

CAUSE NO. D-1-GN-11-003130

THE TEXAS TAXPAYER &	§	
STUDENT	§	IN THE DISTRICT COURT
FAIRNESS COALITION, et al;	§	
CALHOUN COUNTY ISD, et al;	§	
EDGEWOOD ISD, et al;	§	
FORT BEND ISD, et al;	§	
TEXAS CHARTER SCHOOL	§	
ASSOCIATION, et al.,	§	
Plaintiffs,	§	
	§	
	§	
	§	
JOYCE COLEMAN, et al.,	§	
Intervenors	§	
	§	
vs.	§	200th JUDICIAL DISTRICT
	§	
MICHAEL WILLIAMS,	§	
COMMISSIONER	§	
OF EDUCATION, IN HIS OFFICIAL	§	
CAPACITY; SUSAN COMBS,	§	
TEXAS COMPTROLLER OF PUBLIC	§	
ACCOUNTS, IN HER OFFICIAL	§	
CAPACITY; TEXAS STATE BOARD	§	
OF EDUCATION, the TEXAS	§	
EDUCATION AGENCY, and the	§	
STATE OF TEXAS,	§	
Defendants.	§	TRAVIS COUNTY, TEXAS

**RESPONSE TO PLAINTIFFS' OBJECTIONS TO DEFENDANTS' EXHIBITS
11366, 11367 AND 11368 AND WITNESSES**

TO THE HONORABLE JOHN K. DIETZ, JUDGE PRESIDING:

State Defendants, Michael Williams, Commissioner of Education, Susan Combs, Texas Comptroller of Public Accounts, in their official capacities, the Texas State Board of Education, the Texas Education Agency and the State of Texas file

this Response to the Fort Bend ISD Plaintiff's, the Calhoun County ISD Plaintiff's, and the Edgewood ISD Plaintiff's objections to Defendants' exhibits 11366, 11367, and 11368. For the following reasons, the State Defendants respectfully request to overrule the objections and admit the exhibits.

1. **Defendants' Witness List:** Calhoun County Plaintiffs objected to the State Defendants' witness list on the ground that we had not disclosed certain witnesses for trial. *First*, the State Defendants have no intention to call those witnesses, and included their names on the witness list as possible rebuttal witnesses. *Second*, each of those witnesses were disclosed by the State Defendants and Calhoun County as persons with knowledge of relevant facts under Texas Rule of Civil Procedure 194. Ex. 1, 2. And finally, Calhoun County designated expressly designated Gloria Zyskowski as a witness and listed other unnamed witnesses from the State of Texas as witnesses to be called to trial. Ex. 3. Thus, they could have deposed her had they chosen to do so based on their own designation.

2. **Defendants' Exhibits 11366, 11367, and 11368 are Rebuttal exhibits.** They were expressly designated as such on our exhibit list with a "R," and were listed subject to the State Defendants' joinder to the Intervenor's plea to the jurisdiction and the Texas Rule of Civil Procedure 104 Motion filed concurrently with the exhibit list.

3. **Defendants' Exhibits 11366, 11367, and 11368 are Not Hearsay:** These documents are:

- a. public records under Texas Rule of Evidence 1005,

b. summaries in chart and calculation form of voluminous assessment data recordings under Rule 1006. The voluminous assessment data records were produced to all Plaintiffs in response to the Fort Bend ISD Plaintiffs' Fourth Request of Production, Ex. 4, and data included in Calhoun County ISD Plaintiffs' exhibits 5707 through 5712.

c. records of regularly conducted activity and public records under Texas Rule of Evidence 803(6) and (8), respectively.

The affidavits attached to these exhibits are not testimony, much less expert opinion testimony, and were simply to the records to comply with Rule 901(7) and 902(10).

4. **Defendants' Exhibits 11366 and 11367 are not undisclosed expert testimony.**

Texas Rule of Civil Procedure 194.2(f)(3) requires disclosure of any experts' "mental impressions and opinions." Neither the exhibits nor the Rule of Evidence 902(10) affidavit contain any "mental impressions or opinions" and are thus not the subject of expert testimony.

5. **Edgewood Plaintiffs waived any objections to the timeliness of exhibits.**

The Amended Scheduling Order entered on November 5, 2013 sets the discovery completion deadline for December 9, 2013. On November 12, 2013, the Edgewood ISD Plaintiffs served on the State Defendants otherwise objectionable Requests for Admissions, Interrogatories, and Requests for Production. The State Defendants answers to these discovery requests were due on December 13, 2013—four days after the discovery completion deadline. Because the Edgewood ISD Plaintiffs

discovery requests were untimely served, and because the State Defendants' answers to the discovery requests were due after the court-ordered discovery completion deadline, the State Defendants objected to each and every request as being untimely and outside the discovery completion deadline. Ex. 5 (citing Tex. R. Civ. P. 190 cmt.4 ("As other rules make clear, unless otherwise ordered or agreed, parties seeking discovery must serve requests sufficiently far in advance of the end of the discovery period that the deadline for responding will be within the discovery period.") (emphasis added); Tex. R. Civ. P. 190.4(b) (incorporating limitations of Rules 190.2 and 190.3 into 190.4 unless expressly excluded); Tex. R. Civ. P. 190.2(b)(1) ("All discovery must be conducted during the discovery period. . . ."); Tex. R. Civ. P. 190.3(b)(1) ("All discovery must be conducted during the discovery period. . . ."); Tex. R. Civ. P. 193.1 ("A party must respond to written discovery in writing within the time period provided by court order or these rules."); Tex. R. Civ. P. 196.1(a) ("A party may serve on another party—not later than 30 days before the end of the discovery period—a request for production. . . .") (emphasis added); Tex. R. Civ. P. 197.1 ("A party may serve on another party—not later than 30 days before the end of the discovery period—written interrogatories. . . .") (emphasis added); Tex. R. Civ. P. 198.1 ("A party may serve on another party—not later than 30 days before the end of the discovery period—written requests that the other party admit the truth of an matter within the scope of discovery. . . .") (emphasis added); see *Pape v. Guadalupe-Blanco River Auth.*, 48 S.W.3d 908, 913 (Tex. App.—Austin 2001, pet. denied)(trial court did not abuse its discretion in excluding

untimely evidence and denying request to modify discovery scheduling)). Because the Edgewood Plaintiff's requests were untimely, the State Defendants had no obligation to respond. Moreover, the Edgewood Plaintiffs never filed a motion to compel.

CONCLUSION

For these reasons, the State Defendants respectfully request the Court to overrule the objections to 11366, 11367, and 11368 and admit them into the evidence.

Respectfully Submitted,

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First Assistant Attorney General

DAVID C. MATTAX
Deputy Attorney General for Defense Litigation

JAMES "BEAU" ECCLES
Chief-General Litigation Division

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Unofficial copy Travis Co. District Clerk Velva L. Price

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I hereby certify that on the 21st day of January, 2014, the foregoing document was served via electronic mail:

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MICHAEL WILLIAMS, COMMISSIONER	§	
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ACCOUNTS, IN HER OFFICIAL	§	
CAPACITY; TEXAS STATE BOARD	§	
OF EDUCATION, and the TEXAS	§	
EDUCATION AGENCY,	§	
Defendants.	§	TRAVIS COUNTY, TEXAS

**DEFENDANTS' AMENDED RESPONSES TO ALL PARTIES'
REQUESTS FOR DISCLOSURE**

To: **THE TEXAS TAXPAYER & STUDENT FAIRNESS COALITION, ET AL.**, by and through their attorneys of record, RICHARD E. GRAY, III & TONI HUNTER, GRAY & BECKER, 900 West Ave., Austin, TX 78701; and Randall B. Wood & Doug W. Ray, RAY & WOOD, 2700 Bee Caves Rd. #200, Austin, TX 78746;

CALHOUN COUNTY ISD PLAINTIFFS, by and through their attorneys of record, Mark R. Trachtenberg, HAYNES AND BOONE, LLP, 1 Houston Center, 1221 McKinney St., Suite 2100, Houston, Texas 77010; and John W. Turner, Lacy M. Lawrence, HAYNES AND BOONE, LLP, 2323 Victory Ave., Suite 700, Dallas, Texas 75219;

