, she

5 had access to the school roll --

6 EXAMINATION BY MR. WIGGINS:

7 Q. Teachers can't have second jobs?

8 A. Not advertising it in their first job,

9 because they said call me and I'll help you do

10 this, so there's trying to raise more money no,

11 they're not allowed to as a teacher to find a

12 second job.

13 Q. Where in that letter does it say that

14 she was raising money?

15 A. She's advertising herself with a second

16 profession.

17 Q. I'm asking you where in there that it

18 said she was --

19 A. The word raising money I will pull that

20 back.

21 Q. Okay, what she had there is a card.

1 seeing you as having a second profession and

2 imposing that into the first profession. That

3 was my only concern. I didn't verify that you

4 were a lead abatement expert.

5 Q. So as a mathematics teacher I too take

6 on the position of locus parent in terms of it

7 there's a problem concerning health and well

8 being of our students. It would be my concern to

9 make sure these efforts, these concerns are

10 bought forth to the individuals that are being

11 effected or the parents. Therefore you wouldn't

12 think that it would be imperative for you to

13 investigate to see whether or not I was in fact

14 certified again to substantiate the validity of

15 the letter written on 2-24-95?

16 A. No, I'm not going to verify that you're

17 a lead abatement expert. Our responsibility had

18 been fulfilled by the reports we had had, updated

19 reports from the health department, so I know the

20 school system had done its job and the job for

21 you as a teacher as hired was to be a teacher.

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1 She called herself a lead abatement expert, but
 2 she put the card down there showing that she had
 3 some sort of lead abatement background.
 4 A. That's right.
 5 Q. But there's nothing in that letter that
 6 indicated that she was trying to raise any money,
 7 is that correct?
 8 A. Raising money, correct. I take that
 9 back. I said it's just that she's advertising
 10 herself for a second, representing a second --
 11 Q. How would she receive money if she was
 12 correct from the work being done on the schools?
 13 A. Not from the schools at all.
 14 Q. Okay then.
 15 A. Not from the schools.
 16 Q. So let's not go into any money and let's
 17 not go into a second profession. My question to
 18 you goes back to if what she has in the letter is
 19 accurate and the reports that you received were
 20 wrong, had you known that would you have done
 21 anything differently?

1 serious for it to be unfounded, but if there had
 2 been information added to our pool of knowledge,
 3 then that would not have been the same case. It
 4 would not have been the same action taken.
 5 MR. WIGGINS: Okay, your next question?
 6 EXAMINATION BY MS. WILLIAMS:
 7 Q. In terms of the term you used scare
 8 tactic, would you really call it a scare tactic
 9 or an act of concern?
 10 A. My perception is it's a tactic.
 11 MR. WIGGINS: She calls it a scare
 12 tactic. That's what she calls it.
 13 Q. How would you define an act of concern
 14 in regard to --
 15 MR. WIGGINS: That's not relevant.
 16 Let's not go there.
 17 Q. Okay, we won't.
 18 MR. WIGGINS: Basically.
 19 Q. I understand. I appreciate it, thank
 20 you, sir. Dr. Abernathy, were you aware that
 21 Ms. Williams had talked to SIT Team members at

1 A. I would have done some things
 2 differently, yes, sir. I certainly would
 3 have called her in and talked to her about the
 4 procedures that could have been followed to allay
 5 a scare but to deal with the real issue. We
 6 could have dealt with the issue without making it
 7 a scare tactic. I certainly would have addressed
 8 that. It would have been a different level of
 9 disciplinary action for having done this rather
 10 than to have approached the school with
 11 information that would have provided us the
 12 background for us to move forward and make
 13 improvements. I would have appreciated any
 14 kind of information where we could have made
 15 improvements, but to create a scare without going
 16 appropriately and dealing with it this the way
 17 the system can, I still would have done some
 18 disciplinary action whether it would have been a
 19 reprimand for the procedure the way you handled
 20 it compared to the unfounded claims which after
 21 my investigation I found that was much more

1 Southeast Middle about the lead in the water
 2 prior to sending the letter out to the parents
 3 she had talked to another staff person, a social
 4 worker, I forget her name but the social worker
 5 that was at Southeast Middle, and she first and
 6 foremost prior to sending the letter out had
 7 talked to Ms. Fields on the telephone that same
 8 day that she received the results of the lead in
 9 the water?
 10 MR. WIGGINS: But she's already
 11 testified that in talking with Ms. Fields,
 12 Ms. Fields did not advise her that you told her
 13 anything about lead in the water.
 14 Q. Were you aware that I had talked to the
 15 SIT Team?
 16 A. No.
 17 MS. WILLIAMS: Thank you. No further
 18 questions at this time.
 19 MR. WIGGINS: Ms. Haskins?
 20 EXAMINATION BY MS. HASKINS:
 21 Q. Dr. Abernathy, did Ms. Williams ever

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1 seek your approval or permission to send this

2 memo dated 2-24-99?

3 A. No.

4 Q. Did she ever come to you with her

5 concerns that are in that memo before sending

6 it out?

7 A. No.

8 MS. HASKINS: No questions.

9 MR. WIGGINS: Recross only on her

10 questions.

11 EXAMINATION BY MS. WILLIAMS:

12 Q. Yes, sir. Does Ms. Williams need your

13 approval to send letters about health concerns to

14 parents?

15 A. To use the school's role, addresses?

16 Yes, absolutely. You don't have access to

17 addresses as a teacher as a right to use the

18 names and addresses of our students without

19 authorization. It has to be given by the

20 principal and/or to me. You need to have the

21 authorization. The whole population I'm sure,

1 but you cannot send it to our parents knowing

2 that you elicited a list of names and addresses

3 from the school system. That's privileged

4 information.

5 Q. What happened to the Freedom of

6 Information Act?

7 MR. WIGGINS: You have to first file --

8 don't go there because you're trying to, what

9 you're talking about --

10 Q. Okay. Did you ever send a letter of

11 concern to the parents in regard to lead in the

12 water at Southeast Middle? Did you personally?

13 A. No. In 1992 and 1993 the school system

14 did its obligation based on the federal standards

15 to send that information out to all parents.

16 Q. Do you know what federal, local,

17 as well as state regulations say in regard to

18 notifications of occupants and reoccupants about

19 lead hazards in a building?

20 A. No, I don't know all of that. No, I

21 count on the people who know that in detail that

1 give me advice.

2 Q. So you wouldn't know that --

3 MR. WIGGINS: She said no, she doesn't

4 know, so don't go to what she wouldn't know.

5 Q. Okay. Therefore to charge Ms. Williams

6 with disruption when in fact you have no written

7 documentation from parents, students, staff,

8 would you say is unfounded?

9 A. No, it's real. There was a disruption.

10 Whether it's written or not it happened. With

11 phone calls, meetings, those really happened.

12 Q. Did you bring any witnesses to say that

13 their household was disrupted, the child was

14 disrupted, they had to stay out of school for

15 X number of days because of the fear of the

16 erroneous statements in the letter?

17 A. No, I didn't bring any witnesses to do

18 that.

19 MR. WIGGINS: Let's stop. We're getting

20 into areas that were not raised during your

21 initial process.

