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<p>DISTRICT COURT, DENVER COUNTY, COLORADO Denver City and County Building 1437 Bannock St. Denver, Colorado 80202</p>	
<p>Plaintiffs: ANTHONY LOBATO, et al., and Plaintiff-Intervenors: ARMANDINA ORTEGA, et al. v. Defendants: 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' FIRST SUPPLEMENTAL RESPONSE TO DEFENDANTS' FIRST
DISCOVERY REQUESTS TO SCHOOL DISTRICT PLAINTIFFS:
AURORA, JOINT SCHOOL DISTRICT NO. 28**

Pursuant to C.R.C.P. 26 and 34 Plaintiffs, Anthony Lobato, et al., (“Plaintiffs”), through counsel, hereby supplement Plaintiff’s Combined Response To Defendants’ First Discovery Requests to School District Plaintiffs: Aurora, Joint School District No. 28. This supplemental response is made on behalf of Plaintiff Aurora, Joint School District No. 28 (“APS”), and

supplements APS's response to Defendants' First Set of Interrogatories to School District Plaintiffs served October 12, 2010 ("Interrogatories") and to Defendants' First Request For Production Of Documents to School District Plaintiffs served October 12, 2010 ("Request for Production"). The Interrogatories and Request for Production are collectively referred to as Defendants' "Discovery Request."

APS responds to the Discovery Request as follows ("Supplemental Response to Discovery" or "Supplemental Response"):

GENERAL OBJECTIONS

1. Best Knowledge, Information and Belief. This Response to 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 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 this Response to Discovery, 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 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, unintelligible, and 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 Request 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 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 Request to the extent that it requests 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 Request to the extent that the burden of deriving or ascertaining responses is substantially the same or less for Defendants than for Plaintiffs. Plaintiffs also object to the Discovery Request to the extent it seeks 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 Plaintiffs' 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 specific objections with each response. By any 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 Request below.

DOCUMENTS REQUESTED

Document Request No. 1: All District school board meeting materials, including but not limited to minutes, agendas, resolutions, or other materials provided to school board members prior to, at, or following any school board meeting from 2000 to the present.

Response: In addition to the General Objections, Plaintiffs object to Request for Production No. 1 because it is vague, overbroad, and burdensome in substantive and temporal scope of its request.

Subject to and without waiving the General Objections, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS002387-APS004269, APS035140-APS035952.

Document Request No. 2: All documents relating to any preschool services the District provides, whether directly or indirectly, from 2000 to the present.

Response: In addition to the General Objections, Plaintiffs object to Request for Production No. 2 because it is vague, overbroad, and burdensome in scope and because the definition of “preschool” set forth in the Discovery Request expands the meaning of that term to the point that it has lost its plain or intelligible meaning. The language of Request for Production No. 2 also is unintelligible--it is not clear whether it requests (1) documents that directly or indirectly related to preschool services, or (2) documents that relate to preschool services provided directly or indirectly to students.

Subject to and without waiving the General Objections, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS002160-APS002386, APS098560-APS098565, APS098594, APS098607, APS098615-APS098619, APS098727-APS098728, APS098763 , APS099083-APS099085, APS099144-APS099149, APS099151-APS099154, APS099171- APS099173, APS099283 , APS099285, APS099431-APS099434, APS099527, APS099541, APS099549, APS099552, APS099660, APS099662, APS099664-APS099666, and APS099682.

Document Request No. 3: All documents concerning school transportation in the District, such as number of vehicles in the fleet, costs of fleet maintenance, and average age of the vehicles, from 2000 to the present.

Response: In addition to the General Objections, Plaintiffs object to this Request for Production on the basis that it is vague, overbroad, and burdensome.

Subject to and without waiving the General Objections, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS000001-APS496778, APS001039, APS001074-APS001075, and APS001456.

Document Request No. 4: All documents, including but not limited to plans, proposals, or studies, prepared by or for the District relating to improving the quality of education in the District.

Response: In addition to the General Objections, Plaintiffs object to this Request for Production on the basis that it is vague, overbroad, and burdensome.

Subject to and without waiving the General Objections, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS046991-APS047587, APS058461-APS093476, APS100378-APS101641, APS103921-APS104042, APS104611-APS104828, ASP105798-APS105978, and APS477777-APS495575.

Document Request No. 5: All District newsletters, brochures, bulletins, or other documents provided to parents and taxpayers (not including communications regarding individual students) from 2000 to the present.

Response: In addition to the General Objections, Plaintiffs object to this Request for Production 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.

Subject to and without waiving the General Objections, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS103826-APS103920, APS105345-APS105444, and APS105055-APS105302.

Document Request No. 6: All documents concerning studies or evaluations of the factors or programs influencing student achievement in the District from 2000 to the present.

Response: In addition to the General Objections, Plaintiffs object to this Request for Production on the basis that it is vague, overbroad, and burdensome.

Subject to and without waiving the General Objections, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS017732-APS023539, APS009490-APS012450, APS038926-APS039070, APS058460, APS094135-APS095832, APS098560-APS099773, APS101642-APS103227, APS475043-APS495575, APS496096-APS496099, and APS104829-APS104840.

Document Request No. 7: All documents concerning comparison of resources and expenditures in the District with the resources and expenditures of other school districts in the State of Colorado.

Response: In addition to the General Objections, Plaintiffs object to this Request for Production on the basis that it is vague, overbroad, and burdensome.

Subject to and without waiving the General Objections, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS000001-APS496778.

Document Request No. 8: All documents concerning the evaluation of the performance of the District's teachers, including, without limitation, the results of such evaluations, from 2000 to the present.

Response: In addition to the General Objections, Plaintiffs object to this Request 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, especially to the extent it seeks information regarding individual teachers. The District will not produce evaluations of individual teachers.

Subject to and without waiving the General Objections, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS002043-APS002159, APS105342-APS105344, and APS499348-APS499352.

Document Request No. 9: All documents concerning programs, services, or resources for children "at risk of academic failure," as that phrase is used in paragraph 16 of the Complaint, implemented or adopted by the District in one or more of its schools from 2000 to the present.

Response: In addition to the General Objections, Plaintiffs object to this Request for Production on the basis that it is vague, overbroad, and burdensome.

Subject to and without waiving the General Objections, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS100378-APS101641, APS105319-APS105330, APS105545-APS105704, and APS103921-APS103961.

Document Request No. 10: All documents concerning programs, services, or resources for "students with disabilities," as that phrase is used in paragraph 16 of the Complaint, other than individual education plans, implemented or adopted by the District in one or more of its schools from 2000 to the present.

Response: In addition to the General Objections, Plaintiffs object to this Request for Production on the basis that it is vague, overbroad, and burdensome.

Subject to and without waiving the General Objections, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS105545-APS105764, APS103778-APS101641, and APS104398-APS104403.

Document Request No. 11: All documents concerning programs, services, or resources for English Language Learner students implemented or adopted by the District in one or more of its schools from 2000 to the present.

Response: In addition to the General Objections, Plaintiffs object to this Request for Production on the basis that it is vague, overbroad, and burdensome.

Subject to and without waiving the General Objections, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS039071-APS046979, APS103778-APS101641, APS106101-APS107132, APS469148-APS471588, and APS103921-APS103997.

Document Request No. 12: All documents concerning programs, services, or resources for "students of low income families," as that phrase is used in paragraph 16 of the Complaint, implemented or adopted by the District in one or more of its schools from 2000 to the present.

Response: In addition to the General Objections, Plaintiffs object to this Request for Production on the basis that it is vague, overbroad, and burdensome.

Subject to and without waiving the General Objections, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS001385-APS001387, and APS104907-APS105054.

Document Request No. 13: All documents concerning programs, services, or resources for "students of minority racial and ethnic heritage," as that phrase is used in paragraph 16 of the Complaint, implemented or adopted by the District in one or more of its schools from 2000 to the present.

Response: In addition to the General Objections, Plaintiffs object to this Request for Production on the basis that it is vague, overbroad, and burdensome.

Subject to and without waiving the General Objections, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS104151-APS104152, APS106101-APS107132, and APS104907-APS105054.

Document Request No. 14: All documents concerning "vocational and other education programs," as that phrase is used in paragraph 188 of the Complaint, for non-college bound students implemented or adopted by the District in one or more of its schools from 2000 to the present.

Response: In addition to the General Objections, Plaintiffs object to this Request for Production on the basis that it is vague, overbroad, and burdensome.

Subject to and without waiving the General Objections, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS000001-APS496778, APS105221 – APS105226, APS105232 – APS105233, and APS105296 – APS105302.

Document Request No. 15: All documents concerning gifted and talented programs, services, or resources implemented or adopted by the District in one or more of its schools from 2000 to the present.

Response: In addition to the General Objections, Plaintiffs object to this Request for Production on the basis that it is vague, overbroad, and burdensome.

Subject to and without waiving the General Objections, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS009362-APS009489, APS1003778-APS101641, APS103493-APS103547, APS104054-APS104080, and APS104153-APS105156.

Document Request No. 16: All documents concerning programs or efforts to enhance parent involvement with their children's education from 2000 to the present.

Response: In addition to the General Objections, Plaintiffs object to this Request for Production on the basis that it is vague, overbroad, and burdensome.

Subject to and without waiving the General Objections, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS103998-APS104018, and APS105622-APS105623.

Document Request No. 17: All documents concerning presentations given by District leaders, including but not limited to school board members, the District's Superintendent, the District's Chief Financial Officer, or the District's business manager, regarding District budget and finances.

Response: In addition to the General Objections, Plaintiffs object to this Request for Production on the basis that it is vague, overbroad, and burdensome.

Subject to and without waiving the General Objections, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS000001-APS496778, APS002387-APS004239, APS00001-APS001466, and APS496782-APS499347.

Document Request No. 18: All documents concerning the District's annual budgets and expenditures, including school-level budgets and expenditures (other than the budgets submitted to the Colorado Department of Education) from 2000 to the present.

Response: In addition to the General Objections, Plaintiffs object to this Request for Production on the basis that it is vague, overbroad, and burdensome.

Subject to and without waiving the General Objections, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS000001-APS001466, and APS496782-APS499347.

Document Request No. 19: All documents concerning the maintenance of the District's school facilities from 2000 to the present.

Response: In addition to the General Objections, Plaintiffs object to this Request for Production on the basis that it is vague, overbroad, and burdensome.

Subject to and without waiving the General Objections, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS000001-APS496778, APS000287-APS000312, APS000394-APS000397, APS000767-794, APS000874-APS000877, and APS496782-APS498151.

Document Request No. 20: All documents concerning "school district accountability committees."

Response: In addition to the General Objections, Plaintiffs object to this Request for Production on the basis that it is vague, overbroad, and burdensome.

Subject to and without waiving the General Objections, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS035140-APS035952.

Document Request No. 21: All studies regarding the school funding system in this State.

Response: In addition to the General Objections, Plaintiffs object to this Request for Production on the basis that it is vague, overbroad, and burdensome.

Subject to and without waiving the General Objections, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS000001-APS496778, and L000001-L003273.

Document Request No. 22: All documents relating to your alleged inability to hire highly qualified administrators, teachers and paraprofessionals, as set forth in paragraph 182 of the Complaint, from 2000 to the present.

Response: In addition to the General Objections, Plaintiffs object to this Request for Production on the basis that it is vague, overbroad, and burdensome.

Subject to and without waiving the General Objections, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS103921-APS103961.

Document Request No. 23: All documents relating to your allegation that capital construction funding for your district is inadequate, as alleged at paragraph 190 of the Complaint.

Response: In addition to the General Objections, Plaintiffs object to this Request for Production on the basis that it is vague, overbroad, and burdensome.

Subject to and without waiving the General Objections, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS000001-APS496778, APS000394-APS000397, APS000767-794, APS000874-APS000877, and APS496782-APS498151

Document Request No. 24: All documents relating to your allegation that you lack adequate resources, as alleged at paragraph 184 of the Complaint.

Response: In addition to the General Objections, Plaintiffs object to this Request for Production on the basis that it is vague, overbroad, and burdensome.

Subject to and without waiving the General Objections, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS000001-APS496778.

Document Request No. 25: All documents relating to extended learning programs from 2000 to the present.

Response: In addition to the General Objections, Plaintiffs object to this Request for Production on the basis that it is vague, overbroad, and burdensome.

Subject to and without waiving the General Objections, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS023540-APS023568 and APS015336-APS105337.

Document Request No. 26: All District documents relating to truancy, including but not limited to the costs associated with truancy and any efforts to diminish truancy, from 2000 to the present.

Response: In addition to the General Objections, Plaintiffs object to this Request for Production on the basis that it is vague, overbroad, and burdensome.

Subject to and without waiving the General Objections, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS004270-APS004694 and APS012451-APS017731.

Document Request No. 27: All documents relating to District plans, programs, and proposals to improve the delivery of education services, from 2000 to the present.

Response: In addition to the General Objections, Plaintiffs object to this Request for Production on the basis that it is vague, overbroad, and burdensome.

Subject to and without waiving the General Objections, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS000001-APS496778, and APS498152-APS499347.

Document Request No. 28: All documents relied upon in answering Defendants' First Set of Interrogatories.

Response: In addition to the General Objections, Plaintiffs object to this Request for Production on the basis that it is vague, overbroad, and burdensome.

Subject to and without waiving the General Objections, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS000001-APS499347.

VERIFICATION

I hereby certify that I have read and reviewed the foregoing **PLAINTIFFS' COMBINED FIRST SUPPLEMENTAL RESPONSE TO DEFENDANTS' FIRST DISCOVERY REQUESTS TO SCHOOL DISTRICT PLAINTIFFS: AURORA, JOINT SCHOOL DISTRICT NO. 28** 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 APS to verify these responses on its behalf.

Aurora, Joint School District No. 28

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: March 1, 2011

DAVIS GRAHAM & STUBBS LLP

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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 1st day of March, 2011, a true and correct copy of the foregoing **PLAINTIFFS' COMBINED FIRST SUPPLEMENTAL RESPONSE TO DEFENDANTS' FIRST DISCOVERY REQUESTS TO SCHOOL DISTRICT PLAINTIFFS: AURORA, JOINT SCHOOL DISTRICT NO. 28** was served, via LexisNexis® File & Serve, addressed to the following:

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