

<p>DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO 1437 Bannock Street Denver, Colorado 80202</p>	
<p>PLAINTIFFS: Anthony Lobato, <i>et al.</i></p> <p>and</p> <p>PLAINTIFFS-INTERVENORS: Armandina Ortega, <i>et al.</i></p> <p>vs.</p> <p>DEFENDANTS: The State of Colorado, <i>et al.</i></p>	<p><input type="checkbox"/> COURT USE ONLY <input type="checkbox"/></p>
<p>Attorneys for Defendants: JOHN W. SUTHERS, Attorney General</p> <p>NANCY J. WAHL, 31890* First Assistant Attorney General E-mail: nancy.wahl@state.co.us</p> <p>ANTONY B. DYL, 15968* Senior Assistant Attorney General E-mail: tony.dyl@state.co.us</p> <p>CAREY TAYLOR MARKEL, 32987* Senior Assistant Attorney General E-mail: carey.markel@state.co.us</p> <p>NICHOLAS P. HEINKE, 38738* Assistant Attorney General E-mail: nicholas.heinke@state.co.us</p> <p>JONATHAN P. FERRO, 35754* Assistant Attorney General E-mail: jon.ferro@state.co.us</p> <p>ERICA WESTON, 35581* Assistant Attorney General E-mail: erica.weston@state.co.us</p> <p>Office of the Colorado Attorney General 1525 Sherman Street, 7th Floor Denver, CO 80203 Telephone: (303) 866-2383 Fax: (303) 866-5671 * Counsel of Record</p>	<p>Case Number: 05 CV 4794</p> <p>Div: 9</p>
<p align="center">DEFENDANTS' <u>SECOND</u> SUPPLEMENTAL RESPONSES TO PLAINTIFFS' <u>FIRST</u> SET OF DISCOVERY REQUESTS</p>	

Defendants, by and through their counsel, hereby submit their Second Supplemental Responses to Plaintiffs' First Set of Discovery Requests ("Responses") pursuant to C.R.C.P. 26(e) and 34.

Defendants' Second Supplemental Responses are based on Defendants' current knowledge and a good faith investigation into the discovery requests. That investigation is ongoing and Defendants reserve the right to further supplement or amend these Responses if and when additional information becomes known.

The following General Objections apply to Plaintiffs' discovery requests and are incorporated by reference into the answers contained herein. The assertion of the same, similar or additional objections, or the provision of partial answers in response to Plaintiffs' discovery requests, does not waive Defendants' General Objections as set forth below.

GENERAL OBJECTIONS

1. Defendants object to the discovery requests to the extent the requests seek information that is protected from disclosure under the attorney-client privilege, the work product doctrine, the joint-defense doctrine, the common-interest doctrine, the governmental deliberative process privilege, or any other applicable privilege, law, rule or immunity.
2. Defendants object to the discovery requests to the extent the requests seek confidential information, the disclosure of which could negatively impact Defendants' obligation to maintain the confidentiality of such information.
3. Defendants object to the discovery requests to the extent the requests seek information that is not relevant to the subject matter of this litigation and not reasonably expected to yield information relevant to the allegations of the complaint, the proposed relief, or the defenses.
4. Defendants object to the discovery requests to the extent the requests are overbroad, unduly burdensome, or require unreasonable efforts or expense on behalf of Defendants.
5. Defendants object to the discovery requests to the extent the requests seek information over a ten-year time period or longer on the ground that such requests are overbroad, unduly burdensome, and require unreasonable efforts or expense on behalf of Defendants. Unless otherwise indicated, Defendants will produce relevant information from the prior five years.
6. Defendants object to the discovery requests to the extent the requests are vague or ambiguous.
7. Defendants object to the discovery requests to the extent the requests require answers greater than, beyond the requirements of, or at variance with the Colorado Rules of Civil Procedure.
8. Defendants object to the discovery requests to the extent the requests seek the premature disclosure of expert testimony. Defendants will submit expert reports and make their experts available for deposition pursuant to the Modified Case Management Order.

