

<p>DISTRICT COURT, DENVER COUNTY, COLORADO Denver City and County Building 1437 Bannock St. Denver, Colorado 80202</p>	
<p>Plaintiffs: ANTHONY LOBATO, et al., and Plaintiff-Intervenors: ARMANDINA ORTEGA, et al. v. Defendants: THE STATE OF COLORADO, et al.</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> <p>Case No. 2005CV4794</p> <p>Div. 9</p>
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**PLAINTIFFS' COMBINED RESPONSE TO DEFENDANTS' FIRST DISCOVERY REQUESTS TO SCHOOL DISTRICT PLAINTIFFS:
CENTER CONSOLIDATED SCHOOL DISTRICT NO. 26 JT**

Pursuant to C.R.C.P. 33, 34, and 36, Plaintiffs, Anthony Lobato, et al., (“Plaintiffs”), through counsel, hereby respond on behalf of Plaintiff Center Consolidated School District No. 26 JT (“Center”) to Defendants’ First Set of Interrogatories to School District Plaintiffs served October 12, 2010 (“Interrogatories”) and to Defendants’ First Request For Production Of Documents to School District Plaintiffs served October 12, 2010 (“Request for Production”). The Interrogatories and Request for Production are collectively referred to as Defendants’ “Discovery Request.”

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

GENERAL OBJECTIONS

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

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

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

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

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

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

7. Time Period. Plaintiffs object to the Discovery Request to the extent that it requests information generated prior to 2005. Given the broad scope of the Discovery Requests and the nature and evolution of education reform and education finance, any potential relevance of that information is substantially outweighed by the burden to collect, review, analyze, and produce that information in a responsive format. The requests for information generated prior to 2005 are therefore unduly burdensome, and such information will not be produced.

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

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

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

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

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

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

INTERROGATORIES

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

Response: Other than Center legal counsel, George Welsh was principally involved with the preparation of the answers to these interrogatories.

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

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

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

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

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

C.R.S. § 22-7-1002(1)(c).

The general assembly has declared that the standards-based education system adopted in 1993, including content standards, student assessments, and student achievement of performance standards, is intended to fulfill the duty to provide Colorado school children with a public education that meets that definition and to provide substance and specificity to the

definition of a constitutionally adequate, quality education. In the 1993 Education Reform provisions, the general assembly stated that:

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

C.R.S. § 22-7-403(2).

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

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

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

C.R.S. § 22-7-1002(4)(e).

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

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

C.R.S. § 22-7-402(9).

The general assembly has directed the establishment of a comprehensive accountability system in order to evaluate the “performance of the thorough and uniform statewide system of

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

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

C.R.S. § 22-30.5-301(1).

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

For purposes of this litigation, Center accepts the mandates set forth in state law governing public education and the rules and regulations promulgated pursuant thereto, some of which are quoted and cited above, as the present day standard of a thorough and uniform system of public education. Therefore, the minimum amount of funding and resources sufficient to provide a constitutionally adequate, quality education is that amount of funding and resources

necessary to provide every school district with sufficient funds and resources to meet the mandates of state law and regulation.

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

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

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

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

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

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

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

Subject to and without waiving the foregoing and General Objections, Center states that an appropriate system of public school finance would include without limitation funding formulae and mechanisms that are based primarily on estimations of the actual costs associated

with the provision of a constitutionally compliant system of public schools, as described above in response to Interrogatories Nos. 2-3 (which are incorporated in this response along with all objections stated therein), in contrast to a system of funding based simply on arbitrary percentage or fixed dollar adjustments to the previous year's funding formula or dollar allocation.

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

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

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

Subject to and without waiving the foregoing and General Objections, Center states that its mission statement is "Focused on the Future". This mission statement was developed with our staff and community and is frequently reviewed at meetings to insure that the focus on the mission is maintained and to evaluate whether it needs to be improved or modified. New staff is introduced and trained around the mission statement and current staff assists with the review and evaluation process. The mission statement is posted on our web site; in prominent places around the school and administration buildings; and is included in many of our publications and correspondence.

