

Alan L. Rupe, #08914
Ashley J. Shaneyfelt, #22641
Jessica L. Garner, #24178
KUTAK ROCK LLP
1605 North Waterfront Parkway, Suite 150
Wichita, KS 67206-6634
(316) 609-7900 (Telephone)
alan.rupe@kutakrock.com
ashley.shaneyfelt@kutakrock.com
jessica.garner@kutakrock.com

John S. Robb, #09844
SOMERS, ROBB & ROBB
110 East Broadway
Newton, KS 67114
(316) 283-4650 (Telephone)
JohnRobb@robblaw.com

IN THE THIRD JUDICIAL DISTRICT
DISTRICT COURT OF SHAWNEE COUNTY KANSAS
CIVIL DEPARTMENT

LUKE GANNON,
By his next friends and guardians, *et al.*,

Plaintiffs,

v.

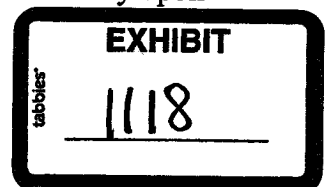
STATE OF KANSAS,

Defendant.

Case No.: 10-C-1569

**PLAINTIFFS' RESPONSE TO
DEFENDANT'S FIRST INTERROGATORIES TO ALL PLAINTIFFS**

COME NOW Plaintiffs, by and through their attorneys of record, and respond as follows to Defendant's First Interrogatories to All Plaintiffs. Plaintiffs will respond and object to Defendant's discovery without regard to the introductory section to the extent Defendant attempts to expand the scope and meaning of the Federal Rules of Civil Procedure. It should be noted that these responding parties have not fully completed their investigation of the facts relating to this case, have not fully completed their discovery in this action, and have not completed their preparation for trial. All of the objections contained herein are based only upon



such information and documents as are presently available and specifically known to these responding parties, and disclose only those contentions which presently occur to such responding parties.

It is anticipated that further discovery, independent investigation, legal research and analysis will supply additional facts, add meaning to the known facts, as well as establish entirely new factual conclusions and legal contentions, all of which may lead to substantial additions to, changes in and variations from the contentions herein set forth. The following objections are given without prejudice to Plaintiffs' right to produce evidence and any subsequently discovered fact or facts which Plaintiffs may later recall. Plaintiffs accordingly reserve the right to change any and all objections herein as additional facts are ascertained, additional analyses are made, legal research is completed and contentions are made. The objections and/or responses contained herein are made in a good faith effort to supply as much factual information and as much specification of legal contentions as is presently known, which should in no way be to the prejudice of responding party in relation to further discovery, research and/or analysis.

PRELIMINARY STATEMENT AND GENERAL OBJECTIONS

1. The responses contained herein are made solely for the purpose of the above-referenced action. Such responses are made subject to all general stated and specific objections, and Plaintiffs specifically reserve the right to reassert the same on motion or at time of trial.

2. Plaintiffs have not fully completed their investigation of the facts relating to this case, have not fully completed discovery in this action, and have not fully completed their preparation for trial. Discovery is continuing. Accordingly, all objections are made in light of discovery completed to date. Plaintiffs specifically reserve the right to supplement, amend or

modify any and all responses herein as additional facts are ascertained, as additional documents are obtained, as additional contentions are formulated, and as additional discovery, analysis or research may reveal.

3. Nothing contained herein is intended to be, nor may it be construed to be a waiver of the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege.

4. This response is made by Plaintiffs subject to and without waiving any objections, and Plaintiffs specifically reserve their right to object to other discovery procedures relating to the subjects of this discovery.

5. The fact that Plaintiffs have provided the information below is not an admission they accept or admit the relevance or admissibility of this information at trial.

6. Plaintiffs object to each and every interrogatory to the extent it seeks to impose on Plaintiffs obligations inconsistent with and/or more extensive than those imposed by the Kansas Rules of Civil Procedure.

7. Plaintiffs object to each and every interrogatory to the extent it seeks information which is more properly held in the possession of Defendant or third parties. The ability to obtain such information and the burden of obtaining such information is equally on Defendant as it is on Plaintiffs. Therefore, Defendant should be required to obtain the information.

8. Plaintiffs object to each and every interrogatory to the extent it contains or is predicated upon legal or factual assumptions which are not correct or contain language that is vague or ambiguous.

9. Plaintiffs further object to the interrogatories on grounds that they are overbroad, unduly burdensome, oppressive, and propounded for purposes of harassment; they are vague and

ambiguous; they seek information which is neither relevant to the subject matter of this litigation nor reasonably calculated to lead to the discovery of admissible evidence; they are unreasonably cumulative and duplicative; they seek information that is either already in the possession of Defendant, or readily available to Defendant; and they seek information which is protected by the attorney-client privilege and/or the attorney work product doctrine.

10. Plaintiffs object to each and every interrogatory to the extent that the burden of deriving and ascertaining the answer to all or any of the interrogatories from documents produced or to be produced is substantially the same for Defendant as it is for Plaintiffs.

11. Any statement that non-privileged, responsive documents will be produced should not be construed as an admission that any responsive documents exist.

12. This preliminary statement and each of the foregoing general objections applies to each individual interrogatory and is hereby incorporated into Plaintiffs' specific responses and objections to each individual request.

13. Without waiver of its general objections, Plaintiffs respond as follows:

OBJECTIONS AND RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 1:

If you denied the request for admission contemporaneously served with these interrogatories,

- a. List each weighting factor that you contend violates rights under the United States Constitution or Sections 1 or 2 of the Bill of Rights of the Kansas Constitution;
- b. Describe the material facts that support your position;
- c. Identify the person or persons who have personal knowledge of such facts; and

- d. Identify all documents or tangible things that you contend are direct evidence of such facts.

ANSWER:

Objection. This request is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. “[A] contention interrogatory which seeks ‘all facts’ . . . is overly broad and unduly burdensome on its face.” *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party’s contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard. Plaintiffs do not represent that the answers herein are all the facts that may support their contentions.

Subject to and without waiving the foregoing objections, Plaintiffs respond as follows:

To the extent the School District Finance and Quality Performance Act (“SDFQPA”) is not severable and the referenced weighting factors are an integral part of the SDFQPA, Plaintiffs necessarily allege any and all weighting factors violate their constitutional rights to the same extent that any other aspect of the SDFQPA violates any of Plaintiffs’ constitutional rights.

INTERROGATORY NO. 2:

Concerning your allegations in Petition, ¶ 98:

- a. Describe the material facts that support your position, including but not limited to the invidious classifications created by the State;
- b. Identify the person or persons who have personal knowledge of such facts; and

- c. Identify all documents or tangible things that you contend are direct evidence of such facts.

ANSWER:

Objection. This request is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. “[A] contention interrogatory which seeks ‘all facts’ . . . is overly broad and unduly burdensome on its face.” *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party’s contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard.

INTERROGATORY NO. 3:

If a plaintiff or plaintiffs contend the State’s current funding formula or appropriations for Kansas K-12 public education have or will disparately impact so as to deny the right to equal protection under the Fourteenth Amendment of the United States Constitution or Sections 1 or 2 of the Bill of Rights of the Kansas Constitution:

- a. Describe the category of person(s) discriminated against;
- b. Describe the material facts, if any, that support that the differing treatment of person(s) in the category stated in your answer to subpart “a” was the predominant, motivating factor in State’s funding formula or appropriations;
- c. Identify the person or persons who have personal knowledge of such facts; and

- d. Identify all documents or tangible things that you contend are direct evidence of such facts.

ANSWER:

Objection. This request is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. “[A] contention interrogatory which seeks ‘all facts’ . . . is overly broad and unduly burdensome on its face.” *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party’s contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard.

INTERROGATORY NO. 4:

Separately for each Plaintiff School District,

- a. Describe each such school district’s program, policy, practice, service or benefit cut, discontinued, reduced or otherwise negatively impacted by lack in funding for the fiscal years 2009-10, 2010-11, 2011-12;
- b. Describe the material facts that support your position;
- c. Identify the person or persons who have personal knowledge of such facts; and
- d. Identify all documents or tangible things that you contend are direct evidence of such facts.

ANSWER:

Objection. This request is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. “[A] contention interrogatory which seeks ‘all facts’ . . . is overly broad and unduly burdensome on its face.” *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party’s contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard. Plaintiffs do not represent that the answers herein are all the facts that may support their contentions. Finally, this interrogatory is vague and ambiguous, especially to the extent it does not define the phrase “program, policy, practice, service or benefit.”

Subject to and without waiving the foregoing objections, Plaintiffs respond as follows:

Plaintiffs will, pursuant to an agreement between the parties, supplement these responses at a later date to respond on behalf of Plaintiff USD 259.

Pursuant to K.S.A. 60-233, Plaintiff School Districts identify any and all documents previously produced with Plaintiffs’ Objections and Responses to Defendant’s First Request for Production regarding programs, policies, services, and benefits which may also be responsive to this Interrogatory, including but not limited to budgeting, expenditure, and financial documents for the period of 2009-2012 identified as responsive to and produced with Defendant’s Requests No. 2-26.

Additionally, USD 308 responds as follows: Pursuant to K.S.A. 60-233, USD 308 identifies the following documents as responsive to subparts (a), (b), and (d) of Defendant's interrogatory:

- USD 308 2009-2010 Budget, Bates No. USD308 001062-1288.
- USD 308 2010-2011 Budget, Bates No. USD308 001289-1522.
- USD 308 Annual Operating Budget, For the period July 1, 2009, through, June 30, 2010, Bates No. USD308 002077-2222.
- USD 308 Annual Operating Budget, For the period July 1, 2010, through, June 30, 2011, Bates No. USD308 002223-2369.
- USD 308 Comprehensive Annual Financial Report for FY ending June 30, 2009, Bates No. USD308 002734-2853.
- USD 308 Comprehensive Annual Financial Report for FY ending June 30, 2010, Bates No. USD308 002854-2983.
- USD 308 Unencumbered Cash Balances for FY 2011, Bates No. USD308 002987-2988.
- USD 308 Treasurer's Report for Month End June 2010, Bates No. USD308 002989-3010.
- USD 308 Treasurer's Report for Month End June 2009, Bates No. USD308 003011-3053.
- USD 308 Treasurer's Report for Month End March 2011, Bates No. USD308 003116-3179.
- USD 308 Expense Detail Report showing Durham School Services Payments through 4-18-11, Bates No. USD308 003181-3221.
- USD 308 Operating Expense Reports, Bates No. USD308 004916-5622.

USD 308 provides the following additional information as responsive to subparts (a) and (b) of Defendant's interrogatory:

- Central Office Administration – Two certified administration positions cut in 2009-10
- Board of Education – Training travel lined in 2009-10
- Human Resources Contingency – Lowered in 2009-10
- Professional Development/Classified Professional Development – Funding reduced in 2009-10, 2010-11

- School Improvement Work – Teacher pay for School Improvement reduced in 2009-10
- Supplies and Equipment – Funds for Supplies and Equipment reduced in 2009-10 and 2011-12
- After-School Programs – Middle Level After-School Programs eliminated in 2009-10; Elementary After-School Programs reduced in 2010-11
- Classified, Licensed, and Administrative Staff – Various staff positions have been cut in 2009-10, 2010-11, and 2011-12
- Transportation – Transportation lines reduced (fewer routes) in 2009-10; transportation funds reduced in 2011-12
- Vehicles – New Vehicle replacement cycle cut in 2010-11
- Library Books – Purchase of Library Books reduced in 2010-11
- Textbooks – Fund reduced in 2010-11
- Overtime – Reduced in 2010-11
- Summer School – Program reduced in 2010-11
- Activities Budget and Funds – Budget reduced in 2010-11; Funds reduced in 2011-12
- Workbooks – Reduced in 2010-11
- Field Trips – Fund reduced in 2010-11
- Maintenance – Deferred in 2010-11
- Memberships – Board membership reduced in 2010-11
- MYP/IB – Training supplies and dues reduced in 2010-11
- SRO and Probation Officer – Reduced 1 SRO in 2010-11; Reduced 1 SRO and 1 Probation Officer in 2011-12
- Insurance – Reduced in 2011-12
- Security – Costs reduced in 2011-12
- Custodial Uniforms – Uniform service eliminated in 2011-12
- Technology Education Support Teacher Program – Eliminated in 2011-12

USD 308 provides the following additional information as responsive to subpart (c) of Defendant's interrogatory: Central Office and Building Level Administrators.

USD 443 responds as follows: Pursuant to K.S.A. 60-233, USD 443 identifies the documents listed in subpart (d) as responsive to subparts (a) and (b) and provides the following additional information:

- a. Description of program, policy, practice, service or benefit cut, discontinued, reduced or otherwise negatively impacted: Early Retirement Program; Summer School Program; After-School Program; Staff Development; Salary Expenses; and Instructional Material Fees Waiver.
- b. Description of material facts supporting position: Pursuant to K.S.A. 60-233, refer to the documents identified by USD 443 in subpart(d).
- c. Person or persons who have personal knowledge of such facts: USD 443 Superintendent Alan R. Cunningham; USD 443 Board of Education; and USD 443 Administrative Council.
- d. Documents or tangible things that are direct evidence of such facts:
 - USD 443 Board of Education Memorandum Regarding Budget Reductions, Bates No. USD443 007320-7321 (some of these programs were ultimately renewed because of the receipt of federal funding, as seen in subsequent documents, Bates No. USD443 000411-412, 000415-416, produced herewith).
 - USD 443 Approval of Instructional Material Fees for 2010-11, Bates No. USD443 000409-0410, produced herewith.
 - USD 443 Staff Development "Priority for Funding" Rubric, Bates No. USD443 000414, produced herewith.
 - USD 443 Approval to Terminate the Early Retirement Plan, Bates No. USD443 000413, produced herewith.
 - USD 443 Revenue and Expenditure Information for FY 2010 through FY 2015 with LOB Assumptions, Bates No. USD443 007328-7329.

USD 500 responds as follows: Pursuant to K.S.A. 60-233, USD 500 identifies USD 500 Budget Reduction Phases, Bates No. USD500 001514-1517 as responsive to this interrogatory.

INTERROGATORY NO. 5:

Separately for each Plaintiff School District,

- a. Describe each such school district's new program, policy, practice, service or benefit created or implemented in the fiscal years 2009-10, 2010-11, 2011-12 and

specifically pertaining to “pre-school at-risk pupils”, “preschool aged exceptional children”, “at-risk pupils”, “nonproficient students”, “vocational education programs”, “programs of bilingual education” or “special education”;

- b. Describe the material facts that supported creation or implementation of the new program, policy, practice, service or benefit;
- c. Identify the person or persons who have personal knowledge of such facts; and
- d. Identify all documents or tangible things that you contend are direct evidence of such facts.

ANSWER:

Objection. This request is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. The interrogatory is overly broad and unduly burdensome, especially to the extent it assumes Plaintiffs can delineate between programs, policies, practices, services, and benefits specific to a certain subset of pupils. Furthermore, “a contention interrogatory which seeks ‘all facts’ . . . is overly broad and unduly burdensome on its face.” *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party’s contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard. Plaintiffs do not represent that the answers herein are all the facts that may support their contentions. Finally, this interrogatory is vague and ambiguous, especially to the extent it does not define the phrase “program, policy, practice, service or benefit.”

Subject to and without waiving the foregoing objections, Plaintiffs respond as follows:

Plaintiffs will, pursuant to an agreement between the parties, supplement these responses at a later date to respond on behalf of Plaintiff USD 259.

USD 308 responds as follows: Pursuant to K.S.A. 60-233, USD 308 identifies the following documents as responsive to subparts (a), (b), and (d) of Defendant's interrogatory:

- USD 308 2009-2010 Budget, Bates No. USD308 001062-1288.
- USD 308 2010-2011 Budget, Bates No. USD308 001289-1522.
- USD 308 Annual Operating Budget, For the period July 1, 2009, through, June 30, 2010, Bates No. USD308 002077-2222.
- USD 308 Annual Operating Budget, For the period July 1, 2010, through, June 30, 2011, Bates No. USD308 002223-2369.
- USD 308 Vocational Program Documents, Bates No. USD308 004095-4146.
- USD 308 Instructional Coach PLC Documents, Bates No. USD308 004176-4187.
- USD 308 Federal Grants and Applications, Bates No. USD308 004188-4590.
- USD 308 Career and Technical Education Academy Minutes, Bates No. USD308 006376-6460.
- USD 308 Career Pathway Program Documents, Bates No. USD308 007650-7752.

USD 308 provides the following additional information as responsive to subparts (a) and (b) of Defendant's interrogatory:

- Vocational Education – added Allied Health in 2009-10; added Construction Technology and Med-Science Aid in 2010-11; added Residential HVAC, Plumbing, and Electrical in 2011-12 through re-assignment of existing staff
- Added ELL Summer School Program using grant funds in 2009-10
- Implemented Autism Program in 2009-10 through re-assignment of staff from other programs
- Added Elementary Instructional Coaches in 2010-11 through re-assignment of existing staff
- Added Summer Upper Elementary School in 2011-12

USD 308 provides the following additional information as responsive to subpart (c) of Defendant's interrogatory: Superintendent, Assistant Superintendent, Director of Career and Technical Education, Director of Special Education.

USD 443 identifies the Dropout Prevention Program as responsive to subpart (a) of this request. Pursuant to K.S.A. 60-233, USD 443 identifies USD 443 Dropout Prevention Presentation, Bates No. USD443 006740-6749 as responsive to subparts (a), (b), and (d) of this request. USD 443 identifies Alternative Education Principal Mr. Matt Turner and Assistant Superintendent for Secondary Education Mr. Gregory Springston as responsive to subpart (c) of this request.

USD 500 responds as follows: USD 500 did not create or implement any new programs, policies, practices, services, or benefits responsive to this request.

INTERROGATORY NO. 6:

Separately for each Plaintiff School District,

- a. Describe each such school district's new program, policy, practice, service or benefit created or implemented in the fiscal years 2009-10, 2010-11, 2011-12 to improve education performance because of or in attempt to comply with the NCLB, Common Core standards, EEOA of 1974 regarding language barriers and/or standardized tests;
- b. Describe the material facts that supported creation or implementation of the new program, policy, practice, service or benefit;
- c. Identify the person or persons who have personal knowledge of such facts; and
- d. Identify all documents or tangible things that you contend are direct evidence of such facts.

ANSWER:

Objection. This request is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. In effect, it seeks any “program, policy, practice, service or benefit created or implemented in the fiscal years 2009-10, 2010-11, 2011-12” because an overall goal of each of the Plaintiff School Districts is to improve educational performance. Moreover, “a contention interrogatory which seeks ‘all facts’ . . . is overly broad and unduly burdensome on its face.” *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party’s contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard. Plaintiffs do not represent that the answers herein are all the facts that may support their contentions. Furthermore, this interrogatory is vague and ambiguous, especially to the extent it does not define the phrase “program, policy, practice, service or benefit” or “language barriers and/or standardized tests.” Finally, some of the information requested is equally available to Defendant, and as such, Plaintiffs have no duty to produce such information.

Subject to and without waiving the foregoing objections, Plaintiffs respond as follows:

Plaintiffs will, pursuant to an agreement between the parties, supplement these responses at a later date to respond on behalf of Plaintiff USD 259.

USD 308 responds as follows: Pursuant to K.S.A. 60-233, USD 308 identifies the following documents as responsive to subparts (a), (b), and (d) of Defendant’s interrogatory:

- USD 308 Grade Level Meeting Agendas and Minutes, Bates No. USD308 004147-4164.

- USD 308 Staffing Documents, Bates No. USD308 004165-4175.
- USD 308 Federal Grants and Applications, Bates No. USD308 004188-4590.
- USD 308 Art & Science of Teaching Documents, Bates No. USD308 006461-7282.
- USD 308 Department Meeting Agendas and Minutes, Bates No. USD308 007283-7362.
- USD 308 Division of Student Learning Meeting Agendas and Minutes, Bates No. USD308 007363-7486.

