

<p>DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO 1437 Bannock Street Denver, Colorado 80202</p>	<p style="text-align: center;">COURT USE ONLY</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>	
<p>Attorneys for Defendants: JOHN W. SUTHERS, Attorney General</p> <p>ANTONY B. DYL, 15968* Senior Assistant Attorney General E-mail: tony.dyl@state.co.us</p> <p>CAREY TAYLOR MARKEL, 32987* Senior Assistant Attorney General E-mail: carey.markel@state.co.us</p> <p>NICHOLAS P. HEINKE, 38738* Assistant Attorney General E-mail: nicholas.heinke@state.co.us</p> <p>JONATHAN P. FERRO, 35754* Assistant Attorney General E-mail: jon.ferro@state.co.us</p> <p>ERICA WESTON 35581* Assistant Attorney General E-mail: erica.weston@state.co.us</p> <p>Office of the Colorado Attorney General 1525 Sherman Street, 7th Floor Denver, CO 80203 Telephone: (303) 866-2383 Fax: (303) 866-5671 * Counsel of Record</p>	<p>Case Number: 2005 CV 4794</p> <p>Div: 9</p>
<p style="text-align: center;">DEFENDANTS' RESPONSES TO PLAINTIFF-INTERVENORS' FIRST SET OF INTERROGATORIES, REQUESTS FOR PRODUCTION, AND REQUESTS FOR ADMISSIONS TO DEFENDANTS</p>	

Defendants, by and through their counsel, hereby submit their Responses to Plaintiff-Intervenors' First Set of Interrogatories, Requests for Production, and Requests for Admissions

to Defendants pursuant to C.R.C.P. 33, 34, and 36. 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 supplement or amend these Responses if and when additional information becomes known.

The following General Objections apply to Plaintiff-Intervenors' 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 Plaintiff-Intervenors' 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 such 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 are vague or ambiguous.
6. 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.
7. 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 entered by the Court.
8. 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.

9. 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.

10. Defendants object to the definition of “ELL” to the extent it is inconsistent with C.R.S. § 22-24-103.

11. Defendants object to the definition of “at-risk” to the extent it is inconsistent with C.R.S. § 22-54-103(1.5).

12. Defendants object to the definition of “low income” to the extent it is inconsistent with Colorado law.

11. Defendants object to the definition of the term “related to” to the extent it is defined to mean “reflecting, concerning, referring or responding to, describing, representing, estimating, discussing, evidencing, memorializing, or constituting” as overly broad and unduly burdensome.

12. Defendants object to the definition of the phrases “describe with particularity,” “state the basis,” “stating the basis,” “state all facts,” and “stating all facts” to the extent it attempts to impose a duty on Defendants to “identify each and every document,” or to “identify each and every communication” or to “state separately the acts or omissions,” or to “state separately any other fact” as more fully set forth in the definitions of these requests on the ground that the definitions are overly broad and unduly burdensome.

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

14. Defendants object to the discovery requests to the extent the burden of deriving or ascertaining responses to the requests is substantially the same for Plaintiff-Intervenors as for Defendants.

15. Defendants object to the definition of “Plaintiff-Intervenor Districts” as there are no school districts that have intervened as parties in this case.

16. Defendants object to the discovery requests to the extent Plaintiff-Intervenors have requested paper and digital copies of the documents on the ground that it is overly broad, unduly burdensome to request paper copies in addition to digital copies, given that Plaintiff-Intervenors, may print paper copies if they wish to have paper copies of the documents.

17. Defendants object to the discovery requests to the extent the requests exceed the number provided for in the Colorado Rules of Civil Procedure or the Modified Case Management Order setting the discovery schedule in this case.

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

I. FIRST SET OF INTERROGATORIES

1. Describe with particularity each educational service and source of funding (including federal, state, and private grants) that you designate for and make available to school districts specifically for low income and at-risk students in Colorado. Please list by district, campus, grade (if applicable), and cost.

RESPONSE: Defendants object to this Interrogatory on the ground that it is compound, inquiring into the discrete matters of "educational services" and "sources of funding." This Interrogatory, therefore, will be counted as two Interrogatories.

Defendants object to these Interrogatories to the extent the definition and use of the phrase "at-risk" is inconsistent with state law. Defendants object to these Interrogatories to the extent the definition and use of the phrase "low income" is inconsistent with state law. Defendants object to these Interrogatories on the ground that the phrases "each educational service," and "you designate for and make available" are vague and ambiguous as it is unclear what is meant by these phrases. Defendants also object to these Interrogatories on the grounds that they are overly broad and unduly burdensome to the extent they seek information by "campus, grade (if applicable), and cost," as Defendants do not have authority over how a district allocates resources within the district, and thus, this information is equally available to Plaintiff-Intervenors. Defendants' further object to these Interrogatories to the extent it seeks information regarding all 178 Colorado School Districts on the ground that it is overly broad and unduly burdensome, particularly given that the intervening parties reside in only 4 Colorado School Districts.

Subject to and without waiving these objections and the General Objections:

As to the first Interrogatory, Defendants state that Colorado is a "local control" state and Defendants provide guidance, services, trainings, webinars, and other assistance to districts as requested by districts and as authorized by law as more fully described on the Colorado Department of Education website <http://cde.state.co.us>, in particular, the Office of Federal Programs and the Office of Drop-out Prevention and Student Re-Engagement, and Title 22 of the Colorado Revised Statutes.

As to the second Interrogatory, in accordance with CRCP 33(d) and 26(a)(1) Defendants are producing contemporaneously herewith: Reports for FY07-08 through FY09-10 are Bates labeled CDE081889-CDE081972.

2. Describe with particularity each educational service and source of funding (including federal, state, and private grants) that you designate for and make available to school districts

specifically for ELL students in Colorado. Please list by district, campus, grade (if applicable) and cost.

RESPONSE: Defendants object to this Interrogatory on the ground that it is compound, inquiring into the discrete matters of “educational services” and “sources of funding.” This Interrogatory, therefore, will be counted as two Interrogatories.

Defendants object to the definition and use of the phrase “ELL” to the extent it is inconsistent with state law. Defendants object to these Interrogatories on the ground that the phrases “each educational service,” and “you designate for and make available” are vague and ambiguous as it is unclear what is meant by these phrases. Defendants also object to these Interrogatories on the grounds that they are overly broad and unduly burdensome to the extent they seek information by “campus, grade (if applicable), and cost,” as Defendants do not have authority over how a district allocates resources within the district and thus this information is equally available to Plaintiff-Intervenors. Defendants further object to these Interrogatories to the extent they seek information regarding all 178 Colorado School Districts on the ground that it is overly broad and unduly burdensome, particularly given that the intervening parties reside in only 4 Colorado School Districts.

Subject to and without waiving these objections and the General Objections:

As to the first Interrogatory, Defendants state that Colorado is a "local control" state and Defendants provide guidance, services, trainings, webinars, and other assistance to districts as requested by districts and as authorized by law as more fully described on the Colorado Department of Education website <http://cde.state.co.us>, in particular, the Office of Language, Culture and Equity, and Title 22 of the Colorado Revised Statutes.

As to the second Interrogatory, in accordance with CRCP 33(d) and 26(a)(1) Defendants are producing contemporaneously herewith: Reports for FY07-08 through FY09-10 Bates Labeled CDE081889-CDE081972.

3. Describe with particularity your efforts, if any, made in the past five years in helping to close the educational performance achievement gap (“achievement gap”) based on race and poverty, including how you measure the achievement gap based on race and poverty.

RESPONSE: Defendants object to this Interrogatory on the ground that to the extent it seeks information regarding “your efforts, if any, made in the past five years,” it is overly broad and unduly burdensome as it seeks potentially thousands of acts taken by various employees of Defendants over the last five years. Defendants further object to this Interrogatory on the ground that the phrase “helping to close the educational performance achievement gap” is vague and ambiguous. Defendants further object to this Interrogatory to the extent it seeks disaggregated information regarding Defendants’ efforts to close the achievement gap as many efforts to close the achievement gap are aggregated across risk factors. Subject to and without waiving these objections and the General Objections, in

accordance with CRCP 33(d) and 26(a)(1) Defendants are producing contemporaneously herewith:

Closing the Achievement Gap Grant Review Summary (CDE082731-CDE082733)

Closing the Achievement Gap Initiative Forward Thinking Goal 3a (CDE082734-CDE082735)

Closing the Achievement Gap Requests for Proposals (RFP): Indicates the specifics of the program (CDE082736-CDE082747).

Closing the Achievement Gap 2010 Evaluation Rubric (CDE082748-CDE082752)

Closing the Achievement Gap Press Release (CDE082684-CDE082685)

CDE Press Release (CDE082684-CDE082685)

CDE Press Release (CDE082686-CDE082687)

CDE Press Release – 11 Additional Districts Receive Closing the Achievement Gap Grants (CDE082688-CDE082690)

Forward Thinking Progress Report 2010 (CDE082691-CDE082702)

Closing English Language Acquisition (CDE082706-CDE082730)

CDE Budget Reduction Proposal re: Closing the Achievement Gap (CDE082837-CDE082838)

CDE 2007 ELA Academy Conference (CDE082901-CDE082906)

CDE 2008 ELA Academy Conference (CDE082907-CDE082920)

CDE 2009 ELA Academy Conference (CDE082921-CDE082950)

CDE Memorandum to Superintendents and ELL Coordinators re: Invitation for ELL Leadership Institute (CDE082951-CDE082952)

CDE How to Make Classroom Assignments and Assessments More Accessible for English Language Learners (CDE082953-CDE082999)

CDE Instructional and Learning Behaviors that Support English Learners (ELs) (CDE083000-CDE083006)

CDE 2010 Language, Culture and Equity Academy (CDE083007-CDE083020)

LCE Technical Assistance (CDE083021)

CDE Second English Language Learners: Opportunities and Challenges (CDE083022-CDE083045)

CDE Strengthening Parent Involvement: A Toolkit (CDE083046-CDE083140)

CDE Technical Assistance Request Form, Office of Language, Culture and Equity (CDE083141-CDE083142)

CDE Technical Assistance (CDE083143-CDE083171)

CDE Walk-Through Accommodations Manual (CDE083172-CDE083216)

CDE Walk-Through Indicators Geared Toward English Learners (CDE083217-CDE083221)

CDE Walk-Through of the Colorado ELL Guidebook (CDE083222-CDE083239)

In addition, please refer to Defendants' Disclosures and any supplements thereto, including but not limited to the following responsive documents:

NGA Center for Best Practices Grant of \$150,000 in Support of State Strategies to Improve Chronically Low-Performing Schools (CDE039000-CDE39016); CDE 2008 Best Practices Guide - Closing the Achievement Gap (CDE061292-CDE061309); Profiles of Success: Eight Colorado Schools that are Closing the Achievement Gap (CDE001439 -CDE001465); February 26, 2008 News Release, "Profiles of Success" Report Finds Common Themes in Schools That Beat The Achievement Gap; Low-Income Students Gain (CDE003378 - CDE003381); Closing the Achievement Gap: A Bibliography (CDE061284-CDE061288); Colorado State Board of Education Administration of Closing the Achievement Gap, 1 CCR 301-69 (CDE061289-CDE061291); CDE 2008 Best Practices Guide - Closing the Achievement Gap (CDE061292-CDE061309); CDE 2009-2010 Closing the Achievement Gap (CTAG) Eligible Districts (CDE061310); DE - Closing the Achievement Gap (CTAG) (CDE061401-CDE061402); CDE - Closing the Achievement Gap (CTAG) Educational Providers (CDE-61406-CDE061421); Colorado Closing the Achievement Gap Commission Final Report C.R.S. 22-7-612(4)(b), November 16, 2005 (CDE006545 -CDE006586); CDE - CTAG Pilot (CDE061311-CDE061312); CDE CTAG Fall Conference (CDE061313); CTAG Spring PLC Meeting Agenda (CDE061314); Deliverables 3 Table 1: Major Components of Six Districts in CTAG 1st Cadre (Spring 2010) (CDE061399-CDE061400); Forward Thinking Progress Reports (CDE 004756-4767, 4845-4856, 6256-6267); The Education Trust - Gauging the Gaps: A Deeper Look at Student Achievement (CDE061270-CDE061283); News Release, Six School Districts Removed from "Academic Watch" Status (CDE 00382-003383); October 21, 2009 News Release, La Jara and Stein Elementary Named Title I Distinguished Schools of

the Year (CDE 003426-003427; January 13, 2010 Colorado Department of Education News Release: Graduation Rate Increases; Dropout Rate Declines (CDE 004869-004868); CPP 2010 Legislative Report (CDE 31836- 031850) and CPP Presentation Companion to 2010 Leg Report (CDE 031771-31793); CPP 2009-2010 Handbook (CDE 031985-032040); and the Colorado Growth Model www.cde.state.co.

4. Describe with particularity your efforts, if any, made in the past five years in helping to close the achievement gap between ELL and non-ELL students, including how you measure the achievement gap based on race and poverty.

RESPONSE: Defendants object to this Interrogatory on the ground that to the extent it seeks information regarding “your efforts, if any, made in the past five years” it is overly broad and unduly burdensome as it seeks potentially thousands of acts taken by various employees of the defendants over the last five years. Defendants further object to this Interrogatory on the ground that the phrase “helping to close the achievement gap” is vague and ambiguous. Defendants further object to this Interrogatory to the extent that the use and definition of the term “ELL” is inconsistent with state law. Defendants further object to this Interrogatory to the extent it seeks disaggregated information regarding Defendants’ efforts to close the achievement gap as many efforts to close the achievement gap are aggregated across risk factors. Subject to and without waiving these objections and the General Objections, in accordance with CRCP 33(d) and 26(a)(1) Defendants are producing contemporaneously herewith:

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CDE Press Release (CDE082686-CDE082687)

CDE Press Release – 11 Additional Districts Receive Closing the Achievement Gap Grants (CDE082688-CDE082690)

Forward Thinking Progress Report 2010 (CDE082691-CDE082702)

CDE District English Language Acquisition Plan: The Who, Why, What and How of Plan Development (2010) (CDE082854-CDE082900)

Culturally and Linguistically Diverse Learners in Colorado, State of the State 2010 (CDE082753-CDE082836)

Closing English Language Acquisition (CDE082706-CDE082730)

CDE Budget Reduction Proposal re: Closing the Achievement Gap (CDE082837-CDE082838)

CDE 2007 ELA Academy Conference (CDE082901-CDE082906)

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CDE How to Make Classroom Assignments and Assessments More Accessible for English Language Learners (CDE082953-CDE082999)

CDE Instructional and Learning Behaviors that Support English Learners (ELs) (CDE083000-CDE083006)

CDE 2010 Language, Culture and Equity Academy (CDE083007-CDE083020)

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CDE Second English Language Learners: Opportunities and Challenges (CDE083022-CDE083045)

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CDE Technical Assistance Request Form, Office of Language, Culture and Equity (CDE083141-CDE083142)

CDE Technical Assistance (CDE083143-CDE083171)

CDE Walk-Through Accommodations Manual (CDE083172-CDE083216)

CDE Walk-Through Indicators Geared Toward English Learners (CDE083217-CDE083221)

CDE Walk-Through of the Colorado ELL Guidebook (CDE083222-CDE083239)

In addition, please refer to Defendants' Disclosures and any supplements thereto, including but not limited to the following responsive documents:

NGA Center for Best Practices Grant of \$150,000 in Support of State Strategies to Improve Chronically Low-Performing Schools (CDE 39000-CDE39016); CDE 2008 Best Practices Guide - Closing the Achievement Gap (CDE061292-CDE061309); Profiles of Success: Eight Colorado Schools that are Closing the Achievement Gap (CDE001439 -CDE001465); February 26, 2008 News Release, "Profiles of Success" Report Finds Common Themes in Schools That Beat The Achievement Gap; Low-Income Students Gain (CDE003378 – CDE003381); Closing the Achievement Gap: A Bibliography (CDE061284-CDE061288); Colorado State Board of Education Administration of Closing the Achievement Gap, 1 CCR 301-69 (CDE061289-CDE061291); CDE 2008 Best Practices Guide - Closing the Achievement Gap (CDE061292-CDE061309); CDE 2009-2010 Closing the Achievement Gap (CTAG) Eligible Districts (CDE061310); DE - Closing the Achievement Gap (CTAG) (CDE061401-CDE061402); CDE - Closing the Achievement Gap (CTAG) Educational Providers (CDE-61406-CDE061421); Colorado Closing the Achievement Gap Commission Final Report C.R.S. 22-7-612(4)(b), November 16, 2005 (CDE006545 -CDE006586); CDE - CTAG Pilot (CDE061311-CDE061312); CDE CTAG Fall Conference (CDE061313); CTAG Spring PLC Meeting Agenda (CDE061314); Deliverables 3 Table 1: Major Components of Six Districts in CTAG 1st Cadre (Spring 2010) (CDE061399-CDE061400); Forward Thinking Progress Reports (CDE 004756-4767, 4845-4856, 6256-6267); The Education Trust - Gauging the Gaps: A Deeper Look at Student Achievement (CDE061270-CDE061283); News Release, Six School Districts Removed from "Academic Watch" Status (CDE 00382-003383); October 21, 2009 News Release, La Jara and Stein Elementary Named Title I Distinguished Schools of the Year (CDE 003426-003427; January 13, 2010 Colorado Department of Education News Release: Graduation Rate Increases; Dropout Rate Declines (CDE 004869-004868); CPP 2010 Legislative Report (CDE 31836- 031850) and CPP Presentation Companion to 2010 Leg Report (CDE 031771-31793); CPP 2009-2010 Handbook (CDE 031985-032040); and the Colorado Growth Model www.cde.state.co.