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

Response: In addition to the General Objections, Plaintiffs object to Interrogatory No. 6 on the basis that it is vague, overbroad, burdensome, and calls for the discovery of irrelevant information not calculated to lead to the discovery of admissible evidence. Interrogatory No. 6 is especially unduly overbroad and burdensome because the scope of the phrases "professional services" and "District employees" could potentially include every act taken by Center over the course of five years, and the burden to identify and describe each and every act substantially outweighs the probative value of many of those acts.

Subject to and without waiving the foregoing and General Objections, Center states that under NCLB it is required to dedicate 10% of its federal funds to professional development, taking much needed resources away from classrooms and the district. Center provides primarily training as the method for delivery of professional development. With the federal transformation grant, Center received funding to provide more extensive training and professional development for the Haskins Elementary School staff.

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

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

Subject to and without waiving the foregoing and General Objections, Center states that all our personnel policies are posted on our website, <http://www.center.k12.co.us/> Personnel policies are Policy G. When a position is open, we post the position on our website, advertise through local papers, The Pueblo Chieftain and, CDE and CASE websites. However, Center states that even with its best efforts, in hard to staff positions, qualified applicants are difficult to find and often times, no qualified applicants even apply.

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

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

Subject to and without waiving the foregoing and General Objections, Center states that it has not contributed money in any amount that has an order of magnitude meaningfully comparable to Center’s annual budget or the amount which the Defendants’ are constitutionally required to provide but have failed to provide. Subject to these same objections, Center states it has contributed approximately \$1,000 toward the costs of litigation.

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

Response: In addition to the General Objections, Plaintiffs object to Interrogatory No. 9 on the basis that it is vague, overbroad, burdensome, and calls for the discovery of irrelevant information not calculated to lead to the discovery of admissible evidence. Specifically, the term “failed” is vague and confusing. Moreover, Plaintiffs object to Interrogatory No. 9 because it prematurely seeks the production of expert information, materials, and opinions. *See* C.R.C.P.

26(b)(4)(a). Plaintiffs further object on the basis that Interrogatory No. 9 is a contention interrogatory, and Defendants have objected to contention interrogatories on the improper ground that such interrogatories are premature. Plaintiffs believe these objections are without merit, but to the extent such objections are valid, Plaintiffs should not have to respond to contention interrogatories.

Subject to and without waiving the foregoing and General Objections, Center states that “adequate educational opportunities” means at a minimum educational opportunities sufficient to permit each and every student to demonstrate proficiency in meeting the performance goals and standards established by state law, rule, and regulation; to demonstrate academic growth and achievement and critical-thinking and problem-solving skills necessary to ensure the student’s ultimate success in school, in postsecondary education, in the workforce, and in life; to be well prepared for active participation in democracy and to compete in the twenty-first-century workforce; and to ensure, to the extent possible, that he or she is prepared to meet his or her full potential, as set forth in C.R.S. §22-7-1002. To the extent that any student is not provided with an educational opportunity that meets these standards, he or she has failed to receive a constitutionally adequate educational opportunity. See also Response to Interrogatory No. 2-4, above, which are incorporated into this response along with all objections stated therein.

Without limiting the generality of the foregoing, the Center states that students have failed to receive adequate educational opportunities in all educational areas (such as reading, writing, math, science, and physical education) due to the lack of resources including but not limited to curriculum, materials (such as physical education equipment, microscopes, lab equipment, computers, printers, reading books, and calculators), and facilities (such as science labs and physical education rooms).

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

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

Subject to and without waiving the foregoing and General Objections, Center states that it has received the following grants:

Center recently received a federal Title I School Improvement Grant for Haskins Elementary School. This grant is for \$1,666,515 as a transformation grant for three years. For information on these grants:

www.cde.co.us/turnaround/cde_turnaroundplan.home.htm

Center received a grant from the School Counselor Core Grant Program. The School Counselor Core Grant Program's purpose is to "increase the availability of effective school based counseling within secondary schools. Grant funds are also used for increasing the level of school counseling services provided to increase the graduation rate within the state and increase the percentage of students who appropriately prepare for, apply to, and continue into postsecondary education."

