



MALDEF

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Telecopier Cover Sheet

Please Deliver The Following Fax At Once:

To: JOHN W. SUTHERS, Attorney General; CAREY TAYLOR
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Recipients' Fax: (303) 866-5671 **Voice:** (303) 866-2383

From: MARISA BONO, Staff Attorney

Date: April 15, 2011

Re: Case No. 05-CV-4794

Please advise at once if the 24 page(s), including this page, have not been received at the end of transmission. Our phone number is (210) 224-5476; fax number is (210) 224-5382.

Notes:

Dear Carey and Nic,

Pursuant to the State's request, please find enclosed PLAINTIFF-INTERVENORS' THIRD SET OF INTERROGATORIES, SECOND REQUEST FOR PRODUCTION AND SECOND REQUEST FOR ADMISSIONS TO DEFENDANTS; SUBPOENA TO APPEAR AND PRODUCE; AND WAIVER OF SERVICE. Pursuant to an agreement between the Parties, this constitutes service of the above-mentioned documents.

Regards,

The information contained in this facsimile message is attorney privileged and confidential information intended only for the use of the individual or entity named above. The review, dissemination, distribution or copying of this communication to any one other than the intended addressee is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone, and return the original message to us at the above address via the U.S. Postal Service. Thank you.

□

The Mexican American Legal Defense and Educational Fund (MALDEF) is a national nonprofit organization whose mission is to protect and promote the civil rights of the over 29 million Latinos in the United States. Dedicated to securing rights in employment, education, immigration, political access and language, the organization achieves its objectives through litigation, advocacy, community education, and collaboration with other groups and individuals.

<p>DISTRICT COURT, DENVER COUNTY, COLORADO</p> <p>Denver City and County Building 1437 Bannock Street Denver, Colorado 80202</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>Plaintiffs: ANTHONY LOBATO, et al.</p> <p>and</p> <p>Plaintiff-Intervenors: ARMANDINA ORTEGA, et al.</p> <p>v.</p> <p>Defendants: THE STATE OF COLORADO, et al.</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 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</p> <p>Div: 9</p>
<p><u>PLAINTIFF-INTERVENORS' THIRD SET OF INTERROGATORIES, SECOND REQUEST FOR PRODUCTION AND SECOND REQUEST FOR ADMISSIONS TO DEFENDANTS</u></p>	

TO: The State of Colorado; the Colorado State Board of Education; Robert Hammond, in his official capacity as Commissioner of Education of the State of Colorado; and Bill Ritter, in his official capacity as Governor of the State of Colorado (collectively, "Defendants").

Plaintiff-Intervenors Armandina Ortega, *et al.*, serve their attached Third Set of Interrogatories, Second Request for Production and Second Request for Admissions to Defendants in accordance with Colorado Rule of Civil Procedure 33.

INSTRUCTIONS

1. Unless otherwise stated, these discovery requests pertain to the last three school years for which responsive answers or documents are available through the present.

2. If any document responsive to these requests was, but is no longer, in Defendants' possession, custody, or control, or is no longer in existence, state whether it is: (i) missing or lost; (ii) has been destroyed; (iii) has been transferred voluntarily or involuntarily to others; or, (iv) otherwise disposed of; and, in each instance, explain the circumstances surrounding the authorization of such disposition and state the date, or approximate date, thereof.

3. Each Defendant shall respond to these Interrogatories and Requests in writing within thirty days after service of these Interrogatories and Requests. For each document in electronic or magnetic form, documents shall be on CD in .pdf format for documents or .xls or .sps format for data compilations. The requested documents and/or tangible things shall be produced as they are kept in the usual course of business or organized and labeled to correspond with the separate categories of this request. Documents should be produced within 30 days in both paper form and electronically to the undersigned attorneys at the Mexican American Legal Defense & Educational Fund, Inc., 110 Broadway Street, Suite 300, San Antonio, Texas 78205.

4. In answering these Interrogatories and Requests for Production and Requests for Admission, furnish all information that is available to you (not merely such information within your personal knowledge). As such, these Interrogatories and Requests seek information in your possession, custody, or control, and where appropriate in the context, in the possession, custody, or control of your agents, representatives, employees, attorneys, and affiliates, wherever located.

5. In answering these Interrogatories, Requests for Production and Requests for Admission, make a diligent search of your records and other papers and materials in your possession or available to you or your agents, representatives, employees, attorneys, and affiliates.