EDGEWOOD ISD PLAINTIFFS, by and through their attorneys of record, David G. Hinojosa, Marisa Bono, MEXICAN AMERICAN LEGAL DEFENSE, AND EDUCATION FUND, INC., 110 Broadway, Suite 300, San Antonio, Texas 78205, and Roger L. Rice, MULTICULTURAL, EDUCATION, TRAINING AND ADVOCACY, INC., 240A Elm St., Suite 22, Somerville, MA 02144;

FORT BEND ISD PLAINTIFFS, by and through their attorneys of record, J. David Thompson, III, Philip Fraissinet, THOMPSON & HORTON LLP, Phoenix Tower, Suite 2000, 3200 Southwest Freeway, Houston, Texas 77027; and Holly G. McIntush, THOMPSON & HORTON LLP, 400 West 15th St., Suite 1430, Austin, Texas 78701;

EFFICIENCY INTERVENORS, by and through their attorneys of record, J. Christopher Diamond, THE DIAMOND LAW FIRM, PC., 17484 Northwest Freeway, Suite 150, Houston, Texas 77040; and Craig T. Enoch, Melissa A. Lorber, ENOCH KEVER PLLC, 600 Congress, Suite 2800, Austin, Texas 78701;

TEXAS CHARTER SCHOOLS ASSOCIATION PLAINTIFFS, by and through their attorneys of record, Robert A. Schulman, Joseph E. Hoffer, Leonard J. Schwartz, SCHULMAN, LOPEZ & HOFFER, LLP, 517 Soledad Street, San Antonio, Texas 78205-1508.

Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Defendants submit the following responses to All Parties' live Requests for Disclosure:

**DEFENDANTS' AMENDED RESPONSES TO ALL PARTIES'
LATEST/LIVE REQUESTS FOR DISCLOSURE**

Request for Disclosure No. 194.2(a):

The correct names of the parties to the lawsuit.

Response:

The names of the parties to this lawsuit are correct.

Request for Disclosure No. 194.2(b):

The name, address, and telephone number of any potential parties.

Response:

None.

Request for Disclosure No. 194.2(c):

The legal theories and, in general, the factual basis of the responding party's claims or defenses to this lawsuit.

Response:

Defendants refer the Parties to all responsive pleadings, exhibits and testimony that are already a part of the record in this case and incorporate those by reference into this Response. Defendants further respond as follows:

All claims: The 83rd Texas Legislature made substantial changes to Texas's existing public education system. Those changes will not be implemented until the FY2013-14 and FY2014-15 school years.

To the extent the Plaintiffs base their claims on the public education system existing in FY2012-13 or any prior school year, their claims are no longer justiciable because they were rendered moot by substantive legislative action taken by the 83rd Legislature. Furthermore, the Plaintiffs' claims can no longer be redressed by their requested "injunctive relief." An injunction of the public education system as it existed in FY2012-13 or any prior school year would enjoin a public school finance system that is no longer in existence and thus, would not redress the Plaintiffs' ongoing alleged injury. Additionally, as the result of the 83rd Legislature's substantive changes, any opinion on that public education system in FY2012-13 or prior school year would be purely advisory in nature.

To the extent the Plaintiffs claims are based on the new public education system adopted by the 83rd Legislature and being implemented in the FY2013-14 school years, those claims are non-justiciable because they are not ripe. Plaintiffs admit there is currently no "output" evidence from the FY2013-14 to support their claims. As a result, Plaintiffs cannot meet their burden to show "outputs" from the currently-ongoing school year, much less those for the full FY2013-2014 biennium, and their claims are not ripe or cannot be redressed by the requested injunctive relief.

Adequacy/Suitability: Alternatively, Defendants contend that the Plaintiffs cannot meet their burden of proof to show that the system has been and continues to be inadequate and/or unsuitable because they cannot prove that the system fails to provide all students meaningful access to a general diffusion of knowledge, as that term has been defined by the Texas Supreme Court in *Neeley et al v. West Orange-Cove Consol. I.S.D.*, 176 S.W.3d 756 (2005). Moreover, the Plaintiffs cannot meet their burden to show the system is arbitrarily structured and/or funding in such a way as to render it unconstitutional.

Equity/Efficiency: Alternatively, Defendants contend that the Plaintiffs have failed to prove that the school finance system is not efficiently/equitably funded such that all students have substantially equal access to revenue so as to achieve an adequate school system. Defendants further assert the system is funded equitably/efficiently up to the level that allows all districts to provide their students meaningful access to a general diffusion of knowledge. Any local supplementation by some districts is not so great as to destroy the efficiency/equity of the entire public education system.

Tax: Alternatively, Defendants contend that the Plaintiff have failed to prove that the State so completely controls the levy, assessment and disbursement of school district revenue that the districts are without meaningful discretion in setting their tax rates. Defendants further

contend that because the system is dissimilar to that in place in *West Orange-Cove*, the plaintiff school districts cannot prove a systemic violation of Article VIII, section 1-e of the Texas Constitution.

Charters: Defendants contend that it is within the Legislature's discretion to structure and fund charter schools differently than public school districts. The manner in which the Legislature chose to structure and fund charter schools is not arbitrary. Any disparities in funding between charter schools and public school districts are not so great as to render the school finance system unconstitutional.

Request for Disclosure No. 194.2(d):

The amount and any method of calculating any economic damages.

Response:

None.

Request for Disclosure No. 194.2(e):

The name, address, and telephone number of all persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case.

Response:

1. Lisa Dawn-Fisher, Associate Commissioner of School Finance/Chief School Finance Officer. Dr. Dawn-Fisher may testify about state, local school district, and charter school revenue and expenditures. Dr. Dawn-Fisher may also testify about funding equities among the school districts, as well as charter schools. Dr. Dawn-Fisher may testify about the ad valorem tax structure in Texas, districts' use of ad valorem property taxes to raise local revenue, and any remaining taxing capacity available in the system. Dr. Dawn-Fisher may testify about state facilities funding, Interest & Sinking (I&S) tax rates trends, and changes to the yield associated with I&S taxes.
2. Shirley Beaulieu, Associate Commissioner, Finance. Ms. Beaulieu may testify about the Texas Education Agency's budget by certain major components, including Rider 3, Chapter 42 and 46, Federal Funds, and State Funds—General Revenue Related Funds for the 2013-2014, and 2014-2015 biennium.
3. Monica Martinez, Commissioner, Standards and Programs. Ms. Martinez may testify about Legislative changes to the Texas Essential Knowledge and Skills, changes to the required curriculum, and changed graduation requirements.
4. Shannon Housson, Director, Division of Performance Reporting, Mr. Housson may testify about the state and federal accountability systems and any data that is included in the AEIS reports.

In the event the Plaintiffs present evidence that is outside the changes made to the public school system by the 83rd Legislature and any impact of those changes, Defendants may call the following witnesses:

5. Gloria Zyskowski, Director, Student Assessment. Ms. Zyskowski may testify about changes to the numbers of standardized tests required to be taken by students in various grades, the passing standards for the required assessments, and the release or availability of those assessments. Ms. Zyskowski will not testify about scores on those assessments.
6. Rob Coleman, Assistant Director, Fiscal Management Division, Texas Comptroller of Public Accounts. Mr. Coleman may testify the budget setting process for the 83rd Legislative Session and Legislative appropriations for the FY2014-2015.
7. Susie Coultriss State Director, Bilingual Education/Title II/Migrant Education. Ms. Coultriss may testify about English Language Learner programs and assessment, Bilingual Education program and assessment, and funding for the programs.
8. Linda Roska Director, Division of Research and Analysis Ms. Roska may testify about drop out calculations and measures, high school graduations rates, and trends in educational achievements benchmarks. She may also testify about programs related to these areas.
9. Sally Partridge, Associate Commissioner for Accreditation and School Improvement. Ms. Partridge may testify about the changes to the number of available charters in Texas, and any policy implementation by TEA stemming from the 83rd Legislative Session.
10. Justin Porter, Director of Assessments for Special Populations. Mr. Porter may testify about assessments available for students in special populations. Mr. Porter will not testify about results of those assessments.