USD 308 provides the following additional information as responsive to subparts (a) and

(b) of Defendant's interrogatory:

- Professional Development – added Art and Science of Teaching Instructional Model in 2009-10, Reading Fluency K-6 and Cognitive Coaching in 2010-11, and Common Core Professional Development in 2011-12
- Implementation of Kansas Learning Network Coaches in two buildings in 2009-10
- TRC Grant for Avenue A Elementary School in 2010-11 and TRC Grant for Graber Elementary School in 2011-12
- Implementation of iObservation classroom walkthrough protocol in 2010-11
- Additional summer school programming for special education students in 2010-11
- Implementation of Lincoln Excellence Project in 2011-12

USD 308 provides the following additional information as responsive to subpart (c) of Defendant's interrogatory: Assistant Superintendent, Director of Elementary Education, Director of Special Education.

USD 443 responds as follows: Pursuant to K.S.A. 60-233, USD 443 identifies the documents listed in subpart (d) as responsive to subparts (a), (b), and (c) and provides the following additional information:

- a. Description of program, policy, practice, service or benefit: District Improvement Advisory Council; WestEd Curriculum Review; and Walk-Through Data Instrument.

- b. Description of material facts supporting creation or implementation: USD 443's status as district to be labeled "On Improvement"; Identification of achievement gaps among student subgroups.
- c. Person or persons who have personal knowledge of such facts: Superintendent Mr. Alan R. Cunningham; Assistant Superintendents Mr. Gregory Springston and Ms. Judy Beedles-Miller; and Administrative Council.
- d. Documents or tangible things that are direct evidence of such facts:
 - USD 443 District "On Improvement" Presentation, Bates No. USD443 000427-445, produced herewith.
 - USD 443 Integrated Improvement Plan for Districts, Bates No. USD 000446R-0476R, produced herewith.
 - USD 443 Needs Analysis, Bates No. USD443 000477-521, produced herewith.
 - USD 443 Observations and Recommendations for Preschool through Grade 2 Literacy Instruction, Bates No. USD443 000522-572, produced herewith.

USD 500 responds as follows: Pursuant to K.S.A. 60-233, USD 500 identifies the documents listed in subpart (d) as responsive to subparts (a), (b), and (c) and provides the following additional information:

- a. Description of program, policy, practice, service or benefit: This practice establishes a cycle of goal setting, instruction, differentiated instruction, assessment, data, and adjustments, to ensure that each and every student is successful by aligning USD 500's standards to ACT or national standards, in addition to Kansas standards. USD 500 implemented year one of this practice during the 2010-11 school year and will implement year two during the 2011-12 school year.
- b. Description of material facts supporting creation or implementation: District's performance on Kansas State Assessments during 2005-2009 and performance data on ACT during 2005-2009.
- c. Person or persons who have personal knowledge of such facts:
 - Superintendent Dr. Cynthia Lane
 - Assistant Superintendents Mr. Jayson Strickland and Ms. Marcy Clay
 - Chief of Staff Mr. David Smith
 - Chief Financial Officer Dr. Kelli Mather
 - District Principals
 - District Teacher Leaders

- Executive Directors of Instruction
 - Board of Education
- d. Documents or tangible things that are direct evidence of such facts:
- Any documents demonstrating USD 500's performance results on Kansas State Assessments and ACT during 2005-2009
 - The document available at http://www.kckps.org/dera/fastfacts/fundamental_and_checkpoint_assessment_guidelines.pdf.

INTERROGATORY NO. 7:

Separately for each Plaintiff School District,

- a. Describe each such school district's program, policy, practice implemented in the fiscal years 2009-10, 2010-11, 2011-12 to reduce costs or save money;
- b. Identify the person or persons who have personal knowledge of such; and
- c. Identify all documents or tangible things that you contend are direct evidence of such facts.

ANSWER:

Objection. "[A] contention interrogatory which seeks 'all facts' . . . is overly broad and unduly burdensome on its face." *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party's contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard. Plaintiffs do not represent that the answers herein are all the facts that may support their contentions. This interrogatory is vague and ambiguous, especially to the extent it does not define the phrase "program, policy, practice, service or benefit."

Furthermore, this request is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. This interrogatory seeks documents which create an unnecessary burden on Plaintiffs and which are not relevant to this litigation. For example, USD 308 identifies the following types of documents as responsive to subpart (d) of Defendant's interrogatory, but does not produce them herewith because of the breadth of the scope of the request and the irrelevance of these documents to this litigation:

- Monthly telephone bills
- Equipment Purchase documents
- Software/Hardware Purchase documents
- Business Office software
- Automated Banking Reports

Subject to and without waiving the foregoing objections, Plaintiffs respond as follows:

Plaintiffs will, pursuant to an agreement between the parties, supplement these responses at a later date to respond on behalf of Plaintiff USD 259.

Pursuant to K.S.A. 60-233, Plaintiff School Districts identify any and all documents previously produced with Plaintiffs' Objections and Responses to Defendant's First Request for Production which may also be responsive to this Interrogatory, including but not limited to budgeting, expenditure, and financial documents for the period of 2009-2012 identified as responsive to and produced with Defendant's Requests No. 2-26.

Additionally, USD 308 responds as follows: Pursuant to K.S.A. 60-233, USD 308 identifies USD 308 Expense Detail Report showing Durham School Services Payments through 4-18-11, Bates No. USD308 003181-3221, as responsive to subparts (a) and (b) of this interrogatory and provides the following additional information:

USD 308 provides the following additional information as responsive to subparts (a) and (b) of Defendant's interrogatory: Implementation of Voice Over IP in 2009-10; Implementation

of Automated Attendant and Paperless Board Agendas and Reports in 2010-11; Implementation of Server Farm Virtualization in 2010-11; Rebid bus contract in 2011-12; Implementation of Desktop Virtualization through "Cloud Computing" in 2011-12; and Implementation of Electronic W-2s in 2011-12.

USD 308 provides the following information as responsive to subpart (c) of Defendant's interrogatory: Information Technology Director, Board Clerk, Transportation Director, Director of Fiscal Management.

USD 443 responds as follows: Pursuant to K.S.A. 60-233, USD 443 identifies Energy Management Conservation Documents, Bates No. USD443 000573-0656, produced herewith, as responsive to subparts (a), (b), and (c) of this interrogatory. USD 443 identifies the USD 443 Board of Education, USD 443 Administrative Cabinet, and Energy Audit Consultant Dr. Morris Reeves as responsive to subpart (b) of this interrogatory.

USD 500 responds as follows: USD 500 identifies the following information as responsive to subpart (b) of this interrogatory: Superintendent Dr. Cynthia Lane, Assistant Superintendents Mr. Jayson Strickland and Ms. Marcy Clay, Chief of Staff Mr. David Smith, Chief Financial Officer Dr. Kelli Mather, Director of Finance Ms. Connie Brand, and USD 500 Board of Education.

INTERROGATORY NO. 8:

Separately for each Plaintiff School District and only for fiscal years ending 2010 or 2011:

- a. Identify all persons who conducted any financial audit of all or portions of the school district;

- b. Identify all persons who studied or evaluated the need for new programs or practices for the school district specifically designed for improving education performance because of or in attempt to comply with the NCLB, Common Core standards, EEOA of 1974 regarding language barriers and/or standardized tests;
- c. Identify all persons who studied or evaluated the need for cuts, reduction, or restriction to programs or practices for the school district specifically designed for improving education performance because of or in attempt to comply with the NCLB, Common Core standards, EEOA of 1974 regarding language barriers and/or standardized tests;
- d. Identify all persons who studied or evaluated the need for school closing, consolidation or school attendance area reorganization in the school district;
- e. Identify all persons who studied or evaluated individual building utilization or capacity in the school district;
- f. Identify all persons who studied or evaluated needed improvements or new construction in the school district;
- g. Identify all persons who studied or evaluated furlough or termination of teacher or instructors in the school district;
- h. Identify all persons who studied or evaluated furlough or termination of administration staff in the school district;
- i. (none)
- j. Identify all persons who studied or evaluated furlough or termination of other employees or contractors in the school district;

- k. Identify all persons who studied or evaluated change in the school district's guidelines or policies concerning class sizes or pupil/teacher ratios;
- l. Identify all persons who studied or evaluated change in the school district's program or policy specifically pertaining to "pre-school at-risk pupils", "preschool aged exceptional children," "at-risk pupils," "nonproficient students," "vocational education program," "programs of bilingual education" or "special education";
- m. Identify all persons who studied or evaluated change in the school district's program or policy generally pertaining to "pre-school at-risk pupils," "preschool aged exceptional children," "at-risk pupils," nonproficient students," "vocational education programs," "programs of bilingual education" or "special education;";

ANSWER:

Objection. Plaintiffs objects to this interrogatory to the extent it is characterized as one interrogatory as it is compound and includes twelve discrete subparts. "[A] contention interrogatory which seeks 'all facts' . . . is overly broad and unduly burdensome on its face." *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party's contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard. Plaintiffs do not represent that the answers herein are all the facts that may support their contentions.

Furthermore, this interrogatory is overly broad, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. It is overly broad and unduly burdensome to the

extent it seeks information regarding “programs or practices” “specifically designed for improving education performance” because such is an overall goal of all programs and practices of each of the Plaintiff School Districts and because it assumes Plaintiffs can delineate between programs or policies specific to a certain subset of pupils. This interrogatory seeks irrelevant information and is not reasonably calculated to lead to the discovery of admissible evidence because it seeks information regarding all terminations of Plaintiff School District teachers, instructors, administration staff, or other employees or contractors and not just those relevant to this litigation. This interrogatory is vague and ambiguous, especially to the extent it does not define the phrase “program, policy, practice, service or benefit” or “language barriers and/or standardized tests.” To the extent this interrogatory seeks information protected by the work product or attorney client privilege, Plaintiffs object. Finally, to the extent this interrogatory seeks “persons who conducted any financial audit” or “persons who studied or evaluated” the items enumerated in subparts (b)-(m) and those persons were not affiliated with or acting at the direction of the Plaintiffs, the information is in the possession, custody, or control of a third party, and as such, Plaintiffs have no duty to provide that information.

Subject to and without waiving the foregoing objections, Plaintiffs respond as follows:

Plaintiffs will, pursuant to an agreement between the parties, supplement these responses at a later date to respond on behalf of Plaintiff USD 259.

USD 308 responds as follows:

- a. Persons who conducted any financial audit: Certified Public Accountants with accounting firm Swindoll, Janzen, Hawk, and Loyd; Kansas State Department of Education Auditor; and Head Start Auditor.
- b. Persons who studied or evaluated the need for new programs or practices: Division of Student Learning Staff and Building Administrators.

- c. Persons who studied or evaluated the need for cuts, reduction, or restriction: Administrative Leadership Team
- d. Persons who studied or evaluated the need for school closing, consolidation or reorganization: Director of Elementary Education and Superintendent.
- e. Persons who studied or evaluated individual building utilization or capacity: Director of Operations; Director of Elementary Education; and Superintendent.
- f. Persons who studied or evaluated needed improvements or new construction: Director of Operations and Bond Project Manager.
- g. Persons who studied or evaluated furlough or termination of teacher or instructors: Administrative Leadership Team
- h. Persons who studied or evaluated furlough or termination of administration staff: Administrative Leadership Team
- i. (none)
- j. Persons who studied or evaluated furlough or termination of other employees or contractors: Administrative Leadership Team
- k. Persons who studied or evaluated change in guidelines or policies concerning class sizes or pupil/teacher ratios: Director of Elementary Education; Superintendent; and Assistant Superintendent for Learning
- l. Persons who studied or evaluated change in the school district's program or policy specifically pertaining to "pre-school at-risk pupils", "preschool aged exceptional children," "at-risk pupils," "nonproficient students," "vocational education program," "programs of bilingual education" or "special education": Director of Special Education; Assistant Superintendent of Learning; Director of Elementary Education; and Director of Career and Technical Education
- m. Persons who studied or evaluated change in the school district's program or policy generally pertaining to "pre-school at-risk pupils," "preschool aged exceptional children," "at-risk pupils," nonproficient students," "vocational education programs," "programs of bilingual education" or "special education": Director of Special Education; Assistant Superintendent of Learning; Director of Elementary Education; and Director of Career and Technical Education

USD 443 responds as follows:

- a. Persons who conducted any financial audit:
 - McKee & Company LLP Certified Public Accountants Mr. James W. Kennedy, Mr. Patrick M. Friess, Ms. Doris M. Donovan, and Ms. Jenna L. Nau; 1100 W. Frontview, P.O. Box 1477; Dodge City, Kansas 678011; 620-227-3135
 - Kansas Department of Education Auditor Ms. Judy Demuth; 120 SE 10th, Topeka, Kansas; 785-296-4976
 - USD 443 Comptroller Ms. Molly J. Miller; 1000 Second Ave.; Dodge City, Kansas; 620-227-1621
- b. Persons who studied or evaluated the need for new programs or practices:
 - WestEd employees Ms. Cindy Day, Mr. Joe Sassone, Ms. Marla Perez-Seles, Ms. Liz Jamison, and Mr. Robert Rosenfeld
 - Kansas Learning Network members Mr. Steve Gering, Ms. Eleanor Johnson, and Ms. Joyce Carter
 - Language and Literacy Consulting, Inc. Consultants Ms. Laurie Lieker-Winter, Ms. Karen Jorgensen, and Ms. Marylee Griffiths
- c. Persons who studied or evaluated the need for cuts, reduction, or restriction: None.
- d. Persons who studied or evaluated the need for school closing, consolidation or reorganization: None.
- e. Persons who studied or evaluated individual building utilization or capacity: GMLV Architecture, Inc. Architect Mr. Tom Montgomery; Building Administrators; Administrative Cabinet; Capital Outlay Committee; and Board of Education
- f. Persons who studied or evaluated needed improvements or new construction: GMLV Architecture, Inc. Architect Mr. Tom Montgomery; Building Administrators; Administrative Cabinet; Capital Outlay Committee; and Board of Education
- g. Persons who studied or evaluated furlough or termination of teacher or instructors: None.
- h. Persons who studied or evaluated furlough or termination of administration staff: None.
- i. (none)
- j. Persons who studied or evaluated furlough or termination of other employees or contractors: None.

- k. Persons who studied or evaluated change in guidelines or policies concerning class sizes or pupil/teacher ratios: Superintendent Mr. Alan R. Cunningham; Assistant Superintendents Mr. Gregory Springston and Ms. Judy Beedles-Miller; and Board of Education
- l. Persons who studied or evaluated change in the school district's program or policy specifically pertaining to "pre-school at-risk pupils", "preschool aged exceptional children," "at-risk pupils," "nonproficient students," "vocational education program," "programs of bilingual education" or "special education": Superintendent Mr. Alan R. Cunningham; Assistant Superintendents Mr. Gregory Springston and Ms. Judy Beedles-Miller; Kansas Learning Network; Director of ESL/Migrant Education Dr. Robert Vinton; and USD 613 Assistant Director for Special Education Mr. John Maples
- m. Persons who studied or evaluated change in the school district's program or policy generally pertaining to "pre-school at-risk pupils," "preschool aged exceptional children," "at-risk pupils," nonproficient students," "vocational education programs," "programs of bilingual education" or "special education": Superintendent Mr. Alan R. Cunningham; Assistant Superintendents Mr. Gregory Springston and Ms. Judy Beedles-Miller; Kansas Learning Network; Director of ESL/Migrant Education Dr. Robert Vinton; and USD 613 Assistant Director for Special Education Mr. John Maples

USD 500 responds as follows:

- a. Persons who conducted any financial audit:
- Lowenthal, Webb & Oddermann P.A. Certified Public Accountants, 900 Massachusetts, Suite 301, Lawrence, KS 66044-2868
 - Kansas State Department of Education Auditor
- b. Persons who studied or evaluated the need for new programs or practices: Superintendent Dr. Cynthia Lane; Assistant Superintendents Mr. Jayson Strickland and Ms. Marcy Clay; Chief of Staff Mr. David Smith; Chief Financial Officer Dr. Kelli Mather; District Principals; District Teacher Leaders; Executive Directors of Instruction; and Departmental Directors of Special Education, ESL, and Curriculum
- c. Persons who studied or evaluated the need for cuts, reduction, or restriction: Superintendent Dr. Cynthia Lane; Assistant Superintendents Mr. Jayson Strickland and Ms. Marcy Clay; Chief of Staff Mr. David Smith; and Chief Financial Officer Dr. Kelli Mather
- d. Persons who studied or evaluated the need for school closing, consolidation or reorganization: None.

- e. Persons who studied or evaluated individual building utilization or capacity: Superintendent Dr. Cynthia Lane; Chief Financial Officer Dr. Kelli Mather; Board of Education
- f. Persons who studied or evaluated needed improvements or new construction: Superintendent Dr. Cynthia Lane; Chief Financial Officer Dr. Kelli Mather; Board of Education; and Educational design firm ACI/Frangkiser Hutchens, Inc.
- g. Persons who studied or evaluated furlough or termination of teacher or instructors: Superintendent Dr. Cynthia Lane; Assistant Superintendents Mr. Jayson Strickland and Ms. Marcy Clay; Chief of Staff Mr. David Smith; and Chief Financial Officer Dr. Kelli Mather
- h. Persons who studied or evaluated furlough or termination of administration staff: Superintendent Dr. Cynthia Lane; Assistant Superintendents Mr. Jayson Strickland and Ms. Marcy Clay; Chief of Staff Mr. David Smith; and Chief Financial Officer Dr. Kelli Mather
- i. (none)
- j. Persons who studied or evaluated furlough or termination of other employees or contractors: Superintendent Dr. Cynthia Lane; Assistant Superintendents Mr. Jayson Strickland and Ms. Marcy Clay; Chief of Staff Mr. David Smith; and Chief Financial Officer Dr. Kelli Mather
- k. Persons who studied or evaluated change in guidelines or policies concerning class sizes or pupil/teacher ratios: Superintendent Dr. Cynthia Lane; Chief Financial Officer Dr. Kelli Mather; Former Assistant Superintendent of Human Resources Mr. J.D. Rios; Former Executive Director of Human Resources Mr. Tom Petz; Director of Human Resources Mrs. Barbara Kirkegaard
- l. Persons who studied or evaluated change in the school district's program or policy specifically pertaining to "pre-school at-risk pupils", "preschool aged exceptional children," "at-risk pupils," "nonproficient students," "vocational education program," "programs of bilingual education" or "special education": Superintendent Dr. Cynthia Lane; Assistant Superintendents Mr. Jayson Strickland and Ms. Marcy Clay; Chief of Staff Mr. David Smith; Chief Financial Officer Dr. Kelli Mather; District Principals; District Teacher Leaders; and Executive Directors of Instruction

- m. Persons who studied or evaluated change in the school district's program or policy generally pertaining to "pre-school at-risk pupils," "preschool aged exceptional children," "at-risk pupils," nonproficient students," "vocational education programs," "programs of bilingual education" or "special education": Superintendent Dr. Cynthia Lane; Assistant Superintendents Mr. Jayson Strickland and Ms. Marcy Clay; Chief of Staff Mr. David Smith; Chief Financial Officer Dr. Kelli Mather; District Principals; District Teacher Leaders; and Executive Directors of Instruction

INTERROGATORY NO. 9:

Separately for each Plaintiff School District, list all funds maintained in any fiscal year from 2005 to present, (including, if applicable, but not limited to the "program weighted fund," "categorical fund," "general fund" and "contingency reserve fund").

ANSWER:

Objection. This interrogatory is overly broad, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. Furthermore, this request is vague and ambiguous, especially to the extent it uses the phrase "all funds maintained."

Subject to and without waiving the foregoing objections, Plaintiffs respond as follows:

Plaintiffs will, pursuant to an agreement between the parties, supplement these responses at a later date to respond on behalf of Plaintiff USD 259.

USD 308 responds as follows: In the fiscal years from 2005 to present, it maintained the following funds: General, Supplemental General, At-Risk 4-Year Old, At-Risk K-12, Bilingual, Capital Outlay, Drivers' Training, Food Service, Professional Development, Parent Education program, Summer School, Special Education, Vocational Education, Gifts and Grants, Health Care Reserve, KPERS Retirement Fund, Contingency Reserve, Textbook Rental, Recreation Commission, Recreation Commission Benefits, Day Care, All Federal Funds, Kids First Fund, and Rebate Fund.

USD 443 responds as follows: Pursuant to K.S.A. 60-233, USD 443 identifies the following documents as responsive: USD 443 Audits for FY2006-2010, Bates No. USD443 002635-2972.