CDE website:

<http://www.cde.state.co.us/cdecomp/SchoolCounselor/SchoolCounselor.htm>

See also JBC briefing document:http://www.state.co.us/gov_dir/leg_dir/jbc/edubrf.pdf

Center received a Reading First Grant. The Reading First Grant was established through Title 1, Part B of NCLB. The purpose of the Colorado Reading First Grant was to support the implementation of proven methods of reading instruction in classrooms. The Colorado Reading First Grant ran from 2003 to 2010.

CDE Website:

<http://www.cde.state.co.us/coloradoliteracy/crf/index.htm>

Center received a three-year federal grant from Even Start. Even Start is another program authorized under Title I and NCLB. Even Start was intended to help break the cycle of poverty and illiteracy by improving education opportunities of state's low-income families, through adult literacy, early childhood education, and parenting support. See CDE website: <http://www.cde.state.co.us/coloradoliteracy/crf/index.htm>

Center received a 21st Century Learning grant. This federal grant called for the establishment of community learning centers in non-school hours for children, primarily from high poverty, low performing schools. For more information on these grants, see: <http://www2.ed.gov/programs/21stcclc/index.html>

Center received a BEST grant this year. BEST stands for "Building Excellent Schools Today." To receive this grant, Center had to pass a bond election to provide the qualifying match for this grant. As a result of this grant, Center will be building a new facility. For more on BEST, see the following CDE web site:

<http://www.cde.state.co.us/cdefinance/capconstmain.htm>

Center also has received other grants, including a comprehensive school health improvement grant and an El Pomar grant for adult education. Each grant received was used for its intended purpose.

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

Response: In addition to the General Objections, Plaintiffs object to Interrogatory No. 11 on the basis that the scope of information called for by this interrogatory is unduly

burdensome to obtain, and the term “resources” is vague and confusing. Further, to the extent this interrogatory is not unintelligible, Defendants have the same access to the information requested by Interrogatory No. 11.

Subject to and without waiving the foregoing and General Objections, Center states that the CDE provides the District with the opportunity to receive trainings based upon District needs (school improvement plans) as decided by its Annual Yearly Progress reports, as well as other state reporting requirements, which are all based upon CSAP results. The CDE provides access to its website and allows the District to post job openings on the website. The CDE has also provided professional development (paid for by the federal dollars) to help sustain the grants.

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

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

Subject to and without waiving the foregoing and General Objections, Center states that it does not have sufficient resources or support to provide the necessary educational opportunities to all children who need ELL support. Center does not have enough staff certified to teach ESL, and it cannot provide ESL support services in the classroom. When a child receives pull out services for language, this also causes the child to miss substantive curriculum and class time. However, notwithstanding the significant lack of state support, Center provides the following program for ELL students: when a child enters kindergarten he or she is identified as needing ELL services through screening. If ELL services are necessary, the child receives newcomer services, and is taught in both sheltered instruction as well as pull out instruction. As the child progresses, the child leaves sheltered instruction and moves into class with no language support.

If a child enters school later than kindergarten, again he or she is screened to determine whether services are necessary. If ELL services are necessary, they are provided through the newcomer program, through intense ESL instruction and pull out services. In addition, intervention through RTI services is available for these children. There are three levels of ESL instruction at the high school level. There are two classes for the first level, level 2 has one class,

and level three are staffed out of class during the school year. There are also limited after school opportunities for ELL services. All services provided to ELL students are in addition to the opportunities they have to access core content and instruction.

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

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

Subject to and without waiving the foregoing and General Objections, Center states that many of the financial resources received from the State are used just to comply and fill out required paper work from CDE. With the limited resources left, for students at the middle/high school: there are a few on/line/correspondence courses, some limited college level classes that are offered on campus, and limited accelerated classes in math and language arts. At the elementary level, gifted and talented is available only through differentiated instruction.

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

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

provide educational opportunities to all students, and to the extent the request calls for descriptions of programs not aimed exclusively at “students at risk of academic failure,” Center incorporates its responses to all Interrogatories and the objections stated therein.