9. Defendants object to the Discovery requests to the extent the requests seek to impose an obligation on Defendants to provide information for or on behalf of any person or entity other than the Defendants named in the complaint, or seek information that is not in Defendants' possession, custody, or control. Defendants expressly object to the discovery requests to the extent the requests seek to obtain discovery responses from Defendants on behalf of state or governmental entities not named in the complaint.

10. Defendants object to the discovery requests to the extent the discovery sought is cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive.

11. Defendants object to Plaintiffs' definition of the terms "refer," "relate," "concern," "referring," "relating," or "concerning," to the extent these terms are to be "construed in the broadest sense to mean information (1) referring to, describing, evidencing, constituting, embodying or otherwise discussing in any way the subject matter identified in a request; (2) which contains or comprises any communication . . . referred to in these requests; or (3) information which discusses, mentions or refers, whether directly or indirectly, to the subject matter of the request," as this definition renders the requests overly broad and unduly burdensome on their face.

12. Defendants object to the discovery requests to the extent the requests do not adequately define terms used in them.

13. Defendants object to the discovery requests to the extent the burden of deriving or ascertaining responses to the requests is substantially the same for Plaintiffs as for Defendants.

14. Defendants object to the discovery requests to the extent the requests exceed the number provided for in the Modified Case Management Order.

Subject to and without waiving these General Objections, or any other objection or claim of privilege, Defendants hereby answer and object to Plaintiffs' discovery requests as follows.

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST FOR PRODUCTION NO. 2: All documents (regardless of the source from which you obtained them) which support or are related to any of Plaintiffs' claims or your defenses.

RESPONSE: Defendants object to this Request, which seeks "all documents" "related to" Plaintiffs' claims or Defendants' defenses, on the ground that it is overly broad and unduly burdensome, particularly in light of Plaintiffs' sweeping definition of the term "relate[d]." Subject to and without waiving this objection and the General Objections, the documents pertaining to Plaintiffs' claims are contained in the parties' Initial Disclosures, any supplements thereto, and all additional discovery that has been or will be provided in this case.

Defendants are also producing contemporaneously herewith:

BATES #	Name	Document Date
CDE086218- CDE086220	Mill Levy History 1994-95 to 2005-06	2006

REQUEST FOR PRODUCTION NO. 4: All documents prepared by or for the Legislative Joint Budget Committee concerning public school finance, finance policy, or other considerations affecting public school funding, and education reform.

RESPONSE: Defendants object to this Request, which seeks “all documents” “concerning” these wide-ranging subject areas over a 10-year time period, on the ground that it is overly broad and unduly burdensome, particularly in light of Plaintiffs’ sweeping definition of the term “concerning.” Defendants further object to this Request on the ground that it seeks information from an entity not a party to this suit and who is not represented by Defendants’ counsel as a matter of law. C.R.S. § 24-31-101. Defendants further object to this Request on the ground that the phrases “finance policy,” “other considerations affecting public school funding,” and “education reform” are vague and undefined. Defendants further object to this Request on the ground that it seeks to discover public records equally available to Plaintiffs. Finally, Defendants do not construe this Request to seek predecisional, deliberative documents assessing proposed or draft policy or legislation. Such a request would be overly broad, unduly burdensome, and may implicate the governmental deliberative process privilege.

Subject to and without waiving these objections and the General Objections, Defendants are producing contemporaneously herewith:

BATES #	Name	Document Date
CDE086288-CDE086289	Summary of Costs Associated with CTB-McGraw Hill Contract	FY06-07 to FY10- 11

