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<p>DISTRICT COURT, DENVER COUNTY, COLORADO Denver City and County Building 1437 Bannock St. Denver, Colorado 80202</p>	
<p><b>Plaintiffs:</b> ANTHONY LOBATO, et al., and  <b>Plaintiff-Intervenors:</b> ARMANDINA ORTEGA, et al. v. <b>Defendants:</b> THE STATE OF COLORADO, et al.</p>	<p>▲ 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: AURORA, JOINT SCHOOL DISTRICT NO. 28**

Pursuant to C.R.C.P. 33, 34, and 36, Plaintiffs, Anthony Lobato, et al., (“Plaintiffs”), through counsel, hereby respond on behalf of Plaintiff Aurora, Joint School District No. 28 (“APS”) 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.”

APS responds to the Discovery Request as follows (“Response to Discovery” or “Response”):

### **GENERAL OBJECTIONS**

1. **Best Knowledge, Information and Belief.** This Response to 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 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 this Response to Discovery, 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 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, unintelligible, and 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 Request 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 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 Request to the extent that it requests 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 Request to the extent that the burden of deriving or ascertaining responses is substantially the same or less for Defendants than for Plaintiffs. Plaintiffs also object to the Discovery Request to the extent it seeks 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 Plaintiffs’ 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 specific objections with each response. By any 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 Request 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 APS legal counsel, William Stuart, Chief Academic Officer, 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 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), APS 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, APS 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, APS 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, APS 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), as opposed to a system of funding based simply on adjustments to the previous year's budget.

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, APS states that, in APS, more relevant than the district's mission statement is its vision. APS often promotes both the mission and the vision, but the vision is the focus of APS.

APS's vision and mission statement are set forth in the Aurora Public Schools Vista 2015 Strategic Plan (Aug. 2010 Version) ("Vista 2015). The APS vision is to "[g]raduate every student with the choice to attend college without remediation." The APS mission is to "[t]each every student within a safe environment the knowledge, skills and values necessary to enter college or a career and become a contributing member of society who flourishes in a diverse, dynamic world."

Actions taken to promote or instill an understanding of the APS mission include generation of Vista 2015, publication of Vista 2015 on the APS website (<http://vista.aurorak12.org/strategic-plan>), publication of the overview and approach of Vista 2015 and its precursor, Vista 2010 on the APS website (<http://vista.aurorak12.org>), and publication of the vision statement on the APS website home page (<http://aurorak12.org>) (as of Dec. 1, 2010). All staff, students, teachers, principals, parents, and the community are invited and encouraged to view the APS website, including the links concerning APS's mission statement. The website is easily available in English, Spanish, Korean, Vietnamese, French, Chinese, and Arabic languages.

In addition to the publication of the vision and mission statement on the APS website, an understanding of the vision and mission statement is promoted through major publications, stories, news releases, talking points, as well as posters and signage in APS schools and district offices.

**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 APS 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, APS states the following. In 2000, classified employees were offered courses through the Staff Development Department. These courses were advertised via brochures that were sent to each site. Classified employees who were interested in these courses could register by completing a form that was found in the back of the brochure and submitting it to the Staff Development Department. This process for classified professional development continued through the winter of 2004.

In 2005, due to the federally mandated No Child Left Behind Act (NCLB), the budget for classified professional development was designated for teaching courses to newly hired classified employees with instructional responsibilities in order for employees to be highly qualified as defined by the No Child Left Behind Act.

From 2005 to present, Aurora Public Schools has provided NCLB classes to classified employees with instructional responsibilities and has also created a website with online resources available to classified employees that range in training topics from customer services, conversational Spanish lessons, and training in software programs such as the Microsoft Office Suite.

