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<p>DISTRICT COURT, DENVER COUNTY, COLORADO Denver City and County Building 1437 Bannock St. Denver, Colorado 80202</p>	
<p><b>Plaintiffs:</b> ANTHONY LOBATO, et al., and  <b>Plaintiff-Intervenors:</b> ARMANDINA ORTEGA, et al. v. <b>Defendants:</b> THE STATE OF COLORADO, et al.</p>	<p>▲ COURT USE ONLY ▲</p> <p>Case No. 2005CV4794</p> <p>Div. 9</p>
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**PLAINTIFFS' RESPONSE TO DEFENDANTS' FIRST SET OF INTERROGATORIES  
TO SCHOOL DISTRICT PLAINTIFFS:  
MONTE VISTA SCHOOL DISTRICT NO. C-8**

Pursuant to C.R.C.P. 33, Plaintiffs, Anthony Lobato, et al., ("Plaintiffs"), through counsel, hereby respond on behalf of Plaintiff Monte Vista School District No. C-8 ("Monte Vista") to Defendants' First Set of Interrogatories to School District Plaintiffs served October 12, 2010 ("Interrogatories"). The Interrogatories are referred to as Defendants' "Discovery Request."

Monte Vista responds to the Discovery Requests as follows (“Response to the Discovery” or “Response”):

### **GENERAL OBJECTIONS**

1. Best Knowledge, Information and Belief. This Response to the Discovery is made to the best of Plaintiffs’ present knowledge, information and belief. This Response is at all times subject to such additional or different information that discovery or further investigation may disclose and is subject to additional knowledge of facts, as may result from their further discovery or investigation. Plaintiffs reserve the right to supplement this Response in accordance with C.R.C.P. 26(e).

2. Subsequent Discovery of Documents or Information. Plaintiffs reserve the right to make any use of, or to introduce at any hearing and/or at trial, documents or other information responsive to the Discovery Request but discovered by Plaintiffs subsequent to the date of this Response to Discovery.

3. Attorney-Client Privilege and Work Product Doctrine. Plaintiffs object to the Discovery Request to the extent that it requests information protected by the attorney-client privilege, the work product doctrine, or any other applicable legal privilege against disclosure. Such privileged documents and information shall not be produced in response to the Discovery Request, and any inadvertent production thereof shall not be deemed a waiver of any privilege with respect to such documents or information.

4. Preservation of Objections. Plaintiffs reserve all objections as to the competency, relevance, materiality, privilege and/or admissibility as evidence in any subsequent proceeding and/or trial of this or any other action for any purpose whatsoever of any documents, information or things produced in this Response to the Discovery.

5. Definitions. Plaintiffs object to all definitions, instructions, interrogatories, and document requests in the Discovery Request in which the phrases “describe,” “relate to” or “relating to,” “every” and “all” appear. The terms “describe,” “relate to,” “relating to,” “every” and “all” are overly broad, vague, ambiguous and unintelligible, require subjective judgment on the part of Plaintiffs and their attorneys.

6. Expansive Definitions and Instructions. Plaintiffs object to all definitions and instructions to the Discovery Request to the extent that such definitions and instructions purport to enlarge, expand, or alter in any way the plain meaning and scope of any specific term, phrase or request on the grounds that such enlargement, expansion, or alteration renders such term, phrase or request vague, ambiguous, unintelligible, overbroad and uncertain. Plaintiffs also object to all definitions that purport to expand or enlarge Plaintiffs’ obligations under the Colorado Rules of Civil Procedure.

7. Time Period. Plaintiffs object to the Discovery Request to the extent that it requests information generated prior to 2005. Given the broad scope of the Discovery Requests

and the nature and evolution of education reform and education finance, any potential relevance of that information is substantially outweighed by the burden to collect, review, analyze, and produce that information in a responsive format. The requests for information generated prior to 2005 are therefore unduly burdensome, and such information will not be produced.

8. Confidentiality. This Response to the Discovery is made subject to the Confidentiality Order entered in this action. Any confidential information produced without being marked “Confidential” is unintentional and inadvertent, and Plaintiffs reserve the right to require that such information be marked and treated confidential or returned to Plaintiffs.

9. Burden. Plaintiffs object to the Discovery Requests to the extent they request information already in the possession of Defendants. Much of this information has been previously submitted to Defendants by Plaintiffs. It would be unduly burdensome, oppressive, and unreasonably duplicative to again provide such information to Defendants. Further, Plaintiffs object to the Discovery Requests to the extent the burden of deriving or ascertaining responses to the requests is substantially the same or less for Defendants than for Plaintiffs. Plaintiffs also object to the Discovery Requests to the extent they seek information obtainable from some other source that is more convenient, less burdensome, or less expensive.

10. Possession, Custody, or Control. Plaintiffs object to producing documents that are not within their possession, custody, or control.

11. Scope of Responsive Documents. The scope of documents that fall within the ambit of Plaintiffs’ obligations under C.R.C.P. 26(a)(1)(B) and the Discovery Request does not include e-mails stored on e-mail servers. Specifically, e-mails stored on e-mail servers are not relevant to disputed facts alleged with particularity in the pleadings and are not responsive to the Discovery Request. And, to the extent such e-mails are arguably relevant, the burden and expense of collecting, reviewing, and producing such documents substantially outweighs any likely benefit of producing these documents in light of the needs of Defendants, the parties’ resources, and the importance of the e-mails to this lawsuit. Where e-mails have been produced, such e-mails were stored on non-e-mail servers that stored responsive documents, and those produced e-mails had a particular relevance not shared by e-mails simply stored on e-mail servers. Moreover, Defendants have not produced e-mails stored on e-mail servers pursuant to Rule 26(a)(1) or Plaintiff’s Request for Production. Accordingly, e-mails stored on e-mail servers will not be produced.

12. Specific Objections. In addition to these General Objections, Plaintiffs may set forth other and further objections with their specific responses. By their specific objection, Plaintiffs do not intend to limit or restrict these General Objections.

13. Incorporation. Plaintiffs incorporate all of the foregoing General Objections into each Response to the Discovery Requests below.

## **INTERROGATORIES**

**Interrogatory No. 1:** Identify the person(s) who prepared or assisted in the preparation of the answers to these interrogatories and identify their relationship to you.

**Response:** Other than Monte Vista legal counsel, the following persons were principally involved with the preparation of the answers to these interrogatories:

Dwayne K. Newman, Superintendent Monte Vista C-8 S.D.

**Interrogatory No. 2:** Describe the amount of funding and resources you contend are sufficient to provide a “constitutionally adequate, quality education” as that phrase is used in the First Claim for Relief of the Complaint?

**Response:** In addition to the General Objections, Plaintiffs object to Interrogatory No. 2 because it prematurely seeks the production of expert information, materials, and opinions. *See* C.R.C.P. 26(b)(4)(a). Plaintiffs further object on the basis that Interrogatory No. 2 is a contention interrogatory, and Defendants have objected to contention interrogatories on the improper ground that such interrogatories are premature. Plaintiffs believe these objections are without merit, but to the extent such objections are valid, Plaintiffs should not have to respond to contention interrogatories.

Subject to and without waiving the foregoing and General Objections, Plaintiffs state that the general assembly has the duty to define and fund a constitutionally adequate, quality education, subject to judicial review. The general assembly has adopted definitions of a constitutionally adequate, quality education in several places. While definitions adopted in statute are not necessarily and finally determinative of the scope and content of the constitutional mandate of Article IX, section 2, of the Colorado Constitution (the Education Clause), Monte Vista accepts the existing definitions as generally valid for purposes of this litigation.