CDE086290-CDE086296	Recent Amendments to CTB-McGraw Hill CSAP and CELA Contracts	FY07-08 to FY09-10
CDE086297-CDE086304	Recent Amendments to CTB-McGraw Hill CSAP and CELA Contracts	FY07-08 to FY10-11
CDE086305	CSAPA Tests Administered by Grade and Subject	2007
CDE086306	Colorado Department of Education Federal and State Funding-Assessments for Fiscal Years 2005-06, 2006-07, and 2007-08	2005-2008
CDE086307-CDE086308	CSAP-A Contract Budgets	2007-2011
CDE086309-CDE086311	CELA Contract Budgets	2006-2010
CDE086312-CDE086325	Colorado Legislative Council - Summary Page - Expenditures by Fund Source	FY2009-10 - FY2010-11
CDE086326-CDE086327	Cost Estimate of 4th and 10th Grade Science Tests	2007-2008
CDE086328-CDE086542	Documents contained in December 2006 Joint Budget Briefing and Hearing	6/28/1905
CDE086543-CDE086747	Documents contained in December 14, 2007 Joint Budget Committee Briefing and Hearing notebook	6/29/1905
CDE086748-CDE086936	Documents contained in December 14, 2007 Joint Budget Committee Briefing Narrative notebook	6/29/1905
CDE086937-CDE087232	Documents contained in December 15, 2008 Joint Budget Committee Hearing notebook	6/30/1905
CDE087233-CDE087469	Documents contained in December 11, 2009 Joint Budget Committee Hearing notebook	7/1/1905
CDE087470-CDE087485	Governor Bill Ritter's FY 2009-10 Budget Balancing Plan	10/28/2009

REQUEST FOR PRODUCTION NO. 7: All documents prepared by or for the Governor’s P-20 Coordinating Council or any committees or subcommittees thereof concerning public school finance, finance policy or other considerations affecting public school funding, and education reform.

RESPONSE: Defendants object to this Request, which seeks “all documents” “concerning” these wide-ranging subject areas, on the ground that it is overly broad and unduly burdensome, particularly in light of Plaintiffs’ sweeping definition of the term “concerning.” The P-20 Coordinating Council’s work involves the work of many private citizens serving on subcommittees with wide-ranging substantive topic areas, including P-3, data and accountability, educator issues and preparation and transitions. Defendants further object to this Request on the ground that the phrases “finance policy,” “other considerations affecting public school funding,” and “education reform” are vague and undefined. Defendants further object to the extent that this Request seeks documents from individual members of the P-20 Coordinating Council, who the Office of the Attorney General does not represent. Finally, Defendants do not construe this Request to seek predecisional, deliberative documents assessing proposed or draft policy or legislation. Such a request would be overly broad, unduly burdensome, and may implicate the governmental deliberative process privilege.

Subject to and without waiving these objections and the General Objections, Defendants are producing contemporaneously herewith:

BATES #	Name	Document Date
CDE087486-CDE087980	Colorado's P-20 Education Coordinating Council, Meeting Agendas and Minutes	2007-2010

REQUEST FOR PRODUCTION NO. 8: Legislation, legislative history, fiscal notes, and documents evidencing, analyzing, or describing legislation affecting public school finance and education reform from 1988 to the present, including, but not limited to, school finance bills, the Long Bills, the Gallagher Amendment, and TABOR.

RESPONSE: Defendants object to this Request, which seeks all “documents” “evidencing, analyzing, or describing” these wide-ranging subject areas over a 22-year time period, on the ground that it is overly broad and unduly burdensome. Defendants further object to this Request on the ground that it seeks information prepared by an entity not a party to this suit and not represented by Defendants’ counsel as a matter of law. C.R.S. § 24-31-101. Defendants further object to this Request on the ground that it seeks to discover public records equally available to Plaintiffs. Defendants further object to this Request to the extent it seeks to discover information protected from disclosure by

the attorney-client privilege and the attorney work product doctrine. Defendants further object to this Request on the ground that the phrase “evidencing, analyzing, or describing” is vague and undefined. Finally, Defendants do not construe this Request to seek predecisional, deliberative documents assessing proposed or draft policy or legislation. Such a request would be overly broad, unduly burdensome, and may implicate the governmental deliberative process privilege.

Subject to and without waiving these objections and the General Objections, Defendants are producing contemporaneously herewith:

BATES #	Name	Document Date
CDE087981- CDE088029	Legislative Summaries	2008
CDE092433- CDE092435	Governor's Agenda Bill Fact Sheets	2010

Defendants further refer Plaintiffs to the information contained in the budget documents produced in response to Request for Production No. 4, above.

REQUEST FOR PRODUCTION NO. 9: Documents evidencing, analyzing, or describing the use of gifts, grants, donations, or in-kind support as a source for funding public education and accounting, including, but not limited to, applications for and accounts of gifts, grants, donations, or in-kind support.