6. Subject to the Definitions, below, in answering these Interrogatories, Requests for Production and Requests for Admission, any term should be interpreted by its ordinary dictionary meaning in the context in which it is portrayed or, if an education-related term, given its commonly-accepted meaning in the educational context.

7. If you cannot answer any Interrogatory, Request for Production or Request for Admission in full, answer it to the fullest and most complete extent possible, explain why you cannot answer the remainder, state the nature of the information or knowledge that you cannot furnish, and state whatever information or knowledge you have concerning the unanswered portion.

8. If an Interrogatory has subparts, answer each subpart in full.

9. When identifying or describing any oral statement(s) made, any document(s) written, or any act(s) committed by a corporation or business entity, also specify the natural person or persons who made the statement(s), authored the document(s), or committed the act(s).

10. When an interrogatory seeks specific information, such as a date or an amount, and the specific information requested is not known to you, deem the Interrogatory to request that you estimate to the best of your abilities the information requested, provided that you indicate in your response to the Interrogatory that the information being provided is an approximation or incomplete in certain respects.

11. Where you supply facts set forth in an answer or portion thereof on information and belief rather than actual knowledge, so state and specifically describe or identify the source or sources of such information and belief.

12. Where appropriate as necessary to bring within the scope of the Interrogatories, Requests for Production and Requests for Admission all responses that might otherwise be considered to be beyond their scope, the use of the singular shall include the plural, the use of the plural shall include the singular, and the use of the masculine shall include the feminine.

13. The paragraphs and subparagraphs herein shall not be construed by or with reference to any other paragraph or subparagraph in a manner that limits the scope of any particular Interrogatory, Request for Admission or Request for Production, or the subject matter thereof.

14. If you withhold anything covered by these Interrogatories, Requests for Production and Requests for Admission or any subpart thereof for reason of a claim of privilege, and you do not provide an answer on the basis of such assertion of privilege, furnish a list at the time the responses are produced identifying the following information:

- a. the Interrogatory, Request for Production or Request for Admission number and the language of the Interrogatory or Request to which such withheld response relates;
- b. the basis upon which privilege is claimed (including work product);
- c. for documents: (i) the type of document; (ii) general subject matter of document; (iii) date of the document; and (iv) author and addressee of the document, or, if no such author and addressee are identified on the document, such other information as is sufficient to identify the document in a *subpoena duces tecum*;
- d. for oral communications: (i) the name of the person making the communication and the names of other persons present when the communication was made; (ii) the date and place of the communication; and (iii) the general subject matter of the communication.

15. If you withhold any requested documents on the basis of any claim of privilege, please state in writing with respect to each such document withheld: (i) the name and position of each author of the document; (ii) the name and position of each recipient of the document (iii) the date of the document; (iv) the subject-matter of the document; (v) the present location of the original and any copies of the document; and (vi) the grounds for the claim of privilege.

DEFINITIONS

The following terms used in these Interrogatories, Requests for Production and Requests for Admission have the following meanings:

1. The connectives “and” as well as “or” shall be construed either in the disjunctive or in the conjunctive as necessary to bring within the scope of the Interrogatories, Requests for Production and Requests for Admission all responses that might otherwise be considered to be beyond their scope.
2. The words “each” and “every,” and the words “any” and “all,” shall be construed as interchangeable as necessary to bring within the scope of Interrogatories, Requests for Production and Requests for Admission all responses that might otherwise be considered to be beyond their scope.
3. The term “including” shall be construed to mean “including but not limited to.”
4. The present tense of a verb shall be construed to include the past tense, and the past tense shall be construed to include the present tense.
5. A “document” means all written, reported, recorded, or graphic matter within the scope of the Colorado Rules of Civil Procedure, however produced or reproduced, which is now, or was at any time, in the possession, custody, or control of any of the Defendants, including, but not limited to, all reports, legal documents, records, letters, envelopes, telegrams, messages, studies, analyses, books, articles, magazines, newspapers, booklets, circulars, bulletins, notices, instructions, accounts, papers, arithmetical computations, minutes of any type (including intra- and inter-office communications), purchase orders, invoices, bills, statements of account, questionnaires, surveys, charts, graphs, recordings, punch cards, magnetic tapes, disks, data cells, drums, printouts, video tapes, memoranda, notes (including reports, memoranda, and notes of conversations and conferences), calendars, date books, application forms, computer printouts, electronic mails, instant messages, data, data compilations, work papers, drafts, copies, interoffice and intraoffice communications and messages, audio and video recordings, databases, drawings, and graphic materials, and all other data collections from which information can be obtained (translated if necessary by defendants in usable form), including drafts of the foregoing upon which notations and writings have been made which do not appear in the originals, whether created or stored in handwritten, printed, tangible, electronic, mechanical, or electrical form of any kind, including material on computer hard drives, tapes, disks, files, and other memories, backup copies and deleted files, whether located on-site or off-site. A draft or non-identical copy is a separate document within the meaning of this term.

