

Exhibit A

<p>DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO 1437 Bannock Street Denver, Colorado 80202</p>	<p style="text-align: center;">COURT USE ONLY</p>
<p>PLAINTIFFS: Anthony Lobato, as an individual and as parent and natural guardian of Taylor Lobato and Alexa Lobato; <i>et al.</i> vs. DEFENDANTS: The State of Colorado; <i>et al.</i></p>	
<p>Attorneys for Intervenor Plaintiffs : Henry L. Solano* Attorney Registration No. 7539 Dewey & LeBoeuf 4121 Bryant Street Denver, CO 80211 Telephone: (303) 477-9481 E-mail: HSolano@DeweyLeBoeuf.com</p> <p>David G. Hinojosa Texas Bar No. 24010689 Nina Perales Texas Bar No. 24005046 <i>Admitted Pro Hac Vice</i> Mexican American Legal Defense and Educational Fund 110 Broadway, Ste. 300 San Antonio, Texas 78205 Telephone: (210) 224-5476 Email: dhinojosa@maldef.org</p> <p>*Counsel of Record</p>	<p>Case Number: 05 CV 4794 Div: 9</p>
<p style="text-align: center;">PLAINTIFF-INTERVENORS' REPLY IN SUPPORT OF THEIR MOTION TO STRIKE DEFENDANTS' SECOND, THIRD, FOURTH AND FIFTH AFFIRMATIVE DEFENSES</p>	

Plaintiff-Intervenors Armandina Ortega, *et al.*, file this Reply in Support of Their Motion to Strike Defendants' Second, Third, Fourth and Fifth Affirmative Defenses under Colorado Rule of Civil Procedure ("C.R.C.P.") 12(f). In support, Plaintiff-Intervenors show the following:

Introduction

As Defendants point out in their brief, motions to strike affirmative defenses should be granted when the defendants can prove no set of facts supporting their defense upon any legal theory. *See* Defs.' Combined Resp. to Plfs. and Plf-Intvs.' Mot. to Strike at 4 (citations omitted) ("Defs. Resp. to Mot. to Strike"). In this case, Defendants raise a number of typical defenses in an effort to thwart this Court's ability to hear the merits of this case. The defenses include allegations that: Plaintiff-Intervenors failed to join all necessary and indispensable parties (Affirmative Defense No. 2); Plaintiff-Intervenors lack standing (Affirmative Defense No. 3); Plaintiff-Intervenors seek an unconstitutional remedy (Affirmative Defense No. 4); and Plaintiff-Intervenors' claim and requested relief violate the separation of powers (Affirmative Defense No. 5).

These defenses are nothing more than red herrings. As discussed further below, Defendants' threat to drag all 178 Colorado public school districts into trial or have this Court entertain a class certification hearing is unsupported and unnecessary for the specified relief sought by Plaintiff-Intervenors in this lawsuit. Defendants' other arguments have already been disposed of, directly or indirectly, by the Supreme Court of Colorado in its prior opinion in this case and, therefore, lack any legal merit under any set of facts articulated by Defendants. Accordingly, Plaintiff-Intervenors ask the Court to enter an order striking the affirmative defenses.

Argument

I. **Defendants’ Request for Joinder Under its Second Affirmative Defense is Unnecessary**

Defendants’ argument that all 178 public school districts in the State of Colorado must be joined in this action is misplaced and misconstrues Plaintiff-Intervenors’ claims and requested relief. For a court to conclude that other parties are necessary and indispensable, it is not enough that those parties may have an interest in the case as Defendants purport, but there must also be evidence that the party will be harmed by the outcome of the case. *See Bd. of County Comm’rs v. Roberts*, 159 P.3d 800, 807 (Colo. App. 2006) (“Mere interest in the subject matter litigation, even if the interest is substantial, is insufficient to make a party indispensable.”).