RESPONSE: Defendants object to this Request, which seeks all “documents” “evidencing, analyzing, or describing” this wide-ranging subject area over a 10-year time period, on the ground that it is overly broad and unduly burdensome. Defendants further object to this Request on the ground that the phrase “evidencing, analyzing, or describing” is vague and undefined. Defendants further object to this Request to the extent it seeks information on funding sources for Plaintiff School Districts and other school districts, on the ground that such information is equally available to Plaintiffs. Finally, Defendants do not construe this Request to seek predecisional, deliberative documents assessing proposed or draft policy or legislation. Such a request would be overly broad, unduly burdensome, and may implicate the governmental deliberative process privilege.

Subject to and without waiving these objections and the General Objections, Defendants are producing contemporaneously herewith:

BATES #	Name	Document Date
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CDE088030- CDE088034	Letters re: i3 Project Proposal and National Math and Science Initiative's Advance Placement Training and Incentive Program (APTIP)	2010
CDE088035- CDE088123	American Recovery and Reinvestment Act K-12 Agenda	2009
CDE088124- CDE088226	Application for Funding for Phase II of the Education Fund under the State Fiscal Stabilization Fund Program	2010
CDE088227- CDE088237	Colorado Clean Diesel Program Using Federal Stimulus Money and Other Funds to Protect Children's Health and More	10/21/2009
CDE088238- CDE088350	SFSF Phase Two Requirements	
CDE088351- CDE088391	American Recovery and Reinvestment Act K-12 Agenda	7/27/2009
CDE088392- CDE088397	State Fiscal Stabilization Fund	2009
CDE088398- CDE088404	American Recovery and Reinvestment Act K-12 Agenda	
CDE088405- CDE088407	Colorado Growth Model Planning Budget	5/27/2009
CDE088408- CDE088417	Memo re: Allocation of ARRA Service Grant	6/1/2009
CDE088418- CDE088440	Memo re: Amended Request for Funds from the State Fiscal Stabilization Fund	6/30/2009
CDE088441- CDE088563	CDE News Releases re: Grants	2007- 2010
CDE088564- CDE088702	CDE State Longitudinal Data System (SLDS) Grant Project - Annual Report (2008, 2009), Application for Grants (2009), program information	2008- 2009
CDE088703- CDE088725	IES Statewide Annual Performance Report	2008
CDE088726	SLDS Contact Information	

CDE088727- CDE088779	SLDS Statewide Longitudinal Data Systems Grant	2007
<i>Weblink</i>	State and Federal Grant Distribution Reports at http://www.cde.state.co.us/cdefisgrant/Grant_Distribution_Reports.htm	

REQUEST FOR PRODUCTION NO. 11: The Colorado “Race to the Top” applications, drafts thereof, supporting exhibits, and documents describing, analyzing, or used or prepared in connection with the preparation thereof.

RESPONSE: Defendants object to this Request, which seeks all “documents” “describing, analyzing, or used or prepared in connection with” this wide-ranging subject area, on the ground that it is overly broad and unduly burdensome. Defendants further object to this Request on the ground that the phrase “describing, analyzing, or used or prepared in connection with the preparation” is vague and undefined. Finally, Defendants do not construe this Request to seek predecisional, deliberative documents assessing proposed or draft policy or legislation. Such a request would be overly broad, unduly burdensome, and may implicate the governmental deliberative process privilege.

Subject to and without waiving these objections and the General Objections, Defendants are producing contemporaneously herewith:

BATES #	Name	Document Date
CDE088780-CDE091918	Colorado Race to the Top (RttT) & American Recovery and Reinvestment (ARRA) documents	2009

REQUEST FOR PRODUCTION NO. 12: Speeches, reports, presentations, or publications by members of the legislature, the State Board of Education, the office of the Governor, members of the Joint Budget Committee, members of the House or Senate Education Committees, the Commissioner of Education, or employees of the Colorado Department of Education concerning public school finance, finance policy, or other considerations affecting public school funding and education reform.

RESPONSE: Defendants object to this Request, which seeks all “speeches, reports, presentations, or publications” “concerning” these wide-ranging subject areas over a 10-year time period, on the ground that it is overly broad and unduly burdensome, particularly in light of Plaintiffs’ sweeping definition of the term “concerning.” Defendants further object to this Request on the ground that it seeks to obtain discovery regarding the General Assembly, an entity that is not a party to this lawsuit and that the Office of the Attorney General does not represent as a matter of law. C.R.S. § 24-31-101. Defendants further object to this Request on the ground that the phrases “finance

policy,” “other considerations affecting public school funding,” and “education reform” are vague and undefined.