Further, APS provides professional development for certified staff in a number of different structures:

- Two-day new teacher conference before the start of school;
- Induction program for new teachers provided after school;
- New teacher/administrator mentor program;
- Non-probationary teachers beginning in the second year of employment are provided 3 graduate courses for a certificate in English Language Acquisition;
- One district in-service day before school starts for all content areas where appropriate;
- 4 building in-service days are designated by the district where professional development is based on individual building needs as determined in each School Improvement Plan;
- By lottery teachers are selected to attend outside district conferences;

- Professional development schools in partnership with three different universities in which the development of student teachers is provided;
- Leadership Succession Continuum where by teachers are provided professional learning through one-on-one coaching at the building level by a teacher leader in the subject areas of math and literacy, this is done in science on a limited basis;
  - Professional development for the teacher leader is provided by the district coach weekly, this is done in science on a limited basis;
- Content/subject area professional learning courses are offered throughout the year for re-certification and salary advancement;
- Student Achievement Learning Teams are also established at the school level whereby grade-level or subject-area teams analyze student data, determine next teaching steps, determine lesson based on best practices, and then determine the learning that was achieved. This is also an entry point for the one on one coaching;
- Monthly professional development is provided for building principals;
- Monthly professional development is provided for school counselors;
- National Institute of School Leadership professional development is provided for all new building principals;
- Until the 2010-2011 school year professional development monies were provided to administrative staff for professional learning conferences and resources.

**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, APS states that its hiring process begins with a personnel request from the hiring department/school. If the requested position is new, the personnel request must be approved by the Budget Office. Once the personnel request is received and has been approved by the budget authority, and HR Director/Coordinator, a posting is created electronically and posted to APS’s website at <http://www.aps.k12.co.us/hr/>. Postings generally remain on the website for one week. In the case of hard to fill positions, they may be posted longer.

Once the postings are closed, the hiring supervisor submits his or her interview schedule to the Division of Human Resources. After interviews have been held, the hiring supervisor forwards the name of his or her selected candidate to HR to be offered the position.

APS projects future need to fill specific jobs through use of a formula. The formula for staffing buildings is based on “Teacher Equivalency” or “TE.” The TE for a particular school is derived from a series of calculations developed to staff the school buildings based on need/severity/enrollment.

Basic TE:

25.2 elementary students per teacher

20.65 middle school students per teacher

21.6 high school students per teacher

Also calculated are the following:

.0095 TE per student for at risk students (free lunch)

Small school TE

.010 TE per student for under 200 students

.007 TE per student for between 200 and 300 students

.005 TE per student for between 300 and 400

A supervision reduction was also applied in 10-11 as follows

.00043 TE per student

.0039 TE per student 6th section at middle Schools

.005 TE per student for 6th section at high schools

**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 APS’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, APS states that it has not contributed money in any amount that has an order of magnitude meaningfully comparable to APS’s annual budget or the amount that the Defendants’ are constitutionally required to provide but have failed to provide. APS contributed one thousand dollars in the 2008-2009 fiscal year. APS has successfully negotiated for and retained pro bono counsel in this matter.

**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, APS 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.

**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](http://www.cde.state.co.us/index_finance.htm)

Subject to and without waiving the foregoing and General Objections, APS states that information concerning the grants that APS has received and the grant monies used can be found in the following previously produced documents: APS 000001–APS 001466. Additionally, information concerning new grants awarded from 2008 to the present may be available on APS’s website at <http://apscms.net/enews>.

**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, APS states that information concerning the grants that APS has received and the grant monies used can be found in the following previously produced documents: APS 000001–APS 001466; *see also* <http://superintendent.aurorak12.org/budget>. Additionally, information concerning new grants awarded by the Colorado Department of Education from 2008 to the present may be available on APS’s website at <http://apscms.net/enews>.

**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,” APS incorporates its responses to all Interrogatories and the objections stated therein.

Subject to and without waiving the foregoing and General Objections, APS states that identified English Language Learners K-12 receive instruction based on their listening, speaking, reading, and writing proficiency levels in English. Each identified ELL receives a specific time each day for explicit English language development instruction. ELLs are grouped by like language levels. Instruction is focused on functions, grammatical structures, vocabulary and application. These ELD blocks are taught by certified and/or endorsed teachers. In addition ELA and general education staff collaboratively provide limited English proficient students with content area support. Support services include professional development focusing on research-based test practices; the identification of resources and materials to enhance student learning; the understanding of assessment to inform instruction; and the coordination of efforts with other departments to maximize the overall teaching and learning process. Schools are also provided

with translation and interpreter services as well as support for parent and community involvement activities. All services provided to English Language Learners 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,” APS incorporates its responses to all Interrogatories and the objections stated therein.

Subject to and without waiving the foregoing and General Objections, APS states that the educational opportunities provided to gifted and talented students are fully described online at <http://agate.aurorak12.org/agate-info/services/> and in the AGATE Parent Handbook, available at <http://agate.aurorak12.org/parent-resources/>.