5. Describe with particularity the efforts you have made in the past five years to train Colorado public school teachers to serve its low income, at-risk, and ELL student populations.

RESPONSE: Defendants object to this Interrogatory on the ground that to the extent it seeks information regarding "the efforts you have made in the past five years" it is overly broad and unduly burdensome in that the efforts of defendants could encompass thousands of acts taken by various employees of the defendants over the last five years. Defendants further object to this Interrogatory to the extent the use and definition of "low income," "at-risk," or "ELL" is inconsistent with state law. Defendants' further object to this Interrogatory to the extent it seeks disaggregated information regarding Defendants' efforts to offer technical assistance, trainings or other assistance for public school teachers to serve student populations, as many efforts are overlapping. Subject to and without waiving these objections and the General Objections, in accordance with CRCP 33(d) and 26(a)(1) Defendants are producing contemporaneously herewith:

CDE Achievement Gap Support and Pilot Overview (CDE082703-CDE082705)

CDE 2010 Closing the Achievement Gap Request for Proposal (CDE082736-CDE082747)

CDE Request for Proposal re: 2011 Differentiated Reading Strategies for ELL Students Grant Program (CDE082839-CDE082853)

Improving Teacher Quality State Grants, Non-Regulatory Guidance (CDE083240-CDE083319)

In further response and in accordance with CRCP 33(d) and 26(a)(1), please refer to Defendants' Disclosures and any supplements thereto, including but not limited to the following:

CDE Teacher Development Grant Program Synthesis of Cohort I First Year Reports (CDE061423-CDE061444); CDE Teacher Development Grant Program Synthesis of Cohort I Data (CDE061445-CDE061464); 1 CCR 301-48 Amended Rules for the Administration of the Teacher Development Grant Program (CDE061492-CDE061494); CDE Teacher Development Grant (CDE061495); Meeting Agenda Summary Sheets re: Revision to Rules for the Administration of the Teacher Development Grant Program (CDE061503-CDE061511); Memo To: Elliot Asp, P-20 Council, Data and Accountability Subcommittee From : Bruce Benson, P-20 Council, Educator Subcommittee RE: The Need For Improved Teacher Education Data (CDE021344 and CDE021536); Governor's Colorado P-20 Council Brief, Teacher Quality (CDE021411-CDE021414); Performance-Pay for Teachers for Teachers (CDE021496-CDE021501); Teacher Pay Reforms: Teacher Pay Reforms: Political Implications of Recent Research (CDE021636-CDE021654, CDE021636-CDE021656); Colorado Teacher Data and Policy Tools (CDE021948-CDE021963); Shining the Light II: State of Teacher Quality, Attrition & Diversity in Colorado (CDE021994-CDE022035); Paying Teachers for Performance - Teacher Leaders Network (CDE022044-CDE022059); Review on Performance-Pay for Teachers Literature (CDE022154-CDE022159); Findings from the P-20 Educator Subcommittee: Teacher Compensation and Evaluation Meeting Minutes (CDE022190-CDE022192); Governor Ritter's P-20 Council, Teacher Sub-Committee Agenda (CDE022249); Notes from the August 6, 2007 P-20 Council Teacher Preparation, Recruitment and Retention Subcommittee (CDE022273-CDE022275); ARRA: Great Teachers & Leaders (CDE023516-CDE023528).

6. Identify and describe with particularity any successful compensatory, accelerated, remediation and supplemental educational programs for at-risk and low income students, including reduced class size, smaller learning communities, and specific after school and tutoring programs.

RESPONSE: Defendants object to the use of the terms “successful,” “compensatory,” “accelerated,” “remediation” and “supplemental,” and “educational programs” as vague, ambiguous, and undefined as it is unclear what is meant by these terms as used in this context. Defendants likewise object to the use of the terms “smaller learning communities” and “specific after school and tutoring programs” as vague, ambiguous and undefined. Defendants’ further object to this Interrogatory to the extent the use and definition of the terms “at-risk” or “low income” are inconsistent with state law. Defendants object to this Interrogatory to the extent it misconstrues the role of Defendants. To the extent this Interrogatory seeks specific information regarding education programs chosen or used by Plaintiff-Intervenor districts or other Colorado school districts, it is directed to the wrong party, as pursuant to C.R.S. § 22-32-109(t), school districts, not Defendants, are charged with the duty of choosing and “determin[ing] the educational programs to be carried on in the schools of the district.” . Subject to these objections and the General Objections, Defendants respond as follows, in accordance with CRCP 33(d) and 26(a)(1), please refer to the following responsive documents produced contemporaneously herewith:

CDE Request for Proposal re: Supplemental Educational Services Provides School Year 2010-2011 (CDE083320-CDE083346)

CDE Presentation to the Economic Opportunity Poverty Reduction Task Force (CDE083543-CDE083555)

7. Identify and describe with particularity any successful language programs for ELL students in helping ELL students become academically proficient in the English language.

RESPONSE: Defendants object to the phrase “any successful language programs” as vague, ambiguous and undefined, as it unclear what is meant by the terms “successful” or “language programs” as used in this context. Defendants object to the definition and use of the phrase “ELL” to the extent it is inconsistent with state law. Defendants object to this Interrogatory to the extent it misconstrues the role of Defendants. To the extent this Interrogatory seeks specific information regarding language instruction educational programs used or chosen by school districts, it is directed to the wrong parties, as pursuant to C.R.S. § 22-32-109(t), school districts, not defendants, are charged with the duty of “determin[ing] the educational programs to be carried on in the schools of the district.”

Subject to and without waiving these objections and the General Objections, Defendants respond as follows: in accordance with CRCP 33(d) and 26(a)(1) please refer to Defendants’ Initial Disclosures and any supplements thereto, including but not limited to, CDE Guidebook on Designing, Delivering, and Evaluating Services for English Learners (CDE002954-CDE003166 and CDE083347-CDE083542); 2007 English Language Proficiency Act Program (CDE004861 - CDE004864); 2009 English Language Proficiency Act Program (CDE 004864 - CDE 004868); CDE On the Road to Proficiency: Evidence from Colorado’s Growth Model for English Language Learners, June 5, 2008 ELAU Research Briefing (CDE006079-CDE006120); 1 CCR 301-62 - Rules for the Administration and the Assessment of Students Whose Dominant Language is not English (CDE031725-CDE031732); CDE

Response to Intervention for English Language Learners (ELL) (CDE053983-CDE054176); CDE Title I, Part C Migrant Education Program, 2008 Colorado Identification & Recruitment Guidebook (CDE002847 -CDE002953; CDE 2010 Equity Toolkit for Administrators (CDE003167 - CDE003231); Colorado Accommodations Manual for English Language Learners, Selecting and Using Accommodations for Instruction and Assessment 2009-10 (CDE002730 - CDE002797); CDE Guidebook on Designing, Delivering, and Evaluating Services for English Learners (ELs) (CDE083347-CDE083542).

8. Identify and describe with particularity any obstacles and challenges to learning in Colorado public schools encountered by low income and at-risk students.

RESPONSE: Defendants object to the phrases “low income” and “at-risk students” to the extent they are inconsistent with state law. Defendants object to the phrase “obstacles and challenges to learning” as vague, ambiguous and undefined. Defendants object to this Interrogatory to the extent it seeks information regarding learning experiences of low income and at-risk students on the ground that it is directed to the wrong party as school districts and students would have information responsive to this Interrogatory, not Defendants, and thus responsive information is equally available to Plaintiff-Intervenors. Subject to and without waiving these objections and the General Objections, Defendants state that the challenges and opportunities faced in serving this population of students include but are not limited to development of educators who are prepared to work with culturally and demographically diverse students. In further response, Defendants are producing contemporaneously herewith in accordance with CRCP 26(a)(1) and 33(d):

Closing the Achievement Gap Grant Review Summary (CDE082731-CDE082733)

Closing the Achievement Gap Initiative Forward Thinking Goal 3a (CDE082734-CDE082735)

Closing the Achievement Gap Requests for Proposals (RFP): Indicates the specifics of the program (CDE082736-CDE082747).

Closing the Achievement Gap 2010 Evaluation Rubric (CDE082748-CDE082752)

Closing the Achievement Gap Press Release (CDE082684-CDE082685)

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CDE Press Release (CDE082686-CDE082687)

CDE Press Release – 11 Additional Districts Receive Closing the Achievement Gap Grants (CDE082688-CDE082690)

Forward Thinking Progress Report 2010 (CDE082691-CDE082702)

In addition, please refer to Defendants' Disclosures and any supplements thereto, including but not limited to the following responsive documents:

NGA Center for Best Practices Grant of \$150,000 in Support of State Strategies to Improve Chronically Low-Performing Schools (CDE 39000-CDE39016); CDE 2008 Best Practices Guide - Closing the Achievement Gap (CDE061292-CDE061309); Profiles of Success: Eight Colorado Schools that are Closing the Achievement Gap (CDE001439 -CDE001465); February 26, 2008 News Release, "Profiles of Success" Report Finds Common Themes in Schools That Beat The Achievement Gap; Low-Income Students Gain (CDE003378 – CDE003381); Closing the Achievement Gap: A Bibliography (CDE061284-CDE061288); Colorado State Board of Education Administration of Closing the Achievement Gap, 1 CCR 301-69 (CDE061289-CDE061291); CDE 2008 Best Practices Guide - Closing the Achievement Gap (CDE061292-CDE061309); CDE 2009-2010 Closing the Achievement Gap (CTAG) Eligible Districts (CDE061310); CDE- Closing the Achievement Gap (CTAG) (CDE061401-CDE061402); CDE - Closing the Achievement Gap (CTAG) Educational Providers (CDE-61406-CDE061421); Colorado Closing the Achievement Gap Commission Final Report C.R.S. 22-7-612(4)(b), November 16, 2005 (CDE006545 -CDE006586); CDE - CTAG Pilot (CDE061311-CDE061312); CDE CTAG Fall Conference (CDE061313); CTAG Spring PLC Meeting Agenda (CDE061314); Deliverables 3 Table 1: Major Components of Six Districts in CTAG 1st Cadre (Spring 2010) (CDE061399-CDE061400); Forward Thinking Progress Reports (CDE 004756-4767, 4845-4856, 6256-6267); The Education Trust - Gauging the Gaps: A Deeper Look at Student Achievement (CDE061270-CDE061283); News Release, Six School Districts Removed from "Academic Watch" Status (CDE 00382-003383); October 21, 2009 News Release, La Jara and Stein Elementary Named Title I Distinguished Schools of the Year (CDE 003426-003427; January 13, 2010 Colorado Department of Education News Release: Graduation Rate Increases; Dropout Rate Declines (CDE 004869-004868); CPP 2010 Legislative Report (CDE 31836- 031850) and CPP Presentation Companion to 2010 Leg Report (CDE 031771-31793); CPP 2009-2010 Handbook (CDE 031985-032040); and the Colorado Growth Model www.cde.state.co.

9. Identify and describe with particularity any obstacles and challenges to learning in Colorado public schools encountered by ELL students.

RESPONSE: Defendants object to the use of the phrase "ELL students" to the extent it is inconsistent with Colorado law. Defendants object to the phrase "obstacles and challenges" as vague, ambiguous and undefined. Defendants objects to this Interrogatory to the extent it seeks information regarding learning experiences of English Language Learner students on the ground that it is directed to the wrong party as school districts and students would have information responsive to this Interrogatory, not Defendants, and thus responsive information is equally available to Plaintiff-Intervenors. Subject to and without waiving these objections and the General Objections, Defendants state that the challenges and opportunities faced in serving this population of students include but are not limited to the development of educators who are prepared to work with culturally and linguistically diverse students,

particularly at the secondary level as many English learner students in Colorado are currently in grades K-4. In further response and in accordance with CRCP 26(a)(1) and 33(d), Defendants are producing contemporaneously herewith:

Closing the Achievement Gap Grant Review Summary (CDE082731-CDE082733)

Closing the Achievement Gap Initiative Forward Thinking Goal 3a (CDE082734-CDE082735)

Closing the Achievement Gap Requests for Proposals (RFP): Indicates the specifics of the program (CDE082736-CDE082747).

Closing the Achievement Gap 2010 Evaluation Rubric (CDE082748-CDE082752)

Closing the Achievement Gap Press Release (CDE082684-CDE082685)

CDE Press Release (CDE082684-CDE082685)

CDE Press Release (CDE082686-CDE082687)

CDE Press Release – 11 Additional Districts Receive Closing the Achievement Gap Grants (CDE082688-CDE082690)

Culturally and Linguistically Diverse Learners in Colorado, State of the State 2010 (CDE082753-CDE082836)

In addition, please refer to Defendants' Disclosures and any supplements thereto, including but not limited to the following responsive documents:

NGA Center for Best Practices Grant of \$150,000 in Support of State Strategies to Improve Chronically Low-Performing Schools (CDE 39000-CDE39016); CDE 2008 Best Practices Guide - Closing the Achievement Gap (CDE061292-CDE061309); Profiles of Success: Eight Colorado Schools that are Closing the Achievement Gap (CDE001439 -CDE001465); February 26, 2008 News Release, "Profiles of Success" Report Finds Common Themes in Schools That Beat The Achievement Gap; Low-Income Students Gain (CDE003378 – CDE003381); Closing the Achievement Gap: A Bibliography (CDE061284-CDE061288); Colorado State Board of Education Administration of Closing the Achievement Gap, 1 CCR 301-69 (CDE061289-CDE061291); CDE 2008 Best Practices Guide - Closing the Achievement Gap (CDE061292-CDE061309); CDE 2009-2010 Closing the Achievement Gap (CTAG) Eligible Districts (CDE061310); DE - Closing the Achievement Gap (CTAG) (CDE061401-CDE061402); CDE - Closing the Achievement Gap (CTAG) Educational Providers (CDE-61406-CDE061421); Colorado Closing the Achievement Gap Commission Final Report C.R.S. 22-7-612(4)(b), November 16, 2005 (CDE006545 -CDE006586); CDE - CTAG Pilot (CDE061311-CDE061312); CDE CTAG Fall Conference (CDE061313); CTAG

Spring PLC Meeting Agenda (CDE061314); Deliverables 3 Table 1: Major Components of Six Districts in CTAG 1st Cadre (Spring 2010) (CDE061399-CDE061400); Forward Thinking Progress Reports (CDE 004756-4767, 4845-4856, 6256-6267); The Education Trust - Gauging the Gaps: A Deeper Look at Student Achievement (CDE061270-CDE061283); News Release, Six School Districts Removed from "Academic Watch" Status (CDE 00382-003383); October 21, 2009 News Release, La Jara and Stein Elementary Named Title I Distinguished Schools of the Year (CDE 003426-003427; January 13, 2010 Colorado Department of Education News Release: Graduation Rate Increases; Dropout Rate Declines (CDE 004869-004868); CPP 2010 Legislative Report (CDE 31836- 031850) and CPP Presentation Companion to 2010 Leg Report (CDE 031771-31793); CPP 2009-2010 Handbook (CDE 031985-032040); and the Colorado Growth Model www.cde.state.co.

10. Identify and describe with particularity (including any specific performance indicators or educational outputs such as CSAP scores, ACT scores, etc.) how you determine whether Colorado public school students "acquire the knowledge, skills and behaviors essential for the high school graduates to be prepared to enter college and the workforce and to compete in the global economy," as described by the Colorado Department of Education and Department of Higher Education under their definition of "postsecondary and workforce readiness."