USD 500 responds as follows: In the fiscal years from 2005 to present, it maintained the following funds: General Fund; ARRA General Fund; Supplemental General; ARRA Supplemental General; At Risk; At Risk Preschool; ATS/TEC; Carl Perkins; Vocational Education; Special Education; Drivers Education; Transportation; Bilingual; Bilingual Federal Funds; Professional Development; Capital Outlay; Bond and Interest; Retirement; Food Service; Parents as Teachers; Special Ed COOP; Special Ed COOP federal funds; Contingency; Summer School; Work Comp; KPERS; Student Materials Revolving; Gifts and Grants; Title 1; Title IV; Title II D; Title II A; Title VI; Title 1 ARRA; Title IID ARRA; Title 1 D ARRA; 1003 Grants; PreK TL; Public Library; Public Library Benefits; Construction; and Kauffman Grant.

INTERROGATORY NO. 10:

Identify any studies or research conducted between the years 2005 and 2011 to determine the actual cost of providing an education to students enrolled in Kansas public schools.

ANSWER:

Objection. This interrogatory is overly broad, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. To the extent it seeks "any studies or research conducted" by any persons or group other than Plaintiffs, including but not limited to the Augenblick and Myers study, conducted in 2002; Legislative Post Audit Committee Cost Study Analyses, conducted in 2006 and updated August 2008; and any similar studies or research, the information is in the possession, custody, or control of a third party, and as such, Plaintiffs have no duty to provide that information.

Subject to and without waiving the foregoing objections, Plaintiffs respond as follows:

Plaintiffs will, pursuant to an agreement between the parties, supplement these responses at a later date to respond on behalf of Plaintiff USD 259.

USD 308, 443, and 500 did not conduct any studies or research responsive to this interrogatory.

INTERROGATORY NO. 11:

Identify any studies or research conducted between the years 2005 and 2011 to determine the existence or solution to any disparities in educational opportunity among students enrolled in Kansas public schools.

ANSWER:

Objection. This interrogatory is overly broad, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. To the extent it seeks “any studies or research conducted” by any persons or group other than Plaintiffs, the information sought is equally available to Defendant and Plaintiffs have no duty to identify them.

Subject to and without waiving the foregoing objections, Plaintiffs respond as follows:

Plaintiffs will, pursuant to an agreement between the parties, supplement these responses at a later date to respond on behalf of Plaintiff USD 259.

USD 308, 443, and 500 did not conduct any studies or research responsive to this interrogatory.

INTERROGATORY NO. 12:

Concerning your allegations in Petition, ¶ 72:

- a. Describe the material facts that support your position;
- b. Identify the person or persons who have personal knowledge of such facts; and

- c. Identify all documents or tangible things that you contend are direct evidence of such facts.

ANSWER:

Objection. This request is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. “[A] contention interrogatory which seeks ‘all facts’ . . . is overly broad and unduly burdensome on its face.” *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party’s contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard. Plaintiffs do not represent that the answers herein are all the facts that may support their contentions.

Pursuant to K.S.A. 60-233, Plaintiffs identify the following documents as responsive to this interrogatory: Plaintiffs’ Petition, filed in the District Court of Shawnee County, Kansas, on November 2, 2010; the Notice of Claims filed by Plaintiffs on June 17, 2010, attached to the Petition as Exhibit 1; and the Amended Notice of Claims filed by Plaintiffs on June 6, 2011.

INTERROGATORY NO. 13:

Concerning your allegations in Petition, ¶ 71f:

- a. Describe the material facts that support your position;
- b. Identify the person or persons who have personal knowledge of such facts; and
- c. Identify all documents or tangible things that you contend are direct evidence of such facts.

ANSWER:

Objection. This request is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. “[A] contention interrogatory which seeks ‘all facts’ . . . is overly broad and unduly burdensome on its face.” *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party’s contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard. Plaintiffs do not represent that the answers herein are all the facts that may support their contentions.

Pursuant to K.S.A. 60-233, Plaintiffs identify the following documents as responsive to this interrogatory: Plaintiffs’ Petition, filed in the District Court of Shawnee County, Kansas, on November 2, 2010; the Notice of Claims filed by Plaintiffs on June 17, 2010, attached to the Petition as Exhibit 1; and the Amended Notice of Claims filed by Plaintiffs on June 6, 2011.

INTERROGATORY NO. 14:

Concerning your allegations in Petition, ¶ 71e:

- a. Describe the material facts that support your position;
- b. Identify the person or persons who have personal knowledge of such facts; and
- c. Identify all documents or tangible things that you contend are direct evidence of such facts.

ANSWER:

Objection. This request is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. “[A] contention interrogatory which seeks ‘all facts’ . . . is overly broad and unduly burdensome on its face.” *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party’s contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard. Plaintiffs do not represent that the answers herein are all the facts that may support their contentions.

Pursuant to K.S.A. 60-233, Plaintiffs identify the following documents as responsive to this interrogatory: Plaintiffs’ Petition, filed in the District Court of Shawnee County, Kansas, on November 2, 2010; the Notice of Claims filed by Plaintiffs on June 17, 2010, attached to the Petition as Exhibit 1; and the Amended Notice of Claims filed by Plaintiffs on June 6, 2011.

INTERROGATORY NO. 15:

Concerning your allegations in Petition, ¶ 69:

- a. Describe the material facts that support your position;
- b. Identify the person or persons who have personal knowledge of such facts; and
- c. Identify all documents or tangible things that you contend are direct evidence of such facts.

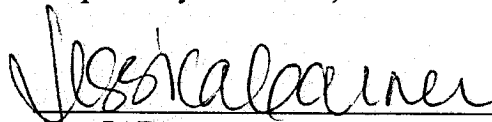
ANSWER:

Objection. This request is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. “[A] contention interrogatory which seeks ‘all facts’ . . . is overly broad and unduly burdensome on its face.” *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party’s contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard. Plaintiffs do not represent that the answers herein are all the facts that may support their contentions.

Pursuant to K.S.A. 60-233, Plaintiffs identify the following documents as responsive to this interrogatory: Plaintiffs’ Petition, filed in the District Court of Shawnee County, Kansas, on November 2, 2010; the Notice of Claims filed by Plaintiffs on June 17, 2010, attached to the Petition as Exhibit 1; and the Amended Notice of Claims filed by Plaintiffs on June 6, 2011.

Dated this 16th day of June, 2011.

Respectfully Submitted,



Alan L. Rupe #08914
Ashley J. Shaneyfelt #22641
Jessica L. Garner #24178
KUTAK ROCK LLP
1605 North Waterfront Parkway, Suite 150
Wichita, KS 67206-6634
(316) 609-7900 (Telephone)
alan.rupe@kutakrock.com
ashley.shaneyfelt@kutakrock.com
jessica.garner@kutakrock.com

John S. Robb
SOMERS, ROBB & ROBB
110 East Broadway
Newton, KS 67114
(316) 283-4650 (Telephone)
JohnRobb@robblaw.com

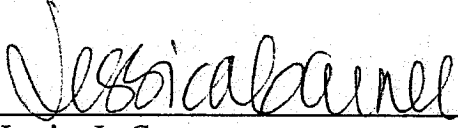
#09844

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of June, 2011, a true and correct copy of the above and foregoing was sent by first class mail to the following:

Arthur S. Chalmers
Gaye B. Tibbets
Hite, Fanning & Honeyman, L.L.P.
100 North Broadway, Suite 950
Wichita, KS 67202-2209
Telephone: (316) 265-7741
Facsimile: (316) 267-7803
chalmers@hitefanning.com
tibbets@hitefanning.com

Attorneys for Defendant



Jessica L. Garner

Alan L. Rupe, #08914
Jessica L. Garner, #24178
KUTAK ROCK LLP
1605 North Waterfront Parkway, Suite 150
Wichita, KS 67206-6634
(316) 609-7900 (Telephone)
alan.rupe@kutakrock.com
jessica.garner@kutakrock.com

John S. Robb, #09844
SOMERS, ROBB & ROBB
110 East Broadway
Newton, KS 67114
(316) 283-4650 (Telephone)
JohnRobb@robblaw.com

IN THE THIRD JUDICIAL DISTRICT
DISTRICT COURT OF SHAWNEE COUNTY KANSAS
CIVIL DEPARTMENT

LUKE GANNON,
By his next friends and guardians, *et al.*,

Plaintiffs,

v.

STATE OF KANSAS,

Defendant.

Case No.: 10-C-1569

**PLAINTIFFS' FIRST SUPPLEMENTAL RESPONSE TO
DEFENDANT'S FIRST INTERROGATORIES TO ALL PLAINTIFFS**

COME NOW Plaintiffs, by and through their attorneys of record, and make this supplemental response as follows to Defendant's First Interrogatories to All Plaintiffs. Plaintiffs will respond and object to Defendant's discovery without regard to the introductory section to the extent Defendant attempts to expand the scope and meaning of the Federal Rules of Civil Procedure. It should be noted that these responding parties have not fully completed their investigation of the facts relating to this case, have not fully completed their discovery in this action, and have not completed their preparation for trial. All of the objections contained herein are based only upon such information and documents as are presently available and specifically

known to these responding parties, and disclose only those contentions which presently occur to such responding parties.

It is anticipated that further discovery, independent investigation, legal research and analysis will supply additional facts, add meaning to the known facts, as well as establish entirely new factual conclusions and legal contentions, all of which may lead to substantial additions to, changes in and variations from the contentions herein set forth. The following objections are given without prejudice to Plaintiffs' right to produce evidence and any subsequently discovered fact or facts which Plaintiffs may later recall. Plaintiffs accordingly reserve the right to change any and all objections herein as additional facts are ascertained, additional analyses are made, legal research is completed and contentions are made. The objections and/or responses contained herein are made in a good faith effort to supply as much factual information and as much specification of legal contentions as is presently known, which should in no way be to the prejudice of responding party in relation to further discovery, research and/or analysis.

PRELIMINARY STATEMENT AND GENERAL OBJECTIONS

1. The responses contained herein are made solely for the purpose of the above-referenced action. Such responses are made subject to all general stated and specific objections, and Plaintiffs specifically reserve the right to reassert the same on motion or at time of trial.

2. Plaintiffs have not fully completed their investigation of the facts relating to this case, have not fully completed discovery in this action, and have not fully completed their preparation for trial. Discovery is continuing. Accordingly, all objections are made in light of discovery completed to date. Plaintiffs specifically reserve the right to supplement, amend or modify any and all responses herein as additional facts are ascertained, as additional documents

are obtained, as additional contentions are formulated, and as additional discovery, analysis or research may reveal.

3. Nothing contained herein is intended to be, nor may it be construed to be a waiver of the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege.

4. This response is made by Plaintiffs subject to and without waiving any objections, and Plaintiffs specifically reserve their right to object to other discovery procedures relating to the subjects of this discovery.

5. The fact that Plaintiffs have provided the information below is not an admission they accept or admit the relevance or admissibility of this information at trial.

6. Plaintiffs object to each and every interrogatory to the extent it seeks to impose on Plaintiffs obligations inconsistent with and/or more extensive than those imposed by the Kansas Rules of Civil Procedure.

7. Plaintiffs object to each and every interrogatory to the extent it seeks information which is more properly held in the possession of Defendant or third parties. The ability to obtain such information and the burden of obtaining such information is equally on Defendant as it is on Plaintiffs. Therefore, Defendant should be required to obtain the information.

8. Plaintiffs object to each and every interrogatory to the extent it contains or is predicated upon legal or factual assumptions which are not correct or contain language that is vague or ambiguous.

9. Plaintiffs further object to the interrogatories on grounds that they are overbroad, unduly burdensome, oppressive, and propounded for purposes of harassment; they are vague and ambiguous; they seek information which is neither relevant to the subject matter of this litigation

nor reasonably calculated to lead to the discovery of admissible evidence; they are unreasonably cumulative and duplicative; they seek information that is either already in the possession of Defendant, or readily available to Defendant; and they seek information which is protected by the attorney-client privilege and/or the attorney work product doctrine.

10. Plaintiffs object to each and every interrogatory to the extent that the burden of deriving and ascertaining the answer to all or any of the interrogatories from documents produced or to be produced is substantially the same for Defendant as it is for Plaintiffs.

11. Any statement that non-privileged, responsive documents will be produced should not be construed as an admission that any responsive documents exist.

12. This preliminary statement and each of the foregoing general objections applies to each individual interrogatory and is hereby incorporated into Plaintiffs' specific responses and objections to each individual request.

13. Without waiver of its general objections, Plaintiffs respond as follows:

OBJECTIONS AND SUPPLEMENTAL RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 1:

If you denied the request for admission contemporaneously served with these interrogatories,

- a. List each weighting factor that you contend violates rights under the United States Constitution or Sections 1 or 2 of the Bill of Rights of the Kansas Constitution;
- b. Describe the material facts that support your position;
- c. Identify the person or persons who have personal knowledge of such facts; and
- d. Identify all documents or tangible things that you contend are direct evidence of such facts.

ANSWER:

Objection. This request is overly burdensome, unnecessarily voluminous, irrelevant, not reasonably calculated to lead to the discovery of admissible evidence, compound and assumes facts not in evidence. “[A] contention interrogatory which seeks ‘all facts’ . . . is overly broad and unduly burdensome on its face.” *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party’s contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard. Plaintiffs do not represent that the answers herein are all the facts that may support their contentions.

Subject to and without waiving the foregoing objections, Plaintiffs respond as follows:

To the extent the School District Finance and Quality Performance Act (“SDFQPA”) is not severable and the referenced weighting factors are an integral part of the SDFQPA, Plaintiffs necessarily allege any and all weighting factors violate their constitutional rights to the same extent that any other aspect of the SDFQPA violates any of Plaintiffs’ constitutional rights.

INTERROGATORY NO. 2:

Concerning your allegations in Petition, ¶ 98:

- a. Describe the material facts that support your position, including but not limited to the invidious classifications created by the State;
- b. Identify the person or persons who have personal knowledge of such facts; and

- c. Identify all documents or tangible things that you contend are direct evidence of such facts.

ANSWER:

Objection. This request is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. “[A] contention interrogatory which seeks ‘all facts’ . . . is overly broad and unduly burdensome on its face.” *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party’s contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard.

INTERROGATORY NO. 3:

If a plaintiff or plaintiffs contend the State’s current funding formula or appropriations for Kansas K-12 public education have or will disparately impact so as to deny the right to equal protection under the Fourteenth Amendment of the United States Constitution or Sections 1 or 2 of the Bill of Rights of the Kansas Constitution:

- a. Describe the category of person(s) discriminated against;
- b. Describe the material facts, if any, that support that the differing treatment of person(s) in the category stated in your answer to subpart “a” was the predominant, motivating factor in State’s funding formula or appropriations;
- c. Identify the person or persons who have personal knowledge of such facts; and

- d. Identify all documents or tangible things that you contend are direct evidence of such facts.

ANSWER:

Objection. This request is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. “[A] contention interrogatory which seeks ‘all facts’ . . . is overly broad and unduly burdensome on its face.” *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party’s contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard.

INTERROGATORY NO. 4:

Separately for each Plaintiff School District,

- a. Describe each such school district’s program, policy, practice, service or benefit cut, discontinued, reduced or otherwise negatively impacted by lack in funding for the fiscal years 2009-10, 2010-11, 2011-12;
- b. Describe the material facts that support your position;
- c. Identify the person or persons who have personal knowledge of such facts; and
- d. Identify all documents or tangible things that you contend are direct evidence of such facts.

ANSWER:

Objection. This request is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. “[A] contention interrogatory which seeks ‘all facts’ . . . is overly broad and unduly burdensome on its face.” *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party’s contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard. Plaintiffs do not represent that the answers herein are all the facts that may support their contentions. Finally, this interrogatory is vague and ambiguous, especially to the extent it does not define the phrase “program, policy, practice, service or benefit.”

Subject to and without waiving the foregoing objections, Plaintiffs respond as follows:

Plaintiffs will, pursuant to an agreement between the parties, supplement these responses at a later date to respond on behalf of Plaintiff USD 259.

Pursuant to K.S.A. 60-233, Plaintiff School Districts identify any and all documents previously produced with Plaintiffs’ Objections and Responses to Defendant’s First Request for Production regarding programs, policies, services, and benefits which may also be responsive to this Interrogatory, including but not limited to budgeting, expenditure, and financial documents for the period of 2009-2012 identified as responsive to and produced with Defendant’s Requests No. 2-26.

Additionally, USD 308 responds as follows: Pursuant to K.S.A. 60-233, USD 308 identifies the following documents as responsive to subparts (a), (b), and (d) of Defendant's interrogatory:

- USD 308 2009-2010 Budget, Bates No. USD308 001062-1288.
- USD 308 2010-2011 Budget, Bates No. USD308 001289-1522.
- USD 308 Annual Operating Budget, For the period July 1, 2009, through, June 30, 2010, Bates No. USD308 002077-2222.
- USD 308 Annual Operating Budget, For the period July 1, 2010, through, June 30, 2011, Bates No. USD308 002223-2369.
- USD 308 Comprehensive Annual Financial Report for FY ending June 30, 2009, Bates No. USD308 002734-2853.
- USD 308 Comprehensive Annual Financial Report for FY ending June 30, 2010, Bates No. USD308 002854-2983.
- USD 308 Unencumbered Cash Balances for FY 2011, Bates No. USD308 002987-2988.
- USD 308 Treasurer's Report for Month End June 2010, Bates No. USD308 002989-3010.
- USD 308 Treasurer's Report for Month End June 2009, Bates No. USD308 003011-3053.
- USD 308 Treasurer's Report for Month End March 2011, Bates No. USD308 003116-3179.
- USD 308 Expense Detail Report showing Durham School Services Payments through 4-18-11, Bates No. USD308 003181-3221.
- USD 308 Operating Expense Reports, Bates No. USD308 004916-5622.

USD 308 provides the following additional information as responsive to subparts (a) and (b) of Defendant's interrogatory:

- Central Office Administration – Two certified administration positions cut in 2009-10
- Board of Education – Training travel lined in 2009-10
- Human Resources Contingency – Lowered in 2009-10
- Professional Development/Classified Professional Development – Funding reduced in 2009-10, 2010-11

- School Improvement Work – Teacher pay for School Improvement reduced in 2009-10
- Supplies and Equipment – Funds for Supplies and Equipment reduced in 2009-10 and 2011-12
- After-School Programs – Middle Level After-School Programs eliminated in 2009-10; Elementary After-School Programs reduced in 2010-11
- Classified, Licensed, and Administrative Staff – Various staff positions have been cut in 2009-10, 2010-11, and 2011-12
- Transportation – Transportation lines reduced (fewer routes) in 2009-10; transportation funds reduced in 2011-12
- Vehicles – New Vehicle replacement cycle cut in 2010-11
- Library Books – Purchase of Library Books reduced in 2010-11
- Textbooks – Fund reduced in 2010-11
- Overtime – Reduced in 2010-11
- Summer School – Program reduced in 2010-11
- Activities Budget and Funds – Budget reduced in 2010-11; Funds reduced in 2011-12
- Workbooks – Reduced in 2010-11
- Field Trips – Fund reduced in 2010-11
- Maintenance – Deferred in 2010-11
- Memberships – Board membership reduced in 2010-11
- MYP/IB – Training supplies and dues reduced in 2010-11
- SRO and Probation Officer – Reduced 1 SRO in 2010-11; Reduced 1 SRO and 1 Probation Officer in 2011-12
- Insurance – Reduced in 2011-12
- Security – Costs reduced in 2011-12
- Custodial Uniforms – Uniform service eliminated in 2011-12
- Technology Education Support Teacher Program – Eliminated in 2011-12

USD 308 provides the following additional information as responsive to subpart (c) of Defendant's interrogatory: Central Office and Building Level Administrators.

