

<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 style="text-align: center;">▲ COURT USE ONLY ▲</p> <p>Case No. 2005CV4794   Div. 9</p>
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**PLAINTIFFS' COMBINED RESPONSE TO DEFENDANTS' FIRST DISCOVERY REQUESTS TO SCHOOL DISTRICT PLAINTIFFS: SARGENT SCHOOL DISTRICT NO. RE-33J**

Pursuant to C.R.C.P. 33, 34, and 36, Plaintiffs, Anthony Lobato, et al., (“Plaintiffs”), through counsel, hereby respond on behalf of Plaintiff Sargent School District No. RE-33J (“Sargent”) 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.”

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

### **GENERAL OBJECTIONS**

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

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

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

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

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

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

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

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

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

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

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

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

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

## **INTERROGATORIES**

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

**Response:** Other than Sargent legal counsel, Lauren Sheldrake was principally involved with the preparation of the answers to these interrogatories. Ms. Sheldrake can be contacted through counsel.

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

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

Subject to and without waiving the foregoing and General Objections, Plaintiffs state that the general assembly has the duty to define and fund a constitutionally adequate, quality education, subject to judicial review. The general assembly has adopted definitions of a constitutionally adequate, quality education in several places. While definitions adopted in statute are not necessarily and finally determinative of the scope and content of the constitutional mandate of Article IX, section 2, of the Colorado Constitution (the Education Clause), Sargent 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, Sargent 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, Sargent 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, Sargent states that an appropriate system of public school finance would include without limitation funding formulae and mechanisms that are based primarily on estimations of the actual costs associated with the provision of a constitutionally compliant system of public schools, as described above in response to Interrogatories Nos. 2-3 (which are incorporated in this response along with all objections stated therein), in contrast to a system of funding based simply on arbitrary percentage or fixed dollar adjustments to the previous year's funding formula or dollar allocation.

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

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

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

Subject to and without waiving the foregoing and General Objections, Sargent states that its board charge is as follows:

In consideration of both the mission statement and the present momentum of the district, the Board of Education establishes the following charge to administration, faculty and school/district committees for the 2009-2010 academic year.

1. Complete construction of a new jr/sr high school, renovate the elementary and the existing high school gym.  
(Responsibility: Superintendent, BOE, Facilities Committee)
2. Continue to implement the RTI (Response to intervention) process in grades K-12. In this second year of implementation, the Alpine Achievement System and NWEA assessments will be utilized in grades K-12 in order to better monitor student growth. Professional development will be provided to all teachers for Alpine and NWEA.  
(Responsibility: Superintendent, Building Principals)
3. Review Board of Education policies on a regular basis to ensure relevancy and accuracy.  
(Responsibility: Superintendent, BOE)
4. Create an aligned math curriculum district-wide. This will involve purchase of new math curriculum. In addition, the Compass Math system will be used as a pilot project in grades 6-8.

The Board of Education also reaffirms its ongoing commitment to the following priorities:

- Creating a safe, positive learning environment
- Increasing student achievement
- Creativity and innovation in all facets of school operations
- Communication with staff, students, parents and community
- Continue to support shared resource concept with other districts in the San Luis Valley

The board charges help guide and direct all the activities during the school year for administration, staff, and the board. See also documents produced concurrently herewith.

**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 Sargent 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, Sargent states that it has four professional development days before school starts, and two during the school year. Some professional development is provided as required by certain grants. The content for professional development is developed by teachers and the administrative team. In addition, BOCES every year some trainings that send some staff to. Every year trainings by CDE send some staff to, some on site (admin, and some visiting trainers) paid by grants, paid by district both embedded, some on site.

**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, Sargent states that the administrative team determines the need for hiring. Once the decision is made, depending on

the position, job postings are placed in the San Luis Valley Courier, on occasion, the Pueblo Chieftan, posted on the CDE web site and depending on the position, on the CASE website. Even after these efforts, the District often does not receive qualified applicants for advertised positions. Interviews for certified staff are conducted by the principal, a teacher, and the superintendent. Interviews for classified staff are conducted by the principal and another team member. For assessment, see response to Interrogatory No. 17, which is incorporated into this response along with all objections stated therein.

**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 Sargent'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, Sargent states that it has not contributed money in any amount that has an order of magnitude meaningfully comparable to Sargent's annual budget or the amount which the Defendants' are constitutionally required to provide but have failed to provide. Subject to and without waiving these objections, Sargent states that it contributed \$1,000 in approximately 2006.