RESPONSE: Defendants object to this Interrogatory on the ground that it is overly broad and unduly burdensome in that the efforts of defendants could encompass thousands of acts taken by various employees of the defendants. Defendants further object to this Interrogatory on the ground that the phrases "specific performance indicators" and "educational outputs" are vague, ambiguous, and undefined. Subject to and without waiving this objection and the General Objections, Defendants respond as follows: Defendants state that the Department of Education and the Department of Higher Education adopted the postsecondary and workforce readiness definition in furtherance of SB08-212, signed into law in May 2008, Senate Bill 08-212, also known as "Colorado's Achievement Plan for Kids. The purpose of CAP4K is to improve Colorado's public education through alignment of preschool through postsecondary expectations, and pursuant to its implementation, it will establish new standards and new assessments with the purpose to enable all students to graduate high school with the skills and the knowledge to succeed in the global economy. It is expected that implementation of CAP4K will occur through 2014, pursuant to which, standards and assessments will be adopted. In further response and in accordance with CRCP 26(a)(1) and 33 (d), please refer to Defendants' Disclosures and any supplements thereto, including but not limited to:

Colorado Department of Education and Department of Higher Education Postsecondary and Workforce Readiness Definition, June 30, 2009 (CDE004800 - CDE004803); Postsecondary and Workforce Readiness Description (PWR) Adopted June 30, 2009 by the State Board of Education and the Colorado Commission on Higher Education (CDE006196-CDE006198); Education News Colorado, "Postsecondary Workforce Readiness Debated" (CDE025300-CDE025302); SB08-212 Preschool to Postsecondary Education Alignment Act, Colorado Achievement Plan for Kids(CDE025308-CDE025320); Postsecondary and Workforce Readiness

Descriptions: A National Perspective (CDE025305-CDE025307); CDE News Release: State Board of Education Invites Public Comment on Postsecondary and Workforce Readiness Descriptions on Wednesday, June 10, 2009(CDE025401-CDE025406); Colorado's Preschool to Postsecondary Alignment Act, SB08-212 (CAP4K) CDE and Department of Higher Education Co-convened Regional "Postsecondary and Workforce Readiness" Meetings (CDE025408); CDE and Department of Higher Education Timeline for SB08-212 (CDE025457); Guiding P-20 Education Alignment: A Reference for Colorado's Education Community (CDE025469-CDE025588); Colorado's Preschool to Postsecondary Alignment Act, SB08-212 (CAP4K) Emerging Themes from Three Regional Meetings: Gunnison, Colorado Springs and Denver (CDE025712).

11. Identify and describe with particularity (including any specific performance indicators or educational outputs such as CSAP scores, ACT scores, etc.) the tools and quality of education needed to enable all Colorado public school students to participate meaningfully in the civic, political, economic, social and other activities of society, and to exercise the basic civil and other rights of citizens of the State of Colorado and the United States of America.

RESPONSE: Defendants object to this Interrogatory to the extent it is a quote from paragraph 63 of the Plaintiffs' Second Amended Complaint pertaining to Plaintiffs' allegations and legal theory of the Colorado Constitution's Education Clause, on the ground that it calls for a legal conclusion. Specifically, Defendants object to this Interrogatory to the extent Plaintiff-Intervenors are adopting this allegation as a legal standard regarding the Education Clause because the meaning of the Education Clause is a core legal issue in the case. *See, e.g., Steil v. Humana Kan. City, Inc.*, 197 F.R.D. 445, 447 (D. Kan. 2000)("Interrogatories may not extend to issues of "pure law."). Defendants object to this Interrogatory on the ground that the phrase "the tools and quality of education needed to enable all Colorado public school students to participate meaningfully in the civic, political, economic, social and other activities of society, and to exercise the basic civil and other rights of citizens of the State of Colorado and the United States of America" is vague and ambiguous. Defendants further object on the ground that this Interrogatory is directed to the wrong party to the extent it is seeking information in the possession of students, who would have responsive information regarding what students may need to enable them to participate meaningfully in society. Defendants object to the phrases "specific performance indicators," "educational outputs," and "other activities of society" on the ground the phrases are vague and ambiguous. Defendants object to this Interrogatory on the ground it is overly broad and unduly burdensome as on its face the Interrogatory seeks particularized information regarding wide-ranging domains. Subject to and without waiving these objections or the General Objections, Defendants respond as follows: responsive factors include but are not limited to textbooks, access to the internet and educational instructors who are versed in the referenced domains at the appropriate grade level.

12. Identify and describe with particularity all state educational mandates required of public school districts in the State of Colorado and the corresponding source of funding, if any, appropriated or otherwise made available to school districts to meet the mandate.

RESPONSE: Defendants object to this Interrogatory on the ground that it is overly broad and unduly burdensome to the extent it seeks information regarding all 178 Colorado school districts, particularly given that the intervening parties reside in only 4 Colorado School Districts. Defendants object to this Interrogatory on the ground that the phrase “state educational mandates” is vague, ambiguous and undefined and the use of the term “required” in this context is argumentative. Defendants object to this Interrogatory on the ground it is directed to the wrong party as school districts, not Defendants, would have information responsive to this Interrogatory Subject to and without waiving these objections and the General Objections: in accordance with CRCP 33(d) and 26(a)(1) please refer to EDAC Data produced contemporaneously herewith at bates numbers: CDE066374-CDE081888.

13. Identify each school district which is lacking highly qualified teachers as defined under the No Child Left Behind Act and Colorado law, listing for each district the grade level and content area for each teacher not meeting the standard.

RESPONSE: Defendants object to this Interrogatory on the ground that it is overly broad and unduly burdensome to the extent it seeks particularized content area and grade level information regarding all 178 Colorado school districts, given that the intervening parties reside in only 4 Colorado School Districts. Defendants object to this Interrogatory on the ground it is directed at the wrong party to the extent it seeks information regarding whether school districts have ‘ highly qualified teachers, it should be directed to school districts. Subject to and without waiving these objections and the General Objections: in accordance with CRCP 33(d) and 26(a)(1) please refer to <http://www.cde.state.co.us/FedPrograms/danda/hqtdata.asp>.

14. For each school district in which the Plaintiff-Intervenor children attend, identify and describe with particularity any spending irregularities or unnecessary expenditures (as alleged, defined or determined by you) made by the respective school districts.

RESPONSE: Defendants object to the phrase “spending irregularities or unnecessary expenditures” as vague, ambiguous and undefined. Defendants object to this Interrogatory on the ground that it is directed to the wrong party to the extent it seeks information regarding “spending irregularities or unnecessary expenditures,” given that local boards of education, not Defendants, are charged with the fiscal oversight of school districts. Subject to and without waiving this objection or the General Objections, Defendants respond as follows: Colorado school districts are political subdivisions over whom their local boards have the responsibility of overseeing the fiscal governance of the districts, see *e.g.*, C.R.S. § 22-32-110 and thus defendants do not have information responsive to this Interrogatory.

15. Describe with particularity each specific source of facilities funding made available to school districts during the past 5 years, listing by district, source of funding, specific allocation, and purpose for funding.

RESPONSE: Defendants object to this Interrogatory to the extent it seeks information regarding all 178 Colorado school districts on the ground that it is overly broad and unduly burdensome, particularly given that the intervening parties reside in only 4 Colorado School

Districts. Defendants further object to this Interrogatory, which seeks information on funds made available to school districts, on the ground that such information is equally available to Plaintiff-Intervenors. Defendants further object to this Interrogatory on the ground that the phrases “source of facilities funding” and “made available to” are vague, ambiguous and undefined.

Subject to and without waiving these objections and the General Objections, Defendants respond as follows: in accordance with CRCP 33(d) and 26(a)(1) Defendants refer Plaintiff-Intervenors to Defendants’ responses to Interrogatories 1 and 2 (CDE081889-CDE081972) hereinabove as if fully set forth herein verbatim. In addition, please refer to Defendants’ Disclosures and any supplements thereto, including but not limited to documents such as facilities funding applications, facilities funding award summaries and rankings, and the Capital Construction Assistance Board and the Capital Construction Advisory Committee data; for example, those documents identified by Bates # CDE001466-CDE001527, CDE001531-CDE001534, CDE001714, CDE001765-CDE2655, CDE004841-843, CDE004965-CDE005189, CDE005190-CDE005195, CDE005208-CDE005407, CDE005411-CDE005412, CDE005414-CDE005426, CDE005459-CDE005466, CDE005468-CDE005624, CDE005722-CDE005727, CDE005734-CDE005740, CDE008334-CDE8335, CDE008339-CDE008356, CDE008363-CDE008559, CDE008562, CDE008566-CDE009463, CDE009530-CDE011270, CDE060859-CDE061519.

16. Describe with particularity any deficiencies, shortcomings, errors, omissions, criticisms or failures in the report bearing the name of CDE, “Statewide Financial Priority Assessment, FY 2009-1010,” dated March 2010, or any other CDE report on capital construction over the past 5 years.

RESPONSE: Defendants object to this Interrogatory on the ground that the phrase “deficiencies, shortcomings, errors, omissions, criticisms or failures” is vague and undefined. Defendants object to this Interrogatory on the ground that to the extent this Interrogatory seeks “any other CDE report on capital construction over the past 5 years,” it is overly broad, unduly burdensome and vague and ambiguous given that responsive information could conceivably comprise the review of thousands of pages of documents prepared by Defendants’ employees over the last five years.

Subject to and without waiving these objections or the General Objections, Defendants respond as follows: Defendants state that the Statewide Financial Priority Assessment, FY 2009-1010 was prepared on behalf of the Public School Capital Construction Assistance Board by Parsons Commercial Technology Group to provide an assessment of public school facilities in Colorado for the period of FY2009-2010 and to address the considerations set forth in C.R.S. § 22-43.7-107. The numbers contained within the assessment are estimates as of March 2010. As reflected in the Foreword to the assessment, “the overall conditions of school facilities are ever-changing due to many variables including newly occurring deficiencies, new building construction, repairs, renovations, and updated cost estimates.” In further response to

this Interrogatory, please refer to Defendants' response to Interrogatory No. 15 hereinabove, which defendants incorporate herein by reference as if set forth fully herein verbatim.

17. Describe with particularity the elements of a quality preschool program for at-risk, low income and ELL students and how those programs help those students achieve in school.

RESPONSE: Defendants object to this Interrogatory on the ground that the phrase "help those students achieve in school" is vague and ambiguous. Defendants object to this Interrogatory on the ground that it is vague and ambiguous to the extent the term "quality" is undefined. Defendants object to this Interrogatory to the extent the use and definition of the terms "at-risk," "low income," or "ELL" are inconsistent with state law. Defendants object to this Interrogatory on the ground that it is directed to the wrong party to the extent the Interrogatory seeks district specific information, school district advisory councils, not Defendants, would have responsive information. Subject to these objections and the general objections, in accordance with CRCP 33(d) and 26(a)(1) please refer to the following document produced contemporaneously herewith:

Colorado Quality Standards for Early Childhood Care and Education Services (CDE082359-CDE082437)

Please also refer to Defendants' Disclosures and any supplements thereto, including but not limited to the following: 2008 CDE Colorado Preschool Program: 2008 Report to the Colorado Legislature (CDE006780 - CDE006793); CDE Colorado Preschool Program: 2009 Report to the Colorado Legislature (CDE006803 - CDE006817); CDE Colorado Preschool Program Presentation Companion to 2009 Legislative Report (CDE006818 -CDE006841); CDE Colorado 4-Year Olds Served by CPP (CDE006842 -CDE006843); CDE Colorado Preschool Program 2010 Legislative Report (CDE006883 CDE006897); CDE Colorado Preschool Program Presentation Companion to 2010 Legislative Report (CDE006860 - CDE006882).

18. Identify and describe with particularity how you measure the success or quality of a preschool program.

RESPONSE: Defendants object to this Interrogatory on the ground that it is directed to the wrong party, as it seeks information maintained by school districts' preschool program advisory councils. Defendants object to the use of the terms "success or quality" on the ground they are vague, ambiguous and undefined. Subject to and not waiving these objections and the General Objections, Defendants respond as follows: pursuant to C.R.S. § 22-28-105(2)(h), "district advisory council shall make at least two on-site visits per year to all head start agencies and public and private child care facilities with which the school district has contracted to monitor overall program compliance and make recommendations for any needed improvements." Colorado Preschool Program District Advisory Councils use the *Colorado Quality Standards* as a guide in determining program compliance and quality of services in their on-site visits. In further response to this Interrogatory, in accordance with

CRCP 33(d) and 26(a)(1) please refer to the following documents produced contemporaneously herewith:

Colorado Quality Standards for Early Childhood Care and Education Services
(CDE082359-CDE082437)

First Steps and Next Steps (CDE082438-CDE082458)

Please also refer to Defendants' Disclosures and any supplements thereto, including but not limited to the following: 2008 CDE Colorado Preschool Program: 2008 Report to the Colorado Legislature (CDE006780 - CDE006793); CDE Colorado Preschool Program: 2009 Report to the Colorado Legislature (CDE006803 - CDE006817); CDE Colorado Preschool Program Presentation Companion to 2009 Legislative Report (CDE006818 -CDE006841); CDE Colorado 4-Year Olds Served by CPP (CDE006842 -CDE006843); CDE Colorado Preschool Program 2010 Legislative Report (CDE006883 CDE006897); CDE Colorado Preschool Program Presentation Companion to 2010 Legislative Report (CDE006860 - CDE006882).

19. Identify the overall number of children eligible for preschool funding (including the number of children on waiting lists) and the number of preschool-eligible children actually funded under the Colorado Preschool Program by State, district and age and disaggregated by the grounds for eligibility (i.e., language development, free and reduced price lunch, etc.).

RESPONSE: Defendants object to this Interrogatory on the ground that it is overly broad and unduly burdensome to the extent it seeks information regarding all 178 Colorado school districts, particularly given that the intervening parties reside in only 4 Colorado School Districts. Defendants object to this Interrogatory on the ground that it is directed to the wrong party to the extent it seeks information maintained or prepared by school districts. To that end, Defendants object to this Interrogatory to the extent it seeks disaggregated data because districts do not report eligibility factors to CDE by individual child and thus it is not feasible to report children funded in the program disaggregated by age and eligibility factor. Subject to and not waiving these objections and the General Objections, Defendants respond as follows:

School districts determine the eligibility of children for participation in district preschool programs as defined in statute, C.R.S. § 22-28-106. Eligibility factors used by school districts include, but are not limited to, the following "significant family risk factors" as defined in statute: the child is eligible to receive free or reduced-cost lunch pursuant to the provisions of the Federal "National School Lunch Act;" homelessness of the child's family; an abusive adult residing in the home of the child; drug or alcohol abuse in the child's family; either parent of the child was less than eighteen years of age and unmarried at the time of the birth of the child; the child's parent or guardian has not successfully completed a high school education or its equivalent; frequent relocation by the child's family to new residences; and poor social skills of the child. Due to the wide variety of eligibility factors, it is difficult for school districts to accurately identify the overall number of children eligible for CPP funding. CDE uses the percentage of children eligible for free and reduced price

meals in grades 1-8 multiplied by the kindergarten population, as a proxy for the percentage of at-risk preschool children in each district. The actual number of preschool children funded in the Colorado Preschool Program in each district is annually reported in the Joint Budget Committee Information Requests. A report is also provided each year to this committee on the number of 3-year-olds and children younger than three served in the program.

In further response to this Interrogatory and pursuant to CRCP 33(d) and 26(a)(1), please refer to the following documents produced contemporaneously herewith:

2008 Need for CPP Preschool Slots Based on 3 Year Average Kindergarten Enrollment (CDE082459-CDE082462)

2009 Estimated Need for CPP Slots (CDE082463-CDE082465)

Reapplication and Annual Report Data Report on Unmet Need for 2008, 2009 and 2010 (CDE082466-CDE082653)

Footnote Number of Younger Children in CPKP (FY08) (CDE082654-CDE082657)

Longbill Footnote (e) FY 2007-08 data (FY08) (CDE082666-CDE082668)

Longbill Footnote Item 12 (b) Number of Younger Children in CPP (FY09) (CDE082669-CDE082672)

Longbill Footnote Item 12 (d) State and Local Share of Total Program Funding (FY 09) (CDE082673-CDE082675)

Joint Budget Committee Information Request – Number of Younger Children in CPP (FY10) (CDE082658-CDE082661)

Joint Budget Committee Information Request – State and Local Share of Total Program Funding (FY10) (CDE082662-CDE082665)

Please also refer to Defendants' Disclosures and any supplements thereto, including but not limited to: 2008 CDE Colorado Preschool Program: 2008 Report to the Colorado Legislature (CDE006780 - CDE006793); CDE Colorado Preschool Program: 2009 Report to the Colorado Legislature (CDE006803 - CDE006817); CDE Colorado Preschool Program Presentation Companion to 2009 Legislative Report (CDE006818 -CDE006841); CDE Colorado 4-Year Olds Served by CPP (CDE006842 -CDE006843); CDE Colorado Preschool Program 2010 Legislative Report (CDE006883 CDE006897); CDE Colorado Preschool Program Presentation Companion to 2010 Legislative Report (CDE006860 -CDE006882).

