

<p>DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO 1437 Bannock Street Denver, Colorado 80202</p>	<p><input type="checkbox"/> COURT USE ONLY <input type="checkbox"/></p>
<p>PLAINTIFFS: Anthony Lobato, et al.</p> <p>and</p> <p>PLAINTIFFS-INTERVENORS: Armandina Ortega, et al.</p> <p>vs.</p> <p>DEFENDANTS: The State of Colorado; et al.</p>	
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<p align="center">DEFENDANTS' FIRST SUPPLEMENTAL EXPERT WITNESS DISCLOSURES</p>	

Pursuant to the Case Management Order, Defendants, by and through their counsel, hereby make their First Supplemental expert witness disclosures pursuant to Colo. R. Civ. P. 26(a)(2).

Defendants reserve their right to supplement these disclosures as discovery progresses, particularly to disclose additional Rule 26(a)(2)(B)(II) witnesses who may provide both factual and expert opinions. Defendants additionally reserve their right to elicit expert testimony from any fact or expert witness disclosed or proffered at trial by Plaintiffs or Plaintiff-Intervenors.

Finally, Defendants reserve their right to disclose additional experts to rebut matters contained in the expert reports or summaries of opinions of Plaintiffs or Plaintiff-Intervenors' expert witnesses, including without limitation expert witnesses on cost studies, school funding, the economics of education, and Colorado constitutional law. As disclosures of all of Plaintiffs and Plaintiff-Intervenors' expert witness reports or summaries is not yet complete, it is impossible at this time to determine whether, and to what extent, certain rebuttal witnesses will be necessary.

Subject to and without waiving the above reservations, Defendants disclose the following expert witness pursuant to Colo. R. Civ. P. 26(a)(2)(B)(II). This designee is a fact witnesses who may also provide expert opinion:

11. Jo O'Brien
Assistant Commissioner of Standards and Assessment
Colorado Department of Education
201 East Colfax Ave.
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The subject matter of Ms. O'Brien's testimony is expected to include, without limitation, standards, assessments, trends in performance, factors impacting student outcomes, and related matters. Pursuant to Colo. R. Civ. P. 26(a)(2)(B)(II), below is the summary of Ms. O'Brien's expected testimony.

Ms. O'Brien is expected to testify about the adoption and implementation of Colorado's new standards. In preparing these new standards, Colorado first looked to states and countries whose students performed well. Colorado looked at Singapore, Finland, Massachusetts, and Virginia. Once these exemplars were identified, Colorado then looked at their standards. The conclusion was that these states and countries' standards were fewer, clearer, and higher than Colorado's old standards.

In moving from the old standards to the new, Colorado reduced by at least 40% the substantive content; the "what." Colorado identified and installed thinking skills, e.g., problem solving, application, and proving skills. The new standards demonstrate a focus on conceptual thinking. That is, there is less memorization of facts and more focus on fewer, bigger concepts. There is a new emphasis on the student product. The product has shifted to a student knowing

facts to apply to a situation. Part of the reason for moving to these new standards with fewer content areas is to address the real cost of intervention and remediation. Immediate remediation – catching a student at the point he is confused – is more efficient and costs less. There are significant costs to coming back around to undo the confusion later, e.g., tutors and paraprofessionals. This “just in the moment teaching” will require teacher time, which is consistent with the new standards’ move to fewer content areas.

Ms. O’Brien is also expected to testify that the transition from the old standards to the new is not a dramatic shift in what we expect teachers and students to do. Colorado and the federal government annually give significant monies to schools and school districts for professional development and development of research-based methods. It is not correct that the shift from the old standards to the new is so giant that it would require exponentially new dollars. Again, the new standards demonstrate a shift and diminishing of the quantity of the content and an expansion in the thinking and application skills. It is certainly true that there will be some new costs, but the new standards above all will require a re-deployment of resources. The standards do not add an additional agenda. Implementation will require effort to eliminate much of the content taught under the old standards and a new emphasis on what a teacher’s lessons are about.

Ms. O’Brien is also expected to testify that CDE is in the process of developing tools for educators to assist with the implementation of the new standards. For example, CDE plans to offer curriculum maps, guidance around methods for disengaging old material, and videos and other practice tutorials. CDE expects to do three specific things. First, over the next three years, CDE plans to develop explicit examples of direct teacher lessons and of student work at each grade level. Second, CDE plans to develop district leader tools, e.g., tools to assist leaders in explaining the new expectations to parents and for recruiting and retaining teachers. Third, CDE plans to work with schools of education to help those schools reform their syllabi and their evaluation procedures, which will respond to Colorado’s new reform agenda.

Ms. O’Brien is also expected to testify about Colorado’s performance on the National Assessment of Educational Progress (NAEP). The NAEP is an annual, national assessment. Colorado has been participating in the NAEP for many years. Colorado traditionally scores particularly well relative to other states in math and science; around 10th or 11th nationally. In reading, Colorado is in the middle of the pack, traditionally around 25th. Colorado is hanging with most other states in reading.

Finally, Ms. O’Brien is expected to testify about school districts’ use of research and best practices in curriculum and instruction. Many districts have a habit of using additive approaches to curriculum rather than making deliberate decisions about what to eliminate. Over time, simply adding new things can be counterproductive because the curriculum begins to lack coherence. It is rare to see a school district intentionally “turn off” any part of the curriculum. Further, curriculum purchases are often focused on a teacher’s needs rather than what is best or most appropriate for a particular student population. Many schools and school district still are

working to tie data to best practices on curriculum purchasing. Schools that make specific, intentional purchases spend less and get greater results with less effort.

DATED: April 20, 2011

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*Original signature of Nicholas P. Heinke is
on file at the Office of the Colorado Attorney
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CERTIFICATE OF SERVICE

This is to certify that I have duly served the within **DEFENDANTS' FIRST SUPPLEMENTAL EXPERT DISCLOSURES** upon all parties herein via electronic mail, Lexis/Nexis File & Serve, and/or U.S. Mail this 20th day of April, 2011:

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