Subject to and without waiving the foregoing and General Objections, Center states that nearly every student fits this definition. Center further states that providing services to “students at risk of academic failure” is almost exclusively reliant on successful grant applications. The interventions that are necessary are primarily before and after school programs, summer school, compass learning (an online computer based tutorial for math) and targeted interventions. (See Responses to Interrogatory Nos. 12, 13, 15, 16, 17 & 29). Center is also implementing Response to Intervention at the building and classroom level. Building level RTI staff, paid for through Federal Programs funding, monitor student performance, conduct meetings about student needs and intervene with students as able and necessary. In addition, teachers assess student progress and provide classroom level intervention for students who are not showing adequate progress. The administration provides, as funding allows, additional opportunities, before school, during non-student contact time, and after school. Even with grant dollars, Center struggles to provide sufficient qualified staff for these programs.

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

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

Subject to and without waiving the foregoing and General Objections, Center states that it has a special education teacher who is responsible for working with the children on site in Center. Center provides services for students from ages 3-21 as required. The district follows the least restrictive environment for most of the students, and direct services are provided in a general education setting as well as outside the general education setting, depending on student needs. Related services can be both consultative and direct, depending on student’s needs. The District also provides transition services to students with disabilities, when required. Center also coordinates services for students with disabilities through the San Luis Valley BOCES. The

BOCES coordinates IEP's, and coordinates the provision of some services such as speech and language therapy.

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

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

Subject to and without waiving the foregoing and General Objections, Center states that due to the limited funding it receives, it is unable to provide the quantity and types of intervention that are proven to be effective for its high poverty population. However Center does provide free and reduced lunch to students who qualify for this program (over 90% qualify), Center also offers breakfast to its students Center does not charge any fees for participation in academics or sports. Center receives federal Title I, Part A funds under NCLB that are used to supplement instruction for K-12. Center offers after school tutoring and summer school, with an emphasis on Haskins elementary school given the federal transformation grant and tutoring after school for middle and high school children. Center has a full time nurse who can provide limited health related services and screenings to the district's students. Center also has a counselor for the middle/high school who provides counseling services for students of low-income families. See also Response to Interrogatory No. 14.

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

Response: In addition to the General Objections, Plaintiffs object to Interrogatory No. 17 on the basis that it is vague, overbroad, burdensome, and calls for the discovery of irrelevant information not calculated to lead to the discovery of admissible evidence. Specifically, the terms and phrases “programs,” “has developed or used,” and “educational opportunities” are vague and unintelligible, and could be construed to call for an unduly overbroad and burdensome response. The request also purports to call for a description of all

programs related to “students of minority racial and ethnic heritage” without regard to whether the program was ever used or implemented, and without regard to the size of the program or number of students involved. Further, many of “the programs the District has developed or used to provide educational opportunities to ‘students of minority racial and ethnic heritage’” are developed or used to provide educational opportunities to all students, and to the extent the request calls for descriptions of programs not aimed exclusively at “students of minority racial and ethnic heritage,” Center incorporates its responses to all Interrogatories and the objections stated therein.

Subject to and without waiving the foregoing and General Objections, Center states that, because 90 percent of its students come from minority backgrounds, it addresses these issues on an ongoing, but not formal, basis, including with professional development, and outreach to the community. The District is constantly evaluating and assessing its policies and procedures to identify any policies or procedures that may be barriers to equity and excellence and works toward systemic change that will result in high levels of achievement for all students. In short, nearly everything the district does is related to educating students of minority heritage.

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

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

Subject to and without waiving the foregoing and General Objections, Center refers defendants to its personnel policies, Policy G. The District further states that, to measure the effectiveness of District employees, it uses an evaluation system based upon the requirements of the State of Colorado and approval of the school board. The District observes non-tenured employees at least twice a year, and it gives these employees a summative evaluation once every year for their first three years of employment. The District observes tenured employees at least once every year, and it gives these employees a summative evaluation every three years. The District also utilizes walkthroughs and peer observations to measure the effectiveness of employees. For classified employees they are evaluated on an annual basis using a form adopted as board policy.