20. Describe with particularity the elements of a quality full-day kindergarten program for at-risk, low income and ELL students and how those programs help those students achieve in school.

RESPONSE: Defendants object to this Interrogatory on the ground that the phrase, “help those students achieve in school” is vague and ambiguous. Defendants object to this Interrogatory on the ground that it is vague and ambiguous to the extent the word “quality” is undefined. Defendants object to this Interrogatory to the extent the use and definition of the phrases “at-risk,” “low income,” or “ELL” are inconsistent with state law. Defendants object to this Interrogatory on the ground it is directed to the wrong party to the extent it seeks information regarding how full-day kindergarten “help[s] those students achieve in school” as that it is information that school districts are likely to observe. Subject to and not waiving these objections and the General Objections, in accordance with CRCP 33(d) and 26(a)(1) please refer to the following documents produced contemporaneously herewith:

Colorado Quality Standards for Early Childhood Care and Education Services
(CDE082359-CDE082437)

First Steps and Next Steps (CDE082438-CDE082458)

Selected Research on the Effects of Full-Day Kindergarten (CDE082676-CDE082683)

Please also refer to Defendants’ Disclosures and any supplements thereto, including but not limited to the following: 2008 CDE Colorado Preschool Program: 2008 Report to the Colorado Legislature (CDE006780 - CDE006793); CDE Colorado Preschool Program: 2009 Report to the Colorado Legislature (CDE006803 - CDE006817); CDE Colorado Preschool Program Presentation Companion to 2009 Legislative Report (CDE006818 -CDE006841); CDE Colorado 4-Year Olds Served by CPP (CDE006842 -CDE006843); CDE Colorado Preschool Program 2010 Legislative Report (CDE006883 CDE006897); CDE Colorado Preschool Program Presentation Companion to 2010 Legislative Report (CDE006860 - CDE006882).

21. Identify the overall number of children eligible for full-day Kindergarten funding (including the number of children on waiting lists) and the number of Kindergarten children actually funded by the State, across the State and by district and disaggregated by the grounds for eligibility (i.e., language development, free and reduced price lunch, etc.).

RESPONSE: Defendants object to this Interrogatory on the ground that it is overly broad and unduly burdensome to the extent it seeks funding information “across the State and by district,” particularly given that the intervening parties reside in only 4 Colorado School Districts. Defendants object to this Interrogatory on the ground it is directed to the wrong party to the extent it seeks disaggregated data regarding eligibility, this information is in the possession of school districts. Subject to and not waiving these objections and the general objections, Defendants respond as follows: There are two primary state sources for full-day kindergarten funding: hold harmless funding, as set forth in C.R.S. § 22-54-130 and supplemental funding as set forth C.R.S. § 22-54-107(d). While districts are encouraged to “follow the basic program standards established by the state board pursuant to section 22-28-108 for the Colorado preschool program,” C.R.S. § 22-54-131, decisions regarding eligibility criteria for kindergarten are made at the school district level. In further response

Defendants state in accordance with CRCP 33(d) and 26(a)(1) please refer to the following documents produced contemporaneously herewith:

Fall 2008 Pupil Member Count (CDE082255-CDE082339)

Fall 2009 Pupil Member Count (CDE082162-CDE082254)

Please also refer to Defendants' Disclosures and any supplements thereto including but not limited to the following: CDE Memorandum to School District Superintendents, Chief Financial Officers and Other School Personnel re: Full-Day Kindergarten Phase in Plan (CDE061520-CDE061569); 2008 CDE Colorado Preschool Program: 2008 Report to the Colorado Legislature (CDE006780 - CDE006793); CDE Colorado Preschool Program: 2009 Report to the Colorado Legislature (CDE006803 - CDE006817); CDE Colorado Preschool Program Presentation Companion to 2009 Legislative Report (CDE006818 -CDE006841); CDE Colorado 4-Year Olds Served by CPP (CDE006842 -CDE006843); CDE Colorado Preschool Program 2010 Legislative Report (CDE006883 CDE006897); CDE Colorado Preschool Program Presentation Companion to 2010 Legislative Report (CDE006860 - CDE006882).

22. Describe with particularity how the "state budget stabilization factor" affects Total Program Funding under the Public School Finance Act ("PSFA") for each school district in Colorado, including the specific reduction in funding for each district.

RESPONSE: Defendants object to this Interrogatory on the ground that it seeks information outside of the relevant time period as defined by Plaintiff-Intervenors. Defendants object to this Interrogatory on the ground that it is overly broad and unduly burdensome to the extent it seeks funding information "across the State and by district," particularly given that the intervening parties reside in only 4 Colorado School Districts. Pursuant to the Instructions accompanying these discovery requests, "these discovery requests pertain to the last three school years for which responsive answers are available, *i.e.*, FY2006-07, FY2007-08 and FY2009-10. The "state budget stabilization factor" was not established until FY2010-11 through the enactment of HB10-1369 and thus this Interrogatory falls outside of the relevant discovery period as defined by Plaintiff-Intervenors. Subject to and not waiving this objection and the General Objections, Defendants respond as follows: In accordance with CRCP 33(d) and 26(a)(1), please refer to the following document produced contemporaneously herewith:

Understanding Colorado School Finance and Categorical Program Funding at
<http://www.cde.state.co.us/cdefinance/download/pdf/FY2010-11BrochureWeb.pdf>

Please also refer to Defendants' disclosures and any supplements thereto, including but not limited to the following: Colorado FY 2010-11 Public School Finance Funding and Payment Information:

<http://www.cde.state.co.us/cdefinance/SchoolFinanceFundingFY2010-11.htm>

23. Identify any consulting experts, that is, consulting experts whose work has been reviewed by the testifying expert or experts whom you may call to testify in this case, and any person you intend to call who may present expert testimony but for whom an expert report is not required under the federal rules. For each expert, provide the following information:
- a. The expert's name, address and telephone number.
 - b. The expert's current resume and bibliography.
 - c. The facts known to the expert that relate to or form the basis of the expert's mental impressions and opinions formed or made in connection with the case, regardless of when and how the factual information was acquired.
 - d. The mental impressions or opinions of the expert formed or made in connection with the case and any methods used to derive them.
 - e. Any bias of the expert.
 - f. Identify all documents and tangible things, including reports, models or data compilations, which have been provided to, reviewed by, or prepared by or for the expert, so the documents or tangible things may properly be sought by a request for production.

RESPONSE: Defendants object to this Interrogatory to the extent it refers to the Federal Rules of Civil Procedure on the ground that the Colorado Rules of Civil Procedure and the Modified Case Management Order govern discovery in this case. Defendants object to this Interrogatory to the extent it seeks to discover facts known or opinions held by an expert who is not expected to be called as a witness at trial. *Phillips v District Court*, 573 P.2d 553 (Colo. 1978); CRCP 26(b)(4)((B)). Defendants object to this Interrogatory to the extent it seeks to discover facts known or opinions held by testifying experts on the ground it seeks premature disclosure of expert testimony. Subject to these objections and the General Objections, Defendants respond as follows: Defendants will disclose expert testimony as required by the Colorado Rules of Civil Procedure and the Modified Case Management Order.

II. REQUEST FOR PRODUCTION

1. Produce all documents evidencing educational services and sources of funding (including grants) that you designate for and make available to Plaintiff-Intervenor districts specifically for low income and at-risk students in Colorado.

RESPONSE: Defendants object to this Request on the ground that it is compound, inquiring into two discrete matters to the extent it seeks information regarding educational services and sources of funding. This Request, therefore, will be counted as two Requests for Production.

Defendants object to these Requests to the extent the definition and use of the phrase "low-income" is inconsistent with state law. Defendants object to these Requests to the extent the definition and use of the phrase "at-risk" is inconsistent with state law. Defendants object to these Requests on the ground that the phrases "educational services," and "you designate for and make available" are vague and ambiguous as it is unclear what is meant by these phrases.

Subject to and without waiving these objections and the General Objections:

As to the first Request, Defendants refer Plaintiff-Intervenors their Disclosures and any supplement thereto including the Colorado Department of Education website <http://cde.state.co.us>, in particular the Office of Federal Programs and the Office of Drop-out Prevention and Student Re-Engagement.

As to the second Request, Defendants are producing contemporaneously herewith: Reports for FY07-08 through FY09-10 Bates Labeled CDE081889-CDE081972.

2. Produce all documents evidencing educational services and sources of funding (including grants) that you designate for and make available to Plaintiff-Intervenor districts specifically for ELL students in Colorado.

RESPONSE: Defendants object to this Request on the ground that it is compound, inquiring into two discrete matters to the extent it seeks information regarding educational services and sources of funding. This Request, therefore, will be counted as two Requests for Production.

Defendants object to these Requests to the extent the definition and use of the phrase “ELL” is inconsistent with state law. Defendants object to this Request on the ground that the phrases “educational services,” and “you designate for and make available” are vague and ambiguous as it is unclear what is meant by these phrases.

Subject to and without waiving these objections and the General Objections:

As to the first Request, Defendants refer Plaintiff-Intervenors to their Disclosures and any supplement thereto including the Colorado Department of Education website <http://cde.state.co.us>, in particular the Office of Language, Culture and Equity.

As to the second Request, Defendants are producing contemporaneously herewith: Reports for FY07-08 through FY09-10 Bates Labeled CDE081889-CDE081972.

3. Produce all documents evidencing your efforts, if any, made in the past five years in helping to close the educational performance achievement gap (“achievement gap”) based on race and poverty, including documents evidencing how you measure the achievement gap based on race and poverty.

RESPONSE: Defendants object to this Request on the ground that to the extent it seeks information regarding “your efforts, if any, made in the past five years” it is overly broad and unduly burdensome as it seeks documents related to potentially thousands of acts taken by various employees of Defendants over the last five years. Defendants further object to this Request to the extent it seeks disaggregated information regarding Defendants’ efforts to close the achievement gap as many efforts to close the achievement gap are aggregated across risk factors. Defendants object to this Request on the ground the phrase, “helping to close the educational performance achievement gap,” is vague and ambiguous. Subject to and

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

Closing the Achievement Gap Grant Review Summary (CDE082731-CDE082733)

Closing the Achievement Gap Initiative Forward Thinking Goal 3a (CDE082734-CDE082735)

Closing the Achievement Gap Requests for Proposals (RFP): Indicates the specifics of the program (CDE082736-CDE082747).

Closing the Achievement Gap 2010 Evaluation Rubric (CDE082748-CDE082752)

Closing the Achievement Gap Press Release (CDE082684-CDE082685)

CDE Press Release (CDE082684-CDE082685)

CDE Press Release (CDE082686-CDE082687)

CDE Press Release – 11 Additional Districts Receive Closing the Achievement Gap Grants (CDE082688-CDE082690)

Forward Thinking Progress Report 2010 (CDE082691-CDE082702)

Closing English Language Acquisition (CDE082706-CDE082730)

CDE Budget Reduction Proposal re: Closing the Achievement Gap (CDE082837-CDE082838)

CDE 2007 ELA Academy Conference (CDE082901-CDE082906)

CDE 2008 ELA Academy Conference (CDE082907-CDE082920)

CDE 2009 ELA Academy Conference (CDE082921-CDE082950)

CDE Memorandum to Superintendents and ELL Coordinators re: Invitation for ELL Leadership Institute (CDE082951-CDE082952)

CDE How to Make Classroom Assignments and Assessments More Accessible for English Language Learners (CDE082953-CDE082999)

CDE Instructional and Learning Behaviors that Support English Learners (ELs) (CDE083000-CDE083006)

CDE 2010 Language, Culture and Equity Academy (CDE083007-CDE083020)

LCE Technical Assistance (CDE083021)

CDE Second English Language Learners: Opportunities and Challenges (CDE083022-CDE083045)

CDE Strengthening Parent Involvement: A Toolkit (CDE083046-CDE083140)

CDE Technical Assistance Request Form, Office of Language, Culture and Equity (CDE083141-CDE083142)

CDE Technical Assistance (CDE083143-CDE083171)

CDE Walk-Through Accommodations Manual (CDE083172-CDE083216)

CDE Walk-Through Indicators Geared Toward English Learners (CDE083217-CDE083221)

CDE Walk-Through of the Colorado ELL Guidebook (CDE083222-CDE083239)

In addition, please refer to Defendants' Disclosures and any supplements thereto, including but not limited to the following responsive documents:

NGA Center for Best Practices Grant of \$150,000 in Support of State Strategies to Improve Chronically Low-Performing Schools (CDE 39000-CDE39016); CDE 2008 Best Practices Guide - Closing the Achievement Gap (CDE061292-CDE061309); Profiles of Success: Eight Colorado Schools that are Closing the Achievement Gap (CDE001439 -CDE001465); February 26, 2008 News Release, "Profiles of Success" Report Finds Common Themes in Schools That Beat The Achievement Gap; Low-Income Students Gain (CDE003378 – CDE003381); Closing the Achievement Gap: A Bibliography (CDE061284-CDE061288); Colorado State Board of Education Administration of Closing the Achievement Gap, 1 CCR 301-69 (CDE061289-CDE061291); CDE 2008 Best Practices Guide - Closing the Achievement Gap (CDE061292-CDE061309); CDE 2009-2010 Closing the Achievement Gap (CTAG) Eligible Districts (CDE061310); DE - Closing the Achievement Gap (CTAG) (CDE061401-CDE061402); CDE - Closing the Achievement Gap (CTAG) Educational Providers (CDE-61406-CDE061421); Colorado Closing the Achievement Gap Commission Final Report C.R.S. 22-7-612(4)(b), November 16, 2005 (CDE006545 -CDE006586); CDE - CTAG Pilot (CDE061311-CDE061312); CDE CTAG Fall Conference (CDE061313); CTAG Spring PLC Meeting Agenda (CDE061314); Deliverables 3 Table 1: Major Components of Six Districts in CTAG 1st Cadre (Spring 2010) (CDE061399-CDE061400); Forward Thinking Progress Reports (CDE 004756-4767, 4845-4856, 6256-6267); The Education Trust - Gauging the Gaps: A Deeper Look at Student Achievement (CDE061270-CDE061283); News Release, Six School Districts Removed from "Academic Watch" Status (CDE 00382-003383); October 21, 2009 News Release, La Jara and Stein Elementary Named Title I Distinguished Schools of

the Year (CDE 003426-003427; January 13, 2010 Colorado Department of Education News Release: Graduation Rate Increases; Dropout Rate Declines (CDE 004869-004868); CPP 2010 Legislative Report (CDE 31836- 031850) and CPP Presentation Companion to 2010 Leg Report (CDE 031771-31793); CPP 2009-2010 Handbook (CDE 031985-032040); and the Colorado Growth Model www.cde.state.co.

4. Produce all documents evidencing your efforts, if any, made in the past five years in helping to close the achievement gap between ELL and non-ELL students, including documents evidencing how you measure the achievement gap based on race and poverty.

RESPONSE: Defendants object to this Request on the ground that to the extent it seeks information regarding “your efforts, if any, made in the past five years” it is overly broad and unduly burdensome as it seeks documents related to potentially thousands of acts taken by various employees of Defendants over the last five years. Defendants further object to this Request to the extent it seeks disaggregated information regarding Defendants’ efforts to close the achievement gap as many efforts to close the achievement gap are aggregated across risk factors. Defendants further object to this Request to the extent that the use and definition of the term “ELL” is inconsistent with state law. Defendants object to this Request on the ground that the phrase, “helping to close the educational performance achievement gap” is vague and ambiguous. Subject to and without waiving these objections and the General Objections, Defendants are producing contemporaneously herewith:

Closing the Achievement Gap Grant Review Summary (CDE082731-CDE082733)

Closing the Achievement Gap Initiative Forward Thinking Goal 3a (CDE082734-CDE082735)

Closing the Achievement Gap Requests for Proposals (RFP): Indicates the specifics of the program (CDE082736-CDE082747).