6. A "communication" means all oral conversations, discussions, letters, telegrams, memoranda, e-mail, facsimile transmissions, and any other transmission of information in any form, either oral or written.

7. When used in reference to communications, the terms "identify," "identity" and "identification" shall mean to give, to the extent known, (1) the nature of communication, (2) the general subject matter, (3) the date of the communication, (4) the place of the communication, (5) and the identity of the persons involved in the communication.

8. When used in reference to persons, the terms "identify," "identity," and "identification" shall mean to give, to the extent known, (1) the person's full name, (2) the person's present or last known address, (3) the person's position and title, and (4) the person's present or last known place of employment. Once a person has been identified in accordance with this subparagraph, only the name of that person need be listed in response to subsequent discovery requesting the identification of that person.

9. When used in reference to documents, the terms "identify" and "identification" shall mean to give the name and identity of any custodians of the document and either: [A] identify to the extent known, (1) the title of any document; (2) the name of the individual or individuals who prepared the document; (3) the date or dates on which the document or documents was or were prepared; and (4) where a copy or copies of the document may be located; or [B] identify the document by bates range.

10. The term "person" is defined as any individual natural person, business, corporation, partnership, joint venture, firm, association, proprietorship, agency, board, authority, commission, governmental entity or any other such entity or association.

11. "You," "your," and/or "Defendants" means The State of Colorado; the Colorado State Board of Education; Robert Hammond, in his official capacity as Commissioner of Education of the State of Colorado; and Bill Ritter, in his official capacity as Governor of the State of Colorado, and all employees, consultants, agents, and persons acting or purporting to act on their behalf, including the Colorado Department of Education ("CDE"). This definition is not intended to impose a discovery obligation on any person who is not a party to the litigation.

12. The terms "Plaintiff-Intervenor districts" refers to those four school districts in which Plaintiff-Intervenor children attend and any additional school districts from which any additional Plaintiff-Intervenor children, who may be added to this action, attend. (Mapleton 1, Greely 6, Rocky Ford R-2, and Sheridan 2.)

13. As used herein, the term "relating to" (or any tense thereof) shall have its usual meaning and shall also specifically mean reflecting, concerning, referring to, responding to, regarding, describing, evidencing, estimating, discussing, memorializing, or constituting, and the terms shall be used interchangeably.

14. As used herein, the phrases "state the basis," "stating the basis," "state all facts," "stating all facts," "describe with particularity," and "describe in detail" (or any tenses thereof) shall each mean:

- a. identify each and every document (and, where pertinent, the section, article or subparagraph thereof), which forms any part of the source of the party's information regarding the alleged facts or legal conclusions referred to by the discovery request;
- b. identify each and every communication which forms any part of the source of the party's information regarding the alleged facts or legal conclusions referred to by the discovery request;
- c. state separately the acts or omissions to the act on the party of any person (identifying the acts or omissions to act by stating their nature, time, and place and identifying the persons involved) which form any part of the party's information regarding the alleged facts or legal conclusions referred to in the discovery request;
- d. state separately any other fact which forms the basis of the party's information regarding the alleged facts or conclusions referred to in the discovery request; and where appropriate, provide the legal support for your contentions, including citations to any relevant statutes, regulations, ordinances, and judicial decisions that you contend support your contentions.

15. "ELL students" means students lacking English proficiency, which shares the same meaning as "students whose dominant language is not English" under the English Language Proficiency Act ("ELPA"), Colo. Rev. Stat. Ann. § 22-24-103 (2007).

16. "Students from low income families" or "low income" means, unless otherwise stated, those students on the National School Lunch Act's Free and Reduced Price Lunch Program. To be eligible for free lunch under the NSLA, a student's household income must be at or below 130 percent of federal income poverty guidelines; reduced price lunch eligibility includes children from households with incomes between 131 percent and 185 percent of poverty guidelines.