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

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

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

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

Without limiting the generality of the foregoing, Center states that it delivers education services by providing the best educators possible to instruct students. To provide the best instruction, the District also tries to provide teachers with the teaching materials and technology necessary to facilitate instruction, curriculum development, and professional development.

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

Response: In addition to the General Objections, Plaintiffs object to Interrogatory No. 20 on the basis that it is vague, overbroad, burdensome, and calls for the discovery of irrelevant information not calculated to lead to the discovery of admissible evidence. Specifically, the phrase “programs and services” is vague and unintelligible, and could be construed to call for an unduly overbroad and burdensome response. Plaintiffs also object to Interrogatory No. 20 on the basis that Interrogatory No. 20 is a contention interrogatory, and Defendants have objected to contention interrogatories on the improper ground that such

interrogatories are premature. Plaintiffs believe these objections are without merit, but to the extent such objections are valid, Plaintiffs should not have to respond to contention interrogatories.

Subject to and without waiving the General Objections, Center states that Center is unable to provide sufficient advanced level classes at the middle and high school level, e.g. AP, IB, or honors classes; it is unable to provide, due to lack of staff and resources, adequate programs in the following areas: gifted and talented, English Language Learners, special education, RTI, at risk, kindergarten, pre-school, and technology. More generally, Center states that it is unable to provide the necessary programs in all educational areas (such as reading, writing, math, science, and physical education) due to the lack of resources including but not limited to curriculum, materials (such as physical education equipment, microscopes, lab equipment, computers, printers, reading books, and calculators), and facilities (such as science labs and physical education rooms). Center provides what it can through its limited budget and grants to provide the bare minimum for all academic areas. Without the assistance of grants, the school would be unable to provide summer school programs and staff trainings, among other things. With new expectations placed upon Center from year to year, mostly revolving around technology and students being able to utilize it, it is becoming increasingly hard to provide the necessary equipment and maintain the educational needs of each child

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

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

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

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

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

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

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

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

Response: Subject to and without waiving the General Objections, Center states that George Welsh has been the superintendent of Center Consolidated School District 26 JT since August 1997.

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

Response: Not applicable.

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

Response: Subject to and without waiving the General Objections, Center identifies the following board members: Janet Kuntz, Ernie Myers, Paul Pacheco, Patrick Ulibarri, Norman Jacques, Archie Gallegos, Miguel Cendejas, Marie Gonzales, Kim Martinez, Michael Lobato, Margaret Faron, Bryan Arellano.

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

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

Subject to and without waiving the foregoing and General Objections, Center states that it has extremely limited resources to provide to either administration or Board members for the purpose asked about in this interrogatory. However, Center does try to provide as many opportunities as it can for administration and Board members such that members of the administration attend monthly meetings with other administrators from the San Luis Valley. Members of the administration also attend regional and state conferences sponsored by CASE. School Board members also attend regional San Luis Valley meetings as well as regional and state wide CASB conferences.

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

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

Subject to and without waiving the foregoing and General Objections, Center states that due to inadequate resources, Center was unable to consistently provide summer school over the past five years. In addition, Center has never been able to provide summer school to all the students in the district that would benefit from such a program (e.g. students performing below grade level). Center had received some grant monies from the BOCES migrant program to provide a limited summer school program. Center has also received some very limited support from the BOCES supplemental services grant to provide some limited summer school opportunities.

With the turnaround grant, this last summer (2010) Center was, for the first time, able to provide significant summer school opportunities for Haskins Elementary School students and through the support of the Linda Moodbell program.

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

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

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

Subject to and without waiving the foregoing and General Objections, Center states that it does not receive sufficient funding from the State to offer preschool to all of its students. There is a Headstart program in the town of Center and the district also provides limited preschool to 20-30 students. Pre-K special needs kids are identified through BOCES child find and are served at area special services programs run by BOCES, at Head Start, or in Center’s pre-school program. Describe the District’s after-school programs from 2000 to the present.