USD 443 responds as follows: Pursuant to K.S.A. 60-233, USD 443 identifies the documents listed in subpart (d) as responsive to subparts (a) and (b) and provides the following additional information:

- a. Description of program, policy, practice, service or benefit cut, discontinued, reduced or otherwise negatively impacted: Early Retirement Program; Summer School Program; After-School Program; Staff Development; Salary Expenses; and Instructional Material Fees Waiver.
- b. Description of material facts supporting position: Pursuant to K.S.A. 60-233, refer to the documents identified by USD 443 in subpart(d).
- c. Person or persons who have personal knowledge of such facts: USD 443 Superintendent Alan R. Cunningham; USD 443 Board of Education; and USD 443 Administrative Council.
- d. Documents or tangible things that are direct evidence of such facts:
 - USD 443 Board of Education Memorandum Regarding Budget Reductions, Bates No. USD443 007320-7321 (some of these programs were ultimately renewed because of the receipt of federal funding, as seen in subsequent documents, Bates No. USD443 000411-412, 000415-416, produced herewith).
 - USD 443 Approval of Instructional Material Fees for 2010-11, Bates No. USD443 000409-0410, produced herewith.
 - USD 443 Staff Development “Priority for Funding” Rubric, Bates No. USD443 000414, produced herewith.
 - USD 443 Approval to Terminate the Early Retirement Plan, Bates No. USD443 000413, produced herewith.
 - USD 443 Revenue and Expenditure Information for FY 2010 through FY 2015 with LOB Assumptions, Bates No. USD443 007328-7329.

USD 500 responds as follows: Pursuant to K.S.A. 60-233, USD 500 identifies USD 500 Budget Reduction Phases, Bates No. USD500 001514-1517 as responsive to this interrogatory.

SUPPLEMENTAL ANSWER:

USD 259 responds as follows: Pursuant to K.S.A. 60-233, USD 259 identifies the following documents as responsive to subparts (a), (b) and (d) of Defendant’s interrogatory:

- USD 259 Budget Documents Forms, Bates No. USD259 008762-8802.

- USD 259 2009-2010 to 2011-2012 Budget Cuts Document, Bates No. USD259 008803-8808.

USD 259 provides the following additional information as responsive to subparts (c) of Defendant's interrogatory: Ronda Goode and Linda Jones.

INTERROGATORY NO. 5:

Separately for each Plaintiff School District,

- a. Describe each such school district's new program, policy, practice, service or benefit created or implemented in the fiscal years 2009-10, 2010-11, 2011-12 and specifically pertaining to "pre-school at-risk pupils", "preschool aged exceptional children", "at-risk pupils", "nonproficient students", "vocational education programs", "programs of bilingual education" or "special education";
- b. Describe the material facts that supported creation or implementation of the new program, policy, practice, service or benefit;
- c. Identify the person or persons who have personal knowledge of such facts; and
- d. Identify all documents or tangible things that you contend are direct evidence of such facts.

ANSWER:

Objection. This request is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. The interrogatory is overly broad and unduly burdensome, especially to the extent it assumes Plaintiffs can delineate between programs, policies, practices, services, and benefits specific to a certain subset of pupils. Furthermore, "a contention interrogatory which seeks 'all facts' . . . is overly broad and unduly burdensome on its face." *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL

1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party's contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard. Plaintiffs do not represent that the answers herein are all the facts that may support their contentions. Finally, this interrogatory is vague and ambiguous, especially to the extent it does not define the phrase "program, policy, practice, service or benefit."

Subject to and without waiving the foregoing objections, Plaintiffs respond as follows:

Plaintiffs will, pursuant to an agreement between the parties, supplement these responses at a later date to respond on behalf of Plaintiff USD 259.

USD 308 responds as follows: Pursuant to K.S.A. 60-233, USD 308 identifies the following documents as responsive to subparts (a), (b), and (d) of Defendant's interrogatory:

- USD 308 2009-2010 Budget, Bates No. USD308 001062-1288.
- USD 308 2010-2011 Budget, Bates No. USD308 001289-1522.
- USD 308 Annual Operating Budget, For the period July 1, 2009, through, June 30, 2010, Bates No. USD308 002077-2222.
- USD 308 Annual Operating Budget, For the period July 1, 2010, through, June 30, 2011, Bates No. USD308 002223-2369.
- USD 308 Vocational Program Documents, Bates No. USD308 004095-4146.
- USD 308 Instructional Coach PLC Documents, Bates No. USD308 004176-4187.
- USD 308 Federal Grants and Applications, Bates No. USD308 004188-4590.
- USD 308 Career and Technical Education Academy Minutes, Bates No. USD308 006376-6460.
- USD 308 Career Pathway Program Documents, Bates No. USD308 007650-7752.

USD 308 provides the following additional information as responsive to subparts (a) and (b) of Defendant's interrogatory:

- Vocational Education – added Allied Health in 2009-10; added Construction Technology and Med-Science Aid in 2010-11; added Residential HVAC, Plumbing, and Electrical in 2011-12 through re-assignment of existing staff
- Added ELL Summer School Program using grant funds in 2009-10
- Implemented Autism Program in 2009-10 through re-assignment of staff from other programs
- Added Elementary Instructional Coaches in 2010-11 through re-assignment of existing staff
- Added Summer Upper Elementary School in 2011-12

USD 308 provides the following additional information as responsive to subpart (c) of Defendant's interrogatory: Superintendent, Assistant Superintendent, Director of Career and Technical Education, Director of Special Education.

USD 443 identifies the Dropout Prevention Program as responsive to subpart (a) of this request. Pursuant to K.S.A. 60-233, USD 443 identifies USD 443 Dropout Prevention Presentation, Bates No. USD443 006740-6749 as responsive to subparts (a), (b), and (d) of this request. USD 443 identifies Alternative Education Principal Mr. Matt Turner and Assistant Superintendent for Secondary Education Mr. Gregory Springston as responsive to subpart (c) of this request.

USD 500 responds as follows: USD 500 did not create or implement any new programs, policies, practices, services, or benefits responsive to this request.

SUPPLEMENTAL ANSWER:

USD 259 responds as follows: Pursuant to K.S.A. 60-233, USD 259 identifies the following documents as responsive to subpart (d) of Defendant's interrogatory:

- USD 259 Budget Documents Forms, Bates No. USD259 008762-8802.

USD 259 provides the following additional information as responsive to subpart (a) of Defendant's interrogatory: Multi-Tiered System of Supports (MTSS) is a state directed mandate

to school districts. It is based upon a national called Response to Intervention (RTI) movement. MTSS is in all schools in USD 259. It has a behavior component and an academic component. At this time one half of schools in USD 259 have adopted the behavior component and one half have adopted the academic component.

USD 259 provides the following additional information as responsive to subpart (b) of Defendant's interrogatory: Improved student performance and data-driven decision-making.

USD 259 provides the following additional information as responsive to subpart (c) of Defendant's interrogatory: John Allison, Gil Alvarez, Karen Boettcher, Kathy Busch, Neil Guthrie, Wendy Johnson, Linda Jones, Janet Jump, Mary Kelly, Jackie Lugrand, Lisa Lutz, Jim Means, Sherman Padgett, Susan Rosell, Denise Seguire, Susanne Smith, Alicia Thompson, Mary Whiteside, Bryan Wilson, Richard Wirtz, Denise Wren.

INTERROGATORY NO. 6:

Separately for each Plaintiff School District,

- a. Describe each such school district's new program, policy, practice, service or benefit created or implemented in the fiscal years 2009-10, 2010-11, 2011-12 to improve education performance because of or in attempt to comply with the NCLB, Common Core standards, EEOA of 1974 regarding language barriers and/or standardized tests;
- b. Describe the material facts that supported creation or implementation of the new program, policy, practice, service or benefit;
- c. Identify the person or persons who have personal knowledge of such facts; and
- d. Identify all documents or tangible things that you contend are direct evidence of such facts.

ANSWER:

Objection. This request is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. In effect, it seeks any “program, policy, practice, service or benefit created or implemented in the fiscal years 2009-10, 2010-11, 2011-12” because an overall goal of each of the Plaintiff School Districts is to improve educational performance. Moreover, “a contention interrogatory which seeks ‘all facts’ . . . is overly broad and unduly burdensome on its face.” *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party’s contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard. Plaintiffs do not represent that the answers herein are all the facts that may support their contentions. Furthermore, this interrogatory is vague and ambiguous, especially to the extent it does not define the phrase “program, policy, practice, service or benefit” or “language barriers and/or standardized tests.” Finally, some of the information requested is equally available to Defendant, and as such, Plaintiffs have no duty to produce such information.

Subject to and without waiving the foregoing objections, Plaintiffs respond as follows:

Plaintiffs will, pursuant to an agreement between the parties, supplement these responses at a later date to respond on behalf of Plaintiff USD 259.

USD 308 responds as follows: Pursuant to K.S.A. 60-233, USD 308 identifies the following documents as responsive to subparts (a), (b), and (d) of Defendant’s interrogatory:

- USD 308 Grade Level Meeting Agendas and Minutes, Bates No. USD308 004147-4164.

- USD 308 Staffing Documents, Bates No. USD308 004165-4175.
- USD 308 Federal Grants and Applications, Bates No. USD308 004188-4590.
- USD 308 Art & Science of Teaching Documents, Bates No. USD308 006461-7282.
- USD 308 Department Meeting Agendas and Minutes, Bates No. USD308 007283-7362.
- USD 308 Division of Student Learning Meeting Agendas and Minutes, Bates No. USD308 007363-7486.

USD 308 provides the following additional information as responsive to subparts (a) and

(b) of Defendant's interrogatory:

- Professional Development – added Art and Science of Teaching Instructional Model in 2009-10, Reading Fluency K-6 and Cognitive Coaching in 2010-11, and Common Core Professional Development in 2011-12
- Implementation of Kansas Learning Network Coaches in two buildings in 2009-10
- TRC Grant for Avenue A Elementary School in 2010-11 and TRC Grant for Graber Elementary School in 2011-12
- Implementation of iObservation classroom walkthrough protocol in 2010-11
- Additional summer school programming for special education students in 2010-11
- Implementation of Lincoln Excellence Project in 2011-12

USD 308 provides the following additional information as responsive to subpart (c) of Defendant's interrogatory: Assistant Superintendent, Director of Elementary Education, Director of Special Education.

USD 443 responds as follows: Pursuant to K.S.A. 60-233, USD 443 identifies the documents listed in subpart (d) as responsive to subparts (a), (b), and (c) and provides the following additional information:

- a. Description of program, policy, practice, service or benefit: District Improvement Advisory Council; WestEd Curriculum Review; and Walk-Through Data Instrument.

- b. Description of material facts supporting creation or implementation: USD 443's status as district to be labeled "On Improvement"; Identification of achievement gaps among student subgroups.
- c. Person or persons who have personal knowledge of such facts: Superintendent Mr. Alan R. Cunningham; Assistant Superintendents Mr. Gregory Springston and Ms. Judy Beedles-Miller; and Administrative Council.
- d. Documents or tangible things that are direct evidence of such facts:
- USD 443 District "On Improvement" Presentation, Bates No. USD443 000427-445, produced herewith.
 - USD 443 Integrated Improvement Plan for Districts, Bates No. USD 000446R-0476R, produced herewith.
 - USD 443 Needs Analysis, Bates No. USD443 000477-521, produced herewith.
 - USD 443 Observations and Recommendations for Preschool through Grade 2 Literacy Instruction, Bates No. USD443 000522-572, produced herewith.

USD 500 responds as follows: Pursuant to K.S.A. 60-233, USD 500 identifies the documents listed in subpart (d) as responsive to subparts (a), (b), and (c) and provides the following additional information:

- a. Description of program, policy, practice, service or benefit: This practice establishes a cycle of goal setting, instruction, differentiated instruction, assessment, data, and adjustments, to ensure that each and every student is successful by aligning USD 500's standards to ACT or national standards, in addition to Kansas standards. USD 500 implemented year one of this practice during the 2010-11 school year and will implement year two during the 2011-12 school year.
- b. Description of material facts supporting creation or implementation: District's performance on Kansas State Assessments during 2005-2009 and performance data on ACT during 2005-2009.
- c. Person or persons who have personal knowledge of such facts:
- Superintendent Dr. Cynthia Lane
 - Assistant Superintendents Mr. Jayson Strickland and Ms. Marcy Clay
 - Chief of Staff Mr. David Smith
 - Chief Financial Officer Dr. Kelli Mather
 - District Principals
 - District Teacher Leaders

- Executive Directors of Instruction
 - Board of Education
- d. Documents or tangible things that are direct evidence of such facts:
- Any documents demonstrating USD 500's performance results on Kansas State Assessments and ACT during 2005-2009
 - The document available at http://www.kckps.org/dera/fastfacts/fundamental_and_checkpoint_assessment_guidelines.pdf.

SUPPLEMENTAL ANSWER:

USD 259 responds as follows: Pursuant to K.S.A. 60-233, USD 259 identifies the following documents as responsive to subpart (d) of Defendant's interrogatory:

- USD 259 Budget Documents Forms, Bates No. USD259 008762-8802.

USD 259 provides the following additional information as responsive to subpart (a) of Defendant's interrogatory: Multi-Tiered System of Supports (MTSS) is a state directed mandate to school districts. It is based upon a national called Response to Intervention (RTI) movement. MTSS is in all schools in USD 259. It has a behavior component and an academic component. At this time one half of schools in USD 259 have adopted the behavior component and one half have adopted the academic component.

USD 259 provides the following additional information as responsive to subpart (b) of Defendant's interrogatory: Improved student performance and data-driven decision-making.

USD 259 provides the following additional information as responsive to subpart (c) of Defendant's interrogatory: John Allison, Gil Alvarez, Karen Boettcher, Kathy Busch, Neil Guthrie, Wendy Johnson, Linda Jones, Janet Jump, Mary Kelly, Jackie Lugrand, Lisa Lutz, Jim Means, Sherman Padgett, Susan Rosell, Denise Seguine, Susanne Smith, Alicia Thompson, Mary Whiteside, Bryan Wilson, Richard Wirtz, Denise Wren.

INTERROGATORY NO. 7:

Separately for each Plaintiff School District,

- a. Describe each such school district's program, policy, practice implemented in the fiscal years 2009-10, 2010-11, 2011-12 to reduce costs or save money;
- b. Identify the person or persons who have personal knowledge of such; and
- c. Identify all documents or tangible things that you contend are direct evidence of such facts.

ANSWER:

Objection. “[A] contention interrogatory which seeks ‘all facts’ . . . is overly broad and unduly burdensome on its face.” *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party's contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard. Plaintiffs do not represent that the answers herein are all the facts that may support their contentions. This interrogatory is vague and ambiguous, especially to the extent it does not define the phrase “program, policy, practice, service or benefit.”

Furthermore, this request is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. This interrogatory seeks documents which create an unnecessary burden on Plaintiffs and which are not relevant to this litigation. For example, USD 308 identifies the following types of documents as responsive

to subpart (d) of Defendant's interrogatory, but does not produce them herewith because of the breadth of the scope of the request and the irrelevance of these documents to this litigation:

- Monthly telephone bills
- Equipment Purchase documents
- Software/Hardware Purchase documents
- Business Office software
- Automated Banking Reports

Subject to and without waiving the foregoing objections, Plaintiffs respond as follows:

Plaintiffs will, pursuant to an agreement between the parties, supplement these responses at a later date to respond on behalf of Plaintiff USD 259.

Pursuant to K.S.A. 60-233, Plaintiff School Districts identify any and all documents previously produced with Plaintiffs' Objections and Responses to Defendant's First Request for Production which may also be responsive to this Interrogatory, including but not limited to budgeting, expenditure, and financial documents for the period of 2009-2012 identified as responsive to and produced with Defendant's Requests No. 2-26.

Additionally, USD 308 responds as follows: Pursuant to K.S.A. 60-233, USD 308 identifies USD 308 Expense Detail Report showing Durham School Services Payments through 4-18-11, Bates No. USD308 003181-3221, as responsive to subparts (a) and (b) of this interrogatory and provides the following additional information:

USD 308 provides the following additional information as responsive to subparts (a) and (b) of Defendant's interrogatory: Implementation of Voice Over IP in 2009-10; Implementation of Automated Attendant and Paperless Board Agendas and Reports in 2010-11; Implementation of Server Farm Virtualization in 2010-11; Rebid bus contract in 2011-12; Implementation of Desktop Virtualization through "Cloud Computing" in 2011-12; and Implementation of Electronic W-2s in 2011-12.

USD 308 provides the following information as responsive to subpart (c) of Defendant's interrogatory: Information Technology Director, Board Clerk, Transportation Director, Director of Fiscal Management.

USD 443 responds as follows: Pursuant to K.S.A. 60-233, USD 443 identifies Energy Management Conservation Documents, Bates No. USD443 000573-0656, produced herewith, as responsive to subparts (a), (b), and (c) of this interrogatory. USD 443 identifies the USD 443 Board of Education, USD 443 Administrative Cabinet, and Energy Audit Consultant Dr. Morris Reeves as responsive to subpart (b) of this interrogatory.

USD 500 responds as follows: USD 500 identifies the following information as responsive to subpart (b) of this interrogatory: Superintendent Dr. Cynthia Lane, Assistant Superintendents Mr. Jayson Strickland and Ms. Marcy Clay, Chief of Staff Mr. David Smith, Chief Financial Officer Dr. Kelli Mather, Director of Finance Ms. Connie Brand, and USD 500 Board of Education.

SUPPLEMENTAL ANSWER:

USD 259 responds as follows: Pursuant to K.S.A. 60-233, USD 259 identifies the following documents as responsive to subpart (a) and (c) of Defendant's interrogatory:

- USD 259 2009-2010 to 2011-2012 Budget Cuts Document, Bates No. USD259 008803-8808.

USD 259 provides the following additional information as responsive to subpart (b) of Defendant's interrogatory: Ronda Goode and Linda Jones.

INTERROGATORY NO. 8:

Separately for each Plaintiff School District and only for fiscal years ending 2010 or 2011:

- a. Identify all persons who conducted any financial audit of all or portions of the school district;
- b. Identify all persons who studied or evaluated the need for new programs or practices for the school district specifically designed for improving education performance because of or in attempt to comply with the NCLB, Common Core standards, EEOA of 1974 regarding language barriers and/or standardized tests;
- c. Identify all persons who studied or evaluated the need for cuts, reduction, or restriction to programs or practices for the school district specifically designed for improving education performance because of or in attempt to comply with the NCLB, Common Core standards, EEOA of 1974 regarding language barriers and/or standardized tests;
- d. Identify all persons who studied or evaluated the need for school closing, consolidation or school attendance area reorganization in the school district;
- e. Identify all persons who studied or evaluated individual building utilization or capacity in the school district;
- f. Identify all persons who studied or evaluated needed improvements or new construction in the school district;
- g. Identify all persons who studied or evaluated furlough or termination of teacher or instructors in the school district;

- h. Identify all persons who studied or evaluated furlough or termination of administration staff in the school district;
- i. (none)
- j. Identify all persons who studied or evaluated furlough or termination of other employees or contractors in the school district;
- k. Identify all persons who studied or evaluated change in the school district's guidelines or policies concerning class sizes or pupil/teacher ratios;
- l. Identify all persons who studied or evaluated change in the school district's program or policy specifically pertaining to "pre-school at-risk pupils", "preschool aged exceptional children," "at-risk pupils," "nonproficient students," "vocational education program," "programs of bilingual education" or "special education";
- m. Identify all persons who studied or evaluated change in the school district's program or policy generally pertaining to "pre-school at-risk pupils," "preschool aged exceptional children," "at-risk pupils," nonproficient students," "vocational education programs," "programs of bilingual education" or "special education;"

ANSWER:

Objection. Plaintiffs objects to this interrogatory to the extent it is characterized as one interrogatory as it is compound and includes twelve discrete subparts. "[A] contention interrogatory which seeks 'all facts' . . . is overly broad and unduly burdensome on its face." *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party's contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent

this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard. Plaintiffs do not represent that the answers herein are all the facts that may support their contentions.

Furthermore, this interrogatory is overly broad, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. It is overly broad and unduly burdensome to the extent it seeks information regarding “programs or practices” “specifically designed for improving education performance” because such is an overall goal of all programs and practices of each of the Plaintiff School Districts and because it assumes Plaintiffs can delineate between programs or policies specific to a certain subset of pupils. This interrogatory seeks irrelevant information and is not reasonably calculated to lead to the discovery of admissible evidence because it seeks information regarding all terminations of Plaintiff School District teachers, instructors, administration staff, or other employees or contractors and not just those relevant to this litigation. This interrogatory is vague and ambiguous, especially to the extent it does not define the phrase “program, policy, practice, service or benefit” or “language barriers and/or standardized tests.” To the extent this interrogatory seeks information protected by the work product or attorney client privilege, Plaintiffs object. Finally, to the extent this interrogatory seeks “persons who conducted any financial audit” or “persons who studied or evaluated” the items enumerated in subparts (b)-(m) and those persons were not affiliated with or acting at the direction of the Plaintiffs, the information is in the possession, custody, or control of a third party, and as such, Plaintiffs have no duty to provide that information.