**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, Sargent states that "adequate educational opportunities" means at a minimum educational opportunities sufficient to permit each and every student to demonstrate proficiency in meeting the performance goals and

standards established by state law, rule, and regulation; to demonstrate academic growth and achievement and critical-thinking and problem-solving skills necessary to ensure the student's ultimate success in school, in postsecondary education, in the workforce, and in life; to be well prepared for active participation in democracy and to compete in the twenty-first-century workforce; and to ensure, to the extent possible, that he or she is prepared to meet his or her full potential, as set forth in C.R.S. §22-7-1002. To the extent that any student is not provided with an educational opportunity that meets these standards, he or she has failed to receive a constitutionally adequate educational opportunity. See also Response to Interrogatory No. 2-4, above, which are incorporated into this response along with all objections stated therein.

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

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

**Response:** In addition to the General Objections, Plaintiffs object to Interrogatory No. 10 on the basis that it is vague, overbroad, burdensome, and calls for the discovery of irrelevant information not calculated to lead to the discovery of admissible evidence. Specifically, the terms “used” is vague and confusing and could potentially call for a large amount of information not reasonably calculated to lead to admissible evidence. The District will provide responses from 2005 to the present and will include grants of \$5,000.00 and above. 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, Sargent received a Reading First Grant. The Reading First Grant was established through Title 1, Part B of NCLB. The purpose of the Colorado Reading First Grant was to support the implementation of proven methods of reading instruction in classrooms. The Colorado Reading First Grant ran from 2003 to 2010.

CDE Website:

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

Sargent received a BEST grant. BEST stands for “Building Excellent Schools Today.” To receive this grant, Sargent had to pass a bond election to provide the qualifying match for this grant. As a result of this grant, Sargent moved into its new facility this school year. For more on BEST, see the following CDE web site:

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

EETT grant (enhancing education through technology)

Sargent also received a Perkins grant for vocational education.

**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, Sargent states that the CDE provides the District with the opportunity to receive trainings based upon District needs (school improvement plans) as decided by its Annual Yearly Progress reports, as well as other state reporting requirements, which are all based upon CSAP results. The CDE provides access to its website and allows the District to post job openings on the website. The CDE has also provided professional development (paid for by the federal dollars) to help sustain the grants. The CDE is also available to answer questions related to compliance issues.

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

Subject to and without waiving the foregoing and General Objections, Sargent School District states that it does not have sufficient resources or support to provide the necessary educational opportunities to all children who need ELL support and administers the CELA test as required by CDE. Sargent does not have enough staff certified to teach ESL, and it cannot provide ESL support services in the classroom. Sargent administers testing to determine which students require ELL services. Sargent currently has 30 students identified as requiring ELL

services which are provided by a half time teacher and a full time paraprofessional who provides support/pull out services for the ELL students.

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

Subject to and without waiving the foregoing and General Objections, Sargent receives very limited funding for programs for gifted and talented students. Sargent, as part of its implementation of RTI, works with its teachers to identify and provide services to students who are gifted and talented. Sargent offers differentiated instruction at all grade levels. Sargent is unable to afford any instructional coaches or paraprofessional support for these students. At the elementary, the Junior Great Books program is offered. At the middle/high school levels, students have a limited offering of on line classes. There are also very few upper level classes offered other than an upper level math course.

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

Subject to and without waiving the foregoing and General Objections, Sargent states that due to its very limited resources, it is significantly limited in what it can offer to “students at risk of academic failure”. The interventions that Sargent would like to implement include before and after school programs and summer school. Sargent currently does not offer any summer school and the only tutoring is conducted by National Honor Society students who volunteer one hour a day two days a week. (see Responses to interrogatories 12, 13, 15, 16, 17 & 29) Sargent School District is also implementing Response to Intervention at the building and classroom level. Teachers assess student progress and provide classroom level intervention for students who are not showing adequate progress. Both Tier one and Tier Two interventions have are implemented by class room teachers, with no additional support.

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

Subject to and without waiving the foregoing and General Objections, Sargent states that it has one special education teacher and one paraprofessional who is responsible for working with the children on site in Sargent. Sargent provides services for students from ages 3-21 as required. The district follows the least restrictive environment for most of the students, and direct services are provided in a general education setting as well as outside the general education setting, depending on student needs. Related services can be both consultative and direct, depending on student’s needs. Sargent currently has one student whose IEP requires occupational therapy services. Sargent contracts with for those services to be provided one day per week by a non-licensed provider. The District also provides transition services to students with disabilities, when required. Sargent also coordinates services for students with disabilities

through the San Luis Valley BOCES. For students who require services that cannot be provided on site, the district transports the student to Del Norte. Sargent currently has two children who are provided transportation to Del Norte. The BOCES coordinates IEP's, and coordinates the provision of some services such as speech and language therapy.

