



May 23 2011  
6:08PM

DISTRICT COURT, CITY AND COUNTY OF  
DENVER, COLORADO  
1437 Bannock Street  
Denver, Colorado 80202

**PLAINTIFFS: Anthony Lobato**, as an individual and as parent and natural guardian of **Taylor Lobato** and **Alexa Lobato**; **Denise Lobato**, as an individual and as parent and natural guardian of **Taylor Lobato** and **Alexa Lobato**; **Janet L. Kuntz and Jack Kuntz**, as individuals and as parents and natural guardians of **Daniel Kuntz** and **Stacey Kuntz**; **Miguel Cendejas and Yuri Cendejas**, individually and as parents and natural guardians of **Natalia Cendejas** and **Selma Cendejas**, **Pantaleon Villagomez** and **Maria Villagomez**, as individuals and as parents and natural guardians of **Chris Villagomez**, **Monique Villagomez** and **Angel Villagomez**; **Linda Warsh and David Warsh**, as individuals and as parents and natural guardians of **Adam Warsh**, **Karen Warsh** and **Ashley Warsh**; **Herbert Conboy** and **Victoria Conboy**, as individuals and as parents and natural guardians of **Tabitha Conboy**, **Timothy Conboy** and **Keila Barish**; **Terry Hart**, as an individual and as parent and natural guardian of **Katherine Hart**; **Larry Howe-Kerr** and **Kathy Howe-Kerr**, as individuals and as parents and natural guardians of **Lauren Howe-Kerr** and **Luke Howe-Kerr**; **John T. Lane**, as an individual; **Jennifer Pate**, as an individual and as parent and natural guardian of **Ethan Pate**, **Evelyn Pate** and **Adeline Pate**; **Robert L. Podio** and **Blanche J. Podio**, as individuals and as parents and natural guardians of **Robert Podio** and **Samantha Podio**; **Tim Hunt** and **Sabrina Hunt**, as individuals and as parents and natural guardians of **Shannon Moore-Hiner**, **Eris Moore**, **Darean Hunt** and **Jeffrey Hunt**; **Doug Vondy** and **Denise Vondy**, as individuals and as parents and natural guardians of **Hannah Vondy** and **Kyle Leaf**; **Brad Weisensee** and **Traci Weisensee**, as individuals and as parents and natural guardians of **Joseph Weisensee**, **Anna Weisensee**, **Amy Weisensee** and **Elijah Weisensee**; **Stephen Topping**, as an individual and as parent and natural guardian of **Michael Topping**; **David Maes**, as an individual and as parent and natural guardian of

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**Cherie Maes and Jessie Silva III; Debbie Gould**, as an individual and as parent and natural guardian of **Hannah Gould, Ben Gould and Daniel Gould; Lillian Leroux**, as an individual and natural guardian of **Ari Leroux, Lillian Leroux, Ashley Leroux, Alexandria Leroux and Amber Leroux; Theresa Wrangham**, as an individual and natural guardian of **Rachel Wrangham and Deanna Wrangham; Lisa Calderon**, as an individual and natural guardian of **Savannah Smith and Tahj Taylor; Jessica Spangler**, as an individual and natural guardian of **Rider Donovan Spangler**

and

**Jefferson County School District No. R-1; Colorado Springs, School District No. 11, in the County of El Paso; Bethune School District No. R-5; Alamosa School District, No. RE-11J; Centennial School District No. R-1; Center Consolidated School District No. 26 JT, of the Counties of Saguache and Rio Grande and Alamosa; Creede Consolidated School District No. 1 in the County of Mineral and State of Colorado; Del Norte Consolidated School District No. C-7; Moffat, School District No. 2, in the County of Saguache and State of Colorado; Monte Vista School District No. C-8; Mountain Valley School District No. RE 1; North Conejos School District No. RE1J; Sanford, School District No. 6, in the County of Conejos and State of Colorado; Sangre de Cristo School District, No. RE-22J; Sargent School District No. RE-33J; Sierra Grande School District No. R-30; and South Conejos School District No. RE10.**

vs.