1 MS. WILLIAMS: Okay.
2 MR. WIGGINS: Dr. Abernathy --
3 MS. WILLIAMS: No further questions.
4 MR. WIGGINS: Well, I already terminated
5 your questioning. I have some questions.
6 EXAMINATION BY MR. WIGGINS:
7 Q. Did parents complain to you about the
8 letter or did they contact the school out of
9 concern with regards to the information in the
10 letter?
11 A. A combination of both of those, sir.
12 They said did the school send this out, who sent
13 this out.
14 Q. As inquiring I'm saying did they
15 complain to you about the letter or were they
16 raising concerns about the information that was
17 in the letter?
18 A. It was mostly about information from the
19 letter. They didn't -- that was number one. They
20 didn't understand why a person's name was there,
21 but it looked like it came from Southeast Middle

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1 School but it had an individual's name and there
 2 was confusion, and if this is happening in the
 3 schools, if this is happening why don't we know
 4 and shouldn't the school have told us, and they
 5 did, but she signed her name, were confused that
 6 the principal sent this out, that was the
 7 conversation.
 8 Q. I understand they asked questions trying
 9 to get more information and they raised concerns,
 10 but you have to tell me about the complaints.
 11 A. They said is there lead in the water at
 12 Southeast Middle.
 13 Q. That's not a complaint about the letter.
 14 They're raising issues with regards
 15 to information in the letter. Did staff
 16 personnel other than Ms. Fields filed complaints
 17 about the letter to your knowledge?
 18 A. No, no formal complaint. There's no
 19 complaint about the letter other than a parent or
 20 two, one of the women whose name, I don't
 21 remember her name but I could see her by face,

1 who said why did the school send this out if it's
 2 not true. To me I infer that to be a complaint
 3 when they ask me is there lead, I say no and they
 4 say well, why did the school send this out. That
 5 to me is an inferring of a complaint that this
 6 was sent out and I was unduly concerned
 7 unnecessarily, but no written complaint.
 8 Q. But if the information was incorrect.
 9 A. Yes.
 10 Q. Okay.
 11 A. Yeah, that's the kind of complaint I'm
 12 talking about, sir.
 13 Q. Well, that's not a complaint. That's a
 14 raising of an issue of concern with regards to
 15 information that's in the letter and it turns on
 16 the accuracy of that information. Would you
 17 agree?
 18 A. It does.
 19 MR. WIGGINS: Okay. Questions on my
 20 questions, Ms. Haskins?
 21 MS. HASKINS: I'm not really sure I

1 Q. Ms. White, yesterday you stated that you
 2 did not recall writing a memo to parents in
 3 regard to boiler problems at Fairmount-Harford
 4 High School, correct?
 5 A. I stated that I did not remember writing
 6 a memo at the particular time that you stated, I
 7 believe early November.
 8 Q. I'd like to enter into evidence this
 9 exhibit.
 10 MR. WIGGINS: We'll mark for
 11 identification as Respondent's Exhibit 35 a
 12 letter to the parents from Elaine M. White dated
 13 November 6th, 1996, parents of Fairmount-Harford
 14 Institute.
 15 (Whereupon, Respondent's Deposition
 16 Exhibit No. 35 marked.)
 17 MS. HASKINS: I object to this
 18 document. It references boilers and that's not
 19 any issue that has been discussed in this case
 20 until this moment.
 21 MS. WILLIAMS: I would object --

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1 MR. WIGGINS: Well, no, that's not quite right. That was asked yesterday.

2 MS. HASKINS: Boilers?

3 MR. WIGGINS: Yes, it was, of Ms. White.

4 MS. HASKINS: I'm sorry, I didn't hear that.

5 MR. WIGGINS: The issue deals with --

6 why is it relevant, Ms. Williams?

7 MS. WILLIAMS: Oh, because again we're refuting first of all her testimony yesterday.

8 That's one relevant issue. Secondly, it's going to prompt again another health hazard -- not another health hazard but the health hazards that continued as a result of the boiler problem there.

9 MR. WIGGINS: We can shorten this. She was the principal of Fairmount-Hartford High School. The concerns that you raised earlier with Mr. Elam are the same concerns you're going to raise now. There's nothing she's going to add differently.

1 MS. WILLIAMS: Yes, sir. Thank you.

2 MR. WIGGINS: But you need to ask her questions about her testimony earlier before doing this.

3 MS. WILLIAMS: I apologize.

4 BY MS. WHITE:

5 Q. Yesterday, Ms. White, you said that you don't recall receiving any -- I'm sorry, I apologize. Retract the statement. Yesterday you mentioned that you did not recall writing a check for \$500 for Tiffany's relative, is that correct?

6 A. No, I did not say that.

7 Q. I'm sorry, could you --

8 A. I believe there was an objection yesterday when I was asked about some hush hush money. From what I recall from yesterday you asked me if I knew Tiffany Burgess. I said yes. You asked me if I remembered a time when she, when the ambulance had to be called to pick her up. I said yes to that, and that I remember that Tiffany was pregnant at the time and was in the

1 food service lab preparing food and had an incident where she had to be taken out. Then you raised a question about some hush hush money, and my recollection was that there was an objection to it.

2 MR. WIGGINS: Well, her question to you is did you write a check in the amount of \$500 to give to the young woman, I didn't write down her name --

3 A. But I did not answer that yesterday. I believe I said absolutely not and you cautioned me about answering.

4 MR. WIGGINS: Okay, she has said absolutely not after I had taken the objection, but feel free to ask that question again.

5 BY MS. WILLIAMS:

6 Q. Ms. White, did you in fact write a check for Tiffany's relative around December of 1996 for \$500?

7 MS. HASKINS: I object.

8 MR. WIGGINS: Basis of objection?

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1 MS. HASKINS: Same as yesterday.
 2 MR. WIGGINS: And what was that?
 3 MS. HASKINS: What's the relevance here?
 4 MR. WIGGINS: Well, she's going to get
 5 to it. You may answer, ma'am.
 6 A. I recall writing a check for Tiffany
 7 Burgess as a \$500 scholarship that was, I don't
 8 recall the time it was written, but I recall that
 9 a check was written for Tiffany Burgess as a
 10 scholarship.
 11 Q. And when was that?
 12 A. I don't recall the time that it was
 13 written, but I believe Tiffany was going to the
 14 Culinary Institute and that that check was
 15 requested by the food service teacher as a
 16 scholarship.
 17 MS. WILLIAMS: I'd like to show a video
 18 to see --
 19 MR. WIGGINS: Before you show the video,
 20 sit back down. What grade was this student in at
 21 the time?

1 purchase uniforms books or equipment, and in that
 2 case it would be made out to the individual
 3 student.
 4 MR. WIGGINS: Let me see your tape.
 5 (Video tape segment started at 3:27
 6 p.m.)
 7 MS. WILLIAMS: Before we continue,
 8 Ms. White, would you identify that as Tiffany
 9 Burgess?
 10 MS. WHITE: It appears to be.
 11 (Video tape segment from 3:28 p.m. to
 12 3:31 p.m.)
 13 MR. WIGGINS: Ms. Williams, can you get
 14 me to the part that I want to hear?
 15 MS. WILLIAMS: I certainly can.
 16 (Video tape segment concluded at 3:33
 17 p.m.)
 18 MR. WIGGINS: Is the kid in the Culinary
 19 Institute now? Is she a student there to your
 20 knowledge.
 21 MS. WHITE: I do not know.

1 MR. WIGGINS: She would have started in
 2 the Culinary Institute when?
 3 MS. WHITE: In June.
 4 MR. WIGGINS: After the school year was
 5 over?
 6 THE WITNESS: That's correct, and the
 7 money would have been given in June. It would
 8 not have been given in December, and again I
 9 cannot recall ever writing a check for Vanessa
 10 Burgess, and my books are open books. I mean, I
 11 cannot ever recall again writing a check for a
 12 Vanessa Burgess or Tiffany Burgess in December.
 13 If the child was ever given a check it would have
 14 been in June as a part of the graduation.
 15 MR. WIGGINS: Next question,
 16 Ms. Williams.
 17 BY MS. WILLIAMS:
 18 Q. Yes, sir. Ms. White, do you recall
 19 other staff persons complaining about conditions
 20 in the school at Fairmount-Hartford High School
 21 during the renovation process?