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

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

Subject to and without waiving the foregoing and General Objections, Subject to and without waiving the foregoing and general objections, Sargent states that due to the limited funding it receives, it is unable to provide the quantity and quality of intervention programs that are proven to be effective for its “students of low income families”. Sargent is seeing an increase in the numbers of children who are qualifying for free and reduced lunch. At the high school, the free and reduced percentage is 34% and at the elementary school, the percent is 42%. However, Sargent does provide free and reduced lunch to students who qualify for this program, Sargent also offers breakfast to its students who qualify. Sargent does not charge any fees for participation in academic or sports programs. Sargent also has a counselor for the middle/high school who provides counseling services for students of low-income families. Sargent also contracts with mental health to provide a counselor one day a week at the elementary and one day a week at the middle/high school. See also Response to Interrogatory No. 14.

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

**Response:** In addition to the General Objections, Plaintiffs object to Interrogatory No. 17 on the basis that it is vague, overbroad, burdensome, and calls for the discovery of irrelevant information not calculated to lead to the discovery of admissible evidence. Specifically, the terms and phrases “programs,” “has developed or used,” and “educational

opportunities” are vague and unintelligible, and could be construed to call for an unduly overbroad and burdensome response. The request also purports to call for a description of all programs related to “students of minority racial and ethnic heritage” without regard to whether the program was ever used or implemented, and without regard to the size of the program or number of students involved. Further, many of “the programs the District has developed or used to provide educational opportunities to ‘students of minority racial and ethnic heritage’” are developed or used to provide educational opportunities to all students, and to the extent the request calls for descriptions of programs not aimed exclusively at “students of minority racial and ethnic heritage,” Sargent incorporates its responses to all Interrogatories and the objections stated therein.

Subject to and without waiving the foregoing and General Objections, Sargent states that it addresses these issues on an ongoing, but not formal, basis, including with professional development, and outreach to the community. The District is constantly evaluating and assessing its policies and procedures to identify any policies or procedures that may be barriers to equity and excellence and works toward systemic change that will result in high levels of achievement for all students.

**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, Sargent refers defendants to its personnel policies. Sargent further states that, to measure the effectiveness of District employees, it uses an evaluation system based upon the requirements of the State of Colorado and approval of the school board. Sargent observes non-tenured employees at least twice a year, and it gives these employees a summative evaluation once every year for their first three years of employment. Sargent observes tenured employees at least once every year, and it gives these employees a summative evaluation every three years. Sargent also utilizes walkthroughs and peer observations to measure the effectiveness of employees.

**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 [Sargent] 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, Sargent 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. Sargent 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, Sargent states that it delivers education services by providing the best educators possible to instruct students. To provide the best instruction, Sargent also tries to provide teachers with the teaching materials and technology necessary to facilitate instruction, curriculum development, and professional development.

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

**Response:** In addition to the General Objections, Plaintiffs object to Interrogatory No. 20 on the basis that it is vague, overbroad, burdensome, and calls for the discovery of irrelevant information not calculated to lead to the discovery of admissible evidence. Specifically, the phrase “programs and services” is vague and unintelligible, and could be construed to call for an unduly overbroad and burdensome response. Plaintiffs also object to Interrogatory No. 20 on the basis that Interrogatory No. 20 is a contention interrogatory, and Defendants have objected to contention interrogatories on the improper ground that such interrogatories are premature. Plaintiffs believe these objections are without merit, but to the

extent such objections are valid, Plaintiffs should not have to respond to contention interrogatories.

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

Specifically, Sargent does not provide any vocal music program at any level, there is no band at the high school level, and there are limited band classes for grades 4-8. The only drama program is for 9 weeks at the middle school. Spanish is the only language that is offered. At the middle and high schools, electives are extremely limited. In middle school, the only electives are band, shop, art, and life skills/health. In the high school, the only other electives are shop, art, PE, and a web page design class. Many students work as aides to teachers to receive elective credits. The only AP classes offered are English and Biology. There are no honors classes. This year physics is not being taught.

**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, Sargent 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, Sargent states that there are two subjects that violate Sargent'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 Sargent's constitutional rights. Defendants violate the “rights” of Sargent 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 Sargent by exercising that discretion and power in a manner that violates the Education and Local Control clauses. Further, and without limiting the foregoing, Defendants create and implement punitive enforcement provisions of education reform legislation in a manner that prevents Sargent 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, Sargent states that Lauren Sheldrake is the current superintendent and has held this position for the past three years.

Lyle Oliver served from 2004 until retirement in 2008. Tim Snyder left to become director of Colorado On-Line.