**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,” APS incorporates its responses to all Interrogatories and the objections stated therein.

Subject to and without waiving the foregoing and General Objections, APS states that students at risk of academic failure are offered the same educational opportunities as other APS students. In addition, APS offers a variety of programs designed to keep students engaged in education and to re-engage those students who have dropped out of high school. These programs include the following:

- **ReBound Ombudsman Program:** APS implemented a dropout recovery program four years ago called “ReBound.” It has evolved into a program where students may be directly referred, before dropping out, if school counselors believe they will be more successful there. The ReBound Ombudsman Program, which was created in September 2008 to help at-risk students, provides support to students through behavior intervention, social skills training, and life management skills. More information regarding the ReBound Ombudsman Program is available on APS’s website at <http://aurorak12.org/about-aps/dropout-prevention/>.
- **Futures Academy:** Futures Academy provides an educational program for 100 high school dropouts to re-engage in their high school education and transition smoothly into post-secondary community college or career-technical educational opportunities. More information regarding Futures Academy is available on APS’s website at <http://aurorak12.org/about-aps/dropout-prevention/> and <http://apscms.net/enews>.
- **Response to Intervention:** All schools are implementing Response to Intervention at the building and classroom level. Teachers monitor student progress after initial instruction, and provide classroom level interventions for students who do not demonstrate adequate progress. Buildings provide additional intervention opportunities, as resources allow, before school, during non-student contact time, and after school. Students in schools supported with Title funding are eligible to receive additional academic support from outside providers – Supplemental Educational Services.
- **Futures Program:** APS also has a “Futures Program” that targets students who have reached an age where completion of high school is unlikely. The students in the Futures Program take course work to prepare them to be successful on the Accuplacer exam, for entry into the community college.

**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,” APS incorporates its responses to all Interrogatories and the objections stated therein.

Subject to and without waiving the foregoing and General Objections, APS states that the educational opportunities for “students with disabilities” is a continuum of services that range from consultative to self contained based on the students’ needs. APS provides Child Find from the ages of 0 to 21. APS provides services from 3 to 21. From least restrictive to most restrictive the services include consultative services to the student and to the staff that works with the students, direct services are provided in the general education setting and outside of the general education setting dependent on the students’ needs; related services can be both consultative and direct based on the students’ needs, and self-contained services are provided to students that require the most intensive services.

The district offers an array of transition services to students with disabilities. These services will be outlined in each student’s Individualized Education Program (IEP) when the student turns 15 (or no later than ninth grade). Some transition service components are continued for some students’ IEPs until they turn 21 years of age. Services will include individual case management and transition-specific coursework in high school, and may also include participation in T.H. Pickens Technical Center, Alternative Cooperative Education (ACE), School to Work Alliance Program (SWAP), Project Search, and Crossroads Transition Program.

**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,” APS incorporates its responses to all Interrogatories and the objections stated therein.

Subject to and without waiving the foregoing and General Objections, APS states that it receives federal Title I, Part A funds under No Child Left Behind that are used to supplement the district instructional funds in 24 of the district’s schools. These funds are allocated to the 24 schools using a per pupil allocation based on the number of students receiving free lunch. Each individual school determines how the funds are used, based on the needs of the students in that school. Examples of uses of these funds include additional classroom teachers, professional development, technology, and instructional materials. Funds are further used to provide interventions in the areas of literacy and mathematics, either during the school day or after school. Title I Part A funds are also used to provide family literacy at seven sights housed in Title I schools, as well as supplementing the 5th block of instruction in the 24 Title I schools.

APS also provides free and reduced lunches and waives routine fees typically paid by the students’ families for students of low income families.

**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,” APS incorporates its responses to all Interrogatories and the objections stated therein.

Subject to and without waiving the foregoing and General Objections, APS states that it is in the process of creating a systemic equity transformation plan. Central to achieving educational equity is the development of and strong support for school and district leaders who serve as the guiding coalition to ensure successful systemic transformation. DELT members participate in significant professional learning focused on deepening their understanding of race and equity, as well as how to develop and then guide the implementation of the district’s Equity

Transformation Framework. DELT examines district policies, practices, programs, structures, climate and culture that may be barriers to equity and excellence; and leads systemic change efforts that result in high levels of achievement for all students. DELT is responsible for aligning the Systemic Equity Transformation Framework with existing district strategic priorities and board goals, ensuring all efforts are streamlined for optimal student achievement results.