Closing the Achievement Gap 2010 Evaluation Rubric (CDE082748-CDE082752)

Closing the Achievement Gap Press Release (CDE082684-CDE082685)

CDE Press Release (CDE082684-CDE082685)

CDE Press Release (CDE082686-CDE082687)

CDE Press Release – 11 Additional Districts Receive Closing the Achievement Gap Grants (CDE082688-CDE082690)

Forward Thinking Progress Report 2010 (CDE082691-CDE082702)

CDE District English Language Acquisition Plan: The Who, Why, What and How of Plan Development (2010) (CDE082854-CDE082900)

Culturally and Linguistically Diverse Learners in Colorado, State of the State 2010 (CDE082753-CDE082836)

Closing English Language Acquisition (CDE082706-CDE082730)

CDE Budget Reduction Proposal re: Closing the Achievement Gap (CDE082837-CDE082838)

CDE 2007 ELA Academy Conference (CDE082901-CDE082906)

CDE 2008 ELA Academy Conference (CDE082907-CDE082920)

CDE 2009 ELA Academy Conference (CDE082921-CDE082950)

CDE Memorandum to Superintendents and ELL Coordinators re: Invitation for ELL Leadership Institute (CDE082951-CDE082952)

CDE How to Make Classroom Assignments and Assessments More Accessible for English Language Learners (CDE082953-CDE082999)

CDE Instructional and Learning Behaviors that Support English Learners (ELs) (CDE083000-CDE083006)

CDE 2010 Language, Culture and Equity Academy (CDE083007-CDE083020)

LCE Technical Assistance (CDE083021)

CDE Second English Language Learners: Opportunities and Challenges (CDE083022-CDE083045)

CDE Strengthening Parent Involvement: A Toolkit (CDE083046-CDE083140)

CDE Technical Assistance Request Form, Office of Language, Culture and Equity (CDE083141-CDE083142)

CDE Technical Assistance (CDE083143-CDE083171)

CDE Walk-Through Accommodations Manual (CDE083172-CDE083216)

CDE Walk-Through Indicators Geared Toward English Learners (CDE083217-CDE083221)

CDE Walk-Through of the Colorado ELL Guidebook (CDE083222-CDE083239)

In addition, please refer to Defendants' Disclosures and any supplements thereto, including but not limited to the following responsive documents:

NGA Center for Best Practices Grant of \$150,000 in Support of State Strategies to Improve Chronically Low-Performing Schools (CDE 39000-CDE39016); CDE 2008 Best Practices Guide - Closing the Achievement Gap (CDE061292-CDE061309); Profiles of Success: Eight Colorado Schools that are Closing the Achievement Gap (CDE001439 -CDE001465); February 26, 2008 News Release, "Profiles of Success" Report Finds Common Themes in Schools That Beat The Achievement Gap; Low-Income Students Gain (CDE003378 – CDE003381); Closing the Achievement Gap: A Bibliography (CDE061284-CDE061288); Colorado State Board of Education Administration of Closing the Achievement Gap, 1 CCR 301-69 (CDE061289-CDE061291); CDE 2008 Best Practices Guide - Closing the Achievement Gap (CDE061292-CDE061309); CDE 2009-2010 Closing the Achievement Gap (CTAG) Eligible Districts (CDE061310); DE - Closing the Achievement Gap (CTAG) (CDE061401-CDE061402); CDE - Closing the Achievement Gap (CTAG) Educational Providers (CDE-61406-CDE061421); Colorado Closing the Achievement Gap Commission Final Report C.R.S. 22-7-612(4)(b), November 16, 2005 (CDE006545 -CDE006586); CDE - CTAG Pilot (CDE061311-CDE061312); CDE CTAG Fall Conference (CDE061313); CTAG Spring PLC Meeting Agenda (CDE061314); Deliverables 3 Table 1: Major Components of Six Districts in CTAG 1st Cadre (Spring 2010) (CDE061399-CDE061400); Forward Thinking Progress Reports (CDE 004756-4767, 4845-4856, 6256-6267); The Education Trust - Gauging the Gaps: A Deeper Look at Student Achievement (CDE061270-CDE061283); News Release, Six School Districts Removed from "Academic Watch" Status (CDE 00382-003383); October 21, 2009 News Release, La Jara and Stein Elementary Named Title I Distinguished Schools of the Year (CDE 003426-003427; January 13, 2010 Colorado Department of Education News Release: Graduation Rate Increases; Dropout Rate Declines (CDE 004869-004868); CPP 2010 Legislative Report (CDE 31836- 031850) and CPP Presentation Companion to 2010 Leg Report (CDE 031771-31793); CPP 2009-2010 Handbook (CDE 031985-032040); and the Colorado Growth Model www.cde.state.co.

5. Produce all documents evidencing the efforts you have made in the past five years to train Colorado public school teachers in Plaintiff-Intervenor districts to serve their low income, at-risk, and ELL student populations.

RESPONSE: Defendants object to this Request on the ground that to the extent it seeks information regarding "the efforts you have made in the past five years" it is overly broad and unduly burdensome as it seeks documents related to potentially thousands of acts taken by various employees of Defendants over the last five years. Defendants further object to this Request to the extent that the use and definition of the phrases "low income," "at-risk," or "ELL" are inconsistent with state law. Defendants' further object to this Request to the extent it seeks disaggregated information regarding Defendants' efforts to offer technical assistance, trainings or other assistance for public school teachers to serve student populations, as many efforts are overlapping. Subject to and without waiving these objections and the General Objections, Defendants are producing contemporaneously herewith:

CDE Achievement Gap Support and Pilot Overview (CDE082703-CDE082705)

CDE 2010 Closing the Achievement Gap Request for Proposal (CDE082736-CDE082747)

CDE Request for Proposal re: 2011 Differentiated Reading Strategies for ELL Students Grant Program (CDE082839-CDE082853)

Improving Teacher Quality State Grants, Non-Regulatory Guidance (CDE083240-CDE083319)

Defendants incorporate with this reference the responses to Requests Nos. 3 and 4 hereinabove, as if set forth herein verbatim.

In further response, please refer to Defendants' Disclosures and any supplements thereto, including but not limited to the following:

CDE Teacher Development Grant Program Synthesis of Cohort I First Year Reports (CDE061423-CDE061444); CDE Teacher Development Grant Program Synthesis of Cohort I Data (CDE061445-CDE061464); 1 CCR 301-48 Amended Rules for the Administration of the Teacher Development Grant Program (CDE061492-CDE061494); CDE Teacher Development Grant (CDE061495); Meeting Agenda Summary Sheets re: Revision to Rules for the Administration of the Teacher Development Grant Program (CDE061503-CDE061511); Memo To: Elliot Asp, P-20 Council, Data and Accountability Subcommittee From : Bruce Benson, P-20 Council, Educator Subcommittee RE: The Need For Improved Teacher Education Data (CDE021344 and CDE021536); Governor's Colorado P-20 Council Brief, Teacher Quality (CDE021411-CDE021414); Performance-Pay for Teachers for Teachers (CDE021496-CDE021501); Teacher Pay Reforms: Teacher Pay Reforms: Political Implications of Recent Research (CDE021636-CDE021654, CDE021636-CDE021656); Colorado Teacher Data and Policy Tools (CDE021948-CDE021963); Shining the Light II: State of Teacher Quality, Attrition & Diversity in Colorado (CDE021994-CDE022035); Paying Teachers for Performance - Teacher Leaders Network (CDE022044-CDE022059); Review on Performance-Pay for Teachers Literature (CDE022154-CDE022159); Findings from the P-20 Educator Subcommittee: Teacher Compensation and Evaluation Meeting Minutes (CDE022190-CDE022192); Governor Ritter's P-20 Council, Teacher Sub-Committee Agenda (CDE022249); Notes from the August 6, 2007 P-20 Council Teacher Preparation, Recruitment and Retention Subcommittee (CDE022273-CDE022275); ARRA: Great Teachers & Leaders (CDE023516-CDE023528).

6. Produce all documents evidencing any successful compensatory, accelerated, remediation and supplemental educational programs for at-risk and low income students, including reduced class size, smaller learning communities and specific after school and tutoring programs.

RESPONSE: Defendants object to the use of the terms “successful,” “compensatory,” “accelerated,” “remediation” and “supplemental,” and “educational programs” as vague, ambiguous, and undefined as it is unclear what is meant by these terms as used in this context. Defendants likewise object to the use of the terms “smaller learning communities” and “specific after school and tutoring programs” as vague, ambiguous and undefined. Defendants further object to the Request to the extent that the use and definition of the terms “at-risk” or “low income” are inconsistent with state law. To the extent this Request seeks specific information regarding education programs chosen or used by Colorado school districts, it is directed to the wrong party. Subject to and without waiving these objections and the General Objections, Defendants respond as follows: pursuant to C.R.S. § 22-32-109 (t), school districts, not defendants, are charged with the duty of “determin[ing] the educational programs to be carried on in the schools of the district;” accordingly, this Request is directed to the wrong party. In further response, please refer to the following responsive documents produced contemporaneously herewith:

CDE Request for Proposal re: Supplemental Educational Services Provides School Year 2010-2011 (CDE083320-CDE083346)

CDE Presentation to the Economic Opportunity Poverty Reduction Task Force (CDE083543-CDE083555)

Defendants incorporate with this reference the response to Request No. 3 hereinabove as if fully set forth herein verbatim.

7. Produce all documents evidencing any successful language programs for ELL students in helping ELL students become academically proficient in the English Language.

RESPONSE: Defendants object to the phrase “any successful language programs” as vague, ambiguous and undefined, as it is unclear what is meant by the terms “successful” or “language programs” as used in this context. Defendants object to the definition and use of the phrase “ELL students” to the extent it is inconsistent with Colorado law. Defendants object to this Request to the extent it misconstrues the role of Defendants. Defendant object to the extent this Request seeks specific information regarding language instruction educational programs used or chosen by Colorado school districts, on the ground it is directed to the wrong parties as pursuant to C.R.S. § 22-32-109 (t), school districts, not defendants, are charged with the duty of choosing and “determin[ing] the educational programs to be carried on in the schools of the district.” .

Subject to and without waiving these objections and the General Objections Defendants respond as follows: Defendants are producing contemporaneously herewith: CDE District English Language Acquisition Plan: The Who, Why, What and How of Plan Development (2010) CDE082854-CDE082900). In further response please refer to Defendants’ Disclosures and any supplements thereto, including but not limited to, the following responsive documents: CDE Guidebook on Designing, Delivering, and Evaluating Services for English Learners (CDE002954 -CDE003166); 2007 English Language Proficiency Act Program (CDE004861 - CDE004864); 2009 English Language Proficiency Act Program

(CDE 004864 - CDE 004868); CDE On the Road to Proficiency: Evidence from Colorado's Growth Model for English Language Learners, June 5, 2008 ELAU Research Briefing (CDE006079 -CDE006120); 1 CCR 301-62 - Rules for the Administration and the Assessment of Students Whose Dominant Language is not English (CDE031725-CDE031732); CDE Response to Intervention for English Language Learners (ELL) (CDE053983-CDE054176); CDE Title I, Part C Migrant Education Program, 2008 Colorado Identification & Recruitment Guidebook (CDE002847 -CDE002953; CDE 2010 Equity Toolkit for Administrators (CDE003167 - CDE003231); Colorado Accommodations Manual for English Language Learners, Selecting and Using Accommodations for Instruction and Assessment 2009-10 (CDE002730 -CDE002797); CDE Guidebook on Designing, Delivering, and Evaluating Services for English Learners (ELs) (CDE083347-CDE083542).

8. Produce all documents evidencing any obstacles and challenges to learning in public schools encountered by low income and at-risk students.

RESPONSE: Defendants object to the definition and use of the phrases “low income” or “at-risk students” to the extent they are inconsistent with state law. Defendants object to the phrase “obstacles and challenges to learning” as vague, ambiguous and undefined. Defendants objects to this Request to the extent it seeks information regarding learning experiences of “low income” or “at risk” students on the ground that it is directed to the wrong party as school districts and students would have information responsive to this Request, not Defendants, and thus responsive information is equally available to Plaintiff-Intervenors. Subject to and without waiving these objections and the General Objections, Defendants are producing contemporaneously herewith:

Closing the Achievement Gap Grant Review Summary (CDE082731-CDE082733)

Closing the Achievement Gap Initiative Forward Thinking Goal 3a (CDE082734-CDE082735)

Closing the Achievement Gap Requests for Proposals (RFP): Indicates the specifics of the program (CDE082736-CDE082747).

Closing the Achievement Gap 2010 Evaluation Rubric (CDE082748-CDE082752)

Closing the Achievement Gap Press Release (CDE082684-CDE082685)

CDE Press Release (CDE082684-CDE082685)

CDE Press Release (CDE082686-CDE082687)

CDE Press Release – 11 Additional Districts Receive Closing the Achievement Gap Grants (CDE082688-CDE082690)

Forward Thinking Progress Report 2010 (CDE082691-CDE082702)

CDE Expelled and At-Risk Student Services Grant Evaluation Report to Colorado Legislature Grant Award Period 7/1/2008-6/30/2009 (CDE083556-CDE083591)

In addition, please refer to Defendants' Disclosures and any supplements thereto, including but not limited to the following responsive documents:

NGA Center for Best Practices Grant of \$150,000 in Support of State Strategies to Improve Chronically Low-Performing Schools (CDE 39000-CDE39016); CDE 2008 Best Practices Guide - Closing the Achievement Gap (CDE061292-CDE061309); Profiles of Success: Eight Colorado Schools that are Closing the Achievement Gap (CDE001439 -CDE001465); February 26, 2008 News Release, "Profiles of Success" Report Finds Common Themes in Schools That Beat The Achievement Gap; Low-Income Students Gain (CDE003378 – CDE003381); Closing the Achievement Gap: A Bibliography (CDE061284-CDE061288); Colorado State Board of Education Administration of Closing the Achievement Gap, 1 CCR 301-69 (CDE061289-CDE061291); CDE 2008 Best Practices Guide - Closing the Achievement Gap (CDE061292-CDE061309); CDE 2009-2010 Closing the Achievement Gap (CTAG) Eligible Districts (CDE061310); CDE- Closing the Achievement Gap (CTAG) (CDE061401-CDE061402); CDE - Closing the Achievement Gap (CTAG) Educational Providers (CDE-61406-CDE061421); Colorado Closing the Achievement Gap Commission Final Report C.R.S. 22-7-612(4)(b), November 16, 2005 (CDE006545 -CDE006586); CDE - CTAG Pilot (CDE061311-CDE061312); CDE CTAG Fall Conference (CDE061313); CTAG Spring PLC Meeting Agenda (CDE061314); Deliverables 3 Table 1: Major Components of Six Districts in CTAG 1st Cadre (Spring 2010) (CDE061399-CDE061400); Forward Thinking Progress Reports (CDE 004756-4767, 4845-4856, 6256-6267); The Education Trust - Gauging the Gaps: A Deeper Look at Student Achievement (CDE061270-CDE061283); News Release, Six School Districts Removed from "Academic Watch" Status (CDE 00382-003383); October 21, 2009 News Release, La Jara and Stein Elementary Named Title I Distinguished Schools of the Year (CDE 003426-003427; January 13, 2010 Colorado Department of Education News Release: Graduation Rate Increases; Dropout Rate Declines (CDE 004869-004868); CPP 2010 Legislative Report (CDE 31836- 031850) and CPP Presentation Companion to 2010 Leg Report (CDE 031771-31793); CPP 2009-2010 Handbook (CDE 031985-032040); and the Colorado Growth Model www.cde.state.co.

9. Produce all documents evidencing any obstacles and challenges to learning in public schools encountered by ELL students.

RESPONSE: Defendants object to the definition and use of the phrase "ELL students" to the extent it is inconsistent with Colorado law. Defendants object to the phrase "obstacles and challenges" as vague, ambiguous and undefined. Defendants' objects to this Request to the extent it seeks information regarding learning experiences of English Language Learner students on the ground that it is directed to the wrong party as school districts and students would have information responsive to this Request, not Defendants, and thus responsive information is equally available to Plaintiff- Intervenors. Subject to and without waiving

these objections and the General Objections, Defendants are producing contemporaneously herewith:

Closing the Achievement Gap Grant Review Summary (CDE082731-CDE082733)

Closing the Achievement Gap Initiative Forward Thinking Goal 3a (CDE082734-CDE082735)

Closing the Achievement Gap Requests for Proposals (RFP): Indicates the specifics of the program (CDE082736-CDE082747).