**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, Sargent incorporates the Response to Interrogatory No. 23.

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

**Response:** Subject to and without waiving the General Objections, Sargent identifies the following board members:

Current Board of Education:  
Will Hathaway, President  
Patrick Sewell, Vice President  
Monte Mullins, Secretary  
Karla VanTreese, Treasurer  
Margie Diaz, member

**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, Sargent states that it has extremely limited resources to provide to either administration or Board members for the purpose asked about in this interrogatory. However, Sargent does try to provide as many opportunities as it can for administration and Board members such that members of the administration attend monthly meetings with other administrators from the San Luis Valley. Members of the administration also attend regional and state conferences sponsored by CASE. School Board members also attend regional San Luis Valley meetings as well as regional and state wide CASB conferences.

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

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

Subject to and without waiving the foregoing and General Objections, Sargent states that due to inadequate resources, Sargent was unable to provide any summer school last summer and over the past five years has been unable to consistently provide summer school. In addition, Sargent has never been able to provide summer school to all the students in the district that would benefit from such a program (e.g. students performing below grade level).

**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. Sargent also objects to the definition of the term “preschool” provided in the Discovery Requests. The term Preschool, as the term is naturally understood, encompasses services provided to students prior to Kindergarten, which is provided to students prior to the first grade. Defendants’ definition of the term “preschool” extends the meaning of that word so far beyond its natural meaning that the term as defined is unintelligible, and any response that adheres to the definition would also be unintelligible.

Similarly, Sargent 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, Sargent states that it does not receive sufficient funding from the State to offer preschool to all of its students. Sargent serves as the fiscal agent for the preschool in the district, Sargent Early Learning enter. Sargent also operates Child Find with the BOCES

**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, Sargent states that it has no resources to offer any after school programs. The only after school tutoring that takes place is through the volunteer efforts of Honor Society Students who tutor twice a week for an hour a day.

**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, Sargent states that it has very limited capacity to offer on-line learning programs.

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

Subject to and without waiving the foregoing and General Objections, Sargent states that it cannot offer the vocational education programs that it believes are necessary for its students. As an example, the District is not able to offer the following programs: auto mechanics or building trades. The District does offer welding and some limited technology. .

**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, Sargent states that Sargent's students receive certain special education services from the San Luis Valley BOCES, including identification of special education children, trying to staff certain services for these students, and providing off site support, when necessary. The BOCES also houses the gifted and talented coordinator. The BOCES handles alternative licensure and induction for new teachers.

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

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

Subject to and without waiving the General Objections, Sargent states that they just completed construction of a new school. As part of their contract with the State, Sargent is required to set aside \$50,000 per year for maintenance costs that can only be spent on facilities that were purchased through BEST proceeds. Past capital maintenance and budgets were a large part of our budget given the age and failing condition of the prior buildings. Sargent refers defendants to Sargent's budgets.

**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, Sargent states that it passed a bond election in November 2009 for \$5 million.

**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, Sargent states that when a student starts to have attendance issues, the student's parents are contacted and when necessary, a plan is put in place to help improve the attendance. Sargent also has infinite campus so that parents can monitor attendance. Many of the students in Sargent are open enrolled into Sargent and to date, truancy has not been a major concern to Sargent.

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

In addition, Sargent does not offer any extended learning programs.

**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 Sargent for the last ten years. Also, as explained above, any possible relevance of facts about Sargent prior to 2005 is substantially outweighed by the undue burden and expense in responding to the request. Sargent 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, Sargent states that it applies for grants to help supplement its education program. Sargent is continually working with its community to improve its delivery of education to its students. To the extent it is able, Sargent sends its administration to trainings and offers professional development. Sargent is constantly evaluating its programs and delivery of these programs with the purpose of improving delivery of services to all of its children.

## **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, Sargent is concurrently producing responsive documents in its possession, custody, or control.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

extent it seeks information regarding individual teachers. The District will not produce evaluations of individual teachers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Document Request No. 17:** All documents concerning presentations given by District leaders, including but not limited to school board members, the District's Superintendent, the District's Chief Financial Officer, or the District's business manager, regarding District budget and finances.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



Dated December 15, 2010

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

**CERTIFICATE OF SERVICE**

The undersigned certifies that on the 15th day of December, 2010, a true and correct copy of the foregoing **PLAINTIFFS' COMBINED RESPONSE TO DEFENDANTS' FIRST DISCOVERY REQUESTS TO SCHOOL DISTRICT PLAINTIFFS: SARGENT SCHOOL DISTRICT NO. RE-33J** was served, via LexisNexis® File & Serve, addressed to the following:

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