Subject to and without waiving the foregoing objections, Plaintiffs respond as follows:

Plaintiffs will, pursuant to an agreement between the parties, supplement these responses at a later date to respond on behalf of Plaintiff USD 259.

USD 308 responds as follows:

- a. Persons who conducted any financial audit: Certified Public Accountants with accounting firm Swindoll, Janzen, Hawk, and Loyd; Kansas State Department of Education Auditor; and Head Start Auditor.
- b. Persons who studied or evaluated the need for new programs or practices: Division of Student Learning Staff and Building Administrators.
- c. Persons who studied or evaluated the need for cuts, reduction, or restriction: Administrative Leadership Team
- d. Persons who studied or evaluated the need for school closing, consolidation or reorganization: Director of Elementary Education and Superintendent.
- e. Persons who studied or evaluated individual building utilization or capacity: Director of Operations; Director of Elementary Education; and Superintendent.
- f. Persons who studied or evaluated needed improvements or new construction: Director of Operations and Bond Project Manager.
- g. Persons who studied or evaluated furlough or termination of teacher or instructors: Administrative Leadership Team
- h. Persons who studied or evaluated furlough or termination of administration staff: Administrative Leadership Team
- i. (none)
- j. Persons who studied or evaluated furlough or termination of other employees or contractors: Administrative Leadership Team
- k. Persons who studied or evaluated change in guidelines or policies concerning class sizes or pupil/teacher ratios: Director of Elementary Education; Superintendent; and Assistant Superintendent for Learning
- l. Persons who studied or evaluated change in the school district's program or policy specifically pertaining to "pre-school at-risk pupils", "preschool aged exceptional children," "at-risk pupils," "nonproficient students," "vocational education program," "programs of bilingual education" or "special education": Director of Special Education; Assistant Superintendent of Learning; Director of Elementary Education; and Director of Career and Technical Education
- m. Persons who studied or evaluated change in the school district's program or policy generally pertaining to "pre-school at-risk pupils," "preschool aged exceptional children," "at-risk pupils," nonproficient students," "vocational education programs,"

“programs of bilingual education” or “special education”: Director of Special Education; Assistant Superintendent of Learning; Director of Elementary Education; and Director of Career and Technical Education

USD 443 responds as follows:

a. Persons who conducted any financial audit:

- McKee & Company LLP Certified Public Accountants Mr. James W. Kennedy, Mr. Patrick M. Friess, Ms. Doris M. Donovan, and Ms. Jenna L. Nau; 1100 W. Frontview, P.O. Box 1477; Dodge City, Kansas 67801; 620-227-3135
- Kansas Department of Education Auditor Ms. Judy Demuth; 120 SE 10th, Topeka, Kansas; 785-296-4976
- USD 443 Comptroller Ms. Molly J. Miller; 1000 Second Ave.; Dodge City, Kansas; 620-227-1621

b. Persons who studied or evaluated the need for new programs or practices:

- WestEd employees Ms. Cindy Day, Mr. Joe Sassone, Ms. Marla Perez-Seles, Ms. Liz Jamison, and Mr. Robert Rosenfeld
- Kansas Learning Network members Mr. Steve Gering, Ms. Eleanor Johnson, and Ms. Joyce Carter
- Language and Literacy Consulting, Inc. Consultants Ms. Laurie Lieker-Winter, Ms. Karen Jorgensen, and Ms. Marylee Griffiths

c. Persons who studied or evaluated the need for cuts, reduction, or restriction: None.

d. Persons who studied or evaluated the need for school closing, consolidation or reorganization: None.

e. Persons who studied or evaluated individual building utilization or capacity: GMLV Architecture, Inc. Architect Mr. Tom Montgomery; Building Administrators; Administrative Cabinet; Capital Outlay Committee; and Board of Education

f. Persons who studied or evaluated needed improvements or new construction: GMLV Architecture, Inc. Architect Mr. Tom Montgomery; Building Administrators; Administrative Cabinet; Capital Outlay Committee; and Board of Education

g. Persons who studied or evaluated furlough or termination of teacher or instructors: None.

h. Persons who studied or evaluated furlough or termination of administration staff: None.

i. (none)

- j. Persons who studied or evaluated furlough or termination of other employees or contractors: None.
- k. Persons who studied or evaluated change in guidelines or policies concerning class sizes or pupil/teacher ratios: Superintendent Mr. Alan R. Cunningham; Assistant Superintendents Mr. Gregory Springston and Ms. Judy Beedles-Miller; and Board of Education
- l. Persons who studied or evaluated change in the school district's program or policy specifically pertaining to "pre-school at-risk pupils", "preschool aged exceptional children," "at-risk pupils," "nonproficient students," "vocational education program," "programs of bilingual education" or "special education": Superintendent Mr. Alan R. Cunningham; Assistant Superintendents Mr. Gregory Springston and Ms. Judy Beedles-Miller; Kansas Learning Network; Director of ESL/Migrant Education Dr. Robert Vinton; and USD 613 Assistant Director for Special Education Mr. John Maples
- m. Persons who studied or evaluated change in the school district's program or policy generally pertaining to "pre-school at-risk pupils," "preschool aged exceptional children," "at-risk pupils," nonproficient students," "vocational education programs," "programs of bilingual education" or "special education": Superintendent Mr. Alan R. Cunningham; Assistant Superintendents Mr. Gregory Springston and Ms. Judy Beedles-Miller; Kansas Learning Network; Director of ESL/Migrant Education Dr. Robert Vinton; and USD 613 Assistant Director for Special Education Mr. John Maples

USD 500 responds as follows:

- a. Persons who conducted any financial audit:
 - Lowenthal, Webb & Oddermann P.A. Certified Public Accountants, 900 Massachusetts, Suite 301, Lawrence, KS 66044-2868
 - Kansas State Department of Education Auditor
- b. Persons who studied or evaluated the need for new programs or practices: Superintendent Dr. Cynthia Lane; Assistant Superintendents Mr. Jayson Strickland and Ms. Marcy Clay; Chief of Staff Mr. David Smith; Chief Financial Officer Dr. Kelli Mather; District Principals; District Teacher Leaders; Executive Directors of Instruction; and Departmental Directors of Special Education, ESL, and Curriculum
- c. Persons who studied or evaluated the need for cuts, reduction, or restriction: Superintendent Dr. Cynthia Lane; Assistant Superintendents Mr. Jayson Strickland and Ms. Marcy Clay; Chief of Staff Mr. David Smith; and Chief Financial Officer Dr. Kelli Mather

- d. Persons who studied or evaluated the need for school closing, consolidation or reorganization: None.
- e. Persons who studied or evaluated individual building utilization or capacity: Superintendent Dr. Cynthia Lane; Chief Financial Officer Dr. Kelli Mather; Board of Education
- f. Persons who studied or evaluated needed improvements or new construction: Superintendent Dr. Cynthia Lane; Chief Financial Officer Dr. Kelli Mather; Board of Education; and Educational design firm ACI/Frangkiser Hutchens, Inc.
- g. Persons who studied or evaluated furlough or termination of teacher or instructors: Superintendent Dr. Cynthia Lane; Assistant Superintendents Mr. Jayson Strickland and Ms. Marcy Clay; Chief of Staff Mr. David Smith; and Chief Financial Officer Dr. Kelli Mather
- h. Persons who studied or evaluated furlough or termination of administration staff: Superintendent Dr. Cynthia Lane; Assistant Superintendents Mr. Jayson Strickland and Ms. Marcy Clay; Chief of Staff Mr. David Smith; and Chief Financial Officer Dr. Kelli Mather
- i. (none)
- j. Persons who studied or evaluated furlough or termination of other employees or contractors: Superintendent Dr. Cynthia Lane; Assistant Superintendents Mr. Jayson Strickland and Ms. Marcy Clay; Chief of Staff Mr. David Smith; and Chief Financial Officer Dr. Kelli Mather
- k. Persons who studied or evaluated change in guidelines or policies concerning class sizes or pupil/teacher ratios: Superintendent Dr. Cynthia Lane; Chief Financial Officer Dr. Kelli Mather; Former Assistant Superintendent of Human Resources Mr. J.D. Rios; Former Executive Director of Human Resources Mr. Tom Petz; Director of Human Resources Mrs. Barbara Kirkegaard
- l. Persons who studied or evaluated change in the school district's program or policy specifically pertaining to "pre-school at-risk pupils", "preschool aged exceptional children," "at-risk pupils," "nonproficient students," "vocational education program," "programs of bilingual education" or "special education": Superintendent Dr. Cynthia Lane; Assistant Superintendents Mr. Jayson Strickland and Ms. Marcy Clay; Chief of Staff Mr. David Smith; Chief Financial Officer Dr. Kelli Mather; District Principals; District Teacher Leaders; and Executive Directors of Instruction

- m. Persons who studied or evaluated change in the school district's program or policy generally pertaining to "pre-school at-risk pupils," "preschool aged exceptional children," "at-risk pupils," nonproficient students," "vocational education programs," "programs of bilingual education" or "special education": Superintendent Dr. Cynthia Lane; Assistant Superintendents Mr. Jayson Strickland and Ms. Marcy Clay; Chief of Staff Mr. David Smith; Chief Financial Officer Dr. Kelli Mather; District Principals; District Teacher Leaders; and Executive Directors of Instruction

SUPPLEMENTAL ANSWER:

USD 259 responds as follows:

- a. Persons who conducted any financial audit:
- Sub-recipient Audit - Office of Inspector General (OIG)
 - Records for June 2006 – September 2008 – Medicaid
 - Records for June 2010 – 2011 ARRA Funds
 - Sub-recipient Audit – Federal Auditors
 - Title Monies
 - Sub-recipient Monitoring Visits – State Department
 - Title Monies
 - Official Enrollment State Audit - YEARLY
 - Transportation
 - ESOL (Bilingual)
 - SCTE (Vocational)
 - eSchool (Virtual School)
 - Homebound
 - 4 Year Old At Risk
 - At Risk
 - Nutrition Services
 - Overall Enrollment
 - Special Education – Teachers & Para's
 - Special Education - Transportation
 - Comprehensive Annual Financial Audit & Federal Grants Audit – YEARLY
 - Allen, Gibbs & Houlik LC
- b. Persons who studied or evaluated the need for new programs or practices: John Allison, Gil Alvarez, Karen Boettcher, Kathy Busch, Neil Guthrie, Wendy Johnson, Linda Jones, Janet Jump, Mary Kelly, Jackie Lugrand, Lisa Lutz, Jim Means, Sherman Padgett, Susan Rosell, Denise Seguine, Susanne Smith, Alicia Thompson, Mary Whiteside, Bryan Wilson, Richard Wirtz and Denise Wren.
- c. Persons who studied or evaluated the need for cuts, reduction, or restriction: John Allison, Gil Alvarez, Karen Boettcher, Kathy Busch, Neil Guthrie, Wendy Johnson, Linda Jones, Janet Jump, Mary Kelly, Jackie Lugrand, Lisa Lutz, Jim Means,

Sherman Padgett, Susan Rosell, Denise Seguine, Susanne Smith, Alicia Thompson, Mary Whiteside, Bryan Wilson, Richard Wirtz and Denise Wren.

- d. Persons who studied or evaluated the need for school closing, consolidation or reorganization: Kenton Cox, Joe Johnson, John Allison, Martin Libhart, Julie Hendrick, Darren Muci and Fabian Armendariz.
- e. Persons who studied or evaluated individual building utilization or capacity: Kenton Cox, Joe Johnson, John Allison, Martin Libhart, Alicia Thompson, Denise Wren, Kathy Busch and all school building principals.
- f. Persons who studied or evaluated needed improvements or new construction: Kenton Cox, Joe Johnson, John Allison, Martin Libhart, Alicia Thompson, Julie Hendrick, Dave Johnson, Denise Wren, Kathy Busch, Neil Guthrie and all school building principals.
- g. Persons who studied or evaluated furlough or termination of teacher or instructors: John Allison, Martin Libhart, Alicia Thompson, Denise Wren, Neil Guthrie, Diane Gjerstad, Bill Faflick, Denise Seguine, Martin Libhart, Linda Jones, Tom Powell, Wendy Johnson, Kim Burkhalter, Mary Whiteside and Cathy Barbieri.
- h. Persons who studied or evaluated furlough or termination of administration staff: John Allison, Martin Libhart, Alicia Thompson, Denise Wren, Neil Guthrie, Diane Gjerstad, Bill Faflick, Denise Seguine, Martin Libhart, Linda Jones, Tom Powell, Wendy Johnson, Kim Burkhalter, Mary Whiteside and Cathy Barbieri.
- i. (none)
- j. Persons who studied or evaluated furlough or termination of other employees or contractors: John Allison, Martin Libhart, Alicia Thompson, Denise Wren, Neil Guthrie, Diane Gjerstad, Bill Faflick, Denise Seguine, Martin Libhart, Linda Jones, Tom Powell, Wendy Johnson, Kim Burkhalter, Mary Whiteside and Cathy Barbieri.
- k. Persons who studied or evaluated change in guidelines or policies concerning class sizes or pupil/teacher ratios: Superintendent Mr. Alan R. Cunningham; Assistant Superintendents Mr. Gregory Springston and Ms. Judy Beedles-Miller; and Board of Education
- l. Persons who studied or evaluated change in the school district's program or policy specifically pertaining to "pre-school at-risk pupils", "preschool aged exceptional children," "at-risk pupils," "nonproficient students," "vocational education program," "programs of bilingual education" or "special education": This type of study was not conducted.
- m. Persons who studied or evaluated change in the school district's program or policy generally pertaining to "pre-school at-risk pupils," "preschool aged exceptional

children,” “at-risk pupils,” nonproficient students,” “vocational education programs,” “programs of bilingual education” or “special education”: John Allison, Gil Alvarez, Karen Boettcher, Kathy Busch, Neil Guthrie, Wendy Johnson, Linda Jones, Janet Jump, Mary Kelly, Jackie Lugrand, Lisa Lutz, Jim Means, Sherman Padgett, Susan Rosell, Denise Seguine, Susanne Smith, Alicia Thompson, Mary Whiteside, Bryan Wilson, Richard Wirtz, and Denise Wren.

INTERROGATORY NO. 9:

Separately for each Plaintiff School District, list all funds maintained in any fiscal year from 2005 to present, (including, if applicable, but not limited to the “program weighted fund,” “categorical fund,” “general fund” and “contingency reserve fund”).

ANSWER:

Objection. This interrogatory is overly broad, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. Furthermore, this request is vague and ambiguous, especially to the extent it uses the phrase “all funds maintained.”

Subject to and without waiving the foregoing objections, Plaintiffs respond as follows:

Plaintiffs will, pursuant to an agreement between the parties, supplement these responses at a later date to respond on behalf of Plaintiff USD 259.

USD 308 responds as follows: In the fiscal years from 2005 to present, it maintained the following funds: General, Supplemental General, At-Risk 4-Year Old, At-Risk K-12, Bilingual, Capital Outlay, Drivers’ Training, Food Service, Professional Development, Parent Education program, Summer School, Special Education, Vocational Education, Gifts and Grants, Health Care Reserve, KPERS Retirement Fund, Contingency Reserve, Textbook Rental, Recreation Commission, Recreation Commission Benefits, Day Care, All Federal Funds, Kids First Fund, and Rebate Fund.

USD 443 responds as follows: Pursuant to K.S.A. 60-233, USD 443 identifies the following documents as responsive: USD 443 Audits for FY2006-2010, Bates No. USD443 002635-2972.

USD 500 responds as follows: In the fiscal years from 2005 to present, it maintained the following funds: General Fund; ARRA General Fund; Supplemental General; ARRA Supplemental General; At Risk; At Risk Preschool; ATS/TEC; Carl Perkins; Vocational Education; Special Education; Drivers Education; Transportation; Bilingual; Bilingual Federal Funds; Professional Development; Capital Outlay; Bond and Interest; Retirement; Food Service; Parents as Teachers; Special Ed COOP; Special Ed COOP federal funds; Contingency; Summer School; Work Comp; KPERS; Student Materials Revolving; Gifts and Grants; Title 1; Title IV; Title II D; Title II A; Title VI; Title 1 ARRA; Title IID ARRA; Title 1 D ARRA; 1003 Grants; PreK TL; Public Library; Public Library Benefits; Construction; and Kauffman Grant.

SUPPLEMENTAL ANSWER:

USD 259 responds as follows: Pursuant to K.S.A. 60-233, USD 259 identifies the following documents as responsive to subpart (a) and (c) of Defendant's interrogatory:

- USD 259 2004-2005 to 2011-2012 Budget Form No. 99, Bates No. USD259 008809-8824.

INTERROGATORY NO. 10:

Identify any studies or research conducted between the years 2005 and 2011 to determine the actual cost of providing an education to students enrolled in Kansas public schools.

ANSWER:

Objection. This interrogatory is overly broad, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. To the extent it seeks “any studies or research conducted” by any persons or group other than Plaintiffs, including but not limited to the Augenblick and Myers study, conducted in 2002; Legislative Post Audit Committee Cost Study Analyses, conducted in 2006 and updated August 2008; and any similar studies or research, the information is in the possession, custody, or control of a third party, and as such, Plaintiffs have no duty to provide that information.

Subject to and without waiving the foregoing objections, Plaintiffs respond as follows:

Plaintiffs will, pursuant to an agreement between the parties, supplement these responses at a later date to respond on behalf of Plaintiff USD 259.

USD 308, 443, and 500 did not conduct any studies or research responsive to this interrogatory.

SUPPLEMENTAL ANSWER:

USD 259 did not conduct any studies or research responsive to this interrogatory.

INTERROGATORY NO. 11:

Identify any studies or research conducted between the years 2005 and 2011 to determine the existence or solution to any disparities in educational opportunity among students enrolled in Kansas public schools.

ANSWER:

Objection. This interrogatory is overly broad, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. To the extent it seeks

“any studies or research conducted” by any persons or group other than Plaintiffs, the information sought is equally available to Defendant and Plaintiffs have no duty to identify them.

Subject to and without waiving the foregoing objections, Plaintiffs respond as follows:

Plaintiffs will, pursuant to an agreement between the parties, supplement these responses at a later date to respond on behalf of Plaintiff USD 259.

USD 308, 443, and 500 did not conduct any studies or research responsive to this interrogatory.

INTERROGATORY NO. 12:

Concerning your allegations in Petition, ¶ 72:

- a. Describe the material facts that support your position;
- b. Identify the person or persons who have personal knowledge of such facts; and
- c. Identify all documents or tangible things that you contend are direct evidence of such facts.

ANSWER:

Objection. This request is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. “[A] contention interrogatory which seeks ‘all facts’ . . . is overly broad and unduly burdensome on its face.” *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party’s contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than

those that are consistent with the case law in this regard. Plaintiffs do not represent that the answers herein are all the facts that may support their contentions.

Pursuant to K.S.A. 60-233, Plaintiffs identify the following documents as responsive to this interrogatory: Plaintiffs' Petition, filed in the District Court of Shawnee County, Kansas, on November 2, 2010; the Notice of Claims filed by Plaintiffs on June 17, 2010, attached to the Petition as Exhibit 1; and the Amended Notice of Claims filed by Plaintiffs on June 6, 2011.

INTERROGATORY NO. 13:

Concerning your allegations in Petition, ¶ 71f:

- a. Describe the material facts that support your position;
- b. Identify the person or persons who have personal knowledge of such facts; and
- c. Identify all documents or tangible things that you contend are direct evidence of such facts.

ANSWER:

Objection. This request is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. "[A] contention interrogatory which seeks 'all facts' . . . is overly broad and unduly burdensome on its face." *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party's contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard. Plaintiffs do not represent that the answers herein are all the facts that may support their contentions.

Pursuant to K.S.A. 60-233, Plaintiffs identify the following documents as responsive to this interrogatory: Plaintiffs' Petition, filed in the District Court of Shawnee County, Kansas, on November 2, 2010; the Notice of Claims filed by Plaintiffs on June 17, 2010, attached to the Petition as Exhibit 1; and the Amended Notice of Claims filed by Plaintiffs on June 6, 2011.