APS also provides the LIGHTS program. Although Aurora LIGHTS is offered to all APS students, the program also serves to increase education opportunities for students of minority racial and ethnic heritage and a by-product of the program is increased diversity in the field of health sciences. A description of the Aurora LIGHTS program is available online at <http://lights.aurorak12.org/>.

**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, APS states that it measures the effectiveness of APS employees through its evaluation process. The evaluation process differs slightly for classified employees versus licensed employees.

Classified employees are evaluated before the end of their first year with the district. Once they have become a non-probationary employee (after their first year is completed) they are evaluated every other year. The classified evaluations are based primarily on informal observations.

There are three performance categories that classified employees are evaluated on which include duties and responsibilities, initiative, and human relations. In these categories the employee may receive a rating of “consistently meets”, “inconsistently meets”, “rarely meets or does not meet”, or “not applicable.” If the employee receives a rating of “inconsistently,” “rarely,” or “does not meet,” they are placed on a growth plan which specifies goals developed with input from the employee and assists the employee with meeting performance standards.

Licensed employees are evaluated twice in their first year of employment in the district. They are then evaluated once a year during their second and third years of employment. After their first three years of employment (their probationary period), licensed employees are evaluated every three years. A minimum of two formal observations are used per evaluation.

Licensed employees who receive a rating of “growth needed” on their evaluation are provided a growth plan. The growth plan sets specific goals that are developed jointly by the supervisor and employee. The growth plan assists licensed employees in meeting performance standards and corrects documented areas of concern.

**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 [APS] 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, APS 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. APS 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, APS’s role in the delivery of educational services is comprehensively outlined in the strategic plan, Vista2010. This document guided the work of APS from 2006 to the present. APS’s new strategic plan, Vista2015 will guide the work of APS for the next 5 years. In both plans, delivery of educational services is specifically outlined in the “Achievement” section of the plans. See Vista 2010 website (<http://superintendent.aurorak12.org/vista/vista-2010>).

**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. Further, to the extent such “programs and services” are discussed elsewhere in this Response, APS incorporates its responses to all Interrogatories and the objections stated therein.

Subject to and without waiving the General Objections, APS states the following programs and services that APS is not able to provide due to budget reductions and constraints include without limitation the programs and services listed below. APS expressly reserves the right to supplement the following list as discovery and investigation in this matter continue.

- **Instructional support to buildings:** APS has reduced the number of district level instructional coaches who support teachers in classrooms. APS has reduced the number of instructional coordinators at the district level as well. This includes support for literacy, math, science, special education, and instructional technology.
- **Curricular support to buildings:** APS has been forced to eliminate supplemental curricular supports to buildings. For example, in 2010, APS was forced to eliminate Achieve3000 literacy support to all buildings. Achieve3000 was an intervention program for students reading below grade level. Moreover, APS’s strategic plan calls for the development of career “Pathways” for all students. As a result of budget reductions, however, APS must delay necessary curriculum purchases, extending the development time-period for this program. Further, APS has inadequate funding to provide classroom technology, in-class interventions, before and after school interventions, and smaller class sizes.

**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, APS 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, APS states that there are two subjects that violate APS'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 APS's constitutional rights. Defendants violate the “rights” of APS 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 APS by exercising that discretion and power in a manner that violates the

Education and Local Control clauses. Specifically, without limitation, Defendants create and implement punitive enforcement provisions of education reform legislation in a manner that prevents APS 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, APS identifies the following:

David L. Hartenbach, Ed.D  
January 1993 to June 2001

Robert D. Adams, Ph.D.  
June 2001 to June 2006

John L. Barry  
June 2006 - Present

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

**Response:** In addition to the General Objections, Plaintiffs object to Interrogatory No. 24 on the basis that it is vague, overbroad, and unduly burdensome. The phrase “state the reasons for their departure” is vague and potentially unduly burdensome in the scope of facts and detail potentially responsive to the request.

Subject to and without waiving the foregoing and General Objections, APS states that Mr. Hartenbach and Mr. Adams departed due to retirement.