Closing the Achievement Gap 2010 Evaluation Rubric (CDE082748-CDE082752)

Closing the Achievement Gap Press Release (CDE082684-CDE082685)

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CDE Press Release (CDE082686-CDE082687)

CDE Press Release – 11 Additional Districts Receive Closing the Achievement Gap Grants (CDE082688-CDE082690)

Forward Thinking Progress Report 2010 (CDE082691-CDE082702)

Culturally and Linguistically Diverse Learners in Colorado, State of the State 2010 (CDE082753-CDE082836)

In addition, please refer to Defendants' Disclosures and any supplements thereto, including but not limited to the following responsive documents:

NGA Center for Best Practices Grant of \$150,000 in Support of State Strategies to Improve Chronically Low-Performing Schools (CDE 39000-CDE39016); CDE 2008 Best Practices Guide - Closing the Achievement Gap (CDE061292-CDE061309); Profiles of Success: Eight Colorado Schools that are Closing the Achievement Gap (CDE001439 -CDE001465); February 26, 2008 News Release, "Profiles of Success" Report Finds Common Themes in Schools That Beat The Achievement Gap; Low-Income Students Gain (CDE003378 – CDE003381); Closing the Achievement Gap: A Bibliography (CDE061284-CDE061288); Colorado State Board of Education Administration of Closing the Achievement Gap, 1 CCR 301-69 (CDE061289-CDE061291); CDE 2008 Best Practices Guide - Closing the Achievement Gap (CDE061292-CDE061309); CDE 2009-2010 Closing the Achievement Gap (CTAG) Eligible Districts (CDE061310); DE - Closing the Achievement Gap (CTAG) (CDE061401-CDE061402); CDE - Closing the Achievement Gap (CTAG) Educational Providers (CDE-61406-CDE061421); Colorado Closing the Achievement Gap Commission Final Report C.R.S. 22-7-612(4)(b), November 16, 2005 (CDE006545 -CDE006586); CDE - CTAG Pilot

(CDE061311-CDE061312); CDE CTAG Fall Conference (CDE061313); CTAG Spring PLC Meeting Agenda (CDE061314); Deliverables 3 Table 1: Major Components of Six Districts in CTAG 1st Cadre (Spring 2010) (CDE061399-CDE061400); Forward Thinking Progress Reports (CDE 004756-4767, 4845-4856, 6256-6267); The Education Trust - Gauging the Gaps: A Deeper Look at Student Achievement (CDE061270-CDE061283); News Release, Six School Districts Removed from "Academic Watch" Status (CDE 00382-003383); October 21, 2009 News Release, La Jara and Stein Elementary Named Title I Distinguished Schools of the Year (CDE 003426-003427; January 13, 2010 Colorado Department of Education News Release: Graduation Rate Increases; Dropout Rate Declines (CDE 004869-004868); CPP 2010 Legislative Report (CDE 31836- 031850) and CPP Presentation Companion to 2010 Leg Report (CDE 031771-31793); CPP 2009-2010 Handbook (CDE 031985-032040); and the Colorado Growth Model www.cde.state.co.

10. Produce all documents evidencing any efforts made by you to determine whether Colorado public school students "acquire the knowledge, skills and behaviors essential for high school graduates to be prepared to enter college and the workforce and to compete in the global economy," as described by the Colorado Department of Education and Department of Higher Education under the definition of "postsecondary and workforce readiness."

RESPONSE: Defendants object to this Request on the ground that it is overly broad and unduly burdensome in that the efforts of defendants could encompass thousands of acts taken by various employees of the defendants. Subject to and without waiving this objection and the General Objections, Defendants respond as follows: please refer to Defendants' Disclosures and any supplements thereto, including but not limited to Colorado Department of Education and Department of Higher Education Postsecondary and Workforce Readiness Definition, June 30, 2009 (CDE004800 -CDE004803); Postsecondary and Workforce Readiness Description (PWR) Adopted June 30, 2009 by the State Board of Education and the Colorado Commission on Higher Education (CDE006196 -CDE006198); Education News Colorado, "Postsecondary Workforce Readiness Debated" (CDE025300-CDE025302); SB08-212 Preschool to Postsecondary Education Alignment Act, Colorado Achievement Plan for Kids(CDE025308-CDE025320); Postsecondary and Workforce Readiness Descriptions: A National Perspective (CDE025305-CDE025307); CDE News Release: State Board of Education Invites Public Comment on Postsecondary and Workforce Readiness Descriptions on Wednesday, June 10, 2009(CDE025401-CDE025406); Colorado's Preschool to Postsecondary Alignment Act, SB08-212 (CAP4K) CDE and Department of Higher Education Co-convened Regional "Postsecondary and Workforce Readiness" Meetings (CDE025408); CDE and Department of Higher Education Timeline for SB08-212 (CDE025457); Guiding P-20 Education Alignment: A Reference for Colorado's Education Community (CDE025469-CDE025588); Colorado's Preschool to Postsecondary Alignment Act, SB08-212 (CAP4K) Emerging Themes from Three Regional Meetings: Gunnison, Colorado Springs and Denver (CDE025712); CDE Concurrent Enrollment and ASCENT Frequently Asked Questions (CDE083592-CDE083596); CDE HB 09-1319 and SP/285 Fact Sheet: The Concurrent Enrollment Programs Act of 2009 (CDE083597-CDE083598); CDE Youth Out of the Education Mainstream: Dropout Recovery Support Services Workforce Investment Act (WIA) Section 503 Incentive Award Funds Budget Proposal and Annual

Financial TBD to June 30, 2012 (CDE083599-CDE083605); CDE Breakdown of Concurrent Enrollment Act (HB 09-1319) (CDE083606-CDE083608); CDE Dropout Prevention and Recovery Resources Materials (CDE083609-CDE083612); School Counselor Corps Grant Program 2009-2010 Impact Summary (CDE083613-CDE083614); CDE Legislative Update (CDE083615-CDE083638); CDE Request for Proposals re: 2011 Youth Out of the Educational Mainstream: Dropout Recovery Support Services (CDE083639-CDE083656).

11. Produce all documents evidencing any efforts made by you to determine the tools and quality of education needed to enable all Colorado public school students to participate meaningfully in the civic, political, economic, social and other activities of society, and to exercise the basic civil and other rights of citizens of the State of Colorado and the United States of America.

RESPONSE: Defendants object to this Request to the extent it quotes from paragraph 63 of the Plaintiffs' Second Amended Complaint pertaining to Plaintiffs' allegations and legal theory of the Colorado Constitution's Education Clause, on the ground that it calls for a legal conclusion. Specifically, Defendants object to this Request to extent Plaintiff-Intervenors are adopting this allegation as legal standard regarding the Education Clause because the meaning of the Education Clause is a core legal issue in the case. *See, e.g., Steil v. Humana Kan. City, Inc.*, 197 F.R.D. 445, 447 (D. Kan. 2000)(Discovery "may not extend to issues of "pure law.") Defendants further object on the ground that this Request is directed to the wrong party to the extent it is seeking information in the possession of students, who would have responsive information regarding what students may need to enable them to participate meaningfully in society Defendants object to this Request on the ground the phrase, "to participate meaningfully in the civic, political, economic, social and other activities of society, and to exercise the basic civil and other rights of citizens of the State of Colorado and the United States of America," is vague and ambiguous. Subject to and not waiving these objections or the General Objections, Defendants respond as follows: Defendants incorporate with this reference its response to Request No. 11 hereinabove.

12. Produce all documents evidencing the lack of highly qualified teachers in Colorado public schools as defined under the No Child Left Behind Act and Colorado law.

RESPONSE: Defendants object to this Request on the ground that it is overly broad and unduly burdensome to the extent it seeks information regarding all 178 Colorado school districts, particularly given that the intervening parties reside in only 4 Colorado School Districts. Defendants object to this Request on the ground it is directed at the wrong party to the extent it seeks information regarding school districts' hiring or employment practices pertaining to teachers. Subject to and without waiving these objections and the General Objections, please refer to <http://www.cde.state.co.us/FedPrograms/danda/hqtdata.asp>.

13. Produce all documents evidencing any spending irregularities or unnecessary expenditures made by the Plaintiff-Intervenor districts.

RESPONSE: Defendants object to the phrase “Plaintiff-Intervenor districts” as defined by Plaintiff Intervenor” as there are no school districts who have intervened as parties in this matter. Defendants object to the phrases “spending irregularities or unnecessary expenditures” as vague, ambiguous and undefined. Defendants object to this Request on the ground that it is directed to the wrong party to the extent it seeks information regarding “spending irregularities or unnecessary expenditures” as Colorado school districts are political subdivisions over whom their local boards have the responsibility of overseeing the fiscal governance of the districts, *see, e.g.*, C.R.S. § 2232-110 and accordingly, defendants do not have documents responsive to this Request.

14. Produce all documents evidencing each specific source of facilities funding made available to Plaintiff-Intervenor districts during the past 5 years.

RESPONSE: Defendants object to this Request for Production to the extent that it is duplicative of Request for Production No. 25. Defendants further object to this Request for Production, which seeks documents regarding funds made available to Plaintiff-Intervenor School Districts and other school districts, on the ground that such documents are equally available to Plaintiff-Intervenors. Defendants further object to this Request for Production on the ground that the phrases “source of facilities funding” and “made available to” are vague and undefined.

Subject to and without waiving these objections and the General Objections, Defendants incorporate with this reference the responsive documents identified in Interrogatory 15 hereinabove as if fully set forth herein. Please also refer to Defendants’ Disclosures and any supplements thereto, including but not limited to: documents such as facilities funding applications, facilities funding award summaries and rankings, and board materials from the Capital Construction Assistance Board and the Capital Construction Advisory Committee; for example, those documents identified by Bates # CDE001466-CDE001527, CDE001531-CDE001534, CDE001714, CDE001765-CDE2655, CDE004841-4843, CDE004965-CDE005189, CDE005190-CDE005195, CDE005208-CDE005407, CDE005411-CDE005412, CDE005414-CDE005426, CDE005459-CDE005466, CDE005468-CDE005624, CDE005722-CDE005727, CDE005734-CDE005740, CDE008334-CDE8335, CDE008339-CDE008356, CDE008363-CDE008559, CDE008562, CDE008566-CDE009463, CDE009530- CDE011270, and CDE060859-CDE061519.

Further, subject to redaction of student education records pursuant to the Family Educational Rights and Privacy Act, Defendants are producing contemporaneously herewith:

Application Files for Capital Construction Grant Program and Building Excellent Schools Today Grant Program (CDE063311-CDE066373)

15. Produce all documents evidencing any deficiencies, shortcomings, errors, omissions, criticisms or failures in the report bearing the name of CDE, “Statewide Financial Priority Assessment, FY 2009-1010,” dated March 2010, or any other CDE report on capital construction over the past five years.

RESPONSE: Defendants object to this Request on the ground that the phrase “deficiencies, shortcomings, errors, omissions, criticisms or failures” is vague and undefined. Defendants object to this Request on the ground that to the extent it seeks “any other CDE report on capital construction over the past 5 years,” it is overly broad, unduly burdensome and vague and ambiguous given that responsive information could conceivably comprise the review of hundreds of documents prepared for or on behalf of the Colorado Public School Capital Construction Assistance Board or the Division of Public School Capital Construction Assistance. Subject to and without waiving these objections, Defendants are producing contemporaneously herewith:

Comments on Statewide Financial Priority Assessment, FY 2009-2010 (CDE061975-CDE063310)

Due to ongoing updating and commenting regarding the Statewide Financial Priority Assessment, FY 2009-2010, Defendants’ investigation into this matter is ongoing. Defendants will supplement their response with any additional responsive documents if and when such documents are located.

16. Produce all documents evidencing your efforts in determining the elements of a quality preschool program for at-risk, low income and ELL students and how those programs help those students achieve in school.

RESPONSE: Defendants object to this Request on the ground that it is compound. Defendants object to this Request on the ground that it is vague and ambiguous to the extent the word “quality” is undefined. Defendants object to this Request on the ground that the phrase, “programs help those students achieve in school,” is vague and ambiguous. Defendants object to this request to the extent that the use and definition of the terms “at-risk,” “low income,” or “ELL” are inconsistent with state law. Defendants object to this Request on the ground that it is directed to the wrong party as to the extent the Request seek district specific information, school district advisory councils, not Defendants would have responsive documents. Subject to and without waiving these objections and the General Objections, Defendants are producing contemporaneously herewith:

Colorado Quality Standards for Early Childhood Care and Education Services (CDE082359-CDE082437)

Please also refer to Defendants’ Disclosures and any supplements thereto, including but not limited to the following: 2008 CDE Colorado Preschool Program: 2008 Report to the Colorado Legislature (CDE006780 - CDE006793); CDE Colorado Preschool Program: 2009 Report to the Colorado Legislature (CDE006803 - CDE006817); CDE Colorado Preschool Program Presentation Companion to 2009 Legislative Report (CDE006818 -CDE006841); CDE Colorado 4-Year Olds Served by CPP (CDE006842 -CDE006843); CDE Colorado Preschool Program 2010 Legislative Report (CDE006883 CDE006897); CDE Colorado Preschool Program Presentation Companion to 2010 Legislative Report (CDE006860 - CDE006882). The following documents assist department staff in determining the elements

of quality preschool programs and demonstrate how those programs assist students to achieve both in preschool and the later grades:

17. Produce all documents evidencing your efforts in determining the success or quality of a preschool program, including any performance related data by district and school disaggregated by socioeconomic status and language.

RESPONSE: Defendants object to this Request on the ground that it is vague and ambiguous to the extent the terms “quality” or “success” are undefined. Defendants object to this Request on the ground that it is directed to the wrong party to the extent the Request seeks district specific disaggregated information, school district advisory councils, not Defendants would have responsive documents. Subject to and without waiving these objections and the General Objections, Defendants are producing contemporaneously herewith:

Colorado Quality Standards for Early Childhood Care and Education Services
(CDE082359-CDE082437)

First Steps and Next Steps (CDE082438-CDE082458)

Please also refer to Defendants’ Disclosures and any supplements thereto, including but not limited to the following: 2008 CDE Colorado Preschool Program: 2008 Report to the Colorado Legislature (CDE006780 - CDE006793); CDE Colorado Preschool Program: 2009 Report to the Colorado Legislature (CDE006803 - CDE006817); CDE Colorado Preschool Program Presentation Companion to 2009 Legislative Report (CDE006818 -CDE006841); CDE Colorado 4-Year Olds Served by CPP (CDE006842 -CDE006843); CDE Colorado Preschool Program 2010 Legislative Report (CDE006883 CDE006897); CDE Colorado Preschool Program Presentation Companion to 2010 Legislative Report (CDE006860 - CDE006882).

18. Produce all documents evidencing the overall number of children eligible for preschool funding and the number of preschool-eligible children actually funded under the Colorado Preschool Program by State and district and age.

RESPONSE: Defendants object to this Request on the ground that it is overly broad and unduly burdensome to the extent it seeks information regarding all 178 Colorado school districts, particularly given that the intervening parties reside in only 4 Colorado School Districts. Defendants object to this Request on the ground that it is directed to the wrong party to the extent it seeks information maintained or prepared by school districts. To that end, Defendants object to this Request to the extent it seeks disaggregated data because districts do not report eligibility factors to CDE by individual child and thus it is not feasible to report children funded in the program disaggregated by age and eligibility factor. Subject to and without waiving these objections and the General Objections, Defendants are producing contemporaneously herewith:

2008 Need for CPP Preschool Slots Based on 3 Year Average Kindergarten Enrollment (CDE082459-CDE082462)

2009 Estimated Need for CPP Slots (CDE082463-CDE082465)

Reapplication and Annual Report Data Report on Unmet Need for 2008, 2009 and 2010 (CDE082466-CDE082653)

Footnote Number of Younger Children in CPKP (FY08) (CDE082654-CDE082657)

Longbill Footnote (e) FY 2007-08 data (FY08) (CDE082666-CDE082668)

Longbill Footnote Item 12 (b) Number of Younger Children in CPP (FY09) (CDE082669-CDE082672)

Longbill Footnote Item 12 (d) State and Local Share of Total Program Funding (FY 09) (CDE082673-CDE082675)

Joint Budget Committee Information Request – Number of Younger Children in CPP (FY10) (CDE082658-CDE082661)

Joint Budget Committee Information Request – State and Local Share of Total Program Funding (FY10) (CDE082662-CDE082665)

Please also refer to Defendants' Disclosures and any supplements thereto, including but not limited to: 2008 CDE Colorado Preschool Program: 2008 Report to the Colorado Legislature (CDE006780 - CDE006793); CDE Colorado Preschool Program: 2009 Report to the Colorado Legislature (CDE006803 - CDE006817); CDE Colorado Preschool Program Presentation Companion to 2009 Legislative Report (CDE006818 -CDE006841); CDE Colorado 4-Year Olds Served by CPP (CDE006842 -CDE006843); CDE Colorado Preschool Program 2010 Legislative Report (CDE006883 CDE006897); CDE Colorado Preschool Program Presentation Companion to 2010 Legislative Report (CDE006860 -CDE006882).