1 MS. WHITE: She was a senior.
 2 MS. WILLIAMS: She was a senior? And
 3 she had graduated.
 4 THE WITNESS: I'm not sure when the
 5 check was written, but it is customary for us to
 6 give a scholarship to a senior student who is
 7 going to the culinary institute or is going into
 8 the food service field, and the teacher requests
 9 that money each year and I believe that year it
 10 did go to Tiffany Burgess.
 11 MR. WIGGINS: And it was drawn on the
 12 school account?
 13 MS. WHITE: Yes.
 14 MR. WIGGINS: And it was made out to the
 15 school or was it made out personally to the
 16 individual?
 17 MS. WHITE: It could have been made out
 18 to her individually. The students can request
 19 the students show proof that they're going to
 20 school and then the check can be used to either
 21 pay tuition at the school or it can be paid to

1 A. Yes. Several staff persons complained about conditions in the building during the renovation.

2 Q. Did you find their complaints disruptive?

3 A. Disruptive to what? To me or to the school environment or to the students?

4 Q. All of the above, yes, ma'am.

5 A. No. Not disruptive, no, but when a complaint came in I checked the complaint.

6 Q. So did you find Ms. Williams' complaints disruptive?

7 MR. WIGGINS: There is no evidence or any allegations that she ever stated that you were disruptive.

8 Q. In the incident, the --

9 MR. WIGGINS: No, that's the CEO statement of charges. She testified yesterday at length, and not once did I hear her say that she ever considered you to be disruptive. Move on.

10 Q. Thank you. I apologize. Do you take

11 the position of locus parentis when it comes to the health and safety of the children?

12 A. Yes.

13 MS. WILLIAMS: No further questions at this time, sir.

14 MS. HASKINS: I don't have any questions for Ms. White.

15 MR. WIGGINS: Ms. White, you're free to leave, ma'am.

16 (Testimony of Elaine White concluded at 3:36 p.m.)

17 MS. HASKINS: I have a question. Is that last thing we saw evidence?

18 MR. WIGGINS: No. I viewed it and I took information from it, and it was in, it impeached the testimony of Ms. White.

19 MS. HASKINS: I'm sorry, I'm not sure whether or not I'm --

20 MR. WIGGINS: She didn't offer it to admit it into evidence. What she did was use it to impeach the testimony of Ms. White. It raised

1 I have Exhibit 35. (Whereupon, Respondent's Deposition Exhibit No. 35 marked.)

2 MR. WIGGINS: I will mark for identification CEO's Exhibit --

3 Q. No.

4 MR. WIGGINS: Oh, thank you. Respondent's Exhibit 35, which appears to be the annual biweekly report of Ms. Williams.

5 Do you want to show it to Ms. Fields?

6 Q. Definitely, yes, sir. Ms. Fields, could you please read the attendance absence and latenesses on this evaluation report dated 11-19-97 I believe through 6-98?

7 A. Yes. It starts in November, so the year to date are not 180 but 115. You were absent six times. It is listed as no occasions.

8 Q. How many latenesses?

9 A. None are listed because in that particular school year we did not keep latenesses.

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1 the issue of her credibility.

2 MS. HASKINS: But it's not evidence?

3 MR. WIGGINS: No.

4 MS. HASKINS: Okay.

5 MR. WIGGINS: It raises the issue of credibility for the hearing officer to determine from the testimony of the witnesses

6 Whereupon --

7 JANE FIELDS.

8 a witness, called for examination, having been first duly sworn, was examined and testified as follows:

9 EXAMINATION BY MS. WILLIAMS:

10 Q. Good afternoon, Ms. Fields.

11 A. Good afternoon.

12 Q. Ms. Fields, in your testimony yesterday you stated that Ms. Williams' attendance had been a problem prior to February 25th, 1997, correct?

13 A. Yes, ma'am.

14 Q. I would like to enter into evidence I

15 Page 367

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1 Q. Could you repeat what you stated yesterday in regard to my attendance prior to the 25th of February, would you paraphrase it for us?

2 A. I believe you have nine and a half days absent for five occasions, and your latenesses were I believe, and I can stand corrected, fifteen prior to one conference and seventy after November the 1st.

3 Q. Do you have your records, Ms. Fields, so you can read from the memo so you won't have to speculate or guess?

4 A. Yes, I do.

5 Q. Thank you so much.

6 A. Fifteen days late from August 26th through September 23rd.

7 Q. In what school year are you referring to, Ms. Fields?

8 A. Excuse me?

9 Q. What school year are you referring to, because I'm still on documents here.

1 A. Oh, if you're on this one --

2 Q. Yes, ma'am.

3 A. -- it's entirely different. You did not report to work until November 9th I believe.

4 Actually I think it's the 14th, and you were absent six times.

5 Q. Okay. Could you turn to page 2, please?

6 Could you read the principal's comments despite the fact that you mentioned I wasn't present until November 14th? Could you read that for me, please?

7 A. Yes. "Ms. Williams made an excellent adjustment to a difficult situation by being flexible even when given a classroom change.

8 Ms. Williams establishes and requires students to follow procedures."

9 Q. Thank you very much. Do you -- again referring to this report do you realize that Mrs. Williams' attendance rate according to the number of days is 95 percent attendance?

10 MR. WIGGINS: That's in the prior year.

1 We're talking about --

2 A. You weren't there.

3 Q. I'm going there.

4 MR. WIGGINS: Then get there.

5 A. You weren't there the prior year.

6 MR. WIGGINS: Ms. Fields?

7 A. Yes, sir.

8 MR. WIGGINS: Get there. Don't tell me you're going to. Get there. This has been a long day.

9 Q. Okay.

10 MR. WILLIAMS: Tell me about the year she spoke to last year, which was 1998/1999.

11 Q. Yes, sir, I'm going to get there now.

12 When you completed the reorganization plan for the 1998/1999 school year, would you give me the date of your completion of the reorganization plan?

13 Q. Yes.

14 A. July 15th.

15 Q. Thank you. Did you include in this reorganization plan the new arrival and new departure times for staff and students?

16 A. No.

17 Q. So when did you schedule the new arrival times for staff and students? When did you make note of that?

18 A. I never did.

19 Q. Well, when was it?

20 A. The school board --

21 Q. Yes, ma'am.

22 A. -- decreed and informed us August 1st.

23 Q. Thank you.

24 A. I never made the decision.

25 Q. I apologize, I should have said you or your superior. Thank you.

26 A. I would have been happy where we were.

27 Q. So would I. You said August 1st?

28 A. Yes.

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1 MS. WILLIAMS: I'd like to enter into
 2 evidence Exhibit 36, please.
 3 (Whereupon, Respondent's Deposition
 4 Exhibit No. 36 marked.)
 5 MR. WIGGINS: Ms. Williams, I know you
 6 want to cover all of your bases, but just tell me
 7 why is this relevant to why I'm here today?
 8 MS. WILLIAMS: Okay, I want to in regard
 9 to attendance I wanted --
 10 MR. WIGGINS: Attendance to me is a
 11 non-issue. You raised it with Ms. Fields
 12 yesterday and she responded to your question.
 13 Attendance is not an issue.
 14 MS. WILLIAMS: I agree.
 15 MR. WIGGINS: I'm not concerned with
 16 latenesses or absences. Let's move on.
 17 MS. WILLIAMS: I'll skip all of this.
 18 MR. WIGGINS: We'll mark for
 19 identification the memo from Jane E. Fields
 20 to Ms. D. Williams dated August of 1998 which
 21 just indicates the new school year teacher times

1 whether the information sent to the parents was
 2 erroneous.
 3 MS. WILLIAMS: Okay.
 4 MR. WIGGINS: And caused fears and
 5 complaints from the parents.
 6 BY MS. WILLIAMS:
 7 MS. WILLIAMS:
 8 Q. In the seven exhibits which were
 9 exhibits from opposing counsel yesterday, Exhibit
 10 2, 3, 4, 5, and I didn't get the number to this
 11 one but this was from Ms. Fields as well, I'm
 12 sorry I didn't write the exhibit number down, and
 13 Exhibit 7, in these Exhibits, Ms. Fields --
 14 MR. WIGGINS: Take a look at them,
 15 Ms. Fields.
 16 A. Excuse me, may I interject something?
 17 MR. WIGGINS: Just look at them and
 18 she'll ask you a question. I'm sorry, what's
 19 the question?
 20 A. They're the same thing. That's why she
 21 can't find a number for it. I didn't want her