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

**Response:** Subject to and without waiving the General Objections, APS states that Jane Barber, Jeanette S. Carmany, JulieMarie Shepherd, Peter Cukale, Mary W. Lewis, Amy Prince, and President Matthew L. Cook are current board members and can be contacted through undersigned counsel.

Past board members are listed on documents labeled APS496779-81, which are being produced concurrently with these Responses.

**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, APS states that activities have included:

- Visits by Board members to other schools to observe practice and operations.
- Participation of Board members in trainings.
- Participation of Board members in educational conferences.
- Participation of Board members in workshops.
- Visits by Administrators to other schools to observe practice and operations.
- Participation of Administrators in trainings.
- Participation of Administrators in educational conferences.
- Participation of Administrators in workshops.

**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, APS states that it offers the following summer school programs:

- **Fifth Block.** APS offers a voluntary fifth block of instruction for students who have shown academic growth during the school year and who could benefit most from additional learning time. Fifth block provides 23 additional days of instruction for students who are making progress in math and literacy (reading and writing) but are not yet considered proficient. Fifty students from each elementary school and 100 from each K-8, middle and high school are invited to attend. Invitations are offered to those students near proficiency in math and literacy as well as incoming 4th graders who are low proficient in reading and incoming 6th, 7th, 8th, 9th and 10th graders who are low proficient in math. Student must have had continuous enrollment in APS for at least one year (March

2009 to March 2010), consistent attendance and overall good behavior. Fifth block is provided to students at no additional cost to parents. Students are generally taught in their own schools using district curriculum. Class size has been set at a 25 to 1 ratio. The ratio was chosen based on knowing the characteristics of identified students and the quality of teachers selected. APS makes significant strides for thousands of students and for the district as a whole.

- APS buildings provide additional summer school opportunities as funding allows. These may be credit recovery opportunities at the high school, transition programs between middle and high school, and early childhood opportunities at the elementary school. Schools use general funds, Title funds, or grant funds to provide these opportunities.

**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. APS also objects to the definition of the term “preschool” provided in the Discovery Request. 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, APS 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, APS states that APS has offered the following programs since 2005:

**Colorado Preschool Program.** APS currently offers students the Colorado Preschool Program (CPP). APS began offering the CPP in its original form in the school year 1990-91. At that time, APS was granted an allotment of 75 slots. The CPP allotment for the 2010-11 school year is 1,368 slots. CPP serves children who lack overall learning readiness skills due to individual and family risk factors. The CPP Program is based on a belief that quality early childhood programs and services offer children a greater chance of success in school. A vital component of this program is to strengthen families and support them as participants in their child's education. These programs serve children eligible to enroll in Kindergarten in the following year. CPP students participate in an inclusive program with Special Education

students. The number of children who can be served in the Colorado Preschool Program is capped at levels set by the general assembly.

The Aurora Public School Early Childhood Education Department has utilized the Creative Curriculum for Preschool, which is a comprehensive, scientifically based Early Childhood curriculum for young children ages 3-5. The curriculum has been carefully developed and is grounded on a solid foundation of research (Piaget, Erickson, Vygotsky, Gardner and Simlasky). The Creative Curriculum responds to the new requirements for addressing academic content standards in early childhood education and has been aligned with the National Association for the Education of Young Children guidelines and the National Association of Early Childhood Specialists in the State Department of Education.

Classroom teachers currently utilize Teaching Strategies GOLD (TS GOLD) Objectives for Development and Learning assessment system. TS GOLD is an observational assessment tool designed to assess how children develop and learn. Teachers, along with other members of the preschool team (Paraeducators, Early Childhood Special Educators, Speech/Language Pathologists, Physical and Occupational Therapists and Mental Health Professionals) use the ongoing assessment and monitoring to pinpoint where children are in their development and learning. Through ongoing assessment, teachers are able to intentionally plan learning experiences that respond to children's individual interests, learning styles and abilities.

The Aurora Public School Early Childhood Education Staff believes that parents play a vital role in the education of their children. The preschool program provides parents with opportunities to build a strong connection between home and school. Parent/teacher conferences are held to inform parents about the progress children are making in preschool. In addition to conferences, parents are also invited monthly into their child's classroom to participate in literacy based activities.