19. Produce all documents evidencing your efforts in determining the elements of a quality full-day kindergarten program for at-risk, low income and ELL students and how those programs help those students achieve in school.

RESPONSE: Defendants object to this Request on the ground that it is vague and ambiguous to the extent the word “quality” is undefined. Defendants object to this Request on the ground the phrase, “help those students achieve in school” is vague and ambiguous. Defendants object to this Request to the extent that the use and definition of the terms “at-risk,” “low income,” or “ELL” are inconsistent with state law. Defendants object to this Request on the ground it is directed to the wrong party to the extent it seeks information regarding how full-day kindergarten “help[s] those students achieve in school” as that it is information that school districts would have the opportunity to observe. Subject to and

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

Colorado Quality Standards for Early Childhood Care and Education Services
(CDE082359-CDE082437)

First Steps and Next Steps (CDE082438-CDE082458)

Selected Research on the Effects of Full-Day Kindergarten (CDE082676-CDE082683)

Please also refer to Defendants' Disclosures and any supplements thereto, including but not limited to the following: 2008 CDE Colorado Preschool Program: 2008 Report to the Colorado Legislature (CDE006780 - CDE006793); CDE Colorado Preschool Program: 2009 Report to the Colorado Legislature (CDE006803 - CDE006817); CDE Colorado Preschool Program Presentation Companion to 2009 Legislative Report (CDE006818 -CDE006841); CDE Colorado 4-Year Olds Served by CPP (CDE006842 -CDE006843); CDE Colorado Preschool Program 2010 Legislative Report (CDE006883 CDE006897); CDE Colorado Preschool Program Presentation Companion to 2010 Legislative Report (CDE006860 - CDE006882).

20. Produce all documents evidencing the overall number of children eligible for full-day Kindergarten funding (including the number of children on waiting lists) and the number of Kindergarten children actually funded by the State, across the State and by district.

RESPONSE: Defendants object to this Request on the ground that it is vague and ambiguous to the extent it seeks funding information "across the State and by district." Defendants object to this Request on the ground it is directed to the wrong party to the extent it seeks disaggregated data regarding eligibility, school district advisory councils, not Defendants would have responsive documents. Defendants object to this Request as overly broad and unduly burdensome to the extent it seeks information regarding all 178 Colorado school districts,' particularly given that the intervening parties reside in only 4 Colorado School Districts. Subject to and without waiving these objections and the General Objections, Defendants are producing contemporaneously herewith:

Fall 2008 Pupil Member Count (CDE082255-CDE082339)

Fall 2009 Pupil Member Count (CDE082162-CDE082254)

Please also refer to Defendants' Disclosures and any supplements thereto including but not limited to the following: CDE Memorandum to School District Superintendents, Chief Financial Officers and Other School Personnel re: Full-Day Kindergarten Phase in Plan (CDE061520-CDE061569); 2008 CDE Colorado Preschool Program: 2008 Report to the Colorado Legislature (CDE006780 - CDE006793); CDE Colorado Preschool Program: 2009 Report to the Colorado Legislature (CDE006803 - CDE006817); CDE Colorado Preschool Program Presentation Companion to 2009 Legislative Report (CDE006818 -CDE006841); CDE Colorado 4-Year Olds Served by CPP (CDE006842 -CDE006843); CDE Colorado

Preschool Program 2010 Legislative Report (CDE006883 CDE006897); CDE Colorado Preschool Program Presentation Companion to 2010 Legislative Report (CDE006860 - CDE006882).

21. Produce all documents evidencing how the “state budget stabilization factor” affects Total Program Funding under the PSFA for each school district in Colorado, including the specific reduction in funding for each district.

RESPONSE: Defendants object to this Request on the ground that it seeks information outside of the relevant time period as defined by Plaintiff-Intervenors. Pursuant to the Instructions accompanying these discovery requests, “these discovery requests pertain to the last three school years for which responsive answers are available, *i.e.*, FY2006-07, FY2007-08 and FY2009-10. The “state budget stabilization factor” was not established until FY2010-11 through the enactment of HB10-1369 and thus this request falls outside of the relevant discovery period as defined by Plaintiff-Intervenors. Subject to and without waiving these objections and the General Objections, Defendants are producing contemporaneously herewith:

Understanding Colorado School Finance and Categorical Program Funding at <http://www.cde.state.co.us/cdefinance/download/pdf/FY2010-11BrochureWeb.pdf>

Please also refer to Defendants’ disclosures and any supplements thereto, including but not limited to the following:

Colorado FY 2010-11 Public School Finance Funding and Payment Information: <http://www.cde.state.co.us/cdefinance/SchoolFinanceFundingFY2010-11.htm>

22. Produce all documents evidencing your efforts in determining whether students are prepared for Kindergarten, including any performance related data by district and school disaggregated by socioeconomic status and language.

RESPONSE: Defendants object to this Request on the ground that it is overly broad, unduly burdensome to the extent it is seeking information regarding 178 school districts, particularly given that Plaintiff-Intervenors reside in only 4 districts. Defendants object to this Request on the ground that it is directed to the wrong party given that school district advisory councils, not Defendants, would have district specific, disaggregated data responsive to this Request. Defendants object to the term, “prepared,” on the ground it is vague and ambiguous. Subject to and without waiving these objections and the General Objections, Defendants respond as follows: please refer to Defendants’ Disclosures and any supplements thereto including but not limited to the following: CDE Memorandum to School District Superintendents, Chief Financial Officers and Other School Personnel re: Full-Day Kindergarten Phase in Plan (CDE061520-CDE061569); 2008 CDE Colorado Preschool Program: 2008 Report to the Colorado Legislature (CDE006780 - CDE006793); CDE Colorado Preschool Program: 2009 Report to the Colorado Legislature (CDE006803 - CDE006817); CDE Colorado Preschool Program Presentation Companion to 2009 Legislative Report (CDE006818 -CDE006841); CDE Colorado 4-Year Olds Served by CPP

(CDE006842 -CDE006843); CDE Colorado Preschool Program 2010 Legislative Report (CDE006883 CDE006897); CDE Colorado Preschool Program Presentation Companion to 2010 Legislative Report (CDE006860 -CDE006882).

23. Produce all documents evidencing or supporting your determination that the calculation of at-risk funding should be limited to those students who qualify for the free lunch program, as opposed to the reduced price lunch program.

RESPONSE: Defendants object to this Request on the ground that it is directed to the wrong party to the extent it seeks the basis for the General Assembly’s determination regarding the calculation of at risk funding, which is defined at C.R.S. § 22-54-103 (1.5), and is the sole basis for CDE’s determination of the calculation of at-risk funding. Subject to and without waiving these objections and the General Objections, Defendants respond as follows: None

24. Produce all documents related to any studies, reports, audits, evaluations, reviews, investigations, analyses, questionnaires and surveys of the board of trustees’ and administration’s practices and policies of the Plaintiff-Intervenor districts.

RESPONSE: Defendants object to the phrase “studies, reports, audits, evaluations, reviews, investigations, analyses, questionnaires and surveys of the board of trustees and administration’s practice” as vague, ambiguous and undefined. Defendants object to this Request on the ground that it is directed to the wrong party to the extent it seeks information regarding the administration of school districts, because school districts are political subdivisions over whom their local boards have the responsibility, see *e.g.*, C.R.S. § 22-32-110. Defendants further object to the extent it seeks studies and the like regarding districts’ boards of education on the ground that the request misapprehends the relationship between Defendants and Plaintiff-Intervenor Districts. As Defendants understand this Request, Defendants do not have responsive documents.

25. Produce all documents related to the facilities funding made available to Plaintiff-Intervenor districts.

RESPONSE: Defendants object to this Request to the extent that it is duplicative of Request No. 14. Defendants further object to this Request on the ground that the phrases “facilities funding” and “made available to” are vague and undefined.

Subject to and without waiving these objections and the General Objections, Defendants incorporate with this reference the documents identified in response to Interrogatory 15 as if fully set forth herein verbatim. Please refer to Defendants’ Disclosures and any supplements thereto, including but not limited to: documents such as facilities funding applications, facilities funding award summaries and rankings, and board materials from Capital Construction Assistance Board and Capital Construction Advisory Committee; for example, those documents identified by Bates # CDE001466-CDE001527, CDE001531-CDE001534, CDE001714,CDE001765-CDE2655,CDE004841-4843,CDE004965-CDE005189, CDE005190-CDE005195,CDE005208-CDE005407,CDE005411-CDE005412, CDE005414-

CDE005426,CDE005459-CDE005466, CDE005468-CDE005624, CDE005722-CDE005727, CDE005734-CDE005740, CDE008334-CDE8335, CDE008339-CDE008356, CDE008363-CDE008559,CDE008562,CDE008566-CDE009463,CDE009530-CDE011270,and CDE060859-CDE061519.

Further, subject to redaction of student information pursuant to the Family Educational Rights and Privacy Act, Defendants are producing contemporaneously herewith:

Application Files for Capital Construction Grant Program and Building Excellent Schools Today Grant Program (CDE063311-CDE066373)

26. Produce all documents related to any studies, reports, audits, evaluations, reviews, investigations, analyses, questionnaires and surveys of facility needs in the Plaintiff-Intervenor districts.

RESPONSE: Defendants object to this Request on the ground that the phrase “studies, reports, audits, evaluations, reviews, investigations, analyses, questionnaires and surveys” is vague and undefined. Defendants object to this Request on the ground that the phrase, “facility needs,” is vague and ambiguous. Defendants object to the phrase, “Plaintiff-Intervenor Districts” as defined, on the ground that there are no Plaintiff Intervenor district parties in this case.

Subject to and without waiving this objection and the General Objections, please refer to Defendants’ Disclosures and any supplements thereto, including but not limited to: documents such as the Statewide Financial Assistance Priority Assessment FY 2009-2010, charter school capital construction funding questionnaires, and the capital construction inventory form; for example, those documents identified by Bates # CDE001535-CDE001711, CDE005413, CDE008357, and CDE009590.

Further, Defendants are producing contemporaneously herewith:

FDK Survey (CDE083729-CDE084005)

Summary Colorado Revised Statutes for Certification of Pupil Enrollment in Charter Schools (FY2005-2006) (CDE084056)

Report to Education Committee & Joint Budget Committee 1/31/2007 (CDE084063)

Education Committee & Joint Budget Committee 1/31/2008 (CDE084057)

Education Committee & Joint Budget Committee 1/31/2009 (CDE084058)

Report to Education Committee & Joint Budget Committee 1/31/2009 (CDE084061-CDE084062)

Report to Education Committee & Joint Budget Committee 1/31/2010 (CDE084059-CDE084060)

CDE Charter School Projected Pupil Counts FY 2005-2006 through FY 2010-2011 (CDE083657-CDE083707)

CDE Certification of Pupil Enrollment in Charter Schools FY2005-2006 (CDE083708-CDE083728)

27. Produce all documents related to any studies, reports, audits, evaluations, reviews, investigations, analyses, questionnaires and surveys conducted by or on behalf of you, or which you rely upon, in assessing the educational needs of ELL students.

RESPONSE: Defendants object to this Request on the ground that the phrase “all documents related to any studies, reports, audits, evaluations, reviews, investigations, analyses, questionnaires and surveys conducted” is vague, ambiguous and undefined. Defendants also object to the use of the phrases “related to” and “or which you rely” on the ground that in this context, the Request is overly broad and unduly burdensome as CDE reviews and relies upon numerous studies, analyses, reports, and evaluations on an on-going basis and thus documents potentially responsive to this Request evolve, are revised and updated and change over time depending on the areas of interest or concern. Defendants object to the phrase, “educational needs” on the ground that it is vague and ambiguous. Defendants’ further object to this Request to the extent the use and definition of the term “ELL” is inconsistent with state law. Subject to these objections and the General Objections, Defendants are producing contemporaneously herewith:

Culturally and Linguistically Diverse Learners in Colorado, State of the State 2010 (CDE082753-CDE082836)

WIDA New Federal Grant Initiative to Develop Spanish Proficiency Standards and Assessments (CDE084064)

When to Exit ELL Students: Monitoring Subsequent Success and Failure in Mainstream Classrooms (CDE084105-CDE084113)

Colorado Strategic Reading (CDE084065-CDE084104)

Challenges in the No Child Left Behind Act for English Language Learners, Policy Brief (CDE082340-CDE082345)

Framework for High Quality English Language Proficiency Standards and Assessments Policy Brief (CDE082346-CDE082353)

Improving the Validity of English Language Learner Assessment Systems Policy Brief (CDE082354-CDE082358)

CDE District English Language Acquisition Plan: The Who, Why, What and How of Plan Development (2010) CDE082854-CDE082900)

Please also refer to Defendants' Disclosures and any supplements thereto, including but not limited to: CDE On the Road to Proficiency: Evidence from Colorado's Growth Model for English Language Learners, June 5, 2008 ELAU Research Briefing (CDE006079 - CDE006120); CDE English Learners: Proficiency and Achievement, School Support Team Refresher, September 17, 2009 (CDE006121 -CDE006155); CDE English Learners: Time in US, Proficiency and Achievement (CDE006156 -CDE006195).

28. Produce all documents related to any studies, reports, audits, evaluations, reviews, investigations, analyses, questionnaires and surveys conducted by or on behalf of you, or which you rely upon, in assessing the educational needs of low income and at-risk students.

RESPONSE: Defendants object to this Request on the ground that the phrase "all documents related to any studies, reports, audits, evaluations, reviews, investigations, analyses, questionnaires and surveys conducted" is vague, ambiguous and undefined. Defendants object to the phrase, "educational needs," on the ground it is vague and ambiguous. Defendants also object to the use of the terms "related to" and "which you rely upon" on the ground that in this context, the Request is overly broad and unduly burdensome. CDE reviews and relies upon numerous studies, analyses, reports, and evaluations on an on-going basis and thus documents potentially responsive to this Request evolve, are revised and updated and change over time depending on the areas of interest or concern. Defendants further object to this Request to the extent that the use and definition of the as terms "low income" or "at-risk" are inconsistent with state law. Subject to these objections and the General Objections, Defendants are producing contemporaneously herewith:

CDE Presentation to the Economic Opportunity Poverty Reduction Task Force (CDE083543-CDE083555)

Please also refer to Defendants' Disclosures and any supplements thereto, including but not limited to: Colorado's Growth Model, The Colorado Growth Model: https://cdeapps.cde.state.co.us/growth_model_public/; Federal Register: Part VI Department of Education, 34 CFR Part 200, Title I - Improving the Academic Achievement of the Disadvantaged; Final Rule (CDE047552-CDE047562); Federal Register: Part IV Department of Education, 34 CFR Part 200, Title I - Improving the Academic Achievement of the Disadvantaged; Final Rule (CDE047563-CDE047625); NCLB, Title III, Section 3115(g) Supplement, Not Supplant (CDE048131-CDE048132); NGA Center for Best Practices Grant of \$150,000 in Support of State Strategies to Improve Chronically Low-Performing Schools (CDE039000-CDE039016); Profiles of Success: Eight Colorado Schools that are Closing the Achievement Gap (CDE001439 -CDE001465).

29. Produce all documents evidencing the state, local and federal funding made available to the Plaintiff-Intervenor districts.

RESPONSE: Defendants object to the phrase “Plaintiff-Intervenor Districts” as there are no school districts that have intervened as parties in this case. Defendants object to this Request on the ground that it is directed to the wrong parties as information regarding funding received by the referenced districts is in the possession of those districts. Defendants also object to this Request on the ground that “made available” is vague and ambiguous. Subject to and not waiving these objections and the General Objections, Defendants respond as follows: See Bates Numbers CDE081889-CDE081972.