INTERROGATORY NO. 14:

Concerning your allegations in Petition, ¶ 71e:

- a. Describe the material facts that support your position;
- b. Identify the person or persons who have personal knowledge of such facts; and
- c. Identify all documents or tangible things that you contend are direct evidence of such facts.

ANSWER:

Objection. This request is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. "[A] contention interrogatory which seeks 'all facts' . . . is overly broad and unduly burdensome on its face." *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party's contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard. Plaintiffs do not represent that the answers herein are all the facts that may support their contentions.

Pursuant to K.S.A. 60-233, Plaintiffs identify the following documents as responsive to this interrogatory: Plaintiffs' Petition, filed in the District Court of Shawnee County, Kansas, on November 2, 2010; the Notice of Claims filed by Plaintiffs on June 17, 2010, attached to the Petition as Exhibit 1; and the Amended Notice of Claims filed by Plaintiffs on June 6, 2011.

INTERROGATORY NO. 15:

Concerning your allegations in Petition, ¶ 69:

- a. Describe the material facts that support your position;
- b. Identify the person or persons who have personal knowledge of such facts; and
- c. Identify all documents or tangible things that you contend are direct evidence of such facts.

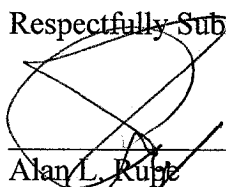
ANSWER:

Objection. This request is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. "[A] contention interrogatory which seeks 'all facts' . . . is overly broad and unduly burdensome on its face." *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party's contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard. Plaintiffs do not represent that the answers herein are all the facts that may support their contentions.

Pursuant to K.S.A. 60-233, Plaintiffs identify the following documents as responsive to this interrogatory: Plaintiffs' Petition, filed in the District Court of Shawnee County, Kansas, on November 2, 2010; the Notice of Claims filed by Plaintiffs on June 17, 2010, attached to the Petition as Exhibit 1; and the Amended Notice of Claims filed by Plaintiffs on June 6, 2011.

Dated this 9th day of September, 2011.

Respectfully Submitted,



Alan L. Rupe #08914
Jessica L. Garner #24178
KUTAK ROCK LLP
1605 North Waterfront Parkway, Suite 150
Wichita, KS 67206-6634
(316) 609-7900 (Telephone)
alan.rupe@kutakrock.com
jessica.garner@kutakrock.com

and


John S. Robb #09844
SOMERS, ROBB & ROBB
110 East Broadway
Newton, KS 67114
(316) 283-4650 (Telephone)
JohnRobb@robblaw.com

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of September, 2011, a true and correct copy of the above and foregoing was sent by first class mail to the following:

Arthur S. Chalmers
Gaye B. Tibbets
Hite, Fanning & Honeyman, L.L.P.
100 North Broadway, Suite 950
Wichita, KS 67202-2209
Telephone: (316) 265-7741
Facsimile: (316) 267-7803
chalmers@hitefanning.com
tibbets@hitefanning.com

Attorneys for Defendant



Alan L. Rupe



Alan L. Rupe, #08914
Jessica L. Garner, #24178
Jason D. Stitt, #22216
KUTAK ROCK LLP
1605 North Waterfront Parkway, Suite 150
Wichita, KS 67206-6634
(316) 609-7900 (Telephone)
Alan.Rupe@kutakrock.com
Jessica.Garner@kutakrock.com
Jason.Stitt@kutakrock.com

John S. Robb, #09844
SOMERS, ROBB & ROBB
110 East Broadway
Newton, KS 67114
(316) 283-4650 (Telephone)
JohnRobb@robblaw.com

IN THE THIRD JUDICIAL DISTRICT
DISTRICT COURT OF SHAWNEE COUNTY KANSAS
CIVIL DEPARTMENT

LUKE GANNON,
By his next friends and guardians, *et al.*,

Plaintiffs,

v.

STATE OF KANSAS,

Defendant.

Case No.: 10-C-1569

**PLAINTIFFS' SECOND SUPPLEMENTAL RESPONSE TO
DEFENDANT'S FIRST INTERROGATORIES TO ALL PLAINTIFFS**

COME NOW Plaintiffs, by and through their attorneys of record, and make this supplemental response as follows to Defendant's First Interrogatories to All Plaintiffs. Plaintiffs will respond and object to Defendant's discovery without regard to the introductory section to the extent Defendant attempts to expand the scope and meaning of the Federal Rules of Civil Procedure. It should be noted that these responding parties have not fully completed their investigation of the facts relating to this case, have not fully completed their discovery in this action, and have not completed their preparation for trial. All of the objections contained herein

are based only upon such information and documents as are presently available and specifically known to these responding parties, and disclose only those contentions which presently occur to such responding parties.

It is anticipated that further discovery, independent investigation, legal research and analysis will supply additional facts, add meaning to the known facts, as well as establish entirely new factual conclusions and legal contentions, all of which may lead to substantial additions to, changes in and variations from the contentions herein set forth. The following objections are given without prejudice to Plaintiffs' right to produce evidence and any subsequently discovered fact or facts which Plaintiffs may later recall. Plaintiffs accordingly reserve the right to change any and all objections herein as additional facts are ascertained, additional analyses are made, legal research is completed and contentions are made. The objections and/or responses contained herein are made in a good faith effort to supply as much factual information and as much specification of legal contentions as is presently known, which should in no way be to the prejudice of responding party in relation to further discovery, research and/or analysis.

PRELIMINARY STATEMENT AND GENERAL OBJECTIONS

1. The responses contained herein are made solely for the purpose of the above-referenced action. Such responses are made subject to all general stated and specific objections, and Plaintiffs specifically reserve the right to reassert the same on motion or at time of trial.

2. Plaintiffs have not fully completed their investigation of the facts relating to this case, have not fully completed discovery in this action, and have not fully completed their preparation for trial. Discovery is continuing. Accordingly, all objections are made in light of discovery completed to date. Plaintiffs specifically reserve the right to supplement, amend or

modify any and all responses herein as additional facts are ascertained, as additional documents are obtained, as additional contentions are formulated, and as additional discovery, analysis or research may reveal.

3. Nothing contained herein is intended to be, nor may it be construed to be a waiver of the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege.

4. This response is made by Plaintiffs subject to and without waiving any objections, and Plaintiffs specifically reserve their right to object to other discovery procedures relating to the subjects of this discovery.

5. The fact that Plaintiffs have provided the information below is not an admission they accept or admit the relevance or admissibility of this information at trial.

6. Plaintiffs object to each and every interrogatory to the extent it seeks to impose on Plaintiffs obligations inconsistent with and/or more extensive than those imposed by the Kansas Rules of Civil Procedure.

7. Plaintiffs object to each and every interrogatory to the extent it seeks information which is more properly held in the possession of Defendant or third parties. The ability to obtain such information and the burden of obtaining such information is equally on Defendant as it is on Plaintiffs. Therefore, Defendant should be required to obtain the information.

8. Plaintiffs object to each and every interrogatory to the extent it contains or is predicated upon legal or factual assumptions which are not correct or contain language that is vague or ambiguous.

9. Plaintiffs further object to the interrogatories on grounds that they are overbroad, unduly burdensome, oppressive, and propounded for purposes of harassment; they are vague and

ambiguous; they seek information which is neither relevant to the subject matter of this litigation nor reasonably calculated to lead to the discovery of admissible evidence; they are unreasonably cumulative and duplicative; they seek information that is either already in the possession of Defendant, or readily available to Defendant; and they seek information which is protected by the attorney-client privilege and/or the attorney work product doctrine.

10. Plaintiffs object to each and every interrogatory to the extent that the burden of deriving and ascertaining the answer to all or any of the interrogatories from documents produced or to be produced is substantially the same for Defendant as it is for Plaintiffs.

11. Any statement that non-privileged, responsive documents will be produced should not be construed as an admission that any responsive documents exist.

12. This preliminary statement and each of the foregoing general objections applies to each individual interrogatory and is hereby incorporated into Plaintiffs' specific responses and objections to each individual request.

13. Without waiver of its general objections, Plaintiffs respond as follows:

OBJECTIONS AND SUPPLEMENTAL RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 1:

If you denied the request for admission contemporaneously served with these interrogatories,

- a. List each weighting factor that you contend violates rights under the United States Constitution or Sections 1 or 2 of the Bill of Rights of the Kansas Constitution;
- b. Describe the material facts that support your position;
- c. Identify the person or persons who have personal knowledge of such facts; and

- d. Identify all documents or tangible things that you contend are direct evidence of such facts.

ANSWER:

Objection. This request is overly burdensome, unnecessarily voluminous, irrelevant, not reasonably calculated to lead to the discovery of admissible evidence, compound and assumes facts not in evidence. “[A] contention interrogatory which seeks ‘all facts’ . . . is overly broad and unduly burdensome on its face.” *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party’s contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard. Plaintiffs do not represent that the answers herein are all the facts that may support their contentions.

Subject to and without waiving the foregoing objections, Plaintiffs respond as follows:

To the extent the School District Finance and Quality Performance Act (“SDFQPA”) is not severable and the referenced weighting factors are an integral part of the SDFQPA, Plaintiffs necessarily allege any and all weighting factors violate their constitutional rights to the same extent that any other aspect of the SDFQPA violates any of Plaintiffs’ constitutional rights.

INTERROGATORY NO. 2:

Concerning your allegations in Petition, ¶ 98:

- a. Describe the material facts that support your position, including but not limited to the invidious classifications created by the State;

- b. Identify the person or persons who have personal knowledge of such facts; and
- c. Identify all documents or tangible things that you contend are direct evidence of such facts.

ANSWER:

Objection. This request is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. “[A] contention interrogatory which seeks ‘all facts’ . . . is overly broad and unduly burdensome on its face.” *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party’s contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard.

INTERROGATORY NO. 3:

If a plaintiff or plaintiffs contend the State’s current funding formula or appropriations for Kansas K-12 public education have or will disparately impact so as to deny the right to equal protection under the Fourteenth Amendment of the United States Constitution or Sections 1 or 2 of the Bill of Rights of the Kansas Constitution:

- a. Describe the category of person(s) discriminated against;
- b. Describe the material facts, if any, that support that the differing treatment of person(s) in the category stated in your answer to subpart “a” was the predominant, motivating factor in State’s funding formula or appropriations;
- c. Identify the person or persons who have personal knowledge of such facts; and

- d. Identify all documents or tangible things that you contend are direct evidence of such facts.

ANSWER:

Objection. This request is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. “[A] contention interrogatory which seeks ‘all facts’ . . . is overly broad and unduly burdensome on its face.” *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party’s contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard.

INTERROGATORY NO. 4:

Separately for each Plaintiff School District,

- a. Describe each such school district’s program, policy, practice, service or benefit cut, discontinued, reduced or otherwise negatively impacted by lack in funding for the fiscal years 2009-10, 2010-11, 2011-12;
- b. Describe the material facts that support your position;
- c. Identify the person or persons who have personal knowledge of such facts; and
- d. Identify all documents or tangible things that you contend are direct evidence of such facts.

ANSWER:

Objection. This request is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. “[A] contention interrogatory which seeks ‘all facts’ . . . is overly broad and unduly burdensome on its face.” *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party’s contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard. Plaintiffs do not represent that the answers herein are all the facts that may support their contentions. Finally, this interrogatory is vague and ambiguous, especially to the extent it does not define the phrase “program, policy, practice, service or benefit.”

Subject to and without waiving the foregoing objections, Plaintiffs respond as follows:

Plaintiffs will, pursuant to an agreement between the parties, supplement these responses at a later date to respond on behalf of Plaintiff USD 259.

Pursuant to K.S.A. 60-233, Plaintiff School Districts identify any and all documents previously produced with Plaintiffs’ Objections and Responses to Defendant’s First Request for Production regarding programs, policies, services, and benefits which may also be responsive to this Interrogatory, including but not limited to budgeting, expenditure, and financial documents for the period of 2009-2012 identified as responsive to and produced with Defendant’s Requests No. 2-26.

Additionally, USD 308 responds as follows: Pursuant to K.S.A. 60-233, USD 308 identifies the following documents as responsive to subparts (a), (b), and (d) of Defendant's interrogatory:

- USD 308 2009-2010 Budget, Bates No. USD308 001062-1288.
- USD 308 2010-2011 Budget, Bates No. USD308 001289-1522.
- USD 308 Annual Operating Budget, For the period July 1, 2009, through, June 30, 2010, Bates No. USD308 002077-2222.
- USD 308 Annual Operating Budget, For the period July 1, 2010, through, June 30, 2011, Bates No. USD308 002223-2369.
- USD 308 Comprehensive Annual Financial Report for FY ending June 30, 2009, Bates No. USD308 002734-2853.
- USD 308 Comprehensive Annual Financial Report for FY ending June 30, 2010, Bates No. USD308 002854-2983.
- USD 308 Unencumbered Cash Balances for FY 2011, Bates No. USD308 002987-2988.
- USD 308 Treasurer's Report for Month End June 2010, Bates No. USD308 002989-3010.
- USD 308 Treasurer's Report for Month End June 2009, Bates No. USD308 003011-3053.
- USD 308 Treasurer's Report for Month End March 2011, Bates No. USD308 003116-3179.
- USD 308 Expense Detail Report showing Durham School Services Payments through 4-18-11, Bates No. USD308 003181-3221.
- USD 308 Operating Expense Reports, Bates No. USD308 004916-5622.

USD 308 provides the following additional information as responsive to subparts (a) and (b) of Defendant's interrogatory:

- Central Office Administration – Two certified administration positions cut in 2009-10
- Board of Education – Training travel lined in 2009-10
- Human Resources Contingency – Lowered in 2009-10
- Professional Development/Classified Professional Development – Funding reduced in 2009-10, 2010-11

- School Improvement Work – Teacher pay for School Improvement reduced in 2009-10
- Supplies and Equipment – Funds for Supplies and Equipment reduced in 2009-10 and 2011-12
- After-School Programs – Middle Level After-School Programs eliminated in 2009-10; Elementary After-School Programs reduced in 2010-11
- Classified, Licensed, and Administrative Staff – Various staff positions have been cut in 2009-10, 2010-11, and 2011-12
- Transportation – Transportation lines reduced (fewer routes) in 2009-10; transportation funds reduced in 2011-12
- Vehicles – New Vehicle replacement cycle cut in 2010-11
- Library Books – Purchase of Library Books reduced in 2010-11
- Textbooks – Fund reduced in 2010-11
- Overtime – Reduced in 2010-11
- Summer School – Program reduced in 2010-11
- Activities Budget and Funds – Budget reduced in 2010-11; Funds reduced in 2011-12
- Workbooks – Reduced in 2010-11
- Field Trips – Fund reduced in 2010-11
- Maintenance – Deferred in 2010-11
- Memberships – Board membership reduced in 2010-11
- MYP/IB – Training supplies and dues reduced in 2010-11
- SRO and Probation Officer – Reduced 1 SRO in 2010-11; Reduced 1 SRO and 1 Probation Officer in 2011-12
- Insurance – Reduced in 2011-12
- Security – Costs reduced in 2011-12
- Custodial Uniforms – Uniform service eliminated in 2011-12
- Technology Education Support Teacher Program – Eliminated in 2011-12

USD 308 provides the following additional information as responsive to subpart (c) of Defendant's interrogatory: Central Office and Building Level Administrators.

USD 443 responds as follows: Pursuant to K.S.A. 60-233, USD 443 identifies the documents listed in subpart (d) as responsive to subparts (a) and (b) and provides the following additional information:

- a. Description of program, policy, practice, service or benefit cut, discontinued, reduced or otherwise negatively impacted: Early Retirement Program; Summer School Program; After-School Program; Staff Development; Salary Expenses; and Instructional Material Fees Waiver.
- b. Description of material facts supporting position: Pursuant to K.S.A. 60-233, refer to the documents identified by USD 443 in subpart(d).
- c. Person or persons who have personal knowledge of such facts: USD 443 Superintendent Alan R. Cunningham; USD 443 Board of Education; and USD 443 Administrative Council.
- d. Documents or tangible things that are direct evidence of such facts:
 - USD 443 Board of Education Memorandum Regarding Budget Reductions, Bates No. USD443 007320-7321 (some of these programs were ultimately renewed because of the receipt of federal funding, as seen in subsequent documents, Bates No. USD443 000411-412, 000415-416, produced herewith).
 - USD 443 Approval of Instructional Material Fees for 2010-11, Bates No. USD443 000409-0410, produced herewith.
 - USD 443 Staff Development “Priority for Funding” Rubric, Bates No. USD443 000414, produced herewith.
 - USD 443 Approval to Terminate the Early Retirement Plan, Bates No. USD443 000413, produced herewith.
 - USD 443 Revenue and Expenditure Information for FY 2010 through FY 2015 with LOB Assumptions, Bates No. USD443 007328-7329.

USD 500 responds as follows: Pursuant to K.S.A. 60-233, USD 500 identifies USD 500 Budget Reduction Phases, Bates No. USD500 001514-1517 as responsive to this interrogatory.

SUPPLEMENTAL ANSWER:

USD 259 responds as follows: Pursuant to K.S.A. 60-233, USD 259 identifies the following documents as responsive to subparts (a), (b) and (d) of Defendant’s interrogatory:

- USD 259 Budget Documents Forms, Bates No. USD259 008762-8802.

- USD 259 2009-2010 to 2011-2012 Budget Cuts Document, Bates No. USD259 008803-8808.

USD 259 provides the following additional information as responsive to subparts (c) of Defendant's interrogatory: Ronda Goode and Linda Jones.

INTERROGATORY NO. 5:

Separately for each Plaintiff School District,

- a. Describe each such school district's new program, policy, practice, service or benefit created or implemented in the fiscal years 2009-10, 2010-11, 2011-12 and specifically pertaining to "pre-school at-risk pupils", "preschool aged exceptional children", "at-risk pupils", "nonproficient students", "vocational education programs", "programs of bilingual education" or "special education";
- b. Describe the material facts that supported creation or implementation of the new program, policy, practice, service or benefit;
- c. Identify the person or persons who have personal knowledge of such facts; and
- d. Identify all documents or tangible things that you contend are direct evidence of such facts.

ANSWER:

Objection. This request is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. The interrogatory is overly broad and unduly burdensome, especially to the extent it assumes Plaintiffs can delineate between programs, policies, practices, services, and benefits specific to a certain subset of pupils. Furthermore, "a contention interrogatory which seeks 'all facts' . . . is overly broad and unduly burdensome on its face." *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL

1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party's contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard. Plaintiffs do not represent that the answers herein are all the facts that may support their contentions. Finally, this interrogatory is vague and ambiguous, especially to the extent it does not define the phrase "program, policy, practice, service or benefit."

Subject to and without waiving the foregoing objections, Plaintiffs respond as follows:

Plaintiffs will, pursuant to an agreement between the parties, supplement these responses at a later date to respond on behalf of Plaintiff USD 259.

USD 308 responds as follows: Pursuant to K.S.A. 60-233, USD 308 identifies the following documents as responsive to subparts (a), (b), and (d) of Defendant's interrogatory:

- USD 308 2009-2010 Budget, Bates No. USD308 001062-1288.
- USD 308 2010-2011 Budget, Bates No. USD308 001289-1522.
- USD 308 Annual Operating Budget, For the period July 1, 2009, through, June 30, 2010, Bates No. USD308 002077-2222.
- USD 308 Annual Operating Budget, For the period July 1, 2010, through, June 30, 2011, Bates No. USD308 002223-2369.
- USD 308 Vocational Program Documents, Bates No. USD308 004095-4146.
- USD 308 Instructional Coach PLC Documents, Bates No. USD308 004176-4187.
- USD 308 Federal Grants and Applications, Bates No. USD308 004188-4590.
- USD 308 Career and Technical Education Academy Minutes, Bates No. USD308 006376-6460.
- USD 308 Career Pathway Program Documents, Bates No. USD308 007650-7752.

USD 308 provides the following additional information as responsive to subparts (a) and (b) of Defendant's interrogatory:

- Vocational Education – added Allied Health in 2009-10; added Construction Technology and Med-Science Aid in 2010-11; added Residential HVAC, Plumbing, and Electrical in 2011-12 through re-assignment of existing staff
- Added ELL Summer School Program using grant funds in 2009-10
- Implemented Autism Program in 2009-10 through re-assignment of staff from other programs
- Added Elementary Instructional Coaches in 2010-11 through re-assignment of existing staff
- Added Summer Upper Elementary School in 2011-12

USD 308 provides the following additional information as responsive to subpart (c) of Defendant’s interrogatory: Superintendent, Assistant Superintendent, Director of Career and Technical Education, Director of Special Education.