The mission of the Aurora Public Schools Early Childhood Education Department is to ensure that all preschool students will transition into kindergarten with the experiences and skills necessary to reach high levels of learning throughout their academic careers. The ECE Department provides support to the APS Vista 2010 mission: "Teach every student the knowledge, skills and values necessary to enter college or a career and become a contributing member of society who flourishes in a diverse, dynamic world." The opportunities for early learning provide a strong foundation that will help to ensure academic success. The Early Childhood Education Department is involved in the School Readiness Project. The School Readiness Project utilizes the Qualistar Rating System to ensure that all preschools and child care centers are of the highest quality.

Tuition Based Preschool. A Tuition Based Preschool (TBP) program is offered to students who do not qualify for CPP or Special Education preschool services. Students in the TBP program attend the same classes and programs as CPP students. The application fee is \$60.00 and the monthly tuition is \$350 per month. Tuition is required because APS lacks the necessary funding to offer each of its students a preschool program at no cost to the student. Not

all applicants to the TBP program obtain a spot in a preschool program. Tuition qualified students are selected by a computerized lottery system. Accordingly, due to funding levels, APS is not able to offer preschool programs even to families that can afford monthly tuition. And, many other students who do not qualify for CPP or Special Education preschool services are nevertheless unable to afford over \$3,000 tuition per school year.

At base, the CPP successfully provides a quality preschool program to many students gratuitously, but APS lacks the funding necessary to provide the same service to all students gratuitously.

**Child Find Program.** The Child Find Program assists the Early Childhood Department in identifying and providing learning opportunities for children with special needs. Child Find provides free developmental screenings and multidisciplinary evaluations for young children, ages 0-5, who demonstrate delays in their development. The Child Find team includes specialists in the areas of speech-language pathology, preschool special education, occupational therapy, psychology and nursing.

**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, APS states that it offers the following after-school programs. After school programming is provided at three elementary schools and four middle schools through the COMPASS after school program, a collaboration between the City of Aurora and Aurora Public Schools. This program is funded through federal 21st Century Community Learning Centers grants, as well as state grants through the Tony Gramscas program. Individual schools may provide after-school programs based on the schools’ needs and funds. Also, Supplemental Educational Services (free after school tutoring) is provided to eligible children at Title I schools that are in the school improvement phases as determined under No Child Left Behind.

**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, APS states that it recently launched APS Online, a free, online high school that offers students a unique and personalized way to earn their high school diploma. More information regarding APS Online is available at <http://www.apsachieveonline.org/>. APS Online High School offers another choice option for parents and students who are seeking a unique and personalized way to earn a high school diploma. APS Online will offer students the same rigorous curriculum offered by our traditional high schools—except that it will be delivered online. APS Online provides high-quality, interactive education for students in grades 9 to 12. APS Online is ideal for students who are seeking an online alternative to the traditional high school environment. APS Online offers the best of online education and face-to-face instruction with our online self-paced content and highly qualified teachers at our classroom.

APS also offers Education2020 (E2020) at Hinkley, Central, Gateway, and Rangeview high schools for students in need of an alternative means to earn credits towards graduation. Core classes are accessible by students online in a virtual learning environment. All school work and assessments take place online.

APS offers Moodle online learning environment, which is used by numerous teachers throughout the district, especially for grades 4-12. It provides a learning platform containing curriculum, multimedia, and web 2.0 tools such as blog, wiki, and forum for students to share and reflect with their peers and teacher. This system is used in conjunction with face-to-face instruction to create a hybrid learning experience.

Numerous professional learning opportunities also are available online for certified staff to take advantage of and earn credit at the same time. This is administered through APS's Avatar system that facilitates online courses and keeps track of credits. For example, Instructional Technology offers two courses that are completely online. One is centered on teaching the teacher the fundamentals of the interactive white board and student response system software. The other course exposes the participant to 21st century skills and tools aligned with the National Education Technology Standards (NETS).

**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 APS views all of its students as college bound.

Subject to and without waiving the foregoing and General Objections, APS states that currently there are vocational programs offered in every high school, which can include: Computer Application, Computer Technology, Desktop Publishing, Word Processing, Consumer

Law, Financial Management, Marketing, Multimedia 1 & 2, Web Design 1 & 2, Accounting, Business Law, Career Development, Entrepreneurship and Management, Professional and Community Experience, Teen Choices, Fashion Focus, Food for Today, Food Science, Nutrition and Dietetics, Relationships, Life Management, Parenting and Child Development, ProStart I & II, Teacher Cadet, and the Young Parenting Program.