In the 2008 Preschool and Postsecondary Education Alignment Act, C.R.S. §§ 22-7-1001, *et seq.* (CAP4K), the general assembly found that:

From the inception of the nation, public education was intended both to prepare students for the workforce and to prepare them to take their place in society as informed, active citizens who are ready to both participate and lead in citizenship. In recent years, the emphasis in public education has been squarely placed on the areas of reading, writing, mathematics, and science, but it is important that education reform also emphasize the public education system’s historic mission of education for active participation in democracy.

C.R.S. § 22-7-1002(1)(c).

The general assembly has declared that the standards-based education system adopted in 1993, including content standards, student assessments, and student achievement of

performance standards, is intended to fulfill the duty to provide Colorado school children with a public education that meets that definition and to provide substance and specificity to the definition of a constitutionally adequate, quality education. In the 1993 Education Reform provisions, the general assembly stated that:

Every resident of the state six years of age or older but under twenty-two years of age has a fundamental right to a free public education that assures that such resident shall have the opportunity to achieve the content standards adopted pursuant to [the Education Reform provisions] at a performance level which is sufficient to allow such resident to become an effective citizen of Colorado and the United States, a productive member of the labor force, and a successful lifelong learner.

C.R.S. § 22-7-403(2).

In that same context, the general assembly declared that “the ultimate goal of [the standards-based education system] is to ensure that Colorado’s schools have standards which will enable today’s students of all cultural backgrounds to compete in a world economy in the twenty-first century.” C.R.S. § 22-7-401.

The general assembly reaffirmed this construction of a constitutionally adequate, quality education in CAP4K, where it expressly extended it to include preschool and postsecondary and workforce readiness:

[T]he state board of education and the Colorado commission on higher education must ensure that the standards for preschool through elementary and secondary education, culminating in postsecondary and workforce readiness, are sufficiently relevant and rigorous to ensure that each student who receives a public education in Colorado is prepared to compete academically and economically within the state or anywhere in the nation or the world.

C.R.S. § 22-7-1002(4)(e).

The general assembly has also found that students must be assured not only that they will attain a certain level of proficiency upon graduation, but also that at every grade level they shall have the opportunity to obtain the knowledge and skills necessary to succeed at subsequent grade levels. Thus, an “acceptable performance level” on state assessments means that:

[T]he student has the subject matter knowledge and analytical skills necessary to succeed at subsequent grade levels. For graduating students, such acceptable performance level shall mean the student has the subject matter knowledge and analytical skills that all high school graduates should have for democratic citizenship, responsible adulthood, postsecondary education, and productive careers.

C.R.S. § 22-7-402(9).

The general assembly has directed the establishment of a comprehensive accountability system in order to evaluate the “performance of the thorough and uniform statewide system of public education for all groups of students at the state, school district or institute, and individual public school levels.” C.R.S. § 22-11-102(1)(d). The general assembly further found that school district performance of the “thorough and uniform” mandate is to be measured by the standards of the Education Accountability Act, which broadly incorporates, but is not limited to, the entire system of education reform:

The general assembly hereby finds that section 2 of article IX of the state constitution requires the general assembly to provide for the establishment and maintenance of a thorough and uniform system of free public schools. The state therefore has an obligation to ensure that every student has a chance to attend a school that will provide an opportunity for a quality education. If a school is not providing a thorough and adequate education, as determined by the annual performance review conducted by the department pursuant to section 22-11-210, the state has an obligation to the students enrolled in that school to make changes to ensure that they have an opportunity to receive a quality education comparable to students in other public schools in the state.

C.R.S. § 22-30.5-301(1).

The measure of a constitutionally adequate, quality education, and thus the standard for determining the adequacy of public school funding, is established by the body of state legislation and regulation governing the public education system, including the provisions quoted above. This body of legislation and regulation also includes without limitation the provisions of C.R.S., title 22, article 7 (Educational Accountability), including, without limitation, Parts 4 (Education Reform) and 10 (the Preschool to Postsecondary Education Act); C.R.S., title 22, article 9 (the Licensed Personnel Performance Evaluation Act); C.R.S., title 22, article 11 (the Education Accountability Act of 2009); C.R.S., title 22, article 20 (the Exceptional Children’s Educational Act); C.R.S., title 22, article 24 (the English Language Proficiency Act); C.R.S., title 22, article 28 (the Colorado Preschool Program Act); C.R.S., title 22, article 30.5 (the Charter Schools Act); C.R.S., title 22, article 30.7 (On-line Education Programs); C.R.S. §22-32-109.1 (Safe Schools); C.R.S. § 22-32-116.5 (Extracurricular and Interscholastic Activities); C.R.S. §§ 2-32-119 and 119.5 (Kindergartens); C.R.S., title 22, article 33 (the School Attendance Law of 1963); C.R.S., title 22, article 35 (Concurrent Enrollment Programs Act); C.R.S., title 22, article 36 (Public Schools of Choice); C.R.S., title 22, article 60.5 (the Colorado Educator Licensing Act of 1991); and C.R.S., title 22, article 63 (the Teacher Employment, Tenure and Dismissal Act of 1990); Title IV, Part B, of the federal Elementary and Secondary Education Act (ESEA), as amended by the No Child Left Behind Act of 2001; C.R.S. §§ 22-1-113, -113.2, and 113.5 (Higher Education Admission Standards); including those statutes as they currently exist and their predecessor statutes; and the rules and regulations adopted pursuant thereto.

For purposes of this litigation, Monte Vista accepts the mandates set forth in state law governing public education and the rules and regulations promulgated pursuant thereto, some of which are quoted and cited above, as the present day standard of a thorough and uniform system

of public education. Therefore, the minimum amount of funding and resources sufficient to provide a constitutionally adequate, quality education is that amount of funding and resources necessary to provide every school district with sufficient funds and resources to meet the mandates of state law and regulation.

Plaintiffs will supplement this response by expert reports and testimony in accordance with the Case Management Order.

**Interrogatory No. 3:** Describe the amount of funding and resources you contend are sufficient to allow local boards of education and school districts “to fulfill the qualitative mandate of the Education Clause and the requirements of state and federal reform legislation” as that phrase is used in the Second Claim for Relief of the Complaint?

**Response:** Plaintiffs object to Interrogatory No. 3 because it prematurely seeks the production of expert information, materials, and opinions. *See* C.R.C.P. 26(b)(4)(a). Plaintiffs further object on the basis that Interrogatory No. 3 is a contention interrogatory, and Defendants have objected to contention interrogatories on the improper ground that such interrogatories are premature. Plaintiffs believe these objections are without merit, but to the extent such objections are valid, Plaintiffs should not have to respond to contention interrogatories.

Subject to and without waiving the foregoing and General Objections, Monte Vista states that it is the duty of the general assembly to develop, enact, and fund an “appropriate” public school finance system, subject to judicial review. An appropriate public school finance system is one that is rationally related to fulfilling and does in fact fulfill the duty of the general assembly to fund a system of public school education that provides sufficient resources to assure every child in the state with the opportunity to receive an education that meets the thorough and uniform mandates of the Education Clause and complies with the constitutionally mandated division of authority between the State and the local school district boards of education. *See* Response to Interrogatory No. 2, above, which is incorporated into this response along with all objections.

Plaintiffs will supplement this response by expert reports and testimony to be provided in accordance with the Case Management Order.

**Interrogatory No. 4:** Describe the system of public school finance in Colorado which you contend would be appropriate.