**DEFENDANTS: The State of Colorado; the Colorado State Board of Education; Dwight D. Jones**, in his official capacity as Commissioner of Education of the State of Colorado; and **Bill Ritter**, in his official capacity as Governor of the State of Colorado.

**Attorneys for Plaintiff Jefferson County School  
District No. R-1:**

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Case Number: 05 CV 4794  
Div.: 9

**PLAINTIFF JEFFERSON COUNTY SCHOOL DISTRICT NO. R-1'S  
RESPONSE TO DEFENDANTS' THIRD REQUEST FOR PRODUCTION OF  
DOCUMENTS TO SCHOOL DISTRICT PLAINTIFFS**

Plaintiff Jefferson County School District No. R-1 ("JeffCo"), by and through its counsel, Holland & Hart LLP, respectfully responds to Defendants' Third Request for Production of Documents to School Plaintiffs, as follows:

**GENERAL OBJECTIONS**

1. JeffCo objects to the Defendants' Third Request for Production of Documents (the "Requests") to School District Plaintiffs (including but not limited to the "Definitions and Instructions" section) to the extent they may be construed to impose obligations and requirements that are inconsistent with those imposed by the Colorado Rules of Civil Procedure. JeffCo will respond under the applicable provisions of the Colorado Rules of Civil Procedure and will disregard any purported instructions, definitions, requirements, or requests to the contrary.

2. Where in an answer or response JeffCo objects to providing further information in response to an interrogatory or request, it means that its response is subject to and without waiver of objections and that a reasonable effort will be made to understand and respond to the request by providing relevant information without producing or disclosing information which is privileged or which is subject to some other objection. JeffCo's response to any of these Requests does not constitute a waiver of its right to object to any future, additional, or supplemental Interrogatories covering the same or similar subject matter.

3. JeffCo objects to the Requests to the extent that they exceed the number to which the Parties agreed in C.R.C.P. 16. JeffCo objects to Defendants' Requests on the ground that some requests contain several discrete subparts that should be counted separately. Any decision to respond to any subpart is not to be construed as a waiver of its right to object to the same or any future discovery request.

4. JeffCo objects to the Requests to the extent that they seek information that is protected by the attorney-client privilege or attorney work-product doctrine. To the extent possible, JeffCo will construe each Request as requesting only information not subject to any applicable privilege or immunity. Where the Request calls for the identification or production of privileged documents or materials protected by the work-product doctrine or protective order, and identification or production is withheld on the ground of privilege or work-product or protective order, JeffCo will, within a reasonable time, provide Defendants with a list of such documents.

5. The answers and responses set forth below represent JeffCo's present knowledge based on discovery, investigation, and trial preparations to date. Because JeffCo's efforts in this case are continuing, the answers and responses set forth below are preliminary in nature. They are not exhaustive compilations of all facts and documents that may support JeffCo's position or upon which JeffCo may ultimately rely. Consistent with the Colorado Rules of Civil Procedure, JeffCo reserves the right to supplement or modify the responses set forth below and rely upon further information or documents obtained through discovery, investigation, and trial preparation efforts.

6. This Response to the Discovery is made to the best of JeffCo's 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 its further discovery or investigation. Plaintiffs reserve the right to supplement this Response in accordance with C.R.C.P. 26(e).

7. JeffCo reserves 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.

8. JeffCo reserves 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.

9. JeffCo objects 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.

10. JeffCo objects 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.

11. 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.

12. JeffCo objects 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, JeffCo objects 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. JeffCo also objects to the Discovery Requests to the extent they seek information obtainable from some other source that is more convenient, less burdensome, or less expensive.

13. JeffCo objects to producing documents that are not within its possession, custody, or control.

14. The scope of documents that fall within the ambit of JeffCo’s 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.

15. The foregoing objections are incorporated by reference into each separate response below as though set forth in full.

16. Documents to which these responses refer will be available for inspection at the offices of the undersigned counsel upon reasonable notice.