Subject to and without waiving these objections and the General Objections, Defendants are producing contemporaneously herewith:

BATES #	Name	Document Date
CDE091919-CDE091932	CDE Colorado Legislative Update 2008, Denver Scholarship Foundation	6/30/2008
CDE091933-CDE091948	An Overview of Governor Ritter's P-20 Education Coordinating Council	
CDE091949-CDE091974	An Overview of Governor Ritter's P-20 Education Coordinating Council	
CDE091975-CDE092050	2007-2009 Ritter Administration Accomplishments	2007-2009
CDE092051-CDE092053	Fact Sheet: August Budget Balancing for FY09-10	8/18/2009
CDE092054-CDE092061	Governor Bill Ritter, Jr. Education Highlights Summary of Education Reform Leadership	
CDE092062-CDE092094	CDE Understanding Colorado's Low Performing Schools	10/29/2009
CDE092095-CDE092099	Education Narrative (REDACTED)	
CDE092100	A Conversation for Fulfilling the Governor's Promise: Parent Engagement that Increases Student Achievement	
CDE092101-CDE092115	Governor's P-20 Education Reform in Colorado and Its Potential Impact on Female Students	
CDE092116-CDE092131	Governor's P-20 CAP4K & The Colorado STEM Network; Colorado Achievement Plan for Kids	
CDE092436-CDE092448	CASB Winter Legislative Conference	Feb. 2010

CDE092449-CDE092453	Institute of Science and Tech Groundbreaking	1/25/2010
CDE092454-CDE092458	CU Succeeds/Policy Innovators in Education Network Summit	10/14/2009
CDE092459-CDE092469	Colorado Dropout Summit	10/16/2009
CDE092470-CDE092474	2009 Denver Public Schools First Day of School	8/19/2009
CDE092475-CDE092477	2010 Denver Public Schools Foundation Annual Celebration	4/20/2010
CDE092478-CDE092482	P-20 Council Final Meeting	12/5/2008
CDE092483-CDE092489	Race to the Top News Conference	1/19/2010
CDE092490-CDE092496	Mesa State College Legislators and Trustees Lunch	1/27/2010
CDE092497-CDE092502	Public Education and Business Coalition Annual Luncheon	5/6/2010
CDE092503-CDE092507	Race to the Top News Conference	
CDE092508-CDE092514	Senate Bill 191 Signing Ceremony (REDACTED)	5/20/2010

REQUEST FOR PRODUCTION NO. 13: All documents relating to state education standards, including, but not limited to, differences between state standards and other School Districts standards (*e.g.*, Denver Public School District) regarding data evaluation pertaining to such standards.

RESPONSE: Defendants object to this Request, which seeks “all documents” “relating” to this wide-ranging subject area over a 10-year time period, on the ground that it is overly broad and unduly burdensome, particularly in light of Plaintiffs’ sweeping definition of the term “relating.” Defendants further object to this Request on the ground that the phrases “state education standards,” “state standards,” “other School District standards,” and “regarding data evaluation pertaining to such standards” are vague and undefined. Defendants further object to this Request, which seeks information on

standards adopted or followed by Plaintiff School Districts or other school districts, on the ground that such information is equally available to Plaintiffs. Finally, Defendants do not construe this Request to seek predecisional, deliberative documents assessing proposed or draft policy or legislation. Such a request would be overly broad, unduly burdensome, and may implicate the governmental deliberative process privilege. Subject to and without waiving these objections and the General Objections, Defendants are producing contemporaneously herewith:

BATES #	Name	Document Date
CDE092132-CDE092133	Schedule of Updates & Outreach for Colorado Model Content Standard Review	

REQUEST FOR PRODUCTION NO. 15: All documents, including, but not limited to, any studies, related to the Preschool to Postsecondary Education Alignment Act (“Cap4K”), C.R.S. §§ 22-7-1001, *et seq.*