17. "At-risk" refers to a student who is at-risk of not performing at grade level, being retained at grade-level, or dropping out of school; or in the context of charter schools, one "who, because of physical, emotional, socio-economic, or cultural factors, is less likely to succeed in a conventional educational environment." When used in terms of funding, "at-risk" means those students identified on the free lunch program under the National School Lunch Act, plus those students whose standardized test scores are not included in calculating a school's performance grade because the students' dominant language is not English and who are also not eligible for free lunch.

18. "Facility needs" includes but is not limited to the acquisition of land and pre-existing buildings, the construction of new schools, and the maintenance and repair of existing school facilities.

19. "Pre-school program" means programs that serve children between the ages of three and five not including Kindergarten.

20. "Possession," "custody," or "control" includes constructive possession whereby you have the right to compel the production of a matter from a third-party. If any document requested was, but no longer is, in your possession or subject to your control, then produce in substitution thereof any and all documents that would tend to show that disposition was made of the requested document.

THIRD SET OF INTERROGATORIES

25. Identify any consulting experts, that is, consulting experts whose work has been reviewed by the testifying expert, or experts whom you may call to testify in this case, and any person you intend to call who may present expert testimony but for whom an expert report is not required under the Colorado Rules of Civil Procedure. For each expert, provide the following information:

- a. The expert's name, address and telephone number.
- b. The facts known to the expert that related to or form the basis of the expert's mental impression and opinions formed or made in connection with the case, regardless of when and how the factual information was acquired.
- c. The mental impressions or opinions of the expert formed or made in connection with the case and any methods used to derive them.
- d. Any bias of the expert.
- e. Identify all documents and tangible things, including reports, models or data compilations, which have been provided to, reviewed by, or prepared by or for the expert.
- f. The case name, number and nature of the case in which the expert has testified (by deposition or trial) or submitted an expert report over the last 4 years.

Answer:

26. If you contend that any of the Plaintiff-Intervenor school districts or Plaintiff districts are over-paying their teachers or administrators or expending an excessive amount of their budget on the salaries and benefits of teachers and administrators (using your definitions for "over-paying" and "excessive"), identify those school districts and state the basis for your answer, including your definitions for "over-paying" and "excessive."

Answer:

27. For each of the grants and funding sources identified as "competitive" or "formula and competitive" or "upon invitation" in the CDE's Human Capital Funding Matrix, identify the total amount of funding available, the school districts that have received grants or funding and the amount each district received and for which school year(s).

Answer:

28. For each of the grants and funding sources identified in the CDE's Human Capital Funding Matrix, explain how each may be used for various activities related to recruiting, training, evaluating and retaining effective teachers and leaders.

Answer:

29. For each set of data noted in the Colorado Preschool Program 2010 Legislative Report, Exhibit 4 and the Colorado Preschool Program 2009 Legislative Report comparing the achievement data of students served by preschool programs and those not served, please identify the number of students for each given percentage.

Answer:

SECOND REQUEST FOR PRODUCTION

31. For each consulting expert, that is, consulting experts whose work has been reviewed by the testifying expert, or experts whom you may call to testify in this case, and any person you intend to call who may present expert testimony but for whom an expert report is not required under the Colorado Rules of Civil Procedure, produce:

- a. all documents and tangible things, including reports, models or data compilations, which have been provided to, reviewed by, or prepared by or for the expert;
- b. the most current resume and bibliography or *vita*;
- c. all communications by and between you and the expert related to the expert's testimony and work in this case;
- d. copies of all case testimony and expert reports in which the expert has testified (by deposition or trial) or submitted an expert report over the last 4 years;
- e. copies of all contracts entered into by and between you, or on your behalf, and the expert;
- f. all drafts of the expert reports, summaries of testimony, and drafts of consulting experts' work that has been reviewed by testifying experts.

32. Provide all documents related to the evaluation, study, audit, review, investigation or analysis of the plans for turnaround schools/districts and priority improvement schools/districts as discussed in the deposition of Rich Wenning, including but not limited to the methodology, the reports, the quality rubric used for the evaluation, study, audit, review, investigation or analysis, communications by and between the evaluation team and you and the subject district, and any findings and recommendations.

33. Provide all documents related to the recommendations and findings of the State Council for Educator Effectiveness as discussed in the deposition of Rich Wenning pertaining to teacher and principal evaluations.