## **RESPONSE TO REQUEST FOR PRODUCTION**

### **Request for Production No. 1:**

All documents that you have received since 2004 from or through any entity in response to any Colorado Open Records Act (CORA) request, Freedom of Information Act (FOIA) request, or other similar request relating to school funding, school finance, or the *Lobato v. State* lawsuit.

**Response to Request for Production No. 1:**

In addition to the general objections noted above, Jeffco objects to Request for Production No. 1 on the grounds that it is overly broad, unduly burdensome, and it is not reasonably calculated to lead to the discovery of admissible evidence.

Notwithstanding such objections, Jeffco responds as follows: None.

**Request for Production No. 2:**

All speeches, reports, presentations, or publications since 2004 made or given to schools, school districts, or other organizations, including but not limited to the National Education Association, Colorado Education Association, Colorado School Finance Project, Colorado Association of School Executives, and Colorado Association of School Boards, regarding school finance litigation or the *Lobato v. State* lawsuit.

**Response to Request for Production No. 2:**

In addition to the general objections noted above, Jeffco objects to Request for Production No. 2 on the grounds that it is overly broad, unduly burdensome, and it is not reasonably calculated to lead to the discovery of admissible evidence.

Notwithstanding such objections, Jeffco responds as follows: None.

**Request for Production No. 3:**

All documents received from or through third parties relating to claims of “inadequate funding” of schools, including from or through the Colorado Education Association in response to their request for examples of “inadequate funding” in schools (<http://www.coloradoea.org/contactus/inadequatefunding.aspx>) or from or through the Colorado School Finance Project related to their “Colorado School Stories Project” (<http://www.cosfp.org/COSFSchoolStories.html>).

**Response to Request for Production No. 3:**

In addition to the general objections noted above, Jeffco objects to Request for Production No. 3 on the grounds that it is overly broad, unduly burdensome, and it is not reasonably calculated to lead to the discovery of admissible evidence.

Notwithstanding such objections, Jeffco responds as follows: JFCO178262-178267.

Dated: May 23, 2011.

Respectfully submitted,

*s/ Alyssa K. Yatsko*

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**ATTORNEYS FOR PLAINTIFF**

**JEFFERSON COUNTY SCHOOL DISTRICT NO. R-1**

## CERTIFICATE OF SERVICE

I hereby certify that on May 23, 2011, I have caused to be electronically filed the foregoing with the Clerk of Court using CM/ECF system which will send notification of such filing to the following e-mail addresses:

<p>OFFICE OF THE ATTORNEY GENERAL          John W. Suthers, Attorney General          Antony B. Dyl          Carey Taylor Markel          Erica Weston          Nicholas P. Heinke          Jonathan P. Fero          Nancy Wahl          1525 Sherman Street, 7th Floor          Denver, CO 80203</p>	<p>David G. Hinojosa          Nina Perales          Carmen Leija          Marisa Bono          MALDEF          110 Broadway, Suite 300          San Antonio, TX 78205</p>
<p>Henry Solano          DEWEY &amp; LE BOEUF          4121 Bryant Street          Denver, CO 80211</p>	<p>Kyle C. Velte          Ryann B. MacDonald          REILLY POZNER LLP          511 Sixteenth Street, Suite 700          Denver, CO 80202</p>
<p>Jess A. Dance          PERKINS COIE LLP          1899 Wynkoop Street, Suite 700          Denver, CO 80202-1043</p>	<p>David W. Stark          Joseph C. Daniels          Sera Chong          FAEGRE &amp; BENSON LLP          3200 Wells Fargo Center          1700 Lincoln Street          Denver, CO 90203</p>
<p>Kimberley D. Neilio          Jennifer Harvey Weddle          GREENBERG TRAUERIG, LLP          1200 Seventeenth Street, Suite 2400          Denver, CO 90202</p>	<p>Alexander Halpern          ALEXANDER HALPERN LLC          Kathleen J. Gebhardt          Jennifer Weiser Bezoza          KATHLEEN J. GEBHARDT LLC          1426 Pearl Street, Suite 402          Boulder, CO 80302</p>