In this case, Plaintiff-Intervenors ask the Court to declare that the State’s funding for low income and English Language Learner (“ELL”) children is insufficient to provide those children with a constitutionally adequate education. *See* Am. Compl. in Intv’n. at 18. In addition, Plaintiff-Intervenors assert that facilities funding for their lower-property wealth districts is insufficient and that the cumulative effect of the insufficient funding for their respective school districts, coupled with the growing unfunded state mandates, strips their ability to exercise meaningful local control. *See id.* Contrary to Defendants’ allegations, these claims will not harm any other school district that is not a party to the case. In fact, if the Court finds and declares that the State’s funding of the education for low income and ELL children violates the Education Clause of the Colorado Constitution, any increased funding ordered by the General Assembly for those special populations would be shared by all the school districts serving those students—which

includes virtually every school district in the State of Colorado.¹

Likewise, Plaintiff-Intervenors' claims do not force Defendants to address the insufficient delivery of education in each and every school district.² While it is true that some of Plaintiff-Intervenors' discovery requests ask for statewide data and information, this information will be used by Plaintiff-Intervenors to counter any arguments by Defendants that may arise in the course of these proceedings, including the comparison of programs and services between school districts.³

Defendants further argue that the competing interests between low-wealth and high-wealth school districts also demands joinder. However, once again, Defendants

¹ Defendants also aver that Plaintiff-Intervenors' claim concerning the inadequate funding for these students pits one group of students versus another, pointing to Intervenors' comparison of the funding levels for ELL students to Gifted and Talented ("GT") students. However, Plaintiff-Intervenors do not claim that funding for GT students is excessive or even adequate for that matter; the fact alleged merely bolsters Intervenors' claim that ELL funding is arbitrary and woefully inadequate. Intervenors also claim that the overall funding for educational programs in their respective districts is insufficient and strips away their right to exercise meaningful local control of instruction under article IX, section 15 of the Colorado Constitution, which would include their right to offer or expand quality GT programs and opportunities. Leaving aside Defendants' disturbing assumption that the categories of ELL and GT are mutually exclusive, Plaintiff-Intervenors simply do not "pit" any group of students against another.

² Interestingly, Defendants contradict themselves in arguing that joinder is necessary. On one hand, they argue that Plaintiff-Intervenors allege that "the State's public school system is unconstitutional for *every* student in *all* 178 districts" and therefore, joinder is necessary. *See* Defs.' Combined Resp. to Plfs. and Plf.-Intvs.' Mot. to Strike Affirm. Defs. at 6 (emphasis in original). On the other hand, Defendants aver that Plaintiff-Intervenors pit one group of students against another or one group of districts against another, and consequently conclude that joinder is necessary to protect non-party districts' or non-party students' interest. *See id.* at 7-8. Neither set of purported facts is accurate. As explained further below, Plaintiff-Intervenors' relief is very specific to their clients' interests and claims concerning their respective children and school districts and a positive judgment in their favor will not harm any non-party school district.

³ Indeed, it is Defendants who sent the parties down this path when Defendants' counsel solicited a multitude of information from virtually every non-party school district through a request under the Colorado Open Records Act. *See, e.g.*, Open Records Request from State of Colorado to Park County School District, May 4, 2010, Ex. 2.

misconstrue Plaintiff-Intervenors' allegations. This is not an equity case in which Plaintiff-Intervenors might request relief in the form of an injunction requiring the General Assembly to level off funding between high-wealth and low-wealth school districts. Similar equity claims were unsuccessful in *Lujan v. Colorado State Board of Education*, 649 P.2d 1005 (Colo. 1982). While it is true that Plaintiff-Intervenors allege that higher-wealth school districts generally have greater access to funding (and Defendants do not deny this allegation, *see* Request for Adm. Nos. 29, 30, Ex. 1), Plaintiff-Intervenors make no allegation as to whether those districts are able to offer a constitutionally "thorough and uniform" education to all of their students or whether they are able to exercise meaningful local control. Defendants' assertion that any judgment would adversely affect unrepresented students and districts' interests is simply unfounded.