30. Produce all documents and tangible things, including reports, models or data compilations, which have been provided to, reviewed by, or prepared by or for each consulting expert, whose work has been reviewed by the testifying expert or experts whom you may call to testify in this case, and by or for any other person you intend to call who may present expert testimony but for whom an expert report is not required under federal rules.

RESPONSE: Defendants object to this Request extent it seeks to discover facts known or opinions held by an expert who is not expected to be called as a witness at trial. *Phillips v District Court*, 573 P.2d 553 (Colo. 1978); CRCP 26(b)(4)((B). Defendants object to this Request to the extent it seeks to discover facts known or opinions held by testifying experts on the ground it seeks premature disclosure of expert testimony. Subject to these objections and the General Objections, Defendants respond as follows: Defendants will disclose expert testimony as required by the Colorado Rules of Civil Procedure and the Modified Case Management Order.

III. REQUESTS FOR ADMISSIONS

1. Admit that the documents produced by you in response to Plaintiff-Intervenors’ First Set of Discovery Requests are true and authentic.

RESPONSE: Defendants object to this Request for Admission on the ground that the phrase “true and authentic” is vague and undefined. C.R.C.P. 36(a) permits a party to use a request for admission to determine “the genuineness of any documents described in the request.” Defendants therefore construe the phrase “true and authentic” to be synonymous with “genuineness,” and answer the request with that phrase so defined. Defendants’ answer is strictly limited to admission or denial of the genuineness of documents for the purpose of avoiding formal proof or authentication burdens, see 4 Colo. Prac., Civ. R. Ann. R. 36 (4th ed.), and does not constitute an admission or denial of the truth of any substantive statement made in those documents.

Subject to and without waiving this objection or the General Objections, Defendants admit that the documents produced in response to Plaintiff-Intervenors’ First Set of Discovery Requests are genuine.

2. Admit that given sound, effective educational opportunities, ELL students can perform scholastically in school on equal terms with non-ELL students.

RESPONSE: Defendants object to this Request for Admission on the ground that the phrase “sound, effective educational opportunities” is vague and undefined. Defendants object to the use of ELL as defined by Plaintiff-Intervenors to the extent it is inconsistent with state law. Subject to and without waiving these objections and the General Objections, Defendants admit that ELL students can perform scholastically in school as well as non-ELL students.

3. Admit that the primary purpose of the CELApro is to determine the level at which Colorado NEP and LEP students meet the Colorado English Language Development Standards in four domains (listening, speaking, reading and writing).

RESPONSE: Admit.

4. Admit that the CELApro does not measure an ELL student’s knowledge of Colorado’s content standards.

RESPONSE: Admit

5. Admit that given sound, effective educational opportunities, low income students can perform scholastically in school on equal terms with non-low income students.

RESPONSE: Defendants object to this Request on the ground that “sound, effective educational opportunities” is vague and undefined. Defendants further object to this Request to the extent that the use and definition of the term “low income” is inconsistent with state law. Subject to and without waiving these objections and the General Objections, Defendants admit that low income students can perform scholastically in school on equal terms with non-low income students.

6. Admit that the State of Colorado holds all students, with the exception of certain special education students, to the same academic standards.

RESPONSE: Admit.

7. Admit that the primary purpose of the CSAP is to determine the level at which Colorado students meet Colorado’s content standards in the content areas assessed.

RESPONSE: Admit.

8. Admit that the ACT is a standardized test used to measure high school achievement and college readiness.

RESPONSE: Admit.

9. Admit that you do not permit or otherwise authorize districts to use federal funds, including Title I and Title III funds, to supplant—as opposed to supplement—state funding.

RESPONSE: Defendants object to this Request on the ground that the phrase “permit or otherwise authorize” is vague and ambiguous as used in this context. Subject to these objections and the General Objections, Defendants admit that Title I and Title III funds must be used to supplement not supplant state funding.

10. Admit that educational research does not conclusively prove that it takes 2 years or less for ELL students to become proficient in English.

RESPONSE: Defendants object to the phrase “educational research” as vague, ambiguous and undefined. Defendants also object to the phrase “does not conclusively prove” as vague and ambiguous. Defendants also object to the use of the phrase “ELL students” as defined by Plaintiff-Intervenors to the extent it is inconsistent with state law. Defendant also object to the term “proficient” as undefined in this context. Subject to and without waiving these objections and the General Objections, Defendants respond as follows: Defendants state that many factors impact of the English language by students whose dominant language is not English, and that some students learn English sooner than others and thus Defendants deny the Request, as drafted, on that basis.

11. Admit that districts across Colorado do not have the same slate of at-risk focused services available to them.

RESPONSE: Defendants object to this Request on the ground that “same slate of at-risk focused services” is vague and ambiguous as it is unclear what is meant by this phrase. Defendants also object to this Request on the ground it is directed to the wrong party as it seeks an admission regarding school districts, as opposed to Defendants. Defendants further object that “available to them” is vague, ambiguous and undefined. Subject to and without waiving these objections and the General Objections, Defendants respond as follows: Defendants admit upon information and belief that Districts offer different at-risk services for a variety of reasons, including but not limited to the demographics of the student population.

12. Admit that a low-performing, monolingual English speaking student who is not eligible for free lunch is not considered “at-risk” for funding purposes in the Colorado public schools.

RESPONSE: Admit.

13. Admit that a district will not receive at-risk funding under the PSFA for a low-performing, monolingual English speaking student who is not eligible for free lunch.

RESPONSE: Admit.

14. Admit that, generally speaking, a district’s geographic and financial position can affect that district’s ability to recruit and retain highly qualified teachers, as defined under the No Child Left Behind Act and Colorado law.

RESPONSE: Defendants object to this Request on the ground that it is directed to the wrong party because defendants do not recruit or hire teachers. Defendants object to this

request as overly broad and unduly burdensome to the extent it seeks information regarding all 178 Colorado school districts' hiring and recruitment practices, particularly given that the intervening parties reside in only 4 Colorado School Districts. Defendants object to the phrase "geographic and financial position" as vague and ambiguous. Subject to these objections and the General Objections, Defendants state that they do not employ school teachers and thus are not in a position to know what factors impact a school district's ability to hire highly qualified teachers and thus deny the Request on that basis.

15. Admit that you do not require districts to hire teachers who teach ELL students to have a specialized degree or certification to teach ELL students.

RESPONSE: Defendants object to this Request to the extent it presumes Defendants have authority to direct districts regarding employment decisions. Defendants object to the use of the term "ELL students" to the extent it is inconsistent with state law. Subject to these objections and the General Objections, Defendants respond as follows: Admit.

16. Admit that the Colorado State Board of Education adopted the Common Core State Standards for English Language Arts and Mathematics.

RESPONSE: Admit.

17. Admit that the Common Core State Standards are designed to be robust and relevant to the real world, reflecting the knowledge and skills that our young people need for success in college and careers.

RESPONSE: Admit.

18. Admit that the Common Core State Standards for English Language Arts and Mathematics are equal to, or more rigorous than, the Colorado Model Content Standards currently in place.

RESPONSE: Admit.

19. Admit that public school districts in Colorado must adopt, at a minimum the Colorado Academic Standards, which include the Common Core State Standards for English Language Arts and Mathematics.

RESPONSE: Admit.

20. Admit that all classrooms that include Colorado Preschool Program-funded students must commit to use the Colorado Quality Standards as indicators of developmentally appropriate practice in a high quality program.

RESPONSE: Admit.

21. Admit that early school failure may ultimately contribute to such children dropping out of school at an early age, failing to achieve their full potential, becoming dependant upon public assistance, or becoming involved in criminal activities.

RESPONSE: Defendants object to this Request on the ground it is directed to the wrong party as it appears to be quoting the legislative declaration by the General Assembly regarding the Colorado Preschool Program Act. Subject to and without waiving these objections and the General Objections, Defendants admit this Request on information and belief and further state that C.R.S. § 22-28-102 provides that “early school failure may ultimately contribute to such children dropping out of school at an early age, failing to achieve their full potential, becoming dependant upon public assistance, or becoming involved in criminal activities.”

22. Admit that each district and preschool has a limited number of openings and often cannot accommodate all families who apply.

RESPONSE: Defendants object to this Request on the ground it is directed to the wrong party to the extent it seeks an admission regarding districts, not Defendants. Defendants object to this Request on the ground that “limited number” is vague, ambiguous and undefined. Defendants object to this Request on the ground that “often” is vague and ambiguous. Subject to these objections and the General Objections Defendants respond as follows: Defendants admit this Request on information and belief for the following reasons: the Colorado Preschool Program is limited to funding the equivalent of 10,080 FTE or 20,160 children each year, C.R.S. § 22-28-104(2)(a)(III), and each district has an allocation of CPP slots. Defendants further state that there are school districts with identified needs that have not applied for additional slots because they do not have the space or community partners to serve additional children. Such districts are unable to accommodate all CPP eligible families that may apply.

23. Admit that you do not provide full-day funding to Colorado school districts for all eligible Kindergarten students.

RESPONSE: Defendants object to this Request on the ground it is directed to the wrong party as funding of Kindergarten is provided by statute and the General Assembly is not a party to this action. Subject to this objection and the General Objections, Defendants respond as follows: Admit.

24. Admit that high quality preschool programs for ELL and low income students can help better prepare those students to learn the State content standards and achieve their full potential.

RESPONSE: Defendants object to this Request on the ground that “high quality” is vague and undefined. Defendants further object to this Request to the extent the use and definition of the terms “ELL” and “low income” are inconsistent with state law. Subject to and not waiving these objections Defendants respond as follows: Admit

25. Admit that quality preschool programs can help reduce the achievement gap between ELL students and non-ELL students.

RESPONSE: Defendants object to this Request on the ground that “quality” is vague and undefined. Defendants’ further object to this Request to the extent the use and definition of the term “ELL” is inconsistent with state law. Subject to and not waiving these objections Defendants respond as follows: Admit

26. Admit that college remediation is an indicator that students are not sufficiently prepared for college.

RESPONSE: Admit.

27. Admit that the condition of school facilities can negatively affect student learning.

RESPONSE: : Defendants object to this Request for Admission on the ground that the phrases “condition of public school facilities,” “negatively affect,” and “student learning” are vague, ambiguous and undefined. Subject to and without waiving these objections and the General Objections, Defendants respond as follows: Defendants admit that many factors, including in some instances, school facilities, can negatively affect student learning.

28. Admit that the facilities study bearing the name of CDE and titled “Statewide Financial Priority Assessment, FY 2009-2010,” dated March 2010, is an accurate assessment of the facilities within those districts identified in the report.

RESPONSE: Defendants object to this Request for Admission on the ground that the phrase “accurate assessment” is vague and undefined. Subject to and without waiving this objection and the General Objections, Defendants respond as follows: Defendants admit that the Statewide Financial Priority Assessment, FY 2009-2010 was prepared on behalf of the Public School Capital Construction Assistance Board by Parsons Commercial Technology Group to provide an assessment of public school facilities in Colorado for the period of FY2009-2010 and to address the considerations set forth in C.R.S. § 22-43.7-107. Defendants further admit that the numbers contained within the assessment are estimates as of March 2010. Defendants further admit that as reflected in the Foreword to the assessment, “the overall conditions of school facilities are ever-changing due to many variables including newly occurring deficiencies, new building construction, repairs, renovations, and updated cost estimates.” Defendants further admit that the March 2010 Assessment was accurate as of March 2010 and deny this Request to the extent the Request seeks an admission or denial that the March 2010 is a current reflection given that the “overall conditions of school facilities are ever-changing.”

29. Admit that school districts across the State have varying abilities to raise revenue for facilities and capital construction due to their property wealth.

RESPONSE: Defendants object to this Request on the ground it is directed to the wrong party given that a district’s ability to raise revenue is a function of the district’s ability to

generate voter support. Defendants object to this Request for Admission on the ground that the phrases “varying abilities” and “property wealth” are vague, ambiguous, and undefined. Subject to and without waiving these objections and the General Objections, Defendants respond as follows: Admit.

30. Admit that, generally speaking, a school district with a lower property value must levy a higher mill in order to generate the same amount of revenue when compared to a school district with a higher property value.

RESPONSE: Defendants object to this Request for Admission on the ground that the phrases “lower property value” and “higher property value” are vague and undefined. Subject to and without waiving these objections and the General Objections Defendants respond as follows: Admit.

31. Admit that school districts in Colorado do not have unlimited discretion in asking voters to raise revenue for capital construction and instructional expenditures.

RESPONSE: Defendants object to this Request for Admission on the ground that the phrases “unlimited discretion” and “instructional expenditures” are vague and undefined. Subject to and without waiving these objections and the General Objections, Defendants respond as follows: Admit.

Defendants further state that while there are various limitations on school districts’ ability to ask voters to raise revenue for capital construction and instructional expenditures, the limitations are broad enough that no district in the state has gone to their voters requesting the maximum amounts allowable under all sections of statute for overrides and special elections that would allow districts to collect more property taxes. Moreover, assessed valuations and bonded debt limits for school districts across the state vary significantly. Denver Public Schools’ assessed valuation was \$11,270,854,510 in FY2009-10 and had a debt limit of \$2,254,170,902, the highest in the state. Denver supported the education of over 72,115 students (funded pupil count). For the same time period, the district with the lowest assessed valuation was Edison School District at \$2,941,412, with a bonded debt limit of \$588,282, supporting the education of 250 students (funded pupil count). *See also* Article X, Section 3, C.R.S. § § 22-42-104 (1); 22-40-102; 22-54-107; 22-54-107.5 and the cost of living adjustment, produced contemporaneously herewith at CDE082158-CDE082161.

32. Admit that a Colorado public school student’s income status or race, standing alone, does not determine whether a student can achieve Colorado’s academic standards.

RESPONSE: Admit.

Dated: November 10, 2010

JOHN W. SUTHERS
Attorney General

s/ Carey Taylor Markel

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ATTORNEYS FOR DEFENDANTS
*Counsel of Record

*Original signature of Carey Taylor Markel
is on file at the Office of the Colorado
Attorney General*

VERIFICATION

I have read the foregoing answers to Plaintiff-Intervenors' First Set of Interrogatories, and hereby certify that they are true and correct to the best of my knowledge and belief.

Mary Frances Nevans

Mary Frances Nevans
in her official capacity as Director of
State Board Relations, State Board of
Education on behalf of the State
Board of Education

Subscribed and sworn to before me in the County of Denver, State of Colorado,
this 10th day of November, 2010.

Theresa L. Christensen

Notary Public

My commission expires:

8/7/2013



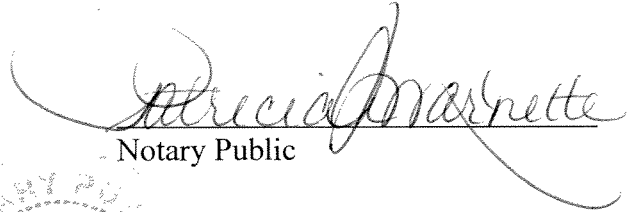
VERIFICATION

I have read the foregoing answers to Plaintiff-Intervenors' First Set of Interrogatories, and hereby certify that they are true and correct to the best of my knowledge and belief.



Mary Wickersham, on behalf of
Bill Ritter, Jr., in his official capacity
as Governor, State of Colorado

Subscribed and sworn to before me in the County of Denver, State of Colorado,
this 10th day of November, 2010.



Notary Public

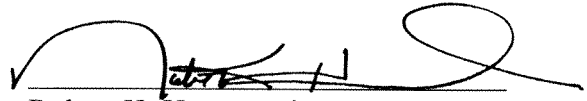
My commission expires:

October 28, 2014



VERIFICATION

I have read the foregoing answers to Plaintiff-Intervenors' First Set of Interrogatories, and hereby certify that they are true and correct to the best of my knowledge and belief.



Robert K. Hammond
in his official capacity as Interim
Commissioner of Education,
State of Colorado

Subscribed and sworn to before me in the County of Denver, State of Colorado,
this 9th day of November, 2010.



Notary Public

My commission expires:

8/7/2013

CERTIFICATE OF SERVICE

This is to certify that I have duly served the within **DEFENDANTS' RESPONSES TO PLAINTIFF-INTERVENORS' FIRST SET OF INTERROGATORIES, REQUESTS FOR PRODUCTION, AND REQUESTS FOR ADMISSIONS TO DEFENDANTS** upon all parties herein via electronic mail, Lexis/Nexis File & Serve, and/or U.S. Mail this 10th day of November, 2010:

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s/ Jeannine Moore
Jeannine Moore, Paralegal
*Original Signature on file at the Office of the
Colorado Attorney General*