**Response:** Plaintiffs object to Interrogatory No. 4 because it prematurely seeks the production of expert information, materials, and opinions. *See* C.R.C.P. 26(b)(4)(a). Plaintiffs further object on the basis that Interrogatory No. 4 is a contention interrogatory, and Defendants have objected to contention interrogatories on the improper ground that such interrogatories are premature. Plaintiffs believe these objections are without merit, but to the extent such objections are valid, Plaintiffs should not have to respond to contention interrogatories.

Subject to and without waiving the foregoing and General Objections, Monte Vista states that an appropriate system of public school finance would include without limitation funding formulae and mechanisms that are based primarily on estimations of the actual costs associated with the provision of a constitutionally compliant system of public schools, as described above in response to Interrogatories Nos. 2-3 (which are incorporated in this response along with all objections stated therein), in contrast to a system of funding based simply on arbitrary percentage or fixed dollar adjustments to the previous year's funding formula or dollar allocation.

Plaintiffs will supplement this response by expert reports and testimony to be provided in accordance with the Case Management Order.

**Interrogatory No. 5:** Describe your mission statement and any actions you have taken to promote or instill an understanding of the District's mission among staff, students, teachers, principals, parents and the community.

**Response:** In addition to the General Objections, Plaintiffs object to Interrogatory No. 5 on the basis that it is vague, overbroad, burdensome, and calls for the discovery of irrelevant information not calculated to lead to the discovery of admissible evidence. Interrogatory No. 5 is especially overbroad and burdensome in its call for "any actions" taken by the district.

Subject to and without waiving the foregoing and General Objections, Monte Vista states that our mission is to build a safe, student focused, achievement oriented learning community for everyone.

The MVSD Mission Statement was revised during the 2009/2010 School year. The revision process included multiple meetings with staff, parents, community members and students. We started by identifying our core values, and then went on to discussions about the meaning and usefulness of a mission statement. From there we had discussions about what our mission should be as a public school. The ideas were gathered in open meetings and then combined and condensed into 4 finalist statements. The entire school community voted via a paper ballot and an online survey to select the final version.

Since that time information has gone out to the public in the press, discussions have been held about the Mission statement in staff meetings, and the Mission statement has been discussed in public meetings hosted by the Superintendent. Currently the district is working on a deeper definition of each portion of the Mission statement – providing clear language about what is meant by each part in terms of specific definitions and observable actions.

**Interrogatory No. 6:** Describe how you have provided professional development for District employees from 2000 to the present.

**Response:** In addition to the General Objections, Plaintiffs object to Interrogatory No. 6 on the basis that it is vague, overbroad, burdensome, and calls for the discovery of irrelevant information not calculated to lead to the discovery of admissible evidence. Interrogatory No. 6 is

especially unduly overbroad and burdensome because the scope of the phrases “professional services” and “District employees” could potentially include every act taken by Monte Vista over the course of five years, and the burden to identify and describe each and every act substantially outweighs the probative value of many of those acts.

Subject to and without waiving the foregoing and General Objections, Monte Vista states that prior to 2006, PD was provided to staff based on needs identified on a yearly basis. PD activities included on-site, one shot type activities, and off site one shot activities. In 2006 the elementary schools took part in a Reading First grant and the focus of PD changed from the one-shot type of activities to a focus toward ongoing coaching of staff. In 2009 the District developed a 5 year strategic plan, and the current method of providing PD is to gather data about professional practice, analyze that data, and plan PD each year that is congruent with the needs and the strategic plan.

**Interrogatory No. 7:** Describe the hiring processes for District employees, including identification of need and job posting through interviews, hiring and assessment.

**Response:** In addition to the General Objections, Plaintiffs object to Interrogatory No. 7 on the basis that it is vague, overbroad, burdensome, and calls for the discovery of irrelevant information not calculated to lead to the discovery of admissible evidence. Interrogatory No. 7 is especially unduly overbroad and burdensome because the scope of the phrase “hiring process” could potentially require a description of a large number of acts, and the burden to identify and describe each and every act substantially outweighs the probative value of many of those acts.

Subject to and without waiving the foregoing and General Objections, Monte Vista states that hiring typically occurs after a position is vacated by an existing staff member. Occasionally, a position will be created because of a change in work load. In classified areas this might be from a new set of job requirements, and in certified areas this might result from an increase in students in a particular class or activity.

Once the need is verified by the principal or department head, the superintendent is contacted with a request for additional staffing. The superintendent reviews that information and makes a decision to support or deny the request. (Typically the School Board is informed, but the board’s position has been that staffing is an administrative decision, not a policy decision.)

Jobs are posted in accordance with district policy. The announcement is made in-house first and then distributed in public. The advertisements are typically posted on CASE’s web site, sometimes on other on-line sites, and usually advertised in local and regional newspapers.

Applications are screened for completeness and to insure the candidate has the necessary skills and qualifications. Screening is done by a committee usually comprised of the supervisor, and one or more senior staff members. (For teaching staff parents and sometimes students may be included.)

After the advertised closing date, the committee interviews the top candidates. The interview process includes questions that relate directly to the job description. Typically the committee comes to consensus on the best candidate and recommends that individual to the principal or department head. The recommendation is forwarded to the superintendent, who reviews the process and then makes a recommendation to the school board.

**Interrogatory No. 8:** Identify the amount of money you have spent on this litigation and the source of funds used.

**Response:** In addition to the General Objections, Plaintiffs object to Interrogatory No. 8 on the basis that it is vague, overbroad, burdensome, and calls for the discovery of irrelevant information not calculated to lead to the discovery of admissible evidence. The amount of money spent on litigation has no bearing on the merits of claims and defenses asserted in this action, particularly because the claims in this action are based on violations of constitutional rights that preceded Monte Vista's involvement in this action. Plaintiffs also object to Interrogatory No. 8 because the phrase "money you have spent on this litigation" is vague. Plaintiffs interpret this interrogatory as a request to identify the amount of funds contributed to legal counsel in this litigation.

Subject to and without waiving the foregoing and General Objections, Monte Vista states that it has not contributed money in any amount that has an order of magnitude meaningfully comparable to Monte Vista's annual budget or the amount which the Defendants' are constitutionally required to provide but have failed to provide.

**Interrogatory No. 9:** Describe how the students in the District have failed to receive adequate educational opportunities from 2000 to the present.

**Response:** In addition to the General Objections, Plaintiffs object to Interrogatory No. 9 on the basis that it is vague, overbroad, burdensome, and calls for the discovery of irrelevant information not calculated to lead to the discovery of admissible evidence. Specifically, the term "failed" is vague and confusing. Moreover, Plaintiffs object to Interrogatory No. 9 because it prematurely seeks the production of expert information, materials, and opinions. *See* C.R.C.P. 26(b)(4)(a). Plaintiffs further object on the basis that Interrogatory No. 9 is a contention interrogatory, and Defendants have objected to contention interrogatories on the improper ground that such interrogatories are premature. Plaintiffs believe these objections are without merit, but to the extent such objections are valid, Plaintiffs should not have to respond to contention interrogatories.

Subject to and without waiving the foregoing and General Objections, Monte Vista states that "adequate educational opportunities" means at a minimum educational opportunities sufficient to permit each and every student to demonstrate proficiency in meeting the performance goals and standards established by state law, rule, and regulation; to demonstrate academic growth and achievement and critical-thinking and problem-solving skills necessary to ensure the student's ultimate success in school, in postsecondary education, in the workforce,

and in life; to be well prepared for active participation in democracy and to compete in the twenty-first-century workforce; and to ensure, to the extent possible, that he or she is prepared to meet his or her full potential, as set forth in C.R.S. §22-7-1002. To the extent that any student is not provided with an educational opportunity that meets these standards, he or she has failed to receive a constitutionally adequate educational opportunity. See also Response to Interrogatory No. 2-4, above, which are incorporated into this response along with all objections stated therein.