Request for Disclosure No. 194.2(f):

For any testifying expert:

- (1) the expert's name, address, and telephone number;
- (2) the subject matter on which the expert will testify;
- (3) the general substance of the expert's medical impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to the control of the responding party, documents reflecting such information;
- (4) if the expert is retained by, employed by, or otherwise subject to the control of the responding party:
 - (a) all documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and
 - (b) the expert's current resume and bibliography;
- (5) Any bias of the witness.

Response:

Defendants will respond in accordance with their agreement to the amended scheduling order.

Request for Disclosure No. 194.2(g):

Any indemnity and insuring agreements described in Rule 192.3(f).

Response:

None.

Request for Disclosure No. 194.2(h):

Any settlement agreements described in Rule 192.3(g).

Response:

None.

Request for Disclosure No. 194.2(i):

Any witness statements described in Rule 192.3(h).

Response:

None.

Request for Disclosure No. 194.2(j):

The name, address, and telephone number of any person who may be designated as a responsible third party.

Response:

None.

Respectfully Submitted,

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I hereby certify that on the 12th day of November, 2013, the foregoing document was served via electronic mail to:

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TEXAS TAXPAYER & STUDENT	§	IN THE DISTRICT COURT OF
FAIRNESS COALITION, et al.,	§	
	§	
Plaintiffs,	§	
	§	
VS.	§	TRAVIS COUNTY, TEXAS
	§	
MICHAEL WILLIAMS, Commissioner of	§	
Education, et al.,	§	
	§	
Defendants.	§	200 TH JUDICIAL DISTRICT

**CALHOUN COUNTY ISD PLAINTIFFS' RESPONSE
TO DEFENDANTS' REQUEST FOR DISCLOSURE DATED AUGUST 30, 2013**

The Calhoun County ISD Plaintiffs respond as follows to Defendants' Request for Disclosure dated August 30, 2013:

REQUEST FOR DISCLOSURE NO 194.2(b):

The name, address, and telephone number of any potential parties.

RESPONSE:

None at this time.

REQUEST FOR DISCLOSURE NO 194.2(c):

The legal theories and, in general, the factual basis of the responding party's claims or defenses to this lawsuit.

RESPONSE:

The Calhoun County ISD Plaintiffs challenge the constitutionality of the current system of school finance on three grounds. First, the current system of school finance prevents districts from exercising "meaningful discretion" in setting their local M&O tax rates, thereby violating article VIII, section 1-e of the Texas Constitution. Many districts are already at the statutory

M&O cap of \$1.17 and cannot raise taxes any further by law. Many others are effectively constrained in their ability to raise taxes above \$1.04 or \$1.06, either because they have (a) attempted but failed to pass a Tax Ratification Election, or (b) because they have determined that a Tax Ratification Election is not politically viable and is unlikely to succeed in their district. Even if districts could raise enough money through local tax increases to raise funds needed to provide a “general diffusion of knowledge” and offset the Legislature’s cuts, forcing districts to do so would violate the Supreme Court’s precedent in *West Orange-Cove II* because tax dollars raised above the compressed rate are designed to be used for local supplementation and enrichment, not to compensate for adequacy funding the State has failed to provide. *See also* Calhoun County ISD Plaintiffs’ Second Amended Petition on file in this case.

Second, the system violates article VII, section 1 of the Texas Constitution in that it is inadequate and fails to provide for the general diffusion of knowledge. For example, the the Calhoun County ISD Plaintiffs, among many other districts, have been forced to eliminate teaching positions, have been unable to replace retiring teachers and staff, have fallen short in efforts to recruit highly qualified teachers, and have reduced career and counseling services, have been forced to restrict curriculum and enrichment opportunities, and have curtailed or eliminated afterschool and pre-Kindergarten programs. In short, districts lack the necessary resources to provide the quality education that the State’s laws and legislative pronouncements require and that the Constitution demands. *See also* Calhoun County ISD Plaintiffs’ Second Amended Petition on file in this case.

Third, the system violates the “suitability” provision of article VII, section 1 of the Texas Constitution in that it is not “structured, operated, and funded so that it can accomplish” a general diffusion of knowledge. The State has failed to make suitable provision for free public

schools because the State is relying on outdated, arbitrary weights and allotments that do not reflect the actual cost of education to determine funding levels for districts and further cutting that funding by appropriating school finance funds based upon funds that are available rather than what funds are required.

None of these constitutional deficiencies were cured by the legislation passed by the 83rd Legislature – including legislation related to school funding (such as Senate Bill 1, House Bill 1025, House Bill 10, Senate Bill 758, Senate Bill 1658, and Senate Bill 1458); legislation related to standardized assessments, graduation requirements, and accountability ratings (such as House Bill 5 and House Bill 866); and other legislation affecting public education (such as Senate Bill 2, House Bill 1751, House Bill 1926, and House Bill 2012). The 83rd Legislature failed to restore even the full amount of the 2011 budget cuts but even if it had done so, school districts would still lack sufficient funding to meet the State’s recently increased demands. Although the 83rd Legislature made changes that affected end-of-course exams, graduation requirements, and the accountability system, among other things, these changes did not reduce the demands on school districts in any meaningful way. For example, the Legislature did not reduce the rigor of the end-of-course exams, did not eliminate the requirement to prepare students to graduate college ready, and did not reduce academic expectations. School districts require more funding – not less – to meet these more rigorous standards. *See also* Calhoun County ISD Plaintiffs’ Second Amended Petition on file in this case.

The Calhoun County ISD Plaintiffs also provide notice that they have a justiciable interest in the article VII, section 1 efficiency claims and equal protection claim brought by the other plaintiffs groups and the Intervenors, as noted in Paragraphs 75-77 of their Second Amended Petition.

Please also see the expert reports that have been or will be submitted or adopted by the Calhoun County ISD Plaintiffs in this matter, the deposition and trial testimony provided by the Calhoun County ISD Plaintiff superintendents and expert witnesses, and the documents produced in this case and the exhibits admitted into evidence.

REQUEST FOR DISCLOSURE NO 194.2(e):

The name, address, and telephone number of all persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case.

RESPONSE:

(1) Michael Williams

Mr. Williams is currently the Texas Commissioner of Education and is a defendant, in his official capacity, in this lawsuit.

(2) Susan Combs

Ms. Combs is currently the Texas Comptroller of Public Accounts and is a defendant, in her official capacity, in this lawsuit.

(3) Lisa Dawn-Fisher

Ms. Dawn-Fisher is currently the Associate Commissioner for School Finance and Chief School Finance Officer for the Texas Education Agency.

(4) Gloria Zyskowski

Ms. Zyskowski is currently the Director of Student Assessment for the Texas Education Agency.

(5) Shannon Housson

Mr. Housson is currently the Director of the Division of Performance Reporting for the Texas Education Agency.

(6) Shirley Beaulieu

Ms. Beaulieu is currently the Associate Commissioner of Finance and Chief Financial Officer for the Texas Education Agency.

(7) Monica Martinez

Ms. Martinez is currently the Commissioner of Standards and Programs for the Texas Education Agency.

(8) Rob Coleman

Mr. Coleman is currently the Assistant Director of the Fiscal Management Division for the Texas Comptroller of Public Accounts.

(9) Susie Coultriss

Ms. Coultriss is currently the State Director of Biligual Education/Title III/Migrant Education for the Texas Education Agency.

(10) Howard Morrison

Mr. Morrison is currently the Program Manager for Early Childhood Education and Pre-Kindergarten for the Texas Education Agency.

(11) Linda Roska

Ms. Roska is currently the Director of the Division of Research and Analysis for the Texas Education Agency.

(12) Sally Partridge

Ms. Partridge is currently the Associate Commissioner for Accreditation and School Improvement for the Texas Education Agency.