Kenzo Kawanabe Terry R. Miller Geoffrey C. Klingsporn Daniel P. Spivey Rebecca J. Dunaway DAVIS GRAHAM & STUBBS LLP 1550 Seventeenth Street, Suite 500 Denver, CO 90202	
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s/ Santa M. Patafio

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# REDACTED

**From:** Tracie Rainey [<mailto:t.rainey@cosfp.org>]  
**Sent:** Friday, March 04, 2011 4:23 PM  
**To:** Tracie L. Rainey  
**Subject:** CSFP: District Budget Discussion Reports - Preliminary

Colleagues

Colorado is facing a \$1.1 billion dollar shortfall in the 2011-12 year. K-12 education has been slated to take a \$375 million cut below the minimum funding requirement, approximately \$500 per pupil. How do other states compare? Education week reports:

1. Alaska – expanding scholarship program, no K-12 reduction
2. Arkansas – 2% increase to foundation or base amount, a 3.7% increase from previous year
3. Arizona – increasing funding by \$519 million from previous year
4. California – no reductions in K-12, also going to voters for tax extensions
5. Idaho – increasing funding for technology and teacher pay
6. Maryland – state facing \$1.4 billion shortfall – no K-12 reduction
7. Montana – increasing per pupil funding by \$161

8. Nebraska – state budget shortfall of \$1 billion – no reduction to K-12
9. Nevada – decreasing K-12 funding by \$270 per pupil
10. Utah – additional \$50 million for K-12, plus additional \$7.5 million for all day kindergarten
11. Vermont – state facing \$176 million shortfall – no K-12 reduction

Below are links to the preliminary budget conversation documents for 2011-12, as of March 4, 2011. We also share the documents with Colorado State leaders and post them on our website, [www.cosfp.org](http://www.cosfp.org). Our thanks to the districts for providing information about their discussions to us.

- [District Reported Budget Conversations for 2011-12](#)
- [Media Reported Budget Conversations for 2011-12](#)

We will update both reports on Friday, March 25, 2011

Feel free to contact me with questions.

Tracie Rainey

Tracie L. Rainey  
Executive Director  
Colorado School Finance Project  
1200 Grant Street  
Denver, CO 80203  
303-860-9136 – Fax: 303-832-1086  
[www.cosfp.org](http://www.cosfp.org)

# REDACTED

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**From:** Tracie Rainey [<mailto:t.rainey@cosfp.org>]  
**Sent:** Monday, March 28, 2011 4:16 PM  
**To:** Tracie L. Rainey  
**Subject:** CSFP: District Budget Conversations 2011-12 as of March 25

Colleagues,

Below are links to the updated preliminary budget conversation documents for 2011-12, as of March 25, 2011. As you know, we share the documents with Colorado state leaders and post them on our website, [www.cosfp.org](http://www.cosfp.org).

- [District Reported Budget Conversations](#) for 2011-12, as of March 25<sup>th</sup>.
- [Media Reported Budget Conversations](#) for 2011-12, as of March 25<sup>th</sup>.

We will update the reports again in 3 weeks and continue to update them throughout the 2011-12 budget cycle.

As always, feel free to contact me with questions.

Tracie

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# REDACTED

**From:** Tracie Rainey [<mailto:t.rainey@cosfp.org>]  
**Sent:** Thursday, April 28, 2011 1:41 PM  
**To:** [tracie.rainey@earthlink.net](mailto:tracie.rainey@earthlink.net)  
**Subject:** UPDATE: District Budget Conversations

Superintendent, BOE President & VP, and CFO/Budget Manager,

Below are links to the updated preliminary budget conversation documents for 2011-12, as of April 26, 2011. We will send the information to Colorado state leaders and post the information on our website, [www.cosfp.org](http://www.cosfp.org). Thank you for sending us information on your district's conversations.

[District Reported Budget Conversations](#) (February – April 26, 2011)  
[Media Reported Budget Conversations](#) (February – April 26, 2011)  
[Trends of the 2011-12 Budget Conversations and 2010-11 Cuts](#)

We will create final versions once budgets are finalized.

Thank you,

Tracie

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