1 are 7:35 a.m. to 2:40 p.m.
 2 MS. WILLIAMS: Sir, I realize your point
 3 and I respect it very much, but she did raise the
 4 issue to what I understood to try to discredit my
 5 abilities as a professional and as a teacher.
 6 She said that Ms. Williams had quite a few
 7 problems as I recall yesterday in regards prior
 8 to February, so I was just trying to show that
 9 attendance wasn't a problem in 1997/1998 and then
 10 explain or show why it was a problem in the
 11 1998/1999 school year, but if you don't find that
 12 necessary we'll move on, sir.
 13 MR. WIGGINS: Well, whether or not you
 14 had an explanation for your latenesses in 1998
 15 and 1999 is of no concern to me.
 16 MS. WILLIAMS: Okay.
 17 MR. WIGGINS: Ms. Fields' testimony
 18 about your latenesses and absences were of no
 19 concern to me. I'm looking at the charges, I'm
 20 looking at the evidence as presented with regards
 21 to whether what you did was disruptive and

1 sitting over there searching for something she
 2 can't find.
 3 Q. I'm sorry. Thank you.
 4 MR. WIGGINS: Ask your question. Well,
 5 I'll let Ms. Fields hold mine and --
 6 A. Thank you.
 7 MR. WIGGINS: Ask your questions,
 8 Ms. Williams.
 9 Q. Yes, sir. I didn't note, did you note
 10 in any one of these documents or correspondence
 11 that Ms. Williams was being disruptive as a
 12 result of some written statements or documents
 13 from parents, students, or media?
 14 A. Would you please ask your question
 15 again.
 16 Q. Yes, ma'am. In any of these documents
 17 here, did you note that Ms. Williams was being
 18 disruptive and this could be witnessed by written
 19 statements or from parents, staff, students?
 20 A. There is no written statement as it was
 21 all visual witnessed by me.

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1 Q. Did you document any of those or did you
 2 bring any witnesses with you to corroborate?
 3 A. I believe if you refer to Exhibit 5.
 4 Q. Yes, ma'am.
 5 A. After being asked to go to my office you
 6 did not, and item 3 indicates that you continued
 7 to speak to parents and tell students that I had
 8 fired you, even though I didn't have the
 9 capability. Also --
 10 Q. I think maybe you misunderstood my
 11 question. I asked in any of the exhibits did you
 12 have any written documentation from parents,
 13 students, staff --
 14 MR. WIGGINS: You mean complaints?
 15 Q. Yes, sir.
 16 MR. WIGGINS: Did you receive any
 17 written complaints from parents, students, or
 18 staff, Ms. Fields?
 19 A. No, I did not.
 20 Q. In reference to the document dated
 21 2-24-99 which I'll show you about lead in the

1 water --
 2 MR. WIGGINS: Oh, you mean your
 3 document.
 4 Q. Yes. Did you in fact during your
 5 pre-conference with Ms. Williams on 2-26-99, did
 6 you ask her about the validity of the document
 7 there?
 8 A. No, because I knew it was false.
 9 Q. Did you have any documentation to prove
 10 that it was false?
 11 A. I had the immediate health department
 12 report done on February 16th I believe.
 13 Q. And what did the document state on
 14 February 16th?
 15 A. The health department report said there
 16 was no indication of lead in the water except for
 17 the one fountain that we had to turn on for them
 18 to test and for us to turn back off.
 19 Q. Do you understand how lead gets into
 20 water, Ms. Fields?
 21 MR. WIGGINS: Well, that's not her area.

1 be, the bubblers, the spigot part right where the
 2 child drinks had either broken, deteriorated, or
 3 had a problem. So I was very aware that there
 4 were some problems and I had made recommendations
 5 to have them fixed. I know that the official
 6 health department said there was no problem. I
 7 was not even happy with that and had requested
 8 some additional things from Mr. Elam's office.
 9 Q. So did any other teachers come to you
 10 complaining even prior to my suspension date
 11 about lead in the water?
 12 A. Not a soul.
 13 Q. What about after the letter went out?
 14 Did you have any teachers concerned about the --
 15 A. When I held the emergency faculty
 16 meeting, they asked me some questions. I did
 17 respond to those. I am not sure exactly which
 18 individual teachers did ask the questions.
 19 Q. Were they complaining or were they
 20 concerned about the validity of the document?
 21 A. They were complaining because I called a

1 Friday faculty meeting. They were complaining
 2 about the fact that things had gone out but they
 3 were not aware of them, they did not think that
 4 was correct. They were complaining because
 5 observations were canceled because I couldn't get
 6 to them. The only question as far as validity of
 7 the item is they asked me if the kitchen facility
 8 in the faculty room had ever been tested. I told
 9 them I had no idea and that I would go back and
 10 search the health department records, and I asked
 11 them if they normally drank from it and they all
 12 said vehemently no, but they just wanted to know
 13 for further reference.
 14 Q. So they were concerned about the
 15 letter dated 2-24-99 rather than complaining
 16 you say, or --
 17 A. No.
 18 Q. They weren't concerned about what was in
 19 the letter?
 20 A. No.
 21 Q. Why did you find it necessary to call a

1 faculty meeting about something there was no
 2 concern about?
 3 A. Because we had been plastered all over
 4 the evening news for two days.
 5 Q. And after two days of being plastered
 6 over the evening news you didn't have a single
 7 teacher to complain about -- or not complain but
 8 show concern about the letter?
 9 A. They showed concern that the letter had
 10 gone out, that they wanted to know if I sent a
 11 rebuttal and I said well, if you look at the
 12 afternoon pass outs, they were the rebuttal to
 13 the letter. As far as content of lead in the
 14 water, their concern was the one area that I
 15 wasn't even sure had been tested because it did
 16 not affect students, which was that portable,
 17 it's not portable but it's not temporary, you
 18 know what I'm talking about even if the rest of
 19 the people don't, kitchen facility in the faculty
 20 room.
 21 Q. The teachers that voiced their concerns

1 about the --
 2 MR. WIGGINS: She says they didn't have
 3 a concern. She said no.
 4 Q. They didn't voice? Okay, I thought I
 5 heard something differently, but okay. We'll go
 6 with it. Did you ever during a meeting with
 7 Ms. Williams on 2-26-99, did you ask Ms. Williams
 8 did she have any proof of lead being in the
 9 water?
 10 A. No, I did not.
 11 Q. Did you ask Ms. Williams was she a
 12 certified lead abatement expert?
 13 A. No, I did not.
 14 Q. Why?
 15 A. Because I had no need to.
 16 Q. There is a letter in which you
 17 are saying that she erroneously stated or
 18 inaccurately stated, and yet you didn't ask her
 19 for any proof, was it because she had informed
 20 you earlier that lead was in the water one
 21 afternoon when she talked with you over the

1 telephone?
 2 A. No. I knew via my best knowledge from
 3 certified people at the health department, which
 4 is what I have to rely on rather, I can't even
 5 rely on independents so it won't be recognized
 6 unless they were contracted for by the city, so
 7 you could be the best lead abatement expert in
 8 the world, but unless you are contracted by the
 9 city I cannot accept your results. It is not
 10 valid, okay? Knowing that my best information
 11 and my authorities that I must rely on said there
 12 was not, then I'm going to have to take that.
 13 Q. So assuming that what was in the letter
 14 was true, would you have found it necessary to
 15 find Ms. Williams disruptive or need for
 16 indefinite suspension?
 17 A. Yes.
 18 Q. On what grounds would you have --
 19 A. Not following procedure, using something go
 20 permission a mailing list, having something go
 21 from our building to only our students as stated

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1 in the letter the 500 parents of children at the
 2 facility without my okay, and it says that no
 3 matter what it is, it has to go through my office
 4 but you can override me by taking it to a
 5 superintendent. The fact that you stood in the
 6 hallway and erroneously said you were fired, that
 7 you used the phrase "damn water" while my
 8 students were in dismissal, that you -- I don't
 9 know how to describe it, it's not a legal term,
 10 but threw a hissy fit in the hallway with
 11 children and students and parents leaving the
 12 building, not setting the professional example I
 13 would expect of you, and at the time I had only
 14 asked that you be placed on suspension, not that
 15 you be dismissed, until I could investigate.
 16 Q. Ms. Fields, do you have any
 17 documentation from other staff, students,
 18 to attest to your claim that Ms. Williams just
 19 seemed irate and just started using profanity?
 20 MR. WIGGINS: She doesn't have to. Move
 21 on.