(13) Justin Porter

Mr. Porter is currently the Director of Assessments for Special Populations for the Texas Education Agency.

(14) Lynn Moak

Moak, Casey & Associates, LLP
1801 N. Lamar, Suite 202
Austin, Texas 78701

Mr. Moak is familiar with issues relating to the school finance system in Texas. Please refer to his expert reports and recent testimony in this matter for more information regarding his areas of knowledge.

(15) Daniel Casey

Moak, Casey & Associates, LLP
1801 N. Lamar, Suite 202
Austin, Texas 78701

Mr. Casey is familiar with issues relating to the school finance system in Texas. Please refer to his expert report and recent testimony in this matter for more information regarding his areas of knowledge.

(16) Joe Wisnoski

Moak, Casey & Associates, LLP
1801 N. Lamar, Suite 202
Austin, Texas 78701

Mr. Wisnoski is familiar with issues relating to the school finance system in Texas. Please refer to his presentation to the Court in this matter for more information regarding his areas of knowledge.

(17) Dr. Curtis Culwell

Moak, Casey & Associates, LLP
1801 N. Lamar, Suite 202
Austin, Texas 78701

Dr. Culwell is familiar with issues relating to the school finance system in Texas and the costs of education.

(18) George Bramblett

Mr. Bramblett is an attorney for Haynes and Boone, LLP, which represents the Calhoun County ISD Plaintiffs in this matter. He is familiar with issues relating to the Calhoun County ISD's requests for attorneys' fees and expenses in this matter.

(19) John Turner

Mr. Turner is an attorney for Haynes and Boone, LLP, which represents the Calhoun County ISD Plaintiffs in this matter. He is familiar with issues relating to the Calhoun County ISD's requests for attorneys' fees and expenses in this matter.

The Calhoun County ISD Plaintiffs incorporate herein by reference all persons identified as having knowledge of relevant facts in their First Amended Response to Defendants' and Intervenor's Request for Disclosures, which was served on September 21, 2012. The Calhoun County ISD Plaintiffs also hereby incorporate by reference all persons identified as having knowledge of relevant facts by any other party in this litigation. The Calhoun County ISD Plaintiffs further reserve the right to call adversely at trial any individual identified in the Disclosures of the Intervenor or the Defendants.

REQUEST FOR DISCLOSURE NO 194.2(f):

For any testifying expert:

- (1) the expert's name, address, and telephone number;
- (2) the subject matter on which the expert will testify;
- (3) the general substance of the expert's medical impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to the control of the responding party, documents reflecting such information;
- (4) if the expert is retained by, employed by, or otherwise subject to the control of the responding party:
 - (A) all documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and
 - (B) the expert's current resume and bibliography;

RESPONSE:

(1) George Bramblett
Haynes and Boone, LLP
2323 Victory Ave., Suite 700
Dallas, Texas 75219

Mr. Bramblett may testify regarding the reasonableness and necessity of attorneys' fees and expenses sought and/or incurred by any party in this case. In rendering his opinions, Mr. Bramblett will review pleadings, testimony provided, and documents produced in this case and will base his opinions on his education, experience, and any work performed in this case. Mr. Bramblett has not made any reports at this time, but has supplied an affidavit, which was filed with the Calhoun County ISD Plaintiffs' Notice of Filing of Affidavit in Support of its Attorneys' Fees.

(2) John Turner
Haynes and Boone, LLP
2323 Victory Ave., Suite 700
Dallas, Texas 75219

Mr. Turner may testify regarding the reasonableness and necessity of attorneys' fees and expenses sought and/or incurred by any party in this case. In rendering his opinions, Mr. Turner will review pleadings, testimony provided, and documents produced in this case and will base his opinions on his education, experience, and any work performed in this case. Mr. Turner has not made any reports at this time, but has supplied an affidavit, which was filed with the Calhoun County ISD Plaintiffs' Notice of Filing of Affidavit in Support of its Attorneys' Fees.

The Calhoun County ISD Plaintiffs will provide further expert disclosures in accordance with the agreed proposed scheduling order.

The Calhoun County ISD Plaintiffs incorporate herein by reference their responses to Request for Disclosure 194.2(f) in their First Amended Response to Defendants' and Intervenor's Request for Disclosures, which was served on September 21, 2012. The Calhoun County ISD Plaintiffs reserve the right to elicit, by direct or cross examination, the opinion testimony of experts designated by other parties to this action or persons with relevant knowledge as identified by other parties in their disclosures or other discovery responses. The Calhoun County ISD Plaintiffs reserve the right to supplement their designation as necessary to withdraw the designation of any expert witness. The Calhoun County ISD Plaintiffs further reserve the right to call undesignated expert witnesses in rebuttal. Finally, the Calhoun County ISD Plaintiffs reserve all additional rights they may have with regard to any expert witnesses and testimony under any applicable rules or law.

REQUEST FOR DISCLOSURE NO 194.2(i):

Any witness statements described in Rule 192.3(h).

RESPONSE:

None.

Respectfully submitted,

HAYNES AND BOONE, LLP

/s/ Mark R. Trachtenberg

Mark R. Trachtenberg
State Bar No. 24008169
1 Houston Center
1221 McKinney St., Suite 2100
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Facsimile: (214) 651-5940

ATTORNEYS FOR THE CALHOUN COUNTY
ISD PLAINTIFFS

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the Calhoun County ISD Plaintiffs' Response to Defendants' Request for Disclosure Dated August 30, 2013 has been served this 2nd day of October, 2013 as provided below:

J. Christopher Diamond
The Diamond Law Firm, P.C.
17484 Northwest Freeway
Suite 150
Houston, Texas 77040

Via Email

Craig T. Enoch
Melissa A. Lorber
Enoch Keever PLLC
600 Congress, Suite 2800
Austin, Texas 78701

Via Email

Richard E. Gray, III
Toni Hunter
Gray & Becker, P.C.
900 West Ave.
Austin, Texas 78701

Via Email

Randall B. Wood
Doug W. Ray
RAY & WOOD
2700 Bee Caves Road #200
Austin, Texas 78746
Telephone: (512) 328-8877
Fax: (512) 328-1156

Via Email

David G. Hinojosa
Marisa Bono
Mexican American Legal Defense
and Education Fund, Inc.
110 Broadway, Suite 300
San Antonio, Texas 78205

Via Email

Shelley N. Dahlberg
James "Beau" Eccles
Erika Kane
Texas Attorney General's Office
P.O. Box 12548, Capitol Station
Austin, Texas 78711

Via Email

J. David Thompson, III
Philip Fraissinet
Thompson & Horton LLP
3200 Phoenix Tower, Suite 2000
Houston, Texas 77027

Via Email

/s/ Michelle C. Jacobs
Michelle C. Jacobs

CAUSE NO. D-1-GN-11-003130

TEXAS TAXPAYER & STUDENT
FAIRNESS COALITION, et al.,

Plaintiffs,

VS.

MICHAEL WILLIAMS, Commissioner of
Education, et al.,

Defendants.

IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

200TH JUDICIAL DISTRICT

Consolidated Case:

CALHOUN COUNTY INDEPENDENT
SCHOOL DISTRICT, et al.,

Plaintiffs,

VS.

MICHAEL WILLIAMS, Commissioner of
Education, et al.,

Defendants.

**CALHOUN COUNTY ISD PLAINTIFFS' PRELIMINARY
DESIGNATION OF FACT WITNESSES**

Pursuant to the Proposed Scheduling Order submitted to the Court on July 17, 2013, the Calhoun County ISD Plaintiffs hereby designate the following persons who may be called to testify as fact witnesses, live or by deposition, at the trial of this cause:

1. Michael Williams;
2. Lisa Dawn-Fisher;
3. Gloria Zyskowski;
4. Shannon Housson; and

5. Additional witnesses from the State of Texas to testify regarding the changes in the school finance formula, the reporting of school finance data, the impact of legislative changes on M&O revenue in FY 2014, and the changes to graduation requirements brought about by House Bill 5.