34. Provide all documents evidencing the budget for the Colorado Department of Education, including but not limited to federal, state and private monies received, expenditures, the salaries of CDE employees and pay scales or salary charts.

35. Produce all documents related to any evaluation, study, report, audit, review, investigation or analysis of the Plaintiff-Intervenor school districts' Title I or Title III funding, programs and services.

36. Produce all documents relating to the CDE's role as a partner pertaining to the Individual Career and Academic Plan.

37. Produce all documents evidencing grade retention rates statewide, and by district, including but not limited to retention rates disaggregated by race, socioeconomic status and English language proficiency.

38. Produce all underlying data used to create Exhibit 68, the March 2011 report entitled “Shining a Light on College Remediation in Colorado: The Predictive Utility of the ACT for Colorado and the Colorado Student Assessment Program (CSAP).”

Requests for Admission

33. Admit that public schoolteachers in the State of Colorado are not overpaid.
34. Admit that Colorado public school districts are free to enter into labor agreements with their school teachers.
35. Admit that the Colorado Department of Education plans to develop a model curriculum that aligns with the Model Content Standards and the Common Core Standards.
36. Admit that the Colorado Department of Education is offering competitive grants to school districts to cover the cost of implementing the teacher effectiveness law, also known as SB 191.

DATED: April 15, 2011

Respectfully submitted,

By: /S/ David G. Hinojosa
David G. Hinojosa
Attorneys for Plaintiff-Intervenors

CERTIFICATE OF SERVICE

I certify that on April 15, 2011, a true copy of PLAINTIFF-INTERVENORS' THIRD SET OF INTERROGATORIES, SECOND REQUEST FOR PRODUCTION AND SECOND REQUEST FOR ADMISSIONS TO DEFENDANTS was forwarded by Electronic Mail to the following and additionally and by agreement via facsimile to attorneys for Defendants:

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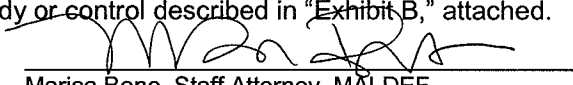
By: /S/ David G. Hinojosa
David G. Hinojosa

<input checked="" type="checkbox"/> District Court <input type="checkbox"/> County Court Denver County, Colorado Court Address: 1437 Bannock Street, Denver, Colorado 80202	
Plaintiffs: ANTHONY LOBATO, et al. and Plaintiff-Intervenors: ARMANDINA ORTEGA, et al. v. Defendant(s)/Respondent(s): THE STATE OF COLORADO, et al.	▲ COURT USE ONLY ▲ Case Number: 2005CV4974
	Division: 9 Courtroom:
SUBPOENA TO <input checked="" type="checkbox"/> APPEAR <input checked="" type="checkbox"/> PRODUCE	

To: Colorado Department of Higher Education

Pursuant to Colorado Rules of Civil Procedure 45 and 30(b), you are ordered to attend and give testimony at DAVIS GRAHAM & STUBBS LLP, located at 1550 Seventeenth Street, Suite 500, Denver, Colorado 80202, on May 16, 2011, beginning at 9:00 a.m. as a witness for the Colorado Department of Higher Education in the above-captioned matter. At that time and place, you shall designate and produce one or more officers, directors, or other persons associated with the Colorado Department of Higher Education having knowledge to testify as to the matters described in "Exhibit A," attached. Pursuant to Colorado Rule of Civil Procedure 34, at that time and place, you also shall produce the documents now in your custody or control described in "Exhibit B," attached.

Dated: April 15, 2011.


 Marisa Bono, Staff Attorney, MALDEF
 110 Broadway St., San Antonio, TX 78205
 Phone: 210.224.5476; Email: mbono@maldef.org
 ATTORNEYS FOR PLAINTIFF-INTERVENORS

AFFIDAVIT OF SERVICE

I declare under oath that, I am 18 years or older and not a party to the action and that I served this Subpoena to Appear Produce to the Witness in _____ (County) _____ (State) on _____ (date) at the following location: _____

Check one:

- By handing it to a person identified to me as the Witness or by leaving it with the Witness who refused service.
- By leaving it with one of the following:
 - the person's usual place of abode or workplace;
 - with any person who is 18 years or older and who is a member of the person's family;
 - with the person's secretary, administrative assistant, bookkeeper, or managing agent; or
 - by delivering a copy to an agent authorized by appointment or by law to receive service of process.
- I attempted to serve the Witness on _____ occasions but have not been able to locate the Witness.
- Private process server
- Sheriff, _____ County
 Fee \$ _____ Mileage \$ _____