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

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

Subject to and without waiving the foregoing and General Objections, Center states that it uses Title I dollars at the middle school for tutoring. It has also been able to provide extensive tutoring support for the elementary school and some supplemental services at the middle school through use of some of the transformation dollars. At the high school, the District provides some tutoring and homework help.

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

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

Subject to and without waiving the foregoing and General Objections, Center states that it has very limited capacity to offer on-line learning programs. The District has used Skype in the past to supplement its curriculum.

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

Response: In addition to the General Objections, Plaintiffs object to Interrogatory No. 31 on the basis that it is vague and calls for the discovery of irrelevant information not calculated to lead to the discovery of admissible evidence. The term “non-college bound students” is not defined and is especially vague and confusing given that Center views all of its students as college bound.

Subject to and without waiving the foregoing and General Objections, Center states that it cannot offer the vocational education programs that it believes are necessary for its students. As an example, the District is not able to offer the following programs: auto mechanics, welding, agriculture, or technology. The district currently has a half time teacher for a building trades class.

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

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

Subject to and without waiving the foregoing and General Objections, Center states that Center’s students receive certain special education services from the San Luis Valley BOCES, including identification of special education children, trying to staff certain services for these students, and providing off site support, when necessary. The BOCES also houses the gifted and talented coordinator. The BOCES handles alternative licensure and induction for new teachers. It is also the administrative unit for migrant services.

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

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

Subject to and without waiving the General Objections, Center states that, in addition to regular maintenance, it is currently paying for a new bus garage. The minimum that was required under statute for capital maintenance was \$175,000 but typically the amount necessary for basic maintenance would exceed this amount. Center also refers defendants to the budgets, which have been produced.

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

Response: In addition to the General Objections, Plaintiffs object to Interrogatory No. 34 on the basis that it is vague, unduly burdensome and calls for the discovery of irrelevant information not calculated to lead to the discovery of admissible evidence. Specifically, the terms “steps” and “generate” are vague and potentially call for an unreasonable amount of information that is neither relevant to the claims or defenses in this matter nor reasonably calculated to lead to admissible evidence. Plaintiffs also object to this interrogatory because the information sought is already in the possession of Defendants. *See* http://www.cde.state.co.us/index_finance.htm

Subject to and without waiving the foregoing and General Objections, Center states that it passed a bond election in November 2010.

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

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

Subject to and without waiving the foregoing and General Objections, Center states that it has hired a behavior specialist and home liaison to work on truancy issues for all students, K-12. This specialist investigates when a student does not show up for school, including phone calls, and home visits, when necessary. The specialist also helps with lunch duty and discipline and other student related activities so that he/she has knowledge of the students and can help build relationships with the students.

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

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

In addition Center also has some limited concurrent enrollment, in the form of correspondence courses.

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

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

Subject to and without waiving the foregoing and General Objections, Center states that with the funding available through the transformation grant, Center has been able to realign its curriculum for elementary and middle school, hire additional professional development time, and apply for grants. Center also states that the continuity between the school board and administration over the past decade has allowed the District to put multiple years into consistent change efforts.

DOCUMENTS REQUESTED

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

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

Subject to and without waiving the General Objections, Center is concurrently producing responsive documents in its possession, custody, or control.

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

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

Subject to and without waiving the General Objections, Center is concurrently producing responsive documents in its possession, custody, or control.

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

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

Subject to and without waiving the General Objections, Center is concurrently producing responsive documents in its possession, custody, or control.

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

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

Subject to and without waiving the General Objections, Center is concurrently producing responsive documents in its possession, custody, or control.

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

Response: In addition to the General Objections, Plaintiffs object to this Request for Production on the basis that it is vague, overbroad, burdensome, and calls for the discovery of irrelevant information not calculated to lead to the discovery of admissible evidence.

Subject to and without waiving the General Objections, Center is concurrently producing responsive documents in its possession, custody, or control.

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

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

Subject to and without waiving the General Objections, Center is concurrently producing responsive documents in its possession, custody, or control.

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

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

Subject to and without waiving the General Objections, Center is concurrently producing responsive documents in its possession, custody, or control.