The Calhoun County ISD Plaintiffs anticipate designating, at the appropriate time, one or more of the following persons to provide expert testimony in this cause:

1. Lynn Moak;
2. Daniel Casey;
3. Joe Wisnoski;
4. Curtis Culwell;
5. John Turner; and
6. George Bramblett.

To the extent the testimony of any of the above-listed persons may be considered factual in nature, the Calhoun County ISD Plaintiffs hereby designate the above-listed persons as individuals who may be called to testify as fact witnesses, live or by deposition, at the trial of this cause.

The Calhoun County ISD Plaintiffs expressly reserve the right to call as a fact witness any person who is designated as a fact witness or called to testify by any other party in this action.

Respectfully submitted,

HAYNES AND BOONE, LLP

/s/ Mark R. Trachtenberg

Mark R. Trachtenberg
State Bar No. 24008169
1 Houston Center
1221 McKinney St., Suite 2100
Houston, Texas 77010
Telephone: (713) 547-2000
Telecopier: (713) 547-2600

John W. Turner
State Bar No. 24028085
Micah E. Skidmore
State Bar No. 24046856
Michelle C. Jacobs
State Bar No. 24069984
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Dallas, Texas 75219
Telephone: (214) 651-5000
Facsimile: (214) 651-5940

ATTORNEYS FOR THE CALHOUN COUNTY
ISD PLAINTIFFS

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the Calhoun County ISD Plaintiffs' Preliminary Designation of Fact Witnesses has been served this 26th day of August, 2013 as provided below:

J. Christopher Diamond
The Diamond Law Firm, P.C.
17484 Northwest Freeway
Suite 150
Houston, Texas 77040

Via Email

Craig T. Enoch
Melissa A. Lorber
Enoch Kever PLLC
600 Congress, Suite 2800
Austin, Texas 78701

Via Email

Richard E. Gray, III
Toni Hunter
Gray & Becker, P.C.
900 West Ave.
Austin, Texas 78701

Via Email

Randall B. Wood
Doug W. Ray
RAY & WOOD
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Telephone: (512) 328-8877
Fax: (512) 328-1156

Via Email

David G. Hinojosa
Marisa Bono
Mexican American Legal Defense
and Education Fund, Inc.
110 Broadway, Suite 300
San Antonio, Texas 78205

Via Email

Shelley N. Dahlberg
James "Beau" Eccles
Erika Kane
Texas Attorney General's Office
P.O. Box 12548, Capitol Station
Austin, Texas 78711

Via Email

J. David Thompson, III
Philip Fraissinet
Thompson & Horton LLP
3200 Phoenix Tower, Suite 2000
Houston, Texas 77027

Via Email

/s/ Michelle C. Jacobs

Michelle C. Jacobs

CAUSE NO. D-1-GN-11-003130

THE TEXAS TAXPAYER & STUDENT	§	IN THE DISTRICT COURT
FAIRNESS COALITION, et al;	§	
CALHOUN COUNTY ISD, et al;	§	
EDGEWOOD ISD, et al;	§	
FORT BEND ISD, et al;	§	
TEXAS CHARTER SCHOOL	§	
ASSOCIATION, et al.,	§	
Plaintiffs,	§	
	§	
	§	
	§	
JOYCE COLEMAN, et al.,	§	
Intervenors,	§	
	§	
vs.	§	20th JUDICIAL DISTRICT
	§	
MICHAEL WILLIAMS, COMMISSIONER	§	
OF EDUCATION, IN HIS OFFICIAL	§	
CAPACITY; SUSAN COMBS,	§	
TEXAS COMPTROLLER OF PUBLIC	§	
ACCOUNTS, IN HER OFFICIAL	§	
CAPACITY; TEXAS STATE BOARD	§	
OF EDUCATION, and the TEXAS	§	
EDUCATION AGENCY,	§	
Defendants.	§	TRAVIS COUNTY, TEXAS

**DEFENDANTS’ OBJECTIONS AND RESPONSES TO FORT BEND ISD PLAINTIFFS’
FOURTH REQUEST FOR PRODUCTION**

TO: Fort Bend ISD, by and through their attorneys of record, J. David Thompson, III, Thompson & Horton, LLP, Phoenix Tower, Suite 2000, 3200 Southwest Freeway, Houston, Texas 77027.

Defendants Michael Williams, Commissioner of Education, Susan Combs, Texas Comptroller of Public Accounts, the Texas State Board of Education, and the State of Texas, pursuant to Texas Rule of Civil Procedure 194.2, file their responses to Fort Bend ISD Plaintiffs’ Fourth Requests for Production as follows:

Respectfully submitted,

GREG ABBOTT
Attorney General of Texas

DANIEL T. HODGE
First Assistant Attorney General

DAVID C. MATTAX
Deputy Attorney General for Defense Litigation

JAMES "BEAU" ECCLES
Division Chief, General Litigation Division

/s/ Shelley N. Dahlberg
SHELLEY N. DAHLBERG
Assistant Attorney General
Texas Bar No. 24012491
General Litigation Division

LINDA HALPERN,
Assistant Attorney General
Texas Bar No. 24030166
General Litigation Division

NICHOLE BUNKER-HENDERSON
Assistant Attorney General
Texas Bar No. 24045580
Administrative Law Division

Texas Attorney General's Office
P. O. Box 12548, Capitol Station
Austin, Texas 78711
Phone: (512) 463-2121
Fax: (512) 320-0667

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of August, 2013, the foregoing document was served via electronic mail and via the FTP site in accordance with Rule 21a of the Texas Rules of Civil Procedure and the parties Rule 11 agreement on the following:

Richard E. Gray, III
Toni Hunter
GRAY & BECKER
900 West Ave.
Austin, TX 78701

Multicultural, Education, Training and
Advocacy, Inc.
Roger L. Rice
240A Elm St., Ste 22
Somerville, MA 02144

Randall B. Wood
Doug W. Ray
RAY & WOOD
2700 Bee Caves Rd., Suite 200
Austin, TX 78746

J. David Thompson, III
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Mark R. Trachtenberg
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Houston, Texas 77010

Holly G. McIntush
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Austin, Texas 78701

John W. Turner
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2323 Victory Avenue, Suite 700
Dallas, Texas 75219

J. Christopher Diamond
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Houston, Texas 77040

Mexican American Legal Defense and
Education Fund, Inc.
David G. Hinojosa
Marisa Bono
110 Broadway, Ste 300
San Antonio, TX 78205

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Robert A. Schulman
Joseph E. Hoffer
Betsy Hall Bender
SCHULMAN, LOPEZ & HOFFER, L.L.P.
517 Soledad Street
San Antonio, Texas 78205-1508

/s/ Shelley N. Dahlberg
SHELLEY N. DAHLBERG
Deputy Chief–General Litigation Division

II.
GLOBAL OBJECTION

The Court has ordered that the January 2014 hearing is not intended to present any party “a chance to clean up or make stronger what occurred between October the 22nd and February the 4th.” Instead, the parties are limited to presenting evidence solely related to any “substantial change in the circumstances by reason of this most recent Legislature.” Each request below seeks information that is unrelated to changes in the law made by the 83rd Texas Legislature and their effect on the 2013-2014 and 2014-2015 school years and is outside the scope of the January 2014 hearing. Accordingly, Defendants object to each request in the Fort Bend Plaintiff’s Fourth Request for Production as overly broad, unduly burdensome, irrelevant and not likely to lead to the discovery of otherwise admissible evidence. Subject to and without waiving this objection, Defendants answer as follows:

RESPONSES TO REQUESTS FOR PRODUCTION

REQUEST NO. 1

From the STAAR Data File document(s), the following information for each student who took or will take a state assessment in grades 3-8 under the STAAR program during the 2012-13 school year (including the Spring 2013 primary administration and, as soon as available, the May 2013 and June 2013 administrations for grades 5 and 8), in comma delimited file format:

- (a) De-Identified Student ID No.;
- (b) County-District-Campus No.;
- (c) Scale Score for each assessment taken (by subject matter and by test administration, where applicable);
- (d) Test Version (i.e. Modified, Accommodated, etc.);
- (e) Test Language (i.e. English or Spanish);

- (f) Demographic Information/Ethnicity/Race Reporting Category;
- (g) Whether the Student was identified in the following categories: At Risk, Economically Disadvantaged (i.e. Free lunch status, Free and Reduced, or neither);
- (h) Grade Level Tested;
- (i) Score Code;
- (j) Level I Performance Flag;
- (k) Level II Phase-In 1 Standard Flag;
- (l) Level II Phase-in 2 Standard Flag;
- (m) Level II Final Recommended Flag;
- (n) Level III Advanced Standard Flag; and
- (o) Met or Exceeded Growth Expectations Flag.