1 MS. WILLIAMS: She doesn't?
 2 MR. WIGGINS: No. She's a witness.
 3 She's testifying.
 4 MS. WILLIAMS: Okay. Thank you, sir.
 5 No further questions at this time.
 6 MR. WIGGINS: Ms. Haskins?
 7 EXAMINATION BY MS. HASKINS:
 8 Q. Ms. Fields, could I refer you to the
 9 memo that Ms. Williams wrote on 2-24-99? Could
 10 you please identify for us what you believe were
 11 the inaccuracies in this memo and tell us why?
 12 A. Okay. An unidentified, uncertified,
 13 unlicensed by the school expert in lead abatement
 14 did the testing. It doesn't say when. It
 15 doesn't say where. It doesn't say under what
 16 conditions, and it doesn't say how the water was
 17 sampled. It says that the level in the water is
 18 higher than accepted, but it doesn't say where,
 19 it doesn't say for what, or any of those things.
 20 It says that also the fountains were turned off
 21 during the week of February 15th through February

1 19th.
 2 That makes it sound like we turned them
 3 off for the water problem. Some of the fountains
 4 we purposely did did test negative in all
 5 reports, it implies that we turned them off
 6 because there was lead in the water. There's
 7 always been lead in the water. There's been lead
 8 in the water since 1993. "Were you parents made
 9 aware of such changes and informed as why such
 10 changes were being made," no, there's always been
 11 lead in the water.
 12 They got notice a long time ago. It
 13 makes it sound like I'm sneaking around when I
 14 did everything extremely above board. It's not a
 15 dramatic change. Water is provided for the
 16 children. It is safe, it is bottled water. The
 17 letter even says they have brought in bottled
 18 water for the children to drink. It makes it
 19 sound like we've never had bottled water. We've
 20 always had bottled water since 1993.
 21 It makes it sound like there's lead in

1 all the water, even in the state, the EPA testing
 2 there was only one identified place. The word
 3 fatal hazard is what really shook a lot of
 4 parents up, and I actually referred them to the
 5 health department and to Jack Elam and to
 6 Mr. Elick, because Mr. Elick offered to be a
 7 resource to explain what happens when you drink
 8 lead in the water, that most adults you'd have to
 9 drink a glass a day an hour a day to do it.
 10 The fatal hazard is really -- it
 11 doesn't even say possible, it doesn't say could
 12 be. It's not qualified at all. "The fact that
 13 children need to be tested because they may be
 14 potentially exposed to lead, please don't wait,"
 15 it's all very immediate sounding language, and
 16 that upset many parents. Some parents asked me
 17 should I get my child tested, I said but realize
 18 that your child could have lived in a lead paint
 19 environment in a house or a dwelling and not get
 20 it from Southeast, so realize that before you go,
 21 and if you feel strongly about it, I suggest you

1 do. I didn't discourage anybody.
 2 I simply told them. It makes it sound
 3 like there's lead in all the water, in every
 4 drinking fountain throughout the building, and
 5 that has never been true even from 1992 or 1993.
 6 It also upset me that, I don't know if Ms.
 7 Williams receives money, and I haven't been
 8 present during part of that, but it is a business
 9 card, and a business card included in something
 10 indicates business to me, unless it says for more
 11 information, the last paragraph, "And to
 12 understand more about your child's lead tests
 13 results leave your name and telephone. There is
 14 no financial obligation or this service is free,"
 15 none of that was included. Nothing was given to
 16 indicate that. This is sent purposefully as
 17 Ms. Williams has stated to raise everybody's
 18 consciousness about the issue. It was just
 19 overly dramatic. Was there anything I missed in
 20 that?
 21 MS. HASKINS: I don't have anymore

1 main office because of the gym being nearby. The
 2 fact that the one outside the office is the one
 3 that was deteriorated beyond, it's the one
 4 identified in 1993, the health department. So we
 5 kept one near the main office. That was also the
 6 place for children with medication. One was
 7 placed in the faculty room so that if faculty
 8 members needed to get to the water for the
 9 children's sake or for themselves, we figured
 10 that was an easy nondisruptive location, and the
 11 disruption being children squirting or playing,
 12 whatever.
 13 Q. So I didn't hear you mention --
 14 A. Wait I minute, I haven't finished.
 15 Q. I apologize. Please continue.
 16 A. One was in House 40, and it was placed
 17 in House 40 near the science area, which at one
 18 point was the RAYS office, and that particular
 19 machine belonged to the RAYS, do you remember the
 20 RAYS program? R-A-Y-S? You weren't at our school
 21 then.

1 Q. I just want to focus on, I'm sorry, just
 2 for the 1998/1999 school year where was the
 3 bottled water placed?
 4 MR. WIGGINS: Before bringing in the
 5 additional bottles?
 6 Q. Yes, sir.
 7 A. There's one in the main office. We've
 8 always had one there. There was one in the
 9 faculty room. There was one in the custodial
 10 engineer's office, so there would be one on the
 11 lower level, and there was one in House 40, and
 12 there were four. Three are authorized by the
 13 city. One is an additional.
 14 Q. So Ms. Fields, would you agree that
 15 the bottled water was not readily accessible to
 16 students in that they were either in the
 17 principal's office, in the teachers' lounge, or
 18 in the custodial area as you just mentioned?
 19 A. No. What do you mean readily
 20 accessible?
 21 Q. When I say accessible, just like the

1 questions.
 2 MR. WIGGINS: Ms. Williams?
 3 EXAMINATION BY MS. WILLIAMS:
 4 Q. Yes, Ms. Fields --
 5 MR. WIGGINS: Just with regards to this
 6 letter.
 7 Q. Yes, sir. I promise you.
 8 MR. WIGGINS: Okay.
 9 Q. Lead poisoning, do you consider it
 10 fatal?
 11 A. It can be.
 12 Q. When was bottled water brought in?
 13 A. The summer of 1993.
 14 Q. Ms. Fields, prior to the installation of
 15 the new, the more -- prior to bringing in more
 16 bottled water, where were the bottled water
 17 placed prior to bringing in the new bottles?
 18 Where were the other fountains or bottled water
 19 placed?
 20 A. It varied from year to year. It varied
 21 from year to year. There was usually one in the

1 fountains are accessible to the students without
 2 having the need to go into a teachers' lounge,
 3 because we know that students are not permitted
 4 to go into the teachers' lounge, is that correct?
 5 A. That is correct.
 6 Q. Students are not permitted to go into
 7 the custodial work area that you testified where
 8 bottled water was, correct?
 9 A. That's correct, but they're not allowed
 10 to leave their classroom without permission to go
 11 for water either, so --
 12 MR. WIGGINS: No, Ms. Fields, answer her
 13 questions as she asks them.
 14 A. The one in 40 was very accessible. The
 15 one in the main office, all the students had to
 16 do was ask, and ask they did. In fact, the
 17 secretary asked if I would move it out at one
 18 point and I said no, the fountain that is
 19 disconnected is the one for the main office.
 20 Q. Ms. Fields, would you agree that
 21 Ms. Williams had a class in House 40 during