USD 443 identifies the Dropout Prevention Program as responsive to subpart (a) of this request. Pursuant to K.S.A. 60-233, USD 443 identifies USD 443 Dropout Prevention Presentation, Bates No. USD443 006740-6749 as responsive to subparts (a), (b), and (d) of this request. USD 443 identifies Alternative Education Principal Mr. Matt Turner and Assistant Superintendent for Secondary Education Mr. Gregory Springston as responsive to subpart (c) of this request.

USD 500 responds as follows: USD 500 did not create or implement any new programs, policies, practices, services, or benefits responsive to this request.

SUPPLEMENTAL ANSWER:

USD 259 responds as follows: Pursuant to K.S.A. 60-233, USD 259 identifies the following documents as responsive to subpart (d) of Defendant’s interrogatory:

- USD 259 Budget Documents Forms, Bates No. USD259 008762-8802.

USD 259 provides the following additional information as responsive to subpart (a) of Defendant’s interrogatory: Multi-Tiered System of Supports (MTSS) is a state directed mandate

to school districts. It is based upon a national called Response to Intervention (RTI) movement. MTSS is in all schools in USD 259. It has a behavior component and an academic component. At this time one half of schools in USD 259 have adopted the behavior component and one half have adopted the academic component.

USD 259 provides the following additional information as responsive to subpart (b) of Defendant's interrogatory: Improved student performance and data-driven decision-making.

USD 259 provides the following additional information as responsive to subpart (c) of Defendant's interrogatory: John Allison, Gil Alvarez, Karen Boettcher, Kathy Busch, Neil Guthrie, Wendy Johnson, Linda Jones, Janet Jump, Mary Kelly, Jackie Lugrand, Lisa Lutz, Jim Means, Sherman Padgett, Susan Rosell, Denise Seguine, Susanne Smith, Alicia Thompson, Mary Whiteside, Bryan Wilson, Richard Wirtz, Denise Wren.

SECOND SUPPLEMENTAL ANSWER:

Please also see the testimony of the corporate representative deponents of USD 259, 208, 443, and 500 regarding this topic.

INTERROGATORY NO. 6:

Separately for each Plaintiff School District,

- a. Describe each such school district's new program, policy, practice, service or benefit created or implemented in the fiscal years 2009-10, 2010-11, 2011-12 to improve education performance because of or in attempt to comply with the NCLB, Common Core standards, EEOA of 1974 regarding language barriers and/or standardized tests;
- b. Describe the material facts that supported creation or implementation of the new program, policy, practice, service or benefit;
- c. Identify the person or persons who have personal knowledge of such facts; and

- d. Identify all documents or tangible things that you contend are direct evidence of such facts.

ANSWER:

Objection. This request is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. In effect, it seeks any “program, policy, practice, service or benefit created or implemented in the fiscal years 2009-10, 2010-11, 2011-12” because an overall goal of each of the Plaintiff School Districts is to improve educational performance. Moreover, “a contention interrogatory which seeks ‘all facts’ . . . is overly broad and unduly burdensome on its face.” *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party’s contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard. Plaintiffs do not represent that the answers herein are all the facts that may support their contentions. Furthermore, this interrogatory is vague and ambiguous, especially to the extent it does not define the phrase “program, policy, practice, service or benefit” or “language barriers and/or standardized tests.” Finally, some of the information requested is equally available to Defendant, and as such, Plaintiffs have no duty to produce such information.

Subject to and without waiving the foregoing objections, Plaintiffs respond as follows:

Plaintiffs will, pursuant to an agreement between the parties, supplement these responses at a later date to respond on behalf of Plaintiff USD 259.

USD 308 responds as follows: Pursuant to K.S.A. 60-233, USD 308 identifies the following documents as responsive to subparts (a), (b), and (d) of Defendant's interrogatory:

- USD 308 Grade Level Meeting Agendas and Minutes, Bates No. USD308 004147-4164.
- USD 308 Staffing Documents, Bates No. USD308 004165-4175.
- USD 308 Federal Grants and Applications, Bates No. USD308 004188-4590.
- USD 308 Art & Science of Teaching Documents, Bates No. USD308 006461-7282.
- USD 308 Department Meeting Agendas and Minutes, Bates No. USD308 007283-7362.
- USD 308 Division of Student Learning Meeting Agendas and Minutes, Bates No. USD308 007363-7486.

USD 308 provides the following additional information as responsive to subparts (a) and (b) of Defendant's interrogatory:

- Professional Development – added Art and Science of Teaching Instructional Model in 2009-10, Reading Fluency K-6 and Cognitive Coaching in 2010-11, and Common Core Professional Development in 2011-12
- Implementation of Kansas Learning Network Coaches in two buildings in 2009-10
- TRC Grant for Avenue A Elementary School in 2010-11 and TRC Grant for Graber Elementary School in 2011-12
- Implementation of iObservation classroom walkthrough protocol in 2010-11
- Additional summer school programming for special education students in 2010-11
- Implementation of Lincoln Excellence Project in 2011-12

USD 308 provides the following additional information as responsive to subpart (c) of Defendant's interrogatory: Assistant Superintendent, Director of Elementary Education, Director of Special Education.

USD 443 responds as follows: Pursuant to K.S.A. 60-233, USD 443 identifies the documents listed in subpart (d) as responsive to subparts (a), (b), and (c) and provides the following additional information:

- a. Description of program, policy, practice, service or benefit: District Improvement Advisory Council; WestEd Curriculum Review; and Walk-Through Data Instrument.
- b. Description of material facts supporting creation or implementation: USD 443's status as district to be labeled "On Improvement"; Identification of achievement gaps among student subgroups.
- c. Person or persons who have personal knowledge of such facts: Superintendent Mr. Alan R. Cunningham; Assistant Superintendents Mr. Gregory Springston and Ms. Judy Beedles-Miller; and Administrative Council.
- d. Documents or tangible things that are direct evidence of such facts:
 - USD 443 District "On Improvement" Presentation, Bates No. USD443 000427-445, produced herewith.
 - USD 443 Integrated Improvement Plan for Districts, Bates No. USD 000446R-0476R, produced herewith.
 - USD 443 Needs Analysis, Bates No. USD443 000477-521, produced herewith.
 - USD 443 Observations and Recommendations for Preschool through Grade 2 Literacy Instruction, Bates No. USD443 000522-572, produced herewith.

USD 500 responds as follows: Pursuant to K.S.A. 60-233, USD 500 identifies the documents listed in subpart (d) as responsive to subparts (a), (b), and (c) and provides the following additional information:

- a. Description of program, policy, practice, service or benefit: This practice establishes a cycle of goal setting, instruction, differentiated instruction, assessment, data, and adjustments, to ensure that each and every student is successful by aligning USD 500's standards to ACT or national standards, in addition to Kansas standards. USD 500 implemented year one of this practice during the 2010-11 school year and will implement year two during the 2011-12 school year.
- b. Description of material facts supporting creation or implementation: District's performance on Kansas State Assessments during 2005-2009 and performance data on ACT during 2005-2009.
- c. Person or persons who have personal knowledge of such facts:

- Superintendent Dr. Cynthia Lane
 - Assistant Superintendents Mr. Jayson Strickland and Ms. Marcy Clay
 - Chief of Staff Mr. David Smith
 - Chief Financial Officer Dr. Kelli Mather
 - District Principals
 - District Teacher Leaders
 - Executive Directors of Instruction
 - Board of Education
- d. Documents or tangible things that are direct evidence of such facts:
- Any documents demonstrating USD 500's performance results on Kansas State Assessments and ACT during 2005-2009
 - The document available at http://www.kckps.org/dera/fastfacts/fundamental_and_checkpoint_assessment_guidelines.pdf.

SUPPLEMENTAL ANSWER:

USD 259 responds as follows: Pursuant to K.S.A. 60-233, USD 259 identifies the following documents as responsive to subpart (d) of Defendant's interrogatory:

- USD 259 Budget Documents Forms, Bates No. USD259 008762-8802.

USD 259 provides the following additional information as responsive to subpart (a) of Defendant's interrogatory: Multi-Tiered System of Supports (MTSS) is a state directed mandate to school districts. It is based upon a national called Response to Intervention (RTI) movement. MTSS is in all schools in USD 259. It has a behavior component and an academic component. At this time one half of schools in USD 259 have adopted the behavior component and one half have adopted the academic component.

USD 259 provides the following additional information as responsive to subpart (b) of Defendant's interrogatory: Improved student performance and data-driven decision-making.

USD 259 provides the following additional information as responsive to subpart (c) of Defendant's interrogatory: John Allison, Gil Alvarez, Karen Boettcher, Kathy Busch, Neil

Guthrie, Wendy Johnson, Linda Jones, Janet Jump, Mary Kelly, Jackie Lugrand, Lisa Lutz, Jim Means, Sherman Padgett, Susan Rosell, Denise Seguine, Susanne Smith, Alicia Thompson, Mary Whiteside, Bryan Wilson, Richard Wirtz, Denise Wren.

SECOND SUPPLEMENTAL ANSWER:

Please also see the testimony of the corporate representative deponents of USD 259, 208, 443, and 500 regarding this topic.

INTERROGATORY NO. 7:

Separately for each Plaintiff School District,

- a. Describe each such school district's program, policy, practice implemented in the fiscal years 2009-10, 2010-11, 2011-12 to reduce costs or save money;
- b. Identify the person or persons who have personal knowledge of such; and
- c. Identify all documents or tangible things that you contend are direct evidence of such facts.

ANSWER:

Objection. “[A] contention interrogatory which seeks ‘all facts’ . . . is overly broad and unduly burdensome on its face.” *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party's contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard. Plaintiffs do not represent that the answers herein are all the facts that may support their

contentions. This interrogatory is vague and ambiguous, especially to the extent it does not define the phrase “program, policy, practice, service or benefit.”

Furthermore, this request is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. This interrogatory seeks documents which create an unnecessary burden on Plaintiffs and which are not relevant to this litigation. For example, USD 308 identifies the following types of documents as responsive to subpart (d) of Defendant’s interrogatory, but does not produce them herewith because of the breadth of the scope of the request and the irrelevance of these documents to this litigation:

- Monthly telephone bills
- Equipment Purchase documents
- Software/Hardware Purchase documents
- Business Office software
- Automated Banking Reports

Subject to and without waiving the foregoing objections, Plaintiffs respond as follows:

Plaintiffs will, pursuant to an agreement between the parties, supplement these responses at a later date to respond on behalf of Plaintiff USD 259.

Pursuant to K.S.A. 60-233, Plaintiff School Districts identify any and all documents previously produced with Plaintiffs’ Objections and Responses to Defendant’s First Request for Production which may also be responsive to this Interrogatory, including but not limited to budgeting, expenditure, and financial documents for the period of 2009-2012 identified as responsive to and produced with Defendant’s Requests No. 2-26.

Additionally, USD 308 responds as follows: Pursuant to K.S.A. 60-233, USD 308 identifies USD 308 Expense Detail Report showing Durham School Services Payments through 4-18-11, Bates No. USD308 003181-3221, as responsive to subparts (a) and (b) of this interrogatory and provides the following additional information:

USD 308 provides the following additional information as responsive to subparts (a) and (b) of Defendant's interrogatory: Implementation of Voice Over IP in 2009-10; Implementation of Automated Attendant and Paperless Board Agendas and Reports in 2010-11; Implementation of Server Farm Virtualization in 2010-11; Rebid bus contract in 2011-12; Implementation of Desktop Virtualization through "Cloud Computing" in 2011-12; and Implementation of Electronic W-2s in 2011-12.

USD 308 provides the following information as responsive to subpart (c) of Defendant's interrogatory: Information Technology Director, Board Clerk, Transportation Director, Director of Fiscal Management.

USD 443 responds as follows: Pursuant to K.S.A. 60-233, USD 443 identifies Energy Management Conservation Documents, Bates No. USD443 000573-0656, produced herewith, as responsive to subparts (a), (b), and (c) of this interrogatory. USD 443 identifies the USD 443 Board of Education, USD 443 Administrative Cabinet, and Energy Audit Consultant Dr. Morris Reeves as responsive to subpart (b) of this interrogatory.

USD 500 responds as follows: USD 500 identifies the following information as responsive to subpart (b) of this interrogatory: Superintendent Dr. Cynthia Lane, Assistant Superintendents Mr. Jayson Strickland and Ms. Marcy Clay, Chief of Staff Mr. David Smith, Chief Financial Officer Dr. Kelli Mather, Director of Finance Ms. Connie Brand, and USD 500 Board of Education.

SUPPLEMENTAL ANSWER:

USD 259 responds as follows: Pursuant to K.S.A. 60-233, USD 259 identifies the following documents as responsive to subpart (a) and (c) of Defendant's interrogatory:

- USD 259 2009-2010 to 2011-2012 Budget Cuts Document, Bates No. USD259 008803-8808.

USD 259 provides the following additional information as responsive to subpart (b) of Defendant's interrogatory: Ronda Goode and Linda Jones.

SECOND SUPPLEMENTAL ANSWER:

Please also see the testimony of the corporate representative deponents of USD 259, 208, 443, and 500 regarding this topic.

INTERROGATORY NO. 8:

Separately for each Plaintiff School District and only for fiscal years ending 2010 or 2011:

- a. Identify all persons who conducted any financial audit of all or portions of the school district;
- b. Identify all persons who studied or evaluated the need for new programs or practices for the school district specifically designed for improving education performance because of or in attempt to comply with the NCLB, Common Core standards, EEOA of 1974 regarding language barriers and/or standardized tests;
- c. Identify all persons who studied or evaluated the need for cuts, reduction, or restriction to programs or practices for the school district specifically designed for improving education performance because of or in attempt to comply with the NCLB, Common Core standards, EEOA of 1974 regarding language barriers and/or standardized tests;
- d. Identify all persons who studied or evaluated the need for school closing, consolidation or school attendance area reorganization in the school district;
- e. Identify all persons who studied or evaluated individual building utilization or capacity in the school district;

- f. Identify all persons who studied or evaluated needed improvements or new construction in the school district;
- g. Identify all persons who studied or evaluated furlough or termination of teacher or instructors in the school district;
- h. Identify all persons who studied or evaluated furlough or termination of administration staff in the school district;
- i. (none)
- j. Identify all persons who studied or evaluated furlough or termination of other employees or contractors in the school district;
- k. Identify all persons who studied or evaluated change in the school district's guidelines or policies concerning class sizes or pupil/teacher ratios;
- l. Identify all persons who studied or evaluated change in the school district's program or policy specifically pertaining to "pre-school at-risk pupils," "preschool aged exceptional children," "at-risk pupils," "nonproficient students," "vocational education program," "programs of bilingual education" or "special education";
- m. Identify all persons who studied or evaluated change in the school district's program or policy generally pertaining to "pre-school at-risk pupils," "preschool aged exceptional children," "at-risk pupils," nonproficient students," "vocational education programs," "programs of bilingual education" or "special education;"

ANSWER:

Objection. Plaintiffs objects to this interrogatory to the extent it is characterized as one interrogatory as it is compound and includes twelve discrete subparts. "[A] contention interrogatory which seeks 'all facts' . . . is overly broad and unduly burdensome on its face." *Western Res.*,

Inc. v. Union Pac. R.R. Co., No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001).

An interrogatory may seek only the material or principal facts which support a party's contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard. Plaintiffs do not represent that the answers herein are all the facts that may support their contentions.

Furthermore, this interrogatory is overly broad, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. It is overly broad and unduly burdensome to the extent it seeks information regarding "programs or practices" "specifically designed for improving education performance" because such is an overall goal of all programs and practices of each of the Plaintiff School Districts and because it assumes Plaintiffs can delineate between programs or policies specific to a certain subset of pupils. This interrogatory seeks irrelevant information and is not reasonably calculated to lead to the discovery of admissible evidence because it seeks information regarding all terminations of Plaintiff School District teachers, instructors, administration staff, or other employees or contractors and not just those relevant to this litigation. This interrogatory is vague and ambiguous, especially to the extent it does not define the phrase "program, policy, practice, service or benefit" or "language barriers and/or standardized tests." To the extent this interrogatory seeks information protected by the work product or attorney client privilege, Plaintiffs object. Finally, to the extent this interrogatory seeks "persons who conducted any financial audit" or "persons who studied or evaluated" the items enumerated in subparts (b)-(m) and those persons were not affiliated with or acting at the

direction of the Plaintiffs, the information is in the possession, custody, or control of a third party, and as such, Plaintiffs have no duty to provide that information.

Subject to and without waiving the foregoing objections, Plaintiffs respond as follows:

Plaintiffs will, pursuant to an agreement between the parties, supplement these responses at a later date to respond on behalf of Plaintiff USD 259.

USD 308 responds as follows:

- a. Persons who conducted any financial audit: Certified Public Accountants with accounting firm Swindoll, Janzen, Hawk, and Loyd; Kansas State Department of Education Auditor; and Head Start Auditor.
- b. Persons who studied or evaluated the need for new programs or practices: Division of Student Learning Staff and Building Administrators.
- c. Persons who studied or evaluated the need for cuts, reduction, or restriction: Administrative Leadership Team
- d. Persons who studied or evaluated the need for school closing, consolidation or reorganization: Director of Elementary Education and Superintendent.
- e. Persons who studied or evaluated individual building utilization or capacity: Director of Operations; Director of Elementary Education; and Superintendent.
- f. Persons who studied or evaluated needed improvements or new construction: Director of Operations and Bond Project Manager.
- g. Persons who studied or evaluated furlough or termination of teacher or instructors: Administrative Leadership Team
- h. Persons who studied or evaluated furlough or termination of administration staff: Administrative Leadership Team
- i. (none)
- j. Persons who studied or evaluated furlough or termination of other employees or contractors: Administrative Leadership Team
- k. Persons who studied or evaluated change in guidelines or policies concerning class sizes or pupil/teacher ratios: Director of Elementary Education; Superintendent; and Assistant Superintendent for Learning

- l. Persons who studied or evaluated change in the school district's program or policy specifically pertaining to "pre-school at-risk pupils", "preschool aged exceptional children," "at-risk pupils," "nonproficient students," "vocational education program," "programs of bilingual education" or "special education": Director of Special Education; Assistant Superintendent of Learning; Director of Elementary Education; and Director of Career and Technical Education

- m. Persons who studied or evaluated change in the school district's program or policy generally pertaining to "pre-school at-risk pupils," "preschool aged exceptional children," "at-risk pupils," nonproficient students," "vocational education programs," "programs of bilingual education" or "special education": Director of Special Education; Assistant Superintendent of Learning; Director of Elementary Education; and Director of Career and Technical Education

USD 443 responds as follows:

- a. Persons who conducted any financial audit:
 - McKee & Company LLP Certified Public Accountants Mr. James W. Kennedy, Mr. Patrick M. Friess, Ms. Doris M. Donovan, and Ms. Jenna L. Nau; 1100 W. Frontview, P.O. Box 1477; Dodge City, Kansas 67801; 620-227-3135
 - Kansas Department of Education Auditor Ms. Judy Demuth; 120 SE 10th, Topeka, Kansas; 785-296-4976
 - USD 443 Comptroller Ms. Molly J. Miller; 1000 Second Ave.; Dodge City, Kansas; 620-227-1621

- b. Persons who studied or evaluated the need for new programs or practices:
 - WestEd employees Ms. Cindy Day, Mr. Joe Sassone, Ms. Marla Perez-Seles, Ms. Liz Jamison, and Mr. Robert Rosenfeld
 - Kansas Learning Network members Mr. Steve Gering, Ms. Eleanor Johnson, and Ms. Joyce Carter
 - Language and Literacy Consulting, Inc. Consultants Ms. Laurie Lieker-Winter, Ms. Karen Jorgensen, and Ms. Marylee Griffiths

- c. Persons who studied or evaluated the need for cuts, reduction, or restriction: None.

- d. Persons who studied or evaluated the need for school closing, consolidation or reorganization: None.