RESPONSE:

Defendant Combs has no documents responsive to this request.

Otherwise, please see documents and/or data available on the FTP site as of August 12, 2013.

Please note these responsive documents and/or data are FERPA protected and subject to the parties' FERPA agreement.

REQUEST NO. 2:

From the STAAR EOC Data File document(s), the following information for each student who took or will take an STAAR EOC assessment during the 2012-13 school year (including the Spring 2013 primary administration, and, as soon as available, the July 2013 and December 2013 administrations), in comma delimited file format:

- (a) De-Identified Student ID No.;
- (b) County-District-Campus No.;

- (c) Scale Score for each assessment taken (by subject matter and by test administration, where applicable);
- (d) Test Version (i.e. Modified, Accommodated, etc.);
- (e) Test Language (i.e. English or Spanish);
- (f) Demographic Information/Ethnicity/Race Reporting Category;
- Fort Bend ISD Plaintiffs' Fourth Request for Production
- (g) Whether the Student was identified in the following categories: At Risk, Economically Disadvantaged (i.e. Free lunch status, Free and Reduced, or neither)
- (h) Grade Level Tested;
- (i) Score Code;
- (j) Level I Performance at Initial Standard Flag;
- (k) Level II Performance at Initial Standard Flag;
- (l) Level III Performance at Initial Standard Flag;
- (m) Level I Performance at Final Standard Flag;
- (n) Level II Performance at Final Standard Flag;
- (o) Level III Performance at Final Standard Flag;
- (p) Met or Exceeded Growth Expectations Flag.

RESPONSE:

Defendant Combs has no documents responsive to this request.

Otherwise, please see documents and/or data available on the FTP site as of August 12, 2013.

Please note these responsive documents and/or data are FERPA protected and subject to the parties' FERPA agreement.

REQUEST NO. 3:

For each student who was enrolled in 9th grade for the first time during the 2009-10 school year, the following information:

- (a) From the PEIMS Data File Document(s):
- i. De-Identified Student ID No.;
 - ii. County-District-Campus No. for the 2009-10 school year;
 - iii. County-District-Campus No. for the 2012-13 school year;
 - iv. Student's final status used in determining the four year completion rate for the 2012-13 school year (i.e. graduate, GED, continuer, other leaver, dropout, data error);
 - v. For the students who graduated in or prior to 2012-13 school year, the student's graduation plan (i.e. minimum, recommended, or distinguished);
 - vi. For the students who were considered leavers in the 2009-10, 2010-11, 2011-12, or 2012-13 school year, the leaver code and campus of attribute (i.e. campus number for the last campus that the Agency has a record of the student having attended) (as soon as it becomes available);
- (b) From the AEIS Data File document(s), for students who graduated in or prior to the 2012-13 school year, the student's college-ready flag.

RESPONSE:

Defendant Combs has no documents responsive to this request. Williams and the State Board of Education answer as follows: No responsive documents. These data will be available August 2014. Both 2012-13 graduates and students enrolled in fall 2013 are needed to calculate class of 2013 graduation rates. Districts will report 2012-13 graduates and 2013 fall enrollees to the

agency in January 2014. The agency will use those data to create class of 2013 graduation rates in spring 2014 to be released August 2014.

REQUEST NO. 4:

The STAAR EOC Cumulative Information, using De-Identified Student ID Nos., for the 2012-13 school year, in a single statewide file (if possible).

RESPONSE:

Defendants have no documents responsive to this request.

REQUEST FOR PRODUCTION NO. 5:

The STAAR Accountability Data Tables for the 2012-13 school year, in a single statewide file (if possible).

RESPONSE:

Defendant Combs has no documents responsive to this request.

Otherwise, see the Data Download that was posted on TEA's website on August 8, 2013. All 2013 accountability results can be downloaded from the link below to an Excel, comma-delimited, or tab-delimited data file for all campuses and for all districts.

<http://ritter.tea.state.tx.us/perfreport/account/2013/download.html>

REQUEST FOR PRODUCTION NO. 6:

The Consolidated Accountability Data File for STAAR 3-8 and for STAAR EOC, using De-Identified Student ID Nos., for the 2012-13 school year, in a single statewide file (if possible).

RESPONSE:

Defendant Combs has no documents responsive to this request.

Otherwise, please see documents and/or data available on the FTP site as of August 12, 2013. Please note these responsive documents and/or data are FERPA protected and subject to the parties' FERPA agreement.

REQUEST FOR PRODUCTION NO. 7:

All Documents or data You maintain regarding student use of iStation, including any available performance data by De-identified Student ID No.

RESPONSE:

Defendant Combs has no documents responsive to this request.

Otherwise, please see documents and/or data available on the FTP site as of August 12, 2013.

Please note that these responsive documents and/or data are FERPA protected and subject to the parties' FERPA agreement.

REQUEST FOR PRODUCTION NO. 3:

All Documents or data You maintain regarding student use of Think Through Math, including any available performance data by De-identified Student ID No. Fort Bend ISD Plaintiffs' Fourth Request for Production.

RESPONSE:

Defendant Combs has no documents responsive to this request.

Otherwise, please see documents and/or data available on the FTP site as of August 12, 2013.

Please note that these responsive documents and/or data are FERPA protected and subject to the parties' FERPA agreement.

REQUEST FOR PRODUCTUION NO. 9:

All Documents or data You maintain regarding student use of On TRACK courses, including any available performance data by De-identified Student ID No.

RESPONSE:

Defendant Combs has no documents responsive to this request.

Otherwise, please see documents and/or data available on the FTP site as of August 12, 2013.

Please note that these responsive documents and/or data are FERPA protected and subject to the parties' FERPA agreement.

Unofficial copy Travis Co. District Clerk Velva Price

CAUSE NO. D-1-GN-11-003130

THE TEXAS TAXPAYER & STUDENT
FAIRNESS COALITION, et al;
CALHOUN COUNTY ISD, et al;
EDGEWOOD ISD, et al;
FORT BEND ISD, et al;
TEXAS CHARTER SCHOOL
ASSOCIATION, et al.,

Plaintiffs,

JOYCE COLEMAN, et al.,

Intervenors,

vs.

MICHAEL WILLIAMS, COMMISSIONER
OF EDUCATION, IN HIS OFFICIAL
CAPACITY; SUSAN COMBS,
TEXAS COMPTROLLER OF PUBLIC
ACCOUNTS, IN HER OFFICIAL
CAPACITY; TEXAS STATE BOARD
OF EDUCATION, and the TEXAS
EDUCATION AGENCY,

Defendants.

IN THE DISTRICT COURT

200th JUDICIAL DISTRICT

TRAVIS COUNTY, TEXAS

**DEFENDANTS' RESPONSES TO EDGEWOOD PLAINTIFFS' AMENDED SECOND
REQUESTS FOR ADMSSION, INTERROGATORIES AND REQUESTS FOR
PRODUCTION**

To: **EDGEWOOD ISD PLAINTIFFS**, by and through their attorneys of record, David G. Hinojosa, Melissa Bono, MEXICAN AMERICAN LEGAL DEFENSE, AND EDUCATION FUND, INC., 110 Broadway, Suite 300, San Antonio, Texas 78205, and Roger L. Rice, MULTICULTURAL, EDUCATION, TRAINING AND ADVOCACY, INC., 240A Elm St., Suite 22, Somerville, MA 02144.

GLOBAL OBJECTION TO ALL DISCOVERY REQUESTS

1. Susan Combs, the Comptroller of Public Accounts, in her official capacity, has no knowledge, information, or documents that would be responsive to any of these requests.
2. The Amended Scheduling Order entered on November 5, 2013 sets the discovery completion deadline for December 9, 2013. On November 12, 2013, the Edgewood ISD Plaintiffs served on the State Defendants otherwise objectionable Requests for Admissions, Interrogatories, and Requests for Production. The State Defendants answers to these discovery requests are due on December 13, 2013—four days after the discovery completion deadline. Because the Edgewood ISD Plaintiff’s discovery requests were untimely served, and because the State Defendants’ answers to the discovery requests are due after the court-ordered discovery completion deadline, the State Defendants OBJECT to each and every request as being untimely and outside the discovery completion deadline. *See* TEX. R. CIV. P. 190 cmt.4 (“As other rules make clear, unless otherwise ordered or agreed, parties seeking discovery **must serve requests sufficiently far in advance of the end of the discovery period that the deadline for responding will be within the discovery period.**”) (emphasis added); TEX. R. CIV. P. 190.4(b) (incorporating limitations of Rules 190.2 and 190.3 into 190.4 unless expressly excluded); TEX. R. CIV. P. 190.2(b)(1) (“All discovery must be conducted during the discovery period. . . .”); TEX. R. CIV. P. 190.3(b)(1) (“All discovery must be conducted during the discovery period. . . .”); TEX. R. CIV. P. 193.1 (“A party must respond to written discovery in writing within the time period provided by court order or these rules.”); TEX. R. CIV. P. 196.1(a) (“A party may serve on another party—**not later than 30 days before the end of the discovery period**—a request for production. . . .”) (emphasis added); TEX. R. CIV. P. 197.1 (“A party may serve on another party—**not later than 30 days before the end of the discovery period**—written interrogatories. . . .”) (emphasis added); TEX. R. CIV. P. 198.1 (“A party may serve on another party—**not later than 30 days before the end of the discovery period**—written requests that the other party admit the truth of an matter within the scope of discovery. . . .”) (emphasis added); *see Pape v. Guadalupe-Blanco River Auth.*, 48 S.W.3d 908, 913 (Tex. App.—Austin 2001, pet. denied)(trial court did not abuse its discretion in excluding untimely evidence and denying request to modify discovery scheduling).
3. Each request seeking “all documents” is overly broad and does not describe with reasonable particularity, either by item or by category, the documents to be produced or inspected. TEX. R. CIV. P. 196.1(b).
4. Defendants object and respond to these requests in accordance with the Texas Rules of Civil Procedure, and do not agree to expand the scope of responses, or limit its objections, on the basis of Plaintiff’s Instructions.

REQUESTS FOR ADMISSION

1. The bilingual education allotment was not changed from "0.1" during the 83rd Texas legislative session.

The State Defendants admit that the bilingual education weight was not changed from "0.1" during the 83rd legislative session.

2. The compensatory education allotment was not changed from "0.2" during the 83rd Texas legislative session.

The State Defendants admit that the compensatory education weight was not changed from "0.2" during the 83rd Texas legislative session.

3. No new revenue was appropriated of the Instructional Facilities Allotment for the 2013-14 and 2014-15 school years.

The State Defendants admit that the 83rd Legislature appropriated enough funds to maintain existing Instructional Facilities Allotment awards.

INTERROGATORIES

1. Identify the substantial changes you contend the 83rd Texas Legislature made to Texas's existing public education system, and state the basis for each piece of legislation supporting your contention, as stated in your last amended response to Edgewood ISD Plaintiffs Second Request for Disclosure.

Objection: To the extent the interrogatory seeks the "basis for each piece of legislation," that information is part of the 83rd Legislature's public record and is equally available to all parties in the litigation. Through this request the Edgewood ISD Plaintiffs seeks to shift their burden of proof to the State Defendants. Accordingly, to require the State Defendants to conduct legislative history research to answer this interrogatory would be unduly burdensome.

Answer: Subject to and without waiving the global or foregoing objections, see:

- Education Legislation Status at http://www.tea.state.tx.us/index4_wide.aspx?id=25769805205 (last modified on 7/8/2013);
- Legislative Briefing Book at <http://www.tea.state.tx.us/index2.aspx?id=25769806041> (last modified 7/19/2013);
- State Defendants' Request to Court to Take Judicial Notice and attachments filed on October 9, 2013; and
- State Defendants' Advisory to the Court and attachments, filed on July 17, 2013.

- General Appropriations Act of the 83rd Texas Legislature.

2. State the facts supporting your contention that the system has been and continues to be adequate and suitable, as stated in your last amended response to Edgewood ISD Plaintiffs Second Request for Disclosure.

Objection: Contention discovery is permitted by the rules of civil procedure. TEX. R. CIV. P. 192.3(j) (“A party may obtain discovery of any other party's legal contentions and the factual bases for those contentions.”). But all that is required is a basic statement of those contentions and not a marshaling of evidence. TEX. R. CIV. P. 192 cmt. 5; *In re Gen. Motors Corp.*, No. 12–07–00387–CV, 2008 WL 541679, at *3 (Tex. App.-Tyler Feb.29, 2008, orig. proceeding) (mem. op.). Marshaling means “[a]rranging all of a party's evidence in the order that it will be presented at trial.” Black’s Law Dictionary 1063 (9th ed. 2009). Defendants have already provided the basic statement of its contentions in their latest amended response to the Edgewood ISD Plaintiffs’ request for disclosure. This interrogatory is duplicative, overly broad, vague, and requires the State Defendants to marshal all their evidence to answer it.

Answer: Subject to and without waiving the global or foregoing objection, see the trial record including all testimony and exhibits regarding the system as it existed in the 2011-2012 and 2012-2013 biennia for the contention that the system was adequate and suitable. The State Defendants further contended that the new Texas school finance system adopted by the 83rd Legislature for the 2014-15 biennium is presumed constitutional, that the plaintiff’s bear the burden of proof, and that the Plaintiff ISDs and Charters have no “output” evidence for the 2013-14 ongoing school year or current biennium to rebut the presumption that the system is adequate and suitable.

3. State the facts supporting your contention that the system has been and continues to be efficiently/equitably funded such that all students have substantially equal access to revenue so as to achieve an adequate school system, as stated in your last amended response to Edgewood ISD Plaintiffs Second Request for Disclosure.

Objection: Contention discovery is permitted by the rules of civil procedure. TEX. R. CIV. P. 192.3(j) (“A party may obtain discovery of any other party's legal contentions and the factual bases for those contentions.”). But all that is required is a basic statement of those contentions and not a marshaling of evidence. TEX. R. CIV. P. 192 cmt. 5; *In re Gen. Motors Corp.*, No. 12–07–00387–CV, 2008 WL 541679, at *3 (Tex. App.-Tyler Feb.29, 2008, orig. proceeding) (mem. op.). Marshaling means “[a]rranging all of a party's evidence in the order that it will be presented at trial.” Black’s Law Dictionary 1063 (9th ed. 2009). Defendants have already provided the basic statement of its contentions in their latest amended response to the Edgewood ISD Plaintiffs’ request for disclosure. This interrogatory is duplicative, overly broad, vague, and requires the State Defendants to marshal all their evidence to answer it.

Answer: Subject to and without waiving the global or foregoing objection, see the trial record including all testimony and exhibits regarding the system as it existed in the 2011-2012

and 2012-2013 biennia for the contention that the system was efficiently/equitably funded such that all students have access to revenue so as to achieve an adequate school system. The State Defendants further contended that the new Texas school finance system adopted by the 83rd Legislature for the 2014-15 biennium increased school district funding, and further reduced the number of districts provided funding based on target revenue, thereby further increasing system efficiency and equity. Further, the system is presumed constitutional, the plaintiff's bear the burden of proof, and the Plaintiff ISDs and Charters have no evidence for the 2013-14 ongoing school year or current biennium to rebut the presumption that the system is efficient and equitable.

4. State the facts supporting your contentions that any local supplementation is not so great as to destroy the efficiency of the systems, as stated in your last amended response to Edgewood ISD Plaintiffs Second Request for Disclosure.

Objection: Contention discovery is permitted by the rules of civil procedure. TEX. R. CIV. P. 192.3(j) ("A party may obtain discovery of any other party's legal contentions and the factual bases for those contentions."). But all that is required is a basic statement of those contentions and not a marshaling of evidence. TEX. R. CIV. P. 192 cmt. 5; *In re Gen. Motors Corp.*, No. 12-07-00387-CV, 2008 WL 541679, at *3 (Tex. App.-Tyler Feb.29, 2008, orig. proceeding) (mem. op.). Marshaling means "[a]rranging all of a party's evidence in the order that it will be presented at trial." Black's Law Dictionary 1063 (9th ed. 2009). Defendants have already provided the basic statement of its contentions in their latest amended response to the Edgewood ISD Plaintiffs' request for disclosure. This interrogatory is duplicative, overly broad, vague, and requires the State Defendants to marshal all their evidence to answer it.

Answer: Subject to and without waiving the global or foregoing objection, see the trial record including all testimony and exhibits regarding the system as it existed in the 2011-2012 and 2012-2013 biennia for the contention that any local supplementation is not so great as to destroy the efficiency of the school finance system. The State Defendants further contend that the new Texas school finance system adopted by the 83rd Legislature for the 2014-15 biennium increased school district funding for each penny of tax effort, including any pennies levied for local supplementation, and is presumed constitutional, and that the Plaintiff ISDs and Charters have no evidence for the 2013-14 ongoing school year or current biennium to rebut that presumption.

5. State the facts supporting your contention that the State does not so completely control the levy, assessment, and disbursement of school district revenue such that the districts' taxing authority is without meaningful discretion in setting their tax rates, as stated in your last amended response to Edgewood ISD Plaintiffs Second Request for Disclosure.

Objection: Contention discovery is permitted by the rules of civil procedure. TEX. R. CIV. P. 192.3(j) ("A party may obtain discovery of any other party's legal contentions and the factual bases for those contentions."). But all that is required is a basic statement of those contentions and not a marshaling of evidence. TEX. R. CIV. P. 192 cmt. 5; *In re Gen. Motors Corp.*, No. 12-07-00387-CV, 2008 WL 541679, at *3 (Tex. App.-Tyler Feb.29, 2008, orig. proceeding) (mem. op.). Marshaling means "[a]rranging all of a party's evidence in the order that it will be

presented at trial.” Black’s Law Dictionary 1063 (9th ed. 2009). Defendants have already provided the basic statement of its contentions in their latest amended response to the Edgewood ISD Plaintiffs’ request for disclosure. This interrogatory is duplicative, overly broad, vague, and requires the State Defendants to marshal all their evidence to answer it.

Answer: Subject to and without waiving the global or foregoing objection, see the trial record including all testimony and exhibits regarding the system, and particularly the testimony and exhibits of each testifying superintendent, as it existed in the 2011-2012 and 2012-2013 biennia for the contention that the State does not so completely control the levy, assessment, and disbursement of revenue such that the districts’ taxing authority is without meaningful discretion in setting tax rates. The State Defendants further contended that the new Texas school finance system adopted by the 83rd Legislature for the 2014-15 biennium increased school district funding for each penny of tax effort and is presumed constitutional, and that the Plaintiff ISDs and Charters have no evidence for the 2013-14 ongoing school year or current biennium to rebut that presumption.

6. Identify the legislative changes to the Texas Essential Knowledge and Skills, changes to the curriculum and changed graduation requirements, as stated in your last amended response to Edgewood ISD Plaintiffs Second Request for Disclosure (Martinez disclosure).

Answer: Subject to and without waiving the global or foregoing objections, see:

- Education Legislation Status at http://www.tea.state.tx.us/index4_wide.aspx?id=25769805205 (last modified on 7/8/2013);
- Legislative Briefing Book at <http://www.tea.state.tx.us/index2.aspx?id=25769806041> (last modified 7/19/2013) ;
- State Defendants’ Request to Court to Take Judicial Notice and attachments; and
- State Defendants’ Advisory to the Court and attachments, filed July 17, 2013.

7. State the facts of the budget setting process for the 83rd Legislative Session and Legislative appropriations for the FY 2014-2015, as stated in your last amended response to Edgewood ISD Plaintiffs Second Request for Disclosure (Coleman disclosure).

Answer: Mr. Coleman’s name is no longer on the State Defendants’ response to the Edgewood ISD Plaintiffs Second Request for Disclosure.

8. Identify any educational student performance outputs from the 2012-13 and 2013-14 school years that you intend to rely on in this suit to prove that the State is providing an adequate education.

Objection: The State Defendants bear no burden to prove that the school finance system is adequate.

Answer: The plaintiff's bear the burden of proof in this case and will have no "output" evidence from the 2013-14 school year and beyond to prove the newly adopted school finance system is not adequate.

9. To the extent you intend to offer any evidence and/or testimony intended to forecast or predict any "outputs" for the 2013-14 and 2014-15 school years to prove that the Texas public school system is accomplishing or will accomplish a general diffusion of knowledge (as interpreted by the Texas Supreme Court), please provide those predictions and provide and describe the methodology used to create such forecasts or predictions. In your answer, please list all peer reviewed literature that has analyzed the methodology employed.

Objection: The State Defendants bear no burden to prove that the school finance system is adequate.

Answer: Subject to and without waiving the foregoing objection, the plaintiff's bear the burden of proof in this case and no party will "output" evidence from the 2013-14 school year and beyond to prove the newly adopted school finance system is not adequate.

REQUESTS FOR PRODUCTION

1. Produce documents supporting your contention as described in Interrogatory Number 1.

Objection: This request is overly broad and does not describe with reasonable particularity, either by item or by category, the documents to be produced or inspected. TEX. R. CIV. P. 196.1(b).

2. Produce documents supporting your contention as described in Interrogatory Number 2.

Objection: This request is overly broad and does not describe with reasonable particularity, either by item or by category, the documents to be produced or inspected. TEX. R. CIV. P. 196.1(b).

3. Produce documents supporting your contention as described in Interrogatory Number 3.

Objection: This request is overly broad and does not describe with reasonable particularity, either by item or by category, the documents to be produced or inspected. TEX. R. CIV. P. 196.1(b).

4. Produce documents supporting your contention as described in Interrogatory Number 4.

Objection: This request is overly broad and does not describe with reasonable particularity, either by item or by category, the documents to be produced or inspected. TEX. R. CIV. P. 196.1(b).

5. Produce documents supporting your contention as described in Interrogatory Number 5.

Objection: This request is overly broad and does not describe with reasonable particularity, either by item or by category, the documents to be produced or inspected. TEX. R. CIV. P. 196.1(b).

6. Produce documents related to the legislative changes as described in Interrogatory Number 6.

Objection: This request is overly broad and does not describe with reasonable particularity, either by item or by category, the documents to be produced or inspected. TEX. R. CIV. P. 196.1(b).

7. Produce documents related to the legislative changes as described in Interrogatory Number 7.

Objection: This request is overly broad and does not describe with reasonable particularity, either by item or by category, the documents to be produced or inspected. TEX. R. CIV. P. 196.1(b).

8. Produce documents related to any outputs identified in response to Interrogatory Number 8.

Objection: This request is overly broad and does not describe with reasonable particularity, either by item or by category, the documents to be produced or inspected. TEX. R. CIV. P. 196.1(b).

9. Produce documents related to any predictions or forecast described in response to Interrogatory Number 9.

Objection: This request is overly broad and does not describe with reasonable particularity, either by item or by category, the documents to be produced or inspected. TEX. R. CIV. P. 196.1(b).

10. For any admission above denied, produce documents supporting your denial.

None.

Respectfully Submitted,

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I hereby certify that on the 3rd day of December, 2013, the foregoing document was served via electronic mail:

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