1 her time there from 1997 to 1999? She was, in
 2 fact she even picked up students from House 40?
 3 A. She had a class, you had a class, I hate
 4 using the -- approximately two weeks in 1997 when
 5 you came back, after that your room was located
 6 approximately twenty feet from the main office.
 7 Q. But would you agree that Ms. Williams
 8 had to pick her students from House 40?
 9 A. Yes, she was designated to do that.
 10 Q. Therefore she would know exactly where
 11 the water fountains, the bottled water was
 12 located?
 13 A. Not necessarily.
 14 Q. Would you agree that Ms. Williams used
 15 the copying machine in House 40, and the bottled
 16 water was right next to the copying room in House
 17 40, correct?
 18 A. Yes. Part of the time, yes, you are
 19 correct.
 20 Q. Therefore the bottled water was not,
 21 in House 40 was not directly accessible to the

1 students in that it was in a room that was mainly
 2 for teachers or staff. Would you agree with
 3 that?
 4 A. For your purposes probably yes.
 5 I don't want to drag this out forever.
 6 Q. Therefore the point being the students
 7 were not permitted to go into these areas unless
 8 they were given permission, correct?
 9 A. Correct.
 10 Q. Were the students also, were the
 11 students allowed to drink bottled water, drink
 12 from the bottled water, or were they directed not
 13 to use -- or were the staff directed by you not
 14 to allow the students to go into the areas where
 15 the bottled water was?
 16 A. No.
 17 Q. So in other words, you would agree
 18 though that the water was inaccessible to
 19 students during the 1998/1999 school year and
 20 prior to the new bottled water being brought in?
 21 A. No, there's a three-part question. You

1 want to ask it one part at a time?
 2 Q. I can do that. I apologize if I
 3 confused you. Prior to February 26th, 1999 would
 4 you agree that the bottled water was not in an
 5 area accessible to students, were off limits to
 6 students?
 7 A. No.
 8 Q. You mentioned, Ms. Fields, that the
 9 bottled water prior to --
 10 MR. WIGGINS: She said she doesn't
 11 agree.
 12 MS. WILLIAMS: But she mentioned, sir,
 13 that where it was --
 14 MR. WIGGINS: I know she said earlier, I
 15 have down what she said, but your question was
 16 would you agree, and she said no.
 17 MS. WILLIAMS: Okay.
 18 MR. WIGGINS: Now, let me shorten this
 19 thing.
 20 MS. FIELDS: Can I add one thing off --
 21 MR. WIGGINS: No, No, I'm asking

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1 questions and then we will allow Ms. Haskins to
 2 walk you through if she needs some additional
 3 questions from you. There were four bottles of
 4 water, and they were located in places where
 5 students would have needed permission to get the
 6 water, is that correct.
 7 MS. FIELDS: That is correct, since only
 8 one fountain was turned off.
 9 MR. WIGGINS: So students generally were
 10 drinking water out of fountains?
 11 MS. FIELDS: Correct.
 12 MR. WIGGINS: Now, ask your questions.
 13 MS. WILLIAMS: As you mentioned that the
 14 water, you mentioned a few minutes ago the water
 15 had lead in it at Southeast Middle.
 16 MR. WIGGINS: Well, she testified
 17 earlier that there was one fountain due to a
 18 faucet that had deteriorated and that faucet had
 19 the lead level in it.
 20 MS. FIELDS: Had been identified.
 21 MR. WIGGINS: Right, now.

1 BY MS. WILLIAMS:
 2 Q. So you're saying lead was in the water,
 3 correct?
 4 A. No.
 5 Q. You're saying lead was where? I
 6 apologize, I thought I heard you say --
 7 MR. WIGGINS: I just told you what she
 8 said.
 9 A. You're indicating --
 10 MR. WIGGINS: Stop. I said she said
 11 that there was one fountain that had deteriorated
 12 that was identified as having a high lead
 13 content, and that was turned off. She's done
 14 said that three or four times. Now, is your
 15 question did other fountains were later
 16 determined to have a higher lead content?
 17 Q. Okay, yes.
 18 A. No, no drinking fountain was determined
 19 to have a higher, an unacceptable lead content.
 20 Q. Okay. You have documentation to prove
 21 that?

1 A. There are health department reports
 2 which have already been entered.
 3 Q. Then are you referring to the health
 4 department reports in 1993 or after --
 5 A. The one done in February.
 6 MS. WILLIAMS: Okay, thank you. No
 7 further questions.
 8 MR. WIGGINS: Questions on my questions,
 9 Ms. Haskins?
 10 EXAMINATION BY MS. HASKINS:
 11 Q. Ms. Fields, I would like to know if any
 12 students at Southeast Middle Scout at the time
 13 that Ms. Williams just finished questioned you
 14 about ever complained because they were not able
 15 to get a drink of fresh water?
 16 A. Yes, there was a particular incident.
 17 Q. And what happened at that particular
 18 incident?
 19 A. I went up and opened the faculty lounge
 20 so the soccer team could go up and get water. It
 21 was after school hours and they came to me and

1 complained that they couldn't get water. When it
 2 came to the student, if they came to me they got
 3 water. If it came to one of the secretaries they
 4 got water. I often used the phys ed teacher to
 5 get water. That was the only kind of complaint I
 6 ever had.
 7 Q. Ms. Fields, did any of the students
 8 during this time in question, did any of their
 9 parents complain to you that their child had not
 10 gotten fresh water in school?
 11 A. Not at all.
 12 MS. HASKINS: I have no more questions.
 13 MR. WIGGINS: Ms. Williams? Just on the
 14 questions --
 15 MS. WILLIAMS: No further questions at
 16 this time. No further questions.
 17 EXAMINATION BY MR. WIGGINS:
 18 Q. Now, Ms. Fields, let me ask you a few
 19 questions. You spoke about errors that were in
 20 the letter, and you went through a list of them.
 21 As I read what you were responding to, are there

1 errors per se that information in fact is
 2 incorrect or is it a fact that it wasn't written
 3 in a manner and style that you thought would have
 4 been more appropriate to provide to parents of
 5 children in a school?
 6 A. It was extremely slanted. It does not
 7 provide the information that there's been lead in
 8 the water and that we've corrected the situation.
 9 Q. So it didn't give a full report?
 10 A. No, it did not.
 11 Q. Now, you had mentioned that she said the
 12 water is higher than was acceptable, that the
 13 lead levels was higher than what was acceptable,
 14 but you said that she didn't say by whom, but in
 15 there it says the Environmental Protection
 16 Agency. I'm looking right at it, at the top of
 17 the second paragraph.
 18 A. That is correct, in the one fountain.
 19 You see, that's where I'm having a lot of
 20 problems with this letter.
 21 Q. Well, there was something I saw, and I

1 of 1993, but definitely before September of 1993.
 2 Q. When was it turned on after that?
 3 A. Every time the health inspector came.
 4 Q. When the health inspector came and
 5 inspected that fountain in front of the main
 6 office and it was turned on for the health
 7 inspector, when was it turned off again?
 8 A. As soon as they finished with the draw.
 9 Q. Did anybody in Southeast Middle School
 10 drink from that fountain after the summer of
 11 1993?
 12 A. Not to my knowledge, and it would have
 13 been impossible I would assume unless they could
 14 turn it on, which takes two wrenches.
 15 Q. Can you identify this document,
 16 Ms. Fields?
 17 MR. WIGGINS: Now, is that in the scope
 18 of my questions, Ms. Haskins?
 19 Q. Yes, I believe so.
 20 MR. WIGGINS: Let me see. Okay, we will
 21 mark it for identification CEO Exhibit 15.