- e. Persons who studied or evaluated individual building utilization or capacity: GMLV Architecture, Inc. Architect Mr. Tom Montgomery; Building Administrators; Administrative Cabinet; Capital Outlay Committee; and Board of Education

- f. Persons who studied or evaluated needed improvements or new construction: GMLV Architecture, Inc. Architect Mr. Tom Montgomery; Building Administrators; Administrative Cabinet; Capital Outlay Committee; and Board of Education
- g. Persons who studied or evaluated furlough or termination of teacher or instructors: None.
- h. Persons who studied or evaluated furlough or termination of administration staff: None.
- i. (none)
- j. Persons who studied or evaluated furlough or termination of other employees or contractors: None.
- k. Persons who studied or evaluated change in guidelines or policies concerning class sizes or pupil/teacher ratios: Superintendent Mr. Alan R. Cunningham; Assistant Superintendents Mr. Gregory Springston and Ms. Judy Beedles-Miller; and Board of Education
- l. Persons who studied or evaluated change in the school district's program or policy specifically pertaining to "pre-school at-risk pupils", "preschool aged exceptional children," "at-risk pupils," "nonproficient students," "vocational education program," "programs of bilingual education" or "special education": Superintendent Mr. Alan R. Cunningham; Assistant Superintendents Mr. Gregory Springston and Ms. Judy Beedles-Miller; Kansas Learning Network; Director of ESL/Migrant Education Dr. Robert Vinton; and USD 613 Assistant Director for Special Education Mr. John Maples
- m. Persons who studied or evaluated change in the school district's program or policy generally pertaining to "pre-school at-risk pupils," "preschool aged exceptional children," "at-risk pupils," nonproficient students," "vocational education programs," "programs of bilingual education" or "special education": Superintendent Mr. Alan R. Cunningham; Assistant Superintendents Mr. Gregory Springston and Ms. Judy Beedles-Miller; Kansas Learning Network; Director of ESL/Migrant Education Dr. Robert Vinton; and USD 613 Assistant Director for Special Education Mr. John Maples

USD 500 responds as follows:

- a. Persons who conducted any financial audit:
 - Lowenthal, Webb & Oddermann P.A. Certified Public Accountants, 900 Massachusetts, Suite 301, Lawrence, KS 66044-2868
 - Kansas State Department of Education Auditor

- b. Persons who studied or evaluated the need for new programs or practices: Superintendent Dr. Cynthia Lane; Assistant Superintendents Mr. Jayson Strickland and Ms. Marcy Clay; Chief of Staff Mr. David Smith; Chief Financial Officer Dr. Kelli Mather; District Principals; District Teacher Leaders; Executive Directors of Instruction; and Departmental Directors of Special Education, ESL, and Curriculum
- c. Persons who studied or evaluated the need for cuts, reduction, or restriction: Superintendent Dr. Cynthia Lane; Assistant Superintendents Mr. Jayson Strickland and Ms. Marcy Clay; Chief of Staff Mr. David Smith; and Chief Financial Officer Dr. Kelli Mather
- d. Persons who studied or evaluated the need for school closing, consolidation or reorganization: None.
- e. Persons who studied or evaluated individual building utilization or capacity: Superintendent Dr. Cynthia Lane; Chief Financial Officer Dr. Kelli Mather; Board of Education
- f. Persons who studied or evaluated needed improvements or new construction: Superintendent Dr. Cynthia Lane; Chief Financial Officer Dr. Kelli Mather; Board of Education; and Educational design firm ACI/Frangkiser Hutchens, Inc.
- g. Persons who studied or evaluated furlough or termination of teacher or instructors: Superintendent Dr. Cynthia Lane; Assistant Superintendents Mr. Jayson Strickland and Ms. Marcy Clay; Chief of Staff Mr. David Smith; and Chief Financial Officer Dr. Kelli Mather
- h. Persons who studied or evaluated furlough or termination of administration staff: Superintendent Dr. Cynthia Lane; Assistant Superintendents Mr. Jayson Strickland and Ms. Marcy Clay; Chief of Staff Mr. David Smith; and Chief Financial Officer Dr. Kelli Mather
- i. (none)
- j. Persons who studied or evaluated furlough or termination of other employees or contractors: Superintendent Dr. Cynthia Lane; Assistant Superintendents Mr. Jayson Strickland and Ms. Marcy Clay; Chief of Staff Mr. David Smith; and Chief Financial Officer Dr. Kelli Mather
- k. Persons who studied or evaluated change in guidelines or policies concerning class sizes or pupil/teacher ratios: Superintendent Dr. Cynthia Lane; Chief Financial Officer Dr. Kelli Mather; Former Assistant Superintendent of Human Resources Mr. J.D. Rios; Former Executive Director of Human Resources Mr. Tom Petz; Director of Human Resources Mrs. Barbara Kirkegaard

- l. Persons who studied or evaluated change in the school district's program or policy specifically pertaining to "pre-school at-risk pupils", "preschool aged exceptional children," "at-risk pupils," "nonproficient students," "vocational education program," "programs of bilingual education" or "special education": Superintendent Dr. Cynthia Lane; Assistant Superintendents Mr. Jayson Strickland and Ms. Marcy Clay; Chief of Staff Mr. David Smith; Chief Financial Officer Dr. Kelli Mather; District Principals; District Teacher Leaders; and Executive Directors of Instruction
- m. Persons who studied or evaluated change in the school district's program or policy generally pertaining to "pre-school at-risk pupils," "preschool aged exceptional children," "at-risk pupils," nonproficient students," "vocational education programs," "programs of bilingual education" or "special education": Superintendent Dr. Cynthia Lane; Assistant Superintendents Mr. Jayson Strickland and Ms. Marcy Clay; Chief of Staff Mr. David Smith; Chief Financial Officer Dr. Kelli Mather; District Principals; District Teacher Leaders; and Executive Directors of Instruction

SUPPLEMENTAL ANSWER:

USD 259 responds as follows:

- a. Persons who conducted any financial audit:
 - Sub-recipient Audit - Office of Inspector General (OIG)
 - Records for June 2006 – September 2008 – Medicaid
 - Records for June 2010 – 2011 ARRA Funds
 - Sub-recipient Audit – Federal Auditors
 - Title Monies
 - Sub-recipient Monitoring Visits – State Department
 - Title Monies
 - Official Enrollment State Audit - YEARLY
 - Transportation
 - ESOL (Bilingual)
 - SCTE (Vocational)
 - eSchool (Virtual School)
 - Homebound
 - 4 Year Old At Risk
 - At Risk
 - Nutrition Services
 - Overall Enrollment
 - Special Education – Teachers & Para's
 - Special Education - Transportation
 - Comprehensive Annual Financial Audit & Federal Grants Audit – YEARLY
 - Allen, Gibbs & Houlik LC
- b. Persons who studied or evaluated the need for new programs or practices: John Allison, Gil Alvarez, Karen Boettcher, Kathy Busch, Neil Guthrie, Wendy Johnson,

Linda Jones, Janet Jump, Mary Kelly, Jackie Lugrand, Lisa Lutz, Jim Means, Sherman Padgett, Susan Rosell, Denise Seguine, Susanne Smith, Alicia Thompson, Mary Whiteside, Bryan Wilson, Richard Wirtz and Denise Wren.

- c. Persons who studied or evaluated the need for cuts, reduction, or restriction: John Allison, Gil Alvarez, Karen Boettcher, Kathy Busch, Neil Guthrie, Wendy Johnson, Linda Jones, Janet Jump, Mary Kelly, Jackie Lugrand, Lisa Lutz, Jim Means, Sherman Padgett, Susan Rosell, Denise Seguine, Susanne Smith, Alicia Thompson, Mary Whiteside, Bryan Wilson, Richard Wirtz and Denise Wren.
- d. Persons who studied or evaluated the need for school closing, consolidation or reorganization: Kenton Cox, Joe Johnson, John Allison, Martin Libhart, Julie Hendrick, Darren Muci and Fabian Armendariz.
- e. Persons who studied or evaluated individual building utilization or capacity: Kenton Cox, Joe Johnson, John Allison, Martin Libhart, Alicia Thompson, Denise Wren, Kathy Busch and all school building principals.
- f. Persons who studied or evaluated needed improvements or new construction: Kenton Cox, Joe Johnson, John Allison, Martin Libhart, Alicia Thompson, Julie Hendrick, Dave Johnson, Denise Wren, Kathy Busch, Neil Guthrie and all school building principals.
- g. Persons who studied or evaluated furlough or termination of teacher or instructors: John Allison, Martin Libhart, Alicia Thompson, Denise Wren, Neil Guthrie, Diane Gjerstad, Bill Faflick, Denise Seguine, Martin Libhart, Linda Jones, Tom Powell, Wendy Johnson, Kim Burkhalter, Mary Whiteside and Cathy Barbieri.
- h. Persons who studied or evaluated furlough or termination of administration staff: John Allison, Martin Libhart, Alicia Thompson, Denise Wren, Neil Guthrie, Diane Gjerstad, Bill Faflick, Denise Seguine, Martin Libhart, Linda Jones, Tom Powell, Wendy Johnson, Kim Burkhalter, Mary Whiteside and Cathy Barbieri.
- i. (none)
- j. Persons who studied or evaluated furlough or termination of other employees or contractors: John Allison, Martin Libhart, Alicia Thompson, Denise Wren, Neil Guthrie, Diane Gjerstad, Bill Faflick, Denise Seguine, Martin Libhart, Linda Jones, Tom Powell, Wendy Johnson, Kim Burkhalter, Mary Whiteside and Cathy Barbieri.
- k. Persons who studied or evaluated change in guidelines or policies concerning class sizes or pupil/teacher ratios: Superintendent Mr. Alan R. Cunningham; Assistant Superintendents Mr. Gregory Springston and Ms. Judy Beedles-Miller; and Board of Education

- l. Persons who studied or evaluated change in the school district's program or policy specifically pertaining to "pre-school at-risk pupils," "preschool aged exceptional children," "at-risk pupils," "nonproficient students," "vocational education program," "programs of bilingual education" or "special education": This type of study was not conducted.
- m. Persons who studied or evaluated change in the school district's program or policy generally pertaining to "pre-school at-risk pupils," "preschool aged exceptional children," "at-risk pupils," nonproficient students," "vocational education programs," "programs of bilingual education" or "special education": John Allison, Gil Alvarez, Karen Boettcher, Kathy Busch, Neil Guthrie, Wendy Johnson, Linda Jones, Janet Jump, Mary Kelly, Jackie Lugrand, Lisa Lutz, Jim Means, Sherman Padgett, Susan Rosell, Denise Seguire, Susanne Smith, Alicia Thompson, Mary Whiteside, Bryan Wilson, Richard Wirtz, and Denise Wren.

SECOND SUPPLEMENTAL ANSWER:

Please also see the testimony of the corporate representative deponents of USD 259, 208, 443, and 500 regarding this topic.

INTERROGATORY NO. 9:

Separately for each Plaintiff School District, list all funds maintained in any fiscal year from 2005 to present, (including, if applicable, but not limited to the "program weighted fund," "categorical fund," "general fund" and "contingency reserve fund").

ANSWER:

Objection. This interrogatory is overly broad, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. Furthermore, this request is vague and ambiguous, especially to the extent it uses the phrase "all funds maintained."

Subject to and without waiving the foregoing objections, Plaintiffs respond as follows:

Plaintiffs will, pursuant to an agreement between the parties, supplement these responses at a later date to respond on behalf of Plaintiff USD 259.

USD 308 responds as follows: In the fiscal years from 2005 to present, it maintained the following funds: General, Supplemental General, At-Risk 4-Year Old, At-Risk K-12, Bilingual, Capital Outlay, Drivers' Training, Food Service, Professional Development, Parent Education program, Summer School, Special Education, Vocational Education, Gifts and Grants, Health Care Reserve, KPERS Retirement Fund, Contingency Reserve, Textbook Rental, Recreation Commission, Recreation Commission Benefits, Day Care, All Federal Funds, Kids First Fund, and Rebate Fund.

USD 443 responds as follows: Pursuant to K.S.A. 60-233, USD 443 identifies the following documents as responsive: USD 443 Audits for FY2006-2010, Bates No. USD443 002635-2972.

USD 500 responds as follows: In the fiscal years from 2005 to present, it maintained the following funds: General Fund; ARRA General Fund; Supplemental General; ARRA Supplemental General; At Risk; At Risk Preschool; ATS/TEC; Carl Perkins; Vocational Education; Special Education; Drivers Education; Transportation; Bilingual; Bilingual Federal Funds; Professional Development; Capital Outlay; Bond and Interest; Retirement; Food Service; Parents as Teachers; Special Ed COOP; Special Ed COOP federal funds; Contingency; Summer School; Work Comp; KPERS; Student Materials Revolving; Gifts and Grants; Title 1; Title IV; Title II D; Title II A; Title VI; Title 1 ARRA; Title IID ARRA; Title 1 D ARRA; 1003 Grants; PreK TL; Public Library; Public Library Benefits; Construction; and Kauffman Grant.

SUPPLEMENTAL ANSWER:

USD 259 responds as follows: Pursuant to K.S.A. 60-233, USD 259 identifies the following documents as responsive to subpart (a) and (c) of Defendant's interrogatory:

- USD 259 2004-2005 to 2011-2012 Budget Form No. 99, Bates No. USD259 008809-8824.

INTERROGATORY NO. 10:

Identify any studies or research conducted between the years 2005 and 2011 to determine the actual cost of providing an education to students enrolled in Kansas public schools.

ANSWER:

Objection. This interrogatory is overly broad, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. To the extent it seeks “any studies or research conducted” by any persons or group other than Plaintiffs, including but not limited to the Augenblick and Myers study, conducted in 2002; Legislative Post Audit Committee Cost Study Analyses, conducted in 2006 and updated August 2008; and any similar studies or research, the information is in the possession, custody, or control of a third party, and as such, Plaintiffs have no duty to provide that information.

Subject to and without waiving the foregoing objections, Plaintiffs respond as follows:

Plaintiffs will, pursuant to an agreement between the parties, supplement these responses at a later date to respond on behalf of Plaintiff USD 259.

USD 308, 443, and 500 did not conduct any studies or research responsive to this interrogatory.

SUPPLEMENTAL ANSWER:

USD 259 did not conduct any studies or research responsive to this interrogatory.

INTERROGATORY NO. 11:

Identify any studies or research conducted between the years 2005 and 2011 to determine the existence or solution to any disparities in educational opportunity among students enrolled in Kansas public schools.

ANSWER:

Objection. This interrogatory is overly broad, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. To the extent it seeks “any studies or research conducted” by any persons or group other than Plaintiffs, the information sought is equally available to Defendant and Plaintiffs have no duty to identify them.

Subject to and without waiving the foregoing objections, Plaintiffs respond as follows:

Plaintiffs will, pursuant to an agreement between the parties, supplement these responses at a later date to respond on behalf of Plaintiff USD 259.

USD 308, 443, and 500 did not conduct any studies or research responsive to this interrogatory.

INTERROGATORY NO. 12:

Concerning your allegations in Petition, ¶ 72:

- a. Describe the material facts that support your position;
- b. Identify the person or persons who have personal knowledge of such facts; and
- c. Identify all documents or tangible things that you contend are direct evidence of such facts.

ANSWER:

Objection. This request is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. “[A] contention

interrogatory which seeks ‘all facts’ . . . is overly broad and unduly burdensome on its face.” *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party’s contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard. Plaintiffs do not represent that the answers herein are all the facts that may support their contentions.

Pursuant to K.S.A. 60-233, Plaintiffs identify the following documents as responsive to this interrogatory: Plaintiffs’ Petition, filed in the District Court of Shawnee County, Kansas, on November 2, 2010; the Notice of Claims filed by Plaintiffs on June 17, 2010, attached to the Petition as Exhibit 1; and the Amended Notice of Claims filed by Plaintiffs on June 6, 2011.

INTERROGATORY NO. 13:

Concerning your allegations in Petition, ¶ 71f:

- a. Describe the material facts that support your position;
- b. Identify the person or persons who have personal knowledge of such facts; and
- c. Identify all documents or tangible things that you contend are direct evidence of such facts.

ANSWER:

Objection. This request is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. “[A] contention interrogatory which seeks ‘all facts’ . . . is overly broad and unduly burdensome on its face.” *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan.

Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party's contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard. Plaintiffs do not represent that the answers herein are all the facts that may support their contentions.

Pursuant to K.S.A. 60-233, Plaintiffs identify the following documents as responsive to this interrogatory: Plaintiffs' Petition, filed in the District Court of Shawnee County, Kansas, on November 2, 2010; the Notice of Claims filed by Plaintiffs on June 17, 2010, attached to the Petition as Exhibit 1; and the Amended Notice of Claims filed by Plaintiffs on June 6, 2011.

INTERROGATORY NO. 14:

Concerning your allegations in Petition, ¶ 71e:

- a. Describe the material facts that support your position;
- b. Identify the person or persons who have personal knowledge of such facts; and
- c. Identify all documents or tangible things that you contend are direct evidence of such facts.

ANSWER:

Objection. This request is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. "[A] contention interrogatory which seeks 'all facts' . . . is overly broad and unduly burdensome on its face." *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party's contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009

WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than those that are consistent with the case law in this regard. Plaintiffs do not represent that the answers herein are all the facts that may support their contentions.

Pursuant to K.S.A. 60-233, Plaintiffs identify the following documents as responsive to this interrogatory: Plaintiffs' Petition, filed in the District Court of Shawnee County, Kansas, on November 2, 2010; the Notice of Claims filed by Plaintiffs on June 17, 2010, attached to the Petition as Exhibit 1; and the Amended Notice of Claims filed by Plaintiffs on June 6, 2011.

INTERROGATORY NO. 15:

Concerning your allegations in Petition, ¶ 69:

- a. Describe the material facts that support your position;
- b. Identify the person or persons who have personal knowledge of such facts; and
- c. Identify all documents or tangible things that you contend are direct evidence of such facts.

ANSWER:

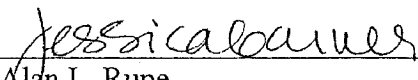
Objection. This request is overly burdensome, unnecessarily voluminous, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. “[A] contention interrogatory which seeks ‘all facts’ . . . is overly broad and unduly burdensome on its face.” *Western Res., Inc. v. Union Pac. R.R. Co.*, No. 00-2043-CM, 2001 WL 1723817, at *1 (D. Kan. Dec. 4, 2001). An interrogatory may seek only the material or principal facts which support a party's contentions in a lawsuit. *In re Urethane Antitrust Litig.*, No. 04-MD-1616-JWL, 2009 WL 2058759, at *2 (D. Kan. July 15, 2009) (internal citations omitted). Plaintiffs object to the extent this interrogatory seeks any facts or identifications of persons or documents other than

those that are consistent with the case law in this regard. Plaintiffs do not represent that the answers herein are all the facts that may support their contentions.

Pursuant to K.S.A. 60-233, Plaintiffs identify the following documents as responsive to this interrogatory: Plaintiffs' Petition, filed in the District Court of Shawnee County, Kansas, on November 2, 2010; the Notice of Claims filed by Plaintiffs on June 17, 2010, attached to the Petition as Exhibit 1; and the Amended Notice of Claims filed by Plaintiffs on June 6, 2011.

Dated this 30th day of March, 2012.

Respectfully Submitted,



Alan L. Rupe #08914
Jessica L. Garner #24178
Jason D. Stitt #22216
KUTAK ROCK LLP
1605 North Waterfront Parkway, Suite 150
Wichita, KS 67206-6634
(316) 609-7900 (Telephone)
alan.rupe@kutakrock.com
jessica.garner@kutakrock.com
jason.stitt@kutakrock.com

and

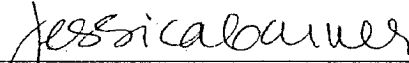
John S. Robb #09844
SOMERS, ROBB & ROBB
110 East Broadway
Newton, KS 67114
(316) 283-4650 (Telephone)
JohnRobb@robblaw.com

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of March, 2012, a true and correct copy of the above and foregoing was sent by first class mail to the following:

Arthur S. Chalmers
Gaye B. Tibbets
Hite, Fanning & Honeyman, L.L.P.
100 North Broadway, Suite 950
Wichita, KS 67202-2209
Telephone: (316) 265-7741
Facsimile: (316) 267-7803
chalmers@hitefanning.com
tibbets@hitefanning.com

Attorneys for Defendant



Jessica L. Garner