Indeed, not only is Defendants' argument unsubstantiated but it also attempts to predict future actions of the General Assembly if Plaintiff-Intervenors are successful. *See* Defs.' Resp. Mot. to Strike at 8 (surmising that a Plaintiff-Intervenors' victory in the lawsuit would force the General Assembly to adversely affect unrepresented students and districts' interests). Under Defendants' relaxed standard for joinder, the Court would be required to join persons receiving funding from the State for countless other programs under the theory that the General Assembly may need to shift funds from one area to another, including transportation or drug and alcohol rehabilitation programs, in the event this lawsuit is successful. Certainly, the courts never anticipated defendants using C.R.C.P. 19(a) in such a manner to force joinder of non-parties. *See I.M.A., Inc. v. Rocky Mountain Airways, Inc.*, 713 P.2d 882, 890 (Colo. 1986) (discussing the difference

between the need to join shareholders whose individual water rights were subject to condemnation and other shareholders who merely had a collective interest in the property at stake). As the parties are well-aware, any non-party Colorado school district has had months, if not years, to intervene either as a plaintiff or a defendant in this action and while some have taken this opportunity, others have not. Defendants bear the burden of persuasion as the party asserting the necessity of joining absent parties and in this case, they plainly have not carried that burden; Defendants have neither proven that non-party districts and parents are indispensable nor proven that they must be forced to join this lawsuit. *See Williamson v. Downs*, 829 P.2d 498, 500 (Colo. App. 1992) (citations omitted).

II. Defendants' Third, Fourth and Fifth Affirmative Defenses Have no Merit

Defendants' other affirmative defenses (that Plaintiff-Intervenors lack standing, seek an unconstitutional remedy and violate the separation of powers doctrine) are equally unavailing and each defense has been previously addressed directly and indirectly by the courts in this case.

Regarding standing, Plaintiff-Intervenors are a group of parents and their children who attend public schools in Colorado and who allege that the Colorado school finance system violates their right to a thorough and uniform education, as well as their right to local control of instructional programs. *See Am. Compl. in Intv'n.* at 1, 2, 5-18.

Defendants first argue that Plaintiff-Intervenors do not have standing to represent the interests of non-parties but as stated previously, Plaintiff-Intervenors do not purport to represent the interest of non-parties and therefore, there is no merit to Defendants' defense on those grounds.

Defendants also encourage this Court to ignore the Colorado Supreme Court's holding in this case that individual plaintiffs had standing to pursue claims which are similar to those raised by Plaintiff-Intervenors. In *Lobato*, the Colorado Supreme Court already settled this issue, holding that "[b]ecause we have subject matter jurisdiction due to the standing of the plaintiff parents, it is not necessary to address the standing of parties bringing the same claims as parties with standing." *Lobato v. Colorado*, No. 08SC185, 2009 Colo. LEXIS 998, at *23 (Oct. 19, 2009). Thus, there is no need for the Court to address this issue again because Defendants can cite to no salient differences between the *Lobato* Plaintiff parents' claims and the Plaintiff-Intervenors' claims.

Defendants argue that simply because individual plaintiff parents and children had standing to pursue their claims does not mean that individual plaintiff-intervenor parents and children have standing to pursue similar claims. Defendants, however, fail to articulate any relevant differences between the previous claims of Plaintiffs and the present claims of Plaintiff-Intervenors. In fact, both sets of parties include parents and public schoolchildren and both argue that the State's funding scheme violates article IX, sections 2 and 15 of the Colorado Constitution. Because Plaintiff-Intervenors bring similar claims as Plaintiffs, there is no need to determine the independent standing of Plaintiff-Intervenors. *See id.* at *23-24 (finding no need to determine the independent standing of the school districts because their continued participation in the lawsuit is similar to that of permissive intervenors and "does not require standing independent of plaintiffs with standing.").

Defendants also attempt to turn the standing doctrine on its head, arguing that plaintiff-intervenors must prove the merits of their case in order to maintain standing.