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

Response: In addition to the General Objections, Plaintiffs object to this Request on the basis that it is vague, overbroad, burdensome, and calls for the discovery of irrelevant information not calculated to lead to the discovery of admissible evidence, especially to the extent it seeks information regarding individual teachers. The District will not produce evaluations of individual teachers.

Subject to and without waiving the General Objections, Center is concurrently producing responsive documents in its possession, custody, or control.

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

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

Subject to and without waiving the General Objections, Center is concurrently producing responsive documents in its possession, custody, or control.

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

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

Subject to and without waiving the General Objections, Center is concurrently producing responsive documents in its possession, custody, or control.

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

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

Subject to and without waiving the General Objections, Center is concurrently producing responsive documents in its possession, custody, or control.

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

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

Subject to and without waiving the General Objections, Center is concurrently producing responsive documents in its possession, custody, or control.

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

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

Subject to and without waiving the General Objections, Center is concurrently producing responsive documents in its possession, custody, or control.

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

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

Subject to and without waiving the General Objections, Center is concurrently producing responsive documents in its possession, custody, or control.

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

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

Subject to and without waiving the General Objections, Center is concurrently producing responsive documents in its possession, custody, or control.

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

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

Subject to and without waiving the General Objections, Center is concurrently producing responsive documents in its possession, custody, or control.

Document Request No. 17: All documents concerning presentations given by District leaders, including but not limited to school board members, the District's Superintendent, the District's

Chief Financial Officer, or the District's business manager, regarding District budget and finances.

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

Subject to and without waiving the General Objections, Center is concurrently producing responsive documents in its possession, custody, or control.

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

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

Subject to and without waiving the General Objections, Center is concurrently producing responsive documents in its possession, custody, or control.

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

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

Subject to and without waiving the General Objections, Center is concurrently producing responsive documents in its possession, custody, or control.

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

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

Subject to and without waiving the General Objections, Center is concurrently producing responsive documents in its possession, custody, or control.

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

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

Subject to and without waiving the General Objections, Center is concurrently producing responsive documents in its possession, custody, or control.

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

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

Subject to and without waiving the General Objections, Center is concurrently producing responsive documents in its possession, custody, or control.

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

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

Subject to and without waiving the General Objections, Center is concurrently producing responsive documents in its possession, custody, or control.

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

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

Subject to and without waiving the General Objections, Center is concurrently producing responsive documents in its possession, custody, or control.

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

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

Subject to and without waiving the General Objections, Center is concurrently producing responsive documents in its possession, custody, or control.

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

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

Subject to and without waiving the General Objections, Center is concurrently producing responsive documents in its possession, custody, or control.

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

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

Subject to and without waiving the General Objections, Center is concurrently producing responsive documents in its possession, custody, or control.

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

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

Subject to and without waiving the General Objections, Center is concurrently producing responsive documents in its possession, custody, or control.

VERIFICATION

I hereby certify that I have read and reviewed the foregoing **PLAINTIFFS' COMBINED RESPONSE TO DEFENDANTS' FIRST DISCOVERY REQUESTS TO SCHOOL DISTRICT PLAINTIFFS: CENTER CONSOLIDATED SCHOOL DISTRICT NO. 26 JT** and know the contents thereof. I am informed, and on the basis of such information and belief allege, that the foregoing responses are true and correct, although many of the facts stated therein are not within my personal knowledge. I am authorized by Center to verify these responses on its behalf.

Center Consolidated School District No. 26 JT

Name: _____

Title: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

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

Witness my hand and official seal.

My commission expires: _____

Notary Public

(S E A L)

Dated December 15, 2010

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

CERTIFICATE OF SERVICE

The undersigned certifies that on the 15th day of December, 2010, a true and correct copy of the foregoing **PLAINTIFFS' COMBINED RESPONSE TO DEFENDANTS' FIRST DISCOVERY REQUESTS TO SCHOOL DISTRICT PLAINTIFFS: CENTER CONSOLIDATED SCHOOL DISTRICT NO. 26 JT** was served, via LexisNexis® File & Serve, addressed to the following:

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