**Interrogatory No. 10:** Identify all grants received and how any grant monies were used.

**Response:** In addition to the General Objections, Plaintiffs object to Interrogatory No. 10 on the basis that it is vague, overbroad, burdensome, and calls for the discovery of irrelevant information not calculated to lead to the discovery of admissible evidence. Specifically, the terms “used” is vague and confusing and could potentially call for a large amount of information not reasonably calculated to lead to admissible evidence. Plaintiffs also object to this interrogatory because the information sought is already in the possession of Defendants. See [http://www.cde.state.co.us/index\\_finance.htm](http://www.cde.state.co.us/index_finance.htm)

Subject to and without waiving the foregoing and General Objections, Monte Vista states that information regarding grants is located in the grant and general budget documents produced herewith.

**Interrogatory No. 11:** Identify all resources of any kind received from the Colorado Department of Education.

**Response:** In addition to the General Objections, Plaintiffs object to Interrogatory No. 11 on the basis that the scope of information called for by this interrogatory is unduly burdensome to obtain, and the term “resources” is vague and confusing. Further, to the extent this interrogatory is not unintelligible, Defendants have the same access to the information requested by Interrogatory No. 11.

**Interrogatory No. 12:** Describe the programs the District has developed or used to provide educational opportunities to English Language Learner students from 2000 to the present.

**Response:** In addition to the General Objections, Plaintiffs object to Interrogatory No. 12 on the basis that it is vague, overbroad, burdensome, and calls for the discovery of irrelevant information not calculated to lead to the discovery of admissible evidence. Specifically, the terms and phrases “programs,” “has developed or used,” and “educational opportunities” are vague and unintelligible, and could be construed to call for an unduly overbroad and burdensome response. The request purports to call for a description of all programs related to English Language Learner students without regard to whether the program was ever used or implemented, and without regard to the size of the program or number of students involved. Further, many of “the programs the District has developed or used to provide educational opportunities to ‘English Language Learner students’” are developed or used to provide educational opportunities to all students, and to the extent the request calls for

descriptions of programs not aimed exclusively at “English Language Learner students,” Monte Vista incorporates its responses to all Interrogatories and the objections stated therein.

Subject to and without waiving the foregoing and General Objections, Monte Vista states that, upon entry to the school system, students fill out a form regarding their language skills, and which languages are spoken in their home. After reviewing that form, and assessing the student’s language proficiency informally, staff may refer the student for ELL testing. That testing then determines placement in the district’s ELL program.

The program starts with an individualized plan for each ELL student. These plans are reviewed periodically with the student and parents. The services provided through the plan may include:

- Individualized instruction in the classroom setting.
- Individualized or small group instruction in a pull-out setting.
- Instructional materials in their dominant language.
- Offers of tutoring after school and during summer breaks.
- Testing in their dominant language.

Throughout this process students are monitored and tested to determine the level of their English proficiency. After the student is determined to be proficient, they are exited from the program and monitored the same way as our general student population.

Staff have been provided, and are encouraged to, access professional development in targeted ELL instructional strategies.

**Interrogatory No. 13:** Describe the programs the District has developed or used to provide educational opportunities to gifted and talented students from 2000 to the present.

**Response:** In addition to the General Objections, Plaintiffs object to Interrogatory No. 13 on the basis that it is vague, overbroad, burdensome, and calls for the discovery of irrelevant information not calculated to lead to the discovery of admissible evidence. Specifically, the terms and phrases “programs,” “has developed or used,” “educational opportunities,” and “gifted and talented students” are vague and unintelligible, and could be construed to call for an unduly overbroad and burdensome response. The phrase “gifted and talented” is not defined, and it is not clear from the interrogatory what criteria are to be used to determine whether a student is “gifted and talented.” The request also purports to call for a description of all programs related to “gifted and talented students” without regard to whether the program was ever used or implemented, and without regard to the size of the program or number of students involved. Further, many of “the programs the District has developed or used to provide educational opportunities to ‘gifted and talented students’” are developed or used to provide educational opportunities to all students, and to the extent the request calls for descriptions of programs not aimed exclusively at “gifted and talented students,” Monte Vista incorporates its responses to all Interrogatories and the objections stated therein.

Subject to and without waiving the foregoing and General Objections, Monte Vista states that Educational opportunities for GT students include:

- Development of an Individualized Learning plan for students who qualify as GT.
- Targeted instruction in the regular education classroom.
- Placement in a GT class (elementary level).
- Accelerated curriculum delivery, or placement in higher level classes.
- Counseling services to encourage participation in curricular and co-curricular activities related to the area of giftedness.
- Scheduling the student into AP or dual enrollment classes related to the area of giftedness.
- Yearly reviews of the GT plan with the student, parents and staff.

**Interrogatory No. 14:** Describe the programs the District has developed or used to provide educational opportunities to “students at risk of academic failure,” as that phrase is used in paragraph 16 of the Complaint, from 2000 to the present.

**Response:** In addition to the General Objections, Plaintiffs object to Interrogatory No. 14 on the basis that it is vague, overbroad, burdensome, and calls for the discovery of irrelevant information not calculated to lead to the discovery of admissible evidence. Specifically, the terms and phrases “programs,” “has developed or used,” and “educational opportunities” are vague and unintelligible, and could be construed to call for an unduly overbroad and burdensome response. The request also purports to call for a description of all programs related to “students at risk of academic failure” without regard to whether the program was ever used or implemented, and without regard to the size of the program or number of students involved. Further, many of “the programs the District has developed or used to provide educational opportunities to ‘students at risk of academic failure’” are developed or used to provide educational opportunities to all students, and to the extent the request calls for descriptions of programs not aimed exclusively at “students at risk of academic failure,” Monte Vista incorporates its responses to all Interrogatories and the objections stated therein.

Subject to and without waiving the foregoing and General Objections, Monte Vista has implemented a tiered approach to intervening with students who are at risk of failure.

Currently the emphasis district-wide is to provide a system of high quality, research based instruction in every classroom. The District is also working on creating a curriculum that is tightly aligned to the State Academic Standards, and associated formative and summative assessments. Formation and adoption of these curriculum changes is a need identified during the Comprehensive Assessment of District Improvement which was completed by the District in May of 2009. The steps toward this adoption are identified in our Unified Improvement Plan – a plan required by the State Department of Education.

Additionally, the District is working to implement best practices in creating a safe and comfortable learning environment through implementation of the Positive Behavioral Interventions and Support.

Students who are identified as needing additional support may receive counseling, additional academic supports (both in and outside of regular classroom), referral to one of several embedded programs within the school, and/or referral to community support agencies.

Students who continue to be at risk may be referred for interventions through the Special Education programs.

Additionally, the District offers an on-line option for students at risk, and an alternative school setting for students starting into 10<sup>th</sup> grade or above.

**Interrogatory No. 15:** Describe the programs the District has developed or used to provide educational opportunities to “students with disabilities,” as that phrase is used in paragraph 16 of the Complaint, from 2000 to the present.

**Response:** In addition to the General Objections, Plaintiffs object to Interrogatory No. 15 on the basis that it is vague, overbroad, burdensome, and calls for the discovery of irrelevant information not calculated to lead to the discovery of admissible evidence. Specifically, the terms and phrases “programs,” “has developed or used,” and “educational opportunities” are vague and unintelligible, and could be construed to call for an unduly overbroad and burdensome response. The request also purports to call for a description of all programs related to “students with disabilities” without regard to whether the program was ever used or implemented, and without regard to the size of the program or number of students involved. Further, many of “the programs the District has developed or used to provide educational opportunities to ‘students with disabilities’” are developed or used to provide educational opportunities to all students, and to the extent the request calls for descriptions of programs not aimed exclusively at “students with disabilities,” Monte Vista incorporates its responses to all Interrogatories and the objections stated therein.