See Defs.’ Resp. to Mot. to Strike at 14-15. Under Colorado law, standing requires a court to determine only: “(1) whether the plaintiff has suffered actual injury from the challenged governmental action; and (2) whether the injury is to a legally protected or cognizable interest.” *State Bd. for Community Colleges & Occupational Education v. Olson*, 687 P.2d 429, 434 (Colo. 1984) (citations omitted).

“A determination that standing exists thus amounts to a holding that the plaintiff has stated a claim for relief by demonstrating the existence of a legal right or interest which has been *arguably* violated by the action of the defendant.” *Id.* at 435 (emphasis added). As the Court points out, a plaintiff need not show that his or her legal right or interest *has been* violated by the defendant, only that the right or interest has been *arguably* violated. In contrast to Defendants’ interpretation of the standing doctrine, the Colorado Supreme Court has been careful not to confuse a determination of standing with a determination on the merits, having held that a determination of standing, “of course, is not equivalent to a resolution of the merits of the controversy.” *Id.* at 435.

Even if the Court was to consider Defendants’ challenge to Plaintiff-Intervenors’ standing, there is no question that Plaintiff-Intervenors have standing to pursue their claims against Defendants. In determining whether a plaintiff has standing, “all averments of material fact in a complaint must be accepted as true.” *Id.* at 434. In the present case, Plaintiff-Intervenors have alleged countless facts supporting their alleged injury flowing from Defendants’ unconstitutional school finance system. *See generally* Am. Compl. in Intv’n. These allegations are consistent with Plaintiffs’ challenges recognized by the Colorado Supreme Court in this case and therefore, Plaintiff-Intervenors have satisfied the first prong of the standing test. *See Lobato*, 2009 Colo.

LEXIS 998, at *48-49 (discussing Plaintiffs’ allegations of under funding and unconstitutional disbursement of funds on an irrational and arbitrary basis and violation of local control). Second, the Colorado Supreme Court previously held in this case that the Lobato Plaintiffs have a legally protected and cognizable interest under the Colorado Constitution to a “thorough and uniform public school system.” *Id.* at *47-48. As the Court held, the task for this Court is to determine “whether the current state’s public school financing system is funded and allocated in a manner rationally related to the constitutional mandate that the General Assembly provide a ‘thorough and uniform’ public school system.” *Id.* As Defendants recognize and cannot dispute, Plaintiff-Intervenors likewise challenge the constitutionality of the Colorado public school system and ask this Court to determine whether Defendants have violated their right to a thorough and uniform system. *See* Defs.’ Resp. to Mot. to Strike at 1.

For similar reasons, Defendants’ fourth and fifth affirmative defenses also fail. Here, Defendants raise many of the same arguments they made when arguing that Plaintiffs’ claims were non-justiciable. First, Defendants aver that Plaintiff-Intervenors’ allegations related to the Taxpayer Bill of Rights, COLO. CONST. art. X, § 20 (“TABOR”), and the Gallagher Amendment, COLO. CONST. art. X, § 3(1)(b), of the Colorado Constitution require the Court to make a determination on whether one act yields to another. This misstates Plaintiff-Intervenors’ claims and the issues before the Court. Plaintiff-Intervenors allege facts concerning the TABOR and Gallagher Amendments in discussing how those amendments restrict local communities’ abilities to raise revenue but that is hardly the crux of Plaintiff-Intervenors’ complaint. *See* Am. Compl. in Intv’n. at 8. Plaintiff-Intervenors allege that various aspects of the school finance system are

arbitrarily and irrationally funded, including the funding for certain special need students who are failing miserably across every metric, and the funding of facilities in their low-wealth districts. These alleged funding deficiencies do not require the Court to declare the TABOR and Gallagher Amendments to be in conflict with the Education Clause. Indeed, Plaintiff-Intervenors do not challenge the constitutionality of the TABOR or Gallagher Amendments nor do they seek a declaration or injunction pertaining to said acts. *See id.* at 18. Moreover, similar to the Colorado Supreme Court’s decision in *Lobato* concerning Amendment 23,⁴ neither TABOR nor the Gallagher Amendment was “intended to qualify, quantify or modify the “thorough and uniform” mandate expressed in the education clause.” 2009 Colo. LEXIS 998, at *54.