1 can't recall what exhibit it was, where there was
 2 some numbers given for the amount of the lead
 3 content in the water which was found -- oh, from
 4 Kennedy Krieger -- which was found to be --
 5 A. But that was for Fairmount-Harford. That
 6 was not for school 255.
 7 MS. WILLIAMS: Her document.
 8 MR. WIGGINS: Okay. I retract that
 9 then. Questions on my questions, Ms. Haskins?
 10 EXAMINATION BY MS. HASKINS:
 11 Q. Ms. Fields, we're talking about the
 12 water fountain in House 40?
 13 A. No.
 14 Q. No?
 15 A. You have to --
 16 Q. We're talking about the water fountain
 17 outside the main office?
 18 A. That's correct.
 19 Q. When was it turned off?
 20 A. Sometime of the summer of 1993. My
 21 guess is it was probably even turned off in June

1 (Whereupon, CEO Deposition Exhibit No.
 2 15 marked.)
 3 Q. Could you please identify the document,
 4 Ms. Fields?
 5 A. It's the lead and water sampling results
 6 for school number 255 dated June 28th, 1993.
 7 Q. Is this document posted anywhere in the
 8 school?
 9 A. It certainly is. It's on the bulletin
 10 board.
 11 Q. Who has access to see it where it's
 12 posted?
 13 A. Anybody.
 14 Q. I'd like to move this document into
 15 evidence, please.
 16 MR. WIGGINS: Any objections,
 17 Ms. Williams?
 18 MS. WILLIAMS: No, sir.
 19 MR. WIGGINS: It's in as CEO 15, and
 20 it's the lead and water sampling dated June the
 21 28th, 1993.

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1 Q. I have one more document I'd like
 2 Ms. Fields to identify just so we can have some
 3 clarification.
 4 MS. WILLIAMS: Thank you.
 5 MR. WIGGINS: We mark for identification
 6 as CEO Exhibit 16 a Southeast Middle lead water
 7 sample dated March 15th, 1999.
 8 A. Okay.
 9 Q. Have you ever seen this document before?
 10 A. Yes, but I had not perused it. It was
 11 in Mr. Eiam's possession, I had asked him about
 12 the results and he had told me. I asked the
 13 health department person, and at the time I
 14 believe she pointed out one place where there was
 15 a problem, which was the one that needed to be
 16 turned off which was turned off.
 17 Q. And which one was that?
 18 A. It's the one outside the main office.
 19 There was one that they got to work that never
 20 worked and we had had turned off, and I'm not
 21 sure if that one is even on here, and I'm

1 time. The health department takes them fairly
 2 close together in public buildings. I know you
 3 can let it run as much thirty seconds, a minute,
 4 two minutes, and I know Ms. Williams mentioned
 5 that in her testimony. The health department
 6 kind of takes them close together, or at least
 7 when I've been present they have.
 8 Q. According to this document who analyzed
 9 the samples taken by the Baltimore City Health
 10 Department?
 11 A. State of Maryland Department of Health
 12 and Mental Hygiene according to this document.
 13 Q. After this test was done, was House Area
 14 40 OS turned off?
 15 A. It had already prior been turned off.
 16 Q. Was it turned off after the test?
 17 A. All fountains were turned off
 18 Ms. Williams stated in her letter of February
 19 16th, but I remember it being the day after the
 20 health department came initially, which would
 21 have been February 12th. That was my direction

1 looking.
 2 Q. Could --
 3 A. Now, some of these are sinks. These are
 4 not drinking fountains. In fact, some of them
 5 are the slop closets the custodians use that has
 6 a chain tag on it that says "Do Not Drink This
 7 Water."
 8 Q. The date of this document, the date the
 9 samples were collected?
 10 A. March 10th, 1999. This is the second
 11 go-around.
 12 Q. To the last page, the date it was
 13 signed?
 14 A. 3-12-99.
 15 Q. On the first page where it says sample,
 16 the first column?
 17 A. Yes.
 18 Q. What does I-A and I-B mean?
 19 A. I-A means you turn it on without any
 20 prior use and you take a sample, and B is
 21 actually after it runs for a small or a short

1 with agreement with Jack.
 2 Q. Jack is?
 3 A. I'm sorry, Mr. Eiam.
 4 MS. HASKINS: I don't have anymore
 5 questions.
 6 MR. WIGGINS: Well, you walked her
 7 through this, but tell me what it means.
 8 MS. HASKINS: Well, they've been talking
 9 about the water in the fountains and the testing
 10 and all, so I'm just giving the document so that
 11 we can have a document of the testing that was
 12 done at Southeast Middle School.
 13 MR. WIGGINS: We have the document --
 14 MR. AYERS: We have documents --
 15 MR. WIGGINS: Excuse me, sir. Tell me
 16 what it means.
 17 MS. HASKINS: What what means?
 18 MR. WIGGINS: Does it mean there is
 19 leaded in the water or does it mean there isn't
 20 lead in the water? What were the final results?
 21 MS. HASKINS: It means that when they

1 tested the water, the fountains were turned off.
 2 They were turned on for the test. When the test
 3 was complete the fountains were turned off
 4 again. That's what it means.
 5 MR. WIGGINS: But all the fountains
 6 weren't turned off until February the 12th.
 7 MS. FIELDS: This test was done March
 8 10th.
 9 MR. WIGGINS: Right, but prior to that
 10 those fountains were all on except for the
 11 fountain outside of the school. When do all the
 12 fountains turn off?
 13 MS. FIELDS: February 13th. I'm
 14 assuming it was the day right after the first
 15 test.
 16 MR. WIGGINS: Okay, February 13th of
 17 1999?
 18 MS. FIELDS: Correct.
 19 MR. WIGGINS: All fountains were turned
 20 off?
 21 MS. FIELDS: Right, regardless of their

1 tell her in examining her that the water samples
 2 show that there's no problem with lead in the
 3 water? Is that the message I'm to get from the
 4 report?
 5 MS. HASKINS: I'm presenting this
 6 document to show about the tests. We already
 7 established the conclusion about whether there's
 8 lead in the drinking water in earlier testimony.
 9 MR. WIGGINS: No, you presented
 10 information. Whether you established it --
 11 MS. HASKINS: Well, as far as my case
 12 goes, that's what I believe, but I'm using this
 13 document to show the testing that has been
 14 referred to throughout the hearing.
 15 MR. WIGGINS: Okay.
 16 MS. HASKINS: And the results of the
 17 testing.
 18 MR. WIGGINS: Okay, and just so I know,
 19 are we saying these results are showing that
 20 there's no lead in the water, yes?
 21 MS. FIELDS: What the results tell me is

1 location.
 2 MR. WIGGINS: Okay, prior to February
 3 13th only one fountain was turned off, the one
 4 outside of the office?
 5 MS. FIELDS: Wrong.
 6 MR. WIGGINS: Then which ones were
 7 turned off before --
 8 MS. FIELDS: There was also turned off
 9 in House 20. The bubbler had cracked.
 10 MR. WIGGINS: So there was two turned
 11 off?
 12 MS. FIELDS: Then one of the ones in 40,
 13 but I don't remember which one, the feed line had
 14 broken off inside of it and it would spurt water
 15 but it would not pour water that was drinkable to
 16 start with, and I had it turned off because it
 17 was "broken", so there were three turned off in
 18 the building.
 19 MR. WIGGINS: Now, with this document,
 20 and we should have used it with Mr. Elam when he
 21 was here, is this telling me, are you trying to

1 the only fountain that may be in doubt was the
 2 basement fountain. All fountains had been turned
 3 off. I believe Ms. Williams has even stated at
 4 several points that, and correct me if I'm wrong,
 5 15 would indicate lead in the water that is
 6 unacceptable for human consumption.
 7 MS. WILLIAMS: I did not say that.
 8 MR. WIGGINS: Then let Ms. Williams
 9 questions Ms. Fields with regard to this report
 10 and then we'll close this baby down. Go ahead.
 11 MS. HASKINS: I'd like to move it into
 12 evidence.
 13 MR. WIGGINS: Do you have any objections
 14 to this report coming into evidence, Ms.
 15 Williams?
 16 MS. WILLIAMS: I'm looking at the March
 17 15th report that was after this fact, but we can
 18 have it. No problem.
 19 MR. WIGGINS: Do you have --
 20 MS. WILLIAMS: Okay, it can come into
 21 evidence.