These programs are available to all APS students. APS's mission is to prepare all students for post-secondary opportunities; thus, APS does not define any student as "non-college bound."

**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, APS states that students in APS receive no direct services from any BOCES.

**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 foregoing and General Objections, APS states that information concerning the District's capital maintenance plan and budget can be found in the following previously produced documents: APS000001-APS001466.

**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](http://www.cde.state.co.us/index_finance.htm)

Subject to and without waiving the foregoing and General Objections, APS states that information concerning its bond and mill levy efforts is available on APS's website at <http://bond.aurorak12.org> and <http://aurorak12.org/about-aps/mill-levy-information/>.

**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, APS states that it has made the following efforts.

2000-06

A Community Attendance Review Board (CARB) system was in place to work with students who were considered habitual truants, but it was used infrequently by schools. When a student was taken to court, the approach was punitive and generally unsuccessful.

2006-07

A pilot was begun during the second semester of the 2006-07 school year. Selected teachers acted as case managers for 15 truant students. These teachers were expected to conference weekly with the students to assist them in overcoming obstacles to regular attendance. Teachers were paid an additional 10% of their salary to serve in this capacity. The results of this program showed promise.

2007-08

The case manager model was expanded to all of the secondary schools. Middle schools each had four case managers; high schools had five case managers. Case managers received extensive professional development from psychologists at Childrens' Hospital. This case management program was expensive to implement and yielded mixed results.

At the beginning of this school year seven staff members were hired as Truancy Specialists. Processes and procedures for the truancy reduction program were written; a truancy reduction manual for use by the district was developed by School Services. Pertinent staff at all district schools were trained. The Truancy Specialists oversaw this work and worked with community agencies to access needed resources for individual students and their families.

Attendance Policy and Regulations were revised to incorporate best practices in truancy reduction, to define excused and unexcused absences, and to communicate that suspensions and expulsions were no longer appropriate consequences for truancy. The following partnerships were developed: 18th Judicial District, City of Aurora, Aurora Police Department, Office of Youth Development, Arap. Cty Dept. Human Services, Adams Cty Truancy Consortium, Aurora Center for Treatment, Aurora Mental Health, and Children's Hospital.

Efforts by Truancy Specialists during October Count included making home visits, bringing students back to school or filing truancy petitions. These efforts resulted in over \$350,000 per pupil operating revenue funding for fifty-one truant students in APS.

APS consulted with the National Center for School Engagement, Colorado Department of Education and Magistrate Rebecca Moss to develop a truancy reduction program that was modeled after Project Respect program in Pueblo. The Early Intervention Program (EIP) was developed. All of the Truancy Specialists added students to their current case loads in order to pilot this program.

School Services applied for an Expelled and At-Risk Student Services (EARSS) grant from CDE in June of this year in order to implement the Early Intervention Program more fully.

#### 2008-09

In August of 2008 APS received the EARSS grant in the amount of \$572,000 over a four-year period. The Early Intervention Program was implemented with EARSS funds in the amount of \$176,000 for the first year.

In February 2008 implementation of the Early Intervention Program included the hiring of two Truancy Advocates to provide intensive case management to a total of 50 students from Aurora Central High School and Aurora West College Preparatory Academy.

The EARSS grant enabled APS to provide intensive case management along with academic credit recovery, after-school tutoring, parent and peer support groups, substance abuse and mental health services. Students were also offered the opportunity to participate in a variety of pro-social activities through the City of Aurora Office for Youth Development, not-for-profit organizations and their home school.

Of the 48 students served during the 2008-09 school year, 20 (42%) students involved in the program at Aurora Central High School and Aurora West College Preparatory Academy improved their attendance. Of the 41 students at South and Kenton who were involved with this program 35 (82%) students improved their attendance. Eighteen of these 35 students improved their attendance without going to truancy court, i.e., by intensive case management alone.

#### 2009-10

The Early Intervention Program was able to hire an additional advocate and expand services to three additional elementary schools (Kenton, Lansing and Vaughn Elementary) and to provide

services to students attending Aurora Central High School, Aurora West College Preparatory Academy, Kenton Elementary, Lansing Elementary and Vaughn Elementary. Of the 96 students served during the 2009-10 school year, 61 (63.5%) students involved in the program at Aurora Central, Aurora West College Preparatory Academy, Kenton Elementary, Lansing Elementary and Vaughn Elementary improved their attendance. 24 (25%) of these students had perfect attendance.