Defendants’ fifth affirmative defense that Plaintiff-Intervenors’ claims and requested relief violate the separation of powers similarly finds no merit under any set of facts. Defendants seek to re-litigate the Colorado Supreme Court’s determination that this Court may find a constitutional violation of the General Assembly’s public school funding system if it finds that “the current system of public finance is irrational.” *Id.* at 50. In a thorough opinion, the *Lobato* Court weighed the competing concerns of the separation of powers doctrine but ultimately held that the Education Clause includes a constitutional mandate that may be reviewed by the Courts. As Defendants themselves point out, the Colorado Supreme Court decision in this case requires deference to the

⁴ Amendment 23 purportedly increased per pupil funding and funding for categorical programs by a minimum rate of inflation plus one percentage point until 2010-11 and by the rate of inflation thereafter. *See* COLO. CONST. art. IX, § 17(1). Although Amendment 23 was meant to establish an increase in the minimum level of funding, the Court reversed the lower court’s ruling and found that the Amendment “neither relates to nor concerns the ‘thorough and uniform’ mandate in the education clause. . .” *Lobato*, 2009 Colo. LEXIS 998, at *55. The same can be said about TABOR and Gallagher.

Legislature's fiscal and policy judgments and Plaintiff-Intervenors do not challenge that holding here. *See* Defs. Resp. to Mot. to Strike at 17-18.

III. Conclusion

For the reasons stated above and in Plaintiff-Intervenors' Motion to Strike, Plaintiff-Intervenors respectfully urge this Court to strike Affirmative Defenses Nos. 2, 3, 4 and 5 from the Answer.

DATED: November 24, 2010

Respectfully submitted,

By: S/ David G. Hinojosa
David G. Hinojosa

and

S/ Henry L. Solano
Henry L. Solano

Attorneys for Intervenors

CERTIFICATE OF SERVICE

This is to certify that I have duly served the within **PLAINTIFF-INTERVENORS' REPLY TO DEFENDANTS' RESPONSE TO PLAINTIFF-INTERVENORS' MOTION TO STRIKE DEFENDANTS' SECOND, THIRD, FOURTH AND FIFTH AFFIRMATIVE DEFENSES** upon all parties herein by electronically filing through LexisNexis courtlink or by depositing copies of same in the United States mail, first-class postage prepaid, this 24th of November, 2010 addressed as follows:

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JOHN W. SUTHERS

Attorney General

Deputy Attorney General

ANTONY B. DYL

Senior Assistant Attorney General

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By: S/ David G. Hinojosa
David G. Hinojosa

Exhibit 1

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

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

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

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

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

RESPONSE: Admit.

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

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

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

RESPONSE: Defendants object to this Request for Admission on the ground that the phrase “accurate assessment” is vague and undefined. Subject to and without waiving this objection and the General Objections, Defendants respond as follows: Defendants admit that the Statewide Financial Priority Assessment, FY 2009-1010 was prepared on behalf of the Public School Capital Construction Assistance Board by Parsons Commercial Technology Group to provide an assessment of public school facilities in Colorado for the period of FY2009-2010 and to address the considerations set forth in C.R.S. § 22-43.7-107. Defendants further admit that the numbers contained within the assessment are estimates as of March 2010. Defendants further admit that as reflected in the Foreword to the assessment, “the overall conditions of school facilities are ever-changing due to many variables including newly occurring deficiencies, new building construction, repairs, renovations, and updated cost estimates.” Defendants further admit that the March 2010 Assessment was accurate as of March 2010 and deny this Request to the extent the Request seeks an admission or denial that the March 2010 is a current reflection given that the “overall conditions of school facilities are ever-changing.”