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1 MR. WIGGINS: So the March 15th test will come into evidence at CEO Exhibit 16.

2 Okay. Now, Ms. Williams, ask your questions, please.

3 EXAMINATION BY MS. WILLIAMS:

4 Q. Ms. Fields, at this point in time the only area that I'm concerned about is the drinking water fountain in House 40. Was that operable prior to, operable and in use prior to February 26th?

5 A. No.

6 Q. Okay.

7 MR. WIGGINS: Prior to?

8 Q. Prior to you're saying.

9 A. No. It was turned off.

10 Q. You're confusing me a bit, Ms. Fields.

11 A. All of them were turned off.

12 MR. WIGGINS: Stop. Prior to February 19 the 13th, 1999 was the fountain in House 40 operable and in use by students?

13 A. One of them was.

1 to these test results?

2 A. According to the --

3 MR. WIGGINS: Unacceptable levels.

4 Q. Unacceptable levels, yes.

5 A. Levels, yes.

6 Q. Thank you.

7 A. Yes.

8 MS. WILLIAMS: No further questions.

9 A. But they're all turned off.

10 MR. WIGGINS: She's closed her case.

11 MS. HASKINS: I have a question.

12 MR. WIGGINS: Go ahead, ask your question.

13 EXAMINATION BY MS. HASKINS:

14 Q. You said as a result of looking at these two tests there's lead in the water. Can you please tell me who drinks the water that has lead in it as a result of these two tests?

15 A. No one.

16 MS. HASKINS: Thank you. No questions.

17 MR. WIGGINS: Okay. We will have

1 Q. Okay, thank you.

2 MR. WIGGINS: Ask your questions, Ms. Williams.

3 Q. You said one of them was? The lead test results for the water in House 40 according to, I believe I entered it into evidence, was higher than 15 parts per billion. Do you, Ms. Fields, know that the EPA action level -- no, take it back.

4 MR. WIGGINS: She's not an expert in the 11 area.

5 Q. I'm sorry, I take it back, okay.

6 MR. WIGGINS: But she did testify to what's in this report here. Now, if you want to question her with regards to the findings here and whether or not when she said that the water was safe, you can do that.

7 Q. So in the report of March 15 as well as, March 15th, 1999 as well as in the report dated June 28th, 1993, would you say that there was lead in the water at Southeast Middle according

1 closing. We'll start with you, Ms. Haskins.

2 MS. HASKINS: Can I have five minutes to find out where I wrote my comments for closing?

3 MR. WIGGINS: Yes, ma'am. Why don't we take a quick five-minute break. Don't wander off too far. Then we'll get started.

4 (Discussion held off the record.)

5 MS. HASKINS: The Baltimore City Public School System and the chief executive officer Dr. Robert Booker has recommended the dismissal of Diana Williams because of misconduct in 12 office. The Baltimore City Public School System considers the acts of misconduct to be the Ms. Williams obtained addresses of the parents of 15 students, 500 students at Southeast Middle School, without authorization and distributed a document by way of U.S. mail.

17 They believe that part of the misconduct of Ms. Williams was operating during school time outside the scope of her employment.

21 They believe that Ms. Williams' misconduct also

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1 consisted of unnecessarily inciting parents,
 2 students, media about the situation of lead in
 3 the water at Southeast Middle School and that the
 4 situation had been tested and corrected.
 5 Therefore, the incitement or the things
 6 mentioned in her memo dated February 24th, 1999
 7 were not accurate as far as fatal hazards being
 8 present at that time. The Baltimore City Public
 9 School System believes that Ms. Williams'
 10 activity regarding this subject of lead in the
 11 water, especially at Southeast Middle School,
 12 raised unnecessary and undue concern for parents
 13 and students alike, that her activities within
 14 the school building during the time that students
 15 and parents were present, as far as the language
 16 she used, her things that she said to students
 17 regarding having been fired created disruptions
 18 to the educational process, the phone calls that
 19 came constantly as a result of the letter being
 20 distributed without authorization by the school
 21 system and without permission of her supervisor,

1 who was Ms. Fields, the principal at that time,
 2 all these things the school system believes have
 3 contributed to the misconduct identified in my
 4 opening statement on yesterday.
 5 The Baltimore City Public School
 6 System feels that Ms. Williams' actions were
 7 unprofessional conduct and that they render her
 8 unsuitable to the discharge of the duties of a
 9 public school teacher as to undermine future
 10 classroom performance and overall impact on her
 11 students as well as the school system. We
 12 request that you uphold the recommendation for
 13 her dismissal. Thank you.
 14 MR. WIGGINS: Ms. Williams?
 15 MS. WILLIAMS: Yes, sir. The facts
 16 and supporting evidence is undisputed that
 17 there were lead based paints and asbestos hazards
 18 or lead hazards in the drinking water at
 19 Fairmount-Harford High School, James Mosier
 20 Elementary, and Southeast Middle School, and
 21 through the preponderance of the evidence, the

1 drinking water at Semmes, James Mosier,
 2 Highlandtown, and Fairmount-Harford High School,
 3 and although Ms. Williams' whistle blowing was
 4 done without the permission of the powers to be,
 5 the letters to the parents did not erroneously
 6 state the facts, inaccurately state the facts,
 7 nor was the fact stated without overwhelming
 8 evidence to prove such.
 9 Thus her conduct did not panic, did not
 10 bring panic among the parents based on unfounded
 11 unsubstantiated facts and supporting evidence,
 12 and it would be, it would have been unethical and
 13 immoral and a misconduct on Ms. Williams' part
 14 for her to turn the other cheek as it was
 15 obviously being done by the powers to be and
 16 others that were aware of these hazards prior to
 17 Ms. Williams becoming aware of such potential
 18 fatal hazards.
 19 Thus the facts and supporting evidence
 20 does prove that there was a misconduct in office,
 21 negligence and noncompliance that should result

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I N D E X

1 Proceedings of Diana Williams Dismissal Hearing August 27, 1999

2 3 4 5 6 7 EXHIBIT: Description Page
8 RESPONDENT'S EXHIBITS:

9 33 31 October 1996 letter from Marcor, 284 Inc. To Jack Elam

10 34 6 November 1995 Letter from Elaine 284 White to parents of students

11 35 Lateness and absenteeism report of 355 Ms. Williams

12 36 August 1998 memo from Jane Fields 372 to Diana Williams

13 17 CEO EXHIBITS:

14 15 28 June 1993 lead sampling results 403 for School 255

15 16 15 March 1999 lead sampling results 412 for Southeast Middle School

1 State of Maryland,
2 Prince George's County, to wit:

3 I, Wesley J. Armstrong, a Notary Public
4 of the State of Maryland, Prince George's County,

5 do hereby certify that the within-named witness
6 personally appeared before me at the time and
7 place herein set out, and after having been duly

8 sworn by me, according to law, was examined by
9 Counsel. I further certify that the examination
10 was recorded stenographically by me and this

11 transcript is a true record of the proceedings. I
12 further certify that I am not of Counsel to any
13 of the parties, nor an employee of Counsel, nor

14 related to any of the parties, nor in any way
15 interested in the outcome of this action.
16 As witness my hand and Notarial Seal

17 this 24th day of September, 1999.

18
19 Wesley J. Armstrong
20 Notary Public

21 My commission expires: 01/01/2001