During the 2009-10 school year the district funded Early Intervention Program continued and expanded case management to students at North MS, South MS, Crawford and Sixth Avenue Elementary. Two Advocates were hired to serve 50 students. Of the 41 students selected to receive services from the Early Intervention Program, 35 (85%) improved their attendance. 15 of these students had perfect attendance.

As a program the Early Intervention Program has served 137 students during the 2010-11 school year. Ninety-six (70%) of these students improved their attendance by the end of the last quarter of the 2009-10 school year.

**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, APS incorporates its responses to Interrogatories Nos. 27 and 29.

In addition, APS states the following:

All schools are implementing Response to Intervention at the building and classroom level. Teachers monitor student progress after initial instruction, and provide classroom level interventions for students who do not demonstrate adequate progress. Buildings provide additional intervention opportunities, as resources allow, before school, during non-student contact time, and after school. Students in schools supported with Title funding are eligible to receive additional academic support from outside providers – Supplemental Educational Services.

APS implemented a dropout recovery program four years ago called “ReBound.” It has evolved into a program where students may be directly referred, before dropping out, if school counselors believe they will be more successful there. Additionally, APS has a “Futures Program” that targets students who have reached an age where completion of high school is

unlikely. The students in the Futures Program take course work to prepare them to be successful on the Accuplacer exam, for entry into the community college.

**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 APS for the last ten years. Also, as explained above, any possible relevance of facts about APS prior to 2005 is substantially outweighed by the undue burden and expense in responding to the request. APS 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, APS hereby incorporates its response to Interrogatory Nos. 1-36, and documents labeled APS000001 - APS496778.

Further, the district's role in the delivery of educational services is comprehensively outlined in the strategic plan, Vista2010. This document guided the work of APS from 2006 to the present. The new strategic plan, Vista2015 will guide the work of APS for the next 5 years. In both plans, the delivery of educational services is specifically outlined in the "Achievement" section of the plans. See Vista2010 website ( <http://superintendent.aurorak12.org/vista/vista-2010>)

## **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, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS002387 – APS004269; APS035140 – APS035952.

**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 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, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS002160 – APS002386.

**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, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS000001 – APS496778.

**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, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS046991 – APS047587; APS058461 – APS093476; APS100378 – APS101641; APS103921 – APS104042; APS104611 – APS104828; APS105798 – APS105978; APS477777 – APS495575.

**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, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS103826 – APS103920; APS105345 – APS105444.

**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, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS017732 – APS023539; APS009490 – APS012450; APS038926 – APS039070; APS058460; APS094135 – APS095832; APS098560 – APS099773; APS101642 – APS103227; APS475043 – APS495575.

**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, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS000001 – APS496778.

**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, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS002043 – APS002159; APS105342 – APS105344.

**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, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS100378 – APS101641; APS105319 – APS105330; APS105545 – APS105704.

**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, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS105545 – APS105764; APS103778 – APS101641.

**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, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS039071 – APS046979; APS103778 – APS101641; APS106101 – APS107132; APS469148 – APS471588.

**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, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS001385 – APS001387.

**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, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS104151 – APS104152; APS106101 – APS107132.

**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, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS000001 – APS496778.

**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, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS009362 – APS009489; APS1003778 – APS101641; APS103493 – APS103547; APS104054 – APS104080; APS104153 – APS105156.

**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, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS103998 – APS104018; APS105622 – APS105623.

**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, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS000001 – APS496778.

**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, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS000001 – APS001466.

**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, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS000001 – APS496778.

**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, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS035140 – APS035952.

**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, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS000001 – APS496778.

**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, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS103921 – APS103961.

**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, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS000001 – APS496778.

**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, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS000001 – APS496778.

**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, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS023540 – APS023568; APS015336 – APS105337.

**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, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS004270 – APS004694; APS012451 – APS017731.

**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, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS000001 – APS496778.

**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, responsive documents in the possession, custody, or control of APS have been produced, including documents labeled APS000001 – APS496778.



Dated: December 15, 2010

DAVIS GRAHAM & STUBBS LLP

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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: AURORA, JOINT SCHOOL DISTRICT NO. 28** was filed and 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.]***