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

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

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

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

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

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

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

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

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

RESPONSE: Admit.

Exhibit 2



JOHN W. SUTHERS
Attorney General

CYNTHIA H. COFFMAN
Chief Deputy Attorney General

DANIEL D. DOMENICO
Solicitor General

**STATE OF COLORADO
DEPARTMENT OF LAW**

OFFICE OF THE ATTORNEY GENERAL

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May 4, 2010

Custodian of Records
Park County School District
640 Hathaway
Box 189
Fairplay, CO 80440

RE: Open Records Request

To the Custodian of Records:

Pursuant to the Colorado Open Records Act, C.R.S. § 24-72-201, *et seq.*, this letter is the written request of the State of Colorado for access to and inspection of the records identified in this letter.

Please provide access to and the opportunity to inspect and copy the following public records for 2005 through the present:

1. Names of board members, their last known addresses and telephone numbers, and terms of service
2. Board meeting agendas
3. Board meeting minutes, including minutes from special board meetings or committee meetings
4. Check registers, ledgers of accounts, and back-up documentation for school expenditures. In providing back-up documentation, please produce all documents regarding the reimbursement of expenses for employees or board members, all documents regarding hotel or travel expenditures, and all documents regarding entertainment expenditures. In addition, please produce all documents regarding payments over \$500 in the aggregate in any 12 month period to any person or entity, but excluding bills for school utilities and curriculum purchases.
5. Total Monthly District expenditures for each school within the District
6. Annual district budgets, including amounts allocated to each school within the District

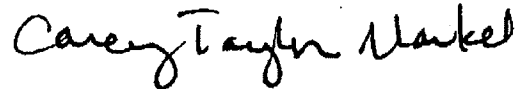
7. Amount of English Language Proficiency Act funding distributed by the District per student per school
8. Amount of Gifted and Talented funding distributed by the District per student per school
9. Amount of Exceptional Children's Educational Act funding distributed by the District per student per school
10. Amount of total program funding distributed by the District per student per school
11. Names of teachers, their salaries, education, teaching assignments, special endorsements, years of experience, years of experience with the District, and assigned schools within the District
12. District Mission Statements
13. Employment agreements and collective bargaining agreements
14. Honors, awards, special recognition, or scholarships received by teachers, students, administrators, and schools
15. Names of administrative staff (including central office staff), their salaries, titles, education, assignments or responsibilities, and years of experience with the District
16. Units or departments within the central office
17. Amount of local funding distributed by the District per student per school for English language learners, gifted and talented students, and students with disabilities
18. Identification of schools within the District that receive direct benefits of central office spending, and the form of such direct benefits, i.e., specialists, special program staff, professional development
19. For each school in the District, disaggregated demographic information regarding school populations, including number and percentages of gifted and talented students, English Language Learners, special education students, migrant students, students qualifying for free lunch, and students qualifying for reduced lunch
20. Disaggregated demographic information regarding District populations, including number and percentages of gifted and talented students, English Language Learners, special education students, migrant students, students qualifying for free lunch, and students qualifying for reduced lunch
21. All policies for identifying students at risk and any intervention policies or support services for such students.
22. All resolutions evidencing any borrowing from any fund or set of money set aside for a specific District purpose
23. Quarterly reports received from any school
24. All documents regarding curriculum selection within the District
25. Annual balance of capital reserve fund
26. All questions posed by the board to voters to contract for bonded indebtedness

If the requested public records, or any part of them, are not in your custody or control, please notify the undersigned counsel of that fact in writing within three (3)

If access to the foregoing public records is denied, please provide a written statement of the grounds for your denial, including a citation of the law or regulation under which access is denied.

Sincerely,

FOR THE ATTORNEY GENERAL

Handwritten signature of Carey Taylor Markel in black ink.

CAREY TAYLOR MARKEL

Assistant Attorney General

Education Unit

State Services Section

303-866-2383

303-866-5671 (FAX)

Email: carey.markel@state.co.us