RESPONSE: Defendants object to this Request, which seeks “all documents” “related” to this wide-ranging subject area, on the ground that it is overly broad and unduly burdensome, particularly in light of Plaintiffs’ sweeping definition of the term “relate[d].” Signed into law in May 2008, Cap4K is an education reform initiative that creates an aligned preschool to postsecondary educational system in Colorado. Cap4K, which will be implemented through 2014, will establish new standards and new assessments. Implementation is an ongoing process involving multiple entities who are not parties to this lawsuit, including the Colorado Department of Higher Education and the Colorado Education Association, among others. Defendants object to the burden of being asked to provide “all documents” “related” to this comprehensive 19-section statute and that statute’s passage, implementation, and administration. Finally, Defendants do not construe this Request to seek predecisional, deliberative documents assessing proposed or draft policy or legislation. Such a request would be overly broad, unduly burdensome, and may implicate the governmental deliberative process privilege.

Subject to and without waiving these objections and the General Objections, Defendants are producing contemporaneously herewith:

BATES #	Name	Document Date
CDE092134-CDE092138	The Colorado Achievement Plan for Kids (CAP4K)	
CDE092139-CDE092140	Colorado STEM Network & the Colorado Achievement Plan for Kids	

CDE092141-CDE092143	Governor Ritter's Colorado Achievement Plan for Kids (CAP4K)	
CDE092144-CDE092151	Colorado Governor Calling for New Standards, Tests	3/27/2008
CDE092152-CDE092154	Memorandum re: Preschool to Postsecondary Education Alignment (Draft)	3/7/2008
CDE092155-CDE092172	Governor's P-20 An Overview of State Education Reform in 2008	2008
CDE092173-CDE092176	P-20 / CAP4K Q&A	
CDE092177-CDE092178	Steps for Implementing CAP4K	
CDE092179-CDE092190	Overview of Colorado Achievement Plan for Kids	
CDE092191-CDE092192	Governor Ritter's Colorado Achievement Plan for Kids (CAP4K)	

REQUEST FOR PRODUCTION NO. 16: All documents related to the Education Accountability Act of 2009, C.R.S. §§ 22-11-101, *et seq.*

RESPONSE: Defendants object to this Request, which seeks “all documents” “related” to this wide-ranging subject area, on the ground that it is overly broad and unduly burdensome, particularly in light of Plaintiffs’ sweeping definition of the term “relate[d].” The Education Accountability Act of 2009 (SB 09-163) holds the state, districts, and individual public schools accountable for performance on a statewide set of indicators and related measures. The purposes of the law include: aligning conflicting accountability systems into a single system that meets federal approval; modernizing and aligning reporting of state, district, and school performance information; creating a fairer, clearer, and more effective cycle of support and intervention; and enhancing state, district and school oversight of improvement efforts. Defendants object to the burden of being asked to provide “all documents” “related” to this comprehensive 6-part, 38-section statute and that statute’s passage, implementation, and administration. Finally, Defendants do not construe this Request to seek predecisional, deliberative documents assessing proposed or draft policy or legislation. Such a request would be overly broad, unduly burdensome, and may implicate the governmental deliberative process privilege.

Subject to and without waiving these objections and the General Objections, Defendants are producing contemporaneously herewith:

BATES #	Name	Document Date
CDE092193-CDE092194	Colorado Growth Model Implementation	
CDE092195	SB 163 Accreditation Standards	
CDE092196-CDE092210	CDE Letter re: reauthorization of the Elementary and Secondary Education Act	3/25/2010

REQUEST FOR PRODUCTION NO. 18: All documents related to the English Language Proficiency Act, C.R.S. §§ 22-24-102, *et seq.*

RESPONSE: Defendants object to this Request, which seeks “all documents” “related” to this wide-ranging subject area over a 10-year time period, on the ground that it is overly broad and unduly burdensome, particularly in light of Plaintiffs’ sweeping definition of the term “relate[d].” Specifically, Defendants object to the burden of being asked to provide “all documents” “related” to this comprehensive 6-section statute regarding the establishment of, and funding and responsibility for, provision of assistance to students whose dominant language is not English, and that statute’s passage, implementation, and administration. Defendants further object to the burden of being asked to provide “all documents” “related” to this statute when many potentially responsive documents are in the possession of school districts. For example, C.R.S. § 22-24-105 sets forth school district powers and duties; documents relating to this section of the English Language Proficiency Act are thus presumably in the possession of Plaintiffs or are equally available to Plaintiffs. Finally, Defendants do not construe this Request to seek predecisional, deliberative documents assessing proposed or draft policy or legislation. Such a request would be overly broad, unduly burdensome, and may implicate the governmental deliberative process privilege.

Subject to and without waiving these objections and the General Objections, Defendants are producing contemporaneously herewith:

BATES #	Name	Document Date
CDE092211-CDE092223	CDE English Language Proficiency Act (ELPA) Program documents	2010

REQUEST FOR PRODUCTION NO. 20: All documents related to the Colorado Preschool Program Act, C.R.S. §§ 22-28-101, *et seq.*

RESPONSE: Defendants object to this Request on the ground that it is not reasonably calculated to lead to the discovery of admissible evidence. Defendants further object to

this Request, which seeks “all documents” “related” to this comprehensive statute and the statute’s wide-ranging subject area over a 10-year time period, on the ground that it is overly broad and unduly burdensome, particularly in light of Plaintiffs’ sweeping definition of the term “relate[d].” Specifically, Defendants object to the burden of being asked to provide “all documents” “related” to a comprehensive 15-section statute ranging in substantive areas from parental involvement in district preschool programs to the criteria for school district preschool programs to the membership and guidelines for district advisory councils. Finally, Defendants do not construe this Request to seek predecisional, deliberative documents assessing proposed or draft policy or legislation. Such a request would be overly broad, unduly burdensome, and may implicate the governmental deliberative process privilege.

Subject to and without waiving these objections and the General Objections, Defendants are producing contemporaneously herewith:

BATES #	Name	Document Date
<i>Weblink</i>	CDE Healthy Schools at http://www.cde.state.co.us/cdeprevention/healthyschools.htm	

REQUEST FOR PRODUCTION NO. 23: All documents related to Colorado Senate Bill SB 10-191 (2010).

RESPONSE: SB-10-191 is the Colorado Teacher Effectiveness Bill, which was signed into law on May 21, 2010. Defendants object to this Request to the extent Plaintiffs seek documents in the possession of non-parties, such as the General Assembly, that the Office of the Attorney General does not represent as a matter of law. C.R.S. § 24-31-101. To the extent potentially responsive documents are in the possession of various members of the Governor’s Council for Educator Effectiveness and to the extent the members are not employed by the Governor’s office or with the Colorado Department of Education or affiliated with the State Board of Education, such documents are equally available to the Plaintiffs. Defendants further object on the ground that the deadline for the Governor’s Council on Teacher Effectiveness to complete its work and report to the Governor, the General Assembly, and the State Board of Education is not until September 30, 2011, and thus this Request is premature. Defendants further object to this Request, which seeks “all documents” “related” to this comprehensive legislation, on the ground that it is overly broad and unduly burdensome particularly in light of Plaintiffs’ sweeping definition of the term “relate[d].” Finally, Defendants do not construe this Request to seek predecisional, deliberative documents assessing proposed or draft policy or legislation. Such a request would be overly broad, unduly burdensome, and may implicate the governmental deliberative process privilege.

Subject to and without waiving these objections and the General Objections, Defendants are producing contemporaneously herewith:

BATES #	Name	Document Date
CDE092229-CDE092232	SB 191 Timelines and Activities	
CDE092233-CDE092242	SB 10-191 Great Teachers and Leaders Fact Sheet	
CDE092515-CDE092725	Documents related to Senate Bill 10-191 Concerning Ensuring Quality Instruction through Educator Effectiveness (EQuITEE)	

DATED: February 10, 2011

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Original signature of Nicholas Heinke is on file at the Office of the Colorado Attorney General

CERTIFICATE OF SERVICE

This is to certify that I have duly served the within **DEFENDANTS' SECOND SUPPLEMENTAL RESPONSES TO PLAINTIFFS' FIRST SET OF DISCOVERY REQUESTS** upon all parties herein electronically through LexisNexis File & Serve this 10th day of February, 2011, addressed as follows:

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