Signature of Process Server

Name (Print or type)

My Commission Expires: _____

Notary Public /Deputy Clerk Date

EXHIBIT A

1. College remedial education rates and reports.
2. Colorado Department of Education and Department of Higher Education's Postsecondary and Workforce Readiness Definition, including but not limited to your involvement in the development and creation of the definition.
3. SB08-212 Preschool to Postsecondary Education Alignment Act, Colorado Achievement Plan for Kids (CAP4K), including but not limited to your involvement in the development and creation of the CAP4K.
4. Colorado Department of Higher Education's involvement in P-20 Education Alignment.
5. College-going rates for Colorado students disaggregated by school district, race/ethnicity, income and language.
6. Need-based scholarships and grants for students attending Colorado's colleges.
7. Shining a Light on College Remediation in Colorado: the Predictive Utility of the ACT for Colorado and the CSAP, March 2011.
8. Individual Career and Academic Plan (ICAP).
9. Knowledge and skills needed to be successful in college.
10. General criteria for Colorado college admissions, scholarships and grants.

EXHIBIT B

Unless otherwise stated, these requests pertain to the last three school years for which responsive documents are available through the present:

1. Documents evidencing college remedial education rates and reports.
2. Documents evidencing CDHE's contributions and recommendations to the Colorado Department of Education and Department of Higher Education's Postsecondary and Workforce Readiness Definition.
3. Documents evidencing CDHE's contributions and recommendations to SB08-212 Preschool to Postsecondary Education Alignment Act, Colorado Achievement Plan for Kids (CAP4K).
4. Documents evidencing CDHE's involvement in P-20 Education Alignment.
5. Documents evidencing college-going rates for Colorado students disaggregated by school district, race/ethnicity, income and language.
6. Need-based scholarships and grants for students attending Colorado's colleges.
7. Documents provided to the Colorado Department of Education and related to, the report "Shining a Light on College Remediation in Colorado: the Predictive Utility of the ACT for Colorado and the CSAP," March 2011.
8. Documents evidencing CDHE's involvement, contributions and recommendations towards the creation of the Individual Career and Academic Plan (ICAP).
9. Documents evidencing the knowledge and skills CDHE believes are needed to be successful in college.

<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>, and Plaintiff-Intervenors: ARMANDINA ORTEGA, as an individual and as next friend of her minor children S. ORTEGA and B. ORTEGA, <i>et al.</i> v. Defendants: THE STATE OF COLORADO; <i>et al.</i></p>	
<p>Attorneys for Intervenor -Plaintiffs: Henry Solano* DEWEY & LEBOEUF LLP 4121 Bryant Street Denver, CO 80211 Telephone: (303) 477-9481 E-mail: hsolano@dl.com Attorney Reg. No. 7539 Nina Perales, <i>pro hac vice</i>, TX # 24005046 David G. Hinojosa, <i>pro hac vice</i>, TX # 24010689 Marisa Bono, <i>pro hac vice</i>, TX # 24052874 MEXICAN AMERICAN LEGAL DEFENSE & EDUCATIONAL FUND 110 Broadway Street, Suite 300 San Antonio, TX 78205 Telephone: (210) 224-5476 Facsimile: (210) 224-5382 E-Mails: nperales@maldef.org, dhinojosa@maldef.org, and mbono@maldef.org *Counsel of Record</p>	<p>Case Number: 05 CV 4794 Div: 9</p>
<p>WAIVER & ACCEPTANCE OF SERVICE</p>	

I, Carey Taylor Markel, am a Senior Assistant Attorney General for the State of Colorado, and being of lawful age, state as follows:

I am authorized to accept service of the Subpoena to Appear and Produce Documents on behalf of the Colorado Department of Higher Education ("CDHE"), and acknowledge receipt of same, and waive further service of process on the CDHE for same.

Dated: _____

By: _____
Carey Taylor Markel

Sworn and subscribed before me
this ___ day of _____, 2011

Notary Public

My commission expires: _____

CERTIFICATE OF SERVICE

I certify that on April 15, 2011, a true copy of SUBPOENA TO APPEAR & PRODUCE and WAIVER & ACCEPTANCE OF SERVICE was forwarded by Electronic Mail to the following and additionally and by agreement via facsimile to attorneys for Defendants:

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