Subject to and without waiving the foregoing and General Objections, Monte Vista cooperates with the San Luis Valley BOCES to provide services for students with disabilities identified under IDEA. Services may include a spectrum of accommodations and modifications depending on student needs. The students identified with a disability have an Individual Education Plan and that plan dictates the scope of service.

Services may include:

- Instructional and classroom modifications and accommodations.
- Assessment modification and accommodations.
- Assistance from a paraprofessional within the classroom.
- Assistance from a teacher or paraprofessional outside the classroom.

- A modified schedule or offerings of additional instruction outside the regular school day.
- Placement within a classroom dedicated to meeting special needs. (Severe and Profound.)
- Referral for placement in a support facility – as appropriate.

Students who have disabilities which qualify for a “504” plan under ADA are offered the same range and types of services.

**Interrogatory No. 16:** Describe the programs the District has developed or used to provide educational opportunities to “students of low income families,” as that phrase is used in paragraph 16 of the Complaint, from 2000 to the present.

**Response:** In addition to the General Objections, Plaintiffs object to Interrogatory No. 16 on the basis that it is vague, overbroad, burdensome, and calls for the discovery of irrelevant information not calculated to lead to the discovery of admissible evidence. Specifically, the terms and phrases “programs,” “has developed or used,” and “educational opportunities” are vague and unintelligible, and could be construed to call for an unduly overbroad and burdensome response. The request also purports to call for a description of all programs related to “students of low income families” without regard to whether the program was ever used or implemented, and without regard to the size of the program or number of students involved. Further, many of “the programs the District has developed or used to provide educational opportunities to ‘students of low income families’” are developed or used to provide educational opportunities to all students, and to the extent the request calls for descriptions of programs not aimed exclusively at “students of low income families,” Monte Vista incorporates its responses to all Interrogatories and the objections stated therein.

Subject to and without waiving the foregoing and General Objections, Monte Vista states that students who come from low income families may be predisposed to a risk of failure. Therefore Monte Vista’s response is similar to the programs noted under No. 14 above. Additionally, Monte Vista has garnered donations from individuals and community groups which are used to supply these students with school supplies, and sometimes necessities such as coats or shoes.

Monte Vista participates in the Federal free and reduced priced breakfast and lunch programs. Students who qualify for free or reduced lunch are given discounts on fees, and materials charges. For example, a student on free lunch, may get a discount on personal gear that is needed for participation in a sport.

**Interrogatory No. 17:** Describe the programs the District has developed or used to provide educational opportunities to “students of minority racial and ethnic heritage,” as that phrase is used in paragraph 16 of the Complaint, from 2000 to the present.

**Response:** In addition to the General Objections, Plaintiffs object to Interrogatory No. 17 on the basis that it is vague, overbroad, burdensome, and calls for the discovery of irrelevant information not calculated to lead to the discovery of admissible evidence. Specifically, the terms and phrases “programs,” “has developed or used,” and “educational opportunities” are vague and unintelligible, and could be construed to call for an unduly overbroad and burdensome response. The request also purports to call for a description of all programs related to “students of minority racial and ethnic heritage” without regard to whether the program was ever used or implemented, and without regard to the size of the program or number of students involved. Further, many of “the programs the District has developed or used to provide educational opportunities to ‘students of minority racial and ethnic heritage’” are developed or used to provide educational opportunities to all students, and to the extent the request calls for descriptions of programs not aimed exclusively at “students of minority racial and ethnic heritage,” Monte Vista incorporates its responses to all Interrogatories and the objections stated therein.

Subject to and without waiving the foregoing and General Objections, Monte Vista is sensitive to the needs and supports diversity of all our students in alignment with our Mission. We keep the cultural diversity aspect of our community in mind with all our activities and provide services as appropriate to the student’s individual needs.

**Interrogatory No. 18:** Describe how the District measures the effectiveness of District employees.

**Response:** In addition to the General Objections, Plaintiffs object to Interrogatory No. 18 on the basis that it is vague, overbroad, burdensome, and calls for the discovery of irrelevant information not calculated to lead to the discovery of admissible evidence. Specifically, the terms and phrases “measures,” and “effectiveness” are vague and unintelligible, and could be construed to call for an unduly overbroad and burdensome response. Further, the district employs many different categories of employees, and a description of the manner in which the district measures the effectiveness of some types of employees is irrelevant to this action and not reasonably calculated to lead to admissible evidence.

Subject to and without waiving the foregoing and General Objections, Monte Vista states that district employee effectiveness is reviewed through the staff evaluation process. Here is an excerpt from District policy GCO:

File: GCO

**Evaluation of Instructional Staff**

The Board recognizes that **sound** appraisal of **teaching performance is critical in achieving the educational objectives of the school district.** The Board expects its supervisory and administrative staffs to exert **reasonable** efforts to help and encourage staff members to develop their teaching personalities and instructional abilities to an optimum degree.

In keeping with state law **and Board policy**, the performance evaluation system shall serve as a basis for the improvement of instruction, enhance the implementation of curricular programs, and measure professional growth and development and level of performance of **licensed** personnel. The evaluation system also shall serve as the measurement of satisfactory performance and documentation for dismissal for unsatisfactory performance.

The Board shall consult with district administrators, teachers, parents and the advisory school district personnel performance evaluation council in developing the evaluation system.

**Interrogatory No. 19:** Describe the District’s role in the delivery of education services to students in the District from 2000 to the present.

**Response:** In addition to the General Objections, Plaintiffs object to Interrogatory No. 19 on the basis that it is vague, overbroad, burdensome, and calls for the discovery of irrelevant information not calculated to lead to the discovery of admissible evidence. The term “role” is especially vague in both its substantive and temporal scope.

Plaintiffs also object to Interrogatory No. 19 because Defendants improperly objected to Plaintiffs’ Non-Pattern Interrogatory No. 5, which sought a description of the roles and responsibilities of certain defendants and government entities. Plaintiffs submit that such objections are improper. Nevertheless, to the extent Defendants’ objections are proper, Plaintiffs should not be required to respond to Interrogatory No. 19 on the basis that it is “overly broad, unduly burdensome and seeks information equally available to [Defendants]. Subject to and without waiving these objections and the General objections, [Plaintiffs] state that the legal roles and responsibilities of [Monte Vista] are set forth in Colorado law.” *See, e.g., Defendants’ Responses to Plaintiffs’ First Set of Discovery Requests* at 14.

Subject to and without waiving the foregoing and General Objections, Monte Vista states that a public school district, acting through its board of education, is charged with the constitutional power and duty to control instruction in the public schools within its jurisdiction and to implement the mandates of the Education Clause and the statutes, rules, and regulations adopted in furtherance thereof. Monte Vista is the direct provider of educational services to the school children within its jurisdiction and, as such, performs the duties and exercises the powers set forth by law, including, without limitation, employing, evaluating, and compensating licensed and other personnel, such as classroom teachers, school and district administrators, and staff; adopting and presenting the school curriculum in accordance with the mandates of state law and regulation; providing supplies, technology, and other materials in support of the curriculum; administering student achievement assessments; assessing and providing for the needs of special education, non-English speaking, at-risk, gifted and talented, and other student cohorts; building and maintaining school and other buildings; and operating a student transportation system.

Without limiting the generality of the foregoing, every action we take is part of our role in the delivery of educational services to students.

**Interrogatory No. 20:** Describe the programs and services you are unable to provide, as alleged in paragraph 181 of the Complaint.

**Response:** In addition to the General Objections, Plaintiffs object to Interrogatory No. 20 on the basis that it is vague, overbroad, burdensome, and calls for the discovery of irrelevant information not calculated to lead to the discovery of admissible evidence. Specifically, the phrase “programs and services” is vague and unintelligible, and could be construed to call for an unduly overbroad and burdensome response. Plaintiffs also object to Interrogatory No. 20 on the basis that Interrogatory No. 20 is a contention interrogatory, and Defendants have objected to contention interrogatories on the improper ground that such interrogatories are premature. Plaintiffs believe these objections are without merit, but to the extent such objections are valid, Plaintiffs should not have to respond to contention interrogatories.

Subject to and without waiving the General Objections, Monte Vista states that services that we are unable to provide adequately include:

- Student experiential learning opportunities.
- Access to current instructional support materials/equipment in the needed quantity.
- Access to sufficiently current technology.
- Access to fine arts programs in sufficient amounts.
- A learning environment reasonably safe and comfortable.
- Staff Professional Development.
- Services that would extend our collaboration further into the community with the goal of increasing student achievement.
- Sustainable and competitive staff compensation packages.
- Services that exceed the minimum requirements of mandated programs for targeted student populations.

**Interrogatory No. 21:** Identify the specific “rights,” as that term is used in paragraph 196 of the Complaint, which you allege each of the named Defendants violate.

**Response:** Plaintiffs object to Interrogatory No. 21 on the basis that Interrogatory No. 21 is a contention interrogatory, and Defendants have objected to contention interrogatories on the improper ground that such interrogatories are premature. Plaintiffs believe these objections are without merit, but to the extent such objections are valid, Plaintiffs should not have to respond to contention interrogatories.

Subject to and without waiving the foregoing and General Objections, Monte Vista states that, as alleged in paragraph 195 of the Amended Complaint, the Colorado system of public school finance fails to provide local boards of education and school districts with adequate funding to fulfill the qualitative mandate of the Education Clause and the requirements of state and federal education reform legislation. The combination of inadequate and irrational funding and the mandates and punitive enforcement provisions of education reform legislation effectively prevent the school districts from exercising meaningful control of instruction in the schools within their boundaries, in violation of their constitutional powers pursuant to the Local Control Clause and their duty and authority within the constitutional structure of governance of public education to provide educational programs and services that meet the qualitative standards of the Education Clause.

**Interrogatory No. 22:** Describe how each of the named Defendants violates the “rights” of the District, as that term is used in paragraph 196 of the Complaint.

**Response:** Plaintiffs object to Interrogatory No. 22 on the basis that Interrogatory No. 22 is a contention interrogatory, and Defendants have objected to contention interrogatories on the improper ground that such interrogatories are premature. Plaintiffs believe these objections are without merit, but to the extent such objections are valid, Plaintiffs should not have to respond to contention interrogatories.

Subject to and without waiving the foregoing and General Objections, Monte Vista states that there are two subjects that violate Monte Vista's rights listed in paragraph 196 of the Complaint: (1) the Colorado system of public school finance, and (2) Colorado education reform legislation. The Colorado system of public school finance fails to provide local boards of education and school districts with adequate funding to fulfill the qualitative mandate of the Education Clause and the requirements of state and federal education reform legislation. The combination of inadequate and irrational funding and the mandates and punitive enforcement provisions of education reform legislation effectively prevent the school districts from exercising meaningful control of instruction in the schools within their boundaries, in violation of their constitutional powers pursuant to the Local Control Clause and their duty and authority within the constitutional structure of governance of public education to provide educational programs and services that meet the qualitative standards of the Education Clause.

As explained above and in response to Interrogatory Nos. 2-4 and 21 (which are incorporated into this response along with all objections stated therein), the statutes and regulations that form the system of public school finance and education reform legislation are unconstitutional and violate Monte Vista's constitutional rights. Defendants violate the “rights” of Monte Vista by implementing these constitutional statutes and regulations. Defendants also exercise power and discretion in implementing the statutes, see C.R.S. §§ 22-2-106 & -107, and further violate the “rights” of Monte Vista by exercising that discretion and power in a manner that violates the Education and Local Control clauses. Further, and without limiting the foregoing, Defendants create and implement punitive enforcement provisions of education

reform legislation in a manner that prevents Monte Vista from exercising meaningful control of instruction in the schools within its boundaries.

**Interrogatory No. 23:** Identify each superintendent of the District and the length of their tenure since 2000.

**Response:** Subject to and without waiving the General Objections, Monte Vista identifies the following:

- Dwayne Newman, 7/2009 – Present; 345 E. Prospect Ave. Monte Vista, CO 81144, (719) 852 - 5996
- David Self, 7/2007 – 6/2009; South Fork, CO 81154 (719)873-5237
- Don Wilkinson, 4/2004 – 6/2007; 13874 W. 87th Lane, Arvada CO 80005
- Kelly Reed, 7/2003 – 3/2004; 2200 Broadway, Grand Junction CO 81503 (970)254-7000 (W)
- Don Wilkinson, 7/2001 – 6/2003; 13874 W. 87th Lane, Arvada CO 80005
- Tim Snyder, 7/1993 – 6/2001; email: s2snyder@gmail.com

**Interrogatory No. 24:** For each superintendent identified in Interrogatory 24, state the reasons for their departure.

**Response:** In addition to the General Objections, Plaintiffs object to Interrogatory No. 24 on the basis that it is vague, overbroad, and unduly burdensome. The phrase “state the reasons for their departure” is vague and potentially unduly burdensome in the scope of facts and detail potentially responsive to the request.

Subject to and without waiving the foregoing and General Objections, Monte Vista states the following:

- Dwayne Newman, N/A
- David Self, Contract Not Renewed
- Don Wilkinson, Retired
- Kelly Reed, Resignation
- Don Wilkinson, Retired
- Tim Snyder, Resignation

**Interrogatory No. 25:** Identify the District’s board members since 2000.

**Response:** Subject to and without waiving the General Objections, Monte Vista identifies the following:

DeSautell, Ron	240 Dennis Street	Monte Vista	CO	81144	(719)852-5933 (W)
Holm, David	619 Third Ave.	Monte Vista	CO	81144	(719)754-3494 (W)
Burnett, Linda	318 Batterson	Monte Vista	CO	81144	(719)852-3647 (H)
Ratzlaff, Tyler	339 E. Co. Rd. 5 S.	Monte Vista	CO	81144	(719)852-2561 (W)
Gosar, Kris	4001 E. Co. Rd. 2 1/2 N.	Monte Vista	CO	81144	
Burk, Priscilla	1499 N. US Hwy. 285	Monte Vista	CO	81144	(719)852-5218 (H)
Vigil, Gerald	PO Box 631	Monte Vista	CO	81144	(719)852-3581 (W)
McNeil, Mike	3335 Hwy. 15	Monte Vista	CO	81144	(719)852-2923 (H)
Armstrong, Tim	211 Batterson	Monte Vista	CO	81144	(719)852-2452
Hurley, April	1254 Swede Lane	Monte Vista	CO	81144	
Wilkinson, Don	13874 W. 87th Lane	Arvada	CO	80005	
Garcia, Corinna	512 Lariat Road	Monte Vista	CO	81144	(719)850-8428 (M)
Stehwien, Melissa	147 Malouff Drive	Monte Vista	CO	81144	(719)852-0924 (H)
Duran, Justin	337 Davis	Monte Vista	CO	81144	(719)849-8335
Neamon, Mary	929 Morton	Monte Vista	CO	81144	(719)852-5755 (H)
Nehring, Matt	416 Adams	Monte Vista	CO	81144	(719)852-3619 (H)

**Interrogatory No. 26:** Describe any visits by District administration or by Board members to other districts in Colorado or elsewhere for the purpose of learning how to enhance or improve the provision of education in the District.

**Response:** In addition to the General Objections, Plaintiffs object to Interrogatory No. 26 on the basis that it is vague, overbroad, and unduly burdensome. The term “visits” is vague and potentially unduly burdensome in the scope of facts and detail potentially responsive to the request. Similarly, the phrase “to other districts in Colorado or elsewhere” is exceedingly vague and broad in scope.

Subject to and without waiving the foregoing and General Objections, Monte Vista states that relevant activities have included:

- Visits by Board members to other schools to observe practice and operations.
- Participation of Board members in trainings.
- Participation of Board members in educational conferences.
- Participation of Board members in workshops.
- Visits by Administrators to other schools to observe practice and operations.
- Participation of Administrators in trainings.
- Participation of Administrators in educational conferences.
- Participation of Administrators in workshops.

**Interrogatory No. 27:** Describe the District’s summer school programs from 2000 to the present.

**Response:** In addition to the General Objections, Plaintiffs object to Interrogatory No. 27 on the basis that it is vague, overbroad, burdensome, and calls for the discovery of irrelevant information not calculated to lead to the discovery of admissible evidence. Specifically, the term “programs” is vague and could be construed to call for an unduly overbroad and burdensome response. The request also purports to call for a description of all summer school programs without regard to whether the program was ever used or implemented, and without regard to the size of the program or number of students involved.

Subject to and without waiving the foregoing and General Objections, Monte Vista states that the district has offered a “traditional” summer school to students at each level who have been identified as needing academic interventions. The programs at the elementary run three weeks prior to the start of school and focus on literacy. The middle level summer schools run for three weeks after school and again for a similar amount of time before school. (Time depends on funding.) The focus at the middle level is on math and literacy. At the High School Level, the summer programs run for five weeks. The High School program is voluntary and uses on-line curricula to focus on credit recovery.

The on-line curriculum is called Odysseyware. Information may be found at: <http://www.odysseyware.com/>.

Students at the elementary and middle levels are identified for participation in summer school based on:

- Staff recommendation.
- Lower than expected achievement on standardized tests.
- Lower than expected grades.
- Poor attendance – with associated low performance.

**Interrogatory No. 28:** Describe the District’s preschool programs from 2000 to the present.

**Response:** In addition to the General Objections, Plaintiffs object to Interrogatory No. 28 on the basis that it is vague, overbroad, and unduly burdensome. Monte Vista also objects to the definition of the term “preschool” provided in the Discovery Requests. The term Preschool, as the term is naturally understood, encompasses services provided to students prior to Kindergarten, which is provided to students prior to the first grade. Defendants’ definition of the term “preschool” extends the meaning of that word so far beyond its natural meaning that the term as defined is unintelligible, and any response that adheres to the definition would also be unintelligible.

Similarly, Monte Vista also objects to the vagueness of the term “programs,” especially when used in conjunction with the defined term “preschool.” Read literally, Interrogatory No. 28 asks for a description of “[all educational services provided to students prior to first grade] programs from 2000 to the present.” The terms “services” and “programs” appear redundant and are impermissibly vague in that they could potentially call for the discovery of irrelevant information not calculated to lead to the discovery of admissible evidence.

Subject to and without waiving the foregoing and General Objections, Monte Vista states that its preschool program began in 1988. At that time, class sizes were capped at 16 with a 1 to 8 adult/child ratio.

- In 2000, State funds supported 40 CPP slots at Marsh School. In addition, we applied for 40 full-day(FD) kindergarten slots and were granted 30 slots that same year. Class sizes were then capped at 15 with a 1 to 8 adult/child ratio. In addition, Monte Vista absorbed the fiscal responsibility of funding full-day kindergarten for the remaining enrollment in order to support all the young learners in our community. Each year approximately 70% of our population would be considered eligible for participation in CPP/CPKP.
- In 2004-2005, slots were redistributed in the state and we lost a percentage of our allotment. We served 34 preschoolers and 30 FD kindergartners through the 2005-2006 school year.
- In 2006, our preschool slots were reinstated and we again served 40 preschoolers and 30 FD kindergartners.
- In 2008-2009, we applied for and were granted 6 additional slots for a total of 46 preschool slots. The FD kindergarten slots were no longer available and PPOR was increased from .5 to .58% to begin supporting FD kindergarten statewide.
- We currently have 46 CPP slots and continue to fund full-day kindergarten for all students. Class size caps returned to 16 for CPP with a 1 to 8 adult/child ratio. There was no longer a cap on kindergarten class sizes and we averaged 19 per classroom.
- While maintaining our class-size caps and adult/child ratios, and depending on our CPP enrollment and the enrollment of students who are funded by special education monies, some years we are able to serve one or two students who do not meet the CPP eligibility requirements. Their families pay a tuition fee that is aligned with other early childhood fees in our community. This fee is not comparable to PPOR funding levels.

**Interrogatory No. 29:** Describe the District’s after-school programs from 2000 to the present.

**Response:** In addition to the General Objections, Plaintiffs object to Interrogatory No. 29 on the basis that it is vague and calls for the discovery of irrelevant information not calculated to lead to the discovery of admissible evidence. Specifically, the terms and phrases “programs” and “after-school,” are vague and unintelligible, and could be construed to call for an unduly overbroad and burdensome response.

Subject to and without waiving the foregoing and General Objections, Monte Vista provides the following:

- Athletic programs.
- Fine arts programs – band, theater, art contests.
- Academic support – homework help, CASA Start, academic competitions.
- Behavioral interventions – detentions, Saturday Schools
- Vocational programs – FBLA

- Community involvement activities – parent nights, fun nights, PT conferences, community meetings, Improvement Team (Accountability) meetings.

**Interrogatory No. 30:** Describe the District’s on-line learning programs.

**Response:** In addition to the General Objections, Plaintiffs object to Interrogatory No. 30 on the basis that it is vague and calls for the discovery of irrelevant information not calculated to lead to the discovery of admissible evidence. Specifically, the terms and phrases “programs” and “on-line learning,” are vague and unintelligible, and could be construed to call for an unduly overbroad and burdensome response.

Subject to and without waiving the foregoing and General Objections, Monte Vista states that its On Line Academy is a free, public, online school serving enrolled students in grades 6 - 12 anywhere in the state of Colorado. OLA is fully accredited by the Monte Vista School District through the Colorado Department of Education and is certified by both CDE and NCAA. We have a staff of certified teachers delivering standards based courses using the Internet as the primary delivery system.

OLA began in 1997, and meets the educational needs of students whose particular situations preclude the traditional public school setting. Students enroll in a challenging instructional program, which accommodates individual student needs while providing a quality education. A significant proportion of students completing their high school educational program through the On Line Academy continue their formal education through college attendance, and OLA transcripts are no different than other Colorado school transcripts for college admissions purposes. Monte Vista was the first to provide online instruction in Colorado and at that time one of a handful in the country to explore the educational capabilities that the Internet and computer technologies have for distance learning and alternative students.

Students in the On Line Academy can progress through their courses at a pace that works best for them; all courses are available to the student at all times. Students are not constrained by a daily schedule imposed from the school. Students have the daily freedom to take as much time as they need with any particular lesson or activity, while moving faster through concepts the student quickly masters..

We developed and continue to refine our curriculum, based on many years of alternative school experience and instructional technology knowledge. We are not affiliated with or tied to a specific commercial curriculum - we only use such curricula providers if we feel their product is superior to what we can develop ourselves. Our teachers have the opportunity for frequent collaboration offering a responsive, team approach to meeting the educational needs of every student.

**Interrogatory No. 31:** Describe the District’s “vocational and other programs,” for non-college bound students, as that phrase is used in paragraph 188 of the Complaint, from 2000 to the present.

**Response:** In addition to the General Objections, Plaintiffs object to Interrogatory No. 31 on the basis that it is vague and calls for the discovery of irrelevant information not calculated to

lead to the discovery of admissible evidence. The term “non-college bound students” is not defined and is especially vague and confusing given that Monte Vista views all of its students as college bound.

Subject to and without waiving the foregoing and General Objections, Monte Vista states that it offers vocational programs and non-college preparatory classes including industrial arts (woods, metal, and engine repair), business classes, art classes, and work release and job shadowing programs. *See also* handbooks and vocational education documents produced herewith.

**Interrogatory No. 32:** Describe what services students in the District receive from any BOCES, and in so doing, identify the BOCES.

**Response:** In addition to the General Objections, Plaintiffs object to Interrogatory No. 32 on the basis that it is vague and calls for the discovery of irrelevant information not calculated to lead to the discovery of admissible evidence. The term “services” is undefined and vague.

Subject to and without waiving the foregoing and General Objections, Monte Vista cooperates with the San Luis Valley BOCES. Monte Vista accesses services related to Exceptional Student Support: Audiologist, Speech Therapists, Psychologists, and any other service identified as a need on an IEP. Students in the GT and ELL programs also benefit, indirectly, from BOCES support. BOCES also provides support for Homeless students, and Migrant students.

Students also receive indirect service through their support of our Severe Needs students.

**Interrogatory No. 33:** Describe the District’s capital maintenance plan and budget from 1995 to the present.

**Response:** In addition to the General Objections, Plaintiffs object to Interrogatory No. 33 on the basis that it is vague and calls for the discovery of irrelevant information not calculated to lead to the discovery of admissible evidence. The temporal scope of the request is also especially unduly broad.

Subject to and without waiving the General Objections, Monte Vista did not have a Facility master plan prior to last year. The current plan was developed as part of the Building Excellent Schools Today grant application.

**Interrogatory No. 34:** Describe the steps the District has taken to generate local funds to support the District’s schools, including but not limited to bonds, mill levies, or other tax increases, from 2000 to the present.

**Response:** In addition to the General Objections, Plaintiffs object to Interrogatory No. 34 on the basis that it is vague, unduly burdensome and calls for the discovery of irrelevant

information not calculated to lead to the discovery of admissible evidence. Specifically, the terms “steps” and “generate” are vague and potentially call for an unreasonable amount of information that is neither relevant to the claims or defenses in this matter nor reasonably calculated to lead to admissible evidence. Plaintiffs also object to this interrogatory because the information sought is already in the possession of Defendants. *See* [http://www.cde.state.co.us/index\\_finance.htm](http://www.cde.state.co.us/index_finance.htm)

Subject to and without waiving the foregoing and General Objections, Monte Vista states that it has had Mill Levy override and a successful bond campaign within the last 5 years. Both occurred in 2008.

**Interrogatory No. 35:** Describe the District’s efforts to diminish truancy from 2000 to present.

**Response:** In addition to the General Objections, Plaintiffs object to Interrogatory No. 35 on the basis that it is vague, unduly burdensome and calls for the discovery of irrelevant information not calculated to lead to the discovery of admissible evidence. Specifically, the terms “efforts” and “truancy” are especially vague.

Subject to and without waiving the foregoing and General Objections, Monte Vista states that efforts to diminish truancy have include:

- Adoption of appropriate policies.  
<http://www.monte.k12.co.us/Boardpolicies/policies/JHB.pdf>
- Adoption of procedures, based on those policies, at each building.
- Systemic efforts to improve atmosphere – positive incentives for attendance.
- Individual counseling of students.
- Individual counseling of parents.
- Referral of students/parents to appropriate service agencies and law enforcement.
- Professional development for staff on preventing truancy.

**Interrogatory No. 36:** Describe the District’s extended learning programs from 2000 the [sic] present.

**Response:** In addition to the General Objections, Plaintiffs object to Interrogatory No. 36 on the basis that it is vague, overbroad, burdensome, and calls for the discovery of irrelevant information not calculated to lead to the discovery of admissible evidence. The phrase “extended learning programs” is vague and confusing. For example, it is unclear whether the phrase calls for programs provided after school hours, during the summer, or after a traditional student graduates from high school. To the extent Interrogatory No. 36 calls for information related to all three categories, Interrogatory No. 36 is impermissibly compound and will be counted as three separate interrogatories. Subject to and without waiving the foregoing and General Objections, Monte Vista incorporates its responses to Interrogatories Nos. 27 and 29.

**Interrogatory No. 37:** Describe the District's actions to improve the delivery of education services to all children in the District from 2000 to the present.

**Response:** In addition to the General Objections, Plaintiffs object to Interrogatory No. 37 on the basis that it is vague, overbroad, burdensome, and calls for the discovery of irrelevant information not calculated to lead to the discovery of admissible evidence. Interrogatory No. 37 could be read to call for discovery of literally every action of Monte Vista for the last ten years. Also, as explained above, any possible relevance of facts about Monte Vista prior to 2005 is substantially outweighed by the undue burden and expense in responding to the request. Monte Vista will limit the relevant timeframe in responding to Interrogatory No. 37 to 2005 to the present.

Subject to and without waiving the foregoing and General Objections, every action we undertake is focused on improving the education for our students.

Those actions include, but are not limited to:

- Systemic Improvement Planning.
- Supervising and Managing schools to provide a safe learning environment.
- Providing extra-curricular and co-curricular learning activities.
- Adoption of curriculum materials focused on improving achievement.
- Involving students, parents, and the community in efforts to improve.
- Providing professional development and coaching for staff.
- Budgeting appropriately.
- Adopting and implementing appropriate policy.
- Building and maintaining educational facilities.
- Providing transportation for students.
- Providing nutritious meals for students.

**VERIFICATION**

I hereby certify that I have read and reviewed the foregoing **PLAINTIFFS' RESPONSE TO DEFENDANTS' FIRST SET OF INTERROGATORIES TO SCHOOL DISTRICT PLAINTIFFS: MONTE VISTA SCHOOL DISTRICT NO. C-8** and know the contents thereof. I am informed, and on the basis of such information and belief allege, that the foregoing responses are true and correct, although many of the facts stated therein are not within my personal knowledge. I am authorized by Monte Vista to verify these responses on its behalf.

Monte Vista School District No. C-8

\_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF COLORADO                    )  
  ) ss.  
COUNTY OF \_\_\_\_\_                )

The foregoing instrument was subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_, 2010.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

(S E A L)

Dated December 15, 2010

DAVIS GRAHAM & STUBBS LLP

*/s/ Geoffrey C. Klingsporn*

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***The original, executed document is on file at the offices of Davis Graham & Stubbs LLP.***

**CERTIFICATE OF SERVICE**

The undersigned certifies that on the 15th day of December, 2010, a true and correct copy of the foregoing **PLAINTIFFS' RESPONSE TO DEFENDANTS' FIRST SET OF INTERROGATORIES TO SCHOOL DISTRICT PLAINTIFFS: MONTE VISTA SCHOOL DISTRICT NO. C-8** was served, via LexisNexis® File & Serve, addressed to the following:

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*/s/ Fern O. Spangler* \_\_\_\_\_  
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***[The original, executed document is on file at the offices of Davis Graham & Stubbs LLP.]***