



Mar 15 2011
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<p>DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO 1437 Bannock Street Denver, Colorado 80202</p>	<p><input type="checkbox"/> COURT USE ONLY <input type="checkbox"/></p>
<p>PLAINTIFFS: Anthony Lobato, <i>et al.</i></p> <p>and</p> <p>PLAINTIFFS-INTERVENORS: Armandina Ortega, <i>et al.</i></p> <p>v.</p> <p>DEFENDANTS: The State of Colorado, <i>et al.</i></p>	
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<p align="center">DEFENDANTS' <u>THIRD</u> SUPPLEMENTAL RESPONSES TO PLAINTIFFS' <u>FIRST</u> SET OF DISCOVERY REQUESTS</p>	

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

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

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

GENERAL OBJECTIONS

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

8. Defendants object to the discovery requests to the extent the requests seek the premature disclosure of expert testimony. Defendants will submit expert reports and make their experts available for deposition pursuant to the Modified Case Management Order.

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

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

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

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

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

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

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

II. REQUEST FOR PRODUCTION

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

RESPONSE: Defendants object to this Request, which seeks "all documents" "concerning" these wide-ranging subject areas over a 10-year time period, on the ground that it is overly broad and unduly burdensome, particularly in light of Plaintiffs' sweeping definition of the term "concerning." Defendants further object to this Request on the ground that it seeks information from an entity not a party to this suit and who is not

represented by Defendants' counsel as a matter of law. C.R.S. § 24-31-101. Defendants further object to this Request on the ground that the phrases "finance policy," "other considerations affecting public school funding," and "education reform" are vague and undefined. Defendants further object to this Request on the ground that it seeks to discover public records equally available to Plaintiffs. Finally, Defendants do not construe this Request to seek predecisional, deliberative documents assessing proposed or draft policy or legislation. Such a request would be overly broad, unduly burdensome, and may implicate the governmental deliberative process privilege.

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

BATES #	Name	Document Name
CDE094386- CDE094399	FY2010-11 and FY2011-12 Executive Budget Requests	2/15/2011
CDE094400- CDE094413	Gov. John Hickenlooper's FY2011-12 Budget Balancing Plan	2/15/2011

Dated: March 15, 2011

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CERTIFICATE OF SERVICE

This is to certify that I have duly served the within **DEFENDANTS' THIRD SUPPLEMENTAL RESPONSES TO PLAINTIFFS' FIRST SET OF DISCOVERY REQUESTS** upon all parties herein via electronic mail, Lexis/Nexis File & Serve, and/or U.S. Mail this 